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Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Monday, August 9, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

All power is given unto me in Heaven and in Earth . . . and, lo, I am with you always, even unto the end of the world.—Matt. 8 :18, 20.

Heavenly Father, here we are in the place of power—greater power than any other legislative body on Earth. Yet we are essentially powerless. Law after law is passed—nothing changes. We wield our great power, and probably more often than we like to think, impress only ourselves. We wield our power forgetting that we are always only a heartbeat away from total powerlessness.

Great God, help us to understand that Thou art the source of all power, and that only as Thy power works through us do things really change. Deliver us from human pride that deceives and seduces and corrupts mankind. Grant us grace to acknowledge our weakness and submit to Thy sovereign rule in our lives. Let Thy power and love reign in us. In the name of the One whose power was supremely manifested on a cross. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business to extend not past the hour of 1 p.m. today in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the supplemental appropriations bill, H.R. 6863, is now pending. It is anticipated that the debate on that measure and the amendment thereto cannot be completed today. It is hoped, however, that it can be disposed of tomorrow or Wednesday at the latest.

I remind Senators that time is growing short and that if we are to gain our objective of trying to make the Senate recess for the Labor Day break coincide with that of the House of Representatives that is to begin on August 20, we have a fairly busy schedule ahead of us.

This week we must do the supplemental appropriations bill and the immigration bill.

Next week we need to do the debt limit bill as well as any other conference reports that may be presented to the Senate or urgent matters which may come before us.

Senators are reminded that the recess date for the Senate is still August 27 and, according to the memorandum which I circulated to Members on this side and of which I supplied a copy to the minority leader, I expressed the hope that we could go out on August 20 if we could complete the must list of legislation.

The Senate has done very, very well so far in trying to dispatch the items on that must list. But I remind Members not to take for granted that we will go out on August 20 for there are still important and controversial items that must be dealt with.

Mr. President, I regret to say that Senators should be on notice of the possibility of late sessions any evening this week or next week in order to improve the possibilities that we can complete our must legislation before August 20.

Senators should be on notice, and I say this with all sincerity and seriousness, of the possibility of a session on this Saturday and perhaps the following Saturday if that is necessary in order to complete action on the must list of legislation to which we have referred on many occasions.

I hope that it is not necessary to ask the Senate to remain late unduly and I hope it is not necessary to be in on this Saturday or the following Saturday. But Senators should note that for the sake of their own planning and convenience.

GLEN TROOP, JR.

Mr. BAKER. Mr. President, I express my sorrow and disbelief at the death of Glen Troop, Jr. Glen died suddenly last Wednesday night, and for those of us who knew and respected him, the shock of this tragedy has not worn off.

As the chief lobbyist of the savings and loan business, Glen dedicated himself to educating and counseling Members of Congress on a variety of issues that were important to the savings and loan industry. For over three decades, he was in constant contact with Senators, Congressmen, and their staffs, particularly those serving the various banking, tax writing, and finance committees. He also worked closely with the leadership of the Federal Home Loan Bank Board and other Government agencies regulating the savings and loan business.

A Senate staffer, when asked if her boss had been good friends with Glen said, "Yes, he was, but you know, everybody that knew Glen felt close to

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him and liked him." Mr. President, Glen Troop was that type of individual, and it is that type of friendship that we will all miss very much.

Mr. President, I ask unanimous consent to have printed in the RECORD this week's poem, which I have lately done beginning on Mondays of each week, "World Breaking Apart," by Louise Gluck, in respect to Glen Troop.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

WORLD BREAKING APART

I look out over the sterile snow.
Under the white birch tree, a wheelbarrow.
The fence behind it mended. On the picnic table, mounded snow, like the inverted contents of a bowl whose dome the wind shapes. The wind, with its impulse to build. And under my fingers, the square white keys, each stamped with its single character. I believed a mind's shattering released the objects of its scrutiny: trees, blue plums in a bowl, a man reaching for his wife's hand across a slatted table, and quietly covering it, as though his will enclosed it in that gesture.
I saw them come apart, the glazed clay begin dividing endlessly, dispersing incoherent particles that went on shining forever. I dreamed of watching that the way we watched the stars on summer evenings, my hand on your chest, the wine holding the chill of the river. There is no such light.
And pain, the free hand, changes almost nothing.
Like the winter wind, it leaves settled forms in the snow. Known, identifiable—except there are no uses for them.

ELECTION VICTORY

Mr. BAKER. Mr. President, on another matter and sounding a personal note, I cannot remember a time when I have gone to the polling place on election day and enjoyed it so much. So many times in the past, in almost every election I can think of, I have been a candidate or I have been campaigning hard for someone else. Those election days were almost always filled with apprehension, tension, and even tedium as we waited for the polls to close and the first results to trickle in.

But this past Thursday was an exception to that rule. I was not a candidate. I was not campaigning for any other candidate. While it is true that my daughter was a candidate for the Republican nomination for Congress from the Fourth District of Tennessee, she forbade me to campaign for her.

So I found that my sole and total responsibility, even my only opportunity on that day, was to go to the polling place, to stand in line patiently for about an hour, present my voter's certificate, be granted the privilege of voting, to enter the booth, to cast my ballot, and to do so with a smile.

I wish to report as well, if I may, to my colleagues that she was nominated. That will come with mixed reaction no doubt depending on the persuasion of Members of this Chamber as Republicans and Democrats, but as an unalloyed pleasure for me to announce that she won that election, her first. She is 26 years old, my youngest child and still the apple of my eye. And I have not yet become accustomed to the idea that she is the Republican nominee for Congress from the Fourth District of Tennessee. But she is.

A wise man once said that becoming a father is not hard but that being a father is, and I say thank God for wise men. You never know how much to do or how much not to do. You never know when to talk and when to try to advise and when to sit down and when to shut up. You just try to be there supportively and let your little girl, turned political prodigy, run her own campaign.

Her victory would have been just as glorious had I not gone to Tennessee to vote on last Thursday, but it was eminently more satisfying to me that I did.

I apologize to the Senate for missing votes on last Thursday, but I am sure most Members will understand, and I am sure every father will understand why I was absent on that day.

Mr. President, I have no further need for my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield.

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, Cornelia lived several hundred years before Christ.* She was the mother of Gracchi. She had 12 sons and daughters. She lost all of her children except three.

One day a neighbor came by and proudly displayed her jewelry, according to Cornelia. Whereupon, she haughtily turned to Cornelia and asked if she had any jewelry. Cornelia, the great Roman woman that she was, turned to her three remaining children and said, "These are my jewels."

I share the pride that the majority leader has just expressed in the success of his daughter.

Being a father of two daughters, I think I have empathy and a kinship with the majority leader in this respect.

I congratulate him. I congratulate his daughter, and I know she is proud of her proud father likewise, and she has every right to be.

Mr. BAKER. Mr. President, if the Senator will yield to me, I think he must know how much I appreciate his kind remarks just now, how much they mean to me, and how much they mean to my daughter.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. HAYAKAWA). The minority leader is recognized.

THE PASSING OF A GOOD FRIEND

Mr. ROBERT C. BYRD. Mr. President, many Senators were saddened last week to learn of the Wednesday night passing of Mr. Glenwood S. Troop, Jr. Glen Troop was the chief lobbyist for the savings and loan industry. He was also a personal friend to many of our colleagues. In addition, over the years Mr. Troop earned for himself an exceptional reputation for his excellent work, his commitment to high ideals, and his integrity. One person has remarked that, as applied to Glen Troop, the word "lobbyist" was a badge of honor.

Glen Troop served as a Marine Corps sergeant in the Pacific during World War II. Following graduation from the University of Maryland in 1952, he became an assistant with the U.S. League of Savings Associations. Through his expertise and initiative, he rose to the league's posts of legislative director and staff vice president.

The savings and loan business involves millions of Americans, and Glen Troop could always be depended on to supply Congress with accurate, reliable, and valuable information on the impact of legislation on savings and loan associations and their members. His love of the Senate and House of Representatives was always evident, and he became one of Washington's best known and best liked association representatives.

We will miss Glen Troop. And I am sure that our colleagues join me in extending to Glen Troop's family our sincere sympathies, and our appreciation for the many services that Glen rendered to Congress and to America.

THE CALENDAR

Mr. BAKER. Mr. President, before I yield back my time, there are certain items in my folder that can be dealt with by unanimous consent according to the notations I have here. I want to inquire of the minority leader if he is in position to proceed to the consideration of S. 1193 and S. 901.

Mr. ROBERT C. BYRD. Mr. President, I answer in the affirmative. This side is ready to proceed.

Mr. BAKER. I thank the minority leader.

GEORGETOWN WATERFRONT USE

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 457, S. 901.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 901) to preserve and protect the Georgetown Waterfront for the recreational use of the public.

The Senate proceeded to consider the bill.

Mr. McCLURE. Mr. President, S. 901 would authorize the Secretary of the Interior to acquire by donation, exchange, or transfer certain specified lands in the area generally known as the Georgetown Waterfront along the Potomac River shoreline. I have no objection at this time to Senate passage of this legislation, since it involves only a purely voluntary acquisition.

Mr. President, I continue to endorse the concept and principles of the July 13, 1979, memorandum of agreement relating to the Georgetown Waterfront in the District of Columbia entered into by the Department of the Interior, the Mayor of the District of Columbia, the National Capital Planning Commission, and Georgetown Harbour Associates providing for the joint public redevelopment and use of the Georgetown Waterfront property. With the able leadership of our distinguished colleague from Maryland, Senator MATHIAS, this agreement was negotiated to transform the waterfront from an unkept eyesore into a well-maintained recreational and commercial area. It is my hope that the private owners of this property, CSX Corp., and the other participants under the agreement will continue to insure the best public and private use of this land.

Mr. President, I am pleased to note that S. 901 is purely a voluntary exchange with the owner of the waterfront property and does not involve a mandatory taking. I should state for the record that I could not support any legislative initiative on this bill or another bill involving any legislative taking or other involuntary transfer of the private Georgetown Waterfront property.

Mr. President, I ask unanimous consent that a letter of July 14, 1982, which I received from John W. Snow, senior vice president of CSX Corp. discussing this legislation and the Georgetown Waterfront be printed in the RECORD:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: I am writing to express my concern about Senate Bill S. 901 which has been reported from the Senate Committee on Energy and Natural Resources. The purpose of the bill is to authorize the Secretary of the Interior to acquire certain lands along the Georgetown Waterfront by donation exchange or transfer only.

The land in question is owned by the CSX Corporation, which has begun a major development on the site. An integral part of this development is the provision of 13 acres for a public park along the waterfront. In addition, the development will provide 1400 jobs and bring an additional $8.6 million in needed tax revenues to the District of Columbia. CSX and its partners have worked long and hard, and at considerable expense, to achieve a design for the project compatible with the existing development of Georgetown and beneficial to the public. The project now underway will turn an industrial eyesore into a revenue-producing development along with a new waterfront park accessible to all.

I have attached a memorandum which explains in detail the history of this project. I should point out that the mixed-use development which we are now constructing grew out of the efforts of Senator Mathias in 1978 to find a workable compromise between private development and public use of the site. We believe our development represents a good use of the property and clearly show that the efforts of private enterprise can be of public benefit. It is certain that without our development, there would be no park development along the waterfront in Georgetown.

The purpose of this letter is to make unequivocally clear that CSX and its partners should not undertake the voluntary transfer of the Georgetown site, even if S. 901 were enacted into law. We have already invested more than $20 million for land acquisition and architectural and design fees and construction has begun. We believe the project is soundly designed and of public benefit and we do not intend to abandon it. Our desire is to proceed with the development as soon as possible in a way which will complement and enhance the proposed riverfront park adjacent to our properties and end the present condition of blight and decay in that area.

CSX and its partners have no interest in any speculative land exchange which would require us to give up the effort and investment made to date on the Georgetown Waterfront. Substantial sums have already been expended for the development and additional money will be required to create the proposed park. We have offered to provide the sum of $1 million to pay for the initial landscaping of the proposed park as part of the development.

Since we are about to realize a long-time objective of CSX by developing its holdings on the Georgetown Waterfront in a socially-responsible manner, you will understand our concern that the proposed legislation may serve to delay that event and add to the cost of the development without accomplishing the desired result. We confess to a great deal of frustration because of the many delays in the public planning process for the Georgetown Waterfront. That process has involved the executive and legislative branches of the Federal and District Governments as well as the courts.

The process reached finality only a few months ago with a finding by the Mayor's Agent, after exhaustive hearings, that the architecture of the proposed project was compatible with the Georgetown Historic District. On the strength of that finding, the District of Columbia issued a building permit to Georgetown Harbour Associates on November 18, 1981. Georgetown Harbour is the name of the partnership doing the development, CSX and Western Development Corporation of Washington, D.C. The finding of the Mayor's Agent and the permit issued under it are now being reviewed for, what we hope is, one last time by the District of Columbia Court of Appeals. Meanwhile, demolition work and construction are underway.

We believe that the Georgetown project is a good example of private enterprise acting in a socially responsible manner. As the history of the project shows, we have made every effort to cooperate with the appropriate authorities to make the project compatible with the community. The Interior Department has repeatedly stated that it does not have the funds, or the wish, to develop the Georgetown site as a park. It is safe to say that without CSX's development, which will make possible a 13 acre public park, there would be no park open to the public on the Georgetown waterfront.

It is difficult for us to understand the purpose of S. 901, since that bill is premised on a voluntary exchange of CSX's property for some unspecified Federal land. CSX hopes to expeditiously complete its development in Georgetown and would not at this date, when construction has begun, voluntarily exchange its property on the Georgetown waterfront. It is our hope that the Senate will not take up this bill, but rather let the development project proceed without further impediment.

Sincerely,

JOHN SNOW.

Enclosure.

CSX and its predecessor, the Baltimore and Ohio Railroad, have owned properties on the Georgetown Waterfront since the turn of the century. Those properties supported the transportation, industrial, and storage uses which were dominant on the waterfront until the early Nineteen Sixties. The waterfront was rezoned from predominantly industrial to a new mixed-use waterfront category in 1974, an action which was finally upheld by the D.C. Court of Appeals in 1978. Our proposed development is entirely in keeping with that enactment, but at densities and heights well below the maximums permitted by that zoning. We have voluntarily relinquished these development rights to carry out the objective of building a compatible development which would have ample open spaces and vistas and blend suitably with the proposed adjacent park.

The development which we are constructing grew out of a 1978 effort spearheaded by Senator Charles McC. Mathias, Jr. to find a suitable compromise of widely differing views about the future of the Georgetown Waterfront while assuring construction of waterfront park and providing for public access to the entire shoreline of the Potomac River. Senator Mathias called together officials of the Federal and District Governments responsible for public planning of this area and persuaded them to constitute themselves as a task force to resolve the matter once and for all.

The product of that task force was a July, 1979, recommendation that the six acres of privately held waterfront properties be developed in a unified manner with shoreline access assured which we readily agreed to provide. On the basis of that recommendation, we arranged with the Inland Steel Corporation to acquire their adjacent holdings.

To achieve a design which responded to expressed architectural concerns of the U.S. Commission of Fine Arts, we modified our original proposal to reduce its height and density. Ultimately, Fine Arts gave approval to the architecture which was proposed, a

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superb design prepared for us by an outstanding Georgetown architect, Arthur Cotton Moore. Fine Arts withheld formal approval of the requested permit, however, in hopes that public funds would be forthcoming to purchase the privately held lands for inclusion in the proposed park. That has not occurred so, accordingly, the Mayor's Agent authorized issuance of the permit, with a finding of architectural compatibility.

The extensive records of the hearings before Fine Arts showed that as long ago as its April 8, 1980 meeting, the Commission gave conceptual approval to the development. In an April 22, 1980 letter, J. Carter Brown, Chairman of the Fine Arts Commission, directed us to proceed with architectural designs for the Commission's review before proceeding with working drawings. We followed the Commission's direction and presented these designs at the October 7, 1980 meeting of Fine Arts. Following that review, the Commission adopted its Board of Architectural Consultants' report that:

"The preliminary designs submitted for review are in conformance with earlier designs approved under O.G. 80-52. The Board recommends that development of working drawings and construction details closely follow the preliminary design. The Board also gives preliminary approval to a number of brick samples proposed for various elements of the development and recommends construction of sample wall panels showing mortar color and jointing for final inspection prior to ordering materials."

As noted, the partnership has spent in excess of $20 million in architectural and other fees to achieve an acceptable development meeting the extensive public approval requirements of this site. As developers, we are committed to the creation of the proposed riverfront park as well as uninterrupted shoreline access for the public. We have made the following commitments to the District and Federal Governments with respect to access, open spaces and park development as follows:

Under the arrangements acceptable to the National Park Service, we will assure public access in perpetuity to the shorefronts of both the Potomac River and Rock Creek alongside our waterfront holdings.

The project design which has received a building permit specifically provides for this access and appropriate landscaping along both shores.

The developer will maintain all these spaces at its expense under arrangements agreeable to the National Park Service and the District of Columbia Government.

The so-called "mole" will be returned to the Federal Government in accordance with the existing easement from the Federal Government once railroad use of that parcel has been discontinued for two years.

The developer will provide the sum of $1 million to landscape the "mole" and the park areas to be created west of 31st Street on the waterfront.

Virginia Avenue and Thomas Jefferson Street will be extended through the project on private lands as new public ways which will be maintained by the developer.

In summary, in addition to its commitment of funds for park landscaping, the developer is providing a total of 2.75 acres of its own land holdings for park, open spaces and public ways, including the shorefront access areas referred to above. It is also accepting perpetual maintenance responsibility for all these public areas. This acreage is in addition to the half acre of the "mole" and the District of Columbia holdings of about 12 acres which will become part of the proposed park.

As stated, these commitments were affirmed in the permit package submitted to Fine Arts and the District Government and in testimony before the U.S. Commission of Fine Arts. These commitments are made as a matter of public service and enlightened self-interest. They will be carried out as outlined to make sure that the project properly serves all persons who choose to work, live or visit this remarkable location.

It is noteworthy that two successive Secretaries of the Interior have given support to the concept of mixed-use development of the privately held lands along the Georgetown Waterfront in harmony with the proposed park. On November 24, 1980, outgoing Secretary Cecil D. Andrus, writing to Mr. Sidney Howe of the National Committee for Urban Recreation, pointed out the lack of Federal funds for park development in Georgetown and affirmed the department's support of the joint development of the site in accordance with the spirit of the task force agreement. His successor, James G. Watt, the present Secretary, on April 3, 1981 wrote to the Fine Arts Chairman Brown to state that expenditure of Federal funds to acquire the waterfront holdings was not a "viable alternative" to the development proposal.

Beyond the desire to assure public access to the entire Potomac River shoreline and to see the city's waterfront holdings finally converted into the long-promised public park, the District of Columbia has a strong interest to end the condition of blight which has persisted along the waterfront for two decades and restore the private holdings to productive use. A study which we commissioned showed that the completed development will generate $8.6 million a year in tax revenues and provide 1,400 jobs. These are additional considerations which suggest that the development should be allowed to go ahead at this time without forcing us to incur the costs of further delay and thereby posing the likelihood that existing conditions of blight will continue indefinitely.

Mr. MATHIAS. Mr. President, I have more than a passing interest in this bill, having worked with all of the affected parties on the Georgetown waterfront from February of 1978 to July of 1979 to reach a reasonable compromise of the many goals sought for the waterfront. If I might, I would like to recount for my colleagues, the history of my involvement in a bill similar to the one before us today, the task force which that bill generated, and the ultimate memorandum of agreement which resulted from that task force effort. That memorandum of agreement was signed by the Secretary of Interior, the District of Columbia Assistant City Administrator for Planning and Development, the Chairman of the National Capital Planning Commission, and Georgetown Harbour Associates, the private landowner on July 13, 1979.

It committed each of those parties to take certain steps to assure that 14 of the 20 acres on the waterfront became a public park, that the 6 privately held acres were developed in consonance with the park and reflected exemplary urban design respectful of existing Georgetown development.

The Georgetown waterfront, a relatively small area between the C. & O. Canal and the Potomac from Key Bridge to Rock Creek has had a stormy history of zoning litigation and citizen suits. The area was comprehensively rezoned from its traditional industrial uses to a new waterfront district in 1974.

Since then, rehabilitation of vacant warehouses and other industrial buildings has accompanied new residential, retail, and office construction. This former wasteland in Georgetown has become a vibrant part of the city in the past few years.

The legislation before us today involves only that part of the Georgetown waterfront which fronts directly on the river. It is relatively small in size—20 acres, in all—located between the Whitehurst Freeway and the river from Key Bridge to Rock Creek. Fourteen of those acres are publicly owned. Six are privately owned.

In February of 1978, I was approached by the Georgetown Advisory Neighborhood Commission 3A for help in protecting the Georgetown waterfront. The ANC had adopted a resolution expressing concern that the vistas to the Potomac be protected, that redevelopment be in keeping with the scale, texture, and historic character of Georgetown, and in harmony with the C. & O. Canal.

The resolution called on the Congress to do something to protect these important features. I subsequently introduced a bill in the Senate, the effect of which was to freeze further development on the waterfront.

Little did I anticipate the brouhaha my bill would create. I was immediately besieged with contending views on the legislation from affected property owners, developers, and citizens, not only from Georgetown, but from Maryland and Virginia, and even from one foreign country. I was suddenly catapulted into the middle of the fray and quickly learned that no one is neutral about the Georgetown waterfront—everyone has an opinion, passionately held.

Obviously, something had to be done to bring these many points of view into consensus. So I convened a meeting of the developers affected and listened to their ideas about the waterfront. Most of those developers already had projects underway with the necessary permits and approvals. Several were involved in recycling old industrial buildings to mixed residential and service commercial uses. So the basic texture, fabric, and scale of the waterfront was being respected by retaining those red brick buildings.

Having played a part in getting the C. & O. Canal designated an historic landmark and in protecting the Potomac shoreline northwest of Washington, I wanted also to see the Georgetown waterfront restored and refurbished. I hated it to blight the largely green area that extends all the way from Cumberland. Md.; to West Potomac Park, in the city; Mount Vernon on the Virginia side, and Fort Washington on the Maryland side.

So, I convened another meeting, this time with the public officials who had a role to play on the waterfront. Together we began to sort out the actions each would need to take to create an urban waterfront park. The challenge of bringing such a park to life was taken up by the Chairman of the National Capital Planning Commission.

Under his skillful leadership, a task force of public officials, citizens, private landowners and affected developers was set up in May 1978. It met regularly throughout the summer and fall, molding and honing a consensus of what uses should and should not exist on the waterfront.

It was no small feat to achieve a consensus among such a diverse group, which in the past had not been on the best of terms, to say the least.

The task force made several findings, including these:

> It would confine its efforts to the immediate waterfront, that is, the area from K Street to the river. That area involved only three property owners: The District Government with land originally purchased for the Three Sisters Bridge approach; the Chessie Railroad System (now the CSX Corporation) and the Inland Steel Company.
>
> The National Park Service holds height and setback easements related to Rock Creek on the Chessie property.
>
> The District Government holds title to so-called "paper streets" which also bisect the Chessie property, effectively restricting its development.
>
> The Inland Steel property could be better designed and developed if a small triangle of DC-held property were part of Inland's holdings.
>
> The National Park Service was willing to take title to the immediate waterfront and operate it as a park, rebuilding the sea wall along the water frontage in the process.
>
> The District Government could find alternative sites for its trash trucks and car impoundment lot which at present deface the waterfront.
>
> The U.S. Department of Transportation (DOT) was willing to forgive repayment to the Highway Trust Fund by the District Government, if an alternative public purpose were found for the waterfront land.
>
> Various design proposals and development envelopes demonstated the feasibility of limited waterfront construction set back from the River and Rock Creek to K Street.

The group agreed that some mixed use development south of K Street would complement a waterfront park. Properly designed and located, such development could give life to the otherwise dead space which stretches from the shadows of the Whitehurst Freeway to the water. The development, of course, would have to be in harmony with Georgetown's architectural style, texture and scale. They would contribute pedestrian traffic, some limited ground floor retail outlets to serve residents and visitors, and provide some eyes on the park for security.

In addition, a promenade on the waterfront, a bicycle path, a waterfront quay and a boat docking facility perhaps with a river view restaurant, all have been mentioned as activities which would enhance the park without overwhelming it.

What became clear in this process was that all parties could agree on some common goals for the waterfront. Both the private landowners and the District Government hold several potential trading chips. And the development potential of the two private sites was actually enchanced by a park and setback. The marketability of homes on the waterfront, to use the developers' idiom, is increased by publicly provided amenities such as I have described.

In exchange for such amenities, however, the developer or developers of the privately held property had to be willing to build something less than the permitted zoning envelope and in keeping with the Georgetown character. One of the complaints Government officials frequently hear from developers is that the rules of the game are constantly changed on them in mid-play.

All of this effort resulted in the signing of the Memorandum of Understanding of July 13, 1979. Mr. President, I ask unanimous consent that the text of that agreement appear at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. **MATHIAS**. What is remarkable about this document is that it represents a public-private partnership to create a public park on the waterfront while respecting the private property rights of the landowners. It is not everyday that the Secretary of Interior, a representative of the District of Columbia Government, the National Capital Planning Commission, and private landowners agree in writing to do something for the common good. Part of the attractiveness of the agreement was that no money had to change hands. Rather, each of the parties bartered certain things it wanted for certain things another could deliver.

It is therefore somewhat surprising to see this bill before us fail to recognize that good faith effort and the agreement that it produced.

It would undo that agreement of 1979 and might well result in another brouhaha and task force scenario similar to the one which I have just recounted for my colleagues.

It would abruptly halt the private development now about to proceed. This development has received all the necessary approvals and has involved the expenditure by the developer of more than $20 million for land, architectural design, and construction.

The developer has unequivocally stated to the chairman and ranking minority member of the Committee on Energy and Natural Resources as well as to the sponsor of this bill that they are not interested in, nor would they agree to a land exchange.

Given this history and the facts I have presented here, I would hope my colleague, the sponsor of this legislation, would agree to withdraw his bill or modify it to, at least, give the memorandum of understanding a chance to be implemented.

As the chairman of the Subcommittee on Governmental Efficiency and the District of Columbia, I am mindful of the 1,400 jobs and $8.6 million annual tax revenue which this development will yield to the District of Columbia.

Mr. President, I ask unanimous consent that the text of a recent letter from the District of Columbia Assistant City Administrator for planning and Development be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Government of the
District of Columbia,
Washington, D.C.

Mayor Barry has asked me to respond to your letter concerning the Georgetown Waterfront.

On September 11, 1981, the Mayor's Agent for Historic Preservation, Ms. Carol Thompson, issued her decision in the Western Development case. Her decision states that the proposed development's design is not incompatible with the character of the historic district of Georgetown and orders the issuance of a permit for new construction. The Mayor has requested that I provide you with the background information involved in the proposals, procedures and decision criteria in this case.

Mayor Barry, as you know, has been personally supportive of the citizens' desires for park along the Waterfront. He is also aware of the additional economic and social benefits that can accrue to the City from tasteful mixed-use development in combination with a park. The Mayor's Agent, Ms. Thompson, acts independently, basing decisions on the explicit provisions of the District of Columiba Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144. The September 11th decision was based on the record resulting from six days of public hearing at which fifty-three witnesses were heard and seventy-four exhibits admitted into the record. Twenty-five additional exhibits were entered in the record before it officially closed. Although issues such as park use, historical waterfront uses, traffic environment, etc. were discussed at the hearing and addressed in the Mayor's Agent's findings of facts, the legally mandated focus of the decision was the design's compatibility with the historic district. On all relevent design features, the Mayor's Agent found the project was not incompatible.

BEST COPY AVAILABLE

I want to share with you the historical land use, planning and procedural context which led to the present case.

The Georgetown Waterfront consists of approximately 18 acres of land along the Potomac River from Rock Creek to beyond Key Bridge. The District of Columbia owns approximately 12 acres in this area, some of which is in public rights of way. (Approximately 3 acres). Most of the D.C. land is in temporary use for municipal storage purposes such as: an automobile impoundment lot, trash truck parking, and storage of a salt pile. The Mayor is committed to transferring as much public land as is feasible to the National Park Service for inclusion in a National Park to be created and maintained by the Park Service. The remaining Waterfront land consists of approximately 6.5 acres and is privately owned by Western Development Corporation. This land is currently occupied by a cement plant and used for industrial purposes. At present, there is no park, nor has there ever been a park on this stretch of Waterfront.

A couple of years ago through the leadership of Senator Charles McC. Mathias, Jr., the National Capital Planning Commission sponsored a task force effort including District government representation, the Department of Interior (Park Service), owners of the private land, and local citizens to attempt to work out an acceptable plan for the Georgetown Waterfront. I believe it is fair to say that everyone agreed it was desirable.

1. To remove the present industrial and municipal storage uses; and

To create some amount of public park.

Agreement broke down on the:

1. Amount of park; and

2. Amount of development on the private land.

Some citizens opposed any development and began an effort to galvanize support for a total park on the Waterfront. This would, of course, necessitate public acquisition of 6.5 acres of private land. The City has been consistent in stating that no local funds are available for such acquisition. (The cost has been estimated at between 30 and 60 million dollars or approximately 5 to 10 million dollars per acre.) The federal government, through two Secretaries of Interior (Andrus and Watt) has similary indicated lack of funds. Senator Mark Hatfield introduced a bill to authorize a swap of federally-owned land elsewhere for the private holdings on the Waterfront. Western Development Corporation, the owners of the 6.5 acres, declined. The District is still willing to transfer its acreage suitable for park purposes. No funds have been committed by any other group or government body to acquire the private land for park purposes, nor do we anticipate any in the foreseeable future.

Over the past 20 years many public and private plans and policies have been formulated for the Georgetown Waterfront. There have been rezonings and Court Cases. The existing zoning on the private land is W2 and W3 and was upheld in Court. The "W" (Waterfront) zoning category would permit as a matter of right approximately 1,400,000 square feet of mixed-use development, with a maximum height of 90 feet, and up to 80% of the development in commercial use. Since Georgetown is an Historic District, there are restrictions other than zoning on the use of land. The Old Georgetown Act and the District of Columbia Historic Preservation Act, D.C. Law 2-144 provide that the Commission on Fine Arts and the Mayor's Agent for Historic Preservation (if requested) can review compatibility of proposed building design with the historic district.

The Western Development Corporation has indicated it intends to exercise its property rights and develop a portion of its land. The proposal they have presented contains considerably less development than is permitted under existing zoning. Their development plans calls for a mixed-use project of retail, residential and office space on 3.5 of their 6.5 acres. The overall square footage would be approximately half that permitted under the zoning, or approximately 740,000 square feet. The height would be limited to 67 feet at its highest point, instead of the 90 feet allowed in the W3 zone. Their design includes a boat basin on the Waterfront. The remaining private land, 2.75 acres would be landscaped and contributed as open space to the Waterfront Park. A continuous, 50 foot wide, public walkway would be provided on the private land along the River. Thomas Jefferson Street, which now terminates at K Street, would be continued as a 60 foot wide street from K Street to the Potomac River.

This proposal when combined with the City's intended transfer of its Waterfront land could produce a sizable park with a mixed-use development on 3.5 private areas. With this combination of public and private actions, no public funds would be needed for park land acquisition.

Under the Old Georgetown Act, the Western Development Corporation was required to present the project design to the Commission on Fine Arts. The owners made several modifications and resubmissions at the request of the Commission. The Commission recommended that the City not grant a building permit, stating that the Commission preferred a total park. The owners exercising their rights under D.C. Law 2-144, the District of Columbia Historic Landmark and Historic District Preservation Law, sought review by the Mayor's Agent for Historic Preservation. Review centered on the issue of the compatibility of the building design with the character of the Historic District of Georgetown. Under the Law, there seems no basis for the City to deny a building permit unless the design is deemed "incompatible." (see (f) below).

The Mayor's Agent for Historic Preservation is Mr. Robert Moore, Director of the Department of Housing and Community Development and State Historic Preservation Officer. Mr. Moore has delegated the authority to Carol Thompson, the Acting Director of the Department of Licenses, Inspections, and Investigations. The sections of the D.C. Law 2-144 affecting the decision state:

"Section 5-827 New Construction:

(e) In any case where the Mayor deems appropriate, or in which the applicant so requests, the Mayor shall hold a public hearing on the permit application.

(f) The permit shall be issued unless the Mayor, after due consideration of the zoning laws and regulations of the District of Columbia, finds that the design of the building and the character of the historic district or historic landmark are incompatible. . . ."

The public hearing in this case began on June 29, 1981 and concluded on July 8, 1981. Proponents and opponents presented their positions, experts and supporters. Based on the public record of the case and requirements of D.C. Law 2-144, the Mayor's Agent decided on September 11th that the project was not incompatible.

Irrespective of the Mayor's Agent's deci[illegible] in this case, Mayor Barry continued to direct his agencies to seek a long range plan for a Waterfront park and to solve traffic, parking and circulation problems with which Georgetown is faced. An overall program is being devised to find alternatives for commuter traffic and to enhance pedestrian access. As part of this overall program, the Department of Transportation has recently announced a proposed feasibility study of lowering the Whitehurst Freeway to K Street grade. The purpose would be to divert commuter thru-traffic from M Street. Other initiatives are being considered to improve the parking situation.

An interagency task force was established by Mayor Barry some time ago to plan the relocation of existing Waterfront uses. This Task Force is at work on alternative site identification and the logistical and budgetary needs for relocation. Other sites in Ward 3 must be located for some Department of Environmental Services uses—such as a trash truck parking and a snow-emergency salt pile because of the decentralized nature of operations. City-wide consolidated sites can be sought for others. The City will utilize whatever public (local or federal) and/or private initiatives are available to create an interesting and lively area of Waterfront park. The Mayor is planning to form a committee to advise him on the development of a park, including related amenities such as streetscape improvements and the S.S. *Williamsburg*.

I hope this information will bring you up to date on all the complexities of the Georgetown Waterfront situation. Mayor Barry and I are confident that reasonable solutions can be found with the cooperation of the private sector, local citizens and the government. We appreciate your interest and hope you will be willing to assist the City as we move forward.

Sincerely,

JAMES O. GIBSON,
Assistant City Administrator for Planning and Development.

EXHIBIT 1

MEMORANDUM OF AGREEMENT RELATING TO THE GEORGETOWN WATERFRONT IN THE DISTRICT OF COLUMBIA

This memorandum of agreement dated July 13, 1979 is entered into by and between the Secretary of the Interior (hereinafter called "Secretary"), the Mayor of the District of Columbia (hereinafter called "Mayor"), the Chairman of the National Capital Planning Commission (hereinafter called "Chairman"), and GEORGETOWN HARBOUR ASSOCIATES, a general partnership, with principal offices at 1204 Wisconsin Avenue, N.W., Washington, D.C. 20007, and its successors and assigns (hereinafter called "Developer"), for the purpose of initiating and insuring coordinated public and private planning and development of the area in the District of Columbia along the Potomac River between the Francis Scott Key Bridge and Rock Creek extending from the shoreline of the River to K Street, N.W. (hereinafter called "Georgetown Waterfront").

Such joint public-private redevelopment of the Georgetown Waterfront is deemed necessary by the parties hereto for several reasons. First, the Georgetown Waterfront consists of land owned by various public agencies and private parties. Second, exemplary redevelopment of such a large area under multiple ownership requires a coordi-

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nated planning effort by the concerned public agencies and private interests. Third, it is in the public interest to achieve a lesser intensity of development than that permitted under existing zoning regulations. Fourth, implementation of a coordinated plan requires mutual assurances that the plan would receive continued support by the public and private redevelopers. In short, the complexity involved in producing exemplary urban design on the Georgetown Waterfront requires a joint effort. Accordingly, the Secretary, the Mayor, the Chairman, and the Developer agree as follows:

I. GEORGETOWN WATERFRONT PARK

1. The Secretary shall request, and the Chairman shall recommend, that the National Capital Planning Commission (hereinafter called "Commission") establish, as an addition to the park, parkway, and playground system of the National Capital, and acquire, by purchase, gift, condemnation, or otherwise, within the limits of appropriations made for such purposes, lands necessary therefor, pursuant to the Act of June 6, 1924 (43 Stat. 463), as amended, the Georgetown Waterfront Park (hereinafter called "Park") generally as shown on Map No. 1, Georgetown Waterfront Park and Development Area, NCPC Map File No. 71.10 (78.00)-28656, annexed hereto and made a part hereof.

2. In order to establish the Park, the Mayor shall, subject to the conditions set forth in this Memorandum of Agreement, initiate the procedures necessary to effect the conveyances, transfers, and uses of land which are described below. Such conveyances and transfers are shown generally on Map No. 2, Georgetown Waterfront-Proposed Land Transfers, NCPC Map File No. 71.10 (78.00)-28657, annexed hereto and made a part hereof. All required surveys, appraisals, and legal descriptions shall be prepared before any transfer or conveyance is executed.

A. The Mayor shall, pursuant to the provisions of Title 23 CFR, Part 480 ("Use and Disposition of Property Acquired by States for Modified or Terminated Highway Projects", 43 Federal Register 54074, November 17, 1978), seek the approval of the Federal Highway Administrator for the use and disposition, without the District's being required to make a credit to Federal funds, as such credit is defined in Part 480, of property acquired by the District for highway purposes. The use and disposition for which the Mayor will seek such approval are (1) transfer of jurisdiction to the National Park Service, pursuant to the Act of May 20, 1932, 47 Stat. 161, ch. 197, as amended (40 U.S.C. 122; Sec. 8-115, D.C. Code); and (2) conveyance to the Developer, pursuant to the Act of August 1, 1951, 65 Stat. 150, ch. 283, as amended (Sec. 9-401 through Sec. 9-404, D.C. Code), in exchange for a portion of land owned by the Developer which fronts on the Potomac River.

B. In the event that the Federal Highway Administrator determines that any proposed use or disposition of land acquired by the District for highway purposes requires a credit to Federal funds, the Mayor explicitly reserves the exclusive authority to determine whether he will proceed in accordance with this Memorandum of Agreement, pursue alternatives with the parties, or terminate all of his obligations under this Memorandum of Agreement, and in the event of such termination all parties' obligations hereunder shall terminate.

C. The Mayor shall request the Council of the District of Columbia (hereinafter called "Council") to approve, pursuant to the aforementioned Act of August 1, 1951, the exchange of land owned by the District for land owned by the Developer. Such exchange shall conform to all procedural and substantive requirements of said Act.

D. The Mayor shall, pursuant to the aforementioned Act of May 20, 1932, initiate the transfer to the National Park Service of jurisdiction over (1) land acquired by the District for highway purposes and approved by the Federal Highway Administrator for use as a park and (2) the land transferred to the District from the Developer in exchange for District land, provided the Council approves the exchange of land described in paragraph C. above.

E. The Mayor shall request the Council to close streets and alleys, pursuant to the Street Readjustment Act of the District of Columbia, 47 Stat. 747, as amended (Sec. 7-401 through Sec. 7-410, D.C. Code) and vest title to such closed streets and alleys in the United States for such portions thereof as are to be included in the Park and in the Developer for such portions thereof as are to be included in the Development Area, all as shown on Maps Nos. 1 and 2.

F. The Mayor shall designate an official or officials of the District of Columbia to review any application of the Developer for a construction permit for compliance with the Development Area objectives and controls set forth in Part II of this Memorandum of Agreement and to review any application of the Developer for a certificate of occupancy for compliance with Paragraph 2.I. of Part II of this Memorandum of Agreement. If the application does not demonstrate such compliance, the construction permit or certificate of occupancy shall not be issued. If the application does demonstrate such compliance and compliance with all applicable laws and regulations, the construction permit or certificate of occupancy shall be issued.

G. It is specifically agreed to and understood by the parties hereto that the Mayor agrees only to take such actions as are specifically set forth in this Memorandum of Agreement, that the District of Columbia, through all its entities, will exercise all lawful discretion and authority in the review of and ultimate decision on all requests for permits and other required District of Columbia approvals or governmental actions, and that this Memorandum of Agreement represents only the approval in principle by the Executive Branch of the Government of the District of Columbia of the development concept expressed herein. It is further specifically agreed and understood by the parties hereto that the terms of this Memorandum of Agreement are in all respects subject to the procedures and restrictions of all applicable provisions of Federal and District of Columbia law. Nothing herein contained shall constitute a waiver of the rights of the Developer under law if the conditions of Paragraph 4.A. of Part I are not or cannot be satisfied within a reasonable period of time.

3. The Chairman shall request that the Commission (1) recommend favorably on all such proposed street and alley closings and (2) approve all such transfers of jurisdiction.

4.A. The performance by the Developer of its obligations under Paragraph 4.B. of Part I, and the compliance by the Developer with the Development Area objectives and controls set forth in Part II and the conditions in Paragraph 2.F. of Part I of this Memorandum of Agreement, are subject to the satisfaction of all of the following conditions:

(1) the streets and alleys referred to in Paragraph 2.E. have been closed;

(2) the transfers of jurisdiction provided for in Paragraph 2.D. have taken place;

(3) the building height restriction easement referred to in Paragraph 1 of Part II has been terminated;

(4) the existing easement under the Whitehurst Freeway has been revised in such manner as to permit development to proceed; and

(5) a building permit has been issued to the Developer in accordance with Paragraph 2.F. of Part I.

4.B. The Developer shall, subject to the requirements of Paragraph 4.A. of Part I:

(1) convey any lands shown on Maps Nos. 1 and 2 titled in the Developer and necessary for the establishment of the Park to the United States, acting through the Commission, without consideration. Such lands shall be conveyed with all improvements removed to existing grade;

(2) erect a structure with a gross floor area of approximately 10,000 square feet, at the specifications of, and on a site approved by the National Park Service, and convey the structure to the United States for park purposes at no cost to the District of Columbia or United States of America; *provided* that the Developer shall have the right of reasonable approval of the specifications and location; *provided further* that the Developer and the National Park Service shall jointly agree upon a use thereof that is consistent with the nature of the adjacent development; and

(3) release to the United States, acting through the Commission, the perpetual use of a parcel known as "The Mole", part of lot 801 in Square 1172, containing approximately 20,000 square feet.

5. The Secretary shall (1) accept any transfers of jurisdiction from the District of Columbia to the United States of lands for inclusion in the Park, (2) accept jurisdiction of closed streets and alleys and lands titled in the United States and acquired by the Commission for the Park, (3) prepare a master plan for the Park, and (4) develop and maintain the Park within the limits of appropriations made for such purposes, it being the intention of the parties that the Park be so designed as to integrate the Park and the adjacent development in terms of the access between them.

6. The parties hereby mutually agree that, consistent with the terms hereof, the parties shall take such further actions as may be reasonably required, including joint District of Columbia and Developer submission of subdivision and building permit applications, if legally possible, to further the objectives of this Memorandum of Agreement and to expedite all governmental approvals and actions as are contemplated hereby.

7. The Secretary, the Chairman, and the Mayor (hereinafter collectively called the "governmental agencies") believe that the value to the governmental agencies of the various elements of the consideration being paid by the Developer is greater than the value of the elements of the consideration being paid by the governmental agencies to the Developer (the "Additional Consideration"). The governmental agencies acknowledge that the development objectives and controls in Part II of this Memorandum of Agreement could not be achieved unless the Developer, voluntarily and admittedly without receiving consideration of equivalent value, gave the governmental agencies

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more than received. Being aware of this and relying upon the acknowledgement by the governmental agencies as set forth in the preceding sentence, the Developer is willing to make a voluntary contribution of all such additional properties and rights comprising the Additional Consideration to the appropriate governmental agency or to such other organization which qualifies at the time of the contribution as an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1954 (or any successor provision) and upon which the parties hereto shall agree, at such a time and in such a way as to permit the orderly development of the Georgetown Waterfront.

II. GEORGETOWN WATERFRONT DEVELOPMENT AREA

1. After the Developer has conveyed the lands as required in Paragraph 4 of Part I and the Secretary has accepted the transfers of lands and of closed streets and alleys pursuant to Paragraph 5 of Part I, the Secretary shall terminate the building height restriction easement which the National Park Service holds on lands within the Development Area.

2. Subject to the provisions of Paragraph 4.A. of Part I, the Developer shall develop the Development Area in accordance with the following development objectives and controls:

A. The heights of all buildings, except buildings under the Whitehurst Freeway, shall be measured from a point 19 feet above mean sea level datum ("19 foot datum") as determined by the U.S. Army Corps of Engineers. (This is equivalent to the 50-year flood plain datum for this area.) All habitable space shall be above the 19 foot datum; parking and storage are permitted below that point. The heights of buildings under the Whitehurst Freeway shall be measured from the curb line of K Street.

B. Building heights shall not exceed those specified on Map No. 3, Georgetown Waterfront—Development Area Building Height Zones, NCPC Map File No. 71.10(78.00)-28658, annexed hereto and made a part hereof; *provided*, that in the interests of flexibility and variety, the heights of buildings may be increased by 10 feet, to provide architectural interest and articulation of the roofscape, on (1) no more than 35 percent of the land areas within the 30 foot building height zone, and (2) no more than 40 percent of the land area within each of the 40 foot and 50 foot building height zones, *provided*, that all such building heights shall be inclusive of all rooftop structures except that penthouses over elevator shafts may be constructed to a height of three feet over the maximum height permitted in each building height zone.

C. Building height zones are intended to screen the Whitehurst Freeway from the Potomac River and the Virginia shoreline and create a stepped building complex which would reach its greatest height adjacent to the Whitehurst Freeway and step down to the east and west and toward the Potomac River in order to achieve a varied skyline with views of the river from Georgetown above K and M Streets, N.W.

D. A unified design of the Development Area is essential to preserve the ambiance and character of Georgetown and to insure visual and architectural harmony and should be sensitive to the site, its riverfront location, and adjacent park and development.

E. Facades fronting on Rock Creek and the Potomac River should be articulated in plan and height to provide visual interest as well as maximize river views for the residences.

F. Boundaries between building height zones are shown on Map No. 3 as straight lines; however, these lines are intended as averages. Reasonable variations within the Development Area; that maintain these averages, are permissible if the variations allow architectural enhancement and the development of such amenities as courts, gardens, walkways, terraces, and steps.

G. The massing of buildings within the Development Area, including the area under and adjoining the Whitehurst Freeway, should provide for vistas (including, but not limited to, the visual easements specifically required pursuant to Paragraph H), light, air, amenities, pathways, and landscaping.

H. Visual easements thirty feet wide at the 19 foot datum shall be established along Thomas Jefferson Street extended, 30th Street extended, and 31st Street extended. The visual easement along 31st Street and not more than 25 percent of the horizontal area of each of the visual easements along 30th Street and Thomas Jefferson Street may be covered by buildings, the lowest elevation of which shall be approximately the bottom of the Whitehurst Freeway deck and the highest elevation of which shall be approximately 40 feet above the 19 foot datum. The width of such visual easements shall be measured from the center lines of 30th and 31st Streets and the center line of Thomas Jefferson Street projected south of K Street. Within the visual easements, public pedestrian ways shall be provided. Additional pedestrian ways, accessible to the public, may be provided compatible with Georgetown's historic orthogonal grid development.

I. Not less than 60 percent of the floor area in all buildings in the Development Area shall be for residential uses and not more than 40 percent of the floor area in all buildings in the Development Area shall be for commercial and office uses except that no more than 15 percent of the floor area in all buildings in the Development Area shall be for retail sales and service uses.

J. The building massing in the Development Area shall be designed so as to integrate residential and commercial uses within the complex.

K. All vehicular access for parking, loading and service to buildings in the Development Area shall be designed and controlled to minimize conflict with pedestrian movements and to reduce impacts on adjacent public streets serving the Georgetown Waterfront area.

Cecil D. Andrus, *Secretary of the Interior;* Marion S. Barry, Jr., *Mayor of the District of Columbia;* James O. Gibson, *Assistant City Administrator for Planning and Development;* David M. Childs, *Chairman, National Capital Planning Commission; Georgetown Harbour Associates, a general partnership, Chessie Resources, Inc., Georgetown, Partner,* Robert C. McGowan, *President; MDK Associates, Partner;* Herbert S. Miller, *Partner;* Richard L. Kramer, *Partner.*

Mr. HATFIELD. Mr. President, I am extremely pleased that today the Senate is considering S. 901, legislation which I introduced earlier last year in an effort to preserve the last remaining portion of the Potomac Riverbank within the District of Columbia that has not been set aside for the use of all the public.

Only a few years ago central cities were deteriorating at alarming rates with people and businesses fleeing to more suburban settings. Many of us watched with distress as the Nation's Capital City, one of the most beautiful and carefully planned in the world, suffered the same fate and once-beautifully kept residential and public areas became blighted and unkempt.

Among the effects of the 1973 world oil crisis and the resulting recognition of the limitations on world resources, the flight from inner cities were stemmed. Since then increasing attention has been paid to the potential that our cities hold for lively and ecologically healthy existences. Energy and imagination have been directed at our urban cores and out of them are arising exciting, people-oriented environments.

One of the long-neglected features of many east coast cities was their waterfront properties and harbors. In the 1970's, these blighted areas were transformed and became coveted locations for the products of the imaginations of increasingly creative architects and city planners. Understandably, local officials have welcomed these developments with open arms. But, unfortunately, these trends have had their negative side as well. First and foremost, a sad displacement of the poor has occurred and, as always, they have been forced to move to the least desirable areas rather than being accommodated among new residents. A second problem that has developed was created by the appeal of the almighty dollar. While many of the urban changes improved the cities, some have only produced a different set of problems because of the fact that the motive behind their creation was profit alone, with no consideration given to their impact upon people.

This is the situation we are facing at the site of the Potomac River waterfront south of the Georgetown area in Washington, D.C. This site is one of the most beautiful along the entire expanse of the river. It provides vistas of natural and manmade beauty both upriver and downriver. It is an ideal location for a public park to be enjoyed by residents and out-of-town visitors alike. It could provide the site for a future national memorial, as well.

Yet we have been slow to realize its importance. Slower, in fact, than private developers. Motivated by the potential profit to be earned by turning the area into a commercial and luxury residential complex, both private and public officials have fallen under the spell of well-financed and executed efforts to sell a plan for building on this site.

It has been my hope that Federal officials in charge of national parks will develop a sense of the importance of protecting the Georgetown waterfront from development. To that end, I introduced legislation in the 96th Congress authorizing the purchase of the privately owned land at the site. Naturally, economic realities made passage of that bill unlikely. S. 901, on the other hand, has a much more narrow and achievable goal: To authorize the Secretary of the Interior to exchange land that is already owned by the Federal Government for the waterfront land, or to accept donation or transfer of the land by the current owners. It has been a constant source of concern for me that Interior Department officials, by their inaction, have encouraged rather than discouraged the unfortunate development that would create unbelievable congestion at an already overburdened part of the Nation's Capital. S. 901 would require simply that alternatives be explored before we "throw in the towel" and give up efforts to preserve that with which nature has blessed us.

Let me quote from section (a) of the proposed legislation:

> The Secretary of the Interior, in cooperation with other public agencies is authorized to acquire by donation, exchange, or transfer the * * * lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by * * * Key Bridge * * *

In other words, I am not proposing the expenditure of any Federal dollars to acquire this important waterfront land.

Section (b) states that once acquired the land will be administered by the Secretary of the Interior in a manner that preserves and protects it for recreational uses as a national park.

The Mayor of the Nation's Capital has expressed his support for this goal. In hearings held on S. 1495, the Mayor's representative stated the Mayor's support this way,

> Let me say unequivocably, Mr. Chairman, that Mayor Barry strongly prefers a total park on the waterfront. It would satisfy strong citizen interest and present a dramatic river entrance to Washington from the west. (Senate hearings 96-108, page 9.)

The U.S. Fine Arts Commission also has voiced strong official support for the maintenance of the waterfront land as a park. After careful and repeated review, the Commission rejected the proposed construction plans and voted last year to withhold a building permit for the project.

In the report which accompanies S. 901, the Secretary of the Interior is on record with the administration's position favoring preservation and protection of the Georgetown waterfront for the recreational use of the public. He states in a letter to Chairman McClure that, "We would support enactment of S. 901." The Office of Management and Budget concurs in this support. Let me review the reasons for the need to pass this legislation. First, since the 1930's the National Park Service has planned for inclusion of the Georgetown waterfront in the National Capital Park System.

Second, the Georgetown waterfront is the only portion of the Capital's main Potomac River shoreline not protected by inclusion in that system.

Third, the entire area of the Georgetown waterfront is needed as a public waterfront park that would provide energy-efficient, close-to-home, water-oriented recreation for residents of the National Capital area, and would serve visitors from across the country.

Fourth, the entire waterfront is located within a high-hazard floodplain where construction of buildings would go against both prudent land management and sound public policy.

Fifth, the waterfront could be an appropriate location for a future memorial—I trust our Nation will continue to be blessed with men, women, and acts of providence worth memorializing.

Sixth, the District of Columbia, which owns a portion of the waterfront, has expressed willingness to convey its land free of charge to the National Park Service.

Seventh, the use of the waterfront for public park purposes is being threatened by the proposed construction of a large commercial/residential complex on privately owned land within the waterfront.

Lastly, on two occasions the U.S. Commission on Fine Arts disapproved plans for the proposed development.

I thank the leadership for agreeing to take up this matter and welcome the consideration of the issues surrounding it by my colleagues. Finally, I hope that the Department of the Interior will be moved to perform its proper function in regard to the waterfront and assist the public in efforts to maintain the city of Washington for the enjoyment of all the people of the Nation.

The **PRESIDING OFFICER**. The bill is open to amendment. If there be no amendment to be proposed, the question is on engrossment of the bill and third reading.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter referred to as the "Secretary"), in cooperation with other public agencies, is authorized to acquire by donation, exchange, or transfer the following described lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by a line four hundred feet west of Key Bridge, and is generally depicted on the map entitled "Potomac River Shoreline" dated September 1980; and numbered 80,000.

(b) Upon completion of the acquisitions authorized in subsection (a), such area shall be administered by the Secretary in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), as part of the park system of the National Capital, in a manner so as to assure the preservation and protection of the Potomac River shoreline and for recreational and other compatible purposes. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

(c) Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the Secretary determines it is in the public interest, such exchanges may be made other than equal values.

Sec. 2. Effective October 1, 1982, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DEPARTMENT OF STATE AND RELATED AGENCIES AUTHORIZATION—CONFERENCE REPORT

Mr. **BAKER**. Mr. President, I submit a report of the committee of conference on S. 1193 and ask for its immediate consideration.

The **PRESIDING OFFICER**. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of Aug. 3, 1982, p. H4999.)

Mr. **PERCY**. Mr. President, I urge my colleagues to support the conference report on S. 1193, a bill authorizing appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

For fiscal year 1982, the conference substitute authorizes appropriations totaling $2,873,760,000, which is $250 million less than the bill which passed the Senate and only $4.5 million more than the executive branch request.

For fiscal year 1983, the conference substitute authorizes appropriations

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totaling $2,923,244,000, which is $86 million more than the bill which passed the Senate, but $80.5 million less than the executive branch request.

The decrease in the fiscal year 1983 executive branch request contained in the conference substitute is due largely to the reluctance of the conferees to fund a construction program for the International Communication Agency, the costs of which will not be obligated until fiscal year 1984 and fiscal year 1985.

The total amount authorized in this conference report for fiscal year 1983 is essentially within the guidelines set for this purpose in the first concurrent resolution on the budget for fiscal year 1983.

I ask unanimous consent that two tables setting forth the amounts authorized by the conference substitute be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—BUDGET ISSUES: FISCAL YEAR 1982

[In thousands of dollars]

	Executive branch request	Senate bill	House amendment	Conference
Department of State:				
Administration of foreign affairs	1,245,637	1,318,754	1,245,637	1,245,537
International organizations and conferences	503,462	523,806	503,462	503,462
International commissions	19,808	22,508	19,808	19,808
U.S. bilateral science and technology agreements	3,700	3,700	3,700	3,700
Asia Foundation		4,500		[1] 4,500
Migration and refugee assistance	504,100	560,850	504,100	504,100
Subtotal, Department of State	2,276,707	2,434,118	2,276,707	2,281,207
International Communication Agency	494,034	561,402	494,034	494,034
Board for International Broadcasting	86,519	98,317	86,519	86,519
Inter-American Foundation	12,000	12,000	10,560	12,000
Arms Control and Disarmament Agency	16,768	18,268		
Total	2,886,028	3,124,105	2,867,820	2,873,760

[1] In providing a separate authorization for the Asia Foundation for fiscal years 1982 and 1983, the conferees expect the executive branch to request separate authorizations for this purpose in succeeding fiscal year.

[2] Includes an earmarking of $12,500,000 for Soviet and Eastern European refugees resetting in Israel, and an earmarking of $1,500,000 for the "political detainee" program of the International Committee for the Red Cross (ICRC).

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1983

[In thousands of dollars]

	Executive branch request	Senate bill	House amendment	Conference
Department of State:				
Administration of foreign affairs	1,248,050	1,248,050	1,248,050	1,248,050
International organizations and conferences	514,436	514,436	514,436	514,436
International commissions	22,432	22,432	22,432	22,432
U.S. bilateral science and technology agreements	3,700	3,700	3,700	3,700
Asia Foundation				4,500
Migration and refugee assistance	460,000	467,750	460,000	[1] 460,000
Subtotal, Department of State	2,248,627	2,256,377	2,248,627	2,252,127
International Communication Agency	644,000	482,340	482,340	[2] 559,000
Board for International Broadcasting	98,317	98,317	98,317	98,317
Inter-American Foundation	12,800		12,800	12,800

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1983—Continued

[In thousands of dollars]

	Executive branch request	Senate bill	House amendment	Conference
Arms Control and Disarmament Agency	19,942	([3])		
Total	3,023,686	2,837,034	2,842,084	2,923,244

[1] Includes an earmarking of $16,875,000 for Soviet and Eastern European refugees resettling in Israel, and an earmarking of $1,500,000 for the "political detainee" program of the International Committee of the Red Cross.

[2] The executive branch request, including supplemental, totals $644,000,000. The Senate bill and the House amendment recommended $482,340,000. However, since both the Senate Foreign Relations Committee and the House Foreign Affairs Committee subsequently reported supplemental authorization legislation (H.R. 5998 and S. 2581), the conferees agreed to the lower Senate combined level of $559,000,000. This amount includes earmarkings of $84,256,000 for grants for the Fulbright Academic Exchange Program and the International Visitor Program, $3,248,000 for grants for the Humphrey Fellowship Program; $8,906,000 for grants to certain private nonprofit organizations.

[3] The Senate bill authorized "such sums as may be necessary" for fiscal year 1983.

Mr. PERCY. Mr. President, in addition to the authorization of appropriations, the conference substitute retains various identical or modified policy and administrative provisions which were contained in either the Senate or House version of the bill. I urge my colleagues to review the Statement of Managers which explains in great detail all of these issues.

One of these issues of particular concern to both the House and Senate conferees was the title dealing with the Foreign Missions Act. After many days of debate, the conferees finally adopted a compromise which I believe adequately protects both Federal and local interests. I ask unanimous consent that the following excerpt from the Statement of Managers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FOREIGN MISSIONS ACT

The House amendment (the "Foreign Missions Act") established a new "Office of Foreign Missions" within the Department of State and authorized the Secretary of State to review and control the operations of foreign missions in the United States and the benefits available to them. "Benefit" was broadly defined to include any type of service or supply, including real property transactions, available from the public or private sources. It empowered the Secretary to set terms and conditions upon which benefits may be provided; set forth the mechanism and criteria under which issues relating to the location of foreign missions in the District of Columbia are to be decided; provided for the preemptive effect of the exercise of Federal jurisdiction regarding the conferral or denial of benefits under this legislation; provided administrative authorities to enable the Office of Foreign Missions to operate under the direction of the Secretary of State, but not subject to control by the bureaus responsible for the day-to-day operations of the Department; granted authority to the Secertary to apply the foreign missions provisions to international organizations or official missions thereto; and limited to two persons per foreign mission any certification for purposes of issuance of diplomatic license plates.

The Senate bill contained no comparable provision. S. 854, passed by the Senate, is similar to the House amendment, but contained no provision on the location of foreign missions in the District of Columbia.

The conference substitute is similar to the House amendment with the following changes which were drawn primarily from provisions in S. 854: It adds language preserving the authority of the Secret Service to provide protective services; requires the Secretary of State to advise those proposing to enter into transactions with foreign missions whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this legislation; broadens the definition of "international organization" to include those in which the United States does not participate; clarifies that the authorities of the bill shall be exercised in accordance with procedures and guidelines approved by the President; sets forth procedures and criteria under which issues relating to the location of foreign missions in the District of Columbia are to be decided; clarifies the preemptive effect of the exercise of Federal jurisdiction regarding the conferral or denial of benefits under this legislation; and provides that only amounts transferred or credited to the working capital fund of the Department of State may be used in carrying out the functions under the Foreign Missions Act.

Among those House provisions deleted by the conference substitute were the provision granting authority to the National Capital Planning Commission to settle chancery issues and the provision establishing the Foreign Missions Act as the exclusive law governing foreign missions in the District of Columbia. The original preemption provision was replaced with more limited language, which does not require State or local authorities to take any affirmative action.

The conference substitute also deletes the House provision concerning diplomatic license plates. The committee of conference took careful note of past abuses by foreign diplomatic personnel stemming from their special status and immunity. Such abuse was especially prominent in the area of diplomatic license plate issuance. Careful note was also taken of an exchange of letters between Representative William S. Broomfield and Under Secretary of State Richard T. Kennedy on this matter. The committee of conference is reassured by the Department's forthright response and its commitment to pursue this matter in the future. Specifically, the Department has indicated its intent to scrutinize the issuance of diplomatic license plates; assist local jurisdictions, as appropriate, with their collection of parking fines and the pursuit of other motor vehicle violations; and to monitor generally the number of diplomatic license plates issued. The committee of conference notes that these matters come within the purview of the new Foreign Missions Act and that the Department therefore will be able to remove this problem from the Office of Protocol and turn it over to the Office of Foreign Missions for handling.

With respect to the location of chanceries in the District of Columbia, the conference substitute contains a provision replacing that contained in section 206 of the House amendment. This new section retains the existing D.C. zoning structure composed of the National Capital Planning Commission, the D.C. Zoning Commission, and the D.C. Board of Zoning Adjustment. For purposes of considering chancery issues, the substitute provides that the President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services to serve as the Federal representative on the Zoning Commission in lieu of the Director of the National Park Service, and that the individual so designated will also serve on the Board of Zoning Adjustment, as the Zoning Commission representative when the Board considers chancery matters. The substitute also provides for chanceries to be treated similarly to, and no less favorably than, office and institutional uses, and sets forth criteria for use in determining the chancery issues which take into consideration international obligations and the need to balance municipal and Federal interests.

ANALYSIS OF CERTAIN FOREIGN MISSIONS PROVISIONS

Chanceries in the District of Columbia

Section 206 affects chancery locations only in the Nation's Capital and, therefore, is set apart from other sections of the Foreign Missions Act which are of general application. Section 206(a) states that the location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

Section 206(b)(1) permits chanceries to locate as a matter of right in any area zoned commercial, industrial, waterfront, or mixed-use, but not in medium-high or high-density residential zones. This means that a chancery wishing, for example, to locate in a mixed-use (commercial-residential) zone, may do so if it meets the same standards as to building height, bulk, et cetera, and acquires the necessary permits, as do other property users within that zone. Additional administrative steps would not be required. The principal change from the current situation is the inclusion of lower density commercial areas as a matter of right. These areas are often desirable for chancery uses, as they are for certain office and institutional uses. Indeed, the majority of chancery uses are small scale and lower density and therefore suitable for such areas, or in some cases require placement in such areas for security reasons. This subsection also includes the commercial-residential mixed-use areas and waterfront areas, which is not a change from current law, and adds industrial areas. The section does not authorize the location of chanceries as a matter of right in areas zoned residential.

Section 206(b)(2) permits chanceries, upon application, to locate, as at present, in areas zoned medium-high or high-density residential, as well as in other areas which include office and institutional uses, including mixed-use diplomatic and special purpose districts. All locations within these areas are subject to disapproval under the District of Columbia zoning process as provided in this section. This subsection will not permit chanceries to be located in any area which is essentially a residential use area.

Section 206(b)(3) precludes the imposition of limitations or conditions on chanceries greater than those placed on other office or institutional uses. This insures treatment for chancery uses equal to that accorded comparable uses in the same area.

Section 206(c)(1) provides for filing with the D.C. Board of Zoning Adjustment and public notice of all applications for chancery use or appeals by chancery applicants from adverse zoning determinations. This is consistent with current law.

Section 206(c)(2) provides for appropriate public participation in proceedings under this section. The D.C. Zoning Commission will have the responsibility for issuing the regulations governing public participation.

Section 206(c)(3) provides a limitation of 6 months for proceedings involving chanceries under this section. This is intended to insure an expeditious process which will avoid the extensive and overlapping proceedings which are required under existing law and regulations. A time limit of 6 months should, in most cases, be more than sufficient to complete the decisionmaking process. It is expected, however, that final decisions will, to the extent possible, be made in a shorter period.

Section 206(d) sets forth the criteria to be applied in the determination of chancery issues, which are intended to balance the municipal and Federal interests. In brief, these criteria include: (1) Recognition of the international obligation of the United States concerning the location of chancery facilities in the Nation's Capital; (2) historic preservation; (3) adequacy of parking and public transportation; (4) availability of Federal security; (5) the municipal interest, as determined by the Mayor of the District of Columbia, which includes matters such as traffic, height, bulk, area impact, among others; and (6) the Federal interest, as determined by the Secretary of State, which includes matters such as national security, foreign relations concerns, and the reciprocal impact on U.S. missions abroad.

Section 206(e)(1) provides that regulations, proceedings, and other actions of the National Capital Planning Commission (NCPC), the D.C. Zoning Commission, and the Board of Zoning Adjustment of the District of Columbia, shall be consistent with the provisions of this section, including the criteria described above, in order to assure consistency among actions of the several bodies administering this section.

Section 206(e)(2) provides for referral to NCPC for review and comment of proposed actions of the Zoning Commission, as is required under existing law.

Section 206(f) provides that proceedings concerning chanceries under this section would be conducted under a rulemaking and not an adjudicatory procedure. This will provide a process compatible with the conduct of diplomatic relations between the sovereign nations involved, and the participation of their diplomatic representatives in these proceedings. Such rulemaking procedures are currently employed by the Zoning Commission of the District of Columbia in some of its proceedings.

Section 206(g) directs the Secretary of State to require substantial compliance with building and related codes by foreign missions, which is stricter than current practice under which these codes are not enforced with respect to foreign missions because of diplomatic immunity. This subsection permits the Secretary of State to accommodate special building requirements, generally involving security, communications, and related needs, which are often required to be adjusted in a similar manner for U.S. missions abroad.

Section 206(h) provides grandfather rights for existing chancery locations and uses, so that such issues need not be reopened.

Section 206(i)(1) authorizes the President to adjust Federal representation on the D.C. Zoning Commission for purposes of proceedings under this section, in order to reflect, as appropriate, national security and foreign policy concerns. Under existing law, one Federal agency representative is now a member of the Zoning Commission. The Zoning Commission of the District of Columbia is composed of three representatives appointed by the Mayor of the District, one Federal agency representative (currently the National Park Service), and the Architect of the Capitol. This authority neither increases the Federal representation nor affects the District majority thereon appointed to the Commission by the Mayor of the District of Columbia.

Section 206(i)(2) provides that for purposes of chancery issues, the Federal agency represenative (who may be the existing official or one designated under the preceding subsection (i)(1)) shall also be the Zoning Commission representative on the Board of Zoning Adjustment. The Board of Zoning Adjustment of the District of Columbia is composed of three persons appointed by the Mayor of the District, one representative of the Zoning Commission, and one representative of the National Capital Planning Commission. Under existing law and practice, one member of the Commission currently serves on the Board on a rotating basis. This provision therefore assures that the Federal interest will always be appropriately reflected in the performance of the Board's functions under this section. It does not affect the District majority appointed to the Board by the Mayor of the District of Columbia. This subsection also provides that in chancery proceedings, the NCPC representative serving on the Board shall be the Executive Director of the Commission, which conforms to the existing NCPC practice of appointing a staff member for such purposes.

Section 206(j) provides that other provisions of law shall apply to chanceries in the District of Columbia only to the extent they are consistent with this section. This is in lieu of the House provision which made the Foreign Missions Act the exclusive law governing foreign missions in the District.

Preemption

Section 207 expresses the preemptive effect of the right of the Federal Government, through the Secretary of State, to preclude the acquisition of any benefits by a foreign mission within the United States. A denial by the Secretary, for example, of a right of a particular foreign government to open or maintain a mission within the United States, or a condition limiting the number of their personnel or other factors relating to the mission, would be controlling. This is consistent with current practice and reflects the policy of Federal preemption in foreign relations. This subsection does not otherwise affect State of local law or regulations. Nothing in this section would require any State or local authority to take any affirmative action. The principal impact of its terms is to preclude reliance on local law, regulation, or practice by a foreign mission in an effort to secure benefits contrary to limitations imposed by the Secretary. This limited preemption is necessary in order to assure that the purposes of the Foreign Missions Act are carried out.

Of course, State and local governments are obliged to respect the rights of foreign missions to be granted certain benefits under international law and international agreements in force. The views of the Secretary of State on the requirements of international law are authoritative in this regard. Should a State or local governmental entity wish to deny benefits which it is not obliged to grant, contrary to a determination by the Secretary of State that such benefits should be granted, the matter would, as under present practice, be subject

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to resolution through discussions between the Department of State and the State or local governmental entity. The committee of conference notes that the interests of the Department in promoting foreign policy and national security interests and the interests of State and local governments in protecting local citizen interests are not necessarily incompatible and therefore looks forward to a productive working relationship between the Department of State and State and local authorities.

This section also requires coordination among Federal agencies, under the leadership of the Secretary of State, in order to achieve an effective policy of reciprocity so as to fulfill the purposes of this legislation by precluding any Federal agency from taking any action inconsistent with the Foreign Missions Act. The provision has the effect of rendering unenforceable any rules or regulations of any Federal agency, to the extent that such rules or regulations would confer or deny benefits contrary to this title.

The committee of conference notes that the Foreign Missions Act is a new and unique piece of legislation which grants the Secretary of State significant authority over the activities and operations of foreign missions in the United States—authority which is long overdue. In order to carry out this authority effectively, the Office of Foreign Missions will need adequate numbers of trained personnel, as well as sufficient resources for the job. The committee of conference expects the Department of State to establish an effective and aggressive operation with a useful working relationship with the bureaus and offices of the Department, as well as with other interested agencies, but which maintains its distance from the day-to-day operations of the Department. In addition, the committee of conference cautions that a clear distinction must be made and maintained between the Office of Foreign Missions and the Office of Protocol, since their responsibilities may often be conflicting. The committee of conference expects, in particular, that certain responsibilities will be moved from the Office of Protocol to the Office of Foreign Missions, including such matters as: (1) the determination of eligibility and issuance of credentials of diplomatic, consular, and other foreign government officers and employees with respect to rights, privileges, and immunities; (2) advising and acting as liaison to State and local government authorities on diplomatic privileges and immunities and related matters; (3) providing certifications of the immunity status of individuals for use in court cases; (4) requesting waiver of immunity in appropriate cases; (5) assisting in the negotiations of consular conventions and other treaties and agreements involving rights, privileges, and immunities of foreign government missions and personnel; and (6) providing advice and assistance to diplomatic missions.

In certain areas, the Secretary may find it appropriate to permit sharing of responsibilities between the two offices, but the committee expects the new office to resolve the inherent conflict between protocol duties and those duties involving regulation of foreign mission activities. Appropriate liaison between the officer should assure that conflicts are minimized.

Mr. PERCY. Mr. President, in conclusion, the Foreign Relations Authorization Act is by its nature a long and complex bill. The committee of conference resolved more than 40 differences between the two Houses. The managers on the part of the Senate were diligent in their efforts to uphold the Senate position and were, I believe, rather successful in that effort. It is the belief of the Senate conferees that the compromises in the conference substitute were reasonable solutions to some very difficult issues. Therefore, I urge the adoption of the conference report.

Mr. PELL. Mr. President, passage of the conference report on S. 1193 will provide authorization for fiscal years 1982 and 1983 for the State Department, the International Communication Agency—redesignated by the bill as the U.S. Information Agency—and the Board for International Broadcasting. Although the total funding authorized for these three agencies is relatively modest as compared to the Department of Defense budget—$2,873,760 for fiscal year 1982 and $2,923,244 for fiscal year 1983—these agencies have an absolutely vital national security role. Diplomacy, be it the government-to-government representation of the State Department or the public diplomacy of USIA and BIB, is the most cost-effective way, in terms of money and lives to protect and promote U.S. national interests.

S. 1193 includes several important provisions to strengthen our representation abroad. The conference substitute mandates the reopening of seven closed consulates and earmarks funds for that purpose. This will enhance our visible presence overseas. The bill also includes a provision, initiated by Senator Glenn, to exempt the inter-American organizations—OAS, PAHO, IICA—from the debilitating effects of the administration's deferral plan.

S. 1193 also incorporates two provisions, of which I am proud to have been the author, to strengthen our public diplomacy. The first provision mandates a doubling of exchange-of-persons programs in real terms over the next 4 years and specifically earmarks increases in fiscal year 1983 of 37 percent to 46 percent over the fiscal year 1982 levels in the Fulbright academic exchange program, the international visitor program, the Humphrey fellowship program, and the private sector program, all programs with a proven record of effectiveness. This provision reverses a long-term decline in U.S. exchange programs which has left us outspent by the Soviet Union in this area by more than 10 to 1.

Second, this bill strengthens the Federal oversight over Radio Free Europe and Radio Liberty by requiring that the Directors of the RFE/RL Board be the same as the Presidentially appointed Directors of the Board for International Broadcasting. This provision, which in no sense federalizes the radios, will insure more effective use of the U.S. tax dollars in providing a source of reliable information on Eastern Europe and the Soviet Union to the people of those countries.

Passage of the conference report on S. 1193 will lead to strengthening of the diplomatic arm of our Government. This strengthening is being accomplished, I would note, with slightly less than the amounts requested in the President's budget for fiscal year 1982 and fiscal year 1983.

In the long run, however, the Congress must address itself to the problems caused by the real decline in resources devoted to our foreign affairs agencies. I note that since 1960 the number of State Department Foreign Service Officers has declined from 3,717 to 3,564 while the number of missions overseas has increased from 165 to 224. In the same period, consular loads have increased 900 percent and Washington's demand for reporting cables has increased 400 percent. A comparable situation exists at USIA, which the mandated increase in exchanges will only partially correct. Again let me emphasize that the failure to provide adequate resources to these vital tasks will over time undermine our national security.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDERS FOR TUESDAY

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent after the recognition of the two leaders under the standing order, that the following Senators be recognized on special order for not to exceed 15 minutes each: Senators Chiles, Heflin, Levin, and Humphrey.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Finally, Mr. President, I ask unanimous consent that after the execution of the special orders there be a brief period for the transaction of routine morning business to extend not past the hour of 11:30 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there is provision for a period for the transaction of routine morning business, is there not?

The **PRESIDING OFFICER.** There is.

Mr. BAKER. I yield back my time, Mr. President, so that the Chair may put the Senate in morning business.

The **PRESIDING OFFICER.** There will now be a period for the transaction of routine morning business.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE FEDERAL ELECTION COMMISSION

Mr. FORD. Mr. President, the Federal Election Commission is so often the subject of criticism that it is far too easy to overlook and slight the valuable services performed by that agency.

It is refreshing to receive favorable comment regarding the FEC from an organization as involved in the conduct of Federal elections as the International Institute of Municipal Clerks, many members of which are regularly involved in the administration of Federal elections.

Recently I received a letter from that organization in support of full funding of the FEC. In particular, the institute praised the assistance and information provided by the programs of the clearinghouse to State and local election officials—services which are not available from any other agency.

In both its letter and a resolution adopted by IIMC, the institute makes note of the savings to the local officials as a result of the information provided by the FEC's clearinghouse, and its State and local workshops for local election administrators. It should be noted that the clearinghouse functions of the FEC have had very little funding during the past year, and that the present budget for next year will provide for very little as well—less than $175,000, in fact. That this agency can continue to function with so little, and still provide services that cut costs for those local agencies that administer our Federal elections is a remarkable feat, and deserves commendation.

The clearinghouse, however, cannot continue to provide so many support services to the States in the future without adequate funding. It would be shortsighted and a false economy on our part to continue to restrict the funding of this agency in view of the savings it has been able to make possible for local election officials in the administration of Federal elections throughout the country.

Mr. President, I ask unanimous consent that the letter and resolution of the IIMC be included in the RECORD in full immediately following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INTERNATIONAL INSTITUTE
OF MUNICIPAL CLERKS,
Pasadena, Calif., July 20, 1982.

Hon. WENDELL H. FORD,
Member, Senate Rules Committee,
Washington, D.C.

DEAR SENATOR FORD: Please find attached a copy of a resolution that was adopted, unanimously, by the International Institute of Municipal Clerks at our recent annual meeting. The 6,400 membership body of municipal clerks, three-quarters of whom serve as their government's election officer, pointed out that the Federal Election Commission guarantees "The integrity of our nation's electoral system by providing information and assistance on Federal election matters."

The IIMC listed as valuable contributions to the election process the Commission's many reports and research surveys on voting systems, registration, training of poll workers, proposed legislation, and judicial systems. It praised its successful regional and state workshops and cited its National Clearinghouse on Election Administration as contributing to implementation of substantial cost savings to state, county and municipal election operation.

I also observe that Congress is now considering legislation to eliminate the Clearinghouse. Specifically, Sections 11 and 16 of H.R. 6479 would, as I understand it, eliminate both the Clearinghouse and the Voting Systems Standards study.

The IIMC and its 6,400 members are strongly opposed to eliminating the Clearinghouse and the Voting Systems study. Clearinghouse services are deemed important by our membership and, as I noted above, have resulted in substantial cost savings to state, county and municipal election operations. In our view, such services will be even more valuable in the future as state and local government will have even fewer resources to successfully administer Federal Elections.

Sincerely,

JOHN J. HUNNEWELL, CAE,
Executive Director.

RESOLUTION NO. 2

Whereas, the Federal Election Commission has worked closely with both the International Institute of Municipal Clerks and individual clerks in guaranteeing the integrity of our nation's electoral system by providing information and assistance on Federal election matters; and

Whereas, many municipal clerks administer Federal Elections and the Federal Election Commission has provided invaluable reports and information on Voting Systems and Equipment, Voter Registration, Training of Poll Workers, Proposed Federal Legislation Relative to Elections, and Federal and State Election Laws and Case Decisions; and

Whereas, the Federal Election Commission has sponsored informative and successful regional and state workshops attended by municipal clerks; and

Whereas, the International Institute of Municipal Clerks has been strongly represented on the Federal Election Commission's Clearinghouse Advisory Panel and regional and state panels; and

Whereas, the foregoing activities of the Federal Election Commission have resulted in substantial cost savings to state, county, and municipal election administrators and clerks; and

Whereas, the need for accurate and unbiased information and assistance on Federal elections and election administration becomes more critical each year: Now, therefore, be it

Resolved, That the International Institute of Municipal Clerks urges Congress to approve full funding for Fiscal Year 1983 as requested by the Reagan Administration and the Federal Election Commission, so that the Commission can continue its services to municipal clerks, and the President is hereby directed to send copies of this resolution to appropriate Congressional Leaders.

THE BALANCED BUDGET AMENDMENT

Mr. DIXON. Mr. President, we have spent much time in the past several weeks debating the balanced budget amendment and, of course the measure was approved by the Senate on August 4, 1982.

My friend and colleague of many years, Representative PAUL SIMON of Illinois, has recently written a newspaper column detailing his views on the subject, and I think they are well worth reading.

I hope all my colleagues in this body, as well as Representative SIMON'S colleagues in the House, will take the time to examine his remarks.

I ask unanimous consent that the text of the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

BACKBONE IN BUDGETING

While I consider myself to be independent-minded and avoid tagging labels on myself, sometimes I am identified by newspapers as a liberal Democrat.

Though my fiscal impulses are conservative, I favor more government involvement in certain areas than some of my friends do. It is an honest disagreement.

But where we should not disagree is that whatever we spend we pay for. T[illegible]t is why the tax cut voted last year was so[illegible]esponsible—in essence we decided to bo[illegible] money to give ourselves a tax cut.

Back in 1960 the people of Illinois voted on a $345 million bond issue for mental institutions and universities. As one who strongly supported a better mental health program and an improved university system for our state, I startled some of my friends when I opposed that bond issue.

Now I am startling some people by favoring a constitutional amendment to require a balanced budget, a position I have held since my first days in Congress.

There are some interesting parallels between Illinois' experience with indebtedness

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and the current situation with federal deficit spending.

Every organization I know, with the lone exception of the Farm Bureau, backed the state referendum on the bond issue. So did every newspaper I know of.

In opposing it I made two points: First, that we would be much better off increasing our taxes slightly and meeting the need on a pay-as-you-go basis; that the money would not be spent in one or two years as claimed. Second, that such a bond issue would only be the beginning and the net result ultimately would be costly to the taxpayers in both tax dollars and reduced services.

The measure passed, and the money ended up being spent over seven years, not one or two. And now the State of Illinois has a bonded indebtedness of more than $18 billion, according to a recent Chicago Tribune series, and is spending well over $100 million each year on interest alone.

Illinois took the easy way out and we are paying for it.

At the federal level we also are spending an increasing percentage of our tax dollar on interest rather than on goods and services because no matter what the economic situation, we spend more than we take in.

The federal government's number one expenditure is Social Security, the number two is defense, and the number three is interest. Everything else is far behind. Our interest expenditure for fiscal year 1982 will be at least $113 billion—just about what the total budget of the federal government was in 1964 when Lyndon Johnson was President.

Is it wise to endlessly go deeper and deeper into debt? Is it wise to each year spend an increasing percentage of money on interest payments which might go to help meet the needs of people? Is it wise for the federal government to compete with the private sector so mightily for borrowed money, sending interest rates up?

Then you get to the bottom line question: Can a Congress and an administration show enough backbone to balance the budget without having a constitutional amendment to force it? I have reluctantly reached the conclusion from some years of observing government that it is not possible.

Some charge that it is totally inconsistent for the same President and Congress who have voted record-breaking deficits to call for a constitutional amendment. And of course the charge rings true. Just as it is true that our year-after-year budgets of more spending than income are inconsistent.

The real question, however, is not whether the proposal is inconsistent (which it is) but whether it is in the national interest. I believe that it is.

I will argue for full employment programs with my friends who oppose them; I will argue for more adequate medical care for those who are just getting by in our society with those who somehow do not see the need; but I believe in paying for these initiatives as we go.

If we who serve in high office—and you who put us there—ask for an added service of government, then let us have the courage to tax ourselves for that service. If we do not have the courage to ask for the taxes, we should not ask for the services.

It is that simple.

Yes, there will be years in which there must be deficits, and Congress will have the ability to do that. But that should not happen regularly.

The national dialogue ought to be about the needs of this nation and how we effectively meet those needs, but it should involve a realistic assessment of costs.

I am tired of the nation slipping into the quicksand of deeper and deeper debt. And somehow out there in the American public is a streak of common sense which agrees.

EXTENDED UNEMPLOYMENT BENEFITS TRIGGER OFF IN ILLINOIS TODAY

Mr. DIXON. Mr. President, I have been informed by the Governor of Illinois, James R. Thompson, that Illinois will trigger off extended unemployment benefits today.

This is a disgrace. It further points to the need for immediate action on the part of the Congress and the President to address this urgent problem.

Illinois has a total unemployment rate of 12.3 percent. This translates into nearly 700,000 people who are out of work and are receiving some unemployment benefits—either the first 26 weeks of regular benefits or the additional 13 weeks of extended benefits; 50,000 people will lose their benefits today, Mr. President.

I was gratified by the accord reached between Senator METZENBAUM, Senator DOLE, Senator PERCY, myself, and others regarding the sense of the Senate resolution which overwhelmingly passed this body last Thursday. A copy of unprinted amendment No. 1186 is included at the end of my statement.

In addition, the entire Illinois congressional delegation signed a letter which was sent to President Reagan last Thursday. In that letter, we explained the impending emergency in Illinois and asked for special consideration to this problem and to specific suggestions as they were developed. Every member of the Illinois delegation signed that letter. The problem, which has already affected many other States, is now before us in Illinois. We agreed, in a meeting of the delegation, to work together with other States similarly affected. A copy of the letter we sent to the President is included at the end of my statement.

As I said last Thursday, this problem will not go away. As long as there are millions of people who are out of work and unable to find jobs, there will be people whose basic needs must be met.

With the added discouraging news that the national unemployment rate is now at a staggering 9.8 percent, there is certainly a necessity for addressing this issue directly, constructively, and immediately.

It makes no sense to have the highest rate of unemployment in 40 years, and have States such as Illinois ineligible to receive funds, based on a change in Federal law last year which penalizes the very States who need help most.

I introduced S. 2802 last week, which addresses the fundamental problem of the way that States count the number of unemployed in determining eligibility for extended benefits. Those States which have had the longest period of high unemployment are facing the dilemma of having many people on extended benefits, and fewer people on the regular 26 weeks of benefits. Those who have endured the longest period out of work are not even counted in determining eligibility.

I urge the President to act immediately, in concert with the Congress. We cannot delay.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UP AMENDMENT No. 1186

The Senator from Ohio (Mr. Metzenbaum), for himself and Mr. Schmitt, Mr. Dixon, Mr. Lugar, Mr. Robert C. Byrd, Mr. Chafee, Mr. Kennedy, Mr. Heinz, Mr. Riegle, Mr. Packwood, Mr. Levin, Mr. Durenberger, Mr. DeConcini, Mr. Specter, Mr. Cannon, Mr. Percy, Mr. Matsunaga, Mr. Sarbanes, Mr. Danforth, Mr. Domenici, Mr. Randolph, Mr. Dole, Mr. Baker, Mr. Pell, Mr. Huddleston, Mr. Sasser, Mr. Moynihan, and Mr. Boschwitz, proposes an unprinted amendment numbered 1186.

SEC. ——. It is the Sense of the Senate that Senate conferees on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, shall include the following provisions in the Conference Report on H.R. 4961:

(1) legislation establishing a Federal Supplemental Benefits program, which shall become effective in calendar year 1982 and which shall be appropriately coordinated with Federal job training and employment programs, under which Federal payments are to be made to provide, or to reimburse States for the costs of, not less than 10 weeks, and not more than 13 weeks of eligibility for unemployment compensation for workers who have exhausted their rights to any extended unemployment compensation under the Federal-State Extended Compensation Act of 1970; and

(2) legislation providing that States that are currently eligible or have been eligible since at least June 1, 1982, for the Federal-State extended benefit program will continue to be eligible to participate in the extended benefit program, notwithstanding any other criteria under Section 203 of the Federal State Extended Unemployment Compensation Act of 1970 which makes those States ineligible for extended benefit participation.

U.S. CONGRESS,
THE ILLINOIS DELEGATION,
Washington, D.C., August 4, 1982.

Hon. RONALD W. REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are writing to call to your attention an urgent problem in our State with respect to Unemployment Insurance Extended Benefits (EB) and to ask for your understanding and support.

Approximately 50,000 Illinois jobless receiving EB are in immediate danger of losing this critical financial support within the next three weeks when the program "triggers off" in our State. Changes in federal law made last year have precipitated this unfortunate situation, even though our State unemployment rate stands at an intolerable 11.3%. In particular, we are affected by amendments made by the Omnibus Budget Reconciliation Act of 1981 to the computation of the Insured Unemployment Rate (IUR), which now excludes EB recipients from the count, and to the level of the state trigger, which will rise to 6% next month.

At an emergency meeting of the Illinois Congressional delegation on Monday, August 2, we agreed to work together, with our governor, and with other states similarly affected, to develop a solution to our common problem. As the extent of the hardship caused by this situation in many parts of the country becomes more widely known, we believe a consensus will emerge as to the fastest and most effective remedy. We urge you to give special consideration to this problem and we hope you will remain open to specific suggestions as they are developed.

Sincerely yours,

Charles H. Percy, Allan J. Dixon, Melvin Price, Paul Findley, Frank Annunzio, Tom Railsback, George O'Brien, Sidney R. Yates, Tom Corcoran, John G. Fary, Lynn Martin, Henry Hyde, Gus Savage, Phil Crane, Paul Simon, Robert McClory, Edward Madigan, Cardiss Collins, Marty Russo, Ed Derwinski, Harold Washington, John Porter, Robert Michel, John N. Erlenborn, Daniel B. Crane, Dan Rostenkowski.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Mr. HATFIELD. Mr. President, H.R. 6863, the regular supplemental appropriations bill for fiscal year 1982 as reported by the Committee on Appropriations on Tuesday, August 3, provides a total of $8,982,292,099 in budget authority. Of that total, $6,107,184,460 is for pay and $2,875,107,459 is for fiscal year 1982 program supplementals in a number of agencies Government wide. The bill also provides $5,000,000,000 in borrowing authority for the Commodity Credit Corporation, the same as the House bill. This amount is not scored as budget authority by the scorekeeping conventions of the Senate.

The total recommended by the committee is $2,073,878,901 below the President's request. Although the committee made reductions in several programs below the levels provided in the House-passed bill, our final product is still over the House bill by $225,572,175. It should be pointed out, however, that the overage is in large part attributable to the committee's recommendation of $426,531,000 in foreign assistance, including $355,000,000 for the President's Caribbean Basin Initiative. The House bill provides a sum total of $1,031,000 in the foreign operations chapter. I ask that a summary table listing total pay and program supplementals, by chapter, be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered. (See exhibit 1).

Mr. HATFIELD. Mr. President, I believe this is a good, sound, signable bill. Even if we have to make some concessions in conference with the House on items where we disagree, I think our final product will demonstrate remarkable restraint and fiscal prudence, and I sincerely thank my colleagues for their cooperation in this regard.

However, I also warn the Senate that any amendments which may be adopted providing more spending for the remainder of fiscal year 1982 and beyond will certainly jeopardize the prospects for a successful conference with the House and Presidential approval. My predisposition will be to oppose any add-on amendments unless they provide for some truly urgent, extraordinary, unforeseen matter. I think we have pretty well taken care of such items in the committee, but something may have been overlooked.

Mr. President, I believe the chairman of the Defense Subcommittee, Mr. STEVENS, is to be specially congratulated on his efforts to hold down spending in the fiscal year 1982 supplemental bill, despite great pressure to the contrary. Senator STEVENS was careful to admonish the committee in its markup session that supplementals should only be used to meet unforeseen requirements, and most certainly not be used to recapture funds denied to an agency by congressional action on a regular appropriations bill for a particular fiscal year, or to initiate new programs that should more properly be addressed in a regular appropriations bill for the next fiscal year. Let me quote from page 46 of the committee report to emphasize this point:

> Generally, the committee has recommended full funding, by new appropriation or transfer, of the "must pay" items submitted by the Department. These included such uncontrollable cost increases as unfunded pay entitlements, inflation adjustments, and unanticipated shortfalls in funding.
>
> With few exceptions, however, the committee has rejected proposals to initiate or expand programs in the absence of urgent requirements or other unusual circumstances that are the basic criteria for supplemental appropriations. Many of the supplemental proposals can and should be considered in the normal appropriations process, many of them in the fiscal year 1983 defense appropriations bill.

Using these criteria, the committee has recommended a reduction of $2,132,724,000 in the President's request for defense.

Of course, I am aware that this is of some concern to the administration, or at least certain agencies within the administration. There have been rumbles from some quarters reminiscent of last year's upheaval over the continuing resolution. Some would measure these bills on a defense versus nondefense basis, and seize on any reduction in the defense request as a cut made simply to add money to a nondefense program. I categorically reject that analysis. True enough, this bill recommends reductions in the President's request for defense, and some increases over the President's request for nondefense programs. But the Committee did not rob Peter to pay Paul. Separate, independent judgments were made as to the funding requirements of various programs, and whether those requirements warranted provision of funds in this bill. On that basis the committee has recommended reductions in the President's request for defense. I am confident we would have made those recommendations irrespective of the funding requirements of nondefense programs.

In making these comments I am echoing the sentiments of the ranking minority members of the House Committee on Appropriations, Mr. CONTE, in his remarks to the other body during its consideration of this measure. I congratulate him on those remarks, and support him completely. And, like him, I believe this is a good bill, and I will urge the President to sign it should he need any urging. If the President vetoes this bill, I will vote to override that veto and urge my colleagues to do likewise.

I also draw the attention of my colleagues to the remarks made by the ranking minority member of our Committee, Senator PROXMIRE, when this bill was laid down last Thursday. Of particular interest is the Senator's pertinent observation that 82 percent of the budget authority provided in this bill will outlay between now and September 30. Not that 82 percent will be obligated, but that 82 percent will actually be spent in the next 6 weeks. That demonstrates the necessity of this legislation.

Finally, Mr. President, I again express my appreciation to all the members of the committee for their usual display of unfailing courtesy and cooperation during our markup. At the request of the majority leader, it was advanced from Wednesday morning to Tuesday afternoon on very short notice, and yet we had excellent attendance without complaint about disruption of schedules.

EXHIBIT 1

SUMMARY OF FISCAL YEAR 1982 SUPPLEMENTAL—H.R. 6863

	Supplemental request	House	Senate	Senate bill compared with estimates	Senate bill compared with House bill
Agriculture:					
Program	36,320,000	38,720,000	38,720,000	+2,400,000	
Pay					
Total, Agriculture	36,320,000	38,720,000	38,720,000	+2,400,000	
Defense:					
Program	2,422,350,000	367,560,000	492,754,000	−1,929,596,000	+125,194,000
Pay	5,379,274,000	5,229,746,000	5,176,146,000	−203,128,000	−53,600,000
Total, Defense	7,801,624,000	5,597,306,000	5,668,900,000	−2,132,724,000	+71,594,000
District of Columbia:					
Program	(60,500,400)	(60,500,400)	(60,500,400)		
Pay					
Total, District of Columbia					
Energy and Water Development:					
Program	97,400,000	92,700,000	56,200,000	−41,200,000	−36,500,000
Pay	3,344,000	35,000,000	35,000,000	+31,656,000	
Total, Energy and Water Development	100,744,000	127,700,000	91,200,000	−9,544,000	−36,500,000
Foreign Operations:					
Program	516,531,000	1,031,000	426,531,000	−90,000,000	+425,500,000
Pay					
Total, Foreign Operations	516,531,000	1,031,000	426,531,000	−90,000,000	+425,500,000
Housing and Urban Development:					
Program	3,775,000		304,000	−3,471,000	+304,000
Pay	160,155,000	258,138,000	257,060,000	+96,905,000	−1,078,000
Total, Housing and Urban Development	163,930,000	258,138,000	257,364,000	+93,434,000	−774,000
Interior:					
Program	178,150,000	217,382,000	199,553,500	+21,403,500	−17,828,500
Pay	60,980,000	77,563,000	72,401,000	+11,421,000	−5,162,000
Total, Interior	239,130,000	294,945,000	271,954,500	+32,824,500	−22,990,500
Labor, HHS, and Education:					
Program	561,046,000	800,154,000	704,648,000	+143,602,000	−95,506,000
Pay	56,864,000	56,864,000	56,864,000		
Total, Labor, HHS, and Education	617,910,000	857,018,000	761,512,000	+143,602,000	−95,506,000
Legislative:					
Program	35,629,000	7,359,325	2,489,000	−33,140,000	−4,870,325
Pay	40,243,000	24,092,000	24,536,000	−15,707,000	+444,000
Total, Legislative	75,872,000	31,451,325	27,025,000	−48,847,000	−4,426,325
Military Construction:					
Program	198,700,000	45,000,000	45,000,000	−153,700,000	
Pay	15,743,000	9,800,000	9,800,000	−5,943,000	
Total, Military Construction	214,443,000	54,800,000	54,800,000	−159,643,000	
State-Justice:					
Program	131,384,000	107,538,000	151,086,000	+19,702,000	+43,548,000
Pay	133,619,000	139,678,000	133,733,000	+114,000	−5,945,000
Total, State-Justice	265,003,000	247,216,000	284,819,000	+19,816,000	+37,603,000
Transportation:					
Program	176,645,000	383,645,000	210,720,000	+34,075,000	−172,925,000
Pay	167,821,000	167,475,000	152,775,000	−15,046,000	−14,700,000
Total, Transportation	344,466,000	551,120,000	363,495,000	+19,029,000	−187,625,000
Treasury-Postal:					
Program	529,688,000	547,124,959	585,821,959	+56,133,959	+38,697,000
Pay	150,510,000	150,149,640	150,149,640	−360,360	
Total, Treasury-Postal	680,198,000	697,274,599	735,971,599	+55,773,599	+38,697,000
Supplemental totals:					
Program	4,851,298,000	2,569,494,284	2,875,107,459	−1,976,190,541	+305,613,175
Pay	6,204,873,000	6,187,225,640	6,107,184,640	−97,688,360	−80,041,000
Grand total	11,056,171,000	8,756,719,924	8,982,292,099	−2,073,878,901	+225,572,175

Mr. **HATFIELD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **HATFIELD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **HATFIELD.** Mr. President, I am going to make a series of unanimous-consent requests.

COMMITTEE AMENDMENTS

Mr. President, I ask unanimous consent to modify the committee amendments by eliminating the amendment to strike the matter on page 64, lines 3 through 10. This has to do with payments for the widows of two Members of the House of Representatives and has been agreed to on the minority side.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and it is so ordered.

Mr. **HATFIELD**, Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc for the purposes of further amendment.

Mr. **EAGLETON**. I object, Mr. President.

The **PRESIDING OFFICER**. Objection is heard.

Mr. **HATFIELD**. We may be able to reach a compromise on this request a little later on this afternoon to adopt the committee amendments with certain exceptions en bloc. So I just want to put the Senate on notice that we are going to attempt to achieve that a little bit later.

Mr. President, the bill I believe now is open to amendment, is that correct?

The **PRESIDING OFFICER**. The question will be on agreeing to the first committee amendment.

Mr. **HATFIELD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **HATFIELD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HATFIELD**. Mr. President, I ask unanimous consent that we temporarily set aside the committee amendments so that we may take up a noncontroversial amendment to be offered by the Senator from Washington.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. **HATFIELD**. Mr. President, I yield to the Senator from Washington to offer an amendment.

UP AMENDMENT NO. 1192

(Purpose: To ensure that funds appropriated for flood control measures on the Toutle and Cowlitz Rivers in the State of Washington are obligated or expended)

Mr. **GORTON**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The bill clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. JACKSON, proposes an unprinted amendment numbered 1192.

Mr. **GORTON**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title III, on page 108, after line 19, insert the following:

"FLOOD CONTROL

"SEC. 304. Funds appropriated by Ch. VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of $18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the State of Washington as a result of a serious threat of catastrophic flooding."

Mr. **GORTON**. Mr. President, this amendment that I offer on behalf of myself and Mr. JACKSON does not affect the money balance of this bill at all. It deals with $18 million which was appropriated by chapter 7 of the Urgent Supplemental Appropriations Act of earlier this year for flood control and related measures on the Cowlitz and Toutle Rivers in the State of Washington, the rivers impacted by the continued eruptions of Mount St. Helens.

It simply directs the Corps of Engineers to expend that money as expeditiously as practicable. The reason for the amendment is the very serious threat to additional flooding on the Toutle and Cowlitz Rivers and due to the fact that the various retaining structures from the eruption are now for all practical purposes filled. Such major flooding would have a very significant and very adverse impact on the valleys of those rivers which include relatively large inhabited towns and cities.

The chairman of the committee, the distinguished Senator from Oregon (Mr. HATFIELD) is, of course, personally as well as professionally familiar with not only the need for this work but for its importance both to my State and indirectly to his own.

I ask that the amendment be adopted.

Mr. **HATFIELD**. Mr. President, the Senator from Washington is correct regarding this amendment. Having been very close to this matter for a period of years, since the eruption of Mount St. Helens, I am fully aware of this particular problem.

As the Senator knows, unless this dredging proceeds on schedule, and, in fact, if we could beat the schedule it would be all to the better, it is conceivable that heavy winter rains could build up and bring forth a kind of additional silt and spoilage from the damage which has already occurred. It could actually threaten railroad bridges and five interstate highway bridges downriver, as well as build up in the Columbia River itself the residue from the ash and the other debris that resulted from the eruption of Mount St. Helens.

This has, of course, very important regional consequences or significance, far beyond the State of Washington. I am fully sympathetic with his proposal.

This amendment will have no budgetary impact because these are moneys that have already been appropriated. If they are not expended during this fiscal year they will carry over. I understand the purpose of the Senator is to expedite as much as practicable the handling of these moneys through the dredging programs that have been outlined by the corps and which have been approved by the committee's past actions. With that in mind, I would be happy to accept the amendment. It has been cleared on the minority side as well.

So, Mr. President, I will accept the amendment.

Will the Senator ask unanimous consent to merely modify the heading in the amendment to strike the term "flood control"? That is a technical term.

Mr. **GORTON**. That is correct. I ask unanimous consent that that be done. This Senator thanks the distinguished chairman of the Appropriations Committee for his understanding.

The **PRESIDING OFFICER**. The Senator has a right to modify his amendment.

The amendment will be so modified.

The amendment as modified, is as follows:

At the end of Title III, on page 108, after line 19, insert the following:

"SEC. 304. Funds appropriated by Ch. VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of $18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the State of Washington as a result of a serious threat of catastrophic flooding."

Mr. **EAGLETON**. Mr. President, there is no objection on this side of the aisle.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (UP No. 1192), as modified, was agreed to.

Mr. **GORTON**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **HATFIELD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The question recurs on the first committee amendment.

Mr. **HATFIELD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENTS

Mr. HATFIELD. Mr. President, I believe we have now worked out a compromise on the matter relating to the committee amendments to be adopted en bloc and let me read the unanimous-consent request and see if this is in accordance with the understanding with the minority.

Mr. President, I ask unanimous consent that the committee amendments, with the exception of the amendments starting on page 30, line 23, through page 34, line 2, and the amendment beginning on page 104, line 16, through page 107, line 2, be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as having been waived by reason thereof, and that excepted amendments dealing with foreign aid be temporarily set aside until called up by the floor managers, with the concurrence of the chairman and ranking minority member of the Foreign Relations Committee.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, I reserve the right to object.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I rise to speak about the importance of a provision in the supplemental appropriations bill which relates to the committee's direction that uncommitted discretionary bridge funds should be allocated to five bridges, including specifically the Monongahela Bridge and the Charleroi-Monessen Bridge, both of which are located in the Monongahela Valley in Pennsylvania.

Earlier today, I visited these two bridges and am in a position to attest to the decrepit state of those bridges and the urgent need for their renovation or repair or reconditioning, whichever is most appropriate after the design and engineering studies have been completed.

The Charleroi-Monessen Bridge is over 75 years old and services 11,850 travelers a day in a population area numbering some 138,000 people. It has a posted 12-ton weight limit requiring detours in excess of 4 miles and subjecting the people in that area to enormous inconvenience.

The Charleroi-Monessen Bridge is a danger to those who travel on it either in vehicle or on foot. I walked across the span today on a rickety wooden sidewalk by the side of the bridge, taking care as to where I placed one foot after another because of spaces between the boards and because of the appearance of weaknesses in the boards. As a pedestrian, I was able to observe with greater care than a motorist who could have looked out his window and seen through the rusted grate the river below but probably would not have noticed the deep rust and disrepair of the bridge. This bridge is part of the infrastructure of western Pennsylvania, much of which is in need of repair.

The Monongahela City Bridge bears a plaque which shows its construction to have been in 1909, some 73 years ago. It is designed to accommodate some 7,500 vehicles a day, again serving the entire Monongahela Valley with a population of approximately 138,000 people. It is posted for a limitation of 20 tons and it has resulted in detours of some 15 miles for heavy duty vehicles, including fire trucks, causing delays for those who wish to travel to a number of places, in some cases under emergency conditions.

The efforts to apply discretionary funds to these two bridges have met with a spirit of cooperation from the Honorable Drew Lewis, Secretary of Transportation, who has met with me and my staff and has committed himself to do whatever is possible on this subject. This item is a high priority for my colleague from Pennsylvania, Senator John Heinz, who has labored long and hard for some remedial action on these two bridges.

I do want to say for my colleagues who will be considering this supplemental appropriations bill that these two bridges are urgently in need of repair and that an allocation of discretionary bridge funds for design and engineering purposes will be an important step forward for badly needed repairs.

I thank the Chair, and I yield the floor.

Mr. BAKER. Mr. President, I have had discussion now with the distinguished manager of the bill, the chairman of the committee, Senator Hatfield, and the distinguished manager on behalf of the minority. It appears to me that the best interests of all Senators on both sides of the aisle will be served now if we leave this bill and wait until the morning to resume consideration of it.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routing morning business to extend not past 3:30 p.m. in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER (Mr. Gorton). Without objection, it is so ordered.

THE STRATEGIC PETROLEUM RESERVE

Mr. MURKOWSKI. Mr. President, on June 20, 1982, the ABC television network broadcast an ABC News Close-Up entitled "The Oil Game." This hour-long broadcast raised some relevant points related to oil pricing and the collection of royalties for oil and gas produced on Federal lands. However, this broadcast also dealt with the strategic petroleum reserve, citing it as a case where "the Government and taxpayers may have been defrauded of millions of dollars and our national security may have been compromised."

Mr. President, since I came to Washington a little more than a year and a half ago, I have taken a special interest in the strategic petroleum reserve, (SPR). In my view, the filling of the SPR is one of the best ways we can act to protect ourselves against the possibility of a crude oil supply disruption, so you can understand why I sat up and took notice when ABC alleged that we may have fallen victim to a multi-million dollar fraud involving SPR.

According to ABC, it seems that an investigator for the State of Louisiana uncovered evidence that the Bayou Choctaw SPR facility just outside of Baton Rouge, La. was being filled with waste oil instead of the unrefined crude that was purchased by the U.S. Government to fill the SPR. The ABC correspondent interviewed an unidentified man wearing a hood—presumably to hide his identity for fear of retaliation. ABC told us the unidentified man had worked on the barge dock during the time the crude oil to fill the Bayou Choctow SPR facility was being unloaded. The unidentified man said the oil had a "rotten egg smell," and that it did not look or smell like a sweet virgin crude should.

Instead, he said, the oil destined for SPR storage looked more like used motor oil. ABC, based upon the interview with the unidentified dock worker and the allegations made by the Louisiana State investigator, concluded its discussion of the SPR by stating that:

> As many as 9,000,000 barrels of slop, tank bottoms and wastes may have been pumped into our Strategic Petroleum Reserve at a cost of more than $100,000,000. Worse yet, an important component of our national security, a hedge against a future oil embargo, may have been undermined.

Mr. President, this particular segment of this broadcast was extremely misleading and incomplete, and I would like to take this opportunity to help set the record straight.

The allegations of theft of oil bound for the strategic petroleum reserve are being fully investigated by the U.S. Attorney's office for the middle district of Louisiana, the Department of Ener-

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gy's Inspector General and other Federal agencies. Initial laboratory tests of the crude oil in storage at the Bayou Choctaw facility indicate that the crude oil meets purchase specifications. Unfortunately, while this information was available before the broadcast, ABC did not mention this on their program.

As I mentioned earlier, ABC produced an unidentified dock worker who said the oil smelled like rotten eggs, not sweet virgin crude. The reason for that is the Bayou Choctaw SPR facility stores "sour" crude—which, by the way, has a high sulfur content making it smell something like rotten eggs. The dock worker was not smelling waste oil—he was smelling "sour" crude which met the particular purchase specifications DOE had set for this oil. Again, ABC did not attempt to mention the fact that this might be the case.

Finally, the unidentified dockworker appearing on the program mentioned that, to his knowledge, he had never seen anybody testing the crude oil as it came off the barges. The fact is, Mr. President, the first thing the Department of Energy did when these allegations were first made was to recheck the quality assurance testing procedures that were underway in the previous administration at the time the oil substitutions were supposed to have been made. That review revealed that the testing procedures were prudent, complete, and rigorous. Just because a dockworker did not see the testing did not mean they did not occur.

Mr. President, ABC News did raise some relevant points about energy policy in this country. However, the program's segment on the strategic petroleum reserve was not representative of the highest standards of responsible journalism that I expect from ABC. Despite some early problems in the SPR program, the Reagan administration is making substantial progress in filling the reserve. While there may be some well-publicized disagreements over how quickly the reserve should be filled, the Reagan administration is, in my view, filling the reserve at a prudent rate. I believe we need to continue to move ahead with this program of great importance to our national security at the most ambitious rate possible given the budget constraints that we are faced with.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. SIMPSON). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of August 5, 1982, the Secretary of the Senate, on August 6, 1982, received a message from the President of the United States submitting sundry nominations; which were referred to the appropriate committees.

(The nominations received on August 6, 1982, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2036. An act to provide for a job training program and for other purposes.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 756. An act to amend title 5 of the United Stated Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes;

H.R. 5235. An act to amend the Sherman Act, the Clayton Act, and the Federal Trade Commission Act to exclude from the application of such acts certain conduct involving trade with foreign nations;

H.R. 601. An act to designate certain lands in Alabama as wilderness; and

H.J. Res. 521. Joint resolution to express the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability.

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 385. A concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

At 1:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 6812. An act to facilitate the collection of insurance premiums under title II of the National Housing Act and to authorize the expenses of the Bureau of the Mint for fiscal year 1983:

H.J. Res. 510. Joint resolution to designate the week of April 17, 1983, as "National Architecture Week"; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 756. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5235. An act to amend the Sherman Act, the Clayton Act, and the Federal Trade Commission Act to exclude from the application of such acts certain conduct involving trade with foreign nations; to the Committee on the Judiciary.

H.R. 6011. An act to designate certain lands in Alabama as wilderness; to the Committee on Energy and Natural Resources.

H.R. 6812. An act to facilitate the collection of insurance premiums under title II of the National Housing Act and to authorize the expenses of the Bureau of the Mint for fiscal year 1983; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 510. Joint resolution to designate the week of April 17, 1983, as "National Architecture Week"; to the Committee on the Judiciary.

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week"; to the Committee on the Judiciary.

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H.J. Res. 521. Joint resolution to express the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred to the Committee on Foreign Relations:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

COMMITTEE ON THE JUDICIARY DISCHARGED FROM FURTHER CONSIDERATION OF S. 349

Under the authority of the order of the Senate of June 4, 1981, the Committee on the Judiciary was discharged from the further consideration of the following bill, to which it had been referred on June 22, 1982:

S. 349. A bill to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2820, A bill to amend the Truth-In-Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 2821. A bill to protect the public interest and to clarify the application of antitrust laws with respect to the location of professional football teams; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DANFORTH (for himself, Mr. Cohen, Mr. Bradley, Mr. Durenberger, Mr. Gorton, Mr. Pryor, Mr. Andrews, Mr. Chafee, Mr. Dixon, Mr. Glenn, Mr. Hatfield, Mr. Heinz, Mrs. Kassebaum, Mr. Leahy, Mr. Levin, Mr. Moynihan, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Sarbanes, and Mr. Stafford):

S. Res. 444. Resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 2820. A bill to amend the Truth-in-Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

STUDENT LOAN PROVISIONS OF THE TRUTH-IN-LENDING ACT

● Mr. HEINZ. Mr. President, today, I am introducing a bill to exempt higher education loan programs from the requirements of the Truth-in-Lending Act. The purpose of the bill is to remove a superfluous and costly paperwork burden on lenders, which slows the process of providing loans to needy postsecondary students. While the act would simplify the disbursement of loans, disclosure protections for student consumers would remain in effect.

Currently, higher education loan programs, including the guaranteed student loan program (GSL), the auxiliary loans to assist students programs (PLUS), and the national direct student loan program (NDSL), are subject to requirements of the Truth-in-Lending Act (Public Law 90-321 as amended). Revised regulation Z, the implementing regulation for the Truth-in-Lending Act, requires lenders—financial institutions as well as educational institutions that originate GSLP, PLUS and NDSL loans—to preform cumbersome and unnecessary paperwork. The student loan programs contained in the Higher Education Act of 1965, as amended are already subject to statutory provisions and regulations that provide comparable disclosures and explicit controls over the issuance of loan proceeds to student consumers. These make the truth-in-lending provisions in regulation Z duplicative and unnecessary. Loan programs authorized under part B, which include the GSL, and PLUS programs, and part E, which includes the NDSL program, have specific statutes which govern the interest rates—finance charge or annual interest rate; minimum repayments—payment schedule; accelerated payment conditions—prepayment disclosure; late charges—other charges; grace periods, deferments, cancellations—free-ride period; and endorsement provisions—security interests. Additionally, institutions and lenders that make loans under parts B and E are also subject to statutory disclosure requirements outlined in section 433A and section 463A, governing student loan information.

A full complement of regulations governing the student loan programs have also been issued by the Secretary of Education and are governed by the Administrative Procedures Act, which requires publication changes or modifications that are subject to public comment and congressional review and approval. Internal operating procedures within the Department of Education, also require approval of the wording and formula of promissory notes used by the lender to make an educational loan. Approval is also required on the information contained on other forms and disclosure statements. Schools must also give students a statement of their rights and responsibilities under the student loan programs as required under section 485 of the Higher Education Act. Consequently, all disclosures required under regulation Z are currently being provided to students who are receiving loans under part B or E of the Higher Education Act and are required either through statute or regulations currently employed by the Department of Education.

Therefore, by exempting these student loans from regulation Z, institutions and lenders will be freed from unnecessary and duplicative paperwork. Overall estimates of savings to lenders range as high as $25 million in administrative costs. Also they will no longer be subjects to possible financial liabilities due to regulation Z. This bill precludes the prospect of the Federal Trade Commission—which is the monitoring agency for regulation Z and truth in lending—being involved in progams administered by the Education Department. However, this exemption will not in any way reduce the protection afforded to students who receive education loans. All the disclosures and provisions required by regulation Z for other forms of credit are covered under the current educational statutes.

Some 23 States have enacted their own truth-in-lending provisions. As is true with respect to the Federal Truth-in-Lending Act, State disclosure laws serve no useful purpose in connection with loans made under title IV of the Higher Education Act of 1965. It is therefore appropriate that the proposed exemption apply as well to State laws. Moreover, the multiplicity of often differing State laws create additional problems for national lenders and secondary markets. The need to set aside State disclosure requirements when the requirements of the Federal Truth-in-Lending Act are suspended has been recognized in the Omnibus Budget Reconciliation Act of 1981. Under section 536 of that act, the Congress set aside the disclosure requirements of both State and Federal law when it established an origination fee on guaranteed student loans.

Since the proposed exemption is remedial in nature, it should be given wide application. With respect to loans already made, continuing disclosure responsibilities, which also serve no useful purpose, would remain if these loans are not included in the coverage of the exemption. Lenders, guarantors, secondary markets and State and Federal regulatory agencies should no longer have to concern themselves with these disclosure requirements of Federal or State law. Therefore, the proposed exemption should apply to loans made both before and after its enactment.

In short, all parties to student loan transactions will gain from this legislative change. Processing of the loans will be expedited and the reduction in administrative costs will make it more attractive for commercial institution to provide a greater volume of loans to needy students. The entire higher education community, including the U.S. Student Association (USSA) and the Council of Private University Students (COPUS), has endorsed this proposal. The U.S. Department of Education (ED) and the Office of Management and Budget (OMB) included language to exempt higher education loan programs from the truth-in-lending requirements in the administration's omnibus budget proposal for 1981. The administration recognizes that the students are already protected by existing education statutes, and also anticipates notable administrative savings for Federal and State agencies.

The student loan programs in the Higher Education Act, including GSL, PLUS, and NDSL, are all noncompetitive, carefully regulated programs with the same terms required for all lenders.

This bill does nothing to compromise these protections for students. In addition, my distinguished colleague and cosponsor, Senator Stafford, intends to amend the Higher Education Act, to guarantee further the continued protection of student borrowers in the future. It is with these safeguards in mind that I urge my Senate colleagues to support this legislation to exempt higher education loan programs from the Truth-in-Lending Act.●

By Mr. SPECTER:

S. 2821. A bill to protect the public interest and to clarify the application of antitrust laws with respect to the location of professional football teams; to the Committee on the Judiciary.

PROFESSIONAL FOOTBALL STABILIZATION ACT OF 1982

Mr. SPECTER. Mr. President, after studying the issue at length, I am introducing the Professional Football Stabilization Act because I believe it is appropriate for the Senate to consider legislation which would prevent a professional football team from leaving a city where it has established ties unless it cannot survive as a profitable business. This legislation deals only with the issue raised by the plan to move the Oakland Raiders to Los Angeles, and is more limited than S. 2784, the bill introduced by the distinguished Senator from Arizona, Mr. DeConcini.

This legislation is premised on the judgment that sports fans in a city have a form of a "proprietary interest" in their team which should preclude the owners from moving the franchise unless it is a failing business. In my judgment, a sports team is "affected with the public interest."

I believe a sports team is different from a regular business entity. If an ordinary business moves away, another such business will take its place if a reasonable profit can be made. That is customarily not so with a sports team.

It is my sense that two generations of sports fans still resent the movement of the Brooklyn Dodgers and the New York Giants baseball franchises. Conversely, people understood the necessity for the relocation of the St. Louis Browns and the Philadelphia and later Kansas City Athletics.

It should be noted that this legislation is not a limitation on private property rights. It is instead an exception to the antitrust laws which restrict private action. From a free enterprise perspective, the 28 owners of NFL football teams should be free to contract away their rights to move without the consent of 21 of the owners. The antitrust laws have been interpreted to invalidate that expression of freedom of contract. This bill would create an exception to that limitation and give effect to their bargain so long as their joint agreement gave proper weight to loyal fan interest and restricted opportunities to relocate to situations in which such support was lacking and the team was, consequently, in true financial peril.

Professional football teams should not be moved at an owner's whim or simply to increase profits from enormous to astronomical. Nor should justifiable relocations be prevented by personal vendetta or caprice. This bill stakes a course of providing standards by which fans and local investments can be protected and by which teams can join by agreement to govern their respective home game locations.

I want to stress that the bill I am introducing today does not grant blanket antitrust immunity to professional sports leagues, nor is it intended to affect adversely the players' labor concerns. Instead, this bill provides, in recognition of the legitimate interests our cities and fans share in their "hometown" teams, that professional football teams may relocate only where such relocation is necessary for their continued commercial viability.

While I am concerned about legislation which would apply to a pending case, this issue is fundamentally different, for example, from applying contribution to pending antitrust cases. On the contribution controversy, sophisticated litigants chose not to settle but instead to take their chances by litigating through to verdict. Unlike the antitrust damage actions, the Raiders case was not realistically settleable.

While the bill in its present form would be applicable to the Raiders controversy, it may be that hearings will be persuasive to make such legislation applicable only to future cases.

Mr. President, I ask unamimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Professional Football Stabilization Act of 1982".

Sec. 2. (a) The Congress finds that—

(1) professional football teams achieve a strong local identity with the people of the cities and regions in which they are located, providing a source of pride to their supporters;

(2) professional football teams provide a valuable form of entertainment in the cities and regions in which they are located;

(3) substantial tax revenues and employment opportunities derive from the operation of professional football teams to the cities and regions in which they are located;

(4) the public, through a municipal stadium authority (which may be a city or county agency, or a municipal corporation) generally authorizes capital construction bonds to build a stadium, while the team's lease or use agreement generally sets rent to cover only operating costs of the stadium, without reimbursing the public for construction costs; and

(5) professional football teams are invested with a strong public interest.

(b) The Congress, therefore, finds and declares that professional football teams are affected with a strong public interest and that it is the national policy to discourage the relocation of professional football teams receiving local support.

Sec. 3. The Act of September 30, 1961 (75 Stat. 732; 15 U.S.C. 1291-1295) is amended—

(1) by redesignating section 4 as section 7 and striking out all after section 7, as redesignated;

(2) by inserting after section 3 the following:

"Sec. 4. No professional football team which has played its home games in a metropolitan area for six continuous years or more shall relocate unless—

"(1) one or more of the other parties to the stadium lease agreement fails to comply with a provision of material significance to the agreement, and such noncompliance cannot be remedied within a reasonable period of time;

"(2) the stadium in which the team wishing to move presently plays is inadequate for the purposes of properly and competitively operating the team, and the stadium authority demonstrates no intent to remedy such inadequacies; or

"(3) the team has incurred an annual net loss for at least three consecutive years immediately preceding the relocation, or has

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incurred losses in a shorter period that endanger the continued financial viability of the team.

"Sec. 5. The antitrust laws, as defined in section 1 of the Clayton Act, and the Federal Trade Commission Act, shall not apply to any joint agreement by or among persons engaging in or conducting the organized professional sport of football which restricts the movement of any member team in accordance with the criteria provided in section 4.

"Sec. 6. Any government authority in a metropolitan area from which a professional football team relocates may bring a civil action for damages and equitable relief if such relocation does not comply with the criteria provided in section 4.";

(3) by inserting after "section 1" in section 7, as redesignated, "and section 5";

(4) by inserting after section 7, as redesignated, the following:

"Sec. 8. For purposes of this Act:

"(1) The term 'persons' means any individual partnership, corporation or unincorporated association or combination or association thereof.

"(2) The term 'relocate' means to change the location in which a team plays its home games from one metropolitan area to another.

"(3) The term 'government authority' means any unit of general local government or other government agency or authority which exercises regulatory authority with respect to a professional sports team.

"(4) The term 'metropolitan area' means a standard metropolitan statistical area.".

ADDITIONAL COSPONSORS

S. 2061

At the request of Mr. Moynihan, the name of the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2267

At the request of Mr. Heinz, the name of the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations.

S. 2270

At the request of Mr. Lugar, the name of the Senator from Idaho (Mr. Symms) was added as a cosponsor of S. 2270, a bill to amend section II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restriction on the right of any alien in a foreign country to receive such benefits.

S. 2702

At the request of Mr. Andrews, the name of the Senator from South Dakota (Mr. Abdnor) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

S. 2720

At the request of Mr. Quayle, the names of the Senator from Minnesota (Mr. Durenberger), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 2720, a bill to provide transitional funding for the deregulation of health planning.

S. 2803

At the request of Mr. Sasser, the name of the Senator from Mississippi (Mr. Stennis) was added as a cosponsor of S. 2803, a bill to create a Federal, State, and local drug forfeiture fund.

S. 2811

At the request of Mr. Hayakawa, the name of the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2811, a bill to extend the restriction of water resource project construction for 1 year on the Tuolumne River, Calif.

SENATE RESOLUTION 444—RESOLUTION RELATING TO THE RISK OF NUCLEAR WAR

Mr. DANFORTH (for himself, Mr. Cohen, Mr. Bradley, Mr. Durenberger, Mr. Gorton, Mr. Pryor, Mr. Andrews, Mr. Chafee, Mr. Dixon, Mr. Glenn, Mr. Hatfield, Mr. Heinz, Mrs. Kassebaum, Mr. Leahy, Mr. Levin, Mr. Moynihan, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Sarbanes, and Mr. Stafford) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 444

Whereas, the growing threat of nuclear annihilation poses the most important moral issue in human history;

Whereas, nearly half of President Reagan's term in office has expired, and considerable time has elapsed since the President proposed the prohibition of U.S. and Soviet theater nuclear forces in Europe and the substantial reduction of U.S. and Soviet strategic force levels;

Whereas, ten years have elapsed since the SALT I agreements, including the ABM Treaty, went into effect, eight years since the signing of the Threshold Test Ban Treaty, six years since the signing of the Peaceful Nuclear Explosion Treaty, and three years since the signing of SALT II, the last three having never been ratified;

Whereas, the change in leadership at the Department of State presents a highly appropriate occasion for the Administration to clarify its nuclear weapons policies in light of recent actions which have caused anxiety at home and abroad, including:

(1) The relaxation of export restrictions affecting nuclear fuel cycles and reprocessing technology;

(2) The characterization of SALT I and II as "fundamentally flawed" and the suggested development of ballistic missile defenses in violation of the ABM Treaty;.

(3) The proposal to renegotiate the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty;

(4) The indefinite suspension of negotiations on a comprehensive test ban treaty;

(5) The formulation of a defense guidance paper which has raised questions whether United States nuclear policy contemplates limited or protracted nuclear war and whether any circumstances justify the first use of nuclear weapons; and

(6) The reported intention of the Department of Defense to seek "preclearance" for the use of tactical nuclear weapons; and

Whereas the promulgation of a coherent nuclear weapons policy should be the highest responsibility of government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should submit to Congress, at the earliest possible date, but no later than December 1, 1982, a comprehensive review of our nuclear weapons policies including where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DANFORTH. Mr. President, during the last 6 months the American people and people throughout the world have developed an active concern that their respective governments are not doing enough to reduce the risk of nuclear war. It is not difficult to understand why this concern has created a wave of political activism. Governments now have the power to destroy—in a matter of a few hours—the entire creation. For modern civilization, the possibility that a nuclear holocaust could occur has become the most important moral issue in human history.

There is a recognition that the growth of nuclear weapons, in both numbers and destructive capacity, is unabated. And there is a recognition that the spread of nuclear know-how and capability also is unabated. So many nuclear weapons have been accumulated that it would take more than 9 years to explode them at the rate of one an hour. And by the end of this decade several dozen additional nations may accumulate even more nuclear weapons. This growth is exactly like a cancer. If allowed to spread unabated it will produce death.

In response to this progressively more perilous world situation, people no longer are willing to accept mere pronouncements and promises about reducing the risk of nuclear war. A higher standard of performance is demanded of Government—specific accomplishments to reduce both the numbers and the spread of nuclear weapons. It is an altogether reasonable demand.

The inexcusable fact is that it has been more than 10 years since the United States and the Soviet Union have been able to ratify a nuclear arms control agreement. The Government of the United States must get off the dime. We must assume the initiative. We must pick up the gauntlet laid down by world opinion and by the insistent demands of our own people.

We must produce some specific and tangible progress in the struggle to reduce the risk of nuclear war. Our own people have grown distrustful that their leadership is truly and urgently committed to this end. We must allay those fears. As new leadership is assuming responsibility at the Department of State, there could not be a more appropriate time for the Senate at ask the President to clarify the administration's nuclear weapons policy.

It is not my intention to suggest that President Reagan has been completely inattentive or silent on the nuclear issue. In two significant policy statements—the zero option proposal for intermediate range nuclear forces issued on November 18, 1981, and the Strategic Arms Reduction Talks (START) proposal unveiled at Eureka College on May 9, 1982—the President has offered to go well beyond a freeze on nuclear arsenals. He has advocated the prohibition of United States and Soviet intermediate-range nuclear forces in Europe and significant reductions in United States and Soviet strategic force levels. My deep regret is that half of the President's term in office has elapsed and there is virtually no useful negotiation behind us on those two proposals. I support the President's efforts to create a zero option in Europe and a breakthrough in START. But—in my judgement—the pace and intensity of these efforts is disappointing. Indeed, there are rumors that this administration does not anticipate completion of negotiations on either proposal before 1985. It is my hope that the President can provide a clarification of his timetable and that his expectations are more ambitious than rumor would have it.

The administration has taken other actions which have created grave uncertainty about U.S. weapons policy.

U.S. nonproliferation efforts have changed with the relaxation of export restrictions affecting nuclear fuel cycle and reprocessing technology. Europe, Japan, Australia, and perhaps other countries will enjoy special exemptions from inspection standards which would otherwise be required under the 1978 Nuclear Non-Proliferation Act. They will also be permitted to utilize—under long-term contracts with the United States—plutonium manufactured from reprocessed fuel. Uranium enrichment technology may also be exported by the United States to non-nuclear-weapons states. Further, the United States appears ready to loosen its insistence on full international inspection safeguards for such countries as India, Brazil, Argentina, and South Africa. And it appears ready to relax pressure on nuclear exporting countries such as France, Germany, and Italy to require their customers to comply with the international inspection standards.

If the administration believes that these policies enhance the potential for nonproliferation then I believe that it should make its case more forthrightly than it has to date. I am not unaware of the arguments which are made in favor of a more active U.S. involvement in nuclear exports. It is argued that our increased leverage would permit us to implement more effective safeguards as the commercial nuclear power industry develops worldwide. It is argued that the United States is the only nation that has demonstrated a strong intent for the improvement of such safeguards. It is argued—by none other than the General Accounting Office—that the United States should keep up its activities in reprocessing and fuel enrichment so that it can develop the currently nonexistent technology for precise fuel cycle inventory control of such dangerous materials as plutonium. The administration should share its views on these important subjects in some detail. Its credibility as a leader in the struggle for nonproliferation is at stake. We must not be seen as giving up. If our intention is to develop better international safeguards by remaining a major player then our strategy for accomplishing this goal should be spelled out.

Mr. President, I am especially puzzled as to why a nation of laws like the United States should forgo opportunities to bring the principles of international law to bear on the arms control process. The United States has signed three major arms control agreements which remain unratified. Britain, the United States, and the U.S.S.R. signed the Threshold Test Ban Treaty (TTBT) in 1974. This agreement limits the size of underground nuclear bomb tests to 150 kilotons. In 1976, the same countries signed the Peaceful Nuclear Explosion Treaty (PNET), restricting also the size of bombs used for commerical purposes to 150 kilotons. In 1979, SALT II was signed. The President has not asked for ratification of any of these treaties, and he has decided to suspend negotiations which had been underway for some time toward a Comprehensive Test Ban Treaty (CTBT). I do not understand how there can ever be any hope for the arms control process when we thow years of useful negotiations into the wastebasket. While it is true that the United States has abided by the terms of the TTBT, the PNET, and SALT II to date, I can see no long-term advantage to the United States and the U.S.S.R. winking at one another over what ought to be a matter of law governing the behavior of our nations. Ratification of the two test ban treaties is long overdue. Negotiated under Nixon and Ford, observed by Carter, and establishing reasonable verifications techniques including the possibility of onsight inspections, each treaty requires equitable and mutual concessions. I also am convinced that a verifiable comprehensive test ban treaty could and should be negotiated and that such a treaty would also have a major positive impact on the arms control process. It is inconsistent to support START while opposing a ban on testing. Surely it is easier to verify a test ban treaty where a violation would produce a tell-tale seismic evidence than to verify a force reduction where the mere presence of MIRV'ed warheads on a missile in a silo could constitute a violation. Moreover, the CTBT would make a substantial contribution toward limiting the destabilization which comes from the deployment of new weapons systems.

Our continued compliance with SALT I and SALT II has been called into question. Indeed, both agreements have been characterized as fundamentally flawed. In addition, U.S. proposals for development of a ballistic missile defense capability, in violation of the ABM Treaty, are increasingly visible. A review of this entire area is needed.

Finally, Mr. President, the administration has formulated a defense guidance paper which has raised questions whether U.S. nuclear policy contemplates limited or protracted nuclear war and whether any circumstances justify the first use of nuclear weapons. It is my opinion that the outbreak of nuclear war cannot be limited because it would escalate in short order to an all-out exchange. To presume that disciplined communications and decisionmaking can prevail for any length of time in a nuclear holocaust is incredible, but I think the administration owes the American people an explanation.

The question of first use is more complex because it involves the credibility of NATO's nuclear deterrent against the possibility of Soviet aggression in Europe. It is too important a question to be left languishing in ambiguity. We should confront the issue head on so that both allies and potential adversaries know exactly what our policy is.

A most chilling development recently emerged from reported testimony of Defense Department personnel who have suggested that the use of tactical nuclear weapons ought to proceed under some kind of preclearance agreement. Such a suggestion makes my blood run cold. Surely we are entitled to have this misbegotten suggestion rejected out of hand or explained in some detail. My fervent hope is that the administration will repudiate it—period.

Mr. President, the United States has a solemn duty to exercise leadership in the struggle to reduce the risk of nuclear war. But we cannot do so in a sea of ambiguity about our policies and

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our intentions. Nor can we inspire confidence if the pace of our activity is lackluster. Today I have introduced a resolution expressing the sense of the Senate that the President should submit to the Senate, at the earliest possible date, a comprehensive report on U.S. nuclear weapons policy. The American people and the world community deserve to know where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified. The vague promises and pronouncements of the past must give way to a specific agenda aimed at tangible results implemented with a strong sense of urgency.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NO. 2016

(Ordered to be printed and to lie on the table.)

Mr. QUAYLE (for himself, Mr. Tsongas, Mr. Roth, Mr. Proxmire, Mr. Chafee, Mr. Specter, Mr. Gorton, and Mr. Mattingly) submitted an amendment intended to be proposed by them to the joint resolution—House Joint Resolution 520—to provide for a temporary increase in the public debt limit.

PRICE SUPPORT PROGRAM FOR SUGAR

● Mr. QUAYLE. Mr. President, today Mr. Tsongas and I are submitting and amendment to reduce the sugar price support program. Senators Roth, Proxmire, Chafee, Specter, Gorton, and Mattingly have joined us as original cosponsors of this amendment. We intend to offer this proposal as an amendment to House Joint Resolution 520, the fiscal year 1983 debt ceiling bill.

Mr. President, there are a number of compelling reasons for reducing the sugar price support level as soon as possible. Our amendment would reduce the price support from 17 to 14 cents per pound as of October 1, 1982. October 1, 1982, is the date that the new 17-cent loan program goes into effect. Additionally, the USDA must announce new sugar import quotas by September 15, 1982. Since our amendment greatly facilitates the removal of these counterproductive and protectionist quotas, I believe that any change in the sugar program should be in place before this date.

More importantly, however, I believe the costs of this program on American consumers and the American food industry have gotten completely out of line and must be reduced immediately. The Congress has already recognized the urgency of reforming the tobacco and milk programs and has acted to moderate their spiraling costs. The sugar program too has proven much more costly and inflationary than even its severest critics had anticipated. Just as with tobacco and milk, I believe the Congress should act responsibly to correct its mistakes.

Because of the way the sugar program has been administered, the price of domestic sugar now exceeds that of sugar purchased in the world market by 14.5 cents per pound. This means that American consumers, American bakers, American soft drink manufacturers, and American food processors are forced to pay more than $3 billion in additional sugar costs per year. Since quotas were imposed on imported sugar in May, the price of domestic sugar has risen by 5 cents per pound.

Since the new sugar program was enacted last fall, the price of sugar in the United States has been driven up by over 50 percent. The inflationary impact of this program cannot be underestimated. At a time when the general rate of inflation has declined, the price of one of the most widely used foodstuffs has risen by one-half. The retail price of sugar is now higher in the United States than in any other countries except Japan and Denmark. How can we be serious about controlling inflation when we legislate price increases of this magnitude?

Some have argued that there are compelling economic and national security considerations which justify this inflationary price support program. Such arguments place a great strain on the credibility of those desperate enough to advance them. Mr. President, I would argue without hesitation that there is no justifiable economic rationale for protecting sugar growers in this country.

The United States has absolutely no comparative advantage in the production of sugar. Cane sugar growers in Colombia, Peru, Kenya, South Africa, Indonesia, Australia, and Honduras achieve much higher yields than those in the mainland United States. Hawaiian growers have higher yields than all these countries except Peru and Colombia, but must extend their harvest cycle to 2 years to achieve this advantage. Beet growers on three continents achieve as much as a 50-percent yield advantage over U.S. beet growers. In terms of cost, the United States is rated a high-cost producer, as growers in the Caribbean, South America, Australia, and Southeast Asia enjoy cost advantages of up to 40 percent over U.S. sugar.

I see no real reason why we should spend billions of dollars to protect an industry which has no real comparative advantage in world markets. Sugar is obviously not related to our national defense. Furthermore, our protectionist policy on sugar only serves to increase trade tensions with our major trading partners. A brief chronology of events following the imposition of import quotas bears out the prospect that such protectionism will encourage other nations to retaliate against U.S. exports. I do not need to remind my colleagues that U.S. agricultural exports will be the first to suffer from a new wave of protectionism. Following are a few of the results of the imposition of sugar import quotas:

April 26, 1982: Trade Representative Bill Brock warns that sugar import quotas will "make it more difficult" to argue against trade barriers in Japan and the EEC.

May 5, 1982: President imposes restrictive import quotas.

May 14, 1982: EEC officials say sugar quotas will "help dispel the myth that our agriculture is more subsidized than in the U.S."

May 18, 1982: Japanese Foreign Minister Sakarauchi tells U.S. that Japan has virtually ruled out any immediate removal of import quotas on agricultural products, and says Japan would be quick to "point out Washington's recent imposition of sugar import quotas to counter any pressure by the U.S."

May 20, 1982: OAS Secretary General Orfila writes to President Reagan, projects a $90 million revenue loss for OAS nations due to sugar quotas, and says quotas could "conceivably undermine some of the ambitious and innovative proposals you have so courageously outlined for the well-being of all citizens of the Americas."

May 21, 1982: Exporting members of the International Sugar Agreement issue proclamation stating that U.S. import quotas and "the Sugar Title Provisions of the U.S. Agriculture and Food Act of 1981 are inconsistent with objectives of the International Sugar Agreement . . ."

June 30, 1982: EEC raises possibility of import restrictions on corn gluten feed and cites indirect U.S. subsidy to gluten feed through U.S sugar program's protection of corn wet milling industry.

July 14, 1982: EEC takes first step toward lodging a GATT case against the U.S. because of imposition of U.S. sugar import quotas. EEC complaint is that import quotas disrupt the world sugar market and contribute to depressed prices by restricting access to the U.S. market.

Although it is difficult to project the economic consequences if further restrictions on U.S. Exports are imposed, it is also difficult to escape the conclusion that U.S. agricultural exports are likely to be hit hardest. Last year we had a trade surplus in agricultural commodities of $6.9 billion with Japan and almost $6 billion with Europe. We sold over 2.5 billion dollars' worth of wheat and corn alone to the 10 leading sugar exporting nations of Latin America and Southeast Asia. Why should we allow sugar import quotas to imperil these valuable and well-established markets?

Mr. President, the time has come to reform this program before even more damage is done to both American consumers and American exporters. I believe my amendment is a step toward reducing the heavy burden placed on consumers and exporters by the generous sugar price supports. I fully intend to offer this amendment as soon as the debt ceiling bill reaches the Senate floor, and urge my colleagues to support this modest but much needed reform.

Mr. President, I ask unanimous consent that my amendment be printed in full in the RECORD. I further ask unanimous consent that an explanation of this amendment and several recent newspaper articles discussing the sugar program also be printed in the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2016

At the appropriate place in the bill insert the following new section:

SEC. . Paragraph (2) of section 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446(h)(2)) is amended to read as follows:

"(2) The Secretary shall support the 1982 crop of domestically grown sugarcane through nonrecourse loans at 14 cents per pound for raw sugarcane.

"(3)(A) Effective October 1, 1983, the Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 14 cents per pound for raw cane sugar.

"(B) Notwithstanding subparagraph (A), the Secretary shall support the price of domestically grown sugarcane at a level not less than 17.5 cents per pound for raw cane sugar for the 1983 crop, at not less than 17.75 cents per pound for the 1984 crop, and at not less than 18 cents per pound for the 1985 crop, if the Secretary finds that by the exercise of his full authority to impose duties and import fees such support level for such crop would not likely result in the acquisition of significant quantities of sugar by the Commodity Credit Corporation.

"(4) Effective October 1, 1982, the Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

"(5) The Secretary shall announce the loan rate to be applicable during any fiscal year as far in advance of the beginning of that fiscal year as practicable consistent with the purposes of this subsection. Loans during any such fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature before the end of that fiscal year.".

EXPLANATION OF SUGAR AMENDMENT

This Amendment is designed as a temporary, limited adjustment in the sugar program during the current period of abnormally low world sugar prices. It would establish a loan rate of 14 cents per pound for the 1982 crop year only. This will enable the Secretary to administer the program without a significant risk of budget outlays, through imposition of import fees and duties, but without having to resort to import quotas. For the 1983 crop year and succeeding years, the Amendment gives the Secretary limited discretion to establish a temporary loan rate below the levels specified in the Agriculture and Food Act of 1981—but no lower than 14 cents per pound. If the Secretary exercises his discretion to establish such a reduced loan rate, he is required by the Amendment to reinstate the higher loan rates specified in the 1981 Act (a minimum of 17.5 cents per pound for the 1983 crop, 17.75 cents per pound for the 1984 crop, and 18 cents per pound for the 1985 crop) as soon as world prices return to a more normal level. Thus, the Amendment requires the Secretary to reestablish the higher loan rate whenever he can operate the loan program at that higher rate—supported by import fees and duties, but not quotas—without a significant risk that the higher support level will result in the acquisition of significant amounts of sugar by the Commodity Credit Corporation.

[From the New York Times, June 22, 1982]

THE SOUR POLITICS OF SUGAR

Congress has long been sweet on the sugar lobby, protecting domestic growers at the expense of consumers and foreign producers. In recent months, however, this incredibly wasteful program has become an embarrassment to all but the most diehard. Senators Quayle and Tsongas hope to take advantage of this change in mood, by cutting back on price supports and reducing the damage to United States trade partners in the Caribbean.

The best places to grow sugar are in the tropics, where labor is cheap and the weather amenable to cane. But such economic realities have never carried much weight with America's few thousand sugar growers or their friends in Congress. In normal times, a combination of fees and tariffs hold down imports and maintain the domestic price far above the world price.

Yet these are not normal times. Good crops have driven the world price so low that the maximum fee and tariff permitted by law is insufficient to keep the American price above the minimum set by Congress. And rather than add to the budget deficit by supporting the price with direct Government purchases, President Reagan decided in May to set quotas on imports.

The quotas promise to make a bad program terrible. They allow the Government to keep the domestic sugar price at triple the world price, adding some $4 billion to America's sweetener bill. Equally important, they threaten the economy of the politically troubled Caribbean.

Panama and Guatemala—as well as Brazil—stand to lose hundreds of millions of dollars in sugar export earnings when world markets for their other exports are weak. And the Dominican Republic's sugar sales to the United States will fall by a third.

That figure actually understates the potential damage to an economy almost totally dependent on sugar for export earnings. By cutting the amount of foreign sugar purchased by the United States, the quotas force sugar exporters to scramble for other customers. In the two months since the quotas were announced, the price the Dominicans get for the three-fourths of their crop not sold in America has fallen 15 percent.

Senators Quayle and Tsongas would roll back the sugar price support level from 17.5 cents a pound to 14 cents for one year. We would rather see price supports eliminated entirely; there is no place in a healthy economy for a program that costs so much and benefits so few. But Quayle-Tsongas is a beginning, saving consumers over a billion dollars and eliminating the need to use quotas to support the domestic price.

[From the Indianapolis News, June 13, 1982]

SOME SWEET DEAL

Gliding over the polished floors at Versailles, expounding on the necessity for free trade, President Reagan had mud on his shoes.

His decision to impose quotas on sugar imports the month before leaving for the recent economic summit clung to him and left tracks of hypocrisy across his pleas against protectionism.

The President's decision was understandable, at least in terms of domestic politics. Sugar is the sand of international commodity markets: Plentiful and cheap. That's so, in part, because governments such as France subsidize production. To protect domestic sugar producers, America has slapped a countervailing duty on imports. And in his budget battle with Congress last year, Mr. Reagan won key votes by agreeing to sugar price supports.

Now that the price of sugar has plummeted, the bill for that horsetrading would cost the Treasury almost $1 billion. So Mr. Reagan decided to bill the consumer instead by slapping on a quota. Sugar growers' joy will be costly to consumers: Estimates range from $1 billion to $3 billion a year.

Questions such as whether America should bother producing sugar—rather than other commodities buyers might want—don't seem to get asked. And Congress clearly hasn't the guts to rely upon the free market to which it theoretically pays homage. Lawmakers would prefer to gut the proposed Caribbean Basin plan, which had aimed at promoting economic growth through trade.

The President has said Caribbean sugar producers will receive special treatment under the quota program, but nations such as the Dominican Republic still are nervous. Sugar is the Dominicans' leading export, and it now will be subject to quotas as well as fees and duties.

At Versailles, of course, it was easier to point at the Japanese in self-righteous indignation over their trading practices. Mr. Reagan certainly did not come armed with what should have been a pledge to scuttle sugar supports entirely. The official summit communique didn't mention sugar, but we can't help hoping that behind closed doors, at least somebody did.

[From the Miami Herald, July 2, 1982]

SWEET AND SOUR

Sugar prices have tumbled on the world market, but don't expect to pay less at your neighborhood market. That's because the Reagan Administration unwisely has decided to play sugar daddy to domestic producers of sugar.

The United States is imposing an import quota of three million tons to keep domestic prices up. Consequently, consumers will pay an estimated $1 billion more than they would if market prices prevailed.

The impact will be inflationary—and not just on coffee lovers who prefer two lumps instead of none. Sugar is present in such a wide variety of beverages and processed foods that it's inescapable.

Higher food prices are only the beginning of the problems that the Administration's sugar policies will cause. Taxpayers may be saddled with the cost of propping up prices as well. The Commodity Credit Corp. must pay if prices dip as expected.

Nor will that necessarily be the end of the Federal Government's outlays in further-

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ance of its sugar policies. Outlays for foreign aid may have to be increased to make up for cutbacks in imports.

As pointed out by Secretary General Alejandro Orfila of the Organization of American States (OAS) in a letter to President Reagan, "Some 20 OAS countries ship sugar to the U.S. Market." American sugar policies, Mr. Orfila notes, can be expected to "have a profoundly negative impact on the smaller countries of the Caribbean Basin, precisely those most to be aided by the trade, investment, and financing initiatives previously announced by the Reagan Administration."

Why would the Administration adopt a policy so at odds with its stated economic goal of whipping inflation and its foreign-policy goal of helping the Caribbean and Central America? Is the decision just more evidence of the Administration's disarray?

Probably not. More likely it is evidence of the degree to which agricultural policy is shaped by interests adept at lobbying. Thus it happens that domestic producers of sugar and the commodity most injurious to Americans' health, tobacco, have fared well.

Meanwhile, producers of such beneficial products as corn, wheat, and soybeans have been staggering under the double whammy of prolonged high interest rates and a steep decline in prices: Now they're apt to suffer yet another blow: Many sugar-producing nations will be forced to reduce imports of American grains.

There is no sound economic reason for the United States to be a major producer of sugar. It can import all it needs cheaper. If the domestic industry can't compete on the world market, it should use its land for other crops or quit. It should not be sustained by artifices such as subsidies.

To help ameliorate the immediate problem, meanwhile, Congress ought to give sugar prompt attention when the session resumes July 12. Senators Paul Tsongas and Dan Quayle propose reducing price supports for sugar. Their proposal would be sweet relief for consumers and taxpayers.

[From the Wall Street Journal, July 20, 1982]

SUGAR-IMPORT QUOTA CONTROVERSY GROWS OVER BENEFITS TO BIG COMPANIES, GROWERS

(By S. Karene Witcher)

Last May, in a twist to the government's already controversial sugar policy, President Reagan signed a proclamation to impose quotas on sugar imports.

That stroke of the pen touched off turmoil in the international sugar industry and marred the administration's much-vaunted free trade stance. It also ignited charges that a few big companies, large farmers and wealthy businessmen, such as the silver-trading Hunt brothers of Dallas, are benefiting from higher sugar prices at the expense of recession-battered American consumers. Many of those companies are publicly owned and some are controlled by foreign shareholders.

"The big benefactors are the big corporations," contends Nicholas Kominus, president of the U.S. Cane Sugar Refiners' Association, a Washington-based trade group of so-called independent refiners, or those without producing operations. The group depends heavily on imports and, not surprisingly, it opposes the sugar price support program, particularly quotas.

The quotas are supposed to raise the price of domestically produced sugar by limiting cheaper imports. That, in turn, should encourage U.S. growers and concerns that process sugar to sell the sugar to commercial users rather than to the government, which has promised to buy it later this year at a guaranteed price of about 17 cents a pound. A world-wide sugar oversupply has depressed prices to about eight cents a pound, the lowest price in roughly two and a half years.

The administration agreed to purchase sugar as part of a price-support program enacted in December, but now it is balking at spending the hundreds of millions of dollars that could be needed to fulfill that obligation.

DOMINANT COMPANIES

According to the Agriculture Department, big companies, most of them publicly held or units of public companies, dominate sugar production in the U.S. They include such names as Gulf & Western Industries Inc., which has interests ranging from movie making to zinc production, and U.S. Sugar Corp., the biggest cane-sugar producer. Both companies have operations in Florida.

And in Hawaii, a group of companies known as the "Big Five" produce about 96 percent of the state's annual production. One of those companies is Theo. H. Davies & Co., a unit of Jardine Matheson & Co., a Hong Kong-based conglomerate. Only about 4 percent of the state's sugar is produced by individual farmers, Agriculture Department officials say.

In the beet-processing sector, industry sources say the Hunt brothers' Great Western Sugar Co. in Denver usually is at the top of the list as the biggest. While the Hunts don't grow any sugar, their companies process and refine sugar and higher sugar prices mean more income to split with growers who contract with such processor to supply sugar.

The Hunts acquired Great Western in 1975 and usually contract with about 2,500 growers in five states to produce beets, says Jack Fulton, the company's director of government relations and communications. He declined to say whether the company is profitable, saying "we don't release" financial information. But he did note that the quotas will "definitely be a plus" for Great Western in the longer term. Analysts, however, say the quotas means millions of dollars extra a year that Great Western will have to split with its growers. Contracts vary but usually about 60 percent of the proceeds from sugar sales go to beet growers.

And the sugar industry is attracting other big companies to its ranks. In March, C. G. Smith, Ltd., part of Barlow Rand Ltd., a large South African industrial concern, acquired Monitor Sugar Co., a closely held Bay City, Mich., beet processor. One source familiar with the transaction said Monitor is "profitable and the South Africans are coming in trying to make it more profitable." He added that the price-support program, which effectively puts a floor under sugar prices, was an added incentive.

ADDED REVENUE

Industry estimates of how much domestic sugar growers and processors stand to gain in added revenue from the quotas differ. Kim Badenhop, a sugar economist and partner of New York's sugar brokerage B. W. Dyer & Co., estimates that extra revenue to the domestic sugar industry conservatively at just over $100 million a year. Others say the quotas mean hundreds of millions of dollars a year in extra revenue to growers and processors, based on current sugar prices and expected production. Most analysts believe the quotas will be in effect for at least two years and prices will be maintained at the current levels at least.

Although the quotas and their higher prices are helping boost profits for some concerns, analysts note that other less-efficient producers, the added income probably will just moderate losses. For example, despite higher prices, sugar analysts expect continued losses from most Hawaiian sugar companies because of high production costs. And some sugar companies, Amstar Corp. for instance, are trimming operations. They blame lack of profitability. New York-based Amstar has closed a beet-processing plant and a cane sugar refinery in the past few days and plans to close another beet plant.

Meanwhile, consumer groups are protesting the quotas and some politicians are trying to introduce legislation to lower sugar price supports and eliminate quotas.

"In a period of rising unemployment and stagnating income it is unconscionable that the administration has imposed quotas," charges Stephen Brobeck, executive director of the Consumer Federation of America in Washington.

Some in the sugar industry argue that Mr. Brobeck's estimates are high, but he reckons the quotas (which have so far raised the price of a pound of sugar by about three cents) will add $1 billion to the annual total sweetener bill of American consumers. As a rule of thumb, every one-cent increase a pound translates into a $300 million a year rise in sweetener costs because higher sugar prices trigger increases in alternative sweeteners such as high fructose corn syrup. American consumers currently pay about double the world price of sugar.

Although analysts differ over how much money consumers will pay in added sweetener costs and how much additional income the domestic industry will receive because of the quotas, they do agree on one point: The main beneficiaries of higher sugar prices in the longer term are corn sweetener manufacturers. And they will gain millions of dollars in sales. Corn syrup usually sells at 10 percent to 20 percent discount to sugar and has been increasing its share of the sweetener market in recent years. It currently holds about 30 percent and analysts project that percentage will widen further as users turn to the less expensive corn syrup. As Nauman Barraket, a sugar analyst at Smith Barney, Harris Upham & Co. puts it: Corn sweetener makers are "rubbing their hands in glee."

[From the New York Times, July 18, 1982]

YES, IT COSTS TOO MUCH

(By Nicholas Kominus)

H. L. Mencken may have had the sugar producer in mind when in an essay entitled "The Husbandman" he wrote: "When the going is good for him he robs the rest of us up to the extreme limit of our endurance; when the going is bad he comes bawling for help out of the public till."

In 1980, when the world price of sugar shot up, the nation's sugar producers did not hesitate to increase their own prices. As a result, they enjoyed record profits. But, as much as the producers enjoy riding the world market up, they hate riding it down. So last year they came to Washington, lobbying for help. Unfortunately, they got help—much help. The sugar program that emerged is dreadful.

The producers got the program, in part, by resorting to scare tactics. They argued that the program was needed to protect consumers from a so-called "sugar OPEC." This was nonsense. Sugar, unlike petroleum, is produced in practically every nation of the world, and substitutes are available. At the time, some were impressed by the argument. But the recent drop in the world price of sugar from 44 to 8 cents a pound has put the "sugar OPEC" argument to rest.

Meanwhile, consumers are stuck with a program that is artifically forcing up the price of sugar, and thereby contributing to the disturbing reappearance of inflation. As the price of sugar goes up, it inflates the price of many processed foods and beverages.

When President Reagan implemented the current sugar price support program, he said, "I personally regret the necessity for signing these proclamations. The sugar program enacted by Congress to protect higher-cost domestic producers will result in higher costs for all American sugar consumers."

The program is, indeed, forcing American consumers to pay more for sugar than consumers in most of the other nations of the world.

Today, the price of raw sugar on the world market is around 8 cents a pound, a result of overproduction in the United States and other parts of the world. Despite producer attempts to discredit it, the world sugar market is not a dumping ground. It is a viable and important market, which accounts for as large a percent of total sugar trade as do the world markets for wheat, feed grains and soybeans.

The United States price, which is forced up by import quotas, duties and fees, is around 22 cents, or nearly three times higher than the world price. By artificially maintaining the United States price that high the program is costing consumers an estimated $3 billion a year in higher sweetener costs.

That price tag becomes even more significant when it is measured against the small number of sugar producers. There are, in fact, fewer than 14,000 sugar producers. Thus, the cost of the $3 billion program is an astounding $215,000 per producer.

By comparison, the annual cost of the dairy program, in which 324,000 producers participate, is estimated to be $11,250 per producer. The wheat program, in which 870,000 producers participate, is estimated to cost $475 per producer. It is also interesting to note that the school lunch program costs $113 a year per child, and that the food stamp program costs $622 per participant.

The sugar producers enjoy these lopsided Government benefits without any strings attached. Unlike the other crop programs, they can produce all they want. In addition, huge sugar producers get to "play" with the taxpayers' money. Under the program, they can offer sugar to the Government as collateral for loans and these loans are expected to total around $1 billion in the coming crop year. Producers can reinvest the loan money in money markets, as some have in the past, reaping windfalls from the spread between the low interest rates charged by the Government and the currently high market rates. Moreover, if producers decide to default, they pay no interest.

The sugar program is also proving to be a total embarrassment to the Reagan Administration, which has been forced to impose restrictive import quotas in order to avoid the possibility of the Government having to buy domestically produced sugar. The quotas have been a cause of no small irritation in the developing sugar nations, most of which are in the Caribbean and Latin America. And the quotas have all but decimated the Administration's Caribbean Basin initiative.

More important, the quota problem transcends the sugar trade. It could have a serious impact upon our foreign trade generally. Sugar quotas will, as special trade representative William E. Brock said, "make it more difficult" to argue against trade barriers in the European Economic Community and Japan. As long as the quotas remain in force, every nation we have a trade problem with will gleefully point to them as an example of our transgressions.

It is ludicrous to jeopardize our $42 billion agricultural export trade to overprotect a minor industry. The sugar beet and cane crops are produced on less than 1 percent of the nation's farms, and they account for less than 1 percent of crop acreage.

Ironically, the sugar program is pricing sugar out of the sweetener market. High sugar price supports are permitting the corn sweeteners to capture more of sugar's traditional markets. As a result, some sugar refineries and factories are closing.

In recent months, all Government programs have been re-examined, and Government benefits to millions of Americans have been reduced. Sugar and its producers should be no exception.

[From the New York Times, July 28, 1982]

BITTER PILL: PRICE SUPPORT FOR SUGAR

(By Dan Quayle)

WASHINGTON.—Sugar, how sweet it is. So sweet, in fact, that Americans consume an average of 125.6 pounds a year. Yet it is sweeter still for those who produce it, for they are ultimately responsible for pernicious legislation that is protectionist, inflationary and economically inefficient.

I am referring to the sugar support program and recently imposed quotas on sugar imports. These are programs that serve no useful purpose in an Administration committed to the promotion of free trade and the reduction of Government distortion of the marketplace.

Last fall, Congress sent President Reagan a four-year farm bill that he signed into law. This law guarantees domestic sugar growers a minimum market price by requiring the Government either to buy their sugar if it cannot be sold on the open market at the minimum level or to raise prices by other means.

Since the price of corn sweeteners is tied to that of sugar, over 99 percent of the sweetener market now has a minimum price set by the Government. In effect, the Government is punishing the American public for its sweet tooth by making the consumers pay higher prices than necessary.

At present, the Government is required to keep sugar prices above 19.88 cents a pound, yet the world price has now dropped to less than 7 cents a pound. Who pays for this 13-cent difference? Why who else? The American consumer.

The beneficiaries of this program are the 12,847 sugar producers, while 227 million American sugar consumers are left with an acerbic taste in their mouths and a hole in their pocketbooks.

Based on per capita consumption, each 1-cent-a-pound increase in the price of sugar adds at least $300 million to the national sweetener bill. The present 13-cent difference between world prices and American prices means the sugar program could raise the American sweetener cost by almost $4 billion annually.

In the past, Uncle Sam has been able to raise the price of sugar in American markets by imposing duties and fees on imported sugar, which has accounted for about 42 percent of our total consumption. When world prices drop below 10 cents a pound, even these duties and fees are unable to make up the difference between the support price and market price because Federal statutes limit the amount to be collected by such measures.

This spring the Government faced the predicament of either having to buy $400 million to $800 million in domestically grown sugar or having to find a way to keep American market prices artificially high, as the world market price of sugar was dropping below the necessary level of 10 cents.

On May 4, 1982, President Reagan signed a proclamation imposing quotas on imported sugar with the ostensible purpose of fattening domestic sugar prices enough to avoid having to make enormous purchases. In layman's language, import quotas simply spread the cost of the sugar-price support program to consumers and to foreign sugar producers.

At a time when this country is advocating free trade and badgering other countries to lower their trade barriers, the installment of quotas on imported sugar undercuts the basic free-trade stance and makes it harder to win greater access to foreign markets for American exports. Even William E. Brock, the American trade representative, said the quotas would "make it more difficult" to argue against trade barriers in Japan and the European Economic Community.

A return to protectionism will only encourage the Europeans, the Japanese and other trading partners to limit the access of American products to their markets. Such limitations would be especially costly to American agricultural exports.

The imposition of sugar quotas also threatens to sink the already listing Caribbean basin initiative. In the Dominican Republic, for example, about 10 percent of the population is employed in the sugar industry and its subsidiaries, and 95 percent of its sugar is sold to the United States. This accounts for over a third of its export earnings. Under the present quota system the country stands to lose more than $136 million in 1982. Other countries that will be severely affected are Guatemala, Panama, Barbados, Colombia, Brazil, Thailand and the Philippines.

I do not believe that America's love for sugar should be punished by an inflationary and protectionist price support program. This program is costly to consumers, harmful to our efforts to preserve and expand free international trade and counterproductive to our programs of helping developing nations. It is a transparent contradiction of the commitment of this Administration to reduce Government distortion of the economy. It must be rescinded now before it does more damage to our economy and to the free-trade system this country stands by.

[From the Journal of Commerce, May 12, 1982

SOURING ON SUGAR

U.S. trade officials will find it harder than ever to negotiate for greater access to international agricultural markets as a result of the decision taken last week to impose quotas on sugar imports.

The decision was made on perfectly practical grounds. Under the present—ill-considered—price support program, the Commodity Credit Corp. was in danger of being forced to purchase as much as a billion dollars worth of U.S. sugar. The administration could hardly condone that with the present sorry state of the U.S. budget.

In a proclamation, which became effective Tuesday, President Reagan imposed country-by-country import quotas, allowing 220,000 short tons of sugar to be entered into the United States between May 11 and June 30. The quotas are based on exports to the United States over a seven-year period, dropping the highest and lowest years for each country and averaging the remaining five.

Under this calculation, the Dominican Republic gets a quota of 17.6 percent of U.S. sugar imports, Brazil gets 14.5 percent, the Philippines, 13.5 percent and Australia, 8.3 percent.

U.S. Trade Representative William Brock conceded recently that it will be more difficult for the United States to dismantle trade barriers in the European Community and Japan as a result of the move. The quota could prove a heaven-sent bargaining tool in their negotiations with the United States.

U.S. officials, although they are sheepish enough about the quotas, blame the heavily subsidized European Community beet sugar swamping world markets for the collapse of sugar prices, which has put the United States in this unfortunate quandary.

F. O. Licht estimates that beet sugar production in the European Community in the 1981-82 crop year should reach almost 16 million metric tons, up from 13 million in the previous year. This is almost half of the world's beet sugar output in a bumper crop year.

The introduction of quotas also threatens to make a mockery of the administration's Caribbean Initiative, which was designed to give preferential treatment to Caribbean exporters and encourage investment in the countries targeted for U.S. help.

The administration concluded that it had no choice but to apply the quotas as equitably as possible. That leaves such countries as Guatemala with a 4.8 percent quota, Panama with 2.9 percent and Costa Rica with 1.5 percent.

Agricultural Secretary John Block contends that the Caribbean nations will have a 1 percent larger share of the U.S. market with the quotas than they have without them and that they will be getting a higher price for their sugar.

Perhaps, but as the Caribbean Initiative begins the legislative process, the problems are likely to multiply. A House Ways and Means subcommittee last week tightened criteria for products eligible to be entered duty free and excluded a number of items, including footwear, luggage, handbags, work gloves, leather and belts. It also made provisions for a reduction in the free duty treatment on sugar from the Dominican Republic, Guatemala and Panama should that become necessary.

The administration has only itself to blame if it gets into tighter and tighter knots on the sugar question. It shouldn't have fallen for the support program in the first place.

Even the most free market-oriented administration loses its nerve when it comes to agriculture. We can understand why. But that loss of nerve, as events now prove, can be costly. Everyone will pay—the consumer as well as the exporter of other agricultural products. But above all, this country's trade relations—and its probity—will suffer.

[From the Wall Street Journal, July 20, 1982]

REAGAN'S CARIBBEAN PLAN IS COATED WITH SUGAR QUOTAS

(By Alejandro Orfila)

The present is an extremely difficult moment for the inter-American system. Political developments have seriously tested regional peacekeeping and our collective security mechanisms. And the severe economic decline of the past year casts a pall over the development process of this region, whose rates of growth were previously among the highest in the world.

Moreover, many of the problems on the regional agenda admit of no easy solution. It is evident that in the economic sphere the U.S., with its philosophy of free trade, has sought to provide creative and comprehensive responses to the dilemmas the members of the Organization of American States face in common. The Reagan administration's Caribbean Basin initiative is one proposal that demonstrated practical U.S. determination to help accelerate the development of smaller OAS nations through concrete trade and financial arrangements.

However, extraneous conditions are threatening to undermine the progressive development measures being proposed under the U.S. initiative for the Caribbean and Central America. In particular, one can cite those conditions that recently pressed the Reagan administration to impose quotas on imports of sugar.

Even while Latin America has sought to expand its trade horizons, world prices for commodities, such as sugar, coffee, bananas, meat and cotton—its principal exports—have gone down. As a result, the region is not earning the income it requires to offset high energy and debt-servicing costs.

With the imposition of U.S. quotas and the maintenance of high duty rates and import fees on sugar, however forced by unforeseeable or uncontrollable conditions, the short-term economic outlook for many Latin American countries has become more negative. Estimates indicate that under these new U.S. measures, Latin American exporters stand to lose about $90 million over the rest of this year.

One specific feature of this new quota system is the extreme hardship it places specifically on smaller exporters. Normally, sugar is shipped in vessels of 10,000 to 12,000 tons; U.S. quotas for some countries are substantially smaller than a normal ship's cargo. In effect this results in a practical exclusion from the market, plus higher interest costs for exporters forced to leave sugar in warehouses until the next quarter.

It is important to underscore that some 20 OAS countries ship sugar to the U.S.; in 1980, a year of relatively high prices, this amounted to $1.3 billion. In a normal year this total is reduced, as will be the case in 1982. This suggests that the nearly $90 million loss in revenue to Latin America projected from mid-May 1982 through the end of this year may have a profoundly negative impact on the smaller countries of the Caribbean Basin, precisely those most likely to be aided by the trade, investment and financing initiatives previously announced by the Reagan administration. As an avowed and committed free trader, the U.S. finds itself in a difficult and untenable situation, at least in the eyes of Latin America and the Caribbean.

U.S. consumers and foreign exporters alike are being adversely hit by these new quotas imposed on imported sugar.

In addition, the sugar industry in Latin America is reeling from the steady and vast expansion of high fructose corn syrup into the world sweetener market (particularly in the U.S.), an expansion that has not yet been appreciably offset by the potential use of sugar cane for fuel alcohol.

This is the first time since 1974, moreover, that the U.S. import quotas on sugar have been reestablished. Whatever its weaknesses and failures, it should be noted that the spirit of the pre-1974 act did not entail making such quotas primarily a revenue mechanism for the U.S. Treasury, the situation that prevails now under the newly imposed quotas and with the maintenance of high duties and import fees.

It is true, of course, that the solution to the region's sugar crisis does not lie only in the hands of the importing countries. Within the producing countries, a more diversified use of sugar cane is essential for national economic well-being.

Most countries that export sugar are also net importers of oil. An integral use of sugar cane in a modern agro-industry energy system could help reduce this dependence on oil. A more efficient use of bagasse to cogenerate electricity and alcohol would provide both liquid fuel and building blocks for sucro-chemical production. This diversified use could help stabilize world prices while not interfering with sugar's use as a food crop.

Yet even if long-range diversification of the sugar industry is essential for its future, the fact is that the recent imposition of quotas by the U.S. is having a disastrous effect on many OAS states. As matters now stand, the sole beneficiaries of these new quotas are U.S. growers. In the interest of hemispheric amity and of regional growth, objectives to which the U.S. has forcefully committed itself, means must be found to extend the benefits of this new U.S. system to Latin American exporters.

Given the overwhelmingly negative attitude in Latin America and the Caribbean toward these new U.S. measures, reconsideration of alternative policies is urgently required. Otherwise the prospects both for an economic turnaround in the region and for a near-term improvement in relations among OAS states can hardly be bright.

[From the Journal of Commerce, July 27, 1982]

CORN SWEETENER DEMAND EXPECTED TO INCREASE

(By Michelle Bolar)

Demand for corn sweeteners—high fructose corn syrup, in particular—is expected to increase during the remainder of this year and in 1983 as the price of domestic sugar rises.

The escalating price of domestic sugar was cited in a recent Drexel Burnham Lambert report as a major factor in making less expensive corn sweeteners a more attractive alternative to industrial users of sugar. The outlook for corn sweeteners was researched by the firm's new tropical commodities and consulting group, headed by Dennis Koutras, with input from food industry analyst Alan Greditor.

Domestic sugar prices have been climbing due to the imposition of sugar import quotas by President Reagan on May 11, after world sugar prices dropped to 8.48 cents per pound.

The quotas were imposed to limit imports of world raw sugar, create a greater demand for domestic sugar, and lift U.S. sugar to a minimum support price—currently 19.88 cents per pound.

Monday, the spot price of refined cane sugar in 100-pound sacks was 33.60 cents per pound.

Conversely, Monday's spot price of 55 percent high fructose corn syrup was 13.82 cents per pound. (The 55 percent figure refers to the concentration of fructose. Considerably sweeter than the other grain derivatives—dextrose and corn syrup—HFCS is the most widely used corn sweetener in the food and beverage industry.)

With HFCS so much cheaper than refined sugar, the Drexel Burnham report argued, industries that predominantly use sugar will turn increasingly toward HFCS in a cost cutting effort.

In addition to the jump in domestic sugar prices, there are other variables in the anticipated industry crossover to corn sweeteners.

The Drexel Burnham study pointed out that forward coverage of sugar, purchased at depressed prices, was already expected to diminish as 1982 progressed. (Forward coverage refers to the physical inventories of a commodity allocated for future use.)

But with the current restriction on imports, Drexel Burnham warned, industrial users that relied on lower-priced world sugar to establish their forward requirements will be forced to dish out more cash for domestic sugar, unless they switch to a cheaper alternative.

The volume of world sugar on the futures market also has declined because of the import quotas, creating further headaches for commercial users of sugar, according to the report.

Industries frequently traded the world sugar contract in the futures market to hedge against possible purchases of sugar from sugar operators.

Yet "the use of the world sugar market for forward coverage of sugar requirements," the report explained, "will likely be considerably reduced since variable import quotas suggest that no assurance exists that forward purchased raws can actually be imported.

The Drexel Burnham study concluded that these factors have significant favorable ramifications for the corn sweetener outlook:

First, the price limit of HFCS, which is dictated by refined sugar quotations, will be increased. HFCS producers will be able to raise their prices and still be viable contenders against sugar producers.

Second, prices that industrial users pay for refined sugar over the near-term will likely exceed their previous expectations.

Third, the ability of industrial users to protect against subsequent cost increases is being curtailed as a result of reduced access to the world market.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Public Lands and Reserved Water to consider S. 2818, to authorize the adjustment of the termination date of certain contracts for the sale of timber from national forest system lands and public lands; and S. 2805, to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes.

The hearings will be held on Monday, August 16, beginning at 9 a.m. and on Tuesday, August 17, beginning at 2 p.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

ADDITIONAL STATEMENTS

SOCIETAL PROPERTY RIGHTS

● Mr. EAST. Mr. President, should we open our borders to the millions of people desiring to immigrate to the United States? Some of my libertarian and conservative friends think we should. A lot of elected officials, judging from congressional inactivity over the last decade, apparently agree.

A thought-provoking contribution to the immigration debate was offered by Robert W. Whitaker in an essay entitled "Societal Property Rights," published in the New Right Papers. I hope my colleagues will read this essay and reflect on this problem before we take up S. 2222, the Immigration Reform and Control Act of 1982.

I submit for the RECORD this essay by Robert W. Whitaker.

The essay follows:

SOCIETAL PROPERTY RIGHTS

(By Robert W. Whitaker)

Why is it that labor is worth so much more on one side of a border than on the other? This is a question basic to immigration policy. Is it merely the irrational greed of American workers which keeps our borders closed to the tens of millions of people from poor countries who would be willing to come here and work for less?

As a matter of fact, liberals, libertarians, and big businesses are in implicit agreement on this point. Liberals are generally opposed to enforcement of our immigration laws. Big business sees a great prospect for profit as represented by large-scale immigration of cheap labor. Libertarians believe in equal pay for equal work everywhere on earth. They believe that all labor of the same quality should be paid the same, so restricting the movement of labor between nations is immoral.

This reasoning can go pretty far. Some time back, a conservative magazine contained an article protesting the lax enforcement of U.S. immigration laws on the Rio Grande. A flood of letters poured in, most of them with a single theme: A border to keep people out of the United States is as immoral as the Berlin Wall, which keeps people in East Germany.

To equate the Berlin Wall with American immigration laws is to say that the rest of the world has as much right to settle in the United States as East Germans have to emigrate. The point libertarians lose sight of is that immigration laws mean that we have something other people want. There are things in America, the product of Americans, which others would like to share. Some of these things are noneconomic, such as freedom. But we cannot share freedom by letting everybody on earth come here. Few free market economists would disagree with that statement. Yet our economic benefits are also the product of Americans, and free market economists quite seriously maintain that we have no right to keep them to ourselves.

Libertarians and free market economists generally believe that one obtains the highest level of production by following, insofar as possible, two principles. The first is that distribution of goods and services should be done by the market place, through supply and demand. Production, on the other side, is maximized by paying each person according to his contribution to production. But they restrict the definition of "contribution to production" to the three classical factors of production: land (including resources), labor (including skilled labor and management), and capital. If labor of the same quality is paid more in one place than in another, it represents an economic distortion.

According to pure free market economics, if wages for the same work are low in Calcutta, true economic theory requires that labor should be allowed to go elsewhere, until there is everywhere equal pay for equal work. Therefore, if Japanese workers are receiving more than Indian workers, they are getting the extra pay because they are exploiting somebody.

But whom? Whom is the Japanese worker exploiting? Is it capital? If Japan's investors were paid too little, the immense flow of capital into Japan from all over the world—including India—would stop. Is the Japanese worker exploiting management? There are firms all over the world who would like to have some Japanese managerial talent, and that managerial talent is perfectly free to leave. If it is exploited, why doesn't it go elsewhere? The reason is that, far from being exploited, managers in Japan do extremely well. Is it resources, then? Is Japan so rich in resources that the extra pay for workers there exploits vast mineral wealth for its benefits? Hardly. Japan does not have a tenth the resources per capita that India does.

Japanese workers receive more for their work because Japan is a productive society. Those who advocate unlimited immigration assume that all societies are equally productive, so the fact that Japan has a high living standard is a happenstance. If we assume the higher wage in a productive society is coincidental, then certainly an Indian has as much right to it as does a Japanese.

Free market economics, in other words, does not take into account contributions of the members of a society, not only as workers and savers, but as citizens.

Societal productivity requires, among other things, a resistance to demagoguery. There is real economic value in having a population in which those unemployed do not try to seize all property. But docility is not necessarily more desirable than constant rebelliousness. The enforced docility of the Franco government for its first two decades in Spain was almost as anti-Capitalist as it was anti-Communist, producing a suffocating system which resisted economic change and growth. Saudi Arabia, even if it

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were perfectly safe from a Communist takeover, would not be a place for the building of an industrial society, despite popular docility. Popular docility breeds stagnation, and an industrial society requires steady change. The balance of change and political stability, an accomplishment of tremendous size, is something Western market economists take for granted. They assign productivity to what they call the factors of production, and see the environment for such productivity as a given.

Libertarians say that capital produces wealth, and therefore the capitalist has the right to the rewards. They say that labor produces wealth, and therefore labor has a right to the rewards. The Japanese society and body politic produce wealth, but libertarians insist that that wealth belongs to the world. Otherwise, they would have to admit that immigration restrictions are not mere "economic distortions," but a means of protecting a property right as valid as that of Mitsubishi stockholders.

The difference between wages paid in Calcutta and those paid in Tokyo is the result of something as real as interest rates, and as palpable as a blast furnace. Higher wages are not produced by a people as a result of their performance as laborers only or as investors only, but by their performance as voters and citizens. The societal performance of the people of Japan produces wealth, and the right to that wealth therefore accrues to the people of Japan.

If oil is discovered in Mexico, free market economists will differ with Marxists and liberals about which Mexicans have a right to that oil. Marxists will say that the oil belongs to the people of Mexico, free market economists will say it belongs to the owners of the land on which it was found, and liberals will say it belongs partly to the land owners, and partly to the Mexican people. But all agree on one point: Oil found in Mexico belongs to somebody in Mexico.

One may argue whether the productivity of Japan belongs more to the capitalists of Japan or to the Japanese workers. But by argument analogous to that on oil, it should belong to somebody in Japan. Yet free immigration libertarians are in the ridiculous position of saying that a people has a right to oil which happens to be discovered beneath their soil, but not to the productive environment they produce.

If an Indian laborer is able to make more my moving to Japan, it is because he is able to share the productivity of Japanese society and Japanese politics. By the same token, Mexicans can make more money in America because they are able to share the productivity provided by American society and American politics. Immigration restrictions reward a people for their performance as voters and citizens, a reward which is not only moral, but which makes good economic sense.

The reason for rewarding members of a productive society is the same as for rewarding any other productive activity. Workers acquire skills because skilled labor is paid more than unskilled. Rich people are rewarded for saving instead of spending, not because they deserve the rewards on some abstract moral plane, but because their savings buy capital with which we produce more wealth. For the same reason, the welfare check of a citizen of Dallas, Texas allows him to buy more than a full-time laborer in Tijuana, Mexico can earn. He is being paid for being a part of a productive society. A full-time laborer in Dallas earns several times what a full-time laborer, doing the same work, in Tijuana earns. He is benefiting by what his society has accomplished, while his Mexican counterpart is paying for the fact that his society has a record of three centuries of demagogues and instability.

This disparity is often unfair. But the conservative economist has little to complain about. It is not fair for many wealthy people to receive the benefit of the fact that their ancestors saved money and worked hard. But every conservative economist will tell you very quickly how essential it is that we pay the dividends of those who inherited stock. He will explain that we must respect property rights, because, even if a particular person doesn't deserve them, it is dangerous to society to deprive him of those benefits. The present generation would see no need to save for their children if property rights are likely to be violated. Further, the expropriation of inherited property implies a threat to the security of all property.

But these same conservative economists never even consider that citizens of a productive body politic should be similarly rewarded.

The cost of ignoring societal property rights is the same as the cost of ignoring any other real property rights. To leave any factor of production out of economic theory is to court disaster. By preaching that only labor produces value, and therefore that interest on investments was evil, the London School of Economics (LSE) guaranteed poverty for most of the Third World for generations to come. India, desperately in need of capital, had leaders who, taught by LSE, refused to bring in that capital by simply allowing it to make money in India, instead devoting themselves to various socialist schemes to provide capital through the state. If societal property rights are left out of economic theory, underdeveloped countries miss a vital point: If they wish to succeed, they must copy not only the technical, but the societal and political methods of successful countries.

A refusal to recognize societal property rights can be equally destructive for a developed economy. If one wishes to stop all investment, one outlaws interest payments. If one wishes to destroy productive societal attitudes, one removes all the benefits provided by societal property rights. It is no accident that even the poorest Americans refuse to vote Communist or Socialist. Part of the reason is that every American shares to some extent in the benefits of American capitalism. These are not the terms in which such votes think. Rather, they are aware that even poor Americans are better off than they would be in other countries, and therefore choose to resist the appeal of radicals.

Clearly, politics is part of economics; society a factor of production. Workers in richer countries are being paid for the politics their country chooses to follow. Economists then have two alternative. First, they can follow their present course, and wish away this uncomfortable fact of life. Second, they may simply consider politics, and the societal attitudes which produce those politics, another real factor of production, which must be paid for like any other factor of production.

If one considers politics to be something to be wished away by economic theory, all welfare payments are inexcusable. But if one believes that real-world economics must face real-world facts, one must notice that productive societies all make welfare payments to the poor. Such minimum public assistance and relatively high wages are simply part of the price of maintaining a stable body politic today. Given this reality, the completely anti-welfare libertarian degenerates to the level of a liberal moralist: It is a fact, he admits, but it shouldn't be. Anyone who considers himself a realist, and who insists welfare is unnecessary in today's world, must first find a wealthy country where this payment is not required.

I wish, along with libertarians, that the political systems where I am willing to invest my money would stop making me pay taxes for welfare to some of the people who make up those countries. I wish, again with libertarians, that I could have the profits of Indian cheap labor and the safety for my investment provided by a Swiss political system. I wish, with liberals, that oil companies would give me oil free, and that new sources of oil would find and develop themselves while I am enjoying free oil. I wish I had a herd of shmoos. As bases for logical economic thought, all these wishes are precisely equal.

A free market economist I know was very impatient with an Indian socialist, and for good reason. The socialist was saying that, if he believed in the profit motive, he was justifying price-fixers and monopolist exploiters. To justify profits, the socialist said loudly, was to say that those who worked and exploited children in nineteenth century sweatshops were right to do so. My free market acquaintance tried to explain to the shouting ideologue that free market economics only justified some profits, and condemned outright price-fixers as completely as did any socialist. But the socialist ideologue was shouting, and would not listen.

A few days later, this same free market economist was shouting. He said, in effect, that my argument about social property rights would justify the British welfare state. He said I was trying to stop the free movement of labor all over the world, and, in effect, blamed my kind of thinking for the Berlin Wall. I tried to explain to him that the concept of societal property rights only justifies *some* welfare, and *some* immigration restrictions, and that it condemns a runaway welfare state as completely as does any other free market approach. But he was shouting, and would not listen.

The free market will take care of the British welfare state. Britain is in desperate straits because its political system is simply asking a higher price than the market will bear. Many people would like to invest money in Britain, but the cost, in taxes and economic restrictions, is too high, so they are going elsewhere. British talent is leaving the United Kingdom to go where their talents receive a due reward. The result is an increasing poverty, which results in the British electorate moving away from the stagnant policies of the past. The British political system, in short, is being forced, by competition, to become more competitive.

If Britain had the only society in the world, it could raise its taxes even higher, just as the only steel company in the world could charge almost anything it chose. The British Labour Party acts as if this were the case, and that taxes can be high as Britons choose without driving talent and capital away and leaving the country impoverished. This is not true, and Britons are being forced to lower taxes and economic restrictions because there are other societies competing for the same talent and resources.

But there are British libertarians who apply an equally illogical assumption: that Britain should have no taxes, and no welfare. They are saying, in other words, that the United Kingdom should provide its productive environment free of charge. Germans, through taxes and high wages, charge money for investment in Germany. France charges money for investment there. Americans will not be surprised to learn that the Internal Revenue Service is still in action. But, say libertarians, Britain should ignore its competitors, and give investors a free lunch. Yet libertarians are also the people who wear buttons saying TANSTAAFL—"There ain't no such thing as a free lunch."

A steel mill can charge only what the market will bear. If there were an infinite number of steel mills, and a infinite number of users of steel, the price of the metal would be almost zero, because every mill would rather get something, however little, than nothing. Likewise, the United Kingdom cannot name its own price, because it is not the only productive location on earth. But it is equally absurd to ask that it charge nothing, because its competition is not infinite.

As a result, the principle of equal work for equal pay everywhere makes no sense at all, because work is not all there is to the person who produces it. However matter-of-fact it may be for a skilled worker in Italy to belong to a union dominated by Communists, that fact drives out investors and lowers the value of his work. If he were made aware of this fact, he would take a new look at this matter, and whether it should continue to be a fact. But so long as even conservative economists insist that politics has nothing to do with economics, and join with Marxists in insisting that unequal pay for equal work is the result of a plot, poor countries will concentrate, not on becoming productive, but on looking for the plot.

It might be added that no libertarian will put his money where his mouth is. I once asked a libertarian who was upset at the idea that labor should be worth more in El Paso than in Tijuana about where he would put his money. Not surprisingly, it turned out that he would never consider investing his money in Tijuana at the same rate of interest he would receive in El Paso. Capital, it turns out, is very different if it is invested in Mexico than when it is invested in Texas. There is nothing artificial about a national border when a libertarian's own capital crosses it.

Libertarian and "free market" theories imply the ideal of a single, free market world, in which the artificial restrictions imposed by separate political units are removed. I see such a unitary body politic as a monopoly demanding what its captive market will bear. Every libertarian expects the exclusive owner of any product to demand as much as he can for his product, without regard to the fact that, in the long run, his greed may reduce everybody's standard of living, including his own. A world state could set taxes at ninety percent or more, because the only choice any firm might have would be to pay the taxes or go out of business. But the libertarian/old rightist assumes that his world state would not act like the monopoly it is.

Marxists ignored competition. They therefore concluded that a single state-owned company would be the most productive, since it would provide the maximum economy of scale. Libertarian economics is based on a similar error. Ignoring competition between states, he concludes that a world state will provide minimum taxation and maximum competition. He scorns the socialist, who says that competition is not necessary to force companies to do their best, but he assumes that a single, world-wide electorate would not, sooner or later, behave like the societal monopoly it is.

In the real world, political separation limits the power of any one state over the free market within its borders. If taxes or wages rise too high, investors may choose to go elsewhere. Each society thereby receives the rewards its performance earns.

Against this competitive function, there is the argument that political separation leads to war. That is the thesis behind the United Nations. But the fact is that, throughout the twentieth century, no two democratic states have been at war with each other, though the League of Nations and the United Nations both presided over a world in which war was commonplace. It is not in artificial political unity, but in a movement against totalitarianism and authoritarianism, that the road to peace lies. In such a movement, neither the League nor the UN has ever pretended to take part. Popular rule and national sovereignty are the directions in which the world must move, in order to secure peace to the full extent that the limitations of human nature make it possible.

The New Right, therefore, is not only politically practical, but economically sound, in demanding the enforcement of immigration restrictions. By the same token, we do not advocate an end to welfare, though we do feel, as witness the competitive economic condition of the United States, that it has gone too far. We have no use for the United Nations as the way to peace, because it quite clearly has nothing to do with addressing the causes of war. All these policies dovetail into a rational, and a truly free market, political economy.●

VOLUNTEER FIREFIGHTERS

● **Mr. SARBANES.** Mr. President, thousands of communities throughout the Nation enjoy the many benefits of necessary fire protection services because of the selfless efforts of volunteer firefighters.

On the Eastern Shore of my own State of Maryland the spirit of volunteerism is very strong, as men and women daily endanger their lives to protect the public safety. These public-spirited citizens provide essential services to protect lives and property that many local communities would otherwise be unable to offer.

Mr. President, I ask my colleagues to join me in recognizing the outstanding work performed by volunteer firefighters, and I ask that the editorial from the Easton Star-Democrat be inserted in the RECORD.

[From the Star-Democrat, July 16, 1982]

THANKING THE VOLUNTEERS

Fire companies throughout the Eastern Shore use the summer months to hold carnivals, flea markets and other fundraisers to complement government funds and private donations allocated to them.

The operation of Mid-Shore fire companies and ambulance squads through history is among the examples of volunteerism at its best. Members of the community, who work in other capacities to earn a living for themselves and their families, dedicate themselves to the community's safety by responding at a moment's notice to situations which often pose an immediate threat to their own safety. The service they provide is immeasurable. Their efforts are irreplaceable.

The activities staged by the fire companies are the perfect opportunity for the public to say thanks simply by participating. Small donations are required, but the return in recreational value is great. And it is a startlingly small price to pay to aid in the protection of the entire community.

Figure, for instance, that Talbot County provided the Easton Fire Company $21,600 last year. Figure, for instance, that Talbot County provided all county fire companies a total of less than $130,000 last year.

Talbot's fire companies and ambulance crews made a total of 2,356 calls last year. That comes to about $55 dollars per call.

Now, figure that in Salisbury, where they have been paying firemen for some 30 years, the fire company and ambulance crew salaries came to $888,000 last year. That's exclusive of operational costs.

Though particular situations, such as debt retirement and building upkeep, vary from company to company on the Mid-Shore, the debt of gratitude merely for the time volunteered by these individuals is immense.

Anything the public can do to help repay that debt is money well spent, and that goes for all communities on the Mid-Shore, not just in those where firemen and ambulance crewmen are especially busy. The actual cost of responding to a call is minor compared with that of maintaining fire and ambulance operations. The initial cost for equipment must be paid, and the equipment must be kept up-to-date and in good repair.

The volunteers spend additional hours keeping themselves in good tune and up-to-date on modern firefighting and rescue techniques.

So when you hear of activities sponsored by your local fire department, don't think it is just someone else trying to reach into your pocket. Think of it as cheap insurance that provides some family fun as well.

In the most literal sense, it is the least you can do.●

SALISBURY, MD. CELEBRATES SESQUIBICENTENNIAL

● **Mr. SARBANES.** Mr. President, it is a great pleasure to recognize the 250th anniversary of the city of Salisbury. As a native of this great city, I fully share the pride of its citizens in witnessing this milestone event.

For 250 years the city of Salisbury has served as a remarkable example of a community working together for the common good. It has created an outstanding environment in which hardworking citizens raise their families.

I can remember as a young man working in my family's restaurant and attending Wicomico County Senior High School the values that my parents sought to teach their children—values fundamental to our democracy. These values are shared by the proud people of Salisbury.

I am confident that the next 250 years will prove to be years of further great achievement for the city of Salisbury.

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Mr. President, I ask my colleagues to join us in saluating the city of Salisbury during its sesquibicentennial celebration, and I ask that the article from the Baltimore Sun, as well as the 50-year-old articles from the Baltimore News published during the city's bicentennial celebration, be inserted in the RECORD as a tribute to the citizens of this jewel on Maryland's Eastern Shore.

[From the Baltimore (Md.) Sun, Aug. 8, 1982]

SALISBURY'S ANNIVERSARY IS CAUSE FOR CELEBRATION

(By Mary Corddry)

SALISBURY.—Salisbury's nine-day celebration of its 250th anniversary began with a flourish Friday when 34 visitors from Salisbury, Wiltshire, England, flew in from Baltimore.

The landing of the Northern Irish-built Shorts 330 commuter airplane, based here, with its British passengers was, in a sense, representative of what the Eastern Shore city has to celebrate.

Like surrounding towns that may look more Colonial, Salisbury has a deep sense of its Eighteenth Century roots, and the delegation from England was a personal affirmation of historic ties.

But unlike adjacent towns, Salisbury is no longer a quaint, bucolic village. It is a bustling and growing economic center that supports a busy airport and commuter airline that can accommodate guests from faraway places in a distinctly Twentieth Century way.

The connection to Salisbury, England, dates to the 1600s when the original owner of land at the head of the Wicomico River noted its similarity to the English city on the Avon River.

About 50 years later, in 1732, a small group of businessmen with surnames still common here recalled the association and got the General Assembly in Annapolis to pass, on August 8, a bill designating 15 acres to be blocked off in lots for a town. It is the 250th anniversary of that event that the British Salisburians were invited to help commemorate.

The visitors will stay at local homes and be guests of honor at parades, a historical pageant, sports events, a crab feast and a dizzying schedule of dinners, luncheons, teas and other entertainment. They will also get to see just how far Salisbury has come in the last 250 years.

Salisbury, situated at the Shore's geographic center, is also its commercial center, with a burst of development in the last decade that led some experts to call it "the hottest place in the state."

From the time of Salisbury's founding, ambition rather than the good life seems to have been the driving force of the community's business and civic leaders.

There is little sign here of the early Americana, waterfowl, workboats or country estate life that "Eastern Shore" has come to mean. Salisbury is more likely to be represented by the steel skeleton of a multifamily housing project or shopping complex, or the innovative architecture of the $28 million Peninsula General Hospital and its recently added oncology unit, which dominate the center of town.

In Salisbury, community pride is based more on progress than heritage, and progress is demonstrated no more dramatically anywhere than in the rapid growth of its air traffic in the last decade.

Richard A. Henson, of Hagerstown, who developed one of the first—and today, one of the biggest—commuter airlines in the nation, began his Allegheny Commuter service here in 1968 and contracts with what is now USAir. There are now 28 flights a day between Salisbury-Wicomico County Regional Airport and the Baltimore-Washington International and Washington National airports. It was Mr. Henson's commuter line that flew in the visitors from Salisbury, England.

The entire Henson line is based and maintained in expanded facilities at the Salisbury airport, so that in Maryland Salisbury is second only to BWI in air traffic. Salisbury has been described in aviation publications as "the model commuter city in the United States."

Salisbury's bicentennial celebration 50 years ago came during the heart of the Great Depression after a decade of the greatest growth in the town's history.

In a similar pattern, next week's celebration follows a boom in the 1970s during which, at one point, over 10 percent of the nonresidential construction in the state was under way in Salisbury.

"Building permits are behind this year," Robert L. Kiley, executive director of the Salisbury-Wicomico Economic Development Corporation, said last week. "The economic slowdown in the construction and real estate fields here are affected by the national slowdown. But retail sales are ahead of last year."

An all-out effort is in progress to bring new life into one of the town's weakest areas, its central business district.

The money in Salisbury is not brought in from elsewhere. It is "generated here and spent here," as Mr. Kiley put it, by doctors, lawyers, business and industry ranging from electronics to canning.

Most of the firms here are "as homegrown as the farm produce," Mr. Kiley said. "Economically this is still one of the healthiest spots in the state of Maryland."

Salisbury is healthy enough to have budgeted $100,000 for this week's Sesqui-Bi-Centennial celebration. It was planned for over a year by an incorporated committee with "seed money" put up by the town, said David F. Rodgers, a local banker and chairman of the Sesqui-Bi-Centennial.

The celebration of Salisbury's founding in 1732 will be straight from the Americana of Norman Rockwell.

Yellow banners reading "City of Salisbury Sesqui-Bi-Centennial, 1732–1982" bedeck Salisbury like tinsel in December, and along Main Street some townspeople are growing beards to full thickness in the summer humidity for the first time since the nation's bicentennial six years ago.

About 280 people are rehearsing daily for a historical pageant to run nightly through next week before a 250-foot backdrop at the Wicomico Senior High School football stadium.

Among other things, the pageant will show how agriculture made a transition from general produce to the big broiler industry, the growth of Perdue Farms, Inc., which is headquartered in the town, and the dominance of corn and soybeans grown for the company's feed mills.

While the Perdue name is known to both the Pittsburgh pageant producers and members of the British delegation, Salisbury is not by a long shot a company town.

"This town has a totally diversified economy," Mr. Kiley said.

The small-town atmosphere of this week's celebration and the rural image conjured up by the poultry industry are in sharp contrast to some of the more sophisticated ambitions of its business community.

Many of these ambitions emanate from the Greater Salisbury Committee which a few years ago launched an intensive effort to promote this town as the administrative headquarters for offshore oil exploration and development, a concept now dormant.

Another idea, to develop the airport into a training center for commuter pilots and maintenance personnel from all over the country, has been scaled down. A flight simulator for the Shorts 330, the first in the United States for training commuter airline pilots, was acquired with the help of the Maryland Department of Economic and Community Development. It is used mainly to train Henson pilots.

Many of the ideas of the Greater Salisbury Committee are tossed out like "trial balloons to see if they will catch the imagination here and beyond," said Frank H. Morris, a former Salisbury mayor and the new president of the Greater Salisbury Committee.

The committee is limited to 55 business and professional men who head their own firms. The committee "keeps good lines of communication open" with the Wicomico County Council and Salisbury mayor and Council "to make things happen," Mr. Morris said.

The British Salisburians were invited last April by Mr. Rodgers during a five-day visit to the Wiltshire Salisbury.

The delegation from England includes Salisbury Mayor Beverley Head who, Mr. Rodgers said with some awe, wears in the full regalia of her office a gold medal bearing the founding date of her city—1264.

One of the visitor's dinner hostesses will be Bertha Adkins, a nationally prominent Republican during the Eisenhower years and Salisbury native who went to Salisbury, England, in 1932 to invite a delegation to the Shore town's bicentennial celebration that year. Mayors and civic leaders of the two cities have exchanged visits and hospitality ever since.

[From the Baltimore News, Aug. 9, 1932]

15,000 ON HAND AS SALISBURY OPENS BICENTENNIAL

SALISBURY, MD., Aug. 8.—Salisbury is 200 years old today. Ushered in last night by a religious and civic festival, witnessed by 15,000 of its own people and its neighbors, the city's six-day birthday party went into full swing today with the official welcoming of its most distinguished guest, Councilor J. Sidney Rambridge, Mayor of Salisbury, England.

In a garlanded court of honor set up along the main street of the town, State Comptroller William S. Gordy, Jr., chairman of the Bicentennial Commission, this afternoon was to declare the week of celebration open.

Governor Albert C. Ritchie will make the first address, bringing to the people of Salisbury the greeting of the entire State. At the same time he will officially greet Mayor Rambridge in the name of the Commonwealth.

The address of welcome will come from Mayor Wade H. Insley before Mayor Rambridge brings his greetings from the mother city.

OFFER SILVER TROPHY

He will offer a silver trophy sent by the citizens of the 700-year-old English township—and read greetings from Lord Arundell of Wardour, head of an ancient Wilthshire family with which Lord Baltimore, founder of Maryland, was connected.

Salisbury on its part will present the Councilor with the key to the city, encased in a sterling casket of symbolic design. The key and casket are to become the property of the people of Salisbury, England, but to the Mayor himself will be offered a rose pattern fruit bowl, personal trophy from the citizens of the Eastern Shore city.

TENNIS TOURNEY ON

Through the day the tennis trounament, inaugurated yesterday, will continue and in the evening the Bicentennial Band will give another of its concerts in the municipal park.

Tomorrow afternoon will see the arrival of the Maryland National Guard Air Squadron and at night a great historic and sympolical pagent will be staged in the vast natural amphitheatre of the park.

Success and significance of the carefully planned festival was augured last night when thousands thronged into gaily bedecked Salisbury to join in outdoor religious services and see the dedication of a spectacular new illuminated fountain.

CROWD AROUND LAKE

The great crowd lined the slopes above the park lake. Floodlights swept an improved stage and amplifiers carried music and words to the massed listeners. After a stirring concert from the Bicentential Band, a joint choir from all the churches moved into place.

The Rev. J. N. Stewart of the Allen Memorial Baptist Church offered the invocation. Dr. Justin Wood of the Asbury Methodist Church conducted the anthems.

The evening sermon was delivered by Dr. Lewis S. Mudge, leader of the Presbyterian Church. The minister speaking on "The Church and the Nation," warned America against lawlessness, but said that those who speak of a present "wave of law-breaking don't know what they're talking about."

He continued.

"The truth is that our fathers ate sour grapes and their children's teeth are set on edge. Many of those who assisted in the organization of the 13 original colonies selected what laws they would obey and what they would disobey.

"As their successors in wave after wave of immigration swept westward over the mountains, establishing new frontier after frontier they, too, frequently took with them such of our laws as they preferred and left the others behind.

"We have forgotten that the moral law must be at the heart of any stable social order.".

LIGHT FOUNTAIN

At the conclusion of the service listeners turned their attention to where the great new fountain waited under its canvas, across the lake from the stage. All lights were abruptly darkened.

Miss Betty Springs Dryden cut a ribbon. Her father, F. H. Dryden, City Engineer, switched on fountain lights and, water simultaneously. Suddenly there shot up 30 feet into the air a great geyser of flame colored water.

The crowd cheered. Myriad smaller jets, rainbow-hued played beneath the geyser and between them tinted mists suffused the air.

For a long time the crowd stood cheering while the engineer made brilliant colored pictures with the fountain and the lights, the whole said to be one of the finest and most spectacular in three States. During each three-minute cycle 14 changing color combinations transformed the playing waters, moving in intricate designs.

Guarded by a State trooper and escorted by his hostess, Mrs. A. J. Vander Bogart and her son, Hugh Vander Bogart, who arrived from New York yesterday, Mayor Rambridge joined in both religious and civic ceremonies. Though he made no formal public appearance, he was quietly welcomed by long lines of residents of Salisbury.

Mrs. Vander Bogart is the daughter of the late Govenor E. E. Jackson and her home at Tony Tank is one of the traditional landmarks of the Eastern Shore.

There were two hard-fought tennis matches played in the second round of the tournament which is a feature of the celebration.

Charles T. Smith, Princess Anne, Md., defeated Levin L. Waters, also of Princess Anne, 7-5, 9-7.

In the other match Daniel Ellis of Lewes, Del., defeated J. W. Lewis of Chestertown, 8-6, 8-6.

HISTORICAL EPISODE FEATURE CELEBRATION AT SALISBURY

SALISBURY, MD. Aug. 9.—Two centuries of a community's development, from the conquest of primitive territory to visions of yet greater achievements to come, will be re-enacted here tonight as two-hundred-year-old Salisbury reviews its own history in symbolic pageantry.

Ten dramatic episodes of the pageant of growth, touching highlights of Salisbury history, will be unfolded in the natural amphitheater of Municipal Park on the evening of the second day of the city's bicentennial fete.

The celebration was officially inaugurated yesterday afternoon with the welcoming of Councilor J. Sidney Rambridge, Mayor of Salisbury, England, who crossed an ocean to join in the ceremonies.

RITCHIE PARTICIPATES

Governor Ritchie, State Comptroller William S. Gordy, Jr., and Mayor Wade H. Insley participated.

Ms. Margaret Black Ross, pageant director, working with Dr. William J. Holloway, chairman, has woven past and future into a spectacle which 330 lineal descendents of the founders of Salisbury will portray tonight.

Thousands of visitors, first welcomed for preliminary services Sunday night and again present at the rites yesterday, and expected to crowd the banks of Park Lake tonight as the historic pageant moves into view.

Flood lights will illumine the stage, amplifiers will broadcast words, and stirring music will quicken the march of events.

COSTUMED DANCERS

Costumed dancers will offer a prologue to the first episode, the settlement of a new town. In this scene Indians will be seen at the first news of the white man's coming.

Capture and execution of "Ben" Allen, Tory, robber and pirate, will be the climax of the second episode.

In the interlude, the familiar tunes of the Civil War era will be played again in preparation for episode three, showing how Salisbury was made queen of Wicomico, formed of parts of the counties of Worcester and Somerset.

A piquant picture of an older time will be revived as "Jim" Jeams, the last town crier, relates the news of the day during the second interlude.

HONOR FOR JACKSON

Episode four will show the townspeople in a demonstration for Elihu E. Jackson at the time of his nomination as Governor of Maryland.

Drama of the World War area will make the fifth episode, reaching its climax when veterans return as a guard of honor for a gold star mother.

Progress, vision, courage and faith will attend Queen Salisbury, depicted by Miss Carolyn Waller, as she takes her place in the triumphal procession which will open the second half of the pageant.

Growth of agriculture, transportation, building and industry will be shown in the succeeding four sections.

In the dramatic finale, Salisbury, knowing the past, is to receive with Maryland and promise of the future.

Among the thousands of spectators who will observe the historic procession will be Mayor Rambridge and his party from England, city officials and other honored guests.

BOYS' DAY PLANNED

Salisbury is to be governed by youths tomorrow as a feature of "Boys' Day," a "Mayor" as well as "Magistrates" and "Firemen" having been appointed. In presenting a beautifully bound copy of the History of Salisbury to Governor Ritchie today the boys informed the Governor they would enforce a 100-year-old statute forbidding sale of cigarets to minors, which they claim to have discovered, warning prospective purchasers and sellers they would be liable to jail sentences of "at least 10 minutes."

At noon today the Chamber of Commerce gave a luncheon in honor of Alfred Batt, president of the Chamber of Commerce of Salisbury, England, and the city's other British guests.

PRESENTS PAINTING

Mr. Batt presented the local chamber with an oil painting of Salisbury Cathedral, one of the most beautiful in England, and was the recipient of a desk set, the gift of the Salisbury, Md., body.

Among those at the luncheon were Mayor J. Sidney Rambridge of Salisbury, England, and his brother; the County Commissioners of Wicomico county and Mayor Insley.

The National Guard air squadron is scheduled to arrive for spectacular maneuvers during the afternoon. At the same time the tennis tournament, started Sunday afternoon, will continue.

Hundreds of former Salisburians have made the bicentennial celebration the occasion for reunion with family and friends. The officials bear addresses as widely separated as Belfast, Ireland; Glasgow, Scotland, and Hollywood, California.

The streets are filled with music by day and by night, as great amplifiers, affixed to Main street lights, pour forth their festive airs.●

MEXICAN RESOURCES SHOULD BE USED TO EDUCATE ITS CHILDREN

● Mr. EAST. Mr. President, while the U.S. Supreme Court rules that illegal aliens are entitled to a free education in this country, the Mexican Government takes the more sensible position that Mexican resources should be used to educate Mexican children, according to a story entitled "Mexico Tightens Educational Restrictions," pub-

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lished in the Laredo, Tex., Morning Times of July 11, 1982. I ask that this article be printed in the RECORD.

The article follows:

MEXICO TIGHTENS EDUCATION RESTRICTIONS

(By Becky Cavazos)

At a time when the U.S. Supreme Court has placed this nation in the position of responsibility over the education of all children, whether of U.S. or foreign birth, the government of Mexico has chosen to tighten its liberal spending on public education.

The government has taken an adverse position against Mexico residents who claim to have dual citizenship and has restricted the right to a public education to undisputed citizens of that republic. The change in policy in effect terminates previous sanctions on dual citizenship for educational purposes.

An order from the federal office of education in Mexico City has established new rules for the national school system to force children with dual citizenship to give up their claim to citizenship by foreign birth certificates or lose their right to a free public education in Mexico.

In the form of a federal mandate, the educational policies handed down to take immediate effect on all levels of the free public school system in Mexico, touches perhaps on every border community.

"The government of Mexico cannot be held responsible for educating children of foreign origin," said Dr. Ismael Villarreal de Pena, head of the first office of civil registry in Nuevo Laredo.

Villarreal said thousands of children in border communities claim citizenship in both the United States and Mexico, attested by certificates of birth in the U.S. and the rights of citizenship in Mexico by virtue of their parent's nationality.

According to the constitution of Mexico, all children of Mexico-born citizens have the rights of citizens in that country. The new ruling contradicts that constitutional right.

"The government of Mexico does not have the resources to educate children that are not Mexican citizens," Villarreal stated.

He said that with the country's current economic crisis, it would be unreasonable to allow U.S. citizens to occupy the classroom seats of Mexico citizens.

"Many don't want to be citizens . . . and under a free educational system they may be trained to be engineers, technologists and even doctors . . . and there's nothing we can do to keep them from leaving Mexico and going to the United States where they were born."

"The government does not have the money to educate foreigners," he reiterated.

Villarreal noted that it is a common practice for children with dual citizenship to receive a free public education in Mexico and return to the United States to continue their careers.

The official's concern echoes the government's sentiments towards the loss of benefits from educating a group of highly trained profesionistas, who as adults chose to take residence in the United States.

The director of the civil registry noted that it is illegal to file birth certificates in both countries, as the common practice when parents sign false affidavits in Mexico claiming that their U.S.-born children were born in the Republic of Mexico.

Although the new policy is now strictly enforced throughout the school system, its effects are felt only in the levels of transition.

A secondary level school professor and federal school inspector in Nuevo Laredo, Roberto Munoz, explained that certification of Mexican citizenship is required at the junction between the sixth grade level and the junior high or secundaria. This is also true when students complete the high school grades and wish to attend the preparatoria and later, the facultad or university level.

A check of the federal registry into dual citizenship is made and the student is forced to decide on which citizenship he prefers.

Under the new regulation, students without a certification of birth in Mexico do not receive certified accreditation of their studies and their course work is not transferrable to the succeeding educational level.

When contacted this week at the Mexican Consulate here, Consul Miguel Najera Dias was unaware of a change on the Mexico dual citizenship policy as it relates to education.

PROGRAM

Mr. BAKER. Mr. President, it appears that there is nothing else that can be done today. Members should know and will recall, I am sure, that I had hoped we could dispose of a number of amendments, at least to the extent of completing debate and stacking the votes until tomorrow. We have not done that. We have dispatched one amendment that was accepted. The committee amendments have been adopted en bloc, which is more than 100 committee amendments, with the exception of three, which have been specifically reserved. I regret that we could not go further with the bill today, but we simply could not. There was nothing else that could be done.

I reiterate the remark I made this morning during the opening, Mr. President: Members should be aware that this week on our agenda we have to finish the supplemental appropriations bill and the immigration bill in order to get to the debt limit bill next week—all in order to realize our desire to make the Senate recess schedule conform with that of the House.

I remind Senators once again that the recess schedule for the Senate is still August 27. It has not been changed to August 20. The memorandum that I sent around sometime ago, which the minority leader and I have discussed at some length on more than one occasion, was that if we could finish the "must" list of legislation between now and August 20, we would go out on the 20th, as will the House of Representatives.

That means we have to finish the supplemental. It means we have to do the immigration bill and the debt limit and any conference reports that are available to the Senate prior to that time. That is a tall order.

Mr. President, Senators should be on notice that any night this week could be a late night. They should be on notice that this Saturday and next Saturday are potential days of business for the Senate. I do not say these things in any way to intimidate, which I could not if I wanted to—witness the fact that there are so many absentees today who paid absolutely no attention to my admonition. The only reason for reiterating these remarks at this time is to let Members know that either we do these things or we stay until the 27th or beyond to finish them. That is simply our responsibility and we shall do these things.

Once again, Mr. President, Senators should not set their plans in concrete for the week between the 20th and 27th of August. Members should be aware that this will be a tough 2 weeks ahead of us as we try to dispatch the balance of measures on the "must" list of legislation.

ORDER FOR RECORD TO REMAIN OPEN UNITL 4:30 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open this afternoon until the hour of 4:30 p.m. for the introduction of bills and resolutions, and insertion of statements by Members.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BAKER. Mr. President, I see no other Member seeking recognition. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to and, at 3:10 p.m., the Senate recessed until tomorrow, August 10, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate August 6, 1982, under authority of the order of the Senate of August 5, 1982:

THE JUDICIARY

Ross T. Roberts, of Missouri, to be U.S. district judge for the Western district of Missouri, vice John R. Gibson, elevated.

DEPARTMENT OF JUSTICE

Edward R. Camacho, of Guam, to be U.S. Marshal for the district of Guam for a term of 4 years vice Juan G. Blas, term expired.

MERIT SYSTEMS PROTECTION BOARD

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board for a term expiring March 1, 1988, vice Ronald P. Wertheim, resigned.

HOUSE OF REPRESENTATIVES—*Monday, August 9, 1982*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, with all the uncertainties of life about us, we come before You and place our innermost needs. We ask that Your spirit will sustain those whose lives know anxiety or worry, and give comfort and strength to those who look to You for meaning in daily lives. Give us all the blessings of faith, hope, and love that we will approach our tasks mindful of our opportunities to be stewards of Your good purpose and witnesses to Your peace. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and a joint resolution of the House of the following titles:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes; and

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2363. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

UNEMPLOYMENT COMPENSATION PROGRAM NEEDS TO BE MORE RESPONSIVE AND FLEXIBLE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, it is no surprise to any of us that unemployment is on the upswing. But it will probably shock many people to learn that it is hitting—and hitting hard—not only in the Detroits of America, but also in places like Wichita, Kans. Places like Wichita are usually not thought of as having high unemployment rates, but they do today and their people are hurting because of it.

In fact, because of the way our extended unemployment benefits program works, many of them are hurting more than people in similar situations in high unemployment States. In my home State of Kansas, the insured unemployment rate just recently crossed the 4-percent level which triggered "on" the extended benefits program, but in the city of Wichita unemployment has been at levels that would have triggered eligibility for nearly 5 months. Just because the city happens to be located in a State that has lower unemployment than needed to set off the trigger, is no reason that these people who are out of work should not be able to get badly needed benefits during prolonged periods of unemployment.

To straighten this out, I am today introducing legislation that would do two things. First, it would freeze the extended benefits program trigger percentage at 4 percent instead of increasing to 5 percent which is now scheduled in the next few weeks. Second, the bill would allow States, by enacting legislation of their own, to trigger in high unemployment "labor market areas" within the State when unemployment exceeds 5 percent within that area even when the State generally does not meet the criteria for extended benefits eligibility.

People are suffering in places like Wichita, and the suffering becomes worse and worse as more jobs are lost and being out of work drags on and on. Enactment of this legislation would at least give them the assurance of access to badly needed extended unemployment benefits.

TAX CUTS AND THE SCALES OF JUSTICE

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, yesterday Secretary Baldrige acknowledged what many of us have known for the past year, and that is that last year's tax cut for the wealthy was grossly excessive. It is bleeding the Treasury, causing the highest deficits in history.

Something must be done to plug the gap. What does the administration propose? The largest tax increase in history. And whom do they propose to tax? The wealthy beneficiaries of last year's tax cut? Well, hardly.

They want to get more taxes from people who have to pay big hospital bills. They want to reduce medicare and medicaid payments and cut back further on retirement benefits for America's elderly.

They have learned that the arithmetic of last year's experiment was grossly out of balance; but so were the scales of elemental justice. And they have not yet seemed able to learn that.

WORLD BANK LOAN TO HURT IRON ORE INDUSTRY IN MINNESOTA

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, tomorrow the Loan Board of the World Bank will make one of the most important loans in that institution's 37-year history. The Board will decide whether to approve an application from Brazil for a $300 million loan at an 11-percent interest rate.

That loan will leverage an investment of $6 billion to develop what is probably the world's largest iron ore deposit, some 35 billion tons of iron ore.

Brazil and a consortium of international lenders plan to sell that ore at 25 percent less on the world market than we can produce it in Minnesota and sell it at lower lake ports, in the Lake Erie steel-producing district.

At a time when mining in Minnesota and the Upper Peninsula of Michigan is at an all-time low, shut down tight, 90 percent of the iron ore miners are out of a job, the United States should not participate in the development of more surplus ore on the world market.

On behalf of the unemployed miners in northeastern Minnesota and the Upper Peninsula of Michigan, I have urged Treasury Secretary Regan to instruct the U.S. delegate to the World Bank to vote no on that loan.

NUCLEAR AGREEMENT WITH THE SOVIETS—A STEP TOWARD SANITY

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, one morning in October 1945 I borrowed a

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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jeep from our 72d Seabee compound at Sasebo, Japan, and drove to nearby Nagasaki, where a few weeks before the U.S. Air Force had dropped the second atomic bomb.

My fellow Seabee and I put aside warnings about radiation contamination and rode throughout what was once a large city. Large steel beams were twisted like wet spaghetti. Except for a few gaunt structures at least a mile from the center of the blast, the rubble consisted of small chunks of masonry the size of a brick. Maybe I am the only Congressman to visit Nagasaki shortly after the blast.

As I have reflected on that desolate scene over the years, I mix gratitude to President Truman for ordering the bombing with a conviction that such instruments of destruction now have little military value.

I am grateful to Truman, because my Seabee unit was poised for what would have been a bloody invasion of Japan. His decision caused a lot of deaths, but it probably saved my life.

The bomb that leveled Nagasaki was a firecracker contrasted with even the smaller nuclear weapons of today.

But if Harry Truman could have seen firsthand what happened at Hiroshima, he probably would not have ordered the second bomb. He would have known that the impact of that one and only atomic blast was enough to end the war—and end the use of nuclear weapons.

What is needed now is a step toward sanity. We need a verifiable agreement with the Soviet Union to reduce the dangerous stockpile of nuclear weapons that now threatens the survival of civilization.

All we need, and all the Soviets need, is a sufficient inventory of nuclear weapons to give the other side pause—that is, to deter any nation from using these terrible instruments.

Both the United States and the Soviet Union have many times the inventory needed to establish that deterrence.

REDUCING THE DEFICIT—LET'S GET ON WITH IT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I regret the divisiveness and confusion that surrounds our efforts to formulate an effective policy at this critical time in our economic life. I cannot believe it a good political strategy for either party to work for anything but the necessary steps to improve the economy. A consensus about what is wrong should lead to corrective action, however heroic, not to ways to avoid responsibility or to affix the blame on someone else.

I personally believe the size of the potential deficit and the probable preemption of available capital resources by the Government are at the center of the problem. I have heard of no course better designed to reduce these difficulties than the course we embarked on last year—direct action to reduce Government spending and the general level of taxation. Does anyone have a better suggestion than the outline contained in this year's budget? Why should we panic when we have a balanced plan and obviously have the capacity to carry it out?

The tax increases by whatever name you call them, do not reverse the thrust of last year's general tax reduction, but enhance compliance with existing law, and adjust taxation on a narrow base of businesses, some of which have had some forms of tax sanctuary. I hope the House will review the Senate bill carefully this week and attack tax avoidance while eliminating those changes which would have a more general impact. Twenty billion dollars is not too much to raise in this way when we are cutting programs by $60 billion, and the two elements of deficit reduction should go forward in reassuring tandem. But they should go forward, or there will be plenty of blame to go around when our credibility as trustees of the Government's economic responsibility is being assessed by the electorate and future generations. It is not the time to squirm, cavil, retreat, or blame somebody else; it is time to act.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, August 11, 1982.

REVISION OF TITLE 31, UNITED STATES CODE, "MONEY AND FINANCE"

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6128) to revise, codify, and enact without substantive change certain general and permanent laws related to money and finance as title 31, United States Code, "Money and Finance," as amended.

The Clerk read as follows:

H.R. 6128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE 31, UNITED STATES CODE

SECTION 1. Certain general and permanent laws of the United States, related to money and finance, are revised, codified, and enacted as title 31, United States Code, "Money and Finance", as follows:

TITLE 31—MONEY AND FINANCE

SUBTITLE		Sec.
I.	GENERAL	101
II.	THE BUDGET PROCESS	1101
III.	FINANCIAL MANAGEMENT	3101
IV.	MONEY	5101
V.	GENERAL ASSISTANCE ADMINISTRATION	6101
VI.	MISCELLANEOUS	9101

SUBTITLE I—GENERAL

CHAPTER		Sec.
1.	DEFINITIONS	101
3.	DEPARTMENT OF THE TREASURY	301
5.	OFFICE OF MANAGEMENT AND BUDGET	501
7.	GENERAL ACCOUNTING OFFICE	701

CHAPTER 1—DEFINITIONS

Sec.
101. Agency.
102. Executive agency.
103. United States.

§ 101. Agency

In this title, "agency" means a department, agency, or instrumentality of the United States Government.

§ 102. Executive agency

In this title, "executive agency" means a department, agency, or instrumentality in the executive branch of the United States Government.

§ 103. United States

In this title, "United States", when used in a geographic sense, means the States of the United States and the District of Columbia.

CHAPTER 3—DEPARTMENT OF THE TREASURY

SUBCHAPTER I—ORGANIZATION

Sec.
301. Department of the Treasury.
302. Treasury of the United States.
303. Bureau of Engraving and Printing.
304. Bureau of the Mint.
305. Federal Financing Bank.
306. Fiscal Service.
307. Office of the Comptroller of the Currency.
308. United States Customs Service.
309. Continuing in office.

SUBCHAPTER II—ADMINISTRATIVE

321. General authority of the Secretary.
322. Working capital fund.
323. Investment of operating cash.
324. Disposing and extending the maturity of obligations.
325. International affairs authorization.
326. Availability of appropriations for certain expenses.
327. Advancements and reimbursements for services.
328. Accounts and payments of former disbursing officials.
329. Limitations on outside activities.
330. Practice before the Department.
331. Reports.

SUBCHAPTER I—ORGANIZATION

§ 301. Department of the Treasury

(a) The Department of the Treasury is an executive department of the United States Government at the seat of the Government.

(b) The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of the Treasury appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall carry out—

(1) duties and powers prescribed by the Secretary; and

(2) the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary, an Under Secretary for Monetary Affairs, 2 Deputy Under Secretaries, and a Treasurer of the United States, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary. They shall carry out duties and powers prescribed by the Secretary. When appointing the Under Secretary, the President may designate the Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 5 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

(f)(1) The Department has a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief law officer of the Department. Without regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels. The Secretary may designate one of the Assistant General Counsels to act as the General Counsel when the General Counsel is absent or unable to serve or when the office of General Counsel is vacant. The General Counsel and Assistant General Counsels shall carry out duties and powers prescribed by the Secretary.

(2) The President may appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service. The Chief Counsel is the chief law officer for the Service and shall carry out duties and powers prescribed by the Secretary.

(g) The Department shall have a seal.

§302. Treasury of the United States

The United States Government has a Treasury of the United States. The Treasury is in the Department of the Treasury.

§303. Bureau of Engraving and Printing

(a) The Bureau of Engraving and Printing is a bureau in the Department of the Treasury.

(b) The head of the Bureau is the Director of the Bureau of Engraving and Printing appointed by the Secretary of the Treasury. The Director—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) reports directly to the Secretary.

§304. Bureau of the Mint

(a) The Bureau of the Mint is a bureau in the Department of the Treasury.

(b)(1) The head of the Bureau is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate. The term of the Director is 5 years. The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

(2) The Director shall carry out duties and powers prescribed by the Secretary of the Treasury.

§305. Federal Financing Bank

The Federal Financing Bank, established under section 4 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2283), is subject to the direction and supervision of the Secretary of the Treasury.

§306. Fiscal Service

(a) The Fiscal Service is a service in the Department of the Treasury.

(b) The head of the Fiscal Service is the Fiscal Assistant Secretary appointed under section 301(d) of this title.

(c) The Fiscal Service has a—

(1) Bureau of Government Financial Operations, having as its head a Commissioner of Government Financial Operations; and

(2) Bureau of the Public Debt, having as its head a Commissioner of the Public Debt.

(d) The Secretary of the Treasury may designate another officer of the Department to act as the Fiscal Assistant Secretary when the Fiscal Assistant Secretary is absent or unable to serve or when the office of Fiscal Assistant Secretary is vacant.

§307. Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency, established under section 324 of the Revised Statutes (12 U.S.C. 1), is an office in the Department of the Treasury.

§308. United States Customs Service

The United States Customs Service, established under section 1 of the Act of March 3, 1927 (19 U.S.C. 2071), is a service in the Department of the Treasury.

§309. Continuing in office

When the term of office of an officer of the Department of the Treasury ends, the officer may continue to serve until a successor is appointed and qualified.

SUBCHAPTER II—ADMINISTRATIVE

§321. General authority of the Secretary

(a) The Secretary of the Treasury shall—

(1) prepare plans for improving and managing receipts of the United States Government and managing the public debt;

(2) carry out services related to finances that the Secretary is required to perform;

(3) issue warrants for money drawn on the Treasury consistent with appropriations;

(4) mint coins, engrave and print currency and security documents, and refine and assay bullion, and may strike medals;

(5) prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the Government and individuals from fraud and loss, that apply to anyone who may—

(A) receive for the Government, Treasury notes, United States notes, or other Government securities; or

(B) be engaged or employed in preparing and issuing those notes or securities;

(6) collect receipts;

(7) with a view to prosecuting persons, take steps to discover fraud and attempted fraud involving receipts and decide on ways to prevent and detect fraud; and

(8) maintain separate accounts of taxes received in each State, territory, and possession of the United States, and collection district, with each account listing—

(A) each kind of tax;

(B) the amount of each tax; and

(C) the money paid as pay and allowances to officers and employees of the Department collecting taxes in that State, territory, possession, or district.

(b) The Secretary may—

(1) prescribe regulations to carry out the duties and powers of the Secretary;

(2) delegate duties and powers of the Secretary to another officer or employee of the Department of the Treasury;

(3) transfer within the Department the records, property, officers, employees, and unexpended balances of appropriations, allocations, and amounts of the Department that the Secretary considers necessary to carry out a delegation made under clause (2) of this subsection;

(4) detail, in addition to details authorized under another law, not more than 6 officers and employees of the Department at any one time to enforce the laws related to the Department, except that of those 6 officers and employees not more than 4 officers and employees—

(A) paid from the appropriations for the collection of customs may be so detailed;

(B) paid from the appropriations for internal revenue may be so detailed; and

(C) paid from the appropriations for suppressing counterfeiting and other crimes may be so detailed;

(5) authorize, at rates and under conditions prescribed by the Secretary, the private use of telephone lines controlled by the Department when the use does not interfere with Department business; and

(6) buy arms and ammunition required by officers and employees of the Department in carrying out their duties and powers.

(c) Duties and powers of officers and employees of the Department are vested in the Secretary except duties and powers—

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Secretary; and

(2) of the Comptroller of the Currency.

§322. Working capital fund

(a) The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services. Amounts in the fund may total not more than $1,000,000 at any time.

(b) Amounts in the fund remain available until expended. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) to the extent transferred to the fund by the Secretary, the reasonable value of supply inventories, equipment, and other assets and inventories on order for providing services out of amounts in the fund, less related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, or credited with advance payments, from amounts available to the Department or from other sources, for supplies and services at rates that will equal the expenses of operation, including accrual of annual leave and the depreciation of plant and equipment. Amounts the Secretary decides are in excess of the needs of the fund shall be deposited at the end of each fiscal year in the Treasury as miscellaneous receipts.

§323. Investment of operating cash

(a) To manage United States cash, the Secretary of the Treasury may invest any part of the operating cash of the Treasury for not more than 90 days. Investments may be made in obligations of—

(1) depositaries maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary; and

(2) the United States Government.

(b) Subsection (a) of this section does not—

(1) require the Secretary to invest a cash balance held in a particular account; or

(2) permit the Secretary to require the sale of obligations by a particular person, dealer, or financial institution.

(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

§324. Disposing and extending the maturity of obligations

(a) The Secretary of the Treasury may—

(1) dispose of obligations—

(A) acquired by the Secretary for the United States Government; or

(B) delivered by an executive agency; and

(2) make arrangements to extend the maturity of those obligations.

(b) The Secretary may dispose or extend the maturity of obligations under subsection (a) of this section in the way, in amounts, at prices (for cash, obligations, property, or a combination of cash, obligations, or property), and on conditions the Secretary considers advisable and in the public interest. However, the Secretary may not dispose of obligations of one issuer, held by the Secretary at one time, having on the date of disposal a total face or par value of more than $1,000,000 or, if no-par obligations, a stated or book value of more than $1,000,000.

(c) The authority under this section is in addition to authority under another law.

§325. International affairs authorization

(a) Under regulations prescribed by the Secretary of the Treasury, the Secretary may provide officers and employees of the Department of the Treasury carrying out international affairs duties and powers of the Department with allowances and benefits comparable to those provided under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.).

(b) The following amounts may be appropriated to the Secretary for the fiscal year ending September 30, 1982:

(1) not more than $22,896,000 to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses).

(2) not more than $1,000,000 for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(c) Necessary amounts may be appropriated to the Secretary for each fiscal year beginning after September 30, 1982—

(1) to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses);

(2) for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

§326. Availability of appropriations for certain expenses

(a) Under regulations prescribed by the Secretary of the Treasury, an appropriation for the Department of the Treasury available to pay travel expenses also is available to pay expenses to attend meetings of organizations related to the function or activity for which the appropriation

(b) The Secretary may approve reimbursement to agents on protective missions for subsistence expenses authorized by law without regard to rates established under section 5702 of title 5.

§327. Advancements and reimbursements for services

(a) In this section, "service" includes service provided in—

(1) disbursing and receiving amounts.

(2) servicing bonds.

(3) making accounts.

(4) maintaining bank accounts.

(b) When the Secretary of the Treasury provides a service for an agency (except the Department of the Treasury) for which amounts have not been appropriated to the Department, the agency may advance for credit or reimburse the Department the amounts necessary to provide the service. Notwithstanding section 3302 of this title, amounts advanced or reimbursed may be credited to the appropriation of the Department that is current when the service is provided.

§328. Accounts and payments of former disbursing officials

(a) If a chief disbursing official or a director of a disbursing center of the Department of the Treasury dies, resigns, or leaves office, the deputy chief disbursing official or the deputy director of the disbursing center designated by the Secretary of the Treasury may continue the accounts and payments in the name of the former disbursing official or director through the last day of the 2d month after the month in which the death, resignation, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary shall honor checks signed in the name of the former disbursing official or director in the same way as if the former disbursing official or director had continued in office.

(b) Only the deputy chief or deputy director designated under subsection (a) of this section is liable for actions taken in the name of the former disbursing official under subsection (a).

§329. Limitations on outside activities

(a)(1) The Secretary of the Treasury and the Treasurer may not—

(A) be involved in trade or commerce;

(B) own any part of a vessel (except a pleasure vessel);

(C) buy or hold as a beneficiary in trust public property;

(D) be involved in buying or disposing of obligations of a State or the United States Government; and

(E) personally take or use a benefit gained from conducting business of the Department of the Treasury except as authorized by law.

(2) An officer violating this subsection shall be fined $3,000, removed from office, and thereafter may not hold an office of the Government.

(3) An individual (except prosecutors) giving information leading to the prosecution and conviction of an individual violating this subsection shall receive $1,500 of the fine when paid.

(b)(1) An officer or employee of the Department (except the Secretary or Treasurer) may not—

(A) carry on a trade or business in the funds, debts, or property of a State or the Government; and

(B) personally use a benefit gained from conducting business of the Department.

(2) An officer or employee violating this subsection shall be fined $500 and removed from office.

§330. Practice before the Department

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

(1) regulate the practice of representatives of persons before the Department of the Treasury; and

(2) before admitting a representative to practice, require that the representative demonstrate—

(A) good character;

(B) good reputation;

(C) necessary qualifications to enable the representative to provide to persons valuable service; and

(D) competency to advise and assist persons in presenting their cases.

(b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department a representative who—

(1) is incompetent;

(2) is disreputable;

(3) violates regulations prescribed under this section; or

(4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

§331. Reports

(a) The Secretary of the Treasury shall submit to Congress each year an annual report. The report shall include—

(1) a statement of the public receipts and public expenditures for the prior fiscal year;

(2) estimates of public receipts and public expenditures for the current and next fiscal years;

(3) plans for improving and increasing public receipts to provide Congress with information on ways to raise amounts necessary to meet public expenditures;

(4) a statement of all contracts for supplies or services made by the Secretary during the prior fiscal year;

(5) a statement of appropriations expended to pay for miscellaneous claims not otherwise provided for;

(6) a statement on all payments made from the fund under section 3126 of this title for the prior fiscal year; and

(7) estimates of amounts for payment under section 1322(b) of this title.

(b)(1) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on—

(A) the total and individual amounts of contingent liabilities and unfunded liabilities of the United States Government;

(B) as far as practicable, trust fund liabilities, liabilities of Government corporations, indirect liabilities not included as a part of the public debt, and liabilities of insurance and annuity programs (including their actuarial status);

(C) collateral pledged and assets available (or to be realized) as security for the liabilities (separately noting Government obligations) and other assets specifically available to liquidate the liabilities of the Government; and

(D) the total amount in each category under clauses (A)-(C) of this paragraph for each agency.

(2) The report shall present the information required under paragraph (1) of this subsection in a concise way, with explanatory material (including an analysis of the significance of liabilities based on past experience and probable risk) the Secretary considers desirable.

(c) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on the total amount of public receipts and public expenditures listing receipts, when practicable, by ports, districts, and States and the expenditures by each appropriation.

(d) The Secretary shall report to either House of Congress in person or in writing, as required, on matters referred to the Secretary by that House of Congress.

CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET

SUBCHAPTER I—ORGANIZATION

Sec.
501. Office of Management and Budget.
502. Officers.
503. Office of Information and Regulatory Affairs.

SUBCHAPTER II—ADMINISTRATIVE

521. Employees.
522. Necessary expenditures.

SUBCHAPTER I—ORGANIZATION

§501. Office of Management and Budget

The Office of Management and Budget is an office in the Executive Office of the President.

§502. Officers

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director—

(1) shall carry out the duties and powers prescribed by the Director; and

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(d) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(e) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

§503. Office of Information and Regulatory Affairs

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

SUBCHAPTER II—ADMINISTRATIVE

§521. Employees

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

§522. Necessary expenditures

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

CHAPTER 7—GENERAL ACCOUNTING OFFICE

SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

Sec.
701. Definitions.
702. General Accounting Office.
703. Comptroller General and Deputy Comptroller General.
704. Relationship to other laws.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

711. General authority.
712. Investigating the use of public money.
713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms.
714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency.
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SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

§701. Definitions

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

§702. General Accounting Office

(a) The General Accounting Office is an instrumentality of the United States Government independent of the executive departments.

(b) The head of the Office is the Comptroller General of the United States. The Office has a Deputy Comptroller General of the United States.

(c) The Administrator of General Services shall provide the Comptroller General with space in the General Accounting Office Building that the Comptroller General considers necessary for use by the Comptroller General.

(d) The Comptroller General may adopt a seal for the Office.

§703. Comptroller General and Deputy Comptroller General

(a)(1) The Comptroller General and Deputy Comptroller General are appointed by the President, by and with the advice and consent of the Senate.

(2) When a vacancy occurs in the office of Comptroller General or Deputy Comptroller General, a commission is established to recommend individuals to the President for appointment to the vacant office. The commission shall be composed of—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the majority and minority leaders of the House of Representatives and the Senate;

(D) the chairmen and ranking minority members of the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House; and

(E) when the office of Deputy Comptroller General is vacant, the Comptroller General.

(3) A commission established because of a vacancy in the office of the Comptroller General shall recommend at least 3 individuals. The President may ask the commission to recommend additional individuals.

(b) Except as provided in subsection (e) of this section, the term of the Comptroller General is 15 years. The Comptroller General may not be reappointed. The term of the Deputy Comptroller General expires on the date an individual is appointed Comptroller General. The Deputy Comptroller General may continue to serve until a successor is appointed.

(c) The Deputy Comptroller General—

(1) carries out duties and powers prescribed by the Comptroller General; and

(2) acts for the Comptroller General when the Comptroller General is absent or unable to serve or when the office of Comptroller General is vacant.

(d) The Comptroller General shall designate an officer or employee of the General Accounting Office to act as Comptroller General when the Comptroller General and Deputy Comptroller General are absent or unable to serve or when the offices of

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Comptroller General and Deputy Comptroller General are vacant.

(e)(1) A Comptroller General or Deputy Comptroller General retires on becoming 70 years of age. Either may be removed at any time by—

(A) impeachment; or

(B) joint resolution of Congress, after notice and an opportunity for a hearing, only for—

(i) permanent disability;

(ii) inefficiency;

(iii) neglect of duty;

(iv) malfeasance; or

(v) a felony or conduct involving moral turpitude.

(2) A Comptroller General or Deputy Comptroller General removed from office under paragraph (1) of this subsection may not be reappointed to the office.

(f) The annual rate of basic pay of the—

(1) Comptroller General is equal to the rate for level II of the Executive Schedule; and

(2) Deputy Comptroller General is equal to the rate for level III of the Executive Schedule.

§704. Relationship to other laws

(a) To the extent applicable, all laws generally related to administering an agency apply to the Comptroller General.

(b) A copy of a record and a transcript from a record or proceeding of the Comptroller General, that the Comptroller General or Deputy Comptroller General certifies under seal, shall be admitted as evidence with the same effect as a copy or transcript referred to in section 1733 of title 28.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

§711. General authority

The Comptroller General may—

(1) prescribe regulations to carry out the duties and powers of the Comptroller General;

(2) delegate the duties and powers of the Comptroller General to officers and employees of the General Accounting Office as the Comptroller General decides is necessary to carry out those duties and powers;

(3) regulate the practice of representatives of persons before the Office; and

(4) administer oaths to witnesses when auditing and settling accounts.

§712. Investigating the use of public money

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

§713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b)) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

§714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency

(a) In this section, "agency" means the Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Federal Reserve Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board of Governors and officers and employees of the Federal Reserve System related to clauses (1)-(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an agency to withhold information from a committee of Congress authorized to have the information.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit. An agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an agency that the Comptroller General possesses during an audit, shall remain in the agency. The Comptroller General shall prevent unauthorized access to records or property.

§715. Audit of accounts and operations of the District of Columbia government

(a) In addition to the audit carried out under section 455 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 803; D.C. Code, §47-117), the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall consider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the Comptroller General considers necessary to keep Congress, the

Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit.

§716. Availability of information and inspection of records

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record—

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General has access by law or by agreement of that person from whom access is sought. A subpena shall identify the record and the authority for the inspection and may be issued by the Comptroller General. The Comptroller General may have an individual serve a subpena under this subsection by delivering a copy to the person named in the subpena or by mailing a copy of the subpena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is shown by a verified return by the individual serving the subpena that states how the subpena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpena under subsection (c) of this section if—

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that—

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the General Accounting Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

§717. Evaluating programs and activities of the United States Government

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

§718. Availability of draft reports

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period.

§719. Comptroller General reports

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) The Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717(b)–(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h) of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the General Accounting Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

(2) the scope and subject matter of audits under section 713 of this title; and

(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.

(e) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Operations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.

(f) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(g) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(h)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(i) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

§720. Agency reports

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

SUBCHAPTER III—PERSONNEL

§731. General

(a) The Comptroller General may appoint, pay, assign, and remove officers (except the Deputy Comptroller General) and employees the Comptroller General decides are necessary to carry out the duties and powers of the General Accounting Office.

(b) The Comptroller General may establish for appropriate officers and employees a merit pay system consistent with section 5401(a) of title 5.

(c) The annual rate of basic pay of the General Counsel of the General Accounting Office is equal to the rate for level IV of the Executive Schedule.

(d) When a change in organization, management responsibility, or workload makes it necessary, the Comptroller General may fix the rate of basic pay of 5 positions at rates not more than the rate for level IV of the Executive Schedule.

(e) The Comptroller General may procure the services of experts and consultants under section 3109 of title 5, except that the services of not more than—

(1) 10 experts and consultants may be procured for not more than 3 years; and

(2) 10 experts and consultants may be procured permanently, temporarily, or intermittently to carry out sections 717(b)–(d) and 719(b)(1)(A) of this title at rates that are not more than the rate for level V of the Executive Schedule.

§732. Personnel management system

(a) The Comptroller General shall maintain a personnel management system. The Comptroller General may prescribe a regulation about the system only after notice and opportunity for public comment. A reprisal or threat of reprisal may not be made against an officer or employee of the General Accounting Office because of comments on a proposed regulation about the system.

(b) The personnel management system shall—

(1) include the principles of section 2301(b) of title 5;

(2) prohibit personnel practices prohibited under section 2302(b) of title 5;

(3) prohibit political activities prohibited under subchapter III of chapter 73 of title 5;

(4) ensure that officers and employees of the Office are appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service;

(5) give a preference to an individual eligible for a preference in the executive branch of the United States Government in a way and to an extent consistent with a preference given an individual in the executive branch; and

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law, consistent with section 5301(a) of title 5.

(c) Under the personnel management system—

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the highest basic rate for GS-15;

(3) except as provided in section 733(a)(3)(B) of this title, basic pay rates of officers and employees of the Office shall be adjusted at the same time and to the same extent as basic pay rates of the General Schedule are adjusted;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 100 positions may be at rates not more than the highest rate for GS-18, less the number of positions in the General Accounting Office Senior Executive Service under section 733 of this title (except positions included in the Service under section 733(c) of this title); and

(5) officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.

(d) The personnel management system shall provide—

(1) for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5;

(2) that the Comptroller General has the same responsibility for performance appraisals under this subsection as the Director of the Office of Personnel Management has under section 4302 of title 5;

(3) for a reduction in grade or removal of an officer or employee because of unacceptable performance consistent with section 4303 of title 5;

(4) for other personnel actions consistent with chapter 75 of title 5; and

(5) a procedure for processing complaints and grievances not otherwise provided for under clauses (3) and (4) of this subsection or subsection (e) or (f)(1) of this section.

(e) The personnel management system shall provide—

(1) a procedure that ensures that each officer and employee of the General Accounting Office may form, join, or assist, or not form, join, or assist, an employee organization freely and without fear of penalty or reprisal; and

(2) for a labor-management relations program consistent with chapter 71 of title 5.

(f)(1) The personnel management system shall—

(A) provide that all personnel actions affecting an officer, employee, or applicant for employment be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

(B) include a minority recruitment program consistent with section 7201 of title 5.

(2) This subchapter and subchapter IV of this chapter do not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. However, for officers, employees, or applicants in the General Accounting Office—

(A) the General Accounting Office Personnel Appeals Board has the same authority over oversight and appeals matters as an executive agency has over oversight and appeals matters; and

(B) the Comptroller General has the same authority over matters (except oversight and appeals) as an executive agency has over matters (except oversight and appeals).

(3) This section does not affect a lawful effort to achieve equal employment opportunity through affirmative action.

(g) An officer or employee of the General Accounting Office completing at least one year of continuous service under a nontemporary appointment under the personnel management system acquires a competitive status for appointment to a position in the competitive service for which the officer or employee is qualified.

§733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Office Senior Executive Service—

(1) meeting the requirements of section 3131 of title 5;

(2) providing requirements for positions consistent with section 3132(a)(2) of title 5;

(3) providing rates of basic pay—

(A) not more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of title 5; and

(B) adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5382 of title 5 are adjusted;

(4) providing a performance appraisal system consistent with subchapter II of chapter 43 of title 5;

(5) allowing the Comptroller General to award ranks to officers and employees in the Office Senior Executive Service consistent with section 4507 of title 5;

(6) providing for removal consistent with section 3592 of title 5, and for removal or suspension consistent with section 7543 of title 5; and

(7) allowing the Comptroller General to pay performance awards to officers and employees of the Office Senior Executive Service consistent with section 5384 of title 5.

(b) Except as provided in subsection (a), the Comptroller General may apply any part of title 5 that applies to an applicant for or officer or employee in the Senior Executive Service under title 5 to the Office Senior Executive Service.

(c) The Office Senior Executive Service may include positions referred to in section 731(c), (d), or (e)(2) of this title.

(d) Section 732(b)(6), (c), (d)(1)–(4), and (e) of this title does not apply to the Office Senior Executive Service.

§734. Assignments and details to Congress

(a) The Comptroller General may assign or detail an officer or employee of the General Accounting Office to full-time continuous duty with a committee of Congress for not more than one year.

(b) A committee of the Senate or a joint committee of Congress for which the Secretary of the Senate disburses amounts shall reimburse the Comptroller General for the pay of each officer or employee of the Office for the time the officer or employee is assigned or detailed to the committee or joint committee.

§735. Relationship to other laws

(a) Except as provided in section 733(c) of this title, this subchapter and subchapter IV of this chapter do not affect sections 702(b), 703, 731(c)–(e), 772, 775(a) and (d) of this title.

(b) Except as specifically provided in this subchapter and subchapter IV of this chapter, those subchapters do not change the application of a law applicable to officers and employees of the General Accounting Office.

§736. Authorization of appropriations

Amounts necessary to carry out this subchapter and subchapter IV of this chapter may be appropriated to the Comptroller General.

SUBCHAPTER IV—PERSONNEL APPEALS BOARD

§751. Organization

(a) The General Accounting Office has a General Accounting Office Personnel Appeals Board. The Board is composed of 5 members appointed by the Comptroller General. An individual may be appointed only if the individual—

(1) has 3 years full-time or part-time experience in adjudicating or arbitrating personnel matters;

(2) is not a current or former officer or employee of the Office;

(3) has the demonstrated ability, background, training, and experience necessary to be qualified specially to serve on the Board; and

(4) demonstrates a capacity and willingness to devote sufficient time to dispose of cases in a timely way.

(b) The Comptroller General shall appoint members only—

(1) from a written list of candidates, submitted to the Comptroller General in a way and at the time the Comptroller General requires, by any organization the Comptroller General believes is composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and

(2) after the Comptroller General consults with organizations representing employees of the Office and with any member of each committee of Congress, having legislative jurisdiction over the personnel management system maintained under section 732 of this title, whom the chairman of the committee designates.

(c) The term of a member of the Board is 3 years. A member may not be reappointed. An individual appointed to fill a vacancy occurring before the expiration of a term of office is appointed for the remainder of the term. However, if the unexpired part of a term is less than one year, the Comptroller General may appoint an individual for a 3-year term plus the unexpired part of the term. When the term of a member ends, the member may continue to serve until a successor takes office or for 6 months after the term expires, whichever is earlier.

(d) A member may be removed by a majority of the Board (except the member subject to removal) only for inefficiency, neglect of duty, or malfeasance in office. A member subject to removal shall be given notice and an opportunity for a hearing before the Board unless the member waives the opportunity in writing.

(e) While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to pay at a rate equal to the daily rate for GS–18. Each member is entitled to travel expenses and per diem allowances under section 5703 of title 5.

§752. Chairman and General Counsel

(a) The General Accounting Office Personnel Appeals Board shall select one of its members as Chairman. The Chairman is the chief executive and administrative officer of the Board.

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The annual rate of basic pay of the General Counsel may be not more than the maximum rate for GS–15.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the General Accounting Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

§753. Duties and powers

(a) The General Accounting Office Personnel Appeals Board may consider and order corrective or disciplinary action in a case arising from—

(1) an officer or employee appeal about a removal, suspension for more than 14 days, reduction in grade or pay, or furlough of not more than 30 days;

(2) a prohibited personnel practice under section 732(b)(2) of this title;

(3) a prohibited political activity under section 732(b)(3) of this title;

(4) a decision of an appropriate unit of employees for collective bargaining;

(5) an election or certification of a collective bargaining representative;

(6) a matter appealable to the Board under the labor-management relations program under section 732(e)(2) of this title, including a labor practice prohibited under section 732(e)(1) of this title;

(7) an action involving discrimination prohibited under section 732(f)(1) of this title; and

(8) an issue about Office personnel the Comptroller General by regulation decides the Board shall resolve.

(b) The Board may delegate to a member or a panel of members the authority to act under subsection (a) of this section. A decision of a member or panel under subsection (a) is deemed to be a final decision of the Board unless the Board reconsiders the decision under subsection (c) of this section.

(c) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(d) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

(2) on the operating procedure of the Board.

§754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry out action the General Accounting Office Personnel Appeals Board orders under section 753 of this title.

§755. Judicial review

A person may apply for review of a final decision under section 753(a)(1)-(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

SUBCHAPTER V—ANNUITIES

§771. Definitions

In this subchapter—

(1) "dependent child" means an unmarried dependent child (including a stepchild or adopted child) who is—

(A) under 18 years of age; or

(B) incapable of self-support because of physical or mental disability.

(2) "surviving spouse" means a surviving spouse of an individual who was a Comptroller General or retired Comptroller General and the spouse—

(A) was married to the individual for at least 2 years immediately before the individual died; or

(B) has not remarried and is the parent of issue by the marriage.

(3) service as a Comptroller General equals the number of years and complete months an individual is Comptroller General.

§772. Annuity of the Comptroller General

(a) Except as provided in subsection (c) of this section, a Comptroller General serving a complete term as Comptroller General or who is retired for age under section 703(e)(1) of this title after serving at least 10 years is entitled to receive an annuity for life equal to the pay the Comptroller General is receiving on completion of the term or at the time of retirement. An annuity of a Comptroller General who completes a term before becoming 65 years of age is reduced by .25 percent for each complete month the Comptroller General is under 65 years of age.

(b) Except as provided in subsection (c) of this section, a Comptroller General becoming permanently disabled shall be retired and is entitled to receive an annuity for life equal to—

(1) the pay of the Comptroller General at the time of retirement if the Comptroller General served at least 10 years; or

(2) 50 percent of the pay if the Comptroller General served less than 10 years.

(c) A Comptroller General who, when appointed, is or has been subject to subchapter III of chapter 83 of title 5 remains subject to subchapter III unless the Comptroller General elects in writing to receive an annuity under this section. An election is irrevocable and must be made within 10 years and 60 days after the start of service as Comptroller General. A Comptroller General electing to receive an annuity under this section is entitled to a refund of the lump-sum credit to the account of the Comptroller General in the Civil Service Retirement and Disability Fund.

(d) A Comptroller General (except a Comptroller General remaining subject to subchapter III of chapter 83 of title 5) shall—

(1) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts as a contribution to the annuity—

(A) 3.5 percent of the pay received as Comptroller General before deductions are made under clause (2)(A) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General before deductions are made under clause (2)(B) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if not electing survivor benefits under this subchapter; and

(2) have—

(A) 3.5 percent of the pay received as Comptroller General deducted as a contribution to the annuity if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General deducted as a contribution to the annuity if not electing survivor benefits under this subchapter.

(e) A Comptroller General receiving benefits under this section may not receive retirement or disability benefits under another law of the United States.

§773. Election of survivor benefits

(a) To provide survivor benefits, a Comptroller General may elect in writing to reduce the pay and annuity of the Comptroller General. An election shall be made within 6 months of taking office or, if an election is made under section 772(c) of this title, by the 60th day after making an election under section 772(c).

(b) A Comptroller General electing to provide survivor benefits shall—

(1) have 4.5 percent of the pay received as Comptroller General and annuity of the Comptroller General deducted; and

(2) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts—

(A) 4.5 percent of the pay and annuity received as Comptroller General before the deductions begin;

(B) 4.5 percent of basic pay received as a member of Congress or for other civilian service on which a surviving spouse's annuity is computed under section 774(d) of this title; and

(C) 4 percent interest before January 1, 1948, and 4.5 percent interest after December 31, 1947, compounded every December 31, on amounts deposited.

(c) This subchapter does not prevent a surviving spouse or dependent child from receiving another annuity while receiving an annuity under section 774 of this title. However, service used in computing an annuity under section 774 may not be used in computing the other annuity.

§774. Survivor annuities

(a) In this section—

(1) "allowable military service" means honorable active service of not more than 5 years in an armed force (including service in the National Guard when ordered to active duty for the United States Government), when the service is not creditable in computing another annuity.

(2) "other prior allowable service" means civilian service as an officer or employee of the Government or District of Columbia government not covered by subsection (d)(1) of this section.

(3) "congressional employee" has the same meaning given that term in section 2107 of title 5.

(b) A survivor annuity shall be paid under this subchapter when a Comptroller General—

(1) makes an election under section 773 of this title;

(2) dies in office or while receiving an annuity under section 772 of this title;

(3) had at least 5 years of civilian service at death computed under subsections (a) and (d) of this section; and

(4) had deductions or deposits under section 773 of this title made for the last 5 years of civilian service.

(c) If the Comptroller General or retired Comptroller General is survived—

(1) only by a spouse, the surviving spouse shall receive an annuity computed under subsection (d) of this section beginning on the death of the Comptroller General or retired Comptroller General or when the spouse is 50 years of age, whichever is later;

(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

(A) $1,548; or

(B) $4,644 divided by the number of dependent children; or

(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection divided by the number of dependent children;

(B) $1,860; or

(C) $5,580 divided by the number of dependent children.

(d) The annuity of a surviving spouse is equal to—

(1) 1.25 percent of the average annual pay (based on the 3 years of highest pay re-

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ceived as Comptroller General and other prior allowable service) times—

(A) the number of years of—

(i) service as Comptroller General or a member of Congress; and

(ii) prior allowable military service; and

(B) not more than 15 years of prior allowable service as a congressional employee; plus

(2) .75 percent of the average pay computed under clause (1) of this subsection times the number of years of other allowable service.

(e) A surviving spouse's annuity may not be more than 40 percent of the average annual pay computed under subsection (d)(1) of this section. If a Comptroller General does not make the deposit under section 773(b) of this title, a surviving spouse's annuity shall be credited with the service during which a deposit was not made, unless the spouse elects not to have the service credited. However, the annuity shall be reduced by 10 percent of the amount of the unpaid deposit, computed on the date the Comptroller General or retired Comptroller General dies.

§775. Refunds

(a) A Comptroller General separated from office before becoming entitled to receive an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted from pay or deposited as a contribution under section 772, plus 3 percent interest on the amount compounded every December 31.

(b) A Comptroller General making an election under section 773 of this title who is separated from office before becoming entitled to an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted under section 773 of this title, plus 4 percent interest before January 1, 1948, and 3 percent interest after December 31, 1947, compounded every December 31 until the separation date.

(c) A lump-sum refund of the amounts deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, shall be paid under subsection (d) of this section if—

(1) a Comptroller General dies in office before completing 5 years of civilian service under section 774 of this title or after completing 5 years of civilian service but without a survivor entitled to an annuity under section 774(b) and (c) of this title; or

(2) if a retired Comptroller General dies without a survivor entitled to an annuity under section 774(b) and (c) of this title.

(d) If a Comptroller General or retired Comptroller General dies before a refund is made under this section, the refund shall be paid in the following order of precedence:

(1) to a beneficiary the Comptroller General or retired Comptroller General designated in writing if the designation was received by the General Accounting Office before the death of the Comptroller General or retired Comptroller General.

(2) to a surviving spouse.

(3) to the children and to a descendant of a deceased child by representation.

(4) to the parents equally or, if only one surviving parent, to that survivor.

(5) to the executor or administrator of the estate of the Comptroller General or retired Comptroller General.

(6) to the next of kin that the General Counsel of the General Accounting Office decides is entitled to the refund under the laws of the domicile of the Comptroller General or retired Comptroller General at the time of death.

(e) The General Counsel is not subject to section 771 (1) and (2) of this title when making a decision about a surviving spouse or child under subsection (c) or (d) of this section.

(f) If the annuities of all individuals entitled to survivor annuities under this subchapter end before the amount of annuities paid equals the amount deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, the remainder shall be paid under subsection (d) of this section.

§776. Payment of survivor benefits

(a) An annuity under section 774 of this title accrues monthly and is paid monthly on the first business day of the month after the month in which an annuity accrues.

(b)(1) A surviving spouse's annuity ends when the spouse remarries or dies.

(2) A dependent child's annuity ends when the child becomes 18 years of age, marries, or dies, whichever is earliest. However, if a child is not self-supporting because of a physical or mental disability, an annuity ends when the child recovers, marries, or dies.

(3) If a surviving spouse dies and a dependent child survives, the child's annuity is recomputed under section 774(c)(3) of this title.

(4) When a dependent child's annuity ends, the annuity of another dependent child is recomputed as if the child whose annuity has ended did not survive a Comptroller General or retired Comptroller General.

(c) An accrued annuity unpaid when the annuity of a survivor ends—

(1) for a reason except death, shall be paid to the survivor; and

(2) when a survivor dies, shall be paid in the following order of precedence:

(A) to the executor or administrator of the estate of the individual.

(B) if there is no executor or administrator, then after 30 days after the date of death, to an individual the General Counsel of the General Accounting Office decides is legally entitled to the payment.

(d)(1) A payment under subsection (c)(2)(B) of this section or section 775(d) of this title is a bar to recovery by another individual.

(2) A benefit under this section and sections 773–775 of this title is not assignable or subject to legal process.

§777. Annuity increases

(a) The Comptroller General shall compute—

(1) on January 1 of each year, or within a reasonable time after January 1, the percent change in the Consumer Price Index between June and December of the prior year; and

(2) on July 1 of each year, or within a reasonable time after July 1, the percent change in the Index between June of the same year and December of the prior year.

(b) If a percent change computed under subsection (a)(1) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before March 2 shall increase on March 1 by the percent change computed under subsection (a)(1), adjusted to the nearest .1 percent. If a percent change computed under subsection (a)(2) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before September 2 shall increase on September 1 by the percent change computed under subsection (a)(2), adjusted to the nearest .1 percent.

(c)(1) An increase under this section may not be more than an increase prescribed under section 8340(b) of title 5.

(2) An annuity under section 772 of this title ~~may not be~~ more than the basic pay of the Comptroller General.

§778. Dependency and disability decisions

The General Counsel of the General Accounting Office shall decide a question of dependency, disability, or dependency and disability under sections 773–776 of this title. A decision under this section is final.

§779. Use of appropriations

Annuities and refunds under this subchapter shall be paid by the Comptroller General from appropriations of the General Accounting Office.

SUBTITLE II—THE BUDGET PROCESS

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CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

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§1101. Definitions

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

§1102. Fiscal year

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

§1103. Budget ceiling

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

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§1104. Budget and appropriations authority of the President

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

§1105. Budget contents and submission to Congress

(a) During the first 15 days of each regular session of Congress, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)–(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

§1106. Supplemental budget estimates and changes

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements, and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before April 11 and July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

§1107. Deficiency and supplemental appropriations

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.

§1108. Preparation and submission of appropriations requests to the President

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

§1109. Current programs and activities estimates

(a) Before November 11 of each year, the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading "Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before January 1 of each year.

§1110. Year-ahead requests for authorizing legislation

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the 1st and 2d fiscal years.

§1111. Improving economy and efficiency

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

§1112. Fiscal, budget, and program information

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

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(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

§1113. Congressional information

(a) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)-(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

§1114. Budget information on consulting services

(a) The head of each agency shall include in the budget justification for the agency submitted each year to the Committees on Appropriations of both Houses of Congress—

(1) amounts requested for consulting services;

(2) the appropriation accounts from which the amounts are to be paid; and

(3) a description of the need for the consulting services, including a list of the major programs requiring those services.

(b) The Inspector General or comparable official of each agency shall submit to Congress each year, with the budget justification for the agency, an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services. If the agency does not have an Inspector General or comparable official, the head of the agency or officer or employee designated by the head of the agency shall submit the evaluation.

CHAPTER 13—APPROPRIATIONS

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SUBCHAPTER I—GENERAL

§1301. Application

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

§1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

§1303. Effect of changes in titles of appropriations

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

§1304. Judgments, awards, and compromise settlements

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

(1) payment is not otherwise provided for;

(2) payment is certified by the Comptroller General; and

(3) the judgment, award, or settlement is payable—

(A) under section 2414, 2517, 2672, or 2677 of title 28;

(B) under section 3723 of this title;

(C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(b)(1) Interest may be paid from the appropriation made by this section—

(A) on a judgment of a district court under section 2411(b) of title 28, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance; or

(B) on a judgment of the Court of Claims under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

(c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518 of title 28 when the judgment or settlement arises out of an express or implied contract made by—

(A) the Army and Air Force Exchange Service;

(B) the Navy Exchanges;

(C) the Marine Corps Exchanges;

(D) the Coast Guard Exchanges; or

(E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

§1305. Miscellaneous permanent appropriations

Necessary amounts are appropriated for the following:

(1) to pay the proceeds of the personal estate of a United States citizen dying abroad to the legal representative of the deceased on proper demand and proof.

(2) to pay interest on the public debt under laws authorizing payment.

(3) to pay proceeds from derelict and salvage cases adjudged by the courts of the United States to salvors.

(4) to make payments required under contracts made under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) for the payment of interest on obligations guaranteed by the Secretary of Housing and Urban Development under section 108.

(5) to make payments required under contracts made under section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b)) for projects or programs for which amounts had been committed before January 1, 1975, and for which amounts have not been appropriated.

(6) to pay for the construction of buildings and expenses of the Smithsonian Institution, at 6 percent on the fund derived from the bequest of James Smithson.

§1306. Use of foreign credits

Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.

§1307. Public building construction

Amounts appropriated to construct public buildings remain available until completion of the work. When a building is completed and outstanding liabilities for the construction are paid, balances remaining shall revert immediately to the Treasury.

§1308. Telephone and metered services

Charges for telephone and metered services (such as gas, electricity, water, and steam) for a time period beginning in one fiscal year or allotment period and ending in another fiscal year or allotment period may be charged against the appropriation or allotment current at the end of the time period covered by the service.

§1309. Social security tax

Amounts made available for the compensation of officers and employees of the United States Government may be used to pay taxes imposed on an agency as an employer under chapter 21 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq.).

§1310. Appropriations for private organizations

(a) The Secretary of the Treasury shall credit an appropriation for a private organization to the appropriate fiscal official of the organization. The credit shall be carried on the accounts of—

(1) the Treasury; or

(2) a designated depositary of the United States Government (except a national bank).

(b) The fiscal official may pay an amount out of the appropriation only on a check of the fiscal official—

(1) payable to the order of the person to whom payment is to be made; and

(2) that states the specific purpose for which the amount is to be applied.

(c)(1) The fiscal official may pay an amount of less than $20 out of the appropriation on a check—

(A) payable to the order of the fiscal official; and

(B) that states the amount is to be applied to small claims.

(2) The fiscal official shall provide the Secretary or the designated depositary on which the check is drawn with a certified list of the claims. The list shall state the kind and amount of each claim and the name of each claimant.

SUBCHAPTER II—TRUST FUNDS AND REFUNDS

§1321. Trust funds

(a) The following are classified as trust funds:

(1) Philippine special fund (customs duties).

(2) Philippine special fund (internal revenue).

(3) Unclaimed condemnation awards, Department of the Treasury.

(4) Naval reservation, Olangapo civil fund.

(5) Personal funds of deceased inmates, Naval Home.

(6) Return to deported aliens of passage money collected from steamship companies.

(7) Vocational rehabilitation, special fund.

(8) Library of Congress gift fund.

(9) Library of Congress trust fund, investment account.

(10) Library of Congress trust fund, income from investment account.

(11) Library of Congress trust fund, permanent loan.

(12) Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act.

(13) Cooperative work, Forest Service.

(14) Wages and effects of American seamen, Department of Commerce.

(15) Pension money, Saint Elizabeths Hospital.

(16) Personal funds of patients, Saint Elizabeths Hospital.

(17) National Park Service, donations.

(18) Purchase of lands, national parks, donations.

(19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.

(20) Indian moneys, proceeds of labor, agencies, schools, and so forth.

(21) Funds of Federal prisoners.

(22) Commissary funds, Federal prisons.

(23) Pay of the Navy, deposit funds.

(24) Pay of Marine Corps, deposit funds.

(25) Pay of the Army, deposit fund.

(26) Preservation birthplace of Abraham Lincoln.

(27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.

(28) Funds contributed for flood control, Sacramento River, California.

(29) Effects of deceased employees, Department of the Treasury.

(30) Money and effects of deceased patients, Public Health Service.

(31) Effects of deceased employees, Department of Commerce.

(32) Topographic survey of the United States, contributions.

(33) National Institutes of Health, gift fund.

(34) National Institutes of Health, conditional gift fund.

(35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.

(36) Estates of deceased personnel, Department of the Army.

(37) Effects of deceased employees, Department of Interior.

(38) Fredericksburg and Spotsylvania County Battlefields memorial fund.

(39) Petersburg National Military Park fund.

(40) Gorgas memorial laboratory quotas.

(41) Contributions to International Boundary Commission, United States and Mexico.

(42) Salvage proceeds, American vessels.

(43) Wages due American seamen.

(44) Federal Industrial Institution for Women, contributions for chapel.

(45) General post fund, National Homes, Veterans' Administration.

(46) Repatriation of American seamen.

(47) Expenses, public survey work, general.

(48) Expenses, public survey work, Alaska.

(49) Funds contributed for improvement of roads, bridges, and trails, Alaska.

(50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.

(51) Washington redemption fund.

(52) Permit fund, District of Columbia.

(53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.

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(54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.

(55) Miscellaneous trust fund deposits, District of Columbia.

(56) Surplus fund, District of Columbia.

(57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.

(58) Inmates' fund, workhouse and reformatory, District of Columbia.

(59) Soldiers' Home, permanent fund.

(60) Chamber Music Auditorium, Library of Congress.

(61) Bequest of Gertrude Hubbard.

(62) Puerto Rico special fund (Internal Revenue).

(63) Miscellaneous trust funds, Department of State.

(64) Funds contributed for improvement of (name of river or harbor).

(65) Funds advanced for improvement of (name of river or harbor).

(66) Funds contributed for Indian projects.

(67) Miscellaneous trust funds of Indian tribes.

(68) Ship's stores profits, Navy.

(69) Completing Surveys within Railroad Land Grants.

(70) Memorial to Women of World War, contributions.

(71) Funds contributed for Memorial to John Ericsson.

(72) American National Red Cross Building, contributions.

(73) Estate of decedents, Department of State, Trust Fund.

(74) Funds due Incompetent Beneficiaries, Veterans' Administration.

(75) To promote the Education of the Blind (principal).

(76) Paving Government Road across Fort Sill Military Reservation, Okla.

(77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.

(78) Funds Contributed for Flood Control (name of river, harbor, or project).

(79) Matured obligations of the District of Columbia.

(80) To promote the education of the blind (interest).

(81) Soldiers' Home, interest account.

(82) Post-Vietnam Era Veterans Education Account, Veterans' Administration.

(83) United States Government life insurance fund, Veterans' Administration.

(84) Estates of deceased soldiers, United States Army.

(85) Teachers Retirement Fund Deductions, District of Columbia.

(86) Teachers Retirement Fund, Government Reserves, District of Columbia.

(87) Expenses of Smithsonian Institution Trust Fund (principal).

(88) Civil Service Retirement and Disability Fund.

(89) Canal Zone Retirement and Disability Fund.

(90) Foreign Service Retirement and Disability Fund.

(b) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be deposited in an appropriate trust fund account in the Treasury. Amounts accruing to these funds (except to the trust fund "Soldiers' Home, Permanent Fund") are appropriated to be disbursed in compliance with the terms of the trust. Expenditures from the trust fund "Soldiers' Home, Permanent Fund" shall be made only under annual appropriations. Those appropriations are authorized to be made.

§1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" that part of the balance of a trust fund account named in section 1321(a)(1)–(82) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown".

(b) Except as provided in subsection (c) of this section, necessary amounts are appropriated to the Secretary of the Treasury to make payments from—

(1) the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown"; and

(2) the United States Government account "Refund of Moneys Erroneously Received and Covered" and other collections erroneously deposited that are not properly chargeable to another appropriation.

(c)(1) The Secretary of the Treasury shall hold in perpetuity in the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" the balance remaining after the final distribution of unclaimed Postal Savings System deposits under section 1(a) of the Act of August 13, 1971 (Public Law 92-117, 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit about the disposition of unclaimed or abandoned property.

(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims because of payments made under paragraph (1) of this subsection.

§1323. Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts

(a) Amounts from the following sources held in checking accounts of disbursing officials shall be deposited in the Treasury to the appropriate trust fund receipt accounts:

(1) unearned money, lands (Department of the Interior).

(2) reentry permit fees (Department of Justice).

(3) naturalization fees (Department of Justice).

(4) registry fees (Department of Justice).

(b) Amounts deposited under subsection (a) of this section are appropriated for refunds. Earned parts of those amounts shall be transferred and credited to the appropriate receipt fund accounts.

(c) Donations, quasi-public amounts, and unearned amounts shall be deposited in the Treasury as trust funds and are appropriated for disbursement under the terms of the trusts when the donation or amount is—

(1) administered by officers and employees of the United States Government; and

(2) carried in checking accounts of disbursing officials or others required to account to the Comptroller General (except clerks and marshals of the United States district courts).

§1324. Refund of internal revenue collections

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

(1) claims for prior fiscal years; and

(2) accounts arising under—

(A) "Allowance or drawback (Internal Revenue)";

(B) "Redemption of stamps (Internal Revenue)";

(C) "Refunding legacy taxes, Act of March 30, 1928";

(D) "Repayment of taxes on distilled spirits destroyed by casualty"; and

(E) "Refunds and payments of processing and related taxes".

(b) Disbursements may be made from the appropriation made by this section only for—

(1) refunds to the limit of liability of an individual tax account; and

(2) refunds due from credit provisions of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) enacted before January 1, 1978.

SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES

§1341. Limitations on expending and obligating amounts

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

§1342. Limitation on voluntary services

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

§1343. Buying and leasing passenger motor vehicles and aircraft

(a) In this section, buying a passenger motor vehicle or aircraft includes a transfer of the vehicle or aircraft between agencies.

(b) An appropriation may be expended to buy or lease passenger motor vehicles only—

(1) for the use of—

(A) the President;

(B) the secretaries to the President; or

(C) the heads of executive departments listed in section 101 of title 5; or

(2) as specifically provided by law.

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that—

(A) includes the price of systems and equipment the Administrator of General Services decides is incorporated customarily in standard passenger motor vehicles completely equipped for ordinary operation;

(B) includes the value of a vehicle used in exchange;

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

(2) Additional systems and equipment may be bought for a passenger motor vehicle if the Administrator decides the purchase is appropriate. The price of additional systems or equipment is not included in deciding whether the cost of the vehicle is within a maximum price specified in a law.

(d) An appropriation (except an appropriation for the armed forces) is available to buy, maintain, or operate an aircraft only if the appropriation specifically authorizes the purchase, maintenance, or operation.

(e) This section does not apply to—

(1) buying, maintaining, and repairing passenger motor vehicles by the United States Capitol Police;

(2) buying, maintaining, and repairing vehicles necessary to carry out projects to improve, preserve, and protect rivers and harbors; or

(3) leasing, maintaining, repairing, or operating motor passenger vehicles necessary in the field work of the Department of Agriculture.

§1344. Passenger motor vehicle and aircraft use

(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment except—

(1) medical officers on out-patient medical service; and

(2) officers or employees performing field work requiring transportation between their domiciles and places of employment when the transportation is approved by the head of the agency.

(b) This section does not apply to a motor vehicle or aircraft for the official use of—

(1) the President;

(2) the heads of executive departments listed in section 101 of title 5; or

(3) principal diplomatic and consular officials.

§1345. Expenses of meetings

Except as specifically provided by law, an appropriation may not be used for travel, transportation, and subsistence expenses for a meeting. This section does not prohibit—

(1) an agency from paying the expenses of an officer or employee of the United States Government carrying out an official duty; and

(2) the Secretary of Agriculture from paying necessary expenses for a meeting called by the Secretary for 4-H Boys and Girls Clubs as part of the cooperative extension work of the Department of Agriculture.

§1346. Commissions, councils, boards, and interagency and similar groups

(a) Except as provided in this section—

(1) public money and appropriations are not available to pay—

(A) the pay or expenses of a commission, council, board, or similar group, or a member of that group;

(B) expenses related to the work or the results of work or action of that group; or

(C) for the detail or cost of personal services of an officer or employee from an executive agency in connection with that group; and

(2) an accounting or disbursing official, absent a special appropriation to pay the account or charge, may not allow or pay an account or charge related to that group.

(b) Appropriations of an executive agency are available for the expenses of an interagency group conducting activities of interest common to executive agencies when the group includes a representative of the agency. The representatives receive no additional pay because of membership in the group. An officer or employee of an executive agency not a representative of the group may not receive additional pay for providing services for the group.

(c) Subject to section 1347 of this title, this section does not apply to—

(1) commissions, councils, boards, or similar groups authorized by law;

(2) courts-martial or courts of inquiry of the armed forces; or

(3) the contingent fund related to foreign relations at the disposal of the President.

§1347. Appropriations or authorizations required for agencies in existence for more than one year

(a) An agency in existence for more than one year may not use amounts otherwise available for obligation to pay its expenses without a specific appropriation or specific authorization by law. If the principal duties and powers of the agency are substantially the same as or similar to the duties and powers of an agency established by executive order, the agency established later is deemed to have been in existence from the date the agency established by the order came into existence.

(b) Except as specifically authorized by law, another agency may not use amounts available for obligation to pay expenses to carry out duties and powers substantially the same as or similar to the principal duties and powers of an agency that is prohibited from using amounts under this section.

§1348. Telephone installation and charges

(a)(1) Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences.

(2) Under regulations of the Secretary of State, appropriations may be used to install and pay for the use of telephones in residences owned or leased by the United States Government in foreign countries for the use of the Foreign Service. Subsection (b) of this section applies to long-distance calls made on those telephones.

(b) Appropriations of an agency are available to pay charges for a long-distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are available only if the head of the agency also certifies that the call is necessary in the interest of the Government.

(c) Under regulations prescribed by the Secretary of the Army on recommendation of the Chief of Engineers, not more than $30,000 may be expended each fiscal year to install and use in private residences telephones required for official business in constructing and operating locks and dams for navigation, flood control, and related water uses.

§1349. Adverse personnel actions

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

§1350. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

§1351. Reports on violations

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section 1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

CHAPTER 15—APPROPRIATION ACCOUNTING

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SUBCHAPTER I—GENERAL

§1501. Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public exigency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

§1502. Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

§1503. Comptroller General reports of amounts for which no accounting is made

The Comptroller General shall make a special report each year to Congress on recommendations for changes in laws, that the Comptroller General believes may be in the public interest, about amounts—

(1) for which no accounting is made to the Comptroller General; and

(2) that are in—

(A) accounts of the United States Government; or

(B) the custody of an officer or employee of the Government if the Government is financially concerned.

SUBCHAPTER II—APPORTIONMENT

§1511. Definition and application

(a) In this subchapter, "appropriations" means—

(1) appropriated amounts;

(2) funds; and

(3) authority to make obligations by contract before appropriations.

(b) This subchapter does not apply to—

(1) amounts (except amounts for administrative expenses) available—

(A) for price support and surplus removal of agricultural commodities; and

(B) under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c);

(2) a corporation getting amounts to make loans (except paid in capital amounts) without legal liability on the part of the United States Government; and

(3) the Senate, the House of Representatives, a committee of Congress, a member, officer, employee, or office of either House of Congress, or the Office of the Architect of the Capitol or an officer or employee of that Office.

§1512. Apportionment and reserves

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

§1513. Officials controlling apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

§1514. Administrative division of apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reapportionments of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

§1515. Authorized apportionments necessitating deficiency or supplemental appropriations

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates a necessity for a deficiency or supplemental appropriation to the extent necessary to permit payment of pay increases for prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

§1516. Exemptions

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—

(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

§1517. Prohibited obligations and expenditures

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

§1518. Adverse personnel actions

An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

§1519. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

§1531. Transfers of functions and activities

(a) The balance of an appropriation available and necessary to finance or discharge a function or activity transferred or assigned under law within an executive agency or from one executive agency to another may be transferred to and used—

(1) by the organizational unit or agency to which the function or activity was transferred or assigned; and

(2) for a purpose for which the appropriation was originally available.

(b) The head of the executive agency determines the amount that, with the approval of the President, is necessary to be transferred when the transfer or assignment of the function or activity is within the agency. The President determines the amount necessary to be transferred when the transfer or assignment of the function or activity is from one executive agency to another.

(c) A balance transferred under this section is—

(1) credited to an applicable existing or new appropriation account;

(2) merged with the amount in an account to which the balance is credited; and

(3) with the amount with which the balance is merged, accounted for as one amount.

(d) New appropriation accounts may be established to carry out subsection (c)(1) of this section.

§1532. Withdrawal and credit

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

§1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

§1534. Adjustments between appropriations

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

§1535. Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

(b) Notwithstanding subsection (a)(3) of this section, the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration may place orders under this section for goods and services that an agency or unit filling the order may be able to provide or procure by contract.

(c) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is deobligated to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or

(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

§1536. Crediting payments from purchases between executive agencies

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

§1537. Services between the United States Government and the District of Columbia government

(a) To prevent duplication and to promote efficiency and economy, an officer or employee of—

(1) the United States Government may provide services to the District of Columbia government; and

(2) the District of Columbia government may provide services to the United States Government.

(b)(1) Services under this section shall be provided under an agreement—

(A) negotiated by officers and employees of the 2 governments; and

(B) approved by the Director of the Office of Management and Budget and the Mayor of the District of Columbia.

(2) Each agreement shall provide that the cost of providing the services shall be borne in the way provided in subsection (c) of this section by the government to which the services are provided at rates or charges based on the actual cost of providing the services.

(3) To carry out an agreement made under this subsection, the agreement may provide for the delegation of duties and powers of officers and employees of—

(A) the District of Columbia government to officers and employees of the United States Government; and

(B) the United States Government to officers and employees of the District of Columbia government.

(c) In providing services under an agreement made under subsection (b) of this section—

(1) costs incurred by the United States Government may be paid from appropriations available to the District of Columbia government officer or employee to whom the services were provided; and

(2) costs incurred by the District of Columbia government may be paid from amounts available to the United States Government officer or employee to whom the services were provided.

(d) When requested by the Director of the United States Secret Service, the Chief of the Metropolitan Police shall assist the Secret Service and the Executive Protective Service on a non-reimbursable basis in carrying out their protective duties under section 302 of title 3 and section 3056 of title 18.

SUBCHAPTER IV—CLOSING ACCOUNTS

§1551. Definitions and application

(a) In this subchapter—

(1) an obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) an unobligated balance is the difference between the obligated balance and the total unexpended balance.

(b) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

§1552. Procedure for appropriation accounts available for definite periods

(a) Each appropriation account available for obligation for a definite period is closed as follows:

(1) The obligated balance is transferred on September 30th of the 2d fiscal year after the period of availability ends to an appropriation account of the agency responsible for paying the obligation. Amounts transferred from all appropriation accounts for the same general purpose are merged in the account for paying obligations.

(2) The unobligated balance is withdrawn at the end of the period of availability for obligation and reverts to the Treasury or, if derived only from a special or trust fund and not otherwise provided, reverts to the fund from which derived. The withdrawal shall be made not later than the November 15 occurring after the period of availability ends. When the head of the agency decides that part of a withdrawn unobligated balance is required to pay obligations and make adjustments, that part may be restored to the appropriate account.

(b) Collections authorized to be credited to an appropriation, but not received before the transfer of the obligated balance under subsection (a)(1) of this section, are credited to the account into which the obligated balance was transferred. However, collections made by the Comptroller General for other agencies may be deposited in the Treasury as miscellaneous receipts.

(c) A withdrawal made under subsection (a)(2) of this section is accounted for and reported as of the fiscal year in which the appropriation concerned expires for obligation.

(d) The obligated balance of an appropriation made available for obligation for a definite period under a discontinued appropriation heading may be merged at the end of the 2d complete fiscal year after the fiscal year for which an appropriation is available for obligation—

(1) in the appropriation accounts provided under subsection (a) of this section; or

(2) in other accounts established under this subchapter for discontinued appropriations of the agency responsible for paying the obligations.

§1553. Availability of appropriation accounts to pay obligations

(a) Each appropriation account established under section 1552 of this title is accounted for separately and remains available until expended to pay obligations chargeable against any appropriation from which the account is derived.

(b) Under regulations prescribed by the Comptroller General, obligations under subsection (a) of this section may be paid without prior action of the Comptroller General. However, this subchapter does not—

(1) relieve the Comptroller General of the duty to make decisions requested under law; or

(2) affect the authority of the Comptroller General to settle claims and accounts.

§1554. Review of appropriation accounts

(a) The head of each agency shall review at least once a fiscal year each appropriation account established for the agency under section 1552 of this title. If the undisbursed balance is more than the obligated balance in the account, the excess shall be withdrawn in the way provided in section 1552(a)(2) of this title. If the obligated balance is more than the undisbursed balance, the excess may be restored to the account in an amount that is not more than the remaining unobligated balances of the appropriations available for the same general purposes. Before restoring an amount, the head of the agency shall make a report on the restoration as may be required by the President.

(b) The review required under subsection (a) of this section shall be made as of the end of each fiscal year. A withdrawal or restoration under this section shall be made not later than December 31 of the following fiscal year. However, a withdrawal or restoration is accounted for and reported as of the close of the fiscal year to which the review relates. A review made as of any other date for which a withdrawal or restoration is made after December 31 shall be accounted for and reported as transactions of the fiscal year in which made.

§1555. Withdrawal of unobligated balances of appropriations for indefinite periods

(a) An unobligated balance of an appropriation for an indefinite period shall be withdrawn in the way provided in section 1552(a)(2) of this title when the head of the agency concerned decides that the purposes for which the appropriation was made have been carried out or when no disbursement is made against the appropriation for 2 consecutive fiscal years.

(b) An amount of an appropriation withdrawn under this section may be restored to the applicable appropriation account to pay obligations and to settle accounts.

§1556. Comptroller General reports on appropriation accounts

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

(1) the head of the agency concerned;

(2) the Secretary of the Treasury; and

(3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts established under section 1552 of this title. By the 30th day after receiving a report, the head of the agency concerned shall carry out actions required by section 1554 of this title that the report shows is necessary.

§1557. Authorization to exempt

A provision of an appropriation law may exempt an appropriation from this subchapter and fix the period for which the appropriation remains available for expenditure.

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SUBCHAPTER I—BORROWING AUTHORITY

§3101. Public debt limit

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than $400,000,000,000 outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX of the Rules of the House of Representatives or otherwise.

(c) The face amount of beneficial interests and participations (except those held by their issuer) issued under section 302(c) of the National Housing Act (12 U.S.C. 1717(c)) from July 1, 1967, through June 30, 1968, and outstanding at any time shall be included in the amount taken into account in deciding whether the face amount requirement of subsection (b) of this section has been exceeded. This subsection does not require a change in the budgetary accounting for beneficial interests and participations.

§3102. Bonds

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue bonds of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may issue bonds authorized by this section to the public and to Government accounts at any annual interest rate and prescribe conditions under section 3121 of this title. However, the face amount of bonds issued under this section and held by the public with interest rates of more than 4.25 percent a year may not be more than $70,000,000,000.

(b) The Secretary shall offer the bonds authorized under this section first as a popular loan under regulations of the Secretary that allow the people of the United States as nearly as possible an equal opportunity to participate in subscribing to the offered bonds. However, the bonds may be offered in a way other than as a popular loan when the Secretary decides the other way is in the public interest.

(c)(1) When the Secretary decides it is in the public interest in making a bond offering under this section, the Secretary may—

(A) make full allotments on receiving applications for smaller amounts of bonds to subscribers applying before the closing date the Secretary sets for filing applications;

(B) reject or reduce allotments on receiving applications filed after the closing date or for larger amounts;

(C) reject or reduce allotments on receiving applications from incorporated banks and trust companies for their own account and make full allotments or increase allotments to other subscribers; and

(D) prescribe a graduated scale of allotments.

(2) The Secretary shall prescribe regulations applying to all popular loan subscribers similarly situated governing a reduction or increase of an allotment under paragraph (1) of this subsection.

(d) The Secretary may make special arrangements for subscriptions from members of the armed forces. However, bonds issued to those members must be the same as other bonds of the same issue.

(e) The Secretary may dispose of any part of a bond offering not taken and may prescribe the price and way of disposition.

§3103. Notes

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue notes of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may prescribe conditions under section 3121 of this title. Notwithstanding section 3121(a)(5) of this title, the payment date of each series of notes issued shall be at least one year but not more than 10 years from the date of issue.

(b) The Government may redeem any part of a series of notes before maturity by giving at least 4 months' notice but not more than one year's notice.

(c) The holder of a note of one series issued under this section with the same issue date as another series of notes issued under this section may convert, at par value, a note of the holder for a note of the other series.

§3104. Certificates of indebtedness and Treasury bills

(a) The Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may buy, redeem, and make refunds under section 3111 of this title. For amounts borrowed, the Secretary may issue—

(1) certificates of indebtedness of the Government; and

(2) Treasury bills of the Government.

(b) The Secretary may prescribe conditions for issuing certificates of indebtedness and Treasury bills under section 3121 of this title and conditions under which the certificates and bills may be redeemed before maturity. Notwithstanding section 3121(a)(5) of this title, the payment date of certificates of indebtedness and Treasury bills may not be more than one year after the date of issue.

(c) Treasury bills issued under this section may not be accepted before maturity to pay principal or interest on obligations of governments of foreign countries that are held by the United States Government.

§3105. Savings bonds and savings certificates

(a) With the approval of the President, the Secretary of the Treasury may issue savings bonds and savings certificates of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. Proceeds from the bonds and certificates shall be used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. Savings bonds shall mature not more than 20 years from the date of issue. Savings certificates shall mature not more than 10 years from the date of issue. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) Except as provided in paragraph (2) of this subsection, the interest rate on, and the issue price of, savings bonds and savings certificates and the conditions under which they may be redeemed may not give an investment yield of more than 5.5 percent a year compounded semiannually. The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issuance of the bond and ending on the last day of the month before the date of redemption.

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(2) With the approval of the President, the Secretary may fix the investment yield for savings bonds at any percent a year compounded semiannually. However, the total of the increases in the yield that are effective for a 6-month period may not be more than one percent a year compounded semiannually.

(3) With the approval of the President, the Secretary may prescribe regulations providing that owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection. However, series E and H savings bonds earning a higher rate of interest before the regulations are prescribed shall continue to earn a higher rate of interest consistent with paragraph (1).

(c) The Secretary may prescribe for savings bonds and savings certificates issued under this section—

(1) the form and amount of an issue and series;

(2) the way in which they will be issued;

(3) the conditions, including restrictions on transfer, to which they will be subject;

(4) conditions governing their redemption;

(5) their sales price and denominations (expressed in terms of the maturity value);

(6) a way to evidence payments for or on account of them and to provide for the exchange of savings certificates for savings bonds; and

(7) the maximum amount issued in a year that may be held by one person.

(d) The Secretary may authorize financial institutions to make payments to redeem savings bonds and savings notes. A financial institution may be a paying agent only if the institution—

(1) is incorporated under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States;

(2) in the usual course of business accepts, subject to withdrawal, money for deposit or the purchase of shares;

(3) is under the supervision of a banking authority of the jurisdiction in which it is incorporated;

(4) has a regular office to do business; and

(5) is qualified under regulations prescribed by the Secretary in carrying out this subsection.

(e)(1) The Secretary may prescribe a way in which a check issued to an individual (except a trust or estate) as a refund for taxes imposed under subtitle A of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) may become a series E savings bond. However, a check may become a bond only if the claim for a refund is filed by the last day prescribed by law for filing the return (determined without any extensions) for the taxable year for which the refund is made. The Secretary may prescribe the time and way in which the check becomes a bond.

(2) A bond issued under this subsection is deemed to be a series E bond issued under this section, except that the bond shall bear an issue date of the first day of the first month beginning after the close of the taxable year for which the bond is issued. The Secretary also may provide that a bond issued to joint payees may be redeemed by either payee alone.

§3106. Retirement and savings bonds

(a) With the approval of the President, the Secretary of the Treasury may issue retirement and savings bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds from the bonds shall be used for expenditures authorized by law. Retirement and savings bonds may be issued only on a discount basis. The maturity period of the bonds shall be at least 10 years from the date of issue but not more than 30 years from the date of issue. The difference between the price paid and the amount received on redeeming a bond is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b) The issue price of retirement and savings bonds and the conditions under which they may be redeemed may give an investment yield of not more than 5 percent a year compounded semiannually. With the approval of the President, the Secretary may allow owners of retirement and savings bonds to keep the bonds after maturity and continue to earn interest on them at rates that are consistent with the rate of investment yield provided by retirement and savings bonds.

(c) Section 3105(c)(1)-(5) of this title applies to this section. Sections 3105(c)(6) and (d) and 3126 of this title apply to this section to the extent consistent with this section. The Secretary may prescribe the maximum amount of retirement and savings bonds issued under this section in a year that may be held by one person. However, the maximum amount shall be at least $3,000.

§3107. Increasing interest rates and investment yields on retirement bonds

With the approval of the President, the Secretary of the Treasury may increase by regulation the interest rate or investment yield on an offering of bonds issued under this chapter that are described in sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)). The increased yield shall be for interest accrual periods specified in the regulations so that the interest rate or investment yield on the bonds for those periods is consistent with the interest rate or investment yield on a new offering of those bonds.

§3108. Prohibition against circulation privilege

An obligation issued under sections 3102-3104(a)(1) and 3105-3107 of this title may not bear the circulation privilege.

§3109. Tax and loss bonds

(a) The Secretary of the Treasury may issue tax and loss bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds of the tax and loss bonds shall be used for expenditures authorized by law. Tax and loss bonds are nontransferrable except as provided by the Secretary, bear no interest, and shall be issued in amounts needed to allow persons to comply with section 832(e) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)). The Secretary may prescribe the amount of tax and loss bonds and the conditions under which the bonds will be issued as required by section 832(e).

(b) For a taxable year in which amounts are deducted from the mortgage guaranty account referred to in section 832(e)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(3)), an amount of tax and loss bonds bought under section 832(e)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(2)) shall be redeemed for the amount deducted from the account. The amount redeemed shall be applied as necessary to pay taxes due because of the inclusion under section 832(b)(1)(E) of the Internal Revenue Code of 1954 (26 U.S.C. 832(b)(1)(E)) of amounts in gross income. The Secretary also may prescribe additional ways to redeem the bonds.

§3110. Sale of obligations of governments of foreign countries

(a) With the approval of the President, the Secretary of the Treasury may sell obligations of the government of a foreign country when the obligations were acquired under—

(1) the First Liberty Bond Act and matured before June 16, 1947;

(2) the Second Liberty Bond Act and matured before October 16, 1938; or

(3) section 7(a) of the Victory Liberty Loan Act.

(b) The Secretary may prescribe the conditions and frequency for receiving payment under obligations of a government of a foreign country acquired under the laws referred to in subsection (a) of this section. A sale of an obligation acquired under those Acts shall at least equal the purchase price and accrued interest. The proceeds of obligations sold under this section and payments received from governments on the principal of their obligations shall be used to redeem or buy (for not more than par value and accrued interest) bonds of the United States Government issued under this chapter. If those bonds cannot be redeemed or bought, the Secretary shall redeem or buy other outstanding interest-bearing obligations of the Government that are subject to redemption or which can be bought at not more than par value and accrued interest.

§3111. New issue used to buy, redeem, or refund outstanding obligations

An obligation may be issued under this chapter to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates of indebtedness, Treasury bills, or savings certificates of the United States Government. Under regulations of the Secretary of the Treasury, money received from the sale of an obligation and other money in the general fund of the Treasury may be used in making the purchases, redemptions, or refunds.

§3112. Sinking fund for retiring and cancelling bonds and notes

(a) The Department of the Treasury has a sinking fund for retiring bonds and notes issued under this chapter. Amounts in the fund are appropriated for payment of bonds and notes at maturity or for their redemption or purchase before maturity by the Secretary of the Treasury. The fund is available until all the bonds and notes are retired.

(b) For each fiscal year, an amount is appropriated equal to—

(1) the interest that would have been payable during the fiscal year for which the appropriation is made on the bonds and notes bought, redeemed, or paid out of the fund during that or prior years;

(2) 2.5 percent of the total amount of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, and the Victory Liberty Loan Act and outstanding on July 1, 1920, less an amount equal to the par amount of obligations of governments of foreign countries that the United States Government held on July 1, 1920; and

(3) 2.5 percent of the total amount expended after June 29, 1933, from appropriations made or authorized in sections 301 and

302 of the Emergency Relief and Construction Act of 1932.

(c) The Secretary may prescribe the price and conditions for paying, redeeming, and buying bonds and notes under this section. The average cost of bonds and notes bought under this section may not be more than par value and accrued interest. Bonds and notes bought, redeemed, or paid out of the sinking fund must be canceled and retired and may not be reissued.

§3113. Accepting gifts

(a) To provide the people of the United States with an opportunity to make gifts to the United States Government to be used to reduce the public debt—

(1) the Secretary of the Treasury may accept for the Government a gift of—

(A) money made only on the condition that it be used to reduce the public debt;

(B) an obligation of the Government included in the public debt made only on the condition that the obligation be canceled and retired and not reissued; and

(C) other intangible personal property made only on the condition that the property is sold and the proceeds from the sale used to reduce the public debt; and

(2) the Administrator of General Services may accept for the Government a gift of tangible property made only on the condition that it be sold and the proceeds from the sale be used to reduce the public debt.

(b) The Secretary and the Administrator each may reject a gift under this section when the rejection is in the interest of the Government.

(c) The Secretary and the Administrator shall convert a gift either of them accepts under subsection (a)(1)(C) or (2) of this section to money on the best terms available. If a gift accepted under subsection (a) of this section is subject to a gift or inheritance tax, the Secretary or the Administrator may pay the tax out of the proceeds of the gift or the proceeds of the redemption or sale of the gift.

(d) The Treasury has an account into which money received as gifts and proceeds from the sale or redemption of gifts under this section shall be deposited. The Secretary shall use the money in the account to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt. An obligation of the Government that is paid, redeemed, or bought with money from the account shall be canceled and retired and may not be reissued. Money deposited in the account is appropriated and may be expended to carry out this section.

(e)(1) The Secretary shall redeem a direct obligation of the Government bearing interest or sold on a discount basis on receiving it when the obligation—

(A) is given to the Government;

(B) becomes the property of the Government under the conditions of a trust; or

(C) is payable on the death of the owner to the Government (or to an officer of the Government in the officer's official capacity).

(2) If the gift or transfer to the Government is subject to a gift or inheritance tax, the Secretary shall pay the tax out of the proceeds of redemption.

SUBCHAPTER II—ADMINISTRATIVE

§3121. Procedure

(a) In issuing obligations under sections 3102–3104 of this title, the Secretary of the Treasury may prescribe—

(1) whether an obligation is to be issued on an interest-bearing basis, a discount basis, or an interest-bearing and discount basis;

(2) regulations on the conditions under which the obligation will be offered for sale, including whether it will be offered for sale on a competitive or other basis;

(3) the offering price and interest rate;

(4) the method of computing the interest rate;

(5) the dates for paying principal and interest;

(6) the form and denominations of the obligations; and

(7) other conditions.

(b)(1) Under conditions prescribed by the Secretary, an obligation issued under this chapter and redeemable on demand of the owner or holder may be used to pay the United States Government for taxes imposed by it.

(2) An obligation of the Government issued after March 3, 1971, under law may not be redeemed before its maturity to pay a tax imposed by the Government in an amount more than the fair market value of the obligation at the time of its redemption. This paragraph does not apply to a Treasury bill issued under section 3104 of this title.

(c) Under conditions prescribed by the Secretary, an obligation authorized by this chapter may be issued in exchange for an obligation of an agency whose principal and interest are unconditionally guaranteed by the Government at or before maturity.

(d) Under conditions prescribed by the Secretary, the Secretary may issue registered bonds in exchange for and instead of coupon bonds that have been or may be issued. The registered bonds shall be similar in all respects to the registered bonds issued under a law authorizing the issue of coupon bonds offered for exchange.

(e) A decision of the Secretary about an issue of obligations under sections 3102–3104 of this title is final.

(f) The Secretary may accept voluntary services in carrying out the sale of public debt obligations.

§3122. Banks and trust companies as depositaries

(a) The Secretary of the Treasury may designate incorporated banks and trust companies as depositaries for any part of proceeds of an obligation issued under this chapter. The Secretary may prescribe the conditions under which deposits may be made under this section, including the interest rate on amounts deposited and security requirements.

(b) The Secretary may designate a bank or trust company that is a depositary under subsection (a) of this section as a fiscal agent of the United States Government in selling and delivering bonds and certificates of indebtedness issued by the Government.

§3123. Payment of obligations and interest on the public debt

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)–(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

§3124. Exemption from taxation

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax, except—

(1) a nondiscriminatory franchise tax or another nonproperty tax instead of a franchise tax, imposed on a corporation; and

(2) an estate or inheritance tax.

(b) The tax status of interest on obligations and dividends, earnings, or other income from evidences of ownership issued by the Government or an agency and the tax treatment of gain and loss from the disposition of those obligations and evidences of ownership is decided under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.). An obligation that the Federal Housing Administration had agreed, under a contract made before March 1, 1941, to issue at a future date, has the tax exemption privileges provided by the authorizing law at the time of the contract. This subsection does not apply to obligations and evidences of ownership issued by the District of Columbia, a territory or possession of the United States, or a department, agency, instrumentality, or political subdivision of the District, territory, or possession.

§3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations

(a) In this section, "obligation" means a direct obligation of the United States Government issued under law for valuable consideration, including bonds, notes, certificates of indebtedness, Treasury bills, and interim certificates issued for an obligation.

(b) The Secretary of the Treasury may provide relief for the loss, theft, destruction, mutilation, or defacement of an obligation identified by number and description.

(c)(1) An indemnity bond is required as a condition of relief if the obligation is payable to bearer or assigned so as to become payable to bearer and is not proven clearly to have been destroyed. The Secretary may prescribe for the indemnity bond the form, amount, and surety or security requirements.

(2) Relief for interest coupons claimed to have been attached to an obligation may be provided only if the Secretary is satisfied that the coupons have not been paid and are destroyed or will not become the basis of a valid claim against the Government.

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§3126. Losses and relief from liability related to redeeming savings bonds and notes

(a) Under regulations prescribed by the Secretary of the Treasury, a loss resulting from a payment related to redeeming a savings bond or savings note shall be replaced out of the fund established by section 2 of the Government Losses in Shipment Act (40 U.S.C. 722). A Federal reserve bank, a paying agent allowed to make payments in redeeming a bond or note, or an officer or employee of the Department of the Treasury is relieved from liability to the United States Government for the loss when the Secretary decides that the loss did not result from the fault or negligence of the bank, paying agent, officer, or employee. The Secretary shall relieve the bank, agent, officer, or employee from liability when the Secretary decides that written notice of liability or potential liability has not been given to the bank, agent, officer, or employee by the Government within 10 years from the date of the erroneous payment. However, the Secretary may not relieve a paying agent of an assumed unconditional liability to the Government.

(b) Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary) applies to a decision of the Secretary made under this section. A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

§3127. Credit to officers, employees, and agents for stolen Treasury notes

When an officer, employee, or agent of the United States Government authorized to receive, redeem, or cancel Treasury notes receives or pays a note that was stolen and put in circulation after it had been received or redeemed by an officer, employee, or agent authorized to receive or redeem the note, the Secretary of the Treasury may allow the officer, employee, or agent receiving or paying the stolen note a credit for the amount of the note. The Secretary may allow the credit only if the Secretary is satisfied that the note was received or paid in good faith and in exercising ordinary prudence.

§3128. Proof of death to support payment

A finding of death made by an officer or employee of the United States Government authorized by law to make the finding is sufficient proof of death to allow credit in the accounts of a Federal reserve bank or accountable official of the Department of the Treasury in a case involving the transfer, exchange, reissue, redemption, or payment of obligations of the Government, including obligations guaranteed by the Government for which the Secretary of the Treasury acts as transfer agent.

§3129. Appropriation to pay expenses

(a) Amounts to pay necessary expenses (including rent) for an issue of obligations authorized under this chapter are appropriated to the Secretary of the Treasury. However, the amount appropriated under this section may not be more than—

(1) .2 percent of the amount of bonds and notes authorized under this chapter;

(2) .1 percent of the amount of certificates of indebtedness authorized under section 3104 of this title; and

(3) .1 percent of the amount of certificates of indebtedness authorized under the First Liberty Bond Act.

(b) An appropriation under this section is available for obligation only through the end of the fiscal year after the fiscal year in which the issue was made. During a period for which an appropriation for a specified amount is made for expenses for which this section makes an appropriation for an unspecified amount, only the appropriation for the specified amount is available for obligation.

CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

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SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

§3301. General duties of the Secretary of the Treasury

(a) The Secretary of the Treasury shall—

(1) receive and keep public money;

(2) take receipts for money paid out by the Secretary;

(3) give receipts for money deposited in the Treasury;

(4) endorse warrants for receipts for money deposited in the Treasury;

(5) submit the accounts of the Secretary to the Comptroller General every 3 months, or more often if required by the Comptroller General; and

(6) submit to inspection at any time by the Comptroller General of money in the possession of the Secretary.

(b) Except as provided in section 3326 of this title, an acknowledgment for money deposited in the Treasury is not valid if the Secretary does not endorse a warrant as required by subsection (a)(4) of this section.

§3302. Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without—

(1) lending the money;

(2) using the money;

(3) depositing the money in a bank; and

(4) exchanging the money for other amounts.

(b) An official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay, but not later than the 30th day after the custodian receives the money, in the Treasury or with a depositary designated by the Secretary of the Treasury under law. The Secretary or a depositary receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government.

§3303. Designation of depositaries

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

§3304. Transfers of public money from depositaries

The Secretary of the Treasury may transfer public money in the possession of a depositary—

(1) to the Treasury; and

(2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

§3305. Audits of depositaries

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary's—

(1) books;

(2) accounts;

(3) returns; and

(4) public money on hand and the way the money is kept.

SUBCHAPTER II—PAYMENTS

§3321. Disbursing authority in the executive branch

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.

(2) military departments of the Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

§3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. A disbursing official shall—

(1) deposit public money as required by section 3302 of this title; and

(2) draw public money from the Treasury or a depositary only—

(A) as necessary to make payments; and

(B) payable to persons to whom payment is to be made.

(b) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

(1) use of improper transportation rates or classifications; or

(2) failure to deduct the proper amount under—

(A) a land grant law; or

(B) an equalization or other agreement.

§3323. Warrants

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out money only against a warrant. A warrant shall be—

(1) authorized by law;

(2) signed by the Secretary; and

(3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

§3324. Advances

(a) Except as provided in this section, a payment under a contract to provide a service or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

(1) a specific appropriation or other law; or

(2) the President to be made to—

(A) a disbursing official if the President decides the advance is necessary to carry out—

(i) the duties of the official promptly and faithfully; and

(ii) an obligation of the Government; or

(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

(A) payment of tolls of commercial carriers;

(B) leasing facilities for sending messages; and

(C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

§3325. Vouchers

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

(A) the head of the executive agency concerned; or

(B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—

(A) in proper form;

(B) certified and approved; and

(C) computed correctly on the facts certified; and

(3) except for the correctness of computations on a voucher, be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

§3326. Waiver of requirements for warrants and advances

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

§3327. General authority to issue checks and other drafts

The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depositary to issue a check or other draft on public money held by the depositary to pay an obligation of the Government. As directed by the Secretary, each depositary shall report to the Secretary on public money paid and received by the depositary.

§3328. Paying checks and drafts

(a)(1) Except as provided in sections 3329 and 3330 of this title, a check drawn on the Treasury may be paid at any time. However, if the Secretary of the Treasury is on notice of a question of law or fact about the check when the check is presented, the Secretary shall defer payment until the Comptroller General settles the question.

(2) When the Secretary decides it is appropriate, the Secretary may transfer—

(A) the amount of an unpaid check drawn on the Treasury from the account on which it was drawn to a consolidated account of the Treasury available for paying checks; and

(B) an amount available, but not required, for paying checks drawn on the Treasury to the appropriate receipt account.

(b)(1) If a check issued by a disbursing official and drawn on a designated depositary is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depositary; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury on settlement by the Comptroller General.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depositary.

(d) With the approval of the Comptroller General, the Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)-(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

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(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

§3329. Withholding checks to be sent to foreign countries

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

(1) will receive the check or warrant; and

(2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

(A) withheld check or warrant to the drawee; and

(B) report to the Secretary on—

(i) the name and address of the payee;

(ii) the date, number, and amount of the check or warrant; and

(iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account "Secretary of the Treasury, Proceeds of Withheld Foreign Checks". The check or warrant shall be marked "Paid into Withheld Foreign Check Account". After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

(1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Administrator of Veterans' Affairs if the claim represents a payment under laws carried out by the Administrator); and

(2) the Secretary is reasonably ensured that the person—

(A) will receive the check or warrant; and

(B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

(1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;

(2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of this section when a license is required by law to authorize delivery and payment; and

(3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

§3330. Payment of Veterans' Administration checks for the benefit of individuals in foreign countries

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

(A) drawn on public money;

(B) for benefits under laws carried out by the Administrator of Veterans' Affairs; and

(C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Administrator shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

(3) The Administrator may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws carried out by the Administrator) transferred under section 3329(b)(4) of this title equals $1,000, the amounts of additional checks (except checks under contracts of insurance) payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws carried out by the Administrator dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Administrator by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Administrator requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

§3331. Substitute checks

(a) In this section, "original check"—

(1) means an order for the payment of money—

(A) payable on demand;

(B) that does not bear interest;

(C) drawn by an authorized disbursing official or agent of the United States Government; and

(D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depositary in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

(1) using the current date; and

(2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

(1) may be paid only if the original check has not been paid;

(2) shall include information necessary to identify the original check;

(3) that is drawn on the Treasury—

(A) is deemed to be an original check; and

(B) is paid under the same conditions as the original check; and

(4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

§3332. Checks payable to financial organizations designated by Government officers and employees

(a) In this section, "financial organization" means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.

(b) An officer or employee of an agency may designate in writing not more than 3 financial organizations to which a payment of pay of the officer or employee shall be sent and the amount to be sent to each organization. The head of the agency shall authorize a disbursing official to issue a check payable to each of the organizations in the amount designated for—

(1) credit to the checking account of the officer or employee;

(2) deposit of savings for the officer or employee; or

(3) buying shares for the officer or employee.

(c) An agency is not reimbursed for the cost of issuing one check requested by an officer or employee under subsection (b) of this section. However, a financial organization (except a financial organization designated by an officer or employee of either House of Congress) shall reimburse the agency for the cost of each additional check issued. The check for which the agency is not reimbursed is the check in the largest amount.

(d) If more than one officer or employee making a designation under this section designates the same financial organization, the head of the agency may authorize a disbursing official to issue a check payable to the organization for the total amount designated by the officers and employees, accompanied by a schedule stating the amount to be credited to the account of each officer and employee.

(e) Payment by the Government by more than one check, issued under this section and properly endorsed, is complete payment of the amount due to the officer or employee requesting payment.

(f) On the written request of a person to whom payment is to be made, this section may be applied to any class of recurring payments.

(g) The Secretary of the Senate shall prescribe regulations for the Senate in carrying out this section. With the approval of the Committee on House Administration of the House of Representatives, the Clerk of the House shall prescribe regulations for the House in carrying out this section. The Secretary of the Treasury shall prescribe regulations for all other agencies in carrying out this section.

§3333. Relief for payments made without negligence

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of a—

(A) check, draft, or warrant drawn on the Treasury or the depositary; and

(B) debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depositary for the payment.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

SUBCHAPTER III—MISCELLANEOUS

§3341. Sale of Government warrants, checks, drafts, and obligations

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depositary for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately.

§3342. Check cashing and exchange transactions

(a) A disbursing official of the United States Government may—

(1) cash and negotiate negotiable instruments payable in United States currency or currency of a foreign country;

(2) exchange United States currency, coins, and negotiable instruments and currency, coins, and negotiable instruments of foreign countries; and

(3) cash checks drawn on the Treasury to accommodate United States citizens in a foreign country, but only if—

(A) satisfactory banking facilities are not available in the foreign country; and

(B) a check is presented by the payee who is a United States citizen.

(b) A disbursing official may act under subsection (a)(1) and (2) of this section only for—

(1) an official purpose;

(2) personnel of the Government;

(3) a veteran hospitalized or living in an institution operated by an agency;

(4) a contractor, or personnel of a contractor, carrying out a Government project; and

(5) personnel of an authorized agency not part of the Government that operates with an agency of the Government.

(c)(1) An amount held by the disbursing official that is available for expenditure may be used to carry out subsection (a) of this section with the approval of the head of the agency having jurisdiction over the amount.

(2) The head of an agency having jurisdiction over a disbursing official may offset, within the same fiscal year, a deficiency resulting from a transaction under subsection (a) of this section with a gain from a transaction under subsection (a). A gain in the account of a disbursing official not used to offset deficiencies under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

(3) Amounts necessary to adjust for deficiencies in the account of a disbursing official because of transactions under subsection (a) of this section are authorized to be appropriated.

(d) The Secretary of the Treasury and, with the approval of the Secretary, the head of an agency having jurisdiction over a disbursing official, may issue regulations to carry out this section. However, under conditions the Secretary decides are necessary, the Secretary may delegate to the head of an agency the authority to issue regulations applying to a disbursing official that is an officer or employee of the agency.

§3343. Check forgery insurance fund

(a) The Department of the Treasury has a special deposit revolving fund, the "Check Forgery Insurance Fund". Amounts may be appropriated to the Fund. The Fund consists of amounts—

(1) appropriated to the Fund; and

(2) received under subsection (d) of this section.

(b) The Secretary of the Treasury shall pay from the Fund to a payee or special endorsee of a check drawn on the Treasury or a depositary designated by the Secretary the amount of the check without interest if—

(1) the check was lost or stolen without the fault of the payee or a holder that is a special endorsee and whose endorsement is necessary for further negotiation;

(2) the check was negotiated later and paid by the Secretary or a depositary on a forged endorsement of the payee's or special endorsee's name;

(3) the payee or special endorsee has not participated in any part of the proceeds of the negotiation or payment; and

(4) recovery from the forger, a transferee, or a party on the check after the forgery has been or may be delayed or unsuccessful.

(c) Notwithstanding section 1306 of this title, a check drawn on a designated depositary may be paid in the currency of a foreign country when the appropriate accountable official authorizes payment in that currency.

(d) The Secretary shall deposit immediately to the credit of the Fund an amount recovered from a forger or a transferee or party on the check. However, currency of a foreign country recovered because of a forged check drawn on a designated depositary shall be credited to the Fund or to the foreign currency fund that was charged when payment was made under subsection (b) of this section to the payee or special endorsee.

(e) This section does not relieve—

(1) a forger from civil or criminal liability; or

(2) a transferee or party on a check after the forgery from liability—

(A) on the express or implied warranty of prior endorsements of the transferee or party; or

(B) to refund amounts to the Secretary.

CHAPTER 35—ACCOUNTING AND COLLECTION

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3501. Definition.

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SUBCHAPTER I—GENERAL

§3501. Definition

In this chapter, "executive agency" does not include (except in section 3513 of this title) a corporation, agency, or instrumentality subject to chapter 91 of this title.

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

§3511. Prescribing accounting requirements and developing accounting systems

(a) The Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe. Before prescribing the principles, standards, and requirements, the Comptroller General shall consult with the Secretary of the Treasury and the President on their accounting, financial reporting, and budgetary needs, and shall consider the needs of the heads of the other executive agencies.

(b) Requirements prescribed under subsection (a) of this section shall—

(1) provide for suitable integration between the accounting process of each executive agency and the accounting of the Department of the Treasury;

(2) allow the head of each agency to carry out section 3512 of this title; and

(3) provide a method of—

(A) integrated accounting for the United States Government;

(B) complete disclosure of the results of the financial operations of each agency and the Government; and

(C) financial information and control the President and Congress require to carry out their responsibilities.

(c) Consistent with subsections (a) and (b) of this section—

(1) the authority of the Comptroller General continues under section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b)); and

(2) the Comptroller General may prescribe the forms, systems, and procedures that the judicial branch of the Government (except the Supreme Court) shall observe.

(d) The Comptroller General, the Secretary, and the President shall conduct a continuous program for improving accounting and financial reporting in the Government.

§3512. Executive agency accounting systems

(a) The head of each executive agency shall establish and maintain systems of accounting and internal controls that provide—

(1) complete disclosure of the financial results of the activities of the agency;

(2) adequate financial information the agency needs for management purposes;

(3) effective control over, and accountability for, assets for which the agency is responsible, including internal audit;

(4) reliable accounting results that will be the basis for—

(A) preparing and supporting the budget requests of the agency;

(B) controlling the carrying out of the agency budget; and

(C) providing financial information the President requires under section 1104(e) of this title; and

(5) suitable integration of the accounting of the agency with the central accounting and reporting responsibilities of the Secretary of the Treasury under section 3513 of this title.

(b) To assist in preparing a cost-based budget under section 1108(b) of this title and consistent with principles and standards the Comptroller General prescribes, the head of each executive agency shall maintain the accounts of the agency on an accrual basis to show the resources, liabilities, and costs of operations of the agency. An accounting system under this subsection shall include monetary property accounting records.

(c) The Comptroller General shall—

(1) cooperate with the head of each executive agency in developing an accounting system for the agency; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(d) The Comptroller General shall review the accounting systems of each executive agency. The results of a review shall be available to the head of the executive agency, the Secretary, and the President. The Comptroller General shall report to Congress on a review when the Comptroller General considers it proper.

§3513. Financial reporting and accounting system

(a) The Secretary of the Treasury shall prepare reports that will inform the President, Congress, and the public on the financial operations of the United States Government. The reports shall include financial information the President requires. The head of each executive agency shall give the Secretary reports and information on the financial conditions and operations of the agency the Secretary requires to prepare the reports.

(b) The Secretary may—

(1) establish facilities necessary to prepare the reports; and

(2) reorganize the accounting functions and procedures and financial reports of the Department of the Treasury to develop an effective and coordinated system of accounting and financial reporting in the Department that will integrate the accounting results for the Department and be the operating center for consolidating accounting results of other executive agencies with accounting results of the Department.

(c) The Comptroller General shall—

(1) cooperate with the Secretary in developing and establishing the reporting and accounting system under this section; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

§3514. Discontinuing certain accounts maintained by the Comptroller General

The Comptroller General may discontinue an agency appropriation, expenditure, limitation, receipt, or personal ledger account maintained by the Comptroller General when the Comptroller General believes that the accounting system and internal controls of the agency will allow the Comptroller General to carry out the functions related to the account.

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

§3521. Audits by agencies

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General—

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not—

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

§3522. Making and submitting accounts

(a)(1) Unless the Comptroller General decides the public interest requires that an account be made more frequently, each disbursing official shall make a quarterly account. An official or agent of the United States Government receiving public money not authorized to be kept as pay of the official or agent shall make a monthly account of the money.

(2) An official or agent of the Government receiving public money shall make an account of public money received by the official or agent according to the appropriation from which the money was advanced.

(b)(1) A monthly account shall be submitted to the appropriate official in the District of Columbia by the 10th day after the end of the month covered by the account. The official shall submit the account to the Comptroller General by the 20th day after receiving the account.

(2) An account (except a monthly account) shall be submitted to the appropriate official in the District of Columbia by the 30th day after the end of the period covered by the account. The official shall submit the account to the Comptroller General by the 60th day after receiving the account.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an account of the armed forces shall be submitted to the Comptroller General by the 60th day after the account is received. However, during a war or national emergency and for 18 months after the war or emergency ends, an account shall be submitted to the Comptroller General by the 90th day after the account is received.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an account of a disbursing official of the Department of Justice shall be submitted to the Comptroller General by the 80th day after the account is received.

(c) An official shall give evidence of compliance with subsection (b) of this section if an account is not received within a reasonable time after the time required by subsection (b).

(d) The head of an agency may require other returns or reports about the agency that the public interest requires.

(e)(1) The Comptroller General shall disapprove a requisition for an advance of money if an account from which the advance is to be made is not submitted to the

Comptroller General within the time required by subsection (b) of this section. The Comptroller General may disapprove the request for another reason related to the condition of an account of the official for whom the advance is requested. However, the Secretary of the Treasury may overrule the decision of the Comptroller General on the sufficiency of the other reasons.

(2) The Secretary may extend the time requirements of subsection (b) (1) and (2) of this section for submitting an account to the proper official in the District of Columbia or waive a condition of delinquency only when there is, or is likely to be, a manifest physical difficulty in complying with those requirements. If an account is not submitted to the Comptroller General on time under subsection (b), an order of the President or, if the President is ill or not in the District of Columbia, the Secretary is required to authorize an advance.

§3523. General audit authority of the Comptroller General

(a) Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency. In deciding on auditing procedures and the extent to which records are to be inspected, the Comptroller General shall consider generally accepted auditing principles, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of each agency.

(b) The Comptroller General shall audit the Architect of the Capitol at times the Comptroller General considers appropriate. Section 716 of this title applies to the Architect in conducting the audit. The Comptroller General shall report the results of the audit to Congress. Each report shall be printed as a Senate document.

(c)(1) When the Comptroller General decides an audit shall be conducted at a place at which the records of an executive agency or the Architect of the Capitol are usually kept, the Comptroller General may require the head of the agency or the Architect to keep any part of an account of an accountable official or of a record required to be submitted to the Comptroller General. The Comptroller General may require records be kept under conditions and for a period of not more than 10 years specified by the Comptroller General. However, the Comptroller General and the head of the agency or the Architect may agree on a longer period.

(2) The Comptroller General and the head of an agency in the legislative or judicial branch of the United States Government (except the Architect) may agree to apply this subsection to the agency.

§3524. Auditing expenditures approved without vouchers

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the committees of Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on Government Operations, and to the Comptroller General.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counterintelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

(d) This section does not—

(1) apply to expenditures under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

§3525. Auditing nonappropriated fund activities

(a) The Comptroller General may audit—

(1) the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States Government personnel and their dependents;

(2) accounting systems and internal controls of the fund and related activities; and

(3) internal or independent audits or reviews of the fund and related activities.

(b) The head of each executive agency promptly shall provide the Comptroller General with—

(1) a copy of the annual report of a nonappropriated fund and related activities subject to this section when the Comptroller General—

(A) requires a report for a designated class of each fund and related activities having gross sales receipts of more than $100,000 a year; or

(B) specifically requests a report for another fund and related activities; and

(2) a statement on the yearly financial operations, financial condition, and cash flow and other yearly information about the fund and related activities that the head of the agency and the Comptroller General agree on if the information is not included in the annual report.

(c) Records and property of a fund and related activities subject to this section shall be made available to the Comptroller General to the extent the Comptroller General considers necessary.

§3526. Settlement of accounts

(a) The Comptroller General shall settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government.

(b) A decision of the Comptroller General under section 3529 of this title is conclusive on the Comptroller General when settling the account containing the payment.

(c)(1) The Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account. A copy of the certificate of settlement shall be provided the official.

(2) The settlement of an account is conclusive on the Comptroller General after 3 years after the account is received by the Comptroller General. However, an amount may be charged against the account after the 3-year period when the Government has or may have lost money because the official acted fraudulently or criminally.

(3) A 3-year period under this subsection is suspended during a war.

(4) This subsection does not prohibit—

(A) recovery of public money illegally or erroneously paid;

(B) recovery from an official of a balance due the Government under a settlement within the 3-year period; or

(C) an official from clearing an account of questioned items as prescribed by law.

(d) On settling an account of the Government, the balance certified by the Comptroller General is conclusive on the executive branch of the Government. On the initiative of the Comptroller General or on request of an individual whose accounts are settled or the head of the agency to which the account relates, the Comptroller General may change the account within a year after settlement. The decision of the Comptroller General to change the account is conclusive on the executive branch.

(e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may—

(1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or

(2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically. The certificate is a sufficient voucher for the amount stated in the certificate.

(f) The Comptroller General shall keep all settled accounts, vouchers, certificates, and related papers until they are disposed of as prescribed by law.

(g) This subchapter does not prohibit the Comptroller General from suspending an item in an account to get additional evidence or explanations needed to settle an account.

§3527. General authority to relieve accountable officials and agents from liability

(a) Except as provided in subsection (b) of this section, the Comptroller General may relieve a present or former accountable official or agent of an agency responsible for the physical loss or deficiency of public money, vouchers, checks, securities, or records, or may authorize reimbursement from an appropriation or fund available for the activity in which the loss or deficiency occurred for the amount of the loss or deficiency paid by the official or agent as restitution, when—

(1) the head of the agency decides that—

(A) the official or agent was carrying out official duties when the loss or deficiency occurred, or the loss or deficiency occurred because of an act or failure to act by a subordinate of the official or agent; and

(B) the loss or deficiency was not the result of fault or negligence by the official or agent;

(2) the loss or deficiency was not the result of an illegal or incorrect payment; and

(3) the Comptroller General agrees with the decision of the head of the agency.

(b)(1) The Comptroller General shall relieve a disbursing official of the armed forces responsible for the physical loss or deficiency of public money, vouchers, or records, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) the Secretary of Defense or the appropriate Secretary of the military department of the Department of Defense decides that the official was carrying out official duties when the loss or deficiency occurred;

(B) the loss or deficiency was not the result of an illegal or incorrect payment; and

(C) the loss or deficiency was not the result of fault or negligence by the official.

(2) The finding of the Secretary involved is conclusive on the Comptroller General.

(c) On the initiative of the Comptroller General or written recommendation of the head of an agency, the Comptroller General may relieve a present or former disbursing official of the agency responsible for a deficiency in an account because of an illegal, improper, or incorrect payment, and credit the account for the deficiency, when the Comptroller General decides that the payment was not the result of bad faith or lack of reasonable care by the official. However, the Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(d)(1) When the Comptroller General decides it is necessary to adjust the account of an official or agent granted relief under subsection (a) or (c) of this section, the amount of the relief shall be charged—

(A) to an appropriation specifically provided to be charged; or

(B) if no specific appropriation, to the appropriation or fund available for the expense of the accountable function when the adjustment is carried out.

(2) Subsection (c) of this section does not—

(A) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(B) relieve an accountable official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Relief provided under this section is in addition to relief provided under another law.

§3528. Responsibilities and relief from liability of certifying officials

(a) A certifying official certifying a voucher is responsible for—

(1) information stated in the certificate, voucher, and supporting records;

(2) the computation of a certified voucher under this section and section 3325 of this title;

(3) the legality of a proposed payment under the appropriation or fund involved; and

(4) repaying a payment—

(A) illegal, improper, or incorrect because of an inaccurate or misleading certificate;

(B) prohibited by law; or

(C) that does not represent a legal obligation under the appropriation or fund involved.

(b) The Comptroller General may relieve a certifying official from liability when the Comptroller General decides that—

(1) the certification was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information; or

(2)(A) the obligation was incurred in good faith;

(B) no law specifically prohibited the payment; and

(C) the United States Government received value for payment.

(c) The Comptroller General shall relieve a certifying official from liability for an overpayment—

(1) to a common carrier under section 3726 of this title when the Comptroller General decides the overpayment occurred only because the administrative audit before payment did not verify transportation rates, freight classifications, or land-grant deductions; or

(2) provided under a Government bill of lading or transportation request when the overpayment was the result of using improper transportation rates or classifications or the failure to deduct the proper amount under a land-grant law or agreement.

(d) This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.

§ 3529. Requests for decisions of the Comptroller General

(a) A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General on a question involving—

(1) a payment the disbursing official or head of the agency will make; or

(2) a voucher presented to a certifying official for certification.

(b) The Comptroller General shall issue a decision requested under this section.

§ 3530. Adjusting accounts

(a) An appropriation or fund currently available for the expense of an accountable function shall be charged with an amount necessary to adjust an account of an accountable official or agent when—

(1) necessary to adjust the account for a loss to the United States Government resulting from the fault or negligence of the official or agent; and

(2) the head of the agency decides the loss is uncollectable.

(b) An adjustment does not affect the personal financial liability of an official or agent for the loss.

(c) The Comptroller General shall prescribe regulations to carry out subsection (a) of this section.

(d) Under procedures prescribed by the Comptroller General, the head of an agency may charge the net amount of unpaid and overpaid balances in individual pay accounts against the appropriation for the fiscal year in which the balances occurred and from which the accounts were payable. The net amount shall be credited to and paid from the corresponding appropriation for the next fiscal year.

§ 3531. Property returns

(a) The head of an executive department—

(1) shall certify to the Comptroller General a charge against an official or agent entrusted with public property for the department resulting from a loss to the United States Government from the property because of fault of the official or agent; and

(2) may not forward the property to the Comptroller General.

(b)(1) A certificate under subsection (a) of this section shall state—

(A) the condition of the property;

(B) that the official or agent has had a reasonable opportunity to be heard but has not been relieved of liability; and

(C) that the certificate includes all charges not certified previously.

(2) The effect of information in the certificate is the same as if the Comptroller General had discovered the information when auditing the account. The Comptroller General shall charge the appropriate account for the amount of the loss.

(c) Except as provided in subsection (a) of this section, this section does not affect the way a property return is made or liability for property is decided.

§3532. Notification of account deficiencies

An accounting official discovering a deficiency in an account of an official of the United States Government having custody of public money shall notify the head of the agency having jurisdiction of the official of the kind and amount of the deficiency.

SUBCHAPTER IV—COLLECTION

§3541. Distress warrants

(a) When an official receiving public money before it is paid to the Treasury or a disbursing or certifying official of the United States Government does not submit an account or pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government.

(b) The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides. If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides, the warrant shall be directed to the marshal of the district in which the official resides and the marshal of the district in which the property is located.

§3542. Carrying out distress warrants

(a) A marshal carrying out a distress warrant issued under section 3541 of this title shall seize the personal property of the official and sell the property after giving 10 days notice of the sale. Notice shall be given by posting an advertisement of the property to be sold in at least 2 public places in the town and county in which the property was taken or the town and county in which the owner of the property resides. If the property does not satisfy the amount due under the warrant, the official may be sent to prison until discharged by law.

(b)(1) The amount due under a warrant is a lien on the real property of the official from the date the distress warrant is issued. The lien shall be recorded in the office of the clerk of the appropriate district court until discharged under law.

(2) If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell real property of the official after advertising the property for at least 3 weeks in at least 3 public places in the county or district where the property is

located. A buyer of the real property has valid title against all persons claiming under the official.

(c) The official shall receive that part of the proceeds of a sale remaining after the distress warrant is satisfied and the reasonable costs and charges of the sale are paid.

§3543. Postponing a distress warrant proceeding

(a) A distress warrant proceeding may be postponed for a reasonable time if the Secretary of the Treasury believes the public interest will not be harmed by the postponement.

(b)(1) A person adversely affected by a distress warrant issued under section 3541 of this title may bring a civil action in a district court of the United States. The complaint shall state the kind and extent of the harm. The court may grant an injunction to stay any part of a distress warrant proceeding required by the action after the person applying for the injunction gives a bond in an amount the court prescribes for carrying out a judgment.

(2) An injunction under this subsection does not affect a lien under section 3542(b)(1) of this title. The United States Government is not required to answer in a civil action brought under this subsection.

(3) If the court dissolves the injunction on a finding that the civil action for the injunction was brought only for delay, the court may increase the interest rate imposed on amounts found due against the complainant to not more than 10 percent a year. The judge may grant or dissolve an injunction under this subsection either in or out of court.

(c) A person adversely affected by a refusal to grant an injunction or by dissolving an injunction under subsection (b) of this section may petition a judge of a circuit court of appeals in which the district is located or the Supreme Court justice allotted to that circuit by giving the judge or justice a copy of the proceeding held before the district judge. The judge or justice may grant an injunction or allow an appeal if the judge or justice finds the case requires it.

§3544. Rights and remedies of the United States Government reserved

This subchapter does not affect a right or remedy the United States Government has by law to recover a tax, debt, or demand.

§3545. Civil action to recover money

The Attorney General shall bring a civil action to recover an amount due to the United States Government on settlement of the account of a person accountable for public money when the person neglects or refuses to pay the amount to the Treasury. Any commission of that person and interest of 6 percent a year from the time the money is received by the person until repaid to the Treasury shall be added to the amount due on the account. The commission is forfeited when judgment is obtained.

CHAPTER 37—CLAIMS

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SUBCHAPTER I—GENERAL

§3701. Definitions

In this chapter—

(1) "executive or legislative agency" means a department, agency, or instrumentality in the executive or legislative branch of the United States Government.

(2) "military department" means the Departments of the Army, Navy, and Air Force.

(3) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service.

§3702. Authority of the Comptroller General to settle claims

(a) Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the Comptroller General within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be presented to the Comptroller General within 5 years after peace is established or within the period provided in clause (1) of subsection, whichever is later.

(3) The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.

(c) A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued.

(d) The Comptroller General shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the Comptroller General believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the Comptroller General.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§3711. Collection and compromise

(a) The head of an executive or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than $20,000 (excluding interest) that has not been referred to another executive or legislative agency for further collection action; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b) The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.

(c)(1) The head of an executive or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than $250 a penalty under section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)).

(d) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(e) The head of an executive or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General and the Comptroller General may prescribe jointly.

§3712. Time limitations for presenting certain claims of the Government

(a) Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depositary, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser,

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transferor, depositary, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depositary, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

§3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

§3714. Keeping money due States in default

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

§3715. Buying real property of a debtor

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

§3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section—

(1) "agency" does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) "head of an agency" means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) "settle" means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b) The head of an agency may settle and pay not more than $15,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(c)(1) The head of an agency may settle and pay not more than $40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property in a foreign country that was incurred after December 30, 1978, incident to service, and—

(A)(i) the member, officer, or employee was evacuated from the country after December 30, 1978, on a recommendation or order of the Secretary of State or other competent authority that was made in responding to an incident of political unrest or hostile act by people in that country; and

(ii) the damage or loss resulted from the evacuation, incident, or hostile act; or

(B) the damage or loss resulted from a hostile act directed against the Government or its members, officers, or employees.

(2) On paying a claim under this subsection, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against the foreign country for the damage or loss for which the Government made the payment.

(3) Amounts may be obligated or expended for claims under this subsection only to the extent provided in advance in appropriation laws.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than $1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard). Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

§3722. Claims of officers and employees at Government penal and correctional institutions

(a) The Attorney General may settle and pay not more than $1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

§3723. Small claims for privately owned property damage or loss

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than $1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

§3724. Claims for damages caused by the Federal Bureau of Investigation

(a) The Attorney General may settle, for not more than $500 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) The Attorney General shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

§3725. Claims of non-nationals for personal injury or death in a foreign country

(a) The Secretary of State may settle, for not more than $1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

§3726. Payment for transportation

(a) A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government shall be paid before the Administrator of General Services conducts an audit. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(1) accrual of the claim;

(2) payment for the transportation is made;

(3) refund for an overpayment for the transportation is made; or

(4) a deduction under subsection (b) of this section is made.

(b) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff on file with the Interstate Commerce Commission, the Civil Aeronautics Board, the Federal Maritime Commission, or a State transportation authority; or

(2) sections 10721-10724 of title 49 or an equivalent arrangement or an exemption.

(c) Under regulations the head of an agency prescribes that conform with standards the Secretary of the Treasury and the Comptroller General prescribe jointly, a bill under this section may be paid before the transportation is completed notwithstanding section 3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(d)(1) A carrier or freight forwarder may request the Comptroller General to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (a) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

§3727. Assignments of claims

(a) In this section, "assignment" means—

(1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or

(2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least $1,000 when—

(1) the contract does not forbid an assignment;

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subsequently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorised by law when liability may exist because of the death of the person making the assignment or allotment.

§3728. Setoff against judgment

(a) The Comptroller General shall withhold paying that part of a judgment against the United States Government presented to the Comptroller General that is equal to a debt the plaintiff owes the Government.

(b) The Comptroller General shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Comptroller General decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Comptroller General withholds under this section, the Comptroller General shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

§3729. False claims

A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of $2,000, an amount equal to 2 times the amount of damages the Government sustains, because of the act of that person and costs of the civil action, if the person—

(1) knowingly presents, or causes to be presented, to an officer or employee of the Government or a member of an armed force a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of public property or money used, or to be used, in an armed force and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorised to make or deliver a document certifying receipt of property used, or to be used, in an armed force and, intending to defraud the Government, makes or deliv-

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ers the receipt without completely knowing that the information on the receipt is true; or

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from a member of an armed force who lawfully may not sell or pledge the property.

§3730. Civil actions for false claims

(a) The Attorney General diligently shall investigate a violation under section 3729 of this title. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person. The person may be arrested and bail set for an amount of not more than $2,000 and 2 times the amount of damages sworn to in an affidavit of the Attorney General.

(b)(1) A person may bring a civil action for a violation of section 3729 of this title for the person and for the United States Government. The action shall be brought in the name of the Government. The district courts of the United States have jurisdiction of the action. Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs. An action may be dismissed only if the court and the Attorney General give written consent and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The Government may proceed with the action by entering an appearance by the 60th day after being notified. The person bringing the action may proceed with the action if the Government—

(A) by the end of the 60-day period does not enter, or gives written notice to the court of intent not to enter, the action; or

(B) does not proceed with the action with reasonable diligence within 6 months after entering an appearance, or within additional time the court allows after notice.

(3) If the Government proceeds with the action, the action is conducted only by the Government. The Government is not bound by an act of the person bringing the action.

(4) Unless the Government proceeds with the action, the court shall dismiss an action brought by the person on discovering the action is based on evidence or information the Government had when the action was brought.

(c)(1) If the Government proceeds with an action, the person bringing the action may receive an amount the court decides is reasonable for disclosing evidence or information the Government did not have when the action was brought. The amount may not be more than 10 percent of the proceeds of the action or settlement of a claim and shall be paid out of those proceeds.

(2) If the Government does not proceed with an action, the person bringing the action or settling the claim may receive an amount the court decides is reasonable for collecting the civil penalty and damages. The amount may not be more than 25 percent of the proceeds of the action or settlement and shall be paid out of those proceeds. The person may also receive an amount for reasonable expenses the court finds to have been necessarily incurred and costs awarded against the defendant.

(d) The Government is not liable for expenses a person incurs in bringing an action under this section.

§3731. False claims procedure

(a) A subpena requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed.

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CHAPTER 51—COINS AND CURRENCY

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SUBCHAPTER I—MONETARY SYSTEM

§5101. Decimal system

United States money is expressed in dollars, dimes or tenths, cents or hundredths, and mills or thousandths. A dime is a tenth of a dollar, a cent is a hundredth of a dollar, and a mill is a thousandth of a dollar.

§5102. Standard weight

The standard troy pound of the National Bureau of Standards of the Department of Commerce shall be the standard used to ensure that the weight of United States coins conforms to specifications in section 5112 of this title.

§5103. Legal tender

United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts. Foreign gold or silver coins are not legal tender for debts.

SUBCHAPTER II—GENERAL AUTHORITY

§5111. Minting and issuing coins, medals, and numismatic items

(a) The Secretary of the Treasury—

(1) shall mint and issue coins described in section 5112 of this title in amounts the Secretary decides are necessary to meet the needs of the United States;

(2) may prepare national medal dies and strike national and other medals if it does not interfere with regular minting operations but may not prepare private medal dies;

(3) may prepare and distribute numismatic items; and

(4) may mint coins for a foreign country if the minting does not interfere with regular minting operations, and shall prescribe a charge for minting the foreign coins equal to the cost of the minting (including labor, materials, and the use of machinery).

(b) The Department of the Treasury has a coinage metal fund and a coinage profit fund. The Secretary may use the coinage metal fund to buy metal to mint coins. The Secretary shall credit the coinage profit fund with the amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal. The Secretary shall charge the coinage profit fund with waste incurred in minting coins and the cost of distributing the coins. The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund.

(c) The Secretary may make contracts on conditions the Secretary decides are appropriate and in the public interest to acquire equipment, manufacturing facilities, patents, patent rights, technical knowledge and assistance, and materials necessary to produce rapidly an adequate supply of coins referred to in section 5112(a)(1)–(4) of this title.

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under paragraph (1) of this subsection, shall be fined not more than $10,000, imprisoned not more than 5 years, or both.

(3) Coins exported, melted, or treated in violation of an order or license issued or regulation prescribed, and metal resulting from the melting or treatment, shall be forfeited to the United States Government. The powers of the Secretary and the remedies available to enforce forfeitures are those provided in part II of subchapter C of chapter 75 of the Internal Revenue Code of 1954 (26 U.S.C. 7321 et seq.).

§5112. Denominations, specifications, and design of coins

(a) The Secretary of the Treasury may mint and issue only the following coins:

(1) a dollar coin that is 1.043 inches in diameter and weighs 8.1 grams.

(2) a half dollar coin that is 1.205 inches in diameter and weighs 11.34 grams.

(3) a quarter dollar coin that is 0.955 inch in diameter and weighs 5.67 grams.

(4) a dime coin that is 0.705 inch in diameter and weighs 2.268 grams.

(5) a 5-cent coin that is 0.835 inch in diameter and weighs 5 grams.

(6) except as provided under subsection (c) of this section, a one-cent coin that is 0.75 inch in diameter and weighs 3.11 grams.

(b) The dollar, half dollar, quarter dollar, and dime coins are clad coins with 3 layers of metal. The 2 identical outer layers are an alloy of 75 percent copper and 25 percent nickel. The inner layer is copper. The outer layers are metallurgically bonded to the inner layer and weigh at least 30 percent of the weight of the coin. The 5-cent coin is an alloy of 75 percent copper and 25 percent nickel. In minting 5-cent coins, the Secretary shall use bars that vary not more than 2.5 percent from the percent of nickel required. Except as provided under subsection (c) of this section, the one-cent coin is an alloy of 95 percent copper and 5 percent zinc. The specifications for alloys are by weight.

(c) The Secretary may prescribe the weight and the composition of copper and zinc in the alloy of the one-cent coin that the Secretary decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of one-cent coins to meet the needs of the United States.

(d)(1) United States coins have the inscription "In God We Trust". The obverse side of each coin has the inscription "Liberty". The reverse side of each coin has the inscriptions "United States of America" and "E Pluribus Unum" and a designation of the value of the coin. The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle. The eagle on the reverse side of the dollar is the symbolic eagle of Apollo 11 landing on the moon. The obverse side of the dollar has the likeness of Susan B. Anthony. The coins have an inscription of the year of minting or issuance. However, to prevent or alleviate a shortage of a denomination, the Secretary may inscribe coins of the denomination with the year that was last inscribed on coins of the denomination.

(2) The Secretary shall prepare the devices, models, hubs, and dies for coins, emblems, devices, inscriptions, and designs authorized under this chapter. The Secretary may adopt and prepare new designs or models of emblems or devices that are authorized in the same way as when new coins or devices are authorized. The Secretary may change the design or die of a coin only once within 25 years of the first adoption of the design, model, hub, or die for that coin. The Secretary may procure services under section 3109 of title 5 in carrying out this paragraph.

(e) Notwithstanding section 5111(a)(1) of this title and subsections (a) and (b) of this section, the Secretary may mint and issue not more than 150,000,000 dollar coins that—

(1) are 1.5 inches in diameter and weigh 24.592 grams;

(2) have 2 identical outer layers of an alloy of 80 percent silver and 20 percent copper that are metallurgically bonded to an inner layer of an alloy of silver and copper;

(3) contain 9.837 grams of silver and 14.755 grams of copper;

(4) have the likeness of Dwight David Eisenhower on the obverse side;

(5) have the inscription of a year decided by the Secretary; and

(6) except as provided in this paragraph, have the inscriptions and designs provided for the dollar in subsection (d)(1) of this section.

(f)(1) Notwithstanding this section and section 5111(a)(1) of this title, the Secretary shall mint and issue, in quantities the Secretary decides are necessary to meet public demand (but not more than 10,000,000) half dollar coins that—

(A) are 30.61 millimeters in diameter and weigh 12.5 grams;

(B) are an alloy of 90 percent silver and 10 percent copper;

(C) have a design on each side of the coin, decided by the Secretary, symbolizing the two hundred and fiftieth anniversary of the birth of George Washington; and

(D) have a designation of the value of the coin and an inscription of the year "1982" and the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) The Secretary shall sell the coins minted under this subsection to the public at a price equal to the cost of minting and distributing the coins (including labor, materials, dies, use of machinery, promotion, and overhead expenses) plus a surcharge of not more than 20 percent of the cost. The Secretary shall deposit an amount equal to the surcharge received under this paragraph in the Treasury to be used only to reduce the national debt.

(3) The Secretary may not mint coins under this subsection after December 31, 1983.

(4) Amounts necessary to carry out this subsection may be appropriated.

§5113. Tolerances and testing of coins

(a) The Secretary of the Treasury may prescribe reasonable manufacturing tolerances for specifications in section 5112 of this title (except for specifications that are limits) for the dollar, half dollar, quarter dollar, and dime coins. The weight of the 5-cent coin may vary not more than 0.194 gram. The weight of the one-cent coin may vary not more than 0.13 gram.

(b) The Secretary shall keep a record of the kind, number, and weight of each group of coins minted and test a number of the coins separately to determine if the coins conform to the weight specified in section 5112(a) of this title. If the coins tested do not conform, the Secretary—

(1) shall weigh each coin of the group separately and deface the coins that do not conform and cast them into bars for reminting; or

(2) may remelt the group of coins.

§5114. Engraving and printing currency and security documents

(a) The Secretary of the Treasury shall engrave and print United States currency and bonds of the United States Government and currency and bonds of United States territories and possessions from intaglio plates on plate printing presses the Secretary selects. However, other security documents and checks may be printed by any process the Secretary selects. Engraving and printing shall be carried out within the Department of the Treasury if the Secretary decides the engraving and printing can be carried out as cheaply, perfectly, and safely as outside the Department.

(b) United States currency has the inscription "In God We Trust" in a place the Secretary decides is appropriate. Only the portrait of a deceased individual may appear on United States currency and securities. The name of the individual shall be inscribed below the portrait.

(c) The Secretary may make a contract for a period of not more than 4 years to manufacture distinctive paper for United States currency and securities. To promote competition among manufacturers of the distinctive paper, the Secretary may split the award for the manufacture of the paper between the 2 bidders with the lowest prices a pound. When the Secretary decides that it is necessary to operate more than one mill to manufacture distinctive paper, the Secretary may—

(1) employ individuals temporarily at rates of pay equivalent to the rates of pay of regular employees; and

(2) charge the pay of the temporary employees to the appropriation available for manufacturing distinctive paper.

§5115. United States currency notes

(a) The Secretary of the Treasury may issue United States currency notes. The notes—

(1) are payable to bearer; and

(2) shall be in a form and in denominations of at least one dollar that the Secretary prescribes.

(b) The amount of United States currency notes outstanding and in circulation—

(1) may not be more than $300,000,000; and

(2) may not be held or used for a reserve.

§5116. Buying and selling gold and silver

(a)(1) With the approval of the President, the Secretary of the Treasury may—

(A) buy and sell gold in the way, in amounts, at rates, and on conditions the Secretary considers most advantageous to the public interest; and

(B) buy the gold with any direct obligations of the United States Government or United States coins and currency authorized by law, or with amounts in the Treasury not otherwise appropriated.

(2) Amounts received from the purchase of gold are an asset of the general fund of the Treasury. Amounts received from the sale of gold shall be deposited in the general fund of the Treasury.

(b)(1) The Secretary shall buy silver mined from natural deposits in the United States, or in a territory or possession of the United States, that is brought to a United States mint or assay office within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay $1.25 a fine troy ounce for the silver. The Secretary may use the coinage metal fund under section 5111(b) of this title to buy silver under this subsection.

(2) The Secretary may sell or use Government silver to mint coins, except silver transferred to stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall sell silver under conditions the Secretary considers appropriate for at least $1.292929292 a fine troy ounce.

§5117. Transferring gold and gold certificates

(a) All right, title, and interest, and every claim of the Board of Governors of the Federal Reserve System, a Federal reserve bank, and a Federal reserve agent, in and to gold is transferred to and vests in the United States Government to be held in the Treasury. Payment for the transferred gold is made by crediting equivalent amounts in dollars in accounts established in the Treasury under the 15th paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 467). Gold not in the possession of the Government shall be held in custody for the Government and delivered on the order of the Secretary of the Treasury. The Board of

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Governors, Federal reserve banks, and Federal reserve agents shall give instructions and take action necessary to ensure that the gold is so held and delivered.

(b) The Secretary shall issue gold certificates against gold transferred under subsection (a) of this section. The Secretary may issue gold certificates against other gold held in the Treasury. The Secretary may prescribe the form and denominations of the certificates. The amount of outstanding certificates may be not more than the value (for the purpose of issuing those certificates, of 42 and two-ninths dollars a fine troy ounce) of the gold held against gold certificates. The Secretary shall hold gold in the Treasury equal to the required dollar amount as security for gold certificates issued after January 29, 1934.

(c) With the approval of the President, the Secretary may prescribe regulations the Secretary considers necessary to carry out this section.

§5118. Gold clauses and consent to sue

(a) In this section—

(1) "gold clause" means a provision in or related to an obligation alleging to give the obligee a right to require payment in—

(A) gold;

(B) a particular United States coin or currency; or

(C) United States money measured in gold or a particular United States coin or currency.

(2) "public debt obligation" means a domestic obligation issued or guaranteed by the United States Government to repay money or interest.

(b) The United States Government may not pay out or deliver any gold coin. A person lawfully holding United States coins and currency may present the coins and currency to the Secretary of the Treasury for exchange (dollar for dollar) for other United States coins and currency that may be lawfully held. The Secretary shall make the exchange under regulations prescribed by the Secretary.

(c)(1) The Government withdraws its consent given to anyone to assert against the Government, its agencies, or its officers, employees, or agents, a claim—

(A) on a gold clause public debt obligation or interest on the obligation;

(B) for United States coins or currency; or

(C) arising out of the surrender, requisition, seizure, or acquisition of United States coins or currency, gold, or silver involving the effect or validity of a change in the metallic content of the dollar or in a regulation about the value of money.

(2) Paragraph (1) of this subsection does not apply to a proceeding in which no claim is made for payment or credit in an amount greater than the face or nominal value in dollars of public debt obligations or United States coins or currency involved in the proceeding.

(3) Except when consent is not withdrawn under this subsection, an amount appropriated for payment on public debt obligations and for United States coins and currency may be expended only dollar for dollar.

(d)(1) In this subsection, "obligation" means any obligation (except United States currency) payable in United States money.

(2) An obligation issued containing a gold clause or governed by a gold clause is discharged on payment (dollar for dollar) in United States coin or currency that is legal tender at the time of payment. This paragraph does not apply to an obligation issued after October 27, 1977.

§5119. *Redemption and cancellation of currency*

(a) Except to the extent authorized in regulations the Secretary of the Treasury prescribes with the approval of the President, the Secretary may not redeem United States currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) in gold. However, the Secretary shall redeem gold certificates owned by the Federal reserve banks at times and in amounts the Secretary decides are necessary to maintain the equal purchasing power of each kind of United States currency. When redemption in gold is authorized, the redemption may be made only in gold bullion bearing the stamp of a United States mint or assay office in an amount equal at the time of redemption to the currency presented for redemption.

(b)(1) Except as provided in subsection (c)(1) of this section, the following are public debts bearing no interest:

(A) gold certificates issued before January 30, 1934.

(B) silver certificates.

(C) notes issued under the Act of July 14, 1890 (ch. 708, 26 Stat. 289).

(D) Federal Reserve notes for which payment was made under section 4 of the Old Series Currency Adjustment Act.

(E) United States currency notes, including those issued under section 1 of the Act of February 25, 1862 (ch. 33, 12 Stat. 345), the Act of July 11, 1862 (ch. 142, 12 Stat. 532), the resolution of January 17, 1863 (P.R. 9; 12 Stat. 822), section 2 of the Act of March 3, 1863 (ch. 73, 12 Stat. 710), or section 5115 of this title.

(2) The Secretary shall redeem from the general fund of the Treasury and cancel and destroy currency referred to in paragraph (1) of this subsection when the currency is presented to the Secretary.

(c)(1) The Secretary may determine the amount of the following United States currency that will not be presented for redemption because the currency has been destroyed or irretrievably lost:

(A) circulating notes of Federal reserve banks and national banks issued before July 1, 1929, for which the United States Government has assumed liability.

(B) outstanding currency referred to in subsection (b)(1) of this section.

(2) When the Secretary makes a determination under this subsection, the Secretary shall reduce the amount of that currency outstanding by the amount the Secretary determines will not be redeemed and credit the appropriate receipt account.

(d) To provide a historical collection of United States currency, the Secretary may withhold from cancellation and destruction and transfer to a special account one piece of each design, issue, or series of each denomination of each kind of currency (including circulating notes of Federal reserve banks and national banks) after redemption. The Secretary may make appropriate entries in Treasury accounts because of the transfers.

§5120. Obsolete, mutilated, and worn coins and currency

(a)(1) The Secretary of the Treasury shall melt obsolete and worn United States coins withdrawn from circulation. The Secretary may use the metal from melting the coins for reminting or may sell the metal. The Secretary shall account for the following in the coinage metal fund under section 5111(b) of this title:

(A) obsolete and worn coins and the metal from melting the coins.

(B) proceeds from the sale of the metal.

(C) losses incurred in the sale of the metal.

(D) losses incurred because of the difference between the face value of the coins melted and the coins minted from the metal.

(2) The Secretary shall reimburse the coinage metal fund for losses under paragraph (1)(C) and (D) of this subsection out of amounts in the coinage profit fund under section 5111(b) of this title.

(b) The Secretary shall—

(1) cancel and destroy (by a secure process) obsolete, mutilated, and worn United States currency withdrawn from circulation; and

(2) dispose of the residue of the currency and notes.

(c) The Comptroller General shall audit the cancellation and destruction of United States currency and the accounting of the cancellation and destruction. Records the Comptroller General considers necessary to make an effective audit easier shall be made available to the Comptroller General.

§5121. Refining, assaying, and valuation of bullion

(a) The Secretary of the Treasury shall—

(1) melt and refine bullion;

(2) as required, assay coins, metal, and bullion;

(3) cast gold and silver bullion deposits into bars; and

(4) cast alloys into bars for minting coins.

(b) A person owning gold or silver bullion may deposit the bullion with the Secretary to be cast into fine, standard fineness, or unrefined bars weighing at least 5 troy ounces. When practicable, the Secretary shall weigh the bullion in front of the depositor. The Secretary shall give the depositor a receipt for the bullion stating the description and weight of the bullion. When the Secretary has to melt the bullion or remove base metals before the value of the bullion can be determined, the weight is the weight after the melting or removal of the metals. The Secretary may refuse a deposit of gold bullion if the deposit is less than $100 in value or the bullion is so base that it is unsuitable for the operations of the Bureau of the Mint.

(c) When the gold and silver are combined in bullion that is deposited and either the gold or silver is so little that it cannot be separated economically, the Secretary may not pay the depositor for the gold or silver that cannot be separated.

(d)(1) Under conditions prescribed by the Secretary, a person may exchange unrefined bullion for fine bars when—

(A) gold and silver are combined in the bullion in proportions that cannot be economically refined; or

(B) necessary supplies of acids cannot be procured at reasonable rates.

(2) The charge for refining in an exchange under this subsection may be not more than the charge imposed in an exchange of unrefined bullion for refined bullion.

(e) The Secretary shall prepare bars for payment of deposits. The Secretary shall stamp each bar with a designation of the weight and fineness of the bar and a symbol the Secretary considers suitable to prevent fraudulent imitation of the bar.

§5122. Payment to depositors

(a) The Secretary of the Treasury shall determine the fineness, weight, and value of each deposit and bar under section 5121 of this title. The value and the amount of charges under subsection (b) of this section shall be based on the fineness and weight of the bullion. The Secretary shall give the depositor a statement of the charges and the net amount of the deposit to be paid in money or bars of the same species of bullion as that deposited.

(b) The Secretary shall impose a charge equal to the average cost of material, labor, waste, and use of machinery of a United States mint or assay office for—

(1) melting and refining bullion;

(2) using copper as an alloy when bullion deposited is above standard;

(3) separating gold and silver combined in the bullion; and

(4) preparing bars.

(c) The Secretary shall pay to the depositor or to a person designated by the depositor money or bars equivalent to the bullion deposited as soon as practicable after the value of the deposit is determined. If demanded, the Secretary shall pay depositors in the order in which the bullion is deposited with the Secretary. However, when there is an unavoidable delay in determining the value of a deposit, the Secretary shall pay subsequent depositors. When practicable and convenient, the Secretary shall pay depositors in the denominations requested by the depositor. After the depositor is paid, the bullion is the property of the United States Government.

(d) To allow the Secretary to pay depositors with as little delay as possible, the Secretary shall keep in the mints and assay offices, when possible, money and bullion the Secretary decides are convenient and necessary.

SUBCHAPTER III—BUREAU OF THE MINT

§5131. Organization

(a) The Bureau of the Mint has—

(1) a United States mint at Philadelphia, Pennsylvania.

(2) a United States mint at Denver, Colorado.

(3) a United States assay office at New York, New York.

(4) a United States assay office at San Francisco, California.

(b) The Secretary of the Treasury shall carry out duties and powers related to refining and assaying bullion, minting coins, striking medals, and numismatic items at the mints and assay offices, except that only bars may be made at the assay offices. However, until the Secretary decides that the mints are adequate for minting and striking an ample supply of coins and medals, the Secretary may use any facility of the Bureau to mint coins and strike medals and to store coins and medals.

(c) Each mint and the assay office at New York have a superintendent and an assayer appointed by the President, by and with the advice and consent of the Senate. The mint at Philadelphia has an engraver appointed by the President, by and with the advice and consent of the Senate.

(d) Laws on mints, officers and employees of mints, and punishment of offenses related to mints and minting coins apply to assay offices, as applicable.

(e) The Secretary shall operate, maintain, and have custody of, the mint at Philadelphia. However, the Administrator of General Services shall make repairs and improvements to the mint.

§5132. Administrative

(a)(1) Except as provided in this chapter, the Secretary of the Treasury shall deposit in the Treasury as miscellaneous receipts amounts the Secretary receives from the operations of the Bureau of the Mint. However, amounts from numismatic items shall be reimbursed to the current appropriation used to pay the cost of preparing and selling the items. The Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 of this title to pay officers and employees. The Secretary shall pay the costs of the mints and assay offices not provided for in this subsection out of appropriations.

(2) Not more than $54,706,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1982, to pay costs of the mints and assay offices.

(b) To the extent the Secretary decides is necessary, the Secretary may use amounts received from depositors for refining bullion and the proceeds from the sale of byproducts (including spent acids from surplus bullion recovered in refining processes) to pay the costs of refining the bullion (including labor, material, waste, and loss on the sale of sweeps). The Secretary may not use amounts appropriated for the mints and assay offices to pay those costs.

(c) The Secretary shall make an annual report at the end of each fiscal year on the operation of the Bureau.

§5133. Settlement of accounts

(a) The Secretary of the Treasury shall—

(1) charge the superintendent of each mint and the assay office at New York and the officer in charge of the assay office at San Francisco with the amount in weight of standard metal of bullion the superintendent or officer receives from the Secretary;

(2) credit each superintendent and the officer with the amount in weight of coins, clippings, and other bullion the superintendent or officer returns to the Secretary; and

(3) charge separately to each superintendent and the officer, who shall account for, copper to be used in the alloy of gold and silver bullion.

(b) At least once a year, the Secretary shall settle the accounts of the superintendents and the officer in charge. At settlement, each superintendent and the officer shall return to the Secretary coins, clippings, and other bullion in their possession with a statement of bullion received and returned since the last settlement (including bullion returned for settlement). The Secretary shall—

(1) audit the accounts and statements of each superintendent and the officer;

(2) allow each superintendent the waste of precious metals, within limitations prescribed by the Secretary, that the Secretary decides is necessary for refining and minting; and

(3) allow the officer the waste, within the limitations prescribed for refining, that the Secretary decides is necessary in casting fine gold and silver bars, except that the waste allowance may not apply to deposit operations.

(c) After settlement, the Secretary shall compare the amount of gold and silver bullion and coins on hand with the total liabilities of the mints and assay offices. The Secretary also shall make a statement of the ordinary expense account.

(d) The Secretary shall procure for each mint and assay office a series of standard weights corresponding to the standard troy pound of the National Bureau of Standards of the Department of Commerce. The series shall include a one pound weight and multiples and subdivisions of one pound from .01 grain to 25 pounds. At least once a year, the Secretary shall test the weights normally used in transactions at the mints and assay offices against the standard weights.

SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

§5141. Operation of the Bureau

(a) The Secretary of the Treasury shall prepare and submit to the President an annual business-type budget for the Bureau of Engraving and Printing.

(b)(1) The Secretary shall maintain in the Bureau an integrated accounting system with internal controls that—

(A) ensures adequate control over assets and liabilities of the Bureau of Engraving and Printing Fund described in section 5142 of this title;

(B) develops accurate production costs to enable the Bureau to recover those costs on the basis of the work requisitioned;

(C) provides for replacement of capitalized equipment and other fixed assets by maintaining adequate depreciation reserves based on original cost or appraised values;

(D) discloses the financial condition and operations of the Fund on an accrual basis of accounting; and

(E) provides information for the prior fiscal year on the annual budget of the Bureau.

(2) The accounting system shall conform to principles and standards prescribed by the Comptroller General to carry out this subsection. The Comptroller General may review the system to ensure conformity to the principles and standards and its effectiveness of operation.

(c) An officer or employee in the clerical-mechanical service of the Bureau assigned to an established shift or tour of duty at least half of which occurs between 6 p.m. and 6 a.m. is entitled to pay for the regular 40-hour week (except when on leave) at a rate of pay 15 percent higher than the day rate for the same work.

§5142. Bureau of Engraving and Printing Fund

(a) The Department of the Treasury has a Bureau of Engraving and Printing Fund. Amounts—

(1) in the Fund are available to operate the Bureau of Engraving and Printing;

(2) in the Fund remain available until expended; and

(3) may be appropriated to the Fund.

(b) The Fund consists of—

(1) property and physical assets (except buildings and land) acquired by the Bureau;

(2) all amounts received by the Bureau; and

(3) proceeds from the disposition of property and assets acquired by the Fund.

(c) The capital of the Fund consists of—

(1) amounts appropriated to the Fund;

(2) physical assets of the Bureau (except buildings and land) as of the close of business June 30, 1951; and

(3) all payments made after June 30, 1974, under section 5143 of this title at prices adjusted to permit buying capital equipment and to provide future working capital.

(d) The Secretary shall deposit each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing to the Fund in the prior fiscal year that the Secretary decides are in excess of the needs of the Fund. However, the Secretary may use the excess amounts to restore capital of the Fund reduced by the difference between the charges for services of the Bureau and the cost of providing those services.

(e) The Secretary shall maintain a special deposit account in the Treasury for the Fund. The Secretary shall credit the account with amounts appropriated to the Fund and receipts of the Bureau without depositing the receipts in the Treasury as miscellaneous receipts.

§5143. Payment for services

The Secretary of the Treasury shall impose charges for Bureau of Engraving and Printing services the Secretary provides to an agency. The charges shall be in amounts the Secretary considers adequate to cover the costs of the services (including administrative costs related to providing the services). The agency shall pay promptly bills submitted by the Secretary.

§5144. Providing impressions of portraits and vignettes

The Secretary of the Treasury may provide impressions from an engraved portrait or vignette in the possession of the Bureau of Engraving and Printing. An impression shall be provided—

(1) at the request of—

(A) a member of Congress;

(B) a head of an agency;

(C) an art association; or

(D) a library; and

(2) for a charge and under conditions the Secretary decides are necessary to protect the public interest.

SUBCHAPTER V—MISCELLANEOUS

§5151. Conversion of currency of foreign countries

(a) In this section—

(1) "buying rate" means the buying rate in the market in New York, New York, for cable transfers payable in the currency of a foreign country to be converted.

(2) when merchandise is exported on a day that banks are generally closed in New York, the buying rate at noon on the last prior business day is deemed to be the buying rate at noon on the day the merchandise is exported.

(b) The value of coins of a foreign country expressed in United States money is the value of the pure metal of the standard coin of the foreign country. The Secretary of the Treasury shall estimate the values of standard coins of the country quarterly and publish the values on the first day of January, April, July, and October of each year.

(c) Except as provided in this section, conversion of currency of a foreign country into United States currency for assessment and collection of duties on merchandise imported into the United States shall be made at values published by the Secretary under subsection (b) of this section for the quarter in which the merchandise is exported.

(d) If the Secretary has not published a value for the quarter in which the merchandise is exported, or if the value published by the Secretary varies by at least 5 percent from a value measured by the buying rate at noon on the day the merchandise is exported, the conversion of the currency of the foreign country shall be made at a value—

(1) equal to the buying rate at noon on the day the merchandise is exported; or

(2) prescribed by regulation of the Secretary for the currency that is equal to the first buying rate certified for that currency by the Federal Reserve Bank of New York under subsection (e) of this section in the quarter in which the merchandise is exported, but only if the buying rate at noon on the day the merchandise is exported varies less than 5 percent from the buying rate first certified.

(e) The Federal Reserve Bank of New York shall decide the buying rate and certify the rate to the Secretary. The Secretary shall publish the rate at times and to the extent the Secretary considers necessary. In deciding the buying rate, the Bank may—

(1) consider the last ascertainable transactions and quotations (direct or through exchange of other currencies); and

(2) if there is no buying rate, calculate the rate from—

(A) actual transactions and quotations in demand or time bills of exchange; or

(B) the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or foreign currency.

§5152. Value of United States money holdings in international institutions

The Secretary of the Treasury shall maintain the value in terms of gold of the holdings of United States money of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of those institutions. Amounts necessary to maintain the value may be appropriated. Amounts appropriated under this section remain available until expended.

§5153. Counterfeit currency

Disbursing officials of the United States Government and officers of national banks shall stamp or mark the word "counterfeit", "altered", or "worthless" on counterfeit notes intended to circulate as currency that are presented to them. An official or officer wrongfully stamping or marking an item of genuine United States currency (including a Federal reserve note or a circulating note of Federal reserve banks and national banks) shall redeem the currency at face value when presented.

§5154. State taxation

A State or a territory or possession of the United States may tax United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) as money on hand or on deposit in the same way and at the same rate that the State, territory, or possession taxes United States coins and currency circulating within its jurisdiction. This section does not affect a law taxing national banks.

§5155. Providing engraved plates of portraits of deceased members of Congress

On conditions the Secretary of the Treasury decides, the Secretary may send an engraved plate of a portrait of a deceased Senator or Representative to an heir or legal representative of such a Senator or Representative.

CHAPTER 53—MONETARY TRANSACTIONS

SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

Sec.
5301. Buying obligations of the United States Government.
5302. Stabilizing exchange rates and arrangements.
5303. Reserved coins and currencies of foreign countries.
5304. Regulations.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

5311. Declaration of purpose.
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5314. Records and reports on foreign financial agency transactions.
5315. Reports on foreign currency transactions.
5316. Reports on exporting and importing monetary instruments.
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SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

§5301. Buying obligations of the United States Government

(a) The President may direct the Secretary of the Treasury to make an agreement with the Federal reserve banks and the Board of Governors of the Federal Reserve System when the President decides that the foreign commerce of the United States is affected adversely because—

(1) the value of coins and currency of a foreign country compared to the present standard value of gold is depreciating;

(2) action is necessary to regulate and maintain the parity of United States coins and currency;

(3) an economic emergency requires an expansion of credit; or

(4) an expansion of credit is necessary so that the United States Government and the governments of other countries can stabilize the value of coins and currencies of a country.

(b) Under an agreement under subsection (a) of this section, the Board shall permit the banks (and the Board is authorized to permit the banks notwithstanding another law) to agree that the banks will—

(1) conduct through each entire specified period open market operations in obligations of the United States Government or corporations in which the Government is the majority stockholder; and

(2) buy directly and hold an additional $3,000,000,000 of obligations of the Government for each agreed period, unless the Secretary consents to the sale of the obligations before the end of the period.

(c) With the approval of the Secretary, the Board may require Federal reserve banks to take action the Secretary and Board consider necessary to prevent unreasonable credit expansion.

§5302. Stabilizing exchange rates and arrangements

(a)(1) The Department of the Treasury has a stabilization fund. The fund is available to carry out this section, section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e-3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286o), and for investing in obligations of the United States Government those amounts in the fund the Secretary of the Treasury, with the approval of the President, decides are not required at the time to carry out this section. Proceeds of sales and investments, earnings, and interest shall be paid into the fund and are available to carry out this section. However, the fund is not available to pay administrative expenses.

(2) Subject to approval by the President, the fund is under the exclusive control of the Secretary, and may not be used in a way that direct control and custody pass from the President and the Secretary. Decisions

of the Secretary are final and may not be reviewed by another officer or employee of the Government.

(b) Consistent with the obligations of the Government in the International Monetary Fund on orderly exchange arrangements and a stable system of exchange rates, the Secretary or an agency designated by the Secretary, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities the Secretary considers necessary. However, a loan or credit to a foreign entity or government of a foreign country may be made for more than 6 months in any 12-month period only if the President gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than 6 months.

(c)(1) By the 30th day after the end of each month, the Secretary shall give the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a detailed financial statement on the stabilization fund showing all agreements made or renewed, all transactions occurring during the month, and all projected liabilities.

(2) The Secretary shall report each year to the President and Congress on the operation of the fund.

(d) A repayment of any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund, shall be deposited in the Treasury as a miscellaneous receipt.

§ 5303. Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

§ 5304. Regulations

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

(1) to carry out section 5301 of this title; and

(2) the Secretary considers necessary to carry out section 5302 of this title.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

§ 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 5312. Definitions and application

(a) In this subchapter—

(1) "financial agency" means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) "financial institution" means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money;

(S) a telegraph company;

(T) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2); or

(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes.

(3) "monetary instruments" means—

(A) United States coins and currency; and

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material.

(4) "person", in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(5) "United States" means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) "domestic financial agency" and "domestic financial institution" apply to an action in the United States of a financial agency or institution.

(2) "foreign financial agency" and "foreign financial institution" apply to an action outside the United States of a financial agency or institution.

§5313. Reports on domestic coins and currency transactions

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411 of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(c)(1) A person (except a domestic financial institution designated under subsection (b) of this section) required to file a report under this section shall file the report—

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe—

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

§ 5314. Records and reports on foreign financial agency transactions

(a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency. The records and reports shall contain the following information in the way and to the extent the Secretary prescribes:

(1) the identity and address of participants in a transaction or relationship.

(2) the legal capacity in which a participant is acting.

(3) the identity of real parties in interest.

(4) a description of the transaction.

(b) The Secretary may prescribe—

(1) a reasonable classification of persons subject to or exempt from a requirement under this section or a regulation under this section;

(2) a foreign country to which a requirement or a regulation under this section applies if the Secretary decides applying the requirement or regulation to all foreign countries is unnecessary or undesirable;

(3) the magnitude of transactions subject to a requirement or a regulation under this section;

(4) the kind of transaction subject to or exempt from a requirement or a regulation under this section; and

(5) other matters the Secretary considers necessary to carry out this section or a regulation under this section.

(c) A person shall be required to disclose a record required to be kept under this section or under a regulation under this section only as required by law.

§ 5315. Reports on foreign currency transactions

(a) Congress finds that—

(1) moving mobile capital can have a significant impact on the proper functioning of the international monetary system;

(2) it is important to have the most feasible current and complete information on the kind and source of capital flows, including transactions by large United States businesses and their foreign affiliates; and

(3) additional authority should be provided to collect information on capital flows under section 5(b) of the Trading With the Enemy Act (50 App. U.S.C. 5(b)) and section 8 of the Bretton Woods Agreement Act (22 U.S.C. 286f).

(b) In this section, "United States person" and "foreign person controlled by a United States person" have the same meanings given those terms in section 7(f)(2) (A) and (C), respectively, of the Securities and Exchange Act of 1934 (15 U.S.C. 78g(f)(2)(A), (C)).

(c) The Secretary of the Treasury shall prescribe regulations consistent with subsection (a) of this section requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The regulations shall require that a report contain information and be submitted at the time and in the way, with reasonable exceptions and classifications, necessary to carry out this section.

§ 5316. Reports on exporting and importing monetary instruments

(a) Except as provided in subsection (c) of this section, a person or an agent or bailee of the person shall file a report under subsection (b) of this section when the person, agent, or bailee knowingly—

(1) transports or has transported monetary instruments of more than $5,000 at one time—

(A) from a place in the United States to or through a place outside the United States; or

(B) to a place in the United States from or through a place outside the United States; or

(2) receives monetary instruments of more than $5,000 at one time transported into the United States from or through a place outside the United States.

(b) A report under this section shall be filed at the time and place the Secretary of the Treasury prescribes. The report shall contain the following information to the extent the Secretary prescribes:

(1) the legal capacity in which the person filing the report is acting.

(2) the origin, destination, and route of the monetary instruments.

(3) when the monetary instruments are not legally and beneficially owned by the person transporting the instruments, or if the person transporting the instruments personally is not going to use them, the identity of the person that gave the instruments to the person transporting them, the identity of the person who is to receive them, or both.

(4) the amount and kind of monetary instruments transported.

(5) additional information.

(c) This section or a regulation under this section does not apply to a common carrier of passengers when a passenger possesses a monetary instrument, or to a common carrier of goods if the shipper does not declare the instrument.

§ 5317. Search and forfeiture of monetary instruments

(a) The Secretary of the Treasury may apply to a court of competent jurisdiction for a search warrant when the Secretary reasonably believes a monetary instrument is being transported and a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. The Secretary shall include a statement of information in support of the warrant. On a showing of probable cause, the court may issue a search warrant for a designated person or a designated or described place or physical object. This subsection does not affect the authority of the Secretary under another law.

(b) A monetary instrument being transported may be seized and forfeited to the United States Government when a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. A monetary instrument transported by mail or a common carrier, messenger, or bailee is being transported under this subsection from the time the instrument is delivered to the United States Postal Service, common carrier, messenger, or bailee through the time it is delivered to the addressee, intended recipient, or agent of the addressee or intended recipient without being transported further in, or taken out of, the United States.

§ 5318. Compliance and exemptions

The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315)—

(1) delegate duties and powers under this subchapter to an appropriate supervising agency;

(2) require a class of domestic financial institutions to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter; and

(3) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

§ 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under section 5313, 5314, or 5316 of this title available to an agency on request of the head of the agency. The report shall be available for a purpose consistent with those sections or a regulation prescribed under those sections. However, a report and records of reports are exempt from disclosure under section 552 of title 5.

§ 5320. Injunctions

When the Secretary of the Treasury believes a person has violated, is violating, or will violate this subchapter or a regulation prescribed or order issued under this subchapter, the Secretary may bring a civil action in the appropriate district court of the United States or appropriate United States court of a territory or possession of the United States to enjoin the violation or to enforce compliance with the subchapter, regulation, or order. An injunction or temporary restraining order shall be issued without bond.

§ 5321. Civil penalties

(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) is liable to the United States Government for a civil penalty of not more than $1,000. For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than $10,000.

(b) The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.

(c) The Secretary may remit any part of a forfeiture under section 5317(b) of this title or civil penalty under subsection (a)(2) of this section.

§ 5322. Criminal penalties

(a) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) shall be fined not more than $1,000, imprisoned for not more than one year, or both.

(b) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315), while violating another law of the United States or as part of a pattern of illegal activity involving transactions of more than $100,000 in a 12-month period, shall be fined not more than $500,000, imprisoned for not more than 5 years, or both.

(c) For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

SUBTITLE V—GENERAL ASSISTANCE ADMINISTRATION

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CHAPTER 61—PROGRAM INFORMATION

Sec.
6101. Definitions.
6102. Program information requirements.
6103. Access to computer information system.
6104. Catalog of Federal domestic assistance programs.

6105. Authorization of appropriations.

§6101. Definitions

In this chapter—

(1) "administering office" means the lowest unit of an agency responsible for managing a domestic assistance program.

(2) "agency" has the same meaning given that term in section 551(1) of title 5.

(3) "assistance"—

(A) means the transfer of anything of value for a public purpose of support or stimulation authorized by a law of the United States, including—

(i) financial assistance;

(ii) United States Government facilities, services, and property; and

(iii) expert and technical information; and

(B) does not include conventional public information services or procurement of property or services for the direct benefit or use of the Government.

(4) "domestic assistance program"—

(A) means assistance from an agency for—

(i) a State;

(ii) the District of Columbia;

(iii) a territory or possession of the United States;

(iv) a county;

(v) a city;

(vi) a political subdivision or instrumentality of a governmental authority listed in subclauses (i)-(v) of this clause (A);

(vii) a domestic corporation;

(viii) a domestic institution; and

(ix) an individual of the United States; and

(B) does not include a department, agency, or instrumentality of the Government.

§ 6102. Program information requirements

(a) The Director of the Office of Management and Budget shall prepare and maintain information on domestic assistance programs. The information on each domestic assistance program shall include the following:

(1) identification of the program by—

(A) title;

(B) authorizing law;

(C) administering office; and

(D) an identifying number assigned by the Director.

(2) a description of the—

(A) program;

(B) objectives of the program;

(C) types of activities financed under the program;

(D) eligibility requirements;

(E) formulas governing distribution of amounts;

(F) types of assistance;

(G) uses, and restrictions on the use, of assistance; and

(H) duties of recipients under the program.

(3) financial information, including the—

(A) amounts appropriated for the current fiscal year or, if unavailable, the amounts requested by the President and the amounts obligated; and

(B) average amounts of awards made in past years.

(4) identification of information contacts, including the administering office and regional and local offices with their addresses and telephone numbers.

(5) a general description of—

(A) the application requirements and procedures; and

(B) to the extent practical, an estimate of the time required to process the application.

(b) On request of the Director, an agency shall give to the Director current information on all domestic assistance programs administered by the agency. The Director shall incorporate on a regular basis all relevant information received.

(c) The Director—

(1) shall ensure that information and catalogs under this chapter are made available to the public at reasonable prices; and

(2) may develop information services to assist State and local governments in identifying and obtaining sources of assistance.

§ 6103. Access to computer information system

(a) The Director of the Office of Management and Budget shall maintain a computerized information system providing access to the information described in section 6102 of this title.

(b) To the greatest extent practicable, the Director shall provide for the widespread availability of the information by available computer terminals.

(c) When the Director decides the efficiency of the information system under subsection (a) of this section requires it, the Director may make contracts with private organizations to obtain computer time-sharing services, including—

(1) computer telecommunications networks;

(2) computer software; and

(3) associated services.

§ 6104. Catalog of Federal domestic assistance programs

(a) The Director of the Office of Management and Budget shall prepare and publish each year a catalog of domestic assistance programs.

(b) In a form selected by the Director, the catalog shall contain—

(1) all substantive information on domestic assistance programs that is in the system under section 6102(a) of this title at the time the catalog is prepared;

(2) information the Director decides may be helpful to a potential applicant for or beneficiary of assistance; and

(3) a detailed index.

(c) When the Director decides it is necessary, the Director shall prepare and publish—

(1) supplements to the catalog; and

(2) specialized compilations by function of information in the catalog.

(d) The Director may distribute a catalog without cost to each—

(1) Member of Congress;

(2) department, agency, and instrumentality of the United States Government;

(3) State;

(4) general purpose unit of a local government;

(5) Indian tribe recognized by the United States Government;

(6) depository library of Government publications; and

(7) depository designated by the Director.

§ 6105. Authorization of appropriations

Not more than $—,—,— may be appropriated for the fiscal year ending September 30, 19—, to carry out this chapter.

CHAPTER 63—USING PROCUREMENT CONTRACTS AND GRANT AND COOPERATIVE AGREEMENTS

Sec.
6301. Purposes.
6302. Definitions.
6303. Using procurement contracts.
6304. Using grant agreements.
6305. Using cooperative agreements.
6306. Authority to vest title in tangible personal property for research.
6307. Interpretative guidelines and exemptions.
6308. Use of multiple relationships for different parts of jointly financed projects.

§ 6301. Purposes

The purposes of this chapter are to—

(1) promote a better understanding of United States Government expenditures and help eliminate unnecessary administrative requirements on recipients of Government awards by characterizing the relationship between executive agencies and contractors, States, local governments, and other recipients in acquiring property and services and in providing United States Government assistance;

(2) prescribe criteria for executive agencies in selecting appropriate legal instruments to achieve—

(A) uniformity in their use by executive agencies;

(B) a clear definition of the relationships they reflect; and

(C) a better understanding of the responsibilities of the parties to them; and

(3) promote increased discipline in selecting and using procurement contracts, grant agreements, and cooperative agreements, maximize competition in making procurement contracts, and encourage competition in making grants and cooperative agreements.

§ 6302. Definitions

In this chapter—

(1) "executive agency" does not include a mixed-ownership Government corporation.

(2) "grant agreement" and "cooperative agreement" do not include an agreement under which is provided only—

(A) direct United States Government cash assistance to an individual;

(B) a subsidy;

(C) a loan;

(D) a loan guarantee; or

(E) insurance.

(3) "local government" means a unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(4) "other recipient" means a person or recipient (except a State or local government) authorized to receive United States Government assistance or procurement contracts and includes a charitable or educational institution.

(5) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

§ 6303. Using procurement contracts

An executive agency shall use a procurement contract as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; or

(2) the agency decides in a specific instance that the use of a procurement contract is appropriate.

§ 6304. Using grant agreements

An executive agency shall use a grant agreement as the legal instrument reflect-

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ing a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

§ 6305. Using cooperative agreements

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

§ 6306. Authority to vest title in tangible personal property for research

The head of an executive agency may vest title in tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research—

(1) when the property is bought with amounts provided under a procurement contract, grant agreement, or cooperative agreement with the institution or organization to conduct basic or applied scientific research;

(2) when the head of the agency decides the vesting furthers the objectives of the agency;

(3) without further obligation to the United States Government; and

(4) under conditions the head of the agency considers appropriate.

§ 6307. Interpretative guidelines and exemptions

The Director of the Office of Management and Budget may—

(1) issue supplementary interpretative guidelines to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements; and

(2) exempt a transaction or program of an executive agency from this chapter.

§ 6308. Use of multiple relationships for different parts of jointly financed projects

This chapter does not require an executive agency to establish only one relationship between the United States Government and a State, a local government, or other recipient on a jointly financed project involving amounts from more than one program or appropriation when different relationships would otherwise be appropriate for different parts of the project.

CHAPTER 65—INTERGOVERNMENTAL COOPERATION

Sec.
6501. Definitions.
6502. Information on grants received.
6503. Transfer and deposit requirements.
6504. Use of existing State or multimember agency to administer grant programs.
6505. Authority to provide specialized or technical services.
6506. Development assistance.
6507. Congressional review of grant programs.
6508. Studies and reports.

§ 6501. Definitions

In this chapter—

(1) "assistance" means the transfer of anything of value for a public purpose of support or stimulation that is—

(A) authorized by a law of the United States;

(B) provided by the law of the United States Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and

(C) not an annual payment by the United States Government to the District of Columbia government under section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 813, D.C. Code, § 47-3406).

(2) "comprehensive planning" includes, to the extent directly related to area needs or needs of a unit of general local government—

(A) preparation, as a guide for governmental policies and action, of general plans on—

(i) the pattern and intensity of land use;

(ii) providing public facilities (including transportation facilities) and other governmental services; and

(iii) the effective development and use of human and natural resources;

(B) long-range physical and fiscal plans for an action referred to in subclause (A) of this clause (2);

(C) a program for capital improvements and other major expenditures based on their relative urgency, and definitive financing plans for the expenditures in the earlier years of the program;

(D) coordination of related plans and activities of States and local governments and agencies concerned; and

(E) preparation of regulatory and administrative measures to support the items referred to in subclauses (A)-(D) of this clause (2).

(3) "executive agency" does not include a mixed-ownership Government corporation.

(4)(A) "grant" (except as provided in subclause (C) of this clause (4)) means money, or property provided instead of money, that is paid or provided by the United States Government under a fixed annual or total authorization, to a State, to a local government, or to a beneficiary under a plan or program administered by a State or a local government that is subject to approval by an executive agency, if the authorization—

(i) requires the State or local government to expend non-Government money as a condition of receiving money or property from the United States Government; or

(ii) specifies directly, or establishes by means of a formula, the amount that may be provided to the State or local government, or the amount to be allotted for use in each State by the State, local government, and beneficiaries.

(B) "grant" (except as provided in subclause (C) of this clause (4)) also means money, or property provided instead of money, that is paid or provided by the United States Government to a private, nonprofit community organization eligible to receive amounts under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(C) "grant" does not include—

(i) shared revenue;

(ii) payment of taxes;

(iii) payment instead of taxes;

(iv) a loan or repayable advance;

(v) surplus property or surplus agricultural commodities provided as surplus property;

(vi) a payment under a research and development procurement contract or grant awarded directly and on similar terms to all qualifying organizations; or

(vii) a payment to a State or local government as complete reimbursement for costs incurred in paying benefits or providing services to persons entitled to them under a law of the United States.

(5) "head of a State agency" includes the designated delegate of the head of the agency.

(6) "local government" means a unit of general local government, a school district, or other special district established under State law.

(7) "special-purpose unit of local government" means a special district, public-purpose local government of a State except a school district.

(8) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency or instrumentality of a State but does not mean a local government of a State.

(9) "unit of general local government" means a county, city, town, village, or other general purpose political subdivision of a State.

§ 6502. Information on grants received

On request of a chief executive officer of a State, a State legislature, or an official designated by either of them, an executive agency carrying out a grant program to States and local governments shall provide the requesting officer or legislature with written information on the purpose and amounts of grants provided to the State or local government.

§ 6503. Transfer and deposit requirements

(a) Consistent with program purposes and regulations of the Secretary of the Treasury, the head of an executive agency carrying out a grant program shall schedule the transfer of grant money to minimize the time elapsing between transfer of the money from the Treasury and the disbursement by a State, whether disbursement occurs before or after the transfer. A State is not accountable for interest earned on grant money pending its disbursement for program purposes.

(b) A State may not be required by a law or regulation of the United States to deposit grant money received by it in a separate bank account. However, a State shall account for grant money made available to the State as United States Government grant money in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate executive agency on the status and the application of the money, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the grant received by the State shall be made available to the head of the executive agency and the Comptroller General for auditing.

§ 6504. Use of existing State or multimember agency to administer grant programs

Notwithstanding a law of the United States providing that one State agency or multimember agency must be established or designated to carry out or supervise the administration of a grant program, the head of the executive agency carrying out the program may, when requested by the executive or legislative authority of the State responsible for the organizational structure of a State government—

(1) waive the one State agency or multimember agency provision on an adequate showing that the provision prevents the establishment of the most effective and efficient organizational arrangement within the State government; and

(2) approve another State administrative structure or arrangement after deciding that the objectives of the law authorizing the grant program will not be endangered by using another State structure or arrangement.

§ 6505. Authority to provide specialized or technical services

(a) The President may prescribe statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and other similar services that an executive agency is especially competent and authorized by law to provide. The services prescribed must be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels.

(b) The head of an executive agency may provide services prescribed by the President under this section to a State or local government when—

(1) written request is made by the State or local government; and

(2) payment of pay and all other identifiable costs of providing the services is made to the executive agency by the State or local government making the request.

(c) Payment received by an executive agency for providing services under this section shall be deposited to the credit of the principal appropriation from which the cost of providing the services has been paid or will be charged.

(d) The authority under this section is in addition to authority under another law in effect on October 16, 1968.

§ 6506. Development assistance

(a) The economic and social development of the United States and the achievement of satisfactory levels of living depend on the sound and orderly development of urban and rural areas. When urbanization proceeds rapidly, the sound and orderly development of urban communities depends to a large degree on the social and economic health and the sound development of smaller communities and rural areas.

(b) The President shall prescribe regulations governing the formulation, evaluation, and review of United States Government programs and projects having a significant impact on area and community development (including programs and projects providing assistance to States and localities) to serve most effectively the basic objectives of subsection (a) of this section. The regulations shall provide for the consideration of concurrently achieving the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between the objectives when they conflict:

(1) appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes.

(2) wise development and conservation of all natural resources.

(3) balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other means to move people and goods.

(4) adequate outdoor recreation and open space.

(5) protection of areas of unique natural beauty and historic and scientific interest.

(6) properly planned community facilities (including utilities for supplying power, water, and communications) for safely disposing of wastes, and for other purposes.

(7) concern for high standards of design.

(c) To the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government or assisted by the Government. State and local government objectives and the objectives of regional organizations shall be considered within a framework of national public objectives expressed in laws of the United States. Available projections of future conditions in the United States and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(d) To the maximum extent possible and consistent with national objectives, assistance for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(e) To the maximum extent practicable, each executive agency carrying out a development assistance program shall consult with and seek advice from all other significantly affected executive agencies in an effort to ensure completely coordinated programs. To the extent possible, systematic planning required by individual United States Government programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning.

(f) When a law of the United States provides that both a special-purpose unit of local government and a unit of general local government are eligible to receive a loan or grant, the head of an executive agency shall make the loan or grant to the unit of general local government instead of the special-purpose unit of local government in the absence of substantial reasons to the contrary.

(g) The President may designate an executive agency to prescribe regulations to carry out this section.

§ 6507. Congressional review of grant programs

(a) The committees of Congress having jurisdiction over a grant program authorized by a law of the United States without a specified expiration date for the program shall study the program. The committees may conduct studies separately or jointly and shall report the results of their findings to their respective Houses of Congress not later than the end of each period specified in subsection (b) of this section. The committees shall give special attention to—

(1) the extent to which the purposes of the grants have been met;

(2) the extent to which the objective of the program can be carried on without further assistance;

(3) whether a change in the purpose, direction, or administration of the original program, or in procedures and requirements applicable to the program, should be made; and

(4) the extent to which the program is adequate to meet the growing and changing needs that it was designed to support.

(b)(1) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted before October 16, 1968, shall be conducted before the end of each 4th calendar year after the year during which a study of the program was last conducted under this section.

(2) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted after October 16, 1968, shall be conducted before the end of the 4th calendar year after the year of enactment of the law and before the end of each 4th calendar year thereafter.

§ 6508. Studies and reports

(a)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Comptroller General shall study the program. The study shall include a review of—

(A) the extent to which—

(i) the program conflicts with or duplicates other grant programs; and

(ii) more effective, efficient, economical, and uniform administration of the program may be achieved by changing the requirements and procedures applicable to it; and

(B) budgetary, accounting, reporting, and administrative procedures of the program.

(2) The Comptroller General shall submit to Congress a report on a study made under this subsection and any recommendations. To the extent practicable, a report on an expiring program shall be submitted in the year before the year in which a program ends.

(b)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Advisory Commission on Intergovernmental Relations shall study the intergovernmental relations aspects of the program, including—

(A) the impact of the program on the structural organization of States and local governments and on Federal-State-local fiscal relations; and

(B) the coordination of administration of the program by the United States Government and State and local governments.

(2) The Commission shall submit to the committee requesting the study and to Congress a report and any recommendations.

CHAPTER 67—REVENUE SHARING

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6701. Definitions and application.
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6703. State and Local Government Fiscal Assistance Trust Fund.
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§ 6701. Definitions and application

(a) In this chapter—

(1) "entitlement period" means each one-year period beginning on October 1, 1981, and October 1, 1982.

(2) "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 6721(b) of this title, a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of general local government has not complied with section 6716(a) or (b) of this title.

(3) "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this chapter has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 6716(b) of this title.

(4) "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(5) "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes;

(B) except under sections 6708(b), 6709, 6711, and 6712(a) (2) and (3) of this title, the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers; and

(C) except under this section and sections 6702, 6703, and 6705–6713(c) (1) of this title, the office of the separate law enforcement officer under section 6710 of this title.

(6) "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(7) "township" includes an equivalent political subdivision having different designations as determined on the same basis used by the Secretary of Commerce for general statistical purposes.

(b) In a State in which a unit of general local government (except a county government) is the next level of government below the State government, the geographic area of the unit of general local government is deemed to be a county area in the State, and the unit of general local government is deemed to be a county government. However, this subsection does not apply to a county area of a State not governed by a county government that has at least 2 units of general local government.

(c) When the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. When only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations of the Secretary of the Treasury, the Secretary shall allocate amounts based on the ratio of the estimated population of the part to the population of the unit of general local government.

(d) When a boundary line change, a State statutory or constitutional change, a governmental reorganization, or other circumstance results in the application of subsections (a) (5) and (7), (b), and (c) of this section and sections 6708–6712 of this title in a way that does not carry out the purposes of this section and sections 6702, 6703, and 6705–6713(c) (1) of this title, the Secretary shall apply subsections (a) (5) and (7), (b), and (c) and sections 6708–6712 under regulations of the Secretary in a way that is consistent with those purposes.

(e) In this chapter, the District of Columbia is deemed to be—

(1) a State; and

(2) a county area having one unit of general local government.

§ 6702. Payments to governments

(a) Each unit of general local government is entitled to an amount equal to any amount allocated to the government under this chapter for each entitlement period. Each State government shall be paid an amount equal to any allocation made for each entitlement period. The Secretary of the Treasury shall pay each amount out of the State and Local Government Fiscal Assistance Trust Fund under section 6703 of this title.

(b) Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this chapter for an entitlement period by the first day of the 3d month before the beginning of the period. The Secretary shall pay each amount under this section in installments. An installment shall be paid at least once a quarter by the 5th day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) The Secretary shall adjust a payment under this chapter to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) The Secretary may reserve a percentage (of not more than 0.5 percent) of the amount under this section for an entitlement period for a State government and all units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

§ 6703. State and Local Government Fiscal Assistance Trust Fund

(a) The Department of the Treasury has a State and Local Government Fiscal Assistance Trust Fund. The Secretary of the Treasury personally is the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this chapter, may be used only for payments to State governments and units of general local government under this chapter; and

(2) remain available until expended.

(b) The Trust Fund consists of amounts appropriated to the Trust Fund. The following amounts may be appropriated to the Trust Fund:

(1) $2,300,000,000 for each entitlement period to pay amounts allocated to State governments for that period under section 6705 of this title.

(2) $4,566,700,000 for each entitlement period to pay entitlement amounts allocated to units of general local government for that period under sections 6708–6710 of this title.

(c) The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this chapter.

§ 6704. Qualifications

(a) Under regulations of the Secretary of the Treasury, a State government or unit of general local government qualifies for payment under this chapter for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in the regulations of the Secretary;

(3) the government will expend the payments received under laws and procedures applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secre-

tary of Labor shall act on labor standards under this clause in a way that is consistent with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(6) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary consults with the Comptroller General);

(7) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6723(b) of this title; and

(8) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 6724(b) of this title.

(b) A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a) of this section.

(c)(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection (a) of this section or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1) of this subsection, the Secretary shall give the chief executive officer of the State or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

§ 6705. State government allocations

For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary of the Treasury shall allocate to each State government out of the amount appropriated an amount bearing the same ratio to the amount appropriated as the amount allocated to the State under section 6707 of this title bears to the total amount allocated to States under section 6707. However, the Secretary may pay the amount allocated to the State government only when the Secretary determines (under regulations prescribed by the Secretary) that the State government has declined to receive or has refunded to the United States Government an amount available to the State government under any United States Government categorical grant program identified under the regulations that is equal to the amount allocated. The Secretary shall transfer from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury an amount allocated to a State government but not paid under this section.

§ 6706. Reductions in State government allocations

(a)(1) Except as provided in this section, the Secretary of the Treasury shall reduce the amount allocated to a State government under section 6705 of this title for an entitlement period by the amount by which—

(A) 50 percent of the total amount the State government transfers from its own sources to units of general local government in the State during the 24-month period ending on the last day of the last fiscal year of the State for which relevant information is available on the first day of the entitlement period to which the allocation applies; is less than

(B) 50 percent of the similar total amount for the 24-month period ending the day before the beginning of the 24-month period described in clause (A) of this paragraph.

(2) In applying this subsection, the amount by which the Secretary reduces an amount allocated to a State government for an entitlement period is, in a later entitlement period, an amount transferred by the State government from its own sources to units of general local government during the period to which the reduction applies.

(b) When a State government satisfies the Secretary that after June 29, 1972, the State government assumed responsibility for a category of expenditures that before July 1, 1972, was the responsibility of local governments in the State, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent that increased State government expenditures from its own sources for the category have replaced corresponding amounts that the State government transferred to units of general local government during the 24-month period under subsection (a)(1)(B).

(c)(1) When a State government satisfies the Secretary that after June 29, 1972, at least one unit of general local government in the State was given new taxing authority, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent of the larger of an amount equal to the—

(A) taxes collected by the units of general local government under the new taxing authority; or

(B) loss of revenue to the State government because of the new taxing authority.

(2) The Secretary may consider under paragraph (1)(A) of this subsection an amount collected because of new taxing authority that is an increase in the tax rate under a previously authorized kind of tax only when the State government has decreased a related State tax.

(d) When the State government satisfies the Secretary that during a part of the 24-month period under subsection (a)(1)(A) of this section the United States Government has assumed responsibility for a category of expenditures for which the State government transferred amounts that (but for this subsection) would be included in the total amount taken into account under subsection (a)(1)(B) of this section, the Secretary shall reduce the total amount under subsection (a)(1)(B) to the extent that increased Government expenditures have replaced corresponding amounts that the State government had transferred to units of general local government during the period under subsection (a)(1)(B).

(e) When the Secretary believes that a reduction of an amount allocated to a State government is required under this section, the Secretary shall give the State government reasonable notice and opportunity for a proceeding. If the Secretary decides that a reduction is required, the Secretary shall—

(1) determine the amount of the reduction;

(2) notify the chief executive officer of the State of the determination; and

(3) withhold the amount of the reduction from payments to the State government under this chapter.

(f) On the day a reduction under this section in an amount allocated to a State government is final, the Secretary shall transfer an amount equal to the reduction from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury.

(g) The Secretary shall prescribe regulations to carry out this section.

§6707. State allocations for units of general local government

(a) For each entitlement period, the Secretary of the Treasury shall allocate to each State out of the amount authorized for the period under section 6703(b)(2) of this title an amount bearing the same ratio to the amount authorized as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

(2) allocate the amount allocated to the State to units of general local government in the State under sections 6708–6710 of this title.

(b)(1) The amount allocated to a State under this subsection for an entitlement period is the amount bearing the same ratio to $5,300,000,000 as—

(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the State (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under subclause (A) of this paragraph for all States.

(2) The general tax effort factor of a State for an entitlement period is—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; divided by

(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

(3) The relative income factor of a State is a fraction in which—

(A) the numerator is the per capita income of the United States; and

(B) the denominator is the per capita income of the State.

(c) The amount allocated to a State under this subsection for an entitlement period is the amount the State would receive if—

(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be al-

located as the population of the State bears to the population of all States;

(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated as—

(A) the population of the State, multiplied by a fraction in which—

(i) the numerator is the per capita income of all States; and

(ii) the denominator is the per capita income of the State; bears to

(B) the sum of the products determined under subclause (A) of this clause (2) for all States;

(3) $900,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the income tax amount of the State (determined under subsection (d)(1) of this section) bears to the total amount of the income tax amounts of all States;

(4) $900,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the general tax effort amount of the State (determined under subsection (d)(2) of this section) bears to the total amount of the general tax effort amounts of all States; and

(5) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the urbanized population of the State bears to the urbanized population of all States. In this clause, "urbanized population" means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area by the Secretary of Commerce for general statistical purposes.

(d)(1) The income tax amount of a State for an entitlement period is 15 percent of the net amount collected during the calendar year ending before the beginning of the entitlement period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 164(a)(3)). The income tax amount for an entitlement period shall be at least one percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable years ending during the last calendar year ending before the beginning of the entitlement period. The Secretary of the Treasury shall determine the Government income tax liability attributed to the State on the same basis as the Secretary determines that liability for general statistical purposes.

(2) The general tax effort amount of a State for an entitlement period is the amount determined by multiplying—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; by

(B) the general tax effort factor of the State determined under subsection (b)(2) of this section.

§ 6708. County area and county government allocations

(a)(1) The Secretary of the Treasury first shall allocate among the county areas in the State the amount allocated to the State for an entitlement period under section 6707 of this title. Each county area shall receive an amount bearing the same ratio to the amount allocated to the State as—

(A) the population of the county area, multiplied by the general tax effort factor of the county area (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the county area (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under clause (A) of this paragraph for all county areas in the State.

(2) The general tax effort factor of a county area for an entitlement period is—

(A) the amount of the adjusted taxes of the county government and units of general local government in the county area; divided by

(B) the total income attributed to the county area.

(3) The relative income factor of a county area is a fraction in which—

(A) the numerator is the per capita income of the State in which the area is located; and

(B) the denominator is the per capita income of the county area.

(b) The Secretary shall allocate to the county government an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the adjusted taxes of the county government bears to the adjusted taxes of the county government and all other units of general local government in the county area.

(c) When a county area includes an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the population of the tribe or village bears to the population of the county area. The Secretary shall allocate an amount to the tribe or village before allocating an amount to the county government under subsection (b) of this section. The Secretary shall reduce the amount to be allocated to the county government under subsection (b) by an amount allocated under this subsection.

§ 6709. Other local government allocations

(a)(1) After allocating an amount to a county government under section 6708 of this title, the Secretary of the Treasury shall allocate the amount remaining for allocation in a county area among the units of general local government (except the county government and township governments) in the county area. Each of those units of general local government shall receive an amount bearing the same ratio to the total amount to be allocated to the units of general local government as—

(A) the population of the unit of general local government, multiplied by the general tax effort factor of the unit of general local government (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the unit of general local government (determined under paragraph (4) of this subsection); bears to

(B) the sum of the products determined under clause (A) of this paragraph for all units of the general local government.

(2) The general tax effort factor of a unit of general local government for an entitlement period is—

(A) the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses; divided by

(B) the total income attributed to the unit of general local government.

(3) The Secretary of the Treasury shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under paragraph (2) of this subsection when—

(A) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(B) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this paragraph.

(4) The relative income factor of a unit of general local government is a fraction in which—

(A) the numerator is the per capita income of the county area in which the unit of general local government is located; and

(B) the denominator is the per capita income of the geographic area of the unit of general local government.

(b) When a county area includes at least one township government, the Secretary of the Treasury shall set aside for allocation to township governments in the county area an amount out of the amount allocated to the county area under section 6708(a) of this title bearing the same ratio to the amount allocated to the county area as the total adjusted taxes of all township governments in the county area bears to the total adjusted taxes of the county government, the township governments, and other units of general local government in the county area. The amount for allocation to a township government is set aside before an amount is allocated to a unit of general local government under subsection (a) of this section. The Secretary shall allocate an amount to the township government on the same basis as the Secretary allocates an amount to a unit of general local government under subsection (a). The Secretary shall reduce the amount of the allocation to other units of general local government under subsection (a) by the amount set aside for allocation under this subsection.

(c) When the Secretary of the Treasury decides that information available for a county area for an entitlement period is inadequate in allocating an amount under subsection (a) or (b) of this section for a unit of general local government (except a county government) with a population below a number (of not more than 500) prescribed for the county area by the Secretary, the Secretary may apply subsection (a) or (b) by allocating to the unit of general local government an amount bearing the same ratio to the total amount to be allocated under subsection (a) or (b) for the entitlement period as the population of the unit of general local government in the county area receiving an amount allocated under subsection (a) or (b). When the Secretary allocates an amount under this subsection, the Secretary shall reduce the total amount to be allocated under subsection (a) or (b) to other units of general local government in the county area for the entitlement period by the amount allocated under this subsection.

§ 6710. Separate law enforcement officer allocations for Louisiana

(a) Except as provided in subsection (d) of this section—

(1) the office of the separate law enforcement officer for—

(A) a county area in Louisiana (except the parishes of East Baton Rouge and Orleans) shall receive for each entitlement period an amount equal to 15 percent of the amount the county area government would receive for the period but for this section; and

(B) the parish of East Baton Rouge shall receive for each entitlement period an amount equal to 7.5 percent of the total amount of the amounts the governments of Baton Rouge, Baker, and Zachary, Louisiana, would receive for the period but for this section; and

(2) the parish of Orleans, Louisiana, shall receive for each entitlement period an additional amount equal to 7.5 percent of the amount the parish otherwise would receive.

(b) Except as provided in subsection (d) of this section, the Secretary of the Treasury shall reduce—

(1) the amount allocated to a county area government in Louisiana for an entitlement period by an amount equal to 50 percent of the amount allocated to the office of the separate law officer for the county area for the period; and

(2) in applying clause (1) of this subsection to the parish of East Baton Rouge, the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, for an entitlement period by an amount equal to 3.75 percent of the amount each government would receive for the period but for this subsection.

(c) For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary shall reduce the amount allocated to the Louisiana government under section 6705 of this title by an amount equal to the total reductions under subsection (b) of this section of amounts allocated to county area governments in Louisiana for the period. In this subsection—

(1) reductions in the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, under subsection (b) are deemed reductions in the amounts allocated to county area governments; and

(2) the amount allocated to the parish of Orleans, Louisiana, is deemed to have been reduced by the additional amount received under subsection (a)(2) of this section.

(d) For an entitlement period for which an amount under section 6703(b)(1) of this title is not appropriated—

(1) the percentage under subsection (a)(1)(A) of this section is 13.5 percent;

(2) the percentages under subsections (a)(1)(B) and (b)(2) of this section are 6.75 percent;

(3) the Secretary shall disregard the percentage under subsection (b)(1) of this section; and

(4) subsections (a)(2) and (c) of this section do not apply.

§ 6711. State variation of local government allocations

(a) A State government may provide by law for the allocation of amounts among county areas or units of general local government (except county governments) in the State on the basis of population multiplied by the general tax effort factors or relative income factors of the county areas or units of general local government (determined under sections 6708(a) and 6709(a) and (b) of this title), or a combination of those factors. A State government providing for a variation on an allocation formula provided under section 6708(a) or 6709(a) or (b) shall notify the Secretary of the Treasury of the variation by the 30th day before the beginning of the first entitlement period in which the variation applies. A variation shall—

(1) provide for allocating the total amount allocated under section 6708(a) or 6709(a) or (b) of this title;

(2) apply uniformly in the State; and

(3) apply only to entitlement periods beginning before October 1, 1983.

(b) A variation by a State government under this section may apply only when the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only when the Secretary is notified of the variation at least 30 days before the first entitlement period in which the variation applies.

§ 6712. Adjustments of local government allocations

(a)(1) Subject to paragraphs (2) and (3) of this subsection, the per capita amount allocated to a county area or unit of general local government (except a county government) in a State for an entitlement period shall be at least 20 percent but not more than 145 percent of the amount allocated to the State under section 6707 of this title, divided by the State population.

(2) The amount allocated to a unit of general local government for an entitlement period may be not more than 50 percent of the amount of the—

(A) adjusted taxes of the unit of general local government; and

(B) transfers (except transfers under this chapter) of revenue to the unit of general local government from another government as a share in financing, or a reimbursement for, the carrying out of governmental duties and powers, as determined by the Secretary of Commerce for general statistical purposes.

(3) When the amount allocated to a unit of general local government (except a county government, an Indian tribe, or an Alaskan native village) for an entitlement period would be less than $200 but for this paragraph or is waived by the governing authority of the unit of general local government, the Secretary of the Treasury shall add the amount for that period to the amount allocated to the county government in the county area in which the unit of general local government is located, instead of paying the amount allocated to the unit of general local government. The Secretary shall add the amount of allocation waived by a governing body of an Indian tribe or an Alaskan native village to the amount allocated to the county government in the county area in which the tribe or village is located.

(b) When the Secretary makes an adjustment in an amount allocated to a county area or unit of general local government, the Secretary shall make adjustments in the following order:

(1) under subsection (a)(1) of this section.

(2) under subsection (a)(2) of this section.

(3) under subsection (a)(3) of this section.

(4) under section 6710 of this title.

(c) The Secretary shall adjust the amounts allocated to county areas and units of general local government to bring the amounts into compliance with subsection (a)(1) of this section. The Secretary shall make adjustments in the amounts allocated to county areas before adjusting amounts allocated to units of general local government.

(d)(1) When the Secretary makes a reduction under subsection (a)(2) of this section in the amount allocated to a unit of general local government, the amount of the reduction—

(A) if a unit of general local government (except a county government), shall be added to the amount allocated to the county government in which the unit of general local government is located; and

(B) if a county government, shall be reallocated under subsection (e) of this section.

(2) When a county government may not receive an additional amount under paragraph (1)(A) of this subsection because of subsection (a) of this section, the Secretary shall reallocate the amount of the reduction under subsection (e) of this section.

(e) The Secretary shall reallocate an amount referred to in subsection (d)(1)(B) or (2) of this section—

(1) by adding the amount to the amounts allocated to units of general local government in the State to the extent the units of general local government may receive the additional amount after adjustments under subsection (a) of this section; and

(2) if a unit of general local government may not receive the reallocated amount because of subsection (a) of this section, by allocating the amount among units of general local government in the State on a prorated basis.

§ 6713. Information used in allocation formulas

(a) Except as provided in this section, the Secretary of the Treasury shall use the most recent available information provided by the Secretary of Commerce to determine an allocation under this chapter. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary of the Treasury may use additional information (including information based on estimates) as provided under regulations of the Secretary of the Treasury.

(b) The Secretary of the Treasury shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes. The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96-369, 94 Stat. 1357).

(c) The Secretary of the Treasury may not—

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(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; and

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation.

§ 6714. Public hearings

(a)(1) A State government or unit of general local government expending payments received under this chapter shall hold at least one public hearing for each fiscal period of the government at which persons are given an opportunity to present written and oral views on the possible uses of the payments. The government shall give adequate notice of the hearing and hold the hearing at least 7 calendar days before presenting its budget to the governmental authority responsible for enacting the budget.

(2) A State government or unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(3) A State government or unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

(b)(1) By the 10th day before a hearing required under subsection (a)(2) of this section is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) Under regulations of the Secretary of the Treasury, a requirement—

(1) under subsection (a)(1) of this section may be waived when the cost of the requirement would be unreasonably burdensome in relation to the amount allocated to the State government or unit of general local government to amounts available for payment under this chapter;

(2) under subsection (a)(2) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(A) ensures the opportunity for public attendance and participation contemplated by subsection (a) of this section; and

(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

(3) under subsections (b) (1)(B) and (2)(B) of this section may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government to amounts available for payment under this chapter, or when publication is otherwise impracticable.

(d) When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

(e) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

§ 6715. Prohibition on using payments to influence legislation

A State government or unit of general local government may not use a part of a payment received under this chapter for activities intended to influence legislation about this chapter. Dues paid by a government to a national or State association are deemed not to have been paid from payments received under this chapter.

§ 6716. Prohibited discrimination

(a) No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex when the government receives a payment under this chapter.

(b) The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government when the government receives a payment under this chapter:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c)(1) Subsection (a) and (b) of this section do not apply when the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity.

(2) Subsection (b)(2) of this section does not apply to construction projects begun before January 1, 1977.

(d) The Secretary of the Treasury shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

§ 6717. Discrimination proceedings

(a) By the 10th day after the Secretary of the Treasury makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) The State government or unit of general local government may present evidence informally to the Secretary within 30 days after the Secretary submits a notice of noncompliance to the government. Except as provided in subsection (e) of this section, the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6716(a) of this title;

(2) the program or activity of the government violated a prohibition described in section 6716(b) of this title; and

(3) a part of that program or activity has been paid for with a payment received under this chapter.

(c) By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 6716(a) or (b) of this title, except when the government has made a compliance agreement under section 6719 of this title. When the Secretary decides that the government has not complied, the Secretary shall suspend payments to the government under this chapter unless by the 10th day after the decision the government—

(1) makes a compliance agreement under section 6719 of this title; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d)(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State government or unit of general local government is likely to prevail in showing compliance with section 6716(a) or (b) of this title.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 6716(a) or (b) of this title, the judge may order payments to the government under this chapter terminated; or

(B) complied with section 6716(a) or (b) of this title, a suspension under section

6718(a)(1)(A) of this title shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) In a proceeding under subsections (b)-(d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

§ 6718. Suspension and termination of payments in discrimination proceedings

(a)(1) The Secretary of the Treasury shall suspend payment under this chapter to a State government or unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6717(d)(1) of this title that the government is not likely to prevail in showing compliance with section 6716(a) and (b) of this title;

(B) except as provided in section 6717(d)(2)(B) of this title, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 6716(a) or (b) of this title, unless the government makes a compliance agreement under section 6719 of this title by the 30th day after the decision; or

(C) when required under section 6717(c) of this title.

(2) Except as provided in section 6717(d)(2) of this title, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding about the holding shall be discontinued.

(c) The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6719(a)(1) of this title; or

(B) a compliance agreement under section 6719(a) of this title;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6717(a) of this title;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6717(d)(1) of this title), that the government has complied with section 6716(a) and (b) of this title; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 6716(a) or (b) of this title.

(e) The Secretary may resume payment to a State government or unit of general local government of payments terminated under section 6717(d)(2) of this title only when the decision resulting in the termination is reversed by an appellate court.

§ 6719. Compliance agreements

(a) A compliance agreement is an agreement—

(1) approved by the Secretary of the Treasury between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 6716(a) or (b) of this title; or

(2) between the Secretary and the chief executive officer.

(b) A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 6716(a) and (b) of this title;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 6716(a) or (b) of this title; and

(3) may be a series of agreements that dispose of those matters.

(c) The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6721(b) of this title, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 6716(a) or (b) of this title. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

§ 6720. Enforcement by the Attorney General of prohibitions on discrimination

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6716(a) or (b) of this title. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 6716(a) or (b) of this title, including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

§ 6721. Civil action by a person adversely affected

(a) When a State government, a unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6716(d) of this title. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this chapter; or

(2) does not issue a decision on the complaint.

(c) In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6716(a) or (b) of this title, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) In an action under this section to enforce compliance with section 6716(a) or (b) of this title, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

§ 6722. Judicial review

(a) A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 6704(c) of this title, suspending payments under section 6718(a)(1)(B) of this title, or terminating payments under section 6717(d)(2)(A) of this title, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 6723. Audits, investigations, and reviews

(a)(1) Except as provided in this section, a State government or unit of general local government expecting to receive a payment under this chapter shall have an independent audit made of the financial statements of the government at least once every 3 years to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

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(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than $25,000 under this chapter. However, an audit of the financial statements of the government for that fiscal year that is required under State or local law is deemed to be compliance with paragraph (1).

(3) An audit of financial statements of a government carried out under another law of the United States for a fiscal year is deemed to be compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

(b)(1) A State government or unit of general local government may elect to waive application of subsection (a)(1) of this section when—

(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

(C) the auditing provisions of the State or local law are applicable to the entitlement period to which the waiver applies.

(2) The election by the government shall include a brief description of the auditing standards used under the State or local law and specify the entitlement period to which the waiver applies.

(c) Under regulations of the Secretary of the Treasury, the Secretary may waive a requirement of subsections (a)(1) and (b) of this section for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year—

(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

(2) have been audited by a State agency that does not follow generally accepted auditing standards or that is not independent, and the State agency shows progress in meeting generally accepted auditing standards or in becoming independent.

(d) A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a State government or unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

(e) An opinion on an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

(f)(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6721(b) of this title, a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6716(a) or (b) of this title or other provision of this chapter.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(g) The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for Congress to evaluate compliance and operations under this chapter.

§ 6724. Reports

(a) Before June 2 of each year, the Secretary of the Treasury personally shall report to Congress on—

(1) the status and operation of the State and Local Government Fiscal Assistance Trust Fund during the prior fiscal year; and

(2) the administration of this chapter, including a complete and detailed analysis of—

(A) actions taken to comply with sections 6716–6720 of this title, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this chapter have complied with sections 6704, 6715, and 6723(a)–(e) and (g) of this title, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6723(a)–(e) and (g);

(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

(b)(1) At the end of each fiscal year, each State government and each unit of general local government receiving a payment under this chapter shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

Sec.
6901. Definitions.
6902. Authority and eligibility.
6903. Payments.
6904. Additional payments.
6905. Redwood National Park and the Lake Tahoe Basin.
6906. Authorization of appropriations.

§ 6901. Definitions

In this chapter—

(1) "entitlement land" means land owned by the United States Government—

(A) that is in the National Park System or the National Forest System, including wilderness areas and lands described in section 2 of the Act of June 22, 1948 (16 U.S.C. 577d), and section 1 of the Act of June 22, 1956 (16 U.S.C. 577d-1);

(B) the Secretary of the Interior administers through the Bureau of Land Management;

(C) dedicated to the use of the Government for water resource development projects;

(D) on which are located semi-active or inactive installations (except industrial installations) that the Secretary of the Army keeps for mobilization and for reserve component training;

(E) that is a dredge disposal area under the jurisdiction of the Secretary of the Army;

(F) that is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and acquired after December 23, 1981, by the United States Government to expand the Fort Carson military installation; or

(G) that is a reserve area (as defined in section 401(g)(3) of the Act of June 15, 1935 (16 U.S.C. 715s(g)(3))).

(2) "unit of general local government" means—

(A) a county, city, township, borough existing in Alaska on October 20, 1976, or other political subdivision of a State that the Secretary of the Interior, on the same basis that the Secretary of Commerce uses for general statistical purposes, decides is a general purpose political subdivision of a State;

(B) the Commonwealth of Puerto Rico;

(C) Guam;

(D) the Commonwealth of the Northern Mariana Islands; and

(E) the Virgin Islands.

§ 6902. Authority and eligibility

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of acquisition.

(c) A unit of general local government receiving payment for a fiscal year for land under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), or the Act of May 24, 1939 (ch. 144, 53 Stat. 753), may not receive a payment under this chapter for the land for that fiscal year. This chapter does not apply to either Act.

(d) If the total payment to a unit of general local government for a fiscal year would be less than $100, the Secretary may not make the payment.

§ 6903. Payments

(a) In this section—

(1) "payment law" means—

(A) the Act of June 20, 1910 (ch. 310, 36 Stat. 557);

(B) section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);

(C) the Act of May 23, 1908 (16 U.S.C. 500);

(D) section 5 of the Act of June 22, 1948 (16 U.S.C. 577g, 577g-1);

(E) section 401(c)(2) of the Act of June 15, 1935 (16 U.S.C. 715s(c)(2));

(F) section 17 of the Federal Power Act (16 U.S.C. 810);

(G) section 35 of the Act of February 25, 1920 (30 U.S.C. 191);

(H) section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);

(I) section 3 of the Act of July 31, 1947 (30 U.S.C. 603); and

(J) section 10 of the Act of June 28, 1934 (known as the Taylor Grazing Act) (43 U.S.C. 315i).

(2) population shall be determined on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

(3) a unit of general local government may not be credited with a population of more than 50,000.

(4) if any part of a smaller unit is located within another unit, entitlement land within both units is deemed to be located within the smaller unit.

(b)(1) A payment under section 6902 of this title is equal to the greater of—

(A) 75 cents for each acre of entitlement land located within a unit of general local government (but not more than the limitation determined under subsection (c) of this section) reduced (but not below 0) by amounts the unit received in the prior fiscal year under a payment law; or

(B) 10 cents for each acre of entitlement land located in the unit (but not more than the limitation determined under subsection (c) of this section).

(2) The chief executive officer of a State shall submit to the Secretary of the Interior a statement on the amounts of payments the State transfers to each unit of general local government in the State out of amounts received under a payment law.

(c)(1) The limitation for a unit of general local government with a population of not more than 4,999 is $50 times the population.

(2) The limitation for a unit of general local government with a population of at least 5,000 is the following amount (rounding the population off to the nearest thousand):

If population equals—	the limitation is equal to the population times—
5,000	$50.00
6,000	47.00
7,000	44.00
8,000	41.00
9,000	38.00
10,000	35.00
11,000	34.00
12,000	33.00
13,000	32.00
14,000	31.00
15,000	30.00
16,000	29.50
17,000	29.00
18,000	28.50
19,000	28.00
20,000	27.50
21,000	27.20
22,000	26.90
23,000	26.60
24,000	26.30
25,000	26.00
26,000	25.80
27,000	25.60
28,000	25.40
29,000	25.20
30,000	25.00
31,000	24.75
32,000	24.50
33,000	24.25
34,000	24.00
35,000	23.75
36,000	23.50
37,000	23.25
38,000	23.00
39,000	22.75
40,000	22.50
41,000	22.25
42,000	22.00
43,000	21.75
44,000	21.50
45,000	21.25
46,000	21.00
47,000	20.75
48,000	20.50
49,000	20.25
50,000	20.00

§ 6904. Additional payments

(a) In addition to payments the Secretary of the Interior makes under section 6902 of this title, the Secretary shall make a payment for each fiscal year to a unit of general local government collecting and distributing real property taxes (including a unit in Alaska outside the boundaries of an organized borough) in which is located an interest in land that—

(1) the United States Government acquires for—

(A) the National Park System; or

(B) the National Forest Wilderness Areas; and

(2) was subject to local real property taxes within the 5-year period before the interest is acquired.

(b) The Secretary shall make payments only for the 5 fiscal years after the fiscal year in which the interest in land is acquired. Under guidelines the Secretary prescribes, the unit of general local government receiving the payment from the Secretary shall distribute payments proportionally to units and school districts that lost real property taxes because of the acquisition of the interest. A unit receiving a distribution may use a payment for any governmental purpose.

(c) Each yearly payment by the Secretary under this section is equal to one percent of the fair market value of the interest in land on the date the Government acquires the interest. However, a payment may not be more than the amount of real property taxes levied on the property during the last fiscal year before the fiscal year in which the interest is acquired. A decision on fair market value under this section may not include an increase in the value of an interest because the land is rezoned when the rezoning causes the increase after the date of enactment of a law authorizing the acquisition of an interest under subsection (a) of this section.

(d) The Secretary may prescribe regulations under which payments may be made to units of general local government when subsections (a) and (b) of this section will not carry out the purpose of subsections (a) and (b).

§ 6905. Redwood National Park and the Lake Tahoe Basin

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which an interest in land owned by the United States Government in the Redwood National Park is located. A unit may use the payment for any governmental purpose. The payment shall be made as provided in section 6903 of this title and shall include an amount payable under section 6903.

(b)(1) In addition to payments the Secretary makes under subsection (a) of this section, the Secretary shall make a payment for each fiscal year to each unit of general local government in which is located an interest in land—

(A) owned by the Government in the Redwood National Park; or

(B) acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (Public Law 96-586, 94 Stat. 3383).

(2) The payment shall be made as provided in section 6904 of this title and shall include an amount payable under section 6904. However, an amount computed but not paid because of the first sentence of subsection (b) and the 2d sentence of subsection (c) of section 6904 shall be carried forward and applied to future years in which the payment would not otherwise equal the amount of real property taxes assessed and levied on the land during the last fiscal year before the fiscal year in which the interest was acquired until the amount is applied completely.

(3) The unit of general local government may use the payment for any governmental purpose.

(4) The Redwoods Community College District is a school district under section 6904(b) of this title.

§ 6906. Authorization of appropriations

Necessary amounts may be appropriated to the Secretary of the Interior to carry out this chapter. Amounts are available only as provided in appropriation laws.

CHAPTER 71—JOINT FUNDING SIMPLIFICATION

Sec.
7101. Purposes.
7102. Definitions.
7103. Authority of the President and heads of executive agencies.
7104. Processing project requests to be financed by at least 2 assistance programs.
7105. Prescribing uniform technical and administrative provisions.
7106. Delegation of supervision of assistance.
7107. Joint management funds.
7108. Limitation on authority under sections 7105-7107.
7109. Appropriations available for joint financing.
7110. Use of joint financing provisions for Federal-State assisted projects.
7111. Report to Congress.
7112. Expiration date.

§ 7101. Purposes

The purposes of this chapter are to—

(1) enable States, local governments, and private nonprofit organizations to use assistance of the United States Government more effectively and efficiently;

(2) adapt the assistance more readily to particular needs through wider use of projects that are supported by more than one executive agency, assistance program, or appropriation of the United States Government; and

(3) encourage Federal-State arrangements under which local governments and private nonprofit organizations may more effectively and efficiently combine Federal and State resources to support projects of common interest to those local governments and those organizations.

§ 7102. Definitions

In this chapter—

(1) "applicant" means a State, local government, or private nonprofit organization applying for assistance for one project.

(2) "assistance program" means a program of the United States Government providing assistance through a grant or contract but does not include revenue sharing, a loan, a loan guarantee, or insurance.

(3) "local government" means a county, city, political subdivision of a county or city, or other general purpose political subdivision of a State, a school district, a council of governments, or other instrumentality of a local government.

(4) "project" means an undertaking that includes components that contribute mate-

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rially to carrying out one purpose or closely related purposes and are proposed or approved for assistance under—

(A) more than one United States Government program; or

(B) at least one Government program and at least one State program.

(5) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a tribe as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

§ 7103. Authority of the President and heads of executive agencies

(a) The President shall prescribe necessary regulations to carry out section 7101 of this title and to ensure that this chapter is applied by all executive agencies consistently. The regulations may require executive agencies to adopt or prescribe procedures requiring applicants for assistance for a project to be jointly financed under this chapter to take steps to—

(1) get the views and recommendations of States and local governments that may be significantly affected by the project; and

(2) resolve questions of common interest to those States and local governments before making application.

(b) Subject to regulations prescribed under subsection (a) of this section and other law, the head of an executive agency may do the following by an order of the agency head or by agreement with another executive agency:

(1) identify related programs likely to be particularly suitable in providing joint financing for specific kinds of projects.

(2) to assist in planning and developing a project financed from different programs, develop and prescribe—

(A) guidelines;

(B) model or illustrative projects;

(C) joint or common application forms; and

(D) other materials or guidance.

(3) review administrative program requirements to identify requirements that may impede joint financing of a project and modify the requirements when appropriate.

(4) establish common technical or administrative regulations for related programs to assist in providing joint financing to support a specific project or class of projects.

(5) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) a lead agency responsible for processing applications; and

(B) a managing agency responsible for project supervision.

(c) The head of an executive agency shall—

(1) take maximum action to carry out section 7101 of this title in conducting an assistance program of the agency; and

(2) consult and cooperate with the heads of other executive agencies to carry out section 7101 of this title in conducting assistance programs of different executive agencies that may be used jointly to finance projects undertaken by States, local governments, or private nonprofit organizations.

§ 7104. Processing project requests to be financed by at least 2 assistance programs

In processing an application or request for assistance for a project to be financed by at least 2 assistance programs, the head of an executive agency shall take action that will ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the United States Government;

(4) an applicant is promptly informed of a decision or special problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from one executive agency for a requesting executive agency when the requesting agency may get the information or assurances directly.

§ 7105. Prescribing uniform technical and administrative provisions

(a) To make participation in a project easier than would be possible because of varying or conflicting technical or administrative regulations and procedures not required by law, the head of an executive agency may prescribe uniform provisions about inconsistent or conflicting requirements on—

(1) financial administration of the project (including accounting, reporting and auditing, and maintaining a separate bank account), to the extent consistent with section 7108 of this title;

(2) the timing of payments by the United States Government for the project when one schedule or a combined schedule is to be established for the project;

(3) providing assistance by grant rather than procurement contract or by procurement contract rather than by grant; and

(4) accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Government when common regulations are established for the project.

(b) To make easier the processing of applications for assistance, the head of an executive agency may provide for review of proposals for a project by one panel, board, or committee where reviews by separate panels, boards, or committees are not specifically required by law.

(c) Notwithstanding a requirement that one public agency or a specific public agency be established or designated to carry out or supervise that part of the assistance from the Government under an assistance program for a jointly financed project, the head of the executive agency carrying out the program may waive the requirement when—

(1) administration by another public agency is consistent with State or local law and the objectives of the assistance program; and

(2)(A) the waiver is requested by the head of a unit of general government certifying jurisdiction over the public agencies concerned; or

(B) the State or local public agencies concerned agree to the waiver.

§ 7106. Delegation of supervision of assistance

With the approval of the President, the head of an executive agency may delegate or otherwise arrange to have another executive agency carry out or supervise a project or class of projects jointly financed under this chapter. A delegation—

(1) shall be made under conditions ensuring that duties and powers delegated are exercised consistent with law; and

(2) may not relieve the head of an executive agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

§ 7107. Joint management funds

(a) In supporting a project, a joint management fund may be established to administer more effectively amounts received from more than one assistance program or appropriation. A proportional share of the amount required to pay a grantee shall be transferred periodically to the fund from each program or appropriation. When a project is completed, the grantee shall return to the fund an amount not expended.

(b) An account in a joint management fund is subject to an agreement made by the heads of the executive agencies providing assistance for the project about the responsibilities of each agency. An agreement shall—

(1) ensure the availability of necessary information to the executive agencies and Congress;

(2) provide that the agency administering a fund is responsible and accountable by program and appropriation for the amounts provided for the purposes of each account in the fund; and

(3) include procedures for returning, subject to fiscal year limitations, an excess amount to participating executive agencies under the applicable appropriation. An excess amount of an expired appropriation lapses from the fund.

(c) For each project financed through an account in a joint management fund, a recipient of an amount from the fund shall keep records prescribed by the head of the executive agency responsible for administering the fund. The records shall include—

(1) the amount and disposition by the recipient of assistance received under each program and appropriation;

(2) the total cost of the project for which assistance was given or used;

(3) that part of the cost of the project provided from other sources; and

(4) other records that will make it easier to carry out an audit.

(d) Records of a recipient related to an amount received from a joint management fund shall be made available to the head of the executive agency responsible for administering the fund and the Comptroller General for inspection and audit.

(e) For a project subject to a joint management fund, one non-Government share may be established conforming to—

(1) the proportional shares applicable to the assistance programs involved; and

(2) the proportional shares of an amount transferred to the project account from each of the programs.

§ 7108. Limitation on authority under sections 7105–7107

Under regulations prescribed by the President, the head of an executive agency may act under sections 7105–7107 of this title for a project assisted under at least 2 assistance programs. The regulations shall ensure that the head of an executive agency acts under those sections only—

(1) when a problem cannot be adequately solved through other action under this chapter or other law;

(2) when necessary to promote expeditious processing of applications or effective and efficient administration of the project; and

(3) in a way consistent with protecting the interest of the United States Government and with the program purposes and requirements of law.

§ 7109. Appropriations available for joint financing

An appropriation available for technical assistance or personnel training under an assistance program is available for technical assistance and training for a project proposed or approved for joint financing involving the program and another assistance program.

§ 7110. Use of joint financing provisions for Federal-State assisted projects

Under regulations prescribed by the President, the head of an executive agency may make an agreement with a State to extend the benefits of this chapter to a project involving assistance from at least one executive agency and at least one State agency. The agreement may include arrangements to process requests or administer assistance on a joint basis.

§ 7111. Report to Congress

By February 3, 1984, the President shall submit to Congress a report on actions taken under this chapter and make recommendations for its continuation, amendment, or termination. The report shall include a detailed evaluation of the operation of the chapter, including information on the benefits and costs of jointly financed projects that accrue to participating States, local governments, private nonprofit organizations, and the United States Government.

§ 7112. Expiration date

This chapter expires on February 3, 1985.

CHAPTER 73—ADMINISTERING BLOCK GRANTS

Sec.
7301. Purpose.
7302. Definitions.
7303. Reports and public hearings on proposed uses of amounts.
7304. Availability of records.
7305. State auditing requirements.

§ 7301. Purpose

It is the purpose of this chapter to ensure that—

(1) block grant amounts are allocated for programs of special importance to meet the needs of local governments, residents of local governments, and other eligible entities; and

(2) all eligible local governments, residents of local governments, and other eligible entities are treated fairly in distributing block grant amounts.

§ 7302. Definitions

In this chapter—

(1) "block grant amounts" means amounts received for a program that—

(A) directly allocates amounts to States only, except for amounts allocated for use by the agency administering the program; and

(B) provides that the State may use any part of the amounts at its discretion to continue to support activities financed on August 12, 1981, under programs whose authorizations were discontinued by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) and that were financed on August 12, 1981, by allocations by the United States Government to local governments or other eligible entities, or both local governments and other eligible entities.

(2) "State" includes the District of Columbia and territories and possessions of the United States.

§ 7303. Reports and public hearings on proposed uses of amounts

(a)(1) The chief executive officer of each State shall prepare for each fiscal year a report on the proposed use during the fiscal year of block grant amounts received by the State. The report shall include—

(A) a statement of goals and objectives;

(B) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served; and

(C) the criteria for, and way of, distributing the amounts, including details on the way amounts will be distributed on the basis of need to carry out the purposes of the block grant amounts.

(2) Beginning with the fiscal year ending September 30, 1983, each report shall describe how the State met the goals, objectives, and needs in using the amounts described in the report for the prior fiscal year.

(b) A State may not receive block grant amounts for a fiscal year until the State conducts a public hearing, after adequate public notice, on the proposed use and distribution of the amounts set out in the report prepared under subsection (a) of this section for the fiscal year.

(c) Each report prepared under subsection (a) of this section and changes to the report shall be made public in the State on a timely basis and in a way that encourages comments from interested local government and persons.

§ 7304. Availability of records

To evaluate and review the use of block grant amounts, consolidated assistance, and other grant programs established or provided for in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357), records related to the amounts, assistance, or programs that are in the possession, custody, or control of a State, a political subdivision of a State, or a grantee of a State or political subdivision of a State shall be made available to the Comptroller General.

§ 7305. State auditing requirements

(a) The chief executive officer of each State shall conduct financial and compliance audits of block grant amounts received under the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) and amounts received under a consolidated assistance program established or provided for in the Act. An audit shall be conducted for the 2-year period beginning on October 1, 1981, and for each 2-year period thereafter. As far as practicable, the audit shall be conducted consistent with standards the Comptroller General prescribes for the audit of governmental entities, programs, activities, and functions.

(b) An audit under subsection (a) of this section is in place of other financial and compliance audits of those amounts that the chief executive officer of the State is required to conduct under another provision of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35, 95 Stat. 357) unless the other provision, by explicit reference to this section, provides otherwise.

SUBTITLE VI—MISCELLANEOUS

Chapter		Sec.
91.	GOVERNMENT CORPORATIONS	9101
93.	SURETIES AND SURETY BONDS	9301
96.	GOVERNMENT PENSION PLAN PROTECTION	9601
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CHAPTER 91—GOVERNMENT CORPORATIONS

Sec.
9101. Definitions.
9102. Establishing and acquiring corporations.
9103. Budgets of wholly owned Government corporations.
9104. Congressional action on budgets of wholly owned Government corporations.
9105. Audits.
9106. Audit reports.
9107. Accounts.
9108. Obligations.
9109. Exclusion of a wholly owned Government corporation from this chapter.

§ 9101. Definitions

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) "mixed-ownership Government corporation" means—

(A) Amtrak.

(B) the Central Bank for Cooperatives.

(C) the Federal Deposit Insurance Corporation.

(D) the Federal Home Loan Banks.

(E) the Federal Intermediate Credit Banks.

(F) the Federal Land Banks.

(G) the National Credit Union Administration Central Liquidity Facility.

(H) the Regional Banks for Cooperatives.

(I) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(J) the United States Railway Association.

(K) the National Consumer Cooperative Bank.

(3) "wholly owned Government corporation" means—

(A) the Commodity Credit Corporation.

(B) the Export-Import Bank of the United States.

(C) the Federal Crop Insurance Corporation.

(D) Federal Prison Industries, Incorporated.

(E) the Federal Savings and Loan Insurance Corporation.

(F) the Government National Mortgage Association.

(G) the Overseas Private Investment Corporation.

(H) the Pennsylvania Avenue Development Corporation.

(I) the Pension Benefit Guaranty Corporation.

(J) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(K) the Saint Lawrence Seaway Development Corporation.

(L) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.

(M) the Tennessee Valley Authority. d

§ 9102. Establishing and acquiring corporations

An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

§ 9103. Budgets of wholly owned Government corporations

(a) Each wholly owned Government corporation shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President prescribes by regulation for the budget program.

(b) The budget program for each wholly owned Government corporation shall—

(1) contain estimates of the financial condition and operations of the corporation for the current and following fiscal years and the condition and results of operations in the last fiscal year;

(2) contain statements of financial condition, income and expense, and sources and use of money, an analysis of surplus or deficit, and additional statements and information to make known the financial condition and operations of the corporation, including estimates of operations by major activities, administrative expenses, borrowings, the amount of United States Government capital that will be returned to the Treasury during the fiscal year, and appropriations needed to restore capital impairments; and

(3) provide for emergencies and contingencies and otherwise be flexible so that the corporation may carry out its activities.

(c) The President shall submit the budget programs submitted by wholly owned Government corporations (as changed by the President) as part of the budget submitted to Congress under section 1105 of this title. The President thereafter may submit changes in a budget program of a corporation at any time.

§9104. Congressional action on budgets of wholly owned Government corporations

(a) Congress shall—

(1) consider budget programs for wholly owned Government corporations the President submits;

(2) make necessary appropriations authorized by law;

(3) make corporate financial resources available for operating and administrative expenses; and

(4) provide for repaying capital and the payment of dividends.

(b) This section does not—

(1) prevent a wholly owned Government corporation from carrying out or financing its activities as authorized under another law;

(2) affect section 26 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831y); or

(3) affect the authority of a wholly owned Government corporation to make a commitment without fiscal year limitation.

§ 9105. Audits

(a)(1) Under regulations of the Comptroller General, the Comptroller General shall audit financial transactions of—

(A) wholly owned Government corporations; and

(B) mixed-ownership Government corporations during periods in which capital of the United States Government is invested in a mixed-ownership Government corporation.

(2) The Comptroller General shall audit each Government corporation at least once every 3 years. The Comptroller General shall audit the Federal Savings and Loan Insurance Corporation and Federal home loan banks on a calendar year basis.

(b) In conducting an audit under subsection (a) of this section, the Comptroller General—

(1) to the greatest extent the Comptroller General considers practicable, shall use reports of examinations of a Government corporation that a supervising administrative agency makes; and

(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), may make a contract for professional services with a firm or organization for a temporary period or special purpose.

(c) An audit under subsection (a) of this section shall be conducted consistent with principles and procedures applicable to commercial corporate transactions where the accounts of a Government corporation usually are kept. A Government corporation shall—

(1) make available to the Comptroller General for audit all records and property of, or used by, the corporation that are necessary for the audit; and

(2) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, or custodians.

(d) Regulations prescribed under subsection (a) of this section may provide that any part of an account of an accountable official about a financial transaction of a wholly owned Government corporation sent to the Comptroller General for settlement may be kept at the office of the corporation and that the Comptroller General may settle any part of the account on the basis of an examination during an audit. This subsection does not affect the authority of the Tennessee Valley Authority under section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)).

(e) The Comptroller General shall pay the cost of an audit under this section. A Government corporation shall reimburse the Comptroller General for the cost of the audit as determined by the Comptroller General. The Comptroller General shall deposit the reimbursement in the Treasury as miscellaneous receipts. Except as expressly provided by law, a Government corporation may not pay the cost of a private audit of the financial records of the corporation.

(f) An audit under subsection (a) of this section is in place of an audit of the financial transactions of a Government corporation the Comptroller General is required to make in reporting to Congress or the President under another law.

(g) Necessary amounts are authorized to be appropriated to the Comptroller General to carry out this section.

§ 9106. Audit reports

(a) The Comptroller General shall submit to Congress a report on each audit of a Government corporation under section 9105 of this title not later than 6.5 months after the end of the last year covered by the audit. The report shall state the scope of the audit and include—

(1) a statement (showing intercorporate relations) of assets, liabilities, capital, and surplus or deficit;

(2) a statement of surplus or deficit analysis;

(3) a statement of income and expenditures;

(4) a statement of sources and the use of money;

(5) specifically each financial transaction or undertaking the Comptroller General believes was carried out or made without authority of law;

(6) comments and information the Comptroller General considers necessary to keep Congress informed about the operations and financial condition of the Government corporation, including a statement of impaired capital noticed and recommendations for the return of capital of the United States Government or the payment of dividends the Comptroller General believes should be made; and

(7) other recommendations the Comptroller General considers advisable.

(b) The Comptroller General shall give the President, the Secretary of the Treasury, and the Government corporation a copy of the report when it is submitted to Congress.

§ 9107. Accounts

(a) With the approval of the Comptroller General, a Government corporation may consolidate its cash into an account if the cash will be expended as provided by law.

(b) The Secretary of the Treasury shall keep the accounts of a Government corporation. If the Secretary approves, a Federal reserve bank or a bank designated as a depositary or fiscal agent of the United States Government may keep the accounts. The Secretary may waive the requirements of this subsection.

(c)(1) Subsection (b) of this section does not apply to maintaining a temporary account of not more than $50,000 in one bank.

(2) Subsection (b) of this section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(3) Subsection (b) of this section does not apply to the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, or the Federal Land Banks. However, the head of each of those banks shall report each year to the Secretary the names of depositaries where accounts are kept. If the Secretary considers it advisable when an annual report is received, the Secretary may make a written report to the corporation, the President, and Congress.

§ 9108. Obligations

(a) Before a Government corporation issues obligations and offers obligations to the public, the Secretary of the Treasury shall prescribe—

(1) the form, denomination, maturity, interest rate, and conditions to which the obligations will be subject;

(2) the way and time the obligations are issued; and

(3) the price for which the obligations will be sold.

(b) A Government corporation may buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than $100,000 only when the Secretary approves the purchase or sale. The Secretary may waive the requirement of this subsection under conditions the Secretary may decide.

(c) The Secretary may designate an officer or employee of an agency to carry out this section if the head of the agency agrees.

(d)(1) This section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(2) Subsections (a) and (b) of this section do not apply to the Rural Telephone Bank (when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))), the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, and the Federal Land Banks. However, the head of each of those banks shall consult with the Secretary before taking action of the kind described in subsection (a) or (b). If agreement is not reached, the Secretary may make a written report to the corporation, the President,

and Congress on the reasons for the Secretary's disagreement.

§ 9109. Exclusion of a wholly owned Government corporation from this chapter

When the President considers it practicable and in the public interest, the President shall include in the budget submitted to Congress under section 1105 of this title a recommendation that a wholly owned Government corporation be deemed to be an agency (except a corporation) under chapter II of this title and for fiscal matters. If Congress approves the recommendation, the corporation is deemed to be an agency (except a corporation) under chapter II and for fiscal matters for fiscal years beginning after the fiscal year of approval and is not subject to this chapter. The corporate entity is not affected by this section.

CHAPTER 93—SURETIES AND SURETY BONDS

Sec.
9301. Definitions.
9302. Prohibition against surety bonds for United States Government personnel.
9303. Use of Government obligations instead of surety bonds.
9304. Surety corporations.
9305. Authority and revocation of authority of surety corporations.
9306. Surety corporations acting outside area of incorporation and place of principal office.
9307. Civil actions and judgments against surety corporations.
9308. Civil penalty.
9309. Priority of sureties.

§ 9301. Definitions

In this chapter—

(1) "person" means an individual, a trust, an estate, a partnership, and a corporation.

(2) "Government obligation" means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.

§ 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

§ 9303. Use of Government obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond. The obligation shall—

(1) be given to the official having authority to approve the surety bond;

(2) be in an amount equal at par value to the amount of the required surety bond; and

(3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving a Government obligation under subsection (a) of this section may deposit it with—

(A) the Secretary of the Treasury;

(B) a Federal reserve bank; or

(C) a depositary designated by the Secretary.

(2) The Secretary, bank, or depositary shall issue a receipt that describes the obligation deposited.

(c) Using a Government obligation instead of a surety bond for security is the same as using—

(1) a personal or corporate surety bond;

(2) a certified check;

(3) a bank draft;

(4) a post office money order; or

(5) cash.

(d) When security is no longer required, a Government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d), files with the United States Government the application and affidavit provided under section 3 of the Act (40 U.S.C. 270c), the Government—

(1) may return to the contractor the Government obligation given as security (or proceeds of the Government obligation given) under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d), only after the 90-day period for bringing a civil action under section 2 of the Act (40 U.S.C. 270b); and

(2) if a civil action is brought in the 90-day period, shall hold the Government obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against a Government obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d); or

(B) this section;

(3) authority of a court over a Government obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive a Government obligation as security.

(f) To avoid frequent substitution of Government obligations, the Secretary may prescribe regulations limiting the effect of this section to a Government obligation maturing more than one year after the date the obligation is given as security.

§ 9304. Surety corporations

(a) When a law of the United States Government requires or permits a person to give a surety bond through a surety, the person satisfies the law if the surety bond is provided for the person by a corporation—

(1) incorporated under the laws of—

(A) the United States; or

(B) a State, the District of Columbia, or a territory or possession of the United States;

(2) that may under those laws guarantee—

(A) the fidelity of persons holding positions of trust; and

(B) bonds and undertakings in judicial proceedings; and

(3) complying with sections 9305 and 9306 of this title.

(b) Each surety bond shall be approved by the official of the Government required to approve or accept the bond. The official may not require that the surety bond be given through a guaranty corporation or through any particular guaranty corporation.

§ 9305. Authority and revocation of authority of surety corporations

(a) Before becoming a surety under section 9304 of this title, a surety corporation must file with the Secretary of the Treasury—

(1) a copy of the articles of incorporation of the corporation; and

(2) a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(b) The Secretary may authorize in writing a surety corporation to provide surety bonds under section 9304 of this title if the Secretary decides that—

(1) the articles of incorporation of the corporation authorize the corporation to do business described in section 9304(a)(2) of this title;

(2) the corporation has paid-up capital of at least $250,000 in cash or its equivalent; and

(3) the corporation is able to carry out its contracts.

(c) A surety corporation authorized under subsection (b) of this section to provide surety bonds shall file with the Secretary each January, April, July, and October a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(d) The Secretary—

(1) shall revoke the authority of a surety corporation to do new business if the Secretary decides the corporation is insolvent or is in violation of this section or section 9304 or 9306 of this title;

(2) may investigate the solvency of a surety corporation at any time; and

(3) may require additional security from the person required to provide a surety bond if the Secretary decides that a surety corporation no longer is sufficient security.

(e) A surety corporation providing a surety bond under section 9304 of this title may not provide any additional bond under that section if—

(1) the corporation does not pay a final judgment or order against it on the bond; and

(2) no appeal or stay of the judgment or order is pending 30 days after the judgment or order is entered.

§ 9306. Surety corporations acting outside area of incorporation and place of principal office

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

(1) may appear for the surety corporation;

(2) may receive service of process for the corporation;

(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits.

(b) The surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in

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which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

§ 9307. Civil actions and judgments against surety corporations

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304–9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;

(C) in which the surety bond is filed; and

(D) in which the person required to provide a surety bond resided when the bond was provided.

(b) In a proceeding against a surety corporation providing a surety bond under section 9304 of this title, the corporation may not deny its power to provide a surety bond or to assume liability.

§ 9308. Civil penalty

A surety corporation is liable to the United States Government for a civil penalty of at least $500 but not more than $5,000 for violating sections 9304, 9305, or 9306 of this title. A civil action under this section may be brought in a judicial district in which a civil action may be brought against the corporation under section 9307 of this title. A penalty imposed under this section does not affect the validity of a contract made by the surety corporation.

§9309. Priority of sureties

When a person required to provide a surety bond given to the United States Government is insolvent or dies having assets insufficient to pay debts, the surety, or the executor, administrator, or assignee of the surety paying the Government the amount due under the bond—

(1) has the same priority to amounts from the assets and estate of the person as are secured for the Government; and

(2) personally may bring a civil action under the bond to recover amounts paid under the bond.

CHAPTER 95—GOVERNMENT PENSION PLAN PROTECTION

Sec.
9501. Purpose.
9502. Definitions.
9503. Reports about Government pension plans.
9504. Review and recommendations.

§ 9501. Purpose

The purpose of this chapter is to protect the interests of the United States and of the participants and their beneficiaries in Government pension plans by requiring complete disclosure of the financial condition of those plans.

§ 9502. Definitions

In this chapter—

(1) "Government pension plan"—

(A) means a pension, annuity, retirement, or similar plan (except a plan covered under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or a plan or program financed by contributions required under chapter 21 or 22 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq., 3201 et seq.)) established or maintained by an agency, for any of its officers or employees, regardless of the number of participants covered by the plan; and

(B) includes—

(i) the Civil Service Retirement System.

(ii) the Coast Guard Retirement System.

(iii) the Commissioned Corps of the Public Health Service Retirement System.

(iv) the Farm Credit District Retirement Plans.

(v) the Federal Home Loan Bank Board Retirement Systems.

(vi) the Federal Home Loan Mortgage Corporation Plan.

(vii) the Federal Reserve Employees Retirement Plans.

(viii) the Foreign Service Retirement and Disability System.

(ix) judicial plans.

(x) the Military Retirement System.

(xi) the National Oceanic and Atmospheric Administration Retirement System.

(xii) nonappropriated fund plans.

(xiii) the Tennessee Valley Authority Retirement System.

(2) "plan year" means the calendar, policy, or fiscal year chosen by the Government pension plan on which the records of the plan are kept.

§ 9503. Reports about Government pension plans

(a) A Government pension plan is subject to section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) in the same way that an employee pension benefit plan is subject to section 103. However, section 103 applies to a Government pension plan for officers or employees of the Central Intelligence Agency only if the President specifically approves application of the requirements of section 103 in writing. In applying section 103 to a Government pension plan—

(1) the annual report shall be—

(A) in the form and include information the President, in consultation with the Comptroller General, prescribes or, if the pension plan is referred to in section 9502(1)(B) (iv)–(vii) or (ix) of this title, the Comptroller General prescribes; and

(B) submitted to Congress and to the Comptroller General by the end of the 210-day period beginning on the day after the last day of the plan year involved;

(2) a provision providing for waiver of, relief from, or exception to a requirement otherwise applicable to an employee pension benefit plan applies to a Government pension plan only if specifically authorized by the Comptroller General;

(3) section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)) does not apply;

(4) the report required by this chapter is in addition to other reports or projections required by law; and

(5) except for a Government pension plan referred to in section 9502(1)(B)(iv)–(vii) of this title, the Comptroller General shall conduct audits when appropriate instead of complying with the requirements for the independent qualified public accountant.

(b) This chapter does not prevent a Government pension plan from using the services of an enrolled actuary employed by an agency administering the plan.

§ 9504. Review and recommendations

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

(1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and

(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

CHAPTER 97—MISCELLANEOUS

Sec.
9701. Fees and charges for Government services and things of value.
9702. Investment of trust funds.

§ 9701. Fees and charges for Government services and things of value

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

(c) This section does not affect a law of the United States—

(1) prohibiting the determination and collection of charges and the disposition of those charges; and

(2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

§9702. Investment of trust funds

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

(1) shall be invested in Government obligations; and

(2) shall earn interest at an annual rate of at least 5 percent.

CONFORMING PROVISIONS

Sec. 2. (a) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Additional officers, Office of Management and Budget (6).".

(b) Title 10, United States Code, is amended as follows:

(1)(A) In sections 1479(2), 2206, 4592, and 9592, strike out "officer" and substitute "official".

(B) In section 2309(b), strike out "disbursing officer" and substitute "disbursing official".

(2)(A) Add immediately below item 1041 in the analysis of chapter 53 the following new item:

"1042. Copy of certificate of service.".

(B) Add at the end of chapter 53 the following new section:

"§ 1042. Copy of certificate of service

"A fee for a copy of a certificate showing service in the armed forces may not be charged to—

"(1) a person discharged or released from the armed forces honorably or under honorable conditions;

"(2) the next of kin of the person; or

"(3) a legal representative of the person.".

(3)(A) Add immediately below item 2360 in the analysis of chapter 139 the following new item:

"2361. Availability of appropriations.".

(B) Add at the end of chapter 139 the following new section:

"§ 2361. Availability of appropriations

"Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years.".

(4)(A) Add immediately below item 2393 in the analysis of chapter 141 the following new items:

"2394. Availability of appropriations for military equipment and supplies and construction of military public works.

"2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries.".

(B) Add at the end of chapter 141 the following new sections:

"§ 2394. Availability of appropriations for procurement of technical military equipment and supplies and construction of military public works

"Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies and the construction of military public works remain available until spent.

"§ 2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries

"(a) An advance under an appropriation to the Department of Defense may be made to pay for—

"(1) compliance with laws and ministerial regulations of a foreign country;

"(2) rent in a foreign country for periods of time determined by local custom; and

"(3) tuition.

"(b)(1) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, an officer of an armed force of the United States accountable for public money may advance amounts to a disbursing official of a friendly foreign country or members of an armed force of a friendly foreign country for—

"(A) pay and allowances to members of the armed force of that country; and

"(B) necessary supplies and services.

"(2) An advance may be made under this subsection only if the President has made an agreement with the foreign country—

"(A) requiring reimbursement to the United States for amounts advanced;

"(B) requiring the appropriate authority of the country to advance amounts reciprocally to members of the armed forces of the United States; and

"(C) containing another provision the President considers necessary to carry out this subsection and to safeguard the interests of the United States.".

(5)(A) Add immediately below item 2635 in the analysis of chapter 157 the following new item:

"2636. Deductions from carriers because of loss or damage to material in transit.".

(B) Add at the end of chapter 157 the following new section:

"§ 2636. Deductions from carriers because of loss or damage to material in transit

"An amount deducted from an amount due a carrier because of loss of or damage to material in transit for a military department shall be credited to the proper appropriation, account, or fund from which the same or similar material may be replaced.".

(6)(A) Insert between items 2661 and 2662 in the analysis of chapter 159 the following new item:

"2661a. Appropriations for advance planning of military public works.".

(B) Insert between sections 2661 and 2662 the following new section:

"§ 2661a. Appropriations for advance planning of military public works

"(a) There are authorized to be appropriated to the Department of Defense, to remain available until spent, funds for advance planning, construction design, and architectural services for—

"(1) military public works projects not otherwise authorized; and

"(2) construction management of projects funded by governments of foreign countries directly or through international organizations for which the armed forces of the United States are the sole or primary user.

"(b) The Secretary of Defense may not enter into a transaction for a military public works project for which estimated advance planning, construction design, and architectural services costs of at least $225,000 will be funded under this section until after the expiration of 30 days from the date on which a report of the project and the estimated costs is submitted to the Committees on Armed Services of the Senate and the House of Representatives.".

(7)(A) Amend item 2773 in the analysis of chapter 165 to read as follows:

"2773. Designation, powers, and accountability of deputy disbursing officials.".

(B) Amend section 2773 to read as follows:

"§ 2773. Designation, powers, and accountability of deputy disbursing officials

"(a)(1) With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department may designate a deputy disbursing official—

"(A) to make payments as the agent of the disbursing official;

"(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

"(C) to carry out other duties required under law.

"(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

"(b)(1) If a disbursing official of any military department dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the 2d month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

"(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.".

(8)(A) Add immediately below item 2775 in the analysis of chapter 165 the following new items:

"2776. Use of receipts of public money for current expenditures.

"2777. Requisitions for advances and removal of charges outstanding in accounts of advances.

"2778. Accounts of the military departments.

"2779. Use of funds because of fluctuations in currency exchange rates of foreign countries.".

(B) Add at the end of chapter 165 the following new sections:

"§ 2776. Use of receipts of public money for current expenditures

"Without deposit to the credit of the Secretary of the Treasury and without withdrawal on money requisitions, a disbursing official of the Department of Defense may use receipts of public money charged in the disbursing official's accounts (except receipts to be credited to river, harbor, and flood control appropriations) for current expenditures, with necessary bookkeeping adjustments being made.

"§ 2777. Requisitions for advances and removal of charges outstanding in accounts of advances

"(a) The Secretary of a military department may issue to a disbursing official or agent of the department a requisition for an advance of not more than the total appropriation for the department. The amount advanced shall be—

"(1) under an 'account of advances' for the department;

"(2) on a proper voucher;

"(3) only for obligations payable under specific appropriations;

"(4) charged to, and within the limits of, each specific appropriation; and

"(5) returned to the account of advances.

"(b) A charge outstanding in an account of advances of a military department shall be removed by crediting the account of advances of the department and deducting the amount of the charge from an appropriation made available for advances to the department when—

"(1) relief has been granted or may be granted later to a disbursing official or agent of the department operating under an account of advances and under a law having no provision for removing charges outstanding in an account of advances; or

"(2) the charge has been—

"(A) outstanding in the account of advances of the department for 2 complete fiscal years; and

"(B) certified by the head of the department to the Comptroller General as uncollectable.

"(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.

"§ 2778. Accounts of the military departments

"The Comptroller General shall—

"(1) maintain all accounts of—

"(A) receipts and expenditures of public money in the military departments; and

"(B) debts due the United States on moneys advanced for the department;

"(2) preserve settled accounts, vouchers, and certificates;

"(3) record all requisitions drawn by the Secretary of the department;

"(4) each year on the first Monday in November, report to the Secretary of the Treasury on the application of money appropriated for the military departments; and

"(5) report on the accounts of the military departments as the Secretary of the department requires.

"§ 2779. Use of funds because of fluctuations in currency exchange rates of foreign countries

"(a)(1) Funds transferred from the appropriation 'Foreign Currency Fluctuations, Defense' may be transferred back to the appropriation—

"(A) when the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; and

"(B) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay the obligations.

"(2) A transfer back to the Foreign Currency Fluctuations, Defense appropriation may not be made after the end of the 2d fiscal year after the fiscal year that the appropriation to which the funds were originally transferred is available for obligation.

"(b)(1) One hundred million dollars, plus $25,000,000 from Family Housing, Defense, are appropriated to the Secretary of Defense, to remain available until spent. The appropriation is available only to provide funds to eliminate losses in military construction or expenses of family housing for the Department of Defense caused by fluctuations in currency exchange rates of foreign countries that changed after a budget request was submitted to Congress.

"(2) Funds provided under this subsection are merged with and are available for the same purpose and for the same time period as the appropriation to which they are applied. An authorization or limitation limiting the amount that may be obligated or spent is increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(3) An obligation payable in the currency of a foreign country may be recorded as an obligation based on exchange rates used in preparing a budget submission. A change reflecting fluctuations in the exchange rate may be recorded as a disbursement is made.

"(4) The Secretary each year shall report to Congress on funds made available under this subsection.".

(9)(A) Add immediately below item 4540 in the analysis of chapter 433 the following new item:

"4541. Gratuitous services of officers of the Army Reserve.".

(B) Add at the end of chapter 433 the following new section:

"§ 4541. Gratuitous services of officers of the Army Reserve

"The Secretary of the Army may accept the gratuitous services of officers of the Army Reserve in enrolling, organizing, and training members of the Army Reserve or the Reserve Officers' Training Corps, or in consulting on matters related to the armed forces.".

(10)(A) Add immediately below item 4840 in the analysis of chapter 453 the following new items:

"4841. Payment of small amounts to public creditors.
"4842. Settlement of accounts of line officers.".

(B) Add at the end of chapter 453 the following new sections:

"§ 4841. Payment of small amounts to public creditors

"When authorized by the Secretary of the Army, a disbursing official of Army subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

"§ 4842. Settlement of accounts of line officers

"The Comptroller General shall settle the account of a line officer of the Army for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.".

(11)(A) Add immediately below item 7230 in the analysis of chapter 631 the following new item:

"7231. Accounting for expenditures for obtaining information.".

(B) Add at the end of chapter 631 the following new section:

"§ 7231. Accounting for expenditures for obtaining information

"When the Secretary of the Navy decides that an expenditure by the Department of the Navy from an appropriation for obtaining information from anywhere in the world may be made public, the expenditure shall be accounted for specifically. When the Secretary decides that an expenditure should not be made public, the Secretary shall make a certificate on the amount of the expenditure. The certificate is a sufficient voucher for the amount stated to have been spent.".

(12)(A) Add immediately below item 659 in the analysis of subtitle C the following new item:

"661. Accountability and responsibility........ 7861".

(B) Add at the end of subtitle C the following new chapter:

"CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY

"Sec.
"7861. Accounts of paymasters of lost or captured public vessels.
"7862. Disbursements by order of commanding officer.

"§ 7861. Accounts of paymasters of lost or captured public vessels

"When settling the account of a paymaster of a lost or captured naval vessel, the Comptroller General in settling money accounts, and the Secretary of the Navy in settling property accounts, shall credit the account of the paymaster for the amount of provisions, clothing, small stores, and money for which the paymaster is charged that the Comptroller General or Secretary believes was lost inevitably because of the loss or capture. The paymaster is then free of liability for the provisions, clothing, small stores, and money.

"§ 7862. Disbursements by order of commanding officer

"When settling an account of a disbursing official, the Comptroller General shall allow disbursements of public moneys or disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that the money was paid or the stores disposed of as the order provided. The commanding officer is accountable for the disbursement or disposal.".

(13)(A) Add immediately below item 9540 in the analysis of chapter 933 the following new item:

"9541. Gratuitous services of officers of the Air Force Reserve.".

(B) Add at the end of chapter 933 the following new section:

"§ 9541. Gratuitous services of officers of the Air Force Reserve

"The Secretary of the Air Force may accept the gratuitous services of officers of the Air Force Reserve in enrolling, organizing, and training members of the Air Force Reserve or the Reserve Officers' Training Corps, or in consulting on matters related to the armed forces.".

(14)(A) Add immediately below item 9840 in the analysis of chapter 953 the following new items:

"9841. Payment of small amounts to public creditors.
"9842. Settlement of accounts of line officers.".

(B) Add at the end of chapter 953 the following new sections:

"§ 9841. Payment of small amounts to public creditors

"When authorized by the Secretary of the Air Force, a disbursing official of Air Force subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

"§ 9842. Settlement of accounts of line officers

"The Comptroller General shall settle the account of a line officer of the Air Force for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.".

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end the following new paragraph:

"The terms 'bonds and notes of the United States', 'bonds and notes of the Government of the United States', and 'bonds or notes of the United States' used in this Act shall be held to include certificates of indebtedness and Treasury bills issued under section 3104 of title 31.".

(d) Title 18, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 33, strike out item 714.

(B) Strike out section 714.

(2)(A) Insert at the beginning of section 3059 the designation "(a)(1)".

(B) Insert before the word "If" the designation "(2)".

(C) Add at the end of the section the following new subsection:

"(b) The Attorney General each year may spend not more than $10,000 for services or information looking toward the apprehension of narcotic law violators who are fugitives from justice.".

(3)(A) Insert between items 3150 and 3151 in the analysis of chapter 207 the following new item:

"3150a. Refund of forfeited bail.".

(B) Insert between sections 3150 and 3151 the following new section:

"§ 3150a. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the general fund of the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(4)(A) Add immediately below item 4042 in the analysis of chapter 303 the following new item:

"4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons.".

(B) Add at the end of chapter 303 the following new section:

"§ 4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons

"The Attorney General may accept gifts or bequests of money for credit to the 'Commissary Funds, Federal Prisons'. A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).".

(e) The Act of April 25, 1940 (22 U.S.C. 2668), is amended—

(1) by inserting at the beginning of the text of the Act the subsection designation "(a)"; and

(2) by adding at the end of the Act the following new subsections:

"(b) A charge outstanding in the 'State account of advances' shall be removed by crediting the account of advances and deducting the amount of the charge from an appropriation made available for advances to the Department of State when—

"(1) relief has been granted or may be granted later to a disbursing official or agent of the Department operating under the account of advances and under a law having no provision for removing charges outstanding in the account of advances; or

"(2) the charge has been—

"(A) outstanding in the account of advances for 2 complete fiscal years; and

"(B) certified by the Secretary of State to the Comptroller General as uncollectable.

"(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.".

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7801(c), insert immediately after "in this section" the following: "or section 301(f) of title 31".

(2) In section 7802(b)—

(A) insert immediately before "There" the following:

"(1) Establishment of Office.—".

(B) Add at the end of section 7802(b) the following new paragraph:

"(2) Authorization of appropriations.—There is authorized to be appropriated to the Department of the Treasury to carry out the functions of the Office an amount equal to the sum of—

"(A) so much of the collections from taxes imposed under section 4940 (relating to excise tax based on investment income) as would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year; and

"(B) the greater of—

"(i) an amount equal to the amount described in paragraph (A); or

"(ii) $30,000,000.".

(g) Title 28, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 31, strike out—

"524. Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs."

and substitute—

"524. Availability of appropriations.".

(B) In the catchline of section 524, strike out—

"Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs"

and substitute—

"Availability of appropriations".

(C) Insert at the beginning of the text of section 524 the subsection designation "(a)".

(D) Add at the end of section 524 the following new subsection:

"(b) Except as provided in subsection (a) of this section, a claim of not more than $500 for expenses related to litigation that is beyond the control of the Department may be paid out of appropriations currently available to the Department for expenses related to litigation when the Comptroller General settles the payment.".

(2) Add at the end of section 571 the following new subsection:

"(d) Appropriations for salaries, expenses, and fees of marshals are available for advances with the approval of the Attorney General.".

(3)(A) Insert between items 572 and 573 in the analysis of chapter 37 the following new item:

"572a. Depositing public moneys.".

(B) Insert between sections 572 and 573 the following new section:

"§ 572a. Depositing public moneys

"Except for public moneys deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into a checking account in the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.".

(4)(A) In the analysis of chapter 129, strike out—

"2041. Deposit."

and substitute—

"2041. Deposit of moneys in pending or adjudicated cases.".

(B) Add immediately below item 2042 in the analysis of the chapter the following new item:

"2043. Deposit of other moneys.".

(C) In the catchline of section 2041, strike out—

"Deposit"

and substitute—

"Deposit of moneys in pending or adjudicated cases".

(D) In section 2042, insert the words—

(i) "under section 2041 of this title" immediately after "No money deposited" in the first paragraph; and

(ii) "under section 2041" immediately after "deposited in court" in the last paragraph.

(E) Add at the end of chapter 129 the following new section:

"§ 2043. Deposit of other moneys

"Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.".

(5) Effective on the later of October 1, 1982, or the date of enactment of this Act, amend section 2516(b) to read as follows:

"(b) Interest on a judgment against the United States affirmed by the Supreme Court after review on petition of the United States is paid at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately before the date of the judgment.".

(h) Section 107 of title 32, United States Code, is amended by adding at the end the following new subsection:

"(c) The pay and allowances for the Chief of the National Guard Bureau and officers of the Army National Guard of the United States or the Air National Guard of the United States called to active duty under section 3496 or 8496 of title 10 shall be paid from appropriations for the pay of the Army National Guard or Air National Guard.".

(i) Title 37, United States Code, is amended as follows:

(1) Add at the end of section 406 the following new subsection:

"(j) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation.".

(2)(A) Add immediately below item 1011 in the analysis of chapter 19 the following new item:

"1012. Disbursement and accounting.".

(B) Add at the end of chapter 19 the following new section:

"§ 1012. Disbursement and accounting

"Amounts appropriated under sections 206(a), (b), and (d), 301(f), 309, 402(b) (last sentence), and 1002 of this title for pay of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the Secretary concerned. Disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the Secretary concerned, and on payrolls prepared and authenticated under the regulations.".

(j) Section 203 of title 38, United States Code, is amended—

(1) by inserting at the beginning of the text of the section the subsection designation "(a)"; and

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(2) by adding at the end of the section the following new subsection:

"(b) An appropriation may be used for a settlement of more than $1,000,000 on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is not provided for specifically in an appropriation law.".

(k) Section 409 of title 39, United States Code, is amended by adding at the end the following new subsection:

"(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.".

(l) Effective on the date prescribed by section 396(i) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 441), the following sections of title 31 (enacted by section 1 of this Act), United States Code, are amended as follows:

(1) In section 9101(2), strike out—

"(K) the National Consumer Cooperative Bank.".

(2) In sections 9107(c)(3) and 9108(d)(2), strike out "the National Consumer Cooperative Bank,".

(m) Effective on the later of October 1, 1982, or the date of enactment of this Act—

(1) section 1961(b) of title 28, United States Code, as added by section 302(a)(3) of the Federal Courts Improvement Act of 1982 (Public Law 97-164; 96 Stat. 56), is amended by striking out "title 28, United States Code, and section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substituting "this title and section 1304(b)(1) of title 31";

(2) section 1304 of title 31 (as enacted by section 1 of this Act), United States Code, is amended—

(A) in subsection (b)(1)(A), by striking out the words "under section 2411(b) of title 28"; and

(B) in subsection (b)(1)(B), by striking out the words "Court of Claims" and substituting "Court of Appeals for the Federal Circuit or the United States Claims Court"; and

(3) sections 155, 160(11), and 302(c) and (d) of the Federal Courts Improvement Act of 1982 (Public Law 97-164, 96 Stat. 47, 48, 56) are repealed.

CONFORMING CROSS-REFERENCES

SEC. 3. (a) Title 5, United States Code, is amended as follows:

(1) In section 575(c)(13), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(2) In section 1205(j), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(3) In section 3102(b)(1)(C), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(4) In section 3109(a)(2), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(5) In section 3111(b), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(6) In section 3374(c)(2), strike out "section 638a of title 31" and substitute "sections 1343, 1344, and 1349(b) of title 31".

(7) In section 3381(d), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(8) In section 4101(1)(C), strike out "sections 846-852 or 856-859 of title 31" and substitute "chapter 91 of title 31".

(9) In section 4109(a)(2), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(10) In section 5307(a), strike out "section 665 of title 31" and substitute "sections 1341, 1342, and 1349-1351 and subchapter II of chapter 15 of title 31".

(11) In section 5349(b), strike out "section 180 of title 31" and substitute "section 5141 of title 31".

(12) In section 5514(b), strike out "section 581d of title 31" and substitute "section 3530(d) of title 31".

(13) In section 5545(a), strike out "section 180 of title 31" and substitute "section 5141 of title 31".

(14) In section 5721(5), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(15) In sections 5923(2) and 5924(4)(A), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(16) In section 7903, strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(17) In section 8147(c), strike out "section 856 of title 31" and "sections 841-869 of title 31" and substitute "section 9101(2) of title 31" and "chapter 91 of title 31", respectively.

(b) Title 10, United States Code, is amended as follows:

(1) In section 139(a), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(2) Strike out the last sentence of section 140a.

(3) In section 2127(b), strike out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(4) In section 2205, strike out "the Act of March 4, 1915 (31 U.S.C. 686)" and substitute "sections 1535 and 1536 of title 31".

(5) In section 2212, strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(6) In section 2388(c), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(7) In section 2633(a), strike out "section 3678 of the Revised Statutes (31 U.S.C. 628)" and substitute "section 1301(a) of title 31".

(8) In section 6154, strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(9) In section 7522(b), strike out "Section 3648 of the Revised Statutes (31 U.S.C. 529)" and substitute "Section 3324(a) and (b) of title 31".

(10) In section 7605, strike out "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)" and substitute "section 3302(a) of title 31".

(c) Sections 345 and 15345 of title 11, United States Code, are each amended by striking out "section 15 of title 6" and substituting "section 9303 of title 31".

(d) Section 659 of title 14, United States Code, is amended by striking out "section 1 of the Act of July 25, 1956, as amended (31 U.S.C. 701)" and substituting "section 1352(a) of title 31".

(e) Title 18, United States Code, is amended as follows:

(1) In section 1906, strike out "section 117(e) of the Accounting and Auditing Act of 1950" wherever it appears and substitute "section 714 of title 31".

(2) In section 4109(2), strike out "section 3648 of the revised statutes as amended (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(3) In section 4204(b)(1), strike out "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(4) In section 4204(b)(2), strike out "section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(5) In section 4284(a), strike out "(31 U.S.C. 725s(22))" and substitute "in section 1321(a)(22) of title 31".

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In sections 170(k)(7) and 2055(f)(6), strike out "section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)" and substitute "section 4043 of title 18, United States Code".

(2) In section 2055(f)(7), strike out "section 24 of the Second Liberty Bond Act (31 U.S.C. 757e)" and substitute "section 3113(e) of title 31, United States Code".

(3) In sections 5177(b)(1) and 5403(3), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(4) In section 6103(i)(6)(A)(i), strike out "section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67)" and substitute "section 713 of title 31, United States Code".

(5) In section 6103(l)(4)(A)(ii), strike out "section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026)" and substitute "section 330 of title 31, United States Code".

(6) In section 6103(m)(2), strike out "section 3 of the Federal Claims Collection Act of 1966" and substitute "section 3711 of title 31, United States Code".

(7) In section 6326(6), strike out "R.S. 3466 (31 U.S.C. 191)" and substitute "section 3713(a) of title 31, United States Code".

(8) In section 6422(10), strike out "R.S. 3477 (31 U.S.C. 203)" and substitute "section 3727 of title 31, United States Code".

(9) In section 6422(11), strike out "the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)" and substitute "section 3728 of title 31, United States Code".

(10) In section 6901(a)(1)(B), strike out "section 3467 of the Revised Statutes (31 U.S.C. 192)" and substitute "section 3713(b) of title 31, United States Code".

(11) In section 7101(2), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(12) In section 7123—

(A) strike out of subsection (a) the following:

"(a) Criminal penalties"; and

(B) strike out subsection (b).

(13) In section 7421(b)(2), strike out "section 3467 of the Revised Statutes (31 U.S.C. 192)" and substitute "section 3713(b) of title 31, United States Code".

(14) In section 7430(6), strike out "R.S. 3466 (31 U.S.C. 191)" and substitute "section 3713(a) of title 31, United States Code".

(15) In section 7485(b)(2), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(g) Section 1828(b) of title 28, United States Code, is amended by striking out "section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a)" and substituting "section 9701 of title 31".

(h) Title 32, United States Code, is amended as follows:

(1) In section 334(a), strike out "section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substitute "section 1304 of title 31".

(2) In section 710(d), strike out "(31 U.S.C. 725c(b)(22))".

(i) Section 42(b) of title 35, United States Code, is amended by striking out ", the provisions of section 725e of title 31, United States Code, notwithstanding".

(j) Section 1006(h) of title 37, United States Code, is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) of title 31".

(k) Title 38, United States Code, is amended as follows:

(1) In section 620A(d)(1), strike out "the Act of March 4, 1915 (31 U.S.C. 686)" and substitute "sections 1535 and 1536 of title 31".

(2) In section 1632, strike out—

(A) "subsection (a) of section 725s of title 31" and substitute "section 1322(a) of title 31"; and

(B) "the last proviso of that subsection" and substitute "section 1322(a)".

(3) In section 1820(a)(6), strike out "section 3617, Revised Statutes (31 U.S.C. 484)" and substitute "section 3302(b) of title 31".

(4) In sections 3021(a) and 3109(a), strike out "sections 123-128 of title 31" and substitute "sections 3329 and 3330 of title 31".

(5) In section 3204, strike out "the last proviso of subsection (a) of section 725s of title 31" and substitute "section 1322(a) of title 31".

(6) In section 4118(g)(3), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(7) In section 4142(f)(2), strike out "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(8) In the first sentence of section 4206, strike out "corporations by sections 841-869 of title 31," and substitute "corporations by chapter 91 of title 31,".

(9) In sections 5202(d) and 5220(a), strike out "section 725s(a)(45) of title 31" and substitute "section 1321(a)(45) of title 31".

(l) Title 39, United States Code, is amended as follows:

(1) In section 2003(e)(1), strike out "section 665 of title 31" and substitute "subchapter II of chapter 15 of title 31".

(2) In section 2009, strike out "section 11 of title 31" and substitute "section 1105 of title 31".

(m) Title 44, United States Code, is amended as follows:

(1) In section 308(c)(1), strike out "section 244 of title 31" and substitute "section 3726 of title 31".

(2) In section 309(d), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(3) In section 3519, strike out "section 313 of the Budget and Accounting Act of 1921, as amended" and substitute "section 716 of title 31".

(n) Section 11706(f) of title 49, United States Code, is amended by striking out "section 244 of title 31" and substituting "section 3726 of title 31".

(o)(1) Rule XLIX of the Rules of the House of Representatives is amended as follows:

(A) In clause 2—

(i) strike out "the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b)" and substitute "section 3101(b) of title 31, United States Code,"; and

(ii) strike out "section 21 of the Second Liberty Bond Act" and substitute "section 3101(b) of title 31".

(B) In clause (5)—

(i) strike out "the Second Liberty Bond Act" and substitute "chapter 31 of title 31, United States Code,";

(ii) strike out "section 21 of such Act" and substitute "section 3101(b) of title 31"; and

(iii) strike out "the second sentence thereof" and substitute "section 3101(a) of title 31".

(2) This subsection—

(A) is enacted as an exercise of the rulemaking power of the House of Representatives; and

(B) may be changed by the House at any time, in the same way, and to the same extent as any other rule of the House, under the constitutional right of the House to change its rules.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 4. (a) Sections 1-3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-3 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-3 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 5. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1874				
Jan. 29	19		18	6
May 12	168		18	45
June 20	328	1 (4th par. under heading "Mint at Denver, Colorado"), 4, 5	18	97, 109
	343	6	18	124
June 22	419		18	202
June 23	455	1 (3d par. under heading "National Currency", par. immediately before heading "Smithsonian Institution")	18	206, 216
	476		18	275
1875				
Jan. 14	15		18	296
Feb. 18	80	1 (3d, 4th complete pars. on p. 317, 11th par. on p. 319)	18	317, 319
Mar. 3	129	1 (6th par. 3d sentence under heading "War Department")	18	350
	130	2 (pars. for the offices of the Auditors)	18	387
	149		18	481
1876				
June 30	156	5	19	64
July 22	P.R. 17	1 (words after last semicolon)	19	215
1877				
Feb. 27	69	(3d–9th, 11th, 13th complete pars. on p. 249)	19	249
Mar. 3	105	(provisos in par. under heading "Bureau of Engraving and Printing")	19	353
1878				
Feb. 28	20		20	25
May 31	146		20	87
June 8	170		20	102
June 19	312		20	167
	329	1 (1st, 2d sentences on p. 191, last par. under heading "Mint at Denver, Colorado", par. immediately before heading "Office of the Attorney-General").	20	191, 205

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Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1879				
Feb. 14	68	(2d par. words after 1st semicolon under heading "Bureau of Provisions and Clothing")	20	288
June 9	12		21	7
June 21	34	3 (last sentence words after semicolon)	21	30
Dec. 22	2		21	50
1881				
Feb. 1	33		21	322
Mar. 1	95		21	374
Mar. 3	133	2	21	457
1882				
May 26	190		22	97
June 22	236		22	108
July 12	290	12	22	165
Aug. 5	389	5	22	256
Aug. 7	433	1 (2d, 6th complete pars. on p. 312)	22	312
1883				
Mar. 3	143	(2d proviso on p. 616)	22	616
1884				
July 5	217	(last par.)	23	113
July 7	334	3 (proviso and sentence immediately after proviso under heading "War Department")	23	258
1885				
Feb. 16	123		23	306
1886				
Mar. 31	41		24	9
1887				
Mar. 3	362	(last par. under heading "Engraving and Printing")	24	515
	396	3	24	635
1889				
Mar. 2	411	1 (5th proviso under heading "Engraving and Printing", par. under heading "Vaults for Storage of Silver")	25	945, 955
1890				
June 30	640	(1st par. last sentence under heading "Bureau of Provisions and Clothing")	26	197
July 11	667	1 (1st par. under heading "Treasury Department")	26	236
July 14	708		26	289
Aug. 30	837	1 (3d proviso under heading "Pay"), 4	26	399, 413
Sept. 26	944		26	484
	945		26	485
Oct. 1	1256	9	26	646
1891				
Feb. 24	284	(par. under heading "Military Telegraph Lines")	26	779
Mar. 3	541	1 (1st par. words between 1st and 2d semicolons under heading "Auditor of the Treasury for the Post Office Department"), 3	26	920, 948
1892				
July 16	196	1 (par. immediately before heading "Third Auditor")	27	194
1893				
Feb. 27	168	(2d proviso on p. 479)	27	479
Mar. 1	8		28	4
1894				
Mar. 29	49		28	47
July 31	174	4, 5 (1st par.), 6, 7 (less par. amending § 456), 8–16, 19–27	28	205, 206, 207, 210
Aug. 13	281		28	278
Aug. 27	349	25	28	552
1895				
Mar. 2	177	4	28	807
	187	(1st par. under heading "Treasury Department")	28	844
1896				
May 28	252	1 (par. immediately before heading "Treasury Department"), 5	29	148, 179
June 8	373	(last par. under heading "Engraving and Printing")	29	275
June 11	420	1 (6th par. on p. 414)	29	414
1897				
Feb. 19	265	1 (2d par. under heading "Office of Comptroller of the Treasury")	29	550
Mar. 3	376		29	624
June 4	2	1 (4th proviso on p. 18, 1st par. under heading "Recoinage, Reissue, and Transportation of Minor Coins")	30	18, 27
1898				
Mar. 11	57		30	274
May 21	348		30	420
June 13	448	32, 34	30	466, 467
July 7	571	(7th par. under heading "Mints and Assay Offices")	30	661
1900				
Mar. 14	41	1, 3–8, 11, 14	31	45, 46, 48, 49
June 6	791	1 (proviso in par. under heading "Back Pay and Bounty")	31	637
1901				
Mar. 2	800		31	877
	803	(3d par. on p. 910)	31	910
Mar. 3	867		31	1446
1902				
May 27	887	(1st par. under heading "State Claims")	32	235
June 3	985	(last par.)	32	303
June 28	1301	1 (8th par. related to supplies for U.S. courts and judicial officers)	32	476
	1302	8 (words between 6th comma and proviso)	32	484

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1903				
Feb. 14	552	2	32	826
Mar. 3	1010	(par. under heading "Clothing and Small-Stores Fund")	32	1191
1904				
Mar. 18	716	1 (proviso on p. 109)	33	109
Apr. 13	1253	6	33	178
Apr. 28	1762	1 (proviso immediately before heading "Revenue-Cutter Service")	33	460
1905				
Mar. 3	1484	4	33	1257
Dec. 21	3	1	34	5
1906				
Feb. 27	510	3	34	48
Mar. 23	1129		34	84
Apr. 24	1861		34	132
May 26	2558		34	202
June 12	3078	(4th par. under heading "National Trophy and Medals for Rifle Contests")	34	258
June 19	3434		34	301
June 30	3914	3, 7–10	34	762, 763
1907				
Feb. 26	1635	1 (2d par. under heading "Treasury Department")	34	949
Mar. 2	2507	(par. immediately before heading "Board of Ordnance and Fortification")	34	1062
	2511	(proviso on p. 1166, proviso words before 1st semicolon under heading "Incidental Expenses")	34	1166, 1167
Mar. 4	2913	1, 2	34	1289
	2918	1 (1st par. under heading "Back Pay and Bounty", 3d par. under heading "United States Courts")	34	1356, 1360
1908				
May 18	173		35	164
May 26	198	1 (last par. on p. 295)	35	295
May 27	206	(last par. on p. 411, par. beginning on p. 415 amending §§ 3646, 3647)	35	411, 415
May 30	223		35	474
1909				
Feb. 23	174		35	643
Mar. 3	252	(last par. beginning on p. 750)	35	750
	269	10	35	842
Mar. 4	297	1 (proviso on p. 866)	35	866
	299	7–9	35	1027
	314		35	1065
Aug. 5	6	39, 40	36	117
1910				
Feb. 4	25		36	192
Mar. 2	71		36	231
June 17	297	1 (par. immediately before heading "Office of the Supervising Architect")	36	487
June 25	384	7, 8	36	773
	385	(last par. on p. 776, 1st–3d pars. immediately before heading "Bureau of Navigation")	36	776, 792
1911				
Mar. 2	190		36	964
	195		36	1013
Mar. 3	209	(par. immediately before heading "Ordnance Department")	36	1056
Mar. 4	237	1 (last par. under heading "Office of Comptroller of the Treasury")	36	1190
	239	(2d proviso, 3d proviso 1st–24th words under heading "Contingent, Navy", last par. on p. 1279)	36	1267, 1279
	242	(par. immediately before heading "Board of Ordnance and Fortification")	36	1344
	267		36	1354
	268		36	1354
	285	1 (par. immediately before heading "Life-Saving Service")	36	1387
1912				
Aug. 23	350	1 (last par. under heading "Office of the Comptroller of the Treasury", last par. under heading "Assay Office at Salt Lake City, Utah", 2d par. under heading "Department of Justice"), 6, 7, 9.	37	375, 384, 404, 414, 415
Aug. 24	355	1 (4th par. under heading "Engraving and Printing"), 7	37	430, 487
Aug. 26	408	1 (2d par. words before 1st proviso under heading "Treasury Department")	37	595
1913				
Mar. 2	93	(1st, 2d provisos on p. 710)	37	710
Mar. 4	141	2 (last sentence)	37	737
	142	4	37	790
June 23	3	3	38	75
Dec. 23	6	11(n), 26	38	251, 274
1914				
Apr. 27	72	(last proviso beginning on p. 363, par. immediately before heading "Ordnance Department")	38	363, 369
June 30	130	(par. immediately before heading "Bureau of Construction and Repair", 5th par. under heading "Increase of the Navy")	38	405, 413
July 6	136		38	454
July 16	141	1 (12th complete par. on p. 471), 5	38	471, 508
1915				
Mar. 4	142	10	38	1054
	143	1 (last proviso beginning on p. 1078, 3d proviso on p. 1080, 3d proviso on p. 1084)	38	1078, 1080, 1084
	147	4	38	1161
1916				
Mar. 21	52		39	37
June 3	134	124 (proviso)	39	216
June 12	142		[illegible]	225
July 1	209	1 (3d par. on p. 275, 2d par. on p. 277)	39	275, 277
Aug. 11	313	(last proviso on p. 491)	39	491
	314	(1st proviso on p. 504)	39	504
Aug. 29	417	(2d proviso under heading "Pay, Miscellaneous")	39	557
	418	1 (5th proviso on p. 622, 1st proviso on p. 635)	39	622, 635
Sept. 7	451	13 (proviso)	39	733
Sept. 8	464	1 (pars. under heading "United States Employees' Compensation Commission")	39	821

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Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page
1917				
Mar. 3	150	400 (last proviso), 401	39	1083
	163	1 (1st par. under heading "Treasury Department")	39	1083
Apr. 24	4		40	35
May 12	12	(3d proviso on p. 72)	40	72
June 12	27	1 (4th par. under heading "Miscellaneous Objects, Treasury Department")	40	118
July 9	36		40	242
Sept. 24	56		40	288
Oct. 6	79	1 (1st par. under heading "Office of the Secretary")	40	347
1918				
Apr. 4	44		40	502
Apr. 23	63		40	535
June 1	91		40	594
July 1	114	(2d proviso under heading "Bureau of Ordnance")	40	721
July 9	142		40	844
	143	ch. III (1st par.), ch. XVIII (last par.)	40	878, 892
Sept. 24	176	2, 7	40	966, 967
Nov. 4	201	1 (last par. under heading "Post Office Department")	40	1035
Dec. 2	1		40	1051
1919				
Mar. 3	99	6	40	1300
	100		40	1309
Dec. 24	15		41	370
1920				
May 10	176		41	595
	177		41	595
May 12	182		41	597
May 21	194	7	41	613
May 29	214	1 (last par. under heading "Office of Comptroller of the Treasury", 1st–4th pars. under heading "Independent Treasury")	41	647, 654
June 5	240	(pars. under heading "Advances to Disbursing Officers")	41	975
1921				
Feb. 22	70	7	41	1144
Mar. 1	89	1 (2d par. under heading "Bureau of Supplies and Accounts", 2d par. on p. 1170)	41	1169, 1170
Mar. 3	124	1 (words after last semicolon under heading "Bureau of Engraving and Printing")	41	1271
Mar. 4	153		41	1363
	161	1 (1st par. under heading "Miscellaneous Objects, Treasury Department")	41	1374
May 27	14	403	42	17
June 10	18		42	20
June 16	23	1 (last par. last sentence under heading "Office of the Secretary")	42	36
July 12	44	1 (last par. words after 1st proviso under heading "Contingent, Bureau of Ordnance"), 3	42	128, 130
Nov. 23	136	1401, 1402	42	321
1922				
Feb. 2	45		42	382
Feb. 17	55	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 2d proviso and sentence after proviso on p. 388).	42	386, 387, 388
June 19	220		42	682
Sept. 22	427	7	42	1042
Dec. 28	17		42	1066
1923				
Jan. 3	22	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 2d par. under heading "Bureau of Engraving and Printing", 2d proviso and sentence after proviso on p. 1100).	42	1097, 1099, 1100
Jan. 24	38		42	1172
Feb. 13	71		42	1226
	72	(last par. under heading "General Accounting Office")	42	1231
Feb. 26	113		42	1287
Feb. 28	146		42	1325
Mar. 2	178	(1st complete par. on p. 1391)	42	1391
	179		42	1427
1924				
Mar. 17	58		43	23
Apr. 4	84	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 1st par. on p. 66, 2d proviso and sentence after proviso on p. 83).	43	64, 66, 83
May 28	203	(2d par. under heading "Fuel and Transportation")	43	195
Dec. 5	4	1 (5th par. under heading "Marshals, District Attorneys, Clerks, and Other Expenses of United States Courts")	43	687
1925				
Jan. 14	79	5, 6	43	749
Jan. 21	86		43	763
Jan. 22	87	(words before 1st proviso under heading "Office of the Secretary", 3d par. under heading "Division of Bookkeeping and Warrants", last proviso beginning on p. 781 and sentence after proviso).	43	764, 767, 781
Feb. 24	302		43	965
Mar. 3	462		43	1253
1926				
Feb. 26	27	1125, 1200	44	122, 125
Mar. 2	43	1 (last proviso and sentence after proviso on p. 154)	44	154
Apr. 15	146	101 (proviso on p. 267)	44	267
May 17	307		44	559
May 21	355	(1st, 2d complete pars. on p. 605)	44	605
June 22	650		44	761
July 3	775		44	888
1927				
Jan. 26	38	1 (last proviso and sentence after proviso on p. 1045)	44	1045
1928				
Mar. 7	135		45	198
Apr. 10	334		45	413
May 29	901	1(1), (6), (7), (10), (11), (17), (20), (21), (23), (58), (80), (106)	45	986, 987, 990, 992, 994
1929				
Feb. 20	274		45	1249
Mar. 2	483	(last proviso under heading "Maintenance, Bureau of Supplies and Accounts")	45	1461
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June 30	314	501, 601, 602	47	415, 417
July 21	520	306	47	724
1933				
Mar. 3	212	1 (last par. on p. 1492), 13	47	1492, 1516
Mar. 9	1	3	48	2
May 12	25	43–45	48	51
June 5	48		48	113
June 15	82		48	140
1934				
Jan. 30	6	(less 2(b))	48	337
Mar. 15	70	1 (2d complete par. on p. 428)	48	428
May 9	265		48	679
May 10	277	512, 518	48	758, 760
May 14	286		48	776
May 26	355		48	807
June 21	695		48	1200
June 26	756	1, 6, 8, 11, 15–20, 22–27	48	1224, 1228, 1229, 1230, 1236
1935				
Feb. 2	4		49	19
Feb. 4	5		49	20
May 2	88		49	165
May 3	90		49	174
June 5	176		49	324
June 15	261	401(h)	49	378
June 17	271		49	387
Aug. 27	780		49	936
1936				
Feb. 13	57		49	1138
Mar. 18	149		49	1165
Mar. 20	159		49	1184
Mar. 31	164		49	1187
Apr. 13	212		49	1205
Apr. 24	245		49	1237
May 5	300		49	1257
	304		49	1258
May 6	331		49	1262
May 15	395		49	1274
	396		49	1275
	399		49	1276
	402		49	1277
	406		49	1352
May 28	466		49	1387
June 16	583		49	1522
	584		49	1523
	586		49	1524
June 24	760		49	1911
June 26	835		49	1972
	837		49	1973
1937				
Jan. 23	5		50	4
Apr. 27	140	1 (par. under heading "Clothing, Naval Reserve")	50	107
	143		50	119
May 14	180	1 (2d par. last proviso on p. 140)	50	140
June 24	377		50	306
June 28	384		50	322
July 8	444	8, 9	50	481
Aug. 14	631		50	647
1938				
Apr. 26	175	1 (par. under heading "Clothing, Naval Reserve")	52	235
May 26	285		52	447
1939				
Apr. 3	36	201	53	565
Apr. 26	103		53	624
May 10	119	4	53	730
May 25	149	1 (par. under heading "Clothing, Naval Reserve")	53	769
July 6	260		53	998
July 20	336		53	1071
Aug. 5	442		53	1200
Aug. 7	566	"Sec. 6"	53	1263
Aug. 10	665	4–7	53	1350
1940				
Mar. 25	71	101 (1st proviso on p. 50)	54	50
Apr. 30	175		54	175
June 25	419	302	54	526
Sept. 18	722	322	54	955
Oct. 9	779	(less 1 (related to § 3737))	54	1029
	780		54	1061
	796		54	1086
Oct. 14	875	4	54	1136

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June 21	213		55	255
June 30	265		55	395
Nov. 21	489		55	777
	499		55	781
Dec. 17	591	301 (next-to-last sentence before heading "Independent Agencies")	55	819
Dec. 26	629		55	862
Dec. 29	641		55	875
1942				
Feb. 20	95		56	94
Mar. [illegible]	205		56	189
Apr. 28	247	301 (par. under heading "Executive Office of the President", 1st par. proviso under heading "Bureau of Accounts")	56	234, 244
June 1	320		56	306
July 2	472	505	56	506
July 20	507		56	661
July 25	524	101 (par. 2 under heading "Office for Emergency Management", par. under heading "Bureau of the Public Debt")	56	707, 720
Dec. 2	659		56	1028
Dec. 18	767		56	1064
Dec. 24	821		56	1086
1943				
Mar. 18	17	101 (last part. under heading "Bureau of the Mint")	57	32
Apr. 11	52		57	63
Apr. 29	76		57	68
June 15	125	(less 1(c), 3 (1st proviso))	57	152
June 26	150		57	219
July 1	185	1 (4th complete par. on p. 352, words after last semicolon in par. immediately before heading "Medical Department")	57	352, 357
July 3	189		57	372
July 12	223		57	520
	228	1 (last proviso on p. 530)	57	530
Dec. 23	377		57	608
1944				
June 9	240		58	272
June 27	286	101 (last par. on p. 371), 213	58	371, 387
June 28	301	1 (last proviso immediately before heading "Office of War Information")	58	539
	304	303	58	623
July 1	357		58	648
Dec. 13	552		58	800
Dec. 21	631		58	844
Dec. [illegible]	716		58	921
	720		58	923
1945				
Apr. 3	51		59	47
May 3	106	214	59	134
May 29	135		59	225
June 12	186	4	59	238
July 17	319	1 (last proviso immediately before heading "Office of Inter-American Affairs")	59	476
July 31	339	7(a), 9	59	514, 516
Nov. 8	453	153	59	574
Dec. 3	515		59	592
Dec. 6	557		59	597
Dec. 28	597		59	662
1946				
Mar. 6	48		60	31
June 26	501		60	316
July 1	530	101 (par. immediately before heading "House of Representatives")	60	393
July 23	591	101 (proviso under heading "Office of Scientific Research and Development")	60	606
Aug. 2	744	11, 16, 17	60	809, 810
	753	205, 206, 424(a) (last par. on p. 846, 2d par. on p. 847), (b) (related to 2d par. of (a) on p. 847)	60	837, 846, 847
	756	25	60	856
Aug. 7	770	1(47), (48)	60	870
1947				
May 19	78		61	101
June 5	98		61	129
June 14	104		61	132
June 25	147		61	180
July 9	211	101 (4th par. on p. 282)	61	282
July 11	222		61	308
July 26	338		61	493
July 30	358	307	61	584
Aug. 1	438		61	717
	441		61	720
Aug. 4	455	3	61	730
1948				
June 3	400	101 (par. immediately before heading "International Activities")	62	308
June 19	510		62	488
	558	101 (words before proviso in par. under heading "Bureau of Internal Revenue"), 302 (last par.)	62	561
June 25	646	7	62	986
Aug. 10	832	501(b)	62	1283
1949				
June 10	187		63	167
June 30	285	13	63	356
	286	101 (pars. under headings "Refund of Moneys Erroneously Received and Covered", "Payments of Unclaimed Moneys")	63	358, 359
July 6	299		63	407
July 20	354	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	63	449
Aug. 24	506	309	63	662
Aug. 27	517	7(b)	63	668
Oct. 10	662	101 (par. under heading "General Provision—Department of Justice")	63	746

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June 28	383	402(m)	64	273
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Aug. 14	705		64	440
Aug. 17	735	10(a)	64	462
Sept. 6	896	101 (par. under heading "Emergencies in the Diplomatic and Consular Service"), 1210, 1211	64	610, 765
Sept. 12	946		64	832
Sept. 23	1010	6	64	986
1951				
Mar. 26	19	1	65	26
Apr. 24	35		65	32
May 15	75	1 (related to § 1 related to § 3477)	65	41
June 2	121	ch. XI (proviso immediately before heading "Independent Offices")	65	61
Aug. 11	301	101 (proviso under heading "Bureau of Engraving and Printing")	65	184
Aug. 31	376	501	65	290
Sept. 28	434	504	65	364
Oct. 22	533	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	65	577
Oct. 25	562	1(17), 3(1)	65	638, 639
Oct. 27	591		65	658
Oct. 31	654	1(55), 2(19), 4(3)	65	703, 707, 709
	655	56(g)	65	729
Nov. 1	664	1307	65	756
1952				
May 15	289	2	66	73
June 27	477	403(a)(9)	66	279
July 3	548		66	321
July 5	578	101 (last par. under heading "General Accounting Office")	66	399
July 9	600		66	479
July 10	651	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	66	550
July 15	758	1407, 1410, 1415	66	660, 661, 662
1953				
June 16	115		67	61
July 28	256		67	229
July 31	300		67	296
	302	101 (par. under heading "Bureau of the Budget")	67	299
Aug. 1	303		67	317
	305	604, 611, 621	67	349, 350, 353
Aug. 5	328	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	67	368
Aug. 7	340	1314	67	438
1954				
Mar. 17	99		68	29
May 13	201	6	68	95
June 4	264	1	68	175
June 24	359	101 (proviso under heading "General Accounting Office")	68	280
June 30	427		68	336
July 2	456	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	68	414
July 15	509		68	482
July 22	557		68	496
Aug. 16	736	7801(b)	68A	915
Aug. 23	840		68	774
Aug. 26	935	1311	68	830
Aug. 28	1035		68	890
	1037		68	895
Aug. 30	1076	1(18), (31)	68	967, 968
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June 1	113	101 (last proviso under heading "Bureau of the Public Debt"), 102	69	72, 76
	119		69	82
June 8	134		69	87
June 28	189	12(c)(4), (c)(10)	69	180
	198		69	188
June 30	256		69	241
July 7	279	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	69	265
July 11	303		69	290
July 13	358	602	69	314
July 15	368	512	69	352
Aug. 9	694		69	626
Aug. 11	803		69	687
1956				
June 7	376		70	255
June 19	409		70	297
June 20	414	101 (last complete par. on p. 300)	70	300
June 25	442		70	336
July 9	535		70	518
	536		70	519
July 25	727		70	647
July 26	741	201(a)	70	667
July 27	748	1302	70	694
July 28	769		70	703
Aug. 1	814		70	782
	838		70	887
Aug. 2	887	3, 4(a)(31), (33)	70	946, 948
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1957				
Apr. 20	85-17		71	15
June 5	85-48	210	71	55
June 17	85-56	2202(38), (40)	71	163
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Aug. 25	85-759		72	852
Aug. 26	85-762		72	859
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	85-912		72	1758
1959				
June 25	86-70	25, 26	73	147
June 30	86-74		73	156
July 8	86-79	210	73	167
July 13	86-87		73	197
Sept. 9	86-249	17(6)	73	484
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	86-368	1 "Sec. 7001(b)"	73	648
1960				
June 11	86-507	1(28), (29)	74	202
June 29	86-533	1(25)	74	249
June 30	86-564	1, 101	74	290
1961				
June 27	87-58		75	119
June 30	87-66	(item 8)	75	146
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July 20	87-91		75	211
Aug. 30	87-187	3	75	416
Oct. 4	87-353	3(u)	75	774
1962				
Mar. 13	87-414		76	22
July 1	87-512		76	124
July 11	87-534		76	155
Sept. 5	87-643		76	440
Oct. 9	87-774		76	775
Oct. 18	87-843	304 (1st par.)	76	1097
1963				
May 29	88-30		77	50
June 4	88-36	1, 2	77	54
July 8	88-58		77	76
Aug. 20	88-102		77	129
Aug. 27	88-106		77	131
Nov. 26	88-187		77	342
1964				
June 29	88-327		78	225
Aug. 14	88-426	203(a)-(c) (5th-14th words), (l), 305(30)	78	415, 427
Aug. 20	88-454	105(a) (last par.)	78	551
Aug. 30	88-518		78	696
	88-521		78	700
Aug. 31	88-550		78	767
1965				
June 2	89-30	5	79	119
June 24	89-40		79	172
July 23	89-81	(items 211, 212)	79	254
Aug. 28	89-145		79	582
Sept. 9	89-175		79	672
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Oct. 21	89-283	601	79	1026
1966				
May 20	89-427	5	80	161
June 24	89-472		80	221
June 29	89-473		80	221
July 18	89-506	6	80	307
July 19	89-508	(item 4)	80	308
July 26	89-520		80	329
Sept. 12	89-568	612	80	756
Sept. 20	89-583	4	80	819
Sept. 21	89-597	2(d)	80	824
Oct. 15	89-677		80	955
Nov. 8	89-800	5	80	1514
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Mar. 2	90-3		81	4
May 25	90-19	4	81	20
June 24	90-29		81	77
June 30	90-39		81	99
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Jan. 2	90-248	5(f)	81	778
Mar. 18	90-269	8-12	82	50
June 28	90-364	202-206	82	271
June 29	90-365		82	274
Aug. 1	90-448	807(e), 1719(d)	82	544, 610
Oct. 12	90-561		82	996
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June 30	91-301		84	368
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July 23	91-350	1(c)	84	449
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Aug. 24	91-388	3	84	830
Sept. 25	91-419		84	870
Sept. 26	91-423		84	879
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May 7	92-12	4, 5	85	37
May 27	92-19		85	74
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Dec. 10	92-178	802(b)(1)	85	573
Dec. 15	92-190		85	646
1972				
Mar. 15	92-250		86	63
Mar. 31	92-268		86	116
May 18	92-302	1, 3	86	148, 149
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July 13	92-352	106	86	491
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Oct. 27	92-578	15	86	1274
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1973				
Mar. 8	93-9		87	7
July 1	93-52	111	87	134
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Oct. 18	93-127		87	455
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1974				
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Jan. 3	93-245	301	87	1072
Mar. 2	93-250		88	11
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Dec. 22	93-534		88	1731
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Dec. 27	93-552	607	88	1763
1975				
Jan. 2	93-604	1-601, 703, 801, 802	88	1959, 1964, 1965
Jan. 3	93-618	175(a)(2)	88	2011
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June 30	94-334		90	793
July 8	94-348	3(e)	90	818
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Oct. 15	94-502	407	90	2397
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The SPEAKER. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recongnized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recongnized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6128, as amended, restates certain money and finance laws without substantive change and enacts those laws as title 31 of the United States Code. The bill is a part of the legislative requirement of the Office of the Law Revision Counsel under section 285b of title 2, United States Code, to prepare a proposed codification of those titles of the United States Code that have not been enacted into positive law.

Earlier drafts of H.R. 6128, as amended, and of a proposed report to accompany the bill were circulated to obtain comments from interested Government agencies and members of the public.

Amendments are made to the bill of a further technical and clarifying nature. The Law Revision Counsel is satisfied that H.R. 6128, as amended, is an accurate restatement of existing law without substantive change.

In explanation of the clarifying and technical amendments, the following are offered as substitutions in House Report No. 97-651:

The explanation for section 701 should read as follows:

In clause (1), "agency" (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term "department or establishment" which was defined in 31:11 as in part meaning "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board". This definition merely restates and continues, and does not in any way change or expand, the definition in 31:11. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:11. The word "includes the District of Columbia government" are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93-198, 87 Stat. 774) supersedes the provisions codified in this title. The words "of the United States" are omitted as surplus. The text of 31:2 (2d-4th pars.) is omitted as unnecessary because of the restatement. The text of section 2 (3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

The seventh paragrpah in explanation of section 716 should read as follows:

In subsection (c)(1), the words "require by . . . the production of" are omitted as surplus. The words "person not in the United States Government" are substituted for "contractors, subcontractors, or other non-Federal persons" for consistency and to eliminate unnecessary words. The words "from whom access is sought", "in the case of service by certified or registered mail", and "post office" are omitted as surplus.

The explanation for section 1101 should read as follows:

In the section, a reference to 31:71 and 471 is omitted because the definitions in the section are not used in 31:71 and 471.

In clause (1), "agency" (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term "department or establishment" which was defined in 31:11 as in part meaning "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board". This definition merely restates and continues, and does not in any way change or expand, the definition in 31:11. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:11. The words "includes the District of Columbia government" are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93-198, 87 Stat. 774) supersedes the provisions codified in this title. The words "of the United States" are omitted as surplus. The text of 31:2 (2d-4th pars.) is omitted as unnecessary because of the restatement. The text of section 2 (3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

The second and third paragraphs in explanation of section 1108 should read as follows:

In subsection (b)(1), the word "President" is substituted for "Office" in 31:16 (last sentence) and "Office of Management and Budget" in 31:23 and 24(a) because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1979, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The word "prepare" is substituted for "prepare or cause to be prepared" in 31:22 to eliminate unnecessary words. The word "appropriations" is substituted for "regular, supplementary, or deficiency appropriations" in 31:22 and 24(a) to eliminate unnecessary words. The words "in each year" are omitted as surplus. The words "in the form prescribed by the President under this chapter and by the date established by the President" are substituted for "on or before a date which the President shall determine" in 31:23, and "as the President may determine in accordance with the provisions of section 11 of this title" and "in such manner and at such times as may be determined by the President" in 31:24, to eliminate unnecessary words and to provide a cross-reference to the authority of the President to prepare and submit budgets and appropriations request. The words "prepare the request for the executive agency to be included in the budget or changes in the budget or as deficiency or supplemental appropriations" are substituted for "cause such requests to be prepared as are necessary to enable him to include such requests with the Budget in respect to the work of such department or establishment" in 31:23 for clarity and because of the restatement. The word "change" is substituted for "assemble, correlate, revise, reduce, or increase" in 31:16 (last sentence) to eliminate unnecessary words. The words "The head of the executive agency shall use" are substituted for "shall be used by all departments and establishments and their subordinate units" and "shall be made on the basis of" in 31:24 as being more precise. The word "operation" is omitted as being included in "administer". The word "amounts" is substituted for "funds" for consistency in the revised title. The word "divide" is substituted for "administrative subdivisions" because of the restatement.

In subsection (b)(2), the words "deficiency or supplemental appropriations" are substituted for "subsequent appropriations" for consistency. The words "the Office of Management and Budget" are omitted because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "the executive agency" are substituted for "by such department or establishment, or by any organization unit thereof" to eliminate unnecessary words.

The first paragraph in explanation of section 1511 should read as follows:

In subsection (a)(1), the words "appropriated amounts" are substituted for "appropriations" for clarity. In clause (3), the world "make" is substituted for "create" as

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being more precise. The text of 31:665(d)(2) (5th sentence) is omitted as unnecessary because of section 102 of the revised title.

The second paragraph in explanation of secton 3713 should read as follows:

In subsection (a)(1), before clause (A), the word "paid" is substituted for "satisfied" for consistency. In clause (A)(i), the words "and the priority established shall extend as well to cases in which" are omitted because of the restatement. In clause (A)(ii), the word "property" is substituted for "estate and effects" to eliminate unnecessary words. The words "absconding, concealed, or" and "by process of law" are omitted as surplus.

The explanation for section 3729 should read as follow:

In the section, before clause (1), the words "a member of an armed force of the United States" are substituted for "in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States" and "military or naval service" for consistency with title 10. The words "is liable" are substituted for "shall forfeit and pay" for consistency. The words "civil action" are substituted for "suit" for consistency in the revised title and with other titles of the United States Code. The words "and such forfeiture and damages shall be sued for in the same suit" are omitted as unnecessary because of rules 8 and 10 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clauses (1)-(3), the words "false or fraudulent" are substituted for "false, fictitious, or fraudulent" and "Fraudulent or fictitious" to eliminate unnecessary words and for consistency. In clause (1), the words "presents, or causes to be presented" are substituted for "shall make or cause to be made, or present or cause to be presented" for clarity and consistency and to eliminate unnecessary words. The words "officer or employee of the Government or a member of an armed force" are substituted for "officer in the civil, military, or naval service of the United States" for consistency in the revised title and with other titles of the Code. The words "upon or against the Government of the United States, or any department or officer thereof" are omitted as surplus. In clause (2), the word "knowingly" is substituted for "knowing the same to contain any fraudulent or fictitious statement or entry" to eliminate unnecessary words. The words "record or statement" are substituted for "bill receipt, voucher, roll, account, claim, certificate, affidavit, or deposition" for consistency in the revised title and with other titles of the Code. In clause (3), the words "conspires to" are substituted for "enters into any agreement, combination, or conspiracy" to eliminate unnecessary words. The words "of the United States, or any department or officer thereof" are omitted as surplus. In clause (4), the words "charge". "or other", and "to any other person having authority to receive the same" are omitted as surplus. In clause (5), the words "document certifying receipt" are substituted for "certificate, voucher, receipt, or other paper certifying the receipt" to eliminate unnecessary words. The words "arms, ammunition, provisions clothing, or other", "to any other person", and "the truth of" are omitted as surplus. In clause (6), the words "arms, equipments, ammunition, clothes, military stores, or other" are omitted as surplus. The words "member of an armed force" are substituted for "soldier, officer, sailor, or other person called into or employed in the military or naval service" for consistency with title 10. The words "such soldier, sailor, officer, or other person" are omitted as surplus.

The second and third paragraphs in explanation of section 3730 should read as follows:

In subsection (a) the words "Attorney General" are substituted for "several district attorneys of the United States [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646 62 Stat. 909)] for the respective districts, for the District of Columbia, and for the several Territories" because of 28:509. The words "by persons liable to such suit" are omitted as surplus. The words "and found within their respective districts or Territories" are omitted because of the restatement. The words "If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person" are substituted for "and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages" for clarity and consistency. The words "as the district judge may order" are omitted as surplus. The words "of the Attorney General" are substituted for "the person bringing the suit" for consistency in the section

In subsection (b)(1), the words "Except as hereinafter provided" are omitted as unnecessary. The words "for a violation of section 3729 of this title" are added because of the restatement. The words "and carried on", "several" and "full power and" are omitted as surplus. The words "of the action" are substituted for "to hear, try, and determine such suit" to eliminate unnecessary words. The words "Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs" are substituted for "within whose jurisdictional limits the person doing or committing such act shall be found, shall wheresoever such act may have been done or committed" for consistency in the revised title and with other titles of the Code. The words "withdrawn or" and "judge of the" are omitted as surplus. The words "Attorney General" are substituted for "district attorney [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)], first filed in the case" because of 28:509

The explanation for section 6307 should read as follows:

In clause (2), the word "exempt" is substituted for "except" for consistency

The explanation for section 9103 should read as follows.

In subsection (a), the word "President" is substituted for "Office of Management and Budget" because sections 101 and 102(a) of Reorganizaton Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "in a way, and before a date, the President prescribes by regulation for the budget program" are substituted for "under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented" to eliminate unnecessary words.

In subsection (b), before clause (1), the words "budget program" are substituted for "budget program shall be a business-type budget, or plan of operation" for consistency and to eliminate unnecessary words. In clause (1), the words "actual" and "completed" are omitted as surplus. In clause (2), the words "as are necessary or desirable", "types of", "together with", and "funds" are ommitted as surplus. In clause (3), the words "as authorized by law" are omitted as surplus.

In subsection (c), the words "as changed" are substituted for "as modified, amended, or revised" to eliminate unnecessary words. The word "submit" is substituted for "transmitted" for consistency. The word "annual" is omitted as surplus. The word "thereafter" is added for clarity. The text of 31:848 (last par.) is omitted as unnecessary.

The first paragraph in explanation of section 9104 should read as follows:

In subsection (a), the words "budget programs for wholly owned Government corporations" are substituted for "Budget programs" for clarity and consistency. The words "legislation . . . be enacted", as may be", "for expenditure", "corporate funds or other", "or limiting the use thereof", "as the Congress may determine", and "funds" are omitted as surplus.

The second paragraph in explanation of section 9108 should read as follows:

In subsection (a), before clause (1), the word "Before" is substituted for "which are" for clarity. The words "bonds, notes, debentures, and other similar" are omitted as surplus. The words "as have been" are omitted as executed. In clause (1), the words "terms and" are omitted as surplus. The restatement of the source provisions does not affect other existing laws.

The explanation for section 9109 should read as follows:

The word "President" is substituted for "Director of the Office of Management and Budget" because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "with the approval of the President" are omitted because of the restatement. The word "considers" is substituted for "deemed" for consistency. The words "in connection with the budget program of such corporation" are omitted as surplus. The words "submitted to Congress under section 1105 of this title" are added for clarity. The words "deemed to be" are substituted for "treated . . . as if it were" for consistency. The word "agency" is substituted for "Government agency" and "establishment" because of section 101 of the revised title and for consistency. The words "if it were", appropriations, expenditures, receipts, accounts, and other", and "in connection with the budget program for any fiscal year" are omitted as surplus. The words "deemed to be" are substituted for "regarded as" for consistency.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 6128, as amended, a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money, finance, as title 31, United States Code, "Money and Finance."

As the distinguished gentleman from Texas (Mr. SAM B. HALL, JR.) stated, this bill was prepared by the Office of the Law Revision Counsel of the House of Representatives. The Law Revision Counsel is required by law to restate in comprehensive form all statutes at large which have not yet formally been enacted as titles of the United States Code. Those requirements were imposed on the office in 1974 when the office was established by the House as an independent nonpartisan office under the Speaker.

In H.R. 6128, all laws related to money and finance have been restated by replacing obsolete and awkward terms with simple language, and eliminating superseded, executed, and obsolete laws.

A number of earlier drafts of the bill were circulated and reviewed by interested Government agencies and members of the public. The Law Revision Counsel, the Department of the Treasury, the Office of Management and Budget, and the Comptroller General are satisfied the bill is an accurate restatement of existing law without substantive change. The Congressional Budget Office finds no additional cost will be incurred as as result of enactment.

I urge my colleagues to support H.R. 6128, as amended.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 6128, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, H.R. 6128, as amended, was passed.

A motion to reconsider was laid on the table.

SHY FLAT TABERNACLE CEMETERY, CHRISTIAN COUNTY, KY.

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6195) to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

The Clerk read as follows:

H.R. 6195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to 1.52 acres of land in Christian County, Kentucky, described in section 2 of this Act, the Secretary of Agriculture, on behalf of the United States, shall release the Commonwealth of Kentucky, without consideration, from the condition contained in a deed dated July 9, 1954, between the United States and the Commonwealth of Kentucky granting certain lands in Christain County, Kentucky, of which the described lands are a part, that requires that the lands so granted be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used: *Provided,* That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further,* That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

SEC. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle church and Cemetery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees and 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line in Kentucky Highway numbered 109; thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6195 involves what may seem a small matter in comparison with most bills that come before the House. But it is a significant matter to members of a small church in Kentucky who need about 1½ acres of land to expand their church cemetery.

The 1.52 acres in question are part of larger conveyance granted to the Commonwealth of Kentucky by the United States in 1954 and which is now the Pennyrile State Forest. The lands were granted under authority of section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937. That section provides that lands acquired by the Federal Government under the act may be conveyed to public authorities and agencies, but with the condition that they be used for public purposes, and that if they are not so used, they revert to the United States. The 1954 deed contains this "public purpose reversionary clause" and thus would prevent the State from conveying any land in the project to the cemetery corporation. The bill releases this clause for the 1.52-acre tract, but retains to the United States 75 percent of the mineral interests.

The Senate has passed identical legislation. Our committee ordered the bill reported by a recorded vote of 25 ayes to no nays. Adoption by the House will remove a rather technical obstacle and permit the Shy Flat Tabernacle Church to expand its cemetery.

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Mr. FINDLEY. Mr. Speaker, there is no controversey whatsoever on this bill. It went through by unanimous vote in committee.

I urge support of my colleagues for the bill, and I have no further requests for time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FINDLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 6195.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was pased.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2154). To direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to 1.52 acres of land in Christian County, Kentucky, described in section 2 of this Act, the Secretary of Agriculture, on behalf of the United States, shall release the Commonwealth of Kentucky, without consideration, from the condition contained in a deed dated July 9, 1954, between the United States and the Commonwealth of Kentucky granting certain lands in Christian County, Kentucky, of which the described lands so granted be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

Sec. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle Church and Cementery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees and 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6195) was laid on the table.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Georgia (Mr. Brinkley).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Kansas (Mr. Glickman) as Chairman of the Committee of the Whole and requests the gentleman from Texas (Mr. de la Garza) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6214, with Mr. de la Garza, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Georgia (Mr. Brinkley) will be recognized for 1 hour, and the gentleman from Virginia (Mr. Whitehurst) will be recognized for 1 hour.

The Chair recognizes the gentleman from Georgia (Mr. Brinkley).

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to bring the military construction bill to the floor because it is a positive measure attuned to the needs of people. It is oriented to the human needs of our military population—where they live, where they work, and where they play.

Of the $7.8 billion sought to be authorized, over $1 billion is required for operations under the housing program. Of course, this includes utilities.

Another billion dollars plus is provided for maintenance. The total housing program accounts for over one-third of the total bill and deals with 363,498 units and contemplates 2,915 new units of housing.

Our subcommittee held 10 sessions on this one bill, and dealt with such innovative initiatives as joint or dual use of facilities; flexible barrier technology more commonly known as air bubble construction; and photovoltaics.

The following response was made to my inquiry about dual use functions in a single facility:

> Each DOD dependents school has an important dual use. These American schools could almost be appropriately termed American Community Centers. They are the gathering place for the military and the families of the military. The facilities are frequently used not only for dependents school purposes but also for other activities. Examples are: military off-duty and dependents education classes, club and other activity meetings, gym activities and leagues, chapel services, Sunday school, choir practice, dancing, boy and girl scouts meetings, and movies. The DOD dependents schools are heavily used during the day and the evening.

Potential use of flexible barrier technology led to the deferral of several projects in anticipation of possible cost savings. The air bubble concept is chiefly used for warehouses, recreational and other group facilities. In Turkey where needs are more urgent than elsewhere, no deferrals were made.

An important provision in our bill, authored by Representative Nick Mavroules, is intended to promote the use of photovoltaics and other renewable energy sources. This is a genuinely exciting area and I am glad to be part of this key undertaking.

Now for some details.

On May 4, by a 35 to 0 vote, the Committee on Armed Services approved H.R. 6214, a clean bill totaling $7,508,014,000. This amount is $355,251,000 below the requested amounts.

The Department of Defense originally requested new authority in the amount of $7,811,164,000 for fiscal year 1983. Also, DOD submitted a fiscal year 1982 supplemental request in the amount of $52,101,000. Combined the two requests total $7,863,265,000. Rather than reporting the supplemental request as a separate bill, the committee considered it with the fiscal year 1983 request.

Because of severe budgetary constraints, a number of reductions were made and some projects were deleted that would otherwise be considered valid requirements. However, based upon overall priorities, the projects were deferred. At the same time, projects were added when it was determined by either testimony or supporting material that priority was great enough to warrant their inclusion in the bill.

Before turning to a discussion of some of the major items in the bill, I want to comment on two committee amendments. These amendments are technical in nature and are designed to clarify the committee's intention of conforming with the requirements of section 402(a) of the Budget Act. The two amendments simply make clear that section 606 and section 804 of the bill become effective October 1, 1982, the beginning of the new fiscal year. Further, section 804 is amended by making it subject to the availability of appropriations.

This section 804 is different from the Senate bill which carries that same section number. The Senate provision contains general authority to sell or exchange Defense real property. Our bill has no such provision and I am personally opposed to the Senate provision.

Briefly, some of the major items in the bill are: $365.6 million for the rapid deployment force construction; $977.2 million for European construction, including $375 million for the NATO Infrastructure program; $18.3 million of a binary munitions facility at Pine Bluff Arsenal, Ark.; $103 million for the MX program; and $2.9 billion for the military family housing program including $200 million for the construction of 2,915 new units of housing; $2.1 billion for the operation and upkeep of 363,498 units of housing and $169 million for the leasing of approximately 28,252 units.

Turning to the individual titles of the bill, the Department of the Army's requests in title I totaled some $2.09 billion. The committee reduced the request by $61.2 million; therefore, the new total is $2.03 billion.

Included in the Army program is $555.5 million for construction inside the United States.

For overseas Army construction, primarily in Europe, Korea, and in support of the Rapid Deployment Force (RDF), the committee approved $320 million.

For title II, the Navy portion of the bill, the original request amounted to $1.91 billion. Following committee consideration, the amount was raised to $1.97 billion, an increase of some $64 million.

Included in the Navy program is $900.7 million for overseas construction inside the United States and $220.8 million for overseas construction.

For title III, the Air Forces section of the bill, the Air Force requests totaled $2.9 billion. The committee reduced the program by $280.8 million; therefore, the new total is $2.6 billion.

This authorization will provide $1 billion for construction inside the United States and $498.3 million for overseas construction.

Contained in the recommendation is $103 million for the MX program. The committee reduced the original authorization request of $207 million by $104 million. The $103 million authorization permits work to proceed on those facilities that would be basic to any basing mode and that reflect the current production schedule of the missile.

For title IV, Defense agencies, the total request was $405,396,000. The committee is recommending $297,466,000, a decrease of $107,930,000 in the request amount.

Title V includes $375 million for the NATO infrastructure program. The committee recommends the requested amount.

In title VI, administrative provisions, the committee extended cost variation authorities and certain project authorizations for items not yet executed.

In title VII, Guard and Reserve facilities, the committee approved $232,858,000 which is $30,658,000 above the requested authorization of $202.2 million. The increased authorization will permit the Guard and Reserve forces to proceed with the program at the original request, and to build additional armories and undertake other projects which contribute to their readiness.

In title VIII, general provisions, the committee approved three fair market value land exchanges; approved a provision sponsored by Representative Dan Daniel designed to provide for a more effective programing and construction schedule of commissaries; and approved the Marvroules initiative on photovoltaics.

Mr. Chairman, this concludes my statement on H.R. 6214. Mr. Trible, the ranking Republican member, and each and every member of the subcommittee gave yeomanship service and I commend them most warmly. I strongly urge my collegues to support passage of this bill.

☐ 1230

Mr. WHITEHURST. Mr. Chairman, I yield myself such timne as I may expend.

Mr. Chairman, just let me make some general observations first. As all of us in this Chamber know, this is the last year of the congressional service of our distinguished leader, the gentleman from Georgia (Mr. Jack Brinkley). We view his leaving with great misgivings because he has always given spendid service in the Committee on Armed Services, and moreover, he has been particularly effective as the chairman of the Subcommittee on Military Installations and Facilities.

I have served with a number of colleagues of mine who have been chairmen of this subcommittee, and all have been most competent, but I must say that this year and the last year, with the gentleman from Georgia (Mr. Brinkley), have been particularly rewarding. We wish the gentleman Godspeed as he returns to his native State. We are certainly going to miss him as our leader on this subcommittee.

Mr. Chairman, I wish to join my good friend, the distinguished gentleman from Geogia (Jack Brinkley), in support of H.R.6214, the Military Construction Authorization Act for fiscal year 1983. This is a very complex and important bill which touches every facet of our defense effort. It includes facilities to support our strategic weapons systems, contingency facilities for our Rapid Deployment Joint Task Force (RDJTF), and projects to upgrade the living and working conditions of our service personnel.

The Committee on Armed Services, faced with sever budget constraints, spent long hours in hearings searching for economies that would bring about savings without reducing readiness. Our task was to insure that all of the projects approved in the fiscal year 1983 program were essential to readiness of our strategic and conventional forces and would improve the poor living and working conditions of our military personnel not only at home but in Europe where many facilities are outmoded and beyond economic repair.

Tough choices had to be made. Therefore, I want to emphasize that the legislation before you today is $335 million below the budget request submitted by the Department of Defense. It reflects the committee's belief that reduction in the Federal budget, defence included, must be implemented to lessen the budget deficit facing our country. Let me briefly comment on some of the painful reductions we were forced to make.

CONSTRUCTION IN EUROPE

Construction in Europe continues to constitute a major portion of the military construction program. The Defense Department requested $1.165 billion to improve the readiness of U.S. and allied forces for fiscal year 1983. The request included $375 million for the U.S. contribution to the NATO infrastructure program, representing a 27.4-percent share of this common funded effort by alliance members.

While the committee approved the amount requested for the U.S. contribution to the NATO Infrastructure Fund, it deferred some $188 million in projects proposed in Europe. These included schools and family housing at two sites selected for initial deployment of the ground-launched cruise missile (GLCM). These funds were deferred pending the outcome of United States-Soviet negotiations on mutual reduction of intermediate range nuclear forces. We attempted to defer any expenditures on construction that might have to be abandoned because of possible policy changes by the United States or its allies. An additional $44.3 million was deferred for construction of support facilities at a third GLCM site pending verification of approval by the host nation.

The committee further deferred $56 million in projects at sites designated by the Army as part of its master restationing plan (MRP) until ongoing negotiations on cost-sharing with the Federal Republic of Germany (FRG) are complete. MRP would relocate three U.S. Army brigades into new facilities nearer the East German border thereby improving living and working conditions for our service personnel. The committee fully supports MRP but believes that the FRG as the host nation should fund the entire cost of the plan. The Department of Defense and the State Department have been urged to vigorously pursue complete negotiations that would result in a bilateral agreement providing for German participation in a satisfactory cost-sharing arrangement.

Despite the increase in construction expenditures, the backlog of requirements for construction in Europe continue to grow. These growing requirements cannot continue to be addressed solely through unilateral U.S. funding. We must aggressively seek alternative funding sources which rely more heavily on allied burden-sharing. In the light of the large commitment of United States resources to protect our interests and those of our European allies in Southwest Asia, the NATO allies and particularly the German Government must expand their support of our mutual efforts in the defense of Europe.

RAPID DEPLOYMENT JOINT TASK FORCE

The committee cut $131.8 million from the $497.4 million requested for construction to support operations of the Rapid Deployment Joint Task Force (RDJTF) near the Persian Gulf and in the Indian Ocean. Included was a $51.1 million reduction in the $60.4 million request for construction on Oman pending Omani Government siting approval for projects previously authorized in fiscal year 1982. The $64.9 million request for new facilities at Lajes Air Force Base in the Portuguese-owned Azores Islands was also denied because bilateral negotiations with Lisbon over U.S. rights to use the base have not been completed.

These actions by the committee do not represent a lack of support for the RDJTF. Rather, they reflect the judgment that the RDJTF construction program should be properly scoped and planned before authorization is requested.

Mr. Chairman, the committee is further concerned that the United States is bearing the total cost of the RDJTF construction program despite the fact that we are less dependent upon Persian Gulf oil than Western Europe or Japan. For this reason, we must continue to press for increased burden-sharing by our allies. The United States can no longer afford to foot the entire bill. Our allies must pay their fair share of the costs for our mutual defense.

MX CONSTRUCTION

As my colleague, Mr. Brinkley, has explained, the Air Force requested $207 million to begin construction of various logistics, flight test, training, and support facilities which are required for the MX weapon system.

The committee, which supports the MX missile program and the expeditious selection of a permanent basing mode, reduction of a permanent basing mode, reduced the Air Force request by $104 million. The $103 million authorization approved will permit construction to go forward on those facilities that would be required regardless of the basing mode eventually selected.

COST-SAVING INITIATIVES

Mr. Chairman, given the state of the economy and the tight budget constraints facing us, I would like to touch briefly on some economic initiatives undertaken by the Armed Services Committee in the area of military construction and military family housing.

With the ever escalating costs in the military construction and family housing programs, the committee has been increasingly concerned with the lack of initiative on the part of the defense establishment toward investigating modern construction technologies that may prove less costly than current practices.

In the fiscal year 1982 military construction act, the committee successfully initiated the use of manufactured housing in a 200-unit test project at the Army's National Training Center at Fort Irwin, Calif. As a result of opening the military family housing market to less costly alternatives to conventional construction, the bidding competition at Fort Irwin has been intense. The Army was able to realize a $3.3 million savings on the site-built portion of the program and as a result has been able to program an additional 30 units of conventially constructed housing at no additional cost to the Government.

In conjunction with the bill before you today, a number of selected overseas construction projects were deferred and the military services were authorized to undertake a comprehensive study of the possible use of flexible barrier technology, more commonly known as air bubble construction. This type of construction is being used by universities, elementary and secondary schools, and other public agencies throughout the United States. Based upon available information, it is less costly than permanent construction and offers the advantage of being relocatable. The triservice study should be completed and the finding submitted to the Armed Services Committee before the fiscal year 1984 military construction request is submitted to the Congress.

Again, we are hopeful that savings to the taxpayer will be generated by these committee initiatives.

Finally, Mr. Chairman, the military construction program for fiscal year 1983 is more reflective of the needs of the Department of Defense than has been the case in recent years. Due to a series of contributing factors, the Department of Defense physical plant is in an accelerating state of decline, often impairing our defense capability. Much of it is of World War II vintage which means that many facilities still in use are obsolete and have far exceeded their planned economic life. This condition, coupled with inconsistent funding support during the past several years, has produced a large backlog in both new construction and maintenance of existing structures. As a result, it has precluded optimum training, created lower morale, and has severely inhibited reenlistment efforts.

This situation must be turned around. I believe this bill will help do that. I, therefore, urge my colleagues to vote in favor of H.R. 6214 which meets the military services' needs and at the same time is fiscally responsible in that the total amount authorized is well below the administration's budget request and also meets the requirements of the Budget Committee.

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, as a member of the Committee on Armed Services, I would also like to commend our colleague, the gentleman from Georgia (Mr. Brinkley), a member of the committee, for the tremendous work that he has done, and I would note simply that his responsibility as chairman of the Subcommittee on Military Installations and Facilities is extremely important to the defense of this Nation and to our allies.

I have been very much impressed with the gentleman's intellectual approach to his job and his deliberative way of doing things, and I wish my colleague the best. The leadership he has shown in the Committee on Armed Services is an example for all of us in our own careers. I would like to say, "Thanks a lot, Jack, for your service to America."

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from California (Mr. Hunter), very kindly for his remarks, and also I thank the gentleman from Virginia (Mr. Whitehurst) very kindly for his remarks.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. Stenholm).

Mr. STENHOLM. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, it is my intention to introduce an amendment to H.R. 6214, the Military Construction Authorization Act of 1983, that would permit the Air Force to begin a promising new pilot program in the area of military family housing.

This amendment would allow the Secretary of the Air Force to enter into contracts for the leasing of housing facilities for periods of up to 30 years and at no more than five separate locations. No more than 300 units could be leased at each location.

This would represent a novel, although certainly not radical, approach to providing military family housing and would explore the possibility of meeting our military family housing needs with greater speed, efficiency, and flexibility.

Most importantly, there is a great need for this kind of approach and there is a great need to move quickly, in view of severe shortages in housing for military families that we are now seeing occur.

For example, in the 17th District of Texas, at Dyess Air Force Base, the waiting list for military family housing runs as long as a year. The demand for family housing included, in May of this year, the needs of 407 families with personnel of the ranks above E-4 and 448 of the ranks E-4 and below for a total shortfall of 855. Yet the occupancy rate of off-base apartments and mobile homes is 98 percent.

Out of adversity, however, ingenuity is often born. The officers at Dyess Air Force Base, along with officials from the city of Abilene and members of the Abilene Chamber of Commerce have worked together to form a planning committee and to propose that this badly needed family housing, 300 units in all, would be privately financed and would be leased, and later acquired, by the Air Force.

This is not an isolated situation and not an isolated suggestion. A similar situation exists at Eielson Air Force Base in Alaska and a proposal is being generated regarding that base, also, for the private financing of military family housing construction. This is an approach to providing housing in which the Department of the Air Force and the Department of Defense are acutely interested. DOD has commissioned a study of the private financing of military family housing in general and the Air Force is providing analysis and assistance in preparing these specific base proposals.

Generally, then, this amendment contemplates entering into an agreement with a developer to build housing units and to lease them to the Air Force over a number of years. Existing housing could be acquired on the same basis. Such leasing authority would be a novel approach, but not a radical one. Right now, for example, the military can enter into such long-term leasing arrangements overseas that last up to 10 years. This provision is very similar to the current law allowing overseas long-term housing leases, with longer terms allowed to obtain favorable financing.

I know there will be concern that a proposal such as this will add to off-budget spending in future years. I believe my views on off-budget spending are well-known: We are suffering today because of spending programs that were written into law that were open-ended, and provided for unpredictable levels of spending for indefinite periods of time. But there is a difference between writing a blank check and entering into a leasing contract where you know in advance exactly what your outlays will be. A long-term leasing proposal such as this one will not compromise our ability to plan future budgets. It will recognise, however, the immediate need to lower our deficits while still providing needed family housing that otherwise would not be built for several years down the line.

Moreover, this gives us a chance to encourage the interest and involvement of local communities in Federal programs. I know personally that there is a close relationship between the city of Abilene and Dyess Air Force Base. Each is deeply interested in the future of the other and both are anxious to form the type of partnership this amendment would allow. To encourage this type of mutually beneficial working relationship between a local community and the Federal Government is to promote the New Federalism at its best.

I know there is concern that no hearings have been held on this topic, and that enacting this amendment now might be considered putting the cart before the horse. In response, I would emphasize: First, there is a great need to move as quickly as possible to provide the family housing our military personnel need; in some areas this is a crisis situation; second, this is only a pilot program, limited to five locations; this will give us the opportunity to have practical, empirical data on hand when we consider whether to make such a method of financing more widely available; third, there will be adequate mechanisms for review, that are already in place, when the Air Force considers specific proposals, when these are reported to appropriate congressional committees, and when appropriations for such specific programs are considered; this is, after all, only authorizing legislation; and fourth, possible legal barriers that would relate much more specifically to an individual project, such as the proposal to use tax-exempt bonds for the Dyess housing, can be dealt with better separately from this legislation and, in fact, are currently being pursued.

This amendment proposes a pilot program that first, answers an immediate need for new military family housing in some areas; second, allows us to test a flexible new approach to providing this housing in a prudent, limited manner; and third, is fiscally responsible.

● Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Authorisation Act for fiscal year 1983. I want to commend the chairman and the committee for their work on this bill. At a time of competing national priorities, when we need to simultaneously limit spending while strengthening our national defense, the committee has done an outstanding job. This bill provides needed facilities for our national defense while carefully insuring fuller participation by our allies and the most efficient and cost effective methods of construction. The $7.5 billion authorised in this bill, while below the amount requested by the administration, nonetheless represents a substantial sum of money, and it behooves us to insure that it is spent carefully. I think the committee has done an excellent job in that respect. As currently before us, the bill authorizes funds for several important projects at bases associated with the 19th Congressional District of California, which I have the honor to represent. In particular, it includes needed funds for Space Shuttle facilities at Vandenberg Air Force Base, which will help keep that very successful program on track toward a needed Western launch facility a few years from now. Other items in the bill are equally vital to our national interest, and I urge my colleagues to support the committee and its work and pass this bill.●

Mr. BRINKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill shall be read under the 5-minute rule by title and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 6214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1983".

Mr. BRINKLEY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. Brinkley), having assumed the chair, Mr. de la Garza, Chairman pro tempore of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, had come to no resolution thereon.

RECONCILIATION LEGISLATION FROM AGRICULTURE COMMITTEE SCHEDULED FOR TOMORROW

(Mr. de la GARZA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. de la GARZA. Mr. Speaker, I take this time to advise the Members of the House that tomorrow morning, as the House convenes or shortly thereafter, the Committee on Agriculture will bring before the House reconciliation legislation. I am very happy to inform the Members that the Committee on Agriculture had been directed by the Committee on the Budget and by the action of the House to reduce by some $779 million.

The committee has done an exceedingly good job, and we will come with a package which will save over $1 billion of taxpayers' money. I do hope that the Members of the House will support the activities of the Committee on Agriculture.

We have endeavored very diligently, not only to carry out the direction of the House in its budget resolution, but to see at the same time that we do not destroy programs within the jurisdiction of the Department of Agriculture and the Committee on Agriculture. We have tried in a responsible way to maintain the programs, but yet, knowing of the need to reduce our expenditures, we have tried to do so in a way that would hurt the least number of people for the largest amount of savings and to reduce services to the least number of people for the largest amount of savings. We will be bringing that legislation up tomorrow shortly after the House convenes.

WILDERNESS PROTECTION ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. Seiberling).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Minnesota (Mr. Oberstar) as Chairman of the Committee of the Whole and requests the gentleman from Texas (Mr. de la Garza) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6542, with Mr. de la Garza (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio (Mr. Seiberling) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. Young) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act of 1982. H.R. 6542 is a response to the threat posed to wilderness and wilderness candidate areas by other 1,000 applications for oil and gas and other mineral leases in existing wilderness areas, and an additional untold number of lease applications in areas that are under review for possible addition to the National Wilderness Preservation System. The bill protects existing wilderness by permanently withdrawing it from mineral leasing and affords temporary protection to wilderness candidate areas. Time is of the essence in enacting this legislation because an existing moratorium on leasing in wilderness expires at the end of this current session of Congress. However, prior to discussing the merits of the legislation in detail, I believe it would be helpful to briefly describe the events which led us to the point we are at today.

When Congress passed the Wilderness Act in 1964, it did so with the intention of securing "for the American people of present and future generations the benefits of an enduring resource of wilderness." At the same time, a political compromise was reached in section 4(d)(3) of the Wilderness Act which allowed discretionary mineral leasing in wilderness until 1984 "to the same extent as applicable prior to the effective date of this act." At that time and prior to enactment of the Wilderness Act, it was Forest Service policy not to recommend approval of mineral lease applications in wilderness, wild and primitive areas except in the rarest of circumstances where directional drilling or other nonsurface-disturbing methods could be used to avoid "any invasion of the surface" of such areas. This policy remained in the Forest Service manual and was followed by every administration until this one.

On May 14, 1981, the longstanding policy against leasing was revised and both the Departments of Agriculture and the Interior now indicate that they interpret the law to deny them discretion to reject mineral lease applications solely on wilderness grounds. In addition, the Government has been considering applications to allow explosive seismic prospecting in wilderness. Interior Secretary James Watt has stated that this new interpretation of the law is likely to continue and has suggested that Congress amend the law if it wishes to clearly enunciate a policy against leasing in wilderness and wilderness candidate areas.

Just prior to and after the May 1981 policy change, a series of events gradually aroused public concern over the wilderness/leasing issue:

In early 1981 the Forest Service considered allowing seismic exploration involving the use of explosives in the Bob Marshall Wilderness complex in Montana. The public also learned that over 340 oil and gas lease applications were pending in the Bob Marshall complex.

On September 1, 1981, the Bureau of Land Management issued three leases in the Capitan Mounatians Wilderness Area in New Mexico without completing an environmental impact statement, and without notice to the public or the Congress.

On October 5, 1981, the forest supervisor for the Ouachita National Forest in Arkansas recommended leasing in a portion of the Caney Creek Wilderness without opportunity for public comment prior to making his decision. Interior Committee members subsequently received a letter from Senator Bumpers requesting that we assist him in obtaining an emergency withdrawal of the area to prevent any leasing. The Senator also wrote Forest Service Chief Max Peterson to express his opposition to leasing.

On October 22, 1981, the Forest Service issued a draft environmental assessment recommending oil and gas leasing within the Ventana Wilderness on California's Big Sur coast, the Santa Lucia Wilderness, and the proposed Dick Smith Wilderness. This leasing was roundly condemned by numerous Members of the California congressional delegation, and the Big Sur area's Congressman, Leon Panetta.

On November 13, 1981, the Forest Service issued a draft environmental impact statement recommending the leasing of 89,000 acres of Wyoming's Washakie Wilderness, despite concern expressed by the Wyoming Congressional delegation, and as I understand it, opposition from roughly 98 percent of the public that commented on the leasing proposal.

In January 1982 the existence of lease applications covering some 49,000 acres of the Alpine Lakes Wilderness in Washington State became public knowledge. Both the Governor of Washington and the entire congressional delegation responded to the overwhelming public sentiment against leasing by indicating their opposition to any leasing in the Alpine Lakes area.

Just 2 weeks ago the public became aware of oil and gas lease applications covering some 31,260 acres of the well-known and often photographed Maroon Bells-Snowmass Wilderness, which spans the extraordinarily spectacular high country between Aspen and Crested Butte, Colo. Oil and gas development in this area could have severe adverse impacts on the resident elk herd and on the existing heavy use of the area for hunting, fishing, and other primitive recreation.

Information supplied by the Forest Service reveals that there are currently over 1,000 applications pending for oil and gas leases covering more than 3 million acres of existing wilderness, and also numerous applications for geothermal and other minerals leasing. It appears that the 1981 policy change has sparked interest in leasing in wilderness, with new lease applications being filed constantly. Unless Congress acts to ban leasing, it seems likely that lease issuance could begin on a nationwide basis shortly after the expiration of the current moratorium at the end of this year. Indeed, the

Forest Service estimates that absent a leasing ban, $1 million will be spent just to process lease applications in wilderness areas in fiscal year 1983 alone.

In response to this threat, and in order to give Congress time to examine the issue in detail, in November 1981 the House Interior Committee voted 41 to 1 to request Secretary Watt to refrain from issuing leases in wilderness until June 1982. In late January, the Secretary extended the moratorium until the end of the current session of the 97th Congress. However, the moratorium applies only to the actual issuance of leases, and not necessarily to the preparation of environmental impact statements or other actions administratively or legally required prior to leasing. Thus, even as the moratorium is in place, work preparatory to leasing and the processing of lease applications is continuing in many instances. It is possible, therefore, that many lease applications will be deemed procedurally ready for approval when the moratorium expires and that leases could be issued rapidly after that date absent legislation or other congressional action. For example, in a May 1982 draft environmental impact statement on the land management plan for the San Juan National Forest in Colorado, leasing was tentatively recommended in portions of the South San Juan, Lizard Head, and Weminuche wilderness areas.

In recognition of this situation, on December 16, 1981, Congressman PHILLIP BURTON introduced the Wilderness Protection Act (H.R. 5282) to permanently withdraw all wilderness and wilderness candidate areas from mineral leasing and hardrock mining. Then, in late February 1982, Secretary Watt responded with his own version of a wilderness protection bill (H.R. 5603) which afforded some temporary protection for wilderness and wilderness candidate areas, but at the same time contained other provisions to open wilderness candidate areas for timber harvest, road construction, water projects, ski area construction, and other development. The Watt bill would also have allowed the President to open wilderness areas to mineral leasing and development without the concurrence of Congress.

With bills thus introduced representing two widely divergent concepts of wilderness protection, and with the moratorium due to expire in late 1982, the Subcommittee on Public Lands and National Parks, which had already held 2 days of hearings on the subject, held an additional 7 days of hearings in March and April. As is generally the case with the subcommittee's hearings, the hearings were open to anyone who wished to testify, and all those who called in to sign up were given time to speak. By the end of April, testimony had been received from some 516 witnesses at hearings in Washington, D.C.; Cody, Wyo.; Grand Junction, Colo.; Santa Ana, Calif.; San Francisco, Calif.; Seattle, Wash., and St. Paul, Minn. Of the 516 witnesses who testified, some 490 opposed mineral leasing and development in wilderness and roundly condemned the concepts of the Watt bill. The Burton bill, on the other hand, received strong support. Based on testimony at the hearing and other public input, Mr. LUJAN, the ranking Republican on the Interior Committee, and I consulted with other members and determined that it would be advisable to fashion a compromise bill which reflected the basic wilderness protection goals of the popular Burton bill but moderated certain provisions. Accordingly, a compromise bill was prepared during May 1982, and was introduced as H.R. 6542 on June 8. The bill was reported by the Subcommittee on Public Lands and National Parks on June 18 and by the Interior Committee on June 24 on a rollcall vote of 34 to 7.

As the preceding summary of recent events indicates, H.R. 6542 is a necessary response to documented threats to the National Wilderness Preservation System as well as a bipartisan effort to avoid the controversy which will ensue if Secretary Watt's moratorium expires prior to the enactment of legislation. And above all, the bill addresses the public's desire to see wilderness and wilderness candidate areas placed off limits to leasing. This desire stems from the belief that wilderness and mineral development are simply incompatible, and that a small percentage of the federally owned lands should be off limits to development, even if they appear to have some mineral potential. The statistics and other evidence support this belief.

At the outset, it should be remembered that the withdrawals of H.R. 6542 are limited to existing wilderness and national forest wilderness candidate areas, and as such cover roughly 2 percent of the land in the Lower 48 States. The withdrawals to not cover BLM wilderness study areas, but even if those were to be added, the Department of Energy's contractors at the Oak Ridge National Laboratory estimate that wilderness and wilderness candidate areas contain only on the order of 3 percent of the Nation's undiscovered oil resources and 2 percent of the Nation's undiscovered gas resources. Interestingly, a study conducted for the wilderness society by Mr. Leonard Fischman of Economic Associates, Inc., independently confirms the Oak Ridge National Laboratory estimates to within one-half of 1 percent. Moreover, the Oak Ridge experts testified that they saw little justification for allowing mineral activities in existing wilderness areas and believed that the existing review process prior to wilderness designation adequately insures that wilderness candidate areas with truly meaningful mineral potential are not included in wilderness.

Thus, it is clear that H.R. 6542's withdrawal of roughly 33 million acres of wilderness and wilderness candidate areas not already statutorily closed to leasing will have minimal impacts on energy supplies or the availability of new areas for exploration. Further, the negligible potential impact of H.R. 6542 on energy supplies is highlighted by the fact that there are already some 137 million acres of largely unexplored Federal land outside wilderness and wilderness candidate areas in the lower 48 States under existing oil and gas lease. This is over four times the amount of land withdrawn by H.R. 6542. The Department of the Interior estimates, and the General Accounting Office confirms, that up to 80 percent of these existing leases will expire without exploratory drilling, mostly because, as GAO found, "many lease applicants seek leases for speculation only". In addition, some 100 million acres of Federal lands classified as "prospectively valuable" for oil and gas, but not yet leased and lying outside wilderness are available for possible future leasing.

Given these statistics, I share the public's opinion that wilderness and wilderness candidate areas should not be leased now, and certainly should not be leased unless and until all the existing leases and other prospectively valuable leasing areas outside wilderness have been fully explored and developed. In short wildereness and wilderness candidate areas should be the last areas to be leased so that other public values such as wildlife, fisheries, natural plant communities, watershed, scenery, and primitive recreation can be protected and preserved for future generations with minimal disturbance.

In this regard, I believe a few words about the potential impacts of mineral leasing and development in wilderness and wilderness candidate areas are in order, because it is the fear of such impacts that has rightfully aroused public concern. Although certain elements in the mineral industry have alleged that mineral leasing and development in wilderness and wilderness candidate areas can occur without significant adverse impacts on wilderness values, the public thinks otherwise, and I believe the facts indicte that industry is wrong. In the first place, it must be acknowledged that the issuance of a mineral lease confers certain absolute rights on the lessee. This is a matter of commonsense, unless leases are to be regarded as little more than worthless pieces of paper. Certainly few individuals or companies would pay lease application fees and annual rentals of $1 per acre for oil and gas leases which afforded no exploration and development rights whatsoever. This fact was recognized in a 1980 U.S. district court decision in the case of Rocky Mountain Oil and Gas Association against Andrus, in which the judge indicated that "a lease without developmental rights is a mockery of the term 'lease'".

If one accepts the basic contention that a Federal land lease affords certain inviolable rights, the next question is what rights are afforded, and to what degree they can be regulated by the Government. For example, does a lease guarantee the lessee the right to explore? Can dynamite, helicopters, and other noisy or disruptive methods be used in exploration? Does the lessee have the right to construct a road into the lease in order to bring in exploratory drilling equipment? If oil and gas is discovered, can a road be built, or an exploration road be upgraded, to bring in heavier equipment for production drilling? Can buildings necessary for drilling or other production efforts be constructed on the lease? Can pipelines, storage tanks, or other oil and gas gathering and storage devices be constructed on the lease, or into the lease? Can power transmission, water, and telephone lines be run into the lease area through surrounding lands?

Many of these questions are currently under review in the courts. However, the questions on their face indicate the types of disturbance and impacts that the public views as incompatible with the preservation of wildlife, scenery, primitive recreation, and other wilderness values. Such impacts are acknowledged by the Federal agencies which administer the land. For example, in its report to the House Interior Committee on the 1981 emergency withdrawal of the Bob Marshall wilderness complex in Montana from mineral leasing, the Department of the Interior indicated the following potential impacts:

> Because of the nature of oil and gas development . . . disturbance to the recreation user would extend a great deal beyond the physically disturbed areas. Entire drainages may become unsuitable for primitive recreative use for 50 to 100 years.
>
> The Bob Marshall Area and adjacent nonwilderness lands are one of the most productive and unique big game habitats in the contiguous United States. The leasing of lands in the Bob Marshall Area and subsequent oil and gas activities could affect the wildlife resource in four ways: (1) direct habitat loss through land disturbance activities; (2) disturbance from oil and gas activities or human presence causing a displacement from or preclusion of use of key habitat; (3) direct mortality from possible toxic wastes or collision hazards; (4) human/animal conflict resulting in harrassment or mortality of the animal.
>
> Roads would be required for exploratory drilling which could increase the access to currently remote areas, thereby increasing the zone of disturbance associated with the activity.
>
> Increased mortality of grizzly bears could occur because of control actions resulting from human conflicts.
>
> The Flathead River drainage supports one of the largest native fisheries for westslope cutthroat trout and bull trout in the United States. . . . Oil and gas activities could affect fish or their habitat in five basic ways: (1) decrease in aquatic habitat quality because of increased sediment loading; (2) decrease in aquatic habitat quality because of toxic wastes or oil spills; (3) direct loss of riparian habitat through land disturbance activities; (4) *overexploration of fish resource because of increased access* (emphasis added); and (5) blockage of fish passage.
>
> Since natural appearance is an important attribute of wilderness, the construction of roads, drill pads, and pipelines will effectively decrease the wilderness resource for 50-100 years in some areas.
>
> The accidental escape of highly toxic hydrogen sulfide gases represents the biggest threat to air quality. Frequent temperature inversions in the valleys of the Bob Marshall Area could trap these gases and threaten wilderness workers, recreationists, and wildlife.
>
> Oil and gas activity will likely affect the basic suitability of the Bob Marshall Area from primitive recreation uses. This is because most recreation use, including private and commercial outfitter camps, and located in drainage bottoms that are the most suitable terrain for oil and gas development (roads, pipelines, drill sites, etc.).

A quick review of these potential impacts indicates why the public is so concerned over the wilderness/leasing issue. While the adverse impacts may not occur in each and every case where a lease is issued, the public believes that the risk of adverse impacts is not worth taking on such a small percentage of the federally owned lands, especially lands which have been, or may be, selected as wilderness in order to permanently protect their paramount wildlife, fisheries, watershed, esthetic, and recreational values. This risk takes on added significance when one recognises that in addition to such intangible values as scenery, recreational opportunities, and the mere satisfaction of knowing that wilderness exists somewhere in our modern environment, wilderness also has ascertainable dollars-and-cents value as a producer of wildlife populations, high quality and quantity water flows, and as the source of thousands of jobs in the outfitting, licensed guide, and other recreation industries. In this regard, I would note that I have personally visited several commercial outfitter operations that would be forced to shut down if the wilderness quality lands on which they depend for their living were opened to mineral or other development.

My point in discussing these impacts is to illustrate in the clearest possible terms that H.R. 6542 is not a politically motivated or hysterical reaction to some imagined threat posed to wilderness by the policies of Secretary Watt. Rather, is is a carefully reasoned response, based on voluninous public input, to the basic incompatibility between wilderness values and mineral development, and to the wilderness/leasing policy change that was implemented by the Departments of Interior and Agriculture in 1981. As such, H.R. 6542 does the following:

WILDERNESS AREAS

Existing and future wilderness areas, except in Alaska, are permanently and immediately withdrawn from oil and gas, geothermal and other mineral leasing. In essence, this closes the 1-year window that will exist for possible leasing between the end of 1982, when Secretary Watt's leasing moratorium expires, and January 1, 1984, when all wilderness areas will be permanently withdrawn from leasing and hardrock mining by the Wilderness Act. H.R. 6542 also closes wilderness to seismic exploration involving the use of explosives. The withdrawal of H.R. 6542 covers approximately 18 million acres of existing national forest willderness and 12,000 acres of existing BLM wilderness that are not already statutorily or administratively withdrawn. In addition, the withdrawal includes some 3 million acres of existing national park wilderness areas and about 650,000 acres of existing national wildlife refuge wilderness areas. These latter withdrawals are largely redundant, however, as national parks are statutorily closed to leasing and wildlife refuges have been generally subject to a no-leasing policy, although that policy is currently being reviewed by the Department of the Interior. As new components of the wilderness system are designated by Congress, they will also fall under the withdrawals of H.R. 6542, and on January 1, 1984, under the more sweeping withdrawal of the Wilderness Act.

WILDERNESS CANDIDATE AREAS

The so-called wilderness candidate areas are areas of national forest land which have either: First, been recommended to Congress for wilderness designation; second, been statutorily designated by Congress as wilderness study areas; or third, are being reviewed independently by the Forest Service under the National Forest Management Act for possible wilderness designation and are known as further planning areas.

One of the important decisions reached in formulating H.R. 6542 was that areas under consideration by either Congress or the Forest Service for wilderness designations should not be leased until a wilderness/nonwilderness allocation or decision has been made. This commonsense approach recognizes that it would constitute both poor public policy and land management folly to grant leases and associated development rights prior to Congress making a decision as to whether to designate an area as wilderness; or prior to the completion of Forest Service wilderness studies and land management planning. In short, if leasing is to be banned in wilderness on the grounds of incompatibility with the wilderness concept, it should also be banned in areas which have been recommended for wilderness, or are being studied for wilderness—at least until Congress either rejects the wilderness recommendation or the Forest Service study and planning process is completed.

To do otherwise would be to allow possible development of a lease and the destruction of an area's wilderness character before Congress or the Forest Service can act on the area.

RECOMMENDED WILDERNESS

In accordance with the above philosophy, H.R. 6542 temporarily withdraws some 7 million acres of national forest lands which have been recommended to Congress by the President for wilderness designation, but on which Congress has yet to reach a decision. In this regard, I would note that the bulk of this 7-million acre backlog may be acted on by Congress in the very near future. Indeed, of the total of 7 million acres, the House has already sent bills to the Senate covering 1.4 million acres, and the Subcommittee on Public Lands and National Parks has conducted field inspections or held hearings on an additional 3.1 million acres.

The proposed Dick Smith Wilderness in the Los Padres National Forest in California provides an excellent example of why recommended wilderness should be withdrawn from mineral leasing until Congress can make a decision on the area. The Dick Smith area (RARE II No. A5124) was recommended for wilderness by the Forest Service in RARE II and receives heavy primitive recreational use by virtue of its close proximity to Santa Barbara. It is the home for numerous wildlift species including cougar and the endangered California condor. Wilderness designation would protect a large portion of the Santa Ynez River watershed, which is one of the major sources of water for the Santa Barbara south coast region. The area also embraces numerous sites of archeological significance, including several undisturbed Chumash cave paintings.

The proposed wildnerness is strongly supported by the local congressman, our distinguished colleague Bob Lagomarsino, and has been introduced in bills by both of California's Senators. The proposal passed the House in the 96th Congress and again in the 97th Congress, and is currently awaiting Senate hearings and consideration.

Despite these clear indications that Congress is likely to designate the area as wilderness, last fall the Forest Service issued a draft environmental assessment recommending issuance of nine oil and gas leases within the boundaries of the proposed wilderness. Since last fall additional applications have been filed covering 15,000 acres of the proposed wilderness. If leases are issued and ultimately developed with drill pads, roads, pipelines, and the like, the area could lose its existing wild character and opportunity for primitive recreation for 50 to 100 years. Certainly this should not be allowed to happen in an area where Congress has already indicated the strong possibility of wilderness designation.

CONGRESSIONALLY-DESIGNATED WILDERNESS STUDY AREAS

This category of lands comprises some 1.8 million acres of national forest land which essentially are already off limits to mineral leasing. To wit, the Forest Service is required by law to manage such areas for varying specified periods "so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." H.R. 6542 merely emphasizes this language insofar as mineral leasing is concerned, and insures that such areas will not be leased and possibly jeopardized by no-surface-occupancy clauses or other conditional leasing devices which may or may not protect the surface of the areas.

FURTHER PLANNING AREAS

Further planning areas consist of some 5.8 million acres of national forest areas which the Forest Service is reviewing for possible recommendation to Congress for designation as wilderness. This review is being conducted in the context of the initial forest management plans for each national forest which are currently being prepared pursuant to section 6 of the National Forest Management Act. Recommendations can be expected within the next 1 to 3 years.

H.R. 6542 withdraws further planning areas for one of two periods. If a further planning area is recommended for wilderness in the initial forest management plan it will be withdrawn until Congress reaches a decision on the recommendation. If it is recommended for nonwilderness, it will be withdrawn until 1 year after the date of final approval and implementation of the initial forest management plan covering the further planning area concerned. The 1-year waiting period is intended to give Congress time to review any nonwilderness recommendations.

In theory, Forest Service policy provides that the wilderness values of further planning areas will not be jeopardized by mineral leasing during the planning period. However, some further planning areas are actually being leased with so-called no surface occupancy (NSO) or similar clauses. Such clauses ostensibly protect the areas because they permit no occupancy of the land surface without permission from the Government. However, in practice, no-surface-occupancy clauses have their problems. First, they can be revoked or modified by the Government, at which point to the protection they afford either decreases or ceases to exist.

Second, and equally troubling, the courts have cast doubts on their validity and enforceability. As I mentioned earlier, in 1980 a U.S. District Court decision in Wyoming, Rocky Mountain Oil and Gas Association against Andrus, stated that "a lease without developmental rights is a mockery of the term 'lease'." Further, the judge indicated that lease provisions similar to "no surface occupancy" clauses may constitute "a system of issuing 'shell' leases with no developmental rights" which is "clearly an unconstitutional taking and is blatantly unfair to lessees". The ruling is currently under appeal in the 10th circuit. More recently, on March 31, 1982, a U.S. District Court for the District of Columbia decision in Sierra Club versus Peterson appeared to uphold the validity of no-surface-occupancy clauses and stated that the Wyoming decision was "of questionable validity."

Thus, about all that can be concluded at this point is that the validity and enforceability of no surface occupancy or similar provisions is in a state of flux. It is possible that such provisions will be invalidated by the courts, in which case the lessees might gain full development rights, including the right to build roads. On the other hand, the leases might be deemed to have been illegally issues in the first place and the lessees would thereby have to forfeit the leases with back rentals and other moneys returned.

Given this uncertain situation, we felt the wisest policy would be to simply place further planning areas off limits to leasing, but not to seismic prospecting, until the Forest Service plans are completed and recommendations developed. As already indicated, the planning process will be completed in the next several years, and even with the additional 1-year congressional review period provided by the bill, most further planning areas recommended for nonwilderness will be available for leasing in the near future. In the interim, we agreed to allow, and the bill permits, seismic prospecting involving the use of explosives and other inventorying in further planning areas.

The soundness of prohibiting leasing in further planning areas on an interim basis is borne out if one examines the case of the Deep Creek further planning area in Montana. This area, which lies immediately adjacent to the Bob Marshall Wildness, received the highest wilderness rating score in the entire Nation during the Forest Service's RARE II wilderness review, yet was allocated to further planning in order to allow time for additional min-

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erals assessment such as seismic prospecting. However, earlier this year oil and gas leases containing no surface occupancy clauses were issued, thus raising the possibility that roadbuilding or other development could occur in Deep Creek if the NSO clauses are modified or lifted by the Government or declared invalid by the courts. If this were to happen the highest rated potential wilderness area in the Nation could be developed and its wilderness character destroyed before the Forest Service even completes its wilderness study of the area, and long before Congress gets a chance to review the area for possible wilderness designation. I submit such a result would be intolerable, especially since I personally know of at least one outfitter/dude ranch operation that could be forced out of business if roads are built into Deep Creek. Fortunately, there is hope for Deep Creek because the leases were issued without preparation of an environmental impact statement and may therefore be invalid. But important areas like Deep Creek should not be administered in such a shoddy and haphazard manner, and I believe the temporary withdrawal of H.R. 6542 represents the commonsense approach to the matter.

In withdrawing areas from mineral leasing in H.R. 6542, the sponsors were mindful that certain wilderness and wilderness candidate areas may contain leasable mineral resources which are in further need of mineral evaluation. In particular, Congress or the Forest Service could benefit from additional minerals information in certain wilderness candidate areas prior to making a wilderness/non-wilderness decision. To this end, section 4 of H.R. 6542 permits continued seismic prospecting involving the use of explosives in all wilderness candidate areas and additionally provides for other prospecting conducted in a manner compatible with the preservation of the wilderness environment. However, with respect to lands that have been finally designated as wilderness, the Interior Committee voted 28–11 to ban such prospecting as incompatible with the wilderness concept. Such a ban was strongly endorsed by the public at the Subcommittee's hearings. While we recognize that some methods of explosive testing do little damage to the land surface, all methods can cause significant impacts, including forest fires, the disruption of wildlife, and interference with the calm and serenity expected in wilderness by recreational users. Further, the attendant helicopter flights to shuttle equipment and personnel can also be extremely disruptive.

It may be that at some future date the pressure of dwindling energy supplies or other shortages may dictate the opining of wilderness to seismic testing and/or energy development and extraction. If such a need occurs, section 5 of H.R. 6542 allows the President, with the concurrence of Congress, to open specified areas to seismic testing, mineral leasing or other activities prohibited by the bill. For the present, however, I would only reiterate the earlier cited statistics that wilderness and wilderness candidate areas are estimated to contain but 2–3 percent of the nation's undiscovered oil and gas resource, and that the 137 million acres of Federal land in the lower 48 states already under oil and gas lease should be fully explored and developed before wilderness areas are entered.

I would also note that H.R. 6542 fully protects all valid existing rights, including all existing and validly issued mineral leases, and further allows the subsurface of national forest and public land wilderness areas to be leased, as long as mineral development and extraction occurs from outside the wilderness boundary, by directional drilling or other methods which cause no disturbance to the surface of lands within wilderness.

Mr. Chairman, before concluding this statement I should add a few words about what this bill does not do, as I am fully aware that H.R. 6542 does not tackle all the problems that certain interest groups would like to see addressed. In particular, in drafting and moving H.R. 6542 to the House floor, we have resisted proposals to: immediately close all wilderness and wilderness candidate areas to "hardrock" mining under the mining laws; to withdraw 24 million acres of BLM wilderness study areas from mineral leasing and hardrock mining; to "release" certain roadless lands to timber harvest and other development and amend the National Forest Management Act to prohibit further wilderness studies; to amend the Clean Air Act concerning wilderness; and to allow disabled persons to use motor vehicles in wilderness.

Although certain of these provisions may have merit as separate legislation, we determined that their inclusion in H.R. 6542 could raise considerable controversy and thereby diminish the chance of the bill's passage in this session. And, as I have already mentioned, time is of the essence in this bill, because the current moratorium on leasing imposed by Secretary Watt will expire at the end of this session of Congress. A brief description of our specific reasons for rejecting the above mentioned proposals follows:

MINING LAW WITHDRAWAL

Although the subcommittee's hearings revealed considerable public support for a mining law withdrawal, many Members of Congress are concerned about the availability of domestic supplies of so-called strategic and critical minerals such as cobalt, chromium, nickel, manganese and tungsten. Unlike oil, gas, coal and other leasable minerals withdrawn by H.R. 6542, the strategic and critical minerals are not found in relative abundance in the United States and there are therefore fewer opportunities for their discovery. As such, it was decided that exploration for, and development of, these "hardrock" minerals should continue to be governed by existing law, including the 1872 mining law and the Wilderness Act. I would note, however, that the Wilderness Act will withdraw existing wilderness areas from "hardrock" mining as of January 1, 1984, and I would strongly oppose any proposals to extend that deadline. Wilderness candidate areas will continue to be available under the 1872 mining law unless and until they are designated as wilderness.

BLM WILDERNESS STUDY AREAS

H.R. 6542 does not withdraw the 24 million acres of BLM wilderness study areas which have been identified and are currently being reviewed by the Bureau of Land Management for possible recommendation for wilderness designation. Many of these areas possess outstanding wilderness values and could contribute significantly to the diversity and quality of the National Wilderness Preservation System.

Despite a preponderance of testimony at the subcommittee's hearings for withdrawing these areas, I believe they should continue to be administered under the nonimpairment standards of section 603 of the Federal Land Policy and Management Act of 1976. In this regard, I must confess that I have been distressed by some of the recent actions of the Department of the Interior in interpreting and enforcing the nonimpairment standards. Indeed, I have received reports of actions which may result in the destruction of the existing wilderness character of certain areas. I intend to explore this issue in oversight hearings and will consider legislative action if the facts so warrant. However, I do not believe it behooves us to change the law in this bill. The interim nonimpairment standards have been labored over for some 6 years now and have been the subject of repeated revisions, refinements and legal opinions. Statutory revision prior to further congressional oversight would only create new uncertainties.

CLEAN AIR ACT AMENDMENTS

This amendment would prevent States from upgrading wilderness areas from class II to class I under the Clean Air Act, and was quite properly ruled nongermane during full committee markup. Not only does the amendment infringe on States rights, but it also lies primarily within the jurisdiction of the Committee on Energy and Commerce, and is currently being debated in that committee. Further, it is totally unrelated to the issue of mineral leasing in wilderness and was mentioned by not even a single witness in the subcommittee's hearings on the mineral leasing question.

DISABLED PERSONS

During full committee markup an amendment was offered to allow disabled or "handicapped" persons to use motor vehicles in certain wilderness and wilderness candidate areas. Like the Clean Air Act amendment, it was ruled nongermane to H.R. 6542 because it is totally unrelated to the issue of mineral leasing in wilderness. It is conceivable that the amendment, if introduced as separate legislation and subjected to full public hearings, might be found to have some merit. However, the general issue and the proposed language have had no hearings or other formal opportunity for public comment, and I have had communications from several handicapped individuals strongly opposing the amendment's concept of special treatment for the handicapped in wilderness.

On the merits, I would note that wilderness is not off limits to the handicapped. Many "handicapped" or disabled individuals can, and do, travel in wilderness using crutches, canes, horses, wheelchairs and the like. For example, just 2 weeks ago a 1-legged man climbed Mt. Rainier, and a party of paraplegics ascended the highest peak in Texas in wheelchairs. Last summer, a party explored the High Uintas Primitive Area in Utah in wheelchairs. I would certainly want to hear more from such individuals before considering any proposal to allow motor vehicles in wilderness.

RELEASE LANGUAGE

Last, but most importantly, we have strongly resisted attempts to include so-called "release" language in the bill. Of all the issues involved in H.R. 6542, the public appears to feel the most strongly about keeping the release and mineral leasing issues separate. Indeed, the overwhelming majority of the 516 witnesses who testified at the subcommittee's hearings opposed attaching release language to any bill dealing with mineral leasing in wilderness. Rather than elaborate further on this issue, I would merely cite the excellent discussion of the matter contained in Congressman LUJAN's remarks on H.R. 6542 when he and I and eight other Interior Committee members introduced the bill on June 8.

The bill does not contain so-called "release" language. In rejecting release language in the bill not only are we responding to overwhelming public testimony opposing linkage of the release and widlerness/leasing issues, but we are also recognizing that release is nongermane to the wilderness/leasing question. For one thing, the wilderness/leasing debate centers around the issue of whether mineral leasing for oil, gas, coal, geothermal and other mineral potential should be allowed in wilderness or wilderness candidate areas on which a wilderness/nonwilderness decision has not yet been made. The release issue, however, goes far beyond this relatively simple question, and speaks to the opening of lands determined unsuitable as wilderness for timber, harvest, road construction, water project development, intensive grazing development, and other development uses. Further, because release only speaks to the development side of the wilderness equation, we believe it necessarily must be incorporated only in legislation which at the same time designates wilderness * * * and the leasing moratorium imposed by Secretary Watt does not allow time to develop consensus wilderness designation/wilderness release bills on a State-by-State or regional basis.

Finally, we have noted that the release issue has become so controversial, particularly as it relates to the question of whether Forest Service planners can reconsider and study wilderness as a possible land use in the future, that its inclusion in a bill dealing with mineral leasing in wilderness could fatally impair chances of the bill's passage prior to the expiration of Secretary Watt's leasing moratorium. This would leave the Secretary without the official guidance he has requested from Congress, and would raise the possibility that Congress might have to resort to use of its emergency withdrawal authority under section 204(e) of FLPMA, or other measures, to block any undesired leasing. We feel legislative resolution of the problem is far preferable, and do not wish to see legislation to implement the public consensus against leasing fail over the unrelated issues of timber harvest and future forest planning procedures. The release controversy can, and should be resolved separately in the context of statewide or regional RARE II bills, as is was in the last Congress in Alaska, Colorado, and New Mexico.

For further discussion I would also refer my colleagues to the additional views of our distinguished colleague PHILLIP BURTON which appear on pages 14–23 of the committee report on H.R. 6542 (Report No. 97–638). I particularly share his view that the efforts to include release language in H.R. 6542 are little more than a transparent attempt to revive the timber industry's immensely unpopular and totally discredited "hard" release langauge by attaching it through a nongermane amendment to a consensus bill which legislates the overwhelming public sentiment against mineral leasing in wilderness and wilderness candidate areas. This effort not only violates the rules of the House on germaneness, but clearly flaunts the will of the public.

In conclusion Mr. Chairman, I strongly commend H.R. 6542 to my colleagues as an excellent example of how a commonsense and bipartisan compromise can be reached on a difficult issue. Besides having 60 cosponsors in the House, the bill is also supported by: the Oil, Chemical and Atomic Workers International Union, AFL–CIO; the United Auto Workers; the Industrial Chemical Workers Union; the Industrial Union Department, AFL–CIO; the International Association of Machinists and Aerospace Workers; the United Steelworkers of America; the Wilderness Society; the Sierra Club; The National Wildlife Federation; the National Audubon Society; the World Wildlife Fund; the Izaak Walton League; the National Parks and Conservation Association; the Environmental Policy Center; the Environmental Defense Fund; Defenders of Wildlife; the National Resources Defense Council; Friends of the Earth; the American Forestry Association and numerous other conservation organizations. In addition, some 220 newspapers have run editorials opposing leasing in wilderness and supporting a ban on leasing.

The American public is deeply concerned about the possible impacts of mineral development in wilderness and wilderness candidate areas and has come to its elected representatives for help. H.R. 6542 is that help, and deserves swift passage before Secretary Watt's moratorium expires.

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Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I rise in support of H.R. 6542, the proposed Wilderness Protection Act of 1982. When Secretary of the Interior Watt issued his moratorium on oil and gas leasing in wilderness areas, he, in effect, asked Congress: First, to decide exactly which lands shoud be withdrawn from leasing; second, to decide which mineral development statutes those lands should be excluded from; and third, to decide how long that withdrawal should last. H.R. 6542 makes those decisions.

HOW MUCH LAND

First, let me explain which lands are withdrawn. The Federal Government owns mineral interests in approximately 798 million acres of land throughout the Nation.

H.R. 6542 withdraws from mineral leasing those designated components of the wilderness preservation system which are located in the lower 48 States, a body of land adding up to about 19.7 million acres out of the total 798 million acre mineral estate.

Also withdrawn are about 7 million acres of Forest Service lands recommended by the Forest Service to Congress for wilderness designation which we have not acted upon yet. Some of that wilderness candidate land will be designated as wilderness areas and the rest will either be released for other uses or designated for further study.

In addition, about 1.8 million acres are withdrawn because Congress has designated those lands for further study.

Finally, about 5.9 million acres are withdrawn because those lands have been identified by the Forest Service for further planning pending completion of their respective forest plans.

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In total, H.R. 6542 withdraws 34.4 million acres out of the 798 million acre Federal mineral estate. It should be noted that H.R. 6542 does not affect any of the 400 million acres of BLM land and it does not affect any land whatsoever in Alaska.

WHAT MINERALS

Second, let me explain which mineral development statutes H.R. 6542 affects. This bill would only withdraw the lands I have mentioned earlier from the leasing, under the 1920 Mineral Leasing Act, of oil, gas, oil shale, coal, phosphate, potassium, sulfur and gilsonite and the leasing, under the Geothermal Steam Act of 1970, of goethermal formations. H.R. 6542 would not affect the development of any of our strategic minerals. It would have nothing, to do with the leasing of lead or copper or zinc. I hasten to add that H.R. 6542 also has nothing to do with the 1872 mining law which provides for prospecting, claim filing, and the development of hard rock minerals.

LENGTH OF WITHDRAWAL

Third, let me explain the length of the withdrawal for each of the four categories of land affected.

The 19.7 million acres of congressionally designated wilderness area would be withdrawn permanently unless opened up under the special urgent national need provision included as section 5.

The 7 million acres of wilderness-candidate land would be withdrawn only for the term of the forest land management plans applicable to each respective area. These forest plans last for 10 years and began, for most areas, in the late 1970's. Thus, a wilderness candidate area could either be designated by Congress as a wilderness area and thus be withdrawn permanently, or included as a wilderness-candidate area in a second-generation forest management plan, and thus be withdrawn for another 10 years, or be released from this withdrawal if it is not designated as a wilderness area and is not included as a wilderness-candidate area in a second-generation forest land management plan.

The 1.8 million acres of study areas would be withdrawn for so long as Congress has designated that they should be studied. Some areas have been designated for study until Congress determines otherwise while others have been designated for a set number of years.

The 5.9 million acres of further planning areas would be withdrawn while the initial forest management plans are being prepared and implemented. H.R. 6542 would provide a 1-year extension of this withdrawal for each area so that Congress would have an opportunity to review the plan and the wilderness recommendations therein.

URGENT NATIONAL NEED

Thus, the withdrawals in H.R. 6542 would be permanent for 19.7 million acres of designated wilderness areas and may be either permanent or temporary for the rest of the land in question. Any portion of the entire 34.4 million acres of land withdrawn from certain mineral leasing by H.R. 6542 could be opened up to mineral development under the urgent national need provision included in section 5. It authorises the President to recommend opening up a withdrawn area where he finds that an urgent national need for minerals development exists. If Congress approves the President's recommendation, mineral development may take place. I understand that the number of oil and gas drilling rigs in operation today has dropped from about 4,600 9 months ago to less than 2,700 today. However, this decline in drilling activity should not be interpreted as a permanent change. Our Nation will need enormous amounts of oil and gas in the years to come. Just because the vast majority of oil and gas leases which now exist on public lands will not even be explored before the lease expires does not mean that we should not have the capability to open up part of a wilderness or wilderness candidate area in an emergency. The 1974 OPEC embargo taught us a lesson that we should never forget.

SEISMIC EXPLORATION

H.R. 6542 is the end result of an extensive hearing process and a prolonged period of discussion, negotiation, and compromise. One provision in this bill prohibits seismic activities involving the use of explosives in designated wilderness areas. In my opinion, this prohibition is unwarranted. Seismic activity can take place without permanently damaging a wilderness area and can be conducted at times when wildlife will not be affected. However, this is a compromise bill. While I would prefer to delete the seismic activity prohibition, I realise that others are strongly in favor of it. Some Members would even have preferred that the seismic prohibition apply to wilderness-candidate areas as well. I understand that an amendment may be offered affecting this provision and I hope we can agree upon language that is acceptable to most Members.

RELEASE LANGUAGE

Another subject of extensive debate is the question whether or not H.R. 6542 should include language which would remove all wilderness-candidate lands from being administered as wilderness areas after a date certain. This is often referred to as national release language. The Interior Committee has chosen to release wilderness-candidate lands on a State-by-State basis as Congress enacts legislation on each State, and thus, not to include such language in H.R. 6542. This is an extremely important issue and I hope we can either develop legislation to resolve the problem in the near future or come up with a timetable which would complete the consideration of all RARE II wilderness proposals on a State-by-State basis within a reasonable period of time.

In conclusion, Mr. Chairman, I strongly recommend passage of H.R. 6542. Secretary Watt has imposed a moratorium on oil and gas leasing in wilderness areas until the end of this session of Congress. If we do not act favorably on H.R. 6542, we may see hundreds of oil and gas leases issued next year in our wilderness areas. Applications have been filed on wilderness areas in 21 different States; 52 have been filed on Colorado's West Elk Wilderness Area, 270 are pending on Montana's Bob Marshall Wilderness Area, and 109 have been filed on Wyoming's Washakie Wilderness Area. As far as I have been able to determine, 54 different wilderness areas have oil and gas lease applications awaiting approval. If any major portion of those leases are granted, our entire wilderness system will be jeopardized. For these reasons I urge your support of H.R. 6542.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and for those who are in the listening audience of this great deliberative body in which I serve, I would like the audience to know that there are only four Members of the U.S. Congress in the Hall at this time, that we are deliberating something here that affects millions of Americans in one way or the other. It is an example to welcome to "Saturday Night Live." It is unfortunate, Mr. Chairman, that this legislation represents the Congress at its worst—reacting to emotional claptrap perpetrated by the nogrowth elite in this country who wish to deny the American people access to the resources that they need to cheaply heat their homes and their schools and run their automobiles. The groups that have sought to make the Congress feel that this legislation is necessary are the same who fight development of any kind—the same people who fought construction of the Alaska pipeline, which has so far brought over 2 billion barrels of American oil to our consumers, and contributed to the pressure that is now forcing OPEC to forgo price hikes and a further economic dislocation in this Nation and around the world.

As a result of their contrived horror stories, the Wilderness Protection Act has seemed necessary. It is most certainly not, and I can only say that if the oil companies or the industries of this Nation were engaged in the same type of effort to distort the truth to the people of the United States and their elected Representatives, they would be hung out to dry.

H.R. 6542 would immediately withdraw over 30 million acres of publicly owned lands and resources from even the most environmentally sound exploration and production processes. Though the majority of Americans have apparently been convinced by the no-growth, "I've got mine and to hell with you" crowd and their media lackeys that wilderness areas must be withdrawn or face the bulldozer and permanent destruction, this bill goes far beyond that, and closes millions of acres of wilderness study lands, many of them with high, but unknown, potential for energy.

This bill violates the wilderness study process, by ignoring the fact that the purpose of wilderness study is to study prospective wilderness areas, gather data, and insure that congressional decisions will be informed and based on all facts, about subsurface as well as surface resources. This is particularly true of further planning areas, which were identified as such, precisely because the Forest Service felt oil and gas drilling was essential before informed decisions could be made.

By closing further planning areas, study areas, and recommended wilderness areas, this bill would preempt the decisionmaking process and prevent the gathering of information essential to make a final determination. By virtually guaranteeing that energy data will be inadequate, especially when contrasted with data on surface resources, it would inevitably create a biased process tilted in favor of wilderness and all but insure a wilderness decision, even where an area has extremely high energy potential.

The bill reflects a very narrow, myopic view of what is in the public interest—a view which considers only wilderness preservation, without regard to other, equally legitimate needs. It ignores the public interests to be served by meaningful resources inventories, informed land use decisions, and an orderly, phased, and environmentally sound exploration and development program.

The inventory process in this bill is a sham. It will result in just what the national wilderness advocacy groups want—very little information on subsurface values, so that cheap, abundant energy produced at home will elude Americans, and we will all have to adhere to their "small is beautiful" theory, like it or not. Because it completely bans seismic surveys with explosives in designated wilderness areas, no meaningful oil and gas data will be available when needed to respond to "urgent national needs." With no hope of every acquiring a lease, no company or individual is ever going to survey these areas for their energy potential, and they will be lost forever, or until a real emergency some time in the future starts an all-out search for energy, complete with bulldozers and all of the careless practices that accompany a search for energy in a time of life or death need.

H.R. 6542, in its present state, would thus guarantee that little will ever be known about the subsurface resources of the areas covered by the bill—and that Americans will be led to believe that the areas contain no energy or mineral resources.

The bill would ban all forms of seismic exploration in designated wilderness areas, even though modern seismic methods have virtually no impacts on the land. The only tried and true methods for conducting seismic activities and finding where oil and gas potential areas are, are the explosives, or "thumper trucks," which must have access on reasonably good roads. Both options are banned under this bill. In times of urgent national need, we will search irresponsibly, with no environmental safeguards because we will have to cover large areas rapidly, rather than go directly to known areas of high potential.

By prohibiting seismic surveys requiring the use of explosives, the bill ignores the Wilderness Act's clear standards for what is to be judged "compatible with the preservation of the wilderness environment." It elevates the new standard of "calm and serenity" of the most intolerant hikers to be the new standard of what will be permitted in wilderness areas. In doing so, it completely ignores the vital public interest of the vast majority of Americans who seek to know the nature, extent, and location of their oil and gas resources before an emergency occurs.

This bill ignores the numerous environmental protection laws and techniques that have been developed over the past decade and proceeds on the assumptions that the only way to protect an area is to prohibit energy and mineral activities. In so doing, it ignores the fact that the cumulative total of land affected by mining operations in the United States over the last 50 years is only 5.78 million acres—7 percent of the land now designated as wilderness.

By making wilderness candidate areas off limits to oil and gas leasing on the ground that roads would have to be constructed, H.R. 6542 ignores the fact that Congress has consistently placed lands with roads into the wilderness system, saying that if blockaded, the roads would soon disappear with no trace. The recent Cumberland Island wilderness bill is a perfect example—the Congress decided that even though the area contained well-maintained roads and buildings, they would be included within the area designated, so long as they were later removed.

In another major shortfall of this bill, the President is supposedly given an "unlock" provision in time of national need and the consensus of the Congress. By requiring him to submit an EIS along with his request to Congress, this legislation erroneously assumes that the President is going to be able to determine when a national need will occur—with the 1½-year EIS procedure, at least that long. As such, it stands as an empty gesture to Members who are legitimately and honestly concerned about the Nation's ability to respond in a short time to a national security crisis involving energy or minerals. Further, while the bill does not affect hard rock, or the strategic minerals this country is so dependent upon others for, the date for shutting off exploration for those minerals is the end of 1983—and this bill has no emergency provision for a national need for minerals.

This bill does not include any release language. It fails to address the critical questions of how long areas should remain in wilderness study or candidate areas, how and when they are to be returned to multiple-use, sustained-yield uses, under our general land laws and the environmental laws which have accumulated since the passage of the Wilderness Act of 1964.

Since we have all heard of "release," perhaps we should look at what the facts of released lands are:

Release is not the same as development;

No development can occur on any released lands until all applicable environmental study and permit requirements have been met;

Any development that could occur would probably involve only a small area, and will not foreclose the wilderness option for the other lands or, indeed, the mineralized lands after reclamation; and

Many wilderness, and wilderness candidate areas have been impacted by past energy, mineral, homesteading, road building, timber harvesting and other human activities. They are in the wilderness or candidate category today because these signs of man have been removed through environmentally sound reclamation. The same approach could be used with respect to the acreage affected by exploration or development wilderness values.

The cost estimate of this bill is somewhat amusing, since it indicates a minimal loss in potential receipts to the Federal Treasury based upon a study conducted by the Wilderness Society that has been refuted as "hogwash" by responsible resource appraisal experts and geologists who understand the methodology of the study. The studies were politically motivated, lacking adequate mineral data, and demonstrating a gross misunderstanding of even the most basic mineral as-

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sessment principles. The fact is, Ms. Rivlin is unable to give us a realistic appraisal of the cost of forgone revenues in this bill, because only God knows what is under those millions of acres, and so far, he has let man's God-given talents find the resources, rather then endowing us with the divinely inspired guesses of the often talked about "studies."

This bill, in sum, is a turkey—it reverses the carefully wrought compromise that led to the passage of the Wilderness Act, when national security problems related to minerals and energy were virtually unknown, as were the proper environmental safeguards we have instituted since. In one fell swoop with this bill we put off limits more acreage than was ever intended by the original legislation. It is against the national interest, unless one's idea of the national interest is being ignorant about what resources we have in order to protect our country from shortages of energy and minerals necessary to continue our way of life. I am beginning to wonder about the motives of this Congress, and the groups that have lied about every public land issue to come before the Subcommittee on Public Lands and National Parks, on which I sit as ranking member. My only observation is that they intend to do their best to stop any development of any kind—water, energy, mineral, industrial, and agricultural. I urge the Members to think about all the issues they advocate and ask ourselves about the motivations of groups that are anti-everything. I think the Congress has more fortitude than to roll over and play dead on every issue they bring to us in the name of the environment. I need only remind you that your constituents live from the fruits of the environment in this great Nation, and that to continue to make more and more of that environment inaccessible to them for their uses means that each and every one of us will be forced to do with less. To vote for this bill as it stands not only insures that, but also insures that your constituents will be living with less because they will be denied the knowledge about their resources on the public lands. That is a shame for this Nation and a shame for the world, given our relative position in the world. I urge the Members to reject this bill and send the Interior Committee back to square one to deal with this issue in a rational, rather than emotional, manner.

□ 1315

The greatness of this Nation was created by the utilization of our resources. It is what allowed those that came to our shores from overseas to improve their lot. It gave us the capability to build the greatest and highest standard of living anywhere in the world. And yet we have only disturbed 5 million acres of that land. Only 3 percent of the land under this bill will be affected. I think my statement of 5.5 brings that out. Three percent of the areas that can have and may have those resources that we need. And all I have ever asked is for the environmental groups to start listening to what I am saying. There is nothing in this for me. And even the environmental groups will say when we need it we will go get it, but with what knowledge. That is like saying I have a pain, and there is nothing wrong. I do not want to find out what is within myself, because I hurt, but I am sure it is nothing. But then the emergency arises and you rush to the doctor, and the doctor is in a panic and he whacks out something he should not whack out because he does not have the knowledge to know what he is doing because he did not have the time to identify the problem.

We spent $78 billion last year overseas to buy oil from those people that you are reading about in the paper today; $15 billion to buy minerals. How can we balance the budget and put people to work when we are not developing our resources?

What moral right do we have as a Nation to take from the Third World and increase their high-inflationary rate by buying with borrowed dollars those resources? What happened to the term "management"? Man has made mistakes, but he has learned, and he can produce those resources, renewable and nonrenewable, and again to lead this world as we should as a free nation.

It is ironic to me the anti's, antinuclear, antidams, antioil, antiminerals, anti, anti anti, are also antimilitary.

My colleagues may ask why do I bring this up? There has never been a war won by military strength, never. A war is won by economic strength. And World War II, how did we win that war? Not by military strength.

When we needed a tank we got 10, because we had the economic strength. When we needed a battleship we got five, because we had the economic strength. When we needed 1 airplane, we got 50 airplanes. We had economic strength.

And yet these same anti, anti, anti—I am going to tell the Members about the antis. It is a tremendous thing. "No dams, I want to paddle my canoe; no wells because you disturb the wilderness; no mining; do not do anything, but just bye-bye, let me have what I have got because I am one of the elite."

I am talking to that listening audience out there that is out of work in Detroit. And by the way, the United Auto Workers support this legislation. I do not know where their leadership comes from. They must be with the Edsel. I cannot understand what is occurring as far as the labor movement when it comes to this type legislation. How can we send $78 billion last year over seas for oil, and I cannot build a gas line? I cannot build a northern tier. We cannot drill because we might disturb something.

The listening audience had better be very well aware, because there is nobody in this Chamber right now, that they are being misled by the finest organized groups in America today, under the guise of environment. Five point 7 million acres of land disturbed in the last 50 years, and you will listen to them, and they are going to destroy the whole America, the United States.

Remember the battle about the pipeline? It was a grand battle. They showed there was going to be destruction of the very tender flora and fauna. They showed that the bulldozers were going down and digging ditches. We took the same amount of land that one hare would take across this whole Chamber. And today it is one of the soundest environmental projects ever completed. But it was done. Because we needed it.

It was passed in 1973 and we had the embargo in 1973. But we knew it was there, we had engineered it, we understood where it was we identified it.

Under this bill you are taking lands and setting it aside without any knowledge.

Mr. Chairman, I cannot understand what is the fear of knowledge. Why are we so panicked and pressured-supposedly because they are against my good Secretary of the Interior, that he is a bad person, and he has let leases. He has not let any leases in any wilderness area. It is the previous administration, including the previous President, let seven in wilderness areas. Nobody said a word. It was the intent of the act that this would take place, that there was compatibility. And I would challenge those that support this legislation, let us cut out the nonsense, let us make parks out of them, let us put them out there where they really are so the American public will understand what is really happening to them.

I ask this body-unfortunately there is only again, I want to strees again, about four people on the floor—I ask this body—two—which opposes—the other one is very quite about it. I asked this body to consider looking at knowledge of the lands which we are seeking to lock up, and why is this bill necessary.

Now, I know the argument is going to be we are only talking about 7 million acres. Do my colleagues know there are 231 million acres of land in wilderness today? And we have only got 736 million acres of public lands approximately? One-third is already wilderness. And I challenge them within those borders to show me where there is one acre that does not have other values-oil, gas, minerals, hydro, timber, agriculture—the things that this Nation was built upon. And they are saying we need it to save it for the future generations.

I am telling my colleagues that is nonsense. What we need is the knowledge of what is there so we can systematically plan and derive the benefits from those resources when it is needed, and that I will say is what is wrong with this bill, because we are dealing with ignorance and ignorance alone.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to my good chairman, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

Would the gentleman care to detail where he arrives at this figure of 237 million acres? I have had staff do some research and we cannot come up with anything even approaching that figure in terms of lands that are off limits to oil exploration. And certainly not that many that are in wilderness.

Mr. YOUNG of Alaska. Well, I would suggest the gentleman study all his parks, all the potential wilderness areas, and that you come up with 237. I have the statistics. I will gladly show them to the gentleman. They are a GAO Government report.

Mr. SEIBERLING. I have them in front of me.

Mr. YOUNG of Alaska. What the gentleman sees is not what I see.

Mr. SEIBERLING. Evidently.

Mr. YOUNG of Alaska. But I have the figures; the gentleman has the figures. As to how we read the figures, the gentleman may go by the modern math. I went to the old school where 2 and 2 are 4.

Mr. SEIBERLING. The gentleman will recall that the thing that precipitated the Interior Committee's request to Secretary Watt to declare a moratorium on leasing in wilderness was the action of the Secretary last year in approving three mineral leases in the Capitan Wilderness of New Mexico.

Mr. YOUNG of Alaska. That is the type propaganda which the gentleman is strongly in support of, and I understand that, that caused this great concern, because there were no leases on the surface within that area, and the gentleman has to admit they were off surface, outside, and slant drilling. And there is nothing wrong with that under the Wilderness Act itself.

Mr. SEIBERLING. If the gentleman will yield further, the gentleman said there has been no leasing in wilderness areas by this administration, when in fact the Capitan Wilderness leases were granted for the wilderness area.

Mr. YOUNG of Alaska. They were not within the wilderness boundaries. The gentleman knows that. Has any previous President ever allowed leasing in any wilderness areas?

Mr. SEIBERLING. With rare exceptions, yes.

Mr. YOUNG of Alaska. How many has the present Secretary allowed?

Mr. SEIBERLING. The present Secretary granted three leases.

Mr. YOUNG of Alaska. Outside the boundaries of the wilderness. And second, the gentleman knows there were seven other leases allowed by the other administrations and not anyone ever raised that question.

So when this is done, this administration's position is wrong. But these are nitpickey little things.

What I am talking about, and the gentleman has to admit it, how can a man with the great intelligence that the gentleman has, a Member of Congress, who is chairman of the committee, deal in the fact that we are locking up lands without knowing what is there?

Mr. SEIBERLING. If the gentleman will continue to yield, I still want to clarify the first issue, which is the leases in the Capitan Wilderness, which contained a clause there would be no surface occupancy. But the courts have ruled that once you issue a lease you cannot deny surface occupation.

Mr. YOUNG of Alaska. The leases were let to not go within the border.

Mr. Chairman, I reserve the balance of my time.

Mr. SEIBERLING. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, the Wilderness Act, passed in 1964, granted mining interests a 20-year grace period to stake and perfect claims in wilderness areas. It also allowed, but did not require, the Secretary of the Interior to issue discretionary softrock mineral leases.

Until this administration came to power, Interior Secretaries chose not to issue mineral leases at all. They weighed wilderness values, and the wishes of the people, and chose to preserve a few precious lands free of exploration and drilling.

This was wise policy—wilderness was preserved, and precious resources were left in the ground. If, at some point in the future, our reserves became so depleted, and our needs so great, then we could tap these irreplaceable resources. If, on the other hand, through wise conservation, and development of alternative energy sources, our Nation did not become so desperate, then our wilderness would have been preserved for us and for future generations.

This reational and sound policy was pursued for 17 years—until Secretary Watt began abuse of the Wilderness Act and our Nation's wilderness areas. If this Secretary were not so determined to commit these abuses, we would not be debating this bill today, the resolution arrived at in the Wilderness Act would still be intact, and in less than 18 months our wilderness areas would be forever closed to mineral leasing. Were it not for Secretary Watt, the Lujan-Seiberling Wilderness Protection Act would not be necessary.

The only argument for this legislation is that over the next 18 months, this Secretary of the Interior, in this administration, must be curbed. This is a convincing argument. Because this Secretary's excesses must be curbed now, I will support this legislation, but not without reservations.

We must be sure that the long-term tradeoff for curbing these immediate abuses is not too great. We are considering granting the President new power to propose opening up wilderness areas at any time in the future, in exchange for protecting this wilderness for 1½ years. We must not allow the urgency of arresting this immediate threat to bring us to sacrifice sound, long-term protection.

The Wilderness Act provided such vital long-term protection. Under the Wilderness Act, opening up a wilderness area to leasing after 1984 required an act of Congress, complete with the hearings and careful examination of issues required to enact a law. In short, the same careful deliberation that is required to designate a wilderness area was required to open one for leasing.

The original H.R. 6542 proposal did not allow for such careful deliberation. It would have established an expedited process by which wilderness areas could be opened to leasing, with no public hearings, and no participation by affected States. Section 5 originally gave the President the power to recommend opening wilderness upon his own determination of an urgent national need. Congress could then be forced—without public hearings, and without adequate review—to act on this recommendation after only 60 days.

This provision gave the President too much power to open wilderness. It was unnecessary, and ripe for abuse. Because it was included, I voted against this bill in the Interior Committee.

But this substitute offered by my colleague from Ohio deletes this troublesome provision. It is a much sounder bill, and I support it. It strikes the essential balance between our Nation's future mineral and energy needs, and priceless wilderness values. It curbs the abuses of this Secretary, and provides for sound, long-term wilderness protection. The normal, orderly decisionmaking process of Congress is preserved. Wilderness protection is one

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area where all the patience and caution of our legislative process serves us well, and it should be preserved.

Under the Wilderness Protection Act, Congress retains the power to determine whether mineral activity is allowed in wilderness. Congress has the freedom to move with due caution and reason. It remains the responsibility and privilege of Congress to protect our Nation's wild lands for future generations, so that future generations will have wild lands to protect.

I urge my colleagues to join me in voting for the Wilderness Protection Act.

□ 1330

Mr. SEIBERLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise in support of the bill H.R. 6542. This bill, introducied by my colleagues on the House Interior Committee, Congressmen LUJAN, and SEIBERLING is an expression of the bipartisan conviction on the committee that action must be taken to protect vital federally owned wilderness areas. By withdrawing our amount to less than 2 percent of all Federal lands, from mineral leasing and development, we are insuring that these unique areas will be preserved for the benefit of future generations. The bill was the subject of intense scrutiny and consideration by the Interior Committee which included 9 days of hearings throughout the country and the receipt of testimony from over 500 people. It is truly a compromise measure which addresses the concerns of interested and involved groups and [illegible].

I urge my colleagues to pass the bill without amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I rise in strong support of H.R. 6542, a bill that represents a bipartisan compromise to resolve, once and for all the controversy over oil and gas leasing in the wilderness areas of this country.

As my colleagues speaking ahead of me have noted, until recently there was an informal policy of not issuing leases in wilderness areas, in spite of the authority to do so that was contained in the Wilderness Act of 1964. The public furor that has erupted over this issue indicates that the administration has miscalculated about the importance of this and many other environmental issues to the American people.

This bill is truly a bipartisan effort and I would say to my Republican colleagues that we will do the administration a favor by passing this legislation and putting to rest this divisive issue. Republicans have a tradition of being at the forefront of environmental movements and we cannot allow that to change.

To those who claim that this bill would lock up valuable resources, I ask you to consider the importance of the resources we are attempting to protect and to look at the reasonable nature of this bill.

First, the bill provides for ongoing mineral surveys in all withdrawn lands and allows the President to open any withdrawn area in case of urgent national need if the Congress concurs. It also continues to allow mineral extraction by slant drilling from outside a wilderness area.

And what about the charge that we are locking up vast amounts of land that could otherwise be of use to Americans? Nothing could be further from the truth. Making such a charge assumes that the only use for Federal lands, including wilderness, that is desired by Americans is that of resource extraction. The fact is that wilderness and wilderness candidate areas comprise only about 2 percent of the land in the lower 48 States. Furthermore, according to estmates by the Oak Ridge National Laboratory, these areas contain only about 2 to 3 percent of the Nation's undiscovered oil and gas resources. Finally, and possibly most important, is the broad public support for the concept of wilderness for its own sake.

I urge all of my colleagues to vote for this legislation, thereby helping to defuse an issue that has cost the administration a great deal of support.

Mr. SEIBERLING. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. WILLIAMS), and in so doing I want to commend the gentleman for the leading role he has played in trying to resolve this conflict, and for the initial action that we took in ordering the Secretary to withdraw the Bob Marshall wilderness from mineral leasing.

Mr. WILLIAMS of Montana. Mr. Chairman, it is with a great amount of personal fulfillment that I rise today to speak in support of the Wilderness Protection Act, H.R. 6542. To many of you, the controversy surrounding the question of mineral leasing in our Nation's wilderness areas was one that began when Secretary Watt came to head the Interior Department. In the State of Montana, this is a controversy that we wrestled with long before this administration, and long before the Congress became involved. The opening vollies in this controversy took place in Montana, and the first battleground was the Bob Marshall Wilderness.

In early 1978, a group of 200 to 300 Montanans from all walks of life gathered in Missoula, Mont., to stage a protest outside of the regional forester's office. The catalyst for this demonstration was the forthcoming issuing of leases for oil and gas exploration or permits for seismic activity in Montana's Bob Marshall Wilderness. The Bob Marshall is considered by many to be the flagship of the wilderness fleet. Outside the Federal Courthouse in Missoula, the chants and the signs were the clear: "Do not bomb the Bob!" This expression, "bombing the Bob," was in reference to the use of explosives in seismic exploration. It was believed by many people at that time that any seismic activity using explosives would be extremely detrimental to not only those people seeking the wilderness experience; but, more importantly, to the survival of wildlife. At the time of that demonstration, there were 343 leases for oil and gas permits pending before Tom Coston, the regional forester. In that case, he was particularly ruling on a request by Consolidated Geophysic Georex, a seismic exploration company, to conduct seismic activity in the Bob.

The regional forester denied Geo-Georex's application, saying that need was not demonstrated, and that there was considerable lack of public support for any other decision. That decision was automatically appealed to Max Peterson, the head of the Forest Service, and it is at this point that the Mountain States Legal Foundation, headed by Jim Watt, entered the picture. The Washington office ruled that the regional forester had made his determination on insufficient grounds, and that the decision should be sent back to the regional level for another consideration. The decision went back to the regional office, President Reagan was elected to office, and Jim Watt became Secretary of the Interior Department. When the Secretary was appointed, there were many in Montana who feared for the Bob Marshall. On May 5, 1981, Secretary Watt in an inner-office memo directed his solicitor to work to reinterpret the law regarding mineral entry into wilderness areas, so that it opened wilderness areas. On May 21, 1981, the Forest Service changed its regulations to provide that wilderness designation could no longer be the basis for denying a mineral lease, permit, or license. Suddenly, the direction of our Government seemed clear, and it was to be inevitable that the Bob Marshall would be the first victim.

Recognizing that an emergency existed, I asked the Interior Committee, of which I am a member, to consider withdrawing the Bob Marshall under an emergency provision within the Federal Land Management Policy Act. The Interior Committee agreed with my request, and on May 21, 1981, the committee withdrew the Bob Marshall from any leasing activity. There were those people at that time who felt that the Bob Marshall was an isolated incident, and that no emergency really existed. But, then, the Forest Service followed with proposals to lease in Wyoming's Washakie Wilderness, in California's Ventana and Santa Lucia Wildernesses, and Arkansas' Canay Creek Wilderness. Suddenly, Montana did not stand alone, and, as the late Jimmy Durante would say, "Everyone wanted to get into the act." It was that concern that ultimately culminated into today's consideration.

I only offer this brief history for two reasons: One is to show that this is not a new issue—it is a problem that has been discussed in the West for some time; and the other is to preface the importance of observations, taken from a report prepared by the Interior Department, following the withdrawal of the Bob Marshall. One of the things required under the Federal Land Management Policy Act decision was that the Interior Department prepare a report addressing the emergency That prompted withdrawal. Since this is the only report that I know of that directly discusses the outcome of oil and gas leasing in a wilderness area, I think it is important for the full House to know what its findings were. As I begin this discussion, I want you to note that this is a report that was prepared last year by this Department of Interior, and discusses the question of oil and gas leasing in the Bob Marshall. I will discuss its findings in three categories. These categories comprise the most often-asked questions about leasing in wilderness areas. The first question is: Will leasing be detrimental to the quality of a wilderness? The second question is: Will seismic activity be detrimental to a wilderness area? And the third area, most importantly, is: Will we significantly enhance our energy standing by allowing oil and gas leasing in wilderness areas?

Will leasing be detrimental to the quality of a wilderness?

The phase following exploration is actual leasing. Once a lease is given, its holder has the right to go through to production. The report by Interior is clear:

> An oil and gas leasing program could have both short and long term effects on wilderness attributes. During exploration, such activities as helicopter flights, seismic explosions, vehicle traffic, and well drilling could detract from the wilderness resource. Noise pollution, visual degradation from roads and drill pads, and areas of concentrated human use would generally be confined to areas of drainages that are subject to exploration activities. Particular drainages subjected to exploration activities could have their wilderness characteristics altered substantially, particularly during periods when roads and heavy equipment are used.
>
> During the long oil and gas production period (up to 50 years) a wilderness may be fragmented by numerous roads and development in its main valleys. While the actual area impacted by surface disturbance would be low the remaining area may be so fragmented that some of its current wilderness value would be lost. Entire drainages may become unsuitable for primitive recreation use for 50 to 100 years.

Will seismic activity be detrimental to a wilderness area?

On page 15 of the Interior report is stated:

> The lack of roads would require extensive use of helicopter portable techniques. Environmental impact during this time is primarily limited to noise pollution from helicopters and surface explosive charges.

Let me place this observation in perspective. It is estimated that, of the 800 grizzly bear left in the lower 48 States, approximately 400 live in the Bob Marshall. The lower 48's largest bighorn sheep herd, about 1,000 head, inhabit this area. Had Consolidated Georex Geophysics been allowed to explore, it would have involved 270,000 pounds of explosives along 207 miles of seismic line. This would require 5,700 separate explosions (60 pounds every 150–200 feet) at a rate of 50–100 shots a day. A crew of almost 30 people would be transported back and forth by helicopters in the wilderness area for approximately 3 months. I point out that this is only one company, and 343 lease applications were pending—all presumably needing some seismic activities.

SUMMARY

The conclusion seems clear: Both seismic and leasing activity are detrimental to any wilderness area. This price will be paid with very little, if any, gain in energy independence. I submit that the price is too dear; and the areas left to explore, other than wilderness areas, are too many for this legislation not to be enacted.

This is bipartisan legislation reported by the Interior Committee has reported to this body. This bill incorporated the concerns of many Americans who testified before the Interior Committee, not only here in Washington, but in many States across the West. A voice that began quietly in Montana has risen across this country, and its statement is concise: Do not condemn our last wild areas to development. I submit that this Congress cannot turn its back on that plea.

I conclude, my colleagues and my friends, by saying that all legislative bodies, including the U.S. Congress, often and with great dramatics and unabashed fanfare close the barn door on an empty barn. Do not let it happen this time. Our foresight should be 20-20. Let me say that Americans have no fight with the oil companies. PAT WILLIAMS has no fight with the oil companies. We all understand that theirs is a roughneck, and a dirty, and a noisy and essential business. Americans welcome the oil companies. We want them in our houses, we welcome them into our recreation rooms, we want them to come into the kitchen of our agricultural areas, into the dining rooms of our mountains, where they can feed upon the potential oil and gas reserves below: We simply, and politely, request that they stay our of our parlor.

Mr. YOUNG of Alaska. Mr. Chairman, in my remaining 3 minutes, I am glad the gentleman from Montana said there were only a thousand bears left in the United States. We in Alaska have many times considered seceding from the Union for the way we have been treated as far as action on our lands, on 147 million acres of land, which is twice as large or three times as large as Montana, which has been set aside for the grizzly bears. In fact, if you want some, we will be glad to send you some down to these areas. You know, we will just get rid of them, and maybe a few wolves while we are at it.

But anyway, Mr. Chairman, to clarify one point, the designated wilderness area today in 80,000,902 acres. The recommended wilderness is 20,764,000 acres. Under study is 131,109,402, which comes to a total of 231,874,332 acres.

The way this Congress is acting, that is one-third of our total land mass in the United States today that is publicly owned.

The way this Congress acts, it is being misled by those groups that like to say that this is for the wilderness sake, that will lock up potentially the majority of our resources.

This is not myself speaking. This is the information we obtained from GSA, GAO, from all those military establishments, from the geologists, from the USGS, and whole groups that understand the facts, that we are, in fact, putting ourselves into jeopardly of the other countries if we have to import minerals and oil from them.

Mr. Chairman, this is not an environmental vote. This is a no-growth vote. It is not a sound management policy. It is a nonmanagement policy.

Mr. Chairman, I will urge my colleagues on Wednesday, when we vote on this, hopefully, that they will read the record and ask themselves, do they continue to want this great Nation of ours to be dependent upon foreign countries for those resources which we must have to maintain our strength, or do they want access and knowledge of where those resources are and the wise and sound development of those resources as we need them?

If you believe in no-management, if you believe in ignorance, if you believe that this Nation is no longer great, then you will vote for this legislation.

If you believe that man has the capability to manage and to understand and to develop and still maintain the environment, then you will vote against this legislation.

I am realistic enough to know that I may be a voice in the darkness, a cry in the wind; but there will be a time,

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and even those supporting this bill, there will be a time when this so-called wilderness area, those resources will be needed.

Unfortunately for our future generations, because of ignorance and a lack of forethought, there will be a mass rape and destruction of those great lands.

There has to an understanding and a middle ground and the no-growthers and the elitists and those who say it is ours only and no one else's have to understand that we need those resources, the knowledge of them today, and not tomorrow.

Mr. SEIBERLING. Mr. Chairman, I yield myself the balance of my time.

Just to correct the record, there are 410 million acres of federally owned land in the lower 48 States. Of these, 137 million acres are already under lease for oil and gas and another 100 million acres are available for lease.

Federal lands comprise only 21 percent of the land in the lower 48 and the remaining 79 percent is in private ownership.

Even if you take all the lands that are in wilderness, national parks, or military reservations and the like, you come up with only 100 million acres; so that more than twice as many acres are available for oil and gas development as would be banned by this and all other withdrawal actions.

Now, in withdrawing areas from mineral leasing in H.R. 6542. The sponsors were mindful that certain wilderness candidate areas may contain leasable mineral resources which are needed for other evaluations; so to this end, section 4 of the bill permits continued seismic prospecting involving the use of explosives in all wilderness candidate areas and additionally provides for other prospecting conducted in a manner compatible with the preservation of the wilderness and the environment; but with respect to lands that have been designated wilderness by the Congress, the committee voted 28 to 11 to ban such prospecting as incompatible with the wilderness concept and such a ban was certainly supported in the hearings that we had by the overwhelming majority of witnesses.

Now, it may well be that at some future date the pressure of dwindling energy supplies or other shortages may dictate opening wilderness areas or even the national parks for energy development and extraction, and in the meantime if such a need occurs the bill provides that the President may make a recommendation to Congress and if Congress concurs on the basis of a national need, those areas can be opened up; but I would reiterate the statistics that point out that 237 million acres of Federal land in the lower 48 are already available or under oil and gas lease today.

Mr. Chairman, this bill is a widely supported bill. It is not supported by elitists, as the gentleman from Alaska observed. It is supported by such groups as the Oil, Chemical and Atomic Workers International Union; the AFL-CIO; the United Auto Workers; the Industrial Chemical Workers Union; the Industrial Union Department of the AFL-CIO; the International Association of Machinists and Aerospace Workers; the United Steelworkers of America; as well as the Wilderness Society, the Sierra Club, the National Wildlife Federation, the National Audubon Society, the World Wildlife Fund; the Isaak Walton League; the National Parks and Conservation Association; and I could go on and on, including the American Forestry Association, I might add; so this is a widely supported bill that in my opinion is in the national interest from every aspect.

● Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 6542, the Wilderness Protection Act of 1982.

H.R. 6542 represents a bipartisan response to a critical situation now facing our wilderness areas. The 1964 Wilderness Act provided a 20-year waiting period before prohibitions against oil drilling in wilderness areas took effect. In the period since enactment of the act, successive administrations have voluntarily refrained from leasing in these areas; however, recent court decisions have removed administrative discretion in this regard, resulting in a flood of new leasing applications. In the Los Padres National Forest in my own district, hundreds of applications have been filed in an attempt to beat the 1984 filing cutoff.

These actions pose a threat to both existing and potential wilderness areas. Recognizing the seriousness of the situation, the Interior Committee—under the leadership of our chairman, Mr. Udall, the ranking minority member, Mr. Lujan, and the chairman of the Public Lands Subcommittee, Mr. Seiberling—has drafted this legislation, which is designed to protect our existing and potential wilderness areas in the interim period between the expiration at the end of the 97th session of Congress of the existing moratorium imposed by the Secretary of the Interior, and the January 1984 effective date of the leasing prohibition in the 1964 act.

As an original sponsor of this bill, along with the chairman and eight other Members, I believe it is a responsible and necessary means of protecting these valued lands. Its immediate effect will be to provide permanent protection to 18 million acres of wilderness. Another 15 million acres of lands recommended for wilderness or further planning would be withdrawn until Congress can act upon them. And unlike previous efforts to resolve the issue, H.R. 6542 would require the concurrence of Congress, through a joint resolution, of any future administration proposals to allow leasing in the wilderness on the basis of national needs.

I urge my colleagues to vote for this important bill.●

● Mr. WYDEN. Mr. Chairman, today I would like to express my unequivocal support for H.R. 6542, the Wilderness Protection Act of 1982. This legislation takes a major step toward insuring the protection of the irreplaceable pristine lands in our Nation.

H.R. 6542 is a rational and responsible answer to the question of whether there should be leasing of wilderness areas for mineral extraction. While withdrawing certain lands from mineral leasing, H.R. 6542 provides for the inventory of minerals in these areas and for the revocation of withdrawals should the need arise.

Also, this legislation protects the rights of companies with existing leases and allows for the leasing of the subsurface of wilderness as long as exploration and extraction are accomplished from outside the area. These provisions balance the current and potential energy needs of our Nation with the need to preserve undisturbed wilderness areas in the United States.

Only a very small quantity of energy resources exist in the areas withdrawn under H.R. 6542. The findings of a study by private consultant Leonard Fischman for the Wilderness Society typifies the results of several studies on this point. Fischman found that Federal lands as a whole contain roughly 30 percent of the U.S. onshore oil reserves and 22 percent of its onshore gas reserves.

Of those totals, the potential contribution from designated wilderness areas is only about 1.1 percent of the oil and 1.2 percent of the gas; for potential wilderness areas, it is 3.4 percent of the oil and 2.5 percent of the gas. The possible benefit of developing these resources clearly does not justify the sure decimation of fragile ecosystems.

The implicit point of H.R. 6542 is compelling. Extract minerals from nonwilderness areas. General Accounting Office and Department of the Interior studies indicate that up to 80 percent of the existing leases on nonwilderness Federal lands will expire without any exploratory drilling.

Large quantities of untapped resources exist on Federal land and are available for extraction. These resources will remain available under the provisions of this bill.

With existing Federal leases unexplored, there is no justification to risk marring our small amount of unspoiled wilderness. An area I am familiar with illustrates the danger of not passing this legislation. The Wenaha-Tucannon Wilderness Area, which encompasses about 180,000 acres in Oregon and Washington, had 49 known applications for oil and gas leases as of January 1982. The beauty and serenity of this area would be severely damaged if these leases were granted. The building of roads and installation of equipment would shatter the delicate balance of nature that presently exists.

We must not blithely dismiss the importance of preserving America's wilderness. Too little of this country's original grandeur remains to endanger it with unnecessary industrial encroachment. Serious efforts must be undertaken to insure that for generations to come Americans will be able to see these living treasures and enjoy the natural beauty that this country affords us. H.R. 6542 is one of those serious efforts.●

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The **CHAIRMAN** pro tempore. All time has expired.

Pursuant to the rule, the text of the bill, H.R. 6846, shall be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill.

The Clerk read as follows:

H.R. 6846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Wilderness Protection Act of 1982".

Mr. SEIBERLING. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DE LA GARZA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes, had come to no resolution thereon.

DISTRICT OF COLUMBIA BUSINESS

The **SPEAKER.** This is District of Columbia day. The Chair recognizes the gentleman from California (Mr. DELLUMS), chairman of the Committee on the District of Columbia.

REQUEST FOR CONSIDERATION OF H.R. 5595, INCREASE AUTHORIZATION FOR THE ANNUAL FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 5595) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The **SPEAKER.** The Clerk will report the title to the bill.

The Clerk read the title of the bill.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The **SPEAKER.** Is there objection to the request of the gentleman from California?

Mr. PARRIS. Mr. Speaker, reserving the right to object, it is my understanding that the chairman of the committee intends to make a unanimous-consent request to have this matter considered at a later time.

Is my understanding correct in that regard?

Mr. DELLUMS. Mr. Speaker, will my distinguished colleague yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DELLUMS. By a previous commitment, there is to be no rollcall vote taken today, and the gentleman from Virginia, as I understand it, is prepared to offer an amendment to the bill before the body calling for a vote. Since amendments cannot be delayed, they have to be acted upon at the time they are presented to the body. Therefore, the chairman would offer a motion to withdraw the resolution before us and ask unanimous consent that the bill, H.R. 5595, be considered at some later date this week.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, would the gentleman inform the House as to whether or not his unanimous-consent request would apply just to the balance of this week?

Mr. DELLUMS. If the gentleman would yield further——

Mr. PARRIS. That is, for rescheduling. I yield to the gentleman from California.

Mr. DELLUMS. The gentleman would very much like to see the bill acted upon this week.

As I understand my distinguished colleague from Virginia has some problem with Wednesday afternoon. The chairman has no problem with scheduling. As the gentleman knows, this gentleman has no ability to schedule the matter on the floor of the Congress. We can certainly ask the Speaker to take judicial notice of the fact that the gentleman would like to be present and able to offer his amendment.

This gentleman would reassure my colleague from Virginia that we will do everything at our disposal to make certain the gentleman's rights are protected.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, I appreciate very much the gentleman's consideration in that regard. I would suggest to the gentleman that in the event, for some untoward reason, the bill cannot be scheduled after Wednesday of this week, it would certainly not be this Member's intention to object to some appropriate time next week.

With the understanding of the chairman that at such time as this matter is considered by the full House that we would have an opportunity to offer amendments which, as the gentleman is aware, are pending to this measure now, would it be the chairman's position that appropriate amendments, germane as usual, under the appropriate rules, would be in order at such time as the measure is considered?

Mr. DELLUMS. If the gentleman would yield further, I would say to the gentleman that the gentleman's right will be protected; certainly his amendments would be in order.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker—and I appreciate the gentleman's comments—as I understand the parliamentary situation, if the House were to proceed on this matter at this time, under the rules, it would be appropriate for any Member to require a recorded vote and the Speaker has indicated that recorded voted will not be taken today, so that it is possible under the rules that the House might have to adjourn or send out the Sergeant at Arms to arrest the Members.

Certainly none of the Members would like to see that happen. I have no desire personally to delay this matter. The adoption of this legislation certainly is important, but I do have a sincere desire to have the House consider my amendment, which would restore $14 million for retiree benefits to this bill.

Finally, Mr. Speaker, further reserving the right to object, if I withdraw my objection, could I have the understanding of my colleague, the gentleman from California, that he would give this Member reasonable notification of whatever time this matter may be scheduled by the House?

Mr. DELLUMS. If the gentleman would yield further, we will let the gentleman know as soon as this gentleman finds out when the matter will be scheduled before the body.

Mr. PARRIS. With that representation from the gentleman from California, I withdraw my reservation of objection.

Mr. DELLUMS. Mr. Speaker, I withdraw the bill.

The **SPEAKER** pro tempore (Mr. KILDEE). The gentleman from California (Mr. DELLUMS) withdraws the bills.

BEST COPY AVAILABLE

DISTRICT OF COLUMBIA REVENUE BONDS FOR EDUCATIONAL EXPENSES AMENDMENT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6276) to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

The Clerk read the title of the bill.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 490(a)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-334) is amended by inserting "college and university programs which provide loans for the payment of educational expenses for or on behalf of students," after "college and university facilities,".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I am pleased to bring up for the consideration of the committee the bill, H.R. 6276. H.R. 6276 amends the revenue bond section of the Home Rule Act (section 490, as amended) to enable the District to authorize the sale of revenue bonds for financing student loan programs. Specifically, the bill authorizes the sale of revenue bonds for financing college and university programs which provide loans for the payment of educational expenses for or on behalf of students. This authority will be available to all of the universities in the District of Columbia.

H.R. 6276 is essentially a minor amendment to the bill, H.R. 4910, which was passed and signed into law last year. It simply adds to the list of permissible purposes for revenue bonds the sale of such bonds for the purpose of financing a student loan program. This legislation is required to insure that bonds could be sold for this purpose.

The committee view is that the District of Columbia should have the right to make its own decision regarding the advisibility of undertaking such a program. This legislation does not imply congressional endorsement of such a bond sale; rather, it simply is a logical extension of bonding authority already held by the District.

This legislation is prompted by the possibility of a reduction in student loan funds from Federal sources. The actual need for such loan funds, the quantity of such loan funds, and the advisibility of selling revenue bonds to finance such a loan pool, was not analysed by the committee; rather, it was the position of the committee that these issues would be determined by the District Government.

As in all cases, should District legislation be enacted to sell bonds, such legislation would lay over for congressional review. I would also like to point out that this legislation neither causes nor implies any Federal Government financing or responsibility for these bonds.

The Subcommittee on Fiscal Affairs and Health held hearings on May 26. At that time, the bill was favorably reported to the full committee. The committee, on June 23, 1982, approved H.R. 6276, by a unanimous recorded vote of 10 votes "aye" and 0 votes "nay."

Mr. PARRIS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 6276 amends the District of Columbia Self-Government and Governmental Reorganization Act to permit the District to issue revenue bonds to finance college and university programs providing student educational loans.

I think it is important for the Members to remember that any District legislation enacted to establish the revenue bond sales would be subject to the usual 30-day congressional review period. The District currently has authority to issue revenue bonds to finance housing, health, transit, utility, recreational, and university facilities, and this legislation would add guaranteed student loans under fairly carefully structured conditions secured by the endowments and the assets of institutions of higher learning.

The administration supports the adoption of the amendment. The cost will only represent the loss of revenue to the Treasury because of the tax-exempt status of the bonds.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 6276, a bill which would enable the District, like all other jurisdictions, to sell revenue bonds as a means of financing student loan programs.

This bill would amend section 490 of the Home Rule Act and is part of a series of measures designed to make the District of Columbia government more effective, efficient, and responsive. As home rule for the District ages, it is my hope that we will continue to clean up and clear up the shortcommings in the original act.

H.R. 6276 enjoyed strong, bipartisan support at the committee level. We are not here mandating the use of revenue bonds for college loans. Instead, we are merely providing the District of Columbia government with the authority to enact such a program if it deems it necessary.

This authority is vital as the District, like all other places, faces the belt-tightening fiscal policy of the Federal Government, and thus, the prospect of fewer Federal dollars for higher education assistance.

During the first session of this Congress, we passed H.R. 4910, a bill which will help facilitate access to the bond market for the District. H.R. 6276 complements that action we took and will move the District closer to the bonding authority enjoyed by all other jurisdictions.

● Mr. McKINNEY. Mr. Speaker, our colleagues may recall that last year the Committee on the District of Columbia reported legislation that dealt with the ability of the city to issue bonds. That bill did not provide any new authority to the city, but rather clarified the ambiguous language contained in the original Home Rule Act. It was the opinion of bond counsel that without clarification, the original language was too vague to permit any type of bond to be successfully issued. The passage of that measure into law last December removed all technical impediments to the city's entry into the private bond market.

The bill before us today, H.R. 6276, is a logical extension of the effort to get the city into the bond market at the earliest possible time. It would, quite simply, include college and university student loan programs as an eligible purpose for the issuance of bonds. If approved, the District of Columbia would be permitted to issue tax-exempt revenue bonds on behalf of the universities and colleges located in the city. Such bonds would not be guaranteed by either the Federal Government or the District of Columbia government. The institutions wishing to participate must provide the guarantee by setting up reserves or pledging assets against the possibility of default on the loans.

I think it is important to note that with a reduction in Federal aid for student loans, efforts by the States to pick up the slack should be praised. Illinois was the first State to consider such a program when it established just 1 year ago a new agency to issue tax-exempt bonds for independent colleges. Similar measures have been passed in Iowa, Maryland, and Massachusetts. In five other States—Vermont, Rhode Island, New Hampshire, Maine, and Kentucky—the authority of existing agencies has been expanded to include the issuance of bonds for student loans or the construction of college facilities. What we hope to do today is add the District of Columbia to the growing list of States and local governments who have taken the initiative to develop alternative student loan programs. And the reason we must take this step is that the Congress must act as the legislature for the District of Columbia in amending the Home Rule Act.

In looking at the bill itself, one may well wonder where the controls and limitations of the program appear. They do not appear, but for a very sound reason that goes to the heart of the concept of home rule. The purpose of this bill is not to spell out in great detail the specifics of the program. Rather, it is to provide the city with the basic authority without which it cannot even consider such an effort. Just as the several States will decide for themselves what costs will be eligible for loans and how the bonds will be controlled and marketed, the District of Columbia, through the action of the City Council, will make those decisions. And in fact, the city may decide not to preceed with bonds for student loans at all. We seek through this bill not to mandate any action, but rather to eliminate the impediments facing the city should they decide to follow that avenue.

Before any bonds could be offered under this new authority, the City Council would be required to enact local legislation which would get into the specific expenses which would be eligible for loans, the guarantees offered by the participating institutions, and the concerns of rating agencies, bond counsel, and the underwriters. That local legislation would not be any different from any other local legislation, and it would therefore be required to undergo the normal 30-day congressional review period. Should any part of the local legislation cause concern, the city can be prevented from going forward by a congressional resolution of disapproval.

In summary, Mr. Speaker, this bill would not lessen the authority of Congress regarding the District of Columbia in any manner, it would not pledge the full faith and credit of either the local or Federal Government against the bonds, and in fact, it would not mandate that the city actually issue such bonds. What it would do is provide the basic authority to proceed on such a course if the city finds it to be in the best interest of the residents of the District of Columbia.

I urge my colleagues to lend their support and approve the bill.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill. The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER CONSIDERATION OF H.R. 5595 ON THURSDAY, AUGUST 12, 1982

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that it shall be in order that the bill (H.R. 5595) to amend the district of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, be considered on Thursday, August 12, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DESIGNATING OCTOBER 15 AS NATIONAL POETRY DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fascell) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, I would like to note the introduction of House Joint Resolution 550, a bill to designate October 15 of each year as National Poetry Day.

October 15 has historically been set aside to take note of the contributions of poetry to civilization, and Dr. Frances Clarke Handler of Miami Beach has worked tirelessly and persistently to have this date recognized and celebrated around our Nation.

It is through the unflagging efforts of Dr. Handler and of State poetry societies that more than half of our States, as well as a number of cities and counties, have issued proclamations to recognize October 15 as Poetry Day.

Dr. Handler, who is national director of the National Poetry Day Committee, is well known in Florida for her dedication to the art of poetry which has been an importance form of expression and literature. Because I believe in the importance of communication in its most persuasive and critical form, I offer my support to the National Poetry Day Committee in its efforts.

If our colleagues would like to join in saluting the contributions of poetry and poets in our everyday lives and culture, I invite and urge them to contact my office and join in sponsoring House Joint Resolution 550.●

THE LATE HONORABLE WALTER B. HUBER OF OHIO

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, it is my sad duty to announce to the House the passing of a former colleague. The Honorable Walter B. Huber of Ohio succumbed to cancer yesterday in Maryland where he had lived since leaving office in 1950.

Mr. Huber and I were elected to the House in 1944, but Walter left office in 1950. He remained in Washington, however, where he had a distinguished career as an investigator for the Senate Committee on the Judiciary, as an administrative assistant with the House Subcommittee on Legislative Oversight and as a consultant to the House Committee on Un-American Activities until his retirement from public service in 1968.

We should be grateful for his service to the Nation, and I am sure my colleagues join me in conveying the sympathies of the House to Mr. Huber's son and grandchildren.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Wolf of Virginia (at the request of Mr. Michel), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Dellums) to revise and extend their remarks and include extraneous material:)

Mr. Gore, for 30 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Coelho, for 5 minutes, today.
Mr. Fascell, for 5 minutes, today.
Mr. Oberstar, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Fauntroy, to revise and extend his remarks on H.R. 6276 in the House today.

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. LeBoutillier.

(The following Members (at the request of Mr. Dellums), and to include extraneous matter:)

Mr. William J. Coyne.
Mr. Mazzoli.
Mr. Gore.
Mr. Mollohan in two instances.
Mr. Anderson in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.

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Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The **SPEAKER** announced his signature to enrolled joint resolutions of the Senate of the following title:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

ADJOURNMENT

Mr. DELLUMS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock p.m.) under its previous order, the House adjourned until Tuesday, August 10, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4560. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Turkey (Transmittal No. 82-73), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4561. A letter from the Chairman, Federal Home Loan Bank Board, transmitting the Board's annual report on the economic viability of depository institutions for the period April 1, 1981, to March 31, 1982, pursuant to section 206 of Public law 96-221; to the Committee on Banking, Finance and Urban Affairs.

4562. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Turkey (Transmittal No. 82-73), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620B(b) of the Foreign Assistance Act of 1961, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

4563. A letter from the Acting Director, Office of Legislative Affairs, Agency for International Development, transmitting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4564. A letter from the General Counsel, Occupational Safety and Health Review Commission, transmitting notice of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4565. A letter from the Chairman, Securities and Exchange Commission, transmitting a supplemental report to the Commission's annual report, regarding corporate reorganizations under the bankruptcy code for the fiscal year ended September 30, 1981, pursuant to Public Law/ to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. Supplemental report on H.R. 6666 (Rept. No. 97-684, Pt. I). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN:

H.R. 6953. A bill to repeal the change made by the Omnibus Budget Reconciliation Act of 1981 in the State trigger provisions of the Federal-State Extended Unemployment Compensation Act of 1870, and for other purposes; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.J. Res. 566. Joint resolution designating the week of August 29, 1982, through September 4, 1982 as "National Railroad Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

453. By the **SPEAKER**: Memorial of the Legislature of the State of California, relative to savings and loan associations; to the Committee on Banking, Finance, and Urban Affairs.

454. Also, memorial of the Legislature of the State of Illinois, relative to H.R. 2229, furnishing outpatient medical services to "atomic veterans"; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4070; Mr. Lantos.

H.R. 5088: Mr. Evans of Delaware, Mr. Mavroules, Mr. Whittaker, Mr. Roybal, Mr. Shannon, and Mr. Walgren.

H.R. 5600: Mr. Benedict, Mr. Brown of California, Mr. Burgener, Mrs. Collins of Illinois, Mr. Dwyer, Mr. Emerson, Mr. Hendon, Mr. LeBoutillier, Mr. Lujan, Mr. McCurdy, Mr. Molinari, Mr. Rangel, Mr. Ratchford, Mr. Roberts of South Dakota, Mr. St Germain, Mr. Wolpe, Mr. Brown of Colorado, Mr. Hagedorn, Mr. Livingston, and Ms. Oakar.

H.R. 6938: Mr. Perkins.

H.J. Res. 496: Mr. Paul, Mr. Clinger, Mr. Courter, Mr. Kildee, Mr. Annunzio, Mr. Solarz, Mr. Daub, Mr. Addabbo, Mrs. Ashbrook, Mr. Jeffries, Mr. Price, Mr. Lantos, Mr. Peyser, Mr. Kramer, Mrs. Schroeder, Mr. LeBoutillier, Mr. Lehman, Mr. Donnelly, Mr. Conyers, Mr. Fish, Mr. Rosenthal, Mr. Railsback, Mrs. Holt, Mr. Lujan, Mr. Ford of Tennessee, Mr. Gibbons, Mr. Moakley, Mr. Dougherty, Mr. Akaka, and Mr. Gradison.

H.J. Res. 533: Mr. McCurdy, Mr. Hall of Ohio, Mr. Martinez, Mr. Evans of Delaware, and Mr. Morrison.

H. Con. Res. 325: Mr. Dougherty, Mr. Dreier, Mr. Dunn, Mr. Gingrich, Mr. Jacobs, Mr. Kogovsek, Mr. Kramer, and Mr. Lee.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

554. By the **SPEAKER**: Petition of the City Council, New York, N.Y., relative to H.R. 6459, transferring the National Institute of Occupational Safety and Health to the National Institutes of Health; to the Committee on Energy and Commerce.

555. Also, petition of the national apostolate of Maronites, San Antionio, Tex., relative to a peaceful solution for Lebanon; to the Committee on Foreign Affairs.

556. Also, petition of the City Council, Houston, Tex., relative to opposition to section 121 of H.R. 6211; to the Committee on Public Works and Transportation.

557. Also, petition of the City Council, East Chicago, Ind., relative to steel import limitations; to the Committee on ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5427

By Mr. HARKIN;

(Amendment to the Leach substitute.)—Page 3, strike out line 21 through 23 and insert in lieu thereof the following:

"(d) If radio braodcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out on a single AM frequency and—

(Substitute for Energy and Commerce Committee amendment.)

—Page 3, strike out line 21 and all that follows through line 8 on page 6 and insert in lieu thereof the following:

"(d) If radio broadcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out under the authority provided by this subsection. For purposes of such AM frequency broadcasting, the Board is authorized to—

"(1) prepare or otherwise obtain material suitable for broadcasting; and

"(2) provide for the broadcasting of that material to Cuba by making expenditures for charges for the use of the facilities of commercial radio braodcasting stations which can be heard in Cuba.".

—Page 4, line 1, strike out "the" and all that follows through "Act" in line 5 and insert in lieu thereof the following: "radio broadcasting to Cuba under this Act may only be carried out with braodcasting facilities located on Swan Island off the coast of Honduras".

—Page 7, line 23, strike out "authorized" and insert in lieu thereof "directed", page 8, line 1, strike out "in mitigating the effects" and insert in lieu thereof "as a result" and at the end of line 3, insert the following:

"For purposes of this subsection, the term 'expenses' includes (but is not limited to) the capital costs associated with the plannning and construction of new or modified antenna, arrays, transmitters, and asociated equipment, lost advertising revenues and reductions in advertising rates, increased power costs, and costs of additional personnel required to monitor and operate revised radio broadcasting facilities.".

—Page 8, after line 12, insert the following:

PROHIBITION ON HIRING OF ADDITIONAL PERSONNEL FOR RADIO BROADCASTING TO CUBA

SEC. 7. (a) Except as provided in subsection (b), functions relating to radio broadcasting to Cuba under this Act may only be carried out by personnel of Federal agencies, and no Federal agency may employ additional personnel for purposes of carrying out any such function.

(b) Nothing in this section precludes the Board for International Broadcasting from utilizing the services of existing news reporting organizations.

Page 3, line 16, strike out "The" and all that follows through the end of line 20.

H.R. 6214

By Mr. STENHOLM:

—At the end of the bill add the following new section:

LONG-TERM LEASES FOR AIR FORCE FAMILY HOUSING

SEC. . (a) Not withstanding any other provision of law, the Secretary of the Air Force may enter into contracts for the lease of housing facilities, existing or to be constructed, on or near military installations in the United States for assignment of such facilities, without rental charge, as public quarters to members of the Armed Forces, including enlisted members in the grade of E-4 and below. Such contracts may be made through negotiation.

(b)(1) A contract for the lease of housing facilities under this section may be for any period not in excess of 30 years (including the period for construction of such housing facilities).

(2) Contrcts under this section may not be made for the lease of housing facilities at more than five separate locations. Not more than 300 housing units may be leased under this section at any one location.

(c) Expenditures for the rental of housing facilities under a contract under this section (exclusive of any costs for utilities, maintenance, and operation) may not exceed $1,000 per month for any unit for the first year of the contract.

(d) A contract may not be made under this section until (1) the Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a written report of the facts concerning the proposed contract, and (2) a period of 21 days elapses after the report is received by those committees.

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EXTENSIONS OF REMARKS

OUTMODED DIE CASTING FACTORIES ILLUSTRATE NEED FOR H.R. 5540, DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. WILLIAM J. COYNE. Mr. Speaker, American industry must modernize rapidly to regain its competitive edge in world and domestic markets. And for national security reasons, this modernization is simply a must so we can maintain our ability to mobilize industrial production in the event of emergency.

The House will soon have an opportunity to help spur this upgrading of the Nation's industrial plant when it votes on H.R. 5540, the Defense Industrial Base Revitalization Act. This legislation will provide the framework under which small- and medium-size firms can catch up with their modernization needs.

The New York Times recently described the linkage between outmoded equipment in the die casting industry and the loss of business to foreign competitors and to the plastics industry. The article illustrates the problem of retraining workers along with the implementation of technological changes.

H.R. 5540 also addresses the training of critical skills for this very reason. Workers in an industrial area like my area of Pennsylvania would resist modernization programs, and understandably so, if the introduction of robots left them out in the cold. This bill gives workers a chance to become part of the modernization process.

The text of the New York Times article follows:

[From the New York Times, June 28, 1982]

DIE CASTERS ARE STRUGGLING TO ADAPT

AN OLD CRAFT SEEKS WAYS TO MODERNIZE

RIVER GROVE, ILL.—A 400-pound, five-foot-long yellow arm carries a bucket of molten aluminum from a furnace and pours it into a casting machine. It swings around, refills the bucket and begins again, repeating the movements every 30 seconds.

That robotic arm is the brightest hope for salvaging one of America's bread-and-butter industries—die casting.

In the last decade, die casting, a $6 billion-a-year, 12,000-company, family business still operating on equipment almost as old as the art itself, has fallen behind its competition from abroad and from the plastics industry. And now it is banking on high technology to assure its survival.

"The industry hasn't kept pace with the times," said Laura Conigliaro, a financial analyst with Bache Halsey Stuart Shields Inc. in New York.

Indeed, the industry faces a $1 billion loss this year, according to James Cannon, executive vice president of the Society of Die Casting Engineers.

EQUIPMENT LAG

Miss Conigliaro attributes the industry's problems to obsolete equipment. "The major cause for lost business is that companies are guilty of having equipment older than that of similar industries in other countries," she said.

Machine tools more than 10 years old accounted for 69 percent of this country's total inventory, compared with 41 percent in Japan, according to the 12th American Machinery Inventory of Metal Working Equipment completed in late 1978, which, Miss Conigliaro pointed out, reflects the industry today. "This obsolescence tends to breed lower profitability because your production is less," she said.

"The use of plastics and foreign competition has created several complications for our industry," said Mr. Cannon. "Seven years ago the trend toward lighter-weight equipment and auto parts caused us to lose business to the plastics industry. We finally leveled off from that impact a few years ago when we learned to produce lighter parts. But now we're losing out to foreign competition with better equipment."

Previous training methods for die casters are no longer adequate, according to Mr. Cannon. The new technology demands a more sophisticated approach, he said, one that emphasizes "hands-on experience" rather than learning from a manual.

And the Society of Die Casting Engineers, the educational arm of the industry, is beginning just such a training program in a newly constructed training center at Triton College in this Chicago suburb. Triton is one of the nation's largest two-year colleges, with nearly 47,000 students and more than 100 technical programs.

CASTING PROCESS

The training facilities, in addition to the robotic arm (or ladler), which puts metal into die casting machines, also has an extractor robot, which removes the finished product. One hundred molds an hour can be completed without the use of manual labor, a 25 percent increase in productivity.

The traditional die casting process requires a worker to stand by a machine with a dipper, scooping molten metals from a furnace in which they are heated to 1,200 degrees. The worker pours the steaming metal into a nearby molding machine, and when a mold is formed, reaches between high pressure clamps that exert 1,000 tons of pressure and removes the finished product.

"I can remember my father coming home with burns," said Brent Knight, Triton's president, who, as it happens, is the son of a die caster.

"The process is boring, hot and dangerous," said Miss Conigliaro.

Although robots are used in less than 10 percent of the industry, Mr. Cannon estimates that within the next five years they will be functioning in as much as 25 percent of it.

COST OF CHANGEOVER

Nonetheless, it will not be easy to turn the industry around. For one thing, changeover costs may be a problem in some plants.

The total cost of the ladler and extractor, per die casting machine, is $35,000. Most plants have at least five to 10 of the machines and some, like General Motors, have more than 140. Moreover, if the robots were to be installed in a typical factory, all of the other equipment there would have to be upgraded to accommodate them.

There is also some resistance to change. "Many die casters want to stay with the old ways," said Miss Conigliaro. "There is so much that needs to be done, they are overwhelmed and confused."

Will people lose jobs to robots? "Absolutely not," said Miss Conigliaro. "Robots will 'displace,' not replace men." Humans will be used for cleaner and safer jobs like quality inspection and maintenance of the machines, she added.

LEARNING TO USE ROBOTS

"When we began changing our systems, many of the old-timers felt threatened," said Arlin Rohrer, president of the independent union at the O.M.C. Johnson Corporation in Waukegan, Ill., an outboard motor manufacturer that is about 10 percent automated. "They thought, 'I'm going to lose my job,' and other men thought the robots would be too complicated."

However, Mr. Rohrer said, he has not yet encountered anyone who could not learn how to use the new equipment or who has lost a job as a result of the automation.

Beginning in September, Triton will offer courses of from one to five days. Classes of between 25 and 30 students will receive both traditional training and hands-on education in robotics and other new devices.

Even though there are few jobs in the industry for novices, Mr. Cannon said, "We'd rather have them trained in metals than plastics, when the economy turns around."●

U.S. RAILROADS HONORED

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MOLLOHAN. Mr. Speaker, I today introduce a joint resolution to designate the week of August 30 through September 4 as "National Railroad Week" and September 4 as "National Railroad Day." My distinguished colleague from West Virginia in the other body, the Honorable ROBERT C. BYRD, has embarked on a similar course of action there.

There is little doubt that throughout the history of the United States, railroads have both extended our horizons and our ability to reach them. Railroads have long been a symbol of our national unity. Even as the United States was torn by the War Between the States, track was being laid for the first transcontinental rail link, completed in 1869.

It is vital for us to remember, however, that the first great rail links were over three trunk lines from the east coast over or around the Appalachians—the Erie, completed from New York to Buffalo in 1851; the Pennsylvania, completed from Philadelphia to Pittsburgh in 1852; and the Baltimore & Ohio, completed from Baltimore to Wheeling in 1853. The B. & O. was the first line to be incorporated for the purposes of carrying passengers and freight in 1827.

We have seen major consolidations of lines and reorganizations of companies in the more than 125 years since these great lines were built. But 100 years ago, railroad men like Vanderbilt, Gould, Harriman, Hill, Morgan, and Belmont still held virtual monopoly power in some States.

Initial efforts to break this power and protect the general public were incorporated by the Congress in the Interstate Commerce Act of 1887. Not incidentally, this act also was designed to save the railroads, themselves, from the rate wars and rebate schemes that were proving to be as poor a business practice as they were irresistible.

Railroads today are more than fond memories, however. They still carry freight and passengers in a most fuel-efficient manner, including the coal that is West Virginia's contribution to America's energy future. That is why the people of Grafton, W. Va., have scheduled the First Annual West Virginia Railroad Heritage Festival beginning later this month.

This festival will be a success, not only because of our great history, but because of the still unrealized potential of America's railroads.

I urge my colleagues to give the joint resolution their full consideration in the weeks ahead. The text of the joint resolution follows:

H.J. Res. 556

Whereas railroads were vital to American territorial expansion and industrial development in the nineteenth century;

Whereas railroads have contributed a rich and colorful culture to America in the form of art, literature, song and architecture;

Whereas railroads have provided Americans with unexcelled luxury in travel;

Whereas historically, railroads have been the leaders in American freight and passenger traffic;

Whereas railroads are destined to lead the Nation in sophisticated, rapid freight and passenger transportation in the future; and

Whereas the important role of railroads in the development and future of the Nation deserves to be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day" and calling upon all Government agencies and the people of the United States to observe the week and day with appropriate programs, ceremonies, and activities.●

SALUTE TO PORT WASHINGTON'S FIRE DEPARTMENT ON ITS 75TH ANNIVERSARY

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, nowhere is the spirit of voluntarism in America more typified than in a community volunteer fire department. "Wherever Americans have lived together," R. H. Kayser wrote in the July 29, 1982, edition of the Port Washington News, "they have cooperated to control the ravages of fire." Nowhere is this better shown than through the 75-year efforts of Port Washington's volunteer Atlantic Hook and Ladder Company.

Port Washington's Atlantic Hook and Ladder Company was born out of the community spirit as well as from the strong individualism that has made America what it is. This fire company has grown with Port Washington and the changing times. The Atlantic Hook and Ladder Company has ably met the challenge of more and bigger buildings, greater population, and the potential for more lethal fires and calamities.

This 75th anniversary of the Port Washington Atlantic Hook and Ladder Company is a special occasion for all Port residents. The Port Washington Fire Department will celebrate 75 fine years of selfless dedication and highly competent work on August 7. I know that all of my colleagues here in the U.S. House of Representatives share my salutations to the Port Washington Atlantic Hook and Ladder Company.

I wish to express my sincere best wishes for another 75 years of expert and dedicated services to each and every Port resident.

Port Washington has much to be proud of in the Atlantic Hook and Ladder Company; and a recent editorial in the July 29 Port Washington News speaks for me and all of us in Congress. I wish to reprint the editorial entitled "Among the Best" below:

AMONG THE BEST

It is a joy to congratulate the Port Washington Fire Department on its 75th anniversary. All our encounters with the wonderful men and women of the department have made us proud of them and grateful to live in a community served and protected by such dedicated and fine people.

Our Fire Department volunteers give freely of their private time to protect our citizens and their property. They do their jobs in a professional and compassionate manner. The fire fighters and the medics spend extra time to keep their skills up to date.

They do their difficult and often dangerous jobs with care and kindness, working quickly but taking time to reassure and inform.

These generous and courageous men and women are among the best in Port Washington, and our Fire Department is one of which we can all be very proud.

We urge all our neighbors to join the department in its anniversary celebration next week.●

THE NEED FOR REVISION IN THE CURRENT INSANITY LAWS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues the following article that appeared in the Washington Post on August 3, 1982. The outrageous verdict in this case underscores the immediate need to change the current insanity laws.

The article follows:

[From the Washington Post, Aug. 3, 1982]

60 DAYS FOR WIFE-KILLING

The headline on the wire service story was a mind-boggler: "Educator Gets 60 Days in Wife Killing." *Sixty days?* Surely there must have been some mistake. Sixty days for accumulated parking violations, maybe, or for an especially rowdy, peace-disturbing party . . . but certainly not for "wife-killing." Wrong. The headline was not an editor's error but a true account of a Missouri court's idea of justice.

Ron J. Karraker, the defendant in this case, was chairman of the department of educational psychology at the University of Missouri-Kansas City in 1980 when he picked up a hammer one night and killed his wife. He then had the presence of mind to bundle the body into a car, drive to Lake Jocomo, east of the city, and dump the body into the lake. He was soon arrested and charged with second-degree murder. So far, so good. But Mr. Karraker pleaded not guilty on the grounds that his act had been the product of a mental disease or defect. This is the very broad rule for acquittal by reason of insanity that was abandoned in the District of Columbia 10 years ago. Missouri is one of the few states that still uses this standard.

According to Kansas City prosecutors, Mr. Karraker had no history of mental illness or violence, and no one claimed that he was mentally ill at the time he was brought to court. Nevertheless, five of the six psychiatrists and psychologists who examined him found that he was temporarily suffering from a mental disease at the very time he killed his wife. Fearing that he would be acquitted of second-degree murder on the testimony of these medical experts, the prosecutors chose to accept a plea of guilty of manslaughter instead of proceeding with the trial.

Given the broad nature of Missouri's insanity defense and the fact that manslaughter is punishable by 10 years in prison, it is difficult to question the judgment of the prosecutors at this point. What must have

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astounded them, however, was the judge's sentence. Judge Gene R. Martin of the Jackson County Circuit Court suspended the entire jail term except for 60 days and ordered that the defendant then spend the next 22 months teaching inmates of the local jail. One wonders what he will teach.

Judge Martin may believe that his resolution of this case was a practical approach to sentencing. Coming so soon after the controversy over the Hinckley verdict, it is sure to add to public confusion over the standards that are applicable in our criminal courts. Rules governing the insanity defense vary widely among the states, and in some instances it appears that even a threat to raise the defense is a valuable tool in plea bargaining. And judicial discretion in sentencing is broad, so broad that there is often great disparity among sentences handed down by different judges for identical crimes.

Most criminal law experts now support legislation that Congress has been considering for some years that would set mandatory minimum and maximum sentences, within a narrow range, for federal crimes. This Missouri case, where a defendant who pleads guilty to killing his wife with a hammer and hiding her body in a lake gets 60 days in jail, will surely be used as an example of the kind of judicial discretion that confuses the public and can eventually undermine that confidence in the judicial system that is necessary for the preservation of a just and stable society.●

SUPPORT H.R. 5540

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MOLLOHAN. Mr. Speaker, I would like to call attention to a letter from Gene Bottoms, executive director of the American Vocational Association sent to Members of the House in support of H.R. 5540, the bipartisan Defense Industrial Base Revitalization Act that will soon be on the House floor for debate and vote.

As the letter points out, this important legislation authorizes a specialized skill training program to be operated at the State and local levels to train, retrain, and upgrade skills of workers in critical-shortage categories needed by defense-related industries. Dozens of skill areas are involved—tool and die makers, machinists, drill press operators, laser technicians, millwrights, machine tool operators, various types of mechanics, computer technicians, forging and casting workers, industrial machinery repairmen, et cetera. We must train hundreds of thousands of such types of workers if we are to strengthen our defense industrial base and meet our overall civilian production needs.

Mr. Speaker, other provisions of H.R. 5540 would encourage modernization of industrial plant and equipment of small- and middle-size firms in the defense subcontractor base. It would also provide loans, loan guarantees, and purchase agreement authority to assist the domestic mining industry develop new sources of critical and strategic materials for our defense requirements. Finally, the measure would assist higher educational institutions in the acquisition of modern scientific and technical equipment that is urgently needed to increase our supply of trained engineers and other scientific and technical personnel that are vitally needed for our national defense effort.

Mr. Speaker, as a cosponsor of H.R. 5540, I urge our colleagues on both sides of the aisle to support this important legislation to amend the Defense Production Act so that critical gaps in the production, training, and materials areas may be closed in time for our defense buildup to be fully effective.

The letter from the American Vocational Association follows:

American Vocational Association,
Arlington, Va., July 22, 1982.

Dear Congressman: H.R. 5540, the bi-partisan "Defense Industrial Base Revitalization Act," will soon be on the House floor for debate and vote. This important series of amendments to the Defense Production Act of 1950, as amended, has the full and enthusiastic support of the American Vocational Association and its State and local vocational training affiliates throughout the country.

This legislation authorizes a five-year program (operated at the State and local levels) to train, retrain, and upgrade skills of workers in critical-shortage categories needed by defense-related industries. These critical skill shortages currently exist and will grow—despite record-high unemployment—unless specialized training programs can be brought to bear. Dozens of job categories are involved—tool and die makers, machinists, drill press operators, laser technicians, millwrights, machine tool operators, various types of mechanics, computer technicians, forging and casting workers, industrial machinery repairmen, etc. Hundreds of thousands of such types of workers must be trained, retrained, and their skills upgraded in order to strengthen our defense industrial base and to meet our overall civilian productivity requirements over the coming five years.

H.R. 5540's skill-training program provides a workable method of meeting these critical needs, patterned on the successful skill training programs of World War II that trained some 7.5 million persons for defense jobs in the four-year period. The $250 million in annual skill-training funds would be distributed on the basis of State Plans including three major criteria—(1) the number of high priority industries located in the State; (2) the categories of skill shortages for which training programs must be developed; and (3) the overall quality of the State Plan to fulfill these objectives.

Some opponents of H.R. 5540 have charged that this defense industrial base skill-training program is just another "CETA program" in disguise. This allegation is totally false. It is NOT a social welfare program: it is NOT a program to replace the established apprenticeship training programs that are operating so successfully in many parts of our industrial complex; nor is it some "blank check" to another big spending program. Instead, it supplements in key advanced skill shortage areas, the vocational training already conducted by private companies for their own workforce requirement, existing vocational education programs, apprenticeship programs, and private training company programs in order to fill the critical defense industrial base training gap that threatens to cripple our defense buildup.

Other provisions of this bi-partisan measure would encourage modernization of the industrial plant and equipment of small- and middle-size firms in the defense subcontractor base. H.R. 5540 would also provide loans, loan guarantees, and purchase agreement authority to assist the domestic mining industry develop new sources of critical and strategic materials for our defense requirements. Finally, the bill would assist higher educational institutions in the acquisition of modern scientific and technical equipment urgently needed to increase our supply of trained engineers and other scientific personnel vital to national defense needs.

We hope that you will support and vote for H.R. 5540 when it comes before the House.

Sincerely yours,

Gene Bottoms,
Executive Director.●

END WORLD HUNGER

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. HALL of Ohio. Mr. Speaker, more people have died of hunger in the last 5 years than have been killed in all of the wars, revolutions, and murders in the past 150 years. This is deplorable considering the fact that international studies show that the resources and technology exist today to end world hunger within the next 20 years. This on-going tragedy can no longer be ignored and must be pursued by all people of the world with a great sense of faith and conviction.

Tomorrow, August 10, teams of Cyclists To End World Hunger will visit Capitol Hill to honor Members of Congress for the support they have received to promote awareness of world hunger and malnourishment. The meeting will be held on the lower terrace of the Capitol at 12:15 p.m.

The Cyclists To End World Hunger learned of recent congressional efforts to end domestic hunger and food waste through the national news coverage given to the "Hunger in the Land of Plenty" luncheon which I cosponsored along with 14 of my colleagues.

The cyclists, who began from Atlanta, Fort Lauderdale, and Denver have converged in Washington before beginning the final leg of their trip to the United Nations in New York. They have crossed 15 States, met with State and local officials, and have brought their message about the need to intensify an idea whose time has come.

During this year's trip, the cyclists have compiled a list of over 10,000 signatures from individuals who have alined themselves with efforts to end hunger, both domestically and worldwide. Over the last 4 years, a total of 2.2 million signatures have been obtained in conjunction with this noble cause.

I urge my colleagues from both the Senate and the House to join me in welcoming the cyclists to Washington at tomorrow's ceremony.●

EXPLANATION OF WAMPLER SUBSTITUTE TO THE FOOD AND AGRICULTURE RECONCILIATION BILL—H.R. 6892

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

●Mr. WAMPLER. For the information of those interested in what the effect is of the Wampler substitute to the food and agriculture reconciliation bill (H.R. 6892) I am printing the following explanation:

WAMPLER AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 6892

1. The Wampler Substitute adopts the Committee Bill, H.R. 6892, except that it makes the following changes or additions to title III (most of which were amendments narrowly defeated in Committee):

A. The Secretary of Agriculture is given the authority to require that applicants look for a job at the time they apply for food stamps. The Committee bill gives states an option to require job search at the time of the food stamp application.

B. Definitive guidelines are established for expedited service. Current law requires that persons who say they are in immediate need must receive food stamps within two to three days, with no verification required of the person's income or assets. This amendment sets a gross income test of $150 (while maintaining current income rules for migrant and seasonal farmworkers); a liquid assets test of $100; requires verification of these two items, whenever practicable; and, requires that benefits be issued to eligible persons as soon as possible but not later than 5 days after application.

C. States will be required to reduce their error rates to 9% for fiscal year 1983; to 7% for fiscal year 1984; and to 5% for fiscal year 1985 and all succeeding years. States which fail to reduce their error rates will be required to repay to the federal government the value of the benefits issued in error, over these target error rates. The Committee bill requires that a percentage of administrative costs be repaid if error rates are not reduced to specific target levels.

2. The Wampler Substitute will have the savings and corresponding reductions in the authorization "cap" as noted in the attachments as proposed by Congressman Coleman (Ranking Member of the Domestic Marketing, Consumer Relations and Nutrition Subcommittee) and adopted in the Wampler Substitute.

3. Also included in the Wampler Substitute is the amendment sought to section 130 of H.R. 6892 by Chairman Zablocki relating to the donation of dairy products. The technical Committee amendments are also included in the Substitute.

COLEMAN RECONCILIATION SUBSTITUTE—FOOD STAMP PROGRAM

[Savings in millions]

	1983	1984	1985	Total
Household definition	$38	$40	$42	$120
Rounding down	68	93	93	254
Veterans provisions	+5	+5	+5	+15
Coordination of COLA'S	+19	+21	+23	+63
Adjustment of deductions	42	0	0	42
Standard utility allowance	90	93	97	280
Job search	15	17	18	50
Eliminate initial month benefit under $10	15	15	15	45
Expedited service	15	15	15	45
Error rate reduction and sanction system	90	265	380	735
Prompt reductions	10	10	10	30
Total	359	522	642	1,523
First budget resolution	779	1,083	1,428	3,290

Note: Authorization for appropriations—1983, $12.623 billion; 1984, $12.817 billion; and 1985, $13.570 billion.

COLEMAN RECONCILIATION SUBSTITUTE FOOD STAMP CAP

	1983	1984	1985
CBO baseline	$11.967	$12.306	$13.174
AFDC/SSI offsets	+190	+208	+213
Substitute savings	−359	−522	−642
Puerto Rico	+825	+825	+825
Food stamp cap	12.623	12.817	13.570

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SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 10, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 11

9:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Commission on Civil Rights.
5110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on S. 2348, providing the Department of Agriculture with greater flexibility in its inspection procedures at food processing plants.
324 Russell Building

Environment and Public Works
Business meeting, to continue consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To resume hearings to review the U.S. Attorney General's guidelines on domestic security investigations (Levi Guidelines).
2228 Dirksen Building

10:30 a.m.
Foreign Relations
Closed briefing on the degree of Soviet economic dependence on the West (United States) and Soviet policy alternatives to use of Western (United States) leverage.
S-116, Capitol

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on S. 2348, providing the Department of Agriculture with greater flexibility in its inspection procedures at food processing plants.
324 Russell Building

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on H.R. 5161, designating certain lands in the Monongahela National Forest, W.Va., as wilderness.
3110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

AUGUST 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2792 and S. 2794, bills establishing a Federal fund from revenues derived from oil and gas leases on the Outer Continental Shelf to provide block grants to certain States and territories for ocean and coastal energy impact assistance and resource management.
235 Russell Building

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Finance

To hear and consider the nominations of Mary Ann Cohen, of California, Lapsley W. Hamblen, Jr., of Virginia, and James H. Stamper, of Missouri, each to be a judge of the U.S. Tax Court.

2221 Dirksen Building

Judiciary
Regulatory Reform Subcommittee

To hold joint hearings with the Committee on Small Business' Subcommittee on Government Regulation and Paperwork on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.

2228 Dirksen Building

Judiciary
Juvenile Justice Subcommittee

To hold hearings on State and local law enforcement efforts to reduce criminal case backlog.

457 Russell Building

Small Business
Government Regulation and Paperwork Subcommittee

To hold joint hearings with the Committee on the Judiciary's Subcommittee on Regulatory Reform on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Milton M. Masson, Jr., of Arizona, and John B. Carter, Jr., of Texas, each to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation, and Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission.

3110 Dirksen Building

Foreign Relations

To hold hearings on U.S. economic policy toward the Soviet Union.

4221 Dirksen Building

Labor and Human Resources
Education, Arts and Humanities Subcommittee

To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).

4232 Dirksen Building

Select on Intelligence

Closed business meeting, to discuss general intelligence matters.

224 Russell Building

2:00 p.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2186, providing for the Secretary of the Interior to acquire from the State of Indiana certain lands by exchange at the Indiana Dunes National Lakeshore, and S. 2710, establishing a wilderness area in the Hoosier National Forest area, Ind.

3110 Dirksen Building

Judiciary
Security and Terrorism Subcommittee

To continue hearings to review the U.S. Attorney General's guidelines on domestic security investigations (Levi Guidelines).

2228 Dirksen Building

2:30 p.m.

Foreign Relations

To hold hearings on the nomination of Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.

4221 Dirksen Building

AUGUST 13

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

10:00 a.m.

Labor and Human Resources
Handicapped Subcommittee

To resume hearings to review proposed regulations implementing part B (assistance for education for all handicapped children), of the Education for All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

10:30 a.m.

Foreign Relations

To continue hearings on U.S. economic policy toward the Soviet Union.

4221 Dirksen Building

AUGUST 16

9:00 a.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on S. 2784, clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.

2228 Dirksen Building

AUGUST 17

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee

To continue hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

AUGUST 18

9:30 a.m.

Labor and Human Resources
Labor Subcommittee

To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee

To resume hearings on highway revenue and cost allocation issues.

4200 Dirksen Building

Governmental Affairs

To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

Judiciary

To resume hearings on S.J. Res. 199, proposing a Constitutional amendment providing for voluntary prayer in public schools and certain institutions.

2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

224 Russell Building

2:00 p.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.

3110 Dirksen Building

AUGUST 19

9:30 a.m.

Labor and Human Resources

To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.

3302 Dirksen Building

10:30 a.m.

Veterans Affairs

Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.

412 Russell Building

AUGUST 24

9:00 a.m.

Governmental Affairs

Civil Service, Post Office, and General Services Subcommittee

To hold hearings on S. 2190, providing for the recruitment and training of volunteers in Federal agencies.

3302 Dirksen Building

AUGUST 25

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.

Energy and Natuaral Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.

235 Russell Building

SEPTEMBER 16

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To continue oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings on the effects of alcohol consumption during pregnancy.

4232 Dirksen Building

10:30 a.m.

Veterans' Affairs

To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.

318 Russell Building

Cancellations

AUGUST 10

9 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

AUGUST 11

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years, S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz. to the Pascua Yaqui Indian Tribe, and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.

6226 Dirksen Building

AUGUST 12

9 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

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SENATE—*Tuesday August 10, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable Slade Gorton, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

There is a way which seemeth right unto a man, but the end thereof are the ways of death.—Proverbs 14: 12.

* * * *wide is the gate, and broad is the way, that leadeth to destruction,* * * * *strait is the gate, and narrow is the way, which leadeth unto life,* * * *—Matthew 7: 13, 14.

God of truth and light and order, lead us. Thy way is the way of truth. Help us to seek Thy truth. Thy way is the way of light. Help us to seek Thy light. Thy way is the way of order. Help us to seek Thy order. Save us from the way of error, darkness and chaos.

In Thy will is reality—outside Thy will is unreality and illusion. May we choose Thy will for ourselves, our colleagues and peers, our associates and staffs, for all who serve here, and for our families.

Grant to the Senate in the closing weeks of this Congress the way that will lead the people in righteousness and justice. In His name Who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Thurmond).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., August 10, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Slade Gorton, a Senator from the State of Washington, to perform the duties of the Chair.

Strom Thurmond,
President pro tempore.

Mr. GORTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, regarding the schedule of the Senate for today. I can only reiterate the statement that was made by the majority leader on yesterday that Members of the Senate should be on notice that we may have a late night any night between now until we recess on either August 20 or August 27.

The majority leader has also stated that if we are to recess at the same time as the House on August 20, we must consider priority legislation including the supplemental appropriations bill, the immigration bill, the debt ceiling bill, and available conference reports.

The majority leader later today will, make a statement as to how long he intends to keep the Senate in session tonight. It is the intention and hope of the leadership to finish the supplemental appropriations bill before recessing for the day. We will have to see whether that can be done.

On behalf of the majority, I again request that Members who have amendments to offer to this bill come to the floor as soon as possible and inform the leadership on both sides of the aisle whether such amendments will be offered today.

We are delighted with the work of the Appropriations Committee under the leadership of the chairman, the distinguished Senator from Oregon (Mr. Hatfield). He did accelerate the work of the Appropriations Committee in getting this bill to the Senate, and we are hopeful that the Senate itself will carry on that approach and expedite the consideration of this bill today. Completions of this bill today will have a great deal to do with whether or not we can keep the schedule in an attempt to recess on August 20.

I reserve the remainder of our time.

LABOR DAY RECESS ANNOUNCEMENT

Mr. BAKER. Mr. President, yesterday, I took the opportunity to remind Senators that the dates for the upcoming Labor Day recess are from the close of business on Friday, August 27, until Wednesday, September 8. I also indicated, as I have several times before, that should the Senate dispense with its much publicized "must list" before August 20, it would then be possible for the Senate's recess to parallel that of the House of Representatives which begins on August 20.

Today, I would like to share with my colleagues one of my 18 reasons for the Senate to recess on August 20. Reason No. 7: August is a sticky, humid, miserable month. Cars overheat, tempers flare, air-conditioners break. The only way to deal with it, is to spend as much time as possible in one's home State, with one's family and friends. An extra week of legislative aggravation instead of an extra week of liberty seems almost too unnecessary; but then again, the whole schedule is in our hands, and we will not have to look too far to place the blame.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. Chiles if he should need it.

RECOGNITION OF SENATOR CHILES

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, for 2½ months now, Senator Nunn and I have been coming to the floor of the Senate every day to speak out on crime, and on the need for the Senate to move promptly to pass anticrime legislation. We are encouraged by the fact that the Senate has reached a time agreement that will govern the consideration of a package of anticrime proposals, S. 2572. If we move to pass that proposal, and get it over to the House

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

of Representatives, we stand a chance of taking a strong step to fight crime this year.

But passage of this proposal, important as it is, will not address one of the most important shortcomings in today's criminal justice system. And it is that shortcoming, the abuse of the writ of habeas corpus, that Senator NUNN and I have focused on over the last month. It is essential, as far as I am concerned, that we eliminate from the present habeas corpus statute, those provisions which have enabled prisoners to abuse the purpose of the writ of habeas corpus. We can act to make this much needed change by passing any one of several habeas corpus proposals, S. 653, last year. Early this year, the administration sent its own version of habeas corpus reforms to the Congress, in S. 2216. Finally, this May, Senator NUNN and I included the provisions of S. 653 in title 4 of S. 2543, the anticrime proposal which we introduced. S. 2543 is currently pending on the Senate Calendar, and the Senate Judiciary Committee had held 2 days of hearings on habeas corpus reform proposals. There is no reason for us not to act on this important reform.

Mr. President, those persons who are directly involved in representing the public's interest in our criminal justice system—our police officers and our district attorneys—have come out in support of the need for habeas corpus reform. They understand all too well the frustration that occurs when a State prisoner is able to use habeas corpus to challenge State court convictions years after the original trial took place, and on the grounds that have nothing to do with guilt, innocence, or a fair trial. When habeas petitions are filed years, or even decades, after the person has been convicted, the State is invariably unfairly prejudiced in its ability to respond. Evidence may have disappeared, and key witnesses may no longer be available. Moreover, our prosecutors must spend their time trying to reconstruct events which occurred years earlier, instead of focusing on current cases. The result is even more delays and backlogs in our already overcrowded criminal justice system.

It is therefore no surprise that our law enforcement officials feel so strongly about the need for habeas reform. Just last week, I received a letter of support for our efforts to reform the habeas laws from the National District Attorneys Association. Enclosed in that letter was a resolution which the National District Attorneys Association just adopted. I would like to read that resolution:

> Whereas the greatest single deterrent to crime is swift and sure punishment, and
>
> Whereas public confidence in the criminal justice system is seriously eroded by a perception that the law allows an unnecessary and endless stream of attacks by defendants in their conviction, and
>
> Whereas the virtually unrestricted access of convicted persons to Federal court on the filing of writs of habeas corpus is a serious impediment to the finality of judgments and unnecessarily consumes scarce judicial resources: Now, therefore, be it
>
> *Resolved,* That the National District Attorneys Association urges the Congress to act expeditiously to address the problems caused by excessive use of habeas corpus and further urges the Congress to support Senate bill 653 toward that end.

Last week, I also received a letter of support for our anticrime efforts from the International Association of Chiefs of Police. They underscored their support for crime-fighting legislation in general, and they also pointed out the need to include habeas corpus reform in any criminal justice overhaul. Their letter said, and I quote:

> The habeas corpus provision of S. 2543 would be a great benefit to our judicial system. Countless writs which are often frivolous are filed throughout the United States creating much unnecessary litigation and costing millions of dollars in court costs and man-hours. Reasonable limitations such as those contained in S. 2543 would greatly ease this problem.

Mr. President, those who we ask to fight crime understand all too well the shortcomings in today's system which allow the guilty to go free, and which destroy the notion of finality in our criminal justice system. We can make the reforms which need to be made, and show our law enforcement officials that we in Congress are committed to giving them our full support in their all important fight to make our neighborhoods safe once again. We can do that, Mr. President, but only if we act soon and pass the anticrime package and to move on habeas corpus reform. Time is running short, and no issue is more important for us to deal with.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

TRIBUTE TO THE BESSEMER RESERVE MARINES

Mr. HEFLIN. Mr. President, as the senior Senator from the great State of Alabama, I quite naturally feel that my State has a great deal to be proud of. In fact, from time to time I will stand here and extoll the virtues of people or organizations who have been recognized for excellence in a particular field.

Today, however, my pride in my home State is doubly strong, for the people I rise in recognition of are not only from Alabama but represent a group for which, as a former member, I feel a close personal affinity—the U.S. Marine Corps.

The particular group, made up of more than 400 marines, is the Reserve Marine Unit of Bessemer, Ala. The Bessemer Marines were recently singled out by the Reserve Officers Association, in a competition with more than 170 other Reserve Marine outfits across the country. This honor brought them the prestigious Harry Schmidt Trophy as this year's outstanding Reserve Fleet Marine Force and Mobile Expedition Force.

Although many persons may not even realize that such things as Reserve Marines exist, they form an important part of our armed services. These marines always operate under the assumption that they could be called out at any moment. The Bessemer Battalion remains prepared to be airlifted to any remote corner of the world within 24 hours, should such a need arise.

In case of such situations, the Bessemer Battalion, and all Reserve Marines, are constantly training and learning and working to stay prepared. They work with tank guns, and M-16 rifles. They take classes in advanced warfare tactics, and have extensive conventional warfare training.

The Bessemer Marines have stayed well prepared, as is evidenced by the honor they recently achieved. These people are a group for all Alabamians to be proud of, and I heartily congratulate them.

Mr. President, I ask unanimous consent that an article from the Birmingham News about the Bessemer Reserve Marines be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, July 15, 1982]

BESSEMER MARINES CHOSEN AS BEST OUT OF 170 UNITS

(By Norman Atkins)

If enemy troops ever tried to invade Birmingham, combat-ready Reserve Marines from Bessemer would draw a line in the dirt and tell them to cross it at their own peril.

And the city could find no better Reserve battalion in America to defend it, according to the national Reserve Officers Association.

The ROA has singled out the Bessemer battalion over 170 other Reserve outfits across the country for the prestigious Harry Schmidt Trophy as this year's outstanding reserve Fleet Marine Force and Mobile Expedition Force.

"Ninety-nine percent of the people in the area don't even realize the Marines are right here in Bessemer," says Sgt. R. L. Bailey, 24.

"When somebody sees me in uniform, he'll say, 'What, are you a recruiter or something?' I tell him I'm with the Marines, and then he wants to know, 'What in the dickens are Marines doing in Bessemer?' "

But there they train, at 1001 Fourth Ave. SW, in and around a two-year old center they share with the Navy.

A row of green-and-black camoflauged trucks and jeeps are lined up outside the training center. Behind them crouch four heavily armed tanks. "These pack a pretty mean wallop," Bailey jokes.

The tanks, equipped to fire conventional or nuclear warheads and so well insulated that those inside would be sheltered from atomic fall-out, "are filled with fuel and ready to roll," he adds.

"We operate under the assumption that we could be called out at any moment, and we're always preparing for it should that time come."

The Bessemer battalion can dash, via airlift, to any place in the world within 24 hours, and is prepared to stay a while if necessary, Bailey says.

"This unit is just as good or better than any I've been with in World War II or the Korean conflict," says Sgt. Major William Ballard, 54 one of the oldest in the battalion. "We're prepared to go anywhere—and I fully trust them, too."

The last time a Birmingham Reserve Marine unit had to fight was during the Korean War.

In the next two decades, the Bessemer battalion's members trained people for Vietnam and took charge of all Marine Corps funeral duty in Alabama.

Today, they train, and train. And then they train some more.

One weekend a month, they gather in Bessemer to hone skills on the big tank guns and the M-16 rifles they all carry.

They take classes in everything from the latest chemical-biological warfare tactics to alcohol and drug abuse.

"No matter what rank you are, they always have new stuff for you to learn," Bailey says.

Bailey says that every Reserve Marine in Bessemer is trained in nuclear warfare.

But their extensive conventional warfare training is crucial, he adds.

"You can make a country glow, but you have to have troops to keep the land," he explains.

This week, one of the Birmingham outfits is practicing landing tactics and field duty at the Landing Force Training Center in California.

Another unit will work on its shooting abilities at Fort Bliss, Texas in the fall.

The Reserve Marines serve six-year hitches.

They prepare themselves to be ready in case of war, standing ready to take the place of fallen active-duty Marines.

But now that the Bessemer outfit is known as a top-flight battalion, it could draw a tough and important assignment should a critical situation arise, Bailey says.

People join the Marine Reserve for a number of reasons:

College students have a special incentive to sign up because the Corps pays up to $1,000 a year toward their education, Bailey explains. This is why a number of Bessemer Reserve Marines are full-time students at the University of Alabama Birmingham.

Reservists are entitled to military pensions, says Ballard, who will be drawing such a pension in six years.

"More than anything else, it's a family thing," says Ballard, whose oldest son played taps for all Marine funerals in Alabama several years ago.

After active duty, "you get a feeling you belong in the Marines," says Sgt. John Felton, 34, who heads one of the two Bessemer units. "A lot of my men were in Vietnam, and know what can happen."

"I don't like fighting, but somebody's got to be ready to defend our country in a time of war," says Bailey. "There is a matter of duty and patriotism involved for sure."

Some gun-and-war "freaks" join up, but "we don't have many crazies like that in our unit," Bailey says.

Most of the reservists are between the ages of 18 and 24.

More than half are black, although 15 or 20 years ago the unit was predominantly white.

Only one woman belongs to the Bessemer battalion, which is the headquarters for four units, one in Illinois, one in Chattanooga and the two in Bessemer.

Overall, the battalion has more than 400 Marines, making it one of the largest in the country.

"It's easy to train a unit of 25 and keep them in line," says Felton. "But with a larger one, it starts to get difficult."

"This is the best Marine battalion in the country, though, and I mean Reserve or active. We do as much in a weekend as an active unit does in a month."

When there is no war for the reservist Marines to keep their minds on, they focus in on other goals—like the Schmidt prize, Felton says.

He points out that no Marine battalion has won the prize two years in a row, "but we aim to be the first."

FRANK E. McGOUGH, SR.

Mr. HEFLIN. Mr. President, it is with great sadness and loss that I note the death of Frank E. McGough, Sr., of Montgomery, Ala. The loss of Frank will be felt by all in the Montgomery community, and his friendship and dedication to community affairs will be missed by all.

Through his life, Frank demonstrated an active commitment to civic affairs in Montgomery and the State of Alabama. Frank graduated from Lanier High School in 1937 and subsequently attended the University of Alabama. Frank left the University of Alabama to serve our Nation in the U.S. Air Force during World War II. Subsequently, Frank played an active role in the alumni affairs of the University of Alabama. He served as vice president of the university's National Alumni Association and as president of the Montgomery County branch for this alumni association. In addition, he served in the president's cabinet of the University of Alabama with honor and distinction.

Throughout his life, Frank demonstrated an intense and active commitment to the Montgomery community through his service in civic affairs. Frank served as president of the Montgomery YMCA, the Blue Gray Association, and the Lions Club of Montgomery. In 1969, he was bestowed the YMCA's most distinctive honor when he was selected "Man of the Year." Frank was also a member of the Men of Montgomery and he formerly served as director of the Montgomery Area Chamber of Commerce. In addition, Frank served on the board of commissioners of the Montgomery Housing Authority from 1964 to 1971. During his service with the housing authority he was selected to serve as chairman. His outstanding guidance and leadership on the Montgomery Housing Authority will serve the Montgomery community in the years ahead.

Frank enjoyed tremendous success as he served as president of a Montgomery automobile dealership. He was highly respected for his commitment to the success of the automobile industry. His dedication to this industry is evidence by his service on the Chevrolet Dealer Factory Council and the General Motors President's Dealer Advisory Council. In addition, Frank was highly respected by the automobile industry throughout Alabama for his superior service as director of the Alabama Automobile Driver's Association. In addition, the tremendous service Frank rendered to the automobile industry, he also served as chairman of the board of First Southern Savings & Loan and was a member of the board of directors of the Alabama National Bank. His outstanding service and dedication to these entities will be missed.

Frank E. McGough, Sr., was a compassionate American with an impeccable history of dedication and service to his community, to his church, to his profession, to his university, and to his family. I wish to extend my sincerest sympathies to Frank's wife, Sidney McMillan; to his mother, Mrs. Elizabeth McGough; his two sons, Frank E. McGough, Jr., and John Van McGough, and to his brother, Thomas McGough III.

JUSTICE STEVENS' SPEECH TO THE AMERICAN JUDICATURE SOCIETY

Mr. HEFLIN. Mr. President, I am sure we have all read of the remarks Justice John Paul Stevens made on August 6, 1982 on the subject of the problems of the U.S. Supreme Court.

I take this opportunity to commend Justice Stevens for drawing attention to the problems facing the Supreme Court in its efforts to meet its constitutional responsibilities. His thoughtful remarks to the American Judicature Society focus on areas that have long been my concern, and the concern of the entire judicial community. It is no secret to the courts, to Congress, or to the American people, that the continued existence of our individual liberties and right to self-government depend on the strength of our judicial system.

One hundred and ninety-three years ago, the Federal court system was established and still exists today with only a few significant structural changes. The most important change came in 1891, when nine circuits of the U.S. courts of appeals were established to assist the U.S. Supreme Court, which then had a docket of 492 cases, in its reviewing function. In 1892, the year following this relief measure, the U.S. Supreme Court decided 275 cases, and a large number of those were summarily determined. I think it is quite significant to remember that number—275 cases.

The Supreme Court was also granted the power to exercise discretion over the review of certain cases. These reforms helped to reduce the number of cases docketed in the Supreme Court and resulted in a more effective and efficient administration of justice.

From that time on, however, the number of cases on the Supreme Court's docket has increased steadily. In its 1951 term, the Supreme Court had 1,353 cases on its dockets. It decided approximately 275 cases—the same number in its 1892 term. In the 1961 term, the number of cases on the docket had increased to 2,570, and again the number of cases actually decided was approximately 275. In the 1981 term, which was completed a year ago, the figures show that the docket had swelled to 3,814. Also during the 1981 term, the Supreme Court received 4,242 petitions for writs of certiorari. It granted 289, less than 7 percent. The 289 is approximately the 275 cases that I have been speaking about since 1890. Of the 289 cases granted, 107 were summarily decided and only 182 were scheduled for oral argument. Note that almost every year the number of cases decided is approximately 275. Clearly, more than 6 or 7 percent of the cases filed deserved to be heard, but our highest Court has little choice.

There appears to be no sign of a tapering off or decline in the volume of judicial business. Thus, it is recognized that the existing judicial structure is not designed to handle this increased docket load.

The major response thus far has been the addition of personnel, but this has not solved the problem of maintaining a nationally uniform body of Federal law, or of handling the increased volume of litigation adequately. Thus, the solution lies in restructuring the judiciary at the appellate level.

During the 1970's, there were two important and influential studies conducted which recommend the creation of a National Court of Appeals in order to provide relief to the Supreme Court.

In 1971, the Chief Justice of the United States, Warren Burger, appointed a seven-member study group on the caseload of the Supreme Court. This group, headed by Prof. Paul A. Freund of Harvard Law School studied the problems confronting the Court, explored alternatives, and in December 1972 submitted its recommendations that Congress establish a seven-member National Court of Appeals.

As conceived by the Freund study, the National Court of Appeals would screen all petitions for review filed with the Supreme Court. Several hundred of the most important cases would be certified to the Supreme Court for further screening and the Supeme Court would select from this group the cases it wished to hear.

Under the Freund plan, the National Court of Appeals could deny review and no appeal would lie from its refusal to allow review. Also, cases of real conflict between appellate tribunals on important issues would be certified to the Supreme Court, and the National Court of Appeals would hear cases of lesser importance involving conflicts between circuits.

The second study was conducted beginning in 1973 by the Commission on Revision of the Federal Court Appellate System, called the Hruska Commission after its Chairman, Senator Roman Hruska of Nebraska. This Commission was mandated by statute to study the structure and internal procedures of the U.S. circuit courts of appeals system.

In June 1975 the Hruska Commission issued its report in which it recommended the creation of a National Court of Appeals, although one substantially different from the one recommended by the Freund group.

As proposed by the Hruska Commission, the National Court of Appeals would not screen cases for the Supreme Court. Jurisdiction of the new court would extend to two classes of cases: First, those referred to it by the Supreme Court, and second, those transferred to it by one of the U.S. courts of appeals, Courts of Claims, Courts of Customs and Patent Appeals.

Under the Hruska plan, the seven judges of the new court would be appointed by the President subject to confirmation by the Senate.

During the 94th Congress, Senator Hruska introduced a revised version of his original bill for the creation of a new court. His new bill eliminated transfer jurisdiction of the National Court of Appeals and allowed a phase-in appointment of judges by the President over an 8-year period.

During my relatively short time in the Senate, I have introduced, and been a vocal supporter of, legislation to establish a National Court of Appeals. Not only Justice Stevens, but numerous other judges and judicial scholars have pointed out the crucial importance of providing badly needed and long-overdue assistance to the Supreme Court.

I firmly believe that justice is the guardian of all liberty, and that we, here in the Senate, the greatest deliberative body in the world, have a responsibility to insure an effective, efficient system of justice.

The ever-increasing number of cases demanding attention coupled with the Supreme Court's capacity for handling cases dictates that a smaller and smaller percentage of cases can be reviewed by the Court. Something must be done if the judiciary is to continue to fulfill its constitutional duty to the citizens of this country. The very future of the effective administration of justice is uncertain unless Congress seeks resolutions and assesses alternatives now.

It was in this spirit that I offered two separate pieces of legislation to create a National Court of Appeals, S. 1529 and S. 2035.

These two bills provide for the same jurisdiction of cases referred to it by the Supreme Court, including cases which the Supreme Court, first, directs the National Court of Appeals to decide and, second, transfers to the National Court of Appeals for such court to determine whether or not to grant certiorari. Under either bill the National Court of Appeals may deny review in any case referred to it by the Supreme Court unless directed by the Supreme Court to decide the case. Unless modified or overruled by the Supreme Court the decisions of the National Court of Appeals shall be binding on all courts of the United States and with respect to questions arising under the Constitution, laws, or treaties of the United States on all other courts.

These bills have differences. S. 1529 would be a full-time court composed of a chief judge and eight associate judges. S. 2035 would have only one full-time member of the court, who would be called the Chancellor of the United States; the other judges of the court would come temporarily from the circuit courts of appeal and would serve on a percase basis. S. 2035 would also use senior circuit judges under the age of 70.

The Chancellor of the United States would assist the Chief Justice of the United States in his many time-consuming administrative matters and nonjudicial functions.

In addition the Chancellor would serve as the administrative judge of the National Court of Appeals and could sit as the presiding judge on occasions. S. 2035 would have a pool of 21 judges and members, on a case-by-case basis, would be determined by lot drawing; however, no circuit judge could sit on a case from his particular circuit.

Another pending proposal calls for the same jurisdiction of S. 1529 and

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S. 2035, but would provide members from an intercircuit panel of judges from the existing courts of appeals. This temporary interpanel would be composed of between 14 and 22 judges, and members would serve on a temporary case-by-case basis.

In his remarks, Justice Stevens said that he favors creation of a different type of new court—a type of entrance court, rather than the exit court which my legislation proposes. With such a creation, the Supreme Court would surrender to this new court its power to decide what cases the Supreme Court should decide on the merits. As he noted, this proposal is very similar to that made by the Freund Commission, which I discussed earlier.

Justice Stevens makes some very cogent and persuasive arguments in support of this type of new court, and I will not take the time here to repeat them, but will merely recommend them for your perusal. Mr. President, I ask unanimous consent that the remarks of Mr. Justice Stevens be inserted in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. I do not intend to say that my proposals would be any more or any less effective or desirable than the type put forth by Justice Stevens. I will, however, most emphatically repeat my prior sentiment: the very future of effective administration of justice is uncertain unless Congress seeks resolutions and assesses alternatives now. The time to act is now.

We must study the current and future problems which face our court system. Uniformity and clarity must be restored to the Federal law and the Supreme Court must be given relief from its burdens. As caseloads multiply, as appeals increase, as legal fees mushroom, as time for resolving litigation lengthens, our inaction is unacceptable. We should heed the admonition of Learned Hand, who wrote:

> If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice

Thank you, Mr. President.

EXHIBIT 1

ANNUAL BANQUET OF THE AMERICAN JUDICATURE SOCIETY

(By Justice John Paul Stevens)

During my exceptionally long tenure as the junior justice on the Supreme Court of the United States, I was frequently asked to compare the work on that Court with the work on the Court of Appeals for the Seventh Circuit on which I sat for five years. My answer to that question always made the point that I was much more conscious of the similarities between the two courts than of their differences.

During my brief tenure as one of the eight senior justices on the Court, I have frequently been asked to compare the work on an integrated court with the work on a segregated court. My answer to that question has usually made two points. First, my initial concern that the quality of communication during our conferences might be impaired has proved unfounded; for during the 1981 term the task of the doorkeeper was performed with the same high degree of skill and dedication that characterized that office during the preceding six Terms. Second, although every retirement and every new appointment produces a different Court than its predecessor, the similarities between the Court on which Justice Stewart sat and the Court on which Justice O'Connor sits far outweigh their differences.

My belief that the common characteristics of the work of judges in a free society are far more significant than their differences has persuaded me that it may be worthwhile to share with you some of my concerns about the way the Supreme Court is presently discharging one of its judicial responsibilities. A frank discussion of our problems may identify some pitfalls that all of us should try to avoid and may uncover some possible solutions that merit further study.

The Supreme Court is now processing more litigation than ever before. The Court is granting more petitions for certiorari; litigants whose petitions are granted next fall may have to wait a full year before their cases are argued. The Court is issuing more pages of written material; opinions for the Court are longer and more numerous and separate opinions are becoming the norm instead of the exception. The Court is deciding more cases on the merits without the benefit of full briefing and argument, using the currently fashionable technique of explaining its reasons in a "Per Curiam" opinion—a document generally written for the Court by an anonymous member of its ever increasing administrative staff. More and more frequently, after a case has been fully argued, the Court finds it appropriate to dismiss the writ of certiorari without making any decision on the merits because it belatedly learns that certiorari was improvidently granted. As is true in so many courts throughout the country, the heavy flow of litigation is having a more serious impact on the administration of justice than is generally recognised.

Some of the consequences of this increased flow are predictable and have already begun to manifest themselves. The problem of delay—which is not yet serious—in a few years will be a matter of national concern. Of even greater importance, however, is what may happen within the Court itself. For when a court is overworked, the judges inevitably will concentrate their prinicpal attention on the most important business at hand. Matters of secondary importance tend to be put to one side for further study or to be delegated to staff assistants for special consideration. Two examples illustrate this point.

At the beginning of our last Term, after the Court had processed the list of certiorari petitions that had been filed during the summer recess—if my memory serves me correctly there were about a thousand cases on that list—we agreed that it was essential that we confront the question whether the Court should either support legislation that would increase the appellate capacity of the federal judicial system or try to develop new internal procedures that would ameliorate the impact of the case volume on our own work. As the Term developed, however, and we became more and more deeply involved in the merits of a series of difficult cases, our initial recognition of the overriding importance of evaluating our own workload problems—and the desirability of scheduling conferences devoted exclusively to that subject matter—gradually dissipated and no such conference was ever held. We were too busy to decide whether there was anything we could do about the problem of being too busy.

Reviewing approximately 100 certiorari petitions each week and deciding which to grant and which to deny is important work. But it is less important work than studying and actually deciding the merits of cases that have already been accepted for review and writing opinions explaining those decisions. Because there simply is not enough time available to do the more important work with the care it requires and also to read all the certiorari petitions that are filed, I have found it necessary to delegate a great deal of responsibility in the review of certiorari petitions to my law clerks. They examine them all and select a small minority that they believe I should read myself. As a result, I do not even look at the papers in over 80 percent of the cases that are filed. I cannot describe the practice of any of my colleagues, but when I compare the quality of their collective efforts at managing the certiorari docket with the high quality of their work on argued cases, I readily conclude that they also must be treating the processing of certiorari petitions as a form of second-class work. My observation of that process during the past seven Terms has convinced me that the Court does a poor job of exercising its discretionary power over certiorari petitions. Because we are too busy to give the certiorari docket the attention it deserves, we grant many more cases than we should, thereby making our management problem even more unmanageable.

At this point I should make clear that I am expressing only my own opinion—an opinion that perhaps none of my colleagues share. Indeed, some of them believe we should be taking many more cases and that our overflow should be decided by a newly created National Court of Appeals. Under that view, the aggregate lawmaking capacity of the federal judiciary would be enlarged. There would be a significant increase in the number of federal adjudications binding on courts thoughout the nation. Moreover, under that view, the management functions performed by the Supreme Court would require a relatively greater portion of the justices' total time. For the Justices would not only decide what cases are important enough to justify decision on the merits at a national level, but they would also decide which of the two courts with nationwide jurisdiction should hear those cases. In other words, they would be managing the docket of two courts instead of just one. The increased national capacity would also make it more difficult for us to resist the temptation to review every case in which we believe the court below has committed an error. Like a new four-lane highway that temporarily relieves traffic congestion, a new national court would also attract greater and greater traffic volumes and create unforeseen traffic problems. In my opinion it would be unfortunate if the function of the Supreme Court of the United States should become one of primarily—or even largely—correcting errors committed by other courts. It is far better to allow the state supreme courts and federal courts of appeals to have the final say on almost all litigation than to embark on the hopeless task of attempting to correct every judicial error that can be found.

In my opinion, the Court and the nation would be better served by reexamining the doctrine of judicial restraint and by applying its teachings to the problems that confront us. The doctrine of judicial restraint is often misunderstood. It is not a doctrine that relates to the merits of judicial decisions; it is a doctrine that focuses on the process of making judicial decisions. It is a doctrine that teaches judges to ask themselves whether, and if so when, they should decide the merits of questions that litigants press upon them. It is not a doctrine that denies the judiciary any lawmaking power—our common law heritage and the repeated need to add new stitches in the open fabric of our statutory and constitutional law forecloses the suggestion that judges never make law—but the doctrine of judicial restraint, as explained for example in Justice Brandeis' separate opinion in *Ashwander* v. *Tennessee Valley Authority,* teaches judges to avoid unnecessary lawmaking. When it is necessary to announce a new proposition of law in order to decide an actual case or controversy between adversary litigants, a court has a duty to exercise its lawmaking power. But when no such necessity is present, in my opinion there is an equally strong duty to avoid unnecessary lawmaking.

The fact that the Court is granting a larger number of certiorari petitions than ever before raises the question whether it is engaging in unnecessary lawmaking. The answer to that question is suggested by a few examples of the way the Court has exercised its discretionary jurisdiction in recent years. For both in deciding when to review novel questions and in deciding what questions need review, the Court often exhibits an unfortunate lack of judicial restraint. Thus, the various opinions in our recent case involving a school library plainly disclose that the Court granted certiorari at an interlocutory stage of a case in which further proceedings in the trial court would either have clarified the constitutional issue or perhaps have mooted the entire case. Similar considerations in the case involving a court clerk's claim of immunity prompted the Court to dismiss the writ as improvidently granted. The Court's timing in these cases demonstrates that patience is both a virtue and a characteristic of judgment that judges sometimes forget.

In other cases the Court has displayed a surprising unwillingness to allow other courts to make the final decision in cases that are binding in only a limited geographical area and in which no conflict exists. Thus, in *Watt* v. *Alaska,* apart from the possibility that error had been committed, there was no reason for our Court to involve itself in a dispute between the State of Alaska and one of its counties over the division of mineral leasing revenues that could only arise in the Ninth Circuit. In *Oregon* v. *Kennedy,* the Court elected to review a misapplication of double jeopardy doctrine by the Oregon Court of Appeals even though the particular facts of the case may never be duplicated in other litigation. The fact that the new double jeopardy doctrine pronounced in the opinion of five of my colleagues was totally unnecessary to decide that case adds emphasis to the lack of necessity for granting certiorari at all. Morever, despite that pronouncement, the Oregon court remained free to reinstate its prior judgment by unambiguously relying on Oregon, rather than federal, law to support its holding. In *South Dakota* v. *Opperman,* the State Supreme Court followed that precise course, thereby proving that our Court had unnecessarily taken jurisdiction of a case in which deference to the state court's judgment would have been appropriate in the first instance. The decision to review (and to reverse summarily without argument) a novel holding by a California intermediate appellate court concerning the burden of proof in an obscenity trial, or an equally novel holding by the Pennsylvania Supreme Court concerning a police officer's order commanding the driver of a vehicle to get out of his car after a traffic violation, are additional examples of the many cases in which the Court has been unwilling to allow a state court to provide one of its residents more protection than the Federal Constitution requires even though the state decision affected only a limited territory and did not create a conflict with any other decision on a question of federal law, and even though the state court had the power to reinstate its original judgment by relying on state law. A willingness to allow the decision of other courts to stand until it is necessary to review them is not a characteristic of this Court when it believes that error may have been committed.

The Court's lack of judicial restraint is perhaps best illustrated by the procedure it followed in the *Snepp* case. A former CIA agent filed a petition for certiorari seeking review of a Fourth Circuit decision holding that his publication of a book about Viet Nam violated his secrecy agreement with the CIA; he contended that his contract was unenforceable because it abridged his right to free speech. The Government opposed his petition and also filed a conditional cross-petition, praying that *if* the Court should grant Snepp's petition, it should also consider whether the remedy ordered by the lower court was adequate. The Court denied Snepp's petition, but nevertheless granted the cross-petition and, without hearing argument on the merits, issued a Per Curiam opinion ordering a constructive trust to be imposed on all of the book's earnings even though there was neither a statutory nor contractual basis for that novel remedy. Since the Government had not even asked the Court to review the remedy issue unless it granted Snepp's petition, it is undeniable that the Court's exercise of lawmaking power in that case was totally unnecessary. If you think the *Snepp* case is unique in the revelatory light it casts on the Court's present approach to the doctrine of judicial restraint, I suggest that you read the Court's Per Curiam opinion in the *McCluskey* case, decided on the last day of this Term, in which the Court exercised its majestic power to reinstate the suspension of a high school student who had consumed too much alcohol.

You may think I have wandered away from a discussion of the problems created by the mounting tide of litigation that is threatening to engulf our Court. My purpose in discussing the doctrine of judicial restraint, however, is relevant for two quite different reasons. First, it lends support to a possible solution to the problem that I favor; second, it explains why judges who do not share my respect for the doctrine will surely oppose that solution.

Instead of creating a new court to decide more cases on the merits, thereby increasing the aggregate judicial power that the Supreme Court may exercise, I favor the creation of a new court to which the Supreme Court would surrender some of its present power—specifically, the power to decide what cases the Supreme Court should decide on the merits. In essence, this is the proposal that was made by the committee headed by Professor Paul Freund several years ago with one critical difference. I would allow that court to *decide*—not merely to recommend—that a certiorari petition should be granted or denied. Let me just briefly explain why I believe the creation of a new court with that power would significantly improve the administration of justice.

First, and of greatest importance, I believe an independent tribunal that did not have responsibility for deciding the merits of any case would do a far better job of selecting those relatively few cases that should be decided by the Supreme Court of the United States. As I have already suggested, I think the present Court does a poor job of performing that task. It grants too many cases and far too often we are guilty of voting to grant simply because we believe error has been committed rather than because the question presented is both sufficiently important for decision on a national level and also ripe for decision when action is taken on the certiorari petition. I recognize that a different court might make similar mistakes, but reflection has persuaded me that such a court would be more likely to develop a jurisprudence of its own that properly focused on the factors—other than possible error—that should determine whether or not a certiorari petition should be granted.

Second, if I am correct in my belief that such a court would grant fewer petitions, this Court would be required to decide fewer cases on the merits. Even if that assumption is not correct, if the vast flood of paper and the small army of administrative personnel associated with the processing of our certiorari docket could be entirely removed from the Supreme Court, the time available to the justices for doing their most important work would be dramatically increased. The threat to the quality of that work that is now posed by the flood of certiorari petitions would be entirely removed.

Finally, if the new court were granted the power to control our docket, I believe capable judges would regard membership on that court as worthy of their talent. When the original Freund Committee proposal was made, my initial reaction to it was the same as that of other circuit judges with whom I was serving—it seemed to offer us the opportunity to become law clerks instead of judges. But an important reason for that reaction was the fact that the proposed court was not expected to exercise any real power—it would have done no more than perform a preliminary screening function for the Supreme Court without the actual power of decision. If the Supreme Court surrendered that power to the new court, the status of that court would indeed be significant. I am firmly convinced that a proper performance of the function of selecting the cases for the Supreme Court's docket would be rewarding judicial work, requiring a scholarly understanding of new developments in the law and of our democratic institutions that only our ablest judges possess.

Those who question the wisdom of allowing the Supreme Court to relinquish control over its own docket, and who favor the creation of a new National Court of Appeals to decide cases that are referred to it by our Court, rely heavily on the perceived need to enlarge our capacity to resolve conflicts among the circuits. Let me therefore say a word about that asserted need. Again the doctrine of judicial restraint sheds light on the problem.

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Putting to one side my own view that the number of unresolved conflicts is exaggerated, I would like to suggest, first, that the existence of differing rules of law in different sections of our great country is not always an intolerable evil and, second, that there are decisionmakers other than judges who could perform the task of resolving conflicts on questions of statutory construction. As Justice O'Connor noted in her eloquent dissent in the FERC case, the fact that many rules of law differ from state to state is at times one of the virtues of our federal system. It would be better, of course, if federal law could be applied uniformly in all federal courts, but experience with conflicting interpretations of federal rules may help to illuminate an issue before it is finally resolved and thus may play a constructive role in the lawmaking process. The doctrine of judicial restraint teaches us that patience in the judicial resolution of conflicts may sometimes produce the most desirable result.

The doctrine of judicial restraint also raises the question whether the conflict resolution task need always be performed by judges. If the conflict is on a question of constitutional law, it must be resolved by the Supreme Court. But if, as is more frequently the case, the conflict is over the meaning of an ambigous statutory provision, it may be both more efficient and more appropriate to allow Congress to make the necessary choice between the alternative interpretations of the legislative intent. If the conflicts problem is—or should become—sufficiently important to justify the creation of an entirely new federal appellate court, I would suppose that the problem would also justify the creation of a standing committee of the Congress to identify conflicts that need resolution and to draft bills to resolve them one way or the other. If the source of the conflict is ambiguity resulting from an omission in a statute, it would seem to make good sense to assign Congress the task of performing the necessary corrective lawmaking.

At the outset of my remarks I suggested that a discussion of problems I perceive in our Court might be useful to other judges because the similarities among courts outweigh their differences. Before I close let me therefore explain why I hope my comments may be relevant to the problems that arise in other courts. First, I would urge you to identify your problems and to discuss them openly and frankly. Disagreements with other judges is a characteristic of our profession that implies no disrespect and no lack of faith in the inherent strength of our institution. We must begin to talk about our problems before we can solve them. Second, when you are considering possible changes in your procedures—as well as when you are deciding particular cases—keep in mind the teachings of the doctrine of judicial restraint. Consider whether, when and how the special talent of judges—the thoughtful application of impartial judgment—should play a role in the decisionmaking process. And finally, I must note that although my remarks have indicated that proper management of a docket requires a court to treat some cases as having a greater importance or priority than others, distinctions that are made for administrative reasons are not applicable to the decisional process itself. With regard to our primary responsibility, I would urge you to heed the advice of a truly great judge. In an interview a few weeks ago Justice Stewart was asked if there was some opinion of which he was particularly proud. This was his answer:

"I worked hard on every opinion. I think they were all satisfactory. I think it's very important for a judge—any judge, anywhere—to remember that every case is the most important case in the world for the people involved in that case, and not to think of a case as a second-class case or a third-class case or an unimportant case. It behooves the judge or justice to apply himself fully to every case and to give it conscientious consideration."

Justice Stewart's example, as well as his written word, is a great teacher.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan (Mr. LEVIN) is recognized for not to exceed 15 minutes.

Mr. LEVIN. I thank the Chair.

NATIONAL DEFENSE STOCKPILE

Mr. LEVIN. Mr. President, many elements of our national defense program are glamorous subjects which we read and hear about every day. However, this morning, I would like to discuss an issue that is not consistently in the public eye but is still very important to this Nation's military preparedness. This issue is the national defense stockpile.

My purpose this morning is to bring to the attention of the Senate a report by the General Accounting Office which I requested in June and which I am releasing today. This report provides strong evidence that the Reagan administration is putting short-term budgetary considerations ahead of our long-term national security interest in its management of the stockpile. The General Accounting Office confirmed that the administration's plan for the stockpile will result in the accumulation of $1.8 billion in the Treasury from the sale of excess stockpile materials over the next 5 years. By not using these funds to purchase additional needed materials for the stockpile, this plan clearly violates the expressly stated will of the Congress that "the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes." By ignoring this statutory policy, the administration has also explicitly rejected the advice of the national security agencies within the executive branch responsible for insuring that this country has an adequate strategic stockpile.

I ask unanimous consent that the GAO report, issued to me on July 16, 1982, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

BACKGROUND OF THE NATIONAL DEFENSE STOCKPILE

Mr. LEVIN. Mr. President, the United States maintains a national defense stockpile because we cannot produce certain strategic and critical materials in sufficient amounts to meet our military and industrial needs during periods of national emergency. The Federal Government's management of the stockpile since its creation has been far from distinguished. Too often in the last three decades, we have used the sale of stockpile materials as an easy source of revenues for the Federal Treasury, ignoring the legitimate requirements to maintain a stable source of critical materials to enable us to respond to a war or national emergency.

As a result, today the inventory of many strategic materials in the stockpile is a long way from the requirement for these materials set by the Federal Emergency Management Agency (FEMA). To illustrate these shortages, let me just mention some of the strategic materials that are required to make the Pratt and Whitney F-100 turbofan engine. This is the jet engine that powers the F-15 and F-16, the first-line tactical fighter aircraft of our Air Force.

According to FEMA officials the manufacture of one of these jet engines requires:

Five thousand three hundred and sixty six pounds of titanium. In 1981, this country imported 47 percent of its titanium consumption. The current inventory of titanium in the stockpile represents only 17 percent of what we need in that stockpile.

Five thousand two hundred and four pounds of nickel. In 1981, this country imported 73 percent of its nickel consumption. The stockpile currently has no nickel; the requirements for our stockpile is 200,000 short tons, and we have nothing in that stockpile.

Nine hundred and ten pounds of cobalt. In 1981, this country imported 93 percent of its cobalt consumption. Even with the recently announced proposal to purchase an additional 5.2 million pounds of cobalt, the current stockpile inventory will be only 54 percent of the requirement after this announced purchase.

One hundred and seventy-one pounds of columbium. In 1981, this country imported 100 percent of its columbium consumption. The stockpile inventory of the columbium commodity group is only 52 percent of the inventory objective.

Three pounds of tantalum. In 1981, this country imported 97 percent of its tantalum consumption. The stockpile currently contains only 33 percent of the inventory objective of the tantalum commodity group.

This example covers the materials needed in just one jet engine. In this example, the stockpile inventory for each of these materials is approximately one-half or less than the requirement established by the executive branch. In fact, all of these materials were on the recent list of highest priority materials slated for purchase for the stockpile. If this administration has its way, the large deficits in the stockpile inventory for these and other critical materials will not be filled anytime soon.

1979 STOCKPILING ACT

Mr. President, with the passage of the Strategic and Critical Materials Stock Piling Revision Act of 1979, Congress took a major step toward strengthening the management of the national defense stockpile. This act articulated a national policy that the stockpile inventory should be sufficient to cover the country's needs for critical materials for not less than 3 years of a national emergency. It also explicitly established the policy I just quoted that "the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic and budgetary purposes." To insure this, Congress, in the act, set up a separate fund in the U.S. Treasury—the national defense stockpile transaction fund—where all receipts received from the sale of stockpile materials are deposited. By law, funds deposited in that fund can only be used for the acquisition of needed strategic and critical materials for the stockpile—nothing else.

Two years later, in the Omnibus Budget Reconciliation Act of 1981, Congress included an additional safeguard against the stockpile being used for economic and budgetary purposes. Because receipts going into the stockpile transaction fund are counted on the revenue side of the Federal ledger, there might be an inclination on the part of an administration anxious to generate revenues to sell off excess stockpile materials and leave the receipts in the stockpile transaction fund without using the receipts for their intended purpose—filling of the stockpile. To prevent this from happening, Congress stipulated that no disposal may be made from the stockpile after September 30, 1983, if the disposal would result in there being a balance in the stockpile transaction fund in excess of $500,000,000.

The same amendments also require the President to submit to the Congress annually a 5-year materials plan for the operation of the stockpile. This report lays out the details of planned expenditures for acquisition and of anticipated receipts from proposed disposals of stockpile materials during the next fiscal year and the succeeding 4 fiscal years.

REAGAN ADMINISTRATION STATEMENTS ON THE NATIONAL DEFENSE STOCKPILE

Mr. President, the rhetoric of the Reagan administration suggests a strong commitment to rebuilding the stockpile. On March 31, 1981, less than 2 months after coming into office, President Reagan directed the Federal Emergency Management Agency (FEMA) "to begin the first purchase program for the national defense stockpile of strategic and critical materials in over 20 years." President Reagan went on to say in the statement that "it is expected that larger purchases will be made as funds from sales of excess materials build up in the stockpile fund." One year later, the President's promises have fallen far short of implementation.

On April 5, 1982, in the National Materials and Minerals Program Plan and Report to Congress, the President promised that "the administration will expeditiously dispose of those stockpiled materials held in excess of goals and acquire additional materials through the appropriations process."

The President also said that "this program demonstrates a serious commitment by this administration to enhance significantly the national security." In response to this statement. I only hope that the President does not want us to measure his administration's commitment to enhancing the national security by the plan for the national defense stockpile over the next 5 years because that plan makes the President's statement sound more like a hollow promise than a serious commitment.

THE 1982–87 ANNUAL MATERIALS PLAN

The fact is that under the administration's 5-year plan, the revenues from sales of stockpile receipts would be way out of proportion to the proposed purchases of new materials. Receipts and purchases are not even close to balancing. Through fiscal year 1987, FEMA's plan anticipated receipts from stockpile disposals at more than $2.4 billion. At the same time, FEMA's plan proposed expenditures for stockpile purchases through 1987 totaled only $660 million. Sales would be four times purchases.

In other words, under the administration's current plan, at the end of fiscal year 1987, there would be almost $1.8 billion of receipts from stockpiles sales sitting idle in the stockpile transaction fund. This represents over three times the $500 million limit on the size of the balance in the stockpile transaction fund established in law just last year.

GAO REPORT

Because of the serious inconsistencies in the administration's annual materials plan for fiscal years 1982 to 1987, I asked the General Accounting Office to examine the plan to determine whether it violated the requirements of the Stock Piling Act. Mr. President, the answer from GAO could not have been clearer. The GAO concluded—and I quote—

> From our examination, it appears that the administration has given priority to budgetary considerations over stockpile needs, and that the 5-year plan, if implemented, will result in the $500 million limitation on the stockpile transaction fund being exceeded.

GAO also reported that OMB officials had stated that before the $500 million limitation on the balance in the stockpile transaction fund was exceeded, "appropriate amending legislation would be submitted to the Congress." In other words, the administration plans to seek repeal of the principal legislative safeguard in the Stock Piling Act that prevents the stockpile from being manipulated for economic and budgetary purposes.

CONCLUSION

Mr. President, there is more than enough blame to go around for the sorry state in which we find the stockpile today. Just last year, the Congress appropriated only $57.6 million of the $120 million requested by the administration for stockpile purchases. But, Mr. President, I can only conclude from this GAO report that the administration's commitment to rebuild the national defense stockpile is an illusory one. At the rate of purchases for the stockpile proposed by the administration, it will be well beyond the middle of the next century before we eliminate the current shortages of critical and strategic materials in the stockpile.

Of additional serious concern is the blatant disregard by the administration of the policy set forth in the 1979 Stock Piling Act that the stockpile not be used for economic and budgetary purposes. The administration's plan would allow the accumulation of $1.8 billion in the stockpile transaction fund which, under the law, is not supposed to be used for any purpose except to purchase additional materials for the stockpile. The only possible explanation for this is the administration's desire to use these funds as a revenue offset to create the appearance of lowering the overall deficit.

Finally, and most basically, the administration's actions raise the question of how critical the current administration considers the national defense stockpile to our national security. The inventory goals for the stockpile are not set in Congress. They are established and ratified through a lengthy process involving all of the various national security agencies within the executive branch.

Mr. President, the fact is that for many critical commodities, our stockpile inventory today includes only a fraction of the objective. As of April 30, 1982, the stockpile goals or requirements represent materials valued at $17.5 billion. We have materials valued at $11 billion in the stockpile today. Of this $11 billion, only $7.3 billion represents materials that can be charged to stockpile goals; the remaining $3.7 billion worth of material are excess. Thus, we need about $10.2 billion worth of strategic and critical ma-

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terials—almost 60 percent of our requirement—to meet the requirements for the stockpile developed through the collective wisdom of the national security agencies within the executive branch.

As I pointed out earlier, these shortages occur in materials such as titanium, cobalt, and nickle which would be essential to our industrial effort in a war or national emergency. We are a long way from reaching the inventory goals for some very important materials. If the administration is not willing to spend even the receipts from stockpile sales on additional critically needed materials—funds which are not supposed to be used for any other purpose—then I can only conclude that the administration does not think the stockpile inventory objectives are very critical to our national security.

This criticism does not extend to the officials of FEMA and GSA, directly responsible for day-to-day management of the stockpile, I might add. In testimony before the Preparedness Subcommittee on June 9, GSA officials indicated their original requests to OMB for fiscal year 1982 and fiscal year 1983 for new materials for the stockpile were $908.9 million and $862.4 million, respectively. OMB reduced these requests to $120 million in both years, less than one-seventh of the requests made to them by the administration for the stockpiles.

Mr. President, the chairman of the Preparedness Subcommittee, Senator HUMPHREY, has been a strong supporter of our military preparedness in general and of our national defense stockpile in particular. As the Preparedness Subcommittee, under his leadership, continues its oversight hearing on the stockpile, I hope that we can call GSA, FEMA, and OMB witnesses to testify on the conclusions of the GAO report which I am releasing today.

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., July 16, 1982.

Subject: Implementation of National Defense Stockpile Plans Would Require Amending Existing Legislation (GAO/EMD-82-111).

Hon. CARL LEVIN,
Ranking Minority Member, Subcommittee on Preparedness, Committee on Armed Services, U.S. Senate.

DEAR SENATOR LEVIN: The United States cannot produce certain strategic and critical materials in sufficient amounts to support its requirements during periods of national emergency. To prevent what could be a dangerous and costly dependence on foreign supply sources during these crises, the United States maintains a National Defense Stockpile of materials to avoid military setbacks and economic damage in wartime.

On June 18, 1982, you asked us to review the Federal Emergency Management Agency's (FEMA) 5-year Annual Materials Plan for Fiscal Years 1983-1987. (See encl. I.) You asked our views on whether the plan meets the requirements in the Strategic and Critical Materials Stock Piling Act, as amended, (50 U.S.C. 98 et seq.) that—

"The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes" and

Except for rotations, disposal of excess materials that may cause a loss to the Federal Government if allowed to deteriorate, and releases required for national defense, "no disposal may be made from the stockpile * * * if the disposal would result in there being a balance in the National Defense Stockpile Transaction Fund * * * after September 30, 1983, * * * in excess of $500,000,000." [1]

From a strictly legal standpoint, the plan is not required to comply with these provisions of the act. The plan is only required to indicate proposed acquisitions and disposals. However, we attempted to determine whether the proposed actions, if implemented as planned, would meet the requirements that the stockpile not be used for economic and budgetary purposes and that the stockpile Transaction Fund not exceed $500 million. From our examination, it appears that the administration has given priority to budgetary considerations over stockpile needs, and that the 5-year plan, if implemented, will result in the $500 million limitation on the Transaction Fund balance being exceeded. An OMB official told us that before the limitation is exceeded, appropriate amending legislation would be submitted to the Congress.

Your office subsequently asked us to determine whether proposed stockpile acquisitions appear consistent with Presidential stockpile policy included in his April 5, 1982, program plan and report to the Congress. This plan and report were required by the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96-479. We found no apparent attempt within the administration to correlate the budget with either the President's March 13, 1981, statement or the April 5, 1982, program plan.

BACKGROUND

The first major Federal program to stockpile strategic and critical materials was authorized and initiated under a 1939 act and amended by the Strategic and Critical Materials Stock Piling Act of 1946. Materials were procured under this act to support U.S. industrial and military needs during an emergency.

The Strategic and Critical Materials Stock Piling Revision Act of 1979, Public law 96-41, revised and updated the 1946 act to conform to current stockpile policy and to strengthen the legislative role in stockpile matters. The 1979 act restricts the use of stockpile materials to national defense and precludes their use for economic or budgetary purposes. It also established a separate fund in the U.S. Treasury—the National Defense Stockpile Transaction Fund—where all moneys received from the sale of stockpile materials are deposited. Moneys in the Transaction Fund are only for the acquisition of strategic and critical materials.

Title II of the Omnibus Budget Reconciliation Act of 1981 made further improvements in stockpile management. It amended the Stock Piling Act to require most moneys received from the sale of stockpile materials to remain in the Transaction Fund until appropriated and provides that moneys in the Fund, when appropriated, remain available until expended, unless otherwise provided in appropriation acts. The act limits the balance in the Fund to $500 million after September 30, 1983.

Title II of the Omnibus Budget Reconciliation Act of 1981 also amended the Stock Piling Act to require the President to submit to the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years. The report, which accompanies the President's budget for the next fiscal year, includes details of planned expenditures for acquisition and of anticipated receipts from proposed disposals of stockpile materials during the 5-year period.

Stockpile planning

The annual materials plan is a list of stockpile materials proposed for acquisition and disposal developed each year through an interagency committee chaired by FEMA. The planning process begins when FEMA gives a list of goals, deficits, excesses, and priorities to the General Service Administration (GSA). The materials proposed for purchase and/or sale are ranked according to national security priorities. GSA makes an initial assessment of the market for these materials and determines the quantities that could be bought or sold without undue disruption of usual markets.

After GSA's market contraints are added, among other reviews, the revenue and cost projections of the annual materials plan proposal are examined. Upon inclusion of all approved revisions, the Director of FEMA submits the plan to the National Security Council and simultaneously provides a copy to the President's Office of Management and Budget (OMB). Any further revisions are made jointly by the National Security Council, OMB, and FEMA.

FEMA's list of goals, deficits, excesses, and priorities is prepared independent of the Federal budget process. However, the Transaction Fund is a GSA budget activity and, as such, subject to Presidential and congressional guidance and budget decisions. Thus, moneys flowing in and out of the Fund are treated as receipts and outlays, respectively, in GSA's fiscal year budget, and the annual materials plan is adjusted to conform to Presidential and congressional guidance and decisions on the desired unappropriated end-of-year balance in the Transaction Fund. For fiscal year 1983, the President's budget projects an end-of-year Transaction Fund balance of $741 million.

GIVING PRIORITY TO BUDGETARY CONSIDERATIONS MAY REQUIRE AMENDING EXISTING LEGISLATION

Because the Transaction Fund can be used with other Treasury funds to balance the Federal budget, the Omnibus Budget Reconciliation Act of 1981, amending the Stock Piling Act, prohibits any stockpile disposal which would result in a Fund balance in excess of $500 million. House Report 97-158, which accompanied the act, states that the $500 million limitation was enacted because: "The Committee on Armed Services expressed particular concern that management of the stockpile be consistent with the purpose set out in the (Stock Piling) Act: 'to serve the interest of the national defense only and is not to be used for economic and budgetary purposes.' "

The $741 million projected in the President's fiscal year 1983 budget as a Transaction Fund balance on September 30, 1983, would exceed the congressionally mandated limitation by $241 million. FEMA's 5-year plan projects that at the end of fiscal year 1987, the Fund will be at $1.8 billion—$1.3 billion above the $500 million limitation.

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[1] Amendment by the Omnibus Budget and Reconciliation Act of 1981, Public Law 97-35.

We questioned FEMA and GSA officials concerning these apparent inconsistencies and were informed that the projected balance in the Transaction Fund reflects OMB guidance and "policy decisions." FEMA's Assistant Associate Director for Resources Preparedness informed us that the annual program plan, prepared in December 1981, focused primarily on acquisitions and included a range of options—one of which would have reduced the Transaction Fund balance below the $500 million limitation. The plan was then revised and adjusted to match the President's fiscal year 1983 budget and long-range (through fiscal year 1987) budget projections for stockpile acquisitions and disposals provided by OMB's budget examiner for GSA.[2]

FEMA's Assistant Associate Director stated that the annual materials plan did not, in any way, influence the President's budget. He continued that FEMA advised OMB that the President's fiscal year 1983 budget would exceed the limitation and that an alternative plan should be considered. However, he was advised by OMB to revise the annual materials plan to conform to the President's budget decisions.

GSA's Chief, Budget Formulation Branch, told us that GSA was advised by OMB to adjust its fiscal year 1983 budget to reflect $592 million in disposal receipts and $120 million in acquisition expenditures. However, $402 million in receipts is contingent on congressional approval to dispose of stockpile silver.[3]

We approached OMB's budget examiner for GSA concerning the validity of the statements made by the FEMA and GSA officials. He stated that OMB does not support the congressionally mandated limitation on the Transaction Fund balance. He noted, however, that since the disposal of stockpile silver has been suspended, the limitation on the Transaction Fund balance may not be exceeded in fiscal year 1983. He concluded that proposed legislation to either eliminate or increase the existing limitation would be forthcoming with the President's fiscal year 1984 budget if fiscal year 1983 disposals are expected to exceed the current limitation on the Transaction Fund balance.

Finally, while FEMA is responsible for planning, programming, and reporting on the stockpile, GSA is responsible for acquiring and disposing of the materials. GSA's fiscal year 1983 congressional highlight summary identifies numerous economic benefits to be derived from disposing of excess stockpile materials, including "the reduction of dollar outflow and improvement of the overall balance of payments positions of the United States." However, the need to acquire other materials currently below stockpile goal levels in the interest of national defense is not identified as a benefit to be derived from the disposals.

It appears that the administration has given priority to budgetary considerations over national defense-related needs. However, the existing stockpile legislation precludes implementation of the administration's plans by prohibiting any disposals which would result in a Transaction Fund balance in excess of $500 million. As stated above, OMB intends to propose amending legislation to either eliminate or increase the limitation if it appears that the limitation would be exceeded.

PROPOSED STOCKPILE ACQUISITIONS APPEAR INCONSISTENT WITH PRESIDENTIAL POLICY

In a March 13, 1981, statement authorizing $100 million for the first purchase program for the National Defense Stockpile in over 20 years, the President stated that it is now widely recognized that our Nation is vulnerable to sudden shortages in basic raw materials necessary to our defense production base. He concluded that the stockpile acquisition program is a necessary first step to decrease this vulnerability and expected that larger purchases would be made as funds from the sale of excess materials build up in the Transaction Fund.

The President's April 5, 1982, program plan and report to the Congress, required by the National Materials and Minerals Policy, Research and Development Act of 1980 states that the administration endorses "the policy that the stockpile should be sufficient to meet military, industrial, and essential civilian needs in support of the national defense in a crisis." The plan continues that the administration will seek congressional appropriations to acquire necessary stockpile materials and will provide a fiscal year annual materials plan that "matches annual budget ceilings, market conditions, immediate strategic requirements, and GSA purchase activities." It concludes that the President's acquisition and disposal program "demonstrates a serious commitment by this Administration to enhance significantly the national security."

Additionally, OMB's budget examiner for GSA told us that many of the materials currently below stockpile goals are "low priority." He implied that this is why the administration has requested only $120 million for fiscal year 1983 stockpile acquisitions even though the Transaction Fund is projected to have a $741 million balance at the end of fiscal year 1983. However, bauxite, chromite and chromium metal, columbium concentrates, nickel, the platinum group metals, and titanium, identified by both us[4] and FEMA as materials for which the United States appears vulnerable to supply disruptions or sharp price increases and which may be critical to national defense, are below stockpile goal levels. Over $450 million is needed to meet the Jamaican grade bauxite goal alone. Therefore, the OMB budget examiner's statement that many of the materials currently below stockpile goal levels are low priority appears questionable.

While the President's fiscal year 1983 budget and long-range projections reflect an intention to expeditiously dispose of stockpile materials currently held in excess of goals, we do not believe that it reflects a "serious commitment" to acquire additional materials. No apparent attempt was made to correlate the budget with either the President's March 13, 1981, statement or April 5, 1982, program plan.

As requested by your office, we did not obtain official agency comments on this report. As arranged with your office, unless you publicly announce its contents earlier, we plan to further distribution of this report until 30 days from the date of its issuance. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

J. Dexter Peach, *Director.*

Enclosure.

U.S. Senate,
Committee on Armed Services,
Washington, D.C., June 18, 1982.

Hon. Charles A. Bowsher,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

Dear Mr. Bowsher: The Preparedness Subcommittee of the Armed Services Committee has a continuing interest in issues affecting the National Defense Stockpile. On April 23, 1982, Louis O. Giuffrida, Director of the Federal Emergency Management Agency, transmitted to the Congress the Annual Materials Plan for Fiscal Years 1983–1987. This plan shows anticipated purchases for the sales from the National Defense Stockpile for Fiscal Years 1982–1987.

I would like the General Accounting Office to review the proposed 5-Year Annual Materials Plan for Fiscal Years 1983–1987 and determine whether this Plan meets all of the requirements of the 1979 Strategic and Critical Materials Stockpiling Act, as amended by the Omnibus Reconciliation Act of 1981. Specifically, I would like GAO's legal opinion as to whether the Plan meets the requirements in Section 3(b)(1) of the Act that "The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes", and in Section 5(b)(2) that no disposal may be made from the stockpile after September 30, 1983, if the disposal would result in there being a balance in the Stockpile Transaction Fund in excess of $500,000,000.

I would appreciate your response to this question by July 15, 1982. Members of the Committee staff have been in touch with the staff of the Energy and Minerals Division of GAO. If they have any further questions, they can contact Mr, David Lyles of the Committee staff at 224–9344.

Thank you for your attention to this matter.

Sincerely,

Carl Levin,
Ranking Minority Member,
Subcommittee on Preparedness.

Mr. President, I thank the Chair, and I yield back the remainder of my time, if any.

The PRESIDING OFFICER. The Senate majority leader.

Mr. BAKER. Mr. President, who has the next special order?

The PRESIDING OFFICER. The next special order is for Senator Humphrey for a time not to exceed 15 minutes.

Mr. BAKER. Mr. President, I understand the Senator is on his way to the floor to claim his time under the special order. While he arrives, I suggest the absence of a quorum to be charged against that time.

The PRESIDING OFFICER. The clerk will call the roll.

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[2] Projected expenditures for stockpile acquisitions for fiscal years 1983 through 1987 total $660 million. Estimated receipts from stockpile disposals under existing legislation total $902 million, while receipts for disposals under proposed legislation total $1,533.7 million.

[3] The fiscal year 1982 Defense Appropriation Act, Public Law 97–114, December 29, 1981, suspended the weekly auctions of silver from the National Defense Stockpile pending a July 1, 1982, now overdue, redetermination by the President that the over 100 million troy ounces of silver to be disposed of is excess to stockpile requirements and congressional approval of the recommended disposal method.

[4] U.S. General Accounting Office, "Actions Needed to Promote a Stable Supply of Strategic and Critical Minerals and Materials," GAO/EMD-82-69, June 3, 1982.

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The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12 NOON TO 2 P.M. TODAY

Mr. BAKER. Mr. President, there is not an order for the Senate to recess from 12 to 2 today yet, is there?

The PRESIDING OFFICER. There is no order yet.

Mr. BAKER. Mr. President, as has been the custom recently, I intend in a moment to ask consent of the Senate to recess between 12 o'clock noon and 2 p.m. The reason, as the distinguished occupant of the Chair knows, is that Members on both sides of the aisle will be attending caucuses of their respective parties off the floor of the Senate. Those caucuses are of a quasi-official nature. They are meetings in which many issues are discussed and occasionally decisions are made as to party positions. Therefore, they are important to the conduct of the Senate.

Mr. President, in view of that, I ask unanimous consent that the Senate today stand in recess from the hour of 12 noon until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, under the same terms and conditions as previously requested, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HUMPHREY

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire (Mr. HUMPHREY) is recognized for not to exceed 15 minutes.

NATIONAL DEFENSE STOCKPILE CRISIS

Mr. HUMPHREY. Mr. President, I commend my colleague, the distinguished Senator from Michigan (Mr. LEVIN) for his diligent efforts in the matter of the strategic stockpile. He is a strong supporter of cost-efficient national defense, and has displayed a great interest in the national defense stockpile, which comes under the purview of the Subcommittee on Preparedness, which this Senator chairs, and on which Senator LEVIN is the ranking minority member.

I have read the GAO report requested by Senator LEVIN and, frankly, find it disturbing, to say the least.

The President has declared his intentions for upgrading the national defense stockpile very clearly. The Office of Management and Budget, however, has chosen to use the stockpile transaction fund to produce the illusion of deficit reductions. The actions taken by OMB contradict the goals established by the President and his national security advisers and are detrimental to our national defense.

This is not the first time that the national defense stockpile has been the subject of criticism in this Chamber. There has, in fact, been a consistent theme of negative evaluations since the early 1960's. The issue is, and has been, to what extent should the national defense stockpile be planned and managed in the interest of national security. If it is the policy of national defense to insure that the country is prepared for effective industrial mobilization in time of emergency, then the national defense stockpile should be financed so that strategic and critical materials are available.

In simple terms, this requires that the national defense stockpile be separated from fiscal and budgetary imperatives and strategies. And it also requires that we, the Congress of the United States, remove political fiscal and budgetary counterstrategies in maintaining a national defense stockpile.

I disagree with the GAO report that argues that the President is responsible for the problems of rebuilding the stockpile. We should consider if we, the Congress, have given proper support to assist the President in fulfilling his "serious commitment * * * to enhance significantly the national security" in national defense stockpile aspects. Did we support previous administrations, as the problem is not uniquely limited to this administration? The answer is no. For fiscal year 1983, the administration requested $635.5 million for stockpile purchases, but we, the Congress are preparing to authorize only $157.6 million.

I would point out, as Senator LEVIN did a few moments ago, that in 1982 the administration requested $120 million and Congress appropriated only $57.6 million. So the blame can be widespread. It does not rest exclusively with the White House.

We must begin to revise our reliance on the stockpile transaction fund as a source of revenue to buy needed strategic and critical materials. The $1.8 billion that my colleague from Michigan suggests would be in the transaction fund depends on the assumption that the GSA will continue to sell tin supplies. Last year the predicted fund balance numbers were larger and even more dangerously persuasive because at that time we assumed that the transaction fund would be flowing over with revenues from a proposal to sell silver as excess material. There is today a strong probability that we will not have the money from the projected tin sale because of international consequences. Without the projected income of nearly $2 billion from a sale of tin, there will not by any violation of the Omnibus Budget Reconciliation Act of 1981 which provides for the $500 million cap in disposal revenue in the transaction fund. The points of the GAO study would then become academic.

We cannot provide for the national security of the United States in the area of emergency mobilization and materials availablity when decisions and policies are the results of a budgetary management approach. Budget planning and policy control in national security affairs within minerals and materials policy should be supportive and consultative. Therefore, for the stockpile needs to be addressed effectively, decisions should be made independent of the budget preparation process.

That is not a new observation, Mr. President. The Congress has been making this observation and trying to insure that stockpile decisions were independent of budgetary and fiscal considerations. We passed legislation in the hope of affecting that situation, but we are still not where we want to be.

I would observe, Mr. President, that as long as the sales from the stockpile are counted as revenues, and purchases for the stockpile are counted as revenues, and purchases for the stockpile are counted as outlays, there will always be the temptation on the part of any administration to insert an element of budgetary considerations into the management of the stockpile.

Mr. President, I am encouraged that the administration is attempting to address stockpile difficulties. My correspondence with the White House in recent days indicates an awareness of the problems. The administration has completed its emergency mobilization preparedness review. According to that review, it would be the policy of the United States to restore industrial mobilization capability in both the military and civilian sectors as a matter of preparedness for significant military conflict. To achieve this objective, the administration would affirm that the national defense stockpile should become the principal source of strategic and criticals materials availability.

Furthermore, the administration would recognize the National Security Council as the final authority of Emergency Mobilization Board planning. I anticipate and fully endorse national defense stockpile decisionmaking under that Board and the Council. There is where it belongs. Both the rebuilding of the stockpile and the national security it is intended to support will be better served. If it is managed by such authority, the suspicion and contentiousness over the transaction fund will no doubt fade away. But we, in Congress, must be prepared through authorizations and appropriations to do our part.

I will close, Mr. President, by emphasizing that it is the administration's intent, according to my recent communications with the White House, to place in charge as final authority over emergency mobilization planning the National Security Council. I urge the White House to implement that intention forthwith.

I thank the Chair.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11:30 a.m., with statements therein limited to 3 minutes each.

VFW OPPOSES AMNESTY FOR ILLEGAL ALIENS

Mr. HELMS. Mr. President, a deluge of calls and letters coming to me strongly oppose the granting of amnesty for aliens who have entered the United States illegally. The Immigration Reform and Control Act of 1982, S. 2222, contains provisions which would grant amnesty to millions of these lawbreakers.

Mr. President, I ask unanimous consent that a letter and enclosure from the Veterans of Foreign Wars of the United States be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Veterans of Foreign Wars
of the United States,
July 28, 1982.

Hon. Jesse Helms,
U.S. Senate, Washington, D.C.

Dear Senator Helms: I have just been informed of your proposed amendment to the Simpson-Mazzoli Bill, and I both thank and applaud you for this clear restatement of first principles.

"Amnesty" by any name simply means that the Congress will have quit on the problem because it is tough and politically sensitive.

You, and your great colleague Senator East, have given us a timely reminder that we are a nation of laws.

Best personal wishes.

Most cordially,

Arthur J. Fellwock,
National Commander-in-Chief.

Veterans of Foreign
Wars of the United States,
July 28, 1982.

To: Members, United States Senate.

From: Arthur J. Fellwock, National Commander-in-Chief, Veterans of Foreign Wars of the United States.

Subject: Illegal aliens.

The Veterans of Foreign Wars of the United States strongly supports the amendment to S. 2222/H. R. 6514, "The Immigration Reform and Control Act of 1982" (the Simpson-Mazzoli bill) put forward by Senators Helms and East (both of North Carolina). This amendment would strip from the bill its provisions for a wide and generous amnesty to aliens residing illegally in this country.

My reasons follow:

(a) despite disclaimers, the Simpson-Mazzoli amnesty provisions would be a magnet for aliens not already in this country to enter illegally and swell the ranks of the 5–6 million illegals already here;

(b) "amnestying" the 5–6 million illegal aliens already here would, according to Executive Branch sources, cost up to $10 billion over the next four years in welfare payments, food stamps, etc.

A small portion of this amount could be properly applied to reinforcing the thinly-stretched Border Patrol to the end that our already generous legal immigration could be adequately policed; and, finally,

(c) the gut, bottom-line issues are: 1) do we regain control of our borders or not; and 2) do we turn a blind eye to law enforcement when it is difficult or politically sensitive.

Acceptance of S. 2222/H. R. 6514 ("Simpson-Mazzoli"), with its amnesty provisions intact, would neither see us regain control of our borders nor foster respect for equitable laws already on the books.

For this reason, I urge passage of the Helms-East Amendment to the basic legislation.

Cordially,

Arthur J. Fellwock,
National Commander-in-Chief.

RETIRED BORDER PATROL OFFICERS OPPOSE AMNESTY FOR ILLEGALS

Mr. HELMS. Mr. President, the Immigration Reform and Control Act of 1982, S. 2222, contains provisions which would grant amnesty to millions of aliens who have entered the United States illegally.

Those charged with the responsibility of patrolling our borders, and who have first-hand knowledge of the current crisis situation, advise caution concerning this legislation.

Mr. President, I ask unanimous consent that a letter from Mr. Gordon J. MacDonald, retired Deputy Assistant Commissioner of the Border Patrol, writing on behalf of the Fraternal Order of Retired Border Patrol Officers, be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Fraternal Order of
Retired Border Patrol Officers,
Office of the Secretary,
Vienna, Va., July 30, 1982.

Hon. Jesse A. Helms,
Dirksen Senate Office Building, Washington, D.C.

Dear Senator Helms: This is to express my sincere appreciation for your recent, most worthy stand on immigration reform. In my capacity as Founder and Secretary of The Fraternal Order of Retired Border Patrol Officers I am in recurrent contact with several thousand immigration enforcement officers, both on-duty officers and former Immigration Investigators and Border Patrol Agents. I can assure you, Senator, to a man, they support your proposed effort to remove the legalization (amnesty) provision from immigration reform bill S. 2222.

For nearly twenty years we have envisioned such a bill as S. 2222; a bill that would finally give INS the legislative resources to regain control of our borders and our interior illegal alien problems. We have come so close, only to have the entire program threatened by this unbelievably broad form of amnesty. Such a provision would be totally devastating to the enforcement programs of the Immigration Service, and would certainly nullify the positive benefits that would accrue as a result of this bill.

We are with you all the way on this, Senator, and we wish you every success.

Sincerely,

Gordon J. MacDonald,
Deputy Assistant Commissioner,
Border Patrol, retired.

AMERICAN LEGION OPPOSES AMNESTY FOR ILLEGAL ALIENS

Mr. HELMS. Mr. President, there is great concern throughout the country over provisions in the Immigration Reform and Control Act of 1982, S. 2222, which would grant amnesty to millions of aliens who have entered our Nation illegally.

I ask unanimous consent that two letters from the American Legion in this connection be printed in the Record at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The American Legion,
Washington, D.C., July 23, 1982.

Hon. Jesse A. Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: For the last several years The American Legion has taken the view that regaining control over immigration into the United States—both legal and illegal—is of vital importance to nearly every major facet of American life. This nation stands virtually alone among western nations in having failed even minimally to exercise its sovereign right to police its own borders. The consequences of too many years of too little control have created an overwhelming popular sentiment that demands reduced legal immigration and enforcement of tough new illegal immigration laws.

This year, the best efforts of both House and Senate Judiciary Subcommittees on Immigration have yielded little more than a compromise package which may be sound from a political standpoint but in many respects is inadequate to seriously address immigration control or assuage the growing anxieties of American taxpayers. In that regard, provisions to amnesty millions of illegals within each of the two major reform measures make a mockery of serious intentions to control immigration and we invite your attention to and possible leadership in opposing these provisions. Our position against amnesty of any kind is adamant for a variety of reasons outlined in the attached documents. Assuming that you agree with us on this matter it is sufficient to point out that in the last several weeks momentum has begun to move in a direction favorable to our position. This, in light of two significant events.

First, Senator Kennedy succeeded in amending S. 2222 in Committee with a provision vastly expanding eligibility for amnesty—legalization as it is called in polite circles—to include all illegal aliens having resided in the U.S. prior to January 1, 1982. Many Senators previously willing to look the other way at a moderate legalization program are now beginning to pay more attention in the face of a wide-open amnesty which is tantamount to an open border policy.

The second factor moving things our way is the June 15, 1982 Supreme Court ruling on free public schooling for the children of illegals. In that decision the Court found that Texas had unconstitutionally denied equal protection under the 14th Amendment to the children of illegals by barring their access to free public schooling. The significance of this decision is that by using the same equal protection arguments, illegals taking advantage of amnesty will be entitled to the full range of social welfare benefits now available to Americans.

This prospect must be taken seriously in any consideration of amnesty because of the cost to taxpayers. Indeed OMB projects that if 80% of an illegal population conservatively estimated at 4.5 million stepped forward, the cost in social services and benefits would range around $9 billion over four years. Moreover, when the Administration gave its support for legalization, in both its own proposal and the original amnesty provision in S. 2222, it did so with the understanding that most of those legalized would be ineligible for federal welfare and other benefits.

As stated already, momentum is moving in our direction. We believe that many Senators—both Democrats and Republicans—would like an opportunity to vote no on amnesty, but fear being labeled as racist or nativist. In short, the support is there, but what is needed is leadership.

Recognizing that you are deeply involved in numerous matters of great importance, we sincerely hope that you will consider a leadership role in amending S. 2222 by deleting amnesty. Should you agree with our posture on this issue, The American Legion stands ready to support your efforts to the greatest possible extent.

Sincerely,

E. Philip Riggin,
Director, National
Legislative Commission.

The American Legion,
Washington, D.C., July 28, 1982.

Dear Senator: On July 22, 1982 Senators Helms and East introduced an amendment to the Immigration Reform and Control Act of 1982 which The American Legion commends to your serious attention. Specifically, this amendment would strike from S. 2222 any authority to begin a program of amnesty for illegal aliens and we urge you in the strongest possible terms cosponsor and support this amendment when it is debated on the floor.

For the last several years this organization has taken the view that regaining control over immigration into the United States—both legal and illegal—is of vital importance to nearly every facet of American life. This nation stands virtually alone among western nations in having failed even minimally to exercise its sovereign right to police its own borders.

The consequences of too many years of too little control have created an overwhelming popular sentiment that counsels reduced legal immigration, enforcement of tough new illegal immigration laws and absolutely demands that those having already violated our immigration laws not be pardoned. Apart from the inherent wisdom of the American public, there are a variety of important policy considerations which if evaluated closely make amnesty very unwise.

From a public policy standpoint, The American Legion opposes amnesty because jobs held by illegals should be made available to Americans, because new waves of illegals looking toward subsequent amnesties will be encouraged, because amnesty is unfair to those having awaited their legal turns, because general disrespect of law will ensue by legitimizing the transgressions of violaters, because the administrative burden on INS would be too great even if amnesty were a good idea and because the cost to taxpayers as increased numbers become eligible for social welfare programs over the first four years will amount to over $10 billion even according to the Administration. For all of these reasons we believe, and hope you will agree, that amnesty however truncated is inappropriate. This is particularly true now at a time in which the state of the national conomy has seriously jeopardized our own citizens.

With the understanding that the Immigration Reform and Control Act is scheduled for consideration imminently, we ask that you consider the matter of amnesty thoughtfully. As always, your attention to the views of The American Legion are appreciated.

Sincerely,

Jack W. Flynt,
National Commander.

THE FALKLANDS/MALVINAS TRAGEDY: HOW QUICKLY WE FORGET

Mr. HELMS. Mr. President, 4 months ago, the big news around the world was that Argentina had occupied the islands in the South Atlantic—islands which the Argentines call the Malvinas and which the British call the Falklands. Tension filled the days and weeks that followed as two friends of the United States prepared for war.

Now, in retrospect, does anyone doubt that the conflict which followed could have been avoided without the tragic loss of life and materiel for both sides and severe damage to the good faith and credibility of the United States?

Mr. President, as we now reflect upon the so-called "mediation" which followed, is not the intention of the State Department to take sides in this dispute all too clear? Is it not now equally clear that the United States should have demanded that both sides back up and cool off? In the tide of anti-Argentine sentiment following the decision by Secretary of State Haig to grant Britain all the aid it needed to triumph over the Argentines, Americans ignored Argentina's claims to sovereignty over those disputed islands.

In fact, Mr. President, as I have mentioned many times in this Chamber, the United States should have given calm and fair consideration to the claims of Argentina and to a peaceful resolution of their dispute with Great Britain.

Mr. President, on July 9, Argentina's Ambassador to the United States, Esteben Takacs, whose efforts in recent months have won him the respect of adherents of all sides in the dispute, stated the Argentine case for sovereignty persuasively. He did so in a communication to the editor of the Washington Times, published July 9. Since many Senators have indicated that they did not see Ambassador Takacs' letter, I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed, in the Record, as follows:

Argentina's Case for Sovereignty

Ever since the question of the Malvinas Islands became front page news, there has been much discussion of this matter in the American press.

Unfortunately, most of this discussion has accepted at face value the historic claim to these islands set forth by Great Britain. Time Magazine of April 12, for example, declares that, "The main island grouping . . . was discovered by the British in 1592 . . ." Writing in The Washington Times of June 21, Byron Farwell states, "The Falkland Islands were first seen by the British navigator, John Davis, in 1592 . . . history and justice are clearly on the side of Britain." And so it has gone.

Now that the question of the Malvinas has receded from the front page, perhaps the American people, who are unique in their open-mindedness and willingness to explore all sides of complex questions, are prepared to examine in more detail the claim set forth by Great Britain. It is my belief that, if they do, they will discover that Argentina's case for sovereignty is indisputable and that it has, in addition, been supported over the years by leading experts in the United States and elsewhere.

The British claim to have discovered the Malvinas in 1592. This is simply not true. The fact is that the Malvinas were discovered in 1520 by Esteban Gomez, a Portuguese who was part of the Magellan expedition sponsored by Spain. In Spanish maps and charts of the beginning of the 16th century, the Islands already appear. The first map is that of Pedro Reinel (1522–23) which shows an archipelago situated on the parallel 53°55' latitude South. Diego Rivera, principal cartographer to Charles V of Spain inserted the islands in the Castiglione (1526–27), Salviati (1526–27) and Rivera (1527) maps and also in two charts in 1529.

Thus, it is clear that the British could not have "discovered" the Malvinas Islands in 1592 because they had already been discovered by the Magellan Expedition in 1520. The area was also sailed by Simon de Alcazaba in 1534 and Alonso de Camargo in 1540. Sarmiento de Gamboa took symbolic possession of the Straits of Magellan together with its adjacent islands, including Malvinas, and in 1584 founded a settlement.

While the British continue to claim their "discovery" of the Islands in 1592, the fact is that British maps of the period do not show the Islands, nor is there proof of any kind of any British involvement with these islands either in 1592 or during the previous century, when Spain has already discovered and claimed the area for its own. Beyond this, there is no British involvement with the islands in the next century, the 17th, either.

The British are not heard from again until 1748 when they announced preparations from an expedition to the islands. Spain became aware of this plan and formally protested to the British Government. Great Britain abandoned the plan. Instructions received from his government by the British representative in Madrid stated: "Since there is no intention of making settlement in any of the afore-mentioned islands and since His Majesty's corvettes wish neither to make nor touch any part of the Spanish coast, His Majesty fails to understand how this project can in any way cause objection from Madrid."

Thus, in this clear statement of official British policy and in the acts of consultation of 1749, addressed to the Spanish Court, we see clear proof that England recognized the rights of Spain over the islands and coasts of South America, in areas where British ships could neither sail nor trade, much less claim territory.

This, however, was nothing new. Great Britain had long acknowledged Spanish rights in South America which were originally granted to Spain by virtue of the Papal Bulls Inter Coetera and Dudum se Quidem of 1493. At this time, Great Britain was Roman Catholic and supported the jurisdiction and authority of the Pope who, in this particular case, was mediating a dispute between Spain and Portugal. Great Britain was making no claims at this time whatsoever.

Later, in the Treaty of Madrid of 1670, it was agreed that England would retain all lands, islands, colonies and dominions she possessed in America and there was a counter-recognition by England that "the subjects of Great Britain would not direct their trade to, nor sail in, ports or places which His Catholic Majesty possesses in the above-mentioned Indies nor will they trade with them." There was a provision prohibiting sailing and trading by Great Britain in areas not open to traffic at the end of the 17th century, which was ratified again in the Treaty of Utrecht in 1713.

When Britain first tried to send an expedition to the Malvinas in 1749, she could not have considered the Islands *res nulius*, and therefore open to appropriation. She had already acknowledged Spanish rights—and had done so many times.

The first actual settlement in the Malvinas came in 1764, when a French naval explorer, Bougainville, founded Port Louis on Soledad Island (East Falkland) and named the islands the Malvinas. Spain immediately protested to the French Government and her rights of dominion were quickly recognized. King Louis XV ordered Bougainville to hand over Port Louis. By doing so, France clearly and openly recognized the legal rights of the Spanish Crown to the islands.

Only after this centuries old history of the legitimacy of Spanish right to the Malvinas, in January, 1766, did the British found Port Egmont on the small and obscure Saunders Islet, not on either of the main islands in the group, Soledad or Gran Malvina (East or West Falkland). Spain also protested to England. Since the British did not withdraw, an expedition departing from Buenos Aires, commanded by the Governor of Buenos Aires, evicted them in 1770. Each time Spanish control of the Malvinas was challenged—first by the French, then by the British—reaction was swift. When the British left Port Egmont, they left behind a metal plate reading, "Be it known to all nations that Falkland's Island with this port . . ." They referred to the island in the *singular*, proving that English claims were limited during their stay at Port Egmont exclusively to this small settlement, not to the entire archipelago. In the following years, 19 Spanish and 5 Argentine governors exercised control over the Malvinas.

Fifty nine years elapsed before the English returned to the Malvinas in 1833 when they took control of the islands by the use of force, expelling the Argentines and the Argentine governor who was present in the islands.

Great Britain's imperialistic aims are clear. Twice, once in 1806 and once in 1807, Britain invaded Buenos Aires itself, capturing the city. Both times the Spanish expelled them and regained control of the city. What England was seeking in Burenos Aires in 1806 and in 1807 and in the Malvinas in 1833 was simply control of the strategically important sea routes of the South Atlantic. The Strait of Magellan, after all, was the only path to India and Japan.

England's silence over the Malvinas after 1774 confirms her recognition of Spanish rights. Spanish, and then Argentine, control over the islands was steady and continuous in the intervening years. In the first British-Argentine Treaty of Friendship, Trade and Navigation, signed in 1825, Britain makes no reservations concerning any claim to the Malvinas. At this time, an Agrentine Governor was already in the islands.

Spanish rights in the islands were widely accepted even in Great Britain. In his "Thoughts on the Late Transactions Respecting Falklands' Islands" (1771), Samuel Johnson explains how the Spanish Minister Grimaldi could have answered any attempt by the British government to ask for any control over the territories: "We (the Spaniards) have now for more than two centuries ruled large tracts of the American continent, by a claim which perhaps is valid only upon this consideration, that no power can produce a better one: by the right of discovery and prior settlement . . . The justice of this tenure the world has hitherto admitted, and yourselves at least tacitly allowed it, when about twenty years ago you desisted from your purposed expedition and expressly disowned any design of settling . . ."

The Nootka Sound Convention of 1790 provides additional proof of the legitimacy of the Spanish and, hence, the Argentine position. Discussing this convention as far back as 1927, the distinguished American historian, Dr. Julius Goebel, Jr., in his classic work on this subject, "The Struggle for the Falkland Islands, a Study in Legal and Diplomatic History" (Yale University Press), writes: "The British had now (in 1790) in a solemn treaty recognized the status quo; the de facto occupation of the whole Falkland group was admitted by them to be an occupation in the legal sense . . . the British, by agreeing not to establish colonies to the South of regions already occupied by the Spanish, by implication recognized the sovereignty of Spain to all regions in fact occupied . . . The terms of the sixth article by inference forbade any landing at the Falklands as they were a place already occupied by Spain. Consequently, even if we could assume that the British had up to this time kept alive their claim to the group, it was extinguished by this instrument . . . It was only by possession that the British could transmute their claim into a right, and, the means having been formally renounced, the claim itself lapsed."

Professor Goebel makes it clear that, "The only ground on which title could be based was the de facto occupation . . . As between Spain and Britain, therefore, the equities lay with the former."

Similarly, U.S. Secretary of State Sumner Welles, writing in the Washington Post (March 2, 1948) declares:

"When the Spanish government established the viceroyalty of Buenos Aires in 1776, the Falklands were specifically included. Governors were appointed and resided in the islands. In the Nootka Sound convention . . . Britain recognized all existing Spanish occupations in South America . . . In this convention, Spain's right to the Falkland Islands would seem to have been admitted unequivocally by the British . . . Spain's right to the Falklands and their dependencies passed to the Argentine Republic."

The Republic of Argentina inherited from Spain the legitimate sovereignty and unchallenged possession of the Malvinas Islands when it achieved independence in 1810–16. Great Britain, during its era of imperial expansion, simply took the islands by force. Those Americans who believe that this hemisphere should be free of foreign control, those who oppose colonialism and those who carefully examine the historic will, I am confident, conclude that Argentina's case is both legitimate and just.

Esteban A. Takacs,
Argentine Ambassador to the U.S.,
Washington, D.C.

A SMALL LIGHT OF TRUTH SHINING IN LITHUANIA

Mr. PROXMIRE. Mr. President, the plight of ethnic and religious minorities in Soviet bloc countries would be almost impossible to discover without the courageous efforts of those who work for an underground newspaper. Today, I wish to pay tribute to all those Lithuanian Catholics who daily risk persecution, imprisonment, and even death to bring the truth to light from the darkness of Soviet domination through their work on a very important underground newspaper.

Nineteen hundred and eighty-two marks the 10th anniversary of The Chronicle of the Catholic Church in Lithuania. The Chronicle is a testa-

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ment to the persecutions which the Catholic Church and its members are suffering at the hands of the Soviet authorities in Lithuania. Lithuania, a small, previously independent Baltic State, was forcefully occupied by the Soviet Union in 1940 when Hitler and Stalin signed a pact that divided up Poland and Eastern Europe between them. At the time, 85 percent of Lithuania's population was Roman Catholic. Since that time, the Soviets have moved to destroy the Church's influence through mass deportation, imprisonment, assassination, intimidation, disinformation, and other deplorable measures. But even though such measures continue today, the Soviets have not been able to break the spirit of these remarkable people.

Since 1972, The Chronicle has courageously reported hundreds of instances of anti-Catholic and antireligious activities by the Soviet authorities. On the occasion of the 10th anniversary of The Chronicle, the translation editor explained the paper's purpose.

> In 1972, the Chronicle, clandestinely published in Lithuania, began to reach the free world at irregular intervals. Primarily intended to keep Catholics informed of the situation of the Church there, these Lithuanian underground newspapers also serve as a constant appeal to the free world not to forget the plight of a people struggling against overwhelming odds to defend their religious beliefs and to regain their basic human rights.

In a tribute to the Chronicle appearing in the Catholic Twin Circle, March 21, 1982, Dick Goldkamp provides insight into the newspaper's significance for persecuted religious groups:

> What makes the chronicle a remarkable testament to the human spirit is one thing and one thing alone: its unique stature as a human rights document. Its very survival, not to mention its continuous appearance at fairly regular intervals over the last decade, has required of its creators a degree of ingenuity and personal courage possessed by few journalists anywhere. The Chronicle is a running account of a people under siege for their religious beliefs. In short, it is the story of a modern Church of the Catacombs.

Mr. President, I am not suggesting that the acts of repression conducted against the Catholics in Lithuania as recorded in the Chronicle are specific instances of genocide. Yet, the pattern of consistent and constant violation of human rights of religious groups reveals a rather crude attempt by the Soviets to damage the stature of these groups and to dehumanize their members. The Soviets, by degrading and dehumanizing these groups, are attempting to create domestic environment where they are capable of deluding their own citizens into believing that these groups are the source of all the nation's problems. Half a century ago, Hitler similarly dehumanized the Jews and targeted national discontent against them with genocidal success. It is just that type of occurrence that must be prevented from ever happening again.

I call on the Senate to demonstrate its support for the integrity and stature of all religious groups by giving its unwavering support for the Genocide Convention. I ask unanimous consent that Dick Goldkamp's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Plight of Lithuania—Underground Newspaper Tells Gutsy Story of the Church's Survival

(By Dick Goldkamp)

March 19, 1982, marks a little known, but significant milestone in the annals of modern journalism. It is the 10th anniversary of the launching of the gutsy little Chronicle of the Catholic Church in Lithuania.

Most Americans with any knowledge of Lithuania at all can probably identify it only as the native land of Simas Kudirka, the Soviet seaman who tried to defect from a Russian fishing trawler plying the waters off the coast of Martha's Vineyard in Massachusetts in November of 1970. His famous escape attempt was later memorialized in a CBS television documentary aired in early 1978.

But there is a great deal more to be said abour Kudirka's homeland, as The Chronicle eloquently demonstrates.

Typographically, its publication from the very beginning has been positively prosaic. It was generally typewritten on onionskin paper, in fact. It goes into print only five or six times a year. Its distribution system could charitably be described as archaic by sophisticated American standards. And in an era in which electronic innovation has become commonplace, it can claim no great technological "breakthroughs."

What makes it a remarkable testament to the human spirit is one thing and one thing alone: its unique stature as a human rights document.

Its very survival, not to mention its continuous appearance at fairly regular intervals over the last decade, has required of its creators a degree of ingenuity and personal courage possessed by few journalists anywhere. The Chronicle—Lietuvos Kataliku Basnycios Kronika in the mother tongue—is a running account of a people under constant siege for their religious beliefs. In short, it is the story of a modern Church of the Catacombs.

MAGAZINE'S UNVEILING

Its unveiling in early 1972 preceded by only a few days the presentation of an extraordinary petition to Kurt Waldheim, who was Secretary-General of the United Nations at the time.

Addressed to the attention of Leonid Breshnev, General-Secretary of the Communist Party in Moscow, it was an appeal backed by the signatures of 17,054 Lithuanian Catholics, complaining of flagrant violations of their religious freedom by the Soviet Union. Specifically, it protested the treatment of Fathers Jucass Zdebskis of Prienai and Prosperas Bubnys of Girkalnis, both of whom were tried and sentenced to a year in prison. The charge against them: teaching catechism to children.

More than anything else, perhaps, those two trials in November 1971, opened a new chapter in the history of one of the world's forgotten ethnic minorities.

For most of the period between the two great wars, the tiny country that lies on the east coast of the Baltic Sea adjacent to Poland had prospered as an independent nation, barely larger than the state of West Virginia. Though the country had been overwhelmingly Catholic for centuries, religious minorities were on the whole treated generously by the Republic of Lithuania.

Under terms of the secret protocol of 1939 between Stalinist Russia and Hitler's Germany, however, the Red Army invaded the country in 1940. Apart from a three-year Nazi occupation during World War II, the country has been under the domination of the Communists ever since.

For over a quarter of a century, little Lithuania was left to its own devices to deal with its totalitarian overload. While the United States has never officially recognized the Russian takeover, the New York Times Index very early bowed to the proletarian promise of a Marxist Utopia by quietly changing the listing in its annual reference guide from "Lithuania" to "USSR-Baltic Republics" between its 1945 and 1946 editions. Lithuania began losing its identity for the Western press, and accounts of life on the "amber coast" gradually became a matter of little interest.

GUERRILLA RESISTANCE

Only dribbles of information about guerrilla resistance leaked out of the country for some years after the war, despite the fact that an estimated 50,000 partisans were killed, and massive deportations were taking place during that time. But with the inauguration of the Vatican policy of Ostpolitik under Pope Paul VI in the 1960's and the advent of detente under the Nixon Administration in America, Lithuania's Catholic population gradually came to fear that Rome and the West could be misled by the Kremlin's officially laundered version of life in their homeland—viz., that Lithuanians had decided to adapt their country and their customs to the Soviet way of life as painlessly as possible.

The appearance of The Chronicle quickly shattered any such illusion.

Collaboration with the Soviet regime, in fact, came in for especially harsh criticism from its founders. "No one in Lithuania believes that dialogue is possible with the Soviet government," said the chroniclers in an early edition. They went on to add that ". . . the Catholic Church in Lithuania will lose the people if it should lose their confidence because of bootlicking the Soviet government. Something similar has already happened to the Russian Orthodox Church."

From infancy onward, The Chronicle began to develop a nationwide network of news gatherers dedicated to telling the truth as they saw it, not by boldly editorializing to dramatize their cause in the extreme. They were part of the Samizdat press: forced to work underground, outside the watchful eye of the KGB. "Staff members" couldn't afford the luxury of worrying about keeping up with the competition. They were more concerned about keeping themselves out of jail.

The Chronicle soon became a Baltic thorn in the side of Mother Russia.

The first of a periodic series of security sweeps by the KGB, in fact, was conducted on Nov. 19 and 20 of 1973. During succeeding months, the chroniclers began to detail the story of dozens of unannounced KGB raids on homes, apartments, even church sanctuaries in their search for manuscripts, typewriters, prayer books or any other kind of incriminating evidence allegedly linked to publication of The chronicle. Several people were arrested and sent to prison for their connection with the paper, including Petras Plumpa-Pliuira for helping to duplicate the journal, and Nijole Sadunaite for typing manuscripts. The harshest sentence initially went to Sergei Kovalev, the Russian editor of Moscow's Chronicle of Current Events, for his complicity in reprinting information about Lithuania. But volunteers were always waiting in the wings to replace Chronicle personnel when they were incarcerated.

SECURITY POLICE

Over a period of time, the chroniclers detailed accounts of security police moves to recruit young seminarians as informers by the use of bribes, threats or any other means they could devise to create an espionage network within the Church. While there was no evidence of the KGB succeeding on a grand scale, The Chronicle faithfully recorded instances where they did win over susceptible students. What made the situation excruciating was the fact that the Church had, many years earlier, been forced to close all of its seminaries but the one in Kaunas. Thereafter, the government set annual limits on the number of young men allowed to enter it. In addition, all diocesan and parish appointments had to have the approval of the state Council for Religious Affairs.

Ironically, as Lithuanian authority V. Stanley Vardys of the University of Oklahoma points out, there was greater religious freedom allowed under Lenin's revolutionary decree on separation of Church and State in 1918 than under subsequent legal sanctions applied to Lithuania. Soviet law under Lenin allowed for the private teaching of religion. Under both the Stalin (1936) and Brezhnev (1977) constitutions, freedom to perform religious ceremonies was allowed, but the right to disseminate religious information was not. In effect, young men were permitted to become priests, but then were denied the chance to instruct children the Faith.

CHURCH INFLUENCE

It was merely another sample of a massive Soviet push to eliminate Church influence in an effort to control the population. Periodically, the Chronicle delved into Soviet efforts to undermine the beliefs students learned at home by means of forcible instruction in atheism in Lithuanian schools. In one ludicrous extreme drawn from a school in Kaunas, a teachers' manual for 3rd and 4th grade math classes contained detailed instructions on how to get pupils "to calculate the unnecessary expenses of people needed for maintaining churches and priests" by showing them how the money might be better used "for improving the life of the working people."

Perhaps the worst perversion of the government's officially proclaimed policy allowing freedom of religion, however, began in 1954 in the seaport city of Klaipeda. For years, the Catholic population had been allowed use of a small German church in the city, but had gradually outgrown it. During the thaw following the death of Stalin, the parish pastor was granted a permit by the government to construct a new church. Authorities even offered the use of stockpiled construction materials, despite the scarcity of such supplies in the war-torn city at the time.

While the chosen site was in a marshy area, enthusiastic volunteers pitched in after regular work hours to haul dirt in small carts and baskets with others collecting loose bricks lying in ruins throughout the city and hauling them to the work site. Over a period of six years, parishioners contributed about three million rubles to the cause as well.

Upon completion of construction, the faithful gathered at the church site on the feast of the Assumption of Mary in 1960 for a consecration ceremony, only to find the gates to the church boarded up by the government. The building was subjected to various acts of vandalism by army units in succeeding weeks; two priests were later arrested and sentenced to prison over the incident; and the church was eventually expropriated by the government and turned into a philharmonic hall.

REPEATED APPEALS

For some time, according to The Chronicle, neither Lithuanians nor Russians living in Klaipeda would attend scheduled concerts. On occasion, as many as 50 artists came to the hall to perform for an audience of as little as five people. Repeated appeals from the people to recover the building for use as a church were rebuffed by Soviet authorities.

In 1979, copies of a massive petition containing about 150,000 signatures were smuggled out of the country to America in an effort to enlist the support of world opinion behind the cause. Incredibly, it went by almost unnoticed by the American press. It did not even arouse the interest of the paper that prints "all the news that's fit to print" . . . purportedly because it involved a situation that was no longer "new."

"We've learned from experience, that whenever we bring anything to the attention of the New York Times after it surfaces with us, they automatically refer it to their Moscow bureau to check out," says Father Casimir Pugevicius, a Chronicle translation editor for the Lithuanian Catholic Religious Aid Center in Brooklyn. "With their liberal bias, even human rights violations that are basically distasteful to them are generally relegated to conservative groups."

Despite the valiant efforts of The Chronicle, things apparently haven't changed much since 1972, when a copy of the smaller petition was handed out to Secretary-General Waldheim at the UN. While that appeal was ultimately aimed at Breshnev, it was purposely routed through Waldheim with an accompanying memorandum, precisely because of the savage repression of human rights complained about in the petition itself. Queried about it at the time, Waldheim refused to comment; the appeal did not stem from an official government source, as required by normal UN procedures.

VARIOUS COMPLAINTS

Among various complaints, the 1972 petitioners stated: " . . . the children of believing parents are being taught atheism against their will in school; they are even being forced to speak, write and behave at variance with their conscience, yet no one reprimands such violators of freedom of conscience or tries to bring them to justice."

To this day, no one is certain anything was ever done about it . . . either by the Soviet Union or even by the United Nations.

THE CASE AGAINST THE MX NUCLEAR MISSILE GROWS

Mr. PROXMIRE. Mr. President, on July 21, the New York Times carried a letter by two Wyoming ranchers which makes a devastating case against at least one mode of basing for the MX missile. The case is primarily based on the failure of the Defense Department to frankly and fully explain to the citizens of the States where the missile might be based just what that missile will do to the communities they live in and love.

I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

A CALL FROM THE PLAINS: WHERE ARE WE GOING WITH THE MX MISSILE?

DEAR SECRETARY WEINBERGER: Thank you, Mr. Secretary, for taking the time to visit with us here in Cheyenne, our "Magic City of the Plains," before you make your next MX decision.

Whether you decide to concentrate the missiles in a "dense pack" in a single state or to spread them out in several different parts of the country, we hold reservations about the proposed land-basing of the MX system here in Wyoming, and we would like to share them with you.

Many of your own advisers have counseled that submarines at sea would provide the cheapest and least vulnerable basing mode. Still, however, you pursue land basing.

We feel compelled to ask you—why are you preoccupied with land basing?

We are preoccupied with a fear of it. As ranchers, let us tell you what will happen if the MX comes to Western soil.

Our vital agricultural economy will suffer irreparable damages as rangeland, farmland and valuable water resources are appropriated for MX expansion. Existing water rights in our semiarid region will become weak and tentative as requirements and demands for water increase.

A boom syndrome will arise and hundreds of millions of dollars in public works projects will fall on the backs of present Western residents. The burden of impact will be awesome, as every aspect of our Western way of life becomes affected.

Mr. Secretary, public support for this MX proposal can be sustained only if our citizens, ranchers and farmers are kept from finding out about the extensive nature of deceptively basing the missiles.

And this is exactly what is happening. We are getting no answers, no discussion of impact. Officials ignore it, and the silence they create is deafening.

Here in the West, open discussion has always been our way of making decisions. In fact, the Democratic Party of the state of Wyoming has come out against land basing after just such discussion.

We believe our concerns are legitimate and full dialogue is the best way to get meaningful answers to our questions.

How much water will each variation of the MX system take?

How much land?

How will it affect our traditional economic activities centered on the land?

How big will the system grow to be?

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One of America's strengths is its ability to thrive amid controversial debate.

Mr. Secretary, the stakes of the MX debate are no less than the economic survival of the agricultural community as we know it. The proposed trade-off of our rural heritage for a questionable MX program does not make good sense.

We who live in Wyoming, Nebraska and Colorado are doing our patriotic part right now as hosts to the Minuteman silos. We have a fine relationship with the Air Force and Warren Air Force Base, and we do not wish to risk altering this beneficial relationship with a barrage of unsettling MX deployment variations of political rather than strategic origin.

The latest "trial balloon" is your suggestion of the "dense pack" basing mode. That is, placing 100 missiles within a 10-square-mile area.

This foot-in-the-door approach could use the 100 new dense-pack silos to store the first 100 missiles while military and Government officials work to buy time to surmount the political obstacles and neutralize resident opposition.

The next step could be to bring in another 100 MX missiles to beef up the original system, thereby making it more survivable. Then would come the huge, deceptive mobile-basing umbrella to give the system adequate, protection.

The end result could easily be an immense MX compound, gobbling up our resources with the swiftness of a prairie fire.

Mr. Secretary, spare us this fate. Here in the high plains-Rocky Mountain region we are eager and proud to fulfill our obligation to our nation and state.

But we would like you to know that we also are earnestly moved by the words and thoughts of the noted Wyoming historian, T. A. Larson. His words may be destined to guide each of us through this period of national decision.

He said, "Perhaps it is not yet time to grieve, but surely it is time to reflect and to ponder whether what the world wants from Wyoming is worth more than what Wyoming already offers the world."

Lest we forget, Wyoming already offers our world a very special heritage.

With warm regards,

Sincerely,

Rod Kirkbride,
Mae Kirkbride.

TERRORISM IN PARIS

Mr. KENNEDY. Mr. President, I strongly deplore the vicious terrorist attack yesterday against a Jewish restaurant in Paris, which killed 6 persons and wounded 22 others. Among these were four Americans—two killed and two wounded—and I join in offering my deepest condolences to all the victims of this terrible incident. From the accounts of both the French Interior Minister and the mayor of Paris, there can be little doubt that anti-Semitism was the ugly motive, and that once again innocent men, women, and children are the victims of terrorist violence which has spread through the Middle East, Europe and other parts of the world.

The outrage of this attack is worsened by the fact that three other attacks have reportedly occurred against French businesses and people with Jewish connections in recent days, and that authorities have been unable to make any arrests following the bombing and killing of four persons at a synagogue in Paris in October 1980.

I commend the President of France, Francois Mitterrand, for his strong and forthright repudiation of this latest act of terrorism, and for undertaking to do everything possible to bring the perpetrators to justice. Swift and effective action is essential to punish the terrorists, to deter such acts in the future, and to uphold the rule of law.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, as I found over the years as minority leader and now as majority leader sometimes the Senate does what it wants to do instead of what the leadership suggests. Today is one of those days, obviously.

I had hoped and expected that we could have morning business until 11:30 a.m. and then a brief time to resume debate on the supplemental appropriations bill from 11:30 a.m. until 12 noon.

Unfortunately, that does not coincide with the schedule requirement of other Senators.

We will resume consideration of the supplemental appropriations bill at 2 p.m., but I find the cupboard is bare at this moment.

RECESS UNTIL 2 P.M.

Mr. BAKER. Therefore, Madam President, I ask unanimous consent that the Senate stand in recess now, instead of at 12 o'clock, and continue in recess until 2 p.m. today.

There being no objection, the Senate at 11:38 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Danforth).

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Senate resumed consideration of the bill.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. Lugar). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the bill H.R. 6863.

Mr. HATFIELD. Mr. President, I urge all of my colleagues who expect to offer amendments to the supplemental appropriations measure that is now pending to make those amendments known to the managers of the bill, Senator Proxmire and myself, in order that we may be able to try to make a judgment on the time factor under which we have to operate.

I remind my colleagues that the leadership has indicated we will go at least until 9 o'clock tonight—I say at least; probably that will be the figure—the target time of 9 o'clock, hoping that we can perhaps complete all of the bill, but if not then at least to complete the bill early tomorrow because we have 140 committee amendments to this bill. It will require some time to work out the paperwork between the House and the Senate before we can go to conference. We have to go to conference by Thursday of this week and complete conference on Thursday in order to meet the time frames that we have to then complete the paperwork to get the bill back to the House floor by Wednesday of next week, to be voted on by Wednesday of next week, and then over to the Senate in order for the Senate to take action on the conference report by Thursday of next week.

Those are all within the time frames that had been agreed to as it relates to debt ceiling limitation, as it relates to other issues that may arise during the debt ceiling limitation question. So I put my colleagues on notice at this time that if we get into a situation where there are no amendments to be offered, I shall ask for third reading of the bill. We cannot tarry by having half-hour and 1-hour delays until someone decides to come to the floor to offer an amendment. We were here all day yesterday to do business and we had no business to do on this pending bill. I am very anxious to get this bill completed as much as possible, if not totally, today in order to meet that time frame.

I yield to the Senator from Vermont.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I appreciate the able chairman yielding to me.

Mr. President, following discussions with the most able Senator from Florida last Thursday (Mr. Chiles), I find as chairman of the Committee on Environment and Public Works I am forced to raise a point of order with respect to the committee amendment on page 67, lines 9 through 15. The point of order is that it is legislation on an appropriation bill and therefore in violation of rule XVI.

Mr. ANDREWS. Mr. President, we concede that point of order.

The PRESIDING OFFICER. The Chair sustains the point of order. The amendment specified by the Senator which begins on page 67, line 8 through line 15, is thereby stricken from the bill.

Mr. HATFIELD. Mr. President, if I understand the ruling of the Chair, the consequence of that ruling is that this amendment is now deleted that has been raised as a point of order by the Senator from Vermont. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I thank the Chair.

Mr. DANFORTH and **Mr. STAFFORD** addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont still has the floor.

Mr. STAFFORD. Mr. President, I have an inquiry for the distinguished chairman of the Appropriations Transportation Subcommittee (Mr. ANDREWS). The report on the supplemental appropriations bill contains language which directs that of any uncommitted discretionary bridge funds currently and prospectively available, the highest level of attention shall be given to certain bridges which are listed.

There are now approximately 40 bridges that are under construction and that are being funded by the discretionary bridge program. In addition, approximately another 30 bridges have received legislative history as being eligible for funds from this program.

Am I correct that the language in the supplemental appropriations report listing five bridges is intended only to state that these bridges are eligible to be considered for discretionary bridge funds, and that this language is not intended to place a higher priority on these bridges than on those now under construction or those with legislative history?

Mr. ANDREWS. The distinguished Senator from Vermont is correct in his interpretation of this report language.

Mr. STAFFORD. I thank the distinguished chairman for his clarification of this language.

Mr. President, I have one additional inquiry for the distinguished chairman of the Transportation Appropriations Subcommittee (Mr. ANDREWS) and the distinguished ranking member (Mr. CHILES). The report under Federal-aid highways contains additional language concerning several high occupancy vehicle lane projects which include approaches and related parking structures. The continued eligibility for Federal-aid interstate construction funds for these projects is discussed.

Am I to understand that it is the intention of the Appropriations Committee to direct the Department of Transportation to fund from the interstate account these parking garages?

Mr. ANDREWS. Mr. President, as the distinguished chairman of the Subcommittee on Transportation of the Committee on Environment and Public Works knows, the Highway Act of 1981, Public Law 97-134, stated that "those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981" will continue to be eligible. It has been brought to the subcommittee's attention that the Federal Highway Administration has applied a restrictive interpretation to the language which has eliminated several such projects even though their cost—including the cost of associated facilities—was included in the 1981 interstate cost estimate. We were merely attempting to add further clarity to the congressional intent on this matter because of the confusion.

Mr. STAFFORD. Mr. President, I thank the distinguished chairman for his remarks and wish to assure him and the Senator from Florida (Mr. CHILES) that the Committee on Environment and Public Works intends to review this matter when S. 2574, the Federal-Aid Highway Act of 1982, is considered by the Senate next month. Several questions regarding eligibility of parking structures associated with HOV lanes have been brought to our attention. The committee, under its jurisdiction as the authorizing committee, intends to further clarify the language contained in the 1981 Highway Act with respect to these problems and we will take action in regard to these matters at that time. Issues of this nature should be clarified by the authorizing committee since it knows what was intended by the statutory language.

Mr. ANDREWS. Since the Environment and Public Works Committee is the authorizing committee, we would welcome your review and resolution of this matter in light of the highway statute as adopted, including the appropriate legislative history made on the subject in the debate on the 1981 Highway Act.

The reason we mentioned it in the record was simply that there was confusion over where these funds would go and we wanted to make crystal clear what the intent of the Senate and the Congress was. We appreciate your colloquy and your joining us in making it beyond any type of misinterpretation.

Mr. STAFFORD. I very much appreciate, Mr. President, the cooperation of the chairman of the subcommittee and the cooperation of the chairman of the full committee in getting this colloquy in the RECORD.

Mr. HOLLINGS. Mr. President, while we are discussing the need to repair our bridges, I am reminded of the terrible condition of some of our vital bridges in South Carolina.

We need to focus special attention on this problem in our Federal Highway System. Many of our States like my State have become dependent on the Federal Government for the construction, improvement, and replacement of bridges. Unless plans are made now, in the next 10 years we are going to find ourselves with staggering bridge replacement costs and no funds to accomplish needed projects.

In my home community of Charleston, S.C., our unique geography, and extensive rivers and marsh lands cause a severe problem in the construction of new highway facilities as well as maintaining and the replacement of existing bridges. Charleston, S.C., is a major U.S. port for general bulk and container cargo. We have extensive military facilities consisting of the U.S. naval base, U.S. naval weapons station, Polaris missile facility and U.S. Air Force base. Most military personnel are housed throughout the Greater Charleston area and are required to cross several bridges before reaching their military station. Many of our bridges are at a point that serious consideration needs to be given to their replacement. The amount of bridge replacement funds available to the State of South Carolina is nowhere sufficient to meet the needs of Charleston, along with other less known areas of South Carolina.

The continuing growth in automobile traffic, population increases in major Sun Belt urban areas and advancing age of many of the bridges on the Federal-aid highway system indicate an urgent need for Federal assistance in rehabilitation and replacement of many of our most severely deteriorating bridges.

The Grace Memorial Bridge located on U.S. Route 17 in Charleston, S.C., poses a serious health and safety problem for residents of that area. Because of its age and extreme obsolescence for today's traffic demands the Federal Government should move with Federal aid as soon as possible. The Grace Bridge traverses the Cooper River and Town Creek and connects U.S. Route 17 between Charleston and Mount Pleasant, S.C. The bridge carries two westbound lanes of traffic over a distance of 10,212 feet on a 20-foot-wide roadway.

The bridge was constructed in 1929 and has since been repaired or modified several times. Originally serving as the only connection across the Cooper River to the city of Charleston, the bridge was converted to one-way (westbound) traffic after the com-

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pletion of a three-lane parallel facility (the Silas Pearman Bridge) in 1966.

The Grace Memorial Bridge is over 50 years old and repairs to correct major deficiencies in it have been necessary on five different occasions within the last 15 years, not counting over $2 million worth of repairs currently underway. Moreover, the bridge was designed for a 15-ton, two-axle truck. A recent engineering report states that "the design capacity is deficient under present traffic as well as under current design standards for a bridge serving a primary highway. Thus repairs to damaged members will not make the bridge suitable for unrestricted traffic."

The average daily traffic on the Grace Memorial Bridge was approximately 19,000 vehicles per day in 1979. During the next 10 years, however, the population of the suburban area to the east of the bridge is expected to increase by over 32 percent. In addition, the South Carolina State Ports Authority has recently opened a new port facility east of the Cooper River, which will generate over 2,100 jobs in the Mt. Pleasant area. By 1995, the total daily traffic crossing the Cooper River (in both directions) is estimated to average 79,700.

The ramifications of a failure of the Grace Memorial Bridge would be devastating. The three primary effects would be:

First, loss of life and property. The potential immediate effects of the collapse of the bridge, or a portion of the bridge, are terrible to contemplate. Under normal flow conditions, during peak periods, as many as 131 vehicles are on the Grace Memorial Bridge at any one time. The bridge rises to a vertical clearance of 150 feet over the Cooper River and 135 feet over Town Creek.

Second, economic loss. If the Grace Memorial Bridge were impassible, the three-lane Pearman Bridge would have to carry all the traffic in both directions across the river. This would be over 42,000 vehicles per day using current figures, growing to over 79,000 vehicles per day by 1995. The traffic congestion caused by this situation would be severe enough to devastate the economy of the area east of the Cooper River and seriously damage the economy of lower South Carolina. The traffic congestion would become a detriment to residential location in the area, and commerce would likewise be deprived of anticipated growth. The Wando Terminal of the South Carolina State Ports Authority, will be generating up to 400 truck trips per day.

Third, threat to national security. Upriver from the Grace Memorial Bridge are the Charleston Naval Base and Shipyard, the Naval Weapons Station and the Polaris Missile Facility. Access to these major defense facilities could be easily be blocked should a portion of the Cooper River Bridge collapse.

Preliminary estimates indicate that construction of a new three-lane replacement for the Grace Memorial Bridge with necessary approaches would cost over $220 million in 10 years assuming an annual inflation rate of 7 percent. This new bridge would run parallel to the existing structure, and tie into existing streets at each end.

In either form, the project could not be funded via the Federal aid funds allocated to the Charleston area, since no more than $31 million can be expected from existing Federal sources over the next 6 years.

The State of South Carolina receives an annual allocation of Federal bridge replacement and rehabilitation funds. However, the 1980 allocation for the whole State was only $14 million.

The Federal Government should assist the State of South Carolina in replacing this bridge through the Federal bridge replacement program or some other appropriate funding source. Due to the high cost of replacing the structure, local officials should be allowed to pay any match of Federal funds through the use of toll revenues.

Other bridges serving the Charleston area should be replaced with the aid of additional Federal funds. These bridges include:

THE WAPPOO CUT BRIDGE ON SOUTH CAROLINA 171

This drawbridge, built in 1956, connects the primarily residential area of James Island with approximately 29,000 people to the mainland across the Intracoastal Waterway. Recent population projections place James Islands' population at approximately 43,000 by the year 2000. Frequent openings of the bridge's draw cause extended travel interruption, wasted energy, environmental pollution, and frustration on the part of the 29,000 motorists who cross it daily. Prolonged failure of the bridge is extremely hazardous in time of natural emergency such as that imposed by a hurricane or flooding. Failure of the bridge to open for waterway traffic poses dangerous conditions for commerical and pleasure water craft especially during a time of evacuation for a hurricane or other disaster.

MAYBANK HIGHWAY BRIDGE ON SOUTH CAROLINA ROUTE 700

This drawbridge, built in 1951, connects James Island with Johns Island the largest inland island in the eastern United States. Because of its advancing age and inadequate design, it is totally unsuited to today's traffic conditions which place approximately 10,000 vehicles per day on it. Additional demand is placed upon its operations by two marinas, one on each side of the bridge, which provide dockage for pleasure craft and access to the Intracoastal Waterway and the Atlantic Ocean. Traffic loads have increased significantly in the past few years due to urban expansion and massive developments on the sea islands.

LIMEHOUSE BRIDGE ON MAIN ROAD, SOUTH CAROLINA ROUTE 20

This drawbridge connects Johns Island with the mainland. It was built in 1958 and currently carries approximately 6,900 vehicles per day. It provides vital linkage from the mainland to Johns Island, Wadmalaw Island, Kiawah Island, and Seabrook Island.

BEN SAWYER BRIDGE ON SOUTH CAROLINA 703

The Ben Sawyer Bridge was built in 1945. This two-lane drawbridge over the Intracoastal Waterway connects the residential sea islands of Sullivans Island and the Isle of Palms with the mainland.

Average weekday traffic on the bridge and causeway is about 11,000 vehicles per day. However, weekend traffic during the summer months will cause traffic volumes to exceed 28,000 vehicles per day. In the event of a natural disaster, such as with a hurricane threat, it is necessary to evacuate all 5,500 residents of the islands on short notice. Evacuation is hindered, however, because of the openings of the bridge for river traffic attempting to avoid the potential threat. The excessive traffic, age and deterioration of the draw, and high volume of river traffic on the waterway causing frequent bridge openings, requires that every consideration be given to replacing it at the earliest possible date.

COSGROVE AVENUE BRIDGE ON SOUTH CAROLINA ROUTE 7

This bridge crossing the Ashley River was originally built in 1953 and has been repaired and widened frequently since. It connects the West Ashley area of Charleston with the northernmost section of the city of Charleston and with North Charleston. This bridge is a major transportation facility for employees of the U.S. naval base and naval shipyard. Daily the approximately 57,500 vehicles per day crossing the six-lane facility create excessive peak-hour traffic congestion.

TWIN ASHLEY RIVER BRIDGES ON U.S. 17

These two drawbridges, operating as a one-way pair provide a vital link between the West Ashley area and Peninsula Charleston, as well as for through north-south movements along U.S. 17. Three lanes are provided on the southbound bridge which was built in 1926. Four lanes are provided in the northbound bridge which was built in 1961. Currently, they carry abour 72,500 vehicles per day. The deterioration of these bridges, especially the southbound bridge, creates serious traffic problems for commuters traveling to and from Charleston on a daily basis.

JAMES ISLAND BRIDGE AND EXPRESSWAY

This bridge has been proposed for construction since 1968. It is designed to parallel the Ashley River bridges and to carry traffic between James Island, West Ashley, and Peninsula Charleston. The 1995 traffic assignments indicate this bridge will carry approximately 34,100 vehicles per day. Because of the serious conditions present with the existing Ashley River bridges, $4.4 million was granted in Federal bridge replacement funds for final design and right-of-way purchase.

All of these bridges currently need replacement or will need to be replaced in the next 20 years. It currently takes over 10 years to adequately plan for bridge replacement. Therefore, it is imperative that we proceed as rapidly as possible to plan for their replacement.

UP AMENDMENT NO. 1193

(Purpose: Make amendment regarding appropriations for various railroad activities)

Mr. **DANFORTH**. Mr. President, on behalf of myself and Senator Kassebaum, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri (Mr. Danforth), for himself and Mrs. Kassebaum, proposes an unprinted amendment numbered 1193.

Mr. **DANFORTH**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 68, insert the following new paragraph immediately after line 9:

"Unobligated balances of appropriations under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended.".

On page 69, strike line 19.

On page 70, line 6, strike "September 30, 1983." and insert in lieu thereof the following: "expended. Notwithstanding any other provision of law, the authority granted under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior acts shall continue during the period in which appropriations remain available for this purpose under the following heading:

"DEPARTMENT OF THE TREASURY

"Office of the Secretary

"Investment in Fund Anticipation Notes".

On page 73, strike line 4.

On page 73, line 11, strike "September 30, 1983." and insert in lieu thereof the following: "expended. Unexpended balances under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior acts are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended.".

Mr. **DANFORTH**. Mr. President, this amendment deals with appropriations for important railroad assistance programs. One of these programs is the railroad preference share program which provides low-interest loans for the rehabilitation and improvement of railroad lines and facilities. The second program is the local rail service assistance program which provides grants to States threatened with railroad abandonments. Congress has already authorized and appropriated funds for these programs. However, these funds will expire at the end of the fiscal year if not obligated by that time.

I, and other members of the Commerce Committee, believe that the expiration of these funds would have serious consequences in terms of failure to complete projects necessary to our national rail network.

The amendment I am offering on behalf of myself and Senator Kassebaum is one that does two things: It rescinds existing appropriations for these programs; and it provides new appropriations in equal amounts, which are to remain available until expended. This amendment has no net budgetary impact, and is one that has been agreed upon by the Appropriations, Budget, and Commerce Committees. I urge my colleagues to support the amendment.

Mrs. **KASSEBAUM**. Mr. President, I am pleased to join Senator Danforth in offering this amendment to the rail services assistance and the redeemable preference shares provisions of the supplemental appropriations bill presently before the Senate. This amendment will insure the continued availability of funds previously authorized and appropriated for the purchase and rehabilitation of railroad lines and, in particular, the lines of bankrupt carriers such as the Rock Island Railroad.

Congress established the redeemable preference program back in 1976 when the rail industry was in serious financial trouble and the rail network in need of repair and improvement. This program provides for Federal financial assistance for the rehabilitation of lines and the acquisition of lines abandoned by the bankrupt Rock Island and Milwaukee railroads. Nearly $600 million has been appropriated under this program; $500 million of that amount has already been obligated. These moneys have permitted some marginal but important railroads to eliminate deferred maintenance and to provide safer, more efficient rail service. The program has also helped States such as Kansas, which have been threatened with the loss of essential rail service due to railroad bankruptcies, to maintain such service.

Hearings conducted by the Senate Commerce Committee have confirmed the success of this program. Unfortunately, because of delays, all of the appropriated funds have not been obligated. One of the primary reasons for the delay has been the difficult negotiations with the trustee of the Rock Island Railroad for the purchase of lines formerly operated by the Rock Island. These negotiations are now close to being completed. In view of this, I believe it is important that the funds which have previously been approved by Congress remain available.

The amendment which Senator Danforth and I offer today will permit the expenditure of these funds for those projects which have already been earmarked by Congress and are in the final stages of contract negotiations. This amendment will not have any net budgetary impact. Funds previously appropriated but not obligated by the end of this fiscal year would be rescinded and a like amount would be appropriated to remain available until expended.

Mr. President, I understand that the Budget Committee and the Appropriations Committee are in agreement with this amendment. I urge my Senate colleagues to join in support of this measure.

Mr. **ANDREWS**. Mr. President, as usual, the Senator from Missouri and the Senator from Kansas have come up with clarification language that would have been included by the subcommittee had it been called to our attention before the time of the markup of the bill. We are grateful to our two colleagues for calling it to our attention.

As the Senator from Missouri has pointed out, neither the Budget Committee nor the Commerce Committee has objection to this amendment.

The amendment will have no net impact on budget authority. With the included rescissions, we are assured the budget authority will be scored as offsetting in fiscal year 1982.

The committee will be pleased to accept this amendment. I thank the Senator from Missouri and the cosponsor, the Senator from Kansas, for their contribution.

Mr. **PROXMIRE**. Mr. President, will the Senator from Missouri yield?

Mr. **DANFORTH**. I yield.

Mr. **PROXIMRE**. I understand that the $65 million number has already been authorized and appropriated. It covers railroads throughout the country. It is not any one area or one State. Is that correct?

Mr. **DANFORTH**. That is correct.

Mr. **PROXMIRE**. I have also asked the staff the position of the Office of Management and Budget, and I understand they have no problems and that there is no objection.

Mr. **ANDREWS**. That is correct.

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Mr. PROXMIRE. I missed the Senator's remarks, and I apologize. I have no objection.

Mr. DANFORTH. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1193) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, on page 2 of the bill before the Senate, beginning on line 22 and extending over to line 4 of page 3, is a proposal by the Appropriations Committee that an amendment be enacted to the Child Nutrition Act of 1966. This particular act provides some guidance and some assistance to the school lunch programs in particular, to make sure that the program in each school follows good nutrition policies and provides good nutrition in the school lunches.

What Congress has done previous to today is to establish what the funding available for that particular program would be. The minimum for each State is $75,000 under the act, and the language before us, which I have just referred to in this particular bill, would amend the bill to a minimum of only $50,000 being available for each State.

While it is proper that Congress, through the appropriations process and through the budgetary process, establish what funds are to be available under the acts that authorize such funds, it certainly is not appropriate for the Appropriations Committee to make amendments to those acts in an appropriation bill, and certainly this language does that.

Perhaps this is considered a very small item in this total package of billions of dollars. Nevertheless, a principle is involved, and that principle is that if an authorizing act is to be amended, the authorization committee should do so. The authorization of this act is under the jurisdiction of the Senate Agriculture Committee.

I am not going to provide a great deal of additional funds for my State by the action I propose to take, but at least we will preserve a principle that should be safeguarded and should not be violated.

I propose to make a point of order against this particular section of the bill, but I will withhold doing so if the chairman should like to make some remarks.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. HATFIELD. Mr. President, as the Senator may know, under the general budgetary restrictions under which we are operating, and especially in the nondefense discretionary area of the Appropriations Committee, this program was reduced from $26 million to $5 million; and the amount appropriated was of such limited figure that we felt there should be some kind of minimum standard set for each State in order to make it a meaningful program.

We would have been at a $75,000 level earlier on, so the reduction to a $50,000 level, in effect, is trying to accommodate all the States rather than providing such a small distribution that it would be a meaningless gesture.

So what we are trying to do here, in effect, is to sustain the viability of the program. The language we have adopted here proceeds on that basis, that that limit within the total figure of the appropriation is what the limit could be for each State and is language which was requested by the administration as well.

I understand the Senator's concern, I suppose that, as in many other cases where we technically are legislating on an appropriation, it is nothing new. To deal with this matter on the basis of trying to maintain equity as between the States, we felt, was the trade off and the reason for adopting this kind of language in the appropriation measure. It is not the best way to do business, I say to the Senator from Montana, but under the exigencies of the time, it seems about the most practicable way to deal with a very difficult situation.

Mr. MELCHER. I thank the chairman for his very kind remarks, but I point out two things.

First of all, it is legislation on an appropriation bill, and I will be very delighted to carry the recommendation of the administration as well as of the Appropriations Committee to the authorizing committee.

I suggest that the authorizing committee, the Agriculture Committee, can consider those recommendations. But I repeat that violation of the principle involved here should not be allowed. Second, it is appropriate to address this particular problem on whether $5 million is meaningful. We went all through the school lunch fiasco a few months ago when it was suggested by the Department of Agriculture that we scrap the standards, scrap the nutritional requirements, and the nutritional goals. We went all through the fiasco where catsup was supposed to be a vegetable or relish, was supposed to be a vegetable and rejected it, and we enlightened the Department not to get too fast and loose with their own regulations.

So I clearly state here I am going to object to the principles, first of all, and, second, I shall encourage the Senate in a subsequent amendment to increase this amount so that it is a little bit more meaningful. But for the Appropriations Committee and not the Agriculture Committee to decide which should be the minimum does not seem to be appropriate to me.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield again.

Mr. HATFIELD. As the Senator knows, these allocations are being made at this time during this period and these are appropriate vehicles for the Agriculture Committee to act upon this. According to our information there was none. Does the Senator have a vehicle otherwise? What is the Senator's option? Increasing the amount of appropriations unless we have the vehicle to place it upon, I say to the Senator from Montana, does very little good, whether it is $5 million or $50 million. That is not the principle that I understand the Senator is making. What is the vehicle other than this vehicle we have before us that the Senator would use to get this program underway during this period with the allocations that are being made?

Mr. MELCHER. I reply to the very distinguished chairman and my good friend that first of all this is a proper vehicle for the amount that is available.

Mr. HATFIELD. Is it the amount or legislation on the appropriations bill?

Mr. MELCHER. It is two points. First, it is legislating on the appropriations.

Mr. HATFIELD. That is right.

Mr. MELCHER. And, second, it is the amount.

Mr. HATFIELD. All right. Then, I ask the Senator if we do not legislate on an appropriations using this vehicle, what is the other vehicle the Senator would offer in order to undertake this program which I know he supports and which I support as an individual and which the committee is trying to sustain under this rather extraordinary procedure that none of us really like?

Mr. MELCHER. My second proposal, I say to my friend, is having stricken the change in the minimum which is really the legislative part of this. Having changed that, the supplemental can have an additional amount added to it, not on the basis of a minimum, just on the basis of the total amount.

Mr. HATFIELD. If the Senator's amendment would fail in increasing the overall amount, what would then be the other option?

Mr. MELCHER. There would be no option other than the first amount, though small, which would be available and there would be an excess of $1,250,000 over and above $50,000 distributed to each of the 50 States that could be then prorated. While that is a small amount of money to be prorated, I would say that that is the second problem and the amount of $5 million should be increased.

Mr. HATFIELD. I remind the Senator that is not our understanding of the situation but rather that if the Senator's amendment to increase the funding does not pass then the rate of reduction would bring this figure back automatically where it would be a far less figure. So, consequently, what we are trying to do is establish a floor here in order to maintain some kind of reasonable, practicable program. I think the Senator and I are on the same track. I am not suggesting we are in conflict here except on the question of procedure that neither one of us really approves or enjoys doing but at the same time, under this particular timeframe within which we find ourselves, it is the only conceivable way we think we can maintain this program, especially if the Senator's amendment should fail. Then, in my opinion, we have in effect excised or we have made the program totally void.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum to allow more discussion of this subject with the distinguished chairman who I am certain desires a meaningful child nutrition program.

Mr. STEVENS. Mr. President, will the Senator withhold?

The PRESIDING OFFICER. Will the Senator withhold one moment?

Mr. MELCHER. Yes.

Mr. STEVENS. Is there a pending amendment now?

The PRESIDING OFFICER. There is no pending amendment.

Mr. STEVENS. Mr. President, while the Senator is studying that, would he mind if we did some noncontroversial items to get them out of the way?

Mr. MELCHER. No, indeed.

I shall yield the floor to attempt to solve the problem we have been discussing by further consultation with the chairman.

Mr. HATFIELD. Mr. President, let me assure the Senator from Montana that I will be very happy to work with him on this and within the restraints we are operating and try to work out some kind of a satisfactory arrangement. In the meantime I think the Senator from Missouri or the Senator from Alaska has an additional amendment.

Mr. STEVENS. I thank the Senator.

UP AMENDMENT NO. 1194

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1194.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

"COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES—SALARIES AND EXPENSES

"For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), $160,000, to remain available until expended; *Provided*, That, in accordance with such section 225 (except as otherwise provided in this section), the Commission shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall become effective for pay periods which begin 30 calendar days after submission to the Congress, unless Congress disapproves such recommendations by concurrent resolution."

Mr. STEVENS. Mr. President, this is an amendment that will put into effect an ad hoc 1982 Quadrennial Commission. It reconvenes and appropriates $160,000 for the Quadrennial Commission.

The Commission is directed to make recommendations in accordance with the current Quadrennial Commission legislation, which is title 2 of the United States Code, except as provided in this amendment.

The report by the Commission would be transmitted to the President no later than November 15 of this year and the President would promptly—and there is no time limit—formulate his recommendations and submit them to Congress for review.

The pay rate recommendation would become effective 30 days after they are transmitted to the Congress by the President unless Congress, by concurrent resolution, disapproves the recommendation. The recommendation would supercede any pay rate or pay cap established by prior provisions of law.

The positions covered would include those under the executive schedule (levels I through V), the senior executive service, Federal judges, Members of Congress, and any position subject to the level V pay ceiling.

This would be a one-time, ad hoc procedure. The existing Quadrennial Commission legislation would remain intact.

It is not intended to amend the basic quadrennial commission legislation.

I do call attention to the fact that it does change the procedure, however, and provides for a specific provision for Congress, by concurrent resolution, to disapprove the recommendation if it does not want the recommendation of the Commission to go into effect.

I have discussed this with the managers of the bill. I am hopeful that they will allow us to reconstitute this Commission and have a study of the comparability of all of the salaries of the Federal Government under the existing circumstances within this current timeframe.

Mr. HATFIELD. Mr. President, the amendment of the Senator from Alaska has been reviewed, and we agree to accept it. In fact, I compliment the Senator from Alaska on making this amendment because I think it is very important and will bear some good results down the road.

It has been checked with the minority, and the minority accepts it as well.

Mr. STEVENS. Mr. President, I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1194) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from Oregon.

UP AMENDMENT NO. 1195

(Purpose: Prohibit use of appropriations for judicial review of Federal Motor Vehicle Safety Standard No. 208)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes unprinted amendment numbered 1195.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, insert the following immediately after line 19:

"SEC. 304. None of the funds provided to the Department of Transportation by this Act shall be used to obtain judicial review under the National Traffic and Motor Vehicle Safety Act of 1966 or any other provision of law with respect to Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208)".

Mr. DANFORTH. Mr. President, my amendment prohibits the National Highway Traffic Safety Administration from using any funds from this supplemental appropriation for judi-

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cial appeals concerning Federal motor vehicle safety standard 208.

This amendment insures that congressional funding for NHTSA be used actively in safety programs rather than for fighting in court against implementation of the passive restraint standard.

Mr. President, I happen to favor the passive restraint standard. It would save an estimated 9,000 to 12,000 lives annually, prevent over 100,000 serious injuries, and save consumers $10 for every $1 of cost. However, whether one supports or opposes passive retraints is not the issue here. As the distinguished Senator from Utah, Mr. HATCH, has so eloquently put it, the issue is whether a Federal agency can effectively overrule Congress by accomplishing through administrative rulemaking what Congress has refused to do legislatively. Mr. President, this is exactly what NHTSA has done, and the U.S. court of appeals has told the agency that it is out of bounds. However, instead of complying with the decision of the court, there are indications that NHTSA may stall compliance by filing continuing motions and pressing additional appeals. Mr. President, such dilatory tactics only squander public funds, waste judicial resources, and undermine people's faith in our system of government. NHTSA has its mandate from Congress and its order from the court. If Congress wants to change the passive restraint standard, then it should do so, but it should not allow an agency to expend public moneys to filibuster.

Mr. ANDREWS. Mr. President, we understand the thrust of the amendment of the Senator from Missouri.

Let me say this: It raises some constitutional questions that I am concerned about. I recognize that my good friend, the Senator from Missouri, is an able attorney, and I am a farmer from North Dakota. So what I wish to propose is that we accept the amendment and take it to conference, and in the period between now and conference we can look into what the constitutional ramifications are of a prohibition on judicial review. With that caveat, I am more than happy to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1195) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion [illegible] lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I believe the Senator from Connecticut has an amendment to offer at this time. Does the Senator from Connecticut have an amendment to offer?

Mr. DODD. Yes, I do.

UP AMENDMENT NO. 1196

(Purpose: To increase the appropriations for Supplemental Educational Opportunity Grants by $48,000,000.)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), for himself, Mr. RANDOLPH, Mr. RIEGLE, Mr. WEICKER, Mr. MOYNIHAN, Mr. SASSER, Mr. BURDICK, Mr. LEAHY, Mr. HUDDLESTON, Mr. BRADLEY, Mr. EAGLETON, Mr. PELL, Mr. DURENBERGER, Mr. KENNEDY, Mr. STAFFORD, and Mr. HOLLINGS, proposes an unprinted amendment numbered 1196.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 9, strike out "$169,000,000" and insert in lieu thereof "$217,000,000".

On page 56, line 12, strike out "$29,000,000 and insert in lieu thereof "$77,000,000".

SEOG FUNDING

Mr. DODD. Mr. President, I am offering this amendment for myself and on behalf of Senators RANDOLPH, RIEGLE, WEICKER, MOYNIHAN, SASSER, BURDICK, LEAHY, HUDDLESTON, BRADLEY, EAGLETON, PELL, HOLLINGS, DURENBERGER, STAFFORD, and KENNEDY.

The amendment restores an additional $48 million to supplemental educational opportunity grants for needy college students. The additional funding is required to allow a fair distribution of grants to eligible schools and students.

SEOG is one of three programs, including college work-study and national direct student loans, that assist postsecondary schools in educating young people who cannot afford the rising cost of a college or technical degree. Funds are allocated to schools based on the number of low-income students who have been admitted to a higher degree program and the cost of educating those students. Supplemental educational opportunity grants are given to students who truly need them after all other avenues for paying the price of a degree have been exhausted. The program serves the neediest of America's students. Without supplemental educational opportunity grants, many of these students could not go to college.

In this year's continuing education, funding for grants for these students were reduced 25 percent. But the unforeseen result of this cut is to make less than half of last year's amount accessible to many of the students that need this money most: Schools with the highest number of low-income students have, in cases, had funding cut, not 25 percent, but 35 percent, 45 percent, even 65 percent. There are schools with high proportions of poor students who are receiving only 30 percent of the funds they received last year.

The reason for this disparity is that the size of the cut has mandated that those schools that received additional funds in the past, because they had more students in need, must subtract that amount from their new allocation. The net result is that those schools with more needy students have in fact been cut more.

This amendment is a modest one. It would not restore full funding to SEOG students. But it would reduce the disparity between those schools with many poor students and those with fewer.

The Higher Education Act provides that each school within a State receive no less than the amount that school received 2 years ago—in the 1979-80 school year. After that guarantee has been met, additional funds are distributed according to a statutory "fair share" formula including the proportion of low-income students and the cost of education. Last year, the guarantee levels were met and fair share funds were distributed to schools where the need for such funds was greatest.

The funding reduction this year—from $370 to $278 million—makes it impossible even for those guarantee levels to be met and mandates that last year's fair share funds be subtracted from this year's allocation.

The $29 million already in this bill will help—but not enough. Approximately 4,000 schools administering these funds will be able to assist, on the average, fewer than a dozen additional students. Funding would still be 14 percent less than the amount needed to continue the program at 1979 levels and 6 percent below the President's revised 1982 request for SEOG.

This amendment would bring the program to its 1979 level of operation, adding a total for the bill of $77 million for needy students.

Seventy-seven million dollars would not reinstate full funding. In fact, it still makes an absolute cut in SEOG of 4 percent—just as this year's amount for college work-study and national direct student loans is 4 percent less than last year. Nor would $77 million reinstate fair share funds to those schools and students that benefited from fair share funds last year; $77 million does no more than meet statutory guarantee levels for each school. It reflects a policy that a student who cannot afford college on his own should not be penalized simply because he attends school with many other needy students.

Surely meeting the funding level that we have guaranteed by law is far more equitable than penalizing those institutions with the greatest need for funds.

Finally, we have to act now. The Department of Education will be sending tentative allocations for SEOG by August 20. Students must now decide whether they can afford to attend college or technical schools this fall. Without assurance of adequate funding, they simply cannot make those plans. Particularly compelling are those students who received SEOG funds last year and may have them denied now. If we do not act, some students very near to their degrees may be unable to obtain them. A school which has suffered a 60- or 70-percent cut in these funds may well not be able to continue to assist even those whose degrees are nearing completion. There are students with only a short time left to complete their degree who need this money to continue.

It is incredibly wasteful of our investment and theirs to stop short the education of these young people.

It is wasteful of their investment to force them to drop out a few credits short of a degree after putting their time, effort, and money into preparing for their futures.

It is wasteful of the Nation's investment, not only because of our past financial commitment, but because a citizenry educated to its full potential means a stronger and more prosperous America. Surely any legitimate definition of national security must take into account the morale, skills, and education of our people.

And the jobs of the 1980's require skills and training available only in our institutions of secondary education. Does it make any sense for us to cut grants for students at Greater New Haven State Technical College 60 percent, or at Norwalk State Technical College 70 percent because they have many low-income students? Is it not more equitable and constructive to at least meet the levels we have guaranteed students at those and hundreds of other schools across the country?

Should not talent and ability, not income, be the touchstone of excellence in this society?

I hope the Senate will act favorably on this amendment.

I appreciate the consideration of the chairman of the committee, the manager of the bill, and the ranking minority member.

Mr. SCHMITT. Mr. President, the Senator from Connecticut has put his amendment finger on the dilemma that the Appropriations Committee and particularly my Subcommittee on Labor, Health and Human Services, and Education has faced in trying to balance the needed increases in funding, such as for the supplemental educational opportunity grants, with the threat of a Presidential veto.

I have been informed by the administration that the generosity of the committee to date for educational programs is in excess of the generosity that the administration requested. We have indeed added, absent this amendment, $347 million above the President's supplemental budget request for the Department of Education, including $169 million for student financial assistance and $148 million for elementary and secondary education, among other programs.

The amount proposed in the amendment would be in addition to the $29 million added by the committee to this program. It would raise that total to $355 million, which, as I understand it, would basically hold harmless the institutional programs in place, relative to the 1979–80 school year.

The SEOG program, Mr. President, was designed to assist institutions in providing grants to deserving students to supplement the assistance they need under the Pell grant program. The Pell grant program is the cornerstone of assistance to the neediest of students.

It may be of interest to our colleagues that 38 percent of the students receiving SEOG assistance are dependents from families with incomes below $12,000. By contrast, in the Pell grant program, which provides a basic service of the Federal Government to the neediest students, 83 percent of the students are from families with income below $12,000.

So I think appropriately the committee has focused the Federal assistance activity more in the area of the most needy through the Pell grant program than maybe we have through the SEOG program.

However, the situation that is faced by many institutions in this country as described by the distinguished Senator from Connecticut is a real one, and it would be my recommendation to the chairman of the committee and to the Senate as a whole that we accept this amendment, that we consider it further in conference as we look at the entire bill, and see if it is possible, to come up with a bill that indeed the President will sign.

Mr. DODD. Will my distinguished colleague yield?

Mr. SCHMITT. I am happy to yield.

Mr. DODD. I thank the Senator for yielding. I commend the Senator for his comments and thank him for his support of this amendment. I realize, as he does, how difficult these issues are. I considered offering an amendment earlier in the year on an appropriations bill but I did not do so in order to give the committee a chance to look into the matter more fully.

I particularly want to commend the Senator from New Mexico for his fine efforts in doing as much as he possibly could for this program. I am particularly grateful for his help this afternoon in trying to support this request for the needs of our neediest students. I thank the Senator.

● Mr. SASSER. Mr. President, I rise today in support of the pending amendment of my distinguished colleague from Connecticut (Mr. Dodd). I am a cosponsor of this amendment, and it is my belief that the supplemental educational opportunity grant program is simply too important to permit its untimely demise by withholding needed funding.

The SEOG program provides financial aid to the neediest of America's college students. SEOG recipients are those students who have exhausted every other avenue of financial assistance.

Last year, under the continuing appropriations resolution, SEOG's suffered a 25-percent reduction, some $92 million. The new appropriations level, $290 million, was further reduced 4 percent under the President's threatened veto. These cuts came despite the mandate of the Higher Education Act that institutions receiving SEOG funds receive no less than they did in 1979–80.

Due to the allocation formula, some institutions are showing losses of 40 to 50 percent in their Federal allocation, rather than a 25-percent loss. This is especially true of colleges and universities who have traditionally enrolled a high percentage of low-income students. These institutions have had last year's additional funds deducted from this year's allocation. The result is that students who have a right to a college education will be denied that opportunity simply because of financial inability. That, Mr. President, may mean the loss of higher education for 150,000 young Americans.

In 10 short days, the Department of Education will be sending tentative allocation notices to postsecondary institutions. Upon receipt of that notification, these schools must notify needy students of the amounts of financial assistance they might expect during the coming school year. But for many of the most needy, the amount will be too low to permit their return to classes.

It is important to note that even by accepting our amendment to restore $48 million to the SEOG program, the total appropriation will still be below the level set for SEOG in the Omnibus Reconciliation Act of 1981. We are not "busting" the budget with this amendment; we are providing America's neediest students the opportunity to break through the economic barriers that keep them from obtaining higher education.

Years ago, the Federal Government forged a partnership with the Nation's postsecondary educational institu-

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tions, to improve educational opportunities for all students. The Federal Government promised to share the financial burden of providing these opportunities. I urge the Senate to approve the Dodd amendment and reaffirm the national commitment to providing a strong system of higher education for all.●

Mr. KENNEDY. Mr. President, I rise in support of the amendment by the Senator from Connecticut (Mr. Dodd). Senator Dodd has been tireless on the floor of the Senate in his support of supplemental education opportunity grants. This amendment is another example of his efforts. I commend the gentleman for his interest and his work.

The SEOG program is just one of a number of programs designed to meet the financial problems caused by skyrocketing college costs. It strives to lessen the economic barriers facing qualified but poor students. I think that we all agree that American colleges and universities must never become an enclave of the rich and the elite. Programs like SEOG are instrumental in preventing just such an occurrence.

Yet when faced with funding these programs, too often this Congress has chosen to reduce the funding—scale back the program and relegate thousands of young Americans to a future which does not and cannot include a college education. For example, in the last year SEOG has been cut by an incredible 25 percent—cutting off some 150,000 of the neediest students. Even the $29 million supplemental appropriation in this bill does not provide sufficient funds to meet the statutory hold-harmless provisions. Without the funds provided in the Dodd amendment, there will be significant inequities between individual schools and individual students.

Mr. President, our Nation faces a future filled with challenges and dangers. The potential for disaster exists in so many situations. The struggle to prosper or even survive will be difficult enough without the handicap of an uneducated populace. But if we continue to cut funds for education programs that are successful and effective, we will be a crippled nation.

In the last year and a half, we have repeatedly cut Federal funding for elementary and secondary education, higher education, and student aid. Even those programs that have not been cut have been squeezed by inflationary cost increases. We have not been cutting the budgetary fat but the program muscle and bone. I have opposed those cuts because I felt they were wrong: wrong for our students, our schools, and our country.

We must now dedicate ourselves to investing funds in our future by investing in our greatest resource—our people. We must restore our historic commitment to education that has been eroded since January 1981. It was that commitment that helped make America great.

I urge by colleagues to take this first step to restoring and expanding support for American education by voting in favor of the Dodd amendment.

(The name of the Senator from Mississippi, Mr. Stennis, was added as a cosponsor of the amendment.)

Mr. RANDOLPH. Mr. President, I am gratified to be a cosponsor of the pending amendment restoring $48 million to the supplemental educational opportunity grant program. I commend Senator Dodd for his leadership in this constructive effort.

The SEOG program is currently funded at $278 million—a shortage of $77 million if eligible students at all schools are to be aided with an equitable share of such funds.

The supplemental appropriations bill for fiscal year 1982, H.R. 6863, has a provision that would add back $29 million for SEOG I applaud, the committee's action in understanding the importance of additional funding for SEOG students—the neediest students on campus.

But Mr. President, aside from the fact that SEOG funds go to the students who have demonstrated the most financial need after all other sources of aid have been exhausted, the other most important aspect of the program that my colleagues must be made aware of is that, statutorily, each institution within each State is supposed to receive no less than the amount received by the school in 1979–80.

Yet the continuing resolution in effect for fiscal year 1982 reduced SEOG by a disproportionately large—25 percent, and as a result, those statutory, hold-harmless levels will not—cannot—be met. This means that awards to nearly 150,000 students nationwide will be eliminated. Thus, thousands of qualified students having severe financial need—will literally be denied access to college.

In terms in a news release of West Virginia, this reduced funding will result in the loss of a total of 1,022 students, both public and private, and a dollar loss of $610,358—nearly a million dollars, Mr. President.

SEOG dollars, while going to students with the most severe need, are also based on the cost of education. In other words SEOG's aid students who have chosen to attend higher cost private colleges—assisting them to exercise the freedom of choice—and if after counting all other sources of available financial aid there is a remaining need—it can be obtained under the SEOG program.

In West Virginia, in the past academic year, 1,625 students received $1.09 million in SEOG funds at private institutions. Of those 1,625 students, 419 will not be able to continue as SEOG recipients if the funding level is not raised by $77 million in this supplemental spending bill—meaning a total dollar loss of $285,105.

Those may not seem to be large amounts of money and students to many of my colleagues from larger States receiving much larger allocations from SEOG funds. I can assure my colleagues that the loss of nearly $1 million in one student aid program in West Virginia looms large for those 1,022 students barred from receiving enough aid to continue in college.

You have heard me speak of my own alma mater, Salem College, many times in this Chamber—and most recently I have expressed my concern for the very tenuous hold it, and other small, private colleges have on their very existence.

Salem College, as an example, currently has 320 students who receive SEOG assistance, for a total dollar amount of $215,200.

If SEOG funding levels do not rise by $77 million, Mr. President, Salem College will lose 82 eligible students for a dollar loss of $55,347—as we can calculate.

These statistics, Mr. President, are for one small, independent, private, college that deserves to survive—but it is threatened as are hundreds of others if we eliminate funds that allow students the freedom of choice to attend a school that costs a little more. SEOG's provide that choice, Mr. President.

If this administration—indeed this Congress—continues its attack on higher education—not just SEOG's, but Pell grants, college work-study grants, direct loans, guaranteed loans, and incentive grants to States—the dreadful, cumulative effects on both private and public institutions will bring "fiscal strangulation" as already eloquently described by my able colleague from Missouri, Tom Eagleton, who serves with me on the education subcommittee.

If cuts proposed in all programs by the administration are adopted, West Virginia is projected to lose 7,000 students and $11.7 million in academic year 1982–83.

According to estimates, if additional cuts are approved in all student aid as proposed by the administration, then West Virginia stands to lose 18,705 students and $20.5 million in academic year 1983–84.

We stand in support of increased funding for SEOG's, Mr. President, in fiscal year 1982.

But even as we debate funding needs in the current fiscal year, we are keenly aware that in less than 2 months we must have fiscal 1983 spending proposals ready for debate and final decisions made. In no time at all, we can expect to receive the President's fiscal 1984 requests—and none of us are optimistic enough to think that he will let student aid off the hook.

We are speaking for college aid today, and we must continue to stand strong and say no, and no, and no until we stop this unwarranted barrage on tomorrow's future.

I saw a bumper sticker the other day, and I recommend it to all my colleagues for their thoughtful consideration. The bumper sticker read as follows, Mr. President: "If you think education is expensive, try ignorance."

I feel our colleagues will vote in favor of the amendment, adding back $48 million to fund supplemental grants.

Mr. WEICKER. Mr. President, I rise in support of increasing the funding for the supplemental education opportunity grant (SEOG) program by $77 million for fiscal year 1982 as offered by Senator Dodd to H.R. 6863, the supplemental appropriations bill. This would bring the funding level for this campus-based student aid program to $355 million, the level necessary to insure that all eligible students receive an equitable share of the funds.

The SEOG program has been available for needy students who must package several of the Federal student aid programs in order to meet their educational costs. This is a supplemental grant program which provides students with the greatest financial need some measure of choice when deciding on an institution of higher education. Without financial assistance from this program, many needy students will be denied the opportunity to attend a college which matches their abilities and aspirations.

In my State of Connecticut alone, funding has been reduced from $5.1 million for fiscal year 1981 to $3.8 million for fiscal year 1982. As a result of this reduction in funding approximately 2,000 students were eliminated from the SEOG program.

The SEOG program is limited to needy students who are accepted as undergraduates, are enrolled at least part time and maintain satisfactory progress. Women and minorities receive the greatest proportion of these grants. The grant reward at under $2,000 each is minimal and yet the availability of this program is a critical factor in the ability for many students to pay for and to attend college.

Students should not be denied college access or choice based on an inability to pay. To deny educational opportunities to some is not only a promise unfulfilled, it is an ideal betrayed. It is misleading to say we are a democratic nation which takes pride in providing its citizens the opportunities to strive to maximize their potential—and achieve satisfying and meaningful adult lives—if, in fact, this principle is conditional, depending upon one's financial situation.

Furthermore, the development of human resources enriches all our lives. An educated citizenry makes an invaluable contribution to our general well-being. We enjoy the standing in the world today because of our efforts to realize our ideals such as equal educational opportunity and quality education.

I urge my colleagues to join me in supporting Senator Dodd's amendment.

Mr. HATFIELD. Mr. President, I would only underscore the comments made by the subcommittee chairman, Senator Schmitt, to indicate that I think this is a very desirable program and one that bears a great deal of return on the investment. But I think we have to recognize that it does not do much good to increase these programs if we cannot get a final approval from the White House. So we are moving, conscious of the great restrictions that we have.

I do feel that this is one of those matters that will ultimately have to be decided in conference anyway, so I support the action of the subcommitee chairman in accepting this amendment.

The question is on agreeing to the amendment.

The amendment (UP No. 1196) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1197

(Purpose: To require the Architect of the Capitol to cease the obligation, commitment, or expenditure of unallotted construction contingency funds for completion of the physical fitness facility in the Hart Senate Office Building.)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire), for himself and Mr. DeConcini, proposes an unprinted amendment numbered 1197.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, after line 17, insert the following:

HART SENATE OFFICE BUILDING

Notwithstanding the directive of the Senate Office Building Commission on Friday, March 19, 1982, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building. The Architect of the Capitol shall return to the Treasury of the United States, $736,400 of any such identified, unallotted construction contingency funds not obligated, committed, or expended before the day on which the Senate passes this Act.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. The amendment is patently legislation on an appropriations bill.

Mr. PROXMIRE. Mr. President, I did not yield to the Senator from Louisiana to make a point of order.

The PRESIDING OFFICER. The Chair rules that he did not again recognize the Senator from Wisconsin after the amendment had been sent to the desk for reading. Through the discretion of the Chair, the Chair recognized the Senator from Louisiana for the point of order to be made.

The Chair sustains the point of order that the amendment is legislation on an appropriations bill.

Mr. PROXMIRE. Mr. President, I appeal the ruling of the Chair. I will speak in opposition to the Chair's ruling, and I will ask for a rollcall vote.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, this amendment is an amendment that simply knocks out $732,000 for the third gym, the third gym, gymnasium, for Members of the Senate. Let me explain this amendment. It is $736,400.

Mr. President, as my colleagues may recall, back in 1978, after failing to kill the Hart Building project outright, I collaborated with former Senate Appropriations Committee Chairman Warren Magnuson to impose a $137 million ceiling on the cost of the Hart Building, in the wake of GAO estimates that the cost of the building could hit $230 million if left unchecked. Then, in 1979, in order to keep the cost of this ill-advised building under the ceiling, the Senate Office Building Commission agreed to delete a number of low-priority projects, including all of the projects now being given the green light. Then, on March 19, 1982, the Senate Office Building Commission, by a vote of 4 to 1 and over the objections of its chairman, Senator Stafford, authorized the Architect of the Capitol to spend as much as $4.2 million in projected Hart Senate Office Building "unallotted construction contingency funds" to start or complete a number of new or partially completed projects in the new Hart Building—projects that had been deleted by this same Commission in 1979. Among the projects now cleared for construction by the Architect and the Commission are $736,400 for a third Senate gymnasium.

Mr. President, this amendment will delete only the savings targeted for completion of the physical fitness facility in the Hart Senate Office Building. The cost of this project is $736,400, to be paid for out of identified, unallotted construction savings.

Now, Mr. President, I think we ought to consider the position we are in with this kind of expenditure.

For the past year and a half, this Congress, and especially this Senate, has been trying to hold down spending. Think of the sacrifices we have imposed. We have cut Federal assistance for disadvantaged school children. We have hammered down appropriations for handicapped men, women, and children. We have cut food stamps. We have reduced medicaid. We have forced elderly people to make higher payments for their medicare.

Incidentally, I think I voted for every one of those reductions.

In the Senate tax bill we passed recently, we reduced the medical cost that our people can deduct in computing their income tax. We have sharply cut farm price supports.

Altogether, almost all Americans have been asked one way or another to make a sacrifice. And yet, now we will provide over $700,000 for a third Senate gymnasium and over $1 million for a new especially fancy and super-equipped media hearing room.

Why do we need still another gym? My amendment does not touch the hearing room and it does not touch a lot of other low-priority projects that I could have touched, but I felt I had even less chance of getting them adopted.

We now today have two gyms exclusively for 100 Senators. One of our gyms has a small swimming pool, a variety of exercise machines, rubdown tables and attendants to rub us down, shower stalls, and rooms for taking naps. That is just one gym in the Russell Office Building.

Then we have 100 Senators and we have a second gym with a locker room, six shower stalls, an exercise room with stationary bicycle machines, a punching bag, a mat, weightlifting equipment, and very, very few of us as patrons.

One of the most distinguished patrons is now occupying the Chair. That is why he is in such good shape.

Mr. President, that adds up to two gyms for 100 Senators. Neither staff nor family nor friends are allowed, just 100 Senators.

And now the Senate Building Commission wants to spend more than $700,000 for a new gym, a third gym.

Consider the ridiculously selfish, self-serving nature of this public expenditure. Here we are, middle-aged or older men, 98 of us, and two women. The women, incidentally, as far as I know, do not use the gym and they look in far better and far superior physical shape than any of us 98 who can and in many instances do use the gym. You would think, Mr. President, that we 98 male Senators who use these two gyms, with these facilities, would be physical paragons, lean, muscular, Jack LaLannes.

But look at us. Oh, yes, some of the newer Members, who have not yet been softened and enfeebled by years of Senate service, look reasonably fit, but most of us are too fat, too soft, or too beat, kept alive and breathing not by the gym but by the ministrations of our remarkably skillful Senate doctor who, fortunately, has such remarkable skill he can seem to find ways to keep us voting and talking years after rigor mortis has begun to sink in.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. PROXMIRE. I shall yield shortly.

Mr. President, most of us consider 15 minutes on the table absorbing a rubdown as a terrific workout.

Oh, sure, these days, $700,000 seems like small change compared to the billions we pour into projects all over the world. But the example of this body spending $700,000 on a wholly unnecessary, completely superfluous expenditure, a third gym for only 100 Senators, sends a message, it seems to me, that we really do not have any sensitivity or appreciation of the examples we set.

Mr. President, before I yield to my good friend from Louisiana, let me quote from an article from a very little paper, a small paper in northern Michigan. This is an article by a man named Ray Linders. Talking about the gym, he said:

> What miffs me about this small travesty—and a $750,000 gymnasium in a U.S. Senate office building is a small one considering all the travesties of greater magnitude we're exposed to—is that this facility is planned for a handful of men and women and their friends.

He did not realize that it is planned for just a handful of men—no women, no friends, no staff. He continues:

> There are communities in this country—and right here in this area—with far more inhabitants than the U.S. Senate can claim which cannot afford three-quarters of a million for a gymnasium.
>
> There are communities that can't even afford two cents for a gymnasium, or a new school, or a better educational program, or filled potholes in their respective streets.
>
> They can't because, for one thing the spenders of the tax dollars here at home have to face the taxpayers on a daily basis, and take the flak when it's due.
>
> And they can't because in many instances the hometown taxpayers have a direct voice in how they'll be taxed, and what the money will be used for.
>
> In Washington, D.C., that far removed never-never land on the banks of the Potomac, the occupants of the chairs of decisions do not have that albatross to worry about.

Mr. President, I do hope that the Senate will recognize that what the Senate Office Building Commission did over the objections of their chairman, the distinguished Senator from Vermont (Mr. STAFFORD), was wrong. The only way I can reach this is by appealing the decision of the Chair, because there was no other way that we could get at this particular appropriation. It certainly is on the right bill, and I do hope that the Senate will overrule the ruling of the Chair and give us an opportunity to rescind $700,000 for the gym.

Now I am happy to yield to my friend from Lousiana.

Mr. JOHNSTON. Mr. President, I was just going to ask my friend from Wisconsin if he is not one of the preeminent exercisers in the Senate? In fact, does he not run to and from work virtually every day?

Mr. PROXMIRE. Mr. President, I am delighted to report to my good friend that I do run to work every day. When I get to work, I go in that second gym, which is almost always empty except for my good friend from Indiana, who is sometimes, there, and a few other physically fit Members. But I must say that I think I could run to work and I could use the facilities in my office, which I used to use before I found that gym was available. It would be a little less convenient. I would be delighted to give that up.

I certainly think we ought not to spend $700,000 more for a third gym. What do we need it for?

Mr. JOHNSTON. Of course, Mr. President, I did not ask that question. I simply wanted to establish that the Senator thinks exercise is very important. I was going to reveal what I think may have been revealed or may not have been revealed before. That is that the Senator from Wisconsin, on two occasions, has been the subject of holdups, robberies, as it were, when he is running out on the street. I am wondering if the Senator from Wisconsin wants to subject his colleagues to that kind of treatment. [Laughter.]

The PRESIDING OFFICER (Mr. RUDMAN). The Senate will be in order.

Mr. PROXMIRE. I say to my good friend this city is relatively crime free. I am sure even in Baton Rouge or New Orleans, people are very often held up. In Baton Rouge, or New Orleans, people do not feel safe, either, even in their homes. Maybe they have large dogs that accompany them on their way, maybe their wives accompany and protect them.

Mr. JOHNSTON. Was the Senator held up? Seriously?

Mr. PROXMIRE. Neither time was I exercising, Mr. President. The first time I talked them out of harming me

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by telling them I had cancer and was going to be dead in 3 months and they were doing me a favor.

Mr. JOHNSTON. Did the Senator look the part?

Mr. PROXMIRE. Probably. That is what exercise does for you, makes you look pretty hungry and beat.

Mr. JOHNSTON. Mr. President, I always enjoy debating with my distinguished friend from Wisconsin. We bring this issue up every year. Let me say I never enjoy being on this side of the question. I must hasten to establish my credentials.

I did not ask for the job as chairman of the Senate Office Building Commission. In fact, I am not now chairman. I am now ranking minority member. When I was chairman of the commission, we put together the compromise which passed the Senate and is now the law of the land; that is, to cut down the size of the Hart Senate Office Building to, if I recall correctly, something in the neighborhood of $137 million.

Our status was, Mr. President, that back in the late 1960's, the Public Works Committee of the Senate authorized this building and then money was appropriated for it. Then a Senate Office Building Commission was created and charged with the duty of approving and overseeing the construction. Indeed, plans were confected, actually not let out for bids—that was one of the problems here. The building was underway.

At the time I really arrived on the scene as Chairman of this Commission, we had a completed contract, completed plans, steel was all the way up the full five or six stories, whatever it is. Then the motion came in to stop the Senate Office Building at that point.

What was to be done with the Senate Office Building at that point, I do not know. I guess it was to be left to rust away as an eternal monument to the profligacy of the Senate and of the Congress. Perhaps in that respect, it would have been an apt monument, because the public believed that anyway. To be able to come to the city of Washington and see a rusting hulk right there on Capitol Hill would have, indeed, been graphic evidence of that profligacy.

Of course, that makes a good joke, Mr. President, and it might make a good example, but it would have been very poor policy because, of course, the Senate and the Congress could not have allowed that to happen. We had to put it together to finish the building. We were too far committed. You cannot allow an eyesore on Capitol Hill.

So, the distinguished majority leader asked me to take the chairmanship of that Senate Office Building Commission and over my vociferous objections, because I knew the Senate Office Building was the delight of all of those who would—as they say, a demagog's delight. I certainly do not mean that to apply to my friend from Wisconsin, but there are those who see this as a juicy target to talk about every time it comes up.

In any event, I took the job. In any event, we put together the compromise at $137 million. The Senate—the Congress—has supported that compromise on through.

Where are we now, Mr. President? We are now approaching completion of the Senate Office Building. A number of what we call the exclusions, which we excluded from the contract in order to get to the $137 million, can now be put back in pursuant to the understanding, the express understanding we had when we last considered the matter on the floor, because savings have been made.

Those are such things as providing additional office space, which office space was already there; providing for energy savings equipment; providing for a whole host of things. Those matters can now be put in—vertical blinds, auxiliary office space, energy management systems, data communication tables, and so forth. With the savings, we put those back in under a certain schedule of priority. The physical fitness facility is about eighth or ninth in priority.

Mr. President, the physical fitness facility will constitute the only real gym in either of the buildings.

The so-called gymnasium referred to in the Dirksen Senate Office Building I have not seen. I doubt if any of my colleagues have seen it. The Architect of the Capitol advises me it is not a gymnasium at all. It is a single room, some 15 by 15 in dimension. I dare say that the Senator from Wisconsin could not jog in there.

Mr. PROXMIRE. Will the Senator yield on that?

Mr. JOHNSTON. Yes.

Mr. PROXMIRE. There are three rooms. There is one exercise room that has the equipment I described, including two stationary bicycles, including a mat, including weight-lifting machinery, including a punching bag. There is another room which has lockers in it, about 86 lockers. There is another room that has six shower stalls, as well as bathroom facilities. So it is a three-room gym.

Mr. JOHNSTON. The exercise part of it, which is what we refer to when we talk about a gymnasium, is 15 by 15, is it not, roughly?

Mr. PROXMIRE. No, no, no. It is bigger than that.

Mr. HATFIELD. Yes, it is 15 by 15.

Mr. JOHNSTON. The Architect of the Capitol, who is on the floor now, just advised me it is 15 by 15. I have not seen it. It hardly qualifies as a gymnasium, as a place in which any exercise can transpire.

Mr. PROXMIRE. I exercise there every single day.

Mr. JOHNSTON. The Senator runs to work every day.

Mr. PROXMIRE. I do 15 minutes on a stationary bike, and BILL BRADLEY, the Senator from New Jersey, comes in, the distinguished Senator from Indiana comes in, and a number of other Senators; the Senator from Oklahoma (Mr. NICKLES) lifts those weights. That is why they look so good.

Mr. JOHNSTON. The question is not whether we are going to have a physical fitness facility. The physical fitness facility in the new building is there. It exists. It has a roof, it has walls, it has sides. All this means is whether or not we are going to spend an additional $736,000, and actually less than that, because the Architect of the Capitol, who again is on the floor—and I invite Senators to question him about the details—advises me we have already spent over $100,000 to buy the equipment which would be put in—I do not know whether it is the flooring or the sides. Whatever it is, $100,000 has already been spent, so we have to reduce that amount. The facility has many more uses than just a physical fitness facility. I invite the Senator to go up and see it. It will serve as a hearing room. It will serve as one of the largest hearing rooms in the entire Senate. It will serve many purposes, and for an additional what, 10 percent or less, not to finish it, knowing that some future Congress would finish it at a much greater cost, I think is very false economy.

Mr. President, the issue is not whether we are going to build a gym. The gym is built. The issue is whether we put the final, finishing touches on a facility which can, in addition to being used as a gym, have a multitude of other purposes and will constitute really the first gymnasium in the entire Senate.

Actually, Mr. President, if you want to know what the real question is, it is, Whether the ruling of the Chair as to legislation on an appropriation bill will be sustained or not?

What you ought to do is submit this back to the hearing process and have a hearing, as we did in the Senate Office Building Commission, where with only one dissenting vote it was very clear to everyone that you waste money if you do not finish this large, commodious room at this time. You waste a great deal of money because it is going to be finished. It would be a travesty to have a large room which could be used as a hearing room, it could be used as a gymnasium, it could be used for any number of purposes, not to be finished. Nobody seriously thinks that it will not be finished at some particular time.

Mr. President, I urge my colleagues to sustain the ruling of the Chair. I

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was going to move to table the appeal, but if the Senator from Wisconsin wants to have another go at it, I will yield.

Mr. PROXMIRE. I will be quite brief.

Mr. President, let me point out that the Senator devoted most of his talk to matter that I did not touch. It is true that I at one time wanted to knock out all of the low-priority projects that the Building Commission 3 years ago decided should be lower priority and should be put off until another day because they might cost too much, over $4 million, but the only one I knocked out was the gym. The vertical blinds, for instance, $167,000 for vertical blinds instead of horizontal blinds, because some people think they might look a little better; central wing first floor office, the hearing facility that the Senator talked about—I think that is a waste of $1,182,000—I do not touch. But the gym is so obviously unnecessary.

The Senator said nothing about the main gym we have in the Russell Building. That does have a swimming pool. That does have a much larger exercise room. It does have the facilities for rubdowns, and so forth. It is a substantial gym certainly for 100 people—98 people because, as I say, the ladies of the Senate do not use that.

Mr. President, my friend from Louisiana indicated that this had been a deliberative process. We never have had hearings in the Appropriations Committee. We ought to hold hearings on this. The hearings held by the Building Commission, as far as we know, have not been published. My staff has not been able to get ahold of them. We have not been able to examine them.

The fact is, also, that this was a low-priority project that the Building Commission itself, 3 years ago, decided to postpone. As I say, the $4,217,000, which I think we ought to knock out, I tried to knock out in the Appropriations Committee meeting but did not succeed. Only the amount for the third gym would be deleted under my proposal, $736,000.

Mr. President, furthermore, let me just point out that the additional amount would be $269,000 for materials they do not have now, $403,000 for labor, and all of that would seem to me to be a saving that we can well make.

It is true that they might have to use their ingenuity and use that space for something else. We can do that.

It also may be true that the wisest thing to do is just not spend the money at all. Somehow it is very hard for us in the Senate to resist going ahead and spending $736,000.

Certainly if this were a small city in New Hampshire or a small city in Wisconsin or Oregon, you know perfectly well there is no way this money would be spent. So I do hope that the Senate will not sustain the ruling of the Chair.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I want to tell my colleagues that I certainly will miss this issue. I hope it is the last time it will come up. I certainly am going to miss it in future years. We have had a lot of fun with this each year it has come around. I know the Senate is prepared to be serious on this and look at the long-term saving. Frankly, if we could do away with the whole Hart Building, I bet this Senate would vote for it 100 to 0.

I think the Senate that first authorized it back in the late sixties is sorry it ever authorized it, sorry it had anything to do with it and, believe me, I am sorry I have had to be chairman of the Senate Office Building Commission.

However, Mr. President, we are in it now. We ought to make the best of what is an expensive and also a very nice building. I think we at least ought to say something nice about it, and that is about all I can find to say nice about it, that it is a pretty building. It also really is needed, although I would not vote for it if it were being authorized today.

Mr. SCHMITT. Will the Senator yield?

Mr. PROXMIRE. Will the Senator yield?

Mr. JOHNSTON. I hope it is the last time that I have to shoulder this duty.

Mr. PROXMIRE. Will the Senator yield?

Let me just say to my good friend I am delighted that if the Hart Building were up today, the Senator would not vote for it. As the Senator knows, the Architect of the Capitol has recommended a fourth Senate office building; he is going to push for it.

I predict that when that comes along, you will see the same old story we had when we had the Hart Building. I was the only one in the Appropriations Committee who voted against that when it began, the only one.

Mr. JOHNSTON. The Architect has not made that recommendation.

Mr. PROXMIRE. This is not the last one. We will not stop until every Senator has his own building. [Laughter.]

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Architect of the Capitol has made a lot of mistakes. Maybe he has made some on the Hart Senate Office Building, but he has not made what would be the most egregious mistake of his entire career by recommending still a fourth Senate office building. If he should, then I will be in the forefront fighting that building. But for the time being, let it be said for the Architect of the Capitol that he is not recommending it and not one single Senator is prepared to vote for it in this Senate.

I yield to my friend from New Mexico.

Mr. SCHMITT. Mr. President, I appreciate the Senator from Louisiana yielding. I just wanted to mention that I, coming here in 1977, had the privilege of voting against the Hart Building the first time that the issue arose on the floor.

I know that the distinguished Senator from Louisiana argued just as eloquently at that time, but at that time we could have saved, as I recall, $60 million or $70 million and put it into a parking lot or something else.

The next time the issue came up, it was too late. I think the Senator is exactly right in the way he characterizes the issue—it is too late on this. We have to make the best of what I think most of us believe was a bad deal, made more than a decade ago, and proceed to utilize this building in the best possible way.

Mr. MATTINGLY. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MATTINGLY. I am chairman of the Legislative Branch Committee, and I have been here for 1 year and 7 months, so I have even more current respect than the Senator from New Mexico. But it seems to the new Senators that we are talking about something already accomplished, the building is there; the money has been spent. The authority was given to the Senate Office Buildings Commission and the Architect of the Capitol to construct this building, to make it function.

I suggest that the expenditure that has already been allocated is probably less than 1 day's storage of dairy products in the United States.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the ruling of the Chair be sustained as the judgment of the Senate? The yeas and nays have been ordered.

Mr. HATFIELD. Mr. President, I move to table the appeal of the ruling of the Chair.

Mr. JOHNSTON and Mr. PROXMIRE requested the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the appeal of the ruling of the Chair. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—50

Andrews
Armstrong
Baker
Baucus
Brady
Cannon
Chiles
Cochran
Cranston
D'Amato
Dodd
Dole
Domenici
East
Ford
Garn
Glenn
Goldwater
Gorton
Hatfield
Hayakawa
Helms
Hollings
Huddleston
Inouye
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Murkowski
Packwood
Pell
Percy
Quayle
Rudman
Schmitt
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas

NAYS—48

Abdnor
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Cohen
Danforth
DeConcini
Denton
Dixon
Durenberger
Eagleton
Exon
Grassley
Hart
Hatch
Hawkins
Heflin
Humphrey
Jackson
Kasten
Kennedy
Levin
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Simpson
Stafford
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—2

Heinz
Mathias

So the motion to table the appeal of the ruling of the Chair was agreed to.

Mr. HATFIELD, Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, I wonder if I could have the attention of my colleagues to ask anyone who has an amendment to this supplemental appropriations bill to please alert the managers of the bill, Senator PROXMIRE, now Senator LEAHY, acting on behalf of the minority, and myself as the manager on the majority side, because we want to get an idea of how many more hours we have on this bill. If we could get some notification list set up as to how many amendments we have to consider, it would be very helpful.

Mr. President, I believe that the next Senator that has informed me of an amendment is the Senator from Connecticut.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 1198

(Purpose: To provide that it is the sense of the Congress that the proposed regulations implementing part B of the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session or the 98th Congress has convened, whichever first occurs)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1198.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) The Congress finds that—

(1) since the enactment of Public Law 94-142, the Education for All Handicapped Children Act of 1975, amending part B of the Education of the Handicapped Act, significant numbers of handicapped youngsters have been successfully brought into the Nation's educational system;

(2) part B of the Education of the Handicapped Act has been consistently upheld since its enactment and any attempt to weaken the rights of handicapped children or the rights of parents of handicapped children has been rejected by the Congress;

(3) handicapped children have consistently demonstrated that they can and do take full advantage of the educational opportunities afforded to them;

(4) the success of part B of the Education of the Handicapped Act in States where it is in effect can be attributed in large measure to the statutory and regulatory provisions assuring the rights and participation of parents in determining the education of their children; and

(5) the Department of Education has on August 4, 1982 published proposed changes in the regulations implementing part B of the Education of the Handicapped Act designed to eliminate the assurances that the rights and participation of parents and handicapped school children be recognized.

(b) It is the sense of the Congress that—

(1) the proposed final regulations implementing part B of the Education of the Handicapped Act should not become effective, and should not be transmitted to the Congress under paragraph (1) of section 431 (d) of the General Education Provisions Act, until—(A) after the 97th Congress has returned from the recess which is scheduled to begin in October, 1982, or

(B) after the 98th Congress is convened, whichever first occurs;

(2) the forty-five day period specified in such paragraph (1) should begin on the day that such regulations are transmitted to the Congress in accordance with clause (1) of this subsection; and

(3) paragraph (2) (except the first sentence) of section 431(d) of such Act should not apply to such forty-five day periods.

The PRESIDING OFFICER. The Senate is not in order. Will those Senators wishing to converse, please retire to the back of the Chamber?

The Senator from Connecticut.

Mr. WEICKER. Mr. President, during the past 7 years since the enactment of Public Law 94-142, the Education for All Handicapped Children Act, we have witnessed as never before, millions of disabled youngsters taking their places alongside their nonhandicapped fellows in the mainstream of American society.

No longer are they confined in out-of-the-way places, their bodies, minds and talents left ignored to wither. Now these courageous youngsters, eager and capable to learn, sport the bright faces of self-esteem. They live at home, attend school and—most importantly—are giving it their all.

It has been tough, no doubt about it. These youngsters have had to work and work hard to overcome their disabilities. Parents have unselfishly given of their time and money to see that their children take advantage of all opportunities given them. And, yes, dedicated professionals—physical, occupational, and speech therapists among them—have teamed up with special education teachers and administrators to create the network of services necessary to get the job done.

Congress, too, has held the steady course. We have said loudly and clearly that we do not want to see the underpinnings of Public Law 94-142 weakened in any way. We have extended the life of the law and in the most difficult of financial times we have found the dollars to sustain our commitment to disabled youngsters.

Now, however, just at the time when virtually everyone agrees the big job is getting done and done well, the Department of Education dares to propose changes in the rules which govern the program.

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order. Those members of the staff who wish to converse will do so in the cloakrooms. The Senator from Connecticut has a right to be heard.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, why is this being done? To help children

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learn better and progress faster? To make it easier for parents to cope? No, Mr. President, these are not the reasons.

As incredible as it may seem, what is in fact being proposed is to weaken kids' ability to join with their nondisabled peers. To reduce parents' ability to take part in their children's education—in short, the beginning of the end for Public Law 94-142.

Today, I offer a sense-of-the-Congress amendment to put the proposed changes on hold. This amendment would postpone the start of the 45-period allotted Congress for passage of a concurrent resolution of disapproval until Congress returns after sine die or the 98th session, should there be no lame duck session. This sense of the Senate amendment does not change the General Education Provision Act, which provides for the review period. It does, however, signal the Department of Education, the President and the public that we want to carefully examine the regulations. Rigorous review is necessary if we are to insure that the Department's regulations continue to result in the free appropriate public education Public Law 94-142 calls for.

Today, as chairman of the Subcommittee on the Handicapped, I held a hearing on the new regulations. Participating were Secretary Bell and a panel of professionals and experts in the area of special education. I heard testimony clearly stating that the proposed changes will wipe out regulatory assurances that the rights of parents and handicapped schoolchildren are recognized.

If, after further careful consideration, this proves to be the case, I am sure the Congress will want to express its displeasure with the new regulations. In the meantime, I urge my colleagues to adopt this amendment mandating a full 45-day review period.

Mr. President, it is important that the Congress reaffirm the support it has consistently given to Public Law 94-142. It is imperative that we let parents, professionals and disabled children from one end of this Nation to the other know that we continue to stand with them in their courageous fight.

I urge all my colleagues to vote to approve this amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to support the amendment of the Senator from Connecticut. I think the proposed regulations with respect to handicapped children do irreparable harm to a program that has great merit. I think that by enacting this amendment and indicating the sense of Congress there should be a delay in the implementation of the regulations, it would give Congress the opportunity to deal more accurately with this program.

I think the program is retrogressing. I think that it would be a disservice to the handicapped children of this country.

I believe that enactment of this amendment indicating the Congress attitude with respect to the implementation of the program is entirely appropriate and hope that every Member of the Senate will see fit to join with the Senator from Connecticut in support of this proposal.

I ask that I be made a cosponsor, Mr. President.

Mr. WEICKER. I ask unanimous consent that the Senator from Ohio (Mr. Metzenbaum) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I compliment the Senator from Connecticut for his continued leadership in these issues. I think he has been a great source of strength in the subcommittee in enabling us not only to understand but to provide funding commensurate with the needs of the handicapped.

The sense-of-the-Congress resolution that the Senator has proposed states that new regulations for the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session, or the 98th Congress convenes, whichever occurs first.

The Department of Education published a notice of proposed rulemaking on August 4 that would considerably revise the regulations governing part B of the Education of the Handicapped Act—State grants. The proposed regs are complicated and controversial, having evoked an immediate negative response from advocacy groups for the handicapped, as well as just the general concern of those of us who watch governmental rulemaking with a jaundiced eye to begin with.

The regs have a 90-day public comment period which would end in early November. Technically, the Department could very quickly publish the final rules and send them to Congress for the required 45-day approval period. The 45-day period would then end during recess, or during a lame-duck session, thus sidestepping legislative review, that has been incorporated into the law.

The resolution will make clear to the Department of Education that the Congress places a great deal of importance not only on the full implementation of the law mandating a free, appropriate, public eduction to handicapped children, but also on the process of legislative review, which, unfortunately, the Carter administration declined to follow and fought the Congress tooth and nail.

The present administration also is reluctant to endorse the concept of legislative review. We hope that that reluctance will gradually disappear.

It is my understanding that the Department of Education estimates that it will take months to analyse and respond to the public comments received during the 90-day period. Therefore, the final rules would not be published and sent to the Congress for review until the spring of 1982.

I believe the Senator from Connecticut is exactly right in making this very clear statement and allowing the entire Congress also to clarify what we expect that progress to be.

I compliment him on his amendment.

Mr. MITCHELL. Mr. President, I rise in support of the Weicker amendment, expressing the sense of the Congress that the start of the legislative review period for proposed regulations on special education will be postponed. The effect of the amendment is to delay the implementation date for the regulatory changes being suggested.

On Wednesday, August 4, the Department of Education published in the Federal Register proposed changes to existing regulations under part B of the Education of the Handicapped Act, Public Law 94-142. Congress passed this law in 1975 to insure that all handicapped children would have a free appropriate public education, that their rights and those of their parents would be protected, and that States and localities would receive assistance in providing that education.

Passage of the Education of the Handicapped Act recognized that government at all levels must do more to improve educational opportunities for handicapped children and integrate them into society. Since that time, great strides have been made in that direction. However, we must not retreat on our commitment to the disabled. By helping them overcome their handicaps, we enable them to become productive members of society, to take their place beside those of us who are more fortunate and can function without assistance.

In promoting certain rule changes, the Secretary of Education has said he wants to streamline Federal policy and reduce costs and administrative burdens on local school districts. However, this action has provoked the immediate opposition of advocacy groups who believe that the rights of handicapped children and their parents will be nullified if the proposals are adopted.

Officials of two Maine organizations, the Maine Association of Handicapped Persons and Parents of Learning Disabled Students, Inc., have spoken strongly against the proposed rules. Among their primary concerns are the potential erosion in parental rights, the granting of authority to school systems for exclusion of handicapped children from regular classrooms and from nonacademic activities such as meals and recreation, and relaxation of the requirement that handicapped children must be placed in a program as near their home as possible.

The sponsor of this amendment, my distinguished colleague from Connecticut, held a hearing on the proposed regulations this morning in the Subcommittee on the Handicapped which he chairs. I understand that several professionals expressed considerable concern about the effect of the rule changes on educational opportunities for the handicapped.

By delaying the implementation of these rules, Congress is giving a clear signal that it, too, is concerned about the rights of the handicapped and wants ample opportunity to review the proposals before any action is taken on them. I join my colleagues in supporting this amendment because I believe that special education is too important for it to escape scrutiny whenever changes in the fabric of the program are considered.

During the comment period, Congress and the public must examine the effect of the rules on all of the States. Some have relatively weak protections for the handicapped and others, like my own State of Maine, have stronger protections. I am proud to say that the Maine Legislature enacted special education legislation in 1973, 2 years before approval of the Federal statute. State leaders have thus for almost a decade showed great interest in working with the handicapped to improve opportunities throughout the State.

During the next few weeks, I intend to review these rule changes with great care. On September 13 and 14, the Department of Education will hold a public hearing on them in Portland, Maine. I hope all those interested in my State will take that opportunity to express their thoughts and concerns on this area so vital to the handicapped.

I commend my fellow New Englander for his leadership in the field of handicapped rights and for his sponsorship of this amendment.

Mr. HATFIELD. Mr. President, I suggest we vote.

The PRESIDING OFFICER. Is there further debate?

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) the Senator from Maryland (Mr. MATHIAS) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

The PRESIDING OFFICER. (Mr. BRADY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—93

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—4

East
Goldwater
McClure
Symms

NOT VOTING—3

Baker
Mathias
Roth

So Mr. WEICKER's amendment (UP No. 1198) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that Senators PERCY, STAFFORD, and QUAYLE be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, while we are in Labor-HHS matters, may I ask the Senator from New Mexico, the chairman of the Labor, Health and Human Services and Education Subcommittee, about language in the committee report concerning adolescent family life program? There has been some concern expressed that the report language could somehow be interpreted to apply the "parental consent and notification" provisions of the adolescent family life program to other programs under the jurisdiction of the Department of Health and Human Services. Can the Senator tell me whether the language does apply to Health and Human Services programs other than adolescent family life?

Mr. SCHMITT. It does not.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I should like to recite the list of amendments that we have pending that I have been notified about: Senator PERCY, Senator BRADLEY, Senator LEAHY, Senator ARMSTRONG——

Mr. LEAHY. Mr. President, I cannot hear the Senator. I am sorry.

Mr. HATFIELD. I am reading the list of amendments that I am informed will possibly be offered: Senator PERCY, Senator BRADLEY, Senator LEAHY, Senator ARMSTRONG, Senator SCHMITT, Senator KENNEDY, Senator CHAFEE, Senator MATTINGLY, and Senator DODD.

I again invite any other Senator who expects to offer an amendment to provide us with that information so that we might proceed in an orderly fashion.

Mr. President, I hope that we could get all the amendments dealing with one subject handled in sequence following the introduction of that subject, which I think we are about ready to embark upon. Senator PERCY, I believe, would be next on the pecking list, if we follow that, although the Chair should recognize whoever he wishes. Once Senator PERCY raises CBI, Caribbean Basin Initiative, I imagine then that Senator LEAHY would offer his point of order. Once that is disposed of, I urge, if there are other amendments that are pending on the CBI subject even though they are not listed in this particular order, that we deal and dispose of each one of those and complete that subject. I think that would be by far the most practicable procedure.

With that in mind, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague, the chairman of the committee and floor manager, for yielding.

UP AMENDMENT NO. 1199

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1199:

On page 31, line 15, delete the period and insert in lieu thereof the following: ": *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first."

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Mr. PERCY. Mr. President, this amendment is designed to protect the legitimate interests of the authorizing committee for the Caribbean Basin Initiative in a way which does not undercut the chances of funding this important program in fiscal year 1982.

The amendment stipulates that none of the funds appropriated for the purposes of the Caribbean Basin Initiative may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first.

This gives the authorization committees another 5 weeks to take their legislation to the floor and provide policy guidelines for this program. I believe we can meet this deadline. I have talked to the majority leader (Mr. BAKER) and he has assured me that there will be time available on the floor for the authorizing bill prior to September 15.

The House Foreign Affairs Committee will seek a rule this Thursday for the authorization of these foreign aid funds, and they may take their bill to the floor on Thursday.

Under normal circumstances, I would not agree to any waiver of authorization requirements, but this is a special case which requires special procedures. Fiscal year 1982 is over in less than 2 months. If the administration is unable to begin obligating funds for this important program by mid-September, the outlays for CBI will all appear in fiscal year 1983. As the chairman of the Foreign Operations Subcommittee (Mr. KASTEN) knows, we already have severe problems with foreign affairs outlays in fiscal year 1983. With this amendment in place, the administration will be able to begin obligating funds for this program on September 15, 1982 and the fiscal year 1983 outlay problem will be made less severe.

This amendment further protects the prerogatives of the authorizing process with regard to earmarks. I do not necessarily agree with all of the earmarks contained in this bill. But the Foreign Relations Committee will have the opportunity to address that issue in the authorizing bill and to supersede these earmarks if that is desired.

Finally I say to my friend and colleague, the Senator from Connecticut (Mr. DODD), a valued member of our committee, that I believe this amendment protects his rights to address his desires to channel some or all of these funds through the World Bank. We will have another opportunity on the floor to review this proposal.

Mr. President, before yielding the floor, I should like to make a general statement on the importance of the Caribbean Basin Initiative, the Presidential initiative that has been thought through very carefully, supported very vigorously by the contributing nations, such as Mexico, Colombia, and Canada, and supported by all nations with whom I have discussed this matter in Latin America.

The $350 million in supplemental assistance authorized in this section of the bill are absolutely critical to meeting the immediate financial needs of a number of Caribbean Basin economies. In many cases, lending from other sources—our European friends, Japan, the World Bank and Canada—remains in abeyance until the United States makes its commitment of assistance to the Caribbean Basin.

In the past several months, I and other Members of Congress have been visited by citizens of the Caribbean countries. All have come to speak to the importance of the Caribbean Basin Initiative. More recently, the Presidents of Costa Rica and Honduras have both met with members of the Foreign Relations Committee as well as with members of the Finance Committee to speak to the absolute necessity of the aid and trade portions of the Caribbean package.

The Caribbean Basin is a region of profound interest and concern to the United States. It is economically important to us. A good share of our trade, especially raw materials and petroleum, passes through the Caribbean. It is militarily important to us. It guards the access to the Panama Canal and to the Atlantic Ocean. If hostile bases were established in the region, we would have to engage in costly defense preparations quite different from what we have now. The Caribbean Basin is also politically important to the United States, The countries of the region are our neighbors. It is important to us and to them that we all pursue positive, mutually cooperative and beneficial relations in the region. No one gains from hostilities.

Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. KASTEN).

Mr. KASTEN. I thank the Senator from Illinois, the chairman of the Foreign Relations Committee.

As chairman of the Foreign Operations Subcommittee, I accept this amendment, assuming that the managers of the bill will accept it, also.

Senator PERCY's efforts on what could have been a touchy subject are to be commended. He has protected his interests, while at the same time insuring that funding for this very important foreign policy initiative is not jeopardized. I compliment the chairman of the Foreign Relations Committee, and I thank him for his cooperation. I know that he and I will continue to work together on these very difficult issues in the future.

Mr. President, the amendment offered by the distinguished chairman of the Foreign Relations Committee is self-explanatory. It provides that funding for the Caribbean Basin Initiative will not be obligated until September 15, or until enactment of authorizing legislation, whichever comes first. This basically keeps intact the Appropriations Committee's action on this matter, although it gives the authorizing committees a specific amount of time in which to take action. I believe this is a good accommodation, a fair compromise, and I commend the chairman of the Foreign Relations Committee for it.

One of the reasons the waiver provision in the bill and the chairman's amendment is necessary is because of the severe outlay constraints that will affect the function 150 account in fiscal year 1983. If expenditures under the CBI are delayed beyond September 15, the impact on this outlay problem for fiscal year 1983 will be severe.

We have been told that the Agency for International Development expects to expend approximately $200 million before the end of fiscal year 1982 from CBI funds. I also understand that there may be problems with respect to GAO concerns that expenditures should not exceed the immediate needs of a particular program. However, although I recognize these concerns as valid, I believe that the serious balance of payments problems existing throughout the Caribbean region, and our own outlay concerns, justify expenditures in the amounts contemplated by the CBO. I would, therefore, strongly encourage the Agency for International Development to expend approximately $270 million in fiscal year 1982, utilizing appropriate mechanisms, including trust arrangements or escrow accounts or other similar methods of controls.

Mr. LEAHY. Mr. President, I have heard the discussion of the distinguished chairman of the Foreign Relations Committee and the distinguished chairman of the Foreign Operations Subcommittee, but I must say that the amendment that has been proposed by my good friend from Illinois does not really address the question, because it is an either/or situation.

It says that if we have authorizing legislation—that is, legislation that has passed both bodies and is signed by the President—by September 15, that will control. Or, if we do not do it, which is a very real possibility—I would say nearly a probability—then we will just go ahead and spend this money willy-nilly, anyway. That is the rub.

The President of the United States has spoken of a need for a Caribbean Basin Initiative, and I agree with President Reagan on that. I will support him in efforts for a Caribbean Basin Initiative but I want to know what is in it.

Maybe it is a bit of my Vermont background, but we Vermonters like to know what we are paying for before we put out the money.

Specifically, this bill appropriates $280 million for various foreign military assistance programs, $355 million for the Caribbean Basin Initiative, and $635 million in foreign aid, without any prior authorization.

There is no Caribbean Basin Initiative as yet. I do not believe we should blindly fund a program of this magnitude and controversy. The administration has already agreed to a compromise package in the House which would have reduced the request for military aid from $301 million to only $52 million. That is not reflected anywhere in this appropriation.

More important, the administration dropped its military aid request for El Salvador altogether, and there is a letter from Under Secretary Buckley—which letter I will put in the RECORD this afternoon—which says that they offered that. That compromise package was later taken down in the House on a point of order that the CBI had not been authorized.

Mr. President, I go home to my State of Vermont almost every week, and I have had people tell me that they are concerned about the cuts in housing, the cuts in veterans programs, the cuts in aid for education, the cuts in school lunch, the cuts in medical programs, the cuts in nutrition programs, the cuts in aid to the disabled and the elderly, the cuts in farm programs—and cut after cut after cut.

Mr. President, I feel awfully nervous about going back home to Vermont this weekend and telling them that I voted for more than a half billion dollars in foreign aid. Then somebody will say to me, "Exactly what is that going to go for?" I will have to say, "I don't know. It has not been authorized yet."

However, if we get an authorization by September 15, that will carry. But then, I suspect, the next question is going to be, "Aha, but if you don't get the authorization by September 15, what happens then?" Well, then it can be spent in some vague fashion.

I do not think any one of us wants to explain that we are voting for a half-billion dollar foreign aid bill at a time when we are cutting everything else, and we do not know how we are going to spend it.

This has not been authorized. So I am going to request the Chair to rule on whether, under rule XV, paragraph 5, a point of order lies against the material beginning on line 1 of page 31 through line 17 of page 33.

My point of order will be that this material contains significant matter not within the jurisdiction of the Appropriations Committee, which has proposed the amendment, and that the changes in substantive law included herein properly lie within the jurisdiction of the Committee on Foreign Relations.

Mr. President, I raise a point of order under rule XV and I ask for a ruling on my point of order.

Mr. KASTEN addressed the Chair.

Mr. LEAHY. I ask the Chair to rule on my point of order.

Mr. KASTEN. addressed the Chair.

The PRESIDING OFFICER. The Chair asks the Senator from Vermont whether he is making the point of order against the Percy amendment or the underlying amendment.

Mr. LEAHY. I make the point of order against the underlying amendment, the committee amendment, beginning on line 1, page 31, through line 17, page 33.

Mr. KASTEN. Mr. President, I raise the defense of germaneness.

Mr. LEAHY. A parlimentary inquiry, Mr. President. Under the precedents of the Senate, is there any precedent for the defense of germaneness against a point of order raised under rule XV, paragraph 5?

The PRESIDING OFFICER. The Chair states that this is a case of first impression, as to whether or not the defense of germaneness is a permissible defense against a point of order based on rule XV. For that reason, the Chair will submit the question to the Senate for its determination.

Mr. LEAHY. Mr. President, I ask again, is there any precedent whatsoever for the action of the Chair?

The PRESIDING OFFICER. Since the Chair is aware of no precedent on the point——

Mr. LEAHY. Is there any precedent for the use of germaneness against XV-5?

The PRESIDING OFFICER. The Chair stated that there are no precedents on the point, and for that reason, the Chair will submit the question to the Senate.

Mr. LEAHY. Can the Chair, in its discretion, permit debate on the defense of germaneness?

The PRESIDING OFFICER. The Chair, in its discretion, can entertain debate on the question it has submitted to the Senate—namely, is the defense of germaneness an appropriate defense to a point of order based on rule XV, paragraph 5?

The PRESIDING OFFICER. The Chair will entertain debate.

Mr. LEAHY. Mr. President, I made the point of order. It is obvious a point of order would lie after the defense of germaneness. There are no precedents for the defense of germaneness. I assume that the parties making the defense of germaneness would raise some points which show that such a defense is justified.

Mr. KASTEN. Mr. President, I think the question and the issue is clear. I am prepared to have the issue considered by the Senate.

Mr. LEAHY. Mr. President, it has been contended that a point of order should not lie against a $600 million amendment which has been reported by the committee. The defense of germaneness would exist where the other body has legislated on an appropriations bill. That is why we have it, so the Senate would not have its hands tied by its rules. That is not the case here.

I wish to make a couple of points:

The House of Representatives obeyed its own rules in this matter. When the point of order was raised in the House of Representatives, the matter was taken down. It struck the entire matter from the bill because it was legislation on an appropriation bill.

Second, the legislation that does exist in the House version of Foreign Operations under this bill has nothing to do with the Caribbean Basin Initiative or $280 million for military aid. It is only related to other matters.

In sum, the House of Representatives obeyed its own rules. We should do the same. It would be the most enormous stretch of any sense of germaneness to say that under the committee amendment we have before us today this would be germane and that the point of order would not lie.

The PRESIDING OFFICER. The question is, Is a defense of germaneness a valid defense against a point of order based on rule XV?

Mr. LEAHY. I am sorry, Mr. President, I cannot hear the Chair. Will the Chair begin again?

The PRESIDING OFFICER. The question is, Is the defense of germaneness a valid defense against the point of order based on rule XV, paragraph 5?

This question is being submitted to the Senate for its decision. An "aye" vote maintains the appropriateness of raising the defense of germaneness. A "nay" vote holds that the defense of germaneness is not appropriate against a point of order under rule XV, paragraph 5.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Did the Chair rule on whether rule XV, paragraph 5 a point of order lies against the material after the question of germaneness?

The PRESIDING OFFICER. The Chair has not ruled on that point.

Mr. LEAHY. Will the Chair rule on that point?

The PRESIDING OFFICER. The Chair will wait for the Senate to decide whether germaneness is or is not an appropriate defense.

If the Senate holds that germaneness is not an appropriate defense or if the Senate decides germaneness is a satisfactory defense generally but is

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not applicable to this case, then the Chair will rule on the point of order.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Then what the Chair——

Mr. CHILES. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. CHILES. Will the Senator explain to the Senator from Florida, is he raising a point of order on rule XV, paragraph 5?

Mr. LEAHY. I am.

Mr. CHILES. Then it would seem to me, Mr. President, if the point is being raised on rule XV, paragraph 5, as well as the point on the other, then the Chair should rule and the Chair should not skirt this by saying he is going to wait and rule after the Senate has had a vote on germaneness.

I think a Member of this body is entitled to raise one or more points that he wishes if he has those points and the Chair should rule on all of those points.

The PRESIDING OFFICER. The question is, Is the defense of germaneness an appropriate defense?

All those in favor signify——

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. If the Chair were to rule on the point of order and even if the Chair were to rule in favor of the Senator from Vermont on that point of order, and even assuming that the Chair was sustained in the ruling on that point of order, that would not preclude a subsequent effort to raise a defense of germaneness, would it?

The PRESIDING OFFICER. Once the Chair has ruled on the point of order, the defense of germaneness is too late.

Mr. LEAHY. Mr. President, is there any precedent for that?

The PRESIDING OFFICER. Under rule XVI when points of order are made against amendments on the grounds that they are legislation a Senator may raise a defense against that point of order on the grounds that the amendment is germane, but that Senator must raise that defense of germaneness before the Chair rules on the point of order.

Mr. LEAHY. We are operating under rule XV, paragraph 5 when there is no House text. There is no House text under rule XV 5 or under rule XVI. Must not the Chair rule on the point of order when there is no House text at all on this subject, this having all been stricken out in the House already on a point of order?

Mr. President, the point is there is no House text whatsoever here.

The PRESIDING OFFICER. Since this is a case of first impression the Chair is submitting the question to the Senate for its decision. The question is debatable, and the Chair is entertaining debate.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, will the Senator withhold for just a second?

Mr. LEAHY. I withhold.

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. If we vote on the germaneness issue, the point of order dealing with germaneness, first, and the Chair is not upheld, then would the second point of order that this is legislation on an appropriation bill, would that be a second vote then?

The PRESIDING OFFICER. No point of order has been made that this is legislation on an appropriation bill.

Mr. BUMPERS. Well, the question of germaneness, if the Chair is not sustained on that, would there be a second vote on the other point of order?

The PRESIDING OFFICER. The Chair has made no ruling. The Chair is submitting the question to the Senate.

Mr. LEAHY. Mr. President, under the precedents of the Senate, the Chair is referred to rule XVI. Is it not true that we have a precedent in a case where after the question of germaneness was raised, but before the Chair submitted the question to the Senate for a decision, the majority leader made a second point of order that there was no House language in the House-passed bill to which the question of germaneness could be raised? The Chair sustained that point of order from which an appeal was taken, but the appeal was tabled, sustaining the ruling of the Chair, which sustained the point of order that there was no House language in the bill to which the question could be raised. The Chair then sustained the first point of order that the amendment was legislation on a general appropriations bill.

Is that not a precedent of the Senate for a ruling on the original point or order?

The PRESIDING OFFICER. The Senator from Vermont is correct, and this understanding is consistent with the question as stated by the Chair. The Chair is submitting the general question as to whether germaneness could be a valid defense under the circumstances.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Only if the Senate holds that germaneness could be a valid defense——

Mr. HATFIELD. Will the Senator yield for just one question? The Senator is looking for a particular right here, and I think it can be accommodated. I would like to suggest that we have a call of a quorum to get the Parliamentarian together with the leadership, which has been alerted in this matter, because I think we ought to be careful as to what kind of precedent we set in this matter at the moment. Let us work this out if we can with the Parliamentarian. Therefore, if the Senator will not object, I would like to suggest the absence of a quorum.

Mr. LEAHY. Mr. President, if the Senator will withhold in order that I may make a parliamentary inquiry, I understand the Chair has allowed time for debate. Would there be any time for debate on this matter after the call for a quorum, and that the Senator from Vermont be assured that he would be recognized?

Mr. HATFIELD. Mr. President, I ask unanimous consent that following the call for the quorum it be in order that the Senator from Vermont be recognized to pickup where we have left off at this moment, hopefully for a solution of the parliamentary tangle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I should have done this earlier. I apologize to anyone who has been inconvenienced by my delay.

I indicated earlier this morning that we should expect to be in late tonight. I have consulted with managers of the bill and with others, it appears that in order to make significant progress on this measure and perhaps to finish it tomorrow or the next day at the very latest, it will be necessary to stay in this evening. I advise Senators, then, that I expect us to be here until about 9 o'clock tonight, maybe a little later. Members should be on notice of the possibility of a late evening tomorrow as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the pending question?

Mr. LEAHY. I cannot hear the Senator.

Mr. HATFIELD. What is the question pending before the Senate?

The PRESIDING OFFICER. The question that has been submitted to the Senate is, Is germaneness an appropriate defense generally against the point of order lodged against an amendment to a general appropriations bill on the grounds that it violates rule XV, paragraph 5?

Mr. HATFIELD. Mr. President, I wonder if the Senator from Vermont would clarify for the benefit of the Senate whether he intends to pursue this question or if he has other parliamentary procedure in mind?

Mr. LEAHY. I appreciate the question, Mr. President. My concern, as I have expressed it to the distinguished chairman of the Appropriations Committee, is that we have totally usurped the powers of the Committee on Foreign Relations; that the Appropriations Committee has passed a Caribbean Basin Initiative, aid to El Salvador, and a whole lot of other things that have not been authorized. We have no deadline for when they might be authorized. We have waived the necessity for them to be authorized. What we would be doing is voting a half-a-billion dollars in foreign aid and never be able to explain to our constituents what it is for. Therefore, I raise rule XV-5, that this is substantially going into the jurisdiction of another committee.

I had hoped that the Chair might rule one way or the other on it. I think it is very clear that it is. The Chair declined, as is the Chair's prerogative, to rule on that.

The distinguished Senator from Wisconsin raised a defense of germaneness. The Chair has submitted that to the Senate and has graciously allowed time for debate on it, which we have had.

I also feel that it is not germane because there is not adequate language in the underlying House bill to make it germane.

Now, if the question of germaneness is going to be the question, then I would, of course, if we are going to do that, ask for the yeas and nays on that question, naturally.

My concerns are twofold, and I understand that I would still have the ability to move to strike such things as the language allowing us to bypass the Foreign Relations Committee and also have the ability to ask for the yeas and nays on the committee amendment itself.

In fact, a parliamentary inquiry, Mr. President: Is it in order to ask at this time for the yeas and nays on the committee amendment on foreign aid?

The PRESIDING OFFICER. It is not in order to ask for the yeas and nays on a first-degree amendment to which a second-degree amendment is pending.

Mr. LEAHY. I thank the Chair.

Mr. HATFIELD. I wonder if the Senator then would be willing to proceed along the line of raising a point of order against the section on the basis that it is legislation on appropriation and then let the Senator from Wisconsin raise the defense of germaneness to the question raised by the Senator from Vermont and let the Senate proceed to vote on that question?

Mr. LEAHY. I suspect that the vote is going to be the same in either instance, so we might as well stay with XV-5, if we are going to have to face the question of germaneness.

Mr. HATFIELD. I wonder, in light of the counsel from leadership and others to the Senator and other parties to this discussion about attempting to not raise the question on rule XV-5, which may set forth a precedent in the Senate, if the Senator from Vermont would be willing to avoid that type of issue at this point?

Mr. LEAHY. I tell my distinguished friend and colleague from Oregon that there are precedents on the germaneness issue on XVI. I would be happy to go under rule XVI if the defense of germaneness is not being raised so we do not have further precedent, but otherwise I feel strongly enough on this issue that I would risk precedent by going under XV-5. Again, I suspect the final vote would be the same under either one. I am being asked to give up a number of my rights. The other side does not seem to give up any of theirs, so I would rather go under that procedure. I have great faith in the collective wisdom of the Senate.

I am sure we would not set a precedent we would regret later on.

Mr. HATFIELD. Will the Senator yield?

Mr. LEAHY. Sure.

Mr. HATFIELD. Is the Senator not aware, as far as the Appropriations Committee is concerned, that we are willing to give the Senator from Vermont a vote on any part of this bill, an up-or-down vote on any question he should raise concerning the foreign aid section or any other section and in any form in which he wishes to raise that question as far as El Salvador, arms, economic aid, security aid? Would that not be satisfactory to the Senator as far as getting us out of this parliamentary entanglement?

Mr. LEAHY. Mr. President, I appreciate what the Senator from Oregon has said. The distinguished chairman of the Senate Appropriations Committee, Mr. HATFIELD, has always protected the rights of the Senator from Vermont and has always allowed a vote whenever I wanted one.

Mr. HATFIELD. And voted with him frequently.

Mr. LEAHY. And that is greatly appreciated.

I do not intend to go through this on a line-by-line basis. I think that would be unnecessary. I have no intention of taking the time of the Senate for that.

Mr. President, I make a parliamentary inquiry. Would it be in order for the Senator from Vermont to withdraw his rule XV-5 point of order and go to the usual point of order under rule XVI? Would that be in order?

The PRESIDING OFFICER. The Senator has a right, under the circumstances to withdraw his point of order, since the Senate has taken no action on the point of order, and the Senator then would have a right to make a new point of order.

Mr. LEAHY. Mr. President, I have an enormous amount of respect not only for the Senator from Oregon but also for my own leader, Mr. ROBERT C. BYRD, and for the majority leader, Mr. BAKER. I have listened to their concerns expressed during the quorum call, regarding some dangerous precedents we might enter into with respect to rule XV-5.

It is with reluctance that I withdraw my point of order under rule XV-5 and raise a point of order that under rule XVI, the language on line 6, page 31, of H.R. 6863, as reported by the committee, is legislation on an appropriation matter

Mr. KASTEN addressed the Chair.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. HATFIELD. First, I thank the Senator for withdrawing his original point of order and for rephrasing it under rule XVI. I express my appreciation to the Senator from Vermont for that.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wisconsin yield to me? I know he wants to raise the point of germaneness. That has to be voted on immediately, and I should like to make a remark.

Mr. KASTEN. I am pleased to yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I join the distinguished Senator from Oregon in congratulating the Senator from Vermont and in expressing appreciation to him for withdrawing the point of order involving Senate rule XV, paragraph 5. I think that to have that rule upheld by submitting to the Senate the question of germaneness would create serious problems down the road, especially in connection with reconciliation bills. I thank the Senator, and I thank the Senator for yielding.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. KASTEN. I yield.

Mr. BAKER. Mr. President, I take this opportunity to join the minority leader in congratulating the distinguished Senator from Vermont. What he did was highly responsible and perhaps inimical to his parliamentary interests in this situation. I believe that, in the long term, it is in the interests of the Senate, the Senator from Vermont, and all of us, in that we have time to give careful thought and consideration to the appropriate application by precedent and example of rule XV. I thank the Senator for forbearing in connection with the precedent at this time.

Mr. KASTEN. Mr. President, I raise the defense of germaneness.

The PRESIDING OFFICER. Under the precedents of the Senate and rule XVI, the question of germaneness having been raised, the Chair must submit the question to the Senate for a vote, without debate.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the committee amendment dealing with the Caribbean Basin Initiative germane? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—53

Abdnor
Andrews
Armstrong
Baker
Boschwitz
Brady
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
East
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Heinz
Helms
Humphrey
Inouye
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Packwood
Percy
Pressler
Quayle
Roth
Rudman
Schmitt
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—46

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
DeConcini
Dixon
Dodd
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Jackson
Johnston
Kennedy
Leahy
Levin
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Tsongas
Zorinsky

NOT VOTING—1

Mathias

The PRESIDING OFFICER (Mr. EAST). On this vote the yeas are 53, the nays are 46. Therefore, the amendment is germane and the point of order fails.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was held to be germane.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON UP AMENDMENT NO. 1199

Mr. KASTEN. Mr. President, what is the issue now before the Senate, the Percy amendment?

The PRESIDING OFFICER. The matter before the Chamber would be the amendment of the Senator from Illinois (Mr. PERCY).

Mr. KASTEN. I know of no more Senators seeking to debate that particular issue.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Arizona has asked for the yeas and nays.

Mr. HATFIELD. No, Mr. President——

Mr. DECONCINI. Mr. President, I ask unanimous consent to withdraw my request.

The PRESIDING OFFICER. The Senator did withdraw his request.

Mr. HATFIELD. Mr. President, the Senator from Arizona having withdrawn his request for the yeas and nays, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 1199) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT VOTES BE STACKED UNTIL 7 P.M.

Mr. BAKER. Mr. President, I have discussed this with the minority leader and other Members. Mr. President, I ask unanimous consent that any rollcall votes ordered between now and the hour of 7 p.m. be stacked to occur beginning at 7 p.m. in sequence, the same sequence in which they were ordered back to back.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1200

(Purpose: To strike out supplemental appropriations for economic support fund assistance, military assistance, international military education and training, and foreign military credit sales, and for other purposes)

Mr. LEAHY. Mr. President, I send to the desk an amendment on behalf of myself and Mr. PELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont (Mr. LEAHY) (for himself and Mr. PELL) proposes an unprinted amendment numbered 1200:

Beginning on page 31 with line 1, strike out all through line 17 on page 33.

Mr. LEAHY. Mr. President, I ask unanimous consent that Mr. DODD of Connecticut be listed as a cosponsor as well as Mr. DECONCINI from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, before the Senator commences his discussion of his amendment——

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order.

The Senator from Vermont has the floor, and under the rules of this Chamber he is entitled to be heard. The Senator from Vermont.

Mr. LEAHY. Mr. President, I do not want to unduly hold up my colleagues here. I have expressed my concern on the floor of the Senate in some considerable detail about the section referring to foreign aid in this supplemental bill.

The administration is asking for a total supplemental of almost $1 billion for foreign aid, mainly security and military aid. It is asking for $401 million in bilateral economic assistance and $301 million in military aid. It has already agreed to a military aid package of $52 million, with no funds for El Salvador, on the House side. The security arguments, therefore, really have less meaning here since the administration was apparently willing to give this away in the other body.

I ask unanimous consent that a letter dated July 28, 1982, from James L. Buckley, the Under Secretary of State, be printed in the Record. This bolsters the comments I have made about the administration's position.

There being no objection, the letter was ordered to be printed in the Record, as follows:

> Under Secretary of State,
> *Washington, D.C., July 28, 1982.*
>
> Hon. Clarence D. Long,
> *Chairman, House Subcommittee on Foreign Appropriations, Washington, D.C.*
>
> Dear Mr. Chairman: This is to inform you that the Administration finds that it has no responsible choice but to accept a compromise on the security assistance supplemental we have requested for FY 82. The compromise will include an overall total of $52 million of new MAP and FMS credits, for the purpose of funding programs for Sudan, Somalia, Honduras, Portugal and Costa Rica; and $350 million of ESF to carry out the President's Caribbean Basin Initiative.
>
> In so stating, I emphasize that the President's original request was specifically drawn to meet the most pressing needs of key allies; to improve stability in the Middle East, the Caribbean and Central America; and to pursue our national security objectives in Europe and elsewhere.
>
> We remain convinced that the requested amount is necessary. Nonetheless, we are prepared to accept this arrangement because of your assessment that it is this, or nothing; and we will seek no further funding under our FY 82 supplemental request.
>
> Sincerely,
>
> James L. Buckley.

Mr. LEAHY. Mr. President, we have already enacted over $2.5 billion for security assistance this year, $176 million in grant military aid and $750 million in foreign military sales credits.

When you look at the current economic crisis facing this country, can we really talk about another $½ billion here, especially $½ billion that has not gone through the crucible of the authorizing process, one that has not been debated in the authorizing process and apparently will not be? Are there real security needs?

The administration is willing to give up its request for military funds for El Salvador. Can we really vote this much money in foreign aid—and I would just repeat what the distinguished chairman of the Appropriations Committee said yesterday:

> Although the committee made reductions in several programs below the levels provided in the House-passed bill, our final product is still over the House bill by $226 million.

Mr. Hatfield continues to say:

> It should be pointed out, however, that the overage is, in large part, attributable to the committee's recommendation of $426,531,000 in foreign assistance, including $355 million for the President's Caribbean Basin Initiative.

(Mr. SCHMITT assumed the chair.)

Mr. PELL. Will the Senator yield for a question?

Mr. LEAHY. Certainly.

Mr. PELL. Would it not be the case, if we left things as they are now, exactly the same as if we in the Foreign Relations Committee decided to appropriate some money and did that?

Mr. LEAHY. It would be that exactly. It would really be saying that we do not need the committee system in the U.S. Senate and that we do not need both an authorizing and appropriating committee. We lose the checks and balances. I would say to my good friend, the distinguished Senator from Rhode Island, that we lose the checks and balances which assure the public that at least there will be full consideration of what we do here on the floor of the Senate.

Mr. PELL. And this waives, one step further, the specific provision of the law saying the Appropriations Committee should not take an action of this sort which does not apply to the Foreign Relations Committee until they decided to appropriate some money. Would that not be true?

Mr. LEAHY. Exactly. We would be saying that the rules apply to everybody but they do not apply to us.

Mr. PELL. I congratulate the Senator from Vermont for bringing up this amendment and I hope the amendment prevails.

Mr. LEAHY. I appreciate the comments of the ranking member of the Foreign Relations Committee.

Mr. President, last week this body ratified a constitutional amendment to balance the budget. This week we toss in one-half billion dollars in foreign aid without really even saying what it is going to be used for.

I have stated earlier that I go back to Vermont virtually every week and have doing this now for most of 8 years. I like to go around my State. I feel it is about the most beautiful State in the country. I enjoy talking with the people. I enjoy visiting them, and I enjoy hearing what is on their minds.

I do not think it comes as any surprise to Members of this body on either side of the aisle that the things I hear on their minds these days are cuts in housing, cuts in school lunches, cuts in nutrition, cuts in health, cuts in veterans benefits, cuts in aid to the elderly, cuts in energy, cuts and cuts and cuts.

Mr. President, I will be going back home either this week or next and I really am not too anxious to have somebody come up to me and say:

> Pat, we heard you voted for a half a billion dollars in foreign aid, having voted just last week in the reconciliation bill to make more cuts in all these programs that affect everybody in the country. You voted for a half billion dollars in foreign aid and that was not even authorized. You couldn't even point to a Foreign Relations Committee vote or a Senate vote or a law saying that that money had been authorized for what it is going for. You can cut our farm program, you cut us everywhere else, but you cannot cut this.

To paraphrase a distinguished colleague and friend of mine on April 29, "at a time when domestic programs are being reduced, this increase in foreign aid is hard for me to swallow." That was said by the distinguished chairman of the Subcommittee on Foreign Operations, Mr. Kasten, and I agree with him.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. CHAFEE. Is this indicative of the intense opposition that the Senator will bring against the $2.4 billion aid for Israel? Is this a harbinger of his views on that?

Mr. LEAHY. I would assume that we will look at the Israeli aid on the basis of has it been authorized and what is the status of it. The position I am taking is consistent with one I have taken over and over again in this body on the questions of authorization.

Mr. CHAFEE. The authorization is the key element?

Mr. LEAHY. The authorization on a major program, a new program, one that has really no precedent, weighs very heavily with me, yes, it does. We have some items in this bill that probably follow past legislation, past precedent. But there has been no legislation for the Caribbean Basin legislation, no legislation that has passed the Senate, no legislation that has passed the House of Representatives. Actually, nothing that has been voted on the floor here on the Caribbean Basin Initiative. It makes it very difficult for me to support a whole new program solely on the appropriations process.

To give an example, as we have had at times when we have voted appropriations bills, the distinguished Senator from Rhode Island and I and others have voted appropriations bills that may have exceeded the authorization. I would say that those are bills that normally are just following year after year after year of precedent. But it is very hard to vote on the appropriation level for something that is brand new.

I will support the Caribbean Basin Initiative once they tell me what it is going to be. I am delighted to see that the administration wants to have a policy in Central America. After 1½ years, it is high time. I am delighted

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that they are now willing to do so. But I think what they should do is come here and say, "This is what our policy will be. This is what the Caribbean Basin Initiative is going to be." Then we will debate it with the majority of the President's party in this body, and then vote the dollar needs.

Mr. CHAFEE. As I understand the Senator's explanation to my prior question, it is not the dollars involved, but it is the lack of authorization and what the program is. If that is what he is following, I think it would be better not to constantly refer to the amount, sort of describing the Nation going into bankruptcy, which obviously it is not.

Mr. LEAHY. I think the dollars are an issue. I do not think we should willy-nilly vote $128 million for El Salvador. This bill includes $128 million for El Salvador. I would like to see some authorizing legislation on that.

I am not too sure that there are very many Vermonters, Republicans or Democrats, who expect me to be voting $128 million for El Salvador without some darn good reasons for it. The dollars are part of the issue. But the dollars in fact become an overwhelming issue without authorization. A half billion dollars is a half billion dollars. That is far more than the whole budget of my State for a year. That is far more than the taxpayers of the State of Vermont will spend in a year, in 1½ years. If we are going to give that away in foreign aid, I think we ought to have it authorized. We ought to know exactly where the foreign aid is going to go before we do it.

So the dollars are important to me, I tell my good friend from Rhode Island, whether they are going to El Salvador or anywhere else.

The dollars may be justified. Maybe notwithstanding our balanced budget constitutional amendment that we passed last week, this half billion dollar increase is justified. Maybe it is. But none of us can really know without the authorizing legislation.

Mr. PROXMIRE. Will the Senator yield briefly?

Mr. LEAHY. I yield to my distinguished colleague.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Vermont on what he is doing here. I think it is so important to respect the integrity of our authorizing committees. We should have an authorization, particularly with a new program and a new big program.

May I ask my good friend from Vermont how he would explain, for example, the fact that on page 31, line 13, the amendment provides $5 million for Haiti, and on line 14 it provides $50 million for Jamaica? Does that mean that Haiti is less needy, that Jamaica is 10 times as needy as Haiti? Is that the kind of division of aid that we ought to have a solid record on, that we ought to have a knowledge about, that we ought to have a demonstrated case showing that we should provide that kind of disproportionate assistance to Jamaica compared to Haiti?

Mr. LEAHY. I have to agree with my good friend and seatmate from Wisconsin. There is no record that I can look back to and say why it is in here.

You can look at these things all the way through. The bill asks for an additional $12 million for military aid to Honduras. That is in addition to $10 million appropriated last year in military aid, $40 million in the proposed CBI, $20 million in last year's development aid, $28 million proposed for next year's aid, $25 million proposed in next year's ESF, $5 million in Public Law 480, $20 million in military construction, and another $15 million in military aid request for fiscal year 1983.

I asked the administration what their policy was in Honduras, what the money was for. I did not get many answers. It is a small and poor country. It does need economic assistance. But what is the military threat? What requires this supplemental?

I share the concern of the Senator from Wisconsin (Mr. PROXMIRE). Just look at the numbers floating across the page. In El Salvador, the Economic Support Fund, $40 million; military assistance, $82 million; Public Law 480, title I, $22.4 million.

That may not be an awful lot of money to Foggy Bottom, but to Middlesex, Vt., it is a fair amount of change.

Mr. DODD. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. DODD. I thank the Senator for yielding. I commend the Senator for offering this amendment. I cosponsored the amendment but I did so with great reluctance. Frankly, the Caribbean Basin Initiative, Mr. President, is the first such initiative in Central and South America in 20 years. The last program that was anything like this at all was the Alliance for Progress, offered by President Kennedy as a way of trying to deal with economic and social injustice in this hemisphere.

So it is with a great deal of reluctance that I stand as a cosponsor of the amendment being offered by the Senator from Vermont and the Senator from Rhode Island. But I do so quite frankly because I think our colleagues ought to know what this issue is.

Despite the fact that Caribbean Basin Initiative has been called an economic development program for the region, it is nothing like that at all.

We are talking about $230-odd million to go to four countries, the balance of that money to go to the rest of the entire Caribbean. We are talking about $128 million going to a country that is in the middle of a civil war, El Salvador. Does anyone in this Chamber believe for 1 second that $128 million in economic assistance is actually going to provide economic help to El Salvador at this hour? Granted they have problems, but does anyone really believe we are going to achieve that?

Do you know why we are providing $128 million for El Salvador? Because the very rich in El Salvador are taking their money out and sending it to Miami and to Switzerland. We are going to jump in with $128 million of this country's money to bail out the capital flight from El Salvador. That is what it is all about. We are not going to see 1 red cent of this money going toward a food program, a housing program, a road program. It is balance-of-payments money, capital flight issues in El Salvador.

In addition to the $20 million in military assistance, we are now going to bail out a nation economically where its own people, the very affluent of this country, will not invest in it. That is No. 1. That is a major issue we have. It is really not an economic development program.

We are going to provide $5 million for Haiti. We do not even show $5 million in the budget. I cannot remember when we authorized $5 million for anything. In the last few weeks the Haitian Government has eliminated some of the best people they put into their Government a few months ago, such as the finance minister. Well, $5 million may not be a lot but one of the reasons they are getting it quite frankly is because they claim to be an ally.

We are going to provide $50 million for Jamaica. I have a great deal of respect for the prime minister there. I think he is doing the best job he can. But let us be honest with ourselves. The economic problems of Jamaica are certainly not as serious as the economic problems of the Dominican Republic. Yet there is disparity there.

The point is this: Call this what you will—call it a Caribbean Basin Initiative, call it economic assistance to the region. It is nothing of the kind. It is not even integrated. In fact, the committee, by a vote of 9 to 8, voted to eliminate these markings and identifications and to put all of the funds, the $350-odd million, into a trust fund. That is what the committee did. That is what the authorizing committee has done. But, the appropriating process here has said, no, that does not really count at all, we are going to do what we want anyway, regardless of what the committee has done.

Granted, the Senate as a body has not done anything. I have not voted on a foreign aid bill that came to the floor. I believe foreign aid is absolutely essential. It helps America's prestige around the world. It certainly fulfills obligations we have to our neighbors. But I do hope our colleagues understand what we are doing here today.

The $350 million in just the Caribbean Basin Initiative proposal—this is an end run. It is an effort to avoid the kind of painstaking process that the authorizing committee has engaged in.

We have gone through days of markup, days of hearings, to try to figure out what we ought to do and what made sense. We made a decision in the committee and, frankly, the committee decision now is not even being considered.

Let me make something also clear to my colleagues here. Nothing is going to happen on the second and third leg of the Caribbean Basin Initiative. This is just a bilateral aid program. That is all this is, $128 million for El Salvador. That is basically what it is.

What happened to the tax and trade issues? I shall tell you where they are, Mr. President. They are in the Finance Committee. And they are not coming out, either. There is no way those bills are going to come out of the Finance Committee this year.

They talk about economic development in the region and tax incentives and aid issues could play a role in Caribbean Basin development. But they are not going to see the light of day. All we are going to see is this, without any consideration at all for the real economic need of the region.

I strongly urge my colleagues to support the amendment being offered by the Senator from Vermont and the Senator from Rhode Island, because I think it is about time we said no. This has not been well thought out. We are not going to subsidize capital flight, which is what we are doing.

We are not going to sit back and support the sending of our tax dollars to a country where people who have the financial capability fail to do it themselves. That is what we have here.

If we have the will, we will accept this amendment and allow the committee to do its work and come before this body with a well-thought-out bill, and then proceed on it.

I thank the Senator from Vermont for yielding.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I wish to echo much of what my good friend from Connecticut has just said. I support a great deal of our efforts in foreign aid. I have done this on a bipartisan basis. I have voted for foreign aid bills of President Ford's, of President Carter's, and of President Reagan's. But every time I voted for foreign aid, I have at least known what is in the bill. I have at least known where the money is going to, or at least known where we wanted it to go. Now we are dealing, we must be quite frank about it, not only with an issue in this Caribbean Basin Initiative, or a great deal of it, not only of not knowing where the money is going to go, but not even knowing where we want it to go. We are going to have a difficult enough time when we finally have a CBI bill before us, when we finally lay out what our policy is going to be, getting assurances that the money will actually go where we want it to go. We are going to have a difficult time being sure that if a land reform program is part of it, indeed, they will have land reform.

We are going to have a difficult time knowing, if American money goes in for economic development in a particular country, it does not end up in a Miami bank account.

We are going to have a difficult time knowing that, when we have a certification of human rights progress, indeed, human rights progress has been obtained.

We are going to have to know for sure that if we are told that killing has stopped, for example, in El Salvador or the killings have slowed in El Salvador, indeed, if that is because there has been a change in attitudes and not simply that most of the likely targets are already dead and that is why the killings have slowed. There are so many issues, all of which would be debated if authorizing legislation is before us.

Mr. President, I have stated before that I have supported foreign aid bills in the past of three Presidents—two Republican, one Democrat—I intend to do it in the future. I intend to with President Reagan. I hope to see a Caribbean Basin Initiative that I can support. I would like to see one that would have the bipartisan support of this body, one that cuts across the ideological, geographical, political, or partisan lines. But I am not going to be able to do it, in a time of great austerity, by writing a blank check.

I know when the President's fiscal 1983 foreign aid request came before Congress. I remember well what the Foreign Relations Committee Chairman Senator PERCY, told Under Secretary of State James Buckley.

> Having spent the weekend in Peoria for three days two weeks ago, I can tell you that foreign assistance doesn't fly too well in Peoria or in most other parts of the country.

I remember what Senator HELMS, chairman of the Committee on Agriculture, said:

> It's a little tough for me to look at foreign aid with farmers in Illinois, North Carolina, South Dakota, going down the tube because they can't get money.

This may well be an issue that is in the best interests of our country, notwithstanding austerity at home, notwithstanding cuts in programs at home; maybe it is best to continue foreign aid and to continue spending money in these other countries. But if that is the case, then the case has to be made. On the floor of the Senate, the case has not been made.

If we are in a time of great austerity; if we are in a time when things are so rough that we must vote in this body on a constitutional amendment to balance the budget; if things are so tough that we must cut back on our school lunch program, on our aid to farmers, out housing for the elderly; if we must cut back on medicare and medicaid; if we must cut back on our educational efforts; if we must cut back on our health efforts; if we must cut back even on vaccinations; if we must raise catsup to the level of a vegetable—if we must do all of those things, then I think it behooves us, Mr. President, at least when we are talking about sending money to foreign countries, to sit down and ask first, what is it for?

If we are going to have to be making all these cuts, and I believe that many we have to make in this country because of our economic situation, but if we are cutting everything in our own country, let us not sign blank checks for other countries. Let us make sure that the interests of the United States are being protected when it goes abroad.

Let us make sure, when we shell out a half billion dollars in foreign aid, that we know what it is going to be used for. Let us have a little bit of responsibility. Let it at least be argued, let us know what the overall policy of the United States is going to be: Is this the beginning of the Caribbean Basin Initiative? How much is that going to cost? Is it going to be eventually $1 billion, $2 billion, $5 billion? Nobody has said yet. What do we hope to gain by it?

Is it a case maybe of too little too late? Will it bring stability in Central America? Will the killings stop in El Salvador? Will the human rights be respected? Will we keep some of the countries out of the orbit of the Soviet Union? Those are the appropriate questions before we start out with all of this money, because be assured, my friends, this is only the camel's nose. There is nobody I have talked with that suggests for one moment that this is all the money that is going to be requested. We are embarking on the beginning of billions of dollars of aid.

Did the Senator from Arizona seek recognition? I would be happy to yield to my colleague, the Senator from Arizona.

Mr. DeCONCINI. I thank the Senator from Vermont, and I want to compliment the Senator first for locating this particular area in the supplemental appropriations bill and the outstanding presentation he has made this evening in opposition to it.

I rise in support of the amendment of the Senator from Vermont for the

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same reason I have risen with the Senator from Montana (Mr. MELCHER) during the budget resolution debate, to try to put some curbs on the excessive expenditures in the foreign aid area.

I find it absolutely ludicrous for us to continue to advance hard-earned taxpayers' dollars when we are all voting—not all of us but most of us, 69 of us—for a constitutional amendment after much debate to balance the budget. Now we have a chance to reduce that deficit by a nifty little 800 some million dollars, and I hope that those who sincerely want to see this budget brought under control will agree that this is a good place to start.

It is very hard to talk to constituents when you talk about putting a pay cap on retired military personnel and civil servants, when you talk about cutting veterans' health care benefits, and many other areas, and then have to hear, "Well, how do you explain this year, 1982, $3.1 billion more in foreign assistance than the year before?"

Here is a perfect example of putting the cart before the horse when it has not been authorized, No. 1; No. 2, when the priorities have certainly not been set down, and, No. 3, when we flat cannot afford it. We cannot afford an additional $800 million today. It is time the American people know that on the floor this evening there is going to be an opportunity to decide whether or not we have our priorities in the right perspective, whether or not we think it is important that we do something about the needs in this country and also about the need to reduce that deficit.

I thank the Senator from Vermont for bringing this to the attention of the Senate. I compliment him for it and I hope our colleagues will join us.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me make a few other points, if I may, in support of the amendment offered by the Senator from Vermont.

There has been an extensive debate over the past year and a half on the issue of our financial support for the Government of El Salvador. Without debating that issue, Mr. President, as to whether or not we should or should not be supporting the Government in El Salvador, I think all of our colleagues in the Chamber would agree on one point, and that is that it deserves to be debated. Regardless of where one comes down on the issue of El Salvador, very few other issues have captured as much of the attention of the American public or the press as the issue of El Salvador. In the last 3 years, between economic and military assistance almost a quarter of a billion dollars has gone into El Salvador.

I might add that that amount of money is more money than we have spent in three and one-half or four decades in El Salvador in economic aid, just to put it into perspective.

But certainly it has been an issue in hot debate. There have been countless editorials, op-ed pieces in newspapers, TV debates, radio debates, debates in committees in both bodies of this Congress. What we are being asked to do in effect in this particular bill is to agree almost without debate that El Salvador should get almost a third of all the money that is going to go to the Caribbean Basin Initiative, $128 million just sort of put in the bill despite the fact that the committees charged with the responsibility of debating the merits of such a program have taken a different position. By a vote of 9 to 8 the Foreign Relations Committee decided that it made more sense to multilateralize this assistance, to better coordinate with the donor countries of Canada, Venezuela, Mexico, and Colombia so that the Caribbean Basin Initiative would work in a most efficient possible way. What we are doing is totally obviating that discussion and that debate. We are saying it did not really matter at all.

What I am suggesting is, whether or not you agree or disagree with the conclusion of the authorizing committee, certainly the authorizing committee deserves more respect than the treatment it is getting by just totally disregarding the hours of debate that preceded the vote in the committee to multilateralize this assistance, rather to make it a bilateral aid program that we have done by earmarking the funds specifically for the countries that we think deserve that assistance.

Mr. President, I emphasize again that I happen to feel very strongly about the need for a Caribbean Basin Initiative. The region needs it desperately. It is the best hedge we have against the kind of tragedy we see in El Salvador, we saw in Nicaragua, that we are seeing in Guatemala, we may see in Costa Rica before the year is out. The best hedge against totalitarianism, against the Marxists, the Leninists, is to have a country that is economically sound based on democratic principles and the right of self-determination.

The Cubans and others have never been successful in penetrating those societies, but what we are doing with this bill is to provide a disproportionate amount of funds to one nation for the simple reason that the people who live there have failed to make the investment in their own nation. We are not suggesting that there ought to be a slowdown in capital flight, not making these funds contingent upon El Salvadorans investing in their own country. We are saying we will bail you out, we will provide the $128 million so that you can continue to take your money out of El Salvador and put it in accounts in other nations including our own. That is what we are really doing.

For the reasons I have identified, the reasons that have been identified by the distinguished Senator from Vermont, the distinguished Senator from Arizona, and the distinguished Senator from Rhode Island, I hope that our colleagues agree to this amendment and allow for a normal process to proceed. If we are truly interested in providing the kind of economic assistance that the President has described, through the vehicle of the Caribbean Basin Initiative, then let us do it intelligently. Let us do it so it will make a difference, so that it will reach the people we would like to see these funds reach, the people who are desperately trying to get their countries back on their feet. The present process will not achieve that. We are wasting money through this proposal. I strongly urge the adoption of the amendment. I yield back the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN, Mr. President, the Appropriations Committee is recommending approval of the administration's economic assistance portion of the Caribbean Basin Initiative including an add-on of $5 million for Honduras. I point out to the Senate that that $5 million add-on has been offset by a similar reduction in the military assistance request for that country.

Mr. President, the Caribbean Basin Initiative is the single most important program the administration has suggested for Latin America. It represents the most comprehensive economic cooperation package since the Kennedy administration's Alliance for Progress 20 years ago.

The CBI is going to provide badly needed budget and balance-of-payment support for the economies of several important countries in the Caribbean.

It is important to recognize that we have had five different hearings touching on subjects dealt with here, one being a special hearing on the CBI itself.

It is also important to recognize that we have worked with the Foreign Relations Committee and with the chairman of the Foreign Relations Committee in a compromise amendment on the authorizing legislation. The amendment which was offered by the distinguished chairman of the Foreign Relations Committee and which was adopted provides that funding for the CBI will not be obligated until September 15 or until enactment of authorizing legislation, whichever comes first.

So, basically, that keeps intact the Appropriations Committee action on this matter, although it gives the authorizing committees sufficient time in which to take action.

This is a good accommodation, a fair compromise, and we are under a time constraint in connection with this matter.

One reason why the waiver provision of that bill and the chairman's amendment were necessary was the severe outlay restraints that will affect function 150 in fiscal year 1983. If all expenditures under the CBI are delayed beyond September 15, the impact of this outlay problem for fiscal year 1983 will be severe.

I yield at this time to the ranking minority member of the Foreign Operations Subcommittee, the distinguished Senator from Hawaii. I thank him for his help, his support, and his work. I know that he joins me in trying to work through the difficult and serious problems we have in the Caribbean.

I hope this amendment is defeated.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I find myself in a very uncomfortable position, debating this issue in opposition to my beloved colleagues on the Democratic side of the Senate Chamber. But before proceeding, I think a few items should be clarified.

This is not the first time we have appropriated moneys without authorization. As many Members are aware, I was chairman of the subcommittee for many years. I can recall at least two occasions when we appropriated huge sums of money for the migration and refugee programs covering Indochina, and this was a new program. The authorizing committee, the Foreign Relations Committee, for reasons of its own, had failed to act. An emergency was upon us, and on two occasions we appropriated millions of dollars.

I can also recall at least two occasions when we appropriated funds without authorization on another new program, the international narcotics control program. Narcotics abuse was a problem that was reaching crisis proportions, especially in our port cities and our huge urban areas, and we felt that the time had come for us to become involved not just within our localities but at the source.

On at least four occasions, we appropriated funds for the international financial institutions, without authorization. These are the funds we set aside for the multilateral development banks.

I am certain it is common knowledge to all of us here that on countless occasions we have appropriated funds under continuing resolutions without authorization; and when one speaks of continuing resolutions, we are talking about the whole foreign assistance package.

We have appropriated funds for programs in the Middle East for Egypt, for Israel, for Lebanon, for Jordan, all without authorization.

In looking over the measure presently before the Senate, under appropriations for the Department of State, I can see, on one page alone, four items totaling more than $60 million that will be appropriated without authorization.

So I think the record should show that this is not the first time. The question is: Should we wait?

Second, it has been suggested in opposition throughout the debate that the military assistance program, the foreign military sales program, and the military education program have not been authorized. I am certain that all of us know they have been authorized.

I believe the chairman of the committee has adequately covered the reasons why the Caribbean Basin Initiative is worthy of our support. It is true that we are supporting the El Salvador Government and economy; and it is true that many of their wealthy people have taken out their funds. But why are they taking out their funds? Because of instability and because of terrorism in that country.

I know that it is tempting for all of us to close our eyes and look inward, within our own country, in times of need and crisis; that we wish to close our eyes to any relationships and concerns we may have with foreign countries. But I think we should remind ourselves that, notwithstanding the greatness of this country, we are not independent. We are dependent upon other countries. Our colleagues should be reminded that about 15 years ago, a very important commission made a very important study to determine that 100 most essential strategic goods that are required to maintain our economy and keep our Republic afloat. Of the 100 items—such as cobalt, manganese, titanium, iron, copper, platinum—it was found that we could provide only 15 percent. Eighty-five percent had to come from the outside.

For example, Jamaica provides most of our bauxite. The only bauxite deposits we have in the United States are found on the island of Kauai, in the Hawaiian chain, under the city of Lihue, and I do not believe that the people of Lihue will dig up the city for the bauxite.

What do we find in the Caribbean that is so important to us? Why does the committee feel that money should be set aside for these countries—these foreign countries—at a time when we are denying our people? For one thing, we find that one-half of our exports and imports that are carried by ships have to go through the Caribbean; they have to go through the Panama Canal. Three-fourths of all our oil imports have to follow sealanes through the Caribbean. It would be most uncomfortable if these important countries in the Caribbean were in unfriendly hands.

Third, this is a time when we are concerned about illegal immigrants. We are going to debate in a few days the matter of immigration—about the Haitians, about the Mexicans, about the Indonesians, about South Americans who are illegally entering the United States.

Every study has indicated that the economic pressures in the Caribbean nations have contributed heavily to the illegal immigration to the United States. If we want those people to remain where they are, I believe the time has come for us to address these economic conditions of these countries.

Fourth, I think it should be noted that the economies of the countries in the Caribbean Basin are very important to our economy. Even under poor conditions, they have been purchasing at least $7 billion of U.S. goods. This was last year.

Fifth, I believe it should be noted that of the $350 million that will be appropriated in this bill for the Caribbean Basin Initiative, much, if not all of it, will be spent in the United States.

It is true that this is not truly an economic support program. As my colleague from Connecticut said, this program will help these countries by assisting them on their balance of payments deficits. Without this assistance we will find several of these countries not only on the verge of bankruptcy but possibly going into bankruptcy.

So we have a choice, I say to my dear colleagues, of closing our eyes to the problems of the foreign countries, or concerning ourselves with their problems because I am always convinced that if there is a riot in Bangladesh, it will affect us; if there is a civil war in El Salvador, it will affect us, if Nicaragua falls to an element that is not friendly to us, it will affect us.

And if we are to maintain this democracy which we cherish so much, we cannot uphold ourselves as an island. We are not an island. We are part of the world.

It is a large sum. But when one considers the economic health and political stability of our country, I think it is a small investment to make.

I hope that my colleagues will uphold a position of the committee. As indicated earlier I find it very uncomfortable speaking against my colleagues on the Democratic side. But I want to be consistent, whether in the majority or in the minority.

I thank the Chair.

Mr. SYMMS and Mr. PERCY addressed the Chair.

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The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I wish to compliment my colleague from Hawaii for those very incisive remarks.

I shall be very brief. I know the chairman of the Foreign Relations Committee is seeking time.

I would like to point out that there are 100 million people who live between the borders of the United States on the southern side and the Panama Canal. We hear this hue and cry about our immigration problem, and the Senator from Hawaii touched on the immigration problem that I think is ahead for us, and surely the United States with billions and billions of dollars that we have poured overseas in the Far East, in Europe, in the Middle East, in terms of foreign aid, can come up with a little bit of support to try to help people right here in this hemisphere.

I had the opportunity to visit Central America earlier this year, and I have filed a report with the majority leader and made it available to all my colleagues on what I observed in Central America.

I only say to my colleagues that I think without America's aid right now in El Salvador surely things will be very, very difficult in the future.

I believe that the Senator from Hawaii makes a very, very good argument in terms of safeguarding the supply of minerals and resources that we are relying on in this country, in terms of the Caribbean, the oil flow that comes in through the Caribbean Basin, in terms of its essential importance to the future security of the United States. If we fail to defend freedom in El Salvador and in Central America, we are going to have immigration problems in this country that will be unimaginable when compared to anything we have had in the past. There is no question about it, in my judgment.

If we apply the rule of 10 percent, we will be talking about at least 10 million immigrants walking through Central America and across that 2,100-mile unmanned border with Mexico. There are already a half million El Salvadorans in the United States. If the efforts of the government in power there now to defend freedom should fail and the efforts we are making should fail, then I think we could probably anticipate seeing not next year, not 5 years from now, but immediately, another half million in the United States, and there are problems that we as Members of this body will have to cope with.

So I believe it would be very shortsighted for the Senate here tonight to support the amendment of my good friend from Vermont. We should stand with the Foreign Relations Committee, and I believe that the wise decision would be to vote down the Leahy amendment.

I yield the floor to the Senator from Illinois.

Mr. PERCY. Mr. President, I express appreciation to both the Senator from Hawaii and Senator Symms for what I consider to be a very sound evaluation of programs that are in the United States national interest.

We are talking about security assistance. We are not just talking about the CBI. This amendment strikes programs that have been authorized for a year in the Foreign Relations Committee. This strikes supplemental appropriations for military assistance, military training, military credit sales, and the special defense acquisition funds. We are striking at the heart of things that we have worked on to strengthen our own national security interest and the security interest of our friends.

In a period when the President has placed the highest priority on security, why would we strike at the very programs and funds that strengthen others and by so doing strengthen the common defense? That is the most self-defeating thing that I have ever heard.

This amendment strikes at the heart of these security assistance programs, and we have to realize that.

We will deal later with CBI and we will have other amendments when we can talk about that. But I think at this particular point it is well to just indicate how closely allied these programs are that will be cut out with our own national security interests.

All of these programs, as I say, have been authorized except the CBI, and I have reiterated and will repeat again that the CBI can be authorized by September 15. This amendment strikes funds for NATO allies that have bases used by U.S. military forces, Portugal and Spain.

The Ambassador from Portugal came in today to say goodby as he now leaves to go back to be Foreign Minister of Portugal. I can just imagine what his reaction would be as foreign minister of a fine NATO ally if we strike at the heart of funds that he feels are small indeed compared to the real overall need.

It strikes funds for U.S. allies in South Korea and Thailand that are under constant military pressure.

Have we forgotten that we fought a war in Korea? Have we forgotten that and we won freedom for South Korea? Are we going to endanger that by sending a signal out there that we think the danger is all over?

Just take a trip out there, just talk to them, talk to anyone who has been in that area and he will tell you the danger is not over, the danger is ever present, and the buildup in North Korea is very real indeed.

This strikes funds for Sudan.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. PERCY. I will be finished in just a moment and be happy to yield.

This strikes funds for Sudan and Tunisia that are under constant political and military pressure from Libya's Qadhafi. I was in Sudan at the time of the riots there in January when they had thousands of people rioting and a death as a result of pressure on them economically and because they had to increase the price of sugar some 60 percent.

Certainly we know that Tunisia is one of the staunchest friends we have, but they are under constant threat from Qadhafi. This is the wrong time, the wrong time indeed to take this kind of a measure.

A prominent diplomat from Europe today reported that today for the first time in his memory it is popular in Europe to be anti-American. They feel some of our policies have been very inconsistent. We know the problems we are facing in the Middle East today, all over the area where the credibility of the United States has dropped down drastically.

You do not buy friends but you also do not destroy programs that have been worked out in cooperation with friends, allies, and supporters of the free world. We do not just pull the rug out from under them precipitately this way. I trust the amendment will be defeated.

Mr. LEAHY. Mr. President, I listened to what the distinguished chairman and my good friend from the Foreign Relations Committee has said. Incidentally, when he mentioned Sudan I point out they are now substantially in default of their FMS guaranteed loans as are some of the other countries listed in a recent GAO report, including El Salvador.

When he speaks of the urgency, I would remind the Senate of the letter that has already been placed in the Record from Mr. Buckley in which the administration suddenly found they could do without nearly a quarter of a billion dollars of MAP and FMS credits.

Now, this is why we should vote on this only when we have an authorization. It is obvious the one hand does not know what the other hand is doing. I want to know where a half-billion dollars of the taxpayers' money is going before I vote for it.

Mr. THURMOND. Mr. President, I rise today in support of the appropriations included in this bill to carry out the President's Caribbean Basin Initiative.

This program will target much needed assistance to several small developing countries in Central America, the Caribbean, and South America. This initiative addresses the poor economic conditions which threated political and social stability in the region.

The program includes provisions for improved trade agreements with these countries, tax incentives for U.S. industries willing to invest in these areas, and direct economic and technical assistance to these nations.

Mr. President, I feel it is imperative that we undertake this initiative to improve our ties with our neighbors to the South. This is an excellent opportunity to strengthen our commitment to freedom and independence for the peoples of the Western Hemisphere.

It would be a grave strategic error to allow subversive forces such as Cuba and the Soviet Union to continue being the dominant influence in this area of our hemisphere. If this program is implemented, a clear message will be sent to our adversaries that we are willing to assist our neighbors in their attempt to preserve their freedom, peace, and security.

The peoples of Central America and the Caribbean are our fellow Americans. The most effective way of maintaining and improving our relations with our fellow Americans is to insure that they are not forced to exist under economic depression and misery. This program will allow us to answer their call for assistance, and at the same time, it will allow us to improve our strategic position in the area. The results will be a free, prospering hemisphere whose countries have a better understanding of each other.

Mr. President, I am pleased to lend my support to this progressive and imaginative initiative, and I hope that my colleagues will be able to support it also.

The **PRESIDING OFFICER** (Mr. Hayakawa). Under the previous order, a vote has been ordered for 7 o'clock.

Mr. **LEAHY**. Have the yeas and nays been ordered, Mr. President?

The **PRESIDING OFFICER**. The hour of 7 having arrived, the question is on agreeing to the unprinted amendment of Senator Leahy, UP No. 1200. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Is there objection? The Chair hears none, and without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

Mr. **CRANSTON**. I announce that the Senator from Georgia (Mr. Nunn), the Senator from Michigan (Mr. Levin), and the Senator from Michigan (Mr. Riegle) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. Levin) would vote "yea."

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 42, nays 54, as follows:

[Roll Call Vote No. 303 Leg.]

YEAS—42

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
DeConcini
Dixon
Dodd
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Jackson
Johnston
Kennedy
Leahy
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Proxmire
Pryor
Randolph
Sarbanes
Sasser
Stennis
Tsongas
Zorinsky

NAYS—54

Abdnor
Andrews
Armstrong
Baker
Boschwitz
Brady
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
East
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Heinz
Helms
Humphrey
Inouye
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Packwood
Percy
Pressler
Quayle
Roth
Rudman
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker

NOT VOTING—4

Levin
Mathias
Nunn
Riegle

So Mr. Leahy's amendment (UP No. 1200) was rejected.

Mr. **KASTEN**. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **INOUYE**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1201

(Purpose: Perfecting amendment to the committee amendment.)

Mr. **SYMMS**. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. Symms) proposes an unprinted amendment numbered 1201.

Mr. **SYMMS**. I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

In the Committee Amendment on page 31 at the end of the paragraph, insert the following: Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and Safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extra-continental Communist powers, including even threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere:

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;"

Mr. **SYMMS**. Mr. President, I yield to the Senator from Wisconsin (Mr. Kasten). I think he wants to set the amendment aside.

Mr. **KASTEN**. I would prefer that the committee had an opportunity to review the amendment. We had an understanding with other Senators that, at this point, we would proceed with their amendments. I wish the Senator would withdraw his amendment at this time and give the committee members an opportunity to study it, then it can be taken up following the amendment on Greece and Turkey.

Mr. **SYMMS**. Mr. President, would it be in order to ask unanimous consent to set the amendment aside so we can consider the other amendments first?

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Mr. HATFIELD. I would object to that, Mr. President.

I implore the Senator from Idaho please to withdraw his amendment at this time, for the simple reason that we have asked Senators, on two previous occasions, to give us an understanding of what amendments are going to be offered. We have been trying to deal with subject matter, to keep them together, such as CBI. To intervene at this time would be very difficult and change the whole procedure.

Mr. SYMMS. Mr. President, it is not my wish to impose upon the committee. This amendment is perfectly germane to the CBI amendment. I thought it was the understanding of the Senator from Wisconsin——

Mr. HATFIELD. Mr. President, in all fairness to Senators who have given us notification, we have set up a schedule here. We have called Senators to the floor with the expectation of having their amendments considered in orderly procedure. I ask the Senator to let us follow this procedure, to let us get this matter moving.

Mr. SYMMS. I ask unanimous consent to withdraw the amendment.

Mr. HATFIELD. I thank the Senator.

Mr. KASTEN. I thank the Senator from Idaho and I look forward to working with him on this amendment.

The amendment (UP No. 1201) was withdrawn.

UP AMENDMENT NO. 1202

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes an unprinted amendment numbered 1202.

On page 33, line 3, strike all after the comma following "Spain," through line 12, and insert in lieu thereof, the following:

"Greece, and Turkey: *Provided further*, That of the commitments provided only to guarantee loans for the countries referred to in the first proviso $26,000,000 shall be provided only for Korea, $25,000,000 shall be provided only for Thailand, $20,000,000 shall be provided only for Morocco, $10,000,000 shall be provided only for Tunisia, $20,000,000 shall be provided only for Portugal, $25,000,000 shall be provided only for Spain, $35,000,000 shall be provided only for Greece, and $50,000,000 shall be provided only for Turkey."

Mr. KASTEN. Mr. President, a number of Senators have indicated some concern with regard to the FMS guarantee supplemental we are providing for Turkey. As I understand that concern, it relates to a need for balance that many Senators feel between our assistance programs to Greece and our assistance program to Turkey. The committee has simply approved the supplemental request for Turkey, as requested by the administration. It agrees that this assistance is urgently required to modernize that country's armed forces.

The PRESIDING OFFICER. The Senate will be in order so we may hear the Senator from Wisconsin.

Mr. KASTEN. The committee agrees that this assistance is urgently required to modernize that country's armed forces so that Turkey may meet vital NATO commitments. I do recognize, however, the question of balance brought up by a number of Senators, particularly the Senators from Maryland and Delaware. They have been concerned about this issue. The amendment I am offering, I believe, will alleviate this concern by providing $35 million in FMS for Greece and $50 million for Turkey. This will keep the ratio a number of my colleagues are interested in and, at the same time, not jeopardize the additional assistance required by Turkey.

I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I shall be brief. Let me begin by thanking the Senator from Wisconsin for this amendment changing U.S. military assistance to Greece and Turkey from a 7-to-12 ratio back to the 7-to-10 ratio.

I shall not belabor the Senator on the merits of this proposal, only to say that I think the position we originally took in the Committee on Foreign Relations for fiscal years 1982 and 1983, which was one of rejecting the argument for additional money for Turkey in the first place, is the best of all positions. That is not what is before us.

What is before us is a compromise moving us back to a position where, at a minimum, we maintain the 7-to-10 ratio, which is vital.

I think it is important that a message go forward from here, that the U.S. Senate is not about to deviate from that ratio and that we believe that is vitally important.

I also think it is very important not to upset the balance which we have abided by for so long around here, for several very specific reasons. One, Turkey still occupies 40 percent of Cyprus and it still has a military government.

Second, Greece and Turkey have a new agreement for a moratorium on provocations and for foreign ministers to enter discussions in October, and now is not the time to change the game plan. There is much more that can and should be said to this, but I think in light of what is a reasonable compromise it would do me well to say no more and yield the floor.

Mr. SARBANES addressed the Chair.

Mr. KASTEN. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, the amendment offered by the distinguished chairman of the subcommittee is an improvement over the committee-reported bill since the amendment recognizes the 10-to-7 ratio between aid to Turkey and aid to Greece heretofore established as necessary to maintain the balance of forces in the eastern Mediterranean. By reducing the amount of aid to Turkey and by providing $35 million in assistance to Greece, the amendment underscores the continuing concern of the Congress with the situation in the eastern Mediterranean.

However, I regret that any increase of assistance is being provided to Turkey which has remained intransigent in resolving the tragic situation in Cyprus and other outstanding issues in the eastern Mediterranean. Constructive solution of these issues would greatly enhance relations between Greece and Turkey and between each of these countries and the United States. American policy should be pressing for such solution and clearly large amounts of American assistance ought not to be granted if a positive response by Turkey is not forthcoming. In the absence of such a response, there is no basis for an increase in assistance, and I hope the final version of this legislation will not so provide.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I do not understand exactly what we are doing tonight. As I understood what was happening was that the administration asked for a certain amount of money for aid to Turkey, and that that amount was approved by the Appropriations Committee. Now we are coming to the floor tonight and suddenly it has come up that there is some magic formula that has to exist in the aid that is given to certain countries.

I would like to know the explanation for doing that. If x amount of dollars should go to Turkey, fine. If x amount of dollars should go to Greece, fine. But I do not think we should be strapped by some formula that in perpetuity says that if you give x to Turkey, you must give y to Greece. I would be interested in the proponents of this amendment giving us some explanation, based on a deeper reasoning than the fact that some formula has been struck that we all must observe. We are giving U.S. taxpayers' dollars away.

Mr. BIDEN. I would be happy to attempt to respond.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CHAFEE. On what basis, the Senator is giving the explanation on what basis?

Mr. BIDEN. The Senator said proponents of the amendment. I am not the author. If the Senator would like me to respond, I would be delighted to. I think I have a cogent answer for the

Senator, but if he would rather someone else respond, fine.

Mr. CHAFEE. No; I could not get a better source than the Senator from Delaware, who is always very persuasive.

Mr. BIDEN. Let me respond to what is a very valid question in the following way. First of all, a bit of immediate past history. The Foreign Relations Committee previously rejected additional arms sales for Turkey. The Appropriations Committee in its wisdom decided to put it back in. But that does not respond specifically to the Senator's question. His question was why this ratio of 7 to 10. The answer can be had very simply by pointing out that Greece and Turkey are both deemed to be vital to U.S. security interests, and years ago in order to maintain what was believed to be the physical structure that each country needed and the relative balance of power between them so that they would both maintain their continued positions in NATO, it was concluded that a 7-to-10 ration, was in fact, one that would enable Turkey and Greece to meet their NATO commitments but not enable Turkey and/or Greece to gain military power that would, in fact, put their other long-term adversary at a position they would not have been in but for U.S. aid. Or to put it another way, 7 to 10 means that Turkey does not have the wherewithal to militarily do in Greece and vice versa. That is a formula upon which both the Turks and the Greeks have known we have been operating for some time. It is against U.S. interests for us, in the name of preserving a NATO commitment and NATO capability, to put one of our two allies in that region of the world in a position of military preponderance over the other.

Mr. CHAFEE. May I ask a question?

Mr. BIDEN. Yes.

Mr. CHAFEE. The distinguished Senator from Delaware says it is against U.S. interests. Says who? Who is to determine U.S. interests?

Let me follow that with, What did the administration ask? Does anybody know? I am not saying the Senator should know. Somebody must know in this Chamber.

Mr. BIDEN. Yes. The administration asked for $82 million not be divided in the 7-to-10 ratio but an additional $82 million to go to Turkey.

Mr. CHAFEE. But the Senator said it was against U.S. interests. Now, there is an administration who asked this. Were they operating against the interests of the United States?

Mr. BIDEN. I believe that this administration is misguided in what they believe to be in our best interests. The better way to put it would be that it has been viewed by the past three administrations——

Mr. CHAFEE. I am not so sure that is true either.

Mr. BIDEN. Wait. Let me finish. It has been viewed by the past three administrations that the ratio of 7-to-10 was in fact a ratio that best met our interests in the region. What I am arguing is, in the face of the lack of movement on Cyprus, coupled with what are peaceful overtures by the Greek Government and the Turkish military regime to talk about their mutual problem, now is not the time to change what heretofore has been the game plan.

Mr. CHAFEE. Mr. President, is the Senator through?

Mr. BIDEN. Yes.

Mr. CHAFEE. Mr. President, this bothers me. I do not know the answer to these problems, but I know that getting locked into some permanent formula is the wrong way to do business. The needs of the two countries vary as the exigencies of the time vary. The needs of Turkey at one time are *x* dollars, another time perhaps it might be Greece requires more than that. But I think we are making a tremendous mistake to say that regardless of the conditions we must follow some pattern that somebody at one time has set.

What is magic about 7 to 10? For every $7 you give Greece, you must give $10 to Turkey; for every $20 you give Turkey, you have to give $14 to Greece. That does not make any sense at all, Mr. President.

Mr. BIDEN. If the Senator will yield——

Mr. CHAFEE. And nobody has given us a rational explanation of this.

Mr. BIDEN. If the Senator will yield on that point, foreign policy is not always rational. The important point is that we continue to have a firm alliance with both Turkey and with Greece. The fact of the matter is if we shift the amount of aid in such a way that either nation perceives the involvement of U.S. aid as being detrimental to their interests, causing them to do what Mr. Papandreou was threatening to do prior to his election and what is constantly a real threat in that part of the world, and that is receding from NATO or their NATO obligations, it seems to me purely from a naked self-interest point of view it is important that the United States strike upon a balance which does three things:

One. It provides both our NATO allies with the military wherewithal to be able to fulfill their responsibilities.

Two. It does it in such a way that neither believes that military aid puts their national sovereignty in jeopardy relative to our other allies.

Three. It is relatively cost effective.

I said at the outset the wisest thing to do would be not to give any increase in aid but if the Senator wants to, I would be glad to go into the merits of whether or not the Turks need an additional $82 million. The Foreign Relations Committee concluded the administration did not make the case for that, and we did not go along with it, purely on military grounds.

So it seems to me that although this is not the best solution—the best solution is to wipe out the $82 million, period—it does, in fact, meet a legitimate, reasonable requirement of American foreign policy, and for us to have our aid go forward in such a way that we keep a balance between both parties, which we believe to be essential to our security. It is a judgmental call on the part of the administration and Congress as to whether or not a certain allocation meets that requirement. But that is the end objective. There is nothing magic about a formula.

Mr. CHAFEE. Mr. President, I think we make a great mistake by being locked into certain formulas.

In a prior incarnation within the Navy Department, we had a set formula to always keep two carriers in the Caribbean. If you did not keep two carriers in the Caribbean, everything went to pieces.

That was a terrible mistake, because that meant when we had only one there, everybody became excited; or, if we had three there, it appeared that we were warmongers.

Mr. President, I believe that this country is becoming locked into a set formula such as that, or this 7–10 formula, with the aid to these countries, both of whom are our allies, both of whom are associated with us in NATO, is the wrong way to proceed.

The administration, as I understand it, has asked for $82 million for Turkey. I ask the chairman of the committee if that is correct.

Mr. KASTEN. The Senator is correct.

Mr. CHAFEE. They have arrived at that formula, presumably, because they thought that was needed for Turkey. It turns out that if you do that, that is going to upset everybody, or so it is said. Apparently, the administration did not think so.

We have dealt here in past years with other matters affecting these two countries. What is said by the administration is not always wrong.

What has happened, as I understand the proposal, is that we take the $82 million and chop it up so that it ends up with 10 of those units to Turkey and 7 of those units to Greece. Is that correct?

Mr. KASTEN. The amendment provides $35 million for Greece and $50 million for Turkey, both in FMS guarantees.

Mr. CHAFEE. Mr. President, I see where the votes are here tonight, so I will not press this to a vote. But I hope that in the future we will be able to look at each country individually and its needs. It may well be that we will have evenings such as this in the future when the requirements of Greece are greater than those of Turkey; and if so, we should meet them, or vice versa.

What we want is the strongest possible alliance and the best help from either of those countries, as it might be, in accordance with the precepts of NATO. But I think a set formula such as this is the wrong way to proceed.

Mr. TSONGAS. Mr. President, I support my colleagues, Senator BIDEN, Senator KASTEN, Senator PELL, and Senator SARBANES, in opposing an increase of $82 million in foreign military credit sales to Turkey included in the fiscal year 1982 Supplemental Appropriations Act. I agree that the present compromise of splitting the increase between Greece and Turkey so as to maintain the 7-to-10 ratio is acceptable.

This proposed committee increase would send a clear message both to Greece as well as Turkey, that the United States is not committed to maintaining a military balance among the nations in the eastern Mediterranean region. Nor would the United States honor its agreement to maintain the 7-to-10 ratio in military assistance payments to Greece and Turkey. Also, this proposed increase ignores the unstable situation in Cyprus, and could further enhance Turkish intransigence there. The United States can play a role in reducing tensions and insuring the return of stability in this region, but not by increasing military assistance to Turkey with no corresponding increase to Greece.

With negotiations over renewal of U.S. base contracts in Greece expected to begin late September or early October, this $82 million increase would only be viewed by the Greek Government as an insensitive response to the concerns of Greeks, Cypriots, and Greek Americans alike. We must expect serious consequences which may jeopardize these base negotiations.

I urge my colleagues to support this amendment in the interest of maintaining our own security positions in the eastern Mediterranean, as well as continuing cordial relations with Greece and Cyprus.

Mr. President, I was in Cyprus about 2½ weeks ago. As Senators know, the Greeks and the Turks are negotiating on the issue of Cyprus, and after a long time there has been some inching toward each other, with miles to go.

I recall that when I first came to Congress 8 years ago, we were on the verge of solving this, if only we would continue aid to Turkey and Greece, and so forth. That never took place. We went through the embargo period, the post embargo period, and, in my mind, we have made precious little progress.

The point is that those negotiations are intricate and are involved in the same symbolism that is involved in foreign policy. I do not think the issue is rationality or irrationality. The issue is symbolism.

The last thing we need is to have the Greeks and the Turks on Cyprus spending the next year or so figuring out what this vote meant.

The 7-to-10 ratio, which arguably could be dispensed with—and would be none the worse for wear—has a certain relevance because of what is happening in Cyprus.

I urge that the amendment be adopted. I would favor it all being taken out, but that is not the case. At least, let us not upset the balance of negotiations which have been going on and which I think will reconvene in September.

Mr. CHAFEE. Mr. President, I find the argument of the Senator from Massachusetts very appealing.

I say this: We are going to be confronted in this Chamber with many, many votes in which we are told, "Don't do anything because the negotiations are so tender at this moment."

We have been through this problem and this situation as it exists with those two countries for many years. Maybe the Senator is right: Do not do anything, because the negotiations are at a fragile stage, just about to reach culmination of years of difficult diplomacy. I hope he is right. But I do not find that argument all-persuasive.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. TSONGAS. I did not mean to imply that they are close to fruition. They are a long way from fruition. I just want to make that clear. I did not intend to imply that whatsoever.

Mr. PELL. Mr. President, last December Congress passed, and the President signed, a 2-year foreign aid bill providing military and economic assistance authorizations for fiscal years 1982 and 1983. In that bill, Congress allocated military aid to Greece and Turkey in a 7:10 ratio. In previous years, aid to those two countries had been apportioned in the same ratio and, given the sensitive state of relations in the eastern Mediterranean, it was a considered congressional judgment that the 7:10 ratio should be maintained. Accordingly, for each year—fiscal year 1982 and fiscal year 1983—some $280 million in credit guarantee authority was earmarked for Greece, while report language specified that the sum of military grants and guarantees for Turkey should not exceed $400 million.

Earlier this year, the administration submitted a fiscal year 1983 aid request which went beyond the levels already authorized for that fiscal year. Although reluctantly, the Foreign Relations Committee considered the proposed increases and approved a considerable number, raising the overall authorization of appropriations for fiscal year 1983 foreign aid by some $786 million, primarily for security assistance. The committee also raised the ceiling on military sales credit guarantees by an additional $710 million. These two increases produced an overall program increase of nearly $1.5 billion for fiscal year 1983—from $9.2 billion to $10.7 billion.

One proposed increase for fiscal year 1983 which the committee specifically and carefully considered involved aid to Turkey. The committee was mindful of Turkish security needs and Turkish economic difficulties, but also concerned that Congress continue to abide by the legally mandated commitment, placed into law in 1978, to provide U.S. aid in such a manner as to foster military balance among the countries of the eastern Mediterranean region, meaning essentially Greece and Turkey. Acting on these considerations, the committee approved additional military grants for Turkey while stipulating that the overall level of military assistance to Turkey should remain at $400 million. Thus, the economic burden on Turkey was lightened by shifting the Turkish program further in the direction of grant aid—but without violation of the 7-to-10 ratio, which the committee judged to be particularly important for United States-Greek relations.

It was for this reason that I view with serious concern the appearance in this supplemental appropriations bill of some $82 million in additional fiscal year 1982 military credit guarantees for Turkey. On two occasions within the last year, the Foreign Relations Committee addressed the question of aid to Greece and Turkey; and on both occasions the committee determined that the U.S. interest in that region was best served by preservation of the 7-to-10 ratio. The enactment of the fiscal year 1982 augmentation for Turkey would not only break that ratio, but would also violate the limitation which the committee implicitly attached to its original authorization of the fiscal year 1982 military credit guarantee program. I therefor support the modification proposed by the chairman of the Foreign Operations Subcommittee which would restore the 7-to-10 ratio.

Mr. KENNEDY. Mr. President, I am pleased to join with my friends and colleagues in sponsoring this amendment which limits supplemental military aid to Turkey. The Turkish Government is currently receiving $704 million in economic and military assistance for fiscal year 1982. At this time of urgent fiscal restraint and persisting Turkish inflexibility on the Cyprus question, an additional $82 million for Turkish military modernization is unwarranted and unwise.

The continued occupation of Cyprus by Turkish military forces denies the Cypriot people the right to determine their own future. Turkey's refusal to cooperate in resolving the Cyprus conflict should not be rewarded by generous increases in military aid. The United States should not subsidize the illegal occupation of Cyprus. Instead of providing military support to Turkey, the administration should devote more diplomatic effort to an immediate solution for Cyprus.

The request for an increase of $82 million in military aid to Turkey would also upset the 10-to-7 ratio that has long been maintained between aid to Turkey and to Greece. This ratio has been helpful in maintaining balanced relations among the United States and its allies on the southern flank of NATO, and it should be maintained as a symbol of U.S. commitment to peace and a strong Atlantic alliance.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (UP No. 1202) was agreed to.

Mr. **KASTEN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **SARBANES**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1203

(Purpose: To reduce the CBI appropriation by $177.5 million)

Mr. **DODD**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Dodd) proposes an unprinted amendment numbered 1203:

On page 31, line 5 strike everything after "1961" through line 15, and in lieu thereof, insert "$177.5 million."

Mr. **DODD**. Mr. President, the effect of this amendment is to cut the funding we are appropriating in this measure for the Caribbean Basin Initiative by one-half. The $177.5 million is exactly one-half of the request contained in the bill.

Before going into the more substantive arguments as to why we should cut this amount in half, I should like to bring up a matter which should be of deep concern to all of us in this Chamber when it comes to dealing with the budget in the next fiscal year, fiscal year 1983.

This money for the CBI, as we all know, is a supplemental appropriation for fiscal year 1982, a fiscal year that is going to draw to a close in a little over 1 month.

I ask my colleagues whether or not it makes any sense that, in the 11th hour, we seek to increase aid to that region, the Caribbean Basin, by some 40 percent over normal levels at the same time we are asking domestic programs to take significant cuts.

I point out that the first budget resolution of Congress has established ceilings in the foreign affairs accounts and outlays for fiscal year 1983; and if the fiscal year 1982 money that is provided cannot be obligated in fiscal year 1982 due to insufficient time, these funds could be scored in fiscal year 1983 against the foreign affairs accounts. This may result in foreign affairs accounts being over the ceilings that already have been established, thereby necessitating a cut in other foreign aid programs where we do not know they are going to occur.

In effect, we will have to spend this money in a little more than a month; and if we do not, it will be scored against fiscal year 1983 accounts. Of course, we have no idea where those cuts may come in the overall foreign aid bill.

What this is, substantively, is an effort to try to appeal to those who opposed the amendment offered by the Senator from Vermont, when an effort was made to cut all the funds, some $860 million, that included the Caribbean Basin Initiative.

This proposal just cuts in half $177.5 million of that program.

Again, many of the arguments that were raised by the Senator from Vermont and others can be raised here.

Very briefly, let me reiterate some of those arguments as they affect the CBI. I have stated over and over again that I believe the Caribbean Basin Initiative is a sound idea. It has been 20 years since we have had such a program at all. My hope is we will be able to see a Caribbean Basin Initiative go forward.

The problem is that the appropriations bill identifies specifically where these moneys are to go. Yet the Foreign Affairs Committee has reached a different conclusion. I grant you that is not a decision by this full body. But after several days of hearings, at least a couple of days of markup, it was the conclusion of the Foreign Relations Committee that we should deal with those funds in a different manner than as suggested by this particular proposal.

So there is some significant debate not only as to the quantity of funds and how they should be allocated but in fact whether or not there should be this kind of a program at all and whether or not it should be multilateralized or dealt with in some different manner.

If we are going to deal with a new program such as this, one that could bring great economic relief to the Caribbean basin, then it should be dealt with in a far more intelligent fashion than just doing an end run on the authorizing process.

It has been argued earlier today that this is not precedent setting, that there have been numerous other instances in recent times where the Appropriations Committee has appropriated funds prior to authorizations actually occurring and that in fact that has occurred in areas that were new initiatives.

I respect that, I understand that has happened.

The difference between those events and the one that is before us this evening is the fact that the Foreign Relations Committee is prepared to move on the foreign assistance bill. We are prepared to move on the Caribbean basin initiative. We completed our markup some weeks ago, and we have been prepared to come forward.

That is really not the issue. It is not a question of whether or not the committee has acted or not acted. We have done our business. We have done our job. And we are being told here this evening that despite what we have done, another committee is going to decide another program, and that is really what the issue is here.

It seems to me that, before that process gains the kind of momentum it seems to have already this evening in this Chamber, we should be allowed to debate these issues to their fullest through the authorizing process, particularly one that is going to have the long-term effects that the Caribbean Basin Initiative may have.

Therefore, Mr. President, I offer this amendment to reduce by one-half the request for the funds for the Caribbean Basin Initiative. It still is a lot of money; $177.5 million is not a small amount of funds. But it seems to me to appropriate the full amount, the $355 million, with less or little more than 1 month remaining in this fiscal year is not a reasonable way to proceed and that it is a rush to judgment on a program that should be debated more thoroughly.

So, Mr. President, I urge the adoption of this amendment as one that will save some funds this year and allow us to debate the issue and deal with it in a more intelligent fashion.

Mr. President, before yielding back, I ask for the yeas and nays on this amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **DODD**. Mr. President, I yield back the floor.

Mr. **KASTEN**. Mr. President, I wish to respond briefly to the Senator from Connecticut.

We have been told that the Agency for International Development expects to expend approximately $200 million before the end of fiscal year 1982 from CBI funds.

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I also understand that there may be problems with respect to GAO concerns that expenditures should not exceed the immediate needs of a particular program.

However, although I recognize these concerns as valid, I believe that the serious balance-of-payments problems existing throughout the Caribbean region and our own outlay concerns, justify expenditures in the amount contemplated by the CBO.

Therefore, I strongly encourage the Agency for International Development to expend approximately $270 million in fiscal year 1982, utilizing appropriate mechanisms including trust arrangements, escrow accounts, or other similar kinds of methods or controls, and we have been told——

Mr. DODD. Mr. President, will the Senator yield?

Mr. KASTEN. Let me just complete.

We have been told that they in fact do intend to do this. So we examined this particular subject with them and they have assured us that they do intend to expend these funds.

Mr. DODD. Mr. President, will the Senator yield?

Mr. KASTEN. I am pleased to yield.

Mr. DODD. This is called an economic development program. Can the Senator identify for me whether or not we are going to build or provide any economic assistance in the sense of contributing to the land reform program in El Salvador? What is the money going to be used for? What is the $128 million in El Salvador going to be used for?

Mr. KASTEN. The funds for El Salvador's economy will be used primarily to stimulate production and employment in the private sector and develop and help maintain some of the economic infrastructure, to help rebuild and maintain some of the infrastructure that has been destroyed by the guerrilla attacks. I am told that the foreign exchange potential of our assistance will be directed through the banking system for financing.

Mr. DODD. Mr. President, if the Senator will yield further, what percentage of these funds is going toward the balance of payments in El Salvador?

Mr. KASTEN. I do not know exactly what percentage of the funds will be going for the balance of payments in El Salvador.

Mr. DODD. The Senator does not know?

Mr. KASTEN. I do know that a number of——

Mr. DODD. How much is going for land reform? How much is going to economic reform? How much is going to agriculture development? How much is going to urban development? Do we know that?

Mr. KASTEN. We know the general area it is going to be used in, and I do not think it is necessary to sit here and earmark the money. We are having enough trouble earmarking country by country let alone earmarking *x* number of dollars for land reform and *x* number of dollars for this project or that. We have enough trouble with roads and bridges in our own country let alone getting involved with roads and bridges in El Salvador. As the Senator knows, our assistance has two effects—one being the hard currency effect, the other what is done with the local currency which is generated.

Mr. DODD. I respect the Senator's response.

The point has been made by others that this money is going to the balance of payments. That is what it is going for. The truth of the matter is there is not going to be one red cent of these funds used for economic development in the traditional sense. It is going to balance of payments. That is all it is going to. That is the truth.

Let me tell the Senate why it is going for balance of payments. It is because there has been $1.5 billion in capital flight from El Salvador because the El Salvadorans with the money are not investing in their own country. It is going to Swiss bank accounts. It is going to Miami. It is going to other places other than their own country. We are being asked here tonight to spend $128 million, and I listened to debate after debate over the last year and a half how we cannot spend money here at home, and we are going to bail out those people who fail to invest in their own nation. That is what we are doing. There is not a nickel of this money being used for the things the Senator from Wisconsin has suggested.

None of it is going to allow them to buy more arms, that is not what it is going to do. It is not going to go toward an economic support program or to assist a country that is in desperate shape at all. It is balance of payments, which is the only reason it is going. So this amendment I am suggesting would halve that amount across the board and then let us deal with it in a thoughtful manner. Let us find out what is going on. We do not even know. We are appropriating $350 million to a region in the world and we cannot be told here this evening where the money is going. We would not tolerate such a proposal if it were going into the 50 States of the United States.

Can you imagine someone standing up and saying. "I am proposing that we spend $128 million but I am sorry I cannot tell you where it is going to be spent?"

Yet no one is sitting here prepared to tell us where the $128 million is going to be spent in El Salvador; where $40 million is going to be spent in Honduras; $5 million in Haiti, one of the most corrupt governments on the face of the Earth, not only in this hemisphere, and yet we are being told to go along, to support this program, when we would subject our own domestic programs to far greater scrutiny than we are to this particular program.

We are talking about fiscal austerity. We are being told by the President that we cannot spend more, we have got to cut, we have got to cut further, we have got to cut into the marrow. Yet tonight we are being asked to support $350 million for a program where we do not even know where the money is going to be spent, except some people believe, and I happen to believe, it is a balance of payments, and it is a bailout.

We had a longer debate over Chrysler than we are having on the bailout in El Salvador.

I thank the Senator.

(Mr. MATTINGLY assumed the chair.)

Mr. HATFIELD. Mr. President, I would like to just say that I understand the remarks on the argument made by the Senator from Connecticut because in many ways I share some of those views. But I want to put this into a little different context for just a moment.

We have a bill here that we have to get a Presidential signature to. It will not do us very much good to put anything in this bill or to delete anything in this bill if we end up with a veto and have to go back to redrafting it.

This bill is $1.2 billion under the President's request. That is the total figure. But it is, in effect, about $400 million over the nondefense discretionary areas of the President's request. Now, because the President is pursuing a point of analysis that separates defense spending from nondefense spending, I really feel that we are facing a very serious crisis in many of these programs, such as the Older Americans Act, such as nutrition, food, health, the infrastructure of agriculture, transportation, all of these other areas that constantly have received the cutting ax of the appropriations process.

The House has not entered into their bill this provision we have adopted in the Senate of the CBI of $355 million plus the $70 million of the other programs in foreign aid. This is going to go to conference anyway, and I want to say really right up front that we need some bargaining measure with the House, not only with the House but we need it with the administration. We need to be able to say to the administration that we are going to be forced to go back to the drafting board, and then the $355 million, plus the $70 million could become a very important issue in getting an agreement for a Presidential signature.

Now this, perhaps, is not traditional or this is not kosher to be discussing the strategy of trying to get a Presidential signature, but I want to be very up front with the Senator from Connecticut and say I really feel that as well-argued as his issue is, that in the other context which I am discussing it tends to fall short of what I think is very important, to protect these other programs.

I know the Senator, and other Senators such as the Senator from Connecticut, is deeply committed to, involved in and concerned about these programs, and I really feel we have gone to the marrow of the bone, as the Senator has indicated, in many of these other programs. Yet if we have a Presidential veto, where are we going to cut further? That is why I would like to see—the Senator has made his point, and I wonder if the Senator will consider pulling his amendment down on the basis that we probably will not get the full amount in the Senate bill nor the configuration of this amount when we go to conference. The Senator knows that Doc Long and the committee from the House with whom we will be meeting are not at all enamored of this particular structured provision we have in the CBI, and I am sure we are going to have to make some concessions and some compromises with the House.

But we do need, I think, as Senator Kasten has indicated, the full latitude to bargain with the House and, very frankly, to get some leverage with the White House on getting a signature to the overall supplemental.

Mr. DODD. Mr. President, if the distinguished Senator will yield, I first of all want to commend him. I want him to know and others to know that my remarks in no way are directed at the Senator from Oregon, the distinguished chairman of the Appropriations Committee, who has been a leader on the issue of Central America, has been outspoken in his criticism of what he has perceived, and I agree with him, in some of the tragedies going on in Central America, and I want to thank him for the candor of his remarks, more candor than I have heard in my short tenure, as to why this has gone on.

The Senator is saying to the junior Senator from Connecticut, and I may be wrong, that the price we have to pay to get a President to sign a bill that has cut domestic programs to the very bone is to include a $355 million request, one-third of which goes to one particular country in Central America, and if we will give him that increase then he will support the drastic cuts we have had to make in the domestic programs. In effect, is that what the distinguished chairman of the Appropriations Committee has said?

Mr. HATFIELD. No, I would not walk into that analysis whatsoever. I would not be as candid with the Senator from Connecticut on that issue as I have been on the general strategy of getting the appropriation measure through.

But I would say simply that I believe it is a question of perception and of priorities where men of good faith can differ.

I happen to believe, as does the Senator from Connecticut, that the El Salvadoran situation is another quicksand that we find ourselves getting more and more engulfed in, and I would like to see us extricated, and I would support many actions that the Senator from Connecticut would take, as he has already taken, to restrict the flow of arms, to restrict the American involvement in El Salvador.

But I would only say this: That because of the Caribbean initiative, the President has, I think, very sincerely created or has offered or suggested, and I can support that on the developmental aspect, not perhaps on the military because I believe that that is the key to stability in the Caribbean, and that is the economic development rather than more arms to try to create more of an armed camp than is already there. But I do not think it is a question of whether we are trading off one for the other. I think it is a matter of where we can find the leverage, and I think the Senator from Connecticut is aware, as I am, that up to this time all of the major cuts in Federal spending have been taken in the nondefense discretionary area.

I would say to the Senator from Connecticut that we could abolish all those programs and still not balance the budget, and it is, I think a poor reason to think we can make further cuts there and without excising those programs and make them still a practicable, viable program. It is not possible.

But I do think this is something we have to do constant battle with the administration on, there is no question about it, and we have been doing and I continue to do so. I differ with them on this. But I do not believe it is one that one can say it is purely a tradeoff of American interests for Caribbean interests. I think it is a matter of perception, and it is not my perception. I would not charge the Senator or the President or anybody else with ill motives out of their pursuit of this policy, and I do not know that I could read into this action the motives of anyone. But I do think we have to face the reality that we are dealing with the proposition of how do we get a signature. I do feel that this is part of the leverage we ought to try to sustain at least to the conference with the House and then, hopefully, that we can get some commitments by that time from the administration.

Mr. DODD. Again, Senator, I thank the chairman for his candor in explaining his rationale for being for this amount. With all due respect to his request, I must respectfully regret that I cannot pull the amendment down. I do believe that I cannot do so not only for the reasons I have tried to articulate earlier, but because of the procedural process as well of appropriating funds before we have even had an opportunity to bring that matter before the floor, particularly when we have debated so long in committee. I think it would be a mistake, particularly when we are prepared to come forward with our authorization, which is the position we are in in the Committee on Foreign Relations.

But I do want to reiterate, if I can, Mr. President, my deep, deep respect for the chairman of the committee, Senator Hatfield, for his work in the general area of the Caribbean Basin and his outspoken candor here this evening in explaining the rationale for his particular position. I thank him for yielding.

Mr. DENTON. Mr. President, may I ask for a brief time from the Senator from Wisconsin?

Mr. KASTEN. The Senator has been recognized.

Mr. DENTON. Mr. President, I just want to remark that not everyone in this body agrees with the point of view expressed by the junior Senator from Connecticut nor by the wise and experienced chairman of the Appropriations Committee.

I for one, and I believe many in this body, believe that the Caribbean Basin initiative is well-founded. Having been there, I can say that, that there is an external threat militarily which does have to be met. I do not oppose the Caribbean initiative on that matter. It is an insufficient effort to improve things economically.

I think it is absurd for us, from our perspective, to try to earmark funds for incremental disbursements in El Salvador. That is arrogant. I believe this body with all due respect, fails to recognize the relationship between failed foreign policy, failures in foreign policy, and disastrous effects in the domestic economy.

I believe if one were to track history and take a look, for example, at the rise in the price of oil back to 1973, could correlate that with failures in foreign policy, perhaps mostly in Southest Asia.

If the recognition were made of the importance of the relationship between foreign policy success or failure and the domestic economy, we would not continue to make the blunder of posturing one against the other, whether we spend for defense or foreign aid, on the one hand, or for the domestic economy, on the other. They are interrelated directly. The first social service a government must provide its people is national security.

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Our national security and our international commerce depend a great deal upon our respecting the President and Secretaries of State as they make judgments in this field. I believe we should be more respectful than we are, not meaning this to apply to any individual here.

I would conclude by quoting Dean Rusk's article in the Washington Post several Sundays ago, in which he said that Secretaries of State throughout recent decades would have an advantage in dealing with the Congress if they had the experience of raising a couple of teenagers.

We are schooled and experienced individually in various fields, but they are appointed, and the President is elected, to take the leadership in these fields. I believe we should show, in general, more respect for their initiatives in this area.

I thank the Senator.

Mr. **KASTEN.** Mr. President, it is my understanding the Senator from Illinios, the chairman of the Foreign Relations Committee, may wish to speak.

Mr. **PERCY.** I thank my distinguished colleague, and I will speak very briefly.

This legislation is not just about the Caribbean. It is about the central point of American interests in this whole hemisphere. It is a litmus test as to whether we mean what we say, whether we really do feel that stability in the Caribbean area is in our national interest and whether we are willing to reach out and do something about it.

Other nations have interfered and reached into this area. They have done so on a massive basis and they have made some progress.

The question we must deal with is do we really care, are we concerned about the Caribbean Basin? And if we are, what are we going to do about it? What the administration has come up with is an imaginative program that certainly is not of the bold nature of, say, a Marshall plan for Europe. It does not depend upon aid. It depends upon laying a foundation with modest amounts of aid but primarily based on trade and on investment. But you have to create the climate to attract that investment.

Many of the countries in this area, as we know, are struggling democracies. We have had the presidents of several of them just recently here telling us of what they are doing, what they are accomplishing, and what they are trying to accomplish under the democratic principles in which they deeply believe. But they need help; they need assistance; and this is the chance that we have to step up and give it.

Representatives of nearly every one of these countries at some time or other have made representations to us and have indicated how much our help, not only our symbolic help but meaningful aid, will enable them to do the kind of a job that they are undertaking in building the democratic process.

Not only do they want our help, but they are also asking us to help them create opportunities for their country to expand in production efforts, in production and output, in creating employment opportunities for their people, so that they can build a stable country the kind that can only come through a stable economy. They are struggling to do this and they have asked for our help. These business opportunities we will have to be developed one at a time. But you have to lay a foundation and a base under them.

We have a role and a responsibility in this region and we cannot shirk it; we cannot shrug it and we cannot minimize its impact on our own security here.

I ask unanimous consent, Mr. President, that a table be printed in the Record at the conclusion of my remarks that will show the balance of payments gap in the Caribbean Basin countries and what their present deficit is, what their capital account will be, as made up from other aid agencies, international organizations, the additional financing they need, and what the CBI supplemental will help them accomplish.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See Exhibit 1.)

Mr. **PERCY.** Without our assistance at this time, the balance of payments gap in a great number of these countries will double what it presently is forecast to be. Let there be no doubt about the fact that our participation in overall aid programs for these countries is absolutely critical in the planning presently underway in the World Bank, in the IMF and in the development cooperation agencies of our allies in Canada, Europe and Japan.

Because we have not yet acted to make our commitment clear, meetings have been canceled with the other regional donors. They have been canceled with Canada, Mexico, Venezuela, and Colombia. Meetings with our European allies in which they might act to double their own assistance in this region have not been held, simply because this Congress has not yet declared its commitment to the future economic development and stability of the Caribbean Basin area. An area that is an integral part of our Western Hemisphere's security and defense and stability.

This is leverage that we offer. It is seed money that we are putting in. A great deal more will follow and from a great variety of other donors. This legislation is only the first step in a very important multilateral effort.

I just give another example. The Association of Commerce and Industry in Chicago is the largest association of its kind in the United States, if not in the world—12,000 members. They have pledged their full, total support for this effort. They are ready to go. Thousands of manufacturers will be contacted to see what they can do to invest in this area, to help in furthering our national security interest in the stability of a region important to this country. But this cannot be done if we just walk away and say we are not going to take care of the financing of the CBI.

In conclusion, I would like to comment on what Senator Dodd has previously indicated, that El Salvador would get one-third of the aid in this

Exhibit 1

CARIBBEAN BASIN COUNTRIES 1982 BALANCE OF PAYMENTS GAP

	Belize	Costa Rica	Dominican Republic	Eastern Caribbean	Haiti	El Salvador	Honduras	Jamaica
Current account deficit	−54	−393	−806	−150	−176.3	−361.5	−398	−584
Capital account	(1)23	(2)181	(3)619	(4)115	(5)147.9	(6)164.7	(7)277	(8)311
Gap	−31	−212	−187	−35	−28.4	−196.8	−121	−303
Additional finance	16	142	132	13	28.4	173.0	62	244
(Of which CBI supplemental)	(10)	(70)	(40)	10	(5.0)	(128.0)	(35)	50
Unfinanced gap	15	70	55	22	23.4	23.8	50	59

Sources of capital: (1) CDB—5.4; UK—11.4; EDF—3.0; Canada—1.4; Clc—0.5; V/Mex—4.7. (2) U.S. Aid—50; IBRD—31; V/Mex—57; FRG—15; Japan—7. (3) Private—320; US Aid—24.3; IDB—93.2; IBRD—70.0; IDA—14.4; USCCC—57.0; Other—40.1. (4) Private—40; U.S. Aid—18; UK—12; Canada—10; CDB—12; EDF—8. (5) None. (6) Private—50; U.S. Aid—122.5; IDB—64.8; V/Mex—48.4; CABEI—13.8. (7) Private—75; Intermediaries—12; SDR—25; U.S. Aid—42.6; IDB—63.7; CABEI—19.7; IBRD—31.3; V/Mex—15.9. (8) Private—7; UK—10; Canada—15; IDB—30; IBRD—30; OPEC—10; V/Mex—75; Trin/Tobago—30; Decrease in arrearages—30.

Source: U.S. Agency for International Development.

bill. This is wrong, because the amendment that has been accepted by the distinguished manager of the bill, Senator Kasten, the amendment that I offered provides for authorizing legislation to take effect before money can be appropriated under this bill—unless we go to the very deadline of September 15. At that time, if we simply have not been able to act by then, then certainly we want to go ahead with this program. That only gives them 2 weeks to implement the program. But we have from now until September 15 to have an authorization bill.

The Foreign Relations Committee, in accordance with the procedures of the Senate, can then determine and register its opinion on the level of assistance to El Salvador. That is the impact we could have at that time. That is what the law and our procedures provide.

Still more importantly, this package is not just about El Salvador, it is about an entire geographical region that is of critical importance to the United States. Time is running out. It is time for us to take a first step in the launching of the Caribbean Basin package, and I urge the defeat of the pending amendment.

Mr. KASTEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin (Mr. Kasten) to table the amendment of the Senator from Connecticut (Mr. Dodd). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. Levin), the Senator from Michigan (Mr. Riegle), the Senator from Arizona (Mr. DeConcini) and the Senator from Maryland (Mr. Sarbanes) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. Levin) and the Senator from Michigan (Mr. Riegle) would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—55

Abdnor
Andrews
Armstrong
Baker
Boschwitz
Brady
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
East
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Percy
Pressler
Quayle
Rudman
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—40

Baucus
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Dixon
Dodd
Eagleton
Exon
Ford
Glenn
Hart
Hollings
Huddleston
Jackson
Johnston
Kennedy
Leahy
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Proxmire
Pryor
Randolph
Roth
Sasser
Stennis
Tsongas
Zorinsky

NOT VOTING—5

DeConcini
Levin
Mathias
Riegle
Sarbanes

So the motion to lay on the table Mr. Dodd's amendment (UP No. 1203) was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the motion was agreed to, Mr. President.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may we have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

TIME LIMITATION AGREEMENT

Mr. HATFIELD. Mr. President, I wish to announce to the Senate the program we have for the rest of the evening. It is our hope to be able to finish this section dealing with foreign aid tonight. With the amendments that we are aware of at this point, I think we can finish in a very short order. In fact, I have now cleared with the minority side of the aisle and the majority side of the aisle and the proponents and the opponents the next amendment, which is the Symms amendment. It is agreed that they will limit themselves to a half hour equally divided, Senator Symms being the sponsor of the amendment, Senator Percy being the opponent.

Mr. President, at this point, on the basis of that understanding between the minority and the majority side, I ask unanimous consent that a half-hour, equally divided, be agreed to for the Symms amendment, which will be the next amendment up.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, if I may have the attention of the Senate and if the distinguished manager will yield me 1 minute, this should complete this section. We do not anticipate the requirement for a record vote on the section, so it looks like we will have one more vote tonight. It will be the intention of the leadership then to go out until 10 a.m. tomorrow. Members should be on notice that we will be in late tomorrow, and that it is our intention to finish this bill tomorrow, if it is humanly possible to do so.

Mr. President, I will not make the request to set the hour at this time, but if the distinguished manager wants to get on this bill earlier than that, I will be glad to do that.

Mr. HATFIELD. Mr. President, I ask the leader to perhaps make that 9 o'clock or 8:30.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, will the distinguished Senator yield, the manager of the bill?

Mr. SCHMITT. Mr. President, reserving the right to object, I will not object. I am just curious if the leadership and the distinguished manager of the bill would be amenable to laying down the amendment that we have been trying to get up all day before we go out tonight?

Mr. BAKER. Mr. President, I am agreeable to having the amendment laid down tonight, and I yield to the Senator from Oregon, who is the manager, to negotiate that.

Did the Chair grant my request for tomorrow?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, it is the intention of the leadership to ask the Senate to resume consideration of this measure as soon as possible tomorrow. I hope Senators may avoid asking for special orders, and I will address the minority leader late about abbreviat-

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ing our times so that we can be back on this bill at 9:30 in the morning.

I yield, if I may and with the consent of the manager, to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I have an amendment I intend to offer and then withdraw it. Also, I have a colloquy to put in the Record. It will just take a half a minute.

Does the Senator want to do that now or later?

Mr. HATFIELD. I am happy to yield to the Senator.

AMENDMENT UP NO. 1204

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an unprinted amendment numbered 1204.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike the figure "$29,000,000," and insert in lieu thereof the figure "$54,000,000,". On page 39, line 19, strike the word "and". On page 39, line 20, strike the period, insert in lieu thereof a semicolon, and add the following: "and $25,000,000 for the Congaree Swamp National Monument, South Carolina."

Mr. THURMOND. Mr. President, this amendment would increase the appropriation for land acquisition and State assistance by the National Park Service by $25 million. The purpose of these additional funds is to pay any deficiency in the award of the court for the condemnation of lands within the Congaree Swamp National Monument in South Carolina.

In October of 1976, then President Ford signed Public Law 94-545, authorizing the establishment of the Congaree Swamp National Monument. This legislation provided a land acquisition ceiling of $35.5 million, and directed the Secretary of the Interior to develop and transmit to Congress a general management plan for the use and development of the monument by October 1979.

Three tracts, consisting of approximately 360 acres, were acquired by declaration of taking in October 1977. The vast bulk of the property within the monument was not acquired until February 1980, however, when a declaration of taking was filed against the 14,665-acre Beidler tract. On March 10 of this year, a court-appointed commission recommended a fair market value of $47,009,000 for this tract, but this issue has since been recommitted to the commission to correct certain alleged computational errors.

Mr. President, in light of the clerical nature of the errors asserted, it is not inconceivable that a final ruling as to the fair market value of this tract may be made before the end of the current fiscal year. This amendment, if adopted, should provide sufficient funds to pay any judgment rendered in this matter, including any interest which may have accrued since the date of taking. This, in turn, would remove the only remaining impediment to the adoption of a general management plan, which is now almost 3 years overdue, and would be a major step toward the beneficial use and enjoyment of this valuable national asset.

Mr. President, I call upon my colleagues to support this amendment.

Mr. McCLURE. Will the distinguished Senator from South Carolina yield?

Mr. THURMOND. I will be happy to yield to the distinguished Senator and my good friend from Idaho.

Mr. McCLURE. Mr. President, while I can sympathize with the desire of the distinguished Senators from South Carolina to see the land acquisition issue at the Congaree Swamp National Monument finally resolved, I must object to this amendment on three grounds.

First, this amendment would make appropriations without the necessary authorizing legislation. As the distinguished Senator from South Carolina stated, Public Law 94-545 authorized only $35.5 million for land acquisition for the monument. This entire authorization has already been expended, and legislation to increase the authorized level of spending has yet to be introduced.

Second, the intent of the Interior Subcommittee in providing land and water conservation funding in this supplemental appropriations bill is simply to enable the Secretary of the Interior to be in a position to satisfy deficiences and court awards as promptly as possible. The projects included are those projects which in the judgment of the Secretary, are likely to need funds first. As a practical matter, funding for Congaree Swamp was not included in this bill because, in the Department of Interior's opinion, funds would not be required in fiscal year 1982.

Third, and perhaps most important, the appropriations recommended by this chapter already exceed the administration's request by $27 million, and this amendment, if adopted, would add $25 million to this figure.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would that satisfy the first objection of the distinguished Senator from Idaho?

Mr. McCLURE. It would be a good starting point. Hearings must also be held by the appropriate committee to determine the amount of any increase which would need to be made.

Mr. THURMOND. Is not the appropriate committee for considering any increase in the authorized land acquisition ceiling for the Congaree Swamp National Monument the Committee on Energy and Natural Resources, of which the distinguished Senator from Idaho is chairman?

Mr. McCLURE. It is, and I am.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would the distinguished Senator from Idaho be willing to schedule hearings on that measure?

Mr. McCLURE. Knowing of the concern of the distinguished Senators from South Carolina, I would do everything in my power to see that hearings would be scheduled on that measure.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would the distinguished Senator from Idaho, as chairman of the Subcommittee on Interior and Related Agencies of the Senate Committee on Appropriations, consider recommending appropriations sufficient to meet any deficiency in the land acquisition ceiling for the Congaree Swamp National Monument in this bill or in the regular appropriations measure for fiscal year 1983?

Mr. McCLURE. For the reasons I have already stated, I could not recommend such an increase in the bill now before the Senate.

As for fiscal year 1983, it is the policy of the Subcommittee on Interior and Related Agencies to recommend appropriations in matters of this sort only where a judgment has already been rendered or may be anticipated to be rendered within the applicable fiscal year, and the probability of a successful appeal is unlikely.

Mr. THURMOND. If a judgment is rendered or may be anticipated to be rendered with respect to the Beidler property and the probability of a successful appeal from that judgment appears unlikely, would the distinguished Senator from Idaho then recommend appropriations for this purpose in fiscal year 1983?

Mr. McCLURE. While I cannot give an unqualified answer to the question from the distinguished Senator from South Carolina, I can assure him that I will follow the policy of the Subcommittee on Interior and Related Agencies and, if such a recommendation complies with this policy, will do everything possible within the budget constraints we face to assure its adoption.

Mr. THURMOND. Mr. President, based upon the answers I have received from the distinguished Senator from Idaho, I ask that the amendment be withdrawn from consideration at this time. I thank the distinguished Senator from Idaho for his cooperation in this matter.

Mr. McCLURE. I thank the Senator.

Mr. THURMOND. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

UP AMENDMENT 1201

(Subsequently numbered amendment No. 2020.)

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 1201.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. DODD. I object, Mr. President.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from Idaho.

Mr. SYMMS. Mr. President, I yield myself 5 minutes.

Mr. DODD. Mr. President, objection is heard to the unanimous-consent request.

The PRESIDING OFFICER. The unanimous consent has been granted for the time agreement on this amendment.

Mr. DODD. The unanimous consent was dispensing of the reading of the amendment. I object.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

> In the Committee Amendment on page 31 at the end of the paragraph, insert the following: Notwithstanding any other provision of this act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat 697), to wit:
>
> Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety," and
>
> Whereas in the Rio treaty of 1947 the parties agreed that "an armed attack by any State against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognised by article 51 of the Charter of the United Nations", and
>
> Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even threat of military intervention in America on the part of the Soviet Union", and
>
> Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—
>
> (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere:
>
> (b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and
>
> (c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;

Mr. SYMMS. Mr. President, I thank my colleagues for the opportunity to present arguments again on my amendment reaffirming the 1962 Cuba resolution and U.S. policy toward Cuba.

As the Senate knows, I offered Senate Joint Resolution 158 as an amendment to another Senate resolution a few weeks ago. After considerable debate, the Senate, by a vote of 41 to 39, on April 14, 1982, tabled the amendment in order that the Foreign Relations Committee might hold hearings on this issue.

Regardless of the tabling action, I was pleased that the Senate had an opportunity to discuss the issue. I was, of course, disturbed that the Senate did not see fit at that time to send a strong, clear message to the Soviet Union and Cuba that at least the Senate believes aggression and subversion in the Caribbean should be resisted. However, I hope the Senate will now approve the resolution.

The purposes of my resolution are threefold. First and most significantly, the resolution reaffirms the law of the land on American policy toward Cuba, as embodied in Senate Joint Resolution 230, passed overwhelmingly by bipartisan majorities of both Houses in September 1962. Second, it reaffirms the Monroe Doctrine first announced in 1823. Third, my amendment has several policy thrusts:

It expresses the determination of the United States to prevent, by force if necessary, the Soviet-backed Communist regime in Cuba from engaging in aggressive or subversive activities in any part of the Western Hemisphere;

It expresses American determination to prevent the Soviets from establishing a military base in Cuba;

It states American support for the freedom and self-determination of the Cuban people.

Mr. Chairman, I could not agree more with a statement by William Safire in his recent New York Times column entitled "Is Castro Convertible." He said:

> Now is the time to deal with a threat before it becomes a crisis.

Indeed, we do need to fully understand and recognize the Soviet threat from Cuba, both subversive and nuclear. The President has acknowledged that the Soviet threat from Cuba is as great or even greater than it was in 1962. He warned the Caribbean nations during his visit to Barbados in early April 1982 about the "Soviet-Cuban virus." My resolution is an attempt to bring into focus that cancer in our underbelly so it can be properly diagnosed by the Congress, understood by the American people, and dealt with through a clear expression of policy.

This resolution is aimed merely at strengthening our national will, which is the key to resisting any challenges to freedom and liberty. If we cannot muster the national will to oppose threats and dangers to our security, then we may never be able to safeguard our heritage.

I am not advocating the use of force in the Caribbean. Quite the contrary, I am merely trying to strengthen our first line of defense, which is diplomacy. By reaffirming the 1962 resolution, U.S. diplomatic leverage should be strengthened. Any option of initial deployment of military force in the Caribbean is wholly up to the President, with subsequent consultation with the Congress. My resolution does not change that. It is designed only to reinforce present U.S. law and foreign policy toward Cuba, and the resolution is fully consistent with and supportive of President Reagan's Caribbean policy announced on February 24, 1982.

Mr. President, despite what I considered unclear and often conflicting signals from the State Department regarding their position on this resolution during the time it was considered on the floor of the Senate, I am pleased that the State Department expressed its strong support for the resolution before the Senate Foreign Relations Committee on April 20. In a letter addressed to me that same day the State Department said that the Symms resolution—and I quote:

> Is a restatement of actual U.S. policy toward Cuba—and the sentiment behind it,

we believe, remains valid today just as it was valid in 1962 when the resolution was first stated . . . We support the resolution.

In testimony before the Senate Foreign Relations Committee on April 20, Deputy Assistant Secretary of State Stephen Bosworth stated:

> The (Symms) resolution . . . reflects the policy of six administrations, certainly this one. As we told Senator Symms, we have always endorsed the thrust of his resolution . . . After it has been given the appropriate committee consideration, we fully intend to support the Symms resolution.

On April 20, 1982, Bosworth testified further in answer to a question I posed that the official U.S. policy position is now in support of the resolution. Bosworth stated further:

> Our position remains one of full support for the thrust of that resolution . . . I can assure you that the finding that the thrust of your resolution is fully consistent with the policy of this administration, was made at the very highest level of the State Department by the Secretary of State himself.

Mr. President, the gravity of the Cuban threat to the Caribbean was also made explicit in Bosworth's testimony. He pointed out that Cuban arms shipments to Nicaragua and El Salvador have not diminished. He declared Cuba "To be a threat to U.S. security interests * * * in Central America and the Caribbean." Bosworth agreed that the present level of military capability in Cuba endangers U.S. security interests.

When asked what effect a Senate reaffirmation of the Cuba resolution of 1962 would have on our relationship with either Cuba or the Soviet Union, Bosworth answered:

> . . . to the extent that it tends . . . to present the views of Congress, in addition to the views of the administration, I think it would probably be seen by the Government of Cuba as a rather firm statement of U.S. views regarding the unacceptability of Cuban behavior . . .

When asked if the State Department had specifically assessed whether or not the Symms resolution was inconsistent with the War Powers Act, Mr. Michel from the State Department Legal Advisor's Office stated:

> The Legal Advisor's Office reviewed the Symms amendment in terms of the War Powers Resolution in order to make a judgment as to whether on its face it would affect the provisions of the War Powers Resolution in any way, and we concluded that it did not.

Finally, when asked if the State Department supported reintroduction of the Symms resolution, Bosworth answered "yes." He added that: "The administration finds this resolution is consistent with our policy, and we support it."

The administration's position should now be clear and this position of support, of course, is welcomed, as is the support of my colleague, the distinguished Senator Percy as expressed in his letter to our colleagues before the debate of my resolution on the Senate floor a few weeks ago. As Senator Percy stated so well:

> The purposes of the Symms resolution are ones we can all support: Resistance to Cuban aggression and subversion in the hemisphere, prevention of Soviet bases in Cuba, and support for the self-determination of the Cuban people.

I urge the Senate to approve the resolution as originally proposed. I fear any action otherwise might be further misread as a sign that we do not have the will and the determination to defend this Nation and its neighbors—to stand up to nuclear blackmail by the Soviet Union.

Mr. President, should we show our strong support for the Commander in Chief by reaffirming existing U.S. policy and law of the land expressing opposition to Soviet military bases in Cuba? Are we for enforcing the Monroe Doctrine with regard to the Soviet Union and Cuba, or are we not? Do we support the Soviet/Cuban-backed aggression in the Western Hemisphere, or do we oppose it?

If we cannot resist aggression and blackmail in our own backyard, where can we draw the line? If we cannot reaffirm long standing American policy in defense of freedom among our neighbors now, when and where and how will we ever be able to stem the spread of Marxism and terrorism?

Mr. President, my amendment attempts to provide the Senate at least with an opportunity to answer in part those questions, and express its will regarding American policy toward Cuba.

Mr. President, I should like to read for the record the following letter:

THE WHITE HOUSE,
Washington, April 29, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: I am gratified to have the opportunity to enthusiastically endorse your amendment, S.J. Resolution 158 as an abiding expression of the Reagan administration's policy toward Cuba.

The principles embodied in your Resolution have the full support of the President. He clearly expressed these same sentiments during his speech before the Organization of American States on February 24, 1982.

Again, many thanks for this opportunity to make our views known to you and your colleagues.

Sincerely,

WILLIAM P. CLARK.

I have a similar letter from Fred Ikle, Under Secretary of Defense for Policy, also indicating that the administration fully support the resolution:

> We fully support this resolution and commend you and your colleagues for introducing it. Passage of the resolution is important for U.S. policy toward Cuba.

Mr. President, I ask that Under Secretary Ikle's letter also be printed in the RECORD.

Mr. President, many may ask how the mixup came about when we had this before the Senate at an earlier date this year. I have the transcript provided to me by Mr. Jack Anderson which I should like to insert in the RECORD. Many of my colleagues may have seen this as it was reported in the press. It is the transcript of a conversation from Air Force 1 between Steve Bosworth and Tom Enders.

Before that, I ask unanimous consent to have printed in the RECORD the testimony of Mr. Steve Bosworth before the Foreign Relations Committee on April 20, 1982, indicating that the administration and the Assistant Secretary support the amendment, and a cover letter from Mr. Powell Moore, Assistant Secretary for Congressional Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF DEFENSE
Washington, D.C., April 29, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your letter of 26 April 1982 requesting our views on SJ Resolution 158 which reaffirms SJ Resolution 230 of 1962. As a restatement of actual U.S. policy toward Cuba, Resolution 158 reflects the policy of this Administration and is certainly strongly supported by the Department of Defense.

In testimony before the Senate, this Department has highlighted the threat from Cuban aggression and subversion, (including the use of terrorism), as well as from the Soviet military presence on Cuba. Should the Soviet and Castro regimes be successful in their efforts to install Marxist-Leninist governments aligned with them in Central America, this could lead to an expanded Soviet military presence in the Caribbean Basin that would have significant adverse consequences for the defense of the United States. Such a new military threat to the South of the United States would require further increases in the U.S. defense burden, since a major hostile military presence would then exist in an area previously considered militarily secure.

We fully support this resolution and commend you and your colleagues for introducing it. Passage of the resolution is important for U.S. policy toward Cuba.

Sincerely,

FRED C. IKLE.

STATEMENT BY DEPUTY ASSISTANT SECRETARY FOR INTER-AMERICAN AFFAIRS STEPHEN W. BOSWORTH

Mr. Chairman, I am pleased to have this opportunity to discuss with the committee our request for security assistance for fiscal year 1983 for Latin America and the Caribbean. The Administration is requesting $326 million in Economic Support Funds (ESF), which with $274.6 million in development assistance and $183 million of Public Law 480 from the separate A.I.D. appropriation, would bring our proposed fiscal year 1983 economic assistance for the region to a total of $783 million. We are also asking for $138.6 million in funds for FMS financing and military training (IMET).

The bulk of this projected assistance is for the countries of the Caribbean and Central America. These fiscal year 1983 requests are substantially higher than those provided for in the fiscal year 1982 budget. As such, they reflect the high priority the Administration

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attaches to United States interests in Central America and the Caribbean. They are essential elements of an integrated approach to the economic, political, and security problems of the region.

Let me summarize briefly the overall framework of U.S. interests, analysis, and objectives within which the Administration's assistance requests should be addressed.

President Reagan in his address at the Organization of American States on February 24 outlined the U.S. national interests in the Caribbean Basin region. As the President said, the "well being and security of our neighbors in the region are in our own vital interest."

Economic progress, peace, and security are in serious danger in the Caribbean Basin. Almost without exception, the countries of the region face economic difficulties of a potentially catastrophic nature. Their economies are for the most part small, fragile, and extremely vulnerable to disruption. Developments in the international economic system can seriously exacerbate long-standing internal problems. The current slowdown in the world economy is a case in point. Prices for the raw materials which are the principal exports of these countries—sugar, coffee, bananas, and bauxite—have fallen sharply. Simultaneously, most of the region is still struggling with the need to adjust to increases in the costs of essential imports, particularly petroleum. High interest rates have imposed a new burden in countries needing to borrow money or refinance existing debt. Tourism, important to many, has stagnated. Certain of the economies of Central America, particularly in El Salvador and Guatemala, have been further damaged by guerrilla-sponsored violence and the general political instability of the area.

At the same time, Cuba and now Nicaragua are both seeking to exploit the region-wide economic crisis for their own political objectives. There instruments are anti-democratic minorities predisposed to extremism, violence and systematic armed conflict. Cuba and Nicaragua are providing political organization, guerrilla training, and other support to insurgent groups in El Salvador and Guatemala, and there are disquieting signs of their agressive intent in several other countries.

We do not, for our part, seek to involve our neighbors in the political and military competition between East and West. And certainly they do not want to be involved. They are independent, and they hope their countries and the waters of the Caribbean can be free of international tension and conflict. They need our help to overcome economic difficulties, to defend themselves, and to keep alive their faith in freedom and democracy. With our assistance, they can manage their own affairs and find their way out of their present troubles.

The complexity and urgency of the problems which I have outlined make clear that our response must be comprehensive. It must respond to both immediate and longer-term needs, and it must address all aspects—economic, political, and security—in their separate individual requirements while recognizing that in fact, there aspects are also interdependent in important ways. The overall strategy will not succeed unless we move forward in all areas.

First, the economic.—On March 17, the President sent to the Congress a set of integrated proposals for a major new program of economic cooperation for the Caribbean Basin. We were pleased that you invited Ambassador Brock and Ambassador Stoessel to present our views on the Caribbean Basin initiative at an early point in your deliberations. As you are aware, the President's program includes three major elements:

Authority to extend duty free treatment in the U.S. for agricultural and industrial products, except textiles, from countries of the Caribbean Basin;

Authority to extend tax incentives to U.S. investors in Basin countries; and

Substantial increases in levels of U.S. economic assistance to countries of the region, including a requested $350 million supplemental in ESF funds for fiscal year 1982.

Over the medium-term, the trade and investment authorities requested by the President will make a major contribution to the economic well-being of the region. Together with the self-help efforts of these countries themselves, we can contribute to an economic climate of expanded production, new employment, and rising exports. These measures will also convey a political message. The United States is saying in effect that the economic well-being and political health of these countries is of such direct importance to us that we are willing to extend special treatment to them on a long-term basis. Our commitment is both serious and sustained.

The President's program also recognizes that many of these countries face major short-term problems which must be addressed if they are going to be able to benefit from the trade and investment initiatives. In some countries, including El Salvador, Honduras, and Costa Rica, major balance of payments problems threaten immediately their ability to import foodstuffs and critical raw materials for industry and agriculture. Jamaica will need increased assistance to sustain a still vulnerable economic recovery. Other countries, for example the small nations of the Eastern Caribbean, need additional assistance to develop the economic infrastructure required to capitalize on the new trade and investment opportunities.

Because of the urgency of these problems the President has requested an additional $350 million in ESF in the current fiscal year to supplement the funds already approved by the Congress. But that $350 million, vital though it is, will not be enough to meet the needs of the next few years. Therefore, we have requested $326 million in ESF for fiscal year 1983. Combined with development assistance and Public Law 480, our economic assistance for the region would total $783 million. This is a 47 percent increase over the amount budgeted for the current fiscal year. It reflects both the large and urgent needs of these countries and the high priority which the Administration attaches to our interests in the Caribbean Basin area.

A large share of our fiscal year 1983 ESF request, $105 million, would go to El Salvador. Its economy has been brought to the point of collapse by terrorism and economic sabotage directed against the country's transportation and power systems, businesses and workers. Investment has dried up and the private sector cannot even obtain the credits essential to its survival. Output declined 10 percent in 1980; and 10 percent again in 1981. With the assistance we and other donors plan for this year, this decline should be significantly reduced by the end of the year. We expect further improvement next year with the economic assistance we are requesting in fiscal year 1983.

Other major recipients of ESF would include:

$55 million to Jamaica to support President Seaga's efforts to revitalize his nation's economy.

$60 million for Costa Rica, to help that country address one of the most severe crises in its history.

$25 million for Honduras to help bolster confidence and provide critically needed credits to the struggling private sector.

$30 million to the Eastern Caribbean to stimulate economic activity and generate employment.

Second, the political.—The Caribbean Basin is not, as some suppose, a region of repressive, right wing military dictatorships. Of the twenty four governments in the Basin, not including the United States, sixteen have democratically elected governments. Support for the establishment and consolidation of democratic institutions is a central element of our approach. Not just because it is our own system of government, but also because we believe it is the system best able to produce social justice, economic progress, and political stability in the Caribbean Basin itself.

We have been encouraged by last year's electoral success in Honduras. We were similarly heartened by February's peaceful elections in Costa Rica as the people of that country demonstrated again the strength of their commitment to democratic institutions. Now the Dominican Republic is preparing again for elections, extending the democratic achievements made during the last generation.

In Guatemala, the military coup last month may have ended the political paralysis which had gripped that country. It was led by junior officers apparently seeking to give the Guatemalan people a better government. General Rios Montt, who has emerged as leader of the junta, was the presidential candidate of the Christian Democratic coalition in 1974. Since the coup, violence not directly connected to the insurgency has been brought virtually to an end. Concrete measures have been taken against corruption. All political forces have been called to join in national reconciliation. We are watching these developments closely. We hope that the new government of Guatemala will continue to make progress in these areas, and that we in turn will be able to establish a closer, more collaborative relationship with this key country that faces both economic difficulty and an active Cuban-supported insurgency.

In El Salvador, the elections of March 28 were a fundamental first step in the democratic process, but it was only the beginning. Discussions are now underway among the political parties concerning the organization of a new provisional government and the launching of the work of the newly-elected Constituent Assembly. That newly-elected Constituent Assembly must carry forward political reform, and, importantly, establish procedures for the election of a President.

Discussions on the composition of the provisional government and the actual form of the political reforms are ones which can only be made by the Salvadorans themselves. For our part, we have made clear our desire to continue to support El Salvador in their programs of economic recovery and in their battle against the guerrillas of the extreme left. We have also made clear, however, that our continued support must not be taken for granted. In particular, we have emphasized our expectation that the new provisional government will carry forward

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political and economic reform, including land reform, and continue to make substantial progress in controlling violence.

I would like, Mr. Chairman, to say a word here on the question of negotiations. On March 28, the people of El Salvador massively signaled their choice for a democratic process of elections as the method for resolving political conflict and ending the violence. They did this despite a concerted attempt by the guerrillas first to dissuade people from voting and then to intimidate them. Thus, the results of the March 28 election clearly stand as a massive political defeat for the FMLN/FDR. The guerrillas had advocated, as an alternative to these elections, direct negotiation of an overall division of political power, the results of which could later—perhaps—be submitted to a plebiscite.

In the light of the March 28 results and in view of the on-going political process in El Salvador, it is our hope that elements of the FMLN/FDR which can accommodate to democracy will now decide to participate peacefully in that process. Such a decision would be in the interests of El Salvador. We for our part believe that mechanisms could be found to facilitate the entry of these groups into the democratic process. We will be prepared to be of assistance in the discussions or negotiations which might be required. However, we remain firmly and unalterably opposed to negotiations on the division of political power in El Salvador outside the democratic process.

Third, Security.—Freedom and prosperity are impossible without security. The purpose of our FMS and IMET programs is quite simply to help small countries defend themselves against an immediate threat. Many of our neighbors have neither the resources nor a long-term need to develop and maintain large military establishments. Faced with a sudden threat, they need help in the form of equipment and training from friends.

We do not believe that only the strong should be secure. With appropriate help, our neighbors all have the capability and will to turn back outside threats. They do not want us to do their fighting for them. That would not serve anyone's interest, and is not needed. All they ask is to be provided the training and equipment they cannot afford.

We are requesting $125.3 million in FMS financing for fiscal year 1983. To keep this in perspective, I would note that this is less than two percent of our global FMS program. The increases over our request last year are largely for El Salvador, Honduras and Jamaica. We are again requesting a portion of the FMS—$74 million—in direct concessional credits for those countries facing severe economic problems and where high interest guaranteed loans would further add to their heavy debt burden.

About one half of our FMS request for the region—$60 million—is for El Salvador. Fifty million dollars of this is being requested on concessional terms. This program is critically important to provide the resources to enable the Salvadoran government to protect the peoples' right to choose their own future and carry forward the important economic, political and social reforms underway. Our military assistance program is designed in part to enable the Salvadoran armed forces to employ small unit tactics, considered more effective against the guerrillas and less likely to cause casualties among non-combatants in the battle zone. The growing effectiveness of El Salvador's armed forces was evident in the exemplary way in which they turned back the guerrillas effort to launch a major pre-election offensive. They protected voters, polling places, and election officials from guerrilla attacks and harassment last March 28.

We are also seeking an increase in our FMS program for Honduras to $14.5 million, $9 million of which would be on concessional terms. The democratic Government of Honduras is threatened by the illegal use of its territory by those supporting the insurgencies in El Salvador and Guatemala as well as by the unprecedented military buildup in Nicaragua. Honduras needs additional help to develop its transportation, patrol and communications capabilities to defend itself from these threats.

Elsewhere in the Caribbean Basin, we are requesting an increase in our program in Jamaica—$6.5 million in concessional credits—to help the democratic, pro-western Seaga government modernize its defense force to deal with potential subversion and to protect its coastal waters from illegal traffic. We are also seeking concessional credits and training for the small democratic states of the Eastern Caribbean to improve their coast guards.

Finally, a small part of the FMS program is for South America. We propose $12 million for Colombia and $6 million each for Peru and Ecuador to enable them to meet essential military needs.

Our request for $13.3 million in IMET includes 23 country programs and our regional program for the Eastern Caribbean. We believe that training and education under the IMET program will strengthen the professional qualities of defense forces, improve our military to military relations, and ensure continued orientation toward U.S. doctrine and security goals. We have asked for $250,000 in IMET for Guatemala in the expectation that conditions there may improve sufficiently for us to consider a small training program.

Cooperation.—The strategy I have outlined cannot rest on our efforts alone. We neither can nor should try to carry the burden by ourselves. Solutions designed exclusively in Washington are not desired, and would probably not work. Our response must be in cooperation with our neighbors.

We find today a consensus among the nations of the hemisphere over the danger of foreign intervention, the importance of democracy and free market policies, and the need to take collective responsibility.

At this point, Mr. Chairman, I would like to make some remarks on our policies toward Nicaragua and Cuba.

Over the past several months, we have tried to establish a dialogue with Nicaragua. As members of this Committee are aware, the United States is acutely concerned by several of the policies and activities being pursued by the Sandinista Government. First and foremost, like countries in the region themselves, we are concerned by Nicaragua's continuing large-scale support for the guerrillas in El Salvador and its similar activities in other Central American countries. This, together with Nicaragua's extraordinary arms buildup and the large-scale presence of Cuban military advisers, is the fundamental cause of tension within the region.

On April 8, our Ambassador in Managua conveyed to the Nicaraguan Government several proposals which would address our concerns and, we believe, address the alleged concerns of the Sandinistas. On April 14, the Nicaraguan Ambassador in Washington presented to us a response. We are now evaluating that response and expect to decide soon our possible next steps.

I would stress, however, as we have stressed to the Nicaraguans that no progress is possible in the areas of our relationship of concern and interest to them unless and until they cease their active support for insurgencies in the region.

In the case of Cuba, we continue to oppose fundamentally all efforts to export subversion and terrorism in Central America and the Caribbean. In this connection, Senator Symms has introduced a resolution reaffirming the resolution adopted in 1962 on the U.S. determination to oppose the efforts of Cuba to expand its sphere of influence. The resolution, which is scheduled to be considered by the Committee, reflects the policy of six administrations, certainly this one. As we told Senator Symms, we have always endorsed the thrust of his resolution. While we supported the tabling motion on the Senate floor, we did so only because we believed it was appropriate that the resolution be fully addressed in committee before coming to the Senate floor. After it has been given the appropriate committee consideration, we fully intend to support the Symms resolution.

We will not accept that the future of the Caribbean Basin be manipulated from Havana. Support for self-determination and democracy was evident at the OAS meeting in St. Lucia, and in the hemisphere's wide support for the elections in El Salvador. It was evident in the formation this year of the Central American Democratic Community by Costa Rica, Honduras and El Salvador to cooperate toward the common goals of economic development, democracy and mutual security against outside threats.

The momentum of greater cooperation is in our interest and we will seek to strengthen and widen it. That is why we have joined Colombia and Venezuela in supporting the Central American Democratic Community. This was the spirit in which we discussed with Mexico, the proposals of the Mexican President aimed at reducing tensions throughout Central America.

The Caribbean Basin program is in many ways a model of the type of regional cooperation we seek. The overall program and the U.S. contribution to it was developed over a period of some eight months of intensive consultations and joint analysis. The United States, Venezuela, Mexico, and Canada, later joined by Colombia, recognizing our common interest in the economic health of the region, are each undertaking major efforts under a common set of objectives. This, at bottom, is what we are asking the Congress to support: programs that will make cooperation possible in support of an emerging democratic consensus among our closest neighbors.

Department of State,
Washington, D.C., April 20, 1982.

Hon. Steven D. Symms,
U.S. Senate.

Dear Senator Symms: Enclosed is the statement which Deputy Assistant Secretary Stephen Bosworth will give today before the full Senate Foreign Relations Committee hearings on Caribbean and Central American issues, among others. You will note that contained in that statement is a portion relating to your resolution regarding U.S. policy toward Cuba. I hope that this statement and amplification which Deputy Assistant Secretary Bosworth will make will clarify any confusion which might have surrounded our support for the tabling motion last week.

As Mr. Bosworth says in the enclosed statement, we did not oppose your resolution and we do not oppose it now. It is a restatement of actual U.S. policy toward Cuba and the sentiment behind it, we believe, remains valid today just as it was valid in 1962 when the resolution was first stated. We were reluctant, however, to give full public support for the resolution when it was on the floor of the Senate since we felt that it would be more appropriate to have the resolution considered in committee before full floor consideration. Deputy Assistant Secretary Bosworth will now have the opportunity to articulate exactly where we stand on the issue and exactly why we support the resolution. This will preclude any misinterpretation which might have been possible without the opportunity for Administration representatives to present our position fully.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for
Congressional Relations.

Mr. SYMMS. Mr. President, after the mixup, when there was some confusion on the floor, this is the transcript of what occurred, and I should like to relay some of this to my colleagues:

OPERATOR. Mr. Bosworth's still on. I'm waiting for ambassador Enders.

ENDERS. Would you get me Steve Bosworth, please.

OPERATOR. Ambassador Enders, please.

ENDERS. Yes, this is Enders. Over.

OPERATOR. Just one moment, we have Mr. Bosworth on the line.

ENDERS. Hello, Steve, how are you? Over.

BOSWORTH. Fine, Tom. How are you?

ENDERS. Steve, I'm calling about the vote on Cuba in the Senate yesterday. Apparently the radio said this morning the State Department opposed * * * these authorities. Is that correct?

BOSWORTH. It is rather complicated, Tom. There are no authorities in question. It is a resolution which is non-binding. Through a screwup, a letter did go forward indicating, as you said, that we opposed the resolution and found that it was inappropriate at this time. Now, for the record, this bureau did not see or know of that letter until it was delivered.

ENDERS. Steve, that's an incredible screwup. How did that happen?

BOSWORTH. Well, there have been cases like this. Always it is difficult now to figure out exactly what did happen.

I think the bottom line was this: Mr. Enders said: "Let me talk to the Secretary." Then he came back and said:

ENDERS. Would you also go * * * find out, I mean, check further on what the hell happened because it does seem incredible that after a year of working to get a strong position on Cuba that something like this could have happened. I don't understand it.

I ask unanimous consent to have the entire transcript printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

Air Force One Transcript—transcribed by Mr. Dale Van Atta of Jack Anderson's office—conversation between Steve Bosworth and Thomas Enders, on April 15, 1982:

OPERATOR. Mr. Bosworth's still on. I'm waiting for Ambassador Enders.

ENDERS. Would you get me Steve Bosworth, please.

OPERATOR. Ambassador Enders, please.

ENDERS. Yes, this is Enders. Over.

OPERATOR. Just one moment, we have Mr. Bosworth on the line.

ENDERS. Hello, Steve, how are you? Over.

BOSWORTH. Fine, Tom. How are you?

ENDERS. Steve, I'm calling about the vote on Cuba in the Senate yesterday. Apparently the radio said this morning the State Department opposed * * * these authorities. Is that correct?

BOSWORTH. It is rather complicated, Tom. There are no authorities in question. It is a resolution which is non-binding. Through a screwup, a letter did go forward indicating, as you said, that we opposed the resolution and found that it was inappropriate at this time. Now, for the record, this bureau did not see or know of that letter until it was delivered. Over.

ENDERS. Steve, that's an incredible screwup. How did that happen?

BOSWORTH. Well, there have been cases like this. Always it is difficult how to figure out exactly what did happen. All I've been able to do is qualify that no one here in this bureau knew about it. Now, we are now engaged in an effort to try and walk this cat backwards in the noon briefing, which I think is highly desirable. On the other hand, we can't leave the majority leader sitting out there on the end of that limb all by himself. Over.

ENDERS. Steve, take me back over this part slowly because I don't understand. Where did the letter come from and to whom did it go?

BOSWORTH. As I understand it, Tom, the letter was in response to a request from the majority leader to the White House for a written statement of the administration's position on this issue. It all happened yesterday when Al Drischler was up on the hill. Al was told by his staff that the letter had been fully cleared, which is not true. They did have an NSC clearance, but they did not have an ARA clearance. The letter was subsequently signed and delivered to the majority leader.

ENDERS. You mean it was signed by Al Drischler * * * and it was a letter which was * * * within H?

BOSWORTH. That is right. That is as close as I can come to figuring it out. We're still trying to discover exactly what happened. But that sounds to me like what did happen. All I do know for sure is that it was not cleared in ARA.

ENDERS. Was it cleared in the office by Larry Eagleburger?

BOSWORTH. No, it was not. Over.

ENDERS. Steve, what can we do about this now, if anything? Over.

BOSWORTH. We will try in a public statement in the noon briefing to make it clear that, while we are not disavowing our letter, we nonetheless do believe that the sentiments expressed in the resolution are consistent with general administration policy. Over.

ENDERS. Well, more than that, it is an expression of administration policy. Uh, can we make a strong statement even if it does disavow the letter? Over.

BOSWORTH. We will go as far as possible in that direction, Tom, without creating difficulty with the majority leader, who is the one who asked for the letter. Over.

ENDERS. Hold the line for a minute and let me talk to the secretary and I will carry on the conversation. Just a minute. Over.

TONY. Tom, just a minute. Over.

ENDERS. Tony? Over.

TONY. This is Tony. Tom, Al Drischler read me a piece of the letter. We still haven't seen it. But it does indicate that the resolution is fully consistent with administration policy, but that the passage of the resolution at this time may not be necessary or helpful. I'm not sure what the words are. Over.

ENDERS. I still don't understand that. I would have thought at this time it would have been particularly helpful. Over.

TONY. Well, that is a view which we probably would have expressed had we had an opportunity. . .

ENDERS. OK, let me talk to the secretary. Hang on, please. Over.

(Tony here, and he said he talked to Miles the day before on this, that this had an NSC clearance and that this is the line that has been used for the past 60 days. And on the basis of that, he told Al Drischler that the thing was OK . . .)

ENDERS. Hello. Steve, is that you still? Over.

BOSWORTH. I'm still here, Tom.

ENDERS. Steve, I talked to the secretary and he would like (us) to get together and work out a denial of this so our position is clear.

BOSWORTH. Would you repeat that please, Tom, there was a lot of static. You would like to find a way in which the resolution or some variant of it could be reintroduced and passed. Over. Did you hear me? Thank you.

I got that, Tom. I will get on it. Over.

ENDERS. Would you also go * * * find out, I mean, check further on what the hell happened because it does seem incredible that after a year of working to get a strong position on Cuba that something like this could have happened * * *. I don't understand it.

I say to my colleagues that I think it is very important that we give a very strong signal of the will on the part of the United States to resist what is going on in Latin America, where the base camps of those operations in the Caribbean Basin and into Central America are working out of Cuba.

I reserve the remainder of my time, and I ask unanimous consent that the following additional pieces be inserted into the RECORD. First, some points in rebuttal to critiques of the Symms Cuba amendment. Second, a Heritage Foundation Backgrounder of June 11, 1982 entitled "The Soviet Military Buildup In Cuba" by Christopher Whalen. Third, a letter from Judge William P. Clark to Mr. John Fisher, president of the American Security Council, dated March 11, 1982. This letter shows further support for the principles of the Symms Cuba amendment, and suggests how it is related to President Reagan's Caribbean Basin Initiative.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POINTS IN REBUTTAL TO CRITIQUE OF SYMMS CUBA AMENDMENT

The July 1980 Republican Party platform contains language which fully supports the Symms Cuba amendment. The platform, which in

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the area of foreign policy should receive bipartisan support, states:

> Republicans pledge our continued support for the people of Cuba * * * in their hope to achieve self determination * * * We will make it clear to the Soviet Union and Cuba that their subversion and their build-up of offensive military forces is unacceptable.

The platform added:

> Republicans deplore the dangerous and incomprehensive Carter administration policies toward Cuba. The administration has done nothing about the Soviet combat brigade stationed there, or about the transfer of new Soviet offensive weapons to Cuba in the form of modern Mig aircraft and submarines. It has done nothing about the Soviet pilots flying air defense missions in Cuba or about the extensive improvements to Soviet military bases, particularly the submarine facilities at Cienfuegas and the Soviet intelligence facilities near Havana.

One, all critics concede that the Symms Cuba amendment is at least reasonable. Senator Percy has written that all Senators can support the objectives of the Symms Cuba amendment. Some critics have conceded that it has a certain political appeal.

Two, it is contended that the Cuba amendment does not advance U.S. security and foreign policy interests in the Western Hemisphere. This agrument rests upon the fallacious assumption that American foreign policy should be passive and should adapt itself to the goals of our friends and appease our adversaries. To the contrary, the Cuba amendment would advance U.S. foreign policy and security interests in the Western Hemisphere. It should not be necessary to argue that the United States have a firm, strong foreign policy which advances American national security interests. Thus to argue against the Cuba amendment is to argue for a foreign policy of accommodation of our friends and appeasement of our enemies.

Three, it is argued that passage of the Symms Cuba amendment could be compared to the Gulf of Tonkin resolution. This is a false analogy, because the Cuba amendment merely authorizes the President to threaten to use of force in the Caribbean to protect U.S. security interests against Soviet-Cuba aggression and to prevent a Soviet military base in Cuba. The contingencies and senarios for this are general, unspecified, ambiguous, and rightly so.

We in the Senate do not want to put ourselves in the position of telling the President when or where to actually use force. First, this would tip our hand to our enemies, Brezhnev and Castro, and would reveal our military plans. Second, the Senate does not have the power to tell the President to actually use force. Under the Constitution, it is the President who must make this decision as the Commander in Chief. Moreover, the President must consult with the Congress on any extended use of force and get its approval.

On the other hand, by opposing the Symms Cuba amendment, Senators are sending a dangerous message to our friends and enemies alike. Senators would be telling the world that the United States refuses to even threaten to use force to defend our vital national security interest in our own front yard, the Caribbean. Voting against the Symms amendment would send precisely this dangerous message. Our enemies in the Kremlin and in Havana would be delighted to hear that America now declares itself defenseless, that the Senate refused to use force to defend our vital national interest against Soviet-Cuban aggression. Even third-rate adversaries of the United States around the world could then feel free to attack U.S. interests with impunity after such a dangerous signal was sent.

Four, critics of the Symms Cuba amendment state that the Reagan administration has claimed that Cuba has provided significant material support for the guerrillas in El Salvador. Do they doubt the hard evidence which the administration has publicly provided? In fact, there is conclusive evidence of extensive Soviet-Cuban material support to the revolutionary guerrillas throughout the Caribbean.

Five, critics have contended that "their greatest concern * * * was that the resolution would threaten the use of force without detailing how and when to enforce the threat." Critics are correct in focusing on this point. But instead of being a drawback, this is precisely the virtue of the Cuba resolution. As noted, it does not specify the scenario for using force or the contingency. This is deliberately left ambiguous, and wisely so. Not only would it be beyond the constitutional power of the Senate to direct the President to use force in a specific future contingency, but doing so would reveal a secret military plan to the advantage of our enemies. Thus the Senate would be unwise to try to specify how and when the United States should use force. It is the threat of force itself which should deter further Soviet-Cuban aggression in the Caribbean. The threat of force is the best deterrent, and deterrence is the bed rock of U.S. national security policy.

Six, the canards of potential conflict with the Monroe Doctrine and the Rio Treaty can be dealt with easily. The Monroe Doctrine is an old and valuable principle of U.S. foreign policy, but its specific application comes at the discretion of the President. U.S. support for our ally Great Britain in the Falklands crisis was decided upon by the President for reasons of state of higher priority than the Monroe Doctrine. Likewise, the Rio Treaty can be invoked or ignored at the discretion of the President, who has the responsibility to initiate U.S. foreign policy. The suggestion that possible U.S. covert actions against Nicaragua or Cuba violate the Rio Treaty are not persuasive. U.S. covert actions, should they be decided upon by the President in consultation with the relevant congressional committees, are designed to be plausibly deniable. Hence by their very nature, U.S. covert actions cannot violate the Rio Treaty.

Seven, critics argue that the Cuba amendment would establish a double standard in U.S. Latin American policy, to wit, that force can be used by big powers but not by small powers. This criticism is naive at best. The United States cannot deny that it is a superpower, incapable of defending its vital national interests, unless of course the Symms amendment is defeated. The international state system is, in reality, a jungle where, despite the U.N. and the fabric of international law, force and the threat of force, are the only ultimate sanctions. If the United States is willing to eschew the use of force to defend our security, then we really do not need armed forces at all. One critic, a former Assistant Secretary of State for Inter-American Affairs in a Republican administration actually testified against passage of the Symms amendment on the ground that it would be a "vindication of the principle that resort to arms is appropriate if the case is serious enough." We will not dispute this point at all. It goes without saying that America must defend its vital national security interests, and the Symms amendment does indeed vindicate this principle. We should be proud to defend our liberties and freedoms against all threats.

Eight, the critics believe that their most telling argument is as follows: "A vote for the Symms resolution is in effect a vote directing the President to use the Armed Forces of the United States anywhere in the hemisphere where he sees a direct or indirect threat from Cuba." But this distorts the Symms amendment. The threat or use of force is not directed or required, merely authorized if the President decides. We also ask, What is so bad threatening the use of force to defend America? Are we in fact going to tell the world that the United States will not threaten to use force to defend its vital national security interests? Of course we must stand up now and defend American liberty, freedom, and our way of life.

In summary, the arguments of the critics amount to nothing more than shameful appeasement. We remember the result of Neville Chamberlain's appeasement of Hitler. It failed to halt aggression, and World War II occurred anyway. We must be prepared for war in order to defend the peace. Appeasement is not only dishonorable and un-American, it is also ultimately ineffective in preventing war.

A vote against the Symms amendment is in fact a vote for Marxist-Leninist tyranny in our own front yard.

The Soviet Military Buildup in Cuba

INTRODUCTION

Over the past decade, the Soviet Union has been emplacing offensive weapons in Cuba. Based both in and around Cuba, on planes, ships, and missiles, these weapons are operated by members of the Soviet armed forces. Soviet warships conduct exercises in the Gulf of Mexico, their bombers fly reconnaissance missions along the Atlantic coast from airfields in Cuba, and their pilots operate "Cuban" fighter aircraft. The presence of these offensive strategic systems in Cuba threatens the basic foundation of U.S. security policy in the region.

The Soviets' quiet, slow, but steady, buildup of military forces in Cuba has coincided with the broader Marxist challenge throughout Central America. The precise nature of these actions by the Soviets necessitates a careful review of the 1962 Cuban missile crisis "agreement" and of whether continued compliance with this agreement by United States is still warranted. Clearly, if the Soviet Union has violated both the letter and spirit of mutual military restraint agreed to after the 1962 crisis, a prompt American response is necessary.

THE 1962 MISSILE CRISIS

Fidel Castro's seizure of power and the subsequent Cuban-American break in relations in 1959 created the first real opportunity for an outside power to penetrate the Western Hemisphere since the Spanish-American War. Although, in 1960, Moscow was not ready to challenge the United States in the Caribbean, Castro's rise to power provided an irresistible opportunity to expand Soviet influence in the area. When the United States cut off Cuban access to the American market, the USSR immediately moved in, though cautiously. The Bay of Pigs affair indicated to Moscow that America would not take concrete action against Castro. Following the ill-fated invasion, the Soviets became bolder, even to the point of sending missiles to Cuba, ostensibly to defend Castro from invasion, but in fact to offset the global strategic superiority of the United States. Khrushchev's opportunism triggered the 1962 missile crisis, a direct challenge to the United States. It ended with a U.S. naval "quarantine" and the humiliating pullout of the missiles by the Soviets. This action may have removed the immediate danger, but it left intact the political-military presence of the Soviet Union.

The agreement between President Kennedy and Nikita Khrushchev was a personal understanding between the two leaders, never embodied in a public document. It was agreed that all offensive weapons, including missiles and IL-28 Beagle strike aircraft, would be removed. In return, the United States promised not to invade the island or support other groups attempting to do so. Implicit in this agreement was the further understanding that the USSR would not introduce offensive weapons into Cuba in the future. The understanding between Kennedy and Khrushchev dealt only with the immediate political problem of strategic offensive weapons. It did not address the question of whether the Soviets could operate with impunity in the Caribbean. Thus, while President Kennedy won a great personal victory, the United States accepted a long-term strategic defeat, the first in a series of reverses that would change the balance of power in the Caribbean.

CASTRO: "INDEPENDENT" REVOLUTIONARY

After the 1962 crisis, tension arose between Moscow and Havana, caused by both distrust and ideological differences. Castro felt betrayed by the USSR because Khrushchev had dealt directly with the United States without consulting him. Castro wanted to confront the United States and was incensed when Moscow backed away from the crisis. Disillusioned and angry, Castro sought to broaden his relations with the non-industrialized world in order to gain sources of support independent of the Soviet Union. He wished to spread his revolution throughout Latin America by violent means, a course in direct opposition to the official policy of "peaceful coexistence" followed by the Kremlin at the time. After the 1966 Tri-Continental Conference, where Castro broke openly with Moscow over the question of support for world revolution, relations between the USSR and Cuba reached an all-time low.

By 1968, Castro was in serious trouble. His revolutionary offensive in Latin America was a dismal failure and had cost him the life of his comrade and ideologist, Che Guevara. Cuba's economy had come to a complete standstill after a decade of "revolutionary development," and the support Castro sought from relations with the Third World did not materialize. Cuba's dependency on the U.S.S.R. had grown, but Moscow refused to increase material or economic aid, and initiated a slowdown of oil deliveries to put pressure on Havana. These and other factors forced Castro to abandon his independent course and humbly accommodate himself to Soviet desires.

A new dependence emerged in 1968–69 between Moscow and Havana, including increased economic and military aid. Two events symbolized it: the statements made by Fidel Castro supporting the Soviet invasion of Czechoslovakia and the visit of a Soviet naval squadron to Havana in July 1969.

EARLY STAGES OF THE SOVIET MILITARY BUILDUP

The renewed presence of the Soviet military in Cuba in 1969 stands in sharp contrast to the adventurous policies of Khrushchev seven years earlier. Experience had taught the Kremlin that sudden, openly aggressive moves would only alert the United States to their activities and force a response. Therefore, a new policy was initiated using incremental means to build up the Soviet military capacity in Cuba. The Soviets began to pursue long-range goals rather than instant success. Each small step was a test, each minor success a precedent to build on. By combining patience, propaganda, and deceit, the Soviets set out to re-establish themselves in Cuba on a permanent basis.

The naval squadron which arrived on July 10, 1969, demonstrated the character of this new offensive. Included in the squadron was a Kynda class guided missile carrier, two guided missile destroyers, two *Foxtrot* class attack submarines, a *November* class nuclear attack submarine, and several support ships. The *November* class boat did not put into any Cuban ports, but several surface vessels visited Cienfuegos. The presence of these sophisticated, nuclear capable vessels in the Caribbean flew directly in the face of the 1962 agreement. However, there was no American response.

Encouraged by this success, the Soviets decided to include Cuba in their first global naval exercises, Okean '70. The Cuban role included providing landing bases for TU-95D "Bear" bombers configured for reconnaissance, but capable of carrying nuclear bombs or launching nuclear missiles. This action set a new precedent whereby Bear bombers, or even Backfires, could fly to Cuba. This again was a clear challenge to the 1962 agreement, although the Soviets did not base the planes in Cuba. And again, there was no American response.

A second naval squadron visited Cuba in 1970, including a *Kresta-I* class guided missile cruiser, a *Kanin* class guided missile destroyer, two *Foxtrot* class submarines, and an *Echo II* class nuclear-powered cruise missile submarine equipped to carry nuclear warheads. The deliberate choice of a nuclear, but non-ballistic, missile-carrying submarine again illustrates the incremental Soviet approach. The *Echo II* boat was not a "strategic" platform, but so positioned in the Caribbean that it could deliver nuclear devices against targets in the United States. Thus, the level of Soviet military presence was moved up another notch. Again this deployment violated the spirit and substance of the 1962 agreement, and again there was no significant American response. On this visit, the Russian ships conducted maneuvers and openly used Cuban ports for resupply, thus setting another precedent.

THE SUBMARINE BASE CONTROVERSY WITH THE U.S.

Prior to the second naval deployment to Cuba, Soviet planners had decided to build a submarine base at Cienfuegos to extend the range of their fleet. Indeed, the decision to build the base was made in November of 1969, less than a year after the first Russian submarine visited Cuban waters. By July 1970, when construction of the base drew considered attention among the top echelons of the American intelligence community, it was nearly completed. In September, submarine tenders arrived, including a barge to handle nuclear waste. The Soviets had established the capability to support nuclear and conventional submarines, thus advancing their presence yet another step. However, they had moved too rapidly, and their actions could not be ignored by the United States.

The matter reached the crisis stage in the fall of 1970. American congressional leaders called for action, and once again the Soviet leadership found itself in a confrontation with Washington over Cuba, a situation the incremental approach was intended to preclude. Quiet negotiations followed. In November, Washington announced that "an understanding" was reached and that Moscow had agreed that "No nuclear submarines would be serviced in or from Cuban ports." Once again the Soviets seemingly were forced to "back down" by the United States; yet within a month of the so-called understanding, a similar Soviet naval squadron arrived—minus the nuclear submarine—to reassert the right of the Soviet navy to operate in the Caribbean.

Less than three months after the 1970 "understanding," testing the U.S. reaction to the presence of Soviet weapons was again set in motion. Another nuclear-powered *November* class submarine visited Cuba in February 1971, accompanied by a *Kresta-I* guided missile cruiser and a submarine tender, but instead of remaining off the coast, the boat put into Cienfuegos and was serviced. There was no American response, or even public recognition of this blatant challenge. In May 1971, the Soviets tested

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the United States again, this time with another Echo II nuclear cruise missile submarine. The boat put into Cienfuegos openly, but still there was no American reaction.

DE-SENSITIZING AMERICAN VIGILANCE

After the precedent-setting visit in May, the Soviets bided their time before testing American sensitivities andy further. The 1970 Cienfuegos incident was a dangerous mistake, but the error had proved instructive. Moscow had learned that, if it presented the appearance of backing down, it could carry on its strategy as soon as U.S. attention was diverted. Moscow waited nearly a year, therefore, before making another naval deployment, though flights of TU-95 bombers between Cuba and the Kola peninsula continued unabated. Carefully concealed beneath the rhetoric of detente, the process of desensitization persisted.

The visit of President Nixon to Moscow to sign the SALT I treaty in May 1972 provided the ideal situation for the Soviet Union's next test. The U.S. was anxious to maintain tranquility during the talks—so much so that American naval commanders were advised to avoid confrontations with the Soviets at sea. Moscow chose the Golf II class diesel-powered ballistic missile submarine as the vehicle for this next initiative. Though not a modern boat, the Golf was a strategic platform and thus well suited to test American resolve. As an added precaution, the Golf met its tender at Bahia de Nipe, a quiet harbor on the opposite side of the island from Guantanamo. The submarine remained there for five days and then departed to join its escorts.

A mystery surrounds this particular episode, for outside the harbor were elements of U.S. destroyer Squadron 18, part of a unit assigned to monitor Soviet activities in Cuba. As the Russian submarine left the harbor, the American warships made sonar contact and were able to follow the submarine for three days. During this time the Golf made numerous attempts to escape, but guided by P-3 Orion aircraft based at Key West, Florida, the destroyers maintained contact. The American warships were involved in several encounters with Soviet warships attempting to aid the Golf's escape. No public mention was made by the Nixon Administration, however, concerning the presence of a Soviet ballistic missile submarine in the Caribbean, the use of Cuban facilities to service the vessel, or the confrontation between American and Soviet warships on the high seas.

The lack of a strong American response to this latest incursion again encouraged the Soviets. Less than two years after the 1970 crisis, the American position regarding the use of Cuba as a base for Soviet ballistic submarines had been completely circumvented. Steady, patient pursuit of limited objectives by the Soviets had yielded the desired results without arousing the United States. Soviet naval visits continued throughout the 1970s, including a joint Cuban-Soviet exercise during Okean '75. Vessels from the USSR now call frequently on Cuban ports, train with Cuban vessels, and patrol the southern and eastern coast of the United States after replenishment from Cuba. In addition, construction began in 1978 on a new Cuban naval base, and the facilities at Cienfuegos were expanded to include submarine piers and a handling area for nuclear warheads.

OTHER SOVIET VIOLATIONS OF THE 1962 AGREEMENT

Although naval forces have initiated the most visible Soviet activities in Cuba, there are other instances in which the 1962 agreement has been violated by the introduction of offensive weapons. The distinction between offensive and defensive weapons ultimately depends on how they are used. A tank or a plane is defensive so long as it remains within the borders of a nation, but when used for aggressive purposes, a weapon becomes offensive. There are certain weapons in Cuba which clearly pose offensive threats to the United States.

In 1978, two squadrons of MIG 23/27 fighter-bombers arrived in Cuba, flown by Soviet pilots. Both are far superior to the IL-28s President Kennedy had forced the Soviets to remove in 1962 and clearly give Cuba a significant offensive potential. The MIG-27 configuration is an effective attack aircraft capable of carrying nuclear or conventional payloads up to 1,500 miles, and since these planes are based in Cuba, they should be considered "strategic" weapons systems. Recent deliveries by the Soviet Union have brought the total MIG 23/27 force level to approximately 75 aircraft, with half of them the more advanced MIG 27. These aircraft are frequently flown by pilots from the Soviet Union, Warsaw Pact countries, and Soviet client states. Of even greater significance is the existence of at least three and as many as six airfields that can handle the Backfire strategic bomber. Certain American defense sources predict that the Soviets will eventually move a squadron of these sophisticated planes to Cuba. From Cuban bases, the Soviet Backfire could hit any target in North America and easily make it back to the Soviet Union.

THE CONTINUING SOVIET BUILDUP

In 1979, just prior to the uproar following Senator Church's disclosure of a Soviet "Combat Brigade" in Cuba, the Soviets sent twenty-four AN-26 transport planes to the island. These aircraft are capable of carrying troops anywhere in the Caribbean region. The public debate generated by the apparent prospect of Cuban and/or Soviet troops being used in Central America helped obscure the true purpose of the now infamous brigade. A 1979 article in The Washington Post identified this unit, which had been transferred from East Europe, as being configured to guard and handle tactical nuclear weapons. This implied that the unit's role was to protect the storage of such weapons as well as other sensitive Soviet installations on the island. For instance, the Soviets maintain a very large communications complex in Cuba, the largest in the world outside the Soviet Union, which is used both to relay transmissions to Soviet military units around the world and to monitor and collect American military transmissions.

Suggestions that this unit is stationed in Cuba to back up Castro against internal opposition are simply not credible. The security of sensitive listening and intelligence-gathering installations on the island and tight Soviet control of the nuclear weapons possibly stored there must surely be of far greater importance to Moscow than Castro's stability. Elements of the "combat brigade" came from East Germany and Czechoslovakia, where they guarded nuclear weapons depots and mobile missile launchers. They are now stationed around the Punta Movida complex, a Soviet built facility linked by rail to Cienfuegos, which is now off limits to the Cuban population in the area. Intelligence reports indicate that this facility is being used to service nuclear weapons from Soviet submarines, but weapons for the MIG-27 could also be stored there. The Carter Administration should have been aware of these developments in 1979, but no public announcement was made.

Another aspect of the increasing Soviet offensive capability in Cuba surfaced in 1979 when batteries of modified SA-2 anti-aircraft missiles were identified by air reconnaissance in Cuba. These large missiles, often equipped with nuclear weapons, can be employed quickly in a surface-to-surface mode by the simple addition of a booster. They have an operational range in excess of 150 miles and could be used against ground targets in Florida.

Overall during 1981 the Soviets exported more weapons to Cuba than in any year since 1962, at least triple the level of just two years earlier, rising to 66,000 tons.

In testimony before a Senate committee in January 1982, Secretary of State Haig pointed out that with the increasing flow of arms into Cuba, "All of the countries in the Caribbean are confronted by a growing threat from Cuba and its new-found ally Nicaragua."[1] In the first five months of 1982 the same expanded level of military shipments to Cuba has continued unabated.

THE AMERICAN FAILURE IN CUBA

Since 1973, the Soviets have deployed various naval and air units in Cuba, but the presence of nuclear-capable surface vessels, particularly *Kresta-II* class guided missile cruisers, has raised the level of force currently tolerated by the United States to an alarming degree. Naval formations made up of ships armed with surface-to-surface missiles could easily strike the Gulf coast of the United States or Mexico's oilfields. Such an open display of power may be ignored in Washington, but it is highly visible to many smaller nations in this hemisphere, who are justifiably concerned over American irresolution.

During this period, the U.S. has become unilaterally attached to the illusion of "stability" in the triangular American-Soviet-Cuban relationship, while the Soviets have steadily subverted the status quo and overturned all bilateral "understandings." The United States has meanwhile failed to recognize that the Soviets understand and respect deeds, not words, and that they measure resolve by willingness to act.

The central point regarding the Soviet presence in Cuba is that Moscow has always operated under the assumption that it could advance only as far as the U.S. allowed it to. Since experience has proved that American sensitivity to their military activities is not great, the Kremlin assumes that America will not act unless suddenly provoked and that they may pursue any course of action provided it progresses slowly. The U.S. position in the Caribbean has gone from an active to a passive posture, precisely the state of mind most desired by Castro and the Soviets.

A POSSIBLE RESOLUTION

The United States must first acknowledge the threat posed by the present situation and demand the immediate removal of all nuclear and potentially nuclear Soviet weapons systems from Cuba. Only a direct demand could have a powerful impact on Soviet thinking. Such an approach by the U.S. to the Soviets in Cuba should follow two tracks: diplomacy and preparation for potential actions.

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[1] "Second Unit of MIG-23s Identified in Cuban Hands," "Aviation Week and Space Technology," February 8, 1982.

Diplomatic efforts should make it clear that the United States is aware of the scope of Soviet activities in Cuba and will no longer tolerate the present level of Soviet involvement. Privately at first, the new American stance concerning Cuba would be communicated to the Kremlin. Diplomacy would not only spell out the U.S. position concerning the weapons systems in Cuba, but more important, give the Soviets an alternative to confrontation. Past experience suggests that Moscow would reject American demands that it alter its position in Cuba. Therefore, the United States should make active preparations to remove the weapons by force while continuing the dialogue.

A crucial element of American strategy to remove the Soviet weapons is the status to be assigned to Cuba. Cuba is a subcontractor of the Soviet Union, and the U.S. must deal directly with the Soviets. Thus, at no time should Havana be consulted or recognized in the negotiations. The United States is concerned about Soviet weapons, Soviet personnel, and the use of Cuba as a staging base for Soviet operations.

Removing that influence from Cuba will be a risky and dangerous task, primarily because the Soviets do not believe that the U.S. and its leaders are willing to do what is required. To eliminate the Soviet presence from Cuba, the United States must first convince Moscow that it is fully aware of what is occurring, and that this country is serious about altering the "correlation of forces" vis-a-vis Cuba. The most important step toward this goal is for the U.S. government to educate the American public concerning past Soviet violations of the 1962 agreement and, at the proper moment, to confront Moscow publicly concerning their present involvement in Cuba and the Caribbean region. Because of the refusal of four American administrations to deal with the problem of Soviet activities in Cuba, and the secrecy with which they are treated by Washington, both American and Soviet perceptions would be schocked by such a reversal.

PUBLIC OPINION AND CUBA

A recent public opinion poll conducted on behalf of The Heritage Foundation revealed that the American people already are profoundly disturbed over the threat to U.S. interests posed by Cuba. Over two-thirds of those polled, 68 percent, considered the Castro government to be a threat to the security of the United States. Less than half that number (30.9 percent) perceived no such threat.

An even larger percentage, over three-fourths of the sample, believed "that the Castro regime in Cuba is attempting to export revolution in this hemisphere." Only 17 percent denied this proposition.

Finally, by a margin of nearly two to one, Americans want the United States to pursue tougher policies toward Cuba. Specifically 60.3 percent believed that United States policy toward Cuba is "too soft." A miniscule 0.6 percent believed the U.S. was being too tough on Cuba while 35.9 percent endorsed the status quo.

Thus, a popular foundation exists for the Reagan Administration to deal much more decisively with the threat posed by Cuba to the U.S. directly and the Western hemisphere in general.

The results of the poll are:

[Polling Dates: February 25 through March 24, 1982]

Do you consider the Castro government a threat to the security of the United States?

	Percent
1. Yes	68.0
2. No	30.9
3. Don't know	1.1

Do you believe that the Castro regime in Cuba is attempting to export revolution in this hemisphere?

	Percent
1. Yes	78.4
2. No	17.3
3. Don't know	4.3

How do you evaluate United States policy toward Cuba?

	Percent
1. Too tough	.6
2. Satisfactory	35.9
3. Too soft	60.3
4. Don't know	3.2

CONCLUSION

Despite their formidable military buildup, the Soviets are no more willing today than they were in 1962 to engage in thermonuclear war against the U.S. over Cuba. The Soviet military presence in Cuba is a strategic asset for Moscow, but the island is not essential to their overall global position. Fidel Castro is a costly and unpredictable client, who is at present useful to Soviet designs. Because Moscow recognises that Cuba is ultimately in America's sphere of influence, the Soviets have never formalised by treaty any obligation to defend the island. Cuba has asked, but has not been invited, to join the Warsaw Pact. The Soviets will exploit their opportunities in Cuba as long as possible, but if confronted by genuine American resolve, the Soviets quite likely will abandon Cuba as they tentatively began to do twenty years ago. And, in the absence of continued massive Soviet support, the Castro regime would quickly collapse.

The strategic lesson of the 1962 missile crisis remains valid today: we can deal with the Soviet presence in Cuba *only* from a position of visible, overwhelming strength. President Kennedy was able to compel the Soviets to withdraw their weapons only because he was willing to confront them with a great sense of urgency and determination. The same principle applies today, but the situation has changed. Cuba is now a forward base for Soviet military operations and therefore poses a military threat to the countries in the region and potentially the United States. For over a decade, U.S. political leaders have ignored the gradually escalating Soviet presence in Cuba until it has become a deadly threat. The U.S. will change this situation only when its leaders recognise the Soviet activities for what they are: a clear and present danger to U.S. security and regional stability.

CHRISTOPHER WHALEN.[8]

THE WHITE HOUSE
Washington, D.C., March 11, 1982.

Mr. JOHN FISHER,
President, American Security Council,
Washington, D.C.

DEAR JOHN: As you know, our Caribbean Basin and Central American policy presented by President Reagan on February 24th to the OAS represented a year-long effort. It encompasses economic, political and security measures to combat underdevelopment in the region and to support our friends in warding off the brutal assaults of Cuban and Nicaraguan supported insurgents in the region.

To a great extent, our successful implementation of the policy will hinge upon a greater appreciation of the threat by the American people and the Congress. Unfortunately, the media coverage has been fraught with both misinformation and disinformation, making this requirement all the more difficult.

On the other hand, the film that the American Security Council produced entitled "Attack on the Americas" was an effective and accurate portrayal of both the current and potential threats to our vital interests in the region. I congratulate you for the effort. I understand that some thought has been given to producing an update of the film. Since the successful implementation of our announced policy toward the region is a major goal of the President, such an initiative would be especially appreciated.

Please accept my personal thanks to you and your staff for the continued and abiding support for our national security. I look forward to working with you in the future.

Sincerely,

WILLIAM P. CLARK.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. SYMMS. I am happy to yield to the distinguished Senator from North Carolina.

Mr. HELMS. As I understand the Senator's amendment, he is simply calling on the Reagan administration to comply with and implement the congressional joint resolution, Senate Joint Resolution 230, approved on October 3, 1962. Is that correct?

Mr. SYMMS. That is correct.

Mr. HELMS. Did the Senator read into the RECORD the text of that resolution?

Mr. SYMMS. The text of the resolution has been read into the RECORD.

Mr. HELMS. It has not been?

Mr. SYMMS. The clerk read the text of the amendment.

Mr. HELMS. Mr. President, I commend the distinguished Senator for again raising this question, and I ask him to honor me by permitting me to cosponsor his amendment.

I ask unanimous consent in that regard, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Let me read just one statement that I think sums it all up, a statement by a respected former President of the United States. He said:

> The evidence is clear—and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this hemisphere itself. On that issue, unlike perhaps some others, there can be no middle ground. Together we must build a hemisphere where freedom can flourish and where any free nations under outside attack of any kind can be assured that all of our resources stand ready to respond to any request for assistance.

Those words were spoken in 1962 by the late President John F. Kennedy.

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[8] Christopher Whalen wrote this study while a Research Assistant at The Heritage Foundation. Currently, he is a Legislative Analyst for the House Republican Conference Committee.

I think that is precisely what the Senator from Idaho is saying, and I hope the Senate will approve his amendment, which I am cosponsoring, by a resounding vote.

I thank the Senator.

Mr. SYMMS. I thank the distinguished Senator from North Carolina for his support.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, I should like to make it clear that I find myself in agreement with the intent of the Symms amendment.

Mr. STENNIS. Mr. President, will the Senator speak louder?

Mr. PERCY. I will be happy to do so.

Mr. President, I do not argue at all with the intent of the amendment offered by the distinguished Senator. Certainly the United States must remain firm in its resolve to resist and ultimately prevail over Cuban efforts to subvert the nations of this hemisphere. We have no intention to lie down in the face of that kind of threat.

One way we are doing this is by passing the CBI appropriation and trying to build up the economic base of countries in the region; because if they are economically unstable, they will be politically unstable. If they are economically sound, they can be politically sound. The struggling democracies in this hemisphere are working very hard to strengthen themselves and lift themselves up by their bootstraps. Jamaica is a very good example of this, and there are others.

I simply argue very strongly that the specific language of the Symms amendment is troublesome, and it has been troublesome to a number of members of the Foreign Relations Committee.

We have held hearings on this subject. We believe that the world is not quite as simple as it was back in 1962 when we had a clear nuclear threat and when the security of this Nation was very much at stake. Conditions are different today.

No one is presuming today that Cuba can be a threat to the security of the United States itself. We have seen to that. We faced up to it at that time. But the exact language that was pertinent at that particular time is troublesome a decade later. It is particularly troublesome when we consider that this is our own hemisphere and we are having trouble in other parts of the world. I was shocked today, as I mentioned earlier, when one of our distinguished diplomats from Europe came in to tell me that it is popular in Europe—and it shock him—to be anti-American today, for a variety of reasons. Our stock has sunk pretty low among our allies. We have differences of opinion with them which have been expressed in public opinion and attitude. We do not have the unity of purpose in NATO today, and we have to fight hard to get it back.

Anyone who wants to see trouble for the United States should travel any place in the Middle East. There we are in trouble every place you go. Every single report we have had back from ambassadors in the area—in the Arab countries, from diplomats, and from our own Senators who have come back from that area have all reported that we are in trouble in the Middle East. We did endanger our relationships in the Western Hemisphere too in the Falkland Islands crisis. Fortunately, we think that has dissipated a good deal now, and there is perhaps better understanding of the position we took.

However, I think we have to move very carefully. For that reason, the Foreign Relations Committee gave a great deal of thought to this. Some of us found the Symms amendment troublesome because it does not serve U.S. efforts to build support in the hemisphere. It raises certain serious difficulties with respect to the War Powers Act. After all, our distinguished former chairman and now ranking minority member of the Armed Services Committee, together with our distinguished former colleague Jack Javits, authored the War Powers Act, which has stood the test of time.

We did not have that in place at the time of the resolution back in 1962. We do have it now. This particular Symms amendment I think raises certain serious difficulties with respect to the War Powers Act.

To speak specifically on this particular point, when Congress enacted the War Powers Act in 1973 all previous legislation was brought within its purview. The Cuban resolution of 1962 which Senator SYMMS repeats in his amendment was also brought under the purview of the War Powers Act.

The troublesome clause is "to resist by whatever means possible, including the use of arms." This was thus subject to consideration of the War Powers Act. The question today is, Is this the way we are going to threaten and rattle our sabers, and what are we going to do about it?

We have seen the American reaction when talking about sending 800 to 1,000 American forces into Lebanon. What are we going to do, wage war on Cuba? Who intends to back that up? For what reason are we raising that specter, or can we find other means that are just as effective?

New efforts would be more appropriate than language that was used when we were threatened with the possibility that nuclear weapons would be 90 miles from our shore. That issue was resolved back in 1962. That same situation does not exist today.

I would seriously question whether this 1962 clause reinvigorates and gives the President new license to use troops without prior consultation with Congress in trouble spots around the world. To pass a resolution now which implies the use of arms without the advice and consent of Congress, as provided for in the War Powers Act, I think would be quite contrary to the long debate and the careful work we did on the War Powers Act. That act provides a certain degree of protection and goes to the fact that only Congress can declare war. Authorizing the use of troops against Cuba in this language I think would be dangerous.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. HATFIELD. Is the Senator going to offer an alternative then for the Senate to consider tonight?

Mr. PERCY. The Senator will offer an alternative which will essentially be the amendment that has been worked on by the Foreign Relations Committee.

I will read the language. The language is I think tough and yet consistent with conditions that exist today.

The amendment that I will offer:

> Declared by the Senate and House of Representatives of the United States of America in Congress assembled,
>
> SECTION 1. That the United States reaffirms its longstanding determination—
>
> (a) to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States;
>
> (b) to resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the hemisphere by force or the threat of force in violation of the Charter of the United Nations;
>
> (c) to pursue any diplomatic opportunity, including those afforded by the Organization of American States, with a reasonable prospect of leading to the reduction of aggressive or subversive activities by Cuba or any other state in the hemisphere; and
>
> (d) to work through the Organization of American States and with peoples throughout the hemisphere to achieve peaceful and democratic self-determination in Cuba and in all states and territories of the hemisphere.

This language I think is strong. It is powerful language. It embraces the fact that collective security and other nations in this hemisphere should be taken into account. All freedom-loving nations should resist this kind of encroachment, and it is not just a job to be cleaned up and done by American force of arms.

What do we intend to do—invade? Do we intend to rally up the Forces? Are we going to initiate the draft? Maybe we should for other reasons but are not going to do it for this reason. We will never get a referendum to support it.

I think the committee language is good language, and for that reason at the proper moment and the proper time I will move to table the Symms amendment and on disposition of that amendment would then substitute or offer as amendment the language that was adopted by the committee.

I am happy to yield such time as the distinguished minority leader of the Foreign Relations Committee desires.

Mr. PELL. I thank my colleague very much indeed.

It was Talleyrand who once said that: "When you are dealing with an adversary you ought to spend 10 minutes of every 60 in the skin of your adversary."

I am just looking at this from the Cuban viewpoint. They have been the victims of one pseudo-invasion, and efforts have been made to assassinate their chief of government. They naturally have a certain leeriness about the United States.

For us to talk about them, one twenty-fifth the size of our country in population, as a threat is, I think we will agree, ridiculous.

The main danger in the resolution before us is the use of the phrase "including the use of arms." For a nation as Cuba that has been at the receiving end of many efforts to destabilize her government over the years, that would strike terror in many Cubans.

Also this resolution is silent on the question of nuclear arms.

For these reasons, I believe the substitute that we worked up in the Foreign Relations Committee, and that the chairman will offer, meets the requirements of our security, and meets the requirements that we seek as individual politicians in trying to appear to our constitutencies that we are true-blue Americans. I hope that the amendment before us will be defeated and that the one offered by the chairman of the committee will be acceptable.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. The amendment which I will offer immediately following disposition of the Symms amendment will be offered as an amendment to supersede the Symms amendment.

The amendment received apparently 14 votes for it and 1 vote present in the committee.

I ask once again and in conclusion whether or not Congress wants now to enact legislation that would raise the question about the requirements of the War Powers Act, that would enact this new sort of Cuba revolution and raise the serious question as to whether the clause is reinvigorated and the President is given new license to use troops without prior consultation with Congress in trouble spots around the world including Cuba.

I think that would be abdicating our responsibility, that would be walking out on the months of debate, over 1 year, that we had particularly when we overrode the veto of the President in passing the War Powers Act.

The Foreign Relations Committee dealt at length with this issue. In hearings this spring, we determined in a fully bipartisan decision, 14 affirmative votes, to draft substitute legislation that contains the essence of Senator Symms' amendment but that qualified that language so as not to compromise our understanding of current war powers legislation.

Mr. SYMMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 7 minutes and 35 seconds; the Senator from Illinois, 2 minutes and 7 seconds.

Mr. SYMMS. Mr President, I demand the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I yield 6 minutes to the distinguished President pro tem, Senator Thurmond.

Mr. THURMOND. Mr. President, I rise in support of the Symms amendment.

On April 14 of this past year, I stood before this body in strong support of the proposal offered by the distinguished Senator from Idaho, relating to U.S. policy toward the Government of Cuba. Unfortunately, by a narrow margin, the Senate tabled that Symms amendment, partially in deferral to the Foreign Relations Committee for further evaluation of the issue.

During the committee's consideration of this legislation, critical language was removed, resulting in a "watered-down" version of what once was a clear, straightforward, and firm statement of American foreign policy.

However, Mr. President, I am glad to see that Senator Symms has given the full Senate another opportunity to consider the undiluted version of this legislation.

Mr. President, I wish to reiterate my continued backing of this Symms amendment. It is a misperception that this amendment alters or changes any present law.

Mr. President, let us see what this amendment says. I think we should know exactly what we are voting on. It merely reaffirms and supports existing U.S. law, signed by President Kennedy in 1962, with respect to the situation in Cuba.

This amendment basically calls for U.S. resistance to Cuban aggression and subversion in this hemisphere, prevention of escalation in the number of Soviet military bases and Soviet influences in Cuba, and support for the basic principle of self-determination for the Cuban people.

What is wrong with that? Who can object to that? Are we not all in favor of those things? That is all the resolution of Senator Symms does.

Now, Mr. President, I want to say I think these are fundamental principles that I am certain each Member of this distinguished body can support.

Mr. President, let me counter the argument that the strong reaffirmation of our presently existing policy relating to Cuba is not necessary in this day and time. I fear that too few Americans actually realize the seriousness of the threat that the present Communist government of this island country poses to the well-being of the hemisphere in which we live. The Marxist Castro regime in Cuba has exported its subversion to Central America. Cuban activities have assisted in the overthrow of the government in Nicaragua, in deterioration of the situation in Guatemala, and in the guerrilla violence that has resulted in bloody civil war in El Salvador. How long must we stand idly by as our neighbors to the South are engulfed by the Communist cancer?

Mr. President, there are also internal factors within Cuba that are a source of great concern. Over the past decade, the Soviet Union has been emplacing offensive weapons in Cuba. Defense analysts estimate Soviet military shipments to Cuba tripled in 1981 over 1980, and are increasing again this year. This places Russian military exports to Cuba at their highest level since 1962.

Mr. President, Soviet-made heavy bombers, of the Tu-95 class, based west of Havana, fly reconnaissance missions along our very own Atlantic coast daily. Recently, a second squadron of MiG-23 ground attack fighters was uncrated in Cuba, and they are being manned by Soviet pilots. These intercontinental aircraft allow Castro to maintain an air force second only to the United States here in the Western Hemisphere.

Mr. President, the fact remains that the controversial 4,000-member Soviet combat brigade is still stationed in Cuba. It has been reported that this very same brigade was recently sent to East Germany on a nuclear weapons securing training mission.

Additionally, we must be reminded of the new nuclear submarine facility that is being built along the Cuban coast, along with the fact that Soviet warships regularly conduct exercises in the Gulf of Mexico.

Finally, Mr. President, we must not be oblivious to the announced threat of Soviet President Leonid Brezhnev to place SS-20 nuclear warhead missiles in Cuba if the United States goes ahead with its plans to place Pershing missiles in Europe.

Mr. President, we are not speaking of a country, or a problem that exists thousands of miles away from our borders. The geographical proximity of

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this situation demands that we address this problem with authority and firmness.

That is the only language the Communists know. It is the only language the Soviets know, and it seems to me we ought to take a firm stand here, not equivocate, not offer some weaker resolution which does not carry any strength to it and any firmness. If we are going to avoid a war we have got to have a clear signal to the Soviets and a clear signal to Cuba that here we stand, a continent of free people, and we are not going to stand idly by and see all of this take place here and say nothing or do nothing. This resolution to me should be passed, and I hope the Senate will pass it. Too often in the past we have handled similar situations with a weak and apathetic policy. As a result, too often we have had to stand by and witness a substantial reduction of U.S. influence in areas of vital American interest.

Mr. President, I want to make it clear that I am not calling for the use of force as the only answer to this problem, and I am confident that no one in this body is an advocate of misguided or unnecessary military action in this or any other similar situation. We must be cognizant, however, of the consequences that are likely to arise if we should formulate a policy in regard to Cuba that precludes or suggests that we would be unwilling to employ the use of force in containing Cuba's aggression. A weak stand in this area will only strengthen Castro's desire to establish a paralyzing grip on both Central and South America. The United States should not have its hands tied in this matter. We must have all means and options available to us if we are to maintain stability in this hemisphere and counter Castro's Soviet-oriented, subversive goals.

Mr. President, why should we play into the hands of our adversaries? Why should the United States send a message to the Soviet-backed regime in Cuba, that we are no longer willing to protect our own vital interests in this hemisphere? The defeat of this amendment will send that very message to Fidel Castro, and we will have passed up an excellent opportunity for this body to clearly express its desire to see the United States maintain an influential policy in our own backyard.

Moreover, Mr. President, this amendment is fully consistent with the administration's recent Caribbean policy proposals. The President views the Caribbean region as a vital strategic and commercial area for the United States. We cannot afford to allow Cuba to be the dominant force in this region. We must take steps to insure that Castro does not continue to hamper our efforts to improve the social and economic well-being of the people in the Caribbean Basin and in Central America.

Mr. President, let us not be so naive as to believe that this matter is not of extreme importance. I feel that it is essential that we take a strong stance in our relations with Cuba. It would be a most serious mistake to be submissive or imprudent in our dealings with Castro. The adverse ramifications of allowing this Russian surrogate to spread its destabilizing influence throughout our hemisphere are totally unmeasurable.

Mr. President, as I did in the past, I will vote in favor of this initiative, and I hope that my Senate colleagues will also go on record in favor of the Symms amendment, and in favor of a strong U.S. policy in regard to Cuba.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, will Mr. Percy yield me 30 seconds?

Mr. PERCY. Yes, of course, I would be happy to yield.

Mr. LEAHY. Mr. President, the distinguished President pro tempore has spoken of the brigade in Cuba. He is absolutely right, the Soviets do have them down there.

I am reminded of what somebody said to me during 1980 in Vermont, "By golly, if Ronald Reagan was President, we wouldn't have any Soviet brigade in Cuba."

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, before we do that, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is 9:25, and I had promised the Senate would be out at 9 o'clock, which for me is better than average. But I do want to try to get us out as soon as possible.

As I understand it, there is going to be a tabling motion made by the chairman of the Committee on Foreign Relations. If that succeeds then there would be an amendment offered by the Senator from Illinois (Mr. Percy). If that does not succeed we will have a record vote on the Symms amendment itself, and then we have got the Schmitt amendment to deal with which, perhaps, will be accepted. But the long and short of it is—I mean the Mattingly amendment. The long and short of it is we could be here another hour at that rate.

I have discussed this with the two managers of the bill, with the distinguished Senator from Idaho (Mr. Symms), the chairman of the committee, and I have consulted with the minority leader. Mr. President, I do not think we can finish this section tonight.

Therefore, I ask unanimous consent that after the disposition of the Symms amendment that only a possible amendment by the Senator from Illinois (Mr. Percy) and an amendment by the Senator from Georgia (Mr. Mattingly) be in order for this section tomorrow when we resume consideration of this bill.

Before the Chair rules or puts the question, after that is done if we can lock down that nothing else to this section is to be offered and would be in order, then I would ask the Senate to recess after the disposition of the Symms amendment or the tabling motion.

Mr. PERCY. Mr. President, reserving the right to object, and I shall not, I would like to indicate a willingness on the amendment that I would be offering, which would supersede the Symms amendment, even if adopted, that we have a time limitation of 10 minutes equally divided and a 10-minute rollcall vote.

Mr. BAKER. Mr. President, I would be glad to put that request.

Mr. SYMMS. Mr. President, reserving the right to object, you are talking about doing this tomorrow, though?

Mr. BAKER. Yes.

Mr. SYMMS. I would think 10 minutes would be a little bit short.

Mr. PERCY. I thought this was to be tonight.

Mr. BAKER. Mr. President, let me postpone that for the time being then. Let me put the request I just stated to the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object——

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, after we have the next vote I will ask the Senate to recess until in the morning.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield me 15 seconds for a question?

Mr. SYMMS. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has not expired. Who yields time?

Mr. MOYNIHAN. Will the distinguished chairman yield 15 seconds for a question?

Mr. PERCY. Yes, of course.

Mr. MOYNIHAN. I believe on this side of the aisle it would be important for us to know does the President of the United States support or oppose the Symms amendment?

Mr. SYMMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes and 22 seconds.

Mr. SYMMS. This is a letter from Mr. William Clark, Bill Clark. On my time I will read this letter into the Record for the distinguished Senator from New York. This is from Mr. William Clark:

> The principles embodied in your resolution have the full support of the President. He clearly expressed these same sentiments during his speech before the Organization of American States on February 24, 1982.

This is dated April 29, 1982.

Mr. MOYNIHAN. Is the President prepared to go to war if the terms of the resolution are not met?

Mr. SYMMS. On my time again, I would say that the President is the Commander in Chief. I am not making such a judgment. But the principle here is to announce that anything less is surrender to Soviet intervention into this hemisphere, and I am sure my good friend from New York does not want to do that.

What this amendment expresses is political will, whether we as Americans have the resolve to resist expansionism of the Soviet puppet Castro in the Caribbean Basin. That is what the question is. It is a question of a strong signal; it is not a question of whether or not we are going to go to war tomorrow, next week, or the week after. It is a question of what the American position is. We need a clear-cut, concise statement of what we will or will not tolerate right off our front door, 90 miles from home.

Mr. MOYNIHAN. I thank the Senator.

Mr. PERCY. Mr. President, to respond further to the distinguished Senator from New York, after the Committee on Foreign Relations adopted by a 14 aye vote the resolution which I will present for adoption by the Senate tonight, I did send the resolution to Secretary Shultz. We have not had a reaction back from Secretary Shultz.

I also indicated that there were 14 aye votes and 1 present. Senator HELMS voted present originally but then, I note in the RECORD, he did wish later to be recorded in the negative. So it was 14 to 1.

But I do feel, for the reasons I have previously stated, the amendment that I will be offering, subject to the disposition of this amendment, will offer the opportunity to the Senate to vote on it.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. PERCY. Mr. President, I move to table the Symms amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. SYMMS. Mr. President, I yield the remaining time to the Senator from North Carolina.

Mr. HELMS. Mr. President, I will only take 30 seconds. What we are talking about with respect to the substitute, which the Senator from Illinois will offer in the event that the Symms amendment is not tabled, is reducing the Monroe Doctrine in half. Now, of course, half is better than zero. But it is time to put up or shut up.

This amendment by the Senator from Idaho does not rattle any saber. It just has America acting like America again.

I will repeat the quote from John F. Kennedy in 1962, when he said:

> The evidence is clear now and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this Hemisphere.

That is what we are talking about. We can mess around with words all we want to, but we are talking really about the survival of freedom in this hemisphere.

The PRESIDING OFFICER. All the time of the Senator has expired.

Mr. PERCY. Mr. President, I move to table the Symms amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois (Mr. PERCY) to table the amendment of the Senator from Idaho (Mr. SYMMS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE) and the Senator from Maryland (Mr. SARBANES), are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Mr. RIEGLE), would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 65, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—30

Baucus
Biden
Bumpers
Chafee
Cranston
Danforth
Dixon
Dodd
Durenberger
Eagleton
Ford
Glenn
Gorton
Hatfield
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Long
Matsunaga
Moynihan
Packwood
Pell
Percy
Proxmire
Stennis
Tsongas
Weicker

NAYS—65

Abdnor
Andrews
Armstrong
Baker
Bentsen
Boren
Boschwitz
Bradley
Brady
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
D'Amato
DeConcini
Denton
Dole
Domenici
East
Exon
Garn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—5

Hart
Levin
Mathias
Riegle
Sarbanes

So the motion to lay on the table UP amendment No. 1201 was rejected.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—AMENDMENTS TO CHAPTER VI

Mr. BAKER. Mr. President, I believe I have indicated and the minority leader agrees that there will be no more record votes tonight. I have a unanimous-consent request I wish to propound that I have submitted to the minority leader, managers, and other Senators.

I ask unanimous consent that no other amendments be in order to chapter VI of H.R. 6863 after disposition of the pending Symms amendment except a Percy amendment dealing with Cuba, a Mattingly amendment dealing with drug traffic, and also remaining Appropriations Committee amendments.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, does the Senator mean by that last phrase, "and also remaining Appropriations Committee amendments" to chapter VI?

Mr. BAKER. Yes, Mr. President, to chapter VI.

Mr. ROBERT C. BYRD. I thank the Senator. I have no objection.

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I shall not object, I should like to offer an amendment to this section tomorrow.

Mr. BAKER. Mr. President, will the Senator tell us the subject of this amendment?

Mr. MOYNIHAN. On the drug traffic.

Mr. BAKER. Mr. President, I include that in the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, in the committee's rush to file and have printed its committee report on the supplemental appropriations bill, a number of minor typographical errors occurred. To clarify any confusion, I shall ask unanimous consent to have a list of corrections printed in the RECORD. These have been checked with the manager for the minority side.

Mr. President, included in these corrections is a technical reclassification of spending authority, which because of a transfer, is no longer counted as new budget authority. As a result, the total budget authority contained in the reported bill for program supplementals totals $2,857,707,459. This is $17.4 million less than is shown in the printed report. Tabular corrections in the pay supplemental title reduce the reported bill total by $312,000 for a revised total of $6,106,872,640. The corrected overall bill total then is $8,964,580,099.

I ask unanimous consent that the list I referred to be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TECHNICAL CORRECTIONS OF TYPOGRAPHICAL ERRORS IN THE COMMITTEE REPORT (S. REPT. 97-516)

Page 51, in the table at the top of the page in column 3 entitled, "Committee recommendation" aligning with the line entitled "variable housing allowance", strike out "5,000" and insert: "5,500".

Page 97, line 16, after "resources" insert: "if necessary, otherwise these funds could be deferred for use in fiscal year 1983."

Page 97, line 22, after "eliminating" strike out "the" and insert: "OMB's proposal".

Page 99, line 20, strike out "regis-tration" and insert: "registration".

Page 100, line 19, after "provided" and insert: "the".

Page 102, line 3, strike out "October 1, 1983" and insert: "September 30, 1983".

Page 113, line 11, strike out "$450,000" and insert: "$540,000".

Page 113, line 15, strike out "($40,000)" and insert: "($20,000)".

Page 238, line 27, at the beginning of the paragraph, insert: "Section 303."

Page 238, line 29, strike out "1982" and insert: "1983".

TABULAR CORRECTIONS

Page 178: "Investment in fund Anticipation Notes (By transfer)":

Under the Senate committee recommendation strike "(5,000,000)", and insert: "———".

Under the Senate committee recommendation compared with (+ or −).

Budget estimates: Strike "(+5,000,000)" and insert: "———".

House bill: Strike "———" and insert: "(−5,000,000)".

Page 196: "Payment to the Postal Service Fund".

Under the Senate committee recommendation strike "39,000,000" and insert: "20,000,000".

Under the Senate committee recommendation (+ or −).

Budget estimates: Strike "+39,000,000" and insert. "+20,000,000".

House bill: Strike "+19,000,000" and insert: "———".

Insert following "Payment to the Postal Service Fund" a new line "(By transfer)".

Under Budget estimates insert: "———".

Under House bill insert: "———"

Under Senate committee recommendation insert: "(19,000,000)".

Under Senate committee recommendation compared with (+ or −).

Budget estimates: Insert: "(+19,000,000)".

House bill: Insert "(+19,000,000)".

"National Archives and Record Service, Operating Expenses".

Under Senate committee recommendation strike ["4,900,000"] and insert: "6,500,000".

Under Senate committee recommendation compared with (+ or −).

Budget estimates: Strike ["+4,900,000"] and insert "+6,500,000".

House bill: Strike ["+4,900,000"] and insert "+6,500,000".

Page 199: Insert following the line "Office of the Legislative Counsel of the Senate," a new line "Office of the Senate Legal Counsel".

Under Budget estimates insert: "13,000".

Under House bill insert: "———".

Under Senate committee recommendation insert: "13,000".

Under Senate committee recommendation compared with (+ or −).

Budget estimates: Insert: "———".

House bill: Insert: "+13,000".

Page 231: "Advisory Council on Historic Preservation: Salaries and expenses."

Under Senate committee recommendation strike "25,000" and insert: "———".

Under the Senate committee recommendation compared with (+ or −).

Budget estimates: Strike "+25,000" and insert: "———".

House bill: Strike "———" and insert: "−25,000".

Page 236: "National Gallery of Art, salaries and expenses".

Under Senate committee recommendation strike "300,000" and insert: "———".

Under the Senate committee recommendation compared with (+ or −).

Budget estimates: Strike "+300,000" and insert: "———".

House bill: Strike "———" and insert: "−300,000".

Mr. HATFIELD. Mr. President, there are no other amendments to be taken up on this bill at this time. I yield the floor.

Mr. PERCY. Mr. President, I would like to discuss for a few minutes with the Senator from New Mexico the matter of the $8.5 million in the House version of the supplemental which has been earmarked for repair and construction of the Job Corps Center in Joliet, Ill.

I ask unanimous consent that a fact-sheet on the Job Corps Center and the appropriations bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOLIET JOB CORPS CENTER

The fiscal 1982 general supplemental appropriations bill, as passed by the House, provided $8.5 million to rebuild a major portion of the Joliet Job Corps Center in Illinois. This item was left out of the Senate version.

The Joliet center, located 50 miles southwest of downtown Chicago, opened in July, 1979 with a rated capacity for 400 young men and women between the ages of 16 and 21. A fire in November, 1981, reduced the center's capacity to 150 youth. They are being trained as auto mechanics, clerk-typists, nursing assistants, cooks, welders and maintenance workers.

The fire destroyed a building which had been used as a dormitory for 200 male youth and also for administrative offices and for an infirmary. The House Appropriations Committee, in its report, said it wanted to see the center rebuilt "at the earliest possible date" with priority for enrollment given to youth living within 200 miles of Chicago, an area that includes major cities of Illinois, Indiana, Michigan, Wisconsin and Iowa. Here are some of the compelling reasons for the committee's decision:

(1) The Chicago area has one of the highest concentrations of unemployed minority youth in the country. Of the current enrollees, 87.6% are black, 2.4% are hispanic and 9.2% are white.

(2) There is only one other Job Corps Center in Illinois, a conservation center for 230 males operated by the Forest Service near Golconda in the southern part of the state.

(3) The Joliet center is housed in buildings leased from the Army at the "mothballed" Joliet Army Ammunition Plant. The burned building was part of the plant's defense mobilization base so it will have to be replaced at Labor department expense in any case.

(4) The RCA Service Company was the original operator of the Joliet center. Since the contract was awarded last year to Res-Care, Inc. of Louisville, Kentucky, the operating efficiency of the center has greatly improved under its able director, James E. Daniels.

Mr. PERCY. I think the Job Corps program is a good one and this particular center in Joliet has had a good record—a placement rate of 80 to 95 percent before the recession reached its deepest point. Since it serves such a widespread area in the central Midwest, and since the repairs required by the extensive fire damage are certainly more than routine, I agree with the House that some special funding is needed. I wonder if I could call upon the Senator from New Mexico for his comments on this matter?

Mr. SCHMITT. Mr. President, I can certainly understand the concern of the Senator from Illinois in this regard. It is unfortunate that the Joliet Center has been reduced to so small a portion of its original training capacity. As the Senator knows, the House language was reviewed by the committee and we did not feel it was possible to earmark such funding in our own bill at this time.

Mr. PERCY. I appreciate the understanding of the Senator from New Mexico, who chairs the Appropriations Subcommittee on Labor, Health, and Human Services, and Education, and I wonder if he would indulge me for a few minutes in a discussion about what options may be open to us in pursuit of this matter.

Mr. SCHMITT. I would be happy to discuss the matter with the Senator from Illinois.

Mr. PERCY. Mr. President, aside from a Job Corps Center near Golconda, Ill., which is used by the Forest Service to train people in conservation and forestry, there is not now a facility within a reasonable distance—other than Joliet—that conducts training in skills that are marketable in urban areas and which is accessible to residents from adjacent States such as Wisconisn and Indiana. Does my colleague not agree that some effort should be made, at some point, to look into the problem of this severely reduced training capacity in the Chicago area, one which affects other States as well?

Mr. SCHMITT. Mr. President, we understand the concern of the Senator from Illinois. He has brought to the attention of both the committee and the Senate a very real problem and we would like to work closely with him to arrive at an appropriate solution at the appropriate time.

Mr. PERCY. I thank the Senator for his interest and concern. I wonder if the distinguished subcommittee chairman would be able to give me his assurances that he will keep an open mind on this matter as the Senate proceeds to conference on the bill.

Mr. SCHMITT. I can assure the Senator that we will have an open mind on the House provision when we go to conference. It may be, however, that this matter will have to be resolved in connection with subsequent action on funding for the entire Job Corps program for fiscal year 1983.

Mr. PERCY. I thank the Senator very much. I appreciate his willingness to discuss the problem here on the floor and his kind offer to work with us on it. His assurances have been very helpful to me and I know he will, as usual, do his best to follow up on them.

REGARDING TITLE I SUPPLEMENTAL

Mr. D'AMATO. As chairman of the Labor-HHS-Education Appropriations Subcommittee, is it the Senator's understanding that the $148 million fiscal year 1982 supplemental appropriation for title I is to be used in conjunction with the regular appropriation to assure each county of a total title I allocation for the 1982–83 school year that is the higher of the amount under either the 1970 or 1980 census data?

Mr. SCHMITT. Yes, that is correct.

Mr. D'AMATO. Since the Department of Education has already distributed the amount appropriated according to the 1970 census, is it your understanding that the $148 million fiscal year 1982 supplemental is to be distributed in such a way as to assure that only those counties that do better under the 1980 census data will get the amount they would have received if the 1980 data had been used?

Mr. SCHMITT. Yes, that is correct. Because the previous appropriation has now been distributed according to the 1970 data, the Department will distribute the new $148 million to each State that has even a single county that would have done better under the 1980 census had it been used. This will insure that each State's total title I allocation will be the higher of the amount distributed under the 1970 or 1980 census data. No county, of course, will receive more than the higher of the 1970 or 1980 census data allocation.

Mr. D'AMATO. In other works, this new title I supplemental could not, therefore, be used to grant additional dollars to counties that do better under the 1970 census, but would apply only to counties that do better under the criteria for poverty in the 1980 census?

Mr. SCHMITT. Yes, exactly.

Mr. D'AMATO. And finally, what do you see as happening should the courts rule, following enactment of the supplemental, in favor of using the 1980 census data for the 1982–83 school year? Would the $148 million then be distributed only to counties that do better under the 1970 census than under the 1980 census?

Mr. SCHMITT. Any comment would be speculative at this point. We would need to look very carefully at any court decision that is made. However, I am sure the Members would want to do everything possible to insure that there be no disruption to the school year due to court action.

Mr. D'AMATO. Is there any indication among local school administrators that they would oppose this special supplemental?

Mr. SCHMITT. I am aware of none. Many education organizations including the Council of Great City Schools; the American Association of School Administrators, whose members would administer these new funds; the National School Boards Association; and so forth have indicated they support the supplemental.

Mr. D'AMATO. I thank the Senator for this clarification.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Veterans' Affairs Committee, I would like to discuss one point regarding the pending measure with the distinguished chairman of the HUD-Independent Agencies Subcommittee, my good friend from Utah (Mr. GARN). In the report to accompany this measure—Senate Report No. 97-516—the Appropriations Committee stated it concurs with the action of the House of Representatives in transferring $8 million to the VA's medical administration and miscellaneous operating expenses account from the agency's medical care account in order to support the VA's nurse scholarship program through September 1983. The report further referred to the source of the $8 million from the medical care account as certain funds available for the VA's vet center readjustment counseling program, more specifically from the fiscal year 1982 funds allocated to that program for contracting with non-VA entities to provide readjustment counseling.

Mr. President, as further noted in the report, the Appropriations Committee considers the VA nurse scholarship program a high priority, and since the VA has informed the committee that it would not be able to obligate $8 to $10 million of the $11.2 million allocated to the contracting-out portion of the readjustment counseling program in fiscal year 1982, the committee provided for a transfer of $8 million of those funds rather than have the funds lapse.

As I indicated in my August 4 letter on this subject to the distinguished chairman and the distinguished ranking minority member of the subcommittee (Mr. HUDDLESTON), I very much share the Appropriations Committee's support for the VA's plan under its health professional scholarship program to finance the training and upgrading of VA nurses and fully endorse the increase in and extended availability of funding for that program that would be provided for in the pending measure.

I realize that the VA's unfortunate delay, until very recently, in developing a mechanism for fee-for-service contracts for readjustment counseling may mean that not all of the funds earmarked for that effort in fiscal year 1982 can be effectively expended for that specific purpose by the end of the current fiscal year. I do not support, however, transferring funds away from the readjustment counseling program—a program that is of great importance to many Vietnam veterans.

Mr. GARN. Mr. President, I know that my friend from California (Mr. CRANSTON) is strongly committed to meeting the needs of Vietnam veterans. I share that commitment, and I certainly would not endorse any action that would diminish the efforts of the Federal Government to assist those veterans. Although it is correct that the committee report mentions readjustment counseling fee-for-service funding as the source for the $8 million to be transferred from the medical care account to support the nurse scholarship program, that reference was intended only as an example of a source in the medical care account from which funds could be drawn. As was noted in the committee report, the reason that source was mentioned was that the VA had advised the Appropriations Committee that the readjustment counseling fee-for-service funds would otherwise lapse. The Administrator would certainly have discretion to identify another source, or other sources, to effectuate the transfer which this act will make possible and bring that proposal to the attention of the Appropriations Committees in the usual manner.

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Mr. CRANSTON. Mr. President, I appreciate the support of the chairman (Mr. Garn) for Vietnam veterans and his clarification of the committee's intent regarding the use of readjustment counseling program funds. As I urged in my August 4 letter, I would hope that, before the VA would use any of the funds earmarked for that program to support the transfer of funds for the nurse scholarship program, the agency would make an immediate, concerted effort to use those funds for the purposes intended or for other purposes related to the readjustment counseling program. For example, every consideration should be given to the possible use of such funds to support some part-time employees for the balance of the current fiscal year to bolster the existing readjustment counseling efforts, to support increased travel in conjunction with ongoing training efforts that are designed to improve the skills of those working in the program, to fund research into the effectiveness of the vet centers in addressing problems related to combat stress, and to fund a VA effort to monitor the efforts of the various contractors providing fee-for-service counseling.

Mr. GARN. Mr. President, the suggestions made by Senator Cranston for ways in which the VA might use these fee-for-service money that cannot be otherwise obligated by the end of fiscal year 1982 all have merit and the VA should consider them. In any event, I know that we are in agreement that these funds should not be allowed to lapse. I also trust that there will not be a repeat of this situation in the next fiscal year but rather that, in fiscal year 1983 and subsequent years, the agency will effectively use for the intended purpose all the funds earmarked for the fee-for-service portion as well as the in-house vet center aspect of the readjustment counseling program.

I will raise the concerns we have discussed regarding funding for the readjustment counseling program with my counterparts on the House Appropriations Committee during the conference on this bill and make it clear that the Administrator has the discretion to find the most appropriate source within the medical care account to provide for the transfer to MAMOE of the $8 million for the nurse scholarships.

Mr. CRANSTON. Mr. President, I am very grateful to my good friend from Utah for this clarification and, as always, his excellent cooperation and helpfulness. I ask unanimous consent, Mr. President, that the text of my August 4 letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Veterans' Affairs,
Washington, D.C., August 3, 1982.

Hon. Jake Garn,
Chairman,
Hon. Walter D. Huddleston,
Ranking Minority Member,
Subcommittee on HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Jake and Dee: I noticed that H.R. 6863, a supplemental appropriations Act for fiscal year 1982, as passed by the House of Representatives on July 29, contains a provision to transfer $8 million from the Veterans' Administration's medical care account to the agency's medical administration and miscellaneous operating expenses account in order to provide funding support for the VA's Health Professional Scholarship Program. Once transferred, these fiscal year 1982 funds would continue to be available until September 1983.

I strongly support the VA's plan under its Scholarship Program to finance the training and upgrading of VA nurses and fully endorse the increase in and extended availability of funding for that program. I am very concerned, however, that the House Appropriations Committee recommended in its report (H. Rept. No. 97-673) to accompany H.R. 6863 that the source for this $8 million transfer be funds previously intended to fund the fee-for-service portion of the VA's "Vet Center" readjustment counseling program. I believe that diverting funds from that source would be inappropriate, and I urge that the Senate Committee not ratify that recommendation.

As the author of the legislation establishing the VA's readjustment counseling program, I have long advocated the timely establishment of a fee-for-service counseling effort so as to provide assistance to those veterans in need of readjustment counseling who are unable to take advantage of the Vet Centers. Thus, I have been very disappointed that it took the VA until earlier this year to establish a fee mechanism and begin to implement it. Although I appreciate that the delays already incurred may mean that not all of the monies originally allocated for fee-for-service efforts in fiscal year 1982—$11.2 million—can be effectively utilized for such purposes during this fiscal year, I would hope that your Subcommittee would first assure itself that a good faith effort has been made to utilize as much of those funds as possible before endorsing any proposal to allow the funds to be used for other purposes.

Moreover, to the extent that the Subcommittee is satisfied that some of the funds allocated for the fee-for-service portion of the readjustment counseling program in fiscal year 1982 will lapse unless they are reallocated, I urge that efforts be made to retain in that program for other uses such funds as can be effectively used by that program. For example, I believe that such funds could be effectively used for supporting some part-time FTEE's to bolster the existing Vet Centers' efforts between now and the end of the fiscal year, for supporting increased travel in conjunction with on-going training efforts that are designed to improve the skills of those conducting the program, for funding research into the effectiveness of the program in addressing problems related to combat stress, and for funding a VA effort to monitor the efforts of the various fee-for-service contractors. To the extent that funds remain after such readjustment counseling activities are funded, I would urge that the Subcommittee favorably consider either authorization to transfer such funds for use in support of other programs targeted on Vietnam-era veterans, such as the VA's various Agent Orange activities, or an amendment to permit an appropriate amount of funds to be utilized for some or all of the foregoing purposes relating to Vietnam veterans, or for fee counseling, beyond September 30, 1982—or some combination of these actions.

I realize that, to the extent your Subcommittee does not rely on funds from the readjustment counseling program to support the VA Scholarship Program, there will be a need to identify other VA programs that could be offset so as to provide additional funding for the Scholarship Program. I understand that the Veterans' Administration plans to give you some suggestions in that respect prior to your Subcommittee's next meeting. I believe that finding an alterative transfer source would be far preferable to shifting monies intended to meet Vietnam veterans' needs to programs not directly related to their needs.

I am, as always, ready to work with your Subcommittee as appropriate and greatly appreciate your consideration of my views on these issues.

With warm regards,
Cordially,

Alan Cranston,
Ranking Minority Member.

TUBERCULOSIS CONTROL

● Mr. HAWKINS. Mr. President, I had intended to offer an amendment to the Supplemental Appropriations bill to appropriate $9 million for tuberculosis control programs. In fact, I first introduced this amendment last year in anticipation of the Labor, HHS, and Education Appropriations bill being considered by the Senate. The appropriations for programs under these departments were funded under a year-long continuing resolution that did not provide for funding under either the old 314(d) block grant or the new categorical tuberculosis control grant program. Therefore, for over a year no Federal support has been earmarked for controlling the spread of tuberculosis.

I believe wholeheartedly in providing adequate funding for tuberculosis control. I am still very much committed to assisting the States and local governments in combating this serious health threat. The action of the Senate Appropriations Committee is indeed encouraging. They hope to provide $1 million in supplemental appropriations for the chronic disease program of the Center for Disease Control. I want to thank Senator Schmitt, the chairman of the Subcommittee on Labor, HHS, and Education Appropriations, for accepting the House provision that earmarks $1 million for tuberculosis control. Senator Schmitt has been patient in listening to my concerns over cuts that jeopardize a vital health program. I appreciated his courtesy in inviting me to submit testimony during the February 3 hearing on supplemental appropriations.

While I prefer that the full $9 million authorized for tuberculosis in fiscal year 1982 be appropriated, I can understand and agree with the concern of limiting funds for tuberculosis control to $1 million in this particular bill, since in fact, only 1 month remains in this fiscal year. I am concerned, however, that withholding my amendment does not affect the appropriations for this program in fiscal year 1983.

Can the Senator from New Mexico assure me that this program is of such vital importance that he will give every attention to this health program during the subcommittee's consideration of appropriation levels for the next fiscal year?

Mr. SCHMITT. You can be assured that the problem of controlling the spread of tuberculosis is one which will receive every consideration when the subcommittee establishes its spending priorities for health programs for fiscal year 1983.

Ms. HAWKINS. With that assurance, I will not offer my amendment for supplemental funding for tuberculosis control programs. I do hope that the funding signals a growing awareness in Congress of the need for Federal support for tuberculosis control. It is my hope that Congress will appropriate the full authorized level for tuberculosis control for fiscal year 1983.

The Senate Labor and Human Resources Committee, of which I am a member, considered the need for increased funding during last year's omnibus reconciliation bill. We received disturbing testimony about the increase in the number of tuberculosis cases in 20 States and the discovery of a drug-resistant strain of tuberculosis. These findings prompted Congress to authorize $9 million in fiscal year 1982 and $10 million in fiscal year 1983 for project grants for tuberculosis control. Unfortunately, despite this action by the authorization committees, no funds were appropriated for the program. I agree with the need to make additional budget cuts through the appropriations process. I feel, however, that total elimination of funding for this preventive health program is shortsighted and will cost us dearly in the future.

Tuberculosis is a dread and vicious threat to the health of this country. Active prevention is our best defense against tuberculosis—and other health threats too. Since the victims of tuberculosis frequently are medicaid and medicare patients, the Federal Government, frankly, can pay now, or will have to pay later. Attacking tuberculosis right away through prevention therefore can save thousands from needlessly acquiring tuberculosis and it also makes good sense from an economic viewpoint. Briefly, prevention is cheaper than the cure.

The committee decision to eliminate funding for tuberculosis control was clearly based on a decision to not fund any new programs. This is not a new program, though. It is merely a shift in funds. From 1959 to 1970 the Federal Government initiated a program of special project grants through the Center for Disease Control's tuberculosis control program. In the 1970's funds for controlling tuberculosis were transferred to a block grant to be distributed by the States through the 314(d) block grant. That program expired in October 1981. The need, however, for Federal funding for tuberculosis has not expired.

Tuberculosis is not a disease of the past. The problem is not under control. Federal health officials have determined that tuberculosis is still a serious health problem, particularly among children. The Public Health Service reported that last year, for the first time in 18 years, the number of new cases of tuberculosis in the United States exceeded those in the preceding year. The Center for Disease Control reported that the number of tuberculosis cases increased in 30 States, and the District of Columbia last year indicated that the steady 35-year decline in reported TB cases may have reversed.

An alarming increase in the incidence of tuberculosis among children was reported in 1979. A total of 1,620 new cases of tuberculosis was reported among children, 900 of which were in children under 5 years of age. That is an increase of 18 percent over the preceding year and the highest increase for this age group since 1975. Tuberculosis in children is especially dangerous because of the risk of meningitis. The national health planning goals of the Public Health Service states:

> Tuberculosis is a serious disease of children because of the potential complications of meningitis, which may lead to severe brain damage and death. Because of its severity, special efforts should be made toward eliminating tuberculosis among children.

Twenty-two children died in 1979 from this preventable and curable disease. This increase in the number of tuberculosis cases among children proves that this infectious disease is currently being transmitted and is not under control.

Twenty thousand people have active cases of tuberculosis. More than 15 million Americans are infected with dormant forms of this disease. Decreased immunity, caused by old age, illness, or improper nutrition, is often responsible for activating dormant infections. Because the symptoms of TB, bad cough, weight loss, fever, and malaise are often ignored by those affected, the virulent spread of this highly infectious disease continues.

The American Lung Association and the American Thoracic Society have testified that a minimum of $15 million per year in project grants is needed to treat and prevent the spread of tuberculosis. After considering the merits and financial needs of this program, Congress agreed to create a new categorical grant program within the Center for Disease Control. This new funding mechanism will assist us in eradicating this infectious disease by concentrating funding on the most troubled areas. Insufficient funds to combat tuberculosis will severely cripple efforts to combat the disease. De-emphasizing tuberculosis control will have dreadful consequences.

Now essentially all preventive treatment is conducted by public tuberculosis control programs. Presently, about 25,000 persons per year complete a course of preventive treatment, thereby preventing an estimated 2,500 cases of tuberculosis over the next 20 to 40 years. Hence, without tuberculosis control, preventive treatment would virtually cease at savings of $4.7 million per year.

Nearly all contact investigation is conducted by public tuberculosis control programs. Contact investigation uncovers nearly 2,000 early cases of tuberculosis. If failure to identify these cases early produces two additional weeks of hospitalization per case, it would cost an additional $2.8 million per year. Hence, without tuberculosis control, contact investigation would virtually cease.

Rapid progress in the control of tuberculosis promises even more savings. There would be a continued decline in the number of cases, a reduction in the number of treatment failures and relapses, and no need for short-course chemotherapy regimens all of which would result in savings of over $10 million per year.

The elimination of tuberculosis control programs poses grave problems for the care of Indochinese, Cuban, and Haitian refugees with tuberculosis—nearly all of whom are treated by the public tuberculosis programs.

The precise effect of public programs on the annual tuberculosis case rate cannot be predicted. If the annual rate of decrease changed from 5 percent to 2.5 percent then the increased cost would be about $4.1 million in the first year, rising to $17.8 million in the fifth year.

A report prepared by the Subcommittee on Health and Environment of the House Energy and Commerce Committee stated, "Large numbers of infectious persons are not being effectively treated, and transmissions continue to occur." While we have developed drugs that can effectively treat tuberculosis, the medication must be taken for at least 9 months and sometimes for as long as 2 years. Many of the patients stop taking medication as soon as the symptoms disappear, how-

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ever. Therefore, the TB bacteria develops a resistance to antibiotics. The Health Subcommittee report attributed part of the problem in treating this disease to the low priority given to tuberculosis. The local health departments are faced with a problem of not only locating patients with tuberculosis and treating them, but following and supervising patients for long periods of time to insure that they take their medication. They are also faced with the additional burden of finding and evaluating contacts of infected persons to prevent transmission of the disease.

Tremendous progress was made during the 1960's in treating and preventing the spread of tuberculosis. The progress made then was not continued between 1970 and 1980, however. According to "Tuberculosis in the United States: 1978," the percentage of those patients on drug treatment who had followup bacteriologic examinations for tuberculosis actually declined, showing retrogression in the treatment of tuberculosis.

Much of the decrease in combating tuberculosis can be attributed to a shift in the funding mechanism for tuberculosis programs. In fact, funding for tuberculosis control programs suffered during the 314(d) block grant. The impact of this transfer was felt the most by those States with the greatest incidence of tuberculosis. The reason was that categorical grants had been based on need, and the 314(d) block grant moneys were based on an income/population formula. For example, in 1980, the Florida Department of Health and Rehabilitative Services estimated that they would need $2,133,000 for tuberculosis funding, but they only received $365,000 from the 314(d) block grant. There was great concern over the ability of the block-grant funding properly to fund tuberculosis control programs. Congress was prompted to establish a categorical grant program for tuberculosis instead of including it in the preventive health block grant.

Tuberculosis, once a leading cause of death in the United States, continues to take a heavy toll in death and disability despite our efforts for prevention and control. I hope that the inclusion of $1 million for tuberculosis control in the supplemental appropriations bill this year signals an awareness of the necessity to combat this highly infectious and dangerous disease.●

LABOR-HHS-EDUCATION CHAPTER OF REGULAR SUPPLEMENTAL

● Mr. SCHMITT. I am glad to recommend adoption of the Labor-HHS-Education chapter of the supplemental.

Our proposals take account of longstanding concerns in health, education, and other programs. I believe we have been as generous as possible but still prudent.

While our bill is $143.6 million above the budget requests, it is $96 million below the House levels. Indeed, were we not to count the funds for the older workers program because they have no outlay impact in this fiscal year, we would be some $67 million below the President.

Let me give you a few highlights from our committee recommendations. We provide the following:

Sum of $211 million for the older workers program to put it back on a forward-funded basis.

Sum of $1.5 million to deal with tuberculosis and an acquired disease of the immune system, which has reached epidemic proportions.

Sum of $10 million for alcohol, drug abuse, and mental health research. The additional funds will support about 100 new grants in all three research areas.

Bill language to modify the staffing requirements for health systems agencies under health planning. Under this provision the minimum staff an HSA must have on board would be three instead of five. This goes along with the reduced workload and reduced funding provided HSA's under the Omnibus Reconciliation Act.

Sum of $112 million for medicaid. The Department of HHS substantially revised downward its estimate of supplemental needs. Also the Department's request for millions to pay retroactive claims is premature until it is decided whether to pay any of these claims.

We have also provided an additional $148 million for compensatory education for the disadvantaged, to protect States and counties from a sudden loss of funds resulting from the unresolved outcome of the controversy over whether the 1970 census or the 1980 census data base should be used in allocating these funds for the 1982-83 school year.

Sum of $26.5 million for several categorical programs under education of the handicapped.

Sum of $140 million to increase funding for Pell grants and $29 million to increase funds for supplemental education opportunity grants to $307 million.

Sum of $5 million for developing institutions with bill language to put emphasis on assisting Hispanic and other Native Americans.

Sum of $11 million for 2 months of windfall funding for railroad retirement beneficiaries.

The full details of our proposals are laid out in the committee report, and I commend the report to your attention.

Mr. President, I believe we have developed a generous but realistic series of recommendations and I urge that chapter IX be adopted as reported to the Senate.●

SUPPLEMENTAL FUNDS FOR DEVELOPING INSTITUTIONS

● Mr. CHILES. Mr. President, I would like to have a short colloquy with Senator SCHMITT, the distinguished chairman of our Subcommittee on Labor, HHS, and Education. I want to start out by complimenting Senator SCHMITT for adding the $5.2 million for developing institutions of higher education, and for bringing attention to the problem of serving large numbers of Hispanic students. This is certainly a problem we are familiar with in Florida. I have been a strong supporter of the title III program, and intend to continue supporting its efforts to assist historically black colleges and universities. This assistance has been vital to many Florida colleges, such as Miami-Dade Community College, Florida A. & M., and Edward Waters.

But we do have a growing need to meet the special education needs of colleges which are serving the rapidly growing Hispanic population. In Florida, we get our increases of Hispanic students in huge waves, and everybody has to scramble to meet new needs. I am thinking of small colleges like Biscayne College in Miami, which now has 75 percent of its student body Hispanics, most of them low income.

I would like to clarify with the distinguished subcommittee chairman how this program will operate.

First, am I correct that this is going to be a new appropriation for this special need, and will not take funds away from the predominantly black colleges which are currently receiving funds?

Mr. SCHMITT. The Senator is correct.

Mr. CHILES. I thank the chairman for his response. Am I also correct that this is going to be an entirely new competition, and rankings and scores from previous applications will not be applied?

Mr. SCHMITT. The Senator from Florida is correct. This will be an entirely new competition, and we expect the Department to publish new guidelines telling the schools how to apply. Moreover, we have directed the Department to provide technical assistance, particularly to small schools, to help them understand the guidelines and make their way through the application process.

Mr. CHILES. I thank the chairman for his assurances. Once again, I congratulate him on bringing this growing need before the Congress. The only way we can keep support for our Federal education programs is to keep them growing and changing to meet new national needs as they arise.●

● Mr. BRADLEY. The committee report states that the payment of any transition funding to any agency will be made specifically dependent upon the agency having met its obligation for continuation payments to Conrail under the various contractual operations with respect to 1982 or having escrowed funds or otherwise assured that those payments will be made in 1983. I seek clarification from the chairman on whether costs that are in dispute among transit authorities, Conrail, and Amtrak are viewed differently than the basic payments made by those authorities. Specifically, I am concerned that local transit authorities would be required to pay additional sums of money for use of the corridor prior to the settlement of cost disputes among the transit authorities, Conrail, and Amtrak.

Is it my understanding, Mr. Chairman, that valid disputes such as the dispute regarding the sharing of propulsion costs on the corridor, which is currently before the ICC for resolution, are not included in the committee's definition of having met its obligations for continuation payment?

Mr. ANDREWS. I appreciate the concern of the Senator from New Jersey. It is not the intent of the committee to become involved in any cost-sharing dispute among the agencies that operate on the Northeast corridor. Valid disputes among the agencies should be resolved by the ICC, or other appropriate authorities which can make the legal determination of the issues.

Mr. BRADLEY. Mr. Chairman, am I correct in assuming that no transit authority transition assistance will be withheld because of valid cost disputes which are to be resolved by the ICC or are dependent upon the interpretation of existing laws?

Mr. ANDREWS. The Senator from New Jersey is correct; his interpretation of the Senate Appropriation Committee's report language is the intent of the committee.

Mr. BRADLEY. I thank the chairman for the clarification. I fully support the intent of the committee in insuring that all continuation payments owed to Conrail are promptly paid. At the same time, however, I do not want to see transit authorities forced into making payments that exceed those amounts due to Conrail based on existing law.●

CHAPTER VII OF H.R. 6863—FISCAL YEAR 1982 SUPPLEMENTAL APPROPRIATIONS

● Mr. GARN. Mr. President, on Tuesday, August 3, 1982, the full Appropriations Committee accepted my recommendations regarding the HUD-Independent Agencies chapter of H.R. 6863. I would like to highlight the items contained in this chapter of the bill.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS: ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Mr. President, on April 15, the Secretary of HUD announced that the administration would support the completion of approximately 70,000 housing units in the pipeline by requesting the use of $3,700,000,000 for financing adjustment and $2,650,000,000 for cost amendments. The administration's plan assumed the availability of approximately $7,400,000,000 in recaptured authority.

When Public Law 97-216 was enacted, the Congress assumed that only $5,000,000,000 of recaptures would be available to fund the planned buyout of the pipeline and, consequently, reduced the amount rescinded. Due to the uncertainties associated with the recapture estimates, the Congress included language which provided that an additional $1,750,000,000 of fiscal year 1982 funds could be merged with recaptures to assure sufficient resources if necessary or otherwise it would be deferred for use in fiscal year 1983.

It now appears that OMB will not release this $1,750,000,000 even though recaptures to date are only approximately $2,400,000,000. The availability of the additional $1,750,000,000 would assist approximately 34,000 housing units. Therefore, the committee included bill language which will have the effect of reducing the amount of recaptures necessary to fund the program by eliminating OMB's proposed deferral of the $1,750,000,000.

LIMITATIONS ON GUARANTEED LOANS

The administration proposed reducing the 1982 limitations on Government National Mortgage Association mortgage-backed securities program and the section 108 community development loan guarantee program. The mortgage-backed securities limitation was to be reduced from $68,250,000,000 to $48,000,000,000 and the section 108 program was to be reduced from $225,000,000, to $125,000,000. Mr. President, the committee has not recommended that the limitations be reduced at this time.

FEDERAL EMERGENCY MANAGEMENT AGENCY: SALARIES AND EXPENSES

Mr. President, the Federal Emergency Management Agency (FEMA) is responsible for helping to plan and evaluate the adequacy of State and local radiological emergency plans. The Agency requested an additional $1,000,000 in order to plan, review and exercise evaluations related to commercial nuclear powerplants and to hire and train the 30 additional staff FTE—that would be used to test and evaluate the radiological emergency plans at the various nuclear facilities across the country.

The committee denied the request because we do not believe there is sufficient time remaining in the fiscal year for FEMA to utilize these funds.

STATE AND LOCAL ASSISTANCE

FEMA, in conjunction with the funds requested in the salaries and expenses account, requested an additional $1,408,000 for radiological emergency preparedness. The Agency intended these funds be used to initiate a program to review State and local governments' emergency warning systems, including accoustical tests, specification review, and expanded citizen awareness of radiological emergency preparedness plans.

Mr. President, as I indicated in the previous section, the committee denied the request because we do not believe that FEMA has sufficient time to utilise these additional funds before the end of the fiscal year.

NATIONAL FLOOD INSURANCE FUND

The committee included bill language which permits FEMA to use funds from the flood insurance fund to pay for the salaries and expenses of staff involved in flood insurance activities. The use of flood insurance funds for salaries and expenses is consistent with the congressional intent of putting the flood insurance fund on a more actuarially sound basis. Mr. President, I might point out that rates for flood insurance will not be increased as a result of use of funds from the program for salaries and expenses. In addition, FEMA does not receive authority to use funds from the flood insurance program for salaries and expenses, the Agency will be forced to furlough employees.

SELECTIVE SERVICE: SALARIES AND EXPENSES

Mr. President, of the $1,367,000 requested by the Selective Service System, $400,000 was requested for a public information program; $153,000 to reimburse the U.S. Postal Service for registration costs; $400,000 for printing and postage costs; $42,000 for personnel to enter data on the expanding data base; $48,000 for bulletproof glass; and $304,000 for the development of automated data processing claims and alternative service systems.

The committee did not approve the $400,000 for the public service program. Recent registration experience indicates that such a campaign is not warranted at this time. However, the committee recommended providing the $304,000 for data processing systems development. These systems form the backbone of the Selective Service System program and should be made operational as soon as possible. These systems will support registration, induction, claims/appeals and the assignment of conscientious objectors to civilian jobs. Furthermore, the committee received information that the Selective Service can absorb the other items contained in their supplemental request. The committee did not provide funding for these activities.

Finally, the committee has recognized that some alternative service workers—ASW—will raise objections to their job assignments. Current draft Selective Service procedures do

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not provide for an appeals process. In order to assure that a procedure exists to address these concerns, the committee believes that the Director of the Selective Service should include in the final alternative service program regulations a provision establishing civilian review boards for the purpose of reviewing ASW work assignments which ASW's view as unacceptable. The committee, therefore, included bill language which would require Selective Service to establish, in the event of a mobilization, civilian review boards. Therefore, the committee expects that such boards would be comprised of individuals selected by the Director to represent a broad spectrum of the civilian population—similar to local draft boards.

VETERANS' ADMINISTRATION: MEDICAL AND PROSTHETIC RESEARCH

Mr. President, the committee was recently informed that the VA would require a reprograming in the medical care account and the medical administration and miscellaneous operating expenses—MAMOE—in order to accommodate research efforts and mandate studies—Public Law 96-151—on agent orange. The committee believed that such medical R. & D. should be managed within the VA's medical and prosthetic research account and has, therefore, included bill language transferring the required funds to this account.

This transfer would provide funds to assist in carrying out the Veterans' Administration agent orange program to support: First, the pilot phase of the epidemiology study, $3,020,000; second, the Vietnam veteran twin study, a study of identical twin veterans where one twin served in Vietnam during the period of herbicide orange spraying and the twin sibling did not serve in Southeast Asia, $65,000; and third, the mortality study, $1,113,000, a study comparing the rates and causes of death in veterans who served in Vietnam to those veterans who did not serve in the Republic of Vietnam.

In addition, the VA proposed that the first and second study above be funded within the medical care account and the third study through MAMOE. Because the bill transferred the entire $4,198,000 from the medical care account, the MAMOE account will have an excess of $1,113,000, which more than offsets the VA's pay supplemental request of $1,078,000 for MAMOE. The committee, therefore, did not provide the pay supplemental appropriations for MAMOE in title II of the bill.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

The committee transferred $8,000,000 to the medical administration and miscellaneous operating expenses appropriation from the medical care appropriation for the nurse scholarship program. This amount, together with $4,000,000 provided in the 1982 HUD-Independent Agencies Appropriation Act, will permit the VA to operate the nurse scholarship program at a $6,000,000 level in both fiscal years 1982 and 1983. To carry out this recommendation it is necessary to provide that the funds will remain available until September 1983. Because both the House and Senate committees consider the nurse scholarship program a high priority, it is appropriate that unutilized medical care funds be transferred to that activity rather than lapse.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

On June 30, 1982, the administration proposed a 1982 appropriation of $500,000 for grants to the Republic of the Philippines to be derived from transfer from medical care. The committee included the requested bill language. The funds are to assure the continued effective care and treatment of U.S. veterans at the Veterans Memorial Medical Center at Manila.

ADMINISTRATION PROVISION

Mr. President, section 501(4) of title V of the 1982 Department of Housing and Urban Development-Independent Agencies Appropriation Act placed a limitation of $34,000,000 on the total amount of funds available for the Department of Housing and Urban Development's data processing services. Since this time, the Department indicated a need for additional data processing funds. The House passed version of H.R. 6863 contains language increasing the limitation on the Department of Housing and Urban Development's data processing services from $34,000,000 to $35,500,000. The committee believed that this modification in the limitation was sufficient to provide for high-priority data processing requirements and was, therefore, recommended retaining the House language. The committee also retained the House language restricting the Department of Housing and Urban Development from implementing its May 11, 1982, rules concerning the section 202 housing program.

INCREASED PAY COSTS

The committee recommended $257,060,000 in new budget authority for pay costs for agencies under the jurisdiction of the HUD-Independent Agencies Subcommittee.

The committee recommended that a change in FEMA's proposed funding of its increased pay cost requirements. The committee approved the full request but directed that $1,000,000 be transferred from radiological defense, as proposed by FEMA, and the remaining $1,084,000 be transferred from the civil defense program, other than State and local assistance.

In addition, the Veterans' Administration proposed transferring $50,000,000 from the compensation and pensions appropriation to the medical care appropriation. The committee agreed with the House that entitlement funds should not be transferred to offset supplemental pay requirements and, therefore, provide a direct appropriation of $50,000,000.

The committee also included an additional $48,950,000 for the National Aeronautics and Space Administration. This amount is provided to offset the transfer of up to $50,000,000 authorized to meet certain minimums carried in Public Law 97-216. In this regard, the committee added a proviso to the House-passed version of H.R. 6863 making the $50,000,000 available for obligation until September 30, 1983. Finally, Mr. President, as previously explained, the only change which the committee made to the House allowance for increased pay costs consists of a reduction of $1,078,000 in the VA's medical administration and miscellaneous operating expenses.

Mr. HAYAKAWA. Mr. President, our great Nation has been termed a melting pot and so it is. We open our doors to people from around the world, not the least of which are refugees of whom a great many settle in my home State of California. We as Americans have accepted the responsibility of helping these refugees establish themselves in our society and we must live up to all it entails. In this regard, I have some concerns and questions I would like to address.

It is my understanding that in the past the Committee has supported full funding for the cost of the refugee program. I commend the committee for recognizing and following through on this humanitarian initiative. However, I am concerned for the future should full appropriations not be approved for the program. These are times when fiscal restraint and responsbility have to be taken seriously, but the Federal Government is not alone. The State and local governments are experiencing a need to cut back on expenditures in various programs as well. And we in Congress need to do all we can to see that our obligations and responsibilities to all the people of this Nation are met. Does the committee expect to continue their policy of fully funding the refugee program?

Mr. SCHMITT. I appreciate the Senator's recognition of the Committee's past support and certainly understand his concerns. As he has expressed, these are difficult times and the future is uncertain. The committee will remain committed to its responsibilities to refugees and will do what we can to help them establish their lives in our great country.

Mr. HAYAKAWA. In considering the many difficult decisions regarding budget cutbacks especially within social services, I can imagine a situation wherein Congress may not appropriate adequately for the refugee program. Should this occur, will the legitimate claims made by State and local governments be funded as they were in the past? Since significant deficit burdens rest upon the State and local governments in cases of inadequate Federal appropriation, we as representatives have a responsibility to guarantee relief of monetary difficulty. Can this Senator have any assurance that legitimate claims for full funding will be considered?

Mr. SCHMITT. The committee recognizes the serious burden that may be inflicted upon the State and local governments and will carefully evaluate all legitimate claims.

Mr. HAYAKAWA. The Department of Health and Human Services (HHS) receives quarterly reports of refugee program expenditures from States which assist in the assessment of revenue distribution. Careful analysis of these statistics can be quite valuable to our task. The House of Representatives has passed language which requires HHS to do an evaluation of projected fiscal year 1982 State costs by August 15, 1982, based on third-quarter data from the States. I would encourage the committee to seriously consider this request and support the requirement for such a report.

Mr. SCHMITT. The request shall be given serious consideration.●

FUNDING FOR THE GULF OF MAINE CASE

● Mr. COHEN. Mr. President, I rise to draw the Senate's attention to a small but extremely significant item in the supplemental appropriations bill now before us. Included within this bill is the funding for the presentation of the United States case before the international tribunal that will decide our dispute with Canada over the maritime boundary in the Gulf of Maine.

Last year, the Senate ratified a treaty with Canada to place our longstanding disagreement over the international boundary in the Gulf of Maine before a Chamber of the International Court of Justice. The treaty provides that the decision of the Court will be final and will bind both countries in perpetuity.

Pursuant to the treaty, the United States and Canada have begun preparing their cases. Accordingly, the State Department has advised the Congress that it requires $1,600,000 for the research, analysis, and other work that is necessary to the preparation of its case. The Senate Appropriations Committee has agreed with this figure and included it in the bill before us today. I would like to take just a moment to impress upon my colleagues the importance of the issues at stake in the Gulf of Maine dispute.

To begin with, the area in question covers more than 12,000 square miles and the ocean column as well. Included in this area are mineral resources of undetermined value and a fishery in the Georges Bank that is considered the richest in the northwest Atlantic Ocean. Every coastal state in New England and many of the mid-Atlantic States are the homes to fishermen, fish processors, fish marketers and so forth who find their livelihood in the remarkable living resources of this region.

Both the United States and Canada will find few precedents to guide the legal arguments that they will present to the International Court of Justice. Only three boundary disputes have been decided in recent years and none of these concerned the exact geographical configuration that exists in the Gulf of Maine. Consequently, Canada and the United States will have to anticipate a host of issues, many of them novel, which could determine the outcome of the case. In addition, submissions to the International Court of Justice will have to include elaborate and detailed charts of the ocean floor and each country's coastlines, such items are expensive in the extreme.

Mr. WEICKER. I agree with Senator Cohen that the Gulf of Maine case is of great importance to New England and particularly to its fishing industry. An unfavorable decision could result in the loss of as much as one-half of the Georges Bank to Canadian jurisdiction. The Georges Bank has, from the beginning of our Nation's history, been viewed as a rich and valuable resource. The preservation of our rights, which have been exercised in this area; is important to the continued revival of fishing in New England.

I believe that the United States owes its citizens in New England the highest quality presentation of its case. The amount requested by the State Department should enable this country to fulfill that obligation.

Mr. COHEN. Mr. President, I thank my colleague from Connecticut for his keen appreciation of the importance of the Gulf of Maine case. I would note that the amount slated for this case in the Senate supplemental appropriations bill, which is in accord with the State Department's recommendation, is higher than that contained in the House supplemental appropriations bill. Under the House recommendation, the United States would present its case with only $1,000,000, a figure that would place us at only slightly more than 40 percent of the Canadian funding level of $2.4 million in U.S. currency.

Again, I thank Senator Weicker for his understanding of this matter and urge my Senate colleagues to seek House concurrence in this matter when it arises in conference.●

● Mr. WEICKER. Mr. President, for the agencies funded under chapter II of this bill, the administration has requested $171,294,000 in appropriations, of which $40,000,000 was proposed by transfer from an account under the jurisdiction of the Foreign Operations Subcommittee. The committee recommends an appropriation of $151,086,000 in new budget authority and $12,550,000 by transfer to meet these program needs. In addition, the committee recommends the rescission of $2,000,000 in foreign currency gain which is excess to the fiscal year 1982 program requirements of the Board for International Broadcasting. Thus, the committee's recommendation for program supplementals is $7,658,000 less than the budget request.

In title II, the committee recommends $133,733,000 in new budget authority to meet agency pay requirements. The amount recommended is $114,000 more than the administration's request and is $5,945,000 less than the House allowance. The highlights of the committee's recommendation follow.

HIGHLIGHTS OF RECOMMENDATION

For the Department of Commerce, the recommendation provides a total of $15,663,000 in new budget authority and $5,750,000 in transfers funding the following programs: $10,000,000 for U.S. participation in the Louisiana World Exposition in 1984; $2,500,000 for the "Patent and Trademark Office" for the hire of new patent examiners; $7,163,000 for mandatory expenses incurred by NOAA, of which $5,000,000 is to be provided by transfer from unobligated balances in the coastal energy impact fund; and $3,000,000 funding the first year of New York's coastal zone management program. The recommendation of $73,046,000 in new budget authority for the Department of Justice provides the full program requested for the Department's legal activities, U.S. attorneys and marshals, support of U.S. prisoners, fees and expenses of witnesses, the FBI, and the DEA. The reduction in appropriation for the U.S. attorneys and marshals reflects the time which has lapsed in fiscal year 1982 since the budget request was prepared. The following program changes are also included in the committee recommendation: $750,000 is provided for the FBI to hire fingerprint identification clerks and language is included in the bill to allow the FBI to charge noncriminal justice agencies for this service. A similar provision was adopted by the Senate last year.

The recommendation provides $4,000,000 more than the amount requested by the Bureau of the Prisons. Rather than provide for two detention facilities for INS, the recommendation provides $17,000,000 for construction of one detention facility and $22,000,000 for the construction of one new prison for prisoners in the west, completing a project initially approved in 1981. Given the 16-percent increase in Federal prisoners, the committee believes this is a higher priority. The revised recommendation also includes $1,250,000 requested for the activation of a minimum security camp in Mount Laguna, Calif., and relieves overcrowding in Federal prisons.

The recommendation also includes $600,000 from LEAA reversionary funds which is earmarked for a Bureau of Justice statistics crime victimization study of the Metropolitan Washington Area, including the area immediately around the Capitol and will include a survey of employees of the Congress.

Provided for supplemental program is $60,587,000 requirements of the Department of State. This request includes $40,000,000 for additional security requirements in posts primarily in Western Europe. Because a fiscal year 1982 authorization bill for the Department of State has not yet been enacted, the bill waives relevant sections of law to permit the Department to expend appropriated funds in the absence of an authorization. Although the conference report on the authorization bill has passed the Senate, there remains some uncertainty about its passage in the House. I have consulted with the Foreign Relations Committee and, we believe that prudence warrants its retention.

Significant changes in the request for the related agencies include:

Rejection of one-half the proposed deferral from SBA business loan and investment fund and the rejection of the entire deferral for surety bond guarantee funds.

No funds are recommended for Radio Broadcasting to Cuba, Inc. As of this date, an authorization bill has yet to be reported to the Senate.

A rescission of $2,000,000 from the Board for International Broadcasting is recommended. These funds are in excess to the planned fiscal year 1982 program for Radio Free Europe and Radio Liberty as they represent the value of foreign currency gains earned since the beginning of the year.●

THE WAHPETON INDIAN SCHOOL APPROPRIATIONS

● Mr. BURDICK. Mr. President, during committee consideration of this bill, the manager's of the bill may recall a discussion about the future operation of the Wahpeton Indian School. Senator ANDREWS and myself took exception to proposed report language which would have restricted future enrollment at the school by not allowing any new students to enroll during the coming school year. The managers will recall that the committee voted overwhelmingly to accept our amendment to delete the langauge and to adopt the policy that a new class of students shall be admitted to the school this fall. Since the committee report does not make any reference whatsoever to the Wahpeton School, the legislative history of this bill should reflect the committee's demonstrated concern that it remain open and operating at full enrollment levels until the House and Senate have had the opportunity to officially act on this issue in the context of the appropriations process.

Mr. ANDREWS. Mr. President, my colleague from North Dakota is correct in his concern that the legislative intent on this matter must be clear. It was my understanding also that the committee clearly intended the school to remain open at current enrollment levels until the Congress officially takes action on the fiscal year 1983 Interior budget. In addition to clarifying the committee's position, this explanation should also serve as a directive to the Bureau of Indian Affairs in their future deliberations on the school.

Mr. HATFIELD. I appreciate the concern of my two colleagues from North Dakota on this matter. I understand the BIA is under court order to operate the Wahpeton School until Congress takes action to close the school and no such action has yet been taken.●

ORDER TO CONVENE TOMORROW AT 9:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the time of convening tomorrow be changed from 9 o'clock to 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

Mr. BAKER. Mr. President, I ask unanimous consent that, on tomorrow only, the time allocated to the two leaders under the standing order be reduced to 3 minutes each; that after the execution of the general order time of the leaders, the Senator from Georgia (Mr. NUNN) be recognized under a special order not to exceed 5 minutes.

I further ask unanimous consent that any time remaining after the disposition of the leadership time and the special order time be devoted to the transaction of routine morning business, in which Senators may speak for not more than 2 minutes each; that such time for the transaction of routine morning business extend to not later than 10 a.m.; and that, at 10 a.m. tomorrow, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, we shall be back on this bill at 10 a.m. Senators should be on notice that there is no more time on the Symms amendment, so there will be a record vote tomorrow at 10 a.m.

I yield the floor.

ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate turn to a period for the transaction of routine morning business not to extend beyond 5 minutes and that statements made by Senators therein not extend beyond 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF CERTAIN REGULATIONS WITH RESPECT TO EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate turn to consideration of House Concurrent Resolution 388, a resolution disapproving the final regulations for the Education Consolidation and Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A House Concurrent Resolution (H. Con. Res. 388) disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 388) was agreed to.

ORDER FOR STAR PRINT—REPORT ON S. 1468

Mr. TOWER. Mr. President, the committee report on the bill S. 1468, Report No. 97–506, contains a printing error in one of the dollar figures. Therefore, I ask unanimous consent that the report be star printed to show the correct figure. I send a corrected version to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. TOWER. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with the Republic of Austria, Treaty Document 97-26, transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

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The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Estates, Inheritances, Gifts, and Generation-skipping Transfers, signed at Vienna on June 21, 1982.

The Convention is the first of its kind to be negotiated between the United States and Austria. It will apply, in the United States, to the Federal estate tax, the Federal gift tax and the Federal tax on generation-skipping transfers and, in Austria, to the inheritance and gift tax.

A principal features of the Convention is that the country of the transferor's domicile may tax transfers of estates and gifts and generation-skipping transfers on a worldwide basis, provided that it relieves the tax on specified types of property taxable on a situs basis.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *August 10, 1982.*

ORDER OF BUSINESS TOMORROW

Mr. TOWER. Mr. President, to repeat the words of the majority leader, a rollcall vote is expected as early as 10 a.m. tomorrow morning on the pending Symms amendment. I think the Senate should be advised of that.

STATE JUSTICE INSTITUTE ACT OF 1981

Mr. TOWER. Mr. President, I ask the Chair to lay before the Senate, Calendar Order 248, S. 537.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 537) to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 26, line 17, strike "1982," and insert "1983,";

On page 26, line 18, strike "1983," and insert "1984,"; and

On page 26, line 19, strike "1984," and insert "1985.".

So as to make the bill read:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Justice Institute Act of 1981".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Institute" means the State Justice Institute;

(2) "Board" means the Board of Directors of the Institute;

(3) "Director" means the Executive Director of the Institute;

(4) "Governor" means the Chief Executive Officer of a State;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this Act, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 3. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this Act, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this Act.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this Act.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 7(a).

OFFICERS AND EMPLOYEES

SEC. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements of contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the

courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 7. (a) With respect to grants or contracts made under this Act, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this Act which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 406 of this Act.

(b) No funds made available by the Institute under this Act, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the exent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) When formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 10. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 11. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this Act regarding activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any

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grantee, contractor, person, or entity receiving financial assistance under this Act shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

Sec. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

Sec. 13. There are authorized to be appropriated $20,000,000 for fiscal year 1983, $30,000,000 for fiscal year 1984, and $40,000,000 for fiscal year 1985.

EFFECTIVE DATE

Sec. 14. The provisions of this Act shall take effect on October 1, 1981.

Mr. TOWER. Mr. President, I move that the committee amendments be agreed to en bloc and treated as original text for the purpose of further amendment.

The motion was agreed to.

UP AMENDMENT NO. 1205

(Purpose: To amend the provisions regarding the authorization of appropriations)

Mr. TOWER. Mr. President, I send an amendment to the desk on behalf of Senator Grassley and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. Tower), on behalf of Mr. Grassley, proposes an unprinted amendment numbered 1205.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 17, strike out "$30,000,000" and insert in lieu thereof "$25,000,000".

On page 26, line 18, strike out "$40,000,000" and insert in lieu thereof "$25,000,000".

Mr. GRASSLEY. Mr. President, When the State Justice Institute Act, S. 537, was considered in the full Judiciary Committee earlier in the session, I reluctantly opposed reporting the bill to the floor.

Unfortunately, the conditions that spawned my opposition to the bill persist. We are still operating at a deficit, we are still in the process of attempting to balance our budget, we must still consider the budgetary impact of any new programs that we create.

Senator Heflin and others have presented persuasive arguments in support of Federal financial assistance for State court systems. A gentleman whom I respect very much, Chief Justice Reynoldson of the Supreme Court of Iowa, has praised this legislation in a statement to the Brookings institution, as a potential means of enhancing State court caseflow and stature. These are aims to which I certainly want to lend my support.

The amendment that I am presenting recognizes the economic implications of this bill. As currently written, the authorization for fiscal year 1983 is $20,000,000. That is followed by a 50-percent increase the following year to $30,000,000; and a 33-percent increase for fiscal year 1985 to $40,000,000.

My amendment provides that the outlays for fiscal year 1984 and 1985 not exceed $25,000,000. Besides keeping the expenditure of funds at a constant outlay, we will be saving a total of $20,000,000 or 18-percent of the funds requested in the bill. I think that this is a significant savings.

It is my understanding that the sponsor of this legislation, Mr. Heflin, is agreeable to the amendment. Therefore, I would hope there would be no objection by our colleagues to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 1205) was agreed to.

Mr. HEFLIN. Mr. President, I rise in support of Senate bill 537, the State Justice Institute Act of 1981.

The State Justice Institute Act would establish a nonprofit national institute to provide technical and financial assistance to State courts. The need for such an institute was well-established during extensive hearings held on this legislation this Congress as well as in the 96th Congress.

I thank Chairman Strom Thurmond, the chairman of the Senate Judiciary Committee, Senator Joe Biden, our ranking minority member and Senator Bob Dole, chairman of the Subcommittee on Courts for the support and assistance on this most important legislation.

There are several important reasons for providing financial assistance to State courts. First, State courts share with the Federal courts the awesome responsibility of enforcing the rights and duties of the Constitution and laws of the Untied States. However, in recent years the workload of our State courts has significantly increased due to a number of factors, including decisions of the U.S. Supreme Court, wide-reaching social legislation by Congress and a diversion of cases from the Federal courts. It has been determined that State courts decide approximately 95 percent of all law suits tried. It is, therefore, appropriate and necessary that the Federal Government provide financial and technical assistance to State courts to help alleviate many of the administrative problems which these actions at the Federal level have caused and exacerbated. This legislation would help insure that our State courts remain strong and effective.

A second reason for providing financial assistance to State courts is the problem of crime in this country. It has long been my belief that if we are to significantly reduce crime, the Federal Government must share the responsibility of improving the adminsitration of justice with State and local governments. The State Justice Institute would be immensely beneficial to State and local governments in their attempts to control crime and in their efforts to streamline the adminsitration of justice once a criminal has been apprehended.

The third reason has to do with the changing role of judges generally. Earlier in this century there was much argument as to whether or not a judge's function included an obligation to see that cases in their courts moved toward disposition in a regular and efficient manner. Today, however, problems of administration have taken their place along side problems of adjudication as primary responsibilities of judges. Nearly everyone has come to acknowledge that today's judges have a duty to insure that their cases do not simply languish on the docket, but instead are moved to a conclusion with as much dispatch and economy of time and effort as practicable. This, along with a heightened interest in continuing legal education generally, has resulted in thousands of judges attending intensive orientations or refresher courses offered by such organizations as the National Judicial College, and the American Academy of Judicial Education.

The concept of a State Justice Institute has been endorsed by such organizations as the Conference of Chief Justices, the Appellate Judges Conference, and the American Bar Association.

Last Congress the Senate Judiciary Committee favorably reported out the State Justice Institute Act after adopting two important amendments proposed by Senator STROM THURMOND. On July 21, 1980, the Senate passed the bill without dissent. In the House of Representatives, Congressman ROBERT W. KASTENMEIER introduced the State Justice Institute Act, which was unanimously approved by the House Subcommittee on Courts, Civil Liberties and the Administration of Justice. I was encouraged last Congress when the State Justice Institute Act received wide, bipartisan support in both the House and the Senate and I am pleased that it has again received broad bipartisan support.

Mr. President, I would like to extend my thanks to my friend from Iowa, Senator CHUCK GRASSLEY, for his suggestions and improvements of this legislation, which I wholeheartedly endorse and am most grateful for his contribution. I would also like to thank members of the committee staff that have been of valuable assistance. Vinton "Dee" Lides, Eric Hultman, Will Lucius, Pete Velde, Shelia Bair, Scott Green, John Maxwell, and Lynda Nersesian.

Mr. President, I support this vital legislation and encourage all Members of the Senate to vote and support Senate bill 537.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Justice Institute Act of 1982".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Institute" means the State Justice Institute;

(2) "Board" means the Board of Directors of the Institute;

(3) "Director" means the Executive Director of the Institute;

(4) "Governor" means the Chief Executive Officer of a State;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this Act, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 3. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this Act, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned

with the administration of justice and the objectives of this Act.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this Act.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 7(a).

OFFICERS AND EMPLOYEES

SEC. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements of contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties

and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS AND CONTRACTS

Sec. 7. (a) With respect to grants or contracts made under this Act, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this Act which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 406 of this Act.

(b) No funds made available by the Institute under this Act, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

Sec. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) When formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

Sec. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall

be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend of deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

Sec. 10. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

Sec. 11. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this Act regarding activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, person, or entity receiving financial assistance under this Act shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

Sec. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

Sec. 13. There are authorized to be appropriated $20,000,000 for fiscal year 1983, $25,000,000 for fiscal year 1984, and $25,000,000 for fiscal year 1985.

EFFECTIVE DATE

Sec. 14. The provisions of this Act shall take effect on October 1, 1981.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CENTER FOR THE STUDY OF READING

Mr. PERCY. Mr. President, I would like to take this opportunity to call attention to one example of Federal investment in educational research at the University of Illinois at Urbana-Champaign that has great importance to the future well-being of the Nation's citizens. The Center for the Study of Reading, which is in large measure supported by the National Institute of Education (NIE), has produced critical findings effecting improvements in how schools teach reading, how publishers design reading curriculums, and the perspectives that policymakers bring to bear on decisions regarding reading-related issues.

The center is directed by Prof. Richard C. Anderson, president-elect of the American Educational Research Association, and is part of the College of Education at the University of Illinois. It makes significant contributions to the outstanding scholarly record of the college and the university and has received widespread recognition as a resource for the improvement of reading materials and reading instruction throughout the Nation. School systems as different as New York City and small towns in Montana have praised the research results in the center. They have testified to the improvement of reading test scores in comprehension as a result of their use of the center's work.

The changing nature of the workplace and what is required of citizens to function in an increasingly technological era demands that the Federal Government make wise investments in human capital. To be sure, education is not primarily the responsibility of the Federal Government. However, the Federal Government does have a proper and important role in educational enterprises that serve the greater interests of the Nation. Investments which have proven themselves to be important to the improvement of the quality of schools and schooling should continue.

Educational research of the type performed by the Center for the Study of Reading with the support of the NIE is one of those investments. The NIE is also supporting critical working areas such as the instructional uses of information and communications technologies, teacher personnel practices, mathematics and science teaching, the improvement of secondary schools, the advancement of computer/technological literacy, and advanced academic skills in reading comprehension, written composition, and mathematics and scientific problem solving.

Mr. President, I ask unanimous consent that two articles about the work of the center, one from the New York Times of December 8, 1981, and one from the Minneapolis Tribune of April 12, 1981, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Dec. 8, 1981]

Reading: Don't Blame Teachers

(By Fred M. Hechinger)

Reading scores are improving in elementary schools all over the country, but teenagers' reading skills continue to slip, and so does their interest in reading.

Richard C. Anderson, director of the Center for the Study of Reading at the University of Illinois, does not consider this a paradox. It is the natural consequence, he says, of merely drilling children to get the words right, without getting the message of what they read.

"Don't misunderstand," he adds quickly, "Nobody at the center argues that phonics are not needed." Phonics is the technical term for teaching children to "decode" words letter-by-letter and sound-by-sound.

But Mr. Anderson says he feels that many of the methods now being used to teach reading are simplistic and many of the materials children are given to read are boring. In their training, he says, teachers are given plenty of techniques but not enough cohesive structure with which to apply them. If things turn out badly, he adds, do not blame the teachers, blame the methods and the materials.

Mr. Anderson illustrates a fundamental error this way: A workbook sentence may say, "The worker dug a hole in the ground." A good reader will infer that the worker used some tool, not just his bare hands. Such a reader creates a picture in his mind. But poor readers, even though they are able to read the words, make no such inferences, nor will they reason to make connections with other parts of the story. And since poor readers are also likely to be deficient in phonics, teachers will drill them and drill them, ignoring the meaning and the connections that make reading add up to more than pronouncing words correctly.

Why is this happening?

The first reason Mr. Anderson cites is that teachers get poor advice in their training. They are not taught that children who get the word right may still need help with integrating the meaning of words. Children, says Mr. Anderson, need to be prepared to bring their own knowledge to bear on what they read. If, for example, a story begins with a statement that a youngster lost a pair of mittens, a teacher, without giving away the plot, might ask: Have you ever lost anything? How did people react to it?

Many reading instructors ask children about what they have just read, Mr. Anderson says, but are too often content if the child simply parrots specific facts.

What's needed, says Mr. Anderson, are better questions to get children to push beyond the fact they have just read.

The second problem, he continues, is that to many manuals are "thin and sketchy on comprehension." They merely give teachers vague suggetions about what to do, he says, "something of a smorgasbord, probably because it sells better if it has something for any teacher."

Third, he explains, poor readers float over the surface of a text. One way to change this is to teach them to ask themselves questions. To do this a teacher may pretend to be thinking out loud: "If I were reading this, that's what I'd ask." After a while, students learn to do this for themselves.

Fourth, poor readers find it difficult to compose sensible summaries of what they have read. Teaching them to summarize improves their reading comprehension and usually their test scores as well.

"We have fragmented the school reading program," Mr. Anderson asserts, "and much of it takes place in isolation from real reading." The center's studies showed that 50 percent of class time is often spent on workbooks that ask children to fill out spaces but require little reading. Youngsters quite understandably get bored.

There is, he adds, a dearth of interesting in-school reading material. Books are adapted, not written. They adhere to so-called "reading ability formulas" with only simple words and short sentences. "They eliminate words that show how sentences are related, such as *before, after, but, because, etc.*," the center's researchers found.

Similarly, such simplified texts cut out all hedges or qualifications. As a typical example, he cited the reduction of the sentence,"a railway agent once figured that it would take 20 flatcars to load the trunk of one giant sequoia," to the the simple statement, "It would take 20 flatcars to load the trunk of one giant sequoia." How, Mr. Anderson asks, can children learn to judge the importance of an identified source?

Such an approach, he says, not only makes reading in school less interesting but fails to prepare children to deal with complexities and to cope with "real" books. School reading "seldom gets into a character's head," Mr. Anderson says. Children are not helped to identify with the content or to relate reading to the real world. In such books, Mr. Anderson complains, "there are few complexities of plot. The stories are artificial and colorless. Style has been bled away." In the later school years, he says, textbooks—from history to science—lack "cohesive themes" and "skip around without structure."

In the crucial first years of school, Mr. Anderson says, "After the initial excitement of learning to read a little—and children are excited—reading suddenly becomes a dull business." With the lure of television and the lack of training in how to distill meaning from the printed page, fewer junior high and high school, students" get any real pleasure out of reading on their own."

Parents who for years have been reading to their preschool children such wonderfully complex books as the Dr. Seuss stories or "The Little Engine That Could" have long felt instinctively that their children's first excursions into reading in school too often take them into that barren territory of "basal readers," devoid of fun, excitement and challenge.

[From the Minneapolis Tribune, Apr. 12, 1981]

IF ENGLISH IS GREEK TO YOUR KIDS, BLAME MAY LIE WITH SCHOOLBOOKS

[By Gregor W. Pinney]

The tall man bought the crackers.
The bald man read the newspaper.
The funny man liked the ring.
The strong man skimmed the book.

Now, cover those sentences with your hand and try to recall which man read the newspaper. Which liked the ring? Which bought the crackers?

Tough, isn't it? You can decode the printed words and "read" the sentences. But they are tough to comprehend because the subjects have no logical connection with the action. The connection is entirely arbitrary, and arbitrariness does not fit well in the human brain, except by rote memorization.

But there is a way to recall those sentences, and millions of American school children may be learning that technique within a few years. Indeed, they may be learning a number of new skills to help them understand what they read.

A major effort has been launched by a group of researchers, based at the University of Illinois, to reform the teaching of reading comprehension by bolstering its scientific underpinnings. Comprehension, they say, is really a way of thinking. It is much more than just decoding printed symbols and then practicing and getting right answers, which characterizes much of what goes on in elementary reading classes today.

The researchers, who have been working for nearly five years and who have used up nearly $8 million of federal money in the process, gave their message to the publishers of the nation's elementary school reading textbooks at a highly unusual two-day conference in Tarrytown.

Meeting in the storied hills above the Hudson, where educational policy once was determined by schoolmaster Ichabod Crane without benefit of a federal grant, researchers urged publishers to make substantial revisions in their basal readers, workbooks and teachers' manuals. (Basal readers are the main textbooks used in most elementary classes. Their stories and exercises are written according to a master plan that provides increasingly difficult vocabulary and structure as a child progresses.)

The researchers, who called the conference, approached the publishers directly on the assumption that textbooks are the most powerful influence on American education, and the quickest route for changes in instruction. People at the conference said it was the first time to their knowledge that such a gathering had been held.

The Illinois effort, which is organized as the Center for the Study of Reading, is believed to be the largest and most expensive study of reading instruction ever conducted. It was launched after scholars and government officials decided in the early 1970s that the nation's reading instruction was inadequate and that the problem was comprehension, not decoding.

Decoding, which means translating printed symbols into words that usually are familiar, had been the focus of scholarly research before that time. And it still gets a good deal of attention from parents and the public in general because of the interminable debate over the phonics and look-say techniques.

The researchers' basic message was that teachers and textbooks must deal with the knowledge that readers have in mind before they tackle a reading assignment. This knowledge is called "reader schema," and it has an enormous effect on the message a reader gets from any piece of printed material.

Some readers don't know enough to understand a particular written passage, the researchers said. In other cases, different readers have different schemata (the plural form of the word). Whites and blacks often have different knowledge, as do young and old, rich and poor. That is because they often have different experiences and education and because they remember different things from their experiences and education.

So teachers and textbooks must recognize those differences and get young readers onto a common track before they begin reading, according to the people gathered at Tarrytown.

But ultimately, students must learn to cope on their own with the printed page, which never contains complete information. They have to figure out what they don't know and how to fill in the gaps. They have to develop ways of making sense out of disconnected items, which brings us back to the four arbitrary sentences.

Those sentences were presented at the conference by Professor John Bransford of

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Vanderbilt University, who has done some consulting work at the center in Illinois. The solution to comprehending and remembering the sentences is simply to add a few words to form a plausible link between subject and action, he said:

The tall man bought the crackers that had been lying on the top shelf.

The bald man read the newspaper to look for a hat sale.

The funny man liked the ring that squirted water.

The strong man skimmed the book about weightlifting.

Students can learn to make those connections, but they need help, said Bransford. And when they finally get the hang of it, he added, "their eyes light up."

"There's no reason you can't incorporate this into regular lessons."

The conference was studded with prominent names in reading research and theory—Richard Anderson, Dolores Durkin, Harold Herber, Roger Farr, Walter McGinitie, David Pearson. And it was attended by high level representatives of virtually all the major textbook companies: Ginn, Economy, Houghton-Mifflin, Scott-Foresman, American Book Co., Holt, Rinehart and Winston, all of whose expenses were paid by their companies. It was not a freeload.

"I can assure you they were listening carefully," said James Squire, senior vice, president of Ginn & Co. "In time, you'll see, very directly, changes as a result of this meeting alone."

"It's not going to revolutionise anything," said John Ridley, editor in chief of the reading department of Houghton-Mifflin. "It's a refinement. Reading programs come out every few years, and it seems what they've said here will find its way into virtually everything that's published.

"That's partly because people will ask, 'What are you doing about schema theory?' And you'd better have an answer. There are buzz words that develop in the textbook business, and schema theory is becoming one of them."

The publishers were not about to say exactly what changes they will make, Ridley added, "Because all of our competitors are here listening."

Richard Anderson, who is director of the Center for the Study of Reading, told the audience of about 80 that a person's perspective makes a lot of difference in what he gets out of printed prose. For example, experiments have shown that a person from India will focus on such things as family financial arrangements when he reads a description of a wedding. But an American who reads the same description will concentrate on the details of the ceremony.

"Minority children frequently fail because they don't have the same set of knowledge and values as majority children and majority authors and majority teachers," said Anderson.

It is the job of those who teach and write textbooks to be aware of different backgrounds and to help readers get the necessary knowledge before they begin reading, he said.

In an interview later, Anderson said it may be necessary to give specially tailored reading materials to children from minority subcultures when they are learning to read because "It's important that we not impose obstacles." After that, however, all students must read materials with unfamiliar settings to broaden their perspective on the world, he said.

"So I'd think you have to be alert to shortcomings of knowledge that some cultures have and be prepared to bridge them."

Anderson cited one experimental in which two groups of people were given a written description of a big house. One group was told to read it from the perspective of burglars while the other group took the perspective of real estate agents. Predictably, he said, the first group remembered such things as the silverware in the dining room while the second group remembered the stone facing on the outside.

But then they were told to reverse their roles. And without rereading the passage, the burglars-turned-real-estate-agents suddenly recalled more about the structure of the house and less about its stealable contents. And the real-estate-agents-turned-burglars experienced the reverse phemenon.

The experiment showed how the same readers carried different schemata in their brains and could voluntarily call them into action, he said. The schemata serve as sorting devices for efficient recall of information.

Putting it another way, Isabel Beck of the University of Pittsburgh said teachers and textbooks should help students develop a "framework for attention" before they read a story.

As an example, she mentioned a story about a boy and a girl who disagree on whether the girl should embark on a career of deep-sea diving.

Ordinarily, she said, a teacher would simply tell the students, "Read to find out how John and Mary solve their problem."

But, Beck said, experimentation has shown that students will comprehend more of the story if they are psyched up first on the general subject. Without taking a moralistic stand and without giving the story away, a teacher should get the students into a discussion about whether there is any logical reason a girl could not become a pilot or a boy become a nurse.

Do current textbooks make use of background knowledge? Yes, they do, said Robert Tompkins, a vice president of Holt, Rinehart and Winston. "But many teachers aren't using it."

Tompkins conceded that publishers should try harder to make the kinds of connections in knowledge that John Bransford had advocated. Tompkins said he particularly liked one of Bransford's suggestions connecting camels and desert travelers.

In that one, Bransford had told about a story in a textbook that describes a camel—with such attributes as closeable nostrils and heavy hair around the ears—without explaining that those features afford protection against blowing sand. But if young readers can be helped to make that connection, Bransford said, they will be in a good position later to understand the dress of desert travelers who wear scarves over their faces even in hot weather.

In general, publishers don't give teachers much help in teaching comprehension, according to Dolores Durkin; an author of college textbooks on reading and a staff member of the center at Illinois.

Durkin, who is establishing a reputation as a muckraker in the field of reading instruction, shook the reading establishment two years ago by reporting that reading teachers are spending only 1 percent of their time on comprehension instruction, as she defined, it. She and her staff had visited classrooms, and they counted any instance in which a teacher helped a student understand any passage longer than a single word.

For her next investigation, which she reported at the Tarrytown conference, she spent eight months leafing through teachers manuals that typically accompany basal reader series. In five sets of manuals, she found a total of 6,697 suggestions to teachers. But she said only 7 percent of those suggestions could be called "instruction." By that she meant an instance in which "A manual suggests that a teacher do, say or ask something that ought to help students understand or work out the meaning of connected text."

The rest of the suggestions dealt with review (17 percent), application (25 percent) and practice (51 percent).

And lest anyone get too excited about that 7 percent on instruction, Durkin portrayed those suggestions as anemic at best. Some were perfunctory—"Introduce the word idea." Others were over the children's heads, such as a first-grade manual that urged teachers to use the words "logical," "infer," "main idea," "prepositional phrase" and "pause momentarily."

In one first-grade class, a student identified "pause" as the things at the end of a dog's feet, Durkin said.

"People who write textbooks ought to get into classrooms," she went on. "They wouldn't use a word like that."

Some manual suggest that students list certain sentences and explain the meanings of specified words. But the emphasis is on right and wrong answers, said Durkin. She said a better approach might be to ask "How do you know it means that?" or "why couldn't it mean something else?"

The publishers did not dispute Durkin's findings.

Sandra Maccarone, reading director for American Book Co., said improvements have been made in some of the latest editions. But she conceded that "Manuals are put together a lot faster than we'd like. We just don't have the time. Sometimes you have four people working on different manuals and there's some lack of coordination."

And Tompkins, of Holt, Rinehart and Winston, said, "I feel like I have been through a mill . . . When I came here, I thought we had the best teachers' editions on earth. When I get back, I can assure you we are going to scrutinize them."

Another speaker, Georgia Green, urged publishers to print stories as originally written instead of rewriting them in simplified style as usually is done for basal readers. She said the trouble with adapting stories is that "it risks boring the children and convincing them there is nothing interesting to be read in school."

And Alice Davison said publishers should stop using readability formulas to write textbooks. Just simplifying words and syntax does not necessarily make the message clearer, said Davison, who advocated subjective judgement as a better guide. Davison and Green both are on the staff of the reading center at Illinois.

The publishers, who also had a place on the agenda, said life is more complex than the researchers see it. They said they have to make a profit and satisfy state and local textbook adoption committees. And they said teachers demand readability formulas, controlled-vocabulary stories and lots of testing for right answers, according to the publishers.

The reason textbooks are written the way they are, said Tompkins, "comes down to a definition of the American public schools and their purpose in life.

"They are an agent of social change, not just to teach reading and writing. They are trying to correct attitudes toward sex roles, toward various races, toward the aged and the handicapped."

Maccarone, of American Book Co., added, "We face adoption committees—small as well as large committees—and we aren't going out voluntarily saying. Look at our readability "And we don't like constant testing, but management priorities have put the onus on teachers to show results. And testing shows results."

Busy Work, Confusion Mar Most Workbooks, Researcher Says

Every school day in America, millions of children sit hunched over commercially published workbooks. But what they see in those workbooks is often confusing and difficult, according to a researcher from the University of Illinois.

Jean Osborn, speaking at a conference for researchers and publishers in Tarrytown, said she found "some very good things" in workbooks. But she also found a lot of busy work, verbose instructions, inadequate assistance, difficult vocabulary and lessons that were not connected with the main reading textbooks, called basal readers.

"My impression is that workbooks are the forgotton child of basal programs," Osborn said.

Osborn, who spent months poring over workbooks, showed the audience one page from an Economy Co. booklet that she called "a terrific example of ambiguity." It was an exercise for third-graders on finding the main idea of a paragraph, but its format made it difficult for students to get paragraphs and ideas together.

In Houghton-Mifflin workbook, students were given seven lines of vaguely worded instructions. In a Ginn and Co. workbook, students were asked to fill in the blanks with letters instead of words. The letters were keyed to a list of words.

Those are not isolated examples, said Osborn. "It's very frequent—daily in a kid's life."

As she went along, she said, she tore out pages with errors, confusion and so on. "There were some series that I'd pull out every page."

One page from the Economy workbook asked students to find words suggesting mystery, hostility, peacefulness, and confusion. Those are complex ideas for second-graders, Osborn said, but no provision was made to see whether the students understood the words in advance.

Students were told to underline "peaceful" words. But it was not clear whether they meant one word or a whole phrase, such as "soft snow falling silently."

A page from a 1979 Houghton-Mifflin workbook, which Osborn called "busy work" and "utter confusion," contained 10 words, each of them inside a square, triangle or rectangle. Students were supposed to color a shape red if it contained a word of one syllable, green if two and blue if three. Then they were to cut out the shapes and put them together into big red, green and blue squares.

"An overload of instructions, all for 10 words," she said. "It will take 15 minutes, which is all right if you want to keep kids busy for 15 minutes."

In a workbook published in 1977 by Holt, Rinehart and Winston, instructions at the top of a page told students to underline the first vowel in each word below. At the bottom of the page another set of instructions told them to do the same thing.

"The hard-to-teach child will say, 'Maybe I did it wrong,'" said Osborn. Good students often don't read the instructions, she said. They simply go ahead and do the exercises. Or they consider the instructions as a problem to be conquered.

But she said poor students simply are confounded by the tasks they see laid out for them on the pages of reading workbooks.

Osborn and her colleagues visited three school districts and sat through 90 reading periods, and she said they found that students spend as much time with their workbooks as they spend in direct contact with their teachers.

"Teachers use workbooks because they think they are important—that they are part of instruction," she said.

Indeed, they use the entire basal reading packages of textbooks, workbooks and supplementary materials, even though teacher-training colleges advocate using a variety of approaches, Osborn said.

Osborn urged publishers to eliminate confusion in workbooks and to develop exercises that teach skills, not just "expose" them briefly. And she pleaded for exercises that require words to be written in the blanks, not keyed letters or numbers.

The people who publish the nation's school workbooks and textbooks were sitting in the audience as Osborn talked, but none disputed her findings.

Will her pleas be heeded?

"They will in our programs," said Dale Howard, director of language arts for Open Court Publishing Co. "I'm going back and write them up. This is one-on-one for me. I am going to take her recommendations to heart."

And James Squire, senior vice president for research and development at Ginn and Co., said, "Workbooks are never going to be the same after Jean Osborn."

ALPHA DELTA PHI—150TH ANNIVERSARY

Mr. PERCY. Mr. President, today I would like to call attention to a convention that will soon be held at Hamilton College in Clinton, N.Y. Though it may seem odd for a Senator from Illinois to speak about an event in upstate New York, I am proud to do so, since the convention will commemorate the 150th anniversary of the founding of my fraternity, Alpha Delta Phi.

Founded at Hamilton in 1832 by Samuel Eells, the fraternity has a tradition of leadership. Members from chapters in both the United States and Canada have distinguished themselves in every field, especially in business, finance and government. Oliver Wendell Holmes, Salmon P. Chase, William K. Vanderbilt, David Eisenhower, and John D. Rockefeller, Jr. were Alpha Delts, as were Presidents Theodore Roosevelt and Franklin D. Roosevelt.

The fraternity has also maintained ties to its heritage as a literary society. During my undergraduate years at the University of Chicago, we sponsored lectures, debates, and the other literary events. Today, despite the increasing social role of fraternities, Alpha Delta Phi still requires its chapters to sponsor similar events. In an era when many people stereotype fraternities as "Animal Houses," it is heartening to see the members of Alpha Delta Phi gathering in a sesquicentennial celebration to reaffirm this special heritage.

SENATOR HEINZ COMMENDED FOR CONTRIBUTIONS TO TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. DOLE. Mr. President, I want to commend the senior Senator from the State of Pennsylvania for his outstanding contributions to the Tax Equity and Fiscal Responsibility Act of 1982.

Senator Heinz is responsible for at least four provisions contained in this legislation which are in the very best interests of people as well as our national economy.

While the newspapers have carried the story of a record peacetime tax increase in this bill, there is another story about provisions of the bill that goes untold. Those provisions, the results of the very arduous efforts of my distinguished colleague from Pennsylvania, reflect a strong and longstanding commitment to the underprivileged, the aged, the poor.

Under the leadership of Senator Heinz, amendments were adopted here on the Senate side that will help people in four different and important areas. The amendments offered by Senator Heinz will insure that the economically and otherwise disadvantaged will have an opportunity to find private sector employment; that dying elderly will not be denied access to hospice care; that senior citizens will have the option to receive better health benefits at lower cost; and that the working poor will have access to health care.

More specifically, Senator Heinz succeeded in gaining Senate approval of an amendment to extend a revised, improved targeted jobs tax credit program. It will give private sector employers a very powerful incentive to hire individuals who qualify under nine targeted categories, including handicapped, Vietnam veterans, certain welfare recipients, former CETA workers, and disadvantaged youths. Most importantly, the amendment promises to help those, particularly during these difficult economic times, who have historically had the greatest difficulty finding employment. I might add that it is due to Senator Heinz' efforts during last year's tax bill that the targeted jobs tax credit was overhauled, made workable, and revived.

Mr. President, Senator Heinz also offered an amendment which I was extremely proud to cosponsor to provide hospice care as a benefit under the medicare program. As many of my colleagues know, hospice frequently is considered to be a more humane and less expensive method of caring for the dying. It provides support for both the patient and the family; it emphasizes quality of the final days of life; it focuses on home and community based care. In short, it allows an individual to live and die with dignity.

Mr. President, I would just note that the hospice amendment was not included in the bill reported by the Finance Committee. Although I, Senators LONG, PACKWOOD, HEINZ, and others had introduced similar legislation and Senator HEINZ had held a hearing on the bill in his Aging Committee, not every Member of the Senate was aware that our elderly, in too many instances, are denied access to hospice care because of medicare's failure to pay for it. As we started to consider the Revenue Act, I think it is fair to say we did not have the support to adopt the floor amendment. Indeed, many floor amendments had a very difficult time. So Senator HEINZ went to work on the Senate floor, personally enlisting support for our amendment, and succeeded in getting at least 67 Senators to cosponsor it. Without that extraordinary effort, adoption of Senator HEINZ' and my hospice amendment would have been impossible. It is my full expectation that the conferees will adopt our provision, and it will soon become law.

I would also like to point out the fruits of a very long labor of Senator HEINZ—the successful amendment to the medicare law to give older people the choice to enroll in HMO's and other competitive medical plans.

Mr. President, I recall when, in the late seventies, the then junior Senator from Pennsylvania was one of the first Members of the Senate to recognize the real ills of the health care payment system and espouse a realistic solution. In rejecting hospital cost containment, a strictly regulatory approach to place a band-aid over the symptoms, Mr. HEINZ began working on legislative remedies to reverse the perverse incentives driving health care costs.

He introduced the Competitive Health and Medical Plan—CHAMP—Act in the beginning of the 97th Congress as a first major step in reversing the incentives that encourage overutilization of costly services and construction of excess hospital beds that taxpayers are forced to support whether or not they are filled. Hearings were held last year in both the Finance and Aging Committees to examine the CHAMP's approach. The bill has been endorsed by such major groups as the American Association of Retired Persons, the National Council of Senior Citizens, the AFL-CIO, and the U.S. Chamber of Commerce, as well as the advocates of a free-market, consumer choice approach to health policy reform.

The culmination of Senator HEINZ' persistent efforts was inclusion of his CHAMP's bill in the Finance Committee's revenue and spending bill that has now passed the Senate. This marks a first, a vital reform of the medicare program, which I expect to be signed into law this year.

Like the hospice provision, the CHAMP's amendment is cost effective, promising to save the Government money and contribute to the long-run reduction of the Federal deficit.

Finally, Mr. President, I would like to point out the amendment drafted by Senator HEINZ to provide medicaid as a work incentive for the working poor in our society.

As many of my colleagues know, last year as part of the Omnibus Reconciliation Act, the so-called work incentives in the aid to families with dependent children—AFDC—program were limited. This was done primarily because there was little evidence of the effectiveness of these generous income disregards in breaking welfare dependency. However, we did not at that time recognize that there was something positive we could do that would indeed encourage work instead of welfare for the AFDC population.

That positive step is a continuation of medicaid coverage for welfare recipients who find work in jobs that do not provide health insurance. A careful examination of the issue, as Senator HEINZ has pointed out, reveals that the population we are talking about here is comprised primarily of single parent mothers with little training or job experience. The jobs they find are usually part time, minimum wage, with no employer-provided health coverage. Therefore, when these families lose their medicaid coverage, a powerful work disincentive is created.

The amendment that Senator HEINZ developed addresses this problem by giving States flexibility to continue medicaid coverage for those working poor families who lose their AFDC benefits as a result of the limitations we imposed last year. In essence, his amendment will help to insure that access to health care will not be denied to those individuals struggling to break welfare dependency and become self-sufficient.

Mr. President, we can all be proud of the dedication, leadership, and outstanding work of the distinguished Senator from Pennsylvania.

SPOUSE EQUITY ACT, S. 1814

Mr. MITCHELL. Mr. President, I wish to express my strong support of S. 1814, a bill which will return to State courts the determination of property settlements in the event of divorces in military marriages. I hope the Senate will consider this bill in the very near future.

Last June, the Supreme Court overturned a State court decision which granted a divorced wife a property right in the pension earned by her military husband. That decision, in effect, places the marriage and divorce decisions of military families beyond the reach of State law in certain important respects. That situation should be corrected.

In our Nation, the States have primary jurisdiction over laws concerning marriage, divorce, property settlements, child support payments, and related domestic issues. This is not an area in which the Federal Government ought to be involved. And we should not remove the protection of State laws from those men and women who serve in the Nation's Armed Forces.

S. 1814 will correct this situation by allowing State courts to treat military pensions in divorce cases as they treat civilian pensions, in accordance with the State's property laws.

S. 1814 does not prejudge the major factors in any divorce. Such questions as individuals' contribution to the joint property of the family, duration of marriage, fault or no-fault, are properly a judgment of the court hearing the divorce case, not of the Federal Government. What the bill does is to restore the military spouses the same rights their civilian counterparts have in divorce proceedings.

Not every State of the Nation treats pensions as joint property in dissolving a marriage. But in those States which do. there is no reason why pensions earned pursuant to a military career should be exempted from the other property acquired in the course of a marriage. Yet this is precisely the effect the Supreme Court's ruling has. It is time that ruling was changed.

The dissolution of any marriage is a personal tragedy for those involved. The frequency of divorce in our Nation is a social tragedy. The divorce rate reflects changes in our society which are outside the scope of legislation. Today, men and women who find their marriages cannot be amicably maintained seek to go their separate ways.

A decision to divorce is a personal decision. But legislation can help assure that neither partner is materially injured by such a decision.

In practice today, divorce frequently impoverishes the female partner, particularly in marriages of long duration. The reality is that a woman whose life has been devoted to making a home and raising children is often not in a position to pursue paid employment. Today's labor market demands skills that are not learned in the home. At a time such as the present, when unemployment is high, the labor market

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can and does demand work experience as well as skills. Trained computer programers are in oversupply today unless they have 5 years' experience. It is unrealistic in such a labor market to contend that divorced women can readily be self-supporting regardless of age, training, or work experience.

Our society will ultimately have to modify the worth it now ascribes and the monetary rewards it gives to various functions. We pay lip service to the importance of making a home and raising a family, but our laws generally reflect a judgment that making a home and raising children are activities of less value than pursuing an active career.

That judgment will change in future, I am certain, because we must eventually recognize that the creation of a stable home and the rearing of children are the foundation of our society. But future changes in society's values and rewards do not compensate women who have already devoted their lives to domestic duties and are threatened with the loss of all sources of livelihood today. When such women face the bitterness of a failed marriage, the law should give practical recognition to their contribution to the dissolving partnership.

The worth of a wife's contribution to a military career is verbally acknowledged by the leaders of our armed services. The Army Chief of Staff, Gen. Ed Meyer says "We recruit soldiers, but we retain families."

Statistical evidence indicates that the active support of spouses is crucial to the decision of military men to reenlist and pursue a military career. The Air Force reports that without their wives' support, only 30 percent of Air Force men would continue a military career. The contribution of the spouse to a career decision in the military is a major factor, just as a spouse's support for a move or a job change is important in civilian life.

Congress has taken substantial steps to upgrade military pay and conditions, an effort that has my strong support. It is vital that we reward the hardships of military service appropriately.

But we should not forget that the families of those serving in our Armed Forces bear the frequent moves, the disruptions, the financial losses, and the severed friendships in moving around the country and overseas, along with their enlisted spouses.

Our armed services rely substantially on the active participation of an enlistee's spouse in maintaining the military community and in providing the kind of family environment which enhances military service. That burden falls most heavily on women because men make up the bulk of our Armed Forces.

Military wives move to new duty stations with their husbands, they uproot their children from schools, they make homes on military bases, and buy homes in cities about which they know nothing and where they have no acquaintances. The frequent moves and disruptions of a military career are part of the service our Nation demands of our military enlistees. And the price is paid, not only by the officer moving, but also by the family which accompanies him.

Military wives have found in many instances that their personal behavior and their willingness to be active in community affairs has directly affected their husbands' careers. Today, when 50 percent of military wives hold paid jobs, that factor of military life may be moderated, as it has somewhat moderated in the civilian sector. But, just as many private companies judge the wives of their male employees, fairly or not, the military judges the wife when it considers advancement for the husband. And those wives who have devoted their time and talents to the furtherance of their husbands' careers have surely made as great an investment in the military life as the men directly.

Military wives who have worked, either from choice or financial necessity, know that the frequent moves involved in a military career do not constitute a sound basis for a well-paid career for themselves. Frequently a shorter term job does not even earn the worker a basic pension, because most firms' pension vesting periods are longer that the average duty assignment. Frequent job changes are inimical to career growth and advancement within a company.

Many military wives have found that despite their education, they must be content with starting anew in a new job in every new military assignment. No comparable situation faces any substantial sector of the civilian economy.

Careers such as the military, which entail frequent moves, do not allow a married couple to build up the property that a more settled family can generally acquire. In many cases, the military pension represents the major form of property acquired in such marriages.

It is grossly unfair, in such circumstances, to arbitrarily rule that this property does not belong in any part to the nonmilitary spouse. No similar distinction is made about property acquired by civilian families, whether both spouses work or not. There is no reason to treat military spouses differently. In effect, the Supreme Court ruling makes military spouses second-class citizens in the event of a divorce. That is unfair and this legislation will correct it.

The bill does not make any arbitrary prejudgments in the case of any individual marriage. It maintains fundamental protections against impoverishing any member of the military, without denying the marriage partner a reasonable judgment when that is reached by the State court involved.

It is foolishness to claim, as some have, that this legislation will precipitate a rash of divorce proceedings against military enlistees or retirees. Men and women do not divorce or fail to divorce on the basis of material considerations alone. Marriages are not maintained or dissolved solely because of money or property. Anyone who has been married knows that the relationships between human beings are too complex to be reduced to such a simple basis.

The complexity of human relations is reflected in S. 1814. It would leave to the courts to determine, on a case-by-case basis, as they now do, what the proper division of belongings is in a marriage that is being dissolved. This legislation will not encourage or discourage divorce among military families and more than the existence of divorce laws now encourages divorce in civilian households.

We should not force military marriages to contend with different rules than their civilian counterparts.

The Supreme Court's decision on property rights state that the determination of the proper treatment of military pensions in divorce cases is properly a congressional decision.

Recognizing that responsibility, the Congress is now ready to act. Language identical to that in S. 1814 has already been passed by the House of Representatives in the form of an amendment to the Defense authorization. I hope the Senate can consider its version of the bill promptly, so that we can return to the spouses of our military families the assurance that their domestic rights will be treated by State courts without distinction because of their service in the military.

Neither this legislation nor any other can moderate the personal tragedy of a failed marriage. But legislation can assure that when marriages do dissolve, the contribution of both partners will be judged within the context of the individual relationship, so that neither party is rendered without cause and destitute without redress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry

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nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolution:

On July 19, 1982:

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

On July 22, 1982:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

S. 1230. An act to provide to the minting of commemorative coins to support the 1984 Los Angeles Olympic games.

On July 23, 1982:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

On July 28, 1982:

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

On August 3, 1982:

S. 2332. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, to provide for the Nation's energy emergency preparedness, and for other purposes.

On August 9, 1982:

S. 2317. An act to recognize the organization known as the National Federation of Music Clubs.

S. 2218. An act to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6276. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 388. Concurrent resolution disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

At 5:08 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the amendments of the Senate to the following joint resolution:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6276. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans; to the Committee on Governmental Affairs.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

ENROLLED JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, August 10, 1982, he signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, August 10, 1982, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4048. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the Custodial Services Function at the Public Works Center, Norfolk, Virginia to performance under contract; to the Committee on Armed Services.

EC-4049. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to authorize student nutritional assistance programs in the defense overseas schools; to the Committee on Armed Services.

EC-4050. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, the annual report of the Solar Energy and Energy Conservation Bank for fiscal year 1981; to the Committee on Banking, Housing, and Urban Affairs.

EC-4051. A communication from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, a supplement to the Commission's 47th annual report entitled "Aunual Report of Corporate Reorganizations Under the Bankruptcy Code;" to the Committee on Banking, Housing, and Urban Affairs.

EC-4052. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Increasing Entrance Fees—National Park Service"; to the Committee on Energy and Natural Resources.

EC-4053. A communication from the Director of the Minerals Management Service, Department of the Interior transmitting, pursuant to law, a request from Diamond Shamrock Corp. for a refund of an excess royalty payment; to the Committee on Energy and Natural Resources.

EC-4054. A communication from the Assistant Secretary of the Interior for Territorial and International Affairs, transmitting, pursuant to law, the annual report on the fiscal condition of the Government of Guam for the year ended September 30, 1980; to the Committee on Energy and Natural Resources.

EC-4055. A communication from the Joint Chairmen of the Interagency Task Force on Acid Precipitation, transmitting, pursuant to law, the final National Acid Precipitation Assessment Plan; to the Committee on Environment and Public Works.

EC-4056. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 4, 1982; to the Committee on Foreign Relations.

EC-4057. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a report on proposed amendments to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4058. A communication from the Executive Secretary of the Federal Reserve Employee Benefits System, transmitting, pursuant to law, the annual report on the retirement plan of the Federal Reserve System for calendar year 1981; to the Committee on Governmental Affairs.

EC-4059. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4060. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Veterans' Administration to administer a community residential care program; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2172. A bill to amend the Communications Act of 1934 (Rept. No. 97-518).

S. 2450. A bill to authorize funds for the Magnuson Fishery Conservation and Management Act for fiscal years 1983, 1984, and 1985 to improve conservation and management of our Nation's fisheries, and for other purposes (Rept. No. 97-519).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2320. A bill to amend section 1936 of title 18, United States Code, and the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) to provide for criminal forfeiture of the proceeds of racketeering activity, to provide for the sanction of criminal forfeiture for all felony drug offenses, to facilitate forfeitures in drug related and racketeering cases, and for other purposes (Rept. No. 97-520).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

H.R. 1710. A bill to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself and Mr. Pell):

S. 2822. A bill to amend title IV of the Higher Education Act of 1965 to provide standards for students for maintaining satisfactory progress as a condition for assistance under that title; to the Committee on Labor and Human Resources.

By Mr. STAFFORD:

S. 2823. A bill to amend title IV of the Social Security Act with respect to the treatment of earned income for purposes of the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

By Mr. NUNN (for himself, Mrs. Kassebaum, Mr. Quayle, Mr. Randolph, Mr. Cranston, Mr. Levin, Mr. Sarbanes, Mr. Cannon, Mr. Burdick, Mr. Leahy, Mr. Glenn, Mr. DeConcini, and Mr. Melcher):

S.J. Res. 228. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself and Mr. Pell):

S. 2822. A bill to amend title IV of the Higher Education Act of 1965 to provide standards for students maintaining satisfactory progress as a condition for assistance under that title: to the Committee on Labor and Human Resources.

STUDENT ASSISTANCE REFORM ACT

● Mr. NICKLES. Mr. President, today I am pleased to join with my distinguished colleague, Senator Pell, in introducing a bill which makes some commonsense changes in the Federal student aid programs.

Currently, a student continues to receive student assistance from the Federal Government as long as the educational institution which he or she attends will confirm that the student is in "good standing." It is left up to the discretion of each individual educational institution to define good standing.

This policy has, unfortunately, resulted in serious mismanagement and use of Federal student aid resources. The General Accounting Office released a study in December of 1981 which found that 20 percent of the students receiving Pell grants at 19 randomly selected institutions had less than a "C" average, half of which (10 percent) had an "F" average. Clearly, this lax discretion and judgment by some educational institutions is significant enough to merit congressional action.

The legislation that Senator Pell and I offer today gives a student receiving Federal financial assistance a 1-year period to establish an academic record. At the conclusion of this first year, the student's grade point average, or it's equivalent, is reviewed. If the student has less than a "C" average, then he or she is given a warning measure by being placed on probation for one grading period. If, during that grading period, the student again fails to make a "C" average or better, then he or she is no longer eligible for Federal financial assistance.

The legislation contains an "undue hardship" clause which provides for special difficulties that a student may encounter during the academic year or probationary period. This clause is intended to allow the institution to give the student another probationary period if it determines that the student has had to contend with unusually severe circumstances during the academic grading period in question. Examples of the kinds of extenuating circumstances which might be cited and accepted are the death of a close relative or serious personal injury or illness.

A student who, for academic reasons, has lost eligibility for Federal student assistance may again become eligible if he can demonstrate, in two consecutive grading periods, his academic commitment by maintaining a "C" average or better. Upon establishing such a record, he may again apply for Federal assistance. This reapplication for aid is limited to a one-time readmission to the student assistance program.

Implementation of this legislation will simplify current law by creating a consistent and fair standard for students receiving Federal aid. It adds no new bureaucratic steps, in that an institution must already verify that a student is in good standing. This legislation simply asks for a GPA as parts of that verification process.

Although there is no concrete figure as to the amount of financial assistance which can be redirected to more serious students, evidence indicates that it could be very sizable amount. In the GAO's sampling alone, they found that 19.9 percent of the Department of Education aid recipients, 23.1 percent of the social security aid recipients, and 12.4 percent of the Veterans' Administration aid recipients had cumulative GPA's less than 2 (or a C average). Even if this figure is not truly representative of all 7,726 schools that have students receiving Federal assistance, it indicates that a significant portion of the $7 billion spent on student aid could be used more effectively.

In closing, I think it is essential that Congress do all that is in its power to once again earn the respect and confidence of the American people for the manner in which we spend their tax dollars. Elimination of wasteful or inappropriate programs is only a part of the answer. The rest is in analyzing and reforming, where needed, the existing and valuable programs so that they are more cost effective and responsible in their use of tax dollars. This is the intent of the "Student Assistance Reform Act." I am pleased that Senator Pell, who is one of the most highly respected Members of this body for his knowledge and activity in the field of education, has understood the importance of maintaining integrity and responsibility in the Federal student aid programs for some time

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now. In 1980, Senator Pell introduced an amendment which was in the same spirit as the legislation we are introducing today.

I encourage my colleagues to examine our proposal, for I am convinced that what we have put forth today is a judicious and fair approach to directing student assistance to those students which not only need it, but who are serious in their determination to make the most of their educational opportunity.●

● **Mr. PELL.** Mr President. I am very pleased to join my distinguished colleague from Oklahoma in introducing the Student Assistance Reform Act of 1982. We are both very concerned that the absence of specific academic standards for the receipt of Federal student aid can result in abuse of these important programs, and thus weaken the very valuable assistance they provide students who desire to pursue a postsecondary education but cannot afford it.

Last year the General Accounting Office examined 5,800 student transcripts at 20 postsecondary institutions across our Nation. The institutions ranged from 4-year private to 2-year proprietary schools. The results of the GAO survey, contained in the report entitled "Students Receiving Federal Aid Are Not Making Satisfactory Academic Progress: Tougher Standards Are Needed," indicated that many institutions have inadequate satisfactory progress standards and/or have failed to enforce the standards that they have in place.

The work of the GAO uncovered some glaring irregularities. For instance,

A student at a public, 4-year college received $2,438 in Federal educational assistance over three quarters, during which his cumulative grade point averages were 0.44, 0.28, and 0.63.

A student at a public community college received $2,215 in Pell grants over five semesters, successfully completing only 3 of 58 credit hours attempted with a 0.11 grade point average.

A student at a private, 4-year college received $7,771 in Federal educational assistance over four semesters, with a cumulative grade point average of 0.76.

Overall, the GAO report estimated that about 20 percent of the Federal student aid recipients had less than a 2.0 grade point required for graduation, and about 10 percent had less than a 1.5 grade point.

Clearly, there is a need for Federal legislative action in this area. The bill we are introducing, however, is in no way punitive. It would simply insure that Federal student aid money would continue to be targeted not only to students with need but also who are serious and responsible in meeting their academic responsibilities. We believe it is an important proposal that should most certainly become a part of current law for all Federal student aid programs within the Higher Education Act.

The background and history of the proposal which Senator Nickles and I are offering today is one that merits your serious consideration. It demonstrates clearly that this is not a partisan issue, but a matter of prudent government.

The first satisfactory progress proposal was advanced by the Carter administration during the higher education hearings in October 1979. Dr. Mary Berry, then Assistant Secretary for Education in the Department of Health, Education, and Welfare, proposed on behalf of the administration that a student must successfully complete at least 50 percent of the course load undertaken using title IV aid during a given period of enrollment in order to be eligible for Federal aid in a subsequent period of enrollment. She also stipulated that this requirement would be waived for demonstrated hardship circumstances.

During the question and answer period that followed Dr. Berry's formal statement, I expressed my completed support for the idea that a student should have to maintain decent grades in order to receive Federal student aid. In fact, I thought the administration's proposed standard of 50 percent was too low.

In May 1980, when the full Senate passed S. 1839, the Education Amendments of 1980, included was a requirement, of which I was the principal proponent, that a student must successfully complete 75 percent of his or her academic course load to be eligible for assistance provided from Federal student aid programs. The legislation, however, did not define what constituted successful completion of a course, but left that decision up to the individual institution of postsecondary education.

Unfortunately, the provision in the Senate bill was dropped when the House and Senate Conferees met to consider and work out differences between the higher education legislation passed by each House.

Since passage of the 1980 amendments, I understand that the Department of Education has worked closely with representatives of the postsecondary education community to develop regulations that would require more specific standards of satisfactory progress. These efforts were designed to help insure the integrity of the Federal student aid programs while also preserving institutional discretion in setting specific standards.

I applaud the initiative that has taken place between the Department and the education community, but I must frankly and candidly say that this action is a case of too little, too late. It is encouraging, for example, that the proposed rules stipulate that satisfactory progress must be the same as or stricter than the institution's standards for determining progress toward and successful completion of the educational objective. This would help avoid the situation cited in the GAO report where students remained eligible for Federal student aid even though the student was never required to maintain a grade point average that matched the institution's requirement for graduation.

As encouraging as these proposed regulations are, they simply do not go far enough. There is a need for a Federal standard that spells out specifically what a student must accomplish in terms of a grade averaged if he or she is to continue to receive Federal student assistance.

The issue in this matter is not one of institutional integrity, or interferring with the operation of institutions of postsecondary education. Rather, it is the question of an agreement which a student makes with the Federal Government when he or she accepts Federal student aid. I contend that the aid should be dependent upon the student's maintaining a satisfactory grade point average, which is the matter directly addressed in this legislation.

This is neither a new nor an intrusive step. Already we have a series of eligibility rules for student assistance programs in areas such as family income, a student's status as dependent or independent, and whether or not he or she is a full-time or part-time student. We have agreements concerning the repayment of loans. And we have limits on the amount of money a student can receive through a grant or loan. The legislation Senator Nickles and I are proposing would simply add another requirement with respect to the level of academic work a student must maintain if he or she is to continue to be eligible for Federal student aid.

The Student Assistance Reform Act would apply to all Federal student aid programs included in title IV of the Higher Education Act of 1965, as amended. If a student after the first year of postsecondary work has less than a "C" average or its equivalent, then he or she would be placed on probation for the next grading period. If the student receives an average of "C" or better for the following grading period, then he or she would no longer be considered on probation and could continue to receive Federal student assistance.

Should the student earn less than a "C" average, however, he or she would be dropped from eligibility for the Federal student aid programs. Once dropped from eligibility, a student would have to earn a grade average of "C" or better for two consecutive terms in order to become eligible once again to receive Federal student aid.

There is also an undue hardship clause in our legislation. It would allow a postsecondary institution to judge students with unusually severe situations, such as sudden death or illness in the family or particularly difficult personal or emotional problems, and allow them to continue to receive Federal student aid.

Mr. President, passage of this legislation will not only protect the integrity of the Federal student aid programs but also insure that public moneys spent on these programs are used wisely and well by the millions of recipients who benefit from them each year. I urge my fellow colleagues from both sides of the aisle to join Senator NICKLES and me in cosponsoring this important piece of legislation.●

By Mr. STAFFORD:

S. 2823. A bill to amend title IV of the Social Security Act with respect to the treatment of earned income for purposes of the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

WORK INCENTIVE ACT OF 1982

● Mr. STAFFORD. Mr. President, on May 31 of this year, I met in Montpelier, Vt. with a number of working mothers who recently have lost supplementary welfare benefits for themselves and their children. They are women who work for low wages in the only jobs available to them, and who, until early this year, were eligible for help under the work incentive provisions of the aid to families with dependent children (AFDC) program.

As a result of the 1981 Omnibus Reconciliation Act, there are 711 Vermonters, who have lost the incentives to work that were built into the AFDC program. Another 1,500 had their benefits substantially reduced, working severe hardships on themselves and their children. The Congressional Budget Office estimates that, because of the work disincentive created by the 1981 Reconciliation Amendments, working mothers in 100,000 to 120,000 AFDC families will leave their jobs and go completely on welfare.

I promised the women I met that night that I would begin work on a bill to restore work incentive benefits to our low-income working parents. Today, I an introducing the Work Incentive Act of 1982.

The AFDC work incentive amendments I am proposing will repeal the 4-month limit on provisions of the AFDC law that require States to disregard certain portions of income when calculating benefits. Under the limit, low-income working parents have lost all or part of their benefits after working for 4 months.

Without those small monthly checks and other benefits such as medicaid, many working parents are unable to meet the needs of their children. Some have stopped working already. Others are facing the hard choice of staying home with their children to regain benefits and ease their families' burdens, or keeping their jobs, while sacrificing such basic necessities as adequate food and medical care.

My amendments will require States to calculate AFDC eligibility according to a formula that will assure that a low-income working parent realized at least a small financial advantage for going out to work.

Specifically, my amendments will allow the amount of earnings used to calculate benefits to be reduced by 20 percent of gross income for working expenses. Monthly child care expenses, up to $160 a month per child, will also be disregarded in determining income.

In addition, the first $50 of monthly income, and one-third of net remaining income will be disregarded in calculating benefits. It is this provision that will make working at least slightly more profitable than not working.

Recently, my office was contacted by a business manager in Vermont, who said he has spent 2 years training a young mother who has lost her work incentive support. She needs $150 a month to get by and the business is unable to pay it, so she will be quitting work to go on welfare.

The manager complained that this new form of federalism is counterproductive if he is to pay taxes to support someone who is not working.

I want to point out that, while the bill I am proposing will keep parents such as this one working and ease their financial hardships, it also will solve some of the basic problems that existed before the 1981 changes.

It maintains the cap on gross income, and it calculates the one-third provision on net rather than gross income. These significantly lower the amount of income a worker can have and still receive benefits.

The result of adopting my amendments will be a law that solves the basic problems the 1981 act was aiming at, while restoring benefits to the neediest of our working families, and most important, restoring the incentive to work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Work Incentive Act of 1982".

TREATMENT OF EARNINGS

SEC. 2. (a) Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8) provide that, in making the determination under paragraph (7) with respect to any month, the State agency—

"(A) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student, or a part-time student who is not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(B) shall disregard from the total earned income of any child who is claiming aid to families with dependent children, any relative who is claiming such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $50 of such total earned income for such month;

"(C) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to 20 percent of the total (determined prior to the application of subparagraph (B)) of any amounts received by such persons in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month;

"(D) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to the cost of care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount does not exceed $160 for any one such child or individual;

"(E) shall disregard from the total earned income of the persons specified in subparagraph (B) a standard amount equal to the average monthly cost of an employee contribution for a group health insurance policy or plan for a family in such State (as determined by the State); and

"(F) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to one-third of the amount of such earned income not already disregarded under subparagraph (B), (C), (D), or (E);

except that if a child who is one of the persons specified in subparagraph (B) is also included under subparagraph (A), no income of such child to which such subparagraph (A) applies shall be taken into account in applying subparagraph (B), (C), (D), (E), or (F); and except that (with respect to any month) the State agency—

"(F) shall not disregard, under subparagraph (B) or (F), any earned income of any one of the persons specified in subparagraph (B) if such person—

"(i) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(ii) refusing without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after

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notification by him, to be a bona fide offer of employment; or

"(iii) failed without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;

"(G) shall not disregard, under subparagraph (B) or (F), any income derived from participation in a project maintained under the programs established by section 432 (b) (2) and (3); and

"(H) shall not disregard, under subparagraph (B) or (F), any earned income of any of the persons specified in subparagraph (B) if with respect to such month the income of the persons so specified was in excess of their need as determined by the State agency pursuant to paragraph (7) (without regard to subparagraphs (A), (B), and (F) of this paragraph), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;".

(b) Section 402(a)(17) of such Act is amended by striking out "paragraph (8)(A)(i) or (ii)" in the matter preceding subparagraph (A) and inserting in lieu thereof "paragraph (8) (A) or (B)".

TREATMENT OF EARNED INCOME CREDIT

Sec. 3. Section 402(d)(1) of the Social Security Act is amended to read as follows:

"(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income.".

EFFECTIVE DATE

Sec. 4. The amendments made by this Act shall become effective on October 1, 1982; except that any of such amendments may, at the option of a State, be made effective in that State on any earlier date (on or after the date of the enactment of this Act) which the State may designate.●

By Mr. NUNN (for himself, Mrs. Kassebaum, Mr. Quayle, Mr. Randolph, Mr. Cranston, Mr. Levin, Mr. Sarbanes, Mr. Cannon, Mr. Burdick, Mr. Leahy, Mr. Glenn, Mr. DeConcini, and Mr. Melcher):

S.J. Res. 228. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

● Mr. NUNN. Mr. President, today I am introducing legislation which would declare the week of October 23, 1982, as "National Tourette Syndome Awareness Week."

There are many diseases which affect relatively few Americans, but when taken together they affect millions of our citizens. Huntington's disease, Myclonus, Cystic Fibrosis, Muscular Dystrophy, Amyotrophic Lateral Sclerosis (Lou Gehrig's disease), and Tourette Syndrome are but a few examples.

The cosponsors of this bill are also cosponsors on another related bill, S. 2130, the Orphan Drug Act. Unfortunately, there are few if any commercial drugs available to treat most of these diseases. The primary reason for this lack of treatment is one of economics. There simply are not enough patients with each disease to make the development of drugs financially feasible for the pharmaceutical industry.

Drug companies, after all, are in business to make a profit. The research and development for a single new drug costs millions of dollars. Then, the company must follow the lengthy and costly process of getting approval from the U.S. Food and Drug Administration to put it in the market. If a company cannot forecast a profit at the end of this long road, then there is little incentive to invest the funds necessary to develop a new drug.

It is because there are so few sufferers of each disease—and hence so little financial incentive to develop new drugs to treat them—that we use the term "orphan drugs" to describe this situation. The Orphan Drug Act, S. 2130, is designed to reduce some of the economic barriers to the development of these new drugs. I and the other cosponsors hope that by setting aside the week of October 23 to learn more about one of these rare diseases, Tourette syndrome, we will better understand the problems facing the individuals and families with other rare diseases and appreciate their courage and strength.

The problems of finding treatments for these relatively rare diseases need our immediate attention. We hope that the chairman of the Senate Labor and Human Resources Committee will see the benefits of holding hearings on S. 2130, the Orphan Drug Act. These individuals and families deserve an opportunity to tell their stories and request the help of Congress in fighting these little understood diseases.

I ask that the following article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Debasing Disease Too Few Recognize

(By Lawrence Galton)

For 10 years the boy had been on a medical merry-go-round—ever since at age 8, he was sent home from summer camp because of uncontrollable episodes of head-jerking. Other bizarre disturbances had followed: bouts of grunting, barking, jerking of neck and arms. He had been seen by more than a dozen physicians, diagnosed as suffering from severe emotional disorder, and subjected to many treatments, including years of psychoanalysis.

No treatment worked. The diagnosis was wrong.

It was wrong, too, to a 54-year-old man whose disturbances, much like the boy's had persisted for 37 years—complicated by uncontrollable outbursts of obscenities that could occur anywhere, anytime.

Today, both are free of symptoms after treatment for the real problem: Tourette syndrome, one of the most commonly misdiagnosed and mistreated disorders.

Says Dr. T. J. Murray, professor of medicine at Dalhousie University, Halifax, Nova Scotia: "The time from onset of symptoms to diagnosis averages 10 years, but undoubtedly, in many persons with this disorder, the correct diagnosis is never made."

A neurological rather than a mental or emotional illness, Tourette afflicts an unknown number. Some authorities believe at least 50,000 Americans are affected; some think the number may be far higher.

It always begins in childhood, may worsen, and can spoil lives of its victims—subjecting them to ridicule, turning many into recluses. It need not.

The first hint that such a strange disorder even existed came in 1825 when Dr. J.M.G. Itard, a French physician described the case of a young French noblewoman who, since the age of 7, had suffered from involuntary muscular tics or jerkings and later gave vent to uncontrollable cursing. In 1885, Gilles de la Tourette, another French physician, reviewed her case and described eight others. Ever since, the disorder has borne his name.

Until very recently, it was considered a rarity. Medical texts gave it a paragraph. Few physicians had any idea of what it was like.

It affects three times as many boys as girls. The first indications, which usually appear between the ages of 2 and 16, are muscle twitching or tics around the eyes and face. Subsequently, shoulders, arms, legs and torso may be involved, often in complex and multiple jerking movements—brief, rapid, purposeless.

MORE THAN A TIC

These manifestations are often passed off as common habit spasms or nervous tics of childhood. Later, when the vocalizations appear, physicians, parents and teachers often think a serious psychoneurosis is present. The most frequent sounds are grunts, barking, throat clearing, repeated coughing. Some victims have noisy or irregular breathing; some tend to repeat what others have just said in tic-like fashion. Most striking is sudden cursing, which occurs in about 50 percent of patients; they experience a mounting inner tension relieved only by an outburst of obscenities.

Tourette victims have been subjected to diverse, even bizarre treatments: prolonged sipping of water, acupuncture, allergic desensitization, diets, chiropractic manipulation, electroshock, insulin coma, hypnotherapy, behavior modification, psychoanalysis.

It was Dr. Arther K. Shapiro, now clinical professor of psychiatry at Mount Sinai School of Medicine, New York City, who did much to change the picture for Tourette victims.

Almost 30 years ago, Shapiro, then a medical student, was browsing in a bookstore when he heard a string of curse words coming from behind a stack. To his astonishment, he found an attractive, well-dressed young woman examining books of poetry. She was obviously deeply interested and minding her own business but would suddenly, without apparent reason, unleash outbursts of obscene shouts.

He had no idea what was wrong. Nor when he did—many years later, as a practicing psychiatrist—he was confronted one day by a woman who entered his office grimacing, barking and cursing. She had come for psychotherapy. But when she wasn't manifesting her "crazy" symptoms, she wasn't at all emotionally disturbed.

Certain that psychotherapy would not help, Shapiro wondered whether any drug might be of use. After checking into three dozen, he finally found one that had a dramatic effect, eliminating the woman's symptoms. The drug, haloperidol (trade-named Haldol), was the first of a new series of major tranquilising agents for psychotic disorders. Even now, its precise mechanism has not been established.

By 1974, Dr. Shapiro and his wife, Dr. Elaine Shapiro, a psychologist, could report on the first 34 patients treated with the drug. In the majority, 90 percent of symptoms disappeared after a year. By 1976, the Shapiros and their colleagues, reported much the same results in a follow-up study of 78 patients. In 1978, after further successful experience, they published a textbook, *Gilles de la Tourette Syndrome*, for physicians.

Other investigators have also been reporting successful experiences. Of patients treated by Dr. Faruk S. Abuzzahab of Minneapolis, 89 percent have shown improvement. Dr. Gerald S. Golden of the University of Texas Medical Branch, Galveston, has treated a group of children for whom correct diagnosis had been delayed average of four years (the longest was 12 years). The majority of parents had been told it was simply a matter of tension and no specific treatment was needed. On haloperidol, 75 percent of the youngsters had good or excellent responses.

SIDE EFFECTS A PROBLEM

Haloperidol is no panacea. The drug can have side effects—muscular rigidity, fatigue, depression, motor restlessness. It should be administered expertly, starting with very small doses, gradually increasing to the point where there is maximum relief of symptoms and minimum side effects. It can take several months before that point is reached, and other medication may sometimes be needed to reduce side effects early in treatment when they are likely to be most troublesome.

Other treatments are under study, especially for those who do not respond to haloperidol. Lithium carbonate, often used for manic depressive illness, has shown promise in very limited trials. At Toronto's Clark Institute of Psychiatry, Dr. Harvey Moldofsky has been finding an experimental agent, pimoside, useful for some patients. Early trials by Dr. Michael Feinberg of University Hospital, Ann Arbor, Mich., suggest apomorphine may have value.

At New York University Medical Center, Dr. Arnold Friedhoff gave L-dopa, a drug sometimes used for shaking palsy, to two patients, aged 11 and 14, who had failed to respond to haloperidol or could not tolerate it. After L-dopa led to a worsening of symptoms, it was stopped, whereupon the sumptoms improved greatly and remained improved for months, then returned gradually. Resumption of L-dopa and its withdrawal again resulted in improvement. It may be possible, with further study, to avoid the transient worsening of symptoms if haloperidol and L-dopa are given simultaneously at the beginning of treatment.

So the outlook for Tourette victims promises to brighten further. But there's a vital need for understanding of the disorder and for early diagnosis.

Tourette symptoms are often viewed as bizarre and frightening, they provoke ridicule. Some teachers cannot tolerate children with the syndrome in class because their movements and noises are disruptive. Many youngsters are either taught at home or sent to special classes or schools. Children who remain in a normal school situation are often made to feel miserable. "Parents, too," says Dr. Arthur K. Shapiro, "are frequently overwhelmed by the strangeness of their child's behavior. This is especially evident when coprolalia (cursing) is present. The child may be threatened, excluded from family activities and prevented from enjoying normal interpersonal relationships. These difficulties may become greater as the child becomes a teenager and his symptoms are mistaken for drug-induced behavior. Early diagnosis and treatment are urgent if the child is to avoid pyschological harm. The longer he is subjected to others' belief that he is different or crazy, the more likely he is to believe it. Early diagnosis is especially important, since it is now possible to control symptoms."

HELP AVAILABLE

Anyone who knows of a Tourette victim should contact the Tourette Syndrome Association at 41-02 Bell Blvd., Bayside, N.Y. 11361. Formed in 1973 by a group of nine parents of afflicted children, it now has a membership of 4000. There are 30 parent-child groups across the country and more being formed, plus a new Canadian affiliate in Toronto.

The voluntary, nonprofit association is working to educate both the public and physicians about the disease. It holds exhibits at medical conventions and membership meetings several times a year to provide information about recent research and treatment. It also publishes literature and a newsletter listing names of physicians and centers throughout the country with expertise in treating Tourette syndrome.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. DOLE, the names of the Senator from Iowa (Mr. GRASSLEY), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 27, a bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000.

S. 1368

At the request of Mr. HUMPHREY, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1368, a bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax.

S. 1918

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1918, a bill to establish the Northeast-Midwest States Federal Hydropower Financing Authority.

S. 2130

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2130, a bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

S. 2513

At the request of Mr. BAUCUS, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 2513, a bill to require the Secretary of Agriculture to make land diversion payments for the 1982 crops of wheat, feed grains, cotton, and rice and to establish acreage limitation programs for the 1983 through 1985 crops of wheat, feed grains, and cotton if producers approve such programs or if carryovers of such crops reach certain levels, and for other purposes.

S. 2585

At the request of Mr. CRANSTON, the names of the Senator from Alabama (Mr. HEFLIN), the Senator from Oklahoma (Mr. BOREN), the Senator from Washington (Mr. JACKSON), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2598

At the request of Mr. MCCLURE, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2598, a bill to provide for the disposal of silver from the National Defense Stockpile through the issuance of silver coins.

S. 2634

At the request of Mr. NICKLES, the names of the Senator from Indiana (Mr. QUAYLE), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes.

S. 2659

At the request of Mr. SASSER, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 2659, a bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly re-

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ports with respect to the results to periodic reviews of disability determinations.

S. 2734

At the request of Mr. Humphrey, the names of the Senator from North Carolina (Mr. East), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of S. 2734, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs.

S. 2735

At the request of Mr. Humphrey, the names of the Senator from North Carolina (Mr. East), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of S. 2735, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 2736

At the request of Mr. Humphrey, the names of the Senator from North Carolina (Mr. East), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of S. 2736, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 2742

At the request of Mrs. Hawkins, the names of the Senator from New Mexico (Mr. Schmitt), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of S. 2742, a bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages, and for other purposes.

S. 2784

At the request of Mr. DeConcini, the name of the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2807

At the request of Mr. Robert C. Byrd, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2807, a bill to amend the Federal Reserve Act.

SENATE JOINT RESOLUTION 97

At the request of Mr. Mitchell, the names of the Senator from Tennessee (Mr. Baker), the Senator from Kentucky (Mr. Ford), the Senator from Arkansas (Mr. Bumpers), the Senator from Arkansas (Mr. Pryor), and the Senator from Ohio (Mr. Glenn) were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week."

SENATE JOINT RESOLUTION 159

At the request of Mr. Roth, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of Senate Joint Resolution 159, a joint resolution entitled the "White House Conference on Productivity Act."

SENATE JOINT RESOLUTION 206

At the request of Mr. Bentsen, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of Senate Joint Resolution 206, a joint resolution entitled "The Flat Rate Income Tax Resolution."

SENATE JOINT RESOLUTION 226

At the request of Mr. Cochran, the names of the Senator from Mississippi (Mr. Stennis), the Senator from Arizona (Mr. Goldwater), the Senator from Arkansas (Mr. Pryor), the Senator from Utah (Mr. Hatch), the Senator from Tennessee (Mr. Sasser), the Senator from North Carolina (Mr. Helms), the Senator from Arizona (Mr. DeConcini), the Senator from South Carolina (Mr. Thurmond), the Senator from Kentucky (Mr. Huddleston), the Senator from South Dakota (Mr. Abdnor), the Senator from Oklahoma (Mr. Boren), the Senator from New Mexico (Mr. Schmitt), the Senator from Alabama (Mr. Heflin), the Senator from Indiana (Mr. Lugar), the Senator from Nevada (Mr. Cannon), and the Senator from Nevada (Mr. Laxalt) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE RESOLUTION 393

At the request of Mr. Pressler, the name of the Senator from Wyoming (Mr. Wallop) was added as a cosponsor of Senate Resolution 393, a resolution expressing the sense of the Senate that the Secretary of Agriculture should promptly call for a section 22 study on honey imports.

AMENDMENT NO. 2014

At the request of Mr. Schmitt, the names of the Senator from New Mexico (Mr. Domenici), the Senator from Nevada (Mr. Laxalt), the Senator from Arizona (Mr. DeConcini), the Senator from Montana (Mr. Baucus), and the Senator from Nevada (Mr. Cannon) were added as cosponsors of Amendment No. 2014 intended to be proposed to H.R. 6863, a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND REVISION ACT

AMENDMENT No. 2017

(Ordered to be printed and to lie on the table.)

Mrs. HAWKINS submitted an amendment intended to be proposed by her to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

HOUSING, COMMUNITY, AND NEIGHBORHOOD DEVELOPMENT

AMENDMENT NO. 2018

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to the bill (S. 2607) to amend and extend certain Federal laws relating to housing, community, and neighborhood development, and related programs, and for other purposes.

● Mr. SCHMITT. Mr. President, today I am submitting an amendment to title V of S. 2607, which modifies the Farmers Home Administration housing programs and proposes a rural housing block grant. These provisions accommodate some of the major concerns expressed by the Department of Agriculture, the Office of Management and Budget, Members of Congress, and rural interest groups.

The incorporation of these amendments will result in a comprehensive, workable rural housing block grant program which will improve the delivery of housing services to rural families. This program which is now strongly endorsed by the administration, embraces our common goal of providing adequate, safe, and sanitary housing for very low income rural residents. This is accomplished in a manner which is consistent with congressional budget and policy objectives and significantly furthers the concept of New Federalism by building a positive working partnership between the Federal Government and the States without excessively burdening either.

The most significant provision in this amendment insures that there is no lapse in the availability of housing assistance to the rural poor while the block grant program is implemented. During this transitional period, FmHA is authorized to make subsidized loans for the construction and rehabilitation of single family housing. Funding for this subsidized lending activity will be available for up to 9 months following the enactment of S. 2607 and will be provided by deobligating unused funds set aside for single and multifamily units in preceding fiscal years, and by carrying over uncommitted fiscal year 1982 funds. We estimate that this will provide up to $700 million for subsidized single family housing. This increase in funding is still well within the budgetary limitations agreed to by the Budget Committee and does not change proposed fiscal year 1983 appropriations.

During this transitional period, $5 million in technical assistance funds will be available to States that have indicated an interest in participating in the block grant program. This money would enhance States' capacity to plan and develop programs that meet the varied housing needs of their rural constitutents during this 9-month period.

The amendment also sets a time table for the development of FmHA regulations and requires States to submit a final statement of activities to the Secretary by July 15 if they intend to participate in the block grant program. This provision intends to give FmHA adequate time to develop regulations while allowing participating States to receive funding and begin to actively plan a local program as soon as possible.

The definition of "very low income" has been changed from 50 percent of area median income to allow an adjustment for smaller and larger families. In order to provide States with a degree of flexibility in designing and administering housing programs, the Secretary may give States the ability to use up to 20 percent of their block grant funding to assist rural residents with incomes up to 80 percent of median. This will allow States to broaden the scope of their programs, and increase their ability to leverage funds; stretching the impact of Federal dollars.

Title V of S. 2607 allows for the renewal of all interest credit contracts, which reduce the interest rate paid on single family homes to as low as 1 percent. This amendment goes beyond this authority by allowing the Secretary to make interest credit agreements with existing borrowers that currently have unsubsidized FmHA loans and have encountered situations of economic hardship which make them unable to repay their loans. FmHA would also have the ability to make a new interest credit contract with an eligible family that assumes the loan of a FmHA subsidized home.

Part C of title V, giving Congress the authority to review all rules and regulations related to the rural housing block grant, is eliminated by this amendment. This authority would be granted under S. 1080, as passed by the Senate, which is pending in the House of Representatives. It should be noted that this amendment also specifically grants FmHA the authority to make the rules and regulations necessary to administer the block grant program.

This amendment, which contains these and other clarifying provisions, is the result of a concerted effort made by the FmHA, the OMB, myself, and staff to devise a sound program which will meet our shared goals and objectives for housing the rural poor. This rural housing legislation possesses the potential to benefit a very low income population that has been virtually overlooked by the Federal Government's housing assistance programs. The rigid and outdated structure of existing housing programs has prevented Federal resources from reaching very low income families and I have proposed an alternative which would redirect our funds to meet these severe and increasing needs.

This amendment has strengthened the potential this legislation holds for assisting the needy families living in our rural areas. I hope that you will support and endorse title V of S. 2607, as amended when it is addressed on the floor of this Chamber.

Mr. President, I ask unaminous consent that the amendment and a letter from the Director of the Office of Management and Budget and the Secretary of Agriculture be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

AMENDMENT NO. 2018

On page 114, line 22, before the semicolon, insert the following: "or, in the case of a transfer or an assumption, a different borrower who is eligible for interest credits".

On page 114, line 22, strike out "and".

On page 115, line 2, strike out the period and insert in lieu thereof "; and".

On page 115, between lines 2 and 3, insert the following:

"(iii) the Secretary may enter into an interest credit contract with respect to a single family dwelling which is inhabited by a borrower to whom the loan was made prior to such effective date and who is suffering economic hardship, if the Secretary determines that additional assistance in the form of credits is necessary to reduce the effective interest rate to a level sufficient to allow maintenance of mortgage payments by the borrower but not to less than 1 per centum per annum.".

On page 115, strike out lines 3 through 13 and insert in lieu thereof the following:

"(C)(i) Any contract for interest credits entered into under this section with a borrower under section 502 shall provide that the borrower shall contribute not less than 30 per centum of his income for debt service, except that the contribution of a borrower receiving such assistance prior to the effective date of the National Rural Housing Act shall not increase as a result of this subsection or any other provision of Federal law or Federal regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation.

"(ii) In the case of loans under sections 514 and 515 approved prior to the effective date of the National Rural Housing Act with respect to which rental assistance is provided, the rent for tenants receiving such assistance shall not exceed 30 per centum of income. In the case of a section 515 loan approved prior to the effective date of the National Rural Housing Act with respect to which interest credits are provided, the tenant's rent shall not exceed the greater of 30 per centum of income or the rent level established on a basis of a 1 per centum interest rate on debt service. No rent for a unit financed under section 514 or 515 shall be increased as a result of this subsection or other provision of Federal law or Federal regulation by more than 10 per centum in any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation.

"(D) Notwithstanding any other provision of section 526 of the National Rural Housing Act, a State, or the Secretary in a State where the Secretary is distributing funds under section 527(d) of such Act, may use grant funds to assist families under current or renewed interest credit contracts with the Secretary when such families as a result of this subsection are required to pay an amount greater than 30 per centum of income. Such assistance may be used to reduce the effective payment by the family to a level of 30 per centum of income.".

On page 117, line 13, after "loan" insert "under this subsection".

On page 118, line 22, after "Sec. 516." insert "(a)".

On page 119, between lines 6 and 7, insert the following:

(b) Section 526 of such Act is amended by adding at the end thereof the following:

"(e) The Secretary shall make or insure a loan under this section if he determines that the project or units to be financed are comparable to or lower in cost on a per unit basis than single family detached units in the same area, taking into account management and other condominium fees, and if the project or units otherwise meet the requirements of this title.".

On page 121, between lines 21 and 22, insert the following:

UNDERWRITING FACTORS

SEC. 518. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) In carrying out his functions under this title and in determining whether to approve a proposal for assistance under this title, the Secretary shall take into account energy costs, management expenses, and other operating expenses of the proposed project or unit.".

On page 123, strike out lines 14 through 18 and insert in lieu thereof the following:

"(1) the term 'very low income residents' means those rural residents having a total income of not more than 50 per centum of State rural median income, with adjustments for smaller and larger families;".

On page 133, between lines 19 and 20, insert the following:

"(f) Upon request by the State, the Secretary may authorize up to 20 per centum of the funds received by a State to be used to assist rural residents with total income of more than 50 per centum of state rural median income but not in excess of 80 per centum of state rural median income, with adjustments for larger and smaller families.".

On page 124, line 16, strike out "community association,".

On page 125, line 8, after "Sec. 524." insert "(a)".

On page 125, between lines 17 and 18, insert the following:

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"(b) The Secretary is authorized to prescribe such rules and regulations and make such delegations of authority as he deems necessary to carry out this part.".

On page 138, between lines 14 and 15, insert the following:

TRANSITIONAL PROVISIONS

SEC. 532. (a) The Secretary shall assure that assistance under this part is made available in accordance with this section in a timely and expeditious manner.

(b)(1) Not later than December 1, 1982, the Secretary shall make appropriate technical assistance available to States which have indicated a desire to receive such assistance in order to determine the practicability of their participation in the block grant program under this part. For the purpose of this paragraph, the Secretary may utilize not to exceed $5,000,000 of the funds available to carry out this part during each of the fiscal years 1983, 1984, and 1985.

(2) Not later than April 1, 1983, the Secretary shall publish proposed regulations implementing the provisions of this part.

(3) Not later than May 15, 1983, States desiring to participate in the block grant program under this part shall so indicate to the Secretary.

(4) Not later than July 1, 1983, the Secretary shall publish final regulations implementing the provisions of this part.

(5) Not later than July 15, 1983, each State desiring to participate in the block grant program under this part shall submit a final statement of activities to the Secretary in accordance with the provisions of section 525. Assistance shall be made available as provided in this part as soon as is practicable after the receipt of the final statement of activities.

(c) Notwithstanding any other provision of law, any funds appropriated or otherwise made available to carry out any program under title V of the Housing Act of 1949 prior to October 1, 1982, but which are not obligated on October 1, 1982, or which are deobligated on or after October 1, 1982, shall remain available for obligation under sections 502 and 504 of such Act (as such sections were in effect immediately prior to the enactment of this Act) until July 1, 1983. The total amount of funds which may be obligated under this subsection shall be determined by the Secretary. Any funds not obligated in accordance with the provisions of this subsection prior to July 1, 1983, shall be paid into the Treasury as miscellaneous receipts.

On page 138, line 16, strike out "Sec. 532." and insert in lieu thereof "Sec. 533.".

Beginning with page 138, line 18, strike out all through page 152, line 2.

Amend the table of contents accordingly.

THE WHITE HOUSE,
Washington, July 30, 1982.

Hon. HARRISON SCHMITT,
Chairman, Subcommittee on Rural Housing and Development, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to inform you that the Administration supports your efforts to reform and restructure the Farmers Home Administration's rural lending programs. We hope that the Congress will act expeditously to adopt the provisions of Title V of S. 2607, as modified by the Committee admendments.

The rural housing block grant program authorized in S. 2607 is fully consistent with the Administration's policy and budget goals. It would extend the concept of federalism while recognizing the necessity for fiscal restraint. Most important of all, the Committee proposal would redirect Federal assistance to meeting the needs of very low income rural residents.

We especially wish to thank the Committee for its willingness to work closely with the Administration in devising an appropriate transition mechanism to the new program and in making a number of other changes in the legislation.

The Administration is confident that Title V of S. 2607 will improve the delivery of housing assistance to rural areas in a manner that is fully in keeping with our common goals. We look forward to successful implementation of this legislation.

Sincerely,

JOHN R. BLOCK,
Secretary of Agriculture.
DAVID A. STOCKMAN,
Director, Office of Management and Budget.●

IMMIGRATION REFORM AND REVISION ACT

AMENDMENT NO. 2019

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1982

AMENDMENT NO. 2020

(Ordered to be printed.)

Mr. SYMMS proposed an amendment to the bill (H.R. 6863) making supplemental appropriations for the fiscal year 1982, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, the Subcommittee on Federal Expenditures, Research, and Rules of the Committee on Governmental Affairs has scheduled a hearing on S. 1782, the Small Business Contract Payment Procedures Act. The hearing has been scheduled for Wednesday, August 18, 1982, commencing at 9:30 a.m. It is to be held in room 3302 of the Dirksen Senate Office Building.

The subcommittee has invited witnesses to provide testimony on this bill, which eliminates the automatic retainage of a portion of progress payments due Government contractors. S. 1782 authorizes such retainage only in cases where the Government's contracting officer finds inadequate contractor performance.

The subcommittee encourages the submission of written testimony by any interested person. Written submissions should be addressed to the Subcommittee on Federal Expenditures, Research, and Rules, 128 C Street NE., Room 44, Washington, D.C. 20510. For additional information, interested persons should contact William B. Montalto, procurement policy counsel for the subcommittee, or its chief clerk, Pat Otto, at 202-224-0211.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that confirmation hearings have been scheduled on pending nominations before the Senate Committee on Agriculture, Nutrition, and Forestry on Tuesday, August 17.

The committee will consider first the nomination of Wilmer D. Mizell to be Assistant Secretary for Governmental and Public Affairs at the U.S. Department of Agriculture. Following his hearing, the committee will receive testimony on Tom H. Carothers and Leonard R. Fouts to be members of the Federal Farm Credit Board of the Farm Credit Administration.

The hearings will begin at 10 a.m. in room 324 Russell Senate Office Building.

Anyone wishing to testify should contact Denise Alexander or Martha Amburn at 224-2035.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Subcommittee on Export Promotion and Market Development will conduct a hearing to "Consider the Obstacles Faced by Small Business Exporters," on August 19, 1982, in room 424 of the Russell Senate Office Building beginning at 9:30 a.m. Senator BOSCHWITZ will chair. For further information contact Anne Sullivan of the committee staff at 224-3188.

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

Mr. HAYAKAWA. Mr. President, as chairman of the Senate Agriculture Subcommittee on Forestry, Water Resources, and Environment, I wish to announce that hearings have been scheduled on S. 2805 which would provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber.

The hearing will be held on Thursday, August 12, beginning at 9:30 a.m. in room 324 Russell Building.

Anyone wishing further information should contact Denise Alexander or Martha Amburn at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, August 11, at 2 p.m., to consider H.R. 5161, a bill dealing with West Virginia wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Transportation, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, August 10, at 2 p.m., to hold an oversight hearing on highway revenue and cost allocation issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Agriculture Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, August 11, at 10 a.m., to hold a hearing to consider S. 2348, the Meat, Poultry, and Egg Products Inspection Amendments of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO VICE PRESIDENT GEORGE BUSH AND THE SOUTH FLORIDA TASK FORCE

● Mrs. HAWKINS. Mr. President, in 1980, sales of cocaine and marihuana in the United States totaled at least $45 billion. About 70 percent of that illegal traffic came through south Florida. This enormous illegal industry was responsible for the growth in violent, drug-related crime. Miami had become the national port-of-entry for a flood of illegal drugs and the "Murder Capital" of America, with over 614 murders in Dade County during 1980. This was an increase of 60 percent over the previous year. The FBI crime statistics showed that of the top 11 crime-plagued communities in the United States, 6 are now in Florida.

President Reagan responded forcefully by creating a Federal South Florida Task Force under the direction of Vice President George Bush. Under Vice President Bush's effective leadership, the South Florida Task Force has taken massive and multifaceted action against international drug trafficking.

The task force is using military resources and intelligence. For the past 5 months, drug smugglers have been confronted with a sophisticated network of Navy E-2C Mini-AWACS radar planes and stationary radar. Navy destroyers in the Caribbean carry Coast Guard teams that board and capture suspicious boats. The Army has loaned the Customs Service two Cobra helicopter gunships that are especially effective in tracking and intercepting smugglers' planes. Additionally, FBI forces and Coast Guard patrols have been provided with needed funding and manpower. Two hundred and fifty DEA agents and Customs officers and 45 firearms agents have also been posted to south Florida, along with more than a dozen more U.S. attorneys and Federal judges.

The President's initiative and the Vice President's leadership has had a significant impact on drug smuggling and drug-related crime. During the past 5 months, the Coast Guard has seized 104 vessels and 1.6 million pounds of marihuana—compared with 129 vessels and 1.7 million pounds all last year. During the past 2 months, not a single new planeload of illegal drugs has been sighted, and experts believe that smugglers are stockpiling. Wholesale prices of cocaine in Columbia have dropped by 25 percent to $15,000 a kilo, while U.S. prices have significantly increased.

As chairman of the Senate Drug Enforcement Caucus, I want to take this opportunity to applaud the outstanding leadership of Vice President George Bush.

I ask that the following article from the August 5, 1982, Wall Street Journal be printed in the Record.

The article follows:

[From the Wall Street Journal, Aug. 5, 1982]

Narcotics Drive: Joint Agency Effort Is Curbing Smuggling of Drugs Into Florida

(By Stanley Penn)

Miami.—It seemed to be just another fishing boat returning to Miami from Bimini in the Bahamas, but there was something a bit odd about the two fishermen: One was wearing a Pierre Cardin pullover and the other a Sassoon jacket.

This was enough to rouse the suspicions of U.S. Customs Service agent Keith Deerman, and a search of the boat turned up a concealed floor compartment stuffed with 1,000 pounds of marijuana.

The case of the overdressed fishermen is just one of a growing number of drug-enforcement success stories coming out of South Florida since the federal government started a multi-agency crash effort five months ago to seal this area's porous defenses against the drug traffic. In recent years more than 70 percent of the cocaine and the marijuana smuggled into the U.S. are believed to have come through South Florida's coves, inlets and out-of-the-way landing strips for aircraft.

To battle the smugglers. Customs has increased its patrol-boat surveillance of South Florida to 24 hours a day from 12 hours previously. Three high-speed Army helicopters, together with at least two Navy radar planes, have been thrown into the fray. A blimp, dubbed Fat Albert, with a radar reach of 150 miles is patrolling for drug planes near Key West, and a second Fat Albert is planned for Patrick Air Force base, farther north.

ADDED MANPOWER

Below Florida, four Coast Guard cutters are trying to choke off the main shipping lanes for drug boats that come up from South America. Meanwhile, the Federal Bureau of Investigation, the Drug Enforcement Administration and the Customs Service have permanently added 160 investigators to their local staffs, and a separate team of Customs-DEA agents from all over the U.S. has been in Miami on temporary assignment since March 15 to disrupt the major dope rings' financing and distribution activities.

The results of this concerted effort have been clearly discernible. Cmdr. Gary Nelson, a Coast Guard official in Miami, says that Coast Guard cutters in South Florida have seized 1.6 million pounds of marijuana in the first six months of this year—almost as much as the 1.7 million pounds confiscated in all of 1981. The wholesale price of cocaine in South Florida has jumped $5,000 a kilo to $60,000. At the other end of the pipeline, in Colombia, the price to wholesalers who go there to get supplies has sagged to $10,000 a kilo from $15,000, reflecting the increasing difficulty of moving the drug to Florida, according to Allan Pringle, a DEA official in Miami.

Marijuana supplies, too, are shrinking in Florida. Reflecting this, the price paid by wholesalers in the Miami area has gone up as much as $40 a pound to as high as $300 a pound, Mr. Pringle says.

IMPACT ON BANK DEPOSITS

Many of Colombia's drug traffickers live in Miami and deposit their drug proceeds in Miami-area banks. The result has been that year after year the area banks have experienced a huge cash surplus running into hundreds of millions of dollars. This year to date, the surplus is down 17% from a year ago, according to the Treasury Department. The squeeze on profits of the drug dealers is believed to be one reason, although the effect of the current recession also has to be reckoned with.

Some 93 federal indictments involving 209 defendants have resulted since the Customs-DEA enforcement team began its criminal investigations five months ago, says Stanley Marcus, U.S. attorney in Miami. His office is being increased by 22 permanent and temporary prosecutors partly to handle the increased courtroom load. In addition, Mr. Marcus says, the federal court in Miami is adding four judges on temporary assignment.

Narcotics agents believe that the international drug traders are lying low in the hope that the government will abandon its emergency effort. "We see large numbers of aircraft parked in the Bahamas," says the DEA's Mr. Pringle. "We suspect they're sitting there trying to outwait us."

VICE PRESIDENT BUSH'S PROJECT

How long the feds will keep up the pressure is a matter of concern in Miami. Much of the killing and the shooting that has outraged the community in recent years has been linked to drug wars between rival gangs. This violence has noticeably decreased since the anti-drug effort began. At a recent congressional hearing, Rep. Dante Fascell, a Florida Democrat, said that the traffickers "are sitting on their front porches, drinking bourbon and waiting for the heat to die down."

A South Florida Task Force, headed by Vice President George Bush, is directing the multi-agency effort. Adm. Daniel Murphy, Mr. Bush's chief of staff and head of the task force's working group, says he is repeatedly asked how long the task force will stay. "We're here for the long haul," he says. "No way we are going to walk away." Adm. Murphy contends that the emergency effort is resulting in little, if any, added federal costs, because the manpower and the resources have largely been pulled in from other districts.

One unwanted effect, however, could be a shift of the smuggling problem to other areas of the country, along the coast of Georgia, the Carolinas and points north and to Louisiana, Texas and California to the west. "It's going to mean a longer, more costly haul, but the profits are so big the smugglers are prepared to do it," a narcotics agent says.

Last month, for example, authorities grabbed 40 tons of marijuana at a Newark, N.J., pier—one of the first major seizures outside of Florida since the start of the blockade. The dope was being unloaded in a tractor-trailer from a 110-foot freighter, which authorities suspect came from northern Colombia.

Ted Hunter, the special agent in charge of the DEA's Los Angeles division, is receiving information that traffickers may be moving so-called mother ships loaded with drugs up Mexico's west coast for delivery to U.S. cities on the West Coast. "Seattle, San Francisco and Los Angeles are all actively involved in mother-load investigations," Mr. Hunter says.

To circumvent the air blockade, smugglers also are making increasing use of couriers to sneak small shipments of cocaine into Florida on commercial airliners. A favorite tactic for the courier is to grease his throat with vegetable oil and swallow tiny rubber packets of cocaine for evacuation after he leaves the airport.

TAKING A BIG RISK

"We had one recent example of a guy who had 67 (cocaine) condoms in his body," says Mr. Pringle of the DEA. After he was seized by federal agents, the courier was brought to a hospital where the drugs were removed. "If one condom had broken inside him, he would have died," Mr. Pringle says:

Because planes are finding it hard to get through, cocaine increasingly is being disguised in commercial shipments flown in by legitimate air-freight carriers. Arthur Nehrbass, who heads the organized-crime bureau of the Metro Dade (Miami-area) Police Department, says his agents recently overheard suspects discussing on the phone the possibility of "buying a starch factory in Costa Rica and putting cocaine in starch barrels" for shipment to Florida through commercial channels.

Single- and twin-engine piston planes have been traditionally used by smugglers to sneak in drugs from South America and the Bahamas. These slow-moving, low-flying craft often are able to evade the law-enforcement radar planes. But the introduction of Navy Hawkeye radar planes has partly nullified the smugglers' advantage. "They give us the downward-looking range to cover those blind spots," says Robert N. Battard, the Customs Service's regional commissioner in Miami. "These planes give us (radar) coverage of 240 miles. Our standard coverage is 40 miles."

The Customs Service also is benefiting from the addition of three Army Cobra helicopters, formerly used in Vietnam. The Cobras are speedy and highly maneuverable, capable of overtaking slow-moving drug planes, landing next to them and blocking the smugglers' escape. In the past, Customs had to rely on fixed-wing aircraft. Such planes could force down the suspect craft, but often the pilot and the crew had escaped by the time the Customs plane landed. "Our arrest rate has gone from 42% to 100% with the addition of the helicopters," according to Mr. Battard.

In zeroing in on the drug planes, the feds have imposed new restrictions on private aircraft that enter Florida. "In the past, if a plane flew at a speed under 180 knots, it didn't need to file a flight plan, but now it's got to file with the Federal Aviation Administration," says Charles Rinkevich, Vice President Bush's Miami-based representative on the task force. Also, Mr. Rinkevich reports that private aircraft coming into Florida won't be free to sneak into out-of-the-way landing strips any longer but will be required to land at one of seven designated airports. Pilots whom Customs detects disregarding the new rules will automatically come under suspicion as carrying drugs.

A 60-FOOT NEEDLE

The drug planes, however, still have ways of slipping through the air surveillance. "They go piggyback," says a narcotics investigator for the Florida state police. "Two planes come into Florida one above the other," he says. "Radar catches the bottom plane, which has no drugs, but not the other, which has the stuff. The drug plane, undetected, is home free."

The Coast Guard has no easy task, either, in interdicting drug boats from Colombia. A favorite route for smugglers from the South American nation is through the Yucatan Straits between Mexico and Cuba. Other lanes are the Windward Passage, between Cuba and Haiti, and Mona Passage, between the Dominican Republic and Puerto Rico. The Coast Guard cutters can hardly keep all the drug boats from sneaking past their patrols. "You put a 60-foot boat there and it looks like a needle in the haystack," says Coast Guard Cmdr. Nelson.

Coast Guard officials have developed a profile of suspected drug boats. "We look for rusty boats; boats that don't display a name or flag, or a mom-and-pop sailboat that you wouldn't expect to see that far out." Cmdr. Nelson says.

The intensified surveillance by sea and air has forced drug traffickers to use more and more small, high-speed boats to try to sneak through the net. "The mother ship parks somwhere in the Bahamas and loads up small boats for the run to Miami," a narcotics agent says.

In attempting to get through, the smugglers are trying the "shotgun" approach: "Three or four small boats head for the Miami coast. Then they split up and go in different directions. If one is caught, well that's the cost of doing business," the agent adds. Another tactic is the use of a decoy boat that doesn't contain drugs. "If the decoy gets through, smugglers on shore signal the other small drug boats that the coast is clear." the agent says.●

PROFESSOR MILLER ON COURT JURISDICTION

● Mr. **MOYNIHAN**. Mr. President, Prof. Arthur R. Miller, a distinguished and learned professor of law at Harvard Law School, has done us all a great service by setting forth an argument against various attempts to limit, in legislation, the jurisdiction of the Federal courts.

With his customary clarity, Professor Miller examines the history of our independent judiciary and the precise nature of those proposals that would threaten both the independence of the courts and the fragile balance of authorities amongst the branches of our Federal Government. He concludes, rightly so in my view that—

> If Congress believes that the Federal courts have been too active, caution suggests that the inevitable swing of history's pendulum be allowed to correct the situation. Since the machine really isn't broken, Congress shouldn't try to fix it.

Mr. President, there are measures now before this body that represent nothing less than an assault upon our carefully-crafted system of government. We should spare no effort in understanding these measures. We should hear Professor Miller, and heed this advice.

Mr. President, I ask that the article by Prof. Arthur R. Miller from the August 1, 1982 issue of the Long Island, N.Y. newspaper, Newsday, be printed in the Record:

The article follows:

Assault on Courts Imperils Basic Rights

(By Arthur R. Miller)

The president of the American Bar Association labels it "turf disputes" between the branches of government. A legal scholar fears it is a "dangerous and tawdry precedent." A respected legal journal calls it "jurisdictional gerrymandering."

"It" refers to the current congressional attempts to make the federal courts play the constitutional ball game by the rules of the New Right—to have the New Right take the bat and ball away from the judges.

Some 30 bills are now pending aimed at limiting the federal courts' power to rule on certain politically charged issues. Most involve school busing, abortion and school prayer, all matters that the courts have handled in ways that have aroused the ire of many. To understand the real implications of limiting the power of our federal courts, one must look beyond the issues themselves.

We all learned in ninth-grade civics about the balance the Constitution establishes among the three coequal branches of our government, Congress makes the laws, the executive branch puts them into action and the judicial branch interprets and enforces them.

The delicate relationship between the legislative and judicial branches is underscored by the fact that each has the power to hamstring the other. The federal courts have the right to rule on whether laws passed by Congress are or are not constitutional. And, within certain limits, Congress has the power to say what kind of federal courts there will be and what types of cases they can handle. Thus far, the two branches have accommodated each other. The courts generally have not struck down laws passed by Congress, and Congress for the most part has not assulted the courts' jurisdiction. Each side's self-restraint has legitimized the other's authority—it is on that fragile reed that our democratic system rests.

The federal judiciary's Achilles' heel is that the Constitution merely creates the Supreme Court and authorises Congress to "ordain and establish" such other courts as it chooses. Thus, federal trial courts that are located in every state and the 12 regional courts of appeals—the middle step in the

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structure—exists only because Congress "ordained and established" them.

In fact, it is a given of constitutional law that Congress, if it wished, could abolish a whole class of federal courts. And it is far from certain that all the matters on the Constitution's grocery list of cases the federal courts may hear must be put in their jurisdictional pantry. This power to regulate the federal courts is what one commentator calls Congress' "final trump."

Congress has other "trump cards," but most of them seem more difficult to play than simply amputating an arm of the federal courts. One card is a constitutional amendment cutting the courts down a peg. But the Founding Fathers made that difficult to do. It takes a "super-majority" of two-thirds of each house of Congress plus three-fourths of the states. For good reason. The framers wanted our constitutional principles and governmental structure to be stable.

The other trump card is regulating the size of the Supreme Court. The best-known example is Franklin D. Roosevelt's unsuccessful "court-packing" plan in the 1930s; he wanted to appoint extra justices amenable to his policies. FDR's ploy didn't work. During the Civil War, however, the high court was enlarged to 10 members—the object was to get a majority of justices who favored the president's war views.

Most of the time, Congress has refrained from trying to rig the judiciary. In fact, when the Senate Judiciary Committee rejected FDR's plan to pack the court, it proclaimed, "Let us . . . declare that we would rather have an independent Court, a fearless Court, a Court that will dare to announce its honest opinions in what it believes to be the defense of liberties . . . , than a Court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact."

"We are not above the Constitution," the Senators said then. But many members of the current Congress apparently have a different view. Most of the pending bills are unabashed attempts to reverse certain decisions and to give "a spanking" to what critics call "the imperial judiciary." For example, some congressmen don't like court-ordered busing to achieve the school integration required by the Constitution. So, bills have been introduced to take away federal court authority to order busing or any other race-conscious "assignment" of students.

The federal courts still must carry out integration, but the proposed legislation would deprive them of a key remedy to set things right. Some fear that the threat of declaring a segregated public school unconstitutional is a toothless tiger if not reinforced by effective corrective remedies.

Some of the anti-abortion bills work much the same way—they would prevent the federal courts from hearing a challenge to a state law that prohibits or restricts abortions. Ironically, the bills give access to the federal courts to those who want to uphold *anti*-abortion statutes. Thus, a pregnant woman couldn't sue in a federal court to invalidate an anti-abortion law. But someone representing a fetus—declared a "person" by these proposals—could ask a federal court to shut an abortion clinic.

By stripping the lower federal courts of jurisdiction to hear certain types of cases, these bills "draw a target" on certain constitutional rights—such as a first-trimester abortion and integrated schools—that are disfavored by certain groups. According to some, these bills in effect tell state officials hostile to these rights to "go ahead, do what you want, we won't let the federal courts do anything about it." Many state courts, with elected judges who are subject to the shifting sands of popular sentiment, would be more apt to ignore past Supreme Court edicts and curtail minority viewpoints. Also these proposals create dangerous precedents; if enacted, our most cherished freedoms might be in jeopardy should the national mood become ugly enough.

Most careful constitutional commentators have concluded that there are several reasons why Congress cannot do violence to the jurisdiction of the federal courts so easily. First, it will be the federal courts who ultimately will rule on the constitutionality of any jurisdication-stripping statute passed by Congress. Thus, a federal court could declare any attempt to limit its jurisdiction unconstitutional, and go merrily on adjudicating cases.

Something like that happened in the 1870s. Congress had given the U.S. Court of Claims power to hear cases involving recovery of property seized by the military during the Civil War. It then passed a statute stripping away the court's ability to hear claims brought by people who had been given a presidential pardon—presumably all Confederate sympathizers. No go, said the Supreme Court—Congress couldn't negate the effect of a presidential pardon by preventing the bringing of claims.

Another judicial tactic, admittedly a bit farfetched, is simply refusing to play the game. If a law unconstitutionally removes part of the federal courts' jurisdiction in certain matters, the judges simply might decline to hear any related matter. To use an exaggerated example, suppose Congress passes a statute creating a right but says that the lower federal courts can't hear claims under it by blacks. A judge might say, "This whole package, which allows suites only by whites, is so tainted that my oath to uphold the Constitution makes it impossible for me to touch any of it. So I won't hear any claims under the statute!" Whites then would be denied the right as well, and presumably the public outcry would force Congress to back down.

But let's put all this careful legal reasoning and tactical machination to one side. The best hope is that untimately respect for the Constitution itself will defeat any jurisdiction-stripping bill aimed at rigging the court system to deprive people of their ability to assert their rights. Many commentators hope that Congress just won't vote for any bill that tampers with a balance of power that has served so well for 200 years. After all, members of Congress are sworn to uphold the Constitution, swayed though they may be by public opinion and personal convictions as to the particular issues involved.

But if the bills do become law, federal judges, also bound to uphold the Constitution, won't let them stand, say most observers. The Constitution wisely insulates federal judges from politics by giving them life tenure and salary security. In words that seem amazingly contemporary, Alexander Hamilton advocated the Constitution's grant of life tenure so judges could exercise freely the "uncommon . . . fortitude" necessary to do their duty "as faithful guardians of the Constitution, where legislative invasions of it [have] been instigated by the major voice of the community . . ."

This faith in the obedience of our officials to the Constitution extends to state court judges, should they be faced with deciding cases Congress has taken away from the federal courts. Although state judges usually are elected, and inevitably think about reelection, they also are bound by the principle that the Constitution "shall be the supreme Law of the Land." But even if state judges act in good faith, we will end up with 50 different interpretations of our constitutional principles. If Congress withdraws jurisdiction from lower federal courts on certain matters, we would lose the Supreme Court's ability to reconcile different versions of the same idea because cases would be less likely to reach the Supreme Court from the state system. Some of our most important rights could end up fragmented, with each state treating citizens differently than the others.

The pending bills are a reaction to a judiciary that some feel has grown too powerful. What is ironic and sad is that had other governmental elements, state and federal, acted responsibly on discrimination, prisons, school prayer, mental health institutions and abortion, the courts wouldn't have had to take as aggressive a role as they have. When the other branches of government have fled the field, only the courts remained in the trenches to defend the Constitution.

But these bills are an overreaction. If Congress disapproves of a court decision, it would be far more appropriate to deal with its substance, directly and constitutionally, rather than snipping off bits and pieces of the judiciary's power each time a new "emotional" issue takes center stage.

For almost two centuries, the federal courts have been our watchdog of democracy. A former Supreme Court justice once told a group of journalists that "the stork didn't bring" constitutional rights. "They came because the courts . . . at some time or place when some other agency of government was trying to push [you] around . . . protected you."

If that capacity is to be preserved, our watchdogs must be protected against political crosswinds. That means Congress must exercise restraint and not take both the bark and bite out of our judges' ability to breathe life into our Constitution. The balance among the branches of our federal government, with teeterings here and totterings there, has worked well. The current attempt to alter that balance, however well intentioned and emotionally attractive it may seem, threatens to throw the whole fragile structure out of alignment. If Congress believes that the federal courts have been too active, caution suggests that the inevitable swing of history's pendulum be allowed to correct the situation. Since the machine really isn't broken, Congress shouldn't try to fix it.●

GLENWOOD S. (GLEN) TROOP, JR.

● Mr. **RIEGLE.** Mr. President, late last Wednesday night Glenwood S. (Glen) Troop, Jr., a personal friend and one of Washington's premier lobbyists, died of a heart attack at his home in suburban Alexandria at the age of 58.

To many in this town Glen Troop was a Washington institution. He represented the U.S. League of Savings Associations as their chief lobbyist. To

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many the names of Glen Troop and the U.S. League were synonymous.

Glen was at the same time an intensely private, highly individualistic, and totally devoted public servant. His was the most difficult of Washington occupations—influencing the course of legislation in the service of a business he knew best. In Glen's case that was the savings and loan business.

In his field there was none better.

As his Washington staff acknowledged:

> The servants of the people in our democracy include the vain and the modest, the important and the self-important. Glen was satisfied when the praise went to others less deserving and was content, too, to swallow the blame, when undeserved. Throughout he earned the admiration of all for his knowledge . . . for his skill . . . for the strength of his convictions . . . and, above all, for his integrity. His word was his bond.
>
> Beneath his gruff exterior (and his legendary salty tongue), we knew and loved Glen Troop. He was generous and compassionate, warm and caring, a friend as well as a colleague. To those of us who learned from him day by day, he was a master.

These views of his staff I know are shared by many in the Senate who knew and worked with Glen.

On numerous occasions I sought Glen Troop's counsel in considering legislation which might benefit Americans in their dream of homeownership.

I respected and shared his belief that the American people deserved to have a system of financial institutions specializing in home finance and I always enjoyed the total professionalism with which Glen Troop approached his job.

There is no question in my mind, that Glen Troop significantly affected the legislative process for the better. He brought the highest standards to his job. For as long as I am in the Senate I believe that each time we consider financial institutions or housing legislation I will think of and miss Glen Troop.

He is already missed in my office and my staff joins me in extending condolences to his wife, the former Anne Brinkley; his son and daughter-in-law, Michael G. and Cinda; and his daughter, Mrs. Patricia Anne Wharton.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provisions stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD a notification which has been received.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 9, 1982.
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-73, concerning the Department of the Army's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $134 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

WALTER B. LIGON,
Acting Director.

[Transmittal No. 82-73]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Turkey

(ii) Total Estimated Value:

	Million
Major defense equipment [1]	$0
Other	134
Total	134

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Five hundred eighteen M48A5 tank conversion kits consisting of 14 selected sub-kits, support items, and services for the conversion of M48A1 tanks to the M48A5 configuration.

(iv) Military Department: Army (UPI)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 9 August 1982.

POLICY JUSTIFICATION

Turkey—M48A5 tank conversion kits

The Government of Turkey has requested the purchase of 518 M48A5 tank conversion kits consisting of 14 selected sub-kits, support items, and services for the conversion of M48A1 tanks to the M48A5 configuration at an estimated cost of $134 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of Turkey needs these conversion kits to continue to upgrade its Korean War vintage M48 series tanks. Turkey will have no difficulty in absorbing and maintaining the converted tanks as the tanks, parts, tools, and test equipment are already in the inventory and trained personnel are available. This sale will enable the Turkish Army to increase its military capability. The tank conversion kits will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

There is no prime contractor for all of the various sub-kits requested in this sale. Parts and sub-kits of the conversion kits produced by the various contractors will be shipped to the Anniston Army Depot, Alabama, for assembly into a "package" shipment.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE,
Washington, D.C., August 3, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of 518 M48A5 tank conversion kits is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.●

THE RE-ENGINED KC-135

● Mr. GOLDWATER. Mr. President, recently a very important event took place in Arizona when the Arizona Air National Guard received its first re-engined KC-135 aircraft.

There are those who are critical of defense spending and frequently they are most critical of waste in defense spending. I submit that the re-engining of these KC-135 tanker aircraft is one of the many instances where the taxpayers' money is being spent very judiciously. The initial units to receive this KC-135 aircraft will be the 161st Air Refueling Group in Phoenix, Ariz.; the 151st Air Refueling Group in Salt Lake City, Utah; and the 134th Air Refueling Group in Knoxville, Tenn. After congressional funding is approved for the remainder of the KC-135 aircraft, additional locations will be selected. The Air National Guard has proposed to re-engine 11 of its KC-135 refueling units with the Pratt & Whitney JT3D engine. Two remaining National Guard units will be re-engined with the General Electric CFM-56 engine.

Having mentioned the plan for the re-engining program, let me now highlight what this program does for the

Air National Guard and, in turn, the American taxpayer. The KC-135 tanker aircraft has been using old, inefficient engines. Basically, the KC-135 is a Boeing 707 aircraft which has been modified to fit the role as a tanker for inflight refueling of other aircraft. Instead of going to a new airplane or even a buying of factory-fresh engines, the Air Force has bought engines from 707 aircraft being retired by the airlines in favor of smaller passenger planes. With the new JT3D engines, the KC-135 tankers can accomplish a lot of things. They can take off using 2,000 feet less runway, while emitting 90 percent less visible smoke and producing 60 percent less noise. If you have ever lived in the vicinity of an airfield where the 707 was being flown, you could certainly appreciate this. In addition, and perhaps most importantly, the increased fuel efficiency of these aircraft will result in a savings of about 90,000 gallons of fuel for each tanker annually.

Those are not the only benefits. The basic reason for this re-engining was that the Air Force currently has a significant tanker shortfall caused by increased wartime air refueling requirements for strategic tactical, and airlift aircraft. What do these new engines do to correct that situation? In addition to saving the taxpayers' money, these engines also improve the operational capability of the aircraft. Because the tankers require less fuel for their own engines, they can deliver more to other aircraft during inflight refueling. Because they also have a 30-percent thrust increase, they can take off from the runways in hot climates with a full load of fuel in the summertime, as opposed to having carry a less load of fuel which will be receiving aircraft.

Mr. President, the conferees from the Senate Armed Services Committee will be discussing this issue in conference with the House shortly. I feel that this is one of the more cost-effective programs which the Department of Defense has undertaken and I am hopeful that our colleagues in the House will see fit to fund the re-engining of these vital KC-135 aircraft at an appropriate level.

Mr. President, I ask that the KC-135 paper, as well as the two articles from the Phoenix Gazette be printed in the RECORD.

The material follows:

KC-135 REENGINING

1. GENERAL

Thirteen Air National Guard units are equipped with KC-135 Strategic Tankers. Eleven of these units are located at commercial airfields or Air Force bases without active Air Force KC-135 units. Two units are collocated with active Air Force KC-135 units on Air Force bases. All of the ANG KC-135 units have a day-to-day alert commitment in support of the SAC Strategic Integrated Operations Plan (SIOP).

The Air Force currently has a significant tanker shortfall caused by increased wartime air refueling requirements of strategic, tactical and airlift aircraft. This shortfall can be most effectively reduced by reengining the KC-135 fleet with the CFM56 engine. This will reduce fuel consumption by 25 percent and provide an aggregate 50 percent increase in fuel offload capability.

To complement the CFM56 reengining program and to provide near term improvements to the ANG KC-135 fleet, the Air Force, at the direction of the Congress, has begun a program to reengine the ANG KC-135s with the JT3D engine. Compared to the current engine, the JT3D provides: 30 percent thrust increase; 10-12 percent fuel savings; 18 percent increased offload capability, and include environmental impact (noise and emissions). With all of the ANG KC-135s equipped with JT3D engines, the annual fuel savings should be over 8 million gallons per year.

The first three Air National Guard units to receive the JT3D reengined KC-135s are the 161 Air Refueling Group, Phoenix, AZ; the 151 Air Refueling Group, Salt Lake City, UT; and the 134 Air Refueling Group, Knoxville, TN. The specific locations for additional reengined KC-135s has not been announced pending Congressional funding.

The ANG proposes to reengine 11 ANG KC-135 units with the JT3D. The two remaining ANG KC-135s units will be reengined with the CFM56. ANG units are scheduled to receive their first CFM56 modified aircraft in fiscal year 1985 and fiscal year 1986.

The long term plan for the CFM56 will include reengining all 104 ANG KC-135s with the CFM56 engine.

2. IMPACT

Without additional JT3D reengined aircraft the ANG will continue to experience mission degradation due to the inefficiency of the current engines; the ANG will not be able to take advantage of the fuel economies and efficiencies available through the use of JT3D engine; and unnecessary noise and air environmental pollution will continue to exist at an around Air National Guard KC-135 units.

3. RECOMMENDATION

That the Congress add $135 million in fiscal year 1983 for the JT3D reengining of 28 ANG KC-135 aircraft.

JT3D RE-ENGINE SCHEDULE

	Date
FISCAL YEAR 1982 SCHEDULE	
1 KC-135E:	
161st Phoenix	July 22, 1982.
151st Salt Lake	July 29, 1982.
151st Salt Lake	Aug. 5, 1982.
161st Phoenix	Aug. 12, 1982.
134th Knoxville	Aug. 19, 1982.
161st Phoenix	Aug. 26, 1982.
151st Salt Lake	Sept. 2, 1982.
134th Knoxville	Sept. 10, 1982.
161st Phoenix	Sept. 17, 1982.
134th Knoxville	Sept. 24, 1982.
161st Phoenix	Oct. 1, 1982.
134th Knoxville	Oct. 8, 1982.
151st Salt Lake	Oct. 15, 1982.
134th Knoxville	Oct. 22, 1982.
151st Salt Lake	Oct. 29, 1982.
161st Phoenix	Nov. 5, 1982.
FISCAL YEAR 1983 SCHEDULE (PROPOSED)	
1 KC-135E:	
151st Salt Lake	Nov. 12, 1982.
134th Knoxville	Nov. 26, 1982.
161st Phoenix	Dec. 3, 1982.
161st Phoenix	Dec. 17, 1982.
151st Salt Lake	Dec. 24, 1982.
134th Knoxville	Jan. 3, 1983
151st Salt Lake	Jan. 7, 1983.
134th Knoxville	Jan. 21, 1983.

Note: 161st Comp by Dec. 17, 1982; 151st Comp by Jan. 7, 1983; 134th Comp by Jan. 21, 1983.

[From the Phoenix Gazette, July 23, 1982]

A GOLDEN EGG AWARD

A counterpart of Sen. William Proxmire's Golden Fleece Award for wasteful spending—a Golden Egg Award, perhaps—should go to the Air Force for the enormous economies it is achieving in modernizing its aerial tanker fleet.

The tankers—KC-135s like those flown by the Air National Guard in Phoenix—were using old, inefficient engines. Instead of going to a new airplane or even buying factory-fresh engines, the Air Force bought engines from 707s being retired by the airlines in favor of smaller passenger planes.

With the newly-acquired turbofan engines, the KC-135 tankers can take off using 2,000 feet less runway, while emitting 90 percent less visible smoke and producing 60 percent less noise. The increased fuel efficiency will result in savings of 90,000 gallons of fuel for each tanker annually.

In addition to cost savings, the new engines also improve the operational capabilities of the aircraft. Because the tankers require less fuel for their own engines, they can deliver more to warplanes during inflight refueling.

Refitting a KC-135 with the airliner engines and making other modifications that improve performance and safety costs $3.5 million per plane—a fraction of what a new aerial tanker would cost.

The first KC-135s went into service in the mid 1950s, and in many cases the airplane is older than the pilot flying it. The modification, however, will extend the service life of the tankers into the late 1990s.

Although perhaps it robs the dignity of the venerable KC-135 to liken it in any way to a goose, the Air Force's modification program—with its cost underrun—certainly produced a golden egg for the taxpayers.●

LEST WE FORGET CORPORATE RESPONSIBILITY

● Mr. SASSER. Mr. President, record high levels of unemployment have caused frustration and despair for over 10 million workers in this country, while the prospects for economic recovery look dim.

The economic program offered by the administration last year is premised upon the private sector's willingness and ability to absorb the transfer of social responsibility away

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from the Federal Government. In numerous communities corporate enterprises have taken an active role in developing and implementing essential services for the betterment of the respective communities in which they are located.

The motion of corporate responsibility is an important concept, and one which should be given particular attention in light of the serious economic difficulties confronting our society. I would like to bring to the attention of my colleagues a recent superb article on this subject by Mr. Bernard Rapoport, the chairman of the board and the chief executive officer of the American Life Insurance Co. I ask that the full text of Mr. Rapoport's article be printed in the RECORD.

The article follows:

Corporate Responsibility

(By Bernard Rapoport)

To tell you the truth, I'm just a little bit nervous. I've spoken to groups all over this country, but to come back home and talk to the Rotarians which include some of this community's most distinguished citizens is an exciting challenge. I relish it, and I'm going to do the very best I can to articulate my ideas on this all-important subject of corporate responsibility and hope that in so doing it will stimulate your thinking and result in more dialogue within the community among those of us who run the business of Waco.

Most of us are executives. I am reminded of the query of a youngster who said to his father: "Daddy, what is executive ability?" And the father's retort was: "Executive ability, my son, is the art of getting the credit for all the hard work that somebody else does."

Getting down to this serious business of corporate responsibility, I'm not one who is a great advocate of principles because I'm persuaded that good business executives ought to be guided more by situational ethics. And let me tell you why I feel this way. What we need in our country are idealists rather then ideologues. The latter are intransigent, inflexible, immovable. The idealist, on the other hand, has balance and considers problems in terms of the short term gains as well as the long term requirements.

A couple of examples: corporate responsibility necessitates a commitment to the free market and free enterprise system. An idealist who subscribes to this philosophy recognizes that this necessitates an economic system that has access for those who wish to enter into the market system. For too many ideologues, they express a verbal commitment to the free market system and then insist on that particular kind of regulation that restricts entrance of others to compete. A few examples will suffice, whether we are talking about professional associations or highly-regulated businesses. There are just numerous examples to confirm the premise that too many of us in positions of responsibility give lip service to free enterprise, but in practice, want monopoly when it comes to our own particular interests. This, to me, is irresponsible and antithetical to any concept of corporate responsibility.

We give lip service to the fact that we want a competitive society, and yet we have an antitrust policy that is farcical. We are confronted with the highest interest rates that we've experienced in a hundred years, and monopolistic corporations tie up billions and billions of dollars in seeking acquisitions that are nonproductive, non-job producing, noncontributing so far as our economy is concerned. The ideologue says that's free enterprise and the reality is, it not only stifles it, but if it continues at the rate that it's going, there are going to be very, few independent businesses that survive.

I remember when I moved to Waco in the early forties. From the old square all the way to 8th Street on Austin Avenue, there was business after business after business; and to the best of my recollection, I don't think there were over 4 or 5 that were owned by chains. They were all independent Waco business people. Today, Waco is in the same situation as the other communities of our nation—virtually everything is chain operated and chain dominated.

Well, you might ask, what has this got to do with corporate responsibility? It is my firm conviction that corporate responsibility necessitates a community involvement and commitment on the part of those who run the businesses and corporation of this nation to being sensitized and to encourage that kind of legislation that will provide access for those who want to enter into the business world and which will be restrictive toward this trend toward mergers and monopoly in our nation.

The idealist to which I allude has this kind of flexibility and understanding that a free market society means that there has to be a realistic and pragmatic approach to this tendency in our society to increasingly narrow the parameters which permit entrance of those who possess entrepreneurial spirit into the business world.

Too many ideologues say, we don't want regulation, we have too much regulation. And let me say this: I couldn't agree more. But we need to recognize that too many businesses scream about regulation and yet they want it when it preserves the status quo in their particular industry. The airlines squealed when they deregulated. The same for the trucking companies. We can't have it both ways. We are either for free enterprise and for prices being determined in the market place, or we're not. On the other hand, when it comes to the public safety, that isn't a matter to be decided in the market place. There are certain areas that determine the decency and the spirituality of a nation—how it takes care of its young and its aged, its handicapped and its mentally retarded, areas of education and culture. Our commitment in these areas will determine how future generations will evaluate us.

You might question at this point why I am making reference to the importance of a free market system, regulation and antitrust policies in a speech the subject of which is corporate responsibility. I believe very firmly in the organic nature of this society and that everything is interrelated. It is difficult to talk about ethics and morality without taking into account economics.

It is when we become single issue oriented that our society begins to get into serious and sometimes unresolvable problems. We need to always keep in mind the organic nature of things of which I just spoke. For example, it should never be the attitude of any business that "We've got so many problems in our own business, we don't have time to be concerned about anything other than those matters relating to our company." It is this type of attitude that leads to the decay of any civilization. It is even more true in this year where we have whittled away at our commitment to the work ethic, and how tragic this is.

Corporate responsibility means being very aware of what Richard Parker told us in one of his essays:

"A cynical, each-man-for-himself attitude becomes the rule of life. That only the most powerful, the most resourceful and unscrupulous, the hyenas of economic life can come through unscathed. The great mass of those who put their trust in the traditional order, the innocent and the unworldly, all those who do productive and useful work but don't know how to manipulate money, the elderly who hope to live on what they've earned in the past—all those are doomed to suffer. An experience of this kind poisons the morale of a nation."

And, my fellow citizens, the morale of this nation is suffering and as it does, your business and mine also suffer.

I alluded to the word "principle" when I started. Most of you have engaged in numerous charitable drives, you've worked with United Way, the Red Cross, the hospitals in our community, and gee, these are worthwhile efforts, they really are. I don't think there is anything more disgusting than to be confronted by someone who says, "It's against my principles to give to this or that or the other." He's assuming that you are interpreting what he says with "principle" ending in "le" and the reality is, he's using this as an excuse to conserve his principal ending with an "al." It's this myopic type of individual that contributes to the condition in which this nation now finds itself.

We want people that are committed to the work ethic. I think it's the most essential ingredient in the character of a nation—that is, its commitment to the work ethic. Here we find ourselves in a situation where we have the highest unemployment since the depression, and we're saying to these people, there are no jobs for you. This is the price that we all have to pay to get the nation back on an even keel.

It doesn't seem quite fair to me that out of the 220 or 230 million people that we have in this country—of which approximately 10 or 12 million want to be working—that we say to those 10 or 12 million unemployed, "It's tough, but while we're working and doing all right, you've got to pay the price." You ask me, what's the answer? Well, this isn't the time or the place to get into economics, but the one thing I'm certain of is that fairness is the most essential requisite in a free democratic society. Putting the burden on 10 or 12 million people is not a reasonable answer with which to cure inflation.

This is the greatest nation in the world. What makes it so are the standards to which we have adhered. When we begin to lessen those standards, our commitment to greatness diminishes. And when it does begin to do this—to diminish, that is—it accelerates at an exponential rate. And I submit to you that it's up to those of us who head up corporations to take it upon ourselves as an essential part of corporate responsibility to advocate those policies and immediately that will encourage full employment.

I know what survival means in business. I started one on a shoestring that has matured into a major American corporation. All along, however, we've taken into account our corporate responsibilities—not nearly to the extent that perhaps we should have.

But the truth is, we don't have any choice now. As business people, we negotiate that which is negotiable. We try to buy the products we use at the best prices we can to sell at prices that produce a fair and equitable profit. We watch our costs and do those things that are attendant to good business practices.

On the other hand, we also have to assume those responsibilities that decency dictates. Take, for example, United Way. It was conceived by those of us in business primarily. There were so many drives going on within the community that it was almost impossible for any executive to see all of the solicitors. Yet, within every community there are needs that have to be fulfilled, whether it's the YMCA, Boy Scouts or Girl Scouts, nursing homes, daycare centers, organizations that provide hot meals for the aged, care of orphans—well, part of corporate responsibility is that we recognise the need to assume those responsibilities that decency dictates. And let me tell you one thing. Corporate intelligence recognizes that today's unmet needs produce tomorrow's revolutions. Many, many dictators—none for whom I have any grief at all—would still be in power if they would have recognised that axiom that today's unmet needs produce tomorrow's revolutions.

Yes, corporate responsibility recognizes those areas in which the corporation must negotiate that which is negotiable and assume those responsibilities that decency dictates. We don't need to do this out of the goodness of our heart. It's just plain good common sense.

Corporate responsibility means that a corporation isn't looking for a free lunch, that it's not going to be a parasite on the community. And what I mean by that is, after all, if a business has 100, 200, 500, 2,000 or 4,000 employees, these employees utilize the services of many of the service organizations of the community. These services may be recreational or a daycare center. It might be that the parents of the employee are being serviced by some particular organization in the community. Where does the money come from for these services? It comes from two places—from those who work and the businesses of our community. Both have to measure up to their responsibilities. Sometimes those businesses that talk the most about the free enterprise system are the most wanting when it comes to meeting corporate responsibilities. They suck up the best in the community and give nothing in return. Their leaders pride themselves in being men of principle and they are, but the word ends with "al." I have a deep resentment about this very small minority of business people because to me they threaten the free enterprise competitive system, without which there can be no free democratic society.

We might all take heed from Albert Camus' advise:

"I shall tell you a great secret, my friend. Do not wait for the last judgment. It takes place every day."

That, my friends, sums up the approach that I think best describes corporate responsibility.●

A FIRST-CLASS PATENT AND TRADEMARK OFFICE

● Mr. SCHMITT. Mr. President, strong and effective patent and trademark systems are essential to the economic well-being of our Nation. The patent system provides the incentive to invent, invest in, and disclose new technology. It has proved to be the cornerstone for our growth as a leader among industrialized nations. The trademark system allows product identification and prevents consumer confusion in the marketplace.

When this administration took office, the Patent and Trademark Office was in a sorry state, with ever-increasing backlogs of patent and trademark applications and unacceptably long times to get a patent or register a trademark.

Significant steps have been taken over the past year to improve the Patent and Trademark Office and the patent and trademark systems. The Commissioner of Patents and Trademarks, Gerald J. Mossinghoff, outlined these steps in a speech in San Francisco to the American Bar Association's Section on Patent, Trademark and Copyright Law on August 7, 1982. He described progress toward the administration goals to reduce the time it takes to get a patent to 18 months by 1987 and to reduce the time it takes to register a trademark to 13 months by 1985. The Commissioner also cited steps taken toward a fully automated Patent and Trademark Office in the 1990's.

The key to lasting improvements in the Patent and Trademark Office is to assure adequate and stable funding for the Office through enactment of a new fee structure in H.R. 6260. This measure awaits floor action in the Senate now, having passed in the House.

Enactment of a comprehensive and uniform Federal patent policy under my bill, S. 1657, will also be a significant improvement to the patent system. Presently, the Federal agencies operate under a variety of policies, that generally require that title to a contractor's invention made under a Federal contract be transferred to the Government. Ownership to thousands of inventions have been acquired in this manner, with fewer than 5 percent of these inventions ever being successfully commercialized.

In his speech, the Commissioner noted that contractor-owned patents of Government sponsored inventions are about 20 times more likely to be commercialized than if the Government retains the patent. Mr. President, I believe the citizens of this country deserve a better return on their investment of $40 billion in federally sponsored research and development. My bill will make it possible for more Government-sponsored inventions to be commercialized to the benefit of our economy and to the enhancement of our position as world leaders in technological innovation.

I ask for the text of the Commissioner's remarks be printed in the RECORD.

The text follows:

REMARKS OF GERALD J. MOSSINGHOFF

Distinguished Guests, Ladies and Gentlemen; I am delighted once again to report to the Section on Patent, Trademark and Copyright Law on the status of the U.S. Patent and Trademark Office to outline our progress over the past year and to highlight our plans for the future.

In my report to your Section last year, I rejected out of hand the notion that for some reason Government programs cannot be made to succeed. I also stated that I felt uniquely privileged to serve as Commissioner at this time and during this Administration. Everything that has happened in the world of patents and trademarks this past year has reinforced my optimism.

Key to all of our plans to upgrade the U.S. Patent and Trademark Office has been to assure adequate and stable funding for the Office, not only during this Administration but for the foreseeable future. The importance of that cannot be overstated. The Office was plagued by very real and pervasive problems at the end of the previous Administration. The most serious of those resulted directly from a lack of adequate resources. With the new fee structure in H.R. 6260, the Office is assured of adequate resources over the next decade without the need for increases in appropriations.

H.R. 6260 represents a compromise on all sides. Patent filing fees for large and medium size companies will be $100 higher than those recommended by your section at its March 23 meeting. The same holds true for patent issue fees. For individual inventors and small businesses, patent filing fees will be $50 less, and patent issue fees $150 less, than those recommended at your March 23 meeting.

From the Administration's viewpoint, in order to accommodate the concern expressed by the patent bar and others on behalf of individual inventors and small businesses, additional appropriations of $7 million will be required next fiscal year to accommodate the two-tier system of fees which Congress adopted. Also, responding to inventor and bar groups, Congress chose not to give the Patent and Trademark Office the authority to set patent fees administratively; rather major patent fees were written into H.R. 6260. Significantly, those fees can be adjusted administratively every three years, but only to keep pace with inflation.

MANAGEMENT ACHIEVEMENTS

Perhaps the most important feature of H.R. 6260 is that it represents a bargain between the Administration and those whom we serve to bring about significant and lasting improvements in the Office. We have made real progress during the past year to carry out our end of that bargain.

To begin to manage our still-increasing 218,000-case backlog of pending patent applications, we have hired 235 new examiners since last October 1. Our recruiting program is already in high gear to hire an additional 245 examiners during fiscal year 1983. To achieve our goal this year we pulled out all stops. We visited almost 200 engineering schools, conducted 1500 interviews, established and publicized a toll-free 800 number, advertised extensively in national journals and college newspapers, displayed posters with tear-off mail-in cards in virtually every engineering school in the nation, and relied extensively on the generous help of local patent law associations in contacting graduates in their areas. The results are impressive. A majority of the engineers we hired are honors graduates. The mean grade point average of all those we hired is 2.93.

We are on schedule to achieve the goal of Plan 18/87 in patents, i.e., to reduce the average time of pendency to 18 months by fiscal year 1987. During fiscal year 1983 we will dispose of nearly 100,000 patent applications, compared with 83,000 this fiscal year. In fiscal year 1984 we will process almost 109,000 patent applications. In that year, for the first time in six years, we will dispose of more patent applications than we will receive.

In trademarks it now takes us 9 months on the average to render a first opinion on registrability and 22 months to dispose of an application. That is down from the record high 24 months which it took last year. We will achieve the goal of 3/13—three months to first action and 13 months to disposal—at least by fiscal year 1985. This coming fiscal year we will turn the corner in trademarks and dispose of more cases than we will receive.

We have taken several important steps to move realistically toward a fully automated Patent and Trademark Office in the 1900's. Through a reorganization of the Office we established the senior position of Administrator for Automation, and we appointed Dr. J. Howard Bryant, who has impressive experience both in industry and Government, to that position. Dr. Bryant has overall responsibility for the management of all automation initiatives in the Office—in patents, trademarks and administration. He has spearheaded our efforts to refine our automation blueprint under § 9 of P.L. 96-517. Copies of the final Executive Summary of that study will be available by mid-September. The § 9 plan is based on our conviction that we do not have to sit back passively and wait for the estimated 24 million paper documents we now have to become 50 million paper documents by the turn of the century. One of the most serious problems we now face is that 7% of our 24 million paper documents are either missing or misfiled. Only by moving aggressively toward automated systems in which paper is replaced by advanced technology can we ever hope to achieve anything even approaching 100% file integrity in our vast collection of technical documents.

We have already installed computer terminals in each of our 15 patent examining groups to give patent examiners access to all available commercial patent data bases. Given increased resources in FY 1983 we will be able to increase significantly the amount of "on-line" time the examiners can use.

To eliminate the 80,000 handwritten examiner opinions that were sent each year to industry and inventors world-wide, we have completed the world's largest installation of IBM Displaywriter word processors. Using the 50,000-word built-in vocabulary, the detailed form paragraphs we developed and the hand-tailored dictionaries of technical terms, these machines are now producing 200,000 first-class documents each year.

We are in the final stages of the full-text search experiment we are conducting in a joint venture with Mead Data Central using the LEXIS system. The full texts of 50,000 patents have been stored in LEXIS and are being accessed through seven LEXIS terminals located in six art units.

We have completed augmentation of our in-house Burroughs computer, increasing its capability by a factor of four, to support our expanded case-tracking system. And we have acquired additional space in Crystal City to receive a replacement of our existing in-house computer in FY 1984. That space had already been configured to house a large main-frame computer complex.

Secretary Baldrige's reorganization of the Department of Commerce is now complete. That reorganization formalizes the arrangement under which I report directly to the Secretary and the Deputy Secretary, Mr. Guy W. Fiske. The reorganization of the PTO has also been approved. In addition to establishing the position of Administrator for Automation, which I have already mentioned, we have promoted Mike Kirk into the new position of Assistant Commissioner for External Affairs, and we have elevated the Office of Quality Review to report directly to Deputy Commissioner Don Quigg.

In his day-to-day attention to the Quality Review program, Don has changed the standard used in reviewing the quality of examination in the 4 percent sample of cases selected for quality review, and he is insisting that the line managers be totally involved in the quality review process. Instead of reviewing a case for "clearly unpatentable" claims, the test now will be whether there are "questions of patentability" of any of the claims in a case.

Don Quigg has also assumed day-to-day responsibility for the Examiner Education Program, which was jointly established by the Intellectual Property Owners association and the Patent and Trademark Office. Examiners have already traveled to industrial installations to gain a better appreciation of trends in industrial development. Industry has been generous in its support of the program. We have received over $75,000 in contributions since the program was established this spring. Thanks to Don's efforts, the Internal Revenue Service ruled on July 20 that contributions to the program are tax deductible.

We are beginning negotiations this month with the Patent Office Professional Association—the union which represents professionals on the patent side of the Office—with a view toward revising totally the outdated agreement under which we currently operate. Bargaining units in the Government play a critically important role in the management of any agency. I am convinced that the Patent Office Professional Association, or POPA as it is called, is totally dedicated to our goal of significant and lasting improvements in the U.S. patent system. Our objective in renegotiating the basic agreement with POPA is to produce an agreement which will be clear and understandable to all parties, without the need for protracted litigation and grievances. That task will not be easy, but it will be accomplished given a renewed spirit of cooperation between management and the union.

LEGISLATION

In the legislative area there have been several significant developments.

H.R. 6260, of course, represents a major accomplishment. In addition to authorizing a greatly expanded PTO program for FY 1983 through FY 1985, and increasing the user fees we will charge, that bill incorporates a number of cost-saving proposals.

Under that law, we will accord filing dates for patent and trademark applications based on a showing of when it was deposited in the U.S. mail.

We will revive unintentionally abandoned patent applications upon payment of a $500 statutory fee.

We will be able to substitute one sole inventor for another, provided the mistake was not due to deceit.

We will do away with the current bureaucratic hassles in granting time extensions; they will be granted automatically upon payment of the statutory fees.

We will eliminate the need for verification of trademark oppositions and cancellations.

Finally, and most significantly, we are gratified that H.R. 6260 specifically authorizes voluntary binding arbitration of patent validity and infringement issues. That authority will provide business executives with an attractive and cost-effective alternative to protracted and complex Federal litigation in patent cases.

The Office is proud of the role the Department of Commerce played in supporting the enactment of P.L. 97-164, which established the Court of Appeals for the Federal Circuit. As I reported to you last year, we are convinced that, by providing a single authoritative tribunal to handle patent cases nationwide, the new court will contribute greatly to a single standard of patentability which will be understandable to inventors and business executives alike.

It appears that the "Patent Term Restoration Act," S. 255 and H.R. 6444, will be enacted by the 97th Congress. That reform is long overdue. It will restore an appropriate balance of incentives to patent owners whose products have been held back from the marketplace by Federal regulatory procedures. We agree totally with the views expressed in the Senate Judiciary Committee report on S. 255 that, "There is no valid reason for a better mousetrap to receive 17 years of patent protection and a life-saving drug less than 10 years."

Although time is becoming a critical factor, we are still hopeful that this Congress will enact a comprehensive Federal patent policy along the lines of Senator Schmitt's S. 1657 and Congressman Ertel's H.R. 4564. The debate on who should receive commercial rights to inventions resulting from Federal sponsorship is now well into its fourth decade. During that time the Department of Defense has for the most part given its contractors the first option of acquiring such commercial rights. Literally tens of thousands of DOD-sponsored inventions were handled under that policy, and not a single case has been identified in which that policy has had any adverse impact. On the other side of the coin, NASA's experience clearly shows that contractor-owned patents on NASA-sponsored inventions are about 20 times more likely to be commercialized than NASA-owned patents on contractor-generated inventions.

The Patent and Trademark Office intends to propose three new initiatives in our 1983 legislative program.

The U.S. Government owns twice as many active patents—more than 28,000—than any other single entity. Most of these belong to the Department of Defense and most were acquired solely for defensive purposes. In a speech made before the Government Patent Lawyers Association on April 14, I proposed that legislation be enacted to permit the issuance of a patent on a Government-owned invention without the examination required by 35 USC §§ 131 and 132 if the head of the appropriate department or agency or his or her designee waives all remedies of 35 USC §§ 271 through 289 with respect to the patent or any reissue of the patent. A patent so issued would be a U.S. patent for all defensive purposes: the application or the patent could become involved in an in-

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terference; it would be a "constructive reduction to practice" under our first-to-invent system; it would be "prior art" under all subsections of 35 USC § 102; and it would be classified and cross-referenced like any other patent, disseminated to foreign patent offices, stored in the PTO computer tapes made available in commercial data bases, and announced in the Official Gazette. In addition, it would serve as the basis for a priority claim in a foreign application. In response to our proposal, we have received many recommendations from industry and the bar. There seems to be general agreement that something needs to be done in this area. We have received recommendations that the defensive patent be made available to industry as well as to Government agencies. Some support the concept, but question whether the term "patent" should be used to describe the document we would issue. Still others would support legislation under which the Government agencies could defend a 28 USC § 1498 action on the basis of prior inventorship. That would obviate the need for the Government to acquire any defensive patents. We are currently weighing these alternatives prior to presenting a formal recommendation to the Congress next January.

We are formulating a new proposal to change interference procedures. Under our proposal we would retain the present first-to-invent system of priority. But we would change the procedures so that a patent will be issued to the first person to file an application, and it would be up to the second person filing an application on the same invention to trigger an interference with the patentee. If the "junior party" is successful in the interference, his or her patent would run from the date of the original senior party's patent. We are still working on the details of this proposal, and we would very much welcome your views and counsel.

We are recommending an amendment to 35 U.S.C. § 271 to provide that importation into the United States of a product made in another country by a process covered by a U.S. patent will constitute infringement of the U.S. patent. The United States is one of the few major countries whose domestic patent law does not extend process patent protection to products manufactured by the patented process. Considering the great strides being made—for example, in genetic research where revolutionary new processes are used to make existing and therefore unpatentable products such as insulin—it is time to close the gap in patent protection which now exists.

INTERNATIONAL ACTIVITIES

In the international arena, we are deeply involved in preparations for the Third Session of the Diplomatic Conference on the Revision of the Paris Convention. That conference will begin October 4 in Geneva. While the prospects in Geneva are uncertain at best, we are hopeful that there will be efforts made there to seek a broader consensus on Article 5A of the Paris Convention, the article which deals with compulsory licensing and forfeiture of patent rights.

Over the past year we have been active in joint Government-industry efforts to encourage several nations to strengthen their protection of patents and trademarks.

For example, working closely with the Department of Commerce International Trade Administration, we have had productive meetings with officials of Mexico, Korea, and Romania in this regard.

The Office is participating in the negotiations to establish an International Code of Conduct for the Transfer of Technology under the auspices of UNCTAD, the United Nations Conference on Trade and Development. These deliberations are currently aimed at deciding whether to hold a fifth session of the UN Conference on the Code next year.

In meetings with Chinese officials in Beijing this past May, I discussed with them the transfer of the Chinese Patent Bureau from the State Scientific and Technological Commission to the State Economic Commission. It remains to be seen whether that move will expedite their consideration and enactment of a patent law.

We have reached agreement with the European Patent Office (EPO) that, beginning this October 1, they will serve as an International Searching Authority for U.S. industry using the Patent Cooperation Treaty international filing procedures. This will give U.S. industry a potentially attractive alternative to using the U.S. Patent and Trademark Office as an International Searching Authority. Details of the arrangement with the EPO, including the fees they will charge, are now being worked out and will be announced prior to the October 1 date.

To help us carry out our automation programs here at home, we have entered into a cooperative venture with the European Patent Office to exchange advanced forms of documentation, both on film and magnetic tape, and to coordinate closely the advanced automation programs conducted by each. The leadership of the European Patent Office recognizes, as we do, that we must eventually move away from all paper hand-file-and-retrieve systems if we are to keep pace with the explosion in technological data. We are exploring the possibility of similar joint ventures with other major patent offices.

FIVE-POINT PLAN TOWARD A FIRST-CLASS PTO

Our efforts to upgrade the patent and trademark systems generally center on the PTO itself. We have made real progress, but much more needs to be done. None of us can be satisfied until the Office itself is a true service organization, one that is first class in every respect and every sense of that term. Attention to detail will be the keynote. We simply must improve the operations at every level and in every function. Working with our employees and officials of their bargaining units, we are undertaking a five-point action plan. The major elements of this plan are:

(1) To upgrade the physical environment—to rehabilitate furnishings, to pay particular attention to interior design and office layout, to improve cleaning services, to clean out old files and papers, to control signs and bulletin boards to ensure a professional appearance, and to upgrade the training facilities.

(2) To improve internal communications—to conduct cross-training programs to ensure all employees understand their role in the overall programs of the Office, to insist on the sharing of information downward and upward, to investigate promptly causes of employee morale problems, to encourage managers to involve employees in solving problems and improving services, and to ensure that all employees are aware of important developments in the Office.

(3) To ensure that all employees in demeanor and dress reflect favorably on the Office and its important mission of public service.

(4) To improve communications with the public—to provide training in courteous and effective communications techniques, on the telephone and in person, to elicit specific public feedback, good and bad, and to recognize good performers.

(5) To establish a focal point within the PTO staffed with knowledgeable, articulate employees to respond to public inquiries, complaints and, hopefully, commendations so that we can recognize highly motivated, service-oriented employees and correct deficiencies if they should occur.

Our first actions in these efforts will be to respond aggressively to the recent user survey of Patent and Trademark Office services. That survey will be very useful to us in pinpointing where to focus our initial attention.

CONCLUSION

The Patent and Trademark Office has all the ingredients for success. We have the strong support of Secretary Baldrige and Deputy Secretary Fiske. We have a very able and effective executive staff and core of Senior Executives. We have employees totally dedicated to serving industry and inventors. We are assured of adequate financial resources. And we have the momentum and spirit to bring about a truly first class organization. That is our commitment. And we are well on our way!●

THE SOCIAL SECURITY PROBLEM

● **Mr. BAUCUS.** Mr. President, Monday's Washington Post published a perceptive analysis of President Reagan's current budget dilemma. The Post reported that the President has said he will not scale back his defense buildup for next year, not support additional tax increases beyond the bill now in conference, and still reduce the budget deficit.

The Post concludes that the only way to accomplish these goals is to cut even deeper in domestic spending, especially social security and other entitlements.

We seem to be moving beyond budgetary blue smoke and mirrors. A closer look at the latest budget numbers illustrates the magnitude of the President's problem.

The 1983 budget can be broken down into five parts: interest on the national debt, defense spending, discretionary domestic spending, entitlements, and tax expenditures. Mr. Reagan wants to go ahead with a $1.5 trillion military buildup and no additional reductions in his $250 billion tax cut.

That leaves domestic spending and entitlements as the primary candidates for future cuts.

President Reagan has made several previous attempts to cut social security benefits. Medicare, one of the three major components of the social security system, has been slashed some $3.5 billion in the tax increase bill.

Social security minimum benefits have been eliminated for new retirees. Student benefits are being eliminated. Recipients of disability insurance benefits, also part of social security, are finding their cases under review. Many recipients are being dropped from the

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program, despite the fact that their medical condition has not improved.

The President tried unsuccessfully to delay and reduce scheduled cost-of-living adjustments—COLA—for retirement benefits.

I share the President's goal fo reducing the size of the Federal Government. I know there is waste and mismanagement in Federal agencies.

But this is a question of priorities. I cannot stand by and be silent while the administration seeks to balance the budget by slashing social security benefits, while unnecessarily increasing other programs.

The domestic spending reductions already enacted have cut much more than fat. They come perilously close to the bone.

Meanwhile, the Pentagon is fatter than ever. There are scores of documented examples of unnecessary, inappropriate, and wasteful spending in the name of the national defense buildup.

The Defense Department spends $1.4 million on shots and other veterinary services for the pets of military personnel. Millions more are spent on transporting the pets of military personnel who have been transferred.

The General Accounting Office has estimated that nearly half the messages sent over DOD teletype nets are routine, nonpriority messages which would be better sent by mail, saving $20 million a year.

Shortly after taking office, President Reagan called on Federal agencies to cut their travel budgets by 10 percent. Civilian agencies responded by cutting their 1981 travel budgets by some 16 percent. But this savings was wiped out by the Pentagon's 9-percent increase.

By 1987 President Reagan wants 37 percent of all Federal spending to go for defense.

Mr. President, I favor a steady, sustained increase in national defense spending. I favor defense programs that are vital in the dangerous world in which we live. However, we do not strengthen our security by providing a blank check to the Pentagon, any more than we can solve domestic problems by merely throwing money at them.

I cannot support irresponsible cuts in medicare and social security so that the administration can indiscriminately fund every possible weapon and cut taxes for the wealthy.

Social security trust funds are depleted, true. We need to take action. But to conclude that Congress must either cut social security benefits or raise payroll taxes is wrong.

Like medicare, social security's problems will not be solved by cutting benefits. To insure the future solvency of social security will force all of us to make tough decisions and cast difficult votes.

But let us remember the commitment our predecessors made when they created social security and medicare. They made an important commitment to the financial security of older Americans.

When Congress finally comes to grips with the funding problems facing social security, we may be told we face a crisis. We may be told that drastic action is needed to protect monthly benefit checks. We may be told that we must either cut benefit checks or raise payroll taxes.

But let us keep this in perspective. Let us not forget that it is the President's decision to give the Pentagon a blank check and his refusal to alter the massive tax cut that are the reason for this dilemma.

I ask that the Washington Post article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 9, 1982]

BENEFIT CUTS MAY BE THE ONLY WAY—SOCIAL SECURITY PROBLEM DOGS REAGAN

(By David Hoffman)

President Reagan finally has come down to the budget issue that has dogged him throughout his political career: cutting Social Security benefits.

That is the underlying message of the last two weeks of skirmishing over budget and taxes in which the president has indicated he intends (1) to stick with his defense buildup next fiscal year, but (2) have no tax increase beyond the one pending in Congress and (3) still drive down the Federal deficit.

The only way to accomplish all three objectives is to make further large cuts in domestic spending, and many domestic programs already have been cut close to the bone.

The largest and ripest left are the entitlement programs, the basic benefit programs at the heart of the budget. And the largest and ripest of these is Social Security, which now is about a fifth of the budget and which so far has not been cut significantly.

Administration officials will not say directly that Social Security cuts are next. Social Security is probably the most sensitive of all political issues except war and peace. One American in seven is supported in whole or part by Social Security payments. And the Nov. 2 congressional elections take place before the fiscal 1984 budget is scheduled to go to Congress, next January or February.

But there is no secret about the direction the administration is headed.

"We still have much further to go in reducing the increase in government spending," Reagan said at his July 28 news conference.

David A. Stockman, director of the Office of Management and Budget, told the Senate Budget Committee last week, "As a practical matter it would be necessary in the '84 budget . . . to substantially reduce nondefense spending beyond what we've done already . . . to close the budget deficit gap."

Next year "we will have an all-out campaign to cut entitlements," a senior administration official said in a recent interview.

And given the implacable math of it all, "the word entitlements then becomes a euphemism for Social Security," said economist Rudolph Penner of the American Enterprise Institute, who served in OMB during the Ford administration.

There are other large entitlement programs: Medicare, Medicaid, food stamps, housing assistance, college student aid. But some of these already have been cut, and others are slated to be cut this year. Further cuts in these are unlikely to do the job for Reagan without inroads into Social Security—either in current benefits or in future benefit increases—as well.

The Social Security system has been nettlesome for Reagan since his earliest days in politics. In the 1960s he created a tempest by suggesting that participation might be made voluntary.

By the 1976 presidential campaign, he had become so sensitive about it that he exempted Social Security along with defense from $90 billion he said could be cut from the federal budget. But this came to embarrass him, too, because by exempting Social Security he was condemning the rest of the government to be cut nearly in half.

Last year he again ran afoul of the issue, proposing at one point that deep cuts be made in benefits, on grounds they were needed to keep the system solvent. Critics quickly accused him of trying to balance the budget on the backs of the elderly, saying his cuts were more than were needed simply to stabilize Social Security. He withdrew the proposals in his one such setback of the year, and named an advisory commission to report this winter.

There now is an expectation in Congress that Social Security will be at the top of the agenda after the November elections, if only to prevent the system from going insolvent in July next year as projected.

Administration officials, speaking on condition they not be identified, also see a harbinger for Social Security in the appointment last week of Harvard economist Martin S. Feldstein as chairman of the president's Council of Economic Advisers. Feldstein has argued that future increases in Social Security costs must be held down and that benefits can safely be trimmed for recipients who are not poor. His work on the subject was an important factor in his selection by White House officials looking at the Reagan economic agenda for next year.

What kind of cuts are proposed also may depend in part on the recommendation of the Social Security advisory panel, which is divided between one group that wants to cut hard and another that thinks the system will revive when the economy does and that gentler remedies will do.

Reagan last year proposed, among other things, stricter eligibility standards for disability benefits and sharp cuts in the benefits of workers who retire before age 65 in the future. At the other extreme are organised labor and some Democrats who have proposed no benefit cuts and instead would finance Social Security—or at least the Medicare segment of it—partly out of income tax revenues.

A middle-ground alternative, which many members of Congress seemed to find attractive last year, would be to curtail future cost-of-living increases in benefits. Reagan so far has shied away from this.

After Reagan indicated two weeks ago that he remains determined to build up the defense budget, one officials said: "We are stuck here and the battleground is going to have to be entitlements, and it's going to cause quite a stir in the administration."

"If this is really what the president wants, we are going to have to fish or cut bait after the November elections," the official said.

But he cautioned that Reagan's intentions could change in the next five months, just as they did last year on taxes. "The true battleground is going to be late in the fall," he said. "I am sure Reagan is going to be tested over this."

In fact, many conservative economists outside the administration, as well as a number of senior presidential aides believe Reagan has yet to really face the consequences of his defense buildup.

"The dilemma Reagan and Congress will face if they want to go whole hog on defense is much more serious," said Penner. He noted that Reagan already has cut into the "muscle" of many domestic programs. "The options are not happy ones, and that's why I wouldn't rule out further tax increases" he added, even though Reagan is struggling to quite a conservative revolt over the tax increase bill now pending.

"I really think, if they want to go ahead on defense they are going to have to have tax increases or huge deficits."

Added one presidential aide: "I think we are going to be fighting this battle for the rest of this administration." ●

MANAGEMENT OF PUBLICLY FINANCED HEALTH PROGRAMS

● Mr. DURENBERGER. Mr. President, we are all familiar with the problem of high health care costs. Nowhere is this more evident than in the medicare program, where actual costs in 1980 exceeded initial projections by $30 billion.

Part of the problem is reimbursement policy. Part of it is inflation. And part of it is program management. The management of public programs differs from that of the private sector. The inefficiencies we pin on the bureaucracy are often a result of structural constraints imposed by the politics of public programs.

John C. Anderson, Ph. D., an associate professor of management sciences at the University of Minnesota, has recently published a study with Kathleen Sullivan entitled, "Publicly Financed Health Programs: Managerial Problems and Opportunities." It is part of a series on health issues supported by Hoffman-LaRoche, and it is a much needed examination of the management of public programs.

I encourage my colleagues to read the study's summary and conclusion, which I have included as part of the RECORD. The complete study is also well worth reading.

The material follows:

SUMMARY AND CONCLUSIONS

The several decades of public debate on a variety of proposals for expanding the role of government in the financing and administration of health care for the American public is evidence of a lack of broad public consensus on such health-related social goals as assurance of access, quality and equity in the distribution of health services, and containment of rising health care costs. We have not yet resolved a basic issue concerning whether health care is a right or a privilege. In addition, there is not yet a U.S. health policy with clearly specified priorities, nor is there consensus on an optimal approach to organizing an administrative and financing structure to attain those goals. Partially as a result of these factors, the job of the public program manager is exceedingly difficult. A fragmented health care system with dissimilar organization, philosophy, structure and mission currently exists with managers trying to contain costs, improve quality and extend access all at the same time. As health care expenditures absorb an increasing proportion of the Gross National Product and as public resources become scarcer, a formula for the optimum expenditure of health care dollars becomes more essential. In the development of such a formula or policy it is undoubtedly useful to draw upon the lessons learned in the past 15 years experience of the largest public health care programs, Medicare and Medicaid.

It is the objective of this report to examine the areas wherein sound management theory has positively impacted publicly financed health programs. Using a well-defined framework for analysis, this report identifies the types of internal, external, and environmental management opportunities and constraints that have characterized the two largest publicly financed health care programs, Medicare and Medicaid and makes some observations concerning the development of additional programs and/or national policy.

Key to any analysis of the performance of the Medicare and Medicaid programs is the fact that "good" government management is not synonymous with "good" business management. Administrators in the public sector, particularly in Medicaid and Medicare, must frequently accept goals that are set by legislation. They are required to run organizations that are designed by individuals and agencies beyond their domain, work with people whose careers are outside their control, and attempt to accomplish massive objectives with the application of severely limited resources in insufficient time. Business managers limit their objectives to a set of tasks consistent with their resources. These public sector conditions, radically different from the conditions in which private managers operate, must be carefully considered in evaluating management performance in the public sector, not to protect the sensibilities of government managers but to more clearly identify the real sources of constraints in public program management.

The political environment in which Medicare and Medicaid function constrain the process of long-term resource utilization planning. The Congress, or a particular State legislature, is totally isolated from the day-to-day operations of the programs. Moreover, unlike management committees in the private sector, legislative bodies are charged with oversight responsibilities for a myriad of programs, projects and activities which limits their ability to spend too much time on any individual area. Also, some State legislatures are only in session for several months during a year. This lack of continuity constrains any ongoing development of long-range goals and priorities. Because things are so dynamic and conflicting, management frequently operates in a responsive mode rather than with a predictive, anticipatory problem-solving approach.

In the face of multiple political power centers impinging on the authorities and resources of program management, strategic planning is often given a lower and optional priority. Instead, crisis management frequently substitutes for strategic planning, and services or eligibility are cut in an effort to immediately impact the bottom line. The results of these actions in terms of program effectiveness and capacity can be disastrous and compromising in terms of the intent of both programs.

Evaluations of Medicare and Medicaid Management performance are necessarily imprecise and problematic due to the lack of data and clear-cut criteria against which to measure the attainment of objectives. Performance standards for many aspects of program operation are hard to come by. Specific characteristics of public program experience that hamper not only management performance but the development of performance standards for purposes of evaluation and planning include the following:

Program objectives and relative priorities are subject to constant reshaping by political forces with the result that substantial program changes occur so frequently there is never sufficient stability to observe and evaluate the impact of management decisions over time, and those decisions are frequently made in a crisis environment as a result of political pressures.

The distribution of decision-making authorities within and among public agencies, legislative bodies, and program constituent organizations seriously compromises the adequacy of management's authority and resources to implement its decisions.

The budget constraints imposed upon funding bodies or their unwillingness to invest adequate resources in the staffing and technology of administering organizations hampers the collection and analysis of data critical to the decision-making process.

In addition, Medicare and Medicaid performance is often hampered by legislation and regulation at the state or federal level which is sometimes contradictory and compromising to optimally efficient and effective program management. It has been recognized that the stability of the program administering agency impacts its relationship with other organizations in the system. Another significant obstacle with respect to managing publicly financed health programs is the apparent organizational flux that so often characterizes these programs. It is not uncommon for there to be frequent change in the designated administering agency/or fiscal intermediary. These changes make it difficult to maintain beneficial relationships with the legislature and provider communities. Lack of program managers autonomy and authority over external entities such as county agencies or state treasury department staff whose contributions impact the bottom line of both programs is another noteworthy constraint.

Finally, the complexity of the Medicaid eligibility process requires enormous staff time and funds that could otherwise be applied to beneficiary services. The elimination of this kind of burden should be a high priority in future U.S. health policy.

The above mentioned constraints limit management capabilities within Medicare and Medicaid. The obstacles are, however, virtually inherent in the current publicly financed program environment. As a result, future U.S. health policy development must be cognizant of the limitations of public administration in a health system characterized by instability, distance from oversight committees, and lack of managerial autonomy and performance standards.

Viewing existing performance of Medicare and Medicaid in terms of criteria such as efficiency, effectiveness, capacity and flexibility, raise some provoking questions. Enough

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data exist to strongly speculate that current programs do not provide for the most efficient use of resources. Some effectiveness in the operation of specific programs has been achieved, yet we may be failing to achieve maximum effectiveness toward the broader goals of assurance of access, quality and equity in the distribution of health care services. Serious capacity issues are apparent in terms of organizational and economic resources. Finally, existing programs have exhibited flexibility to meet evolving needs yet have done so without evidence of a blueprint for the future.

There are, however, some managerial initiatives that can be and in selective instances have been pursued within the current context of publicly financed health programs. These initiatives, described more fully in the body of the report, represent opportunities for management. They include:

The application of advanced claims processing technology to provide managers with key program data and information in a timely manner to facilitate informed decisionmaking;

The careful use of edits in the claims processing system to protect the fiscal integrity of the program and insure the appropriateness of vendor payments;

Timely claims processing, communication with, and payment of providers to ensure maximum provider participation and consequent beneficiary access to care;

The implementation and operation of program controls and the tracing and analysis of program performance to design and implement corrective action strategies in a timely, cost-effective manner;

The closing of policy loopholes and deletion of unneeded and contradictory program policy; an ongoing effort to evaluate and assess the program from this perspective will enhance overall program operation;

Quality performance in audit functions and settlement of cost reports will lead to tighter control within the program;

Working to amend legislation that is unfavorable to the efficiency and effectiveness of public programs is a continuing and necessary activity as the dynamic health care environment continues to evolve;

The proper allocation of administrative resources including spending one dollar to save two or more where such action is cost justified; in certain cases increases in administrative costs will yield substantial returns leading to greater operational efficiency;

The design of the internal Medicaid agency hierachy to ensure that units key to better program performance are at a level high enough to carry out their corrective action strategies. Proper authority must be vested in those individuals responsible for performance if successful implementation is to be achieved.

To date these initiatives have often occurred sporadically, with too little consistency across individual state and federal agencies. Recent experience has evidenced management improvement of program operations in both Medicare and Medicaid, yet little effort has been concentrated on longer range planning and analysis.

To alleviate some of the obstacles that are seemingly part and parcel of the public sector, it is important that program managers and committees try to inject as much stability in the process as possible. Furthermore, it is imperative that sufficient information for planning and control is generated so that budgets can be justified and policy changes can be affected. In addition, development of and adherence to performance standards would go a long way in convincing decision makers of the validity of certain management initiatives. Allocating staff to perform third party liability recovery functions and quality control functions contributes to programwide cost effectiveness. Finally, a problem anticipation mechanism must be developed and truly operational so that harmonious program objectives are pursued and the crisis problem solving mode gives way to a well-reasoned managerial approach.

In turn we need to press hard for the utilization of performance standards in current programs. We need comparable dimensions across programs to map out the future direction of U.S. policy. Information on program operations must flow up to the decision makers, and policy must flow down. The lines of communication are broken in the current system. The solution is not to develop a new arm of government, but rather to recognise the limitations of publicly financed health programs and aggressively seek consistent indicators of performance and program accountability. What seems essential to significantly improve the performance of publicly financed health program management is to reduce the impact of political conflict and instability on program operations, either by reducing the levels of conflict and instability in the environment or by shielding the administrative organizations from them. Until a system can be designed that addresses these deficiencies in the variety of organizational structures that charaterise publicly financed programs, the public sector should not be further burdened with additional administrative responsibilities by the extension of coverage to new segments of the population or new areas of service.●

THE AVIATION HALL OF FAME

● Mr. GOLDWATER. Mr. President, serving as the statutory agent for the Aviation Hall of Fame in Dayton, Ohio, I offer for insertion in the RECORD an audit report for the calendar year 1981 as prepared by Coopers & Lybrand, and I also offer for insertion in the RECORD the program for 1981.

The material follows:

NATIONAL AVIATION HALL OF FAME, INC.

REPORT ON EXAMINATIONS OF FINANCIAL STATEMENTS FOR THE YEARS ENDED DECEMBER 31, 1981 AND 1980

COOPERS & LYBRAND,
Dayton, Ohio, June 25, 1982.

BOARD OF TRUSTEES,
National Aviation Hall of Fame, Inc.,
Dayton, Ohio.

We have examined the balance sheets of the National Aviation Hall of Fame, Inc. as of December 31, 1981 and 1980, and the related statements of revenue and expenses, changes in fund balances and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the National Aviation Hall of Fame, Inc. as of December 31, 1981 and 1980, and the results of its operations and the changes in its financial position for the years then ended in conformity with generally accepted accounting principles applied on a consistent basis.

COOPERS & LYBRAND,
Certified Public Accountants.

NATIONAL AVIATION HALL OF FAME, INC., BALANCE SHEETS, DEC. 31, 1981 AND 1980

	1981	1980
ASSETS		
Cash	$21,262	$15,223
Certificates of deposit	58,845	25,398
Marketable securities, at market (cost, $3,160)		5,856
Prepaid expenses	115	115
U.S. Treasury bill, 9.765 percent, due February 1981 at cost plus accrued interest (market value $9,831)		9,858
Total current assets	80,222	56,450
Furniture, fixtures and equipment, net of accumulated depreciation of $1,686 in 1981 and $1,297 in 1980	2,197	2,585
Copyrights	1	1
Collections (note 2)[1]		
Total assets	82,420	59,036
LIABILITIES AND FUND BALANCES		
Accounts payable	3,412	246
Accrued expenses	709	633
Deferred amounts (note 5):[1]		
Membership income	17,413	13,243
Restricted biographical research program	18,000	
Total current liabilities	39,534	14,122
Fund balances (note 3):[1]		
Designated by Board of Trustees:		
Capital expenditures	19,667	15,628
Founders	1,000	
Promotion		5,000
Undesignated	22,219	24,286
Total fund balances	42,886	44,914
Total liabilities and fund balances	82,420	59,036

[1] See Notes to Financial Statements.

STATEMENTS OF REVENUE AND EXPENSES FOR THE YEARS ENDED DEC. 31, 1981 AND 1980

	1981	1980
Revenue:		
Individual memberships	$36,118	$30,289
Organizational memberships	24,430	30,905
Enshrinement dinner	17,460	12,330
Sales of medals and other items	1,735	5,687
Donations	5,640	4,334
Interest and dividends	8,770	6,236
Total	94,153	89,781
Expenses:		
Management fee	25,535	26,400
Salaries and office help	7,462	7,227
Enshrinement dinner	34,212	34,283
Membership expenses	15,476	5,861
Exhibits	4,189	2,887
Cost of medals and other items	696	1,297
Office supplies	5,147	3,816
Postage	1,784	1,728
Telephone	648	819
Payroll taxes	601	548
Depreciation	388	388
Miscellaneous	41	
Total	96,181	85,254
Excess (deficiency) of revenues over expenses	(2,028)	4,527

STATEMENTS OF CHANGES IN FUND BALANCES FOR THE YEARS ENDED DEC. 31, 1981, AND 1980

	Designated			Undesignated	Total
	Capital expenditure	Promotion	Founders		
Balance, Jan. 1, 1980	$10,707	$5,000		$24,680	$40,387
Excess of revenues over expenses				4,527	4,527
Designation (note 3)[1]	4,921			(4,921)	

STATEMENTS OF CHANGES IN FUND BALANCES FOR THE YEARS ENDED DEC. 31, 1981, AND 1980—Continued

	Designated			Undesignated	Total
	Capital expenditure	Promotion	Founders		
Balance, Dec. 31, 1980	15,628	5,000		24,286	44,914
Excess of expenses over revenues				(2,028)	(2,028)
Designation (note 3)[1]	4,039	(5,000)	$1,000	(39)	
Balance, Dec. 31, 1981	19,667		1,000	22,219	42,886

[1] See Notes to Financial Statements.

STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DEC. 31, 1981 AND 1980

	1981	1980
Sources:		
Operations:		
Excess (deficiency) of revenues over expenses	−$2,028	$4,527
Item which did not require current outlay of cash:		
Depreciation	388	388
Provided from (used in) operations	−1,640	4,915
Decrease in Treasury bills	9,858	
Decrease in marketable securities	5,856	
Increase in accounts payable	3,166	246
Increase in deferred amounts	22,170	13,243
Increase on accrued expenses	76	633
Total	39,486	19,037
Uses of funds:		
Increase in marketable securities		2,287
Increase in U.S. Treasury bill		9,858
Total		12,145
Net increase in cash and certificates of deposit	39,486	6,892
Cash and certificates of deposit, beginning of year	40,621	33,729
Cash and certificates of deposit, end of year	80,107	40,621

NOTES TO FINANCIAL STATEMENTS

1. Summary of significant accounting policies

The Corporation was created by an Act of Congress, Public Law 88-372, July 14, 1964, to honor outstanding persons in the field of aviation. The Internal Revenue Service has confirmed the status of the Corporation as a tax-exempt public foundation. On December 18, 1981, the Corporation changed its name from Aviation Hall of Fame to National Aviation Hall of Fame, Inc.

Furniture, fixtures and equipment are recorded at cost when purchased or at estimated values when received as a donation. Depreciation is computed on the straight-time basis over the estimated useful lives of the assets.

Donated materials other than collections are recorded at their estimated value at the date of receipt. No amounts have been reflected in the statements for donated office space and services as no objectives basis is available to measure the value of such services. Donated office space consists of an office and storage provided by the City of Dayton. Donated services consists of time donated by the Board of Trustees for the Corporation.

The Corporation offers both one-year and two-year memberships to the public. Membership dues received for the current year are recorded as income at the time the membership period commences. Deferred membership income, representing dues the second year of two-year memberships, is recognized as income during the second membership year.

Biographical research program resources are restricted by the donor, grantor, or other outside party for operating the biographical research program, and are deemed to be earned and reported as revenues of the operating fund when the Corporation has incurred expenditures in compliance with the specific restrictions. Such amounts received but not yet earned are reported as restricted deferred amounts.

2. Collections

The Corporation has acquired by purchase or through donations, various models, books and other memorabilia relating to the field of aviation since its founding. Because the value of these items are not readily determinable and they can be considered inexhaustible items, the Corporation has not capitalized them. The value of objects acquired by gift for which the Corporation can make a reasonable estimate is reported as gifts in the statement of revenue, expenses and changes in fund balance.

3. Fund balances

The capital expenditure fund is intended to provide funds for the purchase of a facility for the Corporation. The Board has directed that all donations received from enshrinees or their families and income earned from investments applicable to capital expenditure fund be added to this fund.

In 1981, the Board of Trustees established the Founders Fund for special projects undertaken by the executive director of the Corporation. No expenditures can be made from the fund without the approval of the Board.

The promotion fund was established by the Board in 1978 for promotion of the Corporation. The Board authorized the expenditure of these funds during 1981.

4. Management contract

The Corporation contracts with James W. Jacobs & Associates, Inc. on an annual basis to provide consultation and professional services to maintain operations, expand membership, sponsor events and any other services required by the Corporation. Management fees paid amounted to $35,535 and $36,400 in 1981 and 1980, respectively.

5. Deferred restricted biographical research program

The biographical research program began during 1981. Contributions received during 1981 totalled $18,000. No funds were expended.

THE AVIATION HALL OF FAME

Dedicated to honoring the outstanding pioneers of aviation, the Aviation Hall of Fame was conceived by James W. Jacobs in 1958 to more fully recognize the achievements of the men and women of our nation contributing to the various aspects of successful flight. Through his efforts, and with the support of the Dayton Area Chamber of Commerce, he, Gregory C. Karas, John A. Lombard, Larry E. O'Neil and Gerald E. Weller formed the National Aviation Hall of Fame, a not-for-profit Ohio corporation, in October 1962. The first Enshrinement Ceremonies were held in December 1962.

In response to the wide public acceptance and support of the National Aviation Hall of Fame, a bill was introduced in Congress to form a national organization to be known as the Aviation Hall of Fame. This bill was passed by Congress as Public Law 88-372 and signed by President Johnson on July 14, 1964.

Today, the Aviation Hall of Fame is a public foundation and is required to file an annual report to Congress. However, it receives no federal, state or local tax revenues. It is supported solely through tax-deductible individual and organizational membership dues and contributions.

Tonight, as the result of the generous efforts of many members throughout the world, the Aviation Hall of Fame enshrines four more outstanding aviation pioneers. The ninety-three so honored represent the history of flight—and include some who dreamed of its possibilities, some who gave their lives in its cause, some who made it a practical reality, and some who have shown the way to the limitless universe.—A. G. LIEFKE, *President.*

1981 NOMINEES FOR ELECTION TO THE AVIATION HALL OF FAME

The following aviation pioneers were the Nominees for election to the Aviation Hall of Fame in 1981. The four honored tonight were selected in accordance with the procedures and guidelines prescribed for the Board of Nominations and the Board of Trustees.

Edmund T. Allen, Orvil A. Anderson, Frank M. Andrews, John L. Atwood, Olive Ann Beech, Giuseppe M. Bellanca, Patrick N. L. Bellinger, Donovan R. Berlin, Richard I. Bong, Albert Boyd, Mark A. Bradley, Jr., Thomas E. Braniff, Lewis H. Brereton, Walter R. Brookins, Harry A. Bruno, W. Starling Burgess, Marion E. Carl, Washington, I. Chambers, Charles deF. Chandler, Godfrey deC. Chevalier, Frederick C. Crawford, A. Scott Crossfield.

Charles S. Draper, Oliver P. Echols, Carl B. Eielson, Henry Ford, Joseph J. Foss, Robert G. Fowler, Jack Frye, Artemus L. Gates, Harvey Gaylord, Harold L. George, Daniel J. Haughton, Frank M. Hawks, Edward H. Heinemann, Jerome C. Hunsaker, David S. Ingalls, Charles S. Irvine, Daniel James, Jr., Alexander Karveli, Oakley G. Kelly, Hugh J. Knerr, Ezra Kotcher, Jerome Lederer.

Thaddeus S. C. Lowe, Theodore C. Lyster, Henry T. Merrill, John C. Meyer, Thomas deW. Milling, Marc A. Mitscher, William A. Moffet, Thomas H. Moorer, Edwin C. Musick, Erik H. Nelson, Ruth D. Nichols, Emmet O'Donnell, Robert Olds, Clyde E. Pangborn, Billy Parker, Harold F. Pitcairn, Robert W. Prescott, Alfred M. Pride, Arthur W. Radford, Jennings Randolph, Edwin W. Rawlings, Frederick B. Rentschler.

John Rodgers, Charles E. Rosendahl, Ralph Royce, Walter M. Schirra, Jr., Lowell H. Smith, Lawrence B. Sperry, Sr., Apollo Soucek, Lloyd C. Stearman, James B. Stockdale, William B. Stout, Hoyt S. Vandenburg, Jesse G. Vincent, Wernher von Braun, Chance M. Vought, James E. Webb, Edward C. Wells, Thomas D. White, Ennis C. Whitehead, Alford J. Williams, Thornton A. Wilson, Kenneth B. Wolfe, Katharine Wright.

AVIATION HALL OF FAME—1981 ENSHRINEES

Lawrence Burst Sperry, Sr. (1892-1923) honored for his outstanding contributions to aviation by his pioneering inventions in the field of automatic flight stabilization and aircraft instruments utilizing the principles of the gyroscope that made flying safer and ultimately led to the automatic pilot and the achievement of controlled "blind" flight; his pioneering work in developing one of the world's first guided missiles incorporating an automatic flight control system; his role in building significantly advanced design aircraft; and his creating one of the world's first true sport planes that helped popularize private flying.

BEST COPY AVAILABLE

Edward Henry Heinemann, (1908-) honored for his outstanding contributions to aviation by his contributions as an aircraft designer and aeronautical engineer in the development of carrier-based attack aircraft and dive bombers crucial to the needs of the United States Navy during World War II; his role in the development of highly-advanced jet and rocket-powered research aircraft for exploring transonic and supersonic flight regimes; and for his development of a vitally important series of carrier-based attack and fighter aircraft that served the nation with distinction in Korea and Southeast Asia, and still serve today in the ongoing struggle to preserve world peace.

Charles Stark Draper, (1980-) honored for his outstanding contributions to aviation and space technology by his development of gyroscopic fire control systems and inertial guidance and navigation systems for aircraft; his development of precision computer-controlled and programmable inertial guidance and navigation systems that enable the United States to produce reliable ballistic missiles for defense and preservation of peace, and for its astronauts to travel safely in space and land on and return from the moon; and for developing innovative educational processes that effectively interfaced academic education with aeronautical and astronautical engineering and science.

Olive Ann Beech, (1903-) honored for her outstanding contributions to aviation by her devoted service to the development and progress of General Aviation which earned her worldwide recognition as "The First Lady of Aviation"; for her role in the creation of the Beech Aircraft Company which she and her late husband, Walter Herschel Beech, founded in 1932; and for her excellent leadership assuring the growth and success of the Beech Aircraft Corporation since 1950, during which time it grew into a giant diversified aerospace organization serving both vital military and space exploration needs, as well as those of private and commercial aviation throughout the world.

AVIATION HALL OF FAME—1981 ENSHRINEMENT CEREMONIES, JULY 25, 1981 DAYTON CONVENTION CENTER, DAYTON, OHIO

Master of Ceremonies: Cliff Robertson

Ceremonies Narrator: Don Wayne

Reception, Enshrinement Hall.

Musical Prelude, Air Force Band of Flight (Commander, Lt. Col. Harold C. Johnson, USAF).

Presentation of Colors, United States Air Force Presidential Honor Guard.

National Anthem, Senior Airman Edward J. Pember, USAF.

Toast to The Wright Brothers, Chairman Louis C. Breckenridge.

Television Introduction, Ted Ryan, WHIO-TV.

DINNER

Dinner Music, the Ron Meyer Orchestra.

Musical Entertainment, Air Force Band of Flight.

ENSHRINEMENT CEREMONIES

Welcome, President A.G. Liefke.

Introduction of Special Guests, Cliff Robertson.

Award to U.S. Air Force "Thunderbirds," General Bryce Poe, II, USAF, Commander, Air Force Logistics Command.

President Ronald W. Reagan's Greetings, Congressman Clarence J. Brown, Seventh District, Ohio.

Prologue to Flight, Cliff Robertson.

Presentation of Lawrence Burst Sperry, Sr., Vice Admiral Wesley L. McDonald, USN, Deputy Chief of Naval Operations (Air Warfare).

Acceptance of Sperry Award, Lawrence B. Sperry, Jr.

Presentation of Edward Henry Heinemann, Admiral Thomas H. Moorer, USN (Ret.), Former Chairman, Joint Chiefs of Staff.

Acknowledgement of Award, Edward H. Heinemann, Rancho Santa Fe, California.

Presentation of Charles Stark Draper, James E. Webb, Former Administrator, National Aeronautics and Space Administration.

Acknowledgement of Award, Dr. Charles S. Draper, Senior Scientist, The Charles Stark Draper Laboratory.

Presentation of Olive Ann Beech, George E. Haddaway, President, Aerospace Heritage Foundation.

Acknowledgement of Award, Olive Ann Beech, Chairman, Beech Aircraft Corporation.

Epilogue: "High Flight," Cliff Robertson.

SPECIAL ACKNOWLEDGEMENTS

The Air Force Museum: Special thanks are extended to the Director, Colonel Richard L. Uppstrom, and his staff for use of the facilities of the Air Force Museum to hold the Aviation Hall of Fame President's Reception and Dinner on July 24, 1981; and for use of historical documents and photographs used in preparing this evenings presentations.

Milton Caniff: The Aviation Hall of Fame is especially grateful to Milton Caniff for the ninety-three portraits of the enshrined aviation pioneers. His artistry, contributed to the Aviation Hall of Fame over the past twenty years, represents the most complete collection of portraits of aviation pioneers ever created.

Air Force Orientation Group: Special thanks are extended to Colonel Arthur F. Creighton, Jr., and the Air Force Orientation Group, Wright-Patterson Air Force Base for the excellent mobile display on the Aviation Hall of Fame and the enshrined aviation pioneers, which serves as the backdrop for tonight's presentation, as well as the "Milestones of Flight", and the Northrop T-38 "Talon" aircraft used by "The Thunderbirds".

The Aviation Hall of Fame thanks each of the following people and organizations for their contribution to the success of this evening's program:

Program Director, Mike White, WHIO-TV.

Production of Visuals, John J. Hirschman and Gregory I. Wright, WHIO-TV.

Historical Research and Program Scripts, James W. Jacobs and Associates.

Program Layout and Production, Richard D. Cost and O'Neil and Associates.

Special Ladies' Activities and Decorations, Zoe Dell Nutter.

Ceremonies Hostess, Sharon Cost.

Ceremonies Host, John E. Purdy.

Photographs, Jerry Hackman, Valerie Hackman, Robert Maltby, and Rowe Maxwell.

AND

National Security Industrial Association Dayton Chapter, Merchandise Displays, Inc., E. F. MacDonald Company, the Standard Register Company, First National Bank of Dayton, Ernst and Whinney, Dayton Area Chamber of Commerce, Sperry Corporation, Beech Aircraft Corporation, Wright-Patterson Air Force Base, Elano Corporation.

Dayton Air Fair 81, David K. Burnap Advertising Agency, Inc., Wright "B" Flyer, Inc., the Charles Stark Draper Laboratory, WHIO-TV, WDTN-TV, WKEF-TV, WPTD-TV, WHIO-AM-FM, WING-AM, WAVI-AM, WDAO-FM.

AVIATION PIONEERS ENSHRINED IN THE AVIATION HALL OF FAME

(With Year of Enshrinement)

Allen, William McPherson, 1971; Armstrong, Neil Alden, 1979; Arnold, Henry Harley, 1967.

Balchen, Bernt, 1973; Baldwin, Thomas Scott, 1964; Beachey, Lincoln, 1966; Beech, Olive Ann, 1981; Beech, Walter Herschel, 1977; Bell, Alexander Graham, 1965; Bell, Lawrence Dale, 1977; Boeing, William Edward, 1966; Byrd, Richard Evelyn, 1968.

Cessna, Clyde Vernon, 1978; Chamberlin, Clarence Duncan, 1967; Chanute, Octave, 1963; Chennault, Claire Lee, 1972; Cochran, Jacqueline, 1971; Conrad, Charles, Jr., 1980; Cunningham, Alfred Austell, 1965; Curtiss, Glenn Hammond, 1964.

DeSeversky, Alexander P., 1970; Doolittle, James Harold, 1967; Douglas, Donald Wills, 1969; Draper, Charles Stark, 1981.

Eaker, Ira Clarence, 1970; Ellyson, Theodore Gordon, 1964; Ely, Eugene Burton, 1956.

Fairchild, Sherman Mills, 1979; Fleet, Reuben Hollis, 1975; Fokker, Anthony Herman Gerard, 1980; Foulois, Benjamin Delahauf, 1963.

Gabreski, Francis Stanley, 1978; Glenn, John Herschel, Jr., 1976; Goddard, George William, 1976; Goddard, Robert Hutchings, 1966; Gross, Robert Ellsworth, 1970; Grumman, Leroy Randle, 1972; Guggenheim, Harry Frank, 1971.

Hegenberger, Albert Francis, 1976; Heinemann, Edward Henry, 1981; Huges, Howard Robard, 1973.

Johnson, Clarence Leonard, 1974.

Kenney, George Churchill, 1971; Kettering, Charles Franklin, 1979; Kindelberger, James Howard, 1972, Knabenshue, A. Roy, 1965.

Lahm, Frank Purdy, 1963; Langley, Samuel Pierpont, 1963; Lear, William Powell, Sr., 1978; LeMay, Curtis Emerson, 1972; LeVier, Anthony William "Tony", 1978; Lindbergh, Anne Morrow, 1979; Lindbergh, Charles Augustus, 1967; Link, Edwin Albert, 1976; Loening, Grover, 1969; Luke, Frank, Jr., 1975.

Macready, John Arthur, 1968; Martin, Glenn Luther, 1966; McDonnell, James Smith, 1977; Mitchell, William, 1966; Montgomery, John Joseph, 1964; Moss, Sanford Alexander, 1976.

Northrop, John Knudsen, 1974.

Patterson, William Allan, 1976; Piper, William Thomas, Sr., 1980; Post, Wiley Hardeman, 1969; Putnam, Amelia Earhart, 1968.

Read, Albert Cushing, 1965; Reeve, Robert Campbell, 1975; Richardson, Holden Chester, 1978; Rickenbacker, Edward Vernon, 1965; Rodgers, Calbraith Perry, 1964; Rogers, Will, 1977; Ryan T. Claude, 1974.

Schriever, Bernard Adolf, 1980; Selfridge, Thomas Etholen, 1965; Shepard, Alan Barlett, Jr., 1977; Sikorsky, Igor Ivan, 1968; Six, Robert Forman, 1980; Smith, C. R., 1974; Spaatz, Carl Andrew, 1967; Sperry, Elmer Ambrose, Sr., 1973; Sperry, Lawrence Burst, Sr., 1981.

Taylor, Charles Edward, 1965; Towers, John Henry, 1966; Trippe, Juan Terry, 1970; Turner, Roscoe, 1975; Twining, Nathan Farragut, 1976.

Wade, Leigh, 1974; Walden, Henry W., 1964; Wright, Orville, 1962; Wright, Wilbur, 1962.

Yeager, Charles Elwood, 1973.

Patron Members

On behalf of the Board of Trustees of the Aviation Hall of Fame, I express special thanks to the following Patron Members whose extra special generosity has enabled us to place emphasis on the unique role of the pioneers of aviation in the progress and development of our nation during the past century.—A. G. Liefke, *President.*

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Mr. and Mrs. David S. Wyse.

WATERWAY USER FEES

● Mr. BAUCUS. Mr. President, the Senate is currently considering legislation to impose waterway user fees. This legislation is controversial and could have a significant impact on this Nation's transportation industries.

I believe we need to carefully and accurately evaluate the impact that increased user charges will have on the transportation sector in both the short and long run. We have to start planning now for our Nation's future transportation needs. We need to examine how the various transportation modes will be able to meet these needs and what the Government's role in a transportation system should be.

To that end, Mr. President, I would like to commend to my colleagues some recent remarks by Mr. Anthony L. Kucera, president of the American Waterways Operators, Inc.

Mr. Kucera points out that the time has come for the different transportation modes to stop feuding. He believes that the time and effort spent on charges and countercharges would be better spent doing the job expected of the transportation industry—moving freight.

Mr. Kucera admits that each mode of bulk freight transportation plays an important role in our Nation's transportation system. By recognizing that fact, and working together, the capacity, reliability, and productivity of our transportation system can be increased.

The transportation system of this Nation, Mr. Kucera goes on to point out, is too important to be viewed as nothing more than another line item in the Federal budget. He calls for a set of national transportation objectives which will promote productivity by allowing each mode to do what it does best.

Mr. President, I believe that this type of constructive attitude and concern for getting the job done will be much more useful in our consideration of user fee legislation than additional controversy about "who did what to whom." I, therefore, ask that Mr. Kucera's remarks be printed in the Record at this point. I commend his remarks to my colleagues.

The remarks follow:

New Relationship Needed Between Federal Government and Transportation Industries

(By Anthony L. Kucera)

There are numerous issues facing the Nation's commercial shallow-draft navigation industry—the threat of unfair user taxes, regulatory proposals, the condition of the country's waterways system, a decline in petroleum movements, the future of export markets, and so on.

There is, however, a single element that relates to all of these topics: Government transportation policy and the tremendous impact it has on the barge and towing industry, other transportation modes, and the Nation's economy, in general. We may not always like it, but it's clear that our fortunes are inextricably linked to actions taken by the Federal Government.

It is my opinion that the United States Government must develop a new relation-

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ship with transportation industries. Rather than stifle industry through inequitable and selective cost recovery proposals, the Government must learn to foster transportation opportunities that will improve the Nation's economic health.

There has been considerable talk lately about the need for a national transportation policy. Even President Reagan has noted that we are paying a high price for the absence of any coherent national policy.

It may, therefore, come as a surprise to some that the United States does, in fact, have a national transportation policy. Or, at least, Congress has mandated that it should.

The preamble to the Interstate Commerce Act, as amended in 1940, reads as follows: "It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation." The act goes on to say the policy should recognize and preserve the inherent advantages of each mode. It should promote safe, economical and efficient service, and foster sound economic conditions in transportation.

The act also states that our national transportation policy should encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discrimination, preferences or advantages.

Even casual observers of our industry can conclude that a number of recent Government actions have been contrary to the intent of this congressionally mandated national transportation policy. Proposals to increase waterway user taxes—while continuing to subsidize the rail industry—are an obvious example.

Perhaps what we need now is a set of national transportation objectives. These would be designed to promote productivity by allowing each mode to do what it does best. We must establish concrete goals and a set of strategies to ensure we meet those goals.

I think it is interesting to note that Congress recognized more than 40 years ago that each transportation mode has inherent advantages. To this day, however, some in the transportation industry continue their verbal sparring over which mode is superior to the others.

The rail industry has undertaken an expensive advertising campaign in newspapers and magazines. The ADS attempt to rebut various "myths" about the industry with so-called "facts." A number of conflicting claims and explanations are being made about fuel efficiency, safety records, GoVernment subsidies and the like.

A lot of time is being spent trying to convince the public that the railroads are superior and somehow more deserving than other modes of transportation.

One fact that is clear is that the different transportation modes have to stop feuding. The time and effort spent on charges and countercharges would be better spent doing the job expected of the transportation industry—moving freight.

It's time, for example, to stop bickering over which mode is more fuel efficient. Everyone is aware of the need for fuel efficiency. Each mode has advantages that make it best suited for meeting particular shipping needs. For example, while barge transportation is cost effective and fuel efficient, its service area is limited by the waterways network. It also cannot promise the speed desired for some finished products.

The point I want to make is that all modes of bulk freight transportation are productive and fuel efficient, and each plays an important role in the Nation's transportation system. If all of the modes would recognize this fact, we could all work together to increase the capacity, reliability and productivity of that transportation system.

This can only be accomplished by dropping the selfish attitude that profits and success are gained best by constraining another mode of transportation. There is no need to recount the railroads' continuing fight against the critically needed replacement project at locks and dam 26 on the Mississippi River. Nor is there any need to discuss the railroads' fervent support of very high user taxes for the barge industry.

This attitude ignores the importance of developing the type of efficient freight distribution system that is so urgently needed in this country. By now, it should be obvious to everyone that that system will, by necessity, be intermodal.

I don't want to imply by this that there has not been any cooperation at all between the rail and water modes in the recent past. As a matter of fact, we see improved rail-barge coordination as a major trend for the next decade. Some railroads have begun to promote rail-water service in recognition of the advantages that can accrue in certain areas.

It should be clear to all that the enhancement of our Nation's transportation capability is a most pressing need that must be addressed now.

Our industry has repeatedly demonstrated its flexibility to expand to meet increasing demand. This has been especially true during recent years when fuel costs have sky-rocketed and congestion on the river has increased.

To a large extent, the mid-American river navigation system is a mature system. The major investment is already in place. Some of it needs modernizing, but that expense is relatively minor compared to the benefits of economical and reliable distribution of goods.

Having addressed the necessity for cooperation among the modes, I would like to discuss the role that government must play in setting our national transportation objectives.

Last year, President Reagan promised our nation a new beginning. He has also recognized the need to revitalize our nation's domestic water transportation system. During his candidacy, Mr. Reagan noted: "The inland water transportation system provides an economic and energy efficient method of moving the goods and commodities of the nation. It also provides a vital link in our international trading effort."

I have to admit that some of the measures proposed by the administration affecting the waterways industry are not quite what we had anticipated when Mr. Reagan promised to revitalize our domestic water transportation system.

We are very much concerned that the burden we are being asked to share is disproportionate to sacrifices being asked of other modes of transportation.

AWO endorses non-discriminatory national policies intended to recognize and preserve the inherent advantages of each mode of transportation. User tax increases of the magnitude proposed by the administration, however, would have a debilitating effect on the competitiveness of barge transportation.

Our Nation's transportation system is too important to be viewed as nothing more than another line item in the Federal budget. In some ways, that system is the lifeblood of the country.

That is why we must revamp the relationship between the transportation industry and the Federal Government. The Government should place more emphasis on promoting the growth and modernization of the industry and work to stimulate economically and environmentally sound expansion. At home, competition should be protected by treating all modes of transportation equitably. Abroad, our Government should take a more active role in working with U.S. industry to develop new markets and expand American exports.

The success of such a relationship is documented in the greatly improved economies of other industrial nations that have followed such a course. It simply requires flexibility, creativity and imagination by our Government—qualities that have been in short supply for some time. But when Government demonstrates these qualities, I am certain that industry can be counted on to respond aggressively.

What I'm really calling for is a new attitude on the part of Government—an attitude that recognizes that business, particularly the transportation industries, cannot be expected to reach full potential in a cautious, unpredictable and often restrictive environment. We need a good deal more farsightedness.

In short, it's time our Nation started thinking about the type of transportation industry it needs in today's competitive world. A strong transportation system is essential if we are to improve our economy and international trade status. We can achieve that goal only be setting some concrete objectives based on intermodal development and equitable treatment of all transportation modes.

The results of such an effort would benefit the entire Nation—industry, agriculture, shippers and consumers. That is certainly a goal worth striving for.●

EMINENT DOMAIN FOR COAL PIPELINES IS EMINENTLY FAIR

● **Mr. JOHNSTON.** Mr. President, last week the Energy Committee favorably reported S. 1844, the Coal Distribution and Utilization Act, by a vote of 14 to 6. This legislation, which has been in and out of Congress for over 10 years, would grant the right of Federal eminent domain to those coal slurry pipelines that the Secretary of Energy determines to be in the national interest.

I believe that this bill is overwhelmingly in the national interest. In fashioning this legislation during committee markups, every effort was made to address the concerns of all parties. In so doing, we adopted provisions which would mandate that State law apply in all instances with regard to water rights, and where available, State law would apply to eminent domain procedures unless to do so would have the effect of prohibiting the building of the pipeline.

Mr. President, I believe that the result we reached is fair. I believe that the idea of allowing coal pipelines to enter the coal transportation market is fair, and I believe this bill does that in a manner which is acceptable to all. An editorial to that effect appeared in today's Wall Street Journal. I commend the editorial staff of the Journal, and I commend their work to the attention of my colleagues.

I submit for the Record the following editorial.

COAL TRANSPORT CORRECTIVE

The Senate Energy Committee last week approved legislation that could introduce much needed competition in the coal transportation market and might create further incentives to develop the nation's vast coal reserves. The Coal Pipeline Act would facilitate the construction of pipelines to carry ground coal slurry and would end the railways' virtual monopoly over long-haul coal transport. The legislation is long overdue.

The biggest cost that coal users face isn't for the coal itself but for transportation. Railway charges now often run four times the cost of the coal at the mine. The most viable alternative means of transport is coal slurry pipelines, in which the coal is ground up, mixed with a liquid such as water, oil or even liquefied carbon dioxide from the coal itself and then pumped through the pipeline. Coal pipelines could provide a competitively priced alternative to the railways, which is especially important now that the railroads are asking for more price deregulation under the Staggers Act.

While the idea of coal pipelines has been around for over 90 years, the main problems stopping pipeline planners are their inability to get rights-of-way across the web of railroad lines that crisscross the country and the availability of water to mix with the coal. The irony of the current dispute over whether the federal government should grant the pipelines eminent domian is that Congress granted the railroads land privileges in the 1800s that they are now using to block pipeline passage.

The water issue seems pretty much settled. An amendment, which was introduced by Sen. Malcolm Wallop of Wyoming and approved by the energy committee, would ensure the primacy of state water laws and would effectively mean that states would have to okay pipeline plans before the federal government granted rights-of-way. (This assurance may be more attractive to Western governors now, following a Supreme Court decision last month that limited states' control over the interstate use of water.)

The railway lobby on Capitol Hill has pulled out all the stops to try to block the pipelines legislation. This included some questionable parliamentary tactics, when members of the House Public Works Committee tried recently to sneak out of important quorum calls. Nonetheless, the committee approved the bill and a House floor vote is expected later this month, if the bill isn't held up in the House Rules Committee.

The coal transportation market needs increased competition to help hold down prices, especially if the railways want further deregulation. Pipelines would provide the most efficient means of competition and might eventually increase the utilization of our coal reserves instead of foreign oil. Granting coal slurry pipelines eminent domain across railway land is eminently fair.●

EUROPEANS AGREE TO EXPORT CONTROLS

● Mr. GARN. Mr. President, the debate over the export controls on participation by U.S. companies, or their affiliates or licensees, in the Siberian natural gas pipeline misses with alarming frequency one of the most important points. In their fervor to denounce what they call extraterritoriality, commentators neglect to point out that the European firms affected by the export controls specifically agreed in their contracts with the U.S. companies to comply with relevant export controls, should they be levied.

No one forced these European companies to sign the contracts with these terms in them. When they signed them, they seemed to consider the risk worth the anticipated economic payoff. This is nothing new, Mr. President. It is called political risk and is a common ingredient of international trade. The United States was clearly within its legal rights to insist on compliance. To have done otherwise would have been to allow our export control system to have been seriously circumvented. Not only would our national security have suffered, but this would have left our U.S. companies unfairly restricted while their foreign licensees reaped the profits from products of American design and proprietorship.

In a recent article by William F. Buckley, published in the Washington Post, this point is clearly made. Mr. Buckley is right on the mark when he concludes:

> No one required John Brown or Alsthom to sign to contracts it signed with GE. It is therefore, interference by the European governments, not by the United States, when those companies are directed to do that which they promised they would not do. If Mitterrand succeeds in forcing Alsthom to make those compressors, he is in effect challenging the right of Congress to pass an export control law and of the President to administer it. Who is being unfriendly to whom?

Mr. President, I ask that the article by William F. Buckley be inserted in the Record at this point.

The article follows:

THE CULPRITS: BRITAIN, FRANCE

(By William F. Buckley, Jr.)

Margaret Thatcher has backed off—just a little bit—from her earlier position respecting John Brown Ltd. At first she said, even as Francois Mitterrand in France has said to Alsthom-Atlantique, but notwithstanding President Reagan's order to the contrary, John Brown should proceed to make those fancy compressors needed by the Soviet Union for the huge gas pipeline from Siberia to Europe. Thatcher's new position is that the British government will "assist" John Brown in living up to its "contract."

Meanwhile, the collaborationist press has cranked up an international campaign designed to discredit Reagan, to insist that our relations with Western Europe are going to the dogs, and doesn't the United States know that France and England, like other European countries, are independent, and make their own foreign and economic policies?

Yawp. We realise all of this. Now listen a moment.

In 1949, responding to the imperialist tyranny of Joseph Stalin, Congress passed the Export Administration Act. Under that act, American enterprise is required to get permission of the Department of Commerce before exporting, for the use of the Soviet Union, articles of strategic significance. When the French and British firms acquired the technology from the General Electric Co. to manufacture those compressors, the deal specified that the companies acquiring the licenses from GE would conform to the 1949 act. They agreed to do so.

Now, what is permitted to be exported by the Commerce Department and what isn't permitted has always been a matter for Executive judgment. Reagan, surveying the situation in Europe, concluded that it was not in the best interest of the United States to help the Soviet Union build the pipeline. For one thing, as our ambassador to France, Evan Galbraith, pointed out, only 15 percent of the gas flowing through the pipeline is slated to be sold in Europe. The balance will travel from Siberia into industrial Russia—"a contribution to the Soviet economy comparable to the development of the Russian railroad system at the end of the last century."

If we permit the Soviet Union the use of our technology with which to build this pipeline, we are accelerating the day when the Soviet Union uses gas now stored underground in Siberia to light up the factories in the Soviet Union so busily engaged in the manufacture of weapons whose only use is to threaten, or to kill, non-Russians.

Allies always have differences of opinion, and in the end must respect each others' sovereignty. But no one required John Brown or Alsthom to sign the contracts it signed with GE. It is, therefore, interference by the European governments, not by the United States, when those companies are directed to do that which they promised they would not do. If Mitterrand succeeds in forcing Alsthom to make those compressors, he is in effect challenging the right of Congress to pass an export control law and of the president to administer it. Who is being unfriendly to whom?●

AN ACT OF MURDEROUS TERRORISM

● Mr. TSONGAS. Mr. President, I was saddened and enraged to read in the newspaper this morning about a murderous, coldblooded attack on a famous Jewish restaurant in Paris. Six persons were killed, and 22 wounded, by assailants armed with a grenade and machineguns. The motive appears to have been anti-Semitism, pure and simple.

This sort of vicious, terrorist attack against innocent persons has become all too familiar in the world. Though the attack yesterday in Paris was the gravest incident in France since World War II, it hardly stands alone. As recently as October 1980, another terrorist assault left four persons dead at the country's largest reform synagogue in Paris. In Munich last week a bomb exploded at the passenger terminal of the Israeli airline El Al and injured seven persons.

Of course, not all terrorism is related to anti-Semitism. The continuing cycle of terrorist violence wherever it occurs is despicable and sickening. It

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ought to draw condemnation from every corner of the world.

Mr. President, I request that two articles from the New York Times and the Washington Post dealing with this subject be printed in the RECORD.

[From the New York Times, Aug. 10, 1982]

6 KILLED IN ATTACK ON JEWS IN PARIS

22 WOUNDED AS GUNMEN SHOOT INTO A KOSHER RESTAURANT

(By John Vinocur)

PARIS, Aug. 9.—Unidentified gunmen, firing submachine guns and hurling a grenade, attacked a kosher restaurant and passers-by in a Jewish neighborhood at lunchtime here today, killing six persons and wounding 22.

The police said that the attack had been carefully planned and involved as many as five or six assailants. One of them threw a grenade into the restaurant while the rest opened fire on patrons and then fled on foot in the narrow streets between the City Hall and the Place de la Bastille, shooting bursts into doorways and at automobiles.

"Considering the circumstances and the site of this indescribable action, everything suggests that anti-Semitism was the ugly motive," said Interior Minister Gaston Defferre, who visited the area along the Rue des Rosiers after the attack.

MAYOR CALLS RAID "HORRIBLE"

Mayor Jacques Chirac described the raid as "horrible" and said, "Alas, its racist character appears beyond doubt."

The assailants escaped, and there was no indication from the police what group might have been behind the attack.

The newspaper France-Soir said it had received a telephone call from an organization called Action Directe claiming responsibility. But another caller, saying he represented the left-wing group, which has been linked by the police to three other attacks on businesses and people with Jewish connections in recent days, told Agence France-Presse that it was not involved.

The police described the raid as highly organised, involving a group whose goal was said to be killing as many people as possible.

The deaths come at a time of some tension for France's Jews. France's Jewish population, totaling 700,000, is the world's fourth largest. Many Jews here have felt that the Government has taken a patently pro-Palestinian position on the Israeli siege of Beirut, and that the state television network has favored the Arab side, making little effort to cover the Israeli point of view.

A spokesman for the Israeli Embassy here said, "These murderous attacks are encouraged by a certain climate of hostile propaganda that is very often clearly anti-Semitic."

Tonight, when President François Mitterrand went to a memorial service at a synagogue on a street near where the attack took place there were angry shouts and shoving between policemen and spectators. Cries of "Mitterrand treason!" and "Mitterrand the killer!" went up as the President left his automobile.

After leaving the service, when the crowd had become less aggressive, the President said: "I've always been and I am a friend of the Jewish community of France. Today a new attack by cowards bloodied this community. I bow to its victims and I say that this fanaticism, like all fanaticism, will find itself having to deal with me."

CROWD IN STREET IS TENSE

The crowd in the street had been tense and at times seething since the attack. Members harassed journalists and painted Stars of David on trucks belonging to the state television network. A man said he felt that French Jews were particularly upset because the authorities had been unable to make any arrests in connection with a bombing in October 1980 that killed four persons at the country's largest Reform synagogue in Paris.

The attack today was centered on a restaurant and delicatessen known by the name of its owner as Ches Jo Goldenberg. The restaurant, which specializes in the Jewish cooking of Eastern Europe, is situated on a corner of the Rue des Rosiers, which has been a center of Jewish life in Paris for centuries. The dark, narrow street is now one of small shops, kosher butchers, a synagogue and a ritual bath.

Witnesses offered contradictory accounts of what took place, but there was agreement on a rough outline of events. Shortly after 1 P.M., it was generally agreed, two groups of men arrived at the restaurant, one hurling a grenade through a window and the other opening fire with automatic weapons.

Natali Tvaouri, a restaurant employee, told a reporter: "I was bringing dishes down to the ground floor when I heard a big explosion. When I got to the bottom, I saw one of the terrorists. He had wavy black hair and a light blue jacket. He was about 30, and he was spraying the customers with bullets.

"I ran to the back and the man saw me and went after me, firing away. I jumped out of a window, and just as I got out a burst shattered it after me."

NUMBER OF ATTACKERS UNCLEAR

The scenes in the street were more difficult to reconstruct. Some witnesses said there were only two men, others that there were four, five or six.

Two women talked of having seen two men with guns. One of them said: "They ran with their machine guns over their shoulders, as if it were all very normal and they had time to stop and pick something up. They had brown hair and what you'd call Mediterranean types."

A butcher also said he had seen only two attackers. "They were in a white car that stopped in front of Jo Goldenberg's," he said. "They looked like Arabs to me. They got out with machine pistols in their hands and started shooting bursts into the restaurant. They came to get themselves some Jews. They shot up everything and then went after the shopkeepers in their shops. They were wild."

The police offered few specific details but disclosed that a part of the grenade that had been recovered indicated it had been made in Czechoslovakia.

9 OF WOUNDED IN SERIOUS CONDITION

Nine of the wounded persons were reported in serious condition. Initial identification of the six dead suggested that they were all Paris residents.

A representative of the Palestine Liberation Organization in Paris, Ibrahim Souss, was quoted as "firmly condemning this attack, deploring its victims, and transmitting condolences to their families." Mr. Souss said that "at a time when the Lebanese and Palestinian peoples are being massacred in Beirut by the Israeli army, the Palestine Liberation Organization rejects all blind violence."

In the Rue des Rosiers the tone of the shouting until nightfall was different. "P.L.O. killers!" groups chanted, and some young men declared that they planned to take revenge.

The attacks had the character of a major political problem for Mr. Mitterrand because they fit into a series of terrorists acts in France going far beyond the Arab-Israeli conflict and related issues. United States, Israeli and Palestinian officials have been assassinated this year, and train and car bombings have killed six people. In a time of economic difficulty, a growing sense of insecurity has become an additional liability for Mr. Mitterrand's Socialist Government.

U.S. DEPLORES "DESPICABLE ACT"

WASHINGTON, Aug. 9—The State Department called today's incident in Paris a "tragic and despicable act."

ATTACK DENOUNCED BY ISRAEL

JERUSALEM, Aug. 9.—A Foreign Ministry statement said Israel "denounces the criminal act of terrorism in Paris perpetrated against Jews and Jewish targets."

"The anti-Israel atmosphere in France since the start of Operation Peace for Galilee, particularly in the French media, encourages extremist elements to harm Israelis and Jews," the statement said.

[From the Washington Post, Aug. 1, 1982]

BOMB INJURES SEVEN AT MUNICH AIRPORT

MUNICH.—A bomb concealed in a suitcase exploded in a crowded passenger terminal of the Israeli airline El Al yesterday, injuring at least seven people and causing "considerable damage," police said.

Among the injured were two police guards, one of them seriously hurt, an El Al security officer and four civilians. The blast hurled chunks of the roof and walls through the air, shattering glass and scattering debris for at least 100 yards.

A police spokesman said the bomb went off at around 3 p.m. at Munich's Riem airport in the check-in hall reserved for El Al flights, where nearly 400 people were waiting. "Only the fact that there were no passengers and security officials directly beside the suitcase kept more people from being hurt," said a police official.●

ENDING WORLD HUNGER

● Mrs. HAWKINS. Mr. President, we are indeed fortunate to live in an age which has produced an agricultural technology so advanced that we have the know-how to feed the world.

Sadly, however, we have yet to eradicate hunger and malnutrition. These twin tragedies exist even in America; in other corners of the world they flourish. Hunger and malnutrition walk hand-in-hand with poverty and ignorance. Their victims are generally the most helpless members of society—the very young, the sick, and the elderly.

This week, teams of cyclists from across the country arranged to meet on Capitol Hill to dramatize their commitment to end world hunger. One group of these cyclists came from my home State of Florida, bicycling here from Fort Lauderdale. Others came from Denver and Atlanta. Their ultimate destination is the United Nations in New York.

The goal of these cyclists is to raise the awareness of the American public that hunger is a menace that still exists, even in a nation as bountiful as the United States; that we have the technology to end hunger; and that with knowledge and commitment can come the self-sufficiency necessary to combat hunger.

The Cyclists to End World Hunger have traveled across 15 States, carrying their message to the public and to State and local officials along the way. They have collected the signatures of more than 10,000 Americans who have expressed a commitment to end hunger. They have compiled into "The Presidential Book" the signatures of 2.2 million people who support their efforts to end world hunger.

I would like to join my colleagues in welcoming the cyclists to Washington, and to commend them for their dedication to ending world hunger.●

DAVID W. EVANS

● Mr. GARN. Mr. President, Utah, the West and the Nation lost an advertising and public relations giant Saturday, August 7, with the death of David W. Evans at age 88.

He was the founder of one of the largest advertising agencies headquartered in the West, David W. Evans, Inc., Advertising and Public Relations. The firm has more than $60 million in billings annually which ranks it among the top 1 percent in the country. The company has offices in Los Angeles, San Francisco, Denver, Seattle, Portland, Atlanta, and Pittsburgh.

A native of Salt Lake City, the advertising pioneer founded the firm with a borrowed desk in a small one room office in 1943. He was 50 years of age at the time which demonstrated the unique personal character of this tireless individual.

A dynamic force in the political arena, his agency supervised the successful campaigns of noted national and local political leaders. In addition, his firm was instrumental in the successful efforts aimed at gaining congressional authorization of the upper Colorado River water storage and power projects.

A devoted member of his church, Mr. Evans organized the worldwide public relations campaign (1956–68) for the Mormon Church which played a role in making it among the fastest growing Christian faiths in the world.

Highly regarded and respected by his peers, David W. Evans gave freely of his time to worthwhile community functions and to the advertising industry. He was a member of the executive board of the Great Salt Lake Boy Scouts Council, an executive board member of Ballet West, and a member of the Utah State University Board of Trustees.

I also feel a personal sense of loss at the passing of Dave Evans. As long as I have been in public office, he has been a man who I could—and often did—rely on for sound advice and counsel. In addition, he was my father's friend. They both graduated from L.D.S. High School in the class of 1912.

My heartfelt sympathy is extended to his widow and lifelong companion, Beatrice Cannon Evans, and their five sons.●

TAX ATTITUDE

● Mr. GRASSLEY. Mr. President, in studying the flat tax issue, I have come to realize that any transition from our present tax system to a flat-rate system would be complex indeed. The fact that there would be clear winners and clear losers makes the process difficult.

In any case, these difficulties should not deter us from our basic tax reform goals: efficiency, fairness, simplicity, low rates, and neutrality.

Mr. President, I ask that an article from yesterday's Wall Street Journal, describing a flat-rate system in operation in Hong Kong, be reprinted in the RECORD at the conclusion of my remarks for the benefit of my colleagues. This article brings home the importance of flexibility in a low-tax, broad-based system.

A flat-tax system need not be absolutely pure to be efficient, simple, neutral, and so on. Infinitely more important is the presence of a sound tax attitude on the part of the general public, and especially of those who write and interpret tax legislation. Before we undertake tax reform legislation, we must reassert basic economic principles and then work to preserve them through a restructured tax code. There must be an awareness of how to treat income, savings, investment, consumption, capital, and so forth. We must reinforce the attitude that work and savings are desirable. This is the best possible way to accomplish our goals of tax reform and to preserve what we have accomplished.

The objectives of tax reform must be to channel available wealth into more productive areas, and to facilitate the creation of new wealth to again be channeled into productive sectors. This can be accomplished through low-tax rates and a neutralized tax base. Lower tax rates encourage production and raise after-tax income. Neutrality channels that income into productive, market-efficient segments of the economy. Presently, high tax rates discourage productivity and savings while the bias toward debt and consumption cause market disequilibriums, distortions, and inflated prices.

That is not to say that we cannot show flexibility in our restructured tax system. Allowing tax exemptions for charity and for elderly care is a noble practice. Furthermore, there is nothing economically unsound about this kind of exemption or deduction. Most arguments against retaining the charity deduction center on the inevitability of other exemptions and deductions finding their ways into the tax code once the precedent has been established. In the pursuit of basic social objectives, we must overcome that fear. So long as these goals are not burdensome and costly, we should remain flexible. The key is not to turn our backs on social goals. The key is to create an awareness of why tax reform is necessary, why reform should lead to a work-and-save tax code. This awareness will help cultivate a desirable tax attitude that will temper our flexibility with prudence.

Mr. President, I hope that as we continue to study the feasibility of broad-based, low-rate tax reform in the Senate, we will keep in mind the goals of reform rather than simply the design of reform. We must develop here, first, a favorable tax attitude toward income, savings, and production. This is a necessary precondition for meaningful tax reform. Without a favorable tax attitude we are doomed, no matter how extensive the tax reform, to the inefficiencies and inequities of the present system.

The article referred to follows:

[From the Wall Street Journal, Aug. 9, 1982]

HONG KONG'S FLAT TAX: A MODEL FOR OTHER COUNTRIES?

(By Robert Keatley)

HONG KONG.—No one likes to pay income tax, and those who must pay the most seem to like it least.

This helps explain why the flat-tax folks are enjoying a boomlet in the U.S. Advocates of lower income tax rates—ones which would eliminate most or all personal deductions—have made their cause fashionable in and out of the U.S. Congress. They argue nobly that lower tax rates, uniformly applied, would reduce tax abuse and unleash productive forces that in the long run would make everyone richer.

Less often conceded, except in denials, is the greed factor. Many upper income earners believe their tax bills would drop if rates were lowered, even if deductions were cut and loopholes closed. In addition, of course, there is widespread belief that the U.S. income tax system, like those of many other industrial nations, is unfair, complex and economically stifling.

"Our present taxing system has become a labyrinth for the wary and unwary alike, filling endless volumes with its exceptions to exceptions, and indecipherable differentiations in the way we tax various sources of income," complains Sen. Dennis DeConcini (D., Ariz.) on behalf of a cause which is uniting political liberals and conservatives these days.

And like some other flatter-tax advocates, Sen. DeConcini cites the Hong Kong experience as a model the U.S. might well copy. If so, it would seem equally applicable to other industrial nations, where taxes are also high and systems complicated, and to many de-

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veloping states, whose confiscatory tax systems produce insufficient revenue but excessive abuse.

There's no doubt that Hong Kong taxes are low and simple. Few personal deductions exist, and family allowances help only low-income earners. The maximum individual rate is 15 percent of taxable income, and there is no tax at all on overseas earnings, capital gains or dividends. Businesses can deduct all legitimate operating expenses, plus 55 percent of their capital investments in the first year, from gross income; they pay only 16.5 percent tax on the rest.

An official synopsis of all Hong Kong taxes fills only 12 small pages, plus a paragraph, of an information pamphlet. A simple three-page tax form covers liability on salary, business, property and interest income. A single additional page explains how to use the form.

Thus a closer look does seem warranted. But a caution is in order. Salary and profit taxes here don't produce nearly enough income to finance the Hong Kong government's operations, even though social services range from minimal to inadequate by modern standards. Salary taxes account for only 11 percent of total government revenue, while business profit taxes add a further 20 percent. This means the vast bulk of revenue must be found elsewhere, including from land sales—a source not open to many states.

Even so, the Hong Kong tax structure is one of the world's few examples of a (relatively) flat tax in action, and some of its terms meet objections that American critics often raise.

For example, Hong Kong permits charitable deductions. An earner here can donate up to 10 percent of his salary to approved charities—the government publishes a list—and deduct that amount from taxable income. This cuts his tax bill somewhat, but still means up to 85 percent of the gift must come from his own pocket. Most American flat-tax proposals don't permit such deductions,. which worries private foundations and charities.

The only other deductions permitted are personal and family allowances, extremely generous by international standards. At current exchange rates, a single person pays nothing on his first $4,670 of salary; a family of four can exclude $11,600. Amounts above that are taxed at increasingly high rates until all benefits of family allowances are wiped out. From that point, the taxpayer pays the maximum effective tax of 15 percent on gross earnings (minus only charitable contributions). At present, the full 15 percent rate takes hold at the $20,000 mark for single people and at $39,000 for a family of four.

To discourage large families, crowded Hong Kong scales down allowances from $1,330 for the first child to only $165 for the seventh and beyond. To encourage private care of the elderly, an allowance of $1,330 can be taken for each parent supported by family members.

That's it. There are no tax shelters, no deductions for interest payments nor other ways for most to dodge the assessors. The low rates and high personal deductions mean only 218,000 of a 5.2 million population will pay regular salary taxes this year, though 66,000 more will pay under a "personal assessment" provision which can reduce tax bills somewhat.

However, the system does permit some tax avoidance. A wealthy shipowner, for example, could incorporate his vessels in offshore tax havens, register them in flag-of-convenience locations and collect earnings as dividends. This would let him avoid paying anything significant toward upkeep of any part of the international economic system which brings him great wealth and social prestige.

But the Hong Kong experience indicates there's no reason to be doctrinaire about a flat-tax system. Business profits are taxed at higher rates than personal salaries. This colony taxes large estates—anathema to some flat-tax ideologues—at rates from 10 percent to 18 percent, beginning at the $333,000 mark. (But the "principal matrimonial home" is excluded.) Though committed to the free market system. Financial Secretary John Bremridge stresses Hong Kong is "ordinarily non-interventionist but certainly not laissez-faire. The approach is more flexible than ideological.

This attitude could bring higher taxes in the years ahead. Local demand for social services is growing, and more money could well be channeled into education, medical programs or pensions. Government spending already equals 24 percent of the gross domestic product, up from 17 percent five years ago, and the trend continues.

Yet the underlying philosophy here is to have low taxes on high prosperity, an approach that isn't endangered. Moreover, spending plans remain closely tied to revenue prospects; Mr. Bremridge, like other government officials, believes long-term deficit spending is dangerous and cites the poor status of Western economics as proof.

A Hong Kong-type tax structure might give such economies their needed boost, as advocates claim. But rates would probably have to be higher if existing programs are to be financed. "If you need money, you don't get it from the rich," warns the blunt Mr. Bremridge. "There aren't enough of them." He believes a Hong Kong-type tax system would be more right for industrial states than the fiscal messes they now administer, but warns a switch wouldn't be easy and might be no panacea.

But experience here warrants close study by those who seek basic revisions. If nothing else, it proves a simple system with low rates can be applied with flexibility. Terms can be adjusted for social as well as fiscal reasons without compromising basic goals or wallowing in pointless doctrinal disputes.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Diana Hamilton of the staff of Senator RIEGLE, George Dahlman of the staff of Senator DIXON, Mary Moses of the staff of Senator QUAYLE, Terry Spillsbury of the staff of the Commerce Committee, Dan McNamara of the staff of Senator DURENBERGER, Bob Ziemer of the staff of Senator KASTEN, and Tim Bergan of the staff of Senator BOSCHWITZ, to participate in a program sponsored by a foreign government agency, the Canadian National Harbors Board, in Montreal, Canada from July 8 to 11, 1982.

The committee has determined that participation by the above-named staff members, at the expense of the Canadian National Harbors Board, to discuss the St. Lawrence Seaway and transportation problems, is in the interest of the Senate and the United States.●

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. TOWER. Mr. President, I ask unanimous consent that, pursuant to the previous order, the Senate stand in recess until 9:30 a.m. tomorrow.

There being no objection, at 10:01 p.m., the Senate recessed until tomorrow, Wednesday, August 11, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10 (legislative day, July 12), 1982:

THE JUDICIARY

Thomas F. Hogan, of Maryland, to be U.S. district judge for the District of Columbia vice William B. Bryant, retired.

Alex Kozinski, of the District of Columbia, to be a Judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, 378-28-6898FR, U.S. Air Force.

IN THE ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, 427-28-9186, Army National Guard of the United States.

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., 557-32-7721.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended.

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Clayton B. Anderson, 503-56-3340
Maj. George C. Arvanetaki, 041-26-0619
Maj. George D. Brooks, 407-42-0022
Maj. Raymond A. Cline, Jr., 159-28-9276
Maj. John J. Collins, 040-34-3413
Maj. David J. Coons, 057-28-6174
Maj. John R. Daigneau, 047-24-4262
Maj. Michael R. Denton, 363-42-1524
Maj. Gary W. Felstead, 080-34-4042
Maj. Duane A. Fitch, 479-44-7978
Maj. Robert F. Francoeur, 002-26-0160
Maj. Timothy J. Griffith, 483-52-7490
Maj. Paul R. Haith, 507-36-8704
Maj. William L. Howland, 144-30-0022
Maj. James W. Lundy, 509-42-7380
Maj. Kenneth M. Mathias, 219-26-3812
Maj. Edward G. Moran, 110-30-3088
Maj. Richard Norwood, 194-30-1131
Maj. Charles E. Porter, 276-36-6807
Maj. Douglas J. Scott, 010-32-4937
Maj. Mary C. Small, 266-68-5191
Maj. Larry D. Snody, 241-66-0440
Maj. Thomas E. Stephens, 530-28-3154
Maj. James E. Wiseman II, 235-62-8690

MEDICAL CORPS

Maj. Pomp T. Carney, 427-66-3233
Maj. Gerald D. Loos, 503-40-6401
Maj. Hugh E. McGee, Jr., 145-30-9499

LEGAL

Maj. Michael L. Cruse, 429-78-7606
Maj. Terrence P. Woods, 527-60-5172

In the Army

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, and 533:

Colonel

Porter, Robert O., 541-34-2316

Lieutenant colonel

Smith, Edward F., 146-32-1660

Major

Davis, Rudy P., 534-40-4313
Herod, Herbert L., 538-28-5599
Jones, Lafayette, Jr., 226-56-9538

Captain

Duque, George M., 046-40-2668
Kayfetz, Richard, 265-64-8595
Sharp, Robert A., 429-88-7056

In the Navy

The following-named commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of captain in the Staff Corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Captain

Arsola, Javier Arquimedes
Bauer, Earl A., Jr.
Bernstein, Sidney Steman
Bigley, Harry Alan, Jr.
Broadley, Paul Hickman
Burkle, Frederick Martin, Jr.
Burvant, Michael Urban
Fowler, James Raymond
Gansa, Alexander Nicholas
Haney, J. F. B.
Huff, Carl Wayne
Jones, Alan Clifford
Levine, Michael Jay
Moran, Thomas Edward
Newman, Cyril
Proctor, Jack D.
Schroder, Paul Erwin
Smith, Arthur Mattus
Stuckey, Charles Edward
Villadiego, Rafael E.
Wallin, Gene Ambrose
Watterson, Samuel George
Zaroulis, Charles G.

SUPPLY CORPS

Captain

Alwine, Paul R., Jr.
Barr, Charles V.
Bartuska, Anthony John
Bentson, Gordon J.
Bolin, James H.
Booth, Henry Adolph, Jr.
Brill, Henry Fred
Budill, Edward Joseph, Jr.
Chapman, William D.
Connell, James Joseph
Floyd, Edward T.
Gilman, Joseph
Hecker, Robert Wyatt
Herndon, David Lewis
Hillman, Tatnall Lea
Hoover, Marcus Gray
Hutchinson, Thurlow Q.
Kane, John J.
Levinson, Henry Gerald
Loreen, Jon Michael
Mitchell, Arthur Jonathan
Modell, Robert Leonard
Morgan, Ronald G.
Morse, Gary Allan
Mulhern, John J.
Noel, Wilbert E.
Pfund, Gale Arlo
Price, Jacob Morris
Priest, William G., Jr.
Riggs, Richard William
Riordan, John Joseph
Soletti, Lawrence A.
Titus, Robert George
Vanness, Robert L.
Waite, Richard, IV
Warrick, James Craig
Webb, Evans W.
Wright, William Ross

SUPPLY CORPS (TAR)

Captain

Elliott, Richard E.

CHAPLAIN CORPS

Captain

Awes, Vernon Edward
Conn, George Malrice, Jr.
Cronin, Hugh John
Lundeen, Lyman T.
Peters, Frederick John
Shaner, Donald Wayne
Strickland, William J.

CIVIL ENGINEER CORPS

Captain

Aaron, Lawrence Edward
Bader, Robert Housel
Bridges, Donald Norris
Hinkle, Daniel Baxter
Maddox, Robert Gilmer
Miller, Charles Donald
Pickrell, John Henry
Smith, Gerald
Walter, Richard Joseph
Wolfram, Carl Bruno

JUDGE ADVOCATE GENERAL'S CORPS

Captain

Adams, Joseph A., Jr.
Bales, John Albert
Brant, Kirby Ensign
Eide, David Benjamin
Evans, John Arlen
Feldman, Joel Martin
Flanagan, Hugh Michael
Galliani, William Rudolf
Gehrke, Harold Dennis
Hamner, Elmer Duncan, Jr.
Hetherington, John W.
Jakaboski, Sheodore P.
Jones, Taylor Webb
Koenig, Rodney C.
Lanza, Carl Francis, Jr.
McAuliffe, William C., Jr.
Nobles, Eric Arthur
Psihas, Andrew Peter
Rabideau, Clarence J.
Roberts, Charles Pinckney
Schumacher, James Joseph
Smallmon, John William
Wimberly, Bennie Charles

DENTAL CORPS

Captain

Balmforth, John Bernard
Bennett, Steven Laurel
Brown, William Dean
Cimino, Samuel Peter
Crowell, Nelson Thomas
Emery, Lee Edward, Jr.
Ennis, Richard Jerome
Eure, Darden Johnson, Jr.
Kumamoto, Steven Yoshikazu
Mailander, Gary Dean
Moutos, Minelads George
Murphy, Richard Thomas
Pebbles, Harold Alba, Jr.
Smith, Charles Luther, Jr.
Sweeney, James Michael
Vick, John Bennett
Williams, Alvin Richard
Yavel, Robert Paul

MEDICAL SERVICE CORPS

To be captain

Carrera, Richard Nestor
Davis, Linda Jane
Earle, Alvin Mathews
Sagan, William
Sager, Kenneth Bernell

NURSE CORPS

To be captain

Haubenreich, Catherine Ruth
Ryan, Dorothy Angela
Ward, Judith Ann

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

To be commander

Abdon, Soledad V.
Aldana, Zena Ida H.
Allen, James W., Jr.
Aziz, Abdul
Bauerle, Leonard C.
Borlongan, Ofelia Maralit
Bosworth, William Posey
Brown, Malcolm Dewitt
Chan, Yung Cheung
Dalakis, Helen
Druckemiller, William H., Jr.
Esperanza, Bonifacio Coloma
Foster, John Watkins
Galang, Remedios Navarro
Goodrum, James K.
Gupta, Alicja Urszula
Jensen, Christian Edward
Johnson, Charles M., III
Jurjescu, Octavian
Kambic, Anne R.
Khalil, Mostafa Ibrahim
Krauss, Jonathan Seth
Lasquety, Ludovico Z.
Lotsu, Solace M. A.
Makino, Ryoji
Matthews, David C., Jr.

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McNeil, Harold Gordon
McPike J. Donald, Jr.
Moser, James Robert
Padua, Federico Pasudag
Pantera, Richard L., Jr.
Punzalan, Rodolfo Vallejcs
Rahimian, Osra Soraya
Ramsay, David L.
Ranck, Sidney Graydon, Jr.
Stone, James R.
Straughn, William R., III
Taylor, Norman W.
Vanmeter, Charles Jackson, Jr.
Yuen, Michael Hak Lai

SUPPLY CORPS

To be commander

Ackermann, William Charles
Aljoe, Daniel William
Allan, James Scott
Allen, Arthur Knight
Allen, Brian Stanley
Allen, Bruce Leroy
Amour, Gilbert Neal
Appel, George Christian
Arendt, Kenneth E.
Artherholt, Michael Lee
Bachman, Richard Bruder
Baker, William John
Ballou, Charles Wilkins
Barry, Edward Joseph
Barth, Webster Ewing, III
Bentley, Brian Smith
Boal, Donald Stuart
Bogart, James Russell
Bohm, Dwight Keith
Boman, Roger Lyon
Bourke, James Patrick
Boyarski, John R.
Brock, Douglas Alan
Biennagel, George David
Casey, William John
Cavanagh, Arthur L., III
Chronister, Carl Stewart
Cobb, Francis Reilly
Collins, Larry Carver
Cook, Charles D.
Cornie, Robert Lynn
Crellin,Thomas Earle
Cumesty, Edward George
Dintaman, Roger Louis
Dodson, John Roger
Donegan, George Joseph, Jr.
Driscoll, Philip Thomas
Dunnavant, David Earl
Eamigh, John Relon
Emmons, John Faum
Farkas, James Anthony
Fasnacht, David Gilmore
Field, Lercy Frank, Jr.
Finch, Gerald Llcyd
Finefield, Anthony Edward
Giacomini, Joseph Augustine
Gilbart, Gordon John
Gillespie, John Clement
Gottlieb, Harris Nathan
Goulet, Gerard Romeo
Graef, Donald Arthur
Greiner, William Reinfold, Jr.
Griffiths, William D.
Griswold, Robert Edward
Guy, William Edwin, Jr.
Hall, Michael Robert
Hand, Edward Francis
Hanlin, John Paul
Harden, David Theodore
Harris, John W.
Harris, Ronald Samuel
Harty, James Patrick
Hayne, Robert Tenbrook
Hayslett, Roderick J.
Hemmy, Victor H., Jr.
Henderson, James Patrick
Hummer, Robert Charles
Hupp, Thomas Pellier
James, William Granville
Karsner, Garry Lee
Kaye, Larry James
Kelley, Henry George
Kelly, Thomas Andrew
Kice, Charles Jeffrey
Kingen, Thomas Frederick
Knudson, Richard Theodore
Kotys, William Nicholas
Kule, Christopher Anthony
Lang, Eugene Cottrell, Jr.
Lillquist, David Bartley
Lindstrom, Kenneth Wayne
Lundell, Douglas
Maier, Paul Victor
Martin, William Brian
Mathews, Gerald Kenneth
Maxwell, David Everett James
Mayhew, Patrick James
McAllister, John James, Jr.
McKellar, Robert Rhodes
Menard, Ronald M.
Middleton, George Robert
Miller, David Lee
Minaudo, John Philip
Mires, Arthur William, Jr.
Miri, John Nicholas
Mize, Robert Thomas
Morell, Robert Phillip
Moser, Daniel Earl, Jr.
Murphy, John
Murray, William Michael
Nierman, William Charles
O'Bryon, Tom Watson, II
Odachowski, Edward Joan, Jr.
Odonnel, Robert Erwin
Overson, Alonzo Robert
Owens, James David
Perkins, James McArthur
Perkins, John Barnard
Peters, Robert Allen, Jr.
Phares, Robert Charles
Potter, David Andrew
Powers, Dennis Michael
Powers, James Bruce
Qualls, David William
Ramsey, Danny Dick
Randall, Ellsworth James
Reed, Wallace Smart
Rider, Richard James
Roby, Jeffrey Paul
Rodolico, Rhody James
Ross, Lewis Williams, Jr.
Rost, David Larry
Rouzer, William Wolf
Royal, William Appleby
Ruch, Thomas Lee
Rudy, John Charles
Ryan, James Arthur
Sarbello, Joseph Samuel
Satir, Stephen Morris
Sato, Kenneth Kenichi
Sepoich, Carl Victor
Shaeffer, John Michael
Shorter, James Russell, Jr.
Sims, Joseph Roy
Sisola, Gregory Douglas
Solie, Theodore Daniel, III
Sonnenberg, Robert W., Jr.
Spathelf, Frederick Carlton
Stanford, James Lawrence
Stewart, James Frank
Stout, Kenneth Dale
Taylor, Allen Griffith, Jr.
Taylor, Steven John
Tracy, Richard Tillotson
Traupe, Robert Lloyd
Tucker, Richard William
Twomey, Kevin Mitchell
Tyde, Stephen John
Varney, Philip Riggs
Vortmann, Thomas Allan
Weigle John Michael
Weldon, Robert Donald, Jr.
Willcox, Kenneth Alan
Williams, John Leslie
Wood, MIchael Gordon
Worsdell, Terry Allen
Worthen, Winston Kent
Zahn, Richard Lee

SUPPLY CORPS (TAR)

Commander

Griffith, Paul D.
Lemburg, Myrl Lee
Miller, Robert B.
Pearson, Douglas Roland
Pretulak, Ronald T.
Wagner, William A.

CHAPLAIN CORPS

Commander

Dean, John Cramer
Goldstein, David S.
Hearl, Alan Frederick
Morrison, David Richard
Padgett, Clarence Dixon
Westerhoff, Robert Ralph

CIVIL ENGINEER CORPS

Commander

Anderson, Curtis Wilford
Andres, Gary Howard
Behounek, Charles Joseph
Bredahl, Timothy Donn
Delciotto, Joseph John, Jr.
Delwiche, David Edmund
Dickerson, Jerauld Lee
Elsner, Bruce Paul
Gabrielson, Edward Maler
Graham, Robert Kenneth
Gruel, Larry Howard
Hall, Albert Brown, III
Heinstact, John Powers
Hoversten, William August J.
Ishihara, James
Johnson, Richard Keith
Lombardi, Charles Guthrie
Lynch, John Walter
Miller, Richard Howard
Nichols, Thomas Bruce
Nielsen, James Niels
Norman, Richard Melton
Osgood, Frederick J.
Painter, Dennis Wayne
Phillips, David Wharton
Price, David Andrew
Royal, Clifford Harper
Schultes, Daniel Thomas
Smith, Robert Frank
Steere, David Bennett
Stegmiller, John Richard
Stitle, Harry Mariam, III
Tyner, Weldon Harry, Jr.
Webber, Raymond Paul
Werner, Jack Allen
White, Dean Kimball
Wills, Winston Douglas
Winesett, Robert Davis, Jr.

JUDGE ADVOCATE GENERAL'S CORPS

Commander

Allison, Richard Harvey
Ameika, Walter Stephen
Arledge, George Edward
Atherly, Harold Ervin
Baker, Bruce T.
Bell, Thomas Porter, Jr.
Brets, Charles George, Jr.
Brown, Gary L.
Carletti, James Silvio
Conliffe, Frank K.
Costello, Paul K.
Doherty, Daniel Bruce
Dosch, Lowell John
Francke, James M.
Haskell, Daniel Mark
Hendricks, Ronald Lee
Isom, Charles E.

Jones, James Edwin
Levin, Roger
Livesey, James Eugene
McCarthy, Justin John
Meeker, Theodore Greene
Mutzebaugh, Richard Frances
Read, Dale W., Jr.
Renton, William James
Riepe, Michael A.
Roedersheimer, Charles J.
Schexnayder, Thomas Florent
Showalter, John Stuart
Skone, Edward Robert
Sollecito, Daniel V.
Sturek, Clifford Joseph
Traeger, Louis Victor
Warner, Robert Sands, Jr.
Wegener, Edmund T., Jr.

DENTAL CORPS

Commander

Bateman, John K.
Berick, Joel David
Biddulph, John Wesley
Bonebreak, Byron Austin, Jr.
Burjetka, Mira George
Cottone, James Anthony
Creal, Stephen M.
Dembinski, Thomas H., II
Dorr, Charles Henry, Jr.
Eickenhorst, Julius Wayne
Henkle, Hubert Allen
Hull, Thomas Edwin
Larkin, George Francis, Jr.
Latimer, Louis Steven, II
Marini, Ronald Michael
McCann, David Thomas
Menser, Daniel H.
Moore, Alfred Phillips
O'Boyle, Ronald C.
O'Leary, Kevin John
Petersen, Byron Thad
Peterson, Howard C., Jr.
Phreaner, Robert John
Polifko, Michael, III
Reifenstahl, Dean Clay, Jr.
Rothstein, Jerome Philip
Sharp, Bobby Montgomery
Sliwa, Norman William
Spangler, David James
Springstead, James Merritt

MEDICAL SERVICE CORPS

Commander

Perry, Joel Wayne
Rose, Charles Samuel
Sawyer, Dennis Lee
Williams, Lionel Augustus J.

NURSE CORPS

Commander

Baker, Shirley Anne
Ballew, Carol Marie
Burns, Patricia L.
Buser, Carol Ann
Craig, Doris Josephine
Dahlgren, Sarah Shepard
Eschenbaum, John Melvin
Foster, Arline P.
Gillchrest, Anita M.
Hazelwood, Dorothy Bean
Levin, Joanne
Pedmo, Richard Paul
Rosenberger, Carol A.
Sherman, Thomas Phillip
Skipworth, Nancy Stolare
Smith, Marilyn Anderson
Stuebe, Judith M.
Sutherland, Sandra Fiser
Taylor, Louise Ann
Watson, Patricia James

IN THE MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

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HOUSE OF REPRESENTATIVES—*Tuesday, August 10, 1982*

The House met at 10 a.m.

Rabbi Israel Miller, senior vice president, Yeshiva University, New York, N.Y., offered the following prayer:

Almighty Father in Heaven, we acknowlege Thy presence and bow our heads in prayer before Thee, our Maker. Even as we bow our heads, we lift our hearts in thanksgiving for the opportunities granted this body to lead and legislate for the benefit of all the people. May we use our resources resourcefully. Grant us, O Lord, the faith, strength, and courage to face the challenges which confront us and the knowledge and skill to conquer them.

We pray for our country and the ideals of liberty and freedom here enshrined. We pray that man's inhumanity to man may forever end. May we realize that we are closest to Thee when we are nearer to our fellow human beings, helping all who are in distress and sorrow.

May peace and justice be our calling, and the Earth be full of knowledge of Thee as waters cover the sea.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **HUNTER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **HUNTER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 25, answered "present" 2, not voting 120, as follows:

[Roll No. 252]

YEAS—287

Addabbo
Albosta
Alexander
Anderson
Annunzio
Anthony
Archer
Ashbrook
Aspin
Badham
Bailey (PA)
Barnard
Bedell
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bingham
Bliley
Boggs
Boland
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burton, Phillip
Campbell
Carman
Chappie
Clausen
Clinger
Coats
Coleman
Collins (IL)
Collins (TX)
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Philip
D'Amours
Dannemeyer
Daub
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dicks
Dingell
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emery
English
Erlenborn
Evans (IN)
Fary
Fascell
Fazio
Fiedler
Findley
Fish
Fithian
Florio
Foglietta
Foley
Fountain
Fowler
Frank
Frenzel
Frost
Gephardt
Gibbons
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hefner
Hendon
Hightower
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McDonald
McEwen
McGrath
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Nelligan
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reuss
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roukema
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Staton
Stenholm
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Wampler
Waxman
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolpe
Wortley
Wright
Wyden
Wylie
Young (FL)
Zablocki
Zeferetti

NAYS—25

Atkinson
Bailey (MO)
Barnes
Butler
Clay
Coughlin
Dickinson
Emerson
Evans (IA)
Fields
Gejdenson
Goodling
Harkin
Johnston
Latta
Luken
Miller (OH)
Mitchell (MD)
Murphy
Roemer
Rousselot
Sabo
Schroeder
Walker
Washington

ANSWERED "PRESENT"—2

Oberstar
Ottinger

NOT VOTING—120

Akaka
Andrews
Applegate
AuCoin
Bafalis
Beard
Beilenson
Bevill
Biaggi
Blanchard
Bolling
Boner
Bonior
Bonker
Bowen
Brodhead
Brown (OH)
Burgener
Burton, John
Byron
Carney
Chappell
Cheney
Chisholm
Coelho
Conable
Conte
Conyers
Crane, Daniel
Crockett
Daniel, Dan
Daniel, R. W.
Daschle
Davis
Dellums
Dixon
Dornan
Dougherty
Dunn
Edwards (AL)
Edwards (OK)
Erdahl
Ertel
Evans (DE)
Evans (GA)
Fenwick
Ferraro
Flippo
Ford (MI)
Ford (TN)
Forsythe
Fuqua
Garcia
Gaydos
Gilman
Ginn
Goldwater
Green
Grisham
Hatcher
Hawkins
Heftel
Hertel
Holland
Ireland
Jacobs
Jeffries
Jenkins
Kemp
Lantos
LeBoutillier
Lee
Lott
Madigan
Markey
Marks
Marlenee
Martin (NY)
McClory
McCloskey
McCollum
McDade
McHugh
McKinney
Michel
Moffett
Neal
Nelson
Nichols
Pursell
Quillen
Railsback
Rhodes
Richmond
Rinaldo
Rose
Rosenthal
Roth
Santini
Savage
Seiberling
Shannon
Siljander
Stangeland
Stokes
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Watkins
Weiss
White
Williams (MT)
Wolf
Yates
Yatron
Young (AK)
Young (MO)

□ 1015

Mr. ALBOSTA changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) entitled "An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of

State, the International Communication Agency, and the Board for International Broadcasting and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2774. An act to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

RABBI ISRAEL MILLER

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, we are privileged today to have as our guest chaplain one of the most distinguished members, one of the leaders, of the Jewish community in this country. He is senior vice president of Yeshiva University, Rabbi Israel Miller.

I have had the privilege of knowing Rabbi Miller as a friend since I first ran for Congress in 1964. He was for 27 years Rabbi of the Kingsbridge Heights Jewish Center in the Bronx, which is in my district. He was a chaplain during World War II in Europe. He has held numerous high positions, including president of the Rabbinical Council of America, chairman of the American Jewish Conference on Soviet Jewry, and chairman of the Conference of Presidents of the major American Jewish organizations, and many, many others. He has been honored with innumerable awards.

But the most important thing about Rabbi Miller is that he is one of the truly great human beings it has ever been my privilege to know.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. CAMPBELL reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS, 1983

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY, TUESDAY, AUGUST 10, 1982, DURING CONSIDERATION OF LEGISLATION UNDER 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today during consideration of legislation under the 5-minute rule for purposes of considering the Clean Air Act, H.R. 5252.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair will note those Members standing. There must be 10 objectors.

The Clerk will note the Members standing.

An insufficient number. The gentleman's request is granted.

Mr. EDGAR. Mr. Speaker, a parliamentary inquiry.

Mr. DINGELL. Regular order.

The SPEAKER pro tempore. The regular order was that the Chair has stated there was an insufficient number, and the gentleman's request is granted.

PARLIAMENTARY INQUIRY

Mr. EDGAR. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. EDGAR. Mr. Speaker, a unanimous-consent request was made that they not sit. There was an objection heard. The Speaker was not very clear in letting us know the action of 10 Members standing.

Mr. DINGELL. I ask for the regular order.

Mr. EDGAR. Those Members standing would have been sufficient had the membership of the House known what the action was at that point.

The SPEAKER pro tempore. The Chair clearly stated it requires 10 Members. If the Chair is not mistaken, he mentioned it twice. There was not a sufficient number. The gentleman's request was granted.

UNNEGOTIATED SOCIAL SECURITY CHECKS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today I am introducing legislation which could provide millions of dollars to the social security trust funds without requiring payroll tax increases for American workers or benefit cuts for our retirees.

Every year millions of social security dollars are lost because people, for one reason or another, do not cash their checks. Because the checks are unnegotiated this money sits in the Federal Treasury doing nothing. The money is not transferred back to the social security trust funds nor does the money earn interest. This happens for two reasons: One, there is no limit on the life of a social security check. Also, the Treasury Department has no system for identifying social security checks from other Government checks. The worst part is that neither the Treasury Department nor the Social Security Administration knows for sure how much money is being lost from the trust funds. Estimates run between $20 and $30 million each year, and between $200 million and $600 million cumulative since the first social security checks were sent out in 1940.

The legislation I am introducing today would force the Treasury Department to establish and implement procedures to identify uncashed social security checks, would credit future uncashed checks back to the social security trust funds, and would authorize an appropriation to reimburse the social security trust funds for checks currently outstanding dating back to 1940. I am also calling on the GAO to make a precise determination of the amount of money that has accumulated over the years from these uncashed checks. With this knowledge we can reimburse the trust funds for the proper amount.

During this time when social security benefits are being threatened, my bill would provide a way to put social security money already collected to the use it was originally intended, and make sure that future uncashed checks will be reinstated to the appropriate accounts.

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CLINCH RIVER BREEDER REACTOR PROJECT—AN UNJUSTIFIED BOONDOGGLE

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, despite the stated objections of over 100 Members of this House, last Thursday, the Nuclear Regulatory Commission granted a licensing exemption for the Department of Energy for the Clinch River breeder reactor project. DOE can now begin digging at the Clinch River site without the benefit of a construction permit.

Many of us in this body are very disappointed that this crucial licensing process has been set aside so that when the Clinch River project is once again debated on the floor of this body, its supporters can exclaim, "We can't terminate this project, we already have a hole in the ground."

However, despite this disappointment, I am convinced that when the Congress examines the latest evidence concerning the economics of this project, this body will reach the conclusion that it makes a lot more sense to fill in the hole at the Clinch River site than to spend billions of taxpayer dollars to continue this unjustified boondoggle.

MR. NOFZIGER SHOULD ADMIT HE IS WRONG

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, it is with a great sense of sadness and outrage that I come before the Members this morning as a result of an article in the Washington Post which said that Lynn Nofziger, long-time Presidential adviser and one of the architects of supply-side economics, is quoted as saying that he is returning to the Presidential fold to support the administration's tax bill. And when asked why he was doing so he said, "I am like a woman—I changed my mind."

Well, I simply would like to say to Mr. Nofziger, why does he not become just a person. If he is going to continue in this sexist vein, then he might as well "stand up like a man," and admit that he was wrong and changed his mind. Then he would show he is a real person.

T. OVERTON BROOKS VETERANS' ADMINISTRATION MEDICAL CENTER

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, today I have introduced legislation which will designate the Veterans' Administration medical center in Shreveport as the T. Overton Brooks Veterans' Administration Medical Center. This will serve as a tribute to one of the most distinguished men to have served in the U.S. Congress. Mr. Brooks' career in the Congress began in 1936, and he served for more than 20 years before his untimely death in 1961. He has left a record of achievement in the Congress which few have equaled. During those years in Congress, his efforts yielded benefits both for the people of his district and the Nation. Mr. Brooks was influential in winning approval to construct the Veterans' Administration hospital in his district. As well, he played a crucial role in efforts to build Barksdale Air Force Base and to make Fort Polk Army installation a permanent one.

A native of Shreveport, Mr. Brooks graduated with honors from the LSU Law School in 1923. He also served as commander of Shreveport's Lowe-McFarland American Legion Post.

I deeply believe that the tribute I have proposed here today is but slight recompense for the debt this country owes this fine statesman. It is a fitting and proper memorial to his legacy of service that we name and dedicate this medical center as the T. Overton Brooks Veterans' Administration Medical Center.

□ 1030

SOVIET ATTITUDE AWAITED AS HUNGER STRIKE ENDS

(Mr. FASCELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I want to call the attention of our colleagues to the case of Yuri Balovlenkov, the Soviet citizen who was on a hunger strike because he could not get permission to emigrate from the Soviet Union to join his wife, a Baltimore nurse, in the United States. Yesterday, at her behest and because she deliberately took action to save his life, he finally terminated his 36-day fast. His wife told him that she had received assurances that he would soon be allowed to emigrate and rejoin her and their 2-year-old daughter in this country. Unfortunately, Mrs. Balovlenkov had received no such promises from Soviet authorities but, desperate to save her husband's life, she felt compelled to lie to him and say that she had.

Yuri Balovlenkov is one of the original members of the "divided families group"—Soviet citizens married or engaged to Westerners who together began a hunger strike on May 10. Since then, two of the group have emigrated and two others have been promised visas. Mr. Balovlenkov had ended his first fast on the 43d day after he, too, was told that he would be allowed to leave. Soviet authorities, however, reneged on that pledge and, therefore, Mr. Balovlenkov renewed his fast. As of yesterday, he had not eaten anything for 80 of the last 94 days and has consumed no solid food since May 10. He is in critical condition and has, undoubtedly, suffered irreversible damage to his health. Medical authorities claim that the next week will be crucial.

Mr. Speaker, under the provisions of the 1975 Helsinki Final Act, the Soviet Union is obligated to "facilitate" the reunification of families and to deal in a "positive and humanitarian spirit" with requests for emigration from persons who wish to live with their relatives abroad. The point is, however, the Soviets have not changed their attitude nor their stripes. The Balovlenkov case is a vivid and tragic example of the callous disregard with which the Soviets view their international commitments. They would not do anything that any of us would consider humanitarian while Balovlenkov was on the hunger strike. Now that he is off the hunger strike, let us see if they are capable of honoring their commitments. They have an opportunity to make a humanitarian decision and I certainly hope they do. They should.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6070

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that my name be deleted as a cosponsor of H.R. 6070.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

UNFAVORABLE RESPONSE FROM CONSTITUENTS ON TAX EQUITY AND FISCAL RESPONSIBILITY ACT

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, within the next week House Members will be faced with an important decision: Whether or not to approve the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act. We will be asked, in the name of deficit reduction, to approve over $20 billion in new taxes next year, and nearly $100 billion over the next 3 years. Many of us on both sides of the aisle will either remain consistent with the tax policies we espoused in coming into the 97th Congress, or we will confuse our conservative constituents who sent us here to cut spending and taxes.

I come before the House today to share with my colleagues what some Americans are saying about this legislation. There are few better reasons for supporting or opposing a bill than reflecting the views of those you represent.

Since early May, when Congress began considering new taxes in the budget, I have received more than 850 letters and phone calls from my constituents on the tax proposals under consideration. Over 90 percent of those Virginians oppose one or more provisions of H.R. 4961, while less than one-half of 1 percent favor any of the bill's provisions. That means that only seven people in the city of Richmond and Chesterfield and Henrico Counties have felt supportive enough of this legislation to ask me to support it.

While you may have received far more letters and calls, I believe these numbers are significant. I wanted to take a minute to share with you what some Americans think about what Congress is doing, and urge you all to pay close attention to your constituents' concerns when the matter comes before the House for our one vote. The people you represent will appreciate it.

DISAPPROVING CERTAIN REGULATIONS WITH RESPECT TO EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 388) disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The Clerk read as follows:

H. Con. Res. 388

Whereas the Secretary of Education on July 29, 1982, submitted to the President of the Senate and the Speaker of the House of Representatives certain regulations with respect to the Education Consolidation and Improvement Act of 1981 pursuant to the Secretary's duty under section 431 of the General Education Provisions Act, and

Whereas the Congress, in the exercise of its authority under article I of the Constitution and in accordance with the procedure established by that section of the General Education Provisions Act for the safeguarding of that authority, has reviewed such regulations and finds certain of them inconsistent with the Act from which they must derive their authority: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That those regulations, submitted to the Congress on July 29, 1982, proposing to amend parts 74, 76, 78, 200, 201, and 298 of title 34 of the Code of Federal Regulations with respect to the Education Consolidation and Improvement Act of 1981 are disapproved by the Congress on the grounds of their inconsistency with the Act from which they derive their authority, and are returned to the Secretary of Education to be modified or otherwise disposed of as provided in section 431(e) of the General Education Provisions Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. Perkins) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. Goodling) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 388, before the House today, disapproves the regulations for the chapter 1 and chapter 2 programs of the Education Consolidation and Improvement Act of 1981. These regulations were transmitted to Congress by the Secretary of Education and published in the Federal Register on July 29, 1982.

Mr. Speaker, disapproval of regulations is not an action to be taken lightly, but we in Congress cannot condone a situation where a Federal Department ignores the law when it writes regulations.

The Education Consolidation and Improvement Act was adopted last year. Chapter 1 amended the title I program for disadvantaged children under the Elementary and Secondary Education Act. Chapter 2 consolidated 28 categorical elementary and secondary education programs into a new State block grant.

The committee is recommending disapproval of the chapters 1 and 2 regulations because they are inconsistent with and contradictory to the authorizing legislation. This resolution enjoys bipartisan support and was reported unanimously.

The committee's disapproval of these regulations centers on the Department's contention in these regulations that the General Education Provisions Act does not apply to chapters 1 and 2. We believe that this interpretation flies in the face of the statutory language and congressional intent, which clearly show that the General Education Provisions Act is meant to apply to the Education Consolidation and Improvement Act.

The General Education Provisions Act contains several provisions important to the proper administration and smooth functioning of education programs at the Federal, State, and local levels. The first section of this act unequivocally states that it automatically applies to any Department of Education program except where specifically exempted.

The Education Consolidation and Improvement Act does not exempt chapters 1 and 2 from the provisions of the General Education Provisions Act. It merely limits the applicability of three specific sections of the General Education Provisions Act. Nowhere does it state that the other sections of the General Education Provisions Act do not apply.

Our disagreement with the Department's position, while based on noncompliance with the statute, goes beyond the philosophical and legal issue of legislative authority. We are concerned about the impact on local education programs if the mandates of the General Education Provisions Act are shelved for the two largest Federal elementary and secondary education programs.

The General Education Provisions Act substantially affects the operation of Federal programs at the local and State levels. For example, it provides for advance funding of education programs, a provision vital to the stable planning of education programs before the school year begins. If the General Education Provisions Act does not apply, the advance funding provision, which many of us worked hard to get into law, could be abolished.

The General Education Provisions Act also includes key measures to control Federal paperwork, protect the privacy of student records, prohibit Federal control of education, and provide clear rules for Federal audits and enforcement.

The committee does not recommend this action without having attempted to inform the Secretary of our concerns, in a responsible fashion consistent with our committee's standard procedures for reviewing regulations. Following publication of the proposed regulations in February, I wrote Secretary Bell on April 13 and voiced the committee's view that the General Education Provisions Act is meant to apply to chapters 1 and 2. Congressman John Ashbrook, the primary sponsor of the Education Consolidation and Improvement Act, had expressed the same view last October during a public hearing on chapters 1 and 2.

Finally, I want to assure the Members that this is not a partisan attack on the administration's policy. My colleagues Congressman Erlenborn and Congressman Goodling joined me in sponsoring this resolution, and I commend their leadership in this area. I should also note that our committee disapproved four sets of education regulations under the Carter administration.

Mr. Speaker, this body would not be doing its job if we did not exercise our disapproval authority when confronted with this sort of disregard for the statute and congressional intent.

I urge my colleagues to join me in protesting this action.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I simply want to join my colleague and point

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out—I believe I am correct in saying—that the gentleman's counterpart, the chairman of the committee in the Senate, the Senator from Utah, is taking the same precise stand that the gentleman from Kentucky is taking. Is that correct?

Mr. PERKINS. That is correct.

Mr. SIMON. Mr. Speaker, it is important that we underscore the two points that the gentleman from Kentucky has made, and that is the advance funding which is so important to the schools of the Nation, and, second, the loss of any control we would have over regulations written by the Department of Education.

Mr. PERKINS. Mr. Speaker, the gentleman is absolutely correct. If they had their way and destroyed the forward funding, the schools throughout the Nation, those serving the poorest children, would not know from one year to the next what amount of money they would receive. It would really destroy the effectiveness of title I for the disadvantaged of the country.

The gentleman is correct on all the points he has made. I just cannot visualize the Supreme Court or the Congress or anyone else standing idly by and letting such a situation occur within the Department of Education and letting the Department of Education commit an overt act of this type which intrudes upon the rights of the Congress without the Congress taking action to set the house in order.

Mr. SIMON. Mr. Speaker, I commend my colleague, and I strongly support his stand. I hope this House will unanimously support that stand.

Mr. Speaker, I want to join my colleague from Kentucky, the distinguished chairman of the House Education and Labor Committee, in support of House Concurrent Resolution 388—disapproving the Department of Education's regulations implementing chapter 1 and chapter 2 of the Education Consolidation and Improvement Act of 1981. The issue before us today is simple—whether the Secretary of Education has the authority to decide whether or not the General Education Provisions Act (GEPA) may be ignored.

The General Education Provisions Act or GEPA as it is commonly known is an essential tool in Congress oversight of Department of Education administrative regulations. GEPA provides a fail-safe mechanism so that the legislative branch of the Government can assure that regulations issued by the Department conform to the law.

The Secretary of Education has decided that this act does not apply to the regulations he has promulgated to implement the new Education Consolidation and Improvement Act. The law however is clear. The General Education Provisions Act applies automatically to any program related to education. Whether the new law mentions the general provisions or not makes no difference. It still applies.

Mr. Speaker, the regulations before us, designed to help implement the new title I law and the new block grant in education, must have the general provisions incorporated into them if local implementation of these laws is to remain orderly and smooth.

This is not a partisan issue. Our late colleague, John Ashbrook, stated last October in a public hearing that it was his belief that the general provisions do apply to the Education Improvement and Consolidation Act. And as recently as July 15, Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, told the Education Department the same thing. This disapproval resolution has been introduced by our committee chairman and the ranking Republicans of the House Education and Labor Committee. It deserves your support.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the ranking minority member of the committee, the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I commend the chairman of the committee for acting so quickly to bring this resolution to the floor. As a cosponsor of the resolution with him and the able ranking member of the Subcommittee on Elementary, Secondary and Vocational Education, the gentleman from Pennsylvania (Mr. GOODLING), I urge my colleagues to suspend the rules and agree to the resolution before us.

As in the past, we are faced with the need to take action to insure that decisions made by the Congress are not altered or flouted by unelected officials of the Education Department.

The General Education Provisions Act (GEPA) allows a two-House veto of any final regulations for education programs within 45 days after publication and transmittal to Congress. Ironically, were these regulations not to be challenged, that authority to disapprove ECIA regulations under the provisions of GEPA would be abrogated. This would result from the Department's interpretation—in the face of convincing evidence to the contrary—that GEPA is largely inapplicable to the Education Consolidation and Improvement Act.

We simply cannot let this practice of regulations writers rewriting the law continue. Especially egregious is the attempt in these regulations to eliminate the very section of the law we enacted (GEPA) that gives the Congress authority to exercise oversight over all education regulations. We would be abdicating our responsibility in this matter if we do not exercise this authority today. We have the ultimate responsibility for the regulations which flow from the laws we pass.

The chairman of the committee has explained that the applicability of three sections of the General Education Provisions Act is limited by the language of ECIA, and a fourth section is mentioned to clarify that all of that section would apply to ECIA without limitation.

The statute is silent with respect to the applicability of the balance of the provisions of GEPA. Yet, the Department takes the unsupportable position that we have repealed the more then 50 other sections of that law. I need not remind you that a strong legal presumption exists against legislative repeals by implication. But I would remind you that the Department knew virtually from the outset what the legislative intent was. And, in any event, there is no need to make presumptions when the principal author of a bill makes it clear he did not intend a wholesale repeal of the General Education Provisions Act, as was the case here.

In discussing the applicability of the General Education Provisions Act at a subcommittee hearing on October 6 of last year, the late Member from Ohio, Mr. Ashbrook, stated, and I am quoting him now:

> The General Education Provisions Act (GEPA) is applicable, in whole, to the Education Consolidation and Improvement Act, unless (1) a provision of GEPA is made inapplicable by specific reference to ECIA, or (2) there is a provision or requirement in ECIA which supersedes a similar requirement in GEPA.

Frankly, Mr. Speaker, I believe this fact is understood by the people in the Department. They appear to be choosing, however, to use their rulemaking power to bring about a result not intended by the Congress. This is a use of that power that should not be condoned.

If the Department's interpretation is not challenged, the Congress will be denied the right to disapprove regulations governing Federal programs to assist educationally deprived children, as well as some 30 other programs in the education block grant we enacted last year even if we find those regulations inconsistent with the law from which they derive their authority, as we have here.

But denial of legislative oversight is not my only concern. The General Education Provisions Act contains many other important provisions. We enacted them for a purpose. If we ever want to repeal those provisions, we will do it by action of this Congress. We cannot permit it to be done by administrative fiat. Those other sections which would be deemed to no longer apply include the authority for advance funding, a prohibition against the use of appropriated funds for busing, and a prohibition against Federal control of education.

I urge my colleagues to approve House Concurrent Resolution 388 to insure that legislation we enact is correctly interpreted and administered accordingly.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. GOODLING. Mr. Speaker, I would like to reinforce the statements of my colleagues, the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), and the ranking Republican member of the committee, the gentleman from Illinois (Mr. ERLENBORN). I fully endorse their remarks and support the passage of House Concurrent Resolution 338.

The Secretary of Education has held that the General Education Provisions Act (GEPA) does not apply to the Education Consolidation and Improvement Act (ECIA). This interpretation not only complicates the administration of chapter I, which is the education for disadvantaged children, and chapter II, the education block grant, but it completely ignores the expressed intention of Congress.

Let me give the Members a quick overview of the facts which will prove my case. First of all, section 400 of GEPA makes GEPA applicable to all education programs unless there is a specific—and I repeat "specific"—exception in another statute.

□ 1045

ECIA has no such exception.

Second, the Secretary has the administrative responsibility at the Federal level, as contemplated in section 400(b) of GEPA.

Third, our late colleague, Mr. Ashbrook, specifically included in ECIA three sections of GEPA in order to limit the applicability. This carries with it the presumption that they would totally apply unless limited.

Fourth, Congress specifically used language in ECIA precluding certain ESEA title I sections. It would have done the same for GEPA if that were the intent.

Fifth, the rule of statutory construction is that all provisions which are, on their face, applicable, shall be followed, unless internally and explicitly contradictory. No contradiction exists here.

So, there is no question in my mind that the Department is totally wrong. Their argument is weak.

Of course OMB and the Department would like to remove the power of Congress to review and disapprove Department regulations. I suppose that is true of all Departments.

But we are the elected people; they are not. Certainly we are held responsible for what they do.

We have no way to assume this responsibility unless we have this opportunity to review and disapprove or approve.

So I would hope that we would unanimously pass this concurrent resolution because, as I said, in this case the Department is wrong.

I yield back the balance of my time.

● Mr. FORD of Michigan. Mr. Speaker, I strongly urge the House to accept the recommendation of the House Education and Labor Committee and approve House Concurrent Resolution 388, which disapproves regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 (ECIA). The regulations were submitted to Congress by the Secretary of Education and published in the Federal Register on July 29, 1982. The very law which gives Congress the responsibility of formal review and comment on the regulations, the General Education Provisions Act (GEPA), is under attack by the Department of Education in these regulations. It is their contention that it does not apply to either chapters 1 or 2 of ECIA.

After a thorough review by the Subcommittee on Elementary, Secondary and Vocational Education on which I am privileged to serve, I have determined that the Department of Education's finding is not only inconsistent but totally contradictory with the authorizing statute, and to congressional intent. Section 400 of GEPA unquestionably has an all-encompassing applicability to all education statutes. It reads:

> (b) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law. (Sec. 400(b) of GEPA, 20 U.S.C. 1221 (b)).

The law clearly indicates that GEPA automatically applies to any program that is related to education, except where there are specific exemptions.

In fact, it is for the very situation we face today—one in which the executive branch has overstepped its authority and violated the intent of the law—that GEPA was put into the law in 1974. The administration, and more specifically the Department of Education, have made it well known that they do not want to be bound by GEPA. Given that they realise they have no chance of being successful in a legislative repeal of the provision, they are attempting this backdoor approach to deny its applicability over the two major elementary-secondary education programs. I am afraid that this is just the tip of the iceberg. There is no question that this administration has a strong philosophical belief about certain programs and overall patterns in the Department of Education, and now it is apparent that they will ignore the law to institute that philosophy. We need the benefit of the GEPA more than ever during the tenure of this administration, so that State and local school districts can be protected from their indiscriminate disregard for the law and legislative history.

GEPA also provides for advance funding of education programs, a policy local school districts specifically requested so that they could better plan for their school year budgets. In addition, GEPA contains the important provisions controlling Federal paperwork, protecting the privacy of student records and pupil rights, prohibiting Federal control of education, and setting up procedures for the return of funds recovered from audits to grantees. Thus, my strong support of the committee's resolution to disapprove of the Department of Eucation regulations stems not only from my firm position on legislative prerogative, but a practical concern about the impact on local education programs if the GEPA statute is not followed.

It is imperative that the House disapprove these regulations—not only for the sake of legislative integrity, but to retain and strenghten the faith and good will the Congress has built up over the years with the education community throughout the Nation.●

● Mr. MOFFETT. Mr. Speaker, House Concurrent Resolution 388 is a resolution of disapproval of the final regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act. After careful and close review of the regulations, the Committee on Education and Labor has reported that they are "inconsistent with and contradictory to their authorizing statute, the Education Consolidation and Improvement Act, and to the General Education Provisions Act." I concur with the committee's findings and fully support its actions.

I must say that I have reservations about the legislative veto mechanism. The recent congressional veto of the Federal Trade Commission's used car rule was a shameful exercise, one which prompted me to file an amicus brief challenging legislative veto. However, one issue which became clear during the debate was that not a single Member of Congress alleged FTC violation of congressional intent in drafting the used car rule. In the case of the resolution of disapproval before us today, however, the Education and Labor Committee has clearly determined that the final chapters 1 and 2 regulations are inconsistent with the authorizing legislation. Under this circumstance, and given the sober and scholarly approach with which the committee approached the final regulations, I strongly support the resolution disapproval.

Congress has the responsibility of insuring that the laws it passes are properly carried out. Regrettably, the final education regulations at hand fall short of upholding the mandate of chapters 1 and 2 of the ECIA, forcing

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Congress to take action. The basis of the disapproval resolution is the Secretary of Education's contention that the General Education Provisions Act (GEPA) does not apply to either chapter 1 or 2. In brief, it has been found that—

> GEPA automatically applies to "any program" that is under the administrative jurisdiction of the Department of Education, "except where" there are specific exemptions or latter statutory provisions which are specifically contradictory are enacted. There is no need to mention GEPA; absence of mention denotes an intent to have it apply. Since ECIA contains no provisions exempting chapters 1 and 2 from the GEPA statute, the Secretary is bound to follow GEPA mandates.

We must not lose track of the extraordinary circumstance under which the Education Consolidation and Improvement Act was created. As Chairman Carl Perkins has put it:

> Implementation of chapter 2 involved an inprecedented transition from 28 separate programs to one block grant, the repeal of some 44 education programs, and the creation of new administrative responsibilities at all levels of government.

With such large-scale changes envisioned, Congress anticipated the confusion that could ensue in administering the new program. The Secretary of Education's decision that GEPA does not apply to the Education Consolidation and Improvement Act serves to only further confuse the issue and confound the intention of Congress as to the implementation of chapters 1 and 2.

In the final analysis, I believe that Congress and our people will be served better by means other than legislative veto, when confronting regulations such as these. These tools include oversight by the appropriate subcommittees of jurisdiction, sunset laws, and biennial budgeting. Each of these techniques would permit Congress write better laws and see that the laws are being faithfully executed by the executive branch.

This, it seems to me, would be better than the current situation under which we are operating; that is, with Congress acting legislatively and then judicially. If we make our intentions better known when writing the laws, we will not need to rely on legislative veto to determine if the agencies understood what we meant.

I urge, therefore, the disapproval of the final regulations. The Department of Education has not done its job. Let us send these regulations back to the drawing board so that they can be realined with the intent of the authorizing statute.●

● Mr. WEISS. Mr. Speaker, the resolution before us this morning, House Concurrent Resolution 388, will send a loud, clear message to the executive branch that Congress will not tolerate Federal departments disregarding statutes when they write regulations. I urge my colleagues to speak with one voice and support this concurrent resolution.

As a member of the Education and Labor Committee, I completely concur with the committee's belief that the regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act are inconsistent with the authorizing legislation because they state that the General Education Provisions Act does not apply to the chapters 1 and 2 programs. In my view, the Department's position is an affront to the Congress and our responsibility to write the laws.

While I am troubled by the Department's failure to comply with the statute, I am also greatly concerned about the practical effects of the Department's position that the General Education Provisions Act should not apply to two to the largest Federal programs aiding elementary and secondary schools.

The General Education Provisions Act houses many provisions that are crucial to the operation of education programs at the Federal, State, and local levels. To dismiss these provisions would surely cause harm to local school personnel and schoolchildren.

For example, section 411 of the General Education Provisions Act authorizes advance funding for education programs. As a result of this provision, funds for most education programs are included in the appropriation act for the fiscal year preceding the fiscal year in which they are obligated. Practically speaking, this means that chapter 1 (or title I) funds are appropriated in fiscal year 1982 for use at the local level in school year 1982–83.

The purpose of advance funding is to afford States and local school districts adequate notice of how much Federal funding will be available to them in the upcoming school year. Many local school districts must approve their budgets and notify staff whether they will be kept on well in advance of the school year. Advance funding is therefore vital to the stable planning needed in education.

Many Members of Congress worked many years to see this provision passed into law. Now that it has been working for several years, we cannot give it up by administrative fiat.

The administration's regulations would destroy advance funding for chapters 1 and 2. Without this important provision, school budgets would be thrown into disarray, teacher contracts would be left hanging, and the poorest school districts would have difficulty keeping solvent.

The General Education Provisions Act includes a host of other key provisions: Sections to reduce the Federal paperwork burden, protect the privacy of student records, pay back funds recovered from audits to grantees, prohibit Federal control of education, and reserve to Congress the authority to disapprove regulations. All of the protections afforded State and local educational agencies by this law would disappear if the administration had its way.

I ask my colleagues to suspend the rules and vote in favor of this resolution.●

● Mr. KILDEE. Mr. Speaker, when this body moves to disapprove a set of departmental regulations, it is a weighty matter. However, there is no question that in this case, serious action is necessary to put a stop to an equally serious offense: Disregard for the law in Department regulations.

We on the Education and Labor Committee are recommending disapproval because the regulations for the Education Consolidation and Improvement Act contradict the statute. In these regulations, the Department of Education takes the position that the General Education Provisions Act does not apply to chapters 1 and 2 of the Education Consolidation and Improvement Act.

The law and legislative history clearly show that the General Education Provisions Act is meant to apply. The General Education Provisions Act applies to any Department of Education program except where specifically exempted, and the Education Consolidation and Improvement Act does not exempt chapters 1 and 2 from the provisions of the General Education Provisions Act.

Mr. Speaker, this has been the position of our committee, on both sides of the aisle, since the Education Consolidation and Improvement Act was enacted. We have initiated disapproval in order to protect Congress responsibility to see that the laws are administered as they are written, not as a partisan attack on the administration.

Since the Education Consolidation and Improvement Act was passed, the administration was made fully aware of congressional intent that the General Education Provisions Act apply to chapters 1 and 2.

Last October 6, a few months after the Educaton Consolidation and Improvement Act passed, the Subcommittee on Elementary, Secondary, and Vocational Education held a public oversight hearing on the law. At that hearing, Congressman JOHN ASHBROOK, the primary author of the Education Consolidation and Improvement Act, stated that the General Education Provisions Act is applicable to the Education Consolidation and Improvement Act.

Following publication of proposed regulations on February 12, 1982, the committee closely reviewed these regulations according to the procedures for regulation review instituted during the past 3 years within our committee. In keeping with committee policy, the chairman wrote the Secretary of Education on April 13, expressing concerns and comments on the proposed regulations. In that letter, the chairman stated:

> I am also concerned about the interpretation expressed in the introduction to these regulations that GEPA, for the most part, does not apply to Chapters 1 and 2. Section 400 of GEPA gives that law general applicability to Department of Education programs. I find no exception to the provision in ECIA.

Thus, the committee did not take action to disapprove without thorough consideration of the regulations and without formally notifying the Department of our concerns.

I hope my colleagues join with me in supporting this resolution.●

Mr. PERKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 388).

The question was taken.

Mr. PERKINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 0, not voting 71, as follows:

[Roll No. 253]

YEAS—363

Addabbo
Albosta
Alexander
Anderson
Annunzio
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bingham
Bliley
Boggs
Boland
Bolling
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger

Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Philip
D'Amours
Daniel, Dan
Dannemeyer
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erlenborn

Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Florio
Foglietta
Foley
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance

Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Heckler
Hefner
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McDonald

McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Savage
Sawyer

Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Washington
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolpe
Wortley
Wright
Wyden
Wylie
Young (AK)
Young (FL)
Zablocki
Zeferetti

Rinaldo
Rose
Rosenthal
Santini
Shannon

Siljander
Traxler
Vento
Walgren
Watkins

Wolf
Yates
Yatron
Young (MO)

NOT VOTING—71

Akaka
Andrews
Anthony
Applegate
AuCoin
Bafalis
Beard
Bevill
Biaggi
Blanchard
Boner
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chappell
Conyers

Crane, Daniel
Crockett
Daniel, R. W.
Davis
Dellums
Dornan
Dougherty
Dunn
Erdahl
Ertel
Evans (GA)
Flippo
Ford (MI)
Ford (TN)
Garcia
Ginn
Goldwater
Grisham
Hawkins

Heftel
Hertel
Ireland
Jeffries
Jenkins
Kemp
LeBoutillier
Marks
Marlenee
Martin (NY)
McClory
McCloskey
McKinney
Moffett
Myers
Neal
Pursell
Railsback
Richmond

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So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit on today, August 10, 1982, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RABBI ISRAEL MILLER

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I want to join in the sentiments expressed by my distinguished colleague, the gentleman from New York (Mr. BINGHAM), regarding our distinguished friend from New York, Rabbi Israel Miller, who gave the opening prayer.

Rabbi Miller is an officer of Yeshiva University, which is located in my district, a revered leader of the Jewish community, an outstanding resident of New York, and a magnificent American. It is a pleasure and a delight to welcome him to the HOUSE today.

REQUEST TO RESCIND PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the previous unanimous-consent request that was granted by the House to allow the Committee on Energy and Commerce to sit during the 5-minute rule be rescinded.

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The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

Mr. **HILER**. Mr. Speaker, I object.

The **SPEAKER** pro tempore. Objection is heard.

THE FOOD AND AGRICULTURE RECONCILIATION ACT—FISCAL YEAR 1983

Mr. **FROST**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 551

Resolved, That upon the adoption of this resolution it shall be in order, sections 401(b)(1), 402(a), and 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6892) to provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered as read for amendment under the five-minute rule. No amendment to the bill shall be in order except the following amendments: (1) the amendments recommended by the Committee on Agriculture now printed in the bill, said amendments shall be considered as having been read, shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall not be subject to amendment; (2) an amendment printed in the Congressional Record of August 5, 1982, by Representative Zablocki, and said amendment shall not be subject to amendment; and (3) an amendment in the nature of a substitute printed in the Congressional Record of August 5, 1982, by, and if offered by, Representative Wampler, said substitute if offered shall be considered as having been read and shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Wampler and a Member opposed to said substitute, and all points of order against said substitute for failure to comply with the provisions of sections 303(a)(4) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER**. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. **FROST**. Mr. Speaker, I yield the usual 30 minutes, for the purposes of debate only, to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. **FROST**. Mr. Speaker, House Resolution 551 is a modified closed rule providing for the consideration of H.R. 6892, the Food and Agriculture Reconciliation Act. The rule provides 1 hour of general debate to be equally divided and controlled between the chairman and the ranking minority member of the Committee on Agriculture.

The **SPEAKER**. This is the last of the reconciliation proposals to be reported to the House. In order to expedite consideration of the Agriculture Committee's reconciliation proposal and prevent extraneous issues from impeding the budget process, this rule limits the amendments to those requested by the chairman and the ranking minority member of the Agriculture Committee.

Only the amendments specifically identified by this resolution shall be in order to the bill. First, the rule provides for the consideration of the Agriculture Committee amendments now printed in the bill which shall be considered as read, shall be considered en bloc, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole and shall not be subject to amendment. Second, the rule makes in order an amendment to be offered by Representative Zablocki regarding coordinating disposition of donations of agricultural products outside the United States. This issue is obviously within the jurisdiction of the Committee on Foreign Affairs, but Chairman Zablocki agreed to forgo sequential referral of the bill so as not to impede the reconciliation process.

The final amendment made in order by this rule is the substitute to be offered by Representative Wampler, the ranking Republican member of the Agriculture Committee. That substitute shall be considered as read, shall not be subject to amendment but shall be debatable for 1 hour to be equally divided between Representative Wampler and a Member opposed to the amendment. No other amendments to the bill shall be in order.

Mr. Speaker, to permit consideration of the bill and the Wampler substitute, several waivers of points of order are included in the rule. The rule waives points of order against the bill and the Wampler substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act. Section 303(a)(4) prohibits consideration of any bill which provides new entitlement authority effective in a fiscal year before the first budget resolution for such fiscal year has been adopted. The waivers are necessary because the bill and the Wampler substitute provide new entitlement authority under the dairy price support program and the corn loan program which are first effective in 1984 and since no first budget resolution for fiscal year 1984 has been adopted.

The rule waives section 401(b)(1) of the Budget Act against the bill and the Wampler substitute. Section 401(b)(1) bars consideration of any bill which provides new entitlement authority effective before the beginning of the fiscal year which begins in the calendar year in which the bill is reported. This waiver is necessary because the bill and the Wampler substitute would provide new entitlement authority in the form of payments to producers for 1983 crop retirement and conservation for wheat, feed grains, upland cotton and rice. Since the entitlement authority would be effective upon enactment, presumably in fiscal year 1982, and since the bill was not reported in 1981, the bill technically violates section 401(b)(1) of the Budget Act.

Mr. Speaker, the rule waives section 402(a) of the Budget Act against the bill. Section 402(a) prohibits consideration of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of that fiscal year. This waiver is necessary because the bill contains authorizations for fiscal years 1982 and 1983 and it was not reported by May 15, 1981. However, the Budget Committee supports these emergency waivers.

Mr. Speaker, House Resolution 551 waives clause 5 of rule XXI which prohibits appropriations in a legislative bill. This waiver is necessary because the bill and the Wampler substitute contain several provisions relating to the dairy price support program which would authorise the use of funds previously appropriated to the Commodity Credit Corporation, authorise the CCC to make payments in connection with the donation of dairy products outside the United States or otherwise contain provisions which may be construed as an appropriation.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this is necessarily a tightly structured rule which would allow the House to proceed in an orderly expeditious manner to the completion of the reconciliation process. The bill made in order by this rule exceeds the goals set forth in the first concurrent resolution on the budget. H.R. 6892 would achieve savings of $1.276 billion in 1983, $1.724 billion in 1984, and $1.596 billion in 1985 by amending the commodity programs for dairy, feed grains, wheat, rice, and upland cotton and by amending the Food Stamp Act.

Mr. Speaker, I urge adoption of this resolution so that the House may proceed to consideration of this important legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again, this rule violates the Budget Act and the first budget resolution for fiscal year 1983. Both of those documents make it clear that the standing committees covered by reconciliation instructions are supposed to report to the House Budget Committee. In this case, the committees did not report to the Budget Committee. The Budget Committee is supposed to combine all of the various recommendations into one package and then send them to the House floor. Once again, Mr. Speaker, this House, under your leadership, is following a procedure which is in violation of the law, and also in violation of the specific instructions written in the first budget resolution.

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Mr. Speaker, a word about this very restrictive rule. It allows only three amendments: First, the Agriculture Committee amendments, which will not be amendable; second, an amendment to be offered by the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. Zablocki), dealing with the distribution of dairy products abroad, which will not be amendable; and third, an amendment in the nature of a substitute to be offered by the ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. Wampler), which also will not be amendable.

Mr. Speaker, this is highly unusual. This bill makes basic changes in agricultural programs and this highly restrictive approach prohibits the House from considering significant alternatives and amendments which were presented to the Rules Committee and also in committee.

For example, the gentleman from Iowa (Mr. Smith) appeared in the Rules Committee when this rule was being considered last week and made the point that corngrowers who participate in the diversion program are not treated as well as wheatgrowers who participate in the diversion program; yet under this procedure, nothing can be done to try to make this situation more equitable.

The gentleman from Wisconsin (Mr. Gunderson) appeared with a similar problem. He had an amendment to the dairy part of the bill which he had worked out with several other Members. He stated in the Rules Committee that his amendment would save more money than any other proposal before us; that it would eliminate the surplus more quickly than any other proposal before us; and that it would do so in a way that preserves the traditional family dairy farm. Yet, under this rule the House will never have an opportunity to consider that approach.

Finally, Mr. Speaker, there is no doubt in my mind that the Agriculture Committee proposal fails to save the amount required under the reconciliation instructions.

Instead of reducing expenditures by $5 billion over 3 years, this bill would save only $882 million.

The first budget resolution directed the Agriculture Committee to report reconciled savings of $0.779 billion in 1983.

It called for $1.083 billion in 1984; and $1.428 billion in 1985, for a total of $3.29 billion.

Savings assumed but not reconciled were $1.070 billion in 1983; $0.6 billion in 1984; $0.2 billion in 1985, for a total of $1.870 billion. Together, both categories add up to a total savings of $5.160 billion.

However, under this bill, we find that dairy savings in 1983 would be $1.068 billion; whereas the grains and cotton program would increase by $1.09 billion.

The food stamp savings are only $0.334 billion, for a total net savings of $0.312 billion.

The total dairy savings over 3 years would be $1.401 billion.

We would have an addition in the grains and cotton section of $1.845 billion over 3 years.

The food stamp program would only save over a period of 3 years $1.326 billion; for a total net savings of $882 million, far short of the amount mandated by this Congress.

Mr. Speaker, I have two requests for time.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Aside from changing the law, as the gentleman has pointed out, how far short does this bill go, or how far short is it in living up to what we should do in reconciliation?

Mr. LATTA. It is about 88 percent short, or $4.5 billion.

Mr. ROUSSELOT. It is $4.5 billion short?

Mr. LATTA. That is correct.

Mr. ROUSSELOT. It is 88 percent of what we are supposed to do?

Mr. LATTA. That is correct.

Mr. ROUSSELOT. Well, I guess you could look at the bright side, we are 12 percent right.

Mr. LATTA. If there is a bright side.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. LATTA. I would be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, do I understand the gentleman to say that this rule is so restrictive that there is going to be no opportunity on the floor, short of a recommittal motion, to have any chance whatsoever of getting some additional savings to bring us closer to the budget targets?

Mr. LATTA. That is correct, and I hasten to point out to my farmer friends that they are going to have no opportunity to offer any other amendments, other than the three made in order in the rule, and they are changing basic agricultural law.

I served on the Agriculture Committee when I first came to this Congress, and back in those days the House would have defeated the rule if the rule on an Agriculture Committee bill had been so restrictive.

Mr. WALKER. This is one of the most restrictive rules we have had in this session and yet it deals with one of the most important issues that this House addresses; is that not so?

Mr. LATTA. A very important issue, because across this country the farmers are hurting.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. LATTA. Mr. Speaker, I yield 10 minutes to the gentleman from Virginia (Mr. Wampler).

Mr. WAMPLER. Mr. Speaker, I rise in support of this reconciliation legislation. However, I, and I am sure many others, reserve the right to try to amend this piece of legislation through a substitute I intend to offer during the course of consideration of H.R. 6892. There may be a motion to recommit with instructions that members will want to examine carefully.

I wish to be candid with you about this matter and in doing so I wish to give you some background on how the Committee on Agriculture, and its members including myself, responded to the reconciliation instructions contained in the conference report on Senate Concurrent Resolution 92 on the first concurrent budget resolution for fiscal year 1983.

Chairman de la Garza has worked hard and diligently to comply with the spending cuts requirements of the first concurrent resolution. The spending cuts have come with some difficulty this year. This is true in part this year, I believe, because we in the House are going at this with multiple reconcilation bills rather than an omnibus reconciliation bill as we did last year. Moreover, each committee is going directly to the floor with their reconciliation bills. For these among other reasons, I believe spending cuts are harder to achieve.

Next, let me observe initially that this is not merely a spending cut bill

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we deal with today; it is also an authorization bill for the food stamp program in that it authorizes nearly $40 billion over a 3-year period for fiscal year 1983-85. We authorized a $11.3 billion cap in the 1981 Farm Act for fiscal year 1982 and I understand that cap will be adequate for the funds that will be appropriated this year. We were fortunate, in my opinion, in retaining the cap on this program in the bill before you today. It is evident, I believe, for those who have voted for this concept of cap for many years that is is possible to get what was an entitlement program under control by placing a cap on it.

Let me also point out that there are many frustrations in the budget process in the numbers game we seem to encounter in what our Congressional Budget Office arrives at in estimating reductions in budget authority and/or outlays. As one of our Members observed with respect to the adjustments in the farm commodity programs; "it nearly, if not in fact, confounds logic that we spend more money in fiscal year 1983 to achieve savings in fiscal year 1984" in certain of these programs. Meanwhile, CBO estimates no costs for the feed grains program in fiscal year 1983 because the 1982 crop is estimated by CBO at 7.2 billion bushels. Yet I think we all will admit that the 1982 corn crop is estimated right now by most responsible authorities at over 7.6 billion bushels. In saying this I do not mean to criticize CBO or its employees, they are merely trying to do their job—the CBO corn crop estimate of 7.2 billion bushels is based on January baselines that they use in dealing with the budget process. Nor, do I wish to single out these adjustments in farm commodity programs for criticism. They merely lend themselves as examples of the frustrations encountered in dealing with the budget process and more particularly reconciliation.

Mr. LATTA, the ranking member of the Budget Committee, has expressed his concern about the scoring of budget savings or spending cuts in H.R. 6892. Some of these budget issues such as scoring become so complicated that it is difficult for those, such as I, who do not deal with them every day to confidently arrive at commonsense judgments on these matters. I am told, however, that while the scoring by CBO will be made as Mr. LATTA requested, the committee's reconciliation bill does not technically meet a strict definition of the budget authority and budget outlay requirements of the instructions of the conference report on Senate Resolution 92 on the first concurrent resolution. Mr. LATTA himself may wish to articulate this further during the debate on this bill.

We on this side of the aisle were hopeful last Wednesday that we had reached a compromise that would generate substantially greater spending cuts than those contained in this bill—H.R. 6892. However, I must admit that our efforts for such a compromise—that we were hopeful might have bipartisan support came apart on Thursday as we were scheduled to appear before the Rules Committee.

A substitute that I will offer during the consideration of this bill—and that Mr. COLEMAN of Missouri will manage—will provide certain selective additional spending cuts which I believe offer many of you an opportunity to reduce Federal deficits and avoid having to pass additional revenue enhancers later to reduce the fiscal years 1983-85 deficits.

The one thing that the substitute I will offer will do—I am confident—is to put the House in a better posture to come out of a House-Senate conference on agriculture reconciliation with a better bill than perhaps either House will take to such a conference.

We must all realize that what we fail to do in areas of spending cuts may have to be made up in the tax bill that we consider later if we are to meet first concurrent budget resolution goals.

I realize that it is currently in vogue to criticize what the Congress did last year in the way of tax cuts and spending cuts—the fiscal year 1982, Reconciliation Act—however, I would point out that several so-called liberal governments such as those in Canada and France are currently encountering greater economic difficulties than we are here in the United States. Unemployment in Canada is about 11 percent and inflation is about 12 percent and a limit on wage increases for government employees has been adopted. France is encountering several problems not the least of which is the flight of investment funds to other countries.

Our plight is part of a greater worldwide economic problem that we in the United States must continue to grapple with in a number of different ways. We are in this problem together and we must get out together. We did not get into our current economic plight overnight and we have not been able to get out magically in the last 18 months. Enforcing spending cuts is always a difficult problem for legislators. Especially is this true in a period when our national economy is in a recession. However, we must stay our course of persisting in our efforts to bring our Government fiscal affairs in order and getting our national economy back on its feet. Those are consistent goals that can be achieved by consistent and concurrent efforts on spending and Federal deficits.

I urge you to keep an open mind on this entire matter, support the Wampler substitute and give strong and serious consideration to the motion to recommit that will be offered from this side of the aisle.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DE LA GARZA), the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I take this time, I had not intended to speak on the rule, but I take this time only to address the issue which was discussed by my dear colleague, the gentleman from Ohio (Mr. LATTA).

□ 1130

It grieves me very much to see that my distinguished friend from Ohio would take issue with this committee at this date.

Due to the first Gramm-Latta resolution that this House adopted, and this committee worked with, the diligence and the hard work of this committee provided us some $3 billion above and beyond what we had been ordered by that Latta resolution.

We were very diligent, and it is very painful and difficult, as the gentleman from Virginia just mentioned, to cut, especially in the programs, those that we have to deal with, where we are dealing into the future with projections.

So needless to say, in the first encounter with the Latta resolutions we went above and beyond, and for that we would expect perhaps not commendation, but at least some semblance of recognition.

Now, on this new Latta resolution, the gentleman is using figures provided by the Department of Agriculture ostensibly from OMB. We have to deal with figures by CBO, the Congressional Budget Office. We cannot deal with the assumptions or assumed savings or whatever of the OMB or the Department.

We have had that problem throughout. The Members should know that, for example, when we had the 4-year bill, our staff, our economists, CBO, we could not reconcile the figures with those of the Department of Agriculture.

Finally, one morning I took all our economists, I took members of the committee, and we went over to the Department of Agriculture. We sat down and we said, "Look, we are using 2 and 2 makes 4, and yours is not coming out that way. There is something wrong."

Well, lo and behold, we found out that they were doing 5-year expenditures on a 4-year bill; therefore, they were coming out with a cost above and beyond that which we were doing. And they admitted to us, "Well, OMB forces us to do our assumptions on a 5-year basis." My south Texas logic said, "Of course, my friend, it is only a 4-

year bill. How can you attach to it a cost for 5?"

"Well, that is what we are ordered to do by OMB."

So the same happens now. But OMB notwithstanding, we have to deal with figures by CBO.

The Senate has to deal with figures by CBO. We have to meet with the Senate in conference and we have to be speaking the same language. We have to be using the same computer, and we have to be discussing the same assumptions.

So I say it is even unfair of the gentleman, my distinguished colleague from Ohio, to confuse the issue using these figures from the Department of Agriculture because this is not the realm of the Department of Agriculture; this is the House of Representatives. We have to use CBO figures. The Senate uses CBO figures.

But above and beyond, even though we were to use the Department of Agriculture figures, we still come up with savings. We still come up to the numbers mandated by the Latta resolution. And for that, I think, with respect to all the other committees, I think that this committee, whichever figures we use, Department of Agriculture, Mr. Stockman's, Mr. Latta's, CBO, whichever figures we use I would challenge the Members that this committee has provided more savings than any of the other committees, with all due respect to the other committees.

Again I say, we have a very difficult constituency, both here in the House and out there in the country. That is one of the reasons for the rule which is modified closed, because it is difficult enough to cut, but if you were to air all of needs of all of the Members of all of the constituency, of all of the jealousies, justly or unjustly, of one commodity against another commodity, of the consumer, we have to deal with the art of the possible.

We cannot go to the expectation of every Member or every constituency out there in the country.

This is why, in a very difficult and painful way, we have been able to arrive at, and I would hope that the Members would take my word as sincerely as I can offer it that this is the best we can come up with, under the assumptions and with the figures used by the CBO.

The effort has been genuine, has been dedicated. There has been a lot of hard work by the different subcommittees and the subcommittee chairmen and ranking minority members to arrive at the point where we now find ourselves, and I would hope that you would support the rule and then support the legislation, because whichever way you test it, it still comes out savings above and beyond what we are instructed to be the Latta resolution.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Certainly I hate to differ with my dear friend from Texas on this issue. We must differ. I do not care where he gets his figures, whether it is CBO or wherever; we have to deal with the Department of Agriculture. They keep updating these figures. The figures that he is using are CBO figures from back in April.

But let us just look at some of the major—the major—discrepancies and ask ourselves how he comes out where he says he does.

The committee claims dairy savings of $3.3 billion over 3 years for the proposed two-tier price support and production quota system, and it cannot be realized. The committee bill provides for a 21-percent increase in dairy price supports to $16 per hundredweight by 1985, thereby encouraging continued overproduction and higher CCC purchase costs.

Where is he going to store all that cheese? We cannot get rid of it today. The USDA estimates maximum savings at $1.4 billion over 3 years. The committee claims 3-year net savings of $31 million for the feed grain, wheat, and other commodity price support and diversion payment increases. However, the bill mandates unrecoverable—unrecoverable—outlay increases of $1.5 billion for diversion, deficiency, and grain storage payments. These are in his bill.

These spending increases now are supposed to cause budget savings later? By contrast, USDA estimates a net outlay increase of $1.8 billion over commodity program cost levels assumed in the budget resolution.

The committee food stamp savings of $1.326 billion are overestimated by $252 million, resulting in actual savings of $1.074 billion, or only 31 percent of the savings envisioned in the budget resolution.

In addition to drastic shortfalls and budget savings required by the budget resolution, the committee bill is inconsistent with major administration and congressionally supported objectives. It reduces the cost of the food stamp program by less than 3 percent over the next 3 years, which is not compatible with restraint needed on entitlement cost growth.

It creates—and get this, my friends from the farm—it creates a producer-controlled dairy board with monopoly powers to rig milk markets and inflate consumer costs by as much as $1 billion annually. And we cannot amend it.

It raises wheat and feedgrain price supports, thereby increasing budget costs and undermining increased export sales at a time when we want to export more. That is all we hear back home: We have to export more. How are we going to do it if this bill becomes law?

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to my friend, the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, very respectfully, I just take the time to tell the gentleman of course he has the right to his assumptions. I say categorically they are wrong. But my problem is that the gentleman's problem is not with this committee; the gentleman's problem is with CBO. He should address that issue some other place and see if he and CBO and/or the Department cannot come up with the right figures.

We do the changes in the law, CBO puts the figures to them, and we do not manufacture them out of the sky. So I would hope and plead with my dear friend that he address the issue to CBO and let us get on with our business here.

Mr. LATTA. Mr. Speaker, let me, in answer to my friend, say there is more to it than just CBO. It is the content of the legislation. In this proposed legislation they are going to encourage a farmer to reduce his dairy herds.

I can remember F. D. R. killed off a bunch of little pigs to get rid of the pig overproduction. I do not know whether we are going to start slaughtering the dairy herds or not.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I have a great deal of respect for the gentleman from Ohio and his knowledge of the budget process, but I am a little concerned with the tenor of the debate and the argument that he has put forth, particularly as he now addresses the dairy program, because I believe that if the gentleman will examine the legislation that has been put together in the Agriculture Committee he will find that the concerns that he has, as far as the cost to the taxpayer of the dairy program, are indeed being met by the legislation; whereas, as I understand his concern, or the direction that he is suggesting that we should go, will in fact do what the gentleman is saying he does not want to happen which is to increase the cost of the dairy program to the taxpayer.

What we have attempted to do in the committee, and I believe we have accomplished, is to put a cap on what the taxpayer can effectively pay in the dairy program and, in fact, the gentleman will find, once he closely examines what this committee has done, is that we have addressed the cost to the taxpayer, and if we indeed do continue to produce more milk than we can consume, it will be the dairy farmer who will assume this cost and not the taxpayer.

I believe that is what the gentleman and I both would like to see accomplished, not only in the dairy program but also in every other farm program that we have before us.

Mr. LATTA. I appreciate the gentleman's comments, even though I question whether we are going to have the savings that he hopes we will have, and I agree with him on the goal.

Mr. Speaker, we would like to save a lot of money, but I do not think this program, as seen by the experts, is going to come forth with the type of savings claimed.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. STENHOLM. The other experts—and I have listened to this debate for hours in the Agriculture Committee on the Dairy Subcommittee on which I serve—the other experts contend that if we lower the price of milk or we lower the price of wheat or we lower the price of cotton that we will somehow reduce the cost to the Treasury.

History has shown time and time again the farmer's response to a lowered price is to produce more in the short run in order to cover his fixed costs of operation. Therefore, the cost to the budget in fiscal year 1983 would be astronomical compared to the legislation we have before us.

Mr. LATTA. Mr. Speaker, I wish I could agree with my friend on that statement, but I cannot because we are going to be inceasing, as I pointed out, by 21 percent the dairy price support, to $16 a hundredweight, by 1985, and if that does not encourage overproduction, I am not standing here today.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Wisconsin (Mr. Gunderson).

Mr. GUNDERSON. Mr. Speaker and Members, I think it is important that we continue the debate which we have just begun in terms of reconciliation and what it really means to the dairy price support program.

Mr. Speaker, I rise in opposition to the rule. The reason I do so is because of the underlying philosophy of the whole process of reconciliation—the process whereby we reconcile our authorized programs to live within the budget resolution that we passed.

When we come to the floor, we are supposed to be debating the various specifics that would accomplish this goal. The bill that we are going to consider today really makes major legislative changes to three areas under the jurisdiction of the Agriculture Committee in order to fulfill reconciliation instructions.

It clearly does it in food stamps. There is going to be a major debate on what we are going to do to the food stamp program.

It clearly does it in wheat and feedgrains—a major change from present law.

And clearly it does it in the dairy program as well.

It is interesting to note what has been happening on the floor of the House during the reconciliation process. We said we cannot have an omnibus reconciliation bill because, if we bring one to the floor, we will not have an opportunity to vote on the individual programs and policies we are trying to change. As such, we must bring separate reconciliation bills by committee. Now, we are not allowed to vote on the particulars of one of those bills under the rule that we have before us today.

My concern and my objection to the rule is that we are really allowing ourselves to get into only one debate today—a debate over food stamps.

□ 1145

If you look at the substitute and compare it with the committee bill, there is really only one area of difference, and we do not consider changes in the dairy and feedgrain areas. I think that is wrong. It is wrong to those people concerned about loan rates.

We do not get into the whole debate on dairy, and as the gentleman from Ohio, the ranking member of the Budget Committee, has so eloquently said, we are facing major, major problems in that dairy program at present and, unfortunately, we are going to face those problems in the future because there is no disincentive to overproduction in H.R. 6892.

To quote from the Department of Agriculture letter dated July 14 to the chairman of the full Committee:

> USDA analysis indicates that the levels required in the bill on dairy would provide sufficient economic incentive to encourage excessive production and more than compensate for the resulting assessments.

For the last 18 months on the floor of this House I have maintained an "I told you so" attitude that what we are doing in dairy is only going to encourage further production. And that is exactly what has happened. The problem with the dairy provisions in the reconciliation bill is that any farmer who expends production over 25 percent in 1 year makes money by that expansion. So, clearly, the way to beat the system is to simply expand your production by 25 percent.

What does that do to us in 1985? It gives us a huge, huge surplus of dairy production and, in the process, we will be so undercut by prices that we will have effectively changed the structure of dairy agriculture in this country. The gentleman from Minnesota, Mr. Oberstar, and I wanted the Rules Committee to provide us an opportunity to come in here and debate the dairy section of H.R. 6892 through an amendment that would have given us a genuine alternative. First of all, it would have saved more money—$222 million in fiscal year 1983—in outlays on the dairy price support program; second, it would have more quickly and effectively solved the surplus situation; and third, it would have accomplished these goals in a way that would have solved the current surplus problem in the best interests of the family dairy structure that we have in this country.

Unfortunately, the rule before us does not allow any of that. It does allow one amendment to the dairy section, thus acknowledging some of the problems with the National Milk Producer proposal. It allows the chairman of the Foreign Affairs Committee to come in and provide an amendment to deal with some of the administrative foreign policy problems created by H.R. 6892.

In fact, there is a great deal of concern all over the spectrum. My colleague from Massachusetts, Mr. Frank, also appeared before the Rules Committee. He wanted to offer an amendment on dairy as well. While I am very opposed to his amendment, he probably should have had the opportunity to offer it as, I believe, the rest of us should have had so that the various solutions to the dairy problem could have been fully debated.

Unfortunately, what we are doing today is embarking upon a road that leaves the conference committee with the Senate on two choices: Either a cut or a freeze in dairy price supports. As my colleague from Texas, Mr. Stenholm, so astutely said, the inevitable result of either choice will be an increase in production and, either after the election of later next year, we will be back here again debating the dairy program in this Congress for the third year in a row.

Those Members who are interested in preserving some form of that program and preserving some form of the family farm structure of dairy agriculture in this country ought to be very concerned about what that does. For those reasons, then, I ask the Members to oppose this rule, because it plays games with the legislative process of reconciliation and, more importantly, because it plays games with the structure of dairy agriculture and the family dairy farms in this country.

The **SPEAKER** pro tempore (Mr. Kazen). The time of the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 3 minutes, for debate only, to the gentleman from California (Mr. Panetta).

Mr. PANETTA. Mr. Speaker, this is the final package on reconciliation savings that will come before the House. To summarize, we have done five packages. The first was the Veterans package, which was passed unanimously under suspension of the rules by the House. The Ways and Means Committee and Energy and Commerce are already in conference with the Finance Committee on issues related to both taxes and cuts in that area. The Post Office and Civil Service Committee came before this House under exactly the same rule as the Agriculture Committee is coming before this House. That too is now headed to conference. The Banking and Currency Committee came up last week with exactly the same rule as we have for the Agriculture Committee. That has passed the House and is ready for conference.

Now, we have the last package, which is Agriculture, which is being presented to the Members with exactly the same rule as the other packages were, allowing one substitute by the minority. Following that approach, CBO has told us that this committee has exceeded its savings' target. We do follow CBO as our primary guide, although obviously there are differences whether we use OMB or whether we use a department downtown, but the reality is that CBO is our primary guide. All of the committees were instructed to come up with $27.1 billion in 3 years in savings.

All of the committees have come up with $29.3 billion in savings, or an excess in savings of $2.1 billion. So, the committees have met their targets, and indeed exceeded their targets.

With regard to the Agriculture Committee, they come before us with what I think is a balanced approach involving savings in food stamps, savings in the dairy program and savings in crop diversion. We have argued for years about the need to finally cap the dairy program. Somehow the issue has been missed that we are not really achieving savings in dairy. This is a major reform. It assures $3.2 billion in savings over the next three years.

The same thing is true for the crop diversion program, which picks up almost $50 million.

One substitute is permitted the minority. They have not touched the dairy program. Regardless of the arguments of the gentleman from Ohio, they are not even going at the dairy program. They are not even going at the crop diversion program. They are going at one program, which is food stamps, and the House will have the opportunity to decide whether additional cuts will be made there. But, let me make clear that the minority has not sought out any changes with regard to the dairy program or crop diversion. So if we are interested in trying to proceed to get the spending cuts in place, the best thing to do is to support this rule, and let us proceed to conference.

Mr. FROST. Mr. Speaker, I yield 5 minutes, for debate only, to the distinguished gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. Mr. Speaker, what I have to say does not just apply to this bill. It applies to the whole reconciliation process when combined with the closed rules. But, this bill is a good example of the problem.

Under this reconciliation process Members will remember that a year ago the House passed a reconciliation bill written in the executive branch about as thick as the Bible, and we are still finding out what was in it. This year the House is passing five separate bills, and this is one of them, but each one combines amendments to several programs into one bill. It is an omnibus reconciliation bill for everything that comes under the jurisdiction of the Agriculture Committee.

The Agriculture Committee has vast jurisdiction, applying clear across the board, all the way from food stamps, dairy, consumer programs, nutrition programs, a vast number of programs, and tucked away in these bills are things that do not involve savings. And, the proposed rule prohibits amendments, including those that do not have anything to do with savings or additional expenditures.

It is a bad process. It is sure to result in laws which will embarass this House. We are going to discover provisions in these bills as the months go by that no one knew was in these bills when they passed. It is the wording that is important. If some of these provisions came on the floor by themselves, they would not pass and would be subject to amendment at that point which would correct them.

One thing they have tucked away in this bill, for example, involves the feed grains program. We hear all this talk about food stamps and dairy, but they also have a diversion program in here for feed grains that is very discriminatory against feed grains compared to wheat. The feed grains diversion is based on a dollar and a half a bushel on one-half of the acres idled of corn, and relatively on other feed grains; but is based on $3 for wheat. It figures out this way: Fragile lands diverting wheat acreage will get $55 an acre for diverting those fragile land productivity acres and $75 to pay for the cost of carrying productive farm land with four times the value. The diversion program pays for the cost of carrying the idle land. There is no production involved. It does not involve costs of production because there is not going to be grain or wheat produced on this land. It is to cover the cost of carrying the land. It is very discriminatory, $55 an acre for fragile land and $75 for the good lands which cost 4 or 5 times as much and pays 10 times as much in taxes. Those rates will divert wheat acres which are not very productive and contribute little to adjusting production but will not secure diversion of procutive corn land and better grain land which would contribute to an adjustment.

The fact of the matter is, it is not even good for those who think it is good. What happened about 4 years ago, and one reason wheat got into this problem, was that they secured a very, very favorable loan rate compared to feed grains, so what happened was that there was a big bulge in acreage in the double crop high yielding area to wheat, wheat followed with beans or wheat followed with sunflowers or something else. They got into trouble because they penalized corn and not giving it a program comparable to what they had for wheat, so it hurt wheat in the end. The people supposedly helping wheat were their own worst enemies because they opposed a corn and milo program at a comparable level. They seem to be preoccupied with the discriminating against feed grains compared to wheat when actually it is necessary to look at both on an equal basis. That kind of substantive change in treatment of grains and discrimination against corn is tucked away in this bill.

My real objection, then, is to the fact that this rule prohibits even amendments that do not have anything to do with alleged savings under the guise of making alleged savings, and they are very doubtful. The committee proposed an omnibus bill amending many kinds of programs, and we will find out several months from now there were some provisions in the bill which were obscured. I just think it is a bad process and we should change the whole process.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield.

Mr. THOMAS. Mr. Speaker, I think the gentleman is absolutely correct. He did not mention the rice program, but to give the Members an idea of what was also tucked away in the omnibus reconciliation for agriculture is the paid diversion program for rice, which even by CBO figures costs the taxpayer money. It does not save—it costs.

Mr. SMITH of Iowa. Well, I am not an expert on the rice program, but I think the rule should provide an opportunity at least to make amendments that do not result in additional expenditures.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Roth).

Mr. ROTH. Mr. Speaker, I rise in opposition to the rule on this agriculture reconciliation bill. I believe that the House must have an opportunity to consider specifics, and not be forced to swallow this legislation whole.

Nevertheless, I do believe this legislation has merit, and I particularly applaud the committee's changes in the dairy price support program. I believe a two-tier approach rightly puts the burden of controlling production on the industry.

However, I am concerned that the committee missed a great opportunity to deal effectively once and for all, with the negative effects that imports of artificial milk protein products has on the dairy industry and on the dairy program.

Quite simply, it makes no sense to penalize farmers for overproduction at the same time that we allow unlimited amounts of foreign dairy products, real and artificial, into this country. It is not enough to freeze the effects of increased dairy imports on farmer's incomes; we must cut imports of artificial dairy products in order to release Government-held stocks of nonfat dry milk accumulated at taxpayer expense because of shortsighted trade policy. Plainly, it is time to put America first.

Further, I believe that the committee did not achieve meaningful savings in the food stamp program. The cost of the food stamp program has skyrocketed and it has been estimated that over $1 billion annually is lost in the food stamp program to fraud, waste, and abuse. Increasing unemployment has put even greater financial strains on the program. I believe that the committee missed an opportunity to achieve significant savings in the program while protecting benefits for the needy by not removing the voluntarily unemployed from eligibility for food stamps, thus placing it in the same eligibility area as unemployment benefits—reserved for those who lose their jobs involuntarily.

Fairness to farmers should extend to fairness for taxpayers in every agricultural program.

Fairness means cutting back on dairy imports into this country. Fairness means reducing the costs of the food stamp program to the beleaguered taxpayer.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 156, not voting 48, as follows:

[Roll No. 254]

YEAS—230

Addabbo
Albosta
Alexander
Annunzio
Anthony
Applegate
Aspin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Bingham
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CA)
Burton, Phillip
Butler
Byron
Campbell
Chisholm
Clay
Clinger
Coelho
Coleman
Collins (IL)
Coyne, William
D'Amours
Daschle
Daub
de la Garza
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emerson
Emery
English
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Florio
Foglietta
Foley
Ford (TN)
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Hefner
Heftel
Hightower
Holland
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hutto
Ireland
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Lantos
Leach
Leath
Lehman
Leland
Livingston
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Montgomery
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelson
Nichols
Oakar
Obey
Ottinger
Panetta
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts (SD)
Rodino
Roe
Roemer
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Simon
Skeen
Skelton
Smith (NE)
Smith (PA)
Solarz
Spence
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Taylor
Udall
Vento
Volkmer
Wampler
Washington
Waxman
Weaver
Weber (MN)
Weiss
White
Whitley
Whitten
Williams (MT)
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Zablocki
Zeferetti

NAYS—156

Anderson
Archer
Ashbrook
Atkinson
Badham
Benedict
Bethune
Bliley
Broomfield
Brown (CO)
Broyhill
Burgener
Carman
Chappie
Cheney
Clausen
Coats
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
DeNardis
Derwinski
Dickinson
Dreier
Dunn
Edwards (AL)
Edwards (OK)
Erdahl
Erlenborn
Evans (DE)
Fenwick
Fiedler
Fields
Findley
Fish
Forsythe
Frank
Frenzel
Gilman
Gingrich
Goodling
Gradison
Gramm
Green
Gregg
Gunderson
Hagedorn
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hendon
Hiler
Hillis
Hollenbeck
Holt
Horton
Hughes
Hunter
Hyde
Jacobs
Jeffords
Jeffries
Johnston
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Lee
Lent
Levitas
Lewis
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Michel
Mitchell (NY)
Molinari
Moore
Moorhead
Nelligan
Nowak
O'Brien
Oberstar
Oxley
Parris
Paul
Petri
Porter
Pritchard
Regula
Rhodes
Ritter
Roberts (KS)
Robinson
Rogers
Roth
Roukema
Rousselot
Rudd
Sawyer
Schroeder
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Staton
Stump
Tauke
Thomas
Trible
Vander Jagt
Walgren
Walker
Weber (OH)
Whitehurst
Whittaker
Williams (OH)
Winn
Wortley
Wylie
Young (FL)

NOT VOTING—48

Akaka
Andrews
AuCoin
Bafalis
Biaggi
Blanchard
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chappell
Conyers
Crockett
Davis
Deckard
Derrick
Dornan
Ertel
Evans (GA)
Flippo
Ford (MI)
Ginn
Goldwater
Grisham
Hawkins
Hertel
Jenkins
LeBoutillier
Marks
McClory
McCloskey
Moffett
Neal
Pursell
Railsback
Rose
Rosenthal
Santini
Savage
Siljander
Stanton
Traxler
Watkins
Wilson
Wolf
Young (MO)

□ 1215

Messrs. BENEDICT, GRAMM, WORTLEY, FISH, and SMITH of New Jersey changed their votes from "yea" to "nay."

Mr. EMERSON and Mrs. COLLINS of Illinois changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6892) to Provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. de la Garza).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 9, not voting 63, as follows:

[Roll No. 255]

YEAS—362

Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Bliley
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
Dellums
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fields
Findley
Fish
Fithian
Florio
Foglietta
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mazzoli
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Simon
Skeen
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zablocki

NAYS—9

Conable
Dreier
Lewis
Luken
Lungren
McDonald
Shumway
Solomon
Thomas

NOT VOTING—63

Addabbo
Akaka
Applegate
AuCoin
Bafalis
Biaggi
Blanchard
Bolling
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chappell
Chisholm
Conyers
Crockett
Davis
DeNardis
Derrick
Dornan
Ertel
Evans (GA)
Fiedler
Flippo
Ford (MI)
Gaydos
Gephardt
Ginn
Goldwater
Grisham
Harkin
Hawkins
Hertel
Jenkins
LeBoutillier
Lehman
Long (MD)
Marks
Mavroules
McClory
McCloskey
McKinney
Moffett
Neal
Pursell
Railsback
Rose
Rosenthal
Santini
Savage
Seiberling
Siljander
Skelton
Traxler
Watkins
Weiss
Whitehurst
Wilson
Wolf
Young (MO)
Zeferetti

□ 1230

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6892, with Mr. Gray in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. de la Garza) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Wampler) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. de la Garza).

Mr. de la GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 6892.

The bill provides changes in legislation to meet reconciliation requirements imposed on the Committee on Agriculture by the first concurrent budget resolution for fiscal year 1983.

GENERAL

The actions taken by the committee exceed by $1.3 billion the goals prescribed by the reconciliation instructions of the budget resolution. Under section 2(c)(1) the Committee on Agriculture was asked to report changes in laws under the jurisdiction of the committee that would reduce spending by $779 million in fiscal year 1983, $1.083 billion in fiscal year 1984 and $1.428 billion in fiscal year 1985. H.R. 6892, instead, would yield savings of $1.276 billion in fiscal year 1983, $1.724 billion in fiscal year 1984, and $1.596 billion in fiscal year 1985.

These net savings were achieved by amendments to the commodity programs and by amendments to the Food Stamp Act. The amendments to the commodity programs would result in savings of a total of $3.270 billion over the 3 years, and the amendments to the food stamp program will yield savings totaling $1.326 billion over the 3 years.

The amendments to the commodity programs are designed to achieve supply adjustment by alleviating surpluses which, in the case of the dairy program, have resulted in excessive Government costs and, in the case of other farm commodities, have depressed farm prices and contributed to a decline in real farm income which is at its lowest level since the Great Depression.

Mr. Chairman, I think the committee has done an exceedingly good job, not only in complying with the requirements imposed on us by the Budget Committee and by the House, but by affording the House and eventually the taxpayers of this country far more savings than we were requested to do. This was done because of our interest in helping the largest number of people with the smallest number of dollars; and when we make reductions, we seek to cut the largest amount of dollars in a way that would affect the least number of people. That is within the art of the possible, and that is what we have to deal with in the legislative process.

I know there are many Members who are not satisfied with this legislation. That is only proper and expected in a body such as this. You could see by the vote on the rule that many

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Members, a large number, were unhappy that we would have a modified closed rule; and that, of course, is their prerogative. And some of them may be correct in their concern. But in order to have the necessary flexibility to make cuts, very difficult and painful cuts, in programs that are so dear and near to the hearts of so many of our Members, we had to have that type of rule. Otherwise, we could not come here and open up the entire bill to amendment, because many of those—and I say this and I hope that my colleagues would listen—who are dissatisfied with our product are dissatisfied because we cut too much, because their program is not given more assistance since that would have added to the cost. I say to those Members that they have the right to disagree, but it would be very difficult if we were to come here, under the guise of working on a budget resolution in reconciliation, to try and reduce savings if we were to have a run, if you would call it that, on the budget, by adding more expensive programs.

I know that in one of the areas, in dairy, one of our dear colleagues, of course, is very dissatisfied. But his resolution would cost exceedingly more than what we have come with.

So, again, I would hope that the Members of the House would support our effort, the very sincere and dedicated effort of this committee, of all its Members, and the subcommittee chairmen, that what we have done is: First, within the art of the possible; and second, that it was not easy but it was very, very difficult to cut anything. To reduce anything in this Government is very difficult. We have gone above that.

Now, Mr. Chairman, later on I might have some further comments as to where we are in the economy, the farm economy, and why the need for this legislation. But, for the time being, I will just say that I would hope that all of the Members of the House would support our effort in this legislation, which was done with the very, very difficult task of reducing expenditures, but it was done, I think, in an exceedingly good manner by the members of the Agriculture Committee.

The committee would also point out that it recently reported out a bill, which has since been enacted into law, to insure that the tobacco price support program will be carried out at no expense to the taxpayers. The Congressional Budget Office estimated that this legislation will result in savings totaling $44 million over the next 5 fiscal years.

The amendments to the Food Stamp Act achieve significant cost savings through measures believed by the committee to represent the least harmful alternatives with respect to needy households dependent upon the program. In this regard, the committee would emphasize that as a result of legislation adopted in 1981 savings were made in the food stamp program which totaled in excess of $6 billion for the 3 fiscal years affected. While the committee was compelled to make further food stamp cuts so as to contribute to achieving the directive that it make cost savings in programs within its jurisdiction, any deeper cuts in the program would impact heavily on the ability of low-income Americans to secure an adequate diet.

DAIRY

Title I of H.R. 6892 amends section 201 of the Agricultural Act of 1949, as amended by the Agricultural and Food Act of 1981, to establish a two-tier dairy price support program to be implemented by a National Dairy Board.

The Agricultural Act of 1949, as originally enacted, required the support of milk prices at such level between 75 and 90 percent of parity as is necessary to assure an adequate supply. Until recently the dairy price support program has functioned effectively to assure an adequate supply of dairy products at a reasonable cost, bringing stability to an industry which is subject to annual swings in both production and consumer demand.

The Food and Agriculture Act of 1977 raised the minimum support level from 75 to 80 percent of parity through March 31, 1979, and required that the support price be adjusted semiannually. Congress, in 1979, extended the 80 percent of parity minimum support level through September 30, 1981.

Unfortunately, due to a variety of factors, the purchase of surplus stocks by the Commodity Credit Corporation has grown to record proportions since that time.

The committee is deeply concerned about this unprecedented surplus milk production and has acted on three occasions in the last 18 months to rescind scheduled increases in the support level. In the most recent action, the Agriculture and Food Act of 1981 continued through fiscal year 1982 the $13.10 per hundredweight support level, which had been in effect in 1981. This level of support was equivalent to 72.5 percent of parity on October 1, 1981—the first time in the history of the program that the support level has been set below 75 percent of parity at the beginning of the marketing year.

These actions have not been successful in reducing milk production. For a variety of reasons, milk production continues to expand, although at a decreasing rate.

Foremost amongst these reasons for continued expansion is the decline in grain prices experienced last year. Record feed grain production in 1981 depressed grain prices severely. Because grain is the principal cost item in milk production, dairy farmers found it economical to increase feeding rates, increasing milk production per cow. Also some farmers entered dairy farming because of the limited or nonexistent income opportunities in the other sectors of agriculture.

Other reasons for the increase in surplus milk production have been the stagnant demand for dairy products caused by the recession, stagnant beef prices which have discouraged the marketing of older, inefficient milk cows, and the expansion of herds caused by setting the support level at 80 percent of parity during the period 1977-80.

Faced with at least another year of record milk production and expenditures for the dairy program, the committee has developed this legislation which will completely restructure the program and create a strong and immediate incentive to reduce production.

The principal feature of title I of H.R. 6892 is to create a two-tier dairy price support program for the 3 fiscal years beginning October 1, 1982.

For that portion of the national milk supply required to meet domestic needs, the support level of $13.10 per hundredweight, which had been in effect for 2 years, would continue through fiscal year 1983. For the next 2 fiscal years, the level of support would be adjusted to reflect the percentage of parity that the Secretary determines $13.10 represented on October 1, 1982. This is now estimated to be approximately 68 percent of parity.

For that portion of the national milk supply determined to be in excess of domestic needs, a uniform deduction to the basic support level would be applied. The rate of reduction would be calculated in a manner so as to cover the net cost of acquiring, managing, and disposing of all surplus milk in excess of 5 billion pounds annually, as well as making incentive refunds to producers.

The funds represented by this deduction will be collected and remitted to the CCC by the first handler of the milk. Through this system, producers will finance their portion of the cost of the price support program.

One of the major criticisms of the current dairy price support program is the absence of any upward limit on dairy purchases by the CCC. Limiting CCC responsibility to 5 billion pounds milk equivalent will achieve an immediate and substantial reduction in the dairy program. By comparison, the CCC will acquire an estimated 13.3 billion pounds milk equivalent of dairy products in fiscal year 1982. Enactment of this legislation will achieve savings in excess of $1.3 billion in fiscal year 1983 according to CBO estimates.

To provide further incentive to reduce production, incentive refunds would be made to producers who can demonstrate a reduction in production from that of the previous year. The committee believes this mechanism will provide a strong incentive for producers to immediately reduce production.

The bill also creates a National Dairy Board appointed by the President from nominations recommended by producer organizations. It is assigned major responsibilities for administering the program.

The committee also addressed the subject of dairy product promotion. H.R. 6892 provides for a coordinated national promotional effort financed by milk producers.

If the program is approved in a national referendum by a majority of milk producers who vote, there would be a 5 cents per hundredweight nonrefundable assessment on all milk marketed to be used for the purpose of general advertising and promotion of dairy products. The promotional activities would be limited to processed dairy products for the first 2 years of the program. The program would expire at the end of 5 years unless approved by another referendum.

The program would be operated at no cost to the Government and by promoting consumption of dairy products, it should contribute to a reduction of the surplus and the cost of the price support program.

Another dairy issue addressed by the committee deals with the donation of surplus dairy commodities domestically and abroad. Subtitle C of title I (section 130) expands the authority of the CCC to donate surplus dairy commodities to needy households in the United States, including households participating in the food stamp program which are ineligible to receive such products under current law. It also provides expanded authority for donation of surplus dairy products to needy persons outside the United States. On this issue Chairman ZABLOCKI plans to offer an amendment which would require coordination of this program with existing donation programs under title II, Public Law 480. There is much merit to his proposed amendment.

WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Title II provides emergency legislation to help strengthen the sagging farm economy by offering producers of wheat, feed grains, upland cotton, and rice an effective surplus reduction program for the 1983 crop of these commodities.

The bill proposes a practical and effective solution to an urgent problem currently facing producers of these commodities. Real farm income in the United States now is at its lowest level since the Great Depression in the 1930's. This is the result of recent worldwide bumper harvests, coupled with high interest rates, a worldwide recession, and the strength of the dollar abroad—making it more expensive for foreign buyers to buy our farm commodities. The situation is particularly grave for the U.S. grain and rice industry.

A substantial reduction in stocks of these commodities is necessary if we are to see any improvement in prices. Grain and rice prices are particularly depressed at the present time. The July farm price for wheat was $3.29 per bushel compared with the July 1981 price of $3.62 per bushel and the seasonal average price in 1980 of $3.65. Similarly, the July corn price was $2.54 per bushel contrasted with the July 1981 price of $3.14 per bushel. The July farm rough rice price was $8.16 per hundredweight compared with the July 1981 price of $12.80 per hundredweight and a seasonal average price in 1980 of $12.80 per hundredweight.

It is the view of the committee that the program announced by the administration for 1983 crop wheat or any other similar program patterned after the 1982 program would once again be ineffective in actually reducing supplies. The committee believes that in addition to program benefits, a paid diversion is needed to provide the incentive necessary to gain farmer participation. Without the paid diversion included in this bill, participation would likely be too low and stocks would continue to build. On the other hand, the reduction program approved by the committee, with a portion in the form of a paid diversion, would increase compliance. effectively reduce production, restore better balance between supply and demand, and afford farmers a better chance for adequate returns.

Further, the committee is of the opinion that a paid diversion program is in the best interest of soil conservation. Nobody including producers wants to waste this Nation's resources producing crops that presently are not needed. Unless an effective supply management program such as the committee recommends is initiated, we can only look forward to larger Government outlays in addition to having to witness the depletion of one of this Nation's most valuable resources—our croplands.

To this end, H.R. 6892 provides the following for wheat, feed grains, and rice.

For wheat, there would be an acreage reduction program consisting of a reduction of 25 percent of the wheat acreage base, 10 percent to be made under a paid diversion program which would qualify the producer for a diversion payment of $3 per bushel on the yield for the diversion program acreage.

For feed grains, the program would be required if the 1982 corn crop exceeds 7.3 billion bushels in which event a reduction of 20 percent of the 1983 crop feed grain acreage base would be required, 10 percent to be made under a paid diversion program, the payment to be $1.50 per bushel.

For rice, a program would be required if the 1982 rice crop exceeds 145 million hundredweight, the reduction to consist of a total of 20 percent of the 1983 crop rice acreage base, 10 percent to be made under a paid diversion program which would qualify the producer for a $3 per hundredweight payment.

In addition, H.R. 6892 establishes a minimum loan rate for the 1983 crop of wheat of $3.80 per bushel and for the 1983 crop of corn of $2.61 per bushel. This would increase the loan rate by the same amount as the increase in the target price for these commodities mandated by the Agriculture and Food Act of 1981. This assures that the exposure for deficiency payments for the 1982 crop would not be increased in 1983.

Another provision contained in this bill would require an effective supply-management program for cotton producers for the 1983 crop in the event the Secretary of Agriculture determines that a supply-reduction program is necessary.

During the past year, cotton producers were severely affected by the same disastrous economic conditions that adversely impacted producers of other major commodities.

By June of this year, cotton prices had fallen nearly 25 percent from the year before. It was becoming clear that the acreage reduction program announced by the Department would reduce stocks by no more than 300,000 bales by August 1983.

During the month of June, a series of weather patterns developed in west Texas which produced a host of extraordinarily devastating storms causing a loss of the equivalent of 26 percent of the acres planted throughout the United States. As a result, only about 10 million bales are expected to be harvested in the United States from this year's crop, and stock projections for August 1983 have now been revised downward from 6.1 to 4.4 million bales. Were it not for this calamity, there would be little doubt that cotton producers would be facing an indefinite yet prolonged period of large surpluses coupled with prices far below cost of production.

Still, there is a great deal of uncertainty surrounding the exact extent of the Texas disaster, which cannot be accurately determined for some months. In addition, the export outlook continues to sag, with 1982-83 projections now revised downward from 7.3 to 6.7 million bales. Domestic use for next year is also expected to be lower than earlier projections. Thus, in the absence of marked improvement

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in economic conditions, cotton markets in the United States and abroad could become increasingly sluggish. Because of these factors, many farmers and farm organizations have expressed concern that surplus conditions could soon return, with the same adverse conditions of the past year.

The committee recognizes these uncertainties facing the cotton industry, and therefore is leaving the initial determination of the need for a reduction up to the Secretary of Agriculture. The Secretary is in a position to monitor the situation carefully both here and abroad during the coming months and assess the need for a reduction program.

In the event that he determines a need for such a reduction, this legislation will provide the tools for a more effective program. H.R. 6892 provides that if the Secretary should establish an acreage reduction program under current law, 25 percent of the reduction would be required under a paid diversion program which would qualify producers for a payment of 25 cents per pound on the yield for the diversion program acreage.

In the view of the committee that incentive of a paid diversion is necessary to encourage participation in any supply adjustment program that may be announced by the Secretary.

FOOD STAMPS

The bill would continue the food stamp program for 3 more years—through September 30, 1985—with authorization for funding for fiscal year 1983 at $12.648 billion, for fiscal year 1984 at $12.908 billion and for fiscal year 1985 at $13.651 billion. The spending caps are those proposed by Mr. COLEMAN, ranking minority member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. They are based upon the following Congressional Budget Office estimates for unemployment and food price inflation:

[By fiscal years, in percent]

	1983	1984	1985
Unemployment	8.6	7.7	7.3
Food price inflation	6.1	6.8	6.9

In conformity with the reconciliation process, the committee has utilized the current CBO estimates for program expenditures; on the basis of those estimates, the appropriation levels authorized appear sufficient to maintain benefits for those Americans without resources to purchase an adequate diet. If, however, the rate of inflation or the rate of unemployment should exceed the rates assumed in the CBO cost estimates, it is apparent that the authorized funding levels established in the bill may not be adequate to meet program needs.

The bill reduces the cost of the food stamp program over 3 years by an estimated $1.3 billion, based on economic assumptions used in the first concurrent budget resolution.

The committee achieved cost savings by various changes in the program. The committee agreed to:

Require rounding down to the lowest dollar increment any computations of, respectively, the thrifty food plan, standard and excess shelter deductions and value of allotments. As is current practice, the unrounded number will continue to be used as the basis for updating the deductions the following year. (Savings of $68 million for fiscal year 1983, $93 million for fiscal year 1984, and $93 million for fiscal year 1985).

Delay the next scheduled adjustment of the standard shelter and dependent care deductions from July 1 to October 1, 1983 and update the deductions every October 1 thereafter. This would coordinate the update of these deductions with the timing of the update in the thrifty food plan. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the thrifty food plan will take place on the same dates, reducing the work required by State food stamp administrators. (Savings of $42 million for fiscal year 1983, and no savings for the following fiscal years.)

Eliminate any allotment for the initial month or period of participation for a household if the value of the allotment it otherwise would receive is less than $10 because of proration of the initial month's benefits. In subsequent months, the household would receive the full allotment which it was due. (Savings of $15 million for each of fiscal years 1983, 1984, and 1985.)

The committee amendment requires that expedited food stamp service be made available to destitute migrant households in accordance with regulations in effect on July 1, 1982, and to other households having no net income. The committee continues to feel that the special circumstances of migrant and seasonal farmworkers warrant continued protection for expedited service eligibility. Because of the seasonal nature of their work which involves movement from area to area, migrants in most instances arrive at a new worksite without sufficient funds to feed themselves until payment is received from a new employer. Households in such situations currently qualify for expedited service under USDA regulations as destitute households.

To insure continued protection for migrant and seasonal farmworker households under the destitute provisions, the committee wrote into law the safeguards now contained only in USDA regulations, which include a requirement that stamps be made available in 2 or 3 days after application. The committee wishes to make clear that the current regulations regarding expedited service eligibility and benefit levels for destitute households must remain intact for migrant and seasonal farmworker households.

The committee rejected an amendment to impose what it considered undue restrictions upon expedited service for households which face real hunger emergencies. Witnesses from the General Accounting Office testified before the committee in hearings in March that quality control data for 20 States showed that errors for expedited cases were generally lower than those for the overall caseload. During this time of exceptionally high unemployment, to deny households who experience temporary destitution speedy access to food assistance would be cruel and unreasonable. The administration reported that in New Jersey 60 percent of the households that were given expedited services treatment during a temporary emergency did not require food stamps on a long-term basis.

In connection with expedited service, the report of the committee on H.R. 6892 addresses other concerns—that there be no gap in benefits for those providing prompt verification of need, and that a State's issuance cycle not result in a migrant household being deprived of benefits in the second month of eligibility. I would emphasize a view shared by both the majority and minority sides of our committee—that the comments in the committee report on these issues are applicable whether the committee bill or the substitute is adopted by the House.

The committee also refused to delay adjustments in the thrifty food plan which would further erode the purchasing power of recipients. Because of legislation enacted last year, the July benefit allotments are based on food prices that are 22 months out of date, which corresponds to a 10- to 15-percent loss in food purchasing power. Many of the witnesses at this year's food stamp hearings testified that the current delay in thrifty food plan adjustments may be a contributing factor to the increased use of food banks and soup kitchens by low-income persons around the country. At the hearings, witnesses estimated that an average food stamp family lost $4 a week in food buying power—an amount which represents three meals a day for each family member for 2 days each month—with the 1981 freeze on adjustments, and, if the family lived in a State with a sales tax on food, they lost almost $3 more. If food stamp adjustments were delayed again this year, food stamp families would lose another $5 a week in food-buying ability.

USDA's last National Household Food Consumption Survey, conducted in the late 1970's, found that five-sixths of all households whose food expenditures equaled the cost of the thrifty food plan failed to obtain the recommended daily allowances for the basic nutrients. Today, the average food stamp benefit equals but 43 cents per person per meal, and the maximum benefit (to families with no other income for food purchases) totals 64 cents per person per meal.

The committee recognizes that to effectively serve the needs of the poor, a substantial effort must be made to deny program benefits to those who are not entitled to them. Accordingly, the committee adopted several measures which reflect the suggestions made by State program administrators, officials from the General Accounting Office, and the Department's Inspector General to achieve this objective.

The committee bill includes the following antifraud and abuse provisions, some of which also result in program savings:

First, job search: Establishes an option for States to apply job search requirements at the time households apply for participation in the program. (Savings of $5 million for fiscal year 1983, $6 million for fiscal year 1984, and $7 million for fiscal year 1985.) The committee rejected a job search amendment which would have authorized the Secretary to require job search by applicants. This action was taken primarily in recognition of the fact that imposing this requirement would be an exercise in futility in States where the unemployment rate is extraordinarily high.

Second, voluntarily quitting a job: Lengthens the voluntary quit disqualification period from 60 to 90 days, making this penalty compatible with the AFDC disqualification period.

Third, reimbursement for workfare administrative expenses: Directs the Secretary to use one-half of the savings resulting from the employment of food stamp recipients who had been participating in workfare programs to defray additional Federal contributions to agency costs of operating such programs.

Fourth, household definition: Requires siblings who live together to be treated as one household unless one sibling is elderly, blind, or disabled and permits certain elderly, disabled persons who live with others but who do not purchase food and prepare meals to be considered a separate household. (Net savings of $38 million in fiscal year 1983, $40 million in fiscal year 1984, and $42 million in fiscal year 1985.)

Fifth, standard utility allowance: Prohibits the use of standard utility allowances for households, such as those in public housing, that are not billed for heating or cooling costs. (Savings of $90 million in fiscal year 1983, $93 million in fiscal year 1984, and $97 million for fiscal year 1985.)

Sixth, alternative issuance systems: Authorizes the Secretary to require that State agencies develop alternative issuance systems or to issue a reusable document in lieu of coupons if the Secretary, in consultation with the Inspector General, determines that use of such systems or documents is necessary to protect the integrity of the food stamp program and reduce losses to the program.

The overissuance of allotments caused by recipients or administrative staff error results in unnecessary costs to the food stamp program. The committee, in an effort to reduce the amount of overissued benefits, has approved several measures to improve the administration of the program, while at the same time, applying strong sanctions on the States. To ease the State's administrative burden and reduce costs, these measures, among others, were adopted:

First, prompt reduction: Authorizes State agencies to immediately reduce or terminate a household's benefits if the agency receives clear, written information that such a benefit reduction or termination is required. (Savings of $10 million for each of fiscal years 1983, 1984, and 1985.)

Second, error rate reduction system: Sets specific targets for error reduction by State agencies for fiscal years 1983–85 and thereafter and imposes sanctions for States failing to meet the targets. (Savings of $90 million for fiscal year 1983, $200 million for fiscal year 1984, and $325 million for fiscal year 1985.)

H.R. 6892, as reported by the Agriculture Committee, contains the same error rate sanction provisions as those introduced earlier this year by Senators DOLE, COCHRAN, ANDREWS, JEPSEN, and BOSCHWITZ, and passed by the Senate. The committee rejected an error rate reduction provision which would have draconian effects on the States.

Both the committee bill and the rejected amendment would require States to lower error rates to 5 percent by fiscal year 1985 or face financial penalties. Both save considerable amounts of money, and result in identical savings in fiscal year 1983. There are, however, important differences between the two approaches. Because of these differences, the National Governors Association and the Council of State Public Welfare Administrators both opposed the approach contained in the amendment when it was offered in the Agriculture Committee, and stated a strong preference for the committee provisions.

H.R. 6892 sanctions States that fail to meet their error rate targets by reducing the Federal share of their administrative costs by 5 percent for each of the first 3 percentage points that the error rate exceeds the target, and by 10 percent for each additional point that their error rate exceeds the target. In other words, if a State's target is 5 percent but its actual error rate is 8 percent, it would lose 15 percent of the Federal share of its administrative costs. If its error rate were 10 percent it would lose 35 percent of the Federal share of its administrative costs. But a State making significant reductions in its error rate (by reaching one-third of the 5-percent target during 1983, for example) would not suffer financial sanctions.

The amendment, by contrast, would have penalized a State a full dollar for every dollar in benefits overissued over the State's error rate target. This could result in huge and unrealistic sanctions that in some cases could exceed 100 percent of the Federal share of a State's administrative costs. The sanctions in the amendment were so large that they would likely have been counterproductive. They would have reduced State funds to the extent that a State could well have insufficient resources to invest in new technology and other systems needed to reduce errors in future years.

In conclusion, Mr. Chairman, I believe that the committee has acted responsibly in not only meeting but exceeding the goals prescribed in the budget resolution. I would urge the Members to join me in support of this bill.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the budget process is, I believe, coming apart at the seams. It is not working as it should and certainly not as I and many or the Members, I am sure, intended when it became law in 1974. The confusing maze of figures that come out of the Congressional Budget Office, the Office of Management and Budget, and others, tend to confuse Members themselves, and it must totally confuse the taxpayers and the public in general who are only observers in this budget process.

Mr. Chairman, I mentioned in my appearance before the Rules Committee that the credibility of cost estimates for bills such as this is taxed when the Congressional Budget Office estimates that there will be no cost attached to the feed grains provisions of the agriculture reconciliation bill because, and I repeat because, CBO states that the 1982 corn crop will be 7.2 billion bushels. No other authority claims such a low figure, yet diversion payments under title II of the bill are not triggered unless there is a crop estimate of over 7.3 billion bushels.

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Currently, most authorities estimate the corn crop at about 7.6 billion bushels. Now, this is frustrating indeed to adopt provisions based on statistics that we are relatively sure are wrong.

What has been said is true about the fact that this bill does substantively change farm commodity programs, the dairy program, and the food stamp program. Yet it is difficult to amend the provisions selectively.

Yes, it is true that there is only one "substitute" authorized by the rule. I would have preferred, as I stated in the Rules Committee, if we could have been given a more "open" rule for H.R. 6892. I asked for such a rule, but recognizing the practicalities of the situation, I asked for a minimum of a minority substitute.

Meanwhile, the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES) appeared before the Rules Committee and stated that the "savings" directed by the first concurrent budget resolution instructions had been met by the provisions of H.R. 6892. The Congressional Budget Office stated that, through a combination of dairy, commodity, and food stamp provisions, the reconciliation goals had apparently been met.

Now, given those facts, Mr. Chairman, the minority could not get a bipartisan or even Republican substitute that could overhaul this entire agricultural reconciliation bill.

So what must we do? I think perhaps we may be relegated to go into conference with the other body and getting the best possible conference report we can. If we have an unsuccessful conference, then certainly the House can work its will and if that conference report is not acceptable to the administration, then I suspect the bill may be vetoed.

Now, in this regard, Mr. Chairman, let me read in part from a letter from Secretary Block setting forth the position of the administration on this bill:

> The administration opposes this bill with the exception of section 130, which amends section 416 of the Agricultural Act of 1949 and authorizes the donation of dairy products.
>
> We oppose the provisions creating special paid diversion programs for the 1983 crops of wheat, feed grains, rice and upland cotton. Not only would these provisions require outlays for diversion payments, but we estimate that the resulting production adjustment would be insufficient to provide offsetting savings in net lending and deficiency payments. We estimate that the program as envisioned in the bill would result in additional outlays for Commodity Credit Corporation of over $1.3 billion in fiscal year 1983 on these crops. Even using the Congressional Budget Office (CBO) estimates for grain, rice, and cotton, these provisions would increase fiscal year 1983 outlays by $363 million. So, the paid diversion programs would not be money-savings changes.

And to quote further, Mr. Chairman:

> We oppose the higher loan rates which H.R. 6892 mandates for wheat and feed grains. We estimate that these loan rates would increase the net outlays for wheat and feed grain commodity loans by $450 million in fiscal year 1983 and by $64 million in fiscal year 1984.

The Secretary of Agriculture also says, Mr. Chairman:

> We oppose the provisions of H.R. 6892 which establish the National Dairy Board and unduly complicate the dairy price support program. This bill would require a new bureaucracy in USDA to operate the new program. Because of the complexities of the provisions it would take up to 6 months to implement the program. Since the cost savings estimated for this bill stem partly from the assumption that it will be implemented immediately, they are overstated by perhaps 50 percent. Moreover, the National Dairy Board would not be accountable to the Secretary or the public. The bill would continue to encourage a supply imbalance of milk through high price support levels. It would lock the Government into a long-term obligation to purchase 5 billion pounds of dairy products annually. Even under the 1981 Act, purchases would likely have fallen below this level by fiscal year 1985.

Now, Mr. Chairman, I do not necessarily agree with each and every position of the administration as stated in the letter from Secretary Block. However, I want to emphasize, it is the President of the United States who must eventually sign this legislation if it is to become law. Therefore, the administration's views are very important on each of these issues.

I have said repeatedly, Mr. Chairman, that an omnibus reconciliation bill, in my judgment, would have been the proper course for the House to take if we really want to effect savings. Now, most of us did not participate in this decision on that issue. It was decided to proceed with a multiple reconciliation bills approach. Obviously, this approach is not working, or at least it is not in my opinion, and it is not effecting the kind of savings that could be achieved.

Mr. Chairman, I think our best hope here today is to pass the minority substitute adding additional food stamp savings, and then, depending on what may happen on a motion to recommit, proceed to obtain the best solution possible in the conference. It is not an easy course that has been set out for us, but we must do the best we can under the circumstances.

So I would urge members of the committee to vote for the minority substitute; then give strong consideration to a motion to recommit with instructions, which I understand the gentleman from Ohio (Mr. LATTA) will offer. Now, if you can support the gentleman from Ohio (Mr. LATTA) after hearing the debate and voting on the minority substitute, I urge you to do so.

If the motion to recommit fails, I urge you to support a stronger conference report that I am hopeful we can bring back to you soon.

Mr. Chairman, I agree with the minority leader, the gentleman from Illinois (Mr. MICHEL) who has said repeatedly that we must resolve the "spending cut" portions of the budget process before proceeding to the tax bill now in conference. I would assume this means holding the tax bill until we determine what the President's action will be on the various spending cut bills.

The vote of 230 to 156 on the rule should tell us all something about what may happen to this bill if we do not proceed with caution.

So, Mr. Chairman, I support the committee in what it has achieved so far in the agriculture reconciliation bill. I again commend the chairman of the committee, the gentleman from Texas (Mr. DE LA GARZA) and others on the committee for their hard work and commitment to date; however, I think we all have to work harder to achieve more savings and certainly I pledge my support to this end.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, it was less than 1 year ago that we passed a 4-year farm bill here in this Chamber. At that time, there was quite a debate as to whether or not we could forecast 4 years in advance exactly what the farm situation might be. After considerable debate and the fine leadership of our chairman, that bill passed by one or two votes, as I recall.

Well, here we are about 1 year later and although interest rates may have declined a little bit, they are still too high for the American farmer and farm commodity prices, though perhaps up for livestock, are disastrously low in the grains.

Yesterday, on the Chicago Board of Trade, the corn and bean prices that they quoted simply are insufficient to sustain a farm operation in this country. December corn closed at $2.45; January soybeans, $5.96.

Let me explain and interpret these figures for those who are not familiar with their meaning. These prices are not even equal to the cost of production of these crops.

Net income continues to fall for the American farmer and the farmers continue to fail to make payment at the bank.

Now, the reason that I support the committee bill, as far as the farm-related programs go, is that there needs to be some incentive for the American farmer to stop producing himself into a disastrous situation pricewise. In my home State of Missouri, three out of four farmers are not participating or

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being certified in the voluntary set-aside program that this administration has put in place to reduce production. It is obvious that they need some sort of incentive to do that, and this bill provided, I believe, an incentive in the form of a paid diversion program. Farmers will undertake to curtail production so that they might be able to help themselves in a resulting higher price in the marketplace. Without that incentive, I am assured that we will have more bumper crops, lower prices for the farmer and more and more deficiency payments paid out of the Treasury in the long run.

Farmers, when they are confronted with low prices and no incentives to reduce production output, are going to try to produce themselves out of a hole. They are going to increase volume. They are going to try to increase efficiency and increase production of grain.

The farmer-held reserve stores more than 2 billion bushels of grain right now.

The farm production figures of last year, 1981, total nearly $139 billion as an aggregate.

The cost of money that the farmers borrow was $13 billion; rent on land and machinery was over $11 billion.

Mr. Chairman, that is why I rise in support of that portion of the bill for farmers, because I believe that something needs to be done.

Now, there has been much debate as to whether or not this bill meets reconciliation. I believe we can all figure that out for ourselves. We are going to offer a substitute which I will speak to later on where we could save $197 million over 3 years in reducing the error rates and other matters in the food stamp program, which would help save money that we know we have not saved under the other parts of this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PANETTA), a member of the Committee on the Budget and also a distinguished member of the Committee on Agriculture.

Mr. PANETTA. Mr. Chairman, I rise as both a member of the Budget Committee but more importantly, a member of the Agriculture Committee with regards to the bill that is now before the House.

First of all, I want to commend the chairman of the committee and the subcommittee chairmen, who worked on this bill, as well as the minority members, all of whom I think worked very diligently to bring this product to the floor today.

Obviously, there is no question that we have a problem with regards to credibility of numbers. The Office of Management and Budget reflects the particular numbers that they want to target at. We have to rely on CBO, the Congressional Budget Office, to present the numbers that scorekeep the savings that we provide to the House.

I realize that it is difficult for the Members, for the members of the public, to try to analyze who is right and who is wrong. The only thing I can point out, I think, to the Members is that CBO has been persistently closer to reality than what OMB has presented and that is true for the prior administration as well as this administration.

The best example of that I can give is that for 1983 the Office of Management and Budget has projected a $115 billion deficit; CBO is projecting a $140 billion to $160 billion deficit, and everyone that I know of that looks at this issue agrees that CBO is much closer to what the projected deficit will be.

So I think in terms of credibility of those that do provide the numbers, CBO is much closer to the mark and, therefore, we do rely on CBO to scorekeep these figures.

In conjunction with that, the Agriculture Committee has exceeded the targets that were given to them in the reconciliation instruction. They were to reconcile $3.2 billion in 3 years and in this bill they have provided savings of $4.6 billion. That is $1.3 billion in excess of the instructions that were given them. It is $1.2 billion ahead of what the Senate has reported in their reconciliation measure.

I think the program that is presented here is also balanced. It does not just go after one program. It tries to spread the sacrifice that is involved any time we try to achieve savings in a reconciliation bill.

Food stamps are cut over the next 3 years to the tune of $1.3 billion, involving error rate adjustments, job search adjustment, and changes in definitions.

The dairy program cuts $3.2 billion. I might mention that that is a program the administration has consistently said ought to be reformed. We ought to cut back on that, and for the first time before this House a major reform bill that, in fact, provides those savings is now open to consideration by the House. It is the first major reform in the dairy program since its existence and I think it is important to recognize that those are real savings. They are to be counted.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. PANETTA. Because of that, the fact that these are real savings, they do attribute to the overall scorekeeping that has the Agriculture Committee exceeding its targets.

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I would urge the Members to support the committee approach, not only because it exceeds the goals and because it is balanced, but also because of the way it does approach the food stamp issue.

Let me say that last year when we had reconciliation, food stamp cuts made up 52 percent of the overall cuts presented in the agriculture package. Almost $7 billion was cut last year for 3 years in the food stamp program. This year, in this package, $1.3 billion, in addition, is cut over the next 3 years.

This is a time of unemployment; it is a time of recession. I think we have to have some sense of the need out there in terms of this program before we go charging ahead and adding additional cuts.

So I would urge the Members to stick with the committee because they did the job, they presented a balanced and effective package, and they are saving money not just when it comes to the poor, but for everyone involved in agricultural programs.

Mr. WAMPLER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, in these troubled times I seek inspirational reading. Unfortunately, more and more I am being inspired by Lewis Carroll's work. For example, in "Through the Looking Glass," when the Red Queen and the White Queen were quizzing Alice, the White Queen said, "What is the cause of lightning?" "The cause of lightning," Alice said very decidedly because she was quite certain about it, "is the thunder. No, no," she hastily corrected herself, "I mean the other way around."

"It is too late to correct it," said the Red Queen, "When you have once said a thing that fixes it and you must take the consequences."

That was "Alice in Wonderland." But look at what the Agriculture Committee has done.

This reconciliation bill before us from the Agriculture Committee, pays people not to grow crops. This bill proposes to pay people not to grow wheat, pay people not to grow feed grains, pay people not to grow rice, and pay people not to grow cotton.

Why you ask? Because otherwise the Government would have to pay deficiency payments.

What is a deficiency payment? A deficiency payment is the difference between the market price and the target price.

What is the target price? The target price is an absolutely arbitrary, agreed upon price. Last year in negotiations on the farm bill in the conference committee, and I sat through 6 weeks of those negotiations, and that conference resembled a Turkish bazaar at times when there were negotiations on what the target prices were going to be on wheat, for feed grains, and for rice. The number arrived at as the target price was simply a political agreement.

But now, somehow, once stated, as the Red Queen says, you cannot go back and correct it. We are locked into a target price. But the Government is going to have to pay too much money in deficiency payments.

So how do we get out from under it? We create a new program, in a reconciliation bill, to pay people not to grow. And when you examine one of those commodities, rice for example, even by all CBO estimates, we are actually going to end up costing ourselves money not saving money.

We are not going to save money by paying people not to grow in the rice area. it is going to cost us money, even by the CBO figures.

I talked about "Alice in Wonderland." Take a look at the cotton program. That is the one exception in terms of target price. That is not an arbitrarily agreed-upon political figure.

In the cotton program, the most market-oriented program of the commodities, the target price is computed by taking the last 5 years' actual market price of cotton, dropping the high figure, dropping the low figure, and averaging the remaining 3 years. That figure becomes the loan rate. The target price is 120 percent of the loan rate.

It at least has some relationship to reality. And because the cotton program is so market oriented, the growers, understanding the need to reflect the market price, have a very high commitment to voluntarily modify their growing habits. As a matter of fact, figures currently in the Department of Agriculture indicate will probably have in the vicinity of an 80-percent compliance, that is 80 percent of the farmers are voluntarily setting aside acres, voluntarily not growing cotton.

Yet in this reconciliation bill, the CBO figured that if we paid people not to grow cotton, we would have about a 75-percent set-aside figure.

As a matter of fact, voluntarily, cotton farmers across the United States voluntarily will set aside a higher percentage. If you want to argue CBO numbers, you have to look at CBO's concepts, the arguments behind the numbers. They are as fallacious as other numbers are in terms of other people's arguments.

I would ask Members to, in fact, recommit this bill and examine the concept of target prices as well as the concept of paid diversion. It does not make any sense at all to me to pay people not to grow when: First, it costs money to do it under the rice program. In a reconciliation bill we are supposed to be saving money; and second, to pay people not to grow when voluntarily they are doing it anyway.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. Huckaby).

Mr. HUCKABY. Mr. Chairman, I rise to the floor in strong support of this bill and would like to comment on some of the statements just made by my good friend and colleague from California, who is a member of the minority party.

It is my understanding the minority will be offering a substitute, and the substitute has the exact same provisions as the bill before the House regarding cotton, rice, wheat, and feed grains. Hence, I must arrive at the conclusion that both parties have recognized that it is necessary that we take action from where we are today, not only to protect the American farmer in the short run but also the consumer in the long run.

American agriculture is hurting like it has never hurt in my lifetime before. If CBO says that from where we are today, with the system we have, where we pay target prices to make up the difference from what the marketplace determines, and what Congress has by previously passed legislation, says is a fair minimum price that farmers should receive, if we can pay money to get farmers to participate in this program and save taxpayers' dollars, it certainly makes sense to do so.

The gentleman from California mentioned the cotton program. But he does not talk reality; he talks of numbers of people who signed up with intentions of what they were going to do. Most farmers will sign up to keep open their options so that they can later on determine whether or not they wish to participate in a program.

For instance, the only numbers that the Department of Agriculture had for the Nation were for the State of Mississippi. Mississippi had over a 90-percent signup of farmers who said. "I will set aside some of my land." But once it came time to plant, only 70 percent of those farmers agreed to set aside their land.

Mr. Chairman, I urge my colleagues to support the committee bill.

Mr. WAMPLER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from South Dakota (Mr. Clint Roberts).

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the agriculture programs section of the reconciliation measure currently before the committee. I commend Chairman de la Garza for his efforts on behalf of Agriculture, and my colleague, Mr. Foley, for authoring, introducing, and working for the commodity provisions we have before us today, of which I am a cosponsor and thank the ranking minority member of the committee for his leadership. If my colleagues will recall, I conducted a "show and tell" for you last session to help educate those of you who may not be familiar with agriculture on just what kind of a return the farmer receives from each $1 you spend on grocery products. If you remember, I indicated that the farmer receives only 4 cents for the wheat in a $1 loaf of bread.

The plight of the American farmer has deepened since that time, and we can no longer stand back and watch the agriculture industry deteriorate.

Farmers today are still battling the results of the ill-conceived grain embargo, and record crops over the past several years have added to the surplus. We currently have a surplus of over 1.1 billion bushels of wheat, and it does not take a genius to figure out that the price of our product is not going to go up when we have an abundance of that product on hand.

There have been legislative attempts made to force farmers to reduce production by penalizing them for not participating in reduced acreage programs. I do not believe that is the proper approach, and, fortunately, my colleagues agree with me. We do have a surplus. We do need to reduce production, but we cannot achieve that by mandating what a farmer can and cannot do with his own land. Rather, we must go with an incentive program which provides to that producer the financial motivation to take some of his land out of production. Mr. Foley's set-aside and paid diversion plan offers that incentive.

We have a lot of young farmers out there who cannot afford to reduce their production—they have too much tied up in buying their land, and equipment, and producing their crop. They need that cash flow to keep their heads above water. The paid diversion provisions of this measure will insure that the farmer will at least receive enough to make his rent payments. Hopefully, we will see a lot less fencerow to fencerow farming under this plan because we are offering those young producers a reasonable alternative.

The American farmer has done more than his fair share in helping to turn this economy around. He has survived embargoes, high interest rates, tight money, and low prices; but he cannot hold on forever. If we want to continue to enjoy one of the lowest food bills in the world for the best quality food products in the world, we have to step in now and help the farmer receive a greater return for his hard work and investment.

We have asked a lot of America's farmers. We now have a chance to

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achieve a sizable budget savings while at the same time do something positive for agriculture. It is not the total answer to our problems, but it is a step in the right direction. I hope you will join me in supporting this measure. It is special interest legislation, special interest to those all across our land who enjoy the tidal effect of a healthy agriculture from the soil of the land to the workers in our factories. Agriculture is the catalyst that fires the furnaces of our factories across America.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. Dorgan).

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the committee bill.

I am going to support this reconciliation package because at least with respect to wheat and feed grains programs it may provide an opportunity for increased farm prices.

I do not like the priorities we are establishing in this House.

We sort of act like four bookkeepers around a coffee table.

The fact is, we ought to be outraged. We have the worst conditions on the farm that we have had for decades.

I went to a barn dance last Saturday night. Do my colleagues know what it was for? It was farmers organizing to raise money to fight the Farmers Home Administration foreclosures. That is what it was for.

Do you know who was playing the music? The Farm Foreclosure Band.

People are upset out there because they are losing their farms; they are literally being kicked off their farms. It is not always a formal foreclosure action; it is forced liquidation.

The Secretary of Agriculture also came to North Dakota recently, not to talk to those folks, of course, but he came to North Dakota. Do you know what he said? He said, "You know, things are not as bad out there on the farm as some people have been led to believe."

Nonsense. He is talking to the wrong folks. I talked to an auctioneer the other evening at the barn dance and he said he is booked up solid to the end of the year, and he said if he had more help he could do twice as many auction sales.

I will say this to the Secretary of Agriculture: If things do not change, he is not going to be known as Secretary Block; he is going to be known as Auction Block, because we are going to have more auction sales in this country out in rural America in the next couple of years than under any other Secretary of Agriculture that we have had. It is not all his fault; I am not saying that. But I am saying that these folks like Secretary Block who are saying farmers should operate in the free market and then take the free market away, that is hypocrisy.

Our agricultural exports are expected to decrease this year for the first time in 8 years; farmland prices are down, the first time since 1954; interest charged exceeds net farm income for the first time in history.

Our family farmers have serious troubles, and it is time for this Congress to pass some legislation that will give them a chance to survive.

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Mr. de la GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Chairman, I thank the Chairman for yielding me this time, and I congratulate his effort.

Mr. Chairman, I rise to speak on behalf of the bill H.R. 6892, which the House Agriculture Committee has reported to meet reconciliation requirements of the first congressional budget resolution.

This bill is a valuable contribution to our overall effort to reduce Government spending and provide much needed relief to the farmers of America. It comes at a time when our farmers are literally fighting for their own economic survival and at a time when no other source of relief appears to be in sight from the effects of low prices, high interest rates, high production costs, and failing farm policy.

The proposal to increase support prices and to set-aside land from production in exchange for diversion payments is an example of how Government farm programs designed to improve farm prices help the farm economy while causing a saving in Federal expenditures. The cost of the present farm policy will result in a higher takeover by increased farmer participation in the Commodity Credit Corportation loan program. The proposed set-aside program with diversion payments will reduce supply, increase market prices, thereby reducing Government loans, deficiency payments, storage costs and bankruptcy losses. The result is an estimated net saving to the Treasury of at least $3.3 billion.

But, far more vitally important to the national interest will be the American farmers who survive this economic depression because Congress responded to the national need of agriculture.

This Congress must recognize the urgency of the situation in the farm sector even if the President will not. The Nation's agricultural economy is in the worst economic depression in 50 years. Domestic farm prices reflect the effects of an economic program that has ripped to shreds any pretense of an economic safety net for farmers. Domestic net farm income in 1982 will be the lowest since 1932 and the level of farm foreclosures in 1983 will probably be the highest since that same period a half century ago.

Let us review some of the facts that have persuaded the Agriculture Committee to present a plan for reduced crop production and reduced expenditures for agricultural programs for the next 3 years.

Crop prices dropped every month in 1981 for an average decrease among major commodities of 14 percent.

Livestock prices declined by an average of 10 percent in 1981 and have yet to regain the price levels of 1979-80, despite Secretary Block's claim of economic recovery for livestock producers.

After modest upward price movement in the spring, crop prices have now collapsed below the depressed levels of 1981 to a point unforseen by even the most pessimistic farm forecasters. There literally is not a single farm crop among the grains and soy complex which will return a profit to farmers at this time no matter how efficient the farmer.

The July 30 issue of Agricultural Prices by USDA, which includes the parity price index, showed the July parity levels of major farm commodities to be lower than during the Great Depression of the 1930's.

Commodity:	*Percent of parity*
Rice	39
Wheat	45
Corn	50
Cotton	47
Soybeans	47

Farm prices in the Great Depression generally did not decline below 50 percent of parity.

Burdensome supplies and depressed prices are a reflection of this administration's failed agricultural program. There are almost 2 billion bushels of wheat and corn in the farmer-owned grain reserve with no place to go and inadequate storage available for the 1982 crops. The administration will spend almost $12 billion on the 1982 farm program and $1 billion of that will be the cost of storing grain with no known market.

The administration professes not to share the concern of those of us from the farming regions about the present danger of mass bankruptcies and irretrievable loss of thousands of our most efficient agricultural producers in the coming months. In the special order discussion of the farm problem on the House floor on May 4, I noted that our 2.4 million farmers had total debts of almost $200 billion, much of that at short-term high-interest rates which cannot be repaid, given the farm income realities of 1980, 1981, and 1982.

As has been widely reported, net farm income has been shrinking rapidly for 3 years, just as farm debt has ballooned. In current dollars, net farm income for each of the last 3 years, including 1982, has been about half of

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the 1979 level while total debt is double that of 1975.

The Farmers Home Administration was justly embarrassed by the unprecedented levels of delinquency among its farm borrowers, revealed earlier this year. Their policy of refinancing and subordination of debts to other lenders has allowed most of those borrowers to continue to operate in 1982. But a day of reckoning is coming, given current farm prices and farm income projections. The January 1982 FmHA data on farm loan borrowers showed that operating loan accounts were 38 percent delinquent and emergency loan accounts were 41 percent delinquent nationally. In my State of Arkansas, the figures were 63 and 64 percent respectively. I shudder to think what those figures will look like for January 1983.

I have come to the same conclusion reached by the Agriculture Committee that farm production nust be temporarily reduced if the current farm depression is ever to end. It makes no commonsense to continue to pile up commodity surpluses when we have an economic program in effect which is constricting and strangulating our efforts to expand agricultural exports. Farm exports will decline in value this year from about $44 billion in 1981 to $42 billion, the first decline in a decade of export growth. Our storage facilities are full, we have accummulated a full year's production without any immediate market prospects for it, and our taxpayers are being required to assist farmers in managing this huge inventory at a very high cost to all concerned.

We must restore economic policies that achieve moderation in interest rates and reduce the dollar's overvaluation in relation to the currencies of our major foreign customers in order for our farm programs based on larger value and volume of agricultural exports to succeed. Because those policies which could successfully move our current surpluses into foreign markets are not working, we have no choice but to cut production.

The bill H.R. 6892 can provide the needed incentives to reduce excess crop production and it will do so while reducing Government outlays over the life of the bill. It can succeed by giving the producer the economic incentive to take 20 percent of his land out of production in the case of rice and feedgrains and 25 percent in the cost of wheat. It will make modest adjustments in the support program for dairy products which will achieve $3.3 billion savings in this program over 3 years. It will save $70 million in the cotton and rice program over 3 years but will increase the costs of the wheat and feedgrain programs by $56 million over the same period, according to the Congressional Budget Office. Total savings in the bill over 3 years is $3.3 billion, which meets the mandate of the first budget resolution.

To sum it up, it will help farmers bring supply back in line with known demand and it will save money in doing so. I urge my colleagues to support H.R. 6892.

Mr. WAMPLER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of H.R. 6892.

I am especially pleased that the committee included provisions for a paid acreage diversion in the wheat and feed grain titles of the bill. From all indications it appears that this additional incentive is needed for producers to reduce acreage.

It is clear that carryover stocks for wheat and feed grain must be reduced if we are to restore the supply and demand balance. Cash wheat prices in my district are running as low as $3.20 a bushel and $2.20 a bushel for corn. This is far below cost of production and $1 below last year at this time.

The present program benefits for acreage reduction of loans and deficiency payments have not been and will not be enough for a majority of producers to participate. Fixed costs on farms continue regardless of whether or not a crop is produced. Financial incentives to reduce production must be enough to cover those fixed costs plus any expected profit from the lost production.

If we are not successful in reducing carryover stocks the economic condition of agriculture will become even more disasterous than it already is. For many producers this year is critical for survival. If they cannot make expenses in 1982 after 2 years of bad prices and at least 1 year of drought, the future farm forclosure rate will make this year's failure rate look good.

Normally, I would not support these acreage set aside policies, since the normal grain situation in the 1970's was characterised by increased demand and expanding markets. This situation has changed due to the worldwide economic recession, high interest rates that make U.S. products more expensive on the world market, and a devastating grain export embargo. Therefore, I think that the acreage reduction program with a paid acreage diversion is now needed to adjust to a changing market. As a short-term action designed to bring supply and demand back into balance the paid diversion, in my opinion, is not contrary to a market oriented agriculture and is in fact a logical adjustment to the changing market. When the demand situation picks up again with world economic improvements, we can return to full production.

I commend the committee's action on the wheat and feed grain portion of the bill. It offers the only immediate hope of increasing producer income, not through high Government handouts, but through offering more adequate incentives to reduce production and therefore raise market prices.

Mr. WAMPLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the legislation which is before the House, particularly the wheat and feed grain provisions of the bill. This measure represents a good faith effort to actually reduce Federal spending while at the same time providing the American farmer with some meaningful assistance in these times of chronically depressed commodity prices. I applaud the Committee on Agriculture for its efforts and urge the adoption of this measure.

Mr. Chairman, the wheat and feed grain provisions of this reconciliation measure were taken directly from legislation which was introduced earlier this summer by the distinguished chairman of the Wheat, Soybeans, and Feed Grains Subcommittee. I and numerous other farm State representatives cosponsored that effort, with the recognition that our farm families are currently caught in the throes of the worst economic condition since the Great Depression. Preliminary reports indicate that we could be facing a record wheat harvest this year, and the prospects are good for a record or near-record corn harvest as well. The response to the voluntary acreage reduction on these crops is, not surprisingly, inadequate to reduce production sufficiently, even though emphasis must be on developing additional markets. Resultantly, as this Member recognized, there is a pressing need for a paid diversion such as that contained in this bill. It is obvious that stronger incentives will be required if we are to substantially reduce production, raise commodity prices, and avoid huge outlays in deficiency payments next year; that is the premise of the bill which is before the Committee of the Whole today.

I want to call to the attention of my colleagues the simple fact that there is currently almost 2 billion bushels of wheat and corn in the farmer-owned grain reserve. While this program has worked well in providing our producers with additional marketing flexibility, the mere existence of this surplus grain has worked to the disadvantage of the farmer in that it has a price-depressing effect upon the market. It is vitally important that these surplus stocks be dissipated through export sales and new domestic markets at the same time we are cutting back production to more closely match demand.

Mr. Chairman, I stress the fact that the Agriculture Committee has not only met, but has come in with $1.3 billion under the savings required by the budget resolution which passed this body earlier this year. This exemplary effort is in sharp contrast to that of some other committees which have reported mere token efforts to hone the budget process and the passage of legislation in June of this year. Again, I commend the Agriculture Committee, for this initiative and I urge adoption of this bill in its present form.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. Daschle).

Mr. DASCHLE. Mr. Chairman, I rise in support of H.R. 6892, the Food and Agriculture Reconciliation Act. The bill, which has the strong bipartisan support of the Agriculture Committee, makes changes in the wheat, feed grains, cotton, rice, and dairy programs and in the food stamp program. The legislation exceeds the goals contained in the first budget resolution for cost savings—it is estimated that H.R. 6892 would save $1.276 billion in fiscal 1983, $1.724 billion in fiscal 1984 and $1.596 billion in fiscal 1985.

I would like to address myself to the wheat and feed grains section of this bill, as that is the portion in which I have been most actively involved. My big disappointment in this legislation is that we have to have it at all—this legislation, which provides incentives for farmers to cut production and conserve soil, while at the same time saving money and raising grain prices, is all within the Secretary of Agriculture's jurisdiction. It is all action that he could have, and should have taken to shore up our depression level farm economy. We have a depression in agriculture today. There can be no misunderstanding about that.

The administration has refused to enter into a multiyear grain agreement with the Soviet Union—the administration has only lately and very reluctantly agreed to talk with the Soviets about a 1-year extension of the agreement. This Nation has huge grain surpluses that are driving prices down and farmers out of business, and for our Government to ignore one of the world's largest commercial markets is inexcusable.

The administration has refused to use its authority to offer meaningful programs to farmers to cut production as a way to deal with supply/management imbalances. This refusal is particularly perplexing in light of the fact that this legislation saves money over current administration policy. And for an administration which gives lipservice to soil conservation, they are strangely unenthusiastic about even voluntary programs with incentives for setting aside land for conservation purposes.

The administration's announced wheat plan is an insult—its source of incentive for participation is to offer farmers a 50-percent advance on their deficiency payments. The assumption by the administration is that prices will remain so low that farmers will be receiving wheat deficiency payments in crop year 1983. If, however, deficiency payments are made and then prices go up and it turns out the payments were unnecessary, the administration has not yet decided whether the farmer would—a year later—have to repay the money and whether he would be charged interest. I cannot imagine many wheat farmers finding the administration program a very good gamble.

I and a number of other Members introduced in May of this year the Farm Crisis Act which contained many of the elements in the bill before us today. The original Farm Crisis Act had a paid diversion for crop year 1982 and an acreage reduction program with conservation features and increased loan rates for crop years 1983 through 1985. Following the tie vote defeat of this bill in the Agriculture Committee, the members of the Farm Crisis Group, along with Mr. Foley and others, devised a new strategy. We agreed on an approach which would split off the commodity section of the bill, revise it, and incorporate it into reconciliation. Title I of the revised Farm Crisis Act is nearly identical to the wheat and feed grains portion of the agriculture reconciliation bill. I would particularly like to thank Mr. Foley, and I am sure farmers everywhere thank him also, for his leadership on this legislation.

The remaining portion of the Farm Crisis Act deals with the agriculture export credit revolving fund, the economic emergency loan program, loan guarantees for on-farm storage facilities, bartering, a White House Conference on Agriculture, and multiyear grain agreements. I am pleased to be able to say that this bill, too, has been approved by the House Agriculture Committee and now awaits House action.

The bill we are considering today provides for a 25-percent voluntary acreage adjustment program for wheat—15 percent of this would be in the form of acreage reduction and 10 percent paid diversion. The wheat price support loan for those participating would be raised from $3.55 to $3.80 and the diversion payments would be based on $3 per bushel. All land set aside is required to be put to approved conservation uses. Farmers would receive half their diversion payment at time of signup.

With regard to feed grains, the bill provides for a 20-percent voluntary acreage adjustment program—10 percent of this would be in the form of acreage reduction and 10 percent paid diversion. The corn price support loan for those participating would be raised from $2.55 to $2.71 and the diversion payment would be based on $1.50 per bushel. Farmers would receive half their diversion payment at time of signup. All land set aside is required to be put to approved conservation uses.

Savings from this program would be achieved by reducing surpluses and cutting potential direct target price payments.

I urge the support of my colleagues for this legislation which not only exceeds the goal set by the first budget resolution but which will also help beleaguered farmers.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. Bedell), a distinguished member of the committee.

Mr. BEDELL. Mr. Chairman, first of all I would like to commend all of those who have worked to make this legislation possible, including the chairman of the committee. This is not a perfect bill. We see few perfect bills, but unless we take some steps quickly to try to bring supply and demand into balance, I fear that we are going to see more and more of a depression in our farm economy.

I know Members have heard time after time after time about the problems of our farmers. Let me tell them, this time our farmers really have problems. We had the Farmers Home Administration and some other lending institutions before our committee recently, and their testimony to us was specifically, "If you think you have problems today, wait until you hold this same hearing a year from now unless something happens in agriculture, and see how desperate the situation is."

As long as we have an administration which acts similar to previous administrations in using food as a weapon for foreign policy, and making it more and more and more difficult for us to expand our foreign markets and to sell on those foreign markets, then we have no choice. We are either going to build surplus upon surplus upon surplus, or somehow we are going to bring our production under control so that we do not build those huge surpluses which depress prices and cause the taxpayers to have to pay more and more money in order to handle the surpluses.

I think this is a good bill. I am proud to be able to stand here and support it, and I commend the committee for the work that was done on it.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. Jones).

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 6892, and urge my colleagues to support the budget reconciliation package which

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has been brought forward by the Committee on Agriculture.

This budget reconciliation legislation in my opinion represents an effective and responsible effort on the part of the Agriculture Committee to provide for the necessary reductions in Federal spending over the next 3 years, while at the same time offering the American farmer a sincere and realistic opportunity to pull himself out of the worst economic depression agriculture has seen since the days of the Dust Bowl.

On several occasions over the past year, attempts have been made in the Agriculture Committee to face up to the crisis which exists in our Nation's farm sector. But until now, this Congress, for one reason or another, has refused to act. But for those who had begun to give up hope that a meaningful program could emerge to reverse the downward trend in agriculture, I point to this bill, and say here is a good start.

Today, we have the opportunity to prove to the American farmer that we do have the courage to act—that we have the courage to give the grain farmer, the dairy farmer, the rice and cotton farmer the tools and incentives to reduce surplus production and, in the end, improve the price he receives for his commodity.

Not only that, but we can also demonstrate to the American taxpayer that we have the courage to trim over four and one-half billion dollars from Federal spending in USDA programs over the next 3 years.

Again, I urge the House to approve this legislation because it represents a thoughtful and realistic approach to our responsibilities in the budget process as well as the current economic crisis in American agriculture.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the distinguished Resident Commissioner of Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise to make some remarks on H.R. 6892 and I do so to set forth a situation as it relates to Puerto Rico.

The bill has a provision in the food stamp portion mandating Puerto Rico to go back to a noncash food assistance program by October 1, 1983.

If it becomes public law, this amendment will force Puerto Rico to change a new program which just began July 1 which has as its main element a cashout of former food stamp benefits.

The amendment would mandate a noncash food assistance program by October 1, 1983, and also directs the Federal Government through the U.S. Department of Agriculture to undertake a thorough study of our new cashout nutritional assistance plan.

I want the Members to know that I still feel that the mandated change to another program is precipitous and premature.

I do not intend to offer an amendment to repeal this provision but do remind my collegues here today that what we did in Puerto Rico was done following congressional adoption of the Omnibus Budget Reconciliation Act of 1981. This law took Puerto Rico out of the Federal food stamp program while reducing our annual level of benefits to a fixed figure of $825 million.

Consistent with congressional intent, and in response to official guidelines and regulations promulgated following the new nutritional assistance block grant provisions for Puerto Rico, our island government developed a plan to cash out the reduced benefits. The plan received USDA approval and is now in operation.

It is my strong feeling that this amendment contained in the bill prejudges our program before all of the facts are in as to how well and how efficiently it is operating and how adequately it is providing nutrition for the many Puerto Ricans dependent on the new cash benefits.

I feel that Congress is taking action to change our unique situation prior to a thorough assessment and evaluation of that situation in Puerto Rico.

The additional language calling for a study of the nutritional status of Puerto Ricans as well as a study of the effect of this new program on the economy of the island is beneficial and I fully support it.

The study is one which I hope will be sound, thorough, and objective and will help guide the House Agriculture Committee in any future deliberations on the reauthorization of food stamps, particularly as it will affect Puerto Rico.

I would hope that the distinct problem of Puerto Rico and any evaluation of our new nutritional assistance plan will be kept separate and distinct from any possible link to the ramifications of the New Federalism, or a national cashout which some Members of the other body are proposing for the entire national food stamp program.

I feel our new program should be considered on its own merits. I also trust that in conference with the other body, if this bill should pass the House, we may be able to take another look at this problem.

● Mr. HYDE. Mr. Chairman, I rise in opposition to this bill, not because it fails to meet the mandate of the House in the first concurrent resolution of the budget and it does fail that test. I am against this bill not because it takes us backward into the mistakes of the past on farm programs by weaving a complex net of new regulations on farm people and the farm economy and it clearly does fail that test, too.

No, I rise in opposition to this bill because of its severe constitutional abuse.

This bill would set up a 16-member "Dairy Board" composed of 15 people, handpicked by the big dairy co-ops, plus the Secretary of Agriculture. This unlikely group would be charged with the administration of a new two-tier—and I might add a de facto tax and payment system affecting all dairy producers, processors, and consumers.

Under the terms of this bill, the Secretary of Agriculture could not even serve as Chairman, Vice Chairman or Secretary-treasurer of the Board.

This new Board would be outside the scope of civil service laws; it would be immune from Presidential discharge; it would supervise U.S. Government employees; and it could even dabble in foreign policy.

Perhaps this is why the Secretary of Agriculture, in the administration's report on this bill, states in part:

> This bill would establish a producer-controlled National Dairy Board within the Department. However, the Board would be completely independent of Department review or supervision since there is not provision for Executive Branch oversight. In effect, powers traditionally reserved to governmental authorities would be delegated under this bill to industry representatives—dairy farmers—who would not be charged to serve the public interest. Operation of the Board would create an intolerable and unacceptable interference with the Secretary's authority and responsibilities to manage the Department of Agriculture and operate its programs. Under the bill, the Board would have extensive authority to use Department personnel and facilities. Establishment of a dairy advisory board to work with and advise the Secretary of Agriculture on dairy matters would be a more acceptable alternative.

Well, you may ask what is wrong with letting a group of public-spirited dairy farmers run the dairy price support system? Are they not a group of well-intentioned, hardworking citizens?

Of course they are. But are they any better equipped under our constitutional law system to administer dairy laws than would have wheat farmers running the wheat program, big business running the antitrust program or foxes running a chicken coop?

The Supreme Court has addressed this issue in the past, and in Schecter Poultry Corp. against U.S. and in Carter against Carter Coal Co., established a doctrine on the delegation of authority to private citizens that has remained unchallenged for 37 years.

In the Carter case, the Court reminds us that—

> While the lawmaker is entirely free to ignore the ordinary meaning of words and make definitions of his own, that device may not be employed so as to change the nature of the acts or things to which the words are applied.

Thus, I ask you to read this bill carefully and to recognize what it does. It establishes a dairy cartel.

Mr. Chairman, we Americans have been given a republic by our forebearers; we were not given a cartel. We have a legal and constitutional system that vests the power of governing in our elected and appointed officials, all of whom are answerable for their activities, and all of whom are charged with protecting the public interest.

This bill calls for the vesting of that power in the hands of 15 people who would be neither answerable to anyone nor expected to serve the public interest.

It is bad constitutional law, and this House should not be a party to it.

Since we cannot cure this bill by the amendment process permitted today, we must do the best we can and that is to either send it back to the Agriculture Committee or defeat it.●

● Mr. FRENZEL. Mr. Chairman, I can appreciate the difficulty the Agriculture Committee has had with reconciliation. Estimates and reestimates have given it a moving target.

Nevertheless, while the committee can claim that it has exceeded the reconciliation instruction, it knows, and every Member here knows, that it has failed to meet the targets of the budget resolution.

In so doing, the committee follows the bad example of the Post Office Committee which thumbed its nose at the budget process, and met only 8½ percent of its reconciliation target. It follows the bad example of the Armed Services and Foreign Affairs Committees which copped out of their obligations just like the Post Office Committee.

It follows the bad example of the Ways and Means Committee which tried to meet its spending reduction obligations by a raising taxes, and that of the Appropriations Committee which has abused the budget process by misallocating 302(b) quotas by subcommittees.

No committee, of course, can do anything without the consent of the majority of both Houses. So all of us must acknowledge that we as a group are responsible for the failure of the budget process.

But we have been set up for this failure by the House Leadership. Our Speaker refused to follow the successful pattern of last year's reconciliation. Instead, reconciliation was subdivided in a conscious effort to undermine the process. Under the Leadership's procedure, the reconciliation, overall, is bound to fail, and the budget resolution will surely not be achieved.

Thus has the Congess been able to repudiate its own budget. Today's exercize in repudiation is not as bad as some, but repudiation it is.

Here are the figures. The budget calls for reconciliation savings—in food stamps—of $3.3 billion in 3 years. It calls for unreconciled savings—in agriculture programs—of about $1.9 billion in 3 years. That is a total of $5.2 billion.

Here is what the committee did. It took savings which were to be made outside of reconciliation, and claimed them as reconciliation savings. Its savings fall far short of $5.2 billion. In food stamps alone, the committee made only about one-third of its reduction target, according to its own figures. According to the Office of Management and Budget, that figure is only 30 percent.

The food stamp program seems a worthwhile social purpose. However, it has increased by 580 percent in only 10 years. No economy can stand that growth rate in a major entitlement program. And the food stamp program is laid on top of regular welfare, housing benefits, energy payments, employment compensation and other programs designed to sustain people who cannot support themselves.

I voted against the rule which denied as regular debate and an opportunity to amend this bill. I shall vote for the Wampler substitute, simply because it saves a little money. It does not satisfy the budget resolution.

Finally, I shall vote for recommital so the bill can be put in shape to meet budget obligations, and should that motion fail, I shall be obliged to vote against the bill.

I do not object to the dairy program. It is not perfect, but it is better than the administration program, and has some possibility of reducing the terrible surpluses which hang over the dairy market. That program in this resolution does meet the expectations of the budget resolution.●

● Mr. MARKEY. Mr. Chairman, I oppose the Republican substitute to the House Agriculture Committee's food stamp reauthorization bill. This bill would achieve savings of $1.3 billion over 3 years on top of $2 billion achieved last year alone.

After the Agriculture Committee satisfied and even exceeded the budget reconciliation savings requirements, the Republican substitute proposed further cuts in the food stamp program. The committee bill, H.R. 6892, already cuts $1.3 billion in the program over 3 years. We should not forget that this program incurred $6 billion in cuts for 1982-84 just last year.

The impact of further food stamp cuts cannot be considered alone. They come on top of drastic cuts in AFDC, medicaid, and public housing. The cumulative effect of these cuts is devastating. This is no time for further unraveling of the meager Federal safety net still in place.

Let me turn to look at the effect of each part of the substitute:

The committee's bill includes error rate sanctions which mirror those introduced earlier this year on the Senate side by Senators DOLE, COCHRAN, ANDREWS, JEPSEN, and BOSCHWITZ, and which were recently adopted by the entire Senate.

However, the Republican substitute rejects this bipartisan approach for a plan which by its very terms imposes financial penalties on the States so severe that they could exceed the Federal share of a State's administrative costs if imposed. A loss of such revenue would have tragic results—deeper cuts in other social service programs and cutbacks in administrative services. I think it is important to note that both the National Governors Association and the Council of State Public Administrators oppose the provision.

The job search requirement in the Republican substitute also goes further than many States would support. By making job search at time of application mandatory, we would eliminate State flexibility and require its imposition even in high unemployment areas where it would not be cost-effective. The committee bill already gives the States the option to require job search at application.

The emergency service provision of the substitute would require familes in immediate need to wait up to an additional 3 days to get emergency food stamps. Further restrictions would be imposed upon eligibility for these services. Those in dire straits should be given help as quickly as possible and without hardship and additional delay.

Enough is enough. We have cut this program too often and too severely. Further cuts are uncalled for. I urge my colleagues to support H.R. 6892 and reject the substitute.●

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the following amendments: First, the amendments recommended by the Committee on Agriculture printed in the bill which shall be considered as having been read, shall be considered en bloc, and shall not be subject to amendment; second, an amendment printed in the CONGRESSIONAL RECORD of August 5, 1982, by Representative ZABLOCKI which shall not be subject to amendment; and third, an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 5, 1982, by, and if offered by, Representative WAMPLER, which shall be considered as having been read and shall not be subject to amendment but

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shall be debatable for 1 hour, equally divided and controlled by Representative WAMPLER and a Member opposed to said substitute.

The text of the bill, H.R. 6892, is as follows:

H.R. 6892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Agriculture Reconciliation Act—Fiscal Year 1983".

TITLE I—DAIRY

Subtitle A—Dairy Price-Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at $13.10 per hundredweight of milk containing 3.67 per centum milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1982. That portion of the national supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as determined by the National Dairy Board as necessary to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall not be taken into consideration in determining payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection. For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports. The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

"(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

"(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

"(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided,* That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

"(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided,* That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further,* That payments make under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

"(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognise the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided,* That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

"(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

"(5) In carrying out this subsection, the Board may, on a reimbursable or nonreimbursable basis, as it deems appropriate, utilize—

"(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

"(C) administrators of State milk marketing programs.

"(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the "Board") that shall consist of fifteen members plus the Secretary;

"(B) The fifteen members of the Board shall be appointed by the President with the advice and consent of the Senate. Such appointments shall be made from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

"(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

"(D) The term of Board members shall be three years and no member shall be eligible to serve more then two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appointments as two-year terms, and one-third of the appointments as three-year terms;

"(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

"(F) The members of the Board shall serve without compensation, if not otherwise officers of employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined to meet the eligibility criteria established by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

(1) geographical territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived; and

(5) functions of the organization.

(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

"(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

"(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

"(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

"(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States and the chairman of the Committee on Agriculture of the United States House of Representatives.

"(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

"(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies;

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(vi) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(E) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(F) if, in the judgment of the Board, any of the operations provided for in subparagraph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(G) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(H) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such

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deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933.".

Subtitle B—Dairy Promotion Act

SHORT TITLE

Sec. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program or promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

Sec. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

Sec. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

Sec. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A

region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

SEC. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided,* That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further,* That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product: *And provided further,* That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by an order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided,* That all information so obtained shall be kept confidential by all officers and employees of the Department, and contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

SEC. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization;

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

SEC. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

Sec. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

Sec. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual voters.

PETITION AND REVIEW

Sec. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

Sec. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATION; AID OF COURTS

Sec. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendence of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

Sec. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

Sec. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

Sec. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery.".

TITLE II—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON AND RICE

1983 CROP WHEAT LOANS

Sec. 201. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.80 per bushel.".

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

Sec. 202. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

WHEAT ACREAGE BASE

SEC. 203. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established corp-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for heavest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

SEC. 204. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of $3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 205. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.71 per bushel.".

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 206. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provison of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

FEED GRAINS ACREAGE BASE

SEC. 207. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 208. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of $1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 209. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary shall make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that 25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program.".

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 210. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop

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retirement and conservation payments available to any producer of the 1983 crop of upland cotton who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of $.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

Sec. 211. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program."; and

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

Sec. 212. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of $3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisons of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

TITLE III—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

Sec. 301. This title may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

Sec. 302. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings,"; and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physicial or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse.".

ROUNDING DOWN

Sec. 303. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

Sec. 304. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

Sec. 305. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment".

ADJUSTMENT OF DEDUCTIONS

Sec. 306. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

Sec. 307. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

Sec. 308. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount.".

MIGRANT FARMWORKERS

Sec. 309. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this subsection relating to migrant farmworker households)".

ELIMINATION OF STUDIES AND REPORTS

Sec. 310. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

Sec. 311. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g).".

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

Sec. 312. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

Sec. 313. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

Sec. 314. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 6(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

Sec. 315. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program.".

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

Sec. 316. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

DISCLOSURE OF INFORMATION

Sec. 317. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before ", except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

Sec. 318. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982, and any other household in immediate need because of no income as defined in sections 5(d) and (e) of this Act receive coupons on an expedited basis;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

Sec. 319. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

SEC. 320. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons.".

ERROR RATE REDUCTION SYSTEM

SEC. 321. (a) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g), and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) a new subsection as follows:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, or at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b) Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by—

(1) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(2) striking out "quality control program" and inserting in lieu thereof "error rate reduction program".

(c) The first sentence of section 18(e) of the Food Stamp Act of 1977 (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (g) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

(d) The amendments made by this section shall become effective on October 1, 1982.

BENEFIT IMPACT STUDY

SEC. 322. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end thereof a new subsection as follows:

"(g) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 323. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,648,000,000 for the fiscal year ending September 30, 1983; not in excess of $12,908,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,651,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

SEC. 324. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this Act.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 325. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated.".

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

Sec. 326. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this Act, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1338 of such Act shall take effect on the date of the enactment of this Act, unless such amendments have taken effect before such date.

EFFECTIVE DATES

Sec. 327. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will designate the committee amendments.

The committee amendments read as follows:

Committee amendments: Page 2, line 8, insert "effective October 1, 1982," immediately after "(1)";

Page 3, lines 15 and 16, insert "to recover the funds required" immediately after "as necessary";

Page 4, lines 16 and 17, strike out "shall not be taken into consideration in determining" and insert in lieu thereof "shall be considered as included in the";

Page 10, line 14, insert "(other other than the Secretary)" after "Board", and lines 16 and 17, strike out the period and "Such appointments shall be made";

Page 11, line 13, strike out "of" and insert in lieu thereof "or";

Page 13, line 18, insert "Senate" after "States";

Page 16, line 16, insert "and" after the semicolon;

Page 16, line 23, strike out "(vi)" and insert in lieu thereof "(E)";

Page 17, line 3, and page 17, lines 7, 16, and 19, strike out the designations "(E)", "(F)", "(G)", and "(H)" and insert in lieu thereof "(F)", "(G)", "(H)" and "(I)";

Page 23, line 4, strike out "is" the first time it appears and insert in lieu thereof "it";

Page 23, line 9, strike out "or" and insert in lieu thereof "of";

Page 31, line 20, strike out "an" and insert in lieu thereof "any";

Page 32, lines 5 and 6, strike out "and contracting agencies having access to such information,";

Page 34, line 10, strike out the semicolon and insert a period in lieu thereof;

Page 37, line 9, strike out "voters" and insert in lieu thereof "votes";

Page 39, line 4, insert "in" before "lieu of";

Page 39, line 7, strike out "AFFIRMATION" and insert in lieu thereof "AFFIRMATIONS";

Page 43, line 12, strike out "corp-rotation" and insert in lieu thereof "crop-rotation";

Page 43, line 16, strike out "producting" and insert in lieu thereof "producing";

Page 43, line 23, strike out "heavest" and insert in lieu thereof "harvest";

Page 49, line 12, strike out "shall" and insert in lieu thereof "should";

Page 51, line 22, strike out "section" and insert in lieu thereof "subsection";

Page 52, line 12, strike out "25" and "15" and insert in lieu thereof "20" and "10";

Page 59, line 23, insert "members" after "disabled";

Page 70, line 3, strike out "or" and insert in lieu thereof "of";

Page 72, line 15, insert ", as amended by section 310(c) of this title," after "U.S.C. 2026)";

Page 72, line 18, strike out "(g)" and insert in lieu thereof "(e)";

Page 74, line 20, page 76, lines 11, 16, 20, and 21, strike out "Act" each place it appears and insert in lieu thereof "title".

□ 1330

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 41, line 12, immediately before the quotation marks, insert the following:

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programed under that Act.

Mr. ZABLOCKI. Mr. Chairman, this amendment is being offered in behalf of the Foreign Affairs Committee to section 130 of this bill, the section which gives the Commodity Credit Corporation (CCC) authority to donate surplus CCC dairy products to needy persons abroad through foreign governments and public and private nonprofit humanitarian organizations.

The amendment provides that programs for these donations of CCC stocks abroad will be coordinated with the existing food aid programs through the established Public Law 480 mechanism and will be in addition to the overseas food assistance that is provided under Public Law 480.

Mr. Chairman, I strongly support the use of U.S. agricultural surpluses for distribution to needy people overseas. This amendment is intended to help assure the most effective use of these surpluses. I believe the amendment has general support.

I would like to express appreciation to the Committee on Agriculture and particularly to its distinguished chairman, the gentleman from Texas, for his cooperation and support in our offering of the amendment.

Our appreciation is extended also to the ranking member of the committee, Mr. Wampler; to the gentleman from Iowa (Mr. Harkin), chairman of the Subcommittee on Livestock, Dairy and Poultry; and the gentleman from Minnesota (Mr. Hagedorn), the ranking minority member of the subcommittee, who sponsored the section 130 provision.

The amendment reflects the experience of the Foreign Affairs Committee in trying to get maximum accomplishment for foreign assistance programs over the years and getting the most out of the taxpayer's dollar. We have found that it is very important to have good coordination among the bureaucracies here in Washington so that overseas, we do not have the left hand and the right hand duplicating or operating at cross purposes.

In the case of the new overseas dairy surplus donation authority being provided under section 130 of this bill, the original language submitted by the administration for this authority did include a provision for its coordination under presidentially established procedures. However, the language was not contained in the version offered during markup of the bill in the Agriculture Committee.

The Foreign Affairs Committee amendment is being offered in lieu of sequential referral of H.R. 6892 to our committee, for review of its foreign affairs provisions, in order to expedite the reconciliation process.

At present, the principal statutory instrument for U.S. food aid abroad is the Agricultural Trade Development and Assistance Act of 1954, commonly known as Public Law 480 or the food for peace program. Under Public Law 480 the United States sells on concessional terms or donates some $1½ billion worth of food assistance a year. Title II of Public Law 480 provides for donations through foreign governments and public or private humanitarian organizations. A similar authority for dairy disposals is now being provided to the CCC under section 130 of this bill.

It would make no sense, obviously, to have Public Law 480 title II food donation program laid out for a developing country, then to have another donation of dairy surpluses come from the CCC without reference to the Public Law 480 program. The amendment would include the CCC dairy donation authority in the established food aid coordinating mechanism for Public Law 480 aid which is the Food Aid Subcommittee of the Development Coordination Committee.

The Food Aid Subcommittee is chaired by the U.S. Department of Agriculture. Other members include representatives of the State Department, the Treasury, the Agency for International Development, and OMB.

The coordinating mechanism helps to insure that the range of U.S. interests abroad are taken into account in the allocations of food assistance. For example, the State Department representative is able in the subcommittee to express U.S. foreign policy concerns regarding the aid-receiving country. AID is familiar with the nutritional and developmental needs of the populations of poor countries. The Treasury is expert on foreign debts.

Such considerations need to be kept in mind on overseas programs. With the USDA chairing the Food Aid Subcommittee, its review should not cause any undue delays for appropriate dairy surplus disposals under the CCC authority. The amendment does not require that the provisions of the Public Law 480 law, itself, apply to use of the new authority.

The provision in the amendment that the donations under the new authority shall be in addition to the levels programed under Public Law 480 is designed to assure that the use of the new authority will not result in a loss of Public Law 480 title II. This provision is in line with the intent of the administration's declared intent for the new authority. Hopefully, it will take care of concerns expressed by some that the CCC disposals not undermine or be in lieu of the title II programs for which there is a 1.7 million ton annual minimum. I know of no opposition to this provision.

Mr. Chairman, I urge adoption of the amendment.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. DE LA GARZA) is recognized.

There was no objection.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I rise in support of the Zablocki amendment. As this bill came out of the Agriculture Committee, the surplus dairy products donated by CCC to foreign governments do not have to go through any established food aid program. There is a tremendous amount of evidence from voluntary organizations, from U.S. Government reports, and from fieldworkers that food aid often does not reach those it is intended to reach—and this is under established food aid programs.

So to have a provision whereby there is not any kind of direction given to this food aid is certainly foolish. We should not, in our enthusiasm to get rid of surplus dairy products, dump the food where it is not needed or wanted or where it might depress local markets of the recipient country. I urge my colleagues to support the Zablocki amendment which requires that any Commodity Credit Corporation foreign donations under the dairy title of this bill be coordinated with other U.S. foreign assistance under the Agricultural Trade and Development Act of 1954.

Mr. DE LA GARZA. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs, for his assistance in this endeavor. I wish to commend him and the members of his committee for their cooperation with us and their favorable and positive contribution to this legislation.

Also I want to very sincerely thank the gentleman, not only in our behalf, but I am sure, in behalf of the House, for the assistance he gave us in expediting the process to arrive at this stage here today by not insisting on sequential referral of the legislation to his committee. The staffs of both committees were able to work with the Members and the individuals concerned in this area.

With that, Mr. Chairman, we gladly recommend the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) and will accept it.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the remarks and observations of the distinguished gentleman from Texas (Mr. DE LA GARZA). On behalf of the minority, it is our pleasure to accept the amendment offered by the distinguished gentleman from Wisconsin (Mr. ZABLOCKI).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

Mr. SOLOMON. Mr. Chairman, I rise to ask unanimous consent to offer an amendment which I have at the desk.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DE LA GARZA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SOLOMON. Mr. Chairman, may I ask who objected?

The CHAIRMAN. The Chair will state to the gentleman that the gentleman from Texas objected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAMPLER

Mr. WAMPLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute offered by Mr. WAMPLER is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Food and Agriculture Reconciliation Act—Fiscal Year 1983".

TITLE I—DAIRY

Subtitle A—Dairy Price-Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at $13.10 per hundredweight of milk containing 3.67 per centum milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1982. That portion of the national supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as

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determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection. For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports. The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

"(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

"(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

"(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided*, That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

"(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided*, That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further*, That payments make under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

"(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognize the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided*, That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

"(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

"(5) In carrying out this subsection, the Board may, on a reimbursable or nonreimbursable basis, as it deems appropriate, utilize—

"(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

"(C) administrators of State milk marketing programs.

"(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the "Board") that shall consist of fifteen members plus the Secretary;

"(B) The fifteen members of the Board (other than the Secretary) shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

"(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

"(D) The term of Board members shall be three years and no member shall be eligible to serve more then two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appointments as two-year terms, and one-third of the appointments as three-year terms;

"(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

"(F) The members of the Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

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(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined to meet the eligibility criteria established by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

(1) geographical territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived; and

(5) functions of the organization.

(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

"(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

"(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

"(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

"(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the chairman of the Committee on Agriculture of the United States House of Representatives.

"(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

"(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies; and

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(E) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(F) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(G) if, in the judgment of the Board, any of the operations provided for in subparagraph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(H) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(I) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933.".

Subtitle B—Dairy Promotion Act

SHORT TITLE

SEC. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

SEC. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

SEC. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

SEC. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

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(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

Sec. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further*, That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product: *And provided further*, That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by any order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

Sec. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization.

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

Sec. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

Sec. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

Sec. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

Sec. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

Sec. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

Sec. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendence of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

Sec. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

Sec. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

Sec. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programed under that Act.".

TITLE II—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

1983 CROP WHEAT LOANS

Sec. 201. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.80 per bushel.".

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

Sec. 202. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph

(2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

WHEAT ACREAGE BASE

Sec. 203. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

Sec. 204. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of $3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 205. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.71 per bushel.".

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 206. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provison of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

FEED GRAINS ACREAGE BASE

SEC. 207. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 208. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of $1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 209. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary should make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that 25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program.".

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 210. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of upland cottion who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of $.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 211. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough

rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program."; and

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

SEC. 212. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of $3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisons of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

TITLE III—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

SEC. 301. This title may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

SEC. 302. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings,"; and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physicial or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse.".

ROUNDING DOWN

SEC. 303. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

SEC. 304. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 305. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section

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3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment".

ADJUSTMENT OF DEDUCTIONS

SEC. 306. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 307. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

SEC. 308. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount.".

MIGRANT FARMWORKERS

SEC. 309. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this subsection relating to migrant farmworker households)".

ELIMINATION OF STUDIES AND REPORTS

SEC. 310. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

SEC. 311. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g).".

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

SEC. 312. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

SEC. 313. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: "(including any reporting and inquiry as may be required by the Secretary to be fulfilled at the time of application)".

VOLUNTARILY QUITTING A JOB

SEC. 314. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 6(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 315. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program.".

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

SEC. 316. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

DISCLOSURE OF INFORMATION

SEC. 317. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before ", except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

SEC. 318. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—

"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than $150 per month; or

"(II) is a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed $100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household.".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 319. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

SEC. 320. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons.".

ERROR RATE REDUCTION SYSTEM

SEC. 321. (a) Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(c)), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended by adding at the end thereof the following new paragraph:

"(23) that the State agency shall reimburse the Secretary, in an amount determined under section 16(g) of this Act, for the value of excessive allotments issued to households.".

(b) Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the proviso to subsection (a) of this section, by increasing such share to 60 per centum of all such administrative costs in the case of a State agency whose (1) payment error rates with respect to eligiblity, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section are less than 5 per centum and (2) whose percentage rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage rate that the Secretary determines to be reasonable.".

(c) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended—

(1) in subsection (d)—

(A) by striking out "Effective October 1, 1978, and annually thereafter, each" and inserting in lieu thereof "Each",

(B) by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (c)", and

(C) in paragraph (1) by striking out "error rates" and inserting in lieu thereof "payment error rates", and

(2) in subsection (g)—

(A) by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following new paragraph:

"(1)(A) Each State agency shall pay, other than for good cause as determined by the Secretary, to the Secretary or have withheld by the Secretary, as described in paragraph (2) of this subsection, the amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the amount payable by a State agency for a fiscal year is an amount equal to the difference between—

"(i) the product of—

"(I) the payment error rate for such fiscal year; and

"(II) the aggregate value of all allotments issued of households by such State agency in such fiscal year; and

"(ii) the product of—

"(I) the allowable error rate for such fiscal year; and

"(II) the aggregate value of allotments issued to households by such State agency in such fiscal year.

"(C) For purposes of subparagraph (B)(i)(I), the term 'payment error rate' means the percentage of all food stamp allotments which are issued in a fiscal year to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act and are overissued to eligible households.

"(ii) For purposes of subparagraph (B)(ii)(I), the allowable error rate is—

"(I) 9 per centum for fiscal year 1983;

"(II) 7 per centum for fiscal year 1984; and

"(III) 5 per centum for fiscal year 1985 and each fiscal year thereafter.", and

(B) by redesignating paragraph (4) as paragraph (2).

BENEFIT IMPACT STUDY

SEC. 322. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026), *as amended by section 310(c) of this title*, is amended by adding at the end thereof a new subsection as follows:

"(e) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 323. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,623,000,000 for the fiscal year ending September 30, 1983; not in excess of $12,817,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,570,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

SEC. 324. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this title.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 325. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated.".

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

SEC. 326. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this title, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the date of the enactment of this title, unless such amendments have taken effect before such date.

EFFECTIVE DATES

SEC. 327. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia (Mr. WAMPLER) is recognized for 30 minutes.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering a substitute to H.R. 6892, the agriculture reconciliation bill. The substitute incorporates all of the provisions of H.R. 6892 with the following changes to title III, the Food Stamp Amendments of 1982.

First, the Secretary is given the authority to require food stamp applicants to look for a job at the time they apply for food stamps.

Second, definitive guidelines are established for expedited service so that only those in immediate need receive benefits on an expedited basis.

Third, States will be required to reduce their error rates to 9 percent by 1983; to 7 percent by 1984; and, to 5 percent by 1985. States will be respon-

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sible for repaying the amount of Federal money misspent over these target levels.

I might mention that in my State, the agencies responsible for administering public assistance programs have a good record in their efforts to reduce the number of errors and the amount of money spent in error. According to USDA the latest error rate for the food stamp program for payments to ineligible persons and overpayments to eligible persons is 8.38 percent in Virginia.

These agencies are continuing in their efforts to reduce error rates. While I would like to see a zero error rate—and I know in Virginia they agree—it is not reasonable to assume that a program which costs over $11 billion this year and helps over 22 million people can operate with no errors.

I support the food stamp program as one that provides assistance to the poor, the elderly, the disabled, and the working poor. However, when $1 billion is spent in error, positive action must be taken by all States administering the program.

The additional savings in the substitute totals $197 million over the 3-year reauthorization of the food stamp program. This additional savings comes from strengthening work requirements and tightening program administration.

The substitute also contains the amendment offered by the chairman of the Foreign Affairs Committee concerning donation of dairy products and all technical committee amendments.

I urge you to support the amendment in the nature of a sustitute to H.R. 6892.

Mr. Chairman, to further explain the amendment in the nature of a substitute, I yield 12 minutes to the gentleman from Missouri, (Mr. COLEMAN) who is the ranking minority member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition.

Mr. COLEMAN. Mr. Chairman, I appreciate the gentleman's yielding me this time.

The amendment in the nature of a substitute to H.R. 6892, as the gentleman from Virginia (Mr. WAMPLER) has explained, does in fact provide for three changes, and, additionally, there is a fourth savings in this substitute. Other than these changes, I want to point out to the membership that our substitute is identical to the committee bill, including the committee amendments and the amendment offered by the the gentleman from Wisconsin (Mr. ZABLOCKI) which were just accepted by the committee. No other changes and no other issues are involved but these three changes that occur in this amendment.

The first change gives the Secretary the authority to require that food stamp applicants who are physically and mentally able to do so and who are between the ages of 18 and 60 look for jobs when they apply for food stamps. The committee bill gives States the option to require States to provide for this job search rule.

I support strong work incentives in the food stamp programs, and that is why I disagreed with what the administration originally proposed in this area when they wanted to limit the 18-percent earned income deduction. That is not before us today.

I want to see food stamp participants who are able to become self-sufficient. I also want to make to make sure that those who are able to work actively seek a job, and that those who quit a job in order to receive food stamps voluntarily are not supported at taxpayers' expense. It is my hope that some of the people who apply for food stamps, when they make application for food stamps, will find a job, thereby either reducing the amount of food stamps they need, or eliminating their need altogether for the food stamp program. Others may not be able to find a job and I recognize that. However, under this substitute they will at least begin the process of looking for a job rather than waiting until they receive food stamps and then looking for a job, as present law requires.

The Congressional Budget Office estimates overall savings of $15 million in 1983, $17 million in 1984, and $18 million in 1985 under this part of the substitute.

The General Accounting Office supports this provision, Mr. Chairman. They believe that it is appropriate, based upon their reviews to require food stamp applicants to begin job search activities as soon as they apply for food stamp benefits.

The second part of the substitute covers expedited service. Current law allows individuals to come in to a food stamp office and say they have no money or no income and receive food stamps within 2 to 3 days. The only verification, the only proof, if you will, that is required is that they are the person they state they are by identity, and that they reside where they say they reside.

The substitute provides that specific criteria be established to determine eligibility for expedited service. We want to provide standards, if you will, for the local food stamp office and criteria for them to gage who should and who should not receive expedited service. First of all, we set a maximum gross income level not to exceed $150 a month for expedited service. An exception is provided for migrant and seasonal farmworkers. These households will continue to follow the income rules that were in place in July of this year.

Second, all households must have liquid assets to qualify for expedited service of less than $100. By "liquid assets" I mean assets immediately available in a checking or savings account or similar source.

Third, we think that people who ask for expedited service and special treatment ought to have some sort of verification made on their claims, that is, to verify the income and liquid assets provisions that we have provided for. Applicants can prove this by showing pay stubs, bankbooks, or similar items.

Fourth, the expedited service cases must be processed as soon as possible but no later than 5 days. I offered this provision in committee along with the gentleman from California (Mr. PANETTA). We failed on a tie vote in committee, and that is why I bring it to the floor this afternoon.

Obviously there are sentiments for change needed for expedited service. In fact, last year the chairman of our subcommittee himself offered a very similar amendment which was adopted. The conferees, though, on the Agriculture and Food Act of 1981 dropped this provision. But the changes for expedited service are still needed.

The General Accounting Office also studied this area and indicated that they found that within the States there were different numbers of cases that come through the food stamp program and ask to be expedited. They ranged from 6 percent to 70 percent of all new cases that walked through the food stamp office and asked for expedited service. Obviously, the States are now floundering around without any guidance from the Congress and without any standards or criteria upon which to judge the eligibility of an expedited case.

I want to point out that the American Public Welfare Association, which represents State welfare agencies, supports changes in expedited service. The CBO estimates that we can save $45 million over the next 3 years by this provision in the substitute. I feel that this provision places reasonable limits on expedited service. It requires verification of income and resources and curtails overuse and abuse and insures that those people who really should receive expedited service have it available to them.

□ 1345

Mr. Chairman, the third change in the substitute from what the committee bill represents is a change in the error rate reduction and sanctions system.

The committee bill contains a section requiring States to reduce their error rates to specific targets. However, the committee did not go far enough, Mr. Chairman, because they did not require positive responses on behalf of the States administering the food stamp program.

The substitute we feel accomplishes this. States must reduce their error rates to 9 percent by 1983, 7 percent by 1984, and down to 5 percent by 1985.

If the States fail to meet these error rate reductions they are expected, under this substitute, to repay the amount of benefits sent out in error, their error, if you will, over these target levels.

According to the USDA, over $1 billion a year, Mr. Chairman, each year goes out to food stamp participants who are either ineligible for benefits or receive too many benefits.

We are talking here, remember, about documented cases of ineligibility, of errors being made to people who received food stamps. We are not talking about taking away food stamps from people who deserve them or who are eligible. We are talking about States tightening up the administration of the food stamp program because they are the ones that are making the errors, but they are doing it with our Federal tax dollars. That is the problem.

CBO feels that we can save an additional $120 million over 3 years by adopting this language for reducing error rates.

Finally, Mr. Chairman, the authorizations for appropriations in this bill are adjusted to reflect these savings in the substitute. The cap that we adopted in committee, by my motion, will stay in place but, of course, because of these changes that the substitute makes we will adjust the cap accordingly to reflect the accurate and true cost as determined by CBO of the cost of the food stamp program for the next 3 years.

That will also, of course, include the additional costs that are resulting from decreases in AFDC as well as SSI.

To spell out specifically what those caps are for the next 3 years, our substitute contains the following:

In 1983, a cap of $12.623 billion; in 1984, $12.817 billion; and in 1985, $13.570 billion.

This represents, Mr. Chairman, more money than ever has been spent on the food stamp program. In 1983 this represents an increase of almost 12 percent over the 1982 authorization levels.

I urge all of us to support this Republican substitute. It represents an additional savings over 3 years of $197 million. These savings are made through strengthening the work requirements and improving the administration of the program, Mr. Chairman, without reducing benefits to those people who are entitled to food stamps.

Mr. ROEMER. Mr. Chairman, will gentleman yield?

Mr. COLEMAN. I yield to my colleague from Louisiana.

Mr. ROEMER. I just have a question on the numbers. As I understand it, the committee recommendations save about $1.3 billion in the food stamp expenditures over a 3-year period; is that correct?

Mr. COLEMAN. I believe that is correct.

Mr. ROEMER. The gentleman's amendment or the amendment offered on his side of the aisle would save an additional how much money per year? Could the gentleman repeat that for us so that we understand it?

Mr. COLEMAN. I will try and break it down by year if I can. It is $197 million over 3 years. The first year's savings would be $25 million; the second year's savings would be around, I believe, $91 million, and the rest would be $81 million in 1985, but the total is $197 million.

Mr. ROEMER. The question I have in my mind is in reading the language from the other body I understand they saved about $2.6 billion in the program over 3 years. Our own Agriculture Committee recommended a bill that saves about half that. The gentleman adds savings of some small additional dollars.

Do you know what the difference is of about $1.1 billion? How did the other body save money that we seem unable to save?

Mr. COLEMAN. The gentleman is absolutely right; the other body saves sufficently more than we did, a billion plus more.

The reason they did that was that they addressed some of these issues that we failed to address in committee or had insufficient votes to pass in committee and probably do not have sufficient votes to pass here on the floor.

That is, they went through a number of things, but the biggest one is the change in the thrifty food plan, that is the amount of dollars it takes to fund each family or each individual on the food stamp program.

The other body simply reduced the period of time in which we adjusted the thrifty food stamp program and that is where they saved an awful lot of their money in the process.

They saved $430 million in 1983 and $246 million in 1984 and $160 million in 1985, just in that part of the bill alone.

Mr. ROEMER. So if the gentleman will yield for one final question, as I understand it your amendments would save an additional $100 million or so?

Mr. COLEMAN. Almost $200 million.

Mr. ROEMER. Almost $200 million, but would be substantially less than the savings suggested by the other body. No. 1; and, No. 2, would allow the appropriated funds expected to be spent for food stamps to go up each of the next 3 years to all time-highs in each of those years?

Mr. COLEMAN. The gentleman has it absolutely right.

I do not think anyone could characterize this amendment as being a hard line substitute. There could certainly have been a lot bigger figures, but we felt these figures could pass, whereas higher figures may not have.

Mr. ROEMER. I thank the gentleman.

The CHAIRMAN. Is the gentleman from Texas (Mr. de la Garza) opposed to the amendment?

Mr. de la GARZA. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas is recognized for 30 minutes.

Mr. de la GARZA. Mr. Chairman, I yield 11 minutes to the gentleman from New York (Mr. Richmond), chairman of the subcommittee that handles food stamps.

Mr. RICHMOND. I certainly support H.R. 6892 in its entirety.

We are met, for the 7th year in my 8 years of service in Congress, to alter the food stamp program one more time in the name of budget cuts. We have conducted 40 days of hearings and 95 days of markup on this program since January 1975. We continue to give it more scrutiny than any other social program. We constantly tinker with and change its details until neither recipients nor State and local administrators can remember what the rules of the game are. Why should that be? Why must this program consistently provide, year after year, the primary target for budget slashers and those who would scheme to redistribute income from the poor to the rich?

There is no good answer. Academic experts and social policymakers agree that food stamps are the best countercyclical program ever devised to offset, however partially, the ravages of unemployment and depression. Doctors testify that food stamps are "the most valuable health dollar spent by the Federal Government." Nutritionists know that food stamps are responsible for the progress we have made this past generation in eliminating hunger and malnutrition in this country.

Today, however, we meet to consider budget savings and not the nutritional needs of the poor.

H.R. 6892 amends the Food Stamp Act of 1977 and extends the food stamp program for 3 additional years through September 30, 1985. In the course of extending the food stamp program, the committee added amendments that would sanction the States for overissuance of food stamp allotments and tighten eligibility requirements.

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Title III extends an emergency feeding program which enables 21 to 22 million truly needy Americans to purchase food; second, it expands program benefits to include disabled veterans, elderly, social security recipients, and certain AFDC recipients; third, it tightens the household definition and modifies procedures for determining benefits; fourth, it prevents fraud and abuse by establishing State option for job search at application and providing for alternative issuance systems; fifth, it imposes strict sanctions on States for excessive error rates, improving cost-effectiveness of monthly reporting, allowing prompt reduction or termination of benefits and eliminating possible duplication of benefits; and sixth, demonstrates a concern for nutrition by studying the impact of program budget cuts on the nutritional status and social conditions of needy Americans.

The amendments to the Food Stamp Act achieve significant cost savings through measures believed by the committee to represent the least harmful alternatives to needy households dependent upon the program. The committee emphasizes that as a result of legislation adopted in 1981, savings were made in the food stamp program which totaled $6.7 billion for the 3 fiscal years affected. While the committee was again compelled to make further food stamp cuts to achieve the directive that it make cost savings in programs within its jurisdiction, any deeper cuts in the program would impact heavily on the ability of low-income Americans to have an adequate diet.

The committee adopted many reforms in the food stamp program to control error rates and to curb abuse. These provisions resulted in additional savings of $334 million in fiscal year 1983, $431 million in fiscal year 1984, and $561 million in fiscal year 1985 for a total net savings of $1.3 billion over a 3-year period.

This bill will continue the food stamp program for 3 more years through September 30, 1985, as well as provide authorization for funding for fiscal year 1983 at $12,648,000,000 for fiscal year 1984 at $12,908,000,000 and for fiscal year 1985 at $13,651,000,000.

Our committee, recognizing the fallibility of the economic forecasts on which the spending limits for the food stamp program are based, imposed a ceiling on expenditures to maintain oversight and control of program funding. The economic assumptions on which the spending ceilings are founded include the following estimates for unemployment and food price inflation:

[In percent]

	Fiscal year—		
	1983	1984	1985
Unemployment	8.6	7.7	7.3
Food price inflation	6.1	6.8	6.9

In addition, CBO savings estimates assume October 1, 1982, implementation date.

The total spending established for each fiscal year includes an appropriation level of $825 million for Puerto Rico as mandated in the Omnibus Budget Reconciliation Act of 1981.

It also includes offsets of $190 million for fiscal year 1983, $208 million for 1984, and $213 million for 1985 to reflect the impact on food stamp costs of reductions in other benefit programs.

A recent report from the Food and Nutrition Service of USDA issued June 1982 indicates that participation in the food stamp program averaged 22.7 million for March 1982, the highest level in 11 months. Although participation has increased for 4 consecutive months it remains about 1.3 percent below a year earlier. Legislative and administrative changes slowed the usual seasonal increase in participation. However, the sluggish economy and high rates of unemployment have pushed participation up, particularly in areas hard hit by unemployment. In the Midwest region, where unemployment is exceptionally high, participation during March of this year was 5 percent above a year earlier and about 120,000 more than March 1980. Commensurate with the overall decrease in total participation, the costs of the food stamp program in March 1982 were 5 percent below the preceding March. Each 1-percent increase in unemployment adds $500 million to program costs and each 1-percent price increase adds $150 million.

The committee assumed that the current CBO estimates for program expenditures are accurate and will be sufficient to maintain benefits for those Americans without resources to purchase an adequate diet. It is not the intent of the committee to abruptly cut off food stamps or abruptly decrease the amount of food stamps that recipients would receive in the last quarter in the event that unemployment or inflation should go higher than the figures projected by CBO. At the same time, the committee recognizes the responsibility of both USDA and the State agencies to operate an efficient and effective program with minimal error and waste.

EXPANDING PROGRAM BENEFITS

The bill expands program benefits to households previously excluded from eligibility. Recognizing the inequities created by previous legislative actions, the committee amends the current statute to correct these problems.

First, the committee expands the definition of "elderly or disabled" member to include disabled veterans and veterans' disabled spouses and children who receive veterans' compensation for purposes of household definition, income standards of eligibility, income deductions, and other places in the law where this definition applies.

This provision will cost $5 million in each fiscal year.

Second, the committee, recognizing the hardship placed on recipients of social security and other retirement benefits which are indexed on July 1 of each fiscal year, exempts this additional income from consideration for purposes of determining food stamp benefits through September 30 of the fiscal year. Many senior citizens have written to committee members describing the hardships they face when food stamp benefits are reduced in July as a result of cost-of-living increases in their social security or retirement benefits.

Since the cost-of-living increases are based on the CPI which include food price inflation, the committee concurs it is infinitely unfair to reduce food stamp benefits and, consequently, jeopardize the ability of these individuals to obtain an adequate diet. Under this bill, any July 1 cost-of-living increase received by elderly or disabled households from another Federal program—such as social security, SSI, railroad retirement and veterans' pensions—would be ignored until October 1 of that year for purposes of the food stamp program. As of October 1, an adjustment in food stamp benefits would be made to reflect COLA's in all programs, including food stamps.

There are two major reasons for this proposal. The first is to avoid the effect of having elderly and disabled persons lose a substantial portion—30 to 45 percent—of their social security COLA in decreased food stamp benefits for a 3-month period. This has a disheartening and confusing effect on participants, especially when the October 1 food stamp COLA would totally or partially restore the lost benefits just 3 months later.

The second justification for this proposal is to save States and local governments the administrative cost and effort involved in adjusting the food stamp benefits of about 2 million households with elderly or disabled members twice in a 3-month period.

This provision will cost $19 million in fiscal year 1983, $21 million in fiscal year 1984, and $23 million in fiscal year 1985.

Third, the committee provides States the opportunity to consider households in which all members receive aid for family with dependent children benefits and who meet the food stamp income eligibility guidelines as having met the food stamp resource requirements. This revision is intended to ease the administrative burden on States by eliminating the need to apply two different, though similar assets tests. At the same time this provision maintains the integrity of the food stamp eligibility rules by preserving the food stamp gross income test.

Fourth, we require States to base benefit allotments and eligibility on income received for 30 days of labor or obligation, whether that income is determined prospectively or retrospectively. This provision prevents States from calculating a month's benefits and eligibility for an individual who receives income for a 5- or 6-week period.

The committee recognized that households receiving weekly or biweekly earned or unearned income will experience months each year when there are five weekly checks or three biweekly checks in a single month. In such months, unless the household's weekly or biweekly income is converted into a monthly amount, the monthy income is misleading and leads to numerous technical terminations or suspensions. Income averaging prevents households from being terminated for 1 month as a result of a fluke of the calendar.

ACHIEVING PROGRAM SAVINGS

The bill reduces the costs of the food stamp program over 3 years by an estimated $1.3 billion. Based on economic assumptions used in the first concurrent budget resolution, the following table represents CBO's approximate figures for the savings if implemented on October 1, 1982.

While achieving these savings, we recognized the severe cuts made in these programs in fiscal year 1982 through enactment of the Omnibus Reconciliation Act of 1981 (Public Law 97-35) and the Agriculture and Food Act of 1981 (Public Law 97-98). Together, these laws reduced food stamp costs by 10 percent or about $2.3 billion in fiscal year 1982. Public Law 97-98 reauthorized the program for 1 year only and included the following major changes:

First, lowered income eligibility limits to 130 percent of poverty for all nonelderly and nondisabled households. This was the level suggested by the President to limit the program to the truly needy.

Second, delayed thrifty food plan adjustments for 9 months. The adjustment scheduled for October 1, 1982, will be the first in 21 months.

Third, froze the standard and excess shelter/dependent care deductions for a 2½-year period through July 1, 1983. Also, deleted the home ownership components from the CPI when updating these deductions in the future.

Fourth, reduced the deduction allowed for work-related expenses from 20 percent to 18 percent of earnings.

Fifth, mandated retrospective accounting and periodic reporting.

Sixth, eliminated strikers.

Seventh, converted the food stamp program in Puerto Rico to block grant at reduced and fixed funding levels.

Eighth, required that benefits paid in the first month of eligibility be prorated to the day the application was received.

Ninth, tightened work requirements and provided guidelines for optional nationwide workfare.

Tenth, increased penalties for fraud and misrepresentation and minimum mandatory court sentences for criminal offenses.

Eleventh, enacted a variety of other measures to improve program administration and enhance accountability.

This year the committee achieved the cost savings by administrative changes in the program. The committee agreed to:

Require rounding down to the lowest dollar increment any computations of, respectively, the thrifty food plan, standard and excess shelter deductions, and value of allotments. As is current practice, the unrounded number will continue to be used as the basis for updating the deductions the following year and the household size adjustments to the thrifty food plan should be based on the unrounded cost of such plan.

Delay the next scheduled adjustment of the shelter-and-dependent-care deductions from July 1 to October 1, 1983 and updates the deductions every October 1 thereafter. This would coordinate the update of these deductions with the timing of the update in the thrifty food plan. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the thrifty food plan will take place on the same dates, reducing the work required by State food stamp administrators. On October 1, 1983, a new series of adjustments will begin, using $85 for standard deduction and $115 for the shelter cap as the base. Each adjustment the following years should use as the base the unrounded numbers from the previous years.

Eliminate the requirement that USDA conduct studies on the financial resources requirements of the food stamp program, the effect of the elimination of the purchase requirement; the feasibility of recoupment, and the Consumer Price Index. These studies or reports have been completed by the Department.

Eliminate any allotment for the initial month or period of participation for a household if the value of the allotment it otherwise would receive is less than $10 because of proration of the initial month's benefits. In subsequent months, the household would receive the full allotment to which it was entitled.

The committee rejected an amendment to impose unreasonable restrictions for expedited service on individuals who face real hunger emergencies. GAO testified before the committee in the March hearings that quality control data for 20 States showed that errors for expedited cases were generally lower than those for the overall caseload. During this time of exceptionally high unemployment, to deny households who experience temporary poverty access to food stamps would be unreasonable punishment. The administration reported that in New Jersey 60 percent of the households that were given expedited services treatment during a temporary emergency did not require food stamps on a long-term basis.

It was our intent in defeating this amendment to insure that destitute individuals, especially migrant farmworkers, can continue to feed their families in emergencies. To afford migrant farmworkers continued protection, the committee exempts these households from the requirements of retrospective accounting and retains current expedited service eligibility and benefit levels for migrant and seasonal farmworkers.

We refused to delay adjustments in the thrifty food plan which would further erode the purchasing power of recipients. Because of legislation enacted last year, the July benefit allotments are based on food prices that are 22 months out of date, which corresponds to a 10- to 15-percent loss in food purchasing power. Many of the witnesses at this year's food stamp hearings testified that the current delay in thrifty food plan adjustments may be a contributing factor to the increased use of food banks and soup kitchens by low-income persons around the country. At food stamp hearings this year, witnesses estimated than an average food stamp family lost $4 a week in food-buying power—an amount which represents three meals a day for each family member for 2 days each month—with the 1981 freeze on adjustments, and, if the family lived in a State with a sales tax on food, they lost almost $3 more. If food stamps were delayed again this year, food stamp families would lose another $5 in food-buying ability.

Under current law, food stamp benefits are adjusted every October to reflect the cost of USDA's thrifty food plan during the previous June. USDA's last national household food consumption survey, conducted in the late 1970's, found that five-sixths of all households whose food expenditures equaled the cost of the thrifty

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food plan failed to obtain the recommended daily allowances for the basic nutrients. Today, the average food stamp benefit equals but 43 cents per person per meal, and the maximum benefit—to families with no other income for food purchases—totals 64 cents per person per meal.

Food stamp benefits have not been overindexed. Food stamp allotments are not adjusted according to the whole CPI, but only to food prices. A recent USDA study examining food stamp trends from 1975 to 1980 found that when food stamp benefits are measured in real dollars, the average per person benefit did not rise at all during this period.

The food stamp program is the only Federal entitlement program that has not been indexed in a timely manner and intends that food stamp allotments be updated to reflect increases in food prices.

PREVENTING FRAUD AND ABUSE

The committee recognizing that to effectively serve the needs of the poor it must make a substantial effort to direct program benefits away from those who are not entitled to them. Accordingly, the committee adopted several measures which reflect the suggestions made by State administrators, officials from the General Accounting Office, and the Department's Inspector General.

The committee bill includes the following antifraud and abuse provisions:

First, job search.—Establishes an option, rather than a uniform Federal mandate, for States to apply job search requirements at the time households apply for participation in the program. The provision allows States to take local employment conditions into account.

Second, voluntarily quitting a job.—Lengthens the voluntary quit disqualification period from 60 to 90 days, making this penalty compatible with the AFDC disqualification period.

Third, reimbursement for workfare administrative expenses.—Directs the Secretary to use one-half of the savings resulting from the employment of food stamp recipients who had been participating in workfare programs to defray additional portions of State agency costs of operating such programs. These requirements provide added incentive to State agencies to focus on obtaining jobs for food stamp recipients participating in workfare programs. CBO concurred with the administration's postion that Federal costs would be less than $1 million annually under the current policy for optional workfare.

Fourth, household definition.—Requires siblings who live together to be treated as one household unless one sibling is elderly, blind or disabled and permits certain elderly, disabled persons who live with others but who do not purchase food and prepare meals—and their spouses—to be considered a separate household.

Fifth, standard utility allowance.—Prohibits the use of standard utility allowances for households, such as those in public housing, that are not billed for heating or cooling costs. This prohibition does not preclude the use of utility allowances based on electricity costs of the household, even though heating and cooling expenses are not included. Households whose actual utility expenses exceed the State standard utility allowance must be allowed to claim the full expenses incurred.

Sixth, alternative issuance system.—Authorizes the Secretary to require that State agencies develop alternative issuance systems or to issue a reusable document in lieu of coupons if the Secretary, in consultation with the Inspector General, determines that use of such systems or documents in necessary to protect the integrity of the food stamp program and reduce losses to the program. The Secretary is also authorized to test methods of issuing benefits in which the food coupon itself is eliminated. The Secretary cannot require retail food stores participating in the program to bear the development and implementation costs of such systems or documents.

CONTROLLING ERROR

The overissuance of benefit allotments caused by recipients or administrative staff results in unnecessary costs to the food stamp program. The committee, in an effort to reduce the amount of overissued benefits, has approved several measures to improve the administration of the program, while at the same time, applying strong sanctions on the States. To ease the State's administrative burden and reduce costs, the committee has adopted the following provisions: Monthly reporting requirements both to exempt households having no income and all of whose adult members are aged, blind or disabled and to authorize exemptions where monthly reporting resulted in unwarranted administrative expenditures. To ease the State's administrative burden and reduce costs, the committee granted State agencies the authority to immediately reduce or terminate a household's benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required. This provision does not preempt the right of such household to appeal or to have benefits reinstated to prior levels if proper procedures were followed for the appeal.

In addition, the committee bill authorizes the Secretary to cross match the cashout files of SSI recipients with food stamp recipient files to identify and eliminate any duplication of benefits.

First, monthly reporting.—Exempts households in which all adult members are aged, blind, or disabled and authorizes exemption of certain households where a State agency established the requirement is not cost effective.

Second, prompt reduction.—Authorizes State agencies to immediately reduce or terminate a household's benefits if the agency receives clear, written information that such a benefit reduction or termination is required.

Third, duplication of benefits.—Requires State agencies that have cashed out the SSI portion of their caseload or that operate pilot cashout programs to annually match the cashout files of SSI recipients with food stamp recipient files to eliminate duplication of benefits.

Fourth, error rate reduction system.—Sets specific targets for error reduction by State agencies for fiscal years 1983-85 and thereafter and imposed sanctions for States failing to meet the targets.

Fifth, disclosure of information.—Authorizes release of information obtained from households to other federally assisted programs.

DEMONSTRATING A CONCERN FOR NUTRITION

In creating the food stamp program, President Nixon recognized the Federal Government's role in providing emergency nutrition to people who are suddenly in trouble. Even today, the average food stamp recipient uses the program allotments for an average of 3 or 4 months a year to maintain an adequate diet.

While protecting needy Americans from hunger and malnutrition, the food stamp program has increased the purchasing power of recipients in obtaining farm commodities produced in this country. Today's farmers receive almost 60 percent of the food stamp dollar spent on commodities such as fruits, vegetables, dairy products, eggs, poultry, and meat. The committee recognizes that it is in the best interests of farmers, of consumers, and of working people to preserve this program for those truly needy Americans who depend on this assistance for nourishment.

Last year, the committee established a block grant for nutrition assistance to Puerto Rico. It was the committee's intent that the money would be spent to improve the nutritional status of the needy. The plan for operating this block grant, recently submitted by Puerto Rico and approved by the administration, specifies that funds distributed for nutrition will be issued in the form of cash. After 1 month of operation, conflicting reports suggest the program is not meeting the goals or purposes the committee intended. Acting on this information, the committee adopted an amendment to require that as of October 1, 1983, food assistance made available under the block grant to the Commonwealth of Puerto Rico shall be made available to recipients in a form other than cash.

To determine the impact on both the nutritional status of Puerto Ricans and the economy of the island, the committee has directed the Secretary of Agriculture and the General Accounting Office to conduct a thorough study of the cashout program and report to Congress 6 months after enactment of this bill.

The committee is concerned over the large number of reductions enacted last year and likely to be enacted this year in income-tested programs. The committee believes that before it considers further food stamp proposals, it will be important to have solid information on the effects of these cuts on program recipients.

I would like to just answer the gentleman from Louisiana for a minute, if I may.

The gentleman from Louisiana has to understand, as does my colleague from Missouri (Mr. COLEMAN), with whom I have worked so closely on this food stamp legislation, that the food stamp program in the United States is the only basic nutritional emergency program we have.

As inflation rises and unemployment rises there is only one place that the people of the United States can go for emergency nutrition and that is to food stamps.

Each 1-percent increase in unemployment increases the food stamp program by $557 million and adds 1 million people to the program. Each 1-percent increase in inflation adds $150 million to the cost of the program.

We recognize that people in the United States are entitled to an adequate diet. We also recognize that if people are seriously in need and are hungry they cannot look for a job or go to school. That is the whole theory of the food stamp program.

The Senate adopted a most onerous provision in its food stamp bill. They again refused to index the thrifty food program plan. The entire program is based on a meager diet called the thrifty food plan. You and I could not live on it, believe me, because I have tried it.

They refused to index the thrifty food plan, so basically people on food stamps right now are getting a food plan based on figures that are from 22 months old.

There are other ways to balance the Federal budget.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. I am glad that the gentleman has cured some of the obvious confusion on the differences in the other body's action and what you are proposing here.

One final point that I would make is that these monetary ceilings on food stamps mean absolutely nothing.

The cost of the program depends on the circumstances in our Nation. If one is eligible, even under the tightened eligibility here, they will receive the food stamps; is that not true?

Mr. RICHMOND. The gentleman is right, except that if inflation keeps going up and unemployment keeps rising, the States will not have enough money to allocate food stamps for those who are truly needy.

Mr. ROEMER. I understand that. If the gentleman will yield, my only point is that it is not the dollars that we are debating but it is the eligibility.

Mr. RICHMOND. The food stamp program while it provides benefits to those individuals who meet the eligibility criteria is subject to a spending ceiling. This cap is based on the economic assumptions and the best estimates of program costs put forth by the Congressional Budget Office. While the committee intends that this program provide all eligible persons with the means to purchase food, it imposed a cap in order to maintain oversight and control of program funding.

Mr. ROEMER. If the gentleman will continue to yield, and I will conclude, that is my point. It is not the dollar limit that is important. It is the fairness of the eligibility requirements.

I thank the gentleman.

Mr. RICHMOND. Over the years, and this is my 7th year that I have been debating food stamps out of 8 years that I have been in Congress, we have constantly tightened up the program.

Last year we cut the food stamp program by $6.7 billion for fiscal years 1982–84. We have tightened this program almost as much as any program can be tightened. We have made it difficult for the States to run the food stamp program because Congress has changed the rules and regulations so often.

I would like to see a period of 2 or 3 years during which time the State administrators could straighten out their programs and decrease their error rates. The States need an adequate amount of funds to install new technology to help them reduce errors.

New rules and regulations take a certain educational period. In the last 7 years these State administrators have not had one year that the rules and regulations have not been changed drastically.

Mr. ROEMER. I appreciate the gentleman's statement. You yourself said 22 million people are in the program, almost an all-time high, and we are looking at the next 3 years spending in each succeeding year an all-time high figure. The figure given here on the floor today is that it seems some States enjoy an error rate where they have erroneously paid over 9 percent.

Mr. RICHMOND. The gentleman is right on the error rate. However, it seems contradictory to so harshly penalize the States in light of the fact that the Federal Government has been unable to get its own error rate in the supplemental security income program below 5.3 percent, not even counting disability determination errors. Supplemental security income is far easier to run and should have a lower error rate than food stamps, because it is limited to elderly and disabled persons who generally do not work and are far less likely to have unreported earnings.

The gentleman is not correct in saying the program is at an all-time high. On the contrary, the program participation is 1.2 percent less than at the same time last year. People who are on the food stamp program only stay on the food stamp program for an average period of 4 months.

So the gentleman can understand how much different it is to administer the food stamp program than it is to administer the supplemental security income program.

Meanwhile, let us not condemn the States by taking a major portion of their administrative costs. That would be defeating the purpose of the error rate sanctions.

Mr. ROEMER. And I know that the gentleman is not happy with the 9-percent error rate.

Mr. RICHMOND. No.

Mr. ROEMER. But does the gentleman think it is fair to lower that rate?

Mr. RICHMOND. Of course. We have adopted the same language in committee that the other body adopted.

The Wampler amendment wishes to go even further. The Wampler amendment goes so far it becomes impractical.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

The error rate is reflected directly by the number of people that are working to reduce that rate; is that not so?

Mr. RICHMOND. The gentleman is correct.

Mr. KAZEN. If we do not give the States the money with which to oversee this program we can pass all of the laws in the world in this Congress saying that we want a zero error rate, but if we do not have the enforcers, the people that are going to do the checking, we are not going to succeed.

In my opinion that is what is happening now. The States are cutting back on their personnel because they have budget problems, too.

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What we are doing is cutting our nose to spite our face.

We are cutting the personnel that oversees the program and I do not know that we are making up the difference.

I will tell the gentleman that I am expecting recipients of food stamps in my district to increase. I represent, as the gentleman well knows, an area along the border of Mexico, along with my colleague from Texas, Mr. de la Garza, and some others, Mr. White and Mr. Loeffler.

The Mexican peso has just been devaluated again for the second time in 6 months. Six months ago it was about 12 to 1. Today it is 9 to 1.

Our unemployment is going up. In my own home county it is 18 percent.

The gentleman can appreciate what we are going to be up against, additional unemployment because retail establishments are not going to be able to sell anything like the volume they have been used to. There are going to be wholesale layoffs and no jobs at which these people can be employed. You can have as many provisions as you want about people having to register for work, but if there are no jobs available they do not mean a thing.

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Mr. RICHMOND. The gentleman from Texas makes my case, of course. The gentleman from Texas very correctly says that if we make our rules so onerous that the States cannot follow them, then we are defeating ourselves.

So we know, therefore, that we have to depend upon the States to do the administration. Now, if we do not make it worth the States' while to reduce their error rate, put in computers, put in modern technology, we are going to defeat ourselves.

The Senate bill and the House bill do precisely that. We put out the carrot and the stick and we give the States every opportunity to properly reduce their error rates. The Wampler amendment, unfortunately, is impractical; and if it is put into law, it will have a reverse effect. It will make the States throw up their hands and do nothing to modernize their operation.

Mr. KAZEN. If the gentleman will yield for just one more statement. All of us want to reduce the price of this program.

Mr. RICHMOND. Yes.

Mr. KAZEN. Every person who is on the rolls who does not deserve to be there is taking food out of the mouths of people who do need it and are deserving. So all of us are interested in lowering this error rate. But until we get the personnel to monitor this program, we are not going to do it. As I understand the substitute, an application for expedited service has to be completed and processed in 5 days. I will ask the gentleman, where are they going to get the personnel to complete an application and the certification in 5 days?

Mr. COLEMAN. Will the gentleman yield to me to answer that question?

Mr. RICHMOND. I can answer the gentleman. The gentleman was using expedited service, with error rate. Expedited service is another matter which we will discuss later, but on error rate, which we have been discussing, the gentleman is 100 percent right on. If we do not make it worth the States' while to modernize and to computerize, to reduce their error rates, they are going to throw up their hands and do nothing. The gentleman makes a great case.

Mr. KAZEN. I am sorry that I got the gentleman confused on this. I am talking about both of them. The error rate on the regular program needs personnel, and the expedited service needs personnel.

Now, where are we going to get them? If we can employ them, fine. But if we do not, how can they comply with the law?

Mr. RICHMOND. The gentleman from Texas is right. We certainly have to do everything possible to encourage the States to run efficient, modern programs. As the gentleman knows, most States are not totally computerized. We have to do everything possible to help update their systems with modern technology. We cannot do that with the Wampler substitute. We can with the committee bill.

The sanctions in the Wampler substitute are so large that they would likely be counterproductive. They would remove so many resources from a State that the State would have insufficient resources to invest in new technology and other systems needed to reduce errors in future years.

Both approaches require a 5-percent error rate in fiscal year 1985. They differ in fiscal year 1983 and 1984.

Under the committee bill, a State must—in fiscal year 1983—either reduce its error rate one-third of the way to 5 percent, or achieve a 9-percent error rate. In fiscal year 1984, a State must cut its error rate by two-thirds of the way to 5 percent, or achieve a 7-percent error rate. This means that a State with a 14-percent error rate would have to get to 11 percent for fiscal year 1983, to 8 percent in fiscal year 1984, and to 5 percent in fiscal year 1985.

The Wampler substitute simply sets standards of 9 percent for fiscal year 1983, and 7 percent for fiscal year 1984, and has no provision for reducing errors by one-third each year. A State that currently has a high error rate, makes a heroic effort, and cuts its error rate in fiscal year 1983 by one-third of the way to 5 percent could still face very large sanctions under this approach.

H.R. 6892 sanctions States that fail to meet their error rate targets by reducing the Federal share of their administrative costs 5 percent for each of the first 3 percentage points that the error rate exceeds the target, and by 10 percent for each additional point that their error rate exceeds the target. In other words, if a State's target is 5 percent but its actual error rate is 8 percent, it would lose 15 percent of the Federal share of its administrative costs. If its error rate was 10 percent it would lose 35 percent of the Federal share of its administrative costs.

The Wampler substitute, by contrast, penalizes a State a full dollar for every dollar in benefits overissued over the State's error rate target. This results in huge and unrealistic sanctions that in some cases would exceed 100 percent of the Federal share of a State's administrative costs.

In fact, if the error rates in fiscal year 1985 remained the same as they are today, States would be sanctioned over $500 million under the approach in the substitute. This is an especially severe sanction, particularly in light of the fact that the Federal Government has been unable to get its own error rate in the SSI program below 5.3 percent not even counting disability determination errors. SSI is far easier to run and should have a lower error rate than food stamps, because it is limited to elderly and disabled persons who generally do not work and are far less likely to have unreported earnings.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Let me emphasize that there is nothing in this substitute that in any way reduces personnel to administer the food stamp program. I will include in the Record as part of my remarks the error rate for each State of the Union, Puerto Rico, District of Columbia, and Guam. And I might say that the error rate as issued by the Department of Agriculture for the period of October 1980, through March 1981, shows that 36 States of the Union have error rates over 9 percent; 12 States have error rates over 12 percent; 5 States have error rates over 15 percent; and 1 State has an error rate of over 20 percent.

So there is nothing in this substitute that takes from the States any personnel that they presently have to achieve what we believe are reasonable targets as it pertains to reducing error rates.

On the contrary, we believe the penalty that the States will have to pay unless they reach these targets will have a desirable effect.

I will insert the error rate tables at this point:

States with error rates below 9 percent [1]

	Percent
Alabama	8.47
Arkansas	8.80
California	8.66
Delaware	7.84
Guam	4.58
Hawaii	7.01
Idaho	8.76
Maine	8.93
Minnesota	6.70
Missouri	8.82
Nevada	3.66
North Dakota	4.39
Ohio	8.32
South Carolina	8.40
Texas	8.95
Utah	8.48
Virginia	8.38
West Virginia	7.70

[1] USDA payment error rates (ineligible and overissuance) for the period of October 1980 through March 1981.

NOTE: There are 18 States who have error rates below 9 percent.

There are 4 States who have error rates below 7 percent.

There are 3 States who have error rates below 5 percent.

States with error rates over 9 percent [1]

	Percent
Alaska	21.38
Arizona	15.09
Colorado	11.70
Connecticut	13.84
District of Columbia	13.79
Florida	12.46
Georgia	9.20
Illinois	9.08
Indiana	9.04
Iowa	10.65
Kansas	11.60
Kentucky	9.06
Louisiana	10.33
Maryland	13.74
Massachusetts	11.14
Michigan	9.38
Mississippi	9.83
Montana	15.40
Nebraska	11.01
New Hampshire	14.42
New Jersey	10.03
New Mexico	12.82
New York	15.05
North Carolina	9.86
Oklahoma	9.82
Oregon	19.15
Pennsylvania	10.49
Puerto Rico	11.86
Rhode Island	11.47
South Dakota	10.48
Tennessee	11.81
Vermont	9.60
Virgin Islands	14.96
Washington	10.56
Wisconsin	11.12
Wyoming	11.52

[1] USDA payment error rates (ineligible and overissuance) for the period of October 1980 through March 1981.

NOTE: There are 36 States who have error rates over 9 percent.

There are 12 States who have error rates over 12 percent.

There are 5 States who have error rates over 15 percent.

There is 1 State who has an error rate over 20 percent.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I appreciate the gentleman yielding.

Mr. Chairman, I think the gentleman has stated the facts very clearly. I do not think we could go forward with much more discussion erroneously thinking that this substitute does anything to benefits or to the personnel in place in States that administer this program, other than requiring those people who administer the program for the States to be more efficient and more effective in spending our Federal tax dollars. Yes, we do affect them in that way. I think that is a positive effect.

The committee bill simply gives a little slap on the wrist to the States. "Oh, if you do not come up to these error rate levels that we mandate, it is really all right, we are just really going to slap you on the wrists."

Our substitute says, "You are playing with our money, fast and loose in many cases and we want you to be more efficient." The gentleman has cited that 36 States in this country have error rates over 9 percent, 12 States have error rates over 12 percent, 5 States have error rates over 15 percent. That is not State money. That is our money. And that is money that could either be going to this program going to pay off some of that deficit that we all see looming in this budget process.

So let us not say that personnel are going to be cut, or any administrative costs reduced. The States are going to have to pay for their errors dollar for dollar. We are going to give them the incentive to reduce that error rate, and they can figure that out. But benefits will not be cut and personnel will not be cut in the process mandated by this substitute. No way.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Louisiana.

Mr. ROEMER. Where does the administrative money to supervise and administer this program come from? Does it come from the Federal Government or each of our individual States?

Mr. WAMPLER. I yield to the gentleman from Missouri to answer that question.

Mr. COLEMAN. Half of it comes from the Federal Government and half from the States.

Mr. ROEMER. I thank the gentleman.

As I understand it, from the earlier statistics given by the gentleman from Virginia, the error rate, payment of food stamps made in error to the wrong person, equals on a nationwide basis approximately 9 percent. Am I wrong in that statistic, or did I miss something?

Mr. WAMPLER. I said that 36 States of the Union have error rates over 9 percent. It has been estimated that the actual cost of error rates, that is, mainly those ineligible and those receiving overissuance, constitutes the sum of almost $1 billion. The cap for fiscal year 1982 was $11.3 billion, which we believe is actually greater than the actual funds that will be expended.

Mr. ROEMER. If the gentleman will yield one final time, I thank him for his answer, and I would make the statement that I cannot think the gentleman's thoughts, and I do not know exactly where the gentleman is headed, but would like to believe that he supports this program to help people who need help, and that the gentleman's amendment is designed to take a very inefficient program and improve its efficiency for the benefit, of those who needs these food stamps most of all.

Mr. WAMPLER. The gentleman from Virginia has during the years that he has been a Member of this body supported the food stamp program. I think, by and large, it has served the purpose for which it was intended. When the food stamp program was initiated some years ago, it was intended primarily to achieve two goals: to help move agricultural surpluses into consumption and to help low-income Americans improve their chances of obtaining a nutritionally balanced diet.

The program has grown substantially through the years. The Committee on Agriculture has jurisdiction over the food stamp program, and we have tried to design a program that would have some semblance of fiscal discipline. Some years ago we chose—I was not among those who supported the effort—to abolish the so-called purchase requirement. Many households were required to put some of their resources up front, and then they received bonus stamps over and above that amount. Whether or not that was a wise move, I guess, is up to each Member to determine. But it seems to me that what we are attempting to do is to put some fiscal control over this program, since the reconciliation process does address itself primarily to budgetary restraint issues. We have not in this substitute denied any person who is presently eligible under the law to receive food stamps. What we are trying to get at is this unacceptable error rate, where people who are legally ineligible under the law and under the regulations are receiving benefits, and those where the local issuing office has overissued the number or value of the stamps.

Mr. ROEMER. I thank the gentleman for that statement. It means a lot to me. I would point out, in conclusion from my side, that you achieve savings of less than 60 percent of the savings achieved by the same program from the other body. For those who would criticize that you have been too harsh, you get less than 60 percent of what

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they got, and I think deal with the question of eligibility and administration in a fair manner.

Mr. WAMPLER. I can only respond to my colleague from Louisiana by saying that if this bill passes, and if we go to conference with the other body, and if the gentleman from Virginia is a conferee—which I have every reason to expect I will be—it will be my purpose to see that we can keep the food stamp program intact as far as issuing adequate benefits to those who are eligible. But I am concerned today, as I have been for some years, about the fraud, the waste and the abuse in the food stamp program. To the extent that that exists, it denies needy people of the limited benefits that we may be able to finance. And in this time of fiscal restraint, we have to make every reasonable effort to eliminate people from the program who are not legally eligible or where they are issued stamps in error.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Texas.

Mr. KAZEN. I want to commend the gentleman for his statement. I think all of us want to get at this fraud and abuse.

The only thing that worries me is that we are not going to cure that situation unless we have the personnel out there to do the job that must be done to clear the rolls of those people who are committing the fraud and who are on these rolls and do not deserve to be on them.

Mr. WAMPLER. Let me respond to my friend, the gentleman from Texas, by saying again that there is nothing in this substitute that denies, takes, reduces, or takes away State personnel involved in the administration of the program.

Mr. KAZEN. I am not talking about taking away, because the job has not been done now with what they have. I am talking about putting some more in, into this particular effort, to weed the cheaters out. I know the gentleman has not cut any of them. But he has not put in any additional administration funds. And with what we have now, that number has apparently been inadequate.

Mr. WAMPLER. Let me say to my colleague that I think I understand his argument. But there is nothing in this substitute that in any way detracts from that effort of the State to administer the program.

I might also say that the Office of Inspector General of the Department of Agriculture has been quite active in recent months ferreting out fraud, waste, and abuse. I think it is important for State agencies to put more emphasis on trying to root out fraud and waste and abuse. It is a question of efficiency and effectiveness in the utilization of existing personnel. Somes States are just more effective than others.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. The gentleman from Texas has made a good point. We will provide not just the stick, we will provide the carrot, too, to the States; that if they get down to the 5-percent error rate before it is mandated, they will receive 60 percent of their administrative costs from the Federal Government. We are going to provide that incentive at the same time we are trying to get them to know that if they do not reach that error rate, it is going to cost them dollar for dollar that they give out in error.

Mr. KAZEN. If the gentleman will yield, my problem is trying to reconcile the fact that the bill cuts off, for instance, 25 percent of the funds going to administration, while I understand that the substitute cuts as much as 75 percent for Texas, my State.

Mr. COLEMAN. If I might respond, all I can say is that is not the fact, as I understand it. The gentleman comes from a State with a rather low error rate of less than 9 percent. So he would not be immediately affected. They are going toward the right direction. But the fact is that I cannot say that the statement that the gentleman made is an accurate statement. It is not my understanding, and I do not know that the gentleman from New York would state that that is his understanding of it either. I do not think the gentleman from New York would support that kind of draconian language in his bill.

Mr. KAZEN. I would just love to get that straightened out. If it does not cut 25 percent under the bill and 75 percent under this substitute, I would like to know what the percentages are, because as I understand it, as far as my State is concerned, these bills cut the funds for administration. Now, am I right or wrong?

Mr. COLEMAN. If I might respond, I do not want to say the gentleman is right or wrong. The information that has been supplied is incorrect.

Mr. KAZEN. What is the right information?

Mr. COLEMAN. We have absolutely no reductions in administrative expenses to the States by this amendment period.

Mr. WAMPLER. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, the substitute offered by my distinguished colleague from Virginia (Mr. WAMPLER) is designed to address the substantial error factor that contributes in a major way to the fraud and abuse that is being perpetrated throughout the food stamp program. While I am generally supportive of the food stamp program, it has been the subject to heavy taxpayer criticism, often leveled at flagrant examples of abuse. I believe we owe it to the taxpayers and to the legitimate food stamp recipients to correct this situation.

However, I wish to bring the attention of my colleagues other provisions of H.R. 6892 which are not addressed by the substitute.

Mr. Chairman, a very substantial number of Members from various States have expressed a desire to amend the dairy price support and other provisions of the committee bill. We are distressed over the decision of the Rules Committee to adopt such a restrictive rule, foreclosing the opportunity for several Members to participate in the amending process.

We from California believe that an excellent proposal was considered during the hearings conducted by the Subcommittee on Livestock, Dairy and Poultry on the dairy price support program. In discussions with the leadership of the Agriculture Committee, it became apparent that such an amendment would be subject to a question on germaneness and possibly jurisdiction. Thus, we were deprived of an opportunity to offer our amendment, due to the possibility of our effort being restricted on a germaneness ruling.

In light of these restrictions, I want to convey to the Members of the House and the leadership of the Agriculture Committee that it is our hope that they will work with us to include this amendment in the reconciliation bill. The amendment has a two-pronged purpose—to implement the program objectives of the California milk standards, and further, to give serious consideration to our sliding price incentive formula, which would minimize the impact of price support changes on farmers who have a substantial debt load, especially young farmers. I want to again emphasize my request to the committee leadership—give more in the way of consideration to the importance of raising the national milk standards to the levels that have been so successful in California, reducing Commodity Credit Corporation expenditures and providing a higher quality, better-tasting milk for the consumer.

If an opportunity to proceed along these lines develops in the House-Senate conference, and these provisions can be included, you would be going a long way toward eliminating the problems and criticisms associated with the costs of the dairy program, as well as providing something beneficial to the consumer. If the leadership of the committee is restricted in including this proposal in conference, I urge them to become better acquainted with the benefits that will accrue from its adoption through other means.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Missouri, Mr. Coleman, whose statesmanship is an example to be emulated.

I enthusiastically support the reconciliation as reported by the Agriculture Committee on a bipartisan vote, but will also support the substitute of the gentleman from Missouri because of the savings and improvements effected in the food stamp program. The committee bill is excellent, but as with most matters, can always be made a little better. The Coleman substitute helps improve the efficiency in administration of food stamps, and provides the means to further reduce waste and fraud, so I urge two successive yea votes here.

Mr. JEFFORDS. Mr. Chairman, first of all I would like to clear up this matter that was just rather summarily disposed of. The substitute says that the Secretary shall get back from the State, or withhold from the moneys going to the State for administration the penalty.

Now, how you can say that in one breath, and in the next breath say that is not going to cut back in administration, I do not know.

Let me get to what is a more important aspect of this situation, as far as I am concerned. Let us forget about budget cutting and the impact on States. Let us think about the fellow or woman who is going to be coming in to get expedited services. Let us take the situation that is going to be occurring.

□ 1415

He now has no money in his pocket. Under present law he can go into the office and he can get expedited food stamps. He can walk in and get stamps, so he can go out and get his family fed. This substitute says that even though he would have been eligible under present law if he had $1,000 of income that month, now, under this provision if he had $150, he cannot get his stamps, though an emergency situation exists. He, or she, is eligible for food stamps, has had less than $150 of income, is broke, but has to wait weeks to get help for his hungry family.

Now, when you take a look at it from this perspective, what are we going to say to that individual. In order to save $15 million from a $10 billion bill, these families must face disaster. But these are human beings that we are going to have to deal with human beings who will be forced to look somewhere else—to crime or whatever—to feed their families. I think that is ridiculous.

Now, back to the States. In the time I have left I would just point out that the present bill has sanctions which under present circumstances, would result in up to 100 percent of the funds slated for the States, administrative costs being taken back.

But the provision that we have here in the substitute would require 26 States to give back more money than they get from the Federal Government right now under present circumstances.

For instance, it is estimated that Alaska, Florida, Montana, New York, and Rhode Island would all be penalized an amount well over 200 percent of the Federal share of their administrative costs, based on the latest reported State error rates.

Now, as has been pointed out, the penalty money is going to have to come from that which the States use to administer the program. If you have a high error rate, you need the money to hire the people to make the error rate better, or else the State has to cough it up to the Federal Government. I cannot believe the Federal Government is going to end up suing these States to get the money back.

All in all, I think that the present bill handles these areas in food stamps just the same as the other body does. It is strict, but it is fair.

The CHAIRMAN. The time of the gentleman for Vermont (Mr. Jeffords) has expired.

Mr. de la GARZA. Mr. Chairman, I yield 1 additional minute to the gentleman from Vermont.

Mr. JEFFORDS. I would just like to inquire from the chairman of the subcommittee, if I am correct in my belief that if I had $1,000 I might have been eligible for the program, but under the substitute's expedited service if I come in broke, but somehow had had $150 during that month and had spent it on my family of four, that I would not be eligible for any expedited service and might have to wait until the end of the month to get any food stamps.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. RICHMOND. The gentleman is correct.

Mr. JEFFORDS. I appreciate that. I think that is important to remember.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

I would like to put this in perspective because the gentleman from New York, who everybody knows is an advocate of the food stamp program, offered an amendment with the same criteria that this substitute has in it regarding expedited service.

The gentleman just pointed out it would be $150 gross income per month and $100 liquid assets. That is an amendment the gentleman from New York offered last year. So it cannot be counted as an amendment without any sort of supportable evidence when the gentleman from New York offered it himself.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. Frank).

Mr. FRANK. Mr. Chairman, I was disappointed to see the substitute in no way changes the dairy part of the committee's bill.

I think it is regrettable that we are being asked to vote on, in the guise of a reconciliation bill, a 40-page title that creates an entirely new system for dairy subsidies. It seems to me to be that this program is as unlikely to bring serious cost savings this year as the bill passed last year.

We are going to set up our own OMEC, an Organization of Milk Exporting Counties. That is going to be the cartel that runs the dairy program, a cartel composed exclusively of dairy producers.

What we ought to do is to provide the Secretary of Agriculture the authority to lower the support price to give dairy farmers strong signals to keep their production down in order to cut Federal costs meaningfully. Instead, we are creating new boards, penalizing imports, and I think we are going shortly to see the same kinds of problems as last year.

I hope Members will vote against both the substitute and the whole bill and let us come back again in a form in which we can discuss the very significant changes in the dairy programs being proposed here.

While the committee purports to cut Government expenditures over the next 3 years, the history of this program makes clear that projections of this sort can be very unreliable. This year, for example, the costs of the dairy program are 50 percent higher than the estimates made only last October. What is sure to happen, however, under this bill is that a new anticompetitive, anticonsumer cartel will be established which will have the power to control the support price to be paid as well as supplies. The losers will most definitely be the consumers of this country but if history is our guide and the committee's cost projections, as well-meaning as they may be, do not turn out to be accurate, the taxpayers will also be big losers as they continue to support a bloated program.

The changes in the dairy program being proposed here are perhaps the most far reaching in over 30 years. I

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regret that we were unable to have a full debate, and separate votes, on this aspect of the program.

Mr. de la GARZA. Mr. Chairman, I yield myself such time as I may consume and I do so in order to engage in a colloquy with the distinguished ranking minority member of the subcommittee, the gentleman from Missouri (Mr. Coleman).

In connection with the expedited service, the report of the committee on H.R. 6892 addresses other concerns; that there be no gap in benefits for those providing prompt verification of need, and that a State's issuance cycle not result in a migrant household, for example, being deprived of benefits in the second month of eligibility.

I understand that the ranking minority member of the subcommittee shares the views expressed in the committee report on these issues. I would ask the gentleman from Missouri (Mr. Coleman) if my understanding is correct.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Yes; the gentleman's understanding is correct.

Mr. de la GARZA. I thank the gentleman for his cooperation.

Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Chairman, I would urge defeat of the substitute. I would like to speak specifically to the error rate questions that have been generating a lot of controversy here.

Both provisions, the committee provision and the substitute, contain penalties for States who fail to meet their error rate targets. The committee position reduces the Federal share of the administrative costs by 5 percent for each of the first 3 percentage points that the error rate exceeds the target and by 10 percent for each additional point that the error rate exceeds the targets.

I think we need to clarify this question.

The committee position does indeed penalize the States who do not meet their targets. Now the difference is that the substitute provision would establish basically a much lower percent error rate as a goal in this program, and based upon this assumption the States would be subject to enormous penalties if they do not meet the error rate reduction in the substitute provision. The States would still be subject to very significant penalties if they do not meet the error rate reduction in the committee provision.

I would like to read a bit from the remarks contained in the Congressional Record of the senior Senator from Kansas when he made them back in May concerning this provision.

> Under both of these approaches—

And by this Senator Dole is talking about higher error rate provisions of the type proposed by the gentleman from Virginia (Mr. Wampler) as well as even more severe ones proposed by the administration—

> States would be liable for hundreds of millions of dollars in sanctions starting next year and continuing every year thereafter.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN. Is the gentleman talking about the administration's original proposal to have a zero error rate which I rejected and we rejected out of hand?

Mr. GLICKMAN. The gentleman is correct. But he is referring to both that provision and the one that Senator Helms proposed. So he is talking about two. One is more closely identified with the gentleman's. But "under these approaches," and granted one of them is a zero rate proposal, "States would be liable for hundreds of millions of dollars in sanctions starting next year and continuing every year thereafter."

What these bills really do is transfer a portion of the cost of the food stamp program to State and local government. It would take an extraordinary effort for every State to lower its error rate to 5 percent. And this is the amendment of the substitute.

Then Mr. Dole goes along to quote a GAO report, and my colleague from Missouri has cited a GAO report. In this report, July 18, 1980, the GAO said the following:

> Fiscal sanctions create an adversary relationship between the Federal Government and the States at a time when a cooperative effort is needed to reduce errors. Using the quality control system as the basis for sanctions limits the system's value as a means for improving payment processes. Because a high error rate will result in sanctions, there is an incentive to identify fewer errors. To be most effective the quality control system should identify as many errors as possible.

GAO report says:

> When penalties per error are too excessive, States might respond by hiding their errors or putting their energy into fighting the sanction policy rather than improving programs.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

It is for that specific reason that the National Governors Association and the National Council of Welfare Administrators are strongly opposed to this amendment, because it in effect cuts the very costs that they need to try to reduce the penalty rates in this area.

Mr. WAMPLER. Mr. Chairman, the gentleman from Kansas who just left the well, I know he is concerned about unacceptable error rates. We all are. However, using his State as an example, according to the data that was reported to me, Kansas has an error rate of 11.6 percent. That generally means for every $100 of benefits issued in food stamps in Kansas, $11.60 either are issued because the person was ineligible or there was an overissuance of stamps, or other similar problems.

So if the senior Senator from Kansas, working with the gentleman from Kansas, will impress upon their Governor and their director of public assistance, or whatever his title might be, to reduce that error rate only 2.6 percent during fiscal year 1983, they will be held harmless from the effect of the language in this amendment.

It seems to me it is not unreasonable to ask them to reduce the error rate by 2.6 percent.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

We have heard a lot of talk today about what the other body has done and even have had from the well of this House remarks read to us and recited to us made by a Member of the other body, as if this is some reason why we are supposed to reject out of hand this substitute.

The reason the other body could make some changes that are incorporated in the committee bill is because the other body saved $1.2 billion more in this program than what this committee bill could do. And that is why they can go down these avenues and vacillate here and there. But I do not think any Member of this House wants to be told how to vote because some Member of the other body has spelled out an argument.

The real argument on this substitute, and the only argument on the substitute, is whether or not we are going to get the States to reduce their error rates.

Now, who have we heard from? We have heard from the State administrative officials, the department of welfare, the department of social services from our home States. Are they for this substitute? No. And why are they not? Because it is their money that we want them to pay back to us.

These are the same States that petitioned the Congress for a balanced budget. We can reduce the error rates just down to 9 percent, and they are hounding us not to even do that.

Now, where do they stand? Do they stand for fiscal integrity and responsibility? Every time we have one of these things they come down or call us up and tell us how bad it is.

You cannot have it both ways, Mr. Chairman. You either are going to reduce the error rate or provide some incentives to the States to administer this program. It is real great to go back and administer this program and call up and say, "vote against the Republican substitute." They can do that because it is our Federal tax dollars they are throwing away at the rate of $1 billion a year.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I simply take this 1 minute to respond to the remarks made by the gentleman from Massachusetts (Mr. FRANK).

I would suggest to that gentleman that he is dead wrong in his analysis of the dairy situation.

This proposal today does not solve the problem because it is still skewed in favor of large operators and it makes no differentiation between what is happening on the part of small producers and large producers in terms of exceeding the production limits that the bill seeks to reach.

But I would also make the point that unless you attack national economic policy to bring down interest rates—which provide massive incentives for all sizes of operations to build their herds, to beat this interest rate situation, to enable them to make their payments at the bank—until you attack that problem, "You ain't doin' nothin'" to solve the dairy surplus problem.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. I would just basically make three important points that ought to be considered by Members in deciding on the substitute.

The first is that the committee has not only met their targets under reconciliation according to the CBO but has exceeded those targets.

Indeed, they were instructed to come up with $3.2 billion in savings over 3 years. This committee has come forward with $4.6 billion in savings confirmed by the CBO. That is $1.3 billion more than they were instructed to do. It is $1.2 billion in excess of what the Senate did.

Second, and I think importantly, food stamp reductions are included in this proposal as it comes before the House to the tune of $1.3 billion over the next 3 years. That is added to almost $7 billion that was included in reconciliation last year, for a total of $8.3 billion that will be reduced from this program over the next few years.

And last, it is not as if this bill has not addressed the error rate issue or the jobs search issue. The fact remains that included in this bill is an error rate provision that would penalize the States on a graduated basis. It is exactly the same provision included in the Senate as is the job search provision.

The reason we have gone for this approach is because there is validity to the fact that the more you cut back on the administrative costs of these programs, the more you feed into the presence of error and fraud that goes on at the local level.

□ 1430

So let us not cut off our noses to spite our faces. Let us try to improve the administrative program so that we can reduce the penalties and to approve the program overall.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I rise in strong opposition to the Wampler substitute amendment to the food stamp program.

Many recipients of food stamps are children and low-income elderly and are among the most truly needy in our society. They have already shouldered more than there fair share of budget cuts. Last year's cuts amounting to $2 billion pared the program to a bare minimum; now, the poor who receive food stamp benefits are being asked to bare the burden of a further $1.3 billion reduction. Further cuts, as required by the Wampler substitute, would be simply cruel.

It is tragic that barely 1 week after we authorized the largest single-year defense appropriation, we are faced with legislation that would slice $200 million more than required from the food stamp program. In the context of last week's debate, that $200 million would barely cover the cost to reactivate one outdated World War II battleship.

However, to the recipients of food stamps, the prospect of an additional $200 million cut means that families in immediate and dire need, those most disadvantaged, can no longer receive immediate emergency benefits—they must wait 5 days. It means that the Agriculture Secretary can require them to fulfill mandatory job search requirements, even if jobseeking is rendered impossible because of individual family complications.

And, it means that States which may be making good faith efforts to improve error rates may be penalized by severe budgetary restraints. In my home State of New York, for example, significant progress has been made in reducing error rates, but it seems almost impossible to imagine New York—as well as many other States—achieving a 5 percent error rate by 1985. Under the provisions of the substitute bill, New York State could stand to lose $30 million alone in food stamp benefits.

Mr. Speaker, the recommendations of the Agriculture Committee already provide deep and harsh cuts in food stamp benefits. Those cuts alone will take food out of the mouths of hungry children who have nowhere else to turn to relieve their starvation. The additional cuts sought by the substitute bill border on inhumanity.

The food stamp program has played a major role in eliminating the widespread hunger among the poor that existed in the 1960's. With the serious recession and record unemployment that Reaganomics has wrought, this is hardly the time to further shrink this vital food supplement program.

We have already seen evidence of the Reagan administration's attitude toward our Nation's hungry citizens. Drastic cuts in school lunch and breakfast programs, child care and summer feeding and WIC and the suggestion by an administration official that ketchup could be a suitable vegetable in a child's diet show clearly that the administration holds no compassion for the most destitute in our society.

I urge my colleagues to reject this cold-hearted proposal.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I want to express my appreciation for the fact that this substitute, which I assume represents the consensus judgment of the minority members of the Agriculture Committee, adopts the provisions of the committee bill in almost all cases.

This means that we now have a bipartisan consensus in favor of the committee's proposals to help reduce surpluses and improve market prices for grains.

This means that we now have a bipartisan consensus in favor of the committee proposals to reduce dairy surpluses and the cost of the dairy support program.

This means that we now have a bipartisan consensus in favor to the committee's proposals for standby programs for cotton and rice.

And, finally, this means that we now have a bipartisan consensus in favor of almost all the important decisions represented in the committee's proposals for food stamps.

When you look at the substitute, Mr. Chairman, you find that it embraces about 95 percent of the committee bill. The only difference is that the substitute includes three additional cuts in the food stamp program.

I am encouraged by the fact that both I and the ranking minority member of our committee can stand before you together and urge the House to adopt 95 percent of the committee bill. Now, I want to urge the House to adopt that remaining 5 percent. I want to urge the House to

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defeat the substitute because I believe that the proposed additional cuts in food stamps would do far more harm than good.

To begin with, Mr. Chairman, Members should ask themselves this question—are the additional proposed cuts needed in order to meet the Agriculture Committee's reconciliation goal?

The answer is—no. The committee bill as it stands makes cuts in spending which go 40 percent beyond our reconciliation goal. If even more reductions were desirable, I would support them for their own sake, but this is not the case with these amendments.

One of these amendments proposes a change in the treatment of people and families which apply for food stamps under the so-called "expedited services" provision. The amendment would try to save $15 million in fiscal 1983 by setting up new requirements and by allowing delays of up to 5 days—instead of the current 2 or 3—in providing expedited service.

Mr. Chairman, the House should remember why we have expedited service in the first place. It is designed for people who are suddenly thrown out of work and have no resources to tide themselves over with. This is for people who will go hungry unless they get food stamps immediately. We have tightened the food stamp program repeatedly in recent years and we are doing so again in several portions of this bill. But when we tighten the program, we should do so in a way which avoids harm to the truly needy people who need this food stamp help and who are fully eligible for it. The amendment, if adopted, could result in denying food to fully eligible people at a time when they need food desperately.

You may say that the amendment could delay food assistance for only a few days. Mr. Chairman, if you are hungry, and if you are a migrant family and have no money to buy food for yourself and your children, a few days can be a very long time.

Another portion of the subsitute proposes to stiffen penalties which are imposed on States which do not reach the targets we set for them. In this connection, we should remember that the committee bill already proposes such increases in penalties against States which do not meet targets—the amendment, however, would make those penalties stiffer than those in the committee bill.

Nobody disagrees with the basic fact that we want the States to reduce their error rates. We want to encourage them to make progress by providing a financial incentive—a reduction in the amount of money they get for administrative costs. This is, frankly, part of a carrot and stick approach. The substitute amendment on this issue, however, turns the stick into a cannon. It would cut administrative payments to States dollar for dollar for all stamp errors above target rates which would reach 5 percent in fiscal 1985. This could amount, in a sense, to transferring the cost of the food stamp program from the Federal Government to the States.

The penalty provisions of the substitute are so harsh that I am afraid they might be counterproductive. It is possible that, although they are intended to save money, they might save less money than a more practical approach like the one which is already in the committee bill.

I share with the backers of the substitute a desire to reduce food stamp errors as much as possible. I am convinced, however, that the committee bill on this point is more practical and will reach our mutual goal more effectively.

For these reasons, Mr. Chairman, I urge defeat of the substitute amendment. The result will be a bill on which we have a bipartisan consensus already in place on all but a few amendments. It will be a bill which I believe practically all of us can support.

With that, Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. WAMPLER).

The question was taken; and on a division (demanded by Mr. COLEMAN) there were—ayes 23, noes 14.

RECORDED VOTE

Mr. DE LA GARZA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 210, not voting 43, as follows:

[Roll No. 256]

AYES—181

Andrews
Archer
Ashbrook
Badham
Bailey (MO)
Barnard
Beard
Bennett
Bereuter
Bethune
Bevill
Bliley
Bouquard
Breaux
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Campbell
Chappie
Cheney
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Deckard
Derrick
Derwinski
Dickinson
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
Emery
Erlenborn
Evans (DE)
Evans (IA)
Fiedler
Fields
Findley
Forsythe
Fountain
Frenzel
Fuqua
Gephardt
Gibbons
Gingrich
Goodling
Gradison
Gramm
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hefner
Heftel
Hendon
Hiler
Hillis
Holt
Hopkins
Hunter
Hutto
Hyde
Ireland
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
McCollum
McDade
McDonald
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Myers
Napier
Nelligan
Nelson
Nichols
O'Brien
Oxley
Parris
Pashayan
Patman
Patterson
Paul
Petri
Porter
Pritchard
Quillen
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Roukema
Rousselot
Rudd
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauzin
Taylor
Thomas
Trible
Volkmer
Walgren
Walker
Wampler
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Winn
Wortley
Young (FL)

NOES—210

Addabbo
Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkinson
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Benjamin
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bowen
Brinkley
Brooks
Brown (CA)
Burton, Phillip
Byron
Carman
Chisholm
Clay
Coelho
Collins (IL)
Conte
Coyne, James
Coyne, William
D'Amours
Daschle
de la Garza
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Erdahl
Ertel
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fithian
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall (OH)
Hamilton
Hance
Harkin
Hatcher
Heckler
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Lehman
Leland
Lent
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marriott
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Mollohan
Murphy
Murtha
Natcher
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Simon
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe

Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Udall
Vento
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitten
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Zablocki
Zeferetti

NOT VOTING—43

Akaka
AuCoin
Bafalis
Blanchard
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chappell
Conyers
Crockett
Davis
Dornan
Flippo
Ford (MI)
Ginn
Goldwater
Grisham
Hawkins
Hertel
Jeffries
Jenkins
Madigan
Marks
McClory
McCloskey
Moakley
Moffett
Neal
Pursell
Railsback
Rose
Rosenthal
Santini
Sharp
Siljander
Traxler
Vander Jagt
Wilson
Wolf
Young (MO)

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The Clerk announced the following pairs:

On this vote:

Mr. Goldwater for, with Mr. Akaka against.

Mr. Jeffries for, with Mr. Crockett against.

Mr. Grisham for, with Mr. Moffett against.

Mr. Madigan for, with Mr. Hawkins against.

Mr. Wolf for, with Mr. Conyers against.

Mr. Vander Jagt for, with Mr. Santini against.

Mr. Siljander for, with Mr. Rosenthal against.

Mr. Dornan of California for, with Mr. Ford, of Michigan against.

Mr. CARMAN and Mr. MITCHELL of New York changed their votes from "aye" to "no."

Messrs. ANDREWS, SKELTON, PATTERSON, and VOLKMER changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GRAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6892) to provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture, pursuant to House Resolution 551, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from Ohio opposed to the bill?

Mr. LATTA. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. LATTA moves to recommit the bill H.R. 6892 to the Committee on Agriculture with instructions that the committee make changes in laws within its jurisdiction sufficient to reduce budget authority and outlays in accordance with the provisions of the first concurrent resolution on the budget for fiscal year 1983, Senate Concurrent Resolution 92, and to submit such recommendations promptly to the House Committee on the budget, Senate Concurrent Resolution 92, the Congressional Budget Act of 1974 (Public Law 93-344), and the rules of the House.

The SPEAKER. The gentleman from Ohio (Mr. LATTA) is recognized for 5 minutes in support of his motion to recommit.

Mr. LATTA. Mr. Speaker, the only responsible action this House can take in regard to this bill is to send it back to committee with instructions to come up with the reconciliation savings mandated in the budget resolution.

The fiscal year 1983 budget resolution called for reconciled and nonreconciled savings from the Agriculture Committee of $5 billion. But what does this bill provide in savings? It provides a grand total of only $882 million over 3 years—that is less than 18 percent of what was required.

Of course, that is not what the Agriculture Committee believed when it put the bill together because it relied upon CBO estimates which have unfortunately proved to be too optimistic. Those CBO estimates were the ones incorporated into the first budget resolution baseline and were based on information developed earlier this year. According to those estimates, this bill could have saved a significant amount of Federal spending. Based on the latest Department of Agriculture estimates, using much more recent information, this bill will not reduce Federal spending nearly as much as the Agriculture Committee was instructed to do in the first budget resolution. In fact, it will increase spending by $1.8 billion for feedgrains and cotton over 3 years, and offset that increase by reductions in milk—of $1.4 billion—and food stamps of—$1.1 billion—for a net savings of $882 million over 3 years.

For example, where the committed claims $3.3 billion in savings in the dairy price support program, OMB tells us the savings will be only $1.4 billion.

For feedgrains and cotton and other items covered in title II, the committee admits its handiwork would add $363 million in fiscal year 1983. But, in fiscal years 1984 and 1985 they claim savings which would result in only $4 million in additional spending over the period 1983-85.

However, that is not what the more up-to-date Department of Agriculture figures show us. They show that these programs are going to add to the budget deficit over the next 3 years some $1.8 billion.

This bill pretends to be a spending-reduction bill. That is what reconciliation is all about. But what we have here is a farm bill that is adding $1.8 billion in spending which almost wipes out the $1.3 billion in savings from food stamps and the $1.4 billion in the dairy program.

Even if the so-called savings in this bill were not a sham, I would oppose the bill and ask that it be sent back to committee because it is simply poor legislation.

This bill creates what is in reality a milk producers cartel in the guise of a national dairy board to be made up of people handpicked by the dairy industry who will oversee the dairy price program. They will decide how much milk will be subject to each of two proposed support levels, the price to be paid producers for the lower tier level of support, and tell the Commodity Credit Corporation how to dispose of the dairy products it acquires because of the price support program.

Can anyone tell me why the milk producers should be telling the Agriculture Department and the Commodity Credit Corporation how to run the milk support program? We do not do that for any other commodity. The wheat producers are not given that opportunity. The feed grain producers and the cotton and rice and tobacco producers are not given that chance. Why the dairy producers?

Mr. Speaker, this bill must be sent back to committee to be redrawn to comply with the budget resolution passed in June and the Budget Act of 1974.

● Mr. MICHEL. Mr. Speaker, I rise to support the motion to recommit this bill to the Agriculture Committee to make a better effort to comply with the reconciliation instructions of the first concurrent budget resolution.

On July 27 I wrote to the Speaker calling attention to what I perceived as our budget priorities this year:

I said:

> We believe that the first responsibility of the House is the reduction of spending growth and then, and only then, an increase in revenues.

Let us turn then to this spending reduction package. Let us not kid ourselves about this package. The dairy section is never going to be enacted into law—you know it and I know it. And we all know that is not what will come back to us from conference. We will not get $1.3 billion in dairy savings in fiscal year 1983. We will probably get a little more than a tenth of that—$150 million—just what is in the Senate bill.

This House dairy program will not survive in conference. It contains what I am convinced is an unconstitutional delegation of authority to a dairy board comprised principally of milk producers. The dairy title has more holes in it than swiss cheese.

So what kind of savings will we have if we accept what is in this basic bill? Add them up. Fiscal year 1983—paid diversion on wheat and feed grains is an add-on of $313 million—on rice, an add-on of $25 million—on cotton, an add-on of $25 million and on dairy, only a cut of $150 million. On commodities we come out with an increase in outlays of $213 million. Not a savings, but another add-on of $213 million.

Then what about food stamps where the budget resolution assumed a $779 million savings? If the conferees accept what is in this committee bill we shall save $334 million in fiscal year 1983, for a grand total—get this—for a grand total of $121 million in savings for fiscal year 1983 based on farm commodity and food stamp savings. Now that is really something to write home about, is it not?

Even if the conferees split the difference on food stamps, it would still bring us up to less than half the savings required by the budget resolution.

I know—I know—it is the season to antagonize as few voters as possible—the dairy industry—food stamp recipients. But lest we forget, there is another interest group out there that we should better be really concerned about antagonizing—the taxpayers—the people who are footing the bill for all this.

This bill needs to be recommitted with instructions to the Agriculture Committee to do its duty.

The House adopted a budget resolution that assumed a $5.2 billion retrenchment of spending for the commodity and food stamp program.

According to OMB figures, the committee has produced a document that has done less than one fifth the job—which our friends on the Budget Committee tell us saves only $882 million and which OMB estimates saves only $700 million. And in addition, it has proposed the creation of a dairy cartel of unprecedented constitutional damage.

Let us send this bill back to the Agriculture Committee where they can hopefully spend some time reading the budget resolution and the U.S. Constitution.

In summary, let me say that if we are serious about what we are supposed to be doing here, then we do not have much choice but to go this route. I am concerned that we are charting the very course I warned against on July 27—that of neglecting spending cuts and trying to make up the difference by raising taxes. We can make a mockery of this whole process or we can do something about it.●

□ 1500

Mr. de la GARZA. Mr. Speaker, I rise in opposition to the motion to recommit. I would like to inform my colleagues that we went through this debate in the general debate on this resolution, and the gentleman, my distinguished and dear colleague from Ohio, is arguing something that I have no control over and the members of our committee have no control over. His argument is with figures issued by CBO and figures issued by the Department of Agriculture and/or Mr. Stockman at OMB.

He says that this bill purports to cut. Mr. Speaker, we have got the scars to show that this bill cuts. It cuts, and it cuts heavily, and for someone to play with figures saying that it does not cut—the gentleman from Ohio should be here commending this committee for adhering to that Latta resolution that his House passed, wisely or unwisely, and we had to comply with it.

Now, how does it cut? I want the Members to understand this. We send them to CBO. CBO says, "Yes; you have saved so much."

What else does the gentleman from Ohio want? What can we do beyond that? He does not like some of the technical policy parts of the bill. Well, he has the privilege to disagree with that, but we do not rule on constitutionality or unconstitutionality. I say it is constitutional, but nonetheless the surplus which we have accumulated in the dairy, this bill addresses. We are going to cutdown support to that individual farmer to make him reduce.

Now, the surpluses, he makes a big to-do that we are appointing a board. Well, it will be appointed by the President, by our President. The board will be appointed by the President and the Secretary of Agriculture.

Mr. LATTA. Mr. Speaker, will the gentleman yield at that point?

Mr. de la GARZA. I yield.

Mr. LATTA. I thank the gentleman for yielding. I think that he is leaving out one important part. The President can only appoint the individuals whose names have been submitted to him by these various co-ops. Is that not correct? He is limited.

Mr. de la GARZA. That is not true. The gentleman is not correct in that statement.

Now, let me say further, appointed by the President, but the people in charge of the surplus and distributing now have not done a good job. They do not know how to give it away, Mr. Speaker. So, we are going to get somebody else to come in and to try something else. Yes, we accumulated the surplus. Yes, we are cutting to see that it is reduced. We know it is taxpayers' money. We have worked very hard to reduce that.

Now, when we reduce that, how do we get rid of the surplus? Let us put somebody else in that can do a better job.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. What the House has to keep in mind is what this committee was instructed to do. It was instructed to come up with $3.2 billion in savings. According to CBO, it has come up with $4.6 billion in savings. It has not only met its target, but it has exceeded its target, and that is why the committee ought to be upheld.

Mr. LATTA. Mr. Speaker, will the gentleman yield further? I am sure that he wants to be correct.

Mr. de la GARZA. I will yield very briefly.

Mr. LATTA. Let me read from page 10 of the bill. It says:

> The fifteen members of the Board—

Meaning the Dairy Board—

> shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations.

Is the gentleman saying that that language is not in the bill as we presently have it?

Mr. de la GARZA. Would the gentleman read on page 12?

Mr. LATTA. Is this language I just read stricken from the bill?

Mr. de la GARZA. Let me read to the gentleman from page 12, line 15:

> If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

In the end, the Secretary has the final authority, and the President makes the appointments, anything to the contrary is not the intent of the law.

The SPEAKER. The time of the gentleman from Texas has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

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The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement:

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 145, nays 245, not voting 44, as follows:

[Roll No. 257]

YEAS—145

Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Beard
Benedict
Bennett
Bethune
Bliley
Broomfield
Brown (CO)
Broyhill
Burgener
Byron
Campbell
Carman
Chappie
Cheney
Clausen
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Dreier
Dunn
Edwards (AL)
Edwards (OK)
Emery
Erlenborn
Evans (DE)
Fiedler
Fields
Findley
Forsythe
Frank
Frenzel
Gibbons
Gingrich
Goodling
Gradison
Gregg
Gunderson
Hall (OH)
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hiler
Hillis
Holt
Hopkins
Hughes
Hunter
Hyde
Ireland
Jeffries
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Michel
Miller (CA)
Miller (OH)
Molinari
Moore
Moorhead
Morrison
Mottl
Myers
Nelligan
O'Brien
Parris
Pashayan
Paul
Regula
Rhodes
Ritter
Robinson
Rogers
Roukema
Rousselot
Rudd
Sawyer
Schulze
Shaw
Shumway
Shuster
Skeen
Smith (AL)
Smith (OR)
Snyder
Solomon
Spence
Stanton
Staton
Stump
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Weber (OH)
Whitehurst
Wortley
Wylie
Young (FL)

NAYS—245

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clay
Clinger
Coelho
Collins (IL)
Coyne, William
D'Amours
Daschle
Daub
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emerson
English
Erdahl
Ertel
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fithian
Florio
Foglietta
Foley
Ford (TN)
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jeffords
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Leath
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marlenee
Martinez
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mica
Mikulski
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Mollohan
Montgomery
Murphy
Murtha
Napier
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roberts (KS)
Roberts (SD)
Rodino
Roe
Roemer
Rostenkowski
Roth
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Shelby
Simon
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Udall
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Zablocki
Zeferetti

NOT VOTING—44

Akaka
AuCoin
Bafalis
Blanchard
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Butler
Carney
Chappell
Conyers
Crockett
Davis
Dicks
Dornan
Flippo
Ford (MI)
Ginn
Goldwater
Grisham
Hawkins
Hertel
Jenkins
Jones (NC)
Marks
Matsui
McClory
Moffett
Neal
Oxley
Porter
Pursell
Railsback
Rose
Rosenthal
Santini
Sharp
Siljander
Traxler
Wilson
Wolf
Young (MO)

□ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Goldwater for, with Mr. Akaka against.

Mr. Grisham for, with Mr. Moffett against.

Mr. Siljander for, with Mr. Rosenthal against.

Mr. Wolf for, with Mr. Crockett against.

Mr. Oxley for, with Mr. Hawkins against.

Mr. Dornan for, with Mr. Ford of Michigan against.

Mr. Carney for, with Mr. AuCoin against.

Ms. FERRARO changed her vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. COLEMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 268, nays 121, not voting 45, as follows:

[Roll No. 258]

YEAS—268

Addabbo
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Bailey (MO)
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CA)
Burton, Phillip
Byron
Campbell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins (IL)
Coyne, William
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
de la Garza
Deckard
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fish
Fithian
Florio
Foglietta
Foley
Ford (TN)
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jeffords
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
LaFalce
Lantos
Leach
Leath
Lehman
Leland
Levitas
Loeffler
Long (LA)
Lowry (WA)
Luken
Lundine
Markey
Marlenee
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McDade
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Mollohan
Montgomery
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Ottinger
Panetta
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Pickle
Price

Pritchard
Quillen
Rahall
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Shelby
Simon
Skelton
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Zablocki
Zeferetti

NAYS—121

Anderson
Archer
Ashbrook
Atkinson
Badham
Beard
Benedict
Bennett
Bethune
Bliley
Broomfield
Brown (CO)
Broyhill
Burgener
Carman
Chappie
Cheney
Coats
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
DeNardis
Derwinski
Dreier
Dunn
Edwards (AL)
Erlenborn
Fenwick
Fiedler
Fields
Findley
Forsythe
Frank
Frenzel
Gilman
Gingrich
Gradison
Green
Gregg
Gunderson
Hall (OH)
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hiler
Hillis
Holt
Hopkins
Hughes
Hunter
Hyde
Ireland
Jeffries
Johnston
Kemp
Kramer
Lagomarsino
Latta
LeBoutillier
Lee
Lent
Lewis
Livingston
Long (MD)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCloskey
McCollum
McDonald
McEwen
McGrath
McKinney
Michel
Miller (OH)
Molinari
Moore
Moorhead
Mottl
O'Brien
Oberstar
Obey
Parris
Paul
Petri
Regula
Ritter
Roemer
Roukema
Rousselot
Rudd
Shaw
Shumway
Shuster
Skeen
Smith (AL)
Smith (IA)
Smith (OR)
Solomon
Staton
Stump
Thomas
Walker
Weber (OH)
Wortley
Young (FL)

NOT VOTING—45

Akaka
AuCoin
Bafalis
Barnard
Blanchard
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Butler
Carney
Chappell
Conyers
Crockett
Davis
Dicks
Dorman
Flippo
Ford (MI)
Ginn
Goldwater
Grisham
Hawkins
Hertel
Jenkins
Jones (NC)
Marks
McClory
Moffett
Neal
Oxley
Peyser
Porter
Pursell
Railsback
Rose
Rosenthal
Santini
Sharp
Siljander
Traxler
Wolf
Wylie
Young (MO)

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Akaka for, with Mr. Santini against.

Messrs. LONG of Maryland, SMITH of Iowa, and HENDON changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR RECONCILIATION PURSUANT TO FIRST CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1983

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of a bill which I send to the desk, consisting of the texts of the bills H.R. 6892, 6812, 6862, and 6782 as passed by the House, and that the previous question be considered as ordered on said bill to final passage without intervening motion.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price-Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at $13.10 per hundredweight of milk containing 3.67 per centum milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1982. That portion of the national supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection.

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For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports. The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

“(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

“(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

“(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

“(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided*, That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

“(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided*, That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further*, That payments make under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

“(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognize the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided*, That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

“(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

“(5) In carrying out this subsection, the Board may, on a reimbursable or nonreimbursable basis, as it deems appropriate, utilize—

“(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

“(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

“(C) administrators of State milk marketing programs.

“(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the “Board”) that shall consist of fifteen members plus the Secretary;

“(B) The fifteen members of the Board (other than the Secretary) shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

“(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

“(D) The term of Board members shall be three years and no member shall be eligible to serve more then two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appointments as two-year terms, and one-third of the appointments as three-year terms;

“(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

“(F) The members of the Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined to meet the eligibility criteria established by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

(1) geographical territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived; and

(5) functions of the organization.

(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

“(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

“(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

“(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

“(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the chairman of the Committee on Agriculture of the United States House of Representatives.

“(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

“(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

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"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies; and

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(E) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(F) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(G) if, in the judgment of the Board, any of the operations provided for in subparagraph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(H) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(I) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933.".

Subtitle B—Dairy Promotion Act

SHORT TITLE

SEC. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

Sec. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

Sec. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

Sec. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

Sec. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further*, That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to

the quality, value, or use of any competing product: *And provided further*, That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by any order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

Sec. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization.

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

Sec. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

Sec. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

Sec. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

Sec. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

Sec. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United

States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendence of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

SEC. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

SEC. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programed under that Act.".

Subtitle D—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

1983 CROP WHEAT LOANS

SEC. 140. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.80 per bushel.".

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 141. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

WHEAT ACREAGE BASE

SEC. 142. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

SEC. 143. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of $3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 144. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.71 per bushel.".

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 145. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must

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comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.".

FEED GRAINS ACREAGE BASE

SEC. 146. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 147. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of $1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 148. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary should make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that 25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program.".

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 149. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of upland cottion who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of $.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 150. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program."; and

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.".

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

SEC. 151. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of $3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisons of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

Subtitle E—Food Stamp Act Amendments of 1982

SHORT TITLE

Sec. 160. This subtitle may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

Sec. 161. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings,"; and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physicial or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse.".

ROUNDING DOWN

Sec. 162. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

Sec. 163. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

Sec. 164. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment".

ADJUSTMENT OF DEDUCTIONS

Sec. 165. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

Sec. 166. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

Sec. 167. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount.".

MIGRANT FARMWORKERS

Sec. 168. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this subsection relating to migrant farmworker households)".

ELIMINATION OF STUDIES AND REPORTS

SEC. 169. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

SEC. 170. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g).".

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

SEC. 171. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

SEC. 172. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 173. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 6(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 174. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program.".

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

SEC. 175. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

DISCLOSURE OF INFORMATION

SEC. 176. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before ", except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

SEC. 177. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982, and any other household in immediate need because of no income as defined in sections 5(d) and (e) of this Act receive coupons on an expedited basis;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 178. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

SEC. 179. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons.".

ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the cost already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible housholds by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g), and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) a new subsection as follows:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall insititute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agencys' payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, is such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 percetum of the difference between the State agency's payment rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

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"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b) Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by—

(1) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(2) striking out "quality control program" and inserting in lieu thereof "error rate reduction program".

(c) The first sentence of section 18(e) of the Food Stamp Act of 1977 (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (g) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

(d) The amendments made by this section shall become effective on October 1, 1982.

BENEFIT IMPACT STUDY

SEC. 181. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026), as amended by section 310(c) of this title, is amended by adding at the end thereof a new subsection as follows:

"(e) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 182. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,648,000,000 for the fiscal year ending September 30, 1983; not in excess of $12,908,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,651,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

SEC. 183. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 184. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated.".

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

SEC. 185. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this subtitle, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the date of the enactment of this subtitle, unless such amendments have taken effect before such date.

EFFECTIVE DATES

SEC. 186. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: ": *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: ": *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: ": *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance

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premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require)" in paragraph (3)(D) the following: ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

IMPLEMENTATION

SEC. 202. The amendments made by this Act, except for section 203, may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this Act, is actuarially sound.

SEC. 203. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed $50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

TITLE III—CIVIL SERVICE PROGRAMS

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 301. (a) Section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest dollar" and inserting in lieu thereof "rounded to the next lowest dollar".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest dollar" and inserting in lieu thereof "rounded to the next lowest dollar".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any annuity adjustment or redetermination made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 302. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.".

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

FEDERAL EMPLOYEE PAY COMPARABILITY ADJUSTMENTS

SEC. 303. (a) Notwithstanding any other provision of law, if—

(1) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(2) the alternative plan referred to in paragraph (1) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisons of such section 5305 by 4 percent in the case of fiscal year 1983.

(b) Each increase in a pay rate or schedule which takes effect pursuant to subsection (a) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

TITLE IV—VETERANS' PROGRAMS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SEC. 401. (a) This title may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subtitle A—Compensation and Dependency and Indemnity Compensation Rate Increases

RATES OF DISABILITY COMPENSATION

SEC. 411. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262".

(b) The Administrator of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 412. Section 315(1) is amended—

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$74";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$124";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$164";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$206" and "$40", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$50";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$92";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$132" and "$40", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$60";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$134"; and

(10) by striking out "$105" in clause (J) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 413. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 414. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	459	O-1	563
E-3	470	O-2	582
E-4	500	O-3	622
E-5	514	O-4	658

"Pay grade	Monthly rate
E-6	526
E-7	552
E-8	582
E-9	[1] 608
W-1	563
W-2	586
W-3	603
O-5	726
O-6	817
O-7	884
O-8	969
O-9	1,041
O-10	[2] 1,139

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

[2] "If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 415. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 416. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

EFFECTIVE DATE

SEC. 417. The amendments made by this subtitle shall take effect on October 1, 1982.

Subtitle B—Program Changes

ELIGIBILITY OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS INJURED DURING SUMMER MILITARY TRAINING CAMP FOR VETERANS' ADMINISTRATION BENEFITS

SEC. 421. (a) Section 101(22) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

"(D) annual training duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for a period of fourteen days or more; and".

(b) The amendments made by subsection (a) shall apply with respect to diseases and injuries incurred or aggravated during duty performed after September 30, 1982.

INCREASE IN COMPENSATION RATE FOR BLINDED VETERANS

SEC. 422. (a) Section 314(n) is amended by inserting "or has suffered blindness without light perception in both eyes," after "anatomical loss of both eyes,".

(b) Section 314(p) is amended by inserting "or service-connected anatomical loss or loss of use of one hand or one foot" after "in one ear".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

ROUNDING OF RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 423. (a) The second sentence of section 315(2) is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be adjusted downward to the nearest dollar.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 424. (a) Section 410(b)(1) is amended by inserting "or entitled to receive" after "was in receipt of".

(b) The amendment made by subsection (a) shall apply with respect to dependency and indemnity compensation payable for months after September 1982.

ADMINISTRATIVE IMPROVEMENTS TO LIFE INSURANCE PROGRAMS

SEC. 425. (a) Section 770 is amended—

(1) by striking out the second sentence of subsection (c); and

(2) by adding at the end the following new subsection:

"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would otherwise escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any sum to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

BURIAL FLAGS

SEC. 426. (a) Section 901 is amended by adding at the end the following new subsection:

"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery under eligibility for burial under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.".

(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

BURIAL BENEFITS FOR CERTAIN VETERANS WHOSE REMAINS ARE UNCLAIMED

SEC. 427. Section 902(a) is amended by striking out "When a veteran" and all that follows through "the Administrator," and inserting in lieu thereof the following: "When a veteran dies—

"(1) who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or who was in receipt of pension; or

"(2) in the case of a veteran of any war or a veteran who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State) and with respect to whom the Administrator determines—

"(A) that there is no next of kin or other person claiming the body of the deceased veteran; and

"(B) that there are not available, from the deceased veteran's estate or otherwise, sufficient resources to defray the cost of the burial and funeral of the deceased veteran, the Administrator,".

(b) The amendment made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR PERSONS DYING IN CONTRACT NURSING HOME FACILITIES

SEC. 428. (a) Section 903(a) is amended—

(1) by striking out "Where death occurs in a Veterans' Administration facility" and inserting in lieu thereof "When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)"; and

(2) by inserting "or in an institution to which the deceased was properly transferred for nursing home care under section 620 of this title" after "of this title".

(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

SEC. 429. Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of superintendents of national cemeteries under the jurisdiction of the Secretary of the Army.

PROTECTION OF QUALITY OF HEALTH CARE

SEC. 430. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out any such activity through such employees or that contracting for the performance of such activity would enhance the quality of medical care for eligible veterans.

"(B) Subparagraph (A) of this paragraph does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing agreements with other Federal agencies or departments or with State or nongovernmental entities for the exchange or sharing of goods, services, facilities, or resources.".

(b) Section 5010(a)(6) of title 38, United States Code, as added by subsection (a), does not apply with respect to a contract in effect on May 15, 1982, or to any renewal, extension, or modification of such a contract.

Subtitle C—Budget Savings Provisions

SHORT TITLE

SEC. 431. This subtitle may be cited as the "Veterans' Budget Reconciliation Act of 1982".

LOAN ORIGINATION FEE FOR VETERANS' ADMINISTRATION HOME LOANS

SEC. 432. (a)(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

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"§ 1829. Loan fees

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a loan guaranteed, made, or insured under this chapter, and no loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be one-half of 1 per centum of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee shall not be collected under this section from a veteran receiving or entitled to receive compensation or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fees.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

EFFECTIVE DATE OF PAYMENTS

SEC. 433. (a)(1) Chapter 51 is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made for any period before the first day of the calendar month following the month in which the award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of payment based on an award.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 434. Effective on October 1, 1982, section 3012(b)(2) is amended by striking out "calendar year" and inserting in lieu thereof "month".

ROUNDING OF PENSION TO NEXT LOWER DOLLAR

SEC. 435. (a)(1) Chapter 51 is amended by adding at the end the following new section:

"§ 3023. Rounding of pension payments

"The amount of any pension payment under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588), if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding of pension payments.".

(b) Section 3023 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

ELIGIBILITY OF COLLEGE STUDENTS FOR PENSION

SEC. 436. (a) Section 501 is amended by adding at the end the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term 'child' shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term 'child' includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) does not apply to any child to whom or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 of title 38, United States Code, if such child has attained the age of eighteen years before October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112 of title 38, United States Code, or section 306(a) of Public Law 95–588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 of such title or section 306(a) of Public Law 95–588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the months of May 1983;

(B) not be paid for any month after April 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of September 1982 (or a later month if the Administrator considers a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after September 1982 and before May 1983, equal to 25 per centum of the benefit payable for September 1982 (or such later month);

(ii) during the months after August 1983 and before May 1984, equal to 50 per centum of the benefit payable for September 1982 (or such later month); and

(iii) during the months after September 1984 and before May 1985, equal to 75 per centum of the benefit payable for September 1982 (or such later month); and

(D) not be paid for any month after such pension or additional pension is discontinued at any time after September 30, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

SEC. 437. (a) Section 1631(c) is repealed.

(b)(1) Section 1652(c) is amended by striking out "correspondence school,".

(2) Section 1681(b) is amended by striking out ", other than a program exclusively by correspondence,".

(3)(A) Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 34 of such title is amended to read as follows:

"1684. Apprenticeship or other on-job training.".

(c)(1) Section 1701(a)(6) is amended by striking out "correspondence school,".

(2)(A) Section 1734 is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d)(1) Section 1780 is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence,";

(ii) by inserting "or" at the end of clause (4);

(iii) by striking out clause (5); and

(iv) by redesignating clause (6) as clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively; and

(D) by striking out "subsection (d)(2)" in subsection (d) (as so redesignated) and inserting in lieu thereof "subsection (c)(2)".

(2) Section 1784 is amended—

(A) by striking out "or, in the case of correspondence training, the last date a lesson was serviced by a school" in subsection (a); and

(B) by striking out "section 1780(d)(4)" in subsection (c) and inserting in lieu thereof "section 1780(c)(4)".

(3)(A) Section 1786, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) of such title is amended by striking out "correspondence, or".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

(f) The amendments made by this section shall take effect on October 1, 1982.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONCERNING SUCCESSFUL COMPLETION OF THE TEST FLIGHT PHASE OF SPACE SHUTTLE PROGRAM

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 541) concerning the successful completion of the test flight phase of the Space Shuttle program, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Strike out all after the resolving clause and insert:

That the Congress of the United States congratulates the National Aeronautics and Space Administration, the members of the Astronaut Corps, prime contractor Rockwell International, associate contractors Martin Marietta and Thiokol, the thousands of Shuttle subcontractors throughout the United States, and the tens of thousands of dedicated Space Shuttle workers who contributed to the successful completion of the Space Shuttle test flight period and to the entry of our Nation into a promising new era of spaceflight for the benefit of the people of the United States and all mankind.

Strike out the preamble and insert:

Whereas when the Space Shuttle Columbia flew through a blazing re-entry and skimmed to a perfect landing on the 4th of July 1982, at Edwards Air Force Base, California, the National Aeronautics and Space Administration successfully completed the test flight phase of the Space Shuttle program and began a new era of operational Space Shuttle missions;

Whereas in four test missions, the Space Shuttle Columbia, a reusable spaceship designed to provide routine space travel for a wide variety of scientific, commercial, and military payloads at reduced costs and with a high reliability of success, lived up to its promise as the most advanced spacecraft in the world;

Whereas in four test missions, the Columbia was lifted from Earth, orbited in the vacuum of space like a satellite, operated a variety of scientific experiments, tested the capability of the remote manipulator system to deploy satellites in orbit and to retrieve satellites, descended into the Earth's atmosphere, was piloted by astronauts like a conventional winged airplane, and was landed at Edwards Air Force Base, California, and at White Sands missile range, New Mexico;

Whereas the Space Shuttle Columbia, the newly completed Space Shuttle Challenger, and the sister Shuttles Discovery and Atlantis, now under construction, will be able to fly repeatedly back and forth from space as an operational space transportation system;

Whereas the Space Shuttle orbiters will accommodate an unprecedented variety of payloads including a fully equipped scientific laboratory (Spacelab) provided by the European space agency, underscoring the commitment of the United States to international cooperation in space activities;

Whereas using the unique qualities of the space environment (weightlessness and a near perfect vacuum) the Space Shuttle orbiters will be used for experiments to produce special alloys, metals, glasses, crystals, and pharmaceuticals that cannot be performed on Earth;

Whereas the Space Shuttle orbiters will place in orbit satellites to observe the Earth's weather, provide improved communications, discover new mineral resources, monitor crop and timber yields, help United States forces to navigate, and monitor arms control agreements;

Whereas the Space Shuttle orbiters will also place in orbit the most powerful space telescope and will launch scientific probes to explore the planets;

Whereas the Space Shuttle program is a national enterprise, geographically and technologically, requiring tens of thousands of skilled workers to design, develop, test and evaluate the various Space Shuttle components;

Whereas the Space Shuttle program has been judged by independent research organizations to have a positive effect on the national economy, creating jobs, reducing inflationary pressures, and forwarding the development of advanced technologies; and

Whereas the Space Shuttle program is a source of great national pride and the United States now holds world leadership in its proven ability to operate a reusable Space Shuttle: Now, therefore, be it

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5543, OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-706) on the resolution (H. Res. 555) providing for the consideration of the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6666, PROVIDING ADDITIONAL AUTHORIZATION FOR LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-707) on the resolution (H. Res. 556) providing for the consideration of the bill (H.R. 6666) to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6786, AUTHORIZING ADDITIONAL FUNDS FOR ACQUISITION OF CERTAIN PROPERTY FOR U.S. CAPITOL GROUNDS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-708) on the resolution (H. Res. 557) providing for the consideration of the bill (H.R. 6786) to amend Public Law 96-432 relating to the U.S. Capitol Grounds to authorize additional funds for the acquisition of certain property for addition to the U.S. Capitol Grounds, which was referred to the House Calendar and ordered to be printed.

RADIO BROADCASTING TO CUBA ACT

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated.

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The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. Fascell).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5427, with Mr. Ratchford in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, August 3, 1982, pending was the first committee amendment recommended by the Committee on Energy and Commerce, and a substitute for said amendment offered by the gentleman from Iowa (Mr. Leach).

The Chair recognizes the gentleman from Iowa (Mr. Harkin).

AMENDMENT OFFERED BY MR. HARKIN TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. HARKIN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin to the Energy and Commerce Committee amendment: Page 4, strike out line 11 and all that follows through line 8 on page 6 and insert in lieu thereof the following:

"(2) any AM frequency broadcasting to Cuba under this Act may only be carried out under the authority provided by subsection (e).

"(e) For purposes of providing AM frequency broadcasting to Cuba under this Act, the Board is authorized to—

"(1) prepare or otherwise obtain material suitable for radio broadcasting; and

"(2) provide for the broadcasting of that material to Cuba by making expenditures for charges for the use of the facilities of commercial radio broadcasting stations which can be heard in Cuba.".

Page 4, line 1, strike out "(A)" and insert in lieu thereof "(1) if the Board selects a non-AM frequency for broadcasting to Cuba and if such facilities can be converted for use for broadcasting on that non-AM frequency,".

Page 3, line 24, strike out "(1)".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

(Mr. HARKIN asked and was given permission to revise and extend his remarks.)

Mr. HARKIN. Mr. Chairman, this amendment requires that if the AM band is to be used, then the mechanism will be to have the material prepared by the Board, the Board of International Broadcasting, but broadcast on a number of commerical stations.

This amendment enables private enterprise to participate in and benefit from the $10 million project to broadcast to Cuba. It also permits broadcasters, rather then the administration, to decide whether they wish to expose their frequency and public service to the risk that Cuba will retaliate on their frequency.

This amendment adopts the voluntarism philosophy of Kenneth Giddens, a former Director of the Voice of America, a consultant to the Presidential Commission on Broadcasting to Cuba, and an AM-FM TV broadcaster in Mobile, Ala. Mr. Giddens told officials of WHO radio in Des Moines that they should be happy to sacrifice their station in this confrontation with Cuba. He suggested that WHO's reluctance indicated a "lack of patriotism."

In a recent issue of "Broadcasting," Mr. Giddens said that if he were in WHO's shoes he would be ashamed of the way WHO is acting in trying to protect its station and service. Mr. Giddens told Broadcasting: "Maybe I am more idealistic" than WHO. He added that broadcasters "are at a risk" in the radio confrontation with Cuba, and he said, "It's a gamble we all take." Further quoting Mr. Giddens in Broadcasting, he said: "Any soldier who goes to war might be shot."

This amendment that I am offering, therefore, would allow Mr. Giddens and other broadcasters who agree with him to volunteer to place their idealism, patriotism and stations on the frontlines.

Moreover, the adoption of this amendment will maximize the chance of Radio Marti's signal actually reaching Cuba and serving a useful purpose.

There is little doubt that in its present form, that is, a single AM radio station, Cuba can completely block the signal from reaching the island. The State and Defense Department have said so, as have the FCC, the NTIA and the ICA. That being the case, to invest $10 million in Radio Marti in its present form would be a total waste of the public's money. There is a better way. The time-proven method used by international broadcasters to overcome jamming is to broadcast on multiple frequencies. As the House Committee on Government Operations found in its December 11, 1981, report on international broadcasting:

> Multiple frequency broadcasting gives the jammer more to deal with and increases the possibility that listeners will be able to tune in an audible signal.

□ 1540

Mr. Chairman, there is a strong argument to be made that Cubans would be more likely to listen to existing AM stations than to Radio Marti. There are a number of stations from the United States and from other Caribbean countries that can be heard very well in Cuba. In fact, there are at least two very worthy precedents for this type of paid rebroadcasting.

After 1962, WGBS, WKWF in Key West, WWL in New Orleans, Radio Caribbean from the Dominican Republic transmitted programs prepared by the Cuban Freedom Committee founded in Washington by Representative Roman Pucinski who believed that Cubans had been brainwashed with a "Hate America" campaign and thereafter they responded by taking money and buying time on then existing commercial radio stations.

These stations immediately volunteered their services and were connected through telephone line patches to the Voice of America in Washington. Again I am talking about these stations—WCKR, WGBS, WMIE, all from Miami, WSB in Atlanta, WGN in Chicago, WWL in New Orleans, WCKY in Cincinnati, WRUL in Massachusetts, WGEL in Belmont, Calif., the last two being shortwave stations.

So what I am saying with my amendment is rather than just build one radio station, Radio Marti, at one frequency to broadcast propaganda to Cuba, let us take the $10 million, and go ahead and let the BIB prepare the material in any way that they want to, take the money and buy time on commercial radio stations, buy it on WINZ Radio in Miami, or WQBA, or WWL, or any other radio station that would be willing to broadcast to Cuba.

And I guarantee my colleagues if given the money to buy the time, they will broadcast. And rather than having Castro try to jam just one frequency, he is going to have 10 or 15 frequencies out there beaming into Cuba.

So I submit, if Members really want to get a message across to Cuba, support this amendment. No. 1, it will be a volunteer effort by radio stations to go ahead and broadcast. They will be paid handsomely for the time that we buy on their stations, and the material will be prepared by the Board for International Broadcasting.

It seems to me that this is the best way to get our message through to Castro without giving him the ability to block the signal.

I urge support of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the main points that the gentleman from Iowa has made have been made before and will probably unfortunately be made over and over again on every amendment.

Without having the slightest bit of doubt as to the seriousness of those who oppose this bill, basically when you examine the amendment what it does is simply kill the bill. It is a lot simpler just to vote against the bill if that is what the Members want to do, in all seriousness.

Now, I am glad the gentleman from Iowa brought up the problem about the radio stations in Miami. Some of them do reach Cuba with AM broadcasting. They reach the fringes of Havana. They by no means cover the entire island of Cuba. There is no way they could do that. Besides that, to do the kind of job that is necessary to reach the Cuban people, you would have to use quite sophisticated directional antenna and towers. You are not talking about just a plain old commercial radio station. And, sure, if you gave commercial stations the money they would want to try to do something with it. And, yes, of course they are all willing. But they would not reach the audience we are trying to reach.

So let us not fool anybody that if you suddenly went out and bought a lot of time on WHO, or WINZ, or some other radio station, that you are going to do the job as envisioned in this bill by the Board for International Broadcasting.

It would be like saying, in effect, that the way to broadcast into Poland is to buy a lot of time on German commercial stations, let them broadcast into Poland and in that way we would not have to operate the transmitters that we have in Munich and other sites in Europe in order to get our message across.

Now, you either want to do this job right or you do not. And obviously commercial stations are not a good substitute. The amendment simply guts all of the authority of the Board for International Broadcasting to use its experience in this type of international broadcasting. And if the Members want to do that, it is understandable, if you are opposed to the bill.

But from just a logical, commonsense, reasonable standpoint, there is no way that this amendment should be adopted. I would urge my colleagues to vote against it.

And let me say in conclusion we have several amendments that are rather substantive. And I am sure the gentleman from Iowa thinks this is a substantive amendment.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I most assuredly think it is. We do have precedents for this.

Mr. FASCELL. I understand all of that. Of course we have precedents for it. That is the reason we had to quit, because it was not any good. And that is the reason we have to try something else if we are going to be sensible about it. I do not want to be ridiculous about this thing. The amendment just goes to the heart of the bill. It destroys all of the authority for the Board for International Broadcasting to make these broadcasts. It would be just as if you reached in there and took all the authority away from the Board for International Broadcasting to run Radio Free Europe or Radio Liberty and say to them, "You prepare the material and give it to a commercial station." I think that is ridiculous.

I ask my colleagues to vote it down.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment. I would like to make some comments relative to this amendment and to several other amendments that may be offered as well.

I would like to begin with some comments that the gentleman from Iowa made with regard to the analogy that taking this action is analogous to going to war.

If broadcasting propaganda to Cuba is a helpful U.S. national policy, and I am satisfied to take the judgment of the Foreign Relations Committee which has expertise in that area that it is, then it does not follow that there is only one way to do that and that the State Department is the only agency of the U.S. Federal Government capable of determining how to achieve that particular policy end. That is a distinction that is terribly important to make in this debate.

The gentleman from Florida said that if you were opposed to the whole bill you would certainly want to support the Harkin amendment. I would think that is true. But I think it is also true that you do not have to be opposed to the whole bill to support the Harkin amendment or some of the other amendments that have been noticed in the RECORD that will be offered.

We are talking here not necessarily about opposing what policy initiatives the State Department wishes to make. We are suggesting that those policy initiatives can be satisfied in ways that are not deleterious to the functioning of U.S. broadcasting.

If you want to wrap the flag around the policy goal, fine. But do not let someone tell you that you necessarily have to wrap the flag about this specific means of doing it.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

The gentleman makes a very good point. Obviously I am opposed to the bill. I make no secret of that.

But I am saying that if the bill does pass and if the people who support the bill really wanted to do what they think it is going to do, the best way to do it would be to take whatever money we are going to expend to build this one station and to do what we did back in the sixties, and that is buy commercial time on commercial radio stations and have those stations volunteer their time. We want this voluntarism. But they are going to be paid for their time.

Let me say that the amendment is not just limited to U.S. stations. We can buy time on Jamaican stations, they get to Cuba, radio stations in Santa Domingo that get there, and other countries that broadcast in Spanish to Cuba. It is not just limited to U.S. stations.

So I would submit that if you really want to broadcast to the Cuban people and not allow Castro to jam it, this is the single best way to do it.

Mr. SWIFT. I thank the gentleman for those remarks.

I would just summarize my point as saying there is nothing essential to establishing Radio Marti in the precise fashion established by the State Department in order to achieve that policy goal.

□ 1550

I would hope the Members of the House would listen to this particular amendment and other amendments that will be offered that provide alternative means of achieving the same end, because they do exist and they will not interfere totally with achieving that policy goal, regardless of what the Members who support it will tell you.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the question arises, is this or is it not a viable alternative. The fact of the matter is that if we look at it realistically, the amendment offered by the gentleman from Iowa is not a real alternative. The South Florida Broadcasters Association in their testimony to the House Foreign Affairs Committee on March 3 stated: "Commercial operations are a poor substitute for the proposed Radio Marti."

Because of their distance from Cuba, because of their insufficient power and antenna which are not designed for broadcasting to Cuba, the U.S. stations can be heard only in limited areas of Cuba and cannot provide the blanket coverage that is needed and that is envisioned for Radio Marti. Radio Marti's transmitter will be located in the Florida Keys and will have a directional antenna. Even when Radio Marti will need a separate transmitter in the Caribbean to reach eastern Cuba.

Furthermore, we do not know what, if any, radio stations in Caribbean countries can be heard in Cuba. There is no reason to believe that any such station would be willing to broadcast to Cuba in our behalf.

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We have to take a look at the philosophy of private stations. Many of them are often identified with positions that are too partisan to serve our interests, whereas Radio Marti would be nonpartisan.

Finally, private stations might be reluctant to give up prime time for Radio Marti, since this might affect their own commercial viability. The cost to Radio Marti, therefore, for leasing this prime time might be quite high.

In the final analysis, the amendment is a poor amendment. It would gut the legislation. It would kill its purpose. It would render it ineffective and the amendment should be defeated.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we should point out that we are not just talking about the radio stations in southern Florida about which the last speaker spoke. This authorizes them to use stations from any area.

The gentleman said that they do not have adequate power to properly reach Cuba. There is a station in Mexico, for example, that uses 150,000 watts, compared to the 50,000 watts of the station in Florida; one in Colombia with 100,000; one in Venezuela with 100,000 watts. These are Spanish-speaking stations, widely heard in Cuba.

I hope that we will realize that whereas we are talking about American broadcasting stations, we are not limiting it to American broadcasting stations and this amendment of the gentleman from Iowa (Mr. HARKIN) makes it possible for them to contract not only with powerful stations outside of the country, but with stations which very possibly would have more credibility as we contract for such broadcasters.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I would be glad to yield to the gentleman.

Mr. RINALDO. Has the gentleman discussed this proposal with the management of any of these stations? Have they agreed to this form of broadcasting on behalf of the United States?

Mr. BEDELL. I would leave it up to the gentleman, but I guess that normally when you buy time, you can buy time; but I would ask the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, if the gentleman will yield, just in response to the gentleman, as I said, we have precedents for this in the sixties when we did, indeed, buy time from commercial stations.

Again, what I am pointing out with my amendment is that if Mr. Giddens wants voluntarism and wants people to volunteer, let us let these radio stations volunteer their time in the United States.

Now, I would just say one further thing, that there are also precedents for using other stations, such as radio Clarin in Santo Domingo, which is an anti-Castro station; and WQBA in Miami, which broadcasts at 10,000 watts.

There is also radio Swan and all the other ones that the gentleman mentioned.

I am certain that if you want to buy time on those stations, you will get the time.

Mr. RINALDO. Mr. Chairman, will the gentleman yield further?

Mr. BEDELL. I would be glad to yield to the gentleman.

Mr. RINALDO. I am sure there are precedents; but as was very aptly pointed out earlier by the gentleman from Florida, the precedents are bad precedents. They were not workable. That is why the State Department, that is why the administration, that is why everyone who formulated this legislation feels that we need Radio Marti.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Quite to the contrary, it was successful in the sixties, but the point is that what happened was that we found in the sixties that when these stations were broadcasting to Cuba, there was such a virulent anti-U.S. attitude in Cuba at that time that it was not getting through.

I submit perhaps times have changed, because we do know that Cubans are listening to Miami radio stations. I know from having been stationed in Cuba before at Guantanamo that they listen to Jamaican radio stations; so we can buy Jamaican time, too. They are listening to all these stations now which they did not listen to in the early sixties.

Mr. TAUKE. Mr. Chairman, will the gentleman from Iowa yield?

Mr. BEDELL. I will be glad to yield to my colleague, the gentleman from Iowa.

Mr. TAUKE. It is interesting that the proponents of the measure before us should use the failure of other efforts in the past as reason for denying the use of those efforts. If we go back over the last 25 years and review the record of U.S. broadcasting to Cuba, we have had dozens of efforts to broadcast information to Cuba; a program called Radio Swan, which was set up by the CIA back in the sixties was very similar to Radio Marti. That failed and I presume that it could be argued that this proposal, Radio Marti, could suffer the same fate if we are to judge by precedent.

We look at what happened to the program Cita Con Cuba, when it was broadcast by the Voice of America. That failed and was gradually phased out. I can assume that judging from precedent that the proposal that we have before us of Radio Marti could also fail.

I do not think that the proponents want to find themselves in the position of suggesting that simply because something has not worked well in the past that that is reason for rejecting it, because if they do offer that rationale, that is adequate rationale to reject the whole proposal.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief and just simply say that I rise in support of the amendment of the gentleman from Iowa, although I do have one concern that I think should be placed in the RECORD. That is, if it should pass, it should be clear that this authorizes the use of foreign stations, but does not require it.

I personally support the notion of using private stations. It is kind of a free enterprise approach, and very interestingly, I would suspect would be far cheaper than a governmental approach from a number of points of view.

I have to say that I have some sense of an unseemliness about the U.S. Government buying time on a foreign station in order to propagandize a particular point of view to a country like Cuba.

I would only say that the Harkin amendment makes a good deal of sense to me, although if I were to leave any advice for the record it would be that we should not be buying foreign time.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. Of course.

Mr. HARKIN. I appreciate the gentleman's viewpoint. I am just saying, in response to my other colleague, the gentleman from Iowa (Mr. TAUKE), that if you ever hoped to get through a message to the Cubans, it would seem to me that this is the most logical and reasonable way of doing it; rather than one single frequency owned and operated by the U.S. Government to have time on a number of commercial stations that the Cubans are already listening to. That is why I say that if you really want to get that message through and if you support the bill, that this ought to be the best, most economical way to do it.

Mr. LEACH of Iowa. I would agree with the gentleman, but simply stress that it is not only the most economical, it certainly has the best chance of surviving some sort of jamming offensive by the other side.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. Yes, of course.

Mr. BEDELL. I think we should also point out that there is great concern about the possible jamming of whatever frequencies are used. If that should occur, I should suspect that Castro would be somewhat less likely to jam the stations from Mexico or Santo Domingo or those other stations, if it were to be necessary to do that.

I share that gentleman's concern, but it certainly is a lifejacket that is there in case it needed to be used.

Mr. LEACH of Iowa. The gentleman makes a good point, but I would stress that a number of the bands that are used in the United States that might be used against Cuba also have similar frequencies used in South America and Mexico. One of the problems with the legislation before us is that if any band is jammed, it will have an effect in Mexico and South America on those stations.

I personally feel very strongly that Cuba will not be blamed for it, that the likelihood is that the United States will be perceived as the aggressor in this particular war and that in Latin America, Cuba will be seen as a country responding in a more rational fashion than perhaps we would like and that the problem will fall on the United States of America in terms of being perceived as a country that is decimating Latin American broadcasting.

□ 1600

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment.

Now, I recognize that it sounds so noble to say, "Let us use free enterprise." But let us look at the facts of life here: The facts of life here are that if we adopted an amendment like this it would create an administrative monstrosity that we could not control.

Can my colleagues imagine the total chaos an administrator of this program would face trying to decide what stations to use where, how and in what ratio?

The next thing we know we would have interested local friends trying to promote a certain slice of the pie.

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, it is not only an administrative nightmare, but let us examine how fair the amendment is.

Under the bill, the Board for International Broadcasting would have the flexibility, and the administration would have the flexibility to do whatever seemed best in the country's interest. It does not mandate anything. It could contract out, which the gentleman from Iowa now supports—but later on in another amendment he will be opposed to. They could go commercial. They could do whatever they wanted to do if it seemed the best way to do it.

What the amendment would do would be to foreclose all the options except the one that is in the amendment.

As the gentleman from Illinois points out, that is an administrative nightmare and probably would not get the job done because it would require all kinds of international agreements and a whole host of other arrangements.

Although it is possible theoretically and technically to do it, you could not reach your listening audience. It would be a disaster to operate a sensible program this way.

That is what the amendment means.

Mr. DERWINSKI. One other point I would like to make. I forget who the Member was who commented that the use of time on a commercial station would somehow be more acceptable than using a Government station; quite the contrary. Remember, we are supposed to be beaming a message to the people of Cuba. They want to know that the United States is interested in them. They want to know they are not forgotten. They want to know there is an alternative to messages other than those coming out of the Castro-Soviet propaganda machine.

The very fact that the U.S. Government is now showing this dramatic, long overdue interest is a sign of hope and inspiration to the people of Cuba. That is the gut issue before us.

There are all sorts of wonderfully phrased and clever amendments; but, remember, the attack behind every one of these amendments is on the very concept of Radio Marti and broadcasting to the people of Cuba. That is the issue before us and it will be the issue before us again and again and again.

The concept here is, to give the people of Cuba the truth which they have been denied for 23 years. They have been spoon-fed propaganda. That is a concept that justifies Radio Free Europe, Radio Liberty for Europe the recognition that behind the Iron Curtain you do not receive the truth. That is the real issue here. You could claim to be using a more effective station from Jamaica, the Dominican Republic, throw in others with the geographical potential, the facts of life are that you need a U.S. message to the people of Cuba, a message of truth. That is what we will be voting on again and again and again.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to say I completely agree with the remarks of the gentleman. I spent an interesting week in Cuba once. I found it startling because I had not experienced it before.

I had been in countries like Chile and Argentina that are supposed to be repressive, but I could always find a copy of an American newspaper or Time magazine or Newsweek, or something, no matter how authoritarian those governments were. But in Havana it was impossible to find anything other than the Communist paper which was dripping with "Hate America, Hate America"; everywhere you went, there was propaganda either on a wall or on a building, "Hate America, Hate America."

Mr. DERWINSKI. Or on the billboards.

Mr. HYDE. Or on billboards. You just could not find the truth in that country. Those people who are warm people, friendly, disposed toward the United States, are being denied an opportunity to learn what is going on in the world.

The same thing is true in Czechoslovakia, Hungary, by the way. Communism has a way of stultifying and stamping out access to the truth.

This bill is a direct way of rectifying that, and I support it.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman, I would ask the gentleman if anyone were to buy time on those stations and run these programs, does the gentleman think for a minute that the people who heard that would not know that was a message from the United States any more than if any other manufacturer or any other person bought time and ran it over that station?

Mr. DERWINSKI. Very definitely. First, how would they know after listening to, say, a message which would be advertising Post Toasties in Jamaica that, the following message was intended for them. We could not get this thing coordinated at all. That is the point we made earlier.

Also, from a practical accounting standpoint we would drive the General Accounting Office crazy trying to monitor what they were doing, how, why.

That is why I make the basic point that this amendment is one of many intended to do one thing: Attack the

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very concept of the creation of this entity. That is what it does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) to the Energy and Commerce Committee amendment.

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 7, noes 16.

RECORDED VOTE

Mr. HARKIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 78, noes 284, answered "present" 1, not voting 71, as follows:

[Roll No. 259]

AYES—78

Albosta
Aspin
Bedell
Bingham
Brown (CA)
Burton, Phillip
Clay
Collins (IL)
Daschle
Dellums
Dingell
Dorgan
Dowdy
Downey
Dymally
Edgar
Edwards (CA)
Evans (IA)
Evans (IN)
Ferraro
Fithian
Foley
Gejdenson
Gonzalez
Gray
Hall, Sam
Harkin
Hightower
Jacobs
Jones (TN)
Kastenmeier
Kildee
LaFalce
Leach
Leland
Long (MD)
Lowry (WA)
Lundine
Markey
Martinez
McCloskey
McHugh
Miller (CA)
Mitchell (MD)
Mottl
Oakar
Oberstar
Obey
Ottinger
Paul
Pease
Petri
Pritchard
Rahall
Ratchford
Reuss
Roberts (SD)
Roemer
Roybal
Sabo
Savage
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Simon
Stark
Stokes
Studds
Swift
Synar
Tauke
Vento
Washington
Williams (MT)
Wirth
Wolpe

NOES—284

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Beilenson
Benedict
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CO)
Broyhill
Burgener
Byron
Campbell
Carman
Chappie
Cheney
Chisholm
Clausen
Coats
Coelho
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dreier
Duncan
Dunn
Dwyer
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Ertel
Fary
Fascell
Fazio
Fenwick
Fiedler
Fields
Findley
Fish
Florio
Foglietta
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Heftel
Hendon
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Johnston
Jones (OK)
Kazen
Kemp
Kennelly
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lowery (CA)
Lujan
Luken
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McCollum
McCurdy
McDonald
McEwen
McGrath
Mica
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Panetta
Parris
Pashayan
Patman
Patterson
Pepper
Perkins
Peyser
Pickle
Price
Quillen
Rangel
Regula
Rinaldo
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Rousselot
Rudd
Russo
Scheuer
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stratton
Stump
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whitten
Williams (OH)
Winn
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Hefner

NOT VOTING—71

Akaka
AuCoin
Bafalis
Bereuter
Blanchard
Bolling
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Butler
Carney
Chappell
Clinger
Conyers
Crockett
Daub
Davis
Dornan
Dougherty
Emery
Evans (DE)
Evans (GA)
Flippo
Ford (MI)
Frenzel
Gaydos
Ginn
Goldwater
Grisham
Hawkins
Hertel
Hiler
Hillis
Jenkins
Jones (NC)
Lott
Marks
Martin (NC)
McClory
McDade
McKinney
Michel
Moffett
Neal
Oxley
Porter
Pursell
Railsback
Rhodes
Richmond
Ritter
Rose
Rosenthal
Roukema
Santini
Sawyer
Schneider
Siljander
Skeen
Stanton
Traxler
Walgren
Weber (MN)
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (MO)

□ 1620

Messrs. JOHNSTON, HOPKINS, and YATES changed their votes from "aye" to "no."

So the amendment to the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUKE TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. TAUKE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE to the Energy and Commerce Committee amendment: Page 4, strike out line 11 and all that follows through page 6, line 8, and insert in lieu thereof the following:

"(2) no Federal agency shall have any authority to select a frequency for such radio broadcasting, and the Broad shall not have any authority to operate on a frequency for such radio broadcasting, if such frequency, as of the date of the enactment of the Radio Broadcasting to Cuba Act (A) is allocated to non-Government radio broadcasting in the United States; or (B) is within 10 kilohertz of any frequency allocated to non-Government radio broadcasting in the United States."

Page 3, line 24, strike out "(d)(1)" and insert in lieu thereof "(d)".

Page 4, line 1, strike out "(A)" and insert in lieu thereof "(1)".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, I know that this bill has already been debated at some length, and I recognize that many of the Members are already becoming somewhat weary of the subject of radio broadcasting to Cuba.

The amendment that I have offered, however, is an amendment that I believe deserves careful consideration. It was approved by the Subcommittee on Telecommunications, Consumer Protection and Finance by a 12-to-2 vote when this issue first came before that subcommittee, and it was reported, of course, to the full Committee on Energy and Commerce. After extensive negotiations with the State Department, we had reached an agreement on what we thought was a compromise for this amendment to be offered to the full committee, only at the last moment to have the State Department back out. So this amendment was never considered by the full Committee on Energy and Commerce. And it did receive the 12-to-2 endorsement of the Telecommunications Subcommittee.

Mr. Chairman, one of the big concerns that we have had about the whole concept of Radio Marti is: How do we make certain that the information that is being broadcast on Radio Marti is actually heard by the Cubans? A second major concern is: How do we prevent major interference from occurring to those American broadcasters who are trying to reach our own people with news, information, and entertainment?

It occurred to us, as we looked at this problem of how to reach the Cubans and how to prevent interference of American broadcasts, that the best alternative was to use the accepted form for international broadcasting—shortwave. Both Radio Free Europe and Radio Liberty use shortwave because it is the accepted frequency for international broadcasting. In addition, it is much more difficult to interfere with or to jam than AM or FM broadcasting. That is why the members of the Telecommunications Subcommittee said that it made a lot of sense to have shortwave be the frequency for broadcasting on Radio Marti.

☐ 1630

It occurred to us that with shortwave we would first of all reach more people in Cuba.

I wish all of the members of the committee would have the opportunity to read the feasibility study on Radio Free Cuba done by the International Communications Agency that was issued last July.

I wish all of you had the opportunity to read the Voice of America broadcasting to Cuba study. Because I think that you would find in those studies clear evidence of what even the proponents of this proposal have recognized, and that is that there is going to be interference with domestic commercial broadcasters as a result of Radio Marti.

If it does what the Foreign Affairs Committee says it will do to the people of Cuba, if they hear it; namely, caused them to be disenchanted with their government, surely the Castro government has a great stake in preventing it from being heard.

If it is broadcast on AM, then, I am sure that it will be jammed or interfered with by Castro and will not be heard by the Cubans.

Now, I know there are going to be those who support Radio Marti on the AM band who will say that there are no shortwave sets in Cuba.

We have done some research into this. It is estimated by UNESCO that there are a half million shortwave sets in Cuba. The sets are being put together right now in Cuba. They come from the Soviet Union and they are assembled in Cuba.

For 80 pesos, virtually any Cuban can buy a shortwave set and many have done so already.

But the fact is it makes a great deal more sense to reach that 10, 20, or 25 percent of the Cubans who have shortwave sets with a shortwave broadcast than it does to spend millions of dollars to broadcast on AM with no assurance that any Cuban will hear it.

Moreover, this amendment protects American broadcasters. While we need to look at the foreign policy repercussions, we must be very concerned as well about the domestic repercussions.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has expired.

(By unanimous consent Mr. TAUKE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. If we have Radio Marti established on AM, even the State Department personnel suggest that there would probably be retaliation. That is the excuse they gave for not putting it on Radio Marathon. That is the excuse they gave for rejecting some other frequencies that also happened to have Government stations broadcasting on them.

I believe it is fair to say the commercial broadcasters in this country will also suffer from interference if they happen to be on the same frequency as Radio Marti.

With shortwave, however, we do not have that problem. We will protect the commercial broadcasters.

So because this amendment protects the commercial broadcasters in this country and because it will guarantee that Radio Marti will reach more Cubans than Radio Marti broadcast on AM, I urge support for this proposal.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

The effect of this amendment, Mr. Chairman, purely and simply is to take Radio Marti broadcasting off the AM band and to restrict the broadcasting to shortwave.

What that means is that the U.S. Government cannot do what it started out to do; it is just that simple.

Shortwave is fine; it is effective; we use it with Radio Liberty; we use it with Radio Free Europe. There are a lot of shortwave sets in the European area that can receive a broadcast.

In Cuba you have a different ball game. You have roughly 2 million AM receivers.

If you adopt this amendment you say in effect, "Forget 2 million people, we will just carry our message to 50,000 of the elite in Cuba who have shortwave receivers."

This does not make sense to me. I think we ought to vote down the amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I just wish to reiterate a point that I made earlier about what we are wrapping the flag around.

The point is that one does not have to be opposed to the concept of Radio Marti in order to find the method the State Department has dictated we use to achieve that end. You do not have to support the method in order to achieve the purpose or the policy goal that the State Department is after.

We hear every time we get about midway in the debate and when we start talking about what my committee has jurisdiction over and what my committee has some jurisdiction in, we run back to a lot of rhetoric about foreign policy.

We are not trying to tell the Foreign Affairs Committee how they should run their business, the area in which they have knowledge. If they believe Radio Marti is an important foreign policy initiative for the United States I will go along with that.

But when they then step totally outside their area of expertise and tell us how we have to do it, we discover that the method they suggest we have to use to do it is one that is going to directly interfere, and unnecessarily so, with U.S. broadcasters. And the only answer we have for that is, it is unpatriotic not to just roll over and play dead when Uncle Sam tells you your business has got to go down the drain in order that he can do this over here, that seems to me to be manifestly unfair.

The point we are hoping we can get the Members of this body to understand is you can support the Tauke amendment and achieve the goals of Radio Marti. You can do both. They are not fundamentally inconsistent.

I do not believe there is anyone here who would say that any American or any American business should unnecessarily give up something that is not needed in order to achieve a national foreign policy goal.

What the Tauke amendment says is we will do this for Cuba the way we do it in Europe, the way it has been done all over the world, the international method of conducting propaganda and informational programs, via shortwave.

That is all that is going on here.

So do not let them wrap a flag around the method even though it may be perfectly appropriate to wrap the flag around the foreign policy, and give very careful consideration to the Tauke amendment which is a thoughtful one, which says there is another way to achieve this goal that will not unnecessarily interfere with the American free enterprise system, with American broadcasters, and with the rights of the American public.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment proposed by the gentleman from Iowa. Although this amendment is presented in terms of whether Radio Marti should operate on shortwave or on the AM band, the real issue before us is whether Radio Marti should exist at all.

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Shortwave is not a legitimate, viable alternative for Radio Marti. The adoption of this amendment would be the death knell for Radio Marti.

It is essential that Radio Marti be able to broadcast on the AM radio band. AM receivers are the prevalent type owned by the people of Cuba—the target audience for Radio Marti. The Cuban Government uses AM radio to reach its own people. Shortwave receivers are scarce in Cuba and are owned by government officials and the political elite—hardly listeners who would be influenced by Radio Marti.

AM radio is used in other instances for international broadcasting. For example, the BBC, Deutsche Welle (West Germany), Radio Free Europe, Voice of America, Radio Moscow and Radio Havana all use the AM band in addition to shortwave for their international broadcasts.

The purpose of this amendment is to eliminate the potential problem of Cuban interference with the signals of American AM radio broadcasters. Yet prohibiting Radio Marti from using the AM band will have no effect on Cuban interference with U.S. radio broadcasters.

Passage of this amendment is tantamount to killing Radio Marti. And for what reason? To head off the possibility of Cuban interference which has absolutely no relationship to Radio Marti.

This approach was rejected by the Energy and Commerce Committee, which adopted an amendment directing that all radio frequencies and bands be considered for Radio Marti. I urge the House to defeat the amendment.

Mr. YATRON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman from Iowa's amendment.

I support H.R. 5427 and commend our distinguished colleague from Florida, Congressman FASCELL, for his diligent efforts and leadership in bringing this bill to the floor for consideration.

Mr. Chairman, I support the concept of this radio station because it is first and foremost, a foreign policy tool which will utilize truthful information to counteract the propaganda forced on the Cuban people by Fidel Castro. If we are to succeed in reaching as many Cuban people as possible, it is absolutely essential that this radio station broadcasts on an AM frequency. For too long Cuba's radio broadcasts have interfered with commercial radio transmissions in Florida and throughout the United States and for the most part, we have done little to stop it. Castro has threatened to jam U.S. radio transmissions which is just more of what he has been doing to us and will continue to do unless we take some responsible actions to rectify this problem.

Mr. Chairman, if we adopt the gentleman from Iowa's amendment, we will severely cripple the effectiveness of Radio Marti. By transmitting Radio Marti on shortwave only, we would be reaching such a minute segment of the Cuban population that we would be wasting our time and money on this station all together. In fact, by using shortwave, Radio Marti's primary audience would be the Communist elite which is certainly not the audience this station is intending to reach.

The only way this station can be effective with respect to reaching the majority of the Cuban people is to use an AM frequency. The Castro government uses the AM dial to broadcast its propoganda reports and if we are serious about coveying a message to the Cuban people, we should use an AM band as well.

In my view, Radio Marti would serve two fundamental puposes. The first and most important is that it offers the Cuban people realistic and truthful information about their country which their government will not allow them to know.

For example, why is the Cuban government spending millions of dollars to support thousands of Cuban troops in Angola when the Cuban economy is in dire straits. In other words, this radio station will convey the truth to the Cuban people that the source of their economic difficulties stems from government manipulation and military adventurism.

Last, we should pass H.R. 5427 allowing it to transmit on an AM frequency because if we are going to continue to find ourselves in confrontations perpetrated by Fidel Castro, I would much rather utilize the airwaves to counteract his propoganda attacks with truthful information instead of military-related actions.

Mr. Chairman, I might add that recently the Hispanic caucus of the Democratic Party's miniconvention in Philadelphia unanimously endorsed Radio Marti. The bipartisan support this proposed radio station has received clearly dispels any notion one might have that this station is being promoted by conservative ideologues bent on overthrowing Castro's regime.

A vote in favor of this bill is a vote in favor of freedom for the oppressed people of Cuba.

I urge that we defeat the gentleman from Iowa's amendment.

I yield back the balance of my time.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. YATRON. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman, as I understand it, really made two points against the amendment that I offered. The first point was that only the Cuban elite have shortwave stations.

The CRS reports that today we have about 500,000 shortwave sets in Cuba, which is about 20 percent of the number of AM sets available in Cuba, leading one to believe that perhaps about 20 percent of the population would have access to shortwave.

In addition, shortwave sets are being manufactured every day in Cuba.

It just occurs to me that to suggest that 20 percent of the people are in the Communist elite is going a little far.

The second suggestion that the gentleman makes is that if we broadcast on AM, we would reach more people, when even the VOA report on Cuban broadcasting and the International Communications Agency Feasibility Study, the FCC, the NTIA, all indicate that there will be jamming of the frequencies involved with broadcasting to Cuba, which would lead me to believe that there will be nobody in Cuba receiving this on AM because it is so easily jammed.

It appears to me that if the choice is between nobody receiving this on AM or 20 percent receiving it on shortwave, what you said argues in favor of shortwave.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment clears the air a bit. This is a very practical amendment. It is one of the major challenges to the bill, to the concept before us.

Now, the gentleman from Iowa did state, and others have made the point, that in this amendment we are not debating foreign policy. We are debating the concern about the technical issues involving effective radio broadcasting.

Let me take a couple of points, and if I am wrong I stand to be corrected. My understanding is that this amendment was adopted in the subcommittee and then rejected by a vote of 24 to 18 in the full committee; is that correct?

Mr. WIRTH. If the gentleman will yield, the amendment that was offered by the gentleman from Iowa was accepted by the subcommittee by a 12 to 2 motion. We then had significant discussions with the State Department, and a substitute amendment was agreed to with the State Department that had the FCC involved in the process. And we talked about that 2 weeks ago. The amendment that was voted in the full committee was not this amendment. The full committee never focused on the amendment on shortwave. The full committee voted and focused only on the substitute relating to the FCC. It did not focus on this at all.

Mr. DERWINSKI. It related to this basic concern.

Mr. WIRTH. No, but this was not debated at all. The question voted on in full committee was, Who should allocate spectrum and make that decision? Should it be the FCC or the NTIA?

Mr. DERWINSKI. Let me reclaim my time. This was, however, the basic issue that your committee faced.

Mr. WIRTH. No, it was one of who made the decision, the FCC or the NTIA, is what was focused on in the substitute offered in the full committee. The issue of using the shortwave frequency was never debated.

Mr. DERWINSKI. But the facts are that this amendment did not clear your full committee.

Mr. WIRTH. It was not voted on in the full committee.

Mr. DERWINSKI. I am assuming it was never offered because you did not have the horses.

Mr. WIRTH. Just for the point of making the record, the gentleman from New Jersey had said that this had been voted down by the full committee. Not the case. It was never voted on in full committee because of all of the discussions which we had with the State Department, upon which the State Department reneged, as was pointed out in general debate 2 weeks ago.

Mr. DERWINSKI. Let me get back to the point, though. The key point here, the issue is AM versus shortwave in this particular case.

Let me point out a couple of practical things. Shortwave is used effectively in Europe. But it is not practical in reaching the vast audience in Cuba. That is why AM must be used. In fact, you might be interested to know that the Soviets beam shortwave to Cuba. The broadcasts are then translated by the Cuban Government into Spanish and put on AM in Cuba, which is an admission, I presume, that the audience in shortwave is not good enough.

May I also point out—that proponents of this amendment use the figure of reaching anywhere from 10 to 20 percent. Now, that means 80 or 90 percent of the audience in Cuba would not be reached, if my arithmetic is correct.

□ 1650

Therefore, this amendment would have the effect of minimizing the value of Radio Marti as the concept is advocated.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ROTH. I thank the gentleman for yielding.

I think that the gentleman is really hitting the nub of the problem. Whether it is a shortwave or whether it is AM, we have to take a look at what tools are available to us and how can we get the job done with the best tools available. That means we have to go the route of the AM, because if, as the author of the amendment has said, half a million Cubans could be reached with shortwave, and we all are aware that there are over 10 million Cubans it stands to reason that AM is the only feasible approach. Shortwave means we would have a potential of reaching only one in 20 Cubans.

I think we have to keep our eyes on facts so we can make the proper judgments, which means that we have to go the route of the AM.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(At the request of Mr. TAUKE and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 3 additional minutes.)

Mr. TAUKE. I thank the gentleman for yielding.

I think as the gentleman from Wisconsin said, this is the nub of the issue. The gentleman is suggesting that if we go on shortwave and reach 10 or 20 or 25 percent of the Cuban people, miss 75 to 90 percent of them, that we are diminishing the impact of Radio Marti.

Mr. DERWINSKI. That is correct.

Mr. TAUKE. Which means to me that the gentleman assumes that the AM broadcast of Radio Marti will be heard by Cubans.

Mr. DERWINSKI. Yes. If I may point out to the gentleman, AM is the Cuban Government's utilization main outlet. The Cuban Government has five national AM stations I understand.

Mr. TAUKE. That is right. And I agree with the gentleman that the Cubans would normally listen to AM if they had that option, and it would be a better option if they would get it.

I guess my point is this. The gentleman has pointed out what devastating impact broadcasts of the truth about Cuba to the Cuban people could have for Castro and his government. When it is abundantly clear that AM can easily be jammed or interfered with and when Castro has not only said he would so do, but is building the mechanism with which to do it, what makes the gentleman believe that the AM broadcasts from the United States will not be jammed, that there will not be interference?

Mr. DERWINSKI. I am assuming there will be an attempt to jam. May I also say I do not take at face value the threats or promises of Mr. Castro. Mr. Castro, for example, has been on record for 20 some years as promising his people Utopia. I was there last fall and it is a far cry from Utopia.

On this point, the assumption is on the side of the opponents of the bill who keep assuming there would be some diabolical ability of Castro to totally destroy AM listening potential in the United States.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersy.

Mr. RINALDO. I thank the gentleman for yielding.

I think it is important to point out in this discussion of jamming the fact there is no one to the best of my knowledge in this Chamber who knows exactly what Castro is going to do.

Furthermore, I think it is important to point out that if Castro did decide to interfere with Radio Marti by using a nondirectional antenna he would also interfere with the following stations. And I think it is about time we got on the record just what he would be doing. It is highly unlikely that Castro would risk alienating these neighbors with whom he is very desirous of maintaining good relationships, and that is something I know personally.

The Castro government has always used nondirectional antennas, allegedly because they are less costly. But if he was attempting to jam WHO, he would also jam TGJP in Guatemala. He would also jam radio stations in Nicaragua, Honduras, Costa Rica, the Dominican Republic. In Mexico he would jam 10 stations, 2 in Venezuela, 7 in Colombia, and 1 in Grenada. In other words, he would jam a total of 26 stations, including 16 in operation, 1 under construction, and 9 assigned frequencies.

The important fact to remember is that he would be jamming stations of countries that he desperately wants to maintain good relations with. My own opinion is that he is not going to do that. I think it is a false fear that is being perpetrated or attempted to be perpetrated amongst the Members of this House.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(At the request of Mr. SMITH of Iowa and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Could I just make a comment right here. Castro is already building a directional antenna. It is three-fourths completed.

Mr. DERWINSKI. That does not answer the point the gentleman from New Jersey made.

Mr. SMITH of Iowa. The gentleman just said they would not use a direc-

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tional antenna. We know they would because they are constructing a directional antenna.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

I think the point the gentleman from New Jersey has made has underscored the position of the gentleman from Iowa (Mr. TAUKE). The point is if Castro jams these stations he has listed we will be considered at fault, not Mr. Castro. That is the perception in the Caribbean.

Second, he talks about what do we know. All we know is that Castro has the capacity to jam and he has stated that he intends to. Sometimes we make a major mistake in this body when we refuse to believe what Communist leaders say they are going to do. He said he is going to do it. Does the gentleman have any evidence that he will not do it?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

(By unanimous consent, Mr. DERWINSKI was allowed to proceed for 30 additional seconds.)

Mr. DERWINSKI. Mr. Chairman, just to make the profound observation that it is hardly the most logical statement of our era for the gentleman to say that we would be blamed if Castro jammed stations in other countries. That leads me to believe that the gentleman is reaching out desperately to an illogical conclusion.

Mr. LEACH of Iowa. If the gentleman will continue to yield, this is the stated assessment of the U.S. State Department. It is not simply the belief of the gentleman from Iowa. The State Department is on record on this issue.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Tauke amendment.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

I want to point out that the Voice of America memorandum that was attached to the feasibility study on Cuban broadcasting said the following: "The diplomatic situation being what it is in this area, the United States will be held more responsible for originating the signal than will Cuba for jamming it," which was the point that my colleague from Iowa (Mr. LEACH) was attempting to make.

Mr. MITCHELL of Maryland. I thank the gentleman for his remarks.

I think this is a bad bill.

Many times I have noticed since I have been in the Congress we do things on a pellmell rush and it just does not make sense.

Remember swine flu? Remember when we voted the funds for swine flu and there was no swine flu but people got paralyzed? Remember when we changed daylight saving time? We had some little children going to school in the dark and others going at some other crazy hour.

We are kind of panicky on situations, but the Tauke amendment at least makes some sense out of it, to do it on a shortwave basis. Sure, I am not an expert, not in foreign affairs, nor in communications, but I know what I want.

I listen to WCAO radio in Baltimore. I get up at 5 o'clock each morning and when I turn that radio on I can hear the Castro propaganda. This is before we start fighting him even. There is an all-night talk show that comes on, and that talk show is interfered with because there is the music and propaganda coming out of Cuba—even without this proposed propaganda war.

I want to hear Stevie Wonder and what is that other fellow's name, with the Beatles, singing "Ebony and Ivory," in the morning. I do not want to listen to martial music. I want some old Glenn Miller tunes to wake me up gently rather than the music coming out of Cuba. If you start this war, you can bet your bottom dollar I will not hear anything. I am not going to hear Glenn Miller or Stevie Wonder, or even the all-night talk show.

I think it is a foolish kind of thing to do. But above and beyond that there is a more serious concern.

Whether you like it or not, the intent of this Radio Marti is to encourage the Cubans to rise up against what is called an oppressor. That is the intent. And that is what we did in Hungary. Remember? Remember, we encouraged the Hungarians to rise up in revolt, and when they were being shot down they were saying, "Americans, come on in to help us." But the Americans did not come in.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield briefly to the gentleman from Texas.

Mr. LELAND. I thank the gentleman for yielding.

Does the gentleman think we ought to do the same thing for South Africa?

Mr. MITCHELL of Maryland. Oh, no, South Africa is sacrosanct in foreign affairs. There is a tilt toward South Africa. We better not touch South Africa at all. No, I would not dare.

Mr. LELAND. Is the gentleman trying to say that apartheid is not as important to us as communism?

Mr. MITCHELL of Maryland. I am merely reflecting the views of the administration vis-a-vis South Africa.

Mr. LELAND. I see.

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Mr. MITCHELL of Maryland. Let me go back to this business of encouraging people to rise up and overthrow governments. That becomes a very dangerous thing to do, unless you are prepared to send in some troops to back them up. Each time that we have waged a propaganda war that has resulted in an attempt to overthrow a government, we have not gone in and what has happened? We have earned contempt from the people in those nations, contempt for us because they say, "You sicced us on and then when we needed you, you didn't show."

Look, support the Tauke amendment. That helps a little bit; but then try to vote down the whole bill.

I want to wake up to nice music at 5 o'clock in the morning. That is the time I relax. I do not want to wake up to jamming, unless it is some old-time jazz jamming.

Let us stop playing around with it. Vote TAUKE, ease it down a little bit, and then when we get to final passage just ease this out quietly and gently to the martial strains of some Cuban music.

Mr. Chairman, I rise in opposition to Congressman CLEMENT ZABLOCKI's bill, H.R. 5427, Radio Broadcasting to Cuba Act.

According to the report submitted by the Foreign Affairs Committee, H.R. 5427 authorizes $10 million in fiscal year 1982 and $7.7 million in fiscal year 1983 to establish a radio station, Radio Marti, to provide the Cuban people with accurate information about Cuba and Cuban activities worldwide. However, since the Cuban Government incorporates the technology necessary to prevent the reception of Radio Marti's broadcasts by the Cuban people, my colleague's bill would prove to be an inefficient allocation of limited Federal resources.

Moreover, the establishment of Radio Marti could lead to a radio war with Cuba and, thereby, increase dramatically the amount of funds directed toward this ineffective program. Currently, Cuba plans to construct a radio station which will operate at 500 kilowatts—10 times more powerful than domestic U.S. stations which are limited to a maximum power level of 50 kilowatts. Consequently, in a radio war, Cuba would have the capacity to interfere and reduce the listening areas of AM radio stations in 32 States plus the District of Columbia.

To compensate for Cuba's interference, a U.S. radio station would have to spend between $150,000 and $200,000 to increase its power from 5 to 10 kilowatts and to modify its directional antenna. Since Congressman ZABLOCKI's measure requires the Federal Government to reimburse these stations for expenses incurred in mitigating the effects of Cuban interference with U.S. broadcasts, the amount of moneys wasted as a direct result of Radio Marti could escalate well beyond the $17.7 million authorized for the project initially.

Besides the fact that the Radio Marti bill is an inefficient allocation of the taxpayers' money, I am outraged at President Reagan's disregard for the Congress in this particular matter. I am sure that many of my colleagues are aware that the Navy has begun to build the radio station in Key West, Fla., even though Congress has not yet authorized one penny of the funding necessary for this project. The administration's blatant circumvention of the legislatively defined appropriations process is reason enough to oppose the Radio Broadcasting to Cuba Act.

Contrary to Radio Marti's stated purpose, to provide accurate information to the Cuban people, this administration plans to use it as an instrument to encourage revolt on that island. I wish to remind my colleagues that the United States exhorted the Hungarian people to revolt against communism in the fall of 1956. Yet, the United States refused their urgent requests for military aid when the Soviet Union invaded Hungary and ruthlessly repressed the uprising. As a result, many Hungarians lost their lives believing the United States would support their struggle. I am certain the same fate awaits any Cuban who may be deceived by Radio Marti broadcast into believing that the United States would send troops into Cuba to support a popular uprising.

Clearly, Radio Marti's primary and only purpose is to decrease the propaganda gap which exists between the United States and Russia. Currently, the Soviets outspend the United States about 7 to 1 in their broadcasting and information efforts around the world. Surely, the Congress cannot justify taking school lunches away from children, cutting health care programs for the elderly, and diminishing services for the handicapped, and, at the same time, authorize moneys for a propaganda contest with the Soviets. By opposing the passage of H.R. 5427, the House would prevent the allocation of Federal funds to a futile and impotent program, and, thereby, reject the ideological whims of President Reagan. I urge strongly that the measure be defeated.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let me bring us back, as the gentleman from Washington (Mr. Swift) did, in saying that we have two issues in front of us; one, do we want to authorize Radio Marti at all and broadcast to Cuba? This issue is not the subject of this amendment.

The subject of this amendment is, assuming we are gong to broadcast to Cuba, how do we go about doing it?

Now, the question raised by the amendment of the gentleman from Iowa (Mr. Tauke) is what kind of broadcasting are we going to do? Are we going to use the AM band or are we going to use the shortwave band?

I agree with the gentleman from Iowa in saying that it is folly for us to go on AM for a variety of reasons; foremost, the Cubans have made it very clear that they are gong to retaliate which will greatly harm our broadcast industry. There was earlier discussion that there was no evidence that the Cubans are going to retaliate. That is not the case.

We have not only the word of the Cuban Government. We have an internal memorandum issued by the Voice of America. We have FCC memorandums to the State Department. We have CRS studies done on the subject, broad consensus that, yes, the Cubans are going to retaliate if we go on AM.

The question then is, What is the impact in this country if the Cubans retaliate? What the Cubans are going to do is very clearly—and they are already building—is to operate a 500,000-watt radio station to broadcast back in the United States.

Now, what does that mean? How big is 500,000 watts? The largest single radio station in the United States today is 50,000 watts; so the Cubans are going to build a radio station 10 times more powerful and broadcast back to the United States. What does that mean to the United States? That means that a great deal of harm for U.S. broadcasters. Cuban retaliation may well result in interference with some 200 radio stations in 32 States. Enormous harm would be done by that retaliation coming back from the Cubans and that is going to cost radio stations a great deal. After causing this harm the bill creates the ability for Uncle Sam then to bail out the broadcasters who are getting harmed by Uncle Sam's own radio signals going over the AM band; so the taxpayer is in this fashion paying double—first by having reception of its radio station interfered with, then paying to reimburse the victims. Though, if we are going to wreak such havoc on commercial broadcasters, there should be some means to make them whole.

What the gentleman from Iowa (Mr. Tauke) does in his amendment is to say that we are not going to become involved in AM broadcasting, that does not make any sense, that is going to cause enormous harm to American broadcasters. The gentleman from Iowa (Mr. Tauke) and the rest of us want to protect American broadcasters; so the gentleman from Iowa (Mr. Tauke) says let us just broadcast on shortwave.

Now, how many people will be touched by shortwave? There has been a figure of 500,000 shortwave sets thrown around. That is the number of shortwave sets that have been sold in Cuba since 1978; 500,000 since 1978 alone, and there are some 20 shortwave stations already operating in Cuba. I repeat, within Cuba are 20 shortwave radio stations.

There are also, I understand, a whole variety of other shortwave radio stations that are coming into Cuba and on that subject I was wondering if I could engage the gentleman from Iowa (Mr. Tauke) in a brief colloquy.

Am I correct in understanding that the Soviet Union and other Communist nations are currently broadcasting into Cuba and into other Caribbean Islands, as well as into Latin America?

Mr. TAUKE. Mr. Chairman, if the gentleman will yield, it is my understanding that that is correct. In fact, these nations outspend the United States today by about a 7-to-1 margin.

Mr. WIRTH. Are there other Communist nations involved in broadcasting into Cuba?

Mr. TAUKE. If the gentleman will yield again, in addition to the Soviet Union, China, East Germany, Romania, Hungary, Czechoslovakia, and Bulgaria all broadcast to Latin America.

Mr. WIRTH. We have heard in the previous discussion and debate that the Cubans do not have any shortwave sets; so consequently, they cannot be receiving shortwave signals from all of these other nations; so therefore they must all be broadcasting on the AM band, all the nations the gentleman was talking about; is that correct?

Mr. TAUKE. I am forced to say to the gentleman from Colorado (Mr. Wirth), the gentleman will be surprised to find out that is not correct.

Mr. WIRTH. Oh, am I.

Mr. TAUKE. They all broadcast on the shortwave band.

Mr. WIRTH. Who is broadcasting on shortwave? I mean, if the Cubans do not have any meaningful number of shortwave receivers, as has been alleged, all these other countries are wasting their scarce taxpayer money to broadcast into Cuba on shortwave?

Mr. TAUKE. By a 7-to-1 margin, they are.

Mr. WIRTH. Well, who is doing that?

Mr. TAUKE. Well, Radio Moscow.

Mr. WIRTH. Radio Moscow is broadcasting shortwave; who else?

Mr. TAUKE. Bucharest.

Mr. WIRTH. Radio Bucharest?

Mr. TAUKE. Yes, Radio Bucharest, Radio Peking, Radio Prague, Radio Berlin International, and Radio Sofia, all operate on the shortwave band.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. Wirth was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. The State Department states that broadcasting by shortwave is unacceptable. The debate today has suggested that there are not any shortwave receivers. Now, why in the world would all those other countries have broadcasting into Cuba on shortwave?

Mr. TAUKE. That is a very good question. They probably did not want their AM to be jammed.

Mr. WIRTH. Well, the point of all this is again to clarify, why the shortwave amendment? The shortwave amendment is simply a way of making sure first, that the message broadcast on Radio Marti gets into Cuba without being jammed. It is very, very difficult to jam shortwave.

Second, broadcasting on shortwave is the internationally known way of broadcasting; so this is consistent with what is done all across the world.

Third, and for our domestic purposes very importantly, broadcasting on shortwave does not get us embroiled in all the problems of domestic interference, of intervening in the whole of the broadcast industry in the United States; so the gentleman from Iowa is not only assuring that the message will get through, but also assuring that we are going to protect the domestic broadcasting industry which provides very broad and great services. If we do not do this, we are going to see interference to more than 200 radio stations in more than 32 States.

So I would urge my colleagues to support the very fine amendment crafted by the gentleman from Iowa (Mr. Tauke).

This amendment, which was adopted by an overwhelming bipartisan vote of 12 to 2 in the Telecommunications Subcommittee, will insure that any Cuban countermeasures directed against Radio Marti will not adversely affect any AM or FM radio stations. It will insure that AM and FM broadcasters in the United States are not forced to bear the burden and costs of increased interference caused by Cuban retaliation against a Government radio station. If the U.S. Government wants to broadcast to Cuba, the U.S. Government, and not private sector broadcasters and their audiences, should assume the risks associated with the operation of such a station.

Mr. Chairman, broadcasting on the AM band is normally reserved for domestic broadcasting, while international broadcasting normally occurs over shortwave frequencies. While the State Department proposes to operate Radio Marti on the AM band, Radio Free Europe and Radio Liberty both operate on the shortwave band. According to the State Department's Senior Adviser for Science and Technology:

> The shortwave bands have been traditionally regarded as the proper frequencies for international broadcasting * * *.

In fact, Annexed Radio Regulation No. 423 of the 1959 Geneva Convention explicitly states that the AM band is to be used for domestic broadcasting only.

Not only is shortwave the internationally accepted band for international broadcasting, but it would be more difficult for the Cuban Government to jam Radio Marti if it operates on shortwave. The International Communications Agency, in a study completed last summer entitled "Radio Free Cuba Feasibility Study" stated:

> Unlike jamming shortwave, deliberate electronic interference to medium-wave (AM) broadcasting is easier, less costly, and more effective.

More recently, in a study for the Senate Foreign Relations Committee, the Congressional Research Service noted: "Shortwave signals are more difficult to jam."

Mr. Chairman, despite what some would have us believe, this amendment will not kill Radio Marti. In fact, if Cuba proceeds with efforts to jam or interfere with Radio Marti, as is very likely, the operation of Radio Marti on the shortwave band may very well insure the survival of this proposal—and protect the foreign policy objective from being totally frustrated.

I urge my colleagues to join me in supporting this careful and balanced approach to the serious problems posed by the operation of Radio Marti.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was going to ask the gentleman to yield, but being he did not I ask to strike that last word. I just have two questions. First, there is a reoccurring theme in this ongoing debate. It is this—Castro is going to jam Radio Marti should we construct it.

Well, my question is, Who is making foreign policy for the United States of America? Is it we in this body or is it Fidel Castro? That is the first question.

The second question I have is this. We are told that Castro is going to build a 500,000-watt station. With this station he is going to cause havoc with our radio stations in this country.

Well, our colleague, the gentleman from Iowa (Mr. Smith) said that this radio station is already 75 percent completed. What is Castro going to do, dismantle it if we do not build Radio Marti?

I will tell you what he is going to do. He is going to jam and interfere with our stations at will. The real question is, Do we have the will to stand up for what we believe in?

It is about time we get a little backbone in this House.

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. ROTH. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I just want to make a couple of points to pursue the line the gentleman is following.

First of all, the question was asked, how about all these other countries using shortwave broadcasts in the Caribbean? It has something to do with shortwave sets. What the Cuban Government does is relay all those shortwave broadcasts over their AM network because they know that is the way to reach their people. So the argument that the Cuban people can be effectively reached through shortwave broadcasts is a fallacious argument.

As far as the 500-kilowatt transmitters are concerned, I think the gentleman in the well is right. We have to decide first and foremost who is making the decisions in this country with respect to our foreign policy. I think we have to bear that clearly in mind.

Then we need to point out the fact that the Castro government for years has sought to double its broadcasting capacity, the two 500-kilowatt stations are part of this plan. They were laid on the plate several years ago. It has got nothing to do with Radio Marti. That decision by the Castro government has been used by the opponents of this bill to scare everybody, including their own radio station in Iowa.

☐ 1710

We do not have the slightest idea what Castro is going to do with those 500-kilowatt transmitters, and we do not know what he is going to do if he doubles his AM broadcasting, contrary to the regional broadcasting agreement.

Radio Marti, has nothing to do with that issue directly. It is peripherally involved.

Now, that still leaves one other issue, and I do need the time to answer this because the gentlemen keep making the argument over and over again, about jamming the 1040 band in Iowa. Well, if Castro is going to turn on the 500 kilowatt's to interfere with U.S. broadcasting, he is not going to go after a good station in Iowa, he is going to blanket out 7 million people in New York City. He is not going to fool around.

I hate to do that to your ego, but I can guarantee you that he is not going to worry about Iowa. If he is really going to get nasty, he is going to go after somebody else.

Now, as far as jamming is concerned, it is a lot cheaper to jam in Cuba, to prevent Cubans from listening, than it is to jam in the United States. They are not going to jam the transmitter; they are going to jam the receiver.

That is what they would be more likely to do.

For that purpose, it does not make any difference whether you have short-wave, longwave, medium wave, or any other wave; you can jam.

But the ultimate thing regarding this amendment is simply this: The bill does not mandate a single way for the administration to operate this radio. The bill makes it totally open and flexible for the administration to use its judgment about frequencies, manner of broadcast, contracts, no contracts, whatever.

The amendment says that it mandates shortwave. That is what is wrong with the amendment.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I would like to point out that the argument continues to be: What will Castro do? Let us look at what he has done for the past 13 years.

Castro has not abided by any of the international treaties; he has interfered, interfered with American broadcasts throughout Florida and throughout this Nation. We have no assurance that he is not going to interfere or jam anybody any more. He has continued to do it. He has done it in the past. He is building these transmitters, and was building them long before we ever had the idea of Radio Marti.

So I think the record speaks for itself. Castro walked out of the International Radio Conference. Castro to my knowledge is the only one in the world broadcasting in this manner.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Harkin and by unanimous consent, Mr. Roth was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Iowa.

Mr. HARKIN. The gentleman in the well really has gotten to the nub of what we are here about. Mr. Duncan, Mr. James Duncan, a member of the special advisory staff to the Deputy Under Secretary of Defense for Policy, told an employee of WHO in Iowa, that—

> Radio Marti was an international game of chicken and the United States will not blink. We will draw a line across which Castro will know he cannot step across without paying for it.

I understand the gentleman in the well, I will make a point first and then ask him a question.

No. 1, let us wait until Castro does build it. He has threatened to build these 500-kilowatt stations. Let us just tell him: "This is what you do, this is what we are going to do."

Second, if we build Radio Marti and he does, in fact, build that 500-kilowatt station, what does the gentleman propose that we do?

Mr. ROTH. Yes, I will tell the gentleman what I propose to do.

I propose that we in this Congress determine American foreign policy and not let Fidel Castro intimidate us and tell us what our foreign policy should be. That is No. 1.

No. 2, I am sick and tired of hearing what Fidel Castro is going to do. It is about time we in this Congress tell Castro and the world what our foreign policy is—I would hope this House would not be intimidated and frightened by some dictator.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to talk about this whole shortwave business for a minute.

Mr. WIRTH. Mr. Chairman, will the gentleman yield very briefly?

Mr. HARKIN. I yield very briefly to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, a little bit of history is in order.

The Cuban Government has been a communications renegade for a long period of time. What we are doing is effectively saying we are not going to do anything to try to discuss with them radio frequency issues. We have been very successful in the past discussing fishing rights and getting that sorted out with the Cubans. We did not send the Coast Guard out and sink their ships. We sat down and figured out fishing rights.

On the question of hijacking, we worked out a treaty with the Cubans. We sorted that one out.

On this, what we are saying is that we are not going to sort out the problems on the use of the spectrum on broadcasting with the Cubans, but we are going to get into a war, an electronic war, which is going to harm many, many domestic broadcasters. It does not make any sense whatsoever.

I thank the gentleman for yielding.

Mr. HARKIN. I thank the gentleman for his comments.

Mr. Chairman, I just want to support the amendment of my colleague from Iowa.

In 1978, according to the Cuban Commission for UNESCO in Havana, Cuba had 2.7 million radio receivers. This number increased to over 3 million in 1981.

What is remarkable is that we had a 300,000 radio receiver increase in a 3-year period. Why? What is the reason for the increase? Perhaps it is due to the establishment of a Soviet radio assembly plant in Cuba. Cuban workers now assemble models from parts manufactured in the Soviet Union, the most popular being the radio called Ciboney, 240 model, which has—get this—8 shortwave bands and 1 AM band and sells for 80 Cuban pesos.

There is another radio that is a simple AM receiver that sells for about 40 pesos. Get this: Credit is available for the purchase of these radios at 2 percent. In other words, the Cuban Government is encouraging their people to buy these receivers with a shortwave band. Why?

It is very easy to understand—Radio Moscow broadcasts on shortwave and Radio Germany, and Radio Havana. There are a number of different radio stations that broadcast in shortwave to Cuba. I would submit that the way, the direction the Cubans are going in, is to shortwave because it is very difficult to jam. It is difficult for us to jam, also.

So here we are. It seems like we are going to spend all this money to build this radio transmitter to transmit on the AM band when Cuba is moving in the other direction, and they are going toward the shortwave band.

Again, I would say if you really want to make this bill work, you ought to support the Tauke amendment.

Let me say just one other thing: We have also found through information that during the Falklands crisis, many Cubans received news from BBC and they used it in their public discussions.

So when the Voice of America's AM transmitter is jammed at Marathon, Cubans will continue to listen to shortwave frequencies.

I want to make one other point: Aside from the Voice of America's single AM transmitter in Florida, no other governmental, international shortwave broadcaster uses the AM band in the Caribbean. No other one. There is one religious station in Bon Aire, on AM, but it is not a governmental radio station.

All rely on shortwave frequencies to broadcast to Cuba and the Caribbean. Now, just listen to this: BBC broadcasts for a total of 186 hours per week; Radio Moscow, 133 hours per week; Voice of Germany, 98 hours per week; Voice of America, 84 hours per week; Radio Peking, 67 hours per week; Radio Korea, that is, the Republic of Korea, 56 hours per week.

These are all shortwave. These are what these 8 bands on the new shortwave radios that they are building in Cuba are all about. So the use of a shortwave band by Radio Marti is not unreasonable, particularly considering that other international broadcasters seem satisfied with the shortwave.

They are on sale in the Cuban stores. The sales are increasing. They are being assembled in Cuba.

So what this amendment would do, again, would be to provide that we are not going to have the kind of interference back in the United States that we would have if we used the AM.

Second, I believe that we will be getting to more and more Cubans who are using shortwave rather than AM.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

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Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I think the gentleman in the well has made a very important point. As a matter of fact, the longer this debate goes on, the more we seem to be exposed to some important information, including some from the supporters of the bill.

Now, it was said a few munutes ago that the Congress should set foreign policy. Now, if we were to admit that Congress is making the foreign policy in this country, that would mean Congress is to accept the blame for the mess our foreign policy is in.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Smith of Iowa and by unanimous consent, Mr. Harkin was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, in addition to that, my friend from Florida says Cuba will jam radio stations in the whole Northeast. Well, that is the reason the Northeast representatives should be over here. It is not just Iowa that is involved. It is all stations that are on 1040, then they may turn to 770, they will jam that. And there are 1040 stations covering the Northeast, too.

So I thank the gentleman for helping us bring out some of the points that need to be brought out in this debate.

☐ 1720

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield.

Mr. MICA. I would just like to carry that response a little further. What the gentleman is saying is, if Radio Marti really is possible, we are going to cause the Cubans to run out and buy Soviet products, Soviet-made radios. We certainly would not want to do that.

Mr. HARKIN. The facts are that they are already buying Soviet models in Cuba.

Mr. MICA. I think that was answered very adequately when we pointed out that all of these shortwave broadcasts are rebroadcast on AM.

Mr. HARKIN. Cuba only broadcasts AM from midnight to 6. That is all that Radio Havana rebroadcasts.

Mr. MICA. A number of all these shortwaves are rebroadcast, and all we would be doing is switching.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise for the purpose mostly of asking some questions here. This pending amendment has to do with selective radio bands and all of that, and I am not too familiar with that; also, all of the preceding discussions have gotten a little confused, and also apparently the Members here are very knowledgeable of Cuba. I am not. I have not been to Cuba except to Gitmo with the Navy, so I have a question I thought I would ask maybe of the author of this amendment or somebody on this side.

Talking of AM and all of that, is it true or is this a canard that Fidelito will only take FM stereo? Can that be jammed? Does the gentleman know, is that true? Have they gotten FM stereo or do they want only FM stereo, or have they gotten that sophisticated, as our U.S. listening audiences are? I think this is the only thing Fidel will take.

Mr. TAUKE. I have not heard this report before.

Mr. GONZALEZ. Well, also about these radios the gentleman mentioned made in the Soviet Union. I understood Sony has done pretty good in Cuba. Since actually what we are talking about is sort of an electronic invasion, why do we not take the matter up with Sony of Japan and maybe we can contract this whole business out to them, Mr. Chairman. Would that be possible? I am serious. Why not contract out to Sony this whole business, which brings to mind the other serious question: Is it true or is it not true that we already have either constructed or under construction a powerful defense or Army or something transmitter in Florida? Is that true, that all this discussion is really idle because the Defense Department has in place or in construction a transmitter that apparently will be utilized for the purposes that this legislation is intended to serve? Is that correct, may I ask the chairman? Is that true? What are we arguing about if that is true?

Mr. FASCELL. Well, the argument, of course, is that you need both an authorization and an appropriation. This is just the authorization bill.

Mr. GONZALEZ. But if the military is already constructing it, they are not worrying about authorization.

Mr. FASCELL. They are constructing it for whatever their defense purposes are. Whether it can be used for Radio Marti or not, remains to be seen. If it can, fine, but it still requires authorization and appropriation for the Board of International Broadcasting to do it. Whether Defense does something or not, what their purposes are, and whether or not they can make it available to the Board of International Broadcasting on a reimbursable basis is a different issue. I am told that the Armed Services Committee has been briefed on that issue. But the gentleman is right, there is an antenna form going up.

Mr. GONZALEZ. That confuses me further, because if the main thrust of this bill emanates in the Foreign Affairs Committee and is foreign policy, and here we have defense—certainly the Defense Department's policy cannot be wholly separate or antagonistic to due foreign policy.

Mr. FASCELL. I gather the gentleman's thrust, and he makes the point. But that is the very reason that I have fought so hard to be sure that the Congress gets an opportunity to do what it is doing—that we have an authorization bill and we have an appropriation for this purpose—because I will tell the gentleman, there have been times in the past when that never was done.

Mr. GONZALEZ. Then I am afraid here I really am confused now, and kind of apprehensive because it looks as if we are heading for an electronic Bay of Pigs.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield.

Mr. TAUKE. Mr. Chairman, it is interesting first that the gentleman would use that analogy, because of course we did establish Radio Swan, funded by the taxpayers, just prior to the Bay of Pigs in order to broadcast the truth about the Cuban Government to Cuba. But in any event the question the gentleman raised about authorization and appropriation is most interesting, because, as the gentleman from Florida acknowledged, we do have the Defense Department building a facility in Saddle Bunch, Fla.; and of course, as the documents that the Energy and Commerce Committee pointed out, there is adequate evidence to suggest that the intended purpose of that facility is for Radio Marti.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. Tauke and by unanimous consent, Mr. Gonzalez was allowed to proceed for 1 additional minute.)

Mr. TAUKE. Will the gentleman continue to yield?

Mr. GONZALEZ. I would be delighted.

Mr. TAUKE. Of course, it is appropriate that the Congress act to authorize and appropriate funds. Usually, though, we try to do that before the facility is built and not do it after the facility is erected.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman form Colorado.

Mr. WIRTH. Just to follow up on that, we inquired of the administration, of course, about building a facility before there was any authorization, and they denied it despite the fact that Comdr. Mark Newhart, who is a Public Affairs Officer for U.S. Caribbean Forces, admitted to a reporter from a Miami paper that the transmitter being built by the Navy was designed for Radio Marti.

The gentleman raises another issue which is very important here, the Defense Department going out and building with no authorization whatsoever either from the authorizing committees or the appropriating committees—going out and building this facility for Radio Marti—and here we are, as the gentleman has correctly pointed out, after the fact arbitrarily authorizing something that has already been built, which is clearly in violation of article I, section 9, clause VII of the Constitution, which requires that no money be spent until Congress acts.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I ask for this time because this is very disturbing. It encapsulates what I consider to be the American dilemma since World War II, and that is this confusion and conflict in policies, basic policies. What can the Defense Department policy be in a powerful transmitter for the purpose of hitting Cuba unless it is pro-American? It certainly cannot be anti-American. What would be the future purposes of this type of legislation if it is not the same way?

But, what are we going to propagandize the Cubans with? Our policy in Latin America? Which one? What policy do we have? What are we going to tell the Cubans to offset what they consider to be their mistaken notions? This is very disturbing because it proves to me that we are just like the old Bourbon kings, we remember nothing and we forget nothing.

I am very concerned because I think we are headed for an electronic or a radio Bay of Pigs. It is going to make us the laughingstock not only of Latin America, but the whole, entire world. What are we going to say to the Cubans that our policy in El Salvador, where we are cheek by jowl with the assassins of archbishops, of nuns, is? The continuation of the oppression of those nations and Latin America? The day has come when that is over with. We are either going to be identified with the aspirations of those people, and that includes Cuba, or we are not.

□ 1730

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Yes, I will be glad to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I have been listening to this debate, and I think it has reached high levels and low levels, but I would suggest that what we want to tell the Cubans about is their policy in El Salvador, their policy in Central America, and their policy in Africa. That is what we want to tell them about, because when they find out about that, they will be shocked because they know what their economic condition is at home.

Mr. GONZALEZ. Mr. Chairman, is the gentleman under the impression that the overwhelming majority, the preponderant majority of Cubans 90 miles away from Florida are not aware of what their policy is? Does the gentleman believe that whatever casualties they have in Angola are not known to them there in Cuba?

Mr. SHAW. Yes. I am certainly not only of that opinion, but we know that from talking to the refugees who come into Florida with the Mariel boat lift. They were absolutely unaware of what their governments adventurism throughout the world, in Central America and Angola, was doing.

Mr. GONZALEZ. That is very unfortunate analogy because that was a Castro victory, not only in propaganda but every other way. Actually what our press has never reported is the motivation behind that exodus, the unloosening of the criminals from the jails and the mass exodus into the United States. It was Castro's answer to our solicitude for Cubans. That would be in my opinion the sorriest source of information. If we have reached that desperate point, we know nothing about Cuba.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(On request of Mr. SMITH of Iowa, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman asked, What would we propagandize with? Let me give the gentleman a suggestion of one of the things they will propagandize with, and that is broken Spanish.

The State Department has a State Department foreign language school, and they manage to keep it full most of the time, mostly with people who have never spoken the language before. They go there about 6 months, and then they speak that language in kind of a broken way but think they are experts at it.

But the gentleman in the well is an expert bilinguist. He speaks Spanish and American; nobody speaks either one better.

I want to ask the gentleman, what does he think is going to be the effect when Radio Marti broadcasts that broken Spanish into Cuba day after day? Will we build up a generation of bilingual Cubans who speak both Spanish and broken Spanish? What will the psychological effect be? How effective will it be anyway?

The gentleman is a better expert on that probably than anybody in the House.

Mr. GONZALEZ. Mr. Chairman, I am afraid that if we consider we have lost Cuba, this will insure its irretrievable loss permanently and into the future. I tried to warn all distinguished Americans from President Carter on down to beware of resorting to Spanish, when it is only "pidgin" Spanish. We lose friends and alienate people where we do that.

Mr. DERWINSKI. Mr. Chairman, will my good friend, the gentleman from Texas, yield for a question?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Illinois. Now, there is an expert from the Foreign Affairs Committee.

Mr. DERWINSKI. Mr. Chairman, recognizing the intellectual integrity of the gentleman, I know he will give me a straight answer.

If the great gentleman from Texas were to make the inaugural broadcast on Radio Marti, would not an observant Cuban listener detect a Texan twang in his otherwise good Spanish?

Mr. GONZALEZ. I would doubt it. That is one of the reasons I began what I said with the words I used. Sometimes names like mine give the impression that anybody with a name like mine is an instant Latin American expert. Let me say I am not.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE) to the Committee on Energy and Commerce amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, nays 277, answered "present" 2, not voting 46, as follows:

[Roll No. 260]

AYES—109

Albosta
Bedell
Beilenson
Benjamin
Bingham
Brown (CA)
Burton, Phillip
Clay
Collins (IL)
Collins (TX)
Coyne, William
D'Amours
Daschle
Daub
Deckard
Dellums
Dicks
Dingell
Dorgan
Dowdy
Downey
Dwyer
Dymally
Edgar
Edwards (CA)
Edwards (OK)
Evans (IA)
Evans (IN)
Fish
Fithian
Foley
Ford (TN)
Frost
Garcia
Gejdenson
Gonzalez
Gray
Green
Hall (OH)
Harkin
Hendon
Hightower
Howard
Jacobs
Johnston
Jones (TN)
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach
Leland
Levitas
Lowry (WA)
Luken
Lundine
Markey
Martin (IL)
Martinez
Matsui
Mazzoli
McHugh
Miller (CA)
Mitchell (MD)
Mottl
Myers
Natcher
Nowak
Oberstar

Ottinger
Parris
Pease
Pritchard
Ratchford
Reuss
Roberts (SD)
Roemer
Rostenkowski
Roukema
Roybal
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Smith (IA)
Smith (NE)
Solarz
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Vento
Washington
Waxman
Weaver
Weiss
Williams (MT)
Wirth
Wolpe
Wyden

NOES—277

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
DeNardis
Derrick
Derwinski
Dickinson
Donnelly
Dougherty
Dreier
Duncan
Dunn
Dyson
Early
Eckart
Edwards (AL)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Florio
Foglietta
Forsythe
Fountain
Fowler
Frank
Frenzel
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Heftel
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jones (OK)
Kazen
Kemp
Kennelly
Kindness
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mattox
Mavroules
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Mikulski
Miller (OH)
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Napier
Nelligan
Nelson
Nichols
Oakar
Obey
Oxley
Panetta
Pashayan
Patman
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Quillen
Rangel
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Roth
Rousselot
Rudd
Russo
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stratton
Stump
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wortley
Wright
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

ANSWERED "PRESENT"—2

Hefner
Rahall

NOT VOTING—46

Akaka
AuCoin
Bafalis
Blanchard
Bolling
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chisholm
Conyers
Crockett
Davis
Dixon
Dornan
Evans (GA)
Flippo
Ford (MI)
Ginn
Goldwater
Grisham
Hawkins
Hertel
Jenkins
Jones (NC)
Marks
McClory
Mineta
Moffett
Neal
O'Brien
Pursell
Railsback
Richmond
Rose
Rosenthal
Santini
Siljander
Stanton
Traxler
Whitten
Wolf
Wylie
Yates

□ 1750

Mr. RAHALL changed his vote from "aye" to "present."

So the amendment to the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have had so many Members on both sides want to know how late we are going to be and what we are going to do with respect to this bill. We have tried to be very fair with respect to the opponents being heard on this matter, and I am sure they have no desire to be dilatory, even though they are opposed to the bill. But we have had three amendments that really go to the heart of this concept. The House has worked its will on those very substantially.

There is a budget amendment involved; there is a pending amendment; and there are some others from the gentleman from Iowa (Mr. HARKIN). I believe that with some cooperation and good will we could get through all of those and be heard fairly on them in 2 hours.

Mr. Chairman, I move that all debate on the committee amendment in the nature of a substitute and all amendments thereto end at 8 p.m.

The motion was agreed to.

AMENDMENT OFFERED BY MR. SWIFT TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. SWIFT. Mr. Chairman, I offer an amendment to the Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. SWIFT to the Energy and Commerce Committee amendment: Page 3, strike out line 21 through line 23, and insert in lieu thereof the following:

"(d) For purposes of providing for radio broadcasting in accordance with subsection (c)—"

Page 4, strike out line 6 through line 10, and insert in lieu thereof the following:

"(2) no Federal agency shall have any authority to select a frequency for such radio broadcasting, and the Board shall not have any authority to operate on a frequency for such radio broadcasting, if such frequency is within the band of frequencies extending from 535 kilohertz to 1605 kilohertz.".

Mr. SWIFT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Chairman, there is no need to take a long time, because this is quite an easy amendment to understand.

When the amendment of the gentleman from Iowa (Mr. HARKIN) was offered some time ago, the major argument against it was that Radio Marti had to be through a Government station. So when that was voted down, an amendment was offered by the gentleman from Iowa (Mr. TAUKE), which made it a Government station. But in order to avoid all of the problems that have been created by this proposal, it was suggested it be put on the shortwave band, and they said, "No, no, no, it has got to be on AM." I am about to offer an amendment that will resolve the problems posed.

I do think there is a central issue here, and this amendment may be able to resolve it. The central issue I am addressing is that the State Department is trying to do something that is laudable by a method that is unnecessarily harmful to American broadcasting.

We have tried an amendment that would have put it into the private sector on AM radio. That failed. And we have tried an amendment that put it on shortwave. I have an amendment that will leave it as a Government station, and the amendment leaves it on the AM band but it avoids the problem that is posed by the way the bill is written now.

Let me explain to the Members how we do that. It is not magic, and it may be a very rational solution to the conflict we have been so long debating.

The AM band runs from 540 kilocycles to 1600 kilocycles. But that is arbitrary. That is the area in which we will license commercial broadcasters on AM in this country. The fact is that the vast majority of the AM receivers will receive beyond those limits by about 10 kilocycles on each end. What my amendment says is that Radio Marti can be placed just outside of what is technically the AM band but what in fact is receivable by the vast majority of the AM receivers.

That is how we seek to give the proponents of Radio Marti everything they want and avoid the conflict that is growing out of this with American AM broadcasters. And I would heartily commend to the Members that they seriously consider this before they knee-jerk on this vote because they assume that any amendment to this bill is somehow anti-Radio Marti. I am not anti-Radio Marti, and neither is this amendment.

What is the source, the technical source, that I would cite to buttress my claim that there is not going to be difficulty in receiving Radio Marti if it is in these areas? I have a letter from the Electronic Industries Association, from E. M. Tingley, who is the staff vice president in engineering of the consumer electronics group. It points out that "receivers fall into two types: mechanically and electronically tuned. It is standard practice for the mechanical type to tune through 1620 kilohertz."

ELECTRONIC INDUSTRIES ASSOCIATION,
Washington, D.C., July 29, 1982.

Hon. TIMOTHY WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection, and Finance, Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN WIRTH: Information was requested on the ability of the U.S. radio receiver population to receive 1610 kHz. A canvas of manufacturers indicates that substantially all receivers tune in this frequency.

Receivers fall into two types: mechanically and electonically tuned. It is standard practice for the mechanical type to tune through 1620 kHz.

Electronically tuned (frequency synthesis) radios represent a relatively small, but significant, fraction of the receiver population. They were introduced in automobiles around 1978. All makes of early models did not tune to 1610 kHz, however, current models do. One manufacturer mass markets electronically tuned radios for the home. They all have been programmed to receive 1610 kHz.

Should your staff desire further information, contacts at manufacturers will be provided who can give more detail. Likewise, I will be available.

Very truly yours,
E. M. TINGLEY,
Staff Vice President, Engineering, Consumer Electronics Group.

Here is further technical verification in the form of a staff memo prepared by the National Association of Broadcasters:

AM RECEPTION ON 1610 AND 530 KHZ

(By M. C. Rau)

July 29, 1982

SUMMARY

The ability of an AM receiver to adequately receive a signal on 1610 kHz is a common feature. A conservative estimate is that 80 percent to 90 percent of existing AM receivers can receive 1610 with no technical problems.

DISCUSSION

There is one representation within the CRS study of July 28, 1982 that is simply not accurate. Because this factor concerns our industry, I believe it warrants clarification. The "issue" is the extent that AM radios are able to receive 1610 kHz. Referring to frequencies at either end of the AM broadcast band, CRS states: "The argument against using these frequencies is that most radio sets are not designed to receive them, since there are no commercial AM stations in those bands."[1]

While it is true there are no commercial stations on 1610 kHz it is manifestly inaccurate to claim that AM receivers are, in general, unable to receive this frequency. In fact, according to Magnavox, it is a "general practice" to design manually-tuned radios (the most common form of receiver) for reception through 1620 kHz.[2]

In a test of 20 different receiver models, including 10 competitors, conducted by Delco electronics, only 5 were found to be unable to receive 1620 kHz.[3] This particular test involved a radio design employing "frequency synthesis"—electronic tuning, rather than manual—which is a design increasing in popularity. Delco estimates that one out of every 6 radios "in the field" currently uses electronic tuning, and that the number is increasing. Delco maintains that 100 percent of manual tuned radios can receive 1610 kHz with no technical problems whatsoever.

The ability to receive 1610 kHz or 530 kHz has been helped by FCC establishment of the Traveler's Information Service (TIS). These stations began operation several years ago.[4] While I am not aware of how many TIS stations have been built, Delco stated specifically that when the TIS service was established, radio design within Delco changed to insure TIS reception, i.e., before TIS was established, reception of 1610 and 530 was possible and likely, but only as a happenstance of design. After TIS, reception of 1610 and 530 became a Delco criteria for design.

In speaking with Panasonics, a worldwide manufacturer of AM radios, I again found that "the vast majority of AM radios can receive 1610 kHz"[5]

Reception of 1610 kHz is common. On the basis of the discussions mentioned herein, I conservatively estimate that 80 to 90 percent of existing AM receivers can receive 1610 kHz with no technical problems.

This estimate has apparently been arrived at elsewhere. On May 1, 1978, the Williams Sound Corporation ("Williams") filed a Petition for Rulemaking with the FCC (RM-3126) requesting, among other things, the authorization to operate "auditory training devices" on 530 and 1610 kHz.[6] The FCC responded with a Notice of Proposed Rulemaking deferring consideration of this particular aspect of the Williams petition.[7] Two points of interest are here:

(1) Williams assumed 1610 kHz can be received by public AM radios. Without such reception, clearly, his proposal would fail.

(2) The FCC assumed 1610 kHz can be received by public AM radios. in fact, the FCC used this property as one of its reasons for deferring the Williams proposal: "Williams reliance on standard AM radio receivers as an important feature in its proposal may be more of a deterrent than an advantage, because there is a distinct possibility that the easy availability of AM receivers would increase the likelihood of Williams' system being employed for purposes contrary to Commission policy." (emphasis added)—the FCC was concerned that the Williams system might be used for broadcasting on 1610.

Attached is a list of contacts employed in the preparation of this memo. While all discussions have not been incorporated herein, there has been no objections or inconsistency raised with any of the representations.

The reception of 530 kHz at the lower end of the band is equally likely, as the design of AM radios will be symmetrical about the AM band.

☐ 1800

I will not read this material, but I have here a study made independently by the NAB, which indicates that the same is true on the low end of the scale as well.

In other words, if we put Radio Marti just above 1600 or just below 540 kilocycles, it can be heard on at least 80 percent of the AM radios in Cuba, and we totally avoid the problem of interference that we have been wrestling with here all today and in previous consideration of this bill.

The CHAIRMAN. The time of the gentleman from Washington (Mr. SWIFT) has expired.

(By unanimous consent, Mr. SWIFT was allowed to proceed for 1 additional minute.)

Mr. SWIFT. It seems to me that this is the ultimate compromise.

I thought the solution of the gentleman from Iowa (Mr. TAUKE) made more sense in terms of national policy. It was voted down.

This, I think, is a rational, considered, thoughtful alternative. And I would strongly urge all Members to not just wrap the flag around the technical aspect of this bill and understand that we can achieve the patriotic, foreign policy purpose in a way that is not going to interfere with American domestic broadcasting.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

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[1] CRS study, page 60.

[2] Conversation with Mr. Bud McDowell. See page 4. Magnavox, at its height of production, produced 500,000 radios per year.

[3] Conversation with Mr. Tom Prewitt. See page 4. Delco manufacturers between 3 and 6 million automobile radios per year.

[4] The TIS is a base station in the Local Government Radio Service that is used to transmit noncommercial voice information pertaining to local traffic and road conditions, points of interest, and other public information for travelers. See, 47 C.F.R. Sec. 90.242; FCC Rules and Regulations.

[5] Conversation with Mr. John Marchetti. See page 4. Panasonics is a worldwide manufacturer of AM radios. Although it is not known exactly how many radios Panasonics manufactures each year, estimates are on the order of tens of millions per year.

[6] An auditory training device is a transmitter or receiver used for instruction by sound of persons having speech or hearing handicaps. See, 47 C.F.R. Sec. 15.4(1).

[7] "Notice of Proposed Rulemaking," ("Notice"), Gen. Docket 81-786, adopted November 12, 1981, FCC 81-525, 47 Fed. Reg. 216 (January 5, 1982), paragraphs 9 through 12. A "Report and Order" has been recently issued in this Docket, action by the FCC July 22, 1982, FCC 82-331. The text has not yet been issued.

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Mr. SWIFT. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

I suspect the argument that will be made against this amendment is that radios cannot pick up below 535 or at the upper end of the scale above 1610. We therefore, in trying to look at the gentleman's amendment, asked the NAB and asked the Electronics Industry Association, and they came back to us with estimates that 90 percent of radio receivers could pick up the frequencies suggested by the gentleman more than 90 percent of radios could pick up radio stations on the frequencies the gentleman is suggesting.

The CHAIRMAN. The time of the gentleman from Washington (Mr. Swift) has again expired.

(At the request of Mr. Fascell and by unanimous consent, Mr. Swift was allowed to proceed for 1 additional minute.)

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

The gentleman, I gather, intended to offer an amendment to page 5, line 18 of the bill. The Clerk read the amendment to line 21 of page 3; is that correct?

Mr. SWIFT. That is my understanding.

The CHAIRMAN. The gentleman is correct.

Mr. FASCELL. And what the gentleman meant to do was to make his amendment apply to page 5, line 18?

Mr. SWIFT. That is correct.

Mr. FASCELL. I wonder if the Clerk would re-report the amendment correctly.

The CHAIRMAN. Without objection, the Clerk will reread the amendment in the correct form, since it is brief in nature; and without objection, the amendment pending will be considered as modified accordingly.

There was no objection.

The Clerk re-reported the amendment as follows:

> Amendment offered by Mr. Swift to the Energy and Commerce Committee amendment: Page 5, line 18, insert before the period the following: ", except that the Assistant Secretary shall not have any authority to select any radio frequency which is within the band of frequencies extending from 535 kiloherts to 1605 kiloherts".

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the thrust of this amendment has already been dealt with several times by this House in voting on other amendments, and what it seeks to do is simply to mandate a manner by which the agency shall do the broadcasting.

So let me just refresh everybody's memory about what the bill does. The bill has no mandate on the frequency to be used or the manner in which programs should be broadcast. It says, in order to carry out the purposes set forth in section 2 of this act, the Board is authorized to provide for the open communication of information and ideas through the use of radio broadcasting. The Board may carry out this subsection by means of grants, contracts, subject to availability of appropriations, or such other means as the Board determines will most effectively carry out the purposes set forth in section 2 of this act.

And then it says, "For this purpose the Assistant Secretary shall, after receiving public comment, determine and identify an appropriate frequency or frequencies."

It does not say short-wave, long wave, medium wave. It does not say on the band, off the band, under the band, on top of the band.

Now, it does not make sense for us to, one more time, by another amendment, get at the heart of this bill by saying that you can broadcast all right, broadcasting is fine, but just broadcast at the lower end of the band or the upper end of the band where nobody is listening.

So I would just ask my colleagues to vote this amendment down.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I recognize that we want to move ahead rapidly with this bill, so I will be brief. But once again we have the same type of amendment, an amendment that will in effect gut the bill, an amendment that will make Radio Marti powerless.

When we take a look at the AM band, which, as was stated earlier, goes from 630 to 1610, some receivers may not be able to tune out of band. In addition, Cuba could use a crude, high-powered jammer without jeopardizing Cuba's international relations because that type of jammer would not cut out some of the stations in countries that I mentioned earlier with whom Cuba wants to maintain good relations.

Most serious of all, the out-of-band frequencies are not covered by any international agreements. The United States thus would not even have any ground for legitimate complaints about potential jamming.

For all of those reasons, I oppose the amendment and would urge my colleagues to vote against it.

Mr. EMERY. Mr. Chairman, I move to strike the requisite number of words.

I know a great many Members have come to the well and said, "I really did not intend to speak on this." But I have to say as an electronic engineer that the gentleman from Washington is exactly correct.

I have no particular thoughts on whether or not we should use one part of the band or another part of the band. But when the gentleman says that most receivers, expensive or inexpensive, tune outside of that prescribed band, the gentleman is exactly correct; they do.

I was in Los Angeles a short time ago and I had a chance to ride on one of the throughways on the way to the airport. I happened to notice on the side of the road there was a sign that said, "For traffic information tune to 530 on your AM dial." Well, that frequency is just outside of the AM standard broadcast band, but it is tuneable by probably every radio in every vehicle that ever drove down that throughway. It is exactly the principle that the gentleman is talking about.

Also let me tell my colleagues that the bands are allocated very strictly by international convention. Those regulations go all the way from the lowest frequencies that are used by the military for communication with submarines through "S" band and higher, which are used by satellite navigation and communications for a variety of purposes.

By convention, there is a zone between usable bands in which no broadcasting takes place, so that band separation will occur.

If you went to an electronics store and you took a look at a variety of AM radios you would find that some had 1600 marked on the dial, some would mark frequencies as high as 1640.

In short, it is merely a consequence of design, of the mechanical layout of the radio and a lot of other things that determine how high or how low the radio can tune in fact.

So without taking any strong position on whether or not Radio Marti ought to broadcast on any particular frequency on that band, let me just simply say that technically the gentleman is correct—you certainly could tune either above or below without interfering with any of the existing standard broadcast frequencies.

Most radios in Cuba or anywhere else could pick it up, and it probably is a sensible answer to this problem without bothering anyone at all.

□ 1810

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I would be happy to yield to the gentleman from Florida.

Mr. FASCELL. The chairman knows, of course, that all the frequencies below the band and above the band are not regulated now, and the United States would have a problem in the sense of meeting its obligations in the international forum if it were to use these frequencies. There is an ITU meeting planning to deal with that problem, but we have not gotten there yet; so I would say to the gentleman, following his line of reasoning, why not leave flexibility in the bill, rather than restrict it?

Mr. EMERY. Well, the point that I wanted to make is simply that this idea is technically practical.

Mr. FASCELL. It can be done.

Mr. EMERY. The gentleman from Washington is technically correct. Now, as far as the allocation of frequencies is concerned, I do not know, frankly, what is regulated by international convention and what is not with regard to jamming.

I rather suspect, though, that at the ends of the standard AM broadcast band there are frequencies that are not used by commerical standard AM broadcast activities, although I am not sure exactly what the actual end-of-band broadcast limitations might be.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would like to point out what this amendment does is in advance of the creation of Radio Marti, is to tie the hands of those people who will be charged with administering it. This would greatly restrict the administrative flexibility needed to effectively implement this program.

It is an imaginative amendment, I may say to the gentleman from Washington. I respect his motives and his concern; but this amendment would have the practical effect of stopping any effective commencement of this program merely because it would take away the kind of administrative flexibility you must have as you develop this long-overdue radio broadcasting.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Just very briefly, Mr. Chairman, this amendment does not handcuff anybody. What the Swift amendment does in a very careful way is to reconcile the two conflicting goals that we have been talking about all day. On the one hand is the goal for broadcasting to Cuba and on the other hand is protecting domestic broadcasting. Those are the two goals.

The amendment of the gentleman allows Radio Marti by all means to broadcast to Cuba on the AM band, but to do so, as the gentleman from Maine so well pointed out, without interfering with domestic broadcasting. That is all the amendment of the gentleman does.

If our colleagues are concerned about protecting domestic broadcasting, then support the Swift amendment. If you are not concerned about interference with domestic broadcasters, then do not support the Swift amendment.

It is my belief that we should protect the domestic broadcasting industry and I would hope that our colleagues would support the amendment offered by the gentleman from Washington (Mr. Swift).

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I would be happy to yield to the gentleman from Washington.

Mr. SWIFT. I just wish to make one more comment and then as far as I am concerned we can go to a vote on this.

What has flawed the Radio Marti concept from the very beginning is that somebody sitting in one agency of Government with a certain area of jurisdiction, the foreign policy of the United States, came up with a good idea, and then proceeded to develop and flesh out and build their idea without talking to anybody else in the Congress or in the Government who had other expertise.

Now, whatever happens here, ultimately I would hope the State Department would learn that just because they spend most of their time worrying about foreign policy, that when they come up with these bright ideas that have direct and harmful impact on domestic policy, that they talk to a few people who know something about domestic policy before they develop it to the point that they have virtually no alternative but to dig their feet in cement and sit there and demand that it has got to be their way or it will not work at all, because that is a load of nonsense.

Mr. WIRTH. Well, I would hope that we would also get the State Department to the point, and I would suspect that many Members would agree with this, at a time when we do have conflicts with the Cubans over the use of the spectrum, of not getting into electronic war with the Cubans, which is only going to harm our domestic broadcasters. Many broadcasters would like to sit down with the Cubans and sort out the problems of interference that exists in southern Florida and which are increasingly going to exist all over the country with the advent of Radio Marti with its enormous power across through our broadcasting areas. That is the responsibility of the State Department to sit down and figure out a solution, just as we did on the subject of hijacking, fishing rights, and other issues. Let us not pretend the Cubans are not there. They are very real problems and let us sit down and work them out rather than get into some kind of a cockamamy scheme that is going to provide real harm to our domestic broadcast industry.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Washington (Mr. Swift) to the Energy and Commerce Committee amendment.

The amendment, as modified, to the committee amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN TO THE AMENDMENT OFFERED BY MR. LEACH OF IOWA AS A SUBSTITUTE FOR THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. HARKIN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the Energy and Commerce Committee Amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin to the amendment offered by Mr. Leach of Iowa as a substitute for the Energy and Commerce Committee amendment: At the end of the substitute offered by Mr. Leach, add the following: Page 3, strike out lines 21 through 23 and insert in lieu thereof the following:

"(d) If radio broadcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out on a single AM frequency and—

Mr. HARKIN. Mr. Chairman, basically this amendment was drafted to clarify the intent of the Leach-Bedell substitute. The substitute seeks to have Radio Marti broadcast on the same frequency now used by the Voice of America. There are many reasons why this would be a considerable improvement over the present bill.

As the gentleman from Iowa (Mr. Leach) said last week in debate, it would considerably reduce the amount of radio interference, interference that the American public would have to face if the substitute were not passed.

It would also save a considerable amount of money. As we face incredible deficits, we should try to save some money in this bill if we can.

Now, quite frankly, what this amendment does, it specifically limits the use of AM frequencies to a single frequency and when the amendment is combined with the Leach-Bedell amendment, the frequency is specified as the Radio Marathon frequency. By requiring that single frequency, we would be limiting the damage to American radio broadcasting. If this amendment is not adopted, the Board would have the power to pick several frequencies.

So while we are trying to get Radio Marti, on Radio Marathon under the Leach substitute, all I am saying is that if the Leach substitute is adopted that we ought to use just one frequency and not several frequencies.

They could set up a series of frequencies as they could under the bill right now and escalate the radio wars even further. Great damage would be done to many different American radio stations.

So, Mr. Chairman, I offer this amendment in good faith to the Leach substitute. It just says that if the Leach substitute is adopted, they would use only one frequency.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

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Mr. HARKIN. Yes, I would be delighted to.

Mr. LEACH of Iowa. As the author of the substitute to which the gentleman from Iowa is offering an amendment, I would like to reflect that I think it is very constructive and would accept it. Hopefully there will be no need for a vote on this particular amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Iowa (Mr. Bedell).

Mr. BEDELL. Mr. Chairman, as the coauthor of the amendment offered by the gentleman from Iowa (Mr. Leach) I also would accept the Harkin amendment.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment and to the substitute.

As the gentleman from Iowa said, the amendment to the substitute requires that any broadcast may only be carried out on a single AM frequency and the substitute, of course, changes the language in the bill.

It makes it mandatory that the only radio frequency that can be used will be the Voice of America at Marathon, Fla. So, in effect, when you read the amendment and the substitute, this is another one of those efforts to direct the agency in this legislation on when, how and where the radio would be operated rather than leave the decision up to the Board for International Broadcasting and the Assistant Secretary of Commerce for Communications and Information, in consultation with the Federal Communications Commission, who shall have the responsibility to identify after receiving public comment an appropriate frequency or frequencies.

Now, in addressing the issue of frequencies, I do not claim to be a technical expert, but it seems to me that if you are going to have a directional antenna on one frequency, it would be rather difficult to build that installation so you could have several frequencies at the same time.

☐ 1820

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I will be glad to yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman. I have checked with the radio stations in our district and they tell me that indeed that is no problem; they just put a separate transmitter, comparatively inexpensive, and they can jump from one frequency to another.

Mr. FASCELL. I am sure they can do that. It is not as easy as changing the crystal on your crystal set, but it can be done. I am just suggesting that it is a little more difficult than that.

But there again, it is a question of legislating and mandating. I see no need to do that. Somewhere, somehow, we have to trust some experts to deal with this matter and assume that they are going to have commonsense.

The language in the bill is broad enough, with the guidelines which the Committee on Energy and Commerce put on it, for the Assistant Secretary.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I will be glad to yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I want to clarify one point. My amendment restricts it to one frequency only in the AM band. Obviously, if they want to use shortwave, which the gentleman knows they can—they can use any frequency they want. My amendment is only a restriction on the AM band.

Mr. FASCELL. What the gentleman is saying, in effect, and the way I read it is, that such broadcast may only be carried out on a single AM frequency.

Mr. HARKIN. AM frequency, but not shortwave.

Mr. FASCELL. But since it is amending the substitute which mandates that particular radio, it simply means that frequency on that radio.

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I will be brief. I make the basic points that the gentleman from Florida just made.

Here, again, we have had direct and indirect attacks on the effectiveness of the program once Radio Marti is authorized. This would, in fact, be the kind of limitation this House has rejected consistently this afternoon, and earlier when we had the bill on the floor. And since it is an amendment to the Leach substitute, which in itself is a restriction, we are really getting a one-two punch against the very concept we are trying so hard to get approved.

I urge rejection of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I would like to clarify something with the chairman of the committee.

Is it correct that it is not the intent of the committee that broadcasts should be going over a number of different frequencies, regardless of what prevails here in our vote?

Mr. FASCELL. I cannot think of any reason why anybody would want to broadcast over several frequencies at the same time.

Mr. BEDELL. I may not understand. Is it correct that it is understood that it is not expected that Radio Marti will broadcast over several different frequencies, or is it expected that very possibly, if they wish to do so, Radio Marti would broadcast over several frequencies, which would very possibly lead to jamming of a whole number of frequencies?

Mr. FASCELL. I cannot answer the gentleman on that because I think that would depend basically on what the NTIA and FCC decide to recommend. Certainly, however, no frequency will be chosen which produces interference with the operations of other stations. That is fundamental to good broadcasting policy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Harkin) to the amendment offered by the gentleman from Iowa (Mr. Leach) as a substitute for the Committee on Energy and Commerce amendment.

The amendment to the amendment offered as a substitute for the Energy and Commerce Committee amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Leach) as a substitute for the Committee on Energy and Commerce amendment.

The question was taken; and on a division (demanded by Mr. Fascell) there were—ayes 11, noes 16.

RECORDED VOTE

Mr. LEACH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 271, answered "present" 3, not voting 51, as follows:

[Roll No. 261]

AYES—109

Albosta
Bedell
Beilenson
Benjamin
Bingham
Brown (CA)
Burton, Phillip
Collins (IL)
Collins (TX)
Conable
Daschle
Daub
Deckard
Dellums
Dicks
Dingell
Dixon
Dorgan
Downey
Dunn
Dymally
Edgar
Edwards (CA)
Erdahl
Evans (IA)
Evans (IN)
Ferraro
Fiedler
Fish
Fithian
Foley
Ford (TN)
Garcia
Gaydos
Gray
Green
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Harkin
Hightower
Jacobs
Jones (OK)
Jones (TN)
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach
Leland
Lowry (WA)
Luken
Lundine
Markey
Martin (IL)
Martinez
Matsui
Mazzoli
McCloskey
Miller (CA)
Mitchell (MD)
Morrison
Mottl
Natcher
Nowak
Oakar
Oberstar
Obey
Ottinger
Patterson
Paul
Perkins
Pritchard
Railsback
Rangel
Ratchford
Reuss
Roemer
Roybal
Sabo
Savage
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Simon
Smith (IA)
Smith (NE)
Solarz
Stark
Studds
Swift
Synar
Tauke
Tauzin
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams (MT)
Wirth
Wolpe
Wyden
Young (MO)

NOES—271

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
DeNardis
Derrick
Derwinski
Dickinson
Donnelly
Dougherty
Dowdy
Dreier
Duncan
Dwyer
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erlenborn
Ertel
Evans (DE)
Fary
Fascell
Fazio
Fields
Findley
Florio
Foglietta
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Guarini
Gunderson
Hall, Ralph
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Heftel
Hendon
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Johnston
Kazen
Kemp
Kennelly
Kindness
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mattox
Mavroules
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Murphy
Murtha
Myers
Napier
Nelligan
Nelson
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Oxley
Panetta
Parris
Pashayan
Patman
Pease
Pepper
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Peyser
Pickle
Porter
Price
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rudd
Russo
Sawyer
Scheuer
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
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Stenholm
Stokes
Stratton
Stump
Taylor
Thomas
Udall
Walker
Wampler
Washington
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wortley
Wright
Yatron
Young (AK)
Young (FL)
Zablocki
Zeferetti

ANSWERED "PRESENT"—3

Gonzalez
Hefner
Rahall

NOT VOTING—51

Akaka
AuCoin
Bafalis
Blanchard
Bolling
Bonior
Bonker
Brodhead
Broomfield
Brown (OH)
Burton, John
Carney
Chisholm
Clay
Conyers
Crockett
Davis
Dornan
Evans (GA)
Fenwick
Flippo
Ford (MI)
Gingrich
Ginn
Goldwater
Grisham
Hawkins
Hertel
Hillis
Jeffries
Jenkins
Jones (NC)
Marks
Moffett
Neal
Nichols
Pursell
Richmond
Rose
Rosenthal
Rousselot
Santini
Siljander
Stanton
Traxler
Trible
Vander Jagt
Whitten
Wolf
Wylie
Yates

□ 1840

Mr. STANGELAND changed his vote from "aye" to "no."

Mr. EVANS of Indiana changed his vote from "no" to "aye."

So the amendment offered as a substitute for the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the first Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: Page 7 line 22, strike out "Board" and insert in lieu thereof "Federal Communications Commission", and insert "instruct the Board to" after "to".

Page 8, line 4, strike out "Board" and insert in lieu thereof "Federal Communications Commission".

Page 8, line 6, strike out "Board" and insert in lieu thereof "Commission".

Mr. WIRTH. Mr. Chairman, I rise in strong support of the Energy and Commerce Committee's amendment to section 6 of the bill. This amendment makes one very minor, but very important, change in the legislation as reported by the Foreign Affairs Committee.

The Foreign Affairs Committee, recognizing the devastating effects Cuban interference can have on domestic broadcasters, authorized the Board for International Broadcasting to compensate those broadcasters forced to take steps to mitigate the effects of Cuban interference. The Board was also authorized to establish the regulations and procedures necessary for the provision of compensation.

The amendment adopted by the Energy and Commerce Committee retains the BIB's discretionary authority and its control over authorized funds, but would enable the Nation's expert telecommunications agency, the Federal Communications Commission, to establish the necessary regulations and procedures, and to instruct the Board to provide such compensation. Very simply, the Board for International Broadcasting is an international oversight board with responsibility for Radio Free Europe and Radio Liberty. It has absolutely no expertise, responsibility, or jurisdiction with respect to domestic broadcasting and the integrity of the U.S. broadcast system. The FCC, on the other hand, not only has the necessary technical expertise to determine the effects of Cuban interference on U.S. broadcasters, it is the agency charged with maintaining and promoting the integrity of our broadcast system.

If broadcasters are to be compensated, the FCC, not the BIB, should establish the rules and guidelines for such compensation.

I urge my colleagues to support the Energy and Commerce Committee's amendment to section 6.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 8, line 7, immediately before the closing quotation marks, insert the following:

In issuing such regulations and establishing such procedures, the Commission may establish criteria to evaluate the financial claims of affected licensees. Such criteria may include (but shall not be limited to) the duration, stability, and extent of alleged Cuban interference, including the establishment of a threshold loss of service prior to any compensation recommendation. The Commission may also establish limits on the type and extent of reimbursable expenses, prorate Cuba's share in situations involving multiple interference sources, and require affected licensees to revert to original station parameters without further compensation whenever Cuban interference ceases.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. As the distinguished subcommittee chairman just pointed out with respect to the committee amendment that came out of his committee, we felt it was necessary that we have some guidelines or instructions with respect to the FCC when they issue the regulations establishing the procedures on the questions of any claims. That is what this amendment does. It simply provides guidance to the FCC in making determinations on whether and how much broadcasters should be compensated for expenses if there are any direct costs with respect to Cuban interference with U.S. broadcasting efforts. So the FCC is given this power under the bill, and this

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simply gives them some guidance in drawing up those regulations.

Specifically, Mr. Chairman, section 6(a) of the bill authorizes the Federal Communications Commission to determine whether and how much broadcasters should be compensated for expenses they incur in mitigating the effects on their operations of Cuban radio interference. This amendment would suggest certain criteria which the FCC may use to evaluate the claims of broadcasters and offer guidance to the Commission in implementing section 6(a). Such guidance was felt to be necessary in light of the extent of Cuban interference, the limited amount of funds for the purpose of compensation, the significant amount of expenses for which broadcasters could seek reimbursement, and the lack of legislative guidance in the bill and in legislative history as to how such compensation issues should be resolved. It is my hope that this amendment will prevent increased delays and expense for the Commission in issuing regulations regarding compensation.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to the Energy and Commerce Committee amendment being offered by the distinguished chairman of the Subcommittee on International Operations, Mr. Fascell.

Mr. Chairman, this amendment will provide the FCC with criteria for the establishment of procedures for the compensation of those U.S. broadcasters forced to take steps to mitigate the effects of Cuban interference. The criteria include a loss of service threshold level which will trigger broadcaster compensation. I believe the record should show that Congress is deeply disturbed by the effects of Cuban interference on U.S. broadcasters and that this threshold loss of service should be sufficiently low to insure that all legitimate broadcaster claims can be accommodated.

I urge my colleagues to join me in support of this noncontroversial amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. Chairman, this demonstrates so clearly the problem we have gotten ourselves into by rushing ahead on the advice of the State Department into areas that they do not understand very well.

If you look specifically at what the FCC is asking for, and I think they need it, and if you look at their justification for it, you can see that what we have here is a tub of worms.

For example, under these provisions what happens if a station is interfered with by Cuban interference and it has to build a new tower? Under provisions of this amendment it says if that interference should stop, the licensee would be required to revert to the original station for parameters.

At what cost? The new antenna could then be useless—but the station would still have to pay for it. In other words, the very provisions that are designed to protect the American broadcasters are only "now you see them, now you do not" protections.

We have here the FCC saying: "What do you do about the highly intermittent and fluid nature and extent of Cuban radio interference?"

They say: "We need to know the likely significant amount of expenses for which affected broadcasters could seek reimbursement."

The ask, "What should you do without the substantial impact on all the strained FCC resources," et cetera, et cetera.

This is another example of where the State Department is storming around like a pregnant hippopotamus in an area that it does not begin to understand, and it is making a thorough mess of itself and of U.S. broadcasting in the process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fascell).

The amendment was agreed to.

□ 1850

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 8, after line 12, insert the following new section:

Sec. 13. No funds appropriated or authorized under this act shall be expended in violation of section 7 of Public Law 95-435 or until both Houses of the United States Congress have considered an amendment to the United States Constitution mandating a balanced federal budget.

POINT OF ORDER

Mr. FASCELL. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FASCELL. Mr. Chairman, the amendment is clearly not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. Walker) wish to be heard on the point of order?

Mr. WALKER. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the amendment is entirely germane. All it is, is a limitation of funding under the bill. It simply says that the program could go ahead and be authorized but that the funding must be limited under the provisions of Public Law 94-435. So I think that this is an entirely appropriate limitation of funding. It does not in any way become nongermane to the bill.

The CHAIRMAN. Does the gentleman from Florida (Mr. Fascell) wish to be heard further on the point of order?

Mr. FASCELL. I do not think so, Mr. Chairman. I think it is quite clear it is in violation of the rules. The bill is extremely limited. The amendment is extremely broad.

Mr. CHAIRMAN (Mr. Ratchford). The Chair is prepared to rule.

The Chair has examined the amendment. The amendment clearly imposes a contingency, the contingency being further action by the Congress of the United States on another subject and, therefore, in violation of House precedents.

The Chair rules that the amendment is not in order.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, the Chair has ruled on a matter which was not raised in the point of order by the gentleman from the floor. The gentleman from the floor raised only the point of order that it was a nongermane amendment to the bill under consideration.

I would concede the point of order with regard to the question of the contingency on it, but that was not the point of order raised by the gentleman from Florida in his point of order.

The CHAIRMAN. Clearly the ruling of the Chair is based upon the germaneness issue raised and, therefore, the Chair adheres to its ruling.

Mr. WALKER. I thank the Chair.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fascell: Page 6, beginning in line 15, strike out "$10,000,000 for the fiscal year 1982 and $7,700,000 for the fiscal year 1983" and insert in lieu thereof "$10,000,000 for the fiscal year 1983".

Mr. FASCELL. Mr. Chairman, we said earlier, in opening the discussion on this bill, that I would offer this amendment to comply with the Budget Act.

We strike out the 1982 authorization and simply make the authorization in the bill for fiscal year 1983. Therefore, this amendment would authorize $10 million for the radio in fiscal year 1983 and drop the request for $7.7 million.

AMENDMENT OFFERED BY MR. SWIFT TO THE AMENDMENT OFFERED BY MR. FASCELL

Mr. SWIFT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Swift to the amendment offered by Mr. Fascell: Strike out "$10,000,000 for the fiscal year 1983" and insert in lieu thereof "$7,500,000 for the fiscal year 1983".

Mr. SWIFT. Mr. Chairman, what this does is reduce the authorization from $10 million to $7,500,000, a 25-percent cut.

The reason for that is testimony before the Energy and Commerce Committee which indicated that what we are building here is a gold-plated transmitter on which to broadcast information to Cuba.

I have never yet talked to a technician that indicated that gold-plating the transmitter made it broadcast any better.

The cut specifically does these things. On competent engineering advice, we were told that a transmitter of the type being used here should cost between $640,000 and $957,000. We took the high figure. They need two transmitters for this operation. We give them two at the high estimate. That reduces the necessary amount for authorization by $1.3 million.

They want three studios: one in New York, one in Miami, and one here in Washington, D.C. We eliminated two of the studios, at a budget cut of $150,000 apiece.

For personnel and operation: if you do not have studios in New York, Miami, or Washington, D.C., whichever two of the three they wish to cut, it reduces personnel. This I must admit is a guess—somewhere in the vicinity of $900,000. That comes up to a $2.5 million cut that should give them exactly what they need, at least what they want, but removes the gold-plating.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this issue also came up in our committee, and we inquired about the difference in the cost between this kind of radio and a commercial radio. We found out very quickly that there is a tremendous difference between the two for a lot of reasons.

As far as the cost of the transmitter is concerned, we were advised that the first one would cost about $1,200,000. This amount accounts for some of the differential between what the gentleman from Washington is offering by way of financing and what is in the bill.

The additional expense, of course, would be for purchasing another site.

There is a difference also in personnel and services that are required for this type of broadcast effort. This is not a commercial operation. You have tremendous research costs, startup costs in building a highly technical operation of this kind.

So when you consider the cost of the personnel required, personnel over and above those required by a commercial station, we find that the total cost comes to $10 million, and then falls off after that to just the operating costs thereafter. That covers the administration, the programing, the engineering and construction.

Now, as I have said, we have been advised that the first transmitter, excluding land, would be $1.2 million. The second transmitter, including land, would cost $1,900,000. So I think that accounts basically for the differential.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, as the gentleman knows, we have talked before about the facility that has already been erected at Saddle Bunch, Fla. Does anything in this amendment preclude the use of that facility?

Mr. FASCELL. Absolutely not. Does the gentleman refer to the amendment of the gentleman from Washington?

Mr. TAUKE. Right.

Mr. FASCELL. No, I think he has the use of that site in mind, as a matter of fact, figuring that there is probably some savings to be realized in such use.

Mr. TAUKE. I noticed the gentleman, in the discussion of the cost of the radio station, was talking about purchase of a site.

Mr. FASCELL. Second site only.

Mr. TAUKE. Second site only?

Mr. FASCELL. Yes. If I did not make that clear, I was talking about the construction and the acquisition of the second site at $1.9 million, whereas the first site, because the site theoretically would be available and it would be simply reimbursable cost, would be only $1.2 million.

Mr. TAUKE. So we are going to have another tower erected and another facility?

Mr. FASCELL. That is what this operation contemplates ultimately, because you can only reach the western part of Cuba from the proposed site in Florida, and you would have to build another transmitter someplace else to reach the heavily populated eastern part of Cuba. That is the reason for the added cost.

Mr. TAUKE. Do we have any idea where we would build this second facility?

Mr. FASCELL. Not yet.

Mr. TAUKE. I thank the gentleman.

Mr. FASCELL. That is something that would be left up to the Board and the administration.

I was just trying to point out the difference between what was recommended in the bill and what the administration is seeking to support, in terms of the $10 million authorization request, and what the gentleman has proposed by way of his amendment.

□ 1900

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Washington made an eloquent case substantively for why this would not be a gold-plated facility. I think there is also a comparative case to be made in terms of the overall Federal budget. The gentleman from Washington is asking that there be a 25-percent cut in the Radio Marti budget. I should point out to members of the committee that we in the United States are spending a grand total of 7 cents per American for facilities to broadcast national public radio, public television and so on. Seven cents per American. Even under the amendment offered by the gentleman from Washington we are going to be spending almost $1 per Cuban.

I just think the members of the committee ought to know the relative priorties here.

We are in passing this legislation saying that we think Cubans are in effect 15 times more important than Americans are when it comes to communications needs. That is the thrust of the dollars that are involved here. We are spending 7 cents an American for public broadcasting facilities and almost $1 per Cuban.

The question I wanted to ask of the gentleman from Washington—of the $7½ million available, will some of that be paid back to the hard pressed Defense Department which has built the facility in Florida already? They have built this for the use of Radio Marti. Will we be paying them back under the authorization?

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I would assume if there is any way they can sneak by without getting paid back they would do that.

Mr. WIRTH. But there are no specific funds in here to pay back the Defense Department which has already built the facility for Radio Marti without any authorization or appropriation?

Mr. SWIFT. Considering they had no authority to build it in the first place, it may be extremely hard to make a legal expenditure.

Mr. WIRTH. They have illegally built the facility so far without funds or an appropriation. So why are we authorizing this money? We are authorizing a facility but not going to pay back the Defense Department that has already paid for the facility?

Mr. SWIFT. The gentleman understands very clearly.

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Mr. WIRTH. I think the gentleman has a sound amendment. I urge our colleagues to pass it.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Having had reasonable experience in what we are constructing, radio studios, radio transmitters, I would have thought that the gold-plated station and/or stations could have been brought in at a cost of about $4 million and you would have scaled downward from $4 million. I do not understand why the budget is $10 million.

I think the gentleman from Washington is being generous in suggesting a cut to $7½ million. I would be aghast if we do not support the gentleman's amendment, because at $7½ million we are expending more than is necessary to attain the objective.

Mr. WIRTH. Well, I tend to agree with the gentleman. Most of the testimony that we heard would agree completely with the gentleman's own expert advice and opinion on this. But we split the difference between what would happen in the private sector and what would be gold plated and then found the difference in what the Government would probably do. And that is where I think the $7½ million came from.

Mr. HEFTEL. If I could add one more observation. If these are the differentials in the way the rest of the Government is spending money, it is no wonder we are in such trouble, and it seems a shame that we would expend this kind of money unnecessarily where knowledge and experience would tell us you do not need these sums of money.

Mr. WIRTH. As the gentleman I think is pointing out, foolishness is expensive.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will not use the entire 5 minutes. The hour is getting late. But I think it should be pointed out and reiterated that costs for construction, start-up and operation of Radio Marti cannot be compared with the costs for a conventional AM radio station.

I recognize the expertise of the gentleman who just spoke. But I think we also have to understand that Radio Marti must operate with two separate transmitting facilities, one to be constructed in the Florida Keys, broadcasting to western Cuba, and one in the Caribbean, broadcasting to eastern Cuba.

These facilities must operate four-tower, highly directional antenna systems to protect broadcasters in the United States. And that is one of the arguments that we have been pursuing all afternoon and evening. The complex antenna systems differ greatly from the conventional system and cost several times as much.

It is my understanding, for example, that the Florida antenna alone costs $1,180,000 and construction costs for the Caribbean facility run in the neighborhood of $1,930,000.

In addition, the operating costs of Radio Marti will be much higher than for conventional radio stations. And because of its unique position, Radio Marti's programing must be original, cannot be purchased from networks and other news agencies, and the station must maintain its own full-time highly competent paid staff.

While I normally recognize the value of cutting back on Federal spending, under the conditions outlined here today I think it would be a financial impossibility and would defeat the purpose of the legislation.

I urge the defeat of the amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I just wanted to be sure the gentleman does understand it is a radio station we are voting, not a television station.

Mr. RINALDO. I understand that.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the bill and the report anticipates reimbursement to the Navy for the station they have already illegally built. I think that is pretty clear. And if we do not have a prohibition of some kind against it, and I do not see any, we should reduce the amount of money they want or they certainly are going to give some to the Navy. Also, where can we find $10 million, $17 million, or whatever it is out of thin air for 1983. We just reported out of the full committee this morning the appropriations bill that I happened to handle for the Board for International Broadcasting. We approved $90,300,000. That is for Radio Free Europe, Radio Liberty, and one way or another there is only so much money in the budget. We have used up our allocation.

If we are going to have some money in 1983 for Radio Cuba, just mark it down, it will come out of Radio Liberty and Radio Free Europe. There is no other place to get the money within the budget approved.

Now those of my colleagues who think Radio Liberty and Radio Free Europe are important and that we need them had better pay attention.

There is not any room in the budget to just add $10 or $15 million for this new station. The budget has already been approved for 1983. Our 302 allocation has been given to us. We have used it up.

And so if you vote for more money for this station, what you are doing is voting to take some out of Radio Free Europe and Radio Liberty.

I do not care if it is only $10 million. Where are we going to get it? That is the real question. You better vote for this amendment if you want to save those other stations from reductions of $2½ million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. SWIFT) to the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FASCELL, AS AMENDED

Mr. SCHUMER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER as a substitute for the amendment offered by Mr. FASCELL, as amended: Page 6, strike out lines 9 through 17 and insert in lieu thereof the following:

PRIVATE FUNDING FOR RADIO BROADCASTING TO CUBA

SEC. 4. Section 7 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2876) is amended by inserting "(a)" immediately after "SEC. 7." and by adding at the end thereof the following new subsection:

"(b) The funds used for radio broadcasting to Cuba under this Act may be derived only from donations and other contributions from nongovernmental sources under this section. No appropriated funds may be used for such broadcasting to Cuba.".

Page 7, beginning in line 4, strike out "or, at the direction of the President, without reimbursement".

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Mr. Chairman, reserving the right to object, we have to identify it first.

Mr. FASCELL. Mr. Chairman, reserving the right to object to whatever the request was, which I did not hear, reserving points of order, and all other kinds of things, I would like to see a copy of the amendment before we start waiving things.

Mr. DERWINSKI. Mr. Chairman, may we have one on this side, please? Do we have one here?

Mr. SCHUMER. Yes.

The CHAIRMAN. The Chair believes we ought to allow the Clerk to read the amendment.

The Clerk will read.

The Clerk continued to read the substitute amendment.

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1910

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) still reserve a point of order against the amendment?

Mr. FASCELL. No, Mr. Chairman. I withdraw the point of order.

Mr. SCHUMER. Mr. Chairman, this amendment that I am offering today is quite different than the other amendments that we will be debating, because the other amendments speak to technical operations and difficulties of Radio Marti.

This amendment speaks to the question of priorities. The ink on the first budget resolution for fiscal year 1983 is barely dry and each of us in our committees have been pondering how we can fit under the budget ceiling for the second year in a row; yet here we have before us a bill authorizing $10 million for a foreign policy initiative that may be important, but is hardly essential.

Members will have to decide for themselves whether they think the existence of a station like Radio Marti is worthwhile; but I think we can all ascertain that such a station even if it is worthwhile is hardly a high enough priority to authorize $10 million on the one hand while we are taking away millions and billions of dollars from other programs; and yet I am sure I will be asked, "Well, if we can't spend $10 million, can we still have Radio Marti?"

The answer is yes, we can have Radio Marti by setting up the structure for the said-radio station and yet allowing voluntary contributions to fund that station instead of having Government funds fund the station.

We have heard a lot of talk about voluntarism from the President. The President tells us that there are millions of people in the private sector willing to fund worthy governmental endeavors.

I am certain that this kind of radio station would attract the kinds of funds that the President is talking about.

I am not trying to kill the bill. I am not soft on Cuba. I am as anti-Castro as any other Member in this body; but I simply believe that Government-funded foreign policy initiatives should send a clear signal, not muddled ones.

Radio Marti would still survive under my amendment. You can be both anti-Castro and reassert budget priorities by voting for this substitute.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first let me address the budget item. With the adoption of the amendment of the gentleman from Washington, I will say that the $7.7 million is in the budget for fiscal year 1983 and is within the foreign affairs 150 function. The amount authorized now is below that, because the amendment took it down to $7.5 million.

Now, as far as voluntary contributions are concerned, I think we had better keep the bill broad enough so that you can have appropriated funds and contributions if you want to, but do not limit it only to contributions.

When we have tried it in the past, we have had sad experiences. We were trying to fool ourselves and fool the world that the United States was operating covert radios and that there was no U.S. money in the operation. Therefore, we tried to get contributions from the public and our efforts on that were really not very good.

I have the figures now on RFE/RL, Inc. So far on voluntary contributions, even under the present operation, it is approximately $50,000 for 1977; $64,000 for 1978; $30,000 for 1979; $60,000 for 1980, and $94,000 for 1981.

Now, even when we had covert operations, and I do not want to be held to this figure, but my best recollection is that we never did get above $2 million at any time and that may even be a high estimate.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Certainly.

Mr. SCHUMER. I just would like to ask the gentleman how he can analagize from the European situation to this Radio Marti situation simply because there is a large segment of people in the gentleman's community and communities throughout the country that are very eager to see this radio station exist.

Furthermore, it seems to have been a pet project of a particular segment of the population of this country, an ideological segment, if you will, for many, many years. These are the same people who have been able to contribute to so many causes.

Mr. FASCELL. Well, let me take my time back.

The answer is that this is a governmental initiative. It is an administration policy request. The U.S. Government does not fund its foreign policy initiatives through voluntary contributions, and that is the answer to the gentleman.

As a governmental function, this ought not to be something done through contributions if we expect it to really work. Therefore, I would hope the amendment would be voted down, Mr. Chairman, because this would effectively kill the whole concept.

Mr. CORRADA. Mr. Chairman, I move to strike the last word. I rise in opposition to this amendment. I know it is well intended, but I believe it will not work.

As you probably know, right now in Cuba they are holding the Central American and Caribbean games. Of course, we have several newspaper men, journalists, from Puerto Rico covering that event of sports significance. Andrew Viglucci, who is the editor of the San Juan Star, a very responsible and serious newspaper in Puerto Rico, is there in Cuba. He just sent a column to his paper in Puerto Rico, "Report from Havana," and I would like to read something from that column of Mr. Viglucci. He is staying at the Havana Libre Hotel, formerly the Havana Hilton. He wandered around the hotel to see if he could get some newspapers about what is going on around the world.

He says:

> I have not been able to locate a source of non-Cuban newspapers around the hotel, and I'm told not to waste my time trying. The Cuban newspapers are a numbing experience, heavy with "news" of Government activities and pronouncements.
>
> Thursday's Granma—

And Granma is not Castro's grandmother, this is the official name of the Communist Party newspaper in Cuba, which is, of course, the largest circulating paper in Cuba. Thursday's Granma had the following headline:

> West Beirut was converted today into an inferno when Nazi-Zionist aggressors launched a storm of North American firepower.

Now, of course, there is no reference there to Ambassador Habib's concern about arriving at a reasonable settlement of the problem in West Beirut. There is no expression of the deep concern of the people of the United States in seeing that something be done to stop the situation; simply for the Cubans, for Castro, this is North American firepower hitting the people of West Beirut.

Now, I would hope that by voting for this Radio Marti and not allowing it simply to be a voluntary effort and, obviously, Granma's newspaper by Castro is not a voluntary effort on the part of the Cuban Government, they put there all the money they need to get this kind of anti-American propaganda, that a vote for this bill that provides a modest amount to be able to tell the people of Cuba that, no, the North American firepower is not the reason why there is this problem in West Beirut, that the problem is a little more complicated, that we are concerned about that problem and that we stand for peace and a good settlement between the problems of the people of Israel and the people of Lebanon, and I believe that by voting for this bill and rejecting the kind of amendment that the gentleman is pro-

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posing, that we are allowing the people of Cuba simply to be informed of the basic most elementary things happening around the world and, by God, I do not want that small Cuban child one day to face my son who is as Puerto Rican as I am and hate his guts simply because of this anti-American propaganda that Castro is feeding to them.

Let us give them the truth, not propaganda. Let us not use Radio Marti to tell any sort of propaganda about anti-Communists, communism or anti-Castroism. Let us use that Radio Marti simply to tell the truth so that the people of Cuba would know what it is and putting $7 million or $10 million, rather than just asking volunteers to do it, will do the work.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHUMER) as a substitute for the amendment offered by the gentleman from Florida (Mr. FASCELL), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

Mr. Chairman, I withdraw my demand for a recorded vote.

So the amendment offered as a substitute for the amendment, as amended, was rejected.

□ 1920

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida, (Mr. FASCELL), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LEACH OF IOWA

Mr. LEACH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa: Page 3, line 16, insert after the period the following:

"Radio broadcasting to Cuba under this Act shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news, in the same manner as the Voice of America is required to function under its charter."

Mr. LEACH of Iowa. Mr. Chairman, I will be brief.

All this amendment does is make clear that the intent of Congress is for Radio Marti to broadcast responsible news rather than propagandistic perspectives for the purpose of subversion or inciting rebellion.

Time and time again, professionals have pointed out that low-key news is the most effective way of reflecting American values and the American way. All this amendment is intended to do is to establish a legislative mandate for Radio Marti to be responsible rather than subversive.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, the thrust of this language is fine as far as I am concerned. We have written language in the report which we thought addressed this. I can accept this language as long as the language is not read to mean that the mission of BIB with respect to this particular radio shall be the same as the mission of the VOA, because that would be impossible. We cannot do that.

We are concerned with two different charters under the law, and I do not want, by accepting the spirit of this amendment, to confuse the two requirements under the law; that is, the difference between VOA and BIB. So I just wonder if the gentleman from Iowa would clarify that point.

Mr. LEACH of Iowa. Mr. Chairman, I would respond to the gentleman from Florida by pointing out that it is my intent for Radio Marti broadcasting to be done in a manner of straightforward news rather than anything that might be considered subversive. But beyond that, there is no particular intent to make too great a distinction between the two different Government broadcasting efforts.

Mr. FASCELL. I think that helps, because the gentleman does use the language "in the same manner as," and I think that helps clarify the intent.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I am rather troubled by this. I think we have to read this a little carefully. If, in fact, this amendment is accepted, by indirection we have said Radio Marti shall be a carbon copy of the Voice of America because of the phrase "is required to function under its charter."

The Voice of America has charter restrictions. Now, the reason for that, part of it, is international public relations. We want to be sure that the Voice of America is, like Caesar's wife, "absolutely pure." Probably we have overdone it.

The point here is that if you want to differentiate between the two, I think this is a fine amendment down to the phrase "and comprehensive news."

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. LEACH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I was going to ask the gentleman from Iowa about that. Could the gentleman put a period at the end of "news"?

We have no opposition to the guidelines. We agree with the gentleman thoroughly that it should be "accurate, objective, and comprehensive"; that it should be newsworthy; that it should be honest; that it should not be pure propaganda. The whole success of our operation in VOA, BIB, and RFE and RFL has been the fact that people can rely on what we are saying on the air. So we have no trouble with that.

We do have some serious problems, though, in saying that both BIB and VOA shall have the same mission.

Mr. LEACH of Iowa. Mr. Chairman, with that explanation by the gentleman from Florida, it being registered as clear legislative intent, I would accept an amendment placing a period after the word "news" and would ask unanimous consent that my amendment be revised to reflect the following: In line 3 of the amendment, strike all after the word "news" and insert a period.

Mr. DERWINSKI. Mr. Chairman, could we have the Clerk read the revised amendment?

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa, as modified: Page 3, line 16, insert after the period the following: "Radio broadcasting to Cuba under this Act shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news."

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa to modify the amendment?

There was no objection.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

I will be very brief. Let me say to my friend from Iowa that, "Great men always rise to great responsibilities." By this amendment and the acceptance of the minor adjustment, the gentleman from Iowa demonstrates his basic interest in the practicality of truthful radio reporting. Anything that would not be reliable, accurate, objective, would not be in our national interest.

So I commend the gentleman for offering the original amendment, and for accepting the revision of that amendment.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, one of the gentleman's comments sparked a thought. Certainly I agree with the thrust of the amendment and intend to support it, but when we talk about accurate and unbiased——

Mr. DERWINSKI. Objective, comprehensive.

Mr. EMERY. Yes. Does that mean, however, that editorial opinions on an issue might not be broadcast because they might not be entirely objective or would reflect one person's views of given subjects? I feel we should be able to broadcast such opinions to Cuba.

Maybe we ought to clarify that point for the legislative record.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Editorial opinion, Mr. Chairman, that is clearly labeled editorial opinion would, of course, be acceptable.

Mr. Speaker, at this time I would like to reiterate an understanding I have with the gentleman from Florida (Mr. Fascell) and stress the importance and need for reassurance that Radio Marti will, in fact, broadcast accurate, factual information to Cuba. It is my understanding that the purpose of Radio Marti is to promote open communication of information and ideas to Cuba. It is also my understanding that, if Radio Marti is established, programing will consist of honest, straightforward broadcasting of the news as opposed to militant propaganda or broadcasts which are subversive in character. In addition, a number of us are dismayed by the response made by certain midlevel Defense Department officials that the jamming of Radio Marti might constitute an "act of war" and that any such jamming would be countered by "surgically removing their transmitters." I have been reassured by the gentleman from Florida (Mr. Fascell) that this militaristic response does not reflect congressional intent. If jamming occurs, I would think that such a response would clearly be uncalled for. Finally, Mr. Speaker, I think it would be remiss not to express the greatest alarm that this administration has chosen the route of constructing Radio Marti without congressional authorization or appropriation.

Just as ignorance of the law is no excuse for violation of the law, so constitutional illiteracy is no excuse for violation of the public trust.

The construction of the Navy's facility on Saddlebunch Key is particularly tragic because it implies an abuse of military as well as civil authority.

I do not ask for a response of the gentleman from Florida on this issue because he has been at the forefront of reestablishing a constitutional approach. In fact, I wish to express my appreciation for his sensitivity and leadership on this issue. As is his custom, he has been profoundly fair in allowing critics to make their case. For this, we are all very appreciative.

Mr. EMERY. If the gentleman will yield further, with that legislative record, and with the clear understanding that editorial opinion so labeled are not barred under the gentleman's language, I think it is constructive and I certainly would support the amendment.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, am I correct in assuming that the "fairness doctrine" and "equal time" would not apply to Radio Marti?

Mr. DERWINSKI. I detect a glimmer of a satire in the question.

Mr. WIRTH. No, only that related to this bill.

Mr. DERWINSKI. The term "fairness doctrine" immediately triggers in my mind the fairness between American candidates for various offices. Since there is no such thing as a two-party system in Cuba, I assume the fairness doctrine would be more applicable to the objectivity of the broadcasts than anything else.

Mr. WIRTH. That is the point I wanted to make. Since we were not involved with the FCC being involved with the regulation of this station to the extent it should, therefore, the fairness doctrine and related regulatory framework would not apply to Radio Marti or is it the gentleman's intent that it should apply?

Mr. DERWINSKI. No. I think the gentleman from Iowa, who is rising to great heights of statesmanship at this point, makes it very clear, and I quote from his amendment, "reliable, authoritative, accurate, objective and comprehensive." You cannot be more reassured than that.

Mr. SIMON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I shall not take 5 minutes, and I really am not speaking to the amendment but, rather, to the whole bill and the bigger picture.

I am going to vote for the bill for the reasons outlined by our colleague from Puerto Rico just a few minutes ago. I do not see any harm in seeing that our friends in Cuba can hear another side to things.

□ 1930

But it should be said at some point that our total foreign policy toward Cuba is a disaster. If a half-dozen people had gotten together in Moscow after Castro came to power and said, "How can we design American policy so that Cuba becomes a satellite of the Soviet Union," they could not have designed a better American policy. Cuba today is more of a satellite than is Romania; it is more of a satellite than is Hungary; it is more of a satellite than is, believe it or not, Poland. I can only think of one instance, the Law of the Sea, where Cuba has ever disagreed with the Soviet Union on anything.

The American policy ought to be—much as we disapprove of Castro—our policy ought to be to woo Cuba away from Soviet dominance, and yet we seem intent on doing just the opposite.

I recognize the political popularity in southern Illinois or New Jersey or any other state represented here to go back home and hit Castro over the head; it is great American politics, just as it is great politics for Castro to hit Uncle Sam over the head—but we ought to be asking ourselves not how we can serve the national passion, but how can we serve the national interest.

The national interest ought to be to say to Cuba, "Let's sell you some soybeans. Let's sell you some medicine. Let's start pulling you away from dependence on the Soviets a little bit."

Again, I am going to vote for the amendment. But I am not really addressing the amendment. I am going to vote for the bill, but in discussing the bill we are talking about something that probably is not going to make one iota's worth of difference in the Cuban-American relationship. At some point what we ought to be talking about is: Is our policy a sound policy? I think it is a fundamentally flawed policy.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding. I agree with him it is a fundamentally flawed policy, so why perpetuate it with this kind of bill that does just what the gentleman says, pushes Castro and the Cubans further into the Soviet orbit? The very people—not those who are here right now, but the people who originally who thought up this crazy idea, who pushed through Radio Broadcasting to Cuba, Incorporated—are the very people who year after year tried to thwart just what the gentleman has said, namely, all meaningful dialogue and relationships with Cuba to bring them out of the Soviet orbit.

Mr. SIMON. If I could respond to the gentleman, I understand his point of view, and the gentleman may be correct. It does seem to me that whichever way we go on this, it really does not change our policy, and we have this confrontational situation. It is probably good that our friends in Cuba can hear another perspective on things, but I hope one of these days we in Congress will have the courage—and there will be an administration with the courage—to recognize that where we are going right now just does not make any sense at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Leach), as modified.

The amendment, as modified, was agreed to.

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AMENDMENT OFFERED BY MR. LELAND

Mr. LELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LELAND: Page 6, after line 17, insert the following:

"(2) The funds authorized in paragraph (1) shall not be appropriated by the Congress unless the President proposes and the Congress enacts legislation, subsequent to the enactment of the Radio Broadcasting to Cuba Act, which authorizes the Board to provide accurate information to the people of South Africa (through the use of radio broadcasting) regarding the existence of apartheid and oppression in South Africa.".

Page 6, line 13, strike out "(c) There" and insert in lieu thereof "(c)(1) Subject to the provisions of paragraph (2), there".

Page 6, line 17, strike out the quotation marks and the period following the quotation marks.

Mr. LELAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FASCELL. Mr. Chairman, reserving the right to object, I need to know a little bit more about the amendment.

Mr. LELAND. I forwarded a copy to the gentleman.

Mr. FASCELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman reserves a point of order on the amendment.

Is there objection to the request of the gentleman from Texas?

Mr. WIRTH. Reserving the right to object, Mr. Chairman—I will object, Mr. Chairman. I think the amendment ought to be read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. The Chair understands that the gentleman from Florida (Mr. FASCELL) has reserved a point of order on the amendment.

The Chair recognizes the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Chairman, the point of this amendment is both clear and simple. It addresses a fundamental weakness—or perhaps more correctly, a hypocrisy—in the foreign policy on which the Radio Marti legislation is based. By amending this legislation to make South Africa a target, along with Cuba, of the concept embodied in Radio Marti and to make the appropriation of funds under this legislation contingent on the development of a similar broadcast station aimed at South Africa. We will add an element of balance sorely needed in the foreign policy of the Reagan administration.

Examine with me for a moment, the underlying assumptions on which the Radio Marti legislation is based. The administration is concerned, and properly so, about human rights violations and political deprivations in Cuba. The administration is also clearly concerned about the fact that the Cuban Government is a Communist government * * * one which they see as a vehicle of Soviet influence in Latin America. Their response is to spend $18 million to broadcast to the Cuban people. They conveniently ignore the fact that we have an existing mechanism for broadcasting the truth to the Cuban people, making the Radio Marti station unnecessary and duplicative. They ignore the fact that the Radio Marti broadcasts will not be heard by the Cuban people, because of the administration's choice of the AM frequency and because of the Cuban intent to jam the signal. They recognize the substantial disruption which will be suffered by domestic broadcasters in 32 States if the Cubans respond to Radio Marti with a high-powered station of their own by offering token financial compensation to the broadcasters.

But they do not ignore what bothers them the most: The Cuban Government is a leftist government. That is a critical point. Our foreign policy, as reflected in the Radio Marti concept, is not to broadcast the truth to the people under authoritarian and restrictive governments. Their concern is with the politics of those governments.

This amendment provides balance for that policy by including, in this effort to broadcast the truth, a glaring, undeniable example of human rights violations and political deprivations by a rightist government, namely the Government of South Africa. By amending the Radio Marti legislation to include not only the administration's pick of the leftist litter, Cuba, but to include a prime example of rightist totalitarianism, we have corrected the administration's oversight in appearing to be deeply concerned about the plight of the Cuban people yet not concerned enough about the plight of the 86 percent of the South African population that is not white and essentially without political rights to create a Radio Marti for them.

If, in fact, what the administration is really concerned about is an effort to offset the stifling impact of political oppression and provide a word of hope to oppressed peoples, they should have no problem with this amendment. Creation of a—and I will take the liberty of suggesting a name: Radio Biko, named for Steve Biko, whose death in the cause of freedom for the nonwhite population of South Africa is known to the world—creation of a Radio Biko for South Africa should appeal to the Reagan administration.

But it will not. This administration has worked quietly and subtly to liberalize the relationship between our Government and the Government of South Africa and to relax the embargoes which, in earlier administrations, reflected some outrage at the blatant disregard for human life and political freedom that is the hallmark of white minority rule in South Africa. The administration's eye for totalitarianism is not as sharp when it looks toward South Africa, nor is its love of freedom.

Those of you who support Radio Marti because of a concern for the plight of the people of Cuba should have no problem voting for this amendment. The plight of the people of nonwhite South Africa is at least as grave. They certainly need the truth.

Those of you who oppose Radio Marti can take heart. By requiring the administration to create a radio Biko before they can have their Radio Marti, we have effectively killed Radio Marti. The Reagan administration shows no inclination to take a tough public posture with the rightist Government of South Africa.

But should this administration, at some point, decide to apply its loudly expressed concern for human rights and political freedom to any country where these rights and freedoms are violated and abridged, this Radio Biko amendment will give them a perfect opportunity to implement such a balanced foreign policy.

So that this body does not become a party to the hypocrisy embodied in the Radio Marti legislation, I urge your support of this amendment.

□ 1940

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) insist on his point of order?

Mr. FASCELL. Mr. Chairman, I do insist on the point of order as being in violation under clause 7, rule XVI, as nongermane and has nothing to do with the subject matter of the bill.

The CHAIRMAN. Does the gentleman from Texas wish to be heard on the point of order?

Mr. LELAND. I sure do, Mr. Chairman. If nothing else, on the germaneness of the morality of this ridiculous legislation.

Mr. Chairman, the amendment is germane for two reasons which I will explain.

H.R. 5427 contains two basic proposals, neither of which are specifically related to Cuba.

First, that the foreign policy of the United States seeks to guarantee the human rights of all persons as defined by the Universal Declaration of Human Rights, and in particular article 19 of that declaration. Article 19 says that it is the right of all persons to "seek, receive, and impart information and ideas through any media and regardless of frontiers." That this is the purpose of the bill is clearly stated in section 2 of H.R. 5427.

Second, that the Board for International Broadcasting (BIB), to carry out that purpose of our foreign policy, is authorized to "provide for the open communication of information and ideas through the use of radio broadcasting." This is clearly stated in section 3 of H.R. 5427, which is the operative clause of the bill. It is the BIB which is being instructed to carry out this part of our foreign policy.

My amendment is perfectly consistent with the operative clause of the bill (section 3), and with the broader foreign policy goals of the bill. Surely it is not the intention of the President and of the gentleman from Florida that article 19 of the Universal Declaration of Human Rights applies only to Cuba.

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) wish to be heard further on the point of order?

Mr. FASCELL. Yes, Mr. Chairman, I certainly do. The main purpose of this bill makes an amendment to the Board for International Broadcasting nothing else primarily, and the limitation on the policy findings are that it is to the people of Cuba and radio broadcasting to Cuba, and nothing else.

The CHAIRMAN (Mr. RATCHFORD). The Chair is prepared to rule.

The point of order raised is on the issue of germaneness and the Chair is persuaded that in spite of the strong arguments from the gentleman from Florida, the amendment, as offered, is not germane.

Let the Chair cite from precedents specifically to a bill authorizing appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane.

This particular germaneness precedent in the 96th Congress related to the issue of whether or not there could be a condition on fuel assistance; that condition being awaiting the action of the passage of a windfall profit tax. In effect, tonight what the gentleman is attempting to do is condition funding of broadcasting to Cuba, on an unrelated contingency, which is broadcasting to South Africa and, therefore, the Chair is prepared to sustain the point of order as raised by the gentleman from Florida.

PARLIAMENTARY INQUIRY

Mr. LELAND. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. LELAND. The Chairman does, however, agree that on moral grounds this amendment is completely germane?

The CHAIRMAN. The Chair is not acting in the capacity of chaplain this evening.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

I will be very brief. First of all, I ask for this time in order to correct, at least from my vantage point, the record as described by the eloquent gentleman from Texas.

May I state I have full respect for the gentleman from Texas, his integrity, his interest, and his very special concern over development in South Africa. May I say I will not retreat from comparison to any Member of this body in my abhorrence of apartheid, but that is not the issue here.

I think the gentleman, in his eloquence, has tended toward a slight exaggeration of the administration's record on the subject. May I point out that the administration has been very firm, very precise, and very clear in its continued opposition of apartheid. I think the record should so read.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, of course I yield.

Mr. LELAND. I would like to point out to the gentleman that to this date we still have a trade embargo imposed on Cuba. The fact of the matter is though that there has been a White House mandate in the past, heretofore in the Reagan administration. The Reagan administration, indeed, lifted the trade restrictions against South Africa. So I think the gentleman's statement is not necessarily correct.

Mr. DERWINSKI. I think it is a matter of how we interpret the practicality of lifting any restrictions, because the facts of life are that within the economy of South Africa, notwithstanding their horrible application of apartheid, the standard of living of the people living in South Africa is substantially better than that of other people of Africa, and substantially higher than, say, in Cuba or probably in any country behind the Iron Curtain.

Mr. LELAND. I would beg to differ with the gentleman, and I think we need to engage in this colloquy at some other point in some other forum.

Mr. DERWINSKI. I think that we should, and in the spirit of good will that we have always demonstrated to each other. I am sure that it would be a mutually informative discussion. I would also like to point out that, according to the 1982 human rights report, South Africa has a particularly "active opposition press which continues to be a vigorous critic of the government and carries extensive reporting and commentary on basic government policies—and the conditions in various racial communities." There are frequent critical articles in the press. I do not believe this applies to Cuba. Furthermore, South Africa does not represent a direct threat to U.S. interests by serving as a proxy for the Soviet Union.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the solution to the problem of Cuba is not an easy one. If ever the United States were justified in preventing a head of state coming to office, we could have and should have, I think, prevented Castro from coming to power in 1959.

Now the time is late. He is a satellite of the Soviet Union.

We all know and have information here as Members of this House from time to time that there is almost a constant stream of Russian submarines coming by Iceland down the Atlantic Ocean to Cuba, and almost a steady stream of reconnaisance bombers and bombers with weapons aboard coming the same route, taking rendezvous in Cuba.

There was recently open information available, an embarrassment to President Carter that there were Russian troops, units of the Russian Armed Forces that were moving around in Cuba.

We do not know what all they have there.

If the letter of the Monroe Doctrine has not been violated by the establishment of a European system in the Western Hemisphere, certainly the spirit has been violated in Cuba.

□ 1950

Now, Castro is not only a minion, a satellite of the Soviet Union, but he is a cancerous influence in Central America and in the whole of the Western Hemisphere.

Only recently, when the Interparliamentary Union met in Cuba, many of us refusing to go because we anticipated that is what would happen, Castro spent about 2 hours denouncing the United States of America.

Now, what moved us to establish the Voice of America? To try to tell the truth about the news to the people of the world.

Why did we establish Radio Free Europe? To try to tell the people in Eastern Europe, confined in their Communist prisons, as it were, what was going on in their own countries.

What motivated us to establish Radio Liberty? To put the news, the facts about what was going on in Russia before the Russian people.

I say the same reason that actuated us to establish those instrumentalities for the dissemination of information moves us now.

I do not know what the solution is, but I do know that asking the Cuban mother what reason has she to let her son die in Angola or Ethiopia to serve imperialistic purposes of Russia is a touching inquiry to her.

I do know that if we tell those people down in Cuba that a few years ago a lot of people from Cuba fled the

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despotism of Castro and came to Miami, Fla., and now the record shows that the average annual income of those Cubans is in excess of the non-Cubans who live in Dade County, Fla. It simply demonstrated that they have come to a free country, they have the right of free enterprise, they can enjoy American liberty. Constantly reminding those people down there still behind of what is over here in America; and their knowing what we are doing in America is a motivation to them to want to throw off the yoke of communistic and Castro tyranny and some time or another return to what was once called with pride the jewel of the Caribbean, Cuba. If they could simply dethrone this communistic imperialism that has been imposed upon them, again this rich isle could become the jewel of the Caribbean. And surely one way to promote the restlessness of the people, the resurgence of the people, demanding that sort of freedom, is to give them the truth about what is being done in their own country.

So I am going to support this bill. I think it is in the national interest to pass it.

● Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of this legislation to authorize radio broadcasts to Cuba. I have long supported all of our international broadcasting efforts through the Voice of America, Radio Free Europe, and Radio Liberty because they are an essential element of our national security. They are nonmilitary, cost effective, and employable now.

One of the problems we have had in dealing with other nations is that we are often misunderstood by their people. The citizens of nations where freedom of the press is denied must rely on information from outside to learn of world events, or even what is happening in their own land. The people of Cuba have access to only one international broadcast targeted especially to their nation: That broadcast is Radio Moscow. The Cuban example graphically illustrates that when truthful information is denied it is far easier to disseminate anti-American propaganda—and have it accepted as truth.

This legislation will authorize a radio that is very similar to Radio Free Europe and Radio Liberty. It is important for Members to understand the difference between these radios, and the Voice of America. RFE and RL broadcast to the people of Eastern Europe and the Soviet Union news about their own nations. They act as surrogate domestic news services to the millions of people behind the Iron Curtain. The Voice of America is completely different. It acts as a worldwide news agency, and also presents a U.S. perspective on current events.

Therefore, news from Czechoslovakia or East Germany or Cuba or any other nation is only reported when it has major international significance. Zeroing in on Cuban news would be totally inappropriate for the Voice of America, and indeed, would violate its charter.

The creation of Radio Marti will provide the truth-starved people of Cuba a desperately needed service of domestic news and information. We do not intend to establish a propaganda agency, but merely relay the truth to Cuba in a strong and clear voice. The truth speaks for itself, and as Americans our ideas and accomplishments have always spoken for themselves. This is the weapon we have that is so much more powerful than arms. It is the weapon the Castro's of the world fear most. As Thomas Jefferson said,

> Here, we are not afraid to follow the truth, wherever it may lead so long as reason is free to combat it.

He was speaking of the University of Virginia, but it certainly also applies to our country.

I would also point out to my colleagues that Radio Marti is an integral component of the PrEsident's Caribbean basin initiative. Along with our efforts to more closely cooperate economically with our southern neighbors, we must not neglect the need to foster responsible, democratic political development as well.

I do not believe we can say enough about how important international broadcasting is to our national security, and to the millions of people around the world who hunger for the truth. I compliment the committee on its fine work and urge my colleagues to support this important legislation.●

Mr. WEISS. Mr. Chairman, H.R. 5427 would authorize a Government-run radio station to broadcast to Cuba. The intent of the Reagan administration in requesting this authority is to tell the Cubans about life in their own country. This is both presumptuous and senseless, and Radio Marti is a waste of taxpayers' money.

Broadcasting propaganda to Cuba is certain to heighten the antagonism which characterizes our relations with Cuba under the Reagan administration. Cuban President Fidel Castro already has made it clear that Cuba will respond to Radio Marti by counterbroadcasting signals that would jam radio stations in as many as 32 States. This would likely lead to an airwaves stalemate that eventually would force the administration to end its broadcasts, and the money we are being asked today to authorize would be wasted.

What does the President presume to tell the Cuban people? There would be nothing instructional in telling them what to think about the Castro government, which they know far better than we do. It would be of little educational value to describe to them their own quality of life.

I can only think that the Cubans will recognize Radio Marti propaganda for what it will be, carefully packaged half-truths. The people of Cuba are as intelligent as those of any other nation, and it is a delusion to believe they will be taken in by transparent propaganda.

The stature and role of the United States with the people of the Caribbean and Central America will be diminished by Radio Marti. No one welcomes meddling into their internal affairs, as this station is intended to do. Radio Marti would, in fact, further damage our already unstable policy toward the region.

Our relations with Cuba gradually improved through the 1970's, and we seemed to be approaching an opportunity to ease tensions which have permeated the Caribbean since the 1962 Cuban trade embargo was put in place. The Reagan administration quickly dispelled this hope, however, by shunning contact with the Cubans and launching an international anti-Cuba campaign.

Even suggestions by Cuban officials that an informal dialog between our nations be established were dismissed without consideration by Reagan officials. Cuban officials were denied visas to come to Washington to participate in a seminar that was well attended by Members of Congress, and the opportunity for an exchange of ideas was lost. Most recently, the administration put tight restrictions on American travel in Cuba.

Our own best interests would be met by increasing cultural, social, and technical exchange with Cuba. But Radio Marti is certain to interfere with all such programs. This legislation should be defeated.

PARLIAMENTARY INQUIRY

Mr. WIRTH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WIRTH. Mr. Chairman, are we at the point now, at the end of general debate at 8 o'clock, and then thereafter, of offering only amendments that have been printed in the Record?

The CHAIRMAN. Amendments may be offered, but only those printed in the Record; and the author would then be limited to 5 minutes on the amendment. We are at that point.

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I posed the parliamentary inquiry only for the purpose from the perspective of those who oppose this bill, to summarize where we are in the arguments that have been made over the last few weeks.

The gentleman from Florida (Mr. Pepper) makes a very eloquent statement on behalf of those who advocate the bill. There are others of us who see the world quite differently in terms of the way in which you approach Cuba, and from the perspective that was reflected by the gentleman from Illinois (Mr. SIMON) earlier, and that is that our policy toward the Cuban Government is fundamentally bankrupt and that all we are doing with Radio Marti is further reinforcing that bankruptcy, pouring more good money after bad.

As I have pointed out on a number of occasions, we have been in a situation in which there is 90 miles off of our coast a government, and we are pretending as if that government is not there. It seems to me that it does not make any sense at all. Those are the foreign policy goals which have been discussed and debated.

Getting back on the domestic side of it, there are a variety of issues here that Members ought to be aware of. First of all, Members should be aware that this radio station, which the FCC and the Voice of America and other analyses that have been done, clearly suggest is going to create very significant interference which will likely lead to interference for over 200 radio stations in 32 States. That is going to cause very, very significant harm. And who is going to pay for that harm? The American taxpayer. Who causes that harm? This silly bill causes that harm. And the taxpayer then goes and bails out what harm has been caused with taxpayer money. It just does not make any sense whatsoever. In terms of spending, the taxpayer loses twice.

The taxpayer also loses in terms of our domestic priorities. We are spending almost $1 per Cuban to build this facility. We are willing to spend less than 7 cents per American on facilities to bring public broadcasting—such as, "All Things Considered"—and, everything else that one hears on public radio or sees on public television—to the American public.

We have got a gold-plated operation, even cutting it back, as was done by the Swift amendment.

We also have a very anomalous and serious situation in terms of the Constitution. We have a facility under construction right now being built with taxpayers' money, using the umbrella of the Defense Department, with documentation available to all of us that says that yes, the Defense Department is going to turn over this facility for Radio Marti; no authorization, no appropriation. Clearly a violation of what Congress is all about—which is to authorize and appropriate money. This is not a function to be coopted by the executive branch.

What happens in Cuba? The Cubans are listening to radio from Miami—they are listening to Florida radio all the time. There are dozens of radio stations broadcasting, some in Spanish, some in English, some all over Cuba, some just in parts of Cuba, and there are some five radio stations from our Guantanamo base, which as a matter of fact, are right in Cuba. We already have radio stations there broadcasting. We have got Radio Marathon, we have got a plethora of outlets.

The whole operation just does not make any sense. It comes out of a deep-felt cold war concern about how you deal with Cuba. That is one perspective, a legitimate perspective, that I do not happen to share, but it is a legitimate perspective. It fusses over the nature of our overall relationship with the Cuban Government; fusses over the constitutional nature of how we are spending our money; fusses over the very significant harm that this legislation is going to have on domestic broadcasting and American radio listeners.

The final insult, Mr. Chairman, comes in calling this Radio Marti. Jose Marti was a great Cuban patriot, I am sure. But he did not have very many nice things to say about the United States of America. I have a number of quotes from him, in which he is referring to the United States, Mr. Chairman, which I include in the RECORD at this point:

May 18, 1895: "It is my duty—inasmuch as I realize it and have the spirit to fulfill it—to prevent, by the independence of Cuba, the United States from spreading over the West Indies and falling, with that added weight, upon other lands of our America. All I have done up to now, and shall do hereafter, is to that end . . . I have lived inside the monster and know its entrails—and my weapon is only the slingshot of David."

1889: "What is apparent is that the nature of the North American government is gradually changing its fundamental reality. Under the traditional labels of Republican and Democrat, with no innovation other than the contingent circumstances of place and character, the republic is becoming plutocratic and imperialistic."

March 23, 1894: ". . . those structural qualities which, for their constancy and authority, demonstrate who useful truths to our America: the crude, uneven, and decadent character of the United States, and the continous existence there of all the violence, discord, immorality, and disorder blamed upon the peoples of Spanish America."

Those quotes, Mr. Chairman, are perhaps the final insult to our consideration of this very, very ill-thought through piece of legislation. To call it Radio Marti is an insult not only to the very goal of this legislation, as it has been stated by its proponents today, but also to the taxpayers of this country who are supporting this ill-fated project.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 8, after line 12, insert the following new section:

GENERAL ACCOUNTING OFFICE INVESTIGATION OF POSSIBLE IMPROPER USE OF GOVERNMENT FUNDS

SEC. 7. The preceding provisions of this Act shall not take effect until 30 days (excluding any day on which both Houses of Congress are not in session) after the Comptroller General of the United States has submitted to the Congress a report on the results of an investigation by the General Accounting Office into the possible improper use of Government funds by the Department of Defense or any other Federal agency to build a broadcasting facility, prior to the enactment of this authorizing legislation, for use for radio broadcasting to Cuba.

The CHAIRMAN. Has the gentleman's amendment been printed in the RECORD.

Mr. HARKIN. Yes, Mr. Chairman.

Mr. Chairman, what my amendment would do would say that none of the funds authorized under this act could be expended until 30 days after the Comptroller General of the United States has submitted to Congress a report on the results of an investigation by the GAO into the possible improper use of Government funds by the Department of Defense or any other agency to build a broadcasting facility prior to the enactment of this authorizing legislation.

It is widely known that the Navy has been building a transmitter at Saddlebunch Key, Fla. It is also clear that this will become the Radio Marti transmitter. In spite of the fact that this Congress has not authorized any expenditure for such a facility, under the thinnest veil of national security the Defense Department is falsely using its authorization to build this transmitter.

I am talking about a fundamental question of our Constitution. The Constitution requires that funds not be spent without being first passed, authorized and appropriated by Congress.

Once again, my amendment just requires that this will not take effect until we have a report from the GAO.

Now, some think that we are dealing with just a minor bill here. But I submit that the actions by the executive branch violate article 1, section 9 of the Constitution, upon which the balance of powers of our Government is based: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law * * *." Now, on September 18, 1981, Under Secretary of Defense Fred Ikle wrote to the Assistant Secretary of Commerce, Bernard Wunder:

On request of the Assistant to the President for National Security Affairs, the Department of Defense is preparing to provide, upon enactment of authorizing legislation, a medium wave AM transmitter facility for radio broadcasting to Cuba.

That was in September of 1981, saying that they would provide it upon enactment of authorizing legislation.

☐ 2000

In this letter, he says that a medium wave transmitter facility for radio broadcasting to Cuba would be built and the National Security Council is attaching considerable urgency to this matter as a key foreign policy matter.

Now, what happened since then? On June 18, 1982, a UPI report from Key West says that, and I will quote:

> In Key West, however, Navy officials tell a different story. Lt. Commander Mark Newheart, Public Affairs officer for U.S. Caribbean Forces, said the antennas were designed for Radio Marti. But they won't be used until Congress has given its approval.

I also have a letter written to Congressman TIM WIRTH, a colleague of ours, from Mr. ADDABBO, chairman of the Defense Subcommittee. And I would just quote from this, from his investigation by his Defense Subcommittee staff. It says here:

> Originally Radio Marti * * * Department of State was to pay for the facility and DOD would have seizure rights for the classified mission. Funds are included in pending fiscal year 1982 funding request for this purpose. However, as Radio Marti proposal has run into trouble in Congress, the Department of Defense in March 1982 directed that the Navy proceed with construction of a four tower antenna at Saddle Bunch Key, Fla. According to DOD, this decision was made because DOD could not wait any longer to get a facility for its classified function. However, if Radio Marti is authorized, DOD will not be required to reimburse the Navy for the costs incurred in constructing the antenna array.

So clearly what we have is the Department of Defense building an antenna array, expending moneys for Radio Marti before we have had a chance to authorize and appropriate those moneys.

And all I have said in my amendment is none of these funds can be expended until at least 30 days after we receive a report back from the GAO into the possible improper use of Government funds by the Department of Defense.

I urge adoption of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

First of all, the gentleman has already read right from the letters from the Defense Department with regard to the DOD necessity, need, and purpose for the classified mission. I am informed that DOD representatives have already advised the Armed Services Committee to their purposes, and I assume is in that committee's budget somewhere.

The main thing that concerns us regarding this authorization is that the administration will not operate Radio Marti until such time as an authorization and appropriation is made available by the Congress of the United States in accordance with the requirements of the Constitution.

Now, the gentleman wants the GAO to examine the proposal for Radio Marti. However, if the Appropriations Committee or the gentleman from Iowa makes a heated request to them for a study, they cannot ignore it. We all know you do not have to write a requirement for such a study in legislation if you want GAO to perform an investigation.

If we legislate this, we simply throw another roadblock, another obstacle, another question into the authorization process.

I do not see any need to do that. If the gentleman is seriously concerned, if the Armed Services Committee is concerned, or the Appropriations Committee is concerned, they can request a study.

This authorization simply says that you will operate, you will expend funds, based on this authorization passed by the Congress.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I support the comments made by the gentleman from Florida and remind all the Members that this radio is a bipartisan measure supported in a very obvious fashion by Members from both sides of the aisle.

In that spirit I urge rejection of the amendment and final passage of the bill.

● Mr. WIRTH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa (Mr. HARKIN) Iowa to provide for a GAO study.

This amendment will add a new section to the legislation prohibiting the expenditure of any funds until the General Accounting Office has conducted a study into the possible unauthorized construction of Radio Marti prior to the passage of authorizing legislation. As I said 2 weeks ago, it has come to my attention, and the attention of several other Members of Congress, that the facility to be used by Radio Marti has, in fact, already been constructed at Saddlebunch Key in Florida.

It is apparent that the executive branch, under the guise of a national security requirement, has proceeded with the construction of a facility which it planned from the outset to turn over to Radio Marti. In fact, the Defense Appropriations Subcommittee staff conducted an investigation into the matter and concluded that the transmitter facility being built by the Navy in Florida is for use by Radio Marti.

Mr. Chairman, the U.S. Constitution clearly states:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by Law.

I am very concerned that the executive branch has not only usurped the powers of Congress, but that it has violated the U.S. Constitution by proceeding with this station months before Congress has acted on authorizing legislation.

Mr. Chairman, this amendment will require Congress watchdog agency, the General Accounting Office, to conduct a thorough investigation to determine if, in fact, funds have been spent to render Radio Marti operational without authorization. If so, these funds should be fully accounted for prior to any additional funding being spent on this project, if we are to act responsibly.

I urge my colleagues to vote to protect the clear separation of powers set forth in the Constitution and to join me in support of this important amendment.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. It is, Mr. Chairman.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN: Page 8, after line 12 insert the following:
>
> PROHIBITION ON HIRING OF ADDITIONAL PERSONNEL FOR RADIO BROADCASTING TO CUBA
>
> SEC. 7. (a) Except as provided in subsection (b), functions relating to radio broadcasting to Cuba under this Act may only be carried out by personnel of Federal agencies, and no Federal agency may employ additional personnel for purposes of carrying out any such function.
>
> (b) Nothing in this section precludes the Board for International Broadcasting from utilizing the services of existing news reporting organizations.
>
> Page 3, line 16, strike out "The" and all that follows through the end of line 20.

Mr. HARKIN. Mr. Chairman, I think this is one amendment on which I think we ought to have a vote. Because what this does is to prohibit a great building up of some kind of bureaucracy to operate this radio station.

Let me just read to my colleagues some material from the International Communication Agency, the ICA, which discussed the employment requirement of Radio Marti.

Quite frankly I was amazed. They indicated that 159 employees would be needed. Let me repeat that. One hundred and fifty-nine employees.

Let me just read a portion of that memo.

> A daily 14-hour program would require two shifts for a personnel total of 159. Seventy-four editors, commentators, analysts, writers, broadcasters, a program aide/secretary, 15 producers, directors and aides, 16 technicians and aides, nine correspondents assisted by secretary/media/aide, and a technician in Washington, D.C., and a tech-

nician in New York, support personnel would increase accordingly to a research office of six, including a music librarian

How about that—

a music librarian, an executive administrative staff of five, a directorate of six, and transmitter staffs of 24. Back-up research and reference materials would continue to be added and a comprehensive music and sound library established.

Do we really want to hire 159 new bureaucrats to run anything in this Government? I think not.

And we do not want to contract out either.

Now, under the bill as written, they could contract this service out to some kookie organization someplace and they could hire 159 people. But ICA said if they are going to go to this 14-hour broadcasting, like they envision, they need 159 people.

So what my amendment says basically is that if a few employees are needed to run the radio station they will have to come from positions already authorized in the Federal Government.

It would require that the Federal bureaucracies would not be expanded because of this activity. It would not, however, prevent the hiring of news reporting services to do some of the functions of reporting the news to them.

However, my amendment would stop bureaucratic growth. And the amendment does allow, however, transfer of positions from one agency to another.

So basically I just ask my colleagues. Even if you are in favor of Radio Marti, if you would like to keep them from hiring 159 new people, or contracting out to hire 159 new people, I ask the Members' support for this amendment.

They can get existing personnel from Voice of America. They can get existing personnel from the the State Department, they got them all over down there. Let them get them from there without hiring 159 new people.

I urge adoption of this amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, this is a serious effort to dismantle this bill. And we have come too far to let that happen.

The agencies that the gentleman is talking about—VOA, BIB, and the State Department—I guarantee they are under budget right now. We have cut into their muscle and the bone is shining. I know, because our subcommittee is responsible for those budgets and has fought to increase the budgets or, failing that, to minimize the cuts.

☐ 2010

I can tell you right now that they are operating at about a 1959 personnel level. They are hurting. That is point No. 1.

Point No. 2: The kind of trained people we want and need to carry on this operation are not in those agencies now. They would have to be trained. We have to go out and get additional people. Putting this additional duty upon an agency—the Board for International Broadcasting—which already has all they can say grace over now is unconscionable and defeats the purpose of this bill. They would have to pull their people out of Radio Liberty and Radio Free Europe. I do not think that is a wise idea at all. I also do not think it is wise to take them from VOA.

We are not doing enough with those radios now. The main thrust of what we have been saying in this legislation from the very beginning is this: We are in a contest in this world. Let us not make any mistake about it. I am not talking about cold war confrontation mentality and I am not looking under the bed. I am being as cold and as pragmatic and as practical as any Member of this House when I say that we are in a contest of ideas and ideals.

One of the things we had better learn how to do is to get our message across affirmatively and we had better use every tool at our command. It is called clear language, not clear channel, but I will say clear channel also for the fight we have had here today because of the gentleman from Iowa who put up such a wondrous defense against this radio station and the concept of what he believes is a wrong bill. But I will take and we need for this country every conceivable means to get our message across affirmatively: Radio, books, people, television, and any other public diplomacy tools, and I will tell you right now that we are being outspent in that contest about 7 to 1. We do not want any more roadblocks in it.

Let us use this small step to say that we are enhancing our international capability to communicate freely to people about ideas and ideals and let those people make the judgments.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I would be delighted to yield.

Mr. SHARP. I appreciate the gentleman yielding. I would hope that some of our colleagues who feel intensely about this issue would recognize that a good deal of time has been spent on it in the House and would recognize there have been two or three opportunities already and there will be one more opportunity for people to make clear to the American public where they stand on this issue.

I would hope that we would not have to lock the House up in additional votes on these other amendments because the fact is we have important things that will make a big difference to the lives of my constituents that I want on this agenda.

I think it is time the Congress started dealing with those and I think we ought to conclude this matter. Everybody has had their say. Everybody is getting their say, and we can resolve this once and for all.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to get back to the argument made by the distinguished gentleman from Iowa. You cannot pirate personnel from Radio Free Europe or Radio Liberty. Their expertise is Eastern Europe and the Soviet Union proper.

The CHAIRMAN. All time has expired. Under the previous motion and action of the House, all time on this amendment has expired.

The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. DELLUMS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. DELLUMS. Mr. Chairman, I offer this preferential motion simply to provide myself with an opportunity to state my position on the matter before the body.

Mr. Chairman, I rise in opposition to this legislation. I would suggest that with 20 years, experience with Cuba since the overthrow of Battista, we have embarked upon a course of action that in my estimation requires that we move in some radically different way.

For a moment, let us recap history. In 1959, Mr. Chairman, this country attacked agrarian reform which nationalized land holdings in Cuba.

We attacked Cuban relationships with the Eastern bloc.

We attacked the Cuban sanction when Cuba developed a sanctuary for Latin American revolutionaries, we challenged that.

Hostility grew, Mr. Chairman. Washington moved to strangle the economy of Cuba. Cuba then was forced to find a patron.

Mr. Chairman, in the 1960's the development of a policy of hostility on the part of the United States with CIA paramilitary operations, U.S. sanctions supported by OAS; Cuba reacted by supporting Latin American revolution.

In the 1970's we had a U.S. reassessment of American policy toward Cuba. Then President Ford eased the embargo on U.S. subsidiaries. We relaxed OAS sanctions. We dropped the demand that Cuba sever its relationship with the Soviet Union.

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The reassessment ended with the introduction of Cuban troops in Angola.

In 1977, we had a new reassessment on the part of the Carter administration. Carter was seeking Cuban withdrawal from Angola.

We saw fishing agreements and other mutual concessions, such as stopping U.S. overflights. Cuba released political prisoners. There were Cuban discussions with exiles.

In 1978, normalization between the United States and Cuba collapsed over the misunderstanding of Cuban introduction of troops in Ethiopia.

Further deterioration when we began to believe that the invasion of Zaire in some way included Cuban troops and as I recall history, we never quite proved that.

Then we discovered 23 Soviet Mig's in Cuba.

In 1979 we came to the startling conclusion that there was a Soviet brigade in Cuba and then here we are with the Reagan hard line.

I would suggest, Mr. Chairman, that there is no more likelihood that we will succeed with this hard line than we did 20 years ago over what we have done in the past 20 years.

There are mutual interests that exist between our two countries. Previous sanctions have changed nothing in Cuba.

I do not believe that any of us ought to be naive enough to believe that with this Radio Marti that there will suddenly be some mass response to Cuba, some mass opposition.

I would suggest that those persons who oppose the Cuban Government probably have already left, or are probably here, some of them languishing in some of our manmade, homemade prisons.

Mr. Chairman, at this moment we face two policy options. We can continue our coercive strategy, which I would suggest cannot and will not work, or we can begin to open up the process of communication. It seems to me tragic and ludicrous for a nation not to be in communication with a tiny nation 90 miles off our coast.

While we are asking the Israelis and the Palestinians to communicate, while we are asking Iran and Iraq to communicate, while we are asking a number of countries around the world to communicate, we are now threatening our ability to communicate with another nation. That is not healthy. In the world of the 1980's, Mr. Chairman, America ought to be a beacon of peace. To engage in this absurdity is a waste of resources. It is embarking upon a strategy that cannot and will not work. It is a naive and absurd approach.

As I have said before, the only dignity that this legislation brings is the dignity that the gentleman from Florida brings because of his intellectual and political acumen; but there is no dignity in this legislation. This is an absurdity. It is a throwback to propaganda. It would seem to me that the role of the United States in the 1980's ought to be to declare a much more helpful and useful role in the world.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the preferential motion and I ask that it be defeated.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from California (Mr. DELLUMS).

The preferential motion was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will ask the gentleman, Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, it is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act."

□ 2020

Mr. HARKIN. First of all, I just want to say to the gentleman from Indiana who took the floor a little bit ago saying that it was important legislation that affected his constituency, I want him to know that this legislation I consider important, too, not only to my constituents but to the entire country because I believe we are going down the wrong road in this.

Mr. Chairman, I am not spending my time here in this well fighting this bill for no reason, to try to delay or use dilatory tactics. It is because I believe deeply that this bill is the wrong thing to do and I want to do whatever I can to convince these Members that we are going down the wrong track.

I believe it is in the interest of the constituents of the gentleman from Indiana (Mr. SHARP) and mine, too. So, gentlemen, please give me the benefit of that doubt.

I am not standing here just to try to delay this thing needlessly.

Mr. SHARP. If the gentleman will yield——

Mr. HARKIN. I will yield later. I only have 5 minutes.

Mr. Chairman, I only offer this amendment to retitle this bill "The John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act" because that is what it is. The whole concept of this comes out of the 1950's.

The proponents of this bill in the beginning had their credentials deeply rooted in rightwing movements in our present age. The first mention was in the so-called Santa Fe Report of the Council for Inter-American Security, that ultrarightwing group.

In June of 1981, Senator JESSE HELMS proposed to the Senate Foreign Relations Committee that we have such a thing, and this is his idea, basically. By January of 1982, President Reagan had announced the creation of the Presidential Commission on Broadcasting to Cuba. The Commission has a decidedly rightwing and anti-Castro complexion. It is headed by F. Clifton White, now a public relations specialist in Connecticut.

White ran Senator GOLDWATER'S campaign in 1964 and was a senior advisor to Ronald Reagan's campaign in 1980.

ICA Director Charles Zwick is also on it, a lawyer and former Hollywood music promoter who once told Congress that Communist agents are influencing U.S. media.

The same Mr. Zwick also raised $50 million for the Reagan campaign.

Two Cuban Americans serve on the Commission. Jorge Luis Mas Canosa, president and chief executive officer of Church & Tower of Florida, Inc. He lobbied hard for the Radio Free Cuba idea.

Mas only became a U.S. citizen in November 1981 when it became essential for his appointment as a Commissioner.

The other Cuban American is Dr. Tirso del Junco, chairman of the California Republican Party.

But perhaps the most conservative credentials on the Commission come from personalities long known as in rightwing supporters in the United States: Joseph Coors, who helped launch the Heritage Foundation, and a lot of other rightwing causes yearly. Millionaire Richard Mellon Scaife's philanthropies for the Heritage Foundation and the Forum World Features, which was exposed in 1975 as a CIA-sponsored operation.

The point I am making is this: The personalities who first devised this are right out of the 1950's, and the theoretical base of propaganda and persuasion is also based on the now outdated and wornout concepts of the cold war of the 1950's.

Radio Marti is predicated on the old, outmoded hypodermic needle model of propaganda. According to this theory, all they have to do is inject a foreign audience with our message and their behavior will be shaped according to our desires.

You can find no credible estimate in Washington today that predicts the Cubans are as dissatisfied as, say, the Poles. After all, most of the so-called dissidents have already left Cuba. Those who remain are generally supportive of the Castro regime.

Yet the logic of this station rests on the premise that Radio Marti will be as successful as Radio Free Europe has been in Poland. And I say that is ridiculous, it is as outmoded as the 1950's.

And the title of this bill really ought to be "The John Foster Dulles Cold War Mentality Memorial Broadcasting to Cuba Act."

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

I have some clever amendments in mind myself, for the amendment, but I will just keep them to myself and say to my colleagues that the bill has a correct title. We bypassed everything the gentleman is talking about by authorizing an existing Federal agency to do this work, to wit: The Board for International Broadcasting.

I ask my colleagues to vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN: Page 2, beginning in line 4, strike out "Radio Broadcasting in Cuba Act" and insert in lieu thereof "Radio Broadcasting to Dictatorships in the Caribbean Basin".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. FASCELL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida reserves a point of order.

Mr. FASCELL. I did not know the gentleman was bringing this one up.

The CHAIRMAN. The gentleman will state his reservation.

Mr. FASCELL. Mr. Chairman, is this the one starting on page 2, beginning in line 4?

Mr. HARKIN Yes; it is, Mr. Chairman.

Mr. FASCELL. I see.

Mr. Chairman, let me make a point of order against this amendment under clause 7, rule XVI, because this is an amendment which is obviously an attempt to broaden the subject matter of this bill to include dictatorships in the Caribbean basin and to set other parameters that are just not in this bill and, therefore, it is not germane.

The CHAIRMAN (Mr. RATCHFORD). Does the gentleman from Iowa wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair is prepared to sustain the point of order on the basis that the amendment, as proposed, is more general in scope and is not germane to the relatively narrow purpose of the bill.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN: PAGE 2, STRIKE OUT LINES 3 THROUGH 5 AND INSERT IN LIEU THE FOLLOWING:
>
> SHORT TITLE
>
> SECTION 1. This Act may be cited as the "Throwing Money at the Castro Problem Through Radio Broadcasting to Cuba Act".

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes in support of his amendment.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. DERWINSKI. I object. I would like to hear the request again, Mr. Chairman.

The CHAIRMAN. Does the gentleman reserve the right to object?

Mr. HARKIN. I asked unanimous consent to withdraw my amendment.

Mr. DERWINSKI. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DERWINSKI. The gentleman offered his amendment. He has 5 minutes to speak for it?

The CHAIRMAN. That is correct under the rules.

Mr. DERWINSKI. Then there is 5 minutes in opposition presumably?

The CHAIRMAN. That is also correct under the rules.

DERWINSKI. The gentleman could not use his 5 minutes. I would like 1 minute or 2 at this point to say something for the RECORD if the gentleman affords me a technically proper vehicle.

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. I yield to the gentleman from Illinois.

The CHAIRMAN. The gentleman yields back his time and the gentleman from Illinois does not rise to seek time.

The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, No. 14.

Mr. CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN: Page 2, strike out lines 3 through 5 and insert in lieu the following:
>
> SHORT TITLE
>
> SECTION 1. This Act may be cited as the "Refugee Recruitment Through Radio Broadcasting to Cuba Act".

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, No. 13.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN: Page 8, line 12, immediately before the period, insert ", which shall not include either military or paramilitary operations conducted or supported by the United States".

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. DERWINSKI. I object.

The CHAIRMAN. Objection is heard.

The gentleman from (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I will take the 5 minutes in opposition to the amendment.

Mr. HARKIN. I yield back the balance of my time.

The CHAIRMAN. The gentleman from Iowa yields back the balance of his time.

The gentleman from Illinois is recognized for 5 minutes in opposition.

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Mr. DERWINSKI. Mr. Chairman, I shall not use the 5 minutes, but I think at this point the record should be set clear that some of these amendments could at best be described as overimaginative, and at worst as something less than a good hour for the House of Representatives. This kind of procedure does not lend itself to the respect from the public that this body should have, nor does it lend itself to the respect that we should give to the awesome assignment before us in this bill and many other measures involving foreign affairs.

I suggest to the Members of the House that after they approve of Radio Marti, which I am sure they will

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since I have great respect for the Members of this body, they will shortly be called upon to support something called the Caribbean Basin Initiative. There will be a lot of flak about it, but that is a long-overdue initiative that rises far above the present administration and the partisan shots it suffered this afternoon.

The facts of life are that when you debate foreign affairs there ought to be a limit to what is considered a necessary partisanship. Because no President of the United States—and I want to say this in view of the chain of amendments that were offered by the gentleman from Iowa (Mr. Harkin), no President of the United States approaches foreign affairs with any point of view but what is in the best interests of the United States. Why cannot we in this House of Representatives rise to at least a similar measure of interest and concern for the well-being of our country? Can you show me how this amendment or others offered recently are in the best interests of our country and consistent with the respect the people should have for this body can you show me that?

I would like the record to read clearly that these amendments, if they were not withdrawn, received minimum support as they were shouted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Harkin).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin: Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

Section 1. This Act may be cited as the "School Lunch Fund Memorial Radio Broadcasting to Cuba Act".

Mr. HARKIN. Mr. Chairman, I have some 30 or 40 amendments filed in the Record. I can get 5 minutes on each. I could ask for votes. I can do all those things. The only reason to do that would be to try to change the bill or to improve it to reflect a different viewpoint or philosophy. However, the votes on the board on the amendments offered so far indicate one very obvious fact: The skids are greased on this bill and it is going to pass intact.

I do not believe, however, that this is due to the compelling nature of the bill, but I believe quite frankly that the support for the bill is due to the personal power and the leadership of the gentleman from Florida, Dante Fascell. No one in this body has more personal or professional respect for the gentleman from Florida, Dante Fascell, than I do. He is truly one of the best in this House. So, the bill will pass, I believe, because of Dante Fascell's leadership.

But, there are two points I would like to make. First, much has been said and implied both in this body and in the administration about the patriotism of Iowans and of radio station WHO in particular; certainly these remarks do not come from the distinguished gentleman managing this bill. I resent those remarks and those implications both on behalf of Iowans and on behalf of radio station WHO.

Second, I want to make it clear that even if this bill had nothing to do with frequency 1040 kilohertz, the clear channel frequency of WHO, I would still be fighting as hard as I am now to defeat this legislation. I am convinced that there is more to this bill than meets the eye. There has to be. If the intent is really to broadcast to the people of Cuba, we would have done it through other means; short-wave, commercial stations, or the Voice of America. Also, I know that the U.S. Navy has already expended money to build the towers at Saddle Bunch, Fla.

I do believe that we need a GAO investigation of this, but the point I want to make is this; that there is more to the bill than just broadcasting to Cuba. I believe, in an unguarded moment, perhaps because they thought they were talking with their ideological soulmates, Mr. James Duncan of the Department of Defense and Kenneth Giddens, the consultant to the Presidential Commission on Broadcasting to Cuba, really let us know what is behind all this: A "game of chicken" with Castro, a "drawing of the line in the sand" across which Castro will not be able to step; that if Castro blocks the broadcast to Cuba it will be an "act of war," and we would be within our rights to "surgically remove" Castro's transmitters.

So, I am compelled to stick my finger in the dike, to make a stand to the bitter end because I feel that strongly about stopping this bill even though my efforts will be futile. On the other hand, vote taken indicate a desire by this House to pass the bill intact without any amendments, and so I will not exercise my parliamentary right to offer my amendments. That is why I was offering these amendments and then withdrawing them, because I wanted to make the point as clearly as I could in the shortest possible time of why I am so opposed to this bill. While I will give up my parliamentary right to offer my amendments, to debate those amendments and to ask for votes on those amendments, I will not give up my opposition to this bill and what it represents. I will continue to write, to speak and to vote against what I consider is a counterproductive policy toward Cuba, Central America, and Latin America.

Someone said earlier in the debate that we seem to learn nothing and remember nothing regarding Latin America. Also, someone said to me, "All those people in Latin America make a practice of hating us in America."

We know Abraham Lincoln said it best. He said:

> There are two ways of getting rid of our enemies. We can kill them or we can make them our friends.

In Latin America and in Cuba we have put too much emphasis on the former and too little on the latter, and so I will not offer any more of my amendments, but I stand on the principle that this legislation is not in the best interests of this country, and notwithstanding my personal and professional high respect for Dante Fascell, this bill ought to be defeated.

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment. At this point I wish to compliment the gentleman from Iowa (Mr. Harkin) for his resourcefulness, for his energy, for his determination and for his imaginative approach to the procedures of the House. But I would like to point out to the Members that this concept should well have been adopted after the missile crisis in 1962. That is how far back we should have discussed this kind of message we intend to send to the people of Cuba.

Let us not forget, of all the people in this hemisphere, the people of Cuba have suffered more in the last 20 years than those of any other country. What we are debating here is not a new ideology of this administration. This is old-fashioned American interest in a country just 90 miles off our shore. I wish there had been enough imagination in previous administrations and previous Congresses to come up with an idea like this.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I want to compliment the gentleman for his remarks. I know there has been a good deal of scoffing and ridiculing on this legislation, but as I see it, what people think is still the most powerful influence in the world.

This year we in this body are going to be spending over $200 billion on defense, when the most powerful evidence we have in our arsenal is the story of America. It is not being told and we are not utilizing it. It is high time we in America realize we have a story to tell, we are going to tell it.

Mr. Chairman, as I see it, the strongest force in the world is still what people think. And the strongest force in Cuba is "what the Cuban people think." That is basically why Castro is so alarmed and opposed to Radio Marti.

In my opinion, as long as Castro can control what the population in Cuba think—as long as he has thought control—he can keep the people of Cuba uninformed—that is how long he can control Cuba and only that long. That is why this station is so necessary: It will tell the Cuban people what is happening in their own country.

I take a great interest in the powers represented by the Voice of America, Radio Free Europe, and Radio Liberty. Recently, I had a visitor from Czechoslovakia in my office. He told me that the people of Czechoslovakia listen attentively to the broadcasts from the West. I thought that it was to gain information about happenings in the West: but he corrected me. My visitor told me that Western broadcasts are appreciated because "They give us a chance to learn about what is happening in our own country of Czechoslovakia." This is what Radio Marti can do for the populace of Cuba. The Cuban people do not know what is going on in their own country, yet there is a terrific desire on the part of people living under dictatorships to know what is happening in their own country.

Tight control over information has led to a situation such that the people in one part of Cuba know very little about what is happening only a few miles away form them. This "information void" means that the Communist leadership has been left relatively free to do whatever it wanted. Furthermore, the Castro government has had more than 20 years in which to isolate its population from contact with the world at large, thereby raising up a new generation which has never known anything other than life in a police state.

There is a real vacuum in Cuba about information on Cuba. Because of this vacuum, it became possible for Castro in the early 1970's to launch his nation onto the road of naked imperialism. Had the Cuban people been aware of the facts, I'm convinced Castro would have been more circumspect and his actions would have been nipped in the heels by an outraged Cuban public opinion.

Cubans have been misruled and exploited by Castro—how else can we account for the over-1-million Cubans who have fled to the United States—1 million since 1970—that is 10 percent of the total population.

Castro will have to recognize that we are going to be calling him to account for his actions. All totalitarian governments—all dictatorships—fear uncensored information that is received by their people. This is true of the politburo in Moscow, the satellite states of Eastern Europe and the puppet state of Cuba.

Now, in a "Dear Colleague," we are told that we cannot vote for this station because Radio Marti would be provocative to Castro. Well, let us analyze that contention.

By the very fact that Castro warns us that he will jam these broadcasts, we have proof-positive that he is hiding the truth from the Cuban people. But critics of Radio Marti tell us "we cannot be provocative."

Well, then, are we to sit here—intimidated, frightened by some dictator who is afraid to let his people know the truth about what is going on in their country?

If we succumb to that argument—the argument that our hands are tied because it could be provocative to the Cuban dictator—then are we truly brave and free? We must not, we cannot, allow ourselves to be intimidated. It is my opinion that in the past, all too often we have allowed ourselves to be intimidated or deterred from the course we knew to be right, taking the easy way out, to the point where our word in foreign affairs is scoffed at and ridiculed by every two-bit dictator around the world.

If America is to continue to stand for something, then we must act. We must stand tall and be willing to proclaim the truth to the world at large. We cannot continue to let the dictators of the world work their way, unchallenged by the truth.

Mr. DERWINSKI. In the spirit of bipartisanship, I also wish to commend the gentleman from Florida, Dante Fascell. It is always a privilege and honor and inspiration to work with him, and may I point out this has been a truly bipartisan legislative effort.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield.

Mr. RINALDO. Mr. Chairman, I want to take this opportunity to rise in opposition to the amendment, but also to compliment the ranking Republican on the Foreign Affairs Committee for the job that he has done on this bill, and most importantly, the subcommittee chairman, the distinguished subcommittee chairman, for the fine manner in which he handled an extremely delicate and difficult task for the few days we were in session on this piece of legislation.

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I want to commend him for his leadership, resourcefulness and patience. He certainly is a credit to this body and has done an exemplary job.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. SHAW. I would like to also compliment the ranking member and the chairman of the subcommittee, the gentleman from south Florida. We in south Florida know the spirit and the courage of the Cuban people, and we know that they are people that will be free, but they must be given the truth. They must be told what is going on in the world.

This is the most important piece of legislation and it is legislation that can help set the Cuban people free. The Cuban people will be free from communism and we will see a democracy back on that island.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. I just want to say that it has been great working with everyone on this bill, including those who have been opposed. The gentleman from Iowa, the gentleman from Colorado and others have worked very hard and very seriously, and very intelligently and skillfully and, I might add, they have certainly taken me over the ropes. I can say that for them.

But the important thing is this, we have spent 8 hours of very intense discussion on an important policy matter. Some people, of course, are a little bit nervous about that, but I think it was extremely healthy to have that kind of discussion.

This was not just a little old bill and some kind of a discussion about a radio station out in Iowa. That is not what it was all about.

It was very healthy to have this bill go through two committees and come to the Congress rather than have adopted some other subterranean manner of dealing with the issue. The issue ought to be before the Congress and before the American people. It is an important issue.

All of us have made a tremendous contribution to the dialog in this country that is extremely vital, and I hope that my colleagues who have supported us this far would thus vote for the bill on final passage.

Mr. Chairman, in an effort to correct some of the distortions which have accompanied debate on the proposal for Radio Marti, I would like to insert into the Record a letter from Mr. William C. Salmon, Acting Coordinator for International Communications and Information Policy, Department of State. This letter refutes the contention that shortwave is the only internationally accepted form of international broadcasting:

Under Secretary of State for Security Assistance, Science and Technology,
Washington, August 2, 1982.

Acting Coordinator for International Communications and Information Policy

Hon. Dante B. Fascell,
Chairman, Subcommittee on International Operations, Committee on Foreign Affairs, House of Representatives.

Dear Mr. Chairman: It has been brought to my attention that in a May 25 letter to Members and Staff of the Committee on Energy and Commerce I am described by Congressman Wirth as having told the Government Operations Committee last fall that "* * * shortwave is the internationally accepted form of international broadcasting". The Committee on Energy and Commerce Report on the Radio Broadcasting to Cuba Act (Report 97-479, Part 2) repeats this distortion (page 14).

That statement does not accurately quote what I said, nor does it reflect my knowledge of international broadcasting. In my October 23, 1981, testimony before the House Subcommittee on Government Information and Individual Rights, Committee on Government Operations, I stated that "nearly all international broadcasting is conducted in the high frequency (HF) radio bands—roughly 5 to 26 megaherts (MHz)—the so-called shortwave bands".

There is also a considerable amount of medium wave (AM) international broadcasting that has been going on for decades. The BBC has high powered transmitters broadcasting to Western Europe, the Arabic world and Southeast Asia on medium wave. The Federal Republic of Germany broadcasts to Western Europe, Africa, and the Caribbean on medium wave. RFE broadcasts on medium wave to Eastern Europe; the Soviet Union uses high powered medium wave to broadcast to every one of its neighbors, reaching even the Alaskan islands of the United States (a map of Soviet AM broadcasting is enclosed); Cuba broadcasts on medium wave to its neighbors. The Voice of America uses medium wave transmitters, including some of the world's largest, in Europe, the Middle East, the Far East and the Caribbean. In fact, there are many other examples of international medium wave broadcasting, long used by the U.S. and others.

As to Radio Marti, short wave will not accomplish the purpose. All information available to me indicates that few Cubans have shortwave receivers. Only AM can reach Radio Marti's intended audience, the Cuban people

Sincerely,

WILLIAM C. SALMON.

Mr. **DERWINSKI**. On that high note, let us pass the amendment and pass the bill.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment is rejected.

The **CHAIRMAN**. Are there further amendments?

Mr. **LEACH** of Iowa. Mr. Chairman, I move to strike the requisite number of words.

The **CHAIRMAN**. The Chair would indicate to the gentleman from Iowa that under previous action of the Committee that motion is not in order at this time.

Mr. **LEACH** of Iowa. Mr. Chairman, I ask unanimous consent to enter into a colloquy with the gentleman from Florida.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Iowa?

Mr. **BLILEY**. Mr. Chairman, I object.

Mr. **FASCELL**. Put it in the record.

The **CHAIRMAN**. The question is on the Foreign Affairs Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN**. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. RATCHFORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated, pursuant to House Resolution 529, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **WIRTH**. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 134, answered "present" 2, not voting 48, as follows:

[Roll No. 262]

AYES—250

Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CO)
Broyhill
Burgener
Campbell
Carman
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Donnelly
Dougherty
Dowdy
Dreier
Duncan
Dwyer
Early
Edwards (AL)
Emery
Erdahl
Erlenborn
Ertel
Evans (DE)
Fary
Fascell
Fenwick
Ferraro
Fiedler
Fields
Findley
Fithian
Florio
Foglietta
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Fuqua
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gore
Gradison
Gramm
Gregg
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hatcher
Heckler
Heftel
Hightower
Hiler
Holland
Holt
Horton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Kazen
Kemp
Kennelly
Kindness
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marriott
Martin (NC)
Martin (NY)
Martinez
Mattox
Mavroules
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Mikulski
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Nelligan
Nelson
Nichols
O'Brien
Oakar
Oxley
Pashayan
Patman
Patterson
Pepper
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Regula
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Rousselot
Rudd
Sawyer
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Simon
Skeen
Skelton
Smith (AL)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stratton
Stump
Tauzin
Taylor
Thomas
Udall
Vander Jagt
Walker
Wampler
Waxman
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Winn
Wortley
Wright
Yatron
Young (AK)
Young (FL)
Zablocki

NOES—134

Addabbo
Albosta
Anthony
Bailey (MO)
Bedell
Beilenson
Benjamin
Bereuter
Bingham
Boner
Brown (CA)
Burton, Phillip
Butler
Byron
Chisholm
Clay
Collins (IL)
Conte
Daschle
Daub
Dellums
DeNardis
Dicks
Dingell
Dixon
Dorgan
Downey
Dunn
Dymally
Dyson
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Evans (GA)
Evans (IA)
Evans (IN)
Fazio
Frost
Garcia
Gaydos
Gejdenson
Gonzalez
Goodling
Gray
Green
Hall (OH)
Hamilton
Harkin
Hendon
Hillis
Hollenbeck
Hopkins
Howard
Hughes
Jacobs
Johnston
Jones (OK)
Jones (TN)
Kastenmeier
Kildee
Kogovsek
LaFalce
Leach
Leland
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marlenee
Martin (IL)
Matsui
Mazzoli
McCurdy
McHugh
Miller (CA)
Miller (OH)
Mineta
Mitchell (MD)
Mottl
Myers
Natcher
Nowak
Oberstar
Obey
Ottinger
Panetta
Parris
Paul
Pease
Perkins
Railsback
Rangel
Ratchford
Reuss
Roberts (SD)
Roemer
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Shuster
Smith (IA)
Smith (NE)
Solarz
Stark
Stokes
Studds
Swift
Synar
Tauke
Vento
Volkmer
Washington
Watkins
Weaver
Weiss
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wyden
Young (MO)

ANSWERED "PRESENT"—2

Hefner
Rahall

NOT VOTING—48

Akaka
AuCoin
Bafalis
Blanchard
Bolling
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Conyers
Crockett
Davis
Dornan
Fish
Flippo
Foley
Ford (MI)
Ginn
Goldwater
Grisham
Hartnett
Hawkins
Hertel
Jeffries
Jones (NC)
Marks
Moffett
Napier
Neal
Pursell
Rhodes
Richmond
Rose
Rosenthal
Santini
Siljander
Stanton
Traxler
Trible
Walgren
Whitten
Wilson
Wolf
Wylie
Yates
Zeferetti

☐ 2100

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Ford of Michigan against.

Mr. Santini for, with Mr. Hawkins against.

Mr. Jeffries for, with Mr. Conyers against.

Mr. Napier for, with Mr. AuCoin against.

Mr. Stanton of Ohio for, with Mr. Richmond against.

Mr. MARTINEZ changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 5427, and specifically to include the colloquy between the gentleman from Iowa (Mr. Leach) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Chair would have to explain to the gentleman that all those requests are granted without objection, save and except for the request that the colloquy be included in the Record, and would have to explain to the gentleman from Florida that a colloquy which was not spoken upon the floor cannot be inserted into the Record.

Mr. FASCELL. Mr. Speaker, I will renew my request and leave that out because I can do it under the revision of remarks with no difficulty.

The SPEAKER pro tempore. Without objection, the requests are agreed to.

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TOMORROW, AUGUST 11, 1982, AND BALANCE OF WEEK, DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the Committee of the Whole is considering legislation under the 5-minute rule tomorrow and for the balance of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object——

The SPEAKER pro tempore. The gentleman reserves the right to object.

The Chair will make clear that the request of the gentleman from Michigan would require 10 objections and no fewer.

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I do so to inquire whether this is to consider the Clean Air Act in the Energy and Commerce Committee.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. It is to consider H.R. 5252, the amendments to the Clean Air Act.

Mr. WAXMAN. Mr. Speaker, I regret the fact I must object because it seems to me we have too many other important items on the floor and our Members ought to be here.

Therefore, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Those Members objecting will stand.

(Messrs. Barnes, Matsui, Weiss, Mineta, Dymally, Fazio, McHugh, Dixon, Stokes, Levitas, Frank, Anderson, Gonzalez, and Solarz also objected.)

The SPEAKER pro tempore. A sufficient number has objected.

Objection is heard.

CONFERENCE REPORT ON H.R. 5930, EXTENDING AVIATION INSURANCE PROGRAM FOR 5 YEARS

Mr. MINETA submitted the following conference report and statement on the bill (H.R. 5930) to extend the aviation insurance program for 5 years:

Conference Report (H. Rept. No. 97-722)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the last sentence of section 303(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1902(b)(1)) is amended to read as follows: "At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.". The amendment made by the preceding sentence shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act.

Sec. 2. Section 306 of the Independent Safety Board Act of 1974 (48 U.S.C. 1905) is amended in subsection (a) by striking "pursuant to subsection (b)" and substituting "pursuant to subsection (b) or (c)" and by adding at the end thereof the following new subsection:

"(c) Cockpit Voice Recorder.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: Provided, That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: And provided further, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations.".

Sec. 3. Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "1982" and inserting in lieu thereof "1987".

Sec. 4. (a) Section 408 of the Federal Aviation Act of 1958 is amended to read as follows:

"EMPLOYEE ARRANGEMENTS

"DEFINITIONS

Sec. 408. (a) For purposes of this section—

"(1) the term 'employee' means an employee of an air carrier involved in a qualifying transaction, other than a temporary or part-time employee, who is a member of a craft or class which is subject to the Railway Labor Act (45 U.S.C. 151 et seq.); and

"(2) the term 'qualifying air carrier' means—

"(A) an air carrier providing passenger service with aircraft having a maximum passenger capacity of more than 60 seats,

"(B) an air carrier providing cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more, and

"(C) an air carrier providing cargo service in interstate or overseas air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more.

"QUALIFYING TRANSACTIONS

"(b)(1) For purposes of this section, the term 'qualifying transaction' means—

"(A) any consolidation or merger by two or more qualifying air carriers or persons controlling qualifying air carriers of their

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properties, or a substantial portion thereof (in cases meeting the standards set forth in paragraph (2) of this subsection), into one person for the ownership, management, or operation of the properties previously in separate ownerships, and any acquisition of control in any manner whatsoever of any qualifying air carrier by another qualifying air carrier or by a person controlling another qualifying air carrier;

"(B) any purchase of, lease of, or contract to operate all of the properties, or a substantial portion thereof (in cases meeting the standards set forth in paragraph (2) of this subsection), of any qualifying air carrier by another qualifying air carrier or by a person controlling another qualifying air carrier; and

"(C) any purchase of, lease of, or contract to operate all of the properties, or any acquisition of control in any manner whatsoever, of any direct air carrier which is not a qualifying air carrier by a qualifying air carrier or by a person controlling a qualifying air carrier, but only if and when the carrier which is not a qualifying air carrier provides passenger service with any aircraft having a maximum passenger capacity of more than 60 seats or provides cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more.

"(2) A transaction described in subparagraph (A) or (B) of paragraph (1) of this subsection involving a substantial portion of the properties of an air carrier shall be a qualifying transaction only if—

"(A) the transaction involves aircraft constituting more than 20 percent of the total number, market value, or lift capacity of aircraft owned by the seller or lessor;

"(B) the transaction involves assets other than aircraft constituting more than 20 percent of the total assets of the carrier selling or leasing properties, or

"(C) the transaction involves any purchase of, lease of, or contract to operate properties which directly or indirectly involves the right to operate any route or other equivalent air carrier market (including, but not limited to, any agreement or understanding not to compete on such route or market), and the Civil Aeronautics Board determines, after notice and an opportunity for hearing, that such transaction would cause widespread impact on the employees of an air carrier involved in the transaction, such that labor protective provisions should be imposed to prevent labor strife and disruption that could impair the continued stability and efficiency of the carriers involved.

The Civil Aeronautics Board shall make the determination required by subparagraph (C) not later than 90 days after a request is made in writing, or a court issues an order to the Civil Aeronautics Board, to make such determination. Any transaction which can be a qualifying transaction only under subparagraph (C) shall not take effect before the date on which the Civil Aeronautics Board makes such determination.

"(3) Notwithstanding any other provision of this subsection, no transaction involving only carriers described in subparagraph (C) of paragraph (2) of subsection (a) of this section shall be a qualifying transaction.

"IMPOSITION OF LABOR PROTECTIVE PROVISIONS

"(c)(1) Except as otherwise provided in this section, in the case of any qualifying transaction, the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger, 59 CAB 45, shall apply with respect to the employees of the air carriers who are involved in such transaction.

"(2) Sections 4, 5, 6, 7, 8, 9, and 12 of the Allegheny-Mohawk provisions specified in paragraph (1) of this subsection shall not apply with respect to any qualifying transaction which becomes effective more than five years after the date of enactment of this sentence.

"(3) In the case of any purchase, lease, contract to operate, or acquisition of control described in subsection (b)(1)(C) of this section, the qualifying transaction shall be considered to have become effective on the date on which service described in such subsection begins, and paragraph (1) of this subsection shall apply only on or after such date.

"(4) Nothing in this section shall preclude any agreement between an air carrier or air carriers (or their assignees or successors in interest) and one or more of the representatives of the employees of such carrier or carriers concerning the manner in which the provisions made applicable by paragraph (1) of this subsection will be implemented, or concerning a limitation on or extension of such provisions. Any such agreement shall apply, in lieu of the provisions made applicable by paragraph (1) of this subsection, with respect to the employees for whom such agreement is made.

"enforcement

"(d) The district courts shall have jurisdiction over any action to enforce this section, any arbitration award resulting from the application of this section, and any agreement applicable under subsection (c)(4) of this section, and any action to enforce any labor protective provisions imposed by the Civil Aeronautics Board under section 408 of the Federal Aviation Act of 1958 (as in effect before the effective date of this subsection), any arbitration award resulting from such provisions, and any agreement reached in lieu of such provisions. Any person with standing (including any labor organization representative of such person) may bring any such action in the appropriate district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy.".

(b) Section 409 of the Federal Aviation Act of 1958 is repealed.

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 408. Consolidation, merger, and acquisition of control.
"(a) Acts prohibited.
"(b) Power of Board.
"(c) Interests in ground facilities.
"(d) Jurisdiction of accounts of noncarriers.
"(e) Investigation of violations.
"(f) Presumption of control.
"Sec. 409. Interlocking relationships."

and inserting in lieu thereof

"Sec. 408. Employee arrangements.
"(a) Definitions.
"(b) Qualifying transactions.
"(c) Imposition of labor protective provisions.
"(d) Enforcement.".

(d)(1) Section 1601(a)(3) of the Federal Aviation Act of 1958 is amended to read as follows:

"(3) The authority of the Board under section 408 of this Act is transferred to the Department of Transportation on January 1, 1983.".

"(2) Section 1601(b)(1)(C) of the Federal Aviation Act of 1958 is amended by striking out "The authority of the Board under sections 408 and 409 of this Act (relating to foreign air transportation), the" and inserting in lieu thereof "The" and by striking out "sections 408, 409, and" and inserting in lieu thereof "section".

(3) Section 414 of the Federal Aviation Act of 1958 is amended by striking out "408, 409, or".

(4) Section 1010 of the Federal Aviation Act of 1958 is amended by striking out "408, 409, 412," and inserting in lieu thereof "412" and by striking out, "except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission".

(e) This section and the amendments made by this section shall take effect on the date of enactment of this section.

And the Senate agree to the same.

James J. Howard,
Glenn M. Anderson,
Norman Y. Mineta,
James L. Oberstar,
Don H. Clausen,
Gene Snyder,
John Paul Hammerschmidt,
Managers on the Part of the House.

Bob Packwood,
Howard Cannon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

WAR RISK INSURANCE

House bill

Reauthorizes War Risk Insurance Program through September 30, 1987.

Senate amendment

Same as House bill.

Conference substitute

Same as the House bill.

COCKPIT VOICE RECORDERS

House bill

No provision.

Senate amendment

Provides that, notwithstanding any other provision of the law, the National Transportation Safety Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions involving flight crew communications that are associated with accidents investigated by the Board. The Board is required to make available to the public those portions of the transcriptions of such communications that the Board deems relevant and pertinent to the accident, at the time of the Board's public hearing on the accident, and in any event no later than 60 days following the accident. In the event that the CVR is not recovered immediately after the accident, the conferees intend that the Board have 60 days after recovery of the CVR before release. The conferees emphasize that this amendment would not affect the Board's current practice of sharing CVR information with parties to the investigation.

Conference substitute

Same as Senate amendment.

QUALIFICATIONS OF MEMBERS OF THE NATIONAL TRANSPORTATION SAFETY BOARD

House bill

No provision.

Senate amendment

Requires the President to appoint individuals to be members of the National Transportation Safety Board upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

Conference substitute

Provides that at any given time no less than three members of the National Transportation Safety Board shall have technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation. Moreover, the conferees believe it would be desirable if future Chairmen of the NTSB possessed these qualifications.

This requirement is not intended to preclude the reappointment of any persons serving as a member of the Board upon the date of enactment.

LABOR PROTECTION PROVISIONS FOR AIRLINE EMPLOYEES

Current Law

Two sections of current law affect the authority to impose labor protection provisions. Under section 408 of the Federal Aviation Act of 1958, the CAB has wide discretion to impose such conditions (including labor protection provisions) as it sees fit on certain transactions among air carriers. Under section 1601(a)(3) of the Act, however, this authority, insofar as it relates to interstate and overseas air transportation, is transferred to the Department of Justice on January 1, 1983. This raised a great deal of uncertainty in the aviation community as to how this broad discretion would be applied by a new agency after January 1, 1983.

House Bill

The House bill did not address the issue of labor protection provisions for airline employees. Thus the effect of the House bill was to permit the authority to impose such provisions to be transferred to the Department of Justice on January 1, 1983 in accordance with current law.

Senate amendment

The Senate amendment sought to address the uncertainty of how the Department of Justice would apply its discretion in the field of labor protection by repealing the section in existing law which would transfer this authority to the Department of Justice on January 1, 1983 (section 1601(a)(3)). As a result of the amendment, the authority to impose labor protection provisions would remain at the CAB until January 1, 1985 when that agency would be abolished under another provision of existing law. At that time the authority would be transferred to the Department of Justice.

As Senator Kassebaum, the author of the amendment, stated on the floor of the Senate:

> If jurisdiction were transferred to the DOJ, it is not clear whether that agency would or could impose the standard Allegheny-Mohawk merger labor protective provisions which have traditionally been employed by the CAB to prevent labor distruption resulting from work force consolidations. The Board's labor protective provisions have been an integral part of the consolidation process. Until the Congress had had an opportunity to consider fully to what extent labor protective provisions should be required after CAB sunset, it is important that jurisdiction remain at the Board with authority to impose them.

Conference substitute

The conference substitute fulfills the intent of the Senate amendment by spelling out how labor protection provisions are to be applied in the future. The thrust of the conference substitute is to maintain the standard Allegheny-Mohawk merger labor protective provisions in accordance with the Senate amendment.

Specifically, the conference substitute requires that labor protective provisions continue to be imposed in the case of certain qualifying transactions. The labor protective provisions which are to be applied to these transactions are those imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger case, 59 CAB 45, including conforming changes typically made by the Board to tailor these conditions to the various types of transactions which might be involved, such as acquisition of control, or route transfers.

The requirements in the Board's standard labor protective provisions for integration of seniority lists are applicable to qualifying transactions consummated at any time after the effective date. The requirements in the protective conditions for financial benefits to displaced employees or to employees whose compensation is reduced are required only for transactions consummated within five years after the date of enactment.

Labor protective conditions are required for transactions involving two or more qualifying air carriers or persons controlling qualifying air carriers. A qualifying air carrier is (a) an air carrier providing passenger service with aircraft having a maximum passenger capacity of more than 60 seats, (b) an air carrier providing cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more, and (c) an air carrier providing cargo service in interstate or overseas air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more. Transactions involving the carriers described in (c) are covered only if a carrier described in (a) or (b) is also party to the transaction.

Qualifying transactions are also covered if the transaction is between an air carrier which is not a qualifying air carrier (such as commuter air carriers operating only aircraft with less than 60 seats) and a qualifying air carrier, only if and when the non-qualifying air carrier begins providing passenger service with aircraft of more than 60 seats, or cargo service in foreign air transportation with aircraft with a maximum payload capacity of 18,000 pounds or more. In these cases labor protective conditions shall apply only on and after the date on which the non-qualifying carrier becomes a qualifying carrier.

The transactions involving qualifying air carriers in which labor protective conditions are required are consolidations mergers, acquisitions of control, and purchases, leases, or contracts to operate all of the properties of a qualifying air carrier. Cases involving the purchase lease or contract to operate a substantial portion (but not all) of the properties of qualifying air carrier are subject to specified standards. If a transaction involving acquisition of a substantial portion of a carrier's property does not include the right to operate a route, protective provisions are required if the aircraft in a transaction constitutes more than 20% of the total number, market value, or lift capacity of aircraft owned by the sellor or lessor, or if the non-aircraft assets in the transaction are more than 20% of the total assets of the sellor or lessor. If in these transactions (i.e. transactions involving acquisition of a substantial portion of a carrier's property where no routes are involved) the foregoing numerical tests are not met, labor protective conditions are not required.

Under these numerical tests, labor protective provisions will be required for certain transactions in which there is a sale or exchange of a substantial portion of a carrier's property and no routes are involved. A majority of the conferees felt that it was desirable to have numerical standards which would give certainty both to airlines and employees so that they could make appropriate contractual and collective bargaining arrangements. Nevertheless, the conferees recognize that Representatives Clausen, Snyder, and Hammerschmidt had and continue to have concerns over the extent to which labor protection provisions as included in the conference substitute change the current CAB policy of considering all these transactions on a case-by-case basis.

In transactions involving the acquisition of a substantial portion of the properties of an air carrier in which the properties involved include the rights to operate routes, the Civil Aeronautics Board is required to determine, after notice and an opportunity for hearing, whether the transaction would cause a widespread impact on the employees of an air carrier involved in the transaction, such that labor protective provisions should be imposed to prevent labor strife and disruptions that could impair the continued stability and efficiency of the carriers involved. The Civil Aeronautics Board is required to make this determination not less than 90 days after a request is filed. The CAB's authority to make these determinations is transferred to the Department of Transportation on January 1, 1983.

The requirements imposed by the conference substitute are not intended to preclude any agreement between an air carrier and one or more of the representatives of the employees of the carrier concerning the manner in which labor protection provisions will be implemented, or concerning a limitation of or extension of such provisions. Any such agreement shall apply, instead of the standard labor protective provisions, with respect to the employees for whom the agreement has been made.

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The Conference substitute terminates the requirement that the Civil Aeronautics Board approve specified transactions involving airlines ;and other aeronautical interests under section 408 of the Federal Aviation Act of 1958 and the requirement that the CAB approve specified interlocking relationships under section 409 of the Act.

James J. Howard,
Glenn M. Anderson,
Norman Y. Mineta,
James L. Oberstar,
Don H. Clausen,
Gene Snyder,
John Paul
Hammerschmidt,
Managers on the Part of the House

Bob Packwood,
Howard Cannon,
Managers on the Part of the Senate.

A TRIBUTE TO OTTO CORUM

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I speak today in tribute to a longtime friend of mine, Otto Corum, who died last month on July 15 at the age of 71 in Madisonville, Ky.

Corum, who was involved in many diverse and successful business interests, helped to build Madisonville by donating land or selling it half price. His business interests included farming, land development, coal mining, a river boating facility, concrete and paving contracting, a shopping center, motels, a fuel distributing company, an engineering company, and a resort in the Bahamas.

In 1976, Corum was named the Madisonville Lions Club Man of the Year. He was also instrumental in expanding and beautifying the campus of Madisonville Community College. The city's Elks Lodge, the local chamber of commerce, and the Boy Scout Camp at Wild Cat Hollow have dedicated and/or named facilities for him and in his honor.

Corum, a member of the hometown First United Methodist Church, served on the board of Kentucky Wesleyan College, Madisonville Community College, and Associated Industries of Kentucky.

Corum was a self-made man, as well as a generous one. His basic philosophy was to share any assets he had. Many organizations were recipients of his generosity. Most of his donations were anonymous. He was not a man who looked for recognition.

He attended Madisonville High School and earned a B.S. degree in biology and chemistry from Western Kentucky University.

I was very fond of Otto Corum and considered him an outstanding, unselfish, hard working, dedicated American.

His son-in-law, State Senator Kenneth Gibson of Madisonville, was one of many who admired Otto Corum. Mr. Corum was very helpful to several public officials, including Senator Gibson and me.

Other family survivors are his lovely and talented wife, Martha L. Corum, two children, Ann Gibson and Frank Corum, both of Madisonville, and two stepdaughters, Jean Bohne and Carolyn Chumley, both of Central City.

I extend my sympathy to the survivors and friends of this fine gentleman, who was truly an inspiration to those who knew and respected him.

□ 2110

A TRIBUTE TO THE HONORABLE JONATHAN B. BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the retirement of our colleague, the Honorable Jonathan Bingham.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Speaker, it is with mixed emotions that I have requested this special order today to honor our dear friend and distinguished colleague, Jonathan Bingham; in extolling the great achievements of our colleague, and sadness in knowing that his service in this House and to the people of his district will end at the end of this session of Congress.

I know that my colleagues share my sentiments and I would like to thank all of you who are joining me in this tribute.

To our great sorrow, Jack will be leaving us at the end of the 97th Congress, but there are very few of us whose lives have not been happily touched in some way by him.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I want to commend the gentleman from New York (Mr. Addabbo) for taking this special order to honor one of our senior colleagues, the gentleman from New York (Mr. Bingham), who unfortunately is going to be leaving this House as a result of reapportionment. We in New York have suffered more severely from reapportionment than any other State, losing five of our Members as a result of reapportionment, and the House will certainly be the loser as a result.

I have not always agreed with Mr. Bingham on some of the matters that have come before the House, but I certainly respect him and he has had a distinguished career. I can remember at the end of World War II when we were coming back as veterans that he was instrumental in helping to reorganize political activity in New York City with a group of younger leaders. After that, he was an Ambassador to the United Nations.

Perhaps the most important job from the point of view of our association was his service as Secretary to Governor Harriman when Governor Harriman moved into the capitol in the State House in Albany in 1954.

Subsequent to that time, Mr. Bingham was elected to Congress in what was regarded as a kind of David and Goliath victory when he defeated the distinguished Charles Buckley of the Bronx and he has been a leading member of the Foreign Affairs Committee and a leader in the House since that time.

We certainly are going to miss him and also his very talented and remarkable wife, June. We want to wish all of them Godspeed.

Mr. ADDABBO. Mr. Speaker, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I, too, would like to speak for a moment about Jonathan Bingham of New York.

We use the word distinguished in this House quite frequently; but of whom can it be said more truly than of this man, whose motives never are questioned by anybody, no matter how one may disagree with him; a straight, an honorable, a high-minded and principled man.

I wanted very much to be on the Foreign Affairs Committee and I so longed to serve with such a person and it has been a fine experience. He is chairman of the subcommittee on which I serve and all of us there have learned to respect and admire him.

We lose people in this House and we cannot afford a loss like this. This is one of the few people that is a real ornament to the Congress of the United States and the House of Representatives.

This is somebody who speaks every day for what we all believe in; honest and courteous dissent. I have never heard him say something beneath the dignity of a human being of his quality.

I could go on, Mr. Speaker, but there are many who want to say another word and so I will only say to Jonathan Bingham and June, Godspeed. You have served your country and all of us well.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding and commend him for his initiative in this special order for Jonathan Bingham.

Mr. Speaker, I rise tonight to join with my colleagues in this special order paying tribute to our esteemed colleague and good friend Jack Bingham who is retiring after 18 years of exemplary service to the people of the Bronx and the Nation.

It is an especially personal experience for me to participate in this tribute tonight for throughout my 14 years in the Congress it has been my high privilege to have served alongside Jack Bingham. I say this both in the sense of serving together in the House—but also geographically for Jack and I represent neighboring districts in the Bronx. As a result Jack Bingham and I have worked on so many common initiatives it would be impossible to enumerate them in these remarks.

On this occasion we look fondly on all the good Jack Bingham has done in his congressional career. He is the consummate constituent service Congressman. He worked the various neighborhoods of his district helping people from all walks of life cope with the many problems that government can sometimes offer. As a result for the 18 years he served in the House his constituents were provided with the highest quality representation by Jack Bingham.

Jack will also be remembered as an effective and principled legislator. His service on both the Foreign Affairs and Interior and Insular Affairs Committees were both distinguished. He is responsible for some of the more progressive export legislation to be produced by Congress in the past several years. Jack is also a staunch supporter of Israel and for human rights around the world.

Yet—Jack may best be remembered for being the pioneer of a movement which has now become national in scope—the so-called nuclear freeze movement. Jack was one of the main authors of the resolution which narrowly was defeated in a vote last week in the House. He had been pointing to the dangers of the nuclear arms race for years—well before others were aware of the hazards. It was my pleasure to join Jack as a cosponsor of the nuclear freeze resolution and hopefully sometime in the near future, as a tribute to men like Jack Bingham we can begin to take the steps to reduce our nuclear arms.

Jack Bingham will retire from this House with a reputation of being a gentleman—a statesman—a man of high principle and integrity but one who knows how to get things done in Congress. He represents the epitome of what a Member of the House of Representatives should be. He has effectively blended a passion for serving the needs of his constituents with a desire to be an effective legislator. He has succeeded in both.

It was evident that Jack was destined to go into politics having been born into a political family. His father was the late Senator Hiram Bingham of Connecticut. Jack's effectiveness as a member of the Foreign Affairs Committee might have developed its origins from his stint as a reporter for the New York Herald Tribune covering beats in Europe, the U.S.S.R. and the Far East. Jack served with distinction in the military service having enlisted as a private and discharged as a captain in Military Intelligence. Prior to his election to Congress in 1964, Jack amassed an impressive record of public service on the city and State level and a period of service with the United Nations.

Jack Bingham was a good friend to me and I benefited from his wisdom and counsel. He set a standard which would be well for this House to maintain. He is a man of extraordinary competence, commitment, and compassion. He has distinguished the career of public service. He has given 18 years of quality work as a member of the House.

As Jack contemplates his retirement—all of his friends and colleagues hope that he will continue to speak out on issues of concern to him. His, will be a voice of influence in the future especially with respect to disarmament. His family will no doubt cherish the additional time Jack can spend with them. I convey my warmest sentiments to his lovely and devoted wife June and his four children.

Jack Bingham is being honored tonight by those of us who have had the honor to serve with him. We have learned much from him and for that we are grateful. I wish my friend well in the future and hope that his future features good health and happiness and anything else he desires.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Maryland (Mr. Barnes).

Mr. BARNES. Mr. Speaker, I appreciate the opportunity to join in this tribute to our colleague, Jack Bingham.

As a relatively new Member of the House, I have not had the opportunity of serving with Jack during all or even most of his 18 years in this body. I have a different perspective—that of a new Member coming into the House, looking around, and trying to sense who is effective, who gets things done, who is respected by his peers in Congress and around Washington—who, in short, provides a model for a younger Member seeking to carve out his own role and his own style.

Jack Bingham is not a headline grabber. It takes some time to figure out who he is. But after a while, serving with him on the Committee on Foreign Affairs, you find yourself listening when he speaks. One of the reasons you listen when he speaks is that he does not speak on every issue. He speaks when he has something to say—and when he does, you know that he has thought the issue through carefully, marshalled his facts, and is prepared to make a real contribution to the debate.

Another reason you listen is that he deals with the issues on their merits. Jack Bingham is a liberal Democrat and proud of it. but that does not mean that he has a knee-jerk reaction to the issues. Jack Bingham approaches each issue seeking to do what is right. He can be a loyal Democrat without being partisan about it; it seems like a contradiction in terms, but my colleagues know what I mean.

Jack Bingham is one of the true gentlemen of this House. He is a man of unquestioned integrity. He is unfailingly courteous, never raises his voice in anger, always conducts debate on a high level, never grandstands, never seeks to draw attention to himself, is always gracious both in victory and defeat.

For nearly two decades in Congress Jack has stood foursquare behind certain priciples he believes must be followed in the interest of achieving a better world. Among these are the importance of arms control and international development. His name is associated with the "Bingham-Nelson" amendment to the Arms Export Control Act, which provides for a congressional veto to major arms sales, but his contributions to the annual foreign economic aid legislation have been equally important. One of the assets he has brought to the House is broad experience in the executive branch and, in this regard, his experience in the executive branch and, in this regard, his experience as an administrator of our foreign aid program in the 1950's has given him insights that have proven invaluable in the consideration of our foreign aid legislation. He has been a friend of the United Nations, where he also served before coming to Congress. And as all friends of Israel know, he has been a staunch defender of Israel throughout his career in Congress.

In 1975 Jack became chairman of the Subcommittee on International Trade and Commerce, later renamed the Subcommittee on International Economic Policy and Trade. In that capacity, he deepened and broadened his impact on policy. As chairman, he is best known as the author of the Nuclear Non-Proliferation Act, one of the most important pieces of legislation ever produced by the Foreign Affairs Committee. But perhaps not all my colleagues are aware of the other legislation that Jack authored, coauthored, or helped steer through the House: the Export Administration Act of 1979, which is a complete rewrite of the basic law governing U.S. export

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policy; the antiboycott legislation, which prohibits U.S. complicity in the Arab boycott of Israel; the International Emergency Economic Powers Act, which provided the authority for the U.S. sanctions against Iran during the hostage crisis; the Deep Seabed Hard Mineral Resources Act, which provides a basis for what I hope will be eventual U.S. participation in cooperative efforts to mine the seabed; the export trading company legislation, which finally passed the House this year after years of effort.

I literally cannot imagine the Foreign Affairs Committee without JACK's voice of reason and compassion. Inescapably, the House will be diminished by his departure.

Fortunately, we know that JACK is not really headed for "retirement," but for a new stage in his career, in which he will continue to contribute to our country and to the causes he believes in. As he leaves, we wish him well, and we thank him for giving us the benefit for 18 years of his example of the highest standards of public service.

□ 2120

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Speaker, I have been privileged to serve with JACK BINGHAM in the House for the last 8 years now, and I do not think there is another Member for whom I have more admiration or more affection.

Several of the other Members who have already spoken have talked to the question of JACK BINGHAM's character, his integrity, his intelligence, his decency. Everything that has been said about him in that regard is absolutely true, but I think there are some other things that can be said as well.

All of us, when we make the decisions that confront us in the Congress, try to decide what to do on the basis of what we think is in the best interests of the country. Most of us, of course, also take into consideration political factors which are important in determining whether or not we will be reelected.

I do not think there has been another Member of this institution who has more consistently decided the important issues confronting the Congress on the merits than JACK BINGHAM, and I think that is one of the reasons he enjoyed such widespread respect in this body, because people knew that when JACK BINGHAM spoke, he was not speaking simply on the basis of what his constituents wanted or what would help him to get reelected; but he was speaking on the basis of what he thought was in the best interests of this country.

All of us are going to remember JACK BINGHAM because of his character. We are all going to remember him because of the very special kind of person he was.

But JACK BINGHAM was one of a handful of Members who has really left his imprint on the laws of this land.

My good friend, the gentleman from Maryland (Mr. BARNES) has spoken about several of his achievements, and I would like to mention just a few more.

First, he was clearly one of the leading supporters of Israel in the U.S. Congress, and I say that as someone who not only cares very deeply, personally, about Israel, but who represents what may be the largest Jewish constituency in the country.

JACK BINGHAM was no fair-weather friend. In good times as well as bad, he was willing to speak up on behalf of an American policy that was sympathetic and supportive of the State of Israel, and the friends of Israel all over this country and the world are going to miss him sorely.

I remember in my first year in the House working very closely with JACK BINGHAM on the Arab antiboycott legislation which he was one of the key architects of, and if it were not for his efforts, I doubt that we ever would have passed that historic legislation.

JACK BINGHAM was also, as the gentleman from Maryland indicated, the chief author of the Nuclear Non-Proliferation Act, and I think that we all recognize that JACK BINGHAM carved out nuclear nonproliferation as a special area of expertise. When most of us looked for guidance on that issue, which may perhaps be more important than any other issue confronting our country and the world today, JACK BINGHAM was the Member we looked to because he devoted so much time to understanding the complexities of this question.

JACK BINGHAM was one of the leading supporters and sponsors of the freeze resolution which we debated and voted on just a week ago. While feelings in the House, obviously, ran very high on this question and sentiment was very closely divided, JACK BINGHAM's willingness to take the leadership on this question and the fact that so many Members looked to him for guidance on the issue is once again a tribute to the impact he had on the House.

I do not know how many remember back in 1975 when JACK BINGHAM, as a member of the Steering and Policy Committee, insisted that there be a closed ballot on the question of whom to recommend for committee chairmanships to the Democratic Caucus. It was as a result of his efforts at that time that the complete grip of the seniority system in terms of determining committee chairmanships in the House was broken. Not every Member may have appreciated his efforts at that time, but I think the great majority of us now recognize that the House is a more open institution and that it is easier for Members to have an impact on what goes on here as a result of his efforts.

Of course, as the gentleman from Maryland mentioned, JACK BINGHAM was the author of the legislation which gave the Congress for the first time the right to disapprove the sale of arms to other countries, thereby significantly enhancing our ability to have an impact on foreign policy.

So, JACK BINGHAM has really left his imprint on this institution. I suspect if the definitive history of this institution is ever written, JACK BINGHAM will rank extraordinarily high on the list of those Members who have emerged from the anonymity of the mass who have served here over the centuries as one of a handful who really made a difference.

I personally will miss him a good deal, not only because he has become a very good friend, not only because he was the one who first strongly suggested that I ask to serve on the Foreign Affairs Committee, which has given me opportunities that I never would have thought I might have enjoyed as a Member of this House, but also for one very special reason. Unlike my very good friend from New York (Mr. STRATTON) the dean of our delegation, who indicated that from time to time he disagreed with Mr. BINGHAM, I have to say that almost invariably I agreed with him. The reason I will miss him is that whenever we have a rollcall, I come in usually through those doors facing the Longworth Building, and the first thing I do when I come up is look on the scoreboard over there under the B's to see how Mr. BINGHAM, the gentleman from New York, has voted. And I find that almost invariably his judgment on the issue before us is very similar to my own.

When I am not really sure about what to do, but I have to make a decision because time is running out, if I see a green light next to the gentleman from New York, I will probably vote yes, and if I see a red light, I will vote no, completely confident that that vote is a vote which will have been cast in the best interests of this Nation.

So I just want to say in conclusion that I consider myself truly privileged to have been able to work with JACK BINGHAM. He will always be an inspiration to me.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

I want to thank the gentleman in the well for taking a special order this evening to provide all of us an opportunity to express, however briefly, the enormous meaning that JACK BINGHAM has had for each of us during our time that we have served in this body.

When I arrived in the Congress a few years ago and was appointed to the Foreign Affairs Committee, I began to consult with a number of my new colleagues on the committee with respect to my subcommittee assignments. Almost unanimously, I was urged to seek appointment to the Subcommittee on International Trade and Economic Policy, not so much because of the subject matter that fell within the jurisdiction of that subcommittee, but because of the opportunity it would provide for me to work under the chairmanship of JACK BINGHAM.

I must say that there is no decision that I have regretted less than the one to seek membership on that subcommittee.

□ 2130

During the past 3½ years that I have worked with JACK BINGHAM on that committee, I have learned from him and I have been inspired by him. I have tried to think through, as I have heard the listing of all of the various accomplishments with which his name has been associated in previous remarks this evening, for a common theme that I think runs through all of JACK BINGHAM's work and all of his service to the Nation. I think that fundamentally it is his sense of vision, that he sees a world that ultimately can and must be governed on the basis of mutual respect, a world in which we can each recognize the common humanity that we all share independent of race or color, nationality, ethnic origin, or what have you.

He applies to every one of the legislative initiatives he has undertaken within this body over the past several years that very deep respect for humanity. I think it infuses all of his work and all of his contributions. I think it is that, fundamentally, that has touched each and every one of us.

JACK BINGHAM will be missed by the Congress. His voice, I think, will be missed by the entire Nation, but I know that he will remain active; he will remain involved, and we will continue to hear from him in many other ways as he continues his public service.

I will personally miss JACK BINGHAM. It has been for me one of the greatest privileges of my service in the Congress to have been able to serve with him on the Foreign Affairs Committee.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding, and I thank him for taking this time. I am sort of a casual visitor; I did not know it was the gentleman's intention to do this tonight, but I thank him for doing it.

Unlike the distinguished gentleman from New York (Mr. SOLARZ) I use Mr. BINGHAM's voting record as a benchmark too, but to vote in exactly the opposite way. Nevertheless, I want to join the colleagues bemoaning the departure of the distinguished gentleman from New York, the Honorable JONATHAN BINGHAM, from this august body.

JACK BINGHAM is as described by the previous speakers, a man of decency, a man of humanity, a man of thoughtfulness, and a man of consistency. People on this side of the aisle as well as those of his own good friends in the Democratic Party can recognize those qualities and be impressed by them, and I have never ceased to be impressed by JACK BINGHAM since I first came to the Congress.

He was a man who understood the role of this great country and the position and stature of this great country in our international community. He particularly understood the trade relationships of this country and the position which it should hold. And that was where I knew him best, and I must say that in the bills that JACK brought before this body, in every case they were better as he brought them out of committee than this body sent them on to other disposition.

I hate to see him go. I think the Congress needs JACK BINGHAM's, and I wish that he would stay. On the other hand, I never second-guess a Member's decision. I know that JACK and June are only graduating to some other good purpose and good goal in life, and I know that they will be very useful and that they will be as effective in other roles as they have been in Congress. I wish them the very best, and I thank them for the inspiration and example that they have provided for this House and for me personally.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I thank my friend for yielding, and especially for the opportunity he has given all of us to express our great respect for JACK BINGHAM and his wife, June.

Long before I was elected to Congress I admired JONATHAN BINGHAM from afar. I was a resident of New York City at one time. At that time, as well as subsequent to my move to upstate New York, I followed JONATHAN BINGHAM career with admiration. I found that not only agreed with most of his votes in Congress, but that he always issued thoughtfully and in a way which enobled politics and public service. That was no small accomplishment in an age when people were often skeptical and even cynical about public service and politicians.

Since I was elected to Congress I have gotten to know, JACK personally as a colleague, as a friend, and as a fine example to each of us who serves in the Congress of the United States. In an institution which imposes incredible pressures for self-advancement, JACK BINGHAM has always been self-effacing. In an institution which imposes incredible pressures for coping with the demands and crises of the moment, JACK BINGHAM has always had vision. In an institution which imposes incredible pressures to advance simple nostrums to complicated problems, JACK BINGHAM has been thorough and thoughtful. In these and many others ways JACK BINGHAM has made major contributions to the country, but also to those of us who have worked with an served with him here.

So, it is with mixed emotions that I join with my friends and colleagues in expressing appreciation to JACK for his years of outstanding public service. While cherishing my association with him here, and regretting to see him retire, we know that he and June have earned some respite from the pressures of this frenetic life. We also know this period represents a transition for JACK and June into another productive phase of their lives.

JACK BINGHAM has more energy and resourcefulness at his age than most of us do who are years younger, and we will continue to look to JACK for good example, for the vision and thoroughness and thoughtfulness he has demonstrated to us here.

Again, I want to thank the gentleman from New York for giving us the opportunity to say these few words on behalf of JACK BINGHAM and his wife, June.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding, and I appreciate his taking this time and giving me an opportunity also to express myself about JACK BINGHAM and his wife June as they leave the congressional Halls and as they embark on other things.

Mr. Speaker, if I were to choose a man who needed to be quiet but forceful, incisive but restrained, of unquestioned integrity but capable of forging compromise, JACK BINGHAM is the man I would turn to.

Having served with JACK for 18 years—most of those shared on the House Foreign Affairs Committee—I have known him to be an individual of remarkable intellectual courage and commitment. When he first arrived here in 1965, I remember being struck by this quiet man from New York whose diplomatic bearing and thoughtful comments captured my attention, almost by surprise.

But over these past years, I have discovered that I never regretted the time I spent in considering Jack's comments and points of view. Whether the topic be human rights and the need for U.S. policy to reflect our sense of social justice or the need to toughen the House Code of Ethics or the need to reevaluate our nuclear energy policies, Jack has established himself as a voice of reason and intellect.

By taking part in this special order to pay tribute to the gentleman from the 22d District of New York, I salute Jack Bingham as committee member, a respected colleague and a valued friend whose counsel and advice I will miss. My best wishes to Jack and June Bingham as they undertake new adventures.

□ 2140

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I rise to thank my colleague, the gentleman from New York (Mr. Addabbo) for arranging this special order, and for the purpose of joining in this tribute to our dear friend, and colleague, the gentleman from New York, Jonathan Bingham.

Mr. Speaker, the redistricting process has dealt many of us from New York blows of various kinds, but I know that we all felt a real sense of loss to learn that Congressman Bingham had decided to retire from the House.

Jack Bingham came to the House after a distinguished career in public service and at the bar. Besides his 18 years of service in the House of Representatives, he was a journalist, an author, an assistant to a Governor and a secretary of state, and a captain in military intelligence in World War II.

Jack defeated an entrenched incumbent, in a rough primary to gain the privilege of serving in the House. Ever since, he has worked tirelessly to further the welfare of his constituents and to guide our House Foreign Affairs Committee through many a crisis.

Jack's experience in international affairs and military intelligence led him, perhaps inevitably, to serve on the Committee on Foreign Affairs. When I joined the Foreign Affairs Committee, years later, I often looked to him for guidance. We serve together on the Subcommittee on International Economic Policy, where he is my distinguished chairman. We may disagree on some issues, as is natural, but I can tell the Members that no one's voice is more carefully listened to than his.

Some of our earlier speakers have alluded to Jack's devotion to the cause of peace in the Middle East. He is truly a man of peace, a devotee of peace, a true statesman. He has worked tirelessly to strengthen the ties between this Nation and the State of Israel. Through good times and bad in that relationship, he has taken a stand of constructive action in every respect.

I will miss Jack Bingham's presence in our deliberations and activities in connection with the affairs of our State, and I should also allude to his work on his other committee, the Committee on Interior and Insular Affairs, where I know he has been a voice of reason and a voice in favor of preservation of natural resources. The work of that committee does not serve too many accolades for the Members from the East who serve on it. But geographic balance is important, and Jack has served all of us well by keeping an eagle eye on the activities of the Interior Department, sometimes called the Department of the West.

To Jack, and his devoted spouse, June, go our sincere best wishes for good health and happiness in all your future endeavors. This body will miss you.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me and I want to thank him at the outset for arranging this special order to honor our colleague, Jack Bingham.

I know that my regret at Jack Bingham's retirement is shared by Members on both sides of the aisle. This legislative body at all times and perhaps especially now needs Members with the ability, integrity, and wisdom that have marked Jack's 18-year congressional career.

Of a career filled with many outstanding achievements, I want to touch on just one, his impressive record of leadership on issues concerning international peace.

In 1967 he was 1 of only 18 Members who voted to stop the bombing of North Vietnam. Two years later he was the principal House sponsor for the McGovern-Hatfield bill to end the war.

He began his work to curb nuclear proliferation in the 1970's. He wrote and sponsored comprehensive legislation to place strict control on nuclear exports. He guided the bill through the House and it was enacted in 1978.

This year he has led efforts to strengthen the 1978 legislation on nuclear exports.

He also has been a leader, as we know, and an original sponsor in support of an immediate bilateral nuclear freeze. I chose to highlight his work on nuclear nonproliferation not only because of its overriding importance as an issue, but also because it reveals his dedication. It is a highly technical and complex issue requiring a mastery of detail.

He does not always get the public recognition he deserves for his work because his style is to work cooperatively and behind the scenes, often without concern for the public fanfare.

On a personal level, I shall always be grateful to Jack Bingham for his selfless conduct in this year's reapportionment and redistricting struggles. Last May when the New York State Legislature drew lines in a situation which under the best of circumstances would have been difficult, because five of our Members were going to have to be cut out of districts, the size of our delegation being reduced, Jack, in the most selfless political action that I know of, when he and I were thrown into a district combining our mutual districts, indicated that since he and I had no issue differences, although he would prefer staying in the House, he would not run against someone with whom he had no issue differences.

That was a remarkable act and he accompanied it with a remarkable statement.

The most remarkable thing about it though was that as I went throughout the district, both in the Riverdale area where Jack and June had lived and do live, and throughout the other parts of my district, indeed throughout the city, people who had read that statement came up to me and said, "Isn't that just like Jack Bingham. He really demonstrated the tremendous class that we know he has always had."

People were not surprised. They expected of Jack always and got always the very, very finest.

In an era when public regard for Congress has reached an all time low, Members like Jack Bingham should receive national acclaim. His constituents have always recognized his excellence.

Since he was first elected in 1964, they have repeatedly voted overwhelmingly to return him to Congress.

The work he has done in Congress will continue to affect Americans across the country and people throughout the world. I will miss him, for he is a thoughtful legislator and an effective leader as well as a good friend. I will be proudest of the fact that as I remain here he and June will continue to be my constituents.

Mr. SHAMANSKY. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Ohio.

Mr. SHAMANSKY. Mr. Speaker, I wish to precede my remarks by thanking the gentleman from New York for arranging this evening.

Mr. Speaker, I rise to pay tribute to our esteemed colleague from New

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York, Representative Jonathan Bingham.

Jack Bingham's retirement at the end of this Congress, after 18 years of service to the people of his 22d District and the Nation will cost this House not only a knowledgeable, skillful legislator, but a true gentleman as well.

I must at this point say that I am a 55-year-old freshman. That means that I have been around a lot as a businessman and as a business lawyer. I have had a chance to evaluate many people. I can tell you that the impact of Jack Bingham upon anyone who first comes upon him is very great. He is a good and rational man, a man of integrity, and to me those are the hallmarks of a leader.

□ 2150

As a lawyer, a journalist, an officer in military intelligence, a diplomat, administrator, author and Member of Congress, Jack Bingham's career has, in effect, defined the American ideal of public service.

His father, Senator Hiram Bingham, provided an outstanding example of one who understands civic duty and leadership. Jack Bingham followed and extended that example.

It has been my pleasure to serve on the Foreign Affairs Subcommittee on Economic Policy and Trade, which Jack Bingham ably and thoughtfully chairs. His leadership last fall of our subcommittee trip to six countries, including Saudi Arabia, proved invaluable.

At this point I would like to mention that on that trip I got to know June Bingham, and it is a delight to see a couple who genuinely like each other. Especially was I amused when I heard June Bingham refer to her husband as "Bingham," and I thought that was fun.

His commitment to strong American-Israeli relationships highlights his understanding and support of America's democratic allies around the world. Jack Bingham's exemplary service in Congress and his many contributions to this country stand as an inspiration to all of us. He has earned the thanks and gratitude and best wishes of his colleagues and countrymen.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding, and I thank him so much for taking this opportunity and allowing us the opportunity of being able to pay tribute to our colleague, Jack Bingham.

Jack Bingham comes from a long tradition of service to our country, and he has accepted his inheritance with such fervor and with such good humor. He has always been associated with everything that is best in this country and in this body. He has been associated throughout his career first with reporting the news and then making the news and being able to be with the people who meant so much to all of us, being associated with Averell Harriman in New York in State government, being associated with Adlai Stevenson in the United Nations and international government, and then coming to the U.S. Congress in the great 89th Congress and being associated with so many exciting and wonderful people and ideas that really pushed this country forward.

But most of all, he has had a continuing association with an American of such dedication and who has such a beautiful way of sensitively interpreting service of others, not only of others of this country, but leaders of the world—June Bingham; and that, to me, means that together they have not only accepted all of the aspects of their own tradition, but have left their own legacy to this House, to this Nation and to generations to come.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Ohio.

Mr. PEASE. I thank my colleague, the gentleman from New York, for yielding and for organizing this special order.

I know the hour is late so I shall not be long. But I did want to pay tribute to our retiring colleague, Jack Bingham.

When I first came to Congress 6 years ago, I asked to be appointed to the Foreign Affairs Committee. In trying to select which subcommittees to seek, I looked more at the subcommittee chairman in each case than really I did the subject matter. Frankly, I selected the Economic Policy Subcommittee specifically because of the reputation of Jack Bingham. I must say that in serving on that subcommittee for 4 years I was never once disappointed in my selection.

As a subcommittee chairman, Jack brought to the workings of the Economic Policy Subcommittee something which most Members of Congress cannot, and that is a superb background to serve as a framework within which to fit the pieces of legislation which came before us. Adding strength to that background was his natural capacity and penchant for scholarship, a thoughtful approach to legislating. He was on that subcommittee a voice of reason, very much respectful of facts. Beyond that, he was a careful craftsman. Any bill which went out of our subcommittee was well drafted and we need not have worried about that.

Finally, I think he was always consistent through one administration after another in fashioning policy and in standing for policy, which makes sense for the people of America.

In the full committee, it was really more of the same. I viewed him as a very valuable colleague on the full committee because he brought the same qualities of his work at the committee level. As others have said, he was and is a gentle person but not soft in any respect. He is a person of genuine conviction and determination, and his strength comes from that determination and conviction. Without question, he was a leader on the committee, although certainly not a self-proclaimed one. Having Jack Bingham on your side on any controversy within the Foreign Affairs Committee was worth a great deal, not only for his legislative skill, but also for the respect which all members of the committee had for any position that he arrived at.

I think that that respect showed up in the committee and also on the floor in connection with the nuclear freeze resolution which we discussed just last week.

Lastly, I would like to say that I have valued Jack Bingham as an example, certainly as an example which I have tried in some small measure to follow, an example which I know he has set for many, many other newer Members of Congress. As I said, he is a true gentleman, a gentle person, self-effacing, genuine, an example of the ability of Members of Congress to be successful without bombast. His commitment to facts, to logic, to reason, and to reasonableness has been a beacon for many, many younger Members of Congress, although probably not enough of them have told him of that fact.

Mr. Speaker, Members come and Members go from this Chamber. I am sure that as Jack Bingham retires and goes on his way, others of us will serve as examples for the new Members of Congress yet to come. All I can say is that if we serve as good examples, it will be very largely because we have had the example of Jack Bingham to go before. But I am not at all confident, in fact I am quite confident to the contrary, that we will be able to measure up in any significant respect at all as examples of other Members of Congress. Because Jack Bingham really is a unique person, it is unlikely that there will be in years to come many new Members who bring to this body the background and the intelligence, the innate good sense and decency which Jack Bingham has imparted to us over his many years in Congress.

In closing, I, too, would like to call attention and pay tribute to the contributions made by the team of Bingham and Bingham. June Bingham and Jack Bingham have been a team in Congress in Washington for a long time. This is truly a case where they have made a joint contribution.

Again, I thank the gentleman from New York for giving me this opportunity.

● Mr. BOLAND. Mr. Speaker, I would like to thank my good friend from New York, Joe Addabbo, for arranging this special order in honor of one distinguished and very deserving colleague, Jonathan "Jack" Bingham.

In his 19 years as a Member of Congress, Jack has displayed with perseverance and integrity, his deep devotion to the democratic principles which have made this Nation great. Through his many achievements as a scholar and author, a civic leader, as well as his dedicated service in many various government positions before coming to Congress, Jack has enhanced this body with excellence.

As a member of the House Foreign Affairs Committee where he is chairman of the Subcommittee on International Economic Policy and Trade, a member of the Subcommittee on International Security, and a member of the Commission on Security and Cooperation in Europe, Jack has revealed a deep concern for the development of sound U.S. foreign policies. His most recent concerns in this area were evidenced by his introduction of House Joint Resolution 521, calling for a nuclear weapons freeze, approval of the SALT II Treaty and substantial reductions in nuclear weapons. His work on the nuclear freeze resolution both echoed the cries of the public for a solution to the problem of nuclear weapons buildup and opened the eyes of many legislators at home and abroad to the need for an adequate solution to one of the most significant problems of our times.

We are indeed fortunate to have had the pleasure of working alongside this great statesman from New York. I know that his departure from the House does not mark the end of his career of public service. It merely marks a change of forum. I want to join in saying farewell to a fine man and an honorable and distinguished colleague.●

● Mr. ROSENTHAL. Mr. Speaker, during the 20 years that I have had the privilege to sit in this Chamber, I have served with many colleagues whom I have come to admire. But in all my years, I can think of no one who I have respected and trusted more than Jack Bingham. Rarely, do we in Congress have the honor to pay tribute to as distinguished a man as my longtime friend and colleague from New York.

Jack is a very special colleague of mine. Over the years that we have served together in the House, Jack has become a trusted friend and adviser; a person with whom I could always turn to for a sincere, thoughtful, and well-reasoned viewpoint on the often difficult issues which we must all grapple with in these Chambers. We all have had the opportunity to view Jack's abilities as a legislator: his eloquence, his passionate dedication, his unyielding stamina, his leadership, and his knowledge of the issues. These are the essential qualities for an effective legislator and with them, Jack has become the quintessential legislator, accomplishing goals that few among us could come close to.

But Jack's distinction as a Member of Congress goes beyond his many legislative accomplishments. It is his style that marks his greatness.

During the years that I have served with Jack on the Foreign Affairs Committee, I have been witness to his ability to get things done in a style that contributes to his effectiveness. Quietly, without fanfare, he has staked out a position as a leader for a sane, rational foreign policy: a policy based on diplomacy over militarism, cooperation over confrontation, peace over war. And during his 19-year career he has helped to make these ideals a very real part of our policy.

With Jack's retirement from the House—a retirement due to the quirks of political redistricting, not a weakening of stamina—there will be one less voice to articulate these ideals, one less leader for us to work with, and one less friend for us to admire. I will miss him.●

● Mr. RODINO. Mr. Speaker, I want to join all my colleagues in paying tribute to one of the most respected Members of Congress, Jonathan Bingham, who is retiring at the end of this term.

The House will greatly miss Jack Bingham for many reasons. As a friend, I will miss his sharp wit and his intelligent and thoughtful advice on foreign policy issues. The House will especially feel the loss of his expertise on the Foreign Affairs Committee, where, as chairman of the Subcommittee on International Economic and Trade Policy, Jack Bingham has been an outspoken leader for a more enlightened and forward-looking foreign policy. His deep commitment to the cause of human rights at home and abroad has had a substantial impact on our country's policies. He was in the forefront of opposition to the Vietnam war and he has worked tirelessly for social programs to benefit the poor and minority members of society. His dedication to principle has led him into many battles in his 17 year congressional career, and I have been proud to stand with Jack in many of those fights. I believe his early work to enact effective handgun control measures and a nuclear weapons freeze will bear fruit one day—and we will have Jack Bingham to thank for pushing these issues to the public forum.

The devotion that Jack Bingham has shown to helping the citizens of New York and to preserving the best interests of our Nation stands as a shining example to all those who aspire to public office.

I will miss the wise counsel of my friend from New York. He has brought a great deal of dignity to this House, and we all owe him a debt of gratitude. I am proud to serve with him, and I wish him all the best in the future.●

● Mr. RANGEL. I am proud to take part in the special order honoring my distinguished friend and colleague from New York, the honorable Jonathan Bingham.

This outstanding legislator has ably represented his Bronx district for the past 18 years, gaining widespread respect for his ability, leadership and acumen here in Washington and at home in New York.

Mr. Bingham's work on the House Foreign Affairs Committee has been exemplary. His patience and his knowledge have won the admiration of his colleagues countless times. And his leadership on the International Policy and Trade Subcommittee has fostered an extremely positive influence on American trade policy.

There is no doubt that Jonathan Bingham has been one of the House's finest gentlemen. We will sorely miss this great public servant.●

● Mr. OBERSTAR. Mr. Speaker, the presence of Jonathan Bingham as a Member of this House has enhanced the reputation of this body. When one hears the name of Jack Bingham, one immediately thinks of integrity, intelligence, and a fierce commitment to progressive domestic and foreign policies.

As a Member deeply concerned about peace and nuclear proliferation, I have personally felt more secure in the course that this House would take because of the presence of Jonathan Bingham on the House Affairs Committee.

As I have worked in this House to protect those programs necessary to the very existence of some of the neediest Americans, as I have fought for a progressive, honest tax system, I have regarded Jack Bingham as an ally and a friend, as I know so many Members have.

He has been a leader in the nuclear arms control debate, a champion of human rights as a basis for U.S. foreign policy, an articulate spokesman for a sane, responsible defense budget, based on legitimate security considerations, and not on wild pursuit of costly, unnecessary and unworkable technologies. As a Member of the House Interior, Jack Bingham has been relentless in his defense of the environment.

He has tirelessly and effectively represented the people of New York. They have been fortunate to have had him.

Jack Bingham leaves this body having earned the respect of his col-

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leagues. There are too few like him, and his loss will be felt.●

● Mr. CONTE. Mr. Speaker, it is with a deep sense of regret that I rise to note the retirement of one of this body's most intelligent, respected, and forward-thinking Members, Jonathan Bingham.

In his 17 years in the U.S. House, Jack has established the reputation as the conscience of the Congress in both domestic and international affairs. His compassion for those in need and commitment to the principles of justice have made his record in this body one that many of us could only aspire to attain.

Although Jack has represented areas in and around New York during his tenure in the House, he has always displayed the finest attributes of a Yankee gentleman. Soft-spoken, thoughtful, and gentlemanly, he has always given all sides a fair hearing, but has pursued his chosen course of action with dogged enthusiasm and unrelenting passion.

While Jack and I have worked together on many issues in the past, I consider myself most fortunate to have been shoulder to shoulder with him on one of his last and most important legislative pursuits, our nuclear freeze resolution. As the chief architect of this resolution, Jack's concerns were based on an overriding responsibility for our children and the hope that they be spared the devastation that would certainly result from a continuing, senseless pursuit of superbomb superiority.

It is on issues like these where we will most miss Jack in the future—issues that demand both compassion and sensibility, qualities that Jack possesses in abundance. His friendship has meant a great deal to me through the years, and I wish him and his lovely wife June luck and Godspeed in whatever path they choose in the future.●

● Mr. SCHEUER. Mr. Speaker, I take great pleasure in joining with the many distinguished Members of this House today in paying tribute to one of our most illustrious colleagues, the gentleman from New York (Mr. Bingham).

I must, in candor, Mr. Speaker, admit to some mixed feelings as we gather to review his career, which is so distinguished by his intellectual achievements and his universally recognized and respected integrity. I say mixed feelings because it saddens me that we will be losing him as a force and a presence in this House.

Jonathan Bingham has left his mark in the course of his 18-years of service to the people of New York. His record of service has earned him the warmth and affection of his constitutents, his city and his State. Mr. Speaker, his record has also earned him the admiration and appreciation of his colleagues and his country.

Mr. Speaker, I have had the great privilege of knowing Mr. Bingham and watching him in action from his days as a courageous reform-minded progressive in the late fifties and early sixties. Our paths have twined and intertwined on more than one occasion. It is from this wellspring that my esteem has grown over the years.

Anyone seeking to highlight the major milestones of his career is surely faced with an embarrassment of riches.

From his early days working with former New York Governor Averell Harriman and then U.N. Ambassador Adlai Stevenson, Jack Bingham became a leader in the reform movement that swept New York City in that turbulent decade of the sixties.

Representative Jonathan Bingham has been a reasoned, often eloquent voice in this House on matters relating to the foreign policy of the United States. Jack Bingham stood in the well of this House raising his voice for a rational, human rights oriented foreign policy in the days before this was a totally acceptable form of behavior. His voice was heard early in opposition to the war in Vietnam. And he has been a respected advocate of gun control from his first days in the House. Civil rights found an impassioned champion in the gentleman from New York. And more recently his sense of justice found him a key manager in the efforts to establish a freeze on nuclear weapons.

Yes, Mr. Speaker, there are many points in Jack Bingham's career that deserve our attention. But perhaps the most enduring monument to his service among us is one which came at the midpoint of his distinguished tenure.

In 1974 he led a movement that has had a most profound effect on this body. He authored a reform of the Seniority system in the selection of Committee chairmen. To us today it seems eminently logical that chairmanships should be awarded on the basis of individual votes, but a decade ago this was regarded as heresy. It is to Jack Bingham's credit, and the ultimate benefit of our democratic system, that he ignored conventional thinking and proceeded to do what he thought was the right and honorable thing. He was right in 1974 and the results over the past decade stand as a secure monument to his career.

I am confident that Jack's retirement from active membership in this House will not signal an end to his active contributions to government. We will all welcome the opportunity to avail ourselves of his wise counsel in the years ahead.●

● Mr. MITCHELL of New York. Mr. Speaker, I wish to add my voice to those who have risen today to honor the Honorable Jonathan B. Bingham. At the end of this session of Congress, Jack Bingham will complete his ninth term in the House of Representatives. His 18 years of service have been a distinguished, productive tenure.

Jack is a thoughtful, effective legislator who has certainly left his mark—on the institutional operations of the House of Representatives and the Nation as a whole.

Although he and I have frequently differed on matters of political philosophy, I have always found Jack Bingham to be a man of the highest personal integrity. I am proud to have had the opportunity to serve with him as a member of the New York delegation. I know that his colleagues and his constituents will miss his diligent and effective service.●

● Mr. ZEFERETTI. Mr. Speaker, I rise to join in paying tribute to my New York friend and colleague, Jonathan Bingham.

Jonathan Bingham has managed to combine longevity with youthfulness, wisdom with exuberance, and good fortune with an extraordinary sense of public responsibility. Before his exemplary nine-term service in this great body, Jonathan Bingham served his Nation in a variety of foreign service posts under Presidents Truman, Kennedy, and Johnson.

Nevertheless, he will be remembered first and foremost for his leadership in the House of Representatives. In addition to his forceful advocacy and leadership in formulating policy relevant to the Foreign Affairs and Interior Committees, Jonathan Bingham was in the forefront of the successful fight a decade ago to reform the seniority system.

Generations of Americans will remember Jonathan Bingham for his crucial role in preventing both military and civilian modes of nuclear proliferation. As the author of the congressional resolution advancing a mutual and verifiable freeze on nuclear weapons among superpowers, Jonathan Bingham has become the leading advocate of the most critical issue of this generation.

The leadership of Jonathan Bingham will be sorely missed in the 98th Congress. In paying tribute to this fine friend and gentleman, I want to add my personal best wishes for continued health and happiness in the years ahead.●

● Mr. MINETA. Mr. Speaker, I would like to join in this occasion to honor a distinguished colleague and a dedicated public servant, Jonathan Bingham. In his 18 years of service in the House of Representatives, Mr. Bingham has earned wide respect among his colleagues and constituents by speaking out with a strong and steady voice for his convictions. Throughout his long career, he has consistently sought solutions to difficult problems with an

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admirable sense of fairness and decency. A man who stands quietly but firmly for his principles. Mr. Bingham has been a model for us all.

Jonathan Bingham has served a vital role in the area of foreign affairs, where, like a beacon, he guided many of us in the direction he believed was right. Long before such issues were fashionable, he worked to bring the United States back from the brink of nuclear Armageddon through a nuclear freeze and mutual arms reductions. He has long stood out as a champion of human rights and a clean and safe environment.

It is with great regret that we commemorate his intended retirement today, but I wish Mr. Bingham the best in any endeavor he may pursue in the future. I know I speak of all Members in thanking Mr. Bingham for his years of wisdom and unselfishness, which have given him such a proud history of service in this House.●

● Mr. NOWAK. Mr. Speaker, it is a pleasure to join my colleagues in paying tribute to my good friend, Representative Jonathan Bingham, who is completing 18 years' service in the House of Representatives from the Empire State. Mr. Bingham recently announced his plans to retire from the House at the completion of the 97th Congress. I would like to salute the Congressman's outstanding record of commitment and service.

Mr. Bingham serves on the House Foreign Affairs Committee where he is chairman of the Subcommittee on International Economic Policy and Trade and a member of the Subcommittee on International Security. He is a member of the House Interior and Insular Affairs Committee, with assignments on the Subcommittees on Energy and the Environment, and National Parks and Insular Affairs. He is also a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, and serves on the steering committee of the Northeast-Midwest Congressional Coalition.

Aside from Congressman Bingham's accomplishments as a legislator, he has distinguished himself in other professions such as the law, journalism, the military, and diplomacy. A graduate of Yale College, Phi Beta Kappa 1936, and Yale Law School, Mr. Bingham was an occasional correspondent to the New York Herald Tribune from Europe, the U.S.S.R., and the Far East. He was admitted to the New York bar in 1940 where he practiced law at various times and was a member of the Judiciary Committee of New York's City Bar Association.

Mr. Bingham's military service was marked by his promotion to Captain of Military Intelligence during World War II.

Our colleague's diplomatic career was an eminent one. He served as: Deputy Administrator of the Point 4 Program under President Truman, assistant director, Office of International Security Affairs 1951; President of the United Nations Trusteeship Council 1961; U.S. representative on the Economic and Social Council of the United Nations with rank of Ambassador and as principal adviser to Ambassador Adlai E. Stevenson in economic and social affairs, 1963–64.

Congressman Bingham's service in the military, diplomatic corp, and as an elected public official has been distinguished by sustained commitment and excellence in the public service of his country.

I would like to extend my best wishes to Jonathan Bingham as he reaches a new milestone in his life. May the future bring him continued success and happiness. He will be sorely missed.●

● Mr. RICHMOND. Mr. Speaker, today we honor our colleague, Jack Bingham, who has announced his retirement from this House after nine terms of brilliant, dedicated, and effective service to his constituents and the people of the United States.

Jack Bingham is a true and conscientious liberal, a great humanitarian, a warm and sensitive individual, a dear and reliable friend and, certainly, one of the most highly respected Members of Congress.

Always at the forefront of legislative efforts to help the poor and downtrodden, Jack has consistently demonstrated how deeply he cares about people. Just last week, Jack spearheaded the effort to gain House approval of the resolution calling for a mutual, verifiable freeze of nuclear weapons—one more of his many actions over the years to reduce the threats to humankind posed by nuclear power.

Through the years that he has served in the House, Jack has been an outspoken foe of rightwing dictatorships, and a great friend of the state of Israel. Jack Bingham will long be remembered in this House as an expert in all matters of foreign policy and he ends his congressional career as the chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade.

Mr. Speaker, as he closes out a most distinguished career in Congress, Jack Bingham leaves an enviable record of effectiveness and caring. Of our respected colleague, it can truly be said that he has not an enemy in the world. Jack, we will miss you.●

● Mr. YATES. Mr. Speaker, Jonathan Bingham is a dear, dear friend, and I love him. His decision to retire from the House after this Congress saddens me greatly and I can only say that there is no one who I will miss more than this wonderful man from New York. Jack and I have worked together on many things over the years and from the very beginning his wisdom, courage, and bright good humor impressed me, and they still do. The world needs more people like Jack Bingham. He is everything a public man should be and I hope very much that his public career will not end with this Congress, and I have a feeling that it will not. But regardless of where the future leads, Addie and I wish June and him all possible happiness and good fortune.●

● Mr. HOWARD. Mr. Speaker, I am pleased to participate in honoring our good friend, the distinguished gentleman from New York, Jonathan Bingham. Jack and I were elected to our first term in 1964 and it has been a real pleasure to serve with him for these past 18 years.

Although, Jack will be missed by the Members of this Chamber, the impact of his intellect will not soon be forgotten. His presence on the House Foreign Affairs Committee, and most notably, his leadership as chairman of the Subcommittee on International Economic Policy and Trade, helped instill a commonsense approach to these vital issues.

Jack never sought headlines with flashy rhetoric, but he achieved results through hard work and determination. He was instrumental in making the Congress realize that perhaps nuclear energy was not the best alternative in the development of energy sources.

Of course, all of this praise has been substantiated by the voters of the 23d district. In every election including the first one in 1964, Jack has received over 70 percent of the vote.

Finally, Mr. Speaker, I would also like to pay tribute to Jack's wife, June. She has been very active in various organizations and has made enormous contributions of her own time on behalf of charitable causes.

We are all saddened to see Jack Bingham retire, but we wish him and his family all the best of luck in the coming years. For the past 18 years, not only have the residents of the Bronx benefited from his excellent service, but the rest of the Nation as well. His leadership and foresight will be missed by all.●

● Mr. GORE. Mr. Speaker, Jonathan Bingham is a man of immense personal integrity, good humor, and intelligence. His commitment to principle and his capacity for leadership put him in a very select group. He is the type of individual that we cannot afford to lose in public life, and he will indeed be sorely missed in Congress.

During my first few years in office, I quickly grew to respect his judgment, especially in the area of foreign affairs. My admiration increased as I saw broader dimensions of Jonathan Bingham—the way he approached and analyzed issues and the way he maintained a conscientious regard for the public interest.

Recently, I had an opportunity to work with him on the nuclear freeze resolution. It is a credit to his organizational skills, his perseverance, and his stature that the vote was so close. He deserves much credit for translating this movement into a potent legislative force.

JONATHAN BINGHAM has many skills and many interests and he will find exciting challenges in the days beyond next January. I cannot help but feel that it is the Congress and the people of New York that will feel the deepest loss. We are clearly losing one of our premier defenders of the public interest. With respect and affection, I wish him well.●

● Mr. LONG of Louisana. Mr. Speaker, the retirement of our respected colleague, and my good friend, JONATHAN "JACK" BINGHAM, a fellow Member of the House, saddens me. Though we all know JACK is going on to other works of importance, I hate to lose him as a trusted fellow Congressman. Since my return to Congress in 1972, I have had the pleasure of serving in the House with this fine and decent man. His quiet intellect and fiery belief in what is just will be missed by all.

JACK'S work as chairman of the Subcommittee on International Economic Policy has been both exploring and inventive. But more important than JACK'S grasp of international economics, is his deep understanding and concern of how the working men and women of America fair in today's economy. JACK'S special interest was not the powerful lobbyist or the giant multinational corporation, but the working men and women of his district.

In the area of preserving our environment, no other Member of Congress could be more aptly described as a conservationist.

After 18 years of loyal service, the House will sorely miss JACK BINGHAM. It is very gratifying to know that JACK will stay active politically, and in his own words, "look forward to devoting a substantial part of my time and energy to helping drive out of office an administration that is 50 years out of date."

I wish JACK good luck and best wishes in his upcoming endeavors. I am sure we will be hearing from JACK for a long time to come.●

● Mr. ANNUNZIO. Mr. Speaker it is a genuine pleasure for me to join my colleagues in paying tribute to the Honorable JONATHAN B. BINGHAM, who came to the Congress with me in 1965. He and I were members of the same class—the 89th Congress. JACK'S outstanding dedication to high standards is an inspiration to his friends and fellow citizens, and his record of excellence and creative accomplishments as a citizen, as a public servant, and as a Member of Congress are most commendable.

He served the United States with honor during World War II, enlisting as a private, and leaving the Army with the rank of captain in military intelligence. He is a man of exceptional writing ability as well, and has authored books as well as magazine and newspaper articles.

Before coming to the House of Representatives, Congressman BINGHAM served our country with great distinction in international relations and foreign affairs. From 1945 to 1946, he was Special Assistant to an Assistant Secretary of State, and in 1951, he served as Assistant Director of the Office of International Security Affairs. He also held the position of Deputy and Acting Administrator of the Technical Cooperation Administration from 1951 to 1953, and was secretary to Governor Averell Harriman of New York from 1955–58.

While serving as the U.S. Representative on the Economic and Social Council for the United Nations, Congressman BINGHAM held the rank of Ambassador. He served as Principal Adviser to United Nations Ambassador Adlai E. Stevenson in economic and social affairs from 1963 to 1964. He also was a member of the U.S. delegation to four United Nations General Assemblies from 1961 to 1963, and the U.S. Representative on the United Nations Trusteeship Council with the rank of Minister and President of the Council during the years 1961 and 1962.

During his tenure in the Congress, JACK has distinguished himself while serving on the important Foreign Affairs Committee. He is chairman of the committee's Subcommittee on International Economic Policy and Trade, where he has compiled a splendid record of achievement, and his diligent efforts as a member of the House Interior and Insular Affairs Committee and the Commission on Security and Cooperation in Europe have been both fruitful and beneficial to the citizens of this Nation.

JACK is a fine legislator, a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion and courage, who has provided exemplary service to his constituents in the 22d District of New York for the last 18 years. He will be missed here in the House of Representatives, especially by those who have had the opportunity to work with him.

I extend to JONATHAN BINGHAM my best wishes for continued success in devotion to highest principles, and for a healthy and happy retirement.●

● Mr. CORRADA. Mr. Speaker, it is with a deep sense of respect and great honor that I join my colleagues today in paying tribute to the distinguished gentleman from the 22d District of New York, JONATHAN BINGHAM. JACK is retiring at the end of this Congress, after having served for nine consecutive terms as a highly respected Member of the House of Representatives.

His extensive knowledge and expertise in the area of foreign affairs are well recognized and appreciated by his colleagues and will be missed by all of us. JACK has always impressed those who deal with him by his calm and deliberative approach to the issues. JACK is a Member whose even temper has been a steadying force during heated debates.

I have been privileged to serve with him as members of the Committee on Interior and Insular Affairs during the past 6 years. I know I speak for my colleagues in that committee when I say that JACK will be missed by all of us.

I want to wish JACK and his wife June, the very best of health and happiness for the future.●

● Mr. FRANK. Mr. Speaker, JONATHAN BINGHAM'S decision to retire at the end of this term, brings to a close one of the most distinguished congressional careers in the postwar period. JACK BINGHAM has been a model Member of Congress. His devotion to world peace, his dedication to social justice, his scholarly approach to the issues in which he has been involved, and his absolute integrity, have contributed enormously to the deliberations of the House of Representatives. On such issues as the fight against nuclear proliferation, support for a strong and independent Israel, and many others, JACK BINGHAM has provided an extraordinary degree of leadership, not only to the House but to the country and to the world.

Moreover, in an era when contentiousness and vitriol have all too often dominated the public debate, JACK BINGHAM has shown through example that it is possible to maintain a sense of dignity and to show respect for both the personality and the ideas of ones adversaries, while still being an extremely effective advocate. By combining a passionate commitment to his ideals, with a profound respect for the democratic process, JACK BINGHAM has provided an example of the way in which a legislator ought to behave in a democratic society. His district, this House and the country will be diminished by his retirement.

When publicity is given to the small minority of Members of Congress who fail to live up to their obligations, people ought to remember the example of individuals like JACK BINGHAM who show what parliamentary democracy can be at its finest.●

● Mr. SUNIA. Mr. Speaker, American Samoa remembers fondly the services and support of the Honorable JONATHAN BINGHAM to the territory of

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American Samoa and at this moment we wish to join in the chorus of honors for the Congressman.

On behalf of my district, I want to say thank you for your sensitivity to our needs exemplified through the years you served as a member of the House Interior and Insular Affairs Committee. Because of the pressure of other issues pending before Congress it is difficult for many to give of their time to issues that may not be directly related to their own districts, yet you have often given us of your time and concern.

The association of the Bingham name with American Samoa goes a long way back in the history of the territory. The first congressional delegation ever to visit American Samoa was lead by your father. Many of our people have preserved this memory by bestowing the Bingham name on their children. The Bingham name lives on in Samoa today.

I wish you well on your retirement and give my sincere thank you for your contributions to this Congress and those passed. Thank you.●

● Mr. AuCOIN. Mr. Speaker, a magnificent gentleman will be leaving Congress at the end of this year. It was with real sadness that I noted the decision from my distinguished colleague from New York, JONATHAN BINGHAM, to retire from this House which he loves so much and which loves him in turn.

As I reflect on Mr. BINGHAM's numerous contributions to the American people, I see a pattern, a harmony in all his actions. This is a man who has a goal which goes beyond personal ambition or gain. His intention is, it seems to me, to instill justice and balance into the lives of as many individuals as possible in all segments of society and in society as a whole. With quiet eloquence, Mr. BINGHAM has tried to smooth the way for those in this world who are oppressed or fearful or just plain outnumbered.

Many of the bills he has authored have helped people in this country. His Citizens' Anticrime Patrol Assistance Act provided $15 million to organize citizen anticrime patrols. He realizes that policing is not all that is needed to make people feel secure in a world of soaring crime statistics. They have to feel that they have some control over their own lives. His concern for senior citizens led to legislation which provided jobs for 4,800 older Americans, thereby lessening the dependence and feelings of uselessness that mark the lives of too many of our aged.

His hand has been as graciously extended to those in other countries who need his help. He is a leader in the effort to stop oppression of Soviet Jews and was the principal sponsor of legislation providing funds for resettlement of Soviet Jews in Israel. He is a member of the Commission on Security and Cooperation in Europe which monitors the Helsinki accords and the many "dear colleagues" from him which come across my desk shows that he takes the post seriously.

With his usual foresight, he was one of the first Members of Congress to oppose the Vietnam war, bravely taking a stand which was unpopular at the time. In fact, only 17 of his colleagues dared vote in 1967 for an end to the bombing of North Vietnam. Most recently, he urged a nuclear freeze because, as a thinking man, he fears the precarious arms race in which we have embroiled ourselves.

Mr. BINGHAM's accomplishments in the 17 years he has served as a Member of Congress, are too numerous to mention individually. He came to this body with a knowledge of the world which is rare. He applied his knowledge in a manner even more rare for its wisdom and humility.

That he is a leader, there can be no doubt. But to lead and still retain one's placidity, one's modesty, and one's dignity is remarkable. Few men in public offfice can retain all three. Few know Mr. BINGHAM's secret. I wish he could teach it to all those who contemplate entering public office. I only know that all of us who have had the privilege to serve with JONATHAN BINGHAM have benefited from our contact with him. To you, JON, I want to say: we will sorely miss you.●

● Mr. REUSS. Mr. Speaker, I am pleased to join in this tribute to my friend and colleague, JONATHAN BINGHAM, who recently announced his plans to retire at the end of this Congress. Since he began his congressional service in 1965, JACK has been a most effective and conscientious Congressman. His constitutents have demonstrated their appreciation of his hard work by reelecting him every 2 years by overwhelming margins.

JACK has specialized in foreign affairs during his years in Congress, continuing a life-long effort on behalf of world peace and international cooperation. As the chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade, he has been a tireless fighter for foreign aid programs that meet real human needs, while actively opposing aid to regimes that deny human rights. His membership on the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, is symbolic of this commitment.

Before his years in Congress, JACK was the Deputy Administrator of the "Point Four" program, the precursor of the Peace Corps. Later, he served as an Ambassador at the United Nations.

JACK's indefatigable devotion to world peace has placed him at the forefront of the most important issue of all: The nuclear freeze. He is a key sponsor of and campaigner for the nuclear freeze resolution, which he describes as "an important glimmer of hope in a depressing time." His leadership in the effort to end the current nuclear insanity will be sorely missed in Congress. But I am sure that JACK's voice will continue to be heard advocating a more enlightened and humanitarian American foreign policy.●

● Mr. BRINKLEY. Mr. Speaker, it is a privilege to participate in this special order honoring the distinguished congressional career of my good friend JONATHAN BINGHAM, who is retiring at the end of the 97th Congress, after 18 years of exemplary service.

JACK BINGHAM has represented the 22d district of New York with uncommon commitment. As chairman of the House Foreign Affairs Committee's International Economic Policy and Trade Subcommittee and as a member of the Interior and Insular Affairs Committee, JACK has provided our committee system with invaluable economic expertise over the past two decades.

From his Phi Beta Kappa achievements at Yale, to his influential role as U.S. representative on the United Nations Economic and Social Council, to his splendid record in this House, JACK has combined the finest qualities of thoughtful scholar and dedicated public servant. And this is how we will remember him.

But I will remember him, also, in a lighter vein, as a teammate on our Democratic baseball teams of years past. It was my pleasure to play side-by-side with JACK during some of those dry years. HENRY GONZALEZ was our pitcher and he deserved at least a "pair of Jacks," to open. JONATHAN BINGHAM poured out the same energy and perseverence on the baseball field that have hallmarked his years in Congress, and I am grateful for the excellence of his example and the quality of his friendship.●

Mr. ADDABBO. Mr. Speaker, as a wise and thoughtful man, JACK's dedication to humanitarian principles is probably his greatest legacy to us. His efforts to further world peace will always serve as an inspiration. As chairman of the Subcommittee on International Policy and Trade of the House Foreign Affairs Committee, he has diligently sought to foster international cooperation. As a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, JACK has worked tirelessly for international human rights, especially for oppressed Soviet Jewry. His work on behalf of senior citizens and community crime prevention programs have brought these values and concerns to the grassroots level.

Certainly one of the most important undertakings of JACK's career has been his involvement with the nuclear freeze. His hard work and determination have been instrumental in helping us all see the horror and futility of the arms race. In the days ahead, his vision and wisdom will be sorely missed.

We will all miss Jack, as friend, mentor, and extraordinary colleague. But I would like to take this opportunity to wish him all the best in his future endeavors, and to thank him for everything he has given us. I know that Jack will continue to have a positive and humanizing influence wherever he goes. I know that he will not just retire with his beautiful family to a life of idleness, but will continue a life of service to the world and our Nation. With his vast expertise—as former Ambassador to the United Nations, as Deputy Administrator of the "Point 4" program under President Truman, as secretary to the Governor of New York State under Averell Harriman, he brings many great ideas and hopes to the world.

Jack and June, we all wish you good health and enjoyment in the many years ahead, and will still look forward to watching your family grow with each beautiful Christmas card we so much enjoy.

Mr. Speaker, Jack's compassion for his fellow colleagues never ends. As the hour grew late this evening, Jack told me he did not wish us inconvenienced and suggested this special order not to be taken and that we only insert our statements for the Record. But, Jack, no matter how late the hour, we your colleagues wanted this opportunity to express our admiration for you.

☐ 2200

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. Synar) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on Thursday, August 5, I was in my congressional district on official business and was unable to cast my vote on rollcall. Nos. 248 to 251. Had I been present, I would have voted in this fashion: rollcall No. 248, "yes"; rollcall No. 249, "no"; rollcall No. 250, "no"; and rollcall No. 251, "yes."●

A TRIBUTE TO WRIGHT PATMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, this last Friday, August 6, was the anniversary of the birth of the tremendously great American who sadly passed on a few years ago, and was a preeminent Member, one of the most outstanding Members that the House of Representatives has ever had in its history since the first one in 1789.

I speak of former Chairman Wright Patman of Texas. May his soul rest in peace.

Wright Patman was born on August 6, 1892, in what has been called through the years Patman's Switch, which clearly reveals the association of Mr. Patman's illustrious forebears in that part of Texas, which is actually in a place near what is known as Hughes Springs in Cass County, Tex., which is up in the eastern, northeast part of Texas.

And Wright Patman studied law. In fact I think he came to Cumberland University in Kentucky, got his license, went back, and served as county attorney for Cass County for a while. Then he served for quite a number of years as district attorney. Then he eventually came to the Congress.

When he came to the Congress back in 1928, the United States was in a very similar period of time as that which we have just come from in the last few years. And as the depression broke, he was in the midst of all of that. He was defined by historians as a populist. But actually Mr. Patman to me symbolizes the bedrock of fundamental strength of this thing that has made and continues to sustain America.

He is what I call the old stock American.

Those of us who are by the very nature of the circumstances of the place and the environment in which we were born into, and bearing names that indicate different origins, find ourselves—and I am of that age where I can cover a pretty good span of history, and therefore can render testimony to this. I can recall when in my part of the country we were actually living in a country within a city. San Antonio became the focal point of a large exodus or mass of people from Mexico during and over the course of a 30-year period of time, the so-called Mexican revolutionary period. It was a turbulent, tough time.

This was back in the days when things were a little bit more crude.

Today, the people that came in in the successive waves, because you had revolution, counterrevolution, countercounterrevolution and the like. It was bloody. Mexico at that time had a population of less than 14 million. And during the course of that revolutionary struggle over a million died, over a million left the country.

Most of those that left who belonged to the poorer, or those not in the upper classes economically speaking of Mexico, used the main lines of transportation, which were the national railway lines leading into Texas.

The more affluent went into the North and West and into California. All of these are sociological phenomena that have not been written about. The history of all of this has yet to be written.

But those of us born in this context then learned what it was to identify, first self-identification, a process that is still going on in the case of this conglomeration known as the Mexican American, or the American of Mexican descent of the Southwest.

This is reflected by the fact that there is no consensus even as to the descriptive phrase that is proper to cover the area. Today we hear the popular phrase for today, Hispanic American. But even that is inadequate because it does not cover the Portuguese. And Hispanic does not really convey this great, great amalgam of the Southwest known as the Mexican American, which is still the predominant group in this generally labeled class known as Hispanic American.

But its proximity to the mother country, Mexico, does put it in a very special niche or category, so that you find even today, for example, in my district, we have three full-time radio stations in Spanish—100 percent—San Antonio has the first television, a full-time television in the United States, going back quite a number of years, almost from the very inception of TV, which in San Antonio came in 1950.

So this station must have come to San Antonio not more than 4 years later, in the middle fifties.

So that we are talking about an America that is truly a very cosmopolitan country.

But growing up in that environment, one learned what it was to live in a country as this one, pluralistic, many peoples, many creeds, many cultures, and more than one language.

Coming from an environment in which English was not used—I for one had to learn English, for I knew not one word when I went to the first grade, through I was born in San Antonio.

But I soon learned that despite the then crude and abrasive out-and-out discrimination and racial tones of antagonism, that there was an element that my father recognized immediately. My father always inculcated a love and respect for this country, even though he died a Mexican. My mother did not. My mother became a naturalized American citizen, but not my father. And he died at the age of 90.

The reason was that his roots go back into the history of the North American Continent in Mexico—over 450 years. A family house is still standing in the State of Durango, in a mining town known as Mapeno, and it is over 450 years old. It is a historical monument because the Mexican Government has made it a historic site for several reasons, principally because it was there that Benito Juarez, when he was fleeing from the French invaders, stayed at the family house with his Cabinet.

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My frandfather was the north Mexican leader of the Juarezta forces fighting the French invaders. As a matter of fact, he was one of those that led the charge and successfully defeated the French Legionnaires of Napoleon III and the Emperior Maximilian in the battle known as El Sombrerete, which was a fight as great and important as the Battle of Pueblo of May 5.

So I give this history and personalize it in order for you to understand my eulogy of Wright Patman, because in growing up, I soon recognized this tremendous debt to these great figures that I call, for lack of a better descriptive phrase, the oldstock American.

I have always said, and this has angered some of the activist, ethnic, hot, outspoken leaders who predicate or did predicate their positions on antagonism and hatred of what they called the dominant or the Anglo—why that word, I do not know. I dislike labels. I dislike them now. I have always said that we are either Americans or we are not. And this has infuriated, believe it or not, people from time to time.

But nevertheless, out of the context of that environment, and in deepest appreciation for these figures that I identify with the stalwart, such as Wright Patman, I rise today to evoke his memory, because Wright Patman, had he lived long enough to this period of time, would have probably singlehandedly done more than any other person could have to have either diverted or arrested or at least attenuated the ravages of high interest rates, which he was one of the most fierce opponents of in the history of the American Congress, and who successfully, as chairman of the House Committee on Banking and Finance, as it was known then, or Banking and Currency as it was known then, was the last chairman to successfully get, after great fights, the funds to conduct the studies that since then have not been able to be conducted, and that is the review of just what has been happening to our financial and banking institutions, the things that have been happening that are at the root of this terrible dilemma that this country faces.

☐ 2210

Never before have we faced such a challenge and a danger to what we know and take for granted as the American standard of living. The idea that we would ever have reached the point of 20 and 21 percent prime interest rates I am sure has caused this great, venerable preeminent American to turn over in his grave at least 100 times. It is just so unthinkable.

I had the great privilege of getting to know him particularly after I came to the Congress, and he was instrumental in having me assigned to this prime committee. When I was sworn in on January 8, 1962, I was one of three that were sworn in in the middle of that Congress, the second half of the 87th Congress; but I was the only one that was assigned to a prime standing committee. The others had to wait until the next Congress, and the reason was Wright Patman; but also I had the pleasure in my last year in the State Senate of having welcomed to the board membership of the State senate his son, the Honorable BILL PATMAN, who now is a U.S. Congressman from Texas; so that today I evoke the memory of Wright Patman. His birthday would have been this last Friday, August 6. We were in recess, so I could not speak then; but I do so now in order to, in a very humble way, try to perpetuate his memory, an honorable, distinguished preeminent American, a great Texan, who did more than anyone I know of in the 20th century to maintain that most precious thing, and that is economic freedom, without which our political freedoms in this day and time in the context of our society so structured today is a hollow mockery.

So I evoke this memory and pray to God that his soul may rest in peace and hope I will be around to continue to evoke that great American's name and memory, Wright Patman, from Patman Switch, Tex.

UNITED STATES SHOULD OPPOSE WORLD BANK LOAN FOR BRAZILIAN IRON ORE DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. OBERSTAR. Mr. Speaker, yesterday I addressed the House on the subject of an iron ore development in Brazil to be financed by the World Bank. This project is of such far-reaching significance that it deserves more detailed consideration than is possible during a 1-minute speech.

Summing it up: With the help of a low-interest loan from the World Bank, Brazil is about to disrupt world markets in iron ore in a way that will have lasting consequences for both the domestic iron ore and steel industries.

With the help of this very attractive financing, Brazil will be in position to bring on stream the production of iron ore exceeding by more than double the production capabilities of the largest iron ore production facilities in the United States; United States Steel's Minntac facility in Mount Iron, Minn.

The Brazilian ore will be sold at prices substantially below the current domestic prices of Minnesota taconite pellets; and it will be sold to the principal competitors of our domestic steel industry. Ultimately the Brazilian ore will be in direct competition with Minnesota and Michigan ores.

This loan is being processed at a time when devasting unemployment on the Mesabi Iron Range has attracted national attention as expressed in the three news stories which I ask unanimous consent to include in the RECORD at the conclusion of my remarks.

I would now like to describe the Brazilian iron ore project in more detail.

The Carajas project consists of an open pit mine situated in the state of Para and a port on the South Atlantic Ocean in the state of Maranhao. The facility is operated by the Cia Vale Rio Doce—C.V.R.D.

Following testing and commissioning, the facilities of the Carajas project will be physically available for start up in 1984, with exports of iron ore commencing in 1985 and amounting to an estimated 15 million metric tons shipping during that first year. With completion of construction in 1986, the quantity is expected to increase to 25 million metric tons in the second year and then reach initial production capacity of 35 million tons in 1987.

Until 1979 most of Brazil's iron ore was exported. Even with the rapid growth of the steel industry in Brazil over the last decade, domestic consumption of iron ore now accounts for only about 20 percent of production. In 1980, the overall iron ore shipments of CVRD totaled an all-time high of 80 million tons. The principal quantity amounted to 62 million tons exported to world markets and the remaining 18 million tons for consumption in the domestic Brazilian market.

The capital cost of the Carajas iron ore project totals an estimated $6 billion. The estimated total investment comprises 40 percent equity and 60 percent in the form of loans including those from the Government of Brazil, $600 million from a consortium of EEC banks, $500 million from a group of Japanese banks and $150 million from a West German bank. In addition to its consideration of the $300 million CVRD loan application, the World Bank has also provided technical feasibility assistance, market research, and financial planning for the project in the part, and will continue.

I would like to point out that the World Bank has loaned the Government of Brazil more than $300 million over the past 5 years for continued expansion of their steel and iron ore industries at interest rates which clearly would be the envy of our domestic marketplace.

CVRD has negotiated contracts with steel producers in several countries, including Japan, Korea, Belgium, Italy, West Germany, Luxembourg, and France for the sale of Carajas ore. This project will further disadvantage the domestic iron mining industry and enhance the position of our foreign steel-making competitors with the ready availability of a low-cost, essential raw material to be sold thousands of miles distant from its source, at a price more than 25 percent less than that of U.S. taconite ore.

In short, not only does this project pose an immediate and long-range threat to the crippled domestic iron ore industry, it will also disadvantage basic steel.

I have no problem with a privately financed venture in which the principals are risking their capital and know-how against the forces of an open market. I do have a problem, however, with a venture in which the risks are muted by below market rate financing and the constant protective vigilence of an international lending organization and the presence of government ownership and subsidy of the venture.

United States participation in the World Bank loan for the Brazilian project will be interpreted as a very discouraging and confusing signal to the domestic steel and iron ore industries. On the one hand, this administration is attempting to move aggressively on foreign subsidized or "dumped" steel; but on the other hand, if it votes to approve this loan, it is helping to provide a further unfair advantage to foreign competitors. Consistency, at least, would require a no vote by the U.S. representative to the World Bank.

In conclusion, I urge our World Bank Representative not only to vote no on this loan application but to also urge the Bank to defer any further action on this project at least until we begin to see signs of a worldwide economic recovery and have a better picture of the future of the domestic iron ore and steel industries.

Recession Silences the Mines of the Minnesota Iron Range

(By William Serrin)

Hibbing, Minn.—From Babbitt and Biwabik on the east, through Virginia, Mountain Iron and Hibbing, to Calumet and Grand Rapids on the west, a depression has fastened upon the Iron Range and is holding on like a dog to a bone.

Perhaps 11,000 of 12,100 miners are laid off; seven of the range's eight taconite mine operations are closed, and the one left operating, at Eveleth, is on a reduced schedule.

In city after city across the range, an area in northern Minnesota that is steeped in the lore of mines, miners and machines, unemployment is enormous. It is far greater than the national rate on the Iron Range, which provided the basic raw material, iron ore, that in large part fueled America's industrial growth.

It is about 25 percent in Hibbing, in the center of the Iron Range, said James Collins, the Mayor. In other towns, unemployment might be as high as 50 to 60 percent. Unemployment benefits and supplemental benefits are running out. Food banks for unemployed miners have been established. The state has advanced aid to the area, and some government agencies are employing laid-off miners in a range of other jobs.

What happened in autos and then steel has now rippled onto this high plateau of pines and huge mine pits and red-sided waste heaps. Unlike some other areas of the country where people can sometimes find other work, the Iron Range often offers few other employment opportunities.

"Things are pretty bad," said Roger Klander, president of United Steelworkers of America Local 6115, in Virginia, Minn. Only half joking, he said, "When the winter comes, when it gets 32 below and you're trying to keep your house warm, well, I'm not sure there will be a tree in Minnesota."

Some people caution against such icy views, Joe Samargia, president of Local 1938 of the Steel workers, in Virginia, said miners have learned to struggle. He said that he does not believe that mining companies will walk away from their productive mines, even though they will attempt to make operations more efficient.

Bob Umhauer, who has been laid off since last October at his job as a track laborer at the United States Steel Corporation Minntac plant at Mountain Iron, said he knew he would not be called back to work until next spring, at the earliest. But he described himself as "one of the lucky ones," because he has obtained a job at a food distribution agency, where he makes about $6 an hour, in contrast to about $10.50 at the mine. "Things will pick up again," he said.

Hibbing contains the largest open pit iron mine in the world. In the glory days of the 1920's and 1930's, 16 companies operated here. Today only one small company is operating. But Mayor Collins said everything is not "gloom and doom." People, he said, are not "in the gutter starving to death."

But Mr. Collins said that the situation was bleak for iron and its ancillary industries, and that the economy of the Iron Range would not recover until the American automobile industry recovered. Even then, he said, many ore companies already have supplies of taconite, a pellet form of low-grade ore that has been the mainstay of the Iron Range since the 1950's after high-grade ore had run out, that can last months and perhaps years.

And if prosperity returns to the range, he said, 10 to 20 percent of the miners will find that their jobs will be permanently gone. "The companies have found they can get along with less people," he said.

Although the area has known distress before, as in the Great Depression, the current conditions seem starker in light of the widespread prosperity that often characterized the Iron Range in the past.

When Hibbing completed its high school in 1921, the building offered a library, two gymnasiums, an indoor running track, forge and foundry shops, a swimming pool and a greenhouse.

Fears that the high-grade ore would give out rose early in this century. The ore lasted, though, and provided a basis for the nation's armaments industry in World War II. Then it ran down, and it was the development of the taconite process, which brought the commercialization of low-grade ores, that saved the Iron Range.

Now, however, many people fear for the future of the range.

"ONE-HORSE ECONOMY"

Jeanne Cadeaux of Virginia, who lost her job as an electrician at the Minntac plant two months ago, lives on $177 a week in unemployment benefits and works as a volunteer hairdresser at a nursing home. "I'm trying to be real positive, but it's not easy," she said.

Patrick McGauley, a commissioner of the Iron Range Resoures and Rehabilitation Board, said, "I perceive a slow recovery, but I do perceive a recovery." He said the future of the Iron Range hinges on diversification of industry, and suggested a heavier reliance on tourism, peta gathering and perhaps copper mining, among others.

He said nothing the state is doing, such as the jobs program for miners, is addressing the region's basic problems of low-priced ore imports from Brazil and inexpensive steel from Japan. "It's scary how these big companies can walk away from multi-million-dollar plants," he said.

"The Range has been through ups and downs before, but there is a little different mind-set on this one," he said. "It's a one-horse economy and that horse is sick."

In Minnesota's Iron Ore Country, Hit Hard By Slump, Jobless Scratch for Way To Get By

(By Lawrence Ingrassia)

Virginia, Minn.—On street corners and in bars, at gas stations and in supermarkets, conversations here inevitably start the same way.

"You laid off?" "Any job prospects?" "Are you still working?"

They are questions of people gripped by the recession. This tidy town in the woods of northern Minnesota is a long way from the steel mills of Pittsburgh and the assembly lines of Detroit, but its fate is tied to theirs.

Virginia is in the heart of Minnesota's famed Mesabi Range, whose open-pit mines supply iron ore for the nation's steel mills. But with the steel and auto industries in a slump, there is little mining going on.

Seven of the eight mines on the range are shut down, most until fall and some until winter. About 12,000 of the 14,000 miners have been laid off. All across the range—in Virginia as well as Keewatin and Hibbing, Chisholm and Eveleth, Biwabik and Babitt—the unemployment rate is 40 percent to 50 percent.

"OLD-TIME MINING TOWNS"

As the mining companies and the miners stop spending money, the entire region feels the effect. "We're like an old-time mining town, only we have sidewalks and street lamps," says Stuart Murray, manager of the Minnesota Job Service office in this town of 12,450. "Half the people work for the mining industry, and the remainder serve the industry or the people who work in the mines."

Hardest hit are the younger miners who were laid off last fall and winter. Many have recently exhausted their unemployment compensation benefits and are applying for public aid. "We never thought we'd see the day that we'd have to go on welfare," says Debbie Perslin, whose husband was laid off from his mining job last February.

What makes this recession shocking to many Rangers (as people hereabouts call themselves) is that the region had enjoyed unprecedented good times for nearly two decades. Until the 1960s, the higher-grade iron ore mines that operated on the range closed every winter. But as those ore deposits were depleted, companies began mining taconite, a low-grade ore that is processed into higher-grade pellets before shipment.

The taconite mines, which are operated year around, ended the seasonal ups and downs. "We've told people here that the taconite industry operates 365 days a year, day and night, and all of a sudden we've

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changed. The hardest part is that there hasn't been a turndown in operations for some 20 years," says a spokesman for U.S. Steel Corp.'s taconite mine in nearby Mountain Iron, Minn.

The taconite industry's best year was 1979, when production was 56 million tons of pellets. This year, industry officials estimate, production will be 30 million tons.

It isn't clear when things will pick up. After slowing production for a while, most of the mines shut down early this summer. Nowhere has the effect of the slump been more severe than at U.S. Steel's Mountain Iron mine, the largest on the range. Last October, about 1,600 miners were laid off, and the mine closed—putting another 2,150 out of work—on June 6. The company initially planned to resume operations July 11, but now says the mine will remain closed at least until Aug. 23.

Even then, the workers with the most seniority will be the first called back. Those laid off last October figure they won't return to work before next spring.

"I don't expect to get called back until August of '83," says Thomas Wilson, a U.S. Steel miner who lives in Eveleth. When he was laid off nine months ago, Mr. Wilson began growing a beard and vowed not to shave until he was called back. He recently changed his mind. "If I kept it till then, I'd be walking on it," he says.

Most laid-off miners have given up looking for work. "Nobody's hiring. People are real polite, though. At least they haven't laughed at me," says David C. Anderson. He plans to study electronics at a vocational school using G.I. bill benefits because he's worried that he may never be called back to his mining job.

Many miners aren't interested in taking jobs that pay much less than the $9 to $12 an hour they earned mining. But even low-paying jobs are hard to find. Harley Melin tried unsuccessfully to get jobs as a sales clerk and a taxi driver in Duluth, which is an hour's drive from here.

The employment outlook is so bleak that the unemployed are lining up for state public-works jobs that will last just four weeks and pay $3.50 an hour. "It's kind of a joke. It's not going to go far at all," says Mr. Melin, who nonetheless applied for the work.

LOOKING ELSEWHERE

A few miners have left the range for jobs elsewhere. Most, however return poorer and even more discouraged. "I've had people call me from almost every state out traveling and looking for jobs. One guy put 1,800 miles on his car and couldn't find anything better than $3.25 an hour. There is no place in this country that has jobs," says Joe Samargia, president of Local 1938 of the United Steelworkers of America, which represents the U.S. Steel miners.

While waiting for the economy to pick up, most people are learning to get by with less money. That's easier here than in a big city. Stacks of firewood that will be used to heat homes cheaply during the frigid winter sit alongside many dwellings, Rummage sales attract big crowds of bargain hunters. "I've been buying shirts for my children and blouses for myself for 50 cents to 75 cents and jeans for $1," says Mrs. Peralin, the wife of the unemployed miner. Intead of giving away clothes her children have outgrown, as she usually does, Mrs. Peralin is planning her own rummage sale.

Like many others, unemployed miner John B. Gornick is cultivating an expanded vegetable garden that features everything from sweet corn and squash to cabbage and cucumbers. He also plans to harvest wild blueberries and kill a deer (the one that nibbles on his vegetable garden.)

Still, now that his unemployment compensation has run out, Mr. Gornick is counting on getting Food Stamps and Aid to Families with Dependent Children to help support his wife and two children. "I was at home when my dad went through layoffs years ago," Mr. Gornick says. "He made it, and I'll make it."

Bankers here, because they know their customers personally, are more willing to let people fall behind on loan payments. "We're going to do everything in our power to keep people in their cars, houses and mobile homes," says Frank McCarthy, president of the First National Bank of Virginia.

Virginia merchants have managed to hold on so far, though they are worried about what will happen as more and more laid-off workers use up their unemployment benefits.

Sales actually are up a bit at a local hardware and auto parts store, as unemployed workers become do-it-yourselfers to save money and pass the time. But down the street, at Palace Clothing, sales have declined. "The layoffs affect all of us," says owner Donald Schibel. "There are some people who have money and are spending, but they aren't spending as easy as they have."

Dick Olson, who owns a service station and bait shop, says gasoline sales are down because people are driving less to conserve cash. And even though people are fishing more, both for fun and food, his bait sales have dropped as well. "A lot of guys are catching their own bait. When they're working, they don't have time, but now they do," Mr. Olson says. In fact, he adds a lot of them have called. "They want to know if we'll buy minnows and worms from them."

[From the News-Tribune & Herald, Aug. 10, 1982]

Brazil Loan a Slap In Our Face

It would be a slap in the face to this area if the Reagan administration goes along with an application by Brazil to secure a $300 million World Bank loan for construction of an iron ore production plant in that South American country.

Quite simply, there are far too many North American iron ore production facilities—most of them in this area—that are sitting idle for this country to support construction of major foreign competition.

The World Bank is expected to consider the loan—with an interest rate at a low 11.6 percent—today. U.S. Rep James Oberstar, D-Minn., has strongly recommended to Treasury Secretary Donald Regan that the U.S. oppose the loan when the World Bank leaders assemble. The U.S. provides 21 percent of the funding for the World Bank, allowing it 21 percent of the voting power in the banks decisions.

Oberstar has said that while the Treasury Department earlier indicated it would oppose the loan, that opposition appears to be waning.

It makes no sense whatever for our country to contribute to this kind of project when its own ore-processing facilities are virtually shut down, its employees out of work and facing an uncertain future.

If the loan is approved, the U.S. contribution to the Brazil project would amount to about $63 million, and amount that would go far in extending American unemployment benefits for jobless workers in the mining and steel industries.

If it is approved it would be a slap in the face to those many Americans who pin their hopes on a domestic steel industry recovery for their livelihoods.●

ELIMINATING THE FEAR OF A FIRST STRIKE: A RESPONSE TO EUREKA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Gore) is recognized for 30 minutes.

● Mr. GORE. Mr. Speaker, there is an urgent need for the United States to reassess its position and policy on nuclear arms. Millions of Americans appear to have concluded that the only way either we or the Soviets can win the arms race is by ending it. Freeze resolutions, not only in the Congress, but all around the country, attest to the strength of this belief. Last Thursday's razor edge vote on the freeze resolution shows how far this idea has gone, and how closely the Congress is divided at a critical moment. Congress has before it spending bills that will define the scope and pace of U.S. strategic weapons programs for years to come. But without SALT II, and years away from some new agreement with Moscow, there is no agreed framework within which to make these decisions.

The President is urging Members of the Congress to follow his lead in arms control or at least to refrain from actions that would undermine his negotiating position. Unfortunately, his proposals, both for nuclear weapons procurement and for START, have failed to prevent erosion of the bipartisan consensus vital to both. Without significant change in our current policy, requisite unity will be, I fear, unachievable.

Many Members of Congress and much of the public are convinced that the President's overall approach is not viable. Worse still, an apprehension is building that even an occurrence of events along lines preferred by the President, would promote greater tensions and dangers relating to nuclear weapons than ever before.

This skepticism has already manifested itself in a series of close votes not only on the freeze resolution but on the MX missile, and by the rapid House approval of an amendment to the defense appropriations bill, the practical effect of which was to legislate SALT II constraints.

The President cannot afford to ignore what is happening, nor can Congress. If this polarization continues, vital choices about nuclear weapons may be stalemated, and we will have another stillborn negotiating effort with the Soviets.

On the other hand, those who question the current policy and direction of the President, including advocates of a freeze, cannot welcome the prospect of a deep national division over matters that touch directly on our security and on peace.

Mr. Speaker, this situation can be altered; unity on this urgent matter is not irretrievable. With constructive bipartisan leadership in Congress, and responsive leadership from the President and his party, we can reestablish a common denominator about nuclear weapons and arms control. We need some bedrock level of agreement that permits the President to pursue a course that most of us can, in good conscience, support—if not totally, then at least on basic thrusts.

If this is to be done, however, those of us who disagree with the President must be prepared to acknowledge elements in his approach that have merit, while, hopefully, those who support the President's ideas will concede the existence of faults and the need for correction.

It is my purpose today, Mr. Speaker and my colleagues, to critique the President's proposals and to underscore what I believe to be their strengths but, also, to offer proposals designed to demonstrate how the current approach could be altered, so as to retain its best features and to preserve and enhance the conditions needed for a meaningful halt to the nuclear arms race.

START: WHAT IS RIGHT ABOUT IT

The President's public statements on strategic nuclear arms control have correctly centered on the notion of stability. While we hope for reductions of nuclear weapons, the fact is that even one nuclear submarine contains enough weaponry to ravage a continent. It is crucial, therefore, that at any level of armament, United States and Soviet nuclear forces be designed in a way that avoids a bias toward first use. In some future moment of crisis, the last thing we should want is for decisionmakers on either side to be under a compulsion to launch a nuclear war, for reasons that have to do with the mechanical characteristics of the weapons themselves. On the contrary, we need to make sure, if possible, that weapons in being—in their qualities and in their relationship to each other—do not add to the uncertainties and fears that threaten to drive events out of control in periods of great tension.

Increasingly, however, we seem to be moving in the opposite direction. For a decade, U.S. weapons programs and U.S. approaches to arms control have reflected a deep concern about the vulnerability of our ICBM force to Soviet attack. Today, the Soviet Union possesses enough weapons of the requisite quality to destroy a very large proportion of our ICBM force while using up only a fraction of the Soviet Union's inventory; leaving them with a large reserve to use for purposes of coercion—the so-called counterforce scenario. Many students of nuclear weaponry doubt that Soviet leaders would ever seriously entertain the idea of such an attack, but their judgment does not offset the fact that the Soviets own the means for carrying it out, and have paid dearly to acquire it for reasons that invite apprehension.

A decade from now, the shoe could be on the other foot. We are moving toward the deployment of two new systems, either of which would give us the means to carry out a full counterforce strike against the Soviet Union's ICBM silos: the MX ICBM and the Trident D-5 submarine-launched ballistic missile. At that time, the Soviets would be even more vulnerable than we are at present, because they have deployed so much more of their nuclear force on land. Nothing could be more detrimental to strategic stability than for both sides to be vulnerable to a first strike. Under those conditions, the side which refrains from using its weapons first must be prepared to gamble, at every instant, its political destiny and perhaps its physical survival.

The fear of a first strike, even if it is persistently labeled as an "irrational" fear, will continue to sustain and nurture the state of mental siege warfare which now exists between the United States and the Soviet Union.

The present psychology of conflict frustrates progress toward our mutual goal of making nuclear war less likely. But this psychology of conflict is unlikely to change until the tangible fear of attack is removed. In turn, the fear of attack cannot be removed so long as the nation which strikes first has what some persist in calling an "advantage."

START: WHAT IS WRONG WITH IT

Although the President's statements have emphasized the goal of enhanced stability, there is reason to doubt whether his specific proposals for arms control, as well as for new weapons, work together as advertised: that is, whether his combined approach is a plausible means for achieving a more stable nuclear balance at lower levels of armament.

Regrettably, the administration has not produced anything to demonstrate that this would be the case. All we know is that, in his Eureka speech, the President announced a proposal for 5,000 ballistic missile warheads for each side, on no more than 850 missiles, with not more than 2,500 of the warheads to be land based. Since then, there has been a regrettable absence of reasoned argument of how the United States and the Soviet Union can find mutual solutions to their strategic problems within this framework. Meanwhile, knowledgeable analysts and thoughtful citizens outside the administration have begun to do their own analytical work, which has led many to the belief that the President's START proposal would actually diminish, rather than enhance, strategic stability.

In this connection, I want to commend to your attention a recent publication by the Congressional Research Service, entitled "President Reagan's START Proposal: Projected U.S./U.S.S.R. Ballistic Missile Forces." This paper provided the first detailed effort to apply principle to practice in order to produce a logical assumption as to how both we and the Soviets would adapt our strategic forces in accordance with the President's proposal, and how these revised forces would likely relate to each other in terms of stability. Although the paper is a model of impartiality, it is disturbing nonetheless. What the charts in this paper indicate to me is that the President's proposals, even if fully accepted and followed, would result in nuclear arsenals which, though smaller, would be both deadlier and mutually vulnerable. This could be a fatal flaw: it must be avoided.

Stability is not something inherent in the strategic forces of either country taken in isolation. It depends instead on the relationship between the two forces and on how these forces tend to influence decisionmaking when they are played off against each other.

Within the architecture of the President's START proposal, the Soviet Union would retain its ability to launch a first strike on U.S. ICBM silos. Indeed, the ratio of their warheads to our silos would more than double. At the same time, the United States—through the deployment of the MX ICBM and the Trident II D-5 missile—would have acquired the means to target all of the Soviet Union's silos. This result would make nuclear war far more likely than it is today. Mutual fear would increase dramatically.

Obviously, such a situation is intolerable. Some administration spokesmen have already recognized as much by pointing out that it is premature to judge the effect of START reductions on U.S. ICBM forces until the administration announces how the MX is supposed to be based. Their argument is that a secure basing mode, for example the so-called Dense Pack, would give us the means to neutralize the Soviet Union's ability to launch a counterforce attack. That may well be true, although it remains to be seen whether Dense Pack, or any other scheme, will hold water. But assuming this to be the case, we would also be acquiring the means to launch a first strike against the Soviet Union. Our disclaimer of any such intention, however sincere, would hardly dispel the Soviet fear of such a capacity.

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Now, if we had a choice between a world in which U.S. forces can be destroyed by invulnerable Soviet weapons, and a world in which it was the other way around, then Americans would obviously prefer to have things arranged in our favor. But that choice does not exist. Any effort to create such a world would ignore its likely impact on Soviet planning and behavior, and consequently, upon the strategic relationship, the prospects for arms control, and upon stability.

It is certain that the Soviet Union will look for remedies to the threat of a U.S. counterforce capability. In so doing, the Soviets will have options involving new strategic deployments, and other options that might be attainable through arms control. With respect to the former, the Soviets would have many alternatives, including: launch on warning (which would greatly increase the risk of nuclear war); deceptive basing (which would sharply reduce prospects for future arms control because of the loss of verifiability); and/or abrogating the ABM Treaty (which would remove the only permanently agreed restraint to all-out competition in nuclear weapons).

In contrast to this rich menu of "hardware" options available to the Soviets, there is very little available to them at present through arms control. So far as I can tell, the President's program in essence invites the Soviet Union to trade down from precisely those significant advantages he has said they enjoy, while allowing the United States to deploy new weapons which would subject them to new forms of risk.

It is important, at this point, to note that the START proposal is entirely silent on the matter of cruise missiles, at a time when the administration has plans for deploying more than 10,000 of them, capable of being launched from the air, the ground, and from the sea. There is a certain technical justification for this omission, based on the internal logic of the START proposal, which is centrally concerned with fast-moving systems suitable for the counterforce attack. There may even be good reason from a negotiator's point of view to let the Soviets make their own case for limits on these weapons. But commonsense and realism require us to know that we cannot reach agreement with the Soviet Union if our position ignores and even violently contradicts that country's security requirements. A recent article in the New York Times put it very well:

> There is no sure way to verify a cruise missile's range, no way to tell whether it is carrying a conventional or nuclear warhead. And apart from being a potential nightmare for the strategic balance, cruise missiles affect prospects for achieving reductions in other weapons. The Russians will not agree to big cuts in their ballistic missiles and bombers if they must prepare to face thousands of new cruise missiles.

A NONCOUNTERFORCE ALTERNATIVE

It seems to me that what is missing, and what we badly need, is another option: one which will combine a minimum of new weaponry and maximum of arms control in a package which would resolve the fear of a first strike, by eliminating it as a convincing alternative for either side. There is a way to achieve such an outcome, if we and the Soviets are prepared to act boldly while there is still time.

On March 22, I described (and entered into the CONGRESSIONAL RECORD) a proposal designed to accomplish this. My suggestion was to go to the root of the problem by phasing out land-based MIRV'd ballistic missiles, in favor of replacements that would carry only a single warhead. I introduced calculations which showed that if such a conversion took place, neither we nor the Soviets would be in a position to attack each other's ICBM silos under conditions that could, by any stretch of the imagination, ever be considered advantageous. It followed from this line of reasoning that, if the Soviets were prepared to dismantle weapons that presently allow them to threaten our ICBM silos, we should agree on to deploy new weapons that would give us the means to carry out a counterforce first strike on the Soviet Union. This meant an immediate agreement not to upgrade existing forces in ways that would make them counterforce weapons, not to move beyond the research and development stage in weapons such as the MX and the D-5, which are in fact counterforce weapons.

Since the President's Eureka speech, I have been undertaking to construct and to rationalize a program by which he could adjust and advance from where he is to where, I am convinced, the President of the United States should be at this critical period. With the aid of experts from the Library of Congress and of other specialists, I have concluded that a promising solution is possible. Today, therefore, I am introducing a proposal by which it would be possible to convert the President's pending proposal into a noncounterforce alternative.

The core of this proposal is the common ceiling of 5,000 ballistic missile warheads, which is, of course, the major component of the President's negotiating offer. What I suggest is that this number of warheads should be reallocated in ways which are inherently stable. Specifically, we and the Soviets should phase out—as I have suggested earlier—all our land-based MIRV'ed ICBM's, and retain only that portion of our present ICBM force which is un-MIRV'ed; our Minuteman II missiles, and their SS-11's. It so happens, moreover, that these missiles exist in nearly equal numbers, 450 to 518, which provides the basis for parity. However, because each country regards these missiles as old, I suggest that they be replaced by a new, lightweight ICBM specifically designed to carry just one warhead. The balance of the 5,000 warheads allotted each side would be deployed at sea, thereby continuing a trend in the evolution of both sides' nuclear forces which is salutary, because nuclear weapons at sea are likely to remain relatively invulnerable for the foreseeable future. In sum, the effects of an agreement on these lines would be:

First, no first strike capability for either side. Although both the United States and the Soviets would have weapons with counterforce capabilities—the ability to destroy hardened silos—neither side would have anywhere near enough of these weapons for purposes of a first strike, unless the attacker was prepared to deplete the bulk of all his ballistic missile forces. The fear of a first strike, and its distorting effect on the planning and negotiating behavior of both sides, would be dealt with and neutralized.

Second, all changes would be consistent with the maintenance of essential equivalence. A glance at the tables I am introducing into the RECORD will show that both sides end up with equal numbers of ICBM launchers, equal numbers of ICBM warheads, equal SLBM warheads, and equal numbers of ballistic missile warheads, overall—at the 5,000 level proposed by the President. Further calculations would show near equality in ballistic missile throw-weight.

Third, limits on cruise missiles would establish a framework for dealing with the so-called gray area weapons. It should be noted also that Soviet perceptions about intermediate-range weapons, like the Pershing II, may moderate once it is clear that this system could not become part of an integrated U.S. first-strike capability.

Were the Soviets ready and willing to make the necessary major changes in their strategic forces, we should be willing to forego deployment of the MX and the Trident D-5. And both sides should be willing to negotiate meaningful restraints on cruise missiles. In this regard, I suggest again a portion of my earlier proposal, which dealt with air-launched cruise missiles, and add a proposal for limiting them at sea. While I acknowledge that these ideas are bound to be controversial, I venture to advance them in the hope that they will invite and encourage others to come forward with ideas they consider to be better. Serious, enlightened, nonpartisan debate on this most-critical-of-all public issue is urgently imperative.

I believe that the proposal I submit today offers a way to bridge the gap between critics and supporters of the President's proposal. It is consistent with the basic objectives of the freeze movement, in that it requires a standdown on the deployment of new counterforce weapons, followed by a phasing out of those which already exist. It is, however, also consistent with the President's view as to an acceptable number of ballistic missile warheads, and it would mandate a reasonable level of activity to continue the development of nuclear weapons designed to replace those whose useful life is ending.

Finally, in my opinion, there is a better chance now than ever before that the Soviet Union may be willing to undertake fundamental changes in strategic weaponry through arms control. They have been showing, for the first time, public concern at the prospect and consequences of first strike capabilities on both sides. If recent leaks to the press from Geneva are correct, they are also hinting at a readiness to contemplate major reductions within the context of an agreement which would adequately address their security needs as they interpret them.

Of course, this is not the first time that the Soviets have made a gesture in the direction of major reductions, and their public talk about the danger of first strike capability could be more for our consumption than theirs. But the purpose of negotiations is to explore, rather than preclude avenues of agreement. We should get to the bottom of what the Soviets mean; we should test their sincerity. The gravity of the developing threat to mankind requires no less.

If we follow the President's proposals we will enter a more dangerous world. With some imagination, however, the President's stated principles can lend themselves to a better, less threatening outcome.

A Noncounterforce Alternative to President Reagan's START Proposal

PROPOSED GUIDELINES

It is suggested that during the forthcoming strategic arms reduction talks (START) the United States propose the following guidelines to the Soviet Union:

(1) Pending a successful conclusion of the START, the Soviet Union and the United States will:

Continue to abide by the provisions contained in the unratified SALT II Treaty.

Not convert additional ICBM launchers to launchers for MIRVed ICBMs.

Not initiate or continue accuracy—improvement tests of currently deployed types of MIRVed ballistic missiles.

Not impede the verification, by national technical means of verification, of the above provisions.

(2) A new strategic arms reduction agreement would contain the following provisions:

Ceilings

Neither nation will possess more than 5,000 ballistic missile warheads by the end of 1994. Within this ceiling, no more than 500 warheads will be in silo-based ICBMs.

Neither nation will possess MIRVed ICBMs by the end of 1994.

By the end of 1994, the aggregate throw weight of each nation's ICBM force will not exceed the aggregate throw weight of 500 SS-11 or 500 Minuteman II ICBMs, whichever is larger.

Neither nation will possess more than 200 long-range heavy bomber aircraft by the end of 1994. Within this ceiling, no more than 120 bombers will be equipped to launch air-launched cruise missiles (ALCMs).

Neither nation may deploy more than 2,400 ALCMs with their long-range heavy bomber force.

Sea-launched cruise missiles (SLCMs) capable of ranges of over 600 kilometers will not be deployed on surface ships or attack submarines. However, if SLCMs are deployed in ballistic missile-launching submarines (SSBs/SSBNs), the SLCMs must be stowed in and launched from SLBM launching tubes, and each SLCM warhead would be counted as a SLBM-launched warhead.

Reduction process

Starting January 1, 1983, the Soviet Union and the United States will proceed to reduce the number of their strategic offensive weapons launchers (launchers for ICBMs and SLBMs, and heavy bombers) toward the 5,000-warhead ceiling on ballistic missiles and the 200-aircraft heavy bomber ceiling.

The Soviet Union will dismantle the launchers for its MIRVed SS-18, SS-19, and SS-17 ICBMs (in that order), followed in the same order by dismantlement of launchers for the single-warhead versions of these ICBMs. Concurrent to Soviet dismantlement of these ICBM launchers, the United States will retire some launchers for the Poseidon SLBM and launchers for the Minuteman III ICBM (in that order). Each nation will retire at least 80 launchers per annum until all the launchers for MIRVed ICBMs have been retired. However, the retirement of launchers for the Minuteman III will take place after the Soviet Union dismantles 80 launchers of the MIRVed version of the SS-18; and, the United States will be allowed to modify 50 of the Minuteman III ICBM silos to launchers for Minuteman II ICBMs or a new single-warhead ICBM.

As applicable, each nation will reduce the size of its long-range strategic bomber force to 200 aircraft by the end of 1994. Until the 200-aircraft ceiling is met, reductions in the number of long-range heavy bomber aircraft will begin in 1983 at a net rate of no less than 13 aircraft per annum.

New deployments

As the replacement to currently deployed single-warhead ICBMs, both nations are allowed to develop, test, and deploy a new single-warhead silo-based ICBM (without a "bus" to dispense MIRVs) possessing a throw weight no larger than the throw weight of the Soviet SS-11 or the U.S. Minuteman II ICBMs, whichever has the larger throw weight.

Both nations may develop, test, and deploy new ballistic-missile-launching submarines and new long-range heavy bomber aircraft.

As hedges against failure to reach a START agreement, or an abrogation of an agreement, both nations may develop and test, but not produce and deploy, a new MIRVed ICBM and a new MIRVed SLBM.

VERIFICATION OF COMPLIANCE WITH PROVISIONS CONTAINED IN THE ALTERNATE START

The deployment of silo-based ICBMs is verified from overhead photography.

Silos containing MIRVed ICBMs have characteristics (signatures) that are distinct from silos containing single-warhead ICBMs.

Currently, the numbers and types of SLBMs being deployed is routinely verified by observing the SSBN in which the SLBM is being introduced. Overhead photography and other means of detection are used.

SLCMs deployed in SLBM-launching tubes could be verified in the same way SLBM deployment is now verified.

Verification that ICBM or SLBM launchers are being dismantled is made from overhead photography and other means.

The performance and characteristics of new types of ICBMs and SLBMs is primarily determinable from data intercepted when the missiles are tested.

The accuracy improvements of ICBMs and SLBMs is verified from intercepted test telemetry, and by tracking the missiles during operational tests.

The Soviets would not be able to attain a comfortable degree of confidence in the performance of additional accuracy improvements to their ICBMs and SLBMs without thorough testing of the whole missile system.

Bomber aircraft equipped with ALCMs have observable differences from bombers not equipped to carry these weapons.

The numbers and types of heavy bombers deployed is verified by photographic surveillance of the aircraft production facilities and bomber operational bases.

Significant violations in the number of ICBM and SLBM launchers and bombers deployed would be readily detected.

U.S. STRATEGIC PROGRAMS UNDER THE PROPOSED ALTERNATE START

Reductions

No hard-site ABM defense needed.

No procurement and deployment of the M-X ICBM, and no construction for basing the M-X, but continue its development.

No procurement, production, and deployment of the Trident II SLBM, but continue its development. Consequently, Trident I SLBMs that were recently deployed, and those that will be deployed in the near future, would not be retired prematurely.

No implementation of ballistic missile accuracy improvements (such as stellar-inertial system) to existing ballistic missiles.

No deployment of larger or more lethal reentry vehicle warheads.

Retirement of the Titan II and Minuteman III ICBM force, and an option to retire the Minuteman II force.

Phased retirement of the B-52D, B-52H, and B-52G bombers.

Reduction in the number of B-52 aircraft that would be modified to carry ALCMs. Without a ceiling on the number of heavy bombers equipped to launch ALCMs, more than 120 B-52 bombers could be converted to ALCM carriers.

Curtailment in the total number of tanker aircraft needed to support the strategic bomber force.

Phased retirement of the Lafayette-class (Poseidon and Trident I) SSBNs from the strategic forces, and the conversion of some of these boats to attack submarines. Some of Lafayette-class boats equipped to launch the Trident I SLBM could be conveyed to Great Britain, as an alternative to the Trident II SLBM.

Curtailment in the total number of ALCMs that would be deployed. Without a ceiling on ALCMs the number of long-range strategic weapons would continue to grow.

Indirect curtailment in the total number of nuclear bombs and short-range attack missiles (SRAMs) that would be deployed. Without a ceiling on heavy bombers, the number of bomber-deliverable weapons would continue to grow.

Indirect curtailment in the total number of long-range sea-launched cruise missiles (SLCMs) that could be deployed. Unless the number of long-range SLCMs that can be deployed is limited, the number of long-range strategic weapons would continue to grow.

New deployments

If the 450 Minuteman II ICBMs currently deployed are retired, and the U.S. does not deploy in modified Minuteman III silos 50 additional Minuteman IIs now in storage, 500 new single-warhead ICBMs (denoted in tables as MX-2) would be needed.

100 B-1B bomber aircraft (initially tasked to be penetrating bombers, and later phased to ALCM carriers, replacing B-52G CMCs, as the more advanced STEALTH aircraft assume the penetrating role). As an alternative to the B-1B, 100 new cruise missile carrying aircraft could be deployed.

100 STEALTH penetrating bombers or 100 advanced CMCs.

PROBABLE EFFECT ON SOVIET STRATEGIC PROGRAMS UNDER THE PROPOSED ALTERNATE START

Reductions

No expansion of current ABM capabilities.

No deployment of a mobile ICBM with a hard-target capability.

No construction for basing of a mobile ICBM.

No deployment of larger or more lethal reentry vehicle warheads.

No deployment of SLBMs with hard-target capability.

No implementation of accuracy improvements to existing MIRVed ballistic missiles.

Retirement of the entire SS-11 ICBM force if 500 units of a new single-warhead ICBM (denoted as SS-X in tables) are deployed to replace the SS-11 missiles.

Retirement of the SS-17, SS-18, and SS-19 ICBMs a few years earlier than anticipated.

Retirement of all the Yankee I SSBNs and the one Yankee II SSBN, or their conversion to attack submarines.

Retirement of SS-N-6 SLBMs on Yankee I SSBNs.

Retirement of the one Golf III SSB, all the Hotel II SSBNs, and the one Hotel III SSBN.

Retirement of SS-N-5 SLBMs on Hotel II SSBNs.

Retirement of the TU-95 Bear and Mya-4 Bison bombers.

Retirement of the Kangaroo air-launched missile.

New deployments

500 New single-warhead ICBMs (denoted in tables as SS-X), if 500 SS-11s are not retained.

200 new heavy bombers (denoted in tables as TU-X SWL and TU-X).

Deployment of ALCMs and SRAMs with the new heavy bombers.

Replacement of Yankee I SSBNs with a new SSBN (denoted in tables as SSBN-X) equipped with 16 launchers for SLBMs.

Continued deployment of Typhoon-class SSBNs.

Continued deployment of SS-N-20 SLBMs on Typhoon-class SSBNs.

Deployment of SS-N-17 SLBMs (or other existing type) on a new SSBN (denotd in tables as SSBN-X) replacing the Yankee I SSBNs.

ESTIMATED TYPE AND NUMBER OF SOVIET AND U.S. SLBM'S IN SSB'S AND SSBN'S

Soviet ballistic-missile-launching submarines (SSBs and SSBNs) are believed to carry the following number and type of SLBMs: 20 SS-N-20s in Typhoon SSBNs; 16 SS-N-18s in Delta III SSBNs; 16 SS-N-8s in Delta II SSBNs; 12 SS-N-8s in Delta I SSBNs; SS-N-17s in Yankee II SSBNs; 16 SS-N-6s in Yankee I SSBNs; 6 SS-N-8s in Hotel III SSBNs; 3 SS-N-5s in Hotel II SSBNs; and 6 SS-N-8s in Golf III SSBs. A new SSBN (denoted as SSBN-X in tables) is projected would carry 16 SS-N-17s or other existing SLBM.

U.S. SSBNs carry the following number and types of SLBMs: 16 Poseidon or 16 Trident I in Lafayette-class SSBNs; and 24 Trident I in Ohio-class SSBNs.

WARHEAD LOADINGS USED IN PROJECTIONS

Unless otherwise specified in the tables, all other ballistic missiles except the following are estimated or projected to carry a single independently-targetable reentry vehicle (RV):

Soviet—SS-N-20, 10 MIRVs; SS-N-18, 7 MIRVs.

U.S.—Minuteman III, 3 MIRVs; Poseidon, 9 MIRVs (average); Trident I, 8 MIRVs.

Bombers weapon loadings are estimated and projected to be as follows:

Soviet—TU-95 Bear, 1 AS-3 Kangaroo missile or four bombs; Mya-4 Bison, 2 bombs; TU-X SWL, 12 ALCMs (average) plus 4 bombs; TU-X, 6 SRAMs plus 2 bombs.

U.S.—B-52D, 2 SRAMS plus 4 bombs; B-52G/H, 4 SRAMs plus 4 bombs; B-52G CMC, 12 ALCMs plus 4 SRAMs plus 4 bombs through 1985 (thereafter, 348 ALCMs added per year, to replace SRAMs and bombs, until all B-52G CMCs are equipped with 20 ALCMs); B-1B, 8 SRAMs plus 4 bombs; B-1B CMC, 24 ALCMs; Stealth, 8 SRAMs plus 4 bombs.

PROJECTED SOVIET SSB/SSBN INVENTORY UNDER ALTERNATE START PROPOSAL

SSB/SSBN class (SLBM type)	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Typhoon (SS-N-20)	1	3	5	7	9	11	11	11	11	11	11	11	11	11
Delta III (SS-N-18)	15	15	15	15	15	15	15	15	15	15	15	15	15	15
Delta II (SS-N-8)	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Delta I (SS-N-8)	18	18	18	18	18	18	18	18	18	18	18	18	18	18
Yankee II (SS-N-17)	1	1	1	1	1	0	0	0	0	0	0	0	0	0
SSBN-X (SS-N-17)	1	3	5	7	9	11	13	15	17	19	20	21	21	21
Yankee I (SS-N-6)	22	20	18	16	13	11	9	7	5	3	1	0	0	0
Hotel III (SS-N-8)	1	1	1	1	1	0	0	0	0	0	0	0	0	0
Hotel II (SS-N-5)	6	4	2	0	0	0	0	0	0	0	0	0	0	0
Golf III (SS-N-8)	1	1	1	1	0	0	0	0	0	0	0	0	0	0
Golf IV (SS-N-6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	70	70	70	70	70	70	70	70	70	70	69	69	69	69

PROJECTED SOVIET SSB/SSBN RETIREMENT UNDER ALTERNATE START PROPOSAL

SSB/SSBN class	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Yankee II	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Yankee I	2	2	2	3	2	2	2	2	2	2	1	0	0	22
Hotel III	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Hotel II	2	2	2	0	0	0	0	0	0	0	0	0	0	6
Golf III	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Total	4	4	4	4	4	2	2	2	2	2	1	0	0	31

PROJECTED SOVIET NEW SSBN DEPLOYMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Typhoon	2	2	2	2	2	0	0	0	0	0	0	0	0	10
SSBN-X	2	2	2	2	2	2	2	2	2	1	1	0	0	20
Total	4	4	4	4	4	2	2	2	2	1	1	0	0	30

PROJECTED U.S. SSBN INVENTORY UNDER ALTERNATE START PROPOSAL

SSBN class (SLBM type)	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Lafayette:														
Poseidon	19	19	14	13	12	10	8	5	1	0	0	0	0	0
Trident I	12	12	12	12	12	12	12	12	12	12	9	5	2	0
Ohio (Trident I)	2	3	5	6	7	9	11	13	15	16	18	20	22	23
Total	33	34	31	31	31	31	31	30	28	28	27	25	25	23

PROJECTED U.S. SSBN RETIREMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Lafayette:														
Poseidon	0	5	1	1	2	2	3	4	1	0	0	0	0	19
Trident I	0	0	0	0	0	0	0	0	0	3	4	3	2	12
Total	0	5	1	1	2	2	3	4	1	3	4	3	2	31

PROJECTED U.S. NEW SSBN DEPLOYMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—													Total
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Ohio	1	2	1	1	2	2	2	2	1	2	2	2	1	21
Total	1	2	1	1	2	2	2	2	1	2	2	2	1	21

PROJECTED SOVIET ICBM/SLBM LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's:														
SS-18 (10 RV's)	75	75	0	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV's)	175	175	170	90	10	0	0	0	0	0	0	0	0	0
SS-19 (6 RV's)	300	300	300	300	300	230	150	70	0	0	0	0	0	0
SS-17 (4 RV's)	120	120	120	120	120	120	120	120	110	30	0	0	0	0
SS-18 (1 RV)	58	58	58	58	58	58	[illegible]	58	58	[illegible]	8	0	0	0
SS-19 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	0	0	0
SS-17 (1 RV)	32	32	32	32	32	32	32	32	32	32	32	20	0	0
SS-13	60	60	60	60	60	60	60	60	60	60	60	60	0	0
SS-11	518	518	468	418	368	318	268	218	168	118	68	18	0	0
SS-X	0	0	50	100	150	200	250	300	350	400	450	500	500	500
Subtotal	1,398	1,398	1,318	1,238	1,158	1,078	998	918	838	758	678	598	500	500
SLBM's:														
SS-N-20 (10 RV's) (Typhoon)	20	60	100	140	180	220	220	220	220	220	220	220	220	220
SS-N-18 (7 RV's) (Delta III)	240	240	240	240	240	240	240	240	240	240	240	240	240	240
SS-N-17:														
Yankee II	12	12	12	12	12	0	0	0	0	0	0	0	0	0
SSBN-X	16	48	80	112	144	176	208	240	272	304	320	336	336	336
SS-N-8:														
Delta II	64	64	64	64	64	64	64	64	64	64	64	[illegible]	64	64
Delta I	216	216	216	216	216	216	216	216	216	216	216	216	216	216
Hotel III	6	6	6	6	6	0	0	0	0	0	0	0	0	0
Golf III	6	6	6	6	0	0	0	0	0	0	0	0	0	0
SS-N-6:														
Yankee I	352	320	288	256	208	176	144	112	80	48	16	0	0	0
Golf IV	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SS-N-5 (Hotel II)	18	[illegible]	6	0	0	0	0	0	0	0	0	0	0	0
Subtotal	950	984	1,018	1,052	1,070	1,092	1,092	1,092	1,092	1,092	1,076	1,076	1,076	1,076
Total	2,348	2,342	2,336	2,290	2,228	2,170	2,090	2,010	1,930	1,850	1,754	1,674	1,576	1,576

PROJECTED SOVIET STRATEGIC BOMBER INVENTORY UNDER ALTERNATE START PROPOSAL

Bomber designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
TU-95 Bear	113	113	113	113	113	100	80	60	[illegible]	0	0	0	0	0
Mya-4 Bison	43	43	43	43	43	30	20	10	0	0	0	0	0	0
TU-X SWL	0	0	5	20	35	50	[illegible]	80	97	120	120	120	120	120
TU-X	0	0	0	0	5	20	[illegible]	50	65	80	80	[illegible]	80	80
Total	156	156	161	176	196	200	200	200	200	200	200	200	200	200
Of which the following number of aircraft are ALCM carriers (subtotal)	0	0	5	20	35	50	65	80	95	110	120	120	120	120

PROJECTED SOVIET STRATEGIC DELIVERY VEHICLE RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's:														
SS-18 (10 RV's)	0	75	0	0	0	0	0	0	0	0	0	0	0	75
SS-18 (8 RV's)	0	5	80	80	10	0	0	0	0	0	0	0	0	175
SS-19 (6 RV's)	0	0	0	0	70	80	80	70	0	0	0	0	0	300
SS-17 (4 RV's)	0	0	0	0	0	0	0	10	80	30	0	0	0	120
SS-18 (1 RV)	0	0	0	0	0	0	0	0	0	50	8	0	0	58
SS-19 (1 RV)	0	0	0	0	0	0	0	0	0	0	60	0	0	60
SS-17 (1 RV)	0	0	0	0	0	0	0	0	0	0	12	20	0	32
SS-13	0	0	0	0	0	0	0	0	0	0	0	60	0	60
SS-11	0	50	50	50	50	50	50	50	50	50	50	18	0	[1] 518
Subtotal	0	130	130	130	130	130	130	130	130	130	130	98	0	[1] 1,398
SLBM's:														
SS-N-17	0	0	0	0	12	0	0	0	0	0	0	0	0	12
SS-N-8	0	0	0	6	6	0	0	0	0	0	0	0	0	12
SS-N-6	32	32	32	48	32	32	32	32	32	32	16	0	0	352
SS-N-5	6	6	6	0	0	0	0	0	0	0	0	0	0	18
Subtotal	38	38	38	54	50	32	32	32	32	32	16	0	0	394
Bombers:														
TU-95 Bear	0	0	0	0	13	20	20	22	38	0	0	0	0	113
Mya-4 Bison	0	0	0	0	13	10	10	10	0	0	0	0	0	43
Subtotal	0	0	0	0	26	30	30	32	38	0	0	0	0	156
Total	38	168	168	184	206	192	192	194	200	162	146	98	0	[1] 1,948

[1] It is assumed that all the SS-11 ICBM's would be retired. However, if the Soviets do not deploy a new single-warhead ICBM (denoted SS-X in this projection), and retain 500 SS-11's, the number of ICBM's retired would be reduced by 500.

PROJECTED SOVIET STRATEGIC DELIVERY VEHICLE NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Subtotal
ICBM's: SS-X	0	50	50	50	50	50	50	50	50	50	50	0	0	[1] 500
SLBM's:														
SS-N-20	40	40	40	40	40	0	0	0	0	0	0	0	0	200
SS-N-17	32	32	32	32	32	32	32	32	32	16	16	0	0	[2] 320
Subtotal	72	72	72	72	72	32	32	32	32	16	16	0	0	[2] 520
Bombers:														
TU-X SWL	0	5	15	15	15	15	15	17	23	0	0	0	0	120
TU-X	0	0	0	5	15	15	15	15	15	0	0	0	0	80
Subtotal	0	5	15	20	30	30	30	32	38	0	0	0	0	200
Total	72	127	137	142	152	112	112	114	120	66	66	0	0	[3] 1,220

[1] It is assumed that all the SS-11 ICBM's would be retired and 500 single-warhead SS-X ICBM's would be deployed. However, if the Soviets do not deploy 500 new single-warhead ICBM's the number of ICBM's that would be deployed would be reduced by 500.

[2] The 12 SS-N-17 SLBM's on the 1 Yankee II SSBN are assumed would be retired. However, if the Soviets redeploy these SLBM's with the postulated SSBN-X boats the total number of additional SS-N-17 SLBM's that would be deployed would be reduced by 12.

[3] See notes above.

PROJECTED U.S. ICBM/SLBM LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's:														
Minuteman III (MK-12A)	300	300	300	220	140	60	0	0	0	0	0	0	0	0
Minuteman III (MK-12)	250	250	250	250	250	250	230	150	70	0	0	0	0	0
Minuteman II	450	450	450	450	450	450	450	450	370	280	200	120	20	0
Titan II	52	52	52	52	52	45	18	0	0	0	0	0	0	0
MX-2	0	0	0	0	0	7	34	80	160	240	320	400	480	500
Subtotal	1,052	1,052	1,052	972	892	812	732	680	600	520	520	520	500	500
SLBM's:														
Poseidon (Lafayette)	304	304	224	208	192	160	128	80	16	0	0	0	0	0
Trident I:														
Lafayette	192	192	192	192	192	192	192	192	192	192	144	96	32	0
Ohio	48	72	120	144	168	216	264	312	360	384	432	480	528	552
Subtotal	544	568	536	544	552	568	584	584	568	576	576	576	560	552
Total	1,596	1,620	1,588	1,516	1,444	1,380	1,316	1,264	1,168	1,096	1,096	1,096	1,060	1,052

PROJECTED U.S. STRATEGIC BOMBER INVENTORY UNDER ALTERNATE START PROPOSAL

Bomber designation	By end of calendar year— 1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
B52D	76	76	63	50	37	0	0	0	0	0	0	0	0	0
B52G	157	122	87	53	53	53	14	0	0	0	0	0	0	0
B52H	96	96	96	96	96	96	96	67	25	25	20	15	0	0
B52G CMC	16	51	86	120	120	120	120	120	120	90	54	18	0	0
B-1B	0	0	0	0	0	24	50	80	100	75	45	15	0	0
B-1B CMC	0	0	0	0	0	0	0	0	0	25	55	85	100	100
Stealth	0	0	0	0	0	0	0	0	9	26	54	82	100	100
Totals	345	345	332	319	306	293	280	267	254	241	228	215	200	200
Of which the following number of aircraft are ALCM carriers (subtotal)	16	51	86	120	120	120	120	120	120	115	109	103	100	100

PROJECTED U.S. STRATEGIC DELIVERY VEHICLE RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year— 1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Subtotal
ICBM's:														
Minuteman III (MK-12A)	0	0	80	80	80	60	0	0	0	0	0	0	0	300
Minuteman III (MK-12)	0	0	0	0	0	20	80	80	70	0	0	0	0	250
Minuteman II	0	0	0	0	0	0	0	80	90	80	80	100	20	[1] 450
Titan II	0	0	0	0	7	27	18	0	0	0	0	0	0	52
Subtotal	0	0	80	80	87	107	98	160	160	80	80	100	20	[1] 1,052
SLBM's:														
Poseidon	0	80	16	16	32	32	48	64	16	0	0	0	0	304
Trident I	0	0	0	0	0	0	0	0	0	48	64	48	32	[2] 192
Subtotal	0	80	16	16	32	32	48	64	16	48	64	48	32	[2] 496
Bombers:														
B-52D	0	13	13	13	37	0	0	0	0	0	0	0	0	76
B-52G	0	0	0	0	0	39	14	0	30	36	36	18	0	173
B-52H	0	0	0	0	0	0	29	42	0	5	5	15	0	96
Subtotal	0	13	13	13	37	39	43	42	30	41	41	33	0	345
Total	0	93	109	109	156	178	189	266	206	169	185	181	52	[3] 1,893

[1] It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX–2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of ICBM's retired would be reduced by 450.

[2] Trident I SLBM's are shown as being retired. In reality, however, these SLBM's would be removed from Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of Trident I SLBM's that would be retired by 192 SLBM's.

[3] See notes above.

PROJECTED U.S. STRATEGIC DELIVERY VEHICLE NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year— 1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Subtotal
ICBM's: MX–2	0	0	0	0	7	27	46	80	80	80	80	80	20	[1] 500
SLBM's: Trident I (Ohio)	24	48	24	24	48	48	48	48	24	48	48	48	24	[2] 504
Bombers:														
B-1B	0	0	0	0	24	26	30	20	0	0	0	0	0	100
Stealth	0	0	0	0	0	0	0	9	17	28	28	18	0	100
Subtotal	0	0	0	0	24	26	30	29	17	28	28	18	0	200
Total	24	48	24	24	79	101	124	157	121	156	156	146	44	[3] 1,204

[1] It is assumed that all Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX–2 in this projection) and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of new ICBM's deployed would be reduced by 450.

[2] Trident I SLBM's on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of new Trident I SLBM's that would be deployed by 192 SLBM's.

[3] See notes above.

PROJECTED SOVIET AGGREGATE LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Launcher type	By end of calendar year— 1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	2,348	2,342	2,336	2,290	2,228	2,170	2,090	2,010	1,930	1,850	1,754	1,674	1,576	1,576
Bombers	156	156	161	176	196	200	200	200	200	200	200	200	200	200
Total	2,504	2,538	2,497	2,466	2,424	2,370	2,290	2,210	2,130	2,050	1,954	1,874	1,776	1,776

PROJECTED U.S. AGGREGATE LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Launcher type	By end of calendar year— 1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	1,596	1,620	1,588	1,516	1,444	1,380	1,316	1,264	1,168	1,096	1,096	1,096	1,060	1,052
Bombers	345	345	332	319	306	293	280	267	254	241	228	215	200	200
Total	1,941	1,965	1,920	1,835	1,750	1,673	1,596	1,531	1,422	1,337	1,324	1,311	1,260	1,252

PROJECTED SOVIET DEPLOYED ICBM/SLBM WARHEADS UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year— 1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM warheads:														
SS-18 (10 RV's)	750	750	0	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV's)	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0	0
SS-19 (6 RV's)	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0	0
SS-17 (4 RV's)	480	480	480	480	480	480	480	480	440	120	0	0	0	0
SS-18 (1 RV)	58	58	58	58	58	58	58	58	58	58	8	0	0	0
SS-19 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	0	0	0
SS-17 (1 RV)	32	32	32	32	32	32	32	32	32	32	32	20	0	0
SS-13 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	60	0	0
SS-11 (1 RV)	518	518	468	418	368	318	268	218	168	118	68	18	0	0
SS-New (1 RV)	0	0	50	100	150	200	250	300	350	400	450	500	500	500
Subtotal	5,158	5,158	4,368	3,728	3,088	2,588	2,108	1,628	1,168	848	678	598	500	500
SLBM warheads:														
SS-N-20 (10 RV's)	200	600	1,000	1,400	1,800	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200
SS-N-18 (7 RV's)	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680
SS-N-17 (1 RV)	28	60	92	124	156	176	208	240	272	304	320	336	336	336
SS-N-8 (1 RV)	292	292	292	292	286	280	280	280	280	280	280	280	280	280
SS-N-6 (1 RV)	352	320	288	256	208	176	144	112	80	48	16	0	0	0
SS-N-5 (1 RV)	18	12	6	0	0	0	0	0	0	0	0	0	0	0
Subtotal	2,570	2,964	3,358	3,752	4,130	4,512	4,512	4,512	4,512	4,512	4,496	4,496	4,496	4,496
Total	7,728	8,122	7,726	7,480	7,218	7,100	6,620	6,140	5,680	5,360	5,174	5,094	4,996	4,996

PROJECTED SOVIET DEPLOYED STRATEGIC BOMBER WEAPONS UNDER ALTERNATE START PROPOSAL

Bomber and weapon type	By end of calendar year— 1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
TU-95 Bear:														
Kangaroo	75	75	75	75	75	62	42	22	0	0	0	0	0	0
Bombs	152	152	152	152	152	152	152	152	152	0	0	0	0	0
Mya-4 Bison: Bombs	86	86	86	86	86	60	40	20	0	0	0	0	0	0
TU-X SWL:														
ALCM's	0	0	60	240	420	600	780	960	1,164	1,440	1,440	1,440	1,440	1,440
Bombs	0	0	20	80	140	200	260	320	388	480	480	480	480	480
TU-X:														
SRAM's	0	0	0	0	30	120	210	300	390	480	480	480	480	480
Bombs	0	0	0	0	10	40	70	100	130	160	160	160	160	160
Total	313	313	393	633	913	1,234	1,554	1,874	2,224	2,560	2,560	2,560	2,560	2,560

PROJECTED SOVIET STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year— 1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Subtotal
ICBM's:														
SS-18 (10 RV's)	0	750	0	0	0	0	0	0	0	0	0	0	0	750
SS-18 (8 RV's)	0	40	640	640	80	0	0	0	0	0	0	0	0	1,400
SS-19 (6 RV's)	0	0	0	0	420	480	480	420	0	0	0	0	0	1,800
SS-17 (4 RV's)	0	0	0	0	0	0	0	40	320	120	0	0	0	480
SS-18 (1 RV)	0	0	0	0	0	0	0	0	0	50	8	0	0	58
SS-19 (1 RV)	0	0	0	0	0	0	0	0	0	0	60	0	0	60
SS-17 (1 RV)	0	0	0	0	0	0	0	0	0	0	12	20	0	32
SS-13 (1 RV)	0	0	0	0	0	0	0	0	0	0	0	60	0	60
SS-11 (1 RV)	0	50	50	50	50	50	50	50	50	50	50	18	0	[1] 518
Subtotal	0	840	690	690	550	530	530	510	370	220	130	98	0	[1] 5,158
SLBM's:														
SS-N-17 (1 RV)	0	0	0	0	12	0	0	0	0	0	0	0	0	[2] 12
SS-N-8 (1 RV)	0	0	0	6	6	0	0	0	0	0	0	0	0	12
SS-N-6 (1 RV)	32	32	32	48	32	32	32	32	32	32	16	0	0	352
SS-N-5 (1 RV)	6	6	6	0	0	0	0	0	0	0	0	0	0	18
Subtotal	38	38	38	54	50	32	32	32	32	32	16	0	0	[2] 394
Bombers:														
Kangaroo (Bear)	0	0	0	0	13	20	20	22	0	0	0	0	0	75
Bombs:														
Bear	0	0	0	0	0	0	0	0	152	0	0	0	0	152
Bison	0	0	0	0	26	20	20	20	0	0	0	0	0	86
Subtotal	0	0	0	0	39	40	40	42	152	0	0	0	0	313
Total	38	878	728	744	639	602	602	584	554	252	146	98	0	[3] 5,865

[1] It is assumed that all the SS-11 ICBM's would be retired. However, if the Soviets do not deploy a new single-warhead ICBM (denoted SS-X in this projection), and retain 500 SS-11's, the number of warheads retired would be reduced by 500.

[2] It is assumed that the 12 SS-N-17 SLBM's on the one Yankee II SSBN would be retired. However, the Soviets could redeploy these SLBM's on the postulated SSBN-X boats and thus reduce the total number of retired SLBM warheads by 12.

[3] See notes above.

PROJECTED SOVIET STRATEGIC WARHEAD NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's: SS-X (1 RV)	0	50	50	50	50	50	50	50	50	50	50	0	0	[1] 500
SLBM's:														
SS-N-20 (10 RV's)	400	400	400	400	400	0	0	0	0	0	0	0	0	2,000
SS-N-17 (1 RV)	32	32	32	32	32	32	32	32	32	16	16	0	0	[2] 320
Subtotal	432	432	432	432	432	32	32	32	32	16	16	0	0	2,320
Bombers:														
ALCM's (TU-X SWL)	0	60	180	180	180	180	180	204	276	0	0	0	0	1,440
SRAM's (TU-X)	0	0	0	30	90	90	90	90	90	0	0	0	0	480
Bombs:														
TU-X SWL	0	20	60	60	60	60	60	68	92	0	0	0	0	480
TU-X	0	0	0	10	30	30	30	30	30	0	0	0	0	160
Subtotal	0	80	240	280	360	360	360	392	488	0	0	0	0	2,560
Total	432	562	722	762	842	442	442	474	570	66	66	0	0	[3] 5,380

[1] It is assumed that all the SS-11 ICBM's would be retired and 500 single-warhead ICBM's (denoted SS-X in this projection) would be deployed. However, if the Soviets retain 500 SS-11's and do not deploy the postulated SS-X's, the number of new warheads that would be deployed would be reduced by 500.

[2] It is assumed that the 12 SS-N-17 SLBM's on the 1 Yankee II SSBN would be retired. However, the Soviets could redeploy these SLBM's on the postulated SSBN-X boats and thus reduce the total number of new SLBM warheads by 12.

[3] See notes above.

PROJECTED U.S. DEPLOYED ICBM/SLBM WARHEAD INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By the end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM warheads:														
Minuteman III (3 MK-12A RV's)	900	900	900	900	900	660	420	180	0	0	0	0	0	0
Minuteman III (3 MK-12A RV's)	750	750	750	750	750	750	750	750	690	600	210	0	0	0
Minuteman II (1 RV)	450	450	450	450	450	450	450	450	370	290	210	120	20	0
Titan II (1 RV)	52	52	52	52	52	45	18	0	0	0	0	0	0	0
MX-2 (1 RV)	0	0	0	0	0	7	34	80	160	240	320	400	480	500
Subtotal	2,152	2,152	2,152	1,912	1,672	1,432	1,192	980	740	520	520	520	500	500
SLBM warheads:														
Poseidon (9 RV's average) (Lafayette)	2,736	2,736	2,010	1,872	1,728	1,440	1,152	720	144	0	0	0	0	0
Trident I (8 RV's):														
Lafayette	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,152	640	256	0
Ohio	384	576	960	1,152	1,344	1,728	2,112	2,496	2,880	3,072	3,456	3,840	4,224	4,416
Subtotal	4,656	4,848	4,512	4,560	4,608	4,704	4,800	4,752	4,560	4,608	4,608	4,480	4,480	4,416
Total	6,808	7,000	6,664	6,472	6,280	6,168	5,992	5,732	5,300	5,128	5,128	5,000	4,980	4,916

PROJECTED U.S. DEPLOYED STRATEGIC BOMBER WEAPONS UNDER ALTERNATIVE START PROPOSAL

Bomber and weapon type	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
B-52D:														
SRAM's	152	152	126	100	74	0	0	0	0	0	0	0	0	0
Bombs	304	304	252	200	148	0	0	0	0	0	0	0	0	0
B-52G:														
SRAM's	628	488	348	212	212	212	56	0	0	0	0	0	0	0
Bombs	628	488	348	212	212	212	56	0	0	0	0	0	0	0
B-52H:														
SRAM's	384	384	384	384	384	384	384	268	100	100	80	60	0	0
Bombs	384	384	384	384	384	384	384	268	100	100	80	60	0	
B-52G CMC:														
SRAM's	64	204	344	480	306	132	0	0	0	0	0	0	0	0
Bombs	64	204	344	480	306	132	0	0	0	0	0	0	0	0
ALCM's	192	612	1,032	1,440	1,788	2,136	2,400	2,400	2,400	1,800	1,800	360	0	0
B-1B:														
SRAM's	0	0	0	0	0	192	400	640	800	600	360	120	0	0
Bombs	0	0	0	0	0	96	200	320	400	300	180	60	0	0
B-1B CMC: ALCM's	0	0	0	0	0	0	0	0	0	600	1,320	2,040	2,400	2,400
Stealth:														
SRAM's	0	0	0	0	0	0	0	0	72	208	432	656	800	800
Bombs	0	0	0	0	0	0	0	0	36	104	216	328	400	400
Totals	2,800	3,220	3,562	3,892	3,814	3,880	3,880	3,896	3,908	3,812	3,728	3,684	3,600	3,600

PROJECTED U.S. STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's:														
Minuteman III (MK-12A)	0	0	240	240	240	180	0	0	0	0	0	0	0	900
Minuteman II (MK-12)	0	0	0	0	0	60	240	240	210	0	0	0	0	750
Minuteman II	0	0	0	0	0	0	0	80	90	80	80	100	20	[1] 450
Titan II	0	0	0	0	7	27	18	0	0	0	0	0	0	52
Subtotal	0	0	240	240	247	267	258	320	300	80	80	100	20	[1] 2,152
SLBM's:														
Poseidon	0	720	144	144	288	288	432	576	144	0	0	0	0	2,736

PROJECTED U.S. STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL—Continued

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Trident I (Lafayette)	0	0	0	0	0	0	0	0	0	384	512	384	256	[2] 1,536
Subtotal	0	720	144	144	288	288	432	576	144	384	512	384	256	[2] 4,272
Bombers:														
SRAM's	0	26	26	200	56	80	0	0	64	36	36	36	0	[3] 560
Bombs	0	52	52	226	226	184	52	52	32	28	28	48	0	980
Subtotal	0	78	78	426	282	264	52	52	96	64	64	84	0	[3] 1,540
Total	0	798	462	810	817	819	742	628	540	528	656	568	276	[4] 7,964

[1] It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX–2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of ICBM warheads retired would be reduced by 450.

[2] Trident I SLBM warheads on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's and their warheads would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of SLBM warheads that would be retired by 1,536 warheads.

[3] The number of SRAM's shown are those projected would be retired. In reality, however, 132 SRAM's are projected would be redeployed and are herein treated as new deployment, thus, reducing the number of SRAM's that would be retired by 132 SRAM's.

[4] See notes above.

PROJECTED U.S. STRATEGIC WARHEAD NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's: MX–2	0	0	0	0	7	27	46	80	80	80	80	80	20	[1] 500
SLBM's: Trident I (Ohio)	192	384	192	192	384	384	384	384	192	384	384	384	192	[2] 4,032
Bombers:														
SRAM's	0	0	0	0	0	0	68	64	0	0	0	0	0	[3] 132
Bombs	0	0	0	0	0	0	0	0	0	0	0	0	0	[4] 0
ALCM's	420	420	408	348	348	264	0	0	0	0	0	0	0	2,208
Subtotal	420	420	408	348	348	264	68	64	0	0	0	0	0	[5] 2,340
Total	612	804	600	540	739	675	498	528	272	464	464	464	212	[6] 6,872

[1] It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX–2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of new ICBM warheads deployed would be reduced by 450.

[2] Trident I SLBM warheads on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's and their warheads would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of new Trident I SLBM warheads that would be deployed by 1,536 warheads.

[3] The number of SRAM's shown are projected would be new deployments. In reality, however, 132 SRAM's would come from redeployment of SRAM's from retiring aircraft to new aircraft deployed.

[4] The net new deployment of bombs is shown as zero. However, new bombs could replace older models on a 1-to-1 basis.

[5] See notes (3) and (4).

[6] See notes above.

PROJECTED AGGREGATE OF DEPLOYED SOVIET WARHEADS UNDER ALTERNATE START PROPOSAL

Delivery system	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	7,728	8,122	7,726	7,480	7,218	7,100	6,620	6,140	5,680	5,360	5,174	5,094	4,996	4,996
Bombers	313	313	393	633	913	1,234	1,554	1,874	2,224	2,560	2,560	2,560	2,560	2,560
Totals	8,041	8,435	8,119	8,113	8,131	8,334	8,174	8,014	7,904	7,920	7,734	7,654	7,556	7,556

PROJECTED AGGREGATE OF DEPLOYED U.S. WARHEADS UNDER ALTERNATE START PROPOSAL

Delivery system	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	6,808	7,000	6,664	6,472	6,280	6,168	5,992	5,732	5,300	5,128	5,128	5,000	4,980	4,916
Bombers	2,800	3,220	3,562	3,892	3,814	3,880	3,880	3,896	3,908	3,812	3,728	3,684	3,600	3,600
Total	9,608	10,220	10,226	10,364	10,094	10,048	9,872	9,628	9,208	8,940	8,856	8,684	8,580	8,516

PROJECTED SOVIET AND U.S. COUNTERFORCE—CAPABLE RV'S UNDER ALTERNATE START PROPOSAL

[Closing the "Window of ICBM Vulnerability"]

ICBM designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Soviet: [1]														
SS–18 (10 RV's)	750	750	0	0	0	0	0	0	0	0	0	0	0	0
SS–18 (8 RV's)	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0	0
SS–19 (6 RV's)	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0	0
Total	3,950	3,950	3,160	2,520	1,880	1,380	900	420	0	0	0	0	0	0
United States:														
Minuteman III (3 MK–12A)	900	900	900	900	900	660	420	180	0	0	0	0	0	0
Minuteman III (3 MK–12)	750	750	750	750	750	750	750	750	690	600	210	0	0	0
Total	1,650	1,650	1,650	1,650	1,650	1,410	1,170	930	690	600	210	0	0	0
Strike ratio (RV's/ICBM's): [2]														
Soviet	3.75	3.75	3.00	2.50	2.11	1.70	1.23	0.62	0	0	0	0	0	0
United States	1.18	1.18	1.25	1.33	1.42	1.31	1.17	1.01	0.82	0.79	0.31	0	0	0

[1] The RV's carried by the MIRV's version of the SS–17 are not included. Currently, the MIRV'd SS–17 does not have sufficient accuracy to destroy U.S. ICBM sites with a high degree of probability.

[2] Assuming 100-percent availability and reliability of the missiles and warheads (an optimistic assumption), a strike ratio equal to or larger than 2 denotes a theoretical capability to target at least 2 reentry vehicles against each silo. Thus, if each of the reentry vehicles has a high single-shot-kill probability (SSKP) of destroying a silo, a strike ratio equal to or larger than 2 signifies a theoretical capability to destroy the opposing ICBM force at their silos.

GOOD SENSE ON CHEMICAL WEAPONRY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, on July 22, 1982, the House of Representatives rejected by a vote of 251 to 159 the administration's request for production of lethal binary chemical weapons.

Although most people do not realize it, this vote was extraordinarily significant. I would even go so far as to call it historic. For the first time in a decade, the House of Representatives decisively rejected a major defense program, in the face of heavy lobbying by both the White House and Defense Department.

Mr. Speaker, I believe that this unprecedented vote on the binary chemical weapons program was largely a result of the efforts of one man, Congressman CLEMENT J. ZABLOCKI of Wisconsin, the chairman of the House Foreign Affairs Committee.

With the help of Congressman ED BETHUNE of Arkansas Congressman ZABLOCKI succeeded in putting together a bipartisan coalition of Members opposed to binary chemical weapons production. Congressman ZABLOCKI's success in defeating the costly and unnecessary binary program illustrates once again what the esteemed chairman of the House Foreign Affairs Committee can accomplish in this legislative body.

I believe that the people in his district in Wisconsin, the American people and, indeed, the entire world can be proud of Congressman ZABLOCKI for his outstanding work on this most important issue.

I would like to bring to the attention of my colleagues an excellent editorial which appeared in the August 1, 1982, Milwaukee Journal:

GOOD SENSE ON CHEMICAL WEAPONRY

"Rather than expend the American taxpayers' dollars on producing unnecessary additional chemical weapons, the United States must address the widely recognized deficiencies in our chemical protective posture if we are truly to deter a chemical attack by the Soviet Union."

Thus rightly spake Wisconsin's Clement Zablocki, chairman of the House Foreign Affairs Committee, in leading a successful charge against authorization for new "binary" chemical weapons.

By a vote of 251-159, House members voted to scratch $54 million from President Reagan's defense proposal to begin production of the new chemical weapons—which ultimately could cost $10 billion, according to Zablocki. The House did approve expenditure of $651 million, primarily for desperately needed protective equipment and training in anti-chemical warfare.

Toxic weapons and their indiscriminate deadliness are profoundly repugnant. That is true in degree of all weaponry, to be sure, but the insidiousness of chemical and biological agents puts them in a special category of the inhumane and the uncivilized.

Zablocki cogently argued that the new chemical weapons might well precipitate a whole new arms race. They also would be viewed by the global community as representing the abandonment of past US policy to eliminate the awful threat of chemical warfare.

He also emphasized a key distinction: An adequate defensive capability can be decisive in determining the outcome of a conflict in which chemical weapons are used. If deterrence can be achieved by enhancing military ability to defend against chemical weapons, why not concentrate resources in that direction?

Unfortunately, the Senate earlier approved the $54 million to begin binary-chemical production. But the substantial margin against doing so that was reflected in the House vote may prove sufficient to swing final agreement when the two chambers reconcile their versions of the bill.

This is an instance in which morality and practicality coincide.●

A LETTER TO MENACHEM BEGIN

The **SPEAKER** pro tempore (Mr. GONZALEZ). Under a previous order of the House, the gentleman from California (Mr. DYMALLY) is recognized for 10 minutes.

Mr. DYMALLY. Mr. Speaker, recently I had the privilege of visiting Israel and met the Prime Minister, during which time we had a very lively conversation. I said to the Prime Minister then that I had been a strong supporter of Israel and when I returned to the Congress I was going to send him some material which I had written and which I had participated in having advertised in Los Angeles; so my letter reads as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 10, 1982.

Hon. MENACHEM BEGIN,
Prime Minister, The Knesset, Jerusalem, Israel.

DEAR PRIME MINISTER: During my recent visit to Israel, with a Congressional delegation, you inquired what critics of the war in Lebanon had done for Israel, in the past, when its security was under attack.

I informed you then that I was a strong supporter of Israel and had been very active as a California Legislator, and Lieutenant Governor working for Israel's security. I also informed you that I would mail some evidence of that support.

Attached please find the following:

(1) A statement by me "Israel Must Live" delivered during my successful campaign for Lt. Governor of California.

(2) An advertisement by the California Legislative Black Caucus, which appeared in the Los Angeles Times, Friday, March 22, 1974 and was sponsored by the "Youth Committee for Peace and Democracy in the Middle East", which was co-chaired by my present Chief of Staff, Kenneth M. Orduna.

On leaving your office I asked that you acknowledge receipt of this information.

With best wishes for Peace in the Middle East.

Respectfully,
MERVYN M. DYMALLY,
Member, House Committee on Foreign Affairs.

ISRAEL MUST LIVE

(By Senator Mervyn M. Dymally, Chairman, California Senate Majority Caucus, to B'nai B'rith, San Francisco, November 7, 1973)

I have come before you this evening for the purpose of expressing my concern about the need to galvanize public opinion and commitment in every sector of the American public concerning the survival of Israel and building an enduring peace in the Middle East.

I have not come here tonight to ask you for your votes or support for any public office I may seek. There will come a time, and I hope there will be an opportunity later on, when that will be an appropriate topic for us to consider together. But this is not the time

From its birth in 1948, the growth, prosperity, and most of all, the survival of Israel have been matters of central concern to the people of the United States, particularly for those people whose interest in human rights and human liberties is especially strong.

While the existence of Israel as an organized political State dates back only 25 years, its existence as a dream in minds of the Jewish people goes back many centuries. Anything which threatens the survival of Israel threatens something deep within the soul of every person of the Jewish faith. But it also threatens something which I believe to be of the greatest importance for everyone of us, Jew and Gentile, White and Black. The extinction of the only democratic state which now exists, or to my knowledge has ever existed, in the Middle East, would be a profound tragedy for the whole world. America's longstanding commitment that this shall not take place must now be backed with solid and sensible policy decisions.

In a few days, I expect to be leaving for my second trip to Israel, at the invitation of the Israeli Government. My first visit to Israel took place shortly after the events of the Six Day War had changed attitudes toward Israel, not only in outsiders like me, but among the Israelis themselves. No longer was Israel the small, embattled nation of pioneers almost pathetically vulnerable to the numerical superiority of her hostile neighbors. Rather she had become a formidable military power, able to defend herself.

While I was in Israel six years ago, the Israeli Government was calling for direct negotiations with her Arab neighbors which included negotiation concerning withdrawal from Arab territories occupied in the war as part of a permanent peace settlement. As you know, those direct negotiations never took place.

It is indicative of the frustrating nature of the situation in the Middle East that Israel is once again asking for direct negotiations with a renewed offer to withdraw from Arab territories as a part of the peace settlement. I think we all hope this time those negotiations will take place.

I mentioned earlier the change in attitude toward Israel resulting from the Six Day

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War. That new attitude is understandable, but it may also have been damaging because it gave many Americans an unrealistic confidence that Israel could not defend herself unaided.

Some of the seeds of the present hostilities were surely planted in 1971 when the United States deferred commitments to sell Phantom jets to Israel. It was about that same time that President Sadat adopted a more aggressive attitude toward Israel, as if he sensed that the American willingness to provide military assistance was crumbling. That is just one clear indication of how critical is the military balance of power in the Middle East. The United States must never again give cause for the slightest suspicion that we will allow that balance to tip in favor of the Arab states.

As events have proved, the October 25th military alert called by the President was an act in defense of Israel. But that praiseworthy act was followed a few days later by yet another White House effort that is symptomatic of the moral blindness that is destroying the Nixon Administration.

A representative of the President, using the Middle East situation as an excuse, went to Congress to ask that the Jackson-Mills-Vanik amendment guaranteeing free emigration for Soviet Jews and all others who wish to exercise the right to leave be removed from the East-West trade agreement legislation.

I am hopeful that the Congress will repudiate this attempt to use a crisis in one part of the world as an excuse for the continued denial of freedom to people in another part of the world. I believe that we must have a trade bill including the Jackson-Mills-Vanik amendment, and that the Soviet Union will be forced to coldly weigh its economic needs against its outworn and vicious emigration policy, and will very quietly opt for most favored nation status on our terms.

After all, it is the American people who must subsidize the trade agreements favoring the Soviet Union. We pay in higher taxes for credit and investment guarantees, and we pay in higher prices for commodities as basic as food, as last year's wheat deal with Russia proved. When we are paying such a cost for trade agreements, we have a right to demand a return in the form of concessions. There can be no more vital concession than one protecting the rights of our fellow human beings. The right to emigrate is an international issue, not an internal one. The granting of most-favored-nation treatment to any government is also an international question. Both the United States and the USSR are signatories of the United Nations Human Rights covenant which guarantees the right of free emigration. This has the force of a treaty.

The legal fiction that somehow international agreements cannot be used to relieve the suffering of oppressed people is, perhaps, best refuted by the words of Alexander Solzhenitsyn in the Nobel Lecture he was not free to deliver. The great author pointed out that in matters of human rights, "there are no internal affairs left on our crowded earth."

The Nixon Administration and others who oppose the Jackson amendment must answer some questions: If the trade bill is not the right vehicle to secure freedom to emigrate for Soviet Jews, what is the vehicle? If the United States is not the world power to demand respect for human rights, who is that power? And if now is not the time to end the suffering of an oppressed people, when will that time come?

Admittedly, the plight of Soviet Jewry and the war in the Middle East are not high on the agenda of concerns of most American Blacks. We are still struggling for an end to poverty, for jobs, for decent housing and schooling, and for equality in all phases of our society. But throughout that struggle, Blacks have had the strong support of American Jews.

The founding of the National Association for the Advancement of Colored People (NAACP) early in this century was roughly coincident with the founding of the B'nai B'rith Anti-Defamation League, and other Jewish organizations concerned with civil rights and human liberties. The coincidence in time soon because a coincidence in purpose. Throughout the long struggle to obtain our rights, freedoms and economic justice, Blacks have been able to count on the wholehearted support of many courageous American Jews.

To be sure, anti-Israel voices have been raised in the Black community. Some Black nationalists openly identify with the cause of the Arab states in the Middle East based on a misunderstanding of their African heritage, which overlooks the fact that Arabs were among the most active traders of Black slaves in world history. Others merely include Jews in their general, paranoiac criticism of all whites. But these are not representative voices in the Black community, nor are they the voices of the future.

American Blacks are very much aware of their friendship with American Jews, who have always fought beside us in the civil rights movement. The Jewish passion for justice has produced a much stronger commitment to the struggle for equality than most white Americans have been led to make. Black America will never forget the friendship of our brothers and sisters of the Jewish faith.

And it is because of our long, mutual dedication to freedom and justice that American Blacks must be more concerned than other non-Jews with the crisis that Jews face today. We join you in speaking out against the oppression of Soviet Jews as one more statement of human rights like the statements we made together in the past against Jim Crow laws. We join you in insisting that Israel must live, just as we insisted together in the past on full access for Blacks to the political system.

As individuals committed to the cause of freedom, concerned with the fate of racial ethnic and religious prejudice and discrimination, dedicated to civil rights and human progress for all, we feel a particular sense of solidarity with Israel's struggle to survive as a democracy in security and peace.

We share Israel's aspirations to integrate people from vastly different backgrounds and to provide them all—including Arab and Jew alike—with the benefits of an advanced social system. The realization of that aspiration can be seen in Israel today, in vastly improved educational levels for Arabs citizens of Israel, equal access to all the economic benefits available to Jews, membership in the same trade union movement and full rights of freedom of speech for Arabs, including the right to oppose Israeli government policy. Arabs in Israel serve at all levels of government, including the Knesset.

As the day nears for my visit to Israel, I find myself thinking of what has occurred since the Egyptian sneak attack across the Suez Canal on Yom Kippur. On that bleak day Israel was once again faced with the very real prospect of being overrun by her hostile, numerically superior and very well equipped neighbors. Now that outbreak of hostilities, like the one which occurred in 1967, has been brought to an end with a fragile cease fire, at a time when Israel's armies were again on the threshold of electrifying military victories.

But the price Israel has paid for its military success hs been terribly high. In these first weeks of the Yom Kippur War, Israel lost 1,854 soldiers, with 1,800 hospitalized. Let me put that into perspective. Israel is about the size of Los Angeles. It is as if Los Angeles were to lose over 3,600 young men during a few weeks of war. This staggering loss must not have been suffered in vain.

My experience in state government does not give me a position from which to speak as an authority on international affairs, and these remarks tonight must be judged in that light. However, I have hope that by the time the parties to the conflict and others in the international community, who have taken an interest in the Middle East, move toward creating a more permanent resolution to the military crisis in the Middle East, one fundamental principle will be adopted. And most importantly, I believe the United States should take the lead in insisting upon this principle, instead of joining with other nations in urging the abandonment of the principle.

That principle is that before Israel is asked to give up one square mile of territory purchased with the blood of its soldiers, either in 1973 or in 1967, a necessary and fundamental first step must be a recognition of Israel's existence as a State in some permanent fashion by its Arab adversaries. Neither the performance of their armies nor the moral force of their arguments place the Arab States in a position where they can continue to insist that Israel does not exist and some day will be wiped off the face of the map.

Our task together is to galvanize the broadest possible support among the American people of every race and religion for American solidarity with Israel in its struggle to insure its survival.

This means: (1) guaranteeing Israel's access to arms, (2) guaranteeing her right to face-to-face negotiations with her Arab neighbors, and (3) guaranteeing her right to secure and defensible borders based on a permanent peace treaty.

This will not be an easy task, but it is one to which I have been committed in the past and remain committed to today. Perhaps there is something in the experience of a race which has been abused and discriminated against for many centuries which leads to a better understanding of the feelings, concerns and aspirations of another people who also have been abused and discriminated against for many centuries. In any event, that is my commitment and will remain my commitment.

It will be a joyous day of all Blacks, whose fate is inseparably linked with the fate of the Jews, when Israel is free of all threats to her integrity. We have learned in our struggle for dignity and equality that no minority is safe if any minority is threatened, and that freedom is not the separate privilege of some people, but the inalienable right of all people.

Thank you very much for this opportunity.

[Advertisement from the Los Angeles Times, Mar. 22, 1974]

"Behold How Good and How Pleasant It Is for Brethren To Dwell Together in Unity." Psalms 133

As Black elected officials we feel impelled to speak out on the seemingly endless tensions, alarms, and bloody collisions in the Middle East. We speak with compassion for the ordeal of Arabs and Jews caught in the continuing hostilities. We speak in the certainty that this may be the decisive period for establishing the future pattern of war or peace in that area—with far-reaching implications for the future of America and the world.

The agonies of the Israelis and Arabs will only be prolonged, and world peace jeopardized, by continuing armed violations such as that of the Yom Kippur war.

The existence of Israel as a sovereign state must be affirmed with finality by the world. Israel's right to secure and viable boundaries must be recognized by her Arab neighbors. Differences between them must be resolved by face to face negotiations. There is clearly no other road to enduring peace.

As Black Americans who have suffered disadvantage and discrimination and inequality, we feel a particular identity with Israel's aspirations to bring together people from vastly different backgrounds and to provide them all—including Arab and Jew alike—with the benefits of democracy and an advanced social system.

Out of our own experience in the world we understand the nature of oppression and racism. Forces of genocidal racism have encompassed the mass murder of six million Jews and have driven Jews from many lands. Similar tides of racism have swept over Blacks on every continent down through history.

We must never permit Israel to be destroyed. The Soviet Union has employed its vast power to stir dissension, incite violence, and arm aggressive groups to spill more blood in the Middle East.

To counter this, the United States' role should be to provide all necessary material aid to Israel, to insist upon recognition of Israel by her neighbors, to encourage their face to face negotiation and to propose constructive solutions.

As Black legislators we will work through American institutions to press for this policy. We appeal to all Americans to join with us in support of Israel's struggle to live and be free.

Yvonne B. Burke, Member of Congress, 37th District.

Mervyn M. Dymally, Senator, Co-Chairman, Nat'l Conference of Black Elected Officials.

Frank Holoman, Assemblyman, Vice-Chairman, Committee on Government Operations.

Willie Brown, Assemblyman, Assembly Ways & Means Committee.

Bill Greene, Assemblyman, Chairman, Assembly, Select Committee on Manpower Development.

John Miller, Assemblyman, Chairman, California Black Legislative Caucus.

Julian C. Dixon, Assemblyman, California Conference of Black Elected Officials.

Augustus F. Hawkins, Member of Congress, 21st District.

Leon Ralph, Assemblyman, Chairman, L.A. Conference of Black Elected Officials.

Sponsored by the "Youth Committee for Peace and Democracy in the Middle East", 1506 Sargent Pl., Los Angeles, CA 90026.—George Curtin, Chairman; Ken Orduna, Co-Chairman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hutto (at the request of Mr. Wright), after 5 p.m. today, on account of a medical emergency in the family.

Mr. Ford of Michigan (at the request of Mr. Wright), for today, on account of a necessary absence.

Mr. Carney (at the request of Mr. Michel), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, ws granted to:

(The following Members (at the request of Mr. Hiler) to revise and extend their remarks and include extraneous material:)

Ms. Fiedler, for 60 minutes, August 17.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Synar, for 5 minutes, today.
Mr. Gonzalez, for 15 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Coelho, for 5 minutes, today.
Mr. Oberstar, for 5 minutes, today.
Mr. Gore, for 30 minutes, today.
Mr. Nelson, for 5 minutes, today.
Mr. Fascell, for 5 minutes, today.
Mr. Dymally, for 10 minutes, today.
Mr. Hubbard, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Weiss, immediately preceding vote on H.R. 5427, today.

(The following Members (at the request of Mr. Hiler) and to include extraneous matter:)

Mr. Conte.
Mr. Daub.
Mr. Young of Alaska.
Mr. Schulze.
Mr. Rudd.
Mr. Gilman in three instances.
Mr. Derwinski in three instances.
Mr. Lagomarsino.
Mr. Carman.
Mr. Marlenee.
Mr. Shumway in two instances.
Mr. Parris.
Mr. Evans of Iowa.
Mr. Hunter.
Mrs. Martin of Illinois.
Mr. Dreier.
Mr. Collins of Texas in two instances.
Mr. Hagedorn.
Mr. Porter.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Oberstar.
Mr. Gore in two instances.
Mr. Solarz.
Mr. Moffett in two instances.
Mr. Shelby in two instances.
Mr. McDonald in six instances.
Mr. Edgar in three instances.
Mr. Peyser.
Mr. Rangel.
Mr. Garcia.
Mr. Lundine.
Mr. Clay.
Mr. Ottinger
Mr. Frank in two instances.
Ms. Oakar.
Mr. D'Amours.
Mr. Markey.
Mr. Weiss.
Mr. Hubbard.
Mr. Matsui.
Mr. Nowak.
Mr. Mazzoli.
Mr. Gaydos.
Mr. Dingell.
Mr. Vento.
Mr. Bonior of Michigan.
Mr. Dyson.
Mr. Ertel.
Mr. AuCoin.
Mr. Rahall.

ADJOURNMENT

Mr. DYMALLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 10 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 11, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4566. A letter from the Clerk, U.S. House of Representatives, transmitting his quarterly report of receipts and expenditures for the period April 1 through June 30, 1982, pursuant to section 105(a) of Public Law 88-454, as amended (H. Doc. No. 97-223); to the Committee on House Administration and ordered to be printed.

4567. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-238, "D.C. Theft and White Collar Crimes Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4568. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Army's proposed lease of defense articles to Australia (Transmittal No. 15-82), pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

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REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 4230. A bill to facilitate the transportation of coal by pipeline across Federal and non-Federal lands; with an amendment (Rept. No. 97-423, Part II). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. Report on allocation of budget totals for fiscal years 1982 and 1983 (Rept. No. 97-703). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 6204. A bill to amend title 28 of the United States Code and related statutes with respect to the appointment and jurisdiction of the Supreme Court Police; with amendments (Rept. No. 97-704). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report of the Committee on Education and Labor pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-705). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 555. Resolution providing for the consideration of H.R. 5543, a bill to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund (Rept. No. 97-706). Referred to the House Calendar.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 556. Resolution providing for the consideration of H.R. 6666, a bill to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building (Rept. No. 97-707). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 557. Resolution providing for the consideration of H.R. 6786, a bill to amend Public Law 96-432 relating to the U.S. Capitol Grounds to authorize additional funds for the acquisition of certain property for addition to the U.S. Capitol Grounds (Rept. No. 97-708). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6419. A bill to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University; with amendments (Rept. No. 97-709). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6029. A bill to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana; with an amendment (Rept. No. 97-710). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5627. A bill to direct the Secretary of the Interior to release certain restrictions contained in a previous conveyance of land to the State of Florida and to allow the State of Florida to purchase the mineral interests of the United States in such land; with amendment (Rept. No. 97-711). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5536. A bill to authorize the Secretary of the Interior to engage in feasibility studies of water resource development and for other purposes in the Central Platte Valley, Nebr.; with amendment (Rept. No. 97-712). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6188. A bill to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes; with an amendment (Rept. No. 97-713). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 6956. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-720). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 6957. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-721). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee of Conference. Conference Report on H.R. 5930 (Rept. No. 97-722). And ordered to printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. S. 215. An act for the relief of Lourie Ann Eder (Rept. No. 97-714). Referred to the Committee of the Whole House.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. S. 167. An act for the relief of Juan Esteban Ramirez (Rept. No. 97-715). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 684. A bill for the relief of Kang Ok Boon; with amendments (Rept. No. 97-716). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 1481. A bill for the relief of George Herbert Weston and Mabel Gregson Weston; with amendments (Rept. No. 97-717). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 2193. A bill for the relief of Berendina Antonia Maria van Kleeff; with amendments (Rept. No. 97-718). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 6811. A bill for the relief of Alejo White and Sonia White (Rept. No. 97-719). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITE (for himself, Mr. Stratton, Mr. Mollohan, Mr. Dan Daniel, Mr. Aspin, Mr. Mavroules, Mr. Robert W. Daniel, Jr., and Mr. Nelligan):

H.R. 6954: A bill to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense; to the Committee on Armed Services.

By Mr. JONES of Oklahoma:

H.R. 6955: A bill to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress); which was considered and passed.

By Mr. BOLAND:

H.R. 6956. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. SMITH of Iowa:

H.R. 6957. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. COLLINS of Texas:

H.R. 6958. A bill to amend title 18 of the United States Code to permit the plea and verdict of guilty but mentally ill in Federal criminal cases, and to establish the consequences of such a verdict; to the Committee on the Judiciary.

By Mr. EVANS of Iowa:

H.R. 6959. A bill to amend the Internal Revenue Code of 1954 to exclude from the Federal estate tax 50 percent of the value of farmland having no significant degradation of agricultural productivity in each of the 5 years ending before the date of the decedent's death; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6960. A bill to amend chapter 207 of title 18 of the United States Code to provide that the safety of other persons and the community can be considered in the setting of conditions of release before trial in Federal criminal cases, to provide for detention before trial in certain cases, and for other purposes; to the Committee on the Judiciary.

Mr. LAGOMARSINO:

H.R. 6961. A bill to disallow the Secretary of the Interior from issuing oil and gas leases with respect to a geographical area located in the Pacific Ocean off the coastline of the State of California; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. Frost, Mr. Bevill, Mr. Ratchford, Mr. Eckart, Mr. D'Amours, Mrs. Schroeder, Mr. Mattox, Mr. Hughes, Mr. Bonior of Michigan, Mr. Fazio, Mr. Vento, Mr. Gore, Mr. Akaka, Mr. Lundine, Mr. Harkin, Mr. William J. Coyne, Mr. Stark, and Mr. Smith of Iowa):

H.R. 6962. A bill entitled "The Pay As You Go Balanced Budget Act of 1982"; jointly, to the Committees on Rules and Government Operations.

By Mr. ROEMER:

H.R. 6963. A bill to redesignate the building known as the Veterans' Administration Medical Center in Shreveport, La., as the "T. Overton Brooks Memorial Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SKELTON:

H.R. 6964. A bill to amend title II of the Social Security Act to provide for the establishment of appropriate accounting procedures to deal with social security benefit checks which are not negotiated within 36 months; to the Committee on Ways and Means.

By Mr. ANDERSON (for himself, Mr. Howard, Mr. Clausen, and Mr. Shuster):

H.R. 6965. A bill to authorize for fiscal year 1983 appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, mass transportation in urban and rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MILLER of California (for himself, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Biaggi, Mr. Bingham, Mrs. Boggs, Mr. Boland, Mr. Bonior of Michigan, Mr. Brodhead, Mr. John L. Burton, Mr. Corrada, Mr. Dellums, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Fauntroy, Ms. Ferraro, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Frank, Mr. Guarini, Mr. Harkin, Mr. Hoyer, Mr. Hughes, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. Lantos, Mr. Lehman, Mr. Lowry of Washington, Mr. McDade, Mr. McHugh, Mr. Matsui, Ms. Mikulski, Mr. Mineta, Mr. Moffett, Mr. Oberstar, Mr. Ottinger, Mr. Patterson, Mr. Pepper, Mr. Perkins, Mr. Peyser, Mr. Richmond, Mr. Rodino, Mr. Roybal, Mr. Scheuer, Mrs. Schneider, Mrs. Schroeder, Mr. Shamansky, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Vento, Mr. Walgren, Mr. Washington, Mr. Weiss, Mr. Wirth, Mr. Wyden, and Mr. Yates):

H.J. Res. 567. Joint resolution concerning changes in regulations for the special supplemental food program for women, infants, and children of the Child Nutrition Act of 1966; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself, Mr. Richmond, Mr. Weiss, Mr. Brodhead, Mr. Fithian, Mr. Pepper, Mr. McGrath, Mr. Markey, Mr. Horton, Mr. Bedell, Mr. Smith of New Jersey, Mr. Santini, Mr. Moakley, Mr. Won Pat, Mr. Hoyer, Mr. Ford of Tennessee, Mr. Stark, Mr. Rodino, Mr. Downey, Mr. Bingham, Mrs. Chisholm, Mr. Addabbo, Mr. Gejdenson, Mr. Hopkins, Mr. Ratchford, Mr. Wolpe, Mr. Edgar, Mr. Gilman, Mr. Gore, Mr. Miller of California, Mr. Roe, Mr. Peyser, Mr. Foglietta, Mr. Boner of Tennessee, Mr. Martinez, and Mr. Wortley):

H. Res. 558. Resolution expressing the sense of the House of Representatives that regulations recently proposed by the Secretary of Education under the Education of the Handicapped Act should not be permitted to take effect; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII,

455. The SPEAKER presented a memorial of the House of Representatives of the Northern Marianas Commonwealth, relative to trusteeship agreement for the former Japanese mandated islands; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RUDD introduced a bill (H.R. 6966) for the relief of Theda June Davis, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1937: Mrs. Fenwick.

H.R. 2500: Mr. Bedell.

H.R. 3252: Mr. Donnelly.

H.R. 3269: Mr. Garcia, Mr. Hatcher, Mr. Erdahl, and Mr. Hutto.

H.R. 3760: Mr. Ratchford.

H.R. 3781: Mr. Anthony, Mr. AuCoin, Mr. Bedell, Mr. Bevill, Mrs. Boggs, Mr. Brown of California, Mr. John L. Burton, Mrs. Chisholm, Mr. Coats, Mr. Coelho, Mr. Conte, Mr. Courter, Mr. Crockett, Mr. Daschle, Mr. Daub, Mr. Deckard, Mr. Dixon, Mr. Dornan of California, Mr. Dougherty, Mr. Early, Mr. Emery, Mr. Ertel, Mr. Fary, Mrs. Fenwick, Mr. Flippo, Mr. Foley, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fuqua, Mr. Garcia, Mr. Gingrich, Mr. Gray, Mr. Gunderson, Mr. Hagedorn, Mr. Hamilton, Mr. Hansen of Idaho, Mr. Hertel, Mr. Hiler, Mr. Holland, Mrs. Holt, Mr. Horton, Mr. Jones of Tennessee, Mr. Jones of Oklahoma, Mr. Kemp, Mr. Kildee, Mr. Lee, Mr. Levitas, Mr. Lewis, Mr. Livingston, Mr. Lowry of Washington, Mr. Luken, Mr. Lundine, Mr. McCollum, Mr. Marriott, Mr. Miller of Ohio, Mr. Morrison, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Patman, Mr. Petri, Mr. Porter, Mr. Rahall, Mr. Roberts of South Dakota, Mr. Sawyer, Mrs. Schroeder, Mr. Shamansky, Mr. Solarz, Mr. Swift, Mr. Tauke, Mr. Waxman, Mr. Whitehurst, Mr. Whittaker, Mr. Wirth, Mr. Wolf, Mr. Bonker, and Mr. Hughes.

H.R. 3964: Mr. Findley.

H.R. 4009: Mr. Shelby.

H.R. 4091: Mr. Kildee and Mr. Wolpe.

H.R. 4147: Mr. Grisham, Mr. Simon, Mr. Lent, Mr. Hunter, Mr. Lowry of Washington, and Mr. Bedell.

H.R. 4164: Mr. Shamansky, Mr. de Lugo, Mr. Brown of California, and Mr. Beard.

H.R. 4657: Mr. Rodino.

H.R. 4829: Mrs. Snowe.

H.R. 5092: Mr. Seiberling.

H.R. 5133: Mr. Alexander.

H.R. 5573: Mr. Gregg, Mr. DeNardis, Mr. Conte, and Mr. Moakley.

H.R. 5584: Mr. Benjamin.

H.R. 5666: Mr. Washington.

H.R. 5828: Mr. Harkin.

H.R. 5839: Mr. Johnston.

H.R. 5884: Mr. Johnston.

H.R. 5918: Mr. Robert W. Daniel, Jr., Mr. Bennett, and Mr. Hance.

H.R. 6045: Mr. Green.

H.R. 6092: Mr. Mitchell of Maryland, Mr. Barnes, and Mr. Frank.

H.R. 6124: Mr. Hollenbeck.

H.R. 6135: Mr. Skeen and Mr. Robert W. Daniel, Jr.

H.R. 6165: Mr. Evans of Indiana.

H.R. 6311: Mr. Lundine.

H.R. 6467: Mr. Matsui, Mr. Nowak, Mr. Peyser, Mr. McEwen, and Mr. Jeffries.

H.R. 6512: Mr. Santini.

H.R. 6529: Mrs. Schroeder, Mr. Pritchard, and Mr. Wirth.

H.R. 6591: Mr. Murphy.

H.R. 6674: Mr. Frank.

H.R. 6722: Mr. Evans of Georgia, Mr. Whitehurst, Mr. Gingrich, Mr. Horton, Mr. Lagomarsino, Mr. Wilson, Mr. Roe, Mr. LeBoutillier, Mr. Miller of Ohio, Mr. Porter, Mr. Whitley, Mr. Yatron, Mr. Jacobs, Mr. Hagedorn, Mr. Mitchell of Maryland, and Mrs. Snowe.

H.R. 6729: Mr. Edgar, Mr. Evans of Delaware, Mr. Gore, Mr. Harkin, and Mr. Mitchell of Maryland.

H.R. 6745: Mr. Butler, Mr. Duncan, Mr. Barnes, Mr. Whittaker, Mr. Evans of Georgia, Mr. Yatron, and Mr. Bingham.

H.R. 6774: Mr. Dymally, Mr. Eckart, Mrs. Heckler, Mr. Washington, Mr. Mitchell of Maryland, and Mr. Shamansky.

H.R. 6775: Mr. Dymally, Mr. Eckart, Mrs. Heckler, Mr. Washington, Mr. Mitchell of Maryland, Mr. Shamansky, and Mr. LaFalce.

H.R. 6783: Mr. Seiberling, Mr. Ertel, Mr. Mitchell of Maryland, Mr. Fauntroy, and Mrs. Schroeder.

H.R. 6793: Mr. English.

H.R. 6885: Mr. Peyser, Mr. Evans of Indiana, Mr. Wyden, Mr. Barnes, Mr. Foglietta, Mr. Erdahl, Mr. Stokes, Mr. Rodino, Mr. Weiss, and Mr. Wortley.

H.R. 6886: Mr. Edgar, Mr. Fish, and Mr. Ratchford.

H.R. 6919: Mr. Fithian, Mr. Forsythe, Mr. Coats, Mr. Weaver, Mr. Aspin, Mr. Bingham, Mr. Williams of Ohio, Mr. Mineta, Mr. Kastenmeier, Mr. Roe, Mrs. Fenwick, Mr. Hubbard, and Mr. Benjamin.

H.J. Res. 172: Mr. Boner of Tennessee, Mrs. Heckler, Mr. Howard, Mr. Frenzel, Mr. Murtha, Mr. Udall, and Mr. Wirth.

H.J. Res. 183: Mr. Simon and Mr. Ratchford.

H.J. Res 420: Mr. Spence, Mr. Conte, and Mr. Breaux.

H.J. Res. 430: Mr. Udall, Mr. Wirth, Mr. Fowler, Mr. Smith of New Jersey, Mr. Hall of Ohio, Mr. Addabbo, Mr. Akaka, Mr. Bowen, Mr. Brown of California, Mr. Alexander, Mr. Donnelly, Mr. Dellums, Mr. Bingham, Mr. Matsui, Mr. Hefner, Mr. Heftel, Mr. Jones of North Carolina, Mr. Harkin, Mr. McCloskey, Mr. Anderson, Mr. Moakley, Mr. Lowry of Washington, Mr. Vento, Mr. Ottinger, Mr. Beilenson, Mrs. Collins of Illinois, Mr. Yates, Mr. Albosta, Mr. AuCoin, Mr. Aspin, Mr. Brodhead, Mrs. Chisholm, Mr. Volkmer, Mr. Smith of Pennsylvania, Mr. Solarz, Mr. Sunia, Mr. Won Pat, Mr. Yatron, Mr. Guarini, Mr. Howard, Mr. Hughes, Mrs. Kennelly, Mr. McHugh, Mr. Mattox, Mr. Murphy, Mr. Mavroules, Mr. Murtha, Mr. Dixon, Mr. Downey, Mr. Edgar, Mr. Foglietta, Mr. Courter, Mr. DeLugo, Mr. Anthony, Mr. Phillip Burton, Mr. Crockett, and Mr. Conyers.

H.J. Res. 453: Mr. Hall of Ohio.

H.J. Res. 460: Mr. Edgar, Mr. Hartnett, Mr. Schumer, Mr. Bowen, Mr. Heftel, Mr.

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Howard, Mr. Markey, Mr. Patterson, Mr. Leland, Mr. Beilenson, Mrs. Kennelly, Mr. Mavroules, Mr. Daschle, Mr. Kastenmeier, Mr. Lehman, Mr. Conyers, Mr. Evans of Delaware, Mr. Fary, Mr. Kemp, Mr. Dunn, Mr. Bailey of Pennsylvania, Mr. Kildee, Mr. Gradison, Mr. Breaux, Mr. Brodhead, Mr. Boland, Mr. Findley, Mr. DeNardis, Mr. Weber of Minnesota, Mr. Crockett, Mr. Foley, Mr. Solarz, Mr. Peyser, Mr. Hamilton, Mr. Hubbard, Mr. Stark, Mr. Hughes, Mr. Corcoran, Mr. Jones of North Carolina, Mrs. Holt, Mr. Jeffords, Mr. Pepper, Mr. Pritchard, Mr. Wyden, Mr. Akaka, Mr. Anderson, Mr. Florio, Mr. Harkin, Mr. Murphy, Mr. Fountain, Mr. Addabbo, Mr. Bedell, Mrs. Collins of Illinois, Mr. Conte, Mr. Corrada, Mr. Dellums, Mr. Donnelly, Mr. Downey, Mr. Fazio, Mr. Fish, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. Moffett, Mr. Ottinger, Mr. Walgren, Mr. Washington, Mr. Fuqua, Mr. Savage, Mr. Dingell, Mr. Clinger, Mr. Smith of Iowa, Mr. Aspin, Mr. Atkinson, Mr. Bonker, Mr. Brown of California, Mr. Clay, Mr. Dougherty, Mr. Rinaldo, Mr. Horton, Mr. Whitehurst, Mr. Holland, Mr. Swift, Mr. Jones of Tennessee, Mr. Stangeland, Mr. Snyder, Mr. James K. Coyne, Mrs. Chisholm, Mr. Erdahl, Mr. Ratchford, Mr. Hopkins, Mr. Mattox, Mr. Gilman, Mr. Clausen, Mr. Wylie, Mr. Volkmer, Mr. Fithian, Mr. Siljander, Mrs. Martin of Illinois, Mr. Bingham, Mr. Dowdy, Mr. Hertel, Mr. Minish, Mr. Weaver, Mr. McHugh, Mr. Courter, Mr. Ford of Tennessee, Mr. Coelho, Mr. Stokes, Mr. Frenzel, Mr. Edgar, Mr. Vento, Mr. Wolpe, Mr. Shannon, Mr. Lantos, Mr. Won Pat, Mr. Waxman, Mr. Sunia, Mr. Marriott, Mr. Guarini, Ms. Oakar, Mr. Corcoran, Mr. AuCoin, Mr. Porter, Mr. Rangel, Mr. Panetta, Mr. Bereuter, Mr. Shamansky, Mr. Gingrich, Mr. Chappie, Mr. Traxler, Mrs. Schneider, Mr. Udall, Mrs. Byron, Mr. Conable, Mr. Dyson, Mr. Hollenbeck, Mr. Madigan, and Mr. Parris.

H.J. Res. 557: Mr. Addabbo, Mr. Annunzio, Mr. Bedell, Mr. Beilenson, Mr. Brodhead, Mr. Phillip Burton, Mr. Conte, Mr. Derwinski, Mr. Dougherty, Mr. Dwyer, Mr. Forsythe, Mr. Frost, Mrs. Heckler, Mr. Horton, Mr. Hoyer, Mr. Kemp, Mr. Lantos, Mr. Lehman, Mr. Lent, Mr. Long of Maryland, Mr. Matsui, Mr. Mineta, Mr. Mitchell of New York, Mr. Molinari, Mr. O'Brien, Mr. Patterson, Mr. Peyser, Mr. Rodino, Mr. Roe, Mr. Smith of New Jersey, Mr. Solarz, Mr. Waxman, Mr. Weiss, Mr. Winn, Mr. Won Pat, Mr. Wortley, Mr. Wyden, Mr. Yates, Mr. Zablocki, and Mr. Williams of Ohio.

H. Con. Res. 303: Mr. Howard, Mr. Moakley, Mr. Yates, Mr. Gilman, Mr. Akaka, Ms. Ferraro, Mrs. Kennelly, Mr. Florio, Mr. Pritchard, Mr. Sharp, Mr. Mineta, and Mr. Ford of Michigan.

H. Con. Res. 387: Mr. Howard.

H. Con. Res. 392: Mr. Bedell, Mr. Weaver, and Mr. Mineta.

H. Res. 424: Mr. AuCoin, Mr. Barnes, Mr. Bedell, Mr. Bonior of Michigan, Mr. Brown of California, Mrs. Chisholm, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. Daschle, Mr. Dougherty, Mr. Downey, Mr. Dwyer, Mr. Edgar, Mr. Erdahl, Mr. Fauntroy, Mr. Findley, Mr. Frank, Mr. Harkin, Mr. Kildee, Mr. Leach of Iowa, Mr. Markey, Mr. Mavroules, Mr. Minish, Mr. Mitchell of Maryland, Mr. Neal, Mr. Nelligan, Ms. Oakar, Mr. Ottinger, Mr. Peyser, Mr. Pritchard, Mr. Solarz, Mr. Stokes, Mr. Washington, Mr. Weaver, Mr. Wolpe, Mr. Wyden, and Mr. Yates.

H. Res. 466: Mr. Burgener.

H. Res. 553: Mr. Pepper, Mr. Rosenthal, and Mr. Yates.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6070: Mr. Weaver.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

558. By the SPEAKER: Petition of Southold Town Board, Southold, N.Y., relative to nuclear freeze referendum; to the Committee on Foreign Affairs.

559. Also, petition of Baltimore County Council, Towson, Md., relative to nuclear arms freeze; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5203

By Mr. McHUGH:

—Page 40, line 14, insert "(a)" after "Sec. 4.".

Page 41, line 12, strike out "and" and insert in lieu thereof the following new paragraph:

(3) striking out "(ii) a request for a hearing is made by a person adversely affected by the notice." and inserting in lieu thereof "(ii) a request for a hearing is made by any interested person, including any person adversely affected by the Administrator's failure to propose action providing for greater restrictions on the use of the pesticide involved, for a more rapid phasing out of its registration, or for a change in its classification."; and

Page 41, line 13, strike out "(3)" and insert in lieu thereof "(4)".

Page 42, after line 2, insert the following new subsection:

(b) The first sentence of section 6(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by striking out "a person adversely affected by the notice." and inserting in lieu thereof "any interested person, including any person adversely affected by the Administrator's determination with respect to the disposition of existing stocks.".

By Mr. LEVITAS:

—Page 42, strike out line 3 and all that follows through line 20 on page 52, and insert in lieu thereof the following:

DISCLOSURE OF INFORMATION TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS

Sec. 5. (a) Section 10(g) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before allowing such person to inspect data, and before disclosing such information to a person under section 552 of title 5, United States Code, or any other law, the Administrator shall require the person involved to submit a written request for inspection or disclosure and a signed affirmation specified in subparagraph (D).

"(B) The Administrator shall transmit a copy of the request and affirmation to the applicant or registrant who submitted the data or information with respect to which inspection or disclosure is requested. During the 30-day period beginning on the date such copy is transmitted, such applicant or registrant may submit to the Administrator evidence that such person is ineligible under this subsection to inspect such data or receive such information.

"(C) After the expiration of such 30-day period, the Administrator may allow such inspection of data, and may disclose such information, as authorized by other provisions of law only if the Administrator determines that such person is eligible under this subsection to .inspect such data or receive such information. For purposes of making such determination, the Administrator may refer to the Attorney General for investigation, the matter of such person's eligibility.

"(D) For purposes of complying with this subsection, the Administrator may accept only the following affirmation:

"I have requested access to information submitted by an applicant or registrant under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to the Environmental Protection Agency. I hereby affirm:

"(1) That I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or its agents or employees; and

"(2) That I will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employers.

"I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such statement is false or if I willfully conceal any material fact.

Signature ——————.
Name ——————.
Address ——————.
Organization or Affiliation. ————.
Client ——————.".

(b) Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

Page 52, line 21, strike out "(7)" and insert in lieu thereof "(1)".

Page 53, line 2, insert "involving the production, registration, distribution, or sale of a pesticide" after "purpose".

Page 53, line 10, insert "and" at the end thereof.

Page 53, line 11, strike out "(8)" and insert in lieu thereof "(2)".

Page 53, line 22, insert a period at the end thereof.

Page 55, beginning on line 11, strike out ", or under regulations promulgated under section 10(d)(2),".

Page 61, beginning on line 17, strike out "Notwithstanding the provisions of section 10(g)(2) of this Act, but subject" and insert in lieu thereof "Subject".

Page 73, after line 21, insert the following new section:

STUDY OF DISCLOSURE OF SUBMITTED INFORMATION

Sec. 17. The Administrator of the Environmental Protection Agency shall enter into an agreement with the National Academy of Sciences, which provides that the National Academy of Sciences—

(1) shall conduct a study to determine with respect to the disclosure of information under section 10(d) of the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) the type and volume of information disclosed under such section;

(B) the type or volume of information which the Administrator refused to disclose under such section;

(C) the economic result of the disclosure of information under such section on the submitter of such information;

(D) the effects of the refusal to disclose information under such section on competition among pesticide producers;

(E) the effects of the disclosure of, and the refusal to disclose, information under such section on research and development of pesticides and pest control methods; and

(F) the extent to which the refusal to disclose information under this section has reduced the capacity of scientists to make accurate determinations with respect to any adverse effects of a pesticide on health and the environment; and

(2) shall submit to the Commission on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report, not later than 2 years after the date of the enactment of this Act, stating its—

(A) findings with respect to the matters described in paragraph (1); and

(B) any legislative and administrative recommendations based on such findings.

Page 74, strike out line 1 and all that follows through line 23 on page 84.

By Mr. GLICKMAN:

—On page 53, delete all after the word "violation" on line 4 through the word "violation" on line 7.

By Mr. SMITH of Alabama:

—Delete the period after the word "farmworkers"

On page 71, line 14 add the following: "and members of their families including their unborn children from the moment of conception who are exposed to pesticides. The Congress hereby further finds and declares that it is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life and that each human life exists from conception and that the administrator shall carefully consider the intrinsic value of all human life in considering the safe use of pesticides."

By Mr. BARNES:

—Page 84, after line 23, insert the following new section:

REPORT ON IMPACT OF RESTRICTIONS ON DISCLOSURE OF CERTAIN INFORMATION TO FOREIGN GOVERNMENTS

SEC. 18. (a) Not later than 300 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall publish a document in the Federal Register which contains proposed findings and conclusions of the Administrator with respect to the following:

(1) The nature and extent of the impact which the prohibition imposed by section 10(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act on disclosure of information described in paragraphs (1)(A), (1)(B), (1)(C), and (3) of section 10(d) of such Act to foreign governments and international organizations of countries has on the Administrator's ability—

(A) to obtain information from such governments and organizations which is necessary to effectively carry out the Administrator's responsibilities under such Act, especially the Administrator's responsibilities with respect to protecting humans and the environment from unreasonable adverse effects of pesticides; and

(B) to cooperate with such governments and organizations with respect to the development of pesticide research and regulations.

(2) The willingness of persons associated with the pesticide industry to disclose, or to consent to the disclosure of, such information to such governments and organizations in cases in which such disclosure is necessary to protect humans and the environment from unreasonable adverse effects of pesticides.

(b) During the 60-day period beginning on the date of the publication of the document described in subsection (a), the Administrator of the Environmental Protection Agency shall allow interested persons to submit written comments with respect to the proposed findings and conclusions contained in such document.

(c) Not later than 30 days after the end of the period described in subsection (b), the Administrator of the Environmental Protection Agency, after considering any comments submitted under such subsection, shall submit to the President of the Senate and to the Speaker of the House of Representatives a report containing final findings and conclusions of the Administrator with respect to the matters specified in subsection (a).

H.R. 5595

By Mr. PARRIS:

—Page 2, line 8, insert ". Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than $14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund" after "the sum of $361,000,000".

H.R. 6046

By Mr. ZABLOCKI:

—Page 12, strike out line 7 and all that follows through line 13 on page 13 and insert in lieu thereof the following:

"(2) For the purposes of this section, a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft (signed at The Hague on December 16, 1970);

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (signed at Montreal on September 23, 1971);

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) rape; or

"(G) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (F) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(3) For the purposes of this section, a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, kidnapping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender; or

"(C) an attempt or conspiracy to commit an offense described in subparagraph (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"page 13, line 14, strike out "(3)" and insert in lieu thereof "(4)".

—Page 13, immediately after line 23, insert the following:

"(C) In determining the application of subparagraphs (A) and (B) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs.

—Page 18, at the end of line 18, insert the following: "The Secretary of State, in ordering the surrender of a person extraditable under this chapter, shall make every effort to ensure that the requesting state will comply with relevant international law, including international law relating to the protection of human rights."

H.R. 6100

By Mr. HAGEDORN:

—Page 28, line 16, strike out "All" and insert in lieu thereof "(a) Except as provided in subsection (b), all".

Page 29, after line 5, insert the following:

(b) If, on any portion of a project assisted by the Secretary under this Act, the lowest bid on construction work, not based on paying wages in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), is at least 10 percent less than the lowest bid based on paying wages for such work in accordance with such Act, and the bid of the contractor or subcontractor whose bid, not based on paying wages in accordance with such Act, is accepted, subsection (a) of this section shall not apply to such construction work.

H.R. 6214

By Mr. PATTERSON:

—Page 24, after line 22, add the following new section:

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

SEC. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

By Mr. DELLUMS:

—Page 29, strike out lines 13, 14 and 15.

—Page 29, line 15, strike out $103,000,000 and insert in lieu thereof the following: "$36,700,000.".

By Mr. HARKIN:

—At the end of the bill add the following new section:

RESTRICTION ON CONSTRUCTION OF AIR FIELDS IN HONDURAS

SEC. 806. None of the funds appropriated pursuant to an authorization contained in

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this Act may be obligated or expended to improve, expand, extend, acquire, construct, convert, rehabilitate, or install a permanent or temporary air field or air base (including any facility in connection with an air field or air base) in Honduras.

H.R. 6308

By Mr. MATSUI:

(To the amendment in the nature of a substitute.)

—Page 2, lines 3 and 4, strike out "amended by adding at the end a new subsection as follows:" and insert in lieu thereof the following:

amended—

(1) by amending subsection (h)(1) to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulatons and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.";

(2) by redesignating subsection (h)(2) as subsection (h)(1)(B);

(3) by striking out "subsection" in subsection (h)(1)(B), as redesignated by paragraph (2) of this section, and inserting in lieu thereof "paragraph";

(4) by inserting after subsection (h)(1)(B), as so redesignated, a new paragraph as follows:

"(2) The Secretary shall, within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to require initial and periodic subsequent training of on-board railroad operating and service personnel in evacuation procedures and the use of emergency equipment. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.";

(5) by redesignating subsection (h)(4) as subsection (h)(5);

(6) by inserting after subsection (h)(3) a new paragraph as follows:

"(4) The Secretary shall submit to the Congress a report—

"(A) within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (1) of this subsection, and

"(B) within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (2) of this subsection;

which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration."; and

(7) by adding at the end a new subsection as follows:

H.R. 6324

By Mrs. SMITH of Nebraska:

—At the end of title II, add the following new section:

SEC. 205. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary"), at least 60 days before making a determination as to the necessity for the closing or consolidation of any Weather Service Office (whether such determination is made pursuant to the plan described in section 2204(3) or is made without regard to such plan), shall provide adequate public notice of his intention to make such a determination in order to ensure that all persons served by such Office will have an adequate opportunity to present their views.

(b)(1) The Secretary, in deciding whether or not to close or consolidate a Weather Service Office, shall take fully into account any views expressed by persons served by such Office during the 60-day period described in subsection (a), and shall specifically consider—

(A) the effect of such closing or consolidation on the community served by such Weather Service Office;

(B) the effect of such closing or consolidation on employees of the National Weather Service employed at such Office;

(C) the economic savings to the National Weather Service resulting from such closing or consolidation; and

(D) such other factors as the National Weather Service determines are necessary.

(2) In making a decision under paragraph (1) the Secretary may hold such hearings as he deems necessary.

(3) The Secretary shall compile a written record including or reflecting all views presented and information received or developed in the course of his consideration of the matters involved in making such a decision, whether or not hearings are held with respect thereto as authorized by paragraph (2). The Secretary shall retain all written materials received or developed in the course of such consideration, for possible use by the Federal Committee for Meteorological Services and Supporting Research under subsection (e).

(c) Any decision of the Secretary to close or consolidate a Weather Service Office shall be in writing and shall set forth the findings of the Secretary with respect to the matters set forth in subparagraphs (A) through (D) of subsection (b)(1) along with a statement of the reasons for such findings and of the basis on which the decision was made. The Secretary's decision shall be made available to persons served by such Weather Service Office.

(d) The Secretary shall take no action to close or consolidate a Weather Service Office until 60 days after his written decision is made available to persons served by such Office as required by the last sentence of subsection (c).

(e) A decision of the Secretary to close or consolidate any Weather Service Office may be appealed by any person served by such Office to the Federal Committee for Meteorological Services and Supporting Research within thirty days after such decision is made available under the last sentence of subsection (c). The Committee shall review such decision on the basis of the record compiled by the Secretary under subsection (b)(3) in the making of such decision; and in the course of such review the Committee may obtain and inspect the written materials retained by the Secretary under the last sentence of subsection (b)(3). The Committee shall make a determination based upon such review no later than one hundred and twenty days after receiving any appeal under this subsection. The Committee shall set aside any such decision which is found to be—

(1) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with the law;

(2) without observance of procedure required by law; or

(3) unsupported by substantial evidence on the record.

The Committee may affirm the decision of the Secretary or order that the entire matter be returned for further consideration, but the Committee may not modify the decision. The Committee may suspend the effectiveness of the decision until the final disposition of the appeal (within the time prescribed by the third sentence of this subsection) in any case where the closing or consolidation involved might otherwise occur before the Committee's determination under this subsection can be made.

(f) Any determination or decision made by the Administrator of the National Oceanic and Atmospheric Administration with respect to the closing or consolidation of a Weather Service Office shall be considered for purposes of this section to have been made by the Secretary.

EXTENSIONS OF REMARKS

SPECIAL WARFARE ASSAULT CRAFT AND FORCES: AN INTERNATIONAL PERSPECTIVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, special warfare units of the United Kingdom played a crucial role in the British success in the Falklands. Since Vietnam, our own special warfare units have been reduced and little notice has been given to them, except for a brief flare of publicity over the ill-fated rescue attempt in Iran. David Fitzgerald, himself a former SEAL, has written an article on special warfare that appeared in Military Technology magazine for May 1982. In my view, this type of warfare needs more attention from our military leaders, and Mr. Fitzgerald's article provides a good forum for discussion of the naval aspects of special warfare. The article follows:

SPECIAL WARFARE ASSAULT CRAFT AND FORCES: AN INTERNATIONAL PERSPECTIVE

(By David Fitzgerald)

(America's war in Vietnam has increasingly been a topic for analysis among those scholars and analysts who are attempting to draw some conclusion from that unfortunate experience for future U.S. military operations, both with respect to strategy and tactics. Most of the military analysis to date has focused on the large issues such as the effectiveness of the pacification programs, the costs and benefits of Vietnamization or the utility of the bombing campaign in the north.)

Unaddressed as yet, however, have been some special military issues, one of which was dramatized by Francis Ford Coppola in "Apocalypse Now," an updated rendition of Joseph Conrad's classic Heart of Darkness, that is riverine warfare and special operations. While perhaps a sideshow of the major conflict, the U.S. devoted significant assets to controlling the Mekong River with somewhat greater success than in other areas of the war.

The American experience with riverine warfare in Vietnam is not so important as an aspect of that war, but it does hold some significance in that it would well reflect an important dimension of naval warfare in the future. Although the British fleet has been dispatched to the Falkland Islands in a naval exercise reminiscent of traditional naval missions, the British effort in the South Atlantic could well be the exception to the rule in the future. If, as seems likely, the majority of conflicts witnessed by the world during the next decade will be in those of irregular warfare and in areas of the globe defined as the Third World. Large scale naval encounters of the World War II-variety, let alone Trafalgar, will not occur. The most likely will be the use of smaller, unconventional naval forces in specialized roles. During the last decade, technology has combined with geopolitical change, such as a new law of the sea regime, to propel a proliferation of missile-armed fast patrol craft around the globe. For the most part, these vessels are used for rountine patrol activities. In some cases, however, small naval craft are being developed for specialized tasks that, in some military confrontations in the Third World especially, could spell the difference between naval success and failure. It is this Special Warfare and its implications for naval technology that the remainder of this essay is addressed.

Special Warfare is a limited, but dangerous, activity. Those trained for Naval Special Warfare are highly motivated and prepared for unconventional military actions in and near hostile waters to reconnoiter and clear beaches, blow up bridges, attach mines by swimmer attack to docked ships in enemy areas, and generally conduct direct highly sensitive missions against an unsuspecting enemy. Most usually they are organized into underwater demolition teams as frogmen or, in the U.S. case at least, into SEAL (Sea-Air-Land) Teams.

It is important to understand what Special Warfare is not. By Special Warfare, one is not referring to amphibious assault, the capability for forcible entry into hostile areas from the sea by large numbers of marines. Amphibious assault remains an important naval mission and an amphibious capability is a vital component for any navy seeking the ability to project power. It differs from Special Warfare, however, in that the goal of an amphibious assault is often the direct defeat of enemy forces whereas the goal of Special Warfare differs significantly. Special Warfare is often designed to have an indirect impact by disrupting the enemy's ability to conduct military operations through attacks on his logistical pipeline and political and military infrastructure. Amphibious assault is frequently straightforward; Special Warfare often uses deception and capitalizes on unique intelligence, equipment, and experienced personnel. The difference can be seen in alternative plans that have been put forward for the British recapture of the Falkland Islands. Some have suggested an over-the-beach assault by British marines to defeat entrenched Argentine troops. Others have suggested first inserting special commando squads of royal marines at night which could engage in special operations to disrupt Argentine capabilities prior to a British assault.

Special Warfare must also be distinguished from the new tasks imposed on maritime forces as a consequence of the changing maritime environment flowing from the establishment of 12-mile territorial waters, 200-mile Exclusive Economic Zones and so on. Many countries of the world have procured or are procuring a variety of small attack craft to protect their newly found maritime resources from encroachment. There is also concern in some countries, especially in the Third World, that they need some capability to protect themselves against power projection by superpower navies or neighbors with relatively strong naval capabilities. Consequently, the small craft that are being procured are often equipped with a relatively significant destructive capability in their surface-to-surface missiles. These craft, however, are not usually conceived to be employed in the rather specialized tasks associated with Special Warfare.

The number of navies that actually design or can adapt vessels for Special Warfare is actually quite small. Not surprisingly, they are navies of nations with considerable naval capabilities across the board, that are concerned with the projection of naval power, and/or that have the industrial resources that can be devoted to such a specialized task.

THE UNITED STATES

In many ways, the United States has been the leader in conceptualizing the requirements for Special Warfare from the naval perspective. Since its experience in Vietnam, in particular, the U.S. Navy has explored alternatives for the conduct of these specialized tasks.

The American experience has been based in part on its use of the PBR (Patrol Boat River) that was first introduced into Southeast Asia in 1966. Designed for high speed patrol of rivers in hotly contested areas, the PBR was heavily armed and crew areas were given additional protection with ceramic armor. Extremely maneuverable, the PBR combined a fiberglass reinforced hull with pump jet propulsion so that it could operate in shallow, debris-filled waters. In order to achieve maximum patrol, guidepost and insertion capabilities the PBR was equipped with engine silencing and limited radar. They were often used to support SEAL Team operations which required a craft for effective insertion and extraction in enemy controlled areas of interest.

The United States built more than 500 PBRs between 1967 and 1973, attesting to its ruggedness, versatility and popularity. Most of the boats were subsequently transferred to South Vietnam with a few sent to Thailand. The Thais continue to use them for duty on the Mekong River. In Vietnam, however, the PBRs, totaling almost 300, are listed as "non-operational."

A second important development by the U.S. Navy was the PB (Patrol Boat) series, the MK I version of which was constructed by Sewart Seacraft of Beswick, Louisiana. The MK III was constructed by Peterson Builders in Sturgeon Bay, Wisconsin.

The 65-foot PB was designed to be a high speed weapons platform for naval inshore warfare (NIW) forces. Using a modular design concept, the PB represents an extremely flexible platform that could be used for a number of missions, especially in rivers, harbors and coastal environments, although open sea performance would also not be ruled out. Initial missions for which the craft was designed included patrol, surveillance, interdiction, fire support against targets both ashore and afloat and insertion extraction of NIW units. Future mission capabilities that were considered possible when the craft was designed included ASW and mine-laying, detection of sweeping.

The main deck of the all-aluminum craft was reinforced to provide the capability for these additional tasks once the appropriate hardware systems became available. Other

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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design features worthy of note are the low silhouette, low radar cross section and low acoustic noise levels to avoid detection and reasonable stability in heavy seas that, together with good communication and radar capabilities, allows for all weather, day or night operations. It is interesting to note that in moving from the MK I to MK III version, the pilot house was offset to starboard to provide additional space for weapons on the port side, thereby further enhancing the craft's flexibility.

A third vessel produced by the United States with applicability in Special Warfare operations is the MINI Armored Troop Carrier (ATC). As the PB, the MINI is constructed of an all-aluminum hull with a low silhouette for difficult detection (made even more so by the craft's extreme quiet). As the earlier PBR, it is equipped with ceramic armor and pump jet propulsion. In addition to making the ACT effective in shallow waters laden with debris, the propulsion system also allows for effective beaching operations. This is especially important for the MINI since it is designed to transport 15 combat equipped troops. It could also carry frogmen swimmers or SEALs, or, in lieu of troops, 4400 pounds of cargo.

Like the PB and PBR, the MINI's mission is high speed patrol and interdiction in rivers, harbors and protected coastal areas. Its unique feature, obviously, is an assault capability for these restricted areas. The MINI would likely be less than totally effective in a traditional amphibious assault operation given its small size (36 feet, 15 tons displacement). In restricted environments, however, it could well fill an important need for the U.S. Navy, which currently has 22 ATCs in its inventory.

The newest American vessel contributing to the naval dimension of special warfare is the SEAFOX, developed after the Chief of Naval Operations advised in 1975 of the need for a craft especially for Special Warfare missions. Specifications that developed following the CNO's statement defined requirements for a craft that was to be small and light so as to be air-transportable, liftable by standard Navy davits and transportable over highways on its own trailer. At the same time, it had to be large enough to carry at least 10 frogmen or SEALS with their equipment, carry sufficient fuel for an endurance of 200 nautical miles at speeds in excess of 30 knots and be equipped with a wide range of electronics including radar, a variety of communications equipment, IFF, depth sounders and ESM. Additional requirements were the ability to operate at high speeds in sea state 3 and low detectability (that translates into low heat signature and radar signature as well as quiet engines).

SEAFOX, the first of which was undergoing final testing in late 1981, has yet to prove conculsively that it can meet these rigorous requirements. Nevertheless, it can meet its design reflects a variety of unique features making it especially suited to special warfare needs. Among these are the craft's dark grey finish to decrease detectability at night, a tailgate for frogmen egressing the stern when the craft is moving at high speeds, and easily folding canopies and removable hinged masts to facilitate transportability. The craft's size (36 feet, 13 ton displacement) should make it transportable by air.

SEAFOX has chalked up several "firsts" in its development. Among these are the fact that, in addition to being air-transportable, SEAFOX is the first naval craft to apply an IFF system developed for aircraft, to use the latest DOD standard secure voice system and to install a new series of high reliability General Motors engines.

The SEAFOX represents the first major development in the area of light naval forces that could be applied to Special Warfare since 1976-1977 when the Navy phased out its other small craft, such as Assault Support Patrol Boats and Swimmer Support Craft. Clearly, the Navy does not apply to the development of this kind of capability as high a priority as it does to other missions.

Some critics contend that this position reflects an attitude held more generally throughout the services that Special Warfare is not receiving the attention it deserves since effective capabilities can be developed in areas of Special Warfare at limited costs. They argue that these capabilities could be particularly effective in Third World contingencies in which the conflict situation is often ambiguous and military confrontation likely to be limited in scope. Some key Reagan administration officials appear set on revitalizing Naval Special Warfare forces including Navy Secretary John Lehman. With the exception of Vietnam, the United States has yet to experience such a situation directly, with the exception of the hostage crisis in Iran in which naval power was rendered irrelevant. Nevertheless, the Falkland Islands crisis demonstrates that such contingencies could arise. In such a situation, the SEAFOX could prove to be a valuable addition to the American inventory.

THE SOVIET UNION

The Soviet Union has emerged during the last 15 years as a blue water Navy, prior to which its primary function was protection of the homeland and surrounding seas. As a consequence, the Soviet Union has not provided great evidence of paying great attention to the naval dimension of Special Warfare. However, they do understand the effectiveness and economy of highly trained naval KGB personnel who carry out sabotage and political operations. They often utilize the traditional means of covertly entering and leaving a target country. Within their inventory they do have some classes of vessels that could be used in support of special operations roles.

One such class is the ZHUK coastal patrol craft. First seen in 1976, these craft, of which 30 are in service in the Soviet Union, are manned primarily by the KGB. At 60 tons displacement, the ZHUK class is rather large for special warfare operations, although it is large enough for a complement of 17 men, but probably fewer if fully equipped. Nor is the ZHUK class designed for the insertion/extraction mission, although with two 14.5 mm guns and a 12.7 mm gun it has some armament for the interdiction role. The ZHUK has been a popular export item for Moscow which has sent it to at least 10 countries since 1976. These include Angola, Cuba, Iraq, Vietnam and both North and South Yemen among others.

Another Soviet light vessel that might be mentioned is the SHMEL class river patrol craft. Built between 1967 and 1974, the SHMEL class boats measure 92 feet and displace 80 tons fully laden. They are attached to the Black Sea and Pacific Fleets for riverine operations on the Danube, Amur and Usuri Rivers. They are also part of the Soviet Navy's flotilla in the Caspian Sea.

Most of the other naval vessels of the Soviet Union usually classed as light forces are well over 100 tons displacement, demonstrating that the Soviet Union defines its light forces more for the traditional role of coastal protection than any kind of Special Warfare role. The widespread distribution of the ZHUK class patrol boats around the world and the experience with the SHMEL suggests that in the future the Soviet Union could move in that direction, if only to fill out its naval capabilities.

Little is known about the Soviet irregular swimmer forces. However, training is thought to be comparable with that of their U.S. counterparts. Moscow appears particularly interested in this type of investment as they reportedly employ more than 200,000 military personnel in their Special Purpose forces under the KGB.

PEOPLE'S REPUBLIC OF CHINA

The Chinese experience has been similar to that of the Soviet Union's in that it has concentrated on the development of light naval forces. Unlike the Soviet Union, however, it has not enjoyed the resources to allow major expansion into blue water regions. Consequently, the Chinese Navy has perhaps the largest force of light craft in the world, operating almost 20 different classes of light vessels for fast attack coastal and river patrol. As with the Soviet Union, however, none were designed specifically for the specialized missions associated with Special Warfare. The four major classes of ships designed for riverine duties were built in the 1950's and 1960's and some are soon to be removed from service.

Over one third of the Peoples Republic of China's light craft are various types of the SHANGHAI class patrol boat. A conventional general purpose craft, the SHANGHAI class vessels are mainly intended for coastal patrol work. With combinations of 37 mm, 25 mm and 57 mm guns depending on the type, they carry a powerful complement of light weapons. Whether they could be used for Special Warfare missions beyond interdiction and fire against some select targets afloat or on shore remains an open question. The Chinese are known to have a frogman team which could be supported by various types of boats in the Chinese inventory depending upon the particular coastal mission.

ISRAEL

Given its unique military requirements and innovative strategy, it should not be surprising that Israel has produced a system that exhibits characteristics adaptable to Special Warfare missions. The DABUR class is a small (65 feet, 35 ton displacement) coastal patrol craft with an aluminum hull. Initially, twelve of the craft were built in the United States and the balance of the 37 now in service were produced by the RAMTA division of the Israeli Aircraft Industries. Deployed in both the Mediterranean and the Red Sea, the DABUR class boats have been praised for their good rough weather performance and the flexibility in armaments of which there are several variations. The DABUR can carry two 20 mm. guns or twin machine guns. It can also be equipped with two launchers for MK. 48 torpedoes or depth charges. Some reports also indicate that the vessel will be equipped with GABRIEL surface-to-surface missiles.

A particularly interesting feature of the DABUR class system is that it has been designed for overland transport, suggesting a flexibility in employment that dovetails with Israel's emphasis on exploiting the maximum from limited resources.

It should be noted that in 1978 Israel transferred 4 DABUR class vessels to Argentina. Israel has also been developing a somewhat larger version of the class and armed it with GABRIEL missiles. This DVORA class boat is 71 feet and 47 tons displacement. While it represents the smallest missile craft built thus far, its larger size and standard armaments limits its flexibility and potential for use in Special Warfare roles. Israeli special swimmer forces are an elite group of highly trained men who have perfected their warfare.

Special Warfare from the naval perspective is a narrowly defined mission which most navies of the world have little call to seek. As a consequence, few naval platforms are specifically designed to facilitate the performance of tasks associated with Special Warfare such as small landings in hostile territory of under circumstances intended to surprise the potential adversary. This is not to say that the myriad variety of patrol vessels and fast attack craft now in service with virtually all of the navies in the world could not be used for such missions should specific circumstances dictate the need. Perhaps they could, but unless they are used with great creativity, these vessels will not be as effective as craft, like the SEAFOX, designed specifically for that mission. It should not be surprising that in addition to the United States, which has had the resources to explore exploiting Special Warfare, one country that seems to have given some attention to the possibilities is Israel, a nation that has had to make up in innovative strategy and tactics what it lacks in resources and physical military power. The other is the Soviet Union. Special Warfare has been a neglected realm of military combat in the last decade. Perhaps we could learn a lesson from these two countries.●

SCIENTISTS FROM 36 STATES SEEK ACID RAIN CONTROLS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MOFFETT. Mr. Speaker, I insert for the RECORD a statement endorsed by 100 scientists from 36 States calling for acid rain controls. Their remarks are timely, particularly in light of the decision by the Commerce Committee to resume work on Clean Air Act legislation.

[News release of the National Wildlife Federation, June 28, 1982]

100 EXPERTS SUPPORT ACID RAIN CONTROLS, ACCORDING TO NATIONAL WILDLIFE FEDERATION—POSITION REFUTES ADMINISTRATION POLICY

100 acid rain scientists across the country say there's a need for immediate control of the pollutants that cause acid rain, according to the National Wildlife Federation, a leader in the ongoing debate over congressional reauthorization of the Clean Air Act.

The scientists have endorsed an NWF position statement which concludes that control of acid rain-causing pollutants is called for by existing scientific evidence.

The statement refutes the Reagan administration's stand on acid rain, which claims that further study is necessary before control measures can be designed and implemented.

"Our position statement, endorsed by so many scientists, lends important weight to our contention that most knowledgeable scientists consider the evidence in support of acid rain control to be ample and compelling," said Dr. Jay D. Hair, executive vice president of the NWF.

The NWF mailed the position statement to over 400 acid rain specialists in late May, seeking their endorsement. Ninety-three percent of those responding agreed to publicly identify with the statement. Of those who declined to sign the statement, many claimed to have a governmental affiliation that prevented them from taking a public stand that contradicted their employing agency. Only seven took issue with the statement's premise.

Scientists from the following states endorsed the NWF statement:

Arizona 1
California 5
Colorado 3
Connecticut 3
District of Columbia 1
Florida 5
Georgia 2
Idaho 2
Illinois 4
Indiana 1
Kansas 1
Kentucky 1
Maine 4
Maryland 3
Massachusetts 3
Michigan 4
Minnesota 3
Mississippi 2
New Hampshire 3
New Jersey 2
New Mexico 1
New York 12
North Carolina 4
Ohio 3
Oregon 4
Pennsylvania 4
South Carolina 1
Tennessee 1
Texas 2
Utah 1
Vermont 1
Virginia 4
Washington 1
West Virginia 1
Wisconsin 2
Wyoming 1

POSITION STATEMENT ON ACID DEPOSITION

Overwhelming circumstantial evidence indicates that the primary cause of acid precipitation in the eastern United States is fossil fuel emissions of sulfur and nitrogen oxides. As these emission products are transported by wind and air mass movements, they are further oxidized into acidifying compounds and hydrogen ions before falling back to earth in either wet or dry form.

Acid deposition stresses aquatic ecosystems, particularly poorly buffered ones, and can kill sensitive plant and animal populations, either directly or by creating food web imbalances. In addition, acid precipitation promotes the loss of soil nutrients and cations in a manner which may be irreversible. Leaching of ions from soils can be damaging to both the soil and to aquatic organisms. Acid deposition also destroys man-made materials by accelerating metal corrosion, by blistering painted surfaces, by destroying surface cohesion of sandstone and limestone, and by eroding statues and stone structures.

As has been concluded recently by two panels of acid rain specialists, slowing the rate of deterioration of sensitive freshwater ecosystems would require a reduction of 50 percent in deposited hydrogen ions (i.e., an achievement in precipitation pH levels to no lower than 4.6 to 4.7) (NAS, 1981) and a possible even greater reduction in wet sulfate deposition (U.S.-Canada Work Group I, 1982). Although uncertainties regarding the kinetics of atmospheric transformation processes make precise predictions impossible, it can be anticipated that a significant reduction in sulfur and nitrogen oxide emissions will produce significant (although perhaps not directly corresponding) reductions in acid deposition.

Accordingly, a plausible acid rain control strategy should seek to begin reducing emissions of sulfur and nitrogen oxides—especially in the eastern U.S. where most sources and receptors are concentrated—by an amount on the order of 50 percent. Since control of sulfur dioxide and nitrogen oxide emissions from new electrical generating plants would be insufficient to accomplish this, restrictions on older plants must be considered.

Although gaps remain in our knowledge of acid precipitation and further research is needed to fill these gaps, we the undersigned scientists believe that what is already known about acid deposition justifies and requires immediate legislative steps to begin abating sulfur and nitrogen oxide emissions, particularly in the eastern half of the United States.

SCIENTIST SIGNERS OF ACID DEPOSITION STATEMENT

Professor Quintus Fernando, University of Arizona.

Bruce R. Appel, Group Leader, California Dept. of Health Atmospheric Research.

Professor Robert E. Connick, University of California.

John Harte, Senior Scientist at U.C. Berkeley.

C. Ray Thompson, Biochemist, University of California.

W. Williams, Petalume, California's Black Apple Institute.

Jill Baron, Bellevue, Colorado.

John Heasley, systems Ecologist, Colorado State University.

Karl Zeller, FC-ERT-LSC, Fort Collins, Colorado.

Meredith Colket, III, Ph.D., United Technologies in Conn.

Thomas G. Siccama, Forest Ecologist, Yale at New Haven, Connecticut.

Hideo Okabe, Chemist, National Bureau of Standards.

Professor Robert S. Braman, University of South Florida.

Professor Patrick L. Brezonick, University of Florida at Gainesville.

Alistair C.D. Leslie, Oceanography, Florida State Univ., at Tallahassee.

Hans W. Rudolph, Project Manager, NASA at Kennedy Space Center, Fla.

Curtis R. Jackson, Assoc. Director, University of Georgia Experiment Stat.

Professor Jack Winnick, Georgia Institute of Tech., at Atlanta.

Prof. Sherry O. Farwell (Chemistry), Univ. of Idaho at Moscow, Idaho.

Karl A. Gebhardt (State Hydrologist), Bureau of Land Management, Boise, Idaho.

Prof. William Buck, University of Ill., Urbana, Ill.

P.T. Cunningham, Chemical Engineering Division, Argonne National Laboratory, Illinois.

H. Sievering, Ph.D., Rickton Park, Ill.

John Stockham, Manager Fine Part. Res., 11T Research Institute at Chicago, Ill.

Orie Loucks, Science Director, The Institute of Ecology, Indianapolis, Ind.

Thomas W. Lester, Assoc. Professor, Kansas State Univ., Dept. of Nuclear Eng., Manhattan, Kansas.

Hugh T. Spencer, Sc.D., Professor of Env. Eng., Univ. of Louisville.

Samuel S. Butcher, Bowdoin College.

Ass't Prof. Chris. Cronan, University of Maine at Orono.

Professor Ronald B. Davis, University of Maine at Orono.

Stephen A. Norton, Chairman of Geographical Sciences, University of Maine at Orono.

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Prof. John W. Winchester, Florida State University Oceanography Dept., Tallahassee, Florida.

Robert D. Conkright, Maryland Geological Survey at Baltimore.

Dr. Fred Davis, Meteorologist, National Weather Service, Baltimore, Maryland.

Charles L. Mulchi, Associate Prof., Univ. of Maryland Agronomy Dept., College Park, Maryland.

Lyle E. Craker, Assoc. Prof., UMASS at Amherst.

Professor William A. Feder, Univ. of Mass. at Waltham.

Professor Michael B. McElroy, Harvard University, Cambridge, Mass.

Prof. Paul O. Fromm, Phystology Dept., Michigan State Univ.

Prof. Stephen G. Shetron, Michigan Technological Univ., Lanse, Michigan.

Douglas G. Sprugel (Ass't Prof.), Forestry Dept., Michigan State U.

Donald H. Stedman (Assoc. Prof.), Univ. of Michigan at Ann Arbor.

Steven J. Eisenreich (Assoc. Prof.), Univ. of Minn. at Minneapolis.

Kenneth E. F. Hokanson, Res. Biologist, U.S.E.P.A. at Monticello, Minnesota.

Prof. James A. Zischke (Biology), St. Olaf College, Northfield, Minnesota.

Prof. C.H. Kuo (Chemical Engineering), Mississippi State University.

William M. Vaughan, Vice-President, Environmental Measurements, Inc., University City, Miss.

Prof. Noye Johnson, Geo. Dept., Dartmouth College, Hanover, New Hampshire.

Charles F. Thoits, Chief, Inland Fisheries, New Hampshire Fish and Game, Concord, New Hampshire.

Prof. Ida Leon, Dept. of Plant Path., Cook College at New Brunswick, N.J.

Nathan M. Reiss, Dept. of Meteorology, Rutgers at New Brunswick, N.J.

John Trijonis, President, Sante Fe Research Corp., New Mex.

James K. Edzwald, Assoc. Prof. at Clarkson College, Potsdam, New York.

Michael Coughenour, Syracuse University, New York.

John E. Gannon, Assoc. Director, SUNY at Oswego, New York Res. Center.

Ronald J. Hall, Reserach Scientist, Cornell Univ. at Ithaca, New York.

George R. Hendrey, Environmental Sciences Groups, Brookhaven Nat'l Lab, Upton, N.Y.

Prof. Gene Likens, Cornell Univ. Ithaca, New York.

Richard H. Mandl, Assoc. Env. Biol., Cornell University, Ithaca, N.Y..

Dudley Raynal, Assoc. Prof., SUNY at Syracuse, New York.

Roy A. Schroeder, U.S. Geological Survey, Albany, New York.

Roger L. Tanner, Chemist, Brookhaven Nat'l Lab., New York.

Professor Dwight A. Webster, Cornell University at Ithaca, N.Y.

Roy T. Gorman, Env. Scientist, Raleigh, N.C.

Prof. Parker C. Reist, Univ. of N.C. at Chapel Hill.

Hugo H. Rogers, Assoc. Prof., N.C. State University at Raleigh.

Robert S. Wright, Env. Scien., Research Triangle Inst., Research Triangle Park, N.C.

Dean Patrick Dugan, Biological Sciences at Ohio St., Columbus, Ohio.

Professor David Nielson, Ohio Ag. Research Center, Wooster, Ohio.

William D. Ross, Monsanto Corp., Dayton, Ohio.

Ruth Fredrinksen, USDA Forest Service, Corvallis, Oregon.

Arthur McKee, Instructor, Oregon State University, Blue River, Oregon.

James Pankow, Ass't Prof., Oregon Grad. Center, Beaverton, Ore.

Danny L. Rambo, Northrop Services, Inc., Corvallis, Oregon.

L. R. Archmoody, Northeastern Forest Exp. Stat., Warren, Pa.

Dr. John M. Skelly, Head, Penn. St. Plant Path, Dept.

Professor David Dewalle, Penn State Univ.

William F. Sharpe, Penn State Univ.

Prof. Ulysees S. Jones, Clemson University, Clemson, S.C.

Raymond C. Matthews, National Park Service, Gatlinburg, Tenn.

Dr. A. Rachel Laird, New Braumfels, Texas.

Ronald Matthews, Assistant Prof., Universsity of TX, at Austin.

Prof. Gene L. Wooldridge, Utah State Univ. at Logan, Utah.

Prof. Richard Klein, University of Vermont at Burlington.

James Galloway, University of V.A. at Charlottsville.

Dale A. Furlong, V-P, ETS, Inc., Roanoke, Va.

Prof. J. L. Hudson, Chair, Dept. of Engineering, U.V.A., Charlottsville, Va.

Fred Ordway, Vice-President, Artech Corp., Falls Church, Va.

Halstead Harrison, Assoc. Prof., Univ. of Wash., at Seattle.

Anthony C. Tomkowski, Ass't Prof., West Va. University, Morgantown, W. Va.

Prof. T. T. Koslowski, Biotron Director, Univ., of Wis., at Madison.

Prof. John Howatson, University of Wyoming at Laramie.

Lloyd A. Schairer, Bio. Dept., Brookhaven Nat'l Lab., Upton, New York.

Michael Steinmaus, Muscatine, Iowa.

J. H. Gibson, Ecology Lab, Colorado State at Fort Collins.

Bob Martini, DNR, Rhinelander, Wis.

Thomas B. Sheffy, Chair., Wis. Task Force on Acid Rain, Madison, Wis.●

McADORY WILL BE MISSED

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHELBY. Mr. Speaker, I would like to share with my colleagues in the House of Representatives an editorial that appeared in the Independent Advertiser on Tuesday, July 27, 1982. The article written by the editorial board of the newspaper is a tribute to the late Louis McAdory:

> It's difficult to say goodbye to a friend. But yesterday, Chilton County had to say goodbye to a real friend when Louis McAdory, retired air force colonel, was buried.
>
> His obituary is located elsewhere in this edition. It contains the essentials that all obituaries should: his age, date of death, survivors and funeral arrangements. But it says very little about the man who spent his entire life in the service of his country.
>
> For more than 30 years, that span three wars, Col. McAdory fought for his country. He could have retired earlier, but there was still a job to be done and he knew his duty to his country.
>
> After retiring and moving to Chilton County, he began a new career. It was a career of working long hours for no pay to help make this county a better place to live for everyone.
>
> He worked day and night for the Chilton County Cattlemen's Association and has served the past several years as its president. He served on the state level as vice president of the Cattlemen's Association and has served the past several years as its president. He served on the state level as vice president of the Cattlemen's Association and treasurer of the Alabama Beef Cattle Improvement Association as well as president of the Central Alabama Feeder Calf Association.
>
> He is immediate past president of the Chilton County Chamber of Commerce and was named Man of the Year in 1981 for his untiring efforts to improve the chamber and attract new jobs for the unemployed in this county.
>
> In addition to the many organizations he served, he was willing to take on additional responsibilities when asked, no matter how busy he actually was.
>
> He was a man who lived to serve, expecting nothing in return.
>
> At the time of his death, he had offered his services again to the people of this county.
>
> His hopes of becoming probate judge here were founded on the idea that he could help lead this county unselfishly into a new era where the government took an active, energetic role in attracting new jobs here. A goal that all candidates for that office would do well to adopt.
>
> To say Col. Louis McAdory will be missed is not sufficient. Very few people in the recent history of this county have worked so hard for no pay just because he believed whole heartedly in paying his civic rent.
>
> He was a man that touched the lives of many thousands of people through his civic work. His efforts will continue to help people here for years to come.
>
> Chilton Countians are fortunate that he chose to make this county his home. And now it is his final resting place. That is only proper for a man who did so much, for so many, for so little in return.

Mr. Speaker, not many people achieve the measure of admiration and respect that Louis McAdory enjoyed. He earned that admiration and respect because he genuinely cared about people and about the welfare of his community.

His life should serve as a memorial to him for all his time in Chilton County, for he truly devoted it to serving the people that he loved and cared for.

It is indeed an honor for me to share this tribute with my colleagues in the House of Representatives. He will be deeply missed by me and all others who were touched by his life.●

NEW FEDERALISM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PEYSER. Mr. Speaker, homeowners of this country who have been faced with steadily increasing property taxes are now sitting on a time bomb that is set to go off in the next 2 or 3 years unless we do something about it. The Reagan administration's proposed New Federalism will have the effect of increasing property taxes at the local level by at least 20 to 30 percent.

For 8 years before coming to the Congress, I served as mayor of a suburban community. I know firsthand what the loss of revenue sharing, highway, water and sewer moneys will do to local taxes. I also know what the Federal cuts in education will do to property taxes. These homeowners, who are the providers of most of our tax dollars at both the Federal and State levels, are going to be hit with outrageous and unfair increases.

In 1983, we must move to restore sanity to our tax program and utilize our Federal dollars to help local communities rather than hurt them. The Federal Government does have a role to play and can do it and still lower interest rates and decrease the national deficit.●

A THOUGHT-PROVOKING COMMENTARY ON NUCLEAR NONPROLIFERATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LAGOMARSINO. Mr. Speaker, on August 3, the Subcommittees on International Economic Policy and Trade and International Security and Scientific Affairs held a hearing on proposals to amend the Nuclear Nonproliferation Act of 1978. Our colleague, the Honorable Marilyn L. Bouquard, appeared as a witness at that hearing offering some valuable insights into the issues facing the administrations and this Congress on the subject of nuclear nonproliferation.

I urge my colleagues to consider the thought-provoking comments of Mrs. Bouquard.

The statement follows:

Prepared Statement of Marilyn L. Bouquard Before the Subcommittee on International Security and Scientific Affairs and International Economic Policy and Trade

Chairman Zablocki and Chairman Bingham, I want to thank you for the opportunity to testify before your Subcommittees this first day of the House Committee on Foreign Affairs' hearings to consider amending the Nuclear Non-Proliferation Act (NNPA) of 1978.

Undoubtedly, the most visible and controversial problem in the international nuclear power arena is that of weapons proliferation. The international market for trade in nuclear power facilities has become increasingly competitive, and a growing number of nations have active nuclear programs—some signatories of the Nuclear Proliferation Treaty (NPT) and some not. As we are all aware, controversy is particularly widespread over the domestic development and international marketing of sensitive enrichment and reprocessing technologies and the breeder reactor.

The link between civilian nuclear power and nuclear weapons is an inescapable fact of nature because nuclear power reactors simultaneously generate heat, which is converted into electricity, and plutonium. It is this inevitable consequence of civilian nuclear power which causes much concern about proliferation—a concern we all share. In fact, I have just briefly recessed the first of two days of hearings on nuclear safeguards research and development in our Committee on Science and Technology. The Subcommittee on Energy Research and Production, which I chair, is hearing from DOE, ACDA, the Department of State, and NRC on this technology and its implementation.

While the aforementioned link is indeed of legitimate concern, it should be made clear that it is neither inevitable, nor even probable, that a nation's civilian nuclear power program will lead to a nuclear weapons program. Japan and West Germany are but two of a number of nations which have developed peaceful uses of the atom while renouncing all intentions of developing nuclear weapons even though it is clearly within their technical capability. This lack of inevitability of such a route to nuclear weapons development is also reinforced by examining the historical record.

No nation has yet developed nuclear weapons from materials diverted from a civilian nuclear powerplant. From 1945 to today, the 5 weapons states and India exploded nuclear devices while civilian nuclear power went from being nonexistent to well over 140,000 megawatts of capacity in 22 countries. In addition, for each of the five nuclear weapons states, the explosion of their first nuclear weapon preceded the operation of their first prototype commercial powerplant.

The historical record, then, does not suggest a casual relationship between the expansion of civilian nuclear power reactors and the development of nuclear weapons. The reason for this is basic economics. It is relatively simple, and quick to produce and extract nuclear weapons grade materials in small, specialized facilities. Constructing but one civilian nuclear power reactor, however, requires the expenditure of well over $1 billion as well as a considerable amount of time to nurture and build a complex technological infrastructure.

While the historical record does give us comfort, we must not, of course, allow it to make us overly sanguine concerning the future. Clearly, we all agree that we should do what we can to minimize the risks of proliferation. Where we disagree, of course, is on the methods and techniques which should be employed to minimize these risks.

I have long been on the record as opposing the previous Administration's misguided and bankrupt approach to nuclear energy in general, and to nuclear nonproliferation in particular. President Carter's April 1977 decision to postpone indefinitely the commercial reprocessing of spent fuel in the United States and to propose to stop work on the Nation's breeder reactor at Clinch River has been accurately characterized by the famous French scientist, scholar, and statesman, Dr. Bertrand Goldschmidt, as an "extraordinary and unique act of self-mutilation." As Dr. Goldschmidt points out in his recently published masterpiece on the political history of nuclear energy entitled "The Atomic Complex:" "an already declining American nuclear industry was to become paralyzed in two key sectors of future development, fuel reprocessing and breeder reactors, precisely the sectors in which the United States was already between 5 and 10 years behind the Soviet Union and western Europe, in particular, France."

The Carter administration's unfortunate approach to nonproliferation was totally counterproductive. It stimulated a proliferation of nuclear suppliers worldwide while simultaneously causing us to lose significant nuclear export business and lessening our ability to influence the nuclear policy of other nations. This message has been reinforced time and time again to me during my discussions with leaders of other nations with active nuclear programs. In particular, I wanted to share with you the comments I received during discussions I participated in during June 1981 with officials in Spain, Denmark, Finland, the United Kingdom, and France. I summarized the major findings and recommendations of my trip report in a letter to President Reagan in July 1981. With your permission I would like to append this letter to my prepared remarks today and briefly note the views of the Spanish and the United Kingdom officials. Spanish officials were left in a state of quiet rage as a result of their treatment by the Carter administration in terms of nuclear nonproliferation policy. They felt that the United States had effectively blackmailed them into adopting retroactive measures with respect to their nuclear program and as a result they went to the Soviet Union and other suppliers for nuclear fuel enrichment services.

United Kingdom officials felt that the Carter nonproliferation policy convinced many nations that they could not rely on the United States. They urged that the United States distinguish between potentially real proliferation offenders and those who wish to pursue civilian nuclear power programs—a position which I wholeheartedly endorse. I believe that if this Nation is to maintain a major leadership role in the nuclear proliferation arena in the years ahead, we must adopt a genuinely selective approach which distinguishes between our friends and real proliferation risks. Cooperation, not denial, should be the main thrust of our nonproliferation policy.

Unfortunately, the NNPA enshrined into law too much of the Carter approach, based on the faulty premise that other nations would remain dependent indefinitely on U.S. nuclear assistance. A nonproliferation strategy emphasizing technology denial which reduces confidence among importing states about access to nuclear materials and services will undoubtedly speed the development abroad of indigenous fuel cycle capabilities, including reprocessing. The NNPA, while well-meaning, is flawed and in need of improvement.

I would like to conclude my remarks with what I propose should be done. As I stated earlier, I believe that the main thrust of our nonproliferation policy should be cooperation, not denial. I would recommend that the NNPA be amended to incorporate this principle by ending its retroactive effect and substituting the presumption that cooperation with the other nations should continue as long as there has been no change in the proliferation risk. I would further recommend that programmatic approvals take the place of case by case exercise of U.S. consent rights regarding transfers of spent fuel. I also believe that we must pursue vigorously the internationalization of reprocessing and waste management to discourage the

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further development of indigenous national programs. Further, we must do all we can to strengthen the international safeguards system. Finally, we must as a nation, recognize our obligations under article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and vigorously pursue serious strategic arms control negotiations. Moderation of vertical proliferation would aid greatly in our efforts to control horizontal proliferation.

I believe this set of recommendations amounts to a sensible approach. Thank you very much, Mr. Chairman, for this opportunity to express my views.

Congress of the United States,
House of Representatives,
Washington, D.C., July 15, 1981.

The President,
The White House,
Washington, D.C.

Mr. President: I have just returned from an oversight trip during which I had discussions on international energy issues in Spain, Denmark, Finland, the United Kingdom, and France. My particular interest in these discussions was nuclear energy development and, more specifically, the question of U.S. nuclear nonproliferation policy. As you know, I have concluded that the Carter Administration's unfortunate approach to nonproliferation was counterproductive such that it caused a proliferation of nuclear suppliers worldwide and resulted not only in the loss of significant U.S. nuclear export business but also a lessening of the related ability of our country to influence the nuclear policy of other nations.

As you might expect, of the nations we visited those most interested in the prospects for change in U.S. nuclear nonproliferation policy were Spain and the United Kingdom. I carried with me the April letter from Under Secretary Buckley which responded to my own query as to what we could expect in terms of a shift in U.S. policy. I can assure you that Mr. Buckley's statement, ". . . we plan to support rather than interfere with the nuclear programs of our key allies and to focus our nonproliferation efforts on countries of real proliferation concern," was well received and seemed to provide a basis for some assurance among our friends that the unfortunate policy of recent years will be turned around. I urge you to make a statement on nonproliferation policy at the earliest possible date to begin the process of recovering the reputation of the United States as a reliable supplier with genuine concerns about nuclear weapons control.

I have attached the major nuclear findings and recommendations of my trip report which will be sent to the whole House of Representatives next month.

As you can see, if Europe is a microcosm of such views there is a positive international climate for you to make a policy pronouncement. However, its implementation will require, as the British noted, "extreme statesmanship" on your part.

I would respectfully request the opportunity to discuss these matters in detail with you and I am looking forward to working with, Mr. Buckley, and Mr. Malone in reshaping U.S. policy and its implementation. I hope that the Foreign Affairs Committees in the House and Senate will not use the events of recent weeks as a basis for suggesting an arbitrary and counterproductive tightening of export controls for nuclear shipments to our friends as well as any potential weapons threats. I hope we shall have the opportunity to achieve a genuinely selective approach which distinguishes between our friends and such real proliferation risks as Pakistan and Iraq.

Sincerely,

Marilyn L. Bouquard,
Chairman, Subcommittee on Energy Research and Production.●

REMARKS OF ARIEL MELCHIOR, SR., AT THE COMMENCEMENT EXERCISES OF THE COLLEGE OF THE VIRGIN ISLANDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RANGEL. Mr. Speaker, I want to bring to the attention of my colleagues the remarks of Ariel Melchior, the former publisher and owner of the Virgin Island Daily News, made at the recent commencement exercises of the College of the Virgin Islands. Mr. Melchior's remarks review the history and progress of the College of the Virgin Islands from its inception in 1962 as a 2-year college to its full accreditation as a 4-year institution of higher learning.

.The College of the Virgin Islands has served as a cornerstone for the education of the young people of the islands, many of whom have gone on to participate in the developing economy of the islands.

Mr. Melchior's words serve as an inspiration to the graduating class of 1982, and I believe, deserve to be brought to my colleagues' attention for a better understanding of the Virgin Islands.

The text of Mr. Melchior's remarks follows:

Commencement Address by Ariel Melchior, Sr.

Dr. Arthur A. Richards, Acting Governor Henry Millin, Honorable Elmo Roebuck, members of the Board of Trustees, Members of the Faculty and Administrative staff, graduating seniors, their parents, their relatives and all other members of our beloved Virgin Islands community, good evening.

I am deeply honored to have this opportunity to address the 1982 graduating class of the College of the Virgin Islands.

Since it opened its doors in 1963, this college has been a reservoir of hope for young men and women from the Virgin Islands and from across the Caribbean who have come here eager and thirsting for knowledge and academic excellence. The College of the Virgin Islands has met their needs and met them well.

When it began, and the first student walked this campus, the college was only a two year institution. But with expanding programs and increasing numbers of students, it quickly developed into a thorough four year scholastic program. Today, it is one of the preimer institutions of its type in the Caribbean and in the nation.

Under the leadership of its first president, Dr. Lawrence Wanlass and its current president, Dr. Arthur A. Richards, the college of the Virgin Islands has brought disciplined and devoted higher education to these shores. In its brief life, it has made an earnest contribution to our community.

It has been like a fountain, each year providing our community with fresh young minds, possessing new and exciting ideas. It has stood for academic excellence and intellectual honesty and maturity. It has played and will continue to play a most vital and vibrant role here.

The college has provided us with scholars when we most needed them; vision when it was required; and it has served as a cultural center, enriching our lives through theater, concerts and art exhibits.

(Its significance and importance has been recognized by the Congress of the United States. As Dr. Richards mentioned earlier, the college has been identified by federal authorities in Washington as a seat of learning. Young men and women from the Eastern Caribbean will be coming here for cultural, technical, and scientific training. This will be a major step in the life of the college and in the life of the entire Caribbean.)

We have needed this institution, and as we move further into the 1980's, we shall need it, and the quality graduates that it will provide even more.

The role that the College of the Virgin Islands will continue to play will require greater financial support from both the public and private sector.

We must make a greater financial investment in this institution. We must see to it that its monetary resources are increased and that its fiscal future is made more secure. The consequences of failing to do so could have a retarding effect on its growth.

Yes, during the last two decades, we have progressed. Of course, we have had our share of problems, but imagine for just one moment where we might be today without the presence of the College of the Virgin Islands in this community.

Graduates of the class of 1982, today in the Virgin Islands, we stand at a critical point in our development, requiring a choice between irreconcilable courses.

We stand at a political crossroad. We stand at an economic crossroad. We stand at a spiritual crossroad.

Our community is deeply troubled. It is searching for its soul. We seem to be in the midst of chaos and misunderstanding. As a people we are indifferent towards one another and the plights of our neighbors.

As we walk the streets, we can see a look of hopelessness and despair of the faces of many of our young people.

They seem to be without purpose or a reason for living. Some of them have declared that they have little or no faith in this society, their society.

They are our lifeline to the future, but large numbers of them have turned against us. They have become embittered, frustrated, and angry. We must remember that when we look at them, we are looking at ourselves.

They stand at the crossroads with us, side by side. Their fate is interwoven with the very fabric of a society that we cherish, one that we love and one which must endure.

As a community, our fate, a collective fate, is in our own hands and only a common belief in the goodness of our people, and the sacredness of our ideals will keep us from coming apart

We find people asking themselves, in despair, why should I live through this misery. We find people asking themselves why should I contibute to a community when so few seem to care.

But we must remember the words of the noted French philosopher, Albert Camus, who once said that the very purpose of life, itself, was to bring about change. And change we must bring about here; not later, but now; not tomorrow, but today; not with complacency, but with compassion and determination.

And even though we stand at a crossroad and our future appears uncertain, we must remember and acknowledge that our very existence we owe to those who came before us, those who shaped this society and to whom we owe a tremendous debt.

Yes, our ancestors before us stood at crossroads. They survived because they had the will to maintain a sense of themselves. They moved forward because they addressed their problems honestly. They endured because they refused to bow to the pressures of a confused society, nor to the greed that temps all men and all women in life.

During the Great Depression, when we stood at what seemed to be the very abyss of life, we pulled together. We pulled together as young and old, we pulled together regardless of race, we pulled together as people—people who had very little in the way of material goods, but who had an abundance of heart and a desire to strenghten and maintain the Virgin Islands. We pulled together then, and because of that effort we are here today.

Some might say that is is unfair to the class of 1982 to present them with a society that appears so bleak and where there is little apparent hope. I disagree! There is hope, the future is not bleak. We shall endure, but first we must recognize and understand that we stand at crossroads.

The class of 1982 did not create the myriad of problems that we are faced with today. You are innocent by-standers, who, if you chose to, can walk away from it all, and live lifes of relative comfort. But we know that you choose to be concerned.

Lest you are misinformed, having a college degree does not mean that this community of which you are a part owes you something. Let me tell you here and now, it owes you nothing! It has provided you with an opportunity to excel in you chosen fields of endeavour, use that opportunity wisely.

Your obligation is to support your alma mater so that others who will follow you will enjoy the same advantages that you enjoy today.

The times that we live in call for young men and women who will confront the dilemmas that face this community. It is most important that you not become part of the problem, but you must become architects of the solutions.

Sitting here today are young men and women, who, if they have the will and vision, will feed the needs that we have. This class will be called upon to share its wealth of information not only with these islands, but with the region and the world.

From this class will come the leaders of tomorrow in science, engineering, medicine, law, art, agronomy, and writing.

From this class must not only come scholars but men and women of high personal intergrity with a strong commitment to social justice and respect for law. Keep in mind that every right you enjoy carries with it a corresponding obligation.

To put it frankly, we need you and we need you desperately. And you will find that despite the level of you education, you will need those whom you will serve.

You will need them for moral support, you will need them for spiritual support, you will need them as allies as we all face the crossroads together.

Do not be afraid to go it alone when those around you are pursuing their fantasies. This class must not forsake the righteous cause.

This class must not stand silently on the sidelines of life while the vast majority of the less fortunate of our people are being battered about in their daily struggle to survive in an environment in which the prices of the basic necessities for living are unreasonable and unaffordable.

You must help us in our search for answers. More than one-third of our population lives in substandard and unfit housing.

We will need your expertise in the area of housing development. What we have now is inadequate. The answer, and I think that you will agree with me, is not in highrise institutionalized apartments, but in sufficient individualized dwellings where people can develop a sense of family and a sense of pride and build their lives around a home they love and cherish.

Additionally, we cannot afford to close our eyes to the fact that there are racial tensions in this community and they are mounting daily.

There is a direct relationship between those tensions and the economic inbalance that exists here. If there is going to be sustained progress, all levels of our society must share in that progress.

Unfortunately, the resources of our growth do not seem to be distributed reasonably. Therein, lies one of the many causes for discontent. It is a situation that we all know exists and to which we should all address ourselves with candor.

Is it any wonder that many of us are confused, bewildered, frustrated and angry, given such a situation. We live in constant fear. People are afraid to walk the streets at night and murders and assaults are committed in broad daylight with impunity.

We have retreated to our homes and our businesses, and even there we are not able to enjoy the safety and comforts that flow from life.

Yes, we are troubled. Yes, the waters are not still. There are divisions between factions, between classes, between races. There are even divisions over ideas and directions. Leadership is lacking. All is not well.

However, this is not a time for us to throw our hands up in the air. It is a time for us to come together and work towards viable and practical solutions.

We must learn to grow our own food, and become self-sustaining. If the state of Israel can grow food in the desert for its own consumption, certainly we can grow food in this land of plentiful green foliage.

The same methods that were used in that hardened desert can be used here. The same type of expertise that was applied there can be applied here. But first we must begin to think in bold terms.

As a community of Islands, we must find new ways to determine our own destiny. We must not allow ourselves to be held hostage to the economic contingencies that we do not control.

There is every reason that we should be looking forward to, and planning for the day when we produce, here, many of the things that we now import.

It is hoped that many of you will decide to serve in positions of leadership in government, business, religion, education, and other fields.

The people who assume these roles must command the public trust. If they are going to represent us, they must be people of dignity, honesty, unselfishness and courage. They must be above scheming and petty bickering, they must deport themselves in an exemplary manner, discharge their sworn duty with efficiency, decorum, dedication and sincerity of purpose. They must conduct the people's business in no less a manner than they would conduct their own. They must lead, follow or get out of the way.

It is no secret that selfishness, greed, lawlessness, and wide spread disrespect are symptoms of a society that is not totally well. A society begins to deteriorate when the people leave their futures to chance and to fate.

This class, the class of 1982, must reach for new heights. It must establish formidable goals. Its members must reject deception. Each of you must give fresh meaning to life. It will not be any easy task, but for us, with our meager resources, it has never been easy.

At this crossroad, we must make an investment in our futures and the futures of those who are still unborn.

Currently, we are mortgaging the lives of future generations of Virgin Islanders to pay for the ego trips that a power hungry leadership is enjoying today.

The economic philosophy, which is in vogue today, can only lead to disaster. We must stop living beyond our means and halt the fraudulent practice of writing bad checks that the next generation will be called upon to honor. You should be concerned about this situation.

The class of 1982 can help turn things around. It must think and act in bold and daring terms. None of you can afford to be indifferent to the presence of crime just as you cannot afford to accept waste, dishonesty, and corruption in government as a way of life.

As individuals you must be self-reliant. You must be firm yet compassionate. You must be willing to endure pain when necessary and make sacrifices for the good of the community when called upon to do so.

Your formal educations will be tested each day of your lives. Do not give up. Rekindle the sparks of determination with new vigor and even greater conviction.

Remember always the great sacrifices that some of your parents and loved ones made so that you might attend school. Remember that some of them scrubbed floors and worked tirelessly so that you could receive an education.

Remember that they sometimes worked an extra job so that you could buy books, and that without them this moment would not have been possible.

You are our hope! We need you now more than ever! Together we stand at the crossroad. Together we shall confront the irreconcilable courses and together we shall go forward.

Each of you must consider what you can do for the Virgin Islands in return for what the Virgin Islands has done for you. If you are diligent and faithful, time and events will record your contributions.

It is my personal conviction that if you set standards in your life, consistent with the high standards that the college has set in its twenty year history, you shall not fail and consequently, we shall not fail.

I leave you this evening with this final thought. Live your lives in such a manner that in the twilight of your years, when all

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is said and done, you may look back on your life with pride and a sense of satisfaction.

Give of yourselves each day for the betterment of the Virgin Islands. Help make it the land in which you want to live and raise a family. Inspire other generations. Leave a legacy that they will want to pass on to their children.

God bless each and every one of you. May you realize your dreams. May your accomplishments be many and may you come to know the real joy of living!

Thank you.●

BRIGHTON BEACH BATHS CELEBRATES 75 YEARS OF SERVICE TO BROOKLYN FAMILIES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SOLARZ. Mr. Speaker, this month in my district in Brooklyn, a community institution, the Brighton Beach Baths, will celebrate its 75th year of operation as a family-centered recreational facility.

In 1907 the Brighton Beach Baths began as a beach club. Then situated in the wilds of Brooklyn on 30 acres of land, it has survived and flourished as a recreational oasis in the now highly urbanized Brighton Beach section of New York City. Its membership of 6,000 probably makes it one of the largest beach clubs in the country.

The baths, as it is fondly known, has served as a home away from home to literally millions of people over the years. Some of its members have belonged to the club for over 60 years, and it is a common sight to see families spanning three and four generations enjoying its lovely open spaces, salt water air, and unsurpassed recreational facilities and programs. Open 10 months a year, the baths offers dancing, entertainment, sports, nursery, and day camp programs in addition to swimming in three pools.

The baths is ably managed by Hy Cohen, a remarkable and energetic man, who has seen to it over the years that the baths plays an active role in the civic and charitable activities of the area. Hy has made the baths accessible to numerous organizations for fundraising activities and opened its doors to provide much needed recreational opportunities for organizations like the Vacations and Community Services to the Blind, so that they could provide several days or recreation activities for the elderly blind in the community. The baths has hosted field days for children from local public schools, provided free medical screening to its members and even hosted State of Israel bond rallys.

The baths has been an integral part of the shore front community for the past 75 years and is indeed a community institution of which we can all be proud. Today I would like to take the opportunity to salute the baths, its exceptional management, staff, and above all, its wonderful members who have made it such a marvelous place to visit and a source of enjoyment for literally thousands and thousands of New Yorkers.●

SOVIET PRISONERS FOR GAS PIPELINE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, the question of forced-labor utilization in the construction of the Yamal pipeline has again arisen. This time the question came up in West Germany. It will be recalled that I mentioned this matter in the CONGRESSIONAL RECORD Of July 13, 1982, pages 16054 and 16055. The London Daily Telegraph of August 1, 1982, states information reaching Bonn, Germany, is that an estimated 100,000 political prisoners are working on the U.S.S.R. pipeline. Perhaps this news of forced-labor participation in the project will give pause to those Germans who are rushing to make money and not thinking about the other aspects of this matter. France has instructed its Moscow Embassy to inquire about the use of slave labor on the pipeline also, according to the Wall Street Journal of August 9, 1982. The two news items follow:

[From the Sunday Telegraph, Aug. 1, 1982]

SOVIET PRISONERS "FOR GAS PIPELINE"

(By Michael Farr in Bonn)

West German conservative MPs are pressing for a Bonn investigation into claims that Russia was putting tens of thousands of political prisoners to work on the controversial Siberian-West European natural gas pipeline.

One Christian Democratic MP, Herr Heinz Landre, said that the International Society for Human Rights has estimated that 100,000 Russian prisoners sentenced to terms of hard labour were working on the construction of the 3,500-mile pipeline, which has been strongly opposed by President Reagan.

Herr Landre said the prisoners, the majority of whom were serving terms for political or religious reasons, were being housed in primitive conditions in railway stock.

He urged West German politicians, bankers and businessmen involved in the multimillion project—billed the largest-ever between East and West—to take these facts into account.

APPEAL TO SCHMIDT

In answer to a question from another Christian Democrat, MP, Frau Ingeborg Hoffman, the Bonn Foreign Ministry said it has not yet been able to find out definitely whether and how many political prisoners may have been put to work on the pipeline.

The Frankfurt-based human rights society said recently that civil rights activists in the Soviet Union had informed the group that the prisoners were being forced to work on the pipeline in appalling conditions.

The society said it was appealing to Chancellor Schmidt to end West German involvement in the project because of the Russian use of forced labour.

But with West German companies winning contracts for pipeline worth millions of pounds and several thousand German jobs at stake, Bonn has remained firmly committed to the deal despite American disapproval.

[From the Wall Street Journal, Aug. 9, 1982]

FRANCE PROBES REPORTS INVOLVING SLAVE LABOR ON SIBERIAN PIPELINE

PARIS—France said it has instructed its Moscow embassy to investigate reports that the Soviet natural gas pipeline to Western Europe is being built with slave labor.

The International Association for Human Rights, based in West Germany, previously had warned European countries involved in the controversial project that tens of thousands of Soviet political prisoners had been pressed into slave gangs to work on the mammoth project.

The humanitarian organisation has issued a list of political prisoners who, it asserted, were forced to work on the pipeline. They included dissident psychiatrist Semyon Gluzman and Ukrainian writer Zinovi Krasinski.●

RAY FITZGERALD: FONDLY REMEMBERED, SORELY MISSED

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MOFFETT. Mr. Speaker, although I never met Ray Fitzgerald, I feel as though I knew him well. And, I know that he had a positive effect on me during many of my formative years.

As a sports-minded young person in Suffield, Conn., I read the Springfield, Mass. Union, a morning newspaper. Ray Fitzgerald was their main sports writer.

He kept me interested in sports, perhaps kept me thinking more positively than I might have otherwise.

I feel good about those years. And, I feel good about what Ray Fitzgerald contributed to many of us in those years. More recently, I have read his columns in the Boston Globe. I have looked forward to them.

To the end, Ray Fitzgerald remained a breath of fresh air.

We will miss him greatly, even those of us who did not have the honor of knowing him personally.

The article follows:

[From the Boston Globe, August 4, 1982]

RAY FITZGERALD, AT 55 . . . WONDERFUL WRITER AND MAN

(By Neil Singelais)

Globe sports columnist Ray Fitzgerald died early yesterday in Brigham and Women's Hospital in Boston after a long illness. He was 55.

During the last 16 years, the words of Ray Fitzgerald had been a fixture on the sports pages of The Globe, to which he came from the Westfield Advertiser, in 1966. He covered virtually every sport for The Globe in that time, writing with versatility when assigned to report events and, later, with a special flair and wit when, upon the retirement of the veteran columnist Harold Kaese in 1975, he moved into the lead columnist's chair.

Said Globe sports editor Vince Doria of Mr. Fitzgerald: "Anyone who has read The Globe sports pages over the years knows what a wonderful writer Ray Fitzgerald was. He was an equally wonderful man. He was a tremendous talent, yet he never let ego get in the way. He couldn't say no to anyone. If an aspiring journalism student sought his advice, Ray would make time for that student. At the end of a bad day, you could always stop by Ray's desk, where his humor would remind you that things could be worse. I'll miss his writing greatly, but I'll miss his friendship more."

Mr. Fitzgerald came to the Globe in 1966, at the invitation of sports editor Jerry Nason, with an assist from Ernie Roberts. Roberts now executive sports editor, was rejoining The Globe that spring after six years in the Dartmouth College athletic department.

"I was still in Hanover when I received a call one morning from Nason," Roberts recalled. " 'Do you know a writer in Springfield named Fitzgerald? He's interested in a job with us, preferably with your afternoon sports page,' said Nason.

" 'sign Ray on as fast as possible,' I answered. 'Fits is not only an exceptional writer but an outstanding person and asset to any paper.' We both arrived the same day and found The Globe closed by a strike. 'Figured,' said Ray with his crooked grin. 'It's April Fool's Day.' "

Mr. Fitzgerald's desk always drew a crowd when he was in the office. He had both humor and modesty, an unusual parlay among prominent columnists. He also had an Irish temper, most apparent when one of his lefthanded tee shots would fly into the woods at Marshfield. On vintage Fitzgerald days his lefthanded driver shortly would follow the golf ball.

Ray Fitzgerald made a habit of winning the Massachusetts Sportswriter of the Year Award, taking down the honor an unprecendented 11 times in balloting by sportswriters throughout the state.

But what set Mr. Fitzgerald apart from most of his colleagues was his ability to laugh at himself. No crusader, he lived and worked to entertain his readers while regarding himself as "just another working stiff in The Globe's sandbox."

To copy editors, all Ray Fitzgerald copy was a dream, something to be enjoyed, not worked over.

Mr. Fitzgerald was widely recognized as a master of the quick quip and the one-liner. He possessed the rare ability to apply a gentle but inoffensive needle, still he didn't hesitate to spice the humor with a dash of satire when the situation required it.

Mr. Fitzgerald's tongue-in-cheek humor never failed him. When asked several years ago to fill out a biographical sketch, his answer to a question about activities in public or social service was: "Borrowing money from the South Shore National Bank to pay for kids in college." Another blank sought information on "Miscellaneous Facts." He scribbled, "Constantly broke."

After joining The Globe's staff, Mr. Fitzgerald covered the Red Sox, Celtics and Patriots until he became a fulltime columnist in 1975. He began his newspaper career as a writer with the Schenectady Union-Star, working there from 1949 to 1951. He then took a public relations job with the General Electric Co. for two years before resuming his journalistic career with the Springfield Union in 1953. In 1965, he left the Springfield paper to become part owner of the Westfield Advertiser, but he left that job a short time later to come to The Globe.

A graduate of Westfield High School in 1944, Mr. Fitzgerald excelled there in three sports—baseball, basketball and football. In baseball, Mr. Fitzgerald starred as a left handed pitcher-first baseman. In basketball, he attracted attention as a good-shooting guard. And in football, he did a fine job as a defensive end. His baseball ability earned for him a scholarship to Notre Dame. He was graduated from there in 1949.

In the immediate post-Notre Dame years, he and his wife, Barbara, concentrated on raising their lively family of two boys and two girls. A voracious reader, he put aside time for the books which, when money and time were so precious, filled his need to learn as much as he could about the world. In later years, when the young Fitzgeralds had gone their own ways, Ray and Barbara hit the road often, touring Ireland several times and visiting classical sites in Greece. Relaxation meant activity for Mr. Fitzgerald; a standout bowler and golfer through the years, he visited the lanes and the links often with family and friends.

Still, baseball remained his first love. In the 1950s, he played professionally for two years with Brattleboro in the Northern League before hanging up the spikes for good. Or so he thought. Some 10 years later, while he was working for the Springfield Union, the urge returned and he joined the semipro Holyoke Allies of the Twi-County League for a brief time. In his first mound appearance he went the distance, and won.

His athletic talents surely were inherited in great part from his father, Raymond Fitzgerald, a minor league power hitter in the 1920s who played for teams in the Eastern and International Leagues. The elder Fitzgerald also played pro basketball during that era in the Interstate League.

Springfield (Mass.) Union executive sports editor Garry Brown, who for many years worked alongside Mr. Fitzgerald, said he remembers the late Globe columnists as "a good humor guy. We never had anyone here with such a wit. He was so enjoyable to be with."

Mr. Fitzgerald leaves his wife, Barbara S. (Gray); two sons, Kevin, of Boston, and Michael Fitzgerald of Quincy; two daughters, Karen Murphy of Southwick, and Dr. Eileen Fitzgerald of Clinton, Ark.; a brother, John; two sisters Marie Gallo and Claire Case; and his mother, Katherine (Halloran) Fitzgerald, all of Westfield; and a grandson.

A funeral Mass will be said Friday at 9 a.m. in St. Francis of Assisi Church, South Braintree. Graveside services will be held at 2 p.m. Friday in St. Mary's Cemetery, Westfield.●

SENATE JOINT RESOLUTION 58

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHELBY. Mr. Speaker, I wish to congratulate the Senate for favorably voting on Senate Joint Resolution 58, the balanced budget/tax limitation constitutional amendment.

It is encouraging that two-thirds of the U.S. Senate rose above partisanship and agreed to this historic resolution. Democrats and Republicans joining together have made a solemn commitment to the American people that deficit spending must end.

It is imperative that the House move swiftly to bring the balanced budget/tax limitation amendment to the floor for full and fair debate. The Representatives of the American people have an obligation to act promptly on Senate Joint Resolution 350. This bipartisan issue affecting all Americans must be given a fair hearing by Representatives of all the people.●

NEW EXTRADITION LEGISLATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, I would like to call to the attention of my colleagues some excerpts from an analysis of new extradition legislation prepared by a group concerned about the rights of Filipino dissidents in the United States. In light of the fact that we will be considering the new bill—H.R. 6046—in the House soon, and in light of the upcoming visit of Philippines President Marcos, I believe that this information is valuable. Members should also be aware of the relationship of this legislation with the United States-Philippine Extradition Treaty pending in the Senate.

NATIONAL COMMITTEE TO OPPOSE THE U.S.-PHILIPPINE EXTRADITION TREATY

THE STRUGGLE AGAINST REPRESSIVE EXTRADITION LEGISLATION: THE NEW PHASE

A brief study of the origins, purposes, and provisions of the bill shows, that it carries substantial threats to constitutional rights and traditional judicial protections.

The push to revise U.S. extradition law began in 1979 and was initially sparked by the legal difficulties faced by the Carter State Department in extraditing three individuals that it was under heavy pressure to return: the Irishmen Peter McMullen and Desmond Mackin and the Arab Ziad Abu-Eain.

In May 1979, a U.S. court ruled that McMullen, a member of the Irish Republican Army (IRA) was not extraditable to Great Britain because the crime for which he was sought—assaulting British troops—was a political offense, and proceeded to grant him political asylum. More recently, Desmond Mackin, another member of the IRA, was also declared non-extraditable after a magistrate took extensive evidence on political conditions in Northern Ireland and upheld Mackin's claim that the wounding of a British soldier was a relative political offense.

Frustrated by these appeals to the political offense exception, the State Department threw all its resources at preventing Ziad

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from doing the same. Its tactic was to paint the young Palestinian—who was dubiously linked to a bombing incident in the West Bank in the twice recanted testimony of an alleged accomplice—as a "terrorist" and deny any political motivation or political context for the alleged offense. While it was successful in winning Ziad's extradition to Israel, the State Department was nevertheless frustrated by the fact that it took more than two years for the judicial process to yield Ziad.

How H.R. 6046 makes extradition law more repressive

An even cursory examination of H.R. 6046 reveals that beneath the liberal rhetoric, there is a radical move away from traditional U.S. extradition practice.

First, it contains a very restrictive definition of the political offense exception. Under the Hughes Bill, only "pure" political offenses like treason would qualify for the exception. "Relative" political offenses—that is, crimes of violence committed in connection with a political objective—are to be treated as common crimes. All such offenses would thus be extraditable, except under "extraordinary circumstances."

This constitutes a dangerous abridgement of the political offense exception, which has been traditionally regarded as one of the virtues of U.S. extradition law. To give an indication of how profoundly illiberal the proposed restriction is, it should be pointed out that the House Bill would make extraditable nearly all the important leaders of liberation movements in the last 200 years—persons like George Washington, William Connolly of Ireland, Garibaldi of Italy, Simon Bolivar of Latin America, Bernardo O'Higgins of Chile, Jose Marti of Cuba, Andres Bonifacio of the Philippines, to name but a few. Elimination of the concept of relative political offense institutionalizes a bias against members of freedom and independence movements—movements which almost invariably involve widespread violence against repressive regimes.

H.R. 6046 and the U.S.-Philippine Extradition Treaty

With the likely passage of H.R. 6046, the State Department is now floating the line that the U.S. Philippines Extradition Treaty—with the Hughes Bill's key provision incorporated into it—is now acceptable. As Rep. Hughes has recently revealed, "The Administration has indicated to me informally that in the event that the House version of the Extradition Reform Act passes that the proposed extradition treaty with the Philippines will not be submitted until the decisionmaking authority on the political offense question has been changed to preserve the vote of the Courts".

However, the reality we are in fact confronted with is that H.R. 6046, though reserving nominal authority over the exception for the courts, virtually emasculates it by severely restricting its application. This makes it all the more imperative, then, to oppose the ratification of the Philippine Treaty and other treaties—particularly those with repressive regimes, since their application will be guided by new laws which shall have essentially obliterated a traditional and vital keystone of U.S. extradition practice.

More important, however, the opposition to the U.S.-Philippine Extradition Treaty has never been solely—or even principally—based on the issue of who has jurisdiction over the political offense exception. A more vital concern has been the fact that it is politically unethical to have an extradition agreement with a regime which has no independent judiciary and whose judicial proceedings amount to no more than kangaroo courts employed to condemn political dissenters—a fact documented by Amnesty International, the International Commission of Jurists, the Task Force for Detainees, and other human rights agencies.

The rationale for this concern as been aptly put by Republican Congressman James Jeffords of Vermont:

> Traditionally, the U.S. has negotiated extradition treaties with foreign governments that apply their laws in an equitable and consistent manner. If we did not, we would create a repressive environment in our own country for those persons who want to express openly a dissatisfaction with their country of origin.●

PRESERVE HEALTH AND NUTRITIONAL ASPECTS OF THE WIC PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MILLER of California. Mr. Speaker, I am introducing legislation to protect one of our most effective programs, the special supplemental feeding program for women, infants and children—WIC—from an assault by the U.S. Department of Agriculture. Sixty-two of my colleagues have joined me in seeking to maintain the WIC program's proven success.

No one in this Congress will forget USDA's planned alchemy to convert ketchup into a vegetable in school meal programs. This year, the same administration is considering a new proposal to weaken safeguards for low-income pregnant women and infants at risk of retardation and birth defects.

The administration's proposals would erode the high-protein food package which supplements the diet of 2.2 million vulnerable pregnant, postpartum and breast-feeding women, infants and children who have been certified by health professionals to be at nutritional risk.

Why should we tamper with, or possibly undermine, such a tremendously successful program? The successes and cost-effectiveness of the WIC program have been amply documented by reputable governmental and private studies.

Last year, the Massachusetts State Health Department completed a study of 12,000 WIC participants which showed that the WIC program significantly decreases the mortality rate of newborns by increasing infant birtheight. Low birthweight is currently the eighth leading cause of death in the United States. A low birthweight infant is 20 times more likely to die than a normal birthweight infant.

This large-scale study follows others which have indicated the savings reaped by the WIC program. A 1979 Havard University School of Public Health study demonstrated that every dollar spent on WIC's prenatal component alone results in a savings of $3 in averted medical costs for low birthweight babies. Treating low birthweight after birth is three times more expensive than preventing it through WIC.

The U.S. Department of Agriculture, which is now suggesting that we severly alter the WIC diet, has itself estimated a $450-million savings in averted hospital care required to bring low-birthweight babies up to normal weight in fiscal year 1980 alone. USDA further estimated that, at WIC's fiscal year 1980 program level, the Federal savings in medicaid, SSI, and special education would be approximately $260 million. If the program reached all eligible pregnant women, the Federal savings in aid programs would reach $600 million to $1.2 billion.

Why does this administration insist upon tampering with these repeatedly proven successes? To please selected segments of the food industry?

My resolution requires that, before proposing changes in the WIC food package, the Secretary of Agriculture make a finding that the proposed changes will be beneficial to the health and nutritional status of WIC participants. This finding, together with supporting evidence, must be submitted to the Congress before any such changes are made.

We in Congress cannot afford to sit idly by and watch the erosion of the WIC program by administrative fiat. Senator Hubert Humphrey and I wrote the legislation to extend this program in 1975 in response to testimony from the March of Dimes and other health groups that this country had the knowledge and skills to prevent retardation and birth defects. We now have evaluations of WIC which show clear and dramatic results in improving children's chances for healthy development, saving lives and saving money. The WIC program represents one of those rare moments in the Congress when we design something to respond to a serious problem in the country, and the program actually works in solving the problem. In fact, its successes have far exceeded even our best hopes.

I urge you to join me in cosponsoring legislation to preserve and continue the health and nutritional benefits of the WIC program, and to send a message to the USDA that Congress will not stand for unnecessary and destructive tampering with this proven, cost-effective program.

H.J. Res. 567

Joint resolution concerning changes in regulations for the special supplemental food program for women, infants, and children of the Child Nutrition Act of 1966

Whereas the Special Supplemental Food Program for Women, Infants, and Children (WIC) was created to prevent occurrence of health problems and improve the health status of pregnant, post-partum and breast-feeding women, infants and young children from families with inadequate income who are at special risk to their physical and mental health by reason of inadequate nutrition or health care, or both;

Whereas repeated evaluations of the WIC program by the United States Department of Agriculture, the Center for Disease Control, State public health departments and university schools of medicine and public health have demonstrated that participation in the WIC program has decreased infant mortality rates, decreased the incidence of low birth-weight babies (low birth-weight is directly associated with increased deafness, blindness and retardation), and decreased the incidence of anemia;

Whereas cost-benefit analysis has proved that the WIC program is one of the most effective programs initiated by the Federal Government;

Whereas the Secretary of Agriculture placed in effect regulations which meet the goals of that program, the implementation date for which has been delayed until December 31, 1982; and

Whereas the Secretary of Agriculture has under consideration changes in regulations for the WIC program which would not contribute to improving the health status of WIC participants: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That:

Section 1. The Secretary of Agriculture may not place in effect any rule pursuant to Section 17 of the Child Nutrition Act of 1966 which would not maintain or enhance the nutritional integrity of the supplemental foods made available under the Special Supplemental Food Program for Women, Infants and Children of the Child Nutrition Act of 1966.

Sec. 2. (a) The Secretary of Agriculture shall make a finding that any changes subsequent to enactment of this resolution in rules governing supplemental foods provided to WIC participants shall be beneficial to the nutritional status of those participants; and

(b) Such finding, and any supporting documentation, made pursuant to subsection (a) shall be submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days prior to issuance of proposed rules in the Federal Register.

Sec. 3. The Secretary of Agriculture shall implement the rule effective on November 12, 1980, concerning supplemental foods made available under the Special Supplemental Food Program for Women, Infants and Children (WIC), no later than December 31, 1982.

Cosponsors for "WIC Resolution"

Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Biaggi, Mr. Bingham, Mrs. Boggs, Mr. Boland, Mr. Bonior of Michigan, Mr. Brodhead, Mr. John L. Burton, Mr. Corrada, Mr. Dellums, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Fauntroy, Ms. Ferraro, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Frank, Mr. Guarini, Mr. Harkin, and Mr. Hoyer,

Also, Mr. Hughes, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. Lantos, Mr. Lehman, Mr. Lowry of Washington, Mr. McDade, Mr. McHugh, Mr. Matsui, Ms. Mikulski, Mr. Mineta, Mr. Moffett, Mr. Oberstar, Mr. Ottinger, Mr. Patterson, Mr. Pepper, Mr. Perkins, Mr. Peyser, Mr. Richmond, Mr. Rodino, and Mr. Roybal,

Also, Mr. Scheuer, Mrs. Schneider, Mrs. Schroeder, Mr. Shamansky, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Vento, Mr. Walgren, Mr. Washington, Mr. Weiss, Mr. Wirth, Mr. Wyden, and Mr. Yates.●

AN UNWARRANTED PATENT STRETCH

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GORE. Mr. Speaker, the following editorial from the New York Times of August 7, 1982, provides a forceful argument against H.R. 6444, the patent-term extension legislation. I commend it to the attention of my colleagues in the House.

An Unwarranted Patent Stretch

The pharmaceutical industry is about to receive an extraordinary favor from Congress: the right to extend the patent protection of new drugs up to seven years beyond the conventional period of 17. Congress has let itself be persuaded, after a hasty review, that the extension is fair and will foster innovation. But the drug industry's case is dubious.

Its chief premise is that extension will restore the time unfairly lost from patent life by having to prove to the Government that new drugs are safe and effective. But the testing of drugs in animal and clinical trials is something that any responsible company would wish to do anyway.

Besides, the complaints gloss over the common practice of "evergreening"—filing a patent application early, so as to beat any rival, but then filing new applications that modify or extend the original to postpone the time at which patent life actually starts.

For example, the original patent for the tranquilizer Valium was first filed in 1959 and gained the Food and Drug administration's market approval in 1963. But because of a series of renewed applications, as well as a rival claim, the patent was not issued until 1968. When it expires in 1985, the drug will have enjoyed 22 years of protection.

The eight best-selling drugs in the United States in 1980 enjoyed an exceedingly healthy average patent life of 15.1 years, according to statistics kept at the Office of Technology Assessment. Even when a brand-name drug comes off patent, companies can still protect its market share by advertising; one study of off-patent drugs showed that half retained a 97 percent market share against companies selling the identical chemical under different names

The industry contends that effective patent life time has been dropping, from 14 years for pre-1965 patents to 10 years or less for those now being issued. But the law did not intend to guarantee every inventor a clear 17 years of market monopoly. Many inventions, not just drugs, enjoy less patent protection because of obstacles on the path to market. The drug companies complain that Government delays hold them back. But the bills that have passed both Senate and House committees grant an extension that goes far beyond any delay attributable to Government review.

The companies also contend that reduced patent life has discouraged investment in research and development. But figures from the technology assessment office show that the industry's investment in R & D has increased every year from 1965 to 1978, and has remained a strikingly constant percentage of sales. There is no proof that the windfall profits from a patent extension would in fact be plowed back into research. Even if research were in decline, Congress has many other means, like tax incentives to reverse it.

The pharmaceutical industry is efficient, profitable and healthy. It has no demonstrable need for any special break. The patent system as a whole may need reform, but that is a different issue. Monopoly rights should not be doled out to anyone with a hard-luck story, as Congress seems to believe. The proposed extension is unjustified, unsuited to the stated purpose of increasing research and offensive to the basic principle of a free economy.●

JOB TRAINING PARTNERSHIP ACT

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1982

● Mr. DAUB. Madam Chairman, unemployment—the Nation's most serious domestic problem—is draining our human potential and devastating the lives of millions of Americans. The Job Training Partnership Act which we have passed in the House of Representatives provides a new approach to this national problem. Years of Federal involvement and billions of dollars have not noticeably affected chronic unemployment. This does not mean that we cannot affect it; it simply means that our efforts to date have failed and it is time for a change. The Job Training Partnership Act embodies that change.

On September 30, the CETA manpower and training program will expire. Passage of this new legislation, H.R. 5320, represents a profound effort to eliminate what went wrong with CETA and to maintain the subprograms which succeeded. This legislation is truly a job training measure, not a public works job creation bill for local governments. A program that focuses on short-term placement of people in dead-end jobs is of less value to the individual and society than one that takes somewhat longer, but prepares the individual for jobs with a future.

The principles and values in the Job Training Partnership Act first represent a new trust in the decisions of local and State officeholders, and less

Federal involvement. Although we could have gone even further in this regard; this increased recognition in the abilities of local officials to define their own local problems and local needs is itself a long-needed improvement. In the past, local governmental units have been responsible for developing employment programs for their labor market areas without a great deal of coordination at the State level. Very little was done to develop linkages between local prime sponsors within the State; to develop a comprehensive plan to match available workers with available jobs in other parts of the State, and to retain skilled workers who have been displaced because of changing conditions in the economy.

Second, they represent a new trust in the contributions which local businessmen and women can make in this effort. Eighty-five percent of available jobs are in the private sector, and private employers already are spending $40 to $100 billion annually on training activities. The House of Representatives has used this opportunity to enlarge the role played by private enterprise and enlist the experienced executives who expend these dollars from the very start. The improvement of skills and abilities of our labor force is an enormous task—a task in which many sectors of our economy must play an active role. The primary role, by necessity, belongs to private enterprise and Congress must insure that Government policies do not inhibit private investment training. Since the intended outcome of training is in fact an unsubsidized job in the private sector, it is time that we involve these employers in decisions which will be meaningful to them and to our national economy years from now.

Third, they represent a recognition of the fact that our Nation's educational system can also be an effective partner in the effort to help our young people become employable. In June 1982, youth unemployment was at 19.2 percent, with black unemployment at 52.6 percent. To allow these statistics to go unnoticed would be to continue to relegate an entire generation to low productivity and dependency on the Federal system. We can make these young people productive, as I am convinced they want to be, only if we invest in them. Educational assistance is one way and job training is another. A country which invests in its human capital will yield tremendous rewards in terms of increased economic benefits. And, rather than create new, separate institutions for training, existing educational institutions can play an important role. From a local perspective, I have been well aware of a local community college, Metropolitan Community Technical College, which is actively seeking the challenge to fill this need. Vocational education leaders in Nebraska have been to my offices telling me that they are willing and wanting to contribute in this partnership. The Job Training Partnership Act involves the education community, and I look forward to their input.

Fourth, it represents less tolerance for those who are feeding at the Federal trough, and more compassion for those who truly want to be trained for future, nonsubsidized, private employment.

Fifth, it represents a Federal program which finally is results oriented, rather than procedure oriented. Accountability is built right into the legislation. Performance standards will be set up. A program's effectiveness will be measured by the increase in earnings, the reductions in cash welfare payments or the placement of participants in private employment.

And sixth, it represents the knowledge that huge administrative overheads will no longer be tolerated by this Congress. We have restricted the percentage of Federal funds which can be utilized for this purpose to assure that the moneys get funneled for the purpose for which the program is intended—job training of disadvantaged and displaced workers.

The Job Training Partnership Act represents a new kind of Federal program; one that gives Americans a handup, rather than a handout. It represents the faith we should have in local officials and local business leaders in solving local problems, and it holds them accountable to do what they say they will do. Although further steps at improvement could still be taken, I am confident that this marks the beginning of a better, more humane approach to the serious problem of unemployment in America.●

PROVIDING VISION FOR GOVERNMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BROWN of California. Mr. Speaker, the need for governments to anticipate crises is universally accepted. In traditional national security planning, that is, military planning, we spend hundreds of billions of dollars for future contingencies that we hope will never happen. But for intelligence gathering or prevention of the causes of war we spend a pittance.

There are ways to improve our vision and provide the tools for seeing future problems. U.S. policymakers need these tools if they are to make intelligent judgments about the future. Unfortunately, the Reagan administration seems determined to reverse the process begun in previous administrations to improve U.S. capabilities to understand and act on global resource problems.

I am pleased that some Members of Congress are acting in spite of the attitude of the administration. Our colleague from Massachusetts, Mr. MAVROULES, has introduced a House concurrent resolution which would address some of these issues, including the need for foresight in the management of national resources. Similar legislation has been introduced in the other body.

As the following essay by Dr. Russell Peterson, one of the leading advocates of a Global 2000 perspective, describes, we can hardly act too soon.

The article follows:

[From the Christian Science Monitor, July 29, 1982]

SEEING TOMORROW'S WORLD TODAY

(By Russell W. Peterson)

In this day and age, it is inexcusable that the US federal government does not have an organized and coordinated "foresight capability" to aid policymakers in understanding the global population, resource, and environmental trends that shape the world in which we exist.

The United States and its leaders are beset by crises which cannot be understood, much less resolved, without an appreciation of their causes beyond our borders and their consequences beyond the next decade or even the next election. Yet, if anything, since the "Global 2000 Report to the President" two years ago first documented the federal government's lack of foresight capability, the situation has deteriorated.

In its simplest terms, foresight capability is a matter of sound data, coordinated projections of global trends, analysis of their interactions, and informed policymaking. Based on the work of the 13 federal agencies and departments which went into the preparation of "Global 2000," the Council on Environmental Quality (CEQ) and the State Department concluded that "the executive agencies of the US government are not now capable to presenting the President with internally consistent projections of world trends . . . for the next two decades."

Just what does this mean for US policymaking? Misinformation and misperception.

For example, the health of the economy, at home and abroad, is currently the most politically pressing problem in the U.S. Yet at a time when our economic interdependence with other countries is greater than ever (the third world alone accounts for more than 25 percent of our overseas investment, more than 35 percent of our exports, and more than 45 percent of our imports), "Global 2000" found that the government's measure of worldwide economic health—GNP—is based on questionable assumptions. Among other things, federally used projections assumed major expansion in agricultural production as a result of stepped up fertiliser use. But they didn't consider possible changes in climate or explicit environmental impacts. They did assume unlimited water availability at constant real prices and no deterioration of the land resulting from urbanisation.

I believe the government's lack of foresight capability exists at three levels—data analysis, projections coordination, and political commitment. And I am convinced that at every level we are witnessing serious setbacks. The quality of government data, particularly the already limited global data, is being undercut dramatically by budget reductions in federal resource agencies.

Efforts to ensure consistency of assumptions and data, which go into projections for different sectors, are almost impossible without clear coordination. The only existing mechanism for coordination, the Office of Management and Budget's Statistical Policy Branch, has been eliminated. Political commitment to calling attention to issues that look across jurisdictions and beyond elections is vital. But despite its theoretical potential, the administration's "Interagency Global Issues Working Group" chaired by CEQ has thus far failed to respond substantively to even the problems of technical coordination so basic to providing useful foresight capability. I know of no instance in which the President personally has used his office to call attention to this problem.

Such setbacks are totally out of sync with growing public interest, both at home and abroad. Since the publication of "Global 2000," countries such as Japan, Canada and Mexico have begun their own Global 2000 inquiries. In the U.S., 56 separate organizations, including the National Audubon Society, the League of Women Voters, the Overseas Development Council, and the Planned Parenthood Federation of America, have joined together in the new Global Tomorrow Coalition to call attention precisely to the need for understanding global interdependence. Their initial action supported unanimously has been to call out for the creation in the Executive Office of the President of "an improved capacity to coordinate and analyze data collected by federal agencies and other pertinent sources on the long-term interactions of trends in population, resources, and environment—and their relationship to social and economic development."

Clearly, this is not a question of government "planning for the world." It is the question of whether the right hand of the government knows what the left is doing. That requires central coordination and communication, backed up by commitments to improve agency resources and educate officials on a regular basis. Congress has begun to explore the issue of foresight capability—reports on government computer projections are being prepared; House hearings have examined the problem conceptually; and three bills touch upon it legislatively.

In the Senate, S. 1771 includes among its requirements an interagency Council on Global Resources, Environment, and Population, to be chaired by CEQ and funded by the member departments. It would coordinate agencies' biennial production of long-term projections of global population, resource, and environment trends; encourage their analysis, particularly in light of current policy; and report regularly to Congress on these efforts. The fact that this bill is authored by Sen. Mark Hatfield and cosponsored by such senators as Charles Mathias, Slade Gorton, Alan Cranston, and Bill Bradley is proof of serious congressional concern about foresight capability.

The time for action is now. S. 1771 is pending before the Governmental Affairs Committee, chaired by Sen. William Roth whose experience with the problems and relations of federal, state and local governments should be helpful in focusing on the problems that permeate and plague the global community. The Governmental Affairs Committee should undertake during the summer the kind of critical debate this issue and this bill warrant.

Its goal should be Senate enactment of legislation on foresight capability in 1982, signaling to both the administration and the nation that we cannot afford even in an election year to lose sight of global population, resource, and environment trends and their impacts on social and economic factors.

(Russell W. Peterson, chairman of the President's Council on Environmental Quality during the Nixon and Ford administrations, is president of the National Audubon Society and chairs the board of directors of the Global Tomorrow Coalition.)●

THE 200TH ANNIVERSARY OF THE ORDER OF PURPLE HEART

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GILMAN. Mr. Speaker, last Saturday, August 7, 1982, was a glorious day in the Mid Hudson Valley of New York, and for our Nation.

Two hundred years prior to that day, General George Washington, Commander-in-Chief of the Revolutionary forces, created and presented the first "Badge of Merit" for valorous service to the American cause.

This badge, a heart-shaped purple insignia, later became one of the most famous and most honored military decoration in the U.S. military * * * the order of the Purple Heart.

The "Purple Heart" was founded by General Washington while he was headquartered in Newburgh, N.Y., overlooking the majestic Hudson River, with its breathtaking view of that river winding its way through the Highland Mountains.

Last weekend, the National officers and members of the Military Order of the Purple Heart held ceremonies at Washington's Headquarters in Newburgh marking this Bicentennial occasion. It was further commemorated by the issuance of an embossed envelope by the Postal Service honoring the Purple Heart and the brave defenders of our freedom who have received this badge of merit.

At the Washington Headquarters ceremonies, I had the honor of introducing as keynote speaker our former colleague, the Secretary of the Army John O. Marsh, Jr., whose remarks were so impressive that I would like to take this opportunity to share his words of inspiration with my colleagues. Accordingly, Mr. Speaker, I ask that Secretary Marsh's speech be inserted at this point in the Record:

Remarks by the Honorable John O. Marsh, Jr., Secretary of the Army.

Two centuries ago this day, our War for Independence was in its twilight days.

Past was Valley Forge and Saratoga, behind was Cowpens, Trenton and Ticonderoga; over was Bunker Hill, Brandywine, and Kings Mountain.

Even Yorktown was a memory.

The American Army that encamped here—the Continental line—was the finest light infantry in the world.

In Washington's Army had marched men who stood their ground at Lexington Green and stunned the British army at Bunker Hill.

In seven years of war this Army had become a mosaic of colonial America. The battlefield and the campaign trail forged a sense of nationhood as regiments for former colonies served together and suffered together in a common cause.

Among its soldier-patriots were Rangers who had marched to Boston with Dan Morgan of Virginia—clad in buckskin, their long rifles and aimed fire made the difference at Saratoga.

The great marbleheaders, watermen from New England, who not only rowed Washington across the Delaware to attack Trenton, but with their seafaring skills had saved his Army at Manhattan.

Some had marched in sleet and snow to Valley Forge in '77, and through sheer will survived the terrible winter. A historian wrote:

"Nothing much happened in the lines at Valley Forge. Men simply set their teeth and stayed alive and thus kept alive the Army which was the active expression of their cause, quite unaware of the deep glory of what they did there."

One of those who suffered by the campfires at Valley Forge was a young officer named John Marshall who would one day become the Chief Justice of the Republic he fought to establish.

Another Valley Forge officer was a 20-year old Major from Virginia who had crossed the Delaware with Washington—was severely wounded at Trenton leading a reconnaissance unit. History knows him better as James Monroe, the Fifth President of the United States.

These were tough, lean, combat-trained veterans who had marched from Canada to Georgia and crossed the Hudson, the Delaware, the Susquehanna, Potomac, the James, the Rappahannock and the Dan. Many had felt the pain of shrapnel—some had wept bitterly as they searched a battlefield in late evening for the body of a brother or a close friend. They had known the despair of being out-numbered, out-equipped, out-clothed, barely fed and rarely paid.

Yet in the ranks of these Regiments were men who in silent formation stood on Yorktown's Surrender Field and watched Cornwallis' soldiers lay down their arms.

They were the victors.

In the hour glass of history, over seven years of war had run. The sands of time:

Had seen the lanterns hung from the steeple of Old North Church.

Saw fired the shot heard round the world—whose sound echoes into the 20th century.

Saw drafted and signed a Declaration of Independence.

Saw created an Army, a Navy and Marine Corps.

Saw forged an alliance with France.

Saw come together a fledgling Nation under the Articles of Confederation.

Here on the banks of the Hudson, in the Highlands of New York, near the Tappan Zee, close to the Palisades and the legends of Sleepy Hollow, it is hard to imagine that 200 years ago this was the bitter ground—torn between patriot and loyalist, where old and new allegiances divided families and destroyed friendships.

For an infant nation that nearly died aborning, these grains in the hour glass of time were not sand—they were gold.

Moments of our national greatness were expressed in documents and in deeds—in the political courage of statesmen, and the sacrifices of those who bore arms for their country.

Shakespeare wrote that "all the world's a stage . . . " Across the stage of the American Revolution marched a host of Americans who changed forever the human experience.

Near the western reaches of the American frontier—hardly a backwater to the parlor society of Western Europe—Newburgh, 200 years ago was at the center of this drama.

Here had come into confluence both duty and tribute. A duty to recognize the deeds of the enlisted solider to achieve the declaration's promises of Life, Liberty, and the Pursuit of Happiness, and a tribute to his valor.

The Revolution had its Valhalla of heroes and warriors—Washington, Green, Wayne, Dan Morgan, Ethan Allen, Knox, Nathan Hale and Marion, the Swamp Fox—but, in this, as in all wars, they are won by the combat soldier who bears the brunt of battle. Unsung, they were then, and still are, the anonymous heroes of freedom.

This Bicentennial Ceremony marks a tradition that began with American arms to give a place of honor to those who marched in the ranks and served with uncommon valor.

It is fitting that in an Army of a free people purple should be the color of this decoration. It is the symbol of royalty. It denoted that among the brave and courageous there is an equality that bears no relationship to rank or station.

The event we commemorate today confirms the debt we owe to really just a few people. So it has often been in times of great national trial. Washington's army in Newburgh was barely more than 12,000 soldiers. Our infant Navy and Marine Corps were only a hand full when compared to their counterparts in the great powers of the world.

Three soldiers of the Continental Line were to win this decoration. All had served for more than seven years. All were sergeants—all were from Connecticut. We should call their names this day.

Sergeant Elijah Churchill, of the 8th Connecticut and 2d Continental Light Dragoons, cited for gallantry in action at Fort St. George, Coran and Tarrytown, New York.

Sergeant William Brown, 5th and 8th Connecticut Regiments for gallantry in the night bayonet assault on Redoubt 10, Yorktown, Virginia, October 14th, 1781.

Sergeant Daniel Bissel, Jr., of the 8th, 5th and 2d Connecticut Regiments, for his successful and courageous action in a clandestine intelligence operation behind enemy lines in New York City, upon the request of the Commander-in-Chief.

A half century ago, as a part of the commemoration of the 200th anniversary of Washington's birth, this Revolutionary award was designated the Purple Heart. It has since been presented to those in the Armed Forces of our country who have received wounds in battle.

In honoring these three sergeants of Connecticut, we pay tribute to the tens of thousands of our fellow countrymen who have suffered and sacrificed for this great Nation. Referring to the Battle of Agincourt, Shakespeare wrote:

"We few, we happy few, we band of brothers;
For he today that sheds his blood with me
Shall be my brother."

Those who wear the Purple Heart belong to an American Brotherhood.

Let us remember that freedom is never free. It is one thing to declare independence, it is another to achieve it.

The last line of the Declaration is a pledge that was kept through the efforts of a comparatively few people in order that promises of Life, Liberty, and the Pursuit of Happiness would have meaning. That line reads:

"And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

This pledge was kept by a small and gallant Army whose sacrifices gave us freedom and independence.

Your Army will keep it today.

If we all so dedicate ourselves, we shall ensure that 100 years hence our countrymen will again assemble at Newburgh to honor those who bear the wounds of battle for their service to America.●

CANADA IS THE ECONOMIC BENEFICIARY OF ACID RAIN

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RAHALL. Mr. Speaker, recently, information has come to my attention which casts a shadow over much of the Canadian Government's efforts to see that an acid rain control program is initiated in this country. Ever since the Congress began work on the reauthorization of the Clean Air Act, my office has been bombarded with reports, studies, and letters from Canadian Government officials outlining environmental horrors of acid rain and calling for mitigating actions.

However, these entreaties are suspect, and I am beginning to believe they are founded in economic rather than environmental concerns.

A number of electric utilities in New England are continuing with efforts to reduce oil consumption in keeping with the national goal of increasing energy independence from foreign suppliers. Many of the utilities are considering converting oil boilers to coal produced in Pennsylvania, West Virginia, and Kentucky. Indeed, Consolidated Edison of New York is in the process of trying to convert its Arthur Kill 2 and 3 and Ravenswood 3 units to coal. United Illuminating Co. is on schedule in the conversion of its Bridgeport Harbor 3 unit to coal, Central Maine Power Co. is considering plans to convert three small units to coal, and Boston Edison is contemplating a number of coal conversions to name a few.

Yet some of these same utilities, under the threat of new and costly controls aimed at reducing acid rain, are now studying the feasibility of purchasing power from Canada. A number of coal conversion plans have been dropped and a few of these utilities may be forced to buy Canadian power.

The chief economic beneficiary of an acid rain control program would be Hydro-Quebec's James Bay Hydro Complex now under construction in Canada. It is my understanding that this project of approximately 5,000 megawatts would have excess capacity and the firm is aggressively marketing this capacity in the Northeastern region of the United States.

Boston Edison, for one, may consider the purchase of Canadian hydro power as a means to reduce oil consumption. The United Illuminating Co. is also expressing an interest in Canadian power. And, it is my understanding that the Maine Public Utility Commission is giving favorable response to a New England Power Pool purchase agreement for 690 mw of Canadian power from Hydro Quebec. Central Main Power Co. would receive a portion of this imported power.

Mr. Speaker, while these activities are taking place there is evidence that at least one major source of pollution in Canada, Ontario Hydro, is backing away from plans to install acid rain controls. According to a report sent to my office by the chairman of the Subcommittee on Acid Rain in the Canadian House of Commons in September 1981, entitled "Still Waters: The Chilling Reality of Acid Rain," emissions from Ontario Hydro can produce acid rain in parts of the United States. The subcommittee in its report applauded "the decision by the corporation to effect an emission reduction of more than 40 percent by 1990. We believe, however, that even greater reductions in emissions are feasible and affordable." Nonetheless, according to a statement made in the Canadian House of Commons by a Member from Hillsborough on July 22, 1982: "Earlier this week Ontario Hydro announced that is is going to shelve plans to install acid rain controls on its plants in Ontario."

This information in my mind undermines the concerns of the Canadians over the impacts of acid rain for environmental reasons. There is more to the acid rain story, Mr. Speaker, than the Canadians are telling us.●

INHERITANCE TAX RELIEF FOR CONSERVATION FARMERS

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EVANS of Iowa. Mr. Speaker, in order to provide an inducement, in addition to those that presently exist, and to install and maintain conservation practices which will protect the soil from the ravages of soil erosion, I am introducing legislation which would exclude from Federal estate tax 50 percent of the value of farmland on which there was no significant degradation of agricultural productivity in each of the 5 years prior to the death of the owner.

The problem our Nation faces with respect to the deterioration of our land resources in more than a passing one. It has tremendous long-term implications for our ability both to meet the food needs of people around the world and to contribute to a favorable balance of trade for the United States. Currently, soil erosion exceeds tolerable levels, that is, levels that would result in sustained productivity over the long term, on nearly 120 million acres, or more than 25 percent of our cropland. This situation exists in spite of excellent achievements in soil and water conservation over the past 50 years by our Department of Agriculture.

We have been slow to realize that all of our people share the responsibility for stewardship of our soil. Future generations are the major benefactors of our erosion control work. But there is not time to wait for future generations to solve the problem. If we fail to control erosion, future generations will pay dearly for that failure. We have expected the farmer to shoulder more than his share of the cost of soil and water conservation. Today his profits and ability to pay for soil conservation work are squeezed by increasing production costs and decreasing prices of his products. Society must help.

Existing Federal estate taxes have been a hardship on many farm families. Numerous cases have come to our attention where farms which have been owned by a family for several generations were divided and a portion sold in order to pay these taxes. This legislation would relieve a part of this burden for farmers who do a good job of protecting their soil for future generations. Mr. Speaker, these farm families are the backbone of our Nation's productivity and I urge my colleagues in this body to join ranks in providing them the support they need to carry out effective soil conservation work on their farms.●

THE RIGHT TO EMIGRATE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. FRANK. Mr. Speaker, Tzalo and Khaya Lipchin have been waiting almost 4 years to be reunited with their son Leonid, who lives in Brookline, Mass. His parents live 9,000 miles away in Leningrad, and they have been denied exit visas since they first applied to leave almost 4 years ago. Now 35 years old, Leonid was allowed to leave the Soviet Union in 1978 after his 16-day hunger strike embarrassed Soviet authorities into granting him an exit visa. Unfortunately, the Soviets have denied that same right to his parents.

Since March 1981, I have been in contact with Dr. Sergey Chetverikov, Counselor of the Soviet Embassy, urging that his government grant exit visas to the Lipchins so that their family may be reunited. Several times I have requested the assistance of the Counselor in facilitating the Lipchins departure. Unfortunately the Soviet Government has been unwilling to grant the Lipchins exit visas, which would be in compliance with international accords which the U.S.S.R. has signed.

I am deeply concerned with the current emigration situation of Soviet Jews and the role of the American Government in helping to alleviate this problem. The rate of emigration has dropped sharply and reports of harrassment of refuseniks has increased. Clearly, the Soviet Government is trying to break the will of Soviet Jews, who have purusued their goal of emigrating from the Soviet Union to practice their religion in freedom.

Over the past decade, the United States played an integral role in opening the doors of the Soviet Union for thousands of Jews seeking to emigrate. As discussions on various issues of mutual concern continue, it is essential that we reaffirm to the Soviets the American commitment to human rights and that adherence to the Helsinki accords is vital to an improvement in the relations between our nations.

Mr. Speaker, it is known that an active concern on the part of the U.S. Government is important in assisting individuals like Leonid Lipchin who is seeking to be reunited with his retired father and ailing mother. We must express our concern for the welfare of individuals wishing to emigrate, and support the basic human right of Soviet Jews to emigrate. I commend Leonid Lipchin for his efforts to reunite his family, and I hope my colleagues will continue to press the Soviet Union to honor the international agreements it has signed which guarantees the right to emigrate.●

PARRIS JOINS WITH PRINCE WILLIAM RESIDENTS IN EXTENDING ROYAL INVITATION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PARRIS. Mr. Speaker, I would today like to commend the Board of County Supervisors, the governing body of Prince William County, Va., on their congratulatory and thoughtful recognition of the birth of Prince Willam, the Prince of Wales.

I deeply share the kind words of their letter to Prince Charles and Princess Diana. In it, they write:

> The Board of County Supervisors is thrilled that you have chosen to name your son Prince William, and we hope that as he grows to manhood, he will always feel a close friendship to the United States, the Commonwealth of Virginia, and particularly, Prince William County.

These remarks are very significant, for it is believed that Prince William County, Va., is the only county in the United States bearing that name. This distinction is also shared by at least 50 area organizations and business firms. In addition, many of the 146,000 inhabitants of Prince William County are of English descent.

I am particularly proud of Prince William County, the only county in Virginia that stretches from the mountains in the West to the Coastal Plain in the East. Discovered by Capt. John Smith in 1608, it is rich in cultural heritage and is the site of many historical landmarks. Its residents benefit from a national forest and park, a chamber of commerce, a tourism council, and symphony orchestra which is celebrating its 10th anniversary this season. Presently underway is the Prince William summer festival, and the Prince William County fair which is scheduled to open August 14.

Mr. Speaker, because this is a great occasion for the residents of Prince William County and the Nation, I join with the Board of County Supervisors in extending a standing invitation to the royal couple and their new son, to visit Prince William County whenever their travels bring them to the United States. I believe such a visit would be a prodigious and joyful event that could be shared by all.

For my colleagues use and information, I would like to insert at this time into the Congressional Record the contents of the letter from the Board for Prince William County of Virginia.

The letter follows:

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COMMONWEALTH OF VIRGINIA,
COUNTY OF PRINCE WILLIAM,
Manassas, Va., July 14, 1982.
His Royal Highness Prince and Princess of Wales,
Buckingham Palace, London SWI England

DEAR PRINCE AND PRINCESS OF WALES: On behalf of the citizens of Prince William County, Virginia, United States of America, congratulations on the birth of your son, Prince William. The Governing Body of Prince William County, the Board of County Supervisors, is thrilled that you have chosen to name your son Prince William. We hope that as he grows to manhood, that he will always feel a close friendship to the United States, the Commonwealth of Virginia and particularly, Prince William County.

Prince William County is located in the Washington Metropolitan area, approximately 30 miles southwest of our Nation's Capital, The County has 345 square miles and is inhabited by 146,000 people, many of whom are of English descent. The County seat is Manassas.

Captain John Smith discovered Prince William County in 1608, although, there is some evidence that the Spanish were in this area as early as 1565. There were various divisions of land into counties between 1653 and 1759 affecting Prince William County and the latter year, Prince William became an independent county with boundaries that exist today. Prince William County is the only county in Virginia that stretches from the mountains in the west to the coastal plain in the east.

The citizens of Prince William County are quite excited that you have chosen the name Prince William for your son. On behalf of the Board of County Supervisors and the citizens of Prince William County, we wish for your son good health, a long, productive and happy life filled with every success. When your travels bring you to the United States of America we hope that you and your son will visit Prince William County.

Yours Sincerely,
KATHLEEN K. SEEFELDT,
Chairman,
Board of Supervisors.

RESOLUTION

Whereas, the Royal Highness, the Duke and Duchess of Wales, have given birth to a son and named him Prince William; and

Whereas, the citizens of Prince William County, Virginia, United States of America and its governing body, the Board of County Supervisors, are thrilled with the birth of the Prince and with the selection of William as his name; and

Whereas, it is the desire of the governing body of Prince William County, Virginia, United States of America, to note the birth of Prince William and to congratulate his parents, Prince Charles and Princess Diana; and

Whereas, it is the desire of the Board of County Supervisors to extend a standing invitation to the Duke and Duchess of Wales and their son, Prince William, to visit Prince William County whenever their travels bring them to the United States; and

Whereas, it is the hope of Prince William County, Virginia that Prince William will always feel a close kinship with the County and visit it whenever he can; and

Whereas, the Board of Supervisors sends its fond greetings to his parents, Prince William and the people of England and commend them all on the birth of Prince William;

Now therefore, be it resolved by the Board of County Supervisors of Prince William County, Virginia, United States of America that this resolution be read among the official minutes of the meeting on July 6, 1982 and that the Chairman of the Board is hereby authorized and directed to communicate with the Royal Highness, the Duke and Duchess of Wales, commending them on the birth of their son Prince William.●

NOT GUILTY BY REASON OF INSANITY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HUBBARD. Mr. Speaker, just after the jury's verdict of "not guilty by reason of insanity" in the John Hinckley trial, I received an excellent letter from one of my constituents, Randall W. Shaffer of Paducah, Ky. Mr. Shaffer's letter is indicative of the cries of outrage that were heard throughout the entire country with regard to this defense plea. As the Congress works with changes in the laws dealing with the insanity defense, I would like to share Mr. Shaffer's comments with my colleagues. The letter follows:

PADUCAH, KY., *June 22, 1982.*
Hon. CARROL HUBBARD,
Rayburn Office Building,
Washington D.C.

DEAR CARROLL: I've just heard the jury's verdict of "not guilty by reason of insanity" given John Hinckley for the terrible crimes he has committed.

I was shocked, stunned and then upset. The very idea of the possibility of him being turned loose on innocent victims again frightens me. What have we come to in this country? How can we call this the "land of the free" when soon we will all be prisoners in our own homes, afraid to get out for fear of being killed by a so-called insane person?

I wonder if Jim Brady would rather be shot by a sane person instead. Sane or insane, what's the difference? They kill just as deadly and should be locked up.

Please, I realize this is written in haste, but maybe it's time we acted with haste to protect ourselves from all the rationalities that so-called "puritans" and "save those who can't help themselves, do-gooders" promote.

Please use your influence to do whatever is necessary to deal with these matters. If what I'm suggesting is unconstitutional, call for an amendment; if a law needs to be written or changed, do it; whatever, get this thing turned around.

I'm sorry, but I had to yell at someone. But, you or I may be a Jim Brady or one of the others some day.

Most sincerely,
RANDALL W. SHAFFER.●

BUDGET REDUCTION

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHUMWAY. Mr. Speaker, during the past weekend in California I met with constituents to discuss pending legislation. Particular concern was focused on my views of the tax bill which will raise $100 billion in taxes over the next 3 years. I explained to my constituents that, in my opinion, the recession will not be solved through tax increases, and that I would not vote for the tax bill without some assurance that Congress can uphold the budget reductions approved earlier this summer.

Unfortunately, I am not confident of the ability of the House to do so, or even to abide by the budget process. This lack of resolve was strikingly illustrated last week by the passage of H.R. 6862, the reconciliation bill of the Post Office and Civil Service Committee.

The first concurrent fiscal year 1983 budget resolution instructed this committee to achieve savings of $376 million in fiscal year 1983. These savings were to be achieved through the imposition of a 4 percent COLA cap on Federal annuities, and through other administrative changes in the civil service retirement system. Instead of being submitted to the Budget Committee to be combined with the other committees' reconciliation bills, H.R. 6862 was granted a rule so that the bill could be voted on separately.

The bill the committee reported achieved only $32 million of the mandated $376 million in savings for fiscal year 1983—a shortfall of $244 million. It did not cap COLA's, and provided for outlay reductions of only $113 million for fiscal year 1983-85, or only 3.5 percent of the $3.2 billion savings that the committee was instructed to achieve. This was the first major test of the budget process, yet partisan political considerations were clearly more important to the committee than the integrity of this process.

Unfortunately, the bill passed by a vote of 268-128. A motion to return the bill to committee with instructions to achieve the mandated savings failed by a vote of 160-236. How can we convince the financial markets of our sincerity in reducing Federal spending when at the first major test of the budget process, our resolve crumbles? How can we justify a tax increase when we cannot even hold to the spending levels we approved 2 months ago?

Good arguments were made both for and against capping COLA's for Federal retirees, and my votes for the motion to recommit and against H.R.

6862 were difficult for me personally. But COLA's were not the issue in this case. The issue is the budget process and congressional commitment to it. These are not normal economic times. Unless we have the courage to stand by the budget process—imperfect as it may be—we are never going to reduce spending. I continue to feel that the financial recovery of this country is our first priority, and that healthy economy cannot but improve the lot of all Americans, particularly retirees living on fixed incomes for whom inflation is the cruelest punishment.

Of course the final determination will rest with the Appropriations Committee. Yet the passage of H.R. 6862 signals that Congress will make only superficial efforts to control spending, and will not have the courage to uphold them when difficult political choices arise. If the budgetary capitulations embodied by the passage of H.R. 6862 continue, I predict a rough road for the tax bill.●

A CONGRESSIONAL WELCOME FOR CYCLISTS TO END WORLD HUNGER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GILMAN. Mr. Speaker, today, I was pleased to join a number of my colleagues on the Capitol steps in welcoming to Washington, teams of Cyclists to End World Hunger. These marathon participants, who departed from Atlanta, Ft. Lauderdale, and Denver, arrived in Washington yesterday and will soon begin the final leg of their journey to the United Nations in New York. The cyclists crossed 15 States, met with State and local officials, and brought their message about the need to intensify our commitment to alleviating hunger to millions of citizens.

The riders, in addition to raising a considerable sum of money to directly assist those suffering from hunger, compiled over 10,000 signatures from individuals alining themselves with efforts to end hunger. Those names, together with the more than 3,000 signatures collected during a bike marathon last year, were placed in the "Presidential Book," a document, presented today to my colleagues and I, which contains the names of more than 2.2 million individuals firmly committed to working to resolve the critical problem of hunger and malnutrition.

Mr. Speaker, the Presidential Commission on World Hunger, of which I was a member, recognized that raising public awareness about hunger and generating the political will to resolve that problem, is the primary prerequisite if our Nation is to develop new comprehensive antihunger policies. I commend these dedicated cyclists, and the many individuals and private organizations who helped to make the bike marathon possible, for their important contribution to raising the consciousness of the public and policymakers about the urgent need to resolve the world hunger problem.●

PAY AS YOU GO BALANCED BUDGET ACT OF 1982

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MILLER of California. Mr. Speaker, I am today introducing the Pay as You Go Balanced Budget Act of 1982. The legislation is a statutory form of the "Pay As You Go" process which I offered to the House in May during consideration of the first budget resolution for 1983. It is my hope and my intention that the House will consider this legislation as a rational and preferable alternative to the proposed balanced budget amendment to the Constitution, and at the appropriate time, I will offer this legislation as a substitute.

Mr. Speaker, the proposed cynical and ineffective amendment would simultaneously abuse the amendatory process and attempt to deceive the people of the United States who vigorously—and understandably—want Congress to take action to reduce the deficit and balance the budget.

The constitutional amendment will not achieve those goals, as some of its chief proponents have openly confessed:

"Frankly, it doesn't do a thing."—Majority Leader Senator Howard Baker.

"I don't think it would have any practical effect."—Finance Chairman Senator Robert Dole.

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States . . . This is a matter that should not really be in the fundamental law of this land."—Senator John G. Tower.

Yet Congress need not fail to enact legislation which will realistically and surely move us toward a balanced budget immediately, instead of declaring our constitutional intention to reach that goal at some indeterminate time in the future.

The pay-as-you-go budget procedure is a proven means for radically reducing the deficit in 1983 and 1984, and balancing the budget by 1985, according to the Congressional Budget Office. The pay-as-you-go budget plan would, in fact, achieve a balanced budget before the proposed amendment would even be ratified. Pay as you go is the means of balancing the budget in the mid-1980's; the constitutional con, as the Washington Post has termed the proposed amendment, is a vague promise to try by the mid-1990's.

Pay as you go was considered by the House during the budget debate in May. It received 181 votes, including 80 percent of the Democrats voting, and the highest proportion of votes of any budget plan presented that week.

Yet pay as you go is not a Democratic, nor a Republican, plan. Nor is it conservative or liberal.

Pay as you go requires that whenever Congress decides to increase spending above the 1982 baseline amount for any program, we simultaneously agree to raise an equivalent amount in revenues or cut back spending elsewhere.

If we follow this straightforward process, as 39 States currently do, the CBO projects a $27.5 billion surplus by 1985.

By contrast, the current budget resolution, supported strongly by those who now call upon us to pass the constitutional amendment, would raise $225 billion in new taxes, add perhaps $600 billion to the national debt, and still come nowhere close to balancing the budget.

In addition, implementation of pay as you go would save about $100 billion on interest payments on the debt over the next 3 years as a result of deficit reductions. This is the kind of budget program that will persuade the business and investment communities that we in Congress are serious about achieving a balanced budget. Simply passing an amendment declaring our commitment to a balanced budget will fool no one in the financial community.

It is obvious that merely mandating a balanced budget is not enough. If Congress cannot find the courage to enact a budget balancing process like pay as you go, how could we ever find the backbone to construct a balanced budget itself?

I urge you to consider the Pay as You Go Balanced Budget Act of 1982 and support its enactment in lieu of any ill-advised and ineffectual tampering with our Constitution. I believe it provides what the American people, and the majority of the Congress, truly want: Not a balanced budget amendment, but a balanced budget.

John Chancellor, the distinguished NBC News commentator, recently compared the attractiveness of the "pay-as-you-go" balanced budget process to the ineffectual constitutional amendment. I would like to place Mr. Chancellor's commentary in the Record at this point:

JOHN CHANCELLOR, NBC NEWS

A lot of people including the President are beating the drum this week for a constitutional amendment that some day, maybe, would sort of require a balanced budget.

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There's a better way: a plan floating around the Congress that would balance the budget in three years. Guaranteed.

It's the "Pay As You Go" budget proposal, offered to the House of Representatives by George Miller, Democrat of California, and ingenious and practical plan.

Here's how it would work: first, it would freeze government spending at its present level. So if the Congress wanted to spend more on defense, it would have to spend less on something else, such as spending on social programs. Or if the Congress wanted to spend more on defense and social programs, it would have to reduce non-defense spending. All within a frozen total budget. If the Congress wanted to spend more than that, it would be forced to bite the bullet and raise taxes. Fiscally sound, if politically dangerous.

The beauty of this is that it would make Members of Congress directly accountable for the money they spend. Everybody would have to stand up and be counted. And, with spending frozen, the natural growth of the economy would increase tax revenues and balance the budget.

The Congressional Budget Office confirms that the plan would lower the deficit by fiscal 1984, and produce a glorious surplus of 27 billion dollars in 1985. Think of that.

Congressman Miller's "Pay As You Go" budget plan was defeated in the House last May, voted down by most Republicans and a few Democracts. Senator Christopher Dodd is going to ask the Senate to approve it instead of the constitutional amendment to balance the budget.

"Pay As You Go" is a better way than tinkering with the Constitution. Let's see what the Senate does with it.

Unfortunately, Mr. Speaker, the Senate did not take heed of Mr. Chancellor's comments, and as a result passed an amendment which even the Republican leaders of the Senate confess publicly to be a fraud and an abuse of the constitutional amendatory process. Let the House not follow suit in such a cynical and meaningless fashion.

Mr. Speaker, I submit to the RECORD a column by Washington Post syndicated columnist Mark Shields on the pay-as-you-go budget process. Mr. Shields in well known and highly respected for his insightful and barded commentary on political activities in Congress. I would hope that each member of the House would review this column before voting on the balanced budget question.

[From the Washington Post, June 25, 1982]

A BUDGET WITH A BACKBONE

(By Mark Shields)

During the recent congressional budget fight, there occurred a verifiable sighting of something the Democrats have been frantically in search of since being run out of office in 1980: an authentic new idea. It was California Rep. George Miller's "pay-as-you-go" budget plan, which won the support of four-fifths of voting House Democrats, but not House passage.

Upon closer scrutiny, some of those House Democrats might not have been so enthusiastic about the budget plan with the attractive label. Miller, a fourth-term liberal with an independent streak, proposed that Congress freeze all federal spending at the 1982 level and only allow itself to increase any spending program—Medicare or MX—by first coming up with the revenues to pay for that increase. Those new revenues could be obtained either by cutting other existing programs or by increasing taxes. Those are the only two options. No more rigged projections of rosy revenue increases in 1988, thank you. Miller allows for no exemptions from the freeze. Social security, too, would be subject to the pay-as-you-go formula.

Unlike the administration's 1981 tax-cut plan, which promised instant and ouchless prosperity by next Tuesday, the Miller plan offers some political pain, especially for his congressional and party colleagues. No longer would members of Congress—of both parties—be able to finance their favorite untouchable programs through the federal deficit. Congress would be required to make real choices among competing interests and constituencies. Republicans who have simultaneously favored big defense spending boosts and big tax cuts would be exposed, just as quickly as those "no-choice" Democrats who have appeared constitutionally incapable of saying no to any appropriations scheme remotely mentioning "old" or "small." What Miller is suggesting is nothing less than a congressional vertebrae transplant, without benefit of anaesthetic.

According to the Congressional Budget Office, alone of all the budget proposals, the pay-as-you-go plan would have produced a federal budget surplus of $27 billion by 1985. Furthermore, as its sponsor conceded, the plan would "put politics back on the floor of the House. I want to find out what Republicans—and Democrats—are really willing to pay for," says Miller.

To the criticism that pay-as-you-go would not allow for any future economic stimulus through planned public deficits, the California responds. "A $4 billion program may mean something when the debt is $10 billion, but not when our annual deficit is $140 billion."

Mr. Speaker, reducing our Federal deficit, ending our mindless reliance on the debt, and balancing the Federal budget are the major goals of this Congress. If we fail to take serious actions to achieve these popularly supported goals, all of our other efforts to revive the economy are bound to fail.

The American people expect more of this Congress than partisan brick-throwing. They want answers. And to provide those answers demands a new budget process.

The people we represent, Mr. Speaker, do not expect miracles from the Congress. But they do expect the truth. We owe them an honest response to their reasonable demand for a balanced budget, and the pay as you go balanced budget process is a workable, understandable, and effective means of reducing our debt and revitalizing our economy.

The text of the act follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) (1) notwithstanding any other provision of law, and except as provided in paragraph (2), it shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1982, or any amendment thereto or any conference report thereon if—

(A) the adoption of such concurrent resolution as reported;

(B) the adoption of such amendment; or

(C) the adoption of the concurrent resolution in the form recommended in such conference report, would cause—

(i) the appropriate level of total budget outlays set forth in such concurrent resolution for such fiscal year to exceed the appropriate level of total budget outlays set forth for the preceding fiscal year in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year; or

(ii) the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year to be less than the recommended level of Federal revenues for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year.

(2) Notwithstanding paragraph (1), a concurrent resolution on the budget for a fiscal year may—

(A) provide for an amount of budget outlays for such fiscal year in excess of the appropriate level of total budget outlays for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year if the concurrent resolution on the budget for such fiscal year also—

(i) provides for an amount of revenues for such fiscal year in addition to an amoung of revenues equal to the recommended level of Federal revenues for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for such preceding fiscal year, which is not less than such amount of excess budget outlays; and

(ii) identifies the source of such additional amount of revenues and proposed changes in law to achieve such additional amount of revenues; or

(B) provide for a reduction in the recommended level of Federal revenues for such fiscal year below the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year if the concurrent resolution on the budget for such fiscal year also—

(i) provides for a reduction in budget outlays for such fiscal year below the appropriate level of total budget outlays for the fiscal year preceding such fiscal year set forth in the most recently agreed to concurrent resolution on the budget for such preceding fiscal year, in an amount not less than the amount of the reduction in revenues for such fiscal year; and

(ii) indentifies the program or activity in which such reduction in budget outlays is to be made and proposes changes in law to accomplish such reduction in budget outlays.

(3) Any additional amount of revenues contained in a concurrent resolution on the budget pursuant to paragraph 2 (A) (i) shall only include additional revenues which will result from proposed changes in law. Any reduction in budget outlays contained in a concurrent resolution on the budget pursuant to paragraph 2 (B) (i) shall only include reductions in budget outlays which will result from proposed changes in law.

(b) Subsection (a) may be waived by a two-thirds vote of the Members of each House of Congress, duly chosen and sworn.

SEC. 2. (a) Notwithstanding any other provision of law and except as provided in subsection (b), the Budget transmitted pursuant to section 201 (a) of the Budget and Accounting Act, 1921, for the ensuing fiscal year shall not contain—

(1) an estimate of total budget outlays for such ensuring fiscal year which exceeds the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress; or

(2) an estimate of total revenues for such ensuing fiscal year which is less than the recommended level of revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress.

(b) Notwithstanding subsection (a), the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, for the ensuing fiscal year may—

(1) contain an estimate of budget outlays for such ensuing fiscal year in excess of the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress if such Budget also—

(A) contains an estimate of revenues for such ensuing fiscal year in addition to an amount of revenues equal to the recommended level of Federal revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress, which is not less than the amount of such excess budget outlays; and

(B) identifies the source of such additional estimated revenues and proposes changes in law to achieve such additional estimated revenues; or

(2) contain an estimate of a reduction in revenues for such ensuing fiscal year below the recommended level of Federal revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress if such Budget also—

(A) contains an estimate of a reduction in budget outlays for such ensuing fiscal year below the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress, in an amount not less than the amount of the reduction in revenues for such ensuing fiscal year; and

(B) identifies the program or activity for which such estimated reduction in budget outlays is proposed and proposes changes in law to achieve such estimated reduction in budget outlays.

(c) Any additional estimated revenues which, pursuant to subsection (b)(1)(A), are contained in the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, shall only include additional estimated revenues which will result from proposed changes in law. Any estimated reduction in budget outlays, which, pursuant to subsection (b)(2)(A), are contained in any such Budget shall only include estimated reductions in budget outlays which will result from proposed changes in law.

Sec. 3. For purposes of this Act—

(1) the term "budget outlays" has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974; and

(2) the term "concurrent resolution on the budget" has the same meaning as in section 3 (4) of such Act.

Sec. 4. (a) The provisions of the first section and section 3 of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.●

LET'S "OPEN UP THE SKIES" AT UNISPACE '82

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BROWN of California. Mr. Speaker, last month the Pugwash Conference had its 25th anniversary meeting. Pugwash, probably the most respected nongovernment association of scientists, has its origins in the most sensitive scientists our society has known. While scientific ideas in the past have threatened the structure of civilization and reshaped our understanding of religion, Albert Einstein's discoveries posed a new threat, that of destroying the world. Painfully aware of this, Einstein spoke out of his concerns which lead to the founding of the Pugwash Conference in 1957. The conference has promoted important concepts involving nuclear testing, arms limitation and verification, and other proposals for addressing the problems we face in the nuclear age.

If Einstein were alive today I think he would have mixed feelings about how the products of the nuclear age are responding to the threat of nuclear war. On the one hand, he would be alarmed at the capability we have developed to destroy the world many times over; our nuclear arsenal has never been so great. But he would be pleased to see the heated public debate going on in more public arenas then ever before; the nuclear freeze resolution will be on the ballot in seven States this fall. And the nuclear freeze proposal voted on by the House last week lost by only two votes. The discussion is becoming more serious both on a political level as well as on a technical level.

One proposal I am pleased to see attention given to is a proposal offered by my colleague the gentleman from Kansas (Mr. Winn). This proposal, which has been of great interest to me since I first heard about it, would begin the dismantlement of the mystique and secrecy that surrounds the two nuclear superpowers, the United States and the U.S.S.R. The proposal is for an international peacekeeping satellite which would be part of a larger United Nations satellite monitoring agency. "Peacesat", as it has been referred to, would serve to monitor military activities over the globe and aid in arms control verification. I plan to promote this concept at the upcoming Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace '82) in Vienna this week. Although the two superpowers will try to avoid discussion of this issue, many developing nations as well as Western European nations will want to discuss this peacekeeping satellite which is sometimes referred to as the "French proposal".

Mr. Speaker, I truly believe that one of the most serious threats to world peace is uncertainty and the fear that uncertainty leads to. Fear provokes aggression. I often wonder what such a great nation as ours has to fear so much that we need the capability of destroying the world. This may be naive, but I think we should promote what our country stands for, and not just concentrate on destroying what is different from us. I hope the public outcry will lead us to listen to ourselves and to our own fears. A constructive step toward eliminating some of the uncertainty would be the adoption of a peacekeeping satellite.

Mr. Speaker, the following article discusses how fear is a fuel for nuclear arms buildup, and that the unknown is often a cause for fear. A peacekeeping satellite would alleviate some of this problem by "opening up the skies" to the world and help in the monitoring and decisionmaking in arms limitation activities.

The article follows:

[From the New York Times, July 18, 1982]

MORE SPIES IN THE SKY

(By Floria Lewis)

PUGWASH, NOVA SCOTIA, July 17.—There has been a strange cycle of public indifference and militant activity against the danger of nuclear arms since the first two were dropped. Distressed at failure to understand, Bertrand Russell and Albert Einstein issued a dramatic manifesto in 1955.

That led to a meeting of top scientists from East and West at the boyhood home of Cyrus Eaton, the late U.S. industrialist, in 1957. So was founded the Pugwash Conference.

For its 25th anniversary, the conference is here again. The two signatories of the Russell-Einstein document still alive, Linus Pauling and Joseph Rotblat, noted that all those years, marches and U.N. conferences later, the threat is greater than ever.

And people are stirring again. The peace movement has never had broader support. Once again, East-West relations are cold and angry. The U.S. and the Soviets are talking in Geneva about breaking the arms race, and sustaining it at home.

Time is running out on even the chance of arms control, the scientists say, because science itself has made possible new weapons so much more accurate, so much faster, so much harder to detect that agreements may become meaningless.

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There isn't much point in calling for trust. If there were trust, there would be no need for verifiable agreements, no excuse for having atomic weapons at all.

Nor has public pressure yet brought tangible response. The words are there, but who knows what they mean. Soviet Chairman Leonid Breshnev announced a unilateral freeze on deployment of SS-20's (after the program was virtually complete). A few months later, the United States said a number of additional Soviet missiles had been deployed facing Western Europe. Moscow said that this was a lie.

There has been no explanation. The same problem weakens the call for an American pledge of "no first use" of any atomic weapon, which Mr. Breshnev has proclaimed. How can you tell, until it's too late?

Mr. Pauling, a twinkly-eyed veteran of declarations for disarmament supported by fellow Nobel laureates, urged a unilateral freeze on all nuclear arms by both the United States and the Soviets until they get around to a binding treaty. But nobody has defined the proposal. The United States would presumably abandon not only MX, all cruise missiles and Pershings in Europe, but planned Trident submarines and Minuteman improvements. What would the Russians do?

It is the underlying fear of discarding the nuclear shield that makes it so hard to blunt the nuclear sword. The numbers game of balancing off missile for missile to set a level of security is clearly nonsense in a world that stocks 50,000 warheads with more than a million times the power of the Hiroshima bomb.

Any yet, the awesomeness of the bomb has maintained nuclear ceasefire in a world that hasn't stopped fighting since 1945. This morning's news reported on three full-scale wars (in Lebanon, Iraq and Somalia), two long, bloody guerrilla campaigns (in Northern Ireland and the Basque country) and a shattering new spy scandal in Britain. Peace is not at hand. Declarations aren't settlements.

The dilemma of fear remains. In an early attempt to confront it, President Eisenhower proposed an "open skies" program so the United States and Soviets could see for themselves what the other was doing. Moscow refused. It happened anyway, with satellites and electronic intelligence. But nobody is reassured.

So the issue comes back to information, a way to know and judge what is being prepared, in order to weigh the self-serving official counter-declarations.

One of the most hopeful ideas engaging some of the Pugwash scientists is what Australia's Sir Mark Oliphant calls "technological spying" by the middle powers. A lot of countries are now advanced enough to compete with the United States and Russia in monitoring preparations for war if they pool scientific and economic resources, though none could do it alone.

A group including delegates from Canada, Australia, France, Britain, Germany, Japan, Austria, Sweden, among others, is to meet in October to work on further details, already set out in an experts' report to the U.N. The European satellite launcher Ariane would put their own spies in the sky.

The U.S. has opposed the idea on the grounds that ambiguous intelligence could be politically abused to confound the world even more. Given experience, Washington has a point if it's to be a U.N. operation. But the countries capable of participating could set up their own structure. An objective (which doesn't mean neutral) verification of superpower agreements and menacing moves would go a long way toward easing the question of what to believe. Then unilateral restraints could be monitored and the argument of balance better judged. It's something concrete to do quickly, worth more than talk.●

AGE IS ACTIVITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GARCIA. Mr. Speaker, age has long been a topic of interest and concern in every culture and society. We respect our elder citizens because of their age, but we sometimes overlook the fact that most are active and productive members of society.

I am submitting an article from the newsletter of the Vacations and Community Services for the Blind, in which they honor one active centenarian of my district.

Maximo Gomez, a member of the Hunts Point Aged Program, located at 750 Faille Street, and a long time VCB client, reached his 102nd birthday late in 1981. It is true that 102 is quite old, but Maximo still comes twice weekly to the Faille Street Center, joins discussions, exercises, and, in fact, whatever may be happening at the Center.

It gives the Bronx Advisory Board of VCB tremendous pleasure to honor Maximo Gomez at a June 17 wine and cheese party at the Snuff Mill of the New York Botanical Gardens. Maximo is honored not only because of his age, but because of his incredible will to live and live completely. His failing vision and occasional bouts with pneumonia cannot keep him down.

Congratulations, Maximo, for showing everyone how to live.

And thank you for showing us that "age is activity."●

THE IMPORTANCE OF HOUSE PASSAGE OF H.R. 5540

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LUNDINE. Mr. Speaker, I wish to call attention to a bill that will be coming to the House floor for consideration in the very near future, the Defense Industrial Base Revitalization Act (H.R. 5540). As we begin one of the largest military buildups in our history, passage of this legislation could prove to be one of the most significant actions of the 97th Congress. In his recent book, "The Defense Industry," Jacques Gansler, whose association with the defense industrial base spans 25 years, including service as a Deputy Assistant Secretary for Defense wrote:

> The defense industry's ability to rapidly expand production is an essential part of the overall defense posture. There are many reasons for believing that this capability has been eroding badly in the U.S. over the last few decades, owing to the nature of the equipment as well as the proplems within the defense industrial base. * * * Surprisingly, the U.S. government has taken no steps to address this problem. Brief studies that have been done have shown that current programs are largely ineffective and expensive. * * * The major cause of economic inefficiency in the defense industry is the rapid decline in the number of suppliers at these lower (the subcontractor) levels, which reduces competition and causes extraordinary price increases.

The industrial decline that plagues America is the foremost threat to our national security. H.R. 5540 takes an important step toward addressing this problem through creation of a program to revitalize thousands of small- and medium-sized businesses that contribute to defense production. Under the provisions of this bill, these firms would be eligible to enter into arrangements with the Federal Government for Government loan guarantees, purchase agreements, price guarantees, and arrangements for direct loans to modernize their equipment, which will greatly increase our domestic capability to produce critical and strategic materials and hardware for national defense.

In addition, the bill establishes a program to train, retrain, and upgrade workers' skills in occupations in short supply needed by defense-related industries. This continuous capability to upgrade worker skills is essential in the high-paced technological world of defense production.

This legislation has received enthusiastic support from a broad variety of organizations, including labor unions, business groups, trade associations, and vocational, and higher education organizations. An excellent summary article on this bill which appeared in the July 5 edition of Nation's Cities Weekly follows for your information, along with a letter sent to Members of Congress by the Industrial Union Department, AFL-CIO. As you will note, among other things, a recent Department of Defense internal memo from Deputy Defense Secretary Frank Carlucci and a letter from Defense Secretary Caspar Weinberger highlight the need for an effective program to address the problems of our ailing defense industrial base.

[From Nation's Cities Weekly, July 5, 1982]

TRAINING, REVIVAL AID URGED FOR DEFENSE-LINED ECONOMY

(By Frank Shafroth)

A bill is moving quietly through Congress to piggyback onto the nation's defense readiness efforts a $6.75 billion, five-year program to revitalize smaller industries.

Included in the proposal is $250 million a year for job training aid through state agencies and $100 million a year for professional training through higher education institutions.

Though city governments would have no direct role in obtaining funds or running any of these programs, analysts believe that the program would benefit those that have been victimized by economic woes because of outmoded manufacturing and industrial bases. The state-supported training would be aimed at labor surplus areas.

States would have to share the training costs—10 percent in the first year, increasing to 50 percent.

Over the five years, $5 billion would be authorized for loans and loan guarantees, price guarantees and purchase agreements with small and medium sized businesses in a number of priority industries. The industries would be designated by the Defense and Commerce departments, and the eligible businesses would be those that currently manufacture and supply defense materials and components, or are likely to do so in time of emergency or war.

Proponents of the bill [HR 5540] say the program would help modernize the nation's defense industrial base, ease manpower shortages in critical jobs by training new workers and help industries keep pace with technological changes.

It is sponsored by Rep. James J. Blanchard (D-Mich.) and has a bipartisan list of 70 cosponsors. The legislation awaits House floor action after being cleared by the Banking Committee and the Education and Labor Committee.

Though the bill does not say which federal agency would spend the money, it says the president should set up a cooperative effort among the Defense, Commerce and Interior departments and the Federal Emergency Management Agency.

The proposals would amend the 1950 Defense Production Act, which gives the president basic authority for peacetime stockpiling of materials and civil defense programs as well as the authority to mobilize a wartime economy.

The administration opposes the bill because of its cost, according to a letter from Budget Director David A. Stockman to Rep. J. William Stanton (R-Ohio), ranking minority member of the Banking Committee and a cosponsor of the bill. Instead, Stockman urged a simple 5 year extension of the Defense Production Act.

However, supporters of the proposal have published high-level internal administration memos suggesting strong support for efforts to shore up the defense-related industrial base and to reduce dependence on foreign sources of equipment.

This includes a March 6 memo from Deputy Defense Secretary Frank A. Carlucci III to the department's leadership warning of the consequences of continued deterioration of the industrial base and a March 20 letter from Secretary Caspar A. Weinberger to Stockman.

In that letter, Weinberger told the budget director that even with an optimistic view of President Reagan's economic recovery program, the recovery will take "several years and may not provide sufficient incentives for expansion of the industries which are subject to predatory pricing from unstable foreign sources and are critical to the production of national security systems."

INDUSTRIAL UNION DEPARTMENT,
AFL-CIO,
Washington, D.C., July 15, 1982.

DEAR REPRESENTATIVE: The Industrial Union Department, AFL-CIO strongly endorses H.R. 5540, the Defense Industrial Base Revitalization Act, which is scheduled for a Floor vote in the near future. This bill, which enjoys bipartisan support in the House, will provide a key element in revitalizing our industrial base, which is crucial to our nation's economic future. The revitalization program set forth in this legislation not only would improve productivity and lessen our dependence on foreign imports, but also would strengthen our security and provide hundreds of thousands of job opportunities at a time when the nation's unemployment rate is at its highest level since World War II.

Of Particular interest to us are the bill's training provisions, to be administered at the state and local level, to train and upgrade workers' skills in areas currently in short supply and needed by defense-related industries. In the next few years, hundreds of thousands of high skill jobs will be created in skill shortage occupations—machinists, computer technicians, tool and die makers, mechanics, etc.—jobs that have application to the civilian economy as well as for defense. The training program will provide workers with the skills needed for those jobs, particularly via retraining workers laid off in depressed industries such as auto and steel. The training program is crafted to complement, not duplicate, existing job training and apprenticeship programs, and will encourage participation of women and minorities.

We understand that Representative Erlenborn intends to offer an amendment to strip the Davis-Bacon provision included in the bill. This prevailing wage standard, which has been in effect since 1935, is one of the nation's most important labor provisions that protects workers in the construction industry and insures the highest quality of work on federal construction projects. We urge you to vote against this and any other weakening amendments.

We strongly urge you to support H.R. 5540, which addresses many of our country's underlying economic problems—obsolete machinery, shortages of skilled labor in crucial industries, and a severely deteriorating industrial base. Enactment of this legislation will be an important first step in revitalizing the American economy.

Sincerely,

BRIAN TURNER,
Director of Legislation.●

ARCHITECT OF THE CAPITOL

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CARMAN. Mr. Speaker, one of the greatest antidotes to overwork, or just about any other malady affecting those of us on Capitol Hill is the special tour of the Capitol dome. Recently, members of my staff and I took advantage of this opportunity and made the long walk to the top of the dome. It was an exhilarating and moving experience.

My staff and I were directed through the winding passageways and over the climbing catwalks by Mr. Kevin O'Conner, one of the extremely capable, knowledgeable, and personable members of the Architect's staff. In addition to informing us of the background and history of the art and construction of the dome, Mr. O'Conner conveyed a sense of his own enthusiasm and pride in this symbolic centerpiece of American democracy, the U.S. Capitol. I am very grateful and appreciative of Mr. O'Conner's warm personality and outgoing manner.

Although this is not the first time I have taken this special tour, it left me with the same sense of awe and excitement that I experienced on my first visit. My staff were also encouraged and renewed after getting a closer and more detailed look at an important aspect of their own history.

I encourage my colleagues to make the trip to the top. It is a great experience, and a trip well worth the time. In addition, it is a terrific view of a terrific city.●

STRATHMORE PAPER CO. HONORED

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CONTE. Mr. Speaker, I am pleased to inform my colleagues today of an important event in the First District of Massachusetts. The Strathmore Paper Co. of Westfield, Mass., was a recent winner of the prestigious American Paper Institute and National Forest Products Association Award for the most effective air pollution control program in the paper industry in 1981. This award is one of six given by a panel of environmental and energy experts from outside the industry for significant environmental achievements.

Strathmore won this award for its innovative use of technology at its Woronoco No. 2 plant to reduce emissions. The company's dry flue gas desulfurization installation, the first in North America, enables Strathmore to burn high sulfur coal with lower emission levels than were achieved earlier with low sulfur oil. Moreover, the company has saved $1.5 million by burning 70 tons of coal a day at the plant rather than thousands of gallons of costly fuel oil.

Strathmore's achievement is especially significant since it was the first company in New England to switch back to coal burning. Its accomplishment will thus inspire other companies in New England and across the United States to help decrease our country's dependence on imported oil by switching their plants from use of costly foreign oil to plentiful American coal, without many of the environmental problems previously associated with the use of coal.

Mr. Speaker, this example shows what can happen when American industry uses American know-how to solve a problem. I heartily commend

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the Strathmore Paper Co. for its concern for the beautiful environment of western Massachusetts and for its imagination and hard work in effectively harnessing coal in this new way. I trust that its example will inspire others to explore new ways of solving our energy problems while protecting the environment. My congratulations go to Strathmore president John Gallup and to all the officers and employees of the Strathmore Paper Co. on the occasion of this well-deserved award.

Thank you Mr. Speaker.●

TAX BILL KNOCKS REAGAN OFF COURSE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHUMWAY. Mr. Speaker, this morning's Los Angeles Times carried an article by the Times Board of Economists entitled "Tax Bill Knocks Reagan Off Course." It is an articulate explanation of economic reality, one which draws an analogy between supply-side economics and a three-legged stool. To be sturdily used, the stool must consist of personal tax cuts, business tax cuts, and Government spending cuts. I commend the article to my colleagues' attention as a graphic presentation of what occurs when one of the legs is removed.

The article follows:

[From the Los Angeles Times, August 10, 1982]

TAX BILL KNOCKS REAGAN OFF COURSE

The bipartisan coalition, in effect since 1954, that believed that business tax cuts were good for investment and hence for the economy appears to have been shattered beyond repair by the Senate tax bill.

In testimony before Congress concerning the 1981 tax package, most leading Democratic economists testified that the problem with the Reagan tax bill was that it was skewed far too heavily to individuals, leaving too little for capital formation. Indeed, the Reagan tax package gave business only 21 percent of the total cut over the 1982–86 period compared to the 33 percent that business received during the first five years of the Kennedy-Johnson tax cuts.

Now, however, the imbalance is much more pronounced. Senate Finance Committee figures show that by 1986 about 64 percent of the business tax cuts will be wiped out, while over the 1982–86 period business will receive only 12 percent of the total tax cuts. The combined tax legislation of 1981 and the 1982 has created the most skewed tax bill in history.

If one word could be used to characterize this tax cut, it would be antisaving. Not only will the increase in business taxes reduce corporate saving and cash flow, but the withholding on interest and dividends, the reduction of pension funding, the corporate minimum tax and the disallowal of municipal bond proceeds for "private" capital formation will all contribute to reduced saving in future years.

The tax bill will have virtually no effect on the economy for 1983 for three reasons. First, the effect of tax changes on investment always lags a year or more. Second, investment decisions are generally not affected by changes in the tax laws in either direction in the middle of recessions when operating rates are 70 percent or lower. Third, the decrease in the budget deficit is offset by the decrease in corporate saving. Net saving is unchanged, and thus on balance so are interest rates.

The net effect of the Reagan programs so far—including the increase in interest rates—has been to reduce capital spending by about $15 billion in 1982. The tax incentives incorporated in the 1981 act raised fixed business investment by about $10 billion per year; that is, $10 billion in 1982, $20 billion in 1983, and so on until the bill was fully implemented in 1986. However, the increase in interest rates reduced capital spending by about $25 billion. Now, the Senate has passed a tax increase that takes away about 60 percent of the benefits originally embodied in the 1981 tax legislation, yet without reducing interest rates.

NEGATIVE EFFECT BY INCREASES

Furthermore, the figures quoted above for changes in investment hold during times of equilibrium, but not in the middle of recessions. Thus, the negative effect of these tax increases will become more apparent once the economy does start to recover and interest rates move down. In the past, it has been under these conditions that the benefits of lower corporate taxes have always induced greater investment. However, with most of the tax benefits wiped out, we will have only a moderate increase in investment during the period of recovery. Ironically, it will not be until the Democrats come back into power and vote more business tax cuts that the increase in investment will lead the economy back to higher productivity growth.

Assuming no further changes in the bill, the net effect of this tax increase by 1986 will be to lower investment by about $30 billion with no offsetting decline in interest rates. Gross national product will total roughly $4.2 trillion in 1986, so the tax increase will reduce investment by 0.7 percent; with the normal multiplier effect of 2, GNP will be about 1.4 percent lower by 1986. At current levels, each reduction of one percentage point in GNP increases the deficit by about $10 billion, so about half the tax increase will disappear because of slower economic growth.

The conclusion would be quite different if government spending were to be cut, because national saving would then increase, monetary policy would ease, and interest rates would decline, thereby stimulating economic growth. But we certainly cannot expect such expansionary effects to occur when any increase in public-sector saving is fully offset by reduction in the private sector. That is why a tax increase designed almost exclusively to diminish private-sector saving is peculiarly inapprorpiate at a time when the total national saving rate is already at a postwar low.

The only parts of the tax bill that do not have harmful implications for saving are two very minor parts: the increase in the floor for medical and casualty deductions and the increase in excise taxes. The deductions for medical expenses and casualty losses were originally put into the code for reasons of equity: Someone who had suffered extraordinary expenses should receive some partial offset in the form of lower taxes. For the most part, however, these deductions gravitated into methods of reducing taxes even for routine medical expenses and casualty losses. This tax can be raised without destroying any incentives to save, and from an economic point of view can be considered the opposite of a rebate.

Previous studies have shown that, while most of a rebate is saved during the first quarter, most of it has been spent by the end of the year. In the same manner, we would expect these tax increases to come out of consumption rather than saving. As a result, total national saving will increase and interest rates should thereby be reduced. However, the magnitudes are very small—only about $4 billion per year once the tax increases are completely phased in—and hence unlikely to make much of a dent in interest rates.

COST-OF-LIVING PAYMENTS

The analysis of the excise tax is slightly more complicated because it has [illegible] added dimension—one of inflation. The tax increases are once again very small, but are duly reflected in the consumer price index for cigarettes, telephone calls, airplane travel, and various boat and fishing equipment. Once again the amount involved is only about $5 billion per year. However, the CPI will rise proportionately by this amount, and hence all cost-of-living payments in both the private and public sector will increase apace. Since about half of government expenditures are either formally or informally linked to the cost of living, about $2.5 billion of that increase in revenue will be reflected in higher government expenditures. The other $2.5 billion will serve to increase saving and lower inflation.

It is more difficult to quantify the effect of the 10 percent withholding on interest and dividend income. The fact that the government gets the money a little sooner only changes the rate of return by about 0.1 percent; besides, most large taxpayers with large interest and dividend income are already required to file quarterly. It is instead more a question of the nuisance value, even though exempting most small savers from the withholding requirement reduces that problem. The net effect will be to drive savers into tax-sheltered investment, possibly even creating a net loss of revenue to the Treasury.

The amount of tax collected by the IRS could be increased substantially if institutions paying interest and dividend income—and any other source of income not subject to withholding—were more vigilant about issuing Form 1099 for all such income: issuance has heretofore been very lax. In addition, the IRS has been inept in matching 1099 information with the proper 1040 forms. Thus a breakdown in information transmission has occurred at both ends.

It would have been much more sensible to fix the defects in the existing system than to move to a withholding pattern that is likely to drive an increasing number of taxpayers into tax-free or tax-sheltered investments. However, in any case the amounts are small compared to the damage done by the business tax increases.

Properly structured, supply-side economics can be likened to a three-legged stool: personal tax cuts, business tax cuts and government spending cuts. Remove one of the three legs and the entire stool collapses. Until now, the reason for failure of the Reagan programs had been that the overall level of government spending in real terms grew faster in fiscal 1982 than it did during the average of the last 20 years. However, I had thought that the other two legs of the stool would still remain in place.

It now appears that the second leg of business tax cuts has also been knocked to the ground. Reagan and the Republicans have thus reduced themselves to formulating economic policy on a one-legged stool. I can only intensify my speculation that it will prove to be both an economic and a political disaster.●

SECTION 936 NEEDS REFORM, NOT REVENGE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SCHULZE. Mr. Speaker, among the revenue-raising proposals to be considered this week by the House and Senate conferees on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, is one that would drastically cut back the tax incentives mainland corporations receive for investing in new plants and creating new jobs in Puerto Rico. This Senate Finance Committee proposal, if enacted, would have a devastating effect on the economy of Puerto Rico, already suffering from an unemployment rate of 23 percent. Also, this provision of H.R. 4961 is in direct contradiction with the administration's efforts to provide tax and other incentives for investment in the Caribbean Basin countries in order to bolster their economies and foster political stability.

Mr. Speaker, this issue is explored in a cogent article in the Wall Street Journal of Monday, August 9, 1982, by former Under Secretary of the Treasury Norman B. Ture. In his article, "Puerto Rico: Hostage to U.S. Tax Reform," Dr. Ture explains that the conferees are considering also a modification of the Senate Finance Committee proposal that has been presented by the Treasury Department. But Treasury's proposal, says Dr. Ture, would also largely erode the tax incentives for investment in Puerto Rico.

What is most alarming, though, is Dr. Ture's assertion that still other suggestions for dealing with IRS section 936—suggestions that would preserve incentives for investment in Puerto Rico and raise even more tax revenues than would be raised under the original Senate Finance Committee proposal—are not being given due consideration by the administration or the conferees.

Mr. Speaker, in the interest of the economy of Puerto Rico and its people, and in the strategic interest of the United States in preserving a healthy Puerto Rico as an American outpost in the Caribbean, I ask the House and Senate to give due consideration to all proposals for modifying the tax incentives provided by IRS section 936, known in Puerto Rico as Operation Bootstrap. I also ask unanimous consent that, the thoughtful article, "Puerto Rico: Hostage to U.S. Tax Reform," by Dr. Norman B. Ture be printed in the RECORD.

[From the Wall Street Journal, Aug. 9, 1982]

PUERTO RICO: HOSTAGE TO U.S. TAX REFORM

(By Norman B. Ture)

All obscure provision of the Senate-passed tax-increase bill would, if enacted, heavily damage American policy in the Caribbean and cripple our efforts to promote economic development there through private initiative.

This provision would in effect cancel Puerto Rico's "Operation Bootstrap," a set of tax provisions, accommodated by a provision in the U.S. Internal Revenue Code, which creates significant incentives for U.S. companies to set up affiliates and to produce in Puerto Rico. The Senate provision would deal a stunning blow to Puerto Rico's economy, already reeling from the U.S. recession and from the setback to new investment resulting from the IRS's tax-audit policies and its litigation against several major U.S. firms with affiliates in Puerto Rico.

A FAILURE BEFORE IT BEGINS

The legislation would be construed throughout the Caribbean as a lack of firm commitment by the U.S. to fostering private-sector initiatives as the vehicle for economic development. The Reagan administration's Caribbean Basin Initiative, in which Puerto Rico was to be the linchpin, would fail before it began. Puerto Rico could no longer serve as a model for the region; it could no longer demonstrate what can be achieved when the private sector takes the lead in promoting economic progress.

The effects of the Senate action in overturning this important foreign policy initiative vastly outweigh any gains in the form of tax-policy niceties. The elimination of an alleged "tax abuse" and the supposed pick-up of a small amount of tax revenue would be purchased at the extraordinary price of forgone economic advances and political stability in Puerto Rico and throughout the Caribbean.

The "tax abuse" to which the Senate provision is directed is difficult to identify, even in the terms of the most zealous old school tax reformers. The principal charge against the offending Internal Revenue Code Section 936 is that it affords U.S. mainland companies with Puerto Rican affiliates too much U.S. tax forgiveness, considering the number of jobs these companies provide in Puerto Rico. The tax revenue loss to the U.S Treasury is alleged to be well over $40,000 per created job. The same number of jobs, the critics maintain, could be provided at a lower cost by direct federal outlays such as those under CETA. The "abuse," then, turns out to be the charge that the tax incentive is inefficient.

There is far less in this charge than meets the eye. The estimated tax revenue loss to the Treasury presupposes that in the absence of the tax credit, there would be the same amount of investment, employment, output and income in Puerto Rico (or that there would be an equal amount of investment, employment, output and income added in mainland U.S. operation) as there is under the present powerful incentives afforded by very nearly full tax exemption. This obviously is not true.

Even the most severe critics of Section 936 concede that a very substantial amount of U.S.-company investment in Puerto Rico is in response to the highly favorable tax treatment. Repeal or serious curtailment of Section 936 would result in prompt major disinvestments by U.S. companies in Puerto Rico and in the flight of capital to non-U.S. tax-haven jurisdictions. The revenue "loss" attributed to Section 936 is very largely fictitious; so, too, therefore, is the revenue "gain" from the Senate action or any significant cutback on the tax benefits for Puerto Rican-produced income. The revenue loss per job created in Puerto Rico is nowhere near the extraordinary figure that is bandied about; it is, in fact, much closer to zero.

Even if one were to accept the revenue loss estimate upon which the Senate's proposal appears to depend, it doesn't follow that Section 936 is inefficient. The large amount of tax dollars per job reflects large capital returns per job which, in turn, reflect large capital investment per job. In the course of its development since Operation Bootstrap got underway in the late 1940s, the Puerto Rican economy has progressed from emphasis on agriculture and low-productivity, labor-intensive industries to capital-intensive, technologically advanced industries. This change has been associated with a rapid advance in the skill, productivity and real wage rates of an increasing number of Puerto Rican workers. If that's not what economic policy aims to achieve, if that's not the very essence of economic progress, if that's not what economic development is all about, what is?

Indeed, isn't that just what we're looking for in the mainland U.S. as the achievement of the Reagan program? A large (putative) tax revenue loss per worker should, if anything, be taken as a measure of the success of Section 936 in making Operation Bootstrap an effective device for economic development initiated by the private sector.

It appears that the administration has some reservations about the Senate's proposed cutbacks of Section 936. The Treasury has offered a proposal that it claims would deal adequately with the uncertainties arising from the IRS's current audit policies and litigation stance, while raising substantial tax revenues. In fact, the Treasury proposal would erode much of the tax incentives for investment in Puerto Rico.

TREASURY'S VENGEFUL PURSUIT

The administration's concern about the adverse effects of the Senate bill on the Puerto Rican economy has not been substantial enough to persuade the Treasury to forgo its vengeful pursuit of a relative handful of high-technology companies in favor of tax changes that would restore economic stability to Puerto Rico by continuing the demonstrably successful incentives of Section 936. Several suggestions for modifying Section 936, recently presented to the Treasury, the White House and the Senate and House conferees on the tax bill, would accomplish that result while providing a significant increase in U.S. tax revenues—substantially more than the amount estimated as raised by the Senate bill. These suggestions have been shunted aside by the administration.

One must hope that the conferees will give them careful consideration and will reject both the Senate and the Treasury proposals. If they do so, there may still be a reasonable chance for the Reagan administration to realize a successful Caribbean

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Basin Initiative, led by a thriving Puerto Rico.●

REAGAN'S EL SALVADOR CERTIFICATION IS CONTRARY TO THE FACTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. OTTINGER. Mr. Speaker, I rise to strongly protest President Reagan's recent certification that El Salvador has complied with economic and human rights reforms. I have cosponsored legislation introduced by my good friend from Massachusetts, Representative Gerry Studds, declaring that certification null and void.

The Americas Watch Committee and the American Civil Liberties Union have published a remarkable report on the current situation in El Salvador which clearly refutes the administration's dubious claim that the Salvadoran Government has met the standards included in the certification process. Calling the administration's certification a "misrepresentation of the Salvadoran reality," the report points out:

> No serious examination of conditions in El Salvador and of U.S. law can lead to the conclusion that any of the requirements for certification have been satisfied.

The first requirement, that the Government of El Salvador has made a "concerted effort to comply with internationally recognized human rights" has not been met—it has been flaunted. The Government and its security forces remain involved in a pattern of systematic human rights abuses, including violations of the rights to personal liberty, humane treatment, free speech, free assembly, due process of law, and fair trial. El Salvador remains under a state of siege imposed on March 6, 1980. Decrees remain in effect which permit arbitrary and limitless detention and torture.

The second requirement of certification, that the Salvadoran Government achieve "substantial control over all elements of its own armed forces so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces" also cannot be reasonably certified. An estimated 34,000 civilians have been murdered in El Salvador for political reasons since 1979. Since Reagan's first certification, over 3,000 civilians have been killed, according to the Legal Aid Office of the Archdiocese in El Salvador.

In March an election was held, as required to be under the certification, yet its legitimacy is now in doubt as evidence of electoral fraud is uncovered. The elections did not alter the armed forces dominance of policy. Nor did it result in the hoped-for moderation of the Salvadoran Government. Rather, it invested great power in the hands of one of El Salvador's most brutal human rights violators, Roberto D'Aubisson. Meanwhile, there has been no movement whatsoever toward negotiations with all parties to the conflict, violating an explicit requirement for certification.

The agrarian reform program is in shambles. The Americas Watch/ACLU report notes:

> While pledging to restore the land reform, (the Government) has abrogated the law that affected El Salvador's most valuable lands under Phase II of the reform and has sent a signal to land owners that it opposes the redistribution of land to El Salvador's tenant farmers and share-croppers.

Nine thousand and six hundred peasants have been evicted from their land, and some 140,000 intended beneficiaries are still without provisional titles.

For the families of the Americans killed in El Salvador, the most distressing aspect of certification concerns the investigation of those deaths. We have seen a highly dubious investigation plagued with uncertainties and delays. Five suspects await trial, yet abundant evidence collected by the Lawyers Committee for International Human Rights and other groups suggest that responsibility goes well beyond the five individuals charged. Our own Government has displayed an astounding attitude of unresponsiveness and delay which seems to border on complicity with Salvadoran authorities. Last month, I initiated a letter to four Federal agencies demanding the release of pertinent documents under the Freedom of Information Act. I am still waiting for two of those agencies to respond.

Facing a situation more dangerous and unstable than ever, President Reagan has once again sought to escalate United States military involvement in El Salvador by ignoring the facts and falsely certifying compliance with human rights and economic reforms. The result of this policy will be increased instability as we hand Moscow a victory it could not otherwise contemplate. As the former Ambassador to El Salvador, Robert White, recently wrote in the New York Times:

> Each time the Salvadorn military invades a poor neighborhood in San Salvador with United States-furnished weapons, hundreds of recruits and sympathizers are recruited into the revolutionary movement.

Ambassador White correctly noted that by ignoring the aspirations of liberty that countless Salvadoran's hold, and by attributing their desire for change to Marx and Lenin while siding with the military elite, the United States assumes the role of counterrevolutionary power and abandons to Cuba and communism the sponsorship of change.

The President's certification on El Salvador marks the absolute failure of his policies there and throughout Central America. I urge my colleagues to reject the attempts to continue alineing us with the forces of repression, and to support legislation to prohibit further U.S. assistance to El Salvador by declaring the certification null and void.

RELIEF OF THEDA JUNE DAVIS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RUDD. Mr. Speaker, I rise today to introduce a private bill to correct an injustice that has been done to a constituent of mine while working for a program funded and supervised by the Federal Government.

Mrs. Theda June Davis of Phoenix, Ariz. is a schoolteacher who was hired by a federally funded job training program known as SER-jobs for progress in 1970–71.

During the course of her employment, Mrs. Davis was passed over for promotion. She filed a claim against jobs for progress for discrimination based on sex, and was successful in that claim. In addition, she was awarded some $35,000 compensatory damages by a Federal court.

While jobs for progress is a fully federally funded grant program, it cannot, by law, use its funds to pay claims. The Federal Government supervises this program, funds this program, makes all the rules for this program. Yet, Mrs. Davis, who has been wronged by this program, cannot be compensated at this time. The bill that I am introducing would not right the wrong that has been committed, but it will compensate Mrs. Davis for her hardship, and carry out the lawful award given her by a Federal court for damage done to her by a Federal program.

H.R. 6966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay to Theda June Davis of Phoenix, Arizona, out of any money in the Treasury not otherwise appropriated, the sum of $35,499.25 plus interest thereon calculated at the rate of 6 percent per year from December 1, 1976, to April 3, 1980, and at the rate of 10 percent per year from April 4, 1980, to the date the sum is paid. Such sum is the amount of a court judgment in favor of Theda June Davis against a non-profit Arizona corporation based upon a finding of sex-based discrimination. The Arizona corporation is totally funded by federal grants from the Department of Labor.

Sec. 2. No part of the amount provided for in the first section of this Act in excess of 10 percent thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 percent of the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.●

FISHERMEN WARN CONGRESS TO BE CAREFUL OF LAW OF THE SEA TREATY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, on a number of previous occasions, I have warned my colleagues of the problems that the U.S. fishing industry might face if the United States were to sign the Law of the Sea Treaty. In reply, at least one treaty supporter has suggested that my concerns are fanciful and that the opposition of the U.S. fishing industry to the treaty is manufactured rather than genuine.

Recently, the New England Fisheries Development Foundation, Inc., submitted (unsolicited) some comments on the treaty and its potential interaction with existing U.S. law regarding the fishing industry. Mr. Kenelm Coons, the executive director, and Mr. Ralph Gillis, the general counsel, provided my office with a copy of these comments. Because the document is too long to print in the RECORD in its entirety, I have included only the two introductory paragraphs and the concluding pages here. I would be happy to supply a copy of the entire document to any Member who is interested in reading it.

LAW OF THE SEA HEARINGS

On behalf of the New England Fisheries Development Foundation, Inc., (Foundation), the following comments are raised for your consideration at the ongoing Committee on Merchant Marine and Fisheries' hearings to evaluate the status of the United States position in the law of the sea negotiations. These comments are presented neither in support of, nor in opposition to the United States signing the Convention on the Law of the Sea (Convention). Whether to sign the Convention involves questions of law and policy beyond the scope of this letter. The Foundation's comments are intended only to bring forward points of possible significance for persons reviewing our national law of the sea policy.

The Foundation is a trade association consisting of over 100 seafood companies, cooperatives and local associations in the New England fishing and seafood business. The Foundation draws its membership from the maritime communities of New England, and has its office in Boston, Massachusetts. Its primary activity is fish and seafood marketing, for both domestic and export markets, as well as research and development projects. As a trade association, the Foundation is able to undertake projects that its ordinary members cannot.

In conclusion, the Foundation notes that the FCMA states that Congress has found the fishery resource to be a contributor to the food supply, economy, and health of the nation and a source of recreation. 18 USC 1801(a)(1). The Convention does not mention coastal state interests in fishery conservation and management as being at all associated with recreation. And yet, Congress found in the FCMA that commercial and recreational fishing was a major source of employment. 18 USC 1801(a)(3).

It was the intent of Congress, expressed in the FCMA, that the fisheries be conserved and maintained to achieve optimum yields on a continuing basis. 18 USC 1801(a)(5). And the Convention in Articles 61 and 62 complements the objective of developing and maintaining optimum sustainable yield. But the criteria for use of the optimum sustainable yield set out by Congress in the FCMA include primarily domestic interests to be secured under a "national" conservation and management plan (18 USC 1801(a)(6)) and a "national" program for development of under- and non-utilized species "for citizens to benefit from the employment, food supply, and revenue" (18 USC 1801(b)(7)). Thus, the idea of the fishery conservation zone, since its 1976 inception, has been to promote domestic commercial and recreational fishing, as well as to obtain optimum yield from each fishery for domestic use, pursuant to the establishment of the zone as an area where the United States is to assume exclusive fishery management authority. 18 USC 1801(b).

In evaluating the national law of the sea policy toward the Convention on the Law of the Sea, the Foundation suggests that consideration be given to the effect of the Convention's Articles 56, 61, 62, 63, 64, and 70, both in vesting a legal right in other states to fish the surplus catch within the EEZ, and in setting out criteria which provide how the priority of states to fish in the EEZ will be set. The effect of these articles at a minimum could well be to delay or cause unnecessary pressure on fishery or other negotiations with which the United States is involved. In addition, the Convention's compulsory conciliation mechanism has the potential for built in delays which could be implemented adversely to the best interests of the United States, which is not to ignore the possibly undesirable exposure which compulsory conciliation and mandatory arbitration could install against even-as-yet undetermined interests of the United States.

The concern of the Foundation is that the immediate effect of adverse results from application of the Convention to matters involving the United States would impact directly on the fishing industry, especially in New England. Therefore, the Foundation asks that any decision to change the applicability of the FCMA by ratification of the Convention be carefully reasoned and made to assure the protection of United States interests at many levels and from a variety of perspectives, but including the needs of the New England fishing and seafood industries.

Respectfully submitted.

KENELM W. COONS,
Executive Director.
RALPH J. GILLIS,
General Counsel.●

WITHHOLDING FLIMFLAM

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. D'AMOURS. Mr. Speaker, the interest and dividend withholding proposal is as much "flimflam" today as it was when the Wall Street Journal criticized the President's original proposal this January. If anything, the provisions included in the Senate tax bill are even more complex and burdensome than the original proposal.

Mr. Speaker, this is not and should not be a partisan or ideological issue. Interest and dividend withholding has been opposed by a wide range of Members from both parties. A nearly unanimous House rejected withholding 401 to 4 under President Carter and it should do so again under President Reagan.

Interest and dividend withholding simply makes no sense when we can achieve the same compliance goal through other, less burdensome, means such as better processing of existing 1099 forms on interest and dividend earnings.

I invite my colleagues to join me in cosigning the following letter to the House Rules Committee asking for a separate vote on this issue when the conference report on the tax bill comes back to the full House. Members who wish to cosign the letter should call my office at 5-5456.

[From the Wall Street Journal, Jan. 29, 1982]

WITHHOLDING FLIMFLAM

In an effort to puff up revenue projections for the February 8 budget message, the Treasury Department is proposing a 5 percent withholding tax on dividend and interest income. The proposal makes no economic sense, and hasn't a ghost's chance of passage through Congress, something the Treasury must surely have known.

After all, we've been down this track many times before. Similar withholding tax proposals have been rebuffed in Congress in 1942, 1943, 1950, 1951 and 1962. On an appropriations rider in August 1980, the House of Representatives voted by 401-to-four to prevent the Internal Revenue Service from even studying the idea of a withholding tax on interest and dividends. This year's proposal is opposed by powerful members of the President's own party, including Representative Barber B. Conable Jr., ranking Republican on the House Ways and Means Committee, who says the committee won't appprove the measure.

And with good reason. For fairly minimal gains in revenues—Treasury is estimating an extra $2 billion for fiscal 1983, less afterwards—a withholding tax would impose heavy paperwork burdens on banks, savings and loans and brokerages, among others. In a study commissioned before the American Bankers Association, the accounting firm Arthur Young & Co. estimated that the Carter administration's 1980 withholding proposals would cost a bank with $100 million in deposits roughly $200,000 in startup costs and $80,000 in annual operating costs.

A withholding tax on interest and dividends, moreover, would lower the effective yield on savings and stock ownership. And many of the withholding payments would most likely be drawn from interest-bearing accounts. At a time of enormous fear of "crowding out" by government borrowing in the capital markets, it makes no sense to reduce the deficit by reducing personal saving.

The IRS says it needs a withholding tax to prevent underreporting of interest and dividend income. But what it really means is that its computer programs and management are so sloppy that it can't match interest and dividend reports filed by corporations and banks with individual tax returns. The answer is for the IRS to put its own house in order, rather than to transfer an enormous administrative burden to the private sector.

Since the withholding measure has little hope of passage, its major purpose is to allow the Treasury to pretent that it will be collecting $2 billion more next year than it actually will. The window dressing wasn't worth the cost in budget credibility.

HOUSE OF REPRESENTATIVES,
Washington, D.C.

HON. RICHARD BOLLING,
Chairman, House Rules Committee, the Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: You will soon be asked to approve a rule for the consideration of the Conference Report on H.R. 4961, a minor House-passed tax bill to which the Senate has appended many substantive changes in U.S. tax law. We ask that you approve a rule allowing a separate vote or motion to strike from the Conference Report any provisions requiring withholding on interest and dividend earnings.

We realize that this is an unusual request but we believe that this is a most unusual situation in which the facts warrant a separate vote on this issue. First, the House was never given an opportunity to consider and vote on the individual issues contained in the Senate tax bill. Second, only two years ago an overwhelming bipartisan majority of the House voted 401-4 to reject a similar proposal made by the Carter administration. Third, by properly processing existing 1099 forms the IRS can achieve the same compliance objective without burdening millions of taxpayers, financial institutions, and businesses. Fourth, the imposition of interest and dividend withholding would act as a disincentive to savings and investment and would impede economic recovery. Fifth, the original Senate vote to impose interest and dividend withholding was very close, 47-50.

For these reasons, and on behalf of the many millions of our constituents who will otherwise be adversely affected by interest and dividend withholding, we ask that you approve a rule permitting a separate vote on this important issue.

Sincerely,

STEWART MCKINNEY.
FRANK HORTON.
CLARENCE E. MILLER.
NORMAN E. D'AMOURS.
FERNAND ST GERMAIN.
DOUG BARNARD, Jr.●

JOB TRAINING HELP NEEDED FOR TRADE WAR VICTIMS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GAYDOS. Mr. Speaker, the Japan Economic Institute of America recently circularized the Congress with an economic monograph that acknowledged that 2 million American jobs have been lost to imports in recent years.

The essay on trade failed to note that many of these goods were unfairly traded, but I will make that notation.

Unfair trade is the way the world works in these days of economic war on a pacifistic and still complacent America, which is the largest market in the world for everything made in the world.

Furthermore, that these goods worth 2 million American jobs can be unfairly traded—traded in violation of international agreements and law—is a policy of the U.S. Government from administration to administration.

Therefore, these 2 million jobs were lost as a matter of Government policy.

And those injured as a direct result of Government policy ought to be helped, also by the Government and also as a matter of policy.

By the way, these lost jobs equal about 20 percent of our present unemployment rate.

In this connection, the debate on the Job Training Partnership Act (H.R. 5320) mentioned 1.2 million workers in declining industries. Declining industries generally are those targeted for penetration by one of our trading partners or another.

In one recent decline, an American automobile manufacturer closed a plant in New Jersey not long ago—closed it permanently.

After 18 months, 56 percent of the workers who did not choose to retire were still unemployed.

The trade adjustment programs are insufficient and they are used far too sparingly.

So, the Government is injuring people and it isn't helping them.

And that is wrong!

So, the $1 billion the Training Act seeks to direct toward displaced workers speaks strongly in its favor. I think we ought to be doing more in this regard, and that events will compel us to do more. But getting this bill out of the House is a start and it will be $1 billion more than we have now—if the Senate will accept it and if the administration will let it become law.

In addition, the act seems to be free of the potential for manipulation and abuse that gave the CETA program so much trouble. And that, too, is in its favor.●

LET US GET ON WITH THE BUSINESS OF REAUTHORIZING A STRONG, FLEXIBLE CLEAN AIR ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WYDEN. Mr. Speaker, on April 28, the Energy and Commerce Committee overwhelmingly adopted an amendment I offered to reform and streamline the prevention of significant deterioration (PSD) program of the Clean Air Act.

Enacted in 1977, the PSD program budgets the amount clean air is allowed to deteriorate in our Nation's parks, wilderness areas and other areas of our Nation whose air is cleaner than the national ambient health standards.

The PSD amendment adopted by the committee was the product of a fair and open debate, as reflected by the consensus support behind it.

Yet, after a 3-month hiatus on the consideration of any clean air amendments, the Energy and Commerce Committee will soon be asked once again to reconsider the PSD section of the Clean Air Act.

Committee members will be asked to support amendments designed to remove new national parks, wilderness areas and other national treasures—less than 4 percent of the continental United States—from the protections of their clean air budget under the PSD.

The PSD program has been criticized as being too complex. My amendment responded to those legitimate concerns by making specific changes to reduce that complexity.

The 25-to-13 vote to adopt this amendment suggests it is an acceptable compromise that addresses head-on the concerns many of us share about the existing PSD program, while preserving the emphasis on keeping our clean air areas clean and protecting our national parks and other treasures.

My amendment reduced the need for complicated modeling of air quality impacts that both States and industry have complained are complicated and unworkable. The amendment streamlines the PSD permitting process and reduces the number of sources that come under PSD permitting review. For national parks, wilderness areas and other national treasures the PSD budget protections remain. For all other PSD areas, however, States may elect to "opt-out" of the PSD budget protection, thereby allowing pollution up to the level of the national ambient health standards.

This Congress knows that the American people want us to live within budgets. Given this budget-conscious mood, it is ironic that once again the Energy and Commerce Committee will markup amendments intended to undercut the clean air budget and reconciliation process known as the prevention of significant deterioration program.

Mr. Speaker, an important part of the business of this Congress is to reauthorize a strong, flexible Clean Air Act.

Let us quit covering old ground and move on to the many other important issues that must be resolved before the committee can report out a clean air bill.●

COURT WATCH PROJECT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MAZZOLI. Mr. Speaker, I believe that judges typically are too lenient on the criminals who come before them, and I hope the Court Watch Project, in today's parlance, raises judicial consciousness on the need to match the penalty to the crime.

The following article is well worth reading:

[From the Washington Post, Aug. 5, 1982]

COURT WATCH GROUP PUTS PRESSURE ON "LENIENT" JUDGES

(By Ruth Marcus)

The sentences raise eyebrows:

A Wisconsin judge gave three years probation to a man convicted of sexually assaulting a 5-year-old girl because, he said, the girl was a "sexually promiscuous young lady.

A California judge reduced a first-degree murder conviction to second degree because he said the slayer did not act in a "premeditated and deliberate" way when he stabbed his victim 130 times.

A Pennsylvania judge put an armed robber—out on bail for a previous conviction when he committed the crime—on probation for five years, because prisons are "inhumane and degrading."

Such court decisions prompted the Washington Legal Foundation, one of a new breed of conservative "public interest" law firms, to launch the Court Watch Project, asking its 80,000 members across the country to monitor judges and report any who appeared to be giving criminals slap-on-the-wrist sentences.

"We have hit a nerve," said WLF head Daniel Popeo of the project, which began last year. "We got bags and sacks of letters and support."

Complaints and newspaper clippings about judges who are soft on crime are now pouring into the group's headquarters here at the rate of "10 a day, six days a week," he said.

"There is a tremendous breakdown in the public's mind of the effectiveness of the criminal justice system," Popeo said. Court Watch was needed, he said, to counteract the "tremendous pro-criminal lobby" made up of liberal organizations like the American Civil Liberties Union, which he calls the American Criminal Lovers Union.

After reading Court Watch reports, the Washington Legal Foundation selects the most egregious cases, and writes letters asking the judges involved to justify their actions. It has written more than 500 letters so far.

The campaign would bear special significance for judges who are elected rather than appointed. According to the National Center for State Courts, about 30 states elect lower state court judges, the judges who sentence in most criminal cases. But the threat is equally as weighty for those judges who are appointed for set terms.

One letter was fired off Monday to a Missouri judge who made headlines when he sentenced a university professor who had killed his wife with a hammer to 60 days in jail.

Another sentence in which a Massachusetts judge freed on bail a doctor accused of raping two women patients, even though he had been convicted earlier of raping a nurse, drew a sharp response. "The court's action can accurately be labeled an outrage," the foundation charged in a letter.

In a local case, the foundation asked D.C. Superior Court Judge Henry H. Kennedy Jr., who sentenced a man to 18 to 54 months in jail after he pleaded guilty to killing a 20-month-girl, "By what strange reasoning or process did you arrive at such a lenient sentence?"

"In our view, the sentence dangerously approaches the level of judicially sanctioning child abuse and infanticide," the group said. "The Washington Legal Foundation believes that if you are unable or are unwilling to mete out appropriate sentences for violent crimes, you should seriously consider resigning from the bench."

If the group doesn't receive a satisfactory response from a judge, it files a complaint with the state judicial review commission. Six complaints are currently pending, and the foundation is about to lodge another five.

Apparently, however, when the Washington Legal Foundation talks, many judges listen.

"I have tried many murder cases, and this is the first time I've ever reduced a first-degree murder conviction in my 10 years on the Superior Court," California Judge Peter S. Smith told the group, noting that he was appointed to the bench by former governor Ronald Reagan and has "a reputation as a hard sentencer."

Legal Foundation lawyers believe their letters make a difference. "In the next case, that judge is going to be a little more sensitive to the victim and the public, and that's a beneficial effect," said lawyer Nicholas E. Calio.

In an expansion move, the foundation is about to expand the Court Watch program. It has printed 50,000 copies of a "Court Watch Manual" to send to various groups detailing how to set up local court-monitoring programs.

The manual suggests activities for "concerned citizens" who want "to hold judges, parole boards, prosecutors and other criminal justice personnel accountable for their actions." Such groups are already active in California and Illinois.

Recommendations include monitoring court proceedings, recall drives; letters to newspapers complaining about lenient judges or parole boards; demonstrations in front of courthouses; newspaper advertisements criticizing a judge's handling of a case, and a "worst judge" award to those too lenient with criminals and who disregard the rights of victims.

Some critics say the Court Watch project represents a dangerous attack on judicial independence.

"I never thought it was proper for judges to sentence out of fear," Vermont Supreme Court Chief Justice Albert W. Barney, chairman of the Conference of Chief Justices, said of the project. "If that's the way they're going to do business it's somewhat extortionate."

Barney noted that judges are often hamstrung by pre-existing legal rules or errors by police that keep evidence from being introduced, and are unable to explain seemingly lenient sentences because of confidentiality requirements.

"The judge gets blamed for all of these things," he said, "I don't really think that it's very satisfactory to key in on whether a sentence appears to the outsider to be lenient."

John Shattuck of the American Civil Liberties Union, argued that "judges need to be kept apart from lobbyists."

"Maybe members of Congress have to take the heat," Shattuck said, "but judges should be making their decisions based on the evidence before them, and not on letters coming in from any political group of whatever stripe."

"We've never received a nasty letter from a judge," Popeo countered. "We feel we are really protecting the judicial establishment from the attacks of the ACLU and the rest of the criminal defense lobby."●

INSANITY DEFENSE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. COLLINS of Texas. Mr. Speaker, earlier this year, a Washington jury found John Hinckley "not guilty by reason of insanity" of shooting President Reagan and three other men last March. I believe that we must take a very hard look at what the insanity defense has become. A man should not shoot the President in front of millions of people on television and then be eligible to be released in as little as 50 days because of the insanity defense.

Now is the time for reform. In many areas of the Nation, criminals are escaping punishment by use of the insanity defense. In Michigan, during the 1970's, 223 criminals escaped punishment by claiming they were insane. Of these 223, 124 were released after only a 60-day hospital stay. This is the type of thing that has to end.

Recently, a Georgia man was twice released from hospitals after two juries found him insane. After he left the hospital the last time, he walked into a hotel lounge and killed his wife and two bystanders.

The insanity defense appeals particularly to defendants with no other defense. Hinckley was able to hire three psychiatrists to try to justify his actions to a jury. Then the jury of laymen was forced to make a decision

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on Hinckley's sanity on which expert psychiatrists could not agree.

I believe that a good solution would be legislation similar to that enacted by several States which creates a verdict of "guilty but mentally ill." This verdict would result in criminals being sent to prison after treatment for mental illness rather than being released into the public. Today, I am introducing a bill that would create such a verdict in Federal cases.

There is something very wrong when a man can shoot the President and three other men and then escape punishment by hiring three psychiatrists to say that he was insane. The worst part is that he could soon hire other experts to say that he is now sane and should be released.●

MILITARY CONSTRUCTION AUTHORIZATION SUPPORT FOR MALMSTROM AFB

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MARLENEE. Mr. Speaker, on Wednesday the House will consider H.R. 6214, the military construction authorization bill. I support this legislation as a much needed step toward upgrading our military facilities.

I am particularly concerned with the present condition of our housing on our military bases. Many of our bases are struggling to provide adequate housing for our military personnel, and this includes one base in my district, Malmstrom Air Force Base. In fact, 82 percent of the Strategic Air Command's existing dormitory spaces do not meet current Air Force standards. Our Nation must invest in this area and make substantial quality of life improvements as an incentive for our military personnel.

I am gratified, and appreciative, of the actions by the Committee on Armed Services to include $5.1 million to upgrade unaccompanied enlisted personnel housing at Malmstrom as well as its actions to include funds for a heat plant there.

This Nation cannot continue to allow housing at our military bases to deteriorate as it has been and I join with the military personnel at Malmstrom Air Force Base in Great Falls, Mont., in thanks for the actions of the House Armed Services Committee.●

BUFFALO'S UKRAINIANS KEEP MEMORY, DREAM OF FREEDOM FOR HOMELAND

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. NOWAK. Mr. Speaker, Ukrainian-Americans during the month of August will celebrate the 100th anniversary of the establishment of their community in the Buffalo, N.Y., area.

The Buffalo Chapter of the Ukrainian Congress of America is the vehicle by which their heritage and appreciation of freedom are communicated to our community and beyond. Mrs. Dasha Procyk, who was a 4-year captive of the Nazi's Auschwitz concentration camp during World War II, is the president of Buffalo's local chapter. Mrs. Procyk spoke of local Ukrainian-American groups as striving to "teach their children a love for their homeland and at the same time a love for their American heritage and an appreciation of the freedoms they have here."

Ukrainian dreams of freedom were trounced when the revolt against czarist Russia failed. To this day the policy of "Russification" continues in Ukraine with a ban on the teaching of the Ukrainian language, the imprisonment of dissidents, religious persecutions, mass postwar deportations, and manmade famines.

The Buffalo Chapter of the Ukrainian Congress Committee of America has "adopted" jailed dissidents and sent food to their homeland in an effort to alleviate human suffering.

The following appeared August 2, 1982, in the Buffalo Courier Express: "Buffalo's Ukrainians Keep Memory, Dream of Freedom for Homeland":

[From the Buffalo Courier Express, Aug. 2, 1982]

BUFFALO'S UKRAINIANS KEEP MEMORY, DREAM OF FREEDOM FOR HOMELAND

(By Bill Osinski)

It was only a local ethnic fair, but the organizers committed the diplomatic blunder of putting a flag with a hammer and sickle over the Ukrainian booth.

Dasha Procyk told the festival people there would be no Ukrainian booth until the flag of the Soviet Union was replaced with a blue-and-yellow one symbolizing the independent Ukraine.

"To us, the cause is maybe a little more burning than to other captive nations," said Mrs. Procyk, president of the Buffalo Chapter of the Ukrainian Congress Committee of America and a member of that organization's national board. "But the Ukrainians were the first victims of Russian expansion and the most forgotten, so we have to be the loudest."

This month about 30,000 Ukrainian-Americans in the Buffalo area mark the 100th anniversary of the establishment of their community here. To many of them, it is more than an ethnic milestone: it is a chance to demonstrate a national identity of a homeland that most of the world recognizes only as the westernmost cave of the Russian bear.

To Ukrainians, the Ukraine is part of the Soviet Union only on political maps. It was from their homeland that the Cossacks rebelled against the czar in the 18th century, and that Ukrainian patriots mounted an army of hundreds of thousands to fight both the Communists and Fascists in World War II.

Now that the Ukraine has once again been absorbed by Russia—this time into the Union of Soviet Socialist Republics—it falls to the Ukrainians in the United States to keep alive the concept that the Ukraine is a distinct land, with its own religious, social and political tradition.

"We feel we must speak for those who cannot speak on their own behalf," Mrs. Procyk said. "We have a sacred duty."

Even those who are three or four generations removed from their homeland feel, to some degree, that same responsibility, she said.

"Some people think once you emigrate, you should forget," said Mrs. Procyk. "I am an American, but an American who doesn't know what is going on in the world isn't a good American."

On the local level, Ukrainian food and folk arts will be the featured attractions at the 10th Annual Ukrainian Day Celebration, to be held Aug. 15 at St. Basil the Great Church on Walden Avenue.

On the international political level, the Ukrainians are perhaps the most active bloc in the National Captive Nations Committee, an advocacy group for the national groups—not 31—that are under Soviet domination, she said.

By federal law, since 1959 the third week in July has been designated as Captive Nations Week in the United States. Mrs. Procyk participated in a ceremony in the White House Rose Garden last month as part of the 1982 commemoration of the Captive Nations cause.

Representatives of the various nations believe they have a strong friend in President Reagan, she said, but most of the strength of their cause comes from personal convictions.

For Mrs. Procyk, those convictions were forged during four years she spent as a captive in a Nazi concentration camp.

"My foremost thought was, 'Does anybody care, does anybody know I'm here?' " she said. Her own antipathy toward the Soviets was hardened, she said, when the Soviets took control of her camp, Auschwitz, and treated the Ukrainians almost as poorly as the Nazis had.

Because she could speak Russian, she could understand the talk among the soldiers of eventually marching to London and Washington, D.C, she said.

Marian Boraczok uses artistic language to make his statement on the Ukrainian spirit.

He had been trained in the Ukraine and Poland as an artist, but when he came to America the only work he could find was in the steel mills of Lackawanna. He remembers reporting for his first day of work at the mill in a ski outfit. But the end of the day his hands were blistered from pushing a coal-laden wheelbarrow, and the seat of his pants had been eaten away by chemical fumes.

"That was like in the hell," Boraczok said of his first impressions of working in his new country. "All the time I was thinking I was in my beautiful country."

Boraczok continued to work in the mills for 18 years, but his mind's eye continued to be filled with visions of his homeland.

His artistic works, done in oils, wood sculptures and ceramics, consist almost entirely of Ukrainian folk themes, from impressionistic paintings of country life to the traditional Ukrainian ceramic plates and Easter eggs.

Boraczok helped start a scout troop for Ukrainian youths and participated in the fund-raising drive to get a summer camp for the troop in the late 1950s.

He also used his free time to come to the community center that the Ukrainians had purchased on Genesee Street and to paint most of the frescoes that practically cover the walls of the center's main hall.

But the heart of Boraczok's contribution to his community is a large room in the center in which he displays his collection of Ukrainian art and lesser memorabilia.

Because the center does not have a separate staff for the room, Boraczok's collection can be viewed only by appointment with Boraczok. The eclectic collection includes some non-Ukrainian items, but most it is Boraczok's statement on the national identity of his homeland.

There are tributes to Ukrainian artists and patriots, mannequins dressed in traditional costumes, and pieces of old Ukrainian currency. The room also holds things that have mostly personal value, such as the threadbare piece of Ukrainian embroidery that an immigrant women carried on an odyssey through three continents, and a photo of a weeping Ukrainian women, whom Boraczok later discovered was the mother of a Buffalo man.

"Here is my blood," Boraczok said in explaining why he maintains the collection. "I want people from the third and fourth generation to come here and say 'I am proud to be Ukrainian.'"

Monsignor Paul Iwachiw, pastor of St. Nicholas Ukrainian Catholic Church, said most Ukrainian-Americans believe they have a duty to act as "ambassadors before the world of freedom of religion, because they know their brothers in the Ukraine don't have it."

The Soviet government allows some external expressions of national identity—such as language and folk arts—to all the republics, he said. But expressions of religion that go against the essential atheistic nature of communism are harshly repressed, he said.

This is one reason why people from lands such as the Ukraine are among the most ardent supporters of the American way of life, he said.

"Yes, we have crime here in America, but it is not the same kind of crime as we saw in Europe (the parts of Europe dominated by communism), where a man did not have the right to call himself who he is," Msgr. Iwachiw said.

"We want to be not a dead body but alive," he said, referring to Ukrainians both in their homeland and abroad.

To illustrate the determination of this spirit, Msgr. Iwachiw translated from a letter he received from a friend in the Ukraine, a man who is forced to perform his priestly functions only in secret gatherings:

"We are washed by waves of atheism in a sea of falsehoods, but we do not drown; we are knocked down to the ground, but we are not conquered."●

A TRIBUTE TO DR. W. LLOYD JOHNS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MATSUI. Mr. Speaker, it is my pleasure to rise in tribute to an outstanding educator in my district, Dr. W. Lloyd Johns, president of California State University, Sacramento.

I join with alumni, friends, faculty, students, and staff at "Sac-State" University who will be celebrating Dr. Johns' continued service at a special reception on Sunday, August 29. As president of the State capital campus of the California State University system since 1978, Dr. Johns presides over an $80 million annual budget, with a faculty and staff of 2,000 and a student population of 23,000.

He is an educator with over 30 years' experience in classroom teaching and administration at all levels, including elementary, secondary, and postsecondary. But Dr. Johns' interests and activities extend far beyond his profession. He is a recognized management consultant, and accomplished public speaker with a fine sense of humor, a published author, and a professional musician.

The Sacramento area and the entire State of California is indeed fortunate to continue to enjoy his service and benefit from his leadership.

I am sure my colleagues—and particularly my colleagues from the State of California—will join me in extending appreciation and best wishes to Dr. W. Lloyd Johns for his outstanding contributions to higher education.●

AMERICAN JEWS WHO OPPOSE THE ISRAELI INVASION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Ms. OAKAR. Mr. Speaker, many varieties of groups have courageously spoken out against the Israeli invasion in the interest of world peace. They do not condemn the Israeli people. However, they do condemn the leaders of the Israeli Government who have promoted this invasion and victimized so many innocent people.

On my recent congressional tour of the Middle East, I found many Israelies who also oppose the invasion of Lebanon. These people want to live in harmony with their Arab brothers and sisters.

Can we do less as an American Government? Why are we so mysteriously silent when it is our weapons that are responsible for this devastation of a country and her peoples?

The following inserts are messages from two groups of Americans who care about the people of the Middle East.

STATEMENT OF WASHINGTON AREA JEWS OPPOSED TO THE ISRAELI INVASION OF LEBANON

As American Jews, we are deeply saddened by Israel's invasion of Lebanon. The death and destruction wrought by the Begin/Sharon government are a betrayal of the vision of Israel's founders and the historical commitment of Jewish people to human rights.

Israel's long-term security is jeopardized, not enhanced, by poisoning the political atmosphere of the Middle East with excessive and senseless violence against civilians.

The violence against Israeli citizens must also be ended so that Israelis can be freed from their legitimate fears—but this must be accomplished by political and diplomatic means, not by subjecting other civilians to even more terrible devastation.

The dream of a peaceful homeland will never be realized so long as Israel denies the legitimate national aspirations of the Palestinian people.

We call on the Israeli government to withdraw from Lebanon, to respect the territorial integrity of all her neighbors and to let the Lebanese decide the fate of their country.

We join hands with the thousands of Israelis who are demanding: Peace Now.

This statement has been endorsed by over one hundred Jewish citizens of the Washington area as well as the "Washington Area Jews Opposed to the Israeli Invasion of Lebanon" and the "New Jewish Agenda". Among the signatories are Rabbi Harold White of Temple Sinai in Washington, Ken Giles of "New Jewish Agenda" and journalist I. F. Stone.

Denise Abrams, Andrea Barron, Samuel D. Beck, Sarah Bencich, Barbara Bick, David Bine, Alan Bloom, Jonathon H. Bloom, Horst Brand, Geraldine Brittain, Mark P. Cohen, Sarah L. Cohen, Gabrielle S. Edgcomb, Addie Efross, Ev Ehrlich, Joan Eisenberg, Fred Feinstein, Kenneth Feldman, Rachel Fershko, Robert Fink.

Judith Freeman, Jill Gay, Lynne Gelser, Laura Ginsburg, Deb Goldman, John Goodman, Dan Gordon, Gloria Green, Larry Greenfield, Dr. John Gregor, Casey Gurewitz, Helen Gurewitz, Linda Hassberg, Richard Healy, Gloria Helfand, Alex Hershaft, Max Holland, Daniel Hoober, Helen Hoops, Todd Kaplan.

William Kaplan, Bob Kasen, Jack Kasofsky, Carolyn Kazdin, Peter Kornbluh, Sharon Levy, Barbara Lewis, Silvia Lichtenstein, E. James Lieberman, Robert A. Manning, Michael S. Marcus, Carl Mayer, David Melnick, Bill Montross, James M. Morowitz, Amy Oppenheimer, Florence Orbach, Mark N. Paster, Steven Pearlman, Ray Pinkson.

Ruth Pinkson, Nancy D. Polikoff, Rich Pollock, Joe Rail, Barbara Raskin, Marcus Raskin, Sheldon L. Richman, Moe Rodenstein, Lori Rolnick, Ken Rothschild, Matt Rothschild, Meyer Samals, Selma Samals, Margerie Schuman, David Schwartzman, Judith Seckler, Jerome Segal, Dana A. Seidenberg, Helen Sharnoff, Phil Sharnoff.

Ellen Siegel, M. Silverton, Wendy Simmons, G. C. Simon, Devorah Slavin, Deborah Smith, Curtis Seltzer, Patricia Weiss, Stanley Weiss, Barry Wells, Ross E. Wells, Ruth L. Wells, Bernard Welt, Ronald Wynne, Susan Wynne, Adria Zeldin, Leslie Zeldin, Adrien Zubin.

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[Telegram]

AUGUST 4, 1982.

President RONALD REAGAN,
Hon. GEORGE SHULTZ,
Secretary of State,
Hon. WILLIAM CLARK
Director of the National Security Council.

Israel's latest offensive coupled with Beirut's serious food shortage caused by Israeli troops blocking supplies of water, food, and medical supplies to the city is beyond the bounds of human decency.

That a half million civilians should be held hostage to Israel's seeking revenge on 6,000 PLO members indicates an insensitivity to world opinion on the part of Israel which exceeds our ability to comprehend. Common humanity demands immediate action.

Because of Israel's special relationship to the United States, it is imperative that the Administration publicly make clear its concern over Israel's seige in a manner that cannot be misunderstood: We should tell Israel that if the seige is not lifted it is our intention to supply food by means of the Sixth Fleet.

JAMES H. COSTEN,
Moderator,
WILLIAM P. THOMPSON,
Stated Clerk,
United Presbyterian Church in the U.S.A.●

INTEGRATION OF THE CENTAUR INTO THE SPACE SHUTTLE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HUNTER. Mr. Speaker, I regret that a good colleague of mine has recently inserted a statement into the CONGRESSIONAL RECORD which contains several substantive errors. I sincerely believe that my colleague is quite concerned about the Space Shuttle system and the type of upper stage which will be used in the Shuttle. I am impressed by the sincerity of his concern. Unfortunately, my colleague's statement is confusing because it is in total variance with other statements he has made on this exact same subject. As the ranking minority member of the Space Shuttle, Science, and Applications Subcommittee of the House Science and Technology Committee, my colleague vociferously criticized the administration for including the interim upper stage—IUS—for two important NASA science missions.

There are errors in my colleague's extended remarks that must be set straight.

> In spite of the fact that the Boeing Co. has built and delivered eight IUS units at a cost in excess of $700 million for a solid fuel upper stage for the military and civilian spacecraft.* * *

On this point my distinguished colleagues is correct. The IUS was initially supposed to cost the taxpayer $150 million and now is costing the taxpayer $700 million * * * a 500-percent cost increase.

> Congress has passed legislation (urgent supplemental) forcing NASA to pay the losing contractor $150 million over the next 2 years.

The money which will be expended for the Centaur system over the next 2 years will mean that the taxpayer will not have to pay for the IUS vehicle for the Galileo and International Solar-Polar missions. Additionally, the Centaur is a high-energy upper stage and its inclusion into the Shuttle will save the taxpayer an investment of in excess of $1 billion that would be required to develop a brand-new high-energy upper stage. Such an expenditure would only be necessary if the Centaur is not used for these missions "To build and develop a system that does the same thing."

The Centaur does not do the same thing as the IUS. The Centaur has in excess of twice the lift capability of the IUS. The Centaur also provides an operational flexibility not provided by the IUS which will be of greater value to our intelligence community, scientists, and commercial users.

> This was the same system that was rejected by NASA because its design allegedly made it far too dangerous to put aboard the Space Shuttle.

NASA does not maintain that the Centaur poses a safety problem to the Space Shuttle. In fact, the ability of the Centaur to expel its propellants makes it less of a safety concern than the IUS solid propellant could cause the Shuttle to have to operate an abort maneuver with increased weight in the Shuttle bay.

> Now I have learned that the switchover back to the Centaur upper stage will cost an additional $1.4 billion.

This statement is incorrect. It appears my colleague was multiplying when he should have been subtracting.

> This is for a system that is untried and untested. If NASA had been allowed to use the Boeing IUS for the planetary flights to Jupiter and the Solar Polar Mission flight, the IUS would have been tested a dozen times before. Now NASA is faced with flying half-billion-dollar spacecrafts on Centaur Upper Stages that have never been flown before.

The Cenatur upper stage has flown before. In fact, the last 44 Centaur flights have been 100 percent successful. I am sorry to note that it is the IUS vehicle that has never flown before. The first IUS flight will be an operational flight. A failure on a flight such as this would not only destroy a similarly expensive space payload but would leave the Galileo and ISPM missions without a backup were it not for the now planned integration of Centaur into the Space Shuttle.

> Deciding on what system to use for a booster rocket should not be determined by politicians, but should be left to the discretion of the technical experts.

If this is true, one might ask my colleague why he has reintroduced this matter into the political realm. As for the "Technical Experts," I would urge my colleague to dial his telephone, call NASA and ask them what they think because I agree with them. Let us examine what the "Technical Experts" have said on this issue.

Letter from Verne Orr, Secretary of the Air Force and Hans Mark, Deputy Administrator of NASA to Chairman FUQUA of House Committee on Science and Technology:

> NASA should undertake the adaptation of the Centaur to be used in the Shuttle to support the near-term Galileo mission and the projected mid-term high energy requirements of NASA, DOD, and commercial users.

Report to the Congress from the Defense Department and NASA entitled, "Upper Stage Alternatives for the Shuttle Era":

> An IUS Galileo, combined spacecraft mission, case 5 in Section 5.3.1.3, utilising the IUS on a Delta-VEGA trajectory was also analyzed with development of preliminary cost figures. Based on preliminary mission analysis, this option provided, at best, major compromise to the mission which would have to be subjected to detailed review by the scientific community. Further mission analysis, while possible, to identify other mission options would involve much more detailed weight and CG location for a Galileo combined spacecraft with kick stage would represent a load to the generic IUS which is greater than design limits. This fact would require, as a minimum, structural modifications to stiffen that upper stage. The implications of such a modification and the cost and schedule consequences as well as risks are not well understood at this time. In summary, while it is apparent that a mission with a combined Galileo spacecraft can be accomplished with upper stage performance characteristics equivalent to an IUS, it is not clear that such a mission could be accomplished without major science compromises as well as high costs and schedule risks which would make a single launch in 1985 undesirable.
>
> Consequently, as this portion provided for extemely high technical risk and a low mission accomplishment reliability factor, the assessment and cost analysis was discontinued.

I hope that my good colleague from New Jersey will join me and his other colleagues in Congress who agreed with his earlier view that this decision has turned out as it should have. Integration of the Centaur into the Space Shuttle will save the taxpayer millions if not billions of dollars. It will provide an increase in capability and will make the Galileo mission, as well as many future missions, much more certain and much more effective.●

IN HONOR OF JAMES A. COLE

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. ATKINSON. Mr. Speaker, I would like to take this opportunity to congratulate one of my constituents, the Honorable James A. Cole, who celebrated his 75th birthday on the 28th of July 1982. Mr. Cole was born in and has been a life long resident of Wexford, Pa., where his family is one of the oldest and most revered in the community.

He holds degrees from Duquesne University in both accounting and law.

Mr. Cole's life has been dedicated to community service. His contributions and accomplishments are many and varied. The following are but a few of his significant achievements:

Forty-four years as a district justice and justice of the peace;

Over 50 years service as a notary public;

Forty years employment with Duquesne Light Co. of Pittsburgh. During the last 15 years with the company, he was president of Local 149 I.B.E.W., as well as president of the joint board of all the Duquesne Light Co. locals. In addition he was an officer in both Duquesne Light Co. Credit Union and Pittsburgh Officers Credit Union for many years;

Mr. Cole spent more than 30 years as a director of Farmer's Mutual Fire Insurance Co. of Pennsylvania and was its president for the past 10 years—an office he continues to hold;

Mr. Cole has been an active member of the Wexford Volunteer Fire Co. and is now a life member. This service covers more than 50 years with the fire company.

Mr. Cole is still an active member of Perry Highway Lions Club. He has just completed a third term—not consecutive—as president of this group. He has also served as district officer in International, Pennsylvania, District 14B of the Lions Club.

Mr. Cole has been and is a life long member of St. Alphonsus Roman Catholic Church. He has been an active participant in many congregational duties. In addition, he now serves as eucharistic minister.

The Honorable Mr. Cole has performed outstanding community service. He has profound respect for law and the office he served as justice of the peace. He never allowed personal feelings, friendships, nor favoritism to interfere with due process of the law.

Though he is retired from office, he continues to do what comes naturally to him—serve his fellow man.●

TRIBUTE TO GIUSEPPE PREZZOLINI

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, I would like to pay tribute to the late Giuseppe Prezzolini an internationally known author, journalist, and scholar who passed away recently. My good friend Dr. Peter Sammartino, founder-president and chancellor of Fairleigh Dickinson University was especially close to Professor Prezzolini especially during the latter's tenure at Columbia University. Dr. Sammartino together with Sister Margherita, a renowned authority on Italian-American culture and history issued a statement paying tribute to Professor Prezzolini which I would like to place into the RECORD at this point.

PREZZOLINI, A WORLD CITIZEN

MORRISTOWN, N.J.—Giuseppe Prezzolini passed away in Lugano, Switzerland, a few days ago. He was a highly productive scholar and journalist whose intellectual alertness lasted to the very end. What he has been and will remain, as a scholar and a man, lives in countless books and articles written in several languages and which have been since translated into many more languages.

A Nobel Prize candidate, Giuseppe Prezzolini was the founder and first editor of La Voce (1908-1914). He may be called "an impresario of culture," as he said of himself. He has been instrumental in bringing foreign literatures to Italy, interpreting them to his audience, and then sharing with the rest of the world the rich outpouring of Italian literary and cultural achievements. These accomplishments were the direct result of his spadework and unceasing labors in the cause of introducing modern thought to the literary and artistic community.

Of himself Prezzolini wrote in 1922 (Amici, Vallecchi, p. 8):

> I am not a writer, I have no originality as a philosopher, and I mistrust those who would like to do over the universe. But it seems that I possess a certain clarity of ideas, the capacity to grasp the character of a man or of a movement, the strength of soul to refuse to be seduced by friendships or to be upset by hatreds in evaluating merits and in measuring defects. At a certain point in my life, having buried the romantic turmoils and aspirations. I decided to become the "useful man" for others; to clarify certain ideas to Italians, to indicate their inferiorities in order to overcome them, to characterise foreign people and foreign movements, to translate from different languages, to reveal promising young men, to point out hidden greatness; that is what one calls work of culture. It is very much like building ditches, plowing the soil, planting trees, pruning, sowing, weeding, trimming, and all the operations of a good agriculturalist. Yes, I have always wanted to be useful. I don't say I have always succeeded, but that was my intention. I have always put myself at the service of a man who needed to be known, of an idea that needed conquering, of a propaganda that needed dissemination. This was the principal character of the Voce but it is in a way the character of all my works.

Prezzolini—Columbia University Professor Emeritus of Italian—was an internationally-known author, journalist, scholar, critic, teacher who, while directing the Literary and Information Department of the Bureau for Intellectual Cooperation funded by the League of Nations in Paris, was invited to become director of Casa Italiana in 1930.

A man of culture made for study, but also for action and responsibility, Prezzolini won the trust of the University and its administrators and was much appreciated by colleagues and students. At the outbreak of World War II he became an American citizen and for another decade continued to teach, to study, and to write at Columbia University.

Intellectual stimulation, moral integrity and the spiritual values exemplified in his own life were characteristics of Prezzolini's teaching, not only at Columbia University, but throughout his life. His writings, whether scholarly or journalistic, are delightful because of his clear, precise, well-balanced style. He has a great variety of interests and his pen ranges from German mysticism to an erudite history of spaghetti, with biography, criticism, philosophy, scholarship, reportage, allegory, religion, and psychology filling the gap.

For the past 20 years he lived in Italy and Switzerland, where he continued his literary scholarship and journalistic endeavors. He recently prepared the manuscript for a sequel to his most popular book: "God is a Risk" (Dio è un rischio), which will soon be published. His lucidity and keenness of mind can well be attested to by the hundreds of interviews which appeared in newspapers and magazines throughout the world, and by the many radio and TV programs on which he appeared during the celebrations honoring him on his 100th birthday.

In July 1971, in recognition of his contribution to Italian culture, the President of the Republic of Italy bestowed on him the Italian government's highest honor, and in January 1982, he received the Penna d'Oro Award from President Sandro Pertini.

Prezzolini will live on in his works which include over 60 books, with an additional 50 new editions, as well as over 70 anthologies, volumes of correspondence and translations. He wrote for over 175 newspapers and magazines to which he contributed articles during the past century in Italy, France, Germany, India, Yugoslavia, Holland, Switzerland, Venezuela, Spain, England, Sweden, Belgium, and the United States.

Prezzolini's impressive contribution to the growth, spread, and development of Italian thought and literature will never be forgotten, for he has been the catalyst whose skillful blending of literary and philosophical developments with Italian genius brought forth a new Italian renaissance in the early years of the twentieth century.

Dr. Peter Sammartino, Founder-President and Chancellor of Fairleigh Dickinson University remembers Professor Prezzolini at Columbia University: "It was the period of the greatest ebullience and of the most important thrust forward, intellectually, of Italian Studies. Never in the history of American universities had so much been accomplished in a relatively short time. The Casa Italiana, one of the most beautiful buildings on any campus, shone as a beacon light of Italian culture in America."

An inscription carved on the facade of Casa Italiana of Columbia University reads:

"Italy Mother of Arts Thy Hand Was Once Our Guardian and Is Still Our Guide" (Lord Byron's Childe Harold, 4.47). It will always be applied by countless Columbia University graduates to Pressolini: "Whose hand was once our guardian and is still our guide."●

TENN-TOM INVESTIGATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, I would like to bring to the attention of the House information contained in news reports filed by WSMV-TV in Nashville concerning allegations of criminal activity relating to the Tennessee-Tombigbee navigation project in Mississippi and Alabama. This Corps of Engineers project, which has been the subject of considerable controversy in the past, will need fiscal year 1983 funding this year. I anticipate offering an amendment affecting Tenn-Tom's funding, and I believe Members should be aware of the information reported in Nashville before they decide how to vote on this project.

I also believe that the reports emanating from Nashville deserve congressional attention. Therefore, I have requested that the House Public Works and Transportation Committee to investigate this issue. Excerpts from last week's news reports and my letter requesting an investigation follow:

[WSMV-TV News, Aug. 2, 1982]

Channel Four News has learned a federal grand jury in Nashville is investigating possible charges of fraud in the construction of the Tennessee-Tombigbee Waterway . . .

The waterway is planned to connect 234 miles of canals, locks, dams, and lakes. But it is this stretch in upper Northeast Mississippi that is the subject of this story. The corps of Engineers calls this the greatest single construction feat of the Tenn-Tom . . . A manmade canyon 27 miles long through what's called the Tennessee divide, and it is a bigger earth-moving job than the digging of the Panama Canal. But a Nashville grand jury suspects that one of the projects contractors may have cheated the taxpayer out of millions of dollars.

The contract to cut through the first part of the divide was awarded in 1976. . . The contract's title was "Divide Cut Section 4-A—it's price was $21 million. But with the contract more than half done the original contractor went broke and the job was given to a subcontractor already doing the work—Paul Bosco and Sons from Detroit.

Bosco finished the job in January of 1979. And by the time it was finished the cost had skyrocketed from the original $21 million to $39 million. Since then two Bosco foremen have been indicted for allegedly lying to the Nashville grand jury investigating divide cut section 4-A. . .

The cost overruns Apparently raised a red flag to the Army's Internal Audit Agency because they came here to what used to be the offices of the Corps of Engineers in Iuka, Mississippi to get records of the Bosco contract. They studied these records from March through August of 1980. They discovered this single change order alone—Modification No. 3—added $12 million to the cost of the contract.

The auditors, along with the Army's Criminal Investigation Division and the FBI began questioning foremen, engineers, and officials involved in the Bosco contract. Two of the people they questioned told Channel Four the Army suspected Bosco had overcharged the Corps for the equipment it used and possibly tried to slow the project down.

Last summer the US Department of Justice joined the probe and a Nashville grand jury here began questioning some of the same people who had been grilled by the Army and the FBI. Two of the people are scheduled to be tried here in September for allegedly lying to the grand jury—Former Bosco foremen Lewis Cass and Robert Douglas Holt, both of Mississippi.

In the indictments of the two men, the grand jury states it was conducting an investigation to determine whether violations of the mail false claims, false statements, and other criminal statutes of the United States had been committed in connection with the divide cut Section 4-A of the Tennessee-Tombigee Waterway. . . .

[WSMV-TV News, Aug. 3, 1982]

Alabama Representative Tom Bevill is chairman of the committee responsible for oversight on water projects like Tenn-Tom. But Bevill said he did not know about the grand jury probe until Channel Four told him about it last week.

He said no congressional investigation is needed because the Department of Justice is taking care of it. Bevill said the Corps of Engineers, which is building the Tenn-Tom, is cooperating with the Justice Department 100 per cent. But he claimed even if indictments and conviction result from the grand-jury probe, the project will still be finished. . . .

[WSMV-TV News, Aug. 4, 1982]

The contract, being worked by Paul Bosco and Sons, specified the earth would be sandy, like this. But instead, according to the Corps, Bosco ran into wet, mucky soil like this—soil that is harder to move.

According to the Corps, Bosco had the right to demand extra time to finish the job, but the Corps did not want to extend the deadline. So Area Engineer said the Corps decided to pay Bosco more money so he could meet his original deadline. The Corps did not know how much the so-called changed conditions would cost. So Bosco started working around the clock and no price was agreed upon in advance.

The work was put on a cost plus basis. Bosco told the Corps what the work cost him plus a certa'n percentage profit. Corps Engineer said the Corps avoids cost plus situations wherever possible because they put all the risk on the government.

The final cost of the Bosco contract was $18 million more than the original price. And the federal grand jury here in Nashville apparently suspects the Corps took a risk and lost.

The grand jury indicted two former Bosco foremen for perjury in answers to questions about the Bosco contract. One indictment read: "Lewis Cass knew that he told certain heavy equipment operators to slow down because they were in cost plus.

Paul Bosco himself is now working in Dallas. He told Channel Four he feels he is being targeted by authorities. He would make no further comment except to say someday he will have a story of his own to tell . . . .

House of Representatives,
Washington, D.C., August 3, 1982.
Hon. James J. Howard,
Chairman, House Public Works and Transportation Committee Rayburn House Office Building.

Dear Jim: I have recently learned of allegations of criminal activity relating to the Army Corps of Engineers Tennessee-Tombigbee project. I believe that this information merits the attention of our committee, and I am writing to request that the committee conduct a further investigation of this matter.

Let me briefly outline the allegations that have been made public thus far. Last night, Nashville television station WSMV reported that a federal grand jury has been investigating one of the contractors of the Tennessee-Tombigbee Waterway project over the past year. The investigation specifically concerns the divide-cut portion of the project in northeast Mississippi. The Investigation focused on a portion of the divide-cut for which the original contract in 1976 was $21 million. In 1979 the original contractor went bankrupt before completing its obligations and the contract was given to a subcontractor, Paul Bosco, Co. of Detorit.

With Bosco doing the work, costs on this portion of the project gradually escalated to $39 million. It is this $18 million escalation under the new contractor that the allegations specifically concern. Two men working for Bosco have been indicted for allegedly lying to the grand jury. It is my understanding that the questions they were asked by the grand jury involved whether they had deliberately slowed work and deceived the Corps in order to escalate their "cost plus" contract. The investigation is still continuing, and either the investigation or the trial of the two men, set for September, may turn up new facts.

I believe this episode could have implications for the whole project and perhaps even for the whole Corps of Engineers program. The suspicion that a contractor may have hidden as much as $18 million in fraud from the Corps is extremely serious. Presumably, the alleged fraud may have gone undiscovered without the eventual involvement of the Federal Bureau of Investigation and the Justice Department which brought an investigation to the grand jury. Given the Corps' close working relationship with Congress and our committee and congressional reliance on the Corps for facts and oversight on projects, I feel that we have a responsibility to look into this matter further.

As you know, the Tennessee-Tombigbee is the largest and most expensive project the Corps has ever undertaken. I and many other colleagues have opposed the project in the past on its merits, but I believe that both supporters and opponents of the project are shocked by allegations of criminal activity connected with this federal project. As the Public Works Committee moves along with further activity on the authorization of projects and examination of the Corps program, I believe it is essential that we address the questions which are raised by the activities of the Nashville grand jury. I hope that you agree that a committee investigation is appropriate and that we can discuss this matter further at your convenience.

Sincerely,

Robert W. Edgar.●

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SENATE—*Wednesday August 11, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Righteousness exalteth a nation * * *.—Proverbs 14: 34.

Lord God of righteousness and justice, there is in each of us a spirit of self-interest which inclines us to pragmatism as a way of life. We deceive ourselves by rationalizing less than honorable action on the grounds that our purpose is good. Help us to resist the expediency that the end justifies the means. Help us to understand that means are as important to Thee as ends, that a righteous purpose does not sanctify an evil process.

Protect the Senators from the subtlety of self-deception. Give to each wisdom to examine his plans in the light of Thy truth; sensitize the conscience of each to Thy holy will; and grant courage to do what his God-enlightened conscience dictates. For the sake of God and country, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REASON NO. 11: THE PERCENTAGE GAME

Mr. BAKER. Mr. President, on this day in 1937, Ernest Hemingway punched Max Eastman in the nose in Maxwell Perkins' office. Events, such as they are, do not necessarily repeat themselves. But to guarantee that the pugilistic spirit of Members of the Congress is not similarly excited, I urge that we consider the necessity of completing the must list of legislative activity and recessing on August 20.

So, Mr. President, today I wish to assert reason No. 11 of my 18 reasons why we should push forward and recess on the 20th. Reason No. 11 is the percentage game. My guess is, that should the Senate fail to take advantage of the next 10 days, thus necessitating sessions during the week of the 22d through the 27th, a great many Senators, nonetheless, will stick by their plans and leave this city and this Chamber on the 20th, notwithstanding the entreaties of the leadership and the announcement of formal sessions of the Senate.

However, I urge that they consider that if they do so—if they leave on the 20th and we have not yet completed the must list—embedded in that act is both good news and bad. The good news is that they will be out of the city; they will be home with their families; they will be on vacation, perhaps, or wherever. But the bad news—and I now apologize to my colleagues from Georgia for this remark—is that their voting record is going to look like the record of the Atlanta Braves during the past 2 weeks, because we are not going to sit here and have idle quorum calls for a week.

If we have not finished the must list of legislation, I remind Senators that the adjournment date is August 27; and if we are in session for that extra week in order to complete the must list, I can assure them that we will not be sitting idly by, that there will be votes, that there will be votes after votes. There will be votes enough to make even the heartiest voting record fall into shambles.

Mr. President, I have no further need for my time under the standing order; and in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield, so that I may make a statement?

Mr. NUNN. I yield to the majority leader, although I do so with great trepidation, having heard by the grapevine that there have been certain disparaging analogies relating to the record of the Atlanta baseball team.

Mr. BAKER. Mr. President, I was careful to point out that no disparagement was intended toward the two Senators from Georgia. However, the rapid plummet in standings of the Atlanta Braves inspired me to make certain analogies to the slow pace with which the Senate has acted.

Mr. NUNN. I say to my friend and colleague from Tennessee that it should be noted that if the U.S. Senate were only one-half game behind, we would probably have improved our record.

Mr. BAKER. As usual, the Senator and I agree.

Mr. President, I ask unanimous consent that the time remaining to me and the time allocated to the distinguished minority leader under the standing order, as abbreviated this morning, may be reserved for our use at any time during the course of this day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, is there an order for the transaction of routine morning business to follow the execution of the special order?

The PRESIDENT pro tempore. There is. The first order is for the Senator from Georgia, for 5 minutes. Then there will be a period for the transaction of routine morning business, not to extend beyond 10 a.m., with statements therein limited to 2 minutes each.

At 10 a.m., the Senate will resume consideration of the pending business, H.R. 6863.

Mr. BAKER. I thank the Chair.

RECOGNITION OF SENATOR NUNN

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, in our criminal justice system the writ of habeas corpus has been flagrantly abused by career criminals for decades upon decades. Such blatant misuse of habeas corpus has enabled hundreds of convicted wrongdoers to wait years after their conviction, then successfully file petitions on the basis of a vague technicality in their original trial. This improper and unfortunate mistreatment of habeas corpus has generated substantial criticism of the system by many legal scholars and au-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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thorities as well as the public. Senator Chiles and I are aware of the growing concern over such abuse. As a result, we have been addressing this Congress for over 2 months about the urgent need to correct this longstanding abuse of habeas corpus.

To illustrate this problem, the case of Henderson against Kibbe serves as yet another excellent example. On December 30, 1970, Barry Warren Kibbe and a friend encountered a thoroughly intoxicated man named Stafford in a bar in Rochester, N.Y. After robbing Stafford of over $200, they drove him to a nearby town and abandoned him on an unlighted, rural road in a state of partial undress, and without his coat or glasses. The temperature was near zero, visibility was obscured by blowing snow, and snow banks flanked the roadway. At about 10 p.m., while helplessly seated in a traffic lane about a quarter mile from the nearest lighted building, Stafford was killed by a pickup truck.

Kibbe and his accomplice were subsequently convicted in a New York trial court of grand larceny, robbery, and second-degree murder. His conviction was upheld by the Appellate Division of the New York Supreme Court. On his appeal, the New York Court of Appeals rejected his argument that the truck driver's conduct constituted an intervening cause that relieved the defendants of criminal responsibility for the victim's death.

Kibbe then filed a habeas corpus petition in U.S. District Court for the Northern District of New York which refused to review his attack on the sufficiency of the judge's advice to the jury. They held that his petition failed to raise a question of constitutional dimension. However, the U.S. Court of Appeals for the Second Circuit reversed on the ground that failure to instruct the jury on the essential element of causation violated due process standards. On certiorari, the U.S. Supreme Court reversed the U.S. Court of Appeals decision. In an opinion by Justice Stevens joined by Justices Brennan, Steward, White, Marshall, Black, and Powell, the Court held that the trial court's failure to instruct the jury on causation was not constitutional error in violation of due process standards. The evidence at the trial was more than sufficient to prove beyond any reasonable doubt that Kibbe's conduct had caused the victim's death.

When one considers the strong factual record in the State courts, the Kibbe case stands out as another illustration of time-consuming and needless relitigation of issues by the Federal courts. The Federal appellate court granted Kibbe's petition on the basis of an objection to a jury instruction which Kibbe had never even raised in the State court despite every opportunity to do so. Even more disturbing is the appellate court's acceptance of his argument that the jury did not consider the issue of causation because of the lack of a specific instruction on the issue. Even a cursory review of the trial record showed that the causation issue was the central argument placed before the jury, time and again, both in trial evidence and counsel's argument. Fortunately, the Supreme Court was not so easily misdirected from the true facts by Kibbe's petition, which they eventually denied, after much needless and costly Federal litigation.

This type of situation contributes to the ever-increasing backlog of cases in our criminal justice system. Senator Chiles and I have presented this Congress with S. 2543, the Crime Control Act of 1982, which contains necessary reforms in habeas corpus proceedings. It would require the Federal courts to pay more deference to State courts' decisions. For too long, the Federal courts have been granting habeas corpus petitions despite strong factual findings by the State courts to the contrary. Our proposed legislation would give more weight to State court decisions, thus helping to eliminate needless, costly, and time-consuming Federal litigation.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Garn). Under the previous order there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements therein limited to 2 minutes each.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I have just instructed the Republican cloakroom to issue a hotline notice that the vote will occur at 10 a.m.; that all time has expired on the Symms amendment; that after that vote the remaining amendments qualified under the unanimous-consent agreement to section 6 will be voted on.

It is the hope of the leadership that all action on chapter VI, which is the foreign assistance section of the supplemental, can be disposed of by noon; that after that we will proceed to consider the remainder of the bill, with the hope that we can finish that bill sometime at a reasonable hour this afternoon or this evening.

The hotline also notified Senators on this side of the aisle, however, if we have not finished the bill by normal recess or adjournment hour this afternoon or this evening that we will continue late into the evening. It is the intention of the leadership to finish this bill today if it is possible to do so, and I believe it is.

The bill will be followed then, Mr. President, on tomorrow by the immigration bill.

I wish to make that statement on the floor so that all Members will be aware of the fact that tonight is perhaps a late night, and even perhaps a very late night, in order to finish this bill.

Mr. President, may I further announce that I have an indication from the manager of the bill on this side that he wishes to finish this bill and that he will object to any window for lunch or for dinner, as we have sometimes done. So Senators should also be on notice that the voting pattern will be continuous during the day today without any interruption.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time for morning business has expired.

Mr. HELMS. I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSE OF FRED C. IKLE CONCERNING FIDEL CASTRO

Mr. HELMS. Mr. President, shortly we will be voting on the Symms amendment. It has been suggested that instead of drawing a clear line of demarcation we should pursue a course of moderation and friendship with Fidel Castro. It is asserted that such a policy will give positive results.

Earlier this year, I made inquiry of Dr. Fred C. Ikle, the Under Secretary of Defense for Policy. Dr. Ikle's response to my questions are significant in terms of the argument that is being made that it is safe for us to discard the Monroe Doctrine.

I ask unanimous consent that my questions and the answers given by Dr. Ikle be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Senator Helms. It has been suggested that Fidel Castro is merely reacting to the hostility displayed by the United States, and that a more moderate and flexible US policy might give him an alternative to relying almost exclusively on Moscow. Do you find any merit in this reasoning?

Mr. Ikle. I think that question is adequately answered by Castro's actions in response to varying US policy shifts during the past six years under several Administrations. You will recall that about six years ago Cuban military forces were just beginning their military buildup in Angola. President Ford and Secretary of State Kissinger made strong public statements that the United States would not tolerate such conduct, and for a period of time in December 1975, the Soviet airlift of Cuban troops and equipment to Angola was halted. Then the Congress passed the Tunney/Clark Amendment, tying the President's hands by prohibiting further assistance to the non-communist elements in Angola. The Soviet-Cuban airlift resumed immediately, and within two weeks the number of Cuban troops in Angola had doubled. It continued to increase gradually in the following year, so that at the end of the Ford Administration there were estimated to be about 14,000 Cubans in Angola.

President Carter's Administration took a more sympathetic approach to the Cuban problem, and made a significant effort to improve US relations with the Castro government. For example, the Carter Administration:

Opened an "interest section" in Havana, and permitted the Cuban Government to do the same in Washington.

Relaxed the travel restrictions on Cuban diplomats at the United Nations and in Washington.

Encouraged increased cultural exchanges between the two countries.

Lifted the restrictions on vessels which had previously called at Cuban ports allowing them to subsequently visit US ports.

Lifted the ban on travel by US citizens to Cuba.

Permitted the resumption of charter flights between Cuba and the US.

It is worth recalling the response of Mr. Castro to these friendly overtures. During the Carter Administration, Cuba:

Increased the number of Cuban military personnel in Angola from about 14,000 to 20,000.

Increased the Cuban presence in Ethiopia from 0 to a height of 17,000 in 1978 and in Nicaragua from 0 to 500.

Initiated a massive effort to subvert non-communist regimes in Latin America. Cuba provided military assistance to Nicaragua to include advisors, weapons such as surface to air missiles, anti-aircraft guns and light arms. In the case of Grenada, Cuba provided advisors and anti-aircraft weapons and began construction of an airfield which would have military utility.

Denounced the United States at the summit meeting of the Non-Aligned Movement in Havana in September 1979. Castro charged that Latin America had historically suffered greatly from U.S. aggression, colonialism, and neo-colonialism.

These actions hardly support the contention that a more conciliatory approach by the U.S. to U.S.-Cuban relations will make Castro our friend.

The U.S. is not looking for a confrontation with Cuba. Nevertheless, we are unwilling to sit idly by while Fidel Castro and his Soviet bosses subvert and seek to overthrow the less powerful non-communist governments of the region. If Castro truly desires peace and improved relations with the U.S., he should begin such a rapprochement by stopping his aggression and permit other States to live in peace. We assure you that a halt in Cuban efforts to subvert other countries would not go unnoticed by this Administration.

However, so long as Fidel Castro continues his aggressive policies in Latin America, Africa, and other regions of the world, we will continue to regard him as a serious threat to international peace and stability. We believe—and the history of the 1975 Tunney-Clark Amendment suggests—that the credibility of our deterrent rests in large part on Congressional attitudes; and thus the need to resort eventually to the use of U.S. military forces will be determined in part by Castro's perception of Congressional views. Unless the Congress is perceived to be supportive of the President's strategy, no U.S. action short of actual military force is likely to have much influence on Cuban policy.

Senator Helms. What effect do you believe knowledge of the fact that the Joint Chiefs have contingency plans to meet Cuban aggression in the region will have on Cuban decision makers?

Mr. Ikle. Unfortunately, history demonstrates that peace is not furthered by failing to respond effectively to the threat or use of armed force. We believe it is important that Fidel Castro be put on notice that the United States is capable of responding to continued aggression with a wide range of flexible options aimed at making the costs of aggression and subversion greatly outweigh any perceived benefits.

If Mr. Castro wants to promote the security of Cuba, he should cease his efforts to undermine and overthrow the governments of other states. We hope that by alerting him to our deep concerns, and our strong commitment to the cause of freedom, he will appreciate the wisdom of ceasing his subversion of other States.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The **PRESIDING OFFICER**. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 6863, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Senate resumed consideration of the bill.

VOTE ON AMENDMENT NO. 2020

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Idaho (Mr. Symms). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Delaware (Mr. Roth) is necessarily absent.

Mr. **CRANSTON**. I announce that the Senator from Connecticut (Mr. Dodd), the Senator from Kentucky (Mr. Huddleston), and the Senator from Maryland (Mr. Sarbanes), are necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—68

Abdnor
Andrews
Armstrong
Baker
Bentsen
Boren
Boschwitz
Brady
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
D'Amato
DeConcini
Denton
Dole
Domenici
East
Exon
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Levin
Long
Lugar
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Pressler
Quayle
Randolph
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—28

Baucus
Biden
Bradley
Bumpers
Chafee
Cranston
Danforth
Dixon
Durenberger
Eagleton
Ford
Glenn
Hart
Hatfield
Inouye
Kennedy
Leahy
Mathias
Matsunaga
Moynihan
Packwood
Pell
Percy
Proxmire
Pryor
Riegle
Tsongas
Weicker

NOT VOTING—4

Dodd
Huddleston
Roth
Sarbanes

So Mr. Symms' amendment (No. 2020) was agreed to.

Mr. **HELMS**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **SYMMS**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **HATFIELD**. Mr. President, under our unanimous-consent agreement reached last night, we have two more amendments pending on this chapter, one by Senator Percy, and two others, one by Senator Mattingly and one by Senator Moynihan.

Mr. **BUMPERS**. Will the distinguished floor manager yield?

Mr. **HATFIELD**. Yes, I yield.

Mr. **BUMPERS**. What is the agreement as far as the rest of the bill goes?

Mr. **HATFIELD**. There are no agreements on the other chapters pending. The only agreement we had was on chapter VI dealing with foreign operations.

Mr. **BUMPERS**. Under the existing agreement, we must go to the next two amendments, is that correct?

Mr. **HATFIELD**. That is correct.

Mr. **BUMPERS**. But after that, it is a la carte?

Mr. **HART**. That is correct. We do have a list of Members, and we are trying to maintain some equality between both sides on Senators offering amendments. If the Senator from Arkansas wishes to be on the list, we shall be happy to put him on.

Mr. BUMPERS. Only to this extent: I apologize to my colleagues and my constituents for not being here during the debate on the amendment we just adopted. I wanted some time, maybe 5 minutes, to engage the sponsor of the amendment in a colloquy on its meaning.

Mr. HATFIELD. I shall be happy to accommodate the Senator.

Mr. BUMPERS. I thank the Senator.

Mr. HATFIELD. Mr. President, I noticed with some interest and concern an article in this morning's Post which stated, in part:

> The major "must" item in the measure is funds to cover the military and civilian government pay raises that have been paid since last October. But Senate sources said the money is not needed until late next month . . .

Mr. President, I do not know who these unnamed Senate sources might be, but I trust they are not associated with the Appropriations Committee. It is our understanding that the pay supplemental in this measure is urgently required, particularly for the military. In that regard, I ask unanimous consent that a letter to Senator STEVENS, chairman of the Defense Subcommittee, from Secretary of the Army John Marsh be printed in the RECORD at the conclusion of my remarks. I emphasize for my colleagues that the Secretary informs us that the pay supplemental is required by August 20 in order to pay the troops beyond that date.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE ARMY,
Washington, D.C., July 16, 1982.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the funds we have requested in the 1982 Supplementals are essential to our continued operation for the rest of this fiscal year. This is especially true in military pay accounts where the supplemental funds required are so great that we really cannot absorb them. We have just completed a comprehensive review of our military pay accounts which shows that the funds to pay our soldiers—Active, National Guard and Reserve—will be exhausted in the 20 August timeframe. Unless legislation is provided, we cannot continue to pay our troops after that date. From the Department's perspective, the best course of action would be passage of the supplementals in their full amounts. This would not only resolve our fiscal dilemma but also provide a clear signal of Congressional support to our soldiers and their families around the world.

If, for some reason, the supplemental could not be enacted before 20 August, we would need special Congressional action to pay our troops. Some piece of legislation that is signed into law must contain a provision to allow us to obligate and disburse funds for the increases in pay and personnel entitlements in anticipation of the supplementals. Since we would still require the approval of our supplemental requests, this approach would appear to add to the already heavy Congressional workload.

We are absolutely committed to continuing to pay our military personnel in an orderly fashion. While we recognize the issue must be resolved in the context of overall defense funding, we feel that we cannot lose sight of the fact that the issue touches all of our people and our credibility with them. We appreciate the assistance and support that you and your committee have given us in the past. We solicit your backing for the enactment of the supplementals before our current funds are exhausted.

An identical letter is being sent to the Chairman, Subcommittee on Defense, Committee on Appropriations, House of Representatives. If I or members of my staff can assist further in this process, please let me know.

Sincerely,

JOHN O. MARSH, Jr.

Mr. HATFIELD. Mr. President, I only add that over 80 percent of this supplemental has immediate outlay requirements for this current fiscal year.

Mr. PROXMIRE. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. PROXMIRE. I support the manager of the bill. He is absolutely correct. I do not know, either, who in this Congress indicated to the Washington Post that the funds included in this bill would not be needed until late next month, but if we wait that long to act on it, only 10 or 15 days will remain in the fiscal year. As I indicated in my opening statement on Friday; and as the manager just said, 82 percent of the money in the bill will be spent in the next 2 months. That is $7.4 billion, most of which will be needed for the military.

Anyone who thinks that the Defense Department is being shortchanged by this bill, incidentally, should understand that 57 percent of the budget authority contained in the bill as reported by the Senate Appropriations Committee goes to the Defense Department. To be more precise, of the total budget authority of $8.98 billion in the bill as reported, $5.72 billion will be dedicated to our national defense.

The table in question also indicates that the bill is below the Appropriations Committee's allocation under the budget resolution by $8.7 billion in budget authority and $1.3 billion in outlays. However, further economies can and, hopefully, will be made, either on this floor or when we go to conference. For example, I believe we should strike the $355 million the committee added to the bill for the Caribbean Basin Initiative.

Given the state of the Nation's economy, particularly the history-making budget deficits everyone agrees we are facing in fiscal year 1982 and beyond, I particularly hope that my colleagues will restrain the impulse to add money to the bill as reported. Although many worthy programs are short of funds, nothing could be more devastating to the health of our economy than an orgy of budget add-ons at this point in time. The bill, as reported, is a good one in most respects and we should do our best to cut, not add to, the totals recommended by the Appropriations Committee.

I ask unanimous consent that a table on the back of the committee report headed Budgetary Impact of H.R. 6863, showing how much of this fund will be needed over the next 2 months, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGETARY IMPACT OF H.R. 6863

[In millions of dollars]

	Budget authority		Outlays	
	Remaining	In bill	Remaining	In bill
Comparison of amounts in the bill with the amount remaining under the revised budget resolution for 1982		8,979		7,404
Scoring impact	10,743	[1] 2,001	1,987	[1] 672
Projections of outlays associated with budget authority recommended in the bill:				
1982				7,404
1983				1,304
1984				232
1985				61
1986 and future year				5
Financial assistance to State and local governments for 1982 in the bill		348		13

[1] Adjusted for mandatory amounts in bill already counted in amount remaining under revised budget resolution.

Prepared by the Congressional Budget Office Pursuant to sec. 308(a), Public Law 93–344.

Mr. HATFIELD. I thank the Senator.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I advise all Senators that it is possible we would have a rollcall vote very quickly on the amendment that I will offer.

UP AMENDMENT NO. 1206

Mr. PERCY. Mr. President, I send to the desk an amendment that I discussed in some detail last night and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1206.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I believe we should have the amendment read, if the Senator does not object.

The PRESIDING OFFICER. Will the Senator from North Carolina repeat that? The Chair did not hear the Senator without his microphone.

Mr. HELMS. I apologize to the Chair.

If the Senator from Illinois, my good friend, would not mind, I would like to have the amendment read by the clerk.

Mr. PERCY. It might take 10 minutes, but certainly if the Senator wishes it read, I would be happy to have it read. I could summarize it in 2 minutes.

Mr. HELMS. Let us have a bit of it so we get the flavor.

Mr. PERCY. My concern is I am not sure how many are listening anyway, but if the Senator would like it read, I have no objection at all.

The PRESIDING OFFICER. The clerk will report.

Mr. HELMS. I thank the Senator.

The assistant legislative clerk read as follows:

On page 31, strike lines 15 to 19 and insert in lieu thereof the following:

"be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first. The Senate reaffirms that it is the policy of the United States in the Western Hemisphere, in cooperation with all likeminded states, and in accordance with the obligations under the Inter-American Treaty of Reciprocal Assistance, the Charter of the Organization of American States, the Additional Protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America, the North Atlantic Treaty, and the United Nations Charter,

To support—

the principles of non-intervention in the affairs of nations of this hemisphere by external powers which have been historically defended under the Monroe Doctrine;

the peaceful resolution of disputes between states and of conflicts within states;

the right of individual and collective self-defense consistent with the Charter of the United Nations;

the self-determination of the peoples of all states——

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, reserving the right to object on that, I make a parliamentary inquiry. I ask the question to the distinguished chairman of the Foreign Relations Committee, this says: "On page 31, strike lines 15 to 19." Is the Senator not amending something that has already been amended in the bill?

Mr. PERCY. The procedure that I had outlined has been checked with the Parliamentarian. The Parliamentarian assures me that this procedure is the only way that it can be done now and is perfectly acceptable so far as parliamentary procedures are concerned.

Mr. SYMMS. I thank the Chair. I reserve a point of order.

The PRESIDING OFFICER. Does the Senator from Idaho object to the reading being dispensed with?

Mr. SYMMS. No; I withdraw my objection. I reserve a point of order on the amendment.

The amendment is as follows:

On page 31, strike lines 15 to 19 and insert in lieu thereof the following:

"be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first. The Senate reaffirms that it is the policy of the United States in the Western Hemisphere, in cooperation with all like-minded states, and in accordance with the obligations under the Inter-American Treaty of Reciprocal Assistance, the Charter of the Organization of American States, the Additional Protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America, the North Atlantic Treaty, and the United Nations Charter,

To support—

the principles of non-intervention in the affairs of nations of this hemisphere by external powers which have been historically defended under the Monroe Doctrine;

the peaceful resolution of disputes between states and of conflicts within states;

the right of individual and collective self-defense consistent with the Charter of the United Nations;

the self-determination of the peoples of all states and territories in the hemisphere by means of democratic, internationally respected procedures which allow for fair and reasonable participation by all political groups;

the economic development of all countries and regions of the hemisphere by expanding opportunities for trade and investment, providing reasonable assistance, promoting individual initiatives, and broadening the opportunities for all persons to share in the benefits of such development;

the human rights of all people in the hemisphere, especially the rights to political expression and participation and to be free from officially sponsored or other acts of terrorism, preemptory judicial or extra-legal proceedings, and cruel or excessive punishment;

the control and reduction of conventional armaments into and within the hemisphere;

reasonable and humane standards and procedures for the temporary and permanent movement of people within the hemisphere; and

To oppose—

the threat or use of force by any state within or outside the hemisphere against the territorial integrity or political independence of any state or territory within the hemisphere in violation of the Charter of the United Nations;

the acquisition of territory or resources within the hemisphere by the threat or use of force;

the establishment of military bases or other hostile, unprovoked military presence in the hemisphere by states outside the hemisphere in contravention of the historic policy of the United States to resist external interference into the affairs of the hemisphere; and

the development or acquisition of nuclear weapons by any other state in the hemisphere, the stationing of nuclear weapons in any state or territory within the hemisphere by a state outside the hemisphere, or the threat or use of nuclear weapons by any state within or outside the hemisphere against any state or territory within the hemisphere: Now, therefore, be it

Declared by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. That the United States reaffirms its longstanding determination—

(a) to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States;

(b) to resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the hemisphere by force or the threat of force in violation of the Charter of the United Nations;

(c) to pursue any diplomatic opportunity, including those afforded by the Organization of American States, with a reasonable prospect of leading to the reduction of aggressive or subversive activities by Cuba or any other state in the hemisphere; and

(d) to work through the Organization of American States and with peoples throughout the hemisphere to achieve peaceful and democratic self-determination in Cuba and in all states and territories of the hemisphere.

Sec. 2. Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended, the Foreign Assistance Act of 1961, as amended and the War Powers Resolution of 1973. This Act does not constitute the specific statutory authorization for introduction of United States Armed Forces contemplated in sections 2(c) or 8(a) of the War Powers Resolution. Consideration of such extraordinary measures must include the required consultations by the President with the Congress in light of the particular future circumstances and possible justifications for any such action.

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $16,987,999, to remain available for——

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I had hoped to offer my amendment as a substitute to the Symms amendment, but the parliamentary situation precluded that. As a result, I have drafted this amendment to supersede the Symms amendment. The Senate has voted to support what appears to be a very attractive amendment by Senator Symms. It is a restatement of the Monroe Doctrine and current law passed in 1962.

Furthermore, it is very tough on Cuba. I can certainly understand why a majority of my colleagues voted for it. There is one fundamental problem with the Symms resolution which I ask all of my colleagues to consider. This was a problem that was considered by the Foreign Relations Committee in the many hearings held on this subject, in hours of deliberation,

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and that resulted in a resolution, the substance of which is the amendment that I have offered. It was adopted by the Foreign Relations Committee by a vote of 14 to 1. That was after months of consideration by the committee.

The problem that we discovered and that I wish to point out now to my colleagues is that the Symms resolution might be considered a Gulf of Tonkin resolution for Cuba. The Symms resolution states that the United States is "determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere."

This language may be interpreted as an authorization for the use of U.S. Armed Forces against Cuba. The Symms resolution has no reference in it to the 1973 War Powers Resolution. Since we would be reenacting this 1962 provision after passage of the war powers resolution, there might be a serious legal question as to whether this amendment constitutes the congressional authorization required under the War Powers Resolution.

Certainly if Senator Javits, one of the coauthors of the War Powers Act, were here, he would have argued strongly with the committee on this step being taken by the Congress today.

We might look back, not knowing what can happen in our hemisphere and under what conditions—just take into account the Falkland Islands and what happened down there—a year ago would anyone had envisioned that kind of action. But what if some kind of action were taken? The law would stand that the President of the United States would resist with any means necessary, including the force of arms, any spread of a Marxist-Leninist philosophy anyplace, to any part of the hemisphere.

I think those decisions should be subject to the War Powers Act which we debated for over a year, and we finally overrode the Presidential veto. We felt strongly that the Constitution of the United States gives the power to the Congress and only to the Congress to make war. The problem is we have had a series of wars through the years, the Korean war, the Vietnamese war, other wars where no war has been declared. We make war but we do not declare it. That is a clear evasion of the intent of the Constitution.

I also point out that Senator STENNIS, who was chairman of the Armed Services Committee and the coauthor of the War Powers Act, voted to table the Symms amendment last night. No one could accuse Senator STENNIS of ever being soft on communism. No one is going to attack him in Mississippi for not standing up against a Communist threat. But Senator STENNIS has great respect for what this Congress did. They passed a War Powers Act, and we decided only the Congress has the power to send troops into combat.

That is why the Senate Foreign Relations Committee almost unanimously, with one exception, was very concerned about the precedent that we might set in reenacting into law a provision passed in 1962 at the time of the Cuban missile crisis when the security of the United States of America was at stake. Then, in 1962, we spoke strongly and we spoke with force. Then subsequent to that, we enacted the War Powers Act.

Let me just read one paragraph of the Foreign Relations Committee report relating to this problem:

> With an open-ended mandate to use force such as is provided in the language of the 1962 Cuban resolution, the President will be much less inclined to consider congressional and public sensitivities in any given set of circumstances. Thus Congress will have foregone one of the principal virtues of the war powers framework, an insistence on case-by-case consultation which assures that congressional input into such decisions will be keyed to particular circumstances and not provided in general terms once and for all.

Let me take a very practical case, and I hope that a number of the Members of this body or their staffs are listening to this, because if they vote on this blindly they are going to regret it, just as many regretted the Gulf of Tonkin Resolution that was overwhelmingly passed without consideration and thought and then followed by 10 years in which many regretted the blank check given to the President of the United States.

Just think what would have happened if we had passed a resolution of this kind and just took out the Western Hemisphere and substituted the Middle East—allowing the President, with force of arms, to resist any aggressive actions in the Middle East. Certainly, he would have been empowered to send 1,000, 2,000, 5,000, 10,000 troops into Lebanon now. Would Congress have allowed that? Absolutely not.

Look at the sensitivity that came from the entire United States when the President just mentioned that we may send 800 or 1,000 troops there.

Look at the conditions that have been laid down in conversations with the President. Look at the conditions the President has accepted to make certain that we were not involving ourselves unnecessarily and exposing American Forces unnecessarily, or without great thought ahead of time.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I yield.

Mr. BIDEN. I wonder whether the Senator will agree with me. If we want to be tough—we are all tough guys and tough women around here, in the Senate—and if we are going to show everybody how strong we are, I am thinking of a different amendment. Instead of having "Cuba" in it, let us have "Russia" in it. If we want to be tough, let us get tough with the big guys. Let us be hardnosed about this. Let us put in there "to prevent Russia from stationing nuclear weapons anywhere outside their territory." Let us talk about resisting efforts by "Russia" to extend its Marxist-Leninist ideology and political system, and so forth.

If we want to get tough, let us get tough; but if we want to be practical, let us be practical. Let us understand that what the Senator from Illinois is saying is accurate.

The fact is, do we want to say to the President of the United States: "When you feel like it, you go ahead and send troops, go ahead and make the decision"? I thought we went through a decade of debate on that issue, which fundamentally shifted or clarified the relationship between the President and the legislative branch on the question of whether or not and under what circumstances troops could be committed.

We are all a bunch of weak-kneed folks around here, running around in an election year, whether it is constitutional amendments or Cuba, talking about how we are going to be so tough.

The fact is that what the Senator from Illinois is saying is accurate. We are not changing our policy. We are not coming along and suggesting that we encourage Cuba to move out. That is not the issue—Cuba. The issue is whether or not and under what circumstances the President has what authority.

Again, if we want to show our resolve, why do not any of the folks around here ever get tough with Russia in Poland? We get tough with the Poles. Why do we not get tough with Russia? In the Middle East. In the Far East.

I do not see my colleagues standing up and wanting to declare war. If we want to get really tough let us pick on the guy who is causing the problems. Let us go after the big guy. Let us not fool around. Let us pick on somebody our own size. Let us show the American people our resolve.

As some of us in this Chamber say, the train has already left the station, and hysteria has set in, and we are all rushing to show that we are tough.

The Senator from Illinois is dead right: If you can strip away the emotion and look at what we are talking about here, we are talking about whether or not the President of the United States has the authority, on his own, to decide to send troops.

In 1984, if I am fortunate enough to be a candidate for reelection to the U.S. Senate from Delaware, if my opponent, whoever he or she is, comes to me about how BIDEN is soft on Cuba, I will ask him or her did they want to send troops to El Salvador—did they vote at that time or would they have supported at that time the sending of troops? Some here would. Some are straightforward about it.

I do not suggest that everyone here is doing this purely for political reasons, but I know that many of us are. I know that some of us are afraid to stand up on this thing.

Think of this—and I am also speaking to those who are listening in their offices: On the merits, the Senator from Illinois is correct. But beyond all the politics, that may not be as good as some think it is, because the down side of this, the other side of this, is that the people who vote for this may be opposed on the ground that they voted to send American men to Latin America to shed their blood, when, if you look at those polls, the overwhelming number of American people are not really crazy about that. The politics of voting for being a tough guy or a tough woman in this Chamber at this time is not all "up."

As I said, one of these days we may decide to get tough with the outfit that is the one we have the most to worry about. The only problem there is that that may be a nuclear holocaust, but that is another question.

Mr. KASTEN addressed the Chair.

Mr. PERCY. I have the floor, and I should like to respond.

I should like to respond to two points made by my distinguished colleague, a valued member of the Foreign Relations Committee, who sat there for the hours and hours of debate we had.

He will recall very vividly our substituting, as he has today, other words for it—Russia. Would anyone want to give a blank check to the President, any President—I do not care who the President is—a blank check that would have existed, so that Jimmy Carter, as President of the United States, could have sent troops ahead of time, with authorization of Congress, into Afghanistan? A blank check that would have allowed any President to send troops into Ethiopia, to send them into any other areas, such as Angola, where the Soviet Union has taken the Marxist-Leninist philosophy? Anyplace in the world?

What are we doing? I can remember very vividly that though I never spoke personally against my beloved colleague and former professor, Paul Douglas, on issues, we had one big issue. He was a hawk. He was defending the Vietnam war in a State where that war was not becoming very popular in 1966, after the Gulf of Tonkin Resolution of 1964, for which he voted.

It was not a very good thing. It appeared that it was starting to turn sour. It was costing a lot of American lives. It was not in our own national security interests at that particular time. Yet, for 10 years we struggled with it.

What did Congress do? They abdicated their responsibility.

We had the benefit of the War Powers Act, through the wisdom of Senator Javits and Senator STENNIS, who for months worked over it and honed it to bring back to the U.S. Congress the constitutional authority given it by the Framers of the Constitution. The only trouble is they used the words "declare war"; and, as Senator STENNIS has aptly pointed out many times on this floor, it is now out of style to declare war. No one declares war anymore. You just make war.

I do not know of a declaration of war by Israel on Lebanon, but they are at war. Ask anyone on the ground there or any place whether a war is going on. Yet, it is not a declared war as such. We, ourselves, have not declared wars. We have gone to war. We have sent machines and troops.

Therefore, all we are talking about is not only politics. Those up for election in 1982 or 1984 or 1986 should remind themselves that someone may attack them for the blank check and the abdication of responsibility and the fact that they did not really read the bill that they just passed this morning. How many actually read every word of that bill? Not too many, probably. How many really thought through the implications of that authority? How many thought through the committee principle? I do not pretend to read every word of every bill that comes along. I have a lot of confidence in the committee system. That really works through the years. That committee and staff have poured over the bill.

When we come out with a committee report, 14 to 1, overwhelmingly, after debating this issue, after holding hearings on this issue, for the Senate then, at 9 o'clock at night, to override it by a 2-to-1 vote—I am beginning to think that not a lot of them thought it all the way through.

That is why this debate this morning is an important debate because this debate will be heard years from now if we pass this and give a blank check to go anyplace anytime with the Armed Forces of the United States without the advice and consent of Congress anytime Marxist-Leninist philosophy is introduced by Cuba into some area.

I wish to ask my colleagues this question: Do they intend to enact what may be interpreted as the Gulf of Tonkin resolution for Cuba in the absence of a crisis similar to the Cuban missile crisis which served on the occasion for this original resolution in 1962?

I do not believe that the Senate intends to take such action today.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield to my distinguished colleague, the ranking minority member of the Foreign Relations Committee, who sat throughout the debate and in hearings and deliberations that we had in our committee on the Symms amendment.

Mr. PELL. Mr. President, I thank my colleague from Illinois and I am very glad to support his measure. It is basically a modification of an amendment that passed through our committee, as has been pointed out, in a 14-to-1 vote. The original measure was fuller. It contained a portion on El Salvador. But the Senator from Illinois has dropped that portion in order that we may focus on the question of Cuba which is what we are concerned with at this time.

I think we should bear in mind, also, that this measure reinforces the War Powers Resolution by making it clear that the policy in this resolution does not—I repeat does not—legally constitute an authorization for the use of force under the War Powers Resolution.

The President has a clear obligation under the War Powers Act to consult with Congress prior to any future decision to commit combat forces. Without this, we really are giving a kind of blank check.

I remember the time of the Gulf of Tonkin there were only two of us, and I regret to say I was not one, who had the gumption to vote against that resolution. Both of those were later defeated, I hope not because of that.

But we did not see the danger that was in that resolution at the time. I think that, by the same token, in the measure that we passed last night we give kind of a blank check, a Tonkin Gulf kind of check for similar actions in escalations in the future. I hope that the Senate and my colleagues will take the opportunity of this amendment offered by the Senator from Illinois and vote for it.

Mr. PERCY. I thank my distinguished colleague. I did mention earlier in my remarks that if they vote for this amendment they would be voting in a way consistent with what I very strongly believe Senator Javits would have urged us.

I was very pleased, indeed, that Senator STENNIS last night voted to table the Symms amendment because of his concerns about the War Powers Act.

Just as my distinguished colleague has read some of the language from the resolution, I urge every single Senator and I urge staff to bring to the attention of the Members of this body that, before a vote is cast, that they take 3 or 4 minutes to simply read the resolution that was crafted over a period of weeks and months by the Foreign Relations Committee. I would

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deem that probably not 10 Senators beyond the Foreign Relations Committee have yet read this amendment. It is before us. It would have been brought up in due time because it has been voted out overwhelmingly by the committee. This seemed an appropriate time to offer it simply because of the Symms amendment.

Let me turn to this amendment and review it for just a moment. In very many ways it is similar to the Symms amendment, which it would supersede.

It is a very tough policy statement against Cuban aggression. It reaffirms the Monroe Doctrine. Let me reiterate that again. It reaffirms the Monroe Doctrine and speaks in very tough language against Cuban aggression about which we all feel very strongly. It is a comprehensive statement of U.S. policy toward Cuba. It is a 1982 statement. It is not a 1962 statement. We have not turned back the clock two decades. We are now evaluating it in the light of today's circumstance and how this will be interpreted in the hemisphere.

Are we a paper tiger or not? What do we mean when we say we are going to resist with arms, military force, and personnel? When we say that in law and the President signs it, I can just imagine that Castro would take up the dare and do something that would fall within the province of law and then wonder whether the United States is going to follow its law and send troops, personnel, and armaments and beat down that attempt to infiltrate through aggressive tendencies.

We are not going to find a military solution to every problem and certainly not to political philosophy. We decided that years ago and we have the statement of the President of the United States who says that the Communist world is crumbling of its own weight. It is debt-ridden. It cannot produce enough food. Its system has broken down. It has dissension within its own ranks. It has a Romania that goes an independent foreign policy route. It has a Poland that is resisting every effort to suppress Solidarity and the union movement and the workers movement in Poland. There are cracks and chinks appearing all over that world.

We have not had to go in with American military forces. There are better ways to do this, more intelligent ways to do it and by challenging with force of arms; daring someone to do something, we are likely to provoke them to do it and call our bluff. Then, how do we look if we have a Gulf of Tonkin resolution, in effect authorizing the President to use force of arms, if he decides to either use them without our permission, and we have abdicated our responsibility; or if he uses them with the consequences that result and without our having had anything to do with it? How does it look?

Anyone who votes for that power is overriding the War Powers Act in the area of this world most sensitive to us, the entire Western Hemisphere.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield very briefly?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. May I say to my good friend——

The PRESIDING OFFICER. If the Senator will withhold, there is no control of time and the Senator from Illinois can only yield for a question.

Mr. PERCY. I yield for a question.

Mr. PROXMIRE. May I ask the Senator if he would not consider the fact that I voted with him last time against the Symms amendment? Would he not consider that we have a situation here where the great majority of Senators voted on the other side? My question is, Is it not consistent for Senators who voted for the Symms amendment at this time to support the Percy amendment on the grounds that what the Percy amendment does is simply to provide Congress shall have a voice in determining whether or not we keep our troops in military action for a period of days which we have set forth before in the War Powers Act? In other words, what it does is defend the War Powers Act without rescinding much of what Senator Symms has persuaded the Senate to adopt; is that correct?

Mr. PERCY. Absolutely. That is why the amendment was crafted this way.

As the distinguished Senator from Rhode Island read into the record, the crux of the amendment, the amendment simply says that "nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947 as amended, the Foreign Assistance Act of 1961 as amended, and the War Powers Resolution of 1973."

In other words, we are reaffirming that. We are standing behind laws we have already passed. We are making eminently clear that the years of work done by Senator Stennis and Senator Javits and others who worked with them on the War Powers Act is not being overridden summarily.

This section does not constitute the specific statutory authorization for introduction of U.S. Armed Forces contemplated in sections 3(c) or 8(a) of the War Powers Resolution. Consideration of such extraordinary measures must include the required consultations by the President with the Congress in light of the particular future circumstances and possible justifications for any such action.

Without that language, the blank check has been written. If the vote that passed this morning stands, it will be a source of embarrassment and concern every day, every night for every Senator if something happens. And the control is placed in the hands of Castro. We placed in his hands the power to do something that would trigger the law authorizing the President to do something. Moreover, this is not a Percy amendment. I offered the amendment. It is the Foreign Relations Committee amendment sent to the floor with a vote of 14 to 1.

Mr. HATFIELD and Mr. HELMS addressed the Chair.

Mr. PERCY. I would like to make one last critical point, and that is the point raised by my distinguished colleague from Wisconsin, which I hope all of my colleagues will give serious consideration to.

Voting for the pending amendment, which is a modified version of the committee amendment passed 14 to 1, is not inconsistent with a vote for the Symms amendment.

Let me repeat that for the benefit of those listening. A vote for the Foreign Relations Committee amendment, the so-called Percy amendment, now before us is not a vote inconsistent with a vote for the Symms amendment.

In many ways it is quite consistent with a vote for the Symms amendment. By voting for the pending amendment a Senator can once again register his or her strong concerns about Cuban aggression in this hemisphere. We can also once again reaffirm the Monroe Doctrine, but you can do it without legislating a Gulf of Tonkin resolution for Cuba. You can do it by reaffirming that the law of this land is the War Powers Act in the most important single power given the Congress of the United States by the Constitution. We should be strict constructionists on the Constitution, but amplified with this change that the power to make war is the same as the power to declare war.

By letting the vote stand to give away that power, you override then the War Powers Act, and that is why Senator Stennis, in his wisdom and with the deep background he has had and the study he gave to the issue, voted to table the Symms amendment.

We can have tough language against Cuba. We can reassert the Monroe Doctrine, but we also reenact the powers of the War Powers Act.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

The Senator indicated earlier he thought we could get to a vote on this rather soon.

I wonder if the Senator would consider, now that he has used up about 30 minutes to make his case, entering into a time agreement to provide 30 minutes for opposition comments, and then a 10-minute closing equally divided for those who may wish to make some remarks at the end? Would the

Senator be willing to enter into that kind of an agreement?

Mr. PERCY. Yes. I was quite willing to enter into an agreement of 10 minutes equally divided, but I thought we had to review the entire issue again.

Mr. HATFIELD. Yes.

Mr. PERCY. I would be happy to do that providing that at the conclusion, if any points need to be responded to, I would like to reserve 5 minutes.

Mr. HATFIELD. Yes.

TIME-LIMITATION AGREEMENT ON PERCY AMENDMENT

Mr. HATFIELD. Mr. President, I ask unanimous consent then to enter into a time agreement for 30 minutes to be allocated for those who would speak in opposition to the Percy amendment to be controlled by the Senator from Idaho (Mr. Symms) and for a 10-minute closing period to be equally divided between the proponents and the opponents.

The PRESIDING OFFICER (Mr. Humphrey). Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. I thank the Senators for agreeing to the time limitation.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. HELMS. Mr. President, will the Senator from Idaho yield to me briefly?

Mr. SYMMS. I yield to the Senator such time as he may consume.

Mr. HELMS. Mr. President, I thank the able Senator.

I want to join my distinguished chairman and my good friend from Illinois, Mr. Percy, in urging Senators who may be near their loudspeakers in their offices or their staff members to listen to what I am about to say.

Mr. President, do you know what the amendment of Senator Percy proposes to do? It proposes to overrule the President of the United States who supports the Symms amendment. It proposes to overrule the Secretary of State, Mr. Shultz, with whom I have just talked, who supports the Symms amendment. What the Percy amendment now pending will do is to wipe out the approval of the Symms amendment which the Senate has just voted by more than two to one.

Who voted for the Symms amendment, Mr. President? Sixty-nine Senators voted for it; 27 against. Senator Stennis, whom I revere, as does my friend from Illinois, voted for the Symms amendment. The majority leader of the Senate, Mr. Baker, voted for the Symms amendment. The minority leader of the Senate, Mr. Robert C. Byrd, of West Virginia, voted for the Symms amendment. The able assistant majority leader, Mr. Stevens, voted for the Symms amendment. Mr. Lugar, a member of the Foreign Relations Committee, voted for the Symms amendment. Senator Baker, of course, is also a member of the Foreign Relations Committee, the ranking member.

Senator Boschwitz voted for the Symms amendment. Senator Hayakawa voted for the Symms amendment. Senator Kassebaum——

Mr. PERCY. Mr. President, will the distinguished Senator yield on my time for just 30 seconds?

Mr. HELMS. Certainly.

Mr. PERCY. I would like to add one more vote in there. Senator Stennis voted to table the Symms amendment, this morning he voted for the Symms amendment. Senator Stennis intends to vote for the Foreign Relations Committee amendment, the so-called Percy amendment, because it is not, in his judgment, inconsistent. He just wants to make absolutely certain the war powers provision is protected.

Mr. HELMS. I will say to the Senator from Illinois that my friend and his friend from Mississippi is capable of making up his mind, and if he understands that what the amendment of the Senator from Illinois will do is wipe out the Symms amendment just approved by the Senate, fine, let the Senator from Mississippi vote that way. I will continue to respect him, but I will not understand such an up-and-down vote.

Now, let me reiterate, I have just talked to Mr. Shultz, the Secretary of State, and he says, "We are in favor of the Symms amendment."

So who does that leave against it? That leaves Mr. Baucus, Mr. Biden, Mr. Bradley, Mr. Bumpers, Mr. Chafee, Mr. Cranston, Mr. Danforth, Mr. Dixon, Mr. Durenberger, Mr. Eagleton, Mr. Ford, Mr. Glenn, Mr. Hart, Mr. Hatfield, Mr. Inouye, Mr. Kennedy, Mr. Leahy, Mr. Mathias, Mr. Matsunaga, Mr. Packwood, Mr. Pell, Mr. Percy, Mr. Proxmire, Mr. Pryor, Mr. Riegle, Mr. Tsongas, and Mr. Weicker.

Let the loudspeakers proclaim so that the Senators or their staffs who may be listening to this debate can hear that what Senator Percy would do would be to wipe away the Symms amendment, period, end of paragraph.

I have the most respect in the world for my distinguished chairman, but let us engage in no obfuscation. What we will be doing if we do not table the Percy amendment—and a motion in that connection will be made—is, we will be backing away from the Monroe Doctrine, we will be backing away from the position of the President of the United States, the Secretary of State, the chairman of the Senate Armed Services Committee, and the ranking minority member of the Senate Armed Services Committee.

There have been some confusing statements made about the War Powers Act, Mr. President. The War Powers Act allows the President—any President—to send troops for 60 days without the approval of Congress, so it is not an act of declaring war for this Senate to say, as it has said, "We believe in the Monroe Doctrine and we are going to stop pussyfooting around. We are not starting any war, but it is time that America started acting like America again."

I put in the Record just a little while ago, Mr. President, the results of all of the efforts by the distinguished previous President of the United States, Mr. Carter, to appease Mr. Castro, as summarized by the very distinguished and able Under Secretary of Defense, Dr. Fred C. Ikle. And just so it will be clear, I ask unanimous consent that the series of questions and answers between the Senator from North Carolina and Dr. Ikle be printed in the Record again at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Senator Helms. It has been suggested that Fidel Castro is merely reacting to the hostility displayed by the United States, and that a more moderate and flexible U.S. policy might give him an alternative to relying almost exclusively on Moscow. Do you find any merit in this reasoning?

Mr. Ikle. I think that question is adequately answered by Castro's actions in response to varying U.S. policy shifts during the past six years under several Administrations. You will recall that about six years ago Cuban military forces were just beginning their military buildup in Angola. President Ford and Secretary of State Kissinger made strong public statements that the United States would not tolerate such conduct, and for a period of time in December 1975, the Soviet airlift of Cuban troops and equipment to Angola was halted. Then the Congress passed the Tunney/Clark Amendment, tying the President's hands by prohibiting further assistance to the non-communist elements in Angola. The Soviet-Cuban airlift resumed immediately, and within two weeks the number of Cuban troops in Angola had doubled. It continued to increase gradually in the following year, so that at the end of the Ford Administration there were estimated to be about 14,000 Cubans in Angola.

President Carter's Administration took a more sympathetic approach to the Cuban problem, and made a significant effort to improve U.S. relations with the Castro government. For example, the Carter Administration:

Opened an "interest section" in Havana, and permitted the Cuban Government to do the same in Washington.

Relaxed the travel restrictions on Cuban diplomats at the United Nations and in Washington.

Encouraged increased cultural exchanges between the two countries.

Lifted the restrictions on vessels which had previously called at Cuban ports allowing them to subsequently visit U.S. ports.

Lifted the ban on travel by U.S. citizens to Cuba.

Permitted the resumption of charter flights between Cuba and the United States.

It is worth recalling the response of Mr. Castro to these friendly overtures. During the Carter Administration, Cuba:

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Increased the number of Cuban military personnel in Angola from about 14,000 to 20,000.

Increased the Cuban presence in Ethiopia from 0 to a height of 17,000 in 1978 and in Nicaragua from 0 to 500.

Initiated a massive effort to subvert non-communist regimes in Latin America. Cuba provided military assistance to Nicaragua to include advisors, weapons such as surface-to-air missiles, anti-aircraft guns and light arms. In the case of Grenada, Cuba provided advisors and anti-aircraft weapons and began construction of an airfield which would have military utility.

Denounced the United States at the summit meeting of the Non-Aligned Movement in Havana in September 1979. Castro charged that Latin America had historically suffered greatly from U.S. aggression, colonialism, and neo-colonialism.

These actions hardly support the contention that a more conciliatory approach by the United States to U.S.-Cuban relations will make Castro our friend.

The United States is not looking for a confrontation with Cuba. Nevertheless, we are unwilling to sit idly by while Fidel Castro and his Soviet bosses subvert and seek to overthrow the less powerful non-communist governments of the region. If Castro truly desires peace and improved relations with the United States, he should begin such a rapprochement by stopping his aggression and permit other states to live in peace. We assure you that a halt in Cuban efforts to subvert other countries would not go unnoticed by this Administration.

However, so long as Fidel Castro continues his aggressive policies in Latin America, Africa, and other regions of the world, we will continue to regard him as a serious threat to international peace and stability. We believe—and the history of the 1975 Tunney-Clark Amendment suggests—that the credibility of our deterrent rests in large part on Congressional attitudes; and thus the need to resort eventually to the use of U.S. military forces will be determined in part by Castro's perception of Congressional views. Unless the Congress is perceived to be supportive of the President's strategy, no U.S. action short of actual military force is likely to have much influence on Cuban policy.

Senator Helms. What effect do you believe knowledge of the fact that the Joint Chiefs have contingency plans to meet Cuban aggression in the region will have on Cuban decisionmakers?

Mr. Ikle. Unfortunately, history demonstrates that peace is not furthered by failing to respond effectively to the threat or use of armed force. We believe it is important that Fidel Castro be put on notice that the United States is capable of responding to continued aggression with a wide range of flexible options aimed at making the costs of aggression and subversion greatly outweigh any perceived benefits.

If Mr. Castro wants to promote the security of Cuba, he should cease his efforts to undermine and overthrow the governments of other states. We hope that by alerting him to our deep concerns, and our strong commitment to the cause of freedom, he will appreciate the wisdom of ceasing his subversion of other states.

Mr. HELMS. Mr. President, I do not think we ought to take up very much more time. I think we ought to proceed and see whether the Senate is going to march up the hill and down the hill and up the hill and down the hill. We ought to have a motion to table and see where we stand, whether it is halfway up the hill or halfway down the hill or on top of the hill, and be done with this. But let it be clear that the purpose, the intent of the Percy amendment, is to kill the Symms amendment. No other face could be put on it.

I thank the Senator for yielding.

Mr. SYMMS. I thank the Senator from North Carolina very much.

Mr. President, I just want to make one point. The distinguished chairman of the Foreign Relations Committee has made the point over and over again about the War Powers Act. I want to make the point very clear that the present law of the land is what is in the language in the Symms amendment and the State Department has so advised me that it is not inconsistent with the War Powers Act. Senator Helms made that point.

The President of the United States can engage American troops for 60 days right now and he can do it if Senator Percy's amendment is passed. But Senator Percy's amendment, I regret to say, will be perceived, in my opinion, as a weakening of America's posture in the Caribbean Basin.

I think one of the reasons the administration supports my position is to reaffirm a strong, clear, concise picture of the United States so that we can go in with the Caribbean Basin Initiative and be successful.

The Symms amendment would reaffirm U.S. policy with regard to Cuba be reenacting verbatim an existing law (Cuba resolution, Public Law 87–733). Senator Percy has proposed an amendment to the Symms resolution, specifying that nothing therein shall affect the standards and procedures of the War Powers Resolution or constitute a specific authorization for the introduction of U.S. Forces as contemplated by the War Powers Resolution. Senator Percy contends that in the absence of his amendment enactment of the Symms amendment resolution might be construed as statutory authorization for the President to commit U.S. Forces in hostilities with Cuba without further action by the Congress. In this regard, the Symms resolution reiterates existing law, which states that the United States is determined:

> to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from introducing the forces or the threat of forces its aggressive or subversive activities to any part of this hemisphere . . ."

The Percy amendment is unnecessary. The Symms amendment could constitute authorization for President to introduce U.S. Forces only if it is so intended by Congress.

Section 8(a)(1) of the War Powers Resolution provides that such authority shall not be inferred from any provision of law unless such provision specifically authorizes such an introduction "and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

Legislative history of this requirement of War Powers Resolution makes clear it was intended to preclude reliance by President upon area resolutions—such as Cuba resolution—as authority to commit U.S. Forces to hostilities.

In 1970, more than 3 years before enactment of War Powers Resolution, Department of State advised SFRC that provisions of the Cuba resolution and other area resolutions were not considered as "evidence of congressional authorization have all acquiescenced in any new military efforts * * *."

In view of past executive branch interpretation and requirement of specificity in the War Powers Resolution, reenactment of Cuba resolution, as proposed by Symms amendment, could not be regarded as specific authorization for the President alone to introduce U.S. Forces into hostilities. Such authorization could be inferred only if Congress clearly manifested an intention to supersede War Powers Resolution. No such manifestation of intent has been indicated.

When this issue was considered by SFRC in April during the markup of the foreign assistance authorization bill, the Office of the Legal Adviser provided a memorandum to the committee reaching these same conclusions.

I ask unanimous consent that the memorandum be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM—RELATIONSHIP OF THE WAR POWERS RESOLUTION TO THE SYMMS AMENDMENT TO S. 2179

Amendment No. 1334 to S. 2179 (the Symms Amendment) would reaffirm the policy of the Government of the United States in its relations with the Government of Cuba, as set forth in Senate Joint Resolution 230 of October 3, 1962 (the Cuban Resolution).[1] The question has been raised whether the enactment of the Symms Amendment, which would reenact the Cuban Resolution, would have any legal consequences with respect to the operation of House Joint Resolution 542 of November 7, 1973 (the War Powers Resolution).[2] For the reasons discussed below, it is the opinion of this Office that the enactment of the Symms Amendment would have no consequences for the operation of the War Powers Resolution.

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[1] Public Law 87-733, 76 Stat. 697.

[2] Public Law 93-148, 87 Stat. 555.

The War Powers Resolution established a system for involving the Congress in decisions to use the Armed Forces of the United States in hostilities. The basic elements of this system are set forth in sections 3, 4 and 5 of the Resolution, concerning consultations with, reporting to and action by the Congress, respectively.

Section 3 of the War Powers Resolution provides that the President shall consult with Congress in every possible instance before introducing U.S. Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and that he shall consult regularly following such an introduction. The operation of this section is not dependent upon any other legislation. Congress could, of course, enact exceptions to section 3 of the War Powers Resolution. However, no such exception, express or implied, is contained in the Symms Amendment.

Section 4 of the War Powers Resolution provides that the President must report in writing to Congress within 48 hours, and periodically thereafter, after U.S. Armed Forces are introduced into hostilities or into a situation where imminent involvement in hostilities is clearly indicated by the circumstances. Section 4 also requires a report when U.S. Armed Forces are introduced into foreign territory, waters or airspace while equipped for combat, with certain specified exceptions. According to section 4, these reporting requirements apply "in the absence of a declaration of war. . . ."[3] No other type of legislation affects these reporting requirements under the terms of the War Powers Resolution. Obviously, the Symms Amendment does not constitute a declaration of war. Nor does it contain any express or implied exception to the reporting requirements of the War Powers Resolution.

Section 5 of the War Powers Resolution provides, with certain specified qualifications and exceptions not material to the present analysis, that U.S. Armed Forces introduced into hostilities or a situation of imminent hostilities must be withdrawn within 60 days unless Congress "has declared war or has enacted a specific authorization for such use of United States Armed Forces. . . ." Section 5 also provides that Congress may at any time compel the removal of U.S. Armed Forces from hostilities outside the United States in the absence of a declaration of war or specific statutory authorization.[4]

The War Powers Resolution provides (in section 6) for special, expedited procedures for bills or resolutions intended to provide a declaration of war or specific statutory authorization as described in section 5. These special procedures appear to contemplate that such legislation would normally be introduced after U.S. Armed Forces had been introduced into hostilities or situations of imminent hostilities. However, the War Powers Resolution does not preclude the enactment of a declaration of war or specific statutory authorization before U.S. Armed Forces are so introduced.

If a statute were enacted that constituted specific statutory authorization for the President to use the U.S. Armed Forces in hostilities, section 5 of the War Powers Resolution would then cease to apply, according to its terms, with respect to the authorized activity. If U.S. Armed Forces were thereafter introduced into hostilities within the scope of the specific statutory authorization, the President would remain obliged to consult with Congress in accordance with section 3. He would also remain obliged to report to Congress in writing in accordance with section 4. However, the President would not be obliged to terminate the use of U.S. Armed Forces after 60 days and Congress would have no power to compel the removal of U.S. Armed Forces from hostilities by concurrent resolution under section 5.

Because the existence of specific statutory authorization would have the effect of superseding the limitations that would otherwise obtain under section 5 of the War Powers Resolution, it is necessary to consider whether the Symms Amendment would constitute such a specific statutory authorization.

An analysis of this question must begin with the rule of interpretation set out in section 8(a)(1) of the War Powers Resolution:

"Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred . . . from any provision of law (whether or not in effect before the date of enactment of this joint resolution) . . . unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

The legislative history of this provision makes clear that it was intended to apply to area resolutions such as the Cuban Resolution. The Senate bill[5] had provided that authority to introduce U.S. Armed Forces could not be inferred "from any provision of law hereinafter enacted" unless it met specificity requirements comparable to those contained in section 8(a)(1) as finally enacted, quoted above. The report of the Committee on Foreign Relations noted the existence of several area resolutions (including the Cuban Resolution) and expressed the intention that "any future area resolutions, to qualify under this bill as a grant of authority to introduce the armed forces in hostilities, or in [hostile] situations . . ., must meet carefully drawn criteria—as spelled out in the language of [the bill]."[6] In conference, the rule of interpretation was expanded to cover any provision of law "whether or not in effect before the enactment of this joint resolution." Thus, there can be no question that the War Powers Resolution precludes the interpretation of the Cuban Resolution as an authorisation to introduce U.S. Armed Forces into hostilities or into situations of imminent involvement in hostilities. It is equally clear that the War Powers Resolution was intended to preclude such an interpretation of a future reenactment of any generally-worded resolution similar to the Cuban Resolution.

The interpretation of the Cuban Resolution by the Executive branch has been fully compatible with the interpretation thereof that is now compelled by section 8(a)(1) of the War Powers Resolution. The Executive branch has consistently regarded the Cuban Resolution as a statement of policy toward Cuba, and not as an authorization for the President to take any particular action. It has never been relied upon as the legal basis for any action. Even President Kennedy's proclamation of October 23, 1962, on interdiction of the delivery of offensive weapons to Cuba[7] relied upon the authority conferred upon the President "by the Constitution and statutes of the United States," and noted only that this action was "in accordance with" the Cuban Resolution. In 1970 the Department of State advised the Senate Committee on Foreign Relations that the Cuban Resolution and other area resolutions "contain significant recitals of basic principles of our policies in the affected areas" but that they were not considered as "evidence of Congressional authorization for or acquiescence in any new military efforts. . . ."[8]

In view of the past interpretation of the Cuban Resolution by the Executive branch and the rule of interpretation specified in section 8(a)(1) of the War Powers Resolution, a reenactment of the Cuban Resolution, as proposed by the Symms Amendment, could not in itself be regarded as a specific authorization to introduce U.S. Armed Forces into hostilities or situations of imminent hostilities. Of course, the Congress is not bound by the War Powers Resolution to use a particular form of words in enacting a future statutory authorization. Congress could manifest its intent in some manner. However, Congress would certainly be presumed to have legislated with knowledge of the standards it had adopted in the War Powers Resolution and with knowledge of the hitherto consistent interpretation of the Cuban Resolution as a statement of policy rather than as statutory authority for military actions. Accordingly, in the absence of a very clear and unambiguous indication of Congressional intent to depart from these standards and this past interpretation, the enactment of the Symms Amendment could not be construed as a statutory authorization to do that which had not been authorized by the identically-worded Cuban Resolution.

For the foregoing reasons, we conclude that enactment of the Symms Amendment would have no effect upon the President's duties to consult with and report to the Congress under sections 3 and 4 of the War Powers Resolution or on the rights and duties of the President or the Congress under section 5 of the War Powers Resolution.

Mr. SYMMS. In my visits to El Salvador, every single troop commander in the Salvadoran Army, when I asked them the question of what they needed the most, in addition to the very, very simple equipment, like boots and 782 web gear and rifles and so forth, they said:

> The one problem we have more than any other problem is the supply of the guerrillas, the continual supply coming into the country.

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[3] Declarations of war have historically taken the form of joint resolutions of Congress. See e.g., 40 Stat. 1, 429 (1917); 55 Stat. 795, 796, 797, (1941); 56 Stat. 307 (1942).

[4] This memorandum is limited in its scope to the consideration of issues of statutory interpretation. Accordingly, it does not address any constitutional issues with respect to the War Powers Resolution.

[5] S. 440, 93d Cong., 1st Sess. (1973).

[6] S. Rep. No. 220, 93d Cong., 1st Sess. (1973), pp. 23–24.

[7] Proc. No. 3504, 27 Fed. Reg. 10401.

[8] Letter from the Acting Assistant Secretary of State to the Chairman of the Committee on Foreign Relations dated Mar. 12, 1970.

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Where is it coming from? Coming from Cuba.

My good friend from Delaware makes the point about how we have to show we are tough guys. I do not think it would be that difficult for the United States to insist on stopping this flow of arms from Cuba to Nicaragua and on into El Salvador. It is a matter of us having the political courage to do it and the will to do it. It is not a matter of whether or not we have the military might and strength to do it. It is a question of whether we have the will.

If we back down the hill, as Senator HELMS pointed out, and only go halfway up on this vote, we are sending a clear signal: Go right ahead, Castro, just keep on sending all the guns and equipment you want, and we will just keep taking tax dollars and try to offset it.

That is not the right way to do it. We have to make a decision here. If we cannot control our destiny 90 miles off our own coast, how in the world can we control our destiny in the Far East, in the Middle East, in Europe, or wherever? How can we have an impact on it, Mr. President?

I would say it is very, very important, in my opinion, first, that Senators recognize that the Symms amendment that we have already voted on is not inconsistent with the War Powers Act. That has already been stated by Assistant Secretary Bosworth when he testified before the Foreign Relations Committee. He said that, in their opinion, the administration finds the resolution is consistent with our policy and we support it. The legal opinion is that it is not inconsistent with the War Powers Act.

Any change of this, as Senator HELMS has said, a vote for the Percy amendment will be wiping out what the Senate just did. I think that would be very difficult for all of us to explain why we went up the hill and then retreated back halfway back down the hill.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. SYMMS. I am happy to yield for a question.

Mr. BUMPERS. Does the Senator consider this to be authority for the President to take any overt military action?

Mr. SYMMS. I would say to my good friend from Arkansas that it is.

Mr. BUMPERS. I am talking about the Senator's amendment which the Senate has just adopted.

Mr. SYMMS. The amendment only reasserts what the present authority of the President of the United States has right today as we are standing here, whether or not this amendment would have been passed by the Senate. It only reaffirms the 1962 language. It is not inconsistent with the War Powers Act.

Mr. BUMPERS. Why is it necessary to reaffirm anything?

Mr. SYMMS. I think that the reason for it is because, as the 20-year period has gone by since that time, it seems that we have forgotten what President Kennedy's admonition to this country was: That if we cannot control what is happening right here in our front yard in Cuba 90 miles off of our coast——

Mr. BUMPERS. Why did the Senator's amendment not simply state that we reaffirm the language that was adopted in 1962?

Mr. SYMMS. That was what the Senator's amendment did, was simply reaffirm the language. I introduced the original language, with some 20 cosponsors, earlier this year and that is really what this amendment did.

Mr. President, I want to reserve the remainder of my time. How much time do I have remaining?

Mr. BUMPERS. Are we under a time agreement?

Mr. SYMMS. Yes.

The PRESIDING OFFICER. The Senator has 18 minutes and 24 seconds remaining.

Mr. SYMMS. Mr. President, did the Senator from South Carolina wish some time?

Mr. THURMOND. Will the Senator yield me a few minutes?

Mr. SYMMS. I yield to the Senator from South Carolina.

Mr. BIDEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Idaho yield for a parliamentary inquiry?

Mr. SYMMS. I am happy to yield.

Mr. BIDEN. How is the time divided, and who controls the time?

The PRESIDING OFFICER. The Senator from Idaho controls 18 minutes, after which there will be 10 minutes equally divided between the Senators from Idaho and Illinois.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator from Idaho yield for a parliamentary inquiry?

Mr. SYMMS. I am happy to.

Mr. McCLURE. Is it not correct that the Senator from Illinois has already consumed a portion of his 10 minutes?

The PRESIDING OFFICER. The Senator from Illinois has consumed 21 seconds of his 5 minutes.

Mr. McCLURE. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the Percy amendment. Last evening, the Senate went on record with a very strong vote endorsing the Symms amendment. The Symms amendment is a strong statement of what I think our attitude should be toward Cuba. I brought out last night, in the few remarks I made, that Soviet military shipments to Cuba tripled in 1981 over 1980 and are increasing again this year, 1982. This places Russian military exports to Cuba at their highest level since 1962.

Also, Mr. President, I would remind the Senate that Soviet-made heavy bombers of the Tu-95 class, based west of Havana, fly reconnaissance missions along our very own Atlantic coast daily. Recently, a second squadron of Mig-23 ground attack fighters was uncrated in Cuba, and they are being manned by Soviet pilots. These intercontinental aircraft allow Castro to maintain an air force second only to the United States in the Western Hemisphere.

Mr. President, these are facts that I think caused the administration—this administration, the Reagan administration—to come out in favor of the Symms amendment. These are facts that have caused Secretary Shultz, the Secretary of State, the man primarily responsible for our foreign policy, to come out in favor of the Symms amendment.

Secretary Shultz told Senator HELMS today, this morning—within the last hour—that he favors the Symms amendment.

Mr. President, there is some talk that there is no conflict between the Symms amendment and the Percy amendment. The Percy amendment simply waters down the Symms amendment. I want the Senate to understand that. If they wish to water down the Symms amendment, vote for the Percy amendment. If they wish to stand for a strong policy against Cuba, then stand by the Symms amendment and vote against the Percy amendment. It is just that simple.

Mr. President, we know that Castro has exported his subversion in the past. Cuba has supplied arms to Nicaragua which has caused that country to come into the Communist orbit; Soviet arms went to Cuba and then went to Nicaragua; Cuba is now supplying arms to the rebels in El Salvador; Cuba is supplying arms to Honduras; Cuba is supplying arms to Guatemala—for what? To take away the freedom of the people in those countries.

When are we going to wake up? When are we going to understand the danger of Cuba? Cuba is the very epitome of the Soviet Union on a small scale. They are the agents of the Soviet. Their efforts are directed at trying to help the Soviets take over this continent.

I say, let us be firm, let us be resolved, and stand by the Symms amendent and vote against the Percy amendment because that weakens the Symms amendment. I hope the Senate will see fit not to undo what they did last night. If they vote for the Percy amendment they will undo the Symms amendment. They will weaken the Symms amendment.

Let us do what the President wants. Let us do what the Secretary of State wants. Let us do what Judge Clark, who is head of the National Security Council wants. All of them favor the Symms amendment, and are not in favor of the Percy amendment. I hope the Senate will reject the Percy amendment.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. SYMMS. I reserve the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Will the Senator from Illinois yield me 1 minute?

Mr. PERCY. I am happy to yield.

Mr. BIDEN. I will only take 1 minute, in the interest of time. Let me summarize by making three points.

The Senator from Arkansas asked a very cogent question, Why the Symms amendment? I would suggest the reason why the Symms amendment is because obviously this is an indictment of the administration. If the administration is doing what they all say they want to do, the Senator from South Carolina and everbody else, they do not need this authority to make the statements and do what they want to do.

Second, I think this is all about El Salvador and not about Cuba.

The concern about the War Powers Act has already been raised. I have yet to hear anybody tell me what in the Percy amendment, specifically what language, they disagree with.

In terms of what is covered and not covered, the Percy language covers the stationing of nuclear weapons. I do not see any reference to that in the Symms language.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. BIDEN. I yield the floor.

Mr. HATFIELD. Mr. President, how much time remains to Senator Symms?

The PRESIDING OFFICER. Twelve minutes and fifty-two seconds.

Mr. HATFIELD. Plus the 5 minutes of the closing time?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I wonder if the Senator from Idaho would be willing to yield back the remainder of his time except for the closing time.

Mr. SYMMS. The distinguished senior Senator from Idaho wishes to present some remarks. I yield to Senator McClure.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I take this time only for a couple of points that I wish to make.

First of all, as the Senator from Idaho has already indicated, my colleague who sponsored the amendment which the Senator from Illinois seeks to overturn, there is the issue of the War Powers Act.

I do not read the resolution to override the War Powers Act. I think the War Powers Act is still in effect, even with the adoption of the Symms amendment.

While the Senator from Illinois and others have raised the issue as whether it is or is not, I think legislative history ought to be very clear on that point. While the Senator from Illinois and others may fear it, the Record should be very clear that this resolution does not override the limitations of the War Powers Act.

It would require a strained reading of it to suggest that it does. The only point I make is that I believe that the Foreign Relations Committee, in looking at this, has tried to raise a red herring for quite different reasons. They have tried to raise an issue that was not there, not because they fear it was there but because they do not like the resolution.

The Senator from Idaho, my colleague, is correct, that all we are restating in this action that the Senate has already taken is that which was thought to be wise policy when it was adopted 20 years ago and from which some people have strayed. It seems to me the reason the committee objects to the Symms language is they want it to be apparent that we have strayed from the position that was taken when President Kennedy took the strong position that he did with respect to Cuba.

If indeed you want to move away from that strong position taken by past administrations and reaffirmed by this one, then vote for the Percy substitute. But make no mistake about it, it is not to cure the War Powers Act question; it is to make certain that we have softened our position on Cuba. That is the only issue before us. The War Powers Act is a red herring.

I was amused earlier, and my friend from Delaware often amuses me, when the Senator was talking about macho, being tough. I observed the speech the Senator from Delaware made a few weeks ago on the Falkland Islands. I never heard a tougher speech, a more macho guy willing to go to—I almost said willing to go to war. But no, it was for Great Britain to go to war. "We will hold your coat. You go fight them."

Well, that was a good speech.

Mr. BIDEN. If the Senator will yield, that is also pretty good policy, to let Britain fight their own wars.

Mr. McCLURE. That is right. "Go fight them. Go fight them. Use force."

But Cuba, that is different. Let them use force and we will not say anything about that.

I think it is time for us to say something about that.

I thank my colleague for yielding.

Mr. SYMMS. I thank the distinguished Senator from Idaho. I think the point was made very well by Senator Thurmond, Senator McClure and Senator Helms. There is not much more I can offer.

Mr. President, I shall submit for the Record some captured PLO documents which show the PLO training people in Cuba and Nicaragua and helping to train Salvadoran revolutionaries. They show the vital link that is taking place in the world that is coming out of the Soviet Union.

Mr. President, I mentioned the fact that I have in my possession documents from the Palestine Liberation Organization (PLO), which were captured recently by Israeli defense forces operating in South Lebanon. These captured PLO documents reveal that the PLO is involved in fomenting Marxist-Leninist revolutionary war in the Caribbean. Specifically, the captured PLO documents indicate that the PLO was training El Salvadoran and Haitian revolutionary guerrillas in South Lebanon during 1982. Further, another captured PLO document indicates that in 1979, a PLO guerrilla was trained in Cuba. There is additional and extensive documentary evidence that the Soviet Union has been actively supporting, financing, training, and controlling the PLO.

Accordingly, Mr. President, I request that these PLO documents captured by the Israelis be entered into the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Pages From Calendar Found in Tyre About Courses for Terrorists From Various Countries

1. An African group, 10 men from Malawi, arrived (11 June).
2. The course for the Malawi comrades began (16 May).
3. The comrades from Southern Africa left (16 May).
4. Final examinations for the El Salvador course (26 February).
5. Abu Hamid—Damascus, 446406 (29 April).
6. The course for the Haitian comrades began (6 April).
7. A group of 5 comrades from Turkey arrived (4 June).
8. The course for the comrades from Turkey began (8 June).
9. The course for the comrades from Turkey completed (4 July).
10. The group from Turkey left us (6 July).

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LIST OF COURSES WHICH OFFICERS AND NCO'S OF THE "SEPTEMBER MARTYRS BATTALION"/CASTEL BRIGADE/FATAH TOOK IN FOREIGN COUNTRIES

No.	Military ID No.	Rank	Name	Date present rank received	Course, date, place
1.	31487	"Raid" staff officer	Faisal Muhamed Alsheich Yusef		1. Military academy, China; 2. Battalion commanders course, Moscow; 3. Staff officers, Pakistan, 1979.
2.	44552	"Nakib"	Jamal Yakov Jaden	Feb. 1, 1976	1. Fadayin commander, Moscow 1972; 2. Armor, Hungary, 1980.
3.	41054	"Mazam Awal"	Fchal Muhamed Otman	1975	1. Platoon commander, Moscow 1975–76; 2. Company commander, Vietnam, 1977–78.
4.	44818	do	Muhamed Abd Allah Slamah	Jan. 1, 1976	1. Company commander, China, 1977; 2. Armor company commanders, Moscow.
5.	32242	do	Jaad Ahmed Hamid Aleony	do	1. Military academy, Algeria, 1969; 2. Political training, China, 1978–79.
6.	31492	"Mazam Tani"	Rateb Mussa Mahmud	1975	1. Infantry company commander, Moscow, 1977; 2. Armor, Hungary, 1979.
7.	31281	do	Yassin Hatchar Muhamed	Sept. 1, 1976	1. Armor, Hungary, 1980; 2. Armor company commander, Moscow.
8.	13644	do	Ahmed Mustafa Hamdan	June 1, 1977	1. Commando course, Algeria, 1972; 2. Military academy, Algeria, 1975–76; 3. Armor company commander, Palustan, J.T.A., 1978.
9.	51089	do	Ibrahim Shachda Amar	do	1. Military academy, Algeria, 1975–76; 2. Armor company commander, Pakistan, 1978; 3. Armor communication, Pakistan, 1979.
10.	74709	do	Said Ibrahim Alazi	do	1. Military academy, Algeria, 1976–76; 2. Armor company commander, Pakistan, 1978; 3. Armor, Hungary, 1979.
11.	46807	do	Naled Isa Abd Hassan	do	1. Military academy, Algeria, 1975–76; 2. Armor (preparatory course), Pakistan, 1979; 3. Armor, Hungary, 1980; 4. Armor company commander, Pakistan.
12.	52524	do	Hassin Muhamed Ahmed Said	Apr. 27, 1978	Armor, Hungary, 1979.
13.	13463	do	Zaki Muhamed Ibrahim Alsheich	do	Do.
14.	15361	do	Mustafa Hassan Mustafa Kandeil	do	1. Social studies, Bulgaria, 1979; 2. Armor, Hungary, 1980.
15.	31708	do	Ahmed Hassin Ahmed Ja'Aber	do	Armor, Hungary.
16.	15372	do	Ibrahim Raja Zalah Alkamzat	do	Do.
17.	73937	do	Ahmed Muhamed Ahmed Mari Alsharkawi	do	A/A company commander, Moscow.
18.	22029	do	Ahmed Fazal Muhamed Abu Halil	do	Armor, Hungary.
19.	21008	"Mus'Ad"	Sha'Ar Mustafa Ibrahim Mustafa	Mar. 1, 1977	1. Armor platoons, Pakistan, 1978; 2. Armor, Hungary, 1980.
20.	53477	do	Abd Alrahman Ahmed Hassin Alsharif	Apr. 6, 1977	1. Armor, Hungary, 1980; 2. Military academy, Cuba, 1979.
21.	24767	do	Zabar Abid Hadid	Apr. 1, 1977	Armor, Hungary, 1979.
22.	13149	do	Abd Allah Waffi Daud Yusef		Armor, Hungary.
23.	22298	"Rakib Awal"	Hassin Muhamed Mahmud	Mar. 1, 1977	Radio-operator, Hungary, 1979.
24.	22585	do	Mustafa Abd Alrahim Muhamed	do	Armor, Hungary, 1980.
25.	24469	do	Shitui Ibrahim Shitui	do	Do.
26.	24551	do	Ahmed Mussa Ahmed Pareh	do	Armor, Hungary, 1979.
27.	31753	do	Hassin Daud Saad	do	Do.
28.	32429	do	Muhamed Kassem Kablawi	do	Armor, Hungary, 1980.
29.	31498	"Arif"	Abd Allah Ali Abd Allah Alsaed	Oct. 1, 1976	Armor, Hungary, 1979.
30.	43021	do	Mahmud Hassin Fatchili Ali	Sept. 1, 1975	Do.
31.	48102	do	Majed Marshad Muhamed Alrajeb	Jan. 1, 1978	Do.
32.	52012	do	Muhamed Rasek Abu Tarki	Mar. 1, 1977	Armor, Hungary, 1980.
33.	25136	Fighter	Salim Mahamed Fallah	1976	Do.
34.	25313	1976	Muhamed Diab Ahmed	do	Do.
35.	27877	1976	Siff Alladin Zadek Alali	do	Armor, Hungary, 1979.
36.	27898	1976	Habri Hamed Marsal	do	Armor, Hungary, 1980.
37.	32032	do	Jaber Saliman Ibrahim Tabat	1969	Do.
38.	32784	do	Kamal Said Muhamed Alabed	1974	Do.
39.	76048	do	Amad Ibrahim Saliman	1977	Do.
40.		do	Ham Zadek Abdallah	1980	Security and intelligence—U.S.S.R., Administration-U.S.S.R.
41.	43945	"Rakib Awal"	Zaber Taber Ahmed	Jan. 1, 1978	Armor, Hungary, 1981.

Note.—The original list includes courses taken in Arab countries, too.

Source: Handwritten list captured in Sidon.

Mr. SYMMS. I think we should recognize that these are big stakes in Latin America. Now the emphasis is to try to disrupt a continuation of civil policy in the Western Hemisphere, if you will. There is a great effort being made. The concentration is not El Salvador, it is not Granada. The target of the Cubans and the Soviets is Mexico. That is where they want to go. That is where they want to disrupt things. That is where they want to get terrorism started. That is where they want the revolution to start. The target is Mexico.

So we are talking about right in our backyard.

For us to not vote to table the Percy amendment, in my opinion, will be sending a very, very weak signal because if we change the language that is now in the law of the land, it will be giving a green light to our adversaries in the Carbbean Basin that the United States is not going to do anything.

I am prepared, Mr. President——

Mr. HATFIELD. Will the Senator yield back the remaining period of his half-hour leaving 5 minutes for closing?

Mr. SYMMS. I yield back the remaining part of the half hour.

Mr. HART. Will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, we have 5 minutes left, is that correct, for the closing on the SYMMS side, and 4 minutes left for Senator PERCY?

The PRESIDING OFFICER. The Senator from Idaho has 5 minutes; the Senator from Illinois has 3 minutes 36 seconds.

Mr. HART. Will the Senator from Idaho yield for a question?

Mr. SYMMS. I am happy to yield to my friend from Colorado.

Mr. HART. The question is on the subsection of the amendment which the Senate just adopted, subsection (b), "to prevent in Cuba the creation or use of an externally supported military capability."

Mr. SYMMS. I could not hear the question.

Mr. HART. I read subsection (b) of the Senator's amendment. My question is What means may the United States, under this amendment, take to prevent anything in Cuba?

Mr. SYMMS. Mr. President, I reserve the remainder of my time.

I think the answer is that is a question we cannot decide in this Chamber. We have a system here where we have a Commander in Chief, we have an executive branch. They have access to all the information. We do not need 535 Secretaries of State, 535 quarterbacks to run the program. We have a system here where the President will have to make those determinations. Our part will be consent under the War Powers Act on under the appropriations process of the Congress supporting the administration actions.

I am just not going to get into an argument here of what actions are going to be taken.

The Senator from Colorado, being on the Armed Services Committee, knows very well what the answer to that question is.

Mr. HART. Mr. President, the Senator does not know. The Senator is asking the Senator from Idaho.

Mr. SYMMS. The Senator knows very well what the ability of the United States would be if we show the will of resolve. Probably there would be no necessity of military action. It would be a matter of having a convincible, a reliable position and posture on the part of the United States so we could have not only the confidence of our allies, but have the respect of our adversaries. That is what we have failed to have in the last several years.

I reserve the remainder of my time.

Mr. HART. Will the Senator yield for a question?

Mr. SYMMS. I reserve the remainder of my time.

Mr. HART. Mr. President, I would like the record to show the Senator did not answer my question.

Mr. BIDEN. I ask if the Senator from Illinois will yield me 36 seconds?

Mr. PERCY. I yield 36 seconds.

Mr. BIDEN. Mr. President, it is not a wonder that the administration endorsed the Symms resolution.

Mr. President, on its face, the amendment offered by Mr. Symms which reaffirms the so-called Cuba resolution of 1962, may have certain political appeal. However, we should recognize the amendment for what it is—President Reagan's Gulf of Tonkin resolution for Latin America.

In 1973, the Congress overrode a Presidential veto to enact the war powers resolution into law. By that action, the Congress determined the appropriate balance between the executive and legislative branches in the area of the warmaking powers of our Government. The administration endorsed the resolution offered by the distinguished Senator from Idaho, which is not inconsequential when placed in the context of the Senator's clearly stated intention when he introduced Senate Joint Resolution 158. On March 18, 1982, the Senator from Idaho stated: "Presidential powers in the realm of foreign and military affairs as guaranteed by the Constitution were eroded considerably with passage of the War Powers Act. I have always opposed the War Powers Act."

Thus, significant credibility must be given to the concern expressed by many of us. The so-called Cuba resolution of 1962 now antedates the war powers resolution. Enactment of the war powers resolution brought every prior law under the purview of this act, including the Cuba resolution of 1962.

This brings the concern over the resolution offered by the Senator from Idaho into sharper focus. This resolution, which the administration publicly supports contains a provision which stipulates the following: ". . . the United States is determined (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of the hemisphere."

Under the war powers resolution, the President can commit U.S. combat troops abroad for up to only 60 days unless the Congress "(1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period * * *"

Since the administration has claimed that Cuba has provided significant material support for the insurgents in El Salvador, and since the administration has maintained repeatedly that it will go to the source of that support, the executive branch could maintain that the Symms resolution gives it the authorization required by the war powers resolution to commit U.S. combat forces either to El Salvador, or against Nicaragua or Cuba.

During testimony before the Senate Foreign Relations Committee on May 4, 1982, the distinguished Democratic leader of the Senate, Robert C. Byrd, warned:

> Recent history should be a lesson for us. In the course of the Vietnam War, the Johnson Administration reconfirmed the Executive's claim to unilateral authority in the use of U.S. armed forces. In August, 1967, Under Secretary of State Nicholas Katzenbach contended that the Gulf of Tonkin Resolution was "as broad an authorization for the use of armed forces for a purpose as any declaration of war so-called could be in terms of our internal constitutional processes."

In essence the viability of any policy is directly related to its consistency of application. Certainly, the events in the South Atlantic involving Great Britain and Argentina have called into question the desirability of invoking policy pronouncements which are only selectively applied.

The resolution offered by the Senator from Idaho establishes a double standard which will not be lost on Latin America. William D. Rogers, who served as Assistant Secretary of State for Inter-American Affairs during the Nixon administration, made that very point during testimony before the Senate Committee on Foreign Relations earlier this year. In taking note of the Falkland Islands/Malvinas dispute, Mr. Rogers stated:

> The key question in that dispute is Argentina's unilateral use of force to settle its ancient grievance. A ringing affirmation of the 1962 Cuba Resolution would be misunderstood in Latin America, either as a vindication of the principle that resort to arms is appropriate if the case is serious enough, or alternatively that we accept the use of force by big powers but not by small.

Therefore, if the resolution offered by the distinguished Senator from Idaho is to be judged on its merits, it must meet two tests. First, is it good policy? Will congressional passage of the resolution enhance in any way U.S. foreign policy in the hemisphere? Does it demonstrate a particular resolve to accomplish a particular goal? If so, how is this to be achieved and what commitment of U.S. resources over what period of time will be required?

Second, how does it impact upon the executive-legislative branch relationship in the exercise of the warmaking powers of our Government? Is it the responsibility of the executive branch to come to Congress and justify our Government's need to commit U.S. Armed Forces abroad to meet a particular threat to the national security of this country? Or is it the responsibility of the Congress to direct the President to utilize U.S. Armed Forces in any way he deems necessary without having to justify such a commitment to the Congress or to the American people?

In effect, by passing the Symms resolution we have voted the President to use the Armed Forces of the United States anywhere in the hemisphere where he sees a direct or indirect threat from Cuba. Notwithstanding protestations to the contrary, this resolution is not a simple restatement of policy enacted by the Congress two decades ago. It is a resolution directing the President to take action.

Make no mistake, Mr. President, this amendment is about the War Powers Act.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PERCY. Mr. President, I would like simply to indicate or recommend strongly to my colleagues the position that Senator Stennis has taken. You can have the best of all worlds. If you did vote for the Symms amendment, you can now vote for the Percy amendment as Senator Stennis intends to do. That preserves the War Powers Act.

Let me say it is no surprise that the administration will support the Symms amendment, because, after all, President Nixon voted to veto the war powers resolution. As has been demonstrated, Senator Symms has always been against the war powers resolution.

All we are saying is that whatever happens in this hemisphere or any place else, the prerogatives of Congress must be preserved. The people of this country expect it, whether it is troops to Lebanon or troops to any place in the hemisphere.

Senator Helms has indicated that it is time for Americans to be Americans again. I say it is time to be Americans with the Congress, not without the Congress. This resolution would exclude the Congress.

Senator Helms said we are backing away from the Monroe Doctrine. That is absolutely not true. Let me repeat from the Percy amendment: To support "the principles of nonintervention in the affairs of nations of this hemisphere by external powers, which have been historically defended under the Monroe Doctrine."

The Percy language is even tougher than the Symms. Where in the Symms resolution is there any mention of the fact that the United States affirms its longstanding determination—quoting from the Percy amendment—"to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States"?

Then we have added this language, which is certainly tough enough:

> To resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the Hemisphere by force or the

threat of force in violation of the Charter of the United Nations.

We have here a resolution that is a tough resolution but a determined resolution, shaped to events in 1982, fully taking into account the War Powers Act and preserving those rights, which are waived by the Symms resolution.

No administration wants any restraints on it. Lyndon Johnson did not want restraints, other Presidents have not wanted restraints. This Congress overwhelmingly voted to reaffirm the powers of the War Powers Act, preserving the powers of Congress. We would be wiping those out if we do not adopt the pending resolution that is up for a vote now.

I yield the remainder of any time to my distinguished colleague from Rhode Island.

Mr. PELL. Mr. President, as I see it, there are two essential differences here. One, the Percy amendment brings in reference to the nuclear danger on which the Symms amendment is silent. Second, the Percy resolution drops those key words——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL [continuing]. "Including the use of arms."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I shall be very brief. I just want to reiterate, despite the comments of my good friend from Delaware (Mr. BIDEN)—it is true, and I will say that—that in the other body, I did support President Nixon's position and I opposed the War Powers Act, that the War Powers Act is now the law of the land. There is no way you can interpret the 1962 language, which we have already voted on, that it is in any way in conflict with the War Powers Act. This Senator certainly upholds the law of the land. The War Powers Act is part of it. In no way would I want to offer language that is not in this language that in any way avoids our responsibilities.

Senator HELMS is about to offer a motion. I want all my colleagues to know that the administration favors tabling the motion.

I think Senator HELMS, in his comments earlier, made it very clear that if you vote to pass the Percy amendment, you have negated what we have just done. So Congress has climbed up the hill, made a strong position, then retreated halfway back down the hill and given up the high ground, which is so important in international diplomacy, that we have a firm, clear, simple, understandable position on the part of the United States so our adversaries can understand where we are coming from. Then we shall have a much better arena for our diplomats to have true diplomacy, which will last toward peace in this world instead of this constant turmoil we have. I yield the remainder of my time to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 37 seconds.

Mr. HELMS. Mr. President, let me say again that the effect and the purpose of the Percy amendment is to wipe away the Symms amendment, which this Senate just approved by 69 to 27. A minute and 37 seconds does not allow time to correct the erroneous statements that have been made. But we are talking about the law as it existed and as explained and advanced by John F. Kennedy. The central issue here is the question of freedom in this hemisphere. Do we stand for freedom? Do we really believe that Cuba can be free again? Do we believe that Cuba must be stopped as a center of subversion against all the nations of the Americas? President Kennedy summed it all up when he said:

> The evidence is clear—and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this hemisphere itself. On that issue, unlike perhaps some others, there can be no middle ground. Together we must build a hemisphere where freedom can flourish and where any free nations under outside attack of any kind can be assured that all of our resources stand ready to respond to any request for assistance.

That is the issue here, not the War Powers Act.

Indeed, even under the War Powers Act, the President is allowed to send troops for 60 days without congressional consent. The Symms amendment is not going to send us to war. I move to table the Percy amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—48

Abdnor
Armstrong
Bentsen
Boschwitz
Burdick
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
D'Amato
DeConcini
Denton
Dole
Domenici
East
Exon
Garn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Pressler
Quayle
Randolph
Rudman
Schmitt
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—51

Andrews
Baker
Baucus
Biden
Boren
Bradley
Brady
Bumpers
Byrd, Robert C.
Cannon
Chafee
Cranston
Danforth
Dixon
Dodd
Durenberger
Eagleton
Ford
Glenn
Gorton
Hart
Hatfield
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Riegle
Sarbanes
Sasser
Simpson
Specter
Stennis
Tsongas
Weicker

NOT VOTING—1

Roth

So the motion to lay on the table was rejected.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, the question is on the adoption of the amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. THURMOND. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. The Chair will correct itself. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

The PRESIDING OFFICER (Mr. LAXALT). Are there any other Senators wishing to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—47

Andrews
Baucus
Biden
Boren
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Cranston
Danforth
Dixon
Dodd
Durenberger
Eagleton
Ford
Glenn
Gorton
Hart
Hatfield
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Riegle
Sarbanes
Specter
Stennis
Tsongas
Weicker

NAYS—52

Abdnor
Armstrong
Baker
Bentsen
Boschwitz
Brady
Burdick
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
D'Amato
DeConcini
Denton
Dole
Domenici
East

Exon
Garn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jepsen
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Pressler
Quayle
Randolph
Rudman
Sasser
Schmitt
Simpson
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—1

Roth

So the amendment (UP No. 1206) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we be in order, please?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to propose some unanimous-consent requests.

The PRESIDING OFFICER. Will the Senate please be in order so the Senator can be heard?

Mr. HATFIELD. Mr. President, I have discussed the remaining amendments with the authors, as we now understand the list. I would at this time like to ask unanimous consent that for Senator LEVIN's amendment there be a 40-minute time agreement, equally divided between Senator LEVIN and Senator SCHMITT. I have checked this out with the author, Senator LEVIN, and it is satisfactory with him. So I ask unanimous consent, Mr. President, that a 40-minute time limitation be given on the Levin amendment relating to student benefits, to be equally divided between the Senator from Michigan and the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. HATFIELD. Mr. President, we have an amendment that will be offered by the Senator from Rhode Island (Mr. CHAFEE) relating to Buy America, as it relates to coal. I have checked with the Senator from Pennsylvania, Senator SPECTER, who will oppose the amendment and it is agreeable that 40 minutes, equally divided will be sufficient to handle the Chafee amendment. Mr. President, I ask unanimous consent that there be a time limitation of 40 minutes to be equally divided between Mr. CHAFEE and the opposition, Mr. SPECTER.

Mr. PROXMIRE. Mr. President, reserving the right to object. Would the manager of the bill go ahead with his other requests, because on that one I am waiting for a Member to respond?

The PRESIDING OFFICER. Will the Senator suspend for a moment? Let us be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, there is an amendment to be offered by the Senator from New Mexico (Mr. SCHMITT) relating to copper with an hour time limitation, to be equally divided.

Mr. PROXMIRE. Mr. President, will the Senator also permit the minority to find out about that one?

Mr. HATFIELD. Yes.

Mr. President, I will make no more unanimous-consent requests at this point, but I am hopeful that we can get some time agreements in order to finish up at a decent hour.

Mr. PROXMIRE. Mr. President, I certainly want to cooperate as much as I possibly can. I just have some Members who are concerned about those two amendments.

The PRESIDING OFFICER. Who wishes to be recognized?

Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

UP AMENDMENT NO. 1207

(Purpose: To prohibit the availability of economic support fund assistance for certain countries which do not cooperate in preventing the entry into the United States of narcotic drugs)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) proposes an unprinted amendment numbered 1207.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 15, before the period insert a colon and the following: "*Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully."

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the distinguished Senator from Florida (Mrs. HAWKINS), the distinguished Senator from New York (Mr. MOYNIHAN), and the distinguished Senator from Florida (Mr. CHILES) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, I support the President's Caribbean Basin initiative. I believe that it is an important program that will strengthen U.S. interests in that strategically vital part of the world.

However, I believe that it is just as important to our Nation to insure that the recipients of this assistance join the battle which we are waging against the importation and sale of illicit drugs in our country.

I have been working closely with the Vice President's Task Force on Drugs. The task force has performed a valuable service but the problem that it is combating is enormous. Additionally, I have been pleased to work with my colleague from Florida, Senator HAWKINS, and other Senators on the newly established Senate Drug Enforcement Caucus. This caucus has helped to raise the awareness of my colleagues about the serious drug problem facing our Nation.

It is estimated that in 1980, the sale of illegal drugs totaled $79 billion in this country, That is an increase of more than 20 percent from 1979.

The Georgia Bureau of Investigation estimates that more than 50 percent of the illegally imported marihuana and cocaine moves through the States of Georgia, Florida, and South Carolina. Georgia has become a distribution funnel through which this deadly merchandise reaches the other parts of the country. It is estimated that there are more than 500 airports in Georgia, a State with 159 counties. A large percentage of these airports are used for clandestine drug operations. Mr. President, our International Narcotics Bureau, our Justice Department, and the American people need our help to stop the drug problem in America.

My amendment merely stipulates that countries receiving assistance under this program should assist the United States with its efforts to curb the importation of illegal drugs. The President does not have to certify that such assistance is being rendered before the financial assistance is made available. Rather, the economic assistance made available in this provision is not hindered or stopped in any way until the President finds that a particular country is not assisting with control efforts and he so certifies to the Congress. The provisions of my amendment are similar to those contained in section 502 of the Trade Act of 1974 which also limits assistance to any nation which is not cooperating in the fight against drug trafficking.

I believe it is in our country's best interests to conclusively demonstrate our serious intention to combat the drug problem and that we expect those nations that we are assisting to help us with this effort.

I hope my colleagues will support this important amendment.

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I yield to my colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, as chairman of the Senate Drug Enforcement Caucus and a cosponsor of the Mattingly amendment, I want to take this opportunity to urge my colleagues to join in this initiative to link the U.S. economic assistance to drug eradication.

The statistics that Senator MATTINGLY has related regarding the DEA's estimation of the illicit drug value in this country and its tremendous increase in 1981 over 1980 is absolutely staggering. A recent study by the National Institute on Drug Abuse found that 243 addicts committed 500,000 crimes over an 11-year period in this country.

Drug enforcement experts agree that the most cost-effective means of stopping drugs is through foreign eradication. On February 24, 1982, I introduced Senate Resolution 324 which urges the President and the Secretary of State to:

> Express U.S. concern to the governments of nations that fail to adequately control the production, and exportation to the United States, of illegal narcotics; to urge foreign governments to take appropriate measures to eliminate production and exportation of illicit narcotics to the United States; solicit from such governments recommendations for U.S. actions that will assist their efforts to control production and exportation of illicit narcotics, and consider the desirability of imposing sanctions on nations which continue production and exportation of illicit narcotics.

I believe it is vital that this Senate support making drug eradication a foreign policy priority by passing the Mattingly amendment. U.S. foreign assistance must be used as a preventive tool for stopping crime on our streets and drug abuse in our communities. I therefore urge my colleagues to join Senator MATTINGLY and me in this effort to destroy drugs before they reach our children and the shores of our communities. We must consider foreign aid and trade in a broader context than we have in the past. Illegal drugs destroy American lives and we must not continue business as usual. While our foreign policy interests with these countries are broad, none of these interests should supersede our desire for Americans to live free from crime related to illegal narcotics.

We should consider no nation our friend that takes a cavalier attitude toward its contributions to one of the most serious domestic problems facing this country, and we certainly should not use taxpayer dollars to help those countries that are unsympathetic and unresponsive to this country's legitimate concerns and fail to cooperate in a solution to the No. 1 problem facing this country today.

I commend my colleague, Senator MATTINGLY, for his timely amendment, and yield back my time.

Mr. MATTINGLY. I thank the Senator.

Mr. President, I might add that the distinguished Senator from Florida has been an outstanding leader in the U.S. Senate, serving as chairman of the Drug Caucus and has brought the drug problem to a high level of awareness here in the Senate, as has the President and Vice President.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to congratulate my colleague, the Senator from Georgia, for his offering this amendment, and which he has allowed me the opportunity to cosponsor.

I will detain the Senate for just a very few moments on this question.

The distinguished Senator from Florida has said that no nation should be considered our friend which involves itself in the international drug traffic in a complacent or uncooperative way.

May I say, simply for background, I believe it to be the case that, as assistant to the President of the United States for urban affairs in 1969, I was the first person to propose a systematic way within the U.S. Government that the international drug traffic be put on the agenda of American foreign policy. These were measures which led to the creation of the present operations in the Department of State, and, in their first case, led to the effort to put an end to the production of poppy in Turkey and its manufacture into heroin in Marseilles.

In 1969, I was sent as the Presidential emissary to Turkey and to Paris to begin the negotiations, which in the end were successful.

This is not meant to divert the Senate with personal reminiscences but rather to state at the time, and in fear of invoking him in a way in which he might not wish to be, I found at the time the then Secretary of Labor, the now Secretary of State, our distinguished friend George Shultz, very much agreed with this point.

At the time we were well aware that if we were able to break the French connection and persuade the Turks to control the growth of poppy and the manufacture into opium, that we would then only divert the heroin traffic to other sources, it being too lucrative an effort to put an end to permanently. Further, that the task would be the task of a generation or two, as indeed it had been a problem for at least three previously.

We did not set out one set of diplomatic relations, but we set out to put a process in place.

With respect to heroin, that diversion has now occurred. It was first diverted to Mexico, but most recently, in the most dramatic terms, it has been diverted to Southwest Asia, and to Pakistan specifically.

At present, the committee with a rather curious name, the National Narcotics Intelligence Consumers Committee, which is our basic source of data, estimates that roughly 60 percent of the heroin coming into this country comes from Pakistan, Southwest Asia in the generic term. It does not come from India where very careful controls which have always been imposed are maintained. It is useful for us to remember that the world would be very much the worse off without morphine.

If I could give you quickly the ratios from the newest narcotics intelligence estimate, 57 percent of the heroin consumed in Atlanta, Ga., comes from Pakistan, 64 percent of that in Chicago, 50 percent of that in Los Angeles, 67 percent of that in Washington, D.C., and some 78 percent in New York City.

It is within the capacity of drug analysts not so much to put signatures on these products but to identify them by chemical variants.

Mr. President, in the space of 3 years, the Pakistanis have become the largest source of heroin exported to the United States. Heroin is actually manufactured in Pakistan, a country perfectly capable of that kind of chemistry.

This year, this administration negotiated a $3 billion aid package to Pakistan and never mentioned the heroin traffic when it did so.

The Senator from Florida has made the point that no nation can be our friend and involve itself in such enterprise. But here is a nation pouring poison into the base of the American society and we are proposing a $3 billion aid package.

The amendment of the Senator from Georgia alerts the administration to our concern and encourages those involved to be heard, or it gives them an opportunity to be heard, by their superiors. A Presidential report is an important form of influence in the executive branch.

I have introduced more comprehensive legislation which will have to await a more propitious time, but I certainly support the amendment before us.

I wonder if I could ask my friend from Georgia if he would accept a proposed modification.

As he knows, the supplemental legislation is dealing with the remainder of this fiscal year, really not much more than 3 months, and unless we express some urgency in this matter, that time can go by, the amendment lapse, and there would be no response at all.

Would he not agree that it might be useful if we were to say on line 6 of his amendment, after the word "certify" to include the word "monthly," so it would be certified monthly? We would have in prospect at least the three reports before the amendment expires as does the appropriation.

Mr. MATTINGLY. The Senator from New York and I have talked about this previously. I agree. Mr. President, I so modify my amendment to add the word "monthly."

Mr. MOYNIHAN. I thank the distinguished Senator from Georgia.

Mr. MATTINGLY. Also, I think this makes the amendment stronger.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On Page 31, line 15, before the period insert a colon and the following: "*Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully".

Mr. CHILES. Mr. President, I rise to support the amendment offered by Senator MATTINGLY of Georgia and cosponsored by myself and several other Members.

Included in the supplemental bill pending before the Members is over half of a billion dollars of foreign assistance. These funds are associated with the President's Caribbean Basin initiative and other foreign aid funding sought by the administration.

If the Senate gives approval to this foreign aid proposal it seems appropriate to ask for some assistance in return from the recipient nations in combating the drug epidemic that exists in this country today. My State of Florida seems to be the gateway for the foreign drug invasion. Over 70 percent of the drugs that enter this country do so through south Florida. But this is not just a Florida problem, it is a problem of national significance.

We have learned that the single most important step we can take to curtail the flow of drugs into this country is to stop illegal drugs at their source, in the countries where the drugs themselves are grown. Just last year, Congress adopted and passed into law my proposal to once again allow our foreign assistance funds to be used for drug crop eradiction programs overseas. With this new provision on the books, we have the tool we need to attack illegal drugs at their source. But that tool will only be useful if the United States wants to make it work. In other words, unless we insist on making drug control programs a key element in our foreign relations with other countries where drugs are grown, we will fall short in our efforts to curtail the drug trade, and the crime and violence it creates.

The amendment before us would require foreign governments receiving our aid to take adequate steps to cooperate with the United States as a precondition for receiving this aid. Friendship and international cooperation is a two-way street. We can no longer afford to ignore the refusal of other nations to take action or only token or minimal action to stop the flow of these foreign drugs into our country.

For these reasons I am pleased to cosponsor the amendment now pending before the Senate and urge its adoption.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, the amendment offered by the Senator from Georgia (Mr. MATTINGLY) and others, simply provides that none of the funding for the CBI may go to any country that the President has certified is not taking adequate steps to cooperate with the United States in the prevention of drugs entering the United States.

Mr. President, as chairman of the subcommittee, I have also checked with the ranking minority member, the Senator from Hawaii, and we can accept this amendment. I believe it is entirely consistent with current U.S. policy.

I congratulate the Senator from Georgia on his amendment.

The PRESIDING OFFICER. Who wishes to be recognized?

Mr. HATFIELD. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1207) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REQUEST TO CHANGE OF POSITION ON VOTE

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HATFIELD. Yes, I yield.

Mr. MOYNIHAN. Mr. President, on the previous amendment by the distinguished Senator from Idaho, the one several times preceding, I voted "yea." I ask unanimous consent to change my vote to "nay"; it being the case that this will not change the outcome of the vote.

The PRESIDING OFFICER. Is there an objection?

Mr. HATFIELD. Reserving the right to object, Mr. President, yesterday, the Senator from Colorado (Mr. HART) made a similar request. I happened to be on the floor at the time, at which the majority leader rose to address the request by asking the Senator from Colorado two questions that were in the precedent of the Senate well established by the Chair's rulings. I believe the majority leader at that time indicated that it would be required to fulfill these two points: No. 1, was the Senator misrecorded in his vote; No. 2, did the change of the vote change the outcome of the issue? I believe that that constituted the two requirements. Is that correct? I am asking the Chair for that information.

The PRESIDING OFFICER. That is the Chair's recollection of the discourse yesterday, yes.

Can the Senator from New York meet those requirements as stated by the Senator from Oregon?

Mr. MOYNIHAN. No, Mr. President, the Senator from New York does not meet those requirements, it being his understanding that during the day in which the vote was cast, the recorded vote could be changed if that change would not change the outcome of the vote. The Senator could not say that he was misrecorded. He was not.

I should be happy to——

The PRESIDING OFFICER. The fact of the matter is that without any further discussion, a Senator, by unanimous consent, may change his vote.

Mr. HATFIELD. Mr. President, I wish the Senator from New York would withhold his request because, under the present circumstances, as acting majority leader at this moment, I would have to object based upon my understanding of what the majority leader (Mr. BAKER) made as a statement of precedent and rules governing this question, well established by the Senate.

Mr. MOYNIHAN. Mr. President, there would be no circumstances of a request by the Senator from Oregon in which I would imagine myself not honoring that request. I do stand and state that it is not my understanding of the precedents that one has to be misrecorded in order to change a vote. We shall resolve that.

Mr. HATFIELD. I may be wrong, Mr. President, but I would like to have the majority leader present.

Mr. MOYNIHAN. May I say, I do this, Mr. President, only in the aftermath of the failure of the amendment by the distinguished Senator from Illinois, the chairman of the Committee on Foreign Relations. In the context of the failure of that amendment, I could not support the earlier one. That is the only reason I trouble the Senate.

The PRESIDING OFFICER. If the Senator will withhold the request

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pending a conference with the majority leader by Senator Hatfield. Is that acceptable?

Mr. HATFIELD. It is acceptable, Mr. President. I should like to do everything I can to aid the Senator from New York to change that vote, because, as one who believes deeply in redemption, I believe the Senator from New York does have an opportunity for this redemption.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I believe this vote now concludes the work on chapter VI of the supplemental.

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. Mr. President, the recommendation contained under chapter VI of the supplemental fall under the jurisdiction of the Foreign Operations Subcommittee, which I chair. The foreign assistance recommendations before the Senate are a result of a compromise fashioned by the ranking member of the subcommittee, Senator Inouye, and myself. Except for two minor housekeeping items, payments to the retirement and disability fund, a mandatory request, and the provision of U.S.-owned foreign currency for overseas training in India, our recommendations fall into three categories. Those three categories are as follows:

First, emergency assistance to Lebanon;

Second, the economic assistance portion of the Caribbean Basin Initiative; and

Third, a small amount of military assistance, including emergency forgiven loans to Sudan, MAP assistance to El Salvador, Somalia, and Honduras, and loan guarantees to several selected countries which are vital to U.S. security.

Unquestionably the most controversial item in this chapter is the provision of assistance to El Salvador. However, the committee has taken a rather strong position with respect to economic assistance to that country by providing the full request as part of the Caribbean Basin Initiative. I think that there was a general consensus that this economic assistance is, in fact, desperately needed. With respect to military assistance to El Salvador, the committee, by a vote of 21 to 1, approved a reduction from the requested $35 million to $20 million. The committee rejected an attempt to eliminate all military assistance by a vote of 19 to 4.

The Appropriations Committee recognizes the concern many Members have expressed with respect to various actions in El Salvador, and that, at least partially, explains the reasons for our action reducing the military assistance request. We know that these concerns are held sincerely, and we hope that the administration will understand that we must take those criticisms and critics of our policy and of Salvadoran Government policy seriously. I, and I know Senator Inouye does likewise, want to work together with the critics of our policy and to endeavor to improve it. At any rate, we believe the Appropriations Committee action strikes a good balance, one which the Senate can support.

ASSISTANCE TO LEBANON

We are recommending $50 million in emergency assistance to Lebanon. This is identical to what was requested by the administration, but we are following House action in providing it through a transfer of excess funds under the migration and refugee assistance account. By doing so, we save $50 million, while still providing the needed assistance. The committee has included a legislative earmarking of $10 million for the American University of Beirut, including the hospital, which has undergone substantial financial losses as a result of the crisis.

The committee expects that these funds will be disbursed as soon as possible after enactment of this legislation. The committee has also included report language, suggested by Chairman Hatfield, which makes sure that this assistance is spent first on humanitarian needs.

We have also included report language which suggests that some of this funding be made available to the Beirut University College, which has sustained significant damage, and subsequent to committee action we have learned that the International College, a preparatory secondary school associated with the American University of Beirut, has likewise sustained significant damage, and I hope, of course, that the administration would consider supporting this institution as well. In calling special attention to these institutions, it is important to point out that they have been the focus of U.S. assistance in Lebanon for some time, in fact virtually the only assistance which has gone to that country.

CARIBBEAN BASIN INITIATIVE

The Appropriations Committee is recommending approval of the administration's economic assistance portion of the Caribbean Basin Initiative, including an add-on of $5 million for Honduras—that $5 million add-on being offset by a similar reduction in the military assistance request for that country. The CBI is the single most important program the administration has suggested for Latin America and represents the most comprehensive economic cooperation package since the Kennedy administration's Alliance for Progress 20 years ago. The CBI will provide badly needed budget and balance-of-payments support for the economies of several important countries in the Caribbean. The committee has included language which would make these funds available should authorizing legislation fail to be taken up, a prospect which seems likely in the House of Representatives. An attempt in the committee to reject this approach was defeated 20 to 3.

The committee makes this recommendation fully mindful of the prerogatives of the Foreign Relations Committee. In fact, we fashioned the language so that when the authorizing legislation passes, it will be the controlling law, not only on policy, but on country distribution. The committee feels this approach is essential for not to include this language would be to put the entire Caribbean Basin Initiative economic assistance package in jeopardy. Perhaps most importantly—surely most practically—is the fact that further delay of the CBI will bring the outlays associated with it into fiscal year 1983.

As my colleagues know, outlays for the international affairs function are already squeezed, and to add another $269 million to $300 million could severely and adversely affect other foreign assistance programs. It is crucial that we fund this as quickly as possible so that the outlays are scored in the current fiscal year. The Caribbean Basin Initiative is a top priority of the administration, as indicated in a letter from Secretary Shultz to the majority leader.

> I cannot emphasize enough the urgency of this funding. The President personally attaches the highest priority to each of these initiatives. Failure to provide the resources that are contained in the Foreign Operations portion of H.R. 6863 will seriously cripple the President's ability to implement his foreign policy agenda and would erode his credibility with friend and foe alike.

MILITARY ASSISTANCE

The administration has requested an appropriation of $115,500,000, together with loan guarantees of $186 million, and language which limits obligations of the special defense acquisition fund. The committee's recommendation cuts the military assistance program by 48 percent. I repeat, we make a reduction in the military assistance program of 48 percent. The committee recommends approval of the $50 million forgiven loan under the FMS program for the Sudan, and approval of the $186 million increase in FMS guarantees, which are to be used for additional programs in Korea, Thailand, Spain, Portugal, Morocco, Tunisia, and Turkey. As one can see, the programs we are approving under the FMS guarantees relate to those countries with which we have vital and important base agreements.

The committee is recommending a limitation on obligations from the special defense acquisition fund of $250 million, a reduction of $50 million from the request. It is important to point out that this particular action results in minimal budgetary impact, and the action we take here today does not result in the transfer of any foreign assistance to any country. The special defense acquisition fund is a revolving fund which is set up to acquire defense articles which may be needed in the future by friendly foreign countries. The idea behind this fund is that by having such a separate stockpile, we avoid either a drawdown of U.S. stockpiles or a interruption in production schedules should urgent foreign requests be made.

Mr. President, to sum up for chapter VI, the committee is recommending the appropriation of $426,531,000, a reduction of $90 million from the administration's request. While our recommendation compares unfavorably to the House action, it is important to keep in mind that an amendment, which had wide bipartisan support, and which would have added $402 million, was thrown out on a point of order on the House floor. But for that point of order, our recommendation would be very nearly the same as the House.

Mr. President, before concluding, I should like to pay special tribute to the very distinguished ranking member of the Foreign Operations Subcommittee, the senior Senator from Hawaii (Mr. Inouye). Without his leadership, advice, and assistance, this package for chapter VI could not have been put together. Senator Inouye continues to demonstrate those qualities that he is known for: patience, cooperativeness, and leadership. I also thank the senior Senator from Oregon (Mr. Hatfield), the chairman of the full Appropriations Committee, for his support and counsel.

Mr. President, I ask unanimous consent that the full text of the letter of August 10 from George P. Shultz to Senator Baker be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of State,
Washington. D.C., August, 10, 1982.

Hon. Howard H. Baker, Jr.,
U.S. Senate.

Dear Senator Baker: As the full Senate begins its consideration of the Omnibus Supplemental Appropriations Bill (H.R. 6863), I wish to advise you that this legislation contains funding for the Caribbean Basin Initiative, a modest amount of urgent security assistance, and emergency relief for Lebanon. These items were proposed and accepted in a bipartisan compromise fashioned by Senators Kasten and Inouye during the Senate Appropriations Committee's markup on August 3.

The funds proposed by the compromise are essentially those requested by the President to meet urgent foreign policy requirements and the Administration would, therefore, oppose any floor amendments to reduce or delete funding for these initiatives.

The President's Caribbean program seeks to address and resolve an unprecedented economic crisis in the Caribbean Basin. The security assistance element addresses key strategic interests in the Middle East, Asia and the Caribbean. In Lebanon, the overwhelming need for immediate relief and rehabilitation assistance is clear.

I cannot emphasize enough the urgency of this funding. The President personally attaches the highest priority to each of these initiatives. Failure to provide the resources that are contained in the Foreign Operations portion of H.R. 6863 will seriously cripple the President's ability to implement his foreign policy agenda and would erode his credibility with friend and foe alike. Accordingly, I ask that you give favorable consideration to the funding proposals contained in the Kasten/Inouye compromise and ensure their speedy adoption.

Sincerely,
George P. Shultz.

The PRESIDING OFFICER. The Senator from Oregon.

COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, I move the adoption of the pending committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The pending committee amendment beginning on page 30, line 23, through page 33, line 17, was agreed to.

Mr. KASTEN. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the second excepted committee amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay this pending committee amendment temporarily aside in order that the Senator from New Mexico may call up an amendment relating to unemployment compensation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1208

(Purpose: Provide funding, subject to enactment of authorizing legislation, for a federal supplemental benefits program)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, on behalf of myself and Senators Danforth, Domenici, Inouye, Lugar, Durenberger, Chafee, Packwood, and Specter, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Schmitt), for himself, Mr. Danforth, Mr. Domenici, Mr. Inouye, Mr. Lugar, Mr. Durenberger, Mr. Chafee, Mr. Packwood, Mr. Specter, Mr. Levin, Mr. Perry, and Mr. Stevens proposes an unprinted amendment numbered 1208.

On page 50, after line 24, add the following:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983; to be used only for necessary administrative expenses for carrying out a federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For "Advances to the Unemployment Trust Fund and Other Funds", such sums as may be necessary, to remain available until September 30, 1983, for non-repayable advances for a federal supplemental benefits program subject to enactment of authorizing legislation.

Mr. SCHMITT. Mr. President, this amendment is a modification in words but not in kind to printed amendment numbered 2013, which was introduced a few days ago. The amendment provides necessary appropriations bill authority to carry out a Federal supplemental benefits program now being considered by the conferees on the reconciliation tax bill. Funding for the necessary benefit payments and administrative costs is made subject to enactment of authorizing legislation, presumably legislation that would be agreed to by the Congress and the President as part of the reconciliation tax bill.

The purpose of this amendment is to avoid any possible delay in getting the supplemental benefits program implemented once the substantive legislation is enacted. It appears to be only a matter of time before such legislative changes are enacted, although the question of that legislative vehicle may still be up in the air.

Such changes would both modify the existing 13-week extended benefit program and provide a further extension of unemployment compensation up to, perhaps, a total of 52 weeks. However, the exact details of such a program are yet to be decided by the conference or action in the authorizing committees. There appears to be sufficient funding available.

If I may interject here, I think it is clear from the action of the Senate and of the House of Representatives in the context of the reconciliation tax bill that there is significant majority sentiment in both Houses to proceed with an extension of the unemployment extended benefit program. In that context, there appears to be sufficient funding available to cover the array of possible legislative changes being considered to this regular extended benefits program.

Under the terms of the fiscal 1982 continuing resolution, existing appropriations can be used to fund modifications to the extended benefits law and sufficient funds appear to remain

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available to the extent that federally funded advances will be needed.

However, there is currently no appropriation authority to make payments for a new Federal supplemental compensation program even if authorizing legislation were enacted.

The amendment that we have introduced in no way prejudges or attempts to influence the negotiations which are in progress on the tax bill, negotiations which concern a mix of legislative changes between the extended benefit program and the proposed new supplemental compensation program. It merely removes the roadblock in the appropriations process so we will not have to come back later and enact another appropriations bill for what are essentially mandatory costs anyway. By acting now, we will give the States maximum leadtime to plan for this new program as well as to begin hiring needed staff for effective administration.

Mr. President, I think there are strong signs and a general belief among many economists as well as Members of the Senate and House that the recession has bottomed. I do not think there is a feeling that we are going to have a rapid recovery from our current economic doldrums, but nevertheless I think there is a general feeling that recovery is on its way.

In that context as well as in the context of what is best for our unemployed previously working population, these unemployed workers need more time before the recovery from recession creates the jobs that past inflation and the resulting high interest rates have cost them. In that context I think it is entirely appropriate that the Senate enact this enabling appropriations language so that whatever action the Congress may take relative to extended and supplemental benefits can be rapidly implemented.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Who wishes to be recognized? The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I congratulate my good friend from New Mexico, the chairman of our subcommittee. I happen to be the ranking member of that subcommittee. He does a great job. I congratulate him on this particular amendment, because we all know we have the highest unemployment rate since the Great Depression, far more people out of work than we have had in more than 40 years. Obviously, we have to do what we can to provide extended unemployment that will be demanded by hundreds of thousands of people, perhaps millions of people, who will be out of work for more than 39 weeks and would not be covered otherwise. This is not only a matter of compassion and concern for people who lose their jobs, it is a matter of using unemployment for the purpose it was designed when it was first passed, to provide a floor under our economy so we do not snowball into a depression. I think this is a very essential action, and I certainly support it.

However, I ask my good friend from New Mexico why it is necessary under these circumstances to have an open-ended appropriation, which is most unusual? We have open-ended authorizations but there is no limit on the amount here.

The Senator does have a sort of suggested figure of $100 million, but then he says "or such funds as may be necessary." Why is that?

Mr. SCHMITT. The amendment was modified and sent to the desk to be even more open ended than the Senator imagined. That is primarily because we do not know what sums will be authorized in whatever legislative vehicle eventually comes forward. There is a general assumption, as the Senator is aware, that the conference report on the reconciliation tax bill will contain the necessary authorizing legislation, and from that we would know the cost of the extended benefit program.

We will have another opportunity to apply an appropriations-generated cap if we so desire. Frankly, at this point, that cap would be whatever your best guess is that a conference is going to decide or what another legislative vehicle will decide.

Mr. PROXMIRE. What bothers me is that this is a supplemental appropriation bill, and it is a bill, therefore, which is confined largely—not entirely, but very largely—to 1982, this fiscal year. But this particular amendment would run until September 30, 1983.

So, whatever funds would be required to carry out this extended unemployment program through September 30, 1983, would be made available by this action. Is that not right?

Mr. SCHMITT. That is correct; the Senator's interpretation is correct.

There are two points, however. There already are unspent funds within the advances to the unemployment trust fund and other funds account, and we would authorize the use of those funds for the purpose of this Federal supplemental benefits program, and then we see what has actually been created by the authorizing legislation in consideration of our regular fiscal year 1983 bill, either as a regular bill or as part of a continuing resolution. We can move to cap, to put on an actual figure. I do not believe we have lost any of those prerogatives as a committee by this legislation. All we have done is to make clear that there is, at the moment of implementation, no appropriations roadblock to moving forward with the benefits.

Mr. PROXMIRE. One of the concerns about this bill, as the Senator knows, is the possibility of a veto. Has the administration—OMB—taken a position on this open-ended provision for unemployment compensation?

Mr. SCHMITT. They have not, specifically. But it is this Senator's understanding that the administration was deeply involved in the negotiations of the instructions or guidelines that the Senate provided to the Finance Committee for the conference on this issue. It would be my guess that they would have no problem with this, since they are involved, to the extent the administration can be involved, in the settlement of that conference issue.

The Senator will recall that during floor debate on the instructions the Finance Committee received from the Senate—guidelines might be a better term—the number $1.3 billion was discussed. The original amendment that the Senator from New Mexico filed on this matter used that number. However, as I and the staff went more deeply into the issue and saw how uncertain the deliberations of the conference were, we figured that, rather than using a specific number, it would be better to start out with, as the Senator described it, open-ended appropriations, but obviously reserving the clear right to cap that on the next appropriations vehicle if we felt that was necessary.

Mr. PROXMIRE. Will the Senator yield to permit me to obtain the yeas and nays on this? A Member on our side is anxious for the yeas and nays—not this Senator, but another Senator.

Mr. SCHMITT. I have no problem with that.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. Abdnor). Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. PROXMIRE. I will do that later.

Mr. SCHMITT. I will protect the Senator's right.

Mr. MATSUNAGA. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. I am happy to yield to the distinguished junior Senator from Hawaii.

Mr. MATSUNAGA. Under the Senator's amendment, will the unemployed of all States be eligible for the extension?

Mr. SCHMITT. This amendment proposed by the Senator from New Mexico is silent on that. That, of course, would be determined by the authorizing legislation. But I would be most surprised, as I am sure the Senator from Hawaii would be surprised, if that authorizing legislation, reported back as a conference report or some other vehicle, would in any way discriminate against any State. That would be inappropriate, and I am sure the Senator would join me in opposing such discrimination.

Mr. MATSUNAGA. As I understand it, there is presently a requirement that within the State, the unemployed rate must be 6 percent or 6.5 percent before one is eligible for it.

Mr. SCHMITT. As I understand the current formula, the insured unemployment rate must average at least 4 percent for the most recent 13-week period, as well as exceed 120 percent of comparable 13-week periods for the 2 preceding years; but as a consequence of the reconciliation bill of 1981, that figure will go to 5 percent on September 25.

So, in that sense, there would be discrimination, depending on the level of unemployment.

It is a catch-22 situation, in that you will not be eligible for the extended benefits under the existing program, having nothing to do with this amendment. But you will not be eligible under the existing program unless the unemployment rate among insured workers reaches 4 percent today, and as of September 25, it will have to reach 5 percent.

It is one of those situations in which you benefit one way if unemployment goes up, but nobody benefits with a rising unemployment rate.

Specifically answering the Senator's question, this amendment does not in any way try to predetermine or determine the authorizing legislation that might come before this body, in whatever form that might be.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. I am happy to yield to the distinguished junior Senator from Arizona.

Mr. PROXMIRE. Mr. President, the majority leader is here, and if the Senator will permit me, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DeCONCINI. Mr. President, I do not want to go over what the Senator from Hawaii may have asked, but I just walked in on the discussion of 5 percent versus 4 percent on the insured. Does this provide funds if that trigger is lowered?

Mr. SCHMITT. Again, it is silent on whatever authorizing action Congress may take. It merely provides an opportunity for whatever supplemental benefit program is enacted by Congress for appropriations to be available for whatever Federal fund advances are required.

Mr. DeCONCINI. So I can take it that if that trigger were lowered by Congress before the 25th, or whatever it is, this would cover the appropriation.

Mr. SCHMITT. It is the understanding of the Senator from New Mexico that if that trigger is lowered, it is already allowed. This amendment would apply only to any modification of the extension of the existing extended benefit program.

Mr. DeCONCINI. So, to answer the question, I understand that it would not affect——

Mr. SCHMITT. It would not affect that.

Mr. DeCONCINI. Even if the trigger were lowered, it would not affect it. This really applies to the extension.

Mr. SCHMITT. This applies to the extension. If the trigger were changed, the existing appropriations authority would apply, and the funds currently available in the unemployment trust fund, including whatever Federal fund advances were needed in the event trust funds were depleted, could be applied to that changed situation.

Mr. DeCONCINI. Mr. President, if the Senator will yield for a unanimous-consent request, I ask unanimous consent that the junior Senator from Arizona (Mr. DeConcini) be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DeCONCINI. I also thank the Senator from New Mexico for bringing this to the Senate's attention. I think it is very important for the State of Arizona with the depressed copper industry and unemployment now close to 9 percent in the State of Arizona.

Mr. SCHMITT. Mr. President, I appreciate the Senator's cosponsorhip.

I might add this is not entirely unrelated to the efforts he has joined me and others in to try to convince the administration that some steps must be taken to prevent the loss of that basic industry through purchases for the stockpile or other such remedial measures.

In this case for the copper workers we are providing an additional cushion that gives us time in order to implement what those measures might be.

It is absolutely clear to this Senator that the copper industry as well as other basic industries in this country are under serious threat that is a new threat. We have seen cycles in the copper industry many times. I know both Senators from Arizona have grown up with the copper industry as I have. They cannot claim to have been born in a copper pit as I can. But, nevertheless, they have grown up with it, and we have seen cycles based generally on supply and demand fluctuations and occasionally on labor-management difficulties.

But in the current situation we are seeing the gradual erosion of a basic industry which is copper production, smelting, and refining, as a consequence of a world market situation over which we have currently almost no control.

It is a situation where many nations are producing copper at whatever the price may be in order to keep the cash flow into the treasuries. The oversupply that we have in the world market in addition to the recessionary trends in this country at the present time are practically destroying the industry and I have a great fear will destroy the industry if allowed to continue unchecked.

In addition to that because of other laws and other problems with which our smelting and refining industry is faced we have seen a gradual migrating of smelting and refining activities abroad.

All of these are part of a package affecting the copper industry and other industries in different ways for which this extension of benefits will provide an additional cushion and buy us a little bit of time so that we can come to grips with these more fundamental problems affecting basic industry.

Mr. President, I ask unanimous consent that Senator Percy be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I apologize for keeping the Senate waiting, but we are in conference on the tax reform bill, and it is my hope when we complete our conference on the tax reform bill that we will have a provision with reference to unemployment compensation.

I might suggest, I think I can say accurately, that we have been negotiating with Senators on both sides of the aisle, have been negotiating with the administration, we have been negotiating with the AFL–CIO, and it has been discussed with the chairman of the

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House Ways and Means Committee, Chairman Rostenkowski.

We are sincere in our efforts, and we want to accommodate many Senators who have indicated an interest. I see Senator Dixon on the floor, Senator Metzenbaum, Senator Kennedy, and others; Senator Levin and, obviously, Senator Schmitt, who has this amendment, Senator Heinz and others, who are interested, and we moved as quickly as the distinguished minority leader, Senator Robert C. Byrd, asked us to do.

We had hearings. Then last week we had the Metzenbaum-Schmitt resolution which, in effect, asked the conferees to make provision in the conference on the Revenue and Reduction Act for unemployment compensation.

As I understand this amendment, it would indicate that we have the funds, contingent appropriation for the funds, needed for supplemental unemployment compensation benefits and for the administration of such a program. The amendment does not mandate such a program. It does, however, clear one hurdle. If the House-Senate conference would agree on a FSUB program, it will be included in the conference report on H.R. 4961.

So it is a good amendment and it should be adopted. We support the amendment.

Again I would suggest that for all those Senators who feel strongly about unemployment compensation, whether it is supplemental benefits or extended benefits, we are going to try to accommodate the concerns of every Senator. We hope we can accommodate the concerns of every Senator. But again I would indicate that, without trying to pass the buck, so to speak, it is a matter of great concern also to the chairman of the Ways and Means Committee, and that is where it would normally originate, in the Ways and Means Committee.

It is my hope he can be persuaded. He certainly is not opposed to it. I think at the present time he is studying the matter, and I am prepared to say that if Chairman Rostenkowski offers an amendment or offers a proposal in the conference, certainly the Senator from Kansas will not only consider but will probably accept it. I have not seen it yet.

Mr. DIXON. Mr. President, I wonder if my friend from Kansas will yield for a moment?

Mr. DOLE. Yes.

Mr. DIXON. I want to thank my distinguished friend from Kansas for enlightening us on this question.

The Senator from Illinois has this concern: Last Friday our Governor called me on the phone about noon and suggested that we were going to trigger off this past Monday with reference to our extended unemployment compensation benefits. I am happy to say later on Monday afternoon we received word that that had not occurred; that through some calculation errors which were discovered over the weekend we have not yet triggered off. But I am assured by the Governor and everyone in our State administration that the occurrence is imminent, within a matter of days, and not in excess of a maximum of 2 weeks, probably a shorter period of time, so that the concern of the Senator from Illinois is, What can we do here to address an emergency situation involving over 55,000 individuals in my State who would fall off unemployment compensation benefits unless we can quickly find a vehicle?

I appreciate everything the Senator from Kansas is saying, and I understand the problems and the complications of the conference committee of the two Houses. I am trying to find some way here to get some assurance for my State, and those who are desperately concerned about the emergency nature involved, about how we can quickly address this problem, and particularly from the standpoint I am concerned about in the whole country, but particularly from the standpoint of a grave emergency in my State.

Mr. DOLE. Mr. President, if the Senator will yield, the Senator from Kansas is aware of the problem in Illinois and which has been called to his attention by the distinguished Senator from Illinois and also Senator Percy. We will take care of the Illinois problem. In every proposal I have seen that will be done, and I can almost assure the Senator it will be done. In my view, the earliest vehicle, the vehicle that is most likely to pass this Congress, even though it is controversial and the one that will offer the quickest relief to all the States concerned, is the bill now in conference, the Revenue and Spending Reduction Act.

We will finish our work—we had hoped to finish it tonight and now it appears maybe tomorrow night. There is every hope the House will act on that provision next Wednesday and the Senate will act on Thursday or Friday of next week. Once that is done it is done if, in fact, we have this provision in it. If not, the next opportunity will be the debt ceiling extension which was reported from the Senate Finance Committee this morning.

Mr. DIXON. Mr. President, will the Senator from Kansas yield for just a moment? I hear what the Senator is saying. I agree with what the Senator is saying that the best vehicle is the bill in the conference committee. But, of course, my distinguished friend would be the first to concede that that still is a little iffy, the passage of that bill successfully in both Houses is still iffy, and should that not become a reality, the Senator from Illinois would like his distinguished friend to know that the debt limit bill may be too late for my State. So I need some kind of assurance for the people of our State about something we can do that is a reality, that they can attach to with some sense of security.

Mr. DOLE. Well, there is some question about the Revenue and Spending Reduction Act which is now in conference, but I see the momentum going in the direction of passage. The President now is using the full force and impact of his office and his personal efforts on that bill.

I just left a meeting with the chairman of the Ways and Means Committee, your colleague from Illinois, Dan Rostenkowski, with Barber Conable, the ranking Republican on the Ways and Means Committee, with the distinguished Senator from Louisiana, Senator Long, the ranking minority member on the Senate Finance Committee; with Jim Baker from the White House, Don Regan, the Treasury Secretary, and other administration officials with reference to the revenue and spending reduction package.

It is our hope this will be acted on favorably before a week from this coming Friday, and to me that would provide rather urgent relief needed in the State of Illinois and other States.

Mr. DeCONCINI. Mr. President, will the Senator yield for a question?

Mr. DOLE. I cannot predict today that this bill will pass. Well, I will predict it is going to pass. I may be wrong, but I will predict it is going to pass.

Mr. DIXON. My distinguished friend, if my friend from Arizona will let me pursue it one moment further, I would like to see us put on this bill, and other vehicles around, the necessary assurance for the people of my State and others that can be momentarily similarly situated through some kind of legislation that will protect us, because while I respect very much the political judgment of my distinguished friend from Kansas, I would have to suggest that there is some respected thought that the issue is still in doubt, and I say for the people of my State they do not want this question to be in doubt concerning honorable, hard-working people who are entitled to be protected in these difficult economic times.

Mr. DOLE. Can I say in response that I would hope—and again I know the urgency of it—that I understand the urgency of it. I discussed it again with the chairman of the Ways and Means Committee. In my view, if something happens and the conference falls apart or it appears the bill cannot pass, that is all going to be known in the next 3 or 4 days. That would still give the Ways and Means Committee time—in fact they have a bill ready to bring up and pass in the House of Representatives rather quickly, and we could pass it on its own which, I think, is the second-best solution. But I hope we do not leave on any recess until we have acted on an unemployment compensation provision, and I am prepared to stay here to do that.

Mr. DIXON. I thank the Senator from Kansas.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. DECONCINI. I first want to thank the Senator for enlightening us on his feeling toward the conference and adopting the additional unemployment compensation.

I want to know if the Senator from Kansas is prepared to also enlighten us on his feelings if the conferees were to consider an amendment that would lower the 5-percent trigger down to 4 percent on the insured compensation? Is that a possibility or does the Senator care to express his views?

Mr. DOLE. You are looking at permanent changes?

Mr. DECONCINI. It is my understanding, and I will stand corrected if the Senator can enlighten me on it, that sometime in September the figure goes to 5 percent from 4 percent.

Mr. DOLE. Right.

Mr. DECONCINI. And I wonder if, during the conference, the Senator also was inclined at all to leave that at 4 percent.

Mr. DOLE. We are looking at that problem. We would hope to make some permanent change in the law, in effect, grandfather some of the States that might be affected. It is my hope—and, again, it is only a hope—the chairman of the Ways and Means Committee really has original jurisdiction here and I do not want to trespass into his prerogatives. But that certainly is one of the considerations and we would hope that any changes we make would go up until April 1 of next year to give the Congress some time to respond in 1983.

Mr. DECONCINI. If the Senator would yield, I take from that that the Senator from Kansas is not at all ill at ease about considering that as a possibility, at least grandfathering it or extending it for some period to time.

Mr. DOLE. The Senator from Kansas is not. In fact, I suggested a proposal that I know the AFL-CIO is looking at and many other people are looking at. We believe we made a lot of progress in the last few weeks.

Mr. DECONCINI. I thank the Senator.

Mr. DOLE. I yield the floor.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the distinguished Senator from Oregon, Senator HATFIELD, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the Senator from Wisconsin.

Mr. PROXMIRE. As the Senator knows, I have raised a question of this being open ended on an appropriation, which is most unusual and which concerns this Senator and I am sure concerns others because it could be an enormous amount since it runs all through next year. Would it be the Senator's intent to recommend a specific dollar appropriation at the earliest opportunity, say, on the continuing resolution, if we have one, or on the 1983 appropriation?

Mr. SCHMITT. I think it is entirely appropriate for us to do that. But, as you can see from the preceding colloquy, there is a great deal of uncertainty on what that dollar figure might be, based on the authorizing legislation.

But I would say, as soon as the Congress has acted or it appears that it is certain to act, I think the Appropriations Committee should review it and see what the maximum dollar figure ought to be.

Mr. PROXMIRE. So as soon as the authorizing committee—the Finance Committee in this case—provides us with the basis for our calculations, the Senator would recommend a limitation?

Mr. SCHMITT. I think that is entirely appropriate and, yes, this Senator would certainly do that.

Mr. PROXMIRE. I thank the Senator.

● Mr. LEVIN. Mr. President, I rise in support of the amendment offered by the Senator from New Mexico to provide funds for additional unemployment benefits for those individuals who have been unemployed for more than 39 weeks.

Last week when the Senate instructed the conferees to the Tax Equity and Fiscal Resonsibility Act to formulate a program which would provide for between 10 and 13 weeks of additional unemployment benefits the unemployment rate was at 9.5 percent. Since then, the unemployment figures have been updated for July, with the result that an additional 300,000 Americans are known to be out of work, and the unemployment rate is up to 9.8 percent.

What this means is that the need for a Federal supplemental unemployment benefit program is clearer now than ever before. As more and more people exhaust their first 39 weeks of unemployment benefits, they are going to be entering a job market where unemployment is still on the rise. The likelihood, then, is that there will be no paycheck to follow the cutoff in unemployment benefits. For people who have already been unemployed for 39 weeks and who have already gone through some, if not all, of their savings, there may simply be nowhere for them to turn.

In my State of Michigan, the unemployment rate rose from 14.3 percent to 14.4 percent in July. This adds one more month to the string of over 30 months of double-digit unemployment. So far this year, almost 50,000 residents of Michigan have exhausted their first 39 weeks of benefits. That number is sure to rise in the months to come, and the need for a Federal supplemental benefits program will increase. It is totally right that the Government offer a hand to these individuals to keep their lives intact when Federal policies helped to create the unemployment in the first place, and when current national policies consciously accept unemployment as a weapon against inflation.

I urge my colleagues to support this amendment, as I urge the conferees to the tax bill to act quickly and develop a Federal supplemental benefits program.●

Mr. KENNEDY. Mr. President, last week on reconciliation, the Senate voted 83 to 14 for a combined program of extended and supplemental unemployment benefits to protect the long-term unemployed.

Many of us are concerned that the proposal now being considered by the tax conferees fall short in two important respects.

First, too many States that deserve assistance will be denied participation in the supplemental benefits program.

Second, a cutoff date of April 1, 1983, for both the extended and supplemental benefits is unfair, because it will shut off this help arbitrarily, regardless of the unemployment rate.

I intended to offer an amendment to Senator SCHMITT's amendment that would have expressed the sense of the Senate on these issues.

My amendment contained two significant provisions to deal with the defects in the Finance Committee proposal.

First, every State that qualifies for extended unemployment benefits would also have qualified for the new supplemental benefits program.

Second, the cutoff for the program would be based on the unemployment rate, not an arbitrary date. The rate specified in my amendment was 8.7 percent, which is the rate assumed in the budget resolution for the first quarter next year. In other words, if the unemployment rate meets the 8.7-percent target assumed in the budget resolution, the supplemental benefit program would trigger off at the same time specified in the Finance Committee proposal. But if unemployment continues high, the program would continue, as it should.

My amendment would have insured that up to 52 weeks of unemployment benefits would have been paid in 37 States until the national unemployment rate dropped below 8.7 percent. The Finance Committee proposal would have paid supplemental benefits in just 7 States between now and De-

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cember 31 according to Department of Labor experts and in 15 additional States between January 1 and March 31, 1983.

I decided against offering this amendment at this time because of the important and sensitive negotiations going between the House and Senate conferees on the reconciliation and tax bill.

However, I want to let my colleagues know that I intend to follow the developments in the conference very closely.

I hope the conference produces an unemployment benefits program I can support. But if they do not I intend to press ahead on this issue at every opportunity until we have a program that will really help the unemployed working men and women in this country.

Mr. HATFIELD. Mr. President, in a moment Senator KENNEDY wishes to be heard on this bill. I ask unanimous consent that we temporarily set aside this amendment to act upon the committee amendment and get that out of the way and then come back to this in order to provide Senator KENNEDY an opportunity to speak and then, of course, to vote on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, I believe we have a committee amendment pending. I, therefore, move the adoption of the committee amendment.

The PRESIDING OFFICER. The clerk will report the committee amendment.

The legislative clerk read as follows:

On page 104, beginning on line 16, strike down through line 2 on page 107 and insert new language.

Mr. HATFIELD. Mr. President, this has been cleared on both sides of the aisle that this would be acceptable to the minority and the majority. I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, could you indicate how many committee amendments we have remaining to act upon?

The PRESIDING OFFICER. It is the understanding of the Chair that that was the last committee amendment.

Mr. HATFIELD. That is the understanding of the managers. So that all committee amendments have been acted upon, the first group was adopted en bloc and then we have acted upon the remaining exemptions, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. So that all we have left on this bill are the amendments to be offered by the individual Members?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I thank the Chair.

Mr. President, I wish to announce again that at this point in time we have an amendment to be offered by Senator ARMSTRONG; possibly two amendments, one more from Senator SCHMITT; an amendment by Senator CHAFEE, an amendment by Senator MATTINGLY, an amendment by Senator LEVIN, an amendment by Senator DURENBERGER, an amendment by Senator HELMS, an amendment by Senator BUMPERS, an amendment by Senator DECONCINI, and possibly an amendment by Senator JOHNSTON.

I really believe, if we can keep these amendments moving, that we can finish at a very reasonable hour this evening. We are working on time agreements on all of them and so far we have been able to have an expectation of getting a time agreement on most of them. It would appear that we may have about 3½ hours of amendments and whatever time would be required for the votes and that we could finish this bill up, as I say, at a decent hour.

I am very hopeful that all Senators will restrain themselves from offering amendments in addition to those I have read. It is certainly not in any way to cut off any rights of an Senator, but I have found in the past that if we can get an idea of where we are with what amendments are being considered it tends to expedite the handling of the bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT

Mr. HATFIELD. Now, Mr. President, according to the clerk, we have a technical matter here that I would like to clear up. That is, when we had the unanimous-consent agreement last night on the matter of chapter VI relating to foreign operations, we had adopted, in effect, only part of the committee amendment. Now I would like to move to adopt the remaining part of the committee amendment under chapter VI. That is on page 33, beginning on line 18, and over to page 34, line 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask that we continue to set aside temporarily the amendment of the Senator from New Mexico in order that the Senator from Colorado may engage in a colloquy with the ranking minority member of the committee, the Senator from Wisconsin (Mr. PROXMIRE), which will possibly avoid an amendment by the outcome of the colloquy.

I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the courtesy of the Senator from Oregon. I do want to discuss at least briefly the housing provisions of the bill. Upon the conclusion of my own remarks and those of others, it may be that I shall want to offer an amendment.

To put the question of housing subsidy in some sort of historical perspective, I would remind my colleagues that since 1937, Congress has committed more than $250 billion to Federal housing subsidies. Of this amount, $140 billion has been committed since 1974 alone. At the present time, 3.3 million American households, about 8 million people, receive Federal housing subsidies without committing a single additional dollar; 550,000 housing units are waiting to be built or occupied. Their funding has already been authorized or appropriated by Congress.

Mr. President, I do not intend to labor these points. I merely state them, and at the proper moment I will be glad to elaborate or discuss in detail the philosophy underlying our housing program. I do want to make one additional point just to set a frame of reference for the question which I want to propound to the managers of the bill.

The point is this: The record of subsidized housing in this country is one of the sorriest, most miserable record of one failure after another that anybody can imagine. The section 8 program, which we are now getting out of, or we are phasing out, was put in to get rid of the 235 and 236 programs which did not work out very well, and they, in turn, came into existence because the old public housing program was not working out very well. After it had been in place a few years everybody agreed it was a failure. We have had one failure after another. Each time a failure was perceived, we created a new program. It is alarming to me that instead of terminating the programs which had failed, we have simply brought new programs onstream. That is just so much philosophy.

I would like to get to the factual basis of the situation as I see it. The

1981 reconciliation bill authorized $17.3 billion in new fiscal year 1983 assisted housing spending authority. On February 5, 1982, President Reagan proposed eliminating from the fiscal year 1982 budget some $9.3 billion, which was to fund new section 8 unit construction. That request was later amended and the President sought to reduce section 8 new construction spending by $5.9 billion. The President also proposed recapturing $7.4 billion in budget authority previously authorized by Congress but had not yet been used. Some unused budget authority had been authorized by Congress as far back as 1959.

Recaptured budget authority, it is my understanding, can be recycled, meaning that the recaptured funds can be used to finance other projects. In previous years Congress has committed funds to build and occupy housing but a variety of delays prevent unit construction and occupancy. Units not completed or not occupied comprised the so-called pipeline in the Department of HUD. Right now, as I understand it, there are 550,000 units in the so-called pipeline.

Many of these, about 70,000, are new section 8 units for which funds have been authorized by Congress but are not built. They cannot be built because interest rates and cost overruns have increased so much that neither tenants nor the Government can afford the high rents which are necessary to pay the costs associated with those units if they were to be built at the present time.

President Reagan proposed additional financing and cost subsidies to finance and help pay for the 70,000 units in HUD's pipeline. Specifically, $6.35 billion in new interest rates and building cost subsidies were proposed.

As I understand it, and I want to be sure I am not misstating the facts, these new subsidies are in addition to the deep rental subsidies that paid as much as 90 percent of the unit rents, 20-year rental contracts, tax writeoffs which are more generous than in some other kinds of construction, and HUD technical assistance. The new subsidies are in the form of interest rate buy down, the financing adjustments factor, and payments for cost overruns that occur from the time the unit is authorized and the time it is actually built.

To pay for this pipeline buy out, HUD proposed using part of the recaptured budget authority and, if necessary, section 8 new construction funds not rescinded.

Mr. President, I believe that that brief explanation brings us up to where we were at the time of the supplemental appropriation which passed the Senate in July of this year. I believe I have accurately stated the facts, although I will admit that the details are somewhat hazy and I want to be sure that I have not inadvertently gotten something out of sequence.

The question I would like to focus on is this: First, what did Congress do in response to the President's proposals, and, second, how does the current bill, that is, the latest supplemental, the one that is now before us, relate to what we have previously done?

In finally passing the supplemental appropriation bill in July, we rescinded $4.09 billion in budget authority for new starts under section 8, which was $2 billion less than was requested, and we appropriated $19.59 billion for assisted housing in 1982 and 1983 including funds for new starts, Indian housing, public housing rehabilitation, moderate income rehabilitation, public housing operating subsidies, interest rate subsidies, and cost overruns.

Under that bill, as I understand it, of the $19.59 billion, HUD must defer $1.75 billion of budget authority until 1983.

This mandate could be waived if HUD failed to capture $5 million in unused budget authority which, in turn, was to be used to provide money for interest rate subsidies.

As I understand it—and I apologize to the managers for propounding my question in such lengthy fashion, but it seems to be important that the record be clear and that at least the Senators on the floor have a clear understanding of what we are doing. My question is this: Am I correct that the bill now before us mandates that $1.75 billion of budget authority that, at HUD's authority, could have been spent in 1983 must now, on the passage of this legislation, be spent in 1982? If that is, in fact, the case, I would like to be clear on why that is necessary and why it would not be better to delete that provision from the bill.

Mr. GARN. Mr. President, the Senator is correct that this bill does mandate that the money be spent in fiscal year 1982 rather than fiscal year 1983. The Senator from Colorado propounded a rather lengthy explanation. I will take only a few moments to answer his question.

First, Mr. President, I want to give a little background, before I get to the specifics of his question on what has taken place in housing since January of 1981. President Carter recommended assisted housing units of 225,000. President Reagan's initial budget for fiscal year 1982 requested 175,000 units of assisted housing. The Senate Banking Committee reduced that even further to 150,000 units of subsidized or assisted housing. Then, in the negotiations in September, and the rescissions proposed after the HUD-Independent Agencies appropration bill was enacted into law, and the vetoes of the urgent supplemental bills, we reduced the number of units even further. On a whole then, 52 percent of all the rescissions in the 1981 budget came out of housing.

I am not talking about all of the budget dealing with Housing and Urban Affairs, I am talking about the rescissions coming directly from housing. A further example is in 1982, 82 percent of all the rescissions came out of housing.

Mr. President, I am not suggesting that there is not room for more savings. I am suggesting that, at least in this short period of time, housing has certainly taken more than its fair share of the budget cuts. There are 12 other subcommittees within the Appropriations Committee. If they had done as well, we would have been much closer to a balanced budget.

Mr. President, I give that explanation just so all our colleagues know what role housing has played in the discretionary cuts to achieve the cuts mandated by the budget reconciliation in the last 2 years and what has been requested by the President.

To get specifically back to this question of the $1.75 billion, on April 15, the Secretary of HUD announced that the administration would support completion of approximately 70,000 housing units in the pipeline by requesting the use of $3,700,000,000 for financing adjustment and $2,650,000,000 for cost amendments. The administration's plan assumed the availability of approximately $7,400,000,000 in recaptured authority.

When the urgent supplemental was enacted, Congress assumed that only $5 billion of recaptures would be available to fund the planned buyouts of the pipleline and, consequently, reduced the amount rescinded.

Due to the uncertainties associated with the recapture estimates, we even provided that an additional $1.75 billion of fiscal 1982 funds could be merged with recaptures to assure sufficient resources. It now appears that, despite our best efforts, OMB intends to defer rather than release this $1.75 billion, even though recaptures to date are only approximately $2.4 billion—way below their estimates.

The availability of the additional $1.75 billion would assist approximately 34,000 housing units. Since we now know that recaptures will be insufficient to fund the proposed buyout, I proposed bill language that would eliminate OMB's option of deferring the $1.75 billion.

I say further that this is not new money. It was appropriated in the 1982 bill of December 1981.

It seems to me with these dramatic cuts in housing, which I supported and pushed for, when we have eliminated new starts in the section 8 program and with the housing industry in the trouble that it is in—we certainly defeated here, with the President's veto, the so-called Lugar bill—at least it is

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reasonable to make certain that this $1.75 billion of previously approved money is made available to assist those 34,000 units. It does not have impact as far as new money being appropriated.

The simple answer to the Senator's question, with all that background, is, yes, that is exactly what I am requesting in this bill, to overturn OMB's decision to defer that money until next year.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Utah, the distinguished chairman, for his explanation. I want to comment on it briefly and then propound one additional question, which I think will be properly addressed to him.

My comment is, while it is true that the bill before us does not provide for additional budget authority, it does move that budget authority forward from 1983 to 1982. The implication, it seems to me, is that additional money will be spent. That is argumentative, depending on later expenditure. But it does have an effect on this year's spending and the borrowing which will have to take place in fiscal year 1982. I am sure the Senator will agree.

Mr. GARN. I agree that it does change it by 1 month, because we are at the end of fiscal 1982. That is all we are talking about. If we are in this building season and we move into that pipeline, that makes sense. The basic disagreement is will it be spent in 1983 or 1 month sooner, at the end of 1982?

Mr. ARMSTRONG. I think the Senator will agree it might be more than a month. It might be as little as a day but it might be as much as 364 days. In fact, if subsequent developments indicate the need to rescind those funds, say in January of next year, if they had not been spent, they would still be available for further consideration.

Mr. GARN. Let me correct myself. When I say spend, I should not have used that term. I should say committed.

Mr. ARMSTRONG. I know exactly that point.

Mr. President, I also want to acknowledge before I move on to the question which I want to propound in addition, that there is, in my judgment, no committee of the Senate which has a better track record of actually curtailing some of these programs than the Senate Banking Committee under the chairmanship of Senator Garn. He is absolutely correct in his observations about the drastic reductions in the rate of increase in the section 8 housing program which he has outlined earlier.

I do think it is important to keep in mind that, while the number of units is declining year to year, that is the number of new units being constructed. All of the units built in 1975, 1976, 1977, 1978, and so on, remain and will remain to be subsidized by the taxpayers of this country for many, many years to come. Indeed, those units which are built in 1982, some of them, may be under taxpayer subsidy for as much as the next 39 years.

So we are not talking, in any case, even if we did not build one single new unit, of reducing the amount of section 8 subsidized housing. The question is how fast should we increase it?

Mr. President, I just observe in passing that I think the section 8 housing program is one of the most scandalously abused programs which has ever been enacted. I say that fully cognizant of programs like food stamps, in which there are alleged to be serious abuses; of cost overruns in the Defense Department, of which there are well-documented instance of abuse; of the allegations of corruption in the construction of highways and public works projects, and all of the other ripoffs which have come to light over the years. I still say that, in my own personal view, after careful investigation over the last 5 or 6 years, there is no program that I personally know of which has been as scandalously abused as the section 8 housing program, or which has larger and more profound and less understood cost implications. What we do is authorize in that program and appropriate for something which will be tiny the first year but which continues for 40 years thereafter. That is how, with low outlays, we have committed nearly $150 billion in section 8 spending in the last 8 years.

My view, contrary to what the Senator from Utah has said, is that we should never build another section 8 unit in this country, not even one, as far as I am concerned.

Now, I do not say that where we have made a commitment for the many, many units that have been committed in the last 8 years we ought not to keep those commitments, and it is in recognition of that that two things have happened. First, we have decided to cut this off and only build the pipeline units. Second, that last year, I believe on August 13, there was signed into law legislation which contained some very extensive amendments to the statute requiring substantive reforms of the section 8 program.

I call those reforms to the attention of the Senator from Utah and ask if he is aware of the status of implementation of those reforms by the Department of Housing and Urban Development. I am referring to those provisions which were included in last year's bill, such things as increasing tenant's contribution, limiting the Secretary's discretionary fund, eliminating preference for tandem financing, providing payments for unoccupied units, getting out the illegal aliens who are presently in many units. We have had testimony of a huge number of illegal aliens in section 8 subsidized housing units. And on and on, all of those reforms. Is the Senator aware of whether or not those have been implemented?

Mr. GARN. First of all, let me respond to the Senator's comment about going ahead with previous commitments.

I agree with the Senator on that completely, and I do not intend at all to recommend for 1983 any new starts under any circumstances for the section 8 program. I agree with the Senator. It has been an incredibly wasteful program. There would have been no new starts in 1982 had we passed the rescission earlier. I will not get into all that detail, but when I talk about the size of the rescissions it is not just that we are cutting off new starts in the future. We have rescinded a great deal of previously appropriated money and only because the Congress did not act on my recommendations on the rescission in 1982, that we will get some new starts in 1982. It was simply a matter of not acting rapidly enough and some of the rescissions then could not be implemented.

As far as the changes, concerning tenant contributions and other changes to the housing programs, I think the Senator from Colorado knows very well I supported his amendments, I offered them myself, I fought for them in conference with the House, and, finally, we were able to get a number of them through last year.

HUD has been able to implement what they can. It is up to us now, in the 1983 authorization bill and subsequently then in the appropriations bill, whether we give HUD the tools to implement these changes. However, they can only go so far. As the Senator knows, we do not have a 1983 housing authorization bill yet. I wish we did. The politics of 1982 are quite different. Last year, I had the first authorization bill passed and the first appropriations bill passed. This year we have virtually no authorization bill passed and no appropriations bills have passed either body.

So I can only answer the Senator's question that HUD will do what we tell them to do in the 1983 budgets.

Mr. ARMSTRONG. Mr. President, I am not greatly reassured by that response because in August of last year, 1 year ago, this Congress not only told HUD to take certain actions, a statutory enactment of the Congress of the United States signed into law by the President required HUD to take certain actions which today have not yet been taken.

I have a letter under the date of August——

Mr. GARN. If the Senator will yield, I do not disagree with that. I do not think HUD administratively has been moving as rapidly as they could. But, the point I want to make is that in the

1983 budget assumptions—and again we do not have an authorization bill yet—the savings are figured in the recommendations from HUD in their budget request. What I am trying to indicate to the Senator is that if we stick to the budget request, they will have no choice. They will not have the money. But I cannot promise what this body will do. I will do everything I can, as I have in the past, to make sure that those budgets are not exceeded either in the authorization process or in the appropriations process.

Mr. ARMSTRONG. Mr. President, it seems to me that the straightforward way for us to handle this is to simply condition further expenditures from the section 8 program on the implementation of the regulations which were passed 1 year ago.

I have a letter of August 2 of this year from the Secretary of HUD and, frankly, his response to my repeated inquiries about why the regulations have not been implemented comes down to this: "Look, the issues are complex. We have a lot of offices and we are busy."

That is no doubt why it took from May to August to answer my letter.

Well, I understand the issues are complex. I have spent years studying them. The General Accounting Office has studied them. Congress has studied them. Congress enacted approximately two dozen quite specific reforms. These were not recommendations. They were not reports of managers. These are not committee reports. These are the statutes of the United States, the law, I suggest to the Senator that since they have not been implemented I do not think we ought to go on and spend another nickel in section 8 money unless we have to until those are implemented.

Mr. President, for two reasons I am going to send an amendment to the desk and it is going to do two things. The amendment has this effect. First of all, it says that the extra $1.75 billion which will be spent in 1982 over and above what would have been required under prior legislation will not be required to be spent, and, second, it says, and I will just quote:

> That none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance prior to the issuance of final regulations pursuant to the housing and community development amendments of 1981 and prior authorization acts.

In other works, first, we are not going to advance the spending of nearly $2 billion into this fiscal year. Second, we are not going to let them get by without issuing the regulations which they are required to issue under prior statutory enactments of this body.

UP AMENDMENT NO. 1209

Mr. ARMSTRONG, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

> The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1209.

Mr. ARMSTRONG. Mr. President, the amendment is brief, but there is really no need to have it read, and I ask unanimous consent to dispense with the reading of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Beginning with "and inserting" on page 34, line 10, strike out everything through page 35, line 2, and insert the following: by striking "$870,969,000" and inserting "$770,877,000" and by striking "$15,228,518,000" and inserting "$13,478,518,000" in the second proviso under this heading: *Provided further,* That none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance prior to the issuance of final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts.

Mr. GARN. Mr. President, I would like to have a copy of the amendment if I could, and I should like to respond to the Senator from Colorado on his amendment.

At times like this, I get a little bit frustrated, because the Senator from Colorado and I do not disagree on what we want to achieve. We are in total agreement on the waste and inefficiency that has occurred in section 8. I tried to indicate before that we have made remarkable strides. As a matter of fact, I doubt that anybody in January of 1981 believed that we could have made those changes because we tried for years and we failed over and over again.

I think this amendment goes too far. First of all, I feel very strongly that previously appropriated money ought to be spent. I think for the matter of a month of making those commitments I would oppose it. If the Senator wants to propose an amendment which would send a very strong signal to the Department that "they better do this or else"—I would support the Senator and recommend the managers of the bill accept it.

However, the second part of the amendment of the Senator goes far beyond what we have been talking about concerning section 8. The Senator is talking about people who are already living in homes before he and I were here and had anything to do with housing programs. The Senator is talking about the operating subsidy which I would like to see diminished, if not totally eliminated, at some time in the future. However, the kind of mandate the Senator is putting in this amendment is going to tell us that until HUD can go through the process of getting to their final recommendations people are going to be kicked out on the streets.

As much as I agree with the goals of the Senator, I think his amendment is far too restrictive, and would upset HUD far beyond the intent of what the Senator wants to accomplish.

(Mr. SYMMS assumed the chair.)

Mr. ARMSTRONG. I say to the Senator that first I think he is mistaken as to the effect of my amendment. Certainly, if it has the effect that he suggests, I would withdraw it.

Mr. GARN. As the Senator stated it to me, that was the impression.

Mr. ARMSTRONG. No. It says that additional funds may not be obligated. It does not say that where we have people who are already in subsidized housings, we cannot get out of that, even where we have made bad deals. We have made some horrendous deals around the country. We have to honor the deals we have made. The question is, Should we make long commitments? My view is that we should not.

Second, the Senator said that my amendment would withhold the expenditure of funds until the recommendations of HUD can come up. At this point, I am not looking for recommendations. I am looking for them to follow the law. We are not talking about something somebody sent them in a letter or that is from a committee or a speech on the floor. We are talking about the law.

That is what we implemented last year, after years of struggle. As the Senator pointed out, Congress, thoughtfully and laboriously, and after hearings and markups and extensive consideration on the floor and in conference, wrote into law certain requirements about how these housing programs would be administered, and they are just ignoring us down there. They are stalling and not getting the job done, and I am not satisifed.

Mr. GARN. In reading the Senator's amendment, I think it would do what I have said.

> None of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance.

I agree with the Senator and would like to cut even more. But, in my opinion the language in the bill goes too far. That is not just a 2 by 4 between the eyes. It is a sledgehammer in cutting off the use of funds for housing assistance.

The Senator said he is interested only in future commitments, not previous commitments. This amendment refers to previous commitments, also.

Mr. ARMSTRONG. The Senator from Colorado did not write those words. They were written by the Legislative Counsel. I cannot believe that they have that effect. I do not read it that way. But if the Senator wishes to

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suggest different words which he thinks would more precisely express the intent, I will be glad to accept any reasonable amendment.

Mr. GARN. Neither the Senator from Colorado nor I are attorneys: But this does not need an attorney's interpretation. It is straightforward. It simply says, "None of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance," period.

I do not see any interpretation there at all. I suggest that possibly the best course of action rather than continuing the debate is to vote.

Mr. ARMSTRONG. Mr. President, in view of the question the Senator has raised about whether the language accomplishes its intended purpose, I inquire of the manager how he would like me to proceed.

I will be happy to modify my amendment or withdraw the amendment and reoffer it in a different form.

I do not believe that the legislative counsel's language will have the effect that the Senator has suggested. If it did, it would not be a responsible amendment, and I would not wish to offer it.

If the Senator wishes to suggest corrective action, I will be happy to take it or to seek legal advice.

Mr. HATFIELD. Mr. President, if the Senator is asking me, I suggest to the chairman of the subcommittee, Senator GARN, and to Senator ARMSTRONG that possibly the Senator from Colorado withdraw his amendment at this time, permitting us to take up some other noncontroversial amendments, and work out a modification that would satisfy the chairman of the subcommittee, Mr. GARN. I think that would be the most expeditious way. Then we can bring the amendment back.

Mr. GARN. The problem with that is that this is a two-part amendment. Even if we could solve the second part with some language, I still am opposed to the $1.75 billion being eliminated. That is why I suggested that perhaps we should go ahead and vote.

Mr. HATFIELD. I will defer to the Senator's judgment.

Mr. ARMSTRONG. Mr. President, as the conversation develops, I ask unanimous consent to withdraw the amendment, and I shall resubmit it as two separate amendments. I hope the second half will enjoy the support of the Senator from Utah; and for the first part, I will have to look for support in other quarters.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

The amendment is withdrawn.

The question occurs on the amendment of the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be temporarily set aside.

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I do not have an amendment, and I will take only about 5 minutes of the Senate's time.

I support H.R. 6863, the fiscal year 1982 supplemental appropriations bill. This bill is well within the budget ceilings established by the fiscal year 1982 revised second budget resolution. Chairman HATFIELD and the chairmen of the various appropriations subcommittees should be commended for this effort.

H.R. 6863, as reported by the Appropriations Committee, provides an additional $9 billion in budget authority and $7.4 billion in outlays for fiscal year 1982. If this bill is enacted, Federal spending will still be below the budget ceilings by $8.3 billion in budget authority and $1.3 billion in outlays. Obviously, this Senator is not complaining about that. I am merely stating a fact.

The bulk of the funds appropriated in this bill, $6.1 billion in budget authority and $5.8 billion in outlays, pay for the cost of the October 1981 pay raise for Federal employees. The remainder provides supplemental appropriations for individual programs, including the economic assistance funds for the President's Caribbean Basin Initiative, employment, education, and transportation programs.

H.R. 6863 contains less money than the President's request. The Senate bill is $1.7 billion below the President's fiscal year 1982 request in budget authority and $1.5 billion below that request in outlays. This bill provides $1.6 billion less than the President's request for defense, and provides more money than the President requested for education and transportation programs. I think the distinguished chairman has already explained the committee's reasoning in that regard.

The Senate bill is higher than the House companion bill by $0.2 billion in budget authority and $0.1 billion in outlays. In comparison to the House bill, the Senate bill provides more money for defense, less money for transportation programs, and slightly more than the Presidential request for the Caribbean Basin Initiative. The House bill provided no funds for the Caribbean Basin Initiative.

In closing my remarks, Mr. President, I would like to urge my colleagues to support H.R. 6863. I note, however, that we still must continue to exercise fiscal restraint and control the size of the deficit. I urge my colleagues to resist any amendments that would increase the cost of this bill. I compliment the chairman and other members of his committee for resisting amendments to this point.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the fiscal year 1982 budget resolution be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 6863, FISCAL YEAR 1982 SUPPLEMENTAL

[In billions of dollars]

	Budget authority	Outlays
Revised second budget resolution	777.7	734.1
Current level	766.9	732.1
Action underway (ADAP in H.R. 4961)	.4	
Amount remaining	10.3	2.0
H.R. 6863 as reported in Senate [1]	9.0	7.4
Less items already in current level	−6.7	−6.4
Less offsetting receipts affected by appropriations action	−.3	−.3
Net impact of H.R. 6863	2.0	.7
Amount remaining	8.3	1.3
President's request [1]	10.7	8.9
House-passed [1]	8.8	7.3

[1] Reflects Senate Budget Committee scoring of CCC borrowing authority.

Mr. HATFIELD. Mr. President, I wish to express my deep gratitude to the chairman of the Budget Committee, the Senator from New Mexico (Mr. DOMENICI), for his remarks.

I think it strengthens our hand a great deal to have the full and unqualified support of the chairman of the Budget Committee of the Senate. It is indicative of the new era wherein two committees, which historically have been at loggerheads or have been antagonists, have worked very closely in these days when we are trying to get control of Federal spending. It is only because of statesmanship such as that exhibited by the Senator from New Mexico that this has been accomplished.

It is interesting to note—and I should like to underscore one point—that the Senator from New Mexico is correct in stating that the Senate bill as reported is under the President's request by $1.7 billion in fiscal year 1982 funds.

Also correct is the report accompanying the bill that indicates that the bill as reported is under the request by $2.1 billion for a total fiscal year 1982 funds and other obligational authority.

At first blush, that may seem to be a contradiction, but there is no discrepancy. The budget figure does not include the President's request for defense reappropriation by $346 million, which, in their scorekeeping, counts as fiscal year 1983 budget authority.

I wanted to make that one clarification, because it may appear to a casual reader that there are two sets of figures here. Really, there is only one set. It is only a matter of scorekeeping.

Does the Senator care to comment on that?

Mr. DOMENICI. Mr. President, I understand that discrepancy. It is just a difference in the way of scoring new budget authority compared to the scoring of certain reappropriations of budget authority.

Before I yield the floor, I commend the distinguished chairman, not only for this bill. In the past 18 months, it would have been impossible for us to proceed, using the Budget Act in this institution and in the House, without the extreme cooperation and willingness to help exhibited by the chairman and the ranking minority member of the Appropriations Committee.

I thank them both for it.

We all know it is very tedious and difficult to use the Budget Act, and if they had not been cooperating, it would have been almost impossible. Then we all know we have left appropriations to the appropriators in terms of meeting targets, and I can say to this point they have done an admirable job.

Mr. PROXMIRE. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. PROXMIRE. Mr. President, there is one other caution of which we should be aware, and that is in the unemployment compensation amendment it is open ended, and we can guess at what it will be, but it extends into 1983 and it could be several hundred million dollars, depending, of course, on what the Finance Committee and the Ways and Means Committee work out. It is an entitlement. We simply have to go on with it. It is not included in this supplemental.

Mr. DOMENICI. I thank the Senator for bringing that to my attention. I did not intentionally ignore it. Obviously I will be speaking to that when the tax bill, which will include it, comes to the Chamber. I make no commitments.

Mr. PROXMIRE. The reason I raise that point here is the appropriation for it is in this particular bill.

Mr. DOMENICI. There is a great deal of discussion taking place, I say to my good friend, the ranking minority member, by that conference that they are going to attempt to change tax laws with reference to treatment of unemployment compensation in the country in terms of the tax laws of the country such that any increase will be paid for. I do not hold them to that commitment. I merely say that I did not mention it because that is the expressed intention. If it does not work that way I will be in the Chamber saying we should do it anyway, I believe, because it is urgent, but we will say how much they have failed to fund it by changing the tax laws and by how many dollars, and we will call that to the Senate's attention.

I thank the Senator for reminding the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent again to set aside temporarily the Schmitt amendment in order for the Senator from Minnesota to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1210

(Purpose: To express the sense of the Senate that certain Federal agencies should set aside more research time and funding to develop and validate alternative nonanimal testing procedures)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Minnesota (Mr. Durenberger) for himself, Mr. Dole, Mr. Tsongas, Mr. Percy, Mr. Levin, Mr. Roth, Mr. Jepsen, Mr. D'Amato, Mr. Leahy, Mr. Heinz, Mr. Stafford, Mr. Gorton, Mr. Riegle, Mr. Abdnor, Mr. Mitchell, Mr. Moynihan, Mr. Ford, Mr. Lugar, Mr. Brady, and Mr. Specter proposes an unprinted amendment numbered 1210.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Whereas Federal regulations require the Draize rabbit eye irritancy test for predicting human ophthalmic response in pesticides and household products; and

Whereas since development of this painful test over thirty-five years ago there has been enormous scientific innovation while the Draize test remains basically unchanged; and

Whereas the reliability of the Draize test has been called into question: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure.

Mr. DURENBERGER. Mr. President, on February 6, 1981 I was joined by Senators Dole, Tsongas, Percy, DeConcini, and Levin in the introduction of Senate Resolution 65. Senators Riegle, Jepsen, Roth, Abdnor, Mitchell, Moynihan, D'Amato, Leahy, Heinz, Stafford, Kasten, Ford, Lugar, and Gorton have joined the original sponsors of the resolution which would allow the Federal Government to set aside time to research and develop an alternative nonanimal testing procedure to replace the Draize eye irritancy test.

For decades the Federal Government has supported animal research which benefits the health and welfare of humans. Although most researchers strive to give the animals the most comfortable living conditions, there is one test, the Draize eye irritancy test, that raises legitimate questions about cruelty to the albino rabbits on which it is performed.

Over the past year, both the public and private sectors have made great strides toward alternatives to the Draize test. In the private sector, Revlon has pledged $750,000, over a 3-year period, to Rockefeller University to fund exploratory research into nonanimal eye irritancy test alternatives. In addition, the Cosmetic, Toiletry and Fragrance Association (CTFA) has established a $1 million fund, Avon has pledged $750,000, Estee Lauder $250,000, and the New England Anti-Vivisection Society has awarded $100,000 to Tufts University—all for research to develop an alternative to the Draize test.

The public sector has also taken some encouraging steps in this area. The Consumer Product Safety Commission has expressed the need for alternatives to the Draize test, and if such alternatives were developed, the Commission would endorse the replacement of the Draize test. CPSC guidelines have recently reduced the number of rabbits used by about half. Although I am convinced that nothing short of total elimination of the test is necessary to halt the unnecessary pain albino rabbits are subjected to, I find the CPSC position to be a step in the right direction.

Unfortunately, Congress has been unwilling to go on record as being supportive of Federal Government efforts to devote additional research time and funds to develop an alternative to the Draize test. This amendment, Senate Resolution 65, has no budgetary impact, is supported by industry and consumer groups alike, and is worthy of every Member's support. Every day animals are subjected to cruel testing techniques. Certainly the Federal Government has a responsibility and obligation to work with private industry to find new testing procedures to not only insure the safety of consumers, but to also protect the rights of animals.

Mr. MOYNIHAN. Mr. President, I am most pleased to join with Senator Durenberger in cosponsoring an amendment to the Supplemental Appropriations Act, 1982 (H.R. 6863) expressing the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure to replace the Draize eye irritancy test.

Several years ago, a number of thoughtful and concerned citizens, among them the Coalition To Stop Draize Rabbit Blinding Tests, brought to my attention the cruelty of laboratory tests being used to determine the eye irritancy potential of various cos-

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metics and drugs. New products are tested in the eyes of rabbits and the rabbits are observed over a period of a week or more. The products are then graded for irritancy according to the degree of harm inflicted upon the rabbits' eyes. This procedure is known as the Draize test. Thousands of rabbits are used each year for this painful test which is administered without any anesthetic or other pain reliever.

On April 30, 1980, I asked all cognizant Federal agencies to look into alternatives and to encourage the companies which conduct the Draize test to work cooperatively toward finding painless, reliable and cost-effective alternatives. On May 21, 1981, I joined with Senator DURENBERGER in cosponsoring a sense-of-the-Senate resolution (S. Res. 65) calling upon the appropriate Federal agencies to specifically set aside research time and funding to develop an alternative to the Draize test. It is essentially this resolution that we introduce today as an amendment to H.R. 6863.

Since 1980 some progress has been made. On January 8, 1982, Carlos L. Perez, Acting Associate Executive Director for Compliance and Administrative Litigation, U.S. Consumer Product Safety Commission, wrote to Mr. Henry Spira of the Coalition To Stop Draize Rabbit Blinding Tests. Mr. Perez concluded his letter as follows:

> I have requested our scientific staff to closely monitor this ongoing industry research. In the event that a reliable alternative test method for eye irritancy is developed, we will immediately take steps to replace the Draize test.

This is an encouraging sign.

It is most appropriate therefore for Congress to go on record at this time in favor of devoting additional Federal resources to finding an alternative to the Draize test. We can do this by adopting the amendment offered today by Senator DURENBERGER and myself.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I send to the desk a technical modification of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

> At the appropirate place, insert the following:
>
> Since Federal regulations require the Draize rabbit eye irritancy test for predicting human opthalmic response in pesticides and household products; and
>
> Since development of this painful test over thirty-five years ago there has been enormous scientific innovation while the Draize test remains basically unchanged; and
>
> Since the reliability of the Draize test has been called into question: Now, therefore,
>
> It is the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure.

Mr. HATFIELD. Mr. President, I have discussed this amendment with the Senator from Minnesota, and we have arrived at an accommodation. I would, therefore, move the adoption of the amendment.

The amendment (UP No. 1210), as modified, was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are just about ready to move to third reading. I have no other amendment at this moment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Schmitt amendment be temporarily laid aside in order for the Senator from North Carolina (Mr. HELMS) to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1211

(Purpose: To prohibit United States Government funds from going to meet the debts of insolvent communist countries which have not yet been declared to be in default of their debts)

Mr. HELMS. I thank the Senator from Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1211.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 108, after line 19, insert the following new section: "Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, the Socialist Republic of Romania, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

Mr. HELMS. Mr. President, I discussed this amendment with the manager of the bill. It relates to the Polish debt situation which has been discussed fully on this floor on previous occasions and the Senate has acted upon an amendment similar to this.

I am not going to go through the arguments. I will just ask the able manager of the bill if he has had an occasion to examine the amendment and if he finds it acceptable.

Mr. HATFIELD. Mr. President, I say to the Senator from North Carolina that I have examined the amendment and we are making a couple of checks with two other interested parties. I think we might be able to accept the amendment, depending on the clearance.

Mr. HELMS. I thank the Senator. In the meantime, while the check is being made, let me comment briefly.

Mr. President, there being so much violence and oppression around the world, it occurs to this Senator that it would be useful to remind ourselves, as well as the American people, of the continuing oppression of the liberties of the Polish people by the Polish Government.

And the best reminder would be for this Senate to take a position forthrightly because the brutal Communist martial law regime of General Jaruzelski remains in place. The Polish Government admits that at least 1,200 Polish citizens are imprisoned as a result of martial law, including virtually all the leaders of Solidarity. Independent estimates of the number of noncriminal Polish internees imprisoned by the martial law regime run as high as 4,000 to 6,000. Solidarity remains banned, and its leaders languish in prison for the heinous crime of demanding a modicum of freedom in a Communist country.

Even while this oppression of the Polish people by their government was continuing, American taxpayers were being forced to foot the bill for loans which the Polish Government cannot now, and probably never will be able to pay back. Recently we passed the Kasten amendment to Public Law 97-216 which put an end to this abuse of the taxpayers. But the Kasten amendment only applied to fiscal year 1982. On October 1, the taxpayers could once again become subject to this unjustifiable imposition.

Currently, the Polish debt to Western banks stands at between $26 and $28 billion, depending on one's source. No one seriously maintains that Poland will ever be able to make good on these debts. According to most experts, it has been clear for at least 5 and possibly 7 years that Poland would never be able to repay its foreign debts. This was abundantly clear on hearings which I chaired before the Agriculture Committee some weeks ago. Yet, our Government, through the Commodity Credit Corporation, has continued to insure loans to Poland even after it was clear that Poland could never make up its existing debt.

This Senator has never been able to understand the reasoning behind our Government's policy of guaranteeing loans to Communist countries in the first place. It seems to me that if we are going to carry on trade with Communist countries at all, it ought to be on a strictly cash basis. But if that is not enough, it appears that the U.S. Government has been making good on these bad Polish debts without even requiring that the banks or exporters involved formally declare the Polish Government to be in default of its loans.

Specifically, the Commodity Credit Corporation of the Department of Agriculture paid out over $500 million to various U.S. banks and exporting institutions to cover principal and interest due on loans by these banks to Poland over the period from August, 1981 to July 18, 1982. Yet no formal declaration of default has been made, as both Commodity Credit Corporation regulations and commonsense demand.

Mr. President, it seems to me to be just plain commonsense that if a nation cannot pay the debts which it owes that that nation is in default. The American taxpayer has been paying the debts of the tyrannical Polish military regime which, according to the Wall Street Journal and virtually all other credible observers, cannot now and never will be able to repay its debts to Western banks. Yet the Federal Government refuses to acknowledge the obvious—that Poland is in default. Why not?

Mr. President, I do not know the answer to that question. I do not know if anyone in the administration knows the answer. I do know, however, that the recognition by the U.S. Government of the reality that Poland is in default and a declaration to that effect would not in any way affect Poland's obligation to pay the debts it owes. International debts do not operate on the same principles as domestic bankruptcy proceedings. Before Poland could ever hope to regain credit internationally, it must first satisfy the debts it owes its current obligees. A declaration by the United States that the Polish Government is in default would be nothing more than a statement of the obvious. It would allow the United States to seize Polish assets and protect the American taxpayer by recovering at least some portion of the massive debt owed the United States by Poland.

The administration's persistent failure to declare Poland in default has produced three unfortunate results:

First, it has perpetuated the myth that Poland will someday be able to pay its debts;

Second, it has allowed bank presidents in both the United States and Europe to postpone the day of reckoning with their stockholders, when they will have to explain why they made massive loans to Poland when it was quite clear that Poland could not pay them back; and

Third, it has encouraged the massive refinancing of current Polish debts, which is just an exercise in throwing good money after bad.

Moreover, any delay in declaring Poland in default can only be a temporary one. The Wall Street Journal, in an editorial of August 2, 1982, explains why the pyramid of debt is bound to come crashing down soon enough, no matter how long an official declaration of default is delayed. It is better to recognize the reality of default now than to allow creditors to continue to pour money down the Polish drain through rescheduling.

Mr. President, I ask unanimous consent that the Journal editorial on this subject, entitled "Polish Debt Cover-Up," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, this body recently passed an amendment offered by my distinguished colleague and good friend from Wisconsin (Mr. KASTEN). That legislation, recently signed into law by the President, prohibits any Government payments during fiscal year 1982 for the purpose of reimbursing any insured creditor who has bad loans outstanding from Poland unless and until Poland has been declared in default of its debt to that creditor or unless the President issues a statement explaining in detail why such payments, absent a declaration of default, are in the national interest of the United States.

Mr. President, for the reasons stated above and in the Wall Street Journal article, I doubt very seriously that the administration can come up with a strong justification as to why such payments should continue. No such justification has to my knowledge been given by the administration. However, as I already indicated, the Kasten amendment only applies to fiscal year 1982; the American taxpayer will once again be subsidizing the Polish tyranny as of October 1 unless additional legislation is enacted.

This amendment applies not only to the military regime in Poland, but to all of the regimes of the Warsaw Pact. There are two outstanding characteristics of all Warsaw Pact nations; the first characteristic is the brutality of each regime toward its own people, and the virtual absence of personal liberty and human rights. The second is the chronic economic weakness of these countries. Either characteristic is reason enough for the United States not to be subsidizing such nations, particularly by the means of paying off their debts while avoiding a declaration of default.

Plainly and simply, this amendment prohibits the paying off of any loan guarantee by the U.S. Government or any Government corporation to any domestic individual or institution on loans made by that institution or individual to a Warsaw Pact nation until such time as that nation is declared to be in default of its debts. It really should not be necessary for us to offer this type of amendment in the first place, as loan guarantees, at least according to my understanding of Commodity Credit Corporation regulations, are meant to be collected only upon default of the nation to which credit was extended. At any rate, this amendment will clarify the situation by making it illegal, once and for all, to have funds from a Government loan guarantee program go to pay the debts of Poland or any other Warsaw Pact country unless and until that country has been declared to be in default of its loans. I hope my colleagues will adopt this sound and necessary measure.

EXHIBIT 1

POLISH DEBT COVER-UP

For some time it has been obvious that Poland is never going to repay the $26 billion or so it owes Western banks and governments. At least not in our lifetimes. And there is no chance at all that the Polish regime will pay the $10 billion in principal and interest due this year alone. So what are the Western banks doing about it? Negotiating some new credits for Warsaw.

That may sound like a funny way of doing business. But bankers, after all, have been known to throw good money after bad, especially if the customer is already into them for a pile. And like anybody else, bankers hate to admit mistakes. They prefer to cover them up as long as possible in the hope that the day of reckoning can be avoided.

A cover up seems to be just what is shaping up in current negotiations between Poland and the 460-odd European and

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American banks that hold Polish debt. The bankers are portraying the emerging plan as a breakthrough in their efforts to wring debt repayments out of the collapsed Polish economy. To us, it looks more like a scheme that would allow the banks to defer increasing their reserves for bad loans.

At the least, we hope that bank regulators will cast a critical eye on the deal. Failure to face reality now, however painful to the banks, will only place the financial system in further jeopardy in the long run.

Under current proposals Poland would pay the $900 million in interest it owes this year, and the banks would immediately send back a large part of the money to Poland in the form of short-term export credits. Just how much would be lent back is being negotiated; the banks reportedly want to limit it to 50 percent, while the Poles are holding out for 70 percent to 80 percent.

Obviously there are two ways of looking at a deal like this. One, favored by bankers, is that at least the West would be getting some of its money back. In addition, they argue, new credits are necessary to enable the Polish economy to recover; otherwise, there really will be no chance of Poland paying off its loans.

But $500 million or so isn't going to do much for the Polish economy. It will disappear as into a black hole, and soon the Poles will be squeezing the banks for more—even optimists say is would take tens of billions to get the Polish economy back on its feet. But even that is an illusory goal. Communist economies simply don't work, as we should have learned in the first place from the Polish experience.

So while the banks might get some money back, at least in the short run, we suspect their real motivation is something else. Under the 1981 debt rescheduling agreement with Poland, the Polish debt due this year must be rescheduled by Sept. 10 (known ominously in banking circles as "cross-default day"). Otherwise even the 1981 agreement would fall apart, and the probabilities would greatly increase that either Poland would declare a debt moratorium or a Western creditor would finally lose patience and declare a default. Some creditors are already known to be eager to write off their Polish loans so they can apply the losses against taxes.

But for most banks this is an unpleasant prospect. They would have to charge off the loans against earnings, which would be embarrassing in the extreme for management. Warsaw and Moscow understand this perfectly well and have been playing on the bankers' fears to extract the best terms. Promise us new credits, they wheedle, and we'll help you maintain the fiction that interest is being serviced. Rescheduling of the rest of the debt can go forward. Pain will be avoided.

But of course the pain can't be avoided. Capitalizing the interest on the Polish debt, which is what's really being talked about here, will literally compound the problem. Sooner or later the debt pyramid will come crashing down.

Even in the short run there will be pain. Imagine the reaction of the money markets when they learn that the banks are going back into Poland. Can Western governments, which hold more than half the Polish debt, be far behind? Many would dearly love to return to the good old days of detente. The prospect of resuming large-scale financing of East bloc deficits as well as those of the West is not likely to bode well for interest rates.

If the banks really want to cut this deal, that's between them and their stockholders. But the public has a legitimate interest in seeing that the banks be forced to label the transaction for what it is: a cover-up of the Polish debt problem.

The bottom line of this deal is that if it goes through it will be an outright admission that Poland can't meet even its interest payments except by virtue of new credits. Bank regulators only recently got around to reclassifying the Polish loans from "substandard" to "doubtful" according to our sources. If the banks cave in to the Polish regime in the current negotiations, the next step should be to force the banks to speed up, not slow down, their setting aside of reserves for the losses that are sure to come.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from North Carolina. The United States can no longer stand idly by while the Polish people struggle for political and economic freedom. There is no chance at all that Poland will make good on the approximately $10 billion in principal and interest it owes the West this year. Yet the U.S. Government continues to bail out the Polish military regime by paying millions of dollars to commercial banks to prevent a declaration of Polish default.

Now some banks want to pour even more money down the Communist sinkhole and extend $500 million in additional credits to Poland. This is despite the January agreement among governments in the West that Poland's 1982 debts would not be rescheduled until martial law was lifted, Lech Walesa was released, and the Polish Government resumed talks with Solidarity. If Poland's 1982 debts are not rescheduled by September 10, banks will have the option of calling in the Polish debt. The U.S. Senate should take the lead by voting today to prohibit payments to banks until they face reality and declare the Polish military regime in default.

Mr. President, nearly 8 months have passed since martial law was imposed in Poland. Our wait-and-see policy has not produced results. Solidarity leaders are now calling for mass demonstrations at the end of this month to mark the second anniversary of Solidarity's founding, and to pressure the Polish Government for real political and economic reform. Let us vote to support the people of Poland in their struggle by voting in favor of the amendment before us today.

Mr. President, I ask unanimous consent that three articles on the subject of the Polish debt be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

POLISH DEBT COVER-UP

For some time it has been obvious that Poland is never going to repay the $26 billion or so it owes Western banks and governments. At least not in our lifetimes. And there is no chance at all that the Polish regime will pay the $10 billion in principal and interest due this year alone. So what are the Western banks doing about it? Negotiating some new credits for Warsaw.

That may sound like a funny way of doing business. But bankers, after all, have been known to throw good money after bad, especially if the customer is already into them for a pile. And like anybody else, bankers hate to admit mistakes. They prefer to cover them up as long as possible in the hope that the day of reckoning can be avoided.

A cover-up seems to be just what is shaping up in current negotiations between Poland and the 460-odd European and American banks that hold Polish debt. The bankers are portraying the emerging plan as a breakthrough in their efforts to wring debt repayments out of the collapsed Polish economy. To us, it looks more like a scheme that would allow the banks to defer increasing their reserves for bad loans.

At the least, we hope that bank regulators will cast a critical eye on the deal. Failure to face reality now, however painful to the banks, will only place the financial system in further jeopardy in the long run.

Under current proposals Poland would pay the $900 million in interest it owes this year, and the banks would immediately send back a large part of the money to Poland in the form of short-term export credits. Just how much would be lent back is being negotiated; the banks reportedly want to limit it to 50 percent, while the Poles are holding out for 70 percent to 80percent.

Obviously there are two ways of looking at a deal like this. One, favored by bankers, is that at least the West would be getting some of its money back. In addition, they argue, new credits are necessary to enable the Polish economy to recover; otherwise, there really will be no chance of Poland paying off its loans.

But $500 million or so isn't going to do much for the Polish economy. It will disappear as into a black hole, and soon the Poles will be squeezing the banks for more—even optimists say it would take tens of billions to get the Polish economy back on its feet. But even that is an illusory goal. Communist economies simply don't work, as we should have learned in the first place from the Polish experience.

So while the banks might get some money back, at least in the short run, we suspect their real motivation is something else. Under the 1981 debt rescheduling agreement with Poland, the Polish debt due this year must be rescheduled by Sept. 10 (known ominously in banking circles as "cross-default day"). Otherwise even the 1981 agreement would fall apart, and the probabilities would greatly increase that either Poland would declare a debt moratorium or a Western creditor would finally lose patience and declare a default. Some creditors are already known to be eager to write off their Polish loans so they can apply the losses against taxes.

But for most banks this is an unpleasant prospect. They would have to charge off the loans against earnings, which would be embarrassing in the extreme for management. Warsaw and Moscow understand this perfectly well and have been playing on the bankers' fears to extract the best terms. Promise us new credits, they wheedle, and we'll help you maintain the fiction that interest is being serviced. Rescheduling of the rest of the debt can go forward. Pain will be avoided.

But of course the pain can't be avoided. Capitalizing the interest on the Polish debt, which is what's really being talked about here, will literally compound the problem. Sooner or later the debt pyramid will come crashing down.

Even in the short run there will be pain. Imagine the reaction of the money markets when they learn that the banks are going back into Poland. Can Western governments, which hold more than half the Polish debt, be far behind? Many would dearly love to return to the good old days of detente. The prospect of resuming large-scale financing of East bloc deficits as well as those of the West is not likely to bode well for interest rates.

If the banks really want to cut this deal, that's between them and their stockholders. But the public has a legitimate interest in seeing that the banks be forced to label the transaction for what it is: a cover-up of the Polish debt problem.

The bottom line of this deal is that if it goes through it will be an outright admission that Poland can't meet even its interest payments except by virtue of new credits. Bank regulators only recently got around to reclassifying the Polish loans from "substandard" to "doubtful," according to our sources. If the banks cave in to the Polish regime in the current negotiations, the next step should be to force the banks to speed up, not slow down, their setting aside of reserves for the losses that are sure to come.

[From the Wall Street Journal, Aug. 2, 1982]

POLISH CREDITORS SEEK DEBT ACCORD BEFORE SEPT. 10, WHEN DEFAULT COULD BE CALLED

(By Frederick Kempe)

FRANKFURT, West Germany.—Western bankers are rushing to reach agreement on Poland's 1982 debt rescheduling ahead of Sept. 10, known among bankers as "cross default day."

That date appears in the small print of the rescheduling agreement for Poland's 1981 debts that was set last April. It essentially provides that if Poland hasn't kept principal and interest payments current, or if a rescheduling agreement covering 1982 doesn't appear at hand, any of Poland's creditor banks can withdraw its support for the agreement and call in Polish debt, attach Polish property or at least demand that payments be accelerated.

Bankers have tried to play down the importance of the Sept. 10 deadline. But interviews with West European and American bankers indicate that bankers are increasingly worried that if some kind of preliminary agreement on rescheduling 1982 debt isn't reached by then, the fragile alliance among Poland's Western creditors could fall apart and a declaration of default by some smaller banks might follow.

A PROMINENT DAY

"We wouldn't like to see this date appear anywhere in the press," one West European banker says, adding, "It is a prominent day and the reason we are all feeling under pressure."

Although most bankers contend that no bank would risk unraveling the agreement, a U.S. banker says lack of progress by that date could be a possibly "precipitating event which will make it hard for people not to take some kind of action."

It was with this date clearly in mind that a small group of bankers representing Poland's 503 Western commercial creditors met under secrecy Thurday and Friday in London to determine what negotiating position they would take when they met with the Poles. One West European banker said the group also set a day for the start of negotiations with Poland, which he said could come as early as this week and certainly within the next 10 days.

West German bankers indicate that their greatest worry is that the bankers' unity could be broken by small, regional U.S. banks who, they argue, don't realize the possible wider ramifications of a Polish default on the international banking system.

At a meeting of West German banks last Tuesday, even the smallest of Poland's German creditors agreed to the newest proposal for solving rescheduling problems, which provides that if Poland pays its 1982 interest, it will receive from banks half that amount in the form of fresh, short-term trade credits.

However, the parallel U.S. bankers' meeting in New York was poorly attended by the smaller, regional banks. One U.S. banker frets this might indicate that some U.S. banks aren't fully committed to the rescheduling course.

"We always have the worry that one of the small banks with a very tiny exposure might jump off after seeing that what we are doing doesn't seem to be working," one West German banker remarks.

Nevertheless, U.S. and West German bankers say they are thus far in agreement on their negotiating position with the Poles. They say they are in accord because they realize the necessity to reach some agreement quickly and because findings of Western economists visiting Poland indicate that the Poles haven't the resources to pay 100 percent of their 1982 interest due.

Banking sources drew an outline of the Western banks' negotiating stance. Although some of the details might change somewhat as Polish intentions become more clear, bankers say the framework won't be altered.

The banks will offer that if Poland repays some $900 million due in 1982 interest to banks, the banks will then extend half of that amount in fresh, short-term trade credits. The banks would then also probably reschedule 100 percent of some $2.5 billion in 1982 principal, even though they rescheduled only 95 percent of principal last year.

Otherwise, however, the terms would be almost identical to those of the agreement on 1981 debt, when Poland had $2.4 billion in principal rescheduled over 7½ years with a four-year grace period, at 1¾ points above the London interbank offered rate and including a 1 percent rescheduling fee.

This offer is still far from Poland's current wishes. West German bankers say the Poles are demanding that they get 80% instead of 50% of their repaid interest back in the form of short-term trade credits. The Poles want to receive this money in bits and pieces as they make partial payments instead of in a lump sum after all their interest is paid. Moreover, Poland has also asked for an additional $300 million as a finance credit from banks, which one U.S. banker calls "a nonstarter."

SETTING LIMITS

"The Polish side has put forward some extreme requests and now we are setting our limits," one West German banker says. He explains that the only way Poland would get more than 50 percent of its interest payments back in the form of fresh loans is if it agrees to a rescheduling of less of its principal. For instance, the banks might give Poland 60 percent of its interest in loans, if it agrees to only 95 percent rescheduling of debts instead of 100 percent.

The most prominent factors in the negotiations will be how the two sides react to conflicting pressure. The bankers face the threat of a moratorium on repayment if Poland doesn't get fresh credit. West German bankers say this threat hasn't ever been explicitly expressed, but it is nonetheless clear to all of Poland's creditors.

"I don't want to say that the Poles are blackmailing us, but they won't begin their interest payments before they know the banks will give them a percentage in fresh loans," he says.

On the other hand, the Poles face the threat if they declare a moratorium that all of Eastern Europe will be cut off by Western financiers and that they themselves will be surrendering the last chance they have of eventually getting more money from banks and Western governments.

A West German banker says Poland has significantly improved its liqudity situation at his bank and other institutions. He believes Poland will easily have enough money to pay the second installment of some $45 million on the unrescheduled 5 percent of 1981 principal, which will fall due Aug. 15. He says he "has no doubts" Poland will make the payment.

Moreover, the latest figures from the Bank for International Settlements, a sort of central bank for central bankers, show Poland held accounts in Western banks totaling $640 million at the end of March, down from $720 million a year earlier. Clearly, the banker said, statistics show Poland is withholding 1982 interest payments so far this year not because it doesn't have some, albeit limited, resources, but because it intends to use nonpayments as leverage to get the best agreement possible out of Western banks.

[From the Wall Street Journal, Aug. 6, 1982]

WESTERN BANKS, POLES TO DISCUSS DEBT PLAN IN WARSAW NEXT WEEK

FRANKFURT, WEST GERMANY.—Western bankers plan to travel to Warsaw next week to discuss with Polish officials a proposal for deferring Poland's 1982 commercial debt.

Banking sources said representatives of national agent banks managing Poland's debt would be accompanied by advisors from the London-based law firm, Coward Chance Solicitors. Coward Chance also assisted Western banks during 1981 Polish debt talks.

Western bankers said the meetings with Poland's foreign trade bank, Bank Handlowy, and Polish Finance Ministry officials would take place some time next week, depending on when preparations are completed. They weren't more specific.

The proposal was discussed by Western banks in a flurry of meetings last week in London, New York and Frankfurt. It envisions recycling into new short-term trade credits 50 percent of Warsaw's roughly $900 million in 1982 interest arrears once the payments are made.

The plan aims to clear the way for rescheduling probably 100 percent of Poland's roughly $2.5 billion in 1982 principal falling due this year.

As in 1981, the banks are insisting that interest due this year be paid before any agreement deferring the principal can be

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signed. West German bankers have said the financially strapped Poles haven't made any payments on its interest or principal debt so far this year.

Western banks are rushing to reach an initial agreement with Warsaw on the 1982 rescheduling agreement before Sept. 10, known as "cross default day." If some arrangement isn't reached by that date, which appears in the small print of the accord deferring Poland's 1981 debts, creditor banks can withdraw from negotiations and call in Polish debt or claim Polish assets. "We are mainly worried about how smaller banks will behave if the deadline isn't met," one banker said.

Worried by the time factor, bankers also noted that Bank Handlowy has posed some additional demands. The Poles are reportedly asking that 80 percent of their interest payments be turned around in the form of fresh credits. Moreover, Bank Handlowy was reported to be requesting an additional $300 million credit line from the consortium of 503 Western banks.

Mr. **KASTEN**. As chairman of the Subcommittee on Foreign Operations, I am prepared to accept this amendment. This amendment is very similar to amendments which we have brought forward on the floor on two or three different occasions. Although it has slight modifications and variations, I think it continues to bring the issue of the problems of the Polish debt before the Senate and therefore before the administration.

In previous times, I have had to work with the other body on some kind of compromises on language, and it may well be that I will have to do that once more. But I think that the intention of the amendment and the importance of the issue, means that this amendment ought to be accepted. I am pleased on behalf of the Foreign Operations Subcommittee to say that we should accept this amendment.

Mr. **PROXMIRE** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Wisconsin.

Mr. **PROXMIRE**. Mr. President, I have great sympathy for this amendment, and I am sure it has solid merit. But I am very reluctant, as the minority manager, to simply go ahead and let us vote on it without having an opportunity to discuss this with other Members of the minority party who may feel differently about the amendment and should have an opportunity to study it and make their decision on it.

It is my understanding that some members of the Foreign Relations Committee, who I think would be very interested, do not even know about the amendment.

I am very sorry about that, because I am as anxious as the manager is to get moving and to get out of here at a reasonable hour tonight and to do our business in an orderly and cooperative way. But I do think I have an obligation to make sure that Members of the Democratic Party who are interested in this amendment would at least have a chance to know about it.

For that reason, I would suggest the absence of a quorum unless somebody else wishes to speak. I yield the floor.

Mr. **KASTEN**. Will the Senator withhold for just a moment?

Mr. **PROXMIRE**. Yes.

Mr. **KASTEN**. I would just like to suggest to my senior colleague from Wisconsin that this issue is on the list of amendments. It says, "Helms amendment on Polish debt" and the issue has been on that list for at least 8 hours.

Mr. **PROXMIRE**. Yes; I know that.

Mr. **KASTEN**. So nobody is trying in any way to sneak anything through.

Mr. **PROXMIRE**. I understand that.

Mr. **KASTEN**. Senators have had an opportunity to review the issue and review the amendment.

Mr. **PROXMIRE**. As I am sure my colleague understands, we have been moving in a kind of unscheduled way. We did not know when these things were coming up. I would hope it would only take a few minutes to make sure that they are aware of it. That is all.

Mr. **HELMS**. Will the Senator yield?

Mr. **PROXMIRE**. I am happy to yield.

Mr. **HELMS**. I am perfectly willing to do that. I did furnish the Senator with a copy of the amendment early today. I put it on his desk. I assumed that the staff examined it. I did the same thing with the majority side.

But the Senator is exactly right. He is obliged to check. I can understand that.

I would suggest that we set aside this amendment and call up another one and proceed further at the appropriate time.

Mr. **HATFIELD**. Mr. President, I ask unanimous consent to temporarily set aside Senator HELMS' amendment in order to proceed with Senator MATTINGLY's amendment.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HATFIELD**. Mr. President, I am reaching very closely to the end of my patience. I can assure the Senate that we have done our very best to accommodate every Member of this Senate, but unless the Members are willing to be on the floor to offer their amendments, I do not think it is a very equitable arrangement to ask of us who are managers to do as we did last Monday and to sit around here all afternoon and not have any business.

We are going to finish this bill tonight. I must say that I will call for third reading if there are no more amendments to be offered sometime later in the day, because we could get out of here between 6 or 7 o'clock tonight if we can move these amendments along.

We are already backed up with a request of the Senator from Massachusetts (Mr. KENNEDY) to wait until 3 o'clock for a possible amendment. We are already backed up on a Schmitt amendment. Now we are backing up on a Helms amendment, and we have six other amendments to go.

And it is not an arbitrary matter that we have to finish this tonight. We have to finish it because we have only tomorrow to go to conference with the House of Representatives.

I urge Members on my side—in fact, I would ask the majority leader and possibly at his behest the minority leader to send out a hotline to Members of both sides of the aisle who have amendments to offer to be on the floor to offer their amendments, because I do not think we can finish this bill in a reasonable time otherwise.

Mr. **BAKER**. Mr. President, will the Senator yield to me?

Mr. **HATFIELD**. I yield.

Mr. **BAKER**. Mr. President, I absolutely agree with the distinguished manager of the bill. It is really unfair to the managers of the bill and to all Senators to waste the middle of the afternoon. If our previous experience proves a guide to what happens when you do that, you will end up at 7, 8, or 9 o'clock tonight with a string of amendments, people anxious to get votes, and unduly prolonging the session of the Senate.

I urge Senators who have amendments to come to the floor and offer them now and not to wait. If they do not do so within a reasonable time, and I would say 3:15 or thereabouts, if they do not indicate to us that they are prepared to do that, if the manager of the bill calls for third reading I will support him in that call or in that motion.

Mr. President, I would urge that Senators take heed. I will put out a notice on our hotline in the Republican cloakroom insisting that Senators who have amendments or who wish to speak on this bill come to the floor and do so.

Mr. **HATFIELD**. I thank the Senator.

The **PRESIDING OFFICER**. Is there objection to temporarily setting aside the amendment? Without objection, it is so ordered.

Mr. **EXON**. Mr. President, I will hold the floor temporarily for the manager of the bill on this side. I will simply say that I certainly agree with the statements made by the chairman of the Appropriations Committee and the majority leader. It seems to me we do great injustice to not only the institution but to our colleagues by what we conceive as continual delay and delay and delay. I have made the suggestion previously in jest to the majority leader that what we should do when we convene the Senate, at whatever time we come in, is we should immediately set the clock up to 10 o'clock at night. It would seem to me if we follow that procedure we would move more expeditiously. My heart goes out to the majority leader because in all good conscience I know he tries to move things ahead.

For those on my side of the aisle who may be listening somewhere in the building, I would encourage them to come to the floor immediately to offer any amendments they have. If not, I would be pleased, as one on this side, to entertain third reading of the bill by 3:15. In fact, it might be a very good idea.

Mr. HATFIELD. I thank the Senator from Nebraska. He always impresses me as a man who expedites the business of the Senate whenever he participates.

Mr. President, I ask unanimous consent again to temporarily lay aside the Schmitt amendment and the Helms amendment in order that Mr. MATTINGLY may be privileged to offer an amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, while we are waiting, I might observe that Senator BUMPERS of Arkansas a little earlier this afternoon shared with me a very interesting study that has been made by one of the Senator's office, which indicated that up to this time during this session one-third of the time that we have been in session has been in quorum calls. I am not in a position to verify that study except to indicate that that was his understanding of the study. If that is true, and I suppose it surprises me and yet it does not surprise me, I think that is a further indication of the matter of how not to do the public business.

Mr. EXON. Mr. President, while we are wasting time here, I might try and correct one impression that one might draw from the statements just made by the distinguished chairman of the Appropriations Committee. I have heard of that report. I believe it is accurate. I think, though, that it says that for one-third of the time that the Senate supposedly has been in session since the first of the year, we have been in session through quorum calls or on official recesses, and I think the recesses should be calculated into that. I think it does not say much for making good use of our time.

Mr. HATFIELD. Mr. President, I yield the floor to the Senator from Georgia.

UP AMENDMENT NO. 1212

(Purpose: To provide for the fixing of the wages of Government Printing Office employees in accordance with the Prevailing Rate System and the General Schedule, and for other purposes.)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) for himself, Mr. ARMSTRONG, and Mr. ZORINSKY, proposes an unprinted amendment No. 1212.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 2 and 3, insert the following new section:

SEC. 108. (a) Subsection (a) of section 305 of title 44, United States Code, is amended to read as follows:

"(a) The Public Printer may employ such persons as are necessary for the work of the Government Printing Office. He may not employ more persons than the necessities of the public work require."

(b) Section 5342 (a) (1) of title 5, United States Code, is amended by inserting "and the Government Printing Office" after "Executive agency".

(c) Section 5349 of title 5, United States Code, is amended—

(1) by striking out "the Government Printing Office," in subsection (a); and

(2) by striking out "section 305 of title 44," in subsection (b).

(d) Clause 9 of subsection (c) of section 5102 of title 5, United States Code, is repealed.

Mr. MATTINGLY. Mr. President, today Senator ARMSTRONG and I offer an amendment to the legislative branch section of H.R. 6863. It is language which is already included in title 44, section 305. It deletes, however, other language in current law relating to the method of establishing GPO, Government Printing Office, wages.

Under current law, the Public Printer is required to have a conference with representatives of the employees and work out an agreement on salaries and other compensation. If there is a disagreement, either side may appeal to the Joint Committee on Printing. The decision of the Joint Committee is final. The result is that in years when disputes arise, the Joint Committee on Printing simply sets the wages of GPO employees.

This language is all deleted. Employee salaries would be set by the prevailing rates of the Federal wage system.

Mr. President, what Senator ARMSTRONG and I are attempting to do is to change a policy that is not fair, that is inequitable. We seek to give the Public Printer, who has responsibility for operating the Government Printing Office, the authority to manage that office in the most efficient manner.

The Public Printer is appointed by the President of the United States and confirmed by the U.S. Senate. He should have the latitude to operate his business just as a manager in private business does.

The problem that has been identified in the Government Printing Office stems from the salary structure. I cite just a few of the findings which have been released by the GPO.

The salaries of the craft and industrial workers at GPO are on a mean average 22 percent higher than salaries paid to other Federal workers performing the same or similar tasks in other agencies who are paid under the prevailing rates of the Federal wage system.

The magnitude of this wage problem in certain divisions of GPO has been spelled out in a study of the 1981 earnings done by the GPO's own labor-management office. That study shows that over 55 percent of those who work in the composing division made in excess of $30,000 a year annually, and that 55 percent of those in the electronic photocomposition department made in excess of $35,000 a year annually. Those figures do not include salaries of supervisory personnel.

Mr. President, in comparison to those in the private sector, in 11 other cities, and based on figures researched by the Printing Industries of America, GPO pressmen earn up to $6.48 an hour more—$6.48 an hour more—than their private sector counterparts in Boston. GPO bookbinders earn $16.68 as compared to $8.46 an hour in Dallas.

In all the cities checked, the GPO workers earned substantially more than the private sector average for those particular occupations.

I might add, Mr. President, that they average more than anybody in the area surrounding Washington, D.C. Something is wrong and it needs to be rectified.

One survey found GPO bids 113 percent higher than private sector estimates for the same job. Personnel costs for in-plant production at GPO account for over 80 percent of the expenses as compared to 40 or 50 percent in the private sector.

Part of the wage problem in the existing GPO craft system is that nonrelated occupations, such as plumbers and compositors, are tied together for wage purposes. Thus, a plumber is paid a certain percentage of a compositor journeyman wages, although there is no discernible connection between the two jobs. The prevailing wage classification system proposed under this amendment would sever this connection and each occupation would be paid on its own merits. Such a pay structure would also do away with many of the barriers to entry and discriminatory aspects of the existing system at GPO.

Mr. President, the issue is simple. Mr. Danford Sawyer, the Public Printer, came before hearings held this spring by the legislative branch Appropriations Subcommittee, which I chair, and told of the costs that could be controlled in the Printing Office. He spoke of the high wage rates that were being paid and over which he had no control.

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This needs to be corrected. The President appointed Mr. Sawyer and Mr. Sawyer must have the authority to run his own business.

Mr. President, there is nothing wrong with people getting paid exactly what they earn and should earn, a rightful and equitable wage scale. But, good grief, is there equity in a wage scale which is 22 percent higher than that paid other employees of the Federal Government doing the same work?

I have heard my colleagues on the floor of the Senate talk about the Davis-Bacon Act for years. This is the Davis-Bacon Act in reverse. This needs to be corrected. That is what this amendment is all about, fairness and equity within the Federal Government. Wages that will be comparable not only with the private sector but also with other wage earners within the Federal Government.

Mr. ARMSTRONG. Mr. President, I have heard it said there are three kinds of people in this world—people who make things happen, people who watch things happen, and people who always wonder what happened. I find myself somewhat in the latter category here. I am not sure what happened, but I want to congratulate my colleague from Georgia (Mr. Mattingly) for bringing to the attention of the Senate a problem of the utmost seriousness, which far transcends in its ultimate impact the dollar amount. That is the question of what is going on over at the GPO.

Mr. President, I am eager to speak in support of the amendment, of which I am proud to be a cosponsor. But I am not much inclined to do so until we can locate the presence of the Senator from Maryland (Mr. Mathias). He has a legislative interest in this matter, and out of courtesy to him, I would be very loath to proceed at this time until he has had a chance to be notified.

We have been trying to get together for several hours and have simply not had an opportunity to do so. Pending his arrival, Mr. President, I shall yield the floor, I have some remarks I want to make, but I would like the Senator from Maryland to be present. Then if my understanding of the circumstances is not factually correct, he will be in a position to set the record straight.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Schmitt amendment be temporarily laid aside; I ask unanimous consent that the Helms amendment be set aside temporarily; and that the Mattingly-Armstrong amendment be set aside temporarily in order for the Senate to consider an amendment by the Senator from Arizona (Mr. DeConcini).

The PRESIDING OFFICER (Mr. Mattingly). Without objection, it is so ordered.

UP AMENDMENT NO. 1213

(Purpose: To prohibit the expenditure of funds for the remodeling, redecorating, or refurbishment of the office of the Commissioner of IRS and the General Counsel of IRS)

Mr. DeCONCINI. Mr. President, I thank the chairman of the Committee on Appropriations. I send an amendment to the desk on behalf of myself and Mr. Abdnor and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini), for himself and Mr. Abdnor, proposes an unprinted amendment numbered 1213.

On page 74, after line 22, insert the following:

ADMINISTRATIVE PROVISION

None of the funds provided in this Act or Public Law 97-161 shall be used for the redecoration, refurbishment, or remodeling of the office of the Commissioner of the Internal Revenue Service or the office of the Chief of the Internal Revenue Service.

Mr. DeCONCINI. Mr. President, I was shocked and outraged this morning to pick up the morning paper and read that the Commissioner of the Internal Revenue Service plans to spend $85,000 to redecorate and remodel his personal office and the office of the IRS Chief Counsel, Mr. Ken Gideon. According to the article—and I had my staff confirm the numbers today—the Commissioner would spend $5,650 to replace white modern chairs in his office with 10 mahogany and leather armchairs; $5,617 for new blue carpet to replace the existing beige carpet; $1,966 for a new conference table; $4,015 for an additional door for his secretary; and $886 for a remote-control device to open his door. These frivolous extravagances are bad enough, Mr. President, but to add insult to injury, the Commissioner wants to install a new and expanded kitchen for his office suite at a cost of over $20,000, including $15,000 to breakdown the walls to expand his existing kitchen facilities. The Commissioner wants to spend $1,213 for a microwave cooking center, $3,596 for new cabinets, and $1,296 to cover the cost of a dishwasher, refrigerator, garbage disposal, and hot water heater. Commissioner Egger's existing kitchen has an electric range, under-the-counter refrigerator, and cabinets.

Mr. President, my amendment is simple. It would prohibit the use of any funds provided in this supplemental appropriations bill or in the continuing resolution for fiscal year 1982 (Public Law 97-161) for the redecoration, remodeling, or refurbishment of the Commissioner's office and the office of his General Counsel. The supplemental appropriations bill that we are considering today contains $111.6 million for additional IRS activities, including the first major down-payment on the President's initiative to collect outstanding tax debt that is owed the Federal Government. The continuing resolution contains the regular fiscal year 1982 funding for the Internal Revenue Service.

Mr. President, my initial reaction to the news of this wasteful spending plan by the Commissioner was to hold up the IRS supplemental until we receive a commitment from IRS that they will not go through with this remodeling effort. But I support the President's effort to get started on a program for going after the hundreds of billions of identified tax debt owed the Government. We need to do that. But we do not need to stand idly by and allow the Commissioner of IRS slap the taxpayers of this country in the face and move ahead on a project to "goldplate" his own office at a price that most people pay to purchase a small, modest three-bedroom townhouse.

Mr. President, if this was the first instance of a top-ranking Government official spending thousands of dollars on furniture, redecorating, or remodeling, perhaps I would not be so shocked or critical. But it is not the first case, as we all know. Just a few short weeks ago, it was revealed that the Administrator of the Veterans' Administration had spent over $50,000 to redecorate his personal office suite, including $8,477 for a private bathroom and shower even though there was a bathroom just 30 feet down the hall; $3,000 to refinish the floors of his office, and then decided to cover these same floors with carpet at a cost of $6,085; $3,520 for a judge's chair; and $700 for prints from a Texas art museum. Then, in May, Senator Abdnor, chairman of the Treasury, Postal Service, and General Government Subcommittee, on which I am ranking minority member, received testimony from the Federal Labor Relations Authority that its members had approved the expenditure of $150,000 to purchase expensive desks, credenzas, and patio furniture for three offices at a time when their own storerooms were brimming over with unused furniture—some still in the packing crates.

Now we have the head of an agency responsible for collecting taxes going on a year-end shopping spree for new furnishings, new carpet, and a new kitchen that would cost as much as the average Arizona homeowner would probably spend on a small room addition to his house.

Mr. President, the American taxpayers are fed up with this type of wasteful expenditure of their tax dollars. How can we expect the citizens of this country to make the tough financial sacrifices to balance their own household budgets in the wake of deeper and more severe Federal budget cuts when our top Government officials cannot say "no" to the temptation to turn their business offices into quarters fit for a king? How can we look our constituents in the eye and say we are trying to hold down Federal spending when top Government officials are spending as much on their own offices as most people spend on a home?

Mr. President, yesterday was a golden opportunity for the Senate to tell the taxpayers that we will not spend $736,400 for a third Senate gymnasium. We failed to do that by the narrowest of margins. Now, the next day, we have another golden opportunity to tell the American taxpayers that we will not allow our No. 1 tax collector to spend $85,000 to redecorate and remodel his own offices. Let us not let this opportunity slip away.

I urge the adoption of the amendment.

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Arizona yield?

Mr. DeCONCINI. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I congratulate my good friend from Arizona. I think this is an excellent amendment. The Senator certainly is to be commended for being so alert and so prompt and so timely and appropriate. I think he might agree with me that Commissioner Roscoe Eggers is a very able public servant, intelligent and efficient, but this is ridiculous, $85,000 to decorate an office.

I can tell the Senator that in most cities in my State of Wisconsin that would be the biggest house in town, $85,000. And then $50,000 for the assistant to fix up "his digs," as they say, so that it adds up to a ridiculous and insulting amount, particularly coming from the head of the Internal Revenue Service, which, of course, is necessarily the group that collects taxes from 100 million Americans every year.

I congratulate the distinguished Senator and say that I am delighted to support his amendment. Speaking for my good friend, the Senator from Oregon, we are happy to accept the amendment. I will do all I can to see that it sticks in conference.

Mr. DeCONCINI. I want to thank the ranking member of the Appropriations Committee (Mr. PROXMIRE). He has led the charge on the floor on many occasions, and I have had the pleasure of joining him. I appreciate his support on this amendment, and also that of the Senator from Oregon.

I am prepared to vote on the amendment, Mr. President, and yield back the remainder of my time.

Mr. HATFIELD. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 1213) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment by the Senator from North Carolina be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the pending amendment, I believe, is the amendment of the Senator from Georgia (Mr. MATTINGLY) and the Senator from Colorado (Mr. ARMSTRONG). Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent that the amendment of the Senator from North Carolina be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe the Mattingly-Armstrong amendment is pending.

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1213

Mr. ARMSTRONG. Mr. President, President James Garfield once made the observation that things do not turn up in this world unless somebody turns them up. I think the issue which has been turned up by the distinguished Senator from Georgia in the amendment he has offered, in which I am proud to join as a cosponsor, raises an issue of very, very great significance—significance far beyond the multimillion-dollar cost implications which are engendered.

A few minutes ago, prior to the arrival of the Senator from Maryland, I delayed my remarks so that he could be present when I made them, and specifically so that if I am not in possession of all the facts about the operation of the Government Printing Office, he would be in a position to correct me, so that there would not be any misunderstanding.

At that time, when I spoke for just a moment earlier in the afternoon, I expressed my belief, which I hold very strongly, that the issue involved in the GPO goes far beyond the dollar implications because the Government Printing Office is a legislative agency. It is an agency which is under the direct management and control of Senators.

We are in the process of going through budget after budget. The Appropriations Committee is looking right in the eye of the head of every agency and saying, "Look here. This is a year when we have to tighten our belts, when we have to get things under control and do with less."

Mr. President, when the press begins to carry reports that a legislative agency is being operated in a less than economical manner; that, in fact, there may be substantial extravagance, substantial waste, unnecessary personnel; that the salaries may be out of line in a legislative agency, that is a cause for concern that goes beyond the dollars, even though they may be significant, because it should be up to Congress itself to set an example of prudence and responsibility in the handling of taxpayer funds.

It has been brought to my attention by sources which I believe to be well informed that personnel costs comprise nearly 80 percent of the total in-house printing costs at the GPO, compared with something like 40 or 50 percent in private sector printing business.

I am told that employees of the GPO are paid at excessively high rates. In fact, it was brought to my attention this afternoon that the Comptroller General of the United States has issued a report under date of July 2, 1982, in which, among other things, it is reported that at the Government Printing Office, craft and industrial workers receive wages some 22 percent higher than other Federal employees with the same jobs.

Furthermore, the average GPO employee is paid $11.78 per hour, compared with only $8.39 per hour for the same workers in the private sector.

In addition, GPO compositors earn $14.35 per hour, compared to $11.91 in the private sector.

Offset pressmen and other workers in the GPO are paid not only more than the private sector, but also, according to information which has been brought to my attention, are paid more than workers in comparable Government operations.

In recent months, the work done by the GPO has been declining, thanks in part to the efforts of the administration and Congress to reduce the burden of paperwork. Whether or not this is a permanent or temporary phenomenon remains to be seen, but certainly a reduction in the amount of paperwork is a goal we all share.

The money that the GPO produces from its sales of documents is supposed to offset a portion of the cost of operating the Government Printing Office. During the previous 3 years, the net losses to the GPO on such sales, I am told, is in excess of $20 million.

The President has appointed, and the Senate has confirmed, Danford L. Sawyer as the Public Printer of the United States. In this office, Mr. Sawyer has been required by law to reduce the costs of GPO so that the agency will operate on a break-even basis. He has, I believe, attempted to follow these instructions. He has reduced unnecessary overtime. He has proposed reducing the work force by early-out retirement for eligible employees. He is closing some of the inefficient operations around the country.

In addition, I am told that Mr. Sawyer is seeking to bring GPO wages in line with those of other Federal employees.

A controversial court case recently brought home the question of whether or not some of the actions which the Public Printer has taken or proposes to take are fully consistent with the statute and with the direction of the Joint Committee on Printing.

That case, while I do not have it before me, in brief, revolves around the issue of whether or not the policy of furlough, the reductions in force, and so forth, was within his discretion. The court held that it was not within his discretion, as the result of a resolution recently adopted by the Joint Committee.

That is a source of concern, because the result of this sequence of events is that there have been widespread press reports that the Government Printing Office is not operating efficiently, that we are paying too much per employee, and that we have too many employees on board.

Yesterday, I met briefly on two occasions with the staff of the Joint Committee, and the information they gave me indicates that, as in most controversies, there are two sides to the story.

I do not know all the facts. My disposition is to believe the information with respect to the salary issue, which has been discussed by the report of the Comptroller General, that perhaps there is some need for reform in the payment of salaries at this agency. Possibly there is a reason why the salaries at GPO are out of line with other legislative agencies and the private sector, but at least my instinctive feeling is that that is not the case.

In addition, there is the question of the overall staffing of the agency.

Mr. President, it is for that reason that I have joined in sponsoring this amendment, and I have under consideration other amendments which would lead to reform of this situation.

In support of that, I submit for the RECORD a summary of the events which has been prepared by GPO, outlining the facts I have mentioned and which I think would be worthwhile for the Senate to have in its record, in entirety. It deals not only with the narrative of the appointment and management practices of the Public Printer, but also with the question of the volume of printing being done at GPO, the hiring freeze, the early-out retirement, the closure of bookstores, the proposal for wages which has been put forward by the Public Printer, the court case I have referred to, the action by the Joint Committee on Printing, and a comparison of the earnings of various GPO employees with the private sector and with other Government employees.

Mr. President, I send that summary to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF EVENTS

The U.S. Government Printing Office (GPO) is a legislative branch agency created by Congress in 1860. GPO's original mission was to provide printing and binding services to the Congress. Over the years its mission has expanded, and today the agency provides printing for all three branches of government, and is also responsible for the distribution and sale of government documents. The GPO's main plant is located at North Capitol and H Streets in Washington, D.C. It also has six regional printing plants, thirteen regional printing procurement offices, and twenty-seven bookstores scattered throughout the continental United States. The agency employs 6,200 people, and in 1981, produced $181 million worth of printing in-house, and procured over $464 million commercially. The head of the GPO, the Public Printer, is appointed to an indefinite term by the President of the United States with the advice and consent of the Senate.

In August 1981, Danford L. Sawyer, Jr., a successful publisher and advertising executive from Sarasota, Florida, was confirmed as Public Printer. Mr. Sawyer recognized that the GPO, since it is basically a manufacturing and distribution organization, was one government agency where sound business principles could be utilized to lower costs and increase productivity. During his first year in office, Mr. Sawyer has sought to bring the rising costs associated with government printing under control.

Both before and after his confirmation, Mr. Sawyer spent months studying closely all aspects of the operation of GPO, and conferred at length with former Public Printers and other former, and present, GPO officials. In addition he familiarized himself with studies prepared by private management consultants regarding GPO operations, and by the General Accounting Office and the Department of Defense relating to GPO and federal wage scales. During this intensive study, the Public Printer found:

GPO PRINTING COSTS TOO HIGH

The in-plant printing costs at GPO are excessively high, and Congress and customer agencies are being overcharged for printing. For example, in a recent sampling over a one-month period, one-time bids for work over $5,000 totaled $495,064 from the private sector, as compared to $1,053,507 from the Government Printing Office for the same jobs. The GPO bids were 113 percent higher.

One reason for this disparity between GPO bids and private sector bids is that personnel costs for in-plant production at GPO account for over 80 percent of expenses, as compared to 40-50 percent in the private sector.

SALARIES FOR CRAFT AND INDUSTRIAL WORKERS EXCESSIVE

The salaries of craft and industrial workers at GPO are, on a mean average, 22 percent higher than salaries paid to other Federal workers performing the same or similar tasks in other agencies who are paid under the prevailing rates of the Federal Wage System. The magnitude of the wage problem in certain divisions at GPO is spelled out in a study of 1981 earnings done by GPO's Labor Management Office. That study shows that over 55% of those who worked in the Composing Division made an excess of $30,000 annually and that 55% of those in the Electronic Photocomposition Department made an excess of $35,000 annually. Those figures do not include salaries of supervisory personnel.

In comparisons to the private sector in 11 other cities, and based on figures researched by Printing Industries of America, GPO pressmen earn up to $6.48 an hour more ($17.53 per hour as compared with $11.05 per hour) than their private sector counterparts in Boston. GPO bookbinders earn $16.68 as compared to $8.46 an hour in Dallas. In all the cities checked, the GPO workers earned substantially more than the private sector average for those particular occupations. It should be noted that this excludes newspaper rates which do not apply to demand print shops, such as the GPO. It is also the case that other GPO craft workers, such as carpenters, earn higher wages ($14.35 compared to FWS Scale in other Federal agencies of $11.32 per hour), while GPO painters earn $14.35 versus other Federal painters who earn $10.76 per hour. Indeed, there are not any skilled craftsmen or industrial workers at GPO who do not earn more than their counterparts elsewhere (Attachments #2 and #3).

According to figures from the General Accounting Office, the GPO is higher than the FWS rate, ranging anywhere from 8.8 percent for forklift operators to 28.8 percent higher for carpenters. Even janitors make 21.4 percent more at the GPO. Compositors make 18.7 percent more, and bookbinders earn 10.8 percent more. Comparisons to the regular wage scale were made at Step 5, which is the highest step of the FWS pay schedule. Step 5 is 12 percent higher than Step 2, which is the average prevailing private sector rate (Attachment #4).

GPO'S CRAFT SYSTEM CREATES NUMEROUS PROBLEMS

The legislation now being proposed includes provisions which would require the reclassification of all GPO workers under either the prevailing wage or general schedule classification system, and the payment of wages in accordance with those systems. For the white-collar General Grade workforce at the GPO the reclassification would have only a minimal impact, if any, since the GPO now follows the general schedule in its classification practices. However, for the GPO craft and industrial workers, reclassification under the prevailing wage system (and its printing and lithographic scales) would be a major alteration of the present journeyman craft system at GPO.

Part of the wage problem in the existing GPO craft system is that non-related occupations, such as plumbers and compositors, are tied together for wage purposes. Thus a plumber is paid a certain percentage of compositor journeyman wages—although there is no discerniable connection between the two jobs. The prevailing wage classification system would sever this connection, and each occupation would be paid on its own merits. The prevailing wage classification would also do away with many of the barriers to entry and discriminatory aspects of the existing system at GPO.

OTHER LEGISLATIVE BRANCH AGENCIES FOLLOW PREVAILING RATE SYSTEM

Other legislative branch agencies, which have a significant number of blue collar workers, have adopted the prevailing rate Federal Wage Grade system to compensate those employees. The Architect of the Capitol has opted to follow the Wage Grade System for approximately 1800 of its employees, while the pay of the remaining 100 to 200 employees follows that of the General Schedule (GS). The Library of Congress pays approximately 2450 of its employees in accordance with the General Schedule. Over 2000 of their blue collar workers are paid under the Wage Grade prevailing rate system, while approximately 30 to 50 of their employees are paid in accordance with the Lithographic and Printing Wage Schedule. This utilization of the prevailing wage system by these various legislative branch agencies was required by the Congress when it enacted 5 U.S.C. § 5349, although this requirement does not presently apply to GPO.

LEGISLATIVE AND EXECUTIVE PRINTING VOLUME DOWN

The demand for printing by Congress and Executive branch agencies is diminishing; the latter because of a requirement by the Office of Management and Budget (Bulletin No. 81-16; 4-21-81) that the department and agency heads justify the need for every government publication. For example, Agriculture, one of the biggest purchasers of government printing, will go down from 16.4 million dollars to 16.2 million within the next two years; Education from 3.8 million dollars to 2.3 million, and, in total, Executive Branch printing will go down from 145.2 million dollars to 134 (Attachment No. 5). In addition, the volume of work done for Congress has decreased dramatically (Attachment No. 6).

Since becoming Public Printer, Mr. Sawyer has taken the following steps to make the operation of the Government Printing Office more cost-effective and efficient:

1. He imposed a hiring freeze which resulted in the loss of 430 employees due to attrition or retirement since September, 1981.

2. He requested that the Office of Personnel Management authorize an "early out" retirement for eligible employees. If approved, the "early out" could reduce the payroll by as many as 500 workers.

3. He proposed to close twenty-three bookstores (Estimated net savings to the government—$1 million) and developed an aggressive marketing campaign to promote mail order sales to the general public.

4. He rescinded a sixteen percent (16 percent) price increase for printing. There has been no price increase at GPO for more than two years.

5. He proposed a twenty-two percent cut in the wages paid to GPO's craft and industrial workers over a three year period. This would save GPO some $18,000,000. (GPO Unions have proposed a 20.5 percent increase over a two year period which would cost the taxpayers an additional $20,664,102.)

6. He proposed a nationwide study of printing needs of the federal government with special emphasis on rejustifying nearly 300 independent agency printing plants authorised by the Joint Committee on Printing.

7. He proposed to furlough the entire workforce at GPO for six days to help offset a $4.9 million deficit in the Printing and Binding operation resulting to a large degree from the fall-off in printing orders from Executive and Legislative Branch agencies in the first five months of fiscal year 1982.

8. He raised the sales price on all government documents in order to fully recover the cost for printing those documents, and he emptied GPO warehouses of over $11 million worth of unsaleable government documents and sold them as scrap for $760,000.

While the Public Printer has successfully implemented many long overdue changes at GPO, a number of his initiatives have been stymied by opposition from the congressional committee which oversees the GPO: the Joint Committee on Printing (JCP). The JCP is composed of the chairman and four members of the House administration committee and the Chairman and four members of the Senate Rules and Administration Committee. The Chairmanship rotates each Congress between the chairmen of the Senate and House Committees. The JCP exercises broad oversight powers under Title 44 of the United States Code, which also gives the committee authority over some specific GPO operations, and the JCP has used this authority to prevent the Public Printer from taking a number of measures he considers necessary for the responsible and cost-effective operation of GPO.

FURLOUGH LAWSUIT

Four GPO employees, claiming to represent all other GPO employees, and nine GPO unions sued Public Printer Sawyer to prevent him from conducting a planned six-day Furlough of all GPO employees over the last seven months of this year. The unions sought an injunction against the furloughs, a declaratory judgment that the Public Printer could not furlough in the face of a JCP resolution which prohibited him from taking any adverse personnel actions whatsoever, and a mandamus withdrawing the Public Printer's furlough notices.

The primary arguments put forth by the unions were: the JCP had extraordinary control over GPO management because of the statutory scheme of Title 44, United States Code; the JCP had jurisdiction over personnel matters because of its rate of wage setting authority under the Kiess Act; and the furlough was a change of wages which must be approved by the JCP. The Public Printer maintained that: the head of the GPO has had the authority to furlough since the agency was established in 1860 and he has exercised that authority many times since that date; a furlough is not a change in the *rate* of wage (dollars per hour worked) under the Kiess Act, and thus the JCP need not approve the furlough; that the Kiess Act required him to conduct the furlough because it prohibits him from employing more people than necessary to do the agency's work, and that the Civil Service Reform Act clearly retains for management the exclusive right to determine when a furlough is necessary.

Judge Gasch issued an opinion which ordered the Public Printer not to conduct the planned furloughs as long as the May 11 resolution was in effect. The judge found that the Public Printer has the authority to furlough, and that the Kiess Act appears to require him to do so under the present circumstances. However, the judge also determined that since the JCP has some authority over personnel matters under the Kiess Act, the furlough works a change in compensation, and the JCP is empowered to prevent waste at the GPO, the JCP could stop the furlough by means of the resolution.

In light of the decision, the July furlough date was cancelled. The Solicitor General of the Department of Justice is now considering appeal of the decision to the U.S. Court of Appeals, for the District of Columbia.

ATTACHMENT NO. 1

1981 EARNINGS

Gross compensation	Number of employees	Percent of total
Composing Division		
$45 to $49,999	0	0
$40 to $44,999	23	5.7
$35 to $39,999	104	25.7
$30 to $34,999	108	26.7
$25 to $29,999	57	14.1
$20 to $24,999	44	10.9
$15 to $19,999	10	2.4
$10 to $14,999	15	3.7
$5 to $9,999	44	10.8
Total	405	100.0
Electronic Photocomposition		
$45 to $49,999	29	4.1
$40 to $44,999	180	25.5
$35 to $39,999	180	25.5
$30 to $34,999	173	24.6
$25 to $29,999	72	10.2
$20 to $24,999	25	3.6
$15 to $19,999	27	3.8
$10 to $14,999	16	2.3
$5 to $9,999	3	0.4
Total	705	100.0
Press Division		
$45 to $49,999	1	0.2
$40 to $44,999	53	8.7
$35 to $39,999	104	17.1
$30 to $34,999	116	19.0
$25 to $29,999	54	8.9
$20 to $24,999	173	28.4
$15 to $19,999	75	12.3
$10 to $14,999	25	4.1
$5 to $9,999	8	1.3
Total	609	100.0

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1981 EARNINGS—Continued

Gross compensation	Number of employees	Percent of total
Binding Division		
$45 to $49,999	0	0
$40 to $44,999	4	0.5
$35 to $39,999	60	7.7
$30 to $34,999	72	9.3
$25 to $29,999	79	10.2
$20 to $24,999	329	42.4
$15 to $19,999	197	25.4
$10 to $14,999	20	2.6
$5 to $9,999	15	1.9
Total	776	100.0

ATTACHMENT 3—SURVEY OF PRIVATE INDUSTRY—UNION PRINTING WAGES IN SELECTED CITIES

In developing the Survey, we used the hourly wage and then computed the value of the holidays, vacation, and pension which were provided to the employees based on their contracts.

The following dollar figures for pressmen are thus a composite of both wage rates and these benefits:

GPO	$17.53
Baltimore	11.81
Boston	11.05
Detroit	14.87
Houston	12.49
Minneapolis	15.42
Philadelphia	11.22
Pittsburgh	11.55
St. Louis	14.27
San Francisco	16.37
Washington, D.C.	14.81
Chicago	12.73

The average excluding GPO of the eleven cities was $13.33. We did not have information for Dallas or New York at the time of the study.

For strippers, based on GAIU contracts, the rates were:

GPO	$17.53
Baltimore	12.22
Boston	13.69
Dallas	11.38
Detroit	16.41
Houston	13.12
Minneapolis	17.57
Philadelphia	18.90
Pittsburgh	16.53
St. Louis	14.30
San Francisco	16.96
New York	15.78
Chicago	16.14

The average excluding GPO of twelve cities was $15.25.

Bookbinders:

GPO	$16.68
Baltimore	10.47
Dallas	8.46
Detroit	13.41
Houston	12.50
Minneapolis	15.20
Philadelphia	10.77
Pittsburgh	11.37
St. Louis	12.73
San Francisco	15.28
Washington, D.C.	14.88
Chicago	15.42

The average excluding GPO of the eleven cities was $12.77.

Compositors:

GPO	$16.94
Baltimore	10.72
Boston	13.31
Detroit	13.41
Houston	12.11
Minneapolis	13.31
Philadelphia	11.45
Pittsburgh	13.49
St. Louis	11.82
San Francisco	18.31
Washington, D.C.	13.43
New York	20.07
Chicago	16.83

The average excluding GPO of twelve cities was $14.02.

Journeymen Bindery Workers:

GPO	$10.86
Baltimore	10.47
Dallas	6.30
Detroit	10.36
Houston	7.87
Minneapolis	10.78
Philadelphia	6.82
Pittsburgh	6.42
St. Louis	7.60
San Francisco	11.75
Washington, D.C.	10.47
Chicago	11.36

The average excluding GPO of eleven cities was $9.11.

The American Newspaper Publishers Association report on wages as of February 1982, indicates that the average salary for twenty (20) cities for:

Compositors $11.86;
Pressmen $11.51;
Photoengravers $11.77; and
Mailers $11.17.

EXHIBIT 4

	Current GPO rates	Federal wage system or lithographic wage schedule rates
Carpenters	$14.35	$11.32
Painters	14.35	10.76
Electricians	14.35	11.32
Stationary engineers	14.35	11.32
Elevator mechanics	14.35	11.32
Masonry mechanics	14.35	11.32
Pipefitters	14.35	11.32
Sheetmetal mechanics	14.35	11.32
Pressmen	14.84	12.46
Offset press feeder/assistants	9.65	8.10
Offset press assistant	10.39	8.72
Offset strippers	14.84	12.79
Offset photographers	15.18	13.45
Offset platemakers	14.84	13.13
Bookbinders	14.11	11.80
Journeymen bindery workers	9.03	7.45
	9.29	7.67
	10.09	8.34
Compositors	14.35	12.12
Monotype castermen	10.05	8.49
Saw operators	10.34	8.73
Slide bank operators	10.48	8.85
Sorts castermen	10.48	8.85
Spool deskmen	11.05	9.33
Matrix keepers	11.05	9.33

COMPARISON OF GPO AND FWS WAGE RATES [1]

[Attachment 4]

Occupation	GPO pay rate	FWS rate [2]	Difference	
			Dollars	Percent
Bookbinder	$27,230	$24,573	$2,657	10.8
Compositor	27,685	23,320	4,365	18.7
Carpenter	27,419	21,286	6,133	28.8
Electrician	27,419	22,410	5,009	22.4
Forklift operator	18,009	16,559	1,450	8.8
Janitor	14,600	12,028	2,572	21.4

[1] Because of differences in the number and timing of wage adjustments, we determined annual earnings by computing a weighted average hourly wage rate and multiplied it by 2,080 hours, the number of hours in an 8-hour day, 260-day work year.

[2] Bookbinder and Compositor were compared to the FWS "Lithographic and Printing Plant Wage Schedule" and the other occupations were compared to the FWS regular wage schedule. Comparisons to the regular schedule were made at step 5 which is the highest step of the FWS pay schedule. Step 5 is 12 percent higher than step 2 which is the average prevailing private sector rate.

TABLE 2—TOTAL SPENDING ON PERIODICALS AND PAMPHLETS (PUBLICATIONS), 1981–83

[Obligations in millions of dollars]

Department or other unit	1981 actual	1982 estimate	1983 estimate
Executive Office	1.2	0.9	1.8
Agriculture	16.4	16.3	16.2
Commerce	6.0	6.0	6.1
Defense	30.5	30.0	31.2
Education [1]	2.8	2.8	2.3
Energy [2]	17.2	17.5	13.2
Health and Human Services	(21.6)	NA	NA
Housing and Urban Development	.5	.8	.9
Interior	7.4	6.5	6.3
Justice	1.8	1.6	1.7
Labor	5.4	5.3	5.3
State	1.8	1.9	1.8
Transportation	7.4	5.6	5.6
Treasury	11.4	11.6	11.9
Environmental Protection Agency	4.1	3.5	3.6
National Science Foundation	3.1	2.6	7.8
Veterans Administration	1.4	1.5	1.5
Other Independent Agencies:			
ACTION	1.1	.8	.7
Agency for International Development	4.0	2.9	2.7
Consumer Product Safety Commission	.8	.3	.5
General Services Administration	4.2	4.6	4.4
National Aeronautics and Space Administration	3.4	3.3	2.9
Office of Personnel Management	4.2	3.7	3.4
Small Business Administration	.9	1.1	1.0
All other independent agencies	7.2	7.0	7.0
Total	145.2	138.1	134.0

[1] The President's budget proposes dismantlement of the Department of Education (DEd) effective October 1, 1982. FY 1983 funding for activities currently performed by DEd will be transferred to the Foundation for Education Assistance, the Depts. of Defense, HHS, Interior, Justice, and Treasury and to other independent agencies.

[2] The President's budget proposes dismantlement of the Department of Energy (DOE) effective October 1, 1982. FY 1983 funding for activities currently performed by DOE will be transferred to the Departments of Commerce, Interior, and Justice and to the Federal Energy Regulatory Commission.

Central office printing and binding operations gains and losses—first 5 months of each fiscal year

1973[1]	$964,727
1974[1]	234,309
1975[1]	−2,470,807
1976[1]	1,684,807
1977	−4,680,536
1978	3,906,138
1979	−442,194
1980	1,905,403
1981	2,143,193
1982	−4,912,200

[1] October to February was used for fiscal year 1973 thru fiscal year 1976 to be comparable with the other fiscal years.

Scale of Prices Changes:

September 16, 1974—12 percent surcharge to January 1, 1973 scale.

October 1, 1975—New scale of prices, 10 percent increase.

April 1, 1977—5 percent surcharge on October 1, 1975 scale.

July 25, 1977—20 percent surcharge on Divisions 4 and 5.

January 1, 1978—New scale of prices, 6 percent increase.

May 1, 1979—13 percent surcharge on Division 5.

March 1, 1980—15 percent surcharge on Division 7.

March 1, 1982—New scale of prices, 16 percent increase.

Congressional workload billed

Fiscal year:	*Pages*
1973	345,198
1974	516,877
1975	399,627
1976	593,763
1977	358,867

1978	429,969
1979	440,565
1980	452,901
1981	434,380
1982	343,548

Mr. ARMSTRONG. Mr. President, before I yield the floor, and I am hopeful that the Senator from Maryland, who is the chairman of the committee, can enlighten us on this because this is a matter on which he is more knowledgeable than I and perhaps there are factors of which I am not aware and I hope that that is the case because superficially at least it appears to me we have a problem that needs to be coped with.

But before I do that I also send a communication from the International Typographical Union addressed to CTU members to the desk and ask unanimous consent that it also be printed in the Record at this point, simply so that we have some flavor of both sides in the Record.

There being no objection, the communication was ordered to be printed in the Record, as follows:

U.S. Government Printing Office
Chairmen's Chapel,
Washington, D.C., August 10, 1982.

To: CTU Members.

From: Communication From President Boarman.

President Boarman just called from the Hill to tell me that Senator Mattingly is attaching an amendment to Appropriation Bill H.R. 6863 to cut our wages by 22 percent and destroy collective bargaining at G.P.O. This bill will be co-sponsored by Senator Armstrong and Senator Zorinsky.

This bill was supposed to go on the floor of the Senate tonight but President Boarman with the help of a few Senators postponed it until tomorrow, so it gives us a little time to regroup.

Bill asked me to get the message to all members that it is imperative that each member contact his or her Senator tomorrow morning (Aug. 11, 1982) and ask them to vote against this amendment. Not only would this be a great monetary loss it would be the end of collective bargaining and I think we all know what that would mean at the Government Printing Office.

Below are the local Senators and their numbers:

Virginia: Harry F. Byrd, Jr., 224-4024; John W. Warner, 224-2023.

Maryland: Paul S. Sarbanes, 224-4524.

West Virginia: Robert C. Byrd, 224-3954; Jennings Randolph, 224-6472.

Pennsylvania: John Heinz, 224-6324; Arlen Specter, 224-4254.

I cannot stress the importance of contacting your Senators. Anyone wishing numbers of other Senators ask me and I will get you his number.

Earl Shirkey.

Mr. ARMSTRONG. Mr. President, the letter which at my request has been printed in the Record is in my judgment and I think the judgment of other Senators counterproductive to the effort to resolve this issue and, in fact, my own decision to offer an amendment here today arises directly from the circulation of this letter. I have been considering, as have other Senators for some time, the question of whether or not this was the moment at which this issue should be raised on the floor, and I had decided that perhaps this could be something that could be delayed; however, since all Senators or at least many Senators had received a letter indicating that the Senator from Georgia and I were considering an amendment I thought since one side of the issue had been raised in that way I at least would want to go ahead and bring the issue more fully into public disclosure.

So, Mr. President, that is the question. There is a report by the General Accounting Office that indicates these employees are overpaid. The Public Printer says he could get by with a substantially smaller work force. The court has ruled that he lacks the authority to take these management actions. And the question I think that the Senate needs to address itself to is where do we go from here?

The PRESIDING OFFICER. The question is on the amendment of the Senators from Georgia, Colorado, and Nebraska.

Mr. MATHIAS. Mr. President, I welcome the amendment that these three distinguished Senators have brought to us. I will welcome it even more if it passes, because, if it passes, it will make it unnecessary for the Joint Committee on Printing to do any more work. I do not think anyone around here is looking for extra work, and the work of the Joint Committee on Printing is, of course, in addition to everything else that we do here in the Senate. So I hope the Senator from Colorado will prevail today and let the whole Senate take over the work of the Joint Committee on Printing.

I think that would have many salutary effects, especially on the Senator from Maryland, because night after night I sit in my office and sign contracts to procure the paper, the ink, the glue, and the other supplies that keep the Government Printing Office in operation. I would be happy if the Senate would take over that task.

Maybe whoever is presiding in the chair could take over the job, if he is not too interested in the debate as it goes along, and sign those procurement contracts, because that really is what this amendment proposes: That the Senate take over the operation of the whole vast worldwide, farflung printing empire that is operated by the U.S. Government.

The Senator from Colorado says that the salaries are out of line. I must say at the outset on that question, Mr. President, that I cannot testify firsthand because I have only been a member of the Joint Committee on Printing for less than 2 years and I do not know from personal experience what the contract negotiations have been, but I am aware of the record.

I believe the record is that my predecessors on the Joint Committee on Printing have never granted a wage increase greater than that which was offered by the Public Printer. Of course, it may be that the Public Printers have been way out of line, but it will take a lot of research to study that question.

But the Joint Committee on Printing has never gone beyond what the Public Printer thought was fair, what the Public Printer thought was the market rate, what the Public Printer thought was the prevailing wage in the industry.

When you talk about this industry, I think you also have to recognize that GPO is not a normal commercial printing plant. We have some of its products here in the Chamber today. We have committee reports. We have the Congressional Record.

I take this opportunity to salute the people, the men and women, who work in the Government Printing Office and who somehow or other manage to get the Congressional Record out almost every day, even though the sessions of the Senate and the other body may last until midnight or longer. They work under unusual conditions. They do not just have a contract operation where they are publishing a magazine or a book on a regular basis, month in month out, year in year out. They have to do special things. They work under special conditions.

Just to make the record about whether or not these salaries are out of line, in 1972 the Public Printer offered a 7-percent increase, which was based upon a 5.5 percent Federal Pay Board guideline plus a 1.5-percent increase which was authorized pursuant to the President's wage-price stabilization program. The photoengravers appealed to the Joint Committee claiming that the traditional formula for calculating wage rates would have provided for an 11-percent increase. The Joint Committee denied the appeal and they granted the 7 percent, which was all that had been recommended by the Public Printer.

The next negotiation—again, Mr. President, I make the point that I was not there; I am reading from the record—was 1973. The Public Printer offered an 8.5-percent increase, when the 17-city formula from the Bureau of Labor Statistics would have provided for an 11.7-percent increase, and the local private sector scale would have provided for a 14-percent increase. But the Joint Committee on Printing ratified the 8.5-percent increase that had been recommended by the Public Printer.

In 1974 the Public Printer, ignoring the traditional formula, offered a 12-percent increase, which was accepted by the employees. The traditional formula in that year would have yielded an increase of somewhere between 17 and 20 percent. The Joint Committee

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on Printing ratified the 12-percent increase.

In 1975 the Public Printer offered a 10.5-percent increase. The local area wage settlement in the private sector was 9 percent. The national average was 12.5 percent. At the Bureau of Printing and Engraving the personnel received increases ranging from 10 to 16 percent. The Joint Committee ratified the 10.5-percent offered by the Public Printer.

Now, in 1976, the Public Printer offered a 7.2-percent increase. The local Washington settlement in the private sector was a 9-percent increase. The Joint Committee ratified the offer made by the Public Printer.

Well, Mr. President, I will go on if the Senator from Colorado and the Senator from Georgia and the Senator from Nebraska would like me to go on, but it is very difficult to see the justification for saying that the wages they earn are out of line. Whether they are out of line at the moment is a matter that is currently being determined by a factfinder who has been appointed by the Joint Committee on Printing, with the approval of the Public Printer and with the approval of the representatives of the employees.

The factfinder, who is a trained mediator, was provided in a list offered by the Federal Mediation and Conciliation Service, will shortly render to the Congress his recommendations on what the wages ought to be, and I presume they will not be out of line. They will be in line with other people who do comparable work under comparable working conditions. The Joint Committee on Printing will then confer with the Public Printer, with the employees; and, as required by law, we will make some determination. It will not be a determination that is out of line with similar work in this area.

Again, as I say, I am happy to continue this narrative right up to the current time, but I think this historical background has at least set the stage for what we are trying to do.

There are some questions about general staffing, which the Senator from Colorado has raised, and the committee is going to look into those questions of general staffing. For example, the Public Printer has increased the administrative payroll by about $1.5 million in less than a year. He has upgraded or modified different positions and has created 37 new administrative positions. These may be entirely justified in the interest of more efficient practices. I am not saying they are or not. I am going to give the Public Printer the benefit of the doubt for the moment.

At the proper time, we will inquire of him why he felt it was necessary to raise administrative costs and to establish 37 new administrative positions. But in the meantime, I have to assume he is carrying out his charge to operate the Government Printing Office as efficiently and as effectively as possible.

I can assure the Senator from Colorado that we will be pursuing the question of general staffing, including new administrative positions.

I said I welcomed this amendment, and I do for more than the reasons I already stated, because I think it does give us an opportunity to discuss briefly the special situation of the Government Printing Office.

It is an enormous enterprise. It has offices all over the Nation. It does printing and publishing for every department of the Government. I am in constant correspondence with the Secretary of the Navy, the Secretary of the Army, the Secretary of the Air Force, and with other officials about the printing that goes on within their establishments.

Some of this printing is done on Government presses; a great deal of it is done on contract by private printers. It is a very delicate mix as to how much is done in-house and how much is done out-of-house on contract; and, of course, the number of employees needed to be carried on the Government payroll is affected by how much is done in-house and how much is done by contracts by private-sector printers.

Also, of course, it is a Government activity that is affected by technology. When the Joint Committee on Printing was established in 1860, the only way to communicating ideas was with paper and ink, if you were beyond the range of a given voice. Today we have a great deal more than the vocal chords and paper and ink with which to communicate. We can transmit by satellite, we can transmit by wires, we can have microfiche or microfilm; we can have word processors, computers; we can store and retrieve information electronically, and all of these are the ways we can communicate facts and ideas today. All of these are methods that the U.S. Government should be using to communicate vital facts and ideas to people who want and need them.

This is the interest of the Joint Committee on Printing.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I am happy to yield.

Mr. HATFIELD. Is there any possibility that we can work out a time agreement between the Senator from Colorado and the Senator from Maryland on the remaining period for this amendment?

Mr. MATHIAS. May I say to the distinguished chairman of the Appropriations Committee there is no possibility.

Mr. HATFIELD. No possibility.

Mr. MATHIAS. No possibility of a time agreement.

Mr. HATFIELD. May I ask the Senator from Maryland another question? The Senator from Maryland realizes that we have about eight or nine other amendments to handle here so that we can finish this bill tonight, because it is required to go to conference in the morning, Thursday, in order to complete the conference on Thursday to get this bill back to the Senate to act upon before the recess, along with many others that are stacked in sequence, according to the leadership schedule?

Mr. MATHIAS. Let me say to the distinguished chairman of the Appropriations Committee, I would like to paraphrase a great general, we will fight it out on this line if it takes all summer.

Mr. HATFIELD. The Senator is very discouraging in his responses to my questions. I hope that perhaps I can pose this question again.

Mr. MATHIAS. Let me say to the Senator from Oregon, the distinguished chairman of the Appropriations Committee, the manager of this bill, that this is a fight I did not choose to make.

Mr. HATFIELD. I see. I thank the Senator from Maryland. I would like to rephrase my question for the same purpose a little later on in the afternoon.

Mr. ARMSTRONG. Mr. President, would the Senator from Maryland yield to me?

Mr. MATHIAS. I would be happy to yield for a question, if I may do so without losing my right to the floor.

Mr. ARMSTRONG. I believe I would like to direct two or three questions to the Senator. First, on the question of salaries: In the discussion of how salaries are set, the amount of salaries, there was sort of an undercurrent that, there was speculation that, these salaries were out of line with comparable salaries in the private sector and in the Government sector. I am under the impression—and I would like to pin that down because if that is a speculative issue, then I have been misled—I am under the impression that, in fact, the General Accounting Office study of July 1982 asserts that GPO employees are paid substantially larger amounts than their counterparts either in Federal service elsewhere or in the private sector. If I am mistaken about that, then that would greatly change my view of the entire situation.

Mr. MATHIAS. Well, as I said to the Senator from Colorado, I have had no previous experience in these wage negotiations. I am coming on this question de novo, and my first exposure will be the current one which we are in the middle of now, and for which we have appointed a factfinder. I can only assure the Senator from Colorado that when we get the report of the factfinder, we will look at salaries in the industry generally, we will look at comparable salaries in Government, and we will look at the record.

Mr. ARMSTRONG. Mr. President, I do not mean to be unduly insistent and, of course, if the Senator would like to reserve his response to my questions for another occasion I will be understanding, but I want to pin this down. I have been led to believe by the GAO in their report of July 1982, not Mr. Sawyer, not the newspapers, not Jack Anderson but the GAO, which has issued this report of July 1982, that it finds that salaries are significantly higher, several thousand dollars per position higher, than prevailing wages in Federal service or comparable jobs in other agencies or in private sector employment.

I want to make it absolutely clear that I am not familiar even with how we got into this situation, if it exists, and I certainly do not lay that at the doorstep of the Joint Committee or the distinguished chairman or any particular person.

My concern is that this raft of newspaper articles, which has begun to appear, has created the impression that Congress is insensitive to that, but first I want to know if, in fact, it is true, and whether we can straighten it out if it is.

Mr. MATHIAS. Well, of course, the raft of newspaper articles that we have seen are appearing because the Public Printer has been going around making speeches and creating the articles. In fact, the Congress has been working very hard to try to have the most efficient, effective operation possible. And if we could work cooperatively, if we had the cooperation of the Public Printer, I think that process would proceed more rapidly and more successfully.

When the Senator propounded his question, I started to describe briefly what we have been doing to get at these very questions.

Let me just say that I see the Senator has in his hand that blue-backed folder, which looks to be like a report from the Comptroller General. Perhaps, so that the point he has just made can be abundantly on the record, he would like to put that report, or such portions of it as he thinks are pertinent, in the RECORD at this time. I have no objection to that.

Mr. ARMSTRONG. If the Senator would yield briefly, I will send the report to the desk and ask unanimous consent that it appear in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Report by the Comptroller General of the United States]

COMPARISON OF COLLECTIVELY BARGAINED AND ADMINISTRATIVELY SET PAY RATES FOR FEDERAL EMPLOYEES

(Approximately 643,000 Federal employees who collectively bargain for wages are paid more than their Federal Wage System and General Schedule counterparts. Both collective bargaining and Federal Wage System employees have received cumulative percentage pay increases over the past 5 to 9 years that are substantially larger than pay raises granted General Schedule employees. As a result, agencies are having difficulty preserving a pay differential between General Schedule supervisors and collective bargaining and Federal Wage System blue-collar employees.)

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

Hon. MARY ROSE OAKAR,
Chair, Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives

DEAR MADAM CHAIR: In response to your March 16, 1981, letter, we have compared the compensation of Federal employees, who collectively bargain for wages, with General Schedule and Federal Wage System employees. We also examined the history and extent of collective bargaining for wages in State and local governments.

As requested by your office, we did not obtain agency comments on this report. Also, as arranged with your office, unless you publicly announce this report's contents earlier, we plan no further distribution of this report until 10 days from its issuance date. We will then send copies to interested parties and make copies available to others upon request.

Sincerely yours,
CHARLES A. BOWSHER,
Comptroller General
of the United States.

[Comptroller General's Report to the Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives—Comparison of Collectively Bargained and Administratively Set Pay Rates for Federal Employees]

JULY 2, 1982.

DIGEST

Comparability with the private sector is generally the guiding principle for setting Federal employee pay rates. For the systems covering most Federal employees—General Schedule for white-collar employees and Federal Wage System for blue-collar employees—pay rates are reviewed and adjusted each year through administrative processes. Pay rates for certain other Federal employee groups are determined by collective bargaining.

At the request of the Chair, Subcommittee on Compensation and Employee Benefits, House Committee on Post Office and Civil Service, GAO reviewed and compared the compensation of Federal employees who collectively bargain, with those whose pay is set administratively. The Chair also asked GAO to obtain information on collective bargaining in State and local governments.

Federal employees who bargain for pay usually are paid more than their General Schedule and Federal Wage System counterparts. In 46 of 48 (96%) comparisons covering 17 occupations, GAO found that bargaining employees earned from $491 to $13,583 more in fiscal year 1981 than their Federal Wage System counterparts. Also, postal letter carriers covered by the Postal Service bargaining agreement were paid $5,490 more in fiscal year 1981 than their General Schedule counterparts.

Over the past 9 years, cumulative percentage pay increases for nonpostal collective bargaining employees have been comparable to Federal Wage System employees' increases but have far outpaced General Schedule employees' pay raises. Postal letter carriers have received pay increases of 123 percent; nonpostal collective bargaining employees 108 percent; Federal Wage System employees 111 percent; and General Schedule employees 70 percent. In comparison, the Consumer Price Index increased 113 percent over the 9-year period.

Because of differences among the pay systems, agencies are having difficulty preserving a pay differential between General Schedule supervisors and nonpostal collective bargaining and Federal Wage System blue-collar employees. More and more supervisors find themselves supervising blue-collar employees whose basic pay surpasses their own.

At the State and local government level, there has been an increase in collective bargaining for wages. In 1959, only one State permitted public employees to negotiate wages. Today, 30 States and the District of Columbia permit wage negotiations for about 3.3 million public employees. Negotiated wage settlements, however, are subject to budgetary and legislative approval.

At the Subcommittee office's request, GAO did not obtain agency comments on this report.

CHAPTER 1—INTRODUCTION

At the request of the Chair, Subcommittee on Compensation and Employee Benefits, House Committee on Post Office and Civil Service, we reviewed collective bargaining in Federal, State, and local governments and compared the compensation of Federal employee groups, who bargain for wages, with their Federal counterparts under the General Schedule and Federal Wage System.

The Federal civilian work force numbers about 2.5 million full-time employees with an annual payroll of about $76 billion in fiscal year 1981. These employees are in many occupations and geographic areas. As of October 1, 1981, there were about 1.4 million General Schedule employees, about 445,200 Federal Wage System (FWS) employees, and approximately 643,000 Federal employees whose wages are set through collective bargaining.

Pay-setting procedures for general schedule and Federal wage system

The Federal Salary Reform Act of 1962 established the principle that white-collar employees' salary rates under the General Schedule (GS) should be comparable with the national average private enterprise rates for the same levels of work. The law, as amended, prescribes a method for the President to adjust salaries annually on the basis of a national survey that compares Federal salaries with those paid for similar work in private industry. The Bureau of Labor Statistics (BLS) conducts the survey and collects salary data on 102 work-level categories covering 23 occupations. BLS visits about 3,500 private establishments in 7 industry divisions. The minimum size of establishments surveyed varies from 50 to 250 employees, depending on the industry.

BLS provides this data to the President's Pay Agent consisting of the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor. The Pay Agent analyzes the data and submits an annual report to the President comparing the GS Federal

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pay rates with the pay rates for the same levels of work in the private sector. The report includes the Pay Agent's recommendations for adjusting pay to achieve full comparability. If the President believes that a full comparability adjustment is not warranted because of "national emergency or economic conditions affecting the general welfare," the President can send the Congress an alternative plan proposing a different adjustment. In 5 of the last 7 years, Presidents have proposed, and the Congress has approved, alternative plans that provided GS employees smaller pay raises than called for by the comparability process.

The Federal Prevailing Rate Systems Act of 1972 established the principle that blue-collar employees' pay rates under FWS will be fixed and adjusted according to local prevailing rates. Under this system, the Government conducts 135 locality wage surveys annually to determine the prevailing rates for similar occupations in the private sector.

FWS surveys cover establishments in the manufacturing, transportation, communications, and wholesale trades industries which employ 50 or more persons. Twenty-two occupations must be surveyed, and 29 others are surveyed on an optional basis when (1) employment in these occupations is substantial, both in the local Federal installations and local private establishments and (2) wage data for the optional jobs are considered essential to the wage-fixing process for the area.

On the basis of these surveys, executive branch agencies establish regular pay schedule for each wage area. Special pay schedules are established when prevailing private sector rates for specific types of jobs are above the maximum rates of the regular FWS wage schedules. Without special schedules, agencies would be seriously handicapped in recruiting and retaining qualified employees at the regular schedules rates.

Unlike the GS process, the President does not have authority to propose alternative pay rates that differ from locality survey results. However, during the last 3 years, the Congress has held FWS employee pay raises to the same pay increases granted General Schedule employees.

Collective bargaining for wages in the Federal Government

Labor organizations have existed in the Federal sector since the 19th century. However, it was not until 1924 that a Government agency—the Government Printing Office (GPO)—used collective bargaining as a method for determining wages. Since that time, 19 other agencies have obtained authority to negotiate wages. About 643,000 employees now bargain for wages. The Postal Service and Tennessee Valley Authority (TVA) employ about 98 percent of these employees—581,000 and 50,550, respectively. Other than the Postal Service and some TVA employees, collective bargaining is generally limited to blue-collar employees.

The statutes which allow employees in these two agencies to bargain for wages also require that the rates paid be comparable with rates paid in the private sector. Other agencies are also required to negotiate and set pay comparable to local prevailing rates.

Agencies that collectively bargain have broad discretion in determining prevailing rates. For example, as part of the negotiation process, some agencies meet with collective bargaining units to discuss and develop survey specifications for measuring private sector wage rates. The agreement negotiated on the survey specifications—industrial, occupational, and geographical coverage—is critical because survey results are used to determine wage rates.

Objectives, scope, and methodology

The objectives of this review were to (1) compare the compensation (excluding premium pay and benefits) of Federal employees who collectively bargain for wages, with GS and FWS employees and (2) examine the history and extent of collective bargaining for wages in State and local governments. Our review was conducted from July 25, 1981, to January 1, 1982, in accordance with our Office's current "Standards for Audit of Government Organizations, Programs, Activities, and Functions."

Of the 20 Federal agencies that collectively bargain, we selected 8 to review: Postal Service, TVA, GPO, Bureau of Engraving and Printing, Bonneville Power Administration, International Communication Agency, National Park Service, and Bureau of Reclamation. We selected these agencies because they employ 99 percent of the Federal collective bargaining work force in various localities in the country.

For occupational comparisons, we compared the Postal Service PS-5 letter carrier to a GS-5, which was the pay linkage before the Postal Service became an independent Government corporation in 1970. We selected 17 representative blue-collar occupations in the other 7 agencies (10 of the 17 occupations were common to several agencies), and with the assistance of agency officials and OPM classification personnel, we matched these occupations to comparable FWS occupations in the same locality. This comparison involved an analysis of written duties and not an actual onsite job review of specific job characteristics. We compared a total of 48 jobs in the 17 occupations.

In our analysis, we used the journeyman wage rate for occupations covered by collective bargaining and compared it to the FWS wage rate at the step 2 and 5 level. These two steps were used because step 2 reflects the prevailing rate for the area, and step 5 is the rate most FWS employees receive.

The pay schedules (GS, FWS, and bargaining) differed in the number and timing of wage adjustments during each year. The GS is adjusted at the beginning of the fiscal year, and each of the 135 FWS wage schedules are adjusted at intervals throughout the year. Collective bargaining wage agreements have regular annual pay increases, and some also provide for annual or semiannual cost-of-living increases. Therefore, to provide a uniform basis for comparison, we determined annual earnings by computing a weighted average hourly wage rate and multiplying it by 2,080 hours (the number of hours in an 8-hour workday, 260-day work-year).

After computing annual earnings for each pay schedule, we compared fiscal year 1981 earnings between collective bargaining employees and their nonbargaining counterparts. Second, we compared collective bargaining wage increases to nonbargaining wage increases over a 5- or 9-year span ending September 30, 1981. The 5-year earnings analysis was made for all 48 wage comparisons, and the 9-year earnings analysis was made for 33 wage comparisons where 9 years of wage information was available. Finally, we compared these pay increases with the inflation rate as measured by the Consumer Price Index (CPI) for Urban Wage Earners.

To determine the history and extent of collective bargaining in the public sector, we reviewed pertinent legislation and records and interviewed officials at the Office of Personnel Management (OPM). Also, we researched and obtained published reports, including those from OPM, the Departments of Labor and Commerce, TVA, and the Postal Service.

CHAPTER 2—FEDERAL WAGES DETERMINED THROUGH COLLECTIVE BARGAINING ARE HIGHER THAN WAGES SET THROUGH ADMINISTRATIVE PROCESSES

Although the comparability principle for setting Federal pay rates applies to both bargaining and nonbargaining employees, bargaining employees generally have been paid more. In our fiscal year 1981 occupational wage comparisons, 46 of 48 (96 percent) bargaining employees were paid $491 to $13,583 more than their FWS counterparts, and in only two comparisons did bargaining employees earn less than FWS employees. Postal letter carriers were paid $5,490 more in fiscal year 1981 than their GS counterparts.

From 1972 to 1981, however, nonpostal collective bargaining and FWS employees have received relatively equal percentage pay increases of 108 percent and 111 percent, respectively. Thus, most of the wage differences occurred before FWS was established in 1972. Postal letter carriers' pay increases were somewhat higher at 123 percent while GS employees were lower at 70 percent. The consumer price index increased 113 percent over this time period.

Pay differences among the various pay systems have exacerbated the pay inversion problems Federal agencies are having with some white-collar supervisors being paid less than their blue-collar subordinates.

BARGAINING EMPLOYEES PAID MORE THAN OTHER FEDERAL EMPLOYEES

The fiscal year 1981 wage difference between collective bargaining employees and their FWS counterparts averaged 26 percent, or $4,857. In 46 of 48 comparisons (96 percent), bargaining employees were paid $491 to $13,583 more than the prevailing wage rate for similar occupations.[1] In 36 of 46 comparisons, bargaining employees earned more than the highest step of the comparable FWS grade.

The largest wage rate differences occurred in agencies located in Washington, D.C. The International Communication Agency radio broadcast technicians and radio master control broadcast technicians were paid $32,192 and $35,586, respectively, during fiscal year 1981, or $12,187 and $13,583 more than the $20,005 and $22,003 annual prevailing rate for comparable positions in the Washington, D.C., area. The pay rates negotiated for the International Communication Agency's technicians are based on a survey of similar occupations at the 3 major broadcasting networks in the Washington, D.C., area whereas FWS rates cover several major industries and at least 22 different occupations.

At GPO, compositors were paid $4,365 more during fiscal year 1981 than their FWS counterparts under the Lithographic and Printing Plant Special Schedule for Washington, D.C. GPO maintenance crafts—carpenters and electricians—earned $27,419 during fiscal year 1981; however, the prevailing rate for FWS was $19,006 for carpenters and $20,005 for electricians in the Washington, D.C., area. Historically, these maintenance journeymen crafts have received the same hourly pay rates as the compositor craft, even though the occupations are dissimilar.

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[1] FWS is a five-step rate schedule. Step 2 reflects the average private sector or prevailing rate. There is a 4-percent differential for each successive step. Thus, FWS employees at the step 5 level, where the majority of workers are grouped, earn a 12-percent hourly wage premium.

At the Bureau of Engraving and Printing, plate printers earned $8,556 more in fiscal year 1981 than the rates paid under the FWS Lithographic and Printing Plant Special Schedule for Washington, D.C. Bureau plate printers receive the same percentage pay increase negotiated by engravers and plate printers employed by the American Bank Note Company in New York. This private company has been the sole source of the Bureau's prevailing rate data for 40 years. All other Bureau bargaining employees are paid the same wage rates as similar occupations in GPO.

Before the Postal Reorganization Act of 1970, Postal letter carriers (Postal Service Schedule PS–5) were linked to GS–5. In 1969, both PS–5 letter carriers and GS–5, step 4 employees had annual salaries of $7,202. As a part of the reorganization, the Congress authorized an immediate 8-percent increase for Postal Service employees. Since October 1971, letter carriers' pay increases have been close to twice the rate of their former GS counterparts (123 percent compared to 70 percent). During fiscal year 1981, a letter carrier earned $5,490 more than a GS–5, step 4 employee, and the difference in cumulative percentage increases was 53.16 percent. With a fiscal year 1981 salary of about $18,980, a PS–5 letter carrier now makes the equivalent of a GS–9, step 1 employee.

COMPARISON OF POSTAL AND GS PAY

	U.S. Postal Service Letter—carrier PS–5 pay gains			General schedule GS–5, step 4 pay gains		
	Annual earnings	Annual percentage increases	Cumulative percentage increases	Annual earnings	Annual percentage increases	Cumulative percentage increases
Fiscal year:						
1972	$8,514	(¹)	(¹)	$7,946	(¹)	(¹)
1973	9,255	8.71	8.71	8,466	6.54	6.54
1974	10,258	10.83	20.48	8,859	4.64	11.49
1975	11,444	11.57	34.42	9,350	5.54	17.66
1976	12,349	7.91	45.05	9,820	5.03	23.58
1977	13,301	7.71	56.23	10,234	4.22	28.79
1978	14,380	8.11	68.90	10,955	7.05	37.87
1979	15,271	6.20	79.36	11,556	5.49	45.44
1980	17,144	12.26	101.36	12,368	7.02	56.65
1981	18,983	10.73	122.97	13,493	9.10	69.81

¹ Base year.

Comparison of pay increases for major Federal pay systems

From fiscal year 1975 through 1981, nonpostal bargaining and FWS employees received relatively equal percentage pay increases of 46.2 percent and 45.5 percent, respectively. Postal letter carriers' pay increases were somewhat higher at 53.7 percent while GS employees' pay increased 39 percent. The CPI increased 57.4 percent over this time period.

Going back to fiscal year 1972, the experience was similar except that postal letter carriers' cumulative pay increase of 123 percent exceeded the CPI increase of 113.1 percent. Nonpostal bargaining employees and FWS employees, on the average, closely matched the CPI increase; however, GS employees received increases of 70 percent.

Differences in pay increases create pay inversion problems

Agencies are having difficulty preserving a pay differential between supervisors and blue-collar employees (bargaining and FWS). Both FWS and bargaining employee pay increases over the last 10 years have outpaced GS salary increases. More and more GS supervisors are facing pay inversion—that is, they find themselves supervising blue-collar employees whose basic pay surpasses their own. As a result, within-grade pay increase for GS supervisors have accelerated to prevent pay inversion problems. For example, 16 GS supervisors at the Sacramento Air Logisitic Center, McClellan Air Force Base, California, received accelerated salary increases between January 1980 and January 1982 at an annual cost of $40,000.

The law (5 U.S.C. 5333) authorizes agencies to adjust GS supervisor salaries to rates above those of their highest paid bluecollar subordinates. This administrative remedy cannot be applied, however, once a supervisor's pay has been adjusted to the maximum pay rate for the grade. Several agencies are finding that administrative pay adjustments are no longer sufficient to preserve supervisor-subordinate pay differentials. Situations at the Bonneville Power Administration and the Bureau of Reclamation illustrate the problem between GS supervisor pay and negotiated subordinate wages.

Bonneville will soon be facing serious pay inversion problems. As of October 1981, Bonneville had adjusted the pay of 49 of 81 (60 percent) GS employees who supervise nearly 1,200 bargaining employees. Eighteen supervisors have reached the top pay rate for their grade, and 4 of them are paid less than their subordinates. Bonneville anticipates an 8.4-percent March 1982[2] pay increase for bargaining employees which, following pay adjustment, will put 52 of the 81 supervisors at the top pay rate for their grade. With an increase of 8.4 percent, 50 of these supervisors will experience pay inversion.

In July 1980, Bonneville urged OPM, through the Department of Energy, to seek a legislative change increasing maximum pay rates for GS supervisors. Bonneville has rejected other administrative remedies as inappropriate. For example, Bonneville officials contend that regrading or reclassifying supervisors' jobs solely to avoid pay inversion would violate the Classification Act of 1949. Its managers also believe that limiting bargaining employees' pay to GS supervisor pay levels could violate the agency's legal requirement to pay rates prevailing in the private sector. Because their pay cannot be adjusted like their co-workers who supervise bargaining employees, other GS personnel consider the pay adjustment policy inequitable.

The Bureau of Reclamation at Grand Coolee Project is also experiencing severe pay inversion problems. As of October 1981, the Bureau had adjusted the pay of 11 of 14 (79 percent) GS employees who supervise more than 300 bargaining employees in the Pacific Northwest Region. Ten of these supervisors have reached the top pay rate for their grades, and 8 of them are experiencing pay inversion. During 1981 wage negotiations, Bureau officials decided not to pay bargaining employees higher basic wage rates than their GS supervisors. However, an arbitrator ruled against the Bureau's position in February 1982.

CHAPTER 3—COLLECTIVE BARGAINING PAY-SETTING PRACTICES IN SIX FEDERAL AGENCIES

Federal agencies and collective bargaining employees usually negotiate wages on the basis of a mutually agreeable locality survey of private sector pay rates. In some cases, the survey results are used to set the wage rates; in other cases they are used as guidelines for negotiations. The collective bargaining wage surveys are generally not as comprehensive in industrial and occupational coverage as pay surveys conducted for GS and FWS employees.

A number of agencies which are authorized to collectively bargain are industrial operations generating their own revenues. Also, negotiated wage settlements generally are not subject to budgetary and legislative oversight. Furthermore, the procedures followed in resolving bargaining impasses vary among the agencies.

A description of the collective bargaining practices found in the six largest agencies included in our review follows:

U.S. Postal Service

The Postal Reorganization Act of 1970 requires the Postal Service to achieve and maintain compensation levels comparable to those paid in the private sector. Before the Postal Reorganization Act, postal employees' pay increases were linked to General Schedule increases. The act also requires the Postal Service to negotiate wages and fringe benefits (including retirement) as well as provide reasonable pay differentials between craft employees and supervisory management employees.

The Postal Service has a total work force of about 678,000 and negotiates wages with labor organizations representing approximately 581,000 employees. Most of these employees are clerks, mail handlers, and letter carriers covered under the Postal Service Salary Schedule. Supervisory and managerial personnel are excluded from the collective bargaining process, but have consultation and participation rights in developing their pay policies and benefits. Their pay is administratively determined and allows for pay differential over subordinates' pay rates.

Before negotiation, the Postal Service conducts a wage survey in approximately 100 to 110 selected companies employing 5,000 or more employees in 7 manufacturing industries (automobile, basic steel, brewery, metal can, paper and allied products, tire, and printing) and 7 service industries (trucking, airline, telephone and telegraph, electric and gas utilities, mail order houses, banking, and insurance). These surveys are not intended to be the basis of negotiation but are available as information to negotiators and to third parties if the settlement reaches an impasse.

If the Postal Service and a union are unable to reach a collective bargaining agreement or if they have a dispute under an existing agreement which they cannot resolve, either party may request mediation. The Director of the Federal Mediation and Conciliation Service may direct the establishment of a fact-finding panel of three persons. If agreement cannot be reached, an arbitration board is empowered to render a final binding decision. Postal employees by law are not permitted to strike, but the threat of a postal work stoppage exists, as evident from employee walkouts in the past.

TVA

The TVA Act of 1933 established TVA as a Government corporation engaged in power

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[2] As of April 1982, Bonneville had not completed its contractual wage adjustment. Whatever percentage pay raise is negotiated will be retroactive to March 14, 1982.

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generation, flood control, reforestation, industrial development, and navigability programs of the entire Tennessee River watershed. The TVA Act gave the Board of Directors discretion to develop its own employee relations policies and not be subject to the terms and provisions of civil service laws. Section 3 of the TVA Act provided that pay rates would be no less than the prevailing rate paid for similar occupations within TVA's geographic area. The act also gave TVA authority to collectively bargain over wages, salaries, and terms and conditions of employment.

Of the 54,800 total work force, TVA negotiates wages for 50,500 employees and administratively sets the salaries of the remaining 4,300 management employees. The Tennessee Valley Trades and Labor Council, consisting of representatives from 15 unions, negotiates wages for 33,500 blue-collar employees. TVA also bargains with the Salary Policy Employee Panel—which consists of representatives from 5 employee organizations—over salaries for 17,000 white-collar employees.

In 1935, the TVA Board adopted an Employee Relationship Policy for setting pay rates for blue-collar employees through wage conferences. The Joint Wage Data Committee, consisting of representatives from TVA and the Trades and Labor Council, develops the wage survey scope and tabulates the wage data collected by management and union representatives. The Joint Negotiating Committee negotiates separate contracts for operations and maintenance employees and construction employees. The negotiated agreements and wage rates are submitted to the TVA Board of Directors for final approval. If a dispute over the prevailing wage rates occurs, the TVA act provides that the Secretary of Labor will make the final decision.

TVA and the Trades and Labor Council have a basic agreement in which TVA pays a single, uniform rate of pay for each class, grade, and type of work performed anywhere in the TVA geographic area. Survey data reflects composite pay rates of specific occupations in 14 localities agreed upon by both TVA and the Council. However, according to TVA, no specific formula has been established for determining prevailing rates for the survey data. The most controversial issue in wage negotiations has been what wage data should constitute the prevailing rate, not the wage facts themselves.

TVA and the Salary Policy Employee Panel conduct wage conferences to negotiate the pay rates for white-collar employees (clerical, administrative, and technical). TVA management conducts an annual salary survey of 30 regional and local employers, including the Postal Service, several public utilities, and national multiplant companies. Also, TVA provides the Panel an opportunity to review and comment on the survey data. Other data used in the wage conferences are the BLS annual National Survey of Professional, Administrative, Technical, and Clerical Pay and the BLS Collective Bargaining Settlements report. Occasionally, a bargaining impasse on salary rates occurs. If mediation fails, either TVA or the Panel may invoke advisory arbitration.

Finally, no TVA employee may be paid more than a member of the Board of Directors, and strikes are prohibited.

GPO

GPO, established in the 1860's, is a Government printing facility under the legislative branch. The Kiess Act of 1924 requires the Public Printer to hold wage conferences with committees selected by trades having more than 10 employees. In the event of a disagreement, the trades or their representatives can appeal to the congressional Joint Committee on Printing whose decision is final. The Joint Committee on Printing must approve the proposed wage rates before they become effective.

During the first 24 years after the enactment of the Kiess Act, there was no systematic procedure for determining wage changes for crafts and trade employees. In 1948, the Public Printer and the employee organizations agreed on a formula. The formula established pay based on the average rate for local union craft journeymen in printing establishments in the Washington, D.C., area or the weighted average of such rates in printing establishments in the 24 largest U.S. cities, whichever was higher. The survey scope was reduced to 17 cities in 1970 and the formula was discontinued in 1978.

GPO employs 6,070 employees in Washington, D.C., as follows: 2,950 blue-collar bargaining employees (1,650 craft journeymen and 1,300 printing plant workers); 420 blue-collar supervisors who are paid from 105 to 130 percent of the negotiated journeyman rate, and 50 printing plant worker supervisors; and 2,650 white-collar administrative and clerical employees who do not bargain. They are paid under the GPO General Graded pay system which is similar to the General Schedule system in its classification, grades, and pay rates.

Since 1978, GPO has negotiated with the Joint Council of Unions over wages paid to craft occupations and has used the wage survey data as an informational base in negotiations. Compositors who set type, proofread, and operate video display terminals are the largest craft group. All maintenance craft groups, such as electricians and carpenters, are linked to the wage rate paid to compositors and receive the same percentage pay increase granted compositors. The central office printing plant workers include laborers, truck drivers, warehouse workers, and other semiskilled and unskilled workers. Their wage rates are negotiated, and under the current agreement, they receive the same percentage increases received by all GPO crafts.

Bureau of Engraving and Printing

The Department of Treasury's Bureau of Engraving and Printing designs, engraves, and prints U.S. paper currency, treasury bonds and securities, and postage stamps. The Bureau employs 2,570 employees—1,870 collective bargaining employees and 700 administrative, technical, and protective service GS employees. The Bureau has a long history dating back to the 1920s of administratively setting and adjusting the wages of its blue-collar craft employees. When the prevailing rate system was established by Public Law 92–392, August 19, 1982, the Bureau was excluded from FWS under section 5349 and allowed to continue its administrative wage-setting practices.

The Bureau's 1,870 bargaining employees are represented by 16 unions. About 434 printing and craft employees and approximately 1,240 noncraft employees' wages are set according to GPO's wage rates. The pay rates were originally linked with GPO because the Bureau formerly recruited printers from the GPO employment registers. The Bureau's 196 engravers and siderographers wages are adjusted on the basis of wage rates paid by the American Bank Note Company in New York. Since 1948, the Bureau has used this private company as the sole source of wage data because other companies doing comparable work would not provide wage information.

Bonneville Power Administration

In 1937, the Congress established the Bonneville Power Administration to market power from a single U.S. Army Corps of Engineeers hydroelectric project on the Columbia river. Today Bonneville transmits the electrical output of 30 Federal dams, numereous non-Federal dams, and other power plants in Washington, Oregon, Idaho, and western Montana. Bonneville employs approximately 3,000 employees—1,200 blue-collar bargaining employees and 1,800 GS employees.

In 1945, Bonneville sought and received expanded pay-setting authority from the Congress under the Bonneville Project Act which provided discretionary authority to establish pay levels for craft and other blue-collar workers. Since the enactment of those amendments in 1945, Bonneville has negotiated wages, working conditions, and premium payments with the Columbia Power Trades Council which includes 11 unions representing 1,200 blue-collar employees.

Bonneville and the Council have, since 1967, defined prevailing rates by surveying the same eight large Pacific Northwest utility companies: four privately owned, two public utilities, and two municipally owned utilities. The results of these surveys generally are applied as follows: (1) an average journeymen electrician/linemen wage rate is computed from survey results, (2) this rate is compared to Bonneville's previous journeymen electrician rate and a percentage increase is determined, and (3) this percentage increase is also applied across the board to other wage-bargaining classifications.

When the Council and management cannot agree on the rates of pay, the contract provides for mediation followed by binding arbitration. Arbitration has been infrequent at Bonneville. When needed, a tripartite arbitration panel is established consisting of members appointed by Bonneville and the Council and a third neutral arbitrator. Currently, the majority decision of the arbitrators is binding. However, before November 1980, wage arbitration decisions were subject to approval by Bonneville's administrator. The administrator rejected the June 1979 general wage arbitration award of 8.53 percent and acted on the Presidential memorandum which imposed the 5.5 percent pay cap granted GS employees.

Bureau of Reclamation—Grand Coulee Project

The Bureau's Grand Coulee Project in Washington has 300 blue-collar bargaining employees who operate and maintain dam and power-generating facilities on the Columbia River. In 1946, the Bureau's commissioner was concerned that Bonneville's blue collar employees' wages were higher than the wages the Bureau paid employees for similar work. As a result, the Bureau requested and received authority from the Department of Interior to collectively bargain for wages, hours, and working conditions with labor organizations representing the Bureau's blue-collar employees. This authority was preserved after the passage of the Prevailing Rates Systems Act of 1972 and Civil Service Reform Act of 1978.

Grand Coulee employees are represented by a consortium of 10 unions called the Columbia Basin Trades Council. Prevailing rates are determined through a mutually acceptable survey of the same eight Pacific Northwest utilities surveyed by Bonneville. Wage bargaining is based on the survey results, but, unlike Bonneville, no strict wage formula relationship exists. In recent years, wage disputes have been frequent. When this happens, either party may submit a request to the Office of Arbitration Services of the Federal Mediation and Conciliation Service. The decision of the arbitrator is binding on the parties as permited by law. In February 1982, an arbitrator rules that Grand Coolee Project must negotiate on the basis of prevailing wage rates in spite of supervisory pay inversion.

CHAPTER 4—COLLECTIVE BARGAINING IN STATE AND LOCAL GOVERNMENTS

During the past two decades, collective bargaining in State and local governments has increased significantly. In 1959, Wisconsin was the first State to authorize collective bargaining for its employees. Today, 39 States and the District of Columbia have collective bargaining or meet-and-confer laws covering approximately 5 million employees.

According to information developed by the Labor-Management Services Administration of the U.S. Department of Labor, 30 States and the District of Columbia permit comprehensive collective bargaining for about 3.3 million State and local government employees. Comprehensive bargaining laws require negotiation in which both the public employer and employee representatives are equal legal parties in negotiating wages, hours, and other terms and conditions of employment. Most bargaining results in a contractual agreement for a period usually convering 1 to 3 years. Also, the laws usually specify methods of resolving impasses, the most common methods being mediation, fact-finding, and arbitration.

The comprehensive bargaining laws in 11 of these 30 States cover all public employees, and 19 States allow wage negotiations only for certain groups of public employees. For example, Iowa allows all State and local employees to bargain for wages; whereas, Illinois allows collective bargaining for all State employees, but only firefighters may bargain at the local government level.

Six States permit collective bargaining over hours and conditions of employment but do not have comprehensive laws covering all bargaining. Three States have only meet-and-confer laws in which the public employer may consent to discuss labor relations matters with representatives of employee organizations. If these parties come to an agreement, it is written in a memorandum of understanding. The State, however, is not legally bound to enter into these discussions, nor is it bound to abide by any resulting memorandum of understanding.

In the 11 States that have not enacted collective bargaining statutes, courts have decided both for and against the right to bargain. In Colorado, for example, the Supreme Court declared that specific statutory authority was not necessary for school boards to enter into bargaining agreements. On the other hand, the Virginia Supreme Court held that local government bodies or school boards have no implied power to collectively bargain and may not negotiate or enter into binding agreements without specific statutory authority.

Negotiated Wages Subject to Budgetary and Legislative Controls

States that allow collective bargaining have established budgetary or legislative controls over negotiated agreements. For example, in Hawaii, the Office of Collective Bargaining assists the Governor by coordinating the negotiations between the public employers and employee representatives on matters of wages and other negotiable issues. The statute provides that all cost items are subject to appropriations by the State legislature or other appropriate legislative bodies. In Oklahoma, the collective bargaining law, which covers fire and police, states that whenever wages or other matters require funding, it is the bargaining agent's obligation to serve written notice on the municipal authorities 120 days before the last day on which monies can be appropriated.

The costs of collective bargaining agreements are under constant scrutiny by State legislative bodies or municipal authorities. Most State governments exercise direct control over negotiated wage agreements, whereas the Federal Government budget process generally does not directly affect the results of negotiated agreements.

According to information reported by BLS, the average annual wage increase for major State and local government collective bargaining settlements reached in 1980 was 7.5 percent and those in the first half of 1981 averaged 7.3 percent. This data was based on bargaining units with 5,000 employees or more and covers one-fourth of all State and local government employees under negotiated wage agreements. In 1980, 85 percent of the employees were under agreements negotiated by local governments, and 15 percent by State jurisdictions.

Several alternatives available to resolve impasses

No common legal framework exists which governs State and local government labor relations. Most collective bargaining does end in agreement at the negotiating table. However, occasionally, the parties cannot reach an agreement. If the agreement is rejected by the employee organization or does not receive required legislative or budgetary approval, renegotiations are started. Several alternatives are available to resolve an impasse. Many State and local government statutes provide impasse procedures that include mediation, fact-finding, and arbitration—all of which involve outside parties.

Mediation is the most common method of resolving impasses and is used by most jurisdictions. In mediation, a neutral individual or panel experienced in labor negotiations attempts to get management and labor to resolve their differences through compromise. While the mediators cannot impose decisions on the parties, they meet with each party and discuss the points of disagreement and possible areas for compromise. Finally, they offer suggestions and advice for settlement.

Fact-finding is a variation of the mediation process. In fact-finding, the neutral third party conducts a formal investigation of the issues in dispute and submits a written report. In some States, the report must be made public with the intent of pressuring the parties to resolve their differences. The final decision on all issues affecting costs is made by the appropriate legislative bodies.

In binding arbitration, the neutral third party has the authority to impose a settlement, or in the case of advisory arbitration, is called on to recommend a solution. In the process of arbitration, the arbitrator does much the same work as a mediator or factfinder in providing assistance for an equitable solution. Some States have specific factors that arbitrators must consider in reaching a decision. These may include the public employer's financial ability to meet proposed costs, the employees' present overall compensation, and prevailing wage rates in the public and private sectors. Of the 27 States which have arbitration for certain groups of public employees, arbitration is mandatory in 10 States. Also, the parties usually share the costs for any necessary impasse procedures.

Strike policies may prohibit but not prevent strikes

If an impasse is not resolved, employees may decide that a strike is in order. However, strikes by public employees are prohibited by statutes in 37 States and the District of Columbia, and 4 States have not established a statutory strike policy for public employees. In nine States, strikes are permitted by law on a limited basis and only in situations which do not threaten the health, safety, and welfare of the general public. This limited right to strike is permitted only for certain types of employees and only after all other mediation procedures have failed. Police, fire, hospital, and correctional facility personnel usually are excluded from the right to strike.

According to the most recent information compiled by the Departments of Labor and Commerce, State and local governments experienced 553 work stoppages involving over 200,000 employees in 1979. The largest number of work stoppages occurred in school districts, and the major cause (80 percent) concerned disputes over compensation and/or hours of work. States such as Alaska, Vermont, and Wisconsin, which permit a limited right to strike, experienced only a few work stoppages. The States having the largest number of work stoppages were Ohio, with no collective bargaining statutes; California, with both meet-and-confer and comprehensive bargaining laws; Illinois and Michigan, with comprehensive bargaining laws; and Pennsylvania, with both a comprehensive bargaining law and limited right to strike.

Committee on Post Office and
Civil Service,
Washington, D.C., March 16, 1981.

Mr. Milton J. Socolar,
Acting Comptroller General, General Accounting Office, Washington, D.C.

Dear Mr. Socolar: As part of its program to reduce the Federal budget, the Administration is proposing major changes to the Federal pay systems. As a result, we anticipate that certain Federal employee groups will be seeking collective bargaining rights for wages and benefits. As you know, several Federal employee groups already have this authority. Therefore, we are interested in determining how their compensation compares with General Schedule and Federal Wage System employees. Also, we would be interested in any information you can obtain on the impact of collective bargaining for wages in any State and local governments.

Your assistance in this matter will be greatly appreciated. If you have any questions, please contact Tom DeYulia or Marlene Kaufmann at 225-6831.

Sincerely,
Mary Rose Oakar, *Chair,*
Subcommittee on Compensation and Employee Benefits.

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APPENDIX II.—FEDERAL AGENCIES THAT NEGOTIATE WAGES

Agency	Negotiating authority	Bargaining units	Number of employees
Government controlled corporations:			
Postal Service	Public Law 91–375	16	581,144
Tennessee Valley Authority	16 U.S.C. 831	20	50,552
Legislative agencies: Government Printing Office	44 U.S.C. 305	11	2,943
Executive agencies:			
Department of Commerce: National Oceanic and Atmospheric Administration	5 U.S.C. 5348 [1]	13	491
Department of Treasury: Bureau of Engraving and Printing	5 U.S.C. 5349	16	1,870
Department of the Interior:			
Seattle Liaison Office/USMU II. Star II	5 U.S.C. 5348 [1]	1	40
Bureau of Indian Affairs	Sec. 9(b) of Public Law 92–392 [2]	6	234
Bureau of Mines	Sec. 9(b) of Public Law 92–392 [2]	3	163
Bureau of Reclamation	Sec. 9(b) of Public Law 92–392 [2]	16	1,305
Geological survey	Sec. 9(b) of Public Law 92–392 [2]	2	39
National Park Service	Sec. 9(b) of Public Law 92–392 [2]	2	84
Department of Navy: Military Sealift Command	5 U.S.C. 5348 [1]	5	1,534
Department of Transportation:			
Alaska Railroad	43 U.S.C. 975; 49 U.S.C. 1655(i)	5	542
U.S. Coast Guard	5 U.S.C. 5348 [1]	2	60
St. Lawrence Seaway Development Corporation	Sec. 9(b) of Public Law 92–392 [2]	1	70
Department of Energy:			
Alaska Power Administration	Sec. 9(b) of Public Law 92–392 [2]	1	11
Western Area Power Administration	Sec. 9(b) of Public Law 92–392 [2]	1	394
Southwestern Power Administration	Sec. 9(b) of Public Law 92–392 [2]	1	64
Bonneville Power Administration	16 U.S.C. 832(i)	1	1,196
U.S. International Communication Agency	Sec. 9(b) of Public Law 32–392 [2]	1	155
Total		124	642,871

[1] 5 U.S.C. 5348 covers the maritime industry and provides that pay of officers and crew members of vessels be fixed and adjusted from time to time, consistent with public interest and according to prevailing rates and practices in the maritime industry.

[2] Sec. 9(b) of Public Law 92–392 (5 U.S.C. 5341) authorized wage grade employees who were negotiating pay prior to the passage of the Prevailing Rate Systems Act of 1972 to continue the collective bargaining practice. For other wage grade employees, the 1972 act provides that wages be fixed and adjusted according to prevailing rates in local wage areas.

APPENDIX III.—OCCUPATIONS AND PAY SCHEDULES USED IN COMPARISONS BY AREA, AGENCY, AND UNIT

Job title	National	Washington, D.C.			Pacific Northwest region						Nashville	Total
	USPS	GPO	BEP	ICA	BPA	BOR–GC	BOR–HH	BOR–BM	BOR–Y	NPS–CDNRA	TVA	
Letter carriers	X											1
Compositors		X	X									2
Bookbinders		X	X									2
Plateprinters			X									1
Electricians		X	X		X	X	X	X	X		X	8
Carpenters		X	X		X	X				X		5
Janitors		X	X		X	X	X	X		X	X	8
Laborers					X	X	X	X		X		5
Forklift operators		X	X									2
Machinists					X	X					X	3
Hydro plant mechanics							X	X	X			3
Craftsmen; electrical equipment					X	X	X					3
Hydro plant operators											X	1
Senior hydro plant operators											X	1
Unit operators											X	1
Steamfitters											X	1
Radio broadcast technicians				X								1
Radio master control technicians				X								1
Total	1	6	7	2	6	6	5	4	2	3	7	49

USPS—U.S. Postal Service—compared to General Schedule.
GPO—Government Printing Office—compared to FWS regular schedule and Lithographic and Printing Plant Wage Schedule for the Washington, D.C., locality.
BEP—Bureau of Engraving and Printing—compared to FWS regular schedule and Lithographic and Printing Plant Wage Schedule for the Washington, D.C., locality.
ICA—International Communications Agency—compared to FWS regular schedule for the Washington D.C., locality.
BPA—Bonneville Power Administration—compared to FWS regular schedule for the Portland, Oreg., locality and Pacific Northwest Power Rate Schedule.
BOR–GC—Bureau of Reclamation—Grand Coulee Project—compared to FWS regular schedule for the Spokane, Wash., locality and Pacific Northwest Power Rate Schedule.
BOR–HH—Bureau of Reclamation—Hungry Horse Project—compared to FWS regular schedule for the Great Falls, Mont., locality and Pacific Northwest Power Rate Schedule.
BOR–BM—Bureau of Reclamation—Boise-Minidoka Project—compared to FWS regular schedule for the Boise, Idaho, locality and Pacific Northwest Power Rate Schedule.
BOR–Y—Bureau of Reclamation—Yakima Project—compared to FWS regular schedule for the Southeastern Washington-Eastern Oregon locality and Pacific Northwest Power Rate Schedule.
NPS–CDNRA—National Park Service—Coulee Dam National Recreation Area—compared to FWS regular schedule for the Spokane, Wash., locality.
TVA—Tennessee Valley Authority—compared to FWS regular schedule for Nashville, Tenn., locality.

APPENDIX IV.—SELECTED OCCUPATIONAL WAGE COMPARISONS BY AGENCY

	FWS comparables		Fiscal year 1981 earnings			Percentage pay increases [3]					
				FWS		Bargaining		FWS regular		FWS special	
	Regular schedule [1]	Special schedule [2]	Bargaining	Regular	Special	5 yr	9 yr	5 yr	9 yr	5 yr	9 yr
GPO (2,943 bargaining employees):											
Bookbinder	NA	Bookbinder: 21/2	$27,230	NA	$24,573	42.0	104.8	NA	NA	39.8	95.9
Compositor	NA	Compositor: 19/2	27,685	NA	23,320	37.5	98.6	NA	NA	39.6	97.0
Carpenter	Washington, D.C., area: WG9–5	NA	27,419	$21,286	NA	36.2	96.7	44.2	122.5	NA	NA
Electrician	Washington, D.C., area: WG10–5	NA	27,419	22,410	NA	36.2	96.7	44.4	123.6	NA	NA
Forklift operator	Washington, D.C., area: WG5–5	NA	18,009	16,559	NA	42.5	121.0	40.6	111.8	NA	NA
Janitor	Washington, D.C., area: WG1–5	NA	14,600	12,028	NA	42.4	121.0	36.9	101.3	NA	NA
Bureau of Engraving and Printing (1,870 bargaining employees):											
Bookbinder	NA	Bookbinder: 21/2	$27,230	NA	$24,573	42.1	104.8	NA	NA	39.8	95.9
Plate printer	NA	Plate printer: 27/2	36,873	NA	28,317	39.7	119.2	NA	NA	39.9	93.6
Compositor	NA	Compositor: 19/2	27,708	NA	23,320	37.6	98.8	NA	NA	39.6	97.0
Carpenter	Washington, D.C., area: WG9–5	NA	27,708	21,286	NA	37.6	98.8	44.2	122.5	NA	NA
Electrician	Washington, D.C., area: WG10–5	NA	27,708	22,410	NA	37.6	98.8	44.4	123.6	NA	NA
Forklift operator	Washington, D.C., area: WG5–5	NA	18,009	16,559	NA	42.5	140.4	40.6	111.8	NA	NA
Janitor	Washington, D.C., area: WG1–5	NA	13,860	12,028	NA	42.3	141.8	36.9	101.3	NA	NA
International Communications Agency (155 bargaining employees):											
Radio broadcast tech–3	Washington, D.C., area: WG10–5	NA	$32,192	$22,410	NA	47.0	96.7	44.4	123.6	NA	NA
Radio master control tech–3	Washington, D.C., area: WG12–5	NA	35,586	24,638	NA	46.7	95.3	44.9	124.9	NA	NA

APPENDIX IV.—SELECTED OCCUPATIONAL WAGE COMPARISONS BY AGENCY—Continued

	FWS comparables		Fiscal year 1981 earnings			Percentage pay increases[3]					
	Regular schedule[1]	Special schedule[2]	Bargaining	FWS		Bargaining		FWS regular		FWS special	
				Regular	Special	5 yr	9 yr	5 yr	9 yr	5 yr	9 yr
TVA (33,476 blue-collar bargaining employees and 17,076 white-collar bargaining employees):											
Machinist (B)	Nashville area: WG10–5	NA	20,673	19,934	NA	51.1	103.4	48.6	125.0	NA	NA
Electrician (B)	Nashville area: WG10–5	NA	20,673	19,934	NA	51.1	103.4	48.6	125.0	NA	NA
Steamfitter (B)	Nashville area: WG9–5	NA	20,673	19,017	NA	51.1	103.4	48.2	125.4	NA	NA
Unit operator (D–7)	Nashville area: WG10–5	NA	21,802	19,934	NA	50.5	100.1	48.6	125.0	NA	NA
Senior hydro operator (D–8)	Nashville area: WG11–5	NA	23,505	20,863	NA	50.5	99.3	48.9	124.1	NA	NA
Hydroplant operator (D–7)	Nashville area: WG10–5	NA	21,802	19,934	NA	50.5	100.1	48.6	125.0	NA	NA
Janitor (SF1–3)	Nashville area: WG1–5	NA	[4] 12,657	11,972	NA	[4] 35.2	[4] 85.9	44.9	116.9	NA	NA
Bonneville Power Administration (1,196 bargaining employees): [5]											
PS electrician	Portland area: WG10–5	PS electrician: I	28,255	23,426	26,162	52.0	118.9	47.1	NA	44.0	105.6
Janitor	Portland area: WG2–5	Janitor: A	[6] 16,396	16,672	15,692	26.1	81.7	45.1	NA	46.1	97.6
Laborer	Portland area: WG3–5	Laborer: B	20,068	17,715	17,280	52.2	118.9	47.0	NA	43.1	94.9
Carpenter	Portland area: WG9–5	Carpenter: G	26,681	22,590	24,207	52.0	118.7	47.0	NA	44.0	103.7
Machinist	Portland area: WG10–5	Plant mechanic: I	28,255	23,426	26,162	52.0	118.9	47.1	NA	44.0	1,05.6
Craftsman	Portland area: WG11–5	Craftsman: K	32,472	24,242	28,790	52.0	118.8	47.3	NA	44.0	104.0
Bureau of Reclamation—Grand Coulee Project (319 bargaining employees): [5]											
PS electrician	Spokane area: WG10–5	PS electrician: I	27,417	23,758	26,162	52.2	113.6	53.9	NA	44.0	105.6
Janitor	Spokane area: WG2–5	Janitor: A	17,273	17,363	15,692	56.1	NA	54.2	NA	44.1	NA
Laborer	Spokane area: WG3–5	Laborer: B	19,108	18,154	17,280	52.1	NA	54.0	NA	43.1	NA
Carpenter	Spokane area: WG9–5	Carpenter: G	25,304	22,969	24,207	50.9	NA	53.9	NA	44.0	NA
Machinist	Spokane area: WG10–5	Plant mechanic: I	27,329	23,758	26,162	51.7	NA	53.9	NA	44.0	NA
Electronic equipment mechanic	Spokane area: WG11–5	Craftsman: K	31,047	24,567	28,790	50.0	NA	53.8	NA	44.0	NA
Bureau of Reclamation—Boise-Minidoka project (79 bargaining employees): [5]											
PS electrician	Boise area: WG10–5	Electrician: I	$23,492	$20,676	$26,162	44.7	NA	45.4	NA	44.0	NA
Janitor	Boise area: WG1–5	Janitor: A	11,622	13,606	15,692	34.3	NA	38.8	NAD	44.1	NA
Laborer	Boise area: WG3–5	Laborer: B	11,558	15,143	17,280	33.6	NA	40.1	NA	43.1	NA
Plant mechanic	Boise area: WF10–5	Plant mechanic: I	23,492	20,676	26,162	49.7	NA	45.4	NA	44.0	NA
Bureau of Reclamation—Hungry Horse project[7] (17 bargaining employees): [5]											
PS electrician	Great Falls area: WG10–5	Electrician: I	26,496	23,244	26,162	47.9	107.8	55.5	NA	44.0	105.6
Janitor	Great Falls area: WG2–5	Janitor: A	15,902	16,417	15,692	61.9	NA	52.1	NA	44.1	NA
Laborer	Great Falls area: WG3–5	Laborer: B	15,902	[8] 17,267	17,280	61.9	NA	52.6	NA	43.1	NA
Plant mechanic	Great Falls area: WG10–5	Plant mechanic: I	26,496	23,244	26,162	47.7	NA	55.5	NA	44.0	NA
Electronic equipment mechanic	Great Falls area: WG11–5	Craftsman: K	27,748	24,095	28,790	47.2	NA	55.9	NA	44.0	NA
Bureau of Reclamation—Yakima project (14 bargaining employees): [5]											
PS electrician	Southeast Washington—East Oregon: WG10–5	Electrician: I	$24,487	$22,141	$26,162	37.5	NA	49.1	NA	44.0	NA
Plant mechanic	Southeast—East Oregon: WG10–5	Plant mechanic: I	24,487	22,141	26,162	37.5	NA	49.1	NA	44.0	NA
National Park Service—Coulee Dam National Recreation Area (31 bargaining employees): [5]											
Janitor	Spokane area: WG2–5	NA	17,273	[9] 17,363	NA	56.1	NA	54.2	NA	NA	NA
Laborer	Spokane area: WG3–5	NA	19,108	18,154	NA	52.1	NA	54.0	NA	NA	NA
Carpenter	Spokane area: WG9–5	NA	25,304	22,969	NA	50.9	NA	53.9	NA	NA	NA

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[1] Comparisons were made to step 5 which is the highest step of the FWS pay schedule. (See p. 3.) This step is 12 percent higher than step 2, which reflects the prevailing average private sector pay rate.

[2] Lithographic and printing plant wage schedule for Washington, D.C., area.

[3] 5-yr comparison is from 1977 to 1981 and 9-yr comparison is from 1973 to 1981.

[4] Omits mitigation adjustment.

[5] Pacific Northwest regional power rate schedules used by the U.S. Army Corps of Engineers Pacific Northwest Division to compensate employees involved in operating and maintaining hydroelectric generating facilities throughout the region.

[6] Higher rates are earned by incumbents due to grandfather provisions after a spot adjustment.

[7] This unit decertified its union in June 1981, but negotiated rates of pay remained in place through fiscal year 1981.

[8] The step 2 rate was $15,411 and is less than the bargaining rate.

[9] The step 2 rate was $15,506 and is less than the bargaining rate.

APPENDIX V.—STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS

	Collective bargaining provisions[1]	Comprehensive labor laws[2]	Employee coverage[3]	Scope of bargaining[4]	Impasse procedures[5]	Strike policy[6]	Percent of public employees represented by bargaining units by 1979	
							State	Local
Alabama	2		F, T	W, C		P	7.0	[illegible]
Alaska	1	X	S, L, T	W, H, C	M, A	LR	59.5	61.3
Arizona	3					P		32.4
Arkansas	3					P		[illegible]
California	1	X	T	W, H, C	M, FF	P		27.2
	2		S, L	W, H, C	M, FF	P		38.2
Colorado	3					P		35.7
Connecticut	1	X	S, L, T	W, H, C	M, FF, A	P	88.2	65.0
Delaware	1	X	S, L, T	W, H, C, G.	M, FF	P	43.8	66.0
District of Columbia	1	X	All	W, H, C	M, A	P		72.2
Florida	1	X	All	W, H, C	M, FF	P	44.3	44.2
Georgia	2		F	W, H, C	FF	P		2.5
Hawaii	1	X	All	W, H, C	M, FF, A	LR	60.3	64.8
Idaho	1	X	F, T	W, H, C, C.	M, FF	LR		29.7
Illinois	1	X	S, F	W, H, C	M, FF, A	P	36.7	33.5
Indiana	1	X	T	W, H, C	M, FF, A	P	4.2	35.6
Iowa	1	X	All	W, H, C	M, FF, A	P	29.4	40.9
Kansas	1	X	T	W, H, C	M, FF	P	17.2	23.8
	2		All	W, H, C	M, FF	P		[illegible]
Kentucky	1	X	F, P	W, H, C	M, FF	P		16.5
Louisiana	3					P	11.0	9.1
Maine	1	X	S, L, O	W, H, C	M, FF, A	P	38.8	41.1
Maryland	1	X	T, O	W, H, C	M, FF	P	2.4	59.0
Massachusetts	1	X	All	W, H, C	M, FF, A	P	79.4	65.4
Michigan	1	X	S, L	W, H, C	M, FF, A	P	42.3	62.5
Minnesota	1		All	G, H, C	M, A	LR	36.6	55.2
Mississippi	3					NP		1.1
Missouri	2		All except P, T.	W, C		P	20.4	20.4
Montana	1	X	All	W, H, C	M, FF, A	LR	32.8	36.9

APPENDIX V.—STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS—Continued

	Collective bargaining provisions [1]	Comprehensive labor laws [2]	Employee coverage [3]	Scope of bargaining [4]	Impasse procedures [5]	Strike policy [6]	Percent of public employees represented by bargaining units by 1979	
							State	Local
	1	X	All	W, H, C	M, FF, A	P	16.7	12.2
Nebraska	2		T	W,C	FF	P		23.4
	1	X	L	W, H, C	M, FF, A	P		68.9
Nevada	1	X	All	W, H, C	M, FF, A	P	49.8	32.4
New Hampshire	1		All, F,	G, C, W,	M, FF, A	P	61.1	57.1
New Jersey			P.	H, C.				
	1		S	C	M, FF	P	14.7	27.2
New Mexico	1	X	All	W, H, C,	M, FF, A	P	74.4	78.2
New York			except	G.				
			some					
			T, O.					
	3					NP		
North Carolina	1	X	T	W, H, C	M, FF	P	4.2	24.5
North Dakota	3					P	21.5	46.4
Ohio	1		O	C	FF	P		18.3
Oklahoma	2		F, P	W, H, C,	FF	P		7.8
				G.				
	1	X	All	W, H, C	M, FF, A	LR	52.0	61.4
Oregon	1	X	All	W, H, C	M, FF, A	LR	66.7	58.1
Pennsylvania	1	X	S, L,	W, H, C	M, FF, A	P	68.2	77.5
Rhode Island			T,					
			F, P.					
	3					P		.6
South Carolina	1	X	All	W, H, C	A	P	7.9	30.7
South Dakota	1	X	T	W, G, C	M, FF	P	.2	24.4
Tennessee	1		F, P	W, H, C	M, A	P		1.6
Texas	2		T	C		P		
	3					P	19.3	49.7
Utah	1	X	S, L, T	W, H, C	M, FF, A	LR	54.0	37.5
Vermont	3					P		
Virginia	1	X	L, T, S	W, H, C,	M, A	P	37.4	61.7
Washington				G, C.				
	2		O	W, C	M, FF	P		3.2
	3					NP		5.2
West Virginia	1	X	S, L,	W, H, C	M, FF, A	LR	44.5	53.7
Wisconsin			T,					
			F, P.					
	1		F	W, C	A	NP		24.0
Wyoming								

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[1] Collective bargaining provisions (1) statute or executive order which establishes the duty to collectively bargain, (2) meet and confer statute or (3) no collective bargaining law.

[2] Comprehensive labor laws establish the duty to collectively bargain between a public employer and an exclusive bargaining agent for all employees in a unit on wages, hours, and other terms and conditions of employment. They establish an independent administrative agency and procedures for unit and representation determinations. They specify methods for resolving impasses and many define unfair labor practices and grievance procedures. Also, in some States, these laws may cover only certain groups of employees.

[3] Employee coverage: All—All public employees; S—State employees; L—Local employees; T—Teachers; F—Firefighters; P—Police; and O—Others.

[4] Scope of bargaining: W—Wages; H—Hours; C—Conditions of employment; and G—Grievance procedures.

[5] Impasse procedures: M—Mediation; FF—Fact finding; and A—Arbitration.

[6] Strike policy: P—Prohibited; LR—Limited right to strike; and NP—No policy.

Note: Listing of States "with laws" and "without laws" may differ. Sometimes States are viewed as not having a "law" if the statute does not contain enforcement provisions or provide an administrative body to regulate the conduct of the parties.

Mr. MATHIAS. When the current Congress convened last year, and we were beginning our organization, it was apparent to me that the Joint Committee on Printing, which has now gone on for 122 years without substantial change, had really reached the point where we had to examine the whole structure. The tasks before us now are obviously more than had been contemplated in 1860, when the work was taken out of the hands of the various printing jobbers around town and put in a central office so the Congress could get reliable and dependable printing work done during the session.

We now have a national operation that affects all branches of Government. It is reaching toward a billion dollars in expenditures and it should be operated in the most efficient and cost effective way possible.

One of the first things I did when I became the chairman of the Joint Committee on Printing was to seek out someone from the private sector with vast publishing and printing experience who could help us structure the kind of management study which would be necessary. Unfortunately, the expert we were able to obtain was stricken and had a fatal illness, so that we were unable to have the benefit of his wisdom.

But we have gone forward with that process. In fact, we are now working cooperatively with the Public Printer, and I am glad to say we do have his cooperation in this matter, to develop a comprehensive study to define the role of the Government Printing Office, not just in the light of conditions as they exist in August 1982, but as we see the needs of the Government developing, as we see the technology of communication developing, so that the most effective, the most economical, and the most efficient systems can be used.

I think it is clear that the Government Printing Office has not been quick to adjust to technological changes over the years. What we have been doing in the last 12 to 18 months has been to try to make positive and forward-looking revisions in the structure.

When we get the results of this study—and it will be a very complex study that will take some time—we will evaluate the results to determine the policy that will serve the interests of the American people and their need to have information from Government that will serve the needs of the Government itself and that will serve the taxpayers who have to pay for the whole operation in the long run.

Now that is our goal.

Mr. ARMSTRONG. Will the Senator yield briefly for a question?

Mr. MATHIAS. I am happy to.

Mr. ARMSTRONG. I am very much interested in the study which the Senator has outlined. It seems to me it has substantial merit. I am wondering what the projected date for the completion of that study would be?

Mr. MATHIAS. Well, we are at this very moment defining the parameters of the study. I had hoped that we might have the results in January. I am now advised that that is an optimistic hope; that it is not likely that we could complete a study of this magnitude by January. But I would certainly hope that by this time next year we could have a total study that would look at technological changes that must occur, administrative changes that ought to be made and——

Mr. ARMSTRONG. Salary schedules.

Mr. MATHIAS. Salary schedules, it seems to me, should not be addressed in this study itself, but the institutions by which salaries are fixed ought to be addressed—the relationship of the Government Printing Office to the

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Congress. The Joint Committee on Printing is not only a congressional oversight committee. It is actually the board of directors of the Government Printing Office.

I think we have to ask ourselves whether or not Members of either House of Congress should actually be operating a very big business in the course of their legislative duties. It is not a legislative function. Perhaps the Congress, in its wisdom, will decide it wants to continue that arrangement. But after 122 years, I think it is time to at least look at it.

Mr. ARMSTRONG. Mr. President, if the Senator would yield briefly, his response is most helpful to me and I am sure of interest to all Senators. I have two additional questions which I can state sort of as a double-barreled question and perhaps the Senator could enlighten us on those as well.

One is, there is an allegation that a study of the cost of work to user agencies by the GPO shows, on some number of jobs, that the GPO costs compared to bids from the private sector was approximately double.

My other question is a question of staffing which relates to the issue of declining volume. As I understand it, the Public Printer sought to furlough some employees and in fact under the Kiess Act was not only permitted to do so but was required to do so, in the finding of Judge Gasch, were it not for the intervening of the Joint Committee in its May 11 resolution, which according to the court superseded the ordinary Kiess Act procedures.

So my questions are, first, is there any truth to this business that printing is costing agencies twice as much if it comes through the GPO as the private sector and, second, is there something we do not understand about why he was not permitted to furlough people that would otherwise have been furloughed?

Mr. MATHIAS. Let me address the Senator's second question first. The question of how many people you need to have working at GPO is affected by the demand for the product, like any other business be it Government or private. Government printing tends to be somewhat seasonal. Obviously, when the Congress is not in session, there is no CONGRESSIONAL RECORD; and I could go on with other examples of how the activities in Government itself affect the need for the consumer's products.

Now, when the Congress is in session 5 days a week and sometimes for 18 or 20 hours a day, the need for the product goes up. And in the operation it would be not only heartless but it would be uneconomical to fire people and rehire them. You have to have a stable work force.

It may be that in slack periods they could reduce the work force, but in heavy periods they need more people than they have.

So you try to work out some kind of reasonable average, some kind of prudent mean, by which you keep the force stable and effective.

There was a difference of opinion between the Joint Committee on Printing and the Public Printer as to what was that happy medium, where should you fix that average between what you need in your periods of slack work and what you need in your periods of greatest demand.

The law imposes that decision on the Joint Committee on Printing. It simply exercised its judgment in that respect. We may be right or we may be wrong, but when we get to the larger study of how the whole system operates, I think we will find a better way in this modern climate to make those decisions. We did the best we could. I think we did the right thing, but all of that will be reviewed in the larger management study.

As to the question of whether or not some materials are more expensive and could be purchased cheaper on the private market, I have no doubt they could. If you took the CONGRESSIONAL RECORD and told a private printer that you did not need delivery until a month after the date of the session of Congress and, therefore, he had the opportunity to review in a leisurely way and a programed way the material as it came in, he had a couple of weeks to set the type, a couple of weeks to read the galley proofs, and a couple of weeks to make deliveries, I am sure you could cut the cost of the CONGRESSIONAL RECORD way down.

But when you say to the employees of the Government Printing Office, "We want the CONGRESSIONAL RECORD and we want it on our desk at 9 o'clock tomorrow morning. We do not care whether the Senate was in session until 3 in the morning we still want it, and we are going to have it, and we do not care what it costs," then I say to the Senator from Colorado, you are going to pay a little more for that service.

We could contract out the CONGRESSIONAL RECORD, which would lengthen the production time, and we could get it cheaper. But that is a decision, I think, that Congress itself will have to make.

This is the kind of thing that has to be looked at in this study. For example, committee reports: do they have to be done by the Government Printing Office? Could they be contracted out if we accept whatever delays are involved, whatever inconveniences in having congressional printing done at a greater distance from the committee staffs, and the lack of ability to make last-minute changes and corrections? All of that is part of the kind of study that we are about to do.

Mr. ARMSTRONG. If the Senator will yield to me, I am prepared to conclude the consideration of this matter very quickly, and I would like to do so first by thanking the distinguished chairman, the Senator from Maryland, for a most interesting report on not only the activities of the committee but particularly I have found extraordinary his plans for the future, the fact that he is going to look into technology, that he has a consultant coming on board to look into these issues. I believe him to be 100 percent correct.

I am not without some experience in the printing industry. I have been through the process he described of taking over and subsequently modernizing a printing operation in a much smaller field, of course, than the GPO. I am no longer in that business, I will make clear. But I have an appreciation of the facts he has mentioned. I wish him well in that effort. It is very important.

Second, I want to acknowledge one thing he mentioned in passing, and that is the fine people in the GPO. I do not know all of them, but I know a few of them. The ones I have come into contact with, including Mr. Sawyer, have impressed me.

It does seem to me that some very serious questions have been raised by the Public Printer who says that Federal employees at the GPO are paid substantially more than those in comparable positions elsewhere in the private sector and in the Federal Government. The General Accounting Office, in substance, agrees with him. There is the question of whether or not agencies overpaid for work at the GPO. Then there is the question of furloughs.

Underlying all of this is the broader gage management issue which the Senator has addressed in a thoughtful way.

Here is what I would like to do, Mr. President, because I am conscious of the desire of the Senator from Oregon to get on with the bill. I think it has been useful to bring this matter to the attention of the Senate this afternoon. In a moment, with the concurrence of the Senator from Georgia, I would propose to withdraw the amendment. Not to take it down for all time but simply to lay it aside for consideration after we have all had a chance to reflect on what has been said here and upon the issues, and even to read in detail the General Accounting Office report. I think perhaps I am the only Senator who has had an opportunity to do that thus far, and also to read some of the other material which has been included in the RECORD to this point.

Mr. President, I do ask unanimous consent that there be printed in the RECORD at this point a report entitled

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"Cutting Waste and Fraud at the Government Printing Office," a document distributed by the Public Service Research Council. It is a compendium of clippings about this matter from U.S. News & World Report of July 12, a report entitled "When a Federal Fat-Trimmer Wields His Knife;" from the Columbus Dispatch, April 30, 1982, "Uncovering Waste at the GPO;" from the Pittsburgh Press, under date of June 1, 1982, an article by the distinguished columnist Donald Lambro, headlined "A National Scandal in Printing;" from the Washington Times of June 18, an article entitled "GPO Bureaucracy Presses On," from the Chicago Tribune, June 8, 1982, "Federal Printers' Big Wages Rapped by Boss;" from the New York Times of May 10, 1982, "Printing Office Keeps Eye on Bottom Line;" another article from the Washington Times; an editorial from the Holland, Mich., Sentinel; an article by James J. Kilpatrick, which appeared in many papers but is reproduced here from the Baltimore Sun; from the Paducah, Ky., Sun, of June 23, 1982, an editorial entitled "Why It's Hard To Cut the Budget;" and a number of others which are contained in this report. They are serious, thoughtful questions which deserve to be dealt with in a serious, thoughtful way.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

[Cutting Waste and Fraud at the Government Printing Office]

DANFORD L. SAWYER VS. THE UNIONS AND THE JOINT COMMITTEE ON PRINTING

(As Seen By The Nation's Press)

[From the Washington Times, June 15, 1982]

A RAGING DEBATE

In the looming showdown over runaway government printing costs, Congress itself must decide whether or not to pull in the reins on one of its most cherished perks . . . The bottom line is that the Public Printer has uncovered incredible waste and inefficiency in the GPO, and the responsible Congressional Oversight Committee has refused to act responsibly in response to those findings and has, in fact, worked against Sawyer's recommendations.

CONGRESSMAN JOHN LEBOUTILLIER.

[From the Enterprise News Service]

The average GPO employee makes a salary of $25,000 a year. GPO craft employees earn a mean average of 22% more than their compatriots in both the federal sector and in the private sector . . . The end result is that the typical job produced by the Government Printing Office costs about twice what it would if we produced it in the private sector.

DANFORD L. SAWYER, JR.

[From the Congressional Insight, July 11, 1982]

Public Printer goes after costs . . . and finds a hornet's nest. The GPO chief had planned on furloughs as part of a cost-cutting effort at his agency. But the congressional panel with oversight over GPO objected . . . Sawyer isn't afraid to make waves . . . He says there's collusion between unions and printing committees. Campaign donations encourage key panel members to agree to union demands.

[From the Pittsburgh Press, May 3, 1982]

Due to a cozy—some would say incestuous relationship over the years between Congress Joint Committee on Printing and GPO's 22 unions, the wages paid to the agency's 6200 workers are the highest anywhere in the industry . . . Over the years, whenever an impasse was reached in bargaining talks, GPO's unions usually went to the committee, where its sympathetic . . . members—many of whose campaigns are supported by these very unions—went along with their demands.

DONALD LAMBRO.

[From the Washington Report]

The GPO, which prints most congressional and executive branch documents, is required by law to operate in the black. But when Danford L. Sawyer was named chief of the office by President Reagan . . . he feared that it would be difficult to comply with the law . . . The Sarasota, Fla., publisher found that the GPO was a scene of "extraodinary waste and inefficiency." Sawyer learned that his predecessors had turned a profit by charging Congress and the agencies—and ultimately taxpayers—inflated prices for the GPO's work.

[From the Kiplinger Washington Letter, May 21, 1982]

The Government Printing Office is a big, wasteful, overstaffed place, riddled with unions and political cronies who earn more than commercial printers pay their help. Reagan's appointee at GPO is trying to run it like a business . . . cut waste and deadwood. But a congressional committee disapproves, claiming that it's in charge of GPO. Reagan's man refuses to knuckle.

[From the Columbus Dispatch, Apr. 30, 1982]

SAWYER SWINGS AX IN PRINTING OFFICE

(By Donald Lambro)

Danford Sawyer, the nation's 18th Public Printer, inherited a scandal when he took office over the Government Printing Office—an agency victimized by featherbedding, overtime abuse, inefficiency and what Sawyer terms "unconscionable" pay scales.

Established by Congress in 1860 to print its verbose debates, hearing records and reports, as well as other government publications, the GPO is Congress' ultimate sacred cow. Overseen by the Joint Committee on Printing, whose members campaigns are heavily bankrolled by organized labor, the GPO's 22 labor union's have for years been generously catered to by the committee.

The bill for such congressional paternalism is a fat $160 million in payroll and benefits; GPO printers earn an average of $11.78 an hour, compared to $8.29 for the printing industry nationwide. Overall, GPO workers average $25,000 a year, significantly even more than their counterparts elsewhere in the government.

This is in large part why GPO's inhouse printing and binding budget has grown to more than $181 million a year.

Sawyer—a feisty 42-year old professional cost accountant who ran a successful advertising and publishing company in Sarasota, Fla., before Ronald Reagan picked him to run GPO—has attacked the agency's costs with a vengeance. He has slashed overtime, moved to reduce its 6,200 workforce through attrition and early retirement, and closed down some of the agency's money-losing regional bookstores. But what has the unions and their congressional benefactors screaming is Sawyer's unprecedented proposal for a 22 percent pay cut.

"GPO is overpriced, overstaffed, overpaid and inefficient," Sawyer said in an interview in his exquisitely paneled office. What angers him is GPO's printing prices, which are "generally twice what the private sector would do it for."

Says Sawyer, "If there is always somebody out there willing to do the job on that basis, why do we do anything inhouse? Why do we burden ourselves with an operation that has a payroll of $160 million a year? Why do we pay the highest wages in the Western world for the classes of work done here?

In recent years, GPO has been agonizingly inching its way into the modern printing era—a move the printers' unions, fearful of job losses, have not exactly championed.

"We still have these linotype machines," complains Sawyer. "We're still training people as monotype operators and castermen," throwbacks to the days of William Randolph Hearst, instead of swiftly changing over to all-electronic photocomposition—which Sawyer says, could be done in six months.

"If someone were to ask me how many people could you RIF (reduction in force) out of here, I'd say 800 to 2,000," Sawyer says.

The Florida millionaire, who sold his business enterprises before accepting his present job, has taken some controversial steps to clean up the agency and cut costs. He has reduced overtime by a minimum of $500,000 and possibly by as much as $900,000. Before he got there, "overtime was being used on an unbelievable scale," he says. He has pushed for furloughs to curb an excessive payroll that consumes more than 80 percent of its in-house budget.

Sawyer, who says, "I don't take orders very well," isn't flinching from the heat he's getting from powerful congressional barons who want to preserve the status quo at GPO. Not known for mincing words, Sawyer thinks "quite frankly, the whole operation could be done by the private sector." Yet he believes that, within limits, there is a need for a GPO.

But he also thinks that government printing that costs taxpayers up to twice what is charged in the private sector, "is a scandal."

[From the U.S. News & World Report, July 12, 1982]

WHEN A FEDERAL FAT-TRIMMER WIELDS HIS KNIFE

(By Joseph P. Shapiro)

Marches on the Capitol, protests from lawmakers, court suits—the reaction to cost cutting in one agency is widespread and furious.

A Reagan appointee who expected to bring business efficiency to government is discovering it is far easier to spot public waste than to correct it.

Former businessman Danford L. Sawyer, Jr., is hitting one roadblock after another in trying to curb the "extraordinary waste" he says permeates the 670-million-dollar-a-year Government Printing Office, which he has headed for a year.

Some 1,000 angry GPO workers marched on the Capitol on June 29 to protest, among other things, Public Printer Sawyer's attempt to bring down their wages.

The same day Sawyer was called before the House District of Columbia Committee for a tongue-lashing from members opposed to his idea to save money by closing down GPO for six days. GPO's 6,200 employes on July 2 won a court order blocking the plan.

Sawyer also is under orders from the Congressional Joint Committee on Printing, which oversees the agency, not to proceed with another proposal to close 22 of GPO's 27 bookstores.

"I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place," the blunt-talking, former Florida advertising man and publisher told a columnist.

Sawyer's chief target is the agency's "scandalous" labor costs. GPO craft and industrial workers are paid an average 22 percent more than those in comparable jobs in government and the private sector, Sawyer says. As a result, a typical printing job done by the GPO costs about twice as much as a private printer charges for the same work.

What's more, Sawyer contends that GPO is saddled with too many employes, antiquated equipment "dating back to William Randolph Hearst" and management policies that would make a private-sector executive cringe.

Comments Representative Eugene Johnston (R-N.C.), who formerly ran a printing company: "If GPO were a private printing establishment, it would have collapsed long ago."

The GPO was established by Congress in 1860. Now the largest agency within the legislative branch, it publishes the daily *Congressional Record*, hearing transcripts and reports as well as other documents. It operates from a revolving fund established by Congress and is required to charge other agencies and the public for its products. The agency is projected to run 5 million dollars in the red this year.

Not all of Sawyer's cost-cutting measures have been thwarted.

In the past year, hiring has been frozen, overtime pay cut sharply and a request is pending to offer "early out" retirement to senior workers. Over all, attrition has reduced GPO's payroll by 400—far short of the 1,700 Sawyer wants to cut within three years.

GPO also has begun farming out more printing to private firms. It has canceled plans for a new 268.8-million-dollar plant and tightened purchasing procedures. Thousands of slow-moving GPO publications have been scrapped, including Culture of Sugar Cane for Sugar Production in the Mississippi Delta, which sold two copies in 1981.

During recent contract bargaining, Sawyer shocked unions with a final offer of a 22 percent pay cut over two years to bring salaries in line with those at other federal agencies.

Employees in 22 GPO unions around the country heatedly dispute Sawyer's figures. "Antiworker propaganda," says William J. Boarman, president of the Columbia Typographical Union, whose own figures show GPO wages comparable to those in similar union jobs elsewhere. The unions are asking an average 20 percent wage increase.

Meanwhile, GPO employes are working without a contract while Congress, the final arbiter in such disputes, waits for the recommendations of a fact finder.

What finally brought Sawyer's cost-cutting rampage to a halt—at least temporarily—was his plan to lay off all GPO employes for six days.

That was too much for the Joint Committee on Printing. The committee prizes its record of maintaining harmony between unions and the public printer. When the unions complained, the panel quickly passed a resolution forbidding Sawyer to impose any "furloughs, reductions in force or other adverse personnel actions." Says Staff Director Thomas J. Kleis: "The basic issue is who's in charge."

IS IT LEGAL?

Sawyer, questioning the legality of the committee's action, vowed to go ahead with the furlough plan. "The real economic impact of this is that [employes] are not going to be able to go to Pizza Hut on Friday night," he says. "They're all screaming like pigs. It's absurd."

The unions averted the layoffs, at least for now, with their federal court victory. Sawyer says an appeal is being considered.

Although relations are strained between Sawyer and members of the printing committee, he has become a hero to others in Congress. Supporters in both houses are pushing resolutions endorsing his efforts and calling for legislation to strengthen his hand. "Either we want to control government spending or we don't," asserts Senator William Armstrong (R-Colo), a Sawyer backer.

[From the Pittsburgh Press, June 1, 1982]

A National Scandal in Printing

(By Donald Lambro)

Federal agencies are needlessly operating printing plants around the country, churning out hundreds of millions of dollars in printing that costs up to 16 times that of commercial companies.

My continuing investigation into the government's multibillion-dollar printing business reveals a nationwide scandal for which taxpayers have been paying for decades.

But instead of cleaning up the problem, Congress has let it grow to the point where there are now nearly 300 federal printing facilities across the nation, 60 of them in Washington, D.C., alone.

The result: an inefficient, overpaid and little-known printing empire that each year contributes substantially to the government's mounting debt.

The Government Printing Office, an arm of Congress, is by law the government's printer. Yet it processes—prints in-house or procures commercially—only about one-third of the estimated $2 billion to $3 billion in government printing.

However, as government grew, many agencies demanded their own printing plants. Congress' Joint Committee on Printing complied by granting waivers from the law.

My inquiry into the Government Printing Office shows that its printing costs are often about twice those of commercial firms. But a study last year by the General Accounting Office showed that costs in federal printing shops elsewhere have been up to eight times those of the GPO.

Although in recent years more government printing has been done commercially, the GAO says "little has been done" to economize.

"The net effect," says GAO, "is that the agency printing structure has remained relatively intact," even though commercially procured printing has risen and use of government copying systems (which reduce printing needs) has escalated sharply.

The controversial new chief of the Government Printing Office, Danford Sawyer, pushed last year for a complete rejustification of these agency printing outfits, believing that most were unneeded.

With taxpayers losing $71 million a year, at a minimum, he said, Congress could no longer "sit idly by and let such neglect, delay, duplication and waste continue."

Mr. Sawyer pressed for a survey by various groups, including the Joint Committee on Printing, chaired by Sen. Charles Mathias of Maryland. But he balked at the idea.

"We ran into a great deal of resistance" from the committee, says an official of the Government Printing Office. "Frankly, they don't want their record in this area examined. If this stuff is exposed to the light of day, it's going to be rather embarrassing."

[From the United Features Syndicate, June 11, 1982]

Millions Lost To Featherbedding

(By Donald Lambro)

A secretary is asked by an agency supervisor to type the text of an annual report on a computer tape that is sent over to the Government Printing Office for publication.

The tape is to be run through an electronic photocomposition typesetting system, through which the type size and other display details are punched into the computer and the machine does the rest. In this way, the government saves the considerable time and expense of having the copy "set" by highly paid GPO workers.

Yet instead of using these prepunched tapes sent in from the agencies, GPO printers have been destroying them and repunching the copy, according to officials in the legislative branch agency. The reason: to provide work for GPO's overstaffed army of printers.

"Quite a few agencies are sending us these tapes," says a top official, "but to preserve the jobs of the Columbia Typographical Union members, the printers have been destroying the tapes and resetting the stuff here."

GPO Chief Dan Sawyer, the hard-charging Reagan administration appointee who has been shaking up the agency and challenging Congress' blank-check policies toward it, says GPO "is overstaffed, overpaid and grossly inefficient." He is known to be "looking into the (union contract) legalities" behind the tape-destroying scandal, but in the meantime, the practice continues.

"The difference in pay on this is staggering," says a GPO executive. "While a secretary who can easily type up the tape may earn $15,000 a year, some of the people over here are being paid $33,000 to $35,000." The average annual GPO salary is $25,000.

Further examples of union featherbedding, officials say, can be found in GPO's proofreading operations. "We have two proofreaders for every printing job," says Sawyer. "They don't do that in the commercial world anymore, but they still do it here."

These and other costly and wasteful practices—which contribute to GPO's swollen $180 million-a-year budget—have been condoned and nurtured by Congress' Joint Committee on Printing (JCP), which has historically given GPO's workers pretty much what they have wanted.

While auto, meatpacking and other recession-hit industries have been swallowing wage concessions to keep their jobs, GPO's unions are demanding a 20 percent raise

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over the next two years. Sawyer has shocked the unions and JCP members by proposing a 22 percent pay cut over the next two years. This would save $18 million a year and bring the agency's 6,200 workers in line with private-sector salaries.

However, the JCP appears unconcerned by the agency's excesses and abuses, as witness their adoption of a resolution on May 11 which declared, "That no furloughs, reductions in force or other adverse personnel actions shall be imposed upon GPO employees." Instead, in true bureaucratic fashion, the JCP wants "a study of the long-range printing needs" of the government "to determine the future technological and personnel requirements of the GPO."

During an unusual closed door session on the resolution, JCP members were seen huddling outside the committee room with union officials who demanded quick congressional action to stop Sawyer's cost-cutting efforts.

In particular, Reps. Augustus Hawkins, D-Calif., and Joseph Gaydos, D-Pa., whose campaigns are generously supported by GPO's unions, were seen talking several times with William Boarman, president of the CTU, the most militant of GPO's 22 unions.

Nonetheless, the gutsy Sawyer, a former Florida publishing executive, plans to furlough all GPO workers for a total of six days over the remaining year. Citing "serious losses in our printing and binding operations," Sawyer says he has the legal authority to carry it out.

At the same time, Sawyer has been quietly campaigning on Capitol Hill for his pay reductions. His goal: congressional rejection of the JCP's expected approval of a hefty wage hike for GPO, which is being demanded in the midst of the biggest federal deficit in history.

GPO's controversial new chief quietly pushed last year for a complete rejustification of agency printing outfits, believing that most were unneeded.

Sawyer pressed for a survey by GPO, the Office of Management and Budget, and the JCP, chaired by Sen. Charles Mathias of Maryland. But Mathias balked at the idea, not wanting OMB, an executive agency "looking over our shoulder," Sen. Wendell Ford of Kentucky agreed, saying, according to the minutes of the meeting, "As long as we can keep OMB out, the better off we are going to be."

"We ran into a great deal of resistance" from the committee, conceded a high GPO official. Frankly, they don't want their record in this area examined, if this stuff is exposed to the light of day, it's going to be rather embarrassing."

Thus, instead of the 50-state review Sawyer demanded, the JCP agreed only to a watered down pilot study of facilities in New York City. Not surprisingly, the confidential report arising from that inquiring recommended that virtually all of plants examined be closed down and their work processed through the regional GPO office in that area.

But the bulk of the scandal remains.

[From the Oakland (Calif.) Press, May 20, 1982]

Remarkable Inefficiency Wins Stamp of Approval

(By Joe Grimm)

It is a textbook tale of government waste.

In recent weeks, columnist Donald Lambro has reported on practices in the U.S. Government Printing Office (GPO) that defy belief.

For example:

The Federal government pays nearly twice as much to do its own printing as it would pay if private business did the work.

The average GPO wage in $11.74 an hour compared to the $8.39 an hour paid to people doing the same jobs for private business.

On average, GPO employees are paid 22 percent more than their counterparts in the federal government.

Nearly a third of the GPO's 6,200 employees are not even needed. While the rest of the world uses photocomposition, the federal government trains new hirees to operate antiquated linotype machines.

$11 million worth of GPO publications were recently sold for scrap because none of the titles were selling even 50 copies a year.

This week, next week, every week, the equivalent of one tractor-trailer load of published material is hauled into warehouses because the federal government will not pay to mail it out but refuses to turn off the presses.

The story was to have a happy ending, though.

Danford Sawyer, a former advertising executive and now the man in charge of the GPO, planned to gut the waste and inefficiency from his department.

Beginning June 1 and continuing for seven months, he planned to give GPO employees six days off without pay.

To bring employee's salaries in line with the salaries of other federal employees, he planned a 22-percent wage cut.

Although he has not made any firm proposals, Sawyer has hinted he will do something about reducing his surplus of 2,000 employees.

Here was an opportunity to save millions of tax dollars without cutting a single food stamp or welfare payment. Here was a man who was in the position and the frame of mind to do it.

It may never come to be.

The House Joint Committee on Printing stands in the way with a five-paragraph resolution.

The first paragraph notes, "Whereas . . . it has always been the policy of the Joint Committee on Printing . . . to supervise and conduct government printing business on a cost-effective and efficient basis."

The last paragraph concludes, ". . . No furloughs, reductions in force or other adverse personnel actions shall be imposed on GPO employees . . . until a study of the long-range printing needs of the federal government has been conducted. . ."

Who is on this Joint Committee on Printing that is so reckless with our wallets?

It has five Republicans and five Democratic senators or representatives who, for the most part, receive heavy contributions from the 22 unions that represent almost all GPO employees. For example Sen. Charles Mathias, R-Md., committee chairman received $46,000 from GPO unions for his 1980 campaign.

It is likely the committee's authority to tell Sawyer how to do his job will be decided in court—at our expense.

Urge your elected senators, your congressman and the president to pressure the committee to allow Sawyer to do the job we all want him to do.

GPO Bureaucracy Presses On

(By Phyllis Schlafly)

Who will win the battle? Ronald Reagan in his valiant attempt to make the federal government less costly? Or the bureaucracy that wants to perpetuate its sinecure of high pay, vast power and generous perks?

A classic confrontation, pitting these two irreconcilable goals against each other, is taking place today in the Government Printing Office.

Danford L. Sawyer, Jr., a successful Florida businessman and cost accountant, was appointed by President Reagan to head the GPO. He moved swiftly to make this $700 million agency with 6,200 employees more efficient and economical. The bureaucracy has counterattacked with a vengeance.

What brought the issue to a head was Sawyer's decision to reduce some of the agency's losses by furloughing GPO employees for six days during the last seven months of 1982. Since some 9 million Americans are currently "furloughed" indefinitely (laid off and unemployed), it doesn't seem unreasonable for some government employees to take six days without pay, especially when the six days are spread over seven months and tied to periods when the GPO printing plant will be shut down for lack of work.

Many other reasons exist for requiring GPO employees to bite the bullet during this recession, as so many other U.S. workers have to do.

The average hourly earnings of GPO employees are $11.78, compared to $8.39 in the printing industry as a whole. GPO compositors receive a $14.35 per hour; but private-sector compositors receive only $11.91 per hour. GPO employees get an average wage of $25,000 per year, more even than their counterparts in other federal departments.

The Government Printing Office can hire private-sector printers to do the government's printing at about 50 percent of the GPO's printing cost. As a result, about 70 percent of the GPO's printing volume is contracted out to private printing companies.

Sawyer says the GPO is "overpriced, overstaffed, overpaid and inefficient." He doesn't understand why the GPO should pay the highest wages in the world for work that can be done in the private sector at half the cost.

When public printer Sawyer started to implement his cost savings, the nine unions that represent GPO employees ran to their friends in Congress and got the Congressional Joint Committee on Printing to pass a resolution May 11 forbidding Sawyer to impose any "furloughs, reductions in force or other adverse personnel actions." The committee didn't bother to consult with Sawyer before passing this resolution.

Sawyer believes the resolution is illegal because it amounts to a committee resolution attempting to contravene two congressional statutes. The Civil Service Reform Act of 1978 permits the GPO management to implement a furlough, and 44 U.S.C. No. 305 prohibits the public printer from employing more persons than are absolutely necessary.

Others have challenged the propriety of the committee action because of an alleged "incestuous" relationship between the Joint Committee and the GPO's unions. The Joint Committee has wage-setting authority and the unions make heavy campaign contributions to the congressmen on the committee.

Sawyer has already implemented other cost savings since he took command. After discovering a heavy abuse of overtime, he cut overtime costs by $500,000 to $900,000. He reduced the number of GPO employees through a hiring freeze, attrition and retirement. He thinks the GPO force should be reduced by another 800 to 2,000 employees. He raised the sales price of publications that were underpriced.

The Government Printing Office has three main functions. It does in-house printing of documents for Congress (such as the Congressional Record); it arranges to have printing done for other federal agencies; and it sells some documents through the Superintendent of Documents division.

The sales program is mandated to operate on a break-even basis, but it lost $20 million in the last three years of the Carter administration. Under Sawyer's efficient management, it made a $2 million profit in the first four months of fiscal 1982. Sawyer cleaned out the GPO warehouses of publications that were not selling and sold them as wastepaper for $760,000.

When private businesses experience a decline in orders and an excess of personnel, they reduce employees or they go bankrupt. When the Government Printing Office experiences these problems, it should not be permitted to load its deficits onto the taxpayers.

[From the Chicago Tribune, June 6, 1982]

FEDERAL PRINTERS' BIG WAGES RAPPED BY BOSS

(By James Coates)

WASHINGTON—Danford Sawyer Jr., whose duties as Public Printer of the U.S. include publishing virtually every official word uttered into a Capitol Hill microphone, wants to slash the wages of the employes who set his type, run the presses and bind the books.

At the Government Printing Office (GPO), these members of the printing trades—as well as electricians, carpenters and sheet metal workers—are earning thousands of dollars a year more than those in similar union jobs elsewhere, according to Sawyer, a Florida advertising executive before joining the Reagan administration.

For this reason, he says, it costs twice as much each day to pay unionized government workers to print such documents as the Congressional Record or the Federal Register as it would if the work were done by a unionized private printing firm.

"The average GPO employee makes a salary of $25,000 a year," Sawyer said in a speech before an anti-union group, the Public Service Research Council, based in suburban Virginia.

Sawyer draws these comparisons between the federal printing operation and those in the private sector:

GPO craft employees earn an average of 22 percent more than their fellow craftsmen in both the federal and the private sector.

The high labor costs at GPO account for 80 percent of the operation's overhead, whereas printers' wages in the private sector are about 40 to 50 percent of overhead. As a result, "the typical job produced by the Government Printing Office costs about twice what it would be if we procured it in the private sector," Sawyer says.

77 percent of the costly GPO printing is done for Congress, which last year spend $181 million to produce complete texts of all House and Senate debates, transcripts of all congressional commmittee hearings, along with accompanying exhibits, and the Federal Register, which prints all rules and regulations issued by the government each business day.

Sawyer and his associates are busily lobbying on Capitol Hill in an effort to cut back wages at the GPO and initiate other economies after the current union contracts expire June 18.

The Public Service Research Council, a private group that draws heavily on the support of the New Right direct-mail fundraiser, Richard Viguerie, and similar sources, has become a major advocate for Sawyer's position, said George Bevel, the council's senior vice president.

The critics point out that although the GPO spent $646 million on printing last year, $465 million was spent hiring outside printers to produce books, pamphlets and other items for federal agencies. Most of the GPO's printers worked directly for Congress, doing $181 million worth of printing for its 535 members.

One list of wages Bevel and Sawyer are circulating on Capitol Hill indicates that GPO typesetters are paid $14.35 an hour while their counterparts at newspapers and magazines published here average $11.91. Typesetters in nearby Baltimore, however, are paid only $9.52 an hour and in Philadelphia $10.05.

The GPO pressmen are paid $14.84 an hour, while Washington pressmen earn $13.09, those in Baltimore $10.45, and Philadelphia $9.91.

In a recent letter to Sen. John Warner (R. Va.), Congress' General Accounting Office (GAO) reported that the GPO's work force also earns substantially more than do other federal workers in most government jobs.

The reason for the higher GPO wages, the GAO study says, is that the print shop's unions bargain collectively with the Public Printer and Congress, while most federal workers have their income set, administratively under the Federal Wage System (FWS).

As a result, the GAO said the electricians hired at the GPO earn $27,419 a year, while other government electricians earn $22,410. Similar differences were noted for carpenters, janitors, forklift drivers and others.

During bargaining sessions with representatives of nine major unions last week, Sawyer demanded that the workers accept an average pay cut of $5,500 a year, or 22 percent. That would bring the GPO scales down to the FWS level, he argued.

Sawyer also demanded that the unions agree to take six "furlough" days off without pay in coming months to recover $4.2 million that could be applied to the agency's operating losses.

The unions, including the International Typographical Union and the Sheet Metal Workers, rejected these demands. The unions proposed that instead of taking a cut they be given a 20 percent pay increase of $5,000 a year.

"Needless to say, we are at an impasse," said the GPO's lobbyist, Judith Morton. "There are more, than 40 percentage points between our offer and their demand."

As a result, she said the Congressional Joint Committee on Printing will take over bargaining with the workers. The panel could seek a compromise, side with Sawyers or accept the union demand.

"If you look at the make-up of the committee, I don't think Mr. Sawyer stands a snowball's chance," said Bevel of the Public Service Research Council.

The Chairman of the committee is Sen. Charles Mathias, a Republican from Maryland, where 2,929 of the 6,000 GPO employees live. The vice chairman is Rep. Augustus Hawkins (D., Calif.), an outspoken labor advocate.

Mathias has said he wants to delay any sweeping changes at the GPO "until a study of the long-range printing needs of the federal government has been conducted."

In early May the joint committee of House and Senate members voted a resolution to reject an earlier economy move proposed by Sawyer that would have required all GPO printers to take the Tuesday after Memorial Day as an unpaid holiday.

"Let me point out that most of the furlough days are wed to holiday weekends," Sawyer said. "Many employees would not show up anyway, and we have also taken into account the fact that the Congress would not be in session at these times either."

The GPO officials said they did not have a Memorial Day furlough only because Congress stayed in session later than expected in a failed effort to vote a budget resolution. The GPO will insist on a July 4 furlough, however, Morton said.

A major activity of the GPO is to produce the daily Congressional Record, a volume of about 200 pages that includes virtually all House and Senate floor discussions.

One of Sawyer's complaints, Morton said, is that the GPO pays two proofreaders to check each page while most private printing concerns use only one proofreader. The GPO proofreaders earn an average of $33,000 a year.

Morton disagreed with Bevel's assessment that the proposed cutbacks "don't have a snowball's chance." She said that recently a number of powerful conservatives have come to the GPO management's aid and urged their colleagues on the Joint Committee on Printing to order economies.

Morton said the GPO has enlisted Sens. Strom Thurmond (R., S.C.), John East (R., N.C.), Mack Mattingly (R., Ga.), Bill Armstrong (R., Colo.), and Rep. Robin Beard (R., Tenn.) to lobby for cuts.

"With that kind of help from distinguished members (of Congress) and with the national mood for economy in government spending, I think we have much more than a snowball's chance," she said.

[From the New York Times, May 10, 1982]

PRINTING OFFICE KEEPS EYE ON 'BOTTOM LINE'

(By Ann Crittenden)

WASHINGTON, May 9.—All over Washington, conservative Republican-businessmen are attempting to remake huge Federal agencies in the image and likeness of the Reagan ideal, the corporation. Nowhere is the experiment going on more quietly or more aggressively than up on Capitol Hill in a red-bricked complex with 33 acres and more than 6,000 employees under its roof.

Danford L. Sawyer Jr., who until recently was running a large advertising agency in Sarasota, Fla., has already transformed the sales operation of the 122-year-old Government Printing Office into a profitable business. Though officially he is the public printer, Mr. Sawyer, in his own mind, is guided by what he frequently refers to as "the bottom line."

"It's no secret that the overwhelming majority of the people Reagan appointed are businessmen," the amiable 42-year-old Mr. Sawyer said in an interview. "And there is a philosophical clash going on between the businessman's viewpoint and the idealists'

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viewpoint on how best to serve the American public."

The G.P.O. has three main functions. By law, it does in-house printing of documents, such as the Congressional Record, for Congress. It procures printing for other Federal agencies, although budget cutbacks at those agencies have meant a drop in business. Finally, the agency sells some of these documents through its Superintendent of Documents division. Last year the Government Printing Office sold 41.8 million publications, out of more than 4.8 billion printed, for $50.6 million.

$2 MILLION PROFIT

The sales program is mandated to operate on a break-even basis, but in Mr. Sawyer's hands, it earned a $2 million profit in the first four months of the fiscal year 1982, after losing $20 million in the three previous years. "That figure was enough to upset my stomach," said Mr. Sawyer.

To put "SupDocs," as G.P.O. employees call the documents division, in the black, Mr. Sawyer has drastically reduced the number of publications offered to the public. "We were stocking about 22,000 titles in the Superintendent of Documents division when I arrived last August," he said. "By this August we'll be down to 15,000 titles".

"We are putting fewer new titles into the sales program, but we expect them to be best sellers," said Judith B. Morton, the agency's public affairs officer.

EYE ON BOOKSTORES

In reducing its offerings, SupDocs "cleansed its warehouses" by destroying some $11 million worth of publications that were not selling more than 50 copies a year or earning more than $1,000 a year. The millions of volumes were sold as wastepaper for $760,000.

A few copies of most titles have been kept in stock, Mr. Sawyer said and some may still be obtained free from Congress or the agency that produced the publication. Basically, however, a person looking for one of the destroyed publications will be told to find it in one of 1,357 depository libraries around the country.

In addition, Mr. Sawyer wants to close most of the 27 G.P.O bookstores, serving more than 450,000 customers around the country. The bookstore operation lost $9.7 million in 1981.

The public printer denies allegations that his economy measures will restrict public access to Government publications. On the contrary, he said, he has instituted a marketing campaign that he believes will increase public awareness of the agency.

"I've asked for a $475,000 appropriation for a marketing campaign to make the public aware of the depository libraries," said Mr. Sawyer. He has called on the major television networks to discuss public service announcements on the agency's new catalogue, and asked the Advertising Council in New York City to take on part of the library program for a fee.

"This is the first time anything like this has been done," said Mr. Sawyer. "It totally flies in the face of the criticism that we are attempting to restrict public access. We're just trying to do things in a logical and businesslike manner."

[From the Washington Times, June 15, 1982]

FROM THE HILL . . .

(By John LeBoutillier)

In the looming showdown over runaway government printing costs, Congress must decide whether or not to pull in the reins on one of its most cherished perks.

On the one hand is the U.S. Government Printing Office, a hotbed of featherbedding, overtime abuses and over-paid staffers. On the other hand is Danford Sawyer, 18th Public Printer of the United States, who is committed to eradicating waste and inefficiency at the GPO.

Since taking over the GPO in August 1981, Sawyer has cut overtime, requested furloughs for the over-staffed agency and closed money-losing, regional federal bookstores.

As might be expected, he has been accused by union representation and career bureaucrats of everything short of poisoning the water fountains at the GPO's main office in Washington.

Sawyer has been sued by several unions, been the target of vicious, unsigned letters sent to local newspapers and been subject to harassment games and personal intimidation by his opponents. Despite this smokescreen of less than honorable, but predictable activity, certain facts shine through.

The GPO employs 6,200 people with an average salary of $25,000 a year. GPO craft employees earn a mean average of 22 percent more than their private industry counterparts. Eighty percent of GPO overhead costs, for in-plant production, are personnel expenses (compared to 40–50 percent in the private sector).

Of particular note is that 77 percent of GPO production is for Congress. GPO passes its high personnel costs on to Congress, and the taxpayer foots the final bill.

To date, Sawyer has cut overtime from as "little" as $500,000 to as much as $900,000 per month. Staff has been reduced by 400 through attrition with no adverse effect on output.

However, when six furlough days were proposed over a seven-month period (as a direct result of the volume decrease brought about by Reagan administration cuts) the ink hit the fan.

The Joint Committee on Printing—the congressional protector of the GPO—went so far as to pass a resolution forbidding any furloughs or reductions in force (RIF). Fortunately, the resolution is not legally binding. In addition the GPO's 22 bargaining units have requested a 22 percent wage increase over two years in recent wage negotiations.

The bottom line is that the Public Printer has uncovered incredible waste and inefficiency in the GPO, and the responsible Congressional Oversight Committee has refused to act responsibly in response to those findings and has, in fact, worked against Sawyer's recommendations.

Only Congress can deal effectively with this outrageous situation. Whether or not Congress chooses to clean up this flagrant waste of taxpayer dollars remains to be seen.

[From the Roll Call—The Newpaper of Capitol Hill, May 24, 1982]

FLASH: AGENCY WANTS LESS $$

(By Rich Burkhardt)

Although most of the groups that appear before the legislative branch committees at this time of year frequently come requesting more staffing and supplemental funding to cover pay increases, the Government Printing Office (GPO) proved to be a dramatic exception to that rule.

Danford Sawyer, head of the GPO, said May 10 at a Senate Legislative Branch Appropriations Subcommittee hearing that although the budget they had originally planned to submit totaled $135,727,000 including $303,000 for a pay supplemental, he has since taken several steps that would eliminate approximately $12.1 million from that request, including the pay supplemental.

Sawyer said that much of the savings could be attributed to rescinding of a 16 percent price increase GPO had enacted in March in an attempt to recoup a $4.9 million loss in the printing and binding operation during the first five months of FY 82. The previous method of regaining such losses had always been to increase prices.

"It quickly became apparent, however, that since we had become far more expensive than the private sector, we were, in effect, pricing ourselves out of the market," he said. "It was clear that the only way to assure GPO's competitive stance was to follow the path of the private sector, that is, to cut costs and prices and improve efficiency. By rescinding this 16 percent increase, we will save Congress approximately $10.7 million in fiscal year 1983."

Sawyer also said that in order to recoup the losses, all GPO employees would be furloughed for 6 days during the last seven months of FY 82. He said that five of the furloughs would be scheduled for days preceding or following a three-day weekend, and that one other is adjacent to a weekend.

Sawyer said that he had originally thought about furloughing half the employees for 13 days, but by choosing times when Congress was not in session for the furloughs to occur, GPO could close its plant completely and spread the furlough time cut evenly.

Although Sawyer said that the furloughs should recoup most of the losses, he said that "unless we are able in the next six months to solve the long term problems which confront the GPO," drastic job reductions are a good possibility.

One of those problems, Sawyer said, is that GPO wages are a average of 22 percent higher than those in either other government printing plants or the private sector, a factor which drastically increases personnel costs. Sawyer said that efforts are being made to lower the GPO salaries to parity with others in the printing industry, and that if they are successful, savings of $9 million for Congress and another $9 million for the rest of the government would result.

Another problem in the GPO is an excess of personnel, Sawyer said. To alleviate this problem he has taken several steps, including requesting authority for early retirement for GPO employees and contracting a study to determine GPO's staffing requirements for the next decade.

Sawyer said that technical changes, such as the conversion from hot type to photo offset for publications, and an elimination of little requested publications from the inventory would also result in savings, and that and increased emphasis is being made on marketing GPO publications to the general public in order to raise more revenue.

Subcommittee chairman Mack Mattingly (R-Ga) lauded the GPO for their efforts in cutting funding requirements, calling the presentation "a breath of fresh air."

[From the Baltimore Sun, June 24, 1982]

Danford Sawyer's Willies

(By James J. Kilpatrick)

Washington.—Danford L. Sawyer, Jr., holds an ancient and honorable title. He is the nation's Public Printer. He is also down with the Washington willies.

This is a familiar affliction, but Mr. Sawyer's case seems unusually severe. The gentleman is 42, a multimillionaire who made his bundle in publishing and advertising down in Florida. Before he came to Washington last summer, he was politically as innocent as a newborn calf. The President named him Public Printer; the Senate confirmed his appointment; and Mr. Sawyer assumed his office in a mood to Get Things Done.

Heaven knows that he found plenty of things that needed doing. The Government Printing Office is among the most sacred cows in the national feedlot. It employs 6,200 persons, most of them union printers; it does three-quarters of a billion dollars worth of printing a year, most of it for the sacred Brahmins of the U.S. Congress. Such is the unions' cosy relationship with Capitol Hill that the GPO printers are the highest paid printers in the country, if not on the planet Earth. Until just a few years ago, they were setting all their type on Mergenthaler Linotypes; they were composing display matter by hand.

Into the GPO's musty red brick building came the eager new executive, breathing efficiency, full of the old sis-boom-bah, bringing a management team with him. Mr. Sawyer swiftly discovered what the General Accounting Office long ago disclosed, that the GPO is overstaffed, overpaid, and in many of its operations woefully unprofitable. He proposed to cut the printers' salaries by 22 percent. He proposed to close 23 government bookstores around the country. He proposed greatly to reduce overtime. He proposed to send more of the work out for private contract. He proposed to impose six days of unpaid furloughs. The gentleman was bursting with ideas—most of them excellent ideas.

Then our subject discovered something else. He discovered that making progress in the Washington bureaucracy is like walking through sludge. He encountered the Joint Committee on Printing (JCP), which is like encountering the Chinese Army, a force that with great subtlety does not defeat its enemies but merely absorbs them. He made the mistake of antagonizing Senator Mathias, chairman of the JCP. And now our Pilgrim finds himself in the Slough of Despond.

Nothing much has happened at the GPO, and Mr. Sawyer has the Washington willies.

Patience, I would counsel him. Patience! Senator Mathias has been in politics for 30 years, 22 of them on Capitol Hill. He is a man of engulfing amiability. He and Mr. Sawyer, in point of fact, are not far apart on the reforms that are needed at the GPO. Both of them want to accelerate the transition to new printing technology. Both are agreed on a reorganization of the office that would free Mr. Mathias from the ridiculous burdens now imposed on the JCP chairman. Under present law, Mr. Mathias must personally sign every contract the GPO enters into. Not a gross of envelopes can be ordered without his say so. It is absurd. Mr. Mathias raises no objection to closing the unprofitable bookstores and replacing them with an efficient mail-order operation.

But in the nature of life in Washington, these things take time. The printers' contract is now headed toward arbitration. The proposed furloughs have been put on hold. In order to abolish the existing structure of the GPO, bills must be drafted, studies must be made, hearings must be held, committee reports must be prepared, et cetera, et cetera, et cetera.

I do not mean to sound complacent about Mr. Sawyer's problems. I mean to sound philosophical. Life in government is not like life in private business. It never can be made so. The decisions of a private executive can be as quick and clean as a pole vault—up and over and the thing is done. Here decisions require all the ritual bows and turns and arm-in-arm formalities of a minuet. We confer, we consult, we reach a consensus. Shall we reorganize the GPO? By all means. But maybe next year. Or maybe the year after that.

[From the Holland (Mich.) Sentinel, May 19, 1982]

Printer With Ideas

Danford L. Sawyer, Jr. is not a household word.

Maybe it ought to be.

What he is doing in Washington is getting some notice and his latest move is sure to draw comment.

Danford L. Sawyer, Jr. runs the 122-year-old Government Printing Office. In a few words, he's the government printer. In operating such an agency, he upset some people but is determined to cut costs at the GPO and at the same time make money for a government unit.

When Ronald Reagan came to Washington, he sought to trim the extras from government spending. Sawyer, who was running a large advertising agency in Sarasota, Fla., was picked to carry out the GOP assignment.

He has.

That's why he's in hot water with some of the labor unions, the congressional joint committee on printing, and certain other members of Congress.

He proposes:

1. Furloughs for all GPO employees for six days over the next seven months to reduce a five month deficit of $4.9 million.

2. A 22 percent pay cut for GOP employees who are members of 13 bargaining units to bring salaries in line with that of other federal agencies.

3. Reduction-in-force: In this area, the public printer says he has the right to decide whether or not to implement RIFs. It is estimated that GOP has a surplus of 1,500 employees.

Last week, the joint committee passed a resolution, in closed session, halting Sawyer's moves without the committee's "study and approval."

Undaunted, the 42-year-old Sawyer is moving full speed ahead. That's the direction he should take. Other governmental agencies should take a lesson.

Since last August he has drastically reduced publications and saved money. In the Superintendent of Documents division alone, the 22,000 titles docked when Sawyer arrived have been chopped to 15,000. The housecleaning destroyed some $11 million worth of publications that were not selling more than 50 copies a year or earning more than $4,000 a year. Those volumes, sold as waste, brought in $760,000. Aware of people asking for destroyed publications, people are told there are copies in one of 1,357 libraries throughout the nation.

A profit of $2 million was realized in the first four months of fiscal year 1982 after $20 million had been lost in the three previous years. Seeking additional savings, Sawyer would close 27 GPO bookstores serving 450,000 people around the country. This operation lost $9.7 million last year.

Many Holland residents have received government publications from Rep. Guy Vander Jagt. GPO has been a congressional plaything, necessary, but certainly misused.

The GPO has three main functions, the New York Times reports. By law, it does in-house printing of documents, such as the Congressional Record. It procures printing for other federal agencies and sells some documents. Last year 1.8 million publications were sold out of more than 4.8 billion printed, for $50.6 million.

Sawyer's problem is the philosophical clash between the businessman's viewpoint and the realists' viewpoint on how best to serve the American public.

Attempting to run GPO like a business, Sawyer's concern with the bottom line is gratifying. But he hasn't heard the last from Congress, especially people like Sen. Charles Mathias of Maryland, joint committee chairman. Mathias has 2,529 GPO employees living in Maryland and he received $46,000 in his 1980 campaign from GPO unions plus a $5,000 maximum from the AFL-CIO.

See why it's difficult for somebody to streamline a government business. The bureaucrats don't want it corrected and finds ways to introduce stumbling blocks.

The American people should applaud the GPO chief.

Keep it up, Danford L. Sawyer, Jr.

[From the Paducah (Ky.) Sun, June 23, 1982]

Why it's Hard to Cut the Budget

You'd think, wouldn't you, that at a time when congressmen profess alarm about budget deficits they would look closely at the biggest single item in their own budget, the one that governs spending for the operation of Congress.

Here's one place where Congress can act directly to trim that horrendous deficit that is forecast. It's a perfect place to seek ways to get along with less.

Well, if this is what you'd think, you'd be wrong.

The biggest single item in Congress' own budget is the Government Printing Office. It's a $2.5 to $3 billion business. It has a boss, Public Printer Danford L. Sawyer Jr., who has found ways to cut its spending sharply without any reduction in efficiency or service.

Instead of the glad cries of gratitude and commendation you might expect from the Congress, however, Mr. Sawyer has been opposed vigorously and bitterly by his bosses, the Joint Committee on Printing, one of whose 10 members is Sen. Wendell Ford of Kentucky.

Mr. Sawyer, instead of bowing meekly to the committee, has taken his case to the full Congress. He made a talk to a group of them last month in which he pleaded eloquently to be allowed to cut costs.

"The Joint Committee has met twice in the year I have been public printer," Mr. Sawyer told them. "In both cases, the end result of those meetings was to turn back or to try to turn back initiatives under way at the Government Printing Office designed to increase that agency's cost-effectiveness and efficiency and to save the taxpayers money."

Why would any group of congressmen object to efficiency and saving the taxpayers money?

Well, the root of the problem is that the GPO is governed by the Kiess Act, which requires the government to bargain collectively with GPO labor unions, and the unions have considerable political clout.

The result is that the average GPO employe makes a salary of $25,000 a year, about 22 percent more than workers in the private sector.

Eighty percent of GPO costs are personnel costs, compared with 40 to 50 percent in the private sector.

And the result of all that is that a typical printing job at the GPO costs about twice what the same job would cost if done by a private firm. And 77 percent of all the work done by the GPO is for the Congress.

Mr. Sawyer has initiated some cost-cutting measures. He has cut overtime, he has reduced payroll by attrition, and he has started a waste management program that he believes can save $1 million a year.

Mr. Sawyer's most controversial plan for cutting costs has been a plan to furlough all GPO employes six days over seven months. The unions have protested vigorously. They have filed suit in the federal court in Washington.

The furlough idea wasn't conceived recklessly or without consideration for the employes. The alternative was to "RIF" several hundred employes, that is, to dismiss them by "reduction in force."

Most of the furlough days were tied to holiday weekends. Many employes wouldn't show up anyway, and also to times when Congress will not be in session.

The Joint Committee on Printing adopted a resolution forbidding Mr. Sawyer to order the furloughs. He has denied the committee's right to issue such an order and in effect, appealed to the full Congress, and indirectly to the voters.

There are some in Congress who agree with Mr. Sawyer and are serious about cutting this expenditure, which it can control directly. These congressmen are considering offering a resolution to the full Congress which would:

1. Call for parity between the pay of government printers and other federal employes.

2. Call for fixing wages of GPO employes in accordance with the wage system that applies to other federal employes.

3. Call for clarification of the joint committee's relationship to the public printer, who is charged with the duty to "take charge and manage" the office.

This will be one test of how serious Congress is about cutting the government deficit.

[From the Washingtonian, July; 1982]

Danford L. Sawyer Jr.—Some Call It Prestige; He Calls It Garbage

(By Vera Glaser)

He has been head of the Government Printing Office less than a year. He sits there, a mild-mannered guy drinking a Tab, the Muzak playing, saying things that would curl your hair: "I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place." Dan Sawyer, a 42-year-old New Yorker, made millions in Florida advertising and publishing, while also working in three Reagan campaigns. Now he's overhauling the GPO amid screams from Capitol Hill.

"It upset my stomach," Sawyer said, to learn that the agency, which prints and sells federal publications, lost $20 million over the last three years. He kicked GPO into the black in a few months by discontinuing 7,000 publications. Managing the place isn't difficult, he says. The big headache is GPO's unions, Sawyer says they "are paid 22 percent more than anybody comparable in the Western World." Trimming that means confronting "the same labor unions that have cut down some of our most successful newspapers. Their record for intransigence is well documented." To make matters worse, Sawyer says that some congressmen on the Joint Committee on Printing, which oversees the GPO, are persecuting him at the behest of unions that give them campaign money.

Sawyer, his wife Ruth Anne, and their three children enjoy country living in Oakton, Virginia. "I don't want to sound egotistical, but I've got a Jaguar, an MG, two station wagons, a thoroughbred, and two quarter horses sitting out there. I'm supporting two households. I retired before I came up here. I need this garbage like a hole in the head." Nevertheless, Sawyer says he'll "stick it out for a while."

[From the St. Louis Globe-Democrat, June 14, 1982]

Federal Printing Mania

Charges are being hurled back and forth in a heated controversy at the Government Printing Office.

The heart of the dispute centers around a proposal calling for a 22 percent wage cut over a three-year period, which unions at the facility have rejected.

Public Printer Danford Sawyer Jr., who heads the GPO, says it costs twice as much to pay unionized government workers to print documents such as the Congressional Record or the Federal Register than if the work had been done at a unionized private printing plant.

Another version is given by John F. Leyden, executive director AFL-CIO Public Employee Department, who acknowledges the GPO's costs are higher but puts the blame on "a top heavy management structure."

Labor costs at the government facility account for 80 percent of the operation's overhead, while wages for printers in the private sector are only about 40 to 50 percent, according to Sawyer.

Sawyer and his aides are lobbying Congress in an effort to cut back wages and initiate other economies when the current union contract expires June 18. Typesetters at the GPO are paid $14.35 an hour while their counterparts on newspapers and magazines published in the Washington area get $11.91 hourly, according to Sawyer. The pay at private plants is lower in Baltimore and Philadelphia. A similar situation exists in pay scales for pressmen.

GPO's biggest customer is Congress, which accounts for 77 percent of the printing jobs that cost $181 million last year. The GPO appears to be a toy for Capitol Hill. Although the GPO spent $646 million on printing last year, $465 million of that sum went for hiring outside firms to print assorted items for federal agencies.

Leyden has urged Sen. Charles McC. Mathias Jr., R-Md., who is chairman of the Joint Congressional Committee on Printing, to hold hearings on the issue. Since Congress has a vested interest in GPO, perhaps some other body should take a look to air out the matter in fair fashion.

Better yet, since most of the printing already is being farmed out, why not allow private enterprise to do it all?—especially if the cost would be lower. Taxpayers wouldn't object. Then an effort should be made to reduce the federal government's massive printing projects to a sensible level.

[From the Washington Times, June 24, 1981]

War of Words Being Waged on the GPO

What more appropriate backdrop for a war of words than the Government Printing Office?

Involved in the dispute are Public Printer Danford L. Sawyer Jr., who is allied with Rep. Eugene Johnston, R-N.C., and 50 other House members, against Sen. Charles McC. Mathias Jr., R-Md., chairman of the Congressional Joint Committee on Printing, and Rep. Michael Barnes, D-Md.

Among charges in the dispute are that Maryland and Virginia lawmakers are using the printing office as a political plum to get re-elected.

Also at stake is a proposal by Sawyer and the group of House lawmakers to make the printing office more cost-effective and to put workers here on a pay scale on par with other federal employees.

The printing office employs 6,200 workers and has annual personnel costs of $160 million. Their wages exceed by nearly 29 percent the amount paid to other workers in the government in similar jobs, the General Accounting Office reported.

Sawyer, who has come under fire in recent weeks from printers' unions and others, also has charged feather-bedding by workers at the printing office, a charge disputed by Barnes but supported by Johnston.

"The biggest expense incurred by Congress is government printing," said Johnston, a printer himself. "The GPO is a political fiefdom pampered by Maryland and Virginia politicans as part of their constituents to get re-elected," he charged.

The charge is "political rubbish," an aide to Mathias told The Washington Times, saying Sawyer and the others are "straining for arguments" to justify efficiencies.

"You cannot apply ironclad business principles used in the private sector to the GPO, as Mr. Sawyer is doing," the aide said.

Also disputed was a report that Mathias was out to have Sawyer fired because of the union disputes.

"If the senator were out to fire Mr. Sawyer," the aide said, "why then did he vote for his confirmation when he was appointed?"

Sawyer and the others maintain that, if he were given free rein, he could save the taxpayers $30 million by furloughing workers and canceling scheduled pay increases and early retirement.

Mathias' panel has disputed this argument, providing data that vary sharply with the figures used by Sawyer.

Barnes is expected to hold a news conference today to offer a measure countering Johnston's resolution.

Also expected today is a resolution in the Senate from Sen. William Armstrong, R-Colo., who said, "Congress has little taste for saving the taxpayers' money and for reform." He said he supports Sawyer's efforts.

[From the Washington Post, June 28, 1982]

Head of GPO Is a Hero to Some, But . . .

SAWYER UPSETTING TO HILL, UNIONS

(By Nicholas D. Kristof)

Dan Sawyer thought his opponents were being selfish. He was the businessman's businessman, come to clean up the Government Printing Office for the Reagan administration, and all the unions could do was snipe.

Referring to the furloughs he has ordered for the GPO's 6,000 workers, Sawyer said, "The real economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night. They're all screaming like pigs. It's absurd."

But from the point of view of the unions and the congressional committee that watches over GPO, the absurdity and bad faith are Sawyer's. They charge he has disobeyed Congress, distorted statistics and hired his own retinue.

A clash of wills, ideals and rhetoric reverberated throughout the federal government when President Reagan's lieutenants arrived in Washington. But rarely was the din as loud as when Danford L. Sawyer Jr. became the nation's "public printer" and took command of the GPO.

A former Florida advertising executive, a millionaire and a Reagan supporter since 1968, Sawyer said he was appalled by what he found at the GPO when he arrived last August. He told one columnist, "I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place."

Blaming the Joint Committee on Printing, which oversees GPO, for condoning a taxpayers' nightmare did not endear him to the committee, particularly its chairman, Sen. Charles McC. Mathias Jr. (R-Md.). The result has been a turf battle over the GPO between Sawyer and the committee, complicated by the peculiar system in which a presidential appointee directs an agency that serves Congress.

Sparks flew early when Sawyer announced he would close 23 of the GPO's 27 bookstores because they were losing money. The committee in two resolutions advised Sawyer he needed its approval before any bookstores could be closed or any furloughs ordered. Sawyer has postponed action on the stores, but he argues that furloughs and similar personnel decisions are his alone to make. A dismayed staff member on the committee asked, "If he doesn't work for the Congress, whom does he work for?"

In the meantime, Sawyer has become a darling of conservative columnists and editorial writers because of his attacks on waste at GPO and his efforts to end what he sees as a drain on taxpayers. One editorial was headlined "Danford and Goliath" and began, "It's hard to find a hero these day. But . . . ."

In his speeches and interviews, Sawyer has argued that the GPO's employes are overpaid and inefficient. He cites figures showing that GPO craft workers are paid 22 percent more than workers in comparable private-sector jobs or in other parts of the government. That figure was widely publicized in the media, and Sawyer stunned the GPO unions this spring by making a "final offer" of a 22 percent wage cut over three years in talks on a contract to replace the one that expired two weeks ago. Union spokesmen argued that Sawyer's figures are distorted. The joint committee staff said Sawyer's figures are faulty because in some cases they include wages for supervisory personnel in the GPO, but not in the private sector; because they include wages for nonunion labor in the private sector, and because the GPO uses sophisticated equipment and thus requires well-trained workers.

William J. Boarman, president of the Columbia Typographical Union, cites statistics that show the wage for GPO typesetters, $14.35 an hour, is somewhat less than they earn in the private sector. Boarman also said that if GPO pays some craft workers more than the average private-sector worker, it must, to attract and keep the best employes. The importance of the work, Boarman said, makes it necessary for the GPO to have the best employes—and to have two proofreaders for every document, another custom that Sawyer has attacked as costly and inefficient.

In this battle of statistics, with flurries of wage data pouring in from each side, no peace with honor seems at hand. In addition to seeking the pay cut, Sawyer has ordered that all employes be furloughed for six days, usually close to holidays.

The unions responded with a request for a 13.2 percent wage increase over two years, plus cost-of-living increases of up to 3 percent each year, although George E. Lord, chairman of the joint council of unions at GPO, admitted the request was "a little high." In addition, the unions are seeking an injunction to prevent the furloughs from taking place, in a hearing scheduled today in U.S. District Court here.

The House District of Columbia Committee, meanwhile, is scheduled to hold hearings tomorrow on the furloughs and other personnel actions planned by Sawyer. The unions also plan a "truth march" beforehand from the GPO to the Capitol.

But Sawyer, too, has his reinforcements. Seven senators and 87 representatives have cosponsored resolutions in support of his actions, and he is regularly plugged in the Congressional Record. Sawyer hopes this legislative support will be translated into legislation abolishing the Joint Committee on Printing and creating a GPO board of directors in its place. But he concedes that is an unlikely prospect.

Sawyer did not win many friends at GPO when $234,000 worth of refurbishing was ordered for its eighth floor, where the public printer has his offices, while Sawyer was saying that the agency was strapped financially. And although the GPO previously did not have any Schedule C (political) appointees except for Sawyer, he has hired 11, to provide secretarial staff and to run a new marketing campaign for government documents, he said.

Some employes were also surprised when Sawyer, a shooting enthusiast, was deputized a special officer in the GPO police force. He said he does not carry a gun but has access to guns in the building if he needs one for security.

[From the Federal Times, June 21, 1982]

GPO Unions File Suit Over Furlough Plan

(By Winston Wood)

Government Printing Office workers have taken their boss Danford Sawyer to court in the increasingly bitter dispute over who sets pay policy at the legislative agency—Congress or the presidentially-appointed Public Printer.

Nine of 22 unions representing GPO employees filed suit in U.S. District Court in Washington, saying Sawyer has interfered with their "right to work." They seek an injunction to block scheduled furloughs that would put GPO's 6200 workers on leave without pay for six days this year.

A union attorney said he will ask to the court to act before the next furlough date, July 6. Sawyer postponed a June 1 furlough because of an increase in printing order from Capitol Hill.

Before business picked up at the financially-strapped agency, Sawyer had been set to order the June furlough in defiance of a joint congressional committee edict.

GPO officials expressed no reaction to the suit other than that it was expected. Labor and management have engaged in an escalating war of words over the furlough plan since it was announced in March.

The controversy also has soured contract negotiations at GPO, where employees may bargain collectively on wages. Relations worsened when Sawyer called for a 22 percent salary cut over three years. That issue will soon go to arbitration.

George Lord, president of GPO's Federal Printing Workers local and spokesman for the unions, said the lawsuit had been under consideration for some time. He said employees decided to go to court when Sawyer persisted with his furlough plan despite a cease and desist order from the Joint Committee on Printing, the legislative panel with jurisdiction over GPO.

The panel passed a resolution May 11 telling Sawyer that no furlough or other personnel action should be made without committee review and approval.

Attorneys familiar with the suit, filed June 2, say the conflict arises from overlapping authority granted GPO management and the congressional panel by two different laws.

The 1924 Keiss Act granted GPO workers the right to bargain over compensation issues, with disputes to be resolved by the JCP. Under the law, the panel's decision on such issues is final. The union's suit claims Sawyer has violated the Keiss Act by ignoring JCP's order not to conduct the furlough.

GPO officials, however, cite the 1978 Civil Service Reform Act as granting management increased authority in such matters. They note with irony that JCP chairman Sen. Charles Mathias, R-Md., was one of the act's primary sponsors. They say it is hypocritical of him to deny the increased management prerogatives he once strongly favored.

Printing office officials also say furloughs have been used commonly in the past to save money. Furloughs are needed now more than ever if the agency is to check financial losses caused by high labor costs and a serious drop in printing orders from other government agencies, they say.

Union attorneys say the law is clear.

"This is a compensation matter and the Civil Service Reform Act doesn't cover compensation at all," said George Driesen, the lawyer who filed suit for the unions and four named plaintiffs. "The JCP handles that [compensation] and they have ruled. Now we're trying to get him [Sawyer] to obey the law."

Workers have taken the Public Printer to court before and won, Driesen added. A 1951 case involving premium pay on holidays went all the way to the Supreme Court, with the unions prevailing at every level, he said.

Additional court papers are expected to be filed by both sides before U.S. District Judge Oliver Gasch sets a hearing date.

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[From the Washington Post, June 30, 1982]

4,000 GPO Employes March on Capitol Hill

An estimated 4,000 employes of the Government Printing Office staged an angry but peaceful march on Capitol Hill yesterday to protest management proposals to save money by cutting their pay and putting them on furlough for six days.

Many of the marchers came off the midnight-to-8 a.m. shift at the huge North Capitol Street plant, assembled at nearby Gonzaga High School and were led to the Hill by Mayor Marion Barry. At the Capitol, the marchers were addressed by friendly members of Congress.

The GPO, with 6,000 employes, is the largest industrial-type employer in the city.

Public Printer Danford Sawyer Jr., a Florida millionaire and a Reagan nominee (although the GPO is an arm of Congress), has contended GPO workers are paid 22 percent more than private industry employes, a claim challenged by the printers' union.

The furlough proposal has put Sawyer in direct conflict with Sen. Charles McC. Mathias Jr. (R-Md.) chairman of the GPO-supervising congressional Joint Committee on Printing. Many GPO workers are Mathias constitutents.

[From the Washington Post, July 3, 1982]

(By Nicholas D. Kristof)

Head of Printing Office Loses Fight on Furloughs

A federal judge here ruled yesterday that the head of the Government Printing Office lacks authority to furlough its 6,000 employes for six days without pay.

Public Printer Danford L. Sawyer Jr. had ordered the furloughs as part of a controversial campaign that he said would save the government millions of dollars. A congressional oversight committee, however, told Sawyer to postpone any furloughs until it had studied the issue, and U.S. District Court Judge Oliver Gasch agreed, ruling that the GPO must obey the congressional committee.

Sawyer, who has battled the Joint Committee on Printing and the GPO's unions in his attacks on policies he considers wasteful, said he was disappointed with yesterday's ruling but would comply with it.

He said there would be responses "at several different levels"—possibly an appeal and probably legislation to strengthen the hand of the public printer.

A millionaire advertising executive who came from Florida to head the GPO in the Reagan administration, Sawyer has enjoyed support on the Hill. Nine senators and 89 House members have cosponsored concurrent resolutions supporting his position, and Sawyer said a joint resolution with the force of law might be introduced in place of the concurrent resolutions.

Sawyer wants legislation that would give the public printer clear authority in personnel matters and make him subject to a board of directors rather than the Joint Committee on Printing.

William J. Boarman, president of the Columbia Typographical Union, said yesterday, "This is a great day for the rule of law. . . . Rather than continuing his propaganda attack on the GPO employes, we hope [Sawyer] will come to the collective bargaining table."

George E. Lord, Chairman of the joint council of unions at the GPO, said the unions would lobby Congress against a joint resolution giving new powers to the public printer, and he said he doubted such legislation would pass.

Sawyer has said the furloughs are necessary because the GPO is losing money and because of the amount of printing scheduled has declined this year. He said each furlough would save $600,000.

Union spokesmen said yesterday that for each day the GPO is not working, it loses a $2.5 million payment from Congress. Instead of saving $600,000, each furlough would lose $1.9 million, they said.

Sawyer called that reasoning "black magic economics." "What they're saying is 'just charge it to the taxpayer and don't worry about it.' "

[From the Human Events, May 15, 1982]

Mathias, Unions Conspire Against GPO Savings

When Danford L. Sawyer Jr. was appointed by President Reagan to head the Government Printing Office (GPO) last year, he walked into a taxpayer's nightmare. The agency—which is the largest single printer of congressional and executive branch documents—was plagued by inefficiency and vastly overstaffed. In addition, Sawyer discovered a history of overtime abuse at GPO and a pay scale that was completely out of line with the cost of similar work anywhere else in the printing industry.

In past years, such practices have gone virtually unchallenged, thanks in large measure to an extremely close relationship between the GPO's labor unions and key members of Congress' Joint Committee on Printing (JCP), which is charged with "oversight" of the agency.

The chairman of the JCP, for example, is Sen. Charles McC. Mathias (R.-Md.), a liberal who received $46,000 for his 1980 campaign from unions directly involved with GPO, including the $5,000 legal maximum from the AFL-CIO. The panel's vice chairman, Rep. Augustus Hawkins (D.-Calif.), has similarly close ties to labor, as do such other members as Sen. Howard Cannon (D.-Nev.), Sen. Wendell Ford (D.-Ky.) and Rep. Joseph Gaydos (D.-Pa).

The law requires GPO to be self-supporting. But rather than putting a lid on waste, the unions at GPO and their allies on the JCP have favored another approach. As costs skyrocketed, they simply raised the agency's printing fees, and Congress anted up the extra cash in the form of supplemental appropriations. While the taxpayers have borne the brunt of this arrangement, Sawyer's predecessors have tended to go along meekly, rather than cross swords with the combined might of the labor-JCP alliance.

All of this changed abruptly, however, when Sawyer arrived on the scene. A tough conservative scrapper who ran his own publishing firm in Sarasota, Fla., before assuming command at GPO, Sawyer was appalled by the utter lack of cost-consciousness at the congressional agency. To remedy the mess, he instituted a hiring freeze and sharply reduced overtime. The latter move alone has saved at least $500,000 and possibly as much as $900,000.

In another cost-cutting move, the public printer has implemented a one-day-per-pay-period furlough program for 3,100 of the agency's 6,500 employees. Sawyer announced that he would give back 5 percent of his own salary during this six-month furlough and that all top management will be similarly affected.

While these and other moves have drawn flak from the unions and members of the JCP, what really has them fuming is Sawyer's proposal during the current round of wage bargaining of a 22 percent pay cut.

In an interview with Human Events, Sawyer insisted that such a cut is fully justified. "Our craft workers," he explained, "are being paid on an average 22 percent more than their compatriots in the federal sector and also the private sector. And we're not comparing them to wages being paid in lower wage areas in the South. We're comparing them to wages being paid in major metropolitan areas of the country. They are the highest-paid craft workers in the Western world."

As an illustration of the excessive wages being paid, Sawyer noted that some proofreaders at GPO are getting well over $30,000 a year. By contrast, he noted that a "proofreader in the private sector would be happy to get $15,000 a year, and in many cases they aren't getting that."

As a result, says Sawyer, GPO is charging twice what it would cost the government to get the same printing done in the private sector, and the public is the clear loser.

Yet reform will not be easy. For under the law, the JCP, with its heavy pro-union membership, is the final arbitrator of GPO wage disputes. The unions have repeatedly received overly generous pay settlements from the committee in the past, and Sawyer expects them to try again once this year's bargaining period ends on May 18.

To Sawyer, this arrangement presents a blatant conflict of interest and should be stopped. "If you check the members of the committee, the Democratic and Republican members, but primarily the Democrat members," he told columnist Donald Lambro last week, "you will find AFL-CIO funding of their campaigns to a very large degree." Yet, he said, GPO records show "a pattern of continuing meddling on the part of these members in the wage negotiations procedures.

"If Charles Mathias * * * were being judged by the same standards that I was judged by going through the confirmation process, he wouldn't be allowed to be chairman of the committee," said Sawyer. "Here's the senator from the neighboring state representing a substantial number of his own constitutents who work here, involved in the setting of their wages, and then turning around and receiving financial and soldier-type support from these people. These people provide muscle in his campaign. And the AFL-CIO helps provide the money. He should disqualify himself or the Senate should have the good sense to keep him off the damned committee to begin with." Sawyer added that other committee members with close union ties are equally guilty.

Sawyer told Human Events that he did not want to make a personal attack on these committee members, "Instead of getting personal," he said, "I'd rather say that everyone would be better served if there were some kind of interface between Congress and the GPO. I don't think it's a healthy situation at all where the employees can go to the Hill and go around management.

"And there's absolutely no question that's going on," he continued. "On every small issue, medium-sized issue, and large issue, they go to Congress. They go to their own congressmen, they go to the JCP, and they apply a lot of political pressure. They have, in effect, emasculated management's ability to fulfull its mission."

What has been happening, Sawyer said, "is whenever the agency wasn't making ends meet, it has simply raised prices to Congress and to the agencies. Work a lot of overtime, run the costs through the roof, make it look like we're making a lot of money—that has been the pattern and that is what the unions recommend we do now . . . .

"They've said that in writing. Raise prices and work a lot of overtime. Run the cost up. They're saying Congress will pay the bill no matter how high the cost, so run the price up."

Sawyer acknowledges that, under the law as it now stands, the JCP has the final say on the GPO pay scale. Given the inherent tendency to politicize the decision, he is not optimistic about the final outcome of this year's pay negotiations. "If the public cares," he says, "they should address letters to the Joint Committee on Printing."

In other areas, however, Sawyer believes excessive interference by the committee is making it difficult for him to carry out his own responsibilities under the law. One example was a vote by the panel to at least temporarily block the public printer from saving $1 million a year by consolidating 23 regional bookstores into an efficient toll-free, telephone ordering service. Another is the contention of some committee members that he has no right to implement a furlough policy—a position he vigorously disputes.

"The area of contention," he said, "is whether we have the right to furlough or not. To us it's clear-cut. Title 44 [of the U.S. Code, which governs the operations of GPO] is quite clear. We have a lengthy general counsel's report on this, and the Office of Personnel Management concurs. Bluntly, what is boils down to is if I have a right to furlough, then I have a right to RIF [reduction in force]. They see that as a power they don't want me to have for fear that I will actually exercise it.

"I've already made the statement that GPO is overstaffed and in many cases overpaid. They fear that I'll take remedial action. As far as we're concerned, we're going ahead. The first furlough day is June 1. We've stated our position; they've stated theirs. Nothing can deter us from proceeding."

Sawyer explained that he has no current plans for a RIF. But, he explained, "our position is that we have a right to RIF. That's one of the powers that goes with this office, and that's not a decision that we should or do have to share with Congress."

Noting that Title 44 mandates that the public printer "take charge and manage" GPO, Sawyer said: "How in the name of heaven can I take charge and manage, operate this place on a breakeven basis, if on such minor things as a furlough or whether we RIF 10 people or 20 people or 100 people, I have to get involved with Congress in a highly politically charged atmosphere where the pressure of the unions and other impacted parties can be brought to bear on the decision? Those are management decisions; they should be made by management in a non-political atmosphere.

"I want to make this point clear. I'm not trying to overstep my bounds. I'm not 'running out of control.' I'm not following orders from the Executive Branch. I'm doing what Congress mandated to be done to begin with."

In short, Sawyer is just carrying out the law—if Mathias and the unions will let him.

[From the Newsweek, June 14, 1982]

THE MAN WHO STEPS ON TOES

He emptied government warehouses of classics such as "Breads, Cakes and Pies in Family Meals," "Wild Mushrooms" and about 7,000 others, boosted prices dramatically on the thousands of remaining Government Printing Office (GPO) titles and recommended closing the agency's 27 bookstores. But it was the proposal by GPO chief Danford L. Sawyer Jr. to furlough all 6,200 employees for long, unpaid weekends and his take-it-or-leave-it offer to unions of a 22 percent pay cut over three years that caused the row on Capitol Hill.

Sawyer charges that pro-union congressmen have created a "high-priced Federal elite" by accelerating GPO wages far ahead of other government rates. "The American public is getting screwed," says Sawyer. He argues that his draconian measures are needed to offset a multimillion-dollar deficit and to make the GPO, which publishes the wordy emanations of Congress and the Federal bureaucracy, competitive with private printers: "The average job coming out of this place costs twice as much as it does in the private sector." Sawyer's efforts have so enraged the Congressional Joint Committee on Printing that last month it passed a resolution forbidding his furlough plan. Georgia Rep. Newt Gingrich, a Republican committee member, says that GPO head might succeed if he can bypass the committee and precipitate a floor fight, but counsels, "He's already stepped on more toes than he should have in one year."

The unions, which have sued to halt the planned furloughs, concede that their wages exceed those of other government workers. But they insist the differential is fair compensation for specialized skills and the irregular hours they work to produce the daily Congressional Record when Congress is in session. William Boarman, head of the typographical union, argues that Sawyer is playing number games and that the GPO traditionally has an early-year deficit that is offset after the spring peak period. "This guy is trying to build a reputation for himself at the expense of one very fine agency and a lot of very good people," he said. Others say Sawyer's energies would be better spent improving the technological capacity of the agency, which is only now abandoning ancient linotype machines.

Sawyer may not be winning popularity contests in the GPO's aging red-brick building, but the White House is delighted with his efforts. "He's trying to put modern management into an ancient encrusted institution," says Presidential counselor Edwin Meese III. Meanwhile, Sawyer, a former Sarasota, Fla., publishing executive, seems amused by the union contention that he is mounting the "worst attack on organized labor in a century," and suggests, somewhat disingenuously, "If a little boy from Sarasota can give them this much of a problem, then everybody else has been too damn easy on them."

[From the Washington Report, July 27, 1982]

GPO CONGRESS STALLS EFFORTS TO CUT AGENCY'S COSTS

(By Harry Bacas)

As Congress struggles to curb the rising costs of government, it has found it must defend itself against charges of wastefulness in its own backyard.

The Government Printing Office, which Congress directly oversees, has been accused of spendthrift ways, and administration efforts to correct them have been stalled by Congress itself.

The problem is dual accountability. The head of the GPO, the public printer, is appointed by the president. But all GPO operations are subject to review by Congress' Joint Committee on Printing.

The current public printer, Danford L. Sawyer, has tried to make the operation more efficient in the last year. The GPO, which employs more than 6,200 persons with a payroll of $160 million, is estimated to have overspent $20 million in the last three years, largely because of inflated salaries.

The average salary at the GPO is more than $25,000—28 percent higher than that for other federal employees doing similar jobs. It has been estimated that work done by the GPO costs twice as much as work contracted to private printers. GPO unions bargain directly with Congress to keep salaries high.

In an effort to economize, Sawyer has instituted a hiring freeze, cut back $900,000 a month in overtime expenses, dropped 7,000 publications and adopted other spending controls.

GPO unions sued to halt some of Sawyer's actions and appealed to the Joint Committee on Printing. The panel ordered Sawyer to drop plans to reduce the agency's deficit by temporarily furloughing some employeees.

Since then, Rep. John N. Erlenborn (R-Ill.) has collected 84 co-sponsors for a bill proposing parity between salaries of GPO workers and those of other federal employees doing similar work.

Rep. James T. Broyhill (R-N.C.) said he signed the bill because "there has been to much documented waste and overpayment of workers in this agency. . . . Millions of taxpayers' dollars can be saved."

[From the Review of the News, July 7, 1982]

U.S. PUBLIC PRINTER DANFORD SAWYER

(By John Rees)

An Exclusive Interview With The Head of The U.S. Government Printing Office On How He Is Fighting Waste.

DANFORD SAWYER was confirmed by the Senate as Public Printer of the United States in August 1981. He heads the U.S. Government Printing Office (G.P.O.) which, with more than 6,000 employees, is the largest industrial employer in the nation's capital.

After attending the University of the South at Sewanee, Tennessee, Mr. Sawyer started his business career as a cost accountant for a Tampa, Florida, contracting company. He later became advertising manager for a Sarasota newspaper and radio station, establishing his own firm, Sawyer and Associates, in 1964. Sawyer was president of Area Guides, Inc., a publisher of tourist literature, and founded a community newsmagazine, *Sarasota South*, both of which he sold after being appointed chief of the Government Printing Office.

Dan Sawyer is a Conservative who served on the board of the Florida Young Americans for Freedom and was a delegate to the 1980 Republican National Convention.

Q. Mr. Sawyer, what was the situation at the Government Printing Office when you became Public Printer?

A. I arrived at the G.P.O. in May 1981 to act as a consultant for 90 days while my confirmation process was being completed. We had 6,700 people on the payroll, 500 more than today. It took at least six months to get a feel for the operation. The more I learned, the more I realized there was to get in hand.

Q. Such as what?

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A. The transition from private management to government is quite a shock. For instance, I found that the average G.P.O. employee makes $25,000 a year. Our craft workers, our journeymen, our printers, our bindery workers and so on, make a mean average of 22 percent more than their compatriots in either the federal or private sector. What we have here is a high-priced federal elite. Eighty percent of our overhead costs for in-plant printing are personnel costs. That compares to 40 to 50 percent in the private sector.

Q. Then G.P.O. costs are substantially higher than for private printing companies?

A. The average printing job produced here costs about twice what it would if we procured it in the private sector. Last week I had our production department do a random sampling of jobs and price them. One example was an order for 200,000 copies of a 20-page, self-cover booklet, saddle stitched, with paper size 5¼ by 8 inches. The low bid from private companies for this job was $7,200. Our G.P.O. price was $12,831.

Q. If that is typical the G.P.O. certainly wouldn't last long in a free market.

A. The excessive cost at G.P.O. is staggering. A million copies of an ordinary face and back folded form could be had on low bid from a private printer for $6,720; but from G.P.O. it costs the taxpayers $12,061.

Then we asked private companies what they would charge to print and bind 3,000 copies of a 720-page book, sewn and casebound. The low bid was $16,297; but, incredibly, the same job cost $33,297 from the Government Printing Office. In other cases, the G.P.O. cost was three times what it was for the private sector.

Q. In fairness, were there any cases in which G.P.O. prices came in under the low bids from the private sector?

A. On only one job estimate of the dozen sampled. Averaging it out, I'd say that the rule of thumb is that G.P.O. work costs twice as much as that by a private company.

Q. What are the problems?

A. We have a whole series of them. Some go back to the Dark Ages—and I mean that literally. One of our main difficulties dates back to medieval Europe. We are still suffering from the survival of the ancient craft guild system of masters, journeymen, and apprentices.

We have several different categories of workers inside this building. Some of them are classified in the same manner as everyone else working for the federal government and are paid the same rates. This is the well-known Government Service schedule. But then we have craft workers who are union people in addition to being federal employees. They negotiate for wages. And they are all paid well out of proportion to reality, in my opinion, when judged by the criteria of either federal or private wage scales.

Let me be specific A G.P.O. compositor earns $27,685 a year. The highest level of the Federal Wages System (F.W.S.) Lithographic and Printing Plant Wage Schedule (which is itself 12 percent above the average prevailing private-sector rate) is $23,230. In other words, a G.P.O. compositor earns 18.7 percent above the prevailing industry average.

Q. Doesn't having a dual wage scale system create employee problems?

A. You bet it does. The fact that we have Wage Board people working alongside craft people creates the problem of lawsuits demanding equal pay for equal work. We have had some classic lawsuits against G.P.O. One of these was decided recently by a federal appeals court. The suit was brought by a group of female bindery workers who were doing essentially the same things as unionized male bindery workers. Paid at a very much lower scale, the non-union workers sued on the grounds that they deserved equal pay for equal work and won. The damages awarded, charged to the U.S. taxpayers, are just staggering.

Q. How are you working to remedy that?

A. Our solution is to classify all G.P.O. workers in the same way, consistent with the way everyone else who works for the federal government is classified, and to pay them the same wage scale. This would eliminate the disparities and lawsuits, and would bring down the craft wages. That is the direction in which we are moving.

Q. What is the wage differential for craft workers?

A. As I testified to a Senate Appropriations Subcommittee, merely by lowering the wages of G.P.O.'s craft workers to the level of wages paid other federal government workers, the American taxpayers could save $18 million a year. The G.P.O. printers earn an average of $11.78 an hour, compared to $8.39 for comparable workers in the private-sector printing companies of the Washington area.

Q. Can you do this on your own authority?

A. No. This agency is part of the Legislative branch of government. The G.P.O. is therefore directly impacted by a whole variety of political and societal forces. We are accountable to an oversight committee—the Joint Committee on Printing. The voting majority on that Committee is highly pro-union is philosophy. And it acts as the final arbitrator of wages. The unions negotiate with us, but if that process ends in an impasse then they go on appeal to the Joint Committee on Printing. The Joint Committee acts as the final arbitrator of wage disputes, and can in fact set wages when it chooses to do so.

The union and political involvement together have given us the situation we have today. Our wage schedule for craft workers is over the norm and, as a result, our prices are way out of line.

Q. Sounds like a taxpayers' nightmare.

A. The taxpayers are certainly the ones who are ultimately paying. Most of our work in-house is for the the United States Congress. We bill the Congress and the Congress gets its funds from the American taxpayers. The money being wasted is yours.

Q. What do you print for the Congress?

A. Our work includes the *Congressional Record*, the *Federal Register*, and the *Code Of Federal Regulations*. If you classify them as congressional work, and I do, 77 percent of what we produce here in-plant is for the Congress.

And every time we get into economic trouble from the outrages I have described we just raise our schedule of rates. There's no accountability. It's strictly an arbitrary management decision. That is, the G.P.O. doesn't have to ask for approval of its rate changes.

Q. What role do the House and Senate Appropriations Subcommittees play?

A. For each Fiscal Year we give them our best guess of what their printing needs are going to be. They then authorize an appropriation. But if we are wrong, and we underestimate, G.P.O. just makes it up in a supplemental request and appropriation. So there's absolutely no limitation. The situation is out of control and without accountability.

Q. Has the Joint Committee on Printing been of any help in your efforts to achieve economies?

A. The Joint Committee has met twice in the year I've been here. On both occasions, they met to roll back or to try to roll back initiatives we had under way to save tax money. The Committee staff and the Chairman, Senator Mac Mathias (R.-Maryland), and the Vice Chairman, Representative Augustus Hawkins (D.-California), have in some ways been helpful, if for no other reason than they have not tried to stop me on certain economy moves. But where we have been in head-on conflict on the desires and wishes of the unions, which to them are constituent issues, they have attempted to intervene and to stop us.

Q. Let's get down to it: Are most of the Committee members backed by organized labor?

A. Many are. I recently saw an article stating that the Chairman received $46,000 for his 1980 re-election campaign, to quote the clipping, "from unions directly involved with the G.P.O."

Q. If that's not illegal it should be. Whose responsibility is it to cut waste at G.P.O.? Is it yours as Public Printer, or is it theirs?

A. The Committee's charter calls on it to seek out waste and inefficiency and to take whatever steps are necessary to correct it. We are the ones who are finding the waste and inefficiency and bringing it to their attention. And they are the ones stopping us from doing something about it.

Q. Are all the members of the Joint Committee on Printing joining with the Chairman and Vice Chairman?

A. No, but a voting majority on that Committee is doing so. To me, their actions seem a total perversion of their role. Imagine trying to run an efficient shop and having to deal with problems like this!

Q. You said the Committee meets only rarely. Is the big difficulty the fact that its members take too little interest in G.P.O.'s problems?

A. We do suffer from that. The Joint Committee on Printing is low on the priority list of its members. In fact it is probably the least important Committee assignment any of them have, whether they are Republicans, Democrats, "Liberals," or Conservatives. They have little time for it, and I do not know whether they really understand the issues.

Q. What would you do to correct this?

A. My solution is a thorough clarification of the relationship between the Joint Committee on Printing and the G.P.O., strengthening the authority of the Public Printer "to take charge and manage" without infringing on the Committee's oversight responsibilities.

I'm not saying I should run G.P.O. alone, but the G.P.O. "board of directors" should act like the board of a private company, meeting regularly, setting up subcommittees, paying some real attention to what's going on, setting policy, having a role in choosing the chief executive officer of G.P.O., and being accountable. Frankly, accountability is the key. You know very well that if you sit in on the board of directors of a bank or savings and loan institution, and there are financial problems, you can be held personally liable. You can be sued if something goes wrong. There's no accountability here, and there's too little interest. The result is a nightmare with which I must wrestle constantly.

Q. Do you see any prospect for reform with the present makeup of Congress?

A. Yes, I do. Our appropriations are handled by two separate Legislative Appropriations Subcommittees, one in the House and one in the Senate, not just the Joint Committee on Printing. On the Senate side, Senator Mack Mattingly of Georgia is Chairman. He is strongly supportive of our position. On the House side, Representative Vic Fazio is the Chairman, and several members of that Committee have expressed support, including Carroll Campbell of South Carolina, and Jerry Lewis and Clair Burgener of California. They have all expressed concerns about the bottom line and have been supportive of efforts to bring about reform and dollar savings.

Q. Your biggest problem is with the unions and unrealistic wage scales. How did it come about that the unions at G.P.O. are getting 22 percent more than printers elsewhere in Washington; and doesn't that have a damaging impact on the whole private printing industry?

A. It is terrible. If you take the printing and publishing industries together, you are talking about the sixth-largest business in the United States. We are sitting here creating wage trends that are raising the salary level for the sixth-largest industry in the United States. We are contributing in a substantive way to inflationary pressures. Private-sector printing and publishing companies are forced to increase artifically the wages paid their employees.

Q. Isn't a position with G.P.O. about the softest federal job in town?

A. It is, if featherbedding and overpayment are your criteria! If you are a carpenter or an electrician working for G.P.O., you are paid $27,419. For the carpenter, that is 28.8 percent over the top F.W.S. rate, and for the electrician it amounts to 22.4 percent more.

Q. Does this sort of overpayment go all the way down the line?

A. It does. Even a G.P.O. janitor is at $14,600 getting $2,572 a year more—21.4 percent—than what is paid under the regular F.W.S.

Q. Have printing industry companies commented on this?

A. We've received a lot of complaints from the industry—from both union and nonunion shops. And the accounting arm of Congress, the General Accounting Office, agrees that the G.P.O. should not be a wage trendsetter. The G.A.O.'s position is that G.P.O. should offer the average for the industry.

Q. Have printing-industry complaints been made directly to the Committees?

A. The industry complaints are legion, John. They have focused not only on the wages G.P.O. pays, but also on the staffing levels at G.P.O. We have too many people operating our equipment and they are not using that equipment to maximum efficiency.

Q. What is being done to increase efficiency?

A. The very notion of efficiency is something new at G.P.O. The transition from old technology to new technology has taken forever. For example, the G.P.O. has been making the transition from hot metel to electronic photo-composition for the last six years.

Q. But newspapers and magazines convert in a month or so.

A. You're right. In the private sector, in a small shop, you can do it in 30 days; in a moderate-sized shop in 60 days; and, in a large shop, in 90 days. But for the Government Printing Office it's taken six years and is still under way. In fact, we are talking about another 12 to 18 months to finish. Is there any wonder that in the first five months of Fiscal Year 1982 (October 1, 1981, through February 1982), the G.P.O. managed to lose nearly $5 million?

Q. Why can't you just take things in hand and clean house?

A. Because of the strength of the unions and their political pull through the Joint Committee on Printing.

Q. Will you give us some specifics?

A. All right, let's take the pressmen. The Pressmen's Union talks in terms of a four-year apprenticeship; but you can train a pressman in 30 days. In fact, newspapers do that all over the country all the time. Not here. Not where strong unions have such pull on the Joint Committee.

Look, John, I'm not anti-union. But what's happened here is that what started out as progressive forces to benefit the working man have become reactionary forces. Now they retard progress. We've had constant complaints that there are really three kinds of discrimination—by color, by sex, and by whether or not you are a union member.

The role of unions in fighting for good working conditions and wages has been turned around. Now, in many cases, unions are the reactionary forces, opposing technological advances, protecting outdated jobs, and fighting to preserve an inefficient status quo. In many cases, unions are reactionary forces holding their finger on the working man, creating artifical situations that benefit no one but the hierarchy in the unions themselves.

Q. What do you expect will be the next step in the union attempt to stop your cost-cutting efforts at G.P.O.?

A. The unions have filed a lawsuit against me personally, and in my capacity as Public Printer, asking the federal court to issue an injunction preventing me from furloughing G.P.O. employees. This suit was scheduled to be heard on June 29th. In addition, the House Committee on the District of Columbia asked me to appear at a Hearing on that date. They asked me to testify as to the economic impact of the furlough plan on the metropolitan Washington area. Imagine! This furlough plan involves only six days over a period of seven months.

Q. Obviously as Public Printer you were expected to be in two places at once! How much support in your cost-cutting efforts are you getting from the Administration?

A. That is touchy because I am not the head of an Executive branch agency but of a Legislative agency. Any breaches of the separation of powers can provoke an uproar. I work under the direction of Congress, and Members of Congress are the ones who have ultimate say. I'm a strong supporter of the President and his program; but Administration staff do not offer instructions, recommendations, or advice.

Q. Hasn't any of your cost-cutting had congressional support?

A. I have received support for many cost-cutting efforts, including a hiring freeze which has brought a six percent decline in the G.P.O. work force. We have also reduced overtime, primarily because Congressional Committees have cooperated in the timely submission of copy. But there is a great deal more to be done.

Q. Meanwhile, most of the general public only know about G.P.O. through these ads for government publications that say, "Write to the Superintendent of Documents."

A. That program was carrying in print more than 23,000 titles produced by a wide range of federal agencies. I've managed to cut the listing back to approximately 18,000 titles. This program had lost $20 million in the three years prior to any appointment; but it earned a $2 million profit in the first four months of Fiscal 1982.

Q. Obviously your approach is increasing efficiency. Do you think Congress will back your efforts to get G.P.O. wages into line with standard federal salaries?

A. As long as there is strong citizen pressure for getting the maximum bang for the federal buck, Congress will respond. Actually, G.P.O. reform is one area in which our Congressmen could show leadership by getting the Legislative branch in order. The problem is in making sure the issue is seen clearly, and that it is not misrepresented as an "anti-union" issue. It is not. The issue is good government.

My goal is to do the things government needs, and do them in a cost-effective and efficient manner. Everything I am doing here in Washington is aimed at that.

Mr. **ARMSTRONG**. Mr. President, with that I am going to yield the floor and leave to my colleague from Georgia, who is the principal sponsor of this amendment, of which I am proud to be a cosponsor, as to his determination. It would be my determination that we not press it to a conclusion today; that having raised the issue I think there are many Senators who will want to become well informed on this and whose final determination of it no doubt will depend on the subsequent course of events.

Mr. **MATHIAS**. Mr. President, I want to thank the Senator from Colorado in particular for putting the column by James Jackson Kilpatrick into the RECORD. It is a column that is thoughtful and useful and also very gratifying to the Senator from Maryland. I take this opportunity to express publicly my appreciation to Mr. Kilpatrick for all of the nice things that he said in the column.

Let me also say on a more serious note to the Senator from Colorado that I do not want to comment on the Government Accounting Office report on wages, because that is one of the issues before the factfinder at this very moment; but I will assure him that the Government Accounting Office report will be one piece of evidence to be considered by the factfinder as part of the general mediation process.

Mr. **SARBANES** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Maryland.

Mr. **SARBANES**. Mr. President, in light of the comments made by the senior Senator from Maryland, it is clear, that this amendment comes at a very inopportune time and should be withdrawn. First of all, there is already an independent arbitrator appointed by the Joint Committee on

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Printing in accordance with the law looking into the entire issue of wages and we should await his report instead of taking precipitate action.

Second, as the senior Senator from Maryland, the chairman of the Joint Committee on Printing, has pointed out, the Joint Committee on Printing has under way plans for a study which would examine a number of the questions raised about the operations of the GPO and would provide a factual basis on which the Congress can make sensible decisions.

Third, it is important to note that the amendment proceeds on the premise that the Public Printer ought to be given complete authority and control over GPO employees and wages. I must say that my perceptions of the Public Printer on the basis of his action so far raise serious questions about his own sensitivities and his understanding of the congressional role with respect to the activities of the GPO and the important contribution rendered by GPO employees.

Recently a court had to rule that in fact the Public Printer did not have the furlough power which he sought to exert in direct conflict with the official actions of the Joint Committee on Printing. This is the man who said when complaints came from GPO workers with respect to the furlough policy: "The real economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night. They're all screaming like pigs. It's absurd."

The Public Printer, according to published reports, has ordered about a quarter of a million dollars to refurbish the eighth floor of the GPO where he has his own office at the same time he was saying the agency was strapped financially. In addition, under Mr. Sawyer's regime, there has been a marked increase in administrative personnel at the GPO. For all of these reasons it seems clear that this is neither the time nor the circumstance to repose full and unlimited authority in the Public Printer as these amendments seek to do.

A most constructive statement made on the floor today on this matter was that of my colleague from Maryland, pointing out the projected study by the Joint Committee on Printing. I think such a responsible study is the sensible way to approach the various allegations that have been raised with respect to the Printing Office.

Mr. President, I think, on close examination, we may come to a fuller appreciation of the enormous responsibilities placed on the workers at GPO, of the tight deadlines they must meet and the high quality of the product they regularly turn out. I think they have performed that job, over the years, with admirable responsiveness to the needs of the Congress, and the other branches of the Federal Government.

Mr. President, I hope we can address this situation in a more calm and orderly fashion than would be the case if this amendment were to be adopted. Mr. President, I therefore hope that the sponsors of this amendment would withdraw it.

Mr. HATFIELD. Mr. President, do I understand that the Senator from Colorado and the Senator from Georgia wish to make a statement?

Mr. MATHIAS. Mr. President, I am not exactly sure where we are from a procedural point of view.

Mr. HATFIELD. That is what I am trying to clarify.

Mr. MATHIAS. I think we have an orderly process underway. We are pursuing a thorough analysis of the policies that have governed the Federal printing program and ought to govern it. If the amendment is withdrawn—it is of no personal moment to me whether it is or is not, but if it is withdrawn, I can assure the sponsors of the amendment that that orderly process of evaluation will go forward. I think that they will be pleased with the kind of recommendations that will result from it.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I appreciate the remarks of the Senator from Maryland and the Senator from Colorado, and I shall withdraw the amendment. I would like to make one last comment.

The reason for the amendment being offered was the utter frustration of an appointee such as the Public Printer of the Government Printing Office who has very little latitude to do his job. I agree that we need to go in an orderly process. I do question, if we are going to be 1 more year from today waiting on a study to get that orderly process, it is no wonder that he is frustrated. I hope the dialog we have had today will be an impetus to take action as far as the Public Printer and the Government Printing Office and all are concerned, that we shall move in a faster rate than we have in the past. I know the Senator from Maryland has cooperated entirely in this.

With that, the Senator from Colorado and I withdraw the amendment.

The PRESIDING OFFICER. The Senator from Georgia has that right.

The amendment (UP No. 1212) was withdrawn.

● Mrs. HAWKINS. Mr. President, I rise today in support of Senator MATTINGLY's amendment. This discussion has stemmed from the diligent efforts of the Government Printer, Danford L. Sawyer, Jr. to bring the costs of operating the Government Printing Office down to earth. Mr. Sawyer came here a little over a year ago from the State of Florida to take on a difficult job, and he has done it well.

Mr. Sawyer has identified real problems at the GPO. Among these are an excessive number of workers, excessively high wages for printer and craftsman, and overclassification of workers. I will not outline once again the wide disparities between the wages paid printers and craftsmen in the private sector and those paid the same workers at the GPO. Senators MATTINGLY and ARMSTRONG have done this for us very effectively. I will say that these disparities are symptomatic of the problem that Mr. Sawyer is trying to address at the GPO.

I realize the importance of the GPO's responsibility for preparing the documents that we use here in this body on a daily basis. I realize that this special responsibility requires a certain amount of staffing flexibility within the agency to handle especially active days in the Congress. But Mr. Sawyer understands that too. He came to Washington, D.C. to do the best job that he possibly can, not to compromise the quality of the work at the GPO. He also needs flexibility to carry out his responsibilities efficiently and effectively. He does not have that flexibility now.

By delaying Senate consideration of Senator MATTINGLY's amendment until a later date, we further hinder Mr. Sawyer's ability to make what I am sure we will find to be necessary reforms at the GPO. In that it has been decided that we all need more time to study the matter. I want to assure Senators MATTINGLY and ARMSTRONG of my interest and support for their effort to bring this matter to the attention of our colleagues today and my hope that we will address this matter soon again on the Senate floor.●

Mr. HARRY F. BYRD; JR., addressed the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Mexico.

The Senator from Virginia is recognized.

Mr. HATFIELD. Mr. President, I——

The PRESIDING OFFICER. I had recognized the Senator from Virginia. Does the Senator from Oregon wish him to yield?

Mr. HATFIELD. If he will, Mr. President.

Mr. HARRY F. BYRD, JR. I yield, Mr. President.

Mr. HATFIELD. Mr. President, we are back on the amendment. I was going to clear the decks so we could do others. I do not think there is any other business to do until we do that. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. What is the Senator's request?

Mr. HATFIELD. I have no request, Mr. President.

THE DEBT LIMIT

Mr. HARRY F. BYRD, JR. Mr. President, the Senate Finance Committee met this morning. A hearing was held in regard to increasing the limit on the public debt. A representative of the Treasury Department testified. Under questioning by the Senator from Virginia, the representative of the Treasury Department stated that the public debt as of July was $1,090,000,000,000. The Senator from Virginia queried him as to what the Department of the Treasury estimates the public debt will be on September 30, 1983, namely, a year and 1 month from now. The reply was that the public debt is estimated to be $1,290,000,000,000.

What that means, Mr. President, and what the representative of the Treasury Department substantiated when I queried him, is that the Government will be spending $200 billion more than it takes in during the period of 14 months.

The Government will be spending $200 billion more than it takes in during the short period between August 1982 and October 1983. To the Senator from Virginia, that is deeply alarming. It is one which, I feel, indicates irresponsibility on the part of those handling public funds, the Congress of the United States.

It was also established today that the national debt will total $1.533 trillion by September 30, 1985. To put it another way, the public debt will increase by 44 percent during the 3 years and 5 months ending September 30, 1985, this huge increase in the public debt is stated in the budget resolution approved by the Congress.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The Senate continued with the consideration of H.R. 6863.

Mr. HATFIELD. Mr. President, I ask unanimous consent temporarily to lay aside the Schmitt amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object—I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent that we temporarily lay aside the Helms amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe we are clear for the presentation of another amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATFIELD. I yield to the Senator from Colorado.

UP AMENDMENT NO. 1214

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1214.

Mr. ARMSTRONG. Mr. President, ordinarily, I would ask unanimous consent to have reading of the amendment dispensed with but, in this case, I think it is better to have it read because it is explanatory to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 35, line 2, strike the "." and add the following ": Provided further, none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance pursuant to contracts entered under Section 8 of the U.S. Housing Act of 1937, as amended, after the date of enactment of this Act prior to the issuance of final regulations pursuant to the Housing and Community Development Act Amendments of 1981 and prior authorization Acts."

Mr. ARMSTRONG. Mr. President, this is the third and I trust final chapter in the presentation of an amendment to try to slow down and/or reform the spending for section 8 housing, that is, chapter 3 to date. It is about chapter 300 in the episodes that the Senator from Utah and I have been through over recent years to try to bring order out of chaos to this program.

I congratulate the Senator from Utah for his unstinting efforts to somehow bring this housing program under some kind of control.

Earlier this afternoon, Mr. President, I presented a double-barreled amendment which would have taken the $1.7 billion which is drawn out of 1983 back into 1982 spending by the bill and pushed it back into 1983 and, second, said that in any event section 8 housing could not go forward with any more new starts, any more new reservations until the Department had complied with the requirements of the bill which was passed last year.

All Senators, I am sure, will recall that last year we adopted approximately 20 amendments to reform various provisions of this much-abused program.

To date, the Department, after 1 year, has not succeeded in getting those in place. It is my feeling that we simply should not permit any more reservation of funds under the section 8 program until all of the requirements of the law are met.

After all, the law is the law. I will not repeat my earlier statement. I think I made it clear why such reforms are necessary.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point a GAO report which summarizes department action during the past 12 months in implementing the requirements of the August 13, 1981, legislation.

There being no objection, the GAO report was ordered to be printed in the RECORD, as follows:

APPENDIX I.—STATUS (MAY 1982) OF HUD'S RESPONSE TO SELECTED PROVISIONS OF THE HOUSING AMENDMENTS ENACTED AUG. 13, 1981—HUD'S IMPLEMENTING ACTIONS

Provision of the law	Section of 1981 act	Type of action	Status	Final implementation date: actual or estimated
Designing modest housing	324	Administrative procedure	Field notices were issued in November 1981 and March 1982 on modest housing.	HUD field offices have been implementing the revised policies since issuance.
Increasing tenants' contributions	322	Regulation	Interim rules were published in May 1982 for sec. 8 and public housing. Changes to the HUD handbooks and forms are in process.	A House committee has delayed HUD from implementing the interim rules for 90 days.
Limiting the Secretary's discretionary fund	321	Regulation	The interim rule will be published in June 1982	According to an agency official, HUD is already complying with this provision.
Restricting assistance to certain classes of aliens	329	Regulation	A proposed rule was published in May 1982. Changes to forms used by prospective tenants, and to the HUD handbooks, are in process.	The final rule should be effective later this year. HUD is drafting forms and handbooks to implement the changes concurrently with the effective date of the final rule.
Eliminating preference for Tandem-financed, partially assisted projects.	325	Regulation	A proposed rule cleared HUD in March 1982 and will go on to OMB [1] early in June 1982.	Although HUD does not have a rule to implement the law, HUD officials explained that the intent of the provision is being met.
Providing payments for unoccupied units	(2)	Report	A report to the Congress is being prepared covering the results of a HUD study. An interim report was sent to the Congress in April 1982.	The final report, which was due in June 1982, is under internal review at HUD. An agency official said that HUD expects to transmit the report to the Congress in August 1982.
Assuring the availability of sec. 8 for occupancy by eligible families.	325	Administrative procedure	HUD's handbook on occupancy was revised to specify the limit on admitting ineligible tenants. The revised handbook was issued in November 1981.	HUD field personnel are becoming familiar with the revised guidance. Assistance contracts will be amended to incorporate this change.
Limiting participation by families with incomes between 50 and 80 percent of median area income.	323	Regulation	A draft proposed rule has been at OMB since March 1982	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.

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APPENDIX I.—STATUS (MAY 1982) OF HUD'S RESPONSE TO SELECTED PROVISIONS OF THE HOUSING AMENDMENTS ENACTED AUG. 13, 1981—HUD'S IMPLEMENTING ACTIONS—Continued

Provision of the law	Section of 1981 act	Type of action	Status	Final implementation date: actual or estimated
Limiting eligibility to lower income families	322	Regulation	A draft proposed rule has been at OMB since March 1982	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.
Defining tenants' income	322	Regulation	A draft proposed rule has been at OMB since March 1982	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.
Changing the basis for rent increases in sec. 8 projects.	324	Regulation	A proposed rule has been drafted and is in internal review at HUD. Changes to the HUD handbook will not be started until HUD has firmed up the rule.	HUD expects to have a rule effective in October 1982, when the initial contracts signed under the provision will be subject to rent increases.
Determining the plans for early withdrawal of sec. 8 owners.	326	Administrative procedure	Studies are in process to determine (1) the extent of early withdrawals of owners and (2) any methods available to recapture front-end investment subsidies from these owners.	HUD expects to send the results of both studies to the Congress in August 1982.
Prohibiting financial profit by Government officials.	326	Regulation	An interim rule has been drafted and is in internal review at HUD	HUD already has the prohibition in effect through a clause in the section housing assistance contracts. HUD would not estimate the target date for publishing the interim rule; in part because HUD must coordinate with the Department of Justice before publishing the rule.

[1] Office of Management and Budget.

[2] The House and Senate conferees required a report on this issue.

APPENDIX II: SUMMARIES OF SELECTED PROVISIONS OF THE HOUSING AMENDMENTS OF 1981 AND HUD'S RESPONSE THROUGH MAY 1982

DESIGNING MODEST HOUSING (SECTION 324)

Provision of 1981 amendments

Newly constructed housing in the section 8 program must be modestly designed.

Background

We concluded that newly constructed housing was not modest: units were larger than necessary and projects contained costly amenities.[1] We also reported that efficiencies are more cost effective than 1-bedroom units for the single elderly. We recommended that HUD's Secretary explicitly define "modest housing" and house the single elderly in efficiencies.

S. 1074 proposed that HUD exclude unnecessary amenities. As proposed by the Senate, S. 1197 required HUD to limit unit sizes to no more than 10 percent above the Federal minimum property standards, reduce the types and numbers of amenities, and assure that not less than 25 percent of the units for the elderly or handicapped are efficiencies.

The conference report, accompanying the 1981 amendments, directs the Secretary to (1) preclude unnecessary amenities, (2) review the extent to which room sizes can be reduced to the minimum property standards, and (3) encourage an appropriate use of efficiencies.

HUD actions

HUD directed its field offices to—

Implement several cost containment and modest housing measures for the section 8 program (Nov. 1981);

Exclude unnecessary amenities when computing fair market rents for multifamily housing (Dec. 1981); and

Give cost containment and modest design features a maximum weight of 30 out of 100 points when selecting elderly and handicapped housing projects in fiscal year 1982 (Mar. 1982).

Target dates

HUD told us that it would continue to press for modest housing and cost containment in the Section 8 New Construction Program. As discussed below, HUD also plans to apply additional modest housing requirements to its public housing program.

Discussion

Officials in four HUD field offices said that some of their projects must be reviewed to comply with the November 1981 directive. These offices also explained that the directive was sent to project sponsors, developers, mortgage companies, and others.

HUD's November 1981 directive, while a step in the right direction, still permits the construction of units substantially above the minimum property standards. We told HUD in March 1982 that the room size ceilings appear to be of limited value in the Department's efforts to reduce production costs. For example, had the directive's maximum square footages for 2- and 3-bedroom units been in effect at the time of our 1981 study of projects in California, Ohio, Pennsylvania, and Washington, D.C., very few of the units would have been affected.

In our March 1982 letter, we also told HUD that its maximum square footage for a 1-bedroom unit for the elderly was too large and limitations appeared to be needed in the design of public housing.

In its April 30, 1982, response, HUD agreed with our observations on public housing but disagreed with our views on downsizing of section 8 units.

INCREASING TENANTS' CONTRIBUTIONS (SECTION 322)

Provision of 1981 amendments

This provision made the method of determining tenant rent contributions uniform between the public housing and section 8 programs.

The provision also requires that families pay whichever of the following amounts is highest:

30 percent of monthly adjusted gross income;

10 percent of monthly gross income; or

The designated shelter payment received by welfare tenants.

Background

S. 1074 stated that tenants were sometimes paid to live in federally assisted housing because of allowances for high utility costs. The proposal sought to establish a minimum rent contribution for section 8 recipients.

As proposed by the Senate, S. 1197 rejected the proposed minimum rent provision but required the 30/10 or designated shelter payment discussed above.

HUD actions

In May 1982 the interim rules were published in the Federal Register.

HUD is revising certain handbooks and forms to implement the interim rule.

Target dates

A House committee has delayed HUD from implementing the interim rules for 90 days.

Discussion

HUD program officials decided that all the provisions of sections 322 and 323 could be released in December 1981 as an interim rule, effective January 1982. However, HUD's Office of General Counsel decided to separate section 322's provision on higher contributions from all the other provisions. General Counsel then rewrote the interim rules on higher tenant contributions. Program officials calculated Federal subsidies for part of fiscal year 1982 on the basis of higher tenant contributions beginning in January 1982, whereas the effective date of the interim rules will probably be September 1982—some 8 months later.

The section of the provision directing welfare tenants to contribute the designated shelter payment is applicable in eight States and Puerto Rico; welfare families in the other States do not receive a designated shelter payment.

Although the interim rules were published in May 1982, the House Committee on Banking, Finance and Urban Affairs passed two "resolutions of disapproval" which prohibited HUD from implementing the plans for an additional 90 days.

LIMITING THE SECRETARY'S DISCRETIONARY FUND (SECTION 321)

Provision of 1981 amendments

This provision limits the fund to 15 percent of housing assistance and specifies that the fund can only be used for (1) unforseeable housing needs, (2) handicapped or minority enterprise, (3) assisted housing provided as a result of litigation, (4) small research and demonstration projects, (5) lower income housing needs described in housing assistance plans, and (6) innovative or alternative programs.

Background

S. 1074 proposed eliminating the fund because of the wide latitude with which these funds could be used.

HUD action

An interim rule was sent to the Federal Register on May 27, 1982.

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[1] "How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-81-54, Mar. 6, 1981).

Target dates

A HUD official told us that the Secretary has implemented the new limits on the amount and uses of the fund.

Discussion

Although an interim rule was drafted in September 1981, HUD officials said disagreement within HUD occurred over the funding allocation provisions of this rule. The Secretary's Discretionary Fund was not debated since it simply repeated the statutory language. There were many nonconcurrences by the divisions and offices within housing which had to be resolved.

The discretionary fund has been estimated at $98 million for fiscal year 1982. A HUD official said that, as of April 1982, approximately $20 million has been allocated for projects under the discretionary fund. The Office of Housing Operations and Field Monitoring accounts for the expenditures through and internal report, which is updated as each item is approved for funding.

RESTRICTING ASSISTANCE TO CERTAIN CLASSES OF ALIENS (SECTION 329)

Provision of 1981 amendments

This provision limits financial assistance in federally assisted housing programs to certain classes of aliens lawfully residing in the United States.

Background

We inquired into HUD's policies and procedures to exclude illegal aliens from receiving Federal housing subsidies. Our research suggested that illegal aliens were residing in selected federally supported projects. HUD told us in April 1980 that legislation authorizing its programs did not specifically address the issue of illegal aliens.

S. 1074 proposed that illegal aliens be prohibited from receiving Federal housing rental assistance. S. 1197 was essentially the same as S. 1074.

HUD actions

The proposed rule was published in May 1982.

HUD is preparing the necessary handbook changes and revising tenant certification/recertification forms.

Target dates

One HUD official estimated that receiving and analyzing public comment, publishing the final rule, and preparing the implementing guidance for field offices' use will take 3 to 5 months.

Discussion

According to a HUD official, the Department of Agriculture's alien eligibility criteria was modified to fit HUD's program needs.

HUD's "best guess" is that 500,000 units of subsidized housing are occupied by ineligible aliens. It estimates the annual subsidy for these units at $900 million.

ELIMINATING PREFERENCE FOR TANDEM-FINANCED, PARTIALLY ASSISTED PROJECTS (SECTION 325)

Provision of 1981 amendments

This provision eliminates a preference to partially assisted projects with Tandem financing.

Background

HUD encouraged an economic mix of low-income families with middle- and upper-income families through the funding of partial section 8 projects. However, the use of Tandem financing provided deep subsidies for the many nonpoor families in these projects. We characterized the concept as a large rent reduction for middle-income renters.[2]

S. 1074 proposed to prohibit priority funding to partially assisted projects. The Senate report accompanying S. 1197 was essentially the same as S. 1074.

HUD actions

HUD said that it is including this provision in its consolidation of rules 880 and 881. The proposed rule cleared HUD in March 1982 and will go to the Office of Management and Budget (OMB) early in June 1982.

Target dates

HUD did not provide us with a target date.

Discussion

HUD explained that it was implementing the intent of this provision even though a rule has not been published.

The six area offices that we contacted said that they had not given a preference in the selection process to any projects planned for Tandem financing. Two offices told us that partially assisted projects, previously selected, had received Tandem financing in 1982.

HUD is considering using 11(b) tax-exempt financing with partial projects. We told HUD that such a combination could result in subsidies which are much more costly than any other financing method yet used.[3]

PROVIDING PAYMENTS FOR UNOCCUPIED UNITS (SECTION 324)

Provision of 1981 amendments

The House and Senate conferees required a report to the Congress by January 1, 1982, on HUD's payments for unoccupied section 8 units. The Congress directed HUD to report on (1) the extent to which such payments have been made, (2) the cost to the Federal Government, and (3) the impact on owners and investors of limiting such payments in the future.

Background

Current law permits Federal subsidies for vacant units at 80 percent of the contract rent for 60 days, along with the vacant unit's portion of the project's debt service for an additional 12 months. Concern was expressed in S. 1074 that this policy was too generous.

S. 1074 and the report accompanying S. 1197 would have prohibited subsidy payments for vacant section 8 units beyond 30 days.

HUD action

HUD transmitted an interim report to the Congress in April 1982.

A final report, which was due to the Congress on June 1, 1982, has been drafted and is being reviewed within HUD.

Target date

HUD expects to transmit the final report to the Congress in August 1982.

Discussion

The interim report findings are based upon a 15-percent sample of the section 8 inventory within the Cleveland Area Office's jurisdiction. The final report will be based upon sample data from Cleveland and three additional area offices (Baltimore, Seattle, and Hartford). One HUD official explained that the data necessary for such an analysis was not available in HUD's computer system and that a full-scale study would require about 2 years. We did not examine HUD's report methodology because of the short time frame for our review.

HUD concluded, in the interim report, that withdrawing or limiting vacancy claims under the Section 8 New Construction or Substantial Rehabilitation Program would result in a substantial risk of default during the initial rent-up period, with a lesser risk during continued occupancy. An official in HUD's Office of State Agency and Bond Financed Programs noted that the present vacancy payment provision is attractive to the financial market. For example, some projects have a unique need for vacancy payments longer than 30 days because of severe weather conditions during the initial rent-up period.

A HUD official told us that the final report will show that, for the New Construction and Substantial Rehabilitation Program, 28 percent of the claims are for 31 to 60 days and 72 percent are for 30 days or less. The final report will also show an estimate for vacancy payments of $53.5 million for all programs, with $50.9 million, or 95 percent, for the New Construction and Substantial Rehabilitation Program.

ASSURING THE AVAILABILITY OF UNITS FOR OCCUPANCY BY ELIGIBLE FAMILIES (SECTION 325)

Provision of 1981 amendments

This provision states that owners of section 8 newly constructed or substantially rehabilitated housing shall make available for occupancy by eligible families the number of units for which assistance is committed under the contract.

Background

In April 1981 we reported that occupancy by ineligible households was a significant and costly problem.[4] We concluded, in this report, that the program rules were too lenient and that some owners ignore them. In its response to our report, HUD said that it was considering changing the section 8 regulations to more explicitly state the owner's obligation to rent to section 8-eligible tenants. To date, HUD has not decided to change the regulations.

S. 1074 would have prohibited renting any section 8 unit to individuals with incomes above the eligibility standards.

S. 1197 would have prohibited renting vacant units in a section 8 project to ineligible tenants unless the number of occupant-eligible families equals or exceeds the number to be available during the initial rent-up period.

HUD action

This provision was handled by a revision in November 1981 to the handbook on "Occupancy Requirements of Subsidized Multifamily Housing Programs."

Target dates

HUD field staff are beginning to implement the change.

Discussion

HUD officials told us that this provision did not require a regulation and was adequately handled by the handbook revision.

This handbook revision states that:

An owner may not lease any section 8 unit to any applicant above the income eligibility limit unless he or she makes a "good faith effort" to attract income-eligible applicants and finds they are not available;

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[2] "Evaluation of Alternatives for Financing Low and Moderate Income Rental Housing" (PAD-80-13, Sept. 30, 1980).

[3] Letter report on Section 11(b) Financing Used With Partially Assisted Section 8 Projects (CED-Feb. 17, 1982).

[4] "Lenient Rules Abet the Occupancy of Low Income Housing by Ineligible Tenants" (CED-81-74, Apr. 27, 1981).

Before admitting an over-income applicant, the owner must certify in writing that—

(1) He or she made all assisted units committed under the contract available for occupancy by eligible families;

(2) He or she took all reasonable steps to attract income-eligible applicants; and

(3) No income-eligible applicants were available when the over-income applicant was selected for admission;

An owner may not lease more than 10 percent of the section 8 units to overincome tenants without HUD approval, except in older projects where the contract allows up to 20 percent.

We asked the following four HUD area offices about field implementation of this handbook change: Los Angeles, Milwaukee, Minneapolis, and Chicago. HUD field officials said that they are implementing the revised handbook procedures and that project owners have complied with the good faith criterion for attracting income-eligible applicants.

LIMITING OCCUPANCY BY FAMILIES WITH INCOMES BETWEEN 50 AND 80 PERCENT OF MEDIAN AREA INCOME (SECTION 323)

Provision of 1981 amendments

This provision states that of public housing or section 8 units available for occupancy before October 1, 1981, and leased on or after that date, only 10 percent may be leased to individuals with incomes between 50 and 80 percent of the median area income.

Of the additional or new units that become available after October 1, 1981, no more than 5 percent may be leased to individuals with incomes between 50 and 80 percent of median area income.

Background

Both S. 1074 and S. 1197 would have changed the section 8 eligibility level from 80 percent to 50 percent of median income to target individuals most in need.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on increasing the tenant's contributions as an interim rule. The remainder of the regulation, including the limits on occupancy section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin 6 to 8 months after the proposed rule was published.

Discussion

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

A HUD official said that the draft rule did not contain the 10-percent limitation on units available before October 1, 1981. The rationale for this exclusion is that it will prevent disruption of established housing patterns and that—

Currently, only 11 percent of section 8 and 10 percent of public housing households are above the 50-percent median,

Rent increases which will occur under another provision are expected to cause many families above the 50-percent median to move out of assisted housing into the private market, and

HUD monitoring procedures will be established to assure that the 10-percent limit is not exceeded.

Regarding the 5-percent limit on new or additional units, HUD expects to give priority to certain types of projects where the mix of tenant incomes up to 80 percent is appropriate, such as bond-financed section 8 projects and projects that must be rehabilitated to avoid displacing tenants.

LIMITING ELIGIBILITY TO LOWER INCOME FAMILIES (SECTION 323)

Provision of 1981 amendments

This provision limits eligibility for public housing and section 8 programs to lower income families, defined as those families with incomes not exceeding 80 percent of the median for the area, with adjustments for family size. The Secretary is given discretionary authority to establish higher or lower ceilings where justified by higher prevailing construction costs or unusually high or low family incomes.

Background

Both S. 1074 and S. 1197 would have changed section 8 eligibility level from 80 percent to 50 percent of median area income. This provision was proposed because of disagreement with a HUD policy to place eligible families with higher incomes ahead of those with lower incomes in awarding section 8 subsidies.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the tenant rent payments and the income provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent to income ratio as a proposed rule. The remainder of the regulation, including the lower income eligibility section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impacts but declined to give further information on it.

Discussion

The proposed rule restates the wording of the provision and prescribed, for the first time, income limits for the public housing program.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

DEFINING TENANTS' INCOME (SECTION 322)

Provision of 1981 amendments

According to this provision, income is defined as that from all sources of each household member, determined according to criteria prescribed by the Secretary of HUD. Adjusted income is the income remaining after deductions prescribed by the Secretary.

Background

S. 1074 would have instituted a statutory definition of income for all Federal rental assistance programs which would include sources previously ignored, such as food stamps, unemployment compensation, and income earned by minors.

The House and the Senate bills were similar, with the House provision incorporated into the 1981 amendments; that is, requiring the Secretary to prescribe criteria for defining income.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the income and tenant rent payment provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent-to-income ratio as an interim rule. The remainder of the regulation, including the definition of income section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin approximately 6 to 8 months after the proposed rule was published.

Discussion

The draft rule specifies the uniform income sources to be included in calculating income for both the public housing and section 8 programs. This proposed rule also lists certain types of income to be excluded such as (1) earned income of minors and foster children, (2) payments for the care of foster children, and (3) benefits from other programs such as food stamps, energy assistance, and youth employment and training.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

CHANGING THE BASIS FOR SECTION 8 RENT INCREASES (SECTION 324)

Provision of 1981 amendments

This provision limits contract rent increases for newly constructed or substantially rehabilitated projects. The increases cannot exceed the amount of operating cost increases of comparable rental units in the same market area.

Background

HUD bases allowable rent increases for section 8 units on annual adjustment factors computed for standard metropolitan statistical areas. In an earlier report,[5] we ques-

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[5] "How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-81-54, Mar. 6, 1981).

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tioned this method and recommended that HUD use annual certified financial statements to help measure the reasonableness of annual rent increases.

S. 1074 would have limited increases in contract rents to actual cost increases for the specific project.

S. 1197 proposed essentially the same provision that was enacted in the 1981 amendment.

HUD actions

A proposed rule has been drafted and is in internal review.

Target dates

HUD hopes to have a rule in effect by October 1982.

Discussion

HUD has concluded that the change in calculating annual rent increases will apply only to those contracts signed under the provision of the 1981 amendments.

DETERMINING THE PLANS FOR WITHDRAWAL BY SECTION 8 OWNERS (SECTION 326)

Provision of 1981 amendments

By August 1982 HUD must conduct a survey to determine the number of projects owned by developers with 5-year contracts who plan to (1) withdraw from the program at contract expiration and (2) increase rents beyond a level current tenants can afford.

HUD is also required to report by August 1982 on alternative methods which could be used to recapture front-end Federal subsidies on units removed from the section 8 program.

Background

After their initial 5-year contract expires, owners may want to remove some or all of their units from section 8 coverage. To encourage renewals, we had earlier recommended that HUD study the feasibility of economic incentives and contractual sanctions.[6]

S. 1074 and S. 1197 proposed essentially the same provision that was enacted in the 1981 amendments.

Although the second report has not been started, a HUD representative said that HUD has found no methods for recapturing the investment costs. He believes that contracts signed before October 1, 1981, are "untouchable" regarding recouping investment costs.

Target dates

HUD expects both reports to go to the Congress in August 1982.

Discussion

A HUD official thought that only a few owners would withdraw 100 percent of their units from the program, with the remaining owners withdrawing only some of their units. He also said that HUD will try to provide affected tenants with certificates for other rental housing.

PROHIBITING FINANCIAL PROFIT BY GOVERNMENT OFFICIALS (SECTION 326)

Provision of 1981 amendments

This provision instructs HUD to develop regulations to prevent conflicts of interest arising from participation in section 8 projects by Federal, State, and local government officials. The regulations were to become effective within 180 days of the enactment of the 1981 housing amendments (Feb. 13, 1982).

Background

Both S. 1074 and S. 1197 specifically prohibited State and local housing officials from having a direct financial interest in the development of section 8 projects.

HUD action

A draft interim rule was developed in the Office of General Counsel in April 1982.

Target dates

The Office of General Counsel official who drafted this regulation could not estimate time frames for the regulation's clearance. He said that the regulation would have to be approved by the Justice Department and would probably be reviewed by several representatives of the Assistant Secretary for Housing and within the Office of General Counsel.

Discussion

Section 8 contracts already contain a clause prohibiting financial profit by State and local officials. Thus, for such officials, this interim rule will put into regulatory form a policy already effective in the section 8 program. A HUD official told us that under this rule, "federal officials" is expanded to include cabinet members and agency officials as well as Congressmen and women.

According to a HUD official, no Government official could be brought to trial under this provision because conflicts of interest are not violations of the criminal code. Rather, the complaint would be handled through administrative actions by the HUD field office. Examples of these actions include requiring Government officials to remove themselves from the board of the section 8 project and disallowing the costs which represent profit to the officials.

Mr. ARMSTRONG. President, with that word of explanation, I am ready for a vote on my amendment which will simply say, "No more section 8 housing until they implement the reform regulations."

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will not repeat the earlier debate. I think the Senator from Colorado and I discussed this at great length, and I cannot agree with his amendment. I would rather shift the burden to the bureaucrats who have not performed on what the Congress told them to do last year rather than on the recipients of the aid.

UP AMENDMENT NO. 1215

Mr. GARN. Mr. President, I send to the desk an amendment in the form of a substitute for the Armstrong amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

> The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1215.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> In lieu of the language proposed to be inserted, insert the following: ": *Provided further,* That not withstanding any other provision of law the Department of Housing and Urban Development shall obligate not more than $\frac{1}{18}$ of the amount appropriated for personnel compensation and benefits during each month beginning on January 1, 1983 until October 1, 1983, until the Department issues final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts"

Mr. GARN. This amendment simply makes HUD salaries in the future on a reduced amount per month unavailable for expenditure unless and until they come up with the amendments the Senator from Colorado is talking about.

I think that is all we need to say about it. It is very self-explanatory.

I believe the Senator from Colorado accepts this amendment, and the manager of the bill also accepts it.

Mr. ARMSTRONG. Mr. President, as usual, while others are shilly-shallying and charging about in all directions, the Senator from Utah has gone directly to the heart of the matter. I believe that he has provided the perfect solution to this problem. I am pleased to accept his amendment. I dare not ask whether or not, if enacted, this would become a precedent-setting approach to such problems, but perhaps I could entertain the hope that on other occasions when agencies are not responsive we might handle it in the same way. I congratulate the Senator on his ingenuity in coming up with this approach to the problem. It sounds all right with me and, if it is orderly, I will be glad to accept his amendment.

Mr. GARN. I thank the Senator from Colorado. I ask the managers of the bill if my understanding is correct that they would be willing to accept the amendment?

Mr. HATFIELD. That is correct. The majority will accept it.

The PRESIDING OFFICER. The Senator from Colorado has the right to modify his amendment by accepting the amendment of the Senator from Utah.

Mr. ARMSTRONG. With the utmost pleasure, I do so.

Mr. HATFIELD. I move the adoption of the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Colorado is in fact modified.

The question is on agreeing to the amendment of the Senator from Colorado, as modified by the amendment of the Senator from Utah.

The amendment (UP No. 1214), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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[6] "How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-84-54, Mar. 6, 1981).

Mr. **ARMSTRONG**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HATFIELD**. Mr. President, we have now reverted to the Schmitt amendment?

The **PRESIDING OFFICER**. The Senator is correct.

Mr. **HATFIELD**. Mr. President, I yield 1 minute to the gentleman from Illinois for brief remarks, and then we will go immediately to a vote.

The **PRESIDING OFFICER**. The Senator from Illinois.

Mr. **DIXON**. Mr. President, I rise in support of this effort to again address this most critical problem of unemployment benefits.

The recent unemployment figures in Illinois indicate that an already critical situation is now even worse. Illinois is now suffering 12.3 percent unemployment and is on the brink of triggering off extended benefits in the very near future—perhaps as early as next week. It is unconscionable that a State such as Illinois, which ranks second among the 10 largest industrial States, would not qualify for the maximum benefits allowable under the current law.

Monday, in a statement I made which appeared in the RECORD, I indicated that Governor Thompson informed me that Illinois was going to trigger off extended benefits on August 9. This was in error. Tuesday, I received a letter from the administrator of employment security of the Illinois Department of Labor, indicating that the information which was furnished to me was premature. Illinois is, therefore, still eligible for the extended benefits program, but the shutoff date is still very close. I ask unanimous consent to include a copy of the letter I received at the end of my statement.

The **PRESIDING OFFICER**. Without objection, it is so ordered. (See Exhibit 1.)

Mr. **DIXON**. I ask unanimous consent to include a telegram that Governor Thompson and several other Governors sent to Senator DOLE, urging prompt action to address the unemployment compensation problem we are facing.

The **PRESIDING OFFICER**. Without objection, it is so ordered. (See Exhibit 2.)

Mr. **DIXON**. In conclusion, I urge the support of all Senators for this amendment. We cannot lose sight of the millions of people in our Nation who have little hope left, save what we will do to come to their aid.

EXHIBIT 1

DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Chicago, Ill., August 10, 1982.

Hon. ALAN DIXON,
U.S. Senator, Dirksen Office Building, Washington, D.C.

DEAR SENATOR DIXON: We regret that information that you received regarding the Extended Benefit Program triggering "off" in Illinois was premature.

Preliminary figures received on a daily basis showed that we were some 20,000 claims behind the prior week. However, a heavy influx late in the week coupled with agent state claims, which are received on Monday, brought the Illinois rate to 5.0%.

We want to again thank you for all your efforts and dedication in pursuing an issue which affects some 50,000 Illinois residents. Should we be of any assistance in the programs administered by this agency, please do not hesitate to call. We will make every effort to provide the information that is being requested.

Sincerely,

AGALIECE W. MILLER,
Employment Security Administrator.

EXHIBIT 2

[Mailgram]

WASHINGTON, D.C., *August 4, 1982.*

(This mailgram is a confirmation copy of the following message:)

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.

We are writing to call to your attention an urgent problem in our States with respect to unemployment insurance and to ask for your understanding and support.

Thousands of jobless receiving benefits are in immediate danger of losing this critical financial support. Changes in Federal law made last year have precipitated this unfortunate and inequitable situation. In particular, we are affected by amendments made by the Omnibus Budget Reconciliation Act of 1981 which has prevented the continuation of unemployment benefits to thousands of jobless workers.

The National economic recovery is slower than anticipated. We know the return to work always lags behind an upturn in the economy. Enacting unemployment insurance legislative changes now can provide a transition for the unemployed which is essential to their economic well-being. The current policy of the National Governors' Association recognizes the unemployment insurance system as the first line of defense against economic downturn. The policy also calls for a Federal supplemental benefits program to assist long-term jobless workers. We encourage your support for such a supplemental program. We urge you to give it special consideration.

Sincerely,

Governor James Thompson, State of Illinois; Governor Christopher Bond, State of Missouri; Governor Robert Orr, State of Indiana; Governor William Winter, State of Mississippi; Governor Lee Sherman Dreyfus, State of Wisconsin; Governor Albert Quie, State of Minnesota; Governor Frank White, State of Arkansas; and Governor Harry Hughes, State of Maryland.

Mr. **BAKER** addressed the Chair.

Mr. **BAKER**. Mr. President, will the Senator yield?

Will the Senator permit me to intervene for a moment for the purpose of attempting to provide for the appointment of conferees on the second reconciliation package?

Mr. **HATFIELD**. I would be happy to yield.

OMNIBUS RECONCILIATION ACT OF 1982

Mr. **BAKER**. Mr. President, I understand the minority leader is on the way to the floor, and I would prefer to await his arrival to proceed, because what I am about to do will require the unanimous consent of the Senate. I observe the presence of the distinguished chairman of the Budget Committee, the distinguished chairman of the Commerce Committee, and others who may be directly involved in this procedure. I believe that what we are about to do has been cleared on all sides.

However, I have a statement that I would like to make at this point which would set out certain of my reviews in respect to the procedure we are about to follow, so while I am awaiting the arrival of the minority leader, I will go ahead with that statement.

Mr. President, this reconciliation bill which I am about to ask the Chair to lay before the Senate includes provisions which would place a 4-percent ceiling on cost-of-living adjustments in Federal retirement programs under the jurisdiction of four different Senate committees. Under existing law the COLA's for foreign service retirees, military retirees, Coast Guard retirees and Public Health Service retirees are linked to COLA's for Civil Service retirees.

In other words, a change in the law which limits civil service COLA's will automatically make the same change in the other four programs.

The reconciliation bill now going to conference contains for the programs other than civil service retirement cross references to the COLA provisions on civil service retirement.

To simplify the conference on the reconciliation bill, no Senate conferees are being appointed from the Armed Services and Foreign Relations Committees. In addition, the conferees for the Commerce, Science and Transportation Committee are being appointed for portions of the bill other than the cross reference pertaining to Coast Guard COLA's.

This means that the Senate will rely on the conferees from the Governmental Affairs Committee, with the support of the conferees from the Budget Committee, to handle the COLA negotiations during the conference with the House.

I want to make it crystal clear that the decision not to appoint conferees on COLA issues from the other three committees in no way implies a change in jurisdictions over any of the affected programs.

I also want to make clear that the Senate reserves the option of appointing additional conferees on COLA issues should development in the reconciliation conference make this desirable.

Finally, I expect that as the conference proceeds, the conferees from the Governmental Affairs and Budget Committees will work with the leadership of the other three Senate committees which have a stake in the COLA negotiations.

Mr. President, I understand that the distinguished Senator from Oregon and the distinguished Senator from New Mexico, the chairman of the Commerce Committee and the Budget Committee, respectively, may have other statements to make.

Before I yield for that purpose, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 6955.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6955) to provide for reconciliation pursuant to the First Concurrent Resolution on the Budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress).

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, that the text of S. 2774 as passed by the Senate be inserted in lieu thereof, that the bill, as amended, be passed, that the Senate insist upon its amendments, request a conference with the House on the disagreeing votes and, that the Chair be authorized to appoint conferees on behalf of the Senate.

Mr. ROBERT C. BYRD. Mr. President, there is no objection. This matter has been cleared on this side.

Mr. BAKER. I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed the following conferees on the part of the Senate:

From the Committee on the Budget: Mr. Domenici, Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Tower, Mr. Hollings, Mr. Chiles, Mr. Johnston, and Mr. Exon.

From the Committee on Agriculture, Nutrition and Forestry, for Title I: Mr. Helms, Mr. Dole, Mr. Hayakawa, Mr. Lugar, Mr. Cochran, Mr. Huddleston, Mr. Leahy, Mr. Melcher, and Mr. Zorinsky.

From the Committee on Banking, Housing and Urban Affairs, for Title III: Mr. Garn, Mr. Tower, Mr. Lugar, Mr. Riegle, and Mr. Proxmire.

From the Committee on Commerce, Science and Transportation, for Sections 402 and 403 of Title IV: Mr. Packwood, Mr. Goldwater, Mr. Stevens, Mr. Cannon, and Mr. Ford.

From the Committee on Governmental Affairs, for Title VI: Mr. Roth, Mr. Stevens, Mr. Mattingly, Mr. Eagleton, and Mr. Pryor.

From the Committee on Veterans' Affairs, for Title VII: Mr. Simpson, Mr. Thurmond, Mr. Stafford, Mr. Cranston, and Mr. Randolph.

Mr. BAKER. Mr. President, do I correctly understand that a colloquy is about to ensue between the Senator from Oregon and the Senator from New Mexico?

Mr. PACKWOOD. There is.

Mr. President, if I may direct my attention to the Senator from New Mexico, I want to make sure that we have a clear understanding as to how the budget conferees appointed to the conference will operate in relation to the conferees appointed to the so-called miniconferences.

The reason I raise this point is to make sure that we do not run the risk of Budget Committee conferees swamping the miniconferences that are in the jurisdication of other committees.

The reason I raise this point is that at the meeting of the House and Senate conferees for the organizational purposes just a few minutes ago, Representative LATTA, one of the House conferees, upon looking at those who would be conferees, said, "We can simply gang together and outvote the conferees of these miniconferees."

I will rise in defense of the Senator from New Mexico, who indicated at that time that that is not the way we do things in the Senate.

So I want it clearly understood, if I correctly understand our agreement in the Senate, that the members of the Senate Budget Committee, who are in essence conferees on all the miniconferences, will not participate and will not vote in those miniconferences unless they are asked to participate and vote by the chairman of the Senate authorizing committee.

Mr. DOMENICI. I assure the Senator that we have no intention of swamping anybody, certainly not our own minicommittees, which are made up of distinguished chairmen of our standing committees, including Senator PACKWOOD, who will chair the Commerce section, as the majority leader described.

The rules we tentatively adopted this afternoon, to which the Senator from Oregon alluded, when Representative LATTA spoke, are the same rules with reference to this issue as we adopted last time with reference to the overall conference.

We had an understanding—which I reiterate for the Senate—that so far as the Senate conferees are concerned, as well as this Senator, who is chairman of the subconferences, our job at this point is to push and prod and see that we expedite the conclusion of this conference. We have no intention to break with tradition. In fact, we intend to follow it—that is, we do not vote, we do not interfere with your substantive deliberations, unless you, as chairman, ask us to do that, in which event we are at your disposal for discussion, for bringing up issues, for assuring those, including House conferees, who might want to delay that we are there to assist you in arriving at decisions.

We will cast our votes as we see fit, but only after you have invited us to be one of your conferees. I would hope that at that point we would be casting our votes as you would want them cast. I cannot say that for the conferees, but that is our goal.

Mr. PACKWOOD. I understand that. I appreciate the assurances of the Senate Budget Committee that you will not be uninvited guests and that only when the chairman of the authorizing committee invites you as a guest, you will come and participate.

Mr. DOMENICI. The Senator can be sure of that.

Mr. PACKWOOD. I thank the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator for his cooperation, and I thank the majority leader for helping us expedite this matter. I thank Senator HATFIELD for yielding for this purpose.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The Senate continued with the consideration of H.R. 6863.

VOTE—UP AMENDMENT NO. 1208

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from New Mexico (UP No. 1208). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—96

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga

VOL
128
PT
15
AG
9
—
13
1982
UMI

Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—3

Byrd,
Harry F., Jr.
Helms
Humphrey

NOT VOTING—1

Brady

So Mr. SCHMITT's amendment (UP No. 1208) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. RUDMAN). The Senate will please be in order. The Senate is not in order.

TIME-LIMITATION AGREEMENT ON SCHMITT AMENDMENT NO. 2014

Mr. HATFIELD. Mr. President, I ask unanimous consent that on the Schmitt amendment dealing with copper that there be a half-hour time limitation equally divided. That has been checked with Mr. TOWER of Texas, who opposes it, Mr. SCHMITT, and the majority and minority side.

Mr. BUMPERS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside the pending Helms amendment.

Mr. BRADLEY. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. I ask the distinguished chairman of the Appropriations Committee and Senator HELMS—in fact I ask unanimous consent that prior to the disposition of the Helms amendment that the Senator from New Jersey be allowed to speak for up to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, point of order. I believe there is a pending request.

Mr. HATFIELD. Mr. President, reserving the right to object, is the Senator asking for—first of all, Mr. President, may I inquire of the Chair the pending amendment is the Helms amendment on the Polish debt?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. The Senator wishes to be heard on that amendment for a period of not exceeding 15 minutes.

Mr. BRADLEY. That is correct, prior to the disposition of the amendment.

Mr. HATFIELD. But not necessarily at this moment. I would have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the previous request?

Mr. HATFIELD. Mr. President, we have now set aside the Helms amendment temporarily. I believe the Senator from Louisiana has an amendment to offer.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator withhold? The Chair wishes to consult the Parliamentarian.

Is there objection to the previous request by the Senator from Oregon? Without objection, it is so ordered. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I believe the Senator from Louisiana had asked for recognition.

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 1216

(Purpose: To direct the Justice Department to locate an alien detention center in Allen Parish, Louisiana)

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1216.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the period at the end of line 20 on page 12 and insert the following: ", and provided that the first alien detention facility to be constructed with such funds be located in Allen Parish, Louisiana."

Mr. STENNIS. Mr. President, may we have quiet and order, more quiet, so we can hear?

The PRESIDING OFFICER. The Senator from Mississippi is correct. The Senate is not in order. The Senate will be in order, and those Senators wishing to converse will retire to the cloakrooms.

The Senator from Louisiana.

Mr. JOHNSTON. The committee included $17 million for the construction of one of the two alien detention centers requested by the Department of Justice.

Mr. President, we put language in the committee report directing that the Department of Justice and the Bureau of Prisons particularly look at Allen Parish—a parish being the Louisiana counterpart of county—as a site for this alien detention center, first, because it was close to the areas where aliens would come from, particularly the Mexican illegal aliens and, second, and most important, because Allen Parish has unemployment at the rate of 26.8 percent, which is one of the very highest rates in the entire Nation.

Mr. President, what this amendment would do would be to direct that the Bureau of Prisons locate this first alien detention center in Allen Parish, La. I am wondering if my friend from Connecticut would look favorably upon such an amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I appreciate the Senator's interest in the location of the detention center for which funds are provided under chapter II. As you are aware, there has been considerable opposition to locating the center in Petersburg, Va. There have also been some questions raised about the suitability of El Reno, Okla.—the other proposed site. The Appropriations Committee recognized these concerns and directed the Department of Justice to give an equal priority to Oakdale, La. However, I do not believe it responsible to dictate the selection of any particular site for this facility. There are too many issues to be considered. First, the Department must carefully weigh the location in light of the fact that we are approving funds for only one detention center. Access to highways and airports for ease of transporting detainees is another matter.

The size of the facility and cost of land acquisition and construction are other factors. Obviously, there are some advantages to location of the facility at the site of another Federal installation. However, to my mind this is not necessarily the most important criteria and, it should not disqualify consideration of any particular place.

UP AMENDMENT NO. 1217

(Purpose: To prohibit the Department of Justice from refusing to locate an alien processing facility at a site solely because it is not presently owned by the Federal Government)

Mr. JOHNSTON. Mr. President, I have enormous respect for the Senator from Connecticut and he has been very sympathetic to this problem in Allen Parish. He was willing to accept our language in the committee, and I do not want to push this matter too far.

Therefore, Mr. President, I withdraw the amendment and send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1217

Strike the period at the end of line 20 on page 12 and insert the following: ", and provided that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned," and provided further that the building to house aliens be constructed separate and apart from an existing Bureau of Prisons building housing Federal prisoners.

Mr. JOHNSTON. Mr. President, one of the problems we have had is that the committee language, the language adopted by the committee in its report, seems to have fallen on deaf ears at the Bureau of Prisons. They were considering three sites, one in Virginia, one in El Reno, Okla., and this site in Oakdale, Allen Parish, La.

It seems that it has been very difficult to get them to consider Oakdale for the reason that there is no Federal prison now in Oakdale and they seem to be taking the view that the facility ought to be located in conjunction with a Federal prison.

Now, it happens, Mr. President, that the penologists, and particularly the Department of Justice, think it is bad policy to locate one of these prisons as part of a Federal prison facility.

Associate Attorney General Rudolph W. Giuliani testified before the Judiciary Committee in this respect. He said:

> While aliens who await processing in BOP facilities are segregated from the general inmante population, we do not believe it is advisable to house administrative detainees in correctional facilities with those convicted or accused of crimes. Moreover, this use of BOP space puts additional strain on our already-taxed Federal prisons.

So, Mr. President, what this language does is simply give life to the wishes of the Department of Justice as expressed by Associate Attorney General Giuliani by saying, first, that a site may not be excluded from consideration because it is not presently federally owned and, second, that the building to house the aliens be constructed separate and apart from an existing Bureau of Prisons building housing Federal prisoners, which is exactly what the proper penology theory ought to be and exactly what the Department of Justice has stated it wants.

The counsel for the committee has cleared this, I am advised by the Department of Justice, and I would ask for its favorable consideration.

I would say to my friend from Oklahoma that it does not exclude El Reno and it does not include any particular site. If the site is built at El Reno pursuant to this language, you would simply have to build a separate building. In other words, it cannot be as part of the existing Federal prison. It could be on the property owned as part of that prison, but it could not be as part of it connecting to it.

Mr. NICKLES. Will the Senator yield?

Mr. BOREN. Will the Senator yield?

Mr. JOHNSTON. Mr. President, if I may yield first to Senator NICKLES.

Mr. NICKLES. I thank the Senator from Louisiana.

Mr. President, having looked at the Senator's amendment, I assume this is the same amendment that we have previously discussed.

Mr. JOHNSTON. That is correct.

Mr. NICKLES. Mr. President, I have discussed this with Norman Carlson, who is the Director of the Bureau of Prisons. My personal reservation is possibly, I would like to see them have some flexibility in deciding where the prison location would be so they could pick the site that would most suit their desires and needs and economies and all the various factors included.

Certainly in looking at the Senator's amendment I do not find anything wrong with certainly the first part of it nor the second part of it as long as I think we are talking about the same things.

He did mention some reservations about the words constructed separate and apart, not knowing what and apart would be. For example, the center that they are also considering in Oklahoma has a great deal of land. We have something like 1,800 acres of land that the Federal Government owns right next to the prison center area. That separate and apart, would that mean it would have to be some distance apart, could not be adjacent to, or what would that mean?

Mr. JOHNSTON. As I read this language—and I did not write this language, this language was worked out between the counsel and between the Department of Justice—but I think the meaning is clear, and that is that the buildings cannot be connected, they cannot be part of the same facility. You cannot just put a little addition on an existing prison because, as the Assistant Attorney General said, it is not appropriate to keep people who are in administrative detention housed in the same building, in the same facility, with those charged with rape, murder, homicide, and other kinds of crimes. So it would not exclude the property at El Reno.

Mr. NICKLES. Will the Senator yield just a second further?

Mr. JOHNSTON. Yes.

Mr. NICKLES. I asked Mr. Carlson, the Director of the Bureau of Prisons, if there is any intention whatsoever to intermix the illegal aliens with the Federal prisoners. He said, "None whatsoever." He said they would be separate buildings.

Would the Senator be agreeable in his amendment to delete the two words and apart just so we would not have any ambiguity or misconstruction about how close they could be to those adjacent buildings? He did state they would be talking about new, different, separate buildings, but that idea of how far apart leaves a little bit in question. If we could delete those two words, I think it would take any confusion out of the Senator's amendment.

Mr. JOHNSTON. Mr. President, I would say to my friend from Oklahoma that this colloquy, which constitutes part of the legislative history, would make it perfectly clear that we are not talking about long distances when we say apart but we are talking about the physical separation between the two. In that sense, I would not want to take out apart. There ought to be a separation.

Mr. NICKLES. Will the Senator yield further?

Mr. JOHNSTON. I yield.

Mr. NICKLES. If you have a district Federal prison, are we talking about 100 yards. I do not want to handicap them if they determine they would like to have it be adjacent to. What does adjacent to mean? There is a lot of confusion.

Senator BOREN, the Senator from Louisiana, and I have discussed earlier what was the meaning of apart. The Senator has said it would not prohibit locating the new detention center on existing land, and I am appreciative of that. Certainly, that would mean that El Reno would still be eligible. I would not want to say that, yes, they can do it somewhere on the land, but one interpretation would be that it would have to be a quarter mile away or a half mile away.

Mr. JOHNSTON. I think this makes it perfectly clear. If you took out apart, there would be housing on the second floor, and you would have rapists on the first floor and thieves on the third floor. I think taking it out would take the life out of the amendment. It is clear that by apart we are not specifying a particular distance, but we do mean that there ought to be a real separation, and it can be on the same piece of property.

Mr. NICKLES. The Senator's desire is to just make sure that it is a different building, is that correct?

Mr. JOHNSTON. That is correct.

Mr. NICKLES. The Senator does not really care if it is adjacent to existing buildings as long as it is a different building.

Mr. JOHNSTON. When the Senator says adjacent to, if that means physically connected, I would think that would violate the amendment.

Mr. NICKLES. As the Senator may know, it is presently against the law to house illegal aliens in the same physical structure as it is to integrate those persons into existing Federal prisons. I have been assured by the Bureau of Prisons that it is not their intention. They will keep them in separate facilities, but they do not want an interpre-

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tation to come up saying, "You have to have a certain distance between these particular facilities," and thereby limit their flexibility in locating sites or construction.

Mr. JOHNSTON. We do not intend to limit them.

Mr. HATFIELD. Mr. President, I wonder if we can lay this amendment aside temporarily, letting the two Senators get together to work out the difficulties.

Mr. JOHNSTON. I think we have clarified it.

Mr. BOREN. I believe we are close to an understanding on this.

Mr. HATFIELD. If the Senators could work it out in private, it would save a lot of time and we could get other business done. Perhaps we can let the chairman and the interested parties work out the problem.

Mr. JOHNSTON. I will say to the chairman I think it is worked out. If the chairman wants me to pull it down, I will pull it down.

Mr. WEICKER. Is the distinguished Senator from Oklahoma prepared to accept the amendment as it now is?

Mr. BOREN. I think we can clear it up. I just want to ask two or three questions. I think if I could ask the author of the amendment or the distinguished chairman two questions, it would clear it up, if the Senator from Louisiana wants to proceed.

Mr. JOHNSTON. I think I have language that surely can satisfy my colleagues.

Mr. HATFIELD. I am trying to be helpful. I did not want us to hammer out a bill on the floor. I would much rather have it done in private and then come to the floor when it is completed.

Mr. JOHNSTON. Mr. President, the amendment is changed to say that the building to house aliens be constructed in a separate building from the existing Bureau of Prison building housing Federal prisoners.

UP AMENDMENT NO. 1218

(Purpose: To prohibit the Department of Justice from refusing to locate an alien processing facility at a site solely because it is not presently owned by the Federal Government.)

Mr. JOHNSTON. Mr. President, I ask unanimous consent to withdraw the instant amendment and I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Johnston) for himself, Mr. Long, and Mr. Warner proposes an unprinted amendment numbered 1218.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the period at the end of line 20 on page 12 and insert the following: ", and provided that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned," and provided further that the building to house aliens be constructed in a separate building from an existing Bureau of Prison building housing Federal prisoners.

Mr. JOHNSTON. Mr. President, I believe I have explained the amendment thoroughly.

Mr. BOREN. Mr. President, under this amendment, we would not be ruling out any particular site.

Mr. JOHNSTON. We are not ruling out El Reno, Okla. That is exactly correct.

Mr. BOREN. And it would mean that while we could not use the fact that the land was not federally owned, it would not rule it out by the other side, it would not be ruled out by the Federal prisons as long as it was separately constructed.

Mr. JOHNSTON. Absolutely.

Mr. BOREN. Mr. President, I think the Senator from Louisiana has taken a proper approach. This is a selection that should only be made by the Department of Justice. I think they should consider such factors as unemployment, the cost of the facility, and many other factors as well. This amendment is certainly one which I would have no reason to oppose.

Mr. JOHNSTON. I thank the Senator.

Mr. WEICKER. Mr. President, the amendment, as modified by the distinguished Senator from Louisiana, is acceptable to the chairman of the committee. I would have to point out that before any statements are made as to the Justice Department approval or disapproval, I would only like to reserve the right of the department to review what it is that we pass here on the floor tonight prior to the conference. I am sure they will have their final position to state. I do not see any difficulty in that area. I just want to be certain that it is understood that the language agreed to here was not that presented to the Justice Department.

Mr. President, I have no problems with the amendment, and I agree to it.

Mr. JOHNSTON. That is clearly understood. I thank my colleague, my chairman, and also my colleague from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank the Senator from Louisiana also for this cooperation and his effort. I have no objection to the amendment.

Mr. LONG. Mr. President, as a cosponsor to the Johnston amendment I strongly support this effort to have proposed alien processing center located in the Allen Parish, La. area. I am personally aware of the near unanimous support for this facility in that area. In addition I direct my colleague's attention to three factors of particular importance.

Allen Parish is currently experiencing 28.3 percent unemployment. The construction of the Center, and its operation, would provide jobs desperately needed in this area. I believe that this project's potential for unemployment relief is a major reason for its location in Allen Parish.

The Allen Parish community has overwhelmingly supported the project. On April 7, 1982, at a town meeting held in Oakdale, La., 700 citizens applauded INS officials as they described the project. Surely, the Center will not be given as supportive a reception at any other site under consideration.

The Allen Processing Center has strong support among local officials. The close relationship between Federal officials administering the facility and local officials will be extremely important to its efficient operation.

Mr. HATFIELD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1218) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1219

Mr. BUMPERS. Mr. President, on behalf of Mr. Percy, Mr. Bradley, Mr. Pell, Mr. Durenberger, Mr. Mathias, Mr. Moynihan, Mr. Proxmire, Mr. Symms, and myself, I send an amendment to the desk and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, I believe this amendment is out of order. I raise a point of order. I ask unanimous consent to set aside temporarily the Helms amendment in order for this amendment to be offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers, for himself, Mr. Percy, Mr. Pell, Mr. Bradley, Mr. Durenberger, Mr. Mathias, Mr. Moynihan, Mr. Proxmire, Mr. Symms and Mr. DeConcini, proposes an unprinted amendment numbered 1219.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"Nothing in this act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the war powers resolution of 1973. This act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the war powers resolution."

Mr. BUMPERS. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside in order that the Senator from New Mexico (Mr. Schmitt) may offer an amendment. I understand he was next on the list. I did not know that. I apologize.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe we have a half-hour time agreement on the amendment of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico.

UP AMENDMENT NO. 1220

(Purpose: To appropriate certain moneys in the National Defense Stockpile Transaction Fund for the acquisition of copper that is mined and smelted in the United States)

Mr. SCHMITT. Mr. President, I send an amendment to the desk on behalf of Senator Domenici, Senator Laxalt, Senator DeConcini, Senator Baucus, Senator Cannon, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. Schmitt), for himself, Mr. Domenici, Mr. Laxalt, Mr. Cannon, Mr. DeConcini, and Mr. Baucus, proposes an unprinted amendment numbered 1220.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, between lines 2 and 3, insert the following

National Defense Stockpile Transaction Fund

All moneys that—

(1) are received from the sale of materials sold from the National Defense Stockpile (as defined in the second sentence of section 3(a) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(a)) after July 31, 1982, and before October 1, 1983; and

(2) are covered into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98th(d)), and appropriated for the acquisition of copper that is mined and smelted in the United States after July 31, 1982. Section 301 of this Act shall not apply to the appropriation made by the first sentence of this paragraph.

Mr. SCHMITT. Mr. President, a vital New Mexico industry and an American industry is in very severe trouble. Copper is mined and refined in this country in extremely large quantities throughout many, many States of the Union. The use of this metal pervades nearly every aspect of our daily experience, for the plating on the humble penny to the wires on the giant dynamos which supply power to our cities. Copper is important to the building industry, the transportation industry, the information processing industry, and many other industries, all of which underpin our national security.

Today, the copper industry is operating at 50-percent capacity, and going down fast. Not only is it expected to decline further in the near future, but the subsidiary of one mining corporation will close its operation at Superior, Ariz., on Sunday of this week.

The reasons for this decline include a cyclical reduction in primary domestic demand, but, more importantly, severe overproduction by international producers flooding world markets with cheap copper.

There has been a fundamental change in the world market situation in contrast to the world cycles that copper and other base metals have seen through the years. For copper mines in the United States to stay open, a price of over 90 cents a pound is needed. In February 1980, the price of copper was roughly $1.20 a pound. Since that time, the price of copper has declined precipitately. In July of this year, copper was selling for 53 cents a pound. There was a brief rally, but just this week, it has dropped again to 57 cents.

Mines, smelters, and refineries have closed or are operating at greatly reduced capacity. The resulting unemployment is as high as 40 percent in some areas of the country that are dependent almost entirely on copper production.

Copper has always been a cyclical industry subject to the winds and vagaries of the capricious metal market when we were operating in a more or less free market situation. However, there have been drastic changes in the world marketplace. For the first time, employees in the copper industry face the prospect of never returning to work in that industry. So, in the mining, smelting, and refining towns all over the United States, the unemployed wait for their savings and other resources and their unemployment benefits to run out.

Economic recovery will bring with it increased demand for copper; higher prices will result. Imports will increase and maybe some mines will reopen. Other mines, however, will be too costly to reopen, because they will have been closed too long and will have to compete with cheap foreign imports and some of the miners will have moved on to other industries. Net imports of copper will increase and the United States will become more dependent on foreign sources for these strategic materials.

As we all know, the strategic stockpile was established in order to provide for a temporary source of materials in the event of war.

The Federal Emergency Management Agency sets goals for units of materials in the stockpile and, also establishes priorities for acquisition of materials for the stockpile. The priorities for acquisition are classified— the goals for materials are not.

The goal for copper is 1 million tons. As of June 30, 1982, there were only 28,444 tons of copper in current inventory in copper. The strategic stockpile is not even within 3 percent of its own goal for copper, yet mines are closing and miners are sitting idle, and this basic strategic industry disappears.

Mr. President, I can simply not understand the administration's position on this. What are we waiting for? The price is low, the need is great. The stockpile has several materials in excess. As we know, Congress gives authority to the General Services Agency—GSA—to sell commodities which are in excess. Congress has given authority for several commodities. Authorizations total well over $700 million. The appropriations at this time total about $150 million. For instance, over $300 million in sales authority exist for stone diamonds, tin, and tungsten. The total value of the materials in excess in the stockpile is over $3.6 billion.

Sales of excess materials are ongoing. GSA conducts sales on a regular basis and attempts to maintain an orderly market in doing so. The proceeds of the sales are placed into the National Defense Stockpile Transaction Fund, where they are appropriated through Appropriations Committee action for further purchases of materials for the stockpile.

Current law requires that the fund can only be used for purchase to the stockpile. A recent GAO report, however, that was requested by Senator Levin demonstrated that GSA is going ahead with sales but failing to proceed on purchases. The budget is being balanced improperly from sales of the strategic stockpile without corresponding purchases. The transaction account will approach $300 million this fiscal year and it can only be used for stockpile purposes and for no other purpose.

Mr. President, my amendment does simply this: It will mandate that any proceeds for sales from materials in the strategic stockpile be used to purchase domestic copper mined and smelted after July 31, 1982. This will open mines and smelters rather than buying existing inventory at suppliers and refineries.

Suppliers and refiners in this country are subsidizing foreign producers.

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The $300 million currently in the transactions account will not be touched. Planned purchases of high-priority materials could proceed as planned. Cobalt, bauxite, and titanium could still be added to the stockpile.

FEMA has established priorities for materials acquisition, and this amendment does violate these priorities. FEMA's priorities demonstrate the need for materials in wartime. Mr. President, in peacetime, we need to maintain our industrial capacity so that in wartime we will not have to rely exclusively on the stockpile or unavailable imports or be subject to threats that we shall have to so rely. My amendment does just that at no cost to the Treasury.

Mr. President, I ask unanimous consent that a list of States in which mines, smelters, and refiners exist be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

States with—		
Smelters[1]	Refineries[2]	Mines
Montana	Washington	Arizona.
Arizona	New Jersey	Colorado.
Texas	Montana	Idaho.
Washington	Texas	Michigan.
Tennessee	Illinois	Missouri.
Nevada	Arizona	Montana.
New Mexico	New Mexico	New Mexico.
Utah	Utah	Tennessee.
Michigan	Maryland	Utah.
	New York	California.
	Georgia	Pennsylvania[3] (1973).
	Michigan	Maine[3] (1977).
		Oregon[3] (1979).

[1] 16 in 9 States.

[2] 14 in 12 States.

[3] No longer producing.

Mr. SCHMITT. Mr. President, I urge my colleagues to support this amendment. It is an extremely important signal to send to the administration as well as important to the country's long-term strategic needs.

We did that in 1981 and 1982 with purchases of Jamaican bauxite in order to shore up that failing economy. We bought 1.6 million tons of Jamaican bauxite at that time. It seems to me more than appropriate that we now buy copper in order to shore up a very basic industry in our own land.

I yield at this time 1 minute to my senior colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join in asking the Senate to support this amendment. It is not often that the United States is presented with an opportunity to do what has been suggested by this amendment. We have an essential American mining industry with 40 to 50 percent unemployment nationwide, smelters closing down. If we do not get them started, some may be permanently lost. In New Mexico and Arizona, unemployment reaches 60 percent in this industry. Some of them will be closed long enough to be lost forever from our inventory and capability.

The distinguished Senator has indicated that we shall use money that the stockpile fund has under existing law to purchase new copper for the foreseeable future, and to see if we cannot get those copper miners back to work. We must help that mining industry get started again so we will have it, if it is ever needed in a national emergency. Especially since we choose as a nation to help Jamaican bauxite, I think the argument that we ought not help American copper does not hold water. I think the Senate ought to send a signal that where they find an easy way to help a strategically important industry, such as this, with relatively little budget authority in fiscal 1982 or no budget authority in fiscal 1983, we stand ready to do it.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say that I certainly applaud the Senator from New Mexico for trying to take care of a very serious situation in his State; namely, about a 40 percent unemployment rate in the geographical area where copper is mined.

But, I must oppose the amendment for the simple reason that the national defense stockpile just simply cannot be used to create employment.

I will vote for a jobs program to help the people in New Mexico. I will vote for a job program to help people anywhere, but the Strategic and Critical Materials Stockpiling Act is the law under which we stockpile critical materials for the Defense Department—titanimum for example, which is becoming increasingly critical, and we do need to increase our stockpile of titanium. Copper is currently experiencing a glut on the market in this country. That is the reason that we have an excess capacity and that is the reason that we have such high unemployment rates.

However, I think it would be a terrible mistake and crippling to this program if we adopt this amendment which says in effect—and I hope my colleagues will listen to this—that all money that we receive from the sale of materials sold from the national defense stockpile as defined in the Strategic and Critical Materials Stockpiling Act is hereby appropriated under this amendment for the acquisition of copper that is mined and smelted in the United States.

That obviously cripples the Defense Department significantly. It means that as they sell anything in the stockpile that they consider excess, they have to take that money and buy copper, whether they need copper or not, and regardless of whether they need something else desperately.

For those reasons—and that is all I have to say in opposition, Mr. President—I must resist the amendment.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes time from the opposition side.

I very reluctantly rise to oppose the amendment offered by the Senator from New Mexico. I do so fully understanding his thesis that the copper industry is in deep difficulty. I can appreciate that because I come from a State where the timber industry is in even worse difficulty, but I also come from a State which has a number of exotic metals. I have frequently been asked by the industry representing the exotic metal of titanium to offer a similar amendment to require some purchase and stockpiling of titanium. I have resisted that request from my constituents.

I think it would be very difficult to get into one of these programs where everyone representing certain particular metals or certain particular stockpiled material could make a good case for further stockpiling.

Frankly, I also feel that the whole stockpile issue should be very carefully reviewed. I do not think there is very much rhyme or reason today to the whole stockpile program. I am not sure they even know where it is. I do not know where there is a complete inventory that anybody can put their finger on today of what we have stockpiled in this country. We have all kinds of reports running around, but when I have talked to some of the people involved in this business they have not been able to answer my questions.

As I say, I am very reluctant to rise in opposition, but having taken this position in relation to my own constituent groups in the field of titanium and other exotic metals, it would be difficult for me now to support an issue raised on behalf of copper. I want to make that record to keep a consistency, although I am not sure that represents any virtue. I am not suggesting that. But I do feel, to be consistent where I have turned down these requests from my own constituents, I will have to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I understand the comments of the two Senators very well, but that is the reason we drafted this amendment and, in fact, crafted the amendment so that we would only deal with copper in the new sales from the stockpile; that there would remain approximately $300 million in the transaction account which the administration could apply to these "high priority items."

Copper is a high priority, and I would debate and have debated with the administration on how they set their priorities. One of the reasons it is high is because we can be self-sufficient if we do not destroy that industry, and we are in the process of destroying it. Some day it will become a higher priority because we will have no industry in which to refine copper.

When you pick something like titanium, which should be purchased, the administration should have a strategy. They do not. They are trying to use the transaction account to balance the budget. It should not be used for that purpose. The GAO study is very clear on that. It can only be used for one purpose, and this administration as well as others has refused to properly manage the stockpile. That is why I hope both Senators who have spoken in opposition will join in cosponsoring the bill that I have introduced that is before the Armed Services Committee to set up an independent commission for management of the stockpile.

Mr. BUMPERS. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 1 minute.

I say to the Senator that it is with extreme reluctance that I oppose this amendment, but the unemployment rate in the aluminum industry in my State is 50 percent. We all have those very unique problems to particular industries in our States, as the Senator from Oregon has with the timber industry. However, I think that the defense stockpile is the wrong place to solve an employment problem. It is with great reluctance that I must oppose the amendment.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, this is far more than just trying to solve an unemployment problem. It is a very big issue with the management of the strategic stockpile.

I will yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I am pleased to join Senator SCHMITT, my distinguished colleague, as a cosponsor of this amendment.

No one who has visited our part of the country can doubt that a real depression exists in the copper industry. The mines and with them whole towns have closed down completely. And over 8,000 miners in my home State of Arizona alone are out of work.

Mr. President, I recognize that the stockpile is not intended to be used for economic stabilization purposes. And I agree that materials critical to our national security should be carefully managed with that end and that end alone in mind. However, we would be foolish to forego this opportunity to acquire at current bargain basement prices what the administration has on numerous occasions identified as a prime requirement in our overall national defense stockpile strategy. Indeed, the most recent estimates are that we have on hand less than 2 percent of the copper that would be necessary in a national emergency. There are currently only 28,000 tons of copper actually in the stockpile. The goal for copper is 1 million tons. At 72 cents a pound, which is among the lowest prices in history for domestic copper, we could move a long way toward meeting our stockpile objectives at very low cost.

Now, Mr. President, on April 22, of this year I introduced S. 2429, with Senator DOMENICI as an original cosponsor. My bill directs the Administrator of GSA to use $150 to $180 million of the $300 million currently available in the transaction fund to purchase copper as soon as possible. I ask unanimous consent that the statement that I made on introducing S. 2429 be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

By Mr. DeCONCINI (for himself and Mr. DOMENICI):

S. 2429. A bill to direct the Administrator of General Services to acquire copper for the national defense stockpile; to the Committee on Armed Services.

COPPER STOCKPILE PURCHASE

Mr. DeCONCINI. Mr. President, we are today introducing legislation which addresses our national security concerns and at the same time our deteriorating economic conditions: We believe we have a rare opportunity to actually take advantage of currently depressed markets while improving economic conditions which have caused the declines.

Our specific concern is with the depleted state of the national defense materials stockpile. For example, we have a long-established stockpile goal of 1 million tons of copper, but we have on hand less than 30,000 tons of copper. I repeat, Mr. President, we have an existing national stockpile goal of 1 million tons. The need to stockpile copper for strategic purposes for national security is firmly established and undisputable.

It is also beyond dispute, Mr. President, that it is in the Nation's interest to operate the stockpile—to buy and sell commodities—in an economically responsible manner. Economic health is no small part of national security, and is totally compatible with military access to strategic materials.

What we are proposing—myself and other cosponsors—is very direct. Copper is now selling at about 72 cents a pound and even lower in certain quantities. There is up to $300 million available in the transaction fund established by Public Law 96-41, the Critical and Strategic Stockpile Revision Act. The administration is currently recommending that $120 million be appropriated from this fund to finance the purchase of critical and strategic materials in conformity with the established priorities. The fiscal year 1983 budget request is now being considered by the appropriate committees. Even if the full amount of the President's budget request is appropriated by the Congress, $150 to $180 million will still be available in the fund.

Mr. President, these moneys are the proceeds from the sale of excess commodities from the stockpile. These funds are earmarked by law, for the purchase of needed materials and can be used for no other purpose. This bill directs the General Services Administration to use these additional funds, the $150 to $180 million, to purchase copper as soon as possible.

It is estimated that the sum which will be available to the fund, in addition to that amount requested by the President for purchases of other commodities, will buy 200,000 to 225,000 tons. Although it is only one-quarter of the established goal, it is probably the realistic quantity which could be purchased in a short period of time.

When additional purchases are feasible, we believe moneys could be shifted to the fund from other accounts; preferably from the aggregate request for foreign assistance, and without burdening the American taxpayer by raising the deficit. In the meantime I will ask the General Accounting Office to study the relationship between the need to stockpile certain commodities and our foreign assistance priorities.

Mr. President, we suggested this bill would also improve domestic economic conditions. The price of copper, adjusted for inflation, is at its lowest level in decades. It is for this reason that copper right now is a good buy. But it is also for this reason that the copper industry is in its worst shape since the depression in the thirties. When we say "industry" we, of course, mean people. It is the people who are employed by the industry, and the towns they live in, which are devastated. In Arizona alone, over 8,000 copper workers are out of work. The impact of this disaster on top of other crippling blows to our economy, such as the virtual collapse of the housing industry, and the greatest number of business failures since the Great Depression year of 1932, will send a paralyzing shock wave through many of our communities and will have a multiplyer effect throughout the Southwest.

However, the purchase of 225,000 tons—and eventually a million tons—to meet our stockpile of domestic copper at this time with funds already on hand, or to be shifted from foreign assistance or other places, without increasing the deficit, will prevent the possible collapse of the copper industry and put thousands of workers back on the job. This, Mr. President, is the essence of our national security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

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Act may be cited as the "National Defense Stockpile Copper Acquisition Act of 1982".

SEC. 2. (a) The Administrator of General Services shall acquire such quantities of copper from domestic producers as may be acquired for the amount of funds available for such purpose under section 9(d) of the Strategic and Critical Materials Stock Piling Act (as added by section 3 of this Act) (50 U.S.C. 98h (d)).

(b) The acquisition of copper under authority of subsection (a) shall be made in accordance with subsection (b) of section 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e), but without regard to the provisions of subsections (c) and (d) of such section.

(c) Copper acquired under authority of subsection (a) shall be added to and made a part of the National Defense Stockpile described in section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

SEC. 3. Section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) is amended by adding at the end thereof the following new subsection.

"(d)(1) Notwithstanding subsection (b) and (c), the moneys in the fund shall be available to carry out section 2 of the National Defense Stockpile Copper Acquisition Act of 1982 in an amount calculated as provided in paragraph (2).

"(2) For the purpose of paragraph (1), the amount available shall be the greater of—

"(A) the amount necessary to acquire 200,000 short tons of copper, or

"(B) the excess of the amount of moneys in the fund on the effective date of this subsection over $120,000,000."

Mr. DECONCINI. This amendment takes a slightly different approach but is aimed at the same objectives. We can debate the merits of different approaches another day. But it is imperative that we move to acquire the copper that our Nation needs and to put copper workers back to work without delay. I urge adoption of our amendment.

Mr. President, I want to point out also that this is not an economic recovery effort. This is a good buy for the taxpayer, and it falls right in line with our military and national security needs.

That is why it is different than some other minerals and certainly different than the lumber industry. If there was a stockpile for lumber, I would be glad to support it for lumber if there was a national security measure.

We have an objective to accumulate a million tons in the strategic stockpile and only 30,000 tons are there to date.

Now, what better time, when you can buy copper at less than 70 cents a pound, to start filling that stockpile than today?

It is very important to both Senators from New Mexico that something help the industry, but that is not the prime purpose and I do not think ever really was intended in this bill or S. 2429 introduced by myself and Senator DOMENICI some months ago. It is a great opportunity to fill our strategic needs. It is a tremendous buy, and under this bill the money is not appropriated; it is taken right out of the existing stockpile.

I urge the Senate to adopt this as an indication that the Senate is on record for doing something about filling our strategic stockpile needs and also willing to do it when the cost is right. This may not occur again in a long, long time.

I thank the Senator from New Mexico.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I yield 5 minutes to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I should like to address this amendment in my capacity as chairman of the Subcommittee on Preparedness of the Committee on Armed Services, which subcommittee has jurisdiction over the national defense stockpile.

I do not relish opposing the Senator from New Mexico on this issue. I understand his distress and that of his constituents. Nevertheless, the stockpile has been the subject of abuse in past years for a number of purposes, none of which was consistent with national defense.

I am speaking of abusing the stockpile for budgetary and fiscal purposes, and now it seems for purposes of addressing unemployment, although I am sure the Senator from New Mexico does not see it in that light. It is adding another bad precedent to the list.

Recently, the administration has been attacked for using the defense stockpile for budgetary purposes—that is, the acquisition fund for budgetary purposes—instead of the purposes intended; and there seems to be some truth to that criticism, although it is nothing new. It has been done by many administrations.

In any case, copper is in the third category of priority for acquisition by the stockpile. It is not one of the commodities urgently needed. The reason it is in the third category is that in time of national emergency, we can probably procure enough domestically to avoid getting into a tight spot. That is not the case with many other minerals.

I must join the chairman of the Committee on Armed Services, Senator TOWER, in urging my colleagues to vote against the Schmitt amendment.

Mr. SCHMITT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes and 22 seconds.

Mr. SCHMITT. I yield myself 1 minute.

Mr. President, I appreciate very much the comments of the Senator from New Hampshire. They do have jurisdiction. But in 1979 and 1981, the Committee on Armed Services authorized a total of $772 million for appropriations for purposes such as those in the amendment I have offered. To date, only $158 million has been appropriated under these appropriations. Another $120 million is requested as appropriations in the fiscal year 1983 budget, for a total of $278 million.

The essential issue is that the administration is not moving to do what even the Armed Services Committee has told it to do, and that is to replenish the stockpile. We have given it the authority, and now is the time for them to move, or Congress will designate what they are supposed to do, as we do in this amendment.

Mr. LEVIN. Mr. President, I am sympathetic to this amendment for two reasons. First, as I indicated when I released a GAO report on this subject earlier this week, I believe we very much need to meet our strategic stockpile needs. This amendment would be a step in that direction. Second, I know all too well that the copper industry is in a depressed state. The mines in Michigan are not working. I would like to see more jobs and more activity in those mines—and while it is not at all likely that the copper this amendment directs us to purchase is the kind we produce in Michigan. Activity in the industry as a whole would be desirable.

Despite all that, Mr. President, I oppose this amendment because it goes too far. By directing purchases exclusively at copper, I believe this amendment would subvert the goal of developing a balanced and adequate stockpile, including copper certainly, but not limited to it.

I hope, should the amendment pass, that we can work, in our conference with the House, to make changes in this amendment which will make it more consistent with both our security and economic needs, including copper.

Mr. HATCH. Mr. President, I am delighted to cosponsor this amendment and I am pleased that the Senator from New Mexico has offered it at this time. This amendment comes at a time when the copper industry in this Nation is experiencing severe difficulty. The purpose of this amendment is to try and give this industry a shot in the arm while at the same time accomplishing one of the primary goals of our strategic policy. I think it does this very well.

As I am sure my colleagues know, many items currently in the strategic stockpile are in excess of the required amounts. It has been the policy of this Government to sell off those items which are in excess at times when such a sale would not harm the market of that commodity. At present we have excesses in such commodities as tin, tungsten, stone diamonds, and silver. The Government will now be able to sell some of these items and by doing so accumulate the necessary cash to purchase the needed copper.

Specifically this amendment will require that copper to be purchased to be copper that has been domestically produced and mined and smelted after July 31, 1982. It is estimated that we may buy up to 180,000 metric tons of newly mined copper. This will have the effect of opening mines that at the present time are idle. This will be done at no cost to the Treasury.

Mr. President, I support this amendment. It is a thoughtful way of dealing with the problem and in fact solves another issue at the same time, that being the unemployment problem of the copper industry. I hope that my colleagues will join with us in the passage of the amendment before us.

Mr. PERCY. Mr. President, I wish to make an inquiry of the floor manager. What would be the next pending amendment following disposition of the Schmitt amendment?

Mr. HATFIELD. Mr. President, as soon as the Schmitt amendment is disposed of, the Percy-Bumpers amendment becomes the next item. It has already been called up, and I understand that a brief explanation will be made of it, and then a vote will follow soon thereafter.

Is that correct?

The PRESIDING OFFICER. The Chair advises the floor manager of the bill that the Helms amendment is still pending.

Mr. HATFIELD. Yes, the Helms amendment will be set aside temporarily in order to complete work on the Percy amendment.

Mr. PERCY. I wish to consult Senator Bumpers to see what time limitation we may be able to set. Earlier, we discussed 15 minutes. I think it can be reduced to a precedent-setting 5 minutes, equally divided to each side, and a rollcall vote. I understand that a rollcall vote has been requested by some sponsors of the original Bumpers amendment, and a rollcall vote would be agreeable to the Senator from Illinois.

Mr. BUMPERS. I would be willing to accept that, but I think the Senator from New Jersey would like as much as 5 minutes on this amendment.

Mr. BRADLEY. Five minutes would be fine.

Mr. BUMPERS. Could we make it 15 minutes, equally divided? Everybody is going to speak in behalf of the amendment, and that will give everybody 15 minutes.

Mr. PERCY. Fifteen minutes, equally divided, with a rollcall vote.

Mr. SCHMITT. Mr. President, can we complete action on this amendment?

Mr. HATFIELD. Mr. President, let us complete the action, if we can, on the pending amendment. In the meantime, we will work out the time on the other amendment.

I yield back the remainder of my time on the Schmitt amendment.

Mr. SCHMITT. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. Brady), is necessarily absent.

The PRESIDING OFFICER (Mr. Murkowski). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—55

Abdnor
Andrews
Baker
Baucus
Boren
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
Durenberger
East
Ford
Garn
Goldwater
Gorton
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Mathias
Matsunaga
Mattingly
Melcher
Murkowski
Packwood
Pressler
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stevens
Thurmond

NAYS—44

Armstrong
Bentsen
Biden
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Cranston
Dixon
Dodd
Eagleton
Exon
Glenn
Grassley
Hart
Hatfield
Hollings
Humphrey
Kennedy
Leahy
Levin
Long
Lugar
McClure
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Pell
Percy
Proxmire
Riegle
Sarbanes
Stennis
Symms
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—1

Brady

So Mr. Schmitt's amendment (UP No. 1220) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Helms amendment be temporarily laid aside.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Helms amendment, the pending Helms amendment, be temporarily laid aside in order to do other business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1219

The PRESIDING OFFICER. The question recurs on the Bumpers amendment.

Mr. HATFIELD. The next amendment is the Percy-Bumpers amendment. I have checked with Senator Bumpers, Senator Percy, Senator Bradley, Senator Helms, and other interested parties, and it has been understood we would ask now unanimous consent for a 10-minute time limitation on the amendment to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object—and I shall not object—I wonder if the sponsors of the amendment would include the senior Senator from Idaho (Mr. McClure) as a cosponsor of the amendment?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the request for the time-limitation agreement?

Mr. HATFIELD. Mr. President, the majority leader wishes to be recognized momentarily for just a very short order of business, and he is on his way, and I suggest the absence of a quorum.

Mr. HELMS. Mr. President, will the Senator withhold?

Mr. HATFIELD. I withhold.

Mr. HELMS. Did the Senator state who would be in control of the time equally divided?

Mr. HATFIELD. Mr. President, the control of the time is such that I doubt very much if there will be anyone speaking against the amendment. But I would control that part of the time, and the sponsors of the amendment, Senators Percy and Bumpers, would control the time for the proponents.

Mr. HELMS. I would ask only that I have two or three questions I would like to ask the distinguished Senator from Illinois, and I want to be sure that I will have enough time.

Mr. HATFIELD. Mr. President, I would be very happy to yield control of the time to the Senator from North Carolina. He would have to be in opposition, although he is not in opposition because of the formation of the motion the time for and against equally divided. I was trying to remain in the neutral position of taking care of the time of the opponents, but I would be happy to guarantee the Senator 2 minutes.

Mr. HELMS. I thank the Senator.

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Mr. BRADLEY. Mr. President, will the Senator from Oregon yield for a question?

Mr. HATFIELD. I would be happy to yield.

Mr. BRADLEY. Can the Senator from Oregon assure the Senator from New Jersey that he would have adequate time now that he is not in control of the time in opposition?

Mr. HATFIELD. My understanding is that there may be three or four Senators who wish 1 minute each and Senator HELMS would like 2 minutes. I would be very happy to yield 2 minutes or 3 minutes or however many minutes I have left to the Senator from New Jersey.

Mr. BUMPERS. Mr. President, could the Senator from North Carolina give us any idea of how long he thinks his colloquy with the Senator from Illinois might last?

Mr. HELMS. Three minutes tops.

Mr. BUMPERS. Let me suggest we up the time to 15 minutes to be sure nobody gets hurt.

Mr. HATFIELD. I ask unanimous consent that we increase the time limitation from 10 to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Reserving the right to object, and I will not object, I did not understand that this amendment was going to apply to the War Powers Act. If it is, I do not think we are giving it enough time, because I could go on for a day on that.

The PRESIDING OFFICER. Is there objection to the request?

Mr. GOLDWATER. Mr. President, I have not changed my mind a bit yet.

Mr. HATFIELD. I withhold my request for increasing the time limitation. The time limitation remain now 10 minutes.

Mr. GOLDWATER. I will not object.

The PRESIDING OFFICER. The question is now on the Bumpers amendment. Who yields time?

Mr. HATFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The Bumpers amendment.

Mr. HATFIELD. Mr. President, I am willing to start the time. The majority leader will be delayed until after this is over.

Mr. SYMMS. Would the Senator from Arkansas yield me 30 seconds?

Mr. BUMPERS. Mr. President, let me restate it. The Senator from Arizona says he will not object. To make sure any Senator who wishes to speak 1 or 2 minutes on this is not deprived, let me ask unanimous consent that we increase the time to 15 minutes with the time to be equally divided.

The PRESIDING OFFICER. Is there objections?

Mr. GOLDWATER. The Senator would object. I spent 1 week speaking about this 3 years ago, and I intend to speak at great length again, but I will not do it tonight.

Mr. BUMPERS. I yield 30 seconds to the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I just want to say for all of my colleagues that right prior to the vote on the Percy amendment earlier today, I inserted in the RECORD as part of my written materials the letter I have from the legal adviser of the U.S. State Department, dated April 23, 1982, that talks about how the Symms amendment was not inconsistent with the War Powers Act.

And in my opinion, the Percy amendment, which I cosponsor, is consistent with what was done here earlier today, and there is no problem with respect to those who are concerned about the War Powers Act and that is in the RECORD.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. BUMPERS. I thank the Senator for his comments.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Would the Senator from Oregon yield to the Senator from North Carolina in order to engage in a colloquy?

Mr. HELMS. I think I have control of the time.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, this amendment, as I read it, borders on being almost innocuous. Certainly, nobody can oppose the amendment. But let me be sure my interpretation is correct.

Let me ask the Senator from Illinois or the Senator from Arkansas, or both: Will you assure me that this language of the pending amendment adds nothing to current law that is not already in the law?

Mr. PERCY. It does not add anything to current law.

Mr. HELMS. Can I be assured that the language in this amendment cannot be interpreted as expanding the scope or the authority of the War Powers Act or other statutes mentioned?

Mr. PERCY. The Senator is assured.

Mr. HELMS. With all due respect to the authors of the amendment, I think it is legally redundant.

Is the distinguished chairman aware of the memorandum just referred to by the distinguished Senator from Idaho (Mr. SYMMS). A memorandum dated April 23, 1982, prepared by the legal adviser of the Department of State which includes the following:

> We conclude that enactment of the Symms amendment would have no effect upon the President's duties to consult with and report to the Congress under sections 3 and 4 of the War Powers Resolution or on the rights and duties of the President or the Congress under section 5 of the War Powers Resolution.

Is the Senator familiar with that?

Mr. PERCY. Yes; and I would like to just simply clarify why the amendment seems necessary. It was necessary in my judgment and that of Senator PELL because of the debate this morning. We must now unequivocally reaffirm that there is no change in the law. It was very important to Senator BUMPERS and to Senators BRADLEY, DURENBERGER, MATHIAS, and MOYNIHAN, who had a comparable amendment of confirmation drawn up this morning. When they discovered that Senator PELL and I were proposing an amendment that would be supported by many members of the Foreign Relations Committee and that it was a little more comprehensive, covering not only the War Powers Act but the National Security Act of 1947 and the Foreign Assistance Act of 1961, for clarification, they decided to become cosponsors of our amendment.

Senator SYMMS himself recognized that there was concern on the part of a number of Members of this body as to whether or not there had been any change at all in the War Powers Act. And a reaffirmation of that act at this point seemed, for clarification purposes, absolutely essential. That was the main thrust of my comments this morning, my main concern. My amendment would lay aside any concerns that I and others had then in this regard.

Mr. HELMS. I thank the Senator.

Let me say to my colleagues that I share the concerns that Senator GOLDWATER has expressed about the War Powers Act, and at some future time, I will join him in some extended discussion about that.

But the point has been made for the RECORD by the responses of the Senator from Illinois that this language in this amendment adds nothing to current law that is not already in the law.

Mr. PERCY. That is correct.

Mr. HELMS. I have no objection to the amendment.

Mr. McCLURE. Will the Senator yield to the senior Senator from Idaho?

Mr. HELMS. Yes.

Mr. McCLURE. I asked that I be added as a cosponsor of this amendment in spite of the fact that I earlier today opposed the amendment of the Senator from Illinois (Mr. PERCY). I did not believe then, and I do not believe now, that the Symms amendment would necessarily be in conflict with the War Powers Act. But I agree with the Senator from Illinois that, in light of the debate this morning, in which it was alleged that it would, it is well for us to adopt this amendment at this time to remove any question so that when this is all done, that we are all in agreement that this amendment, this enactment does not abridge the provision of existing law. I think the

Senator from North Carolina is exactly right in his colloquy and the responses to it are also correct.

Mr. HELMS. I thank the Senator.

Mr. McCLURE. I thank the Senator for yielding.

Mr. HELMS. I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield 3 minutes to the Senator from New Jersey (Mr. Bradley).

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I joined in the cosponsorship of this amendment with the Senator from Arkansas. I do not believe that those who voted earlier today for the Symms amendment intended to weaken the War Powers Resolution nor to provide any special exceptions to it. I agree with the premise of the Symms resolution, which is that we must oppose Communist subversion at every point, and without excluding any means. But I did not vote for the resolution because it did not make clear that the War Powers Act governs any and all use of force by the President contemplated under the Symms resolution, just as it governs all uses of force within the meaning of the War Powers Act's provisions. Therefore, I voted for the Percy resolution, rather than the Symms resolution, because the Percy resolution stated our resolve to oppose Communist subversion, including by means of force, while making clear that the use of force would be subject to the War Powers Act.

I think the debate clearly revealed that the Symms amendment was ambiguous on a critical point of U.S. law, and that is that the use of force must be subject to the provisions and procedures of the War Powers Act.

I would suggest that although the Symms amendment itself was ambiguous on this point, the later action on the Percy amendment makes this amendment absolutely necessary.

In the Percy amendment, there was a specific provision that stated that "Nothing in this resolution shall be deemed to change or otherwise affect the standards and procedures provided in the War Powers Resolution of 1973."

The Senate rejected the Percy amendment. By approving the Symms amendment, which is ambiguous on the point, and then rejecting the Percy amendment, which was clear in stating that the Symms amendment should not violate the War Powers Act, I think the question was raised sufficiently so that we need, beyond any reasonable doubt, to dismiss the possibility that there is a special exception created by the Symms amendment—and that is what the amendment by the Senator from Arkansas does. That is why I am pleased to cosponsor the amendment.

Mr. BUMPERS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Four minutes.

Mr. BUMPERS. I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. Mr. President, I will not take 1 minute. I rise to support the amendment and only to say that we could have saved ourselves a lot of time if we had just voted for the Percy amendment. That is what it was all about.

Mr. BUMPERS. Mr. President, this morning, as we debated the Symms amendment, I heard the Senator from Idaho say that he saw no contradiction or inconsistency between his amendment and the War Powers Act, and that he intended none. He has restated essentially the same proposition this afternoon. And yet, the War Powers Act was an act that was debated at length. There was a highly controversial debate here. Some people on this floor now, and others in this body, probably still do not agree with many of the terms of that act. Yet consideration of the resolution was deliberate, it was very thoughtful, and in the end, we adopted it. I personally thought that there was the possibility of a contradiction between the War Powers Act and the Symms amendment.

All we seek to do by this amendment—and I want to thank all of those who helped in its formulation and who now support it—is to state, without equivocation, that the amendment we adopted this morning does not violate, abridge, amend, alter, or in any other way affect the efficacy of the War Powers Act. That is simply all the amendment says. I think it is an essential clarification that we should put on the record here and now.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I yield the remainder of my time to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, sometimes an amendment comes along that presents for us a "motherhood" question. This is such an amendment. The War Powers Resolution was approved nearly a decade ago over Presidential veto. Still, we do need to reaffirm this law of the land in order to make sure there can be no misunderstanding of the effect of the Symms amendment. During this morning's debate on that measure, many Senators expressed concern that the forceful language of the amendment might be incorrectly interpreted to provide specific authorization for the President to make military commitments under the War Powers Resolution. Without exception, Senators debating the measure stated that it could not constitute such an authorization. This amendment unequivocally establishes that fact. Accordingly, I am cosponsoring this necessary, clarifying amendment and urge its adoption.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Mr. Exon and Mr. Mitchell be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BUMPERS. I yield such time as I have remaining to the Senator from Illinois.

Mr. PERCY. Mr. President, I wish to extend my appreciation to Senator Symms. As I said this morning, I favor the intent and purpose of the Symms amendment, but I was concerned about the war powers aspect of it and the implications that the Symms amendment may involve. I believe that the amendment before us now makes it clear that the Symms resolution could not possibly become a Gulf of Tonkin resolution as concerned us this morning.

I want to also express my deep appreciation to my distinguished colleague, Senator Pell, with whom I have worked very closely on so many issues, and also to Senator Bumpers for his initiative this morning, together with his colleagues, Senators Bradley, Mathias, Moynihan, and Proxmire, for initiating and then merging together this language into one resolution which will clarify the issue and greatly improve the Symms amendment in the judgment of many of us. Once again, we have demonstrated how effectively the Senate can operate. We sometimes have sharp differences of opinion but many times ultimately come together and unify on a strong position. I hope the amendment will be supported by everyone in the Senate. I appreciate the fact that we have been able to clarify the issue in this way.

The PRESIDING OFFICER. Who yields time?

Several Senators. Vote! Vote!

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, fifty-seven seconds.

Mr. HELMS. Mr. President, I have no objection to this amendment. It does not expand or alter the War Powers Act. This is what we said this morning, repeatedly. I do not think this amendment is necessary, but I would have no objection if the Senate voted unanimously for it. I will support the amendment. I yield back the remainder of my time.

The **PRESIDING OFFICER.** All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS.** I announce that the Senator from New Jersey (Mr. BRADY) is necessarily absent.

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—97

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—2

East
Goldwater

NOT VOTING—1

Brady

So Mr. BUMPERS' amendment (UP No. 1219) was agreed to.

Mr. **HATFIELD.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **McCLURE.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **HATFIELD** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. **HATFIELD.** Mr. President, the pending amendment is still the Helms amendment?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **HATFIELD.** Mr. President, I yield to the majority leader.

The **PRESIDING OFFICER.** The majority leader is recognized.

Mr. **BAKER.** I thank the Senator for yielding.

CHANGE OF VOTE—ROLLCALL NO. 306

Mr. **BAKER.** Mr. President, earlier on today the distinguished Senator from New York (Mr. MOYNIHAN) attempted to change a vote of the permanent RECORD by unanimous consent. The distinguished chairman of the committee (Mr. HATFIELD) on my behalf very properly asked the Senator from New York to postpone that based on his understanding of my request on yesterday that votes not be changed except in those cases where it is alleged by the Member that there had been a mistake and that the change would not affect the result. I was under the impression on yesterday that that was virtually the unbroken precedent of the Senate; that is the basis on which votes were changed. Indeed, I put a parliamentary inquiry to the Chair whether or not that was a correct statement of the precedent. The Chair responded in the affirmative.

I freely confess it is my fault then for not asking the followup question: "Is that the only basis on which these requests have been granted?" Because apparently then the Chair would have indicated that there have been other cases where changes were made by unanimous consent simply on the basis of a request by the Senator without the allegation that a mistake had been made in the form of a vote but that it did not change the result of the rollcall.

Mr. President, rule XII allows that a Senator may change or withdraw his vote by unanimous consent for "sufficient reason." "Sufficient reason" in the past has been interpreted to mean that a mistake was made in tallying the vote, that a misunderstanding existed as to whether the vote was up or down or tabling, that the Senator misunderstood, but in a number of cases in the past it has simply been on the basis that the Senator wished to change it.

Mr. President, I believe that is the precedent. Therefore, I will have no objection if the Senator from New York wishes to renew his request at this time.

Mr. **MOYNIHAN** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from New York.

Mr. **MOYNIHAN.** May I thank the majority leader for a characteristically gracious and openminded response to my request. It is those qualities which endear him to us and make him the leader he is.

Accordingly, Mr. President, I ask unanimous consent that the first vote I cast today on the amendment offered by the distinguished Senator from Idaho be changed from "yea" to "nay," with the understanding that this would not affect the outcome of the vote.

The **PRESIDING OFFICER.** Is there objection?

Mr. **MATSUNAGA.** Mr. President, I reserve the right to object.

The **PRESIDING OFFICER.** The Senator from Hawaii.

Mr. **MATSUNAGA.** I confirm the statement made by the majority leader. I was at one time under similar circumstances; I did make a unanimous-consent request to have my vote changed from "yea" to "nay" or vice versa and gave no reason whatsoever, with a statement that the switch would make no difference in the final result, and such unanimous consent was granted.

The **PRESIDING OFFICER.** Is there objection?

Mr. **CHAFEE.** Mr. President, I should like to ask a question if I may, reserving the right to object.

I have been here, too, when Senators have changed their vote. It has always made me a little nervous, not saying anything, because it seems to me that we can get into a sticky precedent.

I ask the majority leader, is this going to become a sort of custom now, that with no explanation at all, so long as it does not change the result, the gentlemanly rules will be that people can go back—I presume only that day—and change their votes?

Mr. **BAKER.** Mr. President, I say to the Senator that that is a precedent now. Indeed, votes have been changed, I understand, according to the precedent, as late as 30 days after the event.

I might say, by the way—and this has nothing to do with the request of the Senator from New York, and I hope the Chair will grant that request, so long as there are not further reservations or objections—that I intend to ponder this subject; because I, too, am concerned. It may be that I will wish to propose that the Senate consider some other interpretation of rule XII dealing with sufficient reason.

However, I will not do that without giving the opportunity to Senators to think about it, and I do not want to take Senators by surprise.

So I hope the Senator will not object. I assure him that I will try to have a further statement to make as to my views on this subject and the implications in the future.

At the moment, I should like to accommodate the request of the Senator from New York, which is perfectly proper.

The **PRESIDING OFFICER.** Is there objection?

Mr. **CHAFEE.** Mr. President, still reserving the right to object, I, for one, look forward to that clarification by the majority leader, because it seems to me that this can lead to untold problems.

People may think of the ramifications of the vote they took that morning, or whenever it was. I did not know it went back 30 days. I should like to review my own record and take a look and see what I have done. We have had an awful lot of votes around here.

In any event, I will not object, because I know how accommodating the senior Senator from New York is on many things.

Can we look forward to this clarification fairly soon?

Mr. BAKER. Yes. Mr. President, I plan to talk to the Republican caucus next Tuesday about it. I certainly will do it promptly, and I will confer with the distinguished Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator.

Mr. MOYNIHAN. I want my friend from Rhode Island to know that it had been my understanding that the first amendment would be followed by the amendment of the distinguished chairman of the Foreign Relations Committee and that that would be adopted, too, in which event I felt free to vote as I did. When that was not adopted, I felt that the situation required me to do what I have now asked to do.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

Mr. BRADLEY. Mr. President, may I ask the majority leader a question?

Mr. BAKER. If the Senator from Oregon will permit it.

Mr. HATFIELD. I yield.

Mr. BRADLEY. I ask the majority leader this: In a case such as the one that has just developed with reference to the precedents of the Senate, the precedents of the Senate conveyed that this was perfectly proper. I ask the majority leader that if a committee has a set of rules that does not specifically cover this point, do the precedents of the Senate as a whole adhere in the committee?

Mr. BAKER. Mr. President, I have used this statement so often that it is threadbare, but it comes to mind again.

I recall the first lawsuit I tried and made my final argument to the jury and sat down. I turned to my father and said, "How did I do?"

He said: "In the future, you should guard against speaking more clearly than you think." [Laughter.]

To tell the Senator the truth, I do not know the answer to the question. If the Senator will give me a little time, I will be glad to look into it and confer with him on that subject.

Mr. BRADLEY. I thank the majority leader for his clarity.

(Rollcall vote No. 306, as printed in today's Record, has been changed to reflect the foregoing order.)

The Senate continued with the consideration of H.R. 6863.

Mr. LEVIN. Mr. President, it had been my intention, together with Senators Weicker, Sasser, Bumpers, Cranston, and about 18 other cosponsors to offer an amendment to preserve for 1 year a student benefit under social security for the children of deceased workers, disabled workers, and soldiers who were killed in Vietnam. I had planned to offer that amendment tonight.

I understand that my amendment would be subject to a point of order unless a colloquy which I had about a month-and-a-half ago was clearly indicative of a waiver of such a point of order. In my opinion, it was; in the opinion of others, it is not clear enough so that a point of order should be waived.

My question of the majority leader is this: In the event that I do not offer this amendment tonight on my behalf and on behalf of those cosponsors, would the majority leader use his best efforts to assure me that the amendment would be heard early in the debate on the debt ceiling—if possible, no later than immediately after an amendment relative to abortion, assuming there is a consent agreement reached on such an amendment?

Mr. BAKER. Yes. Mr. President, I do now give that assurance to the Senator from Michigan. I recall vividly the colloquy he and I had on this subject, when I urged him not to offer that amendment to the temporary debt limit, the small debt limit, as it is called. The Senator from Michigan kindly obliged by not offering it.

Frankly, I think that the better part of discretion is to offer his amendment—which I fully expect him to do—to a measure which will not provide a point of order; and the debt limit, which I intend to call up on Monday next, is such a vehicle. I have no objection to that whatever. I urge the Senator to do that. I give him my assurance that, to the full extent I am able to do so, I will schedule that amendment early in that deliberation and as soon after the debate on abortion as it is humanly possible.

Mr. LEVIN. Is it the intention of the majority leader to conclude action on the debt ceiling bill prior to going out for the recess?

Mr. BAKER. Yes; it is.

Mr. LEVIN. I thank the Senator.

In that event, to solve the problem of the floor manager, it is not my intention to offer this amendment tonight.

Mr. HATFIELD. I thank the Senator from Michigan.

Mr. BAKER. I thank the Senator.

UP AMENDMENT NO. 1211 (AS MODIFIED)

(Purpose: To prohibit U.S. Government funds from going to meet the debts of insolvent Communist countries which have not yet been declared to be in default of their debts)

Mr. HELMS. I thank the floor manager of the bill. I hope we can be brief on this.

Mr. President, earlier today when I offered my amendment, Senator Proxmire, who was then managing the bill on his side of the aisle, suggested that he wanted to check further with Senators on his side. Questions were raised about the amendment, one question being that the amendment now at the desk mentions specifically the Socialist Republic of Romania, and there was some concern—with which I do not agree—that perhaps Romania should not be singled out, even though it is a member of the Warsaw Pact.

However, to accommodate the concerns of one or two colleagues, I send to the desk an unprinted amendment in the nature of a substitute.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HELMS. I say to any interested Senator that the substitute is identical to the original amendment, except for the deletion of Romania by name.

The **PRESIDING OFFICER.** The Chair will remind the Senator from North Carolina that the Senator still retains the right to modify his amendment.

Mr. HELMS. I understand that, but I prefer to do it this way.

The **PRESIDING OFFICER.** The Senator does not have a right to propose an amendment to it.

Mr. HELMS. Why is that?

The **PRESIDING OFFICER.** The Senator is suggesting that he modify his amendment?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have resolved the problem and I ask that the amendment be modified as proposed in the substitute which I just sent to the desk.

The **PRESIDING OFFICER.** The Senator has that right. The amendment is so modified.

The modified amendment is as follows:

On page 108, after line 19, insert the following new section: "Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation, or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government

> with respect to loans made and credits extended to the Polish People's Republic, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation, or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

Mr. HELMS. Let me say, Mr. President, I have already spoken at some length on the amendment. I will not consume the time of the Senate, but let me reiterate my intention is to cut off a requirement that the taxpayers of the United States subsidize the credit rating of Communist regimes wherever they may be, but I am specifying Warsaw Pact countries with this amendment.

The American people must be forgiven for not understanding why the big banks of their country continue to prop up the failing economies of these countries. Socialism and Marxism do not work because they destroy personal freedom. It is just that simple.

I must confess, Mr. President, that I cannot myself understand why these banks feel that any economic venture in a Marxist country, a Socialist country, is economically justified.

A Socialist economy just cannot produce in the long run. It can run only if it gets continual infusions of money from the West. In this country those infusions will be backed up by Government loan guarantees which in most cases will be paid by the taxpayers of the United States of America.

After I offered this amendment earlier today, I began to get calls from some of the big banks who have put out loan money to the countries involved. They do not want to see this privilege of theirs removed, the privilege being to bloodsuck the American taxpayers to subsidize bad loans that they have made to these Marxist countries. But they want to pretend that they are not bad loans by avoiding a formal declaration of default.

Mr. President, I say to you that these bankers are big boys. They went into this thing with their eyes open. They counted on being able to rely upon the Government of the United States to require the taxpayers to prevent them losing their money. Of course, the American taxpayers are going to pay no matter what, but why subsidize the Communist credit rating?

I hope in the future we will stop insuring loans to Communist countries.

Let the bankers stand on their own feet. If they want to lend money to Marxist nations, Warsaw Pact nations, any nation, let them do it with their eyes wide open, realizing that the American taxpayer should not be sucked into this little deal.

We see now what has happened in Poland. We see what is happening in Romania. There is little freedom in Romania, economic or otherwise. Right now, for example, the Romanian Government is the most Stalinist, the most authoritarian of the Eastern European Soviet satellites in the Warsaw Pact bloc. And Romania is on the verge of bankruptcy.

The purpose of this amendment, the motivation of this amendment, is to serve notice that the American people deserve a chance to see how Senators will vote up or down on the question of cutting off taxpayers' funds to provide guarantees on loans to Communist-Marxist nations, without declaring default as required in law.

Mr. MATHIAS. Mr. President, will the Senator yield for several questions about his amendment?

Mr. HELMS. I am delighted to yield.

Mr. MATHIAS. In the first place I am wondering if the Senator from North Carolina can advise us how the President of the United States feels about this proposal?

Mr. HELMS. I have not discussed it with the President of the United States. I do not know how he feels on it. But even as much as I respect the President, as strongly as I supported him, if he were to disagree with me on this point, I am sorry. He would be wrong.

Mr. MATHIAS. I am merely inquiring of the Senator what the President's attitude is.

Mr. HELMS. I do not know.

Mr. MATHIAS. It would, of course, reduce the flexibility with which the President of the United States can address an important foreign policy issue. And is it the desire of the Senator from North Carolina to constrict the President's freedom of action in this respect?

Mr. HELMS. I do not know that the President of the United States has any freedom of action when he deals with a Marxist nation. I have not perceived, I will say to my friend from Maryland, any inclination of cooperation by the Warsaw Pact nations and I say to the Senator we cannot buy friends in any case but what we are talking about is subsidizing the banks, and subsidizing Communist credit ratings.

Mr. MATHIAS. I think this brings us to a very important point. The Senator said he thought the bankers were big boys who ought to go in these transactions with their eyes wide open.

Mr. HELMS. Certainly.

Mr. MATHIAS. It looks to me as though the bankers were big boys who had their eyes fully open and as a result of what the Senator is proposing in his amendment the bankers are going to get their money back. Could the Senator tell us if his amendment is adopted and becomes law how much money the U.S. bankers could immediately go downtown to the Commodity Credit Corporation and demand to get back, these wide-eyed big boy bankers?

Mr. HELMS. The export credits to Poland we have insured are $540,171,000. Export guarantees are $840,355,000—over a billion and a half total. Romanian export credits are $41,524,000 and export guarantees are $48,981,000. Hungary is $2,553,000, and insofar as I know there are no export guarantees insofar as Hungary is concerned.

Mr. MATHIAS. Let us just address ourselves to Poland for a moment as a case.

Mr. HELMS. All right.

Mr. MATHIAS. Is it not true that if the Senator's amendment becomes law, these grown-up bankers can just troop downtown and collect $650 million from the taxpayers?

So it is not the bankers who are going to lose. The Senator's amendment is not going to work any hardship on the bankers. It is going to work a hardship on the taxpayers of the United States who have to foot the bill and make up the guarantees which have already been entered into. So the Senator is really imposing a hardship on the country. He is going to increase the deficit, which he and I certainly agree is big enough already, too big already.

Mr. HELMS. The Senator obviously has not read the amendment, and I will not really apply old Mark Twain's statement to the Senator, but I am reminded of what he said about a fellow editor one time. He said, "That gentleman regards truth as precious, which is why he uses it so sparingly."

Let me read the amendment and see if the Senator has any concern or if there is any basis for his concern:

> Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended,

and so on.

Mr. MATHIAS. Yes, sir, I have great concern with that language. Many years ago I read the opinon of the Supreme Court in a case argued by one of our distinguished predecessors, Daniel Webster, the Dartmouth College case, in which it said that the Congress cannot pass any law which vitiates or violates or alters the terms of a contract. The United States has entered into a contract with these bankers to pay back the money if Poland defaults, and even the Senator from North Carolina, with all of his persuasive powers, cannot propose any law here which is going to upset the Dartmouth College case.

So what the Senator says there does disturb me. It does disturb me very much because he is going to increase the deficit of the United States at this desperate moment in history by over $1 billion.

Mr. HELMS. Mr. President, I am not going to yield until I can answer that statement at the time it is being made. Again I say——

Mr. MATHIAS. I am merely asking the Senator for his opinion as to how he is going to get around the Dartmouth College case.

Mr. HELMS. I will explain to the Senator.

Mr. MATHIAS. I am anxious to hear it.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. It is a little bit like Tennyson's brook—the Senator from Maryland reminds me of Tennyson's brook—which flows on and on. He takes a false premise, and I wish the Senator had read the amendment before he began raising his question. All of the preceding that I read will be applicable "while such country has not been declared to be in default of its debt to such individual, partnership, corporation, or association."

That is what we are talking about, keeping them afloat. They are in de facto, default as of this minute. Let them go into formal default, and then we will put an end to this business of propping up these Communist governments and banks, no serious international economist maintains that Poland will ever be able to pay off these loans. We had extensive testimony before the Agriculture Committee on this point. This amendment forces us to face the obvious.

I do not understand how the Senator from Maryland can oppose the amendment.

Mr. MATHIAS. Is that a question?

Mr. HELMS. No; I am just answering the Senator's question.

Mr. MATHIAS. If that is a question, if the amendment is to have any meaning at all, it has to challenge the sanctity of contracts which have been entered into by the U.S. Government.

Mr. HELMS. It has got nothing to do with it, Senator.

Mr. MATHIAS. When you say "notwithstanding any other provision of this act no funds shall be paid out of the Treasury in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the U.S. Government with respect to loans made and credits extended to the Polish People's Republic"——

Mr. HELMS. Go ahead and continue to read.

Mr. MATHIAS (continuing). "The Socialist Republic of Romania"——

Mr. HELMS. We struck that.

Mr. MATHIAS. That is stricken—"or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt"——

Mr. HELMS. There is the meat of the coconut.

Now, Mr. President, I do not know whether my friend from Maryland fully understands the purpose of the Commodity Credit Corporation. I happen to be chairman of the Senate Committee on Agriculture, and I know a little bit about it. The purpose of the Commodity Credit Corporation program is to insure loans which may be defaulted upon. Without a declaration of default no moneys can lawfully be paid out, under title 7, section 1493.9 of the Code of Federal Regulations. This law has been circumvented. All this amendment does, I will say to my friend from Maryland, with all due respect and affection for him, all this amendment does is to reinforce Commodity Credit Corporation regulations, which provide that "CCC shall only honor claims for losses on amounts not paid as scheduled."

Mr. MATHIAS. How can it reinforce the Commodity Credit Corporation regulations when it prohibits—and let me be perfectly frank with the Senator, I have not read all of the outstanding obligations that the Commodity Credit Corporation has entered into, and I am not aware of all of the things they have agreed to guarantee, wisely or not wisely. I do not argue that question with the Senator. I merely say that for the United States to at this point renege——

Mr. HELMS. In no way. We are not reneging.

Mr. MATHIAS. Then of what value is the Senator's amendment?

Mr. HELMS. I will tell the Senator what the value is.

We are sending a message, we are recognizing reality finally around this place, and the banks had better wake up and smell the coffee and consider what they are doing when they make such loans, and seek to avoid the consequences.

The present law, I will say to the Senator from Maryland, requires a declaration of default, and that default is being circumvented by what is going on right now.

Mr. MATHIAS. My concern, and I reiterate, the Senator is sending a message all right, but the message is we are going to default on our agreement.

Mr. HELMS. In no way, no.

Mr. BRADLEY. Mr. President, will the Senator from North Carolina yield for some questions that are slightly different in direction than those of the Senator from Maryland?

I must say, first, that I approve of the Senator's intent here. I approve of efforts to sanction the Polish Government for declaring martial law and suppressing the Solidarity movement. But, the question is whether you will actually have the effect you intend, and whether it would not come at the greater expense of the stability and security of the economies of the allied nations. I want to be sure that we have protected ourselves against the dangerous repercussions of default on our own economies.

The Senator has said that there will be no reimbursement to any private entity, for example, a bank, unless there is a declaration of default.

Mr. HELMS. That is correct.

Mr. BRADLEY. Does the Senator know what cross-default clauses are?

Mr. HELMS. I must confess I cannot hear the Senator.

Mr. BRADLEY. They are included in many of the loans that have been extended to Eastern bloc countries as well as other countries around the world by consortia of private banks. Each bank makes the loan under the provision that if the borrower defaults to any one bank in the consortia, it will be considered in default to all of them. That is the nub of what cross-default means.

Does the Senator know what happens when there is a declaration of default?

Mr. KASTEN. Mr. President, will the Senator from New Jersey yield on that?

Mr. BRADLEY. I would like to finish the questions and I would be pleased to yield to the Senator from Wisconsin. I just want to get to this line of questioning.

Mr. HELMS. If I may ask the Senator to go a little bit further with his question, what happens to whom?

Mr. BRADLEY. If a country is declared ir. default or if a bank declares that country x is in default, what does that bank do? Let me answer that. What that bank will do, whether the borrower is a country or your neighborhood grocery store, is move in to attach the assets of that person or country because they are in default on a loan. The bank wants the money it cannot get because the borrower has been declared in default.

Now, if you are dealing with a country that is clearly on the brink of revolution or catastrophe, or if you are dealing with a grocery store that is clearly near bankruptcy, and you have 35 creditors that simultaneously are declaring default, what is going to happen? They are all going to run in and try to attach the assets of the defaulting party. If the lenders are banks that are holding these now worthless loans and those banks cannot all attach enough assets to cover their losses, nor persuade their depositors that their holdings are completely safe, then those banks may be

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put in jeopardy. And then the whole house of cards may tremble.

Mr. HELMS. May I interrupt the Senator?

Mr. BRADLEY. Certainly. I hope that the Senator from North Carolina can reassure me that that could not happen.

Mr. HELMS. The Senator from North Carolina does not have to assure you. Let me give you the words of the Administrator of National Banks of the Comptroller of the Currency. He wrote to me on March 11 of this year. The pertinent paragraph of his letter, in response to the Senator's question, reads as follows:

> In our opinion, the safety and soundness of any U.S. bank would not be threatened by a Polish default. We believe it is unlikely that all nonguaranteed U.S. bank loans to Eastern bloc countries would simultaneously become frozen and uncollectable assets of the U.S. banking system.

I think that answers the Senator's question.

Mr. BRADLEY. I would argue with the Senator that it does not answer the Senator's question because this Senator has heard those same vague assurances from any number of officials, from members of the Federal Reserve to the Comptroller of the Currency. But he has yet to see a contingency plan that has been developed by this Government or any other government that specifically explains why you would not have a house of cards falling in the event of a series of cross-defaults, or how the system would operate to prevent it. Indeed, every time you ask a question about safeguards, you discover more and more holes in the system.

The point I want to make here is that when you start to play around with economic warfare in the form of defaults, you better have a contingency plan, because if you do not have a workable contingency plan, you are going to be jeopardizing the national security of this country. You are not going to be penalizing a repressive Eastern bloc government, such as that of Poland, or the Soviet Union, which is something I would like to do.

So I would hope that the Senator would join with me in calling on the administration to present to the Congress, as representatives of the people, some plan that could give us confidence that what the Comptroller of the Currency wrote to you indeed is true.

I will say to the Senator that in the last year, in conversations with various central bankers in other countries, bankers in this country, even some experts in the administration, there surfaced grave concern that there is not in place a mechanism that could assure that the house of cards would not fall should it be precipitated by certain default scenarios even if default was precipitated because of whatever admirable reasons that the Senator might have. I have raised some of these scenarios in statements in the CONGRESSIONAL RECORD over the last few weeks, and plan to continue speaking in the RECORD on this subject.

I raise this issue here only so that you would join with me and we might pause before we precipitate something whose final result we cannot predict at this time, and where at least there remains a logical possibility that the end result could be disastrous.

Mr. MATHIAS. If I could just ask a question on the point of the Comptroller of the Currency.

Mr. HELMS. Mr. President, I retain the floor, but I would be glad to yield to the Senator from Maryland.

Mr. MATHIAS. The Senator from North Carolina read a letter from the Comptroller. And I am just wondering whether there was an assumption underlying the Comptroller's rather sanguine view that the Government would in fact reimburse the lending banks and that is why they could weather the storm.

Mr. BOSCHWITZ assumed the chair.

Mr. HELMS. No, there is nothing of that sort in the letter. It is just a factual statement.

Mr. MATHIAS. But he does not say that the banks would not be reimbursed, does he?

Mr. HELMS. Not until the country was declared in default.

Mr. KASTEN. Will the Senator yield?

Mr. HELMS. I will be glad to yield to the distinguished Senator from Wisconsin, but first let me say to my friend from New Jersey, Senator BRADLEY, that I expect the finest way to get the administration—any administration, for we do not have but one at a time—to trot up here with precisely what the Senator needs is to pass this amendment.

Now, the State Department, and Treasury which have been encouraging this kind of lending, of course, they are not going to come up with a game plan until they run into a legislative brick wall. I have no problem with the Senator's point that they ought to have a game plan. I will certainly join him in saying to the administration, "Let us have it."

I think the best way to do it is to pass this amendment because then we will be answering some significant questions that should have been faced a long time ago around this place—do we have any interest in propping up the Communist economic system? Why not make it tougher for them? Why not put a greater strain on the economies of the Soviets and Soviet bloc countries?

Mr. President, let me make one additional point at this time. While it is clear that many banks are rescheduling loans to both the Polish and Romanian Governments, I do not know if any American banks are foolish enough to still be extending credits to either of those two countries. However, if any American banks are currently engaged in this practice, they should be on notice that they may be in violation of U.S. criminal law and subject of felony penalties, including fines of up to $10,000, or imprisonment for as long as 5 years, or both. Title 18 of the United States Code, section 955, provides that no institution or individual may extend credit, except for a renewal or adjustment of existing indebtedness, to any government which is in default in the payments of its obligations, or any part thereof, to the United States.

In my judgment, for the purposes of this criminal statute, both Poland and Romania are in default to the United States. American banking institutions and bankers should be on notice that they are subject to prosecution should they be foolish enough as to extend additional loans to the insolvent governments in Poland or in Romania.

Mr. President, the evidence that Poland cannot pay back its loans is overwhelming. I can see no justification for the refusal to declare the Polish Government officially in default, particularly in light of the brutal oppression of the Polish people by that same government. The situation is only slightly better in the other countries.

I yield to the distinguished Senator from Wisconsin.

Mr. KASTEN. I thank the Senator for yielding. I would just like to respond to one of the points that the Senator from New Jersey brought up.

First of all, I think it is important to recognize that there are cross-default clauses in these various loans. But the cross-default clauses are not automatic. The cross-default clauses do not necessarily force this linking that you are talking about.

In fact, what happens is each bank must determine for themselves if they want to participate in this link. If one bank declares default, in other words, there is nothing mandating that the house of cards, as you would envision it, comes down. Each individual bank is going to have to make their own decision.

Mr. BRADLEY. Will the Senator yield at that point?

Mr. KASTEN. Let me make one other point because the Senator might want to respond to both of my points.

The other point is that a country going into default is not like a grocery store going into default, any more than it is like an individual going into personal bankruptcy. A country going into default is something we have had very little experience at. The closest example is the Sudan and that was for a very limited period of time.

What the Senator from North Carolina and others are maintaining is that a country going into default, unlike a grocery store or an individual, would not be able to declare bankruptcy, somehow protect itself from the debt that it has, and then go on as if that had never happened before. In fact, what we are envisioning here is if, in fact, the country did go into default, the Soviet Union as the mother or the overall guarantor of the Eastern bloc countries, would be forced, in order for Poland to get one more nickel at any bank anywhere in the world, to divert hard currency from defense into the Polish Government to shore it up so that Poland would once more be able to go out and get a loan at a bank or a country or whatever.

So those two analogies, No. 1, that the house of cards is automatic, it is not, and a country is not a grocery store or an individual.

Mr. BRADLEY. Let me respond to the Senator's two points. First, he is correct in saying that the cross-default clauses are not automatically triggered. But they can be triggered by any one bank—any one bank. True, default is not automatic, but if you are one in a consortium of 70 banks, and you see other banks in that consortium declaring default, and know that they will be shopping around for property to attach to cover their lost assets, then you are not likely to sit back and hope you will get paid off eventually. Nor are you likely to collect on a loan for which your borrower has already been declared in default by a major bank. Certainly your depositors and creditors are not likely to think you will get paid back.

So while it is true that cross-default is not automatic, commonsense is likely to make it occur, particularly if default is a condition of collecting on Government loan guarantees. That appears to put the approval of the U.S. Government behind the default declaration.

So I think that that should give us reason to pause.

On the second point, that a country is not like a grocery store, I agree. A country is not like a grocery store. If a grocery store goes down, the family is on the street. If a country goes down, you have millions of people hungry and on the street. I agree. Further, we have experience with defaults by grocery stores. We do not have experience with large sovereign defaults, and we do not know what they could do to the system.

What should that mean? That means that we have to be very, very careful that if a country defaults we have a mechanism to protect those of us here and in allied countries who may be the victims of a sovereign default.

I would like to try to bring this issue into dimensions that all of us deal with daily; what would you do as a Senator, as a citizen, as a corporate president—and I would say this not as a question to be answered but as a rhetorical question for the Senator from North Carolina and the Senator from Wisconsin to consider—what would you do if you had money in the bank and suddenly that bank was threatened by a default? What would you do? Would you put more money in the bank? Would you put more and more money in the bank? Or would you say at one point, "Gee, I better take the money out of that bank. It might not be so stable because of all the loans to Poland, or wherever, are likely to be declared in default because of a default requirement under action taken by the U.S. Congress."

I probably would take the money out of the bank. But that is where the final catch is. Once that process begins, everybody runs to find a safe place and the house of cards may collapse. And remember, it is very difficult to find a truly safe place in an international economy as interdependent as this one is.

I say this only to emphasis that you cannot take precipitate action to retaliate without some concern for a certain contingency plan that will prevent you, your country, your family, from ultimately bearing the brunt of that economic collapse.

Mr. KASTEN. If I could briefly respond, I want to make two points. The analogy between a bank and a country is a little twisted. What we are saying is that the country will not, in fact, go into default. What, in fact, will happen is that they need to divert hard currency to shore up the economy, that currency coming from Russia.

A number of people have argued in the past that the declaration of default would endanger the Western banking system. But of Poland's $25 billion of debt to banks, only about $2 billion is owed to U.S. banks. The largest owed to any one bank is $100 million to $200 million. Our largest banks are well able to handle that, even total writeoffs if those would be necessary. We do not believe they would be. In fact, a number of banks, as the Senator is probably aware, even a number of banks in his area, have already provided considerable reserves for such an event. In other words, they have already begun anticipating because they are not sure what is going to happen on September 10 when this next installment may be due.

The real problem is the German banks. Even there, our Ambassador, Arthur Burns, wrote back to the State Department saying, yes, there could be a problem. But according to Arthur Burns the problem could be manageable even for the German banks. Banks which made imprudent loans would be hurt, but there would be no collapse of the international banking system and there would be no collapse of the German banking system, according to Arthur Burns, who I am sure the Senator from New Jersey and I would agree would be a pretty good judge of that question.

I do not intend to debate this issue at length. In fact, I hope we can soon wrap up this debate. But I think it is important to recognize that the Western banking system would not collapse. In fact, they have already built in reserves, and the individual exposure of any one bank is quite limited. One expert, at least, one whose opinion I would value, Arthur Burns, suggests that the German banking system would not collapse either. That is where the greatest amount of exposure is.

Mr. BRADLEY. Let me say in response that I would like to see one detailed study that has been done on the economic effects of a series of defaults. I would like to see one contingency plan, one game plan, one dry run. That would reassure me greatly. I have not seen that.

I would like to say further that it is somewhat of an illusion to say our exposure to Poland is only $2 billion and, therefore, we are all right. But what you forget is that there is a Euro-currency market, nearly $1 trillion by some estimates and a large chunk of it is located in the banks of the various countries around the world to which U.S. banks are directly and indirectly linked. We have loans to foreign banks and they have loans to us. So I do not think we can be so smug, and I do not mean to characterize the Senator as smug, in the position that everything is going to be OK because we only have this little exposure. It is not that way any more. The world does not work that way any more. It is an interdependent world.

As a final point, although I have a great deal of respect for Arthur Burns—what was the date of that letter, by the way?

Mr. KASTEN. I do not have the letter before me.

Mr. BRADLEY. Was it a month or so ago?

Mr. KASTEN. The date was some time in the late spring.

Mr. BRADLEY. Arthur Burns was one of the participants in the 1975 Central Bank agreement that said that the Central Bank of a particular country was responsible for all of its subsidiaries around the world if they got into trouble. But something has happened recently. I am sure the Senator has read about it in the newspaper. The Bank Ambrosiano has had some troubles. It has had troubles with its Luxembourg holding company, problems with its Panamanian sub-

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sidiaries. What has the Central Bank of Italy said? "We are not responsible. We are not responsible."

If the Central Bank of Italy is not responsible, that is a reversal of what Arthur Burns and others negotiated at a time of great crisis, in 1975 after the collapse of the Herstatt Bank. This should give us all some pause about reassurances from those who are more experienced than we in these matters, Ultimately, it is the U.S. Senate, the representatives of the people, who have ultimate responsibility to protecting the American people from the dangers to our economy.

I think this debate has been productive. I see the Senator from Oregon looking up expectantly so that we might move on.

I might say to the Senator from North Carolina that I appreciate his willingness to join with me. He can be assured that I will follow up on that generous offer.

Mr. President, I yield the floor.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I do not want to delay this further, but I want to briefly state exactly where we are. I understand the proposal of the Senator from North Carolina is a very skillful and adroit instrument to accomplish his purpose. The Senator from North Carolina is skillful and adroit.

What he is doing by prohibiting any payments out of Government funds prior to a default is prohibiting the servicing of the debt, which, in turn, of course, would bring about a demand on the principal due and would have the practical effect of precipitating a default. My objection is that that does alter an obligation of the U.S. Government. It alters the terms of a contract in a way which I believe is clearly unconstitutional.

Any dispute that the Senator from North Carolina and I may have on the policy involved is different. I believe that he could lawfully accomplish his purpose as far as future contracts are concerned by simply saying that these payments should not be made prospectively or agreements made after this date, because those terms are written into the contract.

I do have a disagreement with the Senator from North Carolina as to the question of what his purpose is. I do find myself in disagreement on that because, clearly, he will bring about a default on Eastern European loans. The consequences of that, as the Senator from New Jersey has said, are incalculable. I hope the Senate will defeat this amendment.

Mr. HATFIELD. Mr. President, I thank the Senators for their cooperation. I think the colloquy has brought to light a number of concerns and issues involved in this particular amendment. We shall have it in conference. The Senator from Wisconsin, the subcommittee chairman, has agreed to accept the amendment. I agree to accept the amendment. Therefore, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 1211), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from Maryland and the Senator from New York for a brief colloquy. I yield the floor.

UP AMENDMENT NO. 1221

Mr. MATHIAS. Mr. President, I make a point of order against that portion of the pending bill on page 25, beginning at line 1 and continuing to page 26 to and including line 21, on the ground that this is legislation on an appropriation bill.

Mr. D'AMATO. Mr. President, will the distinguished Senator from Maryland yield?

Mr. MATHIAS. Yes, I yield.

Mr. D'AMATO. Though he has raised that point of order, we have not had an opportunity to discuss this situation. I believe he may be correct on the point of order. I would further like to explain, and think it is important——

The PRESIDING OFFICER. Will the Senator from Maryland withhold his point of order inasmuch as a point of order is not debatable?

Mr. MATHIAS. Yes, Mr. President, I shall withhold it pending the remarks of the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I certainly would not like to engage in a jurisdictional battle with the distinguished Senator from Maryland. I would like to propose an amendment to the bill language that might be acceptable if the chairman of the authorizing committee agrees.

I suggest that we limit the time period of the proposal, creating hearing commissioners in the District of Columbia Superior Court, to September 30, 1983. Let me indicate that our committee record does indicate that there is an emergency. There is a very dire emergency. At the present time, the Superior Court of the District has a caseload backlog of some 40,000 cases. That is excluding landlord and tenant cases. At the present time, there are pending 1,851 felony cases. That is a one-third increase since the first of the year, on top of a 23-percent increase last year.

We are talking about an increase of more than 50 percent in the last year and a half. However, I recognize that the chairman of the Subcommittee on Governmental Efficiency and the District of Columbia has been laboring to bring about a comprehensive court reform package. That package is necessary so as not to impede the work of the D.C. courts. It is for the purposes of seeing to it that this provision is not an instrument to impede legitimate court reform, but, rather, an emergency provision so that many ministerial acts can be performed by these commissioners and free up judges to try these felony cases—indeed, that is what Chief Judge Moultrie has indicated to me he would like to do—that we would proceed in this manner. For these reasons, I think emergency legislation at this point in time is absolutely necessary. I hope the distinguished chairman would consent to that. If he would, I shall send this amendment to the desk.

Mr. MATHIAS. First, Mr. President, let me say that I welcome the interest of the Senator from New York in these vital problems of the District of Columbia. In the relatively short time in which he has been involved in District matters as chairman of the District Appropriations Subcommittee, he has shown himself to be not only interested but able in addressing some of the serious problems of the Nation's Capital. So I first want to thank him for that interest and for that concern.

I also thank him for the proposal he has made here, because there is no secret he is the author of the language contained on pages 24 and 25. The contribution he has made to this proposal is a useful one. I certainly have no objection to it in substance. In fact, it could be a proposal which would be helpful as we address the larger problem of the judicial system in the District of Columbia to have a test run, a pilot program, using examples.

If we could limit this in time so it does not impede other efforts that are being made in the courts, I would have no further objection to it.

Mr. LEAHY. Mr. President, I should like to commend the work the distinguished chairman of the subcommittee has done, having aged rapidly during my tenure as chairman of that subcommittee, going from the bloom of my youth to an aged and baldheaded man while trying to wear the mantle of leadership that descends uniquely upon the shoulders of the chairman of the D.C. Appropriations Subcommittee. It is a position that thrusts one into the limelight of the city but, at the same time, one which may be questioned by one's own constituents as they wonder exactly why you spend so much time there. It is perhaps best described, perhaps most charitably described as a thankless job to be chairman of that subcommittee. I speak from experience, as does the distinguished Senator from Maryland.

I join him, in all seriousness, in complimenting the Senator from New York for the work he has done.

He has worked very hard on this, has handled some difficult matters at a continuing difficult time for the city. I applaud what he has done on this amendment. I think it is a good amendment, and I certainly support him, and I support the Senator from Maryland in the efforts that he has made in making this a workable law.

UP AMENDMENT NO. 1221

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numbered 1221. On page 26 after line 21 insert the following new subsection "(d) the provisions contained in this section shall remain in effect until September 30, 1983.".

Mr. D'AMATO. Mr. President, let me first express my deep appreciation and thanks for the constant support and guidance by the distinguished Senator from Vermont (Mr. LEAHY), the former chairman of the subcommittee.

Let me also thank Senator MATHIAS, my distinguished colleague from Maryland, for his help in establishing what I hope will be a pilot program that leads ultimately to a permanent solution in dealing with the criminal justice system of the Nation's Capital. I thank him for his support in this matter.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 1221) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. In light of the comments of the distinguished Senator from New York and the action he has taken to provide that the use of the hearing examiners or commissioners is limited for about a year, until September of next year, I will not press the point of order that I had previously proposed against this amendment.

I want to express my appreciation to the Senator from New York and to the Senator from Vermont for their continuing interest in the District.

Mr. D'AMATO. Mr. President, let me once again reiterate my thanks to the Senator from Maryland for making possible this accommodation which I think will benefit the people of the District of Columbia in particular and shows some very great credit to this body.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 1222

(Purpose: To maintain orderly reprogramming procedures with respect to appropriated funds)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) for himself and Mr. HOLLINGS proposes an unprinted amendment numbered 1222.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"SEC.   . Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193, an "Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency and the Board of International Broadcasting, and for other purposes," unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Mr. WEICKER. Mr. President, the amendment which Senator HOLLINGS and I have sent to the desk is meant to maintain orderly procedures for the reprograming of appropriated funds. As you know, each year agencies of the Government find it necessary to reprogram funds to meet unforeseen exigencies. Because these actions affect the purposes for which funds were originally provided, they are subject to the procedures of the Committees on Appropriations of the House and the Senate. The procedures which govern reprogramings proposed by the agencies under the jurisdiction of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies are outlined in section 508 of H.R. 4169, as reported in the Senate on October 1982—Senate Report 97-265. These procedures are used jointly by the House and Senate committees as stated in the statement of the floor managers on House Joint Resolution 370.

The conference agreement on S. 1193 provides that the Department of State reprogram funds to reopen certain consulates. That report also authorizes the Director of the U.S. Information Agency to use funds appropriated for certain educational exchange programs for other purposes. Neither of these provisions in the conference report require the approval of the Committees on Appropriations. We are told that the authorizing committee did not intend to assume responsibility for reprogramings or to contravene appropriations acts, this amendment will clarify that any reprogramings under section 103 or transfers from exchange funds under section 305 cannot be made except as provided under the reprograming procedures of the Appropriations Committees. There is no objection from the Foreign Relations Committee.

The PRESIDING OFFICER. Is there any further debate on the amendment? The question is on agreeing to the amendment.

The amendment (UP No. 1222) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

UP AMENDMENT NO. 1223

(Purpose: To make technical and clarifying corrections)

Mr. HATFIELD. Mr. President, I have two technical amendments now to the bill which have been cleared with the minority side of the aisle. The first one is that there is a printing mistake on page 78. It should be $1.9 million rather than $6.9 million.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1223:

On page 78, line 24, strike out "$6,975,000" and insert in lieu thereof: "$1,975,000".

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1223) was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment offered by the Senator from the State of Alaska (Mr. STEVENS), unprinted amendment numbered 1194, which was agreed to by the Senate yesterday, be inserted in the bill after line 21, on page 64, rather than at the

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end of the bill as the amendment was originally drafted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am very disturbed about language in this supplemental appropriations bill that appears on page 22, lines 3 through 7, where it states—and it is brief so I will read it—

> None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at the U.S. defense facilities in Europe when coal from the United States is available.

Mr. President, what that is is a buy American provision. Of course, it flies right in the teeth of the Government's procurement code which we passed in this body in 1979 and which, of course, is now law.

The danger, as I see it, in that provision is that it just invites retaliation from foreign nations with whom we are trying to obtain contracts with their governments.

I might say that this is a new provision since the enactment of the Government procurement code. By that, I mean whether it was in existence prior to the enactment of the code, I do not know, but it is the first time it has appeared since the enactment of the code.

Mr. President, it is a prima facie violation of the code, and even though it has the qualifying phrase "when U.S. coal is available," it does not eliminate the code violation because the procurement practice remains discriminatory.

Mr. President, because of the fact that this language is only for the current fiscal year, it is my present intention not to press the matter. However, I would like some discussion on this to hear what the chairman of the committee has to say on it and others who care to voice their views.

We are really getting into very heavy weather I believe, Mr. President, if we persist with this type of language in legislation. As I say, there are 6 weeks left and presumably not much coal is going to be bought in that time, but I would not want anybody to be under the impression that if language like this appears in the future, there would not be a very earnest and vigorous attempt on my part, and I hope by others, to eliminate language to that effect.

It goes far deeper than what is happening to coal. What it means is that the earnest efforts that have been made over many, many years to make foreign government markets available to U.S. suppliers would be completely undercut. It is a classic example of the United States shooting itself in the foot for a modest sale of coal. This amounts to some $75 million a year, and it is my understanding that it is less than 5 percent of the total anthracite sales of the United States. It runs the chance of endangering over $2 billion in U.S. coal exports to Europe as well as all the other telecommunication devices and a myriad of products that we are attempting to sell to foreign governments.

Ambassador McDonald has written a letter to the majority leader on this subject. I believe Ambassador McDonald is the acting Special Trade Representative. This is what he said in his letter to the majority leader, dated August 10, which was yesterday:

> The timing of this legislation makes it particularly unfortunate. We are currently working toward negotiations to expand the scope of the code. Through these negotiations, we hope to expand the scope of the code to cover a number of foreign government agencies which are major purchasers of goods for which we have a substantial export potential, such as telecommunications, power-generating and transportation equipment.
>
> If we were to violate the code, it will have a serious adverse effect on our chances of success. Countries will not wish to enter into new obligations with us if we do not respect our existing obligations.

There we are, Mr. President, I must say that I am worried. I do not want to flatly commit myself not to submit that amendment tonight, but I would be glad to hear any discussion others have on this subject and what they might do to relieve the legitimate concern I am expressing—not just for myself and not just for products from my State, but for the overall exports of the United States.

Mr. HATFIELD. I say to the Senator from Rhode Island that the Committee on Appropriations looked at this language—which was sent from the House—on page 22, lines 3 to 7. There was a fairly mandatory instruction, and the Senate committee decided that it should be modified to the degree in which we have added the words on line 7: "when coal from the United States is available."

We felt that rather than mandate this purchase from the United States—the coal from the United States, as it was in the House bill—that it put us into a kind of box, so to speak, that in case we did not have available coal, we would be mandating something we did not have available. So we felt that it was necessary to modify it to include those words.

Further, I say to the Senator from Rhode Island that he will note that this is also confined to the current fiscal year. In effect, we are talking about 6 weeks because of the fact that the current fiscal year ends on September 30. So whatever decision is made on this provision, we are really making a decision for about a 6-week period of time.

Third, we really are addressing a larger subject than even that which involves coal. As the Senator realizes, we are really raising an issue here of what was commonly referred to as a Buy American type of requirement. I understand the concerns expressed by the Senator from Rhode Island. I share some of his concerns as well.

I have had a long chat with Ambassador Arthur Burns, who is now our Ambassador to West Germany. He has expressed some concern about this type of policy. Others serving in foreign posts have likewise expressed to me some concern.

However, I say to the Senator that I do not feel that this, in effect, has really put us in any kind of bind, either as to the supply of coal or as it would relate to our coal exports and the continuation of those exports.

First of all, we realize that there is somewhat of a coal glut at the present time on the world market—at least, there is a plentiful supply of coal on the market. I do not think we are in any kind of supply situation at the moment.

Therefore, in effect, I suppose I would say that I would minimize what I think would be the impact of this particular wording on page 22 of the bill. Of course, we will be facing the possibility of this on the fiscal year 1983 bill or of a continuing resolution if we do not have a defense bill by the time October 1 comes about; and the Senator from Rhode Island would be free to raise this question as it relates to whatever vehicle this may appear on in the future.

I express my great appreciation—if I understand the Senator's remarks—that he will restrain himself from raising an amendment at this time, on this particular bill, which deals with only 6 weeks, and without in any way prejudicing the Senator's rights or the Senator's position to raise the issue at the time we are dealing with a fiscal year 1983 vehicle, whether it be a bill or a continuing resolution. I have no way to predict what vehicle it might be.

However, I also suggest to the Senator that we should raise the general issue in full debate sometime in the near future, about the entire Buy American philosophy as it relates to our exports and our imports and retribution or potential retribution, and so forth. I would hate to see that subject debated on this very narrow base at this time.

Mr. CHAFEE. Mr. President, I appreciate the remarks of the distinguished Senator from Oregon.

There are some other Senators I wish to contact who have an interest in this matter and who plan to come to the floor. So, unfortunately, we cannot wind this up right now.

However, I did want to express my concern, and I did not want to be estopped in any way. I know it is not a legal estoppel, but I would not want anybody to be flying under the premise that because we do not battle here on this issue, it is only because there are 6 weeks. The hour is late, and everybody seems to want to go home. But when it comes up, on whatever vehicle—presumably, the 1983 defense appropriation bill—if that language is in there, there will be a long, long, drawnout battle on this floor. I hope it is not long, drawnout, because I hope the other side will not contest it. It is my understanding that it was knocked out in the 1983 authorization legislation.

Mr. HATFIELD. I thank the Senator.

Mr. President, we are ready for third reading of the bill.

Mr. CHAFEE. I cannot quite agree to that yet, because a couple of other Senators want to speak. We just contacted one Senator.

Mr. HATFIELD. Mr. President, is there any Senator who wishes to speak on this point?

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Armstrong). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, that completes my thoughts on this matter.

Again, I just say that this is bad language. It should not be in the bill. It has only 6 weeks to go. We are accepting it rather than go through a long, drawnout fight here tonight. However, if there is language as that again in the continuing resolution, in the 1983 appropriations, in the 1983 authorizations, anywhere, I, for one, will do everything I can to eliminate it, and I certainly hope I will have the support of my colleagues.

I thank the chairman of the committee for his help.

Mr. HATFIELD. I want to thank the Senator from Rhode Island for his cooperation, and I want to assure him he will get full and ample opportunity. I will do everything possible in my power to debate this issue if it should reappear on some future vehicle.

Now, Mr. President, we are just about ready to go to third reading. There is one final amendment that we will have ready in just a moment on behalf of the Senators from Vermont (Mr. Stafford and Mr. Leahy), and then we are ready for third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the last amendment we have before third reading is ready to be offered by the Senator from Vermont.

UP AMENDMENT NO. 1224

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. It would occur on page 57 at line 20, to add the following additional language.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. Stafford) proposes an unprinted amendment numbered 1224:

On page 57, line 20, before the period, insert the following: ": *Provided further*, That of the amounts that shall remain available for obligation under Part B of Title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under Part A of Title III of that Act."

Mr. STAFFORD. Mr. President, this adds no additional funding to the moneys currently in the bill. I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The amendment (UP No. 1224) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I recognize that H.R. 6863 has elements of urgency about it, that it is within the budget targets, and that it will make available funding for needed programs and for payment of salary increases for the remainder of fiscal year 1982.

I do have considerable concern, however, that this measure has the effect of bypassing the Committee on Foreign Relations and appropriating hundreds of millions of dollars for foreign assistance without an authorization. More specifically, it, in effect, authorizes the Caribbean Basin Initiative effective September 15 and in a manner that quite frankly contravenes the approach the Committee on Foreign Relations has voted upon.

So, Mr. President, I do object to the end around the proper authorizing committee that is contained in this measure. I must protest this irregular procedure even though I will vote for the bill out of recognition of the need for many of its provisions.

Mr. GRASSLEY. Mr. President, I oppose this supplemental bill for two reasons. First of all, it is poor budget practice to simply raise the lid on Federal spending whenever money runs out. This practice creates a disincentive to total budget planning and to living within the boundaries of what has been planned. Funds should be appropriated according to our ability to pay for them. The nature of supplemental spending, particularly when supplementals occur year after year, runs absolutely contrary to good budget policy.

There is a more proximate reason though, Mr. President, for why I oppose this bill. We are in the midst of perhaps our worst economic predicament since the 1930's. We are caught in a transition zone between stagnation and recovery. We have reversed both monetary policy and tax policy. We have yet, however, to reverse spending policy. This failure to curb spending is causing current and outyear deficits to swell and the economy to remain inactive. It is interfering with our efforts to stimulate productivity. The attitude in Congress continues to reflect a desire to raise taxes and ignore the growth in Federal spending.

This supplemental bill increases Federal spending for this fiscal year by $9 billion. Despite recent predictions by the administration, by CBO and by private forecasters that deficits will now be larger than originally projected, we appear once again to want to move ahead blindly on a spending binge.

Mr. President, we simply do not have the money. The Treasury has to raise a record $50.5 billion this quarter to finance its borrowings, and up to $110 billion over the last 6 months of this year. Personal savings in this country last year amounted to only $108 billion, meaning the Federal Government will absorb 100 percent of last year's personal savings in just 6 months. We cannot tolerate this performance.

Mr. President, does it seem unreasonable to ask when we are going to wake up and be fiscally responsible? Must we wait until our current predicament becomes a crisis? Fiscal responsibility demands recognition that a crisis is imminent unless we stop spending money we do not have. This Congress is setting a poor example for the rest of the Nation: We spend money before we have it. We borrow instead of save or plan.

Businesses and family households have learned their lessons.

They have retrenched at this difficult time. Individuals have paid off debt at incredible rates for a recessionary period. Businesses are cutting out fat and overhead, and paying back

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loans. When is the Federal Government going to follow suit? When is Congress going to realize that high interest rates are a reflection of high taxes and uncontrolled spending?

Mr. President, we will be faced with serious economic problems in the near future if these irresponsible budgetary practices continue. The spending savings in the first budget resolution for 1983 and beyond are already in jeopardy. Congress inclination remains to tax and spend. That inclination, that pervasive attitude must be cracked if we are ever going to get a handle on the spending problems. Unless we replace that inclination with a deep understanding of the consequences of uncontrolled spending and its adverse impact on interest rates, our current economic problems will look mild compared to what we are headed for.

CARIBBEAN BASIN INITIATIVE/EL SALVADOR

Mr. MITCHELL. Mr. President, I will support the supplemental appropriation on final passage, because the bill includes funds for essential programs. I was particularly pleased that it funded the Economic Development Administration, a program for which I have fought since the beginning of 1981. Economic development assistance is crucial at an economically depressed time such as the present. I support the additional unemployment compensation funds. With well over 10 million Americans out of work, additional Federal unemployment compensation funds are essential to make sure that people who lose their jobs do not become destitute. And I am pleased to see the necessary $30 million in Coast Guard funding included in this measure. The money is desperately needed, and the President's veto of the original emergency funding bill led to the deletion of that money. Its restoration in this measure will help resolve the Coast Guard's operating funds shortfall for the current year.

But, I have one very serious reservation about this bill. It contains $355 million in fiscal 1982 funds for the administration's Caribbean Basin Initiative; $128 million of that amount is intended for El Salvador.

The delays which have surrounded the administration's pursuit of legislation for this Caribbean Basin Initiative mean that it has not, as yet, been approved by the Congress. There is no authorizing legislation. The Finance Committee on which I serve is still considering the trade implications of the proposal. The House of Representatives rejected this appropriation because no authorizing enactment exists.

Despite the lack of an authorizing act, and with just 1 month to go before the end of the fiscal year, the administration is demanding a full-year appropriation of $355 million for the economic aid portion of the Caribbean Basin Initiative.

The grant of a full year's funding—$355 million—at a time when the 1982 fiscal year has just one more month to run is not necessary for the pursuit of the Caribbean Basin Initiative. It is irresponsible in terms of the Congress duty to responsibly allocate tax dollars. The fiscal year 1982 budget deficit will be over $100 billion. We face $100 billion deficits down the road. It is wasteful to appropriate these tax dollars today, when they obviously cannot be well spent within the space of 1 month.

I very much regret that Senator Dodd's amendment to halve that funding did not prevail. It seems clear to me that end-of-year, hurry-up spending of this kind is precisely not the way to encourage fiscal responsibility, but the Senate majority decided otherwise.

Halving the 1982 funding, particularly within 1 month of the end of fiscal 1982, would not have undermined the administration's ability to credibly pursue its foreign policy goals. But it would have preserved a degree of congressional oversight over the development and implementation of that policy which is now totally absent.

There is serious controversy over the pursuit of the administration's policy in El Salvador which could not have been resolved in a debate on a supplemental appropriations bill. But, by the same token, an emergency supplemental is not the right place to finance the expansion of an unexamined policy, either.

I am sorry the administration chose to pursue its policy by having the Senate include an appropriation that the House of Representatives has already rejected. That is not the best way to gain bipartisan support for our Nation's foreign policy, either in the Congress or in the Nation.

All Americans were heartened by the fortitude of El Salvador's voters, who braved threats and bullets to cast their ballots in the election. But applause of that bravery does not alter the fact that the progress of reforms in the country has slowed.

Most important, it does not alter the fact that the leaders of El Salvador's economic community—the private sector in that country—are deserting its economy by withdrawing their capital from El Salvador.

Our national policy should be to make certain that El Salvadoran resources are used in the nation's economic development before the tax dollars of American workers are donated to aid that country.

On March 18, the New York Times reported that:

> Faced with a loss of confidence, capital flight, political uncertainty, and outright destruction, the economy of El Salvador is surviving only through international aid, most of it American, that will be pouring into the tiny nation this year.

Under the Caribbean Basin Initiative, fully half the economic aid money will be divided between just two countries, El Salvador and Honduras. El Salvador would receive $128 million in economic assistance. The assistance is intended to allow El Salvador to repay its existing foreign debt, and to make up foreign exchange shortages which have occurred because of balance-of-payments shortcomings.

The president of the Central Bank of El Salvador, Alberto Benitez Bonilla, has stated that if his country does not receive substantial foreign aid from the United States, "almost all our industries would stop, and we would have at least 20-percent negative growth."

The seriousness of the situation is not in question. The uncertain political situation in El Salvador, coupled with international market conditions in recent years, has contributed to the perilous condition of its economy.

But the actions of El Salvador's own citizens are also a highly significant contributing factor.

U.S. Ambassador, Deane Hinton, as well as El Salvador's Planning Minister both attribute the perilous economic condition of El Salvador to the massive flight of capital which has left the country. Ambassador Hinton estimates that in the last 3 years alone, $740 million was sent out of the country. Atilio Veitez, the Planning Minister, puts the amount at nearly $1.5 billion.

In other words, the private sector in El Salvador is hoarding its money outside the country, rather than using it as working capital within El Salvador. Much of that money is now in the form of capital deposits in bank accounts in Miami.

Because of this capital outflow, El Salvadoran businessmen do not have the money to purchase basic imports to operate their industries. So U.S. aid money is used to make up that lacking capital. While the wealth of El Salvador is secure in U.S. banks, and earning its owners a substantial return, the administration is asking the American taxpayer to replace that capital in El Salvador.

Why should the American taxpayer demonstrate, through foreign aid dollars, a greater confidence in the future of the El Salvadoran economy than El Salvadoran businessmen are willing to demonstrate?

AID's report for 1983 confirms that the El Salvadoran balance-of-payments position has been significantly weakened because of the huge amounts of capital removed from the country.

AID now says its development strategy is aimed at preventing the collapse of the El Salvadoran private sector and restoring its productive capacity.

But surely, before our taxpayers are asked to help buildup the economy of El Salvador, a similar commitment ought to be made by the citizens of El Salvador themselves.

Last year, AID gave El Salvador $44.9 million in economic support funds to finance the import of raw materials and intermediate goods. This year, $28.4 million will be provided in the regular foreign aid program for the same purpose. AID is asking for $77 million next year, to continue paying for these imports. An additional $26.5 million is slated to be used for the Industrial Recovery I program, to reopen and rehabilitate industries in El Salvador.

It is ironic that, at a time when the survival of so many domestic firms is threatened, the same administration which staunchly opposes even modest economic development aid to alleviate economic distress in the United States, is asking our taxpayers to bail the private sector of El Salvador out of a problem which is largely of its own making.

If the private sector of El Salvador kept its capital in the country, the United States would not have to provide financial assistance of this magnitude just to keep its industries operative. What is actually the case is that the business community of El Salvador is unwilling to risk its own capital. It is unwilling to place its resources behind its own government. But both the business community and the government are more than ready to let the American taxpayer take that risk and foot that bill.

AID is now assuring us that steps are being taken to stop U.S. tax dollars ending up in Salvadoran bank accounts in Miami. Money will supposedly be tied to specific transactions and transferred electronically to the seller, rather than given to the buyer. But this will be only a cosmetic solution. The President of El Salvador's Central Bank has said, "* * * this could bar capital flight only in the 'first dispersement.' After that * * * we lose control."

News reports indicate that El Salvadorans have accomplished much of this hoarding of money outside their country by setting up dummy U.S. companies, and submitting products to multiple invoicing. These businessmen buy or sell the same items twice on paper to make certain the proceeds can be deposited outside the country.

The Government of El Salvador has done nothing to prevent capital flight. El Salvadoran banks are nationalized, not private entities. The Government could impose currency controls. Honduras, a neighboring nation, has done so to halt capital flight. Why cannot El Salvador do the same thing?

It is obvious that neither the private sector nor the El Salvadoran Government will take any steps to change the situation as long as American dollars are available to make up the capital needs of the country. But the effect of this is to let El Salvadoran businessmen make a profit at the expense of the American taxpayer and then recycle that profit in American banks, not in their own nation's economy.

I do not believe the administration should include El Salvador in the Caribbean Basin initiative as long as this problem remains unresolved. Nor do I believe the Senate should have approved a blank check for this policy decision.

If the El Salvadoran Government undertakes vigorous currency controls to stem capital flight, the appropriateness of more economic aid can be reviewed. But in the first instance, the El Salvadoran business community ought to make a commitment to the future stability and economic health of their country, not the American taxpayer.

The administration should make it crystal clear that our Nation will not stand idly by while our tax dollars are used to bail out the El Salvadoran economy and El Salvadoran dollars are siphoned out of the country for the private comfort and protection of some of its most privileged citizens.

It is apparent from its actions that the El Salvadorn business community lacks confidence in the return of stability to its country. This massive capital flight is simply a case of individual businessmen hedging their bets. That may be an acceptable position from a purely financial perspective, but it is not a basis on which American tax dollars should be spent, or a solid foundation for American foreign policy.

It is ironic that the pursuit of American policy with regard to El Salvador has been ardently defended as a way to protect and preserve the private ownership economy which is inseparable from a free democratic society. It should be obvious that we cannot protect democracy and human rights in El Salvador when the nation's own economic leaders are unwilling to support even the basic economic foundation of their own country's future.

If the El Salvadoran Government loses its war against the present insurgency, what will the El Salvadoran business community have risked? Virtually nothing, because those individuals will leave El Salvador comforted by the knowledge that their capital is secure in U.S. banks. Why should the American taxpayer be asked to fund this conscienceless activity?

This is not the time or the forum to debate in detail differences over U.S. policy toward El Salvador. But one very basic fact should be evident without debate. If the Salvadorans themselves, particularly that economic class which has the means to make a difference in the country's future are unwilling to stake their own property in that future, anything the United States can do will have only the most marginal effect on the security and stability of El Salvador.

Although Senator Dodd's amendment was narrowly rejected on a procedural vote yesterday evening, I hope the Senate debate, coupled with the House's rejection of all funding, will send a clear message to the administration that its unexamined and questionable policy on El Salvador cannot continue.

Mr. JEPSEN. Mr. President, I should like to point out the need for supplemental funds for the reclamation of abandoned mine land as provided for in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

During the oil embargo of 1972 this country immediately looked to coal as one of its most available alternative energy sources. Coal reserves in this country provide one of the largest available sources of hydrocarbon fuels.

Thousands of acres of land laid waste to surface mining prior to this period. However, since the price of crude oil has skyrocketed, during the last 10 years we have seen a dramatic increase in the alteration of the countryside as a result of surface mining.

There are an estimated 1.1 million acres of land in 29 States laying waste with severe erosion problems caused by surface mining. The erosion and acid mine drainage from these abandoned mines have caused serious problems in water quality, increased flooding, loss in food fiber production, and a degradation of the environment in terms of fish and wildlife habitat.

Congress in its wisdom in 1977 saw the need to address the deterioration of these land and water resources through the Surface Mining Control and Reclamation Act.

A great amount of time has been invested in the careful development of this law. This investment resulted in a good law that can adequately provide both the technical and financial assistance to State and local soil and water conservation districts to improve these land areas. This legislation uniquely provided for funding to be derived from the industry causing the problem without adding a tax burden to the citizens of this country.

The law contains several principal features which I wish to address. First, the law is designed to fund the activities designated through general supporting revenues from the coal industry. This provision has been carried out in good faith by the participating coal companies.

Section 401 of the act established the abandoned mine reclamation fund administered by the Secretary of the Interior. All coal-mining operators pay into the fund at a rate of 35 cents per ton of coal produced from surface

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mining and 15 cents per ton of coal produced by underground mining. These payments represent income to the Government of approximately $200 million per year.

I am extremely concerned that fees collected from coal-mine operators and deposited with the Treasury are being inadequately used to carry out the intent of the Congress as expressed in sections 401 and 406 of that act.

In good conscience I cannot stand idle and see these funds continue to be collected from the coal operators, and deposited with the U.S. Treasury never to be seen again. This is wrong. It breaks faith with the intent of Congress and it breaks faith with the coal-mining operators who are forced to pay into the fund. Why should Congress impose a requirement on private industry that it is not willing to abide by in the same law? We should decide whether to carry out the intent of the law or change the law.

I think the law is good. We should support its provisions and let it serve its intended functions.

Section 406 established the rural abandoned mine program—RAMP—to control and prevent erosion and sediment damages from unreclaimed mined lands.

The rationale for having RAMP was to provide assistance to States through an existing local, State, and Federal delivery system while States developed their regulatory programs and reclamation plans as required by the act to qualify for the grants program. The RAMP program is administered by the Secretary of Agriculture through long-term contracts with the owners of abandoned coal-mine land. The Secretary promulgated rules for the program on October 2, 1978, and in those rules gave highest priority to those lands which, in addition to being sources of sediment, represent a hazard to public health and safety. The Department of Agriculture—USDA—has identified 1.1 million acres in 29 States—377 counties—as eligible for treatment under the program. USDA received 3,009 applications for assistance: 1,812 of those are high priority based on the public hazard criteria.

The Secretary of the Interior is authorized by section 401(c) to transfer up to 20 percent of the fund to the Secretary of Agriculture for the rural abandoned mine program. Based on the estimated fee collections ($200 million per year), the Secretary of Agriculture could receive $40 million. A total of $102.2 million was appropriated for reclamation in fiscal year 1982; however, only $5.1 million was designated for RAMP.

Because of underutilization, the fund has continued to grow until by the end of fiscal year 1982 it will approach $500 million. At the same time, requests for increased assistance under the rural abandoned mine program have increased, demonstrating a strong interest on the part of landowners to solve their abandoned mine land problems. Today, there is a backlog of $13.25 million in unfunded contracts ready to sign and another $84 million for which planning has started and could be completed within a few months. The appropriation of $5.1 million for fiscal year 1982 did not permit the Secretary of Agriculture to execute a single one of these contracts. The entire appropriation was used up in carrying out 244 contracts entered into in previous years.

RAMP is designed to reclaim small scattered parcels of abandoned mine lands in rural areas. Many of the owners of these lands neither consented to nor participated in the mining process, yet now are left with land that is a liability rather than an asset—they pay taxes but derive no income. The States will have a heavy workload on the larger public and privately owned areas and may not be able to provide assistance to many of these small parcels for many years.

It will take the States additional time to develop the internal capability, to hire the staff, and develop the necessary expertise and procedures to actually start reclamation work. As soon as this is done States could assume the full responsibility for this program.

In the meantime, reclamation work that could be done under RAMP, work that would provide much needed jobs in the coal-mining area, sits on the shelf.

A large investment of personal time and funds have gone into completing 45 plans now ready for contracting. Funds needed to implement these plans are estimated at $13,250,000. Iowa has 6 of the 45 plans with an estimated cost of $1,963,000. These plans are located in Marion County and Mahaska County.

The House of Representatives provided $13,250,000 in the general supplemental for the rural abandoned mine program. If these funds were approved jobs would be created, and the protection of these land and water resources could proceed without delay. The machinery is in gear. All that is needed is support to fulfill the intent of the act. This can be done without asking the taxpayers for additional revenue.

The Soil Conservation Service and the Soil and Water Conservation Districts have done an excellent job of addressing these problems. I commend the work performed by these agencies and their example of Federal, State, and local cooperation.

I think it would be wise to capture the significant investment that has gone into these plans now ready for contracting.

I urge the conferees to take a close look at the House recommended supplemental appropriation. Favorable consideration of this matter will be highly appreciated.

Mr. SPECTER. Mr. President, I wish to join my colleagues Senators HUDDLESTON and JEPSEN in speaking about the rural abandoned mine program (RAMP). This program is of great significance to my State of Pennsylvania, which has over one-third of the abandoned mine land in the country, as well as the numerous other States which mine coal.

The rural abandoned mine program was established in 1977 with the passage of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87. Section 401 of that act established the abandoned mine reclamation fund to be funded by a 35-cent tax per ton on surface mining and a 15-cents per ton on deep mining. Section 406 authorizes the Secretary of Interior to transfer "up to 20 percent" of the funds to the Secretary of Agriculture for the RAMP program.

RAMP projects are designed to restore lands which have been scared by previous mining ventures. Unproductive land is returned to lush farmland and acres of pockmarked, brown, and muddy areas are returned to rolling green hills. In addition, this program creates jobs and stimulates the economy. Most importantly, these benefits can be achieved without reaching into the Treasury for funds, for the RAMP program has almost $100 million available which has not been appropriated.

Therefore, Mr. President, I was dismayed to learn that the Subcommittee On Interior did not include the $13.251 million supplemental appropriation provided in the House bill.

Since 1977 when the law was enacted, through fiscal year 1981, $680 million has been collected from coal operators. It is estimated that $200 million will be collected in each of the next 2 fiscal years. Pennsylvania alone has contributed $78.9 million to the abandoned mine reclamation fund.

As I stated previously, up to 20 percent of this fund is authorized for the RAMP program, but historically this figure has been much less. Indeed, in fiscal year 1982, $5.1 million was appropriated and, according to the Department of Agriculture, this entire amount was used for contracts entered into in previous years—thus perpetuating a growing backlog of projects.

I believe that a supplemental appropriation is needed to fund the 45 projects, 15 of which are in my State, which have been approved by the Soil Conservation Service. These are priority 1 projects—projects which represent a hazard to public health and safety.

The distinguished chairman of the subcommittee has indicated that the administration intends to remove the Federal Government from the RAMP program and let the States administer it. I do not disagree that the States should set their own priorities for funding; however, I do take issue with the amount of money made available and the method of distributing it to the States. As I understand it, it is the intention of the administration to combine the RAMP funds with the State grants. If this is the proposal, I would like to ask the chairman the following questions: One, how will the RAMP funds be distributed and two, will there be a separate line item within the State grants?

I raise this issue because under the current arrangement Pennsylvania receives a larger percentage of total RAMP funds than its percentage of the total State grant funds.

In other words, can you assure me that Pennsylvania will not lose money if the existing program is changed?

Mr. President, the coal-mining industry is paying millions of dollars into this trust fund for the sole purpose of reclaiming scarred land so that future generations will not have to pay the price for our misuse. It is our duty to appropriate the available funds—and I reiterate these are not taxpayer funds, but money which rightfully belongs to the States which contributed to it. In the give and take of the conference with the House, I hope that my colleague, Senator McClure, will join me in supporting a supplemental appropriation.

Mr. McCLURE. I say to the Senator from Pennsylvania that if the Appropriations Committee combines the RAMP program with the State reclamation grant program—and thereby consolidate the reclamation program in the States—the State of Pennsylvania should not receive less funds than they would otherwise receive under two separate programs. It should, however, be understood that the States themselves would have the responsibility—as they should have—to determine the priority of these RAMP projects in the same manner as all other State reclamation projects. And while no separate line item within the State grant activity is contemplated, it is my hope we can strongly encourage the States to utilize the expertise of Soil Conservation Service in carrying out the needed reclamation activities they by law are charged to do.

Mr. HUDDLESTON. Mr. President, I appreciate the opportunity to join my friend from Pennsylvania, Senator Specter, the distinguished Senator from Iowa, Senator Jepsen, and the chairman of the Interior Appropriations Subcommittee, Senator McClure, in discussing the lack of funding in the legislation before us for the rural abandoned mine program (RAMP) administered by the Soil Conservation Service (SCS) of the Department of Agriculture.

Senator Specter has given a thorough overview of the purposes of RAMP and the basis for its authority and funding as authorized by the Surface Mining Act. With the fear of being slightly repetitious I would reiterate my long-term concern over the large balances that continue to build up in the abandoned mine fund (AML) from whence comes RAMP funding as well as the moneys for the State reclamation program. For example, in Kentucky where the need for reclamation grants is great and coal mine operators have paid upward of $140 million in fees, only in the neighborhood of $30 million worth of projects of all types—Federal, State, and RAMP—have been approved.

Coal mine operators have been paying the fees imposed by the Surface Mining Act for about 5 years now. Yet, for the most part RAMP for reasons we can explore in a moment, a truly viable reclamation program, has been woefully underfunded. As a result numerous high-priority reclamation projects endangering human health and safety have not been undertaken. Of course many important Federal projects have been implemented. However, with a balance of over $500 million in the AML and many State reclamation programs just recently being approved, Kentucky's just this May, it is clear more could have and should have been done with RAMP in the past.

All of this leads me to the point of why we should consider now, on this supplemental, the House addition of $13,251,000 for RAMP which has been deleted by the Appropriations Committee.

Section 406 established the rural abandoned mine program to control and prevent erosion and sediment damages from unreclaimed mined lands. That program is administered by the Secretary of Agriculture through long-term contracts with the owners of abandoned coal-mine land. The Secretary promulgated rules for the program on October 2, 1978, and in those rules gave highest priority to those lands which, in addition to being sources of sediment, represent a real hazard to public safety and health. The Department of Agriculture (USDA) has identified 1.1 million acres in 29 States (377 counties) as eligible for treatment under the program. USDA has received 3,009 applications for assistance: 1,812 of those are high priority, based on the public hazard criteria. The $13 million we are talking about would address 45 of these high-priority projects nationwide, 12 of which are in my State. And, most important to note is the immediate nature of the relief that would be provided. Design work is complete and all that needs be done is the actual letting of the contracts to do the work.

I think we would all agree that as the States are ready, they should assume the leadership in reclaiming abandoned mined land and the Federal involvement decreased. Perhaps at this time there could be a melding of RAMP into a single reclamation program run by the State. However, it is my belief we have some 45 high-priority reclamation projects that can, with the $13,251,000 appropriated by the House, in this supplemental, be undertaken right away. We have high unemployment in the coal fields, idle equipment, and land that needs to be restored. Action now is necessary.

Let us consider these points:

To be ready just to apply for reclamation grants, States have had to do two things: Develop a regulatory program and a State reclamation plan, and get them approved by the Office of Surface Mining. Most States are just now getting to this point;

It will take the States additional time to develop the internal capability to hire the staff and develop the necessary expertise and procedures to actually start reclamation work;

RAMP is designed to reclaim small scattered parcels of abandoned mine lands in rural areas. Many of the owners of these lands neither consented to nor participated in the mining process, yet now are left with land that is a liability rather than an asset—they pay taxes but derive no income. The States will have a heavy workload on the public and privately owned areas and may not be able to provide assistance to many of these small parcels for many years.

In the meantime, reclamation work that could be done under RAMP, work important to environmental improvement and work that would provide much needed jobs in the coal-mining areas, sits on the shelf.

The rationale for having RAMP as authorized by section 406 of the act was to take advantage of a fine-tuned, workable, existing, local, State, and Federal delivery system that has a 45-year record of excellence. The system provides technical and financial assistance for conservation work by the Soil Conservation Service through the 3,000 locally run soil conservation districts.

As we move toward an amalgamation of all the reclamation programs, and again this is something I believe can be worked on, we should not lose sight of SCS's valuable role.

So, Mr. President, I would close by urging that the distinguished chairman of the Interior Appropriations Subcommittee as well as the authorizing committee having jurisdiction over the Surface Mining Act, Senator McClure, keep in mind the above facts as we proceed to the conference deliberations on this matter. In so doing, I would ask my good friend just one or two questions.

First, is it fair to say that this course of proceeding to conference on the RAMP issue, keeping in mind both the possible future consolidation of reclamation programs as well as the emergency nature of the pending projects, is the best way to go forward at this point?

Second, I would welcome the chairman's comments on the importance of SCS's work in rural reclamation and the need to continue these vary valuable services in some form in the future.

Mr. McCLURE. Mr. President, I believe the Senator from Kentucky is correct, the best way to proceed at this point is to take the issue to conference. As the Senator has stated, the House of Representatives included in their bill $13.2 million for 45 RAMP projects and I think it most prudent to proceed to conference to determine the final disposition of this matter.

With respect to the Senator's question on the importance of the Soil Conservation Service's reclamation work, I have long felt that the SCS can and should have an integral role in carrying out the reclamation activities so important to this Nation. While I believe the States should be responsible for conducting their own reclamation programs—which, in fact, is the intent of the Surface Mining and Reclamation Act—the expertise of the SCS should not go unused, and I would strongly urge the States to use the SCS and other affiliated conservation personnel to the greatest degree possible.

Mr. MATTINGLY. I wish to draw the attention of the distinguished chairman of the Education Subcommittee to a matter which I believe deserves the attention of the Congress. The Atlanta University is a graduate institution of higher education located in Atlanta, Ga. For almost 12 decades it has trained young, black Americans for leadership roles in our society and indeed, throughout the world.

Its graduate program, offering masters and doctoral degrees, has a long and distinguished history. In fact, its School of Business Administration was, until 1981, the only accredited graduate school of business in the black community in America.

However, this university remains ineligible for Federal assistance under title III of the Higher Education Act of 1965. This act, which has as one of its original purposes, the goal of providing assistance to historically black colleges and universities, now contains eligibility requirements which prevent participation by the Atlanta University's graduate program.

I do not believe that it was the intent of the authors of the assistance program to exclude this institution from eligibility for assistance. It is my hope that the subcommittee will carefully review this situation during its deliberations on funding for fiscal year 1983 and examine steps that are necessary to insure that this prestigious institution will be eligible for participation under all parts of title III.

Mr. SCHMITT. I understand the concern of my friend and colleague, the Senator from Georgia and I appreciate him taking the time to draw this matter to my attention. I confess that I have a number of concerns regarding title III assistance and the existing eligibility mechanisms. I can assure him that the subcommittee will assemble all relevant information pertaining to the problem he cites and that we will consider doing whatever we possibly can to rectify this legislative oversight, with the full consultation of the distinguished chairman of the Education Authorizing Subcommittee, Senator STAFFORD.

Mr. MATTINGLY. I thank the chairman for his pledge. I find it difficult to understand why this fine institution has been excluded from participation in a program which was created to provide assistance to historically black colleges and universities. I look forward to working with him during the next few months in order to correct this matter.

Mr. PROXMIRE. Mr. President, I wish to engage the Senator from Idaho (Mr. MCCLURE) in a brief colloquy on funding for the solvent refined coal project, SRC-1 in Kentucky.

During the last session this project was the subject of an amendment I offered to the Interior appropriations bill. In addition the project is also the subject of a recission message, R 82-30 sent to Congress by President Reagan, on July 28.

I understand that a total of $257.1 million has been appropriated for this project. The Department of Energy reported that $138 million had been obligated as of the end of June. President Reagan recommended rescinding $83.5 million, leaving $35.6 million for termination costs and limited post-baseline work.

Mr. McCLURE. That is correct.

Mr. PROXMIRE. However, ICRC, the company set up to carry out this project, claims that the recission would not leave them with enough money to fund their current commitments including termination, baseline studies and post-baseline work. I understand that the Senate Appropriations Committee has given SRC-1 $55.1 million which is $19.5 million over the amount which was requested by the Reagan administration.

Mr. McCLURE. That is partially correct. Let me point out that of the $55.1 million, $22 million is for actual termination costs and $5 million is for DOE administration costs.

Mr. PROXMIRE. I am concerned that these funds will not be the last obligated by the Department of Energy on this project and that ICRC will be back again next year for more of the $64 million which remains or will ask for new appropriations

During our debate on the project last year, supporters of the project assured me that funds were only going to be used to complete the baseline study.

Could the Senator assure me that no other funds than those specified in the amendment adopted by the committee will be used for this project?

Mr. McCLURE. Let me say to the Senator from Wisconsin that there is no intention to use any of the remaining $64 million—or any other available funds—for any further work on the SRC-1 project.

I know of no planned or desired work outside of that included in the postbaseline workplan which the Congress will be asked to fund, and I fully intend to either rescind the $64 million at a later date or use the funds for other purposes altogether.

Mr. PROXMIRE. Could the Senator also assure me that no funds will be used for construction or construction-related activities such as site preparation?

Mr. McCLURE. Yes, that is correct. No funds will be used for activities related to construction.

Mr. PROXMIRE. I intend to offer language in conference to clarify the point that these are the last Department of Energy funds available for this project. Will the Senator support me on this in conference?

Mr. McCLURE. Yes, I will, to the extent I have just outlined.

Mr. HATFIELD. Mr. President, third reading.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and were read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (H.R. 6863), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. I move to lay that motion on the table.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon will withhold for just a moment. The Senate will be in order. It is difficult to hear and the Senator from Oregon is seeking recognition.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Armstrong) appointed Mr. Hatfield, Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Garn, Mr. Schmitt, Mr. Cochran, Mr. Andrews, Mr. Abdnor, Mr. Kasten, Mr. D'Amato, Mr. Mattingly, Mr. Proxmire, Mr. Stennis, Mr. Inouye, Mr. Hollings, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. Leahy, and Mr. DeConcini conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after all these years and after several hours of debate and a number of record votes, this bill has passed by voice vote, and I have to confess I doubted an effort to do that. I went downstairs to get a bite of dinner and was told just now that the bill passed by voice vote, which proves, of course, that if I leave the room things go much better, but I hope no one finds that out.

Mr. President, I congratulate the distinguished Senator from Oregon (Mr. Hatfield) and the distinguished Senator from Wisconsin (Mr. Proxmire) for the management of this bill in near record time. It was an important bill that was filled with controversy and it was handled in a skillful way on both sides and by the staff on both sides.

I wish to express my personal appreciation, and I am sure that of all Senators, for their expeditious management and successful passage of this measure.

Mr. ROBERT C. BYRD. Will the majority yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the remarks that have just been made by the distinguished majority leader with respect to the skill that was demonstrated by the distinguished Senator from Oregon (Mr. Hatfield) and the skill that was demonstrated by the distinguished Senator from Wisconsin (Mr. Proxmire). They have done an excellent job. It has been long hours and I am thankful to them and in their debt.

Mr. HATFIELD. Mr. President, I thank the leadership for their remarks.

Mr. BAKER. The record should note that the Senator did that on his way out the door. (Laughter.)

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 9 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to announce there will be no more record votes tonight and also that either tonight or perhaps as soon as we convene tomorrow it is the intention of the leadership to ask the Senate to proceed to the consideration of the immigration bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEED FOR EFFECTIVE ENFORCEMENT AGAINST ILLEGAL IMMIGRANTS EMPLOYED IN AGRICULTURE

Mr. SIMPSON. Mr. President, the basic purpose of S. 2222, the Immigration Reform and Control Act of 1982, is implicit in the bill's title—to reform our legal immigration system and to improve control over illegal immigration to this country.

Although absolute data on the occupations of illegal immigrants is difficult to obtain, it was made clear through the long series of hearings held on this bill that the harvesting of American agriculture, particularly in the West, is currently heavily dependent on the labor of illegal immigrants.

The Census Bureau found that the population of U.S. migrant farmworkers decreased from 400,000 in 1960 to 200,000 in 1970. The Department of Labor actively encourages U.S. citizens and permanent residents to leave seasonal agricultural work for more permanent employment with greater upward mobility.

Conversely, the Department of Agriculture estimated that there are about 300,000 to 600,000 illegal migrant farmworkers now doing these jobs, clearly dominating this labor market. Illegal immigrants are indeed therefore disproportionately concentrated in agricultural harvest work, and immigration enforcement efforts should be targeted accordingly, while providing farmers and ranchers with a legal source of workers if Americans cannot be found to do these jobs.

Unfortunately, an amendment has been introduced to S. 2222 by my respected colleague Senator Hayakawa which would result in a severe curtailment of this needed enforcement by instituting a requirement that the border patrol obtain search warrants before conducting farm and ranch checks.

While I recognize that Senator Hayakawa and his cosponsors have offered this amendment with the very best intention, I must voice my strong opposition because I believe that this is basically an antienforcement measure when the whole purpose of immigration reform is to increase enforcement.

Furthermore, the bill, (S. 2222), provides for an expedited H-2 program to provide a legal avenue of needed workers to agricultural employers. If there is not sufficient enforcement to insure that illegal workers are not hired, there will be no incentive for these employers to go through the H-2 program.

The courts have consistently ruled that searches of the open fields do not constitute a violation of the privacy rights protected by the 4th amendment.

I have asked the Immigration and Naturalization Service to answer various questions regarding the potential effect that a search warrant requirement would have on enforcement operations. I would urge my colleagues to carefully read the response of Alan Nelson, the INS Commissioner. I ask unanimous consent that my original letter and Mr. Nelson's response be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on the Judiciary,
Washington, D.C., August 4, 1982.

Hon. Alan C. Nelson,
Commissioner of Immigration and Naturalization, Washington, D.C.

Dear Al: As you know, Senator S. I. Hayakawa and others have introduced an amendment to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service from entering on the premises of a farm or other agricultural operation without "a properly executed warrant."

The companion amendment in the House, introduced by Congressman Dannemeyer, et al., reads: ". . . . without consent of the owner (or agent thereof) or a properly executed warrant for the purpose of interrogating a person believed to be an alien as to his right to be in the United States."

With respect to these amendments, would you please provide us with replies to the following questions:

1. Concerning the principal issue, equal protection under the Fourth Amendment against warrantless or unreasonable searches, why is a place of business, for example, a plant or factory, different from a farm or ranch operation? Or, put another way, why is the consent of owner or a

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search warrant more justified in one place than the other?

2. Specifically, what would be the special problems or difficulties associated with obtaining: (a) a "properly executed warrant" to search agricultural lands or premises, or (b) the consent of the owner or agent?

3. On what statute or case law does the INS base the right of immigration officers to search open agricultural fields for illegal aliens beyond the 25-mile border zone without a warrant or the consent of owner?

4. According to current immigration law or practices, what areas on agricultural premises may not be searched without a warrant or the consent of owner?

5. Would the proposed amendments affect the special search authority of the INS within the 25-mile border zone?

6. What might be the adverse effects of the proposed amendment on the farm and ranch operations of the U.S. Border Patrol beyond the 25-mile border zone?

7. If the farm and ranch checks of the Border Patrol and INS investigators were curtailed in the interior, what effects might this have on control of the internal migration of illegal aliens?

8. To what extent, if any, would the proposed amendment limit the capability of immigration enforcement offices to pursue illegal aliens by foot, jeep, helicopter, or other means, over farm and ranch properties more than 25 miles from the border?

9. What effect, if any, would the proposed amendment have on INS anti-smuggling activities?

10. Would the proposed amendment hinder the enforcement of employer sanctions with respect to agricultural employers? If so, please explain.

11. Senator Hayakawa has stated the following in support of his amendment:

"INS statistics show us that 8 percent of the illegal aliens employed in the United States are working in agriculture. However, almost 50 percent of undocumented alien workers apprehended are in agriculture."

"These statistics reflect a bias in the enforcement activities of INS . . . selectively enforcing the law by going to the industry where it is simplest and most cost effective to carry out the law."

Question. Is there a bias in the enforcement activities of the INS with respect to agricultural labor checks? If not, what is the explanation for the figures cited by Senator Hayakawa?

Thank you.

Best personal regards.

Most sincerely,

ALAN K. SIMPSON,
Chairman.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 10, 1982.

Hon. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of August 4, 1982 regarding the amendment proposed by Senator Hayakawa to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service to enter on the premises of a farm or other agricultural operation without "a properly executed warrant".

Set forth below are specific responses to the questions you raised concerning the anticipated impact on Service enforcement efforts should that amendment be adopted.

1. Section 287(a)(2) of the Immigration and Nationality Act grants Immigration Officers the authority, without a warrant, to arrest aliens who in the officer's presence or view are attempting to enter the United States in violation of the immigration laws, or are reasonably believed to be in the United States in violation of the immigration laws.

Farm and ranch operations normally are conducted in open areas providing unrestricted avenues of escape to individuals wishing to evade the detection of immigration officers. It was the intent of present statutes in such circumstances to enable Service officers to apprehend aliens who are in their presence or sight and who are in violation of the immigration laws before they are able to abscond.

The circumstance of violations occuring in plain view is, of course, not normally present in factory situations where employees usually are enclosed within a confined area and not observed. Moreover, in such situations, if owner consent is sought and refused, exits may be monitored by Service officers while a search warrant is sought, to prevent aliens from absconding.

2. (a) The special problems associated with obtaining a warrant to search agricultural lands arise from the practiced difficulties in obtaining a warrant in time to respond to an observed violation. Present standards require a "particularized description" of the location to be searched, as well as of the evidence or person to be sought. The probable cause necessary to support these standards, in most cases, necessitates between four and six hours to process a routine warrant. This includes travel between the site to be searched and the U.S. Attorney's office, clerical requirements to complete the warrant and supporting documents, approval by a magistrate, etc.

Agricultural work crews, who are usually in the employ of a labor contractor under contract to several farms are extremely mobile moving rapidly from field to field and farm to farm. By the time a valid warrant could be secured, these crews likely will have moved to another location, rendering the warrant invalid. Countless resources would be wasted by repeated attempts to rewrite warrants under constantly changing conditions.

(b) Regarding the proposal to obtain consent of the owner or agent, it is presently Service policy for officers, whenever possible, to inform the owner of their presence when entering on private lands. However, where the owner is not available or not known, as frequently is the case when farm land is leased or sublet, it is often difficult to locate the individual with legal control over the land. By the time such notification could be sought and secured, the aliens likely will have been alerted to the presence of immigration officers and will have departed.

Furthermore, if the receipt of consent were mandated by legislation, it is unlikely that such consent would ever be granted by an owner with the knowledge that the alternative for the Service is a search warrant which probably could not be effectively executed.

3. The authority of immigration officers to enter onto open lands without a warrant or consent to enforce the immigration laws is based on Section 287(a)(2) of the Immigration and Nationality Act which provides for the arrest without warrant of aliens who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws.

Furthermore, it is well-settled law that the Fourth Amendment does not bar entry onto so-called "open fields" by a law enforcement officer in the performance of his official duties. The term "open fields" has been interpreted to include private lands but not including dwellings or the immediately surrounding area. (See *Hester* v. *U.S.*, 265 U.S. 57 (1924)).

In *Katz* v. *U.S.*, 389, U.S. 347 (1967) the Supreme Court determined that "the Fourth Amendment protects people, not places." In *Hester*, the court decided that the special protection accorded to people by the Fourth Amendment is not extended to the open fields. Passage of the proposed amendments would extend procedural requirements well beyond what the Supreme Court has determined the constitution requires to protect the people from unreasonable searches.

4. Consistent with outstanding case law, the dwellings and curtilage (an area of domestic use immediately surrounding a dwelling) on agricultural premises may not be entered by Service officers without consent or a valid search warrant.

5. The present proposed amendments apparently would not affect INS authority within 25 miles of the border. ("Notwithstanding any other provision of this section other than paragraph (3) subsection (4) . . . ".)

6. The proposed amendment, if passed, would definitely adversely affect the ability of the Immigration and Naturalization Service, particularly the Border Patrol, to enforce the immigration laws. Farm and Ranch operations presently account for the apprehension of approximately 60,000 employed illegal aliens annually. Passage of the proposed amendment would drastically reduce these apprehensions. Although it is difficult to know the precise extent to which this number would be decreased, the proposed legislation would seriously curtail Farm and Ranch Operations as an effective enforcement tool.

7. Should farm and ranch checks by Service officers be substantially curtailed, there could be serious additional ramifications on the migration of illegal aliens to the interior.

The ineffectiveness of Service Farm and Ranch enforcement resulting from passage of the proposed amendment would tend to create a type of "free zone" for illegal aliens in the agricultural areas of the interior, as it would be extremely difficult or impossible to effect their apprehension and removal. This would tend to stabilize the status of these individuals, which, in turn would encourage them to bring in other family members—spouses, children, etc., in light of the reduced risk of Service detection. Internal migration could be expected to increase resulting in added burdens to American social and educational systems within the rural areas of the interior.

8. The proposed amendment would seriously reduce the Service officers' capability to effectively track and pursue large groups of smuggled aliens or other illegal entrants who are enroute from border areas to interior locations. Presently the INS enters into long-term agreements with landowners outside the 25 mile limit in order to maintain continuity of surveillance and tracking across private lands. The Hayakawa amendment would discourage such agreements and

possibly render existing agreements invalid by requiring entry only with a warrant.

Such circumstances would result in smuggling groups traveling virtually unchecked across private lands and into the interior where they would be undetected.

9. The effect of the proposed amendments on Service anti-smuggling activities is in part related to INS officers' ability to track and detect smugglers and smuggling groups across open areas into the interior. If this activity were seriously restricted by warrant or consent requirements, the overall result could be expected to be fewer smuggling groups detected, less smuggling information and intelligence gathered, and fewer smugglers apprehended and prosecuted.

Furthermore, the owners and management personnel of farms or other agricultural related businesses (e.g., labor contractors) are, in some cases, principals in felony investigations involving alien smuggling, harboring, and transporting. It would be virtually impossible to effectively implicate such individuals if the consent or warrant requirements were legislated.

10. The proposed amendment could be anticipated to have a definite adverse affect on the enforcement of employer sanctions provisions in agricultural areas. Because warrants would be rendered ineffective [#2(a)] and consent would infrequently be granted, it would be impossible to effect the apprehension of illegal aliens employed in these areas. Cases against notorious employers of illegal aliens would be difficult, effectively placing these employers outside the range of sanctions enforcement.

11. The INS does not selectively enforce the immigration laws with regard to agricultural areas. In support of his amendment, Senator Hayakawa has cited a statistic that almost 50 percent of undocumented alien workers apprehended by INS are in agriculture. Actually, of the approximately one million Service apprehensions annually (953, 475 in fiscal year 1981), only 8 percent are located in agricultural occupations.

Of the one million illegal aliens apprehended yearly by Service officers, approximately 168,000 (in FY 1981) are located after they have entered the United States and secured employment. Half of these employed aliens are located in agriculture, including almost 60,000 which are apprehended as a result of Farm and Ranch checks.

It should be remembered however, that Farm and Ranch Operations are conducted by the Border Patrol which represents this Agency's greatest enforcement presence, with jurisdiction predominantly in agricultural areas along the Southern and Northern borders of the United States. It is not unreasonable to expect that of the number of employed aliens apprehended by the Border Patrol, the majority would be working in agricultural occupations.

The Immigration and Naturalization Service maintains that a more accurate reflection of Service resource allocation for enforcement in agricultural areas is the percentage of actual enforcement time devoted to such activity rather than the apprehensions which result. The overall percentage of INS field enforcement man-hours devoted solely to effect the apprehension of illegal aliens in agricultural occupations in Fiscal Year 1981 was 2.0 percent.

In conclusion, it is our opinion that the hyper-technical requirements mandated by the Hayakawa amendment would have a definite adverse impact on the enforcement capabilities of INS and, in essence, would be antagonistic to the basic thrust of S. 2222—which is to control illegal immigration into this country.

Please do not hesitate to contact me if I can provide further information on this matter. And congratulations on your success in bringing this important legislation to the floor of the Senate.

Sincerely,

ALAN C. NELSON,
Commissioner.

Mr. BAKER. Mr. President, I have certain requests that I believe have been cleared by the minority, and I would like to state them now for the consideration of the minority and other Senators.

CORRECTION TO S. 537—STATE JUSTICE INSTITUTE

Mr. BAKER. Mr. President, I ask unanimous consent that the effective date in S. 537 on page 26, line 22, be corrected to read "October 1, 1982."

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 6128 BE HELD AT THE DESK

Mr. BAKER. Mr. President, I have another request that I also think has been cleared.

Mr. President, I ask unanimous consent that H.R. 6128 be held at the desk until the close of business on Thursday, August 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, on tomorrow after the recognition of the two leaders under the standing order, I ask unanimous consent that the distinguished Senator from Florida (Mr. CHILES) be recognized on a special order of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order there be a brief period for the transaction of routine morning business in which Senators may speak for not more than 3 minutes each to extend no longer than 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2222

Mr. BAKER. Mr. President, I am about to put a request that, at 10:45 a.m., the Chair lay before the Senate S. 2222, the so-called immigration bill. I have discussed this matter with the minority leader who indicates that there are certain clearances that he wishes to pursue before that decision is final.

I am going to ask the Chair in a moment to lay that measure before the Senate and make it the pending business, but subject to an objection by the minority leader on tomorrow, in which case the measure will be laid aside.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair now lay before the Senate S. 2222; that at 10:45 a.m. tomorrow the Senate resume consideration of that bill subject to an objection by the minority leader.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I know of no objection on this side of the aisle to proceeding. However, as the distinguished majority leader has stated, the clearances have not been fully obtained. I do not anticipate objection. I have no objection to laying it down now under those conditions. I should state for the record that if there were an objection, of course, the majority leader would have his right to move to proceed. I say that for my own side.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Hearing none, it is so ordered. The bill be stated by title.

The legislative clerk read as follows:

A bill (S.2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate preceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1982".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

"(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or United States birth certificate, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraudresistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the later of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine.

"(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

"(2) Such system shall be designed in a manner so that—

"(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eligible to work, and that the employee or prospective employee is not claiming the identity of another individual;

"(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering, unless the President and the Judiciary Committees of the Congress have determined that such form is unnecessary to the reliability of the system;

"(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

"(D) a verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld for any reason other than that the employee or prospective employee is an unauthorized alien;

"(E) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code); and

"(F) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person.

"(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.

"(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

"(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be

conducted before an immigration officer designated by the Attorney General.

"(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

"(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status. For the purpose of conducting such monitoring and beginning development of the system described in subsection (c), there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B)(i) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(ii) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of such a violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(C) During the year beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated $10,000,000 for fiscal year 1983.

(b) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(c) The Farm Labor Contractor Registration Act of 1963 is amended—

(1) by amending paragraph (6) of section 5(b) (7 U.S.C. 2044(b)) to read as follows:

"(6) has been found to have violated paragraph (1)(A) or (2) of section 274A(a) of the Immigration and Nationality Act;";

(2) by striking out paragraph (f) of section 6 (7 U.S.C. 2045); and

(3) by striking out subsection (c) of section 9 (7 U.S.C. 2048).

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by inserting "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsection:

"(b) Whoever without authority of the issuing agency and with unlawful intent—

"(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

"(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

"(B) any document presented to obtain a required document described in subparagraph (A);

"(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) or (B) of paragraph (1);

"(3) alters any document described in subparagraph (A) or (B) of paragraph (1) relating to another person; or

"(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) or (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed $5,000 or imprisoned not more than five years, or both.".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—ENFORCEMENT AND FEES

IMMIGRATION AND NATURALIZATION SERVICE ENFORCEMENT ACTIVITIES

SEC. 111. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": Provided, however" and all that follows up to the period at the end of subsection (a), and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined an amount equal to $2,500, the imposition of which may not be suspended by the court, plus, in the court's descretion, an additional amount not to exceed $2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed one year, or both, or

"(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both.".

FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the title to read as follows:

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"NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of border facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and border facility fees.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Section 235(b) (8 U.S.C. 1225(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing.

"(2) If an examining immigration officer at the port of arrival determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of alien to be held before an immigration judge.",

(2) by designating the sentence beginning "The decision" as paragraph (3), and

(3) by adding at the end the following new paragraphs:

"(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States.

"(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF IMMIGRATION JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF IMMIGRATION JUDGES

"SEC. 107. (a)(1) There is established in the Department of Justice a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and eight other members appointed by the Attorney General in accordance with regulations respecting appointments in the competitive service.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until his successor has taken office.

"(3) Members of the Board (other than the Chairman) are entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled to receive compensation at the rate now or hereafter provided for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board and shall promulgate rules of practice and procedure for the Board and immigration judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of immigration judges under this Act, other than a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (1) or (2) of section 203(b) or petitions on behalf of a child described in section 101(b)(1)(F), and (ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4) The Board shall review the decision of an immigration judge based solely upon the administrative record upon which the decision is based and the findings of fact in the judge's order, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(5)(A) A final decision of the Board shall be binding on all immigration judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by the Attorney General under subparagraph (B) or by a court of the United States.

"(B) If the Attorney General determines that it is necessary for the national interest of the United States, the Attorney General may, within thirty days after the date of a final decision of the Board on a case, provide that the case be certified to him for his review, and the Attorney General shall render a decision on the case within thirty days. The determination of the Attorney General on such case shall be considered for other purposes of this Act to be the final decision of the Board on that case. If the Attorney General shall not have rendered a decision within thirty days, the final decision of the Board shall be considered final and not subject to further review by the Attorney General.".

"(c)(1) The Attorney General shall, in accordance with procedures and regulations governing appointment and, except as provided in this paragraph, compensation in the competitive service—

"(A) appoint immigration judges, except that not more than seventy judges may be appointed and hold office under this section at any time;

"(B) set the rate of compensation for such judges at a rate not to exceed the rate now or hereafter prescribed for grade GS-16 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) designate one such judge to serve as chief immigration judge, who shall be entitled to compensation at the rate now or hereafter prescribed for grade GS-17 of such General Schedule.

"(2) In accordance with the rules established by the Board, the chief immigration judge—

"(A) shall have responsibility for the administrative activities affecting immigration judges, and

"(B) may designate any immigration judge in active service to hear and decide any cases described in paragraph (3).

"(3) Immigration judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208, and

"(E) such other cases as the Attorney General may provide by regulation.

An immigration judge may not hear or decide the case of an alien excluded from entry under section 235(b)(1).

"(4) In considering and deciding cases coming before them, immigration judges may administer oaths and receive evidence, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(2) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of immigration judges.".

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'immigration judge' means such a judge appointed under section 107.".

(4) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 236(b) (8 U.S.C. 1226(b)) is amended by striking out "From a decision" and all that follows through "Attorney General" and inserting in lieu thereof the following: "Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board".

(c) Section 242(b)(4) (8 U.S.C. 1252(b)(4)) is amended by striking out "reasonable, substantial, and probative" and inserting in lieu thereof "substantial".

(d) Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(i) Except as otherwise provided in section 291, in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.".

JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) by striking out "six months" in paragraph (1) and inserting in lieu thereof "forty-five days".

(3) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order",

(4) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in",

(5) by striking out "reasonable, substantial, and probative" in paragraph (4) and inserting in lieu thereof "substantial",

(6) by adding at the end of paragraph (4) the following new subparagraph:

"(B) the court shall not review the order to the extent that the order relates to an application for asylum;",

(7) by adding "and" at the end of paragraph (7),

(8) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period, and

(9) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law (except as provided under subparagraph (B)), there shall be no judicial review of a final order of exclusion or a final order respecting an application for asylum.

"(B) Where the Attorney General has reviewed and either reversed or modified a determination of the United States Immigration Board under section 107(b)(5)(B), judicial review of such determination shall be available in the same manner, and to the same extent, as a final order of deportation may be reviewed under subsection (a).

"(2) Nothing in this section shall be construed as limiting the right of habeas corpus under the Constitution.

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of immigration judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or the exclusion of an alien from the United States under section 235(b)(1).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an immigration judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) In the case of a final order of deportation entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) thirty days after the date of the enactment of this Act, or (2) of the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

(f) Section 279 (8 U.S.C. 1329) is amended by inserting "(a)" after "SEC. 279.", and by adding at the end the following new subsection:

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the date of the final administrative action or from the effective date of this section, whichever is later.".

ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows;

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) An alien against whom exclusion or deportation proceedings have been instituted may not file a notice of intention to apply for asylum more than fourteen days, nor perfect such application for asylum more than thirty-five days, after the date of the service of the notice instituting such proceedings unless the alien can make a clear showing, to the satisfaction of the immigration judge conducting the proceeding, that changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), between the date of notice instituting the proceeding and the date of application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can made a clear showing that changed circumstances in the country of the alien's nationality (or, in the case of the alien having no nationality, the country of the alien's last habitual residence), between the date of the previous denial of asylum and the date of the subsequent application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(2) Applications for asylum shall be considered before immigration judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1982 may not be designated to hear applications under this section.

"(3)(A) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public. To the extent practicable, the hearing shall be conducted in a nonadversarial, informal manner, except that the applicant is entitled to be assisted by counsel (in accordance with section 292), to present evidence, and to examine and cross-examine witnesses. A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B)(i) The Secretary of State shall on a continuing basis make available to the Attorney General and to immigration judges who hear applications under the section information on human rights in all countries. The immigration judges shall use such information, if available without delay to the proceedings, as general guidelines in making the asylum determination.

"(ii) The Attorney General shall provide notice to the Secretary of State whenever an application for asylum is filed under this section. The Secretary of State may submit comments to the immigration judge on such application, but the immigration judge shall not delay the proceeding in order to receive such comments.

"(4) The Attorney General may, in his discretion, grant an alien asylum only if the immigration judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an immigration judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence) have resulted in a change in the alien's eligibility for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

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(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121(a), 123(a)(2), 123(a)(5), 123(a)(9), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that immigration judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as immigration judges.

(B) Paragraphs (1)(B), (3), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than fourteen days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in the last sentence of paragraph (3) and in paragraph (6) of such section to an immigration judge shall be deemed (before the asylum transition date) to be a reference to a special inquiry officer conducting the asylum hearing.

(3) The amendments made by section 121(b) shall apply to deportation proceedings pending on or commenced after the date of the enactment of this Act.

(b)(1) The Attorney General shall appoint the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Chairman shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and immigration judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Attorney General shall appoint at least ten immigration judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these immigration judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the immigration judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of immigration judges under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an immigration judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) assume the duties of an acting immigration judge after such transition date during the period ending two years after the date of the enactment of this Act. If such individuals remain in such capacity through the end of such period and have not been appointed to the United States Immigration Board or as immigration judges, then they shall be deemed, for purposes of continuing employment in the Department of Justice, to have been employed by the Department as special inquiry officers during such period.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the Chairman of the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and immigration judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) The Attorney General shall provide that in the case of members of the Board of Immigration Appeals who—

(1) have served for a period of at least three years,

(2) are not appointed as members of the United States Immigration Board or as immigration judges, and

(3) continue to be employed by the Attorney General after the date the functions of the Board of Immigration Appeals are assumed by the United States Immigration Board,

there shall be no reduction in grade or compensation for one year after the date of termination of the individual's membership on the Board of Immigration Appeals.

(g) In order to implement the amendments made by this part, there are authorized to be appropriated $20,000,000 for fiscal year 1983.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(b)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "immigration judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any immigration judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and immigration judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "immigration judge".

(2) Subsection (b) of such section is amended by striking out "a special inquiry officer for further inquiry" in the second sentence and inserting in lieu thereof "an immigration judge for an exclusion hearing".

(3) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an immigration judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an immigration judge".

(c)(1) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(d)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "immigration judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An immigration judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the Chairman of the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board" and by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(e) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, fifth, sixth, and seventh sentences and inserting in lieu thereof "immigration judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "Chairman of the United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the Chairman of the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "immigration judge shall be final unless reversed on appeal".

(f) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(g) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an immigration judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(h) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after the word "proceedings", and

(2) by striking out the second sentence.

(i) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an immigration judge under section 101(a)(43) of such Act.

Part D—Adjustment of Status

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY VISA ABUSERS

Sec. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking out "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" and inserting in lieu thereof "has failed to maintain continuously a legal status since entry into the United States".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

TITLE II—REFORM OF LEGAL IMMIGRATION

Part A—Immigrants

NUMERICAL LIMITATIONS

Sec. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) three hundred and fifty thousand, minus (B) the sum of (i) the number of immediate relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, (ii) the number of immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, (iii) the number of immigrants born to permanent resident aliens during a temporary visit abroad, and (iv) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) seventy-five thousand, minus (B) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the total number of natives of any single foreign state who are issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted for permanent residence under subsections (a) and (b) of section 203 or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under subsection (a) or (b) of section 203 shall not exceed in any fiscal year—

"(i) twenty thousand, in the case of any foreign state other than a foreign state contiguous to the United States, or

"(ii) forty thousand (or the number determined under subparagraph (C)), in the case of any foreign state contiguous to the United States.

"(B) If in a fiscal year the total number of immediate relatives specified in section 201(b), immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens provided records of permanent residence under section 214(d), and special immigrants defined in section 101(a)(27) (other than those described in subparagraph (a) thereof) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence who are natives of a particular foreign state exceeded twenty thousand, then the numerical limitation applicable to that state in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess.

"(C) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence is less than forty thousand, then in the following fiscal year the number to be used in clause (ii) of subparagraph (A) for the other contiguous foreign state shall be forty thousand plus the amount of the difference.".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

Sec. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Preference Allocation for Family Reunification Immigrants.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

"(1) Unmarried Sons and Daughters of Citizens.—Qualified immigrants who are the unmarried sons or daughters of citizens of

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the United States shall be allocated visas in a number not to exceed 15 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) Spouses and children of permanent resident aliens.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who (A) as of March 1, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) Married sons and daughters of citizens.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) Previous fifth preference.—Qualified immigrants who (A) as of March 1, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (a)(5) as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) Preference and Nonpreference Allocation for Independent Immigrants.—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) Aliens of exceptional ability.—Qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States, shall be allocated visas in a number not to exceed such numerical limitation. The Attorney General may, when he deems it to be in the national interest, waive the requirement of the previous sentence that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) Skilled workers.—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated any visas not required for the classes specified in paragraph (1).

"(3) Investors.—Qualified immigrants who have invested, or established to the Attorney General their intention to invest, substantial capital (in an amount set by the Attorney General and not less than $250,000) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, shall be allocated any visas not required for the classes specified in paragraphs (1) and (2), but in a number not to exceed 10 per centum of such numerical limitation.

"(4) Nonpreference aliens.—Visas authorized in any fiscal year under section 201(a)2), less those required for issuance to the classes specified in paragraphs (1) through (3), shall be made available to other qualified immigrants in the chronological order in which they qualify. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (B) the child has been irrevocably released for immigration and adoption: Provided, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of sections 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) Guide for Allocation Between Preference Systems.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to hatives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immediate relatives specified in section 201(b), immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, is equal to 4.65 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(a)",

(ii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by inserting ", or" after "such status", and

(3) by adding before the semicolon the following new subparagraph:

"(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later".

LABOR CERTIFICATION

SEC. 203. (a) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers available in the United States in the occupations in which the aliens will be employed; (B) sufficient workers in the United States could not within a reasonable period of time be trained for such occupations by (or through funds provided by) potential employers; and (C) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b)(1) and (2) and to nonpreference immigrants described in section 203(b)(4). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;".

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) The requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seeking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest.".

G-4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of any such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least twenty years prior to the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph (i) on or before December 31, 1992 and (ii) no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv).".

EFFECTIVE DATES AND TRANSITION

SEC. 205. (a) The amendments made by sections 201, 202, and 203 shall apply to the admission of aliens to the United States on and after October 1, 1983. The amendments made by section 204 shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in both paragraphs (1) and (2) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(4), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on September 30, 1983), the preference statuses described in both paragraphs (3) and (4) of section 203(b) of such Act (as in effect after such date) in the case of investors or the nonpreference described in section 203(b)(4) of such Act (as in effect after such date) in the case of noninvestors.

(c) When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

PART B—NONIMMIGRANTS

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a)(8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year. An alien who was admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii) during the last five-year period may not be admitted under that provision if the alien violated the terms of any such previous admission. The Attorney General shall provide for such procedures for the entry and exit of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section.",

(2) by inserting "(1)" after "(c)" in subsection (c),

(3) by adding at the end of subsection (c) the following new paragraphs:

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, qualified, and who will be available at the time and at the place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in

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the United States who are similarly employed,
and such certification has been issued. The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A) if—

"(i) there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification; or

"(ii) the employer, during the previous two years, employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer during that period substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or has not paid a penalty (or penalties) for such violations which may be assessed by the Secretary of Labor: Provided further, That no employer may be denied certification for more than one year for any such violation.

"(3)(A) In the case of an application for a labor certification under section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that such an application for labor certification be filed more than eighty days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall make, not less than twenty days before the date such labor or services are first required to be performed, the certification described in paragraphs (2)(A) (i) and (ii) if an employer has complied with the criteria for certification, including the recruitment of eligible individuals as prescribed by the Secretary, and the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available: Provided, That the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

"(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

"(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

"(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.", and

(4) by adding at the end the following new subsection:

"(e) The provisions of subsections (a) and (c) of this section preempt and State and local law regulating admissibility of nonimmigrant workers.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(d) The Attorney General in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall be issued, on an interim or other basis, not later than the first day of the sixth month beginning after the date of the enactment of this Act.

STUDENTS

SEC. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting "(1)" after "No person",

(2) by inserting after "training," the following: "or (2) admitted under section 101(a)(15) (F) or (M) or acquiring such status after admission,", and

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (1)(iii) or clause (2)".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b)) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l).".

(c)(1) The amendments made by subsection (a) apply to aliens admitted to the United States after the date of the enactment of this Act.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsection:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to five countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless the sum of—

"(i) the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country, and

"(ii) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such fiscal year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2.0 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless the sum of—

"(I) the total number of refusals during the previous fiscal year of nonimmigrant visitor visas for nationals of that country, and

"(II) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such previous fiscal year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i),

"(B) to notify the Attorney General when the carrier has transported such a visitor to the United States and upon the expiration of the ninety-day period described in paragraph (1)(A)(i) if the visitor has not used the return portion of the ticket within such ninety-day period, and

"(C) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 212(l) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l).".

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien applies for such adjustment during the one-year period beginning on the date of the enactment of this section,

"(2)(A) the alien establishes that he entered the United States prior to January 1, 1978, and has resided continuously in the United States in an unlawful status since January 1, 1978,

"(B) if the alien entered the United States as a nonimmigrant before January 1, 1978, the alien's authority to remain in the United States as a nonimmigrant expired before January 1, 1978, and

"(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien applies for such adjustment during the one-year period beginning on the date of the enactment of this section;

"(B)(i)(I) the alien establishes that he entered the United States prior to January 1, 1982, and has resided continuously in the United States in an unlawful status since January 1, 1982;

"(II) if the alien entered the United States as a nonimmigrant before January 1, 1982, the alien's authority to remain in the United States as a nonimmigrant expired before January 1, 1982; and

"(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

(ii) the alien as of the date of the enactment of this section, has the status of a Cuban/Haitian entrant (status pending) and has resided continuously in the United States since the date such status was granted; and

"(C) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3);

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit;

"(C) the alien is not eligible for any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government, except that this subparagraph shall not apply—

"(i) in the case of an alien described in paragraph (1)(B)(ii),

"(ii) in the case of such assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General) to require such assistance because of age (in the case of aliens sixty-five years of age or older), blindness, or disability, and

"(iii) in the case of medical assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General) to require such assistance in the interest of public health or because of serious illness or injury; and

"(D) a State or political subdivision therein may, to the extent consistent with subparagraph (C), provide that the alien is not eligible for programs of financial assistance furnished under the law of that State or political subdivision.

For the purposes of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the twenty-fifth month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(B) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

"(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies which have been designated for such purpose by the Attorney General, as well as to the Attorney General.

"(2) The provisions of paragraph (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as relates to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified voluntary agencies designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(d) In order to carry out this section (including the making of arrangements with qualified voluntary agencies under subsection (c)(1) and the dissemination of information under subsection (c)(3)) there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for temporary or permanent residence.".

(c) Public Law 89-732 (approved November 2, 1966) is repealed.

TITLE IV—REPORTS TO CONGRESS

REPORTS TO CONGRESS

SEC. 401. The President shall submit the following reports to the Committees on the Judiciary of the Senate and of the House of Representatives:

(a) Reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens), which shall include—

(1) an analysis of the adequacy of the verification procedure set forth in subsection (b) of that section;

(2) the status of the development and implementation of a more secure verification system as provided in subsection (c) of that section; and

(3) the impact of that section on—

(A) the employment, wages, and working conditions of United States workers,

(B) the number of aliens entering the United States illegally,

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors,

(D) discrimination against citizen and permanent resident alien members of minority groups, and

(E) the paperwork and recordkeeping burden on United States employers.

Reports concerning the matters described in paragraphs (1), (2), and subparagraphs (A), (B), and (C) of paragraph (3) shall be submitted every six months from the date of the enactment of this Act and a report concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted not later than three years after the date of the enactment of this Act.

(b) A report on the general legal admissions under the Immigration and Nationality Act, which shall include—

(1) the number of aliens admitted during the forty-two months after the date of the enactment of this Act as immediate relatives and other permanent residents, refugees, asylees, and parolees, and

(2) the impact of the admission or parole of such aliens on the economy of the United States and the employment of citizens and aliens in the United States.

This report shall be submitted not later than four years after the date of the enactment of this Act.

(c) A report on the implementation of the temporary worker program (popularly known as the "H-2" program), which shall include—

(1) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers,

(2) the development of regulations with respect to the program,

(3) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested, and

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(d) A report on the pilot program established under section 212(l) of the Immigration and Nationality Act, added by section 213(a) of this Act, (popularly known as the "visa waiver program"), which shall include—

(1) an evaluation of the program including its impact on the control of alien visitors to the United States, consular operations in the countries designated under section 212(l)(3)(A) of the Immigration and Nationality Act, and the impact of the program on the United States tourism industry, and

(2) recommendations on the extension of the program and the expansion of the number of countries which may be designated under such section.

The report shall be submitted not later than two years after the commencement of the program.

(e) A report on the population whose status is legalized under the legalization program established under section 301 of this Act, which shall include—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics,

(3) their patterns of employment,

(4) their participation in social service programs, and

(5) a general profile and characteristics of the population legalized under the program.

The report shall be submitted not later than two years after the date of the enactment of this Act.

Mr. BAKER. Mr. President, I understand the distinguished chairman of the Veterans' Affairs Committee, the Senator from Wyoming, will make an opening statement. There will be no votes on this measure or other action taken tonight. Indeed, there should not be because of the arrangement which has now been formalized with the minority leader. It is anticipated there will be votes tomorrow. I would expect the Senate to be in session for a full day tomorrow. The time when the Senate will conclude its activities on tomorrow will depend upon the consultations I have with the Senator from Wyoming, the minority leader, and others.

Mr. President, may I add this: Having completed the supplemental appropriations bill and having now laid down the immigration bill, we have done all of the items on the must list except for the debt limit and conference reports as and when they are received, and other matters of an urgent nature as they may be presented. That is excellent progress, in my view. As we continue with the immigration bill, we materially improve our chances for going out on August 20.

Mr. SIMPSON. Mr. President, I will not make an opening statement this evening. I shall do that tomorrow.

I want to thank the minority leader for his courtesy to me on this matter, and thank the majority leader very much for bringing this matter to the floor and laying it before the body.

We are working, indeed, on time agreements on various amendments, and negotiations are pending at a brisk pace. There is no prospect of extended debate from either the subcommittee ranking minority member, Senator Kennedy, or those involved in the legislation. That does not mean that there will not be spirited debate.

I thank the Chair and I very much thank the majority leader for listening to the haunting refrain of the Senator from Wyoming as we completed our work on this legislation and brought it before the body.

Hopefully, we can receive some good results from an important piece of legislation.

I thank very much the Senator from Tennessee. He has been more than courteous, more than helpful, and more than patient.

Mr. BAKER. Mr. President, I thank the Senator. I can say I do not remember in my recent memory anybody who has been more persistent than the Senator from Wyoming in seeing that this amendment is indeed brought before the Senate. I am glad it has worked out this way.

Mr. SYMMS. Mr. President, I thank the majority leader.

S. 2792, OCS REVENUE SHARING LEGISLATION FOR COASTAL STATES

Mr. HOLLINGS. Mr. President, I want to begin by correcting the Record for July 29, 1982, regarding the introduction of our bipartisan legislation, S. 2792, OCS Revenue Sharing Legislation for Coastal States.

Several original cosponsors were left off the list when the bill was introduced. Mr. President, I ask unanimous consent that the list of original cosponsors be corrected to read as follows: Mr. Stevens, Mr. Murkowski, Mr. Hollings, Mr. Hayakawa, Mr. Mitchell, Mr. Inouye, Mr. Gorton, Mr. Chiles, Mr. Packwood, Mr. Cranston, Mr. Sarbanes, Mr. Rudman, Mr. Riegle, Mr. Cohen, Mr. Johnston, and Mr. D'Amato.

In addition, Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. Quayle) be added as a cosponsor.

I want to begin by recognizing the contribution that Senator George Mitchell of Maine has made to this legislation. Senator Mitchell actually led the way for all of us who worked on S. 2792, and was the first to introduce an OCS revenue sharing bill in the Senate, S. 2129. Having pioneered the legislation, he has graciously assisted and supported the development of a compromise bill which seeks to serve the broadest possible set of objectives, and embraces both efforts to develop OCS and coastal energy resources, while at the same time preserving the necessary coastal management activities, renewable resources such as our fisheries, and research efforts required to maintain the viability of our coastal areas.

Mr. President, the Congress has long recognized the need to provide equitable compensation to States for federally initiated development. With the Mineral Leasing Act of 1920 States have received 50 percent of the Federal revenues derived from leasing on Federal lands. Forest Service stumpage payments, grazing fees, and payment in lieu of taxes all have been shared or given to States so that the Federal Government may be seen as a responsible partner in land development. For coastal States, no such reliable, dependable revenue source has existed from OCS related development despite the fact that the OCS receipts are the second largest source of revenue to the Federal Treasury.

The Congress has wisely included the States as a partner in the management of our coastal and ocean resources. Both the OCS Lands Act and the Coastal Zone Management Act give significant role and authority to States to particpate in coastal development and protection decisions. The Congress has wisely included the States as a partner in the research of the pressing coastal and oceans issues of the day. The Commercial Fisheries Research and Development Act, the Anadromous Fish Conservation Act, and the sea grant program all recognize the importance and contribution of States to ocean and coastal research.

But now, in the face of unprecedented expansion of coastal development from population increases, coal exports, harbor expansions, dredging, filling, recreational demands, and the proposed 5-year OCS oil and gas lease sale schedule, the Nation is in danger of being left without the resources to accomplish the urgent research and management tasks to absorb this development ge without destroying our precious coastal heritage. And coastal States, Mr. President, are being asked—no, being told—by the administration, to go it alone as far as impact assistance is concerned.

This is no way for a partnership to be conducted. This is no way for the Federal Government to efficiently, wisely, and fairly develop its OCS oil and gas resources.

Properly constructed revenue sharing of a modest portion of OCS receipts can do many things, Mr. President. It can establish equity for coastal areas with the more fairly treated inland States. It can insure that Coastal States have enough money to discharge their research and management responsibilities. It can allow States to anticipate and prepare for impacts from the Federal development decisions of the OCS as well as other necessary energy requirements—so that responsible cooperation replaces unfortunate but understandable antagonism. It can facilitate needed and proper coastal development without abdicating environmental sensitivity or factual decisionmaking.

The legislation we are introducing today accomplishes this. We include all Coastal States, including the Great Lakes so that common coastal concerns are given a baseline minimum treatment. A proximity to oil and gas is not the only requirement that a Coastal State must be fortunate enough to have in order to be part of the team to which our complete coastal heritage has been entrusted.

A range of specific purposes for use of the funds is detailed in our legislation. Coastal States have the prerogative to establish priorities for funding so that coastal issues most pressing in their areas are addressed. This is not an income tax transfer measure, Mr. President. We are using a small portion of nonrenewable coastal resource revenues to insure the healthy utilization of all our national coastal resources. Yet existing new concepts of State/Federal power sharing are incorporated as well so that Federal oversight focuses on policysetting, not administrative details.

One cannot shy away from the fiscal implications of this legislation, Mr. President and I will not do so here. OCS revenues are the source of this Fund. In order for the Fund to have any dollars to share with Coastal States, the OCS must be developed as a revenue source. The recently adopted schedule of the Secretary of the Interior has already been challenged by three States. More opposition can be anticipated. The previous Secretary's

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schedule, "modest" as it appears now in retrospect, was successfuly challenged by States. We had better do something to enhance and to continue the State/Federal partnership on the OCS, a partnership which I believe to be appropriate and to be suffering from neglect by this administration.

Mr. President, I will conclude by saying, in summary, that by establishing a properly constructed OCS revenue sharing Fund, we will be cognizant of the legitimate needs of States adjacent to OCS oil and gas activity, establish equity with inland States, insure that all coastal and ocean resources receive the proper research and mangement attention, and incorporate the spirit of a new Federalism.

HUMANITARIAN AID TO LEBANON

Mr. KENNEDY. Mr. President, over the past months all Americans have watched with mounting concern over the violence in Lebanon and the humanitarian needs that have been created.

Whatever the final accounting may be, we know today that thousands of persons have been killed, and that hundreds of thousands of civilians have been made homeless.

From the outset, I have supported our Government's efforts, in concert with the international and voluntary agencies and other Governments, to respond to the urgent humanitarian needs in Lebanon. I have met with representatives of Catholic Relief Services and other agencies working in the field, as well as with Mr. Peter McPherson, Administrator of the Agency for International Development (AID), when he returned from Lebanon.

It is clear to me that the $15 million already allocated, and the $50 million now being considered, is essential for both urgently needed relief supplies as well as longer term rehabilitation and reconstruction assistance.

Mr. President, the tragedy suffered by the Lebanese people will not soon go away. But we can relieve the suffering by offering the food, medicines, and other supplies that will help meet their basic human needs.

In voting for emergency assistance to Lebanon today, we stand ready, as I know the American people do, to offer our helping hand in assisting the Lebanese to rebuild their land when peace finally comes—as it must—within the coming weeks.

U.S. INVOLVEMENT IN HONDURAS: INCREASING THE POTENTIAL FOR CENTRAL AMERICAN WAR

Mr. PELL. Mr. President, while the concern of the Nation has been focused on West Beirut these past weeks, very serious and disturbing events involving U.S. military activity in Honduras have gone virtually unnoticed. The United States is becoming heavily involved in a military relationship with Honduras that is contributing to the rapidly heating tensions between Honduras and Nicaragua. I fear that a climate is being developed, fueled in large part by U.S. actions, for provoking Nicaragua into retaliatory action similar to the way in which PLO acts of terrorism provoked Israel into retaliation beyond reasonable bounds.

In the past months, tensions have increased between Honduras and Nicaragua, countries that have had traditional rivalries long before the Sandinistas came to power. Incursions into Nicaragua by former Somoza national guardsmen together with dissident Miskito Indians take place almost daily in the border areas. Fighting has also taken place on Nicaragua's Atlantic coast, resulting in mounting military casualties. Although it is difficult to maintain total control because of the terrain, there are disturbing reports that the Honduran military is openly cooperating with these anti-Sandinista forces providing them with training and ammunition and protecting them when they return to Honduran territory fleeing Nicaraguan troops.

For their part, the Hondurans fear the Sandinista government in Nicaragua for many reasons including what they see as a military buildup, Cuban influence in Nicaragua and the prospect that Nicaraguans will eventually acquire Soviet Migs.

As if this alone is not enough to spark a major conflagration, enter the United States into this tinderbox, starting with reports of U.S. covert activity in aiding the former Somoza national guardsmen and other dissidents in destablizing activities on the border. The reported 30 Argentine military advisers in Honduras have been associated with these reports of covert operations. U.S. military assistance to Honduras doubled this year to over $10 million, $15 million is slated for next year, the administration has requested an additional $17 million for a fiscal year 1982 supplemental, and $15 million is slated for next year. It has been reported that the Hondurans have requested about 12 F-5's from the United States. As of last week 119 U.S. military personnel were in Honduras. What is most alarming is the fact that this U.S. military involvement and presence in Honduras is proceeding at a more rapid pace than it did in El Salvador.

U.S. military advisers are operating in the Atlantic coast area near the Nicaraguan border. According to the August 5 New York Times, U.S. advisers are helping to assemble Huey helicopters, and are unloading large quantities of U.S. weapons and ammunition at a major Honduran port on the Atlantic coast. U.S. advisers are also helping to construct a Honduran military base about 25 miles from the Nicaraguan border. The United States also has been conducting joint military exercises with the Hondurans on the Atlantic coast near the Nicaraguan border. This is happening at the very time that the Nicaraguans are involved in heavy fighting with the Somicistas and dissident Miskitos on the Atlantic coast.

Over a month ago, on June 30, I expressed my concern over the increasing U.S. military role in Honduras through an amendment to the military construction bill. My amendment would have stopped a $21 million project designed to improve three airfields to make them capable of landing tactical aircraft. Twenty-eight of my colleagues voted with me because they shared my concern that this project had grave foreign policy implications, not the least of which was the potential for involving the United States even more deeply into the Central American turmoil. They shared the concern that given the administration's present stance on Nicaragua, its hard-line rhetoric, and discussions of options the airfield improvement project would send a signal to those in Central America and the Caribbean that the United States is indeed preparing for deeper involvement, including direct military intervention. I daresay that if the sequence of events would have been reversed—if we would be considering my amendment now, after the events of the past month which I have just recounted—many more of you would have voted to stop the $21 million airfield project.

I fear that the United States, by increasing its military relationship with Honduras, is sending the wrong signals to the Honduran Government and at the same time fueling the perceptions of threat that Honduras and Nicaragua feel from each other. The situation between Honduras and Nicaragua is dangerously close to a war that is waiting to happen. The Nicaraguans consider themselves in virtually a war status now. Miscalculations by one side or another, decisions to attack or provoke an attack now or later, could result in a war that eventually could spread beyond the borders of Honduras and Nicaragua to El Salvador, where Honduran troops already are involved, to Guatemala, and perhaps the rest of Central America. One can certainly see the specter of Cuban and United States involvement into this potential escalation.

The United States must back away from increased military participation in Honduras. We should be encouraging the Hondurans and the Nicaraguans to begin talking—certainly a better alternative than shooting. We must begin the process, however, by ourselves opening a dialog with the Nicaraguans—a dialog that has been on dead center for too many months.

The consequences of staying on the present course of expanding U.S. military participation in Honduras are much too grave and serious. Reason must prevail.

THE FIRST ISSUE OF THE U.S. POSTAL SERVICE'S PURPLE HEART EMBOSSED ENVELOPE

Mr. THURMOND. Mr. President, last week, I had the privilege of attending a ceremony at the Pentagon in which the U.S. Postal Service dedicated its new envelope commemorating the Purple Heart.

Joining me at that ceremony were my distinguished colleagues Senators Denton, Dole, Heflin, Inouye, Melcher, and Congressmen Michel and Nichols, who have also received this most distinguished award—our military's honor to those men and women who died or were wounded in the defense of our country.

Mr. President, the Purple Heart has been awarded to our Nation's military personnel as a high tribute for their service since George Washington was the commander of our troops in the Revolutionary War. Since then, it has remained an honor to those men and women who were ready to lay down their lives for the cause of liberty.

The Postal Service's new envelope is a handsome tribute to this prestigious military award. During last week's ceremony, I was extremely proud to be among those chosen to participate in the dedication of the first issue of this envelope.

I want to publicly thank each of those persons in attendance at the ceremony for their work in making this tribute to the Purple Heart a lasting one for all Americans. In undertaking this project, the Potal Service is preserving for generations to come the pride, honor, and great debt of gratitude we all feel for those killed and wounded on the battlefield.

Many have received the Purple Heart and know the great value our Nation places on this award. Others, who made the supreme sacrifice in battle by giving their lives in the defense of freedom, will be remembered again in this tribute by the Postal Service.

Mr. President, the remarks made at last week's ceremony by the distinguished Postmaster General of the United States, William F. Bolger, are an inspirational tribute to the Purple Heart and those persons who received that high honor.

I ask unanimous consent that Mr. Bolger's remarks be included in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Postmaster General William F. Bolger

Thank you, and good morning, distinguished guests, ladies and gentlemen. I am delighted to be able to share this occasion with you.

Uncommon valor was a common virtue. Admiral Chester Nimits said this about the sacrifice and experience of the United States Marines at Iwo Jima. The same might well be said of the group of men and women who over the years have earned the Purple Heart . . . and it is indeed an honor and a pleasure for me to represent the Postal Service today as we dedicate the Purple Heart Envelope to all who have served our country honorably with commitment and courage.

Many of you in this audience earned a Purple Heart. Many more have made the supreme sacrifice, giving their lives for their country. And, with others here and throughout our country, you remember other individuals who responded to their country's call with a sense of duty and determination.

While the primary mission of the Postal Service is to deliver the Nation's mail—we are proud of our 207-year history of doing so—we also value the opportunity to provide the Nation with stamps and postal stationery items that are meaningful as well as attractive.

We recognise the very nearly universal visibility of postage stamps and postal stationery items. We know that—although the size of a postal design is not great—its sphere of influence is. In the coming months, the Purple Heart Envelope—so handsomely designed by John Boyd—will travel around the world. It will serve as a graphic reminder of our Nation's gratitude to those who shed blood to protect and preserve this Nation and the noble ideals upon which it was founded.

Even in this age, when it is popular to downplay talk about patriotism and patriots, we know that portrayal of a subject on a stamp or envelope frequently encourages people to engage in research with regard to that particular subject. And this is precisely what I hope happens in this instance.

While this audience is probably more familiar with the history of this cherished medal than any other I could address, many other people throughout the country will probably be surprised to learn that the Purple Heart Medal is the world's second oldest military decoration still is use . . . that it was initiated by General George Washington on August 7, 1782, during the struggle for independence, and that after a lapse of some 150 years, it was revived on February 22, 1932, as part of the bicentennial celebration of the birth of Washington out of respect to his memory and military achievements.

I want more people to know that when the Father of our Country awarded the first Purple Heart Medal, it was also the first United States military award for valor without regard for rank.

This is extremely important in my opinion and also reflects the measure of Washington's greatness.

Honesty, integrity, a sense of duty and devotion, dignity, perseverance and faith—all these were characteristic of the man who inspired his troops with the will to endure.

General Washington bore vast burdens and suffered hardships, the full dimensions of which can only be imagined because he was loath to complain—except where the welfare of this soldiers was involved.

And, when it came to his soldiers, he recognised their burdens, their hardships and their sacrifices—regardless of rank. Perhaps that was one of the most important ingredients that marked his gift for leadership—his ability to see his men both as a group to be led and as individuals to be both inspired and recognised.

Long before motivational techniques were being taught in management courses, General Washington realised how important it was to recognise individual courage and bravery. He encouraged worthy ambition in his troops as well as meritorious action. He wanted them to know that "glory in a patriot army and a free country" was open to all.

Washington believed that a tangible symbol of recognition would remind the recipient of the Nation's gratitude long after the battles were over, and that such a symbol would become part of the legacy of patriotism from one generation to the next.

Fifty years ago, on February 22, 1932, when President Hoover addressed a joint session of the Congress opening the celebration of the bicentennial of Washington's birth and reestablishing the Purple Heart Medal with Washington's image upon it, he said that the Nation needed, . . . "To renew in our people the inspiration that comes from George Washington as a founder of human liberty, as the father of a system of government, as the builder of a system of national life," and "To refresh to the remembrance of the American people the great tests and trials of character of the men who founded our republic."

We believe that the Purple Heart Envelope will help remind Americans of our rich patriotic heritage. It is also our hope that it will recall to everyone the sacrifices of those who have served our country in more recent times.

Thus, it is with great satisfaction that I dedicate the Purple Heart Envelope as the Postal Service's visible commendation to the patriotic individuals whose valor have made it so meaningful.

Thank you.

Now, it is my pleasure to present several albums containing the Purple Heart Envelope to the following distinguished persons:

The first, by tradition, goes to the President of the United States, and Mr. Reagan's will be delivered to the White House.

SOUTH DAKOTA HAS FIVE NATIONAL WINNERS

Mr. PRESSLER. Mr. President, an unusual historic situation which reflects well on my home State of South Dakota exists this year. South Dakota is the home of five young women who have achieved recognition as queens in national competitions. Our research indicates that never in history has one State had five national queens at the same time. South Dakota can be proud. Four of these South Dakotans are national winners of rodeo competitions. Another young South Dakotan is the 1981 recipient of the national Miss Indian America title. This record of five national titles held by South Dakotans is a tribute to the talents and abilities of our South Dakota young people. I want to take a

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moment to commend each one of them individually.

Diane McKaben of Rapid City, S. Dak., holds the current title of Miss World Rodeo. Diane, the daughter of Mr. and Mrs. John Patten of Belle Fourche, is a student at Black Hills State College and is working on a degree in political science. Diane's family boasts another rodeo queen, Leslie Patten, who is the current National High School Rodeo Queen. Leslie plans to pursue her education in the engineering field. Both Diane and Leslie have been very active in rodeo competitions for a number of years.

Robin Bail, daughter of Mr. and Mrs. A. R. Bail, Jr., is a 20-year-old Buffalo, S. Dak. resident and the current Miss National College Rodeo. A dential hygiene student at South Dakota State University, Robin has been the winner of several other youth rodeo events and is a former Junior Miss from her hometown.

The current Miss Rodeo America is Donna Keffler, whose parents, Mr. and Mrs. Ralph Keffler, live in Sturgis, S. Dak. Donna is also a student at Black Hills State but is spending this year in Colorado Springs as a representative for the Professional Rodeo Cowboy Association, where she is gaining valuable experience in the field of public relations.

Miss Jerilyn LeBeau, daughter of Mr. and Mrs. Wesley LeBeau, Eagle Butte, S. Dak., is the 1981 Miss Indian America. I had an opportunity to visit with Jerilyn when she came to Washington a few months ago. I was very impressed with this poised young lady who is such a fine representative for the Native American culture and heritage.

I strongly believe that my State's greatest resource is its young people. They are a credit to their families and their communities. We must encourage young South Dakotans to perform and achieve to the best of their abilities. These five young women represent everything that is best about South Dakota. I want to commend them for their admirable success. We are all very proud of their achievements and wish them the very best of luck in their future endeavors.

THE SPACE STATION: AN IDEA WHOSE TIME HAS COME

Mr. CANNON. Mr. President, on July 4 of this year the National Aeronautics and Space Administration (NASA) successfully completed the fourth and final test flight of the Space Shuttle. All Americans can take great pride in that accomplishment. The Shuttle is a prime example of U.S. technological leadership and how that leadership can provide this Nation with major scientific, economic, national security, and international prestige benefits.

The Space Shuttle demonstrates that we have the capability to reach and return from space on a routine basis. That capability will generate significant returns as we learn better how to utilize the great frontier of space. That capability logically also raises some questions about follow-on activities in space and specifically what should be the role of man in space. In the discussions we hear a great deal of enthusiasm for the goal that the United States, through its civilian space agency NASA, should develop a space station.

It was President Reagan on July 4 who stated, "We must look aggressively to the future by demonstrating the potential of the Shuttle and establishing a more permanent presence in space." I would assume from this that he is considering a space station development, possibly in the course of the fiscal year 1984 or 1985 budget review process.

There are others in the administration who are evaluating the space station proposal. Mr. James Beggs, Administrator of NASA, has spoken on a number of occasions about space stations as our next logical step. Dr. George Keyworth, the President's science adviser, is also reviewing the rationale for space stations.

Thus, just 25 years after the launch of Sputnik, the United States is considering the development of a relatively permanent presence in space through either a manned or unmanned space station. Such a development could be of vital significance to U.S. interests, both domestically and internationally. It could also have a major impact on our scientific and technical community.

There are many questions that need to be addressed before this Nation proceeds to develop a space station. I think it is very healthy and productive that the administration is actively exploring these questions. For example, NASA has initiated a number of studies that would assess the rationale for and mission requirements of a permanent space station.

Mr. President, I believe it would be most appropriate that the Congress also participate in this exploratory and analytical process. Toward that end, I am pleased to report that the Office of Technology Assessment Board, on which I serve, today approved a study on space stations requested by the Committee on Commerce, Science, and Transportation, where I serve as the ranking Democratic member.

The OTA study will be an 18-month project and should be a valuable complement to other studies under way. I would expect that the OTA effort will help Members of Congress by addressing such questions as: Why a space station; why now; how expensive will it be; what would be its technological characteristics; how would its development affect other elements of the U.S. space program; what would be the benefits to space science and applications; what would be the commercial and national security implications; and what impact would it have on our scientific and technological base?

In conclusion, I would hope that the OTA study, the administration studies, future congressional hearings and other efforts would all help in informing the U.S. public and its elected officials and representatives about the benefits and costs of a space station. In essence, we need to know are space stations an idea whose time has come.

RESOLUTION URGES GRAIN AGREEMENT WITH SOVIET UNION

Mr. PRESSLER. Mr. President, I recently received a resolution passed by the Grain Terminal Association regarding agricultural trade from Gordon H. Matheson, chairman of the GTA Board. The resolution expresses the problems of farmers being forced to pay the cost of foreign policy decisions and the need to let American agriculture have free access to world markets. The resolution also calls for a negotiation of a new 5-year grain agreement with the Soviet Union to help boost domestic farm prices. I believe the resolution does a good job of expressing the sentiment of farmers regarding agricultural trade and I ask unanimous consent that the resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Grain Terminal Association,
St. Paul, Minn., August 6, 1982.

Hon. Larry Pressler,
Russell Senate Office Building,
Washington, D.C.

Dear Senator: The GTA Board of Directors, at a meeting held on August 4, 1982, adopted the following resolution to be sent to The President of the United States, The Secretary of Agriculture, The Secretary of State, and Senators and Representatives from the States of Minnesota, Montana, North Dakota, South Dakota, Idaho, Iowa, Oregon, Washington and Wisconsin:

American foreign policy, rather than farm policy, is costing the American farmer and his cooperatives dearly. Without free access to world markets denied by present foreign policy, American agriculture will become chronically, if not terminally, ill.

The stances taken by President Reagan on trade with Russia and China, and the Carter, Ford and Nixon embargoes have been persistent obstacles to market development and stability for American agriculture's largest potential markets in East Europe and Asia. Farmers have been a pawn without compensation in such policies.

The most sensible policy for the United States is to establish regular trade with the Russians by means of a new five-year, variable-price agreement. In the 1970's, Soviet imports differed widely from year to year. The result was large swings in world prices and in American farm income. A new grain sales agreement setting minimum and maximum quantities, and purchased at negotiated prices, would help stabilize the U.S. export business with the Soviet Union and would help raise U.S. farm income.

When the first trade agreement was made with the Soviet Union in 1972, farmers overnight found themselves in a global economy. They expanded to meet the economy's needs. Today farmers are in difficulty because that economy is soft and there's no demand for their expanded production. This situation is not likely to change if politics continues to play a negative role. What need is there for farmers to grow and promote their products if the State Department refuses to let them sell those products?

We urge the government not to let this situation continue. The one-year extension of the expired trade agreement, while disappointing, has bought time to negotiate a new five-year, variable-price agreement. Negotiated prices are a must in this new agreement for better farm prices are needed, not only from the farm but also from the national economic standpoint. Improved farm income is one of the first steps in helping the nation out of the present recession.

Sincerely yours,

Gordon H. Matheson,
Chairman of the Board.

GENOCIDE CONVENTION USURPS NO DOMESTIC AUTHORITY

Mr. PROXMIRE. Mr. President, as a result of the holocaust against the Jews in Germany during the Second World War, the United Nations General Assembly, on December 11, 1946, unanimously passed a resolution declaring genocide an international crime. U.S. representatives played an important role in drafting the treaty which resulted from the resolution, and this treaty was approved by the General Assembly in 1948. The treaty defined genocide as the systematic destruction of any rational, ethnical, racial, or religious group. The United States has not ratified the Genocide Treaty despite its initial support and despite the overwhelming support and ratification by 88 other countries.

Opponents of the treaty argue that the Genocide Convention usurps the constitutionally prescribed methods of legislating new law by allowing a treaty rather than Congress to establish domestic criminal law. But the Convention itself is not self-executing and does not establish genocide as a crime within our Federal Criminal Code. Rather, the Genocide Convention requires that the treaty be implemented through the regular legislative process of amending the Federal Criminal Code to include the crime of genocide. Opponents of the treaty who argue that the treaty usurps the lawmaking powers of the Congress are simply wrong as the treaty is only effective if Congress passes the proper legislation to enact the purposes of the treaty.

In addition to being mistaken about the implementation of the treaty, opponents of the treaty are also incorrect in assuming that the issue of genocide is a domestic concern that should not be dealt with in an international treaty. The crime of genocide involves the systematic destruction of a large ethnic or racial group. It is a crime worse than murder because of its sheer magnitude. Because genocide is usually carried out by national governments against a segment of their population, domestic criminal codes defining murder are ineffective in administering justice against those practicing genocide.

Mr. President, I ask the Senate to give its advice and consent for ratification of the Genocide Convention. We must overcome the rhetoric of opponents who argue that the Convention would subordinate domestic law to the advantage of international treaties. The fears of those opponents are unsound when one examines the text of the Convention and the practicalities of the situation.

NEED FOR A COMPREHENSIVE NUCLEAR TEST BAN

Mr. PROXMIRE. Mr. President, recently Averell Harriman, Clark Clifford, and Paul Warnke made an eloquent plea in support of the Kennedy-Mathias resolution to prevent nuclear testing. I ask unanimous consent that an excerpt from that statement by these wise American statesmen be printed at this point in the Record.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

For the Record

From a statement by W. Averell Harriman, Clark Clifford and Paul Warnke in support of the Kennedy-Mathias Senate resolution to prevent nuclear testing:

The goal of a comprehensive nuclear test ban must be a priority for the security of our nation and all nations.

A comprehensive nuclear test ban would restrict the development of new nuclear weapons and help restrain the nuclear arms race; it would enhance our security; and it would set an example to the rest of the world that the nuclear powers are serious about controlling nuclear arms * * *.

Ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties would send a positive message and a message of seriousness as we proceed to solve the very different problems before us of controlling nuclear arms in the decade to come. Negotiated by Republicans, signed by Republicans, supported by Republicans and Democrats, these treaties—ratified—can help reestablish the momentum of arms control as well as maintain the bipartisan consensus for a balanced prudent national security program of arms and arms control.

These treaties were negotiated and signed more than a half decade ago by two presidents. It is in our interest to demonstrate to others, particularly the Soviets, that agreements signed will be agreements ratified, and therefore agreements kept, letter and spirit * * *.

Today, with nearly 50,000 weapons deployed, the threat of nuclear war overshadows every other threat we face. Today, American leadership is needed more than ever—for our allies in Europe who want arms control as well as arms, and for nations around the globe who will decide in the decade ahead to fashion a future with or without nuclear arms * * *.

CODIFICATION OF AIRLINE LABOR PROTECTIVE PROVISIONS

Mrs. KASSEBAUM. Mr. President, tomorrow, we will probably be voting on Conference Report 97-722 to the war risk bill, H.R. 5930. At that time, I intend to raise a point of order because the conference report introduces new matter not committed to the conference by either House. This new matter is a significant substantive amendment to the Federal Aviation Act which alters dramatically labor management relationships in the airline industry. The amendment incorporates by reference the labor protective provisions imposed in the Allegheny-Mohawk, Merger, 59 CAB 19 (1972).

The amendment we are considering will make mandatory in many intercarrier transactions labor provisions which were applied as a matter of discretion by the Civil Aeronautics Board. Moreover, while the CAB would modify the provisions to reflect the factual nuances of each case, this amendment requires verbatim the 1972 language—much of which was created for the railroads in 1936.

Since the amendment only refers to the provisions being enacted, I have attached to this statement a copy of the Allegheny-Mohawk provisions so my colleagues will have an opportunity to see what is actually being considered. I also want to point out that in addition to the policy and procedural issues raised by the proposed amendment, incorporation of an out-of-date regulatory order—intended for a specific case—raises several legal questions not considerd by the conference committee. The legal questions include the following:

The labor protective provisions incorporated by reference in the Allegheny-Mohawk case dealt specifically with a 1972 merger. The amendment would now apply these provisions generally and would broaden them to cover sales of equipment, route transfers and other actions to restructure and make a carriers' operations more efficient. There are a number of serious questions as to how provisions designed to address the factual circumstances of a merger will be applied to other transactions.

The provisions incorporated by reference apply specifically to Allegheny, to Mohawk and to their employees. In this case and in all other cases in which labor protective provisions have been imposed, the CAB has modified and varied from the standard LPP's to meet the realities of specific transactions. However, new subsection 408(c)(1) states that these provisions are now being made applicable to all "qualifying transac-

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tions." Many direct conflicts would be created if the specific terms of this 1972 CAB order were made applicable to all qualifying transactions and all qualifying air carriers.

The labor protective provisions of the 1972 CAB opinion which the Conference Report seeks to codify is in express conflict with the purpose and intent of the LPP amendment added to the Conference Report. Section 1 of the labor provisions of the CAB opinion provides as follows:

"Section 1. The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed merger of Allegheny Airlines, Inc., and Mohawk Airlines, Inc., approved by the attached order, and it is the intent that such conditions are to be restricted to those changes in employment due to and resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions."

The amendment, on the other hand, seeks to cover more than "mergers." It would cover purchases, leases, contract arrangements, and route transfers. How is this conflict to be resolved? What is it that Congress intends if it adopts this amendment? Are fluctuations in employment that are brought about "by other causes" covered or not? The Conference Report amendment appears to intend this. But, the CAB opinion adopted by the amendment clearly and unequivocally states that employment changes brought about by other cases are not covered.

Finally, Mr. President, I would like included in the RECORD a copy of a July 16 New York Times editorial titled "Frozen in the Cockpit?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX B

LABOR PROTECTIVE PROVISIONS

Section 1. The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed merger of Allegheny Airlines, Inc., and Mohawk Airlines, Inc., approved by the attached order, and it is the intent that such conditions are to be restricted to those changes in employment due to and resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions.

Section 2. (a) The term "merger" as used herein means joint action by the two carriers whereby they unify, consolidate, merge, or pool in whole or in part their separate airline facilities or any of the operations or services previously performed by them through such separate facilities.

(b) The term "carrier" as used herein refers to either Allegheny or Mohawk or to the corporation surviving after consummation of the proposed merger of the two companies.

(c) The term "effective date of merger" as used herein shall mean the effective date of the amended certificates of public convenience and necessity transferred to Allegheny pursuant to the approval granted in the attached order.

(d) The term "employee" as used herein shall mean an employee of the carriers other than a temporary or part-time employee.

Section 3. Insofar as the merger affects the seniority rights of the carriers' employees, provision shall be made for the integration of seniority lists in a fair and equitable manner, including, where applicable, agreement through collective bargaining between the carriers and the representatives of the employees affected. In the event of failure to agree, the dispute may be submitted by either party for adjustment in accordance with section 13.

Section 4. (a) Subject to the applicable conditions set forth herein, no employee of either of the carriers involved in the merger who is continued in service shall as a result of the merger be placed in a worse position with respect to compensation than he occupied immediately prior to his displacement so long as he is unable in the normal exercise of his seniority rights under existing agreements, rules, and practices to obtain a position producing compensation equal to or exceeding the compensation of the position held by him immediately prior to such date, except, however, that if he fails to exercise his seniority rights to secure another available position, which does not require a change in residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position which he elects to decline.

(b) The protection afforded by the foregoing paragraph is hereby designated as a "displacement allowance" which shall be determined in each instance in the manner hereinafter described. Any employee entitled to such an allowance is hereinafter referred to as a "displaced" employee.

(c) Each displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee and his total time paid for during the last 12 months in which he performed service immediately preceding the date of his displacement (such 12 months being hereinafter referred to as the "test period") and by dividing separately the total compensation and the total time paid for by 12, thereby producing the average monthly compensation and average monthly time paid for, which shall be the minimum amounts used to guarantee the displaced employee; and if his compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the average monthly time paid for during the test period.

(d) The protection afforded herein shall apply only to displacements occurring within a period of 3 years from the effective date of the merger (referred to herein as the claim period); and the period during which this protection is to be given (referred to herein as the protective period) shall extend for a period of 4 years from the date on which the employee is displaced.

Section 5. (a) Any employee of either of the carriers participating in the merger who is deprived of employment as a result of said merger shall be accorded an allowance (hereinafter termed a "dismissal allowance"), based on length of service, which (except in the case of an employee with less than 1 year of service) shall be a monthly allowance equivalent in each instance to 60 percent of the average monthly compensation of the employee in question during the last 12 months of his employment in which he earned compensation prior to the date he is first deprived of employment as a result of the merger. This dismissal allowance will be made to each eligible employee, while unemployed, by Allegheny during a period beginning at the date he is first deprived of employment as a result of the merger and extending in each instance for a length of time determined and limited by the following schedule:

	Period of payment (months)
Length of service (years):	
1 and less than 2	6
2 and less than 3	12
3 and less than 5	18
5 and less than 10	36
10 and less than 15	48
15 and over	60

In the case of an employee with less than 1 year of service, such employee shall not be covered by the benefits provided in this section, but shall receive such benefits, and only such benefits, as are provided by section 7.

(b) for the purpose of these provisions, the length of service of the employee shall be determined from the date he last acquired an employment status with the employing carrier, and he shall be given credit for 1 month's service for each month in which he performed any service (in any capacity whatsoever) and 12 such months shall be credited as 1 year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, he will be given credit for performing service while so engaged on leave of absence from the service of the carrier: *Provided*, That in calculating the dismissal allowance for such an employee, such allowance shall be based upon the compensation paid such employee by the carrier during his last 12 months of service on the company payroll and not on the compensation he may have been paid by the employee representative organization.

(c) An employee shall not be regarded as deprived of employment in case of his resignation, death, or retirement on account of age or disability in accordance with the current rules and practices applicable to employees generally, dismissal for justifiable cause in accordance with the rules, or furlough because of reduction in forces due to seasonal requirements of the service; nor shall any employee be regarded as deprived of employment as the result of the merger who is not deprived of his employment within 3 years from the effective date of said merger.

(d) Each employee receiving a dismissal allowance shall keep Allegheny informed of his address and the name and address of any other person by whom he may be regularly employed.

(e) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished while he is absent from service, he will be entitled to the dismissal allowance when he is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of said position until the regular employee is available for service and thereafter shall revert to his previous status and will be given a dismissal allowance accordingly if any is due.

(f) An employee receiving a dismissal allowance shall be subject to call to return to service after being notified in accordance with the working agreement, and such employee may be required to return to the service of the employing carrier for other reasonably comparable employment for which he is physically and mentally qualified and which does not require a change in his place of residence, if his return does not infringe upon the employment rights of other employees under the working agreement.

(g) If an employee who is receiving a dismissal allowance returns to service the dismissal allowance shall cease while he is so reemployed, and the period of time during which he is so reemployed shall be deducted from the total period for which he is entitled to receive a dismissal allowance. During the time of such reemployment, however, he shall be entitled to protection in accordance with the provisions of section 4.

(h) If an employee who is receiving a dismissal allowance obtains other employment, his dismissal allowance shall be reduced to the extent that the sum total of his earnings in such employment plus his allowance and any unemployment insurance benefit (or similar benefit) exceed the amount upon which his dismissal allowance is based: *Provided*, That this shall not apply to employees with less than 1 year's service.

(i) A dismissal allowance shall cease prior to the expiration of its prescribed period in the event of—

1. Failure without good cause to return to service after being notified of a position for which he is eligible and as provided in paragraphs (f) and (g);
2. Resignation;
3. Death;
4. Retirement or on account of age or disability in accordance with the current rules and practices applicable to employees generally;
5. Dismissal for justifiable cause.

Section 6. An employee affected by the merger shall not during the applicable protective period be deprived of benefits attaching to his previous employment, such as hospitalization, relief, and the like.

Section 7. Any employee eligible to receive a dismissal allowance under section 5 hereof may, at his option at the time of merger, resign and (in lieu of all other benefits and protections provided in these provisions) accept in a lump sum a separation allowance determined in accordance with the following schedule:

Length of service (years):	*Separation allowance (months' pay)*
1 and less than 2	3
2 and less than 3	6
3 and less than 5	9
5 and over	12

In the case of employees with less than 1 year's service, 5 days' pay, at the straight time rate per working day of the position last occupied, for each full month in which they performed service will be paid as the lump sum.

(a) Length of service shall be computed as provided in section 5.

(b) One month's pay shall be computed by multiplying by 30 the calendar daily rate of pay received by the employee in the position last occupied prior to the time of the merger.

Section 8. (a) Any employee who is retained in the service of the carrier surviving the merger (or who is later restored to service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such merger and is therefore required to move his place of residence shall be reimbursed for all expenses of moving his household and other personal effects and for the traveling expenses of moving his household and other personal effects and for the traveling expenses of himself and members of his family, including living expenses for himself and his family and his own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter (not to exceed 2 working days) used in securing a place of residence in his new location. The exact extent of the responsibility of the carrier under this provision and the ways and means of transportation shall be agreed upon in advance between the carrier and the affected employee or his representative. No claims for expenses under this section shall be allowed unless they are incurred within 3 years from the effective date of the merger, and the claim must be submitted within 90 days after the expenses are incurred.

(b) Changes in place of residence subsequent to the initial change caused by the merger which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

Section 9. (a) The following provisions shall apply, to the extent they are applicable in each instance, to any employee who is retained in the service of the carriers involved in this merger (or who is later restored to such service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such merger and is therefore required to move his place of residence.

1. If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by the carrier for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the merger to be unaffected thereby: *Provided, however*, That if the home shall be determined as of a date as closely related to the date of sale as possible, with an agreed-upon adjustment being made to exclude any effect of the merger on such fair value. The carrier shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to another party.

2. If the employee is under a contract to purchase his home, the carrier shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligations under his contract.

3. If the employee holds an unexpired lease of a dwelling occupied by him as his home, the carrier shall protect him from all loss and cost in securing the cancellation of his said lease.

(b) Changes in place of residence subsequent to the initial change caused by the merger which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

(c) No claim for loss shall be paid under the provisions of this section which is not presented within 3 years after the effective date of the merger.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under contract for purchase, loss and cost in securing termination of lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee or his representative and the carrier, and in the event they are unable to agree, the dispute may be referred by either party to a board of three competent real estate appraisers, selected in the following manner: One to be selected by the employee or his representative and one by the carrier, respectively; these two shall endeavor by agreement within 10 days after their appointment to select the third appraiser or to select some person authorised to name the third appraiser; and in the event of failure to agree, then the Chairman of the National Mediation Board shall be requested to appoint the third appraiser. A decision of the majority of the appraisers shall be required, and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the salary of the appraiser selected by such party.

Section 10. If either carrier, on or after May 5, 1971, shall rearrange or adjust its forces in anticipation of the merger, with the purpose or effect of depriving an employee of benefits to which he should be entitled under these provisions as an employee immediately affected by the merger, these provisions shall apply to such an employee as of the date when he is so affected.

Section 11. Allegheny and Mohawk shall jointly or severally give at least 45 days' written notice containing a full and adequate statement of the proposed changes to be effected by the merger, including an estimate of the number of employees of each class, craft, or field of endeavor affected by the intended changes. Such notice shall be posted on bulletin boards or other conspicuous places convenient to the employees of said carriers, and a copy of the notice shall be sent by registered mail to all authorised representatives of any of the employees of both carriers.

If requested in writing by any employee or employees of either carrier or the authorised representative of such employee or employees, the date and place of a meeting between said employees or their representatives and the representatives of the carriers to settle problems of the rearrangement of such employees arising out of and because of the merger shall be agreed upon within 10 days after such request is received by the carrier. The meeting shall commence within 30 days from the date the request is received by the carrier.

In the event of a failure to agree upon a settlement of a problem or of problems presented at the meeting, the unsettled problems may be submitted by either party for adjustment in accordance with section 13.

Section 12. No employee of either carrier shall, as a condition of eligibility for the protection afforded by the terms of this order, be required to accept employment with the surviving carrier that is not within

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the class, craft, or field of endeavor in which he was employed by either carrier on the date of the attached order.

Section 13. (a) In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protections provided herein which cannot be settled by the parties within 20 days after the controversy arises, it may be referred by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternatively striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by the carrier and (i) the organization or organizations representing the employee or employees or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.

(b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure unless and until that alternative method or procedure shall have been agreed to by all the parties.

ORDER

(72-4-31)

A full public hearing having been held in the above-entitled proceeding and the Board, upon consideration of the record, having issued its opinion containing its findings, conclusions, and decision, which is attached hereto and made a part hereof;

It is ordered—

1. That, subject to the conditions specified below, the joint application of Allegheny Airlines, Inc. (Allegheny), and Mohawk Airlines, Inc. (Mohawk), in docket 23371 for approval of the agreement of May 5, 1971, as amended and restated as of August 5, 1971, and October 15, 1971, providing for a merger of these two companies and for approval of the transfer to Allegheny of the certificates of public convenience and necessity issued to Mohawk for routes 72 and 94 and all exemption authority held by Mohawk be and it hereby is approved;

2. That the approval granted herein is subject to the condition that for ratemaking or other regulatory purposes the approval granted herein shall not in any manner be relied upon as the basis for augmenting the investment value of the certificates, property, and other assets to be acquired by Allegheny, nor shall such approval be deemed a

* * * * *

[From the New York Times, July 16, 1982]

FROZEN IN THE COCKPIT?

Feudalism is an economic system long dead—except in the psyche of the airline unions. They want to attach airline workers to their planes and check-in counters, the way medieval serfs were tied to their land.

Under proposed legislation, airlines would have to guarantee equivalent jobs (or severance payments as high as $190,000) to any employee affected by merger, sale or lease of facilities. The airlines argue, correctly, that Government should not impose rigid labor protection rules on their now-deregulated industry. If employees are more eager to win such costly protection than, say, higher wages, let them bargain for it.

Before the industry was deregulated in 1978, the Civil Aeronautics Board insisted that jobs be protected in mergers and route swaps. Where equivalent work was not available, workers could get 60 percent of their wages for five years.

Such broad Government protection for airline labor was only fair, the board argued, because airline management was benefiting from valuable Government-protected franchises.

But now the franchises are gone, and so is the regulators' rationale for "labor protection provisions." That is why the pilots and airline machinists' unions are pressing Congress for a law to accomplish the same thing.

Such legislation would make little sense even in good times. To adjust to market conditions, airlines need the flexibility to buy, sell and merge facilities. They could, if they wished, barter that flexibility for lower wages or reduced fringe benefits. But as Wallace Hendricks, a University of Illinois labor economist, points out, no airline union has valued protection provisions highly enough to pay the necessary price.

In any case, these are not good times. A half-dozen airlines are already in trouble; others will probably need to dump routes, merge facilities or lease out aircraft. No airline can afford to pay labor protection costs that might run as high as $6 million for the sale of a single jumbo jet.

No hearings have been held on this labor protection provision. Neither the House nor the Senate voted to put such a provision in its version of an aviation insurance bill. Supporters will simply tack it on in conference committee next week, provided that influential conference members do not object. That, in effect, leaves it up to the senior uncommitted conferee, James Howard of New Jersey.

Representative Howard, chairman of the House Transportation Committee, is known both for his affection for organized labor and his practical commitment to airline deregulation. May his mind win out over his heart.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON MINE HEALTH AND SAFETY ACTIVITIES—MESSAGE FROM THE PRESIDENT PM 162

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 511(a) of the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 958(a)), I transmit herewith the Fiscal Year 1980 annual report on mine safety and health activities during the previous Administration as submitted by the Secretary of Labor.

RONALD REAGAN.

THE WHITE HOUSE, *August 11, 1982.*

FISHERIES AGREEMENT BETWEEN THE UNITED STATES AND KOREA—MESSAGE FROM THE PRESIDENT PM 163

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, pursuant to Public Law 94-265:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and the Republic of Korea, signed at Washington on July 26, 1982.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements which are due to expire this year. I urge that the Congress give favorable consideration to this agreement at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *August 11, 1982.*

PRESIDENTIAL APPROVAL

A message from the President of the United States announced that on August 6, 1982 he had approved and signed the following act:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for United States magistrates.

ENROLLED BILL PRESENTED

The Secretary reported that on today, August 11, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:21 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker had signed the following enrolled bill:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:19 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The message also announced that the House had passed the following bill, in which it requested the concurrence of the Senate:

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

HOUSE BILL HELD AT DESK

By unanimous consent the following bill was ordered held at the desk until the close of business on August 12, 1982:

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH (for Mr. Stevens), from the Committee on Governmental Affairs, with amendments:

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J. (Rept. No. 97-521).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Robert H. Phinny, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kindom of Swaziland:

Nominee: Robert H. Phinny.

Post: Ambassador to Swaziland.

Contributions, amount, date, donee.

1. Self, $1,000, 1980, Gerald R. Ford New Leadership Comm.; $1,000, 1981, same as above.

2. Spouse, None.

3. Children and spouses: a. Gay M. Phinny, None. b. Stephen D. Phinny and wife, Katherine, $15, 1978, Comm. for Senator Griffin; $20, 1979, GOP Victory Fund; $20, 1980, Lou Brock Republican Campaign Fund; $10, 1981, Republican Party of Texas. c. Dody S. (Phinny) Gates and husband, Lathrop, $50, 1980, Bond for Governor; $50, 1980, McNary for Senate Comm.; $25, 1980, United Citizens for Kemper; $50, 1981, Danforth for Senate Comm.; $25, 1981, United Citizens for Kemper; $50, 1981, Missouri Republican Finance Comm.; d. Peter T. Phinny, $50, 1978, Friends of Roche; $30, 1979, National Republican Congressional Comm.; $25, 1979, Republican National Comm.; $30, 1980, GOP Victory Fund; $50, 1981, Gerald R. Ford New Leadership Comm.

4. Parents (Robert Phinny): Mother and Father deceased. Parents (Sally G. Phinny): Father deceased; Mother—Dorothy S. Gerber, $200, 1978, Americans against Union Control of Government; $500, 1978, National Conservative Political Action Comm.; $200, 1978, Young Americans For Freedom; $200, 1978, Mich. Right To Work Comm.; $300, 1978, The Conservative Caucus; $400, 1978, Newaygo Co. Republican Comm.; $350, 1978, National Right To Work Comm.; $220, 1978, National Right To Work Foundation; $400, 1978, People for Arthurhultz; $70, 1978, American Security Council; $350, 1978, GOP Victory Fund; $200, 1978, Sawyer for Congress; $50, 1978, The Ad Hoc Committee; $250, 1978, Michigan Republicans; $100, 1978, Young Republicans; $500, 1978, Conservative Victory Fund; $650, 1978, Comm. for Sen. Griffin; $1,250, 1978, Helms for Senate; $150, 1978, Senate Republican Emergency Fund; $20, 1978, Fund To Stop Strikes Against Public; $500, 1978, Institute of American Relations; $50, 1978, Comm. For Survival of Free Congress; $80, 1978, National Small Business Association; $100, 1978, Milliken for Michigan Comm.; $700, 1979, Americans Against Union Control of Government; $600, 1979, National Conservative Political Action Comm.; $350, 1979, Young Americans For Freedom; $700, 1979, National Republican Senate Comm.; $200, 1979, Michigan Right To Work Comm.; $200, 1979, The Conservative Caucus; $500, 1979, Newaygo Co. Republican Comm.; $200, 1979, National Right to Work Comm.; $60, 1979, Fry for Guy; $50, 1979, National Right To Work Foundation; $100, 1979, People for Arthurhultz; $520, 1979, American Security Council; $1,400, 1979, GOP Victory Fund; $100, 1979, The Ad Hoc Committee; $1,000, 1979, Michigan Republicans; $1,500, 1979, Reagan for President; $1,000, 1979, Young Republicans; $1,000, 1979, Congressional Club; $200, 1979, Citizens for Republic; $1,000, 1979, National Republican Congressional Comm.; $150, 1979, Conservative Victory Fund; $550, 1980, Republican National Comm.; $1,000, 1980, Fund for Conservative Majority; $300, 1980, Americans Against Union Control of Government; $1,500, 1980, National Conservative Political Action Comm.; $300, 1980, Young Americans For Freedom; $1,100, 1980, National Republican Senate Comm.; $200, 1980, Mich. Right To Work Comm.; $600, 1980, The Conservative Caucus; $200, 1980, Newaygo Co. Republican Comm.; $200, 1980, National Right To Work Comm.; $60, 1980, Fry for Guy; $40, 1980, People for Arthurhultz; $200, 1980, Senate-House Rep. Dinner; $105, 1980, GOP Victory Fund; $300, 1980, Citizens for Hal Sawyer; $500, 1980, Hal Sawyer Campaign; $150, 1980, Hal Sawyer's Spring Fling; $100, 1980, The Ad Hoc Committee; $850, 1980, Michigan Republicans; $500, 1980, Americans for Reagan; $400, 1980, Reagan for President; $150, 1980, Bill's Birthday Beef Steak; $100, 1980, Young Repubicans; $400, 1980, The Unity Comm. (Republican President); $500, 1980, Congressional Club; $100, 1980, C.S.F.C.; $200, 1980, N.R.S.C./1980 Target Democratic Program; $50, 1980, Pink Sheet On Left; $300, 1980, I.A.R.-Foreign Affairs Council; $35, 1980, CALL; $25, 1980, Citizens for Republic; $325, 1981, Republican National Comm.; $575, 1981, Fund For A Conservative Majority; $100, 1981, Americans Against Union Control of Governments; $800, 1981, National Conservative Political Action Comm.; $175, 1981, Young Americans For Freedom; $150, 1981, National Republican Senate Comm.; $200, 1981, Mich. Right To Work Comm.; $25, 1981, The Conservative Caucus; $100, 1981, Newaygo Co. Republican Comm.; $200, 1981, National Right To Work Comm.; $60, 1981, Fry For Guy; $50, 1981, National Right To Work Foundation; $40, 1981, Senator Phil's Bar-B-Q; $25, 1981, Public Advocate; $50, 1981, Senate-House Rep. Dinner; $2,500, 1981, GOP Victory Fund; $500, 1981, Citizens For U.S. Rep. Hal Sawyer; $535, 1982, Republican National Comm.; $100, 1982, National Conservative Political Action Comm.; $200, 1982, Mich. Right To Work Comm.; $100, 1982, The Conservative Caucus; $100, 1982, Newaygo Co. Republican Comm.

5. Grandparents (Robert Phinny): Grandparents deceased. (Sally Phinny) Grandparents deceased.

6. Brothers and Spouses (Robert Phinny): Charles Phinny, $15, 1980, GOP Victory Fund. (Sally Phinny): Daniel Gerber, Jr. and wife, Virginia, $40, 1980, People for Arthurhultz; $250, 1980, John Otterbacher; $60, 1981, John Otterbacher.

7. Sisters and Spouses (Robert Phinny): Marian P. Grant, None. (Sally Phinny): Scottie Merrill and husband Ralph, $60, 1978, VanderJagt Campaign; $60, 1979, Fry for Guy; $60, 1980, 1980 Fry for Guy; $50, 1980, 1980 GOP Victory Fund; $60, 1981, Fry for Guy; $100, 1981, National Republican Congressional Comm. Gay Cummings and husband, Peter, $300, 1978, Citizens for Republic; $300, 1978, Fund for Conservative Majority; $250, 1978, Conservative Victory Fund; $100, 1978, Newaygo Co. Republican Comm. $50, 1979, Citizens for Republic; $250, 1979, Reagan for President; $250, 1980, Fund for Conservative Majority; $20, 1980, Dues in American Conservative Union; $250, 1980, Americans for Reagan; $100, 1980, Citizens for Buckley; $150, 1980, Leonard Somers; $60, 1980, Fry for Guy; $50, 1980, Blacks for Reagan; $250, 1980, Reagan for President; $100, 1980, Citizens for Reagan '80; $100, 1980, Christians for Reagan; $250, 1980, Americans for Reagan; $150, 1980, National Republican Senatorial Comm./1980

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Target Democratic Program. Paula Gerber Warm and husband, David Warm, Unable To Verify.

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the United States Commissioner on the U.S.-USSR Consultative Commission:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard H. Ellis.

Post: Rank of Ambassador (U.S. Commissioner-US/USSR Standing Consultative Commission).

Contributions, amount, date, donee.

1. Self, None.

2. Spouse, Margaret Parry Ellis, None.

3. Children and Spouses: Richard H. Ellis, Jr., None; Josiah O. Wolcott III, None; Mary Ellis Shea (Husband, Daniel), None.

4. Parents: Wilbur P. Ellis (deceased), None; Elsie C. Ellis (deceased), None.

Grandparents: Edward P. and Sarah Ellis (deceased), None. Charles and Deborah Hastings (deceased), None known to me.

6. Brothers and Spouses: Donald B. Ellis (deceased), None; Joseph C. (deceased) and Emogene P. Ellis, none known to me; W. Pierce and Dorthea and Maggie Ellis, None.

7. Sisters and Spouses: No Sisters.

(The above nominations were reported by the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, EXPENDED BETWEEN JULY 1 AND SEPT. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James P. O'Mara:									
El Salvador	Colones	167	66.80	20	8.00				74.80
United States	Dollar				661.00				661.00
Total			66.80		669.00				735.80

JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, May 4, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JUNE 5 AND NOV. 3, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dwight Dyer:									
France	Franc	2,332	424.00					2,332	424.00
Wayne Schroeder:									
France	Franc	2,332	424.00					2,332	424.00
Frederick W. Rhodes:									
France	Franc	1,728	288.00					1,728	288.00
Netherlands	Guilder	621	225.00					621	225.00
Denmark	Kroner	2,291	297.00					2,291	297.00
Norway	Kroner	3,068	520.00					3,068	520.00
Senator Jake Garn:									
Germany	Mark	198.90	90.00					198.90	90.00
England	Pound	218.70	405.00					218.70	405.00
Senator Robert Kasten:									
England	Pound	224.84	416.00			112.43	200.40	337.27	616.40
Total			3,089.00				200.40		3,289.40

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 10, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James D. Bond:									
Hong Kong	Dollar		95.00						95.00
Burma	Dollar		150.00						150.00
Thailand	Dollar		348.00						348.00
Malaysia	Dollar		188.00						188.00
Singapore	Dollar		212.00						212.00
Indonesia	Dollar		231.00						231.00
Philippines	Dollar		525.00						525.00
United States	Dollar				3,061.52				3,061.52
Senator Mark Hatfield:									
Mexico	Peso	16,473.00	624.00					16,473.00	624.00
Senator Robert Kasten:									
Germany	Deutsche mark	580.56	246.00					58.56	246.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			2,619.00		3,061.52				5,680.52

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 10, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Collins:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,130	705.00	135,540	2,165.00
United States	Dollar				1,763.00				1,763.00
James D. Bond:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,130	705.00	135,540	2,165.00
United States	Dollar				1,763.00				1,763.00
Senator Robert W. Kasten:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			83,272	1,330.00	44,139	705.00	127,411	2,035.00
United States	Dollar				1,763.00				1,763.00
Jane McGhee:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,139	705.00	135,540	2,165.00
United States	Dollar				1,763.00				1,763.00
Total					13,338.00		10,060.00		23,398.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 13, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gary Hart:									
United Kingdom	Pound	116.56	208.00					116.56	208.00
Merit Dawson:									
Panama	Dollar		150.00		863.00				1,013.00
El Salvador	Colon	366	146.40					366	146.40
Total			504.40		863.00				1,367.40

JOHN TOWER,
Chairman, Committee on Armed Services, July 20, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William M. Diefenderfer:									
Korea	Won	266,960	376.00					266,960	376.00
United States	Dollar				2,506.00		182.48		2,688.48

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CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William D. Phillips:									
Japan	Yen	196,200	872.00	67,850	301.55	9,850	43.78	273,900	1,217.33
Korea	Won	265,080	376.00					265,000	376.00
United States	Dollar				1,455.00				1,455.00
Peter A. Friedmann:									
Korea	Won	331,350	470.00						470.00
United States	Dollar				2,940.00				2,940.00
Total			2,094.00		7,202.55		226.26		9,522.81

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 23, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ward H. White:									
Brazil	Cruzeiro	56,543.08	461.23					56,543.08	461.23
United States	Dollar				2,890.00				2,890.00
Total			461.23		2,890.00				3,351.23

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 23, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN APR. 10 AND JUNE 17, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Paul A. Sisley:									
Japan	Yen	48,306	194.00					48,306	194.00
Michael D. Hathaway:									
France	French franc	1,435.10	238.00		3,282.00			1,435.10	3,520.00
Howard E. Useem:									
Canada	Dollar		212.50		259.42				471.92
Total			644.50		3,541.42				4,185.92

JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, EXPENDED BETWEEN MAY 7 AND MAY 22, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Philip T. Cummings:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Josephine Cooper:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Katherine Cudlipp:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Total			2,700.00		5,469.00				8,169.00

ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, June 8, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles Mathias:									
France	Franc	2,976	496.00					2,976	496.00
Austria	French franc	1,152	192.00					1,152	192.00
France	Franc			929	154.00			927	154.00
United States	Dollar				1,515.00				1,515.00
Senator Claiborne Pell:									
El Salvador	Colon					75	30.00	75	30.00
Nicaragua	Cordoba	900	90.00					900	90.00
Mexico	Peso	2,075	78.00					2,075	78.00
Senator Larry Pressler:									
Mexico	Peso		172.00		276.00				448.00
Italy	Lira	310,335	255.00					310,335	255.00
Poland	Zloty	23,451.70	291.00	2,037,000	2,527.00			2,060,451.70	2,818.00
United States	Dollar				1,763.00				1,763.00
Senator Edward Zorinsky:									
France	Franc	2,219.03	403.46					2,219.03	403.46
Patrick Balestrieri:									
Greece	Drachma	13,612.50	225.00					13,612.50	225.00
Turkey	Lira	32,377.50	225.00					32,377.50	225.00
Italy	Lira	433,500	340.00	24,800	19.45			458,300	359.45
United States	Dollar				1,666.00				1,666.00
Graeme Bannerman:									
Israel	Dollar		270.00						270.00
Jordan	Dollar		252.00						252.00
Egypt	Pound	187.130	225.00					187.130	225.00
Sudan	Pound	427.115	476.00					427.115	476.00
Kuwait	Dollar		157.00						157.00
Saudi Arabia	Riyal	1,363	402.00					1,363	402.00
Oman	RO	142.830	414.00					142.830	414.00
UAE	DHS	521.57	142.00					521.57	142.00
Bahrain	Dinar	57	152.00					57	152.00
London	Dollar		54.00						54.00
Lebanon	Dollar		75.00						75.00
United States	Dollar				2,594.00				2,594.00
Robert G. Bell:									
Belgian	Franc	3,753	93.00					3,753	93.00
Netherlands	Guilder	233.95	178.00					233.95	178.00
Federal Republic of Germany	Deutsche mark	425.42	178.00					425.42	178.00
United Kingdom	Pound	118.15	216.00					118.15	216.00
United States	Dollar				1,001.00				1,001.00
Charles M. Berk:									
United States	Dollar				1,149.15				1,149.15
Switzerland	Swiss franc	1,083	570.00	49.70	26.15			1,132.70	596.15
Austria	Schilling	4,275.05	258.00	597.60	36.00		71.64	4,872.65	365.64
Johannes Binnendijk:									
Germany	Deutsche mark	812	242.00					812	242.00
Belgium	Belgian franc	3,753	93.00					3,753	93.00
Britain	Pound	177	324.00					177	324.00
Netherlands	Guilder	233	89.00	86	34.00			319	123.00
United States	Dollar				717.00				717.00
Gerald Connolly:									
El Salvador	Colon					150	60.00	150	60.00
Nicaragua	Cordoba	678	67.80					678	67.80
Mexico	Peso	2,075	78.00					2,075	78.00
Peter Galbraith:									
Switzerland	Swiss franc	946	497.90					946	497.90
Austria	Schilling	4,275.05	258.00					4,275.05	258.00
United States	Dollar				1,114.00				1,114.00
Margaret Hayes:									
Jamaica	Dollar	100	100.00			66	66.00	166	166.00
Dominican Republic	Peso		504.00		137.52		120.00		761.52
Haiti	Gourdes		144.50				60.00		204.50
United States	Dollar				776.00				776.00
Claude Pomerleau:									
El Salvador	Colon					200	80.00	200	80.00
Nicaragua	Cordoba	880	88.00					880	88.00
Mexico	Peso	2,075	78.00					2,075	78.00
John B. Ritch:									
Netherlands	Guilder	646	249.00					646	249.00
France	Franc	2,160	360.00					2,160	360.00
United States	Dollar				1,156.00				1,156.00
Robert W. Russell:									
France	Franc	576	96.00	1,93	32.00			769	128.00
Belgium	Belgian franc	2,906	72.00	1,024	26.00			3,930	98.00
Germany	Mark	310	130.00					310	130.00
Italy	Lira	324,870	255.00					324,870	255.00
United States	Dollar				1,804.00				1,804.00
Barry Sklar:									
Jamaica	Dollar		450.00						450.00
Dominican Republic	Peso	510	510.00		137.52				647.52
Haiti	Gourdes	750	150.00					750	150.00
United States	Dollar				776.00				776.00
Diana Smith:									
United States	Dollar				1,185.00				1,185.00
Britain	Pound	58.40	110.96	28	53.20			86.40	164.16
Federal Republic of Germany	Mark	438	183.03						183.03
Belgium	Belgian franc	7,507	186.00	946	23.44			8,453	209.44
France	Franc	2,913.60	480.00					2,913.60	480.00
Total			12,675.65		20,698.43		487.64		33,861.72

CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, June 15, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alice Wilder:									
United States	Dollars				538.00				538.00
Portugal	Escudos	5,680	320.00	13,277	748.00				1,068.00
United Kingdom	Sterling pound	176.70	312.00	27.75	49.00				361.00
Total			632.00		1,335.00				1,967.00

STROM THURMOND,
Chairman, Committee on the Judiciary, July 6, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
[illegible] M. Patch:									
Senegal	Franc	26,575	91.00					26,575	91.00
Liberia			92.00				10.00		102.00
Ivory Coast			98.00						98.00
Nigeria			231.00						231.00
Zaire	Zaires	2,334.50	426.00					2,334.50	426.00
South Africa	Rand	315.79	300.00	414	385.02			729.79	685.02
Zimbabwe	Dollar	57.73	78.00					57.73	78.00
Kenya	Shilling	799	75.00					799	75.00
Ethiopia			93.75						93.75
Sudan			119.00						119.00
Switzerland	Franc	172.75	85.00					172.75	85.00
United States	Dollar				2,761.00				2,761.00
Total			1,688.75		3,146.02		10.00		4,844.77

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, July 6, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, EXPENDED BETWEEN MAR. 21 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Bruce Bartlett:									
United States	Dollar		1,668.00		1,814.65		150.00		3,632.65
Mexico	Peso			6,921.82	168.83			6,921.82	168.83
Brazil	Cruzeiro			5,748	104.99			15,748	104.99
Richard F. Kaufman:									
United States	Dollar		1,151.00		1,905.00		100.00		3,156.00
Kent H. Hughes:									
United States	Dollar		1,373.00		1,938.00		100.00		3,411.00
Total			4,192.00		5,931.47		350.00		10,473.47

HENRY S. REUSS,
Chairman, Joint Economic Committee, June 29, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL HATFIELD, EXPENDED BETWEEN AUG. 13 AND AUG. 27, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paula Hawkins:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	133.50	75.00					133.50	75.00
Senator Mark O. Hatfield									
New Zealand	Dollar	171.52	142.68					171.52	142.68
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
William F. Hildenbrand									
New Zealand	Dollar	129.52	107.74					129.52	107.74
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL HATFIELD, EXPENDED BETWEEN AUG. 13 AND AUG. 27, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard S. Liebengood:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
J. Walter Stewart:									
New Zealand	Dollar	149	124.04					149	124.02
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
Gerald W. Frank:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
Jeanne Novins:									
New Zealand	Dollar	170.72	142.04					170.72	142.04
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
Melinda Baskin:									
New Zealand	Dollar	168	139.76					168	139.76
Australia	Dollar	317.60	373.65					317.60	373.65
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
Delegation expenses (including in-flight expenditures, reciprocal entertainment, stationery supplies, telephone calls, etc.).							9,284.77		
Total			7,293.91				9,284.77		16,578.68

MARK O. HATFIELD, Chairman.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN JAN. 2 AND JAN. 14, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
William F. Hildenbrand:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Howard S. Liebengood:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Senator Howard H. Baker, Jr.:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Senator Paul Laxalt:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Senator Ernest F. Hollings:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Howard S. Liebengood:									
Mexico	Peso	4,095	156.00					4,095	156.00
G. Cranwell Montgomery:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Chile	Peso	10,452	268.00					10,452	268.00
Peru	Sol	77,400	150.00					77,400	150.00
Mexico	Peso	4,095	156.00					4,095	156.00
Tom Griscom:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,425	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Sam Ballenger:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Ashley Thrift:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00

BEST COPY AVAILABLE

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN JAN. 2 AND JAN. 14, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Mary Dreape:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Patricia McNally:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Delegation expenses:[1]									
Panama									5,004.29
Argentina									3,184.91
Chile									3,637.98
Peru									2,505.54
Mexico									4,236.40
Total			13,409.00				18,569.22		31,978.22

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(B) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 27, 1977.

HOWARD H. BAKER, JR.,
Majority Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APR. 1 and JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick Leahy:									
Europe									897.00
Michael Chelan:									
Europe									1,113.00
Edward Bryen:[1]									
Europe									793.00
Senator Walter Huddleston:									
Mideast									3,216.00
John Elliff:									
Mideast									1,636.34
Barbara Paris									2,070.00
Total									9,725.34

[1] Mr. Bryen is detailed from the State Department to the Senate.

BARRY GOLDWATER,
Chairman, Select Committee on Intelligence, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SPECIAL COMMITTEE ON AGING, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Frank McArdle:									
Austria	Shilling	13,239	779.45	1,335	78.59	3,386	199.35	17,960	1,057.39
Austria	Dollar				1,529.00				1,529.00
Total			779.45		1,607.59		199.35		2,586.39

JOHN HEINZ,
Chairman, Special Committee on Aging, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sammy D. Ballenger:									
Saudi Arabia	Riyal	1,790.10	526.50					1,790.10	526.50
Lebanon	Lebanese pound	1,206.55	243.75					1,206.55	243.75

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jordan	Dinar	88.20	252.00					88.20	252.00
Israel	Shekel		288.00						288.00
United States	Dollar				4,124.00				4,124.00
Cranwell Montgomery:									
Saudi Arabia	Riyal	1,790.10	526.50					1,790.10	526.50
Lebanon	Lebanese pound	1,206.55	243.75					1,206.55	243.75
Jordan	Dinar	88.20	252.00					88.20	252.00
Israel	Shekel		288.00						288.00
United States	Dollar				4,124.00				4,124.00
George F. Murphy, Jr.:									
Switzerland	Franc	499.80	255.00					499.80	255.00
Belgium	Franc	17,261	395.00					17,261	395.00
United States	Dollar				1,650.00				1,650.00
Senator Steve Symms:									
El Salvador	Colon		375.00						375.00
Panama	Balboa		150.00						150.00
Philip Reberger:									
El Salvador	Colon		375.00						375.00
Panama	Balboa		150.00						150.00
Total			4,320.50		9,898.00				14,218.50

HOWARD H. BAKER, JR.,
Majority Leader, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeff M. Bingham:									
England	Pound	159.30	295.00	21.60	40.00	12.42	23.00	193.32	358.00
Turkey	Lira	31,467	255.00			4,936	40.00	36,403	295.00
Greece	Drachma	6,812.50	125.00	1,090	20.00	272.50	5.00	8,175	150.00
Germany	Mark	298.35	135.00	33.15	15.00	11.05	5.00	342.55	155.00
Total			810.00		75.00		73.00		958.00

HOWARD H. BAKER, JR., Majority Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN MAY 28 AND JUNE 10, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Howard H. Baker, Jr.:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
William F. Hildenbrand:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
J. Stanley Kimmitt:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Thomas Griscom:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
G. Cranwell Montgomery:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Jan Novins:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Alan Porter:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Ruth Edmondson:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Mary Dreape:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Delegation expenses:[1]									
Peoples Republic of China							2,688.74		2,688.74
Hong Kong							4,367.67		4,367.67
Total			7,983.00				7,056.41		15,839.41

[1] Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

HOWARD H. BAKER, JR.,
Majority Leader, Aug. 11, 1982.

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INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 2824. A bill to provide for the reinstatement of an oil and gas lease in Eddy County, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 2825. A bill to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2826. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2827. A bill to provide compensation to Sport Hunting Guides in Alaska affected by the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. LEAHY, Mr. INOUYE and Mr. KENNEDY):

S. 2828. A bill to authorize a demonstration program to provide for housing for older Americans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DIXON:

S.J. Res. 229. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item appropriations; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2824. A bill to provide for the reinstatement of an oil and gas lease in Eddy County, N. Mex.; to the Committee on Energy and Natural Resources.

REINSTATEMENT OF AN OIL AND GAS LEASE

● Mr. DOMENICI. Mr. President, today I introduce a bill which instructs the Department of the Interior to act upon a petition from Getty Oil Co. that deals with an oil and gas lease in New Mexico. This lease was issued effective April 1, 1971, and covered some 2,280 acres in Eddy County, N. Mex. By a subsequent assignment in 1973, Getty Oil acquired the title to 1,000 acres of that land.

The lease remained in full force and effect for its primary term of 10 years by the timely and proper payment of rentals. Under a communitization agreement in February of 1981, Getty dedicated a portion of the lease and commenced drilling on March 30, 1981, and the lease was extended for an additional 2 years. The communization agreement was approved by the U.S. Geological Survey on May 15, 1981.

Through error and inadvertence, delay rentals in the amount of $500 were not timely paid for the 11th year. Because of then existing shortage of drilling rigs, drilling did not take place as it normally would and the well was not completed until May 28, 1982, at a cost in excess of $2.9 million. It is now shut-in pending a pipeline connection.

Once again, due to error and inadvertence, delay rentals were paid late for the 12th year of the lease commencing on April 1, 1982.

In May 1982, the Bureau of Land Management terminated the existing lease under the provisions of Public Law 555 83d Congress (30 U.S.C. 188).

Although Getty Oil obviously made mistakes in relation to this lease, they have acted in good faith and have invested a large amount of money in this operation. Therefore, I believe that the Secretary of the Interior should receive, consider and act on a petition from Getty for reinstatement of the lease.●

By Mr. THURMOND:

S. 2825. A bill to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument; to the Committee on Energy and Natural Resources.

CONGAREE SWAMP NATIONAL MONUMENT

Mr. THURMOND. Mr. President, today I am introducing legislation to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument.

In October of 1976, then President Ford signed Public Law 94–545, authorizing the establishment of the Congaree Swamp National Monument. This legislation provided land acquisition and authorized development ceilings of $35.5 million and $500,000, respectively. It also directed the Secretary of the Interior to develop and transmit to Congress a general management plan for the use and development of the monument by October of 1979.

Mr. President, little progress toward the beneficial use and enjoyment of this monument has been made since the enactment of this legislation. Three tracts, consisting of approximately 360 acres, were acquired by declaration of taking in October of 1977. The vast bulk of the property within the monument was not acquired until February of 1980, however, when a declaration of taking was filed against some 14,665 acres commonly known as the Beidler tract.

On March 10 of this year, a court-appointed commission recommended a fair market value of $47,009,000 for this tract alone. While this issue has since been recommitted to the commission for the correction of certain alleged computational errors, it is clear that the previously authorized land acquisition ceiling would be insufficient to pay a comparable award if ordered by the court. The principal purpose of this bill, therefore, is to increase the land acquisition ceiling so as to provide for any such award, including interest which may accrue from the date of taking to the date of final judgment.

This measure would also increase the authorized development ceiling in light of current estimates by the National Park Service. Although the general management plan for the monument, which is now almost 3 years overdue, has yet to receive final approval by the Park Service, the Denver Service Center has estimated that it will cost $1.5 million to provide the necessary access and facilities. Accordingly, this bill would provide a corresponding increase in the authorized development ceiling.

Mr. President, the Congress Swamp National Monument encompasses one of the few virgin hardwood forests remaining in the Southeast. It would be a disgrace for us not to take every action within our power to expedite the beneficial use and enjoyment of this national treasure. The enactment of this measure would remove significant roadblocks now standing in the way.

Mr. President, I call upon my colleagues to carefully consider the merits and necessity of this measure. I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Act entitled "An Act to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes", approved October 18, 1976 (Public Law 94–545) is amended by—

(1) striking out "$35,500,000" and inserting in lieu thereof "60,500,000"; and

(2) striking out "500,000" and inserting in lieu thereof "1,500,000".

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2826. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Energy and Natural Resources.

S. 2827. A bill to provide compensation to Sport Hunting Guides in Alaska affected by the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

CHANGES IN ALASKA NATIONAL INTEREST LAND CONSERVATION ACT

Mr. STEVENS. Mr. President, today I am introducing with my colleague Senator MURKOWSKI two bills designed to remove inequities which occurred as a result of passage of the

Alaska National Interest Lands Conservation Act of 1980.

The Alaska Lands Act designated 24.6 million acres of new national parks and monuments to be added to the already 7.5 million acres of parks that existed prior to 1980. These lands, roughly one-third the size the State of California, are closed to sport hunting, but open to subsistence hunting. There are less than 30 million acres of parks closed to sport hunting in the entire lower 48. All the lands covered by our bill were open to hunting until President Carter's 1978 Antiquities Act withdrawals which closed 41 million acres of land. Although the intent of the Carter withdrawals and subsequent congressional designation of these parks was to preserve Alaska lands use by all Americans, Congress actually abolished a long history of hunting which had no adverse impacts on the lands, and apparently did not impair the suitability of these lands for inclusion in the park system. In fact, hunting goes on in these areas today. Subsistence hunting is still allowed under the bill in all these areas. What Congress did in the lands bill was not to protect areas from hunting, but to limit the type of hunting allowed.

The limitation on hunting in these vast areas appears to have been motivated by two factors: Antihunting sentiment, and a belief that park visitation and sport hunting are two uses which conflict. Although it is difficult to counter the former, the latter belief is clearly erroneous. This is an example of an issue which Alaskans have faced since territorial days albeit somewhat wearily. Some Federal Government representatives still believe that they can balance wildlife and recreational needs better than a State whose tradition and history in wildlife management, is unsurpassed. Alaska is more in tune and knows the needs, and uses of its wildlife and land infinitely better than a Government whose seat of power lies 5,000 miles away from the areas it wishes to control. The debate on the Alaska lands bill covered minerals, access, land selections and a host of issues that left hunting on the short end. In fact, in the only vote to expand hunting in the Senate debate, our amendment easily passed only to be subsumed by a complete substitute bill, that is the act we live under now.

It is important to note that our measure will not modify use in the parks except for sport hunting purposes. No roads will be built, nor is there expansion of any oil or mineral resource development under this legislation. The land will remain under Park Service control. I repeat, it will be in park/preserve status which adds only sport hunting as an allowed use.

As I stated, this use and other recreational uses on the now limited areas existed for years with little or no conflict. Nonhunting visitation occurs in June, July and August. In direct contrast, most hunting begins in September with the exception of the pursuit of Dall sheep which begins in August. However, very few backpackers, and other nonhunting visitors ever venture up into sheep country. Consequently, prospects for conflict between these two users are minimal. In fact, the potential for any such conflict exists today since subsistence hunting is allowed. Yet, we have heard no hue and cry from recreational users objecting to this form of hunting.

In addition, nonhunting visitation to the vast majority of lands is insignificant when one compares acreage in these parks to the number of visitors. For example, last year in the 13 million acre Wrangell-St. Elias Park/Preserve visitation was approximately 3,000 people, and most of these users congregate within two developed areas. We are not suggesting opening areas such as old McKinley Park where hunting has not been permitted for years and where visitor usage is high. Our amendment affects only a portion of the park areas created in the Alaska Lands Act.

It is patently inequitable that a handful of visitors in these parks are effectively granted the exclusive right to use vast multimillion acre areas purportedly set aside for the benefit of all Americans. Alaskans bring meat to their dinner tables from hunting and many many visitors travel to Alaska to enjoy the experience and challenge of a big gamehunt. They should be permitted equal status to other users of these huge acreages.

In my second piece of legislation introduced today, I am seeking compensation for hunting guides in Alaska who were displaced by the passage of the Alaska Lands bill.

Nearly 100 guides were severely affected by Federal designation of lands on which they are operated their businesses. Many years of hard work, and large sums of money were invested to construct cabins and other facilities which were lost when lands were set aside, excluding sport hunting.

These guides must be compensated in order to maintain a viable guiding industry in Alaska. Guides are required by Alaska law for out-of-State hunters for many game species, and very often provide the sole method for reaching a secluded area where hunting is allowed. It is important that the Federal Government recognize its responsibility to address this issue and provide reparation to those individuals deprived of their livelihood by act of Congress.

Finally, much discussion has occurred that this bill will reopen the entire Alaska lands issue. I disagree, because we are only seeking to rectify a specific inequity that discriminates against sport hunting. As I stated, we adjust ownership patterns not at all, nor do we expand upon uses in the park/preserves beyond sport hunting. I am merely seeking an opportunity for a pure vote on the merits of this issue, not reopening the entire bill.

I believe a pure debate on both these issues will lead to positive results. Traditional use of Alaska's lands and commonsense demonstrate that all Americans can use these areas without conflict.

I ask that these bills be printed in the RECORD in their entirety.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Public Law 96-487) is amended by striking out "one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,0007, and dated July 1980" and inserting in lieu thereof "Approximately one million three hundred forty-five thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

SEC. 2. Section 201(4)(a) of such Act is amended by striking out "Seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousands acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980" and inserting in lieu thereof "one million nine hundred fifty-three thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately four million eight hundred twenty-four thousand acres of Federal lands, as generally depicted on map numbered AK-100, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

SEC. 3. Section 201(8)(a) of such Act is amended by striking out "six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980" and inserting in lieu thereof "Seven million six hundred thirty-five thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

SEC. 4. Section 201(7)(a) of such Act is amended by striking out "two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978" and inserting in lieu thereof "one million four hundred fourteen thousand acres of public lands, and Lake Clark National Preserve, containing approximately two million two hundred thirty-nine thousand three hundred fifty acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 5. Section 201(9) of such Act is amended by striking out "eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980" and inserting in lieu thereof "five million eight hundred twenty-five thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately six million four hundred ninety-three thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 6. Section 202(3)(a) of such Act is amended by striking out "two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90, 007, and dated July 1980" and inserting in lieu thereof "nine hundred thousand acres of public land, and approximately two million eight hundred fifty-six thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 7. Section 202(5) of such Act is amended by striking "Kenai Fjords National Park containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978" and inserting in lieu thereof "Kenai Fjords National Preserve containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 8. Section 202(1) of such Act is amended by striking out "five hundred and twenty-three thousand acres of Federal land. Approximately fifty seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978" and inserting in lieu thereof "three hundred nine thousand acres of public land. Approximately two hundred seventy-one thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered AK-1000 and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 9. Section 201(1) of such Act is amended by striking out "one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred seventy-six thousand acres of public lands, as depicted and on map numbered ANIA-90,005, and dated October 1978." inserting in lieu thereof "fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately four hundred sixty-four thousand acres of public lands as generally depicted on map number AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

S. 2827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) a person who was a registered or master guide licensed by the State of Alaska on December 2, 1980, and who held a lawfully issued permit from the State of Alaska for an exclusive or joint-use guide area located wholly or partially within an area established as a unit of the National Park System in Alaska under the Alaska National Interest Lands Conservation Act (Public Law 96-487), may apply to the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") for monetary compensation for his loss of income from guiding in the area as a result of restrictions on hunting in the area imposed under Public Law 96-487, in accordance with the terms of this section.

(b) In order to be eligible for compensation for lost income a guide must, at the time of application—

(1) have complied with any minimum use requirements for the area as of December 2, 1980, as provided by Alaska law;

(2) present evidence of his income derived from guiding within the area during the five years before December 2, 1980 or, if the area was closed to sport hunting by Presidential Proclamation on December 1, 1978, the five years before December 1, 1978;

(3) not have had the guide area revoked by the State of Alaska for illegal hunting or guiding activities; and

(4) file an application for compensation with the Secretary no later than December 31, 1984.

(c) The Secretary shall, within one year from receipt of an application for compensation for lost income, remit to the applicant full compensation or a portion of full compensation. The applicants compensation shall be determined by calculating the applicant's average annual income from guiding in the area for the number of years the area was used during the five years before December 2, 1980, or before the area was closed to sport hunting by Presidential Proclamation on December 1, 1978. The amount of average annual income from guiding shall be remitted to the applicant either annually for a five-year period beginning no later than one year after the Secretary receives an application, or at the applicant's choice, in one lump sum payment of an amount equal to five times the average annual income, within one year from the date of application. Notwithstanding any other provision of law, the compensation remitted by the Secretary shall be exempt from Federal taxation by the Internal Revenue Service.

(d) If the Secretary determines, after notice and an opportunity for the applicant to supplement the application, that the applicant is not eligible for compensation under this section, he shall so notify the applicant, in writing, within six months after receipt of the application, stating his reasons for rejection of the application. An aggrieved applicant may thereafter, in accordance with sections 554 and 556 of title 5 of the United States Code request an adjudicatory hearing before an administrative law judge. A final determination of the Secretary shall be appealable to the Federal district court.

Sec. 2. (a) In addition to compensation for lost income, a person who was, on December 2, 1980, a registered or master guide licensed by the State of Alaska, and who held a permit from the State of Alaska for an exclusive or joint-use guide area located wholly or partially within an area established as a unit of the National Park System in Alaska under Public Law 96-487, and who owned, as of December 2, 1980, improvements within that area that were used primarily for guiding, may apply to the Secretary for monetary compensation for improvements.

(b) In order to be eligible for compensation for improvements a guide must, at the time of application—

(1) have complied with any minimum use requirement for the area as of December 2, 1980, provided by Alaska statute or regulation;

(2) present evidence of his ownership of, and the existence of, improvements as of December 2, 1980, and evidence of the value of the improvements to his guiding business and income;

(3) not have had the guide area revoked by the State of Alaska for illegal hunting or guiding activities; and

(4) file an application for compensation with the Secretary no later than December 31, 1984.

(c) The Secretary shall, within one year from receipt of an application for compensation for improvements, pay the applicant full compensation for the loss of market value of the improvements as a result of the Federal restrictions on sport hunting in the area. This amount shall be equal to the fair market value of the improvements immediately before the area was closed to sport hunting by Presidential Proclamation on December 1, 1978, or by Public Law 96-487, minus the fair market value of the improvements after the area was closed to sport hunting by Public Law 96-487 on December 7, 1980. The compensation paid by the Secretary shall be exempt from Federal taxation by the Internal Revenue Service.

(d) The fair market value of the improvements shall be determined by agreement between the applicant and the Secretary. If the parties cannot agree on a figure, the fair market value shall be determined by a Federal administrative law judge, in accordance with sections 554 and 556 of title 5 of the United States Code. A final determination by the Secretary shall be appealable to the Federal district court.

(e) With respect to the applicant's eligibility for compensation for improvements and any appeal by the applicant, the provisions of subsection (d) of the first section shall apply.

(f) As used in this section, the term "improvement" means any home, cabin, lodge, tent-frame, air strip, boat landing or other structure or improvement reasonably incident to guiding activities.

Sec. 3. The Sport Hunting Guide Compensation Fund is established to provide compensation as provided in this Act. There are hereby authorized to be appropriated $20,000,000 beginning after the fiscal year 1982, to be deposited in the fund to be disbursed by the Secretary.

Sec. 4. The provisions of this section apply notwithstanding the provisions of section 1303 of Public Law 96-487 (16 U.S.C. 3193).

Mr. MURKOWSKI. Mr. President, I am joining my colleague from Alaska, Senator Ted Stevens, in introducing legislation to amend the Alaska National Interest Lands Conservation Act of 1980. The "Alaskan Lands Act" passed in the 96th Congress and we have had almost 2 years of experience with the statute. I was not a member of the U.S. Senate when this body considered the act but as an Alaskan, I remember vividly the heated debate over this issue. Many of the members will recall the unusual legislative process by which this bill became law.

One of the issues that was largely overlooked and was not considered in a realistic perspective, was the issue of sports hunting. Sports hunting is recognized as a valuable tool of wildlife management employed and recognized by both the State and Federal Government. In fact, the Endangered Species Act, which recently passed the U.S. Senate by dropping certain language in the act, recognized that sports hunting should not be cast in a dark light.

The Alaskan Lands Act substantially reduced hunting opportunities in the State of Alaska. I do not believe Members of this body intended such action. When the D-2 legislation was considered the sports hunting issue became a victim of trying to solve a much bigger question. The Alaska Lands Act created approximately 26 million acres of National Parks and 19 million acres of park preserves in Alaska. Those are in addition to the 7.6 million acres of parks that already were present in the State prior to the act. To put this in perspective it is interesting to note that only 1.8 million acres of land are privately owned. In contrast, 76 million acres of Alaska are designated National Wildlife Refuges, of which 18.5 million acres is classified as wilderness. Twenty million acres in south central and southeast Alaska are National Forest lands. Twenty-six rivers crisscrossing Alaska are designated as wild and scenic rivers. Eventually, when land conveyances are completed and this process will take over 10 years, the Natives of Alaska will have 44 million acres as part of the Native Claims Settlement Act. In addition, the Statehood Act which passed in 1959 directed the approximately 104 million acres become State lands. One hundred and thirty-one million acres were placed in a protective land status as a result of the Alaskan National Interest Lands Conservation Act of 1980. The figure does not include the lands controlled by the Bureau of Land Management and protected by the Federal Land Management Policy Act.

The only difference between a park and park preserve is that sports hunting is permitted in a park preserve. Let me put this situation in context. No new mining areas or new roads would be authorized as a result of our proposed legislation. The management of the lands would remain the responsibility of the National Park Service. The priorities for the areas would remain the same, this is to protect the areas for our generations yet to come.

It is not the situation that no hunting is allowed in the new parks. The Lands Act permitted subsistence hunting in the newly created parks and hunting is occurring. Wildlife management is a complex and detailed responsibility that is best handled on the local level through the State's Department of Fish and Game. Our legislation will help resolve some of the areas of confusion between the Federal Government and State government for wildlife management. Our bill would return only the management of wildlife to the State of Alaska in the expansion of park preserves.

Park superintendents now report that they are unable with the limits on budget and personnel to effectively manage the vast areas created by the Lands Act. Poaching does occur on those lands. Part of this is happening because people are unaware they are in the new areas and in part because many of the areas precluded from sports hunting by the act were some of the best hunting in the State or the Nation. I am not condoning these actions but raising it as an illustration that by restoring the State management of wildlife, Federal resources could be better allocated to the chores that must be done to implement the Lands Act.

The amendments I am seeking with my colleagues from Alaska are specifically sports hunting amendments. We are not seeking additional changes in the Alaskan National Interest Lands Conservation Act. This is an issue which the Senate should consider on its merits, not one burdened with other major issues and land use trade offs.

The amendments we are introducing today do not seek to open any of the park areas that were designated prior to the Lands Act. The areas we are addressing are areas which some members will recognize the names. The areas that we seek to modify from the current park status to become a park preserve are: Lake Clark National Park and Park Preserve, Denali National Park and Preserve, Wrangell-St. Elias Park and Preserve, Gates of the Arctic National Park and Preserve, Glacier Bay National Park (Expansion), Aniakchak National Park and Preserve, and the Kenai Fiords National Park.

Again, I state that the amendments we are seeking are limited and specifically targeted to opening areas to sports hunting. We are not changing land management or land management agencies. The National Park Service will still be in charge of the areas. Finally, let me say that this bill will provide Members to express their commitment to sports hunting and the rights of sportsmen in this country.

By Mr. DODD (for himself, Mr. Leahy, Mr. Inouye, and Mr. Kennedy):

S. 2828. A bill to authorize a demonstration program to provide for housing for older Americans; to the Committee on Banking, Housing, and Urban Affairs.

OLDER AMERICANS HOUSING DEMONSTRATION ACT OF 1982

● Mr. DODD. Mr. President, today I am introducing a bill authorizing a demonstration program to explore new ways to meet the special housing needs of our senior citizens, I am pleased to have Senator Leahy, Senator Inouye and Senator Kennedy join me in sponsoring the "Older Americans Housing Demonstration Act of 1982."

Mr. President, everyone knows that our senior citizens have special housing needs exacerbated by their often limited, fixed incomes. In today's tight housing market, these needs are rarely met,

While chairing a Senate Aging Committee hearing in Connecticut a few months ago, I learned that 69 percent of all retired residents in my State are homeowners, The nationwide figure is even higher, or some 75 percent.

Far too many of these retired homeowners find themselves to be "house-rich" but "cash-poor," Their limited monthly incomes often make it impossible for them to repair or pay for the upkeep of the house they own outright. Others cannot afford to pay the rapidly skyrocketing costs of heating and lighting their homes. From 1973 to 1980, the average cost of home-heating oil jumped from 25 cents to $1.05 per gallon and the average cost of residential electricity jumped from 2.61 cents to 5.2 cents per kilowatt hour. Thus, many senior homeowners must now choose between spending more and more of their limited income on utilities and less on other essentials like food.

Despite that fact that millions of retired homeowners are faced with the prospect of choosing between paying utility or food bills, the vast majority do not wish to leave their home. During the hearing I chaired in my State, I discovered that of all 522,000 Connecticut senior residents, homeowners and renters included, only 15 percent or some 78,000 expressed any inkling of a desire to move. The percentage of older homeowners in the State who wish to leave their homes is even lower than that.

We must find ways to help those homeowners who need to convert

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some of their house riches into cash to pay the bills. Home equity conversion programs offer us one possible option, provided full consumer safeguards are put into place.

Home equity conversion programs include reverse annuity mortgages, deferred-payment loans, and split-equity arrangements. Split-equity or sale-leaseback arrangements would assist seniors to sell their homes to investors who in turn would lease the property to the owner rent free. Under reverse annuity mortgages, lenders could pay cash to older homeowners periodically in exchange for a portion of the value of the home in question. Another program, deferred-payment loans, would allow homeowners to borrow money to pay repair and maintenance bills. The seniors would not have to pay back the principal nor the interest from such loans, however, until they vacated their homes.

These programs need careful study to insure that they meet the needs of senior homeowners. At the same time, we have to concentrate on finding new ways to help senior homeowners and renters who wish to move. New programs include home-sharing arrangements where older Americans rent out rooms to others and accessory apartments where separate living quarters are built into family homes. Other options range from elder cottages—separate units built behind family homes—to such special projects as congregate housing.

The bill I am introducing today, Mr. President, calls for a HUD demonstration project to explore all these ways to meet the unique housing problems of senior citizens. Existing HUD research and subsidy moneys would be used to fund this demonstration project.

Last month, the health coordinating council in my State reported that Connecticut could be spending nearly $1 billion a year on nursing home care by 1990 unless alternative housing for seniors is available. It would be tragic indeed if we failed to do all we could to prevent retired homeowners and renters from being institutionalized simply because they cannot afford to modify their homes to accommodate a wheelchair, guardrail, or other self-help needs. In the same manner, none of us want to see older Americans forced to choose between heating and lighting their homes and buying food.

The demand for alternative housing options for our senior citizens is clear. I urge my colleagues to join with me in sponsoring this bill to find such alternatives.●

● Mr. KENNEDY. Mr. President, I am pleased to join in sponsoring the Older Americans Housing Demonstration Act of 1982.

This bill authorized the Department of Housing and Urban Development to develop alternatives for elderly housing and to demonstrate the practicability of these alternatives. HUD would use funds already appropriated for research activities to support these programs.

The housing problems facing all Americans have been well-publicized and certainly recognized by this Congress. For the elderly, the problems are exacerbated by their special needs. Many depend heavily on a fixed income and so cannot easily adjust to the skyrocketing costs of the repair and upkeep of their homes. They are faced with the choice of spending their limited funds to prevent their homes from deteriorating or to buy food, clothing, and heat.

Other older Americans find the cost of living at home too expensive—forcing them into nursing homes and other institutions. Ultimately the cost to the public of such a forced existence is excessive. The cost to the individual is even more devastating. There is little that is more discouraging for many elderly Americans than such a forced institutionalization. Too few effective and practical alternatives exist to private housing or nursing homes. But many elderly desire an alternative and many possibilities have been suggested. This bill would allow these possibilities to be explored and developed.

America owes too much to its older generations to force such terrible dilemmas upon them. These people built this country and raised its citizens. They made this Nation strong and respected. They deserve a comfortable and dignified retirement. This bill will help make that possible. I commend my colleague from Connecticut, Senator DODD for developing this legislation.●

By Mr. DIXON:

Senate Joint Resolution 229. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

ITEM-VETO RESOLUTION

Mr. DIXON. Mr. President, last week the Senate passed Senate Joint Resolution 58, the balanced-budget constitutional amendment. We did so because the necessary two-thirds majority agreed that Federal spending needs to be restrained and that our budgetary problems are so severe that only a constitutional change will bring Federal budgets back under control. I know the Senate did not take this step lightly. I agree that a constitutional amendment is a remedy of last resort, to be used only when no other alternative will do the job.

I believe that Federal budget problems are so severe that a constitutional solution is warranted. I therefore supported Senate Joint Resolution 58 in the Senate. While I fully support the objectives of that amendment, however, I am concerned that it may not prove to be effective if it is enacted in its current form. I believe it lacks the flexibility to deal with economic emergencies in a timely and effective manner, and that it fails to bring the President fully into the budgetmaking process.

The constitutional amendment I am proposing today is an attempt to provide more institutional restraint in our budgetmaking procedures. I believe it provides a mechanism that will serve to institutionalize fiscal restraint in a more effective manner than proposed by Senate Joint Resolution 58. It is a flexible approach and one that puts the President into the budget process in a more meaningful way.

Simply stated, I am proposing giving the President an item veto—the power to veto or reduce individual items of appropriation. This is not a new idea. It has been around since the Civil War era. Forty-three States have included item-veto provisions in their State constitutions since then. It is time to take advantage of this State experience at the Federal level.

The resolution I am introducing is modeled after the item-veto provision in the Illinois constitution. It would permit a President to veto or reduce any item of appropriations, with the exception of items affecting the legislative or judicial branches, as an alternative to vetoing an entire appropriations bill. The procedure for override on a bill would not be changed. Vetoes or reductions of individual items of appropriation, however, would be able to be overriden by a constitutional majority—a majority of the Members duly chosen and sworn—rather than the two-thirds vote required to override the veto of a bill.

It is the override provisions, Mr. President, that distinguishes the Illinois item-veto provision, and it is the constitutional majority override provision in this resolution that helps to insure that Congress power over the budget is preserved.

When I offered this resolution as an amendment to Senate Joint Resolution 58, a number of my colleagues argued that I was proposing to diminish the power of the Congress and, effectively, to give the President an unlimited impoundment power. To the contrary, this resolution does not diminish the power of Congress in the least. What it does do is to restore the President's veto power, a power that is as old as the Constitution itself.

When our Constitution was drafted, the President was given the power to veto a bill. In that era, however, the omnibus bills that are so prevalent now were virtually unknown. A bill ordinarily covered only a single subject. The President, therefore, effectively had an item veto. According to information provided me by the Congressional Research Service, it was only around the time of the Civil War that the practice of passing appropriations bills covering a variety of issues arose, and it was that change in legislative practice that provided impetus for the item veto.

Legislative logrolling, and the packaging of items a President opposes with "must" items, undermines the veto power of the President. The item veto is nothing more than an attempt to restore the balance between the branches that the framers intended. It does not make the President stronger at the expense of the Congress.

In fact, Mr. President, the argument can be made that it gives the Congress more power than the drafters of our Constitution intended. The ability of Congress to override an item veto by a constitutional majority effectively gives Congress more power vis-a-vis the President than the existing two-thirds requirement to override a bill does. If you define a bill as our Founding Fathers understood it—covering only one subject—the item-veto resolution I am introducing effectively diminishes the President's veto power.

What the item veto does is to allow the President to focus the attention of Congress and the country on those particular items of appropriations he believes are wasteful, inappropriate, or unwise. Congress would then have to decide, as it does now, whether to insist on the particular spending proposal, the objections of the President to the contrary notwithstanding. However, it would not take a two-thirds vote to do so. A simple constitutional majority would be sufficient.

Most importantly, the debate would be focused on the spending items truly in dispute. "Must" items not in controversy would no longer have to be held hostage to disputes over unrelated matters. In the future, for example, a President would be free to sign social security measures—unless he opposed them—without having to agree to a number of provisions he opposed at the same time. Legislative travesties, like the last urgent supplemental appropriations bill, could be avoided. Social security checks would not be endangered by disputes over a housing stimulus package, or other equally unrelated matters. The President would not have to veto the entire bill twice, throwing thousands of Government employees temporarily out of work and seriously disrupting many essential Government activities, to focus attention on those few items truly in dispute.

It is also worth noting, Mr. President, that an item veto is not the functional equivalent of impoundment. Impoundment, if permitted, is an extremely broad power. It gives the President the ability to withhold the funds for any program, and to spend only for purposes the President considers desirable, rather than what the law requires. It effectively gives the President the ability to rewrite the law unless Congress intervenes.

The item veto, however, is much more limited. Established veto procedures would continue to apply. A President would not, for example, be able to refuse to spend funds while Congress was in recess. Items would continue to become law without a President's signature after 10 days. Further, Presidents would not be able to use an item veto to effectively rewrite authorizing legislation. It would not be possible, for example, for a President to reduce spending for mass transit operating assistance by approving spending for some cities but not others. Legislative determinations as to the manner of spending would continue to apply.

However, Mr. President, the reason an item veto is so necessary is not what it does not permit, but what it helps accomplish. And what it works powerfully to help accomplish is a greater sense of fiscal discipline. Forty-three States, as I stated earlier, have item-veto provisions in their constitutions. They have them because they think they are needed, because they work, and because they strengthen the budgeting process. An item-veto provision in the Federal Constitution would have similar results.

An item-veto provision helps to reduce logrolling and reduces the number of riders on appropriations bills. I know these practices are near and dear to the hearts of many Members of Congress, but they work to undermine the ability of Congress to budget in a fiscally sound and effective manner. Given the scope of the budgetary problems facing us today, we can no longer afford—if we ever could—the kind of "pork barrel," "you scratch my back, I will scratch yours" spending that currently characterizes too much of what Congress does in the appropriations area. Reform is essential.

Amending the Constitution to give the President an item veto is an effective and efficient way to provide that necessary reform. The President's veto power needs to be restored if we are to solve our overriding fiscal problems.

An item veto will work to eliminate the prospending bias that seems to have characterized recent Congresses. It can save billions of dollars annually. It provides additional fiscal discipline, but is flexible and does not work to undermine Congress power over the budget.

I realize that this proposal is not noncontroversial and will require careful study. I urge the Senate to begin the process of analysis quickly. I believe the provision is badly needed and that we cannot afford lengthy delay. I am sure that a close examination of the merits of the item veto will prove to be convincing to a majority of the Congress, as it has already convinced an overwhelming majority of the States.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res 229

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after it submission to the States for ratification:

"Article —

"The President may reduce or disapprove any item of appropriation in any bill or joint resolution, except any item of appropriation for the legislative branch or the judicial branch of the Government. If a bill or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall return with his objections any item of appropriation reduced or disapproved to the House in which the bill or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for bills disapproved by the President, reconsider any item disapproved or reduced under this section, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the bill or joint resolution.".

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. Chafee, the names of the Senator from California (Mr. Hayakawa), the Senator from Maryland (Mr. Mathias), and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1782

At the request of Mr. Weicker, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 1814

At the request of Mr. Jepsen, the name of the Senator from Oregon (Mr. Packwood) was added as a cosponsor of S. 1814, a bill to amend title 10, United States Code, to require the Secretary concerned to comply with

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the terms of certain court orders in connection with the divorce, dissolution, annulment, or legal separation of a member or former member of a uniformed service and which affect the retired or retainer pay of such a member or former member, and for other purposes.

S. 1929

At the request of Mr. Hatch, the name of the Senator from Vermont (Mr. Leahy) was withdrawn as a cosponsor of S. 1929, a bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 2617

At the request of Mr. Heinz, the name of the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate mandatory retirement and other forms of age discrimination in employment.

S. 2632

At the request of Mr. Weicker, the name of the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 2632, a bill authorizing the Government of American Samoa to issue bonds and other obligations, and for other purposes.

S. 2700

At the request of Mr. Cannon, the name of the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2776

At the request of Mr. Riegle, the names of the Senator from North Dakota (Mr. Burdick), the Senator from Hawaii (Mr. Inouye), and the Senator from Nevada (Mr. Cannon) were added as cosponsors of S. 2776, a bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative judge.

S. 2781

At the request of Mr. DeConcini, the names of the Senator from Maine (Mr. Cohen), the Senator from Pennsylvania (Mr. Specter), the Senator from Alabama (Mr. Heflin), and the Senator from Iowa (Mr. Grassley) were added as cosponsors of S. 2781, a bill to amend the Export-Import Bank Act of 1945.

S. 2784

At the request of Mr. DeConcini, the names of the Senator from Texas (Mr. Tower) and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. Hatch, the name of the Senator from Vermont (Mr. Stafford) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. Inouye, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day".

SENATE JOINT RESOLUTION 209

At the request of Mr. Levin, the names of the Senator from California (Mr. Cranston), the Senator from Washington (Mr. Jackson), the Senator from West Virginia (Mr. Randolph), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. D'Amato, the name of the Senator from North Carolina (Mr. Helms) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 444

At the request of Mr. Danforth, the name of the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of Senate Resolution 444, a resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war.

AMENDMENT NO. 2020

At the request of Mr. Symms, the names of the Senator from North Carolina (Mr. Helms), and the Senator from South Dakota (Mr. Pressler) were added as cosponsors of amendment No. 2020 proposed to H.R. 6863, a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to receive testimony on acid precipitation and the use of fossil fuels. The hearing will be held on Thursday, August 19, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify and who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510. Witnesses should submit 50 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee.

For further information regarding this hearing you may wish to contact Ms. Terri Sneider of the committee staff at 224-2366.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 12, at 10 a.m., to consider intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, August 11, at 10 a.m., to hold a markup on the clean air amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 11, at 2 p.m. for the purpose of conducting hearings on the following nominations:

Mr. William M. Acker, Jr., of Alabama, to be U.S. District Judge for the Northern District of Alabama;

Professor Robert A. Destro, of Wisconsin, to be a Member of the Commission on Civil Rights;

The Reverend Constantine N. Dombalis, of Virginia, to be a Member of the Commission on Civil Rights; and

Dr. Guadalupe Quintanilla, of Texas, to be a Member of the Commission on Civil Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee of Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 12, at 2:30 p.m. to consider the nomination of Charles W. Greenleaf, Jr., to be Assistant Administrator for Asia of the Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that according to the latest U.S. Census Bureau approximations, the total population of the United States on August 1, 1982, was 231,653,622. This represents an increase of 184,679 since July 1, 1982. Since this time last year, our population has grown by an additional 2,183,404.

In 1 short month we have added enough people to our population to more than fill the city of Grand Rapids, Mich. Over the past year, our population has increased enough to fill the city of Jacksonville, Fla., more than four times.●

NEW EVIDENCE IN SUPPORT OF ANTITRUST CERTIFICATION PROVISION OF EXPORT TRADING COMPANY LEGISLATION.

● Mr. HEINZ. Mr. President, a recent amendment by former Secretary of Commerce Philip Klutznick sheds some new light on business community views of our antitrust laws and lends new support to the Senate version of S. 734, the Export Trading Company Act. During his tenure at the Commerce Department, Secretary Klutznick was a dedicated and thoughtful supporter of a more aggressive export policy. Those of us who have been working on trading company legislation since 1979 owe much to his creative assistance. I hope my colleagues in the House and Senate will heed his advice now.

Mr. President, I ask that Secretary Klutznick's statement and news release be printed in the RECORD at this point.

The material follows:

NEWS RELEASE OF SECRETARY KLUTZNICK'S STATEMENT

Philip M. Klutznick, Secretary of Commerce in the previous Administration, today announced that a recent survey found more than half of the businessmen questioned believe that antitrust laws have more than a minimal negative impact on their ability to export. Klutznick said, "This information is critical now as the Congress is about to decide the fate of the Export Trading Company Bill—a bill that could help solve this problem.

Klutznick said, "I hope these survey results will clear up some misunderstandings on Capitol Hill about a joint Department of Commerce (DOC) and United States Trade Representative (USTR) study during my tenure at the Department. This study was incorrectly interpreted as evidence that antitrust laws have only a minimal impact on U.S. export trade. In that study no specific question was asked as to the effect of antitrust laws on their exports. Nevertheless, the study observed that "the extraterritorial reach of U.S. antitrust laws and their application to certain types of international transactions also concern exporters, but no specific instances were shown of the laws unduly restricting exports."

"The Congressional misunderstanding was based on the fact that the antitrust impediment was voluntarily cited by only about 10 percent of the businessmen who responded to a 1980 DoC/USTR request for comments about export promotion and export disincentives that appeared in the Federal Register. The survey by the Washington Coordinating Council on Productivity covered all 248 who had previously responded to the original DoC/USTR request for comments. This survey specifically asked their opinion of the effect of antitrust on their ability to export. Fifty-three percent of these respondents indicated that the impact was greater than minimal."

Klutanick said, "During my service in government from time to time since Franklin Roosevelt I have seen the commercial situation change radically. Many of our laws and practices have not kept up with the changes. We must recognize that American companies—workers and management—are now fighting for survival in a highly competitive world market. One need only look at American autos, steel, motorcycles, televisions, etc. We cannot tie one arm behind our back in this struggle. If we do not adjust quickly more industries could go."

"For every one billion dollars of added exports 30,000 to 40,000 new American jobs are created. We must do all we can to assist American industry to be more competitive internationally," Klutznick added.●

SUPPORT OF SECRETARY WATT

● Mr. GOLDWATER. Mr. President, Secretary of the Interior Jim Watt has, in the past, received quite a lot of scurrilous press. There are certain environmental and conservation groups which have become, in my opinion, overzealous in their subjective attempts to discredit the work of this concerned man. No public servant is without his critics; but, in the case of Secretary Watt, not many have bothered to publicize the Secretary's positive and successful efforts.

Recently, there appeared in the Arizona Republic two editorials supportive of Secretary Watt and I would like to take this opportunity to present this other side. Mr. President, I ask that these two editorials be printed in the RECORD.

The editorials follow:

WATT'S PLAN FOR OIL

Interior Secretary James Watt is under fire again, this time for opening up one billion acres of offshore coastal areas for oil and gas drilling leases over the next five years.

Environmentalists and others filing suits could keep parts of the plan tied up in the courts for years.

California has brought two cases that would ban drilling anywhere off its coastline.

Watt's decision comes 16 months after he began complex negotiations with 22 governors and environmental groups.

Watt made changes because of opposition, particularly in Alaska.

Critics charge the plan leases too rapidly over too wide an area and would jeopardize environmentally fragile areas along the coast.

Despite the uproar, Watt's arguments are persuasive.

He points out that Congress has yet to forge a comprehensive national energy program, even this long after the 1973 Arab oil embargo.

He also fears an interruption of oil supplies from the Middle East because of the current fighting between Iran and Iraq.

Watt makes another point—that virtually every oil spill is not caused by drilling, but by the transfer of oil from tankers to shore.

Drilling techniques have advanced and improved since the 1969 oil spill in the Santa Barbara channel.

Critics are trying to create the assumption that oil companies cannot be trusted to protect the environment. Yet, the Audubon Society receives 16 percent of its annual income from oil drilling at its Rainey sanctuary in Louisiana.

Only a minor part of the one billion coastal acres will actually be drilled in the next five years.

It takes years for companies to gear up.

The United States stands to gain from Watt's decision—billions of dollars in leasing fees and additional royalties to the federal government, hundreds of thousands of new jobs, and greater security against foreign oil cuts.

WATT IS RIGHT

Interior Secretary James Watt just can't escape criticism from the environmentalists even when he's right.

The environmental movement's hardliners have attacked him again on Capitol Hill over his program of national park improvements.

They insist Watt isn't spending federal funding in the right places.

The National Park Service is spending more than $76 million this year to upgrade roads, water and sewer lines, buildings and make other improvements.

Watt maintains this is essential because the number of park visitors across the nation have increased every year while facilities have deteriorated.

Serious safety and health problems have resulted.

The environmentalists want Watt to buy more acreage for the park system and spend some improvement funds to ward off threats to parks' natural resources.

Watt has not ignored the resource problem.

Interior is spending about $75 million this year—funding almost equal to its improvement programs—to meet it.

As for buying more parkland, Interior cannot competently manage what it now holds. And there is no rush by developers in these recession days to purchase potential parkland.

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Deterioration of the national park facilities has become scandalous. Environmentalists know this.

Yet, they snipe at Watt with full knowledge he is addressing the parks' most critical needs.

Hardline environmentalists would be a lot more credible if they gave Watt a pat on the back when he deserves it.

And he does in this case.●

CAPITAL PUNISHMENT

● Mr. HATFIELD. Mr. President, the events of last evening at the Mecklenburg State Penitentiary have further eroded the sacred value this society places on human life. It is a disgrace for this country to sanction such legalized extermination, and until capital punishment is abolished, the spirit and soul of our country will have to bear the stains of vindictive savageness which attend the imposition of the death penalty.

To oppose capital punishment does not mean to condone the brutal acts of murderers. Those individuals who fiercely seize the lives of innocent men, women, and children will be left to account before God for their moral depravity. But man is not God, and we must resist the very human temptation to requite murder with murder. Retribution of the magnitude of capital punishment can serve no human purpose. Indeed, as Justice Brennan pointed out in the case of Furman against Georgia, "If the deliberate extinction of human life has any effect at all, it more likely tends to brutalize our values." This is the case with abortion and war, and it most certainly is the case with the death penalty.

Capital punishment is a cruel and unusual punishment abhorrent to the dignity of man and the sustenance of civilized man. I am not swayed by the arguments that cite deterrence and legitimate retribution as reasonable justification for electrocuting prisoners. No studies have shown that executing murderers deters crime. Murderers are not deterred by anything. They do not give detached, introspective reflection to the consequences of their acts. They are persons ruled by impulses, and the evil they spread is the product of demented, disturbed minds. I have no problem with secluding these convicts from society. But the line must be drawn when it comes time for society to take these prisoners' lives.

That line must be drawn because it is all too apparent that capital punishment, for the aforementioned reasons, is ineffective. But more importantly, the line must be drawn because capital punishment is contrary to a basic understanding of the Scriptures. We are called to be a forgiving people. We are called to leave the judging to the Almighty, as pointed out in the placard outside of Mecklenburg which said, "Let Him Without Sin Throw the Switch".

Mr. President, Frank Coppola will never shake the chains of responsibility for the death of Murial Hatchell. We as a people had the opportunity to break this circle of violence and hate and to rise to the higher instincts to which we are called. Unfortunately, all of our hands were on that switch last evening, and until we do away with the laws which allow this savage form of vengeance, our hands again will be on that switch.

I learned a very painful lesson back in 1959 when, as Governor of Oregon, my moral opposition to the death penalty was allowed to be compromised by the will of the people by my allowing an execution. The lesson that I learned was that capital punishment, like abortion and every other life-taking institution that is sanctioned by society, is dead wrong. I pray that we as a people will dispose of the panoply of justifications which commission our acts of violence toward the sanctity of life, and will embark on the higher road to which we are called.●

DON GEVIRTZ

● Mr. HART. Mr President, one of America's most progressive minded business leaders, Mr. Don Gevirtz, was profiled in last Sunday's New York Times. He is a true entrepreneur in every sense of the word—both in the world of business and finance and in the world of ideas.

Having proven over and over again that his entrepreneurial instincts work well in getting thriving businesses started, he has turned these same instincts, in the past few years, to the task of developing economic policies that will get America on the road to a thriving economy. I find his thinking to be right on target.

Specifically, Mr. Gevirtz has both written and spoken out vigorously in support of the following major new economic ideas and initiatives: the development of an explicit, coherent industrial policy as the new centerpiece of economic policy formulation; the critical need for consensus rather than confrontation on both broad national goals and industry specific modernization goals; a decentralized entrepreneurial capitalism; the exciting potential of high technology industries in revitalizing our more mature manufacturing industries as well as enabling our large and growing service sector to become more productive; the need to instill long-range vision in both the Federal Government and our corporations.

These ideas constitute a true economic agenda for America's future. They build on today's economic realities and America's strengths while at all times looking ahead for the new economic agenda and the challenges and opportunities they will present.

I encourage my colleagues to listen closely to the wise, fresh, and creative ideas coming from Mr. Don Gevirtz and other progressive business leaders like him.

Mr. President, I ask that the New York Times article be printed in full in the RECORD.

The article follows:

[From the New York Times, Aug. 8, 1982]

SILICON VALLEY'S FINANCIER: DON L. GEVIRTZ—HELPING TO TURN DEMOCRATIC POLICY IN FAVOR OF SMALL BUSINESS

(By Thomas C. Hayes)

Don L. Gevirtz has jockeyed his way into conspicuous arenas since his glory days as a forward on the Kokomo, Ind., high school basketball team 36 years ago. The Foothill Group Inc., the company he co-founded 12 years ago to lend money to small businesses, is the nation's third-largest commercial finance concern and, in a difficult year, is the fastest-growing.

In addition, bearing the unlikely credentials of a hard-nosed financier and millionaire former Marine, the 54-year-old Mr. Gevirtz has grasped the levers of political machinery at state and national levels in an attempt to influence the Democratic Party's inchoate search for an economic program that voters will favor over the Reagan Administration's policies in 1984.

"The Reagan program was doomed because it was tilted toward big business and the dying industries," Mr. Gevirtz said. As he proposes alternatives, he offers ideas that meet with skepticism not only from Republicans, but from other theorists within his own party.

Mr. Gevirtz (pronounced geh-VERTS) is an avid advocate of small business. It creates far more jobs and new products than big companies he argues, especially in the high-technology industries that abound in California, Colorado and Texas. Most of the Foothill Group's 12,000 borrowers are in those three states.

Ronald Reagan was the favorite candidate of small business in 1980, but Mr. Gevirtz asserted that high interest rates and spreading bankruptcies have revealed Mr. Reagan's campaign promises extolling entrepreneurship to be "just rhetoric." The Democratic Party can effectively court that constituency, he is convinced, if it moves away from the New Deal concept of wealth redistribution in favor of wealth- and job-creation policies tilted toward small business.

He is pushing that notion in several Democratic forums. He is co-chairman, along with Lester C. Thurow, the economist, of the Democrats' panel of economic policy advisers. He helped draft the budget strategy that key Democrats in Congress may adopt after the November elections.

He was a matchmaker in the discussions between Silicon Valley executives and Senator Gary Hart, Democrat of Colorado, on the contents of a high-technology trade bill sponsored by Mr. Hart. And he has been a close adviser on tax and industrial policies to Gov. Edmund G. Brown, Jr., of California, who is running for the Senate this fall, and Walter F. Mondale, a likely 1984 Presidential candidate.

Mr. Mondale describes Mr. Gevirtz as "an old friend" who has been his consultant and adviser on entrepreneurship over the past year.

"It's true that he's new to a lot of leaders," the former vice president said. "But there is a growing realization in this country and within our party that much of the economic problems of slow growth and unemployment can be answered by enhancing the position of small business in matters like trade and seed capital."

"It's an area where he is skilled and experienced and where many of us have a way to go to get up to speed," Mr. Mondale added. "He's an expert on an issue whose time has come."

Mr. Gevirtz favors tax cuts for businesses that reinvest profits and Federal subsidies to retrain unemployed workers—in the steel industry, for instance—for jobs in growth fields such as semiconductors, bioengineering and computers.

This, in a word, is "targeting," or providing Federal incentives to particular industries through taxes and subsidies. Since the Japanese and French Governments have long promoted such policies in high-technology industries, Mr. Gevirtz said, the United States must take a similar path. Without it, he said, American companies will shrink in global importance and politicians will be under pressure to enact trade barriers.

"There is no such thing as free trade," he argued. "The question is either adjustment or protectionism."

Such strong views are sure to conflict with those of powerful economic advisers elsewhere within the Democratic Party. For instance, Felix Rohatyn, the Lazard Frères investment banker and long-time adviser to Democrats, said that he categorically opposed national planning, a concept advocated by Mr. Gevirtz. Mr. Rohatyn, who has endorsed what he calls a Reconstruction Finance Corporation to bring Federal aid to the cities, said, "I don't think that one should be dreamy or romantic about high technology. High technology alone is not going to save this country."

Mr. Gevirtz's affinity for small business came early. His father, trained as a dentist, owned several retail stores in small Indiana towns during the Depression. After graduating from the University of Southern California in 1950, where he attended on a basketball scholarship, Mr. Gevirtz became a partner with his father in a successful label-printing business.

He later managed and acquired several businesses as an executive for Litton Industries and as a vice president of the Republic Corporation. Both were mushrooming conglomerates that typified the go-go years of American business in the 1960's.

He recalled that he became disenchanted with Republic's acquisition binge and left there in 1969.

With John F. Nickoll, a 47-year-old Brown University law graduate who had managed his family's commercial finance company for nearly 10 years, Mr. Gevirtz organized a similar company in 1970 in Califorina to lend money to small- and medium-sized businesses.

The Foothill Group, named for the Beverly Hills street where Mr. Gevirtz resided when it was formed, earned $9.5 million in the fiscal year 1982 that ended May 31, and 83 percent gain from the $5.2 million it earned in the previous year. Revenues climbed 63.4 percent, to $59.3 million. Foothill reported $299.3 million in assets at the end of its 1982 fiscal year.

Foothill's main business is lending money—it lends exclusively to businesses, most with sales of $5 million to $50 million. It also leases equipment and finances accounts receivable at interest rates five to eight percentage points above prevailing bank rates.

Foothill matches the rates of its assets, such as loans and leases, with its liabilities, such as bank debt or consumer savings deposits from its thrift units, "better than anybody else," said J. Richard Fredericks, a partner in Montgomery Securities, a San Francisco brokerage firm.

Last year, for example, the spread between Foothill's cost of money and its lending revenues was 11.3 percent, the fifth consecutive year in which the figure topped 10 percent. That gave Foothill a 3.8 percent return on assets, compared with an average of about five-tenths of 1 percent for major banks. "Their outlook is extremely favorable," Mr. Fredericks said.

Mr. Gevirtz, who is Foothill's chairman and chief executive, said that choosing smart partners has been central to his business success and he and Mr. Nickoll, who is president, say they strive to keep things equal.

Mr. Gevirtz and Mr. Nickoll each earned $300,000 from the company last year, including the maximum bonus of $180,000. Each also owns slightly less than 5 percent of Foothill's common stock—with Mr. Nickoll holding 335,435 shares, and Mr. Gevirtz 291,602 shares. When he started the Foothill Group, Mr. Gevirtz said that he hired a professor from the University of Southern California to tutor him in corporate finance, especially in uses of preferred stock and debentures. "I was embarrassed," he said, "but it paid off."

Away from Foothill's headquarters in the triangular 44-story Century City Towers, Mr. Gevirtz often is surrounded by politicians, writers and scholars. They are visitors to his 10-acre homestead overlooking the Pacific Ocean in Montecito, a small town south of Santa Barbara and about 40 miles south of President Reagan's ranch.

In his idle hours by the swimming pool and tennis courts near the 10-room, 65-year-old English country house made of Santa Barbara sandstone, Mr Gevirtz is working on the manuscript of a book, tentatively titled, "A Business Plan for America."

Mr. Gevirtz said he has grown increasingly pessimistic about the economy over the last several months. The Republicans are likely to lose "about 30" seats in the House this November largely because of continuing recession, he said. But Mr. Gevirtz said he expected new policy changes from President Reagan in the wake of such a defeat.

"The Reagan Administration has no contingency plans," he said. "We're seeing a further escalation in the deficit and further deterioration in the economy. I think the outook is very bad for the next two or three years."

He is urging Congressional Democrats to erase the 10 percent personal tax cut set for the fiscal year 1984, pare military spending and end automatic cost-of-living increases for Social Security recipients. "There will be some action after the elections" on Social Security, he predicted.

Mr. Gevirtz wrote Jimmy Carter's position papers on small-business tax incentives after the 1976 election. But the Carter Administration's record on deregulation and eliminating capital gains taxes was "disappointing," he said. Moreover, the Small Business Administration was "totally ineffectual," he added.

"But I feel like less of an oddball now than I did a few years ago," he said. "There is a brush fire of conversation and thinking about these subjects among democratic leaders. I feel strongly that a Democratic Congress can carry them out."●

PUBLIC EMPLOYEES' PENSION PLAN REPORTING AND ACCOUNTABILITY ACT OF 1982 (PEPPRA)

● Mr. HATCH. Mr. President, the Utah State Legislature, at its second special session, approved a resolution in opposition to H.R. 4928, H.R. 4929, S. 2105, and S. 2106, relating to Federal regulation of State and local pension plans.

This legislation would impose Federal reporting, disclosure, and fiduciary requirements in an area that is clearly within the province of State and local governments.

In addition to the Utah State Legislature, the following organizations have also informed me of their opposition to the legislation: The National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City Management Association, the Municipal Finance Office Association, and the Council of State Governments. These organizations are unanimous in their strong opposition to this legislation as inappropriate, unnecessary, and counterproductive.

I have recently sent a letter to President Reagan informing him of my position and urging him to oppose these legislative proposals.

Mr. President, I ask that a copy of the resolution of the Utah State Legislature, a copy of a letter to President Reagan, an article by Congressman Larry Craig of Idaho and a factsheet relating to the bills be printed in the Record.

The material follows:

Resolution No. 2

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

Whereas, legislation to regulate state and local pension plans in the form H.R. 4928 and H.R. 4929 and S. 2105 and S. 2106 were introduced in Congress, respectively, on November 10, 1982, and February 11, 1982;

Whereas, this legislation is premised on the perception that adequate and accurate information on state and local pension plan operations is not available and that these governmental entities refuse to properly manage the plans under their jurisdiction;

Whereas, the contemplated federal control of state and local pension plans intrudes upon the rights of state and local governments and is possibly contrary to the Constitution of the United States and the current federal theme of deregulation;

Whereas, Congress should devote its attention to the proper operation and funding of federal plans, thereby encouraging state and local plans to follow its example;

Whereas, current studies document that deficiencies in state and local pension plans are limited primarily to local plans covering a small percentage of employees;

Whereas, the states under their own initiative are addressing deficiencies in plans covering public employees in comprehensive manner; and

Whereas, federal regulation of these plans will add to the administrative cost of these plans and serve no useful purpose.

Now, therefore, be it resolved, that the Utah Congressional Delegation is urged to oppose the federal regulation of state and local pension plans and save the taxpayers of this state the unnecessary cost which attends federal control.

Be it further resolved, that the Lieutenant Governor send copies of this resolution to each member of the Utah's Congressional Delegation.

United States Senate,
Committee on Labor and Human Resources,
Washington, D.C., July 30, 1982.

The President,
The White House,
Washington, D.C.

Dear Mr. President: During this Congress two bills have been introduced in the Senate which would establish certain federal regulation of state and local retirement plans. These bills, S. 2105 and S. 2106, and their counterparts in the House of Representatives, were each originally titled the "Public Employee Retirement Income Security Act" (PERISA). Recently, they have been renamed the "Public Employees' Pension Plan Reporting and Accountability Act of 1982" (PEPPRA).

This proposed legislation would impose federal reporting, disclosure and fiduciary requirements on state and local pension plans and would transfer regulatory power to a federal agency. This represents a new and unprecedented intrusion of the federal government upon state and local government's authority in administering and overseeing state and local retirement systems. Thus, the intent of the bills runs counter to the goal of returning power and responsibility to the appropriate level of government.

The objectives of your administration to bring government closer to our individual citizens, to reduce unnecessary federal intervention and to eliminate burdensome regulations would be seriously harmed by the proposed legislation. Further, the proposed legislation is not needed. State and local administrations have been actively involved in initiating reforms of state and local systems and have a successful record of improvement in their plans.

At a time when your administration and the Congress have made concerted strides to reduce regulatory burdens on state and local governments, the proposed legislation would require additional levels of bureaucracy and substantial compliance costs. I urge you to strongly oppose these legislative proposals.

Warmest personal regards,

Orrin G. Hatch, *Chairman.*

Federal Bills Would Stifle Local Pension Reform

(By Representative Larry Craig)

It is not my intention to discredit the goals of this proposed legislation, which are laudable. Instead, I believe that the bills are fundamentally unnecessary, inappropriate and counterproductive. In addition, the federal record in managing its own pension systems has been less than satisfactory.

The unfunded liability of the federal pension systems exceeds $1 trillion. That liability exceeds the national debt and is growing at a faster rate. Most federal pension plans are funded on a "pay as you go" basis, which is cited by pension experts as not acceptable.

State and local pension systems are generally funded on an approved actuarial basis, which assures adequate advanced funding of promised benefits. Many state and local plans which had, like the federal government, been funded on a "pay as you go" basis have converted to actuarial funding. However, this new funding method must be phased in over a number of years so that one generation of workers and taxpayers is not unfairly burdened by the transition. State and local governments need flexibility to make the necessary changes in the pension plans without prescriptive, rigid federal regulation.

COUNTERPRODUCTIVE

There is a real danger in passing this legislation believing that it will solve the basic problems of some of the public pension plans. It would be a comfortable illusion to think that these federal reporting, disclosure and fiduciary standards will cause state and local governments to move any faster than they are now doing to reform their own systems.

A second real danger is that state and local governments, the taxpayers and the participants will be lulled into a false sense of security that the federal government is protecting and guaranteeing public pension benefits. This is simply not the case. The message should be clear that state and local governments themselves are ultimately responsible for the pension benefits of their employees.

The level of government that is accountable for services or obligations should have the responsibility and authority to oversee and regulate those areas. State governments now are responsible for the pension benefits of their systems and those of their political subdivisions.

The passage of PEPPRA legislation would add a plethora of new regulations, requirements and paperwork mandates that would increase the costs, burdens and complexity of pension administration for state and local governments.

The government would be flooded with a barrage of additional reports, documents and surveys that would require more federal staff, costs and bureaucracy systems. We do not believe that the federal government should extend its regulatory tentacles into this major new pension area when we do not fully understand and agree on how the existing regulatory and guarantee network should work.

State and local government reforms would be stifled rather than promoted through this legislation and the resulting bureaucracy. This would promote unnecessary and counterproductive uniformity and compliance with prescriptive and often inappropriate national standards. Each state has different needs, requirements and characteristics which need to be explored and adopted.

INAPPROPRIATE

Congress and the administration have recently initiated deregulation, decentralization and block grant approaches that vest more authority and responsibility with state and local governments. We are sending a contradictory message that state and local governments are capable of funding and administering a broad range of domestic programs and policies, and yet not capable of overseeing and administering their own pension plans.

I admit that not all state and local pension plans are perfect—there are some serious problems with some plans, such as some of the small programs. However, we believe that the federal role should be to act as a model employer in the administration of its own pension plans, encourage state and local governments to reform their own systems, and clarify that the basic responsibility for the funding, structure and administration of their pension systems is with the state and local governments themselves.

UNNECESSARY

State and local governments have made considerable progress over the past few years in reforming their own retirement systems. At last report, about half of the states had formed task forces or commissions to study and recommend reforms of their state and local government pension plans. Some of the states which have recently reformed and/or consolidated retirement programs in their states include California, Florida, North Carolina, Wisconsin, Texas, Maryland, Idaho and Rhode Island.

According to two recent studies commissioned by the federal government, there are extensive reporting and disclosure requirements in large state-administered systems, which contain about 90 percent of all state and local pension participants. The proposed federal legislation would duplicate these requirements and cause unnecessary changes in state requirement where they do not meet the "substantailly equivalent" test required by H.R. 4928 and 4929.

To date there have been no defaults in state and local pension benefits due or promised to participants. No public employee has ever lost benefits due to him or her.

In addition, there are bond rating and national accounting standards which provide controls and incentives toward sound administration and funding of state and local pension systems.

All of the major national organizations which represent state and local governments are unanimously and strongly opposed to this legislation.

SUMMARY

I oppose H.R. 4928 and H.R. 4929 as unnecessary, inappropriate and counterproductive federal legislation. While I endorse the ultimate goal of reforming state and local pension plans where necessary, I believe these reforms should and must be made by the state and local governments themselves, based on their local needs and priorites, and without the inappropriate intrusion of the federal reforms in retirement systems already under our authority—Social Security, federal government employee pensions, and private sector pensions as governed by ERISA legislation.

Whether you call it PERISA or PEPPRA, the fact remains that the federal government should not be in the position of regulating and guaranteeing the basic state and local government responsibility of providing pension benefits for their own employees.

PERISA/PEPPRA: The Facts

BILLS

Public Employee Pension Plan Reform Act (PEPPRA), H.R. 4928, 4929 (Erlenborn, P. Burton); Public Employee Retirement Income Security Act (PERISA), 2105, 2106 (Chafee).

MAJOR PROVISIONS

All four bills require all public pension plans to report information to the state and/or federal government. Each bill requires that certain information be disclosed to participants on a regular basis. Basic fiduciary and administrative requirements are contained in all bills. Two of the bills (H.R.

4928 and S. 2105) provide automatic tax qualification upon PERISA/PEPPRA compliance with the Internal Revenue Service (IRS).

REPORTING

Requires a summary plan description, amended as needed, an annual report, a financial statement, an actuarial statement, audit reports and insurance coverage.

DISCLOSURE

Requires details on how plan administrators must inform participants about their plans, enforcement procedures, rights of participants, special individual disclosures and property right access.

FIDUCIARY STANDARDS

Provides standards for the establishment of plan provisions, establishment of trusts, liabilities of administrators, restrictions on investments, definition of fiduciaries, prohibited transactions, bonding, limitations on actions and other issues.

TAX QUALIFICATION

Although not generally enforced, the IRS has some authority to rule on the tax qualification of public plans. Two of these bills would provide for automatic IRS qualification when the act's standards are met.

OTHER PROVISIONS

Three of the bills allow for a partial exemption if a state certifies that all plans are "substantially equivalent" to requirements in the act. Substantial equivalency would be determined through future regulation. The bills also provide for an advisory council on government plans, studies and reports to Congress, and a phase-in period.

COSTS

The Congressional Budget Office (CBO) estimates that the cost to the federal government would not be substantial. No cost estimates for state and local government compliance are provided. According to a recent survey of state retirement plan administrators, the annual added costs would average $3 per active member for the 12 million participants. Thus, the added cost of PERISA or PEPPRA would be about $36 million annually.

HOUSE STATUS

The Education and Labor Committee reported out H.R. 4928 and 4929 by voice vote on May 11, H.R. 4928 was referred to the Ways and Means Committee for consideration, and H.R. 4929 awaits floor action in the Rules Committee. Final House action on H.R. 4929 could occur at any time.

SENATE STATUS

The Senate Finance Committee held one day of hearings on S. 2105, 2106 in late March. The Labor and Human Resources Committee is scheduled to mark up ERISA amendments July 20 and 21, and PERISA/PEPPRA may be considered at that time.●

DISAPPROVING FINAL REGULATIONS FOR ECIA

● **Mr. STAFFORD.** Mr. President, yesterday, the Senate considered and passed House Concurrent Resolution 388, recently passed by the House of Representatives. This resolution disapproves regulations recently issued by the Department of Education for chapter I and chapter II of the Education Consolidation and Improvement Act of 1981.

Mr. President, the Committee on Labor and Human Resources has the authority to review regulations issued by the U.S. Department of Education. Having reviewed the regulations promulgated as a result of passage of the Education Consolidation and Improvement Act (ECIA), Senators HATCH, KENNEDY, and PELL joined me in introducing Senate Concurrent Resolution 115, which disapproves those regulations and is identical to the companion House Resolution (H. Con. Res. 388).

We believe there are several reasons why these regulations merited rejection by the Congress. One major point of contention is the Department's assertion that the General Education Provisions Act (GEPA) is inapplicable to ECIA. This is a position which I and my colleagues who cosponsored Senate Concurrent Resolution 115 categorically reject.

Yet, before I explain more fully our objections, I ask the indulgence of my colleagues so that I can explain the urgency for having asked the Senate to approve this resolution of disapproval.

Section 431 of GEPA provides Congress the power to review regulations issued by the U.S. Department of Education. In accordance with this review process, final regulations published in the Federal Register shall not become effective unless Congress has had at least 45 days to review these regulations. Furthermore, Congress, through passage of a concurrent resolution, can find those regulations inconsistent with the act from which they derive their authority.

In this case, the Department published its regulations on July 29, 1982, and provided that the final regulations become effective on August 12, 1982. By any count, the rules issued by the Department fail to provide Congress with the 45-day review period required by law.

While I oppose the Department's contention that its regulations can take effect on August 12, it is important, in the views of this Senator that Congress expressed its disapproval of the Department's disregard for the law governing congressional review of regulations and other departmental interpretations of ECIA prior to the August 12 date.

Beyond just the Department's failure to provide for at least a 45-day review, there are still other aspects of the final regulations for ECIA which merit disapproval. Prominent among these is the Department's claim that GEPA is inapplicable to the provisions of ECIA.

As my colleagues know, GEPA is a body of laws which are generally applicable to all education laws passed by Congress and administered by the Department of Education unless specific exemption is made. In fact, section 400(B) of GEPA states specifically:

> Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law.

Secretary Bell, for erroneous reasons, has chosen to disregard this provision in expressing the view that GEPA, except where specifically provided by ECIA, is inapplicable to the new law. In sum, his view was expressed as follows in the Federal Register on July 29, 1982:

> The Secretary believes that Congress did not squarely resolve the GEPA issue and that in absence of such congressional resolution, given the thrust of ECIA, he should refrain from imposing, by regulation, conditions which Congress did not clearly impose by statute.

As chairman of the Subcommittee on Education, Arts and Humanities, I clearly reject the contention that Congress did not resolve the GEPA issue as the Secretary contends.

As my colleagues know, the extraordinary circumstances of last year's reconciliation procedure meant that Congress suspended its normal legislative pace and procedures in order to enact numerous and urgent revisions in Federal law. In accordance with the demands of that process, certain legislative revisions were made by fewer legislative participants than might normally have been the case.

As chairman of the Education Subcommittee, I had to shoulder enormous responsibility for the revision of hundreds of Federal education provisions, and I was able to share that responsibility only with very few other Members of the Senate and the House.

In passing the Education Consolidation and Improvement Act, I relied particularly on the late Congressman John Ashbrook, who was the principal author of ECIA, and also quite frequently I called upon Senator HATCH, chairman of the Labor and Human Resources Committee, for assistance.

Let me relate to my colleagues what we, as the major participants in ECIA's passage, felt regarding GEPA's applicability.

First, at no time did we state any intention that GEPA would not apply to ECIA. Certainly, some modifications were made in certain GEPA provisions, but no recommendations were made or contemplated to terminate GEPA's general applicability to ECIA.

In fact, on October 6, 1981, Congressman ASHBROOK made this statement regarding GEPA at an oversight hearing on ECIA held by the House Subcommittee on Elementary, Secondary, and Vocational Education:

> The General Education Provisions Act is applicable, in whole, to the Education Consolidation and Improvement Act, unless (1) a provision is made inapplicable by specific reference in ECIA or (2) there is a provision or requirement in ECIA which supersedes a similar requirement in GEPA.

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Furthermore, in a July 15, 1982, letter to Secretary Bell, Senator HATCH insisted that section 400 of GEPA required the Secretary's administrative authority over ECIA by writing:

> Surely a program such as ECIA which is federally funded and which places upon the Secretary the duty to monitor State and local activities to insure that the money is spent in accordance with the requirements of Federal law, broad as they may be, is sufficient to vest administrative authority in the Department.

Under this contract, GEPA remains applicable to ECIA under the Secretary's administrative authority.

Lastly, this Senator, during the July 19 confirmation hearing for Undersecretary-designate Gary Jones, clearly and specifically stated that the Department's assertion of GEPA's inapplicability was erroneous.

Given this record, I fail to understand how the Secretary could assert that Congress had not squarely resolved the GEPA issue. The three instances I mentioned all took place prior to the July 29 issuance of these final regulations. These communications were made to the Secretary by three of the legislators primarily responsible for ECIA's passage. I repeat, therefore: How could the Secretary assert that Congress had not resolved this matter?

Given these facts and this background, I appreciate that my colleagues supported passage of this resolution of disapproval.●

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no other matter to be dealt with by the Senate tonight. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 tomorrow morning.

The motion was agreed to; and, at 8:45 p.m., the Senate recessed until tomorrow, Thursday, August 12, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 11, 1982:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs, vice James L. Buckley.

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, vice Dean E. Fischer, resigned.

HOUSE OF REPRESENTATIVES—*Wednesday, August 11, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, from whom comes every good gift, bless, we pray, all those who turn to You with open hearts and souls. Encourage with Your love those who serve You in word and deed, and cause us to know that when we serve others, we serve You. May Your renewing spirit give encouragement to people who are weighted down by the pressures of life, and may Your grace give us purpose and direction in all good works. Be with those who wait upon You and may Your blessing be upon us all. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **MILLER** of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **MILLER** of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 26, answered "present" 2, not voting 69, as follows:

[Roll No. 263]

YEAS—337

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Carman
Chappell
Chappie
Clausen
Clinger
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fithian
Florio
Foglietta
Foley
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jeffords
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Livingston
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roukema
Rousselot
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—26

Barnes
Clay
Coats
Coughlin
Derwinski
Evans (IA)
Forsythe
Gejdenson
Goodling
Harkin
Hiler
Jacobs
Johnston
LeBoutillier
Luken
Mattox
Miller (OH)
Mitchell (MD)
Murphy
Roemer
Rose
Sabo
Schroeder
Sharp
Solomon
Walker

ANSWERED "PRESENT"—2

Oberstar
Ottinger

NOT VOTING—69

Akaka
Applegate
AuCoin
Bafalis
Benedict
Blanchard
Bolling
Bonior
Brodhead
Brooks
Brown (OH)
Burton, John
Butler
Campbell
Carney
Cheney
Chisholm
Conyers
Courter
Coyne, James
Crockett
Davis
Dixon
Donnelly
Dornan
Emerson
Ertel
Fields
Fish
Flippo
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Gregg
Grisham
Hammerschmidt
Hartnett
Heftel
Hertel
Hutto
Ireland
Jeffries
Jenkins
Jones (NC)
Lewis
Loeffler
Marks
Marlenee
McCloskey
Mikulski
Moffett
Murtha
Napier
Pursell
Richmond
Rosenthal
Roth
Santini
Savage
Siljander
Traxler
Washington
Wilson
Wirth
Wolf
Yates
Young (AK)

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On July 20, 1982:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

On July 27, 1982:

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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changes, with respect to securities and commodities; and

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America."

On July 28, 1982:

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day"; and

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act.

On August 2, 1982:

H.R. 6663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure; and

H.J. Res. 526. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 388. Concurrent resolution disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 901. An act to preserve and protect the Georgetown waterfront for the recreational use of the public.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON TODAY, WEDNESDAY, AUGUST 11, 1982

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit on Wednesday, August 11, 1982, while the House is considering amendments under the 5-minute rule. The purpose of the subcommittee meeting is to mark up S. 823, the tris bill and to consider private bills.

The minority has been consulted, and they are in agreement.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I shall not object, I take the reservation of objection in order to assure that there is no objection on the part of the minority. We would like to proceed with the markup of these bills.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING 5-MINUTE RULE ON TODAY, WEDNESDAY, AUGUST 11, 1982

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to sit this afternoon while the House is considering amendments under the 5-minute rule for the purpose of marking up some routine bills.

The **SPEAKER**. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to ask the distinguished gentleman from Florida whether or not this has been cleared with the gentleman from Kansas (Mr. Winn).

Mr. FUQUA. Mr. Speaker, if the gentleman will yield, I have attempted to locate the gentleman from Kansas (Mr. Winn) today. I have not been able to, but the matter was announced last week and there has been no objection to it reported to me.

Mr. WALKER. Mr. Speaker, as a member of the committee I have heard no objection.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the request of the gentleman from Florida?

There was no objection.

INVALIDS AND RETARDED DIE OF STARVATION IN WEST BEIRUT

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, this morning's Washington Post has again carried a story in regard to the tragic human suffering that has been inflicted upon innocent Lebanese civilians, including aged, handicapped, and babies, due to Israel's war in Lebanon.

The hospital that was the subject of this morning's story was visited by five of our six-man delegation I recently led to six Middle Eastern countries, including West Beirut. We toured every floor of this hospital and saw for ourselves the heartless destruction that has occurred therein.

In our subsequent press conferences both in Beirut and Jerusalem and other cities in the Middle East, we tried to relay to the world what we had witnessed in this hospital. Instead, and unfortunately, the national media chose to focus upon and entirely distort another one of our visits in West Beirut with Chairman Yasser Arafat, and neglected the human suffering we had indeed witnessed for ourselves and tried to relay.

This hospital for the mentally retarded and invalid was brought this morning to the attention of U.S. AID Administrator Peter McPherson during a breakfast sponsored by the Peace Through Law Education Fund. I relayed to him the consequences of the barbaric, inhumane conditions that exist in this hospital. He agreed that he would look into it.

Had world attention been focused on this type of destruction during our trip, perhaps the deaths by starvation and lack of medical supplies that have occurred since our visit, would have been prevented.

The **SPEAKER** pro tempore (Mr. Moakley). The time of the gentleman from West Virginia has expired.

SOCIAL SECURITY

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, since I joined my colleagues in the House I have been seriously concerned with a provision in the social security law which expires this November—that is the exception clause to the Government pension offset contained in the Social Security Amendments of 1977.

I am introducing today a bill to continue the exception clause for an additional 5 years so that spouses of insured workers would not have their dependent or survivor benefits reduced by the pension offset provision. In addition, this bill extends eligibility for dependent's benefits to those divorced spouses covered by the exception clause due to the reduction in the marriage duration requirement from 20 to 10 years. This brings consistent treatment to social security law.

I commend the work of other Members in seeking this extension, and hope my demonstration of support will add momentum to our efforts. Five years is not a generous transition period for a major change in a retirement system, and it is only fair that the transition period be extended. Moreover, this legislation will carry the exception clause beyond the time needed for the President's National Commission on Social Security Reform to make its report on solutions to the financial problems of the social security system and for Congress to analyze the report and make its own recommendations. I do not believe we should foreclose the possibility of benefits to 5,000 individuals annually immediately prior to the report of the

Commission when it is clear that benefits of this group of retirees is deserved and needed.

MILITARY CONSTRUCTION AUTHORIZATION ACT, FISCAL YEAR 1983

(Mr. DYSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, today the House completes consideration of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983.

This legislation is the result of weeks of hearings during which each of approximately 1,000 military construction projects proposed by the military services were thoroughly examined by the Subcommittee on Military Installations and Facilities. Under the expert leadership of our distinguished chairman, JACK BRINKLEY, the primary concern was to assure that the project was not only essential to meet a valid and urgent military need, but also represented the most feasible and cost-effective method for achieving the objective.

Careful attention was given to the development of a balanced level of facilities support for important new programs and initiatives such as the MX, Indian Ocean/Persian Gulf access for the Rapid Deployment Force, and deployment of new weapon systems. At the same time, the essential needs of NATO and the maintenance of readiness in Europe, Korea, Japan, and other overseas areas had to be met.

Also included in this bill are funds for much-needed improvements in family housing, barracks, and other quality of life facilities for military personnel and their families. High national priority requirements such as energy conservation, pollution abatement, and occupational safety and health standards were also addressed.

The result, we think, is a carefully balanced construction program that will enhance the military posture and readiness of the Active Forces and their Guard and Reserve components.

Mr. Speaker, this bill provides for construction of military facilities and military family housing worldwide. It is a very vital part of the overall Defense program yet it only amounts to about 4 percent of the total Defense budget.

The passage of this bill will authorize construction to field a variety of new weapons systems to modernize our Armed Forces, provide important staging facilities in the Persian Gulf-Indian Ocean region so the Rapid Deployment Force can defend our interests there, improve U.S. readiness in Europe and the Pacific area, and upgrade some of the poor living and working conditions of our military personnel at home and abroad.

I urge my colleagues to vote for H.R. 6214.

IMMIGRATION CONTROL AND REFORM ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to tell my colleagues in the House that this is a red letter day. Today the other body will take up consideration of the bill entitled, the Immigration Control and Reform Act of 1982. Under the excellent leadership of the junior Senator from Wyoming, the other body will consider one of the premier and important pieces of legislation for this congressional session.

This is the bill which the junior Senator and I have had the pleasure of working with and introducing. It is a bill which I hope will reach the floor of this body soon after we return from our August district work period.

If any of the Members have any queries or inquiries concerning the bill, I would certainly offer the help of our committee staff in answering any questions and in helping the Members with constituent letters.

It is a fair and balanced and equitable and human bill. It is a bill which should pass, and I hope that it will receive the support of this body when it reaches the floor soon after our return from the recess.

□ 1030

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE ON TODAY AND FOR THE REMAINDER OF THE WEEK

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the House is in the Committee of the Whole under the 5-minute rule on today and for the remainder of the week.

The SPEAKER pro tempore. (Mr. MOAKLEY). Is there objection to the request of the gentleman from Washington?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I wish to inquire whether this is to consider the Clean Air Act, the most controversial issue before our committee, which will delay Members from being on the floor to consider the controversial items here. Is this to consider the Clean Air Act?

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, as the gentleman well knows, of course it is.

Mr. WAXMAN. Then I do object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard. The Chair will state that it takes 10 Members or more to object, and the Clerk will please note the names of the Members who were standing.

(Messrs. EDGAR, SCHEUER, MILLER of California, EDWARDS of California, MATSUI, McHUGH, PEASE, and PATTERSON, Ms. FERRERO, Mr. ECKART, and Mr. LUNDINE also objected.)

The SPEAKER pro tempore. More than 10 Members having arisen, objection is heard.

PUERTO RICANS EMBARRASSED BY GESTURE OF OLYMPIC COMMITTEE PRESIDENT

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, I am shocked by a photograph in today's Washington Post showing German Rieckehoff, the president of the Puerto Rico Olympic Committee, presenting a Puerto Rican team cap to Cuban dictator Fidel Castro, which Castro seems to be wearing with relish and probably surprise.

I strongly repudiate the gesture of Mr. Rieckehoff which certainly goes way beyond what the people of Puerto Rica would expect from him in heading the Puerto Rican team to the Central American and Caribbean Games. One thing is participating in a sports activity in Cuba or any other Communist country and another thing is acting foolishly to the great embarrassment of the overwhelming majority of Puerto Ricans who are proud of their American citizenship, fully committed to the principles of democracy and freedom and strongly opposed to the tyranny in which Fidel Castro has kept the people of Cuba over the last 22 years.

Puerto Rico and the U.S. Virgin Islands, as U.S. possessions in the Caribbean, have been participating in the Central American and Caribbean Games for many years. In fact, the games were held in San Juan back in 1966 at which time several members of the Cuban delegation defected and asked for political asylum in Puerto Rico. The Puerto Rican team and delegation to the games traveled there after obtaining a special license from the U.S. Government. However, about 200 fans accompanying the team traveled to Cuba in spite of restrictions imposed by the U.S. Government. Some of those 200 individuals may in fact be sports fans who believe that such travel restrictions are unconstitutional or unwarranted in a democratic society such as ours. Others, however, may be motivated by political ideologies including members of the Puerto Rico Independence Party and the Puerto Rico Socialist Party, who have acted in concert with the Castro government

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to gain support at the United Nations for Puerto Rican independence. Naturally, these individuals resort to the United Nations and to the support of the Cuban Government after repeated failures to persuade the Puerto Rican people to support independence for the island. During the last several elections in Puerto Rico the two parties advocating independence for the island have been able to poll less than 6 percent of the vote.

Mr. Rieckehoff's gesture not only is an affront to our people in Puerto Rico but also a mockery to the plight of more than 50,000 Cuban residents in Puerto Rico who had to flee Cuba shortly after the Castro takeover and who have been the cruel victims of Communist repression. I deplore Mr. Rieckehoff's gesture which in no way represents the true feelings of the Puerto Rican people.

VIOLENT ACTS IN PARIS DENOUNCED BY ARAB LEAGUE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I am deeply saddened and indeed find it deplorable that recent civilians were killed in a Jewish delicatessen in Paris. Only cowards filled with prejudice and hate commit these violent acts. When will the world come to its senses and renounce violence against innocent people. I was pleased to see the Arab League denounce this violence. Let us join hands in love and peace, and forgive—this is the only answer to our children's furture.

SUBCOMMITTEE HEARINGS ON FLIGHT WEATHER INFORMATION WILL BE RESUMED

(Mr. ROEMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, the tragic loss of life in the recent crash of Pan American Airways' flight 759, just after departing the New Orleans Airport, has raised several questions relating to weather information available to pilots and the proper role of the FAA in bad weather situations. As a member of the Subcommittee on Investigation and Oversight of the Committee on Public Works and Transportation, I have a special interest in the postcrash investigation.

The gentleman from Georgia (Mr. Levitas), the distinguished and able chairman of the subcommittee, has assured me of his interest in the matter and his willingness to resume the subcommittee's hearings on the dissemination of real-time weather information to flight crews in the near future. Such hearings will be a continuation of those held by our subcommittee during the spring of 1981.

As our hearings of over 1 year ago demonstrated, much more can be and must be done regarding air safety and weather information.

As Capt. T. E. Shephard, chairman of the Air Traffic control Committee of the Airline Pilots Association, said at those hearings, and I quote:

> Pilots today are still not getting accurate and timely information in the cockpit about the weather right around them.

Since that time, the Pan Am tragedy and two others have occurred.

Mr. Speaker, how much longer must we, who use the airways have to wait for the FAA to catch up with existing technology?

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF DEFENSE MILITARY CONSTRUCTION BILL

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight tonight to file a privileged report on a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE HUMAN TRAGEDY IN BEIRUT

(Mr. FINDLEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I am grateful to the gentleman from West Virginia, (Mr. Rahall) and the gentlewoman from Ohio, (Ms. Oakar) for voicing moral outrage at the human tragedy that is unfolding in Beirut. But where are the voices of outrage, of moral outrage, from the administration?

We may say, "Well the PLO is guilty of dreadful deeds" and that is true. But no one has ever accused the United States of being in complicity with the PLO, and the entire world sees the United States smeared with guilt for the unfolding tragedy in Beirut. We are charged with complicity with Israel in its military operations in Beirut.

Today's Washington Post thunders the message, and I hope the President and First Lady take a look at that dreadful picture of an infant starving to death because of the siege in Beirut.

Mr. Speaker, let us here in this Chamber realize that we individually have a responsibility under the law to see that our laws are faithfully executed, and if we had done our duty, the arms shipment to Israel would have been stopped long ago and this tragedy would not have occurred.

CHANGING ONE'S MIND

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, some have accused this administration of being insensitive to issues and remarks about women. In fact, they have suggested that recent remarks by my namesake fulfill and increase that lack.

I would suggest the opposite. Perhaps the press has misconstrued what was said. Indeed it was a compliment. While it is true that women would generally try to make up their minds before going public, we will forgive that male aberration. It is also true that women are not locked into emotional corners, as is so often the case with the opposite sex, but will rationally look at new information. Therefore, perhaps the remarks made by the Presidential adviser mean that for the first time the administration is realizing those strengths of women.

Mr. Speaker, since the administration, I suspect, wants to pass this tax bill, they had better hope that a lot of people, both men and women, change their minds.

PROGRESS TOWARD PEACE IN THE MIDDLE EAST

(Mr. DeNARDIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DeNARDIS. Mr. Speaker, we are encouraged by the news today that the major parties in the Middle East are close to an agreement on an operational plan to remove the Palestine Liberation Organization from West Beirut.

Based on my visit to Israel and Lebanon exactly 1 year ago this week, I have felt that there was a certain inevitability to Israel's invasion of Lebanon with the intent of smashing the military power of the PLO, and seeing that its remnants are removed from that unhappy land. That attack was one very violent and short episode in a state of war that has existed many years.

The United States is presently attempting to keep the violence in Beirut to a minimum and to facilitate the removal of the PLO to as yet undetermined countries. I applaud what America is trying to do through the leadership President Reagan and Ambassador Habib, just as I applaud our long and arduous efforts to find that elusive peace which has escaped the Middle East for so long. The peace process, of which the Camp David accords and the return of the Sinai to Egypt are the crowning jewels, can and should be extended to the problem of displaced Palestinians. It is possible that the invasion of Lebanon can lead to that extension.

We know the PLO had to flee Jordan in 1970 after an unsuccessful attempt to overthrow King Hussein. The PLO has gradually established a state within a state in Lebanon, literally leading to the wrecking of that country which was once called the jewel of the Middle East. With the removal of the PLO, it is possible that the many factions in Lebanon will seize the opportunity to recreate the government it had before the PLO arrival. The United States should do its part in promoting such an effort, because Lebanon can be a democratic, Western-oriented country.

The attack also means that the PLO is seriously weakened in its ambition to become the recognized spokesman for the Palestinians, and that weakness could lead to greater progress with negotiations on the Palestinian question. The PLO has so far refused to participate in the negotiations and has threatened to assassinate any Arab who does participate in the process. I believe it is in the best interests of the West to promote the emergence of nonterrorist, non-Marxist, and non-pro-Soviet leaders among the Palestinian people.

We know that the PLO is very active in the international terrorist network, and the military blows it has suffered in recent weeks ought to be hailed because those blows should reduce international terrorist activities. The PLO is a tool of the Soviet Union and serves as a mechanism to prevent the resolution of the Palestinian question. The ultimate resolution of the problem of Palestinian refugees will involve Israel and nearly all of the Arab States, especially Israel's neighbors, Jordan, Egypt, Lebanon, and Syria. The ability of the PLO to threaten the peace process may now be substantially weakened for years to come.

Certainly we are all appalled at the loss of life in Lebanon, particularly among civilians. Unfortunately, the PLO buries its military operations among the civilian population, including women and children; and this reprehensible and uncivilized practise has caused the civilian casualties and is one of the principal reasons the PLO is having difficulty finding a new home in the Arab world. In contrast to PLO tactics, the Syrian military forces in Lebanon painstakingly took up positions away from civilian concentrations.

American policy should now reach beyond the immediate task of ending the Lebanon conflict and to fulfill Palestinian settlement hopes. Most Israeli's feel this issue must be dealt with fairly and once the PLO is defanged, I believe that it will be.

THE FIGHT TO CUT GOVERNMENT SPENDING IS LOSING GROUND

(Mr. GINGRICH asked and was given permission to address the House and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, yesterday the House passed an agriculture bill that was over budget. The Appropriations Committee reported out two bills that were both over budget. The simple fact is that we are losing the fight to cut Government spending. We are slowly drifting back to the policy of taxing and taxing, spending and spending.

It is in this setting that we must look at the proposed 5-year $228 billion tax increase, and that is according to page 414 of the Senate Finance Committee report.

We in the House agreed only to a $20.8 billion 1-year tax increase, and that is on page 15 of the budget conference report. Any tax bill larger than $20.8 billion in the current spending binge would be a defeat of our effort to cut Government spending and return to a smaller Government.

In fact, a $228 billion tax increase should have with it $684 billion in spending cuts if we were to meet the administration's goal of $3 in spending cuts for every dollar of tax increase.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-224)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries, and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, August 11, 1982.)

FISCAL YEAR 1980 REPORT ON MINE SAFETY AND HEALTH ACTIVITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States: which was read, and together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate today, Wednesday, August 11, 1982.)

CONFERENCE REPORT ON S. 1193, INTERNATIONAL COMMUNICATIONS AGENCY AND BOARD FOR INTERNATIONAL BROADCASTING AUTHORIZATIONS, 1982-83

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 548 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 548

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVII are hereby waived.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. Hall) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 548 makes in order the consideration of the conference report on S. 1193, the authorization for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and the Inter-American Foundation for fiscal years 1982 and 1983.

It waives points of order against the conference report for failure to comply with the provisions of clause 3 of rule XXVIII. This is the rule prohibiting matter beyond the scope of the positions of both Houses as committed to the conference.

In the case of the conference report on S. 1193 there are 13 provisions which might be considered in violation of the rule governing the scope of a conference. For the benefit of my colleagues, I shall list these provisions:

Provisions of the conference report on S. 1193 which may be in violation of clause 3 of House Rule XXVIII ("scope"):

First, section 103(a) reprograms and mandates the use of certain funds for the expenses of operating and maintaining certain U.S. consulates. The corresponding Senate provision only earmarked funds for this purpose; and the House did not have a corresponding funding provision.

Second, section 105 mandates nondeferred payment of U.S. assessed contributions to the Organization of American States, the Pan American Health

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Organization (PAHO), and the Inter-American Institute for Cooperation on Agriculture (IICA). The corresponding Senate provision earmarked certain funds for payment of assessed contributions and did not apply to contributions to PAHO or IICA; and the House did not have a provision on this issue.

Third, section 107 earmarks funds for assistance for the resettlement in Israel of refugees from the Soviet Union, Eastern Europe, and other countries. Both the House and Senate provisions on assistance for refugees resettling in Israel were limited to refugees from the Soviet Union and Eastern Europe.

Fourth, section 111 authorizes funds for both fiscal year 1982 and fiscal year 1983 for the Asia Foundation. The corresponding Senate provision did not include authorization for fiscal year 1983; and the House had no provision on this issue.

Fifth, section 124 provides authority to establish basic salary rates for the Senior Foreign Service. Neither the House nor the Senate had a provision on this subject.

Sixth, section 126, relating to scientific exchange activities with the Soviet Union, requires a report on certain exchange activities conducted during fiscal years 1981 and 1982. The corresponding House provision required this information with respect to fiscal years 1979, 1980, and 1981; and the Senate had no provision on this issue. This section also requires annual reports from the Secretary of State listing Soviet nationals participating in certain exchange activities. The corresponding House provision prohibited the use of funds for these exchanges; and the Senate had no provision on this issue.

Seventh, section 202, relating to foreign missions, differs in several respects from the corresponding House provision, and the Senate had no provision on this issue (i.e., made no change in existing law):

The conference substitute designates by law certain areas in the District of Columbia in which chanceries can be located as a matter of right. The House provision created a District of Columbia Foreign Missions Commission which was directed to establish the areas in which chanceries could be located as a matter of right.

The conference substitute authorizes the President to designate certain Federal officials to serve on the D.C. Zoning Commission in lieu of the Director of the National Park Service during Commission proceedings relating to chanceries. The corresponding House provision established by law who would sit on the Commission responsible for zoning decisions affecting chanceries in the District, and the Senate made no change in the existing laws governing the membership of the relevant D.C. agencies.

The conference substitute expands the definition of international organization beyond that contained in the House amendment.

The conference substitute expands the authority of the United States to intervene in judicial proceedings, to obtain compliance with the foreign missions provision beyond that contained in the corresponding House section.

The conference substitute requires the Secretary of State to advise agencies and businesses whether transactions they propose to enter into with a foreign mission are prohibited under this legislation. The House amendment had no corresponding provision.

The conference substitute provides that the authorities of the Secretary of State relating to foreign missions shall be exercised under Presidential guidelines. The House amendment had no corresponding provision.

Eighth, section 302 authorizes $559,000,000 for the fiscal year 1983 for the U.S. Information Agency—as so redesignated by this legislation. Both the House and Senate had authorized $482,340,000 for the fiscal year 1983 for that agency.

Ninth, section 304(e), to the extent it relates to the use of fees from USIA's English-teaching programs has no corresponding provision in either the Senate bill or the House amendment.

Tenth, section 305(d) earmarks USIA funds for fiscal year 1983 for certain exchange-of-persons activities. Neither the Senate bill nor the House amendment contained such earmarkings.

Eleventh, section 501(c), relating to interest earned by Inter-American Foundation grantees, does not correspond to any House or Senate provision.

Twelfth, section 504, relating to the International Code of Marketing of Breastmilk Substitutes, does not have any congressional findings corresponding to those contained in both the Senate and House provisions on this issue.

Thirteenth, the conference substitute does not contain an earmarking for an ex gratia payment for Yugoslav national injured in the United States. The House and Senate had identical provisions on this subject.

Mr. Speaker, this legislation is the result of lengthy consideration, and it enjoys bipartisan support. In addition, it is supported by the administration.

I am not aware of any opposition to granting this waiver of clause 3 or rule XXVIII so that this conference report can be considered. I would urge my colleagues to adopt this rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Ohio (Mr. HALL) has ably described the resolution. I know of no opposition to the rule. When we get down to the debate on the conference report, there may be some difference of opinion.

Mr. Speaker, it is time for action not only on this measure but on other measures which require consideration before adjournment, hopefully in early October.

I have no requests for time, and I yield back the balance of my time.

□ 1045

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. SMITH) for purposes of debate only.

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that this rule waives all points of order. Why are the points of order necessary to be waived?

It is because the authorization bill contains an appropriation matter. It is a reappropriation of appropriations that were appropriated when the appropriations bill went through the House. If you do not know where it is, it is section 103(a).

This involves consulates. We appropriated the money for the State Department last year. For some time there has been some argument about whether or not they should have consulates in certain cities. What happened was that in 1980 they closed a number of consulates and hired local agents to take their place, just like airlines sometimes close the local airline offices that have salaried people and they hire a travel agent to sell tickets for them.

In this case, these responsibilities are being paid for at an annual cost of $75,000. The annual cost for opening up these consulates would be $1,800,000.

I do not know where they are going to get the other $1,700,000. We have asked and not received information, but certainly there is going to be in Western Europe the firing or transferring of probably 20 or 30 people out of other embassies and consulates to make up this money.

But the main thing I want to point out is that here we have a rule that waives points of order against an appropriations matter. If we are going to have appropriations matters in authorizations bills then I do not see why the Appropriations Committee should continue to resist, as we have, authorization matters in appropriation bills.

We have tried to cooperate with the committee and resist all of those that they did not approve. But if they are going to put appropriation matters in their authorization bill I do not know why we should not do the same thing in reciprocation.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FASCELL. Mr. Speaker, I call up the conference report on the Senate bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 3, 1982.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to the State Department, U.S. Information Agency, and the Board for International Broadcasting authorization act for fiscal years 1982 and 1983. This bill contains a total authorization of appropriations of $2.8 billion for fiscal year 1982 and $2.9 billion for fiscal year 1983, broken down as follows:

First, $2,281,207,000 for fiscal year 1982 and $2,253,127,000 for fiscal year 1983 for the Department of State;

Second, $494,034,000 for fiscal year 1982 and $559 million for fiscal year 1983 for the U.S. Information Agency;

Third, $86,519,000 for fiscal year 1982 and $98,317,000 for fiscal year 1983 for the Board for International Broadcasting; and

Fourth, $12 million in fiscal year 1982 and $12.5 million in fiscal year 1983 for the Inter-American Foundation.

The House and Senate versions of this bill passed their respective Houses on October 29 and June 18 of last year. The House version reflected the President's budget request—including the 12-percent cut which the President made in September 1981. This bill largely reflects those figures. However, subsequent to floor action, the executive branch requested a supplemental authorization for the International Communication Agency to increase that Agency's 1983 budget from $494 million to $644 million. Because the conference on the bill was pending for such an extended length of time, the conferees decided to include the legislative authorities in the supplemental and to accept some, but not all, of the administration's supplemental funding request for ICA in 1983. This additional funding was necessary to insure support for ICA's educational and cultural exchange programs. Let me assure you that we have been able to fund these programs and still recommend a total budget ceiling which is well within the budget resolution and below the original executive branch request for these agencies which was submitted over a year ago. In fact, this budget authorization is $12 million less than the original executive branch request for 1982 and approximately $100 million less than the executive branch request for 1983.

This conference report is the product of careful deliberation of the conferees during 3 days of meetings. It provides for the reopening of seven U.S. consulates in various parts of the world; provides for payment of our assessed contributions for the United Nations and other international organizations; and provides for assistance to refugees. In general, it allows for the sound conduct of U.S. foreign policy through the funding of our State Department and public dipolmacy efforts such as those conducted by the International Communication Agency and through the broadcasts of the Voice of America and Radio Free Europe/Radio Liberty.

Perhaps one of the most important sections of this bill is title II which relates to foreign missions. This foreign missions act would promote a more sensible administration of our foreign policy effort by establishing an Office of Foreign Missions within the Department of State to review and control the operations of foreign missions in the United States and to regulate the benefits available to these missions. Such regulation would be based on the concept of reciprocity and our international legal obligations. In other words, the office would insure that services and benefits be provided to foreign missions operating in the United States under conditions or limitations similar to those place upon U.S. missions operating overseas.

The committee of conference, though in agreement regarding the need for such an office, paid special attention to the section of this provision regarding the location of chanceries in the District of Columbia. After consideration of two compromise proposals, the conference committee agreed to a procedure which balanced both the Federal and municipal interests in choosing sites where foreign chanceries may locate in the District of Columbia. I feel that this legislation represents a good compromise which will allow the Office of Foreign Missions the power it needs to take reciprocal action on all matters relating to the establishment and operations of an overseas mission, while recognizing the understandably strong interest in the District of Columbia in controlling their city plan.

In other provisions, this legislation prohibits the use of funds appropriated for U.S. payments to international organizations which would provide political benefits to the Palestine Liberation Organization; provides assistance for refugees settling in Israel; earmarks funds for the International Committee of the Red Cross for the assistance of political detainees; and provides that no funds may be used for payment of the U.S.-assessed contribution to UNESCO if that organization implements policies which would restrict the free flow of information worldwide or impose codes of journalistic practice or ethics.

In addition, the bill would extend the life of a passport from 5 to 10 years; redesignate the International Communication Agency (ICA) as the U.S. Information Agency (USIA); earmark funds to be used for grants for the Fulbright programs, Humphrey fellowships, and other academic exchange programs; provide for the merger of the Board for International Broadcasting and the Board of Directors of Radio Free Europe/Radio Liberty, Incorporated; and requests three executive branch reports—one on the costs to the United States of local efforts to asssist refugees and Cuban and Haitian entrants to the United States in fiscal years 1981 and 1982. Other reports request; First, an analysis of U.S. participation in UNESCO; and second, a report from the Secretary of State assessing the risk of transfer to the Soviet Union of technology through research and educational exchanges.

This legislation contains many well-thought-out provisions which I feel are essential to our foreign policy efforts. I urge my colleagues to support this conference report.

Mr. Speaker, I also wish to note that the fiscal year 1983 authorization figure for the Department of State is slightly lower than the fiscal year 1983 appropriation request which is currently pending. This is due to the unusual circumstances which left the fiscal year 1982–83 authorization bill pending in conference until recently. Therefore, to clarify the legislative history on this matter, as well as on other matters relating to the fiscal year 1983 supplemental authorization request for the International Communication Agency (soon to be the U.S. Information Agency), I wish to insert portions of the report of the Committee on Foreign Affairs on H.R. 5998, whose provisions are included in the conference report pending before us:

> The Committee on Foreign Affairs, to whom was referred the bill (H.R. 5998) to provide additional authorizations of appropriations for the fiscal year 1983 for the International Communication Agency, and for other purposes, having considered the same, report favorably thereon without

amendment and recommend that the bill do pass.

COMMITTEE ACTION

On March 18, 1982, the Director of the U.S. International Communication Agency, Hon. Charles Z. Wick, sent to the Speaker of the House of Representatives Executive Communication 3463 which contained a draft bill to provide additional authorizations of appropriations for the fiscal year 1983 for the International Communication Agency, and for other purposes. On March 25, 1982, the Assistant Secretary of State for Congressional Relations, Hon. Powell A. Moore, sent to the Speaker of the House of Representatives Executive Communication 3520 containing draft legislation to amend 22 U.S.C. 2653 as well as the executive pay schedule in order to make certain changes in administrative authorities which would confirm, in law, existing practice regarding the treatment of the rank of Counselor within the Department of State. These communications were referred to the Committee on Foreign Affairs, and on March 23 and 30, respectively, the chairman, Hon. Clement J. Zablocki, referred them to the Subcommittee on International Operations.

The Subcommittee held a hearing on March 17, 1982, during which testimony was received from representatives of the Department of State and the International Communication Agency. Among the witnesses were the following: Hon. Richard T. Kennedy, Under Secretary of State for Management; Hon. Charles Z. Wick, Director of the International Communication Agency; and Mr. James Conkling, Director of the Voice of America.

The subcommittee held an open markup session on March 26, 1982, on the draft legislation and reported to the full committee a draft bill in the form of a committee print. The full committee, on March 31, held an open markup of the draft bill and agree to the introduction of a clean bill. H.R. 5998 was subsequently introduced by Hon. Dante B. Fascell, chairman of the Subcommittee on International Operations, and 15 cosponsors. On April 1, 1982, H.R. 5998 was ordered favorably reported by voice vote.

PURPOSE OF THE BILL

The principal purpose of H.R. 5998 is to provide additional authorization of appropriations for fiscal year 1983 for the International Communication Agency to enhance the U.S. public diplomacy effort—the manner in which the United States can transmit its message worldwide, facilitate the free flow of information, and promote understanding and acceptance of U.S. positions through both its broadcasts and international education and cultural exchange programs.

OTHER PROVISIONS OF THE BILL

The bill also contains provisions which make certain changes in administrative authorities which have been requested by the agencies or recommended by the committee. These provisions would accomplish the following:

(1) Permit the International Communication Agency to credit tuition fees and other payments received in connection with the agency's English teaching programs to ICA's applicable appropriation; and

(2) Exempt Inter-American Foundation grantees from the obligation to return to the U.S. Treasury interest earned on advances of appropriated funds.

COMMITTEE COMMENT

The committee considered a request to amend section 804(1) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1474(1)) to clarify ICA's authority to employ aliens for translation and narration or preparation and production of foreign language programing. ICA requested an amendment to the law to enable the Agency to employ aliens when "equally or better" qualified U.S. citizens were not available.

Under existing law, ICA may employ aliens when "suitably" qualified U.S. citizens are unavailable for employment. The phrase "suitably qualified" has, because of the lack of legislative history on the issue, been interpreted by the Agency as "minimally qualified," mandating the employment of U.S. citizens over more highly skilled foreign nationals. The Senate report on the Foreign Relations Authorization Act for fiscal years 1980 and 1981 states that, "By law, should a qualified U.S. citizen apply for a position held by an alien, the American citizen would be given the position." On the other hand, the House report language offers a different, more flexible description, citing the severe problems encountered by ICA in recruiting U.S. citizens and recognizing that a number of tasks "can properly be performed by alien employees who are qualified and have the proper security clearances" when suitably qualified U.S. citizens are not available. The more specific dictates of the Senate report appear to require VOA to terminate the employment of a qualified alien (or to move that person laterally to a potentially less important job within the Agency) in order that a lesser or "minimally" qualified U.S. citizen be employed or promoted. In fact, the committee does not view the language in the House and Senate reports as contradictory, provided the term "suitably qualified U.S. citizen" is interpreted sensibly. The term should be interpreted to mean in effect that the person who best fulfills the job requirements would be hired, and that only in those cases where the American and the foreign national are equally qualified should preference be given to an American. Moreover, the committee sees no reason why an alien should be separated from employment or transferred to another position because of the availability of a U.S. citizen, on the basis of citizenship alone.

USICA's present interpretation apparently protects only a few employment opportunities for Americans. This is done to the detriment of the quality of VOA's programing overseas. In view of the U.S. Government's large investment in its international broadcasting effort, it is not in the interest of the United States or of U.S. citizens to jeopardize the quality of such programing in order to insure that "minimally qualified" Americans fill every possible position. The ability to communicate information accurately in a foreign language hinges on language capability which includes an idiomatic grasp of the language, not just textbook knowledge. International broadcasting is a competitive field which requires the best possible staff to attract and maintain an overseas audience. The quality of U.S. broadcasts reflects the quality of the message and the seriousness of our intent in broadcasting. Mistakes hamper our effectiveness and our competitiveness, and may offend our intended audience. Indeed, the committee has, over the years, been aware of criticisms of VOA broadcasts which indicate that some VOA broadcasters have not possessed an adequate grasp of the necessary language.

It is the view of the committee that the phrase "suitably qualified" is adequate to reflect the staffing needs of VOA, if interpreted correctly. In fact, "suitable" in itself means "qualified" and should be applied to those who are able to present a quality product. A suitably qualified person does not mean one who is qualified under minimum standards, but a person whose skills match the demands of the position as well as the demands of the Agency. Such an interpretation should allow ICA more flexibility in obtaining the staff needed to fulfill its . . .

The committee notes that this bill contains no fiscal year 1983 supplemental authorization request for the Department of State. The committee has decided that additional authorization is unnecessary at this time, given the unusual circumstances which have left the fiscal year 1982-83 authorization bill pending in conference. The following letter from Hon. Richard T. Kennedy, Under Secretary of State for Management, explains the fiscal year 1982-83 budgetary situation, which assumes enactment of the pending authorization bill:

UNDER SECRETARY OF STATE FOR MANAGEMENT,
Washington, D.C., March 24, 1982.

Hon. DANTE B. FASCELL,
Chairman, Subcommittee on International Operations, Committee on Foreign Affairs, House of Representatives.

DEAR DANTE: I very much appreciate appearing before your Subcommittee last week to explain the Department of State's 1983 budget. As always, we value your strong support, most especially during this long legislative process. I trust my testimony gave a clear picture of our adjusted 1982 and 1983 requirements.

As a matter of practice to avoid confusion, the initial authorization bill has traditionally been presented at the same funding levels as our initially proposed appropriations. However, there have been many subsequent changes to the 1982 and 1983 budgets. Since the bill pending before the Congress covers two years, I would like to review its relationship to the revised 1982 budget figures and the new 1983 appropriation request.

In the context of this review, the 1982 and 1983 amounts authorized for the Department in the pending bill, when combined with existing permanent authorities, are sufficient to cover the revised appropriation requirements. These permanent authorities entail international peacekeeping activities, increases for American salaries, Foreign Service National wages, and the Foreign Service Retirement Fund. I will elaborate further on these authorities below.

For 1982, the bill contains ample authorization to cover the Department's appropriation levels in the Continuing Resolution, as well as for pending and proposed supplemental appropriations. As can be seen from the table at Attachment 1, we would have $68 million more authorization than appropriations in the House version of our bill and $225 million more in the Senate version. In this table we have included $13 million for 1982 supplemental requests (primarily for the United States-Iranian Claims Tribunal, the United States-Canada Maine Boundary dispute, and the Foreign Service Retirement Fund) and $22 million for Federal salary increases (which OMB has not yet transmitted to the Congress). Not included is $10 million in supplemental requests pending at OMB for protective security of U.S. diplomatic personnel overseas and of foreign diplomatic personnel in the United States following increased terrorist

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attacks on these two groups. However, even after adding these pending supplemental requests, I believe the bill provides sufficient authority in 1982 to meet the Department's requirements.

Concerning 1983, the amounts authorized for the Department in the House or Senate version of our authorization bill, when considered in conjunction with provisions of permanent authority contained in existing law, will provide sufficient authorization to meet our current and anticipated 1983 budget requirements. Specifically, Attachment 2 indicates there is $123 million in existing authorization above the funding levels for 1983 authorized by either the House or Senate from: Peacekeeping ($60 million); pay supplementals ($25 million); wages ($23 million); and Foreign Service Retirement Fund ($15 million).

This will cover the $40-47 current 1983 authorization "shortfall" indicated in Attachment 1, and also will provide authority to meet additional requirements not in our 1983 Congressional budget. The new items will total up to $70 million for such needs as increased overseas and domestic security ($48 million—a continuation of our 1982 supplemental request), peacekeeping ($10 million) and further Blair House renovations ($8 million).

Although this approach has been taken this year in view of the unusual circumstances involving the authorization legislation, the Department fully intends to continue to include these items in future fiscal year requests to the Committee. This unusual approach, of course, presupposes enactment of the fiscal year 1982-83 authorization legislation now pending in conference. As you know, the Department is eager to obtain a viable 1982-83 authorization bill, and I will make every effort to work closely with you to obtain it.

Sincerely,

RICHARD T. KENNEDY.

Attachments: Retained in Committee files.

COUNSELOR OF THE DEPARTMENT OF STATE

Executive Communication 3520 requesting that the position of Counselor of the Department of State be upgraded from Executive Level IV to Executive Level III was submitted to Congress and jointly referred to the Committee on Foreign Affairs and Post Office and Civil Service on March 30, 1982. The Department of State further requested that such a provision be included in H.R. 5998.

During consideration of H.R. 5998, the committee noted that approval of the executive branch request on this matter would have the effect of increasing the number of level III positions in the Department of State at a time when the Department and other Federal agencies are undergoing severe personnel cuts and are making other budget sacrifices. In view of these reductions, the committee agreed that upgrading the position of Counselor of the Department without eliminating an existing level III position would be inappropriate at this time

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SECTION-BY-SECTION ANALYSIS

SECTION 1—ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1983

This section amends the International Communication Agency Authorization Act, fiscal years 1982 and 1983, which is currently in conference, to authorize an additional appropriation of $157,660,000 for fiscal year 1983 to carry out the Agency's international communication, education, and cultural exchange functions. The following table provides a comparison of the executive branch fiscal year 1983 supplemental request with amounts contained in the Senate-passed bill, S. 1193, and the House amendment thereto, which is the fiscal years 1982 and 1983 authorization bill for the Department of State, the U.S. International Communication Agency, the Board for International Broadcasting, and the Inter-American Foundation.

U.S. INTERNATIONAL COMMUNICATION AGENCY—COMPARISON OF 1983 BUDGET REQUEST WITH AMOUNTS IN H.R. 4814 AND S. 1193

[In thousands of dollars]

Account	1981 request fiscal year 1983 [1]	1982 supplemental request for fiscal year 1983 [2]	Increase (+) or decrease (−)
Salaries and expenses:			
Overseas missions	146,194	150,777	+4,583
Broadcasting service	106,669	117,391	+10,722
Educational and cultural affairs	92,380	100,600	+8,220
Program coordination and support	39,456	46,664	+7,208
Agency direction and management	33,412	37,665	+4,253
Administrative support from other agencies	34,076	42,346	+8,270
Special foreign currency program	11,451	11,327	−124
Total, salaries and expenses	463,638	506,770	+43,132
Acquisition and construction of radio facilities	1,822	115,000	+113,178
Center for Cultural and Technical interchange between East and West	16,880	18,230	+1,350
Total 1983 request	482,340	640,000	+157,660

[1] Submitted in March 1981 and approved in the House and Senate versions of the ICA fiscal year 1983 authorizations currently pending in conference (H.R. 4814 and S. 1193).

[2] Submitted on Mar. 18, 1982.

The Soviet Union presently outspends the United States by about 7 to 1 in international broadcasting and information efforts around the world, not to mention the additional millions of dollars it spends jamming U.S. broadcasts to the Soviet Union. The United States even ranks below some of its Western allies in broadcast hours around the world.

ICA's product is an important element in the U.S. national defense, a critical weapon in the war of ideas. Mutual understanding is a key element in the peace process and the effort to make information about the United States available to the world must be pursued vigorously if the United States is to maintain and promote the world's information balance.

Though U.S. arsenals of defense are stocked with state-of-the-art weaponry, the United States has neglected the technology of broadcasting and has relaxed this Nation's message on transmitters which were "state of the art" in 1938. Therefore the committee feels that this supplemental request is not only justified, but overdue. Indeed, this new executive branch request approximates the committee's original fiscal year 1983 recommendation. The bulk of the supplemental (approximately $113.2 million out of $157.7 million) would be allocated to ICA's account for the acquisition and construction of radio facilities. Principally, these funds would be used to complete the construction of transmitting facilities for the Voice of America in Sri Lanka and Botswana, for broadcasting to Asia and Africa respectively, to reequip and modernize domestic broadcast studios, and to finance construction of a VOA-owned satellite network.

In addition to needed budget increase for plant and equipment and improvements in broadcast technology, the remainder of the supplemental would be allocated to fund, among other things, Federal pay raise costs, increased education and cultural affairs programing, the establishment of an ICA branch post in Guangzhou (Canton), China, and the consolidation USICA office space in Washington, D.C.

The committee approves of the planned office space consolidation, which is long overdue. USICA now occupies 12 buildings in Washington, a circumstance which hampers efficiency and makes communication and day-to-day operations unusually difficult. The committee expects this move to be accomplished expeditiously and looks forward to receiving periodic progress reports.

The committee is concerned over allegations that education and cultural affairs programing is being subjected to political influences in derogation of the history, traditions, and intent behind the diverse programs administered by ICA. It is vital that these programs and the broadly representative nature of their participants be unimpeded by political considerations or wildly fluctuating budgetary priorities. Those involved in the business of promoting international understanding have realized that the United States should expand more than its current minuscule efforts in education and cultural exchanges. Therefore, it is imperative that existing programs of this sort be enhanced and expanded. By no means should they be sacrificed to newer, narrower initiatives of unconfirmed effectiveness. The goal should be to increase our efforts as much as possible as that the whole range of USICA's purposes is served.

Furthermore, the committee feels strongly that in order to fulfill effectively its assigned mission to foster mutual understanding, ICA must zealously protect the integri-

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ty and objectivity of its broadcasting efforts. The Voice of America must continue to reflect the best American journalism, to tell the U.S. story clearly, honestly, and reliably. Only in this way will the United States be listened to, and its word respected.

Moreover, the committee supports USICA's efforts to combat disinformation through the dissemination of truth. It does, however, hope that such efforts can be made without harming the Voice's journalistic integrity and without mirroring aspects of the programs they are designed to counter. Some valid concerns have been voiced that a bolder marketing of America worldwide, a more obvious waving of the flag overseas, might damage that credibility as well as the goodwill among foreign audiences which USICA has built over the years. Credibility, in publications as well as in broadcasting, is USICA's best asset and our binding link to audiences worldwide.

The committee firmly supports a growing role for USICA in protecting U.S. interests abroad. It is the committee's hope that, in expanding USICA's reach, we can do so without changing the Agency's mission or threatening existing programs which already serve U.S. interests so well.

The committee further wishes to express its opposition to the Executive Committee of Correspondents' decision to withdraw accreditation to the Radio and TV Galleries of the House and Senate for correspondents of RFE/RL, Inc., as well as its continuing denial of accreditation to Voice of America correspondents. It appears that the committee reached that decision based on the fact that Radio Free Europe and Radio Liberty are government-financed. By a fantastic leap in logic, they have thereby questioned the integrity and objectivity of the Radios. In addition, the Executive Committee seems to believe that RFE/RL, Inc., is controlled by the Department of State. In fact, the Radios' activities are carried out on a day-to-day basis in an entirely independent and objective manner, without any guidance or direction from the Department of State. Indeed, RFE/RL, Inc.'s research reports are so highly regarded that hundreds of news organizations, individuals, government agencies, and businesses around the world subscribe to them.

The committee is adamant in its belief that these organizations have been unfairly treated, not the least because the "Rules Governing the Radio and TV Correspondents Gallery" do not provide for the expulsion of a member. Moreover, it is highly questionable praccice on the one hand, for the Executive Committee to attempt to expel RFE/RL, Inc., by questioning its independence, while on the other hand permitting foreign government-run operations such as Soviet radio and television to retain their accreditation. Indeed, the British Broadcasting Corp., Deutschewelle (Federal Republic of Germany) and French media entities are not only government-financed, but government-controlled. Finally, the committee urges that when the Executive Committee of Correspondents reconsiders its decision it also reconsider the reasons for which the Voice of America has always been denied accreditation. The Committee on Foreign Affairs believes that there is no justification for discrimination against U.S. media entities unless the same treatment is accorded foreign media entities which are government-financed or controlled.

SECTION 2—USE OF ENGLISH-TEACHING PROGRAM FEES

This section would amend the United States Information and Educational Exchange Act of 1948 to provide the International Communication Agency with the necessary authority to use tuition and other payments received in connection with the agency's overseas English-teaching programs. Under present practice, USICA is required to return to the Treasury any proceeds it collects as a result of its activities. At present, many of these programs are run under contracts with binational centers overseas where USICA's authority is limited. If USICA is permitted to use the proceeds of its programs it will be able to strengthen its program control and financial oversight. Annual proceeds from such programs are estimated at $200,000 for the first year and up to $500,000 in succeeding years. The authority provided in this section may be exercised only to the extent that it is approved in appropriation acts.

SECTION 3—INTEREST EARNED BY INTER-AMERICAN FOUNDATION GRANTEES

This section would exempt Inter-American Foundation (IAF) grantees from the obligation to return to the Treasury interest earned on advances of appropriated funds. This provision applies to interest earned both before and after date of enactment of the section.

Under present IAF practice, disbursements of grants are made at 6-month intervals, since most grants are under $75,000 and it would be administratively costly and inefficient to make quarterly disbursements. Although great effort is made to disburse funds so as to minimise the time elapsing between transfer and grantee utilization, the entire disbursement may not be used immediately. In fact, it normally takes several weeks for the grantee to utilise all of the funds. In countries where the annual inflation rate has been as high as 100 percent, the real value of the money drops dramatically if the remaining funds are not permitted to earn interest, even for 2 or 3 weeks. Under current administrative interpretations, these organizations must return to the U.S. Treasury any earned interest. Not only is this practice confusing to the small, unsophisticated organizations which make up the bulk of IAF's grantees, but it would be more costly to the United States administratively to require the return of such small amounts of interest.

Instead, the committee feels that a much more practical and efficient procedure would be to permitted grantees to utilise any such interest earned for the purposes for which the IAF grant was made. In this way, the Foundation's funding will not be as diminished by high inflation rates, the purposes of the Foundation will be served, the United States will save money, and the purposes of the individual grants will be enhanced. In addition, the committee wishes to stress that support for this exemption from the requirements of 31 U.S.C. 484 is based upon the unusual aspects of Foundation grantmaking and operations and is not intended to be a precedent for other agencies. Indeed, the committee does not feel that this exemption is inconsistent with the original intent behind enactment of 31 U.S.C. 484 which concerns congressional oversight and control of appropriated funds.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will emphasise the points made by the distinguished gentleman from Florida.

I should like to point out to the House, if it is not a violation of diplomacy, that dealing for a year with the other body in intermittent conference sessions is not the world's easiest chore, so you must understand we had a difficult time in conference.

As the gentleman from Florida pointed out, the ICA supplemental request has made the adjustment in the authorization necessary. Yet the authorization, for example, for the ICA is $85 million below the President's original request.

The gentleman from Iowa (Mr. SMITH) raised a point earlier concerning a provision in the conference report mandating that there be no new consulates created or expansion of consulate offices, until certain consulates now closed are reopened.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. If that were the case, I would not make any objection whatever. But I point out that that is not what it says.

This was not in either the House bill or the bill in the other body.

Mr. DERWINSKI. My personal opinion is that the closing of those consulates at the time may have been well intended, but let us say that it was not necessarily a practical economy move and that we have been under constant pressure from a number of countries to reopen those consulates.

We have the age-old issue of how do you best fly the flag and how do you best serve America's interests.

Mr. SMITH of Iowa. I would not even argue whether they should have been closed at the time. The fact of the matter is that they were.

We now have for State Department personnel for Western Europe a certain amount of money in 1982. This would take $1.7 million of that money to perform the same services that are now being provided by those agents. They have been telling us that they are short.

My opinion is that if they have this $1.7 million more than they need in Western Europe, they probably have more than they need in South Africa and everywhere else and we ought to take a look at their salaries and expenses and perhaps cut about $15 million out of it.

Mr. DERWINSKI. My understanding is the required amount is only $400,000 for fiscal year 1982.

Mr. SMITH of Iowa. The figure for 1982 is to reprogram $400,000 and that annualizes to $1,800,000 in 1983. If they fill the positions in 1982, they will carry them on in 1983, and that is $1,800,000, for services they are now performing for $75,000 with local agents.

So it is $1,700,000 more that is going to come out of salaries and expenses available for Western Europe in other embassies and consulates.

Mr. DERWINSKI. According to the Department of State estimate, which is cited in the statement of managers, the fiscal year 1983 cost will be $1.5 million which has been rebudgeted pursuant to a reprograming notice sent to Congress. I think that I could allay the fears of the gentleman by pointing out that the particular subcommittee chaired by the gentleman from Florida (Mr. Fascell), on which I am the ranking member, rides very, very tight herd on the Department. They do come in and justify, as best they can, all of their expenditures. It should be mentioned, in this regard, that the foreign missions provision in the conference report would tighten the control that we have over foreign chanceries here in Washington, and in turn gives us greater leverage abroad to achieve both, land and facility acquisition that will achieve savings for us down the road.

Mr. SMITH of Iowa. As the gentleman knows, all of that is necessary because they are not receiving the same program level that they have had previously because of the tight budget.

They need any funds to carry the same services for salaries and expenses.

If they do take $1.7 million from salaries and expenses to perform the same services, I do not know where this money is coming from. Also if it is done, it ought to be done in an appropriation bill.

Mr. DERWINSKI. As the gentleman from Illinois explained earlier, this item has been anticipated in the Department's budget pursuant to a reprograming notice notifying Congress of the Executives intention to reopen the consulates. I presume that this request of the Department will be acknowledged in the appropriation process.

Mr. SMITH of Iowa. We are coming up on the floor soon with a proposal for 1983 funding and in it we have a certain amount for salaries and expenses. It does not anticipate this diversion of funds and a reprograming has not been approved.

If they do shift these resources, that means they had too much money for Western Europe. In that event, I am of the opinion then, they probably have that much more in other places in the world.

In that event, by the time we get through conference we may be able to cut the salaries and expenses not just the $1.7 million but probably $15 or $20 million.

Mr. DERWINSKI. The gentleman will have plenty of cooperation from the House in its present mood on any savings he could achieve.

Mr. Speaker, I have no requests for time and I am not aware of any controversy. I recommend adoption of the conference report.

● **Mr. BROOMFIELD.** Mr. Speaker, I rise in support of S. 1193, a bill to authorize the Department of State, the International Communication Agency (ICA) and the Board for International Broadcasting (BIB) for fiscal years 1982 and 1983. These entities are among the key elements in the nonmilitary area of U.S. National Security. They are our diplomatic affairs department and the principal practitioners of our public diplomacy. I support these agencies for the absolutely essential work they carry out in foreign affairs.

Among other things, the bill establishes a new Office of Foreign Missions within the Department of State. It provides for Federal jurisdiction regarding benefits for foreign missions in the United States. The new office will be under the Secretary of State but not subject to control by bureaus responsible for day-to-day operations or to the Department's Office of Protocol.

The figures in this bill are within the President's budget guidelines. I participated in the work of the conference committee and support the report of the conference. The bill is long overdue; I recommend its quick passage.●

● **Mr. ZABLOCKI.** Mr. Speaker, I rise in support of the conference report on S. 1193, authorizing appropriations for the Department of State, the International Communication Agency, and the Board for International Broadcasting for fiscal years 1982 and 1983.

At the outset, I would like to commend the gentleman from Florida (Mr. Fascell) and the gentleman from Illinois (Mr. Derwinski) for their able stewardship of this important authorization for our foreign affairs agencies. Their leadership throughout the long and, at times, arduous conference was crucial to the successful outcome.

In particular, I would like to commend the conferees for their work in crafting the compromise on the provisions relating to the Foreign Missions Act. In my judgment, the conference agreement on this measure will be a tremendous boon to our diplomatic missions overseas, while at the same time balancing the interests of the Federal Government and the District of Columbia regarding the process for the location of chanceries.

I am also pleased to note that the conference report mandates the reopening of seven U.S. consulates in various locations throughout the world of vital importance to the U.S. Government and American travelers and businessmen.

As the gentleman from Florida stated, the bill contains many provisions which will improve our foreign policy efforts while also recognizing the need for fiscal responsibility. The total amount authorized to be appropriated is significantly below the President's requests and within the budget resolutions targets.

I urge the adoption of the conference report.●

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1100

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. PANETTA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from California (Mr. Panetta).

The motion was agreed to.

The **SPEAKER** pro tempore. The Chair requests that the gentleman from Massachusetts (Mr. Studds) assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration on the bill, H.R. 5203, with Mr. Studds (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN** pro tempore. When the Committee rose on Monday, July 26, 1982, all time for general debate on the bill had expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

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Section 1 reads as follows:

H.R. 5203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982".

The CHAIRMAN pro tempore. Are there amendments to section 1? If not, the Clerk will designate section 2.

Section 2 reads as follows:

DEFINITIONS

SEC. 2. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by amending subsection (ee) by striking out "or" immediately before clause (4) and inserting before the colon at the end of clause (4) the following: ", or (5) using a registered pesticide product for the formulation of another end-use product or for repackaging an end-use product, unless such use is prohibited by the labeling".

The CHAIRMAN pro tempore. Are there amendments to section 2? If not, the Clerk will designate section 3.

Section 3 reads as follows:

REGISTRATION OF PESTICIDES

SEC. 3. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (c)(1) to read as follows:

"(1) STATEMENT REQUIRED.—Each applicant for registration shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide product;

"(C) a complete copy of the labeling of the pesticide product, a statement of all claims to be made for it, and any directions for its use;

"(D) data as required for registration as provided in subsection (h) of this section with the trade secret or commercial or financial information marked as required by section 10(a) of this Act;

"(E) the complete formula of the pesticide product; and

"(F) a request that the pesticide product be classified for general use, for restricted use, or for both.";

(2) amending subsection (c)(2)(A) to read as follows:

"(2)(A) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which would usually be required to support the registration of a pesticide product and shall revise such guidelines from time to time. The Administrator, in establishing guidelines for data requirements for the registration of pesticides with respect to minor uses, and with respect to various types and classes of pesticides, shall make such guidelines commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these guidelines, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the guidelines on the incentives for any potential registrant to undertake the development of the required data. Guidelines and modifications thereof shall be published in the Federal Register. The Administrator shall provide for public comment for Agency guidance in development of such guidelines or modifications. Within 30 days after the Administrator registers a pesticide product under this Act the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the decision. The data shall be made available in a manner consistent with the provisions of section 10 of this Act.";

(3) amending subsection (c)(2)(B) to read as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide product (or a category of products) containing a particular ingredient, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person. The notice shall specify the data required, the date by which the data shall be submitted, and the procedure for obtaining rulings by the Administrator on questions concerning the applicability of the notice to various registrants or concerning the nature of the data required to be submitted.

"(ii) Each registrant of such a pesticide product to whom the notice is applicable shall provide evidence within 180 days after receipt of the notification specified in clause (i) of this subparagraph that it is taking the appropriate steps prescribed by the Administrator to secure the required data. If more than one registrant is subject to the notice, such steps shall include entering into a joint data development arrangement, unless the registrants subject to the notice unanimously agree otherwise. The joint data developers shall furnish to the Administrator the name, address, and telephone number of the person to whom inquiries concerning the arrangement should be addressed. As an initial cost of participation the joint data developers shall divide equally 25 percent of the estimated total cost of producing the required data or each shall pay $100,000, whichever is less. The balance of the cost of producing the data shall be paid by the joint data developers as needed, and shall be shared by each joint data developer on the basis of its United States market participation for the pesticide being tested, based on total pounds of active ingredient equivalent sold or used annually. Each joint data developer's market participation shall be adjusted during the period of the data development so that the most recent sales figures are used to compute each member's market share for the purpose of determining its share of the remaining cost of producing the required data. Each of the joint data developers shall submit adequate evidence of its annual market participation to an independent auditor for each of the years during the period of the joint data development. Such independent auditor shall be chosen by the joint data developers. The auditor's decisions and determinations shall be final and binding on each of the joint data developers. If further data are required by the Administrator under this paragraph, either before or after the additional data that were originally requested have been submitted, the same formula and procedure specified in this paragraph shall apply as if the subsequent request were the initial request for data. Any registrant who shares in the cost of producing the data shall be entitled to receive a copy of the data, and to examine and rely upon such data in support of maintenance of such registration.

"(iii) Notwithstanding any other provision of this Act, if a registrant who is subject to the notice from the Administrator, within the 180-day period prescribed in clause (ii) of this subparagraph, fails to enter into a joint data development arrangement under that clause, or if any of the joint data developers fails to take appropriate steps to secure and submit the required data, the Administrator shall issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data are required: Provided, That the terms of such joint data development arrangement shall be enforceable in an action brought by any developer in any federal district court having jurisdiction over all of the defendants or in the United States District Court for the District of Columbia, and such action shall be governed by the law of the District of Columbia. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of 30 days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the Administrator had a valid and reasonable basis for requiring the additional data, whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide product for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a determination shall be made within 75 days after receipt of a request for such hearing, and the decision made after completion of such hearing shall be final. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

"(iv) Subject to the provisions of clause (vi) of this subparagraph, data submitted pursuant to subparagraph (B) (before or after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982) shall not be considered by the Administrator to support any application for registration, amended registration, reregistration or experimental use permit on behalf of any person other than the joint data developers for a period of 15 years after the data are submitted, unless any such person has reimbursed the joint data developers by paying a share of the cost of producing the data in proportion to the number of persons sharing in such costs. Any such person shall upon payment be considered to be an original participant and shall share in all rights and be bound by all obligations entered into by the original data developers. Such reimbursement shall be returned to the original participants based on the percentage of the overall monetary par-

ticipation in the joint data development arrangement.

"(v) Health and safety data may be submitted voluntarily by a registrant or applicant after September 30, 1978, to replace data which such person deems scientifically insufficient under generally accepted good laboratory practices or test standards. In order to obtain the rights provided by this clause and clause (iv) of this subparagraph with respect to such data, a registrant or applicant undertaking such a replacement study shall notify the Administrator that the replacement study is being performed or has been performed under this clause. The Administrator shall publish any such notification in the Federal Register promptly after its receipt, and shall state therein whether the validity of the study is under review and any determinations as to its validity which have been made. Each person who, as of the date of publication, is a registrant or an applicant for registration of any product containing the active ingredient which is the subject of the study shall have the opportunity to participate in a joint data development arrangement as provided in clause (ii) of this subparagraph. If a registrant or applicant of record as of the date of publication of the notice informs the person undertaking the study, within 90 days of the date of publication, of the registrant or applicant's decision to voluntarily participate, the registrant or applicant shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph.

"(vi) With respect to any study which has been or is being performed in response to a request for additional data issued under this subparagraph between September 30, 1978, and the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, any person who on such date of enactment is the registrant of a product of the type to which that request applies but who is not already a party to an agreement to share in the cost of performing that study shall be entitled to enter into a joint data development arrangement with any person or group which is performing or has performed that study, under which arrangement such person shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph: Provided, That any registrant who wishes to be availed of the rights provided by this clause shall, not later than 120 days after date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, submit an irrevocable offer to enter into such an arrangement to the person or group which is performing or has performed the study.".

(4) amending subsection (c)(2)(D) to read as follows:

"(D) EXEMPTION.—No applicant for registration, reregistration or amended registration of a pesticide product who proposes to purchase a registered pesticide product from another producer in order to formulate such purchased pesticide product into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such registered pesticide products or offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection and subsection (h) for the use of any such data: Provided, That—

"(a) the applicant shall be exempt from submitting or citing data that concerns the safety of a new use and that are entitled to exclusive-use protection under subsection (h)(2)(A) of this section, only as long as the person who submitted such data has given written permission and any conditions of such permission remain satisfied;

"(b) if at any time after registration, amended registration, or reregistration the Administrator finds that the registrant ceased to use a purchased registered pesticide product as the source of the active ingredient in formulating the end-use product, this exemption shall no longer apply and unless the registrant agrees to supply the data required for registration as set forth in subsection (h)(2) of this section, the Administrator shall issue an order suspending the registration and a notice to the registrant providing the registrant an opportunity for a hearing on whether the suspension should be revoked. The hearing, if requested, shall be held in the manner provided by section 6(d) of the Act, except that the only issue to be decided shall be whether the registrant is entitled to an exemption under this subparagraph, and that the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing; and

"(c) the Administrator may require the submission of data pertaining solely to the safety of a changed use pattern proposed for the end-use product if such data have not already been submitted to the Administrator; and

"(ii) the registrant of such an end-use product shall not be subject to a notice issued under paragraph (2)(B) of this subsection for additional data concerning the safety of that ingredient or of the purchased product.";

(5) amending subsection (c)(3) to read as follows:

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—After receipt of the application, the Administrator shall review the data as expeditiously as possible, and either register the pesticide product in accordance with paragraph (5) or (7) of this subsection, or notify the applicant in accordance with paragraph (6) of this subsection of the Administrator's determination that it does not comply with the provisions of the Act.";

(6) amending subsection (c)(8) by inserting the designation (A) immediately before "Notwithstanding any other provision of this Act", and adding new subparagraphs at the end thereof as follows:

"(B) At least 90 days prior to initiating a public interim administrative review process, the Administrator shall notify all affected registrants of the risks upon which the proposed review will be based. In finally determining whether to initiate a public interim review, the Administrator shall consider any correcting or clarifying data or other information submitted by a registrant, including data on human or environmental exposure. If after giving notice to registrants under this subparagraph, the Administrator determines that it is not necessary to initiate a public interim review, then the Administrator shall make the reasons therefor available to the public.

"(C) The Administrator shall not by regulation or otherwise utilize a public interim administrative review process to abridge entitlement to a public hearing in accordance with section 6 of this Act.

"(D) A decision by the Administrator not to cancel or suspend the registration of a pesticide product or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b), and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection.";

(7) amending subsection (d)(1)(C)(ii) to read as follows:

"(ii) if the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such restrictions, including but not limited to geographic, hydrogeologic, soil-specific or seasonal restrictions, as the Administrator may provide by regulation: Provided, That any such regulation that contains restrictions that apply to the applicator shall require an appropriate notice of such restrictions on the label. Any such regulation shall be published in the Federal Register and shall be reviewable in the appropriate court of appeals upon petition filed within 60 days after the effective date of the regulation in final form by a person adversely affected by the regulation;

(8) adding at the end of subsection (g) the following: "The Administrator shall furnish registrants reasonable notice, not less than 90 days, of when they must apply for reregistration of their products. If an application for reregistration of a product is not received by the date specified in such notice, the Administrator shall issue an order canceling the product's registration. The Administrator may include in the order such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of the product. An order issued under this subsection shall be a final agency action for purposes of section 16(a) of this Act. A cancellation of a product's registration under this subsection shall not affect the right of a person whose registration was canceled to apply for a new registration of that product or a similar product in the future."; and

(9) adding a new subsection (h) to read as follows:

"(h)(1) For the purpose of this subsection:

"(A) The term 'pesticide product that contains a new active ingredient' means a pesticide product that is first registered after September 30, 1978, and that contains an active ingredient which as of the date of that product's first registration, has not been listed as an active ingredient in the ingredient statement of any other registered pesticide product.

"(B) The term 'new use' means, with respect to any active ingredient, a use that has not previously been registered by the Administrator for any product containing such active ingredient, and that results in a change in the use pattern of such product from nonfood to food use, food to nonfood use, outdoor to indoor use, indoor to outdoor use, terrestrial to aquatic use, aquatic to terrestrial use, nondomestic to domestic use, domestic to nondomestic use.

"(C) The term 'old-ingredient data' means data submitted to the Administrator that concerns the safety or effects of any product registered under this Act before the data were submitted, or that concern the safety or effects of any active ingredient of any such product, but shall not include data submitted to fulfill the conditions of a conditional

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registration under subsection (c)(7)(C) of this section.

"(D) The term 'data concerning a product's active ingredient' includes data from a test performed using the technical or purer grade of the active ingredient, and data from a test performed using an end-use product or other test substance that is intended to provide information concerning the safety or effects of the active ingredient.

"(2) An applicant shall supply the data required for registration as set forth in this paragraph. The applicant shall submit data or cite data previously submitted to the Administrator, or use any combination of those two methods, except to the extent that the applicant is precluded from relying on data by the following provisions:

"(A) The following data shall not, without the written permission of the original data submitter, be relied on by any other applicant to support any application for any registration (conditional or unconditional), amended registration, or reregistration, or experimental use permit during a period commencing with the date the data are originally submitted and ending 15 years after the date the Administrator approves the original data submitter's application:

"(i) Data (other than old ingredient data) submitted to support the application for the original conditional or unconditional registration of a pesticide product that contains a new active ingredient and data subsequently submitted to fulfill the conditions of such a conditional registration under subsection (c)(7)(C) of this section;

"(ii) Data concerning a product's active ingredients submitted after September 30, 1978, to support an application to amend a registration of any pesticide product by adding a new use, or to register a pesticide product with a new use, conditionally or unconditionally, and that do not pertain to any previously registered use regardless of the date of the original registration of the pesticide or its active ingredients; and

"(iii) Data (other than old-ingredient data) submitted after the effective date of this provision to support an application for an experimental use permit for a pesticide product containing a new active ingredient;

"(B) During the period in which data of an original data submitter are entitled to exclusive use protection under subparagraph (A) of this paragraph, any subsequent applicant also may obtain a registration for a product having the same new active ingredient or new use, or may obtain a permit for the same experimental use, by independently filing with the Administrator the data required for registration or for the permit and by satisfying the pertinent requirements of section 3(c)(5), 3(c)(7), or 5 of the Act. Data of the type described by subparagraphs (A)(i), (ii), and (iii) of this paragraph submitted by such subsequent applicant shall be entitled to the same exclusive use protection as described in subparagraph (A) of this paragraph, but only for the duration of the period of exclusive use remaining for data submitted by such original data submitter, and can be relied upon by others only with the written permission of the subsequent applicant.

"(C) Data concerning a product's active ingredients submitted pursuant to subsection (c)(2)(B) of this section may be relied on by an applicant only in accordance with the provisions of that subsection.

"(D) Data concerning a product's active ingredients not described by subparagraph (A), (B), or (C) of this paragraph and submitted by an applicant or registrant after December 31, 1969, but on or before September 30, 1978, to support an application for registration, experimental use permit, amended registration, or reregistration or to support or maintain in effect an existing registration, may not, during the 15-year period following the date the data were originally submitted, be relied on in support of an application by any other person (hereinafter referred to in this subparagraph as the 'applicant') without the written permission of the original data submitter, unless the applicant has made an offer to compensate the original data submitter and submitted to the Administrator evidence of delivery of the offer to the original data submitter. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor agreed on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide product in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide product. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(E) Except as provided in subparagraphs (A) through (D) of this paragraph, an applicant may rely on any item of data without obtaining the permission of the original data submitter and without offering to compensate the original data submitter for the use of such item of data. Notwithstanding any other provision of this section, an original submitter of an item of data shall be entitled to rely on the provisions of subsection (h)(2)(A), (B), or (D) of this section with respect to that item of data only if the original submitter (or the predecessor in interest) paid for the generation of the data.

"(F) Notwithstanding any other provision of this Act, no provision of subsection (c)(1)(D) or (h) of this section shall abridge the right of an applicant or registrant to obtain a registration, reregistration, amended registration, or experimental use permit (i) solely on the basis of data originally submitted by the applicant or registrant itself, (ii) except as provided in subparagraphs (A) through (D) of this paragraph, on the basis of previously submitted data cited or submitted by an applicant or registrant, or (iii) any combination of the foregoing; and the Administrator shall not in any way abridge such right.

"(G) The Administrator may approve an application only upon a determination that the application is in compliance with subsections (c)(1)(D) and (h) of this section. If an applicant has submitted or cited data which are required for registration in a manner consistent with subsections (c)(1)(D) and (h), the Administrator may then review any other data in deciding whether approval of such application would cause (or would significantly increase the risk of) unreasonable adverse effects on the environment.

"(H) For the purposes of subsection (h)(2) of this section, the term 'data required for registration' means the minimum kinds and number of studies which the Administrator would require in order to approve an application for unconditional registration under subsection (c)(5) of this section of a product with composition and labeling identical or substantially similar to that of the applicant's product, including data sufficient to satisfy guidelines issued under subsection (c)(2)(A) of this section: Provided, That to the extent that any such data have not been generated by any applicant or registrant or have been determined by the Administrator to be invalid, the provisions of subsection (c)(7) of this section shall apply. Nothing contained in subsection (h)(2) shall limit the provisions of subsection (c)(2)(D) of this section. An applicant for registration of a product whose active ingredients and intended uses' are identical or substantially similar to those of one or more already registered products need not submit or cite data concerning any of the product's active ingredients unless data of the same type for such ingredients appear on the indexes prepared in accordance with subparagraph (I) of this paragraph.

"(I) The Administrator shall compile, for each active ingredient affected, an index comprised of each item of data described by subparagraphs (A), (B), (C), and (D) of this paragraph. For each such item of data, the list shall set forth the date the item of data was originally submitted, the identity of the original submitter, a brief description of the kind of study that yielded the data, and the subparagraph of subsection (h)(2) that de-

scribes the data. The Administrator shall make the first such set of indexes available for release to the public not later than 1 year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. An item of data that was originally submitted to the Administrator on or before the date of enactment of this subparagraph may be included on any such index only if, not later than 180 days after such date of enactment, the Administrator has received from the original submitter of that item of data a written statement setting forth the date the item of data was originally submitted, a brief description of the kind of study that yielded the data, the subparagraph in this paragraph that describes the data, the Environmental Protection Agency data accession number (if known), and the reasons why the item of data is entitled to be included in the index. The Administrator shall, not less frequently than semiannually, update the indexes by adding any item of data described by subparagraph (A), (B), or (C) of this paragraph and submitted after the effective date of these amendments, and by deleting items of data which no longer are described by subparagraphs (A), (B), (C), or (D) or which the Administrator finds were incorrectly included on the indexes. The updated indexes shall be made available to the public. An index shall be deemed to include any item of data which is entitled to be in the index but which was received by the Administrator too recently to have been included in the most recent update of the index. A decision by the Administrator to include an item of data in such an index, or to exclude it, shall be a final Agency action reviewable under section 16(a) of the Act.

"(J) At the request of an applicant for registration of a product containing a particular active ingredient, the Administrator shall require the original submitter of any items of data which concern that active ingredient, but which are not included on any index compiled under subparagraph (I) of this paragraph, to furnish a report which briefly describes the type of study that yielded each such item of data, states the date each such item of data was originally submitted, and states any accession numbers or other identifying information used by the Agency to catalog the items of data.

"(K) Each application for registration of a new product for reregistration, for an experimental use permit, or for amendment of an existing registration to add a use shall include a list of the applicable data requirements, a list of the data the applicant is submitting or citing to satisfy each such requirement, and a certification that the applicant is not precluded by subparagraph (A), (B), (C), or (D) of this paragraph from relying on any of the data listed with the application. After the Administrator has approved an application, the lists and certification shall be available to the public. Any person who claims that such an applicant has incorrectly listed the applicable data requirements, has not submitted or cited data sufficient to satisfy those requirements, has not submitted a required authorization from a data submitter or otherwise has failed to comply with subsection (c)(1)(D) or (h) of this section, and who claims, in that person's capacity as the original submitter of data included on an index described by subsection (h)(2)(I) of this section, to have been adversely affected by the approval of the application may petition the Administrator to hold a hearing to determine whether the registration should be canceled. Such petition shall be in writing and shall contain a detailed statement of reasons why the registration should be canceled. Upon receipt of the petition, the Administrator shall afford the registrant a reasonable period of time, not to exceed 60 days, to respond to the petitioner's allegations. The Administrator shall then decide in writing within 30 days what action to take on the petition.

"(i) If the Administrator finds that the petition and any response show that there is no reasonable possibility that a hearing would lead to cancellation of the registration for the reasons set forth in the petition, the Administrator shall deny the petition. Any such denial shall be a final Agency action for purposes of judicial review under section 16(a) of the Act. The reviewing court shall not allow discovery proceedings nor receive testimony or evidence, and shall base its review solely on the petition, the registrant's response, the Administrator's decision, and the pleadings and briefs filed with the court. If the court finds that the Administrator's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall remand the matter to the Administrator for purposes of holding a hearing under this subparagraph. If the court does not so find, the case shall be dismissed.

"(ii) If the Administrator finds that the petition and any response indicate that there is a reasonable possibility that a hearing may lead to cancellation of the registration for the reasons set forth in the petition, or if the Administrator is ordered by a court to hold a hearing, the Administrator shall issue a notice of intent to hold a hearing to determine whether the product's registration should be canceled, which notice shall be furnished by certified mail to the registrant and the petitioner. The hearing shall be held in the manner provided by section 6(d) of the Act: Provided, That the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing: And provided further, That the petitioner shall have the burden of proving that the registration should be canceled. The Administrator's order following such a hearing shall be issued within 90 days from the date of the notice of intent to hold a hearing. An order following such a hearing that cancels the registration of a product shall take effect immediately upon issuance. Review of the Administrator's order following such a hearing shall be governed by section 16(b) of the Act. The provisions of this subparagraph and of subparagraph (L) of this paragraph shall constitute the sole and exclusive means of review, at the behest of any person other than the Administrator, of the extent to which an application for registration complies with subsection (c)(1)(D) or (h) of this section, notwithstanding the other provisions of this Act, chapters 5 and 7 of title 5 of the United States Code, or any other statute.

"(L) For the purpose of enforcing exclusive rights to data submitted to obtain new use registration pursuant to paragraph (2)(A)(ii) of this subsection, each applicant for registration of a product with uses previously registered by another registrant shall be required to certify that the applicant has reviewed the indexes prepared pursuant to paragraph (2)(I) and any provisional indexes prepared pursuant to paragraph (5) of this subsection, and further that the applicant is not relying on data submitted by another person, without the written permission of such person, that the indexes show to be unavailable for use because of exclusivity rights provided under paragraph (2)(A)(ii) of this subsection. Such certification shall not be required from an applicant who is exempt from submitting or citing the data required for approval of the registration under subsection (c)(2)(D) of this section, and the procedures described in this paragraph shall not apply to such person. Upon receiving the required certification, the Administrator may process an application without determining the validity of any statement contained in such certification. Not later than 30 days before approving the application, the Administrator shall make available to the public the name of the applicant submitting such certification, the active ingredients in the applicant's product, and the uses for which registration is sought. Before petitioning the Administrator to hold a hearing to determine whether such registration should be denied (or if it has been approved, canceled), a person who claims that the applicant has failed to comply with subsection (h) of this section and that the person would be adversely affected by such approval in that person's capacity as the original submitter of data included on such index shall notify the applicant in writing of such position. Within 30 days after receiving this notice, the applicant shall deliver a response in writing to the data submitter. The Administrator may withhold action on the application until 10 days after the data submitter receives the applicant's response. After receiving the response, the data submitter may petition the Administrator to hold a hearing to determine whether to approve the applicant's registration, or to cancel such registration if it has been approved. The Administrator may withhold approval of the registration upon finding that the petitioner is likely to prevail in the dispute. If the Administrator at any time finds that the petitioner acted without good cause in prosecuting the dispute or that the applicant acted without good cause in refusing to withdraw an application that relies on the petitioner's data in violation of this section, the Administrator may award attorney's fees or costs of prosecuting or defending the dispute against the person acting without good cause, and may award damages suffered by the party that acted in good faith. In all other respects, the petition shall be processed in accordance with the procedures specified in paragraph (2)(K) of this subsection, and the Administrator's decision shall be subject to review as provided in paragraph (2)(K).

"(3) Except as provided in paragraphs (4) and (5) of this subsection, the provisions of paragraph (2) of this subsection shall become effective with respect to applications approved in the period beginning 18 months after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

"(4) With respect to any application for registration of a pesticide product that contains a new active ingredient (and contains no other active ingredient), or for registration of any other product containing the same active ingredient, that could be registered under this Act but for the provisions of sections 162.9–3 and 162.9–4 of title 40, Code of Federal Regulations, in effect on the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, the following paragraphs shall become effective immediately upon enactment of such amendments:

"(A) Paragraph (2)(F) of this subsection, except for clauses (ii) and (iii) thereof;

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"(B) Paragraph (2)(G) of this subsection; and

"(C) Paragraph (2)(H) of this subsection, except for the last sentence thereof.

"(5) With respect to any application to amend a registration of any pesticide product by adding a new use, or to register a product with a new use, paragraphs (2)(A), (2)(K), and (2)(L) of this subsection shall become effective immediately upon the submission by the applicant of a provisional index of the applicant's data submitted to support the new use in the form prescribed by paragraph (2)(I) of this subsection, and the publication of such provisional index in the Federal Register. The Administrator may charge the applicant a fee to cover the cost of publishing the index, which fee shall be placed in a revolving fund to be used for the payment of publishing charges.

"(6) Offers to pay compensation under section 3(c)(1)(D) of this Act made before the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 shall be governed by the law in effect at the time the offer was made.

"(7) Except as provided in paragraph (3) of this subsection, with respect to applications approved before expiration of the 18-month period after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, an applicant shall supply the data required for registration as set forth in this paragraph. An applicant shall file a statement that includes, except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

"(A) with respect to pesticides containing active ingredients that are initially registered under this Act after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of 15 years following the date the Administrator first registers the pesticides: Provided, That such permissions shall not be required in the case of defensive data;

"(B) except as otherwise provided in paragraph (A) of this subsection, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the 15-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this paragraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take actions and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(C) after expiration of the period (if any) of exclusive use and any period (if any) for which compensation is required for the use of an item of data under paragraphs (A) and (B) of this subsection, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data.".

The CHAIRMAN pro tempore. Are there any amendments to section 3? If not, the Clerk will designate section 4.

Section 4 reads as follows:

CANCELLATION AND CHANGE IN CLASSIFICATION

SEC. 4. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending clauses (1) and (2) of the first sentence to read as follows:

"(1) to cancel or phase out its registration, or to change its classification, together with the reasons (including the factual basis) for such action, or

"(2) to hold a hearing to determine whether or not its registration should be canceled or phased out, or its classification changed.";

(2) striking out the third sentence and inserting in lieu thereof the following: "In determining whether to issue any such notice, the Administrator shall include among the factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers, and on the agricultural economy. The determination of such impacts shall be based on biologic and economic assessments, including but not limited to any prepared by the Department of Agriculture. Such assessments shall be used by the Administrator in formulating and assessing the impacts of the proposed regulatory action."; and

(3) striking out the last sentence and inserting in lieu thereof the following: "In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers and on the agricultural economy, and the Administrator shall publish in the Federal Register a notice of availability of an analysis of such impacts. In preparing the final analysis of such impacts, the Administrator shall fully consider all comments on the proposal, including those provided by the Secretary.".

Mr. PANETTA. Mr. Chairman, it is my understanding with regard to this particular section, that the gentleman from New York (Mr. ROSENTHAL) may have a possible amendment.

The CHAIRMAN pro tempore. The gentleman would have the option of asking unanimous consent that the remainder of the bill be considered as read and open for amendment at any point.

The Chair will advise the gentleman that in the event that request were made, all Members with amendments noticed would be protected from this point forward.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the bill be open for amendment at any point.

The CHAIRMAN pro tempore. The gentleman intends by his request to indicate the remainder of the bill from this point, section 4, forward; is that correct?

Mr. THOMAS. That is correct.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The remainder of the committee amendment in the nature of a substitute reads as follows:

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

Sec. 5. Section 10 of the Federal Insecticide, Fungicide and Rodenticide Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) In General.—In submitting data required by this Act, the data submitter must clearly mark portions thereof which in the opinion of the data submitter are trade secrets or commercial or financial information, explain why each marked portion is not required to be disclosed under subsection (d)(1) of this section, and submit such marked materials separately from the other material required under this Act. Any data (or portions thereof) not so marked submitted more than 60 days after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 shall be available to the public without restriction, notwithstanding any other provision of law.";

(2) amending subsection (c) to read as follows:

"(c) Disputes.—If the Administrator proposes to make the initial public disclosure of any item of data which the data submitter believes to be protected from disclosure by this section, but which the Administrator has found is not so protected, the Administrator shall notify the data submitter, in writing, by certified mail. The Administrator shall not thereafter make the item of data available to the public until 30 days after receipt of the notice by the data submitter. During this period, the data submitter may institute an action in an appropriate district court for a declaratory judgment as to whether such information is protected from the proposed disclosure. The procedures prescribed by this subsection shall apply only to the first time a given item of data is disclosed to the public. This subsection shall not apply to any proposed disclosure under subsection (d)(4) of this section.";

(3) amending subsection (d)(1) to read as follows:

"(1) Notwithstanding any provision of section 552, of title 5, United States Code or any other law, to the contrary, all information concerning the objectives, methodology, results, or significance or any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public as provided in paragraphs (2) and (3) of this subsection: Provided, That the use of such data for any registration purpose shall be governed by section 3 of this Act. This paragraph does not authorize the disclosure of any information as to—

"(A) manufacturing or quality control processes,

"(B) the details of any methods for testing, detecting, or measuring the quantity of and deliberately added inert ingredient of a pesticide, or

"(C) the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

In exercising its authority under section 24(a) of this Act, a State may, however, obtain information described by clauses (A), (B), and (C) of this paragraph, but shall not disclose any such information except to the extent such information has been disclosed by the Administrator under this section. Before disclosing any information under this section that was submitted prior to the effective date of interim final regulations promulgated pursuant to this subsection (other than information which has already been made available to a member of the public or which the data submitter has previously stated do not contain trade secret or commercial or financial information), the Administrator shall afford the submitter of the information a reasonable period of time, not to exceed 60 days from the date of receipt by the data submitter of a request by the Administrator, to identify any portions of the information the data submitter claims are described by clause (A), (B), or (C) of this paragraph and to substantiate such claims. If no claim is made (or if the claim is not substantiated) within the period afforded, the information shall be made available in accordance with this section. The provisions of subsection (c) of this section shall apply to disputes with respect to information which the Administrator finds not to be of the type described by clause (A), (B), or (C) of this paragraph.";

(4) redesignating subsections (d)(2) and (d)(3) as subsections (d)(3) and (d)(4), respectively;

(5) adding a new subsection (d)(2) to read as follows:

"(2)(A) Regulations.—The Administrator shall expeditiously promulgate regulations to implement subsections (d) and (f) of this section. The regulations shall establish procedures pursuant to which information that may be disclosed under subsections (d)(1) and (f) of this section shall be made available to the public. The regulations shall permit all persons not excluded by subsection (f) of this section, and also employees of the United States, agencies of State governments, and authorized scientific personnel representing an employee of a pesticide producer or registrant or the employee's trade union, to obtain copies of data, but shall prescribe (i) conditions governing further copying or transfer of the data; (ii) conditions under which the data are to be maintained while they are being used; (iii) procedures permitting publication of any information in the studies regarding the health, safety or environmental effects of a product (except as provided in paragraph (2)(B) of this subsection), including but not limited to protocols and results of environmental and toxicological studies; and (iv) procedures for submission of such information in litigation and administrative proceedings under an adequate protective order. Such restrictions, conditions and procedures shall restrict use and disclosure of data only to the extent necessary to prevent use of the data by persons other than the data owner to obtain or maintain registrations (or other governmentally required approvals) of pesticide products, and to prevent violations of subsection (f) of this section, in order to protect the proprietary rights of data owners against the use of their data by competitors as provided in this Act. The regulations shall be consistent with the statement of disclosure principles contained in section 17 of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. Notwithstanding any provision of this Act or of any other law, interim final regulations shall be promulgated and become effective within 60 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, and the provisions of section 25(a) of this Act shall not apply to the promulgation of such interim regulations. At least 15 days before signing the interim regulations in final form for publication in the Federal Register, the Administrator shall furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The interim final regulations shall be superseded as soon as possible (allowing time for notice and comment) by final regulations. The provisions of this section and the regulations promulgated thereunder shall apply with respect to all data submitted to the Administrator, whether before or after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

"(B) Innovative Methods and Technology.—For the purpose of this section, the term 'innovative methods and technology' means innovative methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, that are substantially different from known methods or technologies, and innovative compositions of matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data. In no event shall an item of data be considered an innovative method or technology for longer than 5 years after the date of submission. The regulations promulgated under paragraph (2)(A) of this subsection shall establish separate procedures for making information concerning innovative methods and technology available to the public. The innovative methods and technology shall be made available to scientists acting on behalf of Federal or State agencies, independent scientists working in the field to which the data pertain (and otherwise qualified to receive data under subsection (f) of this section), and scientists and staff representatives acting on behalf of non-profit health, environmental or labor organisations, seeking access to the data to conduct an independent peer review or replicate the study, but shall not otherwise be made available to the general public. The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and use the data in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public. If requested by such a scientist or representative, the submitter of the innovative methods and technology shall provide within 15 days a summary of the data to such requester for disclosure to the general public. If such summary is not timely provided, the data shall no longer be considered an innovative method or technology under this paragraph. Any person who is given access to an innovative method or technology for the purpose of peer review or replication may, after such review or replication has been conducted, request the Scientific Advisory Panel to review such data. If the Panel finds that the method or technology is not innovative, is invalid, or should be disclosed if necessary

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in the public interest, because of concerns as to protection of health, safety or the environment, it may make recommendations to the Administrator, including a recommendation that the method or technology be made available under paragraph (2)(A) of this subsection and if the Administrator concurs in such recommendations, the Administrator may make the method or technology so available. The Administrator's decision shall be regarded as final agency action reviewable under section 16(a) of this Act.";

(6) amending subsections (f) and (g) to read as follows:

"(f) Disclosure to Pesticide Producers.—Except as otherwise provided in this section, the Administrator shall not knowingly allow access to information submitted by an applicant or registrant under this Act to any person engaged in, or who intends to engage in, the production or registration of pesticides, or to any employee or agent of such person, or any other person who intends to disclose such data to such person, unless the data submitter has consented to such disclosure. Notwithstanding any other provision of this section, during administrative adjudicatory hearings or court litigation a party who is a pesticide producer or registrant may, pursuant to an appropriate protective order issued by the court or presiding administrative official, examine and obtain a copy of data submitted by another person (other than data described by subsection (d)(1) (A) through (C) or subsection (d)(3) of this section), if the party's access to the data is found to be necessary in order to allow the party to participate fully in the hearing or litigation.

"(g) International Agreements.—Notwithstanding any other provision of law—

"(1) The Administrator shall not make available for public inspection any document or information concerning pesticides if (A) the Administrator obtained the document or information from the government of another country (or from an international organization of countries), (B) the government or international organization required the Administrator to agree not to disclose the document or information to the public as a condition of furnishing it to the Administrator, (C) the Administrator could not otherwise obtain the document or information, and (D) the government or international organization continues to demand that the document or information not be made available for public inspection.

"(2) The Administrator may disclose information obtained under this Act to the government of another country or its agents (or to an international organization of countries) only under the following conditions. The information that may be so disclosed shall include all information that may be publicly disclosed under subsection (d)(1) of this section but shall not include any information described in subsection (d)(1) (A), (B), or (C), or (d)(3) of this section. The Administrator may make such disclosures if the Administrator executes an agreement with another country which furnishes assurances acceptable to the Administrator that the government—

"(A) will not further disclose the information without the consent of either the Administrator or the submitter of the information; and

"(B) will not allow the information to be used directly or indirectly to support any application for, or decision to grant, a license, permit, or other action which allows the production, sale, or distribution of a pesticide under any country's laws. The Administrator shall provide notice to affected persons and an opportunity for comment prior to entering into any such agreement with the government of another country. The Administrator shall provide notice to a data submitter of the proposed transfer of data to a foreign government under such an agreement. The Administrator will not consent to public disclosure of information by a foreign government under subparagraph (A) of this paragraph which would have the effect of permitting disclosure of information that is not permitted under this Act, or permitting disclosure under conditions that are less restrictive than those permitted by this section and any regulations promulgated thereunder.";

(7) adding a new subsection (h), to read as follows:

"(h) Civil Action.—A submitter of data to the Administrator who is or may be adversely affected by the violation (or threatened violation) of this section by another person (other than a Federal or State official) who is acting willfully in furtherance of a commercial purpose may bring an action in an appropriate United States district court against such person to prevent and restrain the violation, obtain damages for the violation, or both. The court shall award treble the actual damages shown, and shall award punitive damages for a gross violation. A data submitter also may bring an action in an appropriate United States district court against the Administrator or against any agency official specifically to enforce, or restrain violations of, this section.";

(8) adding a new subsection (i), to read as follows:

"(i) Unlawful Acts.—It shall be unlawful (1) for any person who has obtained information from the Administrator under this section to disclose or transfer the information in a manner prohibited by this section or by regulations implementing this section; (2) for any person to solicit or abet any disclosure or transfer of information that is unlawful under paragraph (1); or (3) for any person to make commercial use of information that the person received under this section or through a disclosure or transfer that he knew or should have known to be unlawful under paragraph (1)."

UNLAWFUL ACTS

Sec. 6. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out "or" at the end of clause (O);

(2) striking out the period at the end of clause (P) and inserting in lieu thereof "; or"; and

(3) adding a new subparagraph at the end thereof as follows:

"(Q) to discharge from employment or otherwise adversely affect the employment status (including the compensation, terms, conditions, or privileges of employment) of any employee because that person (or any person acting pursuant to a request of the employee) has exercised rights under this Act, filed complaints concerning alleged violations of this Act, testified or is about to testify in any such proceeding (including proceedings concerning alleged violations of this Act), or assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act.".

PENALTIES AND REMEDIES

Sec. 7. Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out the title "SEC. 14. PENALTIES" and inserting in lieu thereof "SEC. 14. PENALTIES AND REMEDIES";

(2) redesignating subsections (a)(3), (a)(4), and (a)(5) as subsections (a)(4), (a)(5) and (a)(6), respectively;

(3) adding a new subsection (a)(3) to read as follows:

"(3) Disclosure of Data.—Any person granted access to data pursuant to section 10(d) who violates the provisions of that subsection or regulations promulgated thereunder, or the provisions of subsection 10(i), or who knowingly accepts, obtains or uses data prohibited from disclosure under subsection 10(d), 10(f) or 10(g), or under regulations promulgated under section 10(d)(2), may be assessed a civil penalty by the Administrator of not more than $100,000 for each document or study accepted, obtained or used in violation of section 10, and may be denied further access to any data, temporarily or permanently. All registrations issued to such person and to anyone on whose behalf such person was acting shall be summarily canceled without regard to procedures for cancellation in section 6 of this Act that may otherwise be applicable, except to the extent that the Administrator determines that such action would cause injury to the public health, or undue hardship to agricultural producers or other persons making use of the end-use pesticide product. In the case of any violation referred to in this paragraph that was not perpetrated in furtherance of a commercial purpose involving the production, registration distribution or sale of a pesticide, the only penalty shall be temporary or permanent denial of further access to data by the violator and such other persons and organizations on whose behalf the violator was acting.";

(4) amending the redesignated subsection (a)(5), to read as follows:

"(5) Determination of Penalty.—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that a violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty. In determining the amount of the penalty in the case of a violation as described in paragraph 3 of this subsection, or as described in section 10(i) of the Act, the Administrator shall consider only the gravity of the violation.";

(5) amending subsection (b)(3) to read as follows:

"(3) Disclosure of Information.—

"(A) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than $100,000, or imprisoned for not more than 3 years, or both.

"(B) Any person granted access to data under section 10(d) who in furtherance of a commercial purpose involving the production, registration, distribution or sale of a pesticide knowingly violates the provisions of section 10(d), 10(f), 10(g) or 10(i) of this Act, or knowingly allows data to be made available contrary to the provisions of section 10 of this Act to any other person engaged in the production or registration of pesticide products or any employee or agent thereof in violation of such section, shall be

fined not more than $100,000 or imprisoned for not more than 1 year or both.

"(C) Any officer or employee of the United States or any State or former officer or employee of the United States or any State, who, by virtue of such employment or official position has obtained possession of, or has access to material the disclosure of which is prohibited by section 10, and who, knowing that disclosure of such material is prohibited by such section, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than $100,000 or imprisoned for not more than 1 year, or both. For the purpose of this subparagraph, any contractor with the United States who is furnished information as authorized by section 10(e), or any employee of any such contractor, shall be considered to be an employee of the United States.

"(D) Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for any disclosure wrongful under section 10."; and

(6) Adding a new subsection (c) as follows:

"(c) Employee Remedies.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of section 12(a)(2)(Q) of this Act may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) Upon receipt of a complaint filed under this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by paragraph (3) of this subsection or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(3) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of section 12(a)(2)(Q) of this Act has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(4) Review.—Any employee or employer adversely affected or aggrieved by an order issued under paragraph (3) of this subsection may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. An order of the Secretary, with respect to which review could have been obtained under this paragraph, shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) Whenever a person has failed to comply with an order issued under paragraph (3) of this subsection, the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

"(6) Exclusion.—This section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act.".

EXPORTS

Sec. 8. Section 17(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(b) Cancellation Notices Furnished to Foreign Governments.—Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Notwithstanding the provisions of section 10(g)(2) of this Act, but subject to the restrictions on disclosures of trade secrets as specified in section 10(d)(1)(A), (B), and (C), such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide.".

RESEARCH AND MONITORING

Sec. 9. Section 20(c) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting "surface and ground" immediately before "water".

STATE COOPERATION, AID, AND TRAINING

Sec. 10. Effective with the fiscal year beginning October 1, 1982, section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out in subsection (a) the second and third sentences; and

(2) adding at the end thereof a new subsection as follows:

"(d)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year pursuant to subsection (c) of this section. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator.

"(2) There are also authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator.

"(3) The total amount authorized to be appropriated under paragraphs (2) and (3) of this subsection may not exceed $4,000,000 for each fiscal year. If funds sufficient to pay 50 percent of the costs under paragraph (2) or (3) of this subsection for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(4) States conducting training and certification programs under State plans shall coordinate such programs to assure that standards for certification of applicators of pesticides are attained and maintained as prescribed by the Administrator under section 4 of this Act.".

AUTHORITY OF THE STATES

Sec. 11. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection 24(a) to read as follows:

"(a)(1) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent that the regulation does not permit any sale or use prohibited by this Act.

"(2) If a State in regulating the sale or use of a federally registered pesticide or device in the State wishes health and safety data submitted for review in connection with a State registration or approval, the following shall apply:

"(A) With respect to data previously submitted in support of the Federal registration, the State may request the applicant to submit such data to the State for review, and if the applicant does not provide the State such data as is requested, the Administrator shall make the data available to the State, subject to the provisions of section 10. At the option of the State, the data may be obtained from the Administrator under the provisions of section 10 without first making the request to the registrant.

"(B)(i) A State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment from the uses of such pesticide or device in the State, or a reduced efficacy of the pesticide or device in the State for the uses for which the application to the State is made: Provided, That the State shall give the applicant written notice of the purpose and justification of the requirement.

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"(ii) In the case of a nonrestricted use or general use pesticide, as classified by the Administrator pursuant to section 3(d), except for pesticides utilized in the production of a commercial food, feed or fiber, crop, if the applicant wishes to contest the request for data described in clause (i) of this subparagraph, the applicant may submit the request to the Administrator for review. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator but shall be subject to judicial review. The Administrator may overrule or modify the State request for additional data if the Administrator determines that the request is arbitrary or capricious, or determines that there exist sources of comparable data that would be available to the State for the purposes of satisfying its request and so notifies the State. The State and the applicant may submit to the Administrator any additional information pertaining to the data request. The Administrator shall publish in the Federal Register the basis for any determination that overrules or modifies the State request. A State may obtain judicial review of a decision by the Administrator to overrule or modify that State's data request. The applicant may seek judicial review of the determination of the State to require the data either before or after the matter has been submitted to the Administrator for review and the Administrator has made a determination: Provided, That the Administrator shall not be a party to any such action.

"(iii) In other cases involving special local concerns, any applicant that wishes to contest the request for additional data shall be subject to the provisions of State law.

"(C) Any request for data that does not relate to special local concerns as described in subparagraph (B) of this paragraph, and that was not previously submitted to the Administrator in support of the Federal registration shall be reviewable by the Administrator. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The Administrator may otherwise disapprove the request if the Administrator determines that the request is arbitrary or capricious or that there is no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. Any request for data under this subparagraph shall be submitted to the applicant and at the same time a copy shall be forwarded to the Administrator. If the Administrator has not taken any action within 60 days after receipt of the request for additional data, or 15 days after receipt by the Administrator of any additional information that may be requested of the State, approval of the request by the State shall be presumed. Any determination by the Administrator shall be final and not subject to judicial review.

"(3)(A) Except as to applications for which a State has requested health and safety data that relate to special local concerns as described in paragraph (a)(2)(B) of this subsection, if a State receives an application for a registration, the registration shall be granted pending further review if the State has not affirmatively approved or disapproved the application within—

"(i) 60 days after receipt of the application or such lesser period as may be provided in State law, or

"(ii) if the application for registration involves a restricted use pesticide, or a general use pesticide utilized in the production of a commercial food crop, and the use is a new use of the pesticide or device within a State, or the pesticide contains a new active ingredient, for which the State has not previously granted approval, within 120 days or such lesser period as may be provided by State law after receipt of the application accompanied by all data, if any, required by State law and regulations at the time of application, or with appropriate reference to data previously submitted or cited by the applicant.

"The provisions of this paragraph shall apply both to cases where the State has made a request for additional data, as well as to cases where the State had not made such a request.

"(B) With respect to applications for which a State has requested health and safety data that relate to special local concerns as described in subsection (a)(2)(B) of this section, a State may prohibit or restrict the sale or use of the pesticide or device within a State for which the application is made pending development, submission, and review of the health and safety data.

"(C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

"(4) The district courts of the United States shall have jurisdiction to review determinations of the Administrator under this subsection and of the States under subsection (a)(2)(B)(ii) of this section that are subject to judicial review and shall have jurisdiction to enforce and to prevent and restrain violations of the provisions of paragraph (3)(A) of this subsection.".

SCIENTIFIC ADVISORY PANEL

SEC. 12. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending the fourth sentence to read as follows: "The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections.";

(2) striking out the eighth sentence and inserting in lieu thereof the following: "The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. Initially, 2 panel members shall be appointed for a 2-year term, 3 members for a 3-year term, and 2 members for a 4-year term; thereafter, except as provided in this subsection, panel members shall be appointed to serve 4-year terms. In the event a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. During either nominating process set forth herein, should the list of nominees be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities noted above."; and

(3) striking out in the twelfth sentence "September 30, 1981" and inserting in lieu thereof "September 30, 1987".

SAFE WORKING CONDITIONS

SEC. 13. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(f) SAFE WORKING CONDITIONS.—The Congress hereby finds and declares that the following steps are necessary to provide for the safe use of pesticides and for safe working conditions for farmworkers. The Administrator shall, if new regulations are found to be necessary, promulgate regulations pursuant to the procedures set forth in this section as soon as practicable, but in no event later than one year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, to establish minimum field reentry standards, and to develop appropriate methods of advising farmworkers of such standards. This subsection shall not apply to any persons to the extent that they are covered by standards or regulations issued under the Occupational Safety and Health Act.".

RECORDS CONCERNING STATE ENFORCEMENT

SEC. 14. Section 26(a)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(3) will keep such records necessary to provide an annual programmatic review showing compliance with paragraphs (1) and (2) of this subsection. Where emergency conditions exist, reports of emergency actions taken shall be provided to the Administrator at the earliest practical date.".

STATE ENFORCEMENT ACTION

SEC. 15. Section 27(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. As soon as practicable after a complaint is filed and in no event later than 30 days, the State must commence appropriate investigative action, and if within 120 days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint of information to the extent authorized under this Act: Provided, That in the event of a complaint pertaining to a violation involving an alleged injury to an agricultural worker, the State must undertake an appropriate field investi-

gative action as soon as possible, and in no event later than 5 days after receipt of the complaint, if a longer period of delay in investigative action would jeopardize the gathering of scientific information needed in order to substantiate or refute the substance of the complaint.".

EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS

SEC. 16. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended by adding at the end thereof a new sentence as follows: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1981, and ending September 30, 1982, such sums as may be necessary, but not in excess of $62,069,000; for the period October 1, 1982, and ending September 30, 1983, such sums as may be necessary but not in excess of $56,367,000; and for the period beginning October 1, 1983, and ending September 30, 1984, such sums as may be necessary but not in excess of $59,750,000.".

PRINCIPLES FOR REGULATIONS IMPLEMENTING THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982 CONCERNING SECTION 10

SEC. 17. (a) PURPOSE.—This section sets forth the principles that shall guide the Administrator of the Environmental Protection Agency in developing and promulgating the regulations required under the amendments made by this Act to section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act. Such regulations shall serve the purposes of providing complete access to copies of health, safety and environmental data by those members of the public who are not associated with the pesticide industry, and assuring their ability to communicate and make public information in such studies concerning health, safety and environmental effects, while at the same time protecting the proprietary interest of the owner or submitter of studies in preventing competitors from having access to the data or making unauthorized use of the data.

(b) PROCEDURES FOR OBTAINING ACCESS TO DATA.—(1) The regulations described by this section shall provide that a person shall, upon request, be entitled to obtain a physical copy of data as soon as the requester establishes that the requester is not acting on behalf of a pesticide producer or registrant and certifies that the requester will not improperly use or disclose the data. The request may be made in person or by mail and the data furnished by any secure means. To this end, the requester shall be required to: (A) submit to the Administrator the requester's name, permanent address, and name of employer; (B) certify that the requester is not (and is not employed by or acting on behalf of) a pesticide producer or registrant; (C) certify that the requester does not seek the information, and will not use the information, for a commercial purpose in the pesticide business; (D) certify that the requester will follow the Administrator's regulations for treatment of any data received; (5) certify that the requester will update this certification immediately should any statement in it change; and (E) certify that if the requester subsequently becomes employed by or acts in behalf of a pesticide producer, the requester will so advise the Administrator and return all information prior to commencing such employment.

(2) The regulations shall further provide that: (A) the information supplied by the requester shall be supplied to the data owner or submitter (hereinafter "submitter") during a 30-day verification period, which shall run concurrently with, and not in addition to, any other notice or review period provided for the submitter; (B) if the submitter establishes reasonable cause to believe that the requester is acting on behalf of a pesticide producer, the Administrator may require more information from the requester to establish the requester's status; (C) the only bases upon which a person may administratively or judicially challenge the right of a requester to obtain access to data shall be an assertion that the other person is barred under section 10(f) of the Federal Insecticide, Fungicide, and Rodenticide Act, that the person has previously violated the regulations, or, in the case of innovative methods or technology, that the requester is not qualified to receive the information; (D) the 30-day verification period shall apply only to each initial request by a particular requester for data of a particular submitter; and (E) records of releases of data by the Administrator shall be kept by the Administrator and made available to the submitter promptly on request.

(c) PROCEDURES FOR TRANSFER AND COPYING.—The regulations shall impose conditions governing the further transfer and copying of data, which conditions shall be designed to prevent a competitor from obtaining a verbatim copy of a study, while allowing a person who lawfully obtains a study from the Administrator to communicate or make public information in a study concerning health, safety, or environmental effects (with the exception of data describing innovative methods and technology). The regulations shall provide that a study may be copied or transferred to another person only in accordance with the following procedures:

(1) A person or organization that has obtained data ("transferor") may distribute verbatim copies of data to any other person, including but not limited to any member, employee, or consultant of a transferor organization ("transferee") if the transferor first establishes that the identifying information and required certification for each such transferee have first been submitted to the Administrator and any applicable 30-day verification period has expired with respect to each such transferee. A transferor that distributes verbatim copies in this manner shall take suitable steps to safeguard the data, shall number each copy transferred, and shall submit to the Administrator a record showing the transferee's identity and the date of transfer.

(2) In certain extraordinary circumstances, a physical copy of data may be transferred even if the transferee has not yet filed a certification or if the 30-day verification period has not yet expired, but only if the transferor executes a certification that (A) the data have been transferred to medical personnel or their staff for use in connection with a medical emergency, and the transferee has executed or will execute as soon as practicable the required certification and file it with the Administrator, or (B) the data have been transferred to a person who seeks to use them in an administrative, judicial, or legislative proceeding concerning the imminent use of a pesticide and the transferee has executed the required certification and sent it to the Administrator.

(3) The regulations shall provide that data may be transferred to a transferee whose identity is not revealed to the Administrator or the data submitter if: (A) the transferor submits to the Administrator an additional certification that the transferor has attempted to obtain independent scientific review of a study by the transferee and that the transferee is not willing to conduct an independent scientific review and express an opinion on the study unless the transferee is granted anonymity; (B) the transferor submits to the Administrator in a sealed envelope the required certification, executed by the transferee, with a request that it be held, unopened, by the Chief Administrative Law Judge of the Administrator; (C) the transferor notifies the data submitter of the transfer; and (D) the transferor certifies to the Administrator that the transferor will retrieve the data from the transferee when the review is completed. The regulations shall provide that if at any time the data submitter shows that there is good cause to suspect an illegal disclosure of the data attributable to the transferee, the Chief Administrative Law Judge may upon request convene a hearing to investigate the circumstances and may disclose the identity of the transferee to data submitter if the results of the hearing show that disclosure is warranted.

(d) PUBLICATION.—The regulations shall provide that: (1) information in any study concerning health, safety, or environmental effects of pesticides may be publicly discussed, quoted, and communicated without restriction (and without fear of penalties) by persons who have lawfully obtained the study; (2) verbatim copies of the study or of any page thereof ordinarily may not be published; (3) selected charts and tables that comprise an entire page of a study may be published verbatim, but a person's further access to data may be restricted or denied by the Administrator if it is found that such publication right has been abused and resulted in substantial verbatim publication; (4) no prior or subsequent notifications shall be required for such publication or communication of information in a study; and (5) except for the restrictions on copying, transfer, and publication of verbatim copies, the information can freely be given to anyone in oral or written form, without having to ascertain whether such person is a pesticide producer or has filed a certification with the Administrator.

(e) INNOVATIVE METHODS AND TECHNOLOGY.—

(1) The regulations shall establish separate procedures for the treatment of the limited portions of data that contain "innovative methods and technology," in order to afford a greater degree of protection to such data.

(2) The regulations shall provide that in order to constitute an "innovative method or technology," an item of information must describe scientific method or technology (or a method of combining known technology) which is: (A) innovative; (b) not otherwise available to the public; (C) used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; (D) substantially different from known methods or technologies; and (E) capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. An item of data may not be considered an innovative method or technology for longer than 5 years after the date of submission. The regulations shall provide that test methods or technology described or referenced in the Administrator's registration guidelines or in the scientific literature, or any test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wild-

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life, are not eligible for treatment as "innovative methods or technology." Except for those portions of a study that describe an innovative method or technology, the remainder of the information in a study, including results, discussions, conclusions, and non-novel test methods, shall be made available in the same manner as other data.

(3) The regulations shall provide that information concerning a new chemical compound shall be treated as an "innovative method or technology" if: (A) the information discloses the identity of, or describes a potential new use of, the compound; (B) the information is not already known to the public; (C) the disclosure of the information could provide a significant competitive advantage to the data submitter's competitors; (D) the compound is not an active ingredient of any product which is registered or for which registration is being sought; and (E) the compound is not an impurity of a product, not a metabolite for which a clearance is required under the Federal Food, Drug, and Cosmetic Act, and not a nonmetabolic degradation product of an active ingredient.

(4) The regulations shall require the data submitter to mark any portion of a study that the submitter claims describes an innovative method or technology at the time of first submission of the data to the Administrator, or, for data already submitted, at the time access to the data is first requested.

(5) The regulations shall provide that proceedings to resolve disputes about whether information is "innovative methods or technology" may be initiated by the Administrator or any person to whom the information is made available, and that any such dispute shall be handled in the same manner as a dispute about whether information is properly classified under section 10(d)(1)(A), (B), or (C) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(6) The regulations shall provide that authorized recipients may request the Scientific Advisory Panel to review the data, in a proceeding in which the authorized recipient would participate, to determine whether the method or technology is not innovative, is invalid, or should be disclosed if necessary in the public interest because of concerns as to protection of health, safety, or the environment. The Panel shall report its findings to the Administrator, and may recommend that the method or technology be made available to the public in the same manner as other data. If the Administrator concurs in such recommendation, the Administrator may make the method or technology so available, subject to judicial review under section 16(a) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(7) The regulations shall provide that: (A) information describing innovative methods and technology shall be made available by the Administrator only to scientists acting on behalf of Federal or State agencies, independent scientists who work in the field to which the data pertain (and who are otherwise qualified to receive data under section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act), and scientists and staff representatives acting on behalf of nonprofit health, environmental, or labor organizations in order to permit such persons to conduct an independent scientific review, replicate a study, or evaluate health, safety, and environmental implications of the study ("authorized recipients"); (B) authorized recipients may communicate with each other regarding the data, but may not disclose the innovative methods or technology to persons who are not authorized recipients; and (C) authorized recipients may communicate with the Administrator in judicial or administrative proceedings with respect to the innovative methods and technology.

(8) The regulations shall provide that in all other respects, authorized recipients who are given access to this information may make use of the information in any reasonable manner in order to accomplish the purposes of independent scientific review, replication, or evaluation of health, safety, or environmental implications, under reasonable conditions that will prevent the disclosure of the innovative methods and technology to the general public.

(f) SAFEGUARDING INFORMATION.—The regulations shall provide that a person who receives the data from the Administrator or from a transferor must use ordinary reasonable care to safeguard the copies and prevent improper disclosure (that is, use the same kind of care that reasonably would be used to protect any valuable item, including keeping copies of the data in a locked facility when they are not being used), but shall not be required to take steps which are oppressive or financially burdensome.

(g) TRANSFEROR'S RESPONSIBILITY FOR TRANSFEREE'S ACTIONS.—The regulations shall provide that a transferor's access to privileges may be temporarily or permanently revoked if a transferee who obtained information from that transferor failed to take the steps required by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act and the implementing regulations to qualify for access to, and safeguard, the information.

The CHAIRMAN pro tempore. Are there any amendments to the committee amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Section 16 of the Federal Insecticide, Fungicide and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) Any person claiming to be injured by a violation of this Act may bring suit in the appropriate United States District Court for equitable relief but not for damages or attorney's fees. This subsection shall not be construed to permit class action suits as defined under Rule 23 of the Federal Rules of Civil Procedure."

Mr. PANETTA. Mr. Chairman, the purpose of the amendment that is before the House basically tries to implement what I think is a fundamental principle in our system of justice, which is that people ought to be entitled to redress for wrongs that are afflicted upon them. John Adams said it in this manner, and I quote:

> Now to what higher object, to what greater character can any mortal aspire than to procure redress of wrongs?

The amendment I am introducing will secure for the individual citizen of this country their right of redress for violations under the Federal pesticide law. The legislation before us clearly manifests one thing—that pesticide regulation in this country is a Federal matter.

The amendments to the Federal Presticide Act being considered today expand the Federal Government's authority over pesticide regulation more than ever before. I think it is only fair and just, then, Mr. Chairman, that we provide in the law the opportunity for private citizens to enforce their rights to redress their grievances under this law in the Federal courts of this land.

Mr. Chairman, I believe that such a private right of action under the FIFRA law is necessary, for four basic reasons:

First of all, because enforcement of EPA and State agencies is sorely inadequate;

Second, because the Federal law I believe requires a Federal remedy in Federal Courts;

Third, because simple justice requires that a private right for individuals be provided, particularly when we are providing a similar right to corporations in this legislation; and

Fourth, the amendment itself is limited so that it will not open the floodgates for suits of harassment or for simple damages or for attorneys' fees. In fact these elements are eliminated by my amendment. It deals solely with the area of equitable relief.

With regards to the first reason for introducing this amendment, the fact that enforcement of FIFRA by the EPA and the States is sorely inadequate, there is in fact a GAO study which looked at the enforcement that was currently being provided with respect to the misuse of pesticides. It is a 1981 GAO report. The conclusion of that report is that enforcement of FIFRA has been inadequate and improper.

According to the GAO, enforcement actions by EPA and the States are often questionable and inconsistent. States often take no action or choose enforcement action that is minimal when compared to the severity of the violation. Cases are poorly investigated. Officials often do not interview parties or inspect actual damage or conduct adequate lab analyses or complete investigatory reports. Cases referred to States from the EPA are not followed up, and EPA has on occasion lost track of referred cases altogether. States are not initiating enforcement action on referred cases within the 30-day period required under current law.

So the basic point that the GAO report makes is that the enforcement program implemented by EPA and the States is inadequate to providing the kind of protection for citizens that in fact should be provided by the law.

Private right of action, therefore, is necessary to individuals to implement the kind of protection that I think the law envisioned.

Second, the Federal law that we are now providing in this area requires a Federal remedy. Express private rights of action under Federal statutes are not extraordinary.

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In fact, FIFRA could be considered extraordinary for its failure to provide such a right. Over 30 Federal statutes grant private citizens the right to sue and collect damages and attorneys' fees for violations of the Federal act. The private right of action that I propose today does not allow plaintiffs to collect attorneys' fees, or would not permit class actions or the recovery of damages.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Panetta was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. Nor does it provide for recovery of damages; what it does allow citizens to do in this amendment is to seek equitable relief in a Federal court and avoids these other elements that, in fact, are provided in other Federal statutes.

State courts cannot be considered an adequate forum for individual suits under FIFRA. We are talking about statutory violations, not simply a common law tort or a nuisance. No State court has ever or can be expected to implement an individual right to sue under the FIFRA law and few State laws, if any, have provisions permitting citizens suits under State pesticide laws.

Our failure to include an express private right of action in this law would leave citizens with little recourse to obtain redress under this act.

Third, simple justice, it seems to me, requires that if a private right of action is to be provided corporations in the legislation, as provided under section 10(h) on page 52 of this legislation, that a similar right ought to be given to individuals.

In the bill we are considering today, chemical companies and pesticide producers are given the right to sue in Federal courts for treble and even punitive damages for violations of their property rights under the data disclosure provisions of the act.

My amendment would not force any farmers or chemical companies to pay any damages whatsoever, but would permit awards for equitable relief alone. That in the very least, it seems to me, is a right that citizens ought to have.

Allowing chemical companies and producers such an expansive right of action, while denying equal access to Federal courts for individuals, is not only unconscionable, it is inexcusable. Individuals, like corporations, must be allowed their day in court as well.

Fourth, this amendment will not open the floodgates for harassment suits. It is designed, first of all, to provide only for injunctive relief. Injunctive relief cannot be granted by a court without proof by the person bringing the suit that the injury to him or her plainly outweighs any foreseeable adverse impact to the person sued. The court must determine that there is irreparable harm to be corrected by the injunctive action and that the relief granted would serve the public good.

Lastly, the amendment is restricted in scope. It is restricted to avoid legal actions that are unfounded or based on harassment. It is limited, as I said, to equitable action and does not allow for damages or attorneys' fees or class actions.

This amendment would limit the right of action solely to injunctions for actions that have caused injury to individuals and which have been shown to be in violation of the act.

So for this reason, I urge your support for the private right of action amendment that I have introduced to this legislation. Pesticide injuries in this country number about 800,000 annually, close to 800 of those resulting in pesticide related deaths. Effective enforcement of the Federal pesticide law is imperative and providing a private right of action under FIFRA is critical to securing adequate enforcement of citizens' rights under the law.

Mr. HUNTER. Mr. Chairman, will the gentleman yield for a question?

Mr. PANETTA. I would be happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I would like to ask the gentleman, under the gentleman's amendment would the party seeking the injunctive relief be entitled to attorneys' fees?

Mr. PANETTA. No, they would not.

Mr. HUNTER. Does the gentleman think because of that there would probably be much less chance of harassment suits?

Mr. PANETTA. That is correct.

Mr. HUNTER. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from New York.

Mr. DOWNEY. I am not familiar with this legislation. Let me just ask the gentleman a question.

What the gentleman is saying, as the bill is currently written, that a chemical company has a private right of action against an individual and another corporation if information about a formula is stolen or something happens in that respect; is that correct?

Mr. PANETTA. The gentleman is correct.

Mr. DOWNEY. And if my family is harmed by this same chemical company, I have no right of action against them?

Mr. PANETTA. That is correct, in Federal court.

Mr. DOWNEY. In Federal court?

Mr. PANETTA. Yes.

Mr. DOWNEY. Do I have a right of action in a State court or am I preempted from suing because of this legislation in State courts?

Mr. PANETTA. In State court, one would have to sue on a common law basis or a nuisance basis of some sort or a personal injury basis, but you could not bring an action based on the statutory provisions contained in FIFRA. That is the problem I see.

I think if we are going to establish a Federal presence on pesticide regulation nationwide, that we ought to allow access to Federal courts.

Mr. DOWNEY. Is the gentleman aware of any other Federal law that allows a private right of action for corporations, but not for individuals?

Mr. PANETTA. This gentleman is not.

Mr. DOWNEY. Is anyone here familiar with such a private right of action for corporations and not for individuals?

I thank the gentleman for bringing this to our attention. That is truly remarkable, that we are in the process of granting corporations rights that we do not grant to individuals. That is astonishing.

AMENDMENT OFFERED BY MR. THOMAS TO THE AMENDMENT OFFERED BY MR. PANETTA

Mr. THOMAS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Thomas to the amendment offered by Mr. Panetta: Strike all after the words "as follows" and insert the following:

"(e) Civil Action.—

"(1) Injunction.—An employee may bring an action in an appropriate district court of the United States against his employer or an applicator to prevent and restrain the use of a registered pesticide by his employer or such applicator if—

"(A)(i) such pesticide is misbranded; or

"(ii) the applicator of such pesticide will use such pesticide in a manner inconsistent with its labeling; and

"(B) the use of such pesticide would cause physical injury to such employee.

"(2) Definition of employee.—For purposes of paragraph (1), the term 'employee' means an individual who is—

"(A) an employee of an applicator of an agricultural pesticide;

"(B) an employee of a person for whom an applicator uses a registered pesticide for agricultural purposes, or uses a dilution of a registered pesticide, to provide a service of controlling agricultural pests; or

"(C) an employee of a person who by contract provides the services of such individual to an applicator described in subparagraph (A) or a person described in subparagraph (B).".

Mr. THOMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

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The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Chairman, I think perhaps a bit of history is necessary here to understand why we are here today with an amendment to the amendment.

Originally, the bill coming out of the subcommittee had a private right of action contained in the legislation; but on examination in committee it was fairly clear that the private right of action as established in the bill coming out of the subcommittee was overly broad, overly sweeping, and clearly allowed harassment suits, class action suits, to be filed that we have seen occurring in the past where there was no clear relationship to injury to individuals, but rather, individuals' conceptual frameworks were violated, rather than any kind of physical being.

We were unable to work out specific agreed upon language in committee; so the committee chose to strike the private right of action language.

The gentleman from New York might be interested, I agree totally with the gentleman from California that unless we establish a private right of action in this legislation, courts have established that in the absence of congressional action, the individual does not have a Federal right. He has State rights in terms of suing for damages, negligence, nuisance; he has injunctive capability, he has other forms of equitable relief, but he does not have a Federal right of action.

I commend the second effort on language of the gentleman from California. The gentleman indicated that his amendment is limited; but I think if we will examine carefully the amendment that I offer to the amendment of the gentleman from California, it is a perfecting amendment which I think if adopted would solve the problem in terms of the right to sue question; that is, the amendment of the gentleman from California says that any person; any person defined in the bill is an individual; it can also be a partnership, an association, it can also be a corporation. When the gentleman indicates that any person can sue when they claim to be injured, injury is not defined. It is not necesssarily physical injury. It could be economic injury. It could be esthetic injury, which means, given the definitions not spelled out in the amendment of the gentleman from California, it could be a corporation suing another corporation over the question of whether or not the registration procedure on one corporation's pesticide was appropriate or not.

In other words, it could be used for economic advantage by one corporation over another.

My amendment seeks first of all, to define person as an individual. There are particular classes of individuals who have standing under this private right of action in the bill.

Second, in terms of injury, my amendment specifies the kind of injury and it is physical injury.

In the amendment of the gentleman from California, he simply says equitable relief. There is no definition of what equity is. In my amendment to the amendment, it limits relief to temporary restraining orders and injunctions.

In other words, in every instance my amendment to the amendment specifies who persons are, defined as individuals, what the injury is, physical, and what reliefs are available. In other words, the scope is narrowed to deal with the very concerns the gentleman from New York expressed; individuals having the ability to sue based upon the misuse or mislabeling of pesticides; however, in narrowing the scope it removes any possibility of any kind of actions dealing with corporations for purposes of economic advantage, various groups suing for esthetic injury, which gets us into the harassment aspect, and the reason for the dropping of that right to sue action in the bill in committee in the first place.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Massachusetts.

Mr. FRANK. I appreciate the gentleman yielding.

Mr. Chairman, let me ask the gentleman, would the gentleman's amendment also restrict who someone can use; that is, if an individual, is he or she restricted to suing only his or her employer? Could the individual also sue the manufacturer if the individual employed had a problem and wanted to sue the manufacturer?

Mr. THOMAS. If it was determined that it was mislabeled, mislabeling would apply to the manufacturer in that instance. Misuse would be the applicator.

Mr. FRANK. If there was a problem with the product; sometimes you are not sure until you bring the suit, but if there were a problem with the product alleged to be defective, would one have the right to sue the manufacturer?

Mr. THOMAS. If it is defective, it would not be mislabeled and my assumption is you would have State action available to you. I am not aware of Federal action available to you on that.

Mr. FRANK. You could sue if it was labeled badly, but you could not sue if it was made badly?

Mr. THOMAS. Under this provision.

Mr. FRANK. Well, then I guess I would ask the gentleman if he thinks that is a reasonable way to go, where an individual who might be damaged because of a defective product would not have a right to sue, but an individual who is damaged because it was labeled badly would have a right to sue. It would seem to me that is sort of an incomplete sort of a leak that is being offered.

Mr. THOMAS. It is possible to assume that under section (B) under the injunction capability that the use of the pesticide would cause physical damage.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. FRANK, and by unanimous consent, Mr. THOMAS was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. That would be subsumed under section (B) under the use of the pesticide causing physical injury to the employee and, of course, if it was a mix-matched batch, it could possibly cause physical injury and it would be subsumed umder that heading. It provides for it in terms of the possible physical injury based upon the mismixing of a batch of pesticides. It is covered.

Mr. FRANK. If the gentleman would yield further, I am still unclear, if there was some defect in the manufacturing process, we are talking about mislabeling and mismatching, I would not want to see a grudging and narrow extension of the right to sue to an individual who is being damaged and it sounds to me that there is, in fact, an awful lot of hurdles being placed in the way of a litigant; particularly we are talking about only individuals now under the amendment of the gentleman, no corporations; it seems to me some of the serious problems might be excluded by the gentleman's amendment.

Mr. THOMAS. What would be the end result of a mismixed batch of pesticides, if there was the possibility of causing harm to an individual, it is covered. If it means the strength would be wrong, that would be mislabeling; so it seems to me that all those aspects are covered, if the gentleman would examine those provisions.

Mr. FRANK. Mr. Chairman, if the gentleman would yield further, any defect in the manufacturing process would give rise to a right to sue? I am still unclear as to that.

Mr. THOMAS. It seems to me that it would be either misbranded, or would cause physical injury and those two would cover the problem of mismixing.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, in furtherance of the questions asked by the gentleman from Massachusetts, I have several.

The first is, does the amendment of the gentleman limit individuals who have standing only to employees of an applicator of an agricultural pesticide?

Mr. THOMAS. Or of an employee of a person for whom an applicator uses the registered pesticide for agricultural purposes, or for an employee of a person who by contract provides the service to such individual to an applicator described in (A) or (B) above.

Mr. LEVITAS. What about the situation asked by the gentleman from New York?

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. LEVITAS, and by unanimous consent, Mr. THOMAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, regarding the question asked by the gentleman from New York who was concerned about his family or just the ordinary citizen who is not an applicator or an employee of an applicator or a person under contract, just, you know, your ordinary middle class individual living in suburbia who might be affected, I gather they are not covered under this right of action.

Mr. THOMAS. They have various remedies available to them in the State courts. The question is that if you open it up to allow any ordinary citizen the opportunity, you get back into the possibility of class action suits; you get into the possibility of sweeping actions; you get into possibility of filing actions for esthetic reasons, rather than the actual physical damage caused by the use of the application of pesticides.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the amendment offered by the gentleman from California (Mr. PANETTA) as I read it specifically precludes class actions.

Mr. THOMAS. It does, but it does not prohibit esthetic suits, a multiplicity of suits that are brought simply because people dislike the use or argues that there is some remotely related problem associated with the application of the pesticide.

For example, the amendment of the gentleman from California would not prohibit an individual in the Bay area from bringing suit to stop aerial spraying of malathion as was done, resulting in tremendous economic loss to the State of California.

Mr. PANETTA. Mr. Chairman, will the gentleman yield on that?

Mr. THOMAS. Certainly, I yield.

Mr. PANETTA. In fact, the court in that very instance decided against that individual who brought that suit, feeling that the public welfare in this particular instance mandated a continuation of the malathion spraying. It seems to me the gentleman's proposal would even prohibit that kind of action from being brought.

Mr. THOMAS. The question is timeliness and appropriateness, and clearly in that case the time required in moving through the courts was sufficient to cause tremendous economic damage to the State of California. It seems to me that if someone is going to have the right to intervene in something as significant as for example the Medfly outbreak in California, it ought to be the relationship of real physical injury versus some esthetic injury, which the amendment of the gentleman from California clearly would allow.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly.

Mr. DOWNEY. I thank the gentleman for yielding.

I am still not certain. The gentleman seems to be resurrecting the old common law notion of privity here. I just want to see if I understand it correctly.

If I am living next door to someone who uses a pesticide and I am physically personally harmed, but I am not an employee and I do not stand in a relationship with the person using the pesticide, am I then precluded even if I am physically harmed from bringing an action in Federal court?

Mr. THOMAS. This amendment involves only agricultural products use, not home use or pesticide used in the backyard of an individual to kill tomato worms, or whatever.

Mr. DOWNEY. Let us assume I live next to a farm that used this and I was physically harmed, or I thought I was physically harmed. Would I be precluded under the amendment of the gentleman from having a Federal right of action?

Mr. THOMAS. The gentleman from New York indicates that he thought he was physically harmed in terms of the aerial application, the airplane buzzing his house and he does not want the house buzzed, so he argues that in some way the pesticide application is injuring him and he goes to court; he has remedies available in the State courts for damages caused.

Mr. DOWNEY. Let me give a different scenario; what about if my wife gives birth to a child and there is injury?

Mr. THOMAS. If I might finish the answer, he has other forms of equitable relief, injunctions and so forth, available in the State courts.

Mr. DOWNEY. I see; so the amendment of the gentleman precludes me from a Federal right of action if I honestly believe, or a reasonable man would believe that I was physically harmed, I have no remedy in Federal court; I have a remedy in State courts, but a corporation who gets sick has a remedy in Federal court; is that the sum and substance of the gentleman's amendment?

Mr. THOMAS. In attempting to narrow individuals in this amendment, it removes the very corporations that the gentleman is so concerned about being defined as a person to be able to use an economic argument for a violation which could go so far as to be a registration procedure in pesticides.

So what I am trying to do is specify in areas which make sure that corporations do not have additional advantages in this legislation, as so ably pointed out by the gentleman from New York.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, as I read the amendment, the suit may be brought by the employee against either his or her employer or an applicator; no suit can be brought against the manufacturer. Do I read this correctly? No injunctive relief would lie against the manufacturer under the gentleman's amendment?

Mr. THOMAS. Not under the Federal right of action amendment in this legislation.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

I oppose the Thomas amendment and I would urge all Members of the House to do so. For whatever may be said in the well, if you look at the content of the amendment, this is what it really provides for.

First of all, it was said that it rules out corporations from suing. That is not, of course, what is at stake here. The question is whether the individual can sue.

It allows an employee, but it does not allow a farmer who might be damaged or injured in the application; it does allow his employee, that is the first flaw.

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Second, I think it is clear, in answer to the gentleman's question here, that if someone is applying a pesticide, I would say to my friend from New York, and the wind is in the wrong direction and it drifts over to a nearby subdivision and does all kinds of damage to individuals there, whether it goes to the extent of a deformed child, as the gentleman cites in his argument, or any other kind of damage, if that individual is not an employee where the pesticide is being applied, that individual must then seek relief not in the Federal court under this statute where corporations and others may seek relief, but must hope, in fact, that the State law would allow him or her standing.

I am not an attorney, but we have checked with some excellent ones, and it is totally unclear as to whether or not certain kinds of grievances can, in

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fact, be addressed in some of the States.

In others of the States, perhaps so. That is the major flaw in this amendment, and a serious one.

Now, the question has been raised about class action suits. The Panetta amendment specifically rules out class action suits.

We have been arguing over proliferation of law suits for years. Nobody is stronger in opposition to nuisance suits, no one is more strongly opposed to CARE packages for lawyers through payment of fees than the gentleman in the well.

I do not want that in the law. I do not want some attorney coming to someone who may or may not have a grievance and saying, "Let me take your case on a contingency fee basis because I think we can win some money from a corporation." We do not want that.

The Committee on Agriculture is almost unanimous in not wanting that. That is precisely the reason that my friend from California specifically rules that out in his amendment.

There are no nuisance suits whereby you can run them just for harassment effect because it is going to cost you, as an individual, whatever the court costs are and the attorney fees.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

Mr. Chairman, could the gentleman indicate to me where there is precise language that indicates that that is not possible under the Panetta amendment?

Mr. FITHIAN. I will yield to my friend from Georgia (Mr. Levitas).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I am reading from the Panetta amendment. It says, "for equitable relief but not for damages or attorneys' fees."

Mr. FITHIAN. I only have the amendment of the gentleman from California (Mr. Thomas) here in the well. I wanted someone to read it for the gentleman directly.

Mr. THOMAS. Mr. Chairman, I understand that. My question is: What is "equitable relief?" It is not defined anywhere.

Mr. FITHIAN. I think the gentleman knows "equitable relief" is a term which the court will decide, in this case the Federal court will decide. But the second clause that Mr. Levitas just read clearly answers the gentleman's question. So let us not slip off to the first clause. The second clause clearly reinforces what I said here; that is, that you do not get attorneys' fees.

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. There are a number of suits—good, solid suits—but there are also frivolous suits. There is no provision here that would rule out frivolous suits.

Mr. FITHIAN. If the gentleman, for example, believes in the cottonfields of California that he somehow has been irritated or offended and wants to spend his money as an individual to bring suit, even if it were frivolous, I suppose that is a theoretical possibility. But the harassment kinds of suits come from class action, and from that promiscuous propensity that we have in our society to try to pay for everyone's activities at court. I am totally opposed to that. That is not what the amendment has at stake here, and the gentleman knows it.

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. It specifically rules out, Mr. Chairman, class action suits. But the gentleman is certainly not crediting the fertile minds of individuals in terms of their ability to harass. If he will only look at what has occurred in recent years, not even in class action suits but by individual suits which are clearly frivolous.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Fithian) has expired.

(By unanimous consent, Mr. Fithian was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. Mr. Chairman, will the gentleman continue to yield to me?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, there are a number of individuals who are more than willing to involve themselves in frivolous suits which are time-buying tactics. The amendment to the amendment offered by this gentleman from California, in its specificity, would clearly remove those kinds of actions.

Mr. FITHIAN. But I would remind the gentleman, and anyone following this debate, that he is simply throwing the baby out with the bath water, for not only does the gentleman rule that out but he rules out very legitimate suits for those people who are legitimately harmed who ought to have standing in Federal court under the statute.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman in the well and the author of the amendment, the gentleman from California (Mr. Panetta), explain to us why we do not provide for the right of the individual to sue for damages?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to my friend from California.

Mr. PANETTA. I thank the gentleman for yielding.

Basically, it was to limit the kinds of harassment suits that my colleague from California is concerned about. We recognize that suits are brought sometimes speciously for damages if attorneys can get a percentage of whatever damages come from a suit. For that reason I decided to limit my amendment to exclude the right of action for damages and to exclude attorneys' fees.

So we are only talking about the area of equitable relief. What is equitable relief? It is the ability of a court to issue an order to stop certain activities. That is all we are talking about.

It seems to me if an individual is looking at a possible violation of this act, that person, that family, needs some kind of access to our system of justice. The minimum we can provide is the ability to get an order from a court to stop activity that is in violation of Federal law.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

But, Mr. Chairman, in the instance where the damage to the individual has already occurred, the right of equitable relief for an injunction to stop an activity does nothing.

Would the gentleman address that part of the problem?

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Fithian) has again expired.

(On request of Mr. Heftel and by unanimous consent, Mr. Fithian was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct in that instance. Under my amendment they would not be able to receive damages from a Federal court to restore that particular damage.

They would have to resort, then, to State court action under a tort relief action of some sort to try to obtain damages in that instance.

But my whole point here is that if we are establishing a Federal law, a Federal presence with regard to pesticide regulation, why in heaven's name ought we not to provide some access to Federal court?

Mr. FITHIAN. If I may just add to what the gentleman said, I would say to my friend, the gentleman from Hawaii (Mr. HEFTEL), if I understand where he is coming from, that he might indeed fault the Panetta amendment in the direction he is faulting it for not going far enough. That may well be. I think what that really says is, as between the position that at least your remarks would imply, and the Thomas position, the Panetta position is the true compromise before us.

I do not think there is any question about that. Yes, we could fault Panetta for not allowing them to go into that Federal court and claim the dollar damages. This, I think, represents what most of us believe to be a consensus amendment, a compromise amendment that we can get to.

We have had this battle before along the lines that the gentleman from Hawaii (Mr. HEFTEL) argued, and at least in the Committee on Agriculture we never did agree to go that far.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, I am concerned because we do have a specific example in the State of Hawaii in which the milk was contaminated, in which there is reasonable expectation that individuals have been or will be damaged.

Under this amendment, those individuals, not as a class action, but the individual, as determined by their damages, would be precluded from going to Federal court, and because the State judges would have been appointed by the administration that is involved in the controversy, they would have less likelihood of a standing.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. HEFTEL and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, they would be less likely to obtain impartial judgment in State court and, therefore, their best representation would be in Federal court.

Is this a dialog that the committee and the gentleman in the well feel that they do not want to pursue because they feel that it is a form of protection for the individual that they do not want to provide?

Mr. FITHIAN. I do not want to project myself into the mind of the gentleman from California (Mr. PANETTA), but I think that is a fair estimation of it.

Let me say just one last thing, if I may, and then I will not ask for additional time—I see the chairman is standing—but when this came up a long time ago in the Committee on Agriculture, the organization that was really opposed to section 16 came to me. I have worked with them on many occasions, and on almost all issues. They said, "This is all available to us now, to the injured party, in State courts."

Our counsel's opinion before the committee was that that was not true; that it is not really available; it is not accessible; we need the access to the Federal courts.

I asked the organization at that point to provide any legal opinion to the contrary, to the contrary of the committee's interpretation. To this date, as close as my working relationship is with them, they have not come up with that legal opinion anywhere in the country. Therefore, I have to believe that the Panetta amendment is essential, is essential to a moderately fair working of the basic law, and I commend him for offering the amendment.

Mr. HEFTEL. I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the Thomas amendment and in support of the Panetta amendment.

Mr. Chairman, I do not know whether the gentleman from California (Mr. PANETTA) mentioned the history of this amendment in the committee, but in the deliberation over this bill, which extended for well over a year, this subject was brought up and considered on numerous occasions.

The subcommittee approved language in the bill which is actually somewhat broader than the language which the gentleman from California (Mr. PANETTA) offered at this point. That was subject to reconsideration in the full committee and was stricken out by a one-vote margin in the full committee.

Mr. PANETTA then went back to the drafting board and tried to draw an even narrower version of the bill. In reading it I thought that he had made it about as narrow as you could possibly get, until I saw the language proposed by the other gentleman from California (Mr. THOMAS), who has succeeded in limiting this right to sue in Federal court, down to the absolute bare-bones minimum.

I do not quarrel with his judgment that that is a proper posture to take. However, I think that the Members should be aware that the Panetta language has been successively narrowed in its application to the point where I personally feel that it represents the minimum constructive addition to the bill.

Now, in addition to that, I want to make a point about the balance represented in the bill as it stands: This is the kind of a bill, and we have said this before in general debate, which satisfies nobody completely. It is a bill in which there is a tradeoff of things which some people want in return for things which some other people want. And when that balance gets out of whack, then one or the other of several parties at interest here decide it is not worthwhile supporting the bill any longer.

Very frankly, the Panetta amendment represents a very, very small concession to the public interest groups, the environmentalists, the labor people, and so on, who feel that they need some access to Federal court.

I think it is beyond any reasonable question that this bill is quite beneficial to the chemical industry. I have no apologies for that. I wanted it to be beneficial to the chemical industry. But I did not want it to be drawn in such a fashion that it was felt to be solely a vehicle for benefiting just the chemical industry.

I believed that everyone should feel that there is something in this bill which gives them a somewhat improved status.

Let me say in all sincerity that I think that the Panetta amendment, which partially restores language which the subcommittee originally had in the bill, is an important ingredient in that bill. I think Mr. THOMAS would agree with my general observation but would say that it is not properly balanced unless it has his amendment in it.

Well, I beg to differ with him, and I hope very much that the members of the committee will weigh this very, very carefully and consider the fact that the Panetta language is so narrowly drawn that it precludes the vast majority of the nuisance suits that I fear and he fears and many others fear.

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But, it does give that minimum protection which I think a large number of people are looking for.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I would like to join in support of the Panetta amendment. I do not think it is perfect. It is true that it does not allow damages to be collected, but I think it is a good, moderate position between the frivolous suits, that we fear on the one hand, and total lack of protection on the other.

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Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Panetta amendment and in support of the amendment to the amendment offered by the gentleman from California (Mr. THOMAS). My reason for opposing the Panetta amendment is that I feel, indeed, much more information is needed before we take action of this nature.

During the subcommittee hearings there was very little discussion held on the Panetta amendment and its effects. Mr. Chairman, when FIFRA was enacted in 1972 this idea was proposed and rejected, and to my knowledge this is the first time that this proposal has been offered since that time.

As originally proposed in our subcommittee, the Panetta amendment would have provided that any person claiming to be aggrieved by a misuse of a pesticide could bring suit in any court of competent jurisdiction for equitable relief and reasonable attorney's fees. Many on the subcommittee felt that this was a lawyers' relief measure, and as finally adopted in the subcommittee the amendment provided only for equitable relief.

Mr. Chairman, I would be frank to say that I supported the amendment in subcommittee with the idea that we would hear much more about the circumstances surrounding the amendment when it was debated at committee markup. I felt that a more informed decision could be reached at that time. But frankly, Mr. Chairman, there was very little new information developed when the amendment was debated during that markup. Assertions were made that there were not adequate remedies under State law to sue to stop pesticide use violations. There was discussion, and indeed confusion, as to whether State and Federal enforcement action is adequate to address pesticide use violations, and whether indeed there is a gap in the relief available in a tort action in State courts.

I am certain that no member of this committee would want a citizen to go unprotected, and yet the opportunities for abuse and harassment under the Panetta amendment seem to outweigh the question of bringing suit in Federal courts. There is apprehension that Congress, if we enacted the Panetta amendment, would be providing a vehicle that could be used to stop aerial application of pesticides, could interfere with public health programs, and could also stop, in some instances, emergency application of pesticides if in fact injunctions were obtained against the lawful use of pesticides. These are valid concerns. However, I believe much more harm could ensue with devastating effects on food production and on many farmers and producers who depend on pesticides. Proliferation of nuisance suits is the concern of many who oppose the Panetta provision.

Now, Mr. Chairman, to my knowledge there was no information presented to our committee to indicate that any citizen had brought a complaint to a State or Federal agency responsible, and that that action had been refused. Nor, was there any evidence as to States where a private citizen had not been able to sue in State courts for redress of grievances. So, speaking for myself, Mr. Chairman, I would want to have much more information than I presently have as to the consequences of this action before I would be willing to agree to make the Panetta amendment a part of FIFRA.

I asked the Congressional Research Service to examine this amendment and compare it with other or similiar Federal statutes where a right to sue may have been added to such statute. That analysis—in pertinent part—is represented below:

> The differences, however, in their operational effect are somewhat significant.
>
> While the most obvious legal consequences of both types of provisions is to open the Federal courts to actions brought by private individuals without regard to diversity of citizenship or jurisdictional amount and to eliminate statutory constraints with regard to standing, most citizen suit provisions, unlike the proposed private right of action amendment, contain some basic procedural hurdles which generally serve to discourage the institution of frivolous or unfounded claims and to encourage a more consistent Federal enforcement policy.
>
> Perhaps the most important barrier to citizen suit litigation filed under the Federal environmental statutes is the 60-day notice requirement. A typical provision may prohibit the commencement of a citizen suit prior to 60 days after the plaintiff has given notice of the violation to the Administrator, to the State in which the violation occurs, and to any alleged violator. *See,* e.g. 42 U.S.C. section 7604; Sec. 304, Clean Air Act. The Federal courts have interpreted this notice requirement as a means of affording the agency an opportunity to undertake its enforcement responsibilities and not to circumvent citizen suits with procedural maneuvers. *NRDC, Inc.* v. *Callaway,* 523 F.2d 79 (2nd Cir. 1976); *Friends of the Earth* v. *Carey,* 535 F.2d 165 (2nd Cir. 1976).
>
> Another common procedural hurdle for citizen suit plaintiffs is the precondition that such actions are barred if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the law. In most such actions, however, in a court of the United States any person may intervene as a matter of right. *See,* e.g. 42 U.S.C. section 1857h-2 (Clean Air Act). The general purpose of this language is to prevent duplication of enforcement efforts and resources. The Federal courts have, however, indicated that citizen suits should not be stayed or dismissed on the theory that the Administrator is engaged in a negotiation or settlement or that the Administrator chooses not to pursue the violator. *Friends of the Earth* v. *Carey, supra; Metropolitan Washington Coalition for Clean Air* v. *District of Columbia,* 511 F.2d 809 (D.C. Cir. 1975) (per curiam).
>
> The absence of any statutory language in the proposed private right of action amendment as to the legal effect, if any, of pending litigation involving similar allegations of fact or law in actions instituted by the Federal Government or a State, or where Federal or State authorities are diligently involved in an investigation of the matter on which the private right of action is based, raises some question as to congressional intent as to the manner in which the Federal courts should proceed under such circumstances. Also absent is any language indicating legislative intent as to whether individual private rights of action filed in the same or separate Federal courts involving the same plaintiffs and defendants and/or the same alleged violations, may be consolidated for trial.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding. I deeply respect his views and also his leadership on the minority side, but in this instance I do think that we have adequate information contained in a GAO report dated October 1981, that dealt specifically with the area of enforcement of laws relating to pesticides. The overwhelming conclusion by the GAO is that both the EPA and the States are not effectively enforcing this law in terms of protecting the public interest.

That, I think, is a clear indication of evidence that there is a weakness with regard to the enforcement aspect under this law. Second, it seems to me that what we are doing in this legislation is expanding Federal regulation and Federal dominance in the pesticide area. Thirty statutes allow for not only Federal court action but damages in Federal court actions so that it seems to me at the very least that if we are going to extend the law as far as we are in this legislation, we ought to then provide at least some access to the Federal courts.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. WAMPLER was allowed to proceed for 1 additional minute.)

Mr. WAMPLER. I thank the gentleman. Let me respond to my friend from California by saying that I think we both agree that we want any citizen who feels that he has been harmed or damaged to have the right to go into court. I guess the gentleman and I disagree on whether that should be a State court or Federal court, or, as I believe under this, both.

I have seen year after year this Congress confer upon the Federal judiciary additional responsibility and jurisdiction. We passed an omnibus judgeship bill here a few years ago, which established a large number of new and additional Federal judges. People complain about not having the opportunity to have their grievances which are properly and sometimes exclusively within the jurisdiction of the Federal courts, heard in a timely fashion. If we have an existing legal forum to hear these cases, and I have heard no one suggest that any aggrieved person does not have the right under State law to proceed to have that grievance addressed in State courts, why then should we confer that jurisdiction upon the Federal courts?

It seems to me that by adopting the amendment to the amendment with clarifying language in it to permit people to have the opportunity to go into State court for the redress of their grievances is proper.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Indiana.

Mr. FITHIAN. I would ask the gentleman from Virginia whether or not there is something magic about ruling out harassments by keeping them out of the Federal court, by allowing them to go to the State court. Is it the assumption of the gentleman that there would be somehow or other a proclivity on the part of the Federal courts to permit all kinds of harassment? I think harassment is ruled out entirely by the gentleman's amendment, but I do not understand why the gentleman gets concerned about harassment when it is just shifted from Federal to State or State to Federal. It seems to me that if someone is going to harass, they can harass in the State court as well as in the Federal court.

The fundamental question I would respond to is the information we had that there is absolutely no assurance in the several States that the State court permits access for grievances under this.

Mr. WAMPLER. I would respond to my friend from Indiana by saying that I have reached no conclusion as to whether we might have a greater number of harassment suits filed in State vis-a-vis Federal courts, but we do provide for a multiplicity of opportunity for harassment.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. SOLOMON and by unanimous consent, Mr. WAMPLER was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for making an excellent point. This in no way preempts any action that an individual might want to make in a lower court. I serve on the "Pork Barrel Committee" in this Congress, called the Public Works and Transportation Committee, and let me tell the gentleman what has happened in the last 4 years. In the last 4 years, in the Buildings and Grounds Subcommittee, we have approved prospectuses for expanded courts throughout this Nation totaling billions of dollars, and we have more billions of dollars waiting in the wings to be approved because of legislation that is passed by this Congress overloading the Federal court system creating a demand for greatly expanded court facilities, requiring the appointment of hundreds of new judges and the hiring of thousands of new judicial employees all of which has compounded the fiscal mess we are in today.

I commend the gentleman on his amendment. We have no business throwing more cases into the Federal courts the way we are. It ought to be left at the State level.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I would be happy to yield to my friend from California.

Mr. PANETTA. I thank the gentleman for yielding, If the gentleman feels the way he does, would he also strike then the section that allows the corporations and the chemical companies access to the Federal courts for redress of violations of this act?

Mr. SOLOMON. I believe that is in the gentleman's amendment.

Mr. PANETTA. No, it is not. There is a separate section in here that allows the companies to go to Federal court to deal with violations of the law and seek punitive damages and treble damages.

Mr. SOLOMON. Then that ought to be left to the lower courts as well.

Mr. WAMPLER. Mr. Chairman, if I may reclaim my time, it is my understanding that the amendment of the gentleman form California (Mr. PANETTA) could perhaps apply to as many as 800,000 injuries. That conceivably could be 800,000 or more lawsuits, and if I am knowledgeable of the present docket situation in most of our U.S. district courts, it takes one an average of 2 to 5 years to have a cause heard. I think by adopting the amendment to the amendment we will indeed protect the rights of individuals to sue in State courts.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Panetta amendment and in opposition to the Thomas amendment. I would like to explain the situation in Oregon, where we have vast national forests. When a harvest is made in one of these national forests, we of course want to replant new trees. Brush grows up in the areas that have been harvested, and this brush tends to impede the growth of the new, small trees. So, they have for the past 20 years had a practice of spraying phenoxy herbicides generally on the brush that is growing up in order to impede its growth and to allow the small trees to come up and grow faster.

The problem has been that many of the national forest areas are situated near where people live, and the spraying with the phenoxy herbicides occurs generally by airplane. Controversy arises. Many people feel these phenoxy herbicides are damaging to their health. There are reports of miscarriages, reports of animals dying, of fish dying. Nothing has ever been proved. Statistically, many people feel that they have proven their case, but nobody has really done so.

I believe the phenoxies are harmful, dangerous. I join many of my constituents in a battle against their use. We go to the forest ranger or forest supervisor, and asked them not to spray, not to let the spray drift over onto farms and homes, and the Forest Service generally refuses to do so, although we have been trying to get them to do the brush control manually to put more people to work. The amount of this manual brush control has been kept to a minimum, and they continue to spray, generally by airplane.

So our people who are concerned about their health damage from phenoxies feel helpless. To give these people the right, if they feel they have a case and want to back it with the money they would have to spend to go to court to get the Forest Service into Federal court, seems to me a basic right they should have.

I remember so vividly when I first became involved in the matter of these phenoxy herbicides, I had a town meeting in a place called Coos Bay, Oreg. A mother, a lovely woman in her thirties with a beautiful little daughter, a red-haired little daughter named Angelina Lee came to the meeting—Angelina Lee had become very ill. They had lived up in the forest where they sprayed these phenoxy herbicides, and Angelina Lee came down with ideopathic thrombocytic purpera. The users said that could not be caused by phenoxy herbicides. But they found after investigation, they found the herbicides in their drinking water and they found them in Angelina Lee's blood, and a scientist at the University of Wisconsin discovered that thrombocytic purpera had been caused in other animals by phenoxy herbicides.

But, yet they have not been able to sue. The girl almost died. This lovely little girl had to have her spleen removed, and now is subject to ailments almost at a whim. I believe that with cases such as the abortion cases and the miscarriage cases that we have had, with the many other people who feel their rights have been infringed, to give them an opportunity where they really feel they have proven, serious grievance; to go to court is a right they certainly should have and would

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make them, I think, less likely to go out in the forests and protest the spraying of these herbicides if they felt they had an avenue in the courts to do something about it.

So, I would hope this committee would support the Panetta amendment and vote down the Thomas amendment.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I commend the gentleman for his statement. I think we ought to get back to the fundamental issue, and that is simply, do we treat corporations differently than we treat individuals.

In the Agriculture Committee there was considerable disagreement over whether an individual can even sue under FIFRA in State court. And even if it is the case that an individual can sue in State court that would not provide the relief necessary. State courts are often unfamilar with the Federal law and there are numerous complaints from farmworkers that State courts are an unfriendly forum for alleged violations of pesticide law, with State courts bowing to local pressure.

And EPA has not been aggressive in levying fines against pesticide applicators who injured farmworkers through misuse—only six fines have been levied in the past 6 years, despite the fact that there are an estimated 80,000 pesticide poisonings annually.

Citizens need Federal court access to provide relief for the misuse of pesticides. Access to the Federal courts would also help insure that our pesticide laws are taken more seriously by those who manufacture and apply pesticides. Other laws, among the Clean Air, Clean Water, CFTC, and the Perishable Agricultural Commodities Act already permit citizen suits, And so this amendment is only consistent with rights allowed under those laws and with the rights given the chemical manufacturers in the bill before us today.

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We are locking in a double standard here. The issue is not: Can the Federal courts handle these cases? The issues should not be: Do we allow access to State or Federal courts? The issue is: How do we insure that a corporation is not treated differently than individuals?

If we do not pass the Panetta amendment, we are fundamentally changing the right of corporations to exceed the rights of individuals under the Federal law. That, I think would be a tragedy. I hope that when we vote, we understand what we are talking about here. We are talking about giving equal opportunity to individuals, as we do to corporations.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Panetta amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, the Federal Insecticide, Fungicide, and Rodenticide Act (H.R. 5203) is vitally important to regulate and control the use of pesticides in our Nation. With nearly 800,000 pesticide-related injuries each year, and nearly 800 related deaths, there is clearly a need to protect our citizens from misuse of dangerous chemicals. Yet the enforcement of these protections has been sorely inadequate. For example, the Environmental Protection Agency and its State agency counterparts have levied fines only six times since 1978 against pesticide applicators who injured farmworkers. Yet, with the current administration's budget cutbacks, the prospect for increased EPA activity seems bleak indeed.

The Federal courts serve to rule on violations of Federal law. Since FIFRA is such a Federal law, commonsense dictates that an individual harmed by a chemical company or pesticide applicator ought to have the right to sue that company in Federal court. Yet H.R. 5203 allows no such right to sue.

The amendment Mr. PANETTA is offering today would provide for a right to sue for violations of the act. It is merely a limited right to sue, to reprimand the violator and insure that the violation would not occur again. It would not allow for damages, penalties, fines, or imprisonment. It would only allow for injunctions of actions shown to be in violation of the act.

We need this avenue for redress of grievances now. Environmental Protection Agency officials said in 1979 that there were more than 25 new pesticide registration applications submitted yearly and consequently the agency "hasn't even begun to scratch the surface of the impact of the chemical revolution in this country." In my own State in 1977, the National Grape Cooperative Association protested aerial application of herbicide on wheat that damaged the State's Concord grape harvest by 15 to 30 percent. In my district, in the small town of Index, fear of careless application of pesticide by the railroad caused a storm of protest.

The private right of action would provide a responsive means of redress. It is particularly important to permit citizens to help themselves rather than have to rely on a sometimes reluctant big brother government to do it for them.

Mr. Chairman, I would urge my colleagues to support this amendment. The private citizen ought to have the right to sue in Federal court for violations of Federal law.

Mr. LEVITAS. Mr. Chairman, I am perhaps concerned that the Panetta amendment really does not go far enough or do enough. It provides solely for equitable relief, and that in a sense means an injunction to stop something from happening or prevent something from continuing to happen. Let me give the Members an example of the type of situation I am talking about.

I live in a suburban Atlanta area. On two occasions that densely populated suburban area was sprayed with an aerial spraying of Mirex to kill fire ants, presumably.

Now, there are many people who are concerned that aerial spraying of these insecticides can be physically damaging. This simply gives an individual the opportunity to go into court and seek relief if this law is being violated.

Now, if corporations have that right, why should not individuals?

In a later discussion today I will strongly defend the rights of the chemical companies to have access to the Federal courts because I think they are entitled to it, but in this situation this is such a modest little opportunity for individual citizens to come in and say, "look, this law is being violated, and let us put a stop to it," without the opportunity for recovering damages, without the opportunity for a class action suit, and without even the opportunity of recovering attorney's fees, going up against some very large corporate entities.

I think this is a very, very modest approach. I am not even sure it is going to accomplish that much, because most of the time people will have already suffered the damage after the acts have occurred. But I think this is at least an opportunity to prevent further damage from occurring.

The most important thing, Mr. Chairman—and that is why I take this time—is not the modest Panetta amendment but, rather, what I think is the significance behind the amendment offered by the gentleman from California (Mr. THOMAS), for whom I have great respect and great appreciation for his work. But what concerns me, and I think it is revealing, is that if the proponents of the Thomas amendment are so concerned about the modest Panetta amendment, I think we are seeing the footprints and the fingerprints of a major industry effort in this case not to really have adequate opportunity for protection of the public. That is what concerns me. This is such a modest effort.

If the chemical industry is opposing this, then where are their fingerprints elsewhere in this legislation? Where are they coming from? What is it they are after?

I happen to think that this bill is a very important move in a right direction to help the chemical industry. Section 3 has some of the most far-reaching and beneficial reforms of cutting redtape, eliminating duplicative applications, and using information that is already on file without requiring repetitive filings. I think it is a major move forward to help this industry, but if they are not even willing to let an individual go into court and stop a violation of this act, then I think they are showing their hand too early and in too negative a way, and it raises questions in my mind about other features of this legislation and other times when they are going to be opposing or proposing amendments to this legislation.

Mr. Chairman, I think that is the significance of the Thomas amendment, and for that reason, I think it is very important early on to lay it out on the table. I think we should defeat the Thomas amendment and pass the Panetta amendment and then we will see where else these people are coming from.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I cannot tell the gentleman who all is opposing the Panetta amendment. I can tell him that I understand that the American Farm Bureau Federation and the Georgia Farm Bureau Federation are opposing it. So the gentleman can draw his own conclusions.

I will say that I think there are a lot of farmers and ranchers who oppose this because they see it as a vehicle where they are going to be confronted with unlimited suits in the nature of harassment, and it is going to have a great bearing on the cost of food in this Nation. For those who consider themselves consumer-oriented Members that should be important.

Mr. LEVITAS. Mr. Chairman, I would like to address that point because I think it is very important.

The fact of the matter is that those people the gentleman has just described, if they violate this law, are going to subject themselves in my opinion to suits for damages in State courts and I think that is fine. What I am trying to get at by supporting the Panetta amendment, is to stop these types of actions which are violations of this law.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Panetta amendment.

Mr. Chairman, I am not an expert on pesticide, and I am not from a farm area. We have a concern on Long Island because the golden nematode, which may be known to some of you, has, in the past, hurt the eastern Long Island potato crop and in order to deal with it Temik was used and it is currently being found in our water supply.

That causes me great concern because we drink from a glacial aquifer, and it—Temik—has a potential for affecting literally hundreds of thousands and potentially millions of Long Islanders.

No one disagrees with the notion that we are far too litigious a society, and the notion of harassment—and I am not sure exactly what that means—is one that we are concerned about. But we have to face the fundamental truth of litigiousness and weigh that against the public's right to a healthy environment and also against modern scientific techniques which enable us to measure minute quantities of dangerous toxants in water supplies, in the air and in the soil and the potential hazards that that has for our population. And nothing, it seems to me, is more apparent or has been more apparent over the last few years than the whole concern of toxic substances in our environment.

Now I understand and I think I can appreciate the problem the farmer has with the fact that he may be faced with some pest emergency and the local environmental group ignores the fact that there is a real economic consequence if spraying does not take place.

I might add as an addendum to that that I do not believe we can, although I would like if we can to have a hazard-free society. I believe that there is certainly a trade-off between having abundant fruits and vegetables and grains that we have and the need to spray. I understand that. But what seems to me to be missing here is the need to carve out an exception that precludes harassment and but recognizes an individual's right of action.

Let me suggest what I am talking about. I happen to think the Panetta amendment does not go far enough. I happen to think that if we are going to extend the right of private action, it should go to individuals. But I also believe there might be an opportunity prior to the granting of injunctive relief for there to be a summary finding of facts so then both parties can have an opportunity in court to weigh the relative scientific information to determine whether or not equitable relief should or should not be granted. That is a way to protect both the interests of the farmer and the interests of the individual at the outset of the spraying.

Second, it seems to me as well that if we are going to elevate for corporations a private right of action, the people of Long Island, the people of Georgia, or the people of any part of our Nation who are affected by the spraying of a pesticide which might appear on the surface to be safe but 5 years or 4 years later we find it has a profound impact on unborn children or one class or another of our population, should have a right to sue, and there should be a right for action in Federal court.

Why would we want to deny that right of action? If you have a right or a remedy, if you decide just to go to State court, you might not have an opportunity to get reasonable damages. There may be statutes that prohibit going after a California corporation by a New York resident, and it seems to me that we can solve these problems.

The Panetta language is the de minimus amount of change that is acceptable to this gentleman from New York, and I suspect, to others, but it seems to me that you might want, as members of the committee dealing with this, to take a look at being able to protect both the interests of the farmer and the interests of the individual.

Mr. Chairman, the Thomas amendment clearly does not do that, and the Penetta amendment begins to address that, but without, in my opinion, going far enough.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Thomas amendment and in support of the Panetta amendment.

Mr. Chairman, it is somewhat ironic that we who were elected by individuals, by something called the people, are about to deny to those people who cast a ballot the right to go to Federal court to sue for damages, while we extend to corporations who do not cast a vote at the ballot box but may influence in other ways and places the right to go to Federal court and sue for not only actual damages but for punitive damages.

The Panetta amendment does not go far enough. It does not give to the individual the right to sue for damages. If the individual never had the opportunity to go to court and ask for injunctive relief to stop a harmful practice about which it had no knowledge the individual has no relief in Federal court.

We have that specific example in the State of Hawaii where heptachlor was used to spray pineapple crops and the public did not know that the remains, called pineapple chop, were being fed to dairy cows from which the people got their milk supply, which in turn was found to be contaminated at four times the maximum allowable level under the law, pertaining to heptachlor.

We are in the middle of a controversy in which the individual has been harmed but would be denied the right to sue individually for damages in Federal court while corporations would

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have that right. It simply makes no sense.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman is making a very valuable point.

I propose to offer an amendment later to ban the sale of tozaphene, which is a spray used on the cotton crops in the Southern States, a chemical which is picked up by the winds and wafted a thousand miles to Chicago into the Great Lakes, where it enters the food supply by being ingested by the fish.

Now, would the gentleman think a person who was harmed by toxaphene which was sprayed originally in Mississippi or Alabama would be required by the bill to go to Mississippi and file in the State court there?

Mr. HEFTEL. Mr. Chairman, under the Panetta amendment the individual would have no right to sue for damages in Federal court. That individual could only go to State court and ask for injunctive relief, and he would have to do it in the State of Mississippi, not in the State of Illinois.

I am disappointed in this body, that this debate is not whether or not we will allow the individual to sue in Federal court for damages, but whether or not we will simply allow the individual to go to Federal court for injunctive relief to stop a practice which will damage the individual when in fact the real threat is the damage because the individual does not normally learn what is happening until after the damage to the individual occurs.

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Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words and speak against the amendment.

Mr. Chairman, I think it has been fairly well established by this debate now that the Thomas amendment is so minimal a right to sue that we are really talking about most of those affected being restricted to State courts.

For instance, under the Thomas amendment no one can sue the manufacturer. It has a requirement that only the employer can be sued or the applicator.

A manufacturer who has been systematically mislabeling products or mismixing or mismatching them is never suable in Federal court under the Thomas amendment.

Under this, no one can bring an injunction to stop the manufacture of a defective chemical and there would be no private right whatsoever to sue.

What we are being told is, "Well, that is OK, you can do it in State court." Then we are being asked, "What is the matter with State courts?"

Mr. Chairman, I think there is a fundamental inconsistency here.

We will later hear offered an amendment by the gentleman from Iowa about one of the major issues in this bill which is that it severely restricts the States in many ways. This is a bill which says, in its present form, which is supported by the gentleman who are opposing the Panetta amendment, that the States cannot even get information unless they get the Federal Government's permission.

Where is the consistency between telling individuals they may not go to Federal court to sue a manufacturer who has been systematically mislabeling a product, simply to get an injunction to make a manufacturer correct the mislabeling.

And on the other hand, the entire State of Massachusetts, or the State of New York, or the State of California, under the bill as presently drafted cannot get information that its officials think it may need.

So, we tell the States they have to go hat in hand to the Federal Government, but we will not let an individual who may be damaged by a systematic mislabeling practice to go to Federal court for an injunction.

As has been pointed out, the Panetta amendment is terribly limited and it allows no money damages. There can be no financial incentive for anyone to bring suit. There are no class-action suits, no fees.

Without the Panetta amendment there is no uniform Federal standard that can be applied for the enforcement of a Federal law.

We are being asked to create Federal law and expand Federal law to govern this area. We are being told that the States are to have a very limited role in administering it and the States are to be preempted from any further regulations, that everything is Federal except the right of an aggrieved individual to go to Federal court, not to get money, but simply to make his or her case that somebody ought to stop doing something harmful.

Under the Thomas amendment, a person who lives next door to where a pesticide is being used cannot seek an injunction. This says you can only have suit if the employee will sue the employer. This is unrealistic in many cases, given employee-employer relationships.

When you restrict the right of suit to an employee you have a class of people who may be coerced. Some may not be. Some may be unionized. Others may be vulnerable.

The individual who is next door, whose property, and whose family may be hurt, somebody that may be negatively impacted by this mislabeling, mismatching of products, may not bring a suit even to say "Please make them stop it." We do not seek in the Panetta amendment to get them money, but only a right to stop a harmful practice.

And we will get no uniformity here because people cannot go to Federal court.

It is an ironic inconsistency that a bill which seeks to federalize this area, excessively, in my judgment, which takes away from the States the powers that they ought to have in governing themselves to improve their environment, then turns around and says that it would be a violation of the Federal system to allow an individual to sue in Federal court.

Under this pending amendment only an employee can sue, a person who might be economically vulnerable. The person who lives next door, the person who may be physically affected, will not be able to sue and no one will be able to sue a manufacturer in Federal court at all. Requiring that there be a series of State suits against the manufacturer would defeat one of the purposes of the bill—uniformity of regulation.

Presumably there is a desire for uniformity. To require that there be individual State suits against a national manufacturer seems to be inconsistent with that, since it could mean one manufacturer being subject to varying standards.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. HUNTER. I think one point we are missing here is that our Federal courts are operating with very limited resources. Right now we have Federal courts, especially on the west coast, that have tremendous backlogs of cases, both civil and criminal.

This is an area, the tort area, that has traditionally been an area that has been covered by State courts.

That does not necessarily mean there has to be a Federal coverage of the area of regulation.

I think the argument has been made that the reason we need to expand this to individuals is because corporations now have Federal court standing. Perhaps we should constrict the law, not liberalize it.

I think the backlog in the Federal courts and the projected lack of resources mandates a no vote on this amendment.

Mr. FRANK. I would like to take back my time.

The gentleman is correct, there is overcrowding in the Federal courts.

But there is equal and in many States more overcrowding.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) is expired.

(By unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. There is equal overcrowding in the State courts.

To say that we are going to reinforce and create this Federal FIFRA structure with Federal right and Federal regulations, but our Federal courts are too crowded and you have to do your litigating in the State courts, that is reverse revenue sharing.

The State courts pay people, they have personnel problems, and overcrowding problems.

It simply does not make any sense in terms of the judicial system of this Nation as a whole to say that you are going to relieve overcrowding by pushing a class of cases from the Federal courts to the State courts.

In fact, when we deal with national manufacturers, the question is, If there were disputes about labeling or about the impact of national products, is it more efficient to have those dealt with in Federal courts where we can ultimately reach some uniformity of judgment, or are we going to have a multiplicity of judgments in State courts, and have manufacturers of national products perhaps being subjected to conflicting opinions in different State courts with no ability to bring that issue to the Federal court?

So I do not think the overcrowding argument makes any sense at all.

Mr. HUNTER. Will the gentleman yield further?

Mr. FRANK. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I would presume at this time most of these cases that would arise under this type of action are being covered in the State courts because obviously no Federal court jurisdiction exists.

Mr. FRANK. That is right. But we may have an expansion of actions under this new bill.

I would like to add another point. I am a member of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice and and I think as a general point that if there are problems with the way the courts function, we should address those problems and resolve them systematically.

I do not think it is a sensible scheme to say that the courts do not function well; therefore, let us keep some people out of them.

If it is too easy to bring a harassing type of request for injunctive relief in Federal suits, that is something that ought to be addressed. This is not something that ought to be left as a general problem, but with access denied to some.

Just recently the Judiciary Committee passed a package of legislation to try to rationalize and restrict the Federal jurisdiction and to repeal some of the mandatory preferences that exist in the Federal courts.

The Judiciary Committee voted to repeal mandatory jurisdiction of the Supreme Court in certain cases. This is how to correct problems.

If the Federal courts are not working well in a particular class of cases, say in injunctions, then the sensible thing to do is to try to improve the procedure rather than say that we will continue to let it be bad for a lot of cases, but some people will not be able to get in there at all, no matter how valid their cases.

Mr. THOMAS. Mr. Chairman, I rise to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. THOMAS) is recognized.

There was no objection.

Mr. THOMAS. Mr. Chairman, just a couple of final points.

The gentleman from Georgia indicates he wonders whose fingerprints are all over this particular amendment. I would tell the gentleman from Georgia that the fingerprints are those of my constituents.

I represent one of the largest agricultural districts in the United States. Agriculture is a tremendous economic factor in the State of California. As a matter of fact, agriculture is California's No. 1 industry.

We have witnessed in California in recent years a number of suits by individuals who have no physical injury whatsoever, but who are in some way esthetically injured.

I fully understand the gentleman from California's amendment says that there will be no class action suit. It certainly does not prohibit a multiplicity of suits by individuals to continue the kind of harassment that has done significant economic damage with virtually no environmental or individual damage, given the kind of pesticides used.

The gentleman from Georgia indicated Mirex. My understanding is that Mirex has been banned and, in fact, the process works. No individual is precluded from going to State court for any kind of injunctive or damage relief.

The point about corporations being contained in this legislation and individuals not is I think a confusing point. The reason corporations are provided with the right to sue is that under FIFRA they are given certain Federal rights. It does not make a lot of sense to this gentleman to say you are given certain Federal rights as a corporation, given the pesticides that have been approved, and then you have to find some kind of relief when those rights are being violated in the State courts.

It seems appropriate that the Federal courts are the proper level to seek remedies for corporations since the rights are federally granted.

What my amendment is trying to do is provide specificity to the gentleman from California's amendment in the area of who the persons are and what relief is available.

I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the Thomas amendment.

I will be brief. I think we have completed a good debate on these issues.

I think basically the questions Members have to ask are these:

Is there adequate enforcement now by EPA and by the States with regard to pesticide law? The one thing we do have is a GAO study that says that at the present time there is inadequate enforcement by both the EPA and the States.

When it comes to State action, State court action in this area, we have no evidence that in fact there is effective relief provided through State courts when it comes to a Federal law of this nature.

The second point I would make is that if we are going to establish a Federal law, a Federal regulation of this magnitude in the area of pesticide regulation, it seems to me legitimate to at least offer access to Federal courts at the same time.

We do it for corporations in this bill and I would remind Members that the section that does it not only allows for an action for equitable relief but also for an action for damages, and not only for damages but for treble damages or punitive damages to the corporations or the chemical companies who sue in a Federal court.

I think if that provision is going to be part of this bill that at the very least we need to provide similar access to Federal courts by individuals.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman.

Mr. HYDE. I was very interested in the gentleman's discussion of the GAO study where it reports the States have been ineffective or inadequate in enforcing rights under this law.

But I listened carefully to find out if there was any evidence that the State courts were unequal to the task.

The gentleman said he has no evidence that they are effective. But have you any evidence that the State courts are not capable, or administering justice to people whose rights are aggrieved?

Mr. PANETTA. What we have seen in the committee, and we asked that question, we have seen no evidence, in fact, that the State courts are enforcing the law of FIFRA. In fact there may be some personal injury actions brought, but that as far as violations of the statute at the Federal level, that in fact there is no access for private individuals in the State courts for that purpose.

Mr. HYDE. You are saying, then, that justice has been denied to people who have sought to enforce their

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rights under FIFRA in the State courts?

Mr. PANETTA. Exactly. The gentleman is absolutely right.

Mr. HYDE. That is very unfortunate and that should be corrected. You recall, I am sure in the 1930's when the Norris-LaGuardia Act was passed and the injunctive relief of the Federal courts was taken away from them in labor disputes?

In those days somehow the injunctive relief that was required by statute in the Federal court was found oppressive in labor disputes.

Does the gentleman feel injunctive relief will not be oppressive in matters of enforcing FIFRA?

Mr. PANETTA. I think at the very least we must provide injunctive relief in this instance. We are not providing damages. We are not providing an action for attorneys' fees. We have set strict limitiations on this that at a minimum, equitable relief seems to me to be legitimate for individuals that are afflicted by violation of a Federal law.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Oregon.

Mr. WEAVER. It has been said there is no example of a place where you cannot sue in the State court.

I cited the fact that the Forest Service is the largest user of Phenoxy herbicides in the Northwest and, of course, the Forest Service must be sued in Federal court.

Mr. PANETTA. To that extent, that is correct, where a Federal agency is involved.

The last point I want to make is with regard to the Thomas amendment versus the amendment I offer, but first, as I have stated, the amendment I presented is limited in terms of the accessibility that is provided. I think I have taken more than adequate precautions to try to avoid the kind of harassment suits we are all concerned about by prohibiting damages, and by prohibiting class action suits.

What the Thomas amendment does is takes it a step further. It says that you have to be an employee. A farmer does not have access under his amendment. Children in a playground who might be injured do not have access under his amendment. Household impacts and injury to families would not be covered under his amendment.

The second part of my objection is that the Thomas amendment, in fact, restricts actions against the manufacturer or the chemical company itself.

So I think those kinds of limitations would, in effect, prevent the courts from really providing the kind of relief we are seeking.

So I think in justice it is important that we enact at the minimum the Panetta amendment and reject the Thomas amendment.

● **Mr. GORE.** Mr. Chairman, I rise in support of Mr. Panetta's amendment which provides a private right of action under FIFRA for injunctive relief.

Current law restricts actions to enforce violations of the Federal Insecticide, Fungicide, and Rodenticide Act to the Environmental Protection Agency and its State counterparts. According to several major court decisions, private individuals are barred from filing lawsuits in Federal court to challenge violations of the act.

However, EPA and the States have compiled an extremely poor record of enforcement aganst FIFRA violations. Therefore, a private right of action is essential.

According to data recently supplied by the Environmental Protection Agency, only seven criminal cases have been referred to the Department of Justice under FIFRA since fiscal year 1979. In comparison, 43 cases were referred to the Justice Department under the Clean Water Act during this period.

During fiscal year 1981, EPA assessed only $123,473 in civil penalties under FIFRA. In comparison, nearly $3 million in civil penalties were assessed under the Clean Water Act, and over $9 million in civil penalties were assessed under the Clean Air Act during 1981.

The proposed private right of action is particularly important in view of recent cutbacks in EPA enforcement activities and proposed cutbacks in State grants for pesticide enforcement. For example, Federal inspections for pesticide misuse decreased from 485 in fiscal year 1981 to 40 during the first two quarters of 1981. This represents a 83.5 percent decrease on an annualized basis.

While EPA officials have argued that State agencies will compensate for cutbacks in Federal enforcement efforts, increased State enforcement appears unlikely because of decreases in State grants for pesticide programs and because of the budgetary problems anticipated by many States in the current fiscal year. For example, on May 24, 1981. New York State's commissioner of environmental conservation testified before the House Appropriations Committee that:

> New York's 1982 pesticide grant from EPA was reduced by almost 40 percent from the 1980–81 maximum level which nearly met state criteria for a full pesticides certification and enforcement program. . . . The Administration's 1983 budget proposes a further reduction of nearly 20 percent, $40,000, from this already reduced grant. Both the 1982 and 1983 cuts will hit New York's pesticide control program in 1983, and the cumulative effect will be very severe.

In summary, I urge your support for the Panetta amendment to H.R. 5203. This amendment holds out the promise of improving enforcement of one of our Nation's most important health and environmental statutes without imposing additional costs on taxpayers.●

□ 1230

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Thomas) to the amendment offered by the gentleman from California (Mr. Panetta).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Panetta).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Harkin: Page 63, strike out line 21 and all that follows through line 10 on page 69.

(By unanimous consent, Mr. Harkin was allowed to proceed for 10 additional minutes.)

Mr. HARKIN. Mr. Chairman, my amendment basically would strike section 11 of the bill, which seeks to modify section 24(a) of the existing FIFRA legislation first adopted in 1972.

I want to take the time in the well here to bring Members up to date on the history of this legislation and what has taken place since 1972, to sort of lay the groundwork for what is transpiring right now in this legislation.

Section 24(a) of the FIFRA bill was adopted in 1972, the first FIFRA Act, the Federal Insecticide, Fungicide, and Rodenticide Act. Section 24(a) was designed to provide a basis for State and Federal partnership in regulating pesticides. When I use the term pesticides I use it to mean the three basic ones, the fungicides, the rodenticides, and the insecticides. So I use the term pesticides to include all of those. Section 24(a) was designed to set up a State-Federal partnership in regulating these pesticides.

First of all, it set a Federal registration procedure and regulations, which was a floor from which the States could then work. In other words, the Federal law set a kind of floor and then said if the States wanted to, they could build from that floor to meet special local concerns or needs that they might have. In other words, the States could go higher, but they could go no lower. Of course, this same philosophy was used in numerous other pieces of legislation adopted by this Congress—health and safety laws, surface mining laws, the Clean Air Act, OSHA, Flammable Fabrics Act, and probably some others that I am not aware of.

The reason for this was the need for some national legislation, some national regulations, but also a need to permit States to design and implement rules and regulations again that meet special local needs and conditions. This, of course, is the classic Federal-State cooperation, where the Federal Government sees a national need for legislation, recognizing at the same time that there may be very special needs in certain areas of the country, and then we allow these States to adopt their own laws and regulations to meet those special needs.

I want to make one important point at this time. In the 10 years of operation of section 24(a) of the FIFRA bill, in these 10 years from 1972 to 1982, not one request has been made to change this section by any State or by any administration. Let me repeat that: In the 10 years that this has been in effect, there has been no request from any State, no request from either the Nixon, the Ford, or the Carter administration or the Reagan administration to change this provision of law. So we wonder why we have to have a new section 11 if no one has requested any changes.

The only challenge that was made to section 24(a) was made by the National Agricultural Chemical Association (NACA) in a case in California, NACA against Rominger, who was the director of the California Food and Agriculture Department in 1980. This challenge went to Federal court and, basically, NACA argued that the State could not have stricter standards than the Federal Government. That was their basic argument. The courts, however, ruled in favor of the State.

After this decision, the pesticide manufacturers decided to try to change the law on a national level. Now, it is important to know that, No. 1, they attempted to get the changes made in the California Legislature. The legislature responded negatively. They had just passed their law 1 year before, and California wanted to get the bugs worked out, so to speak, and they put a moratorium on any changes in the legislation. So the pesticide manufacturers, as they came to Washington to try to get the law changed, they also, as I said, attempted to get the law changed in the California Legislature, and the California Legislature denied that. At the same time, as I said, they initiated action in Washington to get the law, 24(a), changed, they also began to work on another track—and properly, I might add—with the office of administrative law in California, which, of course, was set up specifically to review regulatory problems.

These two, NACA, the pesticide manufacturers, and the administrative law department in California worked together through 1981 and to early 1982 to solve the problems of the cite all provisions, because of the excessive information requests and delays that were occurring in California. This problem has been overcome.

These cite all provisions, the excessive information requests and delays by California, had created a tremendous backlog. Since the implementation of new regulations in April 1982, just this April, the backlog in California has been reduced from 1,000, which existed in January 1980, to only 125 in June of this summer. And I might point out that with a backlog of 125, that is really no backlog at all since the system in California receives about 135 applications each month.

California also at the same time increased, in fact doubled, the amount of personnel to handle applications from 24 to 48. And, secondly, they reset or they raised the threshold on data requests. Again this was one of the arguments made by the pesticide manufacturers, that the threshold for all registrations was set at the same level. And now they have raised that threshold, so they do not ask for as much information as before.

As I said, the problem before in California was that the threshold for data submission, let us say, for example, for the Tidy-Bowl toilet cleaner, was the same as for toxaphine, which of course is a very potent chemical and which has killed a number of cattle in my own congressional district. So you had the same threshold level for all of them. Now they have raised the threshold level, so they do not get the same kind of data submission for your Tidy-Bowl toilet cleaner as you would for toxaphine.

The third thing that California did is that they eliminated the conflict between the State and the Federal cite-all provisions. Before, the State requirement that a State applicant cite all of the health and safety information submitted for Federal registration.

In many cases, as many as 30 percent, the Federal registrant denied the use of this information to the State applicant, thus the applicant was denied access, for example, to a certain State market, in this case, California.

So California in April of this year provided an exemption from the cite-all requirements on a case-by-case basis.

So what I am saying is this: The pesticide manufacturers, seeing this problem in one State, decided to attack it on two tracks. On one track they came to Washington to have a fundamental change in the law; on the other track they went, as I said quite properly, I think, to the administrative law division in the State of California to work out their problems that they had with the regulations in California. They worked on it in California on this one track all through 1981. By early 1982 they had gotten rid of all of those problems, as I said, in those three instances. But what has continued is that the other track here in Washington kept right on rolling along, and they were successful in the committee in getting section 11 adopted to fundamentally change section 24(a) of the FIFRA Act.

So the problem is, then, that we have continued on this other track, even though the need for remedial legislation for that one specific State problem has been overcome through the appropriate remedial action of working with the administrative law agency in California.

So the question we have to ask ourselves: Do we continue on this other track, break up a working Federal-State system on pesticide registration and control which has worked for 10 years and which, I repeat, has not been asked to be changed once by any State or by any Federal administration?

So the reason for section 11 which is in the bill is obvious. It goes beyond California. If the only interest were simply California, we would not be having this debate on the floor. But the reason for section 11 goes beyond any one single State.

The pesticide manufacturers have seized upon this to challenge the very law itself and to take a relatively simple straightforward law and make it so convoluted as to be totally unworkable.

I have a chart which I will pass out. I have several hundred copies so that each Member may get one. It is a chart that shows on one side what the existing law requires. The State requests the data, the applicant provides the data. Very simple, very workable, very understandable.

Now, you just turn it over, and let us see what section 11 of this bill does. Now if you would like to see a Rube Goldberg system, take a look at what section 11 does in changing section 24(a). You talk of a spaghetti works, I have never seen anything like this. Try to work your way through this mase, if you will, of what happens if we adopt section 11. I have said it looks like it must be the lawyer unemployment compensation act. Perhaps that is what we ought to rename this bill. But if anybody can tell me how to work through this kind of procedure, I would like to know it. It cannot be done. And that is really what the pesticide manufacturers are up to.

The existing law has four lines. Section 11 increases this to 137 lines and leads, of course, to this spaghetti-works type of nightmare system we will have if we adopt section 11.

Now, let me just close by saying what section 11 would do. As I pointed out, it would create a nightmare of redtape. It establishes an additional level of bureaucratic review by putting EPA between the industry and the

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State for data requests. It creates added levels of judicial review. And get this: It shifts the burden of proof from those regulated to the regulators, that is, the States—again something that really challenges us here to wonder why we would want to do that when the burden ought to be on those regulated.

Second, it increases the cost for both the State and Federal regulatory programs. It requires existing State programs to introduce a new system for pesticide registration data requests, which is both complicated and unfamiliar to program personnel, and again it requires EPA to act as an arbitrator between industries and the States.

Third, section 11 obstructs State pesticide regulation programs and restricts information available to the States necessary for timely and competent regulatory decisionmaking.

So the legislation is unnecessary. We have adequate legislation and review through the judicial review under administrative law, and it works because it worked in the State of California.

Section 11 is clearly inconsistent with the administration's regulatory reform efforts. I ask you to take a look again at this piece of paper. Is this regulatory reform, I ask you? No. It is nothing but making more regulatory hazards than we have had before.

EPA also lacks the resources to do an adequate job in reviewing all of these State requests. As the EPA Director said:

> We rarely review in depth those special local need registrations for data. We rely heavily on the States to do that because we don't believe it is worth duplicating the effort.

Finally, we must recognize, one, that States do have local concerns, and that the effect of the application of one particular pesticide in one State, say, North Dakota, may be very different than the effect in, say, Georgia or Louisiana or Florida.

Second, recognize that EPA cannot and does not have the personnel to second guess every State and local concern and problem.

And, third, support for my amendment to strike section 11 is very broad, EPA, labor, farm organizations, the National Farmers Union, the National Grain, the National Farmers Organization, the New York Farm Bureau, the Florida Farm Bureau, all environmental orgnizations, from the League of Conservation Voters to the Sierra Club. The National Governors Association, all support my amendment to strike section 11.

□ 1245

The Southern Governors Association supports striking section 11. The Southern Legislative Conference of the Council of State Governments representing 14 Southern States supports my amendment to strike section 11. The Council of State Governments supports striking section 11. And the National Association of State Departments of Agriculture support striking section 11.

So I urge the Members to listen to the debate and I urge the adoption of my amendment to strike section 11 and to return to the fundamental law section 24(a) which has worked so well for 10 years.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(At the request of Mr. WAMPLER and by unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Did I understand the gentleman to say that the Environmental Protection Agency supports his amendment?

Mr. HARKIN. Well, let me put it this way. The EPA made several statements during their testimony saying that they did in fact support keeping 24(a) as it was.

Now, as the gentleman knows we initially received from the administration support for striking section 11. Within the last several days I understand the administation has flipflopped and now they do not support striking section 11.

Mr. WAMPLER. I think that is correct. EPA does not support the gentleman's amendment. At least that is my understanding. The administration may be neutral but it does not support the gentleman's amendment. And on the question of flipflop, this is a classic example. The gentleman from Virginia has historically supported the doctrine of States rights and the gentleman from Iowa now very eloquently pleads for States rights.

Mr. HARKIN. And I always have.

Mr. WAMPLER. I wish on other legislative matters we could have his enthusiastic support on States rights issues.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. HARKIN. I have always been a strong supporter of States rights, especially where the rights have to do with very special local concerns and needs. If my distinguished colleague from Virginia would like, I will take the time later on, if people will yield to me, to read comments made by people from EPA as to why they cannot handle and why they would not like to see section 11 implemented.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment to strike section 11 from this legislation. The proponents of this amendment feel that this language as contained in section 11 abridges the rights of States to protect the health and safety of their citizens. In other words, according to the proponents, this language preempts the States rights to regulate pesticides. As I so often have stated, I am a supporter of States rights. I just do not believe that States rights are infringed by the language as set forth in H.R. 5203; thus it should not be an issue in this discussion. This legislation merely establishes an orderly procedure for reasonable data requests and timely registration by the States. This language is an attempt to correct two problems that have recently surfaced, namely long registration delays and unnecessary data generation requests by State agencies. Based on actions taken by California and several other States which expand pesticide programs to exceed or at least duplicate the Federal requirements, we have the possibility of 50 little EPA's and further, it makes it increasingly difficult for registrants to market pesticides nationwide although they have complied with the Federal requirements as set forth by EPA.

It should be pointed out that the State may, at all times, exercise its rights to deny, to ban, to suspend, or to cancel the registration of a product; thus, the State retains the final authority. This amendment only prevents arbitrary or capricious data requests from being imposed on a State-by-State basis.

In addition States are required to act upon most registration applications within 60 days of receipt or the product is deemed registered. In the case of a restricted use pesticide or a general use pesticide utilized in production of a commercial food crop pertaining to a change in the use pattern of a new active ingredient, then registration must be accomplished within 120 days. These provisions do not apply in the case of special local needs. The committee, in considering these provisions, felt it necessary to take steps to correct the unusually long delays experienced by registrants in getting their products registered in the State of California.

Mr. Chairman, this language as contained in section 11 of H.R. 5203 is supported by the national trade associations representing the chemical industry; such as the National Agricultural Chemicals Association, the Pesticide Producers Association, the Chemical Specialties Manufacturers Association, the National Pest Control Association, the International Sanitary Supply Association, the National Forest Products Association, and the Southern Chemical Association. In addition, the following agricultural and rural interests in California, which include the California Farm Bureau Federation, California Forest Protective Association, Western Growers Association, and the Agricultural Council of California, support this language. Twenty-five members of the Rural Caucus of the California legislature also support changes to section 24, strongly feeling that something must be done to increase the availability of pesticides needed to control pests.

I might further say, Mr. Chairman, that the National Association of State Departments of Agriculture, an organization that I hold in very high personal esteem, does not agree with my position on this particular portion of the bill.

But it seems to me what we are attempting to do here in the bill is reasonable, and that it will provide an orderly way for the States to retain their control, but yet provide it in an orderly and expeditious manner.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Harkin-Brown amendment.

The right of a State to establish health and environmental regulations, based on local needs, is well established in the Pesticide Act presently in law.

However, the amendments in H.R. 5203 (section 11a) would severely restrict this right.

That would have a significant impact on States such as New York.

In the State of New York, contamination of groundwater by the pesticide Aldecarb is well known.

This contamination was the subject of a CBS News report on Thursday, August 5, 1982.

Presently, New York may restrict the use of Aldecarb.

However, the ability of the State to regulate pesticides, such as Aldecarb, based on local need, would, in effect, be blocked by amendments in H.R. 5203.

But the Harkin-Brown amendment would eliminate this erosion of States rights and would permit a State to protect the health and environment of its citizens.

Therefore, I urge support of the Harkin-Brown amendment to strike section 11A from H.R. 5203.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment to strike provisions of the committee bill amending section 24(a) of FIFRA.

I want to join in the remarks that were made in the well just a moment ago by the distinguished ranking minority member of the committee, the gentleman from Virginia (Mr. WAMPLER).

There has been some misinformation about the language of H.R. 5203.

The committee bill does not provide for Federal preemption. Indeed, it does not in any way affect the right of a State to take action to protect its citizens. In fact, as the committee report points out, the bill facilitates the States in obtaining data which previously had been submitted to EPA by an applicant. H.R. 5203 specifically authorizes a State to obtain from EPA any data needed in its regulation of the sale and use of a pesticide under section 24(a). This includes trade secret data—which is not available to the public—with the condition that the State does not disclose the data publicly unless EPA has decided to release such data.

The amendments to section 24(a) do not in any way modify the right of a State to make regulatory decisions pertaining to the sale or use of a federally registered pesticide. Instead, the amendments are addressed solely to a State's authority to request data and the period of time a State may take in reaching certain registration decisions.

The bill also preserves the prerogative of a State to request additional data with respect to any restricted use pesticide, or any general use pesticide used for agricultural purposes in the event of special local concerns pertaining to an increased risk of any unreasonable adverse effect on the environmental or reduced efficacy of the pesticide within the State. A State's data request in such situations is not subject to any review, and the only condition imposed by the statute is that the applicant must be provided written notice and justification for the requested data. A review is provided in the case of special local needs solely for pesticides classified for general use and used for nonagricultural purposes. In such event the State request for data is subject to EPA review and being overruled or modified only if it is determined that the State's request is arbitrary or capricious. In any event, the Administrator's determination in such cases is subject to judicial review.

A similar type of review is provided in case a State makes a request for data which is not available from EPA and does not involve a special local concern of the State. However, in such cases if the Administrator has not taken action within a designated period, approval of the State's request would be presumed.

In addition, time requirements have been set out in H.R. 5203 for handling of applications for registration by a State which are comparable to the time requirements that currently apply in many States. Again these requirements do not apply to cases of special local needs.

The approach taken in the committee amendment is comparable to the approach taken in other provisions of FIFRA. For example, the States have been given primary enforcement responsibility for pesticide use violations under FIFRA. Nonetheless, the act provides for the Administrator to have enforcement responsibility in those States which have not adopted adequate enforcement statutes or in the case of a State's failure to assure enforcement of pesticide use violations.

Similarly, States are authorized to conduct a program for the training and certification of applicators that apply restricted use pesticides if a State program has been approved by the Administrator. Whenever the Administrator determines that a State is not conducting a certification and training program is accordance with an approved plan, if appropriate corrective action is not taken, the Administrator can withdraw approval of the plan and the function would then be undertaken by the EPA.

In all these cases a system of checks and balances is provided to avoid arbitrary or capricious action by the State. In the absence of such a situation, the action of the State is given full recognition.

Thus, H.R. 5203 does not create a new precedent, but is consistent with other provisions in the existing statute.

I do not believe that the committee bill threatens States rights. It puts the EPA Administrator in the proper role of overseeing State action to prevent excessive regulation or duplication of effort.

I cannot agree that excessive Federal regulation is bad while the same action initiated by a State is good.

Further, the committee bill is explicit in stating that EPA may overturn a State request for additional data only in very limited instances.

Section 11 of H.R. 5203 is a sound provision and it should be retained. The gentleman's amendment should be rejected.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

The gentleman is correct. There probably is a lot of misinformation that gets out on something like this. I could not help but think when I was listening to the distinguished gentleman from Washington describe section 11 it even sounds convoluted when the distinguished gentleman describes it.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(At the request of Mr. Harkin and by unanimous consent, Mr. Foley was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. If the gentleman will yield further, I just want to mention one thing that my friend from Washington said. He said it does not restrict the right of a State to get data.

Now, here is one good point that I think we have to discuss.

The point is that if we adopt section 11, that, yes, the State will be able to get data, but only EPA data. For example, if it wanted to get some additional data, they would not be allowed to do so.

Now, if this is what we want, why even have a State program? Let us just have EPA.

Let me point out the problem in that.

Let us say that a State wanted to get for a certain pesticide a dermal absorption rate, how fast the skin absorbs it. They may want to have that additional data. But let us say EPA in registering that pesticide did not ask for those dermal absorption rates. If the State wanted to get it, they can get only what the EPA has. If they wanted the additional data dermal absorption rates, the pesticide manufacturer could take them to court and through this spaghetti works tie them up for years on something like that.

So let us be clear on getting additional data or data from EPA, so we can keep on the right track on what the States can get and what they cannot get.

Mr. FOLEY. If a State wants additional data that does not have to do with local concerns, the EPA has to act within a specified time. If the Administrator does not act on the data request within the prescribed period, then the approval of the request of the State is presumed.

I think we have done everything possible in this bill to assure that the States will have the continued opportunity to protect their citizens. We are just trying to establish an orderly process in the making of these decisions. This section limits State action very, very little. EPA can act only to avoid arbitrary and capricious requests and unnecessary duplication. This seems to me to be a very minor change in the law, to clarify the procedures under which a State may obtain data. In fact, H.R. 5203 gives a State the right to review trade secret data, data that is generally prohibited from the public.

☐ 1300

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman said on several occasions that this bill does not restrict the right of the State to regulate or restrict the sale or use of a pesticide. I call the gentleman's attention to page 68 of the bill, subsection (C), and it says specifically as I read it:

> (C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

Mr. FOLEY. The gentleman is correct, but I want to emphasize that the Administrator must find that the request of the State is arbitrary and capricious or that other information is available to meet the needs of the State. Even then, the State is not prohibited from taking regulatory action on other grounds, and I do not believe that this language is too restrictive.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. Levitas, and by unanimous consent, Mr. Foley was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the gentleman has put his finger exactly on the problem which I hope to address in just a few minutes.

Is the Administrator of EPA here in Washington so omniscient and wise that he or she can deny a State official access to additional data when that data was requested in the interests of the people in that State. Is the Administrator of EPA so omniscient that State officials have to come crawling on their hands and knees to Washington to let somebody here in Washington decide whether their requests are arbitrary or capricious or dealing with local concerns?

Isn't this what the federal system is all about?

Mr. FOLEY. Let us put this in perspective. We have tried over the years to expand the role of the States in what is a Federal statute. If we did not want the Federal Government to move in this area, we could simply repeal the act and let the individual States make decisions. I am sure the gentleman would oppose that.

Have we had instances before where the Federal Government oversees certain actions? Yes, indeed. We have had it in this act in the case where the Administrator can decide that a State is not enforcing the law properly and is not carrying out the responsibility given to it for primary enforcement. In that instance, and in two other cases, the Administrator is charged with the responsibility of stepping in and insisting that the statute be carried out. Now, these are cases where we give oversight to the Administrator of EPA and every supporter of proper environmental protection will cheer that the Federal Government has that kind of responsibility.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman forgets the Clean Air Act under which California or any other State that wanted to have higher standards and the Federal Government was given that right and still the Federal Government and the States have been able to work out a very fine working relationship.

Mr. FOLEY. I do not anticipate any difficultly, I will tell the gentleman, for the States to operate within the terms of section 24 as it has been written in this bill. H.R. 5203 provides a continued mandate to the States to exercise responsibility to protect their local concerns, their local citizens' interests and the welfare and health of their citizens beyond that perhaps which the Federal Government would go. It does that under terms and conditions which are fair to the States, which presume the States' good faith. Only in certain cases where the request for data is capricious and arbitrary, is a State action subject to restriction.

I hope that this very narrow change in present law will be accepted.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, I think the gentleman from Washington makes some good points and technically I think the gentleman is correct; but I do not think one has to go farther than the bill itself for rebuttal. We have on pages 64, 65, 66, 67, 68, and part of 69, all of the obstacles written into the law now which prevent the States from doing just what the gentleman from Washington says they can do; so technically the gentleman is accurate, but I think for all practical considerations, he is not.

The fact is every one of these States, especially California and those States that want to pursue a much tougher line, are going to have an impossible time seeking an opportunity to address these issues.

I think in essence what we are doing is making the EPA both the defendant and the judge. We have a plaintiff going before the judge and who is also the defendant in this case making a decision which will be detrimental to the opportunity the States now have.

In addition, the records show that in so many cases the States have gone beyond what the Federal Government has in terms of research on many of the chemicals. California is a perfect example.

Much of the debate on FIFRA has focused on California, which uses over 500 million pounds of chemical pesticides annually. California has indeed requested much additional information from chemical manufacturers—California has found, however, a number of pesticides to be unsafe even though they had been registered by EPA. EPA then later agreed with California and removed the products from the market. Just two examples where this has happened is the chemical DBCP which caused sterility in manufacturing workers and vacor, a rodenticide which California found caused permanent diabetes if even small amounts were eaten. California, in its cancellation proceedings on vacor, found that a registrant had failed to disclose that more than 160 children in Korea had died from vacor. EPA then withdrew the product from the market.

California has also been criticized by the chemical industry for its backlog of pending registration requests—the State has, in fact, tackled this problem and brought its pending registration requests current. The only pending applications now are those where the manufacturers need to provide information to the State. I do not criticize the people of California or any State for preferring to be safe than sorry.

States need to be able to have their own pesticide regulation programs tailored to local needs over and above the floors required in Federal statute. EPA, with a dwindling budget, and I must add, a dwindling commitment to health issues, cannot be expected to now be a middleman and rule on whether State requests for additional data from chemical manufacturers are unnecessary. It is obvious that the chemical manufacturers simply do not want to have to deal with the inconvenience caused by the public's demand to know if, in fact, the products they use in their homes and gardens are safe.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. Yes, I would be happy to yield to the gentleman from Illinois.

Mr. YATES. The gentleman is exactly correct. I propose to offer an amendment in a few minutes if I am recognized to ban the use of toxophene as a spray. That spray has already been banned in four States now, States which have already decided that this spray is so lethal and so positively carginogenic that they do not want it used in their States at all; EPA has refused to take action to stop that spray. As a result the other States are not protected by Federal action; but as a result of the opportunity given to the States under the existing law to take action in their own right, that spray has been prohibited.

Mr. DASCHLE. Well, I thank the gentleman for his contribution.

I think it is amazing that at a time when we are talking about New Federalism and stripping away regulations, trying to make it easier for the States to regulate their own destinies and their own determination on some of these issues, we are putting upon the States an incredible array of the most difficult and perplexing regulations I think the Congress has formulated in some time.

It is ludicrous for us to do that, in spite of the fact that we may still be technically allowing States additional regulatory right, we are preventing them from doing so. We are just making it so impossible to do so for all practical considerations.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I just want to followup by reading from the law itself, the provision that I was talking about with the gentleman from Washington, that a State, if they want additional data, may find themselves tied up in court for years by the applicant. I refer to section 2(B)(1) that says a State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment or a reduced efficacy of the pesticide.

I am paraphrasing this; so a State may require submission.

Further on in the bill it says that the State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator, but shall be subject to judicial review; which means that the applicants, it they do not want to give that additional data, whether it is a mosquito repellent or whatever it might be, they can go into court and tie up the State for years and that is the point I was making on this legislation.

I thank the gentleman for yielding some time to me to explain that.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Iowa (Mr. HARKIN), which would delete section 11 of FIFRA.

As a member of the House Agriculture Subcommittee on Department Operations, which spent over 1 year on this legislation, I can confidently say that this bill represents the fairest approach possible, considering the great diversity of views and concerns expressed during subcommittee consideration.

During subcommittee hearings and markup of the bill, we heard from many, many people, representing the administration, the chemical industry, environmental organizations, State governments, and farmworkers. All parties expressed various concerns, and very often, these concerns were conflicting ones. The subcommittee members and their staffs worked very hard to bring all of these parties together in order to craft a fair and workable compromise.

I do not believe that any one group got all it wanted from this legislation but everyone was heard and all points of view were taken into serious consideration. We worked many hours to insure that this legislation would be equitable and would incorporate all legitimate concerns, without compromising the beliefs of any one individual or group.

The issues addressed by this bill are complex ones. They range from the manner in which one company compensates the other for use of data in the registration process to the protection of farmworkers from misuse of pesticides in the fields.

Section 11 of FIFRA, which Mr. HARKIN's amendment would delete, was, indeed, one of the most controversial of the issues dealt with during committee consideration. However, I believe when my colleagues know what is involved in this section, they should understand why we changed existing law.

Under present law, a potential pesticide registrant submits data to the EPA in connection with the pesticide registration. The registrant then applies to the States for separate registrations. The data submitted to EPA is available to the various State authorities in their individual registration processes. Over the years, a serious problem has emerged which has caused considerable delays in the registration and availability of certain pesticides in various States. Some State authorities have requested that the registrants submit additional data to justify a registration of a pesticide. In many cases, the additional data requests have been unjustifiable and have resulted in considerable expense to the registrants and undue delays in the availability of a pesticide to consumers. To cite just one example, the State of California requested additional data in response to a registration application on a pine disinfectant, requesting that the applicant conduct a test on its effects on a bacteria that the product does not and does not claim to have an effect. This request was made after a 1½-year delay in responding to the intitial registration application. This type of situation is only one of many cited by manufacturers and users of pesticide products.

Under section 11 of H.R. 5203, should a State require additional data regarding "special local concerns" about increased environmental risks or reduced efficacy of a pesticide, the State would have to provide written justification to the applicant. For special local concern State data require-

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ments for nonrestricted and general use pesticides except agricultural pesticides, the applicant would be able to appeal to EPA for review. If EPA decided there was a "Federal interest," the agency would require submission of the data under FIFRA's additional data provisions. If EPA determined that the State request is "arbitrary or capricious" or that comparable data are available to the State, it could overrule or modify the request. The State could seek Federal district court review of an EPA determination. The applicant could seek district court review of a State request either before or after the matter had been submitted to EPA.

In nonspecial local concern data requests, EPA would require submission of the data under FIFRA additional data rules if it determined there would be a "Federal interest." EPA could disapprove the State request if it found it arbitrary or capricious or that there would be no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. EPA determinations in nonspecial local concern cases would be final and not subject to judicial review.

Frankly, I was at first apprehensive about this particular provision during subcommittee consideration. I am a strong proponent of the rights of States to determine their own laws and regulations with minimum Federal involvement. However, after considerable discussion and thought about this particular provision, I decided that present law needed to be changed in order to provide for a more equitable and timely registration process.

First of all, this particular provision does not prohibit a State from banning a product or denying a pesticide registration. For special local concerns pertaining to agricultural problems, there would be no EPA overview and a State would be free to prohibit sale, require additional data and impose other requirements it felt would be necessary to assure that the pesticide would be safe and effective under the unique conditions within a particular State.

Section 11 of H.R. 5203 would move toward eliminating the two basic problems that now exist; that is, long registration delays and unnecessary data generation requests by State agencies. Moreover, it would establish an orderly procedure for reasonable data requests and timely registration by the States. It is also important to note that section 11 would only apply to those States that are requesting additional data above and beyond the Federal EPA.

This section is aimed not only at helping the pesticide industry to market their product in a timely and orderly fashion. It is also aimed at insuring that those who use pesticides, our farmers and consumers, will have access to the best products available. Heretofore, many farmers and consumers in several States were not able to buy new and improved pesticide products because of unreasonable delays caused by a few State agencies, which required expensive and time-consuming tests to justify registration of those pesticides in their States.

It is important to note that this problem is not one that exists in most States. However, should present law remain intact, this situation threatens to proliferate. It is for these reasons that I support changes in present FIFRA law as embodied in section 11, and I urge my colleagues to do the same.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I do so because I think there is a great deal in this entire bill that improves the situation with respect to the processing of registrations on insecticides, pesticides, and rodenticides.

They have eliminated a great deal of the redtape and the unnecessary bureaucracy in getting these matters resolved and that should have been done a long time ago. But what I take very strong exception to is an effort to override the States in their responsibility to their citizens.

We have a federal system of government. And that system puts faith and trust in officials at the State government level. I do not believe that a bunch of bureaucrats in Washington, elected by no one have any better ability to decide what is good for the people of California or Georgia or Iowa or Virginia, or any State, than the people elected in the States themselves.

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I thought that was what federalism, new federalism or old federalism, was all about. Who can say that the appointed Administrator of the U.S. Environmental Protection Agency knows what is better for the people in Georgia in this matter of regulating pesticides than the commissioner of agriculture who is elected by the people of the State of Georgia?

I cannot believe that this administration could conceivably talk about federalism on the one hand, and then support a provision in this law which takes away the right of States to determine what is good for their citizens.

The gentleman from Virginia, for whom I have great respect, talked about 25 rural legislators in California who favored this provision. Well, if they do not like what California is doing, let them go to Sacramento, not come to Washington.

What exactly does this provision do? This provision says that if a State wants some information, they must go to the U.S. Environmental Protection Agency and say, "Can we have some additional information. We need more information." They must go to Washington and ask some official bureaucrat if they, the State officials, can have that additional information. I think it is outrageous. I thought we were talking about returning responsibility to the States.

The officials in Washington are certainly no wiser, no better informed, than the officials we have in our States. Why should the commissioner of agriculture of the State of Georgia crawl up to Washington and beg the Administrator of the U.S. Environmental Protection Agency, to let him have information that EPA did not get.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. EMERSON. The gentleman in the well is one of the strongest proponents of regulatory reform in this House. I support him in those efforts.

I also believe we have a philosophical accord on State rights. Let me state very succinctly that I think the effort here to delete section 11 is, very simply put, an attempt to interfere with State rights. What it is is an attempt to impose California standards on the whole country.

Mr. LEVITAS. I thank the gentleman.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman from Missouri to explain how this causes California standards to be imposed by every other State in the country. I do not read that in any way in what has happened. Obviously, it has not happened. The approval of this amendment simply keeps things as they are now.

Mr. EMERSON. We do not say we are applying California standards to the whole country, but that is the effect of the thing.

Mr. BEDELL. If the gentleman will yield further, we are going back to what we had. Certainly California standards have not been in effect all over the country. It would seem to me it is very clear that what we are doing is letting the States decide for themselves what they want, and under no circumstances are the effects that everybody else has to do what California is doing.

Mr. THOMAS. Mr. Chairman, will the gentleman yield to me?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding and appreciate his yielding.

Mr. Chairman, the gentleman indicates incredulity that this administration would support the Federal Government's involvement with State actions if this administration felt those actions were arbitrary or capricious. On my own time I will discuss some of the arbitrary aspects. But the gentleman comes from the State of Georgia.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has expired.

(On request of Mr. Thomas and by unanimous consent, Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. THOMAS. It is my understanding that if the State Legislature in the State of Georgia, in reapportionment, which is required every 10 years based upon Supreme Court decisions, draws lines, that the lines drawn by the State Legislature in Georgia are not immediately imposed. My understanding is that those lines have to come to the Department of Justice, and the Department of Justice examines those lines and determines whether or not the State of Georgia was arbitrary or capricious in drawing those lines.

Mr. LEVITAS. That is quite correct, and they did a lousy job of it, I might add.

Mr. THOMAS. Let me tell the gentleman that the State of California—which one, Justice Department or the State of California?

Mr. LEVITAS. The Justice Department.

Mr. THOMAS. I understand the gentleman from Georgia supporting his State's position. Let me tell him that many of us in the State of California felt that the State of California has done a lousy job.

What section 11 has tried to do is to redress the grievances between very clear and appropriate State rights, but also Federal statutes, and the two have to mesh. What we have tried to do in section 11, in the rewrite, is to try to mesh the two; not necessarily to impose California standards on anyone, but to make sure that the experience in California does not happen anywhere else.

I thank the gentleman for yielding.

Mr. LEVITAS. I thank the gentleman for his contribution.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to point out that this is not just a subject of some philosophical point of view on federalism. The practical issue at stake is the ability of the States to protect the health of their citizens. For this reason, the National Governors Association, the National Association of State Departments of Agriculture, oppose section 11 and, joining EPA, which opposes this, and the States are numerous labor, environmental, public health, and consumer groups, including the AFL-CIO, the March of Dimes, the American Public Health Association, the National Wildlife Federation, the National Audubon Society, and the Consumer Federation of America.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Let me state once again that the EPA does not support the position just enunciated by the gentleman from California. They do not. They have changed their position and this is nothing new for EPA in my experience over the years on this particular matter.

Mr. LEVITAS. I think the gentleman is correct.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has again expired.

(By unanimous consent, Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from Virginia, does he have any letter, any document from EPA saying that they do not oppose section 11?

Mr. WAMPLER. If the gentleman will yield, I do not have it before me at the moment, but if the gentleman will permit me, and I again apologize for taking his time, this is the statement of administration policy, and I will be more than happy to insert it in the Record at the appropriate time in reference to H.R. 5203.

This is opposing it on the basis of the level of authorization. But it is also my understanding, and it is not included in this document, the only basis of opposition to the bill is the level of authorization and the present amendment is not the basis of their objection to the bill. So one infers by that that they are for it.

(The policy statement follows:)

The Administration opposes House passage of H.R. 5203 unless it is amended to authorize fiscal year 1983 appropriations of $44,208,000, as requested by the Administration, instead of $56,367,000.

Mr. HARKIN. If the gentleman will yield further, I would point out that the gentleman cannot provide any document from EPA showing that they in fact oppose section 11.

On the other hand, I would be glad, and I will at the appropriate time when we get in the House, submit all of the testimony from EPA as to why, in fact, they do oppose.

Mr. WAMPLER. EPA is a part of this administration, and I will submit this, and it shows clearly that the EPA supports this entire bill with the exception of the level of authorization.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has again expired.

(By unanimous consent, Mr. Levitas was allowed to proceed for an additional 2 minutes.)

Mr. LEVITAS. Mr. Chairman, it is my understanding that the administration has made contradictory statements on this issue. I have an article here from CQ that says OMB switched its position on this issue. But let me tell you something; I do not care how the U.S. Environmental Protection Agency feels about this issue. I do not care how OMB feels about this issue. What I care about is how this House feels about this issue and what the Members of this House say the policy should be. The question is: Are we going to believe and follow through on the concept that the people who we choose to run our State governments under our federal system have at least as much interest and concern about protecting the health of the citizens of the State as the bureaucrats do here in Washington? That is what this is about.

Now, if the gentleman from California objects to the way the State of California is running its business, then I suggest that, through whatever means are available—initiative, referendum, or legislative action—he attempt to change their practices. But I do not want the State officials in this country to be held in servitude by the appointed administrators here in Washington as to what information and what data they can get in order to protect the citizens of their States.

I am always interested when some say, "We do not want the Federal Government messing in our business; we do not want the Federal Government telling us what to do," until it serves their purposes. As soon as it serves their purposes, they say, "We want the Federal Government to tell the States they cannot do this and they cannot do that."

We are talking about the protection of the health and safety of the citizens of this country, and I am not prepared to be a party to taking that responsibility away from the people in our States who are charged with that responsibility as well. I think this is an extremely important issue and one where I hope this House will strongly

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go on record in supporting the amendment offered by the gentleman from Iowa. I think something very fundamental is at stake.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I just want to commend the gentleman for his statement, and I concur in it and urge our colleagues to adopt this amendment, as well. It deprives the States of an important power they have held under the law and it sets up barriers to them, through deadlines, that they cannot possibly meet that will be so cumbersome and inefficient that they would not be able to protect people adequately from dangerous insecticides.

I thank the gentleman for yielding.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Harkin amendment.

Mr. Chairman, the use of chemicals is a fact of life in modern society. In the past 40 years, the scientific and business communities have harnessed thousands of chemicals in an attempt to improve our way of life. It remains unclear, however, whether the decisions to surround ourselves with chemicals—in our homes, in the products we use, and in the food we eat—have always been wise.

Chemicals were first used to kill weeds and pests in the late 19th century. The use of these chemical herbicides and insecticides on our farms and forests has dramatically affected our ability to produce food and fibers. But it was not until the Federal Insecticide, Fungicide, and Rodenticide Act was largely rewritten in 1972 that these chemicals became subject to comprehensive health and safety regulations. Prior to that time, thousands of products had been registered with the U.S. Department of Agriculture under much less stringent requirements.

While far from perfect, FIFRA has significantly improved working conditions for chemical workers, farmers, forest workers, and agricultural workers. In addition, FIFRA acts as a buffer—protecting our citizens from the health risks associated with the tens of thousands of new chemical compounds that are synthesized and tested for pesticidal use every year.

Many of the proposed amendments that we are considering today in H.R. 5203 strengthen and streamline existing law; others, however, set dangerous precedents and should be deleted from the bill.

In particular, section 11 of H.R. 5203, amending section 24(a) of FIFRA, would severely restrict the historical prerogative of States to exercise their own judgment in determining how best to protect the health and safety of their citizens. At a time when the Environmental Protection Agency is drastically curtailing its own regulatory programs, it would be imprudent and tragic for the Congress to handicap State efforts to administer their own pesticide programs in a manner tailored to the needs and desires of their people.

The proposed amendment contained in section 11 would have a profound impact on my home State of Oregon. Oregon contains more prime softwood timber than any other State in the Union. Since the 1940's, public and private forest managers have treated new timber stands with massive doses of phenoxy herbicides—such as 2,4-D and 2,4,5-T—in an effort to suppress competing vegetation.

Under current law, these phenoxy herbicides must be registered with EPA. In recent years, however, new questions have been raised about the adverse health effects that may be associated with their use. In fact, an EPA study conducted in Alsea, Oreg., led that Agency to suspend the registration of 2,4,5-T in 1979. Other questions about pesticide safety and efficacy persist and new ones are bound to arise in the future. When such questions arise, the people of Oregon demand answers. When EPA is unable or unwilling to adequately address these special State concerns, it is left to the State to assume an expanded role in assuring pesticides used in Oregon are ecologically safe and economically efficient.

Section 11 of H.R. 5203 seriously jeopardizes that role.

For example, if a State were concerned that spraying these federally registered pesticides was adversely affecting certain watersheds, current law would allow the State to require the company to collect whatever data might be needed to monitor the effects of past spraying prior to allowing subsequent treatments to proceed in affected areas. Under section 11 of H.R. 5203, however, the company could claim that the State request was arbitrary and capricious, thereby initiating a long and drawn-out series of administrative and judicial maneuvers. The State could eventually be blocked from gaining access to such monitoring data. The net result would be a dangerous departure from industry's present responsibility to prove its products safe.

As chairman of the House Agriculture Subcommittee on Forests, Family Farms, and Energy, I have had ample opportunity to study the costs and benefits associated with pesticide and herbicide use on our Nation's public and private forests. After hearing hours of testimony and reviewing reams of scientific studies, I have developed my own strongly held beliefs. In every case, the ultimate question is, and must be, whether the economic costs and benefits of herbicide use outweigh its health and environmental impacts. I am convinced that they do not. I also believe that the State of Oregon—not EPA—will ultimately force much-needed changes in our vegetation management systems.

The burden of proving that widespread herbicide or pesticide use is warranted must lie with its proponents. Remarkably, however, section 11 of H.R. 5203 would shift that burden of proof by forcing the States to justify their regulatory requirements.

I urge my colleagues to support the Harkin-Brown amendment and delete section 11 from H.R. 5203.

Mr. THOMAS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. THOMAS. Mr. Chairman, I just want to briefly indicate to the Members why section 11 was ultimately placed in this legislation.

No one here is interested in short circuiting a system which provides reasonable protection for individuals, whether it be at the State level or at the Federal level. When you have a federal system, there has to be a reasonable working relationship between the Federal and State levels. But the ultimate resolution of a problem must be settled in favor of the national interest.

The gentleman from Illinois indicated there seems to be a reasonable working procedure under the Clean Air Act where 49 States operate under the Federal law and 1 State operates under its own law, in excess of the Federal law—California. The fact is that in the Clean Air Act, as it applies to automobiles, for example, given the market size in California, it is relatively easy for a manufacturer to modify his product to meet the 50th State, the California, standards and produce a second product for the other 49 States.

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When it comes to pesticides, when it comes to concocting chemicals to deal with various insects on plants or undesirable plants or fungi, it becomes extremely difficult to offer, given the size of some of the companies, particular products for 49 States or for 20 States or for 10 States or for 1 State, and since we are operating under a Federal law it is to be assumed that California is going to be reasonable in terms of its additional requests, and along with the reasonable substantive requests, also honor a timeliness aspect.

As a member of the Subcommittee on Department Operations I attended a subcommittee hearing in California, and we heard example after example of a failure to meet any kind of a reasonable timeliness test on the part of the State of California. The State of California law says that for a renewal application, it is a 60-day period. For a new or a restricted use application, it is 120 days. What the subcommittee had presented to it was evidence of example after example of 400±day delays, 500±day delays.

The gentleman from Iowa indicated that the director of agriculture in California, who oversees this area, Mr. Rominger, testified in front of the Senate that there was no backlog in California in terms of registration. Let me provide some numbers which indicate, I believe to a degree, arbitrary and capricious action on the part of the State of California.

In 1981, the weekly application processing was 13.6 average per week. In 1982, for the first 18 weeks of the year, it was 31.5 average applications processed. That is a tremendous advancement, but in the week preceding the director of agriculture testifying in the Senate, 567 applications were processed. Now, on the basis of the 1981 weekly rate, in 1 week they reached the equivalent of 50 weeks of approval of applications. Two weeks short of 1 full year's work was done in 1 week prior to Mr. Rominger appearing before the committee so that he could say there was no backlog, and even at the accelerated 1982 rate that was 5 months of approvals in 1 week preceding the California director of agriculture appearing before the Senate to say that there was no backlog.

As a matter of fact, in a letter from the Governor signed by the assistant to the Governor, she indicated that the average application processing per week was 35. This is a clear example of the kind of arbitrary and capricious activity in the State of California in terms of the processing of applications—567 in 1 week, equivalent to the previous year's virtually full year's processing of applications so that the director could come before a committee at the Federal level and say there is no backlog.

They are now back to the other rate. The rate of 35 or so per week. A backlog is beginning to build again. The arbitrariness and capriciousness of the State of California, in addition to the problem of timeliness, has led to an attempt by this committee to create a reasonable compromise to allow States to review where they feel they need to review. But the ability of the Federal Government, the only sovereign government in this system, to have the final say on an arbitrary and capricious decision by a State should be beyond question.

It seems to me that section 11 is a reasonable blend of States rights with the understanding that you are dealing with a Federal piece of legislation, so the two levels of government can meld comfortably given the area in which we are involved. I would ask the Members to reject the amendment.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Harkin amendment.

Mr. Chairman, members of the committee, I had not expected to participate in this debate. As a matter of fact, I find myself somewhat in an unusual position of differing with my good friend Bill Wampler, with whom I concur quite often, and I find myself philosophically in the company of some with whom quite often I disagree. I am delighted that they have joined some of us who believe that the President was right when he says we have too much Government, and this is precisely what this section would do—create more Government.

I happen to have been honored by the President in being appointed to serve on the Federalism Advisory Committee, and it has been interesting as to how that committee has operated, but everything I have heard has served to indicate that the time has long since come for the Federal Government to get off the backs of local and State governments. I am not an authority on this subject, but I am impressed by people who I do think are authorities, and the Members have heard the names of them.

My Commissioner of Agriculture says:

> While we in North Carolina accept the need for a uniform national effort in the regulation of pesticides and appreciate the cost to industry in meeting these regulations, we feel that the proposed amendment to section 24(a) would seriously jeopardize North Carolina's efforts to effectively assure safe and efficacious pesticide products for the citizens of our State.

We are in a little unusual situation in that we do produce tobacco, and of course we have a number of chemicals used in connection with the production of that important commodity. The Commissioner of Agriculture goes on to say:

> The task of regulating the safe use of pesticides is monumental, and the first step for a State is to be as knowledgeable as possible of the chemicals and their potential for harm to the user, the consumer, or the environmental surroundings

Now, much has been said about the position of EPA, and I would like to associate myself with the remarks of the gentleman from Georgia (Mr. Levitas) and others who have commented on this subject. I am not so concerned about what EPA thinks, but let me read to the Members the testimony of Mr. John A. Todhunter, the EPA Assistant Administrator for Pesticides and Toxic Substances. Here is what he said in his testimony before the committee:

> Your desire for an arbitrator or some mechanism to resolve the disputes is, of course, understandable. I wish to emphasize our commitment that the States need to have more control over their personal affairs, their local matters. Hearings, Part 3, February 4, 1982, p. 61.
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> Let me say at the outset that the administration has been on record for some months now opposing the proposed changes to State's authorities. We are sympathetic to the concerns expressed by industry that a product which has met stringent Federal registration standards should not have to undergo a myriad of additional data requirements and clearances. However, we are troubled by the potential impact of amending section 24(a) on State's perogatives. The Agency has also opposed the role of arbitrator it would assume between industry and the States as to what data are appropriate to address local concerns. We do not believe that we are in a position to second guess what information a State government needs or doesn't need to respond to local conditions.

Let me say this, and I will conclude. The President has talked so much about deregulating and eliminating regulations, unnecessary regulations. I serve on the Advisory Commission on Intergovernmental Relations, and have for some 22 or 23 years since it was initiated by legislation which I introduced. We have issued a number of reports in which we have encouraged local and State governments to work together to determine what is local, State, and Federal and what all levels of government ought to do together. But, under the federal system of government the States share political sovereignty with the Federal Government. Accordingly, I find section 11 an objectionable attempt to preempt the authority of States to protect the health and safety of their citizens.

We have no objection to the Federal Government having a minimum standard, but do not tell my State that it cannot have stricter standards, as it has now, to protect the health and welfare and general well-being of its people. This section is particularly objectionable.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. Brown of California and by unanimous consent, Mr. Fountain was allowed to proceed for 3 additional minutes.)

Mr. FOUNTAIN. It is particularly objectionable in that it would require States requesting Federal information from pesticides manufacturers to channel such requests through the Environmental Protection Agency, and even worse, that EPA would be authorized to modify or overrule a State's request if the Agency thinks it is arbitrary or capricious.

The adoption of this provision would be a flagrant abuse of our legislative power and an affront to State governments.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement. I am probably one of those Members that he identified as not agreeing with all too often, but in this particular matter I have found myself in the identical position of the gentleman in the well.

I think that this is a matter in which to drastically change the law at this point would be counterproductive. I think that it is counter to the philosophy of the administration, and the statements that the gentleman quoted from administrators of the EPA, which I might say is still their position even though they may not be permitted to express it, and is a position which I think is emanently sound.

They recognize that there may be some problems, but they think it is the responsibility of the States to correct those problems, and I must say in all sincerity that the States have moved with commendable speed to make corrections in some of those problems that existed.

So, I have come to the same conclusion as the gentleman, that it would be premature to make a drastic change in the law at the present time, and I would therefore support the amendment of the gentleman from Iowa (Mr. HARKIN).

Mr. FOUNTAIN. I would like to urge deletion of this wholly unwise section. I am impressed by this diagram, which I think is a pretty truthful diagram, of the extent to which the States would have to go as compared with the extent to which they now go. It is fantastic that we would call upon State governments and their agencies to have to go through this process in order to carry out the law and in order to provide greater health and safety for our people than even the Federal Government requires.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I thank the gentleman for yielding. I want to commend him for his statement. I rise in support of the Harkin amendment and hope the committee will return to the provisions that were originally in the bill and which we have lived under so well in the past.

Mr. FOUNTAIN. I thank the gentleman. I would like to say to my friends on the left side, with whom I have voted quite often to the criticisms of my friends on the right, now is the time for you to carry out a part of the President's commitment to the American people to do away with some of these unnecessary regulations rather than to add to them, as somehow, when the pressures become great, seem to be willing to do.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I accept the challenge from the gentleman from North Carolina. I agree with the comments that he made, and I would like to call to the attention of the Members of the House something that occurred a few months ago, which I think warrants adoption of this amendment. That is, the order that was issued by the Environmental Protection Administration permitting the dumping of barrels of toxic waste in what they called interim status dumps without any hearings, without any notice.

There was a 90-day period during which we were going to have hearings, but during that 90-day period the generators were permitted to dump those barrels of toxic wastes. Now, indeed in some of those barrels we had insecticides, but the important consideration here is that some States in the Union have more restrictive laws so that that order was not effective. In States such as my own, New York, it had no impact—it had no impact, and in other States as well.

I think we are losing sight of the fact that this is not a California issue. Mr. Chairman, it affects every State in the Union, and indeed I have heard EPA on many occasions tell us there are some States, there are certainly some States that are very sophisticated and have the ability indeed to do a good job in this area. I think that we move in the wrong direction by taking that right away.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I will be happy to yield.

Mr. LEVITAS. Mr. Chairman, I would like to commend the gentleman for his statement, and also for being one of the first in Congress to point out the problem of those EPA interim regulations which led, as the Members know, to hearings before my Subcommittee on Investigations and Oversight. These regulations were subsequently called back. But, when we brought the officials of EPA before the committee after they pulled the regulations back to explain what problems had occurred in the meantime under their order for permitting the dumping of toxic waste, and liquid waste in these sanitary landfills, they said that nothing very bad had happened.

□ 1345

They proudly explained that they really had not done anything that egregious because different States had regulations in place that prohibited this dumping, even though U.S. EPA would have permitted it. So now we are in a position of seeing where the absolute necessity of giving States this opportunity to protect their citizens is at stake.

EPA testified before our committee that the protection of State regulation and State law stopped what would have otherwise been a very nasty situation.

Mr. Chairman, I commend the gentleman from New York (Mr. MOLINARI), for bringing that to the attention of the committee.

Mr. MOLINARI. Mr. Chairman, I thank the gentleman from Georgia (Mr. LEVITAS) and I would like to conclude by saying that that regulation only stayed in place for, I think it was 5 days, and during that 5-day interval there was indeed action by the States that I think was in large part responsible for the rescission of that order.

So I am in strong support of the gentleman's amendment, and I commend the sponsor of the amendment.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been so much debate out of context here that I really wonder whether or not it was the section 24 that I helped author, for we were told repeatedly that somehow or other the State was going to have to go through the Harkin jungle to get permission to require information, and that somehow or other the State was going to have to do these mental gymnastics inorder to protect special local use conditions.

Nothing is further from reality. That is not what the amendment does. It is not what the amendment was. It is not what the amendment was addressed to correct.

What the Members of this House ought to know is that this amendment was designed to prevent the proliferation of many EPA's across the land, and that was it, pure and simple. We are in an integrated economy where, if a company is to participate in a national marketing system, it can hardly be responsible to 51 masters, 1 in Washington and 1 in each of the other State houses across the land.

Yes; the California issue has been raised repeatedly because it is in California that the problem has become most acute, but there are all kinds of indications that a half a dozen other States are moving in this direction.

There are two kinds of solutions to that. One is that you can simply say that the Federal Government shall preempt the State in its entirety; the other is that you can say we should keep the Federal Government out of it and give it all to the States.

What this section 24 does is to drive a very, very careful middle-of-the-road position whereby we say—and clearly we say it in this law—that if the State has some local use problem, whether it is fog coming in over the bay, a particular soil type, or whatever, they

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have no problem in securing additional information, even additional tests, if you will, to justify the licensing or the granting of a label to sell that product in that State. There is no problem for the State to get that. There is no intention in this legislation to deny the States the right to protect its citizens.

What we are trying to do, simply put, is to modify the propensity of some State bureaucrats to request more information, request more tieup, or request more proliferation of activity on the part of either the company or the EPA or someone else to allow them to move forward.

I am quite amazed, not that my friends on the liberal side, who are very, very concerned about giving greater power to the environmental thrust, might come forward; what flabbergasts me is that some people, who are, I think, mistaken in understanding what the amendment does, have come forward from the other side of the spectrum. And what is the logic of their argument? My chairman of another committee argues that it is too much government. How much is too much government? If we are going to give 50 States the right to multiply the requirements in order to do business in this country, that is precisely what we are driving toward. It is precisely the logical end of where we are going.

Section 11 does not preempt the States' authority. That is No. 1. No. 2, the bill does not infringe on the States' right to regulate the sale of a pesticide, my colleague, the gentleman from Georgia, to the contrary notwithstanding. That is a colorful argument, but it is inaccurate. It does not prevent the States or it does not infringe upon the States. It simply says that if the State is going to require over and above a second round of tests, a second round of material, et cetera, it simply cannot be a frivolous request.

There is evidence stacked up before the committee that we have had what constitutes frivolous requests, that we have had requests for additional information simply in a routine fashion.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, since he made reference to me.

First of all, I think it is beyond dispute that in section 11 this bill restricts certain things.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Fithian) has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. Fithian was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the only question is the degree to which it restricts the State.

The section in question, subsection (c), beginning on page 68, says specifically that a State may not restrict the sale or use of a pesticide if the State, on the basis of seeking that restriction, does it because the applicant has refused to provide information which the State has requested when such information request was not approved by the Administrator of EPA.

There is a restriction. The question that I think I come to on this is, why should the Administrator of EPA, an appointed official here in Washington, have that power to restrict a State's desire to get information for regulation?

Now, with respect to the proliferation of government, it would suit me fine to see sunsets put on all of these things I would like to see a lot of these agencies done away with as the gentleman knows. We have over the years tried to gain control over EPA and their regulatory excesses.

But it seems to me that if we believe in a federal system of government, we cannot take away from the officials of the State the right to exercise their responsibilities; not their rights but their responsibilities to protect their citizens.

Mr. FITHIAN. Mr. Chairman, if I may regain my time first let me tell my friend and those who are on the other side of this issue that the State under this amendment may at all times exercise its right to deny, to ban, to suspend, or to cancel the registration. Those are the four principal actions which any unit of government can take. They can deny the use of it, they can ban it altogether, they can suspend it, or they can cancel the registration of the product.

Nothing in section 24 as drafted would deny the State the right to do any one of those four things. What it does say it that they cannot hold up, through whatever process, the flimsy request of additional material.

Second, at every step of the registration process the State maintains the final authority to act to protect its citizens. It does now, and it will in the future under section 24. The bill further permits a State to request additional data above the requirements. Above and beyond what the EPA is requiring, the State is permitted to make additional requirements and requests and to define in the process special local concerns.

The bill only applies to the States' requesting additional data above and beyond what is already required in the statute.

Finally, section 11 establishes an EPA review of the State's request for special local concerned data for nonagricultural products. Now, there have been several arguments promoted by those in opposition talking about what this is going to do to food costs, what this is going to do to the food product in the chain and the rest of it. That is a mistaken notion.

This section 24 very, very clearly does not apply to agricultural food and fiber products period. It rules those all out, and it thereby rules out a number of speeches in opposition to the amendment as well.

Next, I would like to point out that the EPA does not create any new precedent in this process. All of this is based on the historical and legal precedents in section 24(c), 27, and 18 of the existing statute. So we are not breaking all of this new ground that is being discussed here.

The argument, unfortunately, has gotten over into the States' rights argument rather than the efficacy of administering and working in an orderly fashion with the registration of pesticides.

It must be clear, since someone raised the additional cost issue here a while ago, that if someone is manufacturing an aerosol and they must comply with California's regulations on the one hand and Maine's regulations on the other hand, and Michigan's on another, and so on, that in doing so, in trying to fashion the label, the product, and the tests for each and every individual State out there that may want to get into this, it must be obvious to all of us that we are going to impose additional costs on the consumer. There is no other way. There is no other way it can happen. If you are going to require a separate set of tests to be run, one for the Federal Government, one for the State government, and one for any other State government that wants to get into the act, then obviously that product has to cost more, and that cost has to be passed along to the consumers. It is not going to be borne in any other way.

I think, Mr. Chairman, that we have gotten away entirely from the thrust of this amendment.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Fithian) has expired.

(By unanimous consent, Mr. Fithian was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. Mr. Chairman, there is one additional argument that I would particularly like my friend, the gentleman from Iowa, to hear. That argument is this: It says in there that the EPA can modify and the request can be modified only if the State requests is arbitrary or capricious. That is what we are talking about.

It puts a fair burden on the EPA to demonstrate that there is no local use condition in California or elsewhere that is legitimately addressed by California's request for additional information, and the EPA would have to

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rule, as I understand this amendment, that the company must provide additional data, et cetera. And in not providing this, they would have to rule that the State's case is arbitrary and capricious. That is a pretty heavy load for the EPA to prove.

So, Mr. Chairman, I would urge the retention of section 24 as drafted in the bill under section 11. I would urge that the Members think through what it is we are arguing for in terms of the alternative; we are arguing for 50 EPA's.

Mr. de la GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time only for the purpose of clarifying several statements that have been made here. I would accept the judgment of the House and let the House decide on this issue.

I do want us to be very, very clear in that the debate has to some extent taken on the issue of States rights versus the Federal bureaucracy, and so forth. The reason for FIFRA, the reason for the beginning of FIFRA was that the people from the States came to us and said, "For goodness sakes, do something. We need a Federal law. We need a law that will cover this."

The farm workers came to us. The farm workers' organizations and the environmental organizations came to the Congress and said, "We need a Federal law. We need a Federal standard."

So with all of what we have heard today of States rights and the Federal bureaucracy, there is a State bureaucracy, with all due respect to the several States, that is the same or conceivably worse.

□ 1400

But the issue of States rights, to me, when I hear it, with all due respect, goes back to not letting someone you did not like go into your State university.

That is when we kept hearing States rights.

So I would hope that the Members put that issue aside because the main thrust and the reason for FIFRA is that the people who were concerned about indiscriminate use of, manufacture, and/or use or application of pesticides said we need a Federal presence.

Also, saying that in this particular case we are abridging the States rights, that is not so because those same people have told us, and in other sections of the bill you find that the administrator is given the right, and none of the groups, the farmworkers, the environmentalists, the pesticide manufacturers, none of them complain of this issue in enforcement.

I have had in my own State complaints from citizens that the State is not enforcing.

So what is the fallback? The Federal Government and the Federal law.

So I do not want it to deteriorate into that.

Second, for example, the training of applicators or users. There was some concern that many people were being hurt because they were not properly trained, that perhaps they might be injuring themselves and others, so then we provided a provision or a provision was established whereby you had training supervised by the administrator. If that is not done properly the administrator then has the right.

Then going back to this amendment, as the gentleman from Indiana so ably pointed out, this does nothing to the use of pesticides for crops out in the field, the ones you hear complaints about. This does nothing to that.

The present law is only speaking to special local use, what you use around the house for roaches or mosquitoes, and so on, and the State is protected. It is only done to facilitate that and unfortunately, I would say, in one particular State there were many complaints that all of the surrounding States could conceivably receive a permit but not in this particular State.

So let us be clear on the issue. Those pesticides which are used in the field for the production of food, herbicides in the forest for food and fiber, all of those are not covered by this amendment. Only the specialty, local use, that is where we intervene.

It is very simple. Any other issue is extraneous to what we decide here and now.

Being fair, as chairman of the committee, because I have division within my committee, I again state that I want you to know the facts.

I want you to vote hopefully intelligently, and I am sure you always do, without emotion, but knowing the facts, and then let the House decide the issue.

The CHAIRMAN. The time of the gentleman from Texas (Mr. de la Garza) has expired.

(At the request of Mr. Fountain and by unanimous consent Mr. de la Garza was allowed to proceed for 1 additional minute.)

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I just want to make a clarification. I thank the gentleman for yielding and I want to tell him how much respect I have for him and appreciate all he has done for agriculture, particularly for many of the programs which are of great concern to my people.

When we mention States rights, let me emphasize I have never been one of those, and I do not think the gentleman from Georgia (Mr. Levitas) or others from the South are among those who insist on States rights, without requiring States to assume their responsibilities so we stand for and insist on States rights and responsibilities together.

We have no objection to the Federal Government enforcing Federal law with minimum standards. We do not want to be harassed by the process which the provision in this bill would place upon the State government to enable it to get information which it ought to be able to get directly from the pesticide and chemical people.

We also do not want to be impaired from carrying out our responsibility to our people and we do not want the difficulties which have been experienced in one State, such as California, to be used as an excuse to harass the rest of the Nation.

Mr. de la GARZA. Apparently the gentleman did not hear my statement.

Mr. FOUNTAIN. I was standing here listening to the gentleman's statement. I just do not believe his statement is an adequate reason for voting against the Harkin amendment. I do recognize the need for Federal laws in this area and I will support the bill on final passage.

● Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of the Harkin-Brown amendment to H.R. 5203. This amendment would restore the rights of States to seek pesticide information from producers, a freedom I regard as necessary for the protection of public health.

As H.R. 5203 now stands, it offers too broad a remedy for too narrow a problem. The scheme in section 11 of this bill is a classic example of legislative overkill. The difficulties the chemical and pesticide companies have had with FIFRA, as it has been applied in California, boil down to two issues; long delays in product registration and arbitrary and capricious data generation requests. These problems are basically administrative or managerial in nature. Among industry's more serious concerns are that the State does not account for scientific priorities, it lumps name changes with new product registration, and so forth. While these are no doubt real irritants, time consuming and costly to industry, they hardly seem to merit Federal legislation effectively discouraging States from pursuing strong pesticide programs.

It would seem that the most direct approach to problems of this kind would be through the State itself, particularly since only one State has been the subject of industry's complaints thus far. I understand, however, that the companies involved did not completely avail themselves of administrative or judicial remedies in California prior to seeking to influence Federal legislation. Furthermore, the fact that this State has responded to the bulk of industry's complaints and cleared its registration backlog is only proof that the legislation we are considering is not necessary. The local problems it addresses are procedural and existing avenues are available to product registrants to correct them.

The broader consequences of section 11, however, are worth considering for a moment. It would obstruct and devitalize State pesticide programs in a number of ways. Most glaring is the creation of another bureaucratic checkpoint. The inevitable tangle of delay and backlog that would grow out of an EPA review of data request would not only prolong the regulation process, but add new financial burdens to the States—burdens they certainly cannot afford these days—which will discourage them from pursuing local concerns or being as thorough as they would like in their regulation of pesticides.

Even more important is the way in which this bill undermines the role of the States in protecting public health. Even without the burden of the additional bureaucracy, States would in the future have to justify their data requests to the satisfaction of industry and the Federal Government before they are complied with, if at all. Although it is certainly no one's intention to create "50 little EPA's," it should be remembered that Federal controls on pesticides are only a minimum necessary to protect public health.

State pesticide programs, as my colleagues have pointed out, will be required to conform to national norms as interpreted by EPA and the Federal courts. Special local concerns will have to be defended as such, thereby shifting the burden of proof from the regulated to the regulators. State registration processes will be fragmented into categories emphasizing where and how the product is used instead of what the potential health hazards might be. I submit that these changes alter the focus of FIFRA from the protection of public health to the convenience of the chemical industry.

We are told that the changes are minor and that the States retain exactly the same authority they now have; to regulate the use and sale of pesticides and to request data beyond the EPA requirements. It should be patently clear, however, that the ability to exercise this authority is severely limited when access to information is impeded. Although aimed at actions which are arbitrary, this new system would stymie every data request, legitimate or not. It is grounded in the assumption that States are, or will be, acting capriciously instead of responding to a public need. This not only strikes me as baseless, but expresses a singular lack of confidence in our partners in federalism at a time when we are turning responsibility back to the States at an unprecedented rate.

Again, Mr. Chairman, I urge my colleagues to vote for this amendment.●

● Mr. WALGREN. Mr. Chairman, the potential threat to health from pesticides should be a pressing concern to every American.

The use of pesticides has increased 70 percent in the past 10 years. The farmworker justice fund estimates that pesticides cause 800,000 injuries and 800 fatalities each year.

Many substances used to protect crops, or eliminate annoying insects are highly toxic and hard to neutralize once introduced into the environment. There are many ways we contact with these chemicals. Rain carries pesticides sprayed on crops into the groundwater or run off into nearby streams. Almost every chemical that enters ground water eventually works its way into the biosystem and up the food chain to the family dinner table. This is especially true of pesticides not easily broken down by natural chemical processes particularly those used directly in the home. Pesticides are not confined to spraying orchards in Florida or spraying Midwestern fields. They are often right in our own homes, sprayed on lawns and into carpets to exterminate annoying insects, fungi and rodents. Because pesticides are so omni present, we must take special caution to see that they are safe.

People have a right to know that the use of chemicals will not jeopardize their health. In several respects the bill before us today, H.R. 5203, amendments to the Federal Insecticide, Fungicide and Rodenticide Act, threatens this right.

An important principle of many of the public health laws is that the Federal Government should provide minimum guidelines to insure the safety of substances, preserving the right of States to regulate more stringently in order to address special local concerns.

The bill before us restricts the ability of States to regulate pesticides more stringently than Federal standards, by allowing EPA, at industry's request, to evaluate State requests for any data beyond that used by EPA in developing minimum standards. At a time when EPA's resources for collecting and analyzing such data is dwindling, placing EPA between the States and the pesticide industry, and allowing the industry to oppose such data requests through multiple avenues of litigation, could create a snarl of bureaucracy which would be a drain on both State and Federal resources. It could discourage States from exercising their right to obtain information on which to make intelligent, independent regulatory judgments. The right of States to place more stringent safety requirements on the use of goods which threaten public health is not only consistent with the Reagan administration's philosophy, it is an historic and fundamental obligation of State government. I believe it is essential to continue to apply this principle to pesticide regulation because the need and use of pesticides varies greatly from State to State and their effects are primarily local in nature. For example, Florida's citrus needs are different from Maine's potato needs. California's produce is different from Pennsylvania's.

I hope my colleagues will support the Harkin-Brown amendment to H.R. 5203, to preserve the right of States to regulate pesticides more stringently than Federal standards and to meet local needs and circumstances.

I am also concerned that, under the bill, corporations have wide latitude in seeking Federal judicial review, the private citizen is allowed no access to Federal courts to seek redress of damages caused by the misuse of pesticides. I regard it as a fundamental right of all American citizens to seek redress in courts for violation of laws. I therefore urge my colleagues to support Representative PANETTA's amendment which will insure that right.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WAMPLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 154, not voting 30, as follows:

[Roll No. 264]

AYES—250

Addabbo
Akaka
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkinson
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Carman
Carney
Chappell
Clausen
Clay
Clinger
Coats
Collins (IL)
Conte
Corcoran
Coughlin
Courter
Coyne, William
D'Amours
Daschle
Daub
Davis
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emery
Evans (GA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Florio
Foglietta
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Fuqua
Garcia
Gejdenson
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Hawkins
Heckler
Heftel
Hertel
Hiler
Hollenbeck
Howard
Hoyer
Hubbard
Huckaby
Hughes
Ireland
Jacobs
Jeffords
Jenkins
Jones (TN)
Kastenmeier
Kemp
Kennelly
Kildee

Kogovsek
Kramer
LaFalce
Lantos
Latta
Leach
LeBoutillier
Lehman
Leland
Lent
Levitas
Livingston
Long (MD)
Lowry (WA)
Lundine
Markey
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Mottl
Murphy
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
St Germain
Stanton
Stark
Stokes
Studds
Swift
Synar
Tauke
Taylor
Traxler
Udall
Vento
Walgren
Washington
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
Whitten
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zablocki
Zeferetti

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Albosta
Archer
Ashbrook
Badham
Bailey (MO)
Beard
Benedict
Benjamin
Bliley
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Chappie
Cheney
Coelho
Coleman
Collins (TX)
Conable
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Derwinski
Dickinson
Dougherty
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (IA)
Evans (IN)
Fiedler
Fields
Findley
Fithian
Flippo
Foley
Forsythe
Frenzel
Gaydos
Gephardt
Gibbons
Goodling
Gramm
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hansen (ID)
Hansen (UT)
Hartnett
Hefner
Hendon
Hightower
Hillis
Holland
Holt
Hopkins
Hunter
Hyde
Jeffries
Johnston
Jones (OK)
Kazen
Kindness
Lagomarsino
Leath
Lee
Lewis
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Luken
Lungren
Madigan
Martin (NC)
McClory
McCurdy
McDonald
McKinney
Mica
Michel
Moorhead
Morrison
Murtha
Myers
Napier
Nichols
Parris
Pashayan
Patman
Paul
Quillen
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rogers
Roth
Rousselot
Rudd
Schulze
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (OR)
Solomon
Spence
Stangeland
Staton
Stenholm
Stratton
Stump
Tauzin
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Winn
Wortley
Wright
Young (MO)

NOT VOTING—30

Annunzio
AuCoin
Bafalis
Biaggi
Blanchard
Brown (OH)
Burton, John
Chisholm
Conyers
Crockett
Dornan
Ertel
Evans (DE)
Fish
Frost
Ginn
Goldwater
Horton
Hutto
Jones (NC)
Marks
Marlenee
Moffett
O'Brien
Pritchard
Richmond
Rosenthal
Siljander
Wilson
Wolf

□ 1415

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mr. Conyers against.

Mrs. BYRON and Messrs. BROWN of Colorado, KAZEN, GEPHARDT, WALKER, and RITTER changed their votes from "aye" to "no."

Messrs. ALEXANDER, BROOKS, LIVINGSTON, ROSE, TAYLOR, SHARP, ANTHONY, LENT, and HAMMERSCHMIDT, Mrs. SMITH of Nebraska, Mr. FARY, and Mr. CLAUSEN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1430

AMENDMENT OFFERED BY MR. BARNES

Mr. BARNES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARNES:

Page 84, after line 23, insert the following new section:

REPORT ON IMPACT OF RESTRICTIONS ON DISCLOSURE OF CERTAIN INFORMATION TO FOREIGN GOVERNMENTS

SEC. 18. (a) Not later than 300 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall publish a document in the Federal Register which contains proposed findings and conclusions of the Administrator with respect to the following:

(1) The nature and extent of the impact which the prohibition imposed by section 10(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act on disclosure of information described in paragraphs (1)(A), (1)(B), (1)(C), and (3) of section 10(d) of such Act to foreign governments and international organizations of countries has on the Administrator's ability—

(A) to obtain information from such governments and organizations which is necessary to effectively carry out the Administrator's responsibilities under such Act, especially the Administrator's responsibilities with respect to protecting humans and the environment from unreasonable adverse effects of pesticides; and

(B) to cooperate with such governments and organizations with respect to the development of pesticide research and regulations.

(2) The willingness of persons associated with the pesticide industry to disclose, or to consent to the disclosure of, such information to such governments and organizations in cases in which such disclosure is necessary to protect humans and the environment from unreasonable adverse effects of pesticides.

(b) During the sixty-day period beginning on the date of the publication of the document described in subsection (a), the Administrator of the Environmental Protection Agency shall allow interested persons to submit written comments with respect to the proposed findings and conclusions contained in such document.

(c) Not later than thirty days after the end of the period described in subsection (b), the Administrator of the Environmental Protection Agency, after considering any comments submitted under such subsection, shall submit to the President of the Senate and to the Speaker of the House of Representatives a report containing final findings and conclusions of the Administrator with respect to the matters specified in subsection (a).

Mr. BARNES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BARNES. Mr. Chairman, the FIFRA bill we are considering today contains certain restrictions in section 10(g)(2) on EPA's ability to share what might be considered trade secret information with EPA's counterparts in foreign countries and with international organizations such as the World Health Organization.

EPA, in a letter addressed to Agriculture Committee Chairman DE LA GARZA on May 13, 1982, expressed the view that these restrictions "will discourage the sharing of important information between the U.S. and other countries." I share EPA's concern about the effect of these restrictions, especially about their effect on the willingness of other countries to cooperate with our pesticide officials.

This amendment would require EPA to report back to Congress in 1 year on its experience under these restrictions. Specifically, I believe that Congress needs to know whether these restrictions are reasonable, or, on the contrary, whether they will hinder EPA in its mission of protecting public health and safety.

Therefore, my amendment requires EPA to monitor the cooperation of the pesticide industry in making information available to foreign governments when necessary for health and safety reasons—including limited trade secret information. My amendment also requires EPA to report back to the Congress in 1 year, stating whether the restrictions placed on EPA in this area have had a "chilling effect" on the flow of information from other countries to EPA, and thereby made EPA's task of protecting public health and safety more difficult.

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The amendment is supported by the Audubon Society, by EPA and industry representatives have informed me that they do not have objections to this approach.

Mr. Chairman, I had originally considered offering an amendment to give EPA specific powers to share certain, limited trade secret information with foreign governments, and only under agreements that would have guaranteed the confidentiality of that information. This would have allowed EPA to share such information as a general description of manufacturing processes; or information relating to inert ingredients, or contaminants or impurities in a pesticide; but not confidential chemical formulas; or commercially valuable details of manufacturing processes. It was this type of sharing of limited trade secret information, under strict conditions of confidentiality, that I felt might on occasion help EPA and other countries identify and solve health and safety problems through mutual cooperation.

However, representatives of the pesticide industry have indicated that industry itself will make any necessary information available to foreign governments when it is needed for judgments about the health and safety of pesticide products being marketed in those countries.

In light of those assurances, I have drawn up the amendment that I am offering at this time.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

If I might, I would like to enter into a brief colloquy with the gentleman. And I think in the light of that colloquy, I think we could probably accept the gentleman's amendment.

Could I ask the gentleman on what occasions might EPA need the power to share information that might be considered trade secrets with other countries?

Mr. BARNES. Well, in response to the gentleman's question I would say only in occasional situations, probably just a few times a year, it might be helpful for EPA to be able to discuss certain limited trade secret information with its counterparts in other countries. A general discussion of this information with EPA's counterparts in such countries as Canada and the United Kingdom, might help the pesticide regulators here and abroad make what can sometimes be very difficult and sophisticated judgments about the health and safety of pesticide products. A good example was EPA's helping Canada identify the source of dioxins in the herbicide 2,4-D by sharing information about the manufacturing process of that herbicide in this country.

Mr. BROWN of California. And the purpose of your amendment, as I understand it, would be to help clarify whether this power is needed by EPA, and if so, in what situations?

Mr. BARNES. That is correct. In essence, my amendment asks EPA to live under the restrictions contained in this bill for a year, and to report back to Congress on the effect of those restrictions. Some of the questions I hope that EPA will address in this report would be: First, has the necessary information been provided by pesticide manufacturers to foreign governments when needed for health and safety reasons? And second, has the flow of important information about pesticides from other countries to EPA been unnecessarily hindered because of these restrictions?

Mr. BROWN of California. If the gentleman would yield further, I recall now that we considered this matter in the committee during markup of this bill, and we did adopt the more restrictive language that is in the bill over the opposition of the EPA.

It arose from a fear of some of the Members that trade secret material might get to governments which in effect would share that with the business firms to the commercial disadvantage of the firms in this country.

So we adopted very strict language. But if that does not work, I think the committee would be willing to reconsider the matter.

Accordingly, I am willing to accept the gentleman's amendment for this side.

Mr. BARNES. I thank the gentleman.

Let me say to my colleagues that this amendment I believe is really noncontroversial. It is supported by the environmental organizations, by EPA, and industry representatives have informed me they do not object to this particular approach to this issue.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank my colleague for yielding.

I want to concur with the observations of the distinguished gentleman from California (Mr. Brown). My recollection was that during the consideration of this section of the bill, that the Environmental Protection Agency felt that proper assurances could be secured to protect industry trade secrets particularly with friendly countries such as England and Canada.

But I should in all good conscience point out that there was considerable concern that some countries, and especially certain Eastern bloc countries, that continue to violate the normal registration process and indeed in cases have provided unique competition by copying and registering competing pesticides. But in keeping with the spirit of the gentleman's amendment, this side is prepared to accept it, but we will be watching this development with a great deal of interest.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Barnes).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Yates: Page 84, after line 23, insert the following new section:

DENIAL AND CANCELLATION OF REGISTRATION OF TOXAPHENE

Sec. 18. (a) Notwithstanding any other provision of law—

(1) the Administrator of the Environmental Protection Agency shall deny under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act; and

(2) no State may provide under any law as permitted by section 24 of such Act;

registration of toxaphene for sale or use.

(b) Any registration of toxaphene for sale or use in effect after the date of the enactment of this Act under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act or under any law of a State is hereby cancelled.

(c) As soon as practicable after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall—

(1) establish, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act, procedures and regulations for the disposal, storage, and transportation of unused quantities of toxaphene; and

(2) provide reasonable notice of such procedures and regulations to persons holding unused quantities of toxaphene.

Mr. YATES. Mr. Chairman, I feel very emotional about this amendment, as I told the members of the Appropriations Committee yesterday. When I offered an amendment in that committee, the committee accepted my amendment to ban toxaphene, a dangerous chemical spray used on cotton crops. It was a legislative amendment. I do not know whether in the course of legislation on that appropriations bill that prohibition will remain because it is legislation on an appropriations bill. And so I offer it to this bill, where it is certainly appropriate.

The reason I feel emotional, Mr. Chairman, is that I have just taken my wife home from the National Cancer Institute where she has been found to have a malignancy. She and I played golf together up to about 3 weeks ago. We played on a Sunday afternoon, and the next day she did not feel well. We went into a doctor's office, and we found that she had this condition.

How does this happen? How can it happen? Where does cancer come from? It seems to come out of the blue—but we know better than that. We are being subjected to so many

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cancer-producing influences in our society today—like toxaphene.

Toxaphene is a chemical that is used in Mississippi, Louisiana, in the Southern States as a spray for the growing of cotton. That in itself sounds entirely harmless; but it does not stay in place. What happens is that toxaphene, which is made up of a number of compounds, is very much like DDT in the respect that it has a very strong life. The toxaphene that is sprayed on crops in the Southern States are lifted by the winds and carried for distances of over 1,000 miles, to the city of Chicago, for one place, 1,000 miles away. Then it is dropped by rainfall onto the city of Chicago, it is dropped on all the communities surrounding the Great Lakes, and it is dropped into the Great Lakes themselves.

In Lake Michigan, in Lake Superior, white fish and lake trout have been found to have toxaphene in quantities, according to the U.S. Fish and Wildlife Service under official surveys, have been found to have quantities of 10 parts per million of toxaphene. The accepted maximum level by FDA for this kind of a carcinogenic material is 5 parts per million. So that in the fish that swim in the Great Lakes, 1,000 miles away from where this chemical is used, we find this cancer-producing material in the fish. It is in the food chain that is being used by people all over the country.

That is the reason that I offer this amendment, to stop this chemical warfare. The House took a position against chemical warfare some time ago. This is a chemical that can harm men, women, and children. Toxaphene is not the only cotton spray that is usable insects.

I know what farmers are up against. I know they are invaded by hordes of insects. Farmers are constantly fighting to protect their crops. And I want them to do that. But what I want them to do is to kill the bugs, and not kill human beings as well. Destroy the insects, but do not destroy also the men, women, and children who are innocent bystanders. There are such sprays that are nontoxic.

Now, the reason I am offering this amendment is that EPA has been studying toxaphene for 5 years and has refused to take action. They know it is carcinogenic. They know it is cancer producing. Their scientists have asked those on the upper echelons to ban toxaphene. EPA has delayed it. It was supposed to make its decision by June of this year. That time has gone by. It refuses to make its decison.

Yet it had in 1980, EPA staff reported.

> These results constitute substantial evidence that toxaphene is likely to be a human carcinogen.

Evidence that toxaphene is likely to be a human carcinogen. We know that now. Why not take appropriate action? We ought not to be using chemicals of this kind which, while they are effective on your sprays of various kinds, still are dangerous and they do not have to be used. There are sprays that can be used.

In the course of other arguments we heard the arguments made that the cost ultimately will be upon the consumer.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Yates) has expired.

(By unanimous consent, Mr. Yates was allowed to proceed for 1 additional minute.)

Mr. YATES. The cost ultimately will have to be shouldered by the consumer; that is true. But I wager that every consumer in this country would be willing to pay the few extra cents or the few dollars that would be necessary if in so doing it was sure that the food that they were eating was free from carcinogenic materials, and the water they were drinking was not likely to produce any kind of cancer.

I think it is important that we take a position against the continuation of a cancer-producing spray of this kind.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I would just like to congratulate the gentleman for offering this amendment. This is another one of those instances in which evidence continues to mount, but upon which action is continually delayed. I would suggest that if we cannot move on chemicals like this, which are known to be troublemakers, we encourage in the end an indiscriminate objection to all chemicals.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Yates) has again expired.

(At the request of Mr. Brown of California and by unanimous consent, Mr. Yates was allowed to proceed for 1 additional minute.)

Mr. OBEY. If the gentleman will continue to yield, it just seems to me we have people in this society today who have come to the conclusion that almost any chemical causes cancer. The fact is that is not true. A very narrow band of chemicals causes cancer. And if we do not meet our responsibilities to take action whenever we discover one such as this, which is so insidious, and which builds up as the gentleman has indicated in the fatty tissues of fish, and continues to concentrate at much higher levels than is known to be safe in the human food chain then we invite a wholesale across-the-board attack on chemicals and the chemical industry and no responsible person wants that.

I congratulate the gentleman. I hope this amendment is adopted.

□ 1445

Mr. YATES. I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to my friend, the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman knows, I am sure, how much I agree with the sentiments that he has expressed and how much I regret the personal nature of the circumstances which have caused the gentleman to do what he is doing here.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Brown of California, and by unanimous consent, Mr. Yates was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield further, I am in this position, which I am sure the gentleman will understand. In the past when efforts have been made on the floor to place amendments in the FIFRA legislation directing a certain action, and the last such action was just the opposite of what the gentleman is proposing, it was a requirement that EPA register Mirex, a known carcinogen. I had to oppose that on the grounds that that is not the proper way to regulate chemicals.

Now, I am going to ask the gentleman if he would accept one of two courses as an alternative to what he is proposing; first, my assurance of an oversight hearing on this matter within the next 30 days and the strongest possible pressure to complete the action by EPA, or in the alternative, language requiring that EPA complete their RPAR, which as the gentleman has already indicated, they have had underway for 5 years, within 30 days after the passage of the action.

I am willing to support either course as an alternative to doing what I think is procedurally wrong; namely, to legislate a specific regulatory action for a specific chemical on this floor in the absence of the full scientific evidence, public review, and other protections which the law provides for.

Mr. YATES. Mr. Chairman, may I respond to the gentleman by saying that I appreciate his good intentions and the courses that the gentleman has offered in good faith as substitutes.

I would not be willing to accept them and I will tell the gentleman why.

First, I think EPA has had a long enough time to act.

Second, this bill, which is the logical place to offer an amendment such as I offered, will have gone and I will not be able to offer an amendment comparable to this. The time will have gone by.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. YATES. Third, Mr. Chairman, the Congress subsequent to the time that the gentleman's example of the Mirex situation took place has adopted the legislative veto procedure.

Since that time, at the insistence of our good friend, the gentleman from Georgia, the Congress has taken the position in favor of a legislative veto, which provides that the Congress has the right to tell a regulatory agency, you shall not put a particular regulation into effect.

The Congress has thus stated it will take individual action if the situation warrants. That being true, it seems to me to be equally valid for the Congress to say that if you do not act and the situation requires action, the Congress can act.

For those reasons, I regretfully, with the greatest respect for my friend, the gentleman from California, must turn down the options that the gentleman has suggested.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the gentleman.

I have great sympathy for our colleague, the gentleman from California, on the procedural question; but it does seem to me two things ought to be kept in mind.

No. 1, if we put this on and the conference decides at that point that there are other ways of getting this accomplished, the conference can at that point drop it; but what we do by putting it on is we send a strong message to the EPA.

Mr. YATES. Right.

Mr. SIMON. We are interested in having something done.

Mr. YATES. The gentleman is exactly right. If EPA is to act, it will have the assurance of the Congress if this amendment is accepted that its action in banning it will be the correct action.

Mr. SIMON. The second thing, if the gentleman will yield further, the second thing it seems to me we have to do is to let EPA know through the dialog on this floor that we are unhappy with their lack of movement on this question.

I strongly support my colleague, the gentleman from Illinois.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. YATES

Mr. BROWN of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California as a substitute for the amendment offered by Mr. YATES: page 84, after line 23, insert the following new section:

DENIAL AND CANCELLATION OF REGISTRATION OF TOXAPHENE

SEC. 18. Notwithstanding any other provision of law—

(1) The Administrator of the Environmental Protection Agency shall complete the public interim administrative review process under section 3(c)(8) of the Federal Insecticide, Fungicide and Rodenticide Act with respect to the pesticide toxaphene, as soon as practicable, but not later than 30 days after the date of enactment of this Act.

(2) If as a result of such review, the Administrator should decide to initiate regulatory action under section 6(b) of such Act to cancel its registration or change its classification, the Administrator shall furnish a notice and analysis thereof as provided in such subsection to the scientific advisory panel and Secretary of Agriculture for comment, and notwithstanding the time requirements of such subsection, the Administrator shall furnish the registrant and make public thirty days thereafter the Administrator's notice of intent to take any such action.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, this is the substitute which I offered to the gentleman from Illinois to require the Environmental Protection Agency to complete the review process required under the present law within 30 days after the enactment of this act.

I personally think that we can secure even more prompt action by the agency. Everything that the gentleman from Illinois said is correct. They had had this matter under study for 5 years. They have had recommendations from their staff. They have set target dates for action already. They have deferred action for reasons that I do not pretend to understand; but I think that they will understand the significance of what we are doing here today. If their sensitivity is as great as I think it is, they should be able to act promptly.

Now, I think there is no question but what we are talking about conveying a signal to the agency. I am not sure that a signal which flies in the face of what I consider to be proper congressional procedure is any more effective than a signal which conforms to procedure, which I think my amendment does. In effect, it merely says that you will follow your processes that you have been following, but you will complete them within a time certain. I believe that that will give them a signal. If that is not enough, of course, as the gentleman from Illinois knows, and others in the House, the gentleman has already given them a signal by putting this same amendment on the appropriation bill and I think that is an even more effective signal.

So I believe that this will accomplish the purpose that the gentleman seeks to achieve and I hope the House will support it.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to my friend, the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I would hope it will accomplish that purpose.

The gentleman spoke about the sensitivity of EPA. Every possible evidence is to the contrary with respect to this EPA organization. They are not sensitive. Had they been sensitive, they would have banned toxaphene a long time ago. They establish deadlines. The deadlines go by. Their staff people anguish over the fact that no action is taken by the highest officials of EPA, and yet no action continues to be taken.

For that reason, as much as I respect and admire my good friend, the gentleman from California, whose views I know are identical with those that I have expressed on the dangers of toxaphene, I have to disagree with the gentleman on this.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Yates amendment.

At the outset, Mr. Chairman, we were all saddened to learn about Addie's condition and her hospitalization in the National Institute of Cancer. In the 24 years that I have been in the Congress, I had the opportunity to become very closely acquainted with SID YATES. I have been on trips with him and his lovely wife, Addie. I have never seen a greater, a finer partnership and marital relationship than SID and Addie and our hearts go out to her and we wish her well.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thank the gentleman from my heart for his beautiful statement.

I want at this time, even though it is tangential to the main issue, to congratulate the gentleman and all the members of the Appropriations Subcommittee in the House and in the Senate for the Department of Health and Human Services, who over the years have done so much in building the National Institutes of Health and particularly the National Cancer Institute, into the great institutions they are today. They stand as monuments to the wisdom of those members of the Appropriations Committee who fought through the extra amounts of funds that are necessary to protect the lives of American citizens.

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I congratulate the gentleman.

Mr. CONTE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I oppose the substitute amendment offered by the gentleman from California and I rise in support of the amendment offered by the gentleman from Illinois. The gentleman from Illinois offered a similar amendment during full committee consideration of the HUD/independent agencies appropriations bill yesterday and that amendment was accepted without dissent.

I think all of us are aware of the growing concern felt by the public as more and more questions are being raised in the scientific and medical communities about the long-term effects of newly developed chemicals and materials. The gentleman from Illinois yesterday cited asbestos as an example of a material which when first developed was extremely well received by the public and only in recent years did we discover, much to our regret, the negative side effects of this material to human health.

The use of toxaphene as a pesticide has been under study by the Environmental Protection Agency for over 5 years. Internal EPA memorandum provided by the gentleman from Illinois to the Appropriations Committee yesterday indicates that over a year ago, scientists concluded from their research with laboratory animals that toxaphene did indeed pose a significant risk of cancer to humans. What made this conclusion even more important is the fact that the toxic danger posed by toxaphene is not restricted to the immediate area in which this pesticide is used. Unfortunately people over 1,000 miles away are unknowingly being exposed to this toxicity. Toxaphene is picked up by wind currents and has been known to be deposited as far away as Lake Michigan which is over 1,000 miles from the Mississippi Delta region where it is most used. Test samples of fish in the Great Lakes conducted by U.S. Fish and Wildlife Service personnel has shown toxaphene in these fish at levels up to 10 parts per million. This is twice the maximum acceptable contaminent level established for toxaphene by the Food and Drug Administration.

EPA's own scientists have recommended that toxaphene be banned for most pesticide use by June of 1982. However, June has come and gone and still there has been no official action by EPA on this matter.

I believe that so long as there is sufficient evidence to indicate that toxaphene may indeed pose a significant cancer risk to humans, we have a responsibility to the people we represent to take immediate action to eliminate this threat. If we are to err, let us err on the side of overprotection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF ALABAMA

Mr. SMITH of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SMITH of Alabama: At the end of the bill, add the following new section:
>
> PROTECTION OF HUMAN LIFE FROM THE ADVERSE EFFECTS OF PESTICIDES
>
> SEC. . Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by amending subsection (bb) by inserting a comma after "man" and the following: ", (including unborn human beings from the moment of conception),".
>
> Redesignate succeeding sections accordingly.

□ 1500

Mr. SMITH of Alabama. Mr. Chairman, It is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life. My amendment is intended to assure that this principle is reflected in Federal policy by requiring that the Administrator of the Environmental Protection Agency will, in considering the safe use of pesticides, take into account their impact of the most vulnerable members of the human family—unborn children.

Mr. Chairman, unborn children are particularly susceptible to environmental contaminants. In study after study, such contaminants have been linked with miscarriages, premature births, low birth weight, and a variety of congenital defects. The Administrator should take effective action to avoid such tragic effects on unborn children.

Mr. Chairman, contemporary science leaves no doubt that, from the time of conception, the unborn child is alive and a member of the human species. Consider the following passages from standard medical school textbooks on human development:

> [A]ll organisms, however large and complex they may be when full grown, begin life as but a single cell.
>
> This is true of the human being, for instance, who begins life as a fertilized ovum.—I. Asimov, *The Genetic Code* 20 (1962).
>
> It is the penetration of the ovum by a spermatozoon and the resultant mingling of the nuclear material each brings to the union that constitutes the culmination of the process of *fertilization* and marks the initiation of the life of a new individual.—B. Patten, *Human Embryology* 43 (3d ed. 1968).
>
> The formation, maturation and meeting of a male and female sex cell are all preliminary to their actual union into a combined cell, or *zygote*, which definitely marks the beginning of new individual.—L. Arey, *Developmental Anatomy* 55 (7th ed. 1974).
>
> A human being originates in the union of two *gametes*, the ovum and the spermatozoon.
>
> The zygote thus formed [by the moving together of two sets of chromosomes] represents the beginning of a new life.—J. Greenhill & E. Friedman, Biological Principles and Modern Practice of Obstetrics 23 (1974).
>
> A new individual is initiated by the union of two gametes—a male gamete, or spermatozoon, and a female gamete, or mature ovum.—J. Brash, Human Embryology 2 (1956).
>
> A new individual is inaugurate in a single cell (zygote) that results from the union of a male gamete (spermatozoön) with a female gamete (ovum or egg).—T. Torrey, Morphogenesis of the Vertebrates 47 (3d ed. 1971).
>
> The fertilized egg cell—or zygote—contains nuclear material from both parents. It marks the beginning of the life of a new human being.—G. Simpson & W. Beck, Life: An Introduction to Biology 139 (2d ed. 1965).

Dr. Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, affirmed this consensus when he said:

> "I think we can now also say that the question of the beginning of life—when life begins—is no longer a question for theological or philosophical dispute. It is an established scientific fact. Theologians and philosophers may go on to debate the meaning of life or the purpose of life, but it is an established fact that all life, including human life, begins at the moment of conception."
>
> Dr. Gordon further observed: "I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception and that it was a human conception if it resulted from the feterilization of the human egg by a human sperm. As far as I know, these have never been argued against."

Mr. Chairman, in testimony before the Agriculture Committee recorded in the hearing report on FIFRA, Stephanie Bower, legislative representative of the United Farmworkers of America states why my amendment is so germane to the issue at hand. She states:

> Our members suffer frequent acute short-term illness from exposure to pesticides in daily work. They may be incurring long-term chronic damage from their constant exposures. They are also suffering damage to their unborn children.

Mr. Chairman, Richard Lewis of the International Chemical Union, in testimony which appeared in this same hearing report, gives evidence of the effect of hazardous pesticides on newborn children. Mr. Lewis states:

> Oryzalin, a liquid herbicide used to control weeds and brush was produced over an 18-month period at the GAF plant in Rensselaer, N.Y. During that period several cases of birth defects were found. In fact, the local union of 30 workers showed no normal pregnancies occurring over this 18-month production period.

In June 1975, a chemical operator's wife miscarried; (2) on June 24, 1975, an operator's wife bore a son with a heart defect (transportation of the great vessels); (3) on December 24, 1975, a son was born and died on February 26, 1976, of pneumonia; (4) on April 3, 1976, a son was born with a heart defect (transportation of the great vessels)—he died on October 14, 1977; (5) on June 19, 1976, a son was born and died shortly thereafter of a heart defect—hypoplastic left heart; and (6) only one child born during that time period is living today. That child is now 5 years old and has undergone extensive surgery and is still under treatment. I will summarize this information. There were five reported birth defects, three having to do with defects of the heart. Of the five children born during that period only one is alive today. That child has undergone $300,000 worth of surgery and is still under treatment.

Mr. Chairman, unborn children are living human beings whose health and very existence often is jeopardized by the adverse effects of certain pesticides on the environment. My amendment is designed to afford them a measure of protection from such hazards. I urge its adoption.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. SMITH) has expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. SMITH of Alabama was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman ought to be commended for his leadership in bringing this important amendment to the floor. I understand it is going to be accepted by the chairman and the ranking minority member of the committee.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from California.

Mr. BROWN of California. I commend the gentleman also for his amendment.

Mr. Chairman, on first reading I thought possibly this was an attempt to establish by law the solution of a question which I understand is scientifically controversial, but I do not think that it does that.

I think it is commendable legislation, and for this side I am willing to accept the gentleman's amendment.

Mr. SMITH of Alabama. I thank the gentleman.

Mr. WEBER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from Minnesota.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. SMITH) has expired.

(On request of Mr. WEBER of Minnesota and by unanimous consent, Mr. SMITH of Alabama was allowed to proceed for 1 additional minute.)

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment. I commend the gentleman for his amendment.

To clarify for those who may be listening or watching on television sets, as I understand it, the effect of this amendment is simply to amend the definitional sections of the FIFRA Act so when we consider the environmental damage of certain pesticides we also consider the impact on the unborn. Is that correct?

Mr. SMITH of Alabama. That is correct.

Mr. WEBER of Minnesota. I think that is a tremendously valuable contribution and I am glad to rise in support of the gentleman's amendment.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of Alabama. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Mr. Chairman, we have examined the gentleman's amendment on this side and we are prepared to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. SMITH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'HUGH

Mr. McHUGH. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCHUGH: Page 40, line 14, insert "(a)" after "Sec. 4.".

Page 41, line 12, strike out "and" and insert in lieu there of the following new paragraph:

(3) striking out "(ii) a request for a hearing is made by a person adversely affected by the notice." and inserting in lieu thereof "(ii) a request for a hearing is made by any interested person, including any person adversely affected by the Administrator's failure to propose action providing for greater restrictions on the use of the pesticide involved, for a more rapid phasing out of its registration, or for a change in its classification."; and

Page 41, line 13, strike out "(3)" and insert in lieu thereof "(4)".

Page 42, after line 2, insert the following new subsection:

(b) The first sentence of section 6(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by striking out "a person adversely affected by the notice." and inserting in lieu thereof "any interested person, including any person adversely affected by the Administrator's determination with respect to the disposition of existing stocks.".

Mr. McHUGH. Mr. Chairman, I offer this amendment on behalf of our friend and colleague, the gentleman from New York (Mr. ROSENTHAL), who because of compelling personal reasons is unable to be here today.

The purpose of the amendment is to grant to any interested citizen the right under certain circumstances to request an administrative hearing under this act.

Under section 6(b) of the act, the Administrator of the Environmental Protection Agency may issue notice of his intent to cancel partially or completely the registration of a pesticide if its use would cause unreasonable adverse effects on the environment. He may also seek to change a pesticide's classification, and, if this bill is enacted, he may also seek to phase out a pesticide registration.

Under section 6(b) as it now is interpreted, only the registerant of the pesticide or a user group may request an administrative hearing on the Administrator's decision. The public is not afforded that right, and this amendment would grant to any citizen the right to request a hearing in such a case.

Clearly, Mr. Chairman, when the EPA Administrator determines that the registration of the pesticide should be completely canceled, the only parties adversely affected would be the registrant of the pesticide or some user group such as a group of growers. However, if the Administrator decides that a pesticide should be banned for certain uses only, but would permit its registration to be retained for other uses, the public could be adversely affected.

Similarly, if the Administrator decides to phase out a pesticide's use, or decides to change its classification but permit its continued use, the public could also be affected. I believe that in such cases the public should be given the right to request an administrative hearing.

Indeed, Mr. Chairman, between 1972 and 1979, the public did have this right. In 1972, amendments were adopted to this act which gave the right to request a hearing to any "person adversely affected" by the Administrator's notice affecting the registration of a pesticide.

The legislative history underlying those amendments indicates that it was Congress intent that all persons, regardless of pecuniary interest, should have the right to initiate agency hearings. In fact, between 1972 and 1979, individuals and citizen groups played an active role in EPA's decisionmaking process. They contributed significantly to that process, providing scientific and other relevant information to help the EPA Administrator make his cancellation decisions.

In 1979, however, the EPA reinterpreted section 6(b), and more particularly took the position that a person "adversely affected" by an Administrator's decision in these matters did not include members of the public. The narrower interpretation was thereafter upheld in a 1980 court decision rendered by the Circuit Court of Appeals for the District of Columbia.

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□ 1510

The purpose of this amendment, Mr. Chairman, is to restore the status quo ante, making it clear that citizens and citizen groups have the right to request administrative hearings; that they are, under certain circumstances, persons adversely affected by the decision of the EPA Administrator; and that they can make important contributions to EPA's pesticide decisionmaking process.

Mr. Chairman, this amendment is not only consistent with the original intent of the Congress and with the practice between 1972 and 1979, but it conforms to commonsense. Clearly, the public has a direct interest in a decision which continues the use of a controversial pesticide. Members of the public, and the public interest generally, can be adversely affected if a dangerous pesticide is permitted to be used. Therefore, the public should be afforded the opportunity to request a public hearing and to participate fully in such a hearing.

Mr. Chairman, this amendment would grant a similar right to the public in a second case, namely, whenever the EPA Administrator decided to cancel a conditional registration under section 6(e) of the act. Under that subsection, the Administrator is authorized to cancel a pesticide registration if he determines that the registrant has not fulfilled a condition imposed by EPA when the registration was initially approved. In so doing, the Administrator may permit the continued sale and use of existing and remaining stocks of the pesticide whose conditional registration is being canceled. In such circumstances, the public has an interest in how the existing stocks of the pesticide are disposed of, and they should have the right to request a hearing on that decision as well.

In closing, Mr. Chairman, I would simply say that this amendment, in granting citizens standing to initiate formal administrative hearings under certain circumstances, will aid the Environmental Protection Agency in gaining a fuller understanding of these complex and sensitive issues. Moreover, and perhaps more importantly, this amendment would help to guarantee to citizens the right to be heard before decisions affecting them are made by their Government. For all of these reasons, Mr. Chairman, I would urge my colleagues to support this amendment.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to say first that I am extremely sympathetic to the purpose of the amendment. I am inclined to share the views of the gentleman in the well and the gentleman from New York that he referred to who originally drafted this amendment to provide for the very fullest participation in the public processes with regard to regulation of pesticides and chemicals. However, I should like to point out that there are procedural problems in any regulatory scheme which sometimes can become insurmountable.

The McHugh amendment to section 6(b) of FIFRA provides that whenever EPA proposes to place regulatory restrictions on a product, any interested person may compel EPA to hold a courtroom-type cancellation hearing for the purpose of determining whether even greater restrictions should be imposed on the product than those EPA decided on. My problem with this amendment is not with its underlying concept—that any interested member of the public should be able to request stricter regulatory action. My problem is with the procedure chosen to do this—the formal, courtroom-type cancellation hearing.

A cancellation hearing is a lengthy, time-consuming, resource-consuming piece of litigation. It is simply bad law and bad policy to make cancellation hearings the vehicle for regulatory decisions as to how strictly pesticides should be regulated. Yet that would be the primary effect of the McHugh amendment.

I believe that all interested persons should have an input into EPA decisions as to how strictly to regulate pesticides. But as I will show, that opportunity is already provided under current law during the administrative review process. Because cancellation hearings under section 6(b) are really formal litigation, they serve a very narrow purpose. It would be a grave mistake to adopt the McHugh amendment and thereby turn them into something they were never intended to be and that is essentially unworkable—a forum for deciding how strictly to regulate pesticides.

The issue raised by the McHugh amendment is not whether environmental groups should have the same right to demand a cancellation hearing under section 6(b) as a pesticide registrant. That is a false issue.

Rather, the issue is, what is the proper time and place for the public to have input on how strictly a product should be regulated? Is the proper procedure, as I contend, for the public to make its beliefs known during the agency's regulatory review process? Or is the proper procedure, as Representative McHugh contends, to decide regulatory issues through administrative litigation; that is, to let any person demand that a formal courtroomlike cancellation hearing be held to redecide how strictly to regulate a product whenever a person feels that EPA has not been strict enough?

I believe that cancellation hearings under section 6(b) should not be the forum for redeciding regulatory issues. The proper time for the public to comment on how strictly to regulate a product is during the administrative review process. If anyone thinks that EPA was not strict enough after an administrative review, that person has the right to take EPA to court under section 16(a) of FIFRA and ask the court to review what EPA has done.

Cancellation hearings serve the narrow purpose of giving a registrant a right to due process of law if his product is going to be canceled. They should not be expanded, as proposed in the McHugh amendment, into a device for deciding anew EPA decisions that a person does not like.

I believe the logic of my position becomes even more clear when one understands the different purposes served by admininstrative review on the one hand, and by cancellation hearings on the other.

EPA decisions as to whether to impose restrictions on a product, or even cancel a product, are made in an administrative review process called an RPAR (rebuttable presumption against registration). Every person has a full right to participate in this regulatory process and to urge that a product be strictly regulated and to provide to EPA any data or arguments in support of his position. If the person feels that EPA has not been strict enough at the conclusion of the RPAR, he can sue EPA in Federal court and obtain review of EPA's decision. This is in fact made crystal clear in an amendment in H.R. 5203 to section 16 of FIFRA concerning judicial review.

In summary, EPA has found based on many years of experience that the administrative review or RPAR is the best procedure for deciding how strictly to regulate, and that is the proper time and place for the public to participate and express its views on how a product should be regulated.

In contrast, a cancellation hearing under section 6(b) serves a very different and narrow purpose. When EPA proposes to cancel a product, the registrants and other adversely affected persons can request a formal hearing to protect their procedural right to make sure that the cancellation is carried out in accordance with due process of law.

Cancellation hearings are very rare; very expensive for the taxpayer; very time consuming and resource consuming; and very burdensome on EPA.

There have been only a handful of such hearings since EPA was created in 1970—for DDT, aldrin and dieldrin, heptachlor and chlordane, and 2,4,5-T. They typically last for a minimum of 6 months and can take years to complete. they consist of an administrative trial conducted in the same manner as a trial in Federal court. They require the public to foot the bill for the time of a team of agency lawyers and administrative law judge. They take EPA scientists away from their duties and require them to spend time testifying and in cross-examination for periods of days or weeks.

Because cancellation hearings are rare, they are an acceptable procedure for protecting registrants' due process rights to a hearing. But they are clearly an ineffective and undesirable mechanism for making routine decisions as to how strictly EPA should regulate particular products. They result in legal decisions, made by lawyers and administrative judges, not in regulatory decisions made by EPA scientists and policymakers. If the McHugh amendment were adopted, EPA would be inundated with these cancellation hearings. The amendment would give extraordinary power to a single individual to tie up EPA's regulatory resources in unproductive litigation. A single person could demand a hearing on virtually every EPA regulatory decision and force EPA to spend months or years trying its case before an administrative law judge after the agency had already fully considered the evidence and reached a decision through its administrative review.

This clearly would be unwise. The law should stay as it is. The public should provide its input during the adminstrative review at the time when EPA makes its regulatory decisions. If a cancellation hearing is held, of course the public should continue to have the right, as it does now, to participate in it. And the public should continue to have the right, as it does now, to get judicial review of EPA regulatory decisions. But a person should not be able to tie EPA in knots by demanding that lengthy and expensive cancellation hearings be held whenever they feel that EPA has not been quite strict enough.

Now, the gentleman is correct in reciting that under the procedures in effect from 1970 to 1979, notice to any interested person adversely affected was the practice by EPA, and then they narrowed the definition in an effort to limit it to those who could specifically demonstrate an adverse economic effect. Now, one can argue that that was a bad decision, but I think that one can understand that it does become necessary in order for the efficient and economical administration of the law to try and limit the participation in situations involving the cancellation of pesticides. For those of my Democratic friends who think that this is a foul plot by an administration out to dismantle the EPA, I point out that this was done by the Carter administration, not the Reagan administration.

That redefinition was taken to the court, as the gentleman indicated, and the court upheld it. There is nothing basically improper with seeking to limit the requirements of notice, and so forth, in connection with a cancellation procedure.

Now, I would still be inclined to go back to the previous practice if it were not for the fact that there are alternative processes which any member of the public can use to participate in these kinds of activities. They have a voice in the processes during the RPAR proceedings, which allows them to have input, and they also have access to the courts in other situations when it is desirable for them to do so.

Despite my personal feelings, I feel that I have to oppose including this language in the bill.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for his comments. The point here is that we are faced with a significant public policy decision. The 1980 court decision which was referred to in my statement and which the gentleman has referred to as well was not a policy decision.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. McHugh, and by unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

Mr. McHUGH. The court decision was not a public policy decision. It did not consider whether it is good policy to permit the public the right to request a hearing. It was simply a determination on the law as the court read it in 1980. Really, the public policy decision is one we must make.

I do not know why no member of the committee chose to offer the amendment. There can be any number of reasons for that, but it does not preclude the members of the committee and the Members of the entire House from making this important public policy decision now. What the gentleman said, it seems to me, indicates that he personally recognizes that an affirmative decision on the amendment would be good public policy, but for strategic reasons he chooses not to support it at this time. I understand that, but I would ask the Members of the House not to be so concerned about strategy, but to be concerned with the public policy implications of this issue.

I think that the better policy agreements, as the gentleman himself has said, giving the public the right to request a public hearing when a particular decision is made which may potentially have a significant impact on the public. That is all this amendment does. It was the practice between 1972 and 1979, and therefore we are not asking for anything particularly dramatic or different.

I thank the gentleman for yielding.

□ 1530

The CHAIRMAN pro tempore (Mr. Mineta). The time of the gentleman from California (Mr. Brown) has expired.

(By unanimous consent, Mr. Brown of California was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Mr. Chairman, the gentleman has correctly identified my personal feelings, but as is true of all Members of this House, there are times when we feel constrained to limit our personal preference in the interest of the greater good.

One of the reasons why this amendment probably was not offered in committee deliberations is because we have language which to some degree lessens or eliminates the necessity for this particular language on page 15 of the bill, and I would like to refer the gentleman to page 15, line 22, which I will read:

> A decision by the Administrator not to cancel or suspend the registration of a pesticide product or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b)—

And then it continues, and this is the point that is the most pertinent—

> and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection.";

That person will, of course, have a full right and standing to participate.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I appreciate the gentleman's yielding.

The purpose of my amendment is to avoid the necessity of requiring a citizen or a citizens' group to go to Federal court or any other court to enforce their rights.

The CHAIRMAN. The time of the gentleman from California (Mr. Brown) has expired.

(On request of Mr. McHugh, and by unanimous consent, Mr. Brown of California was allowed to proceed for 1 additional minute.)

Mr. McHUGH. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of California. I am happy to yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I think it would be more efficient and less expensive if we permitted a citizen or a citizens group, rather than waiting for a court review, to raise these issues during the administrative process. So I think, for that reason as well, it would be in the public interest to

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permit this kind of public access to be allowed.

Mr. Chairman, I would hope that the gentleman will reconsider his reluctant opposition.

Mr. **WAMPLER**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment which would provide any interested person a right to demand a hearing when EPA has proposed to retain a pesticide by additional restrictions on its use rather than canceling its use.

Section 6(b) of FIFRA entitles persons adversely affected by a proposed cancellation action to challenge this decision in an administrative hearing.

EPA in reviewing registered pesticides for possible unreasonable adverse effects to man and the environment through the RPAR process has utilized the risk/benefit analysis as a result in many cases is able to continue the use of pesticides by incorporating restrictions such as usage limitations, improved application directions, or more emphatic label warnings.

EPA in 1979 made an administrative decision in interpretation of adversely affected that only registrants and users of pesticides, which are those with an economic interest in the continued registration of a pesticide, were entitled to a hearing under section 6(b).

The public interest groups, although they may have participated in the RPAR process, still feel they should be able to demand an administrative hearing to challenge this type of action, saying it has not gone far enough and that in effect the pesticide use should be canceled. The public interest groups unsuccessfully challenged this administrative ruling in court. The court ruled that Congress intended to provide an administrative hearing only when a pesticide use is being canceled, not when its use is being retained conditionally.

Since the public interest groups have an input in the RPAR process and have the opportunity to appear before the FIFRA scientific advisory panel, all before the final decision is made, and then may challenge this refusal to cancel in Federal district court under the provision of section 16(a), I feel that adequate safeguards have been provided and this amendment should be rejected. I might point out that the subcommittee considered this proposal during its deliberations and determined that such language was not needed.

For those who are more interested in the details of this issue I will continue further.

The Rosenthal amendment to section 6(b) of FIFRA provides that whenever EPA proposes to place regulatory restrictions on a product, any interested person may compel EPA to hold a courtroom-type cancellation hearing for the purpose of determining whether even greater restrictions should be imposed on the product than those EPA decided on. My problem with this amendment is not with its underlying concept—that any interested member of the public should be able to request stricter regulatory action. My problem is with the procedure chosen to do this—the formal, courtroom-type cancellation hearing.

A cancellation hearing is a lengthy, time-consuming, resource-consuming piece of litigation. It is simply bad law and bad policy to make cancellation hearings the vehicle for regulatory decisions as to how strictly pesticides should be regulated. Yet that would be the primary effect of the Rosenthal amendment.

I believe that all interested persons should have an input into EPA decisions as to how strictly to regulate pesticides. But as I will show, that opportunity is already provided under current law during the administrative review process. Because cancellation hearings under section 6(b) are really formal litigation, they serve a very narrow purpose. It would be a grave mistake to adopt the Rosenthal amendment and thereby turn them into something they were never intended to be and that is essentially unworkable—a forum for deciding how strictly to regulate pesticides.

The issue raised by the Rosenthal amendment is not whether environmental groups should have the same right to demand a cancellation hearing under section 6(b) as a pesticide registrant. That is a false issue.

Rather the issue is, What is the proper time and place for the public to have input on how strictly a product should be regulated? Is the proper procedure, as I contend, for the public to make its beliefs known during the agency's regulatory review process? Or is the proper procedure, as Mr. ROSENTHAL contends, to decide regulatory issues through administrative litigation—that is, to let any person demand that a formal courtroom-like cancellation hearing be held to redecide how strictly to regulate a product whenever a person feels that EPA has not been strict enough?

I believe that cancellation hearings under section 6(b) should not be the forum for redeciding regulatory issues. The proper time for the public to comment on how strictly to regulate a product is during the administrative review process. If anyone thinks that EPA was not strict enough after an administrative review, that person has the right to take EPA to court under section 16(a) of FIFRA and ask the court to review what EPA has done.

Cancellation hearings serve the narrow purpose of giving a registrant a right to due process of law if his product is going to be canceled. They should not be expanded, as proposed in the Rosenthal amendment, into a device for deciding anew EPA decisions that a person does not like.

I believe the logic of my position becomes even more clear when one understands the different purposes served by administrative review on the one hand, and by cancellation hearings on the other.

EPA decisions as to whether to impose restrictions on a product, or even cancel a product, are made in an administrative review process called an RPAR (Rebuttal Presumption Against Registration). Every person has a full right to participate in this regulatory process and to urge that a product be strictly regulated and to provide to EPA any data or arguments in support of his position. If the person feels that EPA has not been strict enough at the conclusion of the RPAR, he can sue EPA in Federal court and obtain review of EPA's decision. This is in fact made crystal clear in an amendment in H.R. 5203 to section 16 of FIFRA concerning judicial review.

In summary, EPA has found based on many years of experience that the administrative review or RPAR is the best procedure for deciding how strictly to regulate, and that is the proper time and place for the public to participate and express its views on how a product should be regulated.

In contrast, a cancellation hearing under section 6(b) serves a very different and narrow purpose. When EPA proposes to cancel a product, the registrants and other adversely affected persons can request a formal hearing to protect their procedural right to make sure that the cancellation is carried out in accordance with due process of law.

Cancellation hearings are very rare; very expensive for the taxpayer; very time consuming and resource consuming; and very burdensome on EPA.

There have been only a handful of such hearings since EPA was created in 1970—for DDT, aldrin and dieldren, heptachlor and chlordane, and 2, 4, 5-T. They typically last for a minimum of 6 months and can take years to complete. They consist of an administrative trial conducted in the same manner as a trial in Federal court. They require the public to foot the bill for the time of a team of agency lawyers and administrative law judge. They take EPA scientists away from their duties and require them to spend time testifying and in cross-examination for periods of days or weeks.

Because cancellation hearings are rare, they are an acceptable procedure for protecting registrants' due process rights to a hearing. But they are clearly an ineffective and undesirable mechanism for making routine decisions as to how strictly EPA should regulate particular products. They result in legal decisions, made by lawyers and administrative judges, not in regulatory decisions made by EPA scientists and policymakers. If the Rosenthal amendment were adopted, EPA would be inundated with these cancellation hearings. The amendment would give extraordinary power to a single individual to tie up EPA's regulatory resources in unproductive litigation. A single person could demand a hearing on virtually every EPA regulatory decision and force EPA to spend months or years trying its case before an administrative law judge after the agency had already fully considered the evidence and reached a decision through its administrative review.

This clearly would be unwise. The law should stay as it is. The public should provide its input during the administrative review at the time when EPA makes its regulatory decisions. If a cancellation hearing is held, of course the public should continue to have the right, as it does now, to participate in it. And the public should continue to have the right, as it does now, to get judicial review of EPA regulatory decisions. But a person should not be able to tie EPA in knots by demanding that lengthy and expensive cancellation hearings be held whenever they feel that EPA has not been quite strict enough.

EPA should spend its resources regulating, not litigating. For these reasons, I oppose the Rosenthal amendment, and suggest that the spirit of full public participation in the regulatory review process is already realized under the existing law.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the McHugh amendment.

Mr. Chairman, this amendment is needed to repair an unfortunate and erroneous interpretation of the intent of Congress in passing FIFRA, back in 1972. In 1979, the Court of Appeals for the District of Columbia held that only one segment of the population is entitled to a regulatory hearing on whether a given pesticide should be banned or blessed. That segment of the population is the very industry which is asking EPA to declare the pesticide safe.

The McHugh amendment, which I strongly urge you to support, would simply put an end to this inequity. It would restore the right of citizens' groups to participate in the review and decisionmaking aspects of the pesticide regulatory process. It is crucial to the nature and function of the administrative process that adverse parties stand on an equal footing before the adjudicatory body; namely, EPA.

The District of Columbia Circuit Court decided only last year that citizens groups were not entitled to demand a hearing or the cancellation or registration of pesticides. How the court reached this decision is a lesson in tortured legislative interpretation. Basically the court found that citizens are not "adversely affected" as presently required under section 6(b). If a person is not adversely affected he or she has no right to a hearing.

As the law now stands, EPA can propose a change in the restriction or cancellation of hazardous pesticides, but unless the registrant of the pesticide disapproves of the decision and requests a hearing, no formal hearing will be held. This system inhibits the full-fledged investigation of the health and economic issues presented by a pesticide. Most important it is simply unfair to give industry such an upper hand.

Formal hearings are essential to the ventilation of all views on the classification or cancellation of a pesticide. Only through adversary, trial-type hearings can an adequate record be compiled. What is at issue is not a means to delay the registration of pesticides. What is at issue here is the demand by the American public for responsible regulation. And that means the consideration of both sides of complex scientific and economic determinations. It does not mean that EPA should be permitted to conduct private negotiations with the very industries it should be regulating in a neutral fashion.

We should never have had to enact an amendment such as this. But given the unfortunate gloss the District of Columbia Circuit has placed upon the statutory language, it is imperative that we enact this simple amendment to restore the original intent of Congress.

● Mr. ROSENTHAL. Mr. Chairman, I rise in support of Representative McHugh's amendment to H.R. 5203.

In 1963 and 1964 when Congress considered changes to Federal pesticide law as proposed by Senator Ribicoff and myself, I included language which enabled individuals adversely affected by an order of notification regarding the registration of pesticides to seek judicial review of such an order. This was the first instance of judicial relief incorporated in FIFRA and set a precedent for subsequent amendments through the sixties and seventies, as Congress broadened the scope of FIFRA. As originally conceived, judicial review was seen as an avenue for persons to challenge USDA's final order on a registration or change in registration of pesticides.

In 1972, Congress expanded the scope of public challenges to EPA decisions to include administrative proceedings, incorporating the Rosenthal-Ribicoff language, and covering administrative hearings on charges in the registration of pesticides. As a result of the 1972 amendments, section 6(b) of FIFRA provides that "a person adversely affected" by a notice of intent to cancel a registration or change a classification of a pesticide is entitled to request a hearing before EPA. Every major pesticide cancellation and suspension decision made by EPA between 1972 and 1979 has involved such a hearing and in virtually every case, environmental, labor, and farmworker organizations have been equal participants, along with registrants and user groups, in airing the issues involved.

Legislative history shows that Congress intended all persons, regardless of pecuniary interest, who believe their interest to be adversely affected by a proposed EPA pesticide cancellation action would be full participants in the Agency hearings. As the Senate report on the 1972 amendments makes clear:

> The Agriculture Committee bill . . . permits any citizen to initiate cancellation proceedings, obtain judicial review of every action and inaction he disagrees with, and intervene in every proceeding . . .

It should be noted that the conference adopted the Rosenthal-Ribicoff "adversely affected" language in its final report.

In 1979, however, EPA limited the language of section 6(b) to only registrants of and users of pesticides: That is, those with an economic interest in the continued registration of an economic poison, can be adversely affected. The result is that the public is excluded from challenging the notice at the administrative level.

In 1982, the U.S. court of appeals affirmed the Agency's position, reversing almost 10 years of EPA acceptance of public challenges, Environmental Defense Fund aganist Costle (D.C. Cir., 1980).

In affirming the EPA Administrator's position, the court chose to ignore the weight of the legislative history and interpreted section 6(b) in an overly restrictive manner: That a valid challenge would exist only with respect to a cancellation or suspension notice in its entirety. Thus, any objection to the retained portion of a cancellation or suspension notice is not subject to a challenge.

Congress intended all interested parties access to EPA's regulatory procedures with respect to the registration of pesticides, fungicides, and rodenticides.

The decision in Environmental Defense Fund against Costle makes it clear that the statutory language must be strengthened to insure the public's continued access to EPA's administrative procedures. I strongly urge my colleagues to support the McHugh amendment.●

● Mr. EDWARDS of California. Mr. Chairman, I strongly urge my colleagues to support the McHugh amendment. This is a simple, technical correction of the procedures for the registration and cancellation of pesticides. The McHugh amendment will remove an unfair impediment to citizen participation in the registration process which was erected only last year by the Federal courts.

Last year the U.S. Court of Appeals for the District of Columbia Circuit ruled that citizens are not entitled to a hearing when the EPA fails to ban a pesticide. Congress never intended to deny citizens the right to initiate EPA administrative hearings. Yet the court's wrongheaded interpretation of FIFRA eliminated this procedural guarantee.

The situation as it now stands is patently unfair and blatantly contrary to the purpose and function of administration proceedings. At present the only persons entitled to a hearing on registration or cancellation are the manufacturers or registrants of the pesticide. To deny citizen access to the administrative process is to deny the opportunity to hear conflicting evidence on these sensitive and complex technical questions.

Let me illustrate the need for this amendment in somewhat more realistic terms. Imagine a group of farmworkers in the San Joaquin Valley who are engaged in citrus fruit picking. The farmers in that valley would like to utilize a registered fungicide, call it X-100, to combat a new strain of fungus. The farmworkers are opposed to the use of X-100, because of its known carcinogenic effect. Nevertheless, rather than oppose the use of X-100 altogether, the farmworkers only want to make sure X-100 is only used by certified applicators.

Can the farmworkers persuade EPA to limit this use of X-100 to certified applicators? The answer is "No." Only the registrant of the pesticide is entitled to a hearing on its classification. Under the current interpretation of the law, farmworkers have no right to an evidentiary hearing on the classification of a pesticide.

The amendment offered by the distinguished gentleman from New York will eliminate this inequity and guarantee equal access to the administrative process. Most important, it will improve decisionmaking on the use of pesticides on American farms by insuring that opposing views can be heard on the issue.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. McHugh).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: Page 42, strike out line 3 and all that follows through line 20 on page 52, and insert in lieu thereof the following:

DISCLOSURE OF INFORMATION TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS

Sec. 5. (a) Section 10(g) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before allowing such person to inspect data, and before disclosing such information to a person under section 552 of title 5, United States Code, or any other law, the Administrator shall require the person involved to submit a written request for inspection or disclosure and a signed affirmation specified in subparagraph (D).

"(B) The Administrator shall transmit a copy of the request and affirmation to the applicant or registrant who submitted the data or information with respect to which inspection or disclosure is requested. During the 30-day period beginning on the date such copy is transmitted, such applicant or registrant may submit to the Administrator evidence that such person is ineligible under this subsection to inspect such data or receive such information.

"(C) After the expiration of such 30-day period, the Administrator may allow such inspection of data, and may disclose such information, as authorized by other provisions of law only if the Administrator determines that such person is eligible under this subsection to inspect such data or receive such information. For purposes of making such determination, the Administrator may refer to the Attorney General for investigation, the matter of such person's eligibility.

"(D) For purposes of complying with this subsection, the Administrator may accept only the following affirmation:

"I have requested access to information submitted by an applicant or registrant under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to the Environmental Protection Agency. I hereby affirm:

"(1) That I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or its agents or employees; and

"(2) That I will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employers.

"I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such statement is false or if I willfully conceal any material fact.

Signature————————.
Name————————.
Address————————.
Organization or Affiliation————.
Client————————.".

(b) Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

Page 52, line 21, strike out "(7)" and insert in lieu thereof "(1)".

Page 53, line 2, insert "involving the production, registration, distribution, or sale of a pesticide" after "purpose".

Page 53, line 10, insert "and" at the end thereof.

Page 53, line 11, strike out "(8)" and insert in lieu thereof "(2)".

Page 53, line 22, insert a period at the end thereof.

Page 55, beginning on line 11, strike out ", or under regulations promulgated under section 10(d)(2),".

Page 61, beginning on line 17, strike out "Notwithstanding the provisions of section 10(g)(2) of this Act, but subject" and insert in lieu thereof "Subject".

Page 73, after line 21, insert the following new section:

STUDY OF DISCLOSURE OF SUBMITTED INFORMATION

Sec. 17. The Administrator of the Environmental Protection Agency shall enter into an agreement with the National Academy of Sciences, which provides that the National Academy of Sciences—

(1) shall conduct a study to determine with respect to the disclosure of information under section 10(d) of the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) the type and volume of information disclosed under such section;

(B) the type or volume of information which the Administrator refused to disclose under such section;

(C) the economic result of the disclosure of information under such section on the submitter of such information;

(D) the effects of the refusal to disclose information under such section on competition among pesticide producers;

(E) the effects of the disclosure of, and the refusal to disclose, information under such section on research and development of pesticides and pest control methods; and

(F) the extent to which the refusal to disclose information under this section has reduced the capacity of scientists to make accurate determinations with respect to any adverse effects of a pesticide on health and the environment; and

(2) shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report, not later than 2 years after the date of the enactment of this act, stating its—

(A) findings with respect to the matters described in paragraph (1); and

(B) any legislative and administrative recommendations based on such findings.

Page 74, strike out line 1 and all that follows through line 23 on page 84.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, the purpose of this amendment is to deal with the public disclosure and use of information on health and safety testing developed in connection with the registration of a pesticide, insecticide, or rodenticide. The purpose of the amendment is to leave the situation with respect to disclosure and use of such information as it was written into the 1978 FIFRA amendments. In those amendments, a very fair and equitable balance was struck between disclosure and use of health and safety information and the protection of confidential data.

The bill now before the House seeks to really undo that balance and place new restrictions on the use of health and safety information even though due to court litigation we have not really had an opportunity for the 1978 provisions to apply. Because this matter is of some concern and controversy, my amendment also directs the Administrator of the Environmental Protection Agency to enter into an agreement with the National Academy of Sciences to conduct a 2-year study on the economic and scientific consequences of disclosing this information. This study will put Congress in a position to evaluate this issue objectively.

Mr. Chairman, this amendment is important. It is extremely important because we are talking about health and safety testing data. We are talking about the right of the public and the scientific community to have a full opportunity to assess, to discuss, to challenge, and to question the information that has been developed by a company and submitted to EPA to establish that their product is safe to use. We are talking about the right of the public and the scientific community to determine whether there are any flaws or defects or invalidity in the protocol only with respect to health and safety information.

□ 1530

The provision in the 1978 provision does not in any way call for the revealing of proprietary trade secrets which a company should be able to protect. With regard to information on the formulation of a product, with respect to what ingredients go into it, how it is made or any other proprietary information, there is ample protection already in the law.

This amendment does not touch those protections.

What we are seeking to do with this bipartisan amendment, Mr. Chairman, is to make available, for complete use and discussion on its validity and accuracy, information relating to the health and safety effects of products which we have already heard may have tremendous implications with respect to human health when introduced into the environment, into the food chain and into the bodies of individuals.

All we are seeking to do, Mr. Chairman, is to let the 1978 amendments go into effect.

The fact of the matter is that the 1978 amendments, were supported by many people who today are apparently going to oppose my amendments. And the 1978 amendments were drafted in such a way that a balance could be struck; but immediately after the provision went into effect a series of court cases and injunctions were sought which held up actual disclosure of such health and safety information until only very recently when those injunctions were one after the other dissolved.

Because it appears that the 1978 amendments can now go into effect, there is an attempt being made in the bill before us now to restrict again the availability and discussion of health and safety information. Yet, in order to ascertain where there have been flawed tests, where there have been inappropriate protocols run or where there has been a failure to determine the environmental fate of a particular chemical, the public and scientific community need full access and open discussion of this information.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent Mr. LEVITAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I have recently seen an article that appeared in the August 6, 1982 issue of Science magazine entitled "A Battle Over Pesticide Data." It deals with this very subject.

In this article it says that it has been aruged that the general release of this health and safety information "would permit other firms to profit at an inventor's expense."

It then goes on to say that the claim has "largely been rejected by the courts because Congress explicitly realized this concern and included a provision in the law forbidding the use of the data by a competitor for at least 10 years after a product is registered."

Now, Mr. Chairman, the bill we are dealing with today extends that period for an additional 5 years so the companies have 15 years of exclusive use on data of this sort. No competitor can use it.

Indeed, this particular bill gives to a corporation the right to go into Federal Court and sue for treble damages if some competitor uses this health and safety information for a commercial purpose.

There are some in this industry who argue that is not enough. They want to exclude even the public from utilizing this health and safety testing data; that is data that relates to whether a product is safe and whether it can be used, not data relating to the trade secrets of the manufacturer.

But that view, Mr. Chairman, is not universally held.

Let me quote from this article in Science magazine, and I read as follows:

> One herbicide and insecticide manufacturer, the Shell Oil Company, does not share these concerns. Edward Hobson, a Washington representative for Shell, says that his company believes that "health and safety data should be made available to anyone that asks for them. We have not had many requests for our data, but we have yet to see any adverse commercial impact from handing it out."

Mr. Chairman, in addition I have received a letter from the American Association for the Advancement of Science specifically with respect to this particular provision. They argue that the bill would change existing provisions of section 10 by effectively barring independent scientific access to primarily technical information relevant to the registration of chemical pesticides.

They argue in this letter, Mr. Chairman, that the provisions in this bill would interfere with scientists' access to data for public discussion to determine the health and safety effects of pesticides.

Mr. Chairman, I understand the necessity for protecting trade secrets. When I was in the Georgia State Legislature I offered the first two comprehensive pieces of legislation protecting trade secrets.

But it is not a trade secret to determine the validity of methods results of tests relating to the health and safety of products which by their very nature have problems and which must be discussed within the entire scientific and public community to determine whether or not appropriate safeguards have been taken for their safe use.

It is particularly important, I say to my good friend from California (Mr. BROWN), the chairman of the subcommittee, at a time when we are seeing reductions in the budget of the Environmental Protection Agency and when we are seeing less resources available to make the type of determinations that ought to be made to protect the health and safety of the public, to avoid restricting even further the right of the scientific community and the public in general to have access to this information, and also the opportunity to publish and exchange with each other necessary information.

The exclusive use provisions are built into this legislation. No change is being made in that regard. Nothing relating to the formulation of products or the ingredients in products or any other matters of which would truly be proprietary trade secrets is changed.

What we are simply asking is that test data relating to health and safety be made available to the public so that it can be discussed freely and the regimen of scientific peer reviews can go forward.

It seems to me one of the arguments in the committee report, in favor of what is in the bill, supports as strongly as anything I could say why we ought to adopt my amendment and let the 1978 law go into effect so that this process can go forward.

In the committee report it says that—

> These innovations—

That is health and safety testing innovations—

> greatly benefit the innovating company and the EPA in that a more precise and reliable

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scientific assessment of a pesticide's safety can be carried out in their application.

If that is true for the company and EPA, it is certainly true for the scientific community and for the public as well.

I urge the adoption of my amendment.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

I have to say to the gentleman from Georgia that he has made a very stirring, eloquent, rational defense of his amendment and I would say that he has almost persuaded me that what he proposes to do would be a marked improvement in the legislation, but not quite.

First of all, let me say that the general background the gentleman has given is correct. We are talking about a section of the FIFRA Act which relates to the public disclosure of health and safety data by the chemical companies in their filings with the EPA to secure certification of their particular product.

The provisions of the 1978 law made it clear that the Congress intended that that data would be available to the public.

□ 1540

As the gentleman well knows, the efforts to acquire that data by public interest groups were subjected to litigation by the chemical companies and to this date there has not yet been a full and complete disclosure of the health and safety data that were provided for by the 1978 law. I think the gentleman asserted that, and I can confirm that.

Now, the committee confronted this situation, in looking at the revisions of the act. We were concerned about it. And we sought ways to make more effective the 1978 provisions with regard to the release of health and safety data, not to make them null or less effective. The purpose of the language we have in the act is to make sure that the public has adequate access to all of the necessary health and safety data.

We have done that by more clear definition of procedures, by setting forth guidelines and principles in the act. Most of the litigation brought by the chemical companies in connection with this matter is moving toward resolution. Some have been resolved, and the courts have uniformly upheld the principle of the public's access to this data.

So the problem now is doing this in an efficient and effective way, in which the reasonable and legitimate interests of the chemical companies are protected. And this is what we have sought to do in this legislation.

In some cases it may look as if we have placed additional restrictions or roadblocks in the way of the public. I deny that this is the actual situation.

Reference has been made, for example, to the slight additional protection on new and innovative technology as being a loophole through which the chemical companies can prevent access to essential data required for evaluating the particular product that they are seeking to have registered. I deny that that is the case.

We do give protection to new and innovative technology. We did it deliberately. We did it in pursuit of the goal of encouraging chemical companies to engage in more research and development and to develop more and better products to replace some of the inadequate products which are currently on the market. We make no apologies for this. And yet I fear that these efforts have stirred up concern amongst some of the scientific community who fear that they may not have access.

I saw a letter, for example, signed by, I believe, 41 prominent scientists lamenting the fact that their access to important scientific data would be curtailed. And the fact of the matter is that every scientist who signed that letter would have access to any data that he wanted with regard to the new and innovative procedures or any other health and safety data that was available.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. If the gentleman will yield to me, I want to make two points about something my good friend from California just said. First, I have no disagreement with the gentleman and the committee on the desire to encourage new and innovative products and to assure protection as an incentive for the development of those products—their formulation, their ingredients, how they are made. But that is not what my amendment deals with. My amendment deals solely with the information relating to tests on the health and environmental safety effects of those products. This information does not relate to development of the products themselves, but only to the health and safety data on the products. Health and safety information should not be held close to the chest as a proprietary matter, because you may find that something down the road can protect someone's life. It is just this health and safety data that we are dealing with here.

The other point that I would like to make concerns the letter referred to by the gentleman which was signed by over 40 distinguished scientists. As I pointed out, the American Association for the Advancement of Science also supports my position. Yes, indeed, under the gentleman's bill those individuals would be able to come in and, under very restricted circumstances, look at that information and, under other circumstances, even talk to each other about it.

But what they could not do, according to the bill that is before us, is publish that information. And in the scientific community, as the gentleman well knows, if you cannot publish information based on health and safety testing, you really cannot have adequate discussion of it within the scientific community. And that is where the problem is. The gentleman's bill lets scientists have a peek at the information, but it does not let them discuss it publicly in the traditional way that scientists discuss such information.

At this point I would like to submit for the RECORD this letter signed by distinguished members of the scientific community and the letter from the American Association for the Advancement of Science:

JULY 19, 1982.

THE U.S. CONGRESS,
Washington, D.C.

DEAR MEMBERS OF CONGRESS: We are gravely concerned that amendments to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), now under consideration in the House of Representatives and the Senate, will have a long-standing adverse effect on scientific inquiry and reduce protection of human health and safety.

H.R. 5203, S. 2620 and S. 2621, the bills pending before both Houses of Congress, reverse the 1978 statutory decision of Congress regarding public and scientific review of the premarket test data conducted to determine whether pesticides endanger human health. Section 10 of FIFRA provides that such data—generated by the producers of pesticide products—shall be available for scrutiny by scientists and the public. The Act protects trade secrets and gives the Environmental Protection Agency (EPA) certain discretion in what it requires be disclosed. Yet without this peer review, as allowed under the 1978 Act, there is no way of knowing whether testing on these substances has been conducted thoroughly and the data honestly presented to the regulating agencies charged with protecting the public's safety.

That is the crucial issue, in our view. The public has a right to know what and how scientific studies are conducted on potentially hazardous substances to which the public is widely exposed. It is no secret that some premarket testing in recent years has been conducted under less-than-rigorous standards, resulting in charges that testing was incomplete, inadequate, or the conclusions fraudulently reached. Premarket test data—the most crucial measure of a substance's potential effects on humans and the environment—must be available to the public.

H.R. 5203, S. 2620 and S. 2621, however, would seriously hinder the ability of scientists and the public to review premarket test data. Section 5 of H.R. 5203 as reported from the House Committee on Agriculture would:

(1) allow access to the data "but impose conditions governing further copying or transfer of the data;"

(2) severely limit the public's access to scientific studies that utilize "innovative methods or technology," a vague term that the amendments define as "innovative methods

or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, residue chemistry, and metabolism data that are substantially different from known methods or technologies and innovative compositions of matter;" and

(3) place constraints on how "scientists and [public interest or labor] representative may communicate with each other and with the [EPA] Administrator, and in judicial or administrative proceedings concerning the innovative methods and technology without disclosing them to the public."

The "innovative methods and technology" restrictions are especially unacceptable because much scientific research could be classified as such.

The bills abrogate the essence of important safety precautions that were carefully drawn by Congress in the past with the aim of balancing protection of public health with reasonable regulatory measures designed to encourage the marketing of useful pesticide products.

We strongly urge members of Congress to consider the ramifications of not allowing premarket test data to be reviewed and critiqued fully and freely by both the scientific community and the public. We do not believe that such testing should be conducted behind closed doors or its findings kept secret. Scientists welcome the opportunity to share their findings. Peer review is accepted as a way of measuring the merits of scientific research and study.

We do not believe that public access to premarket test data, once it is completed, unfairly benefits competitors in the pesticide marketplace. Trade secrets can be protected without restricting scientific communication. There is no evidence that economic harm will accrue to the pesticide industry if safety testing data is made public. Patent laws and other provisons of law adequately defend industry investment in research and development of pesticide products.

It is these provisions of the bill with which we are concerned. We urge you to oppose all three FIFRA amendments as drawn and to support the existing provisions of the 1978 law that require premarket test data be readily available for public scrutiny.

Sincerely,

Marvin S. Legator, Ph. D., Professor and Director, Department of Preventive Medicine and Community Health, The University of Texas, Medical branch, Galveston, Tex. 77550

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Myra Karstadt, Ph. D., Assistant Professor of Community Medicine, Mt. Sinai School of Medicine of the City University of New York, New York, NY 10029

John Froines, Ph. D., UCLA School of Public Health, Southern Occupational Health Center, Room CHS 21-297 Los Angeles, Calif. 90024

Howard Backer, M.D., 49 Park Way, Piedmont, Calif. 94611

Anthony Robins, M.D., President-Elect, American Public Health Association, 7103 Oakridge Avenue, Chevy Chase, Md. 20815

Sharon Itaya, M.D., 603 Avondale Street, Houston, Tex. 77006

David Spiegal, M.D., Associate Professor of Clinical Psychiatry, 580 Cotton Street, Stanford University, Menlo Park, Calif. 94025

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Gilbert S. Omenn, M.D., Ph. D., Professor of Medicine, Professor and Chairman Environmental Health, University of Washington, Mail Stop S.C.-34, Seattle, Wash. 98195

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M. Adrian Gross, D.V.M., Benefits and Field Studies Division, Office of Pesticide Programs, Environmental Protection Agency, 2947 Birch Tree, Silver Spring, Md. 20906

Marvin Schneiderman, Ph. D., Clement Associates, 1515 Wilson Blvd., Arlington, Va. 22209

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Zena Stein, M.B.-B.C.H., New York State Psychiatric Institute, 722 168th Street, New York, N.Y. 10032.

AMERICAN ASSOCIATION
FOR THE ADVANCEMENT OF SCIENCE,
Washington, D.C., July 30, 1982.

Subject: H.R. 5203.

Hon. ELLIOTT H. LEVITAS,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. LEVITAS: Genuine concern exists among scientists and environmental organizations regarding the above-cited Bill. The Bill would change existing provisions of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act by effectively barring independent scientific access to primary technical information relevant to the registration of chemical pesticides.

The amendments, with particular reference to "innovative methods or technology," pose important issues of sound national science policy. If independent scientific verification of data presented with applications for the registration of chemical pesticides is foreclosed by legislation accompanied by severe penalties on disclosure, both public and scientific accountability could be degraded unacceptably.

In the absence of a showing that the existing provisions authorizing access to technical data are unsound, I urge that the proposed amendments be held in abeyance pending a timely report from the National Academy of Sciences on their effects upon the efficacy of scientific verification of the bases for registration of chemical pesticides.

Sincerely,

William D. Carey,
Executive Officer.

Mr. BROWN of California. Let me reiterate my great admiration for the eloquence of the gentleman from Georgia, and then let me read what this says about publication. I am reading from page 79, line 5:

> The regulations shall provide that information in any study concerning health, safety, or environmental effects of pesticides may be publicly discussed, quoted, and communicated without restriction. . . .

Mr. LEVITAS. What the gentleman has read from is the section immediately preceding the loophole, dealing with innovative methods and technology, which begins at the bottom of that page.

Mr. BROWN of California. All right, would the gentleman then allow me to continue? Continuing with the section the gentleman refers to:

> An item of data may not be considered an innovative method or technology for longer than 5 years after the date of submission.

The gentleman knows it is of limited term.

> The regulations shall provide that test methods or technology described or referenced in the Administrator's registration guidelines or in the scientific literature, or any test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife, are not eligible for treatment as "innovative methods of technology."

Mr. LEVITAS. If the gentleman will yield for a question at that point, I find it strange that that language and that listing of what cannot be considered innovative methods or technology—which is, as the gentleman, I am sure, would admit, restricted information not available for publication—does not deal with such things as the environmental fate of a chemical. It does not deal with matters relating to metabolites, which are essential in determining whether or not there are adequate protections over health and environmental safety effects.

On the very page following the one the gentleman just quoted from, it says the authorized recipients may communicate with each other—if they find out who has already taken a look at the data—but they may not disclose the information on innovative methods or technology used in health and safety tests to persons who are not authorized recipients.

And you know what that means. It means they cannot publish anything on the data. And that is where the loophole has its cut.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. Brown) has again expired.

(By unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

□ 1550

Mr. BROWN of California. I thought that by reading the actual language of the bill I could reassure the gentleman that there is nothing in the bill which constitutes a handicap.

Now, he has pointed out that we do not cover every possible eventuality. And I think he is correct. The bill is pretty long as it is. And we probably have not covered every possible eventuality. But we tried to even cover that situation by providing that if any scientist or expert or public interest group representative had a question about the classification of data as new and innovative technology, that they have a right to bring this to the attention of the science advisory panel, which is a body provided for, a longstanding body, I might say, originally created as a result largely of the work of the gentleman from Virginia (Mr. Wampler), they can ask this independent science advisory body to review whether or not the particular process or procedure really is an innovative process or technology within the meaning of the law.

So we have tried to make up for the fact that we could not spell out in every detail every possible thing.

I believe that this legislation, as it is now written, fully carries out the purpose of the 1978 act to provide for the fuller dissemination of information to the public, and I am convinced that the enactment of this law will expedite that process.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. Brown) has expired.

(At the request of Mr. Fuqua and by unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for yielding. I rise to discuss a number of research-related issues in H.R. 5203 that are of concern to me and other members of the Committee on Science and Technology, which I chair. As you are aware, the Science Committee has had a long and active legislative interest in FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act, having authorized its research and development budget since 1976.

While I believe the new concepts that are incorporated in H.R. 5203 were done in a responsible fashion, they could, if abused and applied improperly, undermine the integrity of free scientific exchange and public participation in pesticide regulatory decisionmaking. I am aware that the Committee on Agriculture has strived to protect and enhance avenues of public participation in pesticide decisionmaking and I commend the committee for upholding these important principles.

One of the new concepts introduced in this legislation is the "innovative methods and technology" provision. In section 5 it is defined as meaning—

> . . . methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, that are substantially different from known methods or technologies, and innovative compositions of matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data.

This could be abused or applied improperly and therefore this section requires further clarification. If a single step, in a series of steps, falls under the innovative provision, are all the other steps also protected from disclosure for 5 years by this provision?

Mr. BROWN of California. Only the specific step that is innovative would be afforded the additional protections established for "innovative methods and technologies" in section 10(d)(2)(B) of FIFRA, as amended by H.R. 5203. The other steps or methods would not be included along with the innovative method and would be made available in the same manner as other data.

Mr. FUQUA. I thank the gentleman for that clarification. Another area of concern relates to the availability of data for peer review that is protected by the "innovative methods and technology" provisions. In section 5 the statement is made that,

> The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and use the data in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public.

Does this mean that the existence of an innovative method will be made public in some manner such as providing notice in the index established under section 3(h)(2)(I) that lists each item of data submitted to EPA and that is made available to the public?

Mr. BROWN of California. The committee discussed at length how the public disclosure of pesticide safety and health data could inflict competitive harm on pesticide manufacturers. The provisions regarding "innovative methods" were devised to encourage private firms to conduct long-term high-risk research programs from which safer use of pesticides will emerge.

The procedures that the gentleman outlined for publicly identifying the existence of "innovative methods" accurately reflect the intent of the legislation. The existence of "innovative methods" should be stated clearly so that the public is aware of which studies contain truly novel scientific techniques.

Mr. FUQUA. I understand that independent scientists may request and obtain copies of complete studies containing innovative methodologies, including complete descriptions of those methodologies. In addition, these scientists may request a summary of the "innovative method" portion of studies for disclosure to the general public as provided for all other pesticide data. Is my interpretation of the committee's amendment correct?

Mr. BROWN of California. Yes; independent scientists who work in the field to which the data pertain, scientists of Federal or State agencies, and scientists and staff persons acting for nonprofit health, environmental, or labor organizations may obtain summaries of "innovative methods" or the complete studies, or both. Scientists that would have access to this material would include, of course, independent scientists at prestigious research institutions such as the Florida A. & M. University.

Mr. FUQUA. What would happen if substantive environmental and health questions arise which require broader scientific expertise and discussion to resolve?

Mr. BROWN of California. Any scientist of the type I just described can discuss his or her views with any other authorized recipient of innovative data or attempt to replicate or otherwise validate the method as long as they did not disclose the data to unauthorized personnel. Summaries of the data, however, may be made freely available by them to the public.

Mr. FUQUA. Are there any procedures for making innovative methodology in their entirety available to the public in emergency situations?

Mr. BROWN of California. Yes. Authorized recipients may submit such a request to the scientific advisory panel if they believe that the methodology should be disclosed in the public interest because of concerns as to protection of health, safety, or the environment. If the panel concurs, it would recommend to the Administrator that the innovative technology be made available to the public in the same manner as other data. If the Administrator concurs in such recommendation, the administration may make the method or technology so available.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mrs. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. Mr. Chairman, I commend my colleague, the gentleman from Georgia, for offering this amendment today striking section 5 from H.R. 5203. This section would block public access to pesticide testing data in most cases and as such would be a dangerous change from existing law, trampling on the public's right to know. I believe it also represents a significant departure from current scientific practices which allow full and open discussion of scientific methods used to reach conclusions about pesticides. When dealing with potentially hazardous chemicals, we must do everything in our power to facilitate peer review of testing methods, not set up roadblocks.

As section 5 now stands, the scientific community is expected to go through an obstacle course of redtape and justify the validity of their interest to obtain access to testing data. Even where individuals are successful, they are prohibited from publishing their critiques or in any other way distributing this information. You can look as long as you do not tell.

The result is that the public is forced to accept, for 5 years, the product health and safety test results of only one lab—the lab of the company producing the product. I believe the sponsors of this section are basically asking us to suspend our skepticism and accept on faith the results of only one testing point using "innovative methods," forgoing the benefit of multiple opinions and criticism. Mr. Chairman, I submit that this is an unreasonable request, particularly since we are dealing with public health, and I urge my colleagues to support the Levitas amendment striking section 5.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the Harkin, Panetta, and Levitas amendments to H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). I do so because of the additional protections these measures provide the public from the misuse of toxic chemicals. With the dangers posed by the use of certain pesticide formulas, I believe we can never be too careful in the manner in which these substances are evaluated prior to their commercial distribution.

As the bill was proposed, it imposed severe restrictions on a State's ability to require information from pesticide producers. It did so at a time when resources for Federal agencies like the EPA are being cut in anticipation of State assumption of additional Federal responsibilities. By limiting the ability of States to request additional health and safety data, H.R. 5203 would strip a State of its right to establish pesticide control programs that are tailored to the particular needs and demands of its citizens.

I strongly approve of the Harkin amendment to delete section 11. It is essential that we maintain the State's right to protect citizens and fieldworkers from exposure to unhealthy pesticide formulas.

Similarly, I urge my colleagues to join my support for the Panetta and Levitas amendments. Drafted in the same vein as the Harkin amendment, these proposals would also provide additional protection to States and their citizens in combating pesticide abuse. The Levitas amendment would provide States and the public access to vital data on the health effects of pesticides. Finally, the Panetta amendment allows private citizens access to Federal courts to litigate violations of FIFRA. I believe it is entirely appropriate for citizens to have access to Federal courts when current law contains extensive Federal regulations, denies Federal litigation, and few State courts have entertained suits brought by individuals based on State laws.

Mr. Chairman, I urge my colleagues to join me in supporting these important amendments in order to pass FIFRA legislation which adequately protects both industry and public interests.

Mr. WAMPLER. Mr. Chairman, the committee system in this body is either going to be effective and followed or not. Now, this amendment, which I saw for the first time today, is following on the heels of others adopted here, and quite frankly, if this amendment is adopted, it goes to the very heart of a very, very delicate compromise that has been reached in the committee over many, many, many months of negotiations.

I am not prepared to say that it satisfies everyone. But this committee worked diligently and under the leadership of the distinguished gentleman from California (Mr. BROWN) we brought the Members a bill. And of all the subject matter over which the House Committee on Agriculture has jurisdiction, none is more controversial, emotional, or technical than is FIFRA. And I think that is apparent to everyone.

We held hearings at different times on this legislation since June of 1981, and what we have before us we reported out of the committee in May of this year.

Now, as I indicated, the provisions of the bill are generally very technical. But especially this is true as to section 5 that my colleague from Georgia wants to amend.

Now, the gentleman from Georgia is a very resourceful legislator and a very able one, and is my friend. And he had

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opportunities to appear before our committee during the year that the bill was under consideration, and I must confess I do not recall his appearance there at any time. I do not mean to suggest that he was required to do so, and that he does not have the right to offer his amendment here.

But I want to say that had he requested the opportunity to appear, that I am certain the subcommittee chairman, the gentleman from California (Mr. Brown) and I would have discussed his problems at greater length than perhaps that which we are able to do now under the constraint of time.

I have had a chance to look briefly at his amendment. He asks the Administrator of the Environmental Protection Agency to enter into an agreement with the National Academy of Sciences, and then he specifies a number of things that he directs the National Academy to do. No one in this Chamber has a higher regard for the National Academy of Sciences than the gentleman from Virginia. They are one of our most prestigious scientific bodies. But he asks among other things that the National Academy determine the economic result of the disclosures of information under such section on the submitter of such information.

However, I was not aware that the National Academy of Science had the expertise to make economic judgments. And there are other deficiencies I think in what he is asking us to do in his amendment.

Now, my colleagues heard the colloquy earlier between the chairman, the gentleman from California (Mr. Brown) and I think he explained in response to the questions from the gentleman from Florida (Mr. Fuqua) that there are ways of obtaining access to innovative data and other material especially in emergency situations.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. Wampler) has expired.

(By unanimous consent, Mr. Wampler was allowed to proceed for 2 additional minutes.)

Mr. WAMPLER. So these are things that we should consider before we adopt amendments to legislation that would do it great violence in my judgment.

Now, Mr. Chairman, I think it is a known fact that in the agricultural chemical industry frequently many, many millions of dollars are spent in developing a new product. Those that apply for registration of their product have a substantial economic investment in that product. And I think they have a right to expect some protection of that data.

We have virtually written the law of patents in FIFRA in previous years. And I share the concern I am sure that many of my colleagues have of precisely what does the persistent use of agricultural chemicals and pesticides do to the environment.

□ 1600

I believe what we have brought you is the best bill that we are capable of producing, that tends to satisfy all the divergent interests and to try to undo this very delicate agreement that has been reached, I submit to you, will do violence to the whole concept that FIFRA was established to achieve.

So in light of the colloquy of the chairman, the gentleman form California, with the gentleman from Florida (Mr. Fuqua) and the author of the amendment, I suggest that this amendment should be rejected. Let us pass this legislation and go on to try to permit FIFRA to perform the function for which it originally passed the Congress.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to my colleague, the gentleman from Califorina.

Mr. BROWN of California. Mr. Chairman, I certainly want to compliment the gentleman on his statement. I share the views that the gentleman has expressed.

We are talking about the part of the bill here which I think will do more to insure the success of the FIFRA program and the control of the problems of chemicals in the environment than any other part of the bill.

I have sensed on the part of some of my colleagues a sense of criticism, that there are parts of this bill which encourage the chemical industries to engage in more productive and improved productivity in the chemical industry.

The CHAIRMAN pro tempore. (Mr. Mineta). The time of the gentleman from Virginia has expired.

(At the request of Mr. Brown of California, and by unanimous consent, Mr. Wampler was allowed to proceed for 3 additional minutes.)

Mr. WAMPLER. Mr. Chairman, I yield to the gentleman.

Mr. BROWN of California. I have detected a sense of criticism from some of my colleagues that there are parts of this bill which are aimed at the encouragement of innovation and improved productivity in the chemical industry. I think this is regrettable.

This bill moves us in the only possible direction that will enable us to solve our environmental chemical problems by encouraging the industry to engage in the type of research and development that will allow us to do a better job with fewer chemicals.

With regard to the extension of time on the protection of data, this is precisely what we are doing with the patent extension bill which is moving its way through the Congress at the present time. I think our concept of providing protection to new and innovative technologies is something that should be looked at in other industries, as well as the chemical industry, as a way of helping to restore America's supremacy in the marketplace.

I think we move a long way in that direction with the bill that we have before us.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I strongly support the Levitas amendment. I spoke in the Agriculture Committee on behalf of the idea behind it.

I think it is most dangerous when we go to suppress any form of information, and particularly suppressing information on such chemicals as we are dealing with in the FIFRA bill. I think it goes beyond all sensible limits.

The gentleman from Virginia mentioned that the committee system was somehow or other being undermined here today because there are a few amendments that have passed. I can tell you I have sat here today amazed, and I must make a confession. I would have offered these amendments in committee and many, many more, and much stronger and tougher amendments, but I did not think that this body or the country would have supported them. I am beginning to believe that we have underestimated what is happening here. When I see the amendments that are being adopted here today by overwhelming votes, I believe that we could have gone far beyond what we did.

I regret now that we did not put damages in the amendment offered by the gentleman from California (Mr. Panetta). I regret that we did not make much more stringent restrictions on the use of these chemicals in this bill.

So therefore, to simply ask, as this amendment does, that we not completely suppress scientific investigation and free exchange of information on such things, I think, is asking very, very little.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield to me just briefly?

Mr. WEAVER. Surely, I will.

Mr. BROWN of California. Mr. Chairman, the gentleman knows the high regard in which I hold him. I wish that the gentleman could refrain from using language that would create the impression that there is anything in this bill that completely suppresses anything. The gentleman knows that that is incendiary language as far as I am concerned. I hope the gentleman would modify it somewhat.

Mr. WEAVER. Well, because the chairman of the committee, whom I hold in far higher regard than I can say, has said so, I would be glad to amend that.

I assumed it did. I assumed that they must maintain secrecy on information. Is that not the case?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. Surely.

Mr. BROWN of California. In my previous colloquy with the gentleman from Georgia, I pointed out that there was no category of health and safety data, including that which might fall under the new and innovative technology definition, which was suppressed, that it was all available. It was available to the very people who said it was being suppressed from them.

Mr. WEAVER. Forgive me. I was taking the word of several scientists who had written me personally, as well as other Members, and saying that under this language that they would not be allowed to see the information. Surely, it is given out to some of the scientists, but not in a completely free and easy exchange.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield to me?

Mr. WEAVER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, my first point is on innovative and new technology. No one wants to prohibit or suppress, or create disincentives for, new product development. All we are talking about here are methods used in health and safety tests.

Mr. WEAVER. Exactly.

Mr. LEVITAS. Health and safety test data will not reveal trade secrets on how you make the product. It will only reveal what you know about what that product does to people; that is, what effect the product has on the health and safety of the public.

We heard the gentleman from Illinois talk earlier about the unfortunate problem that his wife has recently developed. If we had only known more about this pesticide and known more about its health and safety effects, maybe this tragic illness could have been prevented. With more information, perhaps we could avoid things like this happening.

There is a provision in this bill which says, yes, certain people can get a look at this data but they cannot publish it because that would be disclosing it to unauthorized persons; and in the scientific world if you cannot publish information so that others can look at it and critically evaluate it, you cannot pick up the flaws, the errors, and the invalid protocol.

I thank the gentleman for his support.

Mr. WEAVER. Mr. Chairman, I thank the gentleman.

I apologize to my chairman if I have said something that is not true, but that is how I understand it. That is how many other people understand it, scientists and others, that they will be unable to get free exchange of this information.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the last couple minutes have been really a bit discouraging. It is almost like the gentleman from Georgia believes that you make something factual by repeating it. Of course, you do not.

We worked on this for a very, very long time, dozens of hours, as the gentleman from Virginia put forth, and we very clearly exempted health and safety data.

Now, the gentleman from California, the chairman of the subcommittee, has been also chairman of the Subcommittee on Science and Technology. It is a field with which this gentleman is more qualified to speak than perhaps most of us, or almost all of us in this House. The gentleman has reiterated and enunciated the real position of the bill on four separate occasions in the last 45 minutes, only to have the same interpretation reiterated as though if it is said enough times, it becomes true.

□ 1610

Now let us look at what we are trying here, trying to get a situation in which we can do two things: First, we can make available to those who rightly are concerned about the health and safety of the use of pesticides in this country. Access to that is important to the scientific community. It is important to the public interest groups and it is provided for in the bill.

On the other hand, we are trying to get into the law something that will continue to encourage innovative technology and methodology.

Now, I would ask just point blank: How is it related? How is innovative technology and methodology related to health and safety?

For those who have been on this committee as long as the gentleman from Oregon has, and others, we have wrestled with these two categories, health and safety data on the one hand, and innovative technology and methodology on the other, for years. We have come generally—Republicans and Democrats, liberals and conservatives, farmers and city folks alike—to regard the necessity of separating those two categories. And this bill does that. It separates those two categories.

I want to reiterate one thing that my friend from Virginia said. I happen to represent what I think is the finest, in my congressional district, the finest agriculture school in the United States. We may get some contention here, but I will say this: At the very, very least, we at Purdue University have the highest regard for the National Academy of Sciences, there is no question about that, but no one at our institution or no one on this committee is going to argue that they should be brought in as the arbiter to decide what is and what is not possible in the way of business or economic results of disclosure. That is not their domain, and no amendment by my friend from Georgia is going to make that their domain, and nobody within that body is in any position really to take on the charge that they would be given should the amendment of the gentleman from Georgia prevail.

Now, let me then move quickly to reiterate a couple of the arguments that have been made.

There is a fantastic amount of investment that goes into this, anywhere from $8 to $25 million, anywhere from 8 to 10 years of laboratory tests, and all the rest of it. It is high-risk research; it must be. It must be when one is dealing with public health. Often it involves thousands and thousands of pages of technical reports.

There are questions within that community as to whether they should invest in a new round of development. We have such an entity in Eli Lilly, for example, in my district, where they make those fundamental decisions as to whether they are going to move forward in research or not.

It is my belief that unless we in the Committee of the Whole here are able to wrestle with this and provide for some kind of very careful balance between the interests of the public interest groups and the scientific community on the one hand, and the healthy, necessary, businesslike interests on the other, we will stifle this research. I represent far too many farmers to want that kind of research to be stifled.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to my friend, the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned Eli Lilly. It has just agreed to voluntarily pull off the market the drug Oraflex, partly because of inadequate scientific testing regimes. If they had claimed that the testing was under an innovative method, and if it had been a pesticide, that information would not be available to the public; is that correct?

Mr. FITHIAN. That is not correct.

Mr. GORE. It would be available only to those scientists who were authorized; they could communicate with each other, but not in a way that it became available to the public.

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Mr. FITHIAN. If I may reclaim my time, that is the allegation that has been rolled around here half a dozen times.

I think the gentleman from California (Mr. Brown)—perhaps the gentleman from Tennessee was absent at that moment—I think my friend from California, the chairman of the subcommittee, clearly laid that out in the reading of the bill specifically. So I would just point out that that is one of the things that has been repeated here perpetually, but it does not make it true.

Mr. GORE. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I am happy to yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, I am quoting on page 83 of the bill:

> Authorized recipients may communicate with each other regarding the data, but may not disclose the innovative methods or technologies to persons who are not authorized recipients.

We have a list here of some 40 to 50 distinguished scientists from all over the United States who say it is impossible to interpret the language of this bill in any other way than that it imposes new restrictions on the communication of scientific knowledge.

Now, this is a company that has just had a terrible experience with some 70 people who died as a result of this. The drug has been sold to the public and the public did not know that the testing methods were inadequate.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Fithian) has again expired.

(On request of Mr. Brown of California and by unanimous consent, Mr. Fithian was allowed to proceed for 3 additional minutes.)

Mr. FITHIAN. Of course, Mr. Chairman, the gentleman from Tennessee recognizes he is dealing with a set of altogether different rules and regulations here than those of the Food and Drug Administration under which that proceeding took place.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. BROWN of Califorina. I thank the gentleman for yielding.

Mr. Chairman, I suggest to the gentleman from Tennessee if he is having a problem with Eli Lilly and drugs that he should consider using the same language in the Food and Drug Act that we have in this bill, which says specifically:

> The test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife are not eligible for treatment as innovative methods or technologies.

Mr. FITHIAN. Mr. Chairman, if I may just summarize in my last 30 seconds, I think the gentleman from California has said it all. We are debating in this bill, as the gentleman from Virginia said, a very, very technical bill of long evolution. We are debating it in trying to write, rewrite that kind of technical bill on the floor; obviously an impossibility, especially an impossibility if we do not read all the way through the bill, as the gentleman from California has just now corrected.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to my friend, the gentleman from Georgia.

Mr. LEVITAS. I thank my friend for yielding.

Mr. Chairman, obviously we are all reading the same language, but it is quite clear we read it differently.

I previously pointed out that the language just read by the gentleman from California clearly does not include some most essential information which could not be revealed publicly; specifically, the environmental fate of these chemicals. What happens to them after they get into the ground?

Did the gentleman not recently see on CBS News the report by Bill Moyers about how some of these very chemicals got into the water table on Long Island when it was used there as a pesticide against a potato beetle, and as a result they had to discontinue using it?

I am simply saying that things such as the environmental fate of these chemicals, as well as how these metabolites operate, is essential information.

Let me ask the gentleman: Why should not the scientific community have the opportunity to discuss all data relating to health and safety? I have not heard anybody address that question. What is so terrible about letting scientists discuss public health and safety data? We are not talking about data on product formulation or trade secrets; but health and safety data only. What is wrong with open discussion of such data?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield one more time to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, the gentleman astounds me again by the way he transposes his eloquence from one subject to another. I just read that health and safety data cannot be kept from being available as a new and innovative technology. He says, "But that does not include the fate of the metabolism of chemicals in the environment." It does not. But what happens to a chemical in the environment?

The CHAIRMAN pro tempore (Mr. Hefner). The time of the gentleman from Indiana (Mr. Fithian) has again expired.

(On request of Mr. Brown of California and by unanimous consent, Mr. Fithian was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. BROWN of California. Believe me, what happens to a chemical in the environment is not what scientists mean when they talk about health and safety data. We are talking about rat feeding studies or other studies of that sort to determine if an element is carcinogenic, mutagenic, or whatever else. That is health and safety data. What happens when a chemical gets into the environment is not health and safety data, although it relates to health and safety data.

I would agree with the gentleman on that, because it is necessary to know what happens as it goes downstream.

□ 1620

But the essential point is that the gentleman said that that was not covered by the lack of restrictions here, and I say to the gentleman again that innovative technology with regard even to the weight of chemicals in the environment can be appealed to the Science Advisory Panel, and if that is not something which is relative to new and innovative procedures, it would not be included.

Mr. FITHIAN. I would like to ask the gentleman from Georgia a question, to put the shoe on the other foot. On page 4 of the amendment he offers, he suggests that the National Academy of Science should, among other things, determine the economic result of the disclosure of information under such section on the submitter of such information. He asks in point (d) of his amendment that they assess, evaluate the effects of the refusal to disclose information under such section on competition among pesticide producers. Wherein would this body have anywhere the technical capacity to comply with the mandate the gentleman puts on it under those two provisions? I will be glad to yield to the gentleman.

Mr. LEVITAS. I would be glad to answer the question. With respect to the scientific aspects, the National Academy of Science obviously has the expertise to make the scientific determinations.

Mr. FITHIAN. Obviously what?

Mr. LEVITAS. The National Academy of Science obviously has the expertise to determine the effects of releasing this data on scientific review. To the extent that the study would get into issues beyond that, obviously they would go to others outside of the Academy itself and bring in expertise and information for this evaluation.

Mr. FITHIAN. If I could just retrieve my time, if we were going to go with the gentleman's study, dispose of section 17, it would seem to me just as a constructive suggestion that the Environmental Protection Agency, having wrestled—sometimes not willingly—having wrestled with the administration of this and adjudicated between a large manufacturer and a small formulator, and so forth, is both in terms of scientific talent and in terms of adjudicating between businesses, something that they do not particularly like to do, have had years of experience having to deal with this. So, at the very least we ought not to be asking the National Academy to do that which they simply are not competent to do.

Mr. LEVITAS. First of all, I want to commend the committee for working out the problem between the large manufacturers and formulators. I think they have done an excellent job in section 3 of the bill in dealing with the problem. But again I point out to the gentleman that leading scientists in this country, the American Association for the Advancement of Science; environmental groups such as the National Audubon Society, and other distinguished scientists and physicians referred to by the gentleman from Tennessee all say that this bill will restrict their ability to assess and discuss information vital to health and safety. I am asking what is wrong with allowing these discussions to take place.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(By unanimous consent, Mr. Fithian was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. I have the highest regard for some of the organizations the gentleman just mentioned. Their saying this does not make it true. I chaired an informal session in which these groups were present, along with industry and all the rest. We worked on this for dozens and dozens of hours to work out a compromise. I think we have come up with a compromise. They have jumped ship on the compromise, to be blunt, and now believe that through an alternative device they do not have to live with the compromise, they can go back 100 percent on their side. That is precisely what they are proposing to do here.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I hope not to speak for the entire 5 minutes, because I know that we have discussed this issue at great length.

I agree with a great deal of what has been said this afternoon. I agree with the statement made by many of the Members that there is a very sensitive balance here that we have to take into account, and I commend the committee for their effort in trying to strike at that balance. The ranking member, Mr. Wampler, indicated that this goes to the very heart of the issue, and I think he is accurate in that assessment. It does go to the very heart of what we are trying to do this afternoon.

The gentleman from Indiana said this is very high-risk research, and I think he is correct, because it is high-risk research, but I think we have had too many chemical catastrophies in the last 10 years not to ignore what we are trying to do here.

The Chairman is right when he has repeated again and again that people have access to the information. The problem is, how encumbered those who seek information are in trying to obtain it. In page after page after page we put in new encumbrances, we put in requirements and stipulations here that simply will deny in all practicality the required access to information. I think that is really the fundamental question.

It is the most important aspect of this whole bill, for indeed if we cannot provide that kind of information, if those organizations most directly affected in their work cannot acquire the kind of information we in essence are preventing by setting up these encumbrances, then I think we have failed in passing a good piece of legislation.

How many times have we seen in the last 10 years instances whereby new information has allowed a change in the policies set out in the way we treat these chemicals? Indeed, I think we are preventing that from happening now. The March of Dimes sent a letter to all the offices this afternoon which very clearly articulates the problem presented if we fail to support this amendment. I will quote one short paragraph:

> The March of Dimes believes that putting a restriction on public information would severely limit the free exchange of scientific thought; even decrease the amount of scientific research so often fostered by this process of peer review. Limiting research will postpone, if not prevent, the discovery of causes and cures for the many birth defects which still afflict our infants and children. It may expose the unborn to harmful chemicals because these chemicals cannot be subject to peer review by the scientific community.

So, I think if we do agree to the Levitas amendment, we are finally striking at this sensitive balance we all want, balance between giving the right to corporations and chemical companies the information that they must keep secret, but at the same time providing access for research and development of the problems that we have seen in the past in not dealing appropriately with the harmful effects of some chemicals that were not known at the time the chemical was put on the market, so I hope we can see fit to support this legislation. It certainly warrants the support of the vast majority of the House.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is unusual for me to find myself in disagreement with the chairman of this subcommittee on an issue of this kind. I have great respect for him and for the other members of the subcommittee and of the full committee, and I believe I understand that there are strongly held views on this issue. I believe I understand also that there is kind of a compromise that has been worked out in the committee, and it has been brought to the floor and it has been stated very candidly that passage of the Levitas amendment, which I strongly support, would threaten this compromise. The industry feels strongly about it, and there has been give and take, and I respect my colleagues' judgment on how that balance has been struck.

But this is the Congress of the United States and this is the floor of the House of Representatives, and the people of this country have the right to demand that we strike the balance here, where the public interest is concerned, and the kind of balance struck here on this floor is often very different from the kind of balance struck in a committee. That is one of the reasons so many amendments have been passed today, and I hope it is the reason that this amendment will be passed. We are not bound by compromises that were made in the full committee.

What is this amendment all about? Well, the United States of America, like all other industrialized countries, is in the midst of a chemical revolution, which began shortly after World War II, unprecedented in all human history.

□ 1630

Thousands and thousands of new chemicals are coming out each year, and only now are we beginning to find out about the pervasive nature of these chemicals once they are produced and get into the environment.

The fact is, Mr. Chairman, that we are kidding ourselves when we talk about this scientific data and about the scientific studies as if there is a great deal of certainty about what the effect of these chemicals is in every case. That is not true.

In fact, we know very little about the effects of most of these chemicals. The scientists are playing catch-up trying to match the symptoms people have when they are exposed to chemicals with the causes that they try to find out about years later, and they often try in vain to put two and two together.

As the public outrage has built up about the effects of the chemical revolution on people, one of the things the industry has found out is that if you

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control the science, you can control the conclusions. And this bill, the way it is written, without the amendment, would allow them to control in large measure the scientific methods used to establish whether and to what extent chemicals get into the environment.

This section of the bill makes it a bad bill, the way it is written, and I strongly support the amendment. Now, there are some 40 to 50 distinguished scientists all over the United States in this field who have written a letter to every single Member of Congress, and let me quote from it. They say:

> This is the crucial issue. The public has a right to know what and how scientific studies are conducted on potentially hazardous substances to which the public is exposed. It is no secret that some premarket testing in recent years has been conducted under less than rigorous standards * * *

Let me add parenthetically that the Oraflex example that I cited earlier is only one of many such examples.

Quoting again, the letter says:

> Resulting in charges that testing was incomplete, inadequate, or the conclusions fraudulently reached. Premarket test data, the most crucial measure of a substance's potential effect on humans and the environment, must be available to the public.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the distinguished committee chairman.

Mr. de la GARZA. Mr. Chairman, I only wish to ask the gentleman who has the jurisdiction over the question of Oraflax. Is it a chemical or a drug? Was it the FDA or the EPA?

Mr. GORE. That is not under the Agriculture Committee.

Mr. de la GARZA. I just wondered, whose committee was that? Whose committee was that?

Mr. GORE. I used the example to illustrate the importance of our understanding the nature of the scientific testing procedure in both the case of Oraflex and in the case of pesticides and other substances that are under discussion here, and the public needs to know the scientific test methods that are used to establish what the effects of the chemicals are.

The CHAIRMAN pro tempore. (Mr. Hefner). The time of the gentleman from Tennessee (Mr. Gore) has expired.

(By unanimous consent, Mr. Gore was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, the Congress should allow an opportunity to test the implementation of current provisions of law governing public access to health and safety data, and this is a very, very important point.

This approach is strongly supported in a letter which the Energy and Commerce Committee received from Mr. Thomas McGarity, professor of law at the University of Texas, one of the leading authorities on health and safety data disclosure policies and other disclosure policies. He emphasizes that the 1978 amendments have not been implemented to date because of a series of court challenges. He argues that the 1978 amendments already would provide an equitable balance between the goal of full disclosure of health and safety data and the goal of encouraging innovation in the pesticide industry. Therefore, he concludes—and I quote—

> It would seem inappropriate to amend the FIFRA statute once again *even before the original amendments have had a chance to work. (Italic added.)*

Now, with specific regard to this "innovative methods or technology" section, let me use an example. We had this PBB tragedy in Michigan. It is well known to many of my colleagues, particularly the gentleman from Michigan (Mr. Albosta). Before the mistake was discovered, hundreds of thousands of livestock were contaminated and consumers had ingested large amounts of products contaminated with PBB. Yet even after the mistake was discovered, farmers and consumers were faced with substantial fears and uncertainties because little information existed concerning the health effects of PBB and because test methods available for analyzing PBB's were limited, and little information was available about how extensively it could get into the environment.

Now, if that tragedy had involved the accidental contamination of cattle feed with a pesticide instead of PBB and this provision of this bill applied, it would have significantly impaired the public's ability to obtain sound information concerning the potential risk posed by the pesticide.

When you are evaluating risk, there are two elements. First, what is the effect on the human organism, and second, how pervasive is the risk? How frequently are human beings going to come into contact with the risk? How pervasive is it in the environment?

If the public is to be prevented from getting access to that second kind of information, then we cannot adequately evaluate the risk.

Mr. Chairman, in the midst of this chemical revolution, I submit to my colleagues here that the overwhelming majority of the American people would be really appalled if they thought that this body was going to vote, in this day and age, in 1982, to restrict rather than expand their access to data necessary to establish the degree of risk related to chemicals being put into the environment.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(On request of Mr. Levitas, and by unanimous consent, Mr. Gore was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I commend him for his excellent statement. The gentleman is one of the most knowledgeable and respected Members of this body in areas of the sort to which he is addressing himself this afternoon.

The gentleman said something a few minutes ago which is very important. He said, who controls the science controls the decision. Under this bill, as it is now written, essentially the science is going to be controlled by the applicant who produces the information and by the Environmental Protection Agency.

Does the gentleman agree that with the Environmental Protection Agency now facing dramatic reductions of resources, and having fewer people to do the type of evaluation that needs to be done, it would be insane to say that we are now going to exclude the scientific community which could participate in that process and assess the public interest and assist the Environmental Protection Agency in making these decisions?

Mr. GORE. Mr. Chairman, that is an excellent point. At the present time the ability of the EPA to perform these kinds of scientific evaluations is being destroyed—systematically destroyed—and as to the decision on access, if it is left up to the current EPA, I ask you: Do we want to give the current Administrator of EPA additional responsibility for determining this kind of decision in lieu of giving access to the public?

I do not think so, and I do not think the American people would like to see that done. I think if our vote here this afternoon reflects the wishes of the American people, this amendment will be adopted overwhelmingly.

The CHAIRMAN pro tempore. The time of the gentleman from Tennessee (Mr. Gore) has again expired.

(On request of Mr. Dellums, and by unanimous consent, Mr. Gore was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding, and I would first simply like to associate myself with the gentleman's remarks and compliment him on a very powerful and informed statement.

Second, I join with the author of the amendment before the body at this moment in congratulating my colleague for a very eloquent and powerful and informed statement. I deeply appreciate his work in this area.

Mr. GORE. Mr. Chairman, I thank the gentleman from California (Mr.

Dellums) and in closing let me reiterate my deep respect for the members of this committee and emphasize again how reluctant I am to oppose them on an issue of this kind.

To recap,

Mr. Chairman, I support the Levitas amendment which would strike section 5 of H.R. 5203 and clarify the provisions of current law concerning public access to health and safety data.

Section 5 of H.R. 5203 modifies current law by providing significant controls on the disclosure of health and safety data underlying pesticide registrations. This provision sets forth new procedural restrictions governing the copying, transfer, use, and publication of health and safety data by the public. In addition, this provision places substantial additional limitations on the disclosure of a new category of data classified as "innovative methods of technology."

I believe that section 5 should be striken in its entirety and that Congress should afford an opportunity to test the implementation of current provisions of law governing public access to health and safety data. This approach is supported strongly in a letter which the Energy and Commerce Committee has received from Mr. Thomas O. McGarity, professor of law at the University of Texas. In this letter, Mr. McGarity, one of the leading legal authorities on health and safety data disclosure policies, emphasizes that the 1978 amendments have not been implemented to date because of a series of court challenges. He argues that the 1978 amendments provide an equitable balance between the goal of full disclosure of health and safety data and the goal of encouraging innovation in the pesticide industry. Therefore, Mr. McGarity concludes that "it would seem inappropriate to amend the (FIFRA) statute once again before the original amendments have had a chance to work."

I am particularly concerned about the provisions of H.R. 5203 restricting disclosure of "innovative methods or technology." Under section 5, scientific discussion of "innovative methods and technology" at open scientific conferences and publication of such information in scientific journals would be prohibited for a 5-year period following the submission of such data.

The deficiencies of the innovative methodology provision are highlighted by an example based on the facts of the PBB tragedy. In the PBB case, a chemical company accidentally substituted polybrominated biphenyls (PBB's) for a cattle feed supplement in shipments to the Michigan Farm Bureau. Before the mistake was discovered, hundreds of thousands of livestock were contaminated and consumers had ingested large amounts of products contaminated with PBB's. Yet, even after the mistake was discovered, farmers and consumers were faced with substantial fears and uncertainty because little information existed concerning the health effects of PBB's and because test methods available for analyzing PBB's were limited.

If the PBB tragedy had involved the accidental contamination of cattle feed with a pesticide instead of PBB's, the provisions of H.R. 5203 would impair significantly the public's ability to obtain sound information concerning potential risks posed by the pesticide. For example, assume that the manufacturer of the suspect pesticide had developed a novel analytical method useful in analyzing the breakdown products of the pesticide in meat. If the innovative methodology provision is enacted, it is likely that potential flaws in this test method would not be detected and that the public might rely on inaccurate data in evaluating the effects of the pesticide. This is because the innovative methodology provision prohibits scrutiny of innovative test methods employed in obtaining residue chemistry or metabolism data through the major forums of the scientific community—scientific journals and open conferences. Unless new testing methodologies are discussed in traditional scientific channels, it is unlikely that many scientists will become aware of the new methodology or the need to scrutinize its validity.

The innovative methodology provision also seems unnecessary because protection for true innovations is already provided under the patent laws. Moreover, this provision would strain EPA's limited resources because it would require the agency to act as a minipatent office and determine whether specific technologies are innovative.

In summary, I believe that the Levitas amendment should be adopted. Otherwise, it is clear that public health and safety will suffer.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very complex issue, and it is one in which at the technical level there are only a handful of Members qualified to speak. Certainly the gentleman from Virginia, the ranking member of the committee, and the gentleman from California are experts in an area where the rest of us have at best a passing knowledge.

But I think it might be useful to look at why a number of Members, including the gentleman from Georgia, (Mr. Levitas), took on this issue, and that is because, when in doubt, we feel it is much safer to side with those who seek public access and who seek information than to side with those who say that it really is not necessary.

We have a clear-cut case here where all you have to know as a witness to an event is that those groups and agencies most involved in the public interest and who have had the longest experience in trying to get information out of the chemical companies and out of the Government are collectively all concerned about this issue. I think from that standpoint, the "we" who are in a sense bystanders to the technical detail can look clearly at what is involved.

If we vote for the amendment offered by the gentleman from Georgia (Mr. Levitas) we are voting for wider access, we are voting for the public interest groups, we are voting for the scientific community, and we are voting for an increased amount of knowledge going to the public health of this nation and to the debate over the public health of this Nation.

□ 1640

On the other hand, should we vote against the gentleman from Georgia we are in a position of saying yes, although we are in fact technically not as proficient as the gentleman pointed out.

We are deciding to cut off the knowledge requested by a wide range of people.

It is for this reason that I suggest that a prudent and wise vote would be to increase public access and would be to support the gentleman from Georgia.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Mr. Levitas.

H.R. 5203 defines innovative methods and technology in such a manner that the exact definition is at best cloudy. Therefore, this would, in my opinion, result in extensive and lengthy litigation to determine a workable definition. This could, in turn, severely inhibit enforcement of the health and environmentally related protection provisions of the pesticide act by limiting independent scientific peer review.

The Levitas amendment is a reasonable compromise. It would mandate a study by the National Academy of Science to determine a workable definition of "innovative methods and technology."

A major advantage of this procedure is that, in the interim, important health and environmental scientific data could be reviewed by the scientific community in order to verify its accuracy.

As chairman of the Subcommittee on Natural Resources, Agriculture Research, and Environment, which has jurisdiction over the research aspects of FIFRA—the Federal Insecticide, Fungicide, and Rodenticide Act—I can assure my colleagues that the scientif-

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ic peer review of pesticide research is absolutely necessary if the health and environment are to be protected.

This amendment would assure that reasonable review of scientific pesticide data would be continued.

I urge my colleagues to support the amendment proposed by Mr. Levitas.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to a conclusion this very interesting discussion if I could with a compromise proposal.

I should not actually use the term "compromise." I should say "capitulation."

I feel very strongly that what we have attempted to do with this section on new and innovative technology and the additional incentives which that gives to the chemical industry to improve their research and development, that we would be making a step forward in the interest of the Nation and the chemical industry and the public and so on.

But I sense that we have not convinced enough people yet and I am therefore going to propose a substitute amendment to the amendment offered by the gentleman from Georgia (Mr. Levitas) in which we strike out all references to new and innovative technology in the text of the bill.

I am going to ask the gentleman from Georgia (Mr. Levitas) if he would feel sufficiently consoled by that to be willing to support the substitute.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I have had a chance to examine the gentleman's proposed amendment. I base my assessment upon his explanation of the amendment because I have not been able to track each particular provision, but I know the gentleman's representation is made in good faith and for the purpose of reaching an accommodation. This will eliminate the special provisions relating to the new and innovative methods and technology used in health and safety tests, and I think it would be an acceptable and useful compromise on the issue.

As far as I am concerned, it would deal with the problem of restriction of public discussion of the information. I recommend to my colleagues that we accept this substitute as a compromise.

Mr. BROWN of California. I thank the gentleman.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. BROWN of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of California as a subsititute for the amendment offered by Mr. Levitas:

On page 47, strike out lines 24, 25.
On page 48, strike out lines 1–25.
On page 49, strike out lines 1–23.
On page 79, strike out line 24.
On page 80, strike out lines 1–25.
On page 81, strike out lines 1–24.
On page 82, strike out lines 1–25.
On page 83, strike out lines 1–22.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. As I indicated, Mr. Chairman, this amendment strikes out all references in the bill to new and innovative technology and in effect removes any controversy surrounding that particular aspect of it.

I ask for a favorable vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. Brown) as a substitute for the amendment offered by the gentleman from Georgia (Mr. Levitas).

The amendment offered as a substitute to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. Levitas), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 72, line 19, insert the phrase "or received from the Administrator", following the word "filed".

Page 73, line 1, strike the phrase "to an agricultural worker".

Mr. FITHIAN. Mr. Chairman, I assure my colleagues that this is purely a technical amendment. We are simply correcting, technically speaking, an omission I think in the bill to provide that if the complaint is received from the administrator to the State that the 30-day clock starts running.

This is on page 72, line 19, and on page 73, line 1, where we are striking out "to an agricultural worker" so that it is not limiting to just an agricultural worker.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield.

Mr. de la GARZA. We have no problem with the amendment on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. Fithian).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: Page 47, line 17, strike out "as soon as possible (allowing" and insert in lieu thereof "not later than 1 year after the effective date of this paragraph (including".

Mr. LEVITAS. Mr. Chairman, all this amendment does is assure that the interim regulations called for in section 5 which bypass certain procedures in order to be effective would be replaced within 1 year after the enactment of this bill. The bill now calls for promulgation of final regulations to replace these interim regulations "as soon as possible." But that time period could slip and drag on to an unreasonable length of time.

This simply says the final regulations shall be submitted within a 1-year timeframe.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. de la GARZA. We have examined the amendment and will accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. Levitas).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this point to raise a question, if possible, with the chairman of the full committee or the subcommittee.

On pages 52 and 53 of the bill we provide for a civil action, in fact a treble damage action which will be given somebody who is the victim of someone who has been acting in using data provided to the EPA for commercial purposes, and that person may bring an action in an appropriate district court against such person not only for equitable purposes; that is, to restrain the violation, but to obtain damages, and not only actual but treble damages and punitive damages for a gross violation.

In my judgment, I just found this to be somewhat unusual. This is probably one of the few statutes, other than our antitrust laws, where we are providing more than actual damages for somebody who violates the law.

I noticed before the gentleman from California (Mr. Panetta), offered an amendment, which I supported, which, of course, gave individuals the right to sue for equitable action. That is an individual who would be subject to the act but not for damages.

Here we are giving somebody, perhaps a company, perhaps the manufacturer, the right to go in for treble damages.

I just wanted to know the origin of this clause and why it is in the bill and whether or not this is an unusual thing to provide for treble damages for violation of this act.

Perhaps the chairman might know, or the subcommittee chairman might know the answer to that question.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman.

Mr. DE LA GARZA. I might advise the gentleman to my knowledge this was part of the compromise when all of the parties involved, industry, environmental groups, labor representatives, came together and this came from those discussions.

As to adding the treble damages, I do not know that I could tell the gentleman where that particular part came from. But the damages part came from those meetings and the consensus.

Ostensibly it was, I think, and I think this is just purely personal for me, I think it was one of those groups wanted to make it harsher on another one of the groups, and this was the reason that it was put in.

But I would assure the gentleman that as harsh as it may seem here, no great import was given to it there and it just came through as a part of the compromise.

Mr. GLICKMAN. I appreciate my chairman giving that explanation.

That is why I chose to take the committee's time by offering any sort of an amendment to the language, figuring that it was not altogether that controversial.

□ 1650

I just make the point that is its highly unusual to provide treble damages for violation of any laws other than antitrust laws, and we are doing so in this bill.

● Mr. CARNEY. Mr. Chairman, I wish to address my comments to provisions contained with H.R. 5203 the Federal Insecticide, Fungicide, and Rodenticide Act Amendment of 1982. Particularly, I will focus on section 11 of the bill which amends section 24(a) of that public law.

As representative of a district which has experienced groundwater contamination as a result of pesticide use, I am concerned about any piece of legislation that may in any way limit the ability of the States to obtain additional health and safety data requested from the producers.

In 1970, a toxic pesticide produced by Union Carbide under the trade name Temik was first registered for crop use. It was reported in 1970 that soil residue data indicated that this pesticide and its metabolites would rapidly decay and that movement of this chemical into the groundwater would not occur. In 1979, however, residents of my district were shocked to find their drinking water wells contaminated. Upon request, Union Carbide tested 10,000 wells, finding that 25 percent of those wells contained levels above the New York State guidelines. Essentially all the symptoms of Temik toxicity are common—diarrhea, nausea, abdominal cramps, malaise, weakness in the arms and legs and henceforth it is extremely difficult to detect and treat the chemical toxicity.

The use of Temik has since been banned in Suffolk County. However, the consequence of its use will be with us for some time. The citizens of Long Island obtain all of their potable water via a sole source aquifer. The concern for protection of sole source aquifer has been expressed by this Congress and EPA through the 1974 Safe Drinking Water Act. Further protection has been sought through the Sole Source Aquifer Protection Act of 1982, H.R. 5562, which I and four other members of the Long Island delegation and our two Senators have introduced.

Any change in Federal law that inhibits this Nation and the States from protecting the health and safety of its citizens through direct or indirect exposure to toxic chemicals should not be endorsed by this Congress.

At this time, Mr. Chairman, I would like to insert for the RECORD some articles from our local newspapers on Long Island which show the continuing problems Temik contamination is causing our people.

[From the Long Island Traveler-Watchman, June 3, 1982]

TEMIK MANUFACTURER DOWNPLAYS PROBLEMS

SOUTHOLD.—In the last of three public hearings on the infiltration of the toxic pesticide Temik in groundwater, the Union Carbide Company last week downplayed any adverse health effects, predicted all traces to be below "safe" limits by 1987, and said it "stand ready" to make its Temik data available to all "qualified persons."

But the company, which took Temik off the market two years ago and supplied thousands of homes with carbon filters after Temik was found in groundwater, received a challenge to its remarks.

"The credibility of Union Carbide has been in question," said County Legislator Greg Blass, who initiated and chaired the hearings. "It seems Union Carbide erred in its judgment before it sold Temik here. How can we be sure Temik will diminish as you say?"

Jack R. McWhirter, Union Carbide's vice-president and general manager in charge of its Temik-producing company, said recent reports have used previously unavailable data in estimating the degradation of all aldicarb (the toxic ingredient in Temik) by 1987, if not earlier.

In defending his company's sale of Temik on the porous soils of Long Island, McWhirter said "the best technology [and] the best science" was used to assure its compatibility with Long Island's geophysical characteristics. "If we had any indication that it would've gotten into groundwater," he said, "we wouldn't have sold it on Long Island."

But Carolyn Zenk, a spokesman for the Group for the South Fork, cited a 1976 Cornell University report that had "pointed out that leaching of Temik into groundwater supplies was a distant possibility."

However, agricultural specialists from Cornell present at the hearing said the main problem with the marketing of chemicals was in registration formulas set by the federal Environmental Protection Agency. The regulations, said Jim Pike, who's working on new methods to control crop pests, are both cumbersome and expensive to manufacturers. Moreover, when Temik was first registered the EPA failed to consider its effects on Long Island's sandy soil and single source aquifer.

The result, Pike said, is that farmers are forced to use higher concentrations of the limited number of chemicals available to them.

With this problem in mind, agricultural specialist Bill Sanok advised that the county legislature not proceed with a possible lawsuit against Union Carbide. If the company is sued, he said, it and other manufacturers may react by refusing to sell to Long Island farmers—a situation which would leave farmers virtually unable to grow economical crops.

Legislator Wayne Prospect of Deer Park said Sanok was "crystal-ballizing" in placing too much faith in Union Carbide's ability and intention to assure safe water supplies.

McWhirter, in addressing the health effects of Temik, said both the National Cancer Institute and the EPA have produced test results showing that Temik is not carcinogenic, mutagenic or teratogenic. The EPA also determined, he said, that Temik is not chronically toxic, and "does not accumulate in the mammalian organism."

In one Cancer Institute study, McWhirter said, the "administration of as much as 6,000 parts per billion of aldicarb in the daily diet for an entire lifetime caused no cancer in rats or mice." He added that "multi-generational reproduction studies have also shown no adverse effects on parents, fetuses, or developing young."

McWhirter said the appearance of aldicarb-nitrate mixtures—which he said "may present a mutagenic or carcinogenic hazard—"cannot exist under the [groundwater] conditions on Long Island because of its inherent chemical instability." He added that the mixture can only be maintained by temperatures of at least −20 Centigrade.

The County Legislature's Temik subcommittee is due to report the results of its hearings to the full legislature which will then decide on the appropriate action for dealing with chemical-contaminated groundwater.

"The positive aspect of Temik is that it jolted the chemical industry—and the county legislature," said Blass.

McWhirter agreed, and said he would take what he had heard at the hearing back to Union Carbide.—PAUL DEMERY

[From Newsday, July 3, 1982]

TEMIK STUDY HINTS AT TIE TO ILLNESSES

(By Mark McIntyre)

HAUPPAUGE.—The first health study of Long Islanderers who drank water containing the pesticide Temik has found a higher than normal rate of neurological disorders and miscarriages, officials said yesterday.

Suffolk Health Commissioner David Harris said the findings suggested "a whisper of a possible association" between health problems and Temik. Admitting that the study has "important weaknesses" that make it unfit for publication in a medical journal, Harris nevertheless released it at a news conference to rebut criticisms that his department did not share its findings on its Temik investigations with the public.

Last year, investigators mailed questionnaires inquiring about the medical histories of 1,600 families who were exposed to Temik from 1976 through 1980. Twenty percent, or 967 people, responded. The results showed that the frequency of reported pesticide consumption symptoms did not vary significantly with different amounts of Temik found in each respondent's water supply.

But among women who drank water with 50 parts per billion of Temik—or seven times the State Health Department guideline—six of 18 pregnancies ended in miscarriages. That is a miscarriage rate of 33 percent—twice the normal rate, according to Dr. Andre Varma, a biostatistician who led the study and is chairman of the State University at Stony brook's department of community and preventive medicine.

The results, Varma said, were a hair above the level of statistical significance. "There is a hint there might be something," he said. "It may be something or it may be spurious."

Investigators have not yet interviewed the women to determine if other causes explain the miscarriages. If three of the six spontaneous abortions were due to other factors, the Suffolk rate would drop to the typical level, an official said.

In addition, the study showed that up to 3 percent of respondents said they had neurological symptoms such as numbness, difficulty in raising their arms and tingling in the body.

A follow-up investigation should be done to determine if Temik affects the health of East End residents, Harris said, but he added that funds are not available. That study would cost about $1 million, Varma said.

Jack McWhirter, vice president of Union Carbide Agricultural Products Co., which makes Temik, said at the press conference that the Suffolk study was crude and unscientific. He said that exhaustive studies by the firm show Temik causes no health problems.

From 1975 to 1979, East End farmers used large amounts of Temik in planting potato buds. By August, 1979, it had washed through the area's shallow, porous soil and contaminated the region's underground supply of drinking water. To date, 1,450 drinking wells serving an estimated 5,000 people in Brookhaven, Southold, Riverhead and Southampton have Temik in amounts above what the State Health Department says is safe to drink. Almost all those wells today have carbon filters to remove Temik.●

● Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 5203 for one relatively simple and straightforward reason—the authorization levels in this bill are not consistent with this Nation's commitment to economic recovery. At a time when it is increasingly being recognized that renewed economic activity can be indirectly stimulated by reducing the budget deficit, it would be inappropriate for Congress to pass out FIFRA legislation that is $4,785,000 more in fiscal year 1983 than what the Environmental Protection Agency had requested.

I would instead support a bill that contains $51,582,000 (instead of $56,367,000) for a pesticide regulatory program in fiscal year 1983 ($54,676,900 for fiscal year 1984). The EPA has already given assurances to the Agriculture Committee that these funds would be sufficient to cover all FIFRA program costs. Any moneys authorized over this level can be construed as Congress being unnecessarily "generous" in its allocation of Federal revenues.

However, this is exactly what is being proposed in this bill. Now is not the time to be sending this kind of a confusing and contradictory message to Wall Street and the business community. What is the Nation to think if, on the one hand, a conference committee is grappling with legislation that promises to be the largest single tax increase in our history—all for the purposes of helping to balance the budget—while on the other hand, legislation such as we are considering today proposes spending levels that are in excess of agency requests and in excess of our budgetary resources?

If we are to honor our commitment to balancing the budget, then we must continue to reduce Federal expenditures where possible. It is in this spirit that authorization levels should similarly be reduced. In that H.R. 5203 violates this spirit of budgetary accommodation by authorizing spending levels significantly in excess of the EPA's request, I would urge its rejection.●

● Mr. MOFFETT. Mr. Chairman, I am concerned that our decisions about Federal and State relations appear to be more and more arbitrary. On one hand, the Congress has voted to increase the responsibility of the States over social programs, although it has withheld the money needed to carry out those responsibilities. And the President recommends that we go further embarking on a fiscal shell game he calls New Federalism. But in Congress today we are considering legislation which trods over the legitimate rights of States to protect their citizens against harmful pesticides. I think that, as we debate H.R. 5203, the legislation to amend FIFRA, we should keep this strange incongruity in mind.

The track this bill is following would strip the power of the States to supersede Federal pesticide laws—making tougher regulations on their own. The philosophy here is that States rights should be supported only insofar as they underregulate pesticides. If they try to regulate them more thoroughly than standards set at the Federal level, this legislation would scuttle those tougher standards.

The chemical industry is trying to obscure the impact of pesticide proliferation in the market—now estimated to be 1.7 billion pounds annually—and return to the pre-FIFRA days Rachel Carson eternalized in "Silent Spring." Under the new provisions proposed for FIFRA, States will lose their ability to regulate pesticides; the public will sacrifice access to data vital to their health and safety; and the chemical companies will enjoy the right to sue persons who violate FIFRA. Private citizens will not.

Existing law allows the States to enact and maintain their own pesticide control standards, so long as they are not weaker than those issued by the Federal Government and administered by the EPA. Section 11 of H.R. 5203 strikes this clause and restricts the States right to regulate pesticide use and limits their access to data on environmental and health effects. This substitute amendment is disconcerting for three reasons: First, it insures that States rights will only be enforceable when Federal Government assures that the States will underregulate rather than overregulate industry. Second, it sets up a bureaucratic maze for the States to tread through to acquire additional data related to public health. Even EPA, on behalf of the administration, thinks the provision is unnecessary.

Finally, section 11 imposes stricter time deadlines on the States review of pesticides. Not only would the review period be seriously abbreviated, but the proposed legislation grants unconditional registration to a pesticide, unless the State challenges it within 60 days of its filing. This will inevitably result in the release of numerous untested pesticides into the market because of administrative failures.

I also strongly oppose section 16, which denies private citizens the right to bring suit under FIFRA in the Federal courts. EPA and its State agency counterparts would be solely responsible for enforcement. As chairman of the House subcommittee charged with oversight of EPA's activities, I have absolutely no faith in the agency's enforcement record or its willingness to improve it. Administrator Gorsuch, in her testimony before my subcommittee a few weeks ago, denied the recognized problems of understaffing, demoralization and inefficiency in the enforcement division. She further rebuffed opportunities to go on the record as intending to improve the agency's sluggishness. The General Accounting Office, in its recent report on EPA and the States, likewise confirmed they "do not always properly investigate case and sometimes take questionable enforcement actions." Deferring enforcement to EPA, would, in effect, sanction unlimited abuses of the law without recourse.

The provision also unjustly allows chemical companies and pesticide producers access to the court system to sue for violations of their property rights under the data disclosure provisions of the Act. This inequity between citizen and corporate rights seems so flagrant it ought need not be challenged. Our system entitles everyone to legal recourse. We cannot suddenly tilt the scales of justice to enable corporations to sue on one count, or to make them immune from prosecution for citizen injury, without providing individuals with the same rights.

I urge my colleagues to oppose sections 11 and 16 of H.R. 5203, the FIFRA authorization, and to support the respective amendments offered by Congressmen BROWN and PANETTA. Without adopting their amendments to safeguard States rights and expand an individuals right to sue under the law, the bill is wholly unsatisfactory.●

The CHAIRMAN. If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. MILLER of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, pursuant to House Resolution 528, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOWNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 352, nays 56, not voting 26, as follows:

[Roll No. 265]

YEAS—352

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Coughlin
Courter
Coyne, James
Coyne, William
D'Amours
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
LaFalce
Lagomarsino
Lantos
Leach
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Simon
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—56

Archer
Ashbrook
Atkinson
Badham
Beard
Bethune
Brown (CO)
Cheney
Corcoran
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Downey
Dreier
Fields
Goodling
Gramm
Gregg
Grisham
Hall, Ralph
Hansen (ID)
Hansen (UT)
Hendon
Hiler
Holt
Hunter
Jeffries
Johnston
Kindness
Kramer
Latta
Leath
Lewis
Loeffler
Lott
Lujan
Lungren
McDonald
McEwen
Michel
Miller (CA)
Mottl
Myers
Oxley
Paul
Ritter
Shumway
Shuster
Skeen
Smith (OR)
Staton
Stenholm
Stump
Weber (OH)

NOT VOTING—26

Annunzio
AuCoin
Bafalis
Blanchard
Brown (OH)
Burgener
Burton, John
Collins (TX)
Conyers
Crockett
Dornan
Ertel
Fish
Ginn
Goldwater
Ireland
Jones (NC)
Marlenee
Moffett
Richmond
Rosenthal
Siljander
Stangeland
Stokes
Wirth
Wolf

□ 1700

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mr. Conyers against.

Mr. BEARD changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1710

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5203, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, the Clerk be authorized to correct section num-

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bers, cross references, and punctuation.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BRINKLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6214, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** When the Committee of the Whole rose on Monday, August 9, section 1 was open to amendment at any point.

Are there any amendments to section 1?

Mr. BROOKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time to call to the Members' attention a problem that will arise when this bill goes to conference with the Senate. As is often the case, unfortunately, the other body has added a provision to its version of the bill that is not germane to a military construction bill under the House rules. If it were to be offered here, I would raise a point of order against it and I am confident the point would be sustained.

The effect of the provision is to exempt the Defense Department from the laws, rules and regulations covering all other executive agencies in the acquisition and disposal of real property under its jurisdiction. The effect is to bypass the authorization and appropriation process by which Congress seeks to protect the national interest. The provision added by the Senate would allow the DOD to buy, sell, and trade its own property. It can use the proceeds to buy new land and construct new replacement facilities. All this can be done with no congressional action. All DOD has to do is tell the Armed Services Committees what they are going to do 15 days before they do it.

What we have here, Mr. Chairman, is still another case of the Defense Department trying to set itself up as a separate, independent branch of Government. It believes it should be exempt from the budget cuts that are necessary to reduce all Government spending and bring down the horrendous deficits we face. It wants to be exempt from governmentwide procurement regulations. It is fighting to stay free of the Inspector General Act that we have applied across the broad spectrum of Government. It wants to stand on top of its $1.6 trillion pile of money and say to Congress: "Do not bother me, sonny. Get lost."

Mr. Chairman, I am not alone in objecting to this provision that the Defense Department has succeeded in adding to the Senate bill. I have received a letter from General Services Administrator Gerald Carman expressing strong opposition to enactment of the provision. He points out that the Defense Department will be guided by its own internal interests in disposing of its property and thus the objectivity needed to get the best deal for the Government in such transactions will be lacking. He also says such a go-it-alone approach by the Defense Department will seriously diminish the opportunity for the Government to reach the goals set by President Reagan for raising revenue through the sale of unneeded Federal property.

We have also received an evaluation of the provision by the General Accounting Office which points out how it departs from existing laws that are designed to protect the public interest. At this point, Mr. Chairman, I will ask unanimous consent that Mr. Carman's letter and the GAO review be inserted in the RECORD at the conclusion of my remarks.

Mr. Chairman, I hope that when the House conferees are appointed, they will read this material and give serious consideration to what Congress would be surrendering if this provision is enacted. What we need is tighter control over the Pentagon money monster, not less.

As a final word, I would simply say that if this provision comes back to the House in the conference report, I will raise a point of order against it. I hope that will not be necessary.

Mr. TRIBLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to join my good friend, the distinguished gentleman from Georgia, JACK BRINKLEY, in support of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983.

After weeks of hearings, and a careful review of more than 1,000 proposed projects at 500 military installations, the subcommittee approved only those projects that are absolutely necessary to enhance the readiness of our strategic and conventional forces and to improve the quality of life for our service personnel.

Included in the bill are facilities to support our strategic weapons systems, contingency facilities to support the Rapid Deployment Force in the Middle East, and quality-of-life projects to upgrade the living and working conditions of our service personnel at home and overseas.

I want to emphasize that the total amount authorized in this bill is $355 million below the budget request submitted by the administration. The committee supports the administration's efforts to modernize our military facilities; however, the prospect of unprecedented deficits requires us to scrutinize all Federal departments—including the Pentagon—for savings.

This is a good bill which represents a carefully balanced approach to the twin problems of providing modern facilities for our new weapons systems and replacing the substantial inventory of aging and obsolescent facilities.

I urge my colleagues to vote for H.R. 6214.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. CHAIRMAN. I rise in support of this bill, and commend our colleagues on the House Armed Services Committee for drafting such a sound, balanced measure legislation. Our colleagues on that committee and on the appropriate subcommittees are to be commended for the time and for the great deal of expertise and examination that must have been expended to create this fine bill.

I rise in support of this legislation, and call to the attention of my colleagues the $10.5 million which is earmarked to facilitate the removal of the New York Air National Guard from Westchester County Airport near White Plains to Stewart Airport, a former Air Force base, near Newburgh, Orange County, N.Y.

The $10.5 million is scheduled for expenditure as follows: $5 million for site preparation; $3 million for jet fuel storage; and $2.5 million for aircraft storage.

The New York Air National Guard has been seeking larger facilities for many years. The land area at Westchester Airport is limited, and has left no room for Air National Guard expansion at that facility. Conversely, the management of Westchester Airport has been seeking additional facilities for their own commercial aircraft expansion which will now be provided by the removal of the Air National Guard facilities.

Furthermore, the shorter runways at Westchester Airport, coupled with the ever-increasing commercial air traffic at that facility, have made the Westchester Airport less and less suitable for Air National Guard maneuvers.

Stewart Airport was an Air Force base from the early days of World War II until 1970, when it was closed as an economy measure. The airport was soon taken over by the Metropolitan Transportation Authority in New York, with plans to develop the airport as the fourth major airport for the New York City metropolitan region. With this goal is sight, the MTA purchased thousands and thousands of acres of land around the airport, until the airport became the second largest airport in area in the United States.

The recession of 1974, coupled with the gasoline crisis, placed the plans for Stewart's development as the fourth major metropolitan airport on the back burner. Since that time, the management of the airport has attempted to develop this excellent resource as a major general aviation facility. In 1980, the main runway was extended to 12,000 feet, making it capable of handling the largest commercial planes, and making it one of the most modern airports in the Nation.

The removal of the New York Air National Guard to Stewart will not only provide the unit with a modern, spacious facility, but will also be a boon to the economy of our mid-Hudson region. The officials and residents of the area welcome this new neighbor to our midst. It is anticipated that the Guard will bring business and support services to our region, which sorely needs a shot in the arm.

The State of New York is contributing $4 million to facilitate this move, and the county of Westchester is contributing $2 million. We in Congress should certainly show our support of these local governments who are willing to sacrifice to make this investment.

Accordingly, I urge my colleagues to join in supporting H.R. 6214.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I take this time to inform the House of the general scenario for the military construction bill this afternoon.

We hope we can move with some dispatch.

Mr. Chairman, as the Members will remember, the rule on this bill was provided last week. We have had general debate of 2 hours. The bill has been discussed. There will be several committee amendments. There will be other amendments which are noncontroversial in nature.

There will be some colloquies with Members who have had some situations they would like to discuss and have become a part of the legislative history.

There will be two or three amendments which are genuine differences over the provisions.

With reference to the binary provision, we have fought that battle once before in the big bill, the Defense procurement bill. We do not plan to resist that amendment.

We will bring out a few additional facts for the RECORD, because there will be further activity on that after the conference.

There will be an amendment on the MX proposition by my friend and colleague, the gentleman from California, Mr. RON DELLUMS, and we intend to follow the procedure that the Authorization Committee followed.

Mr. Chairman, at this time as we continue, I yield to the gentleman from Illinois (Mr. MCCLORY).

□ 1720

Mr. McCLORY. Mr. Chairman, I would like to take this opportunity to speak in behalf of authorization of two military construction projects for the Great Lakes Naval Base in Great Lakes, Ill., which is within my congressional district. Both of these projects would save the Navy money as well as energy quite soon after construction.

First, your committee proposes authorization of $1,850,000 for facility energy improvements at the Naval Training Center, Great Lakes. My understanding is that a new gas turbine facility drive shaft will be connected to an electrical generator which will send electrical power back into the utility company's powerline so that the Navy will receive a credit for generating part of their own energy. This project also provides for thermostatic controls and valves on approximately 3,600 radiators to make them more energy efficient. I understand that in the future this project would actually be a money generator.

Second, I also favor the $3,400,000 heating, ventilation, and air-conditioning project for the Navy Public Works Center at Great Lakes. This provides for modifications to the boiler plant which heats most of the buildings at Great Lakes. It also provides for modifications to 38 individual buildings to make the air-conditioning system more energy efficient and to conserve heat in winter through installation of night temperature setback controls. I understand that there is a projected first year annual payback of $1,348,000 and that for every $1 invested $5.20 will be saved. Would that more of our Federal expenditures had this kind of cost/benefit ratio.

Mr. Chairman, in view of the proposed high energy and financial savings these proposed capital investments would provide, I urge your support of these two projects at Great Lakes and hope that the measure which we pass will authorize these proposed expenditures, particularly in light of the future savings to the Federal Government which these improvements will produce.

Mr. BRINKLEY. I thank the gentleman.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield to me?

Mr. BRINKLEY. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, as you know, we have had a long-term opposition to the construction of the facilities at Ras Banas, Egypt. Indeed, in our own private conversations, I have pointed out some serious reservations about the fact that Egypt has not given us a signed agreement on its use.

Would the chairman advise me as to whether or not he would be willing to have a public hearing some time this fall on the whole question of Ras Banas, in view of the fact that apparently the Senate will support it but the House Appropriations Committee has not supported it? I have expressed reservations about it.

Mr. BRINKLEY. To respond to the gentleman, yes, that would be the Chair's intention.

To inform the Members of this body, the gentleman from Pennsylvania is a valuable member of the Subcommittee on Military Construction and has, during committee considerations, raised the issue which he now raises. So this is not a new time for him.

The sentiment which he expresses is also expressed, I understand, in the Appropriations Subcommittee's counterpart. So it would be timely, hopefully, during September or the fall of this year, to consider the issue again in the Subcommittee on Military Construction.

Mr. DOUGHERTY. Mr. Chairman, if the gentleman will yield further, in view of the assurances from the committee chairman that some type of public hearing will be held on it, I advise the House I will not offer the amendment I planned to have offered which would have struck down the Ras Banas authorization.

Therefore, Mr. Chairman, I thank the chairman of the committee for his willingness to have the public hearing and I will not offer my amendment.

Mr. NELLIGAN. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Pennsylvania, a member of the committee.

Mr. NELLIGAN. I thank the gentleman for yielding.

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Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Pennsylvania (Mr. DOUGHERTY). I, too, was at Ras Banas and share his concern that we have some sort of agreement from the Government of Egypt to use that base once it is constructed. This gentleman firmly believes that the costs of that base will eventually be $1 billion, not just the approximately $100 million or so that people are contemplating at this point. It is for this reason that I applaud the chairman of the subcommittee for agreeing to hold hearings on the issue. I believe we should have a firm, written agreement with the Government of Egypt before we commit this Nation to such huge expenditures of funds. I thank the distinguished chairman of the subcommittee for yielding.

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $25,120,000.
Fort Campbell, Kentucky, $10,650,000.
Fort Carson, Colorado, $11,900,000.
Fort Devens, Massachusetts, $3,200,000.
Fort Drum, New York, $1,550,000.
Fort Hood, Texas, $21,750,000.
Fort Irwin, California, $31,340,000.
Fort Lewis, Washington, $21,700,000.
Fort McPherson, Georgia, $41,000,000.
Fort Meade, Maryland, $2,500,000.
Fort Ord, California, $8,900,000.
Fort Polk, Louisiana, $16,840,000.
Camp Roberts, California, $2,050,000.
Fort Sam Houston, Texas, $22,000,000.
Fort Stewart, Georgia, $23,000,000.
Fort Wainwright, Alaska, $3,020,000.
Yakima Firing Center, Washington, $2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $2,930,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $26,250,000.
Fort Bliss, Texas, $21,300,000.
Fort Eustis, Virginia, $6,400,000.
Fort Gordon, Georgia, $9,200,000.
Fort Knox, Kentucky, $8,400,000.
Fort Leavenworth, Kansas, $21,200,000.
Fort Leonard Wood, Missouri, $11,000,000.
Fort McClellan, Alabama, $7,500,000.
Fort Monroe, Virginia, $1,150,000.
Fort Rucker, Alabama, $17,750,000.
Fort Story, Virginia, $13,800,000.

UNITED STATES ARMY MATERIAL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $37,500,000.
Pine Bluff Arsenal, Arkansas, $19,650,000.
Red River Army Depot, Texas, $39,000,000.
Tooele Army Depot, Utah, $4,150,000.
White Sands Missile Range, New Mexico, $5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, $2,910,000.
Iowa Army Ammunition Plant, Iowa, $1,030,000.
Kansas Army Ammunition Plant, Kansas, $7,200,000.
Longhorn Army Ammunition Plant, Texas, $230,000.
Louisiana Army Ammunition Plant, Louisiana, $3,410,000.
Milan Army Ammunition Plant, Tennessee, $5,500,000.
Radford Army Ammunition Plant, Virginia, $2,400,000.
Sunflower Army Ammunition Plant, Kansas, $3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,700,000.
Fitzsimons Army Medical Center, Colorado, $3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, $9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, $20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, $61,200,000.

UNITED STATES ARMY FORCES COMMAND

Panama, $6,800,000.
Egypt, $50,400,000.

UNITED STATES ARMY, EUROPE

Germany, $189,640,000.
Turkey, $7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, $1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, $3,950,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $56,420,000.

FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Army is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Army is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units for the Department of the Army, three hundred and eighty-five units, for a total of $39,195,000:

Fort Irwin, California, one hundred and fourteen units, $10,454,000.

Fort Lewis, Washington, one hundred and fifteen units, $9,962,000.

Grafenwoehr, Germany, one hundred and forty-three units, $17,214,000.

Hohenfels, Germany, thirteen units, $1,565,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Army, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $115,760,000, of which $43,800,000 shall be available only for energy conservation projects.

(f) The Secretary of the Army, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, $6,080,000.

Fort Hamilton, New York, one hundred and eight units, $4,800,000.

(g) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561) is amended by striking out "$195,000" in the item entitled "Fort McNair, Washington, District of Columbia", and inserting in lieu thereof "$223,000".

(h) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECTS

Sec. 105. (a) Section 702(1) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1375), is amended to read as follows:

"(1) for title I: inside the United States $391,356,000; outside the United States $395,034,000; minor construction $34,150,000; for a total of $820,540,000;".

(b) Section 602(1) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), is amended to read as follows:

"(1) for title I: inside the United States $591,840,000; outside the United States $249,940,000; minor construction $44,560,000; for a total of $886,340,000.".

LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

Sec. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "$113,717,000" and inserting in lieu thereof "$118,017,000".

FORT LEWIS, WASHINGTION—WEYERHAEUSER LAND EXCHANGE

Sec. 107. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorizd to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately three-hundred acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest and shall include the following reservations:

(1) A training easement over tract 1-US.

(2) An access easement over tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—

(1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately two hundred and ninety acres, together with the improvements on such parcels, which parcels will be equivalent in value (as determined by the Secretary) to the land conveyed under subsection (a) and which conveyance is otherwise acceptable to the Secretary;

(2) shall pay all costs associated with surveying and installing boundary monuments and all fencing costs; and

(3) shall not reserve any easement in the lands to be conveyed to the United States under paragraph (1) with the exception of two easements over roads in tract 1-W.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to enter into an agreement with the responsible officials of Pierce County, Washington, whereby the reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished and replace with a reversionary interest in the lands conveyed to the United States under subsection (b).

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments. I have a number of amendments, and I ask unanimous consent that the amendments be considered en bloc, printed in the Record, and considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. Brinkley: Page 5, line 3, strike out "$61,200,000" and insert in lieu thereof "$57,850,000".

Page 5, line 8, strike out "$189,640,000" and insert in lieu thereof "$189,240,000".

Page 6, line 21, strike out "$56,420,000" and insert in lieu thereof "$56,050,000".

Page 8, line 11, insert "and community center facility" after "Family housing units".

Page 8, line 12, strike out "three hundred and eighty-five units" and insert in lieu thereof "three hundred and eighty-seven units".

Page 8, line 13, strike out "$39,195,000" and insert in lieu thereof "$43,295,000".

Page 8, line 15, strike out "$10,454,000" and insert in lieu thereof "$10,321,000".

Page 8, line 17, strike out "$9,962,000" and insert in lieu thereof "$9,835,000".

Page 8, line 19, strike out "$17,214,000" and insert in lieu thereof "$16,994,000".

Page 8, line 20, strike out "$1,565,000" and insert in lieu thereof "$1,545,000".

Page 8, after line 20, insert the following:

Vicenza, Italy, two units, $500,000.

Aliamanu, Hawaii, consolidated community center (phase I), $4,100,000.

Mr. BRINKLEY. Mr. Chairman, the explanation for these amendments is brief.

Mr. Chairman, this amendment to title I is a no-cost amendment. It makes adjustments in the Army family housing program and corresponding offsets in the Army military construction program for the purpose of allowing the Army to build two units of secure housing in Italy for high-ranking Army officers and to start work on a critically needed community support facility in Hawaii for an isolated family housing complex.

The two units of secure housing are needed to protect against the reoccurrence of another kidnaping of U.S Army officers as we experienced with General Dozier.

With regard to the Hawaiian project, the Army has written to me requesting that we restore part of the funds that were cut initially. Because of the compelling case made by the Army, I have agreed to sponsor the amendment.

I want to assure my colleagues that the offsets involve overseas projects that are not required at this time or can be reduced in cost.

In short, it is a trade off within the Army. There is no change in the funding which this bill seeks.

Mr. Chairman, I ask approval of these amendments en bloc.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Georgia (Mr. Brinkley).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

Sec. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, $28,550,000.

Marine Corps Base, Camp Pendleton, California, $33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, $31,800,000.

Marine Corps Air Station, El Toro, California, $7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $1,550,000.

Marine Corps Development and Education Command, Quantico, Virginia, $23,250,000.

Marine Corps Recruit Depot, San Diego, California, $27,100,000.

Marine Corps Air Station, Tustin, California, $7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $16,900,000.

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Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $147,750,000.

Naval Support Activity, San Francisco, California, $1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, $9,300,000.

Naval Station, Charleston, South Carolina, $12,250,000.

Naval Amphibious Base, Little Creek, Virginia, $1,850,000.

Naval Station, Mayport, Florida, $36,100,000.

Naval Submarine Base, New London, Groton, Connecticut, $5,900,000.

Commander Oceanographic System Atlantic, Norfolk, Virginia, $3,100,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $2,085,000.

Naval Air Station, Norfolk, Virginia, $2,150,000.

Naval Air Station, Oceana, Virginia, $6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, $1,900,000.

Naval Air Station, Alameda, California, $3,650,000.

Naval Air Station, Lemore, California, $10,700,000.

Naval Air Station, Moffett Field, California, $11,800,000.

Naval Air Station, North Island, California, $31,070,000.

Naval Station, Pearl Harbor, Hawaii, $14,400,000.

Naval Station, San Diego, California, $27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, $14,100,000.

Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, $7,000,000.

Naval Air Station, Whidbey Island, Washington, $1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $1,700,000.

Naval Air Station, Corpus Christi, Texas, $2,800,000.

Naval Training Center, Great Lakes, Illinois, $1,850,000.

Naval Air Station, Memphis, Tennessee, $8,400,000.

Naval Education and Training Center, Newport, Rhode Island, $1,100,000.

Fleet Training Center, Norfolk, Virginia, $5,400,000.

Naval Training Center, Orlando, Florida, $5,500,000.

Naval Air Station, Pensacola, Florida, $5,400,000.

Naval Technical Training Center, Pensacola, Flordia, $4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, $3,950,000.

Naval Air Station, Whiting Field, Florida, $7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, $9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, $2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $5,550,000.

Naval Weapons Center, China Lake, California, $8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $10,800,000, all of which must be used for the Applied Research Center, Wallops Island, Virginia.

Navy Public Works Center, Great Lakes, Illinois, $3,400,000.

Mare Island Naval Shipyard, Vallejo, California, $9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, $6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $160,000,000.

Navy Public Works Center, Norfolk, Virginia, $16,030,000.

Naval Air Rework Facility, North Island, California, $18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, $1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, $7,800,000.

Naval Supply Center, San Diego, California, $4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, $3,250,000.

Navy Public Works Center, San Francisco, California, $9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, $6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, $1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, $1,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, $6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, $1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, $2,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, $1,400,000.

Naval Station, Keflavik, Iceland, $8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $71,930,000.

Naval Magazine, Guam, Mariana Islands, $32,200,000.

Naval Activities, Kenya, $8,300,000.

Naval Activities, Somalia, $30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center, Europe, London, England, United Kingdom, $3,250,000.

Naval Air Station, Sigonella, Italy, $31,900,000.

NAVAL MATERIAL COMMAND

Naval Public Works Center, Subic Bay, Republic of the Philippines, $2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, $1,750,000.

Naval Communication Station, Thurso, Scotland, $1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, $3,000,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $60,428,000.

FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Navy is authorized to acquire less than sole interest existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Navy is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Navy, one thousand seven hundred and forty-nine units, for a total of $83,513,000:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, $9,112,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, $10,908,000.

Naval Station, Long Beach, California, three hundred and sixty-eight units, $33,090,000.

Naval Air Training Center, Patuxent River, Maryland, one thousand units, $5,000,000.

Naval Station, Guantanamo Bay, Cuba, two hundred units, $25,403,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to purchase ninety-one acres of real estate at a cost not to exceed $1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

(f) The Secretary of the Navy, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $47,333,000 of which $7,574,000 shall be available only for energy conservation projects.

(g) The Secretary of the Navy, or the Secretary's designee, within the amounts specified in subsection (f), is authorized to accomplish repairs and improvements to existing family housing in the amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Naval Air Test Center, Patuxent River, Maryland, three hundred and thirty units, $16,800,000.

Naval Station, Guantanamo Bay, Cuba, one unit, $75,000.

HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 205. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be acquired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

Inside the United States

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $5,845,000.

Kelly Air Force Base, Texas, $12,000,000.

McClellan Air Force Base, California, $9,000,000.

Robins Air Force Base, Georgia, $4,700,000.

Tinker Air Force Base, Oklahoma, $10,650,000.

Wright-Patterson Air Force Base, Ohio, $32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,600,000.

Edwards Air Force Base, California, $12,100,000.

Eglin Air Force Base, Florida, $24,200,000.

Fort MacArthur, California, $1,900,000.

Laurence G. Hanscom Air Force Base, Massachusetts, $10,650,000.

Cape Canaveral, Florida, $9,100,000.

Moffett Naval Air Station, California, $1,900,000.

Sunnyvale Air Force Station, California, $11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $22,260,000.

Columbus Air Force Base, Mississippi, $1,150,000.

Goodfellow Air Force Base, Texas, $15,300,000.

Keesler Air Force Base, Mississippi, $9,000,000.

Lackland Air Force Base, Texas, $6,100,000.

Laughlin Air Force Base, Texas, $5,770,000.

Lowry Air Force Base, Colorado, $13,050,000.

Maxwell Air Force Base, Alabama, $15,150,000.

Randolph Air Force Base, Texas, $3,900,000.

Reese Air Force Base, Texas, $3,750,000.

Sheppard Air Force Base, Texas, $5,500,000.

Vance Air Force Base, Oklahoma, $8,000,000.

Williams Air Force Base, Arizona, $8,700,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $6,580,000.

Elmendorf Air Force Base, Alaska, $4,800,000.

Galena Airport, Alaska, $2,050,000.

Shemya Air Force Base, Alaska, $1,200,000.

Various Locations, Alaska, $43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $3,160,000.

Andrews Air Force Base, Maryland, $13,200,000.

Charleston Air Force Base, South Carolina, $1,550,000.

Dover Air Force Base, Delaware, $2,500,000.

Kirtland Air Force Base, New Mexico, $3,570,000.

Little Rock Air Force Base, Arkansas, $3,000,000.

McChord Air Force Base, Washington, $3,700,000.

McGuire Air Force Base, New Jersey, $16,000,000.

Norton Air Force Base, California, $1,300,000.

Pope Air Force Base, North Carolina, $4,400,000.

Scott Air Force Base, Illinois, $4,850,000.

Travis Air Force Base, California, $2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, $3,300,000.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyenne Mountain Complex, Colorado, $1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $2,595,000.

Blytheville Air Force Base, Arkansas, $7,383,000.

Carswell Air Force Base, Texas, $54,500,000.

Dyess Air Force Base, Texas, $1,650,000.

Ellsworth Air Force Base, South Dakota, $1,350,000.

Francis E. Warren Air Force Base, Wyoming, $4,150,000.

Fairchild Air Force Base, Washington, $3,740,000.

Griffiss Air Force Base, New York, $56,050,000.

Grissom Air Force Base, Indiana, $3,400,000.

K. I. Sawyer Air Force Base, Michigan, $4,450,000.

Loring Air Force Base, Maine, $38,420,000.

Malmstrom Air Force Base, Montana, $55,000,000.

March Air Force Base, California, $1,550,000.

McConnell Air Force Base, Kansas, $3,000,000.

Offutt Air Force Base, Nebraska, $9,450,000.

Peterson Air Force Base, Colorado, $67,700,000.

Powell, Wyoming, $1,250,000.

Vandenburg Air Force Base, California, $79,759,000.

Various Locations, Continental United States, $1,900,000.

Whiteman Air Force Base, Missouri, $7,800,000.

Wurtsmith Air Force Base, Michigan, $1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $5,450,000.

Cannon Air Force Base, New Mexico, $1,800,000.

Davis-Monthan Air Force Base, Arizona, $11,950,000.

George Air Force Base, California, $1,400,000.

Gila Bend Air Force Auxiliary Field, Arizona, $1,700,000.

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Holloman Air Force Base, New Mexico, $3,902,000.

Homestead Air Force Base, Florida, $1,500,000.

Langley Air Force Base, Virginia, $15,550,000.

MacDill Air Force Base, Florida, $20,700,000.

Moody Air Force Base, Georgia, $6,550,000.

Mountain Home Air Force Base, Idaho, $4,350,000.

Nellis Air Force Base, Nevada, $19,900,000.

Seymour-Johnson Air Force Base, North Carolina, $3,620,000.

Shaw Air Force Base, South Carolina, $1,150,000.

Tyndall Air Force Base, Florida, $11,540,000.

Various Locations, Maine, $7,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $6,050,000.

MX CONSTRUCTION

Various Locations, Continental United States, $103,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,100,000.

Otis Air National Guard Base, Massachusetts, $3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, $2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, $7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, $1,750,000.

Clark Air Base, Republic of the Philippines, $14,380,000.

Diego Garcia Air Base, Indian Ocean, $36,550,000.

Kadena Air Base, Japan, $15,950,000.

Kunsan Air Base, Korea, $36,490,000.

Kwang-Ju Air Base, Korea, $2,450,000.

Misawa Air Base, Japan, $6,600,000.

Osan Air Base, Korea, $44,000,000.

San Miguel, Republic of the Philippines, $1,750,000.

Yaedake Radio Relay Station, Japan, $1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, $3,600,000.

Various Locations, Worldwide, $15,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, $121,700,000.

Germany, Various Locations, $22,354,000.

Aviano Air Base, Italy, $7,200,000.

Oman, Various Locations, $9,250,000.

Incirlik Air Base, Turkey, $7,290,000.

Various Locations, United Kingdom, $57,010,000.

Various Locations, $83,954,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $104,691,000.

FAMILY HOUSING

SEC. 304. (a) The Secretary of the Air Force, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Air Force is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Air Force is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Air Force, seven hundred and ninety units, for a total of $82,050,000:

Fort MacArthur, California, two hundred units, $20,000,000.

Powell, Wyoming, fifty units, $3,850,000.

MacDill Air Force Base, Florida, forty units, $3,200,000.

Incirlik Air Base, Turkey, two hundred units, $20,000,000.

Bentwaters Royal Air Force Station, United Kingdom, three hundred units, $35,000,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Air Force, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $76,500,000, of which $17,000,000 shall be available only for energy conservation projects.

(f) The Secretary of the Air Force, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as follows:

Loring Air Force Base, Maine, four hundred units, $13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, $5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, $4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, $4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, $7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, $1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, $934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 305. The Military Construction Authorization Act, 1977 (Public Law 94-431, 90 Stat. 1349), is amended—

(1) in section 301 concerning the Arnold Engineering Development Center, Tennessee, delete "$519,010,000" and insert in lieu thereof "$561,010,000"; and

(2) in section 602(3) delete "$759,759,000" and "$816,409,000" and insert in lieu thereof "$801,759,000" and "$858,409,000", respectively.

LAND CONVEYANCE, FLORIDA

SEC. 306. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (Public Law 668, ch. 437, 54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to adjust the base boundaries at Eglin Air Force Base, Florida, to resolve encroachments by both the Air Force and private property owners resulting from a reliance on inaccurate surveys. In doing so, the Secretary may (1) disclaim the intent to acquire property by prescription, which disclaimer shall be binding on all parties, (2) dispose of tracts by gift, sale, or exchange for privately owned land adjoining Eglin Air Force Base to parties in possession of such tracts who mistakenly believed that they had acquired title to such tracts, and (3) acquire tracts by purchase, donation, or exchange for Government-owned land at Eglin Air Force Base.

(b) Conveyances pursuant to this section may be made without consideration, at the Secretary's discretion.

CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. Notwithstanding any other provision of law, the Secretary of the Air Force may use Foreign Military Sales administrative funds, only to such extent or in such amounts equal to a total of not more than $395,000 as are provided in appropriation Acts, to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use as a foreign military sales center to accommodate personnel engaged in logistics system support and management of the foreign military sales program of the Air Force.

AMENDMENT OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY:

Page 27, line 19, strike out "$7,383,000" and insert in lieu thereof "$8,733,000".

Page 28, line 1, strike out "$56,050,000" and insert in lieu thereof "$56,450,000".

Page 32, line 12, strike out "$104,691,000" and insert in lieu thereof "$101,521,000".

Page 34, line 5, strike out "ninety" and insert in lieu thereof "seventy-six".

Page 34, line 10, strike out "forty" and insert in lieu thereof "twenty-six".

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I would simply inform the Members of the House that this is the Air Force section and there are several printing errors. This is corrective and technical in nature. It changes no substantive provision, and I ask that the amendment be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendment was agreed to.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my understanding that the authorization contained in this bill does not contain funding for the rehabilitation of an Army aviation flight facility of the Minnesota National Guard.

I would like to have the chairman respond if that is correct.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the chairman.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct in his understanding. The normal debate on this issue, of course, will come in title VII, which will be discussed soon. But as the gentleman will see, title VII has received a great priority within this bill and we anticipate it will receive continuing great priority in the years to come.

The change from replacement to rehabilitation has caused the delay in this particular case. As a matter of policy, the subcommittee has a threshold of 35 percent of design completed for consideration of funding. In this way, we have a better idea about the scope, cost, and timing of the project.

Mr. VENTO. Mr. Chairman, in view of the importance of this facility, can the chairman indicate when funding for the rehabilitation would be feasible? I yield to the gentleman.

Mr. BRINKLEY. I thank the gentleman for yielding further.

Mr Chairman, I am aware of the support given to the Active Forces by this facility, as well as of the fact that helicopter research and development activities are facilitated by the Minnesota National Guard.

Mr. VENTO. Would the chairman say that provided the 35-percent design level is complete, would we then be able to move ahead; that is, if the 35-percent design criteria would be completed?

Mr. BRINKLEY. Mr. Chairman, if the gentleman will yield further, yes. Providing the 35-percent design level criterion is surpassed, I would state to the gentleman that the project should be considered to be one of the highest priority Guard and Reserve items in the fiscal year 1984 military construction bill.

Mr. VENTO. I thank the chairman for his response, and I yield back the balance of my time.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from Minnesota (Mr. VENTO) for his support of our Guard and Reserve Forces, which are an important part of our national defense.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: Page 29, line 15, strike out "$103,000,000" and insert in lieu thereof the following: "$36,700,000".

□ 1730

Mr. DELLUMS. Mr. Chairman, what my amendment does is go to the funds in the bill for the construction of the MX basing mode. I am not going to go through all the arguments for or against the MX missile system and the basing mode. We have done that in procurement and in research and development sections of the DOD authorization bill for fiscal year 1983.

What this amendment does is go to a very specific point. First of all, my amendment strikes $66.3 million for various weapons system support facilities at the deployment base.

There is in this bill $103 million for MX basing construction, broken down as follows, Mr. Chairman: $16.7 million for various logistics and repair facilities at Hollings Air Force Base, Utah; Newark Air Force Base, Ohio; $20 million for several new flight test silos at Vandenburg Air Force Base, Calif., and finally—and this is what my amendment specifically addresses—$66.3 million for various weapons systems support facilities at the deployment base.

Mr. Chairman, the Armed Services Committee rationale for this $66.3 million is as follows: They state that the authorization bill, H.R. 6030, restricting funding for the MX missile, permits work to proceed on those elements that would be basic to any basing mode. However, the question that I raise, Mr. Chairman, very simply is this: One can rationalize the $16.7 million for the repair and logistical facilities. Perhaps one can justify the $20 million for the new flight test silos, but I cannot fathom any justification, any rationale, for $66.3 million at a deployment base when we do not know: First, where that deployment base is going to be; or second, what the basing mode would be.

How can you develop a support system for a basing mode when the decision has not been made by the President of the United States? Both bodies of the Congress have enacted legislation that in effect says that we shall wait for the decision from the President of the United States with respect to what basing mode he shall accept or not accept.

Now, how can you spend $66.3 million building a support facility at the basing mode site, and you do not have a site? Let alone the fact that you do not even have a basing mode that the President has even acted upon. The earliest that this Congress will receive that decision will be sometime in December. The Congress will reconvene in January. We will have 30 days to review the decision on the part of the President. That then takes us later in January or early into February. Once that decision is made, it will take some substantial amount of time beyond that to determine the site upon which this new basing mode, if we come up with one, and there is great argument about whether we will, where that site will be located.

So, we have now extended this matter to March or April or maybe in late spring or early summer, so why

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are we today passing a piece of legislation that authorizes $66.3 million, Mr. Chairman, to build a facility that cannot be built until sometime next year?

In this austere moment that we find ourselves trapped in, why do we need to spend this level of resources? We do not need to go over it again on whether one supports or does not support the MX missile. Everyone in this body knows where this gentleman stands on that matter. We do not need to discuss the basing mode. There have been 34—perhaps they will come up with the magic 35, I do not know. The issue I am pointing out here is that that decision has not been made. It will not be made for a matter of months. We will then be able to work our will on whether we agree or disagree with that decision, so why do we need to put this money in?

I am suggesting, Mr. Chairman, that this vote is an intelligent vote, it is a rational vote, it is a reasonable vote, it is a prudent vote, it is a fiscally conservative vote. To just throw money out there, simply to say, "Let's put this money in this category," as if in some way that is sacrosanct, is absurd. If there is any Member in this Chamber, any Member of this body that can rationalize at this moment, I would deeply appreciate it, because I have no basis upon which to rationalize the expenditure of these resources.

Perhaps one can talk about it once the decision is made by the President. Once we acquiesce in that decision if we choose to do it, once the site is developed, once we begin to develop an area, then we can spend the money. How can we support something that does not exist?

Mr. BRINKLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California.

Mr. Chairman, although I understand the gentleman's concerns about the absence of the decision on a permanent basing mode, the fact is that the weapons systems support facilities authorized in this bill are essential, regardless of where or how the missile is deployed. They are basically a support package required to receive and assemble, maintain, and repair the missile itself and its associated equipment. These facilities are critical to the MX initial operational capability date of late 1986, which was mandated by this Congress.

The committee spent a great deal of time examining the original MX budget request of $207 million. We attempted to clearly define facilities requirements that would be essential to any basing mode selected. The $66.3 million authorization for the weapons support facilities was determined not only to be essential but critical, and I therefore must oppose the gentleman's amendment.

Mr. DELLUMS. Mr. Chairman, will my colleague yield?

Mr. BRINKLEY. Of course.

Mr. DELLUMS. I appreciate what my colleague has just stated, and I would like very much if he could tell me what is so critical just for a moment. Perhaps I do not understand the timing, but the President has to make a decision. That will come to us sometime in December. There is a question of whether we will or we will not even be in session some time in December. If we are in session, we have until January to make a decision. If we are not in session, the decision will not be made until January, anyway. Once the decision is made in January or February we then have the second decision to make, and that is where this basing mode is going to be. We can begin that process.

What is urgent about the expenditure of $66.3 million at this particular moment in August 1982, when it may be August 1983, before we even determine where this basing mode is going to be developed? So next year, if we need to put this money in it can be placed in, but this year I do not see the urgency.

I appreciate my colleague yielding to me.

Mr. BRINKLEY. As the gentleman well knows, this is the authority, the authorization bill; and of course under the system of things we must provide the authority and the appropriations, and there is a certain latitude, a certain flexibility that the executive branch requires in order to move promptly in order that there not be any lag. So, in the regular order of things, in the managerial aspect of things, and, in the opinion of many, the critical aspect of the system itself, it would seem to me that it would be well to approve the judgment of the committee.

Mr. DELLUMS. If my colleague will yield further, I appreciate it and I will not drag this debate out. I am simply saying to my colleague, No. 1, I do not think it is critical. No. 2, when one looks at the schedule of what judgments have to be made, it seems to me that we have more than adequate time if necessary to place these funds in next year's budget, and in this austere period it seems to me it is prudent on the part of this body to strike the $66.3 million.

I thank my colleague for yielding.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Very briefly, Mr. Chairman, the committee has already cut $104 million which it believed was unnecessary to accomplish the initial operating capabilities for the MX. The projects that remain in this bill are required no matter which basing mode is chosen; $66.3 million are dedicated to the weapons system support facilities.

□ 1740

That is the total logistical support for the MX missile and it includes storage, assembly, inspection, maintenance, and repair.

The President intends to select a permanent basing mode before the end of the year. Once the permanent basing decision is made, construction of this facility, must begin as soon as possible and, therefore, we have authorized this project in the current year.

I believe this is important. I believe the committee has operated in a reasonable and prudent manner and I would hope my colleagues would reject this amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield for a question?

Mr. TRIBLE. I am happy to yield.

Mr. DELLUMS. Is not the $16.7 million adequate to address the logistical and repair needs? Why do we need this? There are $16.7 million in there for repair and for logistical facilities at two Air Force bases and $20 million for test flights.

What do we need this money for?

Mr. TRIBLE. The $16.7 million is for a repair facility primarily away from the site.

But decisions have to be made so that we can move forward in a prompt manner once the siting decision is made. This construction project provides for storage, assembly, inspection, maintenance, and repair at the site itself.

Mr. DELLUMS. Will the gentleman yield for one last question?

Mr. TRIBLE. I am happy to yield.

Mr. DELLUMS. What is the timeframe? I think we both would agree at the earliest the President will send a message to us would be December and we do not even know if we are going to be in session in December. So from that date can the gentleman work out for me what you perceive to be a timeframe when we would begin spending the $66.3 million that is so urgent in this fiscal year's budget?

Mr. TRIBLE. We must move forward very quickly once the President and this body makes the appropriate decision.

My concern is that if we postpone this project into a future year we will delay this MX missile in a very real way, and we should avoid that result.

Mr. DELLUMS. I thank my colleague for yielding.

AMENDMENT OFFERED BY MR. BRINKLEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DELLUMS

Mr. BRINKLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY as a substitute for the amendment offered by Mr. DELLUMS: Page 37, after line 16, insert the following:

LIMITATION ON FUNDS FOR MX CONSTRUCTION

SEC. 308. Any amount appropriated to carry out the MX construction authorized in section 301 for various locations in the continental United States may not be obligated or expended for construction of weapons system support facilities until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of continuous session of Congress have expired after the receipt by Congress of such notice. For the purpose of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and in determining days of session of Congress, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I recognize the validity of much of what the gentleman from California has said.

I think this substitute amendment will meet his objections and will respond to his objections. It would prohibit the obligation of any funds for weapons support facilities and the deployment base until the President notifies Congress of the selection of an alternative basing mode and 30 days have elapsed in which to consider it.

Mr. Chairman, it is critical, in my opinion, to retain the $66.3 million in the fiscal year 1983 bill to prevent further delay in the planned deployment of this needed system.

Therefore, I urge unanimous agreement to this amendment which I offer as a substitute for the Dellums amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY) as a substitute for the amendment offered by the gentleman from California (Mr. DELLUMS).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DELLUMS) as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment, and I ask unanimous consent to take my amendment out of order. It is to title VIII. I have discussed this with the chairman of the committee and also the ranking minority member.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: At the end of the bill add the following new section:

LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 806. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, State of Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

(c) If the sum of the fair market value of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary may accept and administer any real property conveyed to the United States under this section.

(g) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. SKELTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, the amendment which I am offering would authorize a land exchange between the Department of the Army and the Kansas City Corp. for Industrial Development (KCCID) in Kansas City, Mo. Specifically, the Secretary of the Army would convey the Sgt. Charles R. Long Army Reserve Training Center to the KCCID in exchange for property known as the Carlisle School in Independence, Mo. The Carlisle School is owned by the Kansas City School District and is surplus to the needs of the community. In addition, the KCCID would be required to repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary of the Army, and would be required to provide the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the current Reserve Center to the Carlisle School. Further, my amendment provides that if, after the repair and rehabilitation, the fair market value of the Carlisle School is less than the fair market value of the Reserve Center, the KCCID shall pay the Government the difference. The Army proposes to convert the Carlisle School into a new Reserve Center, while the KCCID will utilize the existing Reserve Center as part of a commercial and office development.

Mr. Chairman, this proposed exchange will benefit the Army as well as the cities of Kansas City and Independence. The present Army Reserve Center is a facility of 26,000 square feet located on a 2-acre site. It was designed for a 400-person capacity. Yet, today, over 800 persons are members of the units which train at the facility. Acquisition of Carlisle School would give the Army a 38,500 square feet Reserve center on a site approximately 4.5 acres. Though the Army estimates an eventual cost of $750,000 for improvements at the Carlisle School site, this is far less than the estimated cost of $3 million for an equivalent newly constructed facility.

Kansas City will receive a parcel of property that is the key to the development of an area just south of the city's convention center. The development will mean construction and permanent jobs, and increased property tax revenue. Independence will see a rapidly deteriorating property renovated, and, in addition, will have busi-

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ness attracted to the area from the Reserve Center.

Mr. Chairman, the opportunity to make this exchange did not present itself until after consideration of this legislation by the House Armed Services Committee. However, a provision authorizing the exchange was included in the comparable legislation adopted by the other body on June 30. My amendment is substantially similar to the language of section 808 of S. 2568. Those changes which have been made are minor and technical in nature and should pose no problem in the conference.

Mr. Chairman, there is no additional authorization required by this amendment. The Army can begin converting the school into a Reserve facility using funds which have already been appropriated. As additional funds become necessary, they will, of course, be subject to the budget, authorization, and appropriation process. Let me reemphasize that the existing inadequate Reserve Center must eventually be replaced. The land exchange authorized by my amendment is the most economical, cost effective method to achieve this end. Under our "total force" concept, we must have adequate training facilities for our Reserve and National Guard units to assure their readiness. This proposal will give the Kansas City area an adequate Reserve facility, and will also bring benefits to two communities.

I urge the adoption of my amendment.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, the gentleman from Missouri and I have worked closely on this and other projects. It is a pleasure on this side of the aisle to accept the amendment.

Mr. TRIBLE. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Chairman, I, too, have reviewed this amendment, and we have no objection to its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Skelton).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PATTERSON

Mr. PATTERSON. Mr. Chairman, I offer an amendment and I ask unanimous consent to return to title II to offer this amendment, which I believe has been agreed upon.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. Patterson: Page 24, after line 22, add the following new section:

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

Sec. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

Mr. PATTERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PATTERSON. Mr. Chairman, I rise to offer an amendment regarding the family housing units for the Long Beach Naval Station in California.

In short, my amendment simply updates the assumptions which underlie the dollar amounts and unit allocations for the 368 family housing units provided in this bill for use by personnel at the Long Beach Naval Station.

The Navy had proposed that of these 368 units, 168 of the units would be constructed at the Los Alamitos Armed Forces Reserve Center, a California National Guard facility in Los Alamitos, Calif. This proposal is strongly opposed by the local community and the Army—from whom the California Guard leases the land—because of two fundamental problems:

First, the implications of the fact that the 168 units would be located within the 3,000-foot crash hazard zone—a fact that could have a detrimental effect on the military operations at the California National Guard facility as well as increase the noise level and safety risks to the local residents; and

Second, the strain on local resources that the additional families and housing would cause—both in terms of the inability of the local community to bear the financial burden of providing the additional municipal services for the new families and in terms of the inability of the existing community infrastructure to absorb the population and traffic increases.

As I understand it, not only does the local community oppose the proposed 168 housing units at Los Alamitos, but so does the Army. And, just as recently as the Department of Defense informed the Navy that the Los Alamitos site is rejected and suggested that the Navy pursue other alternatives to meet the projected Long Beach military housing demand, the Navy and the city of Long Beach have been pursuing alternative sites and have made tremendous progress in identifying and securing them.

For example, the city of Long Beach has formally indicated to the Navy that it is willing to make the necessary regulatory changes so that the Navy may utilize a viable site in Long Beach for providing the military family housing.

So, as you can see, Mr. Chairman, my amendment would merely clarify that the Los Alamitos site is no longer a viable site and thus would prohibit the placement of any of these housing units provided in H.R. 6214 at Los Alamitos. It would not, however, preclude the use of the $33 million for placement of the units at other sites near the Long Beach facility, for I recognize the need to provide the units and support the committee's inclusion of funds for the 368 units.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding. Concerning your objection to building Navy housing units at the Los Alamitos Armed Forces Reserve Center—which most of us know under the old title of Los Alamitos Naval Air Station—as I understand it, you do not object to the money for Navy family housing being spent elsewhere in the South Bay area. Is that correct?

Mr. PATTERSON. Yes; the gentleman is correct. The bill we have under consideration, H.R. 6214, contains a total of $33,090,000 for 368 units for use by personnel assigned to the naval station in Long Beach, in your congressional district. As you are aware, 200 of these units are programed for the Seal Beach Naval Ammunition Depot, and the 168 units remaining have been tentatively programed for the Los Alamitos facility. I have absolutely no objection to—as a matter of fact, I very strongly support—use of these funds to provide 368 houses for Long Beach military personnel so long as none of the units are built on the Los Alamitos grounds. My objection to placing them at Los Alamitos is due to the concern expressed by the mayors and council members of Los Alamitos and some of the surrounding cities that placement of these 168 family housing units at the present time would inflict an undue hardship on the surrounding community, as I outlined a moment ago in my introductory remarks.

Mr. ANDERSON. Thank you. I think that clarifies it, especially as I understand the city of Long Beach is willing to revise some of the restrictive covenants they placed upon land made available to the Navy for the Long Beach Naval Regional Medical Center. It would seem that by relocating the medical evacuation heliport from its present location in the rear of the Naval Medical Center to the open area in the front, sufficient land could be available for construction of Navy housing at that site. And, as an alternative, housing funds not spent at the Navy Regional Medical Center might be used to replace existing substandard housing at the Cabrillo Navy House area in the western portion of Long Beach, and to build additional units on land available there. Placement of these units at Cabrillo and the medical center in Long Beach would actually be better than Los Alamitos since Navy personnel would find the commute from Long Beach to their ships based at Terminal Island more convenient than the commute from Los Alamitos.

Mr. PATTERSON. Yes; I agree completely, and I think that is where these funds should be spent.

Mr. ANDERSON. I thank the gentleman very much for his clarifying remarks and his courtesy in this matter.

□ 1750

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, I have a real interest in this. The Seal Beach Naval Weapon Station, upon which 200 of the units are to be built, is in my current district. The Long Beach Naval Station is in the new district into which I have been thrust, thanks to one of my colleagues from California, Mr. Burton. One of the areas being discussed for housing is in the San Pedro area, Whites Point, and others, which are also in the new district with which I have been presented.

I want to make one thing clear, and I think the gentleman has addressed himself to that. There is a present and there will be a continuing need for naval housing in the Long Beach area as the Navy ships come back to Long Beach. As I understand it, the gentleman's amendment will only affect the 167 or 168 units that were being proposed to be built for fiscal year 1983 at Los Alamitos; is that not correct?

Mr. PATTERSON. Yes.

The CHAIRMAN. The time of the gentleman from California (Mr. Patterson) has expired.

(On request of Mr. Lungren and by unanimous consent, Mr. Patterson was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. If the gentleman will yield further, this will not preclude the possibility of consideration for units being built at that site at some later time, recognizing that the communities have some interest in mitigation, and so forth, if the military does decide to build units there; is that not also correct?

Mr. PATTERSON. The gentleman is correct in saying that there is a need for the housing in the Long Beach area, and this does not preclude, by this amendment, any further decisions that might be made.

Mr. LUNGREN. If the gentleman will yield further, I would just like to say that one of the things I want to make absolutely clear on this is that the communities of southern California, those communities that we all represent, are not in any way suggesting that the people who serve in the Navy are worthy of defending, fighting, and dying for us but are not worthy of living in our own neighborhoods. That has been a criticism registered by some—some very vocal elements—I would say extreme elements in some of our communities, and I want to make it clear that we do not follow that logic by what is being done here, but recognize that there is a need for housing, and that in this particular circumstance, based on the work that has been done thus far, Los Alamitos may not be the most appropriate place for that housing at this time, but, nonetheless, we do need housing, and we need it in areas that are fairly close to where the men and women will be serving; that is, at the Long Beach Naval Station.

Mr. PATTERSON. Yes. As a Member of Congress, and having served in the Armed Forces, I recognize that, particularly, enlisted personnel have a great need for housing, and this area in southern California has a need for housing.

I thank the gentleman for his observations.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, we have examined the gentleman's amendment. I commend the three gentlemen for their cooperation in resolving this issue. It changes the bill in no particular in terms of dollars, and this side is pleased to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Patterson).

The amendment was agreed to.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am sorry to bring another note into the debate on this bill. As the Members know, I have very strongly opposed development of poison gas. I notice here another nearly $20 million devoted to that. That is a lost cause, but I am sorry to see that there is more money for the poison gas in this bill.

Mr. BRINKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman from New Jersey is no newcomer to this battle. On the floor last year she also expressed her opposition at that time by way of an amendment which had been offered by the gentleman from Michigan (Mr. Bonior), which sought to delete funds in the earlier fiscal year authorization for a building, a facility in Pine Bluff, Ark.

We note the action of this House in the defense authorization bill. Should an amendment be offered to this bill, we would seek to lay out further facts before the House for the record and for future action, but we would not resist such an amendment.

Mrs. FENWICK. I thank the Chairman. When would be an appropriate time for such an amendment?

Mr. BRINKLEY. The time is passed.

Mrs. FENWICK. The time is passed.

Mr. BRINKLEY. But we would not object to going back to title I.

Mrs. FENWICK. Title I.

Well, I have other thoughts, Mr. Chairman, which I would like to question the gentleman on. I am surprised at the cost per unit of our housing close to $100,000 for every unit of Navy housing. That seems to me to be very high, if I understood the figures correctly. But more troubling to me was the fact that, as I understand it, the committee had cut some $600 million from the request, some $600 million, but then added later, not requested by the Pentagon, as I understand it, some $249 million of construction.

Mr. BRINKLEY. Let me respond to the gentlewoman, if she would yield.

Mrs. FENWICK. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I would like to report to the gentlewoman some facts that we did provide to the membership in general debate the other day.

This committee had, I believe, precisely 10 meetings with the military witnesses coming before us, which is probably about twice as many as the number that the Senate had. We set out in our committee to really look at the bill submitted by the administration and to use our best judgment in arriving at the right decision and not to rubberstamp an administration proposal. We achieved that. We reduced the bill by $355 million.

Mrs. FENWICK. Why did you add the extra, Mr. Chairman?

Mr. BRINKLEY. I am getting to that, and if the gentlewoman needs extra time, we will get it for her.

The total bill was for $7.8 billion, and that was the supplemental, as well as the fiscal year 1983 bill, in combination.

We reduced the total by $355 million below that figure.

Now, in the process, we did defer certain projects, and in place of it sometimes we did make add-ons, if justified by the Members, by testimony or supporting evidence.

Now, we made the cuts, for example, in the NATO countries, because, except for Turkey, we said, "What about the bubble technology for ware-

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houses and group meetings?" And we are requiring a study to test the cost effectiveness of that.

Mrs. FENWICK. The cuts are great, Mr. Chairman. I am not objecting to the cuts. What I question are the add-ons, the $249 million that was not requested by the Pentagon, as I understand it.

Mr. BRINKLEY. I will be glad to respond to the gentlewoman on any single one of them.

Mrs. FENWICK. There are a whole number. There must be about 20.

Mr. BRINKLEY. There are a good many of them.

Mr. DOUGHERTY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I thank the gentlewoman for yielding.

As one specific example, I would respond to my colleague, in many instances we found that projects, worthy projects in the United States, were not being requested, funding was not being done by the Department of Defense, but many projects overseas were being requested. I can specifically tell the gentlewoman, for example, that the Philadelphia Naval Shipyard did not receive any type of major military construction projects. The Philadelphia Naval Shipyard is an asset, as the gentlewoman would know, to the Delaware Valley. And yet it has not had a major naval construction contract for years.

Mrs. FENWICK. Could the gentleman not persuade the Pentagon that that was necessary? They seem very keen on so many other things.

Mr. DOUGHERTY. We thought it much easier to add in the committee a major amendment, a $17 million add-on, to build a project to rebuild the piers at the Philadelphia Naval Shipyard.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. DOUGHERTY and by unanimous consent, Mrs. FENWICK was allowed to proceed for 1 additional minute.)

Mrs. FENWICK. We can run down them, if the Chairman would like. I did not know that that was tactful. But we have $41 million in Fort McPherson; $9 million in Fort Benning; $9 million in Fort Gordon; $20 million in Fort Sam Houston; $13 million in Fort Hood; $18 million in Aberdeen; $20 million in Mayport; $7 million in Whiting; $11 million in Eglin; and so on.

Mr. DOUGHERTY. The gentlewoman's point is well made. The fact of the matter, though, is that the committee exercised its judgment, and the committee cut almost $700 million from the bill.

Mrs. FENWICK. I am not worried about the cuts.

Mr. DOUGHERTY. The point is, though, that if you are looking at the savings, the committee has to exercise some judgment, and the judgment was that the Defense Department was not asking for adequate funding for some very necessary domestic facilities. What the committee did was, in effect, it added on, but after it had substantially taken money out.

What the gentlewoman is really asking is, should the committee exercise independent judgment, or should we simply go along with what the administration requested.

The fact that the administration did not request funding for something does not mean that it was not justified.

Mrs. FENWICK. I think that the Pentagon ought to know if it needs housing or what it needs, and I think that the committee ought to investigate whether or not that is necessary. It had not occurred to me that the committee would be able to add on in their own districts whatever they chose.

□ 1800

The CHAIRMAN pro tempore. Are there further amendments to title III? If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Elmendorf Air Force Base, Alaska, $2,700,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,100,000.

Defense Foreign Language Institute, Monterey, California, $31,000,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, $43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, $5,100,000.

Various Locations Korea, $29,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, $8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Bamberg, Germany, $3,470,000.

Kaiserslautern Air Base, Germany, $7,967,000.

Karlsruhe, Germany, $7,380,000.

Mains, Germany, $2,830,000.

Nuernberg, Germany, $2,820,000.

Ramstein Air Base, Germany, $1,460,000.

Wuerzburg, Germany, $3,920,000.

Zweibruecken Air Base, Germany, $1,780,000.

Yokota Air Base, Japan, $5,660,000.

RAF Woodbridge, United Kingdom, $1,200,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which the Secretary determines are vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the toal amount of $5,200,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $13,460,000.

FAMILY HOUSING

SEC. 404. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of Defense, or the Secretary's designee, is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense, or the Secretary's designee, is authorized to acquire sole interest in privately owned family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the National Security Agency, five units, $1,009,000;

Classified locations overseas, five units, $1,009,000.

(d) The project and amount authorized by subsection (c) includes the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $33,000 for the Defense Agencies.

● Mr. PANETTA. Mr. Chairman, the topic to which I would like to address myself is the $31-million request made by the administration and approved by the House Armed Services Committee for new construction at the Defense Language Institute (DLI) in Monterey, Calif. As members of the committee may remember, I have a longstanding interest in this matter and have in fact appeared before the Subcommittee on Military Installations and Facilities to emphasize the importance of this issue not only to the residents of my district, but to our Nation as a whole.

The foreign language training now being conducted by the Department of Defense at the DLI is critical to the intelligence capabilities of this country, and is therefore critical to our national security. In recent years, however, the steadily increasing student loans at the DLI have resulted in a shortage of adequate barrack and classroom facilities at the Presidio of Monterey, where the Institute is located. The $31-million request in this military construction bill is intended to meet the pressing need for new construction at the DLI.

Indicative of the scope of the present problem, the Department of the Army was forced 2 years ago to shift about 500 students of Russian, along with the required faculty, from the Presidio of Monterey to Lackland Air Force Base. An additional transfer of over 400 students and faculty to the Presidio of San Francisco has been scheduled for this fall in response to the growing deficiencies of the present facilities at the Presidio of Monterey. While the relocation of faculty and students may be a tolerable short-term response to the present shortage of classrooms and barracks at the Institute, good management practices dictate that we move to restore the integrity of the language training program under one roof. I should also point out that, because of prior commitments, the Department of the Army will be compelled to evacuate from its temporary satellite facilities by fiscal year 1985.

In addition to the relocation of a significant portion of the program, the Institute has had to lease local school facilities in order to accomodate increasing student loads. Moreover, as the result of insufficient billeting at the DLI for students, in excess of 200 enlisted personnel enrolled in language training are now housed in the surrounding community. This practice is clearly undesirable given the importance of regular study and full participation in language training environment at the DLI.

The facilities shortage at the DLI at the present time is severe, but it will grow considerably worse unless the Congress approves the necessary remedial action recommended by the President and by the Armed Services Committee. The Department of Defense anticipates a 100-percent increase in student loads at the DLI over a 5-year period beginning in 1979. There is no question that without new barracks and classroom construction the pressing need for new facilities will soon reach critical proportions. It is imperative that construction begin as soon as possible.

The Senate, in reviewing this matter, approved the authorization of $23.5 million for the construction of new barracks at the DLI. However, it failed to authorize the $7.5 million requested for the construction of new classrooms. This incomplete response will not solve the twofold problem of inadequate housing and teaching facilities at the DLI.

Mr. Brooks and other members of the conference committee, in the interest of maintaining the quality and integrity of the Defense Language Institute's training programs, I strongly urge you to support the full $31 million request for construction at the DLI.●

The CHAIRMAN pro tempore. Are there any amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. (a) The Secretary of Defense is authorized to incur obligations in amounts not to exceed $375,000,000 for the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred by the United States during the preceding quarter for the United States share of the cost of such multilateral programs.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

I would like to engage the chairman in a colloquy.

I was very pleased to find that in Public Law 97-214 it is now a requirement that before military family units are built that the service secretary must check with the Secretary of Housing and Urban Development to make sure that there is not existing housing available in the community in which the housing is proposed.

I have heard from many members of the shelter industry in the State of Washington who have been concerned in the past that we were building on-base housing when there was available housing in the community. I think this kind of a procedure is a good and valid one. I want to commend the committee for this particular legislative act.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I certainly thank the gentleman for his observation. As our counterpart on the Appropriations Committee, he does bring insight to this body. And we appreciate that in turn.

As the gentleman knows, we have passed the codification bill in both bodies of the Congress, and it has been signed into law. And this is an add on amendment to that body of law.

It is certainly useful, as the gentleman has pointed out, and we appreciate his bringing this to the attention of the House.

Mr. DICKS. I would like to engage the gentleman further on one other point.

In the next several days the Trident submarine will be arriving at the submarine base at Bangor, Wash., and there is the prospect that there is going to be a large demonstration. I would hope that it is peaceful. And I would hope that it would not involve any destructive acts.

But there is the prospect that the local community will have to hire extra law enforcement people, et cetera.

As the gentleman knows, we have had in place a Trident community impact assistance program over the years. The Navy I think feels that it can handle this through the claims process. But it is something that we are concerned about. And our local community people are concerned about this because of the prospect of Kitsap County having to incur a substantial cost.

I do not want to raise this today, but it is something we may have to address when the Senate considers this bill, and when we got to conference. I just wanted to bring it to the attention of the chairman.

Mr. BRINKLEY. I thank the gentleman for bringing that to the attention of this body. Like the gentleman, I certainly have confidence and trust it will be peaceful, that the expressions will be made in good faith.

Yes, should something go awry, there are contingency funds that could be made available to do the right thing.

Mr. DICKS. I want to commend this committee on a very excellent bill. They worked very hard in developing the legislation. I commend the chairman and his able membership.

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Mr. BRINKLEY. I thank the gentleman.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also wanted to ask the chairman some questions.

I was very pleased as I went through the bill to find there is a very significant amount of money in the bill for energy conservation investment, the largest being in the Air Force. But it totals up over about $100 million—in fact, it is about $108 million for energy conservation.

My understanding is that in the past there has been some question about this authorization because this authorization has gotten reprogramed for other purposes. And I am wondering if there is some way we can make sure that this time it really goes for energy conservation, because I think that is getting to be a bigger and bigger expense in operations and maintenance.

Mr. BRINKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Georgia.

Mr. BRINKLEY. The gentlewoman is precisely correct. Any provision in our bill should not be a subterfuge or a holding area or a possibility of diversion. The gentlewoman may be sure that having brought this to our attention, we will keep a sharp eye on that.

Mrs. SCHROEDER. I thank the gentleman.

If the gentleman will watch closely when they come in with reprograming requests in this area, I think it could be something that in the long term could save us an awful lot of money in fuel costs that comes out of the operations and maintenance account.

Mr. BRINKLEY. We pledge we will do that. Energy conservation projects are far too important to neglect. As the gentlewoman knows within this bill we have an important provision offered by the gentleman from Massachusetts (Mr. MAVROULES) on photovoltaics and renewable energy resources. And so we share the emphasis on this together.

Mrs. SCHROEDER. I thank the gentleman.

The CHAIRMAN pro tempore. Are there any amendments to title V? If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorised to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorised by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: military construction inside the United States $555,530,000; military construction outside the United States $320,090,000; minor construction $56,420,000; family housing construction $154,955,000; family housing support $936,078,000; homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, $2,000,000; for a total of $2,025,073,000.

(2) for title II: military construction inside the United States $900,770,000; military construction outside the United States $220,820,000; minor construction $60,428,000; family housing construction $131,846,000; family housing support $659,439,000; for a total of $1,973,303,000.

(3) for title III: military construction inside the United States $1,036,420,000; military construction outside the United States $498,288,000; minor construction $101,521,000; family housing construction $158,550,000; family housing support $809,535,000; for a total of $2,604,314,000.

(4) for title IV: military construction inside the United States $135,441,000; military construction outside the United States $125,044,000; minor construction $13,460,000; emergency construction $5,200,000; family housing construction $1,042,000; family housing support $17,279,000; for a total of $297,466,000.

(5) for title V: a total of $375,000,000.

(b) The amounts authorised to be appropriated for family housing support may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b) and (d), the total cost of all construction and acquisition in each of titles I, II, III, IV, and V, except as provided in subsection (c), may not exceed the total amount authorized to be appropriated for that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN NORTH ATLANTIC TREATY ORGANIZATION TOTAL.—When the Secretary of Defense determines that the amount set forth in title V for the United States share of the cost of the North Atlantic Treaty Organization program must be increased, the Secretary may incur obligations in excess of such amount if the amount of the increase does not exceed by more than 25 percent the amount set forth in such title. When the Secretary of Defense determines that the amount set forth in title V of this Act must be exceeded by more than 25 percent for the United States share of the cost of the North Atlantic Treaty Organization infrastructure program, the Secretary may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either (1) fifteen days have elapsed from the date of the submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorisation Acts, the provisions of this subsection shall apply to such prior Acts.

(d) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS: REPORTS TO CONGRESS.—No individual project authorized in section 101, 104, 201, 204, 301, 304, 401, and 404 of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 percent; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 percent the amount authorised for such project by the Congress,

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for the reduction in scope or the increase in cost, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either fifteen days have elapsed from the date of the submission of such report or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(e) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorised under sections 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorised by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope has been reduced by more than 25 per centum in order to permit a contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and the percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves, to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded to each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded to such firm.

REPEAL OF PRIOR YEAR AUTHORIZATION: EXCEPTIONS

SEC. 605. (a) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefore, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefore that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, and authorizations for appropriations therefore.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 101 or section 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of $2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of $2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount of $2,500,000, at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of $840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of $4,700,000 at Fort Ord, California.

(6) Electromagnetic Test Facility in the amount of $4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of $2,800,000 at specified locations.

(c) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 201 or such authorizations as were extended in section 605 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Municipal Sewer Connection Construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(2) Nautilus Memorial in the amount of $1,930,000 at the Naval Submarine Base, New London, Connecticut.

(3) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(4) Unaccompanied Enlisted Personnel Housing Modernization in the amount of $4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(5) Land Acquisition in the amount of $330,000 at the Naval Air Station, Fallon, Nevada.

(6) Air Passenger Terminal in the amount of $20,000,000 at the Naval Station, Keflavik, Iceland.

(7) Facility Energy Improvements in the amount of $1,450,000 at the Naval Air Station, Alameda, California.

(d) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of $20,000,000, at Lajes Air Base. Portugal.

(2) Energy Showcase Initiatives in the amount of $1,600,000 at McClellan Air Force Base, California.

(3) Space Transportation System Solid Rocket Disassembly Complex in the amount of $16,700,000 at Port Hueneme Naval Installation, California.

DEFICIENCY AUTHORIZATION

SEC. 606. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by striking out the line:

"Defense Installations, Mariana Islands, $32,000,000." under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS".

(b) Section 401 of the Military Construction Authorization Act, 1982 (Public law 97-99; 95 Stat. 1359), is amended by inserting the following new line:

"Defense Installations, Mariana Islands, $35,000,000." after the line:

"Classified Activity, Classified Location, $2,000,000." under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE".

(c) Section 702 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359) is amended—

(1) by striking out "$236,445,000" in paragraph (2) and inserting in lieu thereof "$204,445,000";

(2) by striking out "$1,240,033,000" in paragraph (2) and inserting in lieu thereof "$1,208,033,000"; and

(3) by striking out "$282,815,000" in paragraph (4) and inserting in lieu thereof "$317,815,000".

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V shall take effect on October 1, 1982.

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. BRINKLEY: Page 43, line 9, strike out "$320,090,000" and insert in lieu thereof "$316,340,000".

Page 43, line 10, strike out "$56,420,000" and insert in lieu thereof "$56,050,000".

Page 43, line 11, strike out "$154,955,000" and insert in lieu thereof "$159,055,000".

Page 54, after line 5, insert the following:

(d) The amendments made by this section shall take effect on October 1, 1982.

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, the first amendment is a conforming amendment to section 602. This section provides for authorization of appropriations for titles I through V. The amendment simply adjusts the respective authorization totals to reflect the previous action taken by the House on the earlier amendments.

The second of the two amendments to be considered en bloc, Mr. Chair-

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man, is one I mentioned in my opening statement. It is technical in nature and designed to clarify the committee's intention to conform with the requirements of section 402(a) of the Budget Act. The amendment simply makes section 606 of H.R. 6214 of the bill effective October 1, 1982, the beginning of the new fiscal year.

Section 606 simply amends existing authority.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VI? If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefore, but the cost of such facilities shall not exceed the following amounts:

(1)For the Department of the Army—

(A) for the Army National Guard of the United States, $36,958,000; and

(B) for the Army Reserve, $28,500,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $21,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $116,500,000; and

(B) for the Air Force Reserve, $29,000,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 2662, 4774, and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AMENDMENT OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY: Page 54, line 19, strike out "$36,958,000" and insert in lieu thereof "$44,111,000".

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I offer this amendment on behalf of the distinguished gentlemen from Massachusetts, Speaker O'NEILL and Mr. CONTE and on behalf of this distinguished gentleman from Indiana, Mr. BENJAMIN.

This amendment authorizes $5.3 million for the Federal share for replacement armory facilities in the Boston area. The present armory was built in 1913 and is located in the middle of the Boston University campus.

The university has agreed to buy the existing armory and the proceeds would be applied toward the cost of the replacement facilities.

The amendment also authorizes $1.853 million for a National Guard armory and organizational maintenance shop at Gary, Ind. These facilities would replace an existing facility built in 1924. The necessary State funds are available, the sites are available, and the necessary design work is well on its way.

I urge support for the amendment.

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Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to my friend, the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, I support the floor amendment to H.R. 6214, which, among other things, authorizes $1,853,000 for the construction of a new National Guard armory and organizational maintenance shop in Gary, Ind.

The existing National Guard armory facility, built in 1924, is located in a downtown area with little training area or room for adequate expansion. The facility is old, obsolete, and is substandard for security of weapons and equipment. The Indiana adjutant general, Maj. Gen. Alfred F. Ahner, concluded the need for a new armory building because of the "old, inefficient space with high rehabilitation costs * * *."

Authorization for a new armory and maintenance shop for Gary, Ind., was scheduled to be included in the fiscal year 1979 program. However, the project was deferred by the National Guard bureau because of the cost, the lack of State matching funds and the lack of a suitable site.

After 3 years, all problems have been favorably resolved. The State of Indiana has appropriated $580,000 in matching funds for the construction and has purchased land for the new armory in Gary. The architect-engineer report has been sent to the National Guard bureau, and the completed design of the armory building and the OMS building is scheduled no later than August 31. The project will be ready to begin immediate construction at that time.

The Indiana National Guard has requested that this project be included in the fiscal year 1983 budget. However, the National Guard Bureau has not scheduled inclusion until fiscal year 1984, barring unexpected delays. Chairman BRINKLEY and Chairman GINN have indicated their full support for this project. Since all State commitments have been met, I ask for your support of Chairman BRINKLEY's amendment that will allow construction of the new Gary National Guard Armory to begin next year. The House Appropriations Committee has this date, reported its fiscal year 1983 military construction appropriation which includes $1,853,000 as authorized by the amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the distinguished gentleman for yielding.

I also rise in support of the amendment and also would like to thank the chairman, the subcommittee and the full committee, for funding for the National Guard and Reserve construction of units. The National Guard and Reserve because of this Congress is getting new equipment. They are getting incentives and they are getting places to drill. Therefore, the National Guard and Reserve are not only support for the regular forces, they are right on the front line with the Active Forces.

Thanks to this committee, the Guard and the Reserve are front line, first line troops.

Mr. BRINKLEY. Mr. Chairman, the gentleman from Mississippi has been a true champion in this area of our national defense establishment. We thank the gentleman very kindly.

In further response to the inquiry of the gentlewoman from New Jersey (Mrs. FENWICK) this is one of the add-ons. This is one area of add-ons. We have added on to armories in Kentucky, in Arkansas, in Massachusetts and Indiana, and this is important to do because the Guard is a strong arm of the defense establishment.

Therefore, Mr. Chairman, we ask approval of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII? If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—GENERAL PROVISIONS

LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 801. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to tracts of land consisting of a total of approximately seventy acres, together with any improvements located on the tracts of land.

(b) In consideration for the conveyance under subsection (a), the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the city and the board in and to four tracts of land consisting of a total of approximately four hundred acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

(c) The city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the city and the board to the United States under subsection (b).

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by the section as the Secretary considers appropriate to protect the interests of the United States.

OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 802. Section 2685 of title 10, United State Code, is amended by adding after subsection (b) the following new subsection:

"(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b).".

USE OF RENEWABLE FORMS OF ENERGY

SEC. 803. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2393 the following new section:

"§ 2394. Procurement of energy systems using renewable forms of energy

"(a) The Secretary of each military department shall procure energy systems using solar energy, or other renewable forms of energy, whenever the Secretary of a military department determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department (such as energy systems powered by solar energy, or other renewable forms of energy, to supply energy for mobile power systems, cathodic protection of pipelines, remote communications sites, mobile radar sites, navigational aids, military range monitoring and conditioning equipment, load center power, water pumping and purification, cathodic protection of water towers and bridges, perimeter security devices, data links, repeater stations, emergency and rescue communications, lighting, remote instrumentation, marking and warning devices, monitoring and sensing devices, and remote weather stations and transmitters).

"(b)(1) For purposes of carrying out subsection (a) and section 2688, the Secretary of Defense shall study applications for the use of solar energy, and other renewable forms of energy which are cost effective and reliable to supply the energy needs of the Department of Defense.

"(2) Not later than the date occurring two years after the date of the enactment of this section, and not later than the date occurring two years after each such previous date, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the studies conducted pursuant to paragraph (1) and containing any recommendations for legislative action.

"(c) For purposes of this section—

"(1) energy system using solar energy, or other renewable forms of energy, shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life-cycle costing procedures. Such accepted life-cycle costing procedures shall include the use of the sum of all capital, operating, and maintenance expenses associated with energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using marginal fuel cost as determined by the Secretary of Defense and at a discount rate of 7 per centum per year. For the purposes of a life-cycle cost analysis under this subsection, the original investment cost of an energy system using solar energy, or other renewable forms of energy, shall be reduced 10 percent as an investment cost credit; and

"(2) the term 'energy system' includes any energy system which generates electricity.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by adding after the item relating to section 2393 the following new item:

"2394. Procurement of energy systems using renewable forms of energy.".

(b)(1) Section 2688 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "solar energy systems" in the first sentence and inserting in lieu thereof "energy systems using solar energy, or other renewable forms of energy (including systems that produce electricity),";

(ii) by striking out "solar energy has" in the first sentence and inserting in lieu thereof "such systems have"; and

(iii) by striking out "solar energy systems" in the second sentence and inserting in lieu thereof "such energy systems"; and

(B) in subsection (b) by striking out "a solar energy system" both places it appears, in the first sentence and in the third sentence, and inserting in lieu thereof "an energy system using solar energy, or other renewable forms of energy (including any system producing electricity),".

(2) The heading of section 2688 of title 10, United Sates Code, is amended to read as follows:

"§ 2688. Use of renewable forms of energy in new facilities".

(3) The item in the table of sections of chapter 159 of title 10, United States Code, relating to section 2688 is amended to read as follows:

"2688. Use of renewable forms of energy in new facilities.".

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 804. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately three and eighty-eight one hundredth acres and located in the city of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance under subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately twelve and five-tenths acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.", dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under subsection (b), the board shall pay to the United States an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (a) exceeds such fair market value of the property to be conveyed under subsection (b).

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (b) exceeds such fair market value of the property to be conveyed under subsection (a), but any such payment may not exceed $300,000.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, BELL, CALIFORNIA

SEC. 805. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorised to convey to the city of Bell, California, all right, title, and interest of the United States in and to a tract of land consisting of approximately 5.5 acres and described on a map entitled "Out-

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grant to California Army National Guard, Bell, California drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on the tract of land.

(b)(1) In consideration for the conveyance under subsection (a), the city of Bell, California, shall restore, improve, and modernize the building owned by the United States, located in the city of Bell, California, and designated in the Department of the Army records as building number 332, in accordance with an agreement to be entered into between the Secretary and the city.

(2) The Secretary shall approve the plans and specifications for the restoration, improvement, and modernization of the building numbered 332 under paragraph (1).

(3) In consideration for the conveyance under subsection (a), the city of Bell, California, shall convey to the United States all right, title, and interest of the city in and to the building numbered 332 and all right, title, and interest of the city in and to any restoration, improvement, and modernization of building numbered 332 done under paragraph (1).

(c) The city of Bell, California, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city under subsection (a) exceeds the fair market value (as determined by the Secretary) of the restoration, improvement, and modernization of building numbered 332 done under subsection (b)(1).

(d)(1) The exact acreages and legal descriptions of any property acquired under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Bell, California.

(2) The Secretary may require such additional terms and conditions with respect to the conveyance and the restoration, improvement, and modernization authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments, and I ask unanimous consent they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Brinkley:

Page 55, strike out "tracts" on line 23 and all that follows through line 25 and insert in lieu thereof "a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately seventy acres, together with any improvements located on the land.".

Page 62, after line 24, insert the following:

(3) The authority to make any payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

At the end of the bill add the following new section:

CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST

Sec. 806. (a)(1) Section 2852(b) of title 10, United States Code, as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act (Public Law 97-214), is amended to read as follows:

"(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

"(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(2) Section 2239(b) of such title, as added effective October 1, 1982, by section 3(b) of such Act, is amended to read as follows:

"(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States—

"(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(b)(1) The heading of section 2806 of such title (as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act) is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure".

(2) Section 2828(e)(1) of such title (as added effective October 1, 1982, by section 2(a) of such Act) is amended by inserting "the" after "may be waived by".

(3) Section 2394 of such title (as added effective October 1, 1982, by section 6(a)(1) of such Act) is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (b)"; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 (as added effective October 1, 1982, by section 6(c)(2) of such Act) in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2689. Development of geothermal energy on military lands.".

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, the first amendment relates to section 801 and is technical in nature. It adjusts the amount of land to be exchanged on a fair market value basis between the Air Force and the Houston County commissioners. The fair market value basis of the exchange is not changed. The change simply reduces the amount of land that would be involved in the exchange.

The second amendment involves section 804 and is technical in nature. It simply clarifies the committee's intention to conform to the requirements of section 402(a) of the Budget Act. The amendment makes section 804 of the bill effective on October 1, 1982, the beginning of the new fiscal year and makes the provision of any payment subject to the availability of appropriations.

The third amendment adds a new section 806. The section includes clarifying and conforming language pertaining to the Military Construction Codification Act that was recently signed into law.

The first part of section 806 clarifies the authority of the defense establishment to undertake military construction or family housing projects on land that is held on other than a fee simple basis. A recent Justice Department determination indicated that interpretation of the existing authority meant that construction could begin on land held temporarily before the Justice Department approved the title to the land. In actual practice, the defense establishment had interpreted the existing authority to mean that they could build on land held on other than a fee simple basis. Therefore, the purpose of the new language is to clarify the matter.

The other two parts of section 806 involve technical corrections to section headings and including conforming language between the section headings and the reference table in that section of the code.

With reference to the fee simple item, I think the gentleman from Colorado (Mr. Kramer) is on the floor.

Mr. Chairman, I yield to the gentleman from Colorado (Mr. Kramer).

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

I would like to compliment the gentleman very much on clarifying a problem that has crept up in military construction.

I think that without this amendment, we could have continuing problems that would threaten really the viability of our whole military construction program and to throw into doubt an awful lot of capital improvements that have already been made; so I certainly appreciate and compliment the gentleman for his efforts.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, it is my understanding that section 804 in the gentleman's committee bill does not contain the mischievous language contained in section 804 in the bill that passed the other body; is that correct?

Mr. BRINKLEY. That is correct.

Mr. PHILLIP BURTON. I appreciate the understanding of the gentleman from Georgia on this matter. The language contained in secton 804 of the other body would, by indirection, repeal the safeguard that we have with reference to the Presidio in the city and county of San Francisco. It would permit, by indirection, repeal of the language that assures that that property will be used for military proposes so long as decided so by the military, but in the event they decided it was surplus property, then it would become part of the Golden Gate National Recreation Area, in which it is included and to which it is adjacent.

Is it the understanding of the gentleman that there is no language in the gentleman's committee bill that would provide such authority?

Mr. BRINKLEY. The gentleman is correct, and I can vouch for the fact that there is no such language in the House bill.

Concerning the adjective the gentleman uses with reference to the Senate provision, I have heard it referred to in many ways. Mischievous is as good as any, because we think the present system has worked fairly well and it has helped to make certain that the family jewels are not sold at a fire sale.

I thank the gentleman for having called this to our attention earlier. We have studied it and I did state in general debate that I personally opposed the provision in the Senate bill and will ask them, if my subcommittee will agree with me, to recede to the House in conference and delete that provision.

Mr. PHILLIP BURTON. Well, I would like to commend the gentleman from Georgia once again for his leadership and assure the gentleman that I would like to do whatever I can in this particular matter to see that his efforts to resist this section will be successful.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Hawaii.

Mr. HEFTEL. Mr. Chairman, as you know, section 804 of H.R. 6214, the Military Construction Authorization Act of 1983, is substantially different from the Senate bill. The Senate amended section 804 of its bill, S. 2586, to allow the President of the United States or his designee to sell or exchange any real property and associated facilities under the jurisdiction of the military, notwithstanding any other provision of law.

I am deeply concerned about the implications of this language. This Senate amendment would virtually remove all Federal oversight by allowing the Department of Defense to sell or transfer military properties. In addition, it would supersede all existing laws which were enacted to assure congressional approval of properties recommended for sale.

Fort DeRussy, a military installation used for recreational purposes located in my district in Honolulu, Hawaii, is a case in point. Existing statutory language prohibits the sale of any portion of Fort DeRussy unless Congress expressly authorizes such a sale. The Department of Defense has advised me that the Senate language, as it appears in section 804 of S. 2586, would render this statute meaningless.

Finally, since the Senate language allows the Department of Defense to keep a percentage of the money made from any sale, I am concerned that the result of this policy would be to encourage the disposal of properties because of their current monetary value only. This policy would not give any consideration of the value of the asset to the Federal Government in terms of its potential to increase in value.

Mr. Chairman, for the reasons stated above I believe the Senate language in section 804 would result in a significant and undesirable policy change. This provision did not have the benefit of committee hearings and analysis. I feel that this issue merits more careful and deliberative analysis than has thus far been provided.

I appreciate the commitment of the chairman of the Military Installations and Facilities Subcommittee to oppose this provision in conference and I hope that the other conferees will review the implications of this amendment and will see fit to delete it from the final conference report.

Thank you very much.

Mr. BRINKLEY. The gentleman from Hawaii speaks well and he has spoken with me earlier today on this subject matter. His concern is well taken.

We wish to assure the gentleman that we will keep the gentleman fully informed on any activity along these lines; but we again state our pledge that we would resist section 804 in the Senate bill. We have a section 804 in the House bill, but it is entirely different and not related at all.

We thank the gentleman for the emphasis the gentleman has placed on our position, which does not include that provision.

Mr. HEFTEL. Mr. Chairman, I thank the gentleman from Georgia very much.

The CHAIRMAN. The question is on the amendments offered by the gentleman for Georgia.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: At the end of the bill add the following new section:

LAND CONVEYANCE, COOK COUNTY, ILLINOIS

Sec. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorised to convey to the State of Illinois all right, title, and interest of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorised to be conveyed is more particularly described as follows: Beginning at a point 400 feet north of the southwest corner of section 23; thence east on a line parallel to the south line of the southwest quarter of section 23, a distance of 482 feet (plus or minus) to the existing chain link fence; thence north along the chain link fence 840 feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, 920 feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorised by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

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The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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Mr. HYDE. Mr. Chairman, this amendment is basically a simple one. It would allow for the transfer of 10 acres of land in North Riverside, Ill. (in my district), from the Department of the Army to the State of Illinois for the purpose of constructing a new National Guard armory. The property involved has been licensed for a National Guard maintenance center since 1949 and all maintenance of the property has been on a shared-cost-basis between the State of Illinois and the Federal Government. The State of Illinois would like to obtain transfer of this property for the construction of a new National Guard armory to replace the outdated Chicago Avenue armory in downtown Chicago.

The amendment allows for the transfer of land after the State has paid an amount equal to the appraised fair market value of the land to be conveyed, less appropriate credit for costs which were previously incurred by the State of Illinois in improving the land while under license from the Secretary. The State of Illinois has already spent $650,000 filling and reclaiming this property. The value of this work transformed this land from a swampy, near worthless piece of property into a prime construction site. The amendment also includes an oversight provision which is given to the House and Senate Armed Services Committees in order to supervise and facilitate the amendment's adoption.

Mr. Chairman, this amendment would not result in any cost to the Federal Government. In a report issued yesterday, the Department of the Army stated that this amendment "will cause no apparent increase in the budgetary requirements of the Department of Defense or any of the military departments."

I have received a letter from my colleague, the gentleman from Georgia, who is the chairman of the Subcommittee on Military Installations and Facilities, and he has assured me that this amendment is in order. Also, in checking with all parties concerned, I have found that the State of Illinois, the Departments of Army and Defense, the Armed Services Committee, and the Office of Management and Budget have interposed no objection to this amendment in its present form.

Mr. TRIBLE. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to my friend, the gentleman from Virginia.

Mr. TRIBLE. I thank the gentleman for yielding.

Mr. Chairman, I would say to my friend that we have reviewed the amendment and find it wholly acceptable on this side of the aisle.

Mr. HYDE. I appreciate those remarks.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the gentleman's amendment and we compliment him for it. We accept it on this side.

Mr. HYDE. I thank the very, very able chairman of the subcommittee.

Mr. BRINKLEY. The gentleman did his homework well. We started off with something which was not workable, and the gentleman improved it.

Mr. HYDE. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Hyde).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eckart: At the end of the bill add the following new section:

LIMITATION ON UNITED STATES CONTRIBUTIONS FOR NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 806. If the Secretary of Defense determines that any three of the North Atlantic Treaty Organization member nations (other than the United States) that pledged in 1977 to increase defense spending in real terms by at least 3 percent per year have not achieved such an increase in defense spending for fiscal year 1983 over their defense spending for fiscal year 1982, the Secretary shall withhold the United States contribution for fiscal year 1983 for the North Atlantic Treaty Organization Infrastructure program authorized by title V of this Act.

Mr. ECKART. Mr. Chairman, we all have an extremely great vested interest in insuring that our American taxpayers' dollars are spent wisely and efficiently. It has been a high priority of this Congress, and indeed, a priority of this administration.

The amendment I offer today is the second version of an amendment that I submitted for the Record last week that would prohibit expenditures under the provisions of title V of this bill to the NATO infrastructure when NATO allies have not met the 3-percent real growth commitment that they had made in 1978.

This bill authorizes a total of $7.5 billion for military construction projects in fiscal year 1983 both at home and abroad. Of this amount, $375 million in title V is expressly earmarked for contributions to the NATO infrastructure, funds for projects of common benefits to NATO members.

Mr. Chairman and members of the Committee: It goes without saying that the American people find themselves taxed in an economic way more so than they have ever been at any other time in perhaps the last several decades with high unemployment, high interest rates, and a record number of business failures.

At a time when we spend a grossly disproportionate share of our gross national product on defense, we find our NATO allies, who enjoy the direct beneficiaries of our tremendous defense expenditures, not pulling their fair share of the load.

I would draw to the Committee's attention the committee report on page 6, which stated very clearly that the committee deliberation of this request took place amidst a growing number of voices insisting that our European allies bear a fair share of the cost of defending that alliance.

I would further draw Members' attention to further references in that report which tells us how the German Government has refused to cooperate and provide funding for a master restationing plan in Germany, a master restationing plan that I assert is not for our benefit but primarily for theirs.

We want a strong defense, we want a united front to confront the Soviet threat in Western Germany, but we want our allies to bear a fair share of paying for the cost of the protection that we extend to them.

Even Dwight Eisenhower, who served as our Supreme Commander during World War II, made these observations at the close of his administration:

> For eight years I believed that a reduction of American strength in Europe should be initiated as soon as the European economies were restored. I believe that time has come.

Mr. Chairman, that was no less true 20 years ago than it is today. One of the purposes of stationing American personnel in Europe was because the European economies had been decimated as a result of World War II, and literally could not afford the cost of protecting themselves.

I submit to my colleagues that indeed our economy today stands close to decimation, and one of the reasons is the tremendous output of our American gross national product to provide for the defense of our allies which now stands at 5.6 percent compared to an average of less than 3 percent by our NATO allies.

My idea is not new. It was first brought to the Senate by our now distinguished Ambassador to Japan, Senator Mike Mansfield, rekindled by Senators Jackson and Nunn, and passed on several other occasions.

In 1978 our NATO allies committed to a real increase in their defense spending of at least 3 percent.

In 1979 and 1980, very few of our NATO allies spent what they committed to spend. I have not arbitrarily drawn a figure from thin air. This 3-percent real growth figure represents a commitment made by the defense ministers of our NATO allies as a result of a continuing negotiating process begun under President Nixon, who realized that the American taxpayers could no longer subsidize the economic growth of our allies at the expense of the economic stagnation of our own economy.

Mr. Chairman, this is a timely amendment. The Department of Defense's own report details the inadequacies in spending of our allies, our allies who enjoy the protection that our armed umbrella gives to them. Now, if we are truly concerned about presenting ourselves as formidable adversaries of the Soviets, I submit to you that if our allies agree with that contention, then they better place their checkbooks where they have expressed their fears.

The U.S. taxpayer wants a secure alliance, but they want it at a fair price.

Mr. Chairman, the problems confronted by defense expenditures, and one of the largest peacetime buildups ever in the history of our country, indeed has been one that has been questioned on this floor on many occasions.

We have witnessed foreign nationals working at our Navy exchanges, getting paid 30 to 40 percent more than our own dependents working at those very same military facilities.

We have witnessed expenditures to governments for the purpose of our subsidizing their carrying on of their military maneuvers.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Eckart) has expired.

(By unanimous consent, Mr. Eckart was allowed to proceed for 1 additional minute.)

Mr. ECKART. Mr. Chairman, no matter how we measure it, as a percentage of gross national product, as a percentage of per capita expenditures, or as a percentage of our Nation's commitment to support a fair and responsible defense buildup without forcing the American taxpayers to bear the cost of that burden, I believe the time has come to tell our allies to pay their fair share for the military protection that our taxpayers provide.

Because of this unfair economic advantage that our allies enjoy our economy is hurting. Our so-called allies dump their steel, export their autos, computers, and cameras at cheap prices while millions of Americans become unemployed as a result.

Let us tell our allies to pay their fair share.

At a time when Americans are sacrificing, let us tell our allies that the unemployed will not sit still anymore.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I would be happy to yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Chairman, what is the practical effect of the gentleman's amendment as he envisions it? He has said there are some threshold effects, I think 3-percent real growth in 1983 as compared to 1982.

I also thought I heard that he had three of our NATO allies involved; that is, if any three failed to meet these stated goals of 3-percent real growth, then the amendment would go into effect. What is the practical effect of the gentleman's amendment?

Mr. ECKART. The practical effect is that the failure of any three, three allies, to meet their previously committed to expenditures of 3-percent of real growth increase in their defense spending, the appropriations under title V—will be terminated under the provisions of this bill.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Roemer and by unanimous consent, Mr. Eckart was allowed to proceed 1 additional minute.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. ECKART. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Does the gentleman think that his amendment will take effect in 1983? In other words, does he expect that these nations will not fulfill their oft-stated goal of paying their fair share of the burden of defending the free world, or will we continue business as usual, in the gentleman's opinion; that is, where America will continue to pay a disproportionate share of the cost of defending Europe?

Mr. ECKART. Several countries are close, but they would require substantial increases to actually meet the 3-percent commitment that they have made. So it would be my impression, yes, that the expenditures under title V would not be made because the countries would not meet the threshold.

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Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Eckart amendment to H.R. 6214, the Military Construction Authorization Act of 1983.

Dwight Eisenhower once said:

> I believe that a reduction of American strength in Europe should be initiated as soon as the European economies were restored. The time has now come to start withdrawing some of those troops.

He said that over 20 years ago but look how little we have done. Today, Pentagon experts estimate that we spend over $100 billion either directly or indirectly for the defense of Europe. Almost 350,000 American soldiers remain stationed on the continent today.

A large American military presence in Europe was warranted after World War II when the economies of Japan and Europe were weak and their political structures fragile. While we have shielded them from outside military threats, however, both have been able to modernize their industrial base while ours suffers from neglect.

How much longer can we afford to protect the countries and economies that are beating us in the marketplace?

The Soviet Union now seems caught in a quagmire around the world. Their present thoughts are on consolidation of their empire. The large Soviet troop presence in Eastern Europe is viewed even by European experts as Russia's determination to control its own and sometimes unruly domain rather than exclusively for mounting an eventual attack on the West. The Japanese believe no Soviet purpose would be served by an attack on or the occupation of Japan and that Moscow derives sufficient trade benefits from Japan to discourage any attack.

The European view of the Soviet Union also differs considerably from ours. The Continent is increasingly reconciled to a peaceful coexistence with their Soviet next-door neighbors. The natural gas pipeline is one example of how ideological differences are giving way to economic realities. If the rest of the world, resigned to a coexistence with the Russians, spends less for its defense, should we not at least seek a redistribution of the defense burden?

Reducing our NATO commitment or our share of other global defense pacts will no doubt displease our allies. Our troops worldwide contribute billions to the economies of the host nations. A force reduction also might disappoint American soldiers anxious to see new and foreign lands. But these are weak reasons to support the massive amounts we spend. We in this country must think in terms of our national interest. To wit:

> The U.S. has never been in a position to defend Europe all by itself. We have always relied on philosophically and militarily committed allies in our efforts to thwart totalitarian aggression. What our allies do—or do not do—directly affects our ability to protect our own national interest. If the point is reached at which our allies' lack of action actually threatens our national interests and the safety of our troops abroad, then the time to reconsider our commitments to other nations will have come.

These sage words come from an issue brief by the House Republican conference on allied defense burden sharing.

This debate is not a new one. Those familiar with the arguments for a renegotiation of allied troop contribution are familiar with the efforts of

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Senator Mansfield back in 1971. Although his legislative efforts failed, he did succeed in lighting a fire underneath the administration to start negotiations with our allies. That fire was lighted with the help of opinions like the one expressed by Arthur Goldberg back on May 16, 1971:

[From the Washington Post, May 16, 1971]

A "SUBSTANTIAL" TROOP REDUCTION IS "OVERDUE"

(By Arthur J. Goldberg)

In the legislative quiet of Washington, the Democratic Majority leader, a moderate and almost wholly non-partisan man, has become the center of a storm. President Nixon has rallied some prestigious figures—Democrats and Republicans—against the Mansfield amendment to mandate the reduction by half of the American forces deployed in Europe.

Lest it be thought that everyone who has served our government in the cabinet and in a diplomatic capacity agrees with the group assembled by the President, I want to state my support for Senator Mansfield's thesis. This is not to say that I agree with the size of the reduction in our European forces that he has proposed. Nor do I believe that we should proceed unilaterally without a last clear warning to see our allies that this time we really mean business. (I emphasize "last clear warning" because our other warnings over the years have not been taken very seriously.) But these differences can be resolved by appropriate revisions of the Mansfield amendment. The important consideration is that Congress assert its authority to declare that the time has come, and indeed is long overdue, for a substantial reduction of American forces in Europe.

Along with Senator Mansfield, I am a firm supporter of the Atlantic alliance. But it is no service to that alliance for the United States now and for the indefinite future to continue to play the role of the dominant and dominating influence in the defense of Western Europe.

It is 26 years since the end of World War II. Western Europe, with our generous help, has made a remarkable economic recovery from the havoc and destruction of war. The strength of the mark and of other European currencies compared to the dollar is dramatic proof of Western Europe's economic ability to assume the primary burden of its own defense, with sensible supporting help on our part against the threat of Soviet aggression.

For some years, Senator Mansfield has patiently and diplomatically advanced the view that Western Europe should assume the paramount role in the defense of its allied countries. If today, Senator Mansfield swings what some critics characterize as a "meat ax," it is because the arts of persuasion have proved singularly ineffective.

The Senator has pointed out, as noted in the press, that we still have some 300,000 military men, 225,000 dependents, 128 generals and over 7,000 nuclear warheads in Europe. These figures exclude the formidable military establishment of our Sixth Fleet, a major element of our European presence and deterrent capacity.

I believe, as does Senator Mansfield, in a rational and balanced deterrent against the possibility of ill-conceived Soviet movements in Western Europe. Neither he nor I advocate total withdrawal of our forces from Europe but surely the time is overdue for a substantial reduction in the number of our troops there. And, among other considerations, it seems to me that part of the billions we now devote to the maintenance of land forces in Europe would be better spent by improving our airlift capacity, so that we could dispatch combat-ready troops to Europe should the occasion require. In this connection, many of our present European troops are not combat forces, and both they and their dependents constitute a heavy drain on American resources not adequately offset by current arrangements with our European allies.

There is another factor to be taken into account. True, a mutual reduction in forces would be the ideal solution, but since this has not eventuated because of past Soviet intransigence and our NATO allies' foot-dragging, is it not time that we gave serious consideration to the proposition that a limited unilateral reduction in our European forces will put the cold-warrior elements at the Kremlin under pressure to consider a corresponding reduction of forces on their part? We are not the only country suffering from the exactions of a swollen military establishment.

Mr. Brezhnev's recent and welcome initiative indicating an interest in a mutual reduction of NATO and Warsaw forces would seem at the very least to be some indication that the Soviet Union is also such a country.

Senator Mansfield is a thoughtful man. There is a basic philosophy behind his move. I think I understand what it is and would summarize it thusly:

> Realism requires us to remember that our national power, great as it is, is not unlimited and that our interests and responsibilities are not unlimited, either. President Kennedy properly reminded us that the United States is neither omnipotent nor omniscient, and that there cannot be an American solution for every problem.

In this spirit, Senator Mansfield has been trying to tell us for a decade that in place of an American prescription for European security, we should encourage one by Western Europe—one which we can support and to which we can subscribe. Senator Mansfield seeks, I believe, only to communicate the basic truth that today, time and circumstances have rendered obsolete the means once required to demonstrate our basic commitment to the security of Western Europe.

I think it high time that we pay careful heed to Senator Mansfield's sound advice. Surely there is no need to employ a shopworn collection of pejorative adjectives in characterising that advice, coming as it does from our most non-pejorative statesman.

It is clear that over the years that fire has died by lack of interest. It is now time to rekindle it.

As the editors of a recent Washington Monthly wrote:

> Just as the Reagan administration has insisted on letting Poland be Poland, it's time to let Europe be Europe—especially when it comes to paying for its own defense.

Mr. HUTTO. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, I certainly think all of us can relate to the fact that we feel that our allies should help us more in the defense effort, but if we were to adopt this amendment, it seems to me that the victims would be the armed services, members of the armed services, our troops in the NATO countries.

Mrs. SCHROEDER. I would be delighted to answer that. Again, the recipients of all of this largesse are the countries we are trying to help. Most of the people that I have talked to in our armed services in those countries really feel that the host countries could do much more, should do much more. It is time we stopped talking and we did something.

Again, I point out that these are not tanks we are taking away, these are not weapons we are taking away. We are not really taking away things that they need. I think that if our allies do not increase their commitment, maybe we have got to talk about getting tougher and bringing some troops home.

Mr. HUTTO. If the gentlewoman will yield further, I agree that they ought to do more, but when we come right down to it, if we do not, those who suffer would be members of our armed services. I do not know if the gentlewoman has made any trips over there. I have not, but a number of our Armed Services Committee members have made trips there to look at the living conditions of the members of our armed services there. They report them to be deplorable, so if we take away from what they have now and do not provide their necessities, I think it is going to be even more deplorable.

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. I would just like to respond to the gentleman from Florida by saying that, for example, at the Air Force Academy in Colorado we have foreign students, and no one says to the French, "OK, these guys are going to be out in the open unless you build them barracks."

We house the foreign students. We do not make them pay anything. We are there to help protect them. I find it offensive that our troops are living in terrible conditions, and so the only way we can make them better is if we spend more money to help our troops further.

That is what I am trying to say. Unless we stop saying No. 1, we will not come home; and No. 2, we will keep spending the money so they do not have to do it, I think the gentleman's amendment makes a tremendous amount of sense. It says, "You made an agreement. You agreed to spend 3 percent in real increase. If you do not, we are not going to make our contribution to the infrastructure. You are on warning. We are taking you seriously this time."

All they have to do is to increase their contributions by 3 percent, and it solves it. If they do not, I think it is time that this body have a real debate about whether we should keep everybody there at full strength, having added another 58,000 troops as we did in the last few years, as Senator Stevens found. I think that is what we have got to talk about. Otherwise, they have got us over the barrel. They know from 30 years of experience that when push comes to shove we pay—we pay. We say, "OK, we will pay everything again this year."

When you calculate the money involved, it is phenomenal. We are building more housing in Europe than we are doing for our own housing industry in America. What kind of insanity is this?

Mr. HUTTO. If the gentlewoman will yield further, I certainly agree that the gentleman from Ohio has a noble purpose in his amendment, to try to get our allies to spend more on defense. But, I am just wondering if we are attacking it in the right way, because I feel it will be detrimental to our own armed services, those that we are trying to support.

Mrs. SCHROEDER. I just want to respond to the gentleman by saying that at a time when we are so concerned about the balanced budget, talking about having to raise taxes in this country, when we have the President vetoing the homebuilding bill for this country, I just think it is crazy if we do not go along with the gentleman's amendment. It says that we are not going to do all this in Europe unless they at least meet their fair share. It would be nice to do everything, but there are always more nice things to do than there are dollars to spend. I think that is the difficult choice.

Mr. DOUGHERTY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield.

Mr. DOUGHERTY. Could the gentlewoman tell me when the fiscal year begins for many of the countries in Western Europe which are part of NATO?

Mrs. SCHROEDER. They all have different fiscal years. I think the gentleman knows that.

Mr. DOUGHERTY. I do not want to take all the gentlewoman's time, but the way the amendment is drafted, if there is not a 3-percent real growth from 1982 to 1983, they automatically lose it in effect; if a NATO member is currently in the 1983 fiscal year it is going to be almost impossible to expect them to change.

The CHAIRMAN. The time of the gentlewoman has again expired.

(At the request of Mr. Dougherty and by unanimous consent, Mrs. Schroeder was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. I noticed that when I read it. I do not think it is a big problem. I think everybody understands what the gentleman's intent is. They understand the agreement, and they understand if it is 3 percent from one of their fiscal years to another. He is not talking about locking into our October 1 fiscal year.

Mr. DOUGHERTY. The way the amendment is written, though, it locks it into a percent of increase from the fiscal year 1982 to fiscal year 1983. What I am suggesting is, if a country in NATO is already into the 1983 fiscal year, then it is not a practical way to implement the amendment, and it would be better—and I have some sympathy for what the gentleman is trying to do—it would be better if the report language was put into the bill which said, in effect, that there was some obligation placed upon the subcommittee that if there was not a significant increase between fiscal year 1983 and fiscal year 1984, this matter would then be brought up.

□ 1840

I would rather see report language that would say fiscal year 1983 to fiscal year 1984 rather than this gentleman's amendment of fiscal year 1982 to fiscal year 1983.

I think it is more practical.

Mrs. SCHROEDER. I hope the gentleman will offer that as another proposal. I think what the gentleman from Ohio is trying to get across is very clear. I think it can all be handled and I would hope the gentleman would offer that, but the time is now.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is very appealing on its face but I believe it should be resisted and defeated by the body.

Many of us share the concern that our allies should do far more. We have said that time and time again on this floor and in committee and we have taken action.

The subcommittee deferred all funds for the master restationing plan in Germany and for construction at Lajes in Portugal. This totals some $92 million and we will continue to strongly urge our allies to make a greater commitment.

Let us talk for a moment about the 3-percent target. This is a goal, and the truth is a number of our allies have met that goal.

The list of allies reporting such increases in 1980 include five nations: Canada, France, Italy, Luxembourg, and Portugal. One additional country, the United Kingdom, comes close with an estimated 2.7-percent increase.

Estimates reported to date for 1981 indicate that six or eight countries, including Canada, France, Greece, Luxembourg, Portugal, Turkey, possibly Germany, and the Netherlands, achieved increases in the 3-percent region.

Projections for 1982 are highly tentative.

But current indications are that Canada, France, Luxembourg, Norway, and the United Kingdom will meet NATO's goal. So this goal has served a very valuable purpose. It has brought about a higher level of defense outlays on the part of our allies.

The more important question is what are our outlays and those of our allies buying. How much spending is needed to secure the quality military forces on which our freedom depends?

Our allies would argue, and with some merit, that because they have conscription they are paying much less for their people than we are and their increases are going further in improving the quality of their forces.

This is a fact that we must recognize in evaluating what our allies are doing.

Moreover, if we do not contribute to the infrastructure fund, construction could be halted on Pershing and ground-launched cruise missiles, thus taking away our leverage on the ongoing START talks. All operational facilities for the reception, staging, and onward movement of U.S. reinforcements are dependent on NATO funding.

In summary, I would say to my colleagues a 3-percent goal has had a very positive impact on our allies' defense budget decisions.

The adoption of this amendment would, I believe, harm our military readiness in the European theater, it would violate our binding commitment to contribute to the infrastructure fund, and it would hamper our negotiations on START.

So although this is a very intoxicating idea, I believe we must thoughtfully address this issue.

A strong signal has been sent by this subcommittee to our Western European allies saying we are not satisfied with what you are doing. If we terminate the infrastructure funding we will be substantially hurting our own efforts toward peace and freedom.

I hope the committee will resist this amendment.

Mr. ECKART. Mr. Chairman, will the gentleman yield for a question?

Mr. TRIBLE. I am happy to yield.

Mr. ECKART. The gentleman has spent a great deal of time obviously on this subject. I would refer to the Department of Defense report submitted by Secretary Weinberger.

In the report it states that:

> Politically the failure of our allies to achieve at least the 3 percent judged necessary growth to keep the East-West balance from tipping further against NATO could be seen by Moscow as a weakening of our collective resolve.

Would the gentleman please comment on the perception of the Depart-

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ment of Defense that failure to meet the 3-percent requirement is, in fact, a failure to deal with the Soviet-perceived threat in Eastern-Western Europe?

Mr. TRIBLE. We would all be far more content if our allies in both the Atlantic and Pacific would do more. They should do more for our common defense.

I believe that this colloquy today, along with the very real action taken by the Armed Services Committee, is an important signal to our allies that they must do more.

I believe this amendment should be rejected.

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of my colleague from Ohio.

I have had a longstanding interest in the question of how adequate our allies' support of NATO is. In fact, some 3 years ago I introduced a resolution calling upon them to meet their 3-percent commitment.

I am delighted that my colleague from Ohio has put into very concrete terms what in my own resolution was merely an expression of our desire that they meet their commitments.

Mr. Chairman, this matter came to my attention from constituents. So many of the things I bring to the floor do. These were constituents who had asked me questions at town meetings about why it was that we in the United States had to spend billions of dollars for the defense of Western Europe and Japan when they were not pulling their own share.

As you know, foreign aid, and this is a form of foreign aid, is not very popular among our constituents. Frankly, I did not have a good answer for my constituents as to why we should be increasing our defense spending in excess of 3 percent a year when our allies, who had pledged to try to meet a 3-percent goal, were not meeting their commitment in several cases.

I must say that over the last year the concern of my constituents about the failure of our Western European allies and Japan to pull their share of the defense load has increased as unemployment has grown in my district.

We have, as everyone in this Chamber knows, before us now a series of complaints from American steel companies about subsidies paid to European steel companies so that they can ship subsidized steel in the United States and help put American steelworkers out of jobs.

It seems to me that if Britain and France and Belgium and other countries can afford to subsidize their steel industries to ship steel which threatens American jobs, they ought to be able to afford to increase their defense spending to a degree that would meet the pledge that they made to all of their NATO allies.

Similarly, in the case of automobiles and Japan, although I know that is not an issue at this moment, people cannot understanding in my district why it is that Japan should spend so little for its defense when we spend so much for ours, with the resulting weakening of our ability to compete internationally.

The NATO infrastructure surely is an appropriate place for Europeans to spend money to help European common defense.

The amendment offered by my colleague from Ohio provides a reasonable standard. It says that if any three, not one, not two, but any three of our NATO allies fail to meet that 3-percent goal, then and only then would our funding for NATO's infrastructure be held up.

This is an item which involves several hundred millions of dollars. It is an item which it seems to me involves a very basic interest of the United States and that is to spend our money wisely to make sure that in the common defense of Western Europe and the United States we are both making an equal effort.

For that reason I am very happy to support the amendment of my colleague, and I hope very much it passes.

☐ 1850

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to my colleague, the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I would like to commend my colleague, the gentleman from Ohio, who raised this issue before the Congress earlier last year.

I would just like to make two additional points that my colleague from Ohio briefly touched upon. First, I believe that this amendment is in the economic best interest of our country. Our allies for too long have failed to share an adequate burden of our defense posture, a posture that—I underscore what the gentleman said—is provided for their benefit as well as for ours, resulting in the allies having their hands in the American taxpayers' pockets at a time when the unemployed in our districts can ill afford it.

Second, I believe that this amendment promotes sound military practice. I would disagree with my colleague from Virginia.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PEASE) has expired.

(On request of Mr. ECKART and by unanimous consent, Mr. PEASE was allowed to proceed for 2 additional minutes.)

Mr. ECKART. Very briefly, let me say that the gentleman from Virginia pointed out that the allies are getting close to spending 3 percent and that we should be very happy with that and, therefore, this amendment is not needed.

I would quote Gen. Bernard Rogers, the Supreme Commander of the Allied Forces in Europe, who called upon our NATO allies to do more than their 3 percent, to meet 4 percent, because, as the general said, and I quote:

> I have a pocketful of overdue promissory notes. What I am asking is that goals be fulfilled.

General Rogers, our Supreme NATO Commander, told us that even at 3 percent, we are struggling, and that if we are truly to posture ourselves in a way designed to meet whatever threat exists in Western Europe, then clearly what the allies are doing now is inadequate for military purposes, it is inadequate for our own economic purposes, it is not conducive to what the American taxpayers feel is a proper share, particularly in light of the fact that we have made substantial economic and military contributions to our allies in the last 40 years.

I commend the gentleman from Ohio for his interest. I thank him for this support.

Mr. PEASE. Mr. Chairman, in conclusion, I would just say that if our NATO allies are coming close to the mark, as the gentleman from Virginia has said, then it should not be difficult for them to meet the requirements of this amendment. So it seems to me that any recitation of how close they have come only buttresses the importance of this amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, one of the previous speakers said that if we enforce this 3 percent we would become equal. Well, I am here to say that we are a long, long way from equal. We are still carrying the major part of the load.

Another speaker said West Germany is getting close. I sure hope they are getting close. With the economy that they have had, they should not only be close, they should be out front leading.

And then we hear the story about defending the free world. Well, if we keep defending the free world at the rate we are going, we are not going to have anything to defend at home, because we will economically collapse while we are trying to take care of everyone else who are in a good position to take care of themselves.

And then we get the story of sending signals. You know, I have been here 8 years. They have sent the signal now for 8 years that I have been here, and I do not know how many years before that. But I got news for you: The signal never gets beyond our own shores. I think we have got to stop sending signals now and act.

There has been a great amount of unrest within the alliance of late: Differences of opinion between the United States and our European allies have led many to question the stability and coherence of NATO. European leaders, in the argument over the Soviet gas pipelines, have accused the United States of being unwilling to honor contracts previously concluded. These same European leaders who have been so self-righteous about honoring contracts with the Soviet Union have been reluctant to honor contracts and agreements concluded with the United States. One of these contracts specifically allows the United States the final word in U.S.-developed technology produced in Europe, and its sale to other nations of the world. The Europeans have expressed their willingness to ignore their pledge to comply with U.S. wishes regarding the transfer of this sort of technology. Additionally, the Europeans are trying to get out of their agreement to increase their defense budgets by 3 percent after inflation to help meet the demands of the alliance and its defense.

Ever since the creation of the alliance, the United States has played a leading role both in money power and manpower. The Europeans have become complacent believing that the American presence in Europe and all the economic, as well as defense, benefits they reap therefrom will be there forever. For almost 40 years the American taxpayer has borne the lion's share of the expense of defending the alliance. We have taken upon ourselves the expense and the burden of defending the oil of the Middle East because our allies depend on it so heavily. They, in response, turn to the Soviet Union for oil, oblivious of the fact that the alliance was formed against just that state and the very real threat it poses to the freedom of the Western World. Now they wish to get out of bearing a small part of the burden of their own defense. It is time to put a stop to this sort of nonsense.

This is exactly what the Eckart amendment proposes to do; namely, to put a little pressure on our allies to get them to pull their share of the load. Just a few days ago we passed, here in the House, the largest defense budget ever. We are not asking our allies to do the same; just that they increase their defense budget by 3 percent in real terms—it is, after all, their defense, too, and it is nothing more than what they already agreed to do.

I am not one of those people who advocates a "Fortress America," and wants to junk the alliance. I believe that we have a moral, traditional, and ideological commitment to our allies. But they must believe this, too, and be ready to act upon such a belief. The United States has far too long done more than its fair share in defending the West. We now have an opportunity to send a strong message to our allies that they had better "shape up." If they do not, we owe it to the American taxpayer to "ship out."

You know, time and time again now we have gone before the American people and we have asked them to make sacrifices. We did it with the grain embargo. We did it to protect the free world. We did it to protect Western Europe. We also did it because we wanted to send a message with them to Russia in relationship to their invasion of Afghanistan and other areas.

And what did we get in return? The only persons who suffered, the only people, were we in the United States, because those same people we are trying to defend decided not to participate and not cooperate.

We did the same with the butter sale. Who got hurt? Not Russia. Just we, our farmers, our taxpayers. And we are at the same point with the pipeline.

It seems to me, as I indicated before, it is time that we do a little more than send that message or that signal, because they never got the signal in the past. I think it is now time for some real strong action so that they carry their load and we do not ask our taxpayers to carry it for them.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to make a point in this bill before the Committee today that there are two types of construction funds. One construction fund in this bill will go to the American troops for housing, for living, in Europe.

The second type of fund, which the Eckart amendment is aimed at, is called infrastructure funds, which is operational funding where other nations participate in this funding.

As I understand the Eckart amendment, the gentleman says that if certain nations do no come up with 3 percent, then the United States will not participate.

Well, the problem with that is, of these funds we are talking about now, they are operational funds. They are for readiness, to be prepared to meet the Warsaw Pact forces if they would happen to move. For gun emplacement, for AWACS construction sites, and for other operational projects that we need in Europe.

So what I am trying to say here is that this amendment will throw total chaos into construction programs in working with other nations.

Yes, some nations have done a better job. The United States has pushed other nations. There are some percentage tables in the Committee tonight that in effect show that nations have increased their funding. It is not enough, but we think they will continue to move up and might, in several years, meet the criteria that the Eckart amendment is asking for. But I think it would be a very serious mistake for us here tonight to knock out these funds and throw the construction program for readiness of the NATO forces into total chaos. I just do not know what would happen after that. So I certainly hope the Members will vote against this amendment.

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Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, as we approach, hopefully, the conclusion of the debate on this amendment—I see several other speakers—but as we get over the hill with it, I would like simply to recite a few facts first of all because we are not really that far apart with the gentleman from Ohio (Mr. ECKART).

The infrastructure deals with $375 million. It touches the lives of 300,000 American soldiers, sailors, marines, and airmen in Europe, and Iceland, which is a bilateral situation, in Turkey and in Greece. And we ask ourselves why are we there. Is it in our national interest? What are we doing there?

Well, I think we should speak of our being there as being the guests of the NATO countries involved. They are not our adversaries. They are our friends. We should not make gratuitous insults about those who are trying to do the best they can.

I would like to point out that this subcommittee in our hearing record pointed out very early on that Europe and NATO countries must measure up or the alternatives would have to be to take the troops home, for it is they who suffer if we provide substandard housing.

I would simply point my colleagues to Turkey. Do we need to be in Turkey? Do we need to monitor the Soviet Union? I think we would agree that the answer is "Yes." And if my colleagues should see those housing conditions over there, they would know that we should not do anything like this. It is not a good logical thing to do, because of the fact that there is prefinancing under the infrastructure program, under which we build the housing and then we get the money back. Totally it amounts to about 40 percent.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I thank the gentleman for yielding.

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I think I would like to make another observation which is probably far deeper than what we are discussing here on the floor at the present time.

I feel that the amendment has some merit only if we have the proper hearings. I think I indicated that to the maker of the amendment back about a week or two ago if we have proper hearings, and I think it has a tremendous amount of merit.

However, let me just remind those of my colleagues who are here today and those of my colleagues listening that during the senseless war in Vietnam, and you go back a number of years, the NATO allies were exceeding their 3 percent or 4 percent real growth, they were exceeding their own goals to help the United States while we were mired in a senseless war in Vietnam.

Before we take any final action, I think that we should give this very careful consideration, consider what they have done for us over the years when this country was in deep trouble, and therefore perhaps what we should be doing is having full scale hearings.

I can in some way support the gentleman's amendment, but not here this afternoon, but only after proper hearings.

Mr. BRINKLEY. Mr. Chairman, I wonder if it might not be possible to get an agreement with the gentleman from Ohio (Mr. Eckart) on limitation of debate on his amendment, and all amendments thereto, of 15 minutes, 7½ minutes to be controlled by the gentleman from Ohio and 7½ minutes by the gentleman from Georgia.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Ohio.

Mr. ECKART. I would like to get a feeling for how many Members would still be interested in speaking on the floor on this issue.

If I could, I would like to get the gentleman to amend that to 20 minutes total.

Mr. BRINKLEY. Twenty minutes total would be acceptable.

The CHAIRMAN pro tempore. Does the gentleman ask unanimous consent that all debate on this amendment and all amendments thereto end in 20 minutes, the time to be equally divided?

Mr. BRINKLEY. I do, Mr. Chairman.

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, I would like to simply point out if we could get this bill over with within say half an hour, we can get one more bill out of the way in half an hour, and maybe get enough done tomorrow so we will not end up having to be here on Friday.

But this bill has dragged on and on. I would hope we could wind it up pretty soon.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. Eckart) will be recognized for 10 minutes, and the gentleman from Georgia (Mr. Brinkley) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Eckart).

Mr. ECKART. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. Roemer).

Mr. ROEMER. Mr. Chairman, there have been a lot of conversations about gratuitous insults to our allies. Some people on the committee seem to think that this amendment which I happen to think is a good one is somehow an insult to our allies. It is just the opposite.

It is asking them to do what they said they would. It is asking of them what we have asked of ourselves on this floor all year long.

I am proud of the fact that although a new Member of this body I have been able to support with vote after vote a strong national defense. I am proud of the actions of this committee. I would be even more proud if the committee were willing to ask of our allies what they have asked of Members here on this floor, that is, in tough economic times that we remember if we are not strong militarily, given the real world, all of the freedoms that we enjoy here and the blessings enjoyed in Europe will soon be in grave jeopardy.

The amendment does not set some rigid and artificially high standard, Mr. Chairman. It simply requires a NATO growth in real spending on military defense of at least 3 percent in 1983 over 1982 spending levels. This is a target figure that our allies set in 1977.

Look at the list from the Congressional Research Service of the number of our NATO allies who have fallen short over the last 4 years. It is much longer than those who have met the target.

NATO defense spending comparisons 1981—4-year average percent change

Countries that have not met 3 percent commitment:	
Belgium	2.77
Canada	1.75
Denmark	1.35
Germany	2.55
Greece	−0.3
Italy	1.93
Netherlands	0.25
Turkey	1.95
United Kingdom	1.8
Countries that have met 3 percent commitment:	
France	3.97
Luxembourg	8.7
Norway	3.48
Portugal	4.55
United States	3.78

But that is not the test that the good gentleman from Ohio sets, not some 4 year average, but just 1 year, 1983 compared to 1982. I think it is fair. And if it leads to chaos, it is not from this body, or from this amendment, or from this Nation; it is from our so-called allies who do not do for their own defense what they said was fair, do not meet the test that they set. I believe that our fine allies will meet the modest standard of growth that they themselves have set.

I hope we can adopt this good amendment.

Mr. BRINKLEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I misspoke when I said "insult," and I would like to call it back. I thank the gentleman for calling it to my attention so that I would have this opportunity to do it.

But I think the point is well made, that we should not offend our friends just for the sake of it. They are our friends and allies, and we should work with them, we should reserve our most telling remarks for our adversaries.

The gentleman from Louisiana points to chaos. The chaos to which he points impacts on 300,000 Americans in the uniform of our country. And I will tell the gentleman that this is not in their best interests. It is to their detriment. Think well, before you vote on this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Dougherty).

Mr. DOUGHERTY. Mr. Chairman, I think what we have to deal with this evening is reality and good intentions.

I share very much the concerns of the sponsor that our NATO allies are not doing their share. But I think in some ways we have the cart before the horse.

If we want to achieve the goal that is desired here, then the amendment offered by the gentlewoman from Colorado to bring the American troops home from Europe would be the thing to have passed. But in effect that amendment was defeated. And so what we now have is an attempt to take away the facilities that are being used by the American troops in Europe.

And what we have done in effect, we voted not to bring the troops home from Western Europe.

If the Eckart amendment goes in, we are going to take away the facilities that our troops need for the proper training for combat.

I think we ought to start putting the emotion aside and look at what we are talking about. We are talking about training facilities to prepare American and NATO troops for combat.

I think the second point that has to be made about the Eckart amendment is very simply this.

The amendment is so worded that if any three nations do not come up with a real growth of 3 percent in their defense spending, then we back out of the infrastructure program.

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The impact, my colleagues, is very simply this. If the Netherlands, Belgium, and Canada, which get out of this bill about $2 million in military construction projects fail to meet the 3 percent mark, if in effect West Germany spent 6 percent in real growth on their defense spending, we could not put military construction projects in West Germany, not because the Germans were not carrying their share of the load, but because the Netherlands, the Belgians and the Canadians had not done their share of the load.

So in effect, the way the amendment is worded, we are going to wind up being in a position of punishing those nations that may in some instances be doing more than 3 percent simply because three other nations are not doing better than 3 percent.

The third point I think which has to be made, Mr. Chairman, is very simply this. Our troops are the ones that are going to suffer if the Eckart amendment goes through. As I say, it is a well intended amendment, but it is the American troops that are going to feel the impact on it.

A comment was made about General Rogers making some statement about not doing enough. It is my judgment that General Rogers would never support this kind of an amendment, because it is the wrong way to achieve a good end.

Therefore, Mr. Chairman, I would strongly urge my colleagues to defeat this amendment.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILER).

Mr. HILER. Mr. Chairman, I rise in support of this amendment for a variety of reasons, notwithstanding the very good reasons why one might not want to vote for this amendment.

It seems to me when this country went forward with the Marshall plan some 34 years ago, the intent of the Marshall plan was to help provide for the defeated countries' defense as well as the victorious countries, like England. The activity was to help them provide for their own defense while they rebuilt their own economies.

Well, Mr. Chairman, 37 years later they have rebuilt their economies. The Western European economy today combined is larger than the U.S. economy. I think it is time they start meeting up to their end of the defense expenditures which we had planned on when the Marshall plan was put forward back in the late forties.

Now, in the last several weeks, if you have read the headlines in the papers, we have seen that we have had battles with the Western Europeans over subsidized steel. We have had battles with our Western European allies over agricultural subsidies. We have had battles with our Western European allies over the pipeline: so it is very clear that they are a very potent economic force, a force that is very capable of meeting their 3-percent goal under the agreement we reached back in the late 1970's.

We this year will have a real growth rate in our defense expenditures of somewhere around 7 percent. I think it is not too much to ask our Western European allies to have a real growth of 3 percent, as much of our 7 percent is used to help defend them.

I would hope that my colleagues would vote for this amendment. As most of the things we do on this floor pertain to symbols, I think this would be a tremendous symbol and a tremendous message to our Western European allies to shape up.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it was my pleasure a few weeks ago to travel with some of my colleagues to Iceland. I do not doubt the sincerity of the gentleman's amendment for one minute; but I think we do need, however, to look at our NATO allies perhaps one on one.

I would like to ask the gentleman from Mississippi who was the CODEL on that trip if he might reflect on how this amendment might affect the country of Iceland. Inasmuch as a lot of our briefings there were classified, I do recall them stating to us that more Soviet submarines were sighted around Iceland coming down through Iceland than all the other places in the world put together, and how might this affect the country of Iceland. I would ask the gentleman from Mississippi if he would respond.

Mr. MONTGOMERY. Well, as I understand it, if the amendment is adopted, we would not be able to fund that base in Iceland which we have been told by the Secretary of the Navy and the Secretary of the Air Force is one of the most important bases in the world that we have.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. It is one of the most important NATO bases in the world. Our forces monitor Soviet activity either in the air, on the sea, or under the sea from Iceland. It is the Gulf Stream for the Soviets to come to the Atlantic Ocean.

It would be a serious mistake to adopt this amendment. Then you would have to start cutting off funds to the NATO base in Iceland. It goes further than just Europe.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. BRINKLEY. Mr. Chairman, I yield another minute to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding this time.

I would like to ask the gentleman from Mississippi, would we not in effect be breaking our word if this amendment were to pass as far as the people of Iceland are concerned?

Mr. MONTGOMERY. I certainly agree with the gentleman. We certainly need to keep our relationships with the people of Iceland. We have got to keep them as healthy as possible, because as I said earlier, that is the key base for monitoring the Soviets as they enter the Atlantic Ocean.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I would be delighted to yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, I think that is the whole point of the Eckart amendment, the unfairness of it is that if one country is doing its share, but three countries in NATO are not, every nation suffers if the Eckart amendment goes in.

Mr. ECKART. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in support of this amendment. I think the amendment could be a bit stronger. I think it is a token attempt to make a point. I think the point should be made.

I would like to relay to you one message, though. I took a poll in my district and asked my constituents whether or not they thought that it was about time we spent a little bit less on the defense of rich allies like Japan and Germany. Ninety-five percent of them said they are sick and tired of this and it is about time we changed our ways and let our allies pay a little bit more.

As far as keeping our word goes, am I to understand that we cannot pass legislation to designate how our taxpayers' dollars should be spent? To me it is keeping our word with the American taxpayer, whether or not we will live up to our commitment to protect the value of the dollar and to provide a strong national defense.

Not for a minute do I believe that all this expenditure strengthens our defense. As a matter of fact, I believe the argument is very strong that subsidies to our rich allies weakens our defense.

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Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Chairman, I am sure the people who oppose this amendment are sincere and the taxpayers of this country should not think ill of them for opposing it; however, they have outlined the Parkinson's law of architecture argument, which every Member of Congress ought to be familiar with. You hire more people on Capitol Hill than you need and then the next committee comes in and says there is not enough room to house them and so we have to build new office buildings.

We can apply the same argument to this matter over in Europe, only remove from it any benefit that would come to the United States at all.

It is a peculiar thing about contracts with the U.S. Government. If you happen to be Lockheed and make a contract with the United States, you are not expected to live up to it. You are expected to charge more than your contract calls for and the American taxpayers are expected to pay it and like it. It just depends on who you are, whether you can break your contract with the U.S. Government.

Now, the people who are arguing against this amendment seem to think very little of our allies. The people who are arguing against it have reached the conclusion that our allies will not live up to their agreement; else they would not be arguing that Iceland, or what is it, our relations are going to be cooled with Iceland because the infrastructure will not be built there. Why will it not be built there?

This amendment simply says that we will build it there if our allies live up to their end of the contract.

Now, I made a contract with the U.S. Government a number of years ago. I contracted to serve in the Marine Corps for 2 years. In less than 15 minutes on the floor of this very House by a voice vote, the U.S. Government broke its contract with me and gave me what was known as a COG, or convenience of the Government year, during which I picked up a 10-percent disability in combat.

☐ 1920

So it really just depends on who you are, whether you have to live up to contracts. Apparently an American citizen who is not too well off must live up to his contract and the Government does not have to live up to its contract. But if you are well off, then break our contract with the United States and break the Treasury of the United States and you are cool.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. Barnard).

The CHAIRMAN. Both the gentleman from Ohio and the gentleman from Georgia have 3 minutes remaining.

Mr. BARNARD. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to bring out a point that our NATO nations are doing more than just providing money for their support. If Members could go over there and see the training areas where the U.S. Forces are training, they are permitted to use the private lands of the Germans, and other allies—without any reparations. This is a real sacrifice.

There are many other ways in which our NATO nations are doing their part. I think that we need to respect them, Mr. Chairman, for their contribution which they are making other than just the amount of money they are paying for armed services.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. Dorgan).

Mr. GOODLING. Mr. Chairman, will the gentleman from North Dakota yield to me?

Mr. DORGAN of North Dakota. I would be happy to yield to my friend, the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

I wanted to say I think it is just great that our allies, who we are defending—and that is our purpose primarily for being there—are kind enough to allow us to use their property and their land when we are defending them.

Mr. DORGAN of North Dakota. I thank the gentleman for his comment and I reclaim my time.

Mr. Chairman, I think the amendment of the gentleman from Ohio moves us in the right direction. Our NATO allies need to shape up. In fact, I think it is probably not strong enough.

I came to this body believing there was some higher truth someplace around here, but I discovered there are not any higher truths. I found, instead, too often a mentality that says, "Let us keep on doing what we used to do; let us keep on doing that."

Mr. Chairman, the fact is, we cannot continue to pay for the defense umbrella for our allies. The countries in the world that spend the largest percent of their gross national product on defense also happen to be the countries that are experiencing some of the lowest economic growth of all the countries in the world.

The United States is one of these.

That is not accidental. Our defense expenditures are directly tied to our economic performance. Our country lays out a disproportionate amount of defense money to support our allies while they clip our wings in the world markets.

I am not an isolationist but a realist. If anybody in this room doubts that the American people object when we build our allies defense umbrella and allow them to use their engineers and scientists to build the tires, the toasters, the television sets to send into our market while our engineers and scientists build the ships that protect the sea lanes for the European exports, then he is not listening to the people. If anybody doubts that our economy is not going to be injured irreparably by that kind of behavior, when I do not think he understands economics.

We have a very, very serious problem ahead of us economically and it is tied very directly to our military expenditures and tied directly to the performance of our allies in picking up their share of the cost of that defense umbrella.

A columnist recently wrote an article that said:

> Let us tell our allies Uncle Sucker is dead. Why should America's elderly give up social security benefits so the West Germans can stay happy and muscle out American products in world trade?

He does not use delicate language, but I think the point is well taken. We have got to ask the allies to pick up their fair share of the defense umbrella.

It is important to this country's economy and our national security to demand that our allies join us in strengthening our common defense. That is exactly what this amendment does.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. Mr. Chairman, I rise again and stress a point that I made earlier: that if this amendment were adopted and the allies did not come through, the money would not come from housing, it would not come from barracks; it would come out of readiness; that is, building bunkers, construction sites for weapons, building landing strips and the like.

The gentleman from Pennsylvania (Mr. Goodling) said, Why do we want to build things over there? That is where the action would be unless the gentleman wants to come back over here and build these bunkers and airstrips in Pennsylvania, Mississippi, and other parts of the country. I think it makes more sense to be closer to the enemy and the NATO forces. Thus, the equipment and the readiness factors should be located there.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Florida.

Mr. HUTTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Indiana made a good point a while ago, a good point for voting against the amendment.

He mentioned the friction between our country and our European allies. This would only exacerbate the problem and would hurt our troops in Europe.

Mr. BRINKLEY. Mr. Chairman, in order that the gentleman from Ohio may close. I yield myself the balance of my time.

Mr. Chairman, just a bit of rebuttal and a bit of information.

First, with reference to my friend, the gentleman from Indiana (Mr. Jacobs) actually there was no real contractual negotiation. So it was not a matter of keeping their word.

The aim—the aim—was 3 percent. They tried to do that, by and large.

Turning now to the gentleman from Pennsylvania, responding to the gentleman from Georgia (Mr. Barnard), we are not actually in Europe defending them. We are in Europe, in NATO, because of the national interest of the United States of America.

We are not subsidizing anyone. Our share of the NATO infrastructure has gone from 43 percent to 27 percent. We prefinance things, but we get that back; it is recouped.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman.

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, I think the point to be reiterated is the way the amendment is written is in fiscal year 1982 growth versus fiscal year 1983. Many of our NATO allies are already into fiscal year 1983, so the effect of the amendment would be to make it inoperative because of the adoption of budgets by the NATO allies.

Mr. BRINKLEY. I thank the gentleman.

Mr. ECKART. I would thank the chairman for his courtesy to me. I do appreciate it.

Mr. Chairman, the gentleman said very candidly, Mr. Chairman, that the 3-percent target was something only to be aimed at. I would submit to the Members of this body that in military matters, hitting the target and having a good aim is really important, and our allies are pulling up a little short in aiming at the target.

Uncle Sam is not Uncle Sugar Daddy. We are spending our taxpayers' dollars to provide protection and assistance to our allies, which we do willingly. But these same allies are now exporting to our American economy high levels of unemployment. The same allies who have been screaming the last several weeks about the sanctity of contracts have so conveniently avoided the target or the aim or whatever you want to call it that they so willingly agreed to just a few short years ago.

I believe that the issues that we are raising here are, one, whether or not our allies are willing to act like allies and to live up to the commitments made to the American people, live up to the commitments made to the people of Western Europe, to act like allies, and to share a fair part of the burden that we all know is necessary in this modern world.

The CHAIRMAN. The time of the gentleman has expired.

All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. Eckart).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKART. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 245, not voting 38, as follows:

[Roll No. 266]

AYES—151

Albosta
Alexander
Applegate
Archer
AuCoin
Bailey (MO)
Barnes
Benedict
Biaggi
Brodhead
Brown (CO)
Chappie
Chisholm
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Coughlin
Coyne, James
Craig
D'Amours
Dannemeyer
Daschle
Deckard
Dellums
DeNardis
Derrick
Dixon
Donnelly
Dorgan
Dreier
Dunn
Dwyer
Early
Eckart
Emery
Erdahl
Evans (IA)
Evans (IN)
Ferraro
Fiedler
Fields
Fithian
Florio
Ford (MI)
Ford (TN)
Forsythe
Gaydos
Gephardt
Goodling
Gray
Gregg
Gunderson
Hall (OH)
Hall, Ralph
Hance
Hansen (UT)
Hawkins
Hertel
Hiler
Hollenbeck
Howard
Jacobs
Jeffords
Jenkins
Jones (OK)
Kennelly
Kildee
Kindness
Kogovsek
Leach
LeBoutillier
Lott
Luken
Lundine
Markey
Marks
Martin (IL)
Mattox
McCollum
McEwen
McGrath
McKinney
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Molinari
Moore
Mottl
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Paul
Pease
Peyser
Porter
Pursell
Rahall
Rangel
Ratchford
Regula
Rinaldo
Ritter
Roberts (KS)
Rodino
Roe
Roemer
Rostenkowski
Roybal
Russo
Santini
Savage
Sawyer
Schneider
Schroeder
Schulze
Sharp
Shuster
Smith (NJ)
Smith (OR)
Snowe
Snyder
St Germain
Stark
Stenholm
Swift
Synar
Tauzin
Traxler
Udall
Vander Jagt
Vento
Walker
Washington
Weber (MN)
Whittaker
Williams (OH)
Wolpe
Wyden
Wylie
Yatron
Zeferetti

NOES—245

Akaka
Anderson
Andrews
Anthony
Ashbrook
Aspin
Atkinson
Badham
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Bliley
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Broyhill
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Cheney
Clausen
Conable
Conte
Corcoran
Courter
Coyne, William
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Daub
Davis
de la Garza
Derwinski
Dickinson
Dicks
Dingell
Dougherty
Dowdy
Downey
Duncan
Dymally
Dyson
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erlenborn
Evans (DE)
Evans (GA)
Fary
Fascell
Fazio
Fenwick
Findley
Flippo
Foglietta
Foley
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzales
Gore
Gradison
Gramm
Green
Grisham
Guarini
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Harkin
Hartnett
Hatcher
Heckler
Hefner
Heftel
Hendon
Hightower
Hillis
Holt
Hopkins
Horton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Jeffries
Johnston
Jones (TN)
Kastenmeier
Kazen
Kemp
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Madigan
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCurdy
McDade
McDonald
McHugh
Mica
Michel
Mitchell (NY)
Moakley
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Oxley
Pashayan
Patman
Patterson
Pepper
Perkins
Petri
Pickle
Pritchard
Quillen
Railsback
Reuss
Roberts (SD)
Robinson
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Sabo
Scheuer
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Shaw
Shelby
Shumway
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (PA)
Solarz
Solomon
Spence
Staton
Stratton
Studds
Stump
Tauke
Taylor
Thomas
Trible
Volkmer
Walgren
Wampler
Watkins
Waxman
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whitten
Williams (MT)
Winn
Wirth
Wortley
Wright
Young (AK)
Young (FL)
Young (MO)
Zablocki

NOT VOTING—38

Addabbo
Annunzio
Bafalis
Blanchard
Bolling
Bonior
Breaux
Brown (CA)
Brown (OH)
Burgener
Burton, John
Collins (TX)
Conyers
Crockett
Dornan
Ertel
Fish
Ginn
Goldwater
Holland
Huckaby
Ireland
Jones (NC)
Marlenee
Moffett
Parris
Price
Rhodes
Richmond
Rosenthal
Siljander
Stangeland
Stanton
Stokes
Weaver
Wilson
Wolf
Yates

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□ 1940

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Annunzio against.

Messrs. LELAND, STUDDS, LOWRY of Washington, and DANIEL B. CRANE, Mrs. HECKLER, and Mr. HUGHES changed their votes from "aye" to "no."

Mrs. KENNELLY, Ms. FIEDLER, and Mr. FIELDS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BRINKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time for the purpose of announcing to the House where we are. The status of the military construction bill is as follows:

We are nearing completion. The only thing I know of to come before us now will be a colloquy with the gentleman from Texas (Mr. Stenholm) an amendment to be offered by the gentleman from California (Mr. Lowery) which the committee will accept, an amendment dealing with Honduras to be offered by the gentleman from Iowa (Mr. Harkin) and an amendment to be offered by the gentlewoman from Colorado, (Mrs. Schroeder). We believe that each of those matters can be dealt with expeditiously, so we ask for the patience of the Members.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stenholm: At the end of the bill add the following new section:

LONG-TERM LEASES FOR AIR FORCE FAMILY HOUSING

Sec. . (a) Notwithstanding any other provision of law, the Secretary of the Air Force may enter into contracts for the lease of housing facilities, existing or to be constructed, on or near military installations in the United States for assignment of such facilities, without rental charge, as public quarters to members of the Armed Forces, including enlisted members in the grade of E–4 and below. Such contracts may be made through negotiation.

(b)(1) A contract for the lease of housing facilities under this section may be for any period not in excess of 30 years (including the period for construction of such housing facilities).

(2) Contracts under this section may not be made for the lease of housing facilities at more than five separate locations. Not more than 300 housing units may be leased under this section at any one location.

(c) Expenditures for the rental of housing facilities under a contract under this section (exclusive of any cost for utilities, maintenance, and operation) may not exceed $1,000 per month for any unit for the first year of the contract.

(d) A contract may not be made under this section until (1) the Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a written report of the facts concerning the proposed contract, and (2) a period of 21 days elapses after the report is received by those committees.

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1950

Mr. STENHOLM. Mr. Chairman, my amendment would allow the Secretary of the Air Force to enter into contracts under a new pilot program for the leasing of housing facilities for periods of up to 30 years at no more than 5 separate locations and no more than 300 units could be leased at any 1 location.

The purpose of this amendment is to meet a housing need wherever it may occur and do it through the private enterprise system.

If I could have my colleagues' attention, I do not think this will take long and I do not intend to bring this to a vote tonight, but to bring it to the attention of the committee and to explain to all of the Members the principle behind this idea and to hope that we can have a hearing on the idea if it has merit in the very near future.

In the case of the 17th District of Texas and Dyess Air Base, it has been very interesting to me as I have listened to the debate this afternoon and tonight as we have heard in some instances in this country where we have housing that was not wanted at some air bases but in the case of Dyess we have a crying need for housing.

We have 407 families with personnel of the ranks above E–4 and 448 families of the rank of E–4 and below for a total shortfall in housing at Dyess Air Base of 855.

During testimony and debate today we have heard in some instances about communities that are not receptive to our military personnel. In this case though we have come up with a unique proposal indicative of a tremendous community spirit by the city of Abilene, by the Dyess Air Force Base, by various citizens, and by the Chamber of Commerce of Abilene that would provide, as this amendment does, for the Secretary to enter into a leasing agreement, just as we are able to do it in the areas which we have just debated in the NATO areas of Europe in which we already have this provision.

Mr. Chairman, since members of the subcommittee are now aware of my amendment and since it is late in the evening I will not go through the entire explanation at this point in time.

I would just summarize by saying that this amendment proposes a pilot program that answers an immediate need for new military family housing in some areas and allows us to test a flexible new approach to provide this housing in a prudent, limited manner, and is fiscally responsible.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Georgia.

Mr. BRINKLEY. I wish to commend the gentleman for his initiative to provide more military family housing. It is a priority with the subcommittee and the full Committee on Armed Services.

It is needed, and new approaches should be developed to offset the ever-increasing cost of such housing.

But I would ask the gentleman from Texas if he would not consider withdrawing this amendment, because his thoughts are shared by the gentleman from Virginia (Mr. Whitehurst), the gentleman from Alabama (Mr. Dickinson), and myself. We could have early committee hearings and we can check this out and look it over.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. I wanted to comment that I had the privilege of going to Dyess Air Base with the gentleman and there is a problem in housing. Certainly the subcommittee should look at the situation next year.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Virginia (Mr. Whitehurst).

Mr. WHITEHURST. I thank the gentleman for raising this issue and look forward to the hearings. I thank the gentleman.

Mr. STENHOLM. I appreciate this consideration.

I will withdraw my amendment at this time.

Mr. Chairman, at this time, I ask unanimous consent to withdraw the amendment, and I appreciate the consideration and the opportunity of taking a good, hard look at it as we discuss the future needs in military housing.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. LOWERY OF CALIFORNIA

Mr. LOWERY of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lowery of California: At the end of the bill add the following new section:

MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT UNIVERSITY OF CALIFORNIA AT SAN DIEGO

SEC. 806. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662, execute such documents as may be necessary in order to provide that a parcel of not more than 30 acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational purposes authorised pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

Mr. LOWERY of California. Mr. Chairman, this amendment seeks to improve the educational experience for thousands of students and faculty at the University of California, San Diego (UCSD). Approval will allow educational, industrial scientific, or technological research uses on this land which is a small portion of a larger parcel previously conveyed by the Navy in 1962. This amendment is drawn to parallel that previous conveyance to the greatest degree and only seeks to direct the Navy to execute the necessary documents to expand the originally permitted uses under the previous statute.

UCSD has one of the finest research faculties in the Nation. In the number of faculty elected to the prestigious National Academy of Sciences, they rank only behind Harvard, MIT, Berkeley, and Stanford. They are fourth in the Nation among all universities in research and development expenditures for science and engineering. In a phrase, they are "committed to excellence."

The university proposes to develop a science-research facility which will markedly enhance industry-university efforts to achieve, as UCSD Chancellor Atkinson puts it, "significant basic scientific discoveries and accelerate technological applications."

Mr. Chairman, we must be aware of the growing shortage of engineering manpower in the United States. Japan far surpasses us in comparable per captia development of engineering graduates and faculty. Our universities are having a difficult time retaining top faculty while students are forgoing advanced studies in favor of immediate employment.

This project will increase the ability of UCSD to recruit and retain top quality faculty, particularly for their rapidly growing engineering school. Faculty will have the opportunity to work directly with private sector researchers on the cutting-edge of new scientific technology and transfer their knowledge to the classroom.

Students working in this adjoining science-research facility will see classroom theory integrated in an applied technological setting. Graduate students, many of whom prematurely are lured into the private sector, can fully pursue advanced academic studies while receiving invaluable practical experience.

This will be a facility which compliments the research and educational activities already being pursued at UCSD. The university forsees a wide assortment of endeavors including, but certainly not limited to, electrical engineering, biomedical applications, computer technology, and geophysics. I urge my colleagues to approve this amendment.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, I wish to tell the gentleman that we have had a chance to look at his amendment on this side, and we find it acceptable.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, we, too, on this side have reviewed the gentleman's amendment. We find it meritorious, and we support it.

Mr. LOWERY of California. Mr. Chairman, I thank the gentleman.

May I further commend the chairman, the ranking Republican and the committee staff for their fantastic cooperation on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LOWERY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: At the end of the bill add the following new section:

RESTRICTION ON CONSTRUCTION OF AIRFIELDS IN HONDURAS

SEC. 806. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to improve, expand, extend, acquire, construct, convert, rehabilitate, or install in a permanent or temporary airfield or airbase (including any facility in connection with an airfield or airbase) in Honduras.

Mr. HARKIN. Mr. Chairman, as part of the military construction authorization the administration proposes $21 million for construction and improvement of air fields in Honduras.

If approved, I believe the danger is real of a war between Honduras and Nicaragua. My amendment would prohibit funds for this purpose.

The administration has given two reasons for the air base construction plan. One is that the air bases would "give us the capability to act positively in response to a wide range of contingencies."

The $21 million for the construction and improvement of the airfield in Honduras is totally unnecessary. It is unnecessary either for the protection of United States or Honduran interests.

Honduras already possesses the largest and most capable air force in the region. Let me repeat that: Honduras already possesses the largest and most capable air force in the region, regardless of what you may have heard about the so-called Nicaraguan Air Force.

Let me just list for you the aircraft held by Honduras compared to that held by Nicaragua. Honduras has 27 combat aircraft, including 12 Super Mysteres from France, 12 Huey helicopters, and they have 6 A-37's on order. But they have right now 39 combat-ready aircraft.

In comparison, Nicaragua has two T-33 jets. You remember those are out of the Korean war vintage. They have one Hughes helicopter that will not work because they cannot get spare parts. They have 2 transport helicopters, Soviet made, and 3 French helicopters; a total, if my addition is correct, of 7, 7 combat aircraft as opposed to 39 in the Honduran military.

Also the Honduran military has received enormous increases in U.S. military aid during the last year. Nicaragua is well aware of the consequences which will result from any substantial offensive military action it might take against the territory of one of its neighbors and therefore is extremely unlikely to attack unless absolutely no peaceful alternative exists.

These peace alternatives are already being foreclosed as a result of the events along the Honduran and Nicaraguan border. A total of $19 million has been earmarked by the administration for the covert activities against Nicaragua. Much of this money is being disbursed in Honduras to Somocista guardsmen who launch strikes against Nicaraguan territory. These have become more vicious and frequent in recent months.

Reports are that over 60 people were killed in the last 2 months alone.

There are other developments that ought to alarm us all. Last week American C-130 transport planes helped to move over 1,500 Honduran soldiers to a new, permanent base on the Nicaraguan border at Fort Mokoron.

Before, there were only 70 solidiers stationed at that base. It is an isolated base located near the Nicaraguan border on the coast and could possibly be used as a staging area for a war with Nicaragua.

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Last, Honduras does not need nor do they want to play a role of a surrogate military for the United States.

Honduras currently receives adequate if not excessive military assistance from the United States, over $10 million in 1982, with a proposed supplement of $17 million. The request for 1983 is three times what it was in 1981. A newly elected—and, I might say, democratically elected—government is being undermined by an invigorated military. A country in desperate need of economic help is sent military supplies and advisers instead. In our attempt to destabilize Nicaragua, we are, in fact, destabilizing Honduras.

Civilian elements in Honduras are aware of this. Listen to what a Tegucigalpa/Honduran radio editorial recently said, and I quote. This is from a Honduran radio station:

> The latest events caused by the U.S. Government, by Mr. Reagan, are enough to worry even the most recalcitrant Yankee-loving Hondurans. It now seems as if all of the U.S. Government's actions are intended to involve us in what may be the last conflagration on Earth. We need U.S. economic support, and it seems that Mr. Reagan is convinced that the United States must swiftly approve only one kind of assistance: Military aid.

So the administration wants $21 million for larger and better airfields, for tactical aircraft, transport planes and jet fighters.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 5 additional minutes.)

Mr. HARKIN. They want places to unload supplies, places to deploy American troops. Let us not have any illusions about what this $21 million is for. It is for pushing the Honduran military, with our active assistance, into a regional war.

It should be noted, I want to add, that the active, armed opposition to the government in Nicaragua is now limited to the former Somocista guardsmen. All Nicaraguan exile leaders who are not allied with the Somocistas have been ordered out of Honduras. With the recent announcement by Eden Pastora, the famed Commander Zero, that he is disbanding his military forces as long as the Somocistas are attacking Nicaragua, the only remaining armed opposition along the border is from the national guard soldiers of Somoza, aided and abetted by the Honduran Army and also by U.S. military assistance.

I just want to wind up by making two points. My amendment is intended to do two things: No. 1, to try to avoid a regional war in Central America, specifically between Honduras and Nicaragua; and, second, to keep Honduras democratic and peaceful by keeping it out of the war. Let us not turn Honduras into another Cambodia.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague for yielding.

Mr. Chairman, several Members on the floor have approached the Chair and made this inquiry: Why are we dealing with this amendment? Is there money for Honduras in this bill?

I would like to explain. The gentleman offered this amendment not because there are any funds in this budget, in the House's military construction bill for Honduras, but in the latter part of June the other body passed a military construction bill, and in their bill there is $21 million for the purposes of improving three military air bases.

The gentleman from Iowa is offering this amendment that seeks to offer restrictive language to this bill in order that when the House and the other body go to conference, this body will take a position that would not allow it to acquiesce to the judgment of the other body that says, "Let us spend this $21 million."

Is that the gentleman's posture?

Mr. HARKIN. The gentleman is absolutely right.

Mr. DELLUMS. I thank my colleague.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, first I want to commend the gentleman from Iowa, Mr. HARKIN for offering this amendment to call attention to the forgotten country in Central America—Honduras, although I do not necessarily agree with all his arguments.

I have a special interest in the country because of the Vermont-Honduras partnership established under the Alliance for Progress.

I was a witness to the election last November when the government was being transferred from military to civilian hands.

Most of all, Hondurans want peace and want to avoid the violence of the surrounding countries. They are highly aware of the strife in Nicaragua, Guatemala, and El Salvador. There has been significant agrarian and social reform.

Honduras has been relatively tranquil in recent years, as even changes in power were not marked by violence.

The election last November was a good faith effort to conduct a fair and open election, and move toward democracy.

Despite low levels of literacy, there are high levels of participation and enthusiasm; I hope that there will be a movement away from military rule.

Nevertheless, it was clear before and after the election that the military holds the power in Honduras and its current role does not enhance the development of a democratic, civilian government.

There is a chance for Honduras to keep from making the same mistakes that have helped to bring about the current, seemingly insoluble situation in El Salvador. In Honduras, it is not too late to seek peaceful solutions.

I am concerned at the haste with which our Honduras policy is being constructed. This is why we get ourselves into situations like that in El Salvador and many other countries.

What Honduras needs now is economic assistance. Already, we provide a great deal of military aid, including over 100 military advisers. If we are going to spend $21 million to try to bring stability to that country, it could be spent in other ways.

It is very important to consider the consequences of further militarization of Honduras and the region. This amendment provides a vehicle for this consideration and commendations are in order for its sponsor. Instead of providing protection, the $21 million would more likely escalate the chances for armed conflict.

Mr. HARKIN. I thank the gentleman.

Again, that is really my purpose, to raise this issue and let the other body know that we want to be on record as opposing this kind of aid to Honduras at this time.

I just want to say to the Members that I recently had an analysis of the situation along the Nicaraguan-Honduran border from two sources. One was an individual in the Nicaraguan Government. One was an individual who is on the other side, who is opposed to the Nicaraguan Government. And I might add that both analyses of what is going on along the border were both the same. It is that the United States is involving Honduras in this conflict. We are pushing the Honduran military toward armed conflict with Nicaragua. And the second point that they both agreed upon was that war between Honduras and Nicaragua could erupt at any time.

The point I am making is that, with our involvement down there, the United States is going to be drawn into that conflict, alongside of Honduras—a country that the gentleman from Vermont pointed out had a good election last fall, has a democratically elected government—we are going to push them into that conflagration down there, and we are going to make out of Honduras what happened to Cambodia during the Vietnam war.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELLUMS. Mr. Chairman and members of the committee, I rise in support of the amendment offered by my distinguished colleague. I think he is raising a terribly important question.

As I said earlier in the colloquy between myself and the gentleman, the purpose of this amendment is to get this body on record saying, "We do not acquiesce in the judgment of the other body that we ought to at this moment be spending $21 million for the purpose of improving three military air bases in Honduras."

Now, in offering my support to the amendment I would like to first begin by painting a very sketchy picture of Honduras for the purposes of this debate. Honduras, Mr. Chairman, is the poorest nation in the Americas, with the exception of Haiti. The vast tracts of land in Honduras are owned and dominated by U.S. firms. There has been a long history of military control in Honduras.

In November 1981, they had the first democratic election in 18 years, and a very fragile democracy is the reality in Honduras at this moment. They face enormous economic crisis. Trying to overcome this economic crisis on the one hand and maintaining the stability of a fragile democracy on the other hand are two very significant problems that are not easy to overcome.

But the path to democracy and progress, in my estimation, Mr. Chairman and members of the committee, is being undermined by the U.S. involvement in Honduras in the crusade for Central America.

Let us for a moment, Mr. Chairman, look in some detail at the U.S. role in Honduras. No. 1, for the last 2 years, U.S. Embassy staff has doubled. The U.S. nonmilitary staff is the third largest in the hemisphere.

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In Honduras there are close to 100 military advisers. Further, Mr. Chairman, the United States has encouraged the transition from military to civilian role. However, it undermines that policy by making the military the instrument of U.S. policy in Central America.

We started introducing Huey helicopters in the Carter administration to patrol the refugee clogged borders of Honduras. Military aid has increased from $3 million in 1980 to $10.6 million in 1982 to $14 million anticipated in 1983. U.S. military advisers are working near both borders of El Salvador and Nicaragua.

It is widely and realiably reported that a major covert campaign against Nicaragua is being launched through Honduras.

Mr. Chairman, there are several additional consequences to increase military aid and increase military developments on the part of this country in Honduras.

No. 1, it shows a willingness to intervene in the event of conflict with Nicaragua. I think that is a terribly negative thing. It strengthens the military and undermines the fragile civilian led democracy, and would seem to me that a so-called great Western democracy should not be doing anything to undermine the fragile evolution of a democracy in this hemisphere, as much as we purport to care about democracy.

Third, Mr. Chairman, it increases the possibility of widening the civil war in El Salvador to a regional conflict that we would be involved in.

Mr. Chairman, the Honduran involvement in regional conflict fosters human rights violations. There has been an ever increasing number of incidents of disappearance and abuses of Salvadorian refugees in Honduras. There has been an increase in the incidence of abuses of foreign persons in Honduras. There has been an increase of detentions and abuse of Honduran citizens themselves.

Now, Mr. Chairman, to the military bases that are the essence and the thrust of the amendment by my distinguished colleague—as I said in early colloquy, on June 30 of this year the Senate passed S. 2586, their military construction authorization bill, which earmarked $21 million for improving three military bases in Honduras. The airfields will be lengthened and bases ready for combat.

The **CHAIRMAN** pro tempore. The time of the gentleman from California (Mr. Dellums) has expired.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The **CHAIRMAN** pro tempore. Is there objection to the request of the gentleman from California?

Mr. DOUGHERTY. Mr. Chairman, reserving the right to object, can we see if we can get some idea how many people are going to speak to this amendment and see if we can get some agreement on a time limit? Otherwise I would object to any Member going beyond the first 5 minutes.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Georgia.

Mr. BRINKLEY. The gentleman from Iowa (Mr. Harkin) and I have been discussing this very thing. Several of us do wish to speak. I found out just this very evening that we can say in 2 minutes that which we might say in 5 if we are given that opportunity.

So I would recommend and ask unanimous consent under this reservation of my colleague that all debate conclude in 20 minutes, the time to be equally divided between the gentleman from Iowa (Mr. Harkin) and the gentleman from Georgia.

The **CHAIRMAN.** Is there objection to the request of the gentleman from Georgia?

Mr. HARKIN. Mr. Chairman, reserving the right to object, I see 15 Members standing. Mr. Chairman, I counted initially when the gentleman asked about how many Members would stand. I counted 15 Members standing. If there are no more, if we had just 3 minutes each, would that be acceptable?

Mr. DOUGHERTY. Mr. Chairman, that would be 45 minutes. I would object.

Further reserving the right to object, Mr. Chairman, if we cut the difference and say 30 minutes, 15 to each side, I would say fine. But it is now a quarter after 8. If we are going to have Members going 5 minutes and 5 minutes more and 5 minutes again, I am going to object.

Mr. HARKIN. Mr. Chairman, I understand what the gentleman is saying. I think we will get agreement if we give everybody 3 minutes to say their piece.

Mr. DOUGHERTY. Mr. Chairman, I would object unless it is a 30-minute limit.

Mr. HARKIN. Fifteen a side?

Mr. DOUGHERTY. Yes.

Mr. BRINKLEY. That is satisfactory.

Mr. DOUGHERTY. Mr. Chairman, I move that all debate on this amendment be limited to 30 minutes, with 15 minutes to the gentleman from Georgia (Mr. Brinkley) and 15 minutes to the gentleman from Iowa (Mr. Harkin).

The **CHAIRMAN.** The Chair would advise the gentleman that that is not a proper motion.

The Chair would put it in the form of a unanimous-consent request.

Is there objection to limiting debate to 30 minutes, 15 minutes controlled by the gentleman from Georgia (Mr. Brinkley) and 15 minutes controlled by the gentleman from Iowa (Mr. Harkin)?

Without objection, the unanimous-consent request is agreed to.

There was no objection.

Does the gentleman from California (Mr. Dellums) still ask unanimous consent for 5 minutes?

Mr. DELLUMS. Yes, Mr. Chairman. I am just trying to finish my statement.

The **CHAIRMAN.** Is there objection to the request of the gentleman from California?

Mr. HARKIN. Mr. Chairman, reserving the right to object, does this time come out of the time we have allotted?

The **CHAIRMAN.** The Chair would advise the gentleman that no, it would not. That would be the understanding.

Mr. HARKIN. Mr. Chairman, I withdraw my reservation of objection.

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Mr. DOUGHERTY. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I will try not to use the 5 minutes.

I simply choose to conclude my statement.

I think the issue raised by my distinguished colleague is terribly important, and it is regrettable a number of my colleagues feel due to the lateness of the hour we can scan across an issue that threatens the lives of many people.

Mr. Chairman, as I said, there are $21 million in the Senate version of the military construction bill for the purposes of improving three military bases in Honduras. These air bases will be available for use by U.S. military transport and fighter aircraft. Negotiations with the Hondurans have been underway for some time. Initially denied by the Honduran Ministry of Foreign Relations, this arrangement was later confirmed by the Ministry of the Presidency, and I quote, "who admitted that the bases were to be used by the United States in case of emergency."

Mr. Chairman, the Senate approval of such large funds of money for military purposes comes at a time of increasing tensions in Central America. Honduras is viewed by the Department of Defense as a strategic ally and buffer between the leftist Sandinista government in Nicaragua and the alarming instability of the rightist government in El Salvador.

The strong U.S. emphasis on military preparedness stands in sharp contrast to civilian President Cordova's much publicized peace proposal. And I would not go into it, except to point out that he said if no other possibility exists to preserve peace, Honduras—or one of the generals who was the chief of the armed forces in Honduras made this comment: If no other possibility exists to preserve peace, Honduras is in agreement with the United States as a friendly country to intervene militarily into Central America. I really do not think that is something we want to do, nor something I think the American people want to do.

Last March a forum was held at the Honduran University where they evaluated the escalating U.S. military involvement in Honduras. One of the Christian Democratic Members of Congress made the following statement. He concluded that:

> The installation of U.S. military bases on our territory converts our country into an object of war as we will serve to transport arms, troops, and sophisticated weaponry.

Mr. Chairman, in conclusion, the bases will be the cause of internal unrest, heightened conflict with Nicaragua, be seen as provocative, and undermine the civilian government in Honduras.

There have been no hearings on this matter in the House, no testimony has been taken, and I am sure that we can insure that no money can be spent for this purpose by embracing the amendment by my distinguished colleague.

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the information that the gentleman from California has adduced with reference to the fact that there are no funds in this bill, zero, affecting Honduras.

The subcommittee received testimony on the request. However, at that time there was no country-to-country agreement between the United States and Honduras. Therefore, the committee did not approve the requested $21 million for military construction in Honduras.

As noted by the gentleman, the Senate bill has the authority. Therefore it will be a matter of conference whether or not the pending amendment is adopted.

The approach offered by the gentleman is anticipatory in nature and has the effect of binding the House to a set position, despite the fact that there is no issue at hand.

In my judgment, this type of procedure would be unwise. As a matter of fact, the double-barreled approach is in the fact that neither has our counterpart on appropriations provided any appropriations under a presumed authority, which may or may not be granted.

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So I would submit to the body that we are presently jousting with windmills, because there are no funds affecting Honduras in the bill which we are debating tonight.

Mr. HARKIN. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GARCIA).

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. Yes. I yield to my colleague, the gentleman from Texas.

Mr. LELAND. Mr. Chairman, I rise in support of the HARKIN amendment.

I am deeply concerned about the implications of this project to construct and expand airstrips in Honduras, which are essentially for use of the United States. This project in no way serves the interests of our Nation or of the nations of the Central American region. It will unsettle the delicate internal balance within Honduras between those who would steer that nation along the course toward democracy and those who would instead plunge Honduras into a military adventure with unforeseeable consequences. It will also set the stage for an expanded U.S. military role in Central America and send a clear signal of U.S. resolve to do so.

Mr. Chairman, it distresses me that there has been little public scrutiny of this portion of the bill and little debate on its implications in this body until the moment this bill has come to the floor. In a letter to Senator STROM THURMOND, the Under Secretary of Defense, Fred Ikle, makes the following statement:

> This program, at $21 million, is relatively small, but it will have a major impact in a region that is becoming more important to us as events unfold.

It is precisely because of its major impact in the Central American region that this military construction deserves greater scrutiny than it has until now received.

There should be little mistake about the intentions of the administration in secretly negotiating agreements with the Honduran Government for the construction of airstrips. The text of the agreement specifies that the—

> Government of Honduras authorizes the Government of the United States of America to make use of the facilities at the aerial ports * * * for the fueling or refueling of aircraft, maintenance of aircraft and equipment, accommodation of personnel, communications, supply, storage, and other such activities.

Senator THURMOND further specified in Senate floor debate on June 30, that the "objective is to be able to use the airfields for limited airlift or for up to a squadron of tactical fighter aircraft."

Mr. Chairman, we are talking here about the possible deployment of a U.S. tactical fighter squadron on 24-hour notice. What this bodes in terms of direct U.S. intervention in Central America is ominous. Despite assurances from Mr. Ikle to Senator Thurmond that "longerterm deployment" to meet a security threat to Honduras or U.S. interests can only occur by securing Honduran agreement, that agreement is all but a foregone conclusion. On April 2, General Gustavo Alvarez Martinez, chief of the Honduran Armed Forces, declared that to meet the Soviet-Cuban threat, "Honduras is in agreement that the United States, as a friendly nation, intervene militarily in Central America."

In this context, the construction of these airstrips places both Honduras and the United States on war footing.

Mr. Chairman, this may well be the intention of the administration. It is an intention which deeply disturbs me and many of my colleagues in the House and Senate, and perhaps more significantly, it is an intention which deeply disturbs many civilian and military officials in Honduras, who are attempting to steer their nation toward democratic and peaceful development.

During the last year and a half our military assistance and our military and diplomatic presence in Honduras have dramatically increased. In 1979, the combined U.S. military assistance and economic support funds to Honduras amounted to only $2.3 million. By 1981 that had nearly quadrupled to $8.9 million; for 1982, that figure will reach approximately $62.6 million. Over the next 2 years, the administration plans to provide more than $60 million in military assistance along. This is more than seven times the $8.3 million of military aid over the last 2 years. The 147 civilians in the diplomatic mission and nearly 100 military trainers and support personnel form the largest U.S. Embassy contingent of any Latin American nation between Mexico and Brazil. U.S. military trainers have been active in Honduras for the last year and a half, in mobile training units assisting in border patrol along the Salvadoran and Nicaraguan borders, only last week, U.S. forces participated in joint military exercises with Honduras to establish a permanent military base at Durzuna, near the Nicaraguan border. This base is to be the largest in eastern Honduras. U.S. C-130's airlifted troops, ammunition, and helicopters to the border during those exercises.

Reflecting on this inordinate attention being lavished on the second poorest nation in the hemisphere, it is not difficult to conceive of the possibility that Honduras is being coaxed into playing a strategic role in the administration's designs on Central America. It was under pressure from the United States that the Honduran Government and the United Nations High Commission On Refugees (UNHCR) decided to relocate thousands of Salvadoran refugees in camps along the border to a new camp at Mesa Grande, some 50 kilometers away. That 50 kilometer perimeter along the Salvadoran border is now completely militarized. At the admission of Honduran military officers to Raymond Bonner of the New York Times, military contingents from the 3,000 Honduran troops stationed along the border participated in encirclement operations with the Salvadorean Army within El Salvador during the last 2 months.

Mr. Chairman, I strongly believe that this path on which the administration has embarked, and along which it is dragging Honduras, is in the interest of neither one.

It is true perhaps that Honduran officials feel threatened by the military buildup in Nicaragua and by the civil wars in the bordering countries of Guatemala and El Salvador. But would it not be infinitely better for the administration to seek a reduction of the tension between Nicaragua and Honduras and in the other border nations through diplomatic means? It is telling that this administration has not done so, it is telling also that we have contributed to exacerbating that tension by refusing to support negotiations in El Salvador—against the better judgment of Latin American and European allies—and by designing and encouraging efforts to destabilize and ultimately overthrow the Government of Nicaragua.

While the construction of airstrips in Honduras are explained as necessary to support our "friends" in face of a military threat from Nicaragua, does not Nicaragua have anything to fear when the United States implements a $19 million covert action plan against it? Does not Nicaragua have anything to fear when thousands of Somoza's troops are poised along its border with Honduras, making daily armed incursions from Honduras. On July 19, planes reportedly proceeding from Honduras attempted to bomb the main port at Corinto. The following week, two planes reportedly attempted to bomb the Exxon refinery near Managua.

Mr. Chairman, I believe that it would be infinitely better for Honduras, Nicaragua, and for our own interests, to bring Honduras and Nicaragua to a negotiating table. Both nations have professed an interest in reducing tensions. Apparently that interest is not shared by the administration. It would be a disaster of calamitous proportions to drive Honduras into a war—a war which would immediately and inevitably engulf the entire region and provide the long-sought pretext for direct U.S. military intervention.

Mr. Chairman and members of the Committee, I hope that you will vote for this amendment, in so doing we will send a clear signal that the United States should be committed to efforts to prevent the escalation of conflict in Central America.

Mr. GARCIA. Mr. Chairman, I would just like to pick up where my colleague, the gentleman from Georgia, left off.

There is no money in this bill; but the legislative process is such that after this body meets, we then join the other body in conference and the two Houses work together and bring back a conference report which both bodies vote on. This is why we are trying to stop the $21 million from being added to this bill.

I think we have to send a very clear signal to President Roberto Suazo Cordova of Honduras that there are Members in this body who feel very strongly that we should not support the building of airstrips or airbases in Honduras.

We do not need continued bloodshed in Central America. We need to promote understanding between this country and the nations of Central America.

There is a great deal of fear in this legislative body as well as at 1600 Pennsylvania Avenue that many Spanish-speaking nations are in danger of becoming Communist. Because of that fear we are inadvertantly promoting the threat of war.

During the last 2 weeks in July there were joint United States-Honduras maneuvers taking place on the Honduran-Nicaraguan border.

We are only aggravating the situation in Central America by conducting these maneuvers. Nicaragua, while it may not be perfect, has progressed since the days of the repressive Somoza regime.

What we must do in Spanish-speaking America is create an environment where this country does not pose the threat of war but we, instead, offer the hope of economic aid. There has been enough killing in Central and South America. We do not need to send more military aid to this region. Central America should be looked upon as a symbol of freedom, not as a symbol of war.

I rise to support the amendment to H.R. 6214 offered by my colleague from Iowa (Mr. HARKIN). While the attention of the American public is focused on the tragedy of the Middle East, the administration has been building up the Honduran Army, which, in turn, has given indications that it is prepared to take part in a regional conflict in Central America.

During the last 2 weeks in July, joint United States-Honduran maneuvers took place on the border between Honduras and Nicargua. It is, therefore, foolish for the United States to aggravate the already unstable situation between that country and its neighbors. Regionalization of the conflict in Central America would only serve to push Nicaragua further away from a more moderate political and economic system.

The building of an airfield in Honduras, capable of handling military transport would not help matters. The Honduran Air Force has no pressing need for such an airfield or airbase. This would simply be seen as a threatening act against the Nicaraguan Government by the United States.

When are we going to learn? Since 1979, Congress has appropriated or has requested of it, over $750 million in aid to El Salvador. Aid to Honduras has increased nearly five times over the past 5 years. The administration is trying to resume sending aid to Guatemala.

We can no longer afford to underwrite the paranoia of this adminstration. The crises in Central America cannot be solved by continually dumping aid in the hands of political and militiary leaders simply because they say they are anti-Communist. I do not propose that we ignore our security interests in the region. Yet, I am not convinced that building an airbase in Honduras, or leaving military advisers

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in that nation will help U.S. strategic concerns in Central America.

Honduras recently elected a civilian President after 18 years of military rule. President Suazo Cordova has a difficult path ahead of him. He must appease the Honduran military and rebuild the economy. Excessive U.S. military support will only undermine his attempt to strengthen the democratic process in Honduras.

I support the gentleman from Iowa's amendment because I want to send a clear signal to President Suazo Cordova that there are Members of Congress who want to see the democratic process continue in Honduras, and who want to promote stability in Central America. A regionalization of the conflict would not only be harmful to all Central American nations; it would run counter to U.S. interests.

Mr. KEMP. Mr. Chairman, will my friend yield?

Mr. GARCIA. Yes, I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I join the gentleman in believing that economic assistance and raising the level of prosperity in Central and Latin America is absolutely critical to whatever we have as a goal for the relations between our country and that part of the world; but I want to remind the gentleman that just a few days ago on the floor of the House we tried to bring up an amendment, an initiative, actually, of the President, to have the Caribbean Initiative, to put $320 million into that area of the world in which there are such vital problems, some of which have been alluded to by the gentleman in the well, and it was struck down on a point of order; I wish the gentleman would have given that eloquent speech when we needed it.

Mr. BRINKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Chairman, I well may be, and I think I am, the only Member of this body who was in Honduras for the election of the new government and for the inauguration of that new government. Many were there for one or the other of those.

It is true, no question about it, that that new government needs and wants and asks for economic aid. They said that, but they also said that they need a limited amount of military aid and they pointed out that while it is true that the Air Force in Honduras is the largest in Central America, it is largely composed of outdated old airplanes, many of which would not even fly; about half of those are in operation today.

It is also true that in Nicaragua, which has an army, an army that they have announced that they want to expand to 50,000 and a reserve to 200,000, that they are building airstrips now that will take care of the latest Mig airplanes from the Soviet Union.

Long ago, several years ago, they sent pilots, pilot trainees, to Bulgaria to be trained to fly those aircraft.

I would like to also point out, as was already mentioned, Honduras has one of the only elected governments in Central America. Costa Rica is the only other country. Not only is it true that that country elected a new government back in November 1981, but the military of that country strongly supported the transition to civilian government and is strongly supporting that government's efforts.

Now, it is also true that Nicaragua has claimed part of the Honduran territory as part of its own that they think should be under their control. I think it would be a terrible tragedy if we were to adopt this amendment as proposed by the gentleman from Iowa and I would hope the House would turn it down.

It seems to me that where we have a country like Honduras where some 80 percent of the people turned out to vote in a free election, and I saw it, as did some of my colleagues; they stood in line for blocks from early in the morning until late at night to make that choice. They elected a party and a government that was opposed to the government that had been in power, showing that the election was, indeed, free and fair. That election is asking for our help.

I would hope we would not turn it down.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to thank the gentleman for his statement and say that I totally agree with him. Honduras has made progress democratically and have had a recent election in which we all can take pride. That election is not directly threatened by Sandinista activity on the border of Nicaragua and Honduras, but President Roberto Suazo Cordova is a decent, honorable, democratic leader of that country and he does not deserve the type of attack on him or his country that I have heard on this floor.

I think it is ridiculous that some Members are trying to shut off the one chance we have of developing some form of a self-defense effort in Honduras.

The President is anxious to give economic assistance. The Caribbean Basin Initiative is moving forward and there is assistance for Honduras which most of us support, but this amendment is punitive to a good friend.

To turn our back on this modest amount of self-defense money for President Suazo Cordova would be a tremendous mistake and it would be the wrong signal, I would say to my dear friend, the gentleman from New York, to send this type of a message to the recently elected government of Suazo Cordova.

So I want to congratulate my friend from California and join him in this effort of defeat this untimely amendment and plan to ask for a recorded vote to put on the record the votes of those Members of this body who want to embarrass our friends in the Third World, specifically Central America.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. Oakar).

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding to me.

I certainly want to support the gentleman's amendment. This agreement really in part is aimed at facilitating the entry of the U.S. troops into the region and the American public clearly opposes direct U.S. involvement in Central America.

We should be seeking peaceful solutions, not all these military options.

Let us look at our military involvement in Central America. We are training hundreds and hundreds of men from Central America in our own country. We give mostly military aid. Witness our aid to El Salvador that is really responsible for the bloodshed there in many ways, that has killed not only thousands of El Salvadorean people, but indeed our own American citizens.

I think the taxpayers of this country have had it. They are tired of having their tax dollars used for military solutions and not peaceful ones.

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The CHAIRMAN. The gentleman from Georgia (Mr. Brinkley) has 9 minutes remaining. The Chair misstated the amount of time remaining previously.

Mr. BRINKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Dougherty).

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, I would make a few observations if I could.

When I first came down here, I listened to all the comments about the wonderful things involving the Panama Canal Treaty and why I should support it, and I listened and I supported the Panama Canal Treaty.

Then I was told by the same people who were talking about the situation in Honduras tonight what a wonderful group of people the Sandinistas were, how I should support the American efforts, to support the Sandinistas in Nicaragua, and I went on and I supported them, because I was well intentioned and I thought that was the way to go.

Now we find, of course, we are supposed to listen to the same string from the same violins about the situation in El Salvador and the same thing about the same situation in Honduras.

Well, I learned after making two mistakes, Mr. Chairman, that I think we have to draw the line. I think it is rather ironic that all the people who are pushing this amendment take the floor and tell us what a wonderful government Honduras has, that it has a democratically elected government, it has been in power since 1981, duly elected by the people, it is one of two democracies in South or Central America. Yet that democratically elected government is going to let the United States push it into a war with Nicaragua. That democratically elected government is going to allow the United States to forcibly build air bases in Honduras without the consent of the Honduran Government. That democratically elected government is going to let us do whatever we want to do in Honduras.

I would suggest we recognize the bottom line, and that is that if the Government of Honduras is duly elected by the people of Honduras, they should have the final say on what happens in their country, whether we build air bases or not.

I think it is absolutely ridiculous for us to be making foreign policy on the floor of the Congress of the United States on a bill dealing with military construction.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Lewis).

Mr. LEWIS. I thank the gentleman for yielding this time to me.

I would like to associate myself with the remarks of my colleague from California (Mr. Lagomarsino), as well as those Members who have stood to recognize the reality that we have been for some time been marching to the drum of those who would suggest that the guerrilla movements in Central America are good for progress in terms of democracy.

I must say that following Mr. Lagomarsino's trip to Honduras, I had the privilege recently of visiting El Salvador. I was there as a conservative Member of the House to express some real concern for the advancement of democracy, concern about human rights, and concern about questions such as land reform; but to listen to this debate this evening, I cannot help but be astonished at my colleagues' either naivete, or their purposes which are other than my own.

It is clear that the election in Honduras was an inspiration to those people who stood for hours in San Salvador to vote for freedom to move democracy forward, to repress violence in Salvador. Where are your voices today for freedom of democracy in El Salvador, in Nicaragua? Where are your voices and cries about democracy and freedom in Cuba?

Those countries who are trying to make freedom and democracy work are being threatened from the outside. Their democracies are asking for help and you stand on the floor and suggest we should turn our backs on the only democracies that have had elections in that region of South America.

Ladies and gentlemen, it is time we took the rhetoric, the extremes, out of this business; literally, we have a critical interest in positive development of democracy in Central America, if the people who have spoken this evening are indeed in the business of replacing potentially responsible free governments with governments of domination from the left and represent a threat to our own freedom in Latin America.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Chairman, I just hope people will take a very close look at this amendment for one purpose, and maybe just to note in their datebooks today this amendment, because I think you will discover a short time down the road that what this amendment is is a continuation of the process by which this country is staging a provocation of the Nicaraguan Government.

The Nicaraguan Government has said time and again that it will not bring the Mig's to Nicaragua because they understand what a catastrophe that would be in terms of their relations with this country. But you build the airstrips in Honduras and the Hondurans have asked for the F-4's and F-5's and you continue to harbor in Honduras, with the aid of American military advisers, the Somocistas, the whole goal is to do one thing and one thing only, and that is to lure the Nicaraguan troops, the Sandinista troops, across the border into Honduras.

They have shown tremendous restraint because there is to my knowledge no record of their incursions into Honduras, but there is a tremendous record of incursions from Honduras into Nicaragua.

And for the gentlemen on the floor shaking their heads, I suggest strongly they check with their representatives on the Intelligence Committee; that they ask to be briefed on the third floor of the Capitol and perhaps their heads will not shake so quickly because, let me tell my colleagues, ladies and gentleman, this is a continuing process for the destabilization of a sovereign government.

I visited with the junta in Nicaragua and I think my colleagues who were there with me will tell you that I had no kind words for the junta, no kind words at all for the manner is which they dealt with the press, in which they dealt with the business community. But this is something other than that. This is an intentional policy to lure these people into war, to killing and to violence.

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from Iowa (Mr. Harkin) has 8 minutes remaining, and the gentleman from Georgia (Mr. Brinkley) has 3 minutes remaining.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think it is unfortunate that this amendment is being considered so late in the evening and that we have so little time to discuss it, because I think that it raises some very important questions regardless of what one thinks of the merits.

These questions, Mr. Chairman, go beyond the $21 million at issue. For example, among the fundamental questions are: What is the U.S. policy in Honduras? How does that policy serve the interests of the United States in that country and in Central America?

Honduras is a friendly country. It has a democratic government, and it certainly would serve the interest of the United States to promote stability in Honduras and in Central America generally.

If this is true, we must ask: Are the steps that this administration is taking, including this one, going to promote stability and, therefore, serve the interests of the United States?

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I would suggest that most Members of the Congress and in this room tonight do not fully appreciate what the policies of the Reagan administration are in Honduras today. For example, there is ample evidence that the United States is using Honduras to promote conflict with Nicaragua. Is that in fact the policy of this administration, and, if so, does it serve our interests? This is an essential question, and I think it is very important before the conferrence committee should approve $21 million to imrove air base, in Honduras that we understand the policy context in which this decision is being made.

I think that is the important point raised by gentleman's amendment, and the amendment should be adopted to signal the administration that we are concerned about its policy in Central America, and more particularly about what it has in mind with regard to Honduras.

As for the argument that adoption of this amendment could lead Honduras to believe we are not supportive, it is not credible. Honduras is already

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the third largest recipient of U.S. military aid in Latin America, ranking only behind El Salvador and Colombia. It would be the second largest recipient if the Reagan administration's proposed fiscal year 1982 supplemental is approved, and plans call for substantial increases in the level of U.S. military assistance in fiscal year 1983. In addition, we have leased helicopters to Honduras on a cost-free basis, and conducted several large-scale military training exercises with its armed forces. We also have more than 100 military advisers in Honduras, substantially more than we have in El Salvador.

Honduras knows that we are supportive, and this amendment should not be read in Honduras or in Washington, as an unfriendly one. Rather, it should be read as a measure of our concern that U.S. policy in Honduras and Central America is at best unclear, and at worst designed to promote conflict and further instability, particularly with regard to relations between Honduras and Nicaragua.

Moneover, if promoting stability in Honduras should be our first priority, we must be concerned first about its pressing economic problems. Those problems are serious. Honduras is the poorest and least developed nation in Central America. Two-thirds of its population lives in poverty. Infant mortality is estimated at 11 percent in the first year of life, and the literacy rate at less than 60 percent. This desperate situation is exacerbated by one of the highest rates of population growth in the world, which is estimated at 3.6 percent.

In short, Mr. Chairman, the greatest problems afflicting the people of Honduras are economic, and if we wish to promote stability and democracy among those peoples we must help them to deal constructively with those problems.

Instead, the Reagan administration appears intent on promoting a military buildup and in fostering paramilitary activity. It is in this context that the administration has proposed to spend $21 million in improving three military air bases in Honduras. It is in this context that we ask: For what purpose?

In the interest of getting a clearer answer to that question, and to others equally important, I urge my colleagues to support the Harkins amendment.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, about 20 years ago the United delivered itself a black eye in the Bay of Pigs. The Honduran airbases to be built with funds provided by the other body will set the stage for another Bay of Pigs; another set of U.S.-trained and financed surrogates, operating from sanctuaries in Honduras against targets in Nicaragua and meddling in El Salvador.

Operating these bases with U.S. funds clearly will be seen as provocation against Nicaragua by that government and by others. It is an action that in the long run will support a return to military rule in Honduras and repression against the Honduran people.

The airbases are clearly a springboard for action against Nicaragua. Honduras desperately needs humanitarian and economic assistance, and I will gladly vote $21 million and more for economic and humanitarian assistance to Honduras, but I will not support something that will lead to another regional war among impoverished people who cannot put food on the table, but who can have a gun in their arms with American assistance.

Honduras is at peace. Let us leave that country at peace. Let us not draw them into a confrontation with Nicaragua. Let us not make them an instrument of conflict in Central America.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I predict with some confidence and sadness that this is a debate and this is a vote that will come back to haunt every single Member in this Chamber. It is a fairly safe prediction that if a war is going to break out in the near future in this hemisphere, it is going to be in Central America and it is going to be between Nicaragua and Honduras, and the United States is going to bear no small measure of responsibility for enticing Honduras into this war.

In case it is necessary for some of my friends on this side, I happen to like the Government of Honduras and I do not particularly like the Government of Nicaragua, but I am responsible at least in some small way for the policy of the Government of the United States; not the Government of Honduras and not the Government of Nicaragua. It is that policy that I suspect most Members have not focused on. What do we know? Not a lot of what we ought to know as Members of this Congress.

Honduras borders three countries, Nicaragua, El Salvador, and Guatemala. This desperately poor nation has been drawing increasingly, with U.S. encouragement, into hostilities along its border with El Salvador. The Government of Honduras, with U.S. encouragement, is now helping to organize and train and arm Somocistas, former National Guardsmen from Nicaragua, on Honduran territory, for raids across the border into Nicaragua. That, my colleagues, is illegal. That is a violation of international law, being encouraged, and for all we know, financed by our own Government.

For those of us in this body who have no particular brief for the Government of Nicaragua, what greater favor could we do them? What greater favor could we do them than to rally their entire nation behind them by sending former National Guardsmen back into Nicaragua trained and organized by the United States and by its allies—such as Argentina? How stupid can we be? How little can we ever learn from history?

Do we remember the Bay of Pigs? Do we remember the tragedy still suffered by the people of Guatemala because of our meddling in that country? For the love of Heaven, however we feel about the Government of Nicaragua, let us wake up and conduct our Government with some decency and self-respect, and perhaps some respect for international law.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Iowa. When I visited Honduras a year and a half ago, I was struck by the unusual predicament in which this extremely poor country found itself. Honduras is surrounded by violence on all its borders; it is the second poorest country in the hemisphere and faces enormous economic pressures from the influx of refugees across all of its borders; and yet, somehow the country has remained relatively peaceful and open, and, in November of last year, returned to civilian democratic rule. I have been extremely disturbed, over the past year and a half, to watch Honduras slowly but surely become embroiled in the conflicts of the region, while its own economic problems deepen, and internal dissent grows. What disturbs me the most is that I believe the policies our own country has pursued toward Honduras bear no small part of the burden for this distressing trend.

What Honduras needs the most is continued peace, giving the new civilian government an opportunity to address the very deep economic problems the country faces. The U.S. role ought to be to provide a helping hand to the new government with long overdue economic assistance, while we work to see that the conflicts of the region do not spill across Honduras's borders. This is not, however, what our policy has been.

The emphasis of U.S. policy toward this troubled country has been largely military in nature. We have encouraged Honduran troop involvement in border fights with Salvadoran rebels. We have vastly increased U.S. military aid and advisers, and it has been widely reported that we are providing covert military assistance to groups within Honduras attempting to overthrow the Government of Nicaragua.

The argument put forward by the administration in support of the new airfields is that Honduras needs the bases as a defense against the buildup of the Nicaraguan military forces. In particular, Assistant Secretary of State Thomas Enders informed me in hearings just last week that the main purpose of the expanded bases was to offset the predicted delivery of advanced Mig planes in Nicaragua.

I strongly support the newly elected government of President Roberto Suazo Cordova, and my opposition to the proposed airstrips should in no way be interpreted as an attack on his government. There can be no question that the United States would come to the aid of Honduras if it were ever subjected to an offensive attack from the Nicaraguan Government. Our already strong military presence in Honduras leaves no doubt on that point. The question is, Are we not encouraging such a conflict when instead we should be devoting our energies to avoiding such a conflagration?

I believe U.S. efforts should be devoted to helping Honduras preserve the peace along its borders; the buildup of airbases on the Nicaraguan border invites instead an increase in tensions and military responses from Nicaragua. Nicaragua offered last February to sign a nonaggression pact with Honduras, just as it has this past week signed a nonaggression pact with its other neighbor, Costa Rica. Has the United States done anything to encourage these efforts to forge a relationship of peaceful coexistence? I do not believe it has.

Nicaragua has, at this point, virtually no offensive air capabilities, while Honduras has the most advanced air force in Central America. The one effect construction of these airfields will have, it would seem to me, would be to encourage the Nicaraguans to buy the most advanced planes they can afford, and as quickly as possible, to redress the growing imbalance in air power between the two neighbors.

If Nicaragua persists in its buildup; if peace talks between the two countries fail; let the Congress then consider—in a thoughtful manner and taking into account the full implications of such an action—a buildup in the military presence of the United States along the Nicaraguan border. I do not believe construction of these airfields is urgent, and I do not believe the Congress has had the necessary input on the proposal, or has given due consideration to the impact the plan will have on the tensions in the entire region.

Instead of doing everything in our power to isolate Honduras from the violence that surrounds it, we seem to be plunging it headlong into a dangerous situation. We must consider the implications our actions today will have on the prospects for peace in the entire region.

I urge all of my colleagues to join me in attempting to avoid this military buildup in an extremely sensitive area of the globe. Let us work instead for peace. If our efforts fail, let the administration come back to the Congress and present its case for the airfields, and let the Congress thoughtfully consider the proposal. I strongly urge my colleagues to support the amendment.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I would like to rise in support of the Harkin amendment and shift gears just slightly. I traveled with the person who spoke recently here in the well just a moment ago, Mr. STUDDS, and I associate myself with his remarks.

We stand at a troubled time in history, and in our trip to Costa Rica, to Nicaragua and to Honduras we had some chance to talk with people inside and outside the government. Most meaningful to me was the days that I spent riding the countryside of Honduras. Let me leave three pictures with the Members.

The first picture is a picture of windmills. The gentleman from Georgia talked about jousting at windmills. In the small community of Donely in a small area of Honduras there are actually people working on making windmills, not just for the wind, but to activate a good quality water system in an area that has no water. If we want to spend $21 million in an effective way, we could assist the people in all of the villages throughout Honduras to provide adequate clean water. Why? Because in that same community there is a sick baby clinic where several children are today sick and about to die because their bodies are wracked with diarrhea and other diseases related to inadequate and poor quality of water. That is the second important picture.

If we want to spend $21 million wisely, we might move to the small community of Donely, and help to establish a health care system.

The third picture relates to roads and bridges. I flew in a small aircraft, and a helicopter, up in the La Virtud area on the border between Honduras and El Salvador. There are 50,000 refugees huddled in the rugged hills of Honduras who need assistance and help. To get there by automobile or truck takes hours and sometimes days. Twenty-one million dollars could assist in delivering food and supplies to those who are in need—the poor, the sick, the homeless.

I urge support of the Harkin amendment.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Chairman, 5 days ago the Washington Post published a column by the foreign editor of the Washington Post, Stephen S. Rosenfeld, and in my minute I just want to read what he said about the issue we are debating tonight. Mr. Rosenfeld said:

[From the Washington Post, Aug. 6, 1982]

BLUNDERING INTO NICARAGUA

(By Stephen S. Rosenfeld)

If you take what has appeared in the press and add what experienced people are sniffing, it is hard to avoid the impression that the Reagan administration is cranking up something like a slow-motion Bay of Pigs invasion as a part of a multi-faceted plan to destabilise Nicaragua.

The operation entails not a single dramatic assault across a beach but, it seems, a slow flow of many hundreds of former Somoza national guardsmen back and forth across the long, rugged land border between Honduras and Nicaragua.

One recognizes the political glint in the administration's eye; to knock off a Marxist regime in Central America would be a dramatic stroke in Ronald Reagan's campaign against international communism. There are enough credible accounts, too, of the professional glint in the CIA's eye at being in the dirty tricks business again.

What we appear to be doing in Nicaragua, however, is all wrong, a step taken in haste and desperation and one whose all-too-predictable negative consequences are being overlooked.

The up-to-date argument one hears cited to justify an anything-goes policy toward Nicaragua is that the Sandinistas are more or less actively subverting their neighbors, including El Salvador, Honduras and Costa Rica, and have forfeited any right to be held immune from a dose of their own medicine.

Nicaragua is sponsoring insurrection and subversion in neighboring states. (Good liberals who ignore or deny it, by the way, have abandoned policy debate for propaganda war.) But does that allow the United States to pull out all the stops?

No. The Somocistas crossing over from Honduras arrive as thugs from the old order. Whatever military harassment value they may have, the practical political effect of their raids is to give the Sandinistas a popular rallying cry. The Somocistas can only discredit the rising legitimate political opposition in Nicaragua. It stuns me that the adminsitration's hard chargers do not face these elementary political facts.

Meanwhile, there is the whole question of the historical American role in Central America. The undermining of governments by manipulation and force is no longer on. It puts us beyond the pale of elements and governments that are our natural and necessary friends in the region. It hands a political jujitsu option to our adversaries, who can play on traditional fears of "Yankee imperialism." It keeps us from making a constant stink about Nicaraguan subversion in hemispheric councils. It is bound to divert both official attention and public support from the open pro-reform policies that hold the most long-term promise.

Our secret interventions, moreover—they never stay secret long—have been dismal. The difficulty is not so much that they usually fail: the United States can live with embarrassment, although, granted, our efforts to erase embarrassment can be extremely costly all around. The real difficulty is that we may succeed, as in Guatemala in 1954, when we diverted the evolution of popular reform with consequences that plague us,

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not to speak of the unfortunate Guatemalans, to this day.

I am not one who feels the Sandinistas are poor, misunderstood reformers who could be easily accommodated if big bad Washington were to change its tune. They are an irascible, power-hungry crowd with a commitment to spreading revolution inside and outside their borders. But fortunately they are already in a lot of trouble for reasons having nothing to do with the exiles in Honduras. They are in trouble with their own original constituency in Nicaragua for running their revolution, and their country, into the ground. The United States should not be interfering in ways that may pick them up.

It is especially regrettable to see Honduras getting sucked in. Apparently it is not the elected government but the rather autonomous Pentagon- and Langley-oriented military, which may feel some debt to the Somocistas for having received arms from them at a moment of great need in the 1969 war between Honduras and El Salvador. Visiting Honduras last March, I was made "most nervous [by] the possibility that, by fooling around with ex-Somoza guardsmen and the like, we might nudge our Honduran friends into the kind of soup we would be unable to get them out of without big trouble." It's happening.

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The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

The gentleman from Georgia (Mr. BRINKLEY) has 3 minutes remaining.

Mr. BRINKLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. MONTGOMERY) to close debate.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I am pleased to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Just a few moments ago our colleague, the gentleman from California (Mr. MILLER) suggested that all of us should go to the headquarters of the Intelligence Committee to find out the real truth about what is happening relative to Honduras and El Salvador.

I have the privilege of serving as a member of that committee, and I would like to endorse his invitation and ask him to come to the Intelligence Committee and find out what the truth is. What is the real world in Honduras and El Salvador? I promise you that the reaction will be different than the one the gentleman from California (Mr. MILLER) wants. Your reaction will be a definite no, a definite opposition to this amendment, because this amendment is not in the best interests of the people of Honduras or the freedom-loving people of Central America or of the United States of America

Mr. Chairman, I hope the Members vote this amendment down.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I will yield only briefly.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I just want to say that I am amazed. I sat here last week or a week ago hoping and praying that we could get the Caribbean Basin Initiative going. At least three of the opposition leaders—and he is waving his hand now, the gentleman from California (Mr. MILLER)—for economic aid were in the vanguard of this opposing the Caribbean Basin Initiative. That is a double standard gone mad.

Mr. MONTGOMERY. Mr. Chairman, I only have a few words to say, and then I will yield back the balance of my time.

I am opposed to the amendment. I point out that there is no money in the bill for construction of airfields in Honduras. I want to make that point strongly.

The adoption of the amendment will tie the hands of the House conferees in the conference on which I will have the privilege of serving. There are no funds in the bill, and the amendment sets a dangerous precedent and it should be defeated.

Mr. Chairman, I yield back the balance of my time.

● Mr. ST GERMAIN. Mr. Chairman, I wish to join my good friend, JACK BRINKLEY, in support of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983. His committee has had to deal with an enormously complicated subject—one which bears directly upon every aspect of our defense effort, but perhaps none more important than those provisions we make for upgrading the living and working conditions of our service personnel.

It is in this particular respect that I would hope this year's record would reflect our interest in obtaining family housing for service personnel on a periodic payment basis, and that while there is no immediate authority for the service departments to do so, eventual authority or administrative fexibility to do so appears most desirable.

Long-term leasing authority for family housing is consistent with this administration's policy to rely on the private sector for goods and services required by the military. Beyond that immediate point, such authority would, in many expert judgments, go a considerable distance toward avoiding the conflicts which arise when the Government seeks to acquire additional real estate. The contribution such leasing can make toward boosting local economies can be immense. After all, it would involve using untapped capabilities of the private sector heretofore not available to the service departments.

Long-term leasing also would help local entrepreneurs in their efforts to be more responsive concerning the service they provide, and in some instances, could actually result in substantial savings of money. Significantly, such leasing arrangements could help the service departments by giving them the ability to contract in the community in an accepted and conventional way. Doing business in a businesslike, flexible, and cost-sensitive manner attracts little criticism, much less argument.

Mr. Chairman, I am speaking to an issue that is of considerable importance to a number of communities across the country, but of special interest to Newport County in Rhode Island. Regarding this community, the town of Middletown, R.I., is interested in acquiring and developing a section known as the Naval Gardens and Anchorage properties, specifically to serve Navy family housing needs. Under existing authority, such a lease is not "bankable," thus a developer could not secure financing on the merit of any financial commitments the Navy could currently make. Suitable legislation, if enacted, authorizing long-term leasing for periods up to 25 years, would provide the necessary legal basis for a lease which would support such financing.

I do not intend to offer such amendatory language at this time. I do, however, hope that the committee will bear this particular situation in mind as it begins work on new authorization legislation, with the thought that its preparation may be timely and necessary for a number of our Nation's communities already experiencing the pressure of defense buildup within their boundaries. In this regard, I would hope that some long-term leasing provisions would be made a matter of high priority by the committee in its forthcoming efforts.●

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in strong support of H.R. 6214, the military construction authorizations for 1983. The bill provides for needed construction of housing and support facilities for the Army, Navy, Air Force, NATO, National Guard, and Reserve.

Within the bill are important authorizations to support and reinforce the National Guard in South Dakota. I am proud of the record of South Dakota units, both in Rapid City and in Sioux Falls, and it is important to meet their construction needs.

H.R. 6214 provides $304,000 for a new 60-person armory in Rapid City for the South Dakota Army National Guard. Additionally, it provides $560,000 for construction of an aircraft arresting system at Joe Foss Field in Sioux Falls for the South Dakota Air National Guard.

Both these facilities and units are strongly supported by the local citizens, and I feel that the new construction will be appreciated by all South

Dakotans. I urge my colleagues to join with me to promote a more secure America with a strong National Guard and Reserve by approving H.R. 6214.●

● Mrs. SNOWE. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Act of 1983. I am particularly pleased with the committee's work because it demonstrates their commitment, and the Air Force's commitment, to the future of Loring Air Force Base in my district.

For fiscal year 1983, $38.980 million has been authorized for Loring. The bulk of these funds, $33.7 million goes to alteration of the heat plant on the base, $3.5 million goes toward an advanced waste treatment facility, $1.22 million goes toward an energy conservation investment program, and $0.56 million goes toward operations and maintenance facilities.

These funds are particularly significant because it was not so long ago that the Air Force had plans to downgrade the Loring base. For a number of years, the Air Force tried to reduce operations at Loring to a minimum. A united Maine delegation, together with many dedicated members of the Keep Loring Committee, successfully fought the effort to diminish Loring's role in our national defense. Consequently, these funds are critically important in the drive to restore Loring to its full capability within the Strategic Air Command.

Again, I commend my colleagues for their work, and urge the adoption of the bill.●

● Mr. ST GERMAIN. Mr. Chairman, I would like to take this opportunity to commend my colleagues on the Military Installations and Facilities Subcommittee and the Armed Services Committee for their wisdom in authorizing a launcher laboratory at the Naval Underwater Systems Center (NUSC) in Newport, R.I., in the military construction authorization bill being considered today in the House.

This new facility will consolidate and improve the Navy's effectiveness in servicing current submarine and surface ship weapons systems and in developing the advanced weapons capabilities we will need for tomorrow's Navy. If we are to expand U.S. naval power, then we should provide the means to defend our fleet from growing surface and subsurface threats. The new launcher lab will permit integrated activities on weapons such as the Tomahawk cruise missile, Encapsulated Harpoon, Advanced Lightweight Torpedo, and a new launcher guide to reduce vulnerability of equipment to "cheap kill." The Navy's activities in this Launcher Lab will apply to servicing the weapons of our current fleet as well as to planning and developing future combat effectiveness.

Currently, these activities are hampered by the outdated facilities at NUSC where many operations are conducted in temporary and substandard housing. The new Launcher Lab authorized by the committee will increase the efficiency, reduce the cost, and speed the development of an effective naval weapons program by allowing integrated research, development, and in-service engineering under one roof in an up-to-date facility. I applaud my colleagues for recognizing the need for this facility and urge you to support the military construction authorization bill.●

● Mr. MAVROULES. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Authorization Act of 1983.

As a member of the Armed Services Committee, and as the author of a provision of the bill on renewable energy resources, I believe that this legislation merits the support of every Member of the House.

However, before making some brief comments on the bill itself, I wanted to offer special thanks to the chairman of the Subcommittee on Military Installations and Facilities, the gentleman from Georgia, Mr. BRINKLEY.

His leadership on the Armed Services Committee is known to all Members of this body, but in particular, I want to commend the gentleman for his openness and availability to other Members of this House. I just want to thank him and say to him that I will miss working with him on the committee.

A few months ago, I testified before the Installations and Facilities Subcommittee with the intention of having the basic provisions of my bill, H.R. 5005, which would promote the use of energy in our Armed Forces, incorporated into the fiscal year 1983 Department of Defense military construction authorization. The bill now before you includes that provision in section 803.

This provision, I firmly believe, benefits both the defense and private sectors.

We are all aware that America's achilles heel is its dependence of oil. There is no more serious threat to the long-term economic and military security of this country than that which stems from the growing deficiency of secure and assured energy resources.

Certainly, the 1973 Arab oil embargo alerted us all to the vulnerability of our dependence on petroleum products.

It has been all too easy, at least up until this time, to join a mindset that views all energy technologies and sources other than fossil fuels and nuclear power as something of the future.

But we can no longer afford to waste precious nonrenewable energy resources when there are renewable energy alternatives available today.

And this bill recognizes that hard fact.

Like this Nation at large, the Department of Defense relies heavily on oil. Some 80 percent of DOD's total energy needs must be met by petroleum, either to keep our Armed Forces on the move or our installations and facilities powered.

What is more if an energy savings could be realized in the DOD it would have a significant impact on the entire Nation.

Section 803 would assure us a growing market for energy systems powered by solar and other renewable forms of energy and would hasten the general commercial, residential, industrial, agricultural, and governmental use of such systems in the United States and abroad.

Over the past 25 years, photovoltaic systems have been shown to be highly reliable and workable systems. Already, they are being successfully applied in the most remote and hostile environments.

This bill asks DOD to consider the full life cycle cost of their standard fossil fuel electrical power systems, such as gas or diesel generators. This cost includes their operation, maintenance, repair and replacement (which is often less than 1 year) and, of course, fuel costs (including delivery and storage). DOD should compare these costs to that of equivalent photovoltaic powered systems, with their expected 20- to 30-year lifetime. And they will find these systems do favorably compare with fossil fuel systems.

Clearly, the future has arrived. Solar energy and other renewables are proving their reliability and usefulness time and time again.

And this is not more important than in our Armed Forces. Energy independence in the Army, Navy, and Air Force can only promote national security.

Again, I would like to thank the gentleman from Georgia, and other members of the subcommittee for their favorable consideration of this energy enhancing bill.●

The CHAIRMAN. All time has expired.

PREFERENTIAL MOTION OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

> Mr. HARKIN moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. Mr. Chairman, I want to just take this time again to wrap up the debate and try to bring into focus just what we are talking about. We are talking about Honduras; we are not talking about El Salvador, we are not talking about Guatemala. We are talking about Honduras.

I want to respond to those who talked about the democratic government in Honduras. Yes, there is a democratic government there. It was elected last year, but we are making the same mistake there that we have made in so many places in the past. We are putting all of our emphasis on the military and none on the civilian. Cordoba is not in power in Honduras any longer. General Alverez is calling the shots down there because we deal with him, not with Cordoba. We are dealing only with the Honduran military.

Let us take the issue of the Mig's in Nicaragua. Remember last year when they took all the photographs of the lengthening of the runway at Puerto Cabeza and said that this was in preparation for the Nicaraguans getting the Mig's? Well, we pointed out, No. 1, that the lengthening of those runways was approved under the Somoza regime and was assisted by our AID program.

Well, Nicaragua has finished lengthening those runways, and there are no Mig's in Nicaragua.

However, with this $21 million to lengthen those runways in Honduras and give Honduras new jets, you can bet your bottom dollar what is going to happen. Nicaragua will then have to get Mig's, and this administration will stand up and say, "we told you so." I say, let us not lengthen the runways in Honduras until Nicaragua does get the Mig's. If they get the Mig's, then I will join my colleagues in lengthening the runways in Honduras, but let us not push Nicaragua into getting something they do not have and have no intention of getting right now.

Let me talk just a little bit about the U.S. role. There was an agreement signed on May 7 this year that the United States and Honduras would allow United States access to three airbases to be improved by the United States. That is what this $21 million is for. Well, one of those airbases is on the Caribbean coast, very close to the Nicaraguan border.

You couple that with the $19 million that this administration is using to destabilize Nicaragua; you couple that with the U.S. buildup. Over 100 U.S. military personnel are in Honduras right now, more I might add, than are in El Salvador. There is a diplomatic mission of 147 in Honduras, the largest diplomatic mission between Texas and Brazil. And you have got to ask what they are doing there. You couple that with the recent joint maneuvers with our military and the Honduran military; you couple that with our aid and assistance to the Somocista guards that are going across the Nicaraguan border, and what you have got is a formula for disaster.

I want to close on that one point about the May 7 agreement. That May 7 agreement was an addendum to an agreement signed in 1954 between Honduras and the United States. It was signed on May 20, 1954, and guess what happened to that agreement on May 20, 1954. We used those airbases and those fields in Honduras to destabilize and overthrow the government of Jacobo Arbenz in Guatemala, the last freely elected President of Guatemala in 1954. And so it is a very striking parallel that now we pencil an agreement onto that 1954 agreement to lengthen and harden the runways in Honduras to use as a staging point to further destabilize the Nicaraguan Government.

Mr. Chairman, I say let us not bring Honduras into this conflict. It is a peaceful country. It has a democratic government. Let us not destabilize Honduras. Let us now draw them into this conflict. Let us keep them out of this war as much as possible.

The CHAIRMAN. The gentleman from Georgia (Mr. BRINKLEY) is recognized for 5 minutes.

Mr. BRINKLEY. Mr. Chairman, I rise in opposition to the preferential motion and in opposition to the amendment.

I serve as chairman of the Military Construction Subcommittee, and we have welcomed many of the Members before our committee. We have been patient with each and every one of you. I just wish that the author of this amendment had come, along with the gentleman from California, the gentleman from Maryland, the gentleman from Iowa, and the gentleman from New York. We would have welcomed them.

There is doubt when we wait until we get to the floor for something of this importance, and you do wonder if you are jousting with windmills. It is important to all of us.

But I say to the Members there is no money in this bill for Honduras. It really is an anticipatory amendment, and it really should be soundly defeated.

Mr. Chairman, I ask for a vote against the preferential motion and a vote against the amendment.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. HARKIN).

The preferential motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KEMP. Mr. Chairman, to make sure that the American people know how we feel on this issue, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 280, answered "present" 1, not voting 44, as follows:

[Roll No. 267]

AYES—109

Albosta
Anderson
AuCoin
Barnes
Bedell
Beilenson
Bennett
Bingham
Bonior
Bonker
Brodhead
Brown (CO)
Burton, Phillip
Chisholm
Clay
Collins (IL)
Conte
Daschle
Dellums
Dixon
Dorgan
Downey
Dymally
Early
Eckart
Edgar
Edwards (CA)
Fazio
Findley
Florio
Foglietta
Ford (TN)
Forsythe
Frank
Garcia
Gejdenson
Gray
Guarini
Hall (OH)
Harkin
Hawkins
Heckler
Hertel
Howard
Jacobs
Jeffords
Kastenmeier
Kildee
LaFalce
Lantos
Leach
Lehman
Leland
Long (MD)
Lowry (WA)
Luken
Markey
Marks
Martinez
Matsui
Mattox
Mavroules
McHugh
Mikulski
Miller (CA)
Mitchell (MD)
Murphy
Nowak
Oakar
Oberstar
Obey
Ottinger
Patterson
Paul
Pease
Peyser
Rahall
Rangel
Ratchford
Reuss
Rodino
Roybal
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Snyder
Solarz
Stark
Studds
Swift
Traxler
Udall
Vento
Walgren
Washington
Waxman
Weiss
Williams (MT)
Wirth
Wolpe
Wyden

NOES—280

Addabbo
Akaka
Alexander
Andrews
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Benedict
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boland
Boner
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappell
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conable
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dwyer
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fenwick
Ferraro
Fiedler
Fields
Flippo
Foley
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kindness

Kogovsek
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
O'Brien
Oxley
Panetta
Parris
Pashayan
Patman
Pepper
Perkins
Petri
Pickle
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Russo
Santini
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Solomon
Spence
St Germain
Staton
Stenholm
Stratton
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wortley
Wright
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—44

Anthony
Bafalis
Blanchard
Boggs
Bolling
Breaux
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappie
Collins (TX)
Conyers
Crockett
Dornan
Ertel
Evans (IN)
Fish
Fithian
Ford (MI)
Gingrich
Ginn
Goldwater
Holland
Ireland
Jeffries
Jones (NC)
Lundine
Moffett
Moorhead
Price
Rhodes
Richmond
Robinson
Rosenthal
Savage
Siljander
Smith (AL)
Stangeland
Stanton
Stokes
Weaver
Wolf
Yates

☐ 2110

The Clerk announced the following pairs:

On this vote:

Mr. Moffett for, with Mr. Stangeland against.

Mr. Rosenthal for, with Mr. Moorhead against.

Mr. Stokes for, with Mr. Jeffries against.

Mrs. MARTIN of Illinois changed her vote from "aye" to "no."

Mr. FINDLEY and Mr. DOWNEY changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: At the end of the bill add the following new section:

REDUCTION IN TOTAL AUTHORIZATION

SEC. . Of the total amount authorized to be appropriated by this Act for fiscal year 1983, the maximum amount that may be obligated or expended is the total amount appropriated pursuant to such authorization of $7,130,000,000, whichever is less.

Mr. BRINKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, the gentlewoman is offering an important amendment, and I know that we would want to give her full attention because our time will be limited by agreement, I think.

I was wondering if the gentlewoman would agree to a limitation of time to 10 minutes on her amendment and all amendments thereto.

Mrs. SCHROEDER. Mr. Chairman, I have no problem with that.

Mr. BRINKLEY. Mr. Chairman, I ask unanimous consent that the debate on this amendment, and all amendments thereto, be limited to 10 minutes, the time to be equally divided and controlled by the gentlewoman from Colorado (Mrs. SCHROEDER) and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, my amendment would cut 5 percent out of the total authorization contained in this bill. This cut would amount to $378 million, which could go to reduce the budget deficit or which could go to provide some additional assistance for the 11 million men and women out of work in America today. Even with this cut, this bill would authorize $583 million more than was authorized last year, or a 9-percent hike. In real dollars, even if my amendment is accepted, military construction will see a substantial increase.

Two weeks ago, when we debated the defense authorization, it was quite clear that a majority of Members were afraid of being tagged as "soft on defense." As a result, otherwise rational Members of Congress voted for airplanes whose wings fall off, missiles which explode seconds into flight, and large ships which are sitting ducks for the enemy. Finally, like a drunk who thinks a cup of coffee will eliminate the effects of a bottle of whiskey, we voted for a 1-percent cut, in the $177 billion bill we constructed.

I contend that the military construction bill is different. There is no money in this bill to fight a war. Rather, there is $7.5 billion for public works. Interestingly, slightly less than $3 billion is for family housing, much of it in Germany, Italy, Turkey, and even Cuba. The number $3 billion sticks in my mind because that was the amount of money we voted for housing assistance to rescue our dying construction industry and to provide housing for middle-income people. That was the program which President Reagan vetoed during the end of June. So, if we adopt this bill, we are saying we would rather spur the housing industry in Western Europe to the tune of $3 billion than spur the housing in Colorado, Michigan, or New York.

Let us look at what else is in this bill. On page 10 of the report we find that $2.25 million is going for outdoor playing courts at Fort Irwin, Calif. How many student loans would $2.25 million provide? Page 11 says we are buying a gym for the Yakima Firing Center in Washington. Could we provide more unemployment insurance for this $1.7 million? In Korea, we are spending $1.1 million for a chapel, $2.35 million for a gym with a pool, $1.05 million for a theater with a stage, and $2.6 million for another gym, presumably without a pool. On page 17 we find another gym for Cakmakli, Turkey, at $2.2 million. You know, with the Army spending this amount of money on gyms, the Senate looks like a group of misers spending only $700,000 for theirs.

How about the Navy? They are building a new dining facility in San Diego for $3.4 million. That sounds like one beaut of a restaurant. They are spending over $6 million on chapels, religious education buildings and a family services center in Iceland. And, this bill contains $25.4 million for building 200 housing units in Guantanamo, Cuba. This works out to $127,000 per unit, which in Washington or Denver, works out to some pretty fancy digs.

The Air Force wants a $3.3 million gym at Chanute, Ill. At Sheppard Air Force Base in Texas, they are spending $5.5 million for visiting officers quarters. It might be cheaper to put them up at the Ritz. There's another $3.7 million for a gym at McChord, Wash. A $3 million dining hall in Kansas is included. In my own State, the Air Force wants to spend $3 million for a new visitor's center for the Air Force Academy. I happen to like the current visitor's center. There is a new fire station in Japan for $1.6 million and a new dining hall in Korea for $2.5 million. At Fairford Royal Air Force Base in England, the bill contemplates $2.7 million for a new fire station, $4.9 million for visiting officers quarters, and $1.1 million for additions to the gym. To the committee's credit, it did not authorize $500,000 for an arts and crafts center at Fairford.

I am not saying that all these facilities are undesirable or unnecessary. I do not know and there is certainly

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nothing in the report of the committee to tell us one way or the other. Still, yesterday we voted to cut food stamps and support to the dairy industry. Last week, we voted for cuts in housing programs, veterans, and civil service retirement. At a time like this I cannot justify voting for these projects. We must impose some restraint on the Pentagon. This bill is the one in which to do it.

So, if you want to balance the budget, vote for this amendment. If you want to eliminate fat and waste, vote for this amendment. If you want to impose some slight amount of budgetary control on the Pentagon, this amendment is for you.

This bill, like its rich uncle Department of Defense authorization, was developed, we are told, by identifying the primary missions of our military forces and then procuring the weapons, equipment, and facilities necessary to complete these missions. My amendment sends a message to the administration, to the Pentagon, and to the American people that we never really identify the missions but we still spend the money. And boy do we spend the money.

This bill reported out of the Armed Services Committee is 14.7 percent higher in spending than the bill reported out last year. The Air Force alone enjoys a hefty 30 percent boost in military construction spending over last year. The authorization for the U.S. contribution to the NATO infrastructure is up 8.7 percent. How in the world can we justify spending increases of this size while staring into the maw of a $140 billion deficit for 1983? Even with the adoption of my amendment, the military authorization spending level will rise 8.9 percent which should satisfy even the staunchest military advocate.

This body on Tuesday went through some agonizing budget cuts all in the name of sound fiscal management. Food stamp and farm assistance programs took another beating. Medicare, medicaid, and AFDC were laid on the chopping block. When will this body start looking at the legislation reported out by the Armed Services Committee with the same critical eye rather than the starstruck gaze we give it now?

Military readiness is one gage we should be measuring the items this bill authorizes money for. Gymnasiums, fencing, dining facilities, and car washes do not contribute directly to our military readiness capability. I do not think we would be considered weak by our enemy if we showed up for battle in dirty jeeps and tanks. A 5-percent cut in these budget items will reflect our skepticism of their necessity.

The authorizations made for military support agencies is another nonreadiness item. Budget increases for the Defense Mapping Agency, the National Security Agency, and the Defense Nuclear Agency all serve the promotion of the bureaucratic arm of the military more than the promotion of our fighting capability. A 5-percent reduction will do these agencies little harm.

Military strategy is another gage to measure this bill by. We authorize construction money for the MX project, to the tune of $103 million. We are still waiting for the Pentagon to find a permanent home for a weapon a growing number of us here see as a destabilizing force to world peace. To our credit, the Armed Forces Committee did not buy the Air Force's MX request of $207 million. A further reduction of 5 percent to the MX project calls the Pentagon's bluff again. Other destabilizing weapons that we authorize construction facilities for, binary nerve gas bombs, and GLCM's only bring us closer to war, not to peace. Five percent from these projects starts to bring our military strategy back into rational focus.

The other gage for this bill is the allied support we have for our troops abroad. Or should I say the lack of allied support for our troops. I made my points on this during the defense authorization bill. The same points apply here. Simply put, our allies have not contributed their fair share to the defense of the Atlantic alliance and keeping our Forces in Europe detracts from our ability to meet crises elsewhere and our ability to solve our fiscal crisis at home. We must pursue a new division of labor with our allies whereby they meet their own territorial defense needs and we deal with strategic and common needs. A 5-percent reduction in this bill reflects that dissatisfaction with our alliance policy and our desire to renegotiate the share that each country anties up for mutual defense.

□ 2120

Mr. SOLARZ. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. SOLARZ. When the gentlewoman said her 5-percent cut would reduce the increase in the bill to, I think, 9 percent, was the gentlewoman talking about 9 percent in real terms or 9 percent in nominal terms?

Mrs. SCHROEDER. I am talking 9 percent over what we spent last year. Actually it is 8.9 percent. But that is neither here nor there. Very close to 9 percent. I am rounding it off because the hour is late. But I am only saying in real terms that it is a significant increase.

We are spending more money on housing than we are on the civilian sector and more money abroad than we spend here. And I think when our own infrastructure is crumbling and so forth, this is not an unrealistic cut with the kind of deficit we are running.

Mr. SOLARZ. Is this a 9-percent increase over last year in real or nominal terms?

Mrs. SCHROEDER. We are talking about real. I only deal in reality.

I think this is something we have to deal with here.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

I just hope that the people understand what we are doing here.

Now the Military Construction Subcommittee following the mandate of the House has already come in $203 million under the budget. That is what we told them to do. We came in $203 million under.

Now on top of this—and we thought we did a pretty good job—the gentlewoman would have us take $350 million more.

I want my colleagues to know, it sounds like we are gilding the lily to talk about gymnasiums. Gymnasiums quite often are important if you are stationed in a remote area and you have nothing else to do but sit around and smoke pot. What we are trying to do is help the troops.

Now, I am losing four barracks, World War II barracks, that need replacing, supposed to have been in there—working 3 years to get in there, and I have lost them. What she wants to do is take $350 million more out of the present bill that is already $200 million under the budget.

You cannot do it this way if we are going to see to the human comfort and the quality of life of the troops.

So it is spurious, I think it is wrong. I urge the Members, do not cut any more. We have cut to the bone now. And this is enough. We are not talking about frills. We are talking about quality of life. I do not think the gentlewoman would like 5 percent taken out of her district, and I surely do not want it out of mine.

Mr. BRINKLEY. Mr. Chairman, if I could have the attention of the Members, this bill deals with our men and women in uniform. It deals with where they work, with where they play, with where they live.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. Briefly, I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

I have listened to the gentlewoman from Colorado. I have great respect for her. But I travel around and I have been to a lot of bases around the world. And certainly I wonder if she would stand here on the floor of the House saying her high school in Colorado should not have gyms. You go out in those remote places out there, Alaska and some of the places down South where these people are camped, and, my God, that is the only recreation they have.

And also housing. she complained about the housing. I wonder if she has a latrine at the end of her hall every night where she has to go to the bathroom.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield briefly to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

I just want to tell the gentleman from Massachusetts, I was not protesting about gyms. I was only saying that I thought the one for the Senate was very elegant and the press did, too. I am just saying maybe we could cut back on a few of the little amenities, not the whole thing.

Mr. CONTE. If we cut, let us cut the Senate, not the poor enlisted man out there trying to defend the country.

Mr. BRINKLEY. Mr. Chairman, let us keep in mind that one-third of the moneys in this bill is for housing, $1 billion alone for operations, electricity bills, $1 billion for maintenance. We have cut 4.5 percent or $355 million from the bill. We should defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments to the bill?

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I only rise to take this time as we approach the end of this bill to tell the House that the gentleman from Georgia, Mr. JACK BRINKLEY, is retiring from the Congress. He has done an outstanding job. What a perfect gentleman he is.

Mr. BRINKLEY. I thank the gentleman.

Mr. MONTGOMERY. Mr. Chairman, the ranking minority member of the subcommittee, the gentleman from Virginia, Mr. PAUL TRIBLE, is also leaving the House of Representatives.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

I want to say that I wish to join him in saying how much we regret the departure of this distinguished Congressman and that the defense of this country will miss him very much.

Mr. Chairman, I would like to commend my distinguished colleague, Mr. BRINKLEY, for the fine job he has done in bringing the 1983 military construction bill to this body for consideration. I would also like to thank the chairman for the consideration he has afforded me personally over the years and especially this year. He has been most responsive to my requests and has taken an interest in seeing that the needs of our armed services are adequately met. The leadership that he has provided as chairman of the Subcommittee on Military Installations and Facilities has been forthright, dispassionate, wise, and superbly effective.

Our defense system relies on a guarantee that we have the proper manpower with the adequate support necessary to operate and maintain the advanced weaponry that is being developed. Chairman BRINKLEY has seen to it that our military installations provide the backdrop to training, as well as the proper housing facilities in this country and abroad while these individuals serve their country in military service.

It was a sad day for the military when you announced your decision to retire as a Member of Congress. Your diligence and leadership will be sorely missed, but the legacy of your tenure as chairman of the subcommittee and an outstanding member of the Armed Services Committee will remain. For that I salute you.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, pursuant to House Resolution 519, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PAUL. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 332, nays 57, not voting 45, as follows:

[Roll No. 268]

YEAS—332

Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Brinkley
Brooks
Broomfield
Broyhill
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Cheney
Clausen
Clinger
Coats
Coelho
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Dreier
Dunn
Dwyer
Dymally
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Flippo
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
O'Brien
Oakar
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Pritchard
Quillen
Ratchford
Regula
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson

Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Staton
Stenholm
Stratton
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Waxman
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wolpe
Wortley
Wright
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—57

Bedell
Beilenson
Bingham
Bonior
Brodhead
Brown (CO)
Chisholm
Clay
Collins (IL)
Dellums
Downey
Early
Eckart
Edgar
Edwards (CA)
Fenwick
Florio
Foglietta
Forsythe
Frank
Garcia
Gray
Harkin
Hertel
Hughes
Jeffords
Kastenmeier
Kildee
LaFalce
Leland
Lundine
Markey
Mikulski
Miller (CA)
Mitchell (MD)
Nowak
Oberstar
Obey
Ottinger
Paul
Rahall
Rangel
Reuss
Roybal
Russo
Sabo
Schroeder
Seiberling
Shannon
Stark
Studds
Vento
Walgren
Washington
Weiss
Wirth
Wyden

NOT VOTING—45

Andrews
Bafalis
Blanchard
Bolling
Breaux
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappie
Coleman
Collins (TX)
Conyers
Crockett
Dornan
Duncan
Ertel
Evans (IN)
Fish
Fithian
Gingrich
Ginn
Goldwater
Holland
Jeffries
Jones (NC)
McDade
Michel
Moffett
Moorhead
Price
Pursell
Railsback
Rhodes
Richmond
Rosenthal
Savage
Siljander
Smith (AL)
Stangeland
Stanton
Stokes
Weaver
Wolf
Yates

☐ 2140

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Rosenthal against.

Mr. Jones of North Carolina for, with Mr. Moffett against.

Mr. Michel for, with Mr. Stokes against.

Mr. McDade for, with Mr. Richmond against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BRINKLEY. Mr. Speaker, pursuant to the provisions of House Resolution 519, I call up from the Speaker's table the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brinkley moves to strike out all after the enacting clause of the Senate bill, S. 2586, and to insert in lieu thereof the provisions of the bill, H.R. 6214, as passed, as follows:

That this Act may be cited as the "Military Construction Authorization Act, 1983".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

Sec. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

Inside the United States

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $25,120,000.
Fort Campbell, Kentucky, $10,650,000.
Fort Carson, Colorado, $11,900,000.
Fort Devens, Massachusetts, $3,200,000.
Fort Drum, New York, $1,550,000.
Fort Hood, Texas, $21,750,000.
Fort Irwin, California, $31,340,000.
Fort Lewis, Washington, $21,700,000.
Fort McPherson, Georgia, $41,000,000.
Fort Meade, Maryland, $2,500,000.
Fort Ord, California, $8,900,000.
Fort Polk, Louisiana, $16,840,000.
Camp Roberts, California, $2,050,000.
Fort Sam Houston, Texas, $22,000,000.
Fort Stewart, Georgia, $23,000,000.
Fort Wainwright, Alaska, $3,020,000.
Yakima Firing Center, Washington, $2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $2,930,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $26,250,000.
Fort Bliss, Texas, $21,300,000.
Fort Eustis, Virginia, $6,400,000.
Fort Gordon, Georgia, $9,200,000.
Fort Knox, Kentucky, $8,400,000.
Fort Leavenworth, Kansas, $21,200,000.
Fort Leonard Wood, Missouri, $11,000,000.
Fort McClellan, Alabama, $7,500,000.
Fort Monroe, Virginia, $1,150,000.
Fort Rucker, Alabama, $17,750,000.
Fort Story, Virginia, $13,800,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $27,500,000.
Pine Bluff Arsenal, Arkansas, $19,650,000.
Red River Army Depot, Texas, $39,000,000.
Tooele Army Depot, Utah, $4,150,000.
White Sands Missile Range, New Mexico, $5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, $2,910,000.
Iowa Army Ammunition Plant, Iowa, $1,030,000.
Kansas Army Ammunition Plant, Kansas, $7,200,000.
Longhorn Army Ammunition Plant, Texas, $230,000.
Louisiana Army Ammunition Plant, Louisiana, $3,410,000.
Milan Army Ammunition Plant, Tennessee, $5,500,000.
Radford Army Ammunition Plant, Virginia, $2,400,000.
Sunflower Army Ammunition Plant, Kansas, $3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,700,000.
Fitzsimons Army Medical Center, Colorado, $3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, $9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, $20,000,000.

Outside the United States

EIGHTH UNITED STATES ARMY

Korea, $57,850,000.

UNITED STATES ARMY FORCES COMMAND

Panama, $6,800,000.
Egypt, $50,400,000.

UNITED STATES ARMY, EUROPE

Germany, $189,240,000.
Turkey, $7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, $1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, $3,950,000.

EMERGENCY CONSTRUCTION

Sec. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorisation Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorisation shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorisation Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

Sec. 103. The Secretary of the Army is authorised to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $56,050,000.

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FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Army is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Army is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units and community center facility for the Department of the Army, three hundred and eighty-seven units, for a total of $43,295,000:

Fort Irwin, California, one hundred and fourteen units, $10,321,000.

Fort Lewis, Washington, one hundred and fifteen units, $9,835,000.

Grafenwoehr, Germany, one hundred and forty-three units, $16,994,000.

Hohenfels, Germany, thirteen units, $1,545,000.

Vicenza, Italy, two units, $500,000.

Aliamanu, Hawaii, consolidated community center (Phase I), $4,100,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Army, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $115,760,000, of which $43,800,000 shall be available only for energy conservation projects.

(f) The Secretary of the Army, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, $6,080,000.

Fort Hamilton, New York, one hundred and eight units, $4,800,000.

(g) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561) is amended by striking out "$195,000" in the item entitled "Fort McNair, Washington, District of Columbia", and inserting in lieu thereof "$223,000".

(h) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECTS

SEC. 105. (a) Section 702(1) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1375), is amended to read as follows:

"(1) for title I: inside the United States $391,356,000; outside the United States $395,034,000; minor construction $34,150,000; for a total of $820,540,000;".

(b) Section 602(1) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), is amended to read as follows:

"(1) for title I: inside the United States $591,840,000; outside the United States $249,940,000; minor construction $44,560,000; for a total of $886,340,000.".

LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

SEC. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "$113,717,000" and inserting in lieu thereof "$118,017,000".

FORT LEWIS, WASHINGTON—WEYERHAEUSER LAND EXCHANGE

SEC. 107. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately three-hundred acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest and shall include the following reservations:

(1) A training easement over tract 1-US.

(2) An access easement over tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—

(1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately two hundred and ninety acres, together with the improvements on such parcels, which parcels will be equivalent in value (as determined by the Secretary) to the land conveyed under subsection (a) and which conveyance is otherwise acceptable to the Secretary;

(2) shall pay all costs associated with surveying and installing boundary monuments and all fencing costs; and

(3) shall not reserve any easement in the lands to be conveyed to the United States under paragraph (1) with the exception of two easements over roads in tract 1-W.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to enter into an agreement with the responsible officials of Pierce County, Washington, whereby the reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished and replaced with a reversionary interest in the lands conveyed to the United States under subsection (b).

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, $28,550,000.

Marine Corps Base, Camp Pendleton, California, $33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, $31,800,000.

Marine Corps Air Station, El Toro, California, $7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $1,550,000.

Marine Corps Development and Education Command, Quantico, Virginia, $23,250,000.

Marine Corps Recruit Depot, San Diego, California, $27,100,000.

Marine Corps Air Station, Tustin, California, $7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $16,900,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $147,750,000.

Naval Support Activity, San Francisco, California, $1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, $9,300,000.

Naval Station, Charleston, South Carolina, $12,250,000.

Naval Amphibious Base, Little Creek, Virginia, $1,850,000.

Naval Station, Mayport, Florida, $36,100,000.

Naval Submarine Base, New London, Groton, Connecticut, $5,900,000.

Commander Oceanographic System Atlantic, Norfolk, Virginia, $3,100,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $2,085,000.

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Naval Air Station, Norfolk, Virginia, $2,150,000.

Naval Air Station, Oceana, Virginia, $6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, $1,900,000.

Naval Air Station, Alameda, California, $3,650,000.

Naval Air Station, Lemoore, California, $10,700,000.

Naval Air Station, Moffett Field, California, $11,800,000.

Naval Air Station, North Island, California, $31,070,000.

Naval Station, Pearl Harbor, Hawaii, $14,400,000.

Naval Station, San Diego, California, $27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, $14,100,000.

Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, $7,000,000.

Naval Air Station, Whidbey Island, Washington, $1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $1,700,000.

Naval Air Station, Corpus Christi, Texas, $2,800,000.

Naval Training Center, Great Lakes, Illinois, $1,850,000.

Naval Air Station, Memphis, Tennessee, $8,400,000.

Naval Education and Training Center, Newport, Rhode Island, $1,100,000.

Fleet Training Center, Norfolk, Virginia, $5,400,000.

Naval Training Center, Orlando, Florida, $5,500,000.

Naval Air Station, Pensacola, Florida, $5,400,000.

Naval Technical Training Center, Pensacola, Florida, $4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, $3,950,000.

Naval Air Station, Whiting Field, Florida, $7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, $9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, $2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $5,550,000.

Naval Weapons Center, China Lake, California, $8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $10,800,000, all of which must be used for the Applied Research Center, Wallops Island, Virginia.

Navy Public Works Center, Great Lakes, Illinois, $3,400,000.

Mare Island Naval Shipyard, Vallejo, California, $9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, $6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $160,000,000.

Navy Public Works Center, Norfolk, Virginia, $16,030,000.

Naval Air Rework Facility, North Island, California, $18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, $1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, $7,800,000.

Naval Supply Center, San Diego, California, $4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, $3,250,000.

Navy Public Works Center, San Francisco, California, $9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, $6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, $1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, $1,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, $6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, $1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, $2,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, $1,400,000.

Naval Station, Keflavik, Iceland, $8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $71,930,000.

Naval Magazine, Guam, Mariana Islands, $32,200,000.

Naval Activities, Kenya, $8,300,000.

Naval Activities, Somalia, $30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center, Europe, London, England, United Kingdom, $3,250,000.

Naval Air Station, Sigonella, Italy, $31,900,000.

NAVAL MATERIAL COMMAND

Navy Public Works Center, Subic Bay, Republic of the Philippines, $2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, $1,750,000.

Naval Communication Station, Thurso, Scotland, $1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, $3,000,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $60,428,000.

FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Navy is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Navy is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section

be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Navy, one thousand seven hundred and forty-nine units, for a total of $83,513,000:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, $9,112,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, $10,908,000.

Naval Station, Long Beach, California, three hundred and sixty-eight units, $33,090,000.

Naval Air Training Center, Patuxent River, Maryland, one thousand units, $5,000,000.

Naval Station, Guantanamo Bay, Cuba, two hundred units, $25,403,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to purchase ninety-one acres of real estate at a cost not to exceed $1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

(f) The Secretary of the Navy, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $47,333,000, of which $7,574,000 shall be available only for energy conservation projects.

(g) The Secretary of the Navy, or the Secretary's designee, within the amounts specified in subsection (f), is authorized to accomplish repairs and improvements to existing family housing in the amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Naval Air Test Center, Patuxent River, Maryland, three hundred and thirty units, $16,800,000.

Naval Station, Guantanamo Bay, Cuba, one unit, $75,000.

HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 205. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be acquired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

SEC. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $5,845,000.

Kelly Air Force Base, Texas, $12,000,000.

McClellan Air Force Base, California, $9,000,000.

Robins Air Force Base, Georgia, $4,700,000.

Tinker Air Force Base, Oklahoma, $10,650,000.

Wright-Patterson Air Force Base, Ohio, $32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,600,000.

Edwards Air Force Base, California, $12,100,000.

Eglin Air Force Base, Florida, $24,200,000.

Fort MacArthur, California, $1,900,000.

Laurence G. Hanscom Air Force Base, Massachusetts, $10,650,000.

Cape Canaveral, Florida, $9,100,000.

Moffett Naval Air Station, California, $1,900,000.

Sunnyvale Air Force Station, California, $11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $22,260,000.

Columbus Air Force Base, Mississippi, $1,150,000.

Goodfellow Air Force Base, Texas, $15,300,000.

Keesler Air Force Base, Mississippi, $9,000,000.

Lackland Air Force Base, Texas, $6,100,000.

Laughlin Air Force Base, Texas, $5,770,000.

Lowry Air Force Base, Colorado, $13,050,000.

Maxwell Air Force Base, Alabama, $15,150,000.

Randolph Air Force Base, Texas, $3,900,000.

Reese Air Force Base, Texas, $3,750,000.

Sheppard Air Force Base, Texas, $5,500,000.

Vance Air Force Base, Oklahoma, $8,000,000.

Williams Air Force Base, Arizona, $8,700,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $6,580,000.

Elmendorf Air Force Base, Alaska, $4,800,000.

Galena Airport, Alaska, $2,050,000.

Shemya Air Force Base, Alaska, $1,200,000.

Various Locations, Alaska, $43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $3,160,000.

Andrews Air Force Base, Maryland, $13,200,000.

Charleston Air Force Base, South Carolina, $1,550,000.

Dover Air Force Base, Delaware, $2,500,000.

Kirtland Air Force Base, New Mexico, $3,570,000.

Little Rock Air Force Base, Arkansas, $3,000,000.

McChord Air Force Base, Washington, $3,700,000.

McGuire Air Force Base, New Jersey, $16,000,000.

Norton Air Force Base, California, $1,300,000.

Pope Air Force Base, North Carolina, $4,400,000.

Scott Air Force Base, Illinois, $4,850,000.

Travis Air Force Base, California, $2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, $3,300,000.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyene Mountain Complex, Colorado, $1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $2,595,000.

Blytheville Air Force Base, Arkansas, $8,733,000.

Carswell Air Force Base, Texas, $54,500,000.

Dyess Air Force Base, Texas, $1,650,000.

Ellsworth Air Force Base, South Dakota, $1,350,000.

Francis E. Warren Air Force Base, Wyoming, $4,150,000.

Fairchild Air Force Base, Washington, $3,740,000.

Griffiss Air Force Base, New York, $56,450,000.

Grissom Air Force Base, Indiana, $3,400,000.

K. I. Sawyer Air Force Base, Michigan, $4,450,000.

Loring Air Force Base, Maine, $38,420,000.

Malmstrom Air Force Base, Montana, $55,000,000.

March Air Force Base, California, $1,550,000.

McConnell Air Force Base, Kansas, $3,000,000.

Offutt Air Force Base, Nebraska, $9,450,000.

Peterson Air Force Base, Colorado, $67,700,000.

Powell, Wyoming, $1,250,000.

Vandenberg Air Force Base, California, $79,759,000.

Various Locations, Continental United States, $1,900,000.

Whiteman Air Force Base, Missouri, $7,800,000.

Wurtsmith Air Force Base, Michigan, $1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $5,450,000.

Cannon Air Force Base, New Mexico, $1,800,000.

Davis-Monthan Air Force Base, Arizona, $11,950,000.

George Air Force Base, California, $1,400,000.

Gila Bend Air Force Auxiliary Field, Arizona, $1,700,000.

Holloman Air Force Base, New Mexico, $3,902,000.

Homestead Air Force Base, Florida, $1,500,000.

Langley Air Force Base, Virginia, $15,550,000.

MacDill Air Force Base, Florida, $20,700,000.

Moody Air Force Base, Georgia, $6,550,000.

Mountain Home Air Force Base, Idaho, $4,350,000.

Nellis Air Force Base, Nevada, $19,900,000.

Seymour-Johnson Air Force Base, North Carolina, $3,620,000.

Shaw Air Force Base, South Carolina, $1,150,000.

Tyndall Air Force Base, Florida, $11,540,000.

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Various Locations, Maine, $7,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $6,050,000.

MX CONSTRUCTION

Various Locations, Continental United States, $103,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,100,000.

Otis Air National Guard Base, Massachusetts, $3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, $2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, $7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, $1,750,000.

Clark Air Base, Republic of the Philippines, $14,380,000.

Diego Garcia Air Base, Indian Ocean, $36,550,000.

Kadena Air Base, Japan, $15,950,000.

Kunsan Air Base, Korea, $36,490,000.

Kwang-Ju Air Base, Korea, $2,450,000.

Misawa Air Base, Japan, $6,600,000.

Osan Air Base, Korea, $44,000,000.

San Miguel, Republic of the Philippines, $1,750,000.

Yaedake Radio Relay Station, Japan, $1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, $3,600,000.

Various Locations, Worldwide, $15,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, $121,700,000.

Germany, Various Locations, $22,354,000.

Aviano Air Base, Italy, $7,200,000.

Oman, Various Locations, $9,250,000.

Incirlik Air Base, Turkey, $7,290,000.

Various Locations, United Kingdom, $57,010,000.

Various Locations, $83,854,000.

EMERGENCY CONSTRUCTION

Sec. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

Sec. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $101,521,000.

FAMILY HOUSING

Sec. 304. (a) The Secretary of the Air Force, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Air Force is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Air Force is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Air Force, seven hundred and seventy-six units, for a total of $82,050,000:

Fort MacArthur, California, two hundred units, $20,000,000.

Powell, Wyoming, fifty units, $3,850,000.

MacDill Air Force Base, Florida, twenty-six units, $3,200,000.

Incirlik Air Base, Turkey, two hundred units, $20,000,000.

Bentwaters Royal Air Force Station, United Kingdom, three hundred units, $35,000,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Air Force, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $76,500,000, of which $17,000,000 shall be available only for energy conservation projects.

(f) The Secretary of the Air Force, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as follows:

Loring Air Force Base, Maine, four hundred units, $13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, $5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, $4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, $4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, $7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, $1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, $934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

Sec. 305. The Military Construction Authorization Act, 1977 (Public Law 94-431, 90 Stat. 1349), is amended—

(1) in section 301 concerning the Arnold Engineering Development Center, Tennessee, delete "$519,010,000" and insert in lieu thereof "$561,010,000"; and

(2) in section 602(3) delete "$759,759,000" and "$816,409,000" and insert in lieu thereof "$801,759,000" and "$858,409,000", respectively.

LAND CONVEYANCE, FLORIDA

Sec. 306. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (Public Law 668, ch. 437, 54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to adjust the base boundaries at Eglin Air Force Base, Florida, to resolve encroachments by both the Air Force and private property owners resulting from a reliance on inaccurate surveys. In doing so, the Secretary may (1) disclaim the intent to acquire property by prescription, which disclaimer shall be binding on all parties, (2) dispose of tracts by gift, sale, or exchange for privately owned land adjoining Eglin Air Force Base, to parties in possession of such tracts who mistakenly believed that they had acquired title to such tracts, and (3) acquire tracts by purchase, donation, or exchange for Government-owned land at Eglin Air Force Base.

(b) Conveyances pursuant to this section may be made without consideration, at the Secretary's discretion.

CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. Notwithstanding any other provision of law, the Secretary of the Air Force may use Foreign Military Sales administrative funds, only to such extent or in such amounts equal to a total of not more than $395,000 as are provided in appropriation Acts, to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use as a foreign military sales center to accommodate personnel engaged in logistics system support and management of the foreign military sales program of the Air Force.

LIMITATION ON FUNDS FOR MX CONSTRUCTION

SEC. 308. Any amount appropriated to carry out the MX construction authorized in section 301 for various locations in the continental United States may not be obligated or expended for construction of weapons system support facilities until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of continuous session of Congress have expired after the receipt by Congress of such notice. For the purpose of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and in determining days of session of Congress, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Elmendorf Air Force Base, Alaska, $2,700,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,100,000.

Defense Foreign Language Institute, Monterey, California, $31,000,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, $43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, $5,100,000.

Various Locations, Korea, $29,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, $8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Bamberg, Germany, $3,470,000.

Kaiserslautern Air Base, Germany, $7,967,000.

Karlsruhe, Germany, $7,380,000.

Mainz, Germany, $2,830,000.

Nuernberg, Germany, $2,820,000.

Ramstein Air Base, Germany, $1,460,000.

Wuerzburg, Germany, $3,920,000.

Zweibruecken Air Base, Germany, $1,780,000.

Yokota Air Base, Japan, $5,660,000.

RAF Woodbridge, United Kingdom, $1,200,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which the Secretary determines are vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $5,200,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $13,460,000.

FAMILY HOUSING

SEC. 404. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of Defense, or the Secretary's designee, is authorized to acqure less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense, or the Secretary's designee, is authorized to acquire sole interest in privately owned family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the National Security Agency, five units, $1,009,000;

Classified locations overseas, five units, $1,009,000.

(d) The project and amount authorized by subsection (c) includes the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $33,000 for the Defense Agencies.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. (a) The Secretary of Defense is authorized to incur obligations in amounts not to exceed $375,000,000 for the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred by the United States during the preceding quarter for the United States share of the cost of such multilateral programs.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: military construction inside the United States $555,530,000; military construction outside the United States $316,340,000; minor construction $56,050,000; family housing construction $159,055,000; family housing support $936,078,000; homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, $2,000,000; for a total of $2,025,073,000.

(2) for title II: military construction inside the United States $900,770,000; military construction outside the United States $220,820,000; minor construction $60,428,000; family housing construction $131,846,000; family housing support $659,439,000; for a total of $1,972,303,000.

(3) for title III: military construction inside the United States $1,036,420,000; military construction outside the United States $498,288,000; minor construction $101,521,000; family housing construction $158,550,000; family housing support $809,535,000; for a total of $2,604,314,000.

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(4) for title IV: military construction inside the United States $135,441,000; military construction outside the United States $125,044,000; minor construction $13,460,000; emergency construction $5,200,000; family housing construction $1,042,000; family housing support $17,279,000; for a total of $297,466,000.

(5) for title V: a total of $375,000,000.

(b) The amounts authorized to be appropriated for family housing support may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

COST VARIATIONS

Sec. 603. (a) Overall Title Total Limitation.—Notwithstanding the provisions of subsections (b) and (d), the total cost of all construction and acquisition in each of titles I, II, III, IV, and V, except as provided in subsection (c), may not exceed the total amount authorized to be appropriated for that title.

(b) Variations in Installation Totals—Unusual Variations in Cost.—Any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) Variations in North Atlantic Treaty Organization Total.—When the Secretary of Defense determines that the amount set forth in title V for the United States share of the cost of the North Atlantic Treaty Organization program must be increased, the Secretary may incur obligations in excess of such amount if the amount of the increase does not exceed by more than 25 percent the amount set forth in such title. When the Secretary of Defense determines that the amount set forth in title V of this Act must be exceeded by more than 25 percent for the United States share of the cost of the North Atlantic Treaty Organization infrastructure program, the Secretary may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either (1) fifteen days have elapsed from the date of the submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) Cost and Scope Variations of Individual Projects: Reports to Congress.—No individual project authorized in section 101, 104, 201, 204, 301, 304, 401, and 404 of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 percent; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 percent the amount authorized for such project by the Congress, until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for the reduction in scope or the increase in cost, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either fifteen days have elapsed from the date of the submission of such report or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(e) Annual Report to Congress.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under sections 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope has been reduced by more than 25 per centum in order to permit a contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and the percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

Sec. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves, to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded to each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded to such firm.

REPEAL OF PRIOR YEAR AUTHORIZATION: EXCEPTIONS

Sec. 605. (a) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefore, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefore that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, and authorizations for appropriations therefore.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 101 or section 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of $2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of $2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount $2,500,000 at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of $840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of $4,700,000 at Ford Ord, California.

(6) Electromagnetic Test Facility in the amount of $4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of $2,800,000 at specified locations.

(c) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 201 or such authorizations as were extended in section 605 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Municipal Sewer Connection Construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(2) Nautilus Memorial in the amount of $1,930,000 at the Naval Submarine Base, New London, Connecticut.

(3) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(4) Unaccompanied Enlisted Personnel Housing Modernization in the amount of $4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(5) Land Acquisition in the amount of $330,000 at the Naval Air Station, Fallon, Nevada.

(6) Air Passenger Terminal in the amount of $20,000,000 at the Naval Station, Keflavik, Iceland.

(7) Facility Energy Improvements in the amount of $1,450,000 at the Naval Air Station, Alameda, California.

(d) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of $20,000,000 at Lajes Air Base, Portugal.

(2) Energy Showcase Initiatives in the amount of $1,600,000 at McClellan Air Force Base, California.

(3) Space Transportation System Solid Rocket Disassembly Complex in the amount of $16,700,000 at Port Hueneme Naval Installation, California.

DEFICIENCY AUTHORIZATION

SEC. 606. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by striking out the line:

"Defense Installations, Mariana Islands, $32,000,000."

under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS".

(b) Section 401 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by inserting the following new line:

"Defense Installations, Mariana Islands, $35,000,000."

after the line:

"Classified Activity, Classified Location, $2,000,000."

under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE".

(c) Section 702 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359) is amended—

(1) by striking out "$236,445,000" in paragraph (2) and inserting in lieu thereof "$204,445,000";

(2) by striking out "$1,240,033,000" in paragraph (2) and inserting in lieu thereof "$1,208,033,000"; and

(3) by striking out "$282,815,000" in paragraph (4) and inserting in lieu thereof "$317,815,000".

(d) The amendments made by this section shall take effect on October 1, 1982.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V shall take effect on October 1, 1982.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $44,111,000; and

(B) for the Army Reserve, $28,500,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $21,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $116,500,000; and

(B) for the Air Force Reserve, $29,000,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 2662, 4774, and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

TITLE VIII—GENERAL PROVISIONS

LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 801. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately seventy acres, together with any improvements located on the land.

(b) In consideration for the conveyance under subsection (a), the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the city and the board in and to four tracts of land consisting of a total of approximately four hundred acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

(c) The city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the city and the board to the United States under subsection (b).

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by the section as the Secretary considers appropriate to protect the interests of the United States.

OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 802. Section 2685 of title 10, United States Code, is amended by adding after subsection (b) the following new subsection:

"(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b).".

USE OF RENEWABLE FORMS OF ENERGY

SEC. 803. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2393 the following new section:

"§ 2394. Procurement of energy systems powered by renewable forms of energy

"(a) The Secretary of each military department shall procure energy systems using solar energy, or other renewable forms of energy, whenever the Secretary of a military department determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department (such as energy systems powered by solar energy, or other renewable forms of energy, to supply energy for mobile power systems, cathodic protection of pipelines, remote communications sites, mobile radar sites, navigational aids, military range monitoring and conditioning equipment, load center power, water pumping and purification, cathodic protection of water towers and bridges, perimeter security devices, data links, repeater stations, emergency and rescue communications, lighting, remote instrumentation, marking and warning devices, monitoring and sensing devices, and remote weather stations and transmitters).

"(b)(1) For purposes of carrying out subsection (a) and section 2688, the Secretary of Defense shall study applications for the use of solar energy, and other renewable forms of energy which are cost effective and reliable to supply the energy needs of the Department of Defense.

"(2) Not later than the date occurring two years after the date of the enactment of this section, and not later than the date occurring two years after each such previous date, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the studies conducted pursuant to paragraph (1) and containing any recommendations for legislative action.

"(c) For purposes of this section—

"(1) energy system using solar energy, or other renewable forms of energy, shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life-cycle costing procedures. Such accepted life-cycle costing procedures shall include the use of the sum of all capital, operating, and maintenance expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using *marginal fuel cost as determined by the Secretary of Defense and at a discount rate of 7 per centum per year. For the purposes of a life-cycle cost analysis under this subsection, the original investment cost of an energy system using solar energy, or other renewable forms of energy, shall be reduced 10 percent as an investment cost credit; and*

"(2) the term 'energy system' includes any energy system which generates electricity.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by adding after the item relating to section 2393 the following new item:

"2394. Procurement of energy systems using renewable forms of energy.".

(b)(1) Section 2688 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "solar energy systems" in the first sentence and inserting in lieu thereof "energy systems using solar energy, or other renewable forms of energy (including systems that produce electricity),";

(ii) by striking out "solar energy has" in the first sentence and inserting in lieu thereof "such systems have"; and

(iii) by striking out "solar energy systems" in the second sentence and inserting in lieu thereof "such energy systems"; and

(B) in subsection (b) by striking out "a solar energy system" both places it appears, in the first sentence and in the third sentence, and inserting in lieu thereof "an energy system using solar energy, or other renewable forms of energy (including any system producing electricity),".

(2) The heading of section 2688 of title 10, United States Code, is amended to read as follows:

"§ 2688. Use of renewable forms of energy in new facilities".

(3) The item in the table of sections of chapter 159 of title 10, United States Code, relating to section 2688 is amended to read as follows:

"2688. Use of renewable forms of energy in new facilities.".

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 804. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately three and eighty-eight one hundredth acres and located in the city of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance under subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately twelve and five-tenths acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.", dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under subsection (b), the board shall pay to the United States an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (a) exceeds such fair market value of the property to be conveyed under subsection (b).

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (b) exceeds such fair market value of the property to be conveyed under subsection (a), but any such payment may not exceed $300,000.

(3) The authority to make any payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, BELL, CALIFORNIA

SEC. 805. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Bell, California, all right, title, and interest of the United States in and to a tract of land consisting of approximately 5.5 acres and described on a map entitled "Outgrant to California Army National Guard, Bell, California drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on the tract of land.

(b)(1) In consideration for the conveyance under subsection (a), the city of Bell, California, shall restore, improve, and modernize the building owned by the United States, located in the city of Bell, California, and designated in the Department of the Army records as building number 332, in accordance with an agreement to be entered into between the Secretary and the city.

(2) The Secretary shall approve the plans and specifications for the restoration, improvement, and modernization of the building numbered 332 under paragraph (1).

(3) In consideration for the conveyance under subsection (a), the city of Bell, California, shall convey to the United States all right, title, and interest of the city in and to the building numbered 332 and all right, title, and interest of the city in and to any restoration, improvement, and modernization of building numbered 332 done under paragraph (1).

(c) The city of Bell, California, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city under subsection (a) exceeds the fair market value (as determined by the Secretary) of the restoration, improvement, and modernization of building numbered 332 done under subsection (b)(1).

(d)(1) The exact acreages and legal descriptions of any property acquired under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Bell, California.

(2) The Secretary may require such additional terms and conditions with respect to the conveyance and the restoration, improvement, and modernization authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 806. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in the section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, State of Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specification approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

(c) If the sum of the fair market value of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary may accept and administer any real property conveyed to the United States under this section.

(g) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST

SEC. 806. (a)(1) Section 2852(b) of title 10, United States Code, as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act (Public Law 97-214), is amended to read as follows:

"(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

"(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(2) Section 2239(b) of such title, as added effective October 1, 1982, by section 3(b) of such Act, is amended to read as follows:

"(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States—

"(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(b)(1) The heading of section 2806 of such title (as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act) is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure".

(2) Section 2828(e)(1) of such title (as added effective October 1, 1982, by section 2(a) of such Act) is amended by inserting "the" after "may be waived by".

(3) Section 2394 of such title (as added effective October 1, 1982, by section 6(a)(1) of such Act) is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (b)"; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 (as added effective October 1, 1982, by section 6(c)(2) of such Act) in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2689. Development of geothermal energy on military lands.".

LAND CONVEYANCE, COOK COUNTY, ILLINOIS

SEC. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of Illinois all right, title, and interest of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorized to by conveyed is more particularly described as follows: Beginning at a point four hundred feet north of the southwest corner of section 23; thence east of a line parallel to the south line of the southwest quarter of section 23, a distance of four hundred and eighty-two feet (plus or minus) to the existing chain link fence; thence north along the chain link fence eight hundred and forty feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, nine hundred and twenty feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorized by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT UNIVERSITY OF CALIFORNIA AT SAN DIEGO

SEC. 806. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662, execute such documents as may be necessary in order to provide that a parcel of not more than thirty acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational purposes authorized pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6214) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2586

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? The Chair hears none and, without objection, appoints the following conferees: Messrs. PRICE, BRINKLEY, MONTGOMERY, KAZEN, WON PAT, DICKINSON, TRIBLE, WHITEHURST, and MITCHELL of New York.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, the Clerk be authorized to make such technical corrections, including section numbers, punctuations, and cross-references, as may be necessary to reflect the action of the House in amending the bill, H.R. 6214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

The message also announced that the Senate insist upon its amendment to the bill (H.R. 6955) entitled "An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress)," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the following Senators be the conferees on the part of the Senate: From the Committee on the Budget: Mr. Domenici, Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Tower, Mr. Hollings, Mr. Chiles, Mr. Johnston, and Mr. Exon. From the Committee on Agriculture, Nutrition, and Forestry (for title I): Mr. Helms, Mr. Dole, Mr. Hayakawa, Mr. Lugar, Mr. Cochran, Mr. Huddleston, Mr. Leahy, Mr. Melcher, and Mr. Zorinsky. From the Committee on Banking, Housing, and Urban Affairs (for title III): Mr. Garn, Mr. Tower, Mr. Lugar, Mr. Riegle, and Mr. Proxmire. From the Committee on Commerce, Science, and Transportation (for sections 402 and 403 of title IV): Mr. Packwood, Mr. Goldwater, Mr. Stevens, Mr. Cannon, and Mr. Ford. From the Committee on Governmental Affairs (for title VI): Mr. Roth, Mr. Stevens, Mr. Mattingly, Mr. Eagleton, and Mr. Pryor. From the Committee on Veterans' Affairs (for title VII): Mr. Simpson, Mr. Thurmond, Mr. Stafford, Mr. Cranston, and Mr. Randolph.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE FOR THE BALANCE OF THE WEEK

Mr. **DINGELL**. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to meet tomorrow and the balance of the week for the purpose of marking up legislation during the time that the House is meeting under the 5-minute rule.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. **WAXMAN**. Mr. Speaker, reserving the right to object, I would like to inquire of the committee chairman whether this is to deal with the Clean Air Act.

Mr. **DINGELL**. Mr. Speaker, if the gentleman will yield, to respond to the gentleman, we are still trying to get a Clean Air Act out in spite of the objections of the gentleman from California.

Mr. **WAXMAN**. Mr. Speaker, I must, unfortunately, object to the unanimous-consent request.

The **SPEAKER** pro tempore. Objection is heard.

(Messrs. Downey, Studds, Dellums, Phillip Burton, Schumer, Patterson, Frank, Edgar, Stark, Foglietta, Weiss, Fazio, and Matsui also objected.)

The **SPEAKER** pro tempore. A sufficient number has objected. Objection is heard.

□ 2150

APPOINTMENT OF CONFEREES ON H.R. 6955, RECONCILIATION PURSUANT TO FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1983

Mr. **JONES** of Oklahoma. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.), with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The **SPEAKER** pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Oklahoma?

Mrs. **SCHROEDER**. Mr. Speaker, reserving the right to object, the way this conference is being structured and the ground rules under which it is operating makes me very nervous. Committees are being limited to five conferees and being told to wrap things up by early next week. We on the Post Office and Civil Service Committee are being told to cut a deal quickly or else the Budget Committee conferees will vote with the Republicans to cap the cost-of-living adjustment for Federal retirees or delay it to save money. On an issue of this importance to so many people, I think this is a terrible way to operate. The House had twice voted not to touch COLA and once voted to increase the pay comparability increase to 5 percent. There is no reason we should be bamboozled into caving to the Reagan administration on this issue. This is especially true when David Stockman has all but announced that the administration will try to cut social security as soon as the elections are over. I will withdraw my reservation with the warning that I will scream bloody murder if the budget reconciliation conference ends up reducing Federal retirees COLA.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Oklahoma? The Chair hears none, and, without objection, appoints the following conferees:

From the Committee on the Budget, for consideration of the entire House bill and Senate amendment:

Messrs. Jones of Oklahoma, Panetta, Gephardt, Latta, and Frenzel.

And as additional conferees from the Committee on the Budget, solely for consideration of title I of the House bill and title I of the Senate amendment:

Mr. Aspin, Mr. Donnelly, and Mrs. Martin of Illinois.

From the Committee on Agriculture, solely for consideration of title I of the House bill and title I of the Senate amendment:

Messrs. de la Garza, Foley, Bowen, Richmond, Harkin, and Wampler. Mr. Findley (on all matters except as listed below) and Mr. Hagedorn (on all matters except as listed below).

Mr. Coleman (in lieu of Mr. Hagedorn) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment (food stamps).

Mr. Thomas (in lieu of Mr. Findley) on sections 101–130 of the House bill and section 151 of the Senate amendment (dairy).

From the Committee on Foreign Affairs, solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Messrs. Zablocki, Hamilton, Bingham, Broomfield, and Lagomarsino.

From the Committee on Banking, Finance, and Urban Affairs, solely for consideration of title II of the House bill and title III of the Senate amendment:

Messrs. St Germain, Gonzalez, Annunzio, Stanton of Ohio, and Wylie.

From the Committee on Energy and Commerce, solely for consideration of sections 402 and 403 of the Senate amendment:

Messrs. Dingell, Wirth, Florio, Broyhill, and Lent.

From the Committee on Public Works and Transportation, solely for consideration of section 403 of the Senate amendment:

Messrs. Anderson, Rahall, Edgar, Clausen, and Shuster.

From the Committee on Post Office and Civil Service, solely for consideration of title III of the House bill and sections 601–604 and 606–610 of the Senate amendment:

Messrs. Ford of Michigan, Udall, Clay, Derwinski, and Taylor.

From the Committee on Government Operations, solely for consideration of sections 605 and 611 of the Senate amendment:

Messrs. Brooks, John L. Burton, Evans of Indiana, Horton, and Walker.

From the Committee on Veterans' Affairs, solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

Messrs. Montgomery, Applegate, Leath of Texas, Hammerschmidt, and Wylie.

MAKING IN ORDER ON AUGUST 16, 1982, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT AND ANY AMENDMENT REPORTED FROM CONFERENCE IN DISAGREEMENT ON H.R. 6955

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that it shall be in order on Monday, August 16, 1982, or any day thereafter to consider the conference report and any amendment reported from conference in disagreement, on the bill H.R. 6955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6944

Mr. DOUGHERTY. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 6944.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3973, POSTAL SERVICE AMENDMENTS OF 1981

Mr. SKEEN. Mr. Speaker, I request unanimous consent that my name be removed from H.R. 3973, the Postal Service Amendments of 1981.

When I agreed to cosponsor this legislation, Mr. Speaker, I did so because it is aimed at making it more difficult to carry out fraud through the mails. This is a worthy goal and one that should be pursued. Several hundred residents of the Second Congressional District of New Mexico have brought to my attention, however, the fact that this particular bill would give to the U.S. Postal Service powers that could be construed to be in violation of the constitutional prohibition against unreasonable search and seizure. I cannot and do not condone the erosion of such constitutional guarantees and, therefore, can no longer support H.R. 3973.

I know that my colleagues who have sponsored this bill had well-meaning objectives in doing so. I would hope that they will continue to work toward passage of legislation that would protect our citizens—especially our elderly—against those who use the mail for fraudulent purposes. I would also hope that they will work to find a way to accomplish this without entering into a conflict with our Constitution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was inadvertently detained at the White House in a meeting with the President yesterday and missed three rollcall votes.

Had I been present and voting, I would have voted "aye" on rollcall No. 257; "nay" on rollcall No. 258; and "nay" on rollcall No. 259.

INTRODUCTION OF THE ADMINISTRATION BILL TO REORGANIZE FEDERAL ENERGY FUNCTIONS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HORTON. Mr. Speaker, at the request of the administration I am today introducing, along with my colleague, the gentleman from North Carolina (Mr. Broyhill), the President's proposal to reorganize the energy functions of the Federal Government.

As we are all aware, the President has long advocated some basic changes in Federal Government energy policies. The changes envisioned by the President would place more of the responsibility for energy policy in the hands of individual decisionmakers operating in the marketplace. Since the President has been in office, he has initiated a number of actions consistent with his goal of strengthening reliance on the private sector to meet our energy needs. For example, price and allocation controls on crude oil and petroleum products have been lifted; regulatory impediments to coal conversion have been lessened; and federally financed energy commercialization efforts have been reduced.

Now, after a great deal of study, the President has formulated a proposal that would reorganize the energy functions of the Federal Government in a way more consistent with his interest in emphasizing the role of the business community in determining energy policy.

Under this proposal, most of the Department of Energy's current activities would be transferred to the Department of Commerce, where they would be considered in the context of general government policy regarding commerce and industry. Other functions would be transferred to the Departments of Agriculture, Justice, and Interior, which currently administer programs with related purposes. The Federal Energy Regulatory Commission would remain independent.

Mr. Speaker, the President has sent the Congress a well-reasoned proposal very much consistent with his strongly demonstrated belief as how best to provide for our future energy needs. In introducing this proposal, I hope to stimulate discussion and provide a vehicle for committee hearings and consideration of this important subject.

This proposal recently came under attack from the General Accounting Office. In a report dated August 2, 1982 ("Analysis of Energy Reorganization Savings Estimates and Plans," GAO/EMD-82-77), the GAO charged that "the administration has not developed reliable information on key aspects of the proposed reorganization."

Because this is a serious allegation raised by a highly regarded agency, I asked Joe Wright, the Deputy Director of the Office of Management and Budget, to respond before I would introduce the bill. Mr. Wright's response states that the GAO report is seriously flawed, misleading, and not very useful either to the Congress or to the administration in helping assess the energy reorganization proposal. I include the entire text of the letter in the Record immediately following my remarks, as follows:

Office of Management and Budget,
Washington, D.C., August 10, 1982.

Hon. Frank Horton,
Ranking Minority Member, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

Dear Mr. Horton: In response to your request, we are pleased to have this opportunity to provide the Administration's comments on the General Accounting Office (GAO) report entitled "Analysis of Energy Reorganization Savings Estimates and Plans." As you know, the report concludes that the Administration has not developed adequate, precise information about the proposed reorganization and has failed to devise detailed implementation plans.

We believe that the GAO report is seriously flawed in three major ways, is misleading and diverts attention from the important issues. Consequently, the analysis is not very useful either to the Congress or to the Administration in helping assess the energy reorganization proposal.

First, the GAO report concentrates on secondary and incidental benefits, costs, and implementation plans of the proposed energy reorganization. A more helpful focus could have been the major question of the appropriate Federal versus non-Federal roles in the Nation's energy affairs. And then it might have been appropriate to present an assessment of the overall organizational and management requirements to assure that the appropriate Federal role is carried out well. This has been the primary focus of our discussions with the Congress so far, leaving the myriad, precise details of implementation to evolve as a result of the agreements reached on the Hill.

Second, the GAO report rests its case on the basis of outdated information and estimates which do not reflect the latest Administration planning and analytic refinements that were available. Only the most cryptic reference is made to the important testimony and supporting estimates presented before the Senate Governmental Affairs Committee by three Cabinet officers and me on June 24—almost 40 days before the publication date of the report. And it was most unfortunate that the GAO was constrained not to approach senior Administration officials and, contrary to GAO's time-tested practice, not to invite Administration comments to verify facts before publishing its report. Had the GAO followed its traditional practice, we believe it could have avoided the serious shortcomings of the report and provided a useful aid to evaluation of the reorganization proposal.

And third, the GAO report deplores the lack of early, detailed implementation plans, and the precise cost estimates that could be derived from such plans, while ignoring the fact that useful, detailed planning must necessarily await some legislative action if we are not to waste scarce staff resources. Although superficially mentioned in passing, the GAO also does not make clear that the Administration has had in operation from the earliest stages of reorganization initiative, an extensive planning and implementation effort. More about this later.

Having identified the major shortcomings of the GAO report, we would now like to discuss some of the more specific criticisms in the report along with our rejoinders:

ENERGY BUDGET, REORGANIZATION COSTS, AND SAVINGS

The GAO asserts that there is insufficient support for the Administration's $1.3 billion budget estimate of cost savings in FY 1983 accruing from energy program reductions and energy reorganization. We are surprised at this statement since the $1.3 billion is simply the difference between the total $10.2 billion budget authority proposed by the President for the Department of Energy (DOE) in FY 1983 (including $2 billion in off-budget oil purchases for the strategic petroleum reserve) and the then-current comparable estimate of $11.5 billion for FY 1982. The arithmetic may be verified by examining the first line of the table at the top of page 250 in the OMB publication "Major Themes and Additional Budget Details, Fiscal Year 1983," which accompanied the President's budget. The totals for FY 1982 and FY 1983 are substantiated by the entire budget requests for those years and supported in considerable detail by voluminous budget justification material submitted to the Congress by DOE.

At the time the FY 1983 budget was prepared, it would have been quite impossible to make sharp distinctions between budget reductions attributable purely to policy and program changes and those attributable purely to reorganization. Our staff reviewed the energy budget and made their recommendations for program reductions mindful that many of the reductions could be realized only because of changes which included the prospective reorganization of DOE.

To understand the administrative or overhead savings included in the budget, GAO could have probed more deeply into the DOE "Departmental Administration" account and how it was derived. In the FY 1983 budget this department-wide administrative support activity was shown distributed among the receiving agencies such as the Departments of Commerce, Interior, and Justice. These pieces, amounting to some $225 million in FY 1982, were reduced to about $162 million in FY 1983. OMB staff were motivated to achieve this reduction by two basic factors. They keyed the reductions first to the direct energy program reductions, and then pushed the overhead reductions further to reflect absorption of some overhead by the agencies receiving functions from DOE.

To prove the point that savings estimates from reorganization were included in the fiscal year 1983 budget, we'd like to describe the staffing assumptions underlying that budget for DOE's "Departmental Administration." Among the sub-accounts of this major overhead account, some of the largest are "Administration," "Controller," and field "Operations Offices." The fiscal year 1983 budget reduced staffing in these illustrative sub-accounts more than proportionally to the reductions in department-wide activity in order to reflect the expected absorption of overhead by receiving agencies. "Administration" was reduced from 668 staff-years in 1982 to 324 in 1983, or from 3.6 percent down to 2.2 percent of total DOE staffing. "Controller" was reduced from 294 staff-years in 1982 to 132 in 1983, or from .06 staff-years per million dollars of DOE non-defense spending down to .03. And the "Operations Offices" were reduced from 2,040 staff-years in 1982 to 1,317 in 1983, and from .43 staff-years per million dollars in DOE non-defense spending down to .31.

DOE staffing reductions were predicated, in part, on the assumption that the reorganization of DOE would be effective 1 October 1982. Given the delay of this reorganization, OMB is now considering giving DOE some relief in 1983 staffing ceilings thus bringing the staffing ratios specified above nearer to those of 1982, which were not predicated on reorganization. Surely, if OMB is contemplating easing DOE's employment ceiling because reorganization will not occur by 1 October 1982, then you may rest assured that the fiscal year 1983 budget does indeed reflect savings from reorganization.

Turning to the costs of reorganization, it is true that not all such expenses have been reflected in the fiscal year 1983 budget. These are the types of costs that can be determined only after detailed implementation plans evolve, and such plans, of course, must await legislative action. Suffice it to say, that we expect costs of reorganization to be small in relation to overall cost savings. For example, we expect major physical moves to be minimal. Most energy activities will stay where they are. Relatively few people will likely move to Interior and Justice Department office space. Therefore, we do not believe that these presently unquantifiable but limited costs omitted from the energy budget distort the current basis for decisionmaking.

BASIS FOR REORGANIZATION SAVINGS

The GAO report dwells on early, preliminary savings estimates, which were out of date before the report was published, and on the lack of information which is most efficiently and effectively developed only after Congress enacts the reorganization legislation. Here are several examples of the GAO criticisms, with our comments:

The savings of $200 million through integration of ADP purchases is not supported by identification of types or specific automated systems that will be merged. The initial savings estimate was an error corrected in subsequent analysis to $20 million well before the GAO report was issued. DOC and DOE combined have in place 5,294 computers worth $894 million, plan to spend $600 million more for additional computer capacity, and have an annual ADP budget of more than $600 million. Within these totals our $20 million savings claim is most probably too low.

The projected $50 million in Government-owned, contractor-operated (GOCO) audit savings is speculative and not related to reorganization. Our on-going review and planning effort subsequently concluded that GOCO's were already adequately audited, and this savings figure was dropped. Only passing reference to this is included on page 12 of the GAO report.

The specific DOE and DOC complementary activities to be merged in saving $20 million are not identified. A joint DOC/DOE study identified specific complementary activities, with staffing and funding levels for each, that totaled $387 million. Although we continue to believe that saving at least $20 million of this total is a reasonable estimate, that figure was dropped from our refined, 3-year goal. Inadequate reference is made to this on page 12 of GAO's report.

Offsetting expenses are not considered in the savings estimates. These costs cannot be identified with sufficient precision at this time. The detailed planning after enactment of reorganization legislation will identify those one-time costs. The GAO report is highly speculative in discussing potential costs and offers no estimates.

The current Administration cost saving goal for energy reorganization is a firm $80 million per year over 3 years, with a reasonable probability that as much as $750 million more could be saved in the longer term. These estimates will, of course, undergo even further refinement once the Congress legislates the reorganization plan and detailed implementation planning follows. Our current goals and backup material is available to GAO.

An important point to understand about all these cost estimates is that the Administration has never claimed that they were anything but goals that demonstrated the potential for budget savings. At this stage of executive and legislative decisionmaking, we feel that there is no need for greater precision.

TRANSITIONAL PLANNING

We have no quarrel with the GAO report's admonition that detailed, implementation planning is needed in order to identify more precisely reorganization costs and savings, and to minimize disruption and costs. But we believe most emphatically that the report is illogical with respect to timing. The level of planning detail depends on the status of the project, and our reorganization proposal was continually changing as we held our consultations with the Congress—over 100 separate meetings in total! But GAO has failed to report clearly on the extensive Administration mechanism that was put in place that has and will bring forth the necessary implementation plans and firm estimates on an efficiently time-phased basis.

Late last year the Administration developed a comprehensive structure and process for energy reorganization as follows:

White House Policy Team—appointed by the President to oversee energy reorganization. It provides overall policy guidance, assigns responsibilities, and approves major initiatives and deadlines. The team is chaired by Presidential Counselor Meese and includes the Secretaries of Energy, Commerce, Defense, and Interior as well as the head of the White House Office of Policy Development (OPD).

Steering Group—coordinates and directs the activities of multiple working groups; reviews, approves, or assures executive approval of their products; advises White House and OMB; and relates to Congressional interests on overall reorganization matters. This group is chaired by the OMB Deputy Director and includes some 13 participants at the Deputy Secretary, Under Secretary, and Assistant Secretary levels from interested agencies and the Executive Office. The chairman provides staff to support the Steering Group as well as to coordinate Working Group efforts.

Working Groups—six crosscutting working groups (Resources, Congressional Liaison, Public Affairs, Legislation/Legal, and Policy) provided liaison with external groups, provided data necessary for organization integration activities and advised the Steering Group. An organization integration working group developed organization and management concepts and plans for receiving agencies. In all, more than 50 people from 10 agencies participated in the working group effort, focusing on organization planning down to the program and office level.

OMB and OPD—serve on the Steering Group and participate selectively on various working groups. These offices also review and approve for the Administration the final products of the working groups that are accepted by the Steering Group.

As you can see, the Administration has amply provided top executive and staff support for the energy reorganization effort, whereas the GAO report attempts to imply neglect.

In sum, for all the reasons we have discussed above, the Administration believes that the cited GAO report is not of as much use as it could have been in assessing the proposal for energy reorganization. We are sure that you and your colleagues will recognize that in the energy situation both the Congress and the President have at this time a rare opportunity to continue the reorganization effort of the past decade to improve energy and business policy activities, programs, organizations and management to strengthen these activities by combining the assets of two cabinet departments while reducing the size of Government—a most worthwhile goal. Let us not let this opportunity slip by through misplaced contention over the precise degree of incidental cost savings from the far greater benefits of good Government—a goal shared by us all.

Sincerely,

JOSEPH R. WRIGHT, Jr.,
Deputy Director.

RAIL SAFETY AND IMPROVEMENT ACT OF 1982—THIS AMENDMENT WILL SAVE $35 MILLION!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, during consideration of H.R. 6308, the Rail Safety and Improvement Act of 1982, I will be offering an amendment which will trim $35 million off the cost of the bill, and will insure a smooth transition for thousands of our Nation's commuters who now depend on Conrail service.

As you know, Conrail's involvement in commuter operations will cease as of January 1, 1983, and significant transition moneys are necessary to effect the change to the Commuter Services Corporation or to local commuter authorities in Connecticut, New York, New Jersey, Pennsylvania, and Maryland. H.R. 6308 authorizes $75 million for this purpose. However, I would like to point out several important facts:

First, in fiscal year 1982, $84.5 million was appropriated to Conrail for operating expenses for commuter services.

Second, Conrail, which recently turned a profit, has not used this money and will not need it in the future.

Third, the committee bill, H.R. 6308, wisely authorizes the reappropriation of one-half of Conrail's $84.5 million in unused operating funds—$40 million—as part of the $75 million authorized for transition of service from Conrail to local authorities.

Fourth, in addition to the reappropriated $40 million, the committee bill authorizes $35 million in new funds to make up the balance of the necessary $75 million transition funding.

Fifth, this amendment proposes that instead of reappropriating only $40 million from the $84.5 million in unused operating funds, the entire $75 million used for transition be drawn from unused Conrail operating funds, thereby eliminating the need and expense of authorizing $35 million in new money.

The McKinney amendment will therefore result in a budget savings of $35 million. We have in effect already secured this money—it is neither advisable nor fiscally responsible to request it from new budget authority.

The authorization of the full $75 million from reappropriated 1982 Conrail funds will permit the efficient, rapid transfer of our commuter lines, which serve 180,000 daily riders in New York and Connecticut alone, to a more able carrier by the end of the year. Briefly, the transition funds are necessary for general operating capital, and to allow a changeover from a delayed billing system under Conrail to a current one with local commuter authorities. Without these funds up front, improvements and increased accountability to riders on our commuter lines will not be forthcoming. More importantly, the Conrail transfer will take place by law on January 1, 1983, whether or not local operating authorities have the necessary funds to assume this responsibility.

Please join me in assuring adequate funding for commuter transition costs by voting for the McKinney amendment to H.R. 6308. The amendment follows:

AMENDMENT TO H.R. 6308, THE RAIL SAFETY AND IMPROVEMENT ACT OF 1982

Amend section 505(b) of the bill (which amends sec. 216(g) of the 3R Act) as follows:

On page 35, line 23, strike out "$40,000,000," and insert in lieu thereof "$75,000,000."

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981, except that the total amount of funds which may be so reappropriated shall not exceed $75,000,000.".

(c) Section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727) is amended as follows:●

FEDERAL ENERGY REORGANIZATION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 5 minutes.

● Mr. BROYHILL. Mr. Speaker, today I have the privilege of joining my good friend, the distinguished gentleman from New York (Mr. HORTON), in introducing in the House the President's legislation to reorganize the energy functions of the Federal Government with the general responsibilities for economic policy at the Department of Commerce. I believe that this transfer makes good sense and I support it. But I also believe that the President should be afforded the same ability to organize the executive branch which other Presidents have enjoyed. I will remind my colleagues that Congress accommodated President Carter's wish to create the DOE; we should enable President Reagan to organize energy policy as he sees fit.

As the ranking minority member of the Committee on Energy and Commerce, I understand why integrating energy with economic policy makes both good energy policy and good economic policy.

The committee on which I serve deals with "energy policy generally" according to our jurisdictional charter. As my colleagues know, the Committee on Energy and Commerce was, until this 97th Congress, known as the Committee on Interstate and Foreign Commerce. Our devotion to energy policy was no less active or dedicated under our previous name. But what we on our committee have always enjoyed is the breadth of understanding that comes from looking at energy policy in a committee whose jurisdiction also in-

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cludes railroads and transportation, telecommunications, environmental laws, health programs, the securities industries and a host of the basic economic industries of the Nation. This mix of subjects makes us better legislators and equips us to make better policy. Based on our own experience, we should applaud the administration's proposal to adopt a similar alinement of duties among the Cabinet departments. The Congress, as least this body, could even consider the President's proposal a compliment by imitation.

As Joseph R. Wright, Jr., the Deputy Director of the Office of Management and Budget has said, "energy is business. In the final analysis, thousands of companies—producers, suppliers, distributors, equipment manufacturers—will take the steps necessary to fulfill the Nation's energy needs. Knowledge of what makes business tick, not abstractions about a centrally planned 'energy future,' has to be the basis for effective energy policy." I agree with him. The President's proposal will result in superior energy policy. This is because energy policy will be based upon the principle that while energy is an important element in our economy, it is far too vital to consider in isolation. Therefore, integrating DOE largely into the Commerce Department is a most logical reorganization.

The question has risen over the potential cost savings of this bill. My colleagues may be aware of a recent General Accounting Office report which concluded that the President's proposal to reorganize the DOE will not necessarily result in significant budget savings. Well, the GAO has missed the point entirely. The purpose of this legislation is not to save money. It is to improve the formulation and administration of energy policy. So I am terribly concerned about the GAO report. Far from being "devastating," as some have said, the GAO report is not relevant.

THE GAO FOCUSES ON THE WRONG ISSUE

Of all the reasons why the President's proposal to reorganize energy programs is a good idea, one of the lesser reasons is cost savings. President Reagan's May 24, 1982, letter transmitting the reorganization legislation to Congress does not mention even the potential for cost savings as a justification for the legislation.

What the President does say is that, "By transferring the current responsibilities of the Department of Energy to more appropriate agencies we can preserve and, in important ways, strengthen essential Government-related energy activities." By refusing to analyze this point and turning instead to the nonissue of cost savings, those who asked the GAO to complete this exercise have shown us a classic case of setting up and knocking down a strawman.

The truth is, administration officials have always been reluctant to specify cost savings of reorganization despite persistent inquiries about such savings from the press and elsewhere. They have been reluctant for two reasons: First, cost savings are not the sole reason why reorganization is being sought; second, until legislation is enacted, no one can say with any degree of certainty precisely how much money may be saved.

FAR FROM BEING DEVASTATING, THE GAO REPORT IS NOT EVEN RELEVANT

The GAO report was purportedly compiled between February and May 1982. Inasmuch as the actual reorganization legislation was not introduced in the Senate until May 24, 1982, it hardly seems devastating, as some contend, that concrete cost estimates of reorganization had not yet been developed. GAO notes, as if in passing, that on June 24 the Secretary of Commerce estimated cost savings of $250 million over 3 years. This is a far cry from the earlier figures GAO criticizes the administration for failing to justify.

Although the GAO asserts that this $250 million estimate, too, is flawed by lack of adequate documentation of both costs and benefits, GAO does not explain how it arrived at this conclusion. Considering the GAO's statement that by June 24 "this report was undergoing final processing," it is not likely that GAO did any extensive review of Secretry Baldrige's estimate. How much of the $250 million cost saving is adequately documented? What more documentation and analysis is needed?

COST SAVINGS COME FROM BUDGET CUTS—NOT REORGANIZATION

The GAO perpetuates the widespread confusion regarding cost savings attributable to energy program cutbacks, and cost savings attributable to reorganization. Many of the cost saving claims disputed by GAO refer to energy program changes and the reorganization of DOE. An example is the administration's 1983 budget proposal. No one disagrees that it would be wrong to claim as reorganization cost savings amounts saved through energy program changes. But no one has made such a claim. Another strawman bites the dust. When the strawmen are cleared away, the GAO report is reduced to a two-page description of the need for more transitional planning; it is rather dull reading of little value.

Mr. Speaker, I would like to insert in the RECORD a letter to me from the Deputy Director of the Office of Management and Budget, Mr. Joseph R. Wright, Jr., on this subject. In addition, I would also like to introduce two letters to the editor, also by the Deputy Director of OMB, one to the New York Times and one to Newsday. My colleagues will find these letters unusually cogent and helpful.

Mr. Speaker, again let me repeat that it is with pleasure that I have introduced this legislation and I look forward to working toward a schedule of congressional consideration. Thank you, Mr. Speaker. The material follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 3, 1982.

Hon. JAMES T. BROYHILL,
Ranking Minority Member, Committee on Energy and Commerce,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BROYHILL: On August 2, 1982, the General Accounting Office released a report entitled "Analysis of Energy Reorganization Savings Estimates and Plans." The GAO criticized the Administration for failing to develop reliable information on key aspects of the proposed reorganization and for failing to develop adequate implementation plans.

As the report notes on page iv, "GAO did not seek comments on this report" from the relevant agencies of the Executive Branch. Although GAO claims to have discussed the contents of the report with "Administration officials responsible for energy reorganization matters," no senior policy officials of the Administration were afforded an opportunity to contribute information to the GAO for use in its report. I appreciate this opportunity to comment on the GAO findings.

Because GAO so narrowly circumscribed the sources of information it used in the preparation of its evaluation, the report fails to recognize the extensive, high-level, and on-going effort of the Administration to plan effectively for the termination of the Department of Energy. We are fully cognizant of the need to learn from previous reorganization efforts; that is one reason we have always assumed a substantial transition period between enactment of the dismantlement legislation and its effective date.

To criticize the Administration for failing to document precisely the cost-savings attributable to its reorganization plan verges on hypocritical in light of the GAO report's observation that "the transfer of energy functions would result in numerous expenses—both quantifiable and unquantifiable—which would be involved in trying to reassign and coordinate the activities of a Cabinet-level department." (p. 11). Savings estimates prepared in advance of actual implementation plans—which in turn must necessarily await final action by Congress on the precise specification of the reorganization—can never meet the auditing standards one would apply to program budget requests.

Administration witnesses testifying on this matter before the Senate Committee on Governmental Affairs were very careful to note that our estimates of savings from the reorganization were tentative and that a fully detailed estimate would have to await the completion of work that is still in progress.

In the context of a Federal budget of over $700 billion, the administrative cost savings from reorganizing energy activities are relatively minor, even if the most optimistic projections are realized. To focus on this aspect of the President's proposal is to lose sight of his basic policy objective: to create an organizational structure that reflects this Administration's approach to energy issues.

Creation of the Department of Energy was accompanied by a vast panoply of regulatory and subsidy programs aimed at planning the managing every aspect of energy consumption and production in the American economy. After just five years, it is evident that the assumptions behind this comprehensive energy program were almost totally false. The American economy is capable of responding quickly and with innovation and foresight to the challenges imposed by the post-1973 world energy situation. Detailed government regulation and targetting of development subsidies only distorted and delayed the process.

Having a separate Cabinet department devoted to energy reflects the mistaken belief that energy issues should be dealt with in isolation from economic questions. Yet the real significance of energy is of course its effect on the productive output of our economy. By transferring responsibility for energy to the Department of Commerce, the President's plan will ensure integration of energy policy with policies toward other segments of the economy. I would note further that of the top three free world economic powers, only the United States has isolated energy responsibilities in a separate document. Both West Germany and Japan place energy functions in the agency that is the counterpart to our Department of Commerce.

In short, the Administration does not believe that any of the criticism presented in the GAO report justifies altering our commitment to dismantling the Department of Energy. Prior to receiving the report, we had independently begun work on the detailed planning recommended by the Comptroller General. We would of course welcome any specific suggestions from the GAO concerning lessons that have been learned in prior reorganizations.

Sincerely,

Joseph R. Wright, Jr.,
Deputy Director.

[From the New York Times, July 23, 1982]

The Proper Context for U.S. Energy Policy

To the Editor:

In the discussion of President Reagan's proposal to abolish the Department of Energy and transfer its principal functions to the Department of Commerce, the impression has been created that the importance of energy in our national economy, and therefore in Government policy, will somehow be downgraded. Such a view was expressed, for example, in your editorial "Energy Belongs in the Cabinet" [May 29].

Far from being demoted in importance, Federal attention to energy issues will become more effective if lodged in Commerce. And, of course, in Commerce, energy will be in the Cabinet.

Take, for example, the formation of energy policy. Energy is involved in literally everything we make or do.

How then can we establish sensible energy policy so long as we leave energy in an independent Cabinet agency, which simply perpetuates the notion that energy should be dealt with as something distinct from the rest of the economy? Of all the things that need to be integrated into overall economic policy-making on a continuing basis, energy is perhaps the most important.

Further, the plain fact is that energy is business. In the final analysis, thousands of companies—producers, suppliers, distributors, equipment manufacturers—will take the steps necessary to fulfill the nation's energy needs. Knowledge of what makes business tick, not abstractions about a centrally planned "energy future," has to be the basis for effective energy policy.

On both counts, there is good reason to believe that the President's proposal will lead to better energy policy for the nation.

Commerce supports and participates in every phase of economic policy-making, both domestic and international. It is the home of a good part of the Government's statistical and economic analysis activities. It generates the facts that explain how our economy, and the parts of our economy, are performing. What could be more sensible than to give Commerce responsibility for integrating energy into the mainstream of Federal attention to domestic and international economic policy?

The same argument applies to the research and development programs to be transferred from D.O.E. to Commerce.

The department is no newcomer to the management of science and R. & D. programs. Commerce's National Bureau of Standards is one of the world's leading scientific and technological institutions. Also within the Commerce Department are the National Oceanic and Atmospheric Administration, the Patent Office and the National Telecommunications and Information Administration. In various ways, all these agencies are already involved in the energy field.

The creation of the Department of Energy, the isolation of energy within a set of bureaucratic borders, has not had the effect Congress originally intended—that of integrating a vital energy policy with our overall economic and foreign policy. The inevitable result was a parochial view of energy issues and a compulsion for Government to "do something" to solve every problem, a compulsion that did not benefit the nation or its consumers.

Notwithstanding what your editorial implies, organizational arrangements do count; they do influence outcomes. It is time we place energy policy and energy R. & D. in an agency best equipped to do the job—the Commerce Department.

Joseph R. Wright, Jr.,
Deputy Director,
Office of Management and Budget.

[From Newsday]

How To Meet U.S. Energy Needs

Your editorial "A Case for Saving the Energy Department" [June 6] accurately states some of the nation's needs in the energy field. I disagree, however, with your prescription on how to meet them.

You refer to our country's need for a "coherent energy policy." But a coherent energy policy cannot be formulated truly in isolation from the effect of that policy on the national economy. The country will never have a coherent approach to energy as long as energy policy is made by an independent Cabinet agency, in a vacuum, separate and apart from our country's overall economic objectives.

This is why President Reagan proposed to transfer responsibility for energy policy to the Commerce Department. One of Commerce's principal concerns is to help develop national economic policy. The department houses the government's principal statistical, economic analysis and industry analysis agencies. Under the President's proposal, energy information and analysis will shift to Commerce. This combination will enable energy policy to be fully integrated into overall economic policy on a continuing basis. Commerce's responsibilities in both domestic business and international trade ensure that a broad range of perspectives will be brought to bear on policymaking in the energy field.

You also suggest that the administration's policies call for "blind dependence on the marketplace" to meet the nation's energy needs. it is time that we want to increase reliance on the marketplace, and I would suggest that the President's decontrol of crude oil and petroleum products is one of the reasons we are less dependent on oil imports today. But the administration's commitment to the marketplace is by no means "blind."

Indeed, the reorganization proposal recognizes fully, and will further enhance, the improved management of the government's essential responsibilities in energy. These include: protecting against energy supply disruptions through planning and the maintenance of a strategic petroleum reserve; supporting long-term, high-risk basic research on energy technology; supporting development of exports in the energy sector, and supporting national defense needs through civilian-controlled research on and production of nuclear weapons.

You mention the need for "a better plan for allocating gasoline than the one that created long lines at gas stations three years ago." A better plan exists, and it's called the marketplace. If we had relied on the marketplace instead of elaborate government intrusion into the energy sector, we would not have had those lines at all. Numerous studies have confirmed the disruptive effects of government fuel allocation.

Finally, I can assure you we don't need an Energy Department to make certain of having "somebody around to remind the President that energy is an issue." Under the President's proposal, we will have somebody—a Cabinet official in the person of the secretary of commerce, whose broad responsibilities for both domestic and international aspects of the economy ensure that energy policy will at last have the high priority it deserves, now and in the future.

Joseph R. Wright, Jr.,
Deputy Director,
Office of Management and Budget.●

HUNTING AMENDMENT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman for Alaska (Mr. Young) is recognized for 5 minutes.

● Mr. **YOUNG** of Alaska. Mr. Speaker, I am introducing today a bill which would rectify problems that have plagued Alaskans and Americans who rightly assert their legitimate needs for hunting, as a result of the Alaska lands bill. The Alaska Lands Act designated 24.6 million acres of new parks and momuments in addition to the 7.5 million acres of parks that existed prior to 1980. An area in Alaska one-third the size of California is closed to sport hunting but open to subsistence hunting. This is more land than all the parks in the lower 48 States. Alaskans had hunted these lands consistently until President Carter withdrew these lands under the Antiquities Act

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in 1978. In one felled swoop with passage of the Alaska Lands Act, millions of Americans were denied the right to hunt on vast acreages in Alaska.

Mr. Speaker, hunting is compatible with protection in the parks, and hunting is compatible with the proper management of wildlife. Alaskans want to be able to continue hunting in Alaska in the places they have always hunted and they want to manage their wildlife as they have done so sucessfully in the past. Controlling hunting in Alaska from Washington, D.C. is wrong and immoral and it is unfortunate that we have to do this now after the passage of the Alaska Lands Act.

This legislation recognizes that visitation to parks is consistent with allowing sport hunting and recognizes that while hunting occurs in the fall, visitation occurs in spring and summer.

Alaskans who depend upon hunting for recreation, for the challenge of the hunt, and for the supplements of game to the tables in their homes will welcome this legislation especially in light of the fact that subsistence hunting already occurs on these lands. Under my legislation, old park areas will be preserved in their present park status; however, parts of vast new parks will be open to proper game management through sport hunting. Those Americans who enjoy hunting as a legitimate form of recreation should not be denied the right to pursue that recreation and should not have to play second fiddle to the backpackers and the photographers who also enjoy their recreation.

Mr. Speaker, I hope that with the introduction of this legislation the American people will watch closely the actions of Congress and judge by their actions whether this is an antihunting Congress or a Congress that supports hunting and the rights of those Americans who enjoy hunting. I ask that this bill be printed in the Record in its entirety.

Thank you, Mr. Speaker.

H.R. 6977

A bill to redesignate public land in Alaska to allow hunting

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Public Law 96-487) is amended by striking out "one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,0007, and dated July 1980" and inserting in lieu thereof "Approximately one million three hundred forty-five thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 2. Section 201(4)(a) of such Act is amended by striking out "Seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980" and inserting in lieu thereof "one million nine hundred fifty-three thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately four million eight hundred twenty-four thousand acres of Federal lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 3. Section 201(8)(a) of such Act is amended by striking out "six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980" and inserting in lieu thereof "Seven million six hundred thirty-five thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 4. Section 201(7)(a) of such Act is amended by striking out "two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978" and inserting in lieu thereof "one million four hundred fourteen thousand acres of public lands, and Lake Clark National Preserve, containing approximately two million two hundred thirty-nine thousand three hundred fifty acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 5. Section 201(9) of such Act is amended by striking out "eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980" and inserting in lieu thereof "five million eight hundred twenty-five thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately six million four hundred ninety-three thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 6. Section 202(3)(a) of such Act is amended by striking out "two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980" and inserting in lieu thereof "nine hundred thousand acres of public land, and approximately two million eight hundred fifty-six thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 7. Section 202(5) of such Act is amended by striking "Kenai Fjords National Park containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978" and inserting in lieu thereof "Kenai Fjords National preserve containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numered AK-1000, and dated Auguest 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 8. Section 202(1) of such Act is amended by striking out "five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978" and inserting in lieu thereof "three hundred nine thousand acres of public land. Approximately two hundred seventy-one thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered AK-1000 and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".

Sec. 9. Section 201(1) of such Act is amended by striking out "one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred seventy-six thousand acres of public lands, as depicted and on map numbered ANIA-90,005, and dated October 1978." inserting in lieu thereof "fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately four hundred sixty-four thousand acres of public lands as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary.".●

FINANCIAL DANGER AND THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, last week, a $450 million bank in Texas, the Abilene National, was forced into a merger by regulatory authorities. Mergers of savings and loan associations are taking place by the dozens, and more often than not these are also forced mergers. The Penn Square Bank of Oklahoma City utterly collapsed. Chase Manhattan, with a generous bagful of losses created by the collapse of Drysdale Securities, and another bagful of bad paper it bought from Penn Square, reports a quarterly loss. The giant Continental Illinois Bank reports a loss of $61 million for the last quarter, with more bad news ahead. These are not unrelated events. They cannot be wished or explained away. They are danger signs.

The problems are not only domestic; they are worldwide. The Banco Ambrosiano, one of the great banking houses of the world, is in the deepest kind of trouble. The Canadian Bank of Nova Scotia, the 50th largest bank in the world, has found itself in such straits that it felt called upon to issue a stiff statement on July 2: "Any concerns about the bank's stability and strength are unfounded." A week later, the world's 73d largest bank, this one a German institution, declared that any rumors about it being in trouble are, "stupid and totally useless." The respected economist magazine acidly notes: "Such phrases have marked the tombstones of countless dead banks."

The troubles of the world banking system are so great that no less a figure than Robert McNamara now says that there ought to be a world central bank, a bank that can act to regulate helter-skelter international lending, and a bank that can also act as a lender of last resort to keep a world panic from blowing out of what would otherwise be a controllable event. The world's central bankers have quietly agreed that, well, yes, something needs to be done. Their problem is to solve the situation without admitting that the world is in the gravest kind of financial danger—that the powder keg is standing in the midst of a very hot shower of sparks.

Consider this: Poland cannot possibly repay its billions of dollars in debts to private banks all over the Western World, especially banks in Germany. Yet the United States—and all other countries—refuse to call a spade a spade, and say that Poland is, in fact, in default on its debts. This is more than a question of being polite; the fact is that if the Polish debt is defaulted, banks will have to write those off; there are many banks that simply cannot do that and stay afloat. And so there is this convenient fiction: The Polish debt is still a good risk, notwithstanding the fact that it is likely never to be repaid.

Then there is the collapse of the gigantic Telefunken, which owes $1.6 billion to various German banks. There is no doubt that these banks, faced with bad loans in Poland and with Telefunken, have more troubles than a stiff press statement can paper over.

American banks, for their part, hold a vast number of foreign loans that are of less-than-decent quality. The gigantic Mexican conglomorate, ELF, cannot pay on its hundreds of millions in loans—it could not pay even before the latest crash of the peso. American banks hold $26.4 billion in claims on various Mexican entities, not the least of which is the Government of Mexico. The Mexican peso is worth today only one-fourth of what it was worth last spring. Mexico is in a state of progressive economic and social upheaval, and not all the good will, not all the well wishing, not all the bankerly confidence in the world, can conceal the fact that American banks are holding onto billions of dollars in Mexican loans that are likely never to be repaid.

American banks also have $11 billion in loans to Argentina, which is one of the world's financial basket cases. There are $20 billion in loans outstanding to Brazil, which is experiencing a fresh crisis of its own. Then there are tens of billions of dollars in Eurocurrency dealings through such money centers as Panama, Bahama, and the Caymans. No one can say how sound this business is: Not with the shakiness of regulation in those money centers, not with the shadiness involved with the supersecret, too often illicit dealings of money center operators, and not when you remember that the collapse of the Ambrosiano house of cards started with a $1.4 billion default in Panama.

American bank lending to foreigners has increased by 175 percent in the past 4 years; it stands today at close to $300 billion. Very often, these loans are to borrowers who cannot repay. The banks are skating on thin ice, indeed. Just how thin is made plain by the blunt words of the Economist on July 24:

> Banks depend on the maintenance of an illusion. A bank is solvent only so long as its depositors are convinced that it is solvent . . . the reasons for nervousness are of secondary importance. The nervousness, itself, is the critical thing.

Little wonder, then, that banks go to all kinds of trouble to deny any problems, even when there are problems. Thus, regulators did not warn anybody who accepted the bait of the Penn Square Bank, and shoved in large short term deposits on the recommendation of money brokers. Little wonder, then, that banks go all out to say that notwithstanding all the bad loans they are holding, there is no trouble in Chicago, or New York, or Bonn, or Montreal, or Oklahoma City, or Rome. But trouble there is, and trouble aplenty.

Take the case of Mexico.

American banks quintupled their loans to Mexico in the last 4 years, running the loans for Mexico from $5.5 billion to $26.5 billion. This made Mexico one of the most deeply indebted places on Earth. All of this was done because Mexico was said to be floating on an ocean of oil, which Mexico and its bankers felt assured was the same thing as having an ocean of money. But oil prices not only ceased going up; they started coming down. Mexico did not have as big a demand for its oil as had been expected. Further, what oil Mexico could sell was not selling at the price that Mexico needed. Presto, you have a country that is unable to meet its obligations; you have in fact the very same kind of situation—many thousands of times greater—that led to the collapse of the Penn Square Bank, the forced merger of Abilene National, and such incidentals as the more than 50 percent rundown in the price of First City National Bank stock, down in Houston. What those domestic bank problems are saying is this: Oil loans just have not panned out too well lately. The Mexican situation is no different, only it is thousands of times bigger.

The collapse of the Mexican illusion led to a flight of smart money out of Mexico; for months last year and early this year, Mexican citizens frantically poured their pesos into any and all kinds of American investments. There was no way that the value of the pesos would stand up—the veil of illusion has simply been shorn away. And so today the value of the peso is only about half what it was last week, and only about a fourth of what it was just a year ago. When a nation's currency collapses in such a way, there is not only trouble for the bankers: There is hardship for the people.

Mexico must buy grain—it now costs three or four times what it did a few weeks ago. Mexico must buy all kinds of goods abroad—and those goods all now cost vastly more than they did just a few weeks ago. But the income of the Mexican people has not increased. They cannot buy what they could before, and what they could buy before was not enough to keep unhappiness, deprivation and bitterness from overcoming what had been oil-inspired hopes for a better tomorrow. Now Mexicans not only face great and growing unemployment—on a scale that we cannot even imagine—they face downright hunger. There is desperation loose in the land, and the Mexican Government is confronted with a growing restlessness. Down in the south, the land of Zapata, there is real trouble, real violence, real anger. That land, the southern Mexico of Zapata, of the revolutionary tradition, is not, I remind you, far from Honduras, Guatemala, Nicaragua, and El Salvador.

Economic distress, and the dry and arcane world of banking, is directly related to personal hardship, personal distress, and personal anger. The dissolution of economies, and the dissolution of financial houses of cards, lead directly to social disruption. The Great Depression was not just a bad day on the stock market: It was a long and worldwide nightmare. And while we may trace it all to the stock market crash, its prevasiveness and paralyzing power very probably came from the collapse of an Austrian bank, the Credit-Anstalt. The central bankers of the day did not move in to save that institution, and the reverberations soon shattered banking worldwide.

Central bankers today are more sophisticated than they were in 1931. So are the banks. In fact, banks today are far more heavily involved with shaky

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international loans than they were then. But the world's bank regulators, those who stand between the foolish delusions of megabankers and the people who suffer from their errors, are no better prepared to deal with a crisis today than were the Austrians ready to deal with the liquidity problems of the Credit-Anstalt.

Listen to these somber words, written by Robert B. Zevin, a senior vice president at the United States Trust Co., in the current Atlantic magazine:

> The stability of this (banking) structure depends on the stability and rationality of its hundred or so principal players. . . . this splendid construction has the permanence of a sand castle.

Mr. Zevin, describing the Eurocurrency system, says that a relative handful of gigantic borrowers now owe a relative handful of gigantic banks $500 million in loans that they cannot repay, and that this amount grows by about $60 billion a year, just for interest charges. Since the loans cannot be repaid, the banks simply extend more, and bigger loans. This system works fine—but only "if the depositors do not demand their money—so that—the banks need not demand payment from the borrowers. So long as the banks roll over their loans and the depositors roll over their deposits, everyone is happy." Precisely. But what if a depositor, a big one, pulls out? There is the rub.

Suppose that a big depositor, a Saudi Arabia, became unhappy with some aspect of American policy. Suppose that country decided that it would punish the United States by pulling out its deposits at a big bank? That bank might then be forced to call for payments of its unpayable loans to Mexican firms like ELF, or the Mexican Government, or Argentina, or Poland. Then there would be disaster.

Ah, yes, the bankers say, but that will not happen. After all, we are in the best of all worlds—foreigners want their money here, where it is safe. Even if they did pull out, the Federal Reserve would make the situation good by pumping in liquidity to keep us alive.

But in the end, if the public failed to believe in the illusion, there would be panic. That is the risk, and that is the reality.

The fact of the matter is that there is no international system to regulate the fantastic international borrowings that are taking place. There is no international system that can require banks to maintain any kind of reserves against their Eurocurrency operations. There is no international system that can safeguard against the panic that might ensue from the default of a Polish, a Mexican, an Argentine debt. There is no international authority that can deal with a situation like the Ambrosiano.

Whether there can be such an authority is a matter of the most urgent moment. But beyond that, we have to face these realities: If we but look at the collapse of the Mexican bubble, and the crushing burden that it is placing on the people of Mexico—there we see the kind of possibilities that lie ahead. If we but look at the danger signs in our own economy—the collapsed housing market, the depressed steel business, the unprecedented number of business failures, the high and rising number of bank failures, the increasing admissions by banks that they are holding billions and billions in bad loans—then we see danger in our own country. And if we but look in a few other capitals, we see troubles there, too.

The dangers are all around. Thoughtful people realize that the world is no better prepared to deal with the kind of crises we see today than it was to deal with the crises of 1931. This is a different world; the problems are different, and new answers are needed. Yet we sail serenely on, unaware of the dangers, trusting in the smiles of lofty bankers who know in their hearts that they are trusting that the illusion will last until the danger somehow slides by. They proclaim that their system is safe. So did the captain of the *Titanic*. Just as that ship was not unsinkable, so the world—and our own—financial structure is not safe. And we don't have enough lifeboats, nor, tragically, do we have leadership that appears to recognize or care about the situation enough to take meaningful action to ease the danger.

But I say this: Arcane as this business is, if the leaders will not lead, then the people must push.

□ 2220

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. Wirth) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, on account of personal illness, I was unable to be present for a recorded vote this morning on the motion to approve yesterday's journal. Had I been present, I would have voted "yea."●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Jones of North Carolina (at the request of Mr. Wright), for today, on account of official business.

Mr. Brown of California (at the request of Mr. Wright), after 5:15 p.m. today through August 16, on account of representing the House at the United Nations Conference in Vienna.

Mr. Hutto (at the request of Mr. Wright), until 4 p.m. today, on account of a family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hunter) to revise and extend their remarks and include extraneous material:)

Mr. McKinney, for 5 minutes, today.

Mr. Broyhill, for 5 minutes, today.

Mr. Young of Alaska, for 5 minutes, today.

Mr. Latta, for 60 minutes, today.

Mr. Smith of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Wirth, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Panetta, after title IV to H.R. 6214 was designated in the Committee of the Whole today.

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. Findley.
Mr. Schulze in two instances.
Mr. Conte.
Mr. Spence in two instances.
Mr. Brown of Ohio.
Mr. Wortley in three instances.
Mr. Beard in two instances.
Mr. Bereuter.
Mr. McCloskey.
Mr. Bliley.
Mr. Goodling.
Mr. Shumway.
Mr. Gilman.
Mr. Young of Alaska.
Mr. Dougherty.
Mrs. Snowe in two instances.
Mr. Derwinski in 10 instances.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Pepper.
Mr. Lowry of Washington.
Mr. Hamilton.
Mr. Edgar.
Mr. Mazzoli in three instances.
Mr. Markey.
Mrs. Schroeder.
Mr. Florio.
Mr. Matsui.
Mr. Stump.
Mr. Dicks.
Ms. Oakar.

Mr. Boner of Tennessee.
Mr. D'Amours.
Mr. Ottinger.
Mr. Harkin.
Mr. Russo.
Mr. McDonald in three instances.
Mr. Brown of California.
Mr. Moffett.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken away from the Speaker's table and, under the rule, referred as follows:

S. 901. An act to preserve and protect the Georgetown waterfront for the recreational use of the public; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The **SPEAKER** announced his signature to an enrolled bill of the Senate of the following title:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Thursday, August 12, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4569. A letter from the Secretary of Education, transmitting proposed final regulations governing institutional aid programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4570. A letter from the Secretary of State, transmitting additional determination for inclusion in the certification reported in the second certification for the provision of certain security assistance and the assignment of certain military personnel to El Salvador, pursuant to section 728(e) of Public Law 97-113 as amended; to the Committee on Foreign Affairs.

4571. A letter from the Secretary, Department of Labor, transmitting the 1980 annual report on the administration of the Employee Retirement Income Security Act (ERISA), pursuant to section 513(b) of that act; jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 1489. A bill to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available; with an amendment (Rept. No. 97-723). Referred to the House Calendar.

Mr. SAM B. HALL, JR. Committee on the Judiciary. H.R. 5288. A bill granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste (Rept. No. 97-724). Referred to the House Calendar.

Mr. SAM B. HALL, JR. Committee on the Judiciary. H.R. 6168. A bill to amend chapter 41 of title 18, United States Code, to prohibit threats against Presidential candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose; with amendments (Rept. No. 97-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. GINN. Committee on Appropriations. H.R. 6968. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-726). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ST GERMAIN (for himself, Mr. Wright, Mr. Reuss, Mr. Foley, Mr. Alexander, Mr. Murtha, Mr. Flippo, Mr. Coelho, Mr. Fazio, Mr. Mineta, Mr. Hawkins, Mr. Ratchford, Mr. Fascell, Mr. Lehman, Mr. Brinkley, Mr. Annunzio, Mr. Benjamin, Mr. Harkin, Mr. Smith of Iowa, Mr. Glickman, Mr. Hubbard, Mrs. Boggs, Mr. Dyson, Mr. Donnelly, Mr. Mavroules, Mr. Ford of Michigan, Mr. Wolpe, Mr. Dwyer, Mr. Florio, Mr. Minish, Mr. Rodino, Mr. Roe, Mr. Addabbo, Mr. Lundine, Mr. Nowak, Mr. Peyser, Mr. Rangel, Mr. Rosenthal, Mr. Solarz, Mr. Zeferetti, Mr. Hefner, Mr. Applegate, Mr. Eckart, Mr. Luken, Mr. Mottl, Ms. Oakar, Mr. Seiberling, Mr. Shamansky, Mr. Edgar, Mr. Foglietta, Mr. Murphy, Mr. Walgren, Mr. Boner of Tennessee, Mr. de la Garza, Mr. Frost, Mr. Gonzalez, Mr. Hance, Mr. Hightower, Mr. Mattox, Mr. Bonker, Mr. Lowry of Washington, Mr. Mollohan, Mr. Washington, Mr. Dicks, and Mr. Patman):

H.R. 6967. A bill to amend the Federal Reserve Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GINN:

H.R. 6968. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations.

By Mr. BEARD:

H.R. 6969. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to maintain current provisions (scheduled to be repealed) relating to the State trigger and to restore a former provision relating to the insured unemployment rate; to the Committee on Ways and Means.

By Mr. COELHO:

H.R. 6970. A bill to limit the obligation of funds by Federal agencies during the last 2 months of a fiscal year; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 6971. A bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, to provide that benefits continue to be paid through a determination by an administrative law judge, and for other purposes; to the Committee on Ways and Means.

By Mr. HORTON (for himself and Mr. Broyhill):

H.R. 6972. A bill to transfer the functions of the Department of Energy to other agencies, to maintain continuity in vital programs and relationships, to recognize the Federal Energy Regulatory Commission as a separate independent regulatory agency, and for other purposes; jointly, to the Committees on Government Operations and Energy and Commerce.

By Mrs. KENNELLY:

H.R. 6973. A bill to amend the Social Security Amendments of 1977 to extend for five more years the exemption from reduction of benefits under title II of the Social Security Act for spouses receiving Government pensions and to apply the reduction in the duration-of-marriage requirement to such exemption; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 6974. A bill to provide that the United States District Court for the District of Colorado shall be held at Boulder, Colo., in addition to those places currently provided by law; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself, Mr. Bafalis, Mr. Duncan, Mr. Fowler, Mr. Hance, and Mr. Holland):

H.R. 6975. A bill to amend the Internal Revenue Code of 1954 to exempt from rules relating to foreign conventions all conventions, et cetera, held on domestic cruise ships and on certain foreign cruise ships which port in qualified Caribbean Basin countries; to the Committee on Ways and Means.

By Mr. SIMON (for himself and Mr. Shaw):

H.R. 6976. A bill to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 6977. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Interior and Insular Affairs.

By Mr. EARLY:

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; to the Committee on Post Office and Civil Service.

By Mr. EMERY (for himself and Mrs. Snowe):

H.J. Res. 569. Joint resolution redesignating the St. Croix Island National Monument in the State of Maine as the St. Croix Island

International Historic Site"; to the Committee on Interior and Insular Affairs.

By Mr. GRAY (for himself, Mr. Mitchell of Maryland, and Mr. Conyers):

H. Con. Res. 393. Concurrent resolution expressing the sense of the Congress that the Attorney General should prosecute violations of the civil rights laws and Federal criminal laws by the Ku Klux Klan to the greatest extent possible, and that civic and religious groups should help to teach the young people of our Nation about the benefits of tolerance and the contribution that each of the ethnic, racial, and religious groups in this country makes to our American way of life; jointly, to the Committees on the Judiciary and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 231: Mr. Martinez.

H.R. 907: Mr. Hughes.

H.R. 1513: Mr. Lantos.

H.R. 1514: Mr. Lantos.

H.R. 2954: Mr. Patman and Mr. Mattox.

H.R. 3314: Mr. Trible.

H.R. 4627: Mr. Lott, Mr. Huckaby, Mr. Napier, Mr. Dingell, Mr. Panetta, Mr. Morrison, Mr. Fowler, Mr. Hartnett, Mr. Derrick, Mr. Wolf, Mr. Hughes, and Mr. Anderson.

H.R. 4806: Mr. Stokes, Mr. Hutto, and Mr. Roe.

H.R. 5995: Mr. Patterson.

H.R. 6460: Mr. Dunn and Mr. LeBoutillier.

H.R. 6463: Mr. Hamilton and Mr. Dyson.

H.R. 6607: Mr. Wolf, Mr. Porter, Mr. Hiler, Mr. Weber of Minnesota, and Mr. Gregg.

H.R. 6608: Mr. Wolf, Mr. Porter, Mr. Hiler, Mr. Spence, Mr. Weber of Minnesota, and Mr. Gregg.

H.R. 6745: Mr. Bereuter.

H.R. 6781: Mr. Jacobs, Ms. Oakar, Mr. Lehman, Mr. Wilson, Mr. Heftel, Mr. Forsythe, Mr. Bonior of Michigan, Mr. Benjamin, Mr. Crockett, Mr. Hoyer, Mr. Smith of Alabama, Mr. Neal, Mr. Washington, Mr. Harkin, Mr. O'Brien, Mr. McCloskey, Mr. Cheney, Mr. Gore, Mr. Watkins, Mrs. Schroeder, Mr. English, Mr. Rahall, Mr. Huckaby, Mr. Bereuter, Mr. Young of Alaska, Mr. Emerson, Mr. Spence, Mr. White, Mr. Findley, Mr. Patman, Mr. Gradison, Mr. Kildee, Mr. Aspin, Mr. Pritchard, Mr. Dannemeyer, Mr. Latta, Mr. Roberts of Kansas, Mr. Kogovsek, Mr. Gingrich, Mr. Whittaker, Mr. Wolpe, Mr. McDonald, Mr. Jeffords, Mr. Rogers, Mr. Deckard, Mr. Minish, Mr. Petri, Mr. Whitley, Mrs. Martin of Illinois, Mr. Fowler, Mr. Molinari, Mr. Gregg, Mr. Bailey of Pennsylvania, Mr. Chappie, Mr. Hubbard, Mr. Daniel B. Crane, Mr. Shaw, Mr. Evans of Indiana, Mr. Simon, Mr. Hansen of Utah, Mr. Dreier, Mr. Marriott, Mr. Stark, Mr. Madigan, Mr. Craig, Mr. Mavroules, Mr. Carman, Mr. James K. Coyne, Mr. Rousselot, Mr. Wampler, and Mr. Hunter.

H.R. 6800: Mr. Hoyer, Mr. Wolf, Mrs. Holt, Mr. Robert W. Daniel, Jr., Mr. Pepper, Mr. Horton, and Mr. Dougherty.

H.R. 6813: Mr. D'Amours.

H.R. 6894: Mr. Bowen.

H.R. 6897: Mr. Goodling.

H.R. 6901: Mr. Hollenbeck, Mr. Hughes, Mr. Murtha, Mr. Smith of Pennsylvania, Mr. Guarini, and Mrs. Roukema.

H.R. 6917: Mr. Stokes and Mr. Porter.

H.J. Res. 323: Mr. Shamansky, Mr. Tauzin, Mr. Waxman, Mr. Murphy, Mr. Sawyer, Mr. Ottinger, Mr. Rosenthal, Mr. Lehman, Mr. Walgren, Mr. Oxley, Mr. James K. Coyne, Mr. Nelligan, Mr. John L. Burton, and Mr. McDade.

H.J. Res. 492: Mr. Hyde, Mr. Yatron, Mr. Simon, Mr. Derrick, Mr. Gore, Mr. Mitchell of New York, Mr. Addabbo, and Mr. Alexander.

H.J. Res. 543: Mr. Daschle, Mr. Hansen of Idaho, Mr. Clausen, Mr. McDonald, Mr. Beard, Mr. Daub, Mr. Forsythe, Mr. Fountain, Mr. Evans of Georgia, Mr. Addabbo, Mr. Hiler, Mr. Rahall, Mr. Marriott, Mr. Edwards of Oklahoma, Mr. Jeffries, Mr. Lagomarsino, Mr. Frenzel, and Mr. Roberts of South Dakota.

H.J. Res. 552: Mr. Patterson, Mr. Evans of Indiana, Mr. McKinney, and Mr. Schumer.

H. Con. Res. 253: Mr. Frank, Mr. Annunzio, Mr. Akaka, Mr. Jacobs, Mr. Peyser, Mr. Parris, Mr. Barnes, Mr. Frost, Mr. Coats, Mr. Bowen, Mr. Hughes, Mr. Mavroules, Mr. Synar, and Mr. Watkins.

H. Con. Res. 330: Mr. Marriott, Mr. Rangel, Mr. Clausen, Mr. Williams of Montana, Mr. Forsythe, Mr. Molinari, Mr. AuCoin, Mr. Kramer, Mr. McDonald, Mr. James K. Coyne, Mr. Neal, Mr. Benjamin, Mr. Wirth, Mr. Wolpe, Mr. Lagomarsino, Mr. Courter, Mr. Simon, Mr. Lehman, Mr. McGrath, Mr. Gradison, Mr. Bingham, Mr. Mavroules, Mr. Whitehurst, Mr. Archer, Mr. Dellums, Mr. Harkin, Mr. Carney, and Mrs. Collins of Illinois.

H. Con. Res. 364: Mr. Rodino, Mr. Watkins, and Mr. Dorgan of North Dakota.

H. Con. Res. 378: Mr. Wolpe.

H. Con. Res. 391: Mr. Patterson, Mr. LeBoutillier, Mr. Forsythe, Mr. Conte, Mr. Udall, Mr. Derwinski, Mrs. Fenwick, Mr. Hyde, Mr. Frank, Mr. Wolpe, Mr. McDonald, Mr. Frenzel, and Mr. Shamansky.

H. Res. 558: Mr. Dougherty, Mr. Hubbard, Mr. DeNardis, Mr. LeBoutillier, Mr. Barnes, Mr. Sharp, and Mr. Moffett.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3973: Mr. Skeen.

H.R. 6944: Mr. Dougherty.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3432

By Mr. ROE:

(Amendment in the nature of a substitute.)

TITLE I—WATER RESOURCES RESEARCH ACT

Sec. 101. This title may be cited as the "Water Resources Research Act of 1982". Title I is hereafter referred to in this title as the "Act".

Sec. 102. The Congress finds and declares that—

(1) the existence of an adequate supply of water of good quality for the production of materials and energy for the Nation's needs and for the efficient use of the Nation's energy and water resources is essential to national economic stability and growth, and to the well-being of the people;

(2) there is an increasing threat of impairment to the quantity and quality of surface and ground-water resources;

(3) the Nation's capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at the Federal, State, and local governmental levels;

(4) there should be a continuing national investment in water and related research and technology commensurate with growing national needs;

(5) it is necessary to provide for the research and development of technology for the conversion of saline and other impaired waters to a quality suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(6) the pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

Sec. 103. It is the purpose of this Act to assist the Nation and the States in augmenting their water resources science and technology as a way to—

(1) assure supplies of water, sufficient in quantity and quality, to meet the Nation's expanding needs for the production of food, materials, and energy;

(2) identify and find practical solutions to the Nation's water and water resources related problems, particularly those problems related to impaired water quality;

(3) promote the interest of State and local governments as well as private industry in research and the development of technology that will reclaim waste water and to convert saline and other impaired waters to waters suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(4) coordinate more effectively the Nation's water resources research programs.

Sec. 104. (a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to assist the work of any water resources research and technology institute, center, or equivalent agency (hereinafter in this title referred to as the "institute") established in the States in accordance with the terms of subsection (f) of this section.

(b) Each designated institute shall—

(1) have responsibility for planning, conducting, and/or arranging for competent research in relation to water resources, including investigations and experiments of either a basic or practical nature, or both; to promote the dissemination and application of the results of these efforts; and to provide for the training of scientists and engineers through such research, investigations, and experiments, and

(2) cooperate closely with other colleges and universities in the State that have demonstrated capabilities for research, information dissemination, and graduate training in order to develop a statewide program designed to resolve State and regional water and related land problems. Such institute shall also cooperate closely with regional consortia, as may be designated by the Secretary to increase the effectiveness of the institutes and for the purpose of regional coordination.

(c) Prior to the receipt each fiscal year of funds authorized by subsection (e) of this section, each institute shall submit to the Secretary for his approval a water research program that includes assurances, satisfac-

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tory to the Secretary, that such program was developed in close consultation and collaboration with the director of that State's department of water resources, or similar agency, and other leading water resources officials with the States, including interested members of the public. The program described in the preceding sentence shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the State and Nation, and encourage regional cooperation among institutes in research into areas of water management, development, and conservation that have a regional or national character.

(d) From the sums appropriated pursuant to subsection (e) of this section, the Secretary shall make grants to each designated institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1983, and September 30, 1984, one and one-half non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1985, and September 30, 1986, and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1987.

(e) There is hereby authorized to be appropriated to the Secretary for the purpose of carrying out this section the sum of $8,100,000 during each of the fiscal years ending September 30, 1983, through September 30, 1987.

(f) For the purposes of this section, an institute may be established at one college or university in each State, which was established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or some other institution designated by act of the legislature of the State concerned, except that (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has or may reasonably be expected to have the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the sums otherwise allocated to institutes in each of the cooperating States shall be paid to such regional institute.

Sec. 105. (a)(1) In addition to the grants authorized by section 104 of this Act, the Secretary is authorized to make grants, on a dollar-for-dollar matching basis, to the institutes established pursuant to section 104 of this Act, as well as other qualified educational institutions, private foundations, private firms, individuals, and agencies of local or State government for research concerning any aspect of a water-related problem which the Secretary may deem to be in the national interest, including the operation of test facilities.

(2) In cases where the Secretary determines, according to criteria established by him, that research under this section is of a basic nature which would not otherwise be undertaken, the Secretary may approve grants under this section on a matching requirement other than that specified in paragraph (1) of this subsection.

(b) Each application for a grant pursuant to this section shall state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation as well as to the region and State concerned, its relation to other known research projects previously or currently being pursued, and the extent to which it will provide an opportunity for the training of water resources scientists. No grant shall be made under this section except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project and the need for the knowledge it is expected to produce when completed.

(c) The sum of $13,000,000 is authorized to be appropriated to the Secretary for the purposes of grants under this section, as well as for administration of grants under this section and grants to the institutes under section 104 of this Act for each of the fiscal years ending September 30, 1983, through September 30, 1987.

Sec. 106. The type of research to be undertaken under the authority of section 105 of this Act and to be encouraged by the institutes established under section 104 of this Act shall include, without being limited to—

(1) aspects of the hydrologic cycle;

(2) supply and demand for water;

(3) demineralization of saline and other impaired waters;

(4) conservation and best use of available supplies of water and methods of increasing such supplies;

(5) water reuse;

(6) depletion and degradation of ground water supplies;

(7) improvements in the productivity of water when used for agricultural and commercial purposes;

(8) the economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems;

(9) scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resources problems; and

(10) providing means for improved communication of research results, having due regard for the varying conditions and needs for the respective States and regions.

Sec. 107. As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Sec. 108. (a) Public Law 95-467 is repealed.

(b) Rules and regulations issued, prior to the date of enactment of this Act, under the authority of Public Law 95-467 shall remain in full force and effect under this Act until superseded by new rules and regulations promulgated under this Act.

TITLE II—WATER RESOURCES POLICY ACT

Sec. 201. Titles II through VI of this Act may be cited as the "Water Resources Policy Act of 1982." Titles II through VI of this Act are hereinafter in those titles referred to as the "Act."

Sec. 202. Nothing in this Act shall be construed to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water or related land resources planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects.

TITLE III—NATIONAL BOARD

Sec. 301. There is hereby established a National Board on Water Resources Policy (hereinafter referred to as the "Board") which shall be composed of seven members as follows: (1) the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, and the Administrator of the Environmental Protection Agency, or their respective designees, (2) two members who shall be appointed by the President with the advice and consent of the Senate, one from among nominations made by the Speaker of the House of Representatives, and one from among nominations made by the President pro tempore of the Senate; and (3) a Chairman who shall be appointed by the President by and with the advice and consent of the Senate. Any person designated a member by a Secretary or Administrator must be designated from among persons who are officers of the United States appointed by the President with the advice and consent of the Senate. The Chairman shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The two additional members appointed by the President shall be compensated on a daily basis for each day of service at the daily rate applicable to level IV of the Executive Schedule under section 5313 of title 5, United States Code, and shall be reimbursed for necessary travel and reasonable expenses incurred in attending meetings of the Board. During the period of his service on the Board, the Chairman and the members appointed by the President shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government. No retired officer or employee shall receive from the Federal Government for retirement benefits and service to the Board total compensation which exceeds the applicable rate for level III or IV of the Executive Schedule, as the case may be. The Chairman of the Board shall request the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Energy and the heads of such other Federal agencies as may be appropriate to participate without a vote with the Board when matters affecting their responsibilities are considered by the Board. The Board shall meet at least once during each quarter of the year. Any action of the Board shall require a quorum to be present and a majority vote of those members present and voting.

Sec. 302. The Board shall—

(1) perform studies and prepare assessments at such intervals as the Board may determine, of the adequacy of supplies of water (both quality and quantity) necessary to meet the water requirements in each water resource region in the United States and the national interest therein, taking into consideration the special needs of rural areas due to increasing demands for water to provide sustained economic development and agricultural productivity; and

(2) perform studies and prepare assessments of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of

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the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; appraise the adequacy of existing and proposed policies and programs to meet such requirements; and make recommendations to the President and to Congress with respect to Federal policies and programs.

For purposes of this section, policies and programs shall include, but not be limited to, water and related land resources planning, development, management, and conservation; integration of water quantity and water quality planning and management; and enhancement of State and local capabilities with respect to water and related land resources planning, developing, management, and conservation.

SEC. 303. (a) The Board shall assist in interagency coordination of Federal water resources research. Such coordination shall include, but not be limited to, (1) continuing review of the adequacy of Federal programs in water resources research and identification of technical needs in various water resources research categories, (2) identification of duplication and overlapping between two or more Federal water resources research programs and elimination of such duplication and overlapping to the extent that this may be accomplished under existing law, (3) recommendations to the Federal agencies involved in Federal water resources research with respect to allocation of technical efforts among such agencies, (4) recommendations to such Federal agencies concerning management policies to improve the quality of Federal research efforts and (5) actions to facilitate interagency communication at management levels.

(b) The Board shall report annually to Congress concerning actions taken to implement this section and include in such report any recommendations for changes in legislation that it deems appropriate to meet the objectives of this section.

(c) For the purposes of this section, the Board shall make use of the Water Resources Scientific Information Center, established under section 302 of the Water Research and Development Act of 1978 (Public Law 95-467), or any successor agency.

SEC. 304. (a) The Board shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Board may find appropriate, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such principles, standards, and procedures shall require that every report relating to any such water or related land resources project include specific information on the benefits and costs attributable to each of the objectives referred to in section 209 of the Flood Control Act of 1970 (84 Stat. 1829). Such principles, standards, and procedures shall also define the objective of water conservation as including projects, programs, or features thereof, designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water (including by storage), or (3) improve land management practices to conserve water. Such principles, standards and procedures shall specifically prohibit any Federal water resources agency from preparing, or participating in the preparation of, any regional or river basin plan or any plan for any Federal water and related land resource project which has as the objective the transfer of water from the Columbia River Basin, or the Arkansas River Basin, to any other region or any other major river basin of the country.

(b) The Board shall establish separate principles, standards and procedures as described in subsection (a) for small Federal water or related land resources projects administered by the United States Department of Agriculture.

SEC. 305. (a) For the purpose of carrying out the provisions of this Act, the Board may (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable; (5) procure services as authorized by section 3109(b) of title 5, United States Code, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this Act.

(b) Any member of the Board is authorized to administer oaths when it is determined by a majority of the Board that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Board may be made available for public inspection during ordinary office hours.

(d) Upon request of the Board, the head of any Federal department or agency is authorized (1) to furnish to the Board such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Board on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) The Board shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds.

SEC. 306. (a) There is hereby established a regional-State water resources advisory committee (hereinafter referred to as the "committee").

(b) The Board shall appoint one member from each of the major water resources regions described in the document entitled "Second National Water Assessment", dated December 1978, and transmitted to the President on January 25, 1979. The Board shall give consideration to recommendations of the Governors of the States which lie wholly or partially within such a region when appointing a member from such region. Each member of the committee shall be selected on the basis of knowledge of water resources management and water resources needs of the region that he or she represents. The chairman of the committee shall be selected by the members from among the members of the committee.

(c) The committee is authorized to submit to the Board the recommendations of the committee on any matter which is before the Board, and the recommendations of the committee shall be included in any recommendations of the Board reported to the President and Congress under section 102(2) of this Act, with respect to such matter.

SEC. 307. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule by the Board, under authority of any law of the United States relating to principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation, evaluation, and review of Federal water and related land resources projects, the Board shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule shall not become effective if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule promulgated by the Board dealing with the matter of   , which rule was transmitted to Congress on
            .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule.

(e) For purposes of this section, the term "rule" includes, but is not limited to, any rule, regulation, principle, standard, or procedure, or any part thereof.

(f) Any rule promulgated by any department, agency, or instrumentality of the United States relating to principles, standards, and procedures (1) for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation, evaluation, and review of Federal water and related land resources projects, and (2) for any review by any department, agency, or instrumentality of the United States, in effect on the date of enactment of this Act shall continue in effect until the last day of the one hundred and eighty-day period beginning on the date that all members of the first Board established under section 101 of this Act have been appointed and confirmed by the Senate, unless before the end of such 180 period such rule is superseded by principles, standards, and procedures established by the Board under section 304 of this Act. Any rule continued in effect by this subsection which is in effect on the day before the last day of such period shall be transmitted by the Board to Congress under this section in the same manner and to the same extent as if such rule had been established by the Board under section 304.

Sec. 308. No later than fifteen days following the transmission of the President's budget submittal to the Congress the Board shall transmit to the Speaker of the House of Representatives and the President pro tem of the Senate reports on, as appropriate, Bureau of Reclamation, Army Corps of Engineers, and Department of Agriculture water resource studies or projects (1) which are not included in the President's budget submittal; (2) for which feasibility studies or construction have previously been authorized; and (3) the construction of which have not been completed. Such reports shall include a detailed description of each project, the President's explanation for not including the projects in his budget submittal, and information on the compliance of each project with any relevant principles, standards, and procedures.

Sec. 309. There is authorized to be appropriated to carry out the provisions of this title, the sum of $3,000,000 for each of the fiscal years 1983 and 1984, of which no more than $50,000 is authorized each such fiscal year to carry out section 306.

TITLE IV—ASSISTANCE FOR STATE WATER PLANNING AND MANAGEMENT

Sec. 401. (a) In recognition of the controlling role of the States in State and regional water and related land resources planning and management and a national need for—

(1) water conservation;

(2) State integration of water quantity and water quality planning and management;

(3) State integration of ground and surface water planning and management;

(4) protection and management by the States of ground water supplies;

(5) protection and management by the States of instream values; and

(6) enhanced cooperation and coordination between Federal, State, and local units of government to achieve these goals;

the Congress hereby authorizes the Board to make grants to the States to assist them in the development, implementation, and modification of comprehensive programs and plans for the use, development, conservation, and management of State and regional water and related land resources.

(b) The Board shall, after consultation with the States, prescribe guidelines by rule, no later than one hundred and eighty days after enactment of this Act, to carry out its functions and responsibilities under this title.

Sec. 402. (a) From the sums appropriated for any fiscal year pursuant to section 404 and upon application of a State, the Board shall make grants to States in accordance with the guidelines prescribed pursuant to section 401(b) on the basis of population, land area, financial need and the need for water and related land resources planning and management assistance, except that each State shall receive not less than the sum of $100,000 for each of the fiscal years 1983 and 1984.

(b) The sums allocated under this section shall be matched on the basis of not less than one non-Federal dollar for every Federal dollar. Contributions by the States to fulfill the matching requirements of this subsection shall be in cash only and in kind contributions shall not be considered as matching contributions under this subsection.

(c) No funds under this section may be withheld in an effort to force States to alter their water policies to comply with Federal policies or policies of the Board.

Sec. 403. The assistance provided for State water planning and the programs established pursuant to this title shall be consistent with the provisions contained in section 202 of this Act.

Sec. 404. There are authorized to be appropriated to carry out the provisions of this title for the fiscal year ending September 30, 1983, the sum of $10,000,000, and for the fiscal year ending September 30, 1984, the sum of $7,500,000, all of which is to remain available until expended.

Sec. 405. For the purposes of this title, "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

TITLE V—DEPARTMENT OF THE INTERIOR OFFICE OF WATER POLICY

Sec. 501. (a) There is established within the Department of the Interior an Office of Water Policy which shall report to the Secretary of the Interior through the Assistant Secretary for Land and Water Resources on matters relating to water policy within the responsibilities of the Secretary. The Office shall provide staff services to the Secretary in the development of water policy and liaison with the States and local governments, Congress, water user groups, citizen groups and the concerned public. The office shall serve only the Department of Interior.

(b) For the purpose of administration, $2,500,000 is authorized to be appropriated to the Office of Water Policy within the Department of the Interior for each of the fiscal years ending September 30, 1983, and September 30, 1984.

TITLE VI—GENERAL PROVISIONS

Sec. 601. (a) The Secretary of the Army, acting through the Chief of Engineers and in cooperation with the Secretary of the Interior and the Secretary of Agriculture, is authorized to study the water resources needs of various basins and other regions of the United States. The Secretary shall report the results of such study to Congress not later than October 1, 1984.

(b) In carrying out the studies authorized under subsection (a) of this section, the Secretary shall consult with State, interstate, and local government entities.

Sec. 602. There is authorised to be appropriated to carry out the provisions of this title, the sum of $500,000 for each of the fiscal years 1983 and 1984.

Sec. 603. The Water Resources Planning Act (42 U.S.C. 1962) is repealed.

Sec. 604. Notwithstanding any other provision of this Act, no payment under this Act shall be effective except to such extent or in such amounts as are provided in appropriation Acts.

H.R. 6308

By Mr. McKINNEY:

(To the amendment in the nature of a substitute (H.R. 6911).)

—On page 35, line 23, strike out "$40,000,000," and insert in lieu thereof "$75,000,000.".

H.R. 6957

By Mr. BEARD:

—Page 26, line 2, after "Act.", add the following new section:

Sec. 203. None of the funds appropriated in this title shall be used to obstruct programs of voluntary prayer and meditation in public schools.

—Page 26, line 2, after "Act.", add the following new section:

Sec. 204. None of the funds appropriated under this title shall be used to require state or local education institutions to transport students for purposes of achieving racial or ethnic quotas in their schools.

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EXTENSIONS OF REMARKS

STOP RETREAT ON HANDICAPPED EDUCATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation which expresses congressional disapproval of regulations proposed by the Secretary of Education for the Education of All Handicapped Children Act—Public Law 94-142. These regulations, published on Wednesday, August 4, if adopted, would represent a significant retreat from the original intent of Congress when this landmark law was passed in 1974.

As an original author of this legislation as well as a member of the House Education and Labor Committee, which is responsible for oversight of this law, I am deeply distressed by this apparent backdoor attempt to dilute the provisions in the law which insure that handicapped children are afforded the same education rights as their nonhandicapped peers. The goal of Public Law 94-142 is a simple one: to provide a free, appropriate public education to all handicapped children. This goal has been outlined in a very specific fashion ever since regulations were first published for this program in 1977.

While there have remained varying degrees of interpretation as to the kinds of services which should be provided to handicapped children under the act in the last 5 years, I believe that, on the whole, the regulations have provided ample safeguards for handicapped children. To make significant changes in the rules which spell out the kinds of services which must be offered is both a misappropriation of justice and an abrogation of our Federal commitment to educating handicapped children.

The resolution simply states that the proposed regulations, in their present form, are unacceptable. Further, the resolution underscores the importance of a full and fair review by the public and Congress of these proposals—with the understanding that some changes are required in current law in an era of diminishing resources.

Finally, the resolution reaffirms the right of Congress to disapprove of any final regulations to Public Law 94-142 under section 431 of the General Education Provisions Act (GEPA). This section specifically spells out the protections which Congress adopted against usurping of legislative authority by the executive branch, particularly when Congress might be in adjournment. Accordingly, the resolution also states that the regulations, if they are to become final, should not become final during a time when Congress is in recess—in order to insure the ability of Congress to move quickly in the event that a resolution of disapproval is desired. The educational futures of handicapped children cannot be allowed to remain in limbo during a congressional recess, and this provision will insure this remains so.

My concerns with these proposed regulations are numerous. First, the proposed regulations seek to curtail the kinds of services which are to be provided to handicapped children served by this Act. Under current regulations, related services are specifically spelled out as they are listed in the law. These include transportation, developmental, corrective, and other supportive services, including physical and occupational therapy, recreation, medical and counseling services—with medical and counseling being provided for diagnostic purposes only.

The proposed regulations allow limitations to be placed on the kinds of services which are provided as well as severely restrict the kinds of medical services which can be used, subject to the discretion of State and local officials. It has historically been the case that the most persistent complaints that have been heard from local school officials address the kinds of health-related services which must be provided.

The courts are replete with examples of challenges to the law—including catheterization services and respiratory services. To place further discretion in the providing of such services by local officials will not insure that handicapped children will receive the kinds of services they need. In many cases, it will mean they will get no services at all where the law remains silent. I do not mean to suggest that the current regulations are perfect—in fact, revisions are essential in the face of declining Federal, State, and local dollars. However, changes which are made cannot be made in order to allow fewer children to be served or to allow changes in the kinds of services they need in order to remain alongside their nonhandicapped peers in the classroom.

I am also concerned over the provisions in the proposed regulations which alter the role of the parent in the handicapped child's education. At present, parents are deeply involved in the development of the IEP—the individualized education plan which provides for their child's program. While several aspects in the proposed rules provided added flexibility in the development of the IEP—which should reduce the time it takes to evaluate and place special education children in appropriate settings—it also weakens the role of the parent in the process. Specifically, the proposed rules delete the requirement for parental consent before a preplacement evaluation is conducted or an initial placement is made. Such a provision must be rejected, as it would allow children to be moved from school to agency without parental consent.

The role of States and local education agencies have been changed in these rules in the name of "added flexibility." I remain deeply suspicious of any provisions which seek adjustment in this area for they in many cases ignore the reasons why this law was needed in the first place: States were not willing to provide these services to handicapped children. In many cases, if given the ability to prioritize the delivery of services, States would give handicapped children the short end of the stick, given the costs associated with their education. In my home city of New York, it costs nearly $10,000 a year to educate a handicapped child, with only $250 of that cost provided by the Federal Government and the remainder through State and local tax levy funds. It would indeed be tempting to cut costs associated with this program by cutting services. While I am confident that such would not be the case in New York—as we have equally strong State statutes which supplement Public Law 94-142—not all States place such a high priority on handicapped children, yet the costs remain high. Services will clearly suffer if States are provided sufficient flexibility to select the kinds of services they will provide under the law.

The rules also provide for the placement of handicapped children in agencies outside the school—agencies which could easily lose track of children just as they lose children in foster care. The fact that a school no longer has financial responsibility for the child one he or she is moved to another agency further increases the possibility that many children could indeed be lost in a social service system which is not responsible to the school.

The regulations leave open the question of extended school year services. Clearly, public comment is essential to answering the question of providing

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

year-round services to handicapped children. What progress can be made during the school year could easily be lost during the 3 months of the summer when a child might not receive services.

I commend the Department for those provisions in the regulations that equalize disciplinary rules. I know from the experience in my own State that provisions in current law have provided, in many cases, severe problems in the student body with handicapped children who break the rules. The adherence to rules and regulations should not be exempted for handicapped children as such adherence is critical to the entire educational process.

Clearly, Mr. Speaker, there are numerous aspects of these proposed rules which will require the scrutiny of Congress and the public. I commend the Secretary for providing for a 90-day comment period but express my concern over the timing—clearly at a time when Congress may not be in session.

I pledge my own efforts to insure a rigorous examination of the implications of all these proposals and to actively work to defeat those will clearly threaten the educational rights of handicapped children and their parents.

While it is tragic that appropriations for this program have never met the expectation of the framers of the law, this should not be a factor in determining the merits of Public Law 94-142. Since its passage, it has provided over 4 million handicapped children with an education that otherwise would not be available to them—and this education cannot be jeopardized through regulation.

I urge my colleagues to join with me in this resolution which will help us to insure that the intent of Public Law 94-142 remains unchanged—and that the access to a free, appropriate public education for all eligible children remains secure.●

THE CONFLICT BETWEEN THE PUBLIC PRINTER AND THE CONGRESS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DINGELL. Mr. Speaker, for several months I have been watching in dismay the mounting conflict between the Public Printer, Danford L. Sawyer, and our own congressional Joint Committee on Printing and the employees of the Government Printing Office.

What I have seen is a traditionally cooperative working relationship turned into an adversary proceeding by Mr. Sawyer as he pits himself against both the Joint Committee on Printing, to which he is responsible, and the GPO employees whom he manages for us.

He has established a record of innuendo, misrepresentation and, most serious defiance of the mandates of the Joint Committee.

This last action came about in the following way: Mr. Sawyer announced that he planned to furlough the GPO employees several times during the coming year in an alleged—but unsubstantiated—economy move. On May 11, 1982, the Joint Committee on Printing passed a resolution forbidding the Public Printer to proceed with his furlough plan on the grounds that he had no legal right to implement such a plan. Congressman Bill Ford, chairman of the House Committee on Post Office and Civil Service, confirmed this opinion to Mr. Sawyer in a letter dated May 24, 1982, in which Mr. Ford reaffirmed the authority of the JCP under the Keiss Act in employee relations at GPO.

Mr. Sawyer then announced that he would ignore the resolution of the JCP and proceed with the furlough he had planned for July 6. Employees of the Government Printing Office, through their unions, requested the U.S. District Court of the District of Columbia to prevent this illegal action by Mr. Sawyer.

The case was heard by Judge Oliver Gasch, who issued a ruling which stated, in part:

> . . . the Public Printer does not have authority to furlough employees at the Government Printing Office as long as he is under the mandate of the Joint Committee on Printing, dated May 11, 1982, which orders him to impose no furloughs; and it is further
>
> *Ordered*, That the Public Printer shall not implement the proposed furloughs as long as the joint committee's resolution of May 11, 1982, is in force.

Mr. Speaker, I now request that Judge Gasch's entire decision be placed in the Record. It is an eloquent statement of the authority of this Congress Joint Committee on Printing, concluding with the opinion that both the rights of the plaintiffs and the public interest are best served by this "clarification of the conflicting claims of the Public Printer and the Joint Committee."

The Joint Committee on Printing is a committee of Congress; the Government Printing Office is the printing office of Congress and the Public Printer is, in effect, an employee of Congress. I welcome the opportunity to put these principles into the Record:

[U.S. District Court for the District of Columbia—Civil Action, No. 82-1515]

Mildred Lewis, et al., plaintiffs, v. Danford L. Sawyer, Public Printer, defendant

ORDER

Upon consideration of plaintiffs' complaint for injunctive relief and declaratory judgment and plaintiffs' motion for a writ of mandamus or, in the alternative for a preliminary injunction, cross-motions for summary judgment, the memoranda, exhibits and affidavits in support thereof and opposition thereto, the arguments of counsel in open Court, and the entire record, and for the reasons stated in the accompanying memorandum, it is by the Court this 2nd day of July, 1982,

Ordered that defendant's motion for summary judgment be, and hereby is, denied; and it is further

Ordered that plaintiffs' motion for summary judgment be, and hereby is, granted in part and denied in part; and it is further

Declared that the Public Printer does not have authority to furlough employees at the Government Printing Office as long as he is under the mandate of the Joint Committee on Printing, dated May 11, 1982, which orders him to impose no furloughs; and it is further

Ordered that the Public Printer shall not implement the proposed furloughs as long as the Joint Committee's resolution of May 11, 1982 is in force.

Oliver Gasch, *Judge*.

[U.S. District Court for the District of Columbia—Civil Action No. 82-1515]

Mildred Lewis, et al., plaintiffs, v. Danford L. Sawyer, Public Printer, defendant

MEMORANDUM

The plaintiffs in this case, ten labor unions[1] and four individual employees of the Government Printing Office (GPO), challenge a decision made by the Public Printer of the United States to furlough the entire work force of GPO for six days.[2] In response to plaintiffs' application for a writ of mandamus and motion for a preliminary injunction, the defendant has filed a motion for summary judgment. Subsequently, the plaintiffs filed a cross-motion for summary judgment.

THE STATUTORY AND HISTORICAL BACKGROUND

Defendant Danford Sawyer was appointed Public Printer in August 1981 by the President with the advice and consent of the Senate. *See* 44 U.S.C. § 301. The Public Printer's duties are, generally, to "take charge of and manage the Government Printing Office." *Id.* Under a statute commonly known as the "Kiess Act," 44 U.S.C. § 305, the Printer has the power to employ persons necessary for the work of the GPO at rates of wages and salaries "he considers for the interest of the Government and just to the persons employed." *Id.* His discretion in these personnel matters is, however, not unfettered, for he is under a statutory mandate not to employ "more persons than the necessities of the public work require." *Id.* Moreover, the Kiess Act, 44 U.S.C. § 305, provides that, in the setting of rates of compensation for his employees, for any group of more than ten employees of the same occupation, the Public Printer must bargain with a committee selected by the trades affected, and any wages and compensation agreed to are subject to approval by the Congressional Joint Committee on Printing. Indeed, if the conference between the Printer and the labor committee does not produce agreement on "wages, salaries, and compensation," either party may appeal to the Joint Committee, whose decision on the matter is final. Other personnel matters at GPO are, as in all executive agencies, subject to the provisions of the Federal Labor

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Footnotes at end of article.

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Relations Act and the Civil Service Reform Act. *See* OPM General Counsel Memorandum June 23, 1982 (Defendant's Second Filing);[3] *cf. Thompson v. Sawyer*, No. 80-2098, *slip op.* at 6 (D.C. Cir. April 27, 1982) (GPO workers hold position in the "competitive service").

The Joint Committee on Printing consists of the chairman and four members of the Senate Rules Committee and the chairman and four members of the House Committee on House Administration. 44 U.S.C. § 101. Congress has given the Joint Committee broad authority over GPO: "The Joint Committee on Printing may use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing. . . ." 44 U.S.C. § 103. In addition to this general grant of authority, Title 44 grants the Joint Committee a number of specific powers and duties, such as fixing the standards for paper, *id.* § 509, authority respecting open market paper purchases, *id.* § 517, and oversight of the Printer's handling of the Depository Library Program, *id.* § 1914. Pursuant to the Kiess Act, the Joint Committee has the final word on negotiations between the Printer and the unions over "wages, salaries, and compensation." 44 U.S.C. § 305. The Joint Committee may exercise its powers even when Congress is not in session. *Id.* § 102. As a result of the broad powers granted the Joint Committee, it is considered by some to function in a capacity analogous to a board of directors of GPO. 41 Op. Att'y. General 282, 286–87 (1956) (quoting H.R. Rep. No. 1, 68th Cong., 1st Sess. 2-3 (1923)).

The reasons that Congress chose to exercise, through the Joint Committee, more control over the functions of GPO than over any executive agency were two-fold. First, Congress created GPO in 1860, in part at least, so that Congressional documents would be printed by the federal government. Formerly the practice had been to contract the work out to private concerns, and this practice had proved to be inefficient. Cong. Globe, 36th Cong., 1st Sess. 2485 (1860). Secondly, Congress was concerned that the Printing Office would itself become a source of governmental waste and a source for abuses of the spoils system. *Id.* Therefore, the statute not only placed the Printer, who was then known as the Superintendent of Printing, under an express mandate to employ no more workers than were necessary but also established Congressional supervision of his employment practices.[4] Joint Resolution in Relation to the Public Printing, 36th Cong., 1st Sess., 12 Stat. 117 (1860). Until 1900, Congress placed no further limitations on the employment authority of the Public Printer, 41 Op. Att'y. General, *supra*, at 285, but in that year Congress set the wage rates of some employees. Appropriations Act of June 6, 1900, c. 791, 31 Stat. 588, 643. *See* 41 Op. Att'y. General, *supra*, at 285.

The Congressional setting of wages proved inefficient, and in 1924 Congress passed the Kiess Act, which contained the provisions currently in force. *Id.* Although this Act conferred broad employment authority on the Public Printer, it provided that the Joint Committee would supervise his decisions because Congress did not believe "that such a large power over public expenditures should be vested in any one officer without some suitable restriction or supervision." H.R. Rep. No. 1, 68th Cong., 1st Sess. 2 (1923).

As a result of the evolving statutory scheme described above, the management of GPO is a curious hybrid of the executive and legislative functions.[5] This overlap of authority contains the potential for conflicts between the Printer and the Joint Committee. However, the possibility of conflict evidently has existed more in theory than in practice.[6] When the Printer has furloughed workers in the past, his actions generally have not been challenged.[7] At least once, however, GPO furloughs have been the subject of informal inquiry and were found to be legal. Opinion of Attorney General John G. Sargent, April 17, 1925 (Reprinted in Annual Report of the Public Printer, 59–60 (1925)) (Defendant's Exh. 9). On the other hand, when the question of whether the Printer had authority to negotiate a 40-hour work week with his employees came up, it was established that he did have the requisite authority, subject to the approval of the Joint Committee. 41 Op. Att'y. General, *supra*, at 290. This would suggest that the Joint Committee's authority to oversee employment policies at GPO under the Kiess Act and other provisions of Title 44 extends beyond the mere setting of wage rates.[8]

THE FACTS OF THIS CASE

The facts in this case are not in dispute. On March 25, 1982 the Public Printer, as a part of a substantial government-wide effort to cut printing costs in the executive branch and in response to a decline in the volume of work done by GPO[9] notified plaintiffs, the Joint Committee, and the general public that he planned to furlough approximately half of the GPO work force for one day every other week for six months. GPO Press Release, dated March 25, 1982 (Defendant's Attachment A). Despite the protests of the affected unions, the Public Printer expressed unyielding determination to carry out the furloughs. The Printer's position was that the furloughs were not subject to wage negotiations and consequently were not overseen by the Joint Committee because the power to furlough is a right reserved to management under 5 U.S.C. § 7512.

On April 5, 1982, William J. Boarman, President of Columbia Typographic Union, Local 101, acting as agent for plaintiff unions, filed an appeal to the Joint Committee from defendant's refusal to modify his furlough decision. Boarman Affidavit, ¶ 6. In response to the furor over the impending furloughs, the Joint Committee conducted an investigation into the matter. Attachments to Affidavit of Thomas Kleis, Staff Director of the Joint Committee on Printing.

During the intervening period the Public Printer decided to modify the furlough plan. The new plan called for furloughs of the entire work force, effectively closing down GPO operations on six days—June 1, July 6, September 3, October 25, November 26 and December 27, 1982. GPO Notice 610-10, April 16, 1982 (Defendant's Attachment J). In accordance with the Printer's belief that furloughs are governed by 5 U.S.C. § 7501 *et seq.* and the Civil Service Reform Act, GPO issued furlough notices to all affected employees on April 19, 1982. Defendant's Attachment P. The notices gave employees until May 10, 1982 to respond to the decision. After a review of these responses, GPO sent furlough notices to all employees who had review rights. These notices specified that the employees had the right of appeal to the Merit Systems Protection Board. Defendant's Attachment Q.

Meanwhile the Joint Committee continued its investigation. On May 10, 1982 Senator Charles McC. Mathias, Jr. and Representative August F. Hawkins, respectively, Chairman and Vice Chairman of the Joint Committee, circulated a letter to the Committee calling members' attention to "serious problems at the GPO." Among the problems were complaints to the Committee from various agencies that work was late because "jobs are often backed up because of demand." The letter pointed out that this situation conflicted with the Printer's asserted justification for the furloughs and proposed that solutions be considered by the Joint Committee and GPO working together to find "long-range solutions."

On May 11, 1982 the Joint Committee on Printing adopted a resolution disapproving of the furloughs. The resolution read as follows:

Whereas, the Joint Committee on Printing was created by law to establish policy for the Government Printing Office and for the Federal printing establishment, and it has always been the policy of the Joint Committee on Printing to supervise and conduct Government printing business on a cost-effective and efficient basis, and

Whereas, the authority of the Joint Committee has been confirmed and supported by opinions of the Attorney General and the Comptroller General of the United States, and

Whereas, this authority extends to all matters involving the GPO personnel including wages, salaries and compensation,

Be it therefore resolved, That prior approval of the Joint Committee on Printing is necessary for alterations to, or relocation of, GPO facilities, for changes in the structure of the work-force, for implementation of new technology and services, and for all decisions that affect the scope and character of the Federal printing program.

Be it further resolved, That no furloughs, reductions in force, or other adverse personnel actions shall be imposed upon GPO employees as ad hoc solutions to immediate problems until a study of the long-range printing needs of the Federal Government has been conducted by GPO/JCP and evaluated by the JCP to determine the future technological and personnel requirements of the GPO.

Despite the resolution of the Joint Committee, the Printer issued a press release that announced his intention to proceed with the furloughs, contending that the resolution "appears to fly in the face of some very specific wording of Title 44 of the U.S. Code and also attempts to countermand the Civil Service Reform Act." Exhibit A to Affidavit of Charles H. Hall. Although the June 1 furlough was cancelled, the Printer intends to proceed with the next furlough date of July 6. This suit was filed on June 2, 1982, and plaintiffs applied for a writ of mandamus on June 11.

DISCUSSION

As the discussion of the statutory and historical background illustrates, the provisions of Title 44 contain a potential for conflict which has been dormant for 122 years. Under 44 U.S.C. § 301 the Printer's duties are to "take charge and manage" the GPO. Thus as head of GPO, he would seem to have the usual management right to reduce the work force if he follows the procedures outlined in chapter 75 of title 5 of the United States Code. Moreover, he is under a statutory duty not to employ "any more persons than the necessities of the public work require." This statutory language would suggest that the Printer must furlough workers if there is not enough work for them to do. However, Congress has historically exercised more control over the Printer's activities than it has over any purely administrative agency. Thus the Joint Committee not only has the final word on "wages, salaries, and compensation"[10] pursuant to 44 U.S.C. § 305, but also has broad authority to "use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing." *Id.* § 103. In the exercise of its powers under Title 44, the Joint Committee adopted its resolution of May 11, 1982, which commanded the Printer not to furlough GPO workers. Although the statutory scheme envisions a cooperative relationship between the Printer and the Joint Committee,[11] that scheme also places final authority to resolve disputes in the hands of the Joint Committee, as the agent of Congressional oversight. Consequently, the Court finds, in the context of this particular conflict between the Joint Committee and the Printer, that the Joint Committee's will must prevail. In the circumstances of this case, the Joint Committee having gone on record against furloughs, the Printer does not have authority to furlough workers.

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[3] Footnotes at end of article.

Footnotes at end of article.

The only remaining questions are the propriety of relief to these plaintiffs and the form that relief is to take. Plaintiffs are not entitled to a preliminary injunction because the temporary loss of pay would not constitute irreparable harm. *Sampson v. Murray,* 415 U.S. 61, 90–91 (1974). However, the case is ripe for disposition on the merits because there are no disputed issues of material fact. *See* Fed. R. Civ. P. 56(c). Moreover, the Printer's refusal to implement the resolution of the Joint Committee deprives these plaintiffs of a right assured them by Congress, *see Leedom v. Kyne,* 358 U.S. 184, 189–90 (1958), namely, the right to have wage disputes resolved by the Joint Committee. Consequently, this Court has jurisdiction.

There is no absolute right to a declaratory judgment pursuant to 28 U.S.C. § 2201. *See Hanes Corp. v. Millard,* 531 F.2d 585, 591, (D.C. Cir. 1976). Thus a declaratory judgment is a matter of judicial discretion to be granted only in the public interest. *Eccles v. Peoples Bank,* 333 U.S. 426, 431 (1948). The Court must "strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief." *Id.; Hanes Corp. v. Millard, supra,* 531 F.2d at 592. In this context, the key question is "whether the facts alleged, under all the circumstances, show that there is a substantial controversy between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Maryland Casualty Co. v. Pacific Coal & Oil Co.,* 312 U.S. 270, 273 (1941). Moreover, because governmental action is involved, there is an additional question of whether the plaintiffs will, unless the Court intervenes, be left "without a chance of redress." *Super Tire Engineering Co. v. McCorkle,* 416 U.S. 115, 122 (1974) (quoting *Southern Pacific Terminal Terminal Co. v. ICC,* 219 U.S. 498, 515 (1911)).

In this case the public interest will be well served by a clarification of the conflicting claims of the Printer and the Joint Committee. Thus a declaratory judgment will further the rights of these plaintiffs and the public interest. There is also an immediate controversy in this case, which cannot be resolved unless the Court acts. Consequently, the Court concludes that, in the circumstances of this case, a declaratory judgment is appropriate to resolve the conflicting interests of the Printer and the GPO workers.

CONCLUSION

In the absence of Joint Committee action, the Printer undoubtedly would have the power to furlough workers. However, the statutory scheme under which he operates subjects his decision in these matters to the will of the Joint Committee on Printing. Because the Joint Committee has forbidden furloughs in this case, the Printer's normal discretion in these matters is severely circumscribed. In sum, the Printer has no authority to go ahead with furloughs as long as the Joint Committee's May 11, 1982 resolution is in force. An appropriate order accompanies this memorandum.

OLIVER GASCH, *Judge.*

Date: July 2, 1982.●

FOOTNOTES

[1] There are nine named union plaintiffs in the original complaint. A tenth union has moved to intervene, and because there appears to be no opposition to that motion, the Court will grant it.

[2] The furloughs were originally scheduled for June 1, July 6, September 3, October 25, November 26, and December 27, 1982. The June 1 furlough was cancelled on May 26, 1982 because of an unusually heavy Congressional workload. GPO Notice 610-11 (Defendant's Attachment R).

[3] This memorandum details the rationale underlying defendant's contention that he has the power to furlough GPO workers.

[4] The 1860 statute provded that the Superintendent of Printing would make yearly reports on "the number of hands . . . employed, and the length of time each has been employed." Joint Resolution in Relation to the Public Printing, 36th Cong., 1st Sess., 12 Stat. 117 (1860).

[5] While GPO is a unit of the legislative branch, it employs workers in the competitive service. *Thompson* v. *Sawyer,* No. 80-2098, *slip op.* at 6 (D.C. Cir. April 27, 1982). These workers, however, are not covered by the civil service classification scheme, 5 U.S.C. § 5102(c)(9). *Id.*

[6] All parties seem to agree that this case represents the first time that the Printer's actions could be construed as open "defiance" of the Joint Committee.

[7] These furloughs are detailed in 100 GPO Years, 1861–1961—A History of the United States Public Printing 39, 54, 72; *Annual Report of Public Printer* 14 (1887); *Annual Report of the Public Printer* 12 (1896); *Annual Report of the Public Printer* 9 (1915); *Annual Report of the Public Printer* (detailing layoffs in 1907, 1909, 1915, 1919, 1920, and 1925) 58–59 (1932); *Annual Report of the Public Printer* 93 (1933); *Annual Report of the Public Printer* 187 (1947).

[8] Although the legislative history of the Kiess Act focuses primarily on the setting of wage rates, the House Report points out that the Joint Committee has broad supervisory authority over GPO and states that the Joint Committee functions as a board of directors. *See* H.R. Rep. No. 1, 68th Cong., 1st Sess. 2–3 (1923).

[9] In April 1981, the Office of Management and Budget issued Bulletin No. 81-16 (Defendant's Attachment C), entitled "Elimination of Wasteful Spending on Government Periodicals, Pamphlets, and Audiovisual Products." This directive ordered each agency head to apply a moratorium on new periodicals, to eliminate unnecessary publications, and to report to OMB on the resulting reductions in funding. Further cuts were required on October 9, 1981. As a result of these efforts OMB estimates an 8 percent decline in Executive branch spending on periodicals between 1981 and 1983. Defendant's Attachment F. There has also been a decline in the amount of work done for Congress. *See* Defendant's Attachment B. As a result GPO projects that it will incur a net loss for 1982 of $3.5 million. Defendant's Response to Admissions Request 5.

As a result of the decline in work, GPO experienced a decline in revenues and instituted various cost-saving measures, including a hiring freeze, curtailment of overtime, and increased subscription prices. The Public Printer also requested "early-out" retirements and proposed wage reductions for GPO workers as a part of recent contract negotiations.

[10] These furloughs clearly fall in the area of "wages, salaries, and compensation." Furloughs affect the employees' eligibility for overtime pay; hence furloughs affect wage rates. Moreover, the Printer decided to implement these furloughs for the express purpose of cutting the amount of wages and compensation he would have to pay.

[11] Congress has shown that it is aware of the need to resolve certain problems at GPO. On June 22, and June 24, 1982, a concurrent resolution was passed by the House and Senate declaring that it was the sense of Congress that legislation was needed to provide "[a] thorough clarification of the relationship between the Joint Committee on Printing and the Government Printing Office, strengthening the Public Printer's ability to 'take charge and manage' without in any way infringing on the Joint Committee on Printing's oversight responsibilities." *See* H. Con. Res. 366, 97th Cong., 2d Sess. (June 22, 1982); S. Con. Res. 109, 97th Cong., 2d Sess. (June 24, 1982).

TRIBUTE TO CLAUDE DENSON PEPPER—A LEGEND IN HIS TIME

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, the Wall Street Journal last week did a feature article about one of the most remarkable of all House Members—the distinguished gentleman from Florida—CLAUDE DENSON PEPPER.

Since 1977 it has been my distinct privilege to serve with CLAUDE PEPPER on the House Select Committee on Aging. For obvious reasons CLAUDE PEPPER has been the only chairman the committee has ever had—and has developed this position to such a point that he has become a world famous representative of the concerns of the elderly. CLAUDE PEPPER has made the rights of the elderly a personal crusade which he conducts with incredible zeal and effectiveness.

CLAUDE PEPPER has made growing old a delight—at the young age of 81 he visibly personifies all that is good about being a mature member of our society. Congress has many causes but few who champion them as well as CLAUDE PEPPER does the cause of the elderly in America.

During this important election year, CLAUDE PEPPER has undertaken a full schedule of appearances around the Nation to help insure that others are elected to the 98th Congress who will aid him in his cause. The Wall Street Journal article discusses a day in the life of CLAUDE PEPPER as he embarks on this new campaign.

I urge my colleagues to read this article and marvel about the legendary man who is its subject—CLAUDE PEPPER:

CLAUDE PEPPER, AT 81, DELIGHTS THE ELDERLY, UPSETS THE REPUBLICANS

THE FLORIDA DEMOCRAT SEIZES AN ISSUE AND GAINS FAME AS HE STUMPS THE NATION

A Legend Meets a Legend

(By James M. Perry)

KANSAS CITY, Mo.—Claude Denson Pepper, the Democrats' hottest new property, gets along with the help of a pacemaker and two hearing aids.

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He is 81 years old and he is driving the Republicans crazy.

Lugging a suitcase, a garment bag and an overstuffed briefcase, Mr. Pepper, a Miami congressman, has been traveling from one end of the country to the other without a press aide, or any aide at all, telling thousands of older Americans that Ronald Reagan wants to "cut, cut, cut" their Social Security benefits.

"Claude Pepper is a great resource for the Democratic Party," says National Chairman Charles Manatt. "His energy, his enthusiasm and his credibility are infectious."

"Claude Pepper has raised political demagogy and falsehood to new heights," says William Greener, a spokesman for the Republican National Committee.

For a man who first ran for public office in 1928, fame has come late for Mr. Pepper. But he has seized on the condition of the elderly in America and made it his special issue. He says he speaks for 26 million Americans who are 65 or older. By 1990, there will be 30 million of them. They are a growing force in American elections.

"It is the fastest-growing group in the country," say Peter Hart, the poll taker, "and they have the best record for turning out to vote." In 1980, 55% of them voted for Mr. Reagan.

In introducing Rep. Pepper, hardly anyone passes up the chance to say he is a "living legend." In fact, he really is.

He was born on a farm in Alabama in 1900—but managed to make his way to Cambridge and graduate from Harvard Law School in 1924. Over the years, he has made a tidy fortune as a lawyer.

He moved to Florida and was elected to the state House of Representatives in 1928. He has returned to address that chamber every year since he departed in 1930. He jumped all the way to the U.S. Senate in 1936, the year of the great Franklin Roosevelt landslide.

He was knocked out of the Senate in 1950 by fellow Democrat George Smathers in one of the nastiest, but most colorful, elections in American history. It was in the dark days of the McCarthy era, and Mr. Pepper was tagged "Red" Pepper. His opponents also said he was widely known as "a shameless extrovert" who "practiced celibacy" before his marriage and whose sister was, of all awful things, a thespian."

Bored by his law practice, Mr. Pepper—everyone calls him "Senator"—returned to Washington, as a member of the House, in 1962. He has been a fixture there ever since.

And now, full of honors and memories, he is having the time of his life (although missing his best friend and companion, his wife, Mildred, who died three years ago).

He expects to spend as much time as he can on the road this year campaigning for fellow Democrats and campaigning against President Reagan and the Republicans. Claude Pepper on the road is an extraordinary show. It went this way, typically on a recent swing.

Wednesday

He was in Texas and Oklahoma earlier in the week, campaigning for colleagues there. He woke up in St. Louis. Now he is here in Kansas City campaigning for Ike Skelton, a colleague on his Select Committee on Aging. There is only time for a quick press conference at a local hotel. When the TV lights go on, Mr. Pepper pulls himself together and performs. He is a polished actor.

"I never dreamed," he says in his ripe Alabama accent, "there ever would be an assault on Social Security. I always thought it was like motherhood and the flag—sacred." He moves quickly into his litany—that the Republicans tried to trim Social Security benefits by $88 billion last year, that Democrats fought back and limited the damage to $19 billion. He says the Republicans want to cut Social Security benefits even more, and he predicts they will make that effort at a lame-duck session of Congress in December.

"Thousands of people," he says, "live in mortal fear their checks won't be mailed out." People who have lost their benefits, he goes on, have committed suicide.

The highlights make the evening news shows in Kansas City.

At the St. Louis airport, en route to his next stop in Springfield, Ill., he is met by a crew from NBC News. The reporter wants to know what Mr. Pepper thinks of a new TV advertisement produced by the Republican National Committee that attempts to give President Reagan credit for a July 1 increase in Social Security payments.

"It's a deliberately calculated attempt to deceive the elderly folks of America," Mr. Pepper says. The Republicans "haven't explored such depths of deception since the Nixon administration." These remarks make the network news that evening.

In Springfield, he campaigns for young Dick Durbin, the former parliamentarian for the state Senate who is running against incumbent Republican Congressman Paul Findley.

He speaks for 45 minutes to a group of older folks in a church basement in Springfield. He confides that just a few days ago Phil Gramm of Texas, a "Boll Weevil" Democrat who voted for most of the Republican budget cuts, sidled up to him on the House floor and said, "My mother told me just last week that when it comes to Social Security, I should listen to that nice Mr. Pepper and keep my mouth shut."

Then he is hustled off to nearby Decatur to speak in another church hall to another group of older folks. He has been going for 12 hours now, and he seems to be just warming up. His speech lasts an hour and a quarter. He plays this one for all it's worth. He says he has a letter on his desk from a woman in Florida. "She says she doesn't have anyone to look after her and she doesn't think she'll live much longer. And now they've taken away her burial allowance. I have to call her next week and say she's right, the money's not there anymore."

When he is finished, Eileen Scheibley shakes his hand and says, "Mr. Pepper, you brought tears to my eyes."

He heads back to Springfield, where he has made arrangements with the National Park Service to open up Abraham Lincoln's home so he can make a tour of it. It is 10 p.m. now and Mr. Pepper has been on the road for 14 hours, appearing on national TV and local TV in two major markets. The tour of the Lincoln home is difficult for the park ranger because the batteries in Mr. Pepper's hearing aids have run down, even if Mr. Pepper himself hasn't

By 11 o'clock he is in an Italian restaurant having a little wine, along with soup, lasagna, garlic bread and spumoni. He gets to bed at 12:30 in the morning.

Thursday

He is up at 6 a.m. and on his way to Columbus, Ohio, where he campaigns for freshman Rep. Bob Shamansky, who is said to be in reelection trouble. At the first stop, a cafeteria serving meals to the elderly, Rep. Pepper introduces the constituents to their own congressman.

"You're a pro," says Mr. Shamansky.

"Well, thank you," says Mr. Pepper. "I've been at this a long time."

It is officially "Claude Pepper Day" at Heritage Village, a well-run Jewish home for the aged. He tells a sympathetic audience about his sister, who, living by herself now, "is spending the unhappiest years of her life." How much better, he says, "to be in a wonderful facility like, this." But he says the Reagan administration has cut spending for public housing for the elderly, so there won't be any more Heritage Towers (a part of the village). He is whisked from Heritage Village to a press conference in a downtown hotel. In what may be a record of sorts, he fields two questions in 35 minutes.

His next stop is a labor rally, after which he catches a plane for Cleveland and a dinner with community leaders.

Friday

By 7:45 a.m., he is at Channel 5 for an appearance on a show called "Morning Exchange," said to be the most popular morning show in town. Before he goes on the air, he tells one of the producers: "I don't know what I can do with you fellows. You bring those cameras in so *close*. People tell me I look better in person than I do in those close-ups on TV. Either way, of course, I'm not going to win any beauty contests." The producer says he will avoid unflattering close-ups.

When that show is over, Rep. Pepper moves down the hall to the office of Dorothy Fuldheim, a veteran personality on Channel 5. She is 89 years old, a Cleveland legend in her own right. She is a tough, cantankerous lady—and she says she had never heard of Claude Pepper.

"What's your name?" she asks.

"Pepper," says Mr. Pepper.

"How do you spell it?" asks the redhaired Miss Fuldheim, glaring now at a camera that is giving problems to the technicians.

"Two P's," says Pepper.

"What have you done that's worthwhile?" Miss Fuldheim demands to know.

"Well," says Mr. Pepper, "I introduced the first Lend-Lease Act."

"Only two people have ever awed me," interrupts Miss Fuldheim—"Einstein and Helen Keller."

When the camera finally begins to roll, Mr. Pepper turns on the charm. But Miss Fuldheim is having none of it. One legend finally has met its match in another legend. Mr. Pepper is so rattled by the experience he calls Miss Fuldheim Miss Muldheim. Her staff chokes in disbelief.

Mr. Pepper goes from the TV studio to campaign at senior-citizen centers for Rep. Dennis Eckart and Ed Feighan, a candidate for Congress. By 2 p.m., he is ready to catch a plane heading south to his home in Miami.

Now you're going to get a few days' rest, ventures a reporter who is ready for a little rest himself.

"Not likely," says Mr. Pepper, who has scheduled two days of golf in Miami before returning to Washington. Just recently, he says, he shot 100 and won $43 from his partners.

"I'm like an old hickory tree," Mr. Pepper says. "The older I get, the tougher I get." He picks up his suitcase, his garment bag and his overstuffed briefcase and heads for the plane that will take him home.●

RICHARD RADMAN—A FRIEND OF WORKERS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. VENTO. Mr. Speaker, I rise today to speak of a friend and brother of the Minnesota worker, Dick Radman.

After a career committed to furthering the union movement and insuring worker rights, Dick Radman has decided to hang up his hardhat. For the past 26 years, Dick has served as the secretary of the St. Paul Building and Trades Council. Under his stewardship, the St. Paul and Minnesota worker has prospered. Many changes have occurred during his tenure—Federal and State laws have been enacted to protect essential worker rights. We now have stronger occupational health and safety laws; Federal and State Davis-Bacon protections have been expanded; vocational education programs have blossomed and a viable minimum wage is in place. Dick has contributed to these valuable programs and has won the respect and affection not just of workers, but the construction industry as well.

Dick's public contribution goes beyond his concerns for his fellow workers. Dick Radman has been a trusted friend and adviser for Joe Karth and myself and for countless other elected officials. Dick has served the entire St. Paul/Minneapolis metropolitan area as a member of official public bodies such as the St. Paul Port Authority, the metropolitan sports facilities, and the metropolitan waste control commission.

Economic development throughout our area bears his mark. Perhaps Dick's greatest success has been his active role in the redevelopment of downtown St. Paul. In large part through his leadership, business, labor, and government have worked together to implement a revitalization program which is now a model for the rest of the country. This effort has meant new business and jobs for St. Paul and turned the tide of urban decay. Surely, Dick Radman has well reflected the craftsmanship and responsibility which is the hallmark of construction union labor in Minnesota.

We in St. Paul and Minnesota wish Dick the very best. I look forward to his continued counsel and know that he will continue to speak out on behalf of those he so well represented.●

NEW GENERAL ACCOUNTING OFFICE INVESTIGATION

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. ERTEL. Mr. Speaker, I would like to discuss the findings of a new General Accounting Office investigation of Federal employees serving as chefs, chauffeurs, and other personal servants in several representative departments and agencies. The use of publicly paid employees for these kinds of questionable purposes has concerned me since my first term when I criticized Joseph Califano, then Secretary of Health, Education, and Welfare, for having a personal cook on the public payroll.

Today, as a result of this GAO report, I have written to Transportation Secretary Drew Lewis and Treasury Secretary Donald Regan asking them what steps they are taking to cut down on the amount of overtime paid last year—and expected to be paid this year—to their respective department's personal drivers and related personnel.

In the case of the Department of Transportation, overtime pay for drivers for the Secretary and Deputy Secretary has increased by more than 50 percent from 1980 to 1981, from $24,233 to $38,125. Mr. Lewis' own driver earned $21,000 in overtime last year. This was more than his $20,000 regular salary. The total $38,125 in overtime ordered by the two top transportation officials nearly equals the combined $38,370 salary earned by their two drivers.

In addition, the GAO study revealed that all top officials at DOT are cooked for and waited on by six members of the Coast Guard at a public cost of $111,000. No other Department surveyed by the GAO was found to have such a lavish service at such a huge expense to taxpayers.

I question these exorbitant costs at a time when Federal transportation programs, such as interstate highways, railroads, and urban transit, are being cut back. The highest ranking Federal officials should be setting the example in reducing clearly controllable spending, especially when more than 10 million Americans are out of work and many more are forced to skimp to meet their monthly bills.

In my letter to Treasury Secretary Regan, I point out that driver overtime spending doubled between 1980 and 1981 from $29,204 to $58,196. While the Secretary's own driver had about a 10-percent cut in overtime, Mr. Regan's subordinates' use of chauffeurs on overtime increased dramatically. For example, overtime for the Deputy Secretary's driver increased 400 percent from 1980 to 1981, from $2,114 to $10,578. For the Under Secretary for Tax and Economic Policy, overtime for his driver jumped by 223 percent from $5,927 in 1980 to $19,164 in 1981. This driver actually made more in overtime than his regular salary of $16,192. Also, overtime for the cook for Treasury senior level officials more than doubled from $1,932 in 1980 to $4,162 in 1981.

This kind of spending, when so many Americans are being thrown out of work because of the administration's economic program, should and can be reduced. But because the GAO has been told by those surveyed that no substantial savings are planned for current calendar year 1982. I have written to two of the worst offenders, Mr. Lewis and Mr. Regan, asking them what cost-saving measures they plan for the rest of this year and beyond.

Others in the report, who should cut down their drivers' overtime in these tough economic times, include Health and Human Services Secretary Richard Schweiker, Commerce Secretary Malcolm Baldrige, Interior Secretary James Watt, Attorney General William French Smith, and James Sanders, Head of the Small Business Administration.

During my three terms in the House, it has become increasingly apparent that Federal officials and their perks are not soon parted. If I do not obtain adequate responses from Secretaries Lewis and Regan, we may be forced to limit their Departments' and others abuse of overtime through the appropriations process.

I recommend that my colleagues read this GAO report. Copies are available by contacting Bill Brobst in my office.●

BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, Sunday's Washington Post contained an article which I think would be of interest to all Members concerned about the environmental protection versus economic development debate. Writer Christopher Palmer points out something which we often lose sight of in political debates on these issues—the goals of environmentalists and entrepreneurs are really the same. The health and prosperity of the Nation are the goals of both camps, we merely disagree at times—perhaps too often—about tactics. In the spirit of cooperation, I commend the article to my colleagues' attention:

BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL

(By Christopher Palmer)

Environmental groups are not perfect. We have flaws, as does business. By candidly examining the flaws on both sides, we may be able to defuse the destructive animosity and mutual misunderstanding, and even find areas where we can make common cause. Let me first focus on the weaknesses, both real and perceived, of environmentalists.

One of our problems is that we tend to assume a tone of arrogance when talking to business. When we environmentalists act as though we talk to God and as though we have all the answers, then industry, even those business people who are inclined to be sympathetic, will be irritated. We call ourselves "public interests" groups—the implication being that we look after the "public interest" while everyone else is pursuing his own selfish goals.

This tendency is matched by a tendency to be rigid, unwilling to compromise or negotiate. Environmentalists sometimes are afraid to bend and be flexible. We think the arguments made by industry are totally self-interested and exaggerated.

Too often environmentalists think of profits as dirty. We don't always appreciate the effectiveness of the free market. Too few of us have ever worked as entrepreneurs and, consequently, lack an appreciation of just how hard it is to succeed in business. We are much more expert at grantsmanship.

Some environmentalists are—like business people—probably not concerned enough about the harsh impact of high prices on poor people. Few of us know anything about the degradation and pain of poverty. While the image of us—in Michael Kinsley's words—as a "clique of rich people attempting to protect their backyard" is an exaggeration, nevertheless we are probably oversensitive to the desires of the upper and middle class and insufficiently sensitive to the desires of those less well-off.

Environmental goals should not be pursued without regard to their consequences elsewhere. Preserving wilderness is important, but it is only one of a number of important national goals. For example, energy policy should not be based on environmental values alone. A clean environment is just one of many results we want in a energy policy, not the central driving force. Environmentalists have to accept the fact that occasionally—ideally, rarely—they may have to compromise some evnvironmental goals for more important ones, such as jobs.

This brings me to economic growth and productivity. Too often environmentalists give the impression of wishing economic growth would somehow go away. But economic growth and increased productivity are needed to create new jobs, to increase our investments in energy efficient housing and our investments in new less-polluting industrial processes.

And finally, environmentalists, like other human beings, can suffer from parochialism. A recent issue of a major environmental magazine contained a long and detailed editorial on how domestic cats are not a threat to birds. We voraciously consume each other's newsletters but tend to neglect Business Week, Forbes and Fortune.

Let me now turn to steps that business could take to gain a better understanding of us and to help win our confidence and trust.

There should be a greater realization on the part of business of the extent to which future growth and profits depend on efforts to preserve land, air and water. Erosion control aims at maintaining the productivity of soils, essential to sustaining U.S. agricultural output. Forest conservation and reforestation are essential to the protection of soils and watersheds. Reduced pollution means fewer work days lost to environment-related illnesses. Thus, conservation and environmental protection make direct contributions to economic productivity.

Another step that business could take would be to show greater appreciation of the tremendous market opportunities in energy conservation, solar energy and pollution control. Business Week reported in its April 6, 1981, issue that the market for energy conservation investments was growing phenomenally fast and could reach $30 billion by 1985. An article in the November/December 1980 Harvard Business Review concluded that alert companies can turn pollution prevention into profit and make economic growth and environmental protection go hand in hand. There are now over 600 companies in the business of manufacturing air- and water-pollution-control equipment, including cooling towers, scrubbers, precipitators and catalytic converters. These firms constitute a multi-billion-dollar industry employing hundreds of thousands of people around the country.

There are three broad areas where we could form alliances with business. First is the area of lobbying. Recently, United Technologies and the Audubon Society formed a lobbying team to promote increased federal funding for fuel cells. Why can't we do this on other issues, such as adoption of user fees, establishment of rational natural gas pricing or elimination of unnecessary government bureaucracies like the Synthetic Fuels Corporation?

The second area is in defining public policy. The National Coal Policy Project, led by Larry Moss, a well-known environmentalist and former chairman of the Sierra Club, and Jerry Decker, of the Dow Chemical Company, is a good example of an attempt by both environmentalists and industry to explore common ground in their conflict over coal policy.

The third way environmentalists could form alliances with business is to enter into business partnerships. Is there any reason why environmental groups have to be limited to testifying, writing and lobbying? Why shouldn't they help to market pro-environmental products? Audubon has recently established an arrangement with an energy management company to promote energy efficiency in commercial buildings. We have just helped to sell a $100,000 system.

The opportunities for business partnerships are immense. Why shouldn't we, for example, work with manufacturers of water-heating heat pumps to develop a packet of information that would help our half million members—especially those in the South, who heat their homes with electricity—to become more familiar with this technology? Why shouldn't we produce an investment newsletter that contains information about profitable companies in solar, conservation and pollution-control equipment, which Audubon members could use in purchases and sales in their own portfolios? If we were to sit down with business and industry, we could probably come up with many more projects that could help both of us.

There is much on which we can make common cause, and business people should seek out those in the environmental movement with whom they can work. Environmentalists, in turn, should not treat industry as a monolith.

We should all be seeking the right kind of growth, growth that does not degrade the environment that others must share. Environmentalists are not opposed to business enterprises, nor to those who seek a return on invested capital. We are only opposed to mindless growth that demands a narrow advantage regardless of social costs.●

VLADIMIR BUKOVSKY ON THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, in the May 1982 issue of Commentary magazine the distinguished Mr. Vladimir Bukovsky wrote an excellent article on "The Peace Movement and the Soviet Union." In the following excerpt from that article, the author examines the manipulation of the peace movement from the end of World War II to the late 1970's:

THE PEACE MOVEMENT AND THE SOVIET UNION

Oddly, the passion for peace was resurrected shortly after the war was over, while the Soviet Union was swallowing a dozen countries in Central Europe and threatening to engulf the rest of the continent. At that time, some "imperialist warmongers" were sounding the alarm over Soviet conduct and even suggesting the creation of a "very aggressive" NATO alliance. The "reactionary forces" in the world were starting a "cold war." Beyond this, the Soviet Union was troublesomely lagging behind the U.S. in the development of nuclear weapons. For some curious reason, however, the "imperialist military-industrial complex"—all those Dr. Strangeloves—failed to drop the atom bomb on Moscow while they still enjoyed a monopoly on it. This should undoubtedly be ascribed to the success of a great movement of peace-lovers. How could it be explained otherwise, short of the reactionary suggestion that NATO generals were not in the least aggressive?

In any case, members of the older generation can still remember the marches, the rallies, and the petitions of the 1950's (particularly the famous Stockholm Appeal and the meetings of the indefatigable World Peace Council). It is hardly a secret now that the whole campaign was organized, conducted, and financed from Moscow, through the so-called Peace Fund and the Soviet-dominated World Peace Council—where a safe majority was secured by such figures as Ilya Ehrenburg, A.N. Tikhonov, etc. This was the period when comrade Stalin presented his memorable recipe for peace that is the epigraph to this article. Stalin's formulation was enthusiastically taken up by millions, some of them Communists, some loyal fellow-travelers, a number of them muddleheaded intellectuals, or hypocrites seeking popularity, or clerics hungry for publicity—not to mention professional campaigners, incorrigible fools, youths eager to rebel against anything, and outright Soviet agents. Surprisingly, this odd mixture constitutes a fairly sizable population in any Western Society, and in no time at all the new peace campaign had reached grandiose proportions. It became fashionable to join it and rather risky to decline.

The purpose of all this peace pandemonium was well calculated in the Kremlin. First, the threat of nuclear war (of which the Soviets periodically created a reminder by fomenting an international crisis) combined with the scope of the peace movement should both frighten the bourgeoisie and make it more tractable. Second, the recent Soviet subjugation of Central European countries should be accepted with more serenity by Western public opinion and quickly forgotten. Third, the movement should help to stir up anti-American sentiment among the Europeans, along with a mistrust of their own governments, thus moving the political spectrum to the Left. Fourth, it should make military expenditures and the placement of strategic nuclear weapons so unpopular, so politically embarrassing, that in the end the process of strengthening Western defenses would be considerably slowed, giving the Soviets crucial time to catch up. Fifth, since the odd mixture of fools and knaves described above is usually drawn from the most socially active element in the population, its activism should be given the right direction.

The results were to exceed all expectations. Soviet money had clearly been well spent. The perception of the Soviet Union as an ally of the West (rather than of Nazi Germany) was still fresh in peoples' minds, which undoubtedly contributed to the success of the "struggle for peace."

Subsequently, the death of Stalin, the shock created by the official disclosure of his crimes, the Khrushchev "thaw" in international relations, and, above all, the fact that the Soviets had caught up with the West in nuclear weapons, were to make the peace movement temporarily redundant; it ceased to exist just as suddenly as it had once appeared. Meanwhile, the inefficiency of the Soviet economy once again brought it to the point of collapse. The Soviet Union badly needed Western goods, technology, and credits. Without these, there would have to be very substantial economic reform, dangerous to continued party control over the entire economic life of the Soviet Union. At the same time, it was from the strategic point of view important for the Soviets to legitimize their territorial holdings in Eastern Europe and to secure for themselves the freedom to move further. Something new was called for. Out of the depths of the Kremlin, the doctrine of détente was born.

Though the peace movement was put in cold storage, the issue of peace was nevertheless central to this new Kremlin policy as well. The West had grown so exhausted by the constant tension of the previous decades that the temptation to relax, when offered by the Kremlin, was simply irresistible. And after a decade of a ruthless "struggle for peace," no Western government could get away with rejecting a proposal to limit the arms race—however well some of them understood that it would be senseless to try to reach an agreement with the Soviets while the essentially aggressive nature of Communist power remained in force. Probably some such recognition explains why the Western governments insisted on linking participation in the Helsinki agreements to the observance of human-rights agreements inside the Communist bloc. Their idea was to force the internal relaxation of the Soviet regime and so make it more open and less aggressive. In exchange the West provided almost everything Brezhnev demanded in his "Peace Program" of the 24th Party Congress in 1971. "The inviolability of the postwar frontiers in Europe"—that is, the legitimation of the Soviet territorial annexations between 1939 and 1948—as well as a substantial increase in economic, scientific, and cultural cooperation were solemnly granted by the Western countries in Helsinki in 1975. Earlier a separate treaty had perpetuated the artificial division of Germany without even a reference to the Berlin Wall.

The Western democracies had displayed such readiness to accommodate their Soviet partners that their behavior was perceived as weakness. Probably the most disgusting features of détente could be seen in Germany where the "free flow of people and ideas" had very quickly degenerated into trading people like cattle, the right to visit one's relatives in the East becoming a kind of reward conditional on the "good behavior" of the West German government. By playing on this sensitive issue the Soviets were able to blackmail the whole country and to "modify" the policies of its government. Unfortunately, Germany is a key factor in East-West relations because in order to avoid a major split in the Western alliance the other members have to adjust their positions in accordance with Germany's. So it was that Soviet influence came to be exerted through the back door, and the West was politically paralyzed.

In addition, far from making the Soviets more dependent—as the proponents of détente had assured us—increased trade, and particularly huge Western credits, have made the West more and more dependent on the Soviet Union. The dimensions of this disaster became clear only recently, when the discussion of economic sanctions against the Polish military rulers and their Soviet masters revealed the inability of the Western countries to reduce once-established economic relations with the Eastern bloc without harming themselves even more. In fact, by now the Soviets are in a position to threaten the West with economic sanctions. Undoubtedly, they will take advantage of it very soon.

In the meantime, far from relaxing internally, the Soviet regime had stepped up its repressive policies, totally ignoring the weak Western protests against Soviet violations of the human-rights agreements. The weakness of these protests had in turn served only as further incitement for the Soviets to proceed in their course of repression without restraint. Clearly, the ideological war waged by the Soviets through all those earlier years had only increased in intensity during the era of détente. Nor did they try to camouflage this warfare. On the contrary, Leonid Brezhnev stated openly in his speech to the 25th Party Congress, on February 24, 1977: ". . . it is clear as can be that détente and peaceful coexistence relate to interstate relations. Détente in no way rescinds, or can rescind, the laws of the class struggle."

Furthermore, as it transpired, instead of reducing their military expenditures and arms build-up, as the Western nations had during those years, the Soviet Union, taking advantage of Western relaxation, had significantly increased its arsenal. So much so that if in the 1960's it could be said that a certain parity between East and West had been achieved, by now for Soviets have reached a point of clear advantage over the West. We also now know that the benefits to the Soviet Union of trade with the West were invariably put to military use. For example, the Kama River truck factory built by Americans in the 1970's has recently begun manufacturing the military trucks that were observed in action during the Soviet invasion of Afghanistan.●

FAIRNESS AND EQUITY IN THE EXTENDED BENEFITS PROGRAM

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, there is no doubt that the hardships of unemployment continue to be a pressing problem. These hardships are becoming even more difficult because a number of States have fallen below the minimum level upon which a State may offer an additional 13 weeks of unemployment benefits—extended benefits.

Ironically, Congress is currently planning to add a second round of 13-week supplemental benefits—for a total of 52 weeks—which will, in all likelihood, never reach the majority of those who need them because their State no longer qualifies for the extended benefits program upon which the Federal supplemental benefits (FSB) will be offered.

While FSB's are well intended and may be a reasonable approach to our pressing unemployment problem, they simply do not go far enough. Less than 15 States are expected to qualify for these benefits. Meanwhile, the unemployed in Illinois and other ineligible States will be limited to only 26 weeks of State benefits but will be taxed to finance these FSB's. It seems more appropriate to put back fairness and equity in the extended benefits program than to offer 13 more weeks of unemployment benefits of which only a fragment of the unemployed will be able to receive.

Something must be done, and quickly, to insure continued receipt of extended benefits for thousands of unemployed workers who work in areas of increased joblessness.

Last week, I introduced legislation that would make sure Illinois and other States with continued increasing joblessness will continue to receive extended unemployment benefits.

Congress must act quickly; my proposal requires no new bureaucracy. My proposal reflects compassion yet will not thwart economic recovery; it is fiscally responsible. Furthermore, my proposal is designed to direct and allocate more efficiently scarce Federal and State resources thereby saving money for both.

Too many workers not only in Illinois but throughout the country cannot find work. Is it fair to shut them out of additional unemployment benefits at a time when they need them most? I think not.●

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THE POLITICS OF CRIME

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DYSON. Mr. Speaker, I am submitting for publication in the RECORD a series of excerpts from Richard Neely's article, "The Politics of Crime," which appeared in this month's issue of Atlantic Monthly magazine.

The author asserts that our dangerously increasing crime rate can be reversed, and I would like to say that I wholeheartedly concur. Mr. Neely's comments regarding the obstacles to effective crime control, and his suggestions regarding what might be done to overcome these hurdles, seem to me highly insightful.

For this reason, I commend this article to my colleagues. It has become quite clear, I think, that crime is a growing problem which must be forcefully dealt with, and which our constituents would like to see this Congress take forceful steps to mitigate:

THE POLITICS OF CRIME

(By Richard Neely)

Through at least the past decade, no public problem has worried Americans more persistently than crime. When people are asked in opinion surveys to list the problems that concern them most, the threat of crime typically comes at or near the top of the list. But when the same people list the issues on which they'll decide which candidate to vote for, crime usually comes behind half-a-dozen other subjects. The explanation they offer most frequently is that a candidate's statements about crime are unimportant—no one can do much about the problem.

What is misguided about this attitude is that it is possible to do something about crime. Although the evidence lacks scientific precision, certain facts of criminal-law enforcement are clear:

In many big cities, where the limit on crime is the presence of the police (as opposed to family members, watchful neighbors, and the like, who limit crime elsewhere), more officers on the streets or in the subways means fewer criminals who dare to act. But in courtrooms, most accused criminals go free because the system cannot afford to have it any other way. Everyone involved in the criminal courts is overtaxed, from the policemen, who must take time off the beat to testify, to the prosecutors, who need to dispose of cases as quickly as possible, to the judges, who know as they make their sentencing decisions that the prisons are already overcrowded. The result of this pressure is the plea-bargain, in which a man who faces, for example, a ten-year sentence with a three-year minimum term if convicted of armed robbery will instead plead guilty to grand larceny and end up serving one year in jail.

Many people complain that plea-bargaining returns criminals to the streets, but few have considered the statistics that lie behind this practice. There are nearly 104,000 felony arrests in New York City every year. New York City has facilities for only about 5,000 fullblown jury trials per year, so it is forced to do what nearly all city courts must: find some way to dispose of the surplus, usually through plea-bargaining or dropped charges. Many of the people thereby freed undoubtedly belong in jail, and the crime rate would undoubtedly fall if they were imprisoned. All that is required is money—for police, prosecutors, judges, and jails.

Why, then, have we not taken steps we know would have some effect? The answers are complicated, but chief among them is that for every proposal that might be made to reduce crime, there is a powerful, organised interest that opposes it.

* * * * *

Every effort at improvements in the criminal justice system will seem either helpful or threatening, depending on the perspective of some political-interest group. Thus an increase in the number of policemen means more protection to some, more bullying to others. If, for example, the staffs of prosecuting attorneys are increased so that they can diligently prosecute armed robbers, murderers, and dope peddlers, they will also be available to ferret out consumer fraud, anti-trust violations, and political corruption. Since prosecuting attorneys are usually elected and, therefore, are lawyers with political ambitions, they will be tempted, as in West Virginia, to play to the press by prosecuting white-collar crime. These campaigns are middle-class morality plays that assauge the newspaper reader's sense of unrecognized merit. They are usually less attractive to the political etablishment, however resolute it may be about cracking down on murder and armed robbery. Even firebrand political reformers use questionable tactics at election time, and the prospect of an elaborate enforcement bureaucracy falling into enemy hands is horrifying to politicians.

* * * * *

Consider the case of New York City, which is notorious for its long court delays. In the abstract, most New Yorkers would like to have an efficient court system so that criminals would be sent away. To the casual observer, New York's felon problem would appear easy to solve by increasing the number of policemen and prosecutors, and by expanding the court system.

The hitch, however, is that a New York trial-court judge in empowered to hear both criminal and civil cases; if the number of judges is increased, more civil cases can be heard. Of 25,589 civil cases concluded in New York City in the first forty weeks of the 1979–1980 fiscal year, 5,523 were against New York City itself. New York City has been on the verge of bankruptcy since 1975, and the policies of the Reagan Administration threaten even greater financial strains in the next two and a half years. The potential liability for New York City from the civil suits currently awaiting trial runs to billions of dollars. New York City cannot afford an efficient court system, because it would be bankrupt beyond bail-out if all these suits came to trial in one or two years.

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The moral is that the costs of creating more courts, along with all their supporting staff, are but a fraction of the total amount of money that an expansion of the courts will eventually involve. Typically, the entire judicial branch of government takes less than 2 percent of any state's budget. In New York City, the cost of doubling the number of judges, prosecutors, city attorneys, courtrooms, and supporting staff would be small compared with the cost of paying the judgments the new courts would render against the city.

In other parts of the United States, there are powerful private interests in the same position as New York City: they are not in the least interested in improving the efficiency of civil courts. If, for instance, litigation against insurance companies takes eight years to complete, the company has the use of its money for eight years, and can invest it during that period at between 10 and 18 percent. Furthermore, delay alone is a powerful force to inspire settlements for low sums. Since most federal and state courts are unified criminal and civil tribunals, in which any judge can hear either type of case, the positive economic effect for the general public of improved criminal courts is almost always offset by increased costs on the civil side for those who have the most political power. The public takes its accustomed beating.

If expanding the courts has varied effects, some of them welcomed and some of them abhorred by powerful political groups, the logical solution would be to separate the courts' various functions. We might create institutions that would work in areas where there is broad agreement—such as fighting violent crime—while avoiding other areas. Everyone wants violent criminals prosecuted and the streets made safe. During the 1960s and 1970s, there were numerous programs that attempted to get at the root causes of crime—slums, broken families, unemployment. While we have not abandoned these efforts, there is an increasing awareness that we do not have either the resources or the knowledge to reduce violent crime through preventive means, and this lack should not be used as an excuse for doing nothing.

New institutions will not be developed, however, until there is an organized citizen lobby that makes campaign contributions, sends out direct-mail newsletters about how elected officials perform in the area of court reform, and has representatives entering into the give-and-take of political bargaining in the committee rooms and the corridors of legislatures. Until there is such a lobby around which political support can coalesce, politically workable plans will not be generated. Since there is no active citizen lobby for court reform, and since, to the contrary, all of the day-to-day political rewards go to those who oppose court reform, the legislative branch is entirely indifferent to the courts. * * *

The history of the environmental movement suggest the direction that a citizens' movement could take. Environmental and conservation issues used to be as low a legislative priority as court reform is today. But in the early 1960s, the whole question of pollution control and conservation of unspoiled wilderness captured the imagination of the college-educated middle class. Suddenly, defense of the environment took on the aura of a religious crusade. Groups such as the Sierra Club organised on the national level, and in every state local groups developed and kept in communication with one another.

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The beginnings of a citizen lobby for better law enforcement can already be perceived. In West Virginia last year, the relatives of persons killed by drunk drivers organised themselves to make the drunk-driving penalties more severe. In general, the enforcement of the drunk-driving laws in the United States is a disgrace. But last year, the public outcry against drunk drivers was such that the West Virginia Legislature made drunk-driving a serious offense, amending the law to include a no-nonsense procedure for enforcement.

West Virginia's decision to crack down on drunk driving was not unique; several other states amended their laws last year with spectacular results. In California, for example, after a new drunk-driving law went into effect, the highway death toll during the Christmas season was reduced by 50 percent over the previous year.

In my estimation; a good criminal-justice system that reduces violent and petty crime to roughly one fifth of their current level could be established with substantially less political activism than was required for environmental reform. Furthermore, the costs to the nation of criminal-law reform would be dramatically less than those of the environmental movement, although they would *all* be borne directly by the taxpayers instead of being paid for through the inflation of consumer prices, as was the case with most environmental reforms. Cleaning up the environment exacted its costs through lost jobs, higher utility bills, and more expensive automobiles. Criminal-law reform will cost higher taxes.

It is not necessary that everyone suddenly become interested in criminal-law reform. After all, the number of voters who were actively dedicated to the ecology revolution was comparatively small. Extremely effective interest groups—the National Rifle Association, for example—are comparatively small in terms of active members. It must be remembered that politicians are not concerned with influencing everyone who is eligible to vote—just the 21 to 65 percent, depending on the election, who actually come to the polls. It is the militant and not the indifferent voter who must be satisfied first.

FRIGHTENING FACTS

[From the "Uniform Crime Report: Crime in the United States," prepared by the FBI, Sept. 10, 1981]

Crime in the United States has been increasing at a frightening rate. This table bears sad testimony to a slide towards lawlessness which must be reversed.

Crime	Reported incidents	Percentage increase
Murder and non-negligent manslaughter:		
1979	21,456	
1980	23,044	7.4
Rape:		
1979	75,989	
1980	82,088	8.0
Robbery:		
1979	466,881	
1980	548,809	17.0
Aggravated assault:		
1979	614,213	
1980	654,957	6.6
Burglary:		
1979	3,299,484	
1980	3,759,193	13.9
Larceny:		
1979	6,577,518	
1980	7,112,657	8.1
Arson:		
1980	115,050	●

TITLE I—A PROVEN PROGRAM

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. FRANK. Mr. Speaker, the title I education program for disadvantaged and special needs children has been one of the Federal Government's most successful education programs. I regret that the Reagan administration has consistently led the attack on the title I program through budget proposals which reduce substantially the funding for title I. The irony of these budget cutbacks, which I and many of my concerned colleagues fought hard to defeat last year and this year, is that the program is effective and it is working. The town of Sharon, Mass., a prime example of the successes of this program. The local school district recently evaluated the title I program in Sharon and the results were so encouraging I wish to share some of them with my colleagues.

The title I program in Sharon showed marked success in a number of areas over the past few years. Students evaluated in grades 9 to 12 showed improvement in reading comprehension, vocabulary, phonics, and decoding. Further, according to the year-end student opinion study, nearly all title I students responding felt they had considerably improved their reading skills. The vast majority rated the title I course considerably more helpful and effective than other reading courses they had taken, and most felt the teacher helped them significantly. I think these are important points because not only did the students' actual academic performance improve, but also they expressed their recognition that the program had helped them.

In addition, based on the evaluation of the title I program, the program administrators have recommended improvements and expansions in the program. The title I program in Sharon will be improving even more as they move to integrate further the program staff and students into the entire school community.

In addition, the study has shown that those participating students expressed a greater desire to attend college and university after participating in the title I program. Clearly, a program as proven and as successful as title I deserves more funding, not less as proposed by the Reagan administration. I commend the example of the town of Sharon, Mass., to my colleagues as an example of the success of the program and the need for its continued operation at a level that allows it to expand and improve for the benefit of the Nation's needy schoolchildren.●

REPEAL THE DAVIS-BACON ACT

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HAGEDORN. Mr. Speaker, the controversy over the cost of the Davis-Bacon Act to the Federal Government has been debated in this Chamber on numerous occasions. It is time to cut through all of the rhetoric and provide Davis-Bacon advocates and opponents alike the opportunity to find out if tax dollars actually can be saved by eliminating Davis-Bacon requirements.

Floor action is scheduled this week on H.R. 6100, the National Development Investment Act, which modifies and reauthorizes EDA. I intend to introduce an amendment to this bill to waive the Davis-Bacon requirements only when at least a 10-percent savings of tax dollars would result.

Let me stress that this exemption would occur only when the savings from waiving Davis-Bacon amount to a full 10 percent. If savings would occur but at a lesser rate, Davis-Bacon requirements would remain in effect.

I have asked that the text of my amendment be printed in today's CONGRESSIONAL RECORD. In addition, I have prepared a brief fact sheet which I believe will be useful to Members in their consideration of this amendment. I ask that it be inserted at this point in the RECORD.

THE HAGEDORN AMENDMENT TO H.R. 6100—WHAT DOES IT DO?

The Hagedorn amendment does not:

Repeal the Davis-Bacon Act.

Tamper with the way the Davis-Bacon Act is administered.

Automatically exempt any agency from Davis-Bacon regulations.

The Hagedorn amendment does:

Exempt only EDA projects where at least a 10-percent savings to the Federal Government would result. How? If any contractor bidding on an EDA project can underbid his competitors by 10 percent, the Davis-Bacon requirement will be waived in that instance. If a non-Davis-Bacon bid is the lowest, but not a full 10 percent lower than lowest Davis-Bacon bid, then the Davis-Bacon prevailing wage rate must be paid.

What does the Davis-Bacon Act cost the U.S. public in tax dollars?

According to a report prepared for Senator Hatch by an interagency task force headed by the Office of Federal Procurement Policy, prevailing wages mandated by DOL were approximately 10 percent higher than the average local rate.

The GAO found in its 1979 report that prevailing wage rates prescribed by DOL were 5 to 15 percent higher.

In a report prepared for the American Farm Bureau by Oregon State University the cost of federally aided construction projects ranges from 26 to 38 percent higher when compared to similar projects built by the private sector.

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Using data from the Oregon State University study, the cost per year of Davis-Bacon is between $1 billion and $2 billion.

Associated Builders and Contractors using OMB and GAO calculations, estimates that repeal of the Davis-Bacon Act would result in savings to the federal budget of at least $5.4 billion in budget authority and $3.9 billion in outlays over the next 5 years.

The report prepared for Senator Hatch indicates that Davis-Bacon regulations cost the Federal Government an additional $1 billion per year.

I believe that mine is a novel approach to the question of Davis-Bacon, and one that changes the perspective from a labor versus business issue to a simple question of cost versus savings.

In view of the extraordinarily troubled economic situation our Nation is in, we owe it to our constituents to take this needed step toward eliminating the waste of their tax dollars.

Regardless of their past positions on Davis-Bacon, I urge my colleagues to take a fresh look at this new approach and to support my amendment.●

A HEALTHY MEDICARE SAVINGS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WYDEN. Mr. Speaker, in the midst of the budget reconciliation debate, the House Ways and Means Committee did what some would say was impossible: It identified a savings in medicare that is both cost effective and humane.

This savings, based on a bill I introduced last year, is achieved by requiring the Secretary of Health and Human Services to eliminate the 3-day-prior-hospitalization rule for medicare patients who need to enter a skilled nursing facility. The change in law is to apply to beneficiaries whose health would not suffer as a consequence, and is to become effective as soon as the Secretary establishes cost-effective implementation procedures.

This proposal is based on sound medical and fiscal policy.

Direct entry into a skilled nursing home eliminates transfer trauma for patients who have been unnecessarily hospitalized prior to entering a skilled nursing facility.

And it will save the medicare program millions of dollars.

The intent of my legislation is quite simple. It is time to stop putting people in the hospital who do not need to be hospitalized.

It is time to stop traumatizing the terminally ill—time to stop the ludicrous and expensive practice of readmitting to the hospital individuals who have been released to their homes or other facilities but need to enter a skilled nursing facility.

These people do not need hospitalization, they need skilled nursing care.

Yet, medicare forces them to be hospitalized.

That does not make sense.

It does not make sense because hospitalization costs 3 to 5 times as much as a day in a skilled nursing facility.

It does not make sense because weak and ill senior citizens are being needlessly transferred from hospitals to skilled nursing homes just because of medicare requirements.

If we are going to have a medicare program that is both fiscally sound and responsive to the needs of our aging population, we must take actions that make sense.

One such action is to allow direct entry into a skilled nursing facility when the situation dictates.

I urge my colleagues on the conference committee to support the 3-day provision of the House Ways and Means budget reconciliation language.●

THE FRENCH MASSACRE OF 1982

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, yesterday in the heart of the Jewish quarter of Paris an act of vicious violence resulted in the senseless slaughter of 6 persons and the maiming of 22 others in what was clearly the worst anti-semitic incident in France since the days of Hitler.

All civilized people must condemn this savagery in the strongest possible tones. The Israeli Government in a statement protested to the French Government after the attack contending that the media from Paris had fueled the fires for the violence with their negative coverage of Israel's ongoing campaign in Lebanon.

Anti-Semitism has shown a disturbing increase in France in recent years and the time seems long overdue for the French Government to crack down on those perpetrating acts of anti-Semitism. The Jewish population of France is entitled to the same security guarantees as any other people in France yet these protections have not been accorded to them.

How many more massacres will it take for the Government of France to respond? All one can hope for is that justice is swift and punishment certain for each and every person associated in any way with yesterday's violence. The seeds of anti-Semitism have been planted in France and in other nations around the world. These seeds must be weeded out before they produce the poisoned fruit of hate.

The United States must take the lead in stemming the growth of anti-Semitism around the world. We must raise our voices in outrage each and every time an action takes place but more importantly our Nation must set the example by eliminating anti-Semitism wherever it exists in our Nation.

The New York Post called it bloodbath—the New York Daily News called it slaughter in Paris. However people refer to it, yesterday must go down as one of the darkest days in modern history for the Jewish people and once again the words—never again—never again ring in the hearts and minds of Jewish people everywhere.●

THE BUDGET: A STATEMENT OF VALUES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. AuCOIN. Mr. Speaker, a budget is more than a list of numbers. It is a dollars-and-cents statement of national objectives; it is a dollars-and-cents statement of political values.

Where this Nation chooses to put money and where it chooses to take it away tells what kind of people we are. That is why there is something very wrong about this budget. We ought to be building jobs, not bombs; funding people, not tobacco; freezing nuclear weapons, not our senior citizens.●

THE RISK AND HIGH PRICE OF PLUTONIUM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WOLPE. Mr. Speaker, this afternoon I had the privilege to attend a joint hearing of the Subcommittees on International Security and Scientific Affairs, and International Economic Policy and Trade of the Committee on Foreign Affairs on the subject of nuclear nonproliferation. I as particularly impressed by the testimony of Dr. Brian G. Chow, a senior research specialist at Pan Heuristics, a California-based research organization.

For the benefit of my colleagues, I would like to insert into the RECORD at this time an article by Dr. Chow entitled "The High Risk and High Price of Plutonium" which appeared in the Wall Street Journal on August 6, 1982.

Dr. Chow's analysis highlights the importance of legislation currently under consideration—H.R. 6032 and H.R. 6318—to tighten controls on the export of American nuclear fuel and technology.

The article follows:

[From the Wall Street Journal, Aug. 6, 1982]

THE HIGH RISK AND HIGH PRICE OF PLUTONIUM

(By Brian G. Chow)

The Reagan administration recently affirmed its nonproliferation policy statement of July 16, 1981, that the U.S. "will seek to prevent the spread of nuclear explosives to additional countries as a fundamental national security and foreign policy objective." So the seriousness of the problem has been underlined. Moreover, public evidence suggests that governments such as those in Argentina and Pakistan may in the next several years produce fissile material for bombs by using civilian facilities to separate plutonium from the spent fuel of civilian reactors. In recent weeks, however, the administration appears to have been moving in two directions at once on this important issue.

It has decided to relax its rules so as to provide long-term blanket permission for Euratom (the European Atomic Energy Community) Japan, and perhaps other countries to reprocess spent fuel of U.S. origin and to transfer and use separated plutonium. And reports continue to surface that the administration is now willing to allow the export of sensitive technologies. Domestically, it is considering reviving and subsidizing the Barnwell reprocessing plant in South Carolina.

This is a particularly paradoxical set of policy actions. It was Gerald Ford's Republican administration that first recognised that the economics of selling plutonium was far too dubious to be worth the potential risks it would create for spreading nuclear weapons. It has now become apparent that the economics of separating plutonium from spent reactor fuel compare very badly with simply using uranium in nuclear reactors just one time, a process known as "once-through use."

The first concern about selling plutonium is that the commercial reprocessing of spent uranium fuel creates huge inventories of plutonium. In a single reprocessing plant of Barnwell's size, 11 tons of fissile plutonium are separated annually; that's enough to make 2,000 nuclear bombs. After many studies, including two recent, major ones—the U.S. Nonproliferation Alternative System Assessment Program (NASAP) and the International Nuclear Fuel Cycle Evaluation (INFCE)—it isn't clear that any safeguard system is capable of providing timely warning of plutonium diversion to produce nuclear weapons. Even without commerce in separated plutonium, the present safeguards under the International Atomic Energy Agency are already regarded as seriously strained.

Second, even if we were willing to incur a serious proliferation risk, reprocessing just would not provide the world with economic benefits.

Using separated plutonium and uranium in a nuclear reactor is known as "thermal recycle." The alternative system is the current light-water reactor that uses the fuel just once (or "once-through"). The price of uranium has to rise to $70 a pound—more than three times its current price—for thermal recycle to become competitive with the current light-water reactor.

Moreover, if the once-through, light-water reactor is improved to reduce its uranium consumption by 15%, which even enthusiasts for recycling agree is feasible and likely, thermal recycle is competitive only when uranium's price rises to $140 a pound. The Energy Information Administration of the U.S. Department of Energy has projected a uranium price of $58 by the year 2000 and of $96 by 2020. In other words, thermal recycle using plutonium will not be economical for several decades, if ever.

Even if the price of uranium were to rise to as high as $310, or 16 times the current price, the benefit of thermal recycle over the unimproved once-though, lightwater reactor would only be 7% of the delivered cost of electricity. That the benefit is at most marginal has been confirmed by the two safeguard studies mentioned earlier. Of late, even the nuclear industry has publicly acknowledged this.

Some have said that thermal recycle can reduce a country's dependence on imported uranium. But improvements in current reactors and enrichment technologies can cut the uranium requirement by half, and this reduction exceeds the savings from thermal recycle in current reactors.

Another stated purpose for reprocessing spent fuel is to provide plutonium for the breeder program, whose purpose is to provide plutonium as the initial fuel for the reactor. Again, a breeder would not be economically competitive with an improved light-water reactor until the uranium price rises to $210 a pound, which is twice the energy agency's projected price for the year 2020. It is too early to get involved in expanded reprocessing for a large-scale breeder program.

The administration has proposed to phase out projects related to improvements in the once-through, light-water reactor. These improvements will make nuclear power more economical without increasing the risk of proliferation. The U.S. should take a leading role in forgoing reprocessing and the use of plutonium and, instead, improve the present reactors in a once-through mode.

Third, it can be argued that the administration has intended to grant permission for reprocessing and use of U.S.-origin spent fuel only to countries with effective commitments to nonproliferation and advanced nuclear power programs. The permission will be given only as long as these criteria continue to apply. The conditions for the export of reprocessing and enrichment technologies are likely to be similar. But it's necessary to keep in mind that while nonproliferation commitments might change, it will be impossible for a country to unlearn the know-how of preparing nuclear weapon-grade materials and extremely difficult to induce it to surrender such materials. The proliferation consequences of our approval are irreversible, even if we terminate the permission later.

All along in civilian nuclear-power development, it had been expected that thermal recycle would close the nuclear fuel cycle and that breeder deployment would follow that of the nuclear converters. But in the last six years, since President Ford's decision to impose a moratorium on commercial reprocessing, the world nuclear community has been seriously questioning the economic merits and proliferation risks of both reprocessing and the breeder. We can't expect other countries to change their courses swiftly after they've made substantial investments in specific nuclear technologies.

After all, we're still supporting the Clinch River breeder reactor and deliverating over subsidies to Barnwell in total contradiction of the Reagan administration's free market philosophy. The momentum from the bureaucracies and special-interest groups in France, Britain, West Germany, Japan and others will push reprocessing and breeder further. But this momentum is being slowed by reality.

The cost estimate for reprocessing spent fuel has jumped by a factor of seven since 1974. And the spot price for uranium has dropped by a factor of two in the last three years. Nuclear plant capacity projections continue to be scaled back. France, the most ardent breeder supporter, no longer expects its breeders to be economical in the near future. It is important that the world not plunge into the plutonium economy during this transition period. The consequences of such a plunge are irreversible and they are potentially disastrous.

(Mr. Chow, a physicist, is a research specialist at Pan Heuristics, a California-based research organization.)●

SOVIET MANIPULATION OF THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, during "détente" the West heard little from the so-called peace movement. But with the election of Ronald Reagan, the peace movement reemerged in full force in order to thwart the vital modernization of Western defense forces in the face of a massive Soviet buildup. A discussion of the reemergence of the peace movement and its hysterical claims follows, as written in the May issue of Commentary by Vladimir Bukovsky:

> By the end of the 1970's the West was becoming increasingly aware of these dangerous developments. The usefulness of détente, long challenged by some, was now being questioned by many. And then came the final blow—on Christmas 1979. Just at the moment when most people in the West were preoccupied with such things as Christmas cards and presents, something like 100,000 Soviet soldiers moved in to occupy neighboring Afghanistan, an officially "non-aligned" country with a population of about 17 million. The world was shocked and the USSR was immediately placed in isolation. Even the Communist parties of many countries condemned the Soviet action as a piece of blatant aggression. The invasion of Afghanistan, followed by the arbitrary banishment to internal exile of Nobel laureate Andrei Sakharov, followed still later by the threatening of Poland (leading, finally, to the imposition of martial law), virtually terminated the era of détente.
>
> This termination has cost the Soviets dear. In fact, they have lost almost everything they had gradually managed to gain while the West was enjoying its bout of unilateral relaxation. Ratification of the SALT II agreement was suspended indefinitely. The Americans were awakened from their prolonged lethargy to discover with horror how weak, ineffective, and unproductive their country had become. In this new psychological atmosphere, the victory of Ronald Reagan was inevitable, promising an end to American defense cutbacks, the deployment of a new, previously shelved, generation of weapons like the B-1 bomber, the cruise missile, the MX, and the neutron

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bomb. It seemed equally inevitable that the military budgets of all the other Western countries would be increased, while the trade, technology, and credit arrangements with the Soviets would be reduced, or at least be made more difficult to obtain.

Thus, if this trend were to continue, the Soviets would lose their position of military superiority—especially in view of the fact that their economy is much less efficient than that of "rotten capitalism." Add to this the new wave of international hostility noticeable especially in the Muslim world (the United Nations General Assembly voted against the Soviets on Afghanistan, for the first time since the Korean war), a continuing crisis in Poland, a hopeless war in Afghanistan, and a growing unrest among the population at home caused by food shortages, and the picture grew so gloomy as to be just short of disaster. Clearly the Soviet rulers had to undertake something dramatic to avoid a total catastrophe.

I myself, to tell the truth, was not very much surprised when suddenly, within a year, a mighty peace movement came into being in Western Europe. Especially since, by some strange coincidence, this movement showed itself first of all precisely in those European countries where the old missiles were to be replaced by newer Pershings and cruise missiles. I make no claim to special prescience; it is just that after 34 years of life in my beloved Communist motherland, I have some sense of its government's bag of tricks, pranks, and stunts. In fact, it was not a very difficult thing to predict, for the Soviet state is not a particularly intelligent creature. If you think of it rather as a huge, brainless, antediluvian reptile with a more or less fixed set of reflexes, you cannot go far wrong. "Well, here we are, back to the 1950's again," I thought to myself.

What was much more amusing to observe was the ease with which presumably mature and responsible people had by the thousands fallen into the Soviet booby-trap. It is as if history were repeating itself before our eyes, offering us a chance to see how the Russian state collapsed in 1917, or how France collapsed within one month in 1940. It is also quite amusing, if one has a taste for such amusement, to be reminded of how people are practically incapable of deriving any useful knowledge from even the recent lessons of history. Once again, the universal craving for peace right now, this very moment, and at any price, has rendered people utterly illogical and irrational, and left them simply unable to think calmly. Their current arguments, if one may call them that, are so childish, senseless, selfish, that an involuntary smile comes immediately to one's lips. Even at best what one hears is a parroting of the kind of old moldy Soviet slogans and clichés that even schoolchildren in the Soviet Union would laugh at.

To begin with, why is it that everyone has suddenly begun to be so apprehensive about nuclear war again? What has happened to make it more real than it was, say, two or three years ago? The entire history of East-West relations shows that the only way to force the Soviets to respect agreements is to deal from a position of strength. So are we to understand that because the Soviets might cease to be militarily superior to us, nuclear war is once again a reality? Should we, then, take this proposition to its logical conclusion and say that the only guarantee of peace is Soviet military superiority?

Meanwhile, countless TV programs have suddenly sprung up that unfold before us images of the great treasures of our civilization—paintings, sculptures, pyramids, antiquities, etc.—and at the end of each the narrator reminds us, his voice trembling with noble passion, how terrible it would be if all these treasures were to be destroyed along with the great civilization that produced them. And on other channels, we are treated to documentary after documentary about nuclear explosions and the consequences of radiation. After such relentless programming, naturally public-opinion polls show a sudden increase in the number of those who believe that nuclear war is imminent.

Then there is the catchy new idea that "Our deterrent does not deter anymore." Why? Has a nuclear war begun already? Have the Soviets attacked any NATO country? Or is it simply because those who like to say the deterrent no longer deters have seen their full quota of televised nuclear explosions?

It is so easy to start a panic. The question is: who is served by this panic? The Soviet-controlled World Peace Council declared in 1980 (and the whole European peace movement repeats it as if under a hypnotic spell): "The people of the world are alarmed. Never before has there been so great a danger of a world nuclear holocaust. The nuclear arms build-up, the accumulation of deadly arsenals, has reached a critical point. Further escalation in the arms build-up could create a most dangerous situation, facing humanity with the threat of annihilation."

Never before. But was not the world in as much danger a year earlier? The leaders of the European peace movement themselves claim that the nuclear potential accumulated on both sides is sufficient for them to destroy one another ten times. Is there any technical reason why "twenty times" is more dangerous than, say, "five times"? Or is it that, like a nuclear charge itself, the accumulation must reach a "critical mass" in order to explode?

Somehow, in the midst of all this nuclear hysteria it seems to be totally forgotten that bombs themselves are quite harmless, unless somebody wishes to drop them. So why are we suddenly alarmed by the stockpile of hardware and not by the Soviet military move toward the Persian Gulf?

Again, quite suddenly, voices begin to cry out in a huge chorus, "Nuclear weapons are immoral!" Wait a minute. Did these weapons just become immoral? Are conventional weapons moral? Why should this idea come all at once into the minds of so many people? Take as another example the question of the new missiles to be deployed in Europe. Why is it more dangerous to replace the old missiles with the new ones than to leave the old ones where they are? Are not the old ones equipped with nuclear warheads as well? To be sure, the new missiles are more accurate. So what? We can thank God that they are on our side. They may make life more difficult for the Kremlin adventurers, but why should millions of people in the West perceive that as a tragedy and danger?

Deep in their hearts most of these terrified people have a very simple answer to all these "whys." They know that the only real source of danger is the Soviet Union and that anything which might make the Soviets angry is dangerous for that very reason. But fear is a paralyzing and deranging force. So deranging as to lead some people to advocate the abolition of the police because the criminals are becoming too aggressive.

Indeed, the most amazing aspect of the present antiwar hysteria—aside from the fact that it has arisen at a time so remarkably favorable for Moscow—is the direction of the campaign. Millions of people in Great Britain, Germany, Holland, Belguim, France, and Italy, supposedly of sound mind and with no evidence of the influence of LSD, march about claiming that the threat of war comes from . . . their own governments and the government of the U.S.! A psychoanalyst might characterize this behavior as the Freudian replacement of a real object of fear with an imaginary one. Except that even a psychoanalyst might conclude that pro-Soviet propaganda had something to do with the delusion in this particular case.

The facts are too obvious to discuss here. One may like or dislike President Reagan or Chancellor Schmidt, but unlike comrade Brezhnev, they were elected by the majority of their respective populations and are fully accountable in their actions to the parliaments and to the people. They simply cannot declare a war on their own. Besides, it is quite enough to look around to see the real source of aggression. Was it American or Soviet troops who occupied half of Germany and built a wall in Berlin? Is it not the Soviets who still occupy Hungary, Czechoslovakia, the Baltic states, not to mention Afghanistan, very much against the wishes of the people in these countries? Was it East or West German troops who took part in the occupation of Czechoslovakia and who are prepared to invade Poland?

Everything in the West is done quite openly—one might say, far too openly. But what do we know about the decisions made by 14 old fools in the Politburo whom nobody ever elected to make these decisions and whom nobody can call to account? No press is allowed to criticize them, no demonstrations to protest against their dictate. Anyone refusing to obey their secret orders would instantly disappear forever. There is in fact very little difference between the Soviet system and that of Nazi Germany. Is there anyone who supposes that he should have trusted Hitler more than the democracies? ●

A LETTER THAT MAKES EMINENT SENSE

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BONER of Tennessee. Mr. Speaker, I am sure that every one of us has received correspondence from constituents concerning the recent news accounts of alleged improprieties which have occurred in the Congress. Recently I received a letter from a citizen from Springfield, Tenn., which makes eminent sense to me. I know that the distinguished majority leader of the House has for many years advocated the establishment of a domitory to house the congressional pages. I believe, however, that the logic exhibited in the following letter makes eminent sense. I commend the letter from J. Travis Price to my colleagues.

J. Travis Price,
Attorney At Law,
Springfield, Tenn., July 28, 1982.
Congressman Bill Boner,
Room 552 Federal Court House,
Nashville, Tenn.

Dear Bill: I have been interested to read reports of drugs and of homosexuality in the hallowed halls. I am not so much addressing my thoughts and remarks to the alleged actions, since I am confident that the legislature will find the means to resolve that aspect of whatever problem exists.

What is disturbing me is the "solution" to the problem offered by some of our representatives. That is, again, to throw money at it—to build some sort of Barbizon hotel for the pages, at the taxpayers' expense. You and I both know that that solves nothing, just changes its address. The taxpayers are sorely tired of such boondoggles in the name of problem solving.

I have a much more logical approach. Terminate the page system. It doesn't bring in enough votes, if any, to justify the expense; certainly it doesn't justify building a hotel for the pages. If the Congress must have people running around bringing the members coffee, etc., why not let the DOD assign non-rated military personnel to the duties. Certainly there are enough of them assigned around Washington who are not otherwise busily engaged. (Maybe those members who have the penchant for that sort of life can employ "hookers" from DuPont Circle areas to run their errands, eh?).

Seriously, Bill, there is absolutely no justification for pouring taxpayers' money into a "glamour" solution to a very unworthy project just to perpetuate what I consider to be an archaic and wasteful ego kick for legislators and pages. I trust you share my sentiments.

Yours very sincerely,
J. Travis Price.●

MIDDLE EAST TRIP

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● **Mr. RAHALL.** Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent statement I made on the congressional delegation I led which visited six Middle East countries. These are my comments and do not reflect on collective findings. Our delegation included besides myself, Congresswoman Mary Rose Oakar, Congressmen Paul McCloskey, Elliott Levitas, Mervyn Dymally, and David Bonior. This group, Mr. Speaker, on the balance has been overwhelmingly and consistently supportive of the interests of Israel and those who claim otherwise should examine the facts on record.

My statement follows:

Statement of Congressman Nick Rahall

Our mission, to see first hand what has occured in Lebanon, and to talk with all parties concerned, took us to six Middle East countries: Syria, Israel, Lebanon, Egypt, Jordan and Saudi Arabia.

We talked with five heads of state: President Assad of Syria; President Sarkis of Lebanon, Prime Minister Begin; President Mubarak of Egypt; and King Fahd of Saudi Arabia. We would have spoken with King Hussein of Jordan, but he was not in his country at the time of our visit.

In addition we met with five foreign ministers, four defense ministers, numerous faction leaders in Lebanon, members of Parliament in Syria, the Knesset in Israel, and People's Assembly in Egypt, plus representatives of the Labor Party and Peace Now Movement in Israel.

This delegation traveled well over six hours by car to enter Lebanon from its northern border. Once reaching Beirut, we were the first—and so far only—Members of Congress to see in person the massive, senseless and heartless devastation of West Beirut. We traveled the same streets three of us traveled 2½ years ago.

Schools, apartment buildings, businesses totally demolished—with untold numbers of innocent civilians buried underneath. We visited every floor of a Lebanese Red Cross Hospital—clearly marked as such—which had been shelled on three different days, and in which invalid patients, children and infants cried out for help. Doctors pleaded with us for vital medical supplies.

We witnessed an awesome display of U.S.-supplied weapons, including cluster bombs, which were clearly marked with U.S. insignias. U.S. weapons that have been raining on West Beirut for well over a month and a half, in clear violation of U.S. Law.

As I looked out from the bowels of Beirut from what was once the beacon of beauty in the Mideast, the shining Mediterranean Sea, I could only weep for the land of my grandparents. Yes, the PLO brought seven years of hell to Lebanon, as I personally witnessed 2½ years ago, but the worst hell of all has been brought in the last seven weeks, perhaps simply the last seven days.

In West Beirut claims that bombings occur with pinpoint accuracy are lies. Claims that bombings are in response to PLO fire first are lies. Our U.S.-arranged ceasefires are merely transformed instead into massive Israeli escalations—the most unbelievable of which occurs in the final hour preceding cease fires. To use quotes that we heard, "At best, this will be interpreted as the result of U.S.-Israeli impotence; at worse, as another example of U.S.-Israeli collusion in the war in Lebanon.

From Beirut, we traveled south under the escort of the Lebanese Civil Defense Forces and American Embassy Guards, having respectfully refused strongly made requests by Israel defense forces to be our guides and guards.

In Sidon, we again saw schools, housing demolished, and centers of Lebanese populations that again did not benefit from any pinpoint accuracy bombing. It was easy to see how true President Sarkis' statement that many more Lebanese have been killed than Palestinians. Most amazingly of all was the bombing of a Lebanese Army barracks and the confiscation of all Lebanese Army weapons. When I asked Israeli Defense Minister Ariel Sharon of this occurrence, he appeared surprised, perhaps angered that we had seen what he knew. Israeli Military Guides would not have let us see.

In Jerusalem, we had frank and lively discussions with Prime Minister Begin, Defense Minister Sharon, and Foreign Minister Shamir. We also had an excellent conversation with Labor Party Leader Shimon Peres and a relaxed very friendly and delightful meeting with Ambassador Phillip Habib.

In our meeting with Prime Minister Begin, I relayed to him what we asked of Yassir Arafat in our West Beirut meeting with him and what we got or did not get. I relayed my appeal to Chairman Arafat to clearly, simply and unequivocally recognize the right of the state of Israel to exist and to renounce terrorism. I stated it had to be in straight forward language with no hedging for world opinion to recognize. He asked if we got it. I responded NO and he exclaimed see!

We had many questions for Defense Minister Sharon. His arrogant attitude leads him to believe that in times of war you can "look through formal agreements" between countries. Therefore, his use of American made cluster bomb units to destroy PLO fighters even if more Lebanese are killed is justifiable in his mind. This is horrifying to me.

After having heard Mr. Begin's insistence that there will never be a Palestinian State on the West Bank and Gaza and that he will never, under any circumstance, have a dialogue with the P.L.O., it was most encouraging to learn that more than 50 members of the Israeli Knesset have signed their names to a resolution that calls for a dialogue with Palestinians, and there are numerous opinions in Israel that the Sharon-Begin West Bank Settlement Policy is in clear violation of U.N. Resolution 242 and the Camp David Accords. Egyptian President Mubarak went further to say that the Sharon-Begin West Bank Policy was "180 degrees in the opposite direction of the Camp David Agreement worked out by his predecessor President Sadat and Mr. Begin."

It was clear to me, as I am sure it was to the others, after our meeting with President Mubarak, that Egypt has again produced a great leader who desires peace in the Middle East.

President Mubarak expressed worry at possible Soviet Union benefits from U.S. mistakes in Mid-East. He firmly believes that unless the U.S. re-evaluates its policy in this part of the world the Soviets will benefit. A U.S. re-evaluation must relate to an overall solution and hope to Palestinians for a return to their homeland.

Simply to disperse the P.L.O. throughout several countries would solve nothing, but perhaps help spread terrorism which the Communists would love. The only way any Arab country would take P.L.O. from West Beriut would be in exchange for some hope for a Palestinian homeland.

President Murbarak feels the Palestinians could be contained easily, but never by Military Force, only by dialogue and discussion.

Our discussions with leaders in Syria, Egypt, Jordan and Saudi Arabia, dispelled in my mind any idea what-so-ever that the Arabs are disunited, for they are much more alike than they are different. Their will is stronger than ever to unite for the Palestinian cause of human rights.

The Palestinian desire for a homeland is just as strong and as legitimate as any Israeli desire for a homeland, and everywhere in the Arab World, there is a complete disbelief in the United States' current policy in the Middle East. The Arab Leaders' message was quite clear, the U.S. must re-evaluate its policy in the Middle East before it is too late.

I stongly agree with Israel's desire for security and protection of its citizens. Terrorism in the region must stop, is the message we told those who have participated in such methods in the past. A Political solution, rather than a military one, must be the avenues to pursue for peace.

I would just as strongly agree that Lebanon's pleas for security and recognition of its boundaries, as well as the protection of its citizens is legitimate. This country's present problem has, as King Fahd in Saudia Arabia said "far-reaching repercussions with the only beneficiary being the U.S.S.R. and its satellites."

Furthermore, the Palestinians hope for a future is a human rights cause that must be achieved. King Fahd said he will not abandon the Palestinians and doesn't feel other Arabs will either.

A peaceful future for all countries and peoples of the region are all worthy goals that we must help to bring about. Each life is as important as the other and each man has a right to have a say in his future.

As Secretary of State Schultz has said, it is indeed time for us to recognize realities in the Middle East. It is time that we re-evaluate our Policy. It is time that we get to the root of the problem in order to prevent future West Beiruts.

Labor Leader Shimon Peres said in our meeting in Jeruselem, that in 10 years with the introduction of more dangerous weapons it "May Be Too Late." Speaker Teleb of the Egyptian Assembly said that in 10 years it may be too late for the U.S. Former Foreign Minister Sa'ad Salaam told us we may be witnessing the "last spell of moderation ever".

As this delegation prepares to assemble a report on our trip that we will share with our colleagues, we will certainly stress that at this time, there is a faint flickering of hope for peace in the Middle East, and the U.S. must act now to make that light burn bright. We have passed up opportunities in the past. Let us not repeat our mistakes.

Thank you.●

H.R. 4961

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DREIER. Mr. Speaker, H.R. 4961, the bill to raise revenues in various areas which is currently before a House-Senate conference committee, is one of the most disturbing pieces of legislation to be considered by the 97th Congress. I cannot support it in its present form, and I am deeply troubled by the procedure through which the House sent it to conference.

Although H.R. 4961 began as a minor tax bill, it was rewritten by the Senate and became the complex and highly controversial bill it is today. The House abdicated its constitutional responsibility by sending the bill to conference instead of insisting on its prerogative to originate revenue-raising measures.

Besides these procedural problems, H.R. 4961 should not be passed because it is bad policy. We are, undeniably, in a recession, but there are many signs that it is about to end. A substantial tax increase at this time would insure the continuation of the recession.

The tax hike contained in H.R. 4961 flies in the face of all that we have accomplished toward restoring economic stability to our country. This tax increase, combined with bracket creep and the rise in social security taxation that was enacted during the Carter administration and is now taking effect, would wipe out almost all of the tax cut brought about by the Economic Recovery Tax Act of 1981.

Instead of raising taxes, we should dedicate ourselves to continuing the difficult but necessary process of further reducing the level of Federal spending. My constituents' demand that Government spending be brought under control is as strong today as it was when I was elected to Congress. The last thing they, and the majority of the citizens of this country, want is for us to renege in midcourse on what we have begun. There is no doubt that we must reduce the Federal deficit, but we must do so through reductions in spending, not huge tax increases.

Unless the conference committee makes major revisions in the bill, and unless the spending cuts mandated by the budget resolution are met, I urge my colleagues to vote against final passage of H.R. 4961.●

ACTS OF COWARDICE IN A PARIS RESTAURANT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PORTER. Mr. Speaker, last night's news reports and this morning's headlines shocked the American people and saddened those who long for a more rational and sensitive world. Yesterday two terrorists, posing as customers, entered a well-known Jewish restaurant in one of Paris' oldest and loveliest quarters and opened fire on the customers and staff with machineguns and grenades. They killed 6 persons and wounded 21 others. It was described in the press as the bloodiest anti-Semitic attack in France since World War II.

What might have been noted as yet another in a long series of despicable acts of cowardice and terror was particularly brought home to me when I noted a report in the Chicago Tribune confirming that several of my constituents had been in that lunchtime crowd. One of them was killed. Two others were wounded, their condition at the time of the report, not known.

Once again we are reminded that the world all too easily tolerates a level of senseless acts of violence that belies our claim of advanced civilization and commitment to the rule of law.●

SAFE SCHOOLS BECOMING A REALITY IN NEW YORK CITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. I wish to bring to the attention of my colleagues an article which appeared in the New York Times last week detailing the dramatic drop in school crime in New York City in the past 10 years. During the decade which statistics have been compiled by school officials and the United Federation of Teachers, we have witnessed crime in New York City schools dropping an average 22 percent. This includes assaults, robberies, larcenies and other such incidents curtailed from a high of 3,534 to the current level of 2,730.

As New York's senior member of the House Education and Labor Committee, I have maintained a strong personal interest in this area and wish to commend New York City officials for their diligence in working to reduce this unacceptably high level of crime in our schools. I am the author of the safe schools program which was established in the 1978 amendments to the Elementary and Secondary Education Act of 1965. This program authorized $15 million in grants to be provided to 15 local education agencies which were determined by the Secretary to have the highest levels of school crime. The program, which would have funded both school safety programs as well as safety devices, sadly was never provided with an appropriation. This program has now been folded into the education block grant—funded at $483 million this year—and it would be my hope that school officials in LEA's with special crime problems might seek to earmark some of their block grant funds for this activity.

I commend this article to the attention of my colleagues—especially those from urban areas in the country which face similar problems to those faced by New York and urge them to work with their own LEA's in targeting Federal funds in this direction. Safe schools are critical to the educational process and we do our young people a great disservice by allowing such activity to continue in schools—activity which should clearly be eradicated for the benefit of all.

STUDENTS' CRIMES AGAINST TEACHERS ARE DOWN BY 22 PERCENT—BIGGEST CITY DROP IN 10 YEARS—STRICTER POLICIES CITED IN REPORT BY THE UFT

(By Gene I. Maeroff)

Crimes against teachers and other staff members in New York City's public schools have declined significantly for the first time in the decade that the United Federation of Teachers has kept such statistics.

Figures provided yesterday by the teachers' union for the school year that ended in

June show a drop of 22 percent in assaults, robberies, larcenies and other reported incidents, to 2,730 cases from 3,534.

"Together with the upturn in our reading and math scores, this should tell the public that most New York City schools are pretty safe places where learning can and does take place," said Albert Shanker, president of the federation.

1,639 ATTACKS REPORTED

The group has regularly expressed its outrage at violence in the schools and has urged that the buildings be made safer.

A similar decrease in crime was revealed in figures compiled by the Board of Education not only against teachers, but also against students, principals and others in school buildings.

However, the figures from the teachers' federation show that, even with the reduction in crime, there were 1,639 physical attacks, 165 robberies, 694 larcenies and 232 other incidents against teachers and staff members reported in the public schools in the 1981-82 year.

The improvement follows a year in which the Board of Education, which has a $24 million security budget, initiated firmer action against students involved in the most violent and disruptive incidents.

In 1981, Schools Chancellor Frank J. Macchiarola ordered that the police be summoned if a youngster brought a weapon into a school building and that the youngster be immediately suspended.

"Chancellor Macchiarola has provided the leadership and has established the policy and the tone to deal with the school crime problems more effectively," the teachers' federation said in a report with its findings.

The school system has enlarged its security force in the last year by 455 members to 1,705. It has also become more selective in training procedures and has spread coverage to junior high schools as well as high schools.

Statistics compiled by the Board of Education's Bureau of School Safety show that, during the 1981-82 school year, there was a decrease of 15.4 percent in assaults, 26.4 percent in robberies and 3.4 percent in larcenies.

For the first time in the eight years the board has kept such records, there was a drop in four of the five most serious categories of school crime—assaults, robberies, drug offenses and sex offenses. Only weapons infractions increased, and school authorities said that was because more vigorous enforcement in that area had led to better reporting of incidents.

69 UNSAFE SCHOOLS

"What we want now is continued funding," Mr. Shanker said, "with special focus on those schools which still have severe problems."

The number of schools rated "unsafe" by the teachers' organization dropped to 69 from 105. The 69 schools accounted for 43 percent of all the crime reported by teachers in the city.

The schools categorised as unsafe were not identified because "it would not help the schools," according to Susan Glass, speaking for the United Federation of Teachers.

Rated as the safest community school districts by the federation were Manhattan's Districts 2 (the East Side) and 4 (East Harlem), District 7 in the South Bronx, Brooklyn's Districts 14 (Williamsburg) and 22 (Flatbush) and District 31, which takes in all of Staten Island.

Also, in this category were Queens Districts 24 (Long Island City-Ridgewood), 25 (Flushing), 26 (Douglaston-Bayside) and 29 (Queens Village-Springfield Gardens).

The districts ranked as safest averaged one incident or less a school during the year.●

THE CRISIS IN SCIENCE EDUCATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SEIBERLING. Mr. Speaker, there is an impending crisis in science education in this country which, unless corrected, is almost certain to result in the near collapse of our position as the leading economic, scientific, and military power. The ill-advised actions of the Reagan administration which have lead to cuts in aid to higher education will simply aggravate what is already a serious shortage of science and mathematics teachers.

The Washington Post for Sunday, August 8, contained an excellent article on this crisis by writer Donna Hilts. Ms. Hilts reports that a recent convocation of the National Academy of Sciences called the state of high school science and mathematics teaching in this country "scandalous" and stated that most students graduating from high school are "scientifically illiterate." At a time when America's economic future depends on the expansion of its high technology industries, half the newly hired math and science teachers in high school were not qualified to teach those subjects, and graduates of American high schools are scoring increasingly badly in math and science. One-half of all high school graduates take no math or science beyond the 10th grade.

As Frank Press, the president of the National Academy of Sciences, stated, "The danger * * * is in raising a generation of Americans who lack the education to participate in a technological age * * *." By contrast in West Germany and Japan, the governments have encouraged increasing numbers of young people to enter into engineering and other technical fields, so it is no coincidence that industrial productivity in these countries has increased far more rapidly in those countries than in the United States in recent years.

Even more ominous, the Soviet Union has just instituted a reform of its science education which makes it the most advanced in the world, according to the National Science Foundation. The number of high school students taking calculus each year in the Soviet Union has reached 5 million. For the United States, the comparable number in 1977 was 105,000. In addition to 2 years of calculus, all youngsters in the Soviet Union are required to complete 5 years of physics, 4 years of chemistry, 4 years of biology and 5 years of algebra.

Mr. Speaker, the worst aspect of our situation is that, from the President on down, politicians seem to be increasingly catering to the antiscience movement in this country. At a time when we should be expanding and improving the scientific approach in education, national debate seems to be focused on the efforts of religious fundamentalists to impose the pseudo-science of "creationism" as having equal standing with the scientifically developed theory of evolution. If they succeed, they will have only turned a national comedy into a tragedy.

The full text of the Washington Post article follows these remarks:

EQUATION FOR A TEACHING CRISIS

(By Donna Hilts)

At a recent convocation of the National Academy of Sciences, a group not easily pushed to overstatement, scientists and educators call the state of high school science and mathematics teaching in this country "scandalous." What's more, they agreed, most students graduating from high school are "scientifically illiterate."

The shortage of teachers is critical: In New York and Minnesota last year, according to Academy president Frank Press, not one university graduate qualified to teach high school science actually did so. In the Washington area, universities are graduating only a handful of high school math and science teachers, a trickle not large enough to supply the major school districts in Maryland, Virginia, and the District.

Pirating teachers has become a national way of life. High-tech industries, desperate for engineers and other technically skilled workers, are not only raiding college faculties but offering new graduates $10,000 more to start than the $14,000 they could get teaching in area high schools. Colleges and industry in turn are stealing teachers from high schools, according to area educators. As a result, those left behind to teach the young in the public schools are often neither sufficiently competent nor enthusiastic to inspire their students to the wonder of the quirk or the beauty of an equation.

The crisis looms at a time when America's economic future depends on the expansion of its high technology industries—computers, robotics, laser optics, genetic engineering. And yet not nearly enough people are being trained to fill these jobs. In Massachussetts, Itek Corporation chairman Robert P. Henderson recently told a congressional hearing, the inability of these industries to find enough technically trained workers to fully staff their facilities had lost the state half a billion dollars in personal income revenue.

No one is quite sure why or how this crisis in science education happened. Television, Vietnam and the upheaval of the '60s, which forced lower school standards across the board, are commonly blamed. But it is certain, as Dr. Wade Gilley at George Mason University puts it, that while the high technology express rumbled into America, "We as a nation were asleep at the switch."

As a result, we have begun a national scramble to catch up. The National Science

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Board, which directs the National Science Foundation, has set up a panel of experts to find some answers, fast. And the Department of Education has put its own National Commission on Excellence in Education in place. Meanwhile local schools and industries have been left to assemble their own patchwork solutions.

The decline, some would even call it disgrace, of a nation that has long prized its technological ingenuity, can be read in recent statistics from the National Science Foundation:

In 1981, half the newly hired math and science teachers in high school were not qualified to teach those subjects. Forty-three states reported shortages of math teachers; nearly as many lacked enough physics teachers. More alarming, the average education major today scores significantly lower on standardized aptitude and achievement tests than other college students.

The performance of students, not unexpectedly, is equally dismal. The number of college freshmen needing remedial help in math jumped 72 percent from 1975 to 1980. On SATs and national assessment tests administered by the U.S. department of education during the past 10 years, 17-year-olds have scored increasingly badly in math and science. Many give up entirely by senior high: one half of all high school graduates in the United States take no math or science beyond 10th grade.

What is more, many experts are beginning to worry, not only about the quantity of science and math education, but also the quality. Henry Pollak, head of math and statistics research for Bell Laboratories, the nation's premier industrial lab, said recently, "Since 1940 the amount of math known has doubled every 10 years so that we now know about 16 times more math than we did then, but none of it has found its way into the schools."

In the Washington-area public school systems, although admittedly better off than many places, have already begun to feel the crisis. "We're in a state of mild panic right now," admits James Shinn, director of employment services for Fairfax County schools. Despite the system being one of the most affluent and most highly regarded in the nation, Shinn expects to open this fall with uncertified substitutes filing several math and earth science teaching slots. The county's saving grace, he says, is that the quality of their substitutes is so high. Most are quite proficient in their fields, but lack the necessary teaching credentials for state certification.

In Montgomery county, where dwindling enrollments have caused massive school closings, there is a temporary surplus of math and science teachers, according to John Pancella, coordinator of secondary science for the schools. In Prince George's, the school system's recent $30 million budget cut forced the firing of more than 500 teachers, 16 high school math and science teachers among them. Those with provisional certificates were the first to be laid off.

"I don't want to imply there isn't a problem," said Carl McMillen, director of personnel for the Prince George's system. "There has been for the past several years. . . . As time goes on, if the student population increases, there will be a continuing and worsening shortage in math and science teachers, particularly in physics and chemistry."

Conrad Seeboth, supervisor of mathematics for Prince George's, is equally pessimistic: "In the junior high, middle school, and elementary levels, we definitely need to beef up the competence of some of our teachers." Already, the system is trying to retrain some of its teachers by offering courses in algebra and geometry. "Many of them haven't had those subjects since high school," he said. "They're very rusty."

In the District, officials have sent a desperate appeal to area universities to fill several math and physics teaching posts before school begins. Although exact figures are not available, Mary B. Harbeck, supervising director of science, said she recently lost two "excellent teachers," one to industry, the other to a college. "The shortage really exists in good teachers," she said. "There are people available who are certified, but not qualified."

To ease the problem, most area school districts are pushing to find teachers within their own systems who are near certification in the critical fields and help them become qualified. In Montgomery and Fairfax, this includes some financial help for teachers' course work at area universities.

Even in Montgomery, where the school system's reputation, prime location, and relatively high salaries make it attractive to teachers, school officials worry about the near future. "I have an aged faculty," said Pancella. "My concern is in four or five years." Fairfax director Shinn agrees. In five years, shortages will be really severe, he said. "The supply will shrink, and we're frightening people out when we say there is an [overall] surplus of teachers."

The recent graduating classes of area universities indicate the kind of future shortage Shinn fears. At George Washington University, there were no graduates in secondary math and science education. At the University of Maryland, one of the largest teaching institutions in the area, out of 179 secondary education graduates, seven were qualified in math, only four in science, while 43 majored in early-childhood education, and 19 in art.

George Mason University vice president Gilley estimates that half the jobs in Fairfax County are in high-tech industries. Yet people to teach youngsters to fill those jobs are not being trained in sufficient numbers. At George Mason only two students graduated in secondary math education last year, none in physics or chemistry.

George Mason, however, recently has begun a new partnership with county industries, which it hopes will "build a critical mass of first-rate faculty," said Gilley.

The new Institute of Science and Technology at George Mason will attempt to tap the highly paid talent, and expensive equipment, of the county's 424 high tech firms, those specializing in computers, software, and research and develoment among them.

Executives will be offered part-time teaching posts and help develop the university's science curriculum; they will in turn have access to the university's pool of manpower, professors and students, to carry out understaffed projects, said Gilley.

Such a solution, however, may do little to ease the drain of teaching talent below the college level. Gilley points out that in the past decade the number of technological companies in Fairfax has jumped from 135 to 424, and the number of jobs in these industries has more than doubled. "Firms are locating here now almost weekly," he said.

So where does that leave the coming generation of young people, who cannot possibly compete in the marketplace of microchips and robots if they are not somehow encouraged in science early on? The Washington area reflects what is happening nationally. There is a growing gap of information between rich and poor, the educated haves and have nots. In Montgomery County, for instance, more students than ever before are enrolling in advanced science courses and entering science fairs. While in the District's inner city, said science director Harbeck, "We have some young people—and some adults—who think the landing on the moon was a big science fiction extravaganza on T.V. They just don't believe it happened."

"The danger," wrote Academy of Sciences president Frank Press recently, "is not in failing to train the gifted who wish to be scientists and engineers; they still seem to receive the requisite education and opportunities. Rather, it is in raising a generation of Americans who lack the education to participate in a technological age; in failing to assure the scientific literacy of Americans, whatever their future vocations."

How America can be so transformed, it is hoped by many, will be so outlined by the National Service Board's new Commission on Precollege Education in Mathematics, Science and Technology. The 20 men and women on the panel were chosen for their credentials in industry, defense, science and education. They consider their mandate, according to commission executive director Richard S. Nicholson, to write a national science education policy.

Some believe not only the economic health, but the safety of America's future depends on it. In West Germany and Japan, where the governments have persuaded their citizens of the importance of technology and encouraged increasing numbers of young people to enter engineering and other technical fields, industrial productivity has increased far more rapidly than it has in the United States.

America's lag in technological education has perhaps more frightening implications in the state of the country's defense—not missiles and bombs, but the people who will control them.

"We can't compete with a driver of a tank from the Soviet Union who has two years of calculus when we have to write our manuals at the sixth-grade level in comic book style," Nicholson said.●

CONTROLLING FEDERAL DEFICITS: PAY AS YOU GO

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WOLPE. Mr. Speaker, we are now confronted by the projection of extraordinarily high Federal deficits through fiscal year 1985—deficits which threaten to postpone indefinitely any semblance of an economic recovery. With each passing day, public frustration over a Federal budget that is out of control becomes more intense and grassroot demands for quick and decisive action become more urgent.

It is now painfully clear that gaining control of the Federal budget is a battle that will not be won by simple slogans or easy half-truths—rather, it is a battle that will require the kind of political courage and tough decision-making that has been absent from this Chamber for far too many years.

During our most recent budget deliberations, Congressman MILLER offered us an opportunity to adopt a method of making spending decisions that would have restored faith in the ability of the Congress to reduce deficits and to enact a sound Federal budget. Tragically, however, the administration and the leadership of both political parties in Congress refused to endorse the Miller "pay-as-you-go" alternative, and what was eventually passed was a budget totally unrelated to economic reality—a budget with a deficit in excess of $140 billion.

Deficits of this magnitude are unsupportable; they serve no party and no constituency. They result in high interest rates, capital shortages and massive unemployment. They drain our economy of its vitality and create an environment in which every wage-earner cringes when its time to pay the monthly bills.

Persistent Federal deficit spending must be brought to an end, and the all-critical challenge before this Congress is to act in a bipartisan fashion to reduce deficit spending and to move toward a balanced budget.

As the Congress continues to search for a workable budget solution, it would do well to reconsider the Miller "pay-as-you-go" alternative—an alternative which, according to the nonpartisan Congressional Budget Office, would generate a budget surplus of $27.5 billion in fiscal year 1985.

By freezing all Federal spending at 1982 baseline levels and requiring offsetting savings or new revenues for any additional spending above that baseline, the "pay-as-you-go" budget would break the almost constant reliance of Federal budgetmakers upon deficit spending.

Upon reviewing the "pay-as-you-go" alternative, Washington Post columnist Mark Shields found it contained—

> No more rigged projections of rosy revenue increases by 1988 * * * [no more promises] of instant and ouchless prosperity by next Tuesday * * * The Miller plan offers some political pain * * * No longer would Members of Congress—of both political parties—be able to finance their untouchable programs through the Federal deficit. Congress would be required to make real choices among competing interests and constituencies.

This Congress has a fundamental responsibility to put partisanship aside and to address in a a rational and objective manner the problem of growing Federal deficits. I suggest to all of my colleagues that the first step in fulfilling this responsibility is to seriously reconsider the "pay as you go" budget.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MAZZOLI. Mr. Speaker, I continue to be gratified by the strong support for the Immigration Reform and Control Act of 1982, H.R. 6514, which has come from leading newspapers of the Nation.

Earlier this week, the New York Times, in its usual straightforward fashion, argued for prompt action on the immigration bill in the other body and in the House. The editorial correctly pointed out that the bill maintains today a fair balance, but that balance and symmetry can be lost if unnecessary and inappropriate amendments are attached to it.

I certainly appreciate and welcome suggestions from my colleagues for amendments to H.R. 6514, which was reported unanimously by my subcommittee on May 19 and which will soon be considered by the full Judiciary Committee.

However, when offering such amendments, I trust my colleagues will keep in mind the balance existing in H.R. 6514, and the need to preserve balance in the final product.

This is a good bill and deserves the support of the House and of the Nation.

I am including at this point a copy of the New York Times editorial of August 9, 1982.

TURNING MEAN ON IMMIGRATION

Today or tomorrow, the Senate will have a rare, fleeting moment to put the United States back in charge of its own borders—but it may blow the chance.

Controlling immigration has become an important goal of conservatives and liberals alike. Now, finally, they have a way to get from here to there: the broad and balanced immigration reform bill sponsored by Senator Alan Simpson, Wyoming Republican, and Representative Romano Mazzoli, Kentucky Democrat, which is about to come up for debate in the Senate.

The underlying idea is simple: reduce illegal immigration sharply while holding legal immigration at the present level. But both halves of that proposition are threatened by harsh amendments to be offered in the Senate. Unless they are beaten, the opportunity of a generation will be lost.

The idea of clamping down on illegal immigration may sound like pure virtue, but it arouses employers and civil libertarians. In response, the Simpson-Mazzoli bill is adjusted as delicately as a clock. The best way to discourage illegal immigrants is to make it harder for them to get jobs—and the practical way to do that is to make it against the law for employers to hire them. For that to work, in turn, means some kind of identification system, so employers can tell who is illegal.

Employer sanctions and an identification system are the heart of the bill; without them, it is not worth having. But civil libertarians fear invasions of privacy and Hispanic groups fear discrimination. Unless offset, such fears would trigger powerful perhaps fatal opposition to the bill.

That's one reason it also contains an amnesty provision. Over the years, thousands of illegal entrants have created new lives here, but lives shadowed by fear of discovery and exploitation by unscrupulous employers. The Simpson-Mazzoli bill would provide a one-time amnesty for most of them, offering enough humane benefit to induce some opponents of sanctions to go along.

But that's not good enough for Senator Jesse Helms, the North Carolina Republican. He insists that amnesty must be deleted altogether—even though that would jeopardize the whole bill. He would rather break the clock than see an amnesty provision succeed.

Senator Charles Grassley, the Iowa Republican, proposes, more sensibly, to delay amnesty for three years, the same three years in which the Government is supposed to work out an effective identification system. Both sides of the bargain would remain hostage to each other, not a bad idea considering how much the bill's identification provisions have been watered down.

There is a harsh spirit alive also over legal immigration. Senator Walter Huddleston, a Kentucky Democrat, proposes limiting all immigration to 425,000 a year. That's roughly the present amount—but there's a big catch. He would include refugees within his limit. That would reduce total admissions by 100,000 or more people a year.

The Huddleston cap illogically lumps together two wholly different kinds of people. Refugees are desperate to escape persecution; immigrants are eager to rejoin their families or find new opportunity. The probable effect would be to cut deeply into the number of parents, wives and children of U.S. residents who could come in legally.

At a time of 9.8 percent unemployment, there's a glib appeal to the Huddleston notion. It's not the first time someone has blamed economic distress on foreigners. It's not the first time legislators have turned exclusionary or nativist. But if people like Senator Huddleston are sincere about losing jobs to foreigners, it's illegal migrants they should be worried about.

The 97th Congress is winding down fast, but the chances are that if the Senate can pass the Simpson-Mazzoli bill without these ugly amendments, the House will act quickly. The public, to judge by polls, overwhelmingly supports controlling the borders. This bill provides a way to do so in ways that are effective without being ugly. Congress should jump at the chance.●

HON. JONATHAN BINGHAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. STOKES. Mr. Speaker, I take this opportunity to thank the distinguished gentleman from New York, Mr. ADDABBO for taking this special order so that Members can salute a man call a perfect statesman and one who has served this Nation since 1965—Congressman JONATHAN BINGHAM. This salute is appropriate action for a gentleman who has not only

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made this Congress a more responsible legislative body during his tenure but also represented his constituents in an exemplary manner.

As we all know, Mr. Speaker, Congressman BINGHAM will retire from this legislative body at the end of the 97th Congress. However, the work he has done for this country and the indelible mark he has made on this body will never be forgotten.

From the first day of Congressman BINGHAM's term in 1965, Mr. Speaker, he has exhibited an unquestionable allegiance to this Nation and his constituents. He has toiled and labored on their behalf. Their best interest were always at the forefront of his mind. As a result of those 17 years in Congress, my colleague, Congressman BINGHAM has gained not only the respect that comes with seniority but also the genuine esteem of his peers on both sides of the aisle.

Mr. Speaker, Congressman BINGHAM especially has distinguished himself as an expert in the area of foreign relations. Currently, he serves on the House Foreign Affairs Committee and chairs the Subcommittee on International Economic Policy and Trade. He is also a member of the Foreign Affairs Subcommittee on International Security.

Mr. Speaker, Congressman BINGHAM is also a member of the Commission on Security and Cooperation in Europe which monitors the Helsinki accords.

Additionally, Congressman BINGHAM serves on the House Interior and Insular Affairs Committee and the Steering Committee of the Northeast-Midwest Congressional Coalition.

Mr. Speaker, with all due candor, I must say that we will miss the leadership and expertise Congressman BINGHAM has provided in the Congress. Particularly in the area of foreign affairs, he has been a towering figure and a source of leadership to each of us.

In closing, Mr. Speaker, I would like to say that I salute Congressman BINGHAM for the dedication he has displayed to this Nation and its citizens. The people of New York's 22d Congressional District could not have asked for a more responsive and dedicated Representative. This Congress could not have asked for a finer statement and legislator than Congressman BINGHAM.

My distinguished colleague has truly made an indelible mark on this Nation. His expertise and vision that he shared with Members on both sides of the aisle shall long be remembered.●

NATIONAL POETRY DAY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. PEPPER. Mr. Speaker, I would like to bring to your attention and that of our colleagues the importance and cultural enrichment of proclaiming October 15 as National Poetry Day.

Dr. Frances Clark Handler, national director of the National Poetry Day Committee, Inc., an honored resident of Miami Beach, Fla. has been instrumental in bringing the importance of poetry to the official attention of many and has long delighted and thrilled Floridians and the Nation with poetic offerings. A national poetry day will doubtless provide enrichment for our cultural life as well as enlighten our citizens with poetry. I have the pleasure to cosponsor House Joint Resolution 550, a bill proclaiming October 15 of each year as National Poetry Day. As I said in this RECORD 2 years ago, 30 States have officially designated October 15 as National Poetry Day. I urge our fellow colleagues to continue our support in recognizing the many poets and their literary works found throughout the United States.

Attached for your further perusal I include two captivating and informative summaries of the "History of Poetry Day and National Poetry Day Committee Inc." and "How Poetry Day May Be Observed," written by Dr. Frances Clark Handler.

How Poetry Day May Be Observed

The National Poetry Day Committee offers the following suggestions to state chairmen, poets, educators and all interested in promoting Poetry Day observances on October 15.

Make high school or college a center of community observance. Promote school assemblies on or close to Poetry Day, in which student poets or visiting poets participate.

Urge literary, cultural and women's clubs to plan community programs, presenting, if possible, local poets and musicians. Feature programs of poetry at church, clubhouse or community centers. Form local community Poetry Day committees with a radio chairman, school and college chairman, press chairman and library chairman. Emphasize the function of the poet as a creator of values and a humanizing force.

Present a local radio program featuring local poets and musicians in recitals or present a speaker on the origin and purpose of Poetry Day.

Request ministers to read poetry from the pulpit and at church meetings and to mention Poetry Day.

Urge librarians to put on a display of volumes of poetry. Feature exhibits of the work of local poets. Put up Poetry Day posters created by students in local art classes or by professional artists.

Secure articles on Poetry Day in magazines, and newspapers and Sunday supplements. Feature interviews with local poets and get their pictures used. Urge printing in the local press of the Governor's proclamation, giving names of the local Poetry Day organizers and news of any observances in the community.

Secure proclamations by mayors and have them published in the local press and also broadcast on local radio and TV stations.

History of Poetry Day and National Poetry Day Committee, Inc.

It all started in 1936—though it had been a dream all of Tessa Sweazy Webb's life—to find a way to honor poets—and she talked this over with everyone who would listen.

Finally, she was introduced to Ohio Senator WILLIAMS and through this contact she was able to get a joint resolution—S.J.R. No. 39—called the Grubbs-Myers-Marshall resolution introduced and passed in January 1938, by Ohio's 92d general assembly naming the third Friday of October of each year as Ohio Poetry Day.

Other states followed Ohio slowly, but no concerted effort was made to make this a national day, or National Poetry Day in all states until Lucia Trent of Texas spearheaded the movement and called this movement the National Poetry Day Committee.

It is noteworthy that . . . Lucia Trent selected October 15, for the National Poetry Day to honor Poet Ralph Cheney, who died on that day in 1941.

This day is celebrated in 50 United States of America and 40 Foreign Countries and is listed in all almanacs as Poetry Day.

Even though there is legislation in so many states naming October 15 Poetry Day, it is still necessary to get the Governor's Proclamation every year, for like all holidays and days of special note and days that are legal holidays—they would be forgotten if the proclamations were not forthcoming—reminding the public that this is indeed Poetry Day and give states an opportunity to eulogize their own poets in these proclamations. Most States have long lists of accredited poets that should not be forgotten.

Through the tireless efforts of Dr. Frances Clark Handler who took over the National Director's Chair April 1, 1966, . . .the National Poetry Day Committee, Inc., was then incorporated as a nonprofit organization for the name's protection.

Because of the Committee's many worthy endeavors in all cultural circles there is a strong feeling that this will eventually be extended to a Presidential Proclamation for a National Poetry Day.

Without a doubt a National Poetry Day Proclamation will make all the people of the United States more culturally and poetically aware.●

EAST GOSHEN (PA.) TOWNSHIP: A COMMUNITY WITH SPIRIT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SCHULZE. Mr. Speaker, I am pleased to bring to your attention a community project which came about from a small town's sense of history and team spirit, and which resulted in the restoration of a distinctive piece of Americana.

It all began with the dream of two men, Ira Hicks and Dutch Clark, lifelong residents of East Goshen Township, Pa., who rallied the support of landowner Bernard Hankin and finally the interest and dedication of the townspeople.

For their efforts, a long-abandoned blacksmith shop, which dates to pre-Revolutionary War days—circa 1750—will be dedicated at East Goshen's tricentennial ceremony on September 6. With its renovation, this smithy shop, once the gathering center of the local farmers and their families, will again be operational and open to the public. It has been carefully and painstakingly restored with many of the original door hinges, latches and other hardware, and the original ceiling beams and stone walls have been preserved.

The restoration of any historically important structure is desirable. Even more to the point, however, is the sense of pride and communion this project has instilled in the area residents as they lovingly contributed to the preservation of a small portion of American history for their children and our future.

I applaud the industrious people of East Goshen, Pa., for their united and devoted labors.●

OHIO HIGH SCHOOL STUDENT RAISES $8,500 FOR SCHOOL SPORTS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BROWN of Ohio. Mr. Speaker, in these days of fiscal restraint, the White House is placing greater emphasis on voluntarism and self-sacrifice for the greater good. I am encouraged to see so many of our youth who exemplify these principles. In my district, one young high school student has made a contribution which surpasses the records of all those before him.

My respected colleagues, it is a pleasure today to recognize Peter Loukoumidis, a high school football player, who individually raided $8,500 for the Springfield North High School athletics department on May 6, 1982. In the school's seventh annual lift-a-thon, Peter broke not only his brother George's record of $5,600 set in 1981, but an all-time national record, as well. In a lift-a-thon, participants solicit donation pledges based on the number of pounds they lift. A dime a pound from one sponsor can mean $20 for a 200-pound lift. Peter lifted 225 pounds to raise $8,500 or half of the grand total raised by the team. Through pledges of pennies, nickels, and dollars, the North High football team contributed $17,510 to the school's atheltics department.

How have these lift-a-thons helped North High School? These funds have given the school the finest weight facility in the area; helped pay off football field lights; replaced uniforms; provided the best protection gear available; and helped almost all other sports at the school.

Next year, Pete plans to double what he raised this year, and he will continue to develop his strength and durability by lifting as he has been doing since eighth grade. "I've always been into sports," Pete says. But looking at his background, it is obvious that Pete is involved in many other activities as well.

Pete has excelled in his efforts to contribute to his school, church, and community. Pete, who is 17 years old, is one of five children born to James and Despina Loukoumidis. His parents migrated to this country over 20 years ago to settle in Springfield's Greek community, though most of his relatives remained in Greece. Pete had the opportunity to spend three months visiting in his parent's homeland in 1975 where he gained a greater appreciation for his heritage. Volunteering at numerous bake sales and church picnics, Pete likes to be "involved as much as I can," in the Greek Orthodox Church. He was an active member of the Greek Youth of America and attended Greek schools for 7 years so that now he speaks and writes Greek fluently.

Pete has received five athletic letters in his high school career. He has played football since he was in third grade, making this the eighth year that the 6-footer has played competitively. Along with having received three football varsity letters, he received the award for Best Defensive Lineman. Two of his letters were received in wrestling, a sport he will also pursue this year.

In recognition of his community service, Gov. James Rhodes appointed Pete to the Ohio Governor's Council. As a member of this council, Pete works with the police and highway patrol to promote safety at the county level. He holds the distinction of being an honorary citizen of Disney World and has received a service award from the Springfield Board of Education.

Peter Loukoumidis is an outstanding young Ohioan and an American of whom we can all be proud. On behalf of my colleagues in the U.S. House of Representatives, I commend Pete for his support of high school athletics in Springfield, and I wish him much success in the years ahead.●

CASH ON THE BARRELHEAD

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BEREUTER. Mr. Speaker, in the wake of the announcement by President Reagan that the United States is prepared to begin negotiations on a 1-year extension of the current United States-Soviet grain agreement, much attention has been focused on the distinct differences between large grain sales to the Soviet Union for, as the President has said, "cash on the barrelhead," and recent U.S. attempts to block construction of the Siberian natural gas pipeline. A particularly cogent editorial was published in the Wall Street Journal of August 4, highlighting the differences between these two transactions.

A definite distinction must be made between aiding construction of the pipeline by providing vast amounts of Western capital at below-market rates, creating a drain on the limited resources of the United States and our allies, and U.S. grain sales to the Soviets which create a substantial outflow of Soviet resources into the pockets of the American farmer. I fully agree with the validity of the distinctions made in the editorial, and I wish that portions of it be reprinted in the RECORD for the benefit of my colleagues.

CASH ON THE BARRELHEAD

President Reagan's speech to the National Corn Growers on Monday was a hit in Des Moines but a disaster in Europe. He promised his one-year extension of grain exports to the Soviets would bring record sales. But the speech seems designed to reinforce the Europeans' feeling that they've been put upon by Mr. Reagan's actions against the Soviet natural gas pipeline.

Mr. Reagan told U.S. farmers that the extension would have "the sanctity of a contract" and "there must be no question about our respect for contracts" and "we must restore confidence in U.S. reliability as a supplier." He went on to say that the U.S. must "restore that faith in us that if we've made a deal or a contract, it'll be a contract and we'll keep it." You could just feel the blood pressures rising in European capitals. . . .

What the President should have pointed out instead is that there are some very good arguments against the pipeline. There's Poland, where the Soviets still enjoy the peace and quiet of martial law. There's all that natural gas Europeans could pump from the North Sea. But the kicker is that Europe is not only subsidizing the pipeline but also taking all the risk. In contrast, the Russians pay cash or gold for grain. As Mr. Reagan said on Monday, hinting that this distinction was at least at the back of his mind, "the granary door is open and the exchange will be cash on the barrelhead."

Grain is different from rotors and turbines in other ways. Europe, Argentina and Canada know how to grow wheat and happily sell it to the Russians whether or not the U.S. embargoes its grain. (At least the U.S.

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doesn't subsidize these sales.) But only General Electric has the knowhow to build the rotors needed to make a pipeline anything like the one the Russians planned. Grain can be bought with a quick phone call but for GE technology, firms abroad must abide by U.S. export control laws. . . .●

ANTI-SEMITISM

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. FINDLEY.** Mr. Speaker, I deplore and condemn the horrible and ugly attack on a Paris kosher restaurant, Chez Jo Goldenberg.

The tragic death of six people in this dastardly act of anti-Semitism follows an October 1980 attack on a synagogue in Paris which killed four people and also the murder of the Israeli Ambassador to France earlier this year.

I urge the French authorities to devote every resource to finding the perpetrators of these terrible crimes and bringing them to justice.●

A TRUE CHAMPION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. FUQUA.** Mr. Speaker, one of the Nation's outstanding sportsmen, Dean Chenoweth, died on July 31 when his hydroplane, *Miss Budweiser*, flipped out of control during a qualifying run for the Columbia Cup race at Pasco, Wash.

In addition to being a renowned boat racer, Dean Chenoweth was a particularly close friend of mine; a man who wore his exploits and fame with grace, dignity and humility.

Dean Chenoweth was four times champion of the national unlimited hydroplane circuit but was perhaps better know in his hometown of Tallahassee as a devoted family man and good neighbor.

The following story by Tallahassee Democrat Sports editor Bill McGrotha is a sensitive summary of the man and the sportsman and expresses the characteristics which will so sorely be missed by his neighbors and his competitors.

He'd Planned To Quit Racing After This Year

The first time we really talked, about three years ago, I asked him all the questions about a sport of which I knew naught.

What was it really that made the big boats he raced so very dangerous?

"They blow up," he replied simply and very gently.

Dean Chenoweth was one of the world's gentle people, and now as I struggle to put these words together it is that far more than anything else that I remember.

In his low-key manner he spoke more, in subsequent talks, of unlimited-hydroplane racing and its appeal to him.

The last time we talked, about two months ago, I asked him how much longer he planned to race the thunderboats.

There was a pause. Perhaps he took a deep breath. We were talking over the phone.

"I tell you what, just between you and me," he began, "Aw, go ahead and print it if you like."

"This will probably be my last year."

Tragically, it was.

He died Saturday when his monstrous machine, Miss Budweiser, crashed on the Columbia River in the state of Washington. Chenoweth had crashed in thunderboats, three times before, and each time in that state.

It was said that his recoveries from the crashes in 1979 and 1980 were miraculous.

But there was no miracle Saturday to avert a cruel and ironic fate. The nose of the boat shot in the air then flipped over backward.

Chenoweth had said to me that day in early June: "You start to think about what's left now—other than to lose your life the way Bill did."

He was speaking of Bill Muncey.

There were two big names in the sport: Muncey and Chenoweth.

Now there are none.

Muncey, 52, died in his boat nine months ago at Acapulco in the last heat of the last race of the season.

With Muncey gone, there seemed much less reason for Chenoweth, 44, to continue. He was well aware.

Yet there are those who were close to him who question whether he really would have quit, as he said he probably would, after this one last season. "People don't understand. I'm not risking my life on the water," Muncey once said, "I'm living it!"

And Chenoweth had said: "I think you have to think that nothing is going to happen to you out there. If you don't think that way, you probably wouldn't be able to drive."

Chenoweth was hardly a guy you would pick out in a crowd. He stood 5-foot-8 maybe, and weighed about 150. No way you would have figured this friendly, smiling guy with his average look a champion of anything, much less a deadly sport.

But he was a splendid athlete and in wonderful shape. He ran about seven miles daily. Doctors said his fine physical condition enabled him to survive a particularly dramatic crash in October 1979 when he was gunning his boat at more than 215 mph on a straightaway.

By all accounts, he was an extraordinary driver.

"He never makes a mistake, and he uses his head," crew chief Dave Culley told The Democrat's Andy Lindstrom a few weeks ago, "Dean knows just what it takes to win."

His courage seems to have been extraordinary. In 1979 his comeback year in a sport he had been away from for more than five years had been capped by that near-fatal crash on Lake Washington. He was one of six finalists for the International Award for Valour in Sports and had gone to London in early 1980 for the ceremonies. The award is for "a single act of bravery in an event, or sustained courage in his or her career."

But there is some indication that unlimited-hydroplane racing—and unlimited seems a key word—maybe too extreme, too severe a test for the skills and bravery of mortals.

Super-charged engines kick up seven tons of water in a wake behind these boats, it is said. Acceleration is boosted by sudden injections of nitrous oxide.

But too big a burst of nitrous oxide can bring speed that will rip a boat's hull apart.

One way or another, the quest is for faster and faster boats lighter and lighter through technology. Water that looks relatively calm to the layman can be disastrous for these big boats.

It was "bad water," created by the wakes of previous boats, that brought Muncey's death at Acapulco, according to Chenoweth. It may have caused his own. Muncey's boat, like Chenoweth's, abruptly flipped into the air.

In its formal history, the unlimited hydroplanes have had only 130 drivers. Of these, only 51 have won a single race. Only Muncey, Chenoweth and five others had won as many as a dozen apiece.

Eight winners of single races died trying to win a second time. Chenoweth was the 16th driver to die in the sport.

Originally from Ohio, Chenoweth came to our city in the late 1973's to operate the Anheuser-Busch franchise here. He had little thought, he once said, of racing the big boats again. But he was lured back in 1979, and not even the death of his only son, 18-year-old Dean Alan, Jr., in an automobile accident in early 1980 slowed him down.

His son, he said, identified a great deal with his racing and would want him to continue. That summer after his son's death, Chenoweth had his biggest season. With his son's picture taped to the wheel of his boat, he won a record 16 straight victories.

Florida State football became one of his loves, and he rarely missed a game. He was involved in more than cheering. For a time, he frequently piloted his Piper 6-seater airplane on recruiting trips for coach Bobby Bowden.

"A hydroplane race has excellent control up to about 175 miles per hour," Chenoweth once said. "Above that, you're on the edge—the boat is more out of the water than in."

"But beyond 200, you're like the guy riding in a rocket car on the Bonneville Salt Flats."

Fate takes charge.

"I call it the twilight zone," Chenoweth had said.

Precisely what happened Saturday morning is not clear and may never be. Probably the details are not that important.

A gentle champion among men is gone, and his time here was so terribly short.●

SUPPORT FOR H.R. 6950

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. DYMALLY.** Mr. Speaker, as legislators, we are no strangers to constant outcries over the plethora of injustices, inequities, and inadequacies which vex our society. Each of us, though, knows all too well the futility of raising questions, however relevant, if we fail to take the time to propose serious, viable answers to these questions.

It is precisely that realization which prompts me to call my colleagues' attention to H.R. 6950, a bill which addresses a crucial problem now faced by our United States. Mr. Walgren's National High-Technology Technician Training Act answers the urgent call for a unified national approach to the training of competent high-technology technicians.

I have stood before this distinguished body on several occasions to decry our Nation's scientific, technological, and educational shortcomings. Believing that Mr. Walgren's bill is a considerable step toward the amelioration of some of these shortcomings, I have joined colleagues on both sides of the aisle to cosponsor this important piece of legislation.

This act would make use of community colleges to train a technological labor force to meet the growing U.S. need for skilled technicians. Mr. Walgren suggests, and I concur, that our Nation's 2-year community colleges may properly bear major responsibility for such training. First rate community college programs could dramatically increase the number of available, highly skilled workers, thus significantly aiding national industry. At the same time, such programs could open new channels of opportunity for a great many young workers. For too long, training programs in this country have been out of step with national needs. H.R. 6950 will serve to rectify this grave defect.

I invite you to examine this bill in detail. I think you will come to appreciate its timely and sensible approach to an exigent problem. I hope all of you will join me in supporting this bill.●

HON. JONATHAN BINGHAM

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LOWRY of Washington. Mr. Speaker, it is a great honor and pleasure for me to join in paying tribute to my good friend and colleague Jack Bingham, and I would like to thank the gentleman from New York, Mr. Addabbo, for arranging this special order.

Last week, we almost succeeded in passing the nuclear weapons freeze proposal through the House. It was a disappointment to lose by two votes, but we have come so far on this issue so quickly that there is good reason for optimism about future efforts to bring an end to the nuclear arms race.

There has been no stronger or more effective supporter of the nuclear weapons freeze in Congress than Jack Bingham, who offered the freeze language in the Foreign Affairs Committee and steered it to adoption by that committee. In fact, he has long been a voice of sanity on the arms race. The country is now in the process of accepting views that he has held for many years.

Our efforts to end the arms race are not over yet. But we have made a good beginning. I hope Jack has found as much satisfaction in seeing this vindication of his foresight, as I have found in working with him on this issue. We will miss his common sense and his ability to work with others.

I can think of only one more fitting way to leave Congress than with this close vote on the freeze, and that would be to have won. But next time we will win, and Jack Bingham's work will be one extremely important reason why.●

GFWC RESOLUTION: WATER CRISIS (CONVENTION 1982)

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. EDGAR. Mr. Speaker, a strong resolution passed at the 1982 National Convention of the Federation of Women's Clubs deserves our careful consideration. As a strong advocate of a new national water policy, I commend their active leadership in this important area. Faye Z. Dissinger, president of the Pennsylvania Federation of Women's Clubs, brought the views of the Federation to my attention. I share their resolution with my colleagues in hopes that it will spark our interest in real water policy reform. The resolution follows:

GFWC Resolution

Whereas the water supply on our planet is a constant factor, and the projected use of the water by the expanding population could exhaust the available supply within the foreseeable future; and

Whereas the wise use of our present water supply augmented by the restoration to usability of presently polluted water would provide a supply of usable water that would sustain the earth's population in the foreseeable future; and

Whereas State and local governments alone can no longer provide solutions for the ever-increasing water supply problems; and

Whereas no single federal water policy is applicable to all parts of the nation where there are vast differences of water supply and water problems; and

Whereas an immediate program of action is necessary if we are to forestall the impending water crisis and yet not work an undue hardship on any segment of society; Now, therefore, be it

Resolved, That the General Federation of Women's Clubs urges the Congress to enact legislation at the national level that will provide a program of action to:

(1) Expand the existing supply of usable water by improved methods of desalinization of sea water, protection of ground water and by research in methods of inducing precipitation;

(2) Prohibit any further pollution of the nation's streams and domestic water supply;

(3) Assist persons, governmental units, and industrial enterprises now polluting the nation's streams and domestic water supplies in making such changes as necessary to bring an end to water pollution and to provide federal financial assistance in the form of tax incentives or by other means of "cost-sharing" so that the cost may be spread over the society which benefits; and further

Resolved, That the General Federation of Women's Clubs urges the Congress:

(1) To provide a strong national water policy for all parts of our nation and all segments of our society;

(2) To provide a vehicle which would abate international water pollution.●

NOW IS THE TIME TO SUPPORT ISRAEL

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BEARD. Mr. Speaker, Israel has done the United States and the cause of the world peace a favor by eradicating the PLO terrorists from Lebanon. While we hear the American media castigating Israel for the destruction in Lebanon, the truth is that Lebanon will be far better off without the yoke of the PLO occupation. There has unfortunately been far less coverage of the PLO terrorizing of Lebanon for the past 6 years than of the effects of the attempt by Israel to liberate Lebanon from the PLO.

I think that there should be absolutely no consideration of reducing, cutting, or slowing the flow of American support for Israel. Israel has acted in self-defense. I ask my colleagues: what would we do if terrorist organizations in Mexico or Cuba had engaged in years of shelling American citizens in Florida or Texas? What would we do if terrorists in Cuba or Mexico had periodically crossed our border to blow up schoolbuses in New Mexico or California? I would hope that we would react with the same determination and skill to defend our people as Israel has.

I now would like to insert an editorial by George F. Will that capsulizes the entire situation, especially the press coverage, in eloquent form. I commend the article to all:

[From Newsweek, Aug. 2, 1982]

Mideast Truth and Falsehood

(By George F. Will)

Lies are weapons and are today the PLO's most effective weapons. Newspapers that are fastidious about the truthfulness of grocery ads print anti-Israel ads filled with patent lies about Israeli-caused casualties. The New York Times ran a particularly Goebbels-like ad signed by, among others, Noam Chomsky, who has collaborated with a French author who claims the Holocaust never happened.

BEST COPY AVAILABLE

Lebanon is (in Hardy's words about Leipzig battlefield) "a miles-wide pant of pain." It has been since the PLO and Syrians invaded. It is today because the PLO is hiding behind the babies that Arafat is kissing for U.S. television cameras.

It is hard to prove but easy to believe that Israel, by aiding Lebanese Christians since 1975, has saved more civilian lives than have been lost in this war. But a television screen is easy to fill. A gaggle of Iranians did it for a year, while behind the cameras Teheran went about its business. Television in war is bound to suggest more generalized destruction than has occurred. Furthermore, had there been television at Antietam on America's bloodiest day (Sept. 17, 1862), this would be two nations. Americans then lived closer to the jagged edges of life, but even they might have preferred disunion to the price of union, had they seen the price, in color in their homes in the evening.

Not Chess or Surgery: If "wired democracies" are not to be disarmed by revulsion about televised wars, they must take this truth unperfumed: Wars kill people; that is an immediate purpose of waging war. Many persons who preen themselves on their hatred of war do not hate it enough. They cannot: they know so little about it. They show this when they judge a military operation like Israel's unjust simply because it involves injustices. War is not chess or surgery. It is a leap into a realm of chance, desperation and improvisation. Confusion, unintended effects, undesired but unavoidable collateral effects—all these are expectable. It is morally immature to denounce a war because it has the general attributes of war.

It is said that a good man cannot save a nation because a good man will not do what is necessary. But that, too, is morally immature, confusing public and private duties. Begin's duties include understanding that the moral mathematics of Sadat's life ended with a positive sum because he followed military boldness with political boldness. Sadat, remembered as a peacemaker, first made war. In three weeks in 1973 Israel lost a portion of its population three times larger than the United States lost in eight years in Vietnam. Having failed to get to Jerusalem with Soviet tanks, Sadat went by Boeing 707. Begin's similar challenge is to know when he has reached the limit of his military options.

If the Begin-Sharon aim is to push all Palestinians off the West Bank and into Jordan, they risk a more irredentist Jordan. And the pushing would involve methods intolerable to most Israelis, unless they have lost their moral moorings. Begin's task is to use the threat or exercise of force to finish the PLO in Lebanon, and then make Jordan an offer it can't refuse, abandoning the chimera of "autonomy" and the dream of annexation.

The Reagan-Shultz aim is unclear. Shultz is off to a shaky start, allowing events to set for him a daunting debut: he is supposed to solve one of history's most intractable disputes. It is unhelpfully called "the Palestinian problem." It is actually the problem of Palestine. However laden the work "Palestinian" is with political connotations, it still is a classification more like "North American" than "American." It refers to a geological origin, not a political association. The noun "Palestine" denotes a definable territory, that of the Palestine Mandate of 1923. Israel and Jordan disagree about the proper allocation of a portion of that remnant of the Ottoman Empire. Only they can come to an agreement that will tidy up the mess left by World War I. Neither Israel nor Jordan—both having fought the PLO, Jordan most bloodily—favors a PLO state on the West Bank, a state that would destabilize both Israel and Jordan, but Jordan first and Jordan most.

In the current crisis, PLO intransigence has grown proportionally with U.S. involvement, and now the United States is protecting the PLO. With words treated as though they are Cheerios, all alike, the U.S. aim has been described as evacuation, disengagement, peacemaking. The PLO had the capacity to injure but not destroy Israel, so if at the cost of military defeat it receives enhanced political status from the United States, it comes out ahead.

Maps: Israel has almost undone the mischievous work of the 1974 Rabat conference, which anointed the PLO the sole legitimate representative of Palestinians. This was an affront to Jordan. (Most Palestinians are Jordanian citizens, and most Jordanian citizens are Palestinians.) Today U.S. diplomacy, which is ineffectual without being innocuous, is resuscitating the PLO and preserving Jordan's excuse for not playing its indispensable role in any peace process worthy of the name. The PLO sits in West Beirut, holding perhaps 300,000 civilians hostage, issuing demands from behind the screen of Habib's mission.

Meanwhile, back in Foggy Bottom, the State Department may be short on realism, but has lots of maps, none of which shows any land that can conveniently be given to a "Palestinian entity." The map is even more full today than it was when Israel was shoehorned into one-tenth of 1 percent of the land claimed by "the Arab world." That world consists of 21 nations with 175 million people and 7.5 million square miles. In the U.N. the PLO often enjoys the fervent support of 42 Muslim nations with 80 million people. But there is zero desire to make room for the PLO. So Israel is left to deal with the PLO, that creation of Arab hypocrisy and Western appeasement. And Israel still waits for Jordan and Saudi Arabia, two crucial nations of recent and problematic origins, to acknowledge Israel's legitimacy.

Persons far from the theater of menace and violence, persons making fine moral calibrations about Israel's conduct and fretting that Israel is "losing its soul," must hear Golda Meir's words: Jews are used to collective eulogies, but Israel will not die so that the world will speak well of it.●

LEGISLATION TO REFORM THE SOCIAL SECURITY REVIEW PROCESS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. CONTE. Mr. Speaker, I rise to introduce legislation to correct inequities in the social security disability review process. This legislation would reform the present system in three ways:

(1) It would slow down the continuing disability investigations (CDI).

(2) It would continue the payment of benefits through the first face-to-face hearing.

(3) It would require that medical improvement be shown before the disability benefits are stopped.

I have introduced this legislation because I feel that although the intention of the review process was good, this stepped-up pace has not achieved its goal. The need for a review process is obvious.

In late 1980, the General Accounting Office published a report which indicated that 20 percent of the persons receiving disability benefits under title II and title XVI were not entitled to those benefits. In an attempt to end this apparent waste and fraud, the Commissioner of the Social Security Administration, under the current administration, mandated that the date for commencement of reviews be moved forward 10 months, causing the investigation and review process to begin on March 1, 1981, as opposed to January 1, 1982.

In the original plan, each State disability determination office would be reviewing approximately 140,000 cases at their discretion. With this new timetable, however, the caseload was increased to 520,000. Few of the State offices were equipped to handle this new load and when the investigation date was stepped up, the offices remained unequipped. As a result of this unfortunate situation, many of those who were entitled to benefits were mistakenly taken off the rolls. In New York State alone, at least three people committed suicide when they received their termination notices.

The minds of the people of America must be put at ease. They must know that we, in Congress, are concerned about their welfare and that we will do everything possible to put an end to this injustice before many people are affected. The Congress must set up some parameters to explain how these reviews should be carried out.

The figures which prove the need for a change are obvious. Of the 50 to 60 percent of the terminated cases appealed by persons involved, a full 67 percent of these were overturned, as compared with an average of 20 percent in years past.

The legislation which I have introduced is similar to that which Senators RIEGLE, METZENBAUM, and KENNEDY have introduced in the Senate. I urge my colleagues to recognize the importance of this legislation and to give it their full support.●

THE FLAT-RATE TAX

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington

Report of August 11, 1982, into the CONGRESSIONAL RECORD.

Should the current federal income tax be replaced with a so-called "flat-rate" tax? This question has been asked and discussed in every public meeting I have held in recent weeks. Interest in such a tax is strong, so the facts and ideas at issue must be clearly understood.

The federal income tax has been progressive for the nearly 70 years of its existence. The basic notion behind this progressive feature is that a person should be taxed according to his ability to pay—an ability which increases with income. Statistics show just how progressive the income tax is. In 1979, for example, the average tax in each bracket, expressed as a percentage of adjusted gross income, ranged from 3.5 percent for $4,000 in income to 50.2 percent for $1,000,000. Despite the well-publicized exceptions, a person usually pays a higher rate of tax the wealthier he is. The second central feature of today's tax code is the vast array of breaks that cut taxable income and tax collections. The basic notion behind these breaks is that the tax code should be used to achieve worthy goals: churches benefit from a deduction which encourages donations; investors want an advantage for capital gains; working parents need a break for child care. Despite the reports of loopholes, specific breaks are popular.

Proponents of a flat-rate tax criticize these two features of the federal income tax. Multiple brackets and scores of breaks make the tax code very complex. The basic filing requirements are confusing to, if not beyond the comprehension of, most Americans. "Bracket creep" occurs when one moves into a higher bracket without a rise in purchasing power. It is a result of multiple brackets in an inflation-ridden economy. Tax breaks erode the base of taxable income to such a degree that rates on that base must be kept high. Cutting the rates without enlarging the base only leads to bigger deficits. Tax avoidance and tax evasion are growing more common. Pushed on by high rates and the sense that they are carrying the burden for those who cheat and exploit the tax code, millions of otherwise honest taxpayers are increasingly willing to bend or break the law.

The flat-rate tax is proposed as a remedy to these problems. The simplest proposal is to end all breaks while replacing the progressive system of 12 rates with a single rate. A rate of 12 percent on the wider tax base would yield as much revenue as we have today. Few proponents of a flat-rate, however, have anything this radical in mind. Most proposals would exempt low-income families from tax and would leave several popular tax breaks in place, at least for a time. Some would build in progressivity by having two or three rates. These variations would have a tax rate higher than 12 percent.

Proponents of a flat-rate tax lean heavily on two arguments to make their case. First, they say that a flat-rate tax would bring simplicity to one of the most important contacts between citizens and government: all tax forms could be replaced by a postcard. This simplicity would make it easier for every taxpayer to understand and carry out his duties under the tax code. People would be confident that others were paying their share. Tax collection would be improved. Also, proponents say that their proposals would give the economy a boost. The low tax rate would encourage saving, risk-taking, and hard work. Money would be drawn out of unproductive tax shelters and would be put to better use. Energies now being channeled into tax avoidance would be released for more useful purposes. These arguments are disputed by some of the experts, but they must be faced.

A striking thing about a flat-rate tax is the interest it has sparked. President Reagan called it "tempting". Liberals and conservatives in both parties have declared for it. It is supported by some experts who advise the government of taxes. The idea of such a tax is old, so we may ask about this interest. Deficits are making government think about raising revenue without raising tax rates. Last year's tax act—which aided the rich at the expense of the middle class and poor, had little effect on productivity, and set up new breaks—is prompting a review of tax policy. The principal factor behind the interest may be frustration—with the complexity of the tax code, with people who "work" the code for their own benefit, and with the performance of the economy.

The present federal income tax is defective, and I want to see a simpler system of taxation which would help the economy. As we study a flat-rate tax, however, we must answer these questions:

In regard to income taxation, the idea of fairness most Americans seem to accept is the one embodied in the tax code (as a person's ability to pay taxes increases with income, so does his duty). Would Americans' interest in a flat-rate tax be as strong when they began to consider that it is based on an entirely different idea of fairness (a person's duty to pay taxes is always proportionately equal to everyone else's)?

Studies show that the entire tax system (including property, payroll, excise, sales, and other taxes) is roughly flat-rate. The federal income tax is about the only progressive element. If this progressivity were removed, those with less wealth would pay a greater share of it in taxes overall. Would Americans favor this result?

The issues of progressivity and complexity are distinct. A progressive tax can be simple if it has few breaks. Progressivity adds little complexity. Would Americans sacrifice it for simplicity if the sacrifice were not necessary?

Under some of the flat-rate tax proposals, the average poor or middle-class family would pay more tax while the average rich family would pay less. Would Americans want such a redistribution?

The tax breaks currently on the books are embedded in the economy. They play a key role in determining the value of housing and many other items. Would a sudden change in the value of these items have an adverse effect on the economy?

Remembering the fragility of the economy and the impact the tax code has on it, the President and Congress should proceed with caution.●

INTRODUCTION OF CONCURRENT RESOLUTION ON KKK

HON. WILLIAM H. GRAY, III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GRAY. Mr. Speaker, over the past few years, we have witnessed the disturbing resurgence of racially motivated crimes across this Nation. Continually, we hear of reports—from Connecticut to Florida, from California to Georgia—of cross burnings, antiminority marches, sniper attacks, random destruction of private property, and other incidents.

These crimes have directly coincided with the resurgence of activities of various racially oriented hate groups, particularly the Ku Klux Klan. And according to the reports that I have seen, a great deal of these crimes have been instigated, if not committed, by the Ku Klux Klan.

According to a recent report of the Southern Poverty Law Center's (SPLC) Klanwatch program—the most comprehensive in the country—1981 was one of the most active years since the middle 1960's for Klan activity. At least 300 incidents involving harassment and intimidation were believed committed by Klan members in 1981. Not since the 1960's has there been a comparable nationwide outbreak of violence, intimidation, and harassment by the Klan.

The Anti-Defamation League of B'nai B'rith has estimated that there are nearly 12,000 active Klan members throughout the country—an increase of over 65 percent since 1975. And while this membership is much smaller than Klan strength of earlier periods, the violence it represents and their potential for growth create an ever-present danger to the thousands of law-abiding American citizens who have been targeted for intimidation and violence by the group.

More importantly, Mr. Speaker, given today's atmosphere of hard economic times and the sharp swing of the pendulum to the political right, I am afraid that there exists an environment in which a KKK can thrive.

That is why, Mr. Speaker, today I am introducing a concurrent resolution calling upon the Justice Department to "vigorously" seek out and prosecute those members of the KKK who violate the civil and constitutional rights of others. I think that, at this juncture, it is imperative that the Congress, and indeed the Nation, be on record as opposing the violence and racial hatred that has been endemic and characteristic of the Klan.

Many might question the need for such a statement by the Congress, given the progress that the cause of equal rights has achieved over the past 20 years.

However, the Reagan administration is the first in modern times which is clearly committed to halting that progress and rolling back those hard-won gains. In virtually every action, appointment, and policy decision in the area of civil rights, this administration has sought not to build on the last 20 years of civil rights gains, but has instead launched the greatest re-

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treat in the fight for equality in the past half century.

It is quite clear to me that the Congress should not and cannot sit idly on the sidelines while this administration ignores and repudiates those laws it is sworn to uphold by declining to enforce them, and refusing to follow court decisions and mandates.

On such issues as equal opportunity in education, equal job opportunity, tax exemption for segregated schools, and voting rights, the administration has sought to turn the clock back to a darker time.

So blatant has this administration's failure to actively pursue civil rights compliance become, that last December, some 200 civil rights lawyers and other employees within the Justice Department signed an open letter to the Attorney General protesting his policies regarding the Department's lax enforcement of our civil rights laws.

The Klan has blatantly thrust itself prominently into the public eye. And while the Klan continues to use violence, harassment, coercion, and intimidation against people belonging to various minority groups, it also seeks to justify these actions to the American public by exploiting such controversial issues as busing, affirmative action, and anxieties over crime and inflation.

While these are certainly legitimate issues, having legitimate varying points of view, we must not be confused by the Klan's apparent new sophistication and renewed interest in the political process.

The Klan has, and always will be, an extremist, fraternal society, which is dedicated to the proliferation of racism in our society. I need not remind my colleagues that in the 1950's and 1960's Klansmen bombed churches, beat integration-minded bus riders, and shot civil rights workers in Mississippi. Nor need I remind you that in the 1920's Klansmen raped countless numbers of black women in the South, while beating and oftentimes lynching their black men at the same time. I think the history books clearly point to the sadistic and racist nature of this organization. Equally clear however, is that such activity should not, and cannot, be tolerated in our society today.

Klan resurgence nationally has also led to another critical phenomenon, namely, Klan infiltration of the U.S. military. Over the past few years, reports of Klan recruitment as well as Klan-instigated violence on military bases and installations has become widespread. Although the U.S. Constitution provides for the protection of free speech and association, there is no room in our military for organized racist activity among the ranks. Nor is there any room in the military for internal violence among members of our Armed Forces. And while the military hierarchy has publicly denounced organized racist activity in the military, it is important that the Congress again be on record as opposing such activity, as well as urging the Department of Justice, in concert with the Department of Defense, to ferret out all racially motivated activity aimed at violating the civil and constitutional rights of members of the Armed Forces.

I am particularly concerned about another sad, but real, consequence of the resurgence of such extremist groups as the Klan: the racist indoctrination of children. In Decatur, Ala., in 1979, members of the Klan Youth Corps burned a school bus while their adult Klan counterparts cheered them on at an antibusing rally. In Durham, N.C., that same year, a cross was burned at halftime, during a football game between black and white schools. In Largo, Fla., September 1980, a youth was arrested for a cross-burning incident while wearing a robe lent to him by a Klan member. Literature is circulated in junior high and high schools throughout the country, to belittle and threaten minority students and school administrators while seeking recruits for the Klan Youth Corps.

These children who are taught to be racist, and those who unfortunately are the subjects of that racism, are the same children that will one day be our leaders. We cannot allow our young people's respect for the rights of our Nation's peoples and their unique cultures be undermined.

My colleagues might question the need for such a proposal. For sure, there are nearly 230 million Americans who have no affiliation with the KKK whatsoever. However, Mr. Speaker, those remaining 12,000 or so that are affiliated with the KKK pose one of the most serious threats to the very fabric of today's society, as we know it.

It is for these reasons that I issue this call for action. Unless immediate action is taken to monitor more closely, and prosecute more vigorously, such violations, this country may find itself entering the most turbulent and devasting decade of its history.●

JONATHAN BINGHAM

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Ms. FERRARO. Mr. Speaker, I am proud to join my colleagues tonight in saluting a man who for 18 years has been a friend of the needy, a champion of human rights, a defender of the environment, and a leader in the cause of world peace.

When Jack Bingham came to Congress in 1964, he had already compiled an impressive list of accomplishments. Following his service in the U.S. Army during World War II, he had gone to work at the State Department, rising to become Assistant Director of the Office of International Security Affairs. He served as Secretary to Governor Averell Harriman for 4 years before he became a member of the U.S. delegation to the United Nations, where he became chief advisor to U.S. Ambassador Adlai Stevenson.

The influence of those two great men, Governor Harriman and Ambassador Stevenson, was clear in Jack's work when he came to Congress in 1964. He applied simple commonsense to the problems facing the Nation, and was constantly guided by a devotion to decency, fairness, and peace.

This basic fairness and commonsense that have marked his tenure in Congress have been on display in the campaign to achieve a freeze on the production, testing, and deployment of nuclear weapons. In the midst of all the complicated and contradictory debate over how best to achieve the universal goal of reducing the threat of nuclear war, Jack Bingham stated the case simply and eloquently. He said: "The way to stop the arms race is to stop it."

As chairman of the Foreign Affairs Committee's Subcommittee on International Economic Policy and Trade, Jack, has assumed a leading role in trying to improve trade relationships between the United States and other Western industrialized nations, as well as finding new approaches for increasing economic activity with developing Third World nations.

But perhaps his greatest contribution has been in the area of controlling the proliferation of nuclear weapons. The development and enforcement of international agreements limiting the shipment of nuclear fuel and equipment only to countries accepting full safeguards has been a major concern of Congressman Bingham's, and we all owe him a debt of gratitude for his persistent leadership in this fight.

The people of New York City, of the United States, and of the world are better off for having had Jack Bingham in Congress. The House will be the worse for his leaving. I want to join my colleagues in wishing him all the best in his future endeavors.●

HON. JONATHAN B. BINGHAM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HORTON. Mr. Speaker, let me first extend my thanks to my good friend and colleague, Joe Addabbo, for taking this special order today. By taking this time, he has given his New

York colleagues in particular, but also all Members of the House, the opportunity to pay tribute to a colleague who has served this House ably and effectively since his first election to the 89th Congress in 1964.

As a Member of the 88th class, I have known JONATHAN BINGHAM throughout his congressional career. His contributions in the field of foreign affairs, through his membership on the House Foreign Affairs Committee, are both numerous and well known. His ardent advocacy for universal human rights stands as one of his greatest achievements.

His expertise in foreign affairs is matched only by his work on the Interior and Insular Affairs Committee. I recall his hard work on the legislation I and former Congressman Holifield sponsored establishing the Energy Research and Development Administration. JON argued forcefully for an equal emphasis by this forerunner to the present Energy Department on all forms of energy, conventional and nonfossil.

I join my many colleagues in wishing a good friend and colleague the best as he prepares to retire. JONATHAN BINGHAM's many fine qualities and accomplishments will long be remembered.●

QUICK ACTION NEEDED ON UNEMPLOYMENT BENEFITS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SEIBERLING. Mr. Speaker, I am submitting for printing in the RECORD a letter which expresses more compellingly than I ever could the urgent need for Congress to restore the safety net of unemployment benefits for those thrown out of work by Reaganomics.

The House may soon consider legislation providing an extra 13 weeks of Federal supplemental benefits to unemployed workers who have exhausted both their regular State unemployment benefits and the first 13 weeks of FSB. I strongly support the 13-week extension, and am pleased that the Senate also recently agreed to an amendment by Senator METZENBAUM supporting the 13-week extension.

But a serious obstacle must be overcome before many unemployed workers can benefit from this extension. A provision in Gramm-Latta II will make it impossible for Ohio and many other States to qualify for FSB as of September 25. If that provision is not changed, unemployed workers in those States could not get any unemployment benefits after their first 26 weeks—not the first 13 weeks of Federal supplemental benefits, and not the additional 13-week extension now under consideration.

Mr. Speaker, with our Nation facing the highest unemployment since the Great Depression, I hope that Congress and the President can work to restore a real safety net for those unable to find jobs today.

The letter follows:

AUGUST 2, 1982.

Congressman JOHN SEIBERLING,
Member of Congress,
Washington, D.C.

SIR: I am writing this letter to get a reaction from you concerning a problem that myself and thousands of other Ohioans are facing right now.

Until November 15 1981, I was employed by the General Tire and Rubber Company here in Akron. On that date I was laid off. On August 15, 1982 my 39 weeks of unemployment compensation is up. Because the federal government has refused to grant a 13 week extension of benefits, on that date I won't have a penny coming in.

Because of the economy and the way your president has decided to run it, I have lost everything I have ever owned. My wife, my house, all my furniture and my car. The only thing I have left now is my son, and on August 15, 1982 I'll lose him to because I have no money coming in and can't get a job.

I served your country for 10 years in the Army. There were times I could have given my life for this country but luck was on my side. Now, when I need help, this country has turned its back on me. It can loan billions of dollars to foreign countries, give grain to the Soviet Union so everybody over there will eat, but it can't help me with a 13 week extension of unemployment benefits, when I'm in their shape because of your government.

I have just one question, why? Why has this country turned its back on me and thousands of others like me?

I really don't expect an answer, and besides, I have already lost everything I ever had, so its probably too late for me. But there are thousands of others who need your help. I only hope you attempt to help them before its too late for them too.●

COMMENCEMENT ADDRESS OF AMBASSADOR W. TAPLEY BENNETT, JR.

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DERWINSKI. Mr. Speaker, Ambassador W. Tapley Bennett, Jr., the U.S. permanent representative to the North Atlantic Treaty Organization (NATO) recently addressed the graduating class of the University of Southern California of the Frankfurt, Germany, campus. Ambassador Bennett delivered a very stirring speech on the prospects of peace and the U.S. commitment toward defending freedom and stability in the world. I wish to insert this address of June 12 for the Members' reading:

REMARKS OF AMBASSADOR W. TAPLEY BENNETT, JR., PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE NORTH ATLANTIC TREATY ORGANIZATION, AT THE COMMENCEMENT EXERCISES OF THE UNIVERSITY OF SOUTHERN CALIFORNIA, FRANKFURT, GERMANY, JUNE 12, 1982

FOR PEACE IN FREEDOM

It is a great privilege and honor to be invited to address these commencement ceremonies. I am very pleased to be here. It occurs to me that in many ways today's event is unlike a university graduation in the United States itself. Here, of course, as at hundreds of campuses in the US this month, academic achievement, dedication, and hard work are recognized and rewarded. But here, different from home, the participants in this ceremony and their families and friends are already a select group in another way. Living and serving overseas, you are representing the best traditions of the United States to other nations—and you are contributing very directly to the maintenance of peace and stability in today's world.

OVERSEAS SERVICE AND AMERICAN VALUES

As you know, service overseas can be personally very rewarding. It can also be very difficult. Contrary to the popular saying, for instance, diplomats are not individuals "sent abroad to lie for their country". However, many people still seem to think so, and to respond with suspicion. Similarly, life for the military overseas is not all roses, as I have had occasion to observe on numerous visits to exercises and facilities in Germany and other countries of the Alliance. Moreover, the unusual problems of overseas life are not always fully appreciated by those at home.

But, as I have learned in several decades of foreign experience, work overseas does tend to remind those of us who are engaged in it of the values, characteristics, and objectives of the American society which we represent. The principles of democracy and pluralism were, for example, very much on my mind in my first Ambassadorial mission, some 20 years ago in the Dominican Republic, at a time when democratic institutions in that Carribbean island state were under tremendous pressure from all directions, and finally exploded in violent revolution and murderous civil strife. We were able to put things back together—to help a sister nation back onto the path of democratic government, and today the success of Dominican democracy seems to be taken for granted. The recent election and the peaceful change in the presidency produced little press attention—but things were not always so easy. That was where I first saw the sign "Yankee Go Home" painted on a wall. It didn't bother me. First, since I'm from Georgia, I knew they weren't talking about me. And I also noticed—below the sign "Yankee Go Home", someone had come along and painted "And Take Me With You."

Today I am very conscious of our particular values and history in my daily work at the headquarters of the North Atlantic Alliance in building consensus to secure peace in freedom. No matter all the problems we face today, there is a core of basic interests and values among the North Atlantic countries which holds us together, and there is the same understanding now, as more than thirty years ago, that political unity is the indispensable ingredient in providing military security.

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We have, of course, another advantage in Brussels, which results more from carpentry than from diplomacy. That is, we have a round table, like King Arthur. All seats are automatically equal, and there are no possible arguments over protocol. People are left with no recourse but to get down to business. I shudder to think what would have happened if we had gotten involved in one of those famous arguments over the shape of the table, which were so prominent for example in the Vietnam negotiations. Can you imagine the number of possible designs to accommodate fifteen nations? And if we had been able to come up with a geometric Rubik's cube solution, there would have been no way of redesigning it in time to accommodate our newest and sixteenth member, Spain, which just two weeks ago took its place in the Alliance, an evidence of the vitality and attraction of NATO today. The round table reflects the reality and strength of the Alliance: we are a community of sovereign nations, with different views and different traditions, joined together for our common security. We don't operate with a single voice as in the imposed unity of the Warsaw Pact to the East—sometimes we don't even sing the same tune—but overall there is a harmony among the many voices around the table—and in the fact of our unity.

THE UNIQUENESS OF AMERICA

Within the Alliance, and indeed anywhere in the world today, the United States is unique among modern nations. It is not a homogeneous ethnic "nation"; it is not the heir to some historic monarchy or empire; it is not a unified religious community; it is not a single linguistic group; it does not have a particular cultural tradition stretching back several millenia. Indeed, we have within our borders more variety and innovation than in the rest of the NATO Alliance combined.

The United States represents an act of will. Its creation by a remarkable generation of men and women was a conscious effort. And we continue today, ever striving, ever yearning, ever seeking higher ground and a better path for all humankind.

New York City, where I served six years at the United Nations, is the most truly heterogeneous and cosmopolitan city in the world. In connection with that primal urge to feed oneself, you can eat everything in New York, from Japanese suschi to German bratwurst, from Spanish paella to Moroccan couscous, from Chinese won ton soup to Russian borscht—not to mention British lambchops or Kansas City prime beef. This gastronomic richness of course poses a serious threat to your waistline if you work at the United Nations. Some of my more athletic colleagues were even driven to exercise. For my part, I find remarkable satisfaction in watching someone else jogging. I belong to the school of Robert Benchley, who wrote that whenever he felt the urge to exercise, he carefully lay down until the feeling passed away.

Despite our great variety, and our unique historical origins, there is no question that we are a nation. Both Americans and foreign observers agree, and have agreed since de Toqueville's visit in the 19th century, and even earlier, that there is something distinctive about the American character and outlook. There is an openness to new people and new ideas, a positiveness in approaching problems, a confidence in the ability of people to work together to overcome almost any obstacle. Indeed, some of our more cautious and traditional friends sometimes find us too informal, too confident. At times they would doubtless feed us pessimism pills if their chemists could invent them.

These American qualities were developed by the people themselves, by virtue of common experience and conviction. We have no authoritarian state which imposes a unity of views. On the contrary, the free-wheeling structure of our society and economy, and the open nature of the American political system, with its federal structure, its weak party organization and emphasis on the role of individual senators and congressmen; the deliberately established balance of power between legislative, executive, and judicial branches; the vigor of the press and other public institutions—including especially our great universities—virtually ensure the maintenance of pluralism.

This very pluralism is an essential part of that strikingly special American character. Indeed, at times it makes it difficult for us to deal with societies steeped in age-old customs. We assume that people with different backgrounds and ideas will be able to cooperate for common purposes because we have achieved such cooperation in the US. We assume that peaceful social change and democratic politics are possible in a society with many different groups because of our own successful experience, which has had to overcome divisions deeper than those which often seem so intractable in many other countries.

I recently saw a report of an international opinion survey comparing some twenty-six countries, which underscores the unique character of Americans, even within our own diversity. Eighty percent of the Americans said they were proud to be a citizen of their country, while only minorities in other countries responded with that pride in their own societies. The citizens of the US were by far the most prepared to fight to defend their country—some seventy percent of Americans said they would, whereas only minorities would in other countries. The citizens of the US also had more confidence in their institutions, and claimed to be among the happiest, although the Irish took top marks in that latter category—which should not surprise anyone who knows the charms of the Emerald Isle. Also of interest, Americans reported themselves to be by far more religious than citizens of other countries in the poll. While I hesitate to put too much weight on the specifics of a particular poll, the broad characteristics shown here do underscore both the strengths and the uniqueness of the country which we represent. We are an optimistic people—by nature and by experience. When mountains get in the way, we move them.

THE UNITED STATES AND THE WORLD

Americans have traditionally focussed most of their energies and interests inward. From the time of George Washington's admonition against "entangling alliances", there has been a caution about world involvement and a preference for domestic concerns which has never totally disappeared, even today in a period of great and necessary interdependence among the peoples of the world.

At the same time, when the US has involved itself with the outside world, it has done so with extraordinary commitment, enthusiasm, and sense of purpose. Active American engagement with the world goes back to the earliest days of the republic. Our diplomacy traces its origins to Benjamin Franklin, whose mission to Paris was instrumental in obtaining support for the thirteen colonies in their struggle for independence. Our major role in world trade goes back to the days when the new republic was exporting everything from southeren cotton to New England ice—this latter a brilliant commercial idea in the days before mechanical refrigeration, and something of a logistical feat in delivering it unmelted to tropical ports. Technologically, just as American commercial aircraft have revolutionized transportation in the twentieth century, so too the American clipper ship was the acknowledged leader in world commerce in the days of sail. And just as our concerns today turn to the protection of international trade and resources, so too some of our earliest conflicts had to do with our trading activity, from the Caribbean and Europe to the Barbary Coast of North Africa. Our concern with restricting outside intervention in the Americas, as today in Central America, has parallels all the way back to the early 19th century and the proclamation of the Monroe Doctrine. Our efforts to establish a code of international conduct continue today—as in the effort to compel the Soviet Union to act with restraint and responsibility in today's dangerous world. The challenges have become very much greater.

American engagement has not always been successful in extending our view of a world based on freedom and individual opportunity. The World War I slogan about "a war to make the world safe for democracy" turned to bitter irony with the rise of new and aggressive dictatorships in the 1920s and 1930s. But over the course of the last fifty years we have been quite successful, although at great human and material cost, in shaping a world order in which our ideals can thrive. The list of institutions which we have had a major role in establishing, and on which the free, open, dynamic world structure depends, is itself impressive testimony to our energy and our initiative: the United Nations; the World Bank; the International Monetary Fund; the Organization for Economic Cooperation and Development (originally responsible for the Marshall Plan which restored Western Europe after World War II); the General Agreement on Tariffs and Trade. Perhaps the single most significant of all these institutions, in shaping the peace and ensuring the structure of global prosperity, has been the North Atlantic Alliance—NATO.

THE NATO ALLIANCE

Our present commitment in Europe is the largest, the most important, and the most durable international involvement we have ever undertaken as a nation. It reflects the recognition that a sporadic involvement at times of crisis, as in the two devastating World Wars of this century, is inadequate to protect the peace and secure American and Western interests in an age of totalitarian power and atomic weaponry. Our membership in the NATO Alliance, which is the essential operative expression of that commitment, represents a lasting decision of principle, with all of the advantages, responsibilities, and difficulties of a long-term relationship. One of Groucho Marx' classic lines was: "I wouldn't join any club that would have me for a member." NATO, however, is one club that we are extremely proud to have joined, and we rather believe the other members are pleased with our mutual decision.

Only two days ago the NATO chiefs of state and heads of government met in Bonn to review the state of the Alliance and the problems facing us for the rest of the 1980s.

This was an extremely important opportunity for President Reagan to meet with his colleagues, to hear their views, and to set forth our concepts for the future, for a peace in freedom. It was a most productive and successful gathering, and we are deeply grateful to our German hosts for the efficient and hospitable arrangements.

One of the things underlined by the Summit in Bonn is that the US-European relationship is not temporary. Despite the surface arguments—and we do have them—the Bonn Summit reaffirmed most strongly the essential unity of views on the international situation and the importance of the trans-Atlantic tie. In particular the Summit highlighted the vital contribution made by US forces in Europe. I am personally convinced that US forces in Europe are and will remain an essential element of Western and US security for the foreseeable future. As President Reagan said at Bonn, NATO remains the foundation of American foreign policy, and there will be no unilateral withdrawal of US troops from their European commitment. There is no other structure or formula which could replace the stabilising and deterrent function of numerically significant and highly capable US forces in place on the continent.

Nor is there any need, it seems to me, to change the fundamental basis of Alliance strategy. We have all read the arguments of those who question flexible response, the deterrent role of nuclear weapons, or the need for an increased conventional effort. But nothing in the present debate changes two basic facts:

First, NATO's deterrent strategy, based on the combination of the conventional and nuclear elements of our forces, has kept the peace successfully for over three decades. A distinguished European said not long ago: "Europe in all its long history has seldom known peace and has never known prosperity. For the last three decades it has had both." This is due to NATO in large part.

And second, that in the presence of excessively large and rapidly modernising Soviet conventional and nuclear forces, it would be irresponsible madness for the West to give up any element of its forces or its strategy. We can well ponder the words of a Soviet diplomat at Geneva recently—"We Soviets are neither idealists nor philanthropists."

As agreed at Bonn this week, we need to improve all elements of our own forces. And we need to pursue efforts to bring the Soviets to reduce their forces through realistic arms control. We cannot disarm unilaterally—as some naive critics suggest. That would be an invitation to aggression. It would, moreover, destroy any hope of inducing the Soviets to negotiate.

It is a source of great concern to me, and I know it must be puzzling to you, that there is so much ignorance in the current debate on nuclear weapons, NATO, and the relations with America and the Soviet Union. It is almost as though the so-called peace movement had no inkling of how peace broke down in Europe in the 1930s; how it was restored; and how it has been maintained. However, the uninformed criticism that we hear, shrill as it may be, is the view of a small minority. The polls continue to confirm, and Allied governments continue to demonstrate, that the overwhelming majority in all Alliance countries remains convinced that collective security in NATO is the only way to preserve peace and protect their interests. The percentages in the polls consistently run in the seventies, even in countries where specific programs, such as nuclear weapons, cause concern.

We in the West defend the right of people to demonstrate—which is not the case, of course, with the Soviet Union or the countries it dominates by force, including East Germany and Poland, where martial law was imposed at Soviet instigation. At the same time, we expect those who demonstrate to respect the rights of the majority, and the basic principles of the peaceful democratic process. I recently had occasion in Hannover in some give and take with peace group representatives to remind them now lucky they are to be on this side of the Wall. I asked them how long they thought they would be allowed to demonstrate in Moscow, Warsaw or East Berlin. They had no answer, although one or two did have the courtesy to swallow hard.

CONCLUSION

You who are graduating today have every reason to be confident that the values of freedom and individual opportunity which have characterized the United States for over two centuries, and which underlie the alliance of Western nations, will continue to prevail. As always, their preservation will require the dedication of men and women in many countries, in civilian and military pursuits alike. The attraction of those values is such that new recruits are constantly coming forward, while individuals flee those states which impose ideological straitjackets, require subservience to governing elites, and move for the suppression of individual and national identities. Over walls and through minefields, the traffic is all in our direction.

The future is with freedom. You and I have the high privilege of being directly involved in defending that freedom. Let us defend it with courage, with devotion and with dignity.●

ECONOMIC PROBLEMS IN NORTHERN IRELAND WORSEN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BIAGGI. Mr. Speaker, as chairman of the 127 member bipartisan Ad Hoc Congressional Committee for Irish Affairs, I remain deeply concerned about those factors which are standing in the way of an eventual political peaceful solution to that war torn land.

One of the most chronic of all problems revolves around the deteriorated economy of the north. New figures have just been released which show that unemployment in the six counties of Northern Ireland is at a record 21 percent. Among men in the north the figures translate into the fact that 1 out of every 4 is presently out of work.

As has been the case for years—unemployment in the minority Catholic areas of the north runs far higher than the national average. The town of Strabane which is heavily Catholic is again the area with the highest unemployment rate of 37.4 percent.

Economic problems run deep throughout Northern Ireland still another indication of the ineffectiveness of the British policy of direct rule over Northern Ireland. Their control over Ulster has been economically, socially, and politically regressive and the policy as presently constructed can never work.

I remain convinced that the United States has a role to play in the peace process for Northern Ireland. I believe one of the ways we can be of most value would be with economic assistance directed at areas in greatest need. To that end last December I introduced H.R. 5163 a bill providing first time U.S. economic assistance to Northern Ireland. The funds under my bill would be controlled exclusively by our Government and would be sent into areas where economic problems are most acute. The funds would be used for economic relief and rehabilitation assistance for the North.

In light of the worsening economic conditions in Northern Ireland I am hopeful that there can be swift movement on my bill for the aid it provides is desperately needed by Northern Ireland and it would represent a tangible commitment on the part of the United States for the cause of peace and justice in Northern Ireland.●

REPRESENTATIVE JONATHAN BINGHAM WILL BE MISSED

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MARKEY. Mr. Speaker, few Members are recognized as preeminent foreign policy experts in this Chamber. Congressman Jack Bingham is one of those Members.

Since his election to the House 18 years ago, Congressman Bingham has established a reputation as one of the most thoughtful and reform-minded Members of this body. He is a recognized authority on what might well be the ultimate issue this world faces.

I am speaking of nuclear proliferation.

Mr. Speaker, the detonation by India of a nuclear device in 1974 revealed what this Nation and other nuclear suppliers nations had too long ignored: The line between peaceful nuclear power and atoms for war can be easily crossed.

As a result Congress began reconsidering the nuclear marketeering this Nation had practiced for the previous 20 years. That congressional concern culminated in 1978 with the Nuclear Nonproliferation Act. Jack Bingham was a principal author of that act, which clearly established the United States as a nonproliferation leader of the world.

And even to this day, as chairman of the International Economic Policy and Trade Subcommittee, the gentleman from New York is fighting to see that

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the letter and spirit of that law is maintained.

It has been an honor for me to work with Congressman Bingham on nonproliferation issues and to learn from him. In particular, his leadership in the nuclear weapons freeze and reductions resolution proved crucial in guiding that measure through the House Foreign Affairs Committee and on the House floor.

I wish Jack Bingham all the best in his future endeavors. I know I speak for all Members in saying that his retirement will leave a large void in the House.

We will all miss him.●

NUTRITION RESEARCH AND INFORMATION

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WALGREN. Mr. Speaker, on June 23 the Subcommittee on Department Operations, Research, and Foreign Agriculture, chaired by George F. Brown, Jr., and the Subcommittee on Science, Research and Technology, which I chair, held a joint hearing on the Federal commitment to human nutrition research. The purpose of the hearing was to emphasize the need to stimulate human nutrition research, to develop a better understanding of the relationship between food, nutrition, and health, and to transfer the knowledge base and technology to the scientific community and the public.

This hearing was held on the anniversary of the subcommittees' hearing last June which prompted DHHS and USDA to submit the long overdue joint implementation plan for a comprehensive national nutrition monitoring system in September 1981. Thus, a portion of the hearing was devoted to reviewing the progress DHHS and USDA have made toward accomplishing the milestones established to guide the effective implementation of the plan.

Nutrition monitoring is the foundation for expanding our nutrition and health knowledge base. It is essential for insuring the safety and quality of the food supply and for assuring that the nutritional needs of the public are being met. Such information is also needed by Congress and other policymakers for planning nutrition research strategy and for establishing program priorities consistent with budgetary constraints. Yet, the subcommittees learned that the OMB, under the auspices of the Paperwork Reduction Act, has delayed or disapproved several surveys which are an integral part of the implementation plan.

Our colleague, Paul Simon, was the lead witness for this joint hearing on nutrition research. He reiterated the concern that the statistical policy of the Federal Government is weak and fragmented. The broad concern that the United States lacks a coordinated and comprehensive information policy led George E. Brown, Jr. to introduce the Information Science and Technology Policy Act of 1981 which is currently before the Science, Research and Technology Subcommittee.

As Mr. Simon pointed out, the failure to implement the national nutrition monitoring system in a timely fashion is evidence of a weak Federal statistical policy. Mr. Simon believes that a solid information base is vital for effective decisionmaking and argues that the Federal Government is not fulfilling its responsibility to advance our knowledge of the state of our nutritional well-being in our Nation. Mr. Simon eloquently developed those points in his testimony before the subcommittees.

Mr. Speaker, I would like to share Mr. Simon's statement with our colleagues by submitting it for the Record.

The testimony follows:

Testimony of Hon. Paul Simon

Mr. Walgren, Mr. Brown, thank you very much for inviting me to testify before your committees today. I commend you for holding this hearing, as a demonstration of Congressional commitment to a National Nutrition Monitoring System.

I realize that today is an anniversary hearing—that this time last year, you held a similar hearing to obtain a commitment from USDA and HHS to submit to Congress an implementation plan for a Comprehensive National Nutrition Monitoring System, as mandated by Congress in the Farm Bill of 1977. Although a plan was submitted last September with a schedule of events, it seems that there has not been adequate progress in carrying out this plan. This leads us to be concerned that the current Administration does not place high priority on nutritional research.

I am here today to lend an additional Congressional perspective in addressing the importance of a National Nutrition Monitoring System. The achivement of such a system has implications which go beyond the thorny methodological issues of combining the Health and Nutrition Examination Survey of HHS with the Nationwide Food Consumption Survey of USDA. Beneath the controversy surrounding the National Nutrition Monitoring System are several themes which emerge. In my view, these underlying themes all relate to the role of the federal government in collecting and disseminating information about the U.S. population.

First, the federal government is in a unique position to take leadership in advancing our knowledge about the human condition—in this case, nutrition and its effects on health. The challenge here today is to ask, "How can we best study the nutritional and health status of the U.S. population?" Given the enormity and complexity of the undertaking, the federal government needs to take the lead in designing a systematic, comprehensive, monitoring system which provides data in a periodic, timely, predictable fashion. This is a data base which only the federal government can provide.

Indeed, it is clear that the parts are in place: The HANES survey has well-developed measures of health status—our only national survey using actual medical exams. The NFCS, the Nationwide Food Consumption Survey has developed good methodology for measuring food intake. While I understand that there are problems in fusing these surveys (since they were originally designed with different objectives)—for example, problems such as differences in timing, differences in agency needs, increasing the burden on the participants in the study—While I acknowledge these problems, I believe they should be viewed as technical obstacles to be overcome.

I cannot believe that technical obstacles alone have held this coordination effort up for 5 years. Instead, I must express my concern that the federal government is not fulfilling its responsibility and unique position to expand our knowledge. In addition, it seems that nutritional monitoring is being placed low on the totem pole. As must be evident to everyone here, the failure to establish this monitoring system has implications for many sectors of our nation. The potential data base that could result from a comprehensive monitoring system is of great importance to other federal agencies and policy makers, to researchers, service organizations, and to agricultural markets. As a strong supporter of education programs, I believe that it is imperative that this information system be put in place, so that the data can be used effectively in our universities, schools of nursing, medical schools, and also so that research priorities can be established.

(2) A second theme which emerges from the controversy is the issue of efficiency and coordination in the federal information system. In the case of a nutritional monitoring system, we are not only trying to improve our data base, we are also trying to delete duplication of efforts. While I understand that the HANES survey (HHS) and the Nationwide Food Consumption Survey (USDA) were originally designed for separate purposes, there is not a great deal of overlap in data collection, especially with regard to the food intake and dietary status of the participants. In addition, both surveys independently derive their own samples, which again strikes me as redundant. As long ago as 1970, the GAO recommended the use of one sample for both surveys as a straightforward means of cutting costs.

I raise these points, because I continue to be concerned that there is not a strong enough statistical policy branch in OMB which could take leadership in coordinating such methodological issues. I and 30 of my colleagues in the House expressed deep concern to Mr. Stockman when the Statistical Policy Branch of OMB was abolished in April as a separate branch, its staff reduced and reorganized into a new branch which also includes regulatory review functions. I cannot help but wonder if stronger leadership in statistical and methodological coordination would have avoided the long delays in coordinating the two surveys.

(3) Finally, I would like to address the third theme related to the role of the federal government in developing good data bases. Specifically, comprehensive information systems contribute to effective decisionmaking in Congress. In this case, the potential use of a nutritional monitoring system is relevant to decisions on food programs, such as School Lunch, Food Stamps, Child Care Food, and WIC. I am not speaking of program evaluation, but rather of the

framework which this system could provide. For example, the demonstrated connection between good prenatal nutrition and a healthy fetus provides an informed context for deliberations on the WIC program. Secondly, a focus on the nutritional and health status of special populations, such as children, the elderly, low income families, is also informative. I understand that a HANES survey for a Hispanic population is about to begin this summer. I applaud the pursuit of such needed information, and I would like to know if any other special populations have been identified for future surveys.

In general, the word, "monitoring," of the National Nutrition Monitoring System should be underscored. By keeping abreast of the health and nutrition status of the population, the system has the potential for more readily identifying a problem, and bringing it—in an informed way—to the attention of policymakers.

In closing, I would like to reiterate my appreciation for the opportunity to testify today. The National Nutrition Monitoring System is an opportunity for improving the federal data base which we cannot let go by. I commend the committees for the pursuit of this endeavor, and I would like to lend my support in any way possible.

BIG BAD BUSINESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DERWINSKI. Mr. Speaker, an unfortunate negative attitude toward big business has developed over the years. This is an anathema that has been caused by the overpowering image or stigma surrounding business as an enemy of the public.

An accurate account of the reasons for discounting this viewpoint is contained in a commentary by William F. Buckley, Jr., which appeared in the Chicago Sun-Times of August 5. I wish to insert it for the Members' attention.

[From the Chicago Sun-Times, Aug. 5, 1982]

BIG BAD BUSINESS

(By William F. Buckley, Jr.)

A few years ago Benjamin Stein wrote a book about Hollywood in which he remarked that during the entire period he worked in the movie-TV capital, he never saw a script in which a businessman was favorably portrayed. A fortnight ago, U.S. News & World Report ran an interview with Donald Rumsfeld, who ran Jerry Ford's White House and later the Defense Department, going on to be president of the pharmaceutical company, G. D. Searle.

Rumsfeld (than whom no one in public life is brighter) discovered something very interesting when he took over Searle. Namely, that engaging in business in America is extremely difficult. Mostly this is so because of government regulation. But government tends to reflect the public need.

Rumsfeld remarks the difference in attitude in Japan and Germany, where the people think with pride about business. "It's crazy for the society to be unfriendly to enterprise. It's damaging to the country and has contributed in a major way to today's economic difficulties."

Irving Kristol somewhere along the line pointed out that there are practically no American heroes in the business community. Indeed, there are practically no names generally known to the American public who are associated with business. Who is the president of General Motors? I bet you don't know. Exxon is the largest company in the world. Do you know the name of its head? While we are at it, are you aware that Exxon's profits are down 52 percent over last year?

The kind of thing one hears about business in college is the kind of thing Professor John Kenneth Galbraith preaches. What is that? Why, in his book "The New Industrial State," he advised a generation of credulous students that major companies in America have acquired so certain a foothold that they control the circumstances of their own success. When a super-large company desires to maintain a certain level of earnings, all it has to do is contrive to do so by pulling this or that switch in the cockpit: advertising here, legislative favors there, mergers over there.

The cultural commentators teach us that all this is being done while the businessmen guzzle three-martini lunches—paid for by blue-collar workers. How Galbraith got away with that one puts him in the class of people who maneuver Niagara Falls in a barrel. Exxon lost 40 percent of its value on the stock market between 1980 and 1982. So much for controlling one's own economic destiny.

Public attitudes as organic as this one are hard to alter; but they most awfully need to be altered. Businessmen are hardly saints, but we should note here that only saints are saints.

We need to recognize that American businessmen are the people who make possible daddy's job, mother's hospital bed, junior's schooling and grandfather's burial. Unless we move away from the jacobinical attitude of business, American business is going to falter and—die.●

EXTENDED UNEMPLOYMENT BENEFITS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BEARD. Mr. Speaker, I am today introducing legislation to repeal the drastic and ill-conceived revisions made in our extended unemployment benefits program last year. In a worthy attempt to cut the Federal budget, we made some hasty decisions—most are still defensible, some must be reconsidered.

During last year's consideration of the Reconciliation Act, we altered the formula by which a State becomes eligible for extended unemployment benefits—the original 13-week extension. The revised system for calculating the insured unemployment rate threatens to discontinue this essential buffer for some of our most economically distressed States: Massachusetts, Delaware, Illinois, Ohio, and Tennessee, among others. This incredible phenomenon will take place in the very near future—September 25—necessitating immediate action if we are to avert this catastrophy.

Oddly enough, these benefits are being threatened on the heels of an announcement that unemployment has reached 9.8 percent in this country—the highest level since the depression of 1929. Even more curious is the recent debate over offering an additional 13 weeks of extended benefits—a second round of benefits which will never reach the intended recipients because their State's have failed to qualify for even the first round. Obviously, we must reassess our distribution formula before we throw additional money into the pot.

Unemployment has victimized the entire country, and yet if these formula changes are implemented as few as seven States will be eligible for extended benefits by year's end. Some 200,000 unemployed workers will lose their only source of financial sustenance.

I urge my colleagues to join me in reversing last year's decision and to partake in devising a system which fairly distributes these essential benefits throughout the country.●

SHERIFF H. "CURLY" MOORE—ARIZONA SHERIFF OF THE YEAR

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. STUMP. Mr. Speaker, those we elect to be our law enforcement leaders can dictate, or they can build a strong partnership in their community to make law enforcement a community effort.

Harold H. "Curly" Moore is a sheriff who believes that law enforcement should be a community effort. The people of Yavapai County have shown their support for his approach to law enforcement by electing him sheriff for the past 6 years. And, his fellow sheriffs in Arizona have shown their support by electing him Arizona sheriff of the year.

Curly was a member of the Arizona Highway Patrol for 21 years, with a diverse number of responsibilities including the special tactical squad. It was during his tenure as district supervisor in Prescott that he became concerned with the facilities and operation of the sheriff's office in Yavapai County.

Since his election in 1976, Curly has overseen the opening of the newest and most-effective jail facility in the State, as well as establish a successful youth program to close the gap between youth and law enforcement.

I feel fortunate to have known Curly since my days in the Arizona Legislature, and congratulate the Arizona

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County Attorney's and Sheriffs' Association for recognizing Curly's contributions to law enforcement and his community. Yavapai County can be proud of their sheriff.●

FLORIO REPORTS ON JAPAN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. FLORIO. Mr. Speaker, I rise to report to the House concerning my recent visit to Japan.

PURPOSE AND OVERVIEW

The principal purpose of my visit which took place between July 6 and July 10 was to serve as a member of the U.S. delegation attending the second session of the Japan-United States Rail Congress.

This organization, whose membership includes representatives of both Houses of the U.S. Congress and both houses of the Japanese Diet, was formed a year ago to promote the development of Japanese-style, high-speed passenger rail systems in the United States.

Although most of my activities during my stay involved the Rail Congress, I also took this opportunity to discuss trade problems with Japanese business leaders and Government officials. In particular, I met with executives of Japan's automobile industry concerning the huge automobile trade imbalance between our two countries.

Mr. Speaker, as the chairman of the House subcommittee which has jurisdiction over railroads, I have admired Japan's achievements in rail technology for a long time. Along with the rest of the world, I have also been impressed by the rapid growth of Japan's economy during the last decade and its ascension as a major power in world trade.

This trip, however, gave me a new and deeper appreciation of the important role government has played in the startling achievements Japan has made in the areas of both transportation and world trade. It also has shown me clearly that today the health of not only our own economy but the world economy depends directly on fair and open trading relationships between nations.

While Japan's economic progress remains the envy of most nations of the world, I believe Japan today is at a crossroads in its economic history. The path it chooses from this point forward will either promote worldwide economic recovery or prolong the recession which has sapped the strength of the world's major economies for the last 2 years.

Japan has two choices. It can truly open its market to imports and make job-creating investments in those countries where it has captured significant shares of domestic markets; or it can remain a no-man's land from a trade standpoint.

If the first choice is made, our world trade system will be fortified and all nations will benefit. On the other hand, if the latter option is chosen, the cry for protectionist restrictions against trade with Japan will grow even more intense, and very likely the system of free trade principles and agreements under which world trade has been conducted for the last 50 years will fall apart.

THE JAPAN-UNITED STATES RAIL CONGRESS

The rail portion of the trip began with a meeting between Mr. F. Takagi, the president of the Japanese National Railway (JNR), his executive staff and the U.S. delegates to the Rail Congress. We were later joined by key members of both houses of the Japanese Diet who are responsible for JNR and transportation matters.

Mr. Takagi praised the recent creation of the American High Speed Rail Corporation, which is chaired by former Amtrak president Alan S. Boyd. Under current plans, American High Speed Rail Corporation would become the development arm in the United States for the kind of high-speed bullet trains that JNR has operated in Japan for the last 18 years.

In 1964, JNR opened its first bullet train or shinkansen, as it is called in Japan. The Tokaido line, which operates between Tokyo and Osaka, serves 30,000 passengers per day and produces an annual profit of $1.2 billion.

This service operates at a maximum speed of 160 miles per hour. Each day 255 frequencies are operated along the 343 miles between these two large Japanese cities. A train, therefore, leaves Tokyo and Osaka on the average of every 10 minutes.

Seven and a half years of development and construction preceded the opening of the Tokaido shinkansen in 1964. A completely new track, and communications and signaling system were constructed for the shinkansen. Only concrete ties were used and an entirely new overhead electrical system had to be constructed in order to provide power for the shinkansen trains. Due to Japan's extremely mountainous terrain, 67 tunnels had to be constructed along this route. The total construction cost was $1.5 billion. This new right-of-way is for the exclusive use of the shinkansen—other passenger trains and freight trains do not use this track.

Since 1964, JNR has constructed three additional shinkansen lines: the Sanyo extension from Osaka to Hakata; the Tohoku line from Omiya, northwest of Tokyo to Morioka about 400 miles to the north; and the Joetsu line from Omiya to Niigata which is about 180 miles to the west of Tokyo.

I rode on the Tohoku shinkansen which just opened last month and cost an estimated $10 billion. The Joetsu line will not open until the end of this year. Its construction cost is estimated to be $7 billion. The Sanyo extension was built for about $3.6 billion, bringing the total amount of money JNR has spent on shinkansen development to about $22 billion. To put this in perspective for my colleagues, $22 billion is about 11 times as much money as has been spent to date on improvements to the Northeast corridor.

Although this represents a huge capital investment, undoubtedly the largest investment in passenger rail service made by any nation in the last 50 years, the expectation is that it will pay off. Revenues from the Tokaido line have already repaid its construction loans and JNR has great hope that both the Tohoku and Joetsu lines will achieve similar revenue success.

The cost-effectiveness of the shinkansen service is in marked contrast to the heavy losses JNR incurs on its other passenger and freight operations. Overall, JNR's revenues have fallen $30 billion short of its costs since 1966, and it has incurred liabilities which amount to an additional $65 billion.

JNR's losses for this fiscal year account for a staggering 18 percent of the total budget of the Japanese Government. Largely due to JNR's skyrocketing deficit, Japan's national deficit today is larger, on both a per-capita basis and as a share of GNP, than the deficit of any other highly industrialized country with the exception of Canada.

By comparison, total U.S. expenditures for all rail assistance between 1946–82 was only about $13 billion. And, Federal assistance for Amtrak, our Nation's national passenger railroad, represents only about 2 percent of total Federal spending on transportation for the last 35 years.

Clearly, Japan gives its rail system much higher priority than does the United States. There has been no commitment on the part of the U.S. Government that can in any way compare with the Japanese Government's underwriting of the $22 billion cost of developing the existing shinakansen system and the huge sums needed to develop the additional proposed shinkansen routes.

JNR's losses, however, have become greater than the Government is willing to bear. Enormous inefficiencies result from JNR's route structure, its labor costs, and political constraints on the management of its system. As as result, JNR has failed to adjust its system and its cost to the declining freight and passenger volume it now handles.

In the last 20 years, JNR's share of the intercity passenger travel market has fallen from 51 percent to 25 percent while the car share has risen from 5 percent to 41 percent. In 1960, JNR carried 40 percent of Japan's domestic freight business; today it carries only about 8 percent.

Despite this decline in demand, JNR's 21,300 kilometer—13,236 miles—system has grown rather than shrunk over the last 30 years. For example, unprofitable local rail lines accounted for 37 percent of JNR's deficit in 1979. These lines represented 45 percent of JNR's total system miles, yet carried only 5 percent of its traffic and produced only 7 percent of its revenues.

In addition, JNR has a labor force of about 410,000 people which probably gives it more employees on a per mile basis than any other operating railroad in the world. Those workers have very costly fringe and pension benefits.

By 1985, estimates are that there will actually be more people receiving pension benefits than there are contributing workers to support them. With life expectancy in Japan actually higher than it is in the United States and retirees receiving up to 70 percent of their final pay, pension costs will continue to drain JNR's financial resources for the foreseeable future.

JNR's contribution to the pension fund already amounts to $1.5 billion annually. By 1985, estimates are that the fund will need an additional $400 million a year just to remain solvent.

As a Government-owned national railroad, JNR in the past has not been granted the authority to make radical cost reductions which would result in a more efficient operation. JNR had to obtain approval of any fare or freight rate increase from the Minister of Transportation. More fundamental decisions, such as route restructuring, had to be debated and approved by the Japanese Diet.

This past year, however, legislation was passed in Japan that requires JNR to scale down its operation. Under this plan, JNR's work force is to be reduced from 410,000 to 350,000 by 1985 resulting in a 25-percent increase in labor productivity. JNR was also authorized to eliminate up to 14 percent of its route miles and to concentrate its resources on intercity and commuter passenger services.

More than 700 passenger stations and 550 freight stations are to be closed. JNR has also identified 4 billion dollars' worth of land that it wants to sell. And, JNR has received specific authority to adjust fare and freight rate structures.

Even with these reforms, JNR estimates it will have losses totaling $4 billion a year by 1985. By comparison, JNR has had a deficit averaging $3.5 billion per year since 1975. Clearly, greater cost reduction must be achieved if JNR is to remain a viable system.

As I talked with the JNR executives and the members of the Japanese Diet, I found myself reflecting on the enormous similarities between JNR's current financial predicament and that which confronted U.S. railroads just a few years ago.

Until recently, an analagous situation confronted the Consolidated Rail Corporation (Conrail) which was created by Congress in 1976 out of six bankrupt railroads that operated service in 16 Northeastern States. After the Federal Government spent $3.3 billion to improve and rehabilitate Conrail's system, Conrail's revenues still were projected to fall $2 billion short of its costs by 1985.

As a result, I sponsored legislation in the 96th Congress which gave the railroads, including Conrail, the freedom to adjust rates so that revenues could in fact cover the cost of operation. In addition, legislation I sponsored in the 97th Congress gave Conrail the authority to terminate service over unprofitable lines and resulted in other major savings:

An agreement with its employees to forgo $200 million wages;

Wage concessions by management employees totaling $30 million; and

The elimination of about 9,000 of its 71,000 employees for labor savings of approximately $100 million annually.

Under this legislation Conrail has announced plans to terminate service on about 15 percent of its 17,700-mile system. In addition, the costly commuter service which Conrail has operated in the Northeast will be turned over to the local commuter authorities or will be assumed by the newly created Commuter Services Corporation.

The overall effect of these savings has been dramatic. Conrail was able to cut its costs by 13 percent in 1981. Conrail's 1980 deficit of $244 million, as a result, was transformed into a profit of $40 million for 1981.

I also sponsored legislation in this Congress that gave Amtrak the ability to discontinue service on any passenger route that did not meet statutorily established ridership and revenue criteria. This legislation also required Amtrak to achieve savings in its deficit-ridden food and beverage operation. Amtrak, in addition, already has the ability to adjust its fares as necessary without regulatory or congressional involvement.

Thus, from my discussions with JNR executives and members of the Japanese Diet, I found that there were important lessons to be learned from each of our Government's involvement with railroads. The U.S. experience should demonstrate to the Japanese that government interference in the management of railroads may cause scarce financial resources to be expended in ineffective ways, ultimately undermining a system's viability.

On the other hand, the Japanese experience should make it clear to the United States that government must share in the enormous costs of developing and constructing technologically advanced, high-speed passenger rail systems. The payback period is simply too long and the development costs too great to expect private interests to assume the expense alone.

For example, JNR has been developing and testing a magnetic-levitation (mag-lev) train for the last 20 years. This train is currently being tested on a special elevated guideway, 8 kilometers—5 miles—long, located on Kyushu, Japan's southernmost island.

A record speed of 304.7 kilometers per hour—189.3 miles per hour—was achieved with a two-car train set on the occasion of the U.S. delegation's visit to the test site. Yet today, 20 years after development of this system began, not a single individual has ever ridden on it.

Testing with people aboard the mag-lev cars will begin later this year. JNR estimates that the mag-lev system is still 5 to 10 years away from being operationally feasible.

Thus, if yet unforeseen delays are not encountered, 30 years of testing and development is likely to precede the initiation of mag-lev service in Japan. Clearly, only government, not the private sector, could justify allocating resources to such a project over this length of time. Although efforts are being made to develop high-speed rail service in the United States with private funds, I sincerely believe such projects will not be successful without active government involvement.

JNR has actively sought private sector funding for a bullet train project between Los Angeles and San Diego. So far, these efforts have resulted in a commitment from the Bank of Tokyo to try to sell shares in the project worth $500 million if U.S. investors will commit $1.5 billion to the project. The First Boston Corp. has agreed to try to market the U.S. interests in the project. As yet, no money, public or private, has been committed to the construction of this project.

JNR is eager, however, to assist in the development of American high-speed rail systems. JNR's engineering and development team has just completed two major shinkansen lines in Japan, and this team is not ready to begin work on the next proposed line. Thus, to a certain extent, JNR views high-speed rail projects in the United States as a way of holding its development team together during this period before the next shinkansen project begins in Japan.

In my view, JNR has considerable talent and expertise which could be of great use in developing improved, high-speed rail service in areas of the

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United States where ridership would be high enough to justify the cost of implementing such service.

Notably, cities in the Northeast seem to rank highest in rail ridership. There are at least two important reasons this is true. First, passenger railroads have operated in the Northeast for a longer period of time than elsewhere in the country, and thus there is a larger dedicated ridership in that region. Second, the Federal Government, through both Amtrak and the Northeast corridor project, has expended substantial amounts of money in order to improve rail passenger service in that area.

As a result, the Northeast corridor service has the greatest potential for being profitable of any rail passenger service in the United States. Even under the constraints rail service in the Northeast corridor has operated for the last 5 years, Northeast corridor revenues cover about 90 percent of its costs. Thus, from a practical standpoint, the Northeast corridor is better able to support the cost of developing bullet trains or other high speed service, than most other areas of the United States.

Although only about 1 percent of all U.S. intercity travelers use rail passenger service, the percentage of travelers who use rail service between certain cities in the Northeast is much higher. For example, rail's share of the rail-air market last year between Philadelphia and New York City was 97 percent; between New York City and Baltimore, 64 percent; and between New York City and Washington, D.C., 27 percent.

As a result, I am especially pleased that the administration and my subcommittee recently have reached an agreement which would permit many of the Northeast corridor improvements to be completed as had been originally planned. Under legislation my subcommittee has reported, the full $2.5 billion which Congress authorized for the Northeast corridor project would be spent.

As you know, the administration last year had proposed reducing funding for the corridor project by $310 million. The agreement which I reached with the administration on this new legislation, I believe, represent their willingness to see the corridor project completed to the full extent of the funds authorized.

In addition, this legislation provides funds for the development of rail corridor service between Philadelphia and Atlantic City, N.J., and between New York City and Buffalo, N.Y. Both of these corridors connect with the Northeast corridor main line.

It should be no surprise that the two corridors which connect with the Northeast corridor ranked among the highest of the 25 corridors studied by Amtrak and the U.S. Department of Transportation. The corridor between New York City and Buffalo, N.Y., had the best cost projections, and the proposed corridor between Philadelphia and Atlantic City, N.J., ranked highest in terms of ridership.

According to this study, ridership on the Philadelphia-Atlantic City corridor would be more than twice as high as ridership on the Los Angeles-San Diego corridor. Projected annual ridership on the Philadelphia-Atlantic City corridor is estimated to be 4 million, and, on the basis of passenger miles per train mile, this corridor would rank higher than any other comparable service in the Amtrak system today. The Atlantic City corridor also was shown to be highly fuel efficient. In fact, it was the only 1 of 25 corridors studied which was shown to be more fuel efficient than bus service.

As rail operators all over the world know, the ability to compete in today's transportation market is directly related to fuel efficiency. Thus, fuel efficiency of the Atlantic City corridor is particularly important in evaluating this corridor's future profitability.

It was the profit potential of this corridor that led Amtrak recently to express its interest in operating rail service between Philadelphia and Atlantic City. In a recent letter to me, former Amtrak President Alan Boyd, said:

> We believe that this service has the potential to break even or be profitable and could contribute to ridership in the Northeast Corridor. Based on our current estimates, ridership in the corridor could increase by 4.5% . . . Amtrak would be willing to operate high frequency (peak and non-peak) Philadelphia-Atlantic City service during most of the day, connecting the Northeast Corridor at Philadelphia.

In recognition of the competitive strengths of the Philadelphia-Atlantic City corridor and New York City-Buffalo corridor, and the contribution these corridors will make to the overall performance of the Northeast corridor, the rail legislation which my subcommittee recently allocates Federal funds for capital improvements on both of these corridors. Under this legislation, the Federal Government would complete capital improvements on these two corridors and Amtrak or other entities would operate the service.

Thus, the Federal commitment to rail improvements in the Northeast corridor continues to grow. The Federal Government is looking at not only the improvement of the basic corridor infrastructure but also the development of rail service that connects and feeds into the corridor.

In my view, the Northeast corridor and any related connector service should be viewed as one system whose principal termination points are Washington, D.C., and New York City. This distance is roughly 300 miles and ideal for purposes of higher speed service, such as bullet trains offer. In addition, as a result of the improvements made under the federally funded Northeast corridor project, much of the track work, signaling and other improvements needed to operate high-speed service have been completed in whole or in part.

In this regard, I am very proud of the agreement between Japan and the United States under which Japan has provided technical assistance to the United States in the development and planning of the Northeast corridor rail improvements. This agreement, which has been in effect for the last 5 years, was just recently extended for an additional 3-year period.

I believe this agreement provides the perfect vehicle under which new rail technology may be introduced in the United States on a continuing basis. I believe, therefore, that the Governments of both Japan and the United States should work together to develop a new master plan for the Northeast corridor that would build upon improvements already completed or under way and that would also involve the development of rail service which feeds into the Northeast corridor main line.

Already, trains in the Northeast corridor operate at speeds of up to 110 miles per hour. With additional improvements, this speed could be increased making train travel even more attractive than it is now.

The Federal Government must continue to play an important role in insuring that funds are available for these improvements. But, the United States has much to learn from Japan where it has been demonstrated that high-speed rail service can compete with car and air travel and, at the same time, be cost effective. With Government support and the technical assistance of the Japanese, I feel certain the Northeast corridor can become a continuing example of advanced high-speed rail passenger service in the United States.

JAPAN AND WORLD TRADE

Japan is the second largest economy in the non-Communist world, surpassed only by the United States. During the last 25 years, Japan's gross national product (GNP) has grown at an unprecedented pace, more than three times as fast as the recent growth rate in the United States, Canada, and Western Europe.

Unlike in Western economies, this phenomenal rate of economic progress has been achieved without fueling domestic consumption. Instead, enormous increases in export sales and an insignificant volume of imports have been the key to Japan's rapid economic development.

Japan, the world's second largest economy, imports actually less manufactured goods than the country of

Switzerland whose economy is 11 times smaller than Japan's. Although exports account for only 12.5 percent of Japan's total GNP, less than in West Germany for example, about two-thirds of the 4-percent rise in Japan's GNP during the most recent fiscal year can be attributed to export trade.

Between 1968 and 1981, Japan's exports have grown almost 1,200 percent. Japan has targeted and, in most cases, successfully captured significant shares of world markets—first in textiles, color televisions and all types of electronic entertainment equipment, then in automobiles and now in computers, chemicals, and aerospace.

Japan's success in the export field has not been accidental. Through tax incentives, research programs, and export financing, the Government of Japan has aggressively promoted the exportation of Japanese products. For example, in 1980, 43 percent of all Japanese exports were sold with financing credits provided by the Government. By contrast, only 8.2 percent of U.S. exports were sold with Government credits.

But, Japan's assistance to its export industries goes far beyond financing credits. Japan, through its Ministry of International Trade and Industry and the Japanese External Trade Organization maintains an extensive communications system through which it shares information with the financial community and business and industry concerning world market trends.

These efforts led to the development of an economic strategy 20 years ago which has caused Japan's productivity in heavy, complex industries to grow by leaps and bounds. In 1959, Japan's exports consisted mainly of textiles, toys, and other products which did not require highly skilled labor or costly investments in plant and equipment.

In each of the last 20 years, however, Japan has invested the equivalent of 30 percent of its GNP in its industrial infrastructure. As a result, Japan has become a major competitor in world markets such as steel, automobiles, shipbuilding, chemicals, electronics, and many others.

For example, by the midseventies Japan had become the world's most efficient producer of steel. While the U.S. steel industry increased its investment in plant and equipment an average of only 4 percent per year between 1966 and 1972, during this same period of time, the Japanese steel industry increased its capital investment on the average of 23 percent a year.

Similar investments were made in developing Japan's highly successful automobile and consumer electronics industry. For example, due to capital improvements productivity in Japan's auto industry has nearly doubled during the last 10 years.

I visited several of Toyota Motor Corp.'s auto production facilities. The size of Toyota's labor force has not increased significantly in the last 10 years, yet, today Toyota produces about twice as many automobiles as it did 10 years ago. Robotics, computer-driven production methods and other innovations in plant and equipment have made the difference.

Japan's automakers produce an average of 40 cars per man-year of employment, and one Datsun plant has achieved a production rate of 78 cars per man-year of employment. In the United States, the average is 11 automobiles for every man-year of employment.

To a much greater extent than in the United States, Japan's incredible investment in plant and equipment was financed through long-term debt financing. These loans, held by Japan's large central banks and often Government backed, have been the source of 85 percent of Japan's capital investment over the last 20 years. Only about 15 percent of Japan's capital investments were financed through equity capital issues.

On the other hand, the U.S. experience has been quite different. Debt financing of U.S. business and industry activities is higher today than at most other times in the last 30 years, yet equity issues still account for more than twice as much business financing as debt instruments.

This difference in the way business has been financed in the United States and Japan accounts for many of the differences in our economies. It also has a great deal to do with the ability of our two economies to compete in the future.

Reliance on debt financing, for example, has been a major driving force behind Japan's development of heavy industry in which land, facilities, and equipment serve as collateral for loans. Since machinery and physical facilities have provided the security for business financing and therefore business expansion, debt financing may also explain why Japan has gone much further than the United States in investing in new manufacturing technologies, such as robotics and computer-driven industrial systems.

Debt financing, in part, also accounts for what has been described as Japanese management's farsightedness and flexibility. The argument goes that long-term debt financing permits Japanese business and industrial managers to make long-term strategy decisions which may not have a short-term payoff. On the other hand, equity financing in the United States is often blamed for U.S. managers' obsession with showing an immediate short-term return on investment.

Although there is undoubtedly some truth to this observation, the Toyota officials with whom I met minimized this distinction. Mr. T. Toyoda, director of the largest assembly plant in Toyota City, responded that all private managers, the world over, are charged with the same responsibility—to return a profit on investment. While long-term financing may in some cases give managers a little longer time to show a profit from a particular investment, the profit must nevertheless be forthcoming.

With respect to the flexibility of Japanese managers, debt financing can also be a double-edged sword. On the one hand, the pressure to show an immediate return on investment for stockholders is somewhat less, but on the other, it is sometimes more difficult to change courses to accommodate changing circumstances.

For example, Japan's Mitsui Corp. entered into an agreement with the National Iranian Oil Co. 14 years ago to develop jointly a petrochemical plant in Iran. This agreement was reached, prior to the revolution which led to the Ayatollah Khomeini's assumption of power. Since the revolution, work came to a complete halt, and the physical plant was badly damaged during the recent fighting between Iran and Iraq. As a result, the Government of Japan was forced to take the venture over as a national project.

Although no one could expect Mitsui's managers to have foreseen the Iranian revolution, questions can certainly be raised as to why Mitsui continued its activities in Iran despite the political instability and the huge losses it incurred. Mitsui spent $4 billion on the development of this project despite many signals over the years that it would never be completed or permitted to operate.

In part, debt financing itself may have contributed to Mitsui's managers reluctance to withdraw from this deal. Mitsui's loans, bottom line, were for the production of plant and equipment to be used in this facility. Failure to complete the project as planned meant there would be insufficient collateral to secure the loans.

Debt financing has also caused Japanese industries some difficulties in competing in world high-technology trade. High-technology industries such as computers, data processors, and semiconductors are not industries which require large investments in plant and equipment. Manufacturing productivity tends to be less important in high-technology industries. Instead, a firm's ability to compete is often a direct function of the share of new, innovative technology it commands.

Competition in high-technology markets, therefore, presents a new challenge to the Japanese. Rather than adapting and improving upon technology that has been developed elsewhere, Japanese high-technology

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firms will have to develop new technology on their own. While Japan has shown that it can compete successfully in auto and electronics trade where production efficiency is the determining factor, it has yet to demonstrate a capability in the area of high-technology innovation.

For example, even Japan's recent, highly publicized and successful competition in the semiconductor market is due less to innovation than to a miscalculation on the part of its U.S. competitors. The technology which Japan used in the production of its 64K semiconductor is not new. On the other hand, the U.S. competitors were attempting to enter the market with new technology that would put them light-years ahead of their nearest rival. The new technology being developed by the American firms was flawed, but it is being perfected and can be expected to enable these companies to compete successfully in the future.

Similarly, Japan's success in the auto industry is due more to its cost-effective production processes rather than innovation. Through the use of robotics and computer driven production methods, Japan's automakers are able to produce automobiles that are remarkably defect free and that use comparatively little human labor. But, there is nothing particularly sophisticated or advanced about the technology used in Japanese built cars. For example, German automakers more than Japanese have been responsible for the great advances in fuel economy through innovations in fuel injection and other equipment.

Thus, Japan has been most successful in adapting and improving upon already existing technology, and then using this technology to make products in a cost-effective manner. Evidence of this approach can be seen in the much higher priority Japan has given to the training of engineers than to scientists. Japan turns out as many engineers each year as the United States; yet, there is little emphasis placed on training scientists to perform basic research and development. In fact, many Japanese scientists go to other countries to perform basic research.

Scientific achievement, unlike engineering, is most often the product of individual genius. Some, therefore, believe the Japanese penchant for collective action and group consensus creates an unfavorable environment within which to promote scientific research.

A more fundamental reason for this situation, however, is the fact that Japan spends a relatively small percentage of its GNP on research and development. On the other hand, the United States spends more of its GNP on research development than any other industrialized nation, followed by Switzerland, West Germany, Britain, and the Netherlands. Japan ties with Sweden for sixth place.

Thus, Japan clearly must increase its ability to develop innovative technology if it is to compete successfully in the high technology markets of the world. But to do this, certain changes may have to occur in the way Japanese business is financed and managed.

For example, not only is debt financing somewhat ill suited for the financing of high-technology industries, which are more knowledge intensive than capital intensive, but the advent of high interest rates in Japan has made long-term debt financing more and more costly to business and industry. Thus, equity financing has begun to play a greater role in financing Japanese business activities. As this trend develops, Japanese managers, like their U.S. counterparts, will be forced to pay greater attention to the short-term payoff of their investment and business decisions.

These changes are taking place at a time when Japan's export markets, principally the United States and Europe, are in the throes of the deepest recession in the last 30 years. As a result, worldwide demand remains low, and Japan's economy is beginning to feel the pain of reduced demand for its products.

For the first time in 30 years, Japan's GNP registered a substantial 3.5-percent decline in the first quarter of this year. In addition, domestic demand has been falling in Japan as a result of an austere national budget policy. Japan's Prime Minister Suzuki has given highest priority to the goal of achieving a balanced budget by fiscal year 1984.

Japan's current fiscal year budget represents a total spending increase of only 6.2 percent and is the most austere budget in the last 26 years. The Prime Minister has proposed a budget for next fiscal year which represents an actual cut in most spending areas as total spending would be held to the current level while defense spending would be increase by 7 percent. Thus, Japan's national budget policies will likely continue to depress domestic consumption.

Japan has also experienced a sharp decline in its productivity growth rate. While the rate of productivity growth remains very high, it is substantially lower than it was in the mid-1970's.

These trends taken together may mean trouble ahead for Japan's economy. As it struggles to develop the ability to compete in new, high-technology world markets, Japan's exports are falling. Yet, without a strong, profitable export trade, Japan's overall economic output will fall, thereby jeopardizing its ability to compete in high technology areas.

Japan's automakers are particularly concerned about a potential decline in export trade. For example, Toyota, whose facilities I visited and management I met, exports 54 percent of the vehicles it produces each year. The United States alone accounts for 20 percent of Toyota's annual sales.

For the last 2 years, Japanese auto producers have operated under a voluntary restraint agreement which limits exports to the United States to 1.68 million vehicles annually. Compared to 1979, this represents about a 10-percent reduction in Japan's auto exports to the United States. The dollar value of these exports, however, has continued to increase as Japanese automakers have added options that have raised the price of Japanese cars being sold here in the United States.

During the period of the voluntary restraint agreement, Japan's share of the U.S. auto market has not fallen. In 1979, Japan captured about 27 percent of the U.S. new car market and has remained around that level ever since.

Thus, the voluntary restraint agreement, which could be extended for a third year starting next March, has not caused Japan's auto industry great pain. Instead, what Japan fears most is the possibility that the United States may adopt a more severe protectionist measure like local content. Such proposals have the explicit purpose of increasing the U.S. industry's share of the auto market by restricting Japanese auto imports through artificial barriers.

I discussed this matter with Dr. S. Toyoda with whom I had dinner while I was in Japan. At the beginning of July, Dr. Toyoda became the new president of Toyota Motor Corp., the product of the recent merger of Toyota's heretofore separate production company and sales company. Dr. Toyoda is the grandson of the founder of Toyota Motor Corp. Other members of the founder's family also are associated with the company.

My basic point to Dr. Toyoda was this: In the absence of a major economic turnaround, only job-creating investments in the United States by foreign producers can possibly diffuse the political pressure being the anti-import, protectionist movement. The fact is that in the United States today there are 250,000 auto production workers and 400,000 workers in auto-related industries who are out of work. No one is projecting an economic turnaround that would give all of these people jobs. In fact, the U.S. automakers indicate that only about two-thirds of these production workers would be rehired even if the industry were to return to full production.

The politics of protectionism therefore are likely to be with us for some time. Many European countries which already have market share restrictions on foreign auto imports are considering new measures which would place even greater limitations on imports. And, Canada last month began an official slowdown of its customs clearance process for Japanese automobiles. Today, there is a backlog of 20,000 Japanese automobiles setting in Vancouver Port.

In the United States auto protectionist proposals range from outright quotas, to local content requirements to various forms of unfavorable tax treatment. Any of these, if implemented, would not only reduce Japan's share of the U.S. auto market, but also throw Japan's auto industry into a tailspin.

In my conversation with Dr. Toyoda I made it clear that without some improvement in the job situation there could be no assurance that a measure severely restricting Japanese imports would not pass. Any foreign auto manufacturer which has not established a facility in the United States, such as Toyota, could be particularly vulnerable to attack.

In response, Dr. Toyoda said his company was continuing talks with General Motors concerning an agreement for the joint production of subcompact cars here in the United States. These talks began earlier this year and are likely to continue into the fall. Toyota hopes the parties will be able to make a decision regarding the proposal before the end of the year.

Not a great deal is known about the specifics of the proposal. Apparently, one plant is being considered initially with the possibility of additional plants being set up in the future. To start, annual production would be about 200,000 vehicles of the 1.3-liter engine size. General Motors seems to be focusing more on the establishment of a west coast facility while Toyota continues to look at east coast sites.

In this regard, I suggested that Toyota consider the abandoned Ford facility at Mahwah, N.J.

During our discussion, Dr. Toyoda expressed concern that his company's production methods and practices were not easily transferable to the United States. In particular, he appeared concerned about American labor's willingness to work under Japanese management and production techniques.

I noted that both Nissan and Honda have recently made major investments in the United States. Nissan is currently constructing a $500 million light-truck assembly plant in Tennessee which will produce about 160,000 units annually and employ 2,900 people. Although current plans call only for the establishment of the light-truck plant, Nissan has purchased enough land so that major expanision could take place at a later time.

Honda's $200 million auto production facility will open in Marion, Ohio this November. Initially, this facility will produce 120,000 Honda Accords annually and will employ 2,000 workers.

To insure that Japanese production methods are successfully implemented in its U.S. facility, Nissan is building an enormous training complex complete with a mock assembly line. Many of the same practices which are typically found in Japanese auto plants will be followed in the United States.

As in Japan, Nissan will attempt to make loyalty the fundamental ingredient characterizing the company's relationship with its U.S. employees. Workers will be given a tremendous amount of responsibility for insuring defect-free production. Nissan's Tennessee facility will have only 5 management levels compared to the 14 such levels found in most U.S. auto plants.

Workers will have the ability actually to stop the production line if they encounter problems or errors that cannot be corrected during the assembly process. Quality circles of production workers will be established in order to promote efficiency and good workmanship. In addition, regular meetings between management and workers are being planned and workers will be encouraged to approach management with work-improving recommendations.

Workers will have company uniforms to increase their identity with their work. And, Nissan is building a recreational complex for its employees' use in order to foster off-hour interaction among its workers.

In return, for the loyalty of its workers, Nissan promises that its employees will always have a job with the company. This so-called lifetime employment system has attracted much attention.

In Japan, about one-third of the labor force is covered by lifetime employment. For example, Toyota workers have lifetime employment guarantees; however, these workers make only about 30 percent of the parts used in Toyota automobiles. Seventy percent of the parts are made by independent suppliers, and, most of the workers in these firms are not covered by lifetime employment agreements.

While such commitments clearly have their advantages, there are conditions that should be understood. For example, the commitment is only that the individual will always have a job, not a particular job, with the company. Furthermore, there is no guarantee of salary or benefits that goes along with lifetime employment commitments. In Japan, for instance, such employees may be forced to relocate if management decides to cutback activities in a particular area.

Lifetime employment also places a great deal of pressure on management to sustain company performance and viability. If a company were to suffer a major setback, it is hard to see how lifetime employment commitments could be honored.

Such a setback would certainly result if protectionist auto legislation were passed in the United States. Investment by Japanese automakers in the United States, however, could do a great deal to restrain this protectionist drive. It would also give Japan greater auto producing capacity at a time auto manufacturers around the world are fighting to capture new markets in the Middle East, Africa, Central America, and South America.

Yet, there is a more fundamental reason why Japanese automakers should invest in the United States, and that has to do with a company's responsibility under a free-trade system. I believe in free trade, but I also believe that companies which capture large shares of foreign markets have certain obligations toward those markets that go beyond product satisfaction. Such companies, willingly or unwillingly, become integral parts of local and even national economies. Just as it was not in the interests of the United States to restrict the importation of fuel-efficient Japanese cars during the height of the oil crisis, it is not now in Japan's interest to contribute to the unemployment of American workers.

When America almost doubled their purchases of foreign automobiles between 1972 and 1979, inevitably it cost hundreds of thousands of U.S. workers their jobs. The social cost of that displaced labor has been great, and rightly the foreign automakers who benefited from the change in consumer preference should be expected to assume some responsibility for the situation.

On the international level this problem is dealt with in various ways. For example, at the heart of our trade treaties is the concept of balance of concessions. Under this principle, each country extends to its partners trade concessions which approximate the trade concessions or benefits which it enjoys. In this way, the nations of the world have assurances of equal trade opportunities and no country is victimized.

In exchange for Japan's claim on the U.S. auto market, this principle would dictate that Japan should extend to the United States trade opportunities which approximate those it has in the American market. On this basis, the United States has tried repeatedly for the last 10 years to reduce tariff and nontariff barriers on the sale of U.S. products in Japan.

For example, the United States has been talking with Japan about buying

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more American-made auto parts for many years. Annually, U.S. companies buy 2 billion dollars' worth of Japanese parts whereas Japan purchased last year only about $100 million worth of U.S.-made parts.

These efforts, which have been a high negotiating priority of the United States for some time, have failed terribly. An agreement was reached 2 years ago under which Japan was to triple its annual purchase of U.S. auto parts, but that objective has never been achieved.

Similarly in agriculture, one of America's main export products, Japan severely restricts access to its market. Japanese farmers are paid enormous subsidies to keep them on the farm and many food products are priced much higher than in the United States due to import restrictions. For example, rice sells for about three times as much as it does in the United States. Similarly, beef and fresh fruit costs much more in Japan than in the United States, because of the tight controls on imported agricultural products.

In other areas like insurance, financial services of all types, airline operations, and computer software services, Japan treats foreign firms unfavorably. American-made automobiles are also effectively shut out of the Japanese market. Estimates are that a U.S. car that sells for $6,500 here would have to be sold for $13,000 in Japan after all the payments for processing, licensing, approval and transportation were made. Japan also protects its highly inefficient aluminum smelting industry from foreign competition, thereby increasing the price Japanese pay for aluminum.

Some progress was made earlier this year when Japan agreed to eliminate nontariff barriers on 67 different product classifications. This action has been received by U.S. trade representatives as more than a token gesture. Nevertheless, even this concession has been too long in coming and hardly restores balance to the $20 billion annual imbalance in our trade with Japan.

The United States and Japan simply do not enjoy reciprocal trade benefits. Our trading relationship with Japan does not, therefore, offer any remedy to that part of the U.S. unemployment problem that is caused by our huge trade deficit with Japan. Instead, other solutions are needed to address this problem.

In this regard I have three suggestions. First, the United States must better equip itself to compete in export trade. Free trade should always be our goal, but that does not mean we can afford to ignore the fact that policies of many foreign governments give foreign firms a competitive advantage which U.S. firms cannot overcome.

The recent decision by the Metropolitan Transit Authority (MTA) of New York to buy subway cars from Bombardier of Canada is a case in point. The Budd Co., located in Pennsylvania, submitted a bid to MTA that was actually lower than the one submitted by Bombardier. But Bombardier's offer was selected because it included more favorable financing terms, terms, I might add, which were backed by the Canadian Government.

More and more success in export trade is dependent on the extension of favorable financing. For the United States, the Export-Import Bank (Exim Bank) is the agency for providing export financing.

From 1977 to 1981, the Exim Bank provided financing for U.S. export sales of $71 billion which, in turn provided jobs for 2.2 million U.S. workers. As if oblivious to the importance of the Exim Bank to U.S. export trade, the administration, however, has proposed massive reductions in the Bank's lending authority. At the administration's insistence, Exim Bank's direct loan authority was cut 19 percent this fiscal year and an additional cut of 14 percent is being sought for next fiscal year.

The administration argues that all nations should eliminate export credit programs. While our major trading partners recently agreed to minimal reductions in export credit assistance, export credits remain the key ingredient of most nation's export promotion programs. In addition to Japan which provides credits for 43 percent of all its exports, France provides credits for 30.3 percent of its exports, and the United Kingdom provides credits for 37.3 percent of its exports.

Restrictions in the Exim Bank's loan authority guarantees more and more losses of U.S. exports sales. Lost export sales mean lost jobs, jobs the U.S. economy cannot afford to lose.

Second, we have to be willing to take unilateral actions to equalize our trade relationships with foreign nations, especially in areas such as services trade which is not currently covered by our trade treaties. Trade in services such as insurance, banking, transportation, data processing, tourism, and many others have become an increasingly important part of the U.S. balance of payments.

While the United States has suffered a deficit in merchandise trade in all but 2 of the last 12 years, the surplus in the services account has grown steadily. Due to service exports, the U.S. balance of payments in goods and services has been in surplus for the last 2 years.

Our balance of trade with Japan, however, shows quite a different situation. Trade in services with Japan has reduced only to a very minor extent our huge merchandise trade deficit with that country.

When we look closely, we see that Japan, through burdensome regulations and requirements, treats foreign service firms unfavorably. In many areas such as insurance, foreign service firms are required to establish joint venture relationships with domestic firms in order to do business in Japan. In order to obtain license to operate, foreign computer firms have been required to restrict their share of the Japanese market.

Since trade in services is not covered by our multinational agreements, the United States has attempted, most often unsuccessfully, to negotiate more favorable trading terms on a bilateral basis. As a result, I have introduced legislation, H.R. 5519, that would give the President the authority to retaliate against foreign service firms, if the foreign country in question discriminates against U.S. service firms.

I feel strongly that Congress must give the President this authority for two very important reasons. First, in the absence of an international agreement which would equalize the rules that govern trade in services, it is essential that the President have the ability to equalize the relationships under which we conduct trade in services with individual nations.

Second, our GATT partners will never take seriously our efforts to negotiate an international agreement unless they perceive that they too will benefit from such an agreement. If other nations understand that discrimination against our service industries may cause their developing service industries to be shut out of the U.S. market, then they not only have a reason to treat our service industries fairly, but a reason to negotiate an agreement that would give every nation increased opportunities for service exports.

Furthermore, the bill would make the negotiation of a GATT agreement covering services a high priority of our representatives at the GATT ministerial meeting this November. Without such an agreement, there can be no international understanding of what unjustifiable, discriminatory trade barriers are. Neither can there be any international procedure for resolving disputes arising from trade in services.

This legislation has been reported by the full Committee on Energy and Commerce. It is now awaiting action by the Committee on Ways and Means and the Committee on Foreign Affairs to which it was also referred. I am hopeful these committees will soon act, so that the House can go to conference with the Senate on its services bill which passed some time ago.

Third, I believe the United States has every right to expect Japanese automakers to locate facilities here in the United States. As a nation, we cannot close our eyes to the personal and financial suffering of the hundreds of thousands of American workers who have lost their jobs as a result of the lopsidedness of our trade with Japan. Trade in autos is the major cause of this imbalance. While I believe it would be bad policy to restrain the consumer's ability to freely exercise his or her choice of an automobile, I also believe that private companies have a responsibility to contribute to the health of the economy from which they derive great benefit.

On this basis, I believe that, in addition to our current efforts to force the Japanese to treat our export products more favorably, we must insist on greater, direct, job-creating investment in the United States. Only in this way can the free-trade market access which we extend to Japan also result in fair trade.

CONCLUSION

Mr. Speaker, we in the Congress can learn a great deal from the Japanese experience. In Japan, Government has played an active, positive role in allocating scarce capital resources, in working with business to develop long-term economic strategies and goals and in providing direct assistance to business in the form of information, research, and financial guarantees and subsidies that improve the competitiveness of Japan's exports. Government in Japan is fundamentally involved in the success of Japanese business and industry.

In sharp contrast, the current administration is trying to convince the Congress and the American people that there is no mutually beneficial relationship for Government and business in the United States. Instead, this administration insists that governmental involvement of almost any kind is antithetical to the best interests of business.

Admittedly the American and Japanese economies are different. But the differences aside, we need only to listen to the voices of American businessmen to know that our Government is failing in its responsibilities to business. A recent survey of chief executives of 50 major American-based corporations revealed that, "There is a common feeling among many CEO's that the adversarial interrelationships which exist among business, labor, government and the news media must be eliminated." The same survey found that the "President should be less dogmatic."

American business needs Government. It needs Government to negotiate agreements with foreign nations under which favorable trade relationships can be established. But, in the absence of completely open, free-trade relations, it also needs Government to provide financing credits and restrictions on foreign access to the U.S. market so that American business may remain competitive.

It needs Government not only to establish fair and reasonable regulations at the Federal level but to avoid inconsistency in State regulation of business and industry. It needs Government to maintain a strong commitment to research and development. And, it also needs Government to insure that our educational system is properly funded so that our children will receive the kind of education that will contribute to the long-term growth of our economy.

Mr. Speaker, for all of these reasons I urge my colleagues to think twice before agreeing that Government and all its programs are bad. Contrary to administration claims, many of the changes being made in Government programs emasculate essential programs—programs without which American business and industry may suffer an insurmountable competitive disadvantage.

Thank you.●

A TRIBUTE TO J. DRAKE EDENS, JR.

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SPENCE. Mr. Speaker, South Carolina recently lost a distinguished son and leading citizen when J. Drake Edens, Jr., of Columbia drowned on July 30.

Drake was best known as the father of the modern Republican Party of South Carolina. He had, however, many other interests which, despite poor health, he pursued with vigor and enthusiasm.

One of Drake's greatest qualities was his ability to get along with other people, including political rivals. He enjoyed the respect of everyone. Perhaps nothing illustrates this better than the fact that, at the time of his death, he was serving as chairman of the South Carolina Wildlife and Marine Resources Commission, a position to which he was appointed by Democratic Gov. Richard W. Riley.

My own ties with Drake go back to the early 1960's and our struggle to bring a two-party political system to our State. He was much more than a political ally even though one could not ask for a more valued adviser and supporter. He was also a devoted and treasured friend. I feel a great sense of personal loss. I shall miss him.

Both of Columbia's daily newspapers paid editorial tribute to Drake and I would like to include those editorials at this point.

[From the Columbia Record, Aug. 3, 1982]

J. DRAKE EDENS, JR.

Few people in politics or public life elicited as much respect and affection and personified as much integrity as did J. Drake Edens Jr.

There was ample testament to those qualities in the memorials spoken publicly and privately after his untimely death by accidential drowning last week.

Drake Edens tackled life's challenges with vision, dedication and gusto despite painful physical disabilities in recent years. As much as any South Carolinian, he put the Republican party on the state political map in the early '60s. Largely through his efforts, South Carolina became a two-party state, giving the electoral process an added dimension of vitality and viability.

Starting as a grassroots volunteer, Drake Edens worked his way up, becoming state GOP chairman and finally national committeeman. His reputation was such in the higher echelons of the party that he served a seven-year stint as vice chairman of the Republican National Committee.

But as posthumous comments clearly indicated, the respect for Drake Edens crossed party lines. Gov. Dick Riley, a Democrat, appointed him chairman of the South Carolina Wildlife and Marine Resources Commission.

Drake Edens applied to that task an unusual dedication and enthusiasm, nurtured by a lifetime's love for the outdoors. An avid and knowledgeable sportsman, he advocated a policy of openness from which the media and, ultimately, the public were the chief beneficiaries.

In his private life, Drake Edens was a devoted family man and manager of a variety of business interests which attested to his intelligence and initiative.

Politics, public service and private enterprises were well-served over the years by J. Drake Edens Jr., tragically dead at the too early age of 57.

[From the State, Columbia S.C., Aug. 4, 1982]

J. DRAKE EDENS

J. Drake Edens truly believed in the American ethos and did as much as any man his age to promote those unique qualities in our national life.

He inherited enthusiasm for the private enterprise system from his family of successful merchants. He learned early the old-fashioned, personal values in a public school system which then emphasized individual responsibility. As a drill instructor at Parris Island in World War II, he instilled discipline and patriotism in young Marines.

Drake Edens' strong conservative convictions led him to the national political arena where he was recognized for undaunted leadership in the state and national Republican party. During the turbulent 1960s, he was instrumental in establishing genuine two-party Presidential elections in this once-upon-a-time solidly Democratic state.

A high point of his political activity came at the National GOP convention in 1964, when, as chairman of the S.C. delegation, he rose to announce the delegation vote that provided U.S. Sen. Barry Goldwater the Presidential nomination. The S.C. GOP convention had been the first to endorse Mr. Goldwater months earlier, pushing him into prominence as a challenger to President Lyndon B. Johnson.

Mr. Edens was a devoted husband and father, an active Methodist, and a dedicated conservationist, having served in national and state offices, the latest as chairman of the State Wildlife and Marine Resources Commission. In recent years he pursued these interests despite painful physical ailments that would have slowed many another man.

We know of few South Carolinians who were more respected than Mr. Edens. His death by drowning at age 57 is distressing.●

U.S. DISTRICT COURT IN BOULDER, COLO.

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mrs. SCHROEDER. Mr. Speaker, I am proud to introduce today, on behalf of the Colorado congressional delegation, a bill to authorize holding U.S. District Court for the District of Colorado in Boulder, Colo.

By amending 28 U.S.C. 85 to add the city of Boulder to the other Colorado cities where Federal court can convene would make the judicial process more accessible to the citizens of Boulder County. The U.S. District Court in Denver frequently hears cases in which all or most of the parties, as well as the jurors, are from Boulder County. The time and expense involved in traveling to and from Denver sour peoples' involvement and interest in the judicial system.

Moreover, Boulder is the only home in Colorado, other than Denver, of a major law school. This amendment would provide the students and faculty at the Fleming School of Law on the University of Colorado campus an easy opportunity to view Federal district court in action.

The moot courtroom located there could host an occasional trial or motion hearings at no or low cost. The dean of the law school, eager to see this bill become law, views this use of the courtroom as an excellent teaching tool. Here law students could see Federal court in action, learn the procedures and the arguments used by the lawyers, and evaluate what they saw back in the classroom. Under extraordinary circumstances and with prior consent, one trial was held there. It was well attended by the students. Both the presiding Federal judge and the law school dean were pleased at the turnout and suggested making this a regular feature.

This legislation is a simple, no-cost idea that will have tremendous teaching value for Colorado's aspiring law students.●

NEW LIGHT ON SMOKING VERSUS HEALTH DEBATE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BLILEY. Mr. Speaker, the Subcommittee on Health and the Environment may soon be marking up H.R. 5653, the Comprehensive Smoking Prevention Education Act. I feel compelled at this time to bring some very important information to my colleagues' attention. The merits of this legislation have been questioned by many sources, most notably by Philip R. J. Burch, professor of medical physics, the University of Leeds, Leeds, England. Professor Burch has provided me with a comprehensive memorandum outlining several misleading factors upon which H.R. 5653 is based. I wish to share this memorandum with my colleagues in the hope that it will shed some new light on the smoking versus health debate.

DEPARTMENT OF MEDICAL PHYSICS,
THE GENERAL INFIRMARY,
Leeds, England, March 12, 1982.

Congressman THOMAS J. BLILEY, JR.,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN BLILEY, Please find enclosed a somewhat hastily compiled critique of Mr. Waxman's Bill together with reprints of supporting papers that set out my indictment of orthodoxy in technical detail. Should you require further amplification or clarification of obscure points I shall be pleased to give you whatever help I can.

I trust that this monstrous Bill will suffer a resounding defeat. It constitutes a serious danger to public education.

Yours sincerely,
P.R.J. BURCH, *Professor.*

COMMENTS ON MR. WAXMAN'S BILL TO AMEND THE PUBLIC HEALTH SERVICE ACT

(By Prof. P.R.J. Burch)

In this memorandum I criticize the statements made in Sec. 2 of the Bill about the effects of cigarette smoking on overall mortality, lung cancer and heart disease. These are issues that I have personally studied in some detail. We are told in Sec. 2 that "The congress finds" six examples of the dangers to human health presented by cigarette smoking. The manner in which these "findings" were made is not described but I presume that the reports of the Surgeon General have served as a basis for the allegations.

MORTALITY FROM ALL CAUSES

"Finding (1)", at the top of page 2, is ambiguously worded: "cigarette smoking is the largest preventable cause of illness and premature death in the United States and *is associated with* the unnecessary deaths of over three hundred thousand Americans annually." (Emphasis added.) I infer that "*is associated with*" is meant to be understood as "*causes*" although, in scientific parlance, the two terms are far from synonymous. Logicians, statisticians and competent scientists are familiar with the aphorism: "association does not necessarily imply causation". The general tenor of the Bill leaves little doubt, however, that we are intended to conclude that cigarette smoking *causes* at least 300,000 unnecessary deaths in America. Nevertheless, the use of the expression "is associated with" in the Bill is of more than pedantic interest because the frequent identification in epidemiology of association with causation is a source of many misunderstandings and fallacies. When analyzing epidemiological findings it is of the utmost importance that the distinction between association and causation should always be borne clearly in mind; those who appreciate the distinction will be careful to observe it in their written statements. In discussing "association", Sir Austin Bradford Hill wrote in his *"Principles of Medical Statistics"*: "Merely to presume that the relationship is one of cause and effect is fatally easy; to secure satisfactory proof or disproof, if it be possible at all, is often a task of very great complexity". The degree of complexity is commonly, if not invariably, underestimated in the Surgeon General's reports.

The figure of 'over 300,000' appears to be based on: (a) the Surgeon General's (1979) conclusion (p 2-42), 'The overall mortality ratio for all smokers of cigarettes is about 1.7 compared to nonsmokers'; and (b) the assumption that this association between cigarette smoking and overall mortality is causal in origin. Given this kind of association—and the others implicit or explicit in the Bill's (2) to (6) of Sec. 2—we have in all instances to consider the following possibilities:

(i) Smoking causes the morbid or fatal disorders. This is the straightforward causal hypothesis.

(ii) The associated diseases, or one or more connected pre-disease conditions, cause the smoking. (I call this the 'converse causal' hypothesis.)

(iii) A third factor causes, or predisposes to, both the smoking and the associated diseases. This is sometimes described as the 'common cause' hypothesis and it is often discussed in genetic terms: the genotype predisposes both to the smoking and to the diseases and the association arises at the genetic level. In this latter from, the common cause hypothesis is often referred to as the 'constitutional' hypothesis.

(iv) Any combination of (i) to (iii) may be needed to explain the overall association, whether negative or positive.

Our ultimate scientific objective should be the estimation of the separate contributions (i) to (iii), together with their respective confidence limits. The Surgeon General's reports do not acknowledge, and appear to be unaware of, these obligations.

I have studied the relation between smoking and overall mortality in England and Wales and a reprint of my paper on the subject is enclosed (Smoking and Mortality in England and Wales, 1950 to 1976, Journal of Chronic Diseases, 34, 87–103, 1981). The paper contains an analysis of the temporal trends in sex- and age-specific mortality (all causes) in relation to the corresponding trends in cigarette consumption. An important cause of the consistent decline in mortality, which accounts, in effect, for virtually all of the fall over the age range 20-44 years in both sexes, is shown to be the near-eradication of tuberculosis. There is no indication that the temporal changes in cigarette smoking have modified this fall.

My analysis of temporal (secular) trend is one of the few approaches that addresses itself to the causal/constitutional issue. Another is the randomized controlled intervention trial in which one randomly allocated group of smokers, the intervention group, is subjected to intensive pressure to give up smoking while the other randomly allocated group, the 'normal care' group, is not subjected to special pressures. Randomization is a device that eliminates the bias of self-selection.

Such a trial has been carried out by Professor Rose and Dr. Hamilton in England. It is reviewed in my paper but here it is sufficient to quote their main findings: the death rate in the randomly assigned 'intervention' group, which had a substantially reduced level of smoking, was 1.74 deaths per 100 man years (based on 96 deaths) and that in the randomly assigned 'normal care' group, with a relatively high level of smoking was, paradoxically, only 1.63 deaths per 100 man years (based on 94 deaths). The authors concluded in connection with the outcome in the 'intervention' group: 'Disappointingly, we find no evidence at all of any reduction in total mortality.'

The final paragraph of my conclusions reads as follows: 'This paper has shown that secular trends in overall mortality in England and Wales give no consistent indication that they were appreciably influenced by changes in cigarette consumption. The two other types of critical evidence reviewed here—the preliminary results of a randomised controlled intervention trial and findings from MZ and DZ twins discordant for smoking—both suggest that the observed mortality ratios are more likely to result from a constitutional than a causal association. But so far, both studies suffer from small numbers and definitive conclusions on this issue cannot yet be drawn from them. On scientific grounds there can be little doubt that the conclusions drawn by the Royal College of Pysicians and the Surgeon General of the United States about the lethality of smoking are precipitate and unwarranted. In the light of the critical evidence, I am unable to find any scientific justification for the assertion in the Bill that cigarette smoking causes in the United States over 300,000 unnecessary deaths annually.

HEART DISEASE

Following mortality from all causes it is convenient to consider heart disease because, as the Bill states, it accounts for nearly one half of the deaths in the United States. The Bill adds: one third of these deaths are attributable to smoking.

My recent paper published in this field is: Ischameic Heart Disease: Epidemiology, Risk Factors and Cause (Cardiovascular Research, 14, 307-338, 1980), a reprint of which is enclosed. Among the various so-called risk factors discussed in the paper is cigarette smoking. I analyse the sex- and age-specific mortality from ischemic heart disease in six populations, including U.S. Whites and U.S. Non-Whites, and give special attention to the intriguing fall in mortality from the disease in the United States over the period, 1968 to 1975. The data from all populations have certain special features, including a particular relation between the sexes, that facilitate analysis. These features allow conclusions to be drawn that do not depend too critically on errors of death certification. J. C. Kleinman, J. J. Feldman and M. A. Monk has previously observed (American Journal of Public Health, 69, 795–802, 1979): Smoking changes among women were not generally consistent with declines in CHD mortality. My analysis agrees with theirs and it indicates that any causal influence of smoking on the fatal disease process is either small or non-existent. The factors responsible for the fall in mortality in the United States in both sexes are unconnected with smoking; over the age range 40 to 64 year they make an effectively equal impact on White males and females and are therefore ubiquitous. They are likely to be either microorganisms, for example viruses, or allergens.

LUNG CANCER

Partly because of past and present errors of clinical diagnosis and death certification it is impossible to derive precise quantitative conclusions about the role of cigarette smoking in the pathogenesis of lung cancer. I have published three major papers on this subject, including an invited one presented to the Royal Statistical Society in London on May 17, 1978 (reprints enclosed). In addition, a substantial portion of Chapter 10 of my book, *The Biology of Cancer: A New Approach* (University Park Press, Baltimore, 1976), is devoted to the relation between smoking and lung cancer.

Recognizing that simple associations and evidence for lung cancer in voluntary ex-smokers do not resolve on the causal/constitutional issue, and bearing in mind the Royal College of Physicians (1971) stricture: "The chief reason for rejecting the genetic hypothesis is its inability to account for the enormous rise in death rates from lung cancer in the past half century", I have given special attention to the sex- and age-specific death rates recorded for lung cancer in England and Wales. (Thanks to the work of the late Professor R. D. Pass in England and that of Dr. K. McD. Herrold in the United States it is now apparent that the converse causal hypothesis—for example, a pre-cancerous inflammatory condition of the lungs and bronchi causes the smoking—has little or no relevance to this context.)

Careful study of the recorded increases in mortality from lung cancer in England and Wales shows that, although the rises have been generally larger in men than in women, the fine structure of the changes has been extraordinarily synchronous in the two sexes. It follows that the main causes of the increases have also been synchronous in men and women. Smoking cannot have been a main cause because the sharp rise in cigarette smoking by women occurred some 30 years after that by men. More detailed calculations, including those of the sex-ratio of the recorded changes in mortality described in my Royal Statistical Society paper, confirm that smoking cannot be implicated as the main cause of the recorded rises in either sex. Indeed, it is readily shown that these rises are many times greater than those predicted from the causal hypothesis and the data for tobacco consumption. It is now widely agreed that changes in diagnostic practice have been responsible for a substantial part of the recorded increases. However, because they are so large they could readily conceal a genuine component attributable to smoking.

In an attempt to explore this latter possibility and to minimize the complications that arise from errors of death certification I have studied the details of recorded sex- and age-specific mortality from lung cancer in relation to those of cigarette consumption for the relatively recent period, 1950 to 1975 (*Journal of Chronic Diseases, 33*, 221-238, 1980) and the still more recent period, 1974–1978 (*Medical Hypotheses, 7*, 1461-1470, 1981). To test causal hypotheses mathematically we have to make specific assumptions about mechanisms; mine are based on evidence independent of that being examined in the papers cited in this paragraph. The precipitator (causal) hypothesis emerges as being consistent with a wide range of evidence that refutes initiator and promoter hypotheses. Unfortunately, the precipitator hypothesis is not supported by the analysis of post-1950 trends. However, recent direct post-mortem studies of the accuracy of certification in England (West Midlands) and Scotland (Edinburgh) show that substantial errors in the clinical diagnosis of lung cancer persist. Probably many of the anomalies in the epidemiological data should be attributed to them. In the Abstract of my *Journal of Chronic Diseases* paper I concluded: "In view of the dubious reliability of the potentially critical data analysed here and elsewhere, it is questionable whether any firm conclusions can as yet be drawn about 'dose-response' relations or cigarette smoking and lung cancer."

The criterion of *consistency* is usually applied to a causal relationship. In epidemiology it is impossible to replicate observations as in experimental science because of difficulties, for example, in characterising, and standardizing for, the relevant parameters of smoking, drinking, etc. It is seldom possible to allow adequately for errors of diagnosis. Nevertheless, in commenting on the 1964 report of the Surgeon General, Professor Mervyn Susser was able to write in his "Causal Thinking in the Health Sciences" (1973): 'Thus 28 of 29 case-control studies and all seven cohort studies reported in Smoking and Health found an association between smoking and lung cancer and roughly the same relative risks.' Had investigation stopped at that point the causal hypothesis could not have been faulted because of inconsistencies over relative risks. The early studies were, however, confined to Western, largely Caucasoid, populations. During the past decade reports on Oriental populations have been published and they reveal a very different picture. The differences are so large it is difficult to avoid the conclusion that some of them should be attributed, in one way or another, to genetic factors.

In the American Cancer Society study the mortality ratio for cigarette-only smokers, versus those who never smoked regularly, was found to be 10 for men and 2.6 for women; for British male doctors the ratio was found to be about 14. However, the corresponding ratios in Japan are 3.8 for men and 2.4 for women; among Chinese in Singapore they are 3.8 (men), 3.6 (non-Cantonese women) and 1.6 (Cantonese women); in Bombay, India, they are 2.2 (sexes combined, all cases) and 1.7 (sexes combined and cases were confirmed by histology or cytology); in Northern Thailand they are 1.8 (men, univariate analysis), 2.1 (women, univariate analysis), but only 1.65 and 1.63 respectively (neither significantly greater than unity), in a multivariate analysis that allowed for several 'risk factors'. A mortality ratio of only 1.57 (sex unspecified) is reported indirectly from the Chinese mainland where, it is said, scientists do not accept that smoking is the main cause of lung cancer. The incidence of lung cancer in Chinese women in Hong Kong is among the highest for the world's women but the risk in cigarette smokers relative to nonsmokers was found to be only 1.74; 53.4 percent of patients had never smoked cigarettes.

A particularly interesting study has been made in Hawaii of lung cancer in women of Hawaiian, Japanese and Chinese origin: relative risks of 10.5, 4.9 and 1.8, respectively, were found. The authors concluded: "Cigarette smoking is clearly not the only cause, nor even the major cause, of lung cancer in all populations of women." Although proper

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standardization between different populations cannot be carried out, the wide contrasts in mortality ratios between male Caucasoid populations on the one hand, and male Oriental populations on the other, suggest that this generalization can probably be extended from women to men.

Another aspect of consistency can be studied by relating mortality from lung cancer to previous per capita cigarette, or total tobacco, consumption in different countries. When this is done (see Figs. 10.33 and 10.34, p. 352 in my book) a very wide scatter of points is obtained in contrast to the approximately linear relation predicted by the causal hypothesis. The wide scatter of points again suggests that factors other than cigarette smoking are likely to play an important part in determining mortality from lung cancer. In view of the direct evidence for genetic factors in lung cancer it would be most surprising if they made no contribution to these many inter-population differences.

There can be little doubt that constitutional factors make some contribution to the strong association between cigarette smoking and lung cancer in Western Causasoid populations; it is not yet possible to estimate its extent. In the words of Dr. P. D. Oldham (Journal of the Royal Statistical Society, A141, 460-462, 1978): ". . . We still do not know how cigarettes cause lung cancer, nor even, if we are particularly rigorous in our use of scientific logic, whether they do."

CONCLUSIONS

According to Alvan Feinstein, Professor of Medicine and Epidemiology at Yale University, and himself a distinguished clinical epidemiologist, "a licensed epidemiologist . . . can obtain and manipulate the data in diverse ways that are sanctioned not by the delineated standards of science, but by the traditional practice of epidemiologists." It must be clear from my critique that I agree fully with Professor Feinstein's condemnation. The combination of powerful and admirable humanitarian impulses with an invalid methodology— la trahison des clercs—has generated many aetiological fallacies and often substituted certainty for agnosticism. Although I have every sympathy with the desire to inform the public of genuine dangers to health I can in no way condone the abandonment of "the delineated standards of science".

If cigarette smoking causes "unnecessary deaths" they form too small a proportion of the total to be detectable by rigorous methods. In short, I regard the Bill as misguided. Mr. Waxman has been misled.●

NUCLEAR ARMS LIMITATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. DERWINSKI.** Mr. Speaker, the United Hellenic American Congress is an organization which acts as the mouthpiece for the Hellenic-American groups across the country. Opinions on current issues of concern to Greek Americans were voiced in several resolutions adopted by the steering committee of the United Hellenic American Congress.

One such resolution adopted included support for the Strategic Arms Reduction Talks (START), and for progress in nuclear arms limitations. I wish to include this resolution for the Members' perusal:

RESOLUTION

Whereas, Christ blesses the peacemakers and calls them the children of God (Mt. 5:9) and the Holy Gospel further exhorts us to "follow after those things which make for peace." (Rom. 14:19); and

Whereas, Peace is the goal and hope of humanity but peace to be a real and lasting peace must be a peace based on mutual cooperation and not blind trust; and

Whereas, The United States of America and the Soviet Union have just begun Strategic Arms Reduction Talks (START) in Geneva, Switzerland; and

Whereas, Arms reduction talks are also continuing with respect to medium range nuclear armaments in the European areas; and

Whereas, The survival of civilization as we know it depends upon the elimination of the risk of nuclear war; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress that the Governments of the Soviet Union and the United States of America are urged to reach agreement with respect to nuclear arms limitations and reductions that are both meaningful and verifiable and that will lead to the eventual elimination of nuclear arms from the arsenal of all nations of this world; and, be it further

Resolved, That a suitable copy of this resolution be presented to the Secretary General of the United Nations, the President and Secretary of State of the United States of America, the Chairmen of the appropriate Congressional Committees of the United States Congress, and the appropriate officials of the Government of the Union of Soviet Socialist Republics.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.

ANDREW A. ATHENS,
National Chairman,
United Hellenic American Congress.●

STRATEGIC TRADE ACT OF 1982

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mrs. BYRON.** Mr. Speaker, I rise today to alert my colleagues in the House to the operations of the organization responsible for coordinating international exports, and to the need to change the orientation of this important group.

The organization to which I refer is the Coordinating Committee for Multilateral Export Controls. This group, known as COCOM, was organized in 1949 and began operation in early 1950. By 1953, COCOM attained the membership that has survived to this day, being the NATO nations less Iceland and including Japan. The broad purpose of COCOM is to coordinate the restrictions on the sale and export of materials and technology to the Communist bloc.

COCOM operates by formulating lists of goods and technologies that the member countries agree should not be exported to the Communist bloc. The lists are comprised of technical specifications for controlled categories of equipment and technologies. The specifications are then applied by each member country to restrict their own exports. When a country recognizes that a proposed export to a Communist bloc country would conflict with a COCOM list specification, the country can either deny permission for the export or apply for an exception to the COCOM controls. COCOM lists are divided into three general areas: A munitions list which includes overtly military items, an atomic energy list which covers materials and reactor technology, and an industrial/commercial list. The controls exercised under this last category, the industrial/commercial list, cause the highest degree of international interest and, sometimes, unrest.

Control of industrial and commercial items is based on the observation that these items have the propensity to be used in both civilian and military applications; the shorthand for this class of items and their related technologies is dual use. It is essential to keep in mind that it is the risk that a proposed export will be applied to a military purpose that underlies the COCOM controls on these items. For example, a precision grinding machine proposed for export to the Soviets for manufacturing steam turbine blades could be diverted to producing better blades for military jet engines.

Let me return for a moment to the status of COCOM to illustrate a problem that needs a solution. COCOM is a voluntary organization, with no treaty status or enforcement mechanism, and indeed very little visibility at all. Some members do not officially acknowledge their participation. This loose status, while it may be politically desirable in some countries, leads to actions which are dangerously contrary to the purpose of COCOM. In the export of dual-use items, there is an attitude among high-technology exporters along the following lines: "If the Soviets can get the goods or technology from another source, why should my country prohibit the export?" In other words, a perception of lack of coordinated control is used as a basis to further diminish control. This is indeed a powerful argument. But instead of following it to its logical conclusion, the abolishment of all international security controls in favor of business opportunity, I believe that this Nation should take the lead in restating the basis of COCOM and should work toward an internationally recognized status for this important organization.

The basis of COCOM, that of controlling and coordinating Western exports in favor of international security, remains viable and appropriate today, even as it did in 1950. The Strategic Trade Act of 1982, includes a clear mandate to increase the U.S. participation in COCOM and to seek treaty status for this organization. Increased emphasis on COCOM control, and the awareness that it implies an international policy, can produce more effective controls on the flow of technology to the Soviet military machine.

Along with increasing U.S. participation in COCOM, our bill seeks a reorientation in the policy basis for the U.S. participation. Other countries have perceived that U.S. actions in COCOM have been economically motivated to create market advantages for U.S. companies. Recognizing that the fundamental basis of COCOM is international security, the Strategic Trade Act enhances the military review of COCOM-list exports and the overall military presence in the COCOM process. By stressing the military security aspects of COCOM, the United States can underscore the fact that COCOM must be viewed as a security organization. In taking this lead, and by showing that increased military review of COCOM procedures is valuable and appropriate, the Strategic Trade Act is intended to induce COCOM members to increase their military involvement in the export process. Indeed, a recent article in the Baltimore Sun includes an assertion by a COCOM expert that most of the COCOM members do not now include military experts in their COCOM delegations.

In summary, I observe that loose controls lead to international insecurity. The United States must take the lead to tighten controls. The Strategic Trade Act provides a means for accomplishing this worthwhile end. I see no reason why we should finance such a large defense budget in the United States, and then tolerate an export policy from our allies which eventually reduces our security and the security of the free world.●

CONRAIL REPORTS BIGGEST PROFIT EVER

HON. BILL GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GOODLING. Mr. Speaker, the Consolidated Rail Corporation (Conrail) has reported profits of $56.2 million in the second quarter of this year, marking its biggest profit since its formation in 1976, and nearly four times the net it reported for the same period of last year.

The carrier achieved the higher earnings despite a drop of nearly 15 percent in freight traffic.

As everyone in this Chamber knows, Conrail lost money during each of the previous 6 years since its operations began on April 1, 1976, with losses totaling some $1.5 billion.

In its recent Report to Congress, the United States Railway Association (USRA), the nonprofit Federal corporation which developed the plan for reorganizing seven bankrupt railroads in the Northeast quadrant of the country into the Conrail system, noted that there have been major changes in productivity and cost control within Conrail. I might add that this profit was realized in the face of a recession that has impacted more heavily on the region served by Conrail than on other parts of the country.

If I may quote:

> Senior management carried out its commitment to find ways to tailor assets and costs to current traffic and revenue. Conrail employees contributed both by wage concessions and by participation in an extraordinary growth in cost consciousness.
>
> Shippers adjusted to deregulation—some shifting to other carriers and modes, others to Conrail—as prices and services were tailored more effectively to the railroad's inherent competitive position.

I am pleased that the Federal Government is beginning to realize some profitable returns on its multiyear $3.3 billion investment in plant and equipment, and I hope that this signals the establishment of Conrail as an economical and reliable source of freight transportation service to the markets of the region.

The USRA analysis is consistent with this administration's free market transportation policy, particularly when it notes that in early 1982 Conrail "continues to demonstrate the ability to adjust to revenue changes, an achievement crucial to further progress towards viability." Conrail is undergoing substantial changes in its route structure as a result of increased freedom under Federal law; pivotal in the achievement of this goal was passage by this body of the Staggers Act of 1980 and the Northeast Rail Service Act of 1981 in combination with recent ICC rulings. All of these factors have allowed the quasi-Federal Government railroad to eliminate unprofitable lines, as well as to more efficiently handle changes in traffic volume and mix.

I commend all those involved with Conrail, especially its employees in the 19th District of Pennsylvania and throughout the Northeast, and I congratulate Chairman Stanley Crane, formerly of Southern Railway, for this abrupt turnaround.●

SCOTT JOPLIN COMMEMORATIVE STAMP

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MAZZOLI. Mr. Speaker, for a number of years—particularly since the rebirth of ragtime in the 1970's—various individuals and groups throughout the Nation have petitioned the U.S. Postal Service to issue a commemorative stamp honoring Scott Joplin, the king of ragtime composers.

In December 1979, one of my former staff assistants founded the Northern Virginia Ragtime Society, which today is one of only two organizations in the United States dedicated to the promotion and preservation of classical ragtime and related music. In 1980, the local society requested my assistance in their efforts to revive an interest in behalf of the Joplin stamp.

On November 20, 1980, I wrote to the Citizens' Stamp Advisory Committee of the U.S. Postal Service, expressing my interest and support of the proposal and the following day dispatched a letter to our colleagues asking them to express a similar interest to the Postal Service. The response was so overwhelming and impressive that in July of last year the Service announced that such a stamp honoring Scott Joplin would be issued as part of the black heritage series in 1983.

I was interested to read in a recent issue of Linn's Stamp News that the Postal Service had unveiled the design of the Joplin stamp on July 16 at a ceremony aboard the *Goldenrod Showboat* at Riverboat Landing in St. Louis, Mo.

The article is printed in its entirety at this point in the RECORD:

[From Linn's Stamp News, Aug. 2, 1982]

U.S. UNVEILS JOPLIN DESIGN IN ST. LOUIS

The U.S. Postal Service unveiled the design of a commemorative stamp honoring noted ragtime composer Scott Joplin.

The stamp will be issued on an unspecified date in 1983 as part of the continuing Black Heritage USA series, all of which—including the Joplin design—has been designed by Jerry Pinkney, Croton-on-Hudson, N.Y.

The unveiling took place July 16 in St. Louis, Mo. Assistant Postmaster General Nancy George (USPS Employee Relations Department) unveiled the design with the assistance of ragtime historian Trebor Tichenor during an 11 a.m. ceremony aboard the Goldenrod Showboat at Riverboat Landing.

A Registered National Historic Landmark, the Goldenrod is "the last authentic showboat surviving on the Mississippi."

The vertically-oriented, standard-sized commemorative features a head and shoulders portrait of Scott Joplin based on a photograph found on the title page of The Collected Works of Scott Joplin II, edited by Vera Brodsky Lawrence.

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Superimposed to the lower right of the stamp is a drawing of Joplin playing an upright piano. The stamp made its debut without denomination (inscribed simply "00c") due to the advance unveiling.

Scott Joplin was born in 1868 in Texarkana, Tex., just five years after the Emancipation Proclamation and three years after the Civil War. His musical interests were developed at an early age, first with the guitar, then the bugle and—at the age of 7—the piano.

In 1885, 17-year-old Joplin moved to St. Louis, where he hoped to find a less restrictive atmosphere for his style of music than existed in Texarkana. It was this port city along the lower banks of the Mississippi River where he composed and performed much of his music during the late 19th and early 20th centuries.

Playing in the waterfront gambling halls and cafes, this quiet, intelligent man strove to develop a new American musical art form: ragtime.

Joplin successfully combined in his compositions the unself-conscious charm of late Victorian music and the lively qualities of the folk song and dance which had roots going back to the pioneer days of America.

In her address at the stamp design unveiling ceremony, Nancy George noted, "Some regard his ragtime as a crystallization of all the ingredients that make up our nation. In terms or style and scope, his works have been called 'the precise American equivalent of minuets by Mozart, mazurkas by Chopin and waltzes by Brahms'."

Eubie Blake, who has written and played much ragtime and continues to perform at the age of 99, is probably one of the few individuals still living who had the pleasure of hearing Scott Joplin perform in person.

Blake has proclaimed, "Scott Joplin's music was classical ragtime; although it was the source idea, other players played it differently . . . none of them sounded like him."

Besides the ragtime music for which he has received worldwide acclaim, Joplin also had a distinguished career as a composer of marches, operas, and other musical pieces. At the time of his death, he was reportedly working on a symphony.

In the later years of his life, his desire to concentrate on more serious compositions, such as operas and symphonies, led to a decline in both his health and his finances. The immense popularity of his ragtime also faded until its revival in the last decade or so.

In the 1970s, 60 years after his death, ragtime finally began to receive the academic recognition and respect it had long deserved. Contributing to the revival was the scoring of the popular award-winning motion picture, "The Sting," with Joplin's music in 1973.

The renewed interest continued to build, and in 1976 the Pulitzer Prize Committee awarded exceptional posthumous recognition to Scott Joplin for his musical genius and talent. Indeed, ragtime has become known as a truly American musical art form.

In a recent work entitled "Ragtime: A Musical and Cultural History" (Univ. of Calif. Press, 1980) Edward A. Berlin, the musicologist, stated:

> The resurrection of ragtime in the 1970's is a phenomenon unprecedented in America's musical history; never before has a long-buried style been so widely and eagerly embraced by a mass public.

The issuance of the Joplin commemorative stamp on June 9, 1983, should prove a suitable sequel.

As I stated in my initial letter to the Postal Service:

> Joplin died at the early age of 49. This multi-talented Black American never received the true recognition he deserved during the ragtime era. It is fitting to give posthumous recognition to him for his outstanding contributions to American art and culture.●

LET'S KEEP THE ARMS RACE OUT OF SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BROWN of California. Mr. Speaker, this week and next, the United Nations is conducting the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace '82). I have the privilege of representing the United States as a congressional adviser to the U.S. delegation, and in fact, will be leaving tonight to join the delegation in Vienna.

As my colleagues may know, I have been concerned for some time with the trend toward more and more military emphasis on our space activities. I plan to share my concerns at the Unispace Conference in the next few days. I know that many nations will be represented there who are worried about the military uses of space as envisioned not only by our own Government, but by the Soviet Union as well.

A weapons race in space would do more than extend the battleground into space; it could seriously impair military communication and surveillance activities of all nations. This would destabilize an already fragile balance of power, if indeed one even exists.

Mr. Speaker, the following Christian Science Monitor editorial succinctly outlines the case I plan to make in Vienna this week. I urge my colleagues to review it.

The article follows:

[From the Christian Science Monitor, Aug. 9, 1982]

KEEP WEAPONS OUT OF SPACE

The United Nations conference on peaceful uses of outer space opening in Vienna today prompts urgent questions: Is outer space to be explored and used for the constructive purpose of improving the lives of all peoples of planet Earth? Or is it to become the dangerous battleground of military rivalry first between the superpowers and ultimately among other nations?

Many fear the latter if the United States and the Soviet Union do not soon get together not only to control the arms race on earth but to prevent it from spilling over into space. The last bilateral talks ended in 1979. It is time they were resumed.

This is not an item on the agenda of unispace '82—the second conference of its kind. Some 2,000 people from 100 countries gathering there are concerned primarily with finding ways for the developing nations to participate in space programs to improve education, communications, navigation, weather prediction, and the like. Tremendous progress is being made in the use of satellites for such peaceful purposes and the United States and other Western nations are making a substantial contribution in this whole field.

But there is little doubt that alarm about the growing military competition in space will come up at conference sessions. For if the Americans and the Russians continue with their programs for putting antisatellite weapons (ASATs) in space and developing such systems as laser and particle beam weapons, international cooperation for peaceful uses of space will be set back. International law prohibits the superpowers from deploying "weapons of mass destruction" in space, i.e. nuclear warheads. But both are working on space-based weapons systems that could either damage satellites or electronically impede their functions. With the Russians believed considerably ahead of the United States in developing such weaponry, the Reagan administration has expanded its own program.

There are grave dangers in the trend. The United States and the Soviet Union depend more and more on outer space for the daily operation of their military forces. thus, satellites are used to gather strategic intelligence and for communications purposes. They are also used to verify compliance with arms control agreements, including the SALT I, and the unratified SALT II treaties, and to provide instantaneous warning of the launching of enemy missiles. To deploy weapons that could interfere with these functions, therefore, would not enhance but reduce the security of each side.

Moreover, many scientists are skeptical that effective space weapons can be developed. Kosta Tsipis of the Massachusetts Institute of Technology, for instance, terms proposals for a laser antiballistic missile defense in space "little more than childlike, wishful fantasies of omnipotence." It would take, he says 100 years and $100 billion just to transport enough laser fuel to space-based platforms.

Even if do-able, however, does the United States want to take the path of doing it? This year marks the 25th anniversary of the opening of the space age with the flight of Sputnik. It has been a quarter of a century of breathtaking progress in space exploration and of helpful international cooperation in the peaceful use of space. What a pity if further progress were threatened because the superpowers failed to reach an agreement to stop the madness of a space arms race.●

ON INFANT FORMULA

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. HARKIN. Mr. Speaker, on April 29, 1982, 70 Members of Congress sent a letter to Helmut Maucher, president of the Swiss-based Nestle Co. commending him for Nestle's pubicly announced intention to comply with the World Health Organization (WHO) and UNICEF's International Code of Marketing of Breastmilk Substitutes. This letter, which was initiated by Mr. Gilman, Mr. Obey, Mr. Erdahl, Mr. Gore, and myself, further called upon Nestle to give serious consideration to meeting in good-faith negotiations with the International Nestle Boycott Committee.

As we are all aware, Mr. Speaker, the 1981 World Health Assembly overwhelmingly adopted the WHO/UNICEF International Code as part of global effort to protect infant health. The U.S. Government cast the only negative vote against this code, resulting in widespread criticism from the Congress, press, and general public.

Nestle is the world's largest producer of infant formula and has long been criticized for aggressive and deceptive marketing. Many Americans have chosen to express their dissatisfaction with Nestle's callous policies by participating in a boycott of the company's products.

Over 110 national church, health, labor, women's, and consumer oganization have endorsed the Nestle boycott. Over 80 of these groups make up the International Nestle Boycott Committee (INBC). The INBC membership includes, among others, the Amercian Public Health Association, American Baptist Church, American Federation of Teachers, Ambulatory Pediatric Association, AFSCME, Church Women United, Church of the Brethren, Christian Church (Disciples of Christ), Consumer Federation of America, Dominican Fathers and Brothers, International Ladies Garment Workers Union, League of United Latin American Citizens, National Council of Churches, National Council for International Health, National Federation of Priests' Councils, National Organization for Women, National Women's Health Network, Presbyterian Church in the U.S.A., Sisters of Loretto, Unitarian Universalist Association, United Auto Workers, United Church of Christ, United Methodist Church: Board of Global Ministries, United Presbyterian Church, United Steelworkers of America and the YWCA.

Following Nestle's announcement in mid-March that it intended to comply with the WHO/UNICEF Code, the INBC immediately sent an invitation requesting a meeting with Nestle officials. The INBC was seeking clarifications on the substance of Nestle's new policy. They also hoped to negotiate an appropriate mechanism to insure that such policies will be followed upon termination of the boycott.

Although Nestle had refused for years to meet with the INBC, we hoped that Nestle's apparent new attitude would bring a greater willingness to face its critics.

Nestle responded to our letter on May 21. I would like to make some comments on the four major points in Mr. Maucher's letter.

First, Mr. Maucher reiterated Nestle's decision to bring its infant formula marketing practices into compliance with the WHO/UNICEF International Code. However, it has now become quite apparent that these new instructions fall significantly short of the WHO/UNICEF standards.

At the 35th World Health Assembly held in May of this year in Geneva, Switzerland, several delegates from developing countries indicated their alarm with Nestle's interpretation of the code.

As stated by Dr. A. Maruping of Lesotho:

> Infant formula sales promoting agents insist that they will function within their interpreted version of the International Code. . . . As many of us are aware, Nestle's interpreted version of the International Code has a number of unfortunate loopholes.
>
> International pressure on the infant food manufacturers to respect the International Code and abide by it must be increased.

It now appears that Nestle is interpreting the code to its own convenience, continuing practices which were judged unsafe and dangerous during the code-drafting process. Nestle's instructions condone promotional practices such as mothercraft nurses, free formula samples, free formula donations which encourage routine hospital bottle-feeding, and personal gifts to health workers, all of which the WHO/UNICEF Code specifically prohibits.

Speaking at the 1982 World Health Assembly, Dr. A. Tarutia of Papua-New Guinea observed:

> With all due respect to Nestle, the company does not particularly support the WHO/UNICEF International Code. In Nestle's view, the Code is too restrictive . . . so they are trying to rewrite the Code to suit their needs. . . . My delegation is convinced that no private sector has the right to amend the WHO/UNICEF Code.

More recently, the Washington Post reported on June 10, 1982, that UNICEF has formally rebuked Nestle officials for the "possibly harmful" way the company has chosen to interpret the WHO/UNICEF guidelines. The Post article quoted a letter from UNICEF Executive Director James Grant, in which he asked Nestle "not to use the name of UNICEF nor mine in any way which suggest our endorsement of Nestle's instructions."

The World Health Organization appears to have similar concerns. At a June meeting with Douglas Johnson, national chairman of the Infant Formula Action Coalition (INFACT), WHO Assistant Director General Dr. David Tejada commented that while WHO welcomed Nestle's publicly stated intention to abide by the code, they did not welcome the company's current interpretation. Both WHO and UNICEF are currently drafting a joint document for their field staff clarifying the discrepancies of the Nestle interpretation.

Mr. Maucher's second major point deals with the issue of where the new Nestle instructions will apply. He states that his company will comply with individual national codes, while applying the Nestle policy in all countries "except for those provisions that are inconsistent with national or local requirements."

The question here is whether Nestle intends to continue practices restricted by the WHO/UNICEF code where national guidelines permit such practices. Mr. Maucher's letter leaves this matter in somewhat ambiguous terms. however, the introduction of Nestle's March 16, 1982, instructions to marketing personnel states that—

> This policy is intended for application in countries where no specific measures have been, or are being taken to give effect to the Aims and Principles of the WHO code.

According to the World Health Organization's "Infant and Young Child Feeding—Progress Report by the Director General," most of the countries in which Nestle sells infant formula have taken some followup measures in terms of implementing the code. One can conclude that the Nestle policy, deficient as it is, will be implemented in only a handful of the countries in which the company operates.

Where national codes are in place, or in the process of formulation, Nestle's obligation remains with the WHO/UNICEF standards, unless specifically in violation of national law. Article 11.3 of the WHO/UNICEF Code clearly states that—

> Independently of any other measures taken for implementation of this code, manufacturers and distributors of products within the scope of this code should regard themselves responsible for monitoring their marketing practices according to the principles and aim of this code, and for taking steps to ensure that their conduct at every level conforms to them.

One predominant reason for the variation between the WHO/UNICEF Code and some national codes is the intense lobbying efforts of the infant formula industry in developing countries. While claiming "cooperation" with national governments, Nestle and others have been working to obtain much weaker standards than those provided in the WHO/UNICEF Code.

In the Philippines, for instance, Nestle and three U.S. formula manufacturers prepared a 15-page critique of the WHO/UNICEF Code. They urged the Government to substantially weaken 10 of the 11 WHO/UNICEF Code articles. In Pakistan, the Government has adopted an eight-page code, with six of those pages taken verbatim from the Nestle-dominated International Council of Infant Food Industries' Code. Only the definitions are

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extracted from the WHO/UNICEF Code.

At the recent World Health Assembly, the delegate from the African state of Rwanda observed:

> Sometimes we may be tempted to let ourselves be convinced by the arguments of industry representatives that offer ready-made legal texts for us to follow-up on the WHO Code without us realizing immediately—because we lack time and appropriate competence in marketing matters—that these industry texts do present significant differences with respect to the WHO text which we as member states of the WHO have adopted as "a minimum requirement".
>
> We should not forget that these multinational companies have influence and powerful means to make themselves heard in government circles. . . . Their interest lies in business turnover, ours in the health of our children.

It would appear that Nestle has been talking out of both sides of its mouth. Pledging cooperation with sovereign nations and support for the WHO/UNICEF Code, on the one hand, while actively promoting weaker standards to those same governments.

The third main point outlined in the letter from Nestle responds to our request that the company meet in good-faith negotiations with the International Nestle Boycott Committee (INBC). Nestle claims to have met with INBC representatives immediately after its March 16 announcement, to explain its new policy and answer detailed questions. Mr. Maucher also refers to a second meeting with an INBC representative on April 20.

Those individuals who attended the first meeting, however, point out that Nestle was adamant that they were not officially meeting with the INBC, but rather with representatives of national church bodies whose denominations had endorsed the boycott. The distinction here stems from Nestle's longtime unwillingness to recognize the INBC as a legitimate negotiating group. Nestle did in fact formally meet with the INBC lawyer, Jonathan Churchill, on April 20, but only with assurances from Churchill that the INBC keep those discussions confidential.

The fact that Nestle has, in its letter to Congress, broken the confidentiality it sought from the INBC, can be viewed with the positive implication that Nestle has finally acknowledged the credibility of the boycotting coalition as a legitimate bargaining agent. Although Nestle has made a positive step toward the negotiation table, the company has yet to seriously participate in "good-faith" discussions. The boycott remains the most effective tool to sustain the needed pressure for more substantial changes by Nestle.

In his final point, Mr. Maucher describes the creation of an independent audit commission, "with the responsibility for reviewing implementation of the WHO code and for auditing the investigation of allegations of any Nestle activity deemed to be incompatible with the WHO or applicable national code." Nestle has announced that the distinguished former Senator from Maine, Edmund Muskie, will chair this new commission.

The establishment of a watchdog committee is a positive and welcome initiative by Nestle. Led by a man of unquestionable integrity, Senator Muskie, this commission could play a useful role in the ultimate resolution of this issue.

However, for the commission to be successful, Senator Muskie must make a determined effort to exert its independence from Nestle. Let me take the liberty of making a few constructive suggestions to the members of the Nestle Audit Commission.

First, the commission should measure Nestle's performance by the strict standards of the WHO/UNICEF Code, rather than the now-discredited Nestle instructions.

Second, the commission should define more clearly Nestle's role in relation to contacts with national governments. Nestle should conform to the WHO/UNICEF guidelines in all countries, and immediately suspend lobbying efforts aimed at weakening national infant formula marketing codes.

Third, the commission should contract an independent group to do first-hand monitoring of Nestle marketing practices in developing countries. As now defined, the commission's role appears to be that of reviewing Nestle's own internal investigation of complaints received from outside sources. To do its job properly, the commission should initiate its own monitoring, preferably by an independent group with the freedom to quietly observe company practices without advance warning of their presence to Nestle marketing managers. Such a group should have the authority to complete its findings before supplying them to the commission for review.

Finally, the commission should use its prestige to actively advocate the establishment of a monitoring system by the World Health Organization. Monitoring of the code's implementation would be far more appropriate, impartial, equitable, and effective by the world's highest health authority. Early drafts of the WHO/UNICEF Code contained a provision clearly delegating this role to WHO. Nestle and other infant formula manufacturers succeeded in removing this authority, however, hampering WHO's ability to critique the Nestle guidelines and otherwise monitor industry practices.

At the World Health Assembly in May, there was considerable support for a more active role by WHO in implementation of the code. A resolution passed unanimously, with U.S. support, requesting greater assistance from WHO for member states "in their efforts to implement and monitor the code and its effectiveness." The resolution further urged WHO to provide guidance to member states "to insure that measures they adopt are consistent with the letter and spirit of the (WHO/UNICEF) International Code."

Speaking on the dangers of industry self-monitoring, Dr. Ondaye of the Congo commented:

> We would suggest that the WHO Secretariat set up a system for the monitoring of its implementation. Such a system must be completely independent and objective and therefore in no way could be set up by any of the parties directly concerned with the marketing of breast milk substitutes.

Senator Muskie, an international statesman of high regard, could play an instrumental role in providing the needed mandate from governments and industry for such action by WHO. If Nestle is truly serious about its intention to abide by the WHO/UNICEF Code, it would clearly be to its advantage to support universal and equitable monitoring of all members of the infant formula industry.

Mr. Speaker, I sincerely wish Senator Muskie and his fellow commission members success in their efforts to raise the ethical standards of the Nestle Co. Far too many Third World infants have suffered needlessly due to the insensitive marketing strategies of multinational infant formula manufacturers. But until Nestle visibly and verifiably commits itself to full compliance with the letter and spirit of the WHO/UNICEF Code, millions of Americans like myself will continue to actively support the Nestle boycott.

Mr. Speaker, I request that the attached Washington Post article of June 10, 1982, be included with my remarks in the RECORD:

UNICEF HITS NESTLE ON INFANT FORMULA

(By Philip J. Hilts)

UNICEF has rebuked Nestle officials over the "possible harmful" way the company has chosen to interpret the World Health Organization (WHO) guidelines on marketing infant formula.

Nestle products, including coffee, chocolates and Stouffer's food, have been the target of a boycott by some 75 unions, church groups and health organizations. Nestle's and other companies' aggressive marketing practices have persuaded mothers to switch from breast to bottle feeding, creating a danger to the health of the infant and a high cost to the family, the boycotters say.

Last year, the United Nations approved a voluntary marketing code it intended for nations to adopt that would restrict the aggressive marketing of formula. The vote was 118 to 1, with the United States the lone dissenter.

The Nestle company is the world's largest manufacturer of infant formula, and the only one that has said it will try to comply with the voluntary rules for marketing infant formula. But the company has done so by issuing its own interpretation of the code, which critics have attacked.

Last month, James Grant, executive director of UNICEF (the United Nations Children's Fund), wrote to Nestle:

"It is with regret that I now inform you that my staff have conveyed to me their serious misgivings on Nestle's interpretations of significant aspects of the [WHO infant formula marketing] code, and on the possible harmful effect of its instructions [to sales personnel] in the implementation of the true spirit and intent of the code.

"I must ask you," Grant's letter continued, "and your colleagues in Nestle not to use the name of UNICEF nor mine in any way which suggests our endorsement of Nestle's instructions."

Rafael Pagan, president of Nestle's Coordination Center for Nutrition, wrote back to Grant, "I am shocked and dismayed at your letter of May 10 stating your staff's 'misgivings' with our recent policy initiatives to implement the WHO code."●

CARIBBEAN CRUISE CONVENTIONS WILL IMPROVE CARIBBEAN ECONOMY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SCHULZE. Mr. Speaker, today, I am introducing H.R. 6975, a bill to amend the Internal Revenue Code to provide that business expenses for seminars and conventions held aboard ship will be treated for tax purposes like any other business expense, provided that they are not lavish and that certain conditions are met.

The purpose of the bill is to remove a statutory impediment to the continued development of tourism and commerce in the Caribbean nations which are our friends and close neighbors. The prohibition against deducting onboard convention expenses has injured the maritime industry in the United States, and it has depressed the market for the services of many thousands of skilled and unskilled workers, both in our domestic port cities and in the ports of call in the Caribbean.

Under my bill, expenses for meetings held on U.S.-flag vessels would qualify wherever conducted. Expenses for meetings held on nondomestic cruise ships would be required to meet two tests designed to encourage usage of U.S. port facilities and to encourage tourism and employment in the Caribbean.

If meetings are held on foreign-flag vessels, the cruise would have to originate or terminate at a U.S. port, and 75 percent or more of the ports of call visited on the cruise would have to be in qualifying Caribbean Basin countries.

As under present law, the seminar and convention would have to have a valid business purpose and could not be lavish or extravagant.

The bill defines a "qualifying Caribbean Basin country" to mean any Caribbean Basin country which is not, as of the beginning of the cruise, declared by the President to be disqualified for purposes of the tax deduction. The President could specify that a convention's deductability is disqualified if, for example, a port of call were located in a Communist country such as Cuba. Other acts causing disqualification include expropriation of American investment without proper compensation or other hostile economic actions directed at U.S. citizens or businesses.

"U.S. ports" are located in the United States, its possessions, or the Trust Territory of the Pacific Islands. This means that cruises originating or ending in Puerto Rico or the U.S. Virgin Islands would qualify, even if they did not call on ports in the continental United States.

Mr. Speaker, the United States must take an active interest in the economy and well-being of our neighbors in the Caribbean Basin. The nations that ring the Caribbean are tied closely to the United States politically and economically. The largest source of income is from American visitors brought in by air and cruise vessels, and U.S. passengers account for serveral hundred million dollars in revenue of the Caribbean Basin nations annually.

The cruise ship industry provides jobs for thousands of American and Caribbean residents. Approximately 40 percent of the onboard hotel crew, those catering to the personal needs of the passengers, are from Caribbean nations. Further, the economic benefits are not limited to onboard employment. When travelers leave the cruise ships to spend a few hours ashore, jobs are created for local restaurant workers, taxi drivers, tour guides, and merchants. Their prosperity creates a chain reaction of employment for thousands more.

Opponents of the deductibility of convention expenses for cruise ship meetings generally view such conventions as mere vacations for the participants. They think of the cruises as pleasure cruises whether or not most of the time is spent in business meetings.

The fact is that the organizer of the convention has a captive audience onboard ship and is able to engage in more communicative activity than would occur at a land-based convention where golf courses are inevitably nearby.

The requirement that the port of origin or destination be a U.S. port is intended to insure that supporting activity business benefits both United States and Caribbean ports. Hotels, restaurants, and entertainment businesses in both the United States and Caribbean countries would find this change a stimulus to their economics.

Since the deduction for cruise conventions was eliminated, cruise operators have experienced a 15-percent loss in load factor. This is a serious reduction and has impacted not only on the cruise operators, but on the entire Caribbean area.

I urge the support of my colleagues for the targeted reinstatement of deductibility for legitimate business meetings held aboard the floating hotels of the Caribbean.●

CYPRUS SITUATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GILMAN. Mr. Speaker, a just and lasting settlement of the Cyprus situation is imperative and must remain a primary foreign policy objective of the United States. However, a peaceful settlement is not possible as long as Turkish troops remain on that island.

The United Hellenic American Congress, the voice of Greek-American organizations across the country, recently met and adopted several resolutions, one of which pertains to the Cyprus question. I wish to insert this resolution for the Members' special attention:

RESOLUTION

Whereas, In his recent address to the British Parliament, President Ronald Reagan reaffirmed the traditional stance of the United States when he stated: "Armed aggression must not be allowed to succeed. The American people firmly support this principal and the principle of the rule of law under God;" and

Whereas, Turkey invaded the independent Republic of Cyprus in July-August, 1974, and ever since illegally occupies approximately 40% of the total territory of the Cyprus Republic; and

Whereas, The Turkish invasion and occupation brought about bloodshed, destruction, misery, calamaties, and enormous sufferings for the people of Cyprus as a whole; and

Whereas, As a result of the Turkish invasion and occupation, 200,000 Greek-Cypriots, i.e., one-third of the total population of Cyprus, have been forcefully uprooted from their ancestral homes and lands and have become destitute refugees in their own country; and

Whereas, Approximately 2,000 Greek Orthodox Cypriots—men and women, boys and girls, military and civilian, and American citizens—disappeared while in the custody of the Turkish army and have been missing ever since and the Turkish authorities refuse to give any account of their whereabouts; and

Whereas, Many of the holiest shrines of the Greek Orthodox Church, including the tomb of St. Barnabas, the patron Saint of Cyprus, are located in the territory of Cyprus occupied by Turkish troops; and

Whereas, The Turkish occupation forces desecrated, looted, and destroyed hundreds of Greek Orthodox Churches and prohibit Greek Orthodox worship in the occupied part of Cyprus; and

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Whereas, Unanimous Resolution No. 3212 of the United Nations General Assembly, subsequently endorsed by Security Council Resolution No. 365, and numerous other Resolutions of the United Nations, the Non-Aligned Movement, the British Commonwealth of Nations, the Council of Europe, and other international bodies have all condemned the Turkish aggression against the Republic of Cyprus and called inter alia, for:

(i) Respect for the independence, sovereignty, and territorial integrity of the Republic of Cyprus;

(ii) The immediate withdrawal of all Turkish troops from the territory of the Republic of Cyprus;

(iii) The return of all refugees to their homes and properties under conditions of safety;

(iv) Sincere and effective efforts for the tracing and accounting of those missing in Cyprus; and

Whereas, The Congress of the United States of America has on numerous occasions called upon Turkey to withdraw its troops and colonists from Cyprus and has supported the independence, sovereignty, and territorial integrity of the Republic of Cyprus; and

Whereas, While Turkey contemptuously disregards the aforementioned Resolutions and demands, and flagrantly refuses to comply with them in violation of all norms and principles of International Law, Turkey is systematically colonising the occupied part of Cyprus with tens of thousands of settlers from mainland Turkey for the purpose of changing the centuries old demographic character of Cyprus; and

Whereas, Turkey has illegally used American-supplied weapons to invade and occupy the Republic of Cyprus; and

Whereas, American law prohibits further military aid to be given to governments which violate American statutes and policy governing the use of such weapons; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress, That the invasion, continued occupation, and colonisation of the Republic of Cyprus by Turkey is again condemned; and, be it further

Resolved, That the Secretary General, the General Assembly, and the Security Council of the United Nations, the President and Secretary of State of the United States of America, the Congress and Senate of the United States of America as well as their appropriate committees be urged to take all steps within their power to bring about a peaceful solution of the question of Cyprus on the basis of the relevant United Nations Resolutions and in accordance with the United Nations Charter; and, be it further

Resolved, That a suitable copy of this Resolution be presented to the Secretary General of the United Nations, the Presidents of the General Assembly and the Security Council of the United Nations, the President and Secretary of State of the United States of America, and the Chairmen of the appropriate committees of the United States Congress.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

THE PEOPLE OPPOSE WITHHOLDING

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. D'AMOURS. Mr. Speaker, a nationwide public opinion survey by the respected Behavioral Research Corp. shows that 7 out of 10 adult Americans oppose interest and dividend withholding.

Even more significant for proponents of supply-side economics is the fact that 5 out of 10 Americans reported that interest and dividend withholding would discourage them from making interest bearing investments.

If my mail is representative of the mail that other Members are receiving on this topic, and I think it is, then opposition to interest and dividend withholding is particularly intense among senior citizens. Many senior citizens rely on the interest and dividends from small investments to make ends meet each month. Without these small earnings, they cannot pay their rent, or utilities, or buy the food they need. Withholding of any amount will push them to the edge of the social safety net. In many cases I suspect they will find themselves over the edge. That is why the American Association of Retired Persons and other senior citizens groups have so adamantly opposed interest and dividend withholding.

Mr. Speaker, the Senate claims to have taken care of our Nation's senior citizens by providing a way for them to obtain an exemption if they have low enough incomes. Unfortunately, the process set forth by the Senate is quite complex. Senior citizens will have to affirmatively seek out exemption forms. They will have to fill out a separate form for each different account or investment they have. They will have to renew each of these exemption forms every year. The paperwork will be very burdensome for many senior citizens, and few financial institutions on businesses will want to help them because that would only generate more costly paperwork for themselves.

To add insult to injury, the Treasury estimates that over 85 percent of the taxes owed on interest and dividend earnings are already being paid by law-abiding citizens. Senior citizens have an exemplary record of tax compliance yet they will have to bear a substantial share of the burden of withholding.

Mr. Speaker, we should take heed of the message our constituents are sending us and should give our senior citizens a hand by refusing to adopt the Senate's interest and dividend withholding proposal. There are other simpler, and less burdensome ways to go after the few people who are trying to cheat the tax collector. We should not burden the many for the sins of a few.

I invite Members who share my opposition to interest and dividend withholding to join the 75 Members who have already agreed to cosign my letter to the House Rules Committee asking for a separate vote on interest and dividend withholding when the conference report on the tax bill comes back to the full House.●

THE UNITED STATES SHOULD NOW CONSIDER TERMINATING OUR SO-CALLED SPECIAL RELATIONSHIP WITH ISRAEL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McCLOSKEY. Mr. Speaker, between July 22 and August 1, I was privileged to participate in a congressional factfinding mission to six countries in the Mideast. That factfinding mission was specifically authorized by you, concurred in by the Secretary of State, accomplished in a U.S. Air Force plane, and accompanied by three U.S. military personnel and one representative from the State Department. The delegation was chaired by Congressman NICK J. RAHALL of West Virginia and included DAVID E. BONIOR of Michigan; MERVYN M. DYMALLY of California; ELLIOTT H. LEVITAS of Georgia; MARY ROSE OAKAR of Ohio and myself.

The delegation arrived in Damascus, Syria on Friday evening, July 23 and visited, during the following 8 days in succession, Syria, Lebanon, Israel, Egypt, Jordan, and Saudi Arabia. We met with the heads of state in every country save Jordan, where King Hussein was unfortunately out of the country and was represented by his brother, Crown Prince Hassan. We also met with either the foreign minister, his deputy and/or the defense minister of every country, as well as leading spokesmen for the various opposition parties in Lebanon and Israel.

While a report by the full delegation is under preparation, I would like to individually report to the House with a series of comments on specific facts ascertained during our visit to the Mideast. The first of those comments follow:

THE UNITED STATES SHOULD NOW CONSIDER TERMINATING OUR SO-CALLED "SPECIAL RELATIONSHIP" WITH ISRAEL

The current bloodshed in Lebanon has several tragic implications for the United States.

First is the hardening conviction elsewhere in the world that the U.S. has authorized and approved the indiscriminate and massive use of firepower against an innocent and largely defenseless Lebanese civilian population.

To the rest of the world Israel has now become a U.S. proxy—an instrument of U.S. policy in the Mideast, much as we view Cuba as an instrument of Soviet policy in the Western Hemisphere.

When Israel uses U.S.-supplied artillery, aircraft and weaponry, including the fearsome CBUs, or "cluster bombs," against refugee camps and urban areas, the world—and particularly the Arab world—understands that these are U.S. weapons, supplied under agreements that they will not be used save with U.S. consent, express or implied.

The blood of innocent women and children both Lebanese and Palestinian, is thus on our hands, not just on the hands of the Israelis. The American-made cluster bombs, for example, are among the most sophisticated and deadly anti-personnel weapons ever conceived by man. Scattering hundreds of small bomblets over an area of 25 acres or more, a single CBU has a particularly horrifying impact on a civilian population. It is well-known that cluster bombs were furnished by us to the Israelis in the early 1970s on the specific condition that they be used only against regular armies when Israel was under attack, and that they not be used against guerrilla forces or in civilian areas. When the Israelis violated this agreement in 1976 by the use of CBUs in southern Lebanon, the U.S. government lodged a formal and public protest.

Not so in 1982, however. Not only has the U.S. stood silently like Pontius Pilate as the CBUs were used in southern Lebanon in recent weeks, we also vetoed, a U.N. Security Council resolution calling for Israeli withdrawal from Lebanon. As in the case of Vietnam, whatever may be the merits of the destruction of rural villages by U.S. firepower, the indiscriminate use of that firepower is viewed with universal horror elsewhere in the world.

It is not merely world oinion that is shocked. We violate our own principles in this process. We have long treasured our heritage as a nation under law, a nation which sought to restrain the excessive use of force, even in just causes, according to clear legal principles. One of those principles is that our police, in pursuit of an armed criminal, cannot pursue that individual into a marketplace and indiscriminately shoot into the crowd. Under no circumstances can the Israeli pursuit of not more than 15,000 armed Palestinians, in a country of 3 million people, be considered a restrained use of force. Naval bombardments and aerial bombing of Beirut, Sidon, Tyre and the Palestinian refugee villages must, of necessity, kill and maim tens of thousands of noncombatants.

A captured Israeli pilot put it fairly and accurately the other day when he said that he could not justify his country's use of force—that such use of force was excessive. Indeed, to much of the world Israel has become the newest international bully, created and armed by the U.S. Israel is now viewed as out of control—but still supported by Washington in whatever its leaders, the former terrorists Prime Minister Menachem Begin and Defense Minister Ariel Sharon, may seek to do, regardless of how many innocent people are killed in the process.

In my judgment, respect for the opinions of mankind and our own legal heritage should prompt us now to treat Israel as just one more foreign country, to be assisted when right and condemned when wrong.

There no longer is any reason why we should send $2.2 billion per year in foreign aid (one fifth of a total $11 billion in U.S. foreign aid this year) to a single nation of 3.5 million people when that nation is violating basic concepts of human decency.

It seems to me high time we considered severing the so-called "special" relationship with Israel which has existed since 1948—that we cut off the military weapons deliveries, economic assistance and special tax benefits that we have given for so many years.

It is time to say: "Israel, after 34 years on this planet, you have finally come of age. If you choose to use excessive force in attaining your objectives, however praiseworthy—if you continue to flout U.S. policy goals and unanimous U.N. Security Council resolutions—then do so on your own. We no longer choose to support the killing of innocent people, no matter how understandable may be your goal of eliminating military threats on your borders. Our past relationship with you has been based on morality, but we find no morality in your actions in and around Beirut today."●

HAPPY BIRTHDAY, LITERACY VOLUNTEERS OF AMERICA

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WORTLEY. Mr. Speaker, I would like to call your attention and that of my colleagues to the 20th anniversary of Literacy Volunteers of America, Inc.

Literacy Volunteers of America was founded by Ruth Colvin in 1962 for the express purpose of eradicating illiteracy in Syracuse, N.Y. Mrs. Colvin worked with professional reading consultants to develop a training workshop to equip nonprofessionals to tutor basic reading and writing to adults and teenagers in need of these skills. All volunteer tutoring was, and continues to be done, on a 1-to-1 basis free of charge to the student.

From that small but successful volunteer effort in Syracuse, the program grew far beyond what its originators had expected. Literacy Volunteers now operates 150 local programs and has 8 State literacy volunteer organizations.

In addition to helping adults and teenagers acquire basic skills, Literacy Volunteers branched out and established a tutor training workshop for English as a second language students. In 1978, the "Read On!" instructional series of readers was published to accommodate the special needs of students who need a more structured learning format.

Adult basic education agencies, libraries, correctional facilities, and community colleges have received technical assistance from LVA and use LVA methods and materials in their programs; 23,000 tutors and learners are currently working in LVA programs in 26 States and two Provinces of Canada.

Literacy Volunteers of America embodies the real American spirit of giving one's time and effort so that others may benefit. May the next 20 years be devoted to totally winning the battle against illiteracy in the United States.●

THE WORLD PEACE COUNCIL AND THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McDONALD. Mr. Speaker, of all the useful idiots in the peace movement none are as active and dedicated as those associated with the World Peace Council. The leadership of this foremost Communist front organization are far from idiotic however; it is the sincere person concerned about peace who fulfills the Leninist role of useful idiot. In September 1980, 2,260 peace-lovers gather in Sofia, Bulgaria, for the high-sounding World Parliament of the Peoples for Peace. This event was orchestrated by none other than the World Peace Council.

Continuing with Mr. Vladimir Bukovsky's commendable article on "The Peace Movement and the Soviet Union," which appeared in the May 1982 Commentary magazine, is an examination of the program of action 1981 of the World Peace Council. As Mr. Bukovsky points out, this program reads like a bad joke but it is nonetheless faithfully followed by Soviet surrogates and useful idiots.

The article follows:

> But let us return to this remarkable program, unanimously adopted by the international community of peace-lovers. (It is published by the World Peace Council in Helsinki, as already noted, and is available in English under the title, Program of Action 1981.)
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> This program includes such items as the "elimination of all artificial barriers to world trade," an amazingly frank recognition of the Soviet need for Western goods and technology and its desire to be granted the status of most favored nation. But what this has to do with the problem of peace and why all peace-loving people should fight for it tooth and nail is hardly made clear.
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> As could be expected, the program contains a clear definition of "just" and "unjust" wars: "The policy of destabilization of progressive regimes in developing countries actually constitutes an aggression, waged by psychological, economic, political, and other means, including armed intervention." However, similar acts against "racist and fascist" regimes are quite justified because the mere existence of non-progressive regimes "is abhorrent to the conscience of humankind." Accordingly, the sale of arms so these "abhorrent" countries should be banned, but nothing need restrain the peace-loving from selling arms to "progressive" regimes and to "liberation movements."
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> And, of course, there are directives to the mass media, which "must serve the cause of

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peace and not the military-industrial complex by confusing public opinion with lies and disinformation." (In other words, the media should not report on the Soviet arms build-up.) A similar directive is issued to those "who bear responsibility for educating a new generation."

The program further specifies precisely which events and campaigns to undertake, and designates weeks for the collection of signatures on various petitions, etc., all around the world. It constantly emphasizes the urgent need for "further intensification of actions against the deployment of the new U.S. weapons of mass annihilation in Western Europe" and plans for "strengthening and broadening of national movements into a worldwide network of peace organizations."

It is not possible here to discuss all the details of this remarkable document. It simply introduces each and every aspect of Soviet foreign policy wrapped around with the phraseology of peace. Not surprisingly, therefore, it includes Afghanistan under the guise of a "week of solidarity, with special emphasis on support for a political settlement as proposed by the Afghan government." For Ethiopia it proposes "a week of solidarity with the Ethiopian revolution" and "support for the struggle of the Ethiopian people against imperialist and reactionary conspiracies and plans in the Horn of Africa." For Kampuchea there should be an "international campaign of solidarity with the government and people of Kampuchea led by the National United Front for National Salvation and an international campaign for recognition of the People's Revolutionary Council of Kampuchea and the seating of its representatives in the UN; exposure of the conspiracies of the Peking hegemonists who are working in collusion with the U.S. imperialists against Kampuchea." For Israel: "Support for the peace forces in Israel in their struggle for the complete withdrawal of Israel from the occupied territories and for the realization of the inalienable national rights of the Palestinian people."

Whereas for the Middle East in general: a "campaign of solidarity with the Arab peoples in their struggle to liquidate the political and military consequences of the Camp David and Washington accords; solidarity actions with Libya against the threats of aggression by the Egyptian regime and U.S. imperialism." As for the U.S., even in so totally pro-Soviet a document as this the instruction to campaign for the "release of political prisoners in the United States of America" reads like a bad joke. Clearly, the love of peace dulls the sense of humor. The only countries where violations of human rights are recognized by the unanimous vote of 2,260 delegates from 137 countries are: Bolivia, Chile, El Salvador, Guatemala, Haiti, Israel, Paraguay, Uruguay, Indonesia, South Korea, Northern Ireland, and the U.S. Has the world not undergone a remarkable improvement?

After the successful adoption of this program, what followed was simple. Returning from Sofia, the enthusiastic delegates threw themselves into a hectic round of implementing the program, pressing for appropriate resolutions, actions, and commitments in each of their respective organizations (*Pravda*, November 5, 1980). An additional impetus was given to the campaign by an endorsement from the World Council of Churches at their meeting in Dresden (East Germany) on August 28, 1981, thus committing a huge number of adherents of the various Christian denominations to following the Soviet line. And in no time hundreds of thousands in the West came honestly to believe that they were out to save world peace.

Well, is there any further need to explain why the Soviet Union is so interested in the peace movement? There is a term in party jargon coined by Lenin himself: "a useful idiot." Now, in spite all their blunders, senseless adventures, economic disasters, the Polish crisis and the stubborn resistance of the Afghan peasants, Reagan's rearmament plan and UN resolutions, the Soviet rulers have scored a spectacular victory: they have recruited millions of useful idiots to implement their bankrupt foreign policy. They are no longer isolated and there is still a big question as to whether the Americans will be allowed to place missiles in Europe.

True enough, the American economy is vastly more productive and efficient than the Soviet, but the Americans don't have a weapon like the "struggle for peace." True again, this peace movement will be expensive for the Soviet people (the meeting in Bulgaria alone must have cost them millions, to say nothing of subsidizing all peace activists on those jaunts to the best Soviet resorts; the cost of running this worldwide campaign must be simply astronomical). Still, it is cheaper than another round of the arms race, let alone the cost of maintaining a priceless military superiority. And the result will be long-lasting.

Mind you, we are into only the second year of a planned ten-year "struggle for peace." Within a few years, the whole earth will be trembling under the marching feet of the useful idiots, for their resources are inexhaustible.

I remember in the 50's, when the previous peace campaign was still in full swing, there was a popular joke which people in the Soviet Union whispered to each other: "A Jew came to his rabbi and asked: 'Rabbi, you are a very wise man. Tell me, is there going to be a war?' 'There will be no war,' replied the rabbi, 'but there will be such a struggle for peace that no stone will be left standing.'"●

IRS CHIEF UPSCALES HIS DIGS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BONER of Tennessee. Mr. Speaker, they are at it again.

Officials of the Reagan administration just do not seem to learn. If you will recall, the President, right after his inauguration, told his appointees in the executive branch not to make unnecessary expenditures setting up their offices.

Rather than listening to their boss, some of Mr. Reagan's top executives have been busy redecorating their offices in what looks like an attempt to get on the cover of Architectural Digest or, at least, Better Homes and Gardens.

First we learned that Commerce Secretary Baldrige had spent $118,000 redecorating his office suite.

Then we found out that the head of the Veterans' Administration, Robert Nimmo, had 54,000 dollars' worth of work done on his office.

Now it looks like the chief of the Internal Revenue Service, Rosco Egger, Jr., is trying to keep up with the Nimmos by spending $85,000 in tax money to remodel two executive offices at the IRS.

Mr. Speaker, to me, it is unbelievable that the Commissioner of the IRS and its chief counsel would be spending Government money on microwave cooking centers and remote control doors at a time when budget cuts are forcing severe reductions in taxpayer services and tax audits.

Mr. Speaker, I would suggest that other members of the President's team start listening to the coach and stop spending money on remodeling their offices.

I would also like to suggest that my colleagues read the article by Ronald Kessler which appeared in this morning's Washington Post and which I submit for publication in the RECORD.

IRS CHIEF UPSCALES HIS DIGS

(By Ronald Kessler)

Internal Revenue Service Commissioner Roscoe L. Egger Jr. and the agency's chief counsel are planning to spend $85,000 to remodel and redecorate their offices.

"As far as I'm concerned, this office, because it is the senior office of the IRS, ought to reflect an appropriate executive-level atmosphere," Egger said. "The place looks shabby the way it is."

President Reagan, two days after taking office, told his appointees to "set an example by avoiding unnecessary expenditures" in setting up their offices. He exempted "reasonable and necessary cleaning, painting and maintenance or structural changes essential to the efficient functioning of an office."

A study last year by the Chicago-based Better Government Association found that Reagan's department heads subsequently ordered more than $350,000 worth of new furnishings, including $118,000 for Commerce Secretary Malcolm Baldrige's suite. Robert P. Nimmo, head of the Veterans Administration, later came under fire after $54,000 worth of work was done on his offices.

At 1111 Constitution Ave. NW., Thym Smith, assistant to the IRS commissioner for public affairs, said the remodeling will be funded out of the current appropriation.

"We are so sensitive to the taxpayers, because those are the people we serve," he said. "We don't want people to think that's where our taxes went to—the commissioner's office. I bet it will be 30 years before they do [the remodeling] again."

Egger has ordered $6,517 worth of blue carpeting to replace his beige carpets, 10 mahogany and leather arm chairs, at $5,650, to replace white modern ones, and a new $1,966 conference table.

Egger ordered an additional door for his secretary installed at a cost of $4,015. He ordered a remote-control device of $880 so that he can open his door from his desk.

Egger also requested a new and expanded kitchen for his suite. It will include a $1,213 microwave cooking center, new cabinets costing $3,596, and a dishwasher, refrigerator, garbage disposal and hot water heater costing a total of $1,296. The existing kitchen has an electric range, under-the-counter refrigerator and cabinets.

The General Services Administration estimates that it will cost an additional $15,000 to break through walls to expand the kitchen.

The offices of the agency's chief counsel, Kenneth W. Gideon are also being reconstructed, at a cost estimated by GSA at $45,000. Gideon plans new carpeting and furnishings, but the items have not yet been purchased.

GSA still has to give final approval to the plans and could reject them, according to officials at both GSA and IRS. In the past, GSA generally has gone along with remodeling requests of presidential appointees. In any case, the IRS has already spent $21,283 on Egger's appliances and new furnishings.

Egger, a former partner in the Price Waterhouse & Co. accounting firm who was appointed by Reagan last year, said the work is necessary and "modest" in cost. He said his chief counsel's office needs reconstruction because of the addition of a deputy chief counsel.

Egger said he needs an expanded kitchen because the existing one is not large enough to make meals for himself and official visitors. The meals are prepared by Egger's secretary or a caterer, or are brought from the IRS cafeteria, all at Egger's personal expense.

"I have breakfast once a month with the chairman of the [IRS] oversight committee on the Senate side," Egger said, referring to Charles E. Grassley (R-Iowa), a member of the Senate Finance Committee. "The last time he was here, he didn't say a word, but they [his eggs] were cold."

Egger said he personally bought some of his own furniture from Price Waterhouse because of difficulty in finding furniture through GSA. "It's not being done for personal preference," he said.

GSA regulations say, "As long as an office is in good repair and suitable to the function of the executive position to which it is assigned, it is GSA's policy to discourage preferential modifications with a change in occupant."

But a GSA official noted, "Somehow [government agencies] insert in their jusification that [remodeling] is needed for the mission of the agency. We have a great deal of difficulty arguing against that."

The regulations permit a kitchen of no more than 30 square feet for agency heads such as Egger. Egger's new kitchen will have 66 square feet, according to the IRS.

James G. Whitlock, GSA's assistant regional administrator, said IRS officials told him the expanded kitchen could be considered a substitute for a 200-square-foot dining room, to which Egger is entitled under GSA rules. He now dines at his conference table.

"The IRS pleaded their case on the basis of no dining room," Whitlock said. "That's not an unlikely trade-off. I don't consider it to be illegal." The plans do not appear to be "ostentatious or outrageous," he said.

Lee Keller, chief of the IRS national office facilities branch, said Egger's present kitchen is a "safety hazard" because it is so small that people crowding into it could spill coffee on each other. "One of the things we try to do," he said "is avoid injuries, especially on the third floor," where the commissioner has his office.

An official said counsel Gideon had been given several plans that would have provided a new office for his deputy and two additional people without rearranging the entire suite. However, Gideon, a Texas lawyer, said this week, "We felt it was important that my deputy be right next to me."●

SMOKE: FIRE'S FATAL FACTOR

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. RUSSO. Mr. Speaker, smoke is the proximate cause of more than 70 percent of all fire deaths in the United States and I feel we need a greater public awareness and understanding of this fact.

Three men and a woman died and at least 20 others suffered injuries in a fire in Chicago's Conrad Hilton Hotel on May 23, 1982. In the past 5 years in Chicago alone, 34 persons have died in hotel fires and more than 900 have died in fires in structures of all kinds.

One young woman who escaped the Hilton Hotel blaze pointed out vividly what it is like to be caught in a fire like this: "You can't breathe and you can't see and you can't move," she said. Firemen rescued her.

Across the country, fires in both public lodgings and in residences take an enormous annual toll.

The per capita rate of fire incidents, casualties and injuries in the United States is among the highest in the world. In this country, fire takes more lives than all natural disasters combined. The most recent statistics released by the National Fire Protection Association indicate that an estimated 6,639 people died and 30,200 were injured in fires in 1980. Some sources estimate that more than 7,500 people died in fires last year.

These statistics make a powerful argument that, as much as we have learned about preventing and fighting fires, we should redouble our efforts to reduce injuries and deaths.

One important and deadly aspect of fires has been documented all too often. As I said, an estimated 70 percent of the thousands of deaths and injuries from fires every year are caused by smoke, rather than by heat and flames. Many victims are unable to escape through fire exits and stairways because smoke blocks their pathway to safety. The smoke not only prevents escape from the flames; it is itself the major cause of injuries and deaths in fires.

Smoke is the byproduct of the flames and heat produced by fires; it is not a simple phenomenon. Smoke can consist of any of several toxic substances, including carbon monoxide, toxic gases such as hydrogen chloride, and hydrocarbons. Hydrocarbons are the visible and invisible products of incomplete combustion—the unburned portions of materials actually burning.

Hydrocarbons are what we see as smoke—the sometimes thick, dark grey or black vapor in the air. Hydrocarbons are extremely irritating to the eyes, nose, throat, and lungs. They cause choking, gagging and impaired breathing. If a person is exposed to hydrocarbons for an extended period of time, he or she will die. In such cases, which are all too common, the cause of death is listed as smoke inhalation or asphyxiation.

Smoke thus presents a panic-producing threat to the person attempting to escape a life-threatening fire. If the fleeing person encounters an area of dense concentration of hydrocarbons lying between himself or herself and the exit, it is virtually impossible to plunge through this barrier to safety. The eyes close in self-defense, in spite of one's efforts to keep them open, and as breathing becomes labored, strength fails. Escape is really possible only for those fortunate enough to encounter mild concentrations of hydrocarbons.

The deadly consequences of smoke were most tragically demonstrated in the MGM Grand Hotel fire in Las Vegas in November 1980. The actual fire was contained within little more than an hour after discovery and never extended beyond the fifth floor of the hotel. Yet 61 of the 85 people who died in the fire were located in the 21-story high-rise tower portion of the MGM Grand. Postmortem analyses of the blood of 74 victims revealed that all who were found in the tower had died of asphyxiation secondary to carbon monoxide. In other words, they were killed by smoke, not fire.

Smoke need not continue to claim its yearly toll of victims. There are measures to be taken both before and in the event of fire which can significantly increase one's chances of surviving a fire. Smoke detectors are effective in alerting people to fires, and should be installed even more widely. People are now more aware of escape routes so they can take the best path to safety. Recently, an emergency escape mask to help individuals get out of residential or hotel fires has been placed on the market.

I think that these and other lifesaving steps be made widely known through extensive public education programs. Knowing what to do and how to use the safety equipment available could save thousands of lives a year. Local firefighting organizations can and should make even greater efforts to provide local news media and schools with this truly vital information. I hope my colleagues will join with me in disseminating this knowledge. It would be a public service in the truest sense.●

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BUKOVSKY ON THE PEACE MENTALITY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McDONALD. Mr. Speaker, "It is simple commonsense," writes Vladimir Bukovsky in the May 1982 Commentary magazine, "to try to restrain both sides of any would-be conflict if one wishes to preserve peace." But, he goes on to point out, "the European peace movement is so remarkably unilateral that it seems barely conscious of 'the other side.'" The same can often be said of the American peace movement as it cries about Cruise and Pershing missiles, while just barely acknowledging the existence of SS–20's.

Mr. Bukovsky's excellent article on "The Peace Movement and the Soviet Union" reviews and exposes the mentality of the leaders behind this crusade for world peace—peace at any price as far as the West is concerned.

The excerpt follows:

[From Commentary magazine, May 1982]

EXCERPT FROM THE "PEACE MOVEMENT AND THE SOVIET UNION"

(By Vladimir Bukovsky)

After the experience of speaking several times with members of the current European peace movement, however, I know only too well how futile is the recourse to rational argument. They announce unabashedly that there is no Soviet military superiority. It is all, they say, CIA propaganda; the only reliable source of information as far as they are concerned seems to be the KGB. They refer one to the findings of a certain Stockholm International Peace Research Institute, leaving one to guess at the kind of methods employed by this institute for assessing the Soviet arsenal. Since the Institute has no satellites at its disposal, its "researchers" are undoubtedly left in a painful dilemma: whether to obtain their information from the blue sky, or from the Sputniks. Nobody in the Europan peace movement, it seems, has ever wondered about the reliability of this obscure establishment.

But this is just a trifle. More seriously, our peace-lovers—repeating word for word an old Pravda cliché—maintain that the "crazy American generals" are so trigger-happy as to push the button just for the fun of it. I have never been able to understand why generals must invariably be crazy—American generals, of course, not the Soviet kind, who seem to have some innate immunity from craziness—and if they are crazy, why they did not push the damn button long ago. In any case, it is hard to imagine that the generals, who at least have some technical education, are less equipped to understand nuclear problems than the primary-school teachers who are so heavily represented in the peace movement.

Some of the "peace-makers" sincerely believe that as soon as the West disarms itself, the Soviets will follow suit, and with an almost literally incredible naiveté they urge us to "try" this suicidal experiment. Others, far more sophisticated, know perfectly well that their Soviet comrades need to gain time so as to enjoy a more advantageous posture in future negotiations with the Americans. What they urge is that the West start negotiations first and improve the Western position later. Still others are more candidly selfish and object only to the deployment of nuclear weapons near their own village, so to speak—as if being protected is more dangerous than not being protected. Or better still, as if any single village, city, or country could maintain neutrality during a nuclear war. "Let the Americans fight the Russians," they say, implying that the entire problem of the modern world grows out of some stupid far-off quarrel between "Americans and Russians," who are apparently in some kind of conspiracy to destroy the poor Europeans. Surely if comrade Breshnev promised to respect the "nuclear-free zones" in case of war, people could heave a sigh of relief and go to sleep untroubled. If Brezhnev says so, there will be no nuclear-armed submarines off your shores. After all, has comrade Brezhnev ever broken his word? Of course not. He is an honest man. He is so honest he can even guarantee you in what direction the contaminated clouds will move and locate for you the radioactive fallout. "Why should the Russians attack us, if we are disarmed?" Why indeed? Ask the Afghan peasants, they would probably know the answer.

There is no sense in rehearsing all the various "peace arguments," so contradictory and even incompatible that one wonders how those who make them manage to get along together in the same movement. Only one thing these various strands have in common: panic, and a readiness to capitulate to the Soviet threat even before such capitulation is demanded. Better red than dead. That is why current Soviet propaganda has so quickly become so remarkably successful.

Indeed, it is difficult to imagine a more openly pro-Soviet line than that of the European peace movement. It is even more pro-Soviet than that of the local Communist parties, who after all at least have to camouflage themselves with a cover of independence from Moscow. Nothing is more obvious, for example, than that the present increase in international tension was brought about by the Soviet invasion of Afghanistan. There is hardly a country, a political party (including some Communist parties), or an international organization that did not condemn the Soviet aggression unequivocally. The only public movement in Western Europe that never condemned the invasion, paradoxically, is the one that calls itself the "peace movement." No such condemnation has ever been pronounced at a peace-movement rally in Western Europe, or passed as a resolution, or published in one of the movement's major publications, or circulated as a mass petition. Perhaps you will imagine that the peace groups condemned the invasion in their hearts? On the contrary, the evidence is far more convincing that they simply justify this international crime.

Not long ago I myself was publicly charged by the leaders of the British Campaign for Nuclear Disarmament (CND) with having distorted their position on Afghanistan. Therefore I find it particularly useful to quote from an official CND booklet, Why We Need Action, Not Words, by Betty England: "The intervention in Afghanistan may well have been caused partly by the Soviet Union's fear of its growing encirclement. The fear cannot be called unreasonable after Sir Neil Cameron's statement in Peking . . ." (p. 12). In other words, the poor Russians whom Sir Neil, Marshal of the Royal Air Force, so frightened with a speech critical of them, must have good reason for what they do. By this logic, we ought to be imposing strict censorship on anti-Soviet speeches lest we be faced with Soviet occupation of the entire world. But the implications are even more important. The idea buried in Miss England's passage is that the only way to keep the peace is gradually to accept the Soviet system and Soviet demands.

Even more outspoken than the CND is the World Peace Council. Its booklet, Program of Action 1981, contains a direct instruction to support the present puppet government of Afghanistan (p. 25). This program was unanimously adopted in 1980 by a gathering in Sofia, Bulgaria of representatives of most of the peace groups (about this gathering, more later). After this it comes as no surprise that at the recent International Peace Conference in Denmark it was decided to convene the next meeting in Kabul, the capital of Afghanistan, within six months.

It is obvious that a Soviet invasion of Poland would bring us closer to world war, or, to be more precise, would make any real relaxation of international tension quite impossible for ten or fifteen years. And once again, the only public movement that has never condemned the continuous Soviet threat to Poland (and is still uncertain about its reaction to the Soviet-dictated imposition of martial law) is the peace movement. The leaders of the biggest British peace group, CND, went even further, publicly praising themelves for not "overreacting" to the events in Poland (B. Kent, letter to the London times, December 9, 1981) only a few days before the imposition of martial law, and displaying their "impartiality" by equating the Polish crisis with that in East Timor. Perhaps the leaders of the movement seeking to promote peace in Europe should be reminded that in 1975 the 35 countries of Europe, together with Canada and the U.S., solemnly recognized an inseparable link between security in Europe and respect for human rights in the participating countries. Should we assume that the CND leadership refuses to accept the Helsinki agreement, or are we to conclude that it is indifferent to the question of European security?

At least about Poland not all in the movement can be accused of indifference. I have, for instance, never heard of a case in which a representative of the Chilean or Argentinean government was invited to expound his government's views before any international peace conference. But for some strange reason, an exception was recently made for a representative of the Polish junta, who was invited by the World Peace Council to address the International Peace Conference in Denmark. His vicious lies about Solidarity and personal slanders against Lech Walesa (see the Guardian, January 11, 1982) were greeted with hearty applause by the peace-lovers (BBC report).

It is simple common sense to try to restrain both sides of any would-be conflict if one wishes to preserve peace. But the European peace movement is so remarkably unilateral that it seems barely conscious of "the other side." It cries shame on the Americans for as yet non-existent weapons like the neutron bomb, or the not-yet-deployed cruise and Pershing missiles, but speaks only in whispers, if that, of the hundreds of Soviet SS–20's already aimed at Europe.

Since, again, I have provoked an angry reaction from the CND leaders for pointing out this particular instance of extreme unilateralism (London Times, December 9, 1981), I looked through the major CND publications once more. The booklet by Betty England quoted above does not contain a single mention of the SS-20's though it is virtually saturated with the names of American missiles. Nor does a widely distributed report on the CND annual conference of 1981 (the latest to my knowledge), nor the official CND leaflet, Nuclear War and You, dropped into my mailbox by some caring hand. Only recently I have learned that a decision to mention the SS-20 was finally taken by CND after many heated debates and very much against the wishes of the CND leadership, many of whom are also members of the British Communist party.

Oddly enough, there are many in the European peace movement who have worked (some still do) with Amnesty International in support of prisoners of conscience in the Communist countries. Unfortunately, this by itself does not seem to prevent one from making dangerous political mistakes, nor, to judge from the results, does it guarantee any moderating influence on the movement's leadership. Be that as it may, the fact is that the European peace movement (including its large constituent organisations) has never said a word in support of the thousands of people in the USSR who are imprisoned for opposing aggressive Soviet policies, for refusing to serve in the army on errands of aggression, or to shoot civilians in Afghanistan. During all the time that hundreds of thousands of "peace-lovers" were noisily expressing their one-sided feelings on the streets of London, Bonn, Amsterdam, and Brussels, not one word was said about Sakharov, still in exile and on a hunger strike—Sakharov, who has done more than anyone in the world to halt nuclear testing. These peaceful souls would happily throw stones at General Haig, but they would welcome Marshal Breshnev with servile smiles.

This is not to deny that there are plenty of well-intentioned, and genuinely concerned and frightened people in the movement's ranks. I am certain that the overwhelming majority of them are. Just as it did in the 1950's, the movement today probably consists of the same odd mixture of Communists, fellow-travelers, muddleheaded intellectuals, hypocrites seeking popularity, professional political speculators, frightened bourgeois, and youths eager to rebel just for the sake of rebelling. There are also the inevitable Catholic priests with a "mission" and other religious people who believe that God has chosen them to make peace on earth right now. But there is also not the slightest doubt that this motley crowd is manipulated by a handful of scoundrels instructed directly from Moscow.

In fact, just as this essay was going to press, John Vinocur reported in the New York Times (April 6, 1982) "the first public substantiation from inside the antinuclear movement . . . that the West German Communist party, at the direction of the Soviet Union, has attempted to coopt public sentiment against nuclear weapons." The environmentalist party known as the Greens "charged that the West German Communist party, which is aligned with Moscow, dominated and manipulated a meeting [in Bonn] Sunday [April 4] in which representatives of 37 groups, describing themselves as elements of the antimissile movement, planned a major demonstration against President Reagan when he visits Bonn . . . June 10." The Greens, who participated in the meeting, acknowledge that they themselves have cooperated with the Communists "on certain local issues," but what happened in Bonn was "scandalous" even to them. "The Communists dominated the meeting completely. It took place under seemingly democratic rules, but that was a joke. We could barely get a word in." The meeting—at which were represented such groups as the German Student Federation, the Evangelical Student Committee, the Federation of German Youth Groups, and the German Peace Society—rejected resolutions condemning Soviet interference in Poland and Soviet intervention in Afghanistan, and the delegates refused to express support for Solidarity. "They adopted, however, by a large majority, a motion condemning United States actions in Central America, the Middle East, southern Africa, and other regions."

Earlier, as I was in the process of writing this essay, news came that one of the Danish leaders of the movement, Arne Petersen, was arrested along with his wife for channeling Soviet money into the funds of the peace movement. His master, the Second Secretary of the Soviet embassy in Copenhagen, was expelled from the country. Now and then we hear about subsidized trips taken by peace activists to the best Soviet resorts where they are wined and dined royally—and, of course, shown kindergartens, schools, and hospitals (no munitions factories).

The majority of the European peace movement is undoubtedly not aware of these facts. Probably they will ignore the charges of the Greens, just as they missed the reports of Mr. Petersen's activities, which involved placing paid advertisements (out of Soviet donations) for the Danish peace movement in the Danish papers, ads signed by a number of prominent Danish intellectuals (who for sure knew nothing about it). And even our angry CND leaders "know nothing of the subsidized trips to Soviet resorts" (London *Times*, December 9, 1981). Well, sometimes it is very comfortable—even for professional intellectuals—not to know things * * *.

For those, however, who do wish to know, let us track down the origin of the current revival of the "struggle for peace." Anyone who has read thus far will not be surprised to hear that the earliest traces of this revival are to be found in Soviet publications, quite clear for those who know how to read them:

The first bright colors of autumn have already touched the emerald green parks of Sofia. The golden leaves of maples and aspens are trembling on the breeze. And everywhere the tender-blue streamers bearing the insignia of the World Peace Council. Sofia is expecting an important event: the World Parliament of the Peoples for Peace will be working here from 23 to 27 of September. It is the biggest and the most representative meeting of the world's peace forces convened in the last years by the World Peace Council." (*Izvestia*, September 23, 1980).

The same day *Pravda* referred to "the biggest gathering in history of the fighters for peace." Indeed, the most peaceful and independent country of the world, Bulgaria, played host during those September days to 2,260 peace-lovers from 137 countries, claimining to represent 330 political parties, 100 international and over 3,000 national nongovernmental organisations. To be sure, this was no ordinary meeting of the international Communist movement. The political spectrum of those represented was exceptionally wide: 200 members of different national parliaments, 200 trade-union leaders, 139 leading Social Democrats (33 of them members of their respective national executive bodies), 150 writers and poets, 33 representatives of different liberation movements (including the Association in Defense of Civil Rights from Northern Ireland), women's organizations (like the National Assembly of British Women), youth organizations, the World Council of Churches and other religious organizations, 18 representatives of different UN specialized committees and commissions, representatives of the Organization of African Unity and of OPEC, ex-military people, some of them generals, and representatives of 83 Communist parties (*Pravda*, September 23, 24, 25, 26, 27, 28, 29, November 5, 1980; *Izvestia*, September 23, 24, 27, 28, 1980).

It had all started about a year earlier, as we are informed by a talkative Bulgarian, the chairman of the Organizational Bureau, responsible for the "practical preparation" for this show (Pravda, September 23, 1980). They had expected, you see, only 1,500 delegates, but 2,200 came. No wonder the chairman wished to talk about his success.

Yet a year earlier—in 1979—none of the conditions now cited to explain the current miraculous resurrection of the peace movement existed. There was no so-called "new strategy of the Pentagon," the famous presidential directive 59; there was no new escalation of the arms race; there was no neutron bomb. The Vienna summit meeting had just been successfully concluded with the signing of SALT II. September 1979 was a time of universal happiness, the sky was cloudless. Only one significant thing happened in September 1979: a sudden wave of mass arrests in the Soviet Union and, as we have learned now, a decision to reactivate the peace movement. Who could have predicted in September 1979 that within a year the cold war would be back—who else but those involved in "practical preparations" for the invasion of Afghanistan? Given the nature of the Soviet planned economy, with its fabulously inflexible, slow, and inefficient workings, the Soviets must prepare everything well in advance. Why should they have allocated such a large sum of money to hold a Bulgarian peace show in the middle of happy times, if not in anticipation of grave political trouble ahead?

Furthermore, we learn from comrade Zhivkov, the Bulgarian Communist leader who opened the meeting with a long speech, about an appropriate decision taken by the Political Consultative Committee of the Warsaw Bloc countries in May 1980 (Pravda, September 24, 1980), as well as an appropriate resolution of the Plenary Session of the Central Committee in June 1980 (Pravda, September 29, 1980). Comrade Zhivkov was simply revealing the way decisions and resolutions first travel through the Communist bureaucratic machinery on their way to rubberstamping by a "representative" body—in this case, the Sofia "Parliament" in September.

Indeed, the whole show was depressingly familiar to anyone acquainted with the methods the Kremlin producers applied to the same scenario in the time of Stalin. Even the dramatis personae were the same. There was the same World Peace Council with its immortal President Ramesh Chandra; there was the same chief conductor, Boris Ponomarev, former official of the Comintern (now responsible in the Politburo for contacts with fraternal Communist par-

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ties as well as for intelligence). Even the slogan adopted for the occasion, "The people have the power to preserve peace—their basic right," was remarkably similar to the unforgettable words of comrade Stalin in 1952.

Only this time the personal message that comrade Ponomarev brought to those converted was from comrade Breshnev, not comrade Stalin. The latter, of course, would never have tolerated even the mention of the term "rights"—basic or any other—in his slogans. Well, the times have changed after all. Still, those damned "human rights" had gotten out of hand. Hence, better to find something like "basic rights."

The first to speak, as I said, was comrade Zhivkov, and he spilled the beans about the Soviets' real concern (*Pravda*, September 24, 1980). The aggressive circles in America, he said, refuse to accept the present balance of forces in the world. They don't wish to submit to their historically predestined defeat. They have become so arrogant as to reject all of the recent Soviet peace proposals. They have decided to replace détente with a policy based on a "position of strength." They don't observe agreements on cooperation; they interrupt political and economic contacts; they interfere with cultural and scientific exchange; they dissolve sporting and tourist connections (in other words, the grain embargo, the Olympic boycott, the scientific boycott, etc., responses to the invasion of Afghanistan and the persecution of scientists in the USSR).

This theme was taken up by most of the speakers with only minor variations. The main speaker, comrade Ponomarev, suggested a whole program of action intended to bring America's aggressive circles into compliance. He appealed for unity among all those concerned with preservation of peace, irrespective of their political views. "The time has come for action, not words," he said. (Wait a minute, have we not met this sentiment somewhere already? Surely not in the CND official booklet?)

The show proceeded smoothly, exhibiting the whole gallery of monsters, from the greatest peace-lover of our time, Yasir Arafat, to a "representative" of Afghanistan.

How did all these 2,260 representatives of Social Democrats, trade unions, youth, women, and religious organizations react? Did they rush out in disgust? Did they demand the withdrawal of the Soviet troops from Afghanistan in order to remove the main obstacle to détente? Did they express concern about the massive Soviet arms build-up and the deployment of SS-20's? By no means. This self-appointed World Parliament issued an Appeal in which the main ideas of comrade Ponomarev's speech were repeated. Thus, the "Parliament" is opposed "to the vast machine and arms build-up of the most aggressive forces of imperialism which seek to take the world toward a nuclear abyss; to the falsehoods and lies of the propaganda in favor of the arms build-up, which are disseminated through imperialist-controlled mass media."

Translated from party jargon, this constitutes a clear directive to work against the armament programs of the Western countries (first of all, of course, the U.S.—the "most aggressive forces of imperialism"), and to reject any "lies" of the mass media about the Soviet arms build-up.

Beyond this, the "parliamentarians" set "the new tasks and duties . . . for action of the peoples of all continents" and worked out the Charter of the Peoples for Peace which was adopted unanimously (!) together with the People's Program for Peace for the 1980's. The year 1981 was chosen to be "the springboard of the 80's, a year of a decisive offensive of the peace forces to achieve a breakthrough in curbing the arms build-up."

Most of the program was carried out, the mass demonstrations of October 1981 in the European capitals having been planned within a framework of what is called in the Soviet program "UN Disarmament Week (October 24-31)." How on earth could the Soviets have known in 1980 about events that would take place at the end of 1981, unless they were running the whole show?

My pointing out this strange coincidence, which I did in an article in the London Times (December 4, 1981), was bound to provoke heated denials; and did so. The Soviets in Literaturnaya Gazetta (December 23, 1981), as well as the CND leaders in the London Times (December 9, 1981), made much of the fact that UN Disarmament Week had originally been designated as an annual observance by the UN General Assembly as early as June 1978. Now, the UN flag may seem to many to be a perfect cover. One must ask, however, why virtually nothing happened during that all-important week in 1978 or 1979—even the Sofia meeting was scheduled in September, not October, of 1980—until details for its observance were specified by the Soviet-inspired program? Moreover, if one looks through the Final Document of the Assembly Session on Disarmament (May 23-July 1, 1978), issued by the UN, one can find hundreds of designated weeks, months, years, and decades, all totally ignored by our peace-lovers, whereas the suggestion singled out by the Soviets was the one, the only one, to gather thousands in the streets. For example, was anyone aware that the decade 1969 to 1979 was solemnly declared by the United Nations to be "The Decade of Disarmament"? If there were any huge rallies or vigorous campaigns during these ten years, they seem to have escaped notice.●

PROVIDE THE PROVISION FOR FOOD FOR THE HUNGRY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Ms. OAKAR. Mr. Speaker, I wish to comment on a provision which was included in the Senate version (S. 2774) of H.R. 6892, the 1983 reconciliation provisions for the House Committee on Agriculture.

On August 5, the Senate accepted a provision which is identical to the resolution which I introduced on July 21, 1982. Senator Kennedy introduced this provision as a sense of the Senate resolution to S. 2774, which is the Senate reconciliation bill to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.).

Growing numbers of Americans go to bed hungry and malnourished each night, yet we continue the thoughtless waste of food they so desperately need. A study by the GAO estimates that 20 percent of the food produced in America is discarded. At shipping terminals, wholesale markets and supermarkets, massive quantities of edible fresh fruits and vegetables, dairy products and bread, and so forth, are discarded. The volume of waste is enormous and unconscionable. Yet there are no laws which require the destruction of food or produce that is dated. At this time of crisis in our country when the President is calling for the private sector to get involved, what more humanitarian method for involvement than to feed the hungry? It is time for action that dramatizes the desperation that millions of Americans are experiencing and at the same time addresses the need. We propose:

> A joint resolution expressing the Sense of Congress that:
>
> (1) agencies and departments of the Federal government take steps to distribute surplus food to the hungry;
>
> (2) state and local governments enact legislation to encourage private cooperative efforts to provide food for the hungry (for example, Good Samaritan Acts or Donor Liability laws);
>
> (3) wholesale and retail food distributors should work closely with charitable organizations to make available to hungry citizens food which is currently being wasted.

In conjunction with this resolution, a congressional buffet luncheon was held on July 28, 1982, that was catered with a wide variety of discarded, but wholesome foods. Members of Congress were invited. It provided an opportunity for congressional Members to join with service and religious organizations to urge food wholesalers and retailers to develop distribution policies for the needy.

The resolution has much support. There are now 30 cosponsors.

I urge the chairman of the House Agriculture Committee, Mr. DE LA GARZA, and the conferees, to accept the Senate passed provision when it is considered in conference.●

INDEPENDENCE DAY PARADE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DICKS. Mr. Speaker, one of the disadvantages of scheduling a July 4 congressional recess each year is that most of the Members of Congress do not have the opportunity to see the American Independence Day Parade here in Washington, D.C. This year 123 bands and drill teams competed for awards in the Washington, D.C., parade, and among those were 134 members of the Bremerton High School Marching Band and Drill Team, directed by Mr. Dick Norton and Mr. George Mantzke. I am particularly proud of the Bremerton High Knights, not only because Bremerton is my home town and is part of the congressional district I represent, but because the group received very special honors for its performance in the Independence Day Parade. In their division, the Bremerton Knights placed second in competition as they marched 17 blocks down Constitution Avenue on July 4. These honors followed another second place award in the July 3 parade in Philadelphia, Pa.

The experience of participating in the Nation's premier Independence Day Parade has left all 134 members of the band with many proud memories and with a renewed sense of patriotism. Each one of these young men and women had the opportunity during their stay in Philadelphia and Washington to visit many of the places and sites which are important to our Nation's heritage.

These young people worked long and hard to prepare for the trip, and thousands of people from the Bremerton/Kitsap County area in Washington State participated in a very successful fundraising effort to make their appearance in the parade possible. They represented Bremerton and Kitsap County well here on the east coast. To demonstrate the pride I have in this talented group of young people, I ask the permission of the House of Representatives to include a complete list of their names in the RECORD:

LIST OF NAMES

Dick Norton, Band Director.

George Mantske, Drill Team Director.

CHAPERONES

Mr. and Mrs. Greg Brown, Mr. and Mrs. James McGee, Mr. and Mrs. Mike Shaw, Mr. and Mrs. Neil Torpey, Mr. and Mrs. LeRoy Williamson, and Mr. and Mrs. Beverly Schrick.

BAND MEMBERS

Armstrong, Robin; Bassett, Patience; Beck, Susan; Beliveau, Dean; Bishop, John; Bower, Bonnie; Brown, Angela; Clark, Steve; Clark, Debra; Cook, Jo; Day, Steven; Derrig, Rick; Dolan, Hubert; and Eder, David.

Epps, Mike; Escalona, Adam; Ferguson, Brian; Fernandes, Jan; Frohardt, Brian; Gifford, Pat; Gillett, Art; Gisi, Paul; and Glenn, Pat.

Goodale, Greg; Gray, Carmen; Hall, Bob; Hankinson, Mike; Hecker, Michelle; Hicks, Vicki; Jankowski, Jon; Jensen, Ruth; Klein, Joe; and King, Colleen.

Kollars, Bob; Kvistad, Judy; Leaf, Kirk; Lidke, Mike; Marlin, Tyler; McGee, John; McGee, Julie; McGee, Roxanne; McInnes, Earl; Meckkenberg, Ann; Metsker, Ty; Mikesell, Sarah; Montgomery, Steve; and Morrell, Rob.

Mueller, Jill; Mueller, Wendy; Myers, Cheryl; Nichols, Ken; Olmstead, Joni; Outlaw, June; Pitts, Dan; Poling, Brad; Rich, Mary; Robinson, Hiram; Robinson, Vincent; Russell, Chris; Santos, Marites; and Schram, Nancy.

Shaw, Laurie; Sherman, Bill; Smith, Mike; Sumpter, Anita; Thompson, Tracy; Torpey, Mary Lou; Villaviray, Rod; Wade, Melanie; Wall, Kim; White, Patti; Whitney, Karen; Williamson, Greg; Willis, Dave; and Yeowell, Kellie.

DRILL TEAM MEMBERS

Shelly Anderson, Gwen Barrios, Jann Bearbower, Tracy Bennett, Lisa Blackwood, Karen Boschee, Renee Bragg, Rhonda Cain, Julie Eckert, Anna Elia, June Geraci, Geri Hamlin, Janet Harris, Rusty Harris, Desiree Ingham, Lisa Johnson, Kris Krafenik, Katie La France, Annette Lewis, Jonee Lewis, Melanie Mangrum, Shannon McCarthy, Susie McGillis, and Kathy O'Brien.

Jill Parker, Kristy Reynolds, Sandie Richie, Jodie Schrick, Darcie Seamans, Sue Summers, Donna Taylor, Linda Tomassi, Diane Tufte, Jeannine Ulbright, Michelle Walsh, Jacquie Wedge, and Kathy Spencer.

RALLY SQUAD

Sherri Deichert, Robin Harris, Jan Foltz, Michelle Koch, Teresa Sturgeon, Marlene Winkler, and Jill Morrison.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 12, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 13

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nominations of Bevis Longstreth, of New York, and James C. Treadway, Jr., of the District of Columbia, each to be a member of the Securities and Exchange Commission.

5302 Dirksen Building

10:30 a.m.

Foreign Relations

To continue hearings on U.S. economic policy toward the Soviet Union.

4221 Dirksen Building

AUGUST 16

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on S. 2784, clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.

2228 Dirksen Building

2:00 p.m.

Appropriations

Business meeting, to mark up the substance of H.R. 6956, appropriating funds for fiscal year 1983 for the Department of Housing and Urban Development, and certain independent agencies (pending on House calendar).

1223 Dirksen Building

Foreign Relations

To hold hearings on the nomination of James M. Rentschler, of Pennsylvania, to be Ambassador to the Republic of Malta.

4221 Dirksen Building

AUGUST 17

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Wilmer D. Mizell, Sr., of North Carolina, to be Assistant Secretary for Governmental and Public Affairs, Department of Agriculture, Tom H. Carothers, of Texas, and Leonard R. Fouts, of Indiana, each to be a member of the Federal Farm Credit Board of the Farm Credit Administration.

324 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95–95).

4200 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

10:30 a.m.

Foreign Relations

To hold hearings on the nomination of Theodore G. Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

4221 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To continue hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the

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sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

3:00 p.m.

Governmental Affairs

To hold hearings on the nomination of Dennis M. Devaney, of Maryland, to be a member of the Merit Systems Protection Board.

3302 Dirksen Building

AUGUST 18

9:30 a.m.

Governmental Affairs

Federal Expenditures, Research and Rules Subcommittee

To hold hearings on S. 1782, eliminating the withholding of retainages by the Federal Government from small business contractors and subcontractors in certain cases.

3302 Dirksen Building

Labor and Human Resources

Labor Subcommittee

Business meeting, to consider proposed amendments revising certain provisions of title IV (plan termination insurance) of the Employee Retirement Income Security Act of 1974.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Transportation Subcommittee

To resume hearings on highway revenue and cost allocation issues.

4200 Dirksen Building

Governmental Affairs

To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

Judiciary

To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.

2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

224 Russell Building

10:30 a.m.

*Labor and Human Resources

Labor Subcommittee

To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

AUGUST 19

9:00 a.m.

Select Committee on Indian Affairs

To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States.

457 Russell Building

9:30 a.m.

Labor and Human Resources

To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.

4232 Dirksen Building

Small Business

Export Promotion and Market Development Subcommittee

To hold hearings on certain obstacles faced by small business exporters.

424 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business

3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.

3302 Dirksen Building

10:30 a.m.

Veterans' Affairs

Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.

412 Russell Building

AUGUST 24

9:00 a.m.

Governmental Affairs

Civil Service, Post Office, and General Services Subcommittee

To hold hearings on S. 2190, providing for the recruitment and training of volunteers in Federal agencies.

3302 Dirksen Building

AUGUST 25

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.

235 Russell Building

SEPTEMBER 16

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To continue oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings on the effects of alcohol consumption during pregnancy.

4232 Dirksen Building

10:30 a.m.

Veterans' Affairs

To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.

318 Russell Building

SEPTEMBER 23

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To holding hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.

Room to be announced

SEPTEMBER 30

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the indemnification of Government contractors

2228 Dirksen Building

OCTOBER 6

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the accessibility of the judicial system.

2228 Dirksen Building

CANCELLATIONS

AUGUST 13

10:00 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume hearings to review proposed regulations implementing part B (assistance for education for all handicapped children) of the Education for All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, August 12, 1982*

The House met at 10 a.m.

Rev. W. B. Bingham, Binghamtown Baptist Church, Middlesboro, Ky., offered the following prayer:

Our Father in Heaven, we stand in this historic place in great awe.

Because You are from everlasting to everlasting, God and Creator and because of this great and important assembly, we love the Congress and pray Your blessings upon them.

Give them the faith of Abraham, the patience of Job, the strength of Samson, the endurance of Paul, the wisdom of Solomon, like David, man after God's own heart, that they may guide the good ship of democracy.

When she was young and weak, You blessed the Continental Congress and again when wicked men and nations led the world to the brink of hell itself You were there.

O Lord, keep on blessing until time shall be no more. In Christ's name. Amen and amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **MILLER** of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **MILLER** of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 27, answered "present" 1, not voting 62, as follows:

[Roll No. 269]

YEAS—344

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Bliley
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CO)
Broyhill
Burton, Phillip
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Dicks
Dingell
Donnelly
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gonzales
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hyde
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—27

Barnes
Clay
Coughlin
Derwinski
Dickinson
Dorgan
Dreier
Emerson
Evans (IA)
Fields
Forsythe
Gejdenson
Goodling
Holt
Jacobs
Johnston
LeBoutillier
Luken
Madigan
Mitchell (MD)
Roberts (KS)
Roemer
Sabo
Schroeder
Walker
Washington
Young (AK)

ANSWERED "PRESENT"—1

Oberstar

NOT VOTING—62

Anthony
Applegate
Bafalis
Bethune
Blanchard
Boggs
Bolling
Bonker
Brown (CA)
Brown (OH)
Burgener
Burton, John
Butler
Byron
Chisholm
Collins (TX)
Conyers
Crockett
Davis
Dellums
Dixon
Dornan
Dymally
Early
Edwards (OK)
Ertel
Ferraro
Fithian
Fountain
Gingrich
Ginn
Goldwater
Harkin
Heftel
Hollenbeck
Hutto
Ireland
Jeffries
Jones (NC)
Leath
Marks
Matsui
McCloskey
McDade
McDonald
McKinney
Miller (OH)
Moffett
Nichols
O'Brien
Ottinger
Richmond
Rinaldo
Rosenthal
Rousselot
Santini
Savage
Siljander
Smith (PA)
Stanton
Stokes
Yates

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6863) entitled "An act making supplemental appro-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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priations for the fiscal year ending September 30, 1982, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Hatfield, Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Garn, Mr. Schmitt, Mr. Cochran, Mr. Andrews, Mr. Abdnor, Mr. Kasten, Mr. D'Amato, Mr. Mattingly, Mr. Proxmire, Mr. Stennis, Mr. Inouye, Mr. Hollings, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston, Mr. Leahy, and Mr. DeConcini to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 537. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair will recognize the gentleman from Kentucky (Mr. Rogers) for 1 minute. The Chaplain who gave the prayer today was his guest. We will forego all other 1-minute speeches until after the wilderness bill has been concluded.

REV. W. B. BINGHAM

(Mr. **ROGERS** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ROGERS**. Mr. Speaker, I am honored to welcome Rev. W. B. Bingham as guest chaplain in the U.S. House of Representatives today.

The Congress has some herculean tasks before it these days—from getting our economy back into shape to shoring up our Nation's defenses. The Bible enjoins us to pray for those who are in authority. And I can think of no time when we have stood in greater need of prayers from a great religious leader like Reverend Bingham.

Mr. Speaker, let me tell you about our highly esteemed guest.

He is a graduate of Knox Central High School and Clear Creek Baptist Theological School for Adults. He is married to a fine woman, the former Mae Bowling. And they have four children, one of whom is following in his father's footsteps in the ministry.

For the past 32 years, Reverend Bingham has been pastor of the Binghamtown Baptist Church of Middlesboro, Ky., at Cumberland Gap. Under his tutelage, this church has earned a reputation as one of the most dynamic in the area. As a matter of fact, it is now the largest church in the seven county tristate area.

He has conducted over 300 revivals and appears regularly on television and radio. And he has obeyed the Biblical command to preach into the uttermost parts of the world—preaching in nearly every corner of the globe.

But no listing of his impressive credentials would be complete without mentioning the profound influence he has had on generations of families in southeast Kentucky who have been inspired and supported by his wise Christian leadership.

I am proud to welcome Brother Bingham to the U.S. House of Representatives. We can certainly use his prayers in these marble Halls.

APPOINTMENT OF CONFEREES ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. **WHITTEN**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The **SPEAKER**. Is there objection to the request of the gentleman from Mississippi?

Mrs. **SCHROEDER**. Mr. Speaker, I would like to reserve the right to object.

I reserve the right to object to make a point. During its consideration of the bill, the other body agreed to an amendment offered by the Senator from Alaska, Mr. Stevens, which would establish a Commission on Executive, Legislative, and Judicial Salaries—known as the Quadrennial Commission—which would report its recommendations to the President by November 15, 1982.

The President is instructed to submit his recommendations, based on the report of this Commission, soon afterwards. These recommendations take effect 30 calendar days after they are submitted to Congress, unless a concurrent resolution is adopted during that time to disapprove the raise. Put simply, this amendment means a large pay raise for Members of Congress immediately after the elections.

This Commission was originally created under Public Law 90-206 in 1967. In 1969, pursuant to this Commission's recommendations, Members' pay was increased 42 percent from $30,000 to $42,500. In 1973, the next time the Commission worked, the Senate disapproved its recommendations. In 1977, the recommendations of the Commission were greatly scaled down before Congress failed to disapprove a 28.9-percent increase from $44,600 to $57,500. And, last year, the proposed raise of 23 percent from $60,662.50 to $74,800 was vetoed. After the mess we got in by raising our pay so much in 1977, we passed a law, Public Law 95-19, saying either House could veto the proposal. So, if history is a guide, we can expect the Commission to recommend an increase of 30 percent to over $80,000.

The amendment adopted in the other body perverts the Quadrennial Commission, since it is not supposed to meet until 1984, returns to a two-House veto, and virtually guarantees us a large pay raise right after the election. Still reserving the right to object, I would appreciate the assurance of the chairman of the Committee on Appropriations that we will not see this sort of automatic pay raise come out of conference.

Mr. **FAZIO**. Mr. Speaker, will the gentlewoman yield?

Mrs. **SCHROEDER**. I would be delighted to yield to the gentleman from California.

Mr. **FAZIO**. Mr. Speaker, I think at this point it would only be fair to say that the members of the conference committee have not had an opportunity to study this language, that they should study it and ought to take the opportunity to do so in conference.

While we certainly understand the concerns the gentlewoman has expressed, there should be at this point no certainty as to what the committee does. I think we have ample experience with this area of the law. This committee has a very good record, I think, in terms of dealing with these issues in an up-front manner, as we will on this occasion.

I would hope the gentlewoman would give the committee license to consider the issue, and should we so decide, bring it back in open session, outside of the conference report, and give an opportunity to this body to express itself.

Mrs. **SCHROEDER**. I want to thank the gentleman, because my main concern was to make sure that the body was on notice, since we could not take this up and make sure the conferees were aware of what happened in the other body so that we did not get ourselves in the position we did on the tax benefit issue that took us a long time to undo. So, I appreciate the gentleman's awareness of it.

Mr. **OBEY**. Mr. Speaker, will the gentlewoman yield?

Mrs. **SCHROEDER**. I would be delighted to yield.

Mr. **OBEY**. Mr. Speaker, I would just like to say, as one individual Member who has had it with the way Congress has dealt with this issue through the years, I would hope that this matter, which was offered in the Senate, would be included when it comes back in the conference report. I am not a member of the conference committee, but I simply say as one Member that I congratulate the Senator who put the amendment in in the first place.

It seems to me this place as an institution has to face up to a critical choice. Is the question—which is a legitimate issue regardless of how you come down on the resolution of it—is the question of the appropriate level of compensation for Members of Congress, members of the executive branch of the Government, of the judiciary, going to be considered in a backdoor manner through increases in other emoluments around here, or is it going to be considered through the front door in a legitimate manner and reviewed by someone other then those who have a vested interest in the outcome? I suggest the proposal offered by the Senate is a legitimate, forthright, and open way in which to go about it, and I for one hope that this place has guts enough to face up to the necessity to deal with it that way and not through the back door.

There is a perfectly legitimate reason for having the Commission report this year, because their recommendations 2 years ago were turned down. We are losing a good many top quality people in the executive branch, and we do need to deal with this in a forthright, up-front manner. This is the only mechanism I know of to do it.

Mrs. SCHROEDER. Mr. Speaker, further reserving the right to object, and I will not object, I wanted to make it very clear that we are dealing with the potential pay raise in a front-door manner because in the past the front doors were shut and attempts were made to slip pay issues through the back door. People are tired of backdoor tactics.

I think it is very important that the body be aware of what the other body has done in this bill we are going to conference on. We may differ in our positions on the issue but at least we have had the discussion and the body is aware of the matter.

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding.

A further part of the problem we are faced with here, if in fact we would have a report from the Quadrennial Commission as the gentlewoman suggested could be a possibility, that we have already enacted into law an automatic appropriation for such pay raises so that this House would have no way of getting at such a pay raise should the Commission report under the circumstances described, under the Senator from Alaska's provision.

Mrs. SCHROEDER. Well, further reserving the right to object, the way I understand the Senator from Alaska's amendment, there are 30 calendar days to veto the pay increase once the President recommends it. The problem we could get into is, if his recommendations come over when we are not in session, since the amendment says "calendar days" and not "legislative days," the gentleman's position that the pay raise would be automatic is right. The pay raise would be automatic if there are no legislative days during that 30-day period. So the gentleman is correct.

Mr. WALKER. If the gentlewoman will yield further, the fact is, even later on if there was a public outcry about this, we could not handle it as we have often handled these matters in appropriation bills because the appropriation for it would have been automatic.

Mrs. SCHROEDER. Further reserving the right to object, the gentleman is correct. They would be automatic, and of course members of the judicial branch would automatically have the pay increase because the court says we cannot undo their pay increases retroactively.

Mr. Speaker, I withdraw my reservation of objection.

□ 1030

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees:

Messrs. Whitten, Boland, Natcher, Smith of Iowa, Addabbo, Long of Maryland, Yates, Roybal, Bevill, Benjamin, Dixon, Fazio, Conte, McDade, Edwards of Alabama, Myers, Miller of Ohio, Coughlin, Kemp, and O'Brien.

REPEALING OUTDATED SIZE AND WEIGHT LIMITATIONS IMPOSED ON U.S. POSTAL SERVICE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 2073) to repeal outdated size and weight limitations now imposed on the U.S. Postal Service, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. HILER. Mr. Speaker, reserving the right to object, could the gentleman from Michigan (Mr. Ford) inform me, has he cleared this with the ranking member on the Committee on Post Office and Civil Service?

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield, yes, it has been cleared by every interested party.

Mr. HILER. It has been cleared with the gentleman from Illinois (Mr. Derwinski) and every other interested party?

Mr. FORD of Michigan. Yes. I will just call the gentleman's attention to the fact that we are discharging our committee and accepting a bill coming from the Republican-dominated committee on the Senate side. It is their bill that we are taking up, not ours. It is not a House bill.

Mr. HILER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3682 of title 39, United States Code, is amended to read as follows:

"§3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.".

(b) The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section, shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.

Mr. FORD of Michigan. Mr. Speaker, the provisions of this much needed bill were included in comprehensive postal legislation which passed the House in both the 95th and 96th Congresses, but never reached the Senate floor.

I am now happy to report that the Senate has finally acted on this issue. On July 29, S. 2073 passed the Senate by voice vote. Upon its passage by the House today, and final enactment, we will at last have corrected a longstanding anomaly in our postal law concerning the mailing of parcels.

As the Senate report accurately points out, the purpose of this bill is to eliminate a statutory relic which discriminates against mailers in the Nation's urban areas. Since 1952, there have been statutory size and weight limits on parcels traveling through the mails. One set of limits, 100 inches in girth and length combined and 70 pounds, applies basically to parcels mailed to or from rural or outlying areas. Another, more restrictive set of limits, 84 inches in length and girth and 40 pounds, applies to parcels mailed between larger, urban post offices.

The only justification for the enactment of these differing standards was to protect the Railway Express Agency (REA), which was a private sector corporation in the business of transporting large parcels by rail between major cities. The Congress believed that the Federal Government should not compete for this specialized business. Because REA served only

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urban areas, a more liberal standard was applied to parcel post delivery in rural areas.

REA ceased operations in 1975, thereby terminating the need for the restrictive and discriminatory parcel post limitation which are still found in the statute. Unfortunately, a variety of circumstances totally unrelated to the merits of this issue have prevented repeal of these limitations until today.

S. 2073 would remove the statutory restrictions and make parcel size and weight limits subject to the same administrative classification proceedings to which other types of mail, such as letters, are subject. Under this bill, appropriate nondiscriminatory size and weight standards will be determined in public proceedings before the Postal Rate Commission. All interested parties will have the opportunity to participate.

S. 2073 is totally noncontroversial. Even the Postal Service's most vigorous competitor for the parcel delivery business, United Parcel Service, has no objection to this bill. It is sound, public-spirited legislation.

I urge the passage of S. 2073.

● **Mr. DERWINSKI.** Mr. Speaker, this is progressive legislation designed to come to the aid of the overregulated American public.

What this bill does is repeal outdated size and weight limitations imposed on parcels mailed from certain post offices. The bill would standardize regulations to allow all post offices to handle packages that weigh 70 pounds and that are 100 inches in length and girth.

Right now, post offices in big cities cannot accept packages that weigh more than 40 pounds and exceed 84 inches in length and girth. However, smaller post offices can process for delivery parcels that weigh up to 70 pounds and that are 100 inches in length and girth.

The weight discrepancy which now exists between large and small post offices is the result of legislation enacted in 1951 to protect the old Railway Express Agency, which had offices located in the larger cities across the Nation. By limiting the ability of the old Post Office Department to process large packages, Congress made it clear it did not want the postal system to compete with private firms in the parcel post business.

The REA went out of business in 1975, and the United Parcel Service, the largest competitor to the Postal Service in the parcel business, has no objections to the bill before us.

This bill was passed by the other body on July 29 without opposition. It is a positive step forward in the elimination of an unnecessary regulation which has been a source of confusion to the public.●

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE ON TODAY AND THE BALANCE OF THE WEEK

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the Committee of the Whole is considering legislation under the 5-minute rule on today, Thursday, and for the remainder of the week.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. MILLER of California. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman who made the request if this is for further consideration of the Clean Air Act?

Mr. SHARP. Mr. Speaker, if the gentleman will yield, yes, it is.

Mr. MILLER of California. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Under the rule, 10 objectors are required.

(Messrs. Marinez, Panetta, Shannon, Mavroules, Beilenson, and Vento, Mrs. Schroeder, and Messrs. Gejdenson, Udall, Kastenmeier, and Lundine also objected.)

The SPEAKER. More than the required number having arisen, objection is heard.

WILDERNESS PROTECTION ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. Seiberling).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6542, with Mr. Evans of Georgia, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, August 9, 1982, the Clerk had read section 1. Are there any amendments to section 1?

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to make a unanimous-consent request.

We have worked with the minority on this bill to try to get it expedited and passed this week if we possibly can. We have adopted the rule, we have had the general debate, and we are now down to amendments. I am unaware of more than two or three amendments that will be offered, and in order to accommodate a couple of Members on the other side, I ask unanimous consent that all debate on the bill, and all amendments thereto, close at 11:10 a.m.

The CHAIRMAN pro tempore. Does the gentleman from Arizona (Mr. Udall) first ask that the bill be considered as read and open to amendment at any point?

Mr. UDALL. Yes, Mr. Chairman. I ask unanimous consent that the remainder of the bill be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The balance of the amendment in the nature of a substitute, consisting of the text of H.R. 6846, is as follows:

WITHDRAWALS

Sec. 2. Except as specifically provided in this Act, notwithstanding any other provision of law—

(a) lands designated by Congress as components of the National Wilderness Preservation System are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto;

(b) lands within the national forest system which have been recommended for designation as wildness in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119) are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto, until Congress determines otherwise or until a revision of the initial plans required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 is implemented recommending the land concerned for other than wilderness designation, whichever comes first;

(c) wilderness study areas designated by act of Congress are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto for the period of interim wilderness protection and management of such wilderness study areas contained in the act of Congress designating such wilderness study areas;

(d) lands within the national forest system identified for further planning in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119) are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto, until one year after the date of final approval and implementation of an initial forest plan convering the further planning area concerned pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976: *Provided, however,* That if any further planning area is recommended for wilderness in such initial plan it shall remain withdrawn for the period specified for recommended wilderness areas in subsection (b) of this section.

EXCEPTED LANDS

SEC. 3. The withdrawal and other provisions of this Act shall not apply to—

(a) any national forest system land released to management for any uses the Secretary concerned deems appropriate through the land management planning process by any statewide or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted;

(b) lands designated as congressional wilderness study areas in Colorado by sections 105 and 106 of the Act of December 22, 1980 (Public Law 96-560), lands designated as congressional wilderness study areas in New Mexico by section 103 of the Act of December 19, 1980 (Public Law 96-550), or to lands within the River of No Return Wilderness, Idaho, which are subject to section 4(d)(1) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312);

(c) Bureau of Land Management wilderness study areas, which have been identified pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (Public Law 94-579); or

(d) lands in the State of Alaska.

PROSPECTING AND INVENTORIES

SEC. 4. (a) Nothing in this Act shall prevent the Secretary of Agriculture or Interior from issuing under their existing authority in any area of national forest or public lands withdrawn pursuant to section 2 of this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided, however,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas.

(b) The Secretary of the Interior shall augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to section 2 of this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray defraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results.

(c) The Secretary of the Interior and the Secretary of Agriculture may prescribe such regulations, as they deem necessary, to insure that confidential, privileged, or proprietary information obtained by them or any officer or employee of the United States under this Act is not disclosed.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 5. (a) At any time after the date of enactment of this Act, the President may transmit a recommendation to Congress that minerals prospecting, exploration, development, or extraction not permitted under this Act shall be permitted in a specified area or areas withdrawn pursuant to section 2 of this Act. Notice of such transmittal shall appear in the Federal Register and shall be conveyed to the Governor of the State in which the area or areas are located.

(b) A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on available information—

(1) there is an urgent national need for the minerals activity; and

(2) such national need outweighs the other public values of the wilderness lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) Together with a recommendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendations;

(2) a statement of the conditions and stipulations which would govern the recommended activity; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of the Act.

(d) Any recommendation made pursuant to this section shall take effect only upon enactment of a joint resolution approving such recommendation.

VALID EXISTING RIGHTS

SEC. 6. All provisions of this Act shall be subject to valid existing rights.

SEC. 7. The Secretary of the Interior is authorized to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other nonsurface disturbing methods.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona as to the limitation of time?

Mr. YOUNG of Alaska. Mr. Chairman, reserving the right to object, the gentleman from Arizona (Mr. UDALL) is fully aware that I will ask for votes on both of my amendments. First, I want to thank the gentleman for his consideration concerning this legislation on my behalf, but I would point out that that would give us approximately 30 minutes for votes, and it would be 5 minutes and 5 minutes. I would ask the gentleman, let us make it 11:30 a.m.

Mr. UDALL. Mr. Chairman, I amend my unanimous consent request to make it read 11:30.

The CHAIRMAN pro tempore. On the bill and all amendments thereto?

Mr. UDALL. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment. It is a technical amendment which I think we can dispose of very quickly.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

Mr. SEIBERLING. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the amendment is as follows:

Amendment offered by Mr. SEIBERLING: Page 6, line 4, change the period to a colon and insert the following: "*Provided,* That authority to enter into contracts, to incur obligations, or to make payments under this subsection shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.".

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me ask the gentleman, is this the amendment for authority to enter into contracts and incur obligations?

Mr. SEIBERLING. Yes. This is a technical amendment to bring the bill in line with the Budget Act.

Mr. LUJAN. Mr. Chairman, I thank the gentleman.

We have no objection to the amendment on this side.

Mr. SEIBERLING. Mr. Chairman, I ask that the amendment be approved.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

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AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. YOUNG of Alaska: Page 5, line 18, amend by striking all after "*Provided, however,*" through line 20 and insert in lieu the following: "That any seismic activities involving the use of explosives shall be limited to the surface area only, and that any permit issued for such activity shall stipulate conditions which mitigate fire hazards and wildlife impact."

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I have a question that I would ask of the chairman of the subcommittee.

Are we proceeding on the basis now of H.R. 6542, as amended by H.R. 6846?

Mr. SEIBERLING. That is correct. Mr. Chairman, if the gentleman will yield, that is the markup vehicle under the rule.

Mr. YOUNG of Alaska. Mr. Chairman, this is a bill that has generated a great deal of interest across the Nation as a whole, and it is strongly supported by those environmental groups that have fought the Alaskan pipeline. I call them the "zero growth" groups. In fact, if the land we are talking about today did not have a potential for minerals and gas, we would not be arguing about this at all.

In the committee I offered an amendment that should have been accepted because it still would have given the people who are interested in developing the gas and oil in this Nation the one tool they must have. The one tool they must have is the utilization of seismic activities, on-surface explosives.

For those who are Puritans in the wilderness movement and throw up their hands and say that this is not compatible with the wilderness, my argument has been on this subject all along that what we are doing today in this action, without letting us use seismic activity, is that we are taking away the one tool that we must have if we are to identify those areas that will have the oil and gas potential. And, yes, as even the environmental groups say, when we need them, we need to go and get them, so we should let ourselves know where those gas and oil deposits are.

This is the only tool that we can use to narrow that area down to where the fields can be located.

There is no damage to be incurred with this amendment which I have offered. It is compatible with the habitat. We are talking about surface explosives, and I say to those Members in the Chamber that what we are talking about, if the Members can see this, is very important, and what I am showing here today is that the damage done by explosives is nil. What we see here is a 5-pound charge. What we see down here is after it has been utilized, and there is no disturbance to the surface at all.

What happens when the charge is utilized is that then they can record upon the scientific equipment those shock waves and can in fact identify the possibilities of oil and gas deposits.

The gentleman from Montana (Mr. WILLIAMS) who led this charge to lock up vast areas of wilderness, came very nearly to the point of accepting this, too, recognizing full well that it would be politically advisable in his district. It is the one tool that every geologist has ever told me they must have to identify the fields.

I urge my colleagues to think of the debate and remember what was said. Unfortunately, most of them were not here when we debated this very important legislation on a Monday. I ask them to think about what I am asking here. I am not asking them to vote with the idea that we are going to lock up lots of land because I am going to vote against that, but I am asking them to at least give the opportunity to the geologists and the people in the USGS to identify with this one tool.

You would not go to a doctor and ask him to operate without the proper tool. You would not ask someone to build a home without giving him a hammer. You would not drive a car without a steering wheel. You certainly cannot identify these gas deposits without this utilization of surface explosives.

The amendment is very restrictive. It can only be used at a time when it is compatible with the wildlife and habitat in the vicinity of the area in which it is going to be used. It can only be used when it is not used against those other people who are visiting the area.

But the tool would be available, and I urge the Members to make this bill a little more compatible, a little more acceptable, and a little more realistic, and allow those who are experts in this field to utilize explosives in small amounts with strict limitations to be able to identify those fields which they need.

It is a simple amendment. It is a good amendment. It should be accepted if we are thinking rationally about what we are faced with today, the shortage of gas, the shortage of oil, and the shortage of resources which this Nation needs.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I want to tell the gentleman that I will support him in this amendment.

I was concerned about it, and in committee I did not support it because I have an agreement that I made with the gentleman from Ohio.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. LUJAN. Mr. Chairman, if the gentleman will yield further, I will say that I will support it now because I think it is a necessary tool.

I noticed that the gentleman has put something in there—and some problems were raised about that before—and that is that activity shall stipulate conditions which mitigate fire hazards and wildlife income.

Mr. Chairman, I am convinced that there is no damage to the surface area of a wilderness area by seismic exploration, and I congratulate the gentleman on his amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I think the gentleman from New Mexico (Mr. LUJAN,) has raised a point that I was going to get clarification on. I understand the mitigation issue. The point I want to make is this: Is there anything in this amendment that would provide for a subsurface impact as a result of the explosion? It is strictly surface impact?

Mr. YOUNG of Alaska. It is surface impact, and the bill is very strictly drawn up. This only allows surface impact and small explosive charges, not subsurface drilling or setting the charges underground.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, if the gentleman will yield further, if there is surface impact, under the new amendment the gentleman has a requirement to mitigate the impact; is that correct?

Mr. YOUNG of Alaska. That is exactly right, against fire, and against any damage to wildlife.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, let me ask, the gentleman's amendment was basically objected to for what reason?

Mr. YOUNG of Alaska. Primarily because they said it was not compatible to wildlife and that in fact it would disturb the surface of the wilderness area.

Mr. CRAIG. In the noncompatibility wilderness argument, what was the reason for that? Was it concussion or sound?

Mr. YOUNG of Alaska. Sound primarily. My statement was that in the wilderness hunting is allowed, and hunting decibel rates are higher than the explosive rates of these charges.

Mr. CRAIG. Mr. Chairman, if I could pursue that for just a moment with the gentleman, these wilderness areas do allow hunting for big game with big game rifles; is that correct?

Mr. YOUNG of Alaska. That is true.

Mr. CRAIG. And the gentleman is saying the concussion of a large rifle going off, in a decimal effect, has no greater impact than the charges proposed in this seismic activity?

Mr. YOUNG of Alaska. The seismic activity has less impact. It has less actual impact.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska has again expired.

Mr. CRAIG. Mr. Chairman, I ask unanimous consent that the gentleman from Alaska, Mr. YOUNG be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Idaho?

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, we have until 11:30 to take care of the gentleman's two amendments, and he says he is going to ask for record votes. That takes care of a half hour. That means that we have until 11 in effect to cover the two amendments, and I submit that in fairness, we ought to have equal time on each one of them.

□ 1045

The gentleman has now consumed about 8 minutes. I would appreciate his exercising restraint since we are trying to accommodate him in this time restraint.

Mr. YOUNG of Alaska. I respect the Chairman's kindness and would urge those that have listened to this argument I presented to please vote my way. When you listen to arguments from the gentleman from Ohio, listen to what he has to say, but you need this one tool.

Mr. Chairman, I withdraw my unanimous-consent request.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words and rise in strong opposition to the amendment.

Mr. Chairman, such an amendment, not precisely the same, but in substance the same, was rejected by the Committee on Interior and Insular Affairs by a vote of 29 to 11.

The committee rejected the amendment because we reached the conclusion that certain activities are compatible with wilderness and certain others, such as the use of large amounts of dynamite, are not. I might add that a 5- to 10-pound charge of dynamite is far, far noisier than any rifle used for hunting.

Initially one might ask why the committee was so concerned with explosions in wilderness areas, because such explosions only temporarily, it is said, disrupt the wilderness serenity. The answer is that it would not be just one series of explosions, but a series of explosions over many months.

Each company is free to conduct its own seismic testing and set of explosions and each company reserves the information to itself and does not necessarily share it with others. So, if this amendment passes you could have a whole series of seismic tests over several field seasons in the same wilderness area.

The situation in the Bob Marshall Wilderness in Montana is a good example, and is one of many reasons why Regional Forester Tom Casten turned down the seismic permit application for that area.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. At this point I yield to our colleague from Montana to describe that situation.

Mr. WILLIAMS of Montana. I thank the chairman for yielding and rise in opposition to the amendment of my friend and colleague from Alaska (Mr. Young).

Don Young is correct when he says that small surface explosions cause little or no surface damage. That is, above-surface explosions, when they are completed, show very little surface damage.

In fact, I have been in the areas after they have gone off and I have been impressed that there may be a few rocks thrown around, but very, very minor surface damage. But that simply is not the issue here.

If we have learned anything in modern civilization these past noisy 20 years, we have learned that repeated loud, unexpected, booming sounds are very disruptive, obnoxious, and provide harassment to the people that hear them.

Let me describe what would have happened in a wilderness area in Montana, the largest wilderness area in the Nation called the Bob Marshall, 1½ million acres in the center of the Rocky Mountains.

There was a permit there by a company to do the type of seismic explorations to which the gentleman from Alaska refers. The Forest Service refused to grant the permit.

Here is why. Not because there was going to be any surface damage but, rather, because it would have involved 270,000 pounds of explosives. It would have required 5,700 separate explosions and that is 60 pounds of explosions placed every 150 feet and fired off perhaps 100 times a day.

It would have involved a crew of three dozen people transported back and forth over this wilderness area by helicopters for probably the better part of a summer. That is just the one company.

This amendment refers to all the wilderness areas in this country. Noise in wilderness is a pollutant, make no mistake about it. The setting off of 270,000 pounds of explosions continually, 100 times a day for a fourth of a year every year, chases animals, starts forest fires, disrupts hunters and fishermen who are in those areas, and is absolutely incompatible with wilderness.

Let me assure my colleague from Alaska and my friends in the Chamber that people who like wilderness areas have no fight with oil or gas companies. I have no fight with them.

We all understand that this is a roughneck, dirty, noisy, but essential business in this country. Americans welcome the oil companies. We welcome them into the recreation rooms of our States. We want them in the kitchens of our agricultural areas and in the dining rooms of our mountains where they can feed on the supplies below.

We simply ask, I think legitimately, that they stay out of our parlor. The wilderness areas are America's parlors and the dirty, roughneck, but essential oil companies should politely but firmly be told to stay out of our parlors.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Seiberling) has expired.

(By unanimous consent Mr. Seiberling was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Let me just thank the gentleman and make one or two additional observations.

First of all, we did reach a compromise on the seismic issue in the bill that is before us. The bill allows seismic exploration in wilderness candidate areas. That is, areas that have been recommended by the executive branch for wilderness, or areas that have been designated by the executive branch or Congress for further wilderness study. It does not allow it in designated wilderness. That was a compromise that was reached in the bill as introduced and which was reaffirmed by the Interior Committee by a vote of 29 to 11.

This amendment would go further and breach that compromise by opening designated wilderness areas to explosive seismic testing.

Second, I would simply like to point out that no less valid a conservative than George Will, writing in the latest Newsweek magazine, has this to say, and he supports this bill: "There are 80 million acres of designated wilderness, 56 million of them in Alaska."

(I might say parenthetically this bill does not affect Alaska at all.)

Only 1.2 percent of the "Lower 48" States is wilderness; only 4 percent could ever be so designated. Surely the Nation's vitality and security are not so marginal as to depend on that 4 percent.

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We are not dealing with 4 percent today, we are dealing only with about 2 percent. Someday we may have to go into that last 2 percent but not now, because we already have 137 million acres under lease and open to oil and gas explorations and development on the public lands in the lower 48 States alone. And untold millions of acres are already under lease in Alaska and offshore.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from Alaska.

As a member of the House Interior Committee's Subcommittee on Public Lands and National Parks and as an original cosponsor of this measure, I know firsthand the delicate compromise that it represents for many of us from both sides of the aisle.

The proposal is designed to protect the national wilderness preservation system and future additions to it from certain types of mineral leasing including oil and gas leasing. The impact of such leasing can be destructive to the very characteristics of these areas which made them worthy of actual or potential wilderness designation by Congress in the first place.

I would also like to stress that this bill will not unduly jeopardize efforts to increase U.S. energy independence. Reducing U.S. dependence on unstable and expensive foreign energy sources is a goal to which I am as committed as any Member of this body. However, I firmly believe that our unique and untouched wilderness areas should be the last place where oil and gas leasing is allowed, not the first.

I find it interesting to note that a General Accounting Office study found that up to 80 percent of the existing oil and gas leases on some 137 million acres of federally owned nonwilderness lands will expire without any exploratory drilling. I understand that the Department of the Interior has made a similar estimate. Clearly there is room for far more exploration and development on these nonwilderness lands.

To those who would argue that most of our Nation's oil and gas reserves are located in areas protected by this bill, it is worth noting that experts at the Oak Ridge National Laboratory have estimated that wilderness and wilderness candidate areas possess only 2 to 3 percent of the country's undiscovered reserves.

Another important concern of mine which ties in to my work on both the House Interior Committee and the Armed Services Committee is the issue of U.S. dependence on imported strategic and critical materials. I would like to assure my colleagues who share my concern in this area that the provisions of this bill do not apply to the exploration and development of such strategic and critical hard rock minerals as cobalt, chromium, manganese, nickel and tungsten. Other hard rock minerals such as lead, gold, zinc, silver, and copper are also exempt from the provisions of this bill.

I oppose this amendment which would, if adopted, allow the use of explosives in existing wilderness areas like the Bob Marshall Wilderness in Montana.

Last summer, I joined with my chairman and other members of the Public Lands Subcommittee to travel into the Bob Marshall Wilderness Area. It was a challenging trip but extremely worthwhile. During our visit to the Bob Marshall Complex, I discussed firsthand with the regional forester the seismic prospecting permit which had been requested. When asked why the permit to carry out the seismic exploration in the Bob Marshall Wilderness had been denied, he made several points.

First, he noted that the public was overwhelmingly opposed to the seismic operations.

Second, he felt that the seismic operations would conflict with significant wildlife, geologic, scenic, and recreational values.

Third, he recognized that similar prospecting efforts by other interests in the same area would repeat the potential environmental and social impacts on the area.

While these are only a few of the reasons the permit was denied, all of these points are just as important today as they were then.

As reported from the Interior Committee, this bill specifically allows seismic activity involving the use of explosives in recommended wilderness or further planning areas. Indeed, the committee recognized that the use of such testing procedures might be necessary to gather the best possible information for making wilderness versus nonwilderness recommendations. However, I fail to see the wisdom involved in going through the lengthy process of designating an area as wilderness, actually designating that area as wilderness and then blasting it with explosives as my colleague from Alaska would have us do.

Mr. Chairman, I hope that my colleagues in the House will join me in opposing this amendment. The Bob Marshall is not the only wilderness area which would be hurt if this amendment were adopted, but it would be among the first as CGG is now appealing its seismic permit denial. To conclude my remarks in opposition to this amendment and in support of the bill as reported out of the Interior Committee, I would like to quote two Montanans who wrote to me more than a year ago concerned about the future of the Bob Marshall Wilderness.

They were, and I am sure continue to be, concerned about unnecessary exploration and development in the Bob Marshall Wilderness Complex. First, they asked if I had ever actually been to any of the wilderness areas in Montana—which I did do incidentally just a few months later. Then Mr. and Mrs. Steele of Missoula, Mont., let me know in no uncertain terms how they felt about protecting unique wilderness areas like those which can be found in the State of Montana.

In their own words they suggested that—

> To destroy these areas would be to destroy the very heart and soul of this Nation. They represent our history, our heritage, and our future.

Mr. Chairman, I would be among the first to admit that the day may come when it will be necessary to develop our wilderness areas, but I agree with these two Montanans that that day has not yet arrived.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

I will be brief to preserve the time remaining for other debate.

I would first like, however, to identify myself as one of the original cosponsors of this resolution and a strong supporter of the resolution.

I know that we all have various interest groups come to us with statements like "this is a delicate balance," "we cannot change anything," "do not touch anything."

This simple-minded approach is a kind of knee-jerk reaction, I would have to say, but it is understandable given this objective.

There is one thing we have to consider, it seems to me, however, in this body and that is we are here to make rational decisions.

The gentleman from Alaska I think has convincingly made the point that the rational decision is to accept his amendment.

I would like to associate myself with the remarks of the gentleman. We are here to make rational decisions. This is a reasonable amendment and it ought to be approved.

I ask my colleagues to support the amendment offered by the gentleman from Alaska.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I appreciate the gentleman yielding. I respect the gentleman's judgment.

However, I must say that I have to rise in opposition to this amendment.

I think the points have been well made on the need for exploration but it seems to me that this bill reached a reasonable compromise by allowing such exploration to go on in the study areas.

We have such a small amount of wilderness area and yet the tremendous harm that could be done, not necessarily will be done, but the kind of exploration which can go on here with respect to the explosives and the intrusion of man into these wilderness areas when there is so little land of that available to those who really desire to preserve the wilderness. It seems to me the compromise, which I understand was a bipartisan compromise reached by the subcommittee, seemed to be a very reasonable one.

So I must rise in opposition. Let me point out some of the difficulties with specifics. It makes little sense to allow any type of seismic activity in wilderness areas without allowing exploratory drilling, and the reasons for prohibiting drilling have already been discussed at length.

Regardless of the type of seismic exploration employed, it is impossible to adequately mitigate fire hazards and wildlife impact. Even under the method of seismic exploration that is thought to be the least damaging, there are grave risks of forest fires. Typically, 50 pounds of explosive is detonated every 150 to 200 feet for several miles or more. In order to do the job adequately, a surveying crew might construct a grid of crisscrossing lines that is many square miles in size.

Although such a system involves only a small crater around each explosive charge, there is also some burning of vegetation. Since seismic exploration usually occurs during times of good weather, this activity clearly represents a serious forest fire risk.

In addition, seismic exploration can have harmful effects on wildlife species, many of which are extremely sensitive to human activity. Not only are explosions disturbing, but so are helicopters and other activities associated with seismic exploration.

Mr. Chairman, I said during general debate on this bill that the reason we are here debating this bill is that the administration has miscaluated by underestimating the importance of wilderness and other environmental issues to the American people. We all share the goal of making our Nation more energy independent, but the amount of oil and gas at issue here is simply not worth the sacrifice of compromising this national commitment to compromising the wilderness character or the recreational value of these lands.

In summation, in opposing this amendment I might say that the explosive potention is so great relative to the fragile ecosystem we are dealing with that we might dub this amendment the "Nuke the Moose" amendment.

Mr. BEREUTER. I would have to say that if the President is ever to appropriately exercise his emergency powers we simply must have this kind of seismic exploration. It is not a damaging kind of provision to add to this bill; nor is the technique really damaging to the wilderness areas where it might be used.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the distinguished gentleman from New Mexico, the ranking minority member of the Committee in Interior and Insular Affairs.

Mr. LUJAN. The gentleman, as always, comes up with a very reasonable explanation and I think he has done so in this particular case.

Seismic is a buzzword and any time you are going to use that you are going to incur the wrath of many people. But the fact is, that there is no damage to the surface of the wilderness area. It is just that we seem to draw sides and find ourselves in that position many times.

I congratulate the gentleman on his logic.

Mr. BEREUTER. I thank the gentleman.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the distinguished gentleman from Wyoming, my colleague on the committee.

Mr. CHENEY. Mr. Chairman, I rise in support of H.R. 6542, which would prohibit the leasing and development of oil and gas in our Nation's wilderness system.

Although the bill lacks certain provisions which I would have preferred to see included, such as clarification of the status of certain lands outside the wilderness system, I nevertheless supported this legislation in committee and I vote for it today because of a strong personal belief that congressionally designated wilderness areas should be off-limits to oil and gas leasing and development at this time.

This has been my position for more than a year, dating back to the disclosure that hundreds of lease applications had been filed on wilderness lands, including Wyoming's Washakie Wilderness—a 686,584-acre region in northwestern Wyoming, adjacent to Yellowstone National Park, which was set aside by Congress several years ago as a component of the National Wilderness Preservation System.

Our national parks and wilderness areas are special places which deserve preservation and protection from development. I believe, and I think most people agree, that oil and gas development could be potentially destructive to the physical characteristics of these areas and that it would be incompatible with the esthetic and scenic attributes which motivated the Congress in the first place to single out these areas for special status. Therefore, I strongly support that portion of H.R. 6542 which prohibits leasing in designated wilderness areas. This action will place the Congress clearly on record, ending the speculation and uncertainty that currently prevails as to the legal responsibilities of the Government under the 1964 Wilderness Act with respect to leasing in wilderness areas.

At the same time, I wish to make clear my disappointment that the committee refused when considering this legislation to provide the same kind of clear guidance and management certainty with regard to lands which have been studied for wilderness potential, but not included in the wilderness system. For too long, too much land has remained in uncertain management status in the wake of the Forest Service's RARE I and RARE II wilderness inventories. This legislation should have addressed this problem. Attempts to raise this legitimate area of concern during committee consideration of the bill were ruled nongermane, thus precluding a full and open discussion and a vote on the record.

The point is that the purpose of this legislation is to prevent leasing and development in areas set aside by Congress as wilderness. However, the bill withdraws from leasing not only designated areas, but also propsed areas and lands under study which may eventually be proposed as wilderness, pending congressional action on their status. Yet, there is nothing in the bill that would impel the Congress to determine the wilderness status of these lands in a timely fashion—such as a date in the future on which these lands would again become available for leasing in the event of congressional inaction. In other words, certain lands are withdrawn without benefit of congressional decision as to whether or not they should be added to the wilderness system, and certain other lands could automatically be withdrawn from leasing merely by virtue of their being recommended for designation as wilderness at the end of a study process. Congress needs to fulfill its responsibility to make a decision, one way or the other, on the wilderness status of these lands, so that they can be considered in the forest planning process and managed according to their particular attributes. Instead, these lands are in management limbo.

In an effort to address this problem of management uncertainty in my own State, I have joined with Wyoming's two Senators to introduce the Wyoming Wilderness Act of 1982. Our Wyoming bill has three major objectives. First, like the bill we are considering today, it would withdraw all congressionally designated wilderness areas in Wyoming from leasing. In this regard,

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our bill goes a step further than the Lujan-Seiberling bill by also withdrawing Wyoming wilderness areas from operation of the mining laws, subject to valid existing rights, effective upon enactment. Second, our bill would add several hundred thousand additional acres of national forest lands in Wyoming to the wilderness system. And, third, it would release remaining forest lands from their current uncertain status and include them in the forest planning process. It is the hope of the Wyoming congressional delegation that our bill can be enacted yet this year.

Mr. Chairman, I would like to make one other point about Wyoming's contributions, both to the Nation's wilderness system, and to the effort to achieve energy sufficiency. Currently, about 25 percent of Wyoming's national forest system has been designated as wilderness. More than 2 million acres of some of the Nation's most spectacular wilderness country is in Wyoming, and if the Wyoming congressional delegation's bill is enacted, our contribution to the wilderness system will increase by several hundred thousand acres. We in Wyoming are proud of our national parks and wilderness areas, and we mean to preserve and protect them.

We are also proud of our contribution to the Nation's energy supply. For many years, the oil and gas resources of Wyoming have helped fuel the American economy, and they continue to do so. There are enormous coal resources in Wyoming which we have only begun to tap. There are extensive uranium deposits, and a variety of other important minerals. Since half of Wyoming is owned by the Federal Government, most of these resources lie beneath federally owned lands—national forest and Bureau of Land Management lands. It is the view of most Wyoming people that we should continue to encourage the development of these resources, which contribute to the Nation's energy security and benefit the economy of the State.

It is also the view of most people that Wyoming's national parks and wilderness areas, which comprise less than 10 percent of the State's land, should be protected from development. These lands should be off-limits to leasing, and that is why I support the legislation before us today.

The remaining federally owned lands in Wyoming should be managed according to the several laws already on the books and according to their particular attributes. For many areas, that should mean allowing leasing and others kinds of public uses. But the land planning and management responsibilities of the various land-managing agencies cannot be met until Congress fulfills its responsibility to make a decision on the status of federally owned lands.

The bill before us today represents one important decision: that wilderness areas will be off-limits to mineral leasing. Now, it is time for Congress to get on with the job of determining the status of millions of acres still in limbo.

Mr. BEREUTER. I thank the gentleman for his comments.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished and able gentleman from Louisiana, also my colleague on the committee.

Mr. HUCKABY. I thank the gentleman for yielding and want to commend the gentleman from Nebraska (Mr. BEREUTER) for his excellent statement.

I also am in favor of this legislation. In addition to that, I support the gentleman from Alaska in his amendment. I think it is a reasonable balance, just enabling this Nation to take inventory of what we have so that in the future, if it is necessary that we develop these areas, and hopefully it will not be, but at least we will have an inventory and have the knowledge of what is there.

I think that this amendment certainly offers a reasonable balance and I think the statements today bear out that there will be no harm done whatsoever to the wilderness areas.

Mr. BEREUTER. I thank the gentleman for his comments and yield back the balance of my time.

□ 1100

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am strongly opposed to this amendment which would remove the bill's prohibition against seismic blasting in areas formally designated as wilderness. I would note that this amendment was offered during markup in my committee and was soundly rejected by a vote of 28 to 11.

The bill as it stands before the House today would permit such testing in wilderness candidate areas, but would prohibit blasting in areas that the Congress has formally determined to be wilderness. There is a good and obvious reason for this action. Wilderness candidate areas are still in something of a state of examination and discussion. Congress has not yet determined them to be deserving of designation as wilderness, although it may soon do so. But formal wilderness areas have passed through this process and have been determined fully qualified.

Although some forms of blasting do not involve great or permanent damage to the surface of the land in a wilderness, there can be no question that all forms of seismic blasting entail considerable disruption. Helicopter overflights are frequent, crews of workers are in and out, hundreds of explosions may be ignited each day, wildlife is disrupted, and forest fires are increased.

These are not permanent effects on the wilderness but they are significant and wilderness areas are special places. The Wilderness Act itself describes these lands as places that have "outstanding opportunities for solitude or a primitive and unconfined type of recreation." Now I have managed to spend a great deal of time in the outdoors myself and I cannot understand how anyone else who has ever been in a wilderness area would not cringe at the thought that he would have to share this grand and glorious environment, this place with an "outstanding opportunity for solitude," with the sound of a few hundred TNT explosives reverberating around the mountains every day.

Now, if some overriding national purpose were being served by this negation of everything most people go to wilderness areas for, then I might understand. But despite the assertion of the amendment's proponents, seismic testing does not determine what is the mineral potential of a given area. There is nothing definitive about seismic testing in determining the oil and gas potential of the lands subjected to this blasting. There are other ways, if they must be employed, for geologic information about whether the lands may be favorable for oil and gas that are far less destructive to wilderness values.

This brings me to a point I would like to make about an argument that is made generally against our bill, and indeed it is made constantly against the very concept of wilderness. Some of my colleagues ask, "How can you lock up this land until you know precisely what minerals, what oil, and what gas lie underneath? Let's find out what resources are there first."

I come from the greatest mining State in the Union and I have been listening to arguments about mining all my life. If there is one thing you can say with any certainty about finding minerals it is that a mineral inventory is not like taking inventory in a supermarket. It is not like counting cans of peaches on a shelf. The knowledge and the technology that helps us determine what minerals exist in a given place, as well as the knowledge and technology that make it possible to extract those minerals, are constantly changing and improving.

In the oil and gas business, you can never know "what is there" until you build roads, get your equipment in and drill a hole in the ground. Without it, you can never get the kind of "knowledge" that opponents of this bill say we must have before we designate a wilderness area. So what these opponents would have us do is build roads and move in drilling equipment and punch holes deeper and deeper, year after year, in every area of this country that could become wilderness. In the process, of course, the wilderness values are destroyed and those very areas we cherish so much are condemned to a lengthy, if not perpetual, exploration program.

I do not think that this is a proposition many of us would accept. I think most of us understand that in everything we do we make decisions on the basis of imperfect information—it is information that is the best we can possibly have, but it is imperfect. The job of designating and maintaining wilderness is no different. It is and always will be impossible for us to know everything there is to know about a wilderness area before it is designated.

But we are able to say that this area is primitive, its wildlife is abundant, its scenery special and its opportunities for solitude and divorce from the modern industrial world outstanding and that this should be the last place where we dig and drill and mine and pave and blast. I would hope that my colleagues keep this in mind as we vote on this amendment, and others to follow, and of final passage of this important bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in opposition to the Young of Alaska amendment. I think it breaches the good faith agreement that of the Interian Committee. I understand there might be some misunderstanding, but clearly I think the intention of the legislation is to achieve a compromise in an area where there had been confrontation between the Department of the Interior, specifically the Secretary, and the committee. I would hope that we could move ahead on this compromise. Many of us have bent over backwards to provide the type of inventory and survey opportunities that are present in this bill. I feel that this attempt to grab, to expand on that and to open it up further in these areas for seismic blasting, 270,000 pounds of explosives, for instance, in the Montana area, would be inappropriate

Mr. Chairman, I think there are other ways we can achieve that. Necessity is the mother of invention. There are other ways that we can obtain that which will be less intrusive to wilderness. I would hope that we would vote down this amendment and seek other means to provide for the adequate inventorying of these resources.

Mr. Chairman, it has been almost 20 years since the enactment of the Wilderness Act. With this historic legislation, Congress declared that it was a national policy "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness." In making this commitment, Congress assured the public that when the environmental and recreational opportunities that wilderness areas offer was sought, it would be found.

Yet, we are now faced with an assault on our commitment to the preservation of the irreplaceable assets that wilderness represents. For over a year there has been an intense debate taking place on the question of whether to allow oil and natural gas leasing in wilderness areas. The debate arose because the present administration in their rush to open public lands, proposed granting leases in several environmentally fragile areas.

Leasing and exploration in wilderness areas is a high stakes issue, whose consequences threaten the integrity of that which we have worked so hard to protect. Virtually all Americans recognize the need for the United States to become more energy independent. Legislation has been enacted that balances this need with conservation of our unique resources. Careful compromises were worked out in an effort to secure the proper management of the public's resources. As a result of these past legislative compromises, there are presently over 100 million acres of Federal land under lease.

Mr. Chairman, H.R. 6542 is a careful compromise in the tradition of past legislation. To allow the splintering of this compromise through amendment which subvert the intent of this legislation, shakes the premises on which this compromise was formed. The House Interior Committee held a number of hearings, including one I chaired in St. Paul, Minn., to gather information on the wilderness question. The hearing record speaks for itself. The public thoroughly enjoys and values the wilderness areas we have and is adamant in their opposition to activities which threaten this resource. I think we in Congess would do well to heed the public's concern and pass H.R. 6542 as drafted by the Interior Committee.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I rise in opposition to the amendment and in support of the bill as reported from the committee.

I think Members need to remember what the wilderness system was intended to be when it was created. The wilderness is an area in which man is a visitor. I cannot understand how anyone can feel that man, bringing in dynamite for seismic tests on the surface or beneath the surface, can believe in any way that that is compatible with the idea of a wilderness.

The gentleman from Arizona makes the point that this prohibition does not apply to candidate wilderness areas. I think that is a crucial fact. It applies only to the designated areas.

I do not think that anyone should feel like they are a no-growth freak to oppose this amendment. The conservative columnist, George Will, as Chairman Seiberling indicated, has come out essentially in agreement with the committee's position on this issue. If George Will is, to use the gentleman from Alaska's term, a "zero growth" extremist, then Alexander Haig is a "shrinking violet."

The bill is a solid compromise and only the most narrow of special interests oppose its enactment.

I commend my colleagues for producing this legislation. I know it was not easy—particularly in light of all that Secretary Watt has done to confuse this issue.

Like many Americans, I was stunned one Sunday morning last February to hear the Secretary announce that he intended to present Congress with legislation to close the Nation's 80 million acres of wilderness to oil and mineral development. I was hopeful that Secretary Watt's statement marked a turn-about in his attitude and I anxiously awaited a draft of his bill.

I was quickly brought back to reality once I read it. It was a sham. Instead of preserving the wilderness system, it would have destroyed it.

After reading the fine print, I joined nearly 140 of my colleagues in cosponsoring House Resolution 427, introduced by Mr. Udall and Mr. Conte. That resolution laid out some fairly basic principles with respect to our existing wilderness, the foremost among them being that the National Wilderness System should be the last place where oil and gas development is allowed to occur.

This bill strikes a bipartisan compromise that averts the crisis brought about by the Secretary's actions. Much of this could have been avoided if the Secretary had exercised his discretion in this matter as previous Secretaries had done.

As we all know, the Secretary, while empowered to issue leases, is not forced to do so and, since the passage of the Wilderness Act in 1964, no Secretary of the Interior, regardless of political party, has done so.

I strongly urge my colleagues to vote for this bill and against any weakening amendments. It is a thoughtful, balanced piece of legislation designed to protect our current wilderness system and future additions as well as insure the orderly development of our mineral resources.

Mr. UDALL. Mr. Chairman, I urge a "no" vote on the amendment.

Mr. Chairman, I yield to the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. I am glad the chairman of the full committee

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recognizes us. I thought we did have an agreement. We can go on and on. I am going to start asking unanimous consent for an extension of his time.

Mr. UDALL. I did not ask for an extension. I will be glad to yield what time I have to the gentleman.

Mr. YOUNG of Alaska. I understand what you are saying, but I just want you to know on that side that if we editorialize when we continue, I am going to ask for it. I just want you to know that.

Mr. UDALL. Mr. Chairman, I ask for a "no" vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska (Mr. Young).

The question was taken; and on a division (demanded by Mr. Seiberling) there were—ayes 14, noes 20.

RECORDED VOTE

Mr. YOUNG of Alaska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 281, not voting 38, as follows:

[Roll No. 270]

AYES—115

Archer
Ashbrook
Badham
Bailey (MO)
Benedict
Bereuter
Bliley
Bouquard
Bowen
Breaux
Brown (CO)
Broyhill
Butler
Campbell
Carman
Chappie
Cheney
Corcoran
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Dreier
Edwards (AL)
Edwards (OK)
Emerson
English
Evans (GA)
Fields
Forsythe
Fountain
Gramm
Grisham
Hagedorn
Hall, Ralph
Hall, Sam
Hansen (ID)
Hansen (UT)
Hartnett
Hightower
Hiler
Hillis
Holt
Huckaby
Hunter
Jeffries
Johnston
Kasen
Kemp
Kindness
Kramer
Leath
LeBoutillier
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
Marlenee
Marriott
Martin (NC)
Martin (NY)
McDonald
Molinari
Montgomery
Moore
Myers
Napier
Nelligan
Oxley
Pashayan
Patman
Paul
Pickle
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rousselot
Rudd
Schulze
Shelby
Shumway
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (OR)
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauzin
Taylor
Thomas
Walker
Wampler
Watkins
Weber (OH)
Whitehurst
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Young (AK)

NOES—281

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Brinkley
Brodhead
Brooks
Burton, Phillip
Byron
Carney
Chappell
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Coughlin
Courter
Coyne, James
Coyne, William
D'Amours
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emery
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Hawkins
Hefner
Heftel
Hendon
Hertel
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lagomarsino
Lantos
Leach
Lee
Lehman
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marks
Martin (IL)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Mollohan
Moorhead
Morrison
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Simon
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
St Germain
Stark
Stratton
Studds
Swift
Synar
Tauke
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Weber (MN)
Weiss
White
Whitley
Williams (MT)
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—38

Bafalis
Blanchard
Bolling
Broomfield
Brown (CA)
Brown (OH)
Burgener
Burton, John
Collins (TX)
Conyers
Crockett
Dingell
Dixon
Dornan
Erlenborn
Ertel
Ferraro
Fithian
Gibbons
Ginn
Goldwater
Heckler
Ireland
Jones (NC)
Latta
McClory
McCloskey
Michel
Miller (OH)
Moffett
Nichols
Quillen
Richmond
Rosenthal
Savage
Siljander
Stokes
Wylie

□ 1115

Messrs. ATKINSON, BRINKLEY, PRITCHARD, and DAVIS changed their votes from "aye" to "no."

Mr. RITTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Alaska: Page 2, line 14, delete ";" and insert ".", strike lines 15-22.

Page 3, strike lines 1 through 25.

Page 4, strike lines 1 through 6.

Page 5, line 5, strike the "." and insert ";" and add:

"(e) lands within the forest system which have been recommended for designation as wilderness in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119);

"(f) wilderness study areas designed by act of Congress; and

"(g) lands within the national forest system identified for further planning in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119)."

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, at this time, because of the time limit, I ask unanimous consent to extend the debate time on all amendments to the bill for an additional 10 minutes, to be equally divided.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Alaska (Mr. Young) is recognized for 7½ minutes.

Mr. YOUNG of Alaska. Mr. Chairman, the last vote shows the mood of this House, the pressure of those groups that have misled you, the inactivity of those who try to tell you they want to seek those resources. Frankly, I will tell you that you voted your consciences, but without good knowledge.

Mr. Chairman, the additional part of this bill, to which the last amendment was not accepted, would have made the bill part way compatible; but there are 14½ million acres in this bill and I want each one of you in this room to know that it affects you because it is in your districts, and you have not spoken on it. You have not voted on it. You have not had any hearings on it.

The fact is you are being asked today, unbeknownst to you, to put in an additional 14½ million acres of land by the action of this bill. I do not know how many of you know this.

Mr. Chairman, we are faced with an energy shortage, a mineral shortage, and we are cutting our own throats. I hope some of the Members that voted against that last amendment and are going to vote for this bill recognize what you are doing to yourselves, and I am going to go through the areas.

Alabama has 12 areas that are going to be affected by this legislation and we had no hearings on it.

Arizona, 37.
Arkansas, 11.
California, 217.
Colorado, 20.
Florida, 12.
Georgia, 11.
Idaho, 37.
Illinois, 6.
Kentucky, 2.
Mississippi, 3.
Missouri, 2.
Montana, 66.
New Hampshire, 8.
New Mexico, 6.
Nevada, 15.
North Carolina, 24.
Oregon, 43.
Pennsylvania, 12.
South Carolina, 3.
Tennessee, 8.
Texas, 6.
Utah, 26.
Virginia, 18.
Vermont, 2.
Washington State, 29.
West Virginia, 3.
Wisconsin, 7.
And Wyoming, 32.

And we are not having one hearing on those wilderness areas. Now, my good chairman will tell you, saying, you vote for this bill and then if you do not want it in wilderness, we will take it out. My friends, how many wilderness areas have we ever taken out after we put it into wilderness? None. We have taken no wilderness area out.

We have 229 million acres in wilderness and our people are out of work. We are taking from the Third World. We are buying with our economic might and we want to have wilderness.

All I have ever asked is that let us identify them. Yes, have wilderness, but let us not lock up those resources that we will need.

Even the gentleman from Ohio and the gentleman from Arizona say that when we want it, we will go get it.

I saw what happened to Alaska in 1941. It was not the oil companies, it was not the mining companies, it was this Government and this Congress that went out and dug ditches and used cats and it took over $500 million from the oil companies when we had Prudhoe Bay to clean up the Government's mess.

That environmental group took that hall and that hall and downtown, sat here and misled this body into the idea that we have all those resources, and we do not.

□ 1130

Now, I can tell my colleagues I may be crying in the darkness but, by God, some day along the line someone will look back in history and say, "Who were those people that misled this Nation, and how weak and spineless were those people who followed them without understanding and making rational decisions?"

No, you will not make a rational decision. It is election year and you respond to that well-organized group. I can tell my colleagues, they are misleading their constituency. Unfortunately, you can have both if you will just listen to reality and recognize that the environment can be protected by man and inclusion of man, not the exclusion of man. But you will not do that. Not today. Not last year. Maybe next year when the gas pumps are lined up again, when the houses are cold, when the people are out of work, when we are asked to pass restrictive legislation so we do not import finished products; if maybe then, but until that time you are going to follow that pied piper out here, that 57 different groups, who tell you you cannot be against the wilderness, you must get close to the soil.

We talk about hearings on this bill. Five hundred people testified. I will challenge the chairman or the staff on that side right now. If you will check each one of those people, they belonged to one of those groups. That is not a cross-section of America. I did not see any sweatshirts. I did not see anybody down there that had been drinking beer on Saturday while they are out of work.

I saw just a group of people who have that special time or money or privilege and are able to enjoy the wilderness.

I will tell my colleagues right now, it may only take a few more years, hopefully longer than that, but a few more years and this body is going to react. This body is going to react and say, "Where are those resources? My God, we do not know. We did not use seismic activity. We did not use the knowledge that we had on hand, but we are out of these minerals such as chrome, magnesium. We are out of oil and coal."

They are going to say, this body is going to say, "Where is it? Let us go get it right now. Let us go get it. Let us rip, rape, and run. Let us do it now, because we need it."

We need it now. No planning. No management. No consideration of mankind. No understanding, complete ignorance. Ignorance is what we are dealing with here today.

I ask my colleagues, and I ask my colleagues again, to consider what is being done here. Fourteen and one-half million acres of land that is in your districts, you have not had one hearing from your constituents on these issues. Fourteen and one-half millions acres of land.

I urge you to vote for this amendment. If you do not vote for this amendment, go ahead and vote against the bill, but do not do it blindly, as you are doing now.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

The gentleman from Ohio (Mr. SEIBERLING) is recognized for 7½ minutes.

Mr. SEIBERLING. Mr. Chairman, I rise in strong opposition to the amendment.

The amendment would gut the compromise that was reached in this bill. This bill allows seismic testing in wilderness candidate areas; that is, areas that have been recommended for wilderness by the administration, areas that are recommended for further planning by the administration and areas that have been designated by Congress for further study.

What this amendment would do would be to deprive Congress of the option to decide whether or not to put those areas in wilderness and would breach the compromise that allows continued exploration in those areas.

Now, why should this be defeated? Because if we allow roads, as well as drill rigs and seismic dynamiting in wilderness candidate areas, all at the same time, these lands are going to lose their character of wilderness and, therefore, Congress will be deprived of the option to make that decision.

What is more, under the compromise bill which the gentleman from New Mexico and I worked out, the administration, any time it wants to, can withdraw the recommendations for further planning or for wilderness as part of its normal planning process, and all this bill says is that if they do, Congress will have 1 year from that time to decide whether or not to take action.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be glad to yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Chairman, I would just like to make the comment that the gentleman from Ohio (Mr. SEIBERLING) is correct. All that we are attempting to do here in not allowing drilling and exploration in wilderness candidate areas is to preserve them so that we can make that decision in the future.

If we make the decision that they are not going to be wilderness, then we can go ahead and develolp them. But not to do anything within that wilderness candidate area that will destroy the wilderness characteristics until we have an opportunity to see if they are worthy of wilderness designation.

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So I would urge the defeat of this amendment.

Mr. SEIBERLING. I thank the gentleman for his help as coauthor of this bill.

Mr. Chairman, before we finish our debate on this important legislation, I also want to pay tribute to our colleague, the gentleman from California (Mr. Phillip Burton) for his leadership on this legislation. Mr. Burton introduced the original bill to prohibit without qualification, all mineral leasing in wilderness and wilderness candidate areas. He is the spiritual author of this legislation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. FISH. I thank my colleague from Ohio for yielding.

Mr. Chairman, I rise in strong support of this legislation, and in opposition to all amendments to open proposed wilderness areas to mineral development.

Mr. Chairman, the need for H.R. 6542 has been made clear by many of my colleagues. As a result of the Department of the Interior's new interpretation of the Wilderness Act of 1964; we are faced with the potential opening up of pristine wilderness lands to mineral leasing. Congressional intent in passing the Wilderness Act was to continue the policy of denying applications for leases in wilderness areas unless directional drilling or other non-surface methods could be used. This policy was followed by the Forest Service until May of 1981. At that time, the Secretary of the Interior announced his intent to consider applications for mineral leases and seismic prospecting in wilderness areas.

Mr. Chairman, there is unquestionably a need for greater use of the tremendous natural resources of the United States in order to relieve the U.S. economy of the burden of relying on the whims of other nations.

But in achieving this goal, we must not detract from the critical need for maintaining the beauty and sanctity of our wilderness areas. The purpose of H.R. 6542 is to protect areas already in the National Wilderness Preservation System from mineral leases by immediately and permanently withdrawing all land in the Wilderness System from oil, gas, oil shale, and other mineral leasing. These lands would have been withdrawn from potential development under these leases as of December 31, 1983. In order to prevent the unwarranted and unnecessary new policy of the Department of the Interior from taking effect and mineral leases being approved, H.R. 6542 prevents new leasing between now and December 31, 1983. I believe this legislation is critical to preservation of our wilderness lands.

The other important result of the provisions of H.R. 6542 is to permit the President, with the concurrence of the Congress, to open any withdrawn area for potential leasing in case of urgent national need.

Mr. Chairman, we are talking about only 2 percent of the land in the lower 48 States, and less than 5 percent of oil and gas resources. Surely, development of those wilderness areas even on the potential that such resources exist is not worth the environmental cost of losing the beauty and continuity of the wilderness areas.

I urge my colleagues to oppose all amendments that attempt to weaken this vital legislation. H.R. 6542 is the most critical environmental legislation to be considered in this Congress. It is the product of many hearings and much compromise and deserves our full support. Without H.R. 6542 as reported by the Interior Committee, we will not be able to fully preserve our wilderness lands as they have been for hundreds of years.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Chairman, I think that there is a point here that is very important to the Members of the House.

The CHAIRMAN pro tempore. The 3 minutes of the gentleman from Ohio have expired.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Montana (Mr. Williams).

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Chairman, there is an important point here to which each of us should pay attention. The sponsor of this amendment has stated that it may affect areas in my colleagues' congressional districts or in their States. His amendment affects 14 million acres of wild land left in this country and, yes, some of it may be in your congressional districts. The areas have either been recommended for wilderness by the administration, not by the Congress—we have not yet agreed—or they are being studied for potential recommendation for wilderness.

If this amendment passes, development may be allowed to go ahead before we have our hearings and decide whether or not we want to preserve these areas. So if my colleagues want to maintain them as good, pure, pristine wild areas until they get a chance to make up their minds, vote "no" on this amendment.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. Byron).

Mrs. BYRON. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me bring up a point that the gentleman from Montana just brought up, and that is, my State is not on the list that the gentleman from Alaska mentioned. Unfortunately, we do not have any wilderness areas in my State to be considered because there were no Members serving before us looking out for the wilderness areas in our State to be maintained and retained.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. Weaver).

Mr. WEAVER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I chaired a hearing in Seattle at which 172 witnesses appeared. As a cross section, there were accountants, loggers, business people. They were from all walks of life. They all testified against such measures as are in this amendment here today.

By the way, hearings were well advertised throughout the State, throughout the region. Everybody knew about them.

Throughout the day I said, "Is there not someone who will stand up for Mr. Watt?" And no one would.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. Udall), the chairman of our committee.

Mr. UDALL. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me review basically why we are here today.

We are in this process of sorting out what ought to be wilderness and what ought not to be. Secretary Watt took the position that he was compelled to lease areas in the wilderness system under the law, and there was a big outrage in Montana because the oldest and best of the wilderness areas, the Bob Marshall, the drilling rigs were poised to go.

We had an emergency meeting of the committee and were able to head that off.

Then down in New Mexico, two areas in the Capitan Wilderness were actually opened and leases were signed for drilling in the State of New Mexico. There was a great deal of concern.

So what we are trying to do in this bill is to clarify the law. Under this bill, the Secretary not only does not have to lease, but does not have discretion; it must come to the Congress for a decision on these matters. That is the purpose of this bill, to clarify the situation.

Secretary Watt says he agrees we ought to go to the wilderness areas last; if the day comes when we are down to our last barrel of oil, we may have to go into the wilderness areas. But we are clarifying his power and authority in the manner he requested.

The CHAIRMAN pro tempore. The Chair reminds the gentleman from

Ohio (Mr. Seiberling) that he has 1 minute remaining.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from Washington (Mr. Lowry).

Mr. LOWRY of Washington. Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act. The 1964 Wilderness Act permitted the mining laws to be in effect in wilderness areas until 1984. I thought of this as a generous safety valve granted to the mining and energy interests in the original act. Now, as a result of threats by the administration to open up wilderness areas, and even to make wilderness the focus of leasing activities, we must reconsider that safety valve.

In Washington, two wilderness areas, the Alpine Lakes Wilderness, and the Wenaha-Tucannon Wilderness, were threatened by lease applications. At Alpine Lakes, the Enchantment Lakes area is the very center of the oil and gas leasing applications. In section 5 of the Alpine Lakes Wilderness Act of 1976, Congress foresaw the importance of the Enchantment Lakes area and asked the Forest Service to conduct a special study, "taking into consideration its especially fragile nature, its ease or accessibility, its unusual attractiveness, and its resultant heavy recreational usage. The study shall explore the feasibility and benefits of establishing special provisions for managing the Enchantment Lakes area to protect its fragile beauty, while still maintaining the entire area for projected recreational demand."

That provision alone should provide plenty of reason to deny any lease application in this area, but we should not expect to find similar provisions in every wilderness bill.

In a Seattle field hearing on April 16 by the House Public Lands Subcommittee, not one witness favored increased drilling. Nearly all asked that the "window of vulnerability" from now until December 1983, be closed. These articulate witnesses included representatives of the cities of Seattle and Tacoma, the leaders of many conservation organizations, the director of the Seattle Zoo, sportsmen, Indian tribal leaders, scientists, and ordinary citizens. I want to thank and commend the gentleman from Oregon (Mr. Weaver) for his excellent service chairing that 2 hour Seattle hearing.

If Secretary Watt were to plan a strategy to generate opposition in Washington State to leasing even in safe areas, one effective way to do it would be to propose such activities in the Enchantment Lakes. Our former Governor, Republican Dan Evans, has called this area "the border between Heaven and Earth." It makes no sense geologically to propose drilling in these volcanic areas. It makes even less sense from an environmental point of view.

Another effective way to generate opposition would be to propose leasing in the watersheds of major cities. The Bureau of Land Management has done just that by allowing and actually granting leases in the watersheds of Seattle and Tacoma, in spite of existing agreements with the cities; in spite of objections by the Forest Service; and in spite of the fact that Seattle relies on a pure source, gives its water only minimal treatment, and would be required to spend millions of dollars to build a treatment plant if its watershed were to become polluted or full of silt.

It is this type of abuse of delegated authority which brings us to the need for this bill. Ideally, it would seem reasonable to leave open some opportunity for leasing to occur in the event of some national emergency, oil embargo, or the like. But I cannot conceive of the logic of this administration, this Interior Department, this Forest Service, which says that wherever any private company or individual, for whatever reason—speculation or not—has chosen to file an application, that application takes priority over the public's interest in the land. Due to the opposition by this administration to the bipartisan policies of the last 20 years, this delegation of authority must be revoked.

I strongly support that provision of the Lujan-Seiberling bill which prevents mineral leases from being issued for national forest lands under formal consideration for wilderness designation. In my State, we are still debating the issue raised in the RARE II process. The citizens of Washington deserve a chance to have their case on wilderness heard, without pre-emptive damage from drilling and exploration.

In the April field hearings, Mr. David Hancocks, director of the Seattle Zoo, expressed the views of my constituents very eloquently when he said:

> I believe the remaining wild lands of America are the soul of this nation. You must not sell them, no matter how tempting a deal you may be offered. . . . Future generations will never forgive us if we allow the best of America's natural treasures to be traded for the 20th Century equivalent of a barrel of beads.

I urge the adoption of H.R. 6542 without weakening amendments.

I want to commend the excellent work by the full committee chairman, Mr. Udall, the subcommittee chairman, Mr. Seiberling, and the ranking minority member from New Mexico for their excellent leadership on this vital legislation.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the bill. I want to say Mr. Watt wanted to allow drilling in the Seattle and Tacoma watershed in the State of Washington, and we appreciate this committee helping us stop Secretary Watt from doing this despicable act.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from California (Mr. Panetta).

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment.

An amendment has been offered by Representative Young to this balanced legislation which would seriously undermine the purpose of H.R. 6542, would contradict the intent of Congress in instituting a roadless area review (RARE II) process, and would open millions of acres of wilderness planning areas to the permanent consequences of development without permitting requisite assessment of the areas' natural resources. Representative Young's amendment would remove the provisions which grant temporary protection to Forest Service wilderness study areas and further planning areas pending assessment of their wilderness values.

My district's Los Padres National Forest would be severely affected by this amendment. Hydrocarbon leases affecting thousands of acres of study area are pending for the Los Padres National Forest. Enactment of Representative Young's amendment would pass judgement on the suitability for wilderness designation of not only this land, but of over 7 million acres of diverse roadless area all across the Nation. Sensitive alpine areas would be considered with delicate marshland and desert in a single wasteful stroke.

Upon enactment of this amendment, irreparable damage to further planning areas would be permitted. Hydrocarbon exploration and production temporarily prohibited in these areas pending completion of studies to determine their suitability for wilderness designation would cause irreparable damage to these study areas before study has been completed and waste the considerable time and energy already devoted to study of these areas.

That time and energy is considerable. Assessment of wilderness study areas and further planning areas has been underway since 1979. Review of further planning areas in the Los Padres National Forest has been underway since October 1979. The review is proceeding on schedule and a draft assessment for the area is scheduled for completion June 1983. Actually, the draft forest plan for the Los Padres Forest has been delayed considerably, more than many other forest plans in the region. Several other further planning areas in the region are scheduled to publish their draft environmental assessments in November of this year, several months prior to the scheduled completion of the Los Padres assessment.

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Congress in enacting the Wilderness Act, recognized a wilderness area as "an area where the Earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." These are strict guidelines, to be sure. In all likelihood, many further study areas do now posses the unique qualities by which wilderness areas are distinguished. It is probable that some of these further study areas will not be considered suitable for designation as wilderness areas, and will be opened for hydrocarbon development in order to provide for our Nation's energy needs. However, if Representative Young's amendment to exclude these lands from the Wilderness Protection Act is included with the bill, a reasonable decision based upon assessment of an area's wilderness character will not occur. Instead, millions of acres of study area will be opened for leasing before completion of the review.

The subcommittee of the Congress have heard convincing testimony regarding the destructive force of explosive seismic testing conducted as a part of hydrocarbon exploration. Testimony has been heard from exploration crews describing the practice of blasting and reblasting identical or similar shot lines in exploration areas as a result of industry interest in protecting proprietary resource information. The danger of forest fires resulting from exploratory blasting, as well as the necessity of numerous roads and structures for test-hole drilling has been well documented.

The result of these exploratory steps, far from having the minimal impact some would have us believe, is significant, long-lasting damage to areas sensitive by their very nature as study areas for possible designation as wilderness. The result is permanent degradation of those exact qualities by which further planning areas were initially designated for study. The result is antithetical to the definition of "wilderness."

To permit hydrocarbon exploration and development in wilderness study areas with the knowledge that such exploration will probably result in long-lasting destruction of those same qualities which could qualify the area for wilderness status is to decide that studies conducted across the Nation to determine qualifications of candidate areas do not deserve completion. To permit the destruction of wilderness study areas by opening those areas to hydrocarbon development is to impose a self-fulfilling prophesy upon them. In the Wilderness Act, Congress was explicit in describing those attributes of a wilderness area. Testimony before our committees has confirmed the truth implicit in that act: Wilderness designation and hydrocarbon development are simply incompatible.

Heated conflict has been generated over the matter of leasing in wilderness areas. At times, the issue has appeared to be beyond resolution. However, divisive the issue has been at times, some middle ground—a point of agreement common to all interests—has been maintained. Throughout the consideration of this issue, at least one focus of agreement has been preserved: the temporary protection of wilderness study areas until studies to determine the suitability of wilderness designation are completed. It has been preserved in H.R. 5603, which was supported by Secretary Watt and cosponsored by Representative Young. It is an essential provision of H.R. 6542 as well.

There is considerable disagreement in the Congress regarding the necessity of hydrocarbon development on public lands. Compelling arguments have been presented for all aspects of the debate. But the issue at hand here is not one of whether or not hydrocarbon drilling should occur on public lands, nor is it even one of whether or not hydrocarbon development in wilderness areas is justified. The issue presented by the Young amendment is of whether or not this Congress will respect the Wilderness Act and the will of the administration, the Secretary of the Interior, previous Congresses, and the American people in allowing study of wilderness candidate areas to reach conclusion.

This proposal to exempt wilderness study areas from provisions of H.R. 6542 was not offered in committee, nor was a similar provision to the administration's H.R. 5603 included in that bill. Exemption of wilderness study areas was not considered necessary then, nor should it be considered necessary now. I urge my colleagues on both sides of the aisle to oppose passage of this amendment.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, do I have any time, or did I yield back the balance of my time?

The CHAIRMAN pro tempore. The Chair believes the gentleman used his time and yielded back what he did not use.

Mr. SEIBERLING. Mr. Chairman, I yield the balance of my time to the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from Oregon (Mr. Smith).

Mr. SMITH of Oregon. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment. Short of the passage of the amendment, I think the bill should be defeated.

I welcome this opportunity to convey to the House of Representatives my view on H.R. 6542, the Wilderness Protection Act of 1982. I am opposed to H.R. 6542 because it fails to incorporate language addressing balanced land management policies which take into consideration environmental protection, conservation, and mineral development.

H.R. 6542 withdraws permanently designated wilderness areas, withdraws RARE II recommended wilderness areas, congressionally designated wilderness study areas and Forest Service further planning areas from the mineral leasing laws. These lands are obviously being withdrawn from mineral entry in order to protect their wilderness values. Industry has proven many times that its changing technology enables it to operate safely in environmentally sensitive areas without causing long-term adverse impacts. Proper evaluation of the subsurface resources consequently requires leasing and drilling and, as just stated, can be accomplished in an environmentally sound manner through new technology. If mineral exploration is prohibited, Congress will be limiting its knowledge in determining the best use of our lands * * * whether it is suited for wilderness or multiple-use management. The type of withdrawal addressed in H.R. 6245 is also breaking a commitment Congress made during its deliberations on the Wilderness Act of 1964, when, through a series of debates, a compromise was reached which gave the Department of the Interior discretionary authority to grant leases in wilderness areas through 1984. Denying the Department this discretion appears to reverse congressional intent of the 1964 act.

H.R. 6542 also fails to recognize this country's dependence on foreign sources for energy. The 1973-74 Arab oil embargo was only a 6-percent loss of our oil requirements, and yet, I need not remind my colleagues of the disruption which occurred. Estimates are that the 5-month Arab oil embargo cost this Nation 500,000 jobs and from $10 to $20 billion in lost production. With the two armed conflicts we are reading and hearing about daily in the news—the Israel raids into Lebanon and the Iran-Iraq war—we are continuing to see an escalation from a serious situation in the Mideast to one with the possibility for critical global implications. Certainly, not a time to be withdrawing lands from oil and gas exploration.

Some of my colleagues will argue that should an urgent national need exist, H.R. 6542 provides a mechanism for wilderness areas to be opened to mineral activity. However, this type of exploration, development, and production required in these areas of rough terrain, as well as transportation facilities if a resource is found, could easily require a timeframe of 3 to 8 years. With this in mind, it is unrealistic to think that a wilderness area could be opened up should an emergency situation occur, we simply would be unable to respond to the crisis. To believe that we could rectify the closure of these areas in an emergency situation is a misconception and is being shortsighted on the part of this body which was elected to protect the best interests of our citizens. Locking up areas with no knowledge of existing resources is not, in my estimation, looking out for our best interests.

I was happy to see that the language in the legislation does exclude mining from the withdrawal provisions, but I think it is important to note that oil and gas are strategically just as crucial to national security.

My last point of contention is that H.R. 6542 does not provide for statutory release language for Forest Service lands which are determined unsuitable for wilderness designation. Strong release language is essential to achieving balanced wilderness legislation. Any lands which are deemed unsuitable for wilderness should be returned to multiple-use management and not subjected any further to study programs. I think it is in the best interests of this Nation to settle once and for all the uncertainty and delay in the long-term planning and management of our national forest lands.

The United States has 229 million acres in designated wilderness and wilderness study categories which is close to one-third of the total Federal land base of 760 million acres. I believe this clarifies the point I have made many times. The balance is tipping heavily in favor of wilderness and wilderness study areas leaving us vulnerable to critical mineral shortages.

I commend the U.S. Congress in conjunction with the appropriate Federal agencies and various private organizations who have contributed to the development of a wilderness preservation system in which we can all be proud. I, too, want to see our present system protected now and in future generations; however, because of possible ramifications presented by H.R. 6542, I will oppose passage of the legislation.

Mr. PORTER. Mr. Chairman, unlike most of what Government does—addressing the crises of the moment, attempting to put out the most recent fires—the legislation we are considering today addresses a vital concern for the future of our country, for generation after generation to come. It also puts out a fire that may not be the nearest at hand, but nevertheless is most terrifying: the prospect that pristine wilderness areas, largely protected from development for that past two decades, will at a time in the not too distant future, be covered by the evidences of civilization.

Clearly, we need to be concerned with the energy independence of our country and I have been as strong a supporter as any of increased domestic energy production. But anyone looking at our recent experience can well conclude that the combination of conservation, represented by, for example, the purchase by Americans all up and down the economic scale of increasingly fuel efficient automobiles, and of production, unleashed by the President's ending of oil price controls—a wise step indeed—has moved us substantially away from the great dependence on OPEC that we found ourselves locked under in the mid-1970's. Barring a national emergency, surely we need not despoil what can never be replaced: the natural wilderness areas that remain today in the same state as when our forefathers first laid eyes on them, indeed, in the same basic state as when our Creator gave them to us.

I could go on at length, perhaps, about the importance of what we do here today. But recently I read an article by George Will in Newsweek that expresses perhaps better than any why wilderness protection is so high a priority. In the article, he indicates that applications for oil, gas, and mineral claims are pending for 3 million acres in 200 wilderness areas, including 30,000 acres of the Maroon Bells not far from Aspen, Colo. If ever a more poignant example was offered, at least to me, I cannot imagine it. I have stood at the base of the Bells, climbed the hills nearby, skied the mountains that provide its backdrop, and 15 years ago, fell in love with the beauty and purity of this area, so much so that my wife, Kathryn, and I were married at the Prince of Peace Chapel in Aspen on the road leading to the Bells. I could never find within myself the intention to allow development of this area. I harbor, too, the suspicion that if the Maroon Bells is an area that developers have their eyes on, then perhaps there is another wilderness area that one or the other of us feel the same way about, that would also fall to development if this legislation is not adopted.

But, George Will says it so much better than I, and in urging the Members to support H.R. 6542 unamended, I commend his words from the August 16 issue of Newsweek to their minds and hearts and insert them in the Record at this point:

[From Newsweek, Aug. 16, 1982]

A Word for the Wilderness

(By George F. Will)

It is said that any stigma will do to beat a dogma with, and environmentalism is often stigmatized as an "elitist" cause. It is odd to say that removing lead from gasoline or from paint in tenements concerns Palm Beach more than Baltimore, or that regulating chemical wastes benefits only one class. It is less obviously wrong, but still wrong, to say that preservation of wilderness is elitist in any awful way.

Colorado's Maroon Bells wilderness area is one of the brightest jewels in the nation's diadem. More than 80,000 persons visit it annually, more than visit most wilderness areas but fewer than half the number that watch the average Michigan Wolverine home football game. And no wilderness area is as heavily used as most national parks are. (Yosemite has an indispensable institution of civilization: a jail.)

An Irreplaceable Asset: In 1964 Congress created the wilderness system, "where man is a visitor but does not remain." A 20-year "window" was left open for leases for oil, gas and mineral claims. As the Dec. 31, 1983, deadline approaches, there is developing a dash for applications. More than 1,000 are pending against 3 million acres in 200 wilderness areas, including 30,000 acres of the Bells. Previous administrations routinely rejected virtually all applications, but the current Interior secretary, James Watt, wants to open up wilderness areas. This week Congress considers a bill that would close the window, imposing an immediate ban on leases except in cases of urgent need affirmed by Congress.

There are 80 million acres of designated wilderness, 56 million of them in Alaska. Only 1.2 percent of the "lower 48" states is wilderness; only 4 percent could ever be so designated. Surely the nation's vitality and security are not so marginal as to depend on that 4 percent. According to one study, wilderness contains just 1 percent of the nation's onshore oil and gas. It would be a pity to damage an irreplaceable asset for a few weeks' worth of oil. Particular wilderness designations may have to be reconsidered, eventually. For example, one area (the Sawtooth Range in Idaho) contains perhaps $1 billion worth of minerals, including cobalt. The United States imports 97 percent of the cobalt it uses.

Opposition to wilderness designations comes not only from industry. It also comes from individuals whose recreation preferences are at stake. This conflict may have a class dimension, pitting plain folks in their station wagons and motorboats against backpackers who are suspected of packing Brie rather than Blue Ribbon and of going to earth in winter at Radcliffe or Grosse point. Pristine wilderness is an acquired taste and is incompatible with the enjoyment of some popular tastes such as dirt bikes, snowmobiles and other off-road vehicles. But surely there is no shortage of space in America for persons whose play must involve internal-combustion engines.

All gains involve pains. Environmental protection has an economic price. Wilderness designation can raise the cost of many things, from minerals to lumber, affecting many things, from job creation to the cost of housing. Environmentalism that is careless about cost will be regressive in effect and will discredit itself by seeming to be a luxury of persons affluent and callous. But the current danger is that Watt will discredit economic analysis by seeming sympathetic only to economic considerations.

Part of the Watt problem is the Watt manner: he acts like a machine in the garden. When he testifies beneath bright television lights, hip high, glistening forehead, his electric smile and his eyes flashing behind metal-rimmed glasses call to mind a 1955 Buick, a convention of chrome. When he speaks, you half expect to hear gears grind, and you sort of do. He has no patience for the toing-and-froing practiced by persons who understand that in politics the straightest line between two points is rarely the easiest route. He speaks almost too clearly, indifferent to the bureaucratic art

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of constructing whole paragraphs perfectly devoid of substance.

His cocksureness, his thirst of conflict, his tone-deafness regarding his own shrillness in the nuances of the subtle city—have invigorated environmental groups and have caused Congress to say (as a Michigan state legislator once said), "From now on, I'm watching everything you do with a fine-tooth comb." He has made it easy to caricature conservatism as philistine, as hostile to all but commercial values. He sometimes seems unreconciled to government's stewardship concerning community assets. Some assets, such as wilderness areas, cannot survive if unprotected from the morals of the marketplace.

It is a law of politics: extreme political intensity begets equal and opposite intensity. Watt is partly a cause and partly an effect of persons for whom environmentalism is political romanticism masquerading as science, a doctrine for putting sand in the gears of industrialism and for expressing root and branch rejection of America's commercial civilization. Their liking of chipmunks expresses primarily a dislike of human beings, creatures of nasty despoiling rationality. Such environmentalists value wilderness areas primarily as refuges from all reminders that they share the planet with other human beings.

"The Challenge": This nation began as an "errand into the wilderness." The first task was to tame that wilderness, but as Wallace Stegner says, we need to preserve some of it "because it was the challenge against which our character as a people was formed."

Most Americans will never care a fig about wilderness. Perhaps that means it is an elitist concern. But so what? Edith Hamilton, the classicist, once said to Ezra Pound: "I have heard of a great Confucian who wrote a letter so difficult there was only one other man in all China who could understand it. That is not very democratic, I'm afraid. That is aristocratic, like you, Mr. Pound." Pound replied: "It is democratic insofar as it provides that anyone may have the opportunity to learn enough to read that letter." Enjoyment of wilderness may not be spontaneous and "natural." It may be a learned process, inviting and even requiring reflection. But it is nonetheless valuable for being an aristocratic pleasure, democratically open to all.

Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 6542. As legislation that insures the preservation of wilderness areas for future generations, it deserves our unqualified support. This bill would protect roughly 33 million acres of designated or potential wilderness threatened by oil and gas development once the leasing moratorium expires in November. The strength of the bill lies in the fact that it is a true compromise. It does not withdraw any lands in Alaska or any BLM wilderness study areas. It does not prohibit hardrock leasing. It prevents seismic testing only in the 18 million acres of designated wilderness. It contains a Presidential "unlock" provision that is not a component of the 1964 Wilderness Act.

And yet, Mr. Chairman, this bill is the subject of intense and vehement criticism from the oil and gas industries. We are told that H.R. 6542 represents a massive lockup of Federal lands. Yet these 33 million acres represent only 2 percent of the land in the lower 48 States. Furthermore, some 460 million acres of Federal land are available for oil and gas development; 26 percent of this land is currently under lease; most of these leases, however, will expire without any exploration according to GAO. There seems, then, to be no shortage of Federal land to lease and explore.

We are then told, however, that it is unwise to lock up any land without knowing exactly what is underneath it. The American people have a right to an accurate inventory of all of our natural resources. True enough, and according to studies conducted by the Department of Energy at the Oak Ridge National Laboratory, all wilderness areas together, designated and potential, contain only 3 percent of the Nation's undiscovered oil and 2 percent of the undiscovered gas resources. These statistics were almost exactly confirmed by an independent resource economist's study. Both of these reports were based on data from the U.S. Geological Survey.

These numbers, though, are dismissed as "nondefinative reconnaissance" results by opponents of this bill. The only meaningful inventory, it seems, calls for exploration. The concept of inventory, in my view however, bears little relationship to the realities of oil and gas exploration which involves extensive use of explosives in seismic testing and considerable drilling. None of which is without cost, and oil companies have made it clear that they are not interested in merely performing a public service by inventorying all of our oil and gas reserves in the wilderness areas; their investment, reasonably enough, is contingent upon the option to work their lease as they see fit. Inventory, in other words, is a transparent code for development.

We are told not to fear, however. Oil and gas exploration activities are fully compatable with the wilderness environment. This simply is not so. My colleagues have already documented in detail the negative impact of exploration including disturbance of wildlife and habitats, road construction, and the introduction of toxic wastes. The Department of Interior has testified on this point as well. There can be no question that once thus invaded, an area is no longer wilderness.

Nevertheless, it is pointed out, the economy is in a slump, dependence on foreign oil is still high and unemployment is on the rise. Mr. Chairman, if leasing 33 million acres of wilderness would solve any of these problems, I certainly would not stand in the way. Again the simple fact is that it will not. Opponents of the bill call for a rational management policy devoid of "emotional claptrap," and I fully agree with them. Development for the sake of development is the worst kind of planning, certainly the worst kind of energy policy. It should be abundantly clear by now that the security of our energy future depends on planning how we use our resources, not continuing a discredited policy of blindly extracting nonrenewable resources at any cost. Whatever is under those 33 million acres is finite. If 98 percent of the lower 48 States is insufficient as an energy source, how does it seem reasonable to find salvation in the remaining 2 percent?

There are essentially no valid arguments to be made against this.

Basically, there is no valid case against this bill. The wilderness preservation system was established to secure the "benefits of an enduring resource of wilderness." We have not reached the point at which we must invade the most spectacular and remote of landscapes. I urge my colleagues to support H.R. 6542 and oppose all weakening amendments.

Mr. WIRTH. Mr. Chairman, in recent months the issue of whether to allow oil and gas leasing in wilderness areas has aroused understandable controversy.

On the one hand, some paint the image of our Nation's most pristine lands, our heritage to future generations and quiet places for all of us to reflect and regenerate. I believe none of us would prefer the image of dirt roads and drill pads, gaping holes in the sides of mountains, eroding lands, and fleeing wildlife.

On the other hand, others paint the image of gaslines, brownouts, and elderly people freezing because they cannot afford to pay their heating bills. None of us would choose this future for our Nation.

The debate over whether to allow oil and gas leases in wilderness areas has been couched in these emotional terms, and indeed both underlying issues—securing greater domestic energy supplies and protecting our environment—are major ones facing our Nation, and issues I have devoted much of my time to since I came to Congress.

But I am pleased that the bill before us today, of which I am a cosponsor, strikes a careful bipartisan balance among competing claims over what image to create for our Nation's future. It is our best hope for solving this controversy in a sensible and swift way.

It permanently withdraws wilderness areas designated by Congress from oil, gas, mineral, and geothermal leasing, thus recognizing that these lands are special, and must remain as places where people are temporary visitors and not permanent invaders. These lands, which represent only 4 percent of my State's area, deserve the permanent protection this bill provides for the sake of all who follow us.

The effect of withdrawal of these lands on our ability to develop independence from imported oil will be very small. Studies have indicated that only 1.1 percent of the potentially producible oil, and 1.2 percent of the potentially producible natural gas in the United States lie under lands designated as wilderness areas. Additionally, when we consider that 80 percent of leases which have routinely been issued on 118 million acres of nonwilderness Federal lands expire without being explored, there is no reason not to give permanent protection to wilderness areas.

At the same time, the bill allows flexibility, and allows both Congress and the President to make decisions in the future in case of circumstances we cannot foresee. For example, it would exempt wilderness lands from this ban which are released by an act of Congress, or authorize the President to recommend to Congress opening a withdrawn area under certain conditions. Certainly, the fact that this bill would not ban mineral leasing in certain wilderness study areas—including some in my own State of Colorado—proves that it is not an effort to reduce efforts toward energy independence, or to shackle our domestic energy industry.

Mr. Chairman, it is important to remember where this careful compromise bill came from. It resulted in large part from Interior Secretary James Watt's sudden reversal of past policy in declaring an official administration policy that leases would be granted for energy exploration in wilderness areas.

In my opinion that action was a deliberate attempt by the administration to divert attention from the real issue, which is the total dismantling of a national energy program many of us here worked for years to create. Through drastic cutbacks in new oil and gas technology research, coal research, and research to accelerate development of alternative resources like solar, the administration declared that it has no energy policy. Suddenly, drilling for oil in wilderness has been painted as the only way to save our Nation from more gaslines.

Secretary Watt, following public outcry, reversed himself and offered what was termed a wilderness protection bill which was laden with loopholes. It would have protected wilderness from energy exploration for only 17 years, and granted immediate exceptions to wilderness protection.

All this marked a dramatic reversal of past efforts to build a carefully balanced energy program which also protected the environment. For Western States, where such vast reserves of energy resources are located, this has had particularly damaging effects. Rather than balancing energy development with protecting the quality of life in the West, the administration proposed energy development in wilderness. Rather than proposing synthetic fuels development with adequate environmental regulations and research into health effects, it proposed to scrap any research into the effects of synfuels on workers, surrounding communities, and the environment. The list goes on.

These extreme actions make the balance in the bill before us today all the more impressive. It is not a perfect bill, but it is a good compromise, one which I hope my colleagues will join me in supporting.

● Mr. CONTE. Mr. Chairman, I rise in support of H.R. 6542 as I think it represents a compromise attempt to resolve an ongoing controversy over how best to balance the need for oil, gas, and minerals with the need to preserve the recreation, scenic, and wildlife wilderness areas. Time and again we go over this subject, and time and again we fail to resolve the controversy.

The Wilderness Act of 1964 empowered the Secretary of the Interior to issue oil and gas exploration leases on a discretionary basis. This law does not preclude the Secretary from withholding leasing authority if wilderness value, for example, is seen as an overriding value of importance. Thus, the Secretary of the Interior is not compelled to issue a maximum number of leases before the December 1983 expiration date of his authority.

This bill was put together to answer the uncertainty of how to respond to the hundreds of oil, gas, and other mineral lease applications which are expected at the end of the present moratorium on leasing in wilderness areas.

Earlier this year, Congressman Mo UDALL and I cosponsored a resolution to go on record with our belief that wilderness areas should be the last areas of our land where mineral leasing should occur. We went on record because we felt a need to get a better hold on our criteria for issuing exploration and development leases, most particularly because of our Nation's appetite for oil, gas, and minerals. As I said in my remarks at the time of the introduction of that resolution, getting a better hold on criteria for issuing leases is nothing more than sound land management policy, not for any one group, but for all citizens.

One of the intents of H.R. 6542 is to insure that lands being considered for wilderness designation will not be leased until a final decision has been made as to wilderness or nonwilderness status. Such a policy is based on the theory that it would not be prudent to grant leases for any purpose before a study is completed or a decision made on designating a wilderness area.

Mr. Chairman, as our lands continue to be explored and developed and we try to set policies to govern that exploration and development, let us try to hold on to some principles and balanced reasoning in the debate over what constitutes the most pressing need.

Not long ago, I read a phrase which I think is appropriate as we think about setting leasing policies; it says:

> We didn't inherit our land from our ancestors—we're only borrowing it from our children."

I think the Members ought to keep that phrase in mind, and vote for H.R. 6542.●

● Mr. STARK. Mr. Chairman, today the Congress has the opportunity to show to this administration and to the American people our renewed commitment to the maintenance and preservation of pristine wilderness areas. Despite the fact that wilderness policy was developed and adhered to by Democratic and Republican administrations alike, we are now informed by the Reagan administration and Interior Secretary James Watt that the Wilderness Act of 1964 has actually been misread all of these years and that indeed, it is the obligation of the Federal Government to consider land lease applications for mineral exploration in these wilderness areas.

This is especially ironic when one considers what the original purpose of these wilderness areas was—to preserve and protect in their original, God-given form, a few areas of great natural beauty. For the administration to turn around and say that the Government is dutybound to examine development opportunities in these areas goes outside the realm of sensibility—and could only come from the mind of someone who could hold a private, illegal cocktail party on the graves of our Nation's war dead.

The Wilderness Protection Act of 1982 offers us a chance to interrupt this line of thinking, however, by placing into law a prohibition of leasing for exploration on those lands designated wilderness by the Congress. The proposal also includes exempting from leasing those lands now under consideration for wilderness classification, and bans for the time being any seismic testing in these areas, as this testing is obviously disruptive to the natural state.

If in the future an urgent national need calls for exploring an area, this measure does not preclude it. This is in keeping with the entire wilderness concept—that we preserve lands which are precious to us now in order that we may retain some few, rare spots to enjoy peace and tranquillity. The whole idea is to preserve now, so we have an option to develop later if we need to.

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In 1934, the American writer Stuart Chase said:

> Natural resources and inanimate energy are . . . increasingly regarded as affected with a public interest . . . Certainly they were left by God or geology to mankind and not the Standard Oil Company of California.

This measure emphasizes this point, stating that the American people will no longer tolerate environmental policies that raze the land in an irrevocable manner so some company can turn a profit. That is voodoo environmental policy, and as with any voodoo policy, it holds no water because it has been stuck fill of holes.

It is not up to this Congress to make every decision regarding our children's future, but we do have certain obligations we must fulfill. If we fail to provide for wilderness areas we will have made a decision that closes a door to them for all time—we will have destroyed their chance to know and sense the awesome beauty of this land, its magnificence, its grandeur.●

● Mr. HOLLENBECK. Mr. Chairman, I rise to express my strong support of H.R. 6542, the Wilderness Protection Act, without weakening amendments. I do so because of my firm belief that this legislation represents an effective vehicle through which we can insure the future preservation of America's beautiful wilderness areas.

In 1964, Congress established the National Wilderness Preservation System in order to protect those areas "where the Earth and its community of life are untrammeled by man, where man is a visitor who does not remain." Since 1964 I am pleased to note that the Wilderness System has grown to more than 86 million acres. To turn our backs on our commitment to preserving wilderness areas by opening them to development and supporting weakening amendments to today's legislation would represent a disservice to our people and all future generations of Americans.

Over 3 million acres are presently under mineral lease application—mostly for oil and gas. While past administrations have issued only a handful of leases virtually excluding wilderness areas, the Reagan administration led by Interior Secretary James Watt has promised to end this pattern by opening wilderness lands to energy exploration. With the current moratorium on wilderness exploration in effect only until the end of this Congress, I believe it is essential that we close these environmentally sensitive areas to incompatible development right now. If we do not act today and approve this legislation we would be providing Secretary Watt with a full year to issue leases before the Wilderness Act's statutory deadline on leasing expires on December 31, 1983. To me this is completely unacceptable.

I urge my colleagues to join me and vote in favor of H.R. 6542 and oppose all weakening amendments. Now is the time to immediately and permanently withdraw existing wilderness areas from oil, gas, oil shale, coal, phosphate, potassium, sulfur, and geothermal leasing. Now is the time to prohibit leasing on lands under consideration for possible wilderness designation until either Congress or the Forest Service determines their status. To do otherwise would be a disservice to future generations and a vote against the beauty which our natural environment has to offer.●

● Mr. GEJDENSON. Mr. Chairman, I want to express the support of my constituents for the Wilderness Protection Act (H.R. 6542) that we are voting on today. This bill provides a reasoned and needed approach in providing, and I quote from the 1964 Wilderness Act, "present and future generations with an enduring resource of wilderness."

Today, the wilderness system in the lower 48 States stands at some 23 million acres, or 5.7 percent of the Federal lands, or 1.2 percent of the total conterminous United States; only 4 percent could ever be so designated. In short, this legislation permanently protects existing wilderness from the adverse impacts of mineral leasing and development and insures that the wilderness character of areas under consideration for addition to the national wilderness preservation system will not be impaired until either the Forest Service or congressional wilderness evaluations are completed.

The citizens of the Second Congressional District of Connecticut strongly oppose opening the Nation's few remaining wilderness areas to mineral development. I have received 663 letters expressing their concern and dismay at the Secretary of Interior's egregious proposal entitled the Wilderness Protection Act of 1982. When one measures Watt's proposal against what he says, one must conclude that there is no limit to the extent of the Secretary of Interior's cynicism and contempt for the American people. My constituents realize this.

Mr. Chairman, there are no wilderness areas in the State of Connecticut, but my constituents believe that the existing National Wilderness Preservation System should be the last place where oil and gas development is allowed to occur. I believe this bill is imperative for the immediate preservation of the integrity of our wilderness areas. I am pleased to offer the support of my constituents to this important, and long overdue, legislation.●

● Mr. MATSUI. Mr. Chairman, I rise today to urge that my colleagues approve H.R. 6542, the Wilderness Protection Act of 1982 with no amendments. It is a measure that will preserve the pristine quality of America's dwindling wilderness areas. H.R. 6542 responds to the ongoing debate regarding the need to balance the preservation of the Nation's wild lands with oil, gas, and mineral drilling in such wilderness. I want to commend the House Interior Committee, under the guidance of Congressmen UDALL and LUJAN, for crafting this measure after 9 months of extensive consideration of public comments.

In 1964, Congress passed legislation which created the National Wilderness Preservation System for the purpose of protecting areas "where the Earth and its community of life are untrammeled by man, where man is a visitor who does not remain." The Wilderness Act of 1964 expressed our Nation's desire to maintain wild lands as part of our heritage and as a legacy that we shall confer upon our children. The act allowed mining exploration in wilderness areas only so long as those activities were compatible with the maintenance of the wilderness environment. It permitted the issuance of new oil and gas leases and hardrock mineral claims until the end of 1983.

Previous administrations have used the authority granted by the 1964 law sparingly and approved few leases in these environmentally sensitive areas. With the advent of the Reagan administration, however, a new view of natural resource management has prevailed and this environmentally sound policy has been abandoned. President Reagan appears to remain dedicated to his promise to unlock the wilderness and encourage unprecedented development in these protected areas notwithstanding that they contain only 3 percent of the undiscovered oil resources and 2 percent of our undiscovered gas resources. He has pursued this policy even as a majority of Americans have articulated the view that such a small return does not justify the denigration of these irreplaceable lands.

H.R. 6542 seeks to prevent this wholesale destruction of our wild lands by immediately withdrawing existing wilderness areas from oil, gas, oil shale, coal, phosphate, potassium, sulfhur, and geothermal leasing. In addition, lands under consideration for possible wilderness designation will be withdrawn from leasing until either the Congress or the Forest Service determines their final status. H.R. 6542 represents a reasonable approach to wilderness preservation as it provides for the excavation and development of certain designated strategic minerals in withdrawn areas and second it empowers the President, with the approval of the Congress, to open wilderness areas upon a finding of the existence of an urgent national need.

While I appreciate the necessity of increasing our domestic energy and mineral development, I believe that by pursuing aggressive and often premature development in our wilderness areas we inflict permanent and unnecessary damage to these lands. Our wilderness should be the last frontier for oil and gas exploration. It must be noted that H.R. 6542 only withdraws from lease sales wilderness and wilderness candidate areas that equal less than 2 percent of the lower 48 States' land mass. Over 137 million acres of Federal lands, or four times the amount of land to be withdrawn, will still be available for active mineral development.

With the enactment of H.R. 6542, we shall insure that future generations can enjoy these unique preserves and gain an insight into an earlier America. In view of this responsibility to our children and grandchildren, it is incumbent upon this body to adopt H.R. 6542.●

● Mr. FOGLIETTA. Mr. Chairman, I am very pleased that H.R. 6542, the Wilderness Protection Act of 1982, has come before the House for consideration. This legislation will provide important and much needed protection for our Nation's wilderness resources and addresses an issue which this Congress must not ignore.

Since taking office, Secretary of the Interior James Watt has undertaken numerous programs geared to the wholesale disposal of public resources. Department of the Interior and Forest Service actions in this administration have reflected a commitment to this goal of resource exploitation over and over again. Whether it is massive and economically shortsighted leasing of offshore areas for oil and gas or a program for accelerated leasing of wilderness areas for energy development, the thrust of these agency initiatives is the same.

Fortunately the American public has become immensely concerned about the recent threats to our wilderness areas and other public lands. H.R. 6542 is clearly both a reflection and a product of that concern. The intent of Congress in designating units of the National Wilderness Preservation System in the first place has been to protect the unique values of those areas from development. The approximately 7 million acres of national forest land which has been recommended to Congress for wilderness designation, along with the lands which the Congress has specifically designated for wilderness study and those which the Forest Service has categorized for further planning need at least temporary protection pending final congressional action to assure that wilderness designation is not precluded.

There are several areas within the Allegheny National Forest in my home State of Pennsylvania deserving of and under consideration for wilderness designation. It would be an abrogation of responsibility to the citizens of Pennsylvania if we were to permit oil and gas leasing and development in these potential wilderness areas before Congress has the opportunity to give them permanent protection.

Some argue that oil and gas activity is not detrimental to other uses of an area. It has been suggested during the debate on this bill that seismic exploration, for instance, is not destructive of wilderness values. One only need be presented with the broad outlines of the effects of seismic activity to realize that it is totally incompatible with such important wilderness purposes as wildlife protection. Dynamite explosions at 50 pounds a shot and a rate of 50 to 100 times a day over the course of 3 months, work crews numbering 30 people, road construction and persistent helicopter activity accompany a typical seismic exploration project such as the one which has been proposed for the Bob Marshall Wilderness in Montana. This was the case which focused congressional attention on this issue last year. The grizzly bear and the California condor stand out as examples of sensitive and threatened wildlife, dependent on wilderness habitat for survival, which would be seriously endangered by seismic activity. The Forest Service has given recent consideration to issuance of oil and gas leases in wilderness and proposed wilderness areas which provide homes for these dwindling species.

There is a real need for legislation to protect our Nation's wilderness values from the threats of oil and gas leasing; the clear intent of this administration is to press ahead with such leasing if permitted. H.R. 6542 is a modest and reasonable response to this threat. The Interior Committee is to be commended for having developed so well balanced a compromise out of the numerous hearings which it has held on this issue over the course of the past year. I urge my colleagues to join me in supporting this wilderness protection bill without amendment as a necessary step in protecting the small remaining portion of our Nation's land base which sustains wilderness values—a resource of incalculable importance to our society.●

● Mr. BEDELL. Mr. Chairman, I wish to express support for H.R. 6542, the Wilderness Protection Act of 1982, a bipartisan compromise recently reported by the Interior and Insular Affairs Subcommittee on Public Lands and National Parks. I commend my colleague, Mr. SEIBERLING, chairman of the subcommittee, for his expertise in ably accommodating in this bill the diverse interests whose views have fueled this highly contentious debate.

Today we are voting to extend our commitment to a strong National Wilderness Preservation System, a commitment that began almost 20 years ago with the passage of the National Wilderness Protection Act of 1964. This act mandated the creation of a wilderness system, "where the Earth and its community of life are untrammeled by man, where man is a visitor who does not remain." The enactment of today's measure will insure the continued protection of the 18 million acres not presently withdrawn from mineral leasing through previous legislation.

The American wilderness played a pivotal role in the formation of that spirit which has propelled our Nation to the forefront of world affairs. Our love of individual freedoms was nurtured by the lure of the frontier, whose call our ancestors heeded despite the ever-present dangers and loneliness. Indeed, our country's literature is suffused with references to the wilderness—its explorers, its beauty, and its values.

None of us alive today had the fortune to look upon our land as it was when the first colonists ventured forth from the old world. We have dramatically changed the landscape of the United States, building it into the most productive nation on the face of the Earth. We have tapped the great cache of resources beneath our soils; we have irrigated vast deserts and built farms on millions of acres of land; our cities have sprung up into centers of modern culture unparalleled throughout the globe.

But we have also increased our appetite for the minerals and energy resources whose presence in the United States facilitated this phenomenal growth. Our needs will continue to grow into the future, as we find increased demands for oil, natural gas, coal, and strategic minerals. Certainly this bill's provisions for emergency leasing and exploration at the recommendation of the President will insure our national security in a time of threat. In addition, these wildernesses have not been closed to exploration for the strategic minerals our national defense depends upon.

We must protect our wilderness areas from the despoliation that some would visit upon them. As the last remaining pockets of frontier, their importance to the American public and its spirit cannot be measured in the dollar value of the resources beneath their surface. They serve as a living testament to the bounty of the land we settle over 300 years ago. Our unwavering efforts to insure the integrity of these wilderness areas will be appreciated by the many generations of Americans who will follow us.

My colleagues, I urge your support in the passage of H.R. 6542, the Wilderness Protection Act of 1982. The people of northern Iowa are almost totally unanimous in their hopes for the

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enactment of this bill. I urge its swift passage. Thank you.●

● Mr. CRAIG. Mr. Chairman, as Congress considers legislation that affects our vital natural resources, let us keep a few facts about our forest resource in focus.

First, our country is blessed with forests that are among the most productive in the world. They have the biological potential to grow a great deal more wood than they are now growing.

Second, our soils, climate and know-how to improve our timber-growing productivity is enormous. We certainly have the capability and ability to supply our future domestic wood needs and to meet an increasing worldwide demand for the products from trees. Indeed, out ahead, wood fiber joins food among our country's greatest strengths.

But the key is increased productivity. This can be accomplished on our Nation's forest lands without harm to the environment—while retaining other forest benefits such as watershed protection, recreation, and wildlife habitat.

Our national forests are vital to the country's wood supply. They contain 46 percent of all the country's softwood growing stock—the wood most used in housing, construction, and for pulp and paper. Yet, tens of millions of national forest acres are frozen—and have been for more than a decade in the RARE I and RARE II studies of millions of acres national forest lands that could be considered for wilderness designation or released for multiple use.

Uncertainty over the land base available for timber production prompted many mills to bid up national forest timber sales by 300 to 400 percent and more—to insure that they would have timber to run their mills. Now, with housing in the doldrums and the market for lumber and plywood collapsed, these same mills cannot work this timber. Finished product prices in many cases are lower than stumpage costs. This critical issue is at least in part due to the uncertainty over timber supply. And uncertainty about timber supply is largely a product of unresolved decisions about which lands will be wilderness and which lands will be used for multiple-use management.

Yet, while the national forests contain nearly half of the country's entire growing stock of softwoods, they supply only 20 percent of the U.S. softwood harvest. Of all forest ownerships, the national forests have the greatest opportunity to increase timber productivity. These assests are owned by all Americans—and they should be better managed to provide returns commensurate with their value.

The U.S. forest products industry, after extensive study, has adopted and is implementing a timber supply program that sets specific productivity targets for softwood timber supply for all forest ownerships. These targets can be considered wood consumer goals—because U.S. consumers will ultimately pay. The goals call for increased levels of productivity to achieve two major objectives: First, to minimize the cost impact of wood product and housing prices for U.S. consumers and, second, to build the potential for the United States to have an international net trade surplus of forest products.

The objective of these goals is to increase the total softwood timber harvest by 50 percent by the year 2030. This means that productivity on industry-owned lands will have to increase 20 percent by that year and the productivity of private nonindustrial woodlands will have to increase 84 percent. It also means national forest timber supply will have to increase by 45 percent by the year 2000.

To achieve these productivity increases, our forest lands must be available for timber growing, more trees must be planted, the lands must be managed intensively, and a favorable climate must be created for investments in forestry.

Vital to increased productivity on the national forests is resolution of the management freeze on lands that the second roadless area review and evaluation (RARE II) study found best suited for nonwilderness uses. RARE II studied 62 million acres of roadless lands in the national forests. When completed in 1979, the decision was that 15 million acres qualified for wilderness designation, 11 million acres needed to be studied further, and 36 million acres were best suited for nonwilderness multiple use. It is the 36 million acres that continue to cause controversy.

It is time Congress ended the runaway creation of de facto wilderness and legislatively released these lands for multiple-use management. This would give the Forest Service the stable, reliable land base that is essential to plan timber management programs without threat of costly and time-consuming lawsuits and appeals. Release would not tie the hands of any future Congresses in designating any of these lands as wilderness at a future time.

It would, however, uphold the fundamental principle of the Wilderness Act that only Congress can designate wilderness areas. I do not think our country can afford to have its land management plans characterized by uncertainty and paralysis. Too much is at stake, environmentally, economically, and socially.●

● Mr. PATTERSON. Mr. Chairman, I rise to lend my name to the growing list of House Members who support the continued protection of our Nation's wilderness areas. The Wilderness Protection Act which we have before us today is truly a bipartisan consensus bill which enjoys the support of a majority of Americans. I do not believe that it serves any useful purpose to bring forward damaging amendments which were soundly defeated during the Interior Committee's markup.

Mr. Chairman, I do not hesitate to say that a majority of Americans support the principles embodied in this bill because I was one of several members of the Interior Committee who had the opportunity to chair hearings on the original Watt and Burton proposals in my home district of Orange County. Out of nearly 100 witnesses who testified at this hearing, only one, a member of the California Mining Association, had anything negative to say about protecting our Nation's wilderness and wilderness candidate areas. Furthermore, national polls conducted by pollster Lou Harris have confirmed public sentiment on this matter. Americans believe in environmental protection and Americans believe that the pursuit of a balance between conservation and energy exploration should be a national priority. In direct defiance of this public mandate, Secretary Watts treats energy and mineral exploration as the preeminent use for all land. "Compromise" and "balance" are apparently missing from Secretary Watt's vocabulary.

Mr. Chairman, since the establishment of the National Wilderness Preservation System in 1964, it has been national policy not to allow oil and gas leasing in wilderness areas. This has been the case under both Democratic and Republican administrations alike. In the past, previous administrations have exercised their discretion not to lease in wilderness areas, except in 22 minor instances. It is the Reagan administration which has broken faith with the American people and literally reversed this longstanding policy. Unfortunately, they have provided no good reason for doing so. In fact, the available statistics strengthen the case against opening wilderness areas to leasing. In the lower 48 States, there are currently 137 million acres of Federal lands under oil and gas leases. Both the Interior Department and the General Accounting Office have reported that up to 80 percent of these existing leases will expire without any exploratory drilling having been undertaken. Coupled with the fact that wilderness and wilderness candidate areas hold only approximately 3 percent of the Nation's potentially producible oil resources and 2 percent of the gas resources, opening our Nation's outstanding wilderness areas to leasing and development is simply unwarranted.

I urge my colleagues to vote for final passage on this important issue. Today's vote will be one of the few important environmental votes of this session. Let us not do the American public wrong. Mr. Chairman, I yield the balance of my time.●

● Mr. **MINETA**. Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act of 1982.

Although this is a complex bill, there is a very simple and clear basic issue before us today. Where are our national priorities? Are we dedicated to preserving our vanishing wilderness areas or are we not?

Once lost, wilderness is gone forever. We cannot fail to act now to recommit ourselves to our basic goal of preserving at least a small portion of this Nation in a pristine, undeveloped state.

There is a tendency for some to say that wilderness areas are important, and worth preserving, but that other goals are also important as well. Although seemingly fair minded and innocuous, this view starts us down a very dangerous slope we best not approach.

The essence of wilderness is that our impact does not show. A wilderness area with just a few oil wells or coal mines—however well landscaped—is hardly the untouched wild place we are determined to protect by our action today.

This is a good bill before us. The Committee on Interior and Insular Affairs has done an excellent job of putting together a complex piece of legislation which we can all support with confidence and enthusiasm.

Mr. Chairman, we face many difficult decisions in this House every year. This bill is not one of them. Our choice and our path is clear. We must, and I am sure we will, act today to protect our remaining wilderness areas. I urge my colleagues to overwhelmingly approve H.R. 6542.

Thank you.●

The **CHAIRMAN** pro tempore. All time has now expired.

The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was rejected.

The **CHAIRMAN** pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The **CHAIRMAN** pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. EVANS of Georgia, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes, pursuant to House Resolution 534, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **LUJAN**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 58, not voting 36, as follows:

[Roll No. 271]

YEAS—340

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Brown (CO)
Broyhill
Burton, Phillip
Byron
Campbell
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
D'Amours
Daniel, R. W.
Daschle
Daub
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emerson
Emery
English
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Mollohan
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Simon
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Stokes
Stratton
Studds
Swift
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—58

Archer
Ashbrook
Badham
Bailey (MO)
Benedict
Butler
Carman
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Davis
Derwinski
Dickinson
Dreier
Edwards (OK)
Fields
Forsythe
Gramm
Hall, Ralph
Hall, Sam
Hansen (ID)
Hartnett
Hillis
Hunter
Jeffries
Kindness
Leath
Livingston
Loeffler
Lungren
Marlenee
McDonald
Molinari
Montgomery
Moore
Moorhead
Oxley
Patman
Paul
Quillen
Roberts (SD)
Robinson
Rousselot
Rudd
Shuster
Skeen
Smith (AL)
Smith (OR)
Snyder
Stangeland
Staton
Stenholm
Stump
Synar
Wampler
Young (AK)

NOT VOTING—36

Addabbo
Bafalis
Blanchard
Bolling
Broomfield
Brown (CA)
Brown (OH)
Burgener
Burton, John

Coelho
Collins (TX)
Conyers
Crockett
Dornan
Edwards (AL)
Erdahl
Erlenborn
Ertel
Ferraro
Fithian
Ginn
Ireland
Jones (NC)
Latta
Marks
McClory
McCloskey
Michel
Miller (OH)
Moffett
Nichols
Richmond
Rosenthal
Savage
Siljander
Wylie

☐ 1145

Mr. DAVIS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1200

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT AS MEMBERS OF DELEGATION TO CONFERENCE OF THE INTERPARLIAMENTARY UNION IN ROME, ITALY

The SPEAKER. Pursuant to the provisions of title 22, United States Code, section 276a-1, as amended by Public Law 95-45, the Chair appoints as members of the delegation to attend the Conference of the Interparliamentary Union to be held in Rome, Italy, September 14-22, 1982, the following Members on the part of the House.

Mr. PEPPER of Florida, chairman;
Mr. DERWINSKI of Illinois, vice chairman;
Mr. FOUNTAIN of North Carolina;
Mr. PICKLE of Texas;
Mr. DE LA GARZA of Texas;
Mr. BOWEN of Mississippi;
Mrs. BOGGS of Louisiana;
Mr. WASHINGTON of Illinois;
Mr. BROOMFIELD of Michigan;
Mr. MCCLORY of Illinois;
Mr. STANTON of Ohio; and
Mr. BUTLER of Virginia.

UPDATING OF LEGISLATION AND POLICIES RELATING TO TELECOMMUNICATIONS

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, for the last 7 years, the Congress has been working toward updating our hopelessly outmoded telecommunications policy by rewriting the Communications Act of 1934 for the first time since it was written. Building on the foundation laid by my predecessor as chairman of the House Subcommittee on Telecommunications, Lionel Van Deerlin, introduced and considered in this Congress, H.R. 5158, with which you are all quite familiar.

There were several critical goals underlying the provisions of H.R. 5158, and support of those aims was underscored yesterday in the decision settlement agreement signed by A.T. & T. and the Department of Justice.

As we did in H.R. 5158, he has helped keep telephone rates reasonable by allowing the local operating companies to keep the highly profitable yellow pages, which have over $3 billion in annual revenues.

He has reinforced the commitment in H.R. 5158 to the first amendment guarantee of a full diversity of information sources. We were concerned that, by allowing A.T. & T. to transmit information it owned or controlled over its own monopoly long-distance facilities, the settlement created a "bottleneck" to access to the fullest array of information. Judge Greene incorporated into his decision, practically verbatim, the provision in H.R. 5158 dealing with that critical issue.

And, like H.R. 5158, the Judge's decision will help ratepayers and A.T. & T.'s shareholder by strengthening the to-be-divested local operating companies. By allowing the operating companies to market new customer premises equipment, including sophisticated switchboard and computer systems; by giving the operating companies a limited role in the divestiture process; and by making certain they are not left with an undue portion of their shared debt with A.T. & T., the operating companies are more likely to have the capacity to keep local rates reasonable in the future.

Judge Greene's opinion is a major step in the direction of a progressive new telecommunications policy. I will be sending out material explaining what is in that opinion, and its relationship to the recently withdrawn H.R. 5158.

We will also be holding aggressive oversight hearings on the FCC to insure that they are properly prepared to implement and oversee the settlement if A.T. & T. and the Department of Justice agree to it. I look forward to working on this critical issue with my colleagues in the months ahead.

And I want to share with my colleagues the statement I issued yesterday on Judge Greene's opinion, and a summary of the opinion.

STATEMENT BY REPRESENTATIVE TIMOTHY E. WIRTH, CHAIRMAN, HOUSE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION AND FINANCE

The following statement was issued today by Rep. Tim Wirth (D-Colo.), Chairman of the House Subcommittee on Telecommunications, in response to the opinion issued by Judge Harold Greene, which will require certain modifications in the proposed agreement between AT&T and the Department of Justice, settling the government's longstanding lawsuit against the Bell system:

"I am pleased that Judge Greene has shared the view of myself and so many other Members of Congress that while the settlement as proposed will significantly enhance competition in the telecommunications industry, it also needed major changes. He has acknowledged that changes had to be made to keep local telephone rates reasonable, and to protect Bell's divested local operating companies.

"Within the severe legal and practical limitations on the Judge's power to modify the agreement without the consent of the parties, he has addressed many of the issues we sought to resolve with H.R. 5158, the Telecommunications Act of 1982.

"He had helped keep local telephone rates reasonable by allowing the local operating companies to keep the highly profitable Yellow Pages, which have over $3 billion in annual revenues.

"He has helped to assure a diversity of information sources for the public. We were concerned that, by allowing AT&T to transmit information it owned or controlled over its own monopoly long distance facilities, the settlement created a "bottleneck" to the First Amendment purpose of access to a full diversity of information sources. Judge Greene incorporated into his decision, almost verbatim, the provision in H.R. 5158 dealing with that critical issue.

"The Judge's decision will help ratepayers and AT&T's shareholders by strengthening the to-be-divested local operating companies. By allowing the operating companies to market new customer premises equipment, including sophisticated switchboard and computer systems; by providing a standard for other restrictions; by giving the operating companies a limited independent voice in the divestiture process; and by making certain they are not left with an undue portion of their shared debt with AT&T, the operating companies are more likely to have the capacity to keep local rates reasonable in the future.

"Clearly, not all my concerns have been addressed by the Judge, nor could they be. Judge Greene was limited in those steps he could take while still preserving the procompetitive centerpiece of the proposed decree—divestiture of the local operating companies. For example, the Judge enables the local companies to market new telephone equipment, but he allowed AT&T to take away from them all the already-installed home and business telephones. He clearly believes that AT&T's $30 billion a year long distance monopoly will become subject to effective competition far sooner than our data indicates. And although the opinion establishes a maximum level of debt (45%) that can be left with the operating companies, it does not deal with our very serious concerns about the evaluation of AT&T's assets prior to the divestiture. The operating companies are losing their most productive assets and the division of debt should reflect that loss of value.

"Overall, the Judge has significantly improved the proposed settlement, which was already a major step in the right direction. Yet, it is still only a step. The need for Congress to establish comprehensive new telecommunications policy is still critical, and Congress should not abdicate its responsibility to do so."

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION, AND FINANCE OF THE COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., August 11, 1982.

To: Members, Subcommittee on Telecommunications, Consumer Protection and Finance.
From: Timothy E. Wirth, Chairman.
Subject: Today's Order in *United States* v. *A.T. & T.*

Judge Harold Greene today issued an opinion indicating that he would not approve the settlement proposed by AT&T and the Justice Department unless the parties accepted substantial changes, most of which resemble provisions of H.R. 5158. The parties must agree to the suggested modifications within 15 days, or the Court will resume trial on the merits.

RATEPAYERS

Judge Greene's most significant condition would require AT&T to allow the operating companies to retain ownership of Yellow Pages. This change will have a strongly beneficial impact on the affordability of local service, since Yellow Pages revenues will continue to offset local rates. I have attached a table showing the adverse rate impacts that would have occurred if the operating companies lost Yellow Pages—as the proposed settlement provided.

Another modification would allow the operating companies to continue to offer new terminal equipment, but would apparently transfer installed telephones to AT&T. (p. 111 & fn. 248) This would mean that AT&T, not the operating companies, would own telephones now in ratepayers' homes. It is possible that this transfer would remove installed equipment from State regulation and allow unregulated price increases.

VIABILITY OF THE BELL OPERATING COMPANIES

Judge Greene cited the letter he received from five Members of the Subcommittee as asserting that permanent restrictions on the operating companies "would have adverse consequences in that they would undermine the financial viability of the divested operating companies, or produce substantial increases in the rates for local telephone service, thus eroding the statutory goal of universal telephone service for all Americans." (p. 103) Accordingly, the Judge will grant petitions allowing an operating company to compete in markets if it shows that "there is no substantial probability that it could use its monopoly power to impede competition."

The Judge was somewhat responsive to our concern that the operating companies be divested with a reasonable ratio of equity to debt, and with a voice in the divestiture process. AT&T would have to divest each operating company with debt instruments whose terms are representative of AT&T's consolidated debt, and which equal approximately 45 percent of the assets that company retains (50% for Pacific Tel). Before approving the plan, the Court will require the head of each operating company to submit a sworn statement that he believes the company will continue to be viable and discussing "any element of the plan . . . that may have been imposed by AT&T over (his) objections." (p. 170) The court will approve the plan only if it is "consistent with the provisions and purposes of the decree," and will retain jurisdiction over its implementation. Judge Greene also observed that "AT&T has a fiduciary obligation, separate and apart from the decree, to approach the divestiture in good faith and to protect the interests of all involved." (p. 142)

The Court did not restrict AT&T from immediately reentering the local loop by "bypassing" the operating company, nor did he require AT&T to "pay back" the operating companies for patents and research developed under the license contract. For a limited period of time, the operating companies will have access to these patents and will be able to sublicense them—but only to suppliers of their telecommunications equipment. AT&T would not have to license pre-divestitute patents to electronics firms seeking to market new products for a "reasonable royalty," as required by the 1956 decree, nor would the operating companies receive any of the royalties that are collected.

COMPETITIVE ISSUES

The Court found that the "incentive and the opportunity for anticompetitive conduct (by AT&T) will after divestiture and on account of divestiture be greatly reduced." (p. 72 & n. 175) Consistent with this view, the Judge did not require substantial additional steps to prevent anticompetitive practices between the interexchange network and other markets. He observed that the decree does not "immunize (AT&T) from its obligations under the regulatory decisions or the antitrust laws." (fn. 176) The Court specifically observed that "since separate subsidiaries are essentially a regulatory device, it does not seem appropriate, except in the most unusual circumstances, for an antitrust court to impose such a requirement." (p. 112 & fn. 251)

The opinion proposed that any operating company that bills interexchange calls disclaim any affiliation with AT&T. The Court also made clear that any exception from the requirement of equal interconnection would be conditioned on a cost-based discount.

DIVERSITY OF INFORMATION

The Court expressed particular concern for the First Amendment values that underlay section 263 of H.R. 5158. The Judge suggested that the parties agree to an almost identical replica of this provision, prohibiting AT&T from providing information publishing services over it own facilities. AT&T may petition for relief from this provision after seven years.

EMPLOYEE PROTECTION

The Court declined to require the operating companies to continue to recognize existing unions or to respect current bargaining agreements for the remainder of their term, as provided in the Senate bill and in section 267 of H.R. 5158. The Court stressed that divestiture posed "no obstacle . . . to adherence . . . to the terms of existing bargaining agreements," but that the unions and the operating companies "will be entirely free to arrange their mutual labor relationships." (p. 146)

EXPRESSING DISAPPROVAL OF CUTBACKS ON COMMUNITY COMMITTEES SERVING AGRICULTURE

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, farmers in my congressional district have brought to my attention a proposal by the U.S. Department of Agriculture that will have the most serious consequences for the efficient and effective operation of U.S. Government farm programs. That proposal is one that would reduce the number of community committees within the Agricultural Stabilization and Conservation Service, cut back the number of meetings for the committees, and remove local financial control.

Mr. Speaker, this proposal is being made in name of cost savings. However, if it is allowed to go forward, it will have exactly the opposite effect. Over the years, community committees have been instrumental in detecting waste, fraud, and abuse in USDA programs. They have returned to the Government many times the cost of their operation.

Further, Mr. Speaker, this proposal runs counter to the Zorinsky amendment to tobacco legislation enacted last month by Congress, and signed into law by the President. That provision states, in pertinent part, that "it is the sense of Congress that the Secretary of Agriculture should insure that the structure and operation of the Agricultural Stabilization and Conservation County and Community Committees * * * be preserved and strengthened."

Mr. Speaker, these community committees are the heart and soul of programs operated by the ASCS. Made up of working farmers, elected by their neighbors, they have given these farm programs a grassroots participation and a responsiveness to local needs matched by few other Government programs. This administration has talked a great deal about returning Government to the local level. But the proposal to reduce the level of participation of community committees within ASCS will ultimately result in the responsibility for farm programs being taken away from working farmers at the local level and placed in the hands of Washington bureaucrats.

Mr. Speaker, today I have written Secretary of Agriculture John Block and urged him to drop this proposal before it goes any further. I encourage my colleagues here in the House to join me in expressing their disapproval of this ill-advised and misguided proposal.

INTEREST RATES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, on September 9, 1981, I introduced a resolution directing that the President consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within 90 days after adoption.

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My resolution was one of many directing that the President confer with the Federal Reserve Board on lowering interest rates. The sense of the Congress is clear—that the Chief Executive and the Federal Reserve Board begin to work together to bring down these devastatingly high interest rates. In some cases interest rates are now more than 17 percent.

The President and the Federal Reserve Board have not acted to restore the confidence of the financial markets and the general public, they have not worked toward lowering interest rates and they show no signs of doing so.

In October 1979, Chairman Voicker announced a radical departure from traditional Federal Reserve policy. At that time, the Fed officially abandoned any attempt to control interest rates and announced that its entire effort would be to control the money supply alone.

The result of the Fed's deciding to ignore interest rates is that interest rates quickly reached and have maintained their highest levels in American history.

In the 2 years following the implementation of the policy of ignoring interest rates, the prime rate averaged 16.8 percent.

With interest rates at that level the American dream of homeownership is fading. Under this ballooning of interest rates caused by the Fed's ignoring the subject only 3 perecent of the American people can afford a home.

Time and time again, I am told by the business people in my district that the most influential factor in the continuing high interest rates is what they identify as the "fear factor." The public is seeing no action by this administration to relieve high interest rates and they are convinced that interest rates will remain high. This fear factor is stopping investments.

A bill introduced Wednesday by the distinguished majority leader, Mr. WRIGHT, and myself, as a cosponsor, is meant to pick up where the many resolutions that have been offered left off.

The bill is designed to relieve some of the uncertainty over interest rates by making the Federal Reserve Board consider the long-term affects of their monetary policy on interest rates and by making the Fed announce its intentions.

The high interest rate policy is a conscious policy of the Federal Reserve with the support of the administration. Congress and the general public have the right to know the Fed's and this administration's intentions toward monetary policy affecting interest rates.

This bill is not an attempt to have Congress set interest rates. However, it is an attempt to make an institution that has been unapproachably responsive to the needs of the people as constituents have expressed them to their elected officials.

This amendment of the Federal Reserve Act is necessary to restore confidence.

THE JACKASSES AND THE ELEPHANTS

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, yesterday President Reagan was kind enough to travel out to my home State of Montana, and while he was out there he referred to the Members of the Congress of the United States as "jackasses."

Now, another term of "jackass" is "donkey." The donkey is the symbol of my party. By the way, a donkey is a domesticated jackass. Donkeys are notorious for having their own minds, being stubborn, and thinking for themselves, whereas the animal representing the other party is easily trained. We have all seen elephants in the circus. They grab the tail of the elephant in front of them and then they all perform the identical trick each in turn.

Now, the President's problem is not with the jackasses; it is with the elephants who are starting to develop a mind of their own on the President's economic policy. He is having trouble with those elephants who are beginning to think like jackasses.

Mr. Speaker, I would suggest that the President quit concentrating on the donkeys and start trying to get his elephants back into line.

SIGNS OF THE TIMES

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STARK. Mr. Speaker, this morning's Washington Post placed side by side two news articles that are a sign of the times—the hard times brought to us by the President's economic policies of trickle down tax cuts and unemployment as a cure for inflation.

One article reported the horse Conquistador Cielo was syndicated yesterday for $36.4 million. The racehorse was sold to 40 investors who put up about $900,000 apiece for the animal, expecting, of course, handsome profits off the stallion's offspring. As the article explained:

> At the same time, you've got a tax shelter. You can depreciate the cost of a 3-year-old over 3 years, writing off 25 percent the first year, 38 percent the second year, and 37 percent in the third. It is a nice game.

Next to this article was one entitled "Agencies Water the 'Charity Soup.'" As the article reported:

> At Sacred Heart Parish, 16th and Park Road NW, the number of families receiving church emergency food packages jumped from 70 last July to 230 in May of this year, according to the Rev. Joaquin Bazan, pastor.
>
> SOME (So Others May Eat), a church-operated soup kitchen half a mile north of the Capitol, has watched its daily line grow from 200 persons a few years ago to 600 today.
>
> In affluent Montgomery County, $30 emergency aid grants given by the interdenominational Community Ministry jumped from 16 a month three years ago to over 100 in June of this year.
>
> "I don't know where it's going to end," says Marita Dean of Catholic Charities' crisis intervention service. "Last summer we were seeing 40 people a month. Now, it's close to 100. And this is summer, when it should be down. God knows what it will be in November and December."

Clearly, Mr. Speaker, the times are out of joint when a racehorse can sell for $36.5 million—one offer even went as high as $60 million—while thousands of our fellow human citizens are reduced to souplines.

POSITIVE EFFECTS OF THE JOB TRAINING PARTNERSHIP ACT

(Mr. EVANS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Georgia. Mr. Speaker, passage of the Job Training Partnership Act by the House on August 4, is a meaningful step toward addressing our Nation's chronic unemployment problem.

As a sponsor of H.R. 5320, I am pleased that approximately 1,000 people in Bibb, Twiggs, Monroe, and Jones Counties, as well as thousands of others in Georgia's Eighth District will be provided training and jobs in the private sector through partnership with private industry.

I have contacted the business communities in my district and requested their meaningful and enthusiastic support for this legislation and its effective implementation.

Unemployment hurts people. Not only does each 1 percent of unemployment mean a loss in revenues to our Treasury of $25 billion, more importantly it represents misery and despair to the unemployed and families of unemployed.

Mr. Speaker, I recognized that H.R. 5320 is not a cure-all for our unemployment problem. We must continue our efforts to put people back to work through sound fiscal and monetary policies. This legislation will help, however, in attacking high unemployment.

RENEWED EFFORTS FOR A VERIFIABLE NUCLEAR FREEZE

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, I am proud today to join once again with my colleagues, the gentleman from Massachusetts (Mr. Ed Markey) and the gentleman from Massachusetts (Mr. Silvio Conte), in reintroducing the resolution to call for a mutual and verifiable freeze of the testing, production, and deployment of nuclear weapons.

Members may say, "Well, why do this now? You just got beaten the other day."

We do not consider that we got beaten. We consider that in view of the tremendous effort that was made by the White House, with calls from all over the world coming in to Members, getting 202 Members to support the freeze was a substantial victory. We want the people around the country who believe in the freeze, who call for the freeze, who call for a halt to the arms race, to know that we are going to carry on the fight and eventually we will win that fight.

Mr. Speaker, at some point the people of this country, through their elected representatives, are going to see to it that the insane nuclear arms race comes to a halt.

AN APPEAL TO THE SOVIET UNION ON NUCLEAR DISARMAMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, an article in Sunday's New York Times brought to my attention an interesting contradiction: While the Soviet Union accuses the United States of sabotaging talks on nuclear disarmament, the Kremlin is suppressing unofficial peace initiatives in the Soviet Union and the East bloc.

I am disturbed by reports that Soviet officials have taken steps to disband the country's first unofficial peace movement, disconnecting telephones of participants, detaining them, and warning some that they risk criminal prosecution.

Last Friday in Moscow, it was reported, KGB agents arrested Sergei Batovrin, a founding member of the peace movement and have placed him in a psychiatric hospital where he is allegedly being administered depressant drugs.

It has been reported East Germany has decided to crack down on unsanctioned peace movements in East Berlin. Known peace campaigners have been given the choice of joining the army or going to jail. East German officials want to squelch this disarmament campaign in East Berlin, which has the backing of the Protestant church, to discourage the formation of similar movements in Moscow.

This crackdown comes at a time when both the Governments of the Soviet Union and the United States, urged on by the popular support of their people, are working to halt the nuclear arms race. If these acts of repression are carried out by the Soviet Union it undermines the grassroots effort of the nuclear freeze movement.

I hope that Soviet officials will reevaluate their treatment of this group. If Soviet concern for the prevention of a nuclear holocaust is real, I trust grassroots efforts will be encouraged, rather than restrained. I want to urge my colleagues to sign the "Dear Colleague" letter I am circulating expressing concern about these reported crackdowns to Soviet President Brezhnev.

STRATEGIC TRADE ACT

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I rise today to alert my colleagues to an international organization which seeks to preserve the security of the free world. This organization is known as Cocom, short for the Coordinating Committee for Multilateral Export Controls. Cocom has existed for 32 years, and it restricts exports to the Communist bloc on the grounds that the exported items could be used for military purposes.

Cocom has been effective, but there are areas that need improvement. The Strategic Trade Act of 1982, which I introduced last month, would stress the U.S. role in Cocom and would seek treaty status for this important organization.

Along with strengthening Cocom, we need to bring more military analysis into the picture. Most Cocom nations do not have military participants in their Cocom delegations. The Strategic Trade Act places more emphasis on the military review of proposed exports from the United States. This move would demonstrate to our Cocom partners that appropriate military analysis must be a part of the export control process.

Events in recent months clearly indicate that there is a lack of international control of technological exports to the Communist bloc. The Strategic Trade Act of 1982 will strengthen international coordination in order to restrict the export of technology that could be used by the Soviets to improve their warmaking capability.

SUPPORTING REINTRODUCTION OF RESOLUTION ON THE NUCLEAR FREEZE

(Mr. AuCOIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, advocates of a nuclear weapons freeze are reintroducing a resolution to that end. Again I am pleased to join them in this effort. I do so convinced that the American people are on our side on this issue, and that we will win.

Last week the freeze measure failed to pass on the floor of the House—only after an intensive lobbying effort against the resolution by the administration. But do you know what? In my district the people have not changed their desire for peace or their support for this freeze resolution one whit. They still want to stop the limitless arms race which is being perpetrated in the false name of defense. Because they feel so strongly, in only 10 weeks 112,000 Oregonians signed an initiative petition to put the freeze resolution on the State ballot this fall.

□ 1215

I predict the freeze will pass overwhelmingly in Oregon, in California, in Wisconsin, and in every State and town and hamlet which has it on the ballot this fall.

I believe that once the wave of this support is added to the momentum being built by the advocates within the Congress, the people of America will get the victory that they want on the nuclear weapons freeze and that this initiative will win.

President Eisenhower said:

> Every gun that is made, every warship launched, every rocket fired, signifies in the final sense a theft from those who hunger and are not fed, those who are cold and are not clothed.

The American people recognize this. I wish we had a Republican President in the White House who recognized this as Eisenhower did. We do not have such a President. But we do have a freeze resolution. And it must be passed.

SOVIET REFUSNIK SAMUIL AZERSKY

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, another human being who is courageously attempting to emigrate with his family from the Soviet Union to Israel has come to my attention—this is Samuil Azersky of Odessa.

Samuil and Emilia Azersky, along with their two children, were first denied permission to emigrate to Israel because Soviet authorities

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claimed that their invitation was not sent from a direct relative in Israel. Officials told them that as soon as they received such an invitation, they would be allowed to emigrate without any difficulty.

Emilia's mother, upon arriving in Israel in March 1979, immediately sent an invitation to the Azerskys. They applied again and this time were denied on the pretext that since Samuil's parents were still residing in the Soviet Union, they would not be allowed to leave unless they took his parents with them.

With this courageous act of stepping forward to express their deep desire to emigrate, Samuil and Emilia Azersky and their two children joined thousands of other suffering from increasing persecution at the hands of Soviet authorities. Since filing their application in March 1979, no one in the family has been able to find employment in their profession. Samuil is a mechanical engineer, Emilia is a physician, their daughter Elena is a laboratory assistant, and their son, Vladimir, is still in school.

It is extremely important that we who enjoy such abundant freedom continue to express our outrage at the persecution of Soviet Jews who want nothing else but to join family members in Israel. Only 182 Jews were allowed to leave the Soviet Union in June to emigrate to Israel, while nearly 4,500 Jews received exit visas in June 1979. As long as Soviet authorities continue their current campaign to smother Jewish emigration, we shall be hearing about other families forced into these same tragic circumstances by the conflict between Soviet oppression and an individual's pursuit of his or her basic human rights.

SYNAGOGUE IN WEST BEIRUT BOMBED

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I want to associate myself with the previous speakers concerning the nuclear freeze. And what about an arms freeze?

Bombs know no targets. I am saddened to see that in addition to the Palestinians and the Lebanese killed and left homeless, the Jewish community in West Beirut is homeless, and, indeed, the only synagogue in West Beirut has been bombed.

This holy synagogue, along with the holy mosque and the holy Christian churches have been destroyed.

I appeal to the President of the United States to speak out against this unbelievable desecration of a country and its people and to call for an arms and nuclear arms freeze.

KEEP CHRYSLER OUT OF POLITICS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I was really quite surprised yesterday when I was watching television in the morning to see a picture of Mr. Lee Iacocca, the chief executive officer of Chrysler, coming out of the White House and pausing to say that he was coming out to support the President's tax program, and this was something he was going to really get involved in.

I do not know whether this is a payoff for Chrysler getting their loan money through this Congress but I would like to suggest that Mr. Iacocca devote himself to selling Chryslers and not entering this arena.

I think he is doing nothing to help their sales because this tax increase is aimed at hurting an awful lot of people. Maybe they are not Chrysler buyers and that is why he feels he is free to do it, but it is certainly hurting a lot of the elderly and a lot of the poor people and a lot of the middle income people.

May I suggest, Mr. Iacocca, that you work out in Chrysler country and stay out of the White House and the Congress.

NUCLEAR FREEZE

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, I rise briefly to join with those voices who have taken the well this afternoon in the spirit of peace, and I do so in two ways.

One, to applaud my colleagues for their continued battle to reduce and ultimately remove the risk of the insanity of nuclear war.

But I also do so in a second fashion and that is to deplore the sabre-rattling that is going on with respect to Cuba, a nation in this hemisphere.

Mr. Speaker, I think it is a contradiction for this Nation to talk about peace, communication, negotiation, and cease-fire in one hemisphere of this world and in this hemisphere we are prepared to talk about language such as "by any means necessary."

I think this kind of sabre-rattling is absurd. It is warmongering. It does not speak of peace.

Again I summarize by saying I take the well in the spirit of peace and join my colleagues who are attempting to force this body to address a reality.

PERSONAL EXPLANATION

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, yesterday, August 11, 1982, I was unavoidably absent from the House of Representatives due to illness. Had I been present, I would have voted as follows on the bills under consideration:

Rollcall No. 264: Harkin amendment to H.R. 5203, "aye."

Rollcall No. 265: Final passage of H.R. 5203, "aye."

Rollcall No. 266: Eckart amendment to H.R. 6214, "no."

Rollcall No. 267: Harkin amendment to H.R. 6214, "no."

Rollcall No. 268: Final passage of H.R. 6214, "aye."

NUCLEAR FREEZE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, imagine if you will that there are two hostile groups of people hurtling through space in a starship. Each group believes that the other is bent on taking over the starship. Each does not trust the other. Each is armed to the teeth. Each possesses thousands of weapons of mass destruction called nuclear weapons. Employment of any one of these weapons could trigger a chain that would destroy the starship. Yet, the leaders of both groups believe they must have more and more of these weapons. It becomes clear to everyone, even the leaders, that this is madness, yet they do not do anything because of mistrust and the inability to stop the process.

Suddenly, a ground swell of concern begins to grow, because the inhabitants of the starship begin to realize that these weapons have no military worth. The leaders, however, do not realize the earnest and serious intentions of the inhabitants and they miss the opportunity to stop the inevitable destruction of their starship. I am convinced that we should not miss the same opportunity to secure our starship Earth. Therefore, I am joining my colleagues Mr. Markey and Mr. Bingham in reintroducing the nuclear freeze legislation that was recently considered and rejected in this House. I hope you will be able to join us this time in a successful effort to adopt this resolution.

DEFENSE TARIFFS BILL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the time has passed for the United States to continue shouldering the largest burden of protecting the free world.

Our allies are on par with us economically, and it is time they reach equality on defense costs as well.

The fact is that Japan, with a higher per capita GNP than the United States, allocates less than 1 percent of this GNP for its defense. The fact is that our European allies average only 3.6 percent of GNP for defense, while the United States allocates over 6 percent.

In March in this Chamber, I twice discussed this problem of disproportionate defense burden sharing. Today I, along with 17 colleagues, am introducing a bill that will give the President the power to impose tariffs on imports from NATO nations, France and Japan, in the amounts we spend on their defense.

These tariffs would be in levels that would recover our costs of defense assistance to these countries. My aim is to provide the President with a new and powerful bargaining tool in negotiations with our allies in an effort to convince them to contribute more to free-world security.

RUSSIANS CANNOT BE TRUSTED ON NUCLEAR FREEZE

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the other evening on the House floor the cause of peace was served when we approved a nuclear freeze resolution which freezes after reducing the levels of nuclear terror in the world and thereby develops a process that aims at getting the Soviet Union to do what we are willing to do and that is bring down the level of nuclear arms.

Yet today nuclear freeze proponents come to the floor saying that they want a different kind of nuclear freeze, one that says that we ought to trust the Soviet Union. They do so coming 1 day after our Secretary of Defense told Americans that the Soviet Union may well be violating the Nuclear Test Ban Treaty of 1960, violating it by exploding weapons of a greater megatonnage than is permitted in the treaty.

We heard some predictions here this morning. We heard someone predict that when this issue goes to the voters this fall across this country that it will be approved overwhelmingly.

I will give you one more prediction. I will give a prediction that the people of the Soviet Union will never be allowed to vote on this issue.

COURT RULINGS ON A.T. & T.

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, in a recent decision on the Justice Department-A.T. & T. settlement Judge Greene made some good points with regards to the Bell operating companies' financial viability and the needs of consumers of those Bell operating companies' services.

Specifically, it allowed those Bell operating companies (BOC's) to retain yellow pages and sell and lease new terminal equipment. This allows additional revenue-raising means for BOC's which should result in lower telephone rates to consumers.

Those of us who were strongly opposed to H.R. 5158, the telecommunications bill recently before the Energy and Commerce Committee, were in support of those measures advocated by Judge Greene to modify the Justice-A.T. & T. settlement.

However, what we opposed in H.R. 5158 was the counterproductive dismemberment of a very successful telecommunications system, particularly the dismemberment of the working relationship between A.T. & T. Cos., that is, the separations legislated between Long Lines, Western Electric, and Bell Labs.

This battle against structural dismemberment was embodied in those amendments which opponents to this telecommunications legislation were offering when the bill was pulled.

Judge Greene concluded that further separations, sought in H.R. 5158, were not necessary. Mr. Speaker, we agree.

□ 1230

THE NUCLEAR FREEZE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I must admit that I was somewhat befuddled by some of the 1-minute speeches that were uttered here a few minutes ago. Some of those who suggested to us that the only way that we can have peace in the world is through a nuclear freeze also voiced, virtually at the same time, some expression of concern about what the Soviets are doing to the minute, almost infinitesimal publicly allowed peace movement, in the Soviet Union.

I would suggest that they ought to think about that for a while. Many of the arguments that I think would be valid with respect to the nuclear freeze would be valid only if you assume that both parties about which we are concerned, the United States and the Soviet Union, were essentially in the same situation with respect to the number of weapons, and also with respect to their same systems.

But we know that is not true. We do influence our elected officials here. We influence them very directly, both at the ballot box and through demonstrations and through communications. We know that is not true in the Soviet Union. Thus, we have to look, if we truly want to have peace in the world, at how we leverage the Soviet Union into a position of true negotiations.

I would suggest that it is far more complicated than a mere freeze. I would suggest as one of our Members said some time ago, that we not have negotiations by bumper sticker.

INCREASE AUTHORIZATION FOR THE ANNUAL FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia and pursuant to the unanimous-consent request of Monday, August 9, 1982, I call up the bill (H.R. 5595) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Eckart). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of $336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of $336,600,000; and for the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of $361,000,000".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in explanation of the bill before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker I am pleased to bring up for the consideration of the House the bill, H.R. 5595. The bill amends the District of Columbia Home Rule Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia from the existing level of $336.6

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million to $361 million. The purpose of the Federal payment is to serve in part as compensation to the District of Columbia for the extraordinary net costs and denied revenues related to the Federal presence. In calculating the amount of the Federal payment, both the costs and the benefits of the Federal presence are considered.

Mr. Speaker, H.R. 5595 is required because the amount of the actual payment has not kept pace with the increase in the extraordinary net costs and denied revenues related to the Federal presence. In addition, Mr. Speaker, the Federal payment has decreased as a percentage of the District budget from almost 27 percent at the time that we passed the Home Rule Act in 1973 to 21 percent in fiscal year 1982. The proposed $361 million figure would be approximately 20 percent of the District's fiscal year 1983 budget.

Mr. Speaker, the Subcommittee on Fiscal Affairs and Health of the Committee on the District of Columbia held hearings on March 3 of this year. The bill was reported to the full committee at that time. On March 12 of this year the committee approved the bill, H.R. 5595, by a unanimous vote of 9 ayes and zero nays.

I might also add, parenthetically, Mr. Speaker, that the amount of revenue requested in this authorization bill, $361 million, is the figure proposed by the President and incorporated in OMB's budget request for fiscal year 1983, and, finally the figure is also within the budget resolution adopted by this body.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, in the past few months, the Members of this body have made numerous decisions that will determine the fiscal future of our Nation as a whole, and of the countless cities and towns making up that Nation. Certainly, we will see more of those decisions surface in the weeks ahead as we begin to consider the 13 appropriations bills covering the operation of our Government in the fiscal year ahead. Each and every one of us will be aware of programs that will directly impact on the cities that we represent, and we will all vote to protect the interests of our constituents, insofar as possible.

While we take those steps we should not forget that one jurisdiction in this country does not have a vote in this body. That jurisdiction, of course, is the District of Columbia. The responsibility to insure the well-being of the Nation's Capital falls to the Congress, and more specifically, to the Committee on the District of Columbia. We come to the floor today with a bill that acknowledges that responsibility, and ask your support for legislation to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

Let me make sure my colleagues understand what the Federal payment is all about. It is not a handout. It is certainly not compensation to the city of Washington for being the Nation's Capital, because if that were the case, the figure we are discussing here today would be much greater. It is a fully justified payment to the District to help defer the unique costs associated with the city's role as our Nation's Capital, a role which includes providing services to the Federal Government and local residents, as well as visitors from all over the country and the world.

H.R. 5595 would raise the amount authorized for the annual Federal payment from $336.6 million to $361 million for fiscal year 1983 and each fiscal year thereafter. President Reagan has recognized the need for an increased authorization and passage of H.R. 5595 would enable the Congress to appropriate the full amount requested by the Reagan administration.

I would remind my colleagues that this is an authorization bill, and as such we are not mandating a certain level for the Federal payment. Rather, we are establishing a ceiling on the amount of money the Appropriations Committee can eventually pass on to the District government. And I have a great deal of faith that if this level is not justified, the Appropriations Committee will not appropriate the full amount. This is not just wishful thinking, because history tells us otherwise. We are currently in the eighth fiscal year since the passage of the Home Rule Act. In only two of those years, fiscal year 1981 and fiscal year 1982, has the appropriated Federal payment been the full authorized amount. In the other 6 years, the Appropriations Committee exercised its authority to determine what the level should be, based on the performance of the local government.

While, I was exploring the history of the Federal payment, Mr. Speaker, I came upon another statistic that some should find very enlightening. In the 10 fiscal years prior to the passage of home rule, the Federal payment increased from $37.5 million to $187.5 million. That works out to be an increase of 400 percent in the final 10 years when Congress had full control over the operation of the city. Since the passage of home rule, the Federal payment has increased from $226.2 million to the current $336.6 million, which works out to an increase of 48.8 percent over the 8 years during which the city has had some form of local autonomy. Apparently, we are expecting more from the locally elected government than we did from ourselves.

Mr. Speaker, I am sure we have all heard that statistics can be made to verify whatever an individual might want them to verify. So that my colleagues can judge for themselves, I include in the RECORD at this point two tables which bear out the information I have provided in summary form.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Fiscal year	Authorization	Appropriation
1975	$230,000,000	$226,200,000
1976	254,000,000	248,948,000
1977	280,000,000	276,650,000
1978	300,000,000	276,000,000
1979	300,000,000	250,000,000
1980	300,000,000	276,500,000
1981	300,000,000	300,000,000
1982	336,600,000	336,600,000
1983	[1] 361,000,000	([2])

[1] Proposed.

[2] Not yet enacted.

Federal payment to the District of Columbia—fiscal year

	Amount
Pre-Home Rule (Public Law 93-198):	
1964	$37,500,000
1965	37,500,000
1966	44,250,000
1967	58,000,000
1968	70,000,000
1969	89,365,000
1970	116,166,000
1971	131,000,000
1972	173,654,000
1973	181,500,000
1974	187,450,000
Post-Home Rule (Public Law 93-198):	
1975	226,200,000
1976	248,948,000
1977	276,650,000
1978	276,000,000
1979	250,000,000
1980	276,500,000
1981	300,000,000
1982	336,600,000

The citizens of the District of Columbia have long endured the hardship of being second-class citizens, and it may be that they will never achieve complete home rule. In the time since the Home Rule Act was passed, the Congress has come a long way toward righting the wrongs of past decades. Increasing the authorized Federal payment to a realistic and proper level is one more step in the progression. I urge my colleagues to join me in taking that step.

Mr. FAUNTROY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 5595, a bill which will increase the Federal payment authorization. I am pleased to be able to fully agree with the President on this proposal and to be the sponsor of a recommendation by the administration.

The legitimacy of the Federal payment to the District of Columbia is widely recognized and accepted. There is no doubt that the District of Columbia experiences extraordinary costs in running its Government and maintaining the city as a result of the presence of the Federal Government.

This bill is an effort to take into account the spiraling costs of running a government as a result of inflation and other economic pressures. Indeed, as a percentage of the District's budget, the Federal payment has not kept pace with increased costs, but in fact has decreased.

H.R. 5595 will not correct the steady decline of the Federal payment over the years, but it does provide some relief.

I urge my colleagues to support the President on this bill. Thank you.

AMENDMENT OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS: Page 2, line 8, insert ". Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than $14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund".

Mr. PARRIS. Mr. Speaker, although in relative terms, this is a fairly small amount of money, compared to what this Congress usually considers, I believe the principle embodied here is very important, and this is a fairly complicated matter. I would hope that my colleagues on the floor, and those who may be watching the proceedings from their offices, will pay close attention to the facts and the debate that will ensue on this amendment.

Mr. Speaker, I have been requested by the District of Columbia Retirement Board to call to the attention of my colleagues the fact that the District of Columbia government presently owes the police officers, firefighters, teachers and judges retirement funds the sum of $14.3 million. These funds are not moneys owed based on some future actuarial projections. They are, quite simply, back payments that are past due, payments that have not been made as required by law.

On November 17, 1979, the Congress enacted Public Law 96-122, commonly known as the District of Columbia Retirement Reform Act, legislation that created the District of Columbia Retirement Board, with the intention that the District of Columbia government would make regular payments sufficient to adequately fund the retirement plans of those who had devoted their lives to improving the quality of life in our Nation's Capital—the police officers, the firefighters, teachers, and judges.

According to section 142.4 of that legislation, the District government is responsible for funding the retirement plans of those dedicated public servants effective January 1, 1981. However, the District of Columbia Retirement Board advises me that the District government has been deferring the required payments and that a shortfall of $14.3 million now exists from fiscal year 1981. Thus arises the need for this amendment.

Public Law 96-122 created the D.C. Retirement Board to manage the investments of the officers and firefighters' retirement funds and to perform a number of other functions including the determination of the amount of each annual payment that the District of Columbia is required to make to the funds under section 142, which I referred to just a moment ago.

The amount of the District payment appropriated for fiscal year 1981 was not, however, determined by the Retirement Board because the Board had not yet at that time come into being when the fiscal year 1981 District budget was first approved by the Congress. Instead, the budget for fiscal year 1981 reflected determinations made by the District government on the basis of an actuarial study performed by the U.S. Treasury Department actuary.

In April of 1981, the Mayor of the District of Columbia publicly acknowledged the existence of a projected shortfall in budgeted District contributions to the three funds of $23 million for fiscal year 1981. This knowledge provided the District ample opportunity to include an additional payment in the 1981 supplemental budget request, but no such action was taken. Upon learning of the shortfall, the Retirement Board commenced discussion with the District in an attempt to obtain appropriate increases in District payments.

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As a result of these discussions, the District government has acknowledged its responsibilities for that portion of the shortfall which is attributable to the fiscal year 1981 cost of the "early out retirement program" adopted by the District in September of 1980. Payment of $4.89 million for that item was received by the Retirement Board from the District government on May 28 of this year. The balance of the fiscal year 1981 shortfall, approximately $14.3 million, has not been paid and no agreement as to payment of the balance of this amount has been reached.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 5 additional minutes.)

Mr. PARRIS. On January 11 of this year, the District notified the Board that the city would pay $4.3 million toward the remaining shortfall, but only in the event that the fiscal year 1983 increased Federal allocation amount goes from $336 million to $361 million, which is, of course, the exact provisions of the bill that we are now addressing.

The fiscal year 1981 shortfall is not an isolated occurrence. A similar shortfall of $13.1 million occurred in fiscal year 1980 and was paid by the District of Columbia.

Subsequently, the Board was invited by the District to participate in the fiscal year 1982 amended budget process. The Board's actuary estimated that an additional $14.5 million of payments of the funds should be made for fiscal year 1982. The amount was included in the fiscal year 1982 amended budget at the District's request and is now being paid by the District of Columbia government on a quarterly basis.

The District's conduct in 1980 and 1982 acknowledged that the methodology and the data base for determining payments to the funds had not yet been brought into the kind of alinement which the statute adopted by this Congress anticipated would provide the necessary annual contribution by the District, which together with the employee contributions would make the actual benefit payments.

In the opinion of the Retirement Board's actuary, the fiscal year 1981 shortfall is attributable to basically two factors: First, the U.S. Treasury Department's actuarial calculations were based upon data provided at that time by the District regarding individual members and individual beneficiaries. This data, very simply, was deficient and proved to be inadequate.

Second, in order to project required District payments under the statutory formula, the actuary must make assumptions regarding future cost-of-living increases, salary increases, rates of mortality, disability and termination of employment, the number of new employees and their age, sex and salary rates, and other matters which is, of course, impossible to project exactly.

It is, therefore, the purpose of this amendment, Mr. Speaker, to require that the $14.3 million, which is the existing shortfall, be set aside to make up for a clearly anticipated shortfall which could have been rectified in the normal budget process of the city, but has not been so done.

The amendment that I have before the House would correct this situation. It would provide for a mandatory payment in accordance with existing law previously adopted by this Congress.

Now, let me make several additional points, if I might, Mr. Speaker.

This is not a matter of home rule. It is a matter of home survival, the survival of the homes and futures of a great many, and I am told approximately 8,500, District of Columbia government retirees who have devoted their lives to public service with the expectation that their government would keep its word and protect their retirement benefits.

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It is consistent with the interests of the Federal Government in providing these funds to compensate for the Federal presence in the city. It is a matter of fundamental fairness.

I would suggest, Mr. Speaker, that there are several arguments that we will hear in opposition to this amendment; but before we hear those arguments and before I conclude my statement, let me say that this Member has read in the Washington media over the last 2 months at least seven different public estimates of the financial condition of the District of Columbia from various D.C. officials. Three of them said there is a deficit. Four of them said there is a surplus, and I respectfully submit that nobody really knows what the fiscal situation truly is.

Now, I anticipate that we will hear much about a letter from the mayor of the District of Columbia, which I saw for the first time this morning, and it suggests that there has been an understanding about meeting this shortfall which can and will be accomplished over the next 3 years.

Let me share with you a response to that letter, Mr. Speaker, and I ask unanimous consent that it be included in the Record at this point.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Virginia.

There was no objection

The **SPEAKER** pro tempore. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. Parris was allowed to proceed for 5 additional minutes.)

Mr. PARRIS. The letter to which I refer, Mr. Speaker, is dated August 11, 1982. It is signed by the chairman of the District of Columbia Retirement Board. It is addressed to me and it says in paragraph No. 1:

> In response to your question "has the D.C. Retirement Board entered into an agreement with the government of the District of Columbia under which the D.C. government has agreed to pay the entire shortfall of $14.3 million", the answer is "No."

Mr. Speaker, on July 28, 1982, just 2 weeks ago, the D.C. Employee Retirement Board in order to avert an existing cash shortage voted to use $6.8 million from its long term investment account to make the August and September 1982, retirement benefits payments to 8,500 retired teachers, policemen, and firefighters in this city. That is unacceptable brinksmanship. That withdrawal represents a cost to the board of $85,000 a month in earned interest on funds, and if you take the Mayor's suggestion that we should pay this out over a 36-month period, it will represent a $3 million loss in interest over the next 36 months, or almost 25 percent of the amount of the existing shortfall. To me, Mr. Speaker, that is simply not good economics.

The use of long-term investments for short-term payments compounds the future financial problems of the Board and aggravates the problem of the District and of its retirees and jeopardizes their benefits.

Now, in the Mayor's letter you will see the figure used as $12.9 million in deficits. That was from an actuarial study made in May of 1981. My amendment carries with it the appropriation of the sum of $14.3 million and the difference is it was made in September of 1981, just 5 months later, and $1½ million is the difference between the two studies.

The Retirement Board now reports that the deficit in the D.C. government employees' retirement system will climb to a staggering $8.8 billion in 25 years.

Under Public Law 96-122, adopted by this Congress on November 17, 1979, section 144(2) paragraph (c) provides that these funds shall be a claim "on the revenues of the District of Columbia", all of the revenues of the District of Columbia to the extent necessary to meet the obligations of the fund. It is a clear, preemptory claim, on all revenues.

Worse than that, section 144(E)(1) requires in the year 2004, which just happens to be the same 25-year period that the Retirement Board just estimated, requires the Federal Comptroller General of the Federal Government to determine "whether the Federal share has been paid in full", and if it has not, to rectify that problem.

Now, Mr. Speaker, I apologize for the length of my observations on this question, but as I indicated to you earlier, I think it is important. After I make just one additional point, I will be delighted to yield to my friend, the gentleman from California.

I anticipate, Mr. Speaker, that we will hear again some argument that this is a question of precedent. There is ample precedent here, I submit. The Federal Government has been requiring States and local jurisdictions to comply with Federal law for 200 years and that is exactly what we are trying to do here. We are trying to suggest to the District of Columbia that it live up to its obligations to comply with the Federal statute that requires the payment of funds into the police officers, firefighters, and teachers retirement funds. There is ample precedence, I think, for that principle. For more than 100 years the Federal Government has been granting Federal funds to States and localities with conditions attached.

The District of Columbia is asking for $361 million in Federal funds and we are saying, fine, but there is a condition attached.

The **SPEAKER** pro tempore. The time of the gentleman from Virginia has once again expired.

(By unanimous consent, Mr. Parris was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Speaker, would the gentleman yield at that point?

Mr. PARRIS. I will be delighted to yield to my chairman.

Mr. DELLUMS. Mr. Speaker, the gentleman is not suggesting that the District of Columbia is not in compliance with the law, is that correct? I would like to understand what the gentleman is saying here, whether the gentleman is implying they have not complied with the law. If the gentleman is, I would suggest that the gentleman has not read the act. What is the gentleman suggesting?

Mr. PARRIS. I am suggesting to the chairman that the District of Columbia has an unfunded liability for fiscal year 1981 in the amount of $14.3 million and for almost 2 years it has failed to satisfy that.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I would be delighted to yield to the gentleman.

Mr. DELLUMS. I would concur with the gentleman that there has been a shortfall in the funding for fiscal year 1981. That is not at debate. What may be at debate is the figure. The city says $12.9 million. The gentleman says $14.3 million. Somebody else says some other figure; but the point is that when you read the act, it says very specifically how you address shortfalls in any given year. It is to be amortized over the life of the act itself.

So No. 1, the District of Columbia is, I would suggest, in compliance with the law as it is laid out. There is nothing in that act that suggests that a shortfall has to be paid in a specific year in a specific way. All it says is that it must be amortized over the life of the act.

No. 2. The gentleman from Virginia is perfectly correct when he states that the basic reason for the shortfall was that the actuary employed by the U.S. Treasury Department made a low estimate, and as a result of that we ended up with a shortfall somewhere between $12.9 and $14.3 million, but the fact of the matter is that the District of Columbia paid in that fiscal year 1981 what it was lawfully required to pay; so on both counts I would suggest to my colleague that his implying lack of compliance is something that needs to be straightened out and cleared up on this floor.

The **SPEAKER** pro tempore. The time of the gentleman from Virginia has again expired.

(At the request of Mr. Dellums, and by unanimous consent, Mr. Parris was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. Yes. I would be delighted to yield to the gentleman.

Mr. DELLUMS. So in summary, Mr. Speaker, I am making two points. In fiscal year 1981, the District of Columbia paid what it was lawfully required to pay at that time. We have since determined as a result of the low estimate by the actuary that there was a shortfall in 1981.

Now, the District of Columbia is, indeed, required to pay that shortfall; but if the gentleman from Virginia reads the act, what it says in order for the District to comply is that they must amortize that shortfall over the life of the act itself. It does not in any way suggest that they have to pay in any other way.

So my question to the gentleman is, at what level is the District of Columbia not in compliance with the law?

Mr. PARRIS. Mr. Speaker, I would respond to the gentleman and correct him in just two observations, which are perhaps not terribly important for this purpose, but let me make sure it is done.

As I indicated earlier, the difference of estimates of the deficit is $12.9 million and my amendment is $14.3 million, so we are $1½ million apart.

Mr. DELLUMS. The gentleman's amendment is $14.3 million, am I not correct? That is what I had suggested.

Mr. PARRIS. The question is roughly $1½ million as the difference of opinion as to what is in fact due.

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Second, I practiced law for about 20 years and I respectfully submit to the gentleman that our interpretation of the act is apparently different than his in terms of the District obligation toward a shortfall. But assuming, for the sake of the argument, that the gentleman is correct about the provisions of the act, that still does not go to my quarrel with this situation.

My quarrel with the situation is that the Retirement Board of the District of Columbia, as I indicated earlier, is in fact now required to go to its long-term investment funds to find short-term cash flow for existing benefits owed currently including this month to retired District of Columbia Government employees. To me, that is fiscal chaos. It is insanity and irresponsible.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further to me for this colloquy?

Mr. PARRIS. I would be happy to yield to the chairman of the committee.

Mr. DELLUMS. I appreciate the gentleman yielding to me.

Mr. Speaker, I appreciate the comments that the gentleman has made. When you add that to the last part of the gentleman's debate, what he did was to point out the significant problems inherent in the act itself. This gentleman, and a number of other gentlemen, including the ranking minority member on this committee, stated that when we passed the bill there was an unfunded liability of well over $1 billion then.

This gentleman said if we are going to fund this pension plan, let us fund it in toto; let us not have over $1 billion of unfunded liability, and throw that to the District of Columbia, with all of its fiscal problems that we contributed to over time, and then say, "You people, sink or swim on your own," and then we can come back to the floor and be the hero of the employees by saying that the District of Columbia has to earmark these funds.

I would suggest that if we are going to be the heroes of the workers and the heroes of the retired people, then we have to look at this act in a comprehensive fashion.

Just one other point.

The act itself says after there has been some experience with this bill, some time, that we can look back and begin to see the implications of the act itself, it is then time for us to review it. I think that that time is about now.

I think there are a number of issues that we ought to look at.

No. 1, what is the implication of this incredible unfunded liability that we wrote into the act?

No. 2, how do you handle shortfalls over time, over the long term?

The gentleman is correct in trying to deal with 1 year. But what happens if this is a shortfall in more than 1 year?

There are also questions about the procedure of this board and the system and how it works. It would seem to me that we have a responsibility to review it, review the act in a comprehensive way, and if there is a need for us to reform and change the act, we ought to do that in some cogent, intelligent, rational, and analytical way.

I want to help the workers just as much as the gentleman from Virginia does. If the gentleman will go back and read the record, we said then, let us fund this to the tune of over $2 billion. But my colleagues in the House were being fiscally conservative at that time. You cannot walk both sides of the street. You cannot strip them monetarily and then come back another year and beat them because they do not have the funds. This is a contradiction.

I am saying to the gentleman there are problems in the act itself that we need to look at. I am committed to holding those hearings, and the gentleman can be there and take a lead role in that regard.

I am simply saying that I think his amendment only deals with one aspect of these problems that we need to look at in a total, comprehensive fashion; and No. 2, I appreciate the gentleman's motivation. I do not want to say anything that challenges that.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will be gentleman yield further to me?

Mr. PARRIS. I will be happy to yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

All I am suggesting to the gentleman is that to imply that the District of Columbia is not in compliance with the law it seems to me is inappropriate. What this gentleman is attempting to say to the House, regarding what the gentleman from Virginia is talking about, is that in 1981 when the District of Columbia made its payment, it was at that time complying with the law because it paid what it lawfully was required to pay. They were in compliance.

No. 2, how do they pay the shortfall? The District of Columbia has suggested that in fiscal years 1983, 1984, and 1985 they will pay the sum of $4.3 million each year over that 3-year period to handle what they perceive to be the $12.9 million figure.

Now, if it is $14.3 million, as the gentleman from Virginia (Mr. PARRIS) suggests, then those figures would have to go up. But the fact that we do not know the difference, whether it is $12.9 or $14.3 million, only underscores the point of the gentleman from Virginia, and this gentleman from California, and that is that there are some problems we need to look at in this act.

The fact that you are just now getting to the reality that there is a problem in 1981 only speaks to the budgetary problems of the District of Columbia that we contribute to because we are involved in their lives on a very regular basis.

I thank my colleague for yielding.

Mr. PARRIS. I am delighted to have been able to.

Mr. Speaker, I would respond to my chairman by once again reiterating the fact that the District of Columbia has in fact made up the shortfall which existed in fiscal year 1980 and fiscal year 1982, and I submit that out of a $2 billion annual budget appropriation, the utilization of $14 million, less than 3 percent of this Federal contribution this year, for this purpose is not an excessively onerous burden for the District of Columbia to undertake.

For a period of about 22 months, we have seen the spectacle of the Retirement Board and the District of Columbia discussing this problem, but there has been no agreement and there just

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might not be one in the absence of this amendment.

Mr. DELLUMS. I thank my colleague for his comments.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. PARRIS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, it sounds to me as though this is a rather complicated problem for some of us who are not on the committee, and it becomes even more complicated. Let me see if I can uncomplicate the situation.

Is the gentleman adding any money to the authorization here at all? Is there additional money that would have to come from this body in order to approve the gentleman's amendment?

Mr. PARRIS. No. I would say to the gentleman from Pennsylvania that, as indicated by the chairman and by the ranking Republican Member from Connecticut, this appropriation for Federal payment is in accord with the administration request, is consistent with the budget resolution, and my amendment does not add to those funds in any way.

It simply sets aside for this limited purpose a one-time payment of this one-time shortfall.

Mr. WALKER. If the gentleman will yield further, I thank the gentleman for his comments.

Now, if I understood the argument—and it got a little complicated in there—it seemed to me that I was hearing that perhaps if we do not go ahead and do this, that somewhere along the line my taxpayers are going to have to pick up a rather substantial sum of money that the District of Columbia government would owe.

The **SPEAKER** pro tempore. The time of the gentleman from Virginia (Mr. Parris) has again expired.

(On request of Mr. Walker and by unanimous consent, Mr. Parris was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Will the gentleman yield further, Mr. Speaker?

Mr. PARRIS. I would be delighted to yield, but first I want to retreat for just one moment to the argument made by the gentleman from California, the chairman of the committee, Mr. Dellums.

This is a photostatic copy of the act which, as you can see, is some 50 pages long and extremely complex in its provisions. It says, among other things, and I quote from section 144 relating to the Federal payment, section E(1): "In the year 2004," which is the same 25-year period that I alluded to in my earlier comments, "the Comptroller General," and that means the Federal Comptroller General, "shall determine whether the Federal share with respect to each fund has been paid in full by payments made pursuant to appropriations authorized".

The Retirement Board now estimates that the retirement system will have a deficit in that year 2004 of $8.8 billion. I submit to the gentleman that if it is unreasonable or unlikely that the District of Columbia is going to pay $14 million, what are the chances of it paying $8.8 billion in the year 2004?

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I have some Pennsylvania Dutch constituents who admit to themselves that they need to provide retirement benefits for themselves. I think they would have some problem with the idea that at some point they are going to come in and bail out a District of Columbia retirement system that has underfunded itself over a period of time.

It seems to me that that is what I hear the gentleman saying: that if we permit this pattern to continue we are going to end up with massive problems a few years from now that only will be able to be picked up by all of the taxpayers of the country.

Is that what the gentleman from Virginia is really saying?

Mr. PARRIS. Mr. Speaker, I suggest that as a possibility, and I submit to the gentleman from Pennsylvania (Mr. Walker) that the real motivation for our being here today on this question and on this issue is to try to avert at any cost that kind of a situation.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, the one way we have of correcting that problem right now is to approve the amendment of the gentleman from Virginia (Mr. Parris) to assure that that unfunded liability does not continue to pile up. If, in fact, there was an unfunded liability when we passed the bill, that we do not go any further than that and aggravate the situation by piling onto it.

The gentleman's amendment helps go to that question?

Mr. PARRIS. Mr. Speaker, it does address that question, but I would say in all candor it does not solve the problems of the act, as pointed out by the chairman of the committee (Mr. Dellums).

Mr. WALKER. Mr. Speaker, one reason why the Congress did not go along with that payment in the first place is because we did not want to place that burden on the U.S. taxpayers; is that correct?

Mr. PARRIS. That is correct.

I submit to the gentleman this is not a panacea. It will not solve all of the problems of this fund, nor the obligations, of the Congress, but it at least will draw attention: First, to the District of Columbia government that it cannot continue to persist in this position; and second, it will solve at least this limited problem.

The **SPEAKER** pro tempore. The time of the gentleman from Virginia (Mr. Parris) has again expired.

(On request of Mr. Dellums and by unanimous consent, Mr. Parris was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentleman yield to me?

Mr. PARRIS. I yield to the chairman, the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, I was listening very carefully to the response to the gentleman from Pennsylvania (Mr. Walker).

First, I am sure that the gentleman from Virginia (Mr. Parris) misspoke himself because I am certain that as a matter of fact, he was not trying to suggest, in response to my distinguished colleague on the other side of the aisle, that his amendment has anything to do with the unfunded liability. I am sure that is not what the gentleman from Virginia (Mr. Parris) suggested because, first, if the gentleman recalls—and I would like the gentleman from Pennsylvania (Mr. Walker) to listen to this; it is very complicated and we do not want to look foolish on the floor here—prior to the time we enacted home rule, this was a Federal program, funded by the Federal Government.

After home rule, we enacted this retirement program with a significant unfunded liability, a Federal payment. All right? But the argument by this body was that even though we funded it with this huge unfunded liability which was the Federal share—and I repeat for emphasis—the Federal share, the argument by my more conservative colleagues was that the District of Columbia government can make up this difference with their local funds.

That was indeed the Federal share. Now this gentleman's argument was that we are kidding ourselves. The District of Columbia government cannot function; their expenses are not such that they are going to be able to make up over $1 billion in unfunded liability. That is a pipe dream.

But my distinguished colleagues know there are many pipe dreams that are dreamed up on the floor of Congress as we engage in enacting legislation. But it has nothing to do with the reality.

So I say in summary, the amendment offered by my distinguished colleague from Virginia (Mr. Parris) has nothing to do with the unfunded liability. To me that was a tragic and ludicrous mistake we made a long time ago, back a couple of years ago, when we enacted this law.

But the gentleman's amendment simply does this: It simply says that we earmark some money in what is by law a lump-sum figure to the District of Columbia for a specific purpose, and that specific purpose is to pay $14.3 million for a shortfall in the funding for the Retirement Board in fiscal year 1981. All right? That is all it does.

Just one additional comment, two points: The way the budget process is so complicated, by the time we found out about this, it was the end of April 1982. So the process itself contributes.

Just one last comment: My colleague from Virginia suggests that in some way the District of Columbia does not know what its funding is, how much the deficit is.

The entire spread of all the potential calculations is $20 million in a $2 billion budget. Now, that is 1 percent, 1 percent. If you applied that standard to the Federal Government, do my colleagues realize we would be talking about $8 billion?

So, if the Federal Government were operating in the same manner that the District of Columbia government is, it would be $8 billion more deficient.

The **SPEAKER** pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has once again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. JOHNSTON. I thank the gentleman for yielding.

Mr. Speaker, as I understand it, if the amendment offered by the gentleman from Virginia passes, this $14 million, plus or minus a half million dollars, will go immediately into the pension fund. Is that correct? That is, rather than being paid over a 3-year period?

Mr. PARRIS. No.

Mr. Speaker, I would say to the gentleman that we are losing the point here, I think.

In response to the comments of the chairman and in response to the gentleman's question, we are talking about authorization for fiscal year 1983, future authorization authority.

Now, the question is: Can or should the District of Columbia appropriate authorities, that is, the City Council of the District, to make up this amount of money out of fiscal year 1983 moneys, or not? I submit they have a $2 billion budget and $14 million to correct this one-time shortfall for the benefit of these retirees is not an exceptional or extraordinary burden.

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I will be delighted to yield to the gentleman from North Carolina.

Mr. JOHNSTON. As I understand it, the question, though, is if the money is not put in, in 1983, it will be put in, in 1983, 1984, and 1985 so that is does affect the long-term obligations of the fund because the money will not be there in 1984 and 1985 drawing interest, which, as the gentleman knows, is substantial now.

So, in fact, the absence of that money drawing interest will require other funds to be put in, in lieu thereof. So to say that it does not affect actuarily the soundness of this plan is a misstatement.

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I will concede that it is not significant when you balance $2 billion, but of course the Congress of the United States did not get to a $1 trillion deficit by one single action. It was a combination of a billion here, a billion there, a few hundred million there, and this fund is just like the Congress of the United States.

Mr. PARRIS. I appreciate the gentleman's comments. If I might just complete my statement, Mr. Speaker, we are saying that of the $361 million that will be provided in Federal funds for the District of Columbia in fiscal year 1983, there is a condition attached: "You must use a part of this money to pay the legal obligations that you have neglected for almost 2 years."

That is the simple issue in this matter. Finally, Mr. Speaker, the argument is made that we should not offer this amendment to this legislation. We should not condition the use of these funds under this legislation, that we should condition the use of the appropriation of these moneys in the appropriation process. I submit to you, Mr. Speaker, that we have heard from the chairman of the Appropriations Committee, the gentleman from Mississippi, a 100 times on the floor: "Do not ask the Appropriations Committee to legislate. Do not ask us to make these decisions that we do not know anything about, other than fiscal. Bring these matters in the authorization legislation to us so that we can appropriate the appropriate sums."

That, Mr. Speaker, is what I am attempting to do. I think this matter should be settled under authorization, and that is my purpose in being here today.

The simple question is that this Government so far has failed to comply with a clear mandate from this Congress, a mandate that is in existing law and has been so for almost 4 years. This is a one-time, one-amount shortfall. This action will correct a serious inequity which will probably not be corrected otherwise in the near future, which I think is fiscally unsound. I think it will go a long way toward making the benefits of the thousands of retired District of Columbia employees more secure. It is, in my opinion, an amendment that should be adopted, and I hope my colleagues will support it.

Mr. McKINNEY. Mr. Speaker, I rise to speak against the amendment.

While I am sympathetic to the concerns of the gentleman from Virginia (Mr. PARRIS), and agree that he has focused attention on a problem in the proper financing of the District of Columbia retirement funds, I am opposed to his amendment on this bill for several reasons.

First, the amendment is contrary to the very nature of the Federal payment. There has never before been an earmarking of the Federal payment in the authorization process. Rather, the level recommended is the result of a consideration of the net impact of the Federal Government on the local community, after taking into account all of the various positive and negative factors. In our one major concession to true homerule, the Federal payment is granted with no strings attached. When special needs have been identified, such as reimbursement for water and sewer use by the Federal Government, or the Federal contribution to these same retirement funds, specific payments have been authorized in addition to the regular Federal payment. To change that procedure, as this amendment would, not only ignores the practice of the past 9 years, it rejects the basic principle of homerule and undermines the basis of the Federal payment.

Second, the gentleman is certainly aware that there is major legislation dealing with the retirement systems of the District of Columbia (Public Law 96-122). This legislation outlines exactly how the local and Federal contribution to the retirement funds is determined. If there is a shortcoming in the manner in which the local contribution is handled, it would seem to me much more appropriate to amend Public Law 96-122 than the bill currently under consideration. In addition, the District of Columbia Retirement Board has had under consideration a series of amendments which I trust will come before the Congress next year if not sooner. I would be happy to join the gentleman from Virginia in requesting the chairman of the District of Columbia Committee to hold hearings on this matter to consider any and all changes needed in the operation of the District of Columbia retirement funds.

Next, I would remind the gentleman of my earlier statements concerning the work of our colleagues on the Appropriations Committee. We have relied on that committee to pass final judgment on the appropriate level for

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the Federal payment. At times, that committee has found it necessary to force the city to take certain actions by earmarking the Federal payment. This occurred once when the city indicated that it did not intend to make required payments to the Federal Bureau of Prisons and St. Elizabeth's Hospital. Also, that committee has many times found it necessary to severely restrict the use of funds, whether from local sources or Federal sources. Most recently, in action on the fiscal year 1982 supplemental, the city was strongly reminded that the $10 million budgeted for elimination of a portion of the accumulated deficit was to be used for that purpose only, not as a cushion against local revenue shortfalls.

So I would say to the gentleman that if earmarking of funds is deemed to be necessary in order to insure the city lives up to its commitment with regard to retirement funds, it should be considered in the appropriation act, not in this authorization bill.

Finally, I would remind all of my colleagues that just last year we passed a bill eliminating the technical impediments to the issuance of bonds by the District of Columbia (Public Law 97-105). One provision of this act requires the Mayor to use the Federal payment to pay bondholders in the unlikely event that no other resources are available for that purpose. If we now decide to get into the practice of earmarking the Federal payment whenever a problem arises, a cloud of uncertainty will be hanging over any bonds offered by the city.

For all of these reasons, I submit that the proposed amendment, while trying to contribute to the financial soundness of the city, will instead do great harm to the overall financial health of the city.

Mr. Speaker, as I said, I am very sympathetic to the concerns of the gentleman from Virginia. I can certainly understand that any collapse of the pension program would have a severe effect on the constituents of his district. But, I would have to suggest to the House that in seeking a remedy he is taking exactly the wrong tack.

First off, we set a historical precedent—a dangerous precedent if we try to direct or allocate the Federal payment. There has never been an earmarking of the Federal payment in the history of the U. S. Congress in an authorization bill. It has always been left up to the Appropriations Committee to appropriate a justified Federal payment, and in fact if this amendment were to pass, there is nothing that says the Appropriations Committee has to put that line item in the District of Columbia budget. In fact, they could simply leave that line item blank and it would therefore not be funded.

The gentleman from Virginia has suggested to us that in fact the chairman of the Appropriations Committee would say that he will not legislate on appropriations bills. That is perfectly true. But a line item change or an earmarking of funds in the budget of the District of Columbia by the Appropriations Committee is not legislating. Many times, the Appropriations Committee has thrown in x number of dollars for this and taken x number of dollars away from something else. All they simply have to do is to put in a budget line item that says $14.3 million, $12.9 million, $13.6 million. Perhaps by the time they get to the Appropriations Committee, somebody will know what the figure is.

The real problem here, I suggest to the gentleman from Virginia—and I spoke to the chairman about it—is the fact that we have Public Law 96-122, which is not good legislation. We knew when we passed that legislation that we were passing one of the most complicated types of legislation that can possibly be written—pension legislation. They have lawyers that make $500,000 a year in New York City just to try and write the actuarial tables and figure out the logistics, out-forward movements in the pension process. It obviously has got to be brought back in front of the authorizing committee and changed.

That is the second place where what the gentleman wants to do should be done—in the rewrite, the amending, the review of Public Law 96-122.

I would also suggest to the gentleman that saying that the District of Columbia government has not complied with the law is inaccurate, incorrect, and wrong. They have complied exactly with the letter of the law—exactly. What is the problem? Public Law 96-122 is flawed, and if it is brought before the committee, which the chairman assured me he would do, I would move to insist that the District of Columbia pay the unfunded liability on a yearly basis rather than having the Pension Board go into their trust fund and take it out. That is the real problem.

The gentleman and I, and I think the chairman, are very disturbed by the fact that they are dipping into the fund, and that we feel it is absolutely necessary to fund this through local revenues. But let me tell the gentleman, the unfunded pension liabilities of the city of Washington were founded by the Congress, built by the Congress, made by the Congress, and on this very floor in 1938, I believe it was, one of our astute former colleagues—probably now long gone from the scene—stood up on the floor of the House and amended all our funding from the pension program of the District of Columbia. He said, "The tax revenues of the city will take care of it," and that money was thrown into the general fund of the United States of America, and the funding for all of our pension programs disappeared. I would hope some of the Members would have their staffs or the Congressional Research Service find that debate, or I will send them that debate.

So, that is what we are talking about. We are talking about a bill that does not operate quite properly. We are talking about a bill that is obeyed by the District of Columbia. We are talking about a bill that has a problem that would not be taken care of by the gentleman's amendment until fiscal year 1983. We are talking about a problem that should be taken care of either in a reauthorization and amending of the bill, and most definitively soon, or in the appropriation process where the line item is put in for the payment of the figure.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

(At the request of Mr. Parris and by unanimous consent, Mr. McKinney was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield.

Mr. PARRIS. The gentleman indicated in his remarks that the District of Columbia Retirement Reform Act of 1979 "is not good legislation," and is "flawed."

I would remind the gentleman that that act was adopted when my predessor was a Member of the Congress and a member of the committee that adopted it and supported its adoption. I was not a part of that, and I agree with the gentleman that it is flawed and it is not good legislation. I think my predessor perhaps would agree with that point of view by now because everybody else seems to.

Mr. McKINNEY. If the gentleman will give me back my time, I hope they are watching on channel 14 and channel 53. I understand the gentleman's point. I would also suggest to the gentleman that the only pension legislation I have seen that is worse than this one is the Federal pension legislation that governs every Federal employee in the United States of America.

Mr. PARRIS. I would just add that it was my pleasure to serve in the Congress when we adopted the Home Rule Act in 1973. That act I think is good legislation. But, we do need in fact to revise and review the Retirement Act which is not good.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Before I do that, I want to remind the gentleman from Virginia that he was in fact here in 1973 when we passed the home rule charter, and voted against it.

Mr. PARRIS. Will the gentleman yield?

Mr. FAUNTROY. Against all of the—he supported all weakening amendments and supported on final passage. I am pleased to correct myself.

Mr. PARRIS. I appreciate that. I am confident the gentleman does not want to be in error in the Congressional Record. I did in fact vote for the final passage of the Home Rule Act in 1973 and worked extremely hard on that particular piece of legislation.

Mr. FAUNTROY. Yes, after having attempted to weaken it at every point possible.

Mr. Speaker, I rise in opposition to the amendment on the basis, first, of the fact that the Mayor has in fact agreed with the OMB and with the Pension Board to amortize this debt over a 3-year period, and I would hope the gentleman from Virginia would support his President and support his OMB in allowing the Mayor to carry out that commitment.

I would like at this point to enter into the Record a letter from the Mayor dated August 10, in which he reaffirms, and I quote:

> We made a commitment to pay off the $12.9 million fiscal year 1981 shortfall between income and expenditures through installments of $4.3 million for three years.

That is from the Mayor, and on that basis I think we ought to recognize that this matter is being dealt with in an appropriate manner.

Second, it is clear that the Pension Board is already impacted to require the District of Columbia government to make payments as determined by an actuary appointed by the Pension Board. The Mayor in his letter of August 10 indicates that he is in complete compliance with the request of the Pension Board in this regard. I would certainly hope, finally, that this amendment would be opposed for the reason that it does establish, as the gentleman from Connecticut has already indicated, a precedent that certainly we do not want to establish in this Congress. Never in the history of this Congress has the Federal payment been earmarked, as this gentleman's amendment would have it earmarked.

I would hope that upon defeat of this amendment, the gentleman from Virginia would in fact take up the offer of the chairman of the committee and the ranking minority member of the committee to correct some of the flaws in the bill as originally passed.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I will be happy to yield.

Mr. PARRIS. In response to the gentleman's latter point, I would agree to work diligently in attempting to correct the inadequacies of the Retirement Act wholeheartedly, but that does not address the problem we are debating here today. In response to the gentleman's observations about the Mayor's letter of August 10, that precipitated my call to the Chairman of the District of Columbia Retirement Board, which I read and inserted in the Record earlier. I did not receive a copy of the Mayor's letter, as I stated earlier until this morning, but, I had been told that there was an agreement, and I went to the Board itself and said, "Is there in fact an understanding?"

As I indicated to the gentleman earlier, the answer was, "No, there is not."

Mr. FAUNTROY. As I was about to indicate, the gentleman has the letter from the Mayor, and it indicates that the District government has made a commitment to pay off the $12.9 million over a 3-year period.

Mr. PARRIS. Will the gentleman yield further?

Mr. FAUNTROY. I will be happy to.

Mr. PARRIS. But in the pertinent point, and I read from the letter in part, it says and I am reading now from the letter of the Mayor of the District of Columbia dated August 10:

> The law requires that the Mayor include in his annual budget the full amount as certified by the Board's actuary.

Nobody disagrees with that. It continues:

> Each year since the inception of the plan we have done this, and in fiscal year 1982 and fiscal year 1983 we did more.

Nobody quarrels with that either. We are, however, discussing the shortfall for fiscal year 1981, which is not dealt with in that part of the Mayor's letter.

Mr. FAUNTROY. To be sure, let me read it for the gentleman, and he has it in his hand:

> In addition to this, we made a commitment to pay off $12.9 million fiscal year 1981 shortfall between income and expenditures through installments of $4.3 million for three years.

□ 1330

The **SPEAKER** pro tempore (Mr. Eckart). The time of the gentleman from the District of Columbia (Mr. Fauntroy) has expired.

(On request of Mr. Parris, and by unanimous consent, Mr. Fauntroy was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Speaker, if the gentleman will yield, I will make only one brief point, and that is to reiterate that there is apparently and has been a gigantic communication failure between the Mayor of the District of Columbia and the Chairman of the Retirement Board, and that is precisely the reason we are here today discussing this matter. The day after the Mayor's letter the Chairman writes a letter that says there is no understanding for the fiscal year 1981; the Mayor says there is. A direct contradiction.

Mr. FAUNTROY. Precisely.

Mr. PARRIS. I merely suggest that the District of Columbia should comply with the requirement that exist in the present applicable law, make up this shortfall, and let us be done with it.

Mr. FAUNTROY. Mr. Speaker, the District has done that, and we have the Mayor's commitment on the record, and that says that with the $4.3 million in the next 3 years, that will be retired.

Mr. BLILEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, in the almost 2 years that I have served on the Committee for the District of Columbia I have seen growing evidence of unfortunate and unwise attempts to play political games with the District's finances. I am referring to the actions of the District government regarding their budget and their financial responsibilities. Disregarding for the moment the famous case of the disappearing deficit of last year and the reappearing deficit this year and the famous bonds for operating deficit scheme we are now faced with another problem that affects real people and demands our immediate attention.

The District government has an acknowledged unfunded obligation of over $12 million to the retirement funds of its police, firefighters, and teachers. There has been great reluctance on the part of the District to make good on this commitment and to insure the future benefits of its retirees. The Retirement Board has tried to work with the District, but to no avail. In a desperate attempt to remain solvent and get the money it is owed, so that it can maintain its growth and payment schedule, the Board is now asking for congressional help to solve this problem.

I am reluctant to support a restriction such as this on the Federal payment, however, I believe that the need is both urgent and critical. The Congress is the body of final decision for the District of Columbia. Along with our desire and obligation to increase the independence and local responsibilities of the District government we must consider our responsibilities under the Constitution. As the final authority we cannot and must not fail to act to correct a failure of the District government.

I am supporting and will vote for the amendment to require the proper funding of the pension plans. The

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people who have faithfully served the District deserve no less and I will not abandon them and allow the District to use their retirement money to bail itself out of temporary problems of its own creation. The District must realize that its employee obligations are not fiscal footballs to be kicked around the field.

Mr. DELLUMS. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, I would assume that we probably will be closing debate momentarily on this matter, and I would like to summarize for my colleagues where we are.

My distinguished colleague, the gentleman from Virginia (Mr. PARRIS), has perceived a problem, and that is a shortfall in the funding of the pension plan for fiscal year 1981. The gentleman pitches that figure at $14.3 million. There is some question about whether that is an appropriate figure. As I stated earlier in the debate, the District of Columbia comes up with a figure of $12.9 million.

The only reason I make this point is to simply underscore the fact that we do have some problems that flow from the organic legislation itself to which my distinguished colleague, the gentleman from Connecticut has already spoken, Public Law 96-122.

Mr. PARRIS. Mr. Speaker will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman's yielding, I do not mean to interrupt the gentleman's train of thought, but I rise to correct a misstatement I made in my earlier comments.

I transposed a figure. My mathematics was in error when I misspoke and said that there was a half million dollar difference in deficit estimates. The fact is there is a million and a half dollar difference between the Mayor's figure of $12.9 million and my amendment's figure of $14.3 million.

I would remind my colleagues, however, that the amendment is correct and the figure of $14.3 million is correct although my earlier spoken comments were erroneous. The fact is, that the difference was that the Mayor's deficit estimate was made by the actuaries in May 1981; my figures and the Board's deficit estimate were made in September 1981.

Mr. DELLUMS. Mr. Speaker, I thank my colleague, the gentleman from Virginia.

Mr. Speaker, $14.3 million is the request of my colleague, the gentleman from Virginia, that it be earmarked in the Federal payment for fiscal year 1983 to pay off the shortfall in the pension plan for fiscal year 1981.

I rise in opposition to that amendment, first raising the home rule issue. As my colleague, the gentleman from Virginia, and my colleagues in the House know, my position on the matter of home rule is that we must preserve and protect the integrity of the right of people at the local level to make their own determinations where those determinations do not affect the Federal interest. So any time that we instruct the residents of the District of Columbia, we ought to be very thoughtful about what we do with respect to the principle and the integrity of home rule, which is an inherent part of our approach to democracy as we have defined it in the act that we passed in 1973.

The reason why I raised the Home Rule Act is that the Federal payment is a lump-sum figure. Now, many people talk about the Federal payment in earmarked terms, but in a strict technical sense it is not an earmarked figure. It is a lump-sum payment, not an earmarking. Therefore, to talk about earmarking funds in this lump-sum payment is in my estimation violative of the principle of home rule.

Now, that is the No. 1 argument, that we violate the legislation, the spirit and the intent of the act that we passed several years ago.

Now, I would say to my colleague, the gentleman from Virginia that if he wants to violate the Home Rule Act, then this is not the best way to do it. I would say to my colleagues that if they want to violate the Home Rule Act and earmark funds for the shortfall in 1981, they should do it in the appropriation process, not in the authorization bill, because the Appropriations Committee regularly and routinely earmarks funds because they have the capacity to review and act upon each line item in the District's budget.

Therefore, if I may have the attention of my colleague, the gentleman from Virginia, I would say that I suggest we not put that in this amendment. What I am simply suggesting is that if he wants to go beyond the spirit and the intent of the Home Rule Act, it is not appropriate to argue our assertion that we ought to do it in the appropriations process and not in the authorizing bill and that is suggesting in some way that we ought to legislate in the appropriations bill, because the gentleman well knows that the Subcommittee on the District of Columbia of the Appropriations Committee routinely reviews each line item of the District of Columbia budget, and routinely and regularly inserts into the appropriations process line items on how aspects of that Federal budget are to be expended.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. Speaker, to suggest that it be done in the appropriations process, it seems to me, does not violate the Home Rule Act. It certainly allows us to violate the Home Rule Act in a much different way that is consistent with what this House has done over a long period of time. To do it in the authorization process, as I said, allows us to move away from a lump-sum figure and start to earmark, and I think that is a road down which we ought not to travel.

The third point is that I do not agree with my colleague, the gentleman from Virginia, that the District of Columbia government has not been in compliance with the law. As my colleague knows and as my two distinguished colleagues on this side of the aisle know, this is a nation of laws. The corporation counsel on the record has interpreted the act to say that the Mayor of the District of Columbia government is not obligated at all by the law to pay the shortfall in the unfunded liability except as otherwise referred to in the legislation, and that is to pay for it over the lifespan of the law, that is, to amortize over a long period of time.

Now, we are either a nation of laws or we are not. The Mayor must look to his legal counsel and his legal counsel has said their interpretation of the act is that they do not have to do it. But even if the corporate counsel made that interpretation, the District of Columbia in good faith, I say to my colleague, the gentleman from Virginia, it is saying, "we are prepared to pay it in 3 years, although our own counsel suggests that we are not violative of the law if we don't do it in any other fashion than to amortize."

So in good faith, this District of Columbia government is saying that in fiscal years 1983, 1984, and 1985 we will pay the $4.3 million, or whatever it is—and if the gentleman is correct, then it would have to be modified in that fashion—over a 3-year period.

Finally, Mr. Speaker, I would simply underscore that Public Law 96-122 is a very complicated and flawed piece of legislation, and it needs to be looked at. The act itself said, "Let us take some time, let us have some experience with it."

So let us have them back up and review it, and if it needs to be changed, let us do it.

My colleague, the gentleman from Connecticut, and other members of the committee are more than committed at this moment to hold comprehensive hearings and look at this legislation and make whatever appropriate reforms have to be made. This is a very complicated piece of legislation. We only started this in 1981, and here we are in 1982. Let us look comprehensively at it.

I do not in any way challenge the motives of my colleague. He has a perfect and correct right to challenge and advocate on behalf of his constituency. I am simply saying that that is what all of us are here to do. I am saying that the best way to do that is to do it in a comprehensive fashion. Let us not violate the principle of the Home Rule Act. If we are going to do it, let us do it in a way that is at least more efficient, and that is through the appropriations process. We do not have the mechanism to engage in a line item review in an authorization committee, and I do not think we should get into that area.

Finally, Mr. Speaker, I would hope that we would even go far beyond this one aspect of the problem that my colleague raises and look at it in a comprehensive fashion and bring whatever changes on this floor need to be made. Many of us knew that when this bill was passed, but we did what we often have to do around here, and that is to swallow hard, hold our noses, and punch eyes for the legislation in the hopes that down the road some intelligent body will decide that there needs to be reforms made in some appropriate fashion.

So, Mr. Speaker, in conclusion, I am asking that we oppose this amendment and I suggest that there is a more efficient and effective way to address the problem.

Mr. JOHNSTON. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, I find it appalling that an actuarial error that occurred back in 1981 can put in jeopardy the pensions of thousands of firefighters, policemen, and teachers in the District of Columbia. The fact is that a contribution that should have been made was not made due to an error. We are not attempting to assess blame here, but the fund is being denied the use of that $14 million and the interest accruing thereon because the money is not in there. As long as it is not in there, it will not get the interest yield and it will continue to do exactly what it has had to do—rob Peter to pay Paul.

I will admit that the Congress has given the District government a very poor example when we authorized the old-age and survivors benefit fund to start raiding the fund for the disability income and the medicare program. However, I think the Congress is in very much the same position I was in when I was trying to raise my children and said, "don't do what I do, do what I say."

That is exactly what we are saying to the District of Columbia. There is a right way and a wrong way to fund these programs. It is an error that occurred, and there is $14 million that is not there. As long as that $14 million is not there, sometime somewhere down the line the taxpayers of the United States—and I am talking about the people from North Carolina, I am talking about the people from Wisconsin, I am talking about the people from California—are going to have to pay that interest that is not accruing on $14 million because it is not there.

Now, I quote to you from this letter, which is a very candid letter, that the Mayor wrote to the distinguished leader of the District of Columbia Committee, and I think it pretty well covers the situation:

> While we are meeting our commitment under the law, I assure you that the funding needs of this program in a few years will outstrip the District's ability to pay. In contrast to the 100-percent growth in cost to the District, the Federal contribution has been a level payment of $52 million per year. Action must be taken now to reopen discussions aimed at modification of the Federal contribution to the pension plan.

☐ 1345

So he is already telling us he is going to come back to us and ask for more money, yet he wants to keep that $14 million from earning the interest that will lower what he is going to come back and ask us for.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSTON. I yield to the gentleman from California.

Mr. DELLUMS. I appreciate my colleague yielding. We often do not agree because we stand in two different ideological camps, but I respect my colleague because he often argues in an earthy fashion and urges arguments that create an image that this gentleman can understand very clearly.

So within the framework of that kind of atmosphere that I hope we have established for the moment, let me ask the gentleman this question: What makes the gentleman believe that it is not also in the best interests of another group of politicians, not unlike ourselves, at the District of Columbia level, to keep their employees happy, to keep their votes coming in?

What makes the gentleman think that because we rise to the lofty Chamber of the Congess of the United States that we have ascended to the heaven of politicians and that public figures at the District of Columbia level are not as interested in paying the unfunded liability for their hardworking employees, just as my distinguished friend wants to do?

What makes him think we have locks on integrity with respect to politicians?

Mr. JOHNSTON. Is my distinguished colleague suggesting we are translating an economic matter to the level of political circumstance?

Mr. DELLUMS. I am not suggesting that.

Mr. JOHNSTON. Or something like that?

This is an economic matter. The interest either is accruing or it is not accruing.

Mr. DELLUMS. What I am saying is that all of us see the economics and the economic problem, and all I was trying to do in injecting a little bit of humor into this debate with my colleague is to say that we have to also respect the intellect and the capacity of the locally elected officials to see what the gentleman sees, and that is, there was an unfunded liability in 1981. It needs to be paid off.

They are suggesting paying if off over a 3-year period of time.

They are in compliance with the law.

It would seem to me what we ought not to want to do, I would say to my colleague, is to squeeze this branch of Government. If they are saying this is the best way they can pay it, over a 3-year period, because it would hurt from a financial point of view to try to do it in 1 year, then why do we not give them the latitude to do that within the framework and the spirit of the Home Rule Act?

That is all I am saying.

Mr. JOHNSTON. If I may reclaim my time, what the chairman is suggesting is that we reward the politicians of the District at the expense of all of the taxpayers in the rest of the country. I just do not regard that as innately fair.

I might add that I do not expect to get any votes from any firefighters, any teachers, or any policemen from the District of Columbia. I am not running in an adjacent area.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. PARRIS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELLUMS. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 181, answered "present" 1, not voting 31, as follows:

[Roll No. 272]

YEAS—221

Akaka
Albosta
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Barnard
Barnes
Beard
Benedict
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boner
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown (CO)
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Coats
Coleman
Conable
Conte
Corcoran
Courter
Coyne, James
Craig

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Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
DeNardis
Derwinski
Dickinson
Dingell
Dreier
Duncan
Dunn
Eckart
Edwards (OK)
Emerson
Emery
English
Erlenborn
Evans (DE)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fish
Flippo
Florio
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Holt
Hopkins
Horton
Huckaby
Hunter
Hutto
Jeffries
Jenkins
Johnston
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
Mica
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Myers
Neal
Nelligan
O'Brien
Oxley
Parris
Pashayan
Patman
Paul
Petri
Porter
Pursell
Quillen
Regula
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Scheuer
Schneider
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stratton
Stump
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (MT)
Winn
Wolf
Wortley
Wylie
Yatron
Young (FL)
Zeferetti

NAYS—181

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Bedell
Beilenson
Benjamin
Bennett
Bingham
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brodhead
Burton, Phillip
Chappell
Chisholm
Clay
Coelho
Collins (IL)
Coyne, William
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall (OH)
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Howard
Hoyer
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Latta
Lehman
Leland
Levitas
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McDade
McHugh
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Murphy
Murtha
Natcher
Nelson
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rhodes
Rodino
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Skelton
Smith (IA)
Smith (PA)
Solarz
St Germain
Stark
Stokes
Studds
Swift
Synar
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Weiss
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Young (MO)
Zablocki

ANSWERED "PRESENT"—1

Obey

NOT VOTING—31

Bafalis
Brown (CA)
Brown (OH)
Burgener
Burton, John
Clinger
Collins (TX)
Conyers
Coughlin
Crockett
Dornan
Dougherty
Erdahl
Ertel
Ferraro
Fithian
Ginn
Ireland
Jones (NC)
Marks
McCloskey
Michel
Miller (OH)
Moffett
Napier
Nichols
Railsback
Richmond
Rosenthal
Siljander
Young (AK)

□ 1400

Mr. WILLIAMS of Ohio and Mr. PATTERSON changed their votes from "yea" to "nay."

Messrs. PORTER, SAM B. HALL, JR., and ZEFERETTI changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. DIXON. Mr. Chairman, I rise in support of H.R. 5595, which authorizes an annual Federal payment of $361 million to the District of Columbia government beginning in fiscal year 1983.

Let me say to the Members that the modest increase provided by this bill is very much in order. The Federal payment authorization in 1978—almost 6 years ago—was $300 million, and since that time there has been only one increase, and that was to $336.6 million. So while the Federal payment authorization has increased by 12.2 percent, the overall rate of inflation since 1978, according to the Federal Bureau of Labor Statistics, has been 48.8 percent, or four times greater. If this bill were to authorize a Federal payment to keep pace with reality and provide the buying power equivalent to the 1978 authorization, it would provide a Federal payment of $446.4 million instead of the $361 million we are considering today.

Mr. Chairman, even with the increase that the bill now before the House provides, the Federal Government's share of the District's operating expenses in 1983 will be lower than it was in 1978 when the Federal payment represented one-fourth of the District's operating expenses. In 1982 it represents a little more than one-fifth, or 21 percent, and will drop to 19 percent in 1983 unless the committee's bill is approved. And even with the increase to $361 million which H.R. 5595 provides, the Federal payment will be down to 20 percent of the District's operating budget in 1983 as compared to 24 percent in 1978.

My colleagues are well aware of the New Federalism concept that is being advanced by the present administration and the consequences of that concept which State and local governments throughout the Nation are experiencing in the form of reduced Federal assistance. The District of Columbia government is faced with those same reductions, and in order for the city to meet its obligations not only to those who call the District their home and earn their livelihood here, but also to the millions of visitors who come to the Nation's Capital every year, it is only fair that the Federal Government pay its share.

Mr. Chairman, I urge my colleagues to approve this bill as reported by the committee. It is not largesse; it is a matter of simple equity.●

● Mr. COLLINS of Texas. Mr. Speaker, I rise to strongly oppose H.R. 5595. This bill represents an injustice to the American taxpayer whom this Congress promised last year that it was ready to hold the line on Federal subsidies to the District of Columbia. This bill would increase the Federal payment to the District by $24.4 million. Only last year the Congress froze the Federal payment for the District at $336.6 million for future fiscal years. We are now asked to approve a bill that would increase that amount to $361 million. I believe that the time has come to finally draw the line on Federal outlays for the District of Columbia and urge my colleagues to join with me in opposing this bill.

Before we discuss the merits of H.R. 5595, let us put the issue into perspective. Very simply, the District is subsidized by the American taxpayers in a disproportionate and unfair manner. Look at the facts. The District has received a disproportionate amount of Federal funding as compared to the other 50 States. For example, the District of Columbia pays 32 cents in taxes for every Federal dollar that it gets back from Washington—a massive subsidy at best. By contrast, my home State of Texas pays $1.40 for every dollar that it gets back from the Federal Government. Since 1968, the annual Federal payment to the District of Columbia has increased by almost five times, from $70 million to the current $336 million. While the

American taxpayer increasingly subsidizes the District, the District of Columbia has demonstrated a lack of sound fiscal management. It is currently running a huge $309 million deficit. Many States, Texas included, mandate that their government operate within a balanced budget.

Look at some more indications of the District's poor fiscal management. According to last year's report from the Appropriations Committee on the District of Columbia, the District of Columbia has had a steadily declining pupil enrollment in its public school system and high per-pupil cost. The enrollment has dropped from 145,000 in 1969 to approximately 94,000 last year. Yet it costs the District $3,203 a year to educate one child, while the Dallas school system spends only $2,306 per student. Unfortunately, the academic results achieved by the District of Columbia are far below those realized by the Dallas system.

Another example of unsound fiscal management is the District's public assistance programs. The District has a 13-percent error rate in its welfare programs; $11 million is being paid to ineligible recipients, and this does not even take into account wrongful payments in medicaid, food stamps, and social service programs.

Finally, it is important to point out that this payment represents only a portion of the approximately $1.1 billion available to the District of Columbia from the Federal Government. The District also receives Federal grants, reimbursements, contributions to the city's employees' retirement funds, and loans for capital outlays.

I urge my colleagues to take a stand against the spiraling budget outlays for the District of Columbia. Vote against this bill and for fiscal responsibility.●

Mr. DELLUMS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 122, not voting 33, as follows:

[Roll No. 273]

AYES—279

Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Burton, Phillip
Butler
Carman
Carney
Chappie
Chisholm
Clausen
Clay
Clinger
Coelho
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Coyne, William
Craig
D'Amours
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
Erlenborn
Evans (DE)
Evans (IN)
Fary
Fascell
Fazio
Fiedler
Findley
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hagedorn
Hall (OH)
Hamilton
Harkin
Hawkins
Heckler
Heftel
Hightower
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
LaFalce
Lantos
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marriott
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McDade
McHugh
McKinney
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Morrison
Mottl
Murphy
Murtha
Napier
Natcher
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Oxley
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Simon
Skeen
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Solarz
St Germain
Stangeland
Stanton
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thomas
Traxler
Trible
Udall
Vander Jagt
Walgren
Wampler
Washington
Waxman
Weber (OH)
Weiss
White
Whitehurst
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOES—122

Albosta
Anthony
Archer
Ashbrook
Badham
Bailey (MO)
Barnard
Beard
Bennett
Bouquard
Brooks
Broomfield
Brown (CO)
Broyhill
Byron
Campbell
Chappell
Cheney
Coats
Coleman
Courter
Coyne, James
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Derwinski
Dickinson
Dingell
Dreier
Edwards (OK)
Emerson
English
Evans (IA)
Fields
Flippo
Fountain
Goodling
Gramm
Gregg
Grisham
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hiler
Hillis
Hutto
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kramer
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Loeffler
Lott
Marlenee
Martin (NC)
Martin (NY)
Mattox
McCurdy
McDonald
McEwen
McGrath
Mica
Montgomery
Moore
Moorhead
Myers
Neal
Nelligan
Nelson
Obey
Pashayan
Patman
Paul
Petri
Quillen
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rousselot
Rudd
Santini
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith (AL)
Smith (NE)
Snyder
Solomon
Spence
Stenholm
Stump
Tauke
Taylor
Volkmer
Walker
Watkins
Weaver
Weber (MN)
Whitley
Whittaker

NOT VOTING—33

Bafalis
Bolling
Brown (CA)
Brown (OH)
Burgener
Burton, John
Collins (TX)
Conyers
Crockett
Dornan
Dougherty
Erdahl
Ertel
Evans (GA)
Fenwick
Ferraro
Fithian
Ginn
Hunter
Ireland
Jones (NC)
Madigan
Marks
McCloskey
Miller (OH)
Moffett
Nichols
Pickle
Richmond
Rosenthal
Siljander
Vento
Young (AK)

☐ 1420

Mr. TAUKE changed his vote from "aye" to "no."

Mr. CRAIG and Mr. LEVITAS changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, and ask for its immediate consideration.

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The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 2501d) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of $336,600,000" in the first sentence and inserting in lieu thereof " for the fiscal year ending September 30, 1982, the sum of $336,600,000; and for the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of $361,000,000".

MOTION OFFERED BY MR. DELLUMS

Mr. **DELLUMS**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DELLUMS moves to strike all after the enacting clause of the Senate bill, S. 2457, and to insert in lieu thereof the provisions of the bill, H.R. 5595, as passed by the House, as follows:

That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of $336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of $336,600,000; and the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of $361,000,000".

Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than $14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A similar House bill, H.R. 5595, was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE TODAY AND TOMORROW

Mr. **SHARP**. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be allowed to meet during the 5-minute rule on today and tomorrow.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6100, NATIONAL DEVELOPMENT INVESTMENT ACT

Mr. **LONG** of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 539 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 539

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6100, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 2144, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6100 as passed by the House.

The **SPEAKER** pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. **LONG** of Louisiana. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 539 is an open rule providing for the consideration of H.R. 6100, a bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965. The first reading of the bill will be dispensed with.

The rule makes in order the amendment in the nature of a substitute reported by the Committee on Public Works as an original bill for the purposes of amendment. The legislation will be read for amendment by title, with each title considered as read. After the passage of H.R. 6100, the House shall proceed to the consideration of S. 2144, and it shall then be in order to strike out all after the enacting clause of the Senate bill and to insert the provisions of H.R. 6100 as passed by the House.

There are two waivers of points of order contained in this rule. Clause 5 of rule XXI, prohibiting appropriations in a legislative bill, is waived against the Public Works Committee substitute. This waiver was deemed necessary because grant provisions in the legislation not subject to appropriations could be construed as a violation of this rule.

Section 402(a) of the Congressional Budget Act is waived against consideration of both H.R. 6100 and S. 2144. Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for the fiscal year unless that bill has been reported on or before May 15 preceding the beginning of that fiscal year. The legislation was under the jurisdiction of both the Public Works Committee and the Banking, Finance and Urban Affairs Committee. Some of the many hearings on the bill were conducted jointly by subcommittees of the two committees. The Public Works Committee ordered the bill as amended reported favorably and complied with the Budget Act by filing its report on Monday, May 17, 1982. The Committee on Banking, however, decided not to report the bill but does not want to delay consideration of the bill. Thus the Committee on Rules, on recommendation of the Budget Committee, granted a waiver of section 402(a) for what might be considered a technical violation, in view of the implicit concurrence of the Banking Committee with bringing the bill to the floor.

This rule provides 1½ hours of debate in an effort to fulfill a request by the Banking Committee that committee members have floor time during general debate and the opportunity to offer possible amendments to the legislation. The debate time will be divided between the chairman and ranking minority member of the Committee on Public Works and Transportation.

Mr. Speaker, the authorization for the Public Works and Economic Development Act of 1965 expires on September 30, 1982. H.R. 6100 completely revises the programs provided by the

Public Works and Economic Development Act and authorizes new economic development programs through fiscal year 1985. It extends the Appalachian Regional Development Act by adopting a finish-up program for the Appalachian Highway System and the area development programs funded through the Appalachian Regional Commission.

The programs which are covered by H.R. 6100 are scheduled for termination under the President's fiscal year 1983 budget. H.R. 6100, however, emerged from the Committee on Public Works and Transportation with strong bipartisan support. The revision of the Economic Development Act is a model of what can be achieved through positive efforts to preserve the principles of a good program—at the same time streamlining it for the era in which we live now—one in which we are keenly aware of our limited resources.

In this new light, the National Development Investment Act tightens the eligibility criteria for Federal assistance. The program has been so broad that 80 percent of the Nation's population has been eligible. This legislation cuts eligibility in half. The share of Federal aid has also been cut, to a 50-50 matching grant basis. Private sector commitment and a viable strategy for economic development will weigh heavily in the evaluation of applications for economic development aid.

Title I of the bill authorizes $500 million annually for 3 years for the construction, repair, rehabilitation, and improvement of public facilities, and to establish locally administered revolving loan funds to assist small business or to retain existing business and other projects which promote development and create jobs.

Title II of H.R. 6100 will permit the Appalachian Regional Commission to bring its infrastructure programs in severely distressed and underdeveloped counties in Appalachia to completion. The bill authorizes $83 million annually for 1983 through 1985, and $75 million annually for 1986 and 1987. It also provides funding for the Appalachian Highway System in the amount of $215 million in 1983 and an additional $2 billion through fiscal year 1990 in order to complete the highway construction program.

This legislation represents a worthy bipartisan effort at improving important Federal programs. I urge adoption of the rule so that we may proceed to the consideration of H.R. 6100.

☐ 1430

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provisions of the rule have been ably explained by the gentleman from Louisiana (Mr. Long).

I think it is time for action on the floor. I know of no objection to the rule, even though the administration opposes certain provisions of the bill.

The bill is a product of 13 days of hearings. It has been widely discussed.

The programs in my district, ARC and EDA have been very fruitful and helpful.

Mr. Speaker, I have no requests for time. I reserve the balance of my time. I urge the adoption of the rule.

● Mr. TAYLOR. Mr. Speaker, House Resolution 539 is an open rule under which the House will consider legislation to reform and reauthorize the Economic Development Administration, and thereby begin a process of rebuilding the economic base of our Nation's economically distressed areas.

As the gentleman from Louisiana (Mr. Long) has explained, this rule contains one waiver of the Budget Act against our consideration of H.R. 6100, provides for a committee amendment in the nature of a substitute, and waives clause 5 of rule XXI against that substitute.

The waiver of section 402(a) of the Budget Act is considered to be a technical matter in this instance, because the bill was not reported by one of the two committees involved by the May 15, 1982, deadline. Various sections of H.R. 6100 as introduced would directly authorize the enactment of new budget authority for fiscal 1983, and thus the triggering of the reporting requirement. The waiver is provided because the Banking Committee has no objection to the bill as reported by the Public Works Committee, and the Public Works Committee did meet the reporting deadline.

Mr. Speaker, this rule provides for 1½ hours of general debate, to be equally divided, and it makes in order a Public Works Committee amendment in the nature of a substitute as on original bill for the purpose of amendment under the 5-minute rule.

The committee substitute will be read for amendment by titles instead of by sections, with each title considered as read. The rule waives clause 5 of rule XXI against our consideration of the committee substitute.

This waiver is provided because one section of the substitute does constitute an appropriation in a legislative bill. One motion to recommit with or without instructions is also provided for.

Finally, Mr. Speaker, the rule makes in order our consideration of S. 2144, a similar Senate passed bill, following passage of H.R. 6100. A waiver of section 402(a) of the Budget Act is provided because the Senate bill contains new budget authority and was not reported prior to May 15.

Mr. Speaker, the legislation made in order by this rule, H.R. 6100, represents a major effort on the part of the Public Works Committee to change the Economic Development Act of 1965 by targeting grant assistance on the basis of prospects for success in our Nation's distressed areas. The committee has brought forth a bill that substantially revises the EDA program and tightens the standards for eligibility of local communities by using a more strict criteria of economic distress.

All of us know, Mr. Speaker, that over the years EDA grew too big and began to try and solve problems far beyond its scope. Indeed, some 80 percent of the Nation is currently eligible for EDA assistance. Under this legislation, which I whole heartedly support, we will slim down the criteria for EDA assistance to cover about 40 percent of the country.

This bill is designed to insure that our scarce Federal resources are used most effectively, and it contains provisions requiring the Secretary of Commerce to consider the amount of private sector involvement and the potential for economic success—to take these factors into account—when selecting development plans for assistance.

Under the legislation reported from the Public Works Committee, communities which apply for EDA grants will be required to devise development plans that emphasize the involvement of private industry. Private Industry investment is a vital part of any economic recovery program, and this bill promotes private industry investment as the cornerstone of local economic development plans.

Mr. Speaker, I am pleased to say that this measure has strong bi-partisan support from the Committee on Public Works. There is hardly any controversy about the merits of the legislation reported from that committee, and there was no controversy at all about the provisions of House Resolution 539 in the Committee on Rules.

Mr. Speaker, I strongly urge my colleagues to support this rule and to support the legislation it makes in order.●

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent for all Members to have 5 legislative days within which to revise and extend their remarks on the pending rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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PROVIDING FOR CONSIDERATION OF H.R. 6308, RAIL SAFETY AND SERVICE IMPROVEMENT ACT OF 1982

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 546

Resolved, That upon the adoption of this resolution it shall be in order, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6308) to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Energy and Commerce and Interior and Insular Affairs now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6911 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. Oakar) to speak out of order.

(By unanimous consent, Ms. Oakar was allowed to speak out of order.)

CONFERENCE COMMITTEE ADDRESSES ISSUE OF FEDERAL EMPLOYEES AND RETIREES

Ms. OAKAR. Mr. Speaker, right now the conference committee is meeting. Among other issues they are addressing is the plight of Federal employees and Federal retirees.

Congresswoman Schroeder and myself were recommended to the conference committee to expand it to five members on our side, three on the Republican side. Unfortunately, Congressman Latta threatened to object.

This may have been acceptable if, in fact, the Committee on Agriculture had not had five members on the Democratic side and three members on the Republican side.

We think it is discrimination. We think it is a blow to Federal employees and to retirees and I must say I am deeply disappointed.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentlewoman for yielding.

Mr. Speaker, I think what the gentlewoman from Ohio said is very true, and we are just very, very sorry this whole incident has occurred.

The SPEAKER pro tempore. The time of the gentlewoman from Ohio (Ms. Oakar) has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Derwinski) to speak out of order.

(By unanimous consent, Mr. Derwinski was allowed to speak out of order.)

PROCEDURES FOLLOWED IN CURRENT CONFERENCE COMMITTEE MEETINGS

Mr. DERWINSKI. Mr. Speaker, I thank the gentlewoman.

I wish to correct, for the record, and give my understanding of the point made by the gentleman from Ohio.

There was no discrimination involved. There are the normal number of conferees. The position of Federal employees and Federal retirees is being very well protected by the three majority members at the conference and, in fact, by one of the minority members, Mr. Taylor. So I would say the only effect of not expanding the number of conferees is that we are not quite as crowded around the conference table.

The practical, political, and budgetary effects involved are not changed at all by the absence of the two very noble and concerned gentlewomen.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Of course, I yield to the gentlewoman.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, the thing we were distressed about——

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Derwinski) has expired.

Ms. OAKAR. Mr. Speaker, I ask that he be allowed to address the House for 1 minute.

The SPEAKER pro tempore. The time is controlled by the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Derwinski) for purposes of debate only.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I would like to respond that I think the thing we are so distressed about is no one seemed to care how crowded the conference table was when it came to Agriculture members, but suddenly when it came to having the same number, an equal number from the Committee on Post Office and Civil Service, they cared, and both of our subcommittees are the ones with specific jurisdiction.

Mr. DERWINSKI. I think the difference is the Agriculture conference is far more complex, and there is less unanimity among its members.

I would say if the two gentlewomen have any complaint at all, it probably should be directed to the chairman of the House Committee, because that is how we arrived at the five-member group.

Really, nobody can win on this issue; but I assure the gentlewomen, rest assured that their retirees are being well protected.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. Derwinski) has expired.

□ 1440

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. Quillen), and pending that, I yield myself such time as I may use.

Mr. Speaker, the resolution (H. Res. 546) provides for the consideration of the bill (H.R. 6308), the Rail Safety and Improvement Act of 1982. It is a 1-hour open rule.

The rule provides for an amendment in the nature of a substitute consisting of the text of a bill (H.R. 6911) to be considered as original text for the purpose of amendment. It contains the provisions customarily included in rules when a committee reports a substitute. All are technical and simply insure that the minority has the same rights which would be available if the committee had reported a clean bill. They provide for the substitute to be read as original text for purpose of amendment; permit Members to demand separate vote in the House on perfecting amendments as well as the substitute; and provide that the motion to recommit may contain instructions.

The text used as a substitute was introduced by the gentleman from New Jersey (Mr. Florio) prior to the hearing in the Committee on Rules, in order to provide a convenient vehicle for floor consideration. That text accommodates an amendment proposed by the Committee on Interior and Insular Affairs to the substitute reported by the Committee on Energy and

Commerce. It also corrects a provision in the committee report subject to a point of order under section 401(a) of the Congressional Budget Act of 1974.

The rule provides for a waiver of section 401(a) of the Congressional Budget Act of 1974, which prohibits certain forms of back-door spending. The waiver applies to section 502(c) of the introduced bill, related to contract authority, but it is technical because the substitute cures that violation.

A waiver of section 402(a) of the Congressional Budget Act of 1974 is also provided. The committee reported 1 day late but the Committee on the Budget notes that a good-faith effort was made to comply and, since the text was available in advance, the real object of the requirement was met.

The resolution provides a waiver of clause 5 of rule XXI for the substitute. The rule prohibits appropriations in legislative bills. Numerous provisions of the bill could be considered reappropriations since they would make funds previously appropriated available for other purposes. However such waivers are routine and noncontroversial in the case of bills of this type. Indeed, it would be impossible to make any changes in any multiyear funding programs without a technical violation of the rule.

Mr. Speaker, I wish to commend the gentleman from New Jersey (Mr. FLORIO) and the gentleman from New York (Mr. LENT). Their subcommittee has provided effective leadership on the issue of rail development. They have brought forward an outstanding product, which this House may consider with pride. This is the omnibus rail bill which includes, in title III, funds earmarked for the Northeast corridor improvement project. This project is of vital importance to the transportation needs and the economy of my region and I am grateful for the consistent support this work has enjoyed in the Committee on Energy and Commerce.

The bill also reauthorizes the Rail Safety Act through fiscal year 1984. Title II of the bill provides authority to the Secretary of Transportation to oversee the reorganization of railroads in bankruptcy, and directs the Secretary to guarantee necessary loans to carrier for employee protection and retraining.

The amendment of the Committee on Interior and Insular Affairs relates to the disposition of lands in connection with the sale of the Alaska Railroad. Since that amendment is accommodated in the text made in order under the rule, the Interior Committee felt it required no special allocation of time.

Mr. Speaker, this is an important bill and I strongly urge the adoption of the rule to permit the House to take it up for consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

The descripiton of the rule has been well done, Mr. Speaker. I think we would find that Amtrak would operate in a much safer manner should it run through Tennessee. I would like to plant that seed again, and I believe it would be a great service to the people, particularly in the World's Fair State. I would hope that the committee would take note.

Mr. Speaker, even though the administration opposes the bill, this is an open rule and will allow for adequate debate on the floor of the House.

● Mr. TAYLOR. Mr. Speaker, House Resolution 546 is a 1-hour open rule under which the House will consider legislation to reauthorize the Rail Safety Act to insure continued Federal oversight of the safety of rail operations in this Nation.

The gentleman from Massachusetts (Mr. MOAKLEY) has explained that this rule contains two waivers of the Budget Act against our consideration of H.R. 6308, provides for an amendment in the nature of a substitute consisting of the text of a new bill, H.R. 6911, and waives clause 5 of rule XXI against that substitute.

One of the two Budget Act waivers is technical in nature, and was provided for by the Rules Committee because the substitute will not violate section 401(a) of the Budget Act.

The second Budget Act waiver, that of section 402(a), is necessary because the Committee on Energy and Commerce did not report the legislation by the May 15 deadline. The Budget Committee noted that a good-faith effort was made to comply, and, since the text was available in advance, the object of the requirement was met.

Mr. Speaker, the rule provides that the amendment in the nature of a substitute, H.R. 6911 introduced by the gentleman from New Jersey (Mr. FLORIO), will be considered as original text for the purpose of amendment under the 5-minute rule.

The text of the substitute accommodates an amendment by the Committee on the Interior which was reported to the Energy and Commerce Committee bill, and will be read by title instead of by sections.

The rule also provides a waiver of clause 5 of rule XXI for the substitute. The rule prohibits appropriations in legislative bills, but numerous provisions of H.R. 6911 could be considered reappropriations since they would make funds previously appropriated available for other purposes.

Mr. Speaker, the Energy and Commerce Committee has brought forward an omnibus rail bill that is generally supported by the minority on that committee.

The Republican members of the Subcommittee on Commerce, Transportation and Tourism, the gentleman from Illinois (Mr. MADIGAN), and the gentlemen from New York (Mr. LENT and Mr. LEE) indicate some concern, however, over some provisions of the bill.

Indeed, the bill in its present form, is strongly opposed by the administration.

Since this rule permits amendments that will give the House a chance to overcome these objections, I ask that the rule be adopted.●

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material, on the pending rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6323, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1983

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 535 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 535

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6323) to authorise appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without in-

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tervening motion except one motion to recommit. After the passage of H.R. 6323, it shall be in order to take from the Speaker's table the bill S. 2577, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6323 as passed by the House.

The **SPEAKER** pro tempore. The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. **DERRICK**. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 535 provides for the consideration of the bill, H.R. 6323, to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman of the ranking minority member of the Committee on Science and Technology. This is a straight open rule, allowing any germane amendment to be offered under the 5-minute rule. There are no waivers of points of order. One motion to recommit is in order. After passage of the bill, it is in order to take from the Speaker's table the bill S. 2577 and to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions contained in H.R. 6323 as passed by the House.

Mr. Speaker, H.R. 6323 authorizes $296.8 million for fiscal year 1983 and $303.1 million for fiscal year 1984 for the environmental research, development, and demonstration activities of the Environmental Protection Agency. The authorizations will enable EPA to carry out the mandates of the environmental statutes administered by the Agency. In addition, the bill strengthens EPA's environmental monitoring activities, establishes a research program on indoor air quality, and expands long-term research on emerging environmental health hazards.

Mr. Speaker, it is important that we maintain our commitment to the protection of the public health and welfare of our citizens and of the environment. I know of no opposition to this rule, and I urge my colleagues to adopt House Resolution 535 that the House may proceed to the consideration of this very important legislation.

Mr. **QUILLEN**. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the provisions of the resolution have been ably explained by the gentleman from South Carolina (Mr. Derrick). The administration opposes this measure. Instead of the bill which mandates high levels of funding, they prefer lower funding levels.

Mr. Speaker, I know of no opposition to the rule. There may be some opposition on the floor of the House to the bill. I urge adoption of the rule, and reserve the balance of my time.

☐ 1450

Mr. **DERRICK**. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsideration was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6324, ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. **ZEFERETTI**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 540

Resolved, That upon the adoption of this resolution it shall be in order, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Merchant Marine and Fisheries and Science and Technology now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6798 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from New York (Mr. Zeferetti) is recognzied for 1 hour.

Mr. **ZEFERETTI**. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 540 provides for the consideration of H.R. 6324, Atmospheric, Climatic and Ocean Pollution Act of 1982. The Rules Committee has granted 1 hour of general debate, 30 minutes to be equaly divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. Further, the rule waives 401(a) of the Congressional Budget Act prohibits new contract authority unless such authority is limited to amounts provided in advance in appropriation acts.

These violations occur on page 10, section 303(a)(3) lines 17 through 23, on page 13, section 306, lines 22 through 25, and on page 22, section 202(c)(3) lines 19 through 22.

In lieu of the amendments reported by the Merchant Marine and Science and Technology Committees, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 6798, as an original bill for the purpose of amendment. This substitute shall be considered for amendment by titles instead of by sections, with each title to be considered as read.

In addition, the substitute will necessitate the need for several waivers. On page 10, section 303(a)(3), lines 1 through 7 a waiver of clause 5, rule XXI, and a waiver of 401(A) of the Congressional Budget Act is needed. On page 13, section 306, lines 3 through 6, and on page 21, section 202(c)(3), line 23, through page 22, lines 1 through 2, a waiver of 401(A) of the Congressional Budget Act is required.

At the conclusion of the amendment process the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

Mr. Speaker, H.R. 6324 was jointly referred to the Science and Technology Committee and the Merchant Marine Committee. The committees differed slightly on several items in the measure, however, were able to resolve these differences and have incorporated their compromises in a clean bill, H.R. 6798.

H.R. 6798 authorizes $544 million for fiscal year 1983 and $576.6 million for fiscal year 1984 for about 60 percent of the activities of the National Oceanic and Atmospheric Administration. This measure is part of an ongoing process of consolidating the NOAA reauthorization into a single item of legislation.

Included in the bill are authorizations for sludge studies of the New York and Puget Sound areas, the establishment of a Great Lakes Protection, Research and Sanctuaries Act, the national climate program, and restored funding for a second polar orbiting weather satellite.

Mr. Speaker, the National Oceanic and Atmospheric Administration plays a vital role in the Nation's welfare, economic self-sufficiency, and national security.

The Administration monitors and predicts weather and environmental conditions, provides basic maps and charts for safe navigation, provides research to advance oceanic and atmospheric science, and manages and conserves marine resources for the good of the country.

Mr. Speaker, this is a fairly noncontroversial measure and I urge my colleagues to support House Resolution 540, so we may proceed to the consideration of H.R. 6324, the NOAA authorization for fiscal years 1983 and 1984.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and of the bill which authorizes appropriations for fiscal years 1983 and 1984 for the National Oceanic and Atmospheric Administration.

There are, however, some problems with the bill. There are those who feel that this authorization level is too high, because it provides $544 million in fiscal year 1983 and for $576.6 million in fiscal year 1984, and there are some provisions that were included in the bill to which the administration has raised some objections. I am sure there will be some serious debate on the bill, and some amendments will be offered.

But, Mr. Speaker, this is a fair and noncontroversial rule providing 1 hour of general debate, and it allows adequate consideration of conflicting points of view and for an adequate hearing on the House floor. I support the rule. I know of no objections to it. I have no requests for time, and I yield back the balance of my time.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RAIL SAFETY AND SERVICE IMPROVEMENT ACT OF 1982

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 6308), to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Massachusetts (Mr. FRANK), as Chairman of the Committee of the Whole and requests the gentleman from New York, Mr. MCHUGH, to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6308, with Mr. MCHUGH, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House is today considering H.R. 6308, the Rail Safety and Service Improvement Act of 1982. This is an important rail bill which deals with a number of rail safety and service issues.

Title I of the bill reauthorizes the rail safety functions of the Federal Railroad Administration. This reauthorization is crucial if we are to insure continued oversight of the safety of rail operations.

Title II deals with rail service and labor problems caused by the liquidation of the Rock Island Railroad. Its enactment is necessary to insure the maximum possible continued rail service in the Midwest.

Title III restructures the Northeast corridor improvement project and insures that crucial aspects of this project can be completed.

Title IV extends a railroad loan program that has been of great assistance in improving rail service in all parts of the country, particularly the Midwest.

Title V authorizes additional transition funding for Northeastern commuter agencies and also provides for the transfer of the Alaska Railroad to the State of Alaska. An amendment to the Alaska Railroad section was added by the Interior Committee, and this amendment is incorporated in the text of the substitute.

All parts of this bill are important to rail service in this country, but I want to emphasize the importance of the $75 million for commuter authorities in the Northeast. These commuter lines carry nearly half a million people per day, and are vital to the economic health of the region.

Last year, in order to improve the operation of these commuter lines, the Congress gave the local authorities the ability to operate and manage these lines. No longer would they be required to rely on Conrail—the current operator—to operate the service or negotiate their employee contracts.

The transition expenses for this change have been greater than expected by some, and, with the support of the administration, we have made additional funds available. These funds should insure a smooth transition and continued commuter service in Connecticut, New York, New Jersey, Pennsylvania, and Maryland.

H.R. 6308 is an important piece of legislation and I urge its adoption by the House.

□ 1500

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to take this opportunity to describe to my colleagues in the Chamber H.R. 6308, the Rail Safety and Service Improvement Act of 1982.

This five-titled bill is an important piece of rail legislation that has been developed within the Energy and Commerce Committee in a spirit of bipartisan cooperation. Very briefly, I would like to highlight what I consider to be some of the more significant aspects of H.R. 6308.

Title I of the bill reauthorizes the rail safety program at funding levels consistent with those requested by the administration, except with respect to the cost of State inspection programs. In addition, title I provides a much-needed clarification of the authority and responsibility of the Federal Railroad Administrator in the field of commuter rail safety. Taken as a whole, title I assures a continued commitment on the part of the Congress to improved rail safety.

Title II of H.R. 6308 provides a procedure for the sale of lines abandoned by the Rock Island Railroad to assure the continuation of essential service over these lines. In addition, the bill establishes an employee protection program to deal with railroads in liquidation. This particular subject has been a troubling one for a number of years as the Congress has attempted to strike a balance between protecting

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rail employees and not unduly burdening the industry.

I have some reservations about this provision as drafted, both as to whether it will result in Rock Island employees receiving any benefits and as to its negative impact on other viable carriers. Nonetheless, based on assurances received from the chairman of the subcommittee, Mr. Florio, on his desire to work together to improve this provision, I am confident that the final product that emerges from a House-Senate conference will be one that strikes that balance.

Title III addresses the Northeast corridor improvement project. Principally, it seeks to clarify the scope of the overall project and the availability of funds to complete the project as contemplated by Congress. Also, title III makes funds available for much-needed corridor improvements between the main line and Buffalo, N.Y. At the approximate time I intend to offer an amendment along with my colleague from New York, Mr. Lee, that would assure that two specific projects are addressed with these funds, both of which are very important to the State of New York. One of these is the "corridor connector" project that will link the Empire Amtrak corridor with Pennsylvania Station in New York City, thus eliminating the need for Amtrak rail passengers to shuttle to Grand Central Station to connect with Amtrak service to Albany and Buffalo.

Title IV continues the 505 preference share program for an additional 3 years. I believe this extension is appropriate as the rail industry pursues the goal of rehabilitating and rebuilding its facilities and equipment (infrastructure).

The last title of the bill includes additional funding for the costs associated with the transfer of commuter operations in the Northeast from Conrail to the appropriate commuter authorities. This provision is extremely important to assure a smooth transition. In addition, this title provides for the transfer of the Alaska Railroad to the State of Alaska. There has been agreement between the two relevant committees, Energy and Commerce, and Interior and Insular Affairs, to incorporate the latter committee's provision for the sale of the railroad to the State. Nonetheless, I remain concerned that, as presently drafted, the language could frustrate everyone's stated intent to transfer the railroad from the Federal to the State government. I hope that those concerns are addressed as the bill continues through the legislative process.

In closing, I would like to commend the chairman of the subcommittee, Mr. Florio, for his efforts in working with the minority members of the committee in shaping the bill under consideration.

Although I continue to have reservations about certain aspects of the legislation, on balance, I believe it is a good bill. Therefore, I would urge my colleagues to vote in favor of the bill as reported by the Committee on Energy and Commerce.

Thank you.

Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. Bereuter).

Mr. BEREUTER. Mr. Chairman, I rise in reference to one section of this bill, section 212, which I support strongly. Section 212 deals with an issue in which I have a deep and longstanding interest—railroad bankruptcies. I was pleased to submit a statement on this matter to the Commerce, Science and Tourism Subcommittee of the Energy and Commerce Committee, chaired by our distinguished colleague from New Jersey (Mr. Florio), and I am delighted to see that the bill as finally reported out of committee provides such a thorough and well-crafted remedy to my concerns.

Mr. Chairman, section 212 of the bill specifies that bankrupt railroads may be transferred only to financially responsible entities which are capable of covering expenses required to provide rail service for at least 4 years. It further provides that if such an offer has been made and declined, the ICC may, on request, make a determination that the offer is a bona fide one and that the offeror is financially responsible, and set a reasonable price for the takeover. Once the ICC does this, the decision is binding unless the offeror withdraws its bid within 10 days. In the event that there is more than one potential purchaser, the ICC is required to prescribe terms that best serve the public interest.

Mr. Chairman, for the benefit of those who may not have had the personal experience with railroad bankruptcy that I have had in my district, I would like to take a few minutes to explain to my colleagues the gross inequity and callous disregard for the public interest which can result, and has resulted, in the absence of such legislation as we are now considering.

Seven years ago the Rock Island Railroad, part of which runs through my district, was declared officially bankrupt. Operations continued on major portions of the line, as a result of directed service orders and the efforts of other rail carriers, until June of 1980, when the order was granted allowing total abandonment of operations by the Rock Island. Over the past 2 years, many carriers have aggressively and repeatedly sought to purchase sections of the line, but their offers have met with rejection after rejection by the trustee in bankruptcy.

Mr. Chairman, the farmers in my district rely on rail service to transport their grain to market. For years the Rock Island was a dependable integral part of farm operations throughout Nebraska. Today speculation and perhaps petty considerations of financial gain to the trustee may have resulted in the capricious withholding of this vital service from residents of my district. Something is rotten in the State of Illinois specifically in the office of the overpaid trustee of the Rock Island Railroad. Delay only adds more dollars to his pocket.

While no one would deny a trustee's obligation is to obtain the highest offer for the assets of a bankrupt estate, it has been conclusively documented that the offered price on each of these segments far exceeds the salvage value. Until very recently, Mr. Chairman, a mere 300 miles of this once great 3,500 mile line has been sold.

The prospective purchasers of these segments are becoming increasingly frustrated by the trustee's refusal to consider the offers which they have put forth. Farmers, small business families, and whole communities for whom reliable transportation is an essential business need, are suffering. Each day the Rock Island line deteriorates further and further, fast approaching the point where it will no longer be feasible to attempt to reestablish service, and this great asset of the plains will be lost to us forever.

In conclusion, Mr. Chairman, I want to say that I support this portion of the bill as a long-waited remedy to a problem which has caused hardship to farmers in my district and elsewhere in the country at a time when they can ill afford to support the delays and the speculations of those who have put their own financial gain above the public good.

☐ 1510

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. I thank the distinguished chairman of the subcommittee for yielding this time to me, and I rise in support of the Rail Safety and Service Improvement Act, and at the same time to express my concern about the problem of rail freight service through the Northeast corridor. I am concerned that this serious problem is not sufficiently addressed in this legislation.

Recent legislation has been geared toward improving passenger rail service in the Northeast and rightly so. Efficient rail passenger transportation can be the cornerstone of renewed prosperity for depressed urban areas; it reduces our dependence on cars, saves energy and reduces air pollution.

Unfortunately, transportation planning has tended to ignore the potential contribution that rail freight service could make in assisting economic and environmental revitalization in the Northeast.

As a result, rail freight service through the Northeast corridor has never been fully realized. However, the potential for rail freight along the route from Washington, D.C., up into New England is great and the net benefits of a healthy rail freight industry along the Northeast corridor to shippers, railroads, labor, and to society as a whole are very substantial.

In 1975, the U.S. Railway Association, in its plan to set up Conrail, made certain recommendations about how rail freight service along the Northeast corridor could be improved without interference with passenger lines. The recommendation included a proposal for establishing a separate, but parallel route for freight trains on already existing track from Washington straight through to Newark, N.J. Connecting routes into New England could be achieved through the construction of a rail freight tunnel beneath the Hudson River. An uncompleted New York-New Jersey Port Authority study done a few years ago showed that the level of traffic attracted by such a tunnel would alone be nearly enough to support the project financially.

The beauty of this plan—and similar ones like it—is that it does not require excessive costs and would allow rail freight to travel exclusively on its own rail routes, free of conflicts with Amtrak and commuter trains. It would eliminate the problem of high fees that freight companies are forced to pay Amtrak. And, it would alleviate the wear and tear on passenger tracks that freight trains are known to aggravate.

At the same time, an independent off-corridor rail freight route would shift some highway freight traffic to rail, thereby saving significant amounts of highway maintenance—now a very high cost—while conserving energy and reducing air pollution.

I understand that progress is being made in some of these areas. The question of rail freight fees is being litigated before the Interstate Commerce Commission at this time. Title 7 of this legislation mandates that the Transportation Secretary study alternative routes for rail freight. Yet, this problem was recognized back in 1975, and it seems long past the time when some more substantive action should have occurred.

We already have the elements and the technology to establish a separate right-of-way for freight trains from Washington, D.C., to New York and beyond. With careful planning and management, performed with an eye toward the long term, I believe that freight usage in the Northeast corridor could be increased markedly. In my view, one I believe is shared by many others as well, increased freight exchange through this vital and productive region will not only benefit the citizens of this region, but serve as a model for improving rail service across the country.

I would very much appreciate an expression on this matter from my distinguished friend from New Jersey, the chairman of the subcommittee.

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, I appreciate the concern expressed by the gentleman from New York. I certainly agree that it is important to encourage rail freight service in the Northeast.

Efforts are being made to route freight traffic off the tracks of the Northeast corridor owned by Amtrak onto alternative off-corridor routings. Those efforts are important and should continue. The off-corridor routings are important freight routes and should continue to be improved.

Mr. WEISS. Mr. Chairman, I thank the gentleman, and I am looking forward to working with him toward this end.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I have had a communication from attorneys representing substantial creditors of the Rock Island and who have communicated with me with respect to this legislation, particularly title II, subtitle B of the Rail Safety and Service Improvement Act of 1982, which would impose a $75 million labor protection obligation upon the bankrupt and the liquidating Rock Island estate.

The labor protection program would be funded either directly from the assets of the estate or by a federally guaranteed loan, as I interpret it. If a loan were utilized, it would have administrative expense status and thus repayment of the loan is quite likely to be accorded priority superior to the interests of the estate's creditors and shareholders.

If, on the other hand, the $75 million is required to be paid out of the estate, and the labor protection provisions of the act were subsequently held to be constitutional, why, of course, that would come out of the pockets of the creditors and shareholders of the Rock Island. If this part of the act were held to be unconstitutional, then, I believe, they would be entitled to reimbursement under the Tucker Act and the taxpayers would foot the bill.

I should call attention to the fact that Congress has twice passed similar legislation in which it has attempted to provide this $75 million guarantee by specific legislation. On May 30, 1980, President Carter signed the original Rock Island Act. On June 9, the U.S. District Court in Chicago, Judge McGarr, in the Bankruptcy Court, enjoined the implementation of that legislation, holding that that part of the act was unconstitutional. That unconstitutionality holding was sustained by the U.S. Supreme Court.

Again, the Congress, in September 1980, reenacted, without substantial alteration, the same provision, and again it was held unconstitutional.

So this is the third attempt.

Now, as I interpret it, section 215 of the bill attempts to provide by general legislation for the funding of such labor protection agreements, with the idea that by the enactment of such general language we can circumvent the decisions of the Supreme Court which held the earlier provisions to be unconstitutional. There remains the question as to whether we are not taking the money of the pockets of the creditors, which would be wrongful and unconstitutional or imposing a corresponding obligation on the Federal Government, which I do not believe the Federal Government should be required to assume.

So I do want to call attention to these parts of the measure before us and to voice the objections to it which have been communicated to me by attorneys representing substantial interests in the Rock Island bankruptcy proceedings.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York, who undoubtedly is more familiar with this subject than I am, and perhaps the gentleman can enlighten me with respect to these points.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I do not know whether I can enlighten the gentleman, but, as I said in my opening remarks, I am cognizant of the problem, and we have been trying on this subcommittee to work this issue out with the administration, to assure that the employees of the Rock Island are protected while at the same time without prejudicing the creditors of the estate.

Mr. McCLORY. This is very encouraging. I would say that I am encouraged by the statement of the gentleman, and I hope that your efforts will be successful, because it does seem to me that in our desire to be fair to the employees of the railroad, we certainly also want to be fair to those who have invested in and loaned money to the railroad and who are legitimate creditors of the railroad and we should not jeopardize or prejudice their interests in the bankruptcy proceedings by any legislation such as those provisions to which I have made reference. And, likewise, I am sure that we want to be certain that whatever legislation we enact will stand the constitutional test.

I thank the gentleman very much for his statement.

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Let me add these further facts about the Rock Island proceedings which are pertinent to the present debate.

Within the last few weeks, Judge McGarr ordered the trustee to file a plan of reorganization by November 30 of this year. However, the threat hanging over the estate of a new legislatively imposed $75 million obligation as in the measure before us could well make the filing of a plan impossible until the constitutionality of the legislation is finally determined. Past experience indicates that such a final judicial resolution could take as long as 2 years.

This new delay would be most detrimental to the interests of the Rock Island's creditors, particularly the small businesses, individuals, and State and local taxing authorities, who have been awaiting payment of their claims for years. Many of these creditors are presently reported to be in difficult financial straits because of the failure of the Rock Island to pay its debts. In addition, delay in the liquidation of the Rock Island estate will be contrary to the best interests of the Government, which is a major creditor of the estate, and to the public interest, which would prefer that sales be consummated quickly so that rail service can be preserved.

The Rail Safety and Service Improvement Act will be very detrimental to the Government in another way. It has already been established that no labor protection is legally owing in connection with the Rock Island's abandonment. If, under the terms of any new legislation $75,000,000 becomes immediately payable out of the Rock Island estate to railway labor, the trustee, creditors, and shareholders will be compelled to sue the Government under the Tucker Act for reimbursement of all sums paid, plus interest from the time of payment. In light of the earlier decisions of the seventh circuit and Judge McGarr that the Rock Island cannot be subjected to labor protection obligations consistent with the Constitution, the Government will incur a $75,000,000 expense, plus interest. In addition, if the trustee is compelled, pursuant to subtitle A of title II, to sell any rail properties for less than fair market value, the Government will be responsible for the shortfall.

I am confident that the gentleman from New York (Mr. Lent) and other members of the committee will give earnest consideration to these facts as they apply themselves in formulating the final text of this legislation.

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Mr. LENT. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Lee), our colleague on the subcommittee.

Mr. LEE. Mr. Chairman, I thank the gentleman for yielding.

I wonder if the distinguished chairman would engage in a colloquy here for a couple of minutes on a key point or two.

Approximately a year ago, when we were going through the excellent leadership accomplishments of both the gentleman from New Jersey and the gentleman from New York (Mr. Lent) in insuring that we did not end up with a garage sale for the Conrail system, we all stood unanimously in support of insuring we would implement under the Northeast Rail Services Act the tools to insure that Conrail could attain its profitability with the hopeful objective that at a designated time it could continue on its own without being dissected.

My point to the distinguished gentleman from New Jersey is this:

As we address this particular section relevant to the transfer of approximately 6,000 employees to the commuter services, do we have assurances among ourselves here as we go to conference that we will do everything that we possibly can to protect Conrail from having to pick up the financial liability for the cost of that, as well as insuring that there is equity for the employees that are transferred to either the metropolitan agencies or to Amtrak?

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

I think the gentleman, from our previous conversations as well as communications with the gentleman from New York (Mr. Lent), is aware we are all of one mind that it is important to balance out the equities between all of the players, and that one of our paramount concerns is to maintain the financial integrity of Conrail.

As the gentleman knows, last year we stood here in opposition to some feelings in the administration, and argued against a liquidation of Conrail. And we wanted to provide the time to have Conrail go forward in a profitable way so as to maintain it as a northeast railroad system. I think we are all very pleased with the results, that management and labor have cooperated, that there is a high degree of productivity. Conrail is now in the black.

I think it is important we preserve Conrail's opportunity to succeed so we do not find ourselves later on having to respond to those who say that Conrail did not meet the standards that we set, and, therefore, there should be a parcelling out of the system, which would be catastrophic for the health of the Northeast.

I am committed to insuring that there be that amount of money left in the appropriation maintained for Conrail so they have an amount to deal with unexpected contingencies—weather problems, whatever. I will go forward through the legislative process to insure that Conrail is able to preserve an amount to insure that it meets the financial requirements Congress has imposed on it so that system can be kept together.

Mr. LEE. I thank the gentleman for affirming that significant point.

I would like, Mr. Chairman, to take this opportunity to compliment both the gentleman from New York (Mr. Lent) and the gentleman from New Jersey (Mr. Florio) for the outstanding leadership they have demonstrated in bringing this legislation to the floor.

● **Mr. SEIBERLING.** Mr. Chairman, I thank the gentleman for yielding, so that I may very briefly discuss the role that the Committee on Interior and Insular Affairs has played with regard to this bill.

Our committee sought and received a sequential referral of H.R. 6308 so that we might address those aspects of section 507, which provides for the transfer of the Alaska Railroad to the State of Alaska, which are within our jurisdiction under the rules of the House.

After a formal briefing and a hearing on this section of the bill, the Subcommittee on Public Lands and National Parks adopted an amendment to section 507 which was later approved by the full committee by unanimous voice vote and now is incorporated in the committee substitute being offered by the Committee on Energy and Commerce.

I will very briefly outline the effects of our committee's amendment, but first I want to express my great appreciation for the cooperation of the Committee on Energy and Commerce and especially of our colleague from New Jersey (Mr. Florio) which has made it possible for us to have our amendment incorporated into the substitute and thus has greatly facilitated the work of the House in considering this important bill. I also ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Interior Committee's amendment to section 507 addresses the transfer of the Alaska Railroad, now federally owned, to the State of Alaska. It includes provisions for the protection and proper management of the national park system and the national forest system, through whose lands the railroad passes. It provides a mechanism for resolving certain pending claims that various parties are entitled to ownership of certain lands now held by the railroad, under a variety of Federal laws including the Alaska Native Claims Settlement Act. It makes it clear that the transfer of the railroad will not include transfer of any Federal right of eminent domain or any floating easements for railroad expansion which in the past may have been reserved in favor of the United States. It specifies that future railroad rights-of-way across Federal lands in Alaska are to be available in accordance with existing law. And finally it provides the State the option of paying for the railroad wholly or partly in cash or through the transfer to the United States of State lands within such conservation system units as national parks or national wildlife refuges or within other areas of conservation values.

In connection with that last point, I should note that our committee did not address the fundamental question of whether the State should or should not have to pay for the railroad—that was addressed by the Committee on Energy and Commerce, which determined that payment was appropriate and set the price at 75 percent of the railroad's liquidation value.

In summary, Mr. Chairman, the provisions which our committee added to section 507 of this bill are intended to facilitate the transfer of the railroad to the State of Alaska while also providing for proper recognition of the rights and interests of the public and the other parties who stand to be affected by that transfer.

Those desiring further details on this bill and our amendment to it will find them discussed in the report of the Committee on Interior and Insular Affairs on H.R. 6308 (H. Rept. 97-571, part II).●

● **Mr. MOFFETT.** Mr. Chairman, the Rail Safety and Service Improvement Act of 1982 was introduced by Representatives FLORIO, MIKULSKI, and myself on May 6, 1982. The bill before us today contains two provisions on which I worked: First, it insures that State commuter agencies—like ConnDOT in Connecticut—which will bear the costs of assuming the obligations currently undertaken by Conrail commuter, will receive adequate upfront funds to operate these lines; and second, the bill insures that, when the Federal Government transfers the Alaskan Railroad to the State of Alaska, adequate compensation for this rather generous gift is obtained. In addition to these two provisions, I support the bill in its entirety.

Before addressing myself to these two provisions, let me provide some background.

It has always been my view that the Federal Government has had a consistently wrong policy when it comes to funding commuter operations. We have operated with the narrowest view of profitability, rejecting models used by every other Western democracy. Federal commuter policy rejects the view that there is value in providing decent, affordable, and reliable transportation for people who work for a living. The inevitable consequence of this policy is that we have been lurching from crisis to crisis—in both commuter and freight areas—without a long view into the future as to the transportation needs of our people.

The Consolidated Rail Corporation (Conrail) was patched together after the demise of the Penn Central Railroad. In addition to providing freight service—which itself was inadequately funded—Conrail's commuter operations provided rail service in Connecticut, Maryland, New York, New Jersey, and Pennsylania. It was an operation that never proved profitable, again in the narrow definition of that term, because Congress demanded that the commuter service be somehow self-sustaining.

When the Reagan administration took office, it had one answer to Conrail's problems and the agony of commuting: shut it down. It crafted legislation to do just that. First, with respect to freight operations, the legislation empowered the Secretary of Transportation to sell Conrail—either whole or in pieces—to the highest bidder. Second, to make this sale more attractive, the administration ordered the divestiture of Conrail's commuter obligations. I served on the committee which attempted to resolve the differences between the Senate's version of the administration's bill, and the House legislation which was really designed to save Conrail.

The agreement reached between the Senate and House conferees approved, with major modifications, the plan of the administration to sell Conrail. In addition, the conference agreement provided transition money so that the commuter agencies would have adequate funds to assume Conrail's commuter obligations.

Under the final agreement, the commuter agencies had two options: they could run Conrail's former obligations themselves; or, they could contract with a new Amtrak commuter subsidiary, which would run the local trains for the agencies. Connecticut DOT has chosen the right course: it will run commuter train service on behalf of Connecticut's consumers itself.

The agreement we reached, the Northeast Rail Service Act, did provide $50 million for the transition from Conrail commuter. This money, which was woefully inadequate, was included because there are millions of dollars of upfront expenditures required so that these agencies could assume Conrail's former role. ConnDOT, for example, will have to buy computers; and new staff; arrange new collective bargaining agreements; and the like. These are responsibilities which Conrail has provided, but will no longer do so after January 1, 1983.

Again, we should remember what the removal of Conrail from the commuting arena meant: the Reagan Administration was trying to balance Conrail's books on the backs of commuters. And, the transition money was compensation to the commuter agencies at the State level which would have to assume Conrail's duties.

Unfortunately, the administration decided that it would stretch out the payments of the transition money from October 1, 1981, through the end of the 1985 fiscal year—this is a period of over 4 years. Despite the fact that all of the costs which ConnDOT and the other four commuter agencies would absorb were upfront, U.S. Department of Transportation wanted to hold onto the money, and pay it out gradually.

Commissioner Burns was a witness before our Transportation Subcommittee on April 28, 1982. He described, eloquently, how the administration's disbursement schedule would injure the interests of Connecticut's commuting public. He recommended a quick release of the transition funds, to insure that the commuter agencies assuming Conrail's service obligations would be able to put these services into place immediately after January 1, 1983.

Commissioner Burns said before the subcommittee:

> I believe that it is essential that all of the funding be made available immediately so that we may proceed to take the necessary action prior to January 1, 1983 (the) takeover deadline with the full knowledge that the funding is in place.

The amendment which I offered during consideration of the legislation provided for a quick release of the transition funding provided in the bill. The $40 million previously authorized in the Northeast Rail Service Act and $75 million taken from a prior Conrail authorization would be released completely by the Secretary within 30 days after enactment. That is a vast improvement over the Secretary's regulations.

Another part of the amendment regarded something referred to as the float. The use of Conrail as a banker to assist local commuter agencies with their cash management problems was recognized, in part, in the Northeast Rail Service Act. Section 1139(b) stated:

> The Secretary shall consider any particular adverse financial impact upon any commuter authority contracting with Amtrak Commuter that results from the termination of any lease or agreement between such commuter authority and Conrail.

The act took into consideration the adverse consequences of local agencies cash management problems, if and only if they contracted with Amtrak's new commuter subsidiary.

I saw no reason why the formula should be biased toward commuter agencies which elect to have Amtrak operate their lines. Surely, the expenses awaiting those agencies which

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will be operating their lines themselves will be equally difficult for them to bear.

For this reason, my amendment—which was adopted by the subcommittee without dissent—also eliminated the words "contracting with Amtrak commuter" from section 1139(b).

Finally, let me address myself to the provision regarding the Alaskan Railroad. Originally, the bill contained a provision permitting the transfer of the railroad "without monetary consideration to the United States." I agreed with the policy decision to transfer the railroad. However, I could not agree with the awarding of the railroad to oil-rich Alaska without payments from that State. An amendment I offered required compensation.

The Interior Committee sought and won sequential referral of the bill. It added substitute language which permitted land exchanges in lieu of financial consideration for the transfer. While I cannot endorse the claim of the committee as to jurisdiction, I do applaud the work they did on the bill.

First, the committee addressed appropriate Alaska Native land claims against railroad lands by requiring a full and expedited adjudication of those claims by the Department of the Interior. The result is a savings to the Federal Government of approximately $150 million because an unconstitutional taking of Native claims is thereby avoided.

Second, the committee left the price for the railroad at 75 percent of the net liquidation value of railroad land and assets. That price had been set by the Energy and Commerce Committee. The subcommittee granted to the State the option of paying that price wholly or partly in cash and wholly or partly in land comprising inholdings in national parks and wildlife refuges, because the State may find it easier to pay in land than in cash.

If the State chooses the land exchange option, key waterfowl and wildlife areas could be traded to the Federal Government for the railroad lands. This trade would benefit sport hunting interests in Alaska and the lower 48 States by protecting valuable wetlands and wildlife habitat from possible incompatible development or disposal to private interests.

Third, the committee granted existing rights-of-way for the railroad through Denali National Park and the Chugach National Forest, while preserving Federal ownership of these lands.

The legislation could not have been brought to the House without the outstanding leadership of Representative FLORIO. He is, of course, the most knowledgeable Member we have in the area of railroad legislation. I applaud his efforts. And, I am pleased to be listed as one of the three original authors of the bill. I urge its adoption by the House.●

● Mr. RAILSBACK. Mr. Chairman, I rise in support of provisions in the Rail Safety and Service Improvement Act that pertain to the Milwaukee and Rock Island Railroads. I do so because many former Rock Island employees live in Illinois 19th Congressional District, which I represent.

Basically, title II, subtitle A, would authorize the Interstate Commerce Commission to set compensation for purchase of a line if the trustee rejects an offer, and subtitle B would insure $75 million in labor protection. The legislation provides that the estate could sue under the Tucker Act so that the Federal Government would reimburse the estate.

Congress has already attempted to legislate labor protection twice by approving the 1980 Rock Island Act and similar language in the Staggers Rail Act of 1980. In both cases, I wholeheartedly supported the provisions, because people are struggling with unemployment. Rock Island County, where most reside, is considered a labor surplus area, meaning jobs are not readily available.

However, the trustees chose to litigate, resulting in delays and finally Supreme Court decisions finding the legislation, in both cases, an unconstitutional taking of property from creditors. I understand the trustees will bring the issue to Court again if the legislation is passed by Congress.

I feel the certain delay is both unfortunate and unnecessary. The legislation clearly provides that the estate may sue the Federal Government for assistance to Rock Island employees. There is no need for delay.

And, in the meantime, former employees and agricultural shippers suffer. The Rock Island was used extensively by farmers to ship grain. Many of these shippers must now depend on truckers who are more expensive. A solution to the problem must be reached soon. No positive results are being achieved by the estate accusing Congress of causing delays and by Members of Congress accusing the estate of no concern for employees. Now is the time for a resolution. The Rail Safety and Service Improvement Act should be approved with the Milwaukee Railroad and Rock Island Railroad provisions, and I would hope the estate will decide not to fight the decision in Court, but use the Tucker Act to provide assistance to the unemployed in my district.

I appreciate this opportunity to express my views.●

Mr. LEE. Mr. Chairman, at the appropriate point in the proceedings, the ranking minority member of the Transportation Subcommittee , Mr. LENT, will offer a prefecting amendment, on behalf of both of us, to title III of H.R. 6308, the Rail Safety and Service Improvement Act of 1982. The purpose of this amendment which we have worked on together is to delineate two critical projects that will upon their completion, dramatically improve rail passenger service in New York State between Buffalo and New York City.

The first part of the amendment would authorize funds to carry out a proposal for the rehabilitation of a rail line required to facilitate rail passengerr service between Spuyten Duyvil on the Hudson line and the main line of the Northeast corridor. This proposal, referred to as the west side connection, would allow the Empire Service train from upstate New York to connect directly with the Northeast corridor at Penn Station. The connection is expected to yield benefits of approximately $10 million a year. This is based on an expected net operating cost savings of approximately $2 million a year, and an estimated increase of approximately $8 million in new revenue from improved connections between the Empire Service and the Northeast corridor. The currrent subway/taxi transfer between the two services is regarded as a major inconvenience by most travelers and discourages many potential through passengers.

Amtrak is currently proposing a detailed engineering study in cooperation with the State of New York to define the scope and cost of the proposed rehabilitation. Included in the study are track and signal rehabilitation over the 11-mile line and structural analysis of various tunnels and bridges, including the Spuyten Duyvil Bridge. The study will also analyze rail and river traffic at the Spuyten Duyvil Bridge. The results of this study will be used to prepare the detailed specifications for the project.

The second and equally important aspect of the amendment would permit Amtrak in concert with the New York State Department of Transporation and a local citizen's committee already appointed by the State transportation commissioner to develop and implement a plan for the improvement of the present Amtrak rail passenger station or construction of an appropriate new facility at Syracuse, N.Y. The Syracuse Stateion is an important link in the upper New York State Empire Service. Eight trains perday serve this station over track upgraded to superb condition by significant capital investment from the State. in the first 9 months of fiscal year 1982, 79,035 passengers used the Suracuse stop and, by the end of fiscal year 1983, Amtrak anticipates a 9.3 percent increase over total fiscal year 1982 on/off riders at this station. The existing Amtrak station, in deteriorating condition, is unattractive and inadequate to meet the growing needs and increasing demands of the Syracuse area market. This improvement project will be designed to provide the rail passenger in Syracuse with a morden, efficient, cost effective, and accessible facility similar to those constructed at other locations along the Empire corridor.

Mr. Chairman, this is an extremely important amendment and I urge all myu colleagues to support it.●

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the text of H.R. 6911 shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the Committees on Energy and Commerce and Interior and Insular Affairs. Each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

That this Act may be referred to as the "Rail Safety and Service Improvement Act of 1982".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—RAIL SAFETY

SHORT TITLE

Sec. 101. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982".

REGULATORY AUTHORITY

Sec. 102. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end a new subsection as follows:

"(i)(1) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979.

"(2) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area.".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 103. (a) Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) There is authorized to be appropriated to carry out the provisions of this Act not to exceed $52,000,000 for the fiscal year ending September 30, 1983, and not to exceed $52,700,000 for the fiscal year ending September 30, 1984.".

(2) Subsection (b)(1) is amended by striking out $22,500,000" and all that follows through "September 30, 1982." and inserting in lieu thereof "$25,800,000 for the fiscal year ending September 30, 1983, and not to exceed $26,500,000 for the fiscal year ending September 30, 1984.".

(3) Subsection (b)(2) is amended by striking out "$2,000,000" and all that follows through the period and inserting in lieu thereof "$2,700,000.".

(4) Subsection (b)(4) is amended by striking out "$10,000,000" and inserting in lieu thereof "$20,000,000".

(b) The amendments made by this section shall take effect on October 1, 1982.

MOVEMENT FOR REPAIR

Sec. 104. The fourth section of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking out "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling,".

ASH PAN ACT

Sec. 105. The Act of May 30, 1908 (45 U.S.C. 17-21), commonly known as the Ash Pan Act, is repealed.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon: Page 2, line 4, strike out "a new subsection as follows" and insert in lieu thereof "the following new subsections".

Page 2, line 16, strike out the quotation mark and the period which follows it.

Page 2, after line 16, insert the following:

"(j) The Secretary shall within 30 days report to Congress on whether it should issue rules, regulations, orders, and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light.".

Mr. SIMON. Mr. Chairman, I would like to take my 5 minutes just to explain this situation, though I believe the amendment may be acceptable.

I want to give the "Slowest Moving Agency Award" to the Federal Railroad Administration and tragically so.

Let me explain what happened.

On February 1976, 11 people were killed in my district at a railroad crossing near Beckemeyer, Ill. I took a look at what we could do about that kind of thing, and I found that the FRA had had two studies which had recommended that all railroad locomotives ought to have some kind of strobe light or oscillating light. So I wrote to the man who was then the head of the FRA, a man named John Sullivan, and I said, "You have these two studies; those studies show that, No. 1 you are going to save lives; No. 2 you are going to save money for the railroads, and I would like to see the FRA do something."

He wrote back and he said, "Thanks for your fine letter. We will study the problem."

That was a completely less than satisfactory answer.

I finally had lunch with the gentleman. He promised he was going to move into action. I have a whole series of promises from that agency, but no action. March 1978 they published their advance notice of proposed rulemaking. June 1979, FRA published notice of proposed rulemaking. September 1979, they held hearings finally.

I have had several meetings with the new FRA Administrator. They keep assuring me they are going to do something. And I wait, and I wait, and I wait.

We have about 12,000 accidents at crossings each year, over 900 killed, over 4,000 injured.

We have had up to this time, now, six FRA studies. To my knowledge every one of them says we are going to save lives, and, interestingly, one study concluded that the economic benefit to the railroads would be approximately $65 million a year by going ahead. About 20 percent of the railroads do it, just on their own. Amtrak, for example, does it. The employees of the railroads believe it is a safety measure. And yet I cannot get the agency to move.

So we have this amendment. And my apologies to the chairman of the subcommittee and to the ranking minority member, because I found suddenly we are on the bill faster than I thought we were going to be and I did not have a chance to discuss this amendment with them.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

I reviewed the amendment. The amendment I think is desirable in putting a limit on the Secretary's time to provide some answers as to the questions the gentleman raises. I think it is acceptable to the majority.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

The minority has had an opportunity to review this amendment and we have no objection.

Mr. SIMON. Let me just urge my colleagues when you are in the conference committee to see that this amendment is put on. The progressive leaders of railroads in this country are for it. But you have in the railroad industry unfortunately some pretty benighted leadership in many of these railroads and anything that means they have to spend 1 penny, even though it may save lives, even though eventually it is going to pay off for the railroads economically, they do not want to do it. I hope my colleagues fight for this in conference.

Let me add if this amendment does not do the trick and we do not get positive answers in 30 days the Members and the FRA are going to hear a lot from me from the well of this House on this matter.

If we cannot do things that save lives and save money at the same time—things that are so obviously needed—something is wrong. Drastically wrong.

☐ 1530

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. MATSUI

Mr. MATSUI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUI: Page 2, lines 3 and 4, strike out "amended by adding at the end a new subsection as follows:" and insert in lieu thereof the following:

amended—

(1) by amending subsection (h) (1) to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.";

(2) by redesignating subsection (h)(2) as subsection (h)(1)(B);

(3) by striking out "subsection" in subsection (h)(1)(B), as redesignated by paragraph (2) of this section, and inserting in lieu thereof "paragraph";

(4) by inserting after subsection (h)(1)(B), as so redesignated, a new paragraph as follows:

"(2) The Secretary shall, within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to require initial and periodic subsequent training of on-board railroad operating and service personnel in evacuation procedures and the use of emergency equipment. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.";

(5) by redesignating subsection (h)(4) as subsection (h)(5);

(6) by inserting after subsection (h)(3) a new paragraph as follows:

"(4) The Secretary shall submit to the Congress a report—

"(A) within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (1) of this subsection, and

"(B) within two years after the date of enactment of the Federal Railroad Safety Authorizaton Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (2) of this subsection,

which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration."; and

(7) by adding at the end a new subsection as follows:

Mr. MATSUI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MATSUI. Mr. Chairman, I offer this amendment to tighten up what appears to be some looseness in the approach to passenger safety on our railroads.

The record of Amtrak and our private railroads has been fairly good. In Amtrak, in fact, it has been very good. Some of that record has been due to physical differences between rail and other modes of transportation, especially air and automobile. But, that does not mean there is no room for improvement.

In June, we suffered a tragic rail accident in California. Passenger sleeping cars were engulfed in flame from an undetermined cause. Two people were killed and dozens injured. The National Transportation Safety Board is investigating the accident. Its official report will not be completed until the end of the year, but early reports revealed that the most minimal precautions had not been pursued. The train's crew fled the scene and gave no assistance in evacuating the cars or in first aid. The fire interrupted the single power line for the train, and the lights went out, causing additional confusion in the dark and the smoke. There were no smoke detectors or alarms. Half of the windows were designed to break out, but they were not marked; there were no instructions for opening them, and in the alternate compartments without breakout windows, there was no indication that exit was possible through adjacent rooms. The breakout windows were not identified from the outside, which might have assisted rescuers.

None of these faults would have been difficult or expensive to rectify but, not having been rectified, they were certainly expensive in terms of life and injury. It immediately occurred to me that although most airline accidents are not survivable, when they are, the equipment is well designed and constructed for quick evacuation, and the crews are well trained in evacuation, use of emergency equipment, and in first aid. It seemed that if something like the regulations administered by the Federal Aviation Administration had been in place, some of the deaths and injuries might have been prevented.

So, the amendment I offer today would require new regulations for both equipment and personnel training to maximize passenger safety. It would also require that in promulgating new regulations, the Federal Railroad Administration would have to consider those which apply to other modes of transportation, especially air travel. Finally, the FRA would, at the end of its rulemaking process, have to report to Congress on its action, with special emphasis on the comparison of its rules to those of the FAA's. That report should include comparisons to the following rules from the Code of Federal Regulations: 14 CFR 25.803, .805, .809, .811, .812, .813, .819, .851, .853, and 14 CFR 121.215, .221, .223, .265, .267, .269, .271, .273, .275, .310, .400, .415, and .417.

I am aware that the relationship between Government, labor, and management in the rail industry is different than that in the airline industry. It is not my intent in citing these FAA regulations that some elaborate Government-sanctioned certification and dismissal procedure be established for railroad workers as exists for airline cockpit crews. But, for trainmen, conductors, and car attendants, a system of initial and recurrent training and testing, similar to that for airline attendants, would be in order. Personnel who could not pass written and hands-on tests could simply be transferred to nonpassenger operating positions.

There is language in this amendment, Mr. Chairman, as there was in the Rail Safety Act of 1980, to include cost/benefit considerations in the regulations and to focus the requirements for equipment on new purchases. My intent is not to hamstring Amtrak and the other railroads with impossibly expensive standards. It seems, from the

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evidence of the accident in California, that the simplest and least costly changes could have saved lives. It is time that these measures be pursued.

Finally, Mr. Chairman, I would like to thank the floor leader and the subcommittee's ranking Republican member and their staffs for their assistance and cooperation in the preparation and presentation of this amendment. The intense commitment of the gentleman from New Jersey (Mr. FLORIO) to rail safety was a constant when I served on his committee, and I continue to be impressed by his persistent devotion to this priority.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. Yes, I yield.

Mr. FLORIO. Mr. Chairman, the amendment that the gentleman offers is a very valuable one. The gentleman is a former member of this subcommittee and played a very significant role in the development of the Federal Railroad Safety Act amendments of the previous year.

I would accept the amendment and would urge its passage.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, the minority has had an opportunity to review this amendment, and we have no objection to it.

Mr. MATSUI. Mr. Chairman, I thank the gentleman.

I would only like to further say to the chairman and also to the ranking minority member and, of course, the gentleman from New York, that we appreciate very much their assistance in drafting our amendment. We appreciate also the efforts of their staffs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MATSUI).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—BANKRUPT RAILROADS

SHORT TITLE

SEC. 201. This title may be referred to as the "Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

SUBTITLE A—SERVICE PRESERVATION

FINDINGS

SEC. 211. The Congress finds—

(1) that it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and where the financially responsible person seeks to provide rail service over the line;

(2) that procedures set forth in the amendments made by this Act represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) that it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

LINE SALES

SEC. 212. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915) is amended by inserting after paragraph (3) the following new paragraph:

"(4)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

"(B) The Commission shall, within 15 days after receipt of an application under subparagraph (A), determine whether the applicant—

"(i) is a financially responsible person; and

"(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

"(C)(i) If the Commission's determination under subparagraph (B) is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B), either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D), except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

"(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

"(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C), the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph (C). Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than required as a constitutional minimum.

"(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

"(E) The Commission shall require that any person acquiring a line or lines under this paragraph shall use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

"(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

"(G) As used in this paragraph—

"(i) the term 'financially responsible person' means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years;

"(ii) the term 'carrier subject to liquidation' means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982 was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties; and

"(iii) the term 'the court' means the court having jurisdiction over the reorganization of the carrier subject to liquidation.

"(H) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe any regulations and procedures which are necessary to carry out the provisions of this paragraph.".

DIRECTED SERVICE EXTENSION

SEC. 213. Section 120 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1015) is amended—

(1) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11 of the United States Code which has ceased to provide passenger commuter service over any line of such railroad (hereafter in this section referred to as 'the railroad')";

(2) by striking out "the Rock Island Railroad" each place it appears after the place referred to in paragraph (1) and inserting in lieu thereof "the railroad"; and

(3) by striking out "2-year" and inserting in lieu thereof "3-year".

INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended by inserting at the end the following new sentence: "The Commission's authority under this subsection with respect to a rail carrier subject to liquidation shall continue until the disposition of the properties of the estate of such carrier.".

GUARANTEES

SEC. 215. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end a new subsection as follows:

"(n)(1) The Secretary shall guarantee and make commitments to guarantee the payment of the principal balance of, and any interest on, an obligation of any railroad in reorganization under section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11, United States Code, for purposes of funding any agreement between such railroad and its employees which provides for the protection of such employees who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

"(2) Any obligation guaranteed under this subsection shall be treated as an administrative expense of the railroad in reorganization for which such obligation is guaranteed. Employee claims to be paid with the proceeds of obligations guaranteed under this subsection shall not be deferred but shall be paid as soon as practicable.

"(3) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary under this subsection and the maximum liability of the railroad in reorganization for such guarantees shall not exceed $75,000,000 for each such railroad.

"(4) Section 511 (g) and (h) and section 516 of this title shall not apply to any obligation guaranteed under this subsection.".

SUBTITLE B—EMPLOYEE PROTECTION

FINDINGS

SEC. 231. The Congress finds that:

(1) Liquidation of major railroads results in greater disruptions of interstate commerce and large losses of employment.

(2) The public interest is served by and interstate commerce is facilitated by ensuring a uniform system of labor protection for employees of major railroads in liquidation.

(3) Such labor protection system does not represent a new obligation for the estate of a railroad in liquidation, but merely provides a sum certain to employees and an obligation certain to such estate in lieu of uncertain payments and obligations at the end of the liquidation process.

EMPLOYEE PROTECTION

SEC. 232. (a) Any rail carrier with respect to which a case under section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11, United States Code—

(1) is pending on the date of enactment of this Act; or

(2) is entered into after such date of enactment,

which was a class I rail carrier immediately before such case commenced, and which is in liquidation as a result of the provisions of such section or subchapter or of an order of the court having jurisdiction over such case (hereafter in this subtitle referred to as the "bankrupt carrier") shall, no later than 5 days after the date of enactment of this Act in the case of a bankrupt carrier described in paragraph (1), and no later than 30 days after the date the carrier becomes a bankrupt carrier under this section in the case of a bankrupt carrier described in paragraph (2), enter into an agreement with labor organizations representing the employees of the bankrupt carrier to provide protection for such employees who are or have been adversely affected as a result of a reduction in service by the bankrupt carrier. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) If the parties do not enter into an agreement under subsection (a) within 5 days after the date of enactment of this Act, or within 30 days after the date the carrier becomes a bankrupt carrier under this section, as the case may be, the Interstate Commerce Commission shall by appropriate order prescribe, within 15 days after the end of such period, fair and equitable terms for an employee protection arrangement which shall be binding upon the parties and shall take effect immediately.

(c) Any order of the Interstate Commerce Commission under subsection (b), and any order of a bankruptcy court having jurisdiction over a case referred to in subsection (a) with respect to any agreement or arrangement under this section may be appealed only to the appropriate United States Court of Appeals having jurisdiction over such bankrupt carrier. Any such appeal shall be filed within 5 days after the date of entry of the order of the Interstate Commerce Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

(d)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Railroad Retirement Board in such time and manner as such Board by regulation shall prescribe. Such Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the bankrupt carrier for payment.

(2) Benefits and allowances under any agreement or arrangement entered into under this section shall be paid by the bankrupt carrier from its own assets or in accordance with section 235, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the bankrupt carrier.

(e) As used in this subtitle, the term "employee" includes any employee of the bankrupt carrier, but does not include any individual serving as president, vice president, secretary, treasurer, comptroller, counsel, or member of the board of directors, or any other person performing such functions.

(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Rock Island Railroad Transition and Employee Assistance Act" and inserting in lieu thereof "the Rock Island Railroad Transition and Employee Assistance Act, and the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

NEW CAREER TRAINING ASSISTANCE

SEC. 233. (a) An employee who elects to receive a separation allowance from the bankrupt railroad under an employee protection agreement or arrangement entered into under section 232 of this subtitle may receive from the Railroad Retirement Board reasonable expenses for training in qualified institutions for new career opportunities.

(b) To be eligible for assistance under this section an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within two years following the date of such employee's separation from employment with the bankrupt carrier.

(c) Reasonable expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis of an application therefor filed by an employee with such Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code, or a State-accredited institution which has been in existence for not less than two years.

ELECTION

SEC. 234. (a) Any employee who receives any assistance under an employee protection agreement or arrangement entered into under section 232 or any new career training assistance under section 233 shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement (other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled "Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association").

(b) Any employee of a bankrupt carrier who is entitled to receive assistance under an agreement or arrangement entered into under section 232 shall, no later than 120 days after the date such agreement or arrangement becomes effective, file a statement with the Railroad Retirement Board indicating whether such employee elects to receive (1) assistance under such agreement or arrangement; or (2) any employment protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2), nothing in this subtitle shall be deemed to determine or otherwise affect the priority, status, or timing of payment of, or the liability for any claim for, employee protection which might have existed in the absence of this Act.

(d) An employee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement or arrangement entered into under section 232—

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the bankrupt carrier; or

(2) at any time after the date such employee receives an offer of employment, in such employee's craft and for which such employee is qualified, from a rail carrier acquiring lines of the bankrupt carrier.

OBLIGATION GUARANTEES

SEC. 235. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of a bankrupt carrier for purposes of providing employee protection in accordance with the terms of any

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employee protection agreement or arrangement entered into under section 232.

(b) Any obligation guaranteed under this section shall be treated as an administrative expense of the estate of the bankrupt carrier.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary of Transportation under this section shall not exceed $75,000,000 for any one bankrupt carrier.

(d) The total liability of any bankrupt carrier in connection with benefits and allowances provided under any employee protection agreement or arrangement entered into under section 232 shall not exceed $75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability to employees in connection with any employee protection agreement or arrangement entered into under section 232.

(f) Section 511 (g) and (h) and section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831 (g) and (h) and 836) shall not apply to any obligation guaranteed under this section.

JUDICIAL REVIEW

Sec. 236. (a) Notwithstanding any other provision of law, any appeal from any decision of the court having jurisdiction over the reorganization of the bankrupt railroad with respect to the constitutionality of this subtitle shall be taken to the United States Court of Appeals having jurisdiction over such bankrupt railroad.

(b) If appeals are taken from decisions described in subsection (a) involving section 232 or 235 of this subtitle, the Court of Appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than sixty days after the date the last such appeal is filed.

(c) Nothing in this subtitle shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

Sec. 237. (a) The Railroad Retirement Board may prescribe such regulations as may be necessary to carry out its duties under this subtitle.

(b) In carrying out its duties under this subtitle, the Railroad Retirement Board may exercise such of its powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a), (b), and (d)) as are not inconsistent with the provisions of this subtitle.

CONFORMING AMENDMENTS

Sec. 238. Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended—

(1) in subsection (b) by striking out "and" before "section 119" and inserting in lieu thereof a comma; and by inserting ", and section 233 of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982" after "Assistance Act"; and

(2) in subsection (c) by inserting "and the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982" after "Assistance Act" both places it appears.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—NORTHEAST CORRIDOR PROJECT

AMENDMENTS

Sec. 301. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:

(1) Section 703(1)(A)(ii) is amended by striking out "and Albany, New York" and inserting in lieu thereof "Buffalo, New York, and Atlantic City, New Jersey".

(2) Section 704(a)(1) is amended to read as follows:

"(1) $2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast corridor pursuant to this title; (B) of which, if the National Railroad Passenger Corporation receives notification from the State of New Jersey or the State of New York on or before June 1, 1983, that such State has approved a plan for the operation of both peak and nonpeak period passenger rail service between the main line of the Northeast corridor and Atlantic City, New Jersey, or Buffalo, New York, as the case may be, $80,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation as such Corporation deems necessary for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and establishing and improving necessary stations and intermodal facilities) on the main line track between such points to ensure that such track will be of sufficient quality to permit safe passenger rail service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote passenger rail use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast corridor: development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility at Bristol, Pennsylvania; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York;".

(3) Section 704(a) is amended by adding at the end the following new sentences: "Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph (1)(B); (B) in the amount of $62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982; and (C) in the amount of $29,000,000 for rehabilitation and improvement for the South Station in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982.".

(4) Section 704(b) is amended—

(A) by striking out "Limitation.—" and inserting in lieu thereof "Limitations.—(1)"; and

(B) by adding at the end a new paragraph as follows:

"(2) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled "Corridor Master Plan II, NECIP Restructured Program", dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect-engineer.".

(5) Section 705 is amended—

(A) in subsection (a) by striking out "the" after "reallocation to" and inserting in lieu thereof "such"; and

(B) in subsection (b) by inserting "National Railroad Passenger" before "Corporation".

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AMENDMENT OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lent: Page 21, lines 12 and 13, strike out "from the State of New Jersey or the State of New York".

Page 21, line 14, insert "(i) from the State of New Jersey" after "1983,".

Page 21, lines 17 and 18, strike out "or Buffalo, New York," and insert in lieu thereof "or (ii) from the State of New York that such State has approved a plan for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast corridor, and has approved a plan, in concert with Amtrak and appropriate local governmental officials, for the improvement of the Amtrak station at Syracuse, New York,".

Mr. LENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Chairman, I will not take 5 minutes.

The amendment that I have offered is simply a clarifying amendment that the gentleman from New York (Mr. Lee) and I have jointly sponsored. We have discussed it with the chairman of the subcommittee, the gentleman from New Jersey (Mr. Florio). The gentleman is in agreement.

Basically it seeks to specify two specific improvement projects that are to be carried out pursuant to section 301.

Mr. Chairman, I would urge adoption of the amendment.

Mr. FLORIO. Mr. Chairman, would the gentleman yield?

Mr. LENT. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would just say that this is a very important amendment. I support it.

I would like to just say that I also thank the gentleman for his cooperation, not only on this amendment, but through the course of the bill.

Mr. Chairman, I urge approval of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Lent).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—CONTINUANCE OF PREFERENCE SHARE PROGRAM

EXTENSION

Sec. 401. Section 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking out "September 30, 1982" each place it appears and inserting in lieu thereof "September 30, 1985".

TRANSACTION ASSISTANCE

Sec. 402. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end the following new subsection:

"(i) Purchase of Conrail Essential Properties.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsection (b)(2)), the Secretary shall, upon application of any financially responsible person, including any government authority, except for a class I rail carrier, purchase not less than $80,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Corporation which are to be used for common carrier rail service and with respect to which—

"(A) an application for a certificate of abandonment has been filed with the Commission under section 308(a) of the Regional Rail Reorganization Act of 1973; or

"(B) a notice of insufficient revenues has been filed with the Commission under section 308(c) of such Act.

"(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

"(3) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title.

"(4) Not less than $27,000,000 of the amount referred to in paragraph (1) shall be used for the purchase by the Secretary of redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section for the rehabilitation of the rail properties of the Delaware River Port Authority, upon application by such Authority.".

AUTHORIZATION AMENDMENTS

Sec. 403. Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (4) as paragraph (3);

(3) in paragraph (3), as redesignated by paragraph (2) of this section—

(A) by striking out ", (2) and (3)" and inserting in lieu thereof "and (2)"; and

(B) by inserting ", and not more than $160,000,000 are authorized to be appropriated for fiscal year 1983" before the period; and

(4) by adding at the end the following new paragraphs:

"(4) Of the funds appropriated under subsection (a) of this section, $50,000,000 shall be reserved and made available for meritorious applications regarding the restructuring of rail freight facilities and systems referred to in the last sentence of section 505(b)(2) of this title.

"(5) $30,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase of the rail line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, by a State or one or more political subdivisions thereof.".

AMENDMENT OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lent: Page 28, line 23, insert ", or for the refinancing of the purchase," after "for the purchase".

Page 29, line 1, insert "or of interests in such rail line," after "Dallas, Texas,".

Page 29, line 2, insert ", notwithstanding the third sentence of section 505(b)(2) of this title" after "subdivisions thereof".

Mr. LENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Chairman, this is an amendment that I am offering on behalf of the gentleman from Texas (Mr. Collins). It is a clarifying, perfecting amendment. I believe it has the approval of the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, this amendment is acceptable to me and I would urge its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Lent).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV of the bill?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—MISCELLANEOUS

LOCAL RAIL SERVICE

Sec. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

"(A) two-thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) the total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is 'potentially subject to abandonment' or with respect to which a carrier plans to file, but has not yet filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, but has not yet filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 or under section 10904(a) of title 49, United States Code, and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and".

TRANSPORTATION TEST CENTER

Sec. 502. (a) The Secretary of Transportation shall operate the Transportation Test Center in Pueblo, Colorado, until such time as such Center is transferred to another party for operation.

(b) The Secretary of Transportation shall attempt to enter into an agreement before January 1, 1983, with an organization or individual which is not an agency or agent of the United States for the transfer to such organization or individual of the Center referred to in subsection (a).

(c) Nothing in this section shall be construed to prevent the United States from entering into a contract with the Center referred to in subsection (a) for the performance of work at such Center after any transfer agreed to under subsection (b), so long as authority to enter into any such contract is limited to the extent provided in appropriations Acts.

INSURANCE

Sec. 503. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended—

(1) in subparagraph (B) by striking out "The Corporation shall be entitled" and all that follows through the end; and

(2) by adding at the end the following new subparagraphs:

"(C) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the costs of the insurance coverage and benefits described in subparagraph (B) of this paragraph. For purposes of section 211(h)(4)(A)(iii), amounts required for such costs shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976. The Corporation, or, if the loan is forgiven under section 211(h)(6) of this Act, the Association, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement of such costs (including interest thereon and the costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is described in subparagraph (D)(i)(I), such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph, the term—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

"(F) Any obligation of a railroad in reorganization which is described in subparagraph (D)(i)(II)—

"(i) which railroad in reorganization was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or

"(ii) which is an obligation described in section 211(h)(1)(A)(viii) of this Act and which the Corporation paid on the basis of an acknowledgement of such obligation by the trustees of such railroad in reorganization under section 211(h)(4)(A)(ii) of this Act,

shall be a valid administrative claim against such railroad in reorganization and the Corporation shall be entitled to a direct claim as a current expense of administration for reimbursement of the amount of such obligation paid as provided under subparagraph (C) of this paragraph.".

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" after "section 303(b)(6)(B)".

(c) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are repealed.

(d) The amendments and repeals made by this section shall be effective as of the date of enactment of Public Law 95-597.

BURNHAM CANAL

Sec. 504. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

COMMUTER TRANSITION FUNDING

Sec. 505. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "in the fiscal year ending September 30, 1982,";

(3) by striking out "contracting with Amtrak Commuter"; and

(4) by adding at the end a new paragraph as follows:

"(2)(A) Any funds appropriated under the authority of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) before the expiration of 10 days after such date of enactment.

"(B) Any funds appropriated under the authority of this subsection on or after the date of enactment of the Rail Safety and Service Improvement Act of 1982 shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) before the expiration of 30 days after the date of enactment of the Act which appropriates such funds.".

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

(1) by inserting "(1)" after "APPROPRIATION.—"; and

(2) by adding at the end the following new paragraph:

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981, except that the total amount of funds which may be so reappropriated shall not exceed $40,000,000.".

(c) Section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727) is amended as follows:

(1) Subsection (a) is amended by striking out "$262,000,000" and inserting in lieu thereof "$162,000,000".

(2) Subsection (f) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated not to exceed $262,000,000—

"(A) of which not to exceed $162,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act;

"(B) of which not to exceed $75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981; and

"(C) of which not to exceed $25,000,000 shall be appropriated to the Secretary to be allocated for commuter rail purposes to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

"(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) shall be deposited in the general fund of the Treasury.

"(3) The amount authorized to be appropriated under paragraph (1)(B) shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts.".

NORTHEAST CORRIDOR COORDINATION

Sec. 506. (a) Section 505 of the Rail Passenger Service Act is amended—

(1) by striking out "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

(2) by adding at the end a new subsection as follows:

"(c)(1) The Northeast Corridor Coordination Board shall consist of (A) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981, which operates rail commuter service over the Northeast Corridor; (B) two members to be named by Amtrak; and (C)

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one member to be named by the Consolidated Rail Corporation.

"(2) Amtrak shall make available to the Northeast Corridor Coordination Board such staff assistance as such Board requires in the performance of its functions under this section.".

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)), as amended by section 505(b) of this Act, is amended by adding at the end a new paragraph as follows:

"(3) The Association shall immediately make available to the Corporation directly, without the purchase of securities, $1,000,000, out of any funds appropriated under this section for the purpose of constructing a connection from the Corporation's line 64-0597 to line 64-0202 and for other necessary expenses for the improvement of line 64-0202.".

TRANSFER OF FEDERALLY OWNED RAILROAD

SEC. 507. (a) The Secretary of Transportation shall, before October 1, 1982, transfer all the rail properties of, and the authority and responsibility for operating, the Alaska Railroad to the State of Alaska. Such transfer shall be made for consideration to the United States equal to 75 per cent of the net liquidation value of such rail properties.

(b) After the transfer under subsection (a), the railroad transferred shall be deemed to be a carrier by railroad subject to the provisions of subtitle IV of title 49 of the United States Code and all other laws applicable to such carriers, including the antitrust laws of the United States.

(c) For purposes of this section, the term—

(1) "Rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, and other real and personal properties, both tangible and intangible in which there is an interest reserved, withdrawn, appropriated, owned, or administered by or for the Alaska Railroad as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the Secretary or any other person or entity to exercise the power of eminent domain;

(C) real or personal property which the Secretary determines with the consent of the State, prior to the date of transfer pursuant to this section, to be necessary to carry out the functions of the Federal Government after the date of transfer;

(D) any lands or interests therein (except as specified in subsection (d)) within the boundaries of any conservation system unit or component of the national forest system, and the right of use and occupancy described in subsection (d)(5);

(E) lands which as of the date of enactment of this Act had been selected by any Village Corporation pursuant to the Alaska Native Claims Settlement Act; and

(F) land subject to claims of valid existing rights other than claims based on selections described in subparagraph (E) of this paragraph.

(2) "Conservation system unit" has the same meaning as such term has under section 102(4) of the Alaska National Interest Lands Conservation Act.

(3) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(4) "State" means the State of Alaska or the State-owned railroad, as the context requires.

(5) "State-owned railroad" means the authority, agency, corporation, or other entity which the State of Alaska designates or contracts with to hold, operate, or manage the rail properties of the Alaska Railroad.

(6) "Secretary" means the Secretary of Transportation.

(7) "Date of transfer" means that date, subsequent to the date of enactment of this Act, upon which the Secretary completes the transfer of the rail properties of the Alaska Railroad to the State pursuant to this section.

(8) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act.

(9) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(10) "Right-of-way" means an area extending one hundred feet on either side of the centerline of any main or branch line of the Alaska Railroad where permanently fixed railroad tracks were in place on the date of enactment of this Act.

(11) "Lands" means lands, waters, or interests therein.

(12) "Public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act.

(13) "Stipulations" means covenants, conditions, and restrictions prescribed and administered by the Secretary of Agriculture for the protection, administration, and utilization of easements over national forest system lands.

(d)(1) Effective on the date of enactment of this Act, all right, title, and interest to lands within the boundaries of a conservation system unit or national forest which are reserved, withdrawn, appropriated, owned, or administered or otherwise used or claimed by or for the Alaska Railroad are vested in the United States to be administered by the Secretary of the Interior or the Secretary of Agriculture, as appropriate, and shall become part of such conservation system unit or national forest.

(2) Effective on the date of enactment of this Act, there shall be granted to the Alaska Railroad the right to use and occupy, without compensation, the surface of the lands within that portion of the right-of-way of the Alaska Railroad located within Denali National Park and Preserve and the surface of any other lands within such National Park and Preserve used on such date for terminal and other facilities, in a manner not inconsistent with the purposes for which the Park and Preserve was established and subject to the following conditions:

(A) use of such lands within such National Park and Preserve shall be limited to railroad and existing transportation, transmission, or communication uses and maintenance only, and shall not include the right to disturb the surface or to remove any minerals, timber, sand, gravel, or other resources except to the extent necessary to reasonably maintain the railroad;

(B) use of such lands shall be subject to all laws and regulations regarding the protection of the scenic, scientific, historic, archeological, cultural, fish and wildlife, and other values and resources of the national park system;

(C) there shall be reserved to the Secretary of the Interior existing and future rights-of-way and easements for park administration, transportation and utility purposes, provided such rights-of-way and easements do not unreasonably interfere with railroad operation and support functions; and

(D) there shall be reserved to the Secretary of the Interior the right to use and occupy without compensation the property known as McKinley Park Station for national park administrative purposes, provided such use and occupancy does not unreasonably interfere with railroad operation and support functions.

(3) Effective on the date of enactment of this Act, there shall be granted to the Alaska Railroad the right to use and occupy, without compensation, the surface of the lands within that portion of the right-of-way of the Alaska Railroad located within any national forest and the surface of any other lands within national forests used on such date by the Alaska Railroad for terminal and other railroad facilities, subject to such reasonable stipulations as the Secretary of Agriculture may establish.

(4) The rights granted to the Alaska Railroad under paragraphs (2) and (3) of this subsection shall be transferred to the State of Alaska on the date of transfer. If subsequent to such transfer the State abandons any such right, or discontinues use of any of the lands affected by such rights for railroad purposes, such rights shall terminate and shall not be renewed except with the approval of the Congress. For purposes of this paragraph, abandonment shall be effected upon written notice thereof from the Governor of Alaska to the Secretary of Agriculture or the Secretary of the Interior, as appropriate. Discontinuance of use shall result from ten years of continuous nonuse and shall not be effected until one year after notice of such discontinuance is published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, unless, within the one-year period, the State of Alaska brings an appropriate action in United States District Court for the District of Alaska to establish that the use has been continuing without a lapse of 10 years.

(5) On the date of transfer there shall be transferred to the Secretary of the Interior the right to use and occupy without compensation 5,000 square feet of railroad land at Talkeetna as described in ARR Lease Number 69-25-0003-5165 for National Park Service administrative activities.

(e)(1)(A) On the date of transfer, the land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(F) shall be conveyed to the State subject to valid existing rights.

(B) Within one year after the date of transfer, the Secretary of the Interior shall determine the validity of all claims of valid existing rights arising under Federal law in land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(F). For the purpose of computing the consideration specified in subsection (a) of this section, the value of any valid existing rights in such lands shall be deducted from the value of the lands conveyed to the State under subparagraph (A) of this paragraph, and the remainder shall be deemed to be rail properties of the Alaska Railroad.

(2) On the date of enactment of this Act, land described in subsection (c)(1)(E) shall be transferred to the Secretary of the Interior.

(3)(A) Within one year after the date of enactment of this Act, the Secretary of the Interior shall determine, pursuant to the Alaska Native Claims Settlement Act, what tracts of land excluded from the meaning of the term "rail property of the Alaska Railroad" pursuant to subsection (c)(1)(E) were public lands available for selection by and conveyance to Native corporations under the Alaska Native Claims Settlement Act. If the Secretary of the Interior fails to make a final determination with respect to any such tract within one year after the date of enactment of this Act, such tract shall be deemed public land available for such selection and conveyance.

(B) Initial judicial review of a determination by the Secretary of the Interior described in subparagraph (A) of this paragraph shall be vested exclusively in the United States District Court for the District of Alaska. A civil action filed pursuant to this subparagraph shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of such United States district court at that time, and shall be expedited in every way by such court and by any appellate court. The State shall have standing to participate in any administrative determination and in any judicial review described in this paragraph.

(C)(i) Each tract of land which—

(I) is excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E); and

(II) the Secretary of the Interior determines was public land (and which is not the subject of a civil action described in subparagraph (B) of this paragraph),

shall be conveyed by the Secretary of the Interior to the appropriate Native corporations pursuant to the terms and conditions of the Alaska Native Claims Settlement Act.

(ii) Each tract of land which—

(I) is excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E); and

(II) the Secretary of the Interior determines was not public land (and which is not the subject of a civil action described in paragraph (3)(B) of this subsection),

shall be deemed to be rail property of the Alaska Railroad and shall be transferred by the Secretary of the Interior to the State pursuant to subsection (a) of this section.

(D) Prior to the conveyance of a tract of land pursuant to subparagraph (C) of this paragraph, the Secretary of the Interior shall administer such tract in a manner—

(i) which does not substantially impair the value to or the use of such tract (as such value and use were on the date of enactment of this Act) by either the Native corporation which has selected the tract or the railroad, and

(ii) which does not substantially alter the physical condition of, or create new third party interests in, such tract.

(4)(A) On the date of transfer, the State shall have the right to use and occupy, without compensation, the surface of land within that portion of the right-of-way located within tracts of land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E), subject to the condition that use of such land shall be limited to railroad and existing transportation, transmission, and communication uses and maintenance only.

(B) If the Secretary of the Interior determines that a tract of land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E) was public land and properly selected, and if such tract includes a portion of the right-of-way, then notwithstanding any other provision of law, within ninety days after such determination, the Village Corporation which selected the tract may relinquish its selection of land within the right-of-way. Upon such relinquishment, such land shall be treated as rail property of the Alaska Railroad which shall be conveyed to the State subject to the following conditions:

(i) the State may not build, construct, or operate a public road or highway not in existence on the date of enactment of this Act within such right-of-way; and

(ii) if the right-of-way is used for other than railroad, transportation, transmission, or communication purposes, or if railroad use of the right-of-way is discontinued—

(I) the surface estate of such right-of-way shall revert to the Village Corporation which relinquished its selection or its successor in interest,

(II) the subsurface estate shall revert to the regional corporation which would have received title to such estate if the right-of-way had been conveyed pursuant to the Alaska Native Claims Settlement Act, and

(III) land within the right-of-way shall not be charged against the acreage entitlement of any Native corporation.

(C) Effective ninety-one days after any determination by the Secretary of the Interior that a tract of land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E) was public land and properly selected, if the Village Corporation which selected such tract has not relinquished its selection of any portion of such tract which is within the right-of-way, then with respect to such portion within the right-of-way the reservation of an easement for railroad purposes pursuant to section 17(b) of the Alaska Native Claims Settlement Act shall be deemed not to afford the operation of the State-owned railroad sufficient protection, and the Secretary of the Interior shall immediately convey such lands within the right-of-way to the State.

(f) For purposes of the transfer of the Alaska Railroad pursuant to this Act, the State of Alaska shall have the option of paying the consideration specified in subsection (a) of this section wholly or partly in cash or wholly or partly through transfer to the United States of lands or interests in lands located within the boundaries of one or more conservation system units or areas required by existing law to be studied for possible identification and designation as conservation system units. The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may accept or reject such lands for the purposes of this section, and shall seek to acquire lands which significantly further the conservation purposes of the Alaska National Interests Lands Conservation Act. Lands or interests therein to be transferred to the United States in consideration of the transfer of the rail properties of the Alaska Railroad shall be credited toward the consideration specified in subsection (a) of this section according to their value as appraised by the Secretary of the Interior in consultation with the State of Alaska, and upon transfer to the United States, shall become part of any relevant conservation system unit or national forest and administered accordingly.

(g) After the date of enactment of this Act, the State of Alaska may request the Secretary of the Interior or, when appropriate under applicable law, the Secretary of Agriculture to grant expeditiously a right-of-way in order that the Alaska Railroad or the State-owned railroad may be extended across Federal lands for railroad purposes. As part of such application, the State may apply for a lease or permit to the State or State-owned railroad of the surface of any necessary or convenient terminal and station grounds in the vicinity of the requested right-of-way. If such right-of-way is granted, it shall be granted in accordance with applicable provisions of law, including but not limited to title XI of the Alaska National Interest Lands Conservation Act or title V of the Federal Land Policy and Management Act of 1976.

(h)(1) Upon the request of the head of any affected Federal department or agency, or upon his own motion, the Attorney General shall institute, in the United States District Court of Alaska, appropriate proceedings to enforce subsection (d), (e), (f), or (g) of this section.

(2) Any interested party shall have standing to bring an action to enforce subsections (d), (e), (f), or (g) of this section in any appropriate United States district court.

AUTHORIZATION OF APPROPRIATION

Sec. 508. There is authorized to be appropriated to the Secretary of Transportation $15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed $9,200,000 shall be used for executive direction and administration and not to exceed $6,400,000 shall be used for policy support.

The CHAIRMAN. Are there amendments to title V?

AMENDMENT OFFERED BY MR. LEE

Mr. LEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lee: Page 52, after line 14, insert a new section as follows:

RAILROAD DEVELOPMENT CRITERIA

Sec. 509. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by inserting "before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section" after "10903 and 10904 of this title."

(b) The amendment made by subsection (a) shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision prior to May 1, 1982.

Mr. LEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LEE. Mr. Chairman, this amendment is very straightforward. It will

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overcome an erroneous interpretation that evidently has been adopted by the Interstate Commerce Commission relative to the feeder development lines. The intention of the amendment is to clarify against existing law to insure that the feeder line services are continued explicity for shippers of agricultural and other commodities.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman is correct. This is a clarifying amendment designed to achieve an interpretation which is compatible with the congressional intent in the previous legislation passed.

I would support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Lee).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for some time I have been interested in the issue of rail safety. Over the last several years we have seen an increasing number of rail accidents, rail employees hurt, property damage increase, and that problem is compounded by the fact that hazardous materials and other forms of materials dangerous to the public are being transported on the rail lines.

I realize that within the last year or so the statistics look a lot better; but because of these problems, as the chairman of the subcommittee, the gentleman from New Jersey (Mr. Florio), and the gentleman from California (Mr. Matsui) and I requested a GAO investigation to evaluate the FRA's rail safety program.

The study makes three very serious criticisms of the Federal Railroad Administration. It indicates the following:

1. FRA should focus more on comprehensively assessing the safety of an entire railroad, rather than concentrating on finding individual safety violations.

2. While FRA should adopt a systems approach, it still needs to monitor discrete problems and assess civil penalties where needed. Yet because of long time lags, FRA's current penalty assessment process is ineffective as a deterrent.

3. The State safety approach is valuable, but is not as well coordinated with the federal program as it should be.

Now, the committee report indicates that these are constructive criticisms and understands that the FRA is generally moving in the direction suggested by the GAO.

The report also indicates the committee believes system assessments can be particularly useful devices for improving rail safety.

My question to the subcommittee chairman, though, is in fact the FRA really moving to this issue of a railroad system assessment? Does the FRA have enough funds to move toward the issue of system assessment, assessing railroads as a whole rather in minute pieces which do little to protect the public at large, as well as protect railroad employees. Is the FRA's current effort nothing but a paper facade to let the Congress believe that they are moving ahead on serious safety assessment and enforcement of the law? And does the chairman of the subcommittee intend to monitor the situation to insure that the FRA complies with the GAO request?

Mr. FLORIO. Mr. Chairman, if the gentleman would yield, this whole matter was the subject of a full day's hearing.

The direct answer to the gentleman's questions is that, yes, this Congress and the subcommittee has made it abundantly clear to the FRA that this is the direction we should be going in.

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The assurances were obtained from the FRA Administrator that this was the direction in which they were going. We feel that the moneys that have been allocated by way of authorization—and we know the administration did not want quite as much money as we are putting into this authorization—we feel those moneys are needed and it will be the intention of this subcommittee and, hopefully, the Congress to oversee the activities of FRA in accordance with the suggestions of the GAO report.

Mr. GLICKMAN. I know that under the act, the Federal Railroad Safety Authorization Act, which I believe the gentleman from New Jersey (Mr. Florio) authored in 1980, required the Department of Transportation to submit a system safety plan January 31 of 1981. That plan came to the Congress 11 months late, almost January of 1982.

I guess my real fear—and I want to express it for the record so that the FRA knows about it—is that it, through its Administor Robert Blanchette, has committed to the gentleman from New Jersey as well as to myself in hearings before the Subcommittee on Transportation, Aviation and Materials of the Committee on Science and Technology, which I chair, that it is not going to do a slipshod job of enforcing any safety violations which are occurring on the Nation's railroads.

I just want to make the point that it has agreed, at least verbally, and in writing, that it is going to comply with the GAO request and enforce safe railroad operating and capital standards with vigor and effectiveness.

I, as one member, expect the FRA to do so.

Mr. Chairman, I yield back the the balance of my time.

The CHAIRMAN. Are there further amendments to title V?

Mr. LENT. Mr. Chairman, I move to strike the last word.

I would like, with the Chairman's agreement, to engage in a colloquy with him. I have prepared, although it is not an amendment fully perfected, which I am not going to offer at the present time, to address two issues involving labor protection for Conrail employees. Through inadvertence, neither of these issues were addressed when the Congress passed the Northeast Rail Services Act last year.

The first of those omissions was a provision that would protect Conrail Northeast corridor passenger service employees when Amtrak takes over such service on January 1, 1983.

It seems to me there ought to be some requirement in the law that Amtrak bargain with the labor representative of those employees. Under the existing law, as I understand it, this is not now required and I would hope that the gentleman from New Jersey and I will be able to work out this particular problem in conference to assure that Amtrak could not simply hire employees off the street but would negotiate a new collective bargaining agreement with the representatives of rail labor.

Rail labor was required to make several sacrifices last year, and in all fairness I think we ought to put something in the statute to take care of this problem.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I would be glad to yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. It was this Member's intention, and it is my recollection that it is the intention of the Congress, that the Conrail employees who operate the intercity operations in the Northeast corridor for Amtrak were to be the employees; that in fact negotiations have been going on between Amtrak and the brotherhoods for the assumption of responsibilities by those Conrail operating crews to operate the trains over the Northeast corridor project that are operated by Amtrak.

It is my understanding those negotiations are continuing. It is appropriately a subject for collective bargaining.

These employees will be the employees operating the Amtrak intercity operations in the Northeast corridor.

Mr. LENT. I thank the gentleman.

The second provision that I think was forgotten in last year's Northeast Rail Services Act was a clause which would clarify the scope of section 701 as the exclusive labor protection provided to those Conrail employees who are eligible to be hired for Northeast corridor employment by Amtrak. It is not clear from the language of the statute that section 701 of the Regional Rail Reorganization Act of 1973 was to be the exclusive provision for labor protection, although there is language—and I would ask that it be entered into the Record following our discussions here today—in the statement of the managers on title XI of the Omnibus Budget Reconciliation Act of 1981, which is in section 1143 of that statement, which makes it very clear that section 701 is the exclusive protection for employees, and any employee protection contained in section 405 of the Rail Passenger Service Act or under any collective bargaining agreements is replaced by this provision.

Further on in the statement of the managers, it is stated:

> Conrail's liability and the liability of the liability of the Federal Government is strictly limited to the funds authorized in this section.

Some concern has been expressed that those Conrail employees, adversely affected by any assumption of intercity passenger service on or off the Northeast passenger corridor, in addition to the 701 protection, may still be entitled, as well, to protections under section 405 or other provisions of various existing collective bargaining agreements. That would clearly not be the case under the language which is clear in the statement of the managers and also under the clear language of our House committee report on the bill when it exited our committee.

I would hope that the gentleman from New Jersey would agree with me that at conference we would work together to try to remedy this situation.

The statement of managers on title XI follows:

> STATEMENT OF MANAGERS ON TITLE XI OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981
>
> SECTION 1143—PROTECTION FOR CONRAIL EMPLOYEES
>
> *House bill*
>
> Section 301 amends the 3R Act by adding a new Title VII. Section 701 establishes a program for protecting Conrail employees previously protected under Title V of the 3R Act, while limiting the cost to the federal government. Conrail Title V labor protection is repealed and the protection provided is less than the normal protection in the railroad industry. It is less only because of the dire financial circumstances of the Corporation.
>
> If the employees and the Secretary of Labor are unable to agree on the elements of protection for the employees within ninety days, the Secretary of Labor shall prescribe the benefits. The program established should not contain elements which cause funds to be expended beyond those authorized under section 713.
>
> The benefits under this section are intended to replace the benefits provided under Title V of the 3R Act. This is the exclusive protection for employees, and any employee protection contained in collective bargaining agreements is replaced by this protection. Title V was originally intended to provide for a limited amount of federal funding of employee protection for Conrail employees. It was anticipated that the liability would not be unreasonable. Despite revisions to Title V the liability has proved too great.
>
> A prerequisite to a legislative solution that will permit continued operation of essential rail services in the region is the replacement of Title V with this program of labor protection. Conrail's liability and the liability of the federal government is strictly limited to the funds authorized in this section.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the distinguished gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I expect to be able to work with the gentleman from New York (Mr. Lent) in conference to achieve the end that is fairest to all concerned.

The gentleman is correct that the 701 provision was the successor to title V, and those employees who were entitled to labor protection exclusively under title V would be exclusively entitled to protection under the 701 program.

To the degree that there is any ambiguity as to whether an employee is entitled to protection under title V exclusively, perhaps as we go forward we can clarify that ambiguity.

Mr. LENT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York (Mr. Lent) has expired.

Are there further amendments to title V?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Murtha) having assumed the chair, Mr. Frank, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6308) to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes, pursuant to House Resolution 546, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed. The title of the bill was amended so as to read: "A bill to ensure rail safety, provide for the preservation of rail service, ensure the completion of the Northeast corridor improvement project, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6308, RAIL SAFETY AND SERVICE IMPROVEMENT ACT OF 1982

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 6308, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

☐ 1550

NATIONAL DEVELOPMENT INVESTMENT ACT

Mr. OBERSTAR. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. Oberstar).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6100, with Mr. Gephardt in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Minnesota (Mr. Oberstar) will be recognized for 45 minutes, and the gentle-

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man from Pennsylvania (Mr. CLINGER) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act.

I want to commend JIM OBERSTAR, chairman of the Ecomomic Development Subcommittee, for his leadership and foresight in examining the economic development needs and revising and restructuring this legislation in light of the budgetary restraints and the political realities. His dedication, hard work and commitment is apparent through his authorship of this constructive economic development initiative. I also want to compliment all members of this subcommittee for their contribution to this legislation and their interest in improving the Nation's economic development programs.

As has been customary on this committee, not only was there bipartisan cooperation and support, but BILL CLINGER, the recently named ranking minority member of the subcommittee, has been a major contributor to the National Development Investment Act. His ideas, his practical experience as a former counsel of the Economic Development Administration and his perseverance were key factors in developing this bill.

While I will not take the time to mention individually each member of the committee who played a role in shaping this legislation, I do want to thank my colleague, the ranking member of the Public Works and Transportation Committee, DON CLAUSEN, for the valuable advice and assistance he has given on this bill, as well as the major contributions he has made to economic development legislation throughout the years.

Also, a special word of appreciation is due to the members of the Banking, Finance and Urban Affairs Committee, Chairman ST GERMAIN and JIM BLANCHARD, chairman of the Subcommittee on Economic Stabilization, for their assistance in moving this legislation forward so expeditiously.

This bill is the major economic development initiative of this Congress. It provides badly needed funds to promote local economic recovery, to foster economic growth and stability in urban and rural areas and to create jobs. The National Development Investment Act reinforces this committee's longstanding commitment to promote economic and regional development and to assist communities in building the necessary public facilities to support private investment. It provides $500 million annually through fiscal year 1985 to assist State and local governments in their economic development efforts. In addition, it provides for an orderly closeout of the highway and nonhighway programs of the Appalachian Regional Commission.

I am very proud of the fact that the Public Works and Transportation Committee has a long-established record of bringing before the Congress legislative initiatives to stimulate local economic recovery and create jobs in the private sector. The Accelerated Public Works Act and the Public Works and Economic Development Act, predecessors of this legislation today, illustrate this point. In the same mold, the legislation before us today stresses job creation and economic expansion in a manner which is geared to address the problems of the 1980's.

H.R. 6100 recognizes that economic recovery depends on the ability of communities and townships throughout this Nation to create jobs for its residents and achieve economic stability. It provides matching grants to local governments to support economic development activities. In this way, we are assisting local government develop a strong economic base to support development and encourage economic renewal. At the same time, this bill gives local officials the maximum flexibility to choose the course of action best suited to their economic needs.

The economic development tools which have been tried and proven in the past 17 years' experience under the Public Works and Economic Development Act are retained under the National Development Investment Act. However, changes have been made to respond to some of the past criticisms which have been leveled at the Economic Development Administration.

This new approach scales down eligibility so that areas of greatest need will receive this assistance. It encourages a community to pool public and private resources to design or development investment strategy best suited to their needs. Assistance to support their efforts is provided through grants for the construction, rehabilitation, repair or improvement of developmental facilities. In addition, a new feature permits the establishment of locally administered revolving loan funds to support small business expansion and to retain existing firms. Funds are available to provide technical assistance and to aid communities in developing an investment strategy.

The second title of the bill continues the programs of the Appalachian Regional Commission. For fiscal year 1983, $298 million is provided to fund these programs: $215 million for highway programs—$83 million for the nonhighway activities. In subsequent years, the Appalachian funds will decline as the health and nonhighway portions of the programs are completed and the highway construction is accelerated. This extension has been unanimously endorsed by the Governors of the 13 States included in the Appalachian region.

I urge your support of H.R. 6100. It is a very modest proposal in view of the condition of many local economies and the number of unemployed workers—but it is an opportunity to do something positive to encourage economic recovery.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and colleagues, it is not often that a committee brings a fresh new legislative concept to the House floor. It is not often that a committee takes a popular and successful program and rewrites it from top to bottom. Today is one of those rare occasions when the House will consider such legislation. H.R. 6100, the National Development Investment Act, is that legislation. It is a fresh new look at economic development, at the participants, at the way in which programs are developed, the way in which economic growth takes place.

Public Works and Transportation is the committee of the House that has taken that courageous and bold step to rewrite both the Economic Development Administration program and the Appalachian Regional Commission program. The Public Works and Economic Development Act, the predecessor to H.R. 6100, was germinated in the 1950's. It was born in the 1960's. It was nurtured in the latter part of that decade. It flowered in the 1970's, in the early part of that decade, but fell into eclipse in the latter half of the decade. The National Development Investment Act which we bring to the floor today is a repository of the best of EDA. It is a program for the decade of the 1980's and beyond.

In this bill, we have refined and brought to maturity the several concepts of economic development that have been tested over the past two decades, in the crucible of economic distress that has troubled many areas of this country, North and South, East and West, rural and urban.

In the course of the deliberations of this committee over the past 1½ years, we have come to the conclusion and we are saying in this legislation that the mayors of the 1980's are not the mayors of the 1960's; that they have grown and matured in the business of economic development; that they are professionals in the field of economic development; that they no longer need the watchful eye of the Federal Government over their shoulders telling them how to make each step and how to make each move in the field of economic growth.

Similarly, we are saying in this legislation that the Governors of the 1980's are not the Governors of the 1960's; that they, too, have become sophisticated and professional in the field of economic development; that they themselves, as are the mayors throughout this country, principally and foremost economic developers. They themselves or their staffs in their departments of government, who are professionals in the field of economic development, know the business in a professional way, and what they need are the tools to help them to do that job of creating growth within their State or within their community.

We are saying in this legislation, "We trust you, Governors and mayors, to do that job."

We are drawing into the economic development process in a full-fledged partnership, in a stronger way than ever before, the private sector, which ultimately creates the jobs, the permanent jobs in the private sector that we want to have created and toward which this bill is geared.

This clearly is a bill for the times in which we live. We do not pretend that this modest measure, with this modest amount of funding, is going to repair the structural damage done to our economy in the past year and a half of continuing recession. We do not pretend that in one fell swoop this legislation can nudge the country out of the current economic recession. We do claim, based on the hearings that we have had over the past year and a half, that this legislation is a guidepost, a useful, effective tool to direct the growth of the country, to help local governments in their task and in their job of creating economic growth and generating new jobs.

It is not going to put all 10 million unemployed Americans back to work, but it is going to have an effect locally and help local economies grow and sustain that growth over a period of years. We believe we have done much in this legislation to respond to the criticism—justified criticism in many instances—leveled at the Economic Development Administration over that past several years.

□ 1600

First of all, we recognize that the Economic Development Administration program has become so loved by the Congress that it could not shed some of the barnacles, let us say, that it carried with it over a period of time, one of them being that every time a county became eligible, it remained so. Congress legislated into permanence the eligibility of certain areas, grandfathering them in and making the program into virtually an entitlement program. We have swept that away in this legislation. It is no longer an entitlement program.

We have developed very clear and specific eligibility criteria, so instead of making 80 percent of the country eligible for economic assistance, we have made 40 percent or thereabouts of the population eligible under the criteria of this legislation. It is very specifically targeted and very clearly drawn to be a program of a sort of rifle-shot assistance into those areas of the country that need help and need it the most, instead of blanketing the whole United States.

We have retained eligibility for communities that have lost or are about to lose their major employer. Instead of waiting until distress has set in, we have given the flexibility to a community to recognize that a military facility may close or that a major industry is going to shut down in a few weeks, and instead of waiting for it to shut down and the unemployment to rise, we are saying in this legislation that "you have the ability to apply for assistance from the Federal Government to turn your economy around and to prevent the impending disaster."

We are also saying that once you have received assistance, that fact does not automatically entitle your community to continue receiving assistance in the years ahead. Having once received a grant from the Federal Government to undertake a program of economic recovery and carry that program out, to apply a second time, you must prove that you are again eligible for assistance and that you need that help. You must come back to the Federal Government with a new showing of economic distress that meets the criteria of this act. You must also show that the previous funds were well invested and well spent, and that they achieved the purpose for which the community applied.

We are giving to local governments maximum flexibility in carrying out the program. Under current law, on a public works grant under EDA, a community must submit detailed documentation about the legal, engineering, and financial condition of that project. The endless paperwork between the community and the regional office and the central office in Washington will be swept away with this legislation.

We recognize that communities have public works departments. They know how to plan and carry out a public works project. They do not have to be coming back to the Federal Government for constant review and revision. They must comply with State laws, and they must comply with local audit and review requirements. We are saying "we trust you to do the job and to carry it out to meet your local requirements."

Furthermore, one of the problems we have had is the amount of paperwork that communities have had to deal with in submitting documentation which has been sent for review and for rewriting and then sent back again for final consideration. We want a proposal for a community to be submitted in 20 pages or less. We want a strategy that is simple to understand and simple to explain and effective in its implementation.

We are also asking communities to pull together a total concept of economic development. What we have found in the year and a half of hearings on this legislation is that the most effective communities in economic development are those that, instead of getting a grant here and a loan there, had a total concept, a strategy for investment. And that is why that word is a key part of this legislation, the National Development Investment Act. We want those strategies to be developed by the community with the support of the States and with the support of a multicounty economic development planning agency. And that can be done. We have seen many of those. We have seen samples of such strategies that have been submitted to the Department of Commerce that have been successful.

That strategy can include a revolving loan fund; it can include an employees' stock ownership plan; it can include a grant for a waterline to serve a new industry; or a grant for the development of an industrial park. It can include all of those things. But it is what the community decides it needs, not what the Washington bureaucracy decides that community needs.

So we combine, I think, the greatest strengths of EDA and the developed professionalism of communities, of States, and of multicounty organizations in economic development planning and operating over the past 20 years. So we present that to this House and to this new administration in Washington. It is a concept of economic development that is fully within the philosophy of the Reagan administration and that is fully attuned to the needs of the 1980's. This is a program that will reflect great credit on this House and on the Congress as a whole.

Title II of the bill deals with the Appalachian Regional Commission. I will call on my committee colleague, the gentleman from West Virginia (Mr. RAHALL), and later on the gentleman from Alabama (Mr. BEVILL), to talk at greater length about the finish-up program for the very highly successful Appalachian Regional Commission program. Suffice it to say on my part that after hearings in the Appalachian region and hearings that we held here in Washington, I am enormously impressed with the success and the professionalism of that 13-State organization. It has wisely and well invested funds that the Federal Government has provided over the past 17 years for this program to lift a whole region out

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of a century of neglect and distress into the mainstream of economic growth of this country.

This is one of the remarkable stories of economic growth, so much so that a group of interested economic development parliamentarians from Italy came here to see what they could learn for the Mezzogiorno from the success story of Appalachia.

In conclusion, Mr. Chairman, I would like to express my appreciation to the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD), for the cooperation that he has given and the free hand that he has given to the subcommittee in fashioning this legislation. He has given us encouragement and support at every step of the way.

Our ranking member on the minority side, the gentleman from California (Mr. CLAUSEN), has literally been a wellspring of new ideas, and his contribution to this legislation is evident throughout its formulation.

Also, my dear friend and colleague, the gentleman from Pennsylvania (Mr. CLINGER), as ranking minority member of the subcommittee, has participated laboriously at every step of the way in the formulation of the legislation.

I also want to express appreciation to the members of the Committee on Banking, Finance, and Urban Affairs, including the committee chairman, the gentleman from Rhode Island (Mr. ST GERMAIN), and the chairman of the Subcommittee on Economic Stabilization, the gentleman from Michigan (Mr. BLANCHARD), who have participated in the hearings and helped us in the formation of this legislation and in bringing it to the floor this afternoon.

The gentleman from Connecticut (Mr. MCKINNEY) has shown a very splendid understanding of the legislation and its purpose.

There are other Members who are not on these two committees of original jurisdiction to whom I also want to express appreciation, including the gentleman from Iowa, Mr. NEAL SMITH, chairman of the Subcommittee on Commerce, Justice, State, and the Judiciary, of the Appropriations Committee, which has watched over the appropriations and funding for this program. The gentleman has made some very constructive suggestions.

The gentleman from Alabama (Mr. BEVILL), chairman of the Subcommittee on Energy and Water of the Appropriations Committee, which has jurisdiction over the Appalachian Regional Commission programs, has also made a very constructive contribution helping us through this thicket of the legislative process.

I include here a brief summary of the bill:

SUMMARY OF THE NATIONAL DEVELOPMENT INVESTMENT ACT: H.R. 6100

HOW THE PROGRAM WILL WORK

Eligibility criteria

Three distress criteria to determine eligibility:

(1) Unemployment: 1% above nat'l average, previous 24 months.

(2) Per capita income: 80% of nat'l average, using latest available statistics.

(3) Anticipated sudden rise in unemployment: imminent plant closing, military base loss, etc.

Only one of the above required to qualify.

Eligibility and grandfathering in current EDA law repealed.

Development investment strategy

Cities and counties under 50,000: work with Economic Development District or state economic development agency to devise investment strategy.

Cities and counties over 50,000 or pockets of distress within city: do their own planning.

Strategy, in 20 pages or less, includes:

Inventory of community's resources, industries, businesses;

Infrastructure available and needed;

Workforce; skills available;

Land availability;

A showing that nonfederal 50% matching funds are available;

A showing that private sector is willing to invest;

Description of industry/business to be created or expanded; and

Description of specific ventures to be funded; e.g.:

Revolving loan fund;

Employee Stock Ownership Plan; and

Grant for infrastructure.

Funding

Strategy Implementation: authorizes $425 million annually for 3 fiscal years.

Planning and Strategic Development: authorizes $75 million annually for 3 fiscal years.

These are grant, not loan, funds.

Application procedure

Submitted to Secretary of Commerce.

Secretary reviews application to determine that:

it meets distress criteria;

the strategy has a good chance of working.

Secretary approves/rejects project.

Best strategies are to be approved—those with best chance for success.

Limitations

A $2 million limit on federal funds per strategy.

Revolving Loan Fund limited to $1 million.

Subsequent applications must requalify on new showing of distress.

(Source: Subcommittee on Economic Development, House Committee on Public Works and Transportation. Telephone: 225-6151.)

With that, Mr. Chairman, I reserve the balance of my time.

□ 1610

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the Committee on Public Works and Transportation, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I rise today to express my support for H.R. 6100, the National Development Investment Act.

I would like to point out to may colleagus that this bill is the result of a truly and genuinely bipartisan effort by both the Democratic as well as Republican members of the Committee on Public Works and Transportation. But I believe special credit must be given to the two principal sponsors, the Economic Development Subcommittee chairman, JIM OBERSTAR of Minnesota, as well as BILL CLINGER from Pennsylvania who was recently appointed to serve as the ranking Republican member of that subcommittee.

Mr. Chairman, this vital legislation has as its goal the transformation of the current Economic Development Administration into an agency that can better meet the unique economic challenges that our Nation will face in the 1980's.

I feel a special personal involvement with this bill because in the past I have been involved in, and seen, tremendous economic accomplishment made in some of the more economically distressed areas of my own congressional district in California as a result of the EDA program invovlement. But then, as I am sure many of my colleagues have also seen in their own districts, EDA somehow went astray from its original objectives.

The agency attempted to solve economic problems that were far beyond its intended scope. AS I know most of the Members realize, EDA initially was to be a program directed toward a revitalization of the rural areas of America and particularly the economically distressed rural areas of America.

But what occurred was that eligibility for EDA funding actually expanded to include some 80 percent of the Nation. Increased amounts of its sparse resources were poured into attemps to solve the highly complex economic problems of our urban centers, problems which could really have been better addressed by such other specific urban-oriented programs as the UDAG program and the Community Development Block Grant program.

Mr. Chairman, I would like to state that I am a firm supporter of President Reagan's economic recovery program and, to that end, I have associated myself with the urban and rural enterprise zone bills, both of which I consider to be key components of the President's efforts. In fact, it could be an integral part of his economic development strategy effort that his particular piece of legislation is attempting to address.

I believe H.R. 6100 dovetails with this overall enterprise zone concept. This legislation is aimed at assisting the communities of our Nation to gain control of their economic destinies.

These are communities which have been hard hit by high interest rates and other economic ills resulting from past irresponsible fiscal and monetary policies.

What is really needed is an economic development and diversification strategy to create a working partnership between the community and private sector.

The cornerstone of H.R. 6100 is the requirement that applicants for funding must devise such a development investment strategy.

That important emphasis on the involvement of the private industry is a key feature of the National Development Ivestment Act, one which distinguishes it from other Federal giveaway programs which have brought us many of the economic problems our Nation is experiencing today.

Where limited Federal participation in the economic development process is needed, we must look for approaches that are both workable and more importantly, affordable, where every Federal dollar does the work of two. This legislation fully meets this criteria.

My colleagues know that the important requirements of a successful efort in the community is to move in the direction of maximizing the leverage between Federal expenditures and the desired objective of building the private productive sector of our communities.

I also believe that the concept of linkage and leverage goes one step further. Many of us have come to realize throughout the country that there is a serious deterioration of our basic infrastrusture. Whether it is a water system, a sewer system, the intransportation system network in this country, we have some serious problems that need to be addressed and we believe that that basic stragegy can utilize the potential jurisdiction of our committee in a concept of linkage nad leverage that will again be integrated into and made a part of the President's overall economic recovery effort.

H.R. 6100 concerns itself also with the Applachian Regional Commission, and in accordance with the unanimously approved recommendation of the Governors of the Appalachian States, title II of this bill provides a winding down of funding for this program.

So, Mr. Chairman, H.R. 6100 provides a neded impetus of our Nation's economic recovery at a reasonable cost. Therefore, I urge my colleagues to support it enthusastically and move it to the other body so that we can have it implemented and made a part of our national poliy.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6100 which, as Chairman Oberstar indicated, represents a new approach and I think an exciting and cost-effective approach to the question of economic development and the Federal role, albeit limited, in that effort.

I would like at the outset to congratulate and commend my chairman, the gentleman from Minnesota (Mr. Oberstar), who has really been the driving force behind this legislation.

I would stress that he has been completely, utterly fair and cooperative with the minority. He has included within this legislation many of the suggestions that came from the minority side which we think improve the bill. I think he deserves commendation for the very long hours and hard effort he has put into coming up with this very exciting new approach to economic development.

I would also like to express my appreciation to the ranking member from California, Mr. Clausen, and to our chairman of the full committee, Mr. Howard, who have also had a great deal of input into this bill.

Finally I would like to tip my hat to my mentor, John Paul Hammerschmidt, who was the ranking member on this Economic development Subcommittee for so many years; and to the gentleman from Minnesota, (Mr. Hagedorn), who immediately preceded me.

All of these gentlemen have played a very active role in this legislation which I am strongly supportive of.

I think it is important to point out at the outset what this bill is not, because I think there are some misconceptions about the bill which have arisen because of past activities within the agency and perhaps the direction the agency has gone in the past.

So the bill is not a lot of things. For example, it is not a simple reauthorization of the Economic Development Administration and all of the titles that existed under that act, the Public Works and Development Act of 1965.

It really represents a complete restructuring and tightening of EDA programs; a focused, and I think a streamlined and a much more cost-effective approach to that role.

□ 1620

It does, in my opinion, eliminate those elements of the Public Works Act and of the Economic Development Administration which have not proven to be as successful as others. We got this information through a long series of hearings, in which the people who have actually been working with these programs came and told us what worked and what did not work.

We have eliminated, for example, the loan and the loan guarantee program, title II of the bill, which was administered in Washington and which caused problems, because it is difficult to administer a loan portfolio here in Washington. That is gone. I think it is a vast improvement over what we had before.

It also eliminates the designation process, and I think this is perhaps the area where the agency was most criticized. This program was supposed to be directed at the most distressed areas of the Nation. Well, in fact, because we never de-designated anybody, once you qualified as distressed, you were never disqualified, and, as a result, 84 percent of the country is at present qualified for economic development assistance. We have done away with all of that. We have stricken it off the books. And what we have now is a much tighter criteria for determining eligibility of distressed areas.

We have brought the areas of the country which qualify for assistance down from 84 percent of the country to about 41 percent of the country.

It is not, also, just another Government handout program that simply shovels millions of dollars at isolated independent economic development projects one at a time. We are looking here for a strategy based on the experience that we have had in the Economic Development Administration to know what is necessary, what you have got to have in order to have effective economic development occur in the community.

And, finally, this bill does not involve the Federal Government in dictating to States and local governments the way to solve their economic development problems. That has been, I think, one of the valid criticisms of the agency. Too much of the authority, too much of the control, too much of how you could do these things was dictated here in Washington. We tended to ride rough shod over the desires and the intent of the local areas, who know far better how to solve their own problems.

It leaves the decisionmaking, by and large, at the local level, and I think that is where it should be. As Chairman Oberstar has indicated, it also eliminates a vast amount of the paperwork which made it very difficult to apply for these projects.

Well, then, what is this bill all about? Well, it really is, in my opinion, a very modest, very limited attempt to address a very small part of what is becoming a very large problem. I am speaking now about the alarming—and I mean alarming—deterioration of our Nation's public facilities.

The basic infrastructure of this country is vital to economic development. We have a lot of studies, for example, which show that corporate decisionmaking is based not so much on

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the tax structure in a local area but, rather, on what is the public facilities situation in that community. That is really what gets the corporate decisionmakers to make location decisions.

So it is about this very vital problem. As a child I played a game, and I am sure many of the Members did, called London Bridge is Falling Down, London Bridge is Falling Down. Well, London Bridge is not falling down. As far as I can remember, it is alive and well and living at Lake Havasu in Arizona. But the fact is that there are many, many other bridges in this country that are in danger of falling down. Three-hundred thousand of them have exceeded their useful life. One-half of the Nation's communities, for example, have reached capacity, as far as their water and sewer systems are concerned. That means they cannot participate in any growth, they cannot engage in any economic development because they cannot add anything to their systems.

We have the Interstate Highway System which is wearing out more rapidly than we are repairing and replacing it. Two-thousand miles a year have reached the point where they have exceeded their design life. And there is growing public awareness of this fact. A book called America in Ruins by Pat Choate, and others, has called attention to this problem. Newsweek magazine did a feature story on this issue. The point that they are making is that there is a direct connection between economic growth and development and the adequacy of public facilities. I think there is a general recognition also that government has some role to play, some responsibility, to construct and maintain basic infrastructure.

Now, you can argue about—and I am sure we will argue about—what level of government should be involved in this exercise, what level of government should be working on the public infrastructure problem in this country. But I think we can agree that government must have a role to play in developing our public infrastructure.

My personal opinion is that there is a need, a continuing need, for Federal involvement at some level of funding.

The bill that we are talking about here today cannot and will not solve our Nation's infrastructure problem. But it will address problems in some areas, a few areas, which are least able to finance essential public facilities but have a high potential for economic rejuvenation at this time.

The emphasis of this legislation is on the community and on cooperation. In order to be considered for funding under H.R. 6100, a community must utilize every tool at its disposal. It must enlist the cooperation of private industry and it must develop a strategy. In this legislation we call it a development investment strategy, which is simply a long-term, carefully planned community course toward self-sufficiency.

Certain key factors are essential for any area to support development and thus become economically viable and they must be considered as part of the development strategy. They include available land, public facilities, availability of capital, tax policy on investments, skill of the labor force, and the ability of State and local governments to provide financial assistance.

But the most significant factor in any community's achieving economic growth and stability is the involvement of the private sector. In this bill the level of private sector dollars committed to a community's development is very important in the Secretary's selection of those projects to receive funding. That represents a major departure from the economic development approach taken by EDA in the past, but one which will prove vitally important in the future.

That approach is also in keeping with the President's economic recovery plan which stresses private sector involvement as the key to economic development. In our committee we considered the question of economic development in a strictly bipartisan manner. What we came up with was a united commitment to assisting our distressed communities in an innovative fashion, based on coupling a community's existing resources with a limited amount of Federal assistance. That combination will produce a workable, cohesive, and well-planned approach to economic self-sufficiency.

Mr. Chairman, H.R. 6100 also provides phase out funding for the Appalachian Regional Commission. This is in accordance with the views of the Governors of the 13 States affected by that program and has received their unanimous approval. I would add that the Governors themselves propose the termination of that agency in 1990 when the Applalachian Highway is completed. Area development programs are scheduled for termination in 1987.

H.R. 6100 is a viable bipartisan approach to new economic development and diversification in our Nation. I would urge you to vote for its passage.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well, and I rise in support of H.R. 6100. My committee colleagues, the gentleman from Minnesota (Mr. Oberstar) and the gentleman from Pennsylvania (Mr. Clinger) are to be commended for their fine efforts in creating this vital, innovative piece of legislation.

Having served as ranking Republican member of the Economic Development Subcommittee myself, I can fully appreciate the magnitude of the task which they undertook.

Criticisms of EDA have been numerous and in some cases well deserved. Probably the greatest shortcoming of the agency and the most widely discussed has been the level of eligibility. Eighty percent of the Nation should never have been eligible for funding from this relatively small Federal agency. EDA's budget at its peak was $600 million. So I agree with the President and other critics of the agency when they say that this program which is currently funded at a little over $200 million can in no way serve as a responsible vehicle to assist economic development in 80 percent of the United States.

It is my understanding that this bill addresses the eligibility question by significantly altering the distress criteria to target EDA's assistance to only the areas of greatest distress. The percentage of the Nation eligible under this bill is slightly over 40 percent a 50-percent cutback.

Equally as important as these funds being targeted to the most distressed areas is the targeting of funds to areas where the recovery potential is the greatest. The sad sight of empty industrial parks is the unfortunate result of putting Federal dollars into areas which meet the distress qualifications but do not have the other factors which Mr. Clinger pointed to in his statement; factors that are essential for an area to support economic development.

But the key ingredient in any truly effective economic development effort is the involvement of the private sector. For an area to become economically self-sufficient private industry must be able and willing to do business in that community. I was pleased to note that special attention has been placed on the role of the private sector in this legislation.

H.R. 6100 recognizes that the commitment by the private sector to a distressed area improves the chances that that community has for development. The Secretary is, therefore, directed to take this factor into consideration when selecting grant recipients.

Having had firsthand experience in the drafting of economic development legislation, again, I wish to commend the authors on fashioning this legislation which accurately addresses the appropriate role of the Federal Government in the economic development process. I strongly recommend that this bipartisan proposal be adopted by the House.

Mr. CLINGER. I thank the gentleman for his comments.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, it may very well be that this was addressed prior to the time that I came onto the floor, but has the point been made that there is room in function 450 of the budget resolution itself, and that includes the reconciliation budget, for the authorizations contained in this bill? Has that point been made?

Mr. CLINGER. No, it has not. I am glad the gentleman has made the point.

Mr. CLAUSEN. I think it is important for the membership to know that the authorizing committee worked very hard to see that the authorized funding level can be accommodated in the budget resolution if the Congress so desires. In fact it is my understanding that the appropriation bill does contain budget authority for this program, and that the same appropriation bill is subject to the enforcement provisions of the budget resolution. Thus, funding for this program must be within the overall funding levels allowed by the budget resolution.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I would be happy to respond. The gentleman raises an important point. It was not addressed earlier, and I am glad the gentleman has raised that point.

The funding for the coming fiscal year 1983 is a part of function 450 of the budget that has been approved and, of course, the Appropriations Committee is going to decide specifically how much of that amount will be allocated to the present legislation.

They have tentatively reported out of subcommittee $200 million committed to the Economic Development Administration programs.

Mrs. SNOWE. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentlewoman from Maine.

Mrs. SNOWE. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to congratulate the gentleman for the work that he has done in putting together this legislation.

I would just like to ask the gentleman a couple of questions concerning the intent of this legislation, if I might.

First of all, in section 302 it seems that the language contained in the bill provides considerable flexibility in terms of the Secretary of Commerce dismantling the present organizational structure of EDA.

Could the gentleman tell me, is this the intent of the legislation, to dismantle, to do away with the present organizational structure?

Mr. CLINGER. I thank the gentlewoman for her question, and I would respond by saying: Absolutely not. In fact, it is the intent through this legislation to maintain in place the expertise which was developed over a 20-year or so period at EDA. We have a lot of very talented people who have great experience in the area of economic development in the Economic Development Administration. Now, there may be a restructuring within that organization. But clearly the intent is to maintain that expertise.

I would also stress that we intend to retain the Economic Development representatives, who have played a critical role and, I think, a very useful role in the EDA—working with local areas, particularly in those areas where they do not have the expertise to really address their economic development problems.

Mrs. SNOWE. I think that is a vital portion of the present EDA program that is necessary, because I think it maintains a regional equity, so that all regions of the country can participate in the program; and, second, providing the planning and technical expertise that is necessary I think in awarding these projects on a fair basis.

And, second, in section 302, the reason I am addressing this is because it does give a great deal of latitude to the Secretary of Commerce in prescribing the functions under this bill.

Could the gentleman tell me, then, is it the intent of this legislation to disburse the funds under this legislation in block grant form?

Mr. CLINGER. No, it is not. I think that we have tried to fashion a bill which will give as much decisionmaking as possible—the great majority of the decisionmaking is done at the local level. They know what their needs are. They can best fashion a program which will address those needs.

Now, those projects come into Washington. The ultimate decisionmaking is done here. It is not a block grant. We have to maintain accountability for what we are doing, and I think the Secretary is the one to do that.

In effect, it becomes a competition between various economic development strategies submitted by various applicants. The decisionmaking is at the local level, the final selection at the Federal level.

□1630

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

As further amplification of the explanation, I would suggest to the gentlewoman from Maine that the basic structure of the legislation is directed toward the organizational structure in many parts of the country associated with the National Association of Development Organizations. They have in place as an example an economic development district and they have the expertise and the personnel as well as advisory boards and directors that actually develop the economic strategy for those areas. This is intended to reinforce that.

In addition, there may be counties or a county where a joint powers agreement could be formulated for purposes of developing this economic diversification strategy. So it is to that end, if it meets the criteria for an economically depressed area under the terms of the legislation, this will enable that to occur.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

I would just like to ask a question about the cost here. It sounds as though we have done a good job in taking care of some of the problems that have existed in the previous program.

My hometown of Long Beach, Calif., has been a beneficiary of this and other programs. We were fortunate that we got to the head of the line and got money. There were a lot of things that helped our downtown. But it always struck me that we would never have the amount of money in the treasury necessary to duplicate or replicate this around the country. So it was more which community got in there first.

The other thing was that my hometown prided itself on the fact that they had been determined to be the eighth most distressed city in America. It was almost like cities were vying to find out who was most distressed so that they could get some of the largess of the Federal Government. And it sounds as though the gentleman has addressed some of those problems here.

But I must rise to ask a question and maybe strike a discordant note.

As I understand from the committee report, the CBO estimates that the outlays involved would be $128.2 million in fiscal year 1983, $464 million in fiscal 1984, $723.9 million in 1985, $783.9 million in 1986, and $504.8 million in fiscal year 1987, contrasted with the administration's recommendation of a total of $33 million proposed to phase out EDA between now and 1985.

My question is, is this suggesting that we are going to then be some $1.5 billion over what the projected budgets will be between now and 1985?

Mr. CLINGER. Well, I think clearly this bill represents a disagreement with the administration on the importance of the economic development program.

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Mr. LUNGREN. It is only a billion and a half I realize.

Mr. CLINGER. The administration has requested a phaseout of the program entirely. I think that the budget resolution, which also contemplates continued funding of the Economic Development Administration——

Mr. LUNGREN. For 1 year.

Mr. CLINGER. No—it contemplates and it assumes an outyear funding of this program, at the same level, I might add, as the 1983 figure. It assumes that it would continue at that level.

So that I do not believe that this in fact is contrary to what the budget resolution calls for. Ultimately the question will be resolved by the Appropriations Committee which will set that figure.

In fact, the Appropriations Committee has for this year at least 2 days ago passed out the bill which would include about roughly $200 million in the economic development function.

Mr. LUNGREN. OK. Maybe I did not state my question very well.

In the budget that we passed, what levels of funding does it anticipate for the next 3 years as opposed to the $1.5 billion contained in authorization in this bill? Does the gentleman know?

Mr. CLINGER. I do not have the figures here. Does the chairman have the figures?

Mr. OBERSTAR. If the gentleman would yield, the 450 function of the budget does include an adequate amount to cover the funding that we have envisioned in this bill. We cannot predict over a period of years what the next Congress is going to do. We cannot bind another Congress. We can only say that we have determined on an annual basis $500 million is an amount that will respond to what we perceive as a need.

The budget function 450 includes a sufficient amount to cover that modest sum for the next fiscal year. We are not projecting beyond that what another Congress will do for the economic development function. That has to depend on what the economy may do in other years.

And the figures that the gentleman from California was citing also include the figures for the Appalachia Regional Commission.

So the figures the gentleman has cited are not all attributable to the national development.

Mr. LUNGREN. But under this bill, is that not correct?

Mr. OBERSTAR. The two titles of the bill.

Mr. CLINGER. It does contemplate multiyear funding.

Mr. LUNGREN. If the gentleman would yield further, I understand how we cannot determine precisely what future Congresses are going to do. But the question is next week we are going to be faced with a big vote on whether we are going to raise taxes or have any cuts. Some of my constituents when I go home ask me, "What are you people doing in Congress with spending."

I realize it is very tough to anticipate what we are going to do next year and the year after. But the question I am trying to get answered is whether or not this bill and its authorization contemplates spending $2.3 billion for both programs over and above what has been contained in the President's budget. I would just like to know whether that is true or not.

Mr. CLINGER. That would be on both the Appalachia and the EDA.

Mr. LUNGREN. I understand that.

Mr. CLINGER. If the program were fully funded at the authorizing level, that would be the figure.

Mr. LUNGREN. I understand that.

Mr. CLINGER. I would point out as a matter of history since its inception the economic development program has never been funded at even half what the authorization level is. So that I think it is perhaps premature to say that that is going to be the result.

Mr. LUNGREN. If the gentleman would continue to yield, I would suggest since the inception of the budget process in the Congress we have never found ourselves capable of staying within those limits, and at some point in time we ought to consider it.

I am not going to suggest everybody vote against it. But I heard this hosanna of shouts in support of this bill without anybody referring to what the cost is or how it is going to compare with the budget.

I would suggest that if we continue to do that in bill after bill, we are not going to have to worry about a tax increase of $20 billion, we might have to worry about a tax increase of $180 billion for next year.

I thank the gentleman.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. Bevill).

Mr. BEVILL. Mr. Chairman, I want to commend my good friend and colleague, the gentleman from Minnesota (Mr. Oberstar) for the tremendous job he and the ranking member, my good friend and colleague, the gentleman from Pennsylvania (Mr. Clinger) have done and for the tremendous job they and the subcommittee has done. I have personal knowledge of the fact that they have not just held hearings in their committee room. They have been out in the Appalachian area, and they have checked to see what has been accomplished by this program. Certainly, that is all any Member of Congress would need to do in order to support this program.

Mr. Chairman, the Appalachian Regional Commission has been a most successful program, bringing economic development, increased educational benefits, improved health care and better highways to America's 13 Appalachian States.

These States contain some of the most impoverished areas of our country. Their State and local governments were unable to bear the full load of improving these areas without assistance from the Federal Government. The ARC program has provided that necessary assistance, enabling dramatic improvements in what most of us would consider to be basic human needs.

Tremendous strides have been made in the Appalachian States in community water and sewer systems, rural health clinics, vocational schools, industrial development projects and roadbuilding in remote areas.

My support for H.R. 6100 is based on my personal study of the ARC throughout its 17-history of service to Appalachia. Each year many witnesses have appeared before my Energy and Water Development Appropriations Subcommittee testifying about the improvement of living conditions which has been made possible, largely because of ARC assistance. In fact, this past spring, Gov. John Y. Brown, of Kentucky, representing the 13 Appalachian Governors, appeared before my subcommittee to present a strong statement for ARC's continuation. He told me that the Governors of the 13 States involved have joined in calling the ARC the most important program they have with the Federal Government.

His testimony, along with actual programs I have seen for myself, present a picture of a unique Federal-State-local relationship which has successfully established a public-private partnership to create private sector jobs and to equip the Appalachian people with the skills necessary to perform those jobs.

The ARC program has been successful in substantially narrowing the gap between the region and national averages in terms of growth, income, employment and health care.

In my own district, for example, nearly half the people lived below the poverty level in 1960. But 16 years later this figure had dropped to less that one-fifty of the residents. By 1981, 58,000 additional jobs had been created in my district, due, in large measure, to ARC industrial development assistance. And the steadily dwindling population of the fifties and sixties was turned around and in the seventies was growing at nearly twice the national growth rate.

I am proud that in addition to needed primary health care facilities and rural water system development, much of the ARC emphasis in my district has been on helping people develop job skills. That creates a long-term benefit for the entire country.

ARC involvement provided important supplemental funds for many projects throughout my district, however, I am proud to note that the State of Alabama and local government in my district underwrote the largest share of these project costs.

Unless we provide this additional authorization for the Appalachian Regional Commission, the momentum which it has created in the Appalachian States, during these past 17 years, will be lost. At this critical time, when the recession and major Federal budget cuts have damaged the fragile Appalachian economy disproportionately, we cannot turn our backs on an area which still suffers from poverty and many communities still lack primary health care facilities. The perceived oil glut and other problems are severely limiting the coal mining production industry which is so important to this region of our Nation. And State and local governments have had insufficient time to mobilize public and private resources to ameliorate the dire economic conditions which our Nation's recession has brought to most of this area.

Stopping the ARC program in 1982 could mean that health care might never be extended to the remaining Appalachian counties which are still without basic primary care facilities. And areas with exceptionally high infant mortality rates might never improve this tragic statistic. This sad condition should not be allowed to exist in this, the world's richest nation.

Bringing an abrupt end to the ARC also would mean that the residents of 60 particularly distressed Appalachian counties would continue to suffer chronic health problems, due to unsafe drinking water. And jobs, for many yet unskilled workers, would remain an unrealized dream.

In more developed counties, where conditions now support diversified economic development, the payoff on past investments, in many cases, would be lost for lack of a relatively modest finish-up ARC investment.

The Appalachian States are not looking to the Federal Government to bail them out. They are asking for an investment. Since 1965, these States have increased their taxes at a more rapid rate than the national average, and most have a very limited tax base. In recent years, the per person Federal expenditure in Appalachia has never been more than 84 percent of the national average. And the recent budget cuts will most likely reduce this figure.

The ARC program is worthy. It has performed successfully but a need for its expertise and assistance remains in an area of the country in which too many Americans still live at a distinct disadvantage. I sincerely ask you to vote in favor of this needed extension of this worthwhile program.

□ 1640

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his statement. I want again to commend the gentleman from Alabama for the very positive, constructive contribution that he has made to this legislation.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. FLIPPO), a member of the subcommittee.

Mr. FLIPPO. Mr. Chairman, I would like to add my strong support for H.R. 6100 and thank JIM OBERSTAR for his leadership in bringing this measure to the floor today.

This legislation is essential to continue support for local economic development activities. Reduced Federal funds, monumentally high unemployment and interest rates have halted business investments and expansion, as well as the upgrading of public facilities. This fiscal strain has meant that local communities in my area have been unable to move forward to initiate a full-scale economic development program. The National Development Investment Act provides distressed communities, suffering from high unemployment or underemployment or experiencing a plant closing or other economic emergency, 50-percent grants to build public facilities or develop projects which create jobs and promote economic growth. This program encourages local officials and the private sector to combine their talents and resources to create the type of economic environment which can grow and prosper.

It offers maximum flexibility to allow each community to develop a strategy to solve its particular problems and address their unique needs. Eligible activities include: setting up a revolving loan program to finance small business startups or to retain and expand existing firms; preparing a site for commercial and industrial development; improving the access road, the bridges, the waterline or other key public services which are critical to enticing private companies into an area or beginning a full-scale recruitment program to diversify the economic base and attract jobs more appropriate to the skills of the labor force. This bill can do much to bring life, hope, and jobs to distressed communities. It can stimulate economic development through the Federal matching grants—development that cannot and will not take place in the current economic climate. It can be a catalyst in bringing about economic recovery.

This National Development Investment Act applies the past lessons that have been learned through practical local economic development efforts. It is more responsive to local needs, local initiatives, and local input. It represents a reduction in Federal intervention, while strengthening the accountability for Federal funds. In this regard, I am pleased that the bill incorporates a provision I authored requiring a semiannual report detailing how these Federal dollars have been used by the grantee.

It requires an audited statement of all funds spent on the project. This is not intended to add to the paperwork or financial burden of local officials, but to insure that the Federal Government maintains its legitimate oversight responsibility. While the bill stipulates the audit should be performed by independent certified public accountants and in accordance with the Comptroller General's standards for audit, local situations may require some flexibility in the selection of auditors. The primary concern is that the audit be performed by an organization or individuals that are independent of grantees and proficient in accounting and auditing. As long as these conditions are met and the Comptroller General's auditing standards are satisfied, both public accounting firms and State or local government auditors may perform the audit required by this bill.

I also want to emphasize the expanded scope audit provisions require financial accountability as well as a review or program efficiency. This information can be useful to more fully judge and evaluate this program and the use of tax dollars.

Equally important to my region of the country, the worthwhile programs and activities funded through the Appalachian Regional Commission are continued. There has been no greater economic development initiative than the Appalachian highway system. It has provided access to a previously isolated and chronically depressed area. The Appalachian highway system has brought thousands of jobs to the 13-State Appalachian region, and it has made possible improved health and educational facilities.

This bill will allow the completion of the highest priority corridors. Unfortunately, it requires a scaling back of the originally proposed 1,700-mile system. However, it provides an orderly and gradual deduction of Federal funds for this purpose. This is needed to protect past Federal expenditures and to assist with the financial hardship created by the fact that the cost of road building in this mountainous terrain far exceeds the local community's ability to pick up the entire tab.

In addition to highway funds, this bill authorizes funds for local development activities concentrating on job retention, providing basic primary health facilities, and firming up the foundation for local support and self-sufficiency.

These funds are sorely needed. Economic progress is taking place in the region, but this supportive Federal help is critical if we are to continue this progress. This region still lags behind much of the Nation in employment, educational achievement, per capita income, and countless other gages. The Appalachian Regional Development Act has been a success. It has been a factor in improving the economic well-being of this vital energy-rich region of the country.

This bill is necessary to complete the task and to truly promote National economic recovery and stability.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I want to take this opportunity to thank the gentleman from Alabama for his valuable contribution to this legislation. It has been a matter of concern to the committee how to have an accounting of the funds and to be sure that those funds are spent in accordance with the purposes for which they are intended.

The gentleman is an accountant, is one who has participated in audits and has experience in this field and has made a very, very valuable contribution. We thank the gentleman for his explanation.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. Hagedorn).

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I rise in support of H.R. 6100. I certainly want to extend accolades and compliments to my colleague, the gentleman from Minnesota, who has done yeoman service in cleaning up the Economic Development Administration legislation in the proposal we have before us today. I believe it is a very significant improvement over what exists currently.

Having preceded Mr. Clinger as ranking minority member of the Subcommittee on Economic Development, I have carefully followed the progress of this bill throughout the extensive hearing process.

Many of my colleagues have contacted me asking how I feel about this legislation which will reauthorize and reform the Economic Development Administration.

It is my firm conviction that this proposal makes significant improvements in the operation of EDA.

The level of eligibility is now in line with the UDAG program, which the administration has endorsed, and the direct loan program, which has been rightly criticized for its 40 percent delinquency rate, has been eliminated.

This legislation, through its emphasis on the involvement of the private sector, realistically addresses the current economic needs of the distressed areas of our Nation.

I believe that it makes a valuable contribution to the economic development process, and I urge my colleagues to support passage of H.R. 6100 if they feel a program such as EDA should continue.

Mr. OBERSTAR. Mr. Chairman, I would like to thank the gentleman from Minnesota for that comment and also to express again my appreciation to the gentleman for his cooperation throughout the period of time he served as ranking member of our subcommittee and for the full cooperation and splendid cooperation he has extended to me and to the Members on our side throughout the process of formulating this bill.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. Kennelly).

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act, legislation to revise and improve our Nation's economic development program.

The programs currently under the Economic Development Administration have been extremely successful in the State of Connecticut and the EDA enjoys substantial support in my district. During town meetings I have held, public officials have repeatedly expressed their concern over the uncertain fate of the EDA. These local officials face daily the economic distress resulting from the unemployment rate of 9.8 percent. They know that economic recovery for many distressed areas will simply not be possible without Federal assistance.

H.R. 6100, the product of 13 days of hearings, will build upon what we have learned about economic development and Federal assistance over the past 17 years. Under the strong leadership of Representative Oberstar and Representative Clinger, the bill places added emphasis on the rehabilitation and repair of public facilities; it establishes locally administered revolving loan funds to provide seed capital for small business; and it provides assistance for employee stock ownership of plants that would otherwise be shut down. The National Development Investment Act, most significantly, channels Federal assistance to those areas that meet tighter eligibility criteria and that show local initiative and local commitment in developing strategies for sustained economic recovery. In short, in a time of great economic distress and limited Federal resources, H.R. 6100 is a realistic effort to target assistance where it will have the greatest impact.

My strong support for H.R. 6100 is based in part on the centerpiece of the bill, the development assistance strategy, which will be a long-range planning document required from every applicant to serve as a practical action plan.

In testimony before the Subcommittee on Economic Development, the deputy commissioner of Connecticut's Department of Economic Development testified as to the success of a partnership between the State and the EDA which embodies the concepts underlying H.R. 6100. Seven years ago, under the leadership of the late Gov. Ella Grasso, Connecticut and the EDA worked together to develop a comprehensive strategy for long-term and diverse economic recovery targeted to one of the most severely distressed areas within the State. All levels of government and the business community worked in partnership—respecting the rights and obligations of municipalities for self-determination in their own economic revitalization. The result has been the creation and retention of over 20,000 jobs in a once chronically distressed region—with unemployment, even today, a full 4 points below what it was 7 years ago.

The importance of the programs under the Economic Development Administration cannot be understated. Programs under the EDA have worked well in the past; they promise to work even better under the new National Development Investment Act.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. Rahall).

Mr. RAHALL. Mr. Chairman, since the earliest years of the 20th-century events periodically made Americans aware that Appalachia was a region apart, isolated from the rest of the country due to its rough terrain, suffering from the ravages of floods, prone to erratic swings in the coal industry, and subject to severe economic and population shifts than in the rest of the Nation.

By the early 1960's, conditions in Appalachia had reached desperate proportions as major floods and the boom and bust cycle of the coal industry took its toll in human suffering. Despite efforts of religious leaders, public officials, universities, and business groups in the region to alleviate the many socioeconomic problems, little permanent change was accomplished until President Kennedy appointed the President's Appalachian Regional Commission to "prepare a comprehensive action program for the economic development of the Appalachian region."

Today, we have before us legislation to reauthorize the Appalachian Regional Development Act of 1965 and the Economic Development Act of 1965. Today, we have the rare opportunity to use some hindsight during our deliberation of H.R. 6100; we have the ability to judge time-tested programs contained in this bill.

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Using even these most stringent of criteria, I stand here today to say that without a doubt, the Appalachian Regional Commission is a program that has worked. During the past 17 years, the ARC has demonstrated the capability to facilitate cooperation among all levels of government and the private sector. It has pioneered new approaches in extending health care in doctor-short areas and has linked the region to the rest of the Nation through a system of highways.

Mr. Chairman, the Appalachian region encompasses 397 counties in 13 States stretching from southern New York to northern Mississippi. The population in this region is over 20 million. And facts stand as testimony to how the ARC program has helped these people. Since the ARC highway program began, 430,000 jobs have been made possible due to this modern transportation network. Before ARC, only 25 percent of Appalachian youth were getting vocational training; today the Commission has made possible 705 vocational/technical education facilities and now 52 percent of the 11th and 12th graders in the region are getting such training. ARC has stimulated the development of almost 20,000 housing units. In the area of health care, the ARC has fought tuberculosis, infectious diseases, and infant mortality, and today, primary health care facilities are within reach of most people in the region.

In my congressional district alone, 62 projects totaling $10.5 million have been approved including primary health care, long-term care, emergency services and the construction and equipping of hospitals; 25 vocational education projects have been funded at over $7 million; 15 water and sewer and waste treatment projects have received over $3.8 million; and 7 solid waste projects have received $1.5 million. In all, 181 nonhighway area development projects in my district have received a total of $35.5 million in ARC funds. Largely because of these programs, the gap in per capita personal income in my district and the Nation has been narrowed. People living in poverty have decreased from 40 percent of the total population in 1960 to 16 percent in 1976. The decline in population of nearly 13 percent between 1960 and 1970 has been arrested and there has been a gain of slightly over 11 percent by 1980. Jobs have been created and the unemployment rate, once three times the national average, is now one-third more than the national rate.

Yet, while these facts and figures are testimony to a successful program, let us not fool ourselves. There are still distressing gaps between Appalachia and the rest of the Nation. In my district, for example, the poverty rate is still 25 percent more than the national rate. There are only 119 doctors per 100,000 population; only two-thirds of the national figure of 170 per 100,000 population. Highway projects, such as Corridor G running from Charleston to north of Pikeville, are uncompleted and are crucial to the transportation of coal.

West Virginia, and the region, have made progress but we can ill afford to lose this sound base by an abrupt halt to the ARC program. The bill before us today is a phaseout program encompassing the recommendations of the Appalachian Governors. It is a good program, and one taking into account the economic situation of today. I commend the distinguished chairmen of the Subcommittee on Economic Development, Mr. Oberstar, and of the full Committee on Public Works and Transportation, Mr. Howard, for their diligent efforts on behalf of the people of Appalachia. We have walked through parts of Appalachia together, heard from the local people, and visited many of the ARC programs. While Chairman Oberstar is from a non-Appalachian State, his interest in ARC and his recognition of its importance signifies the importance the development of this region has to the rest of the Nation.

☐ 1650

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. Albosta).

Mr. ALBOSTA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from West Virginia (Mr. Rahall).

I was there during the hearings on that area that the gentleman was speaking about, the Appalachian region. I have seen the types of results that he talked about and I just want to be a part of his remarks, because I think that is the best example that I can think of anywhere where EDA has helped and where help from the Federal Government and local governments have really worked.

I want to associate myself with the remarks of the gentlemam from West Virginia, Mr. Rahall.

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CLINGER. Mr. Chairman, my understanding is that the dabate time is 1 hour and 30 minutes, with 45 minutes for each side.

The CHAIRMAN. The gentleman is correct.

Mr. CLINGER. My understanding further is that the gentleman from Minnesota and myself would control all of that time and yield time to the members of the Committe on Banking, Finance and Urban Affairs.

The CHAIRMAN. That is correct. The gentleman from Pennsylvania (Mr. Clinger) has 18 minutes remaining, and the gentleman from Minnesota (Mr. Oberstar) now has 14 minutes remaining.

Mr. CLINGER. Mr. Chairman, is that the total time?

The CHAIRMAN. That is correct.

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Chairman, I really would like to congratulate the committee and my good friend and fellow Northeast-Midwest congressional coalition member, the gentleman from Minnesota, Jim Oberstar, for the work that he and the gentleman from Pennsylvania, Bill Clinger, the gentleman from New Jersey, Mr. Howard, my good friend, the gentleman from California, Mr. Clausen—Mr. Chairman, there have been so many compliments, I guess I can just say I agree with all of the above.

I would like to say, Mr. Chairman, that this was a rewarding experience for us as the Committee on Banking, Finance and Urban Affairs was able to cooperate so closely and so clearly with another committee that we could have joint hearings. I do not think that is often done, although I think it saved a great deal of time and expedited the taxpayers' work and the work of this body.

I very strongly support this bill. EDA has been castigated in the old days and torn apart; it has been said that it locks people and resources and firms into areas that have lost their viability.

I would suggest that the biggest city in the State of Connecticut, Bridgeport, which I represent, would not even have the tremor of life it has today without the economic development assistance program.

I have never found it to lock people in; I have never found it to keep unviable industries alive.

I have found that it came along and took an older and far more strained part of the Nation, whose resources were at the end of their line rather than at its beginning, and made them work again.

The problem I have with the previous economic development assistance legislation was that it would have qualified about 80 percent of the United States of America. I must say, without being parochial about it, as I flew through some parts of this country and left my city with its 125-year-old factories, four stories tall, with bricks falling out of the sides, that I found it difficult to think that some parts of the country were as distressed as mine.

I see my good friend Mr. Evans from Delaware sitting here. I remember walking through a Chrysler plant in Delaware with him, watching the rain fall through the roof. Yet that plant, like many plants in Bridgeport, earned the money that paid the taxes that supplied the energy, the finances, and the capital that went to the Sun Belt, to the Dust Bowl, and throughout the United States of America and built this Nation.

I congratulate the chairman and ranking member on creating a bill that targets far more realistically, I would suggest, about 40 percent of those areas really are troubled and really are in need.

I also have to say, Mr. Chairman, that one of the things that has really disturbed me is interest rates. Interest rates are a reflection of the amount of capital in the United States. I would suggest that we have been throwing away capital in the United States faster than we have been creating it by ignoring our infrastructure, by ignoring what we have.

I have often said that I do not see the south Bronx as a distressed community, per se, even though it is one of the most distressed in the United States of America. I see the south Bronx as subway lines, bus lines, streets, sidewalks, water mains, gas mains, the whole infrastructure of a city.

This is true across the United States, from Detroit to Minneapolis, to every older city that one goes to.

I do not think that in a world where capital costs 15 percent prime that we can afford to throw away any capital.

I congratulate the committee on putting the emphasis of this bill on trying to regenerate, to rebuild, and hold onto what we have. I think it is something that we have totally ignored in this country for far too long.

I would hope that the Congress and my colleagues will see fit to pass this piece of legislation. It is an improvement on an old idea. It is not as much money as I would like to see us be able to spend but I do not think I will ever see the kind of money I would like to see in any program for the cities.

I would also hope that a very good friend of mine intends to put in an amendment on the Davis-Bacon problem. I would suggest that the amendment has a terrible flaw in that the 10-percent basis on that amendment can, quite frankly, later on down the path, be voided by that terrible complaint that the contractors are so used to having that "Oh, well, other costs got out of control."

I would suggest that to get into an argument and to argue over a very good bill on that subject is a terrible mistake at this late date in the Congress. I hope my colleagues will keep that in mind.

Mr. Chairman, I would like at this point to yield 3 minutes to the ranking member of the Committee on Banking, Finance and Urban Affairs, Mr. Stanton of Ohio.

Mr. STANTON of Ohio. Mr. Chairman, H.R. 6100, the National Development Investment Act, was jointly referred to the Committee on Public Works and the Committee on Banking, Finance and Urban Affairs. Due to the press of other legislation, however, our committee never met on this proposal. Instead, we waived consideration in exchange for an opportunity to have floor time during general debate on the legislation.

This, then, is my first chance to speak on this legislation. While I share the objectives of the legislation, I rise to indicate the administration's strong opposition to the bill. The administration believes that market forces operating upon the private sector are a better means to foster local economic development than the assistance embodied in H.R. 6100. Federal economic development assistance has a history of subsidizing inefficiency and limiting opportunity.

In lieu of this legislation, the administration seeks to stimulate economic expansion and job creation through regulatory relief, and fiscal restraint. Furthermore, the administration does support targeted assistance through the use of the community development block grant program, the urban development action grant program, and the enterprise zone legislation.

As we consider this legislation, we should also be aware that it adds another layer to the ever burgeoning volume of Federal grants and guarantees which, in turn, has an impact on the Nation's credit markets.

Over the past several years, Federal credit programs have expanded at a rate in excess of direct Federal spending programs. As a consequence, Federal credit program activity has risen to record levels of intrusion into U.S. financial markets. To the objective examiner, it is an undisputed fact that the growth of Federal credit has gotten out of hand. The statistics on the extent of Federal credit activity as a share of total credit allocation in the United States are alarming.

What is particularly unfortunate about this phenomenon of Federal credit growth is that it has gone relatively unnoticed, compared to the attention received by the Federal budget deficit. The lack of awareness and understanding of this aspect of Federal spending is widespread in and out of the Government and is attributable predominately to the fact that the direct loan and loan guarantee programs of Federal agencies and federally sponsored enterprises are not reflected in the Federal deficit, as they are recorded as off-budget activity. Yet these Federal credit programs have essentially the same impact on the economy and the financial markets as do on-budget expenditures. Both types of spending lay claim to scarced domestic resources and both reallocate them to a vast array of beneficiaries.

In conclusion, while I support the objectives of this bill, I urge my colleagues to be mindful of the administration's concerns and the potential harm that this legislation can cause to our Nation's credit markets before casting their vote on this measure.

□ 1700

Mr. McKINNEY. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. Stangeland).

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 6100. I, too, wish to congratulate Mr. Oberstar and Mr. Clinger on their fine accomplishment in the formulation of this important legislation.

While I am a strong supporter of the President's economic recovery package, I feel that the changes to EDA proposed in H.R. 6100 would enable that Agency to complement the enterprise zone concept as well as work in concert with the community development block grant and urban development action grant programs to provide a balanced approach to economic development.

Coming from a primarily rural district and one which has an unemployment rate in some areas as high as 26 percent, I can see the need for a program of the type envisioned in H.R. 6100, one which not only allows but requires local initiative and involvement in the economic development process.

The realistic approach that this bill takes by focusing on the role of the private sector and requiring the development of a workable strategy makes it a sound and reasonable means of assisting our Nation's distressed communities.

I have cosponsored this bill, I believe it can transform EDA into the effective Agency it was created to be, and I urge you to support passage of this important measure.

Mr. McKINNEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. McEwen).

Mr. McEWEN. Mr. Chairman, I rise in support today of H.R. 6100, the National Development Investment Act, and in particular, the provisions in title II which concern the Appalachian Regional Commission. Title II of H.R. 6100 revises and extends the Appalachian Regional Development Act to allow for a "finish-up" of the area development projects by 1987, and of the Appalachian highway program by 1990.

The rural community, and in particular the Appalachian communities, often lack the basic infrastructure needed to achieve economic development and are frequently unable to obtain, without assistance, the resources needed to develop these areas on their own. H.R. 6100 provides the

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incentives, the plans, and the resources needed to give these communities the assistance they so desperately require to bring themselves to economic self-sufficiency.

There has been no greater catalyst for development throughout the Appalachian region than the Appalachian Highway System. By September of 1981, 1,730 miles of the highway had been completed of the 3,033 miles originally intended for improvement under the Public Works and Economic Development Act of 1965. With the passage of H.R. 6100 and the execution of the finish-up program outlined in title II, the critical remaining gaps along the Appalachian highway would be constructed. In Ohio, alone, over 90 percent of the proposed system would be completed under the funding plans of this legislation.

Moreover, the increasing importance of the Appalachian Highway System to the entire Nation is growing evermore apparent. By 1980, over 50 percent of the traffic using the Appalachian Highway System was for coal transportation. With the completion by 1990 of the finish-up program for the highway system, the potential for coal transportation will be significantly increased. Each additional finished mile of this system helps to break down the isolation of the Appalachian communities, and assists in linking the remainder of our Nation to these resource-rich areas.

I wish to further emphasize that the funding recommendations for the highway system have been reached only after careful consideration of both the reduced Federal funds available and the commitment made to the Appalachian regions under the Appalachian Regional Development Act of 1965. The already completed portions of the highway have been built with a Federal investment of $2.8 billion. Title II of this bill provides $215 million for the highway program in 1983, and an additional $2 billion for highway construction through fiscal year 1990. The intent of H.R. 6100 is to concentrate on those stretches of the system deemed to be the most advantageous and necessary routes, and to accelerate their completion. To reap the greatest benefit from the already completed 1,700 miles and $2.8 billion investment, the critical gaps left unfinished to date must be constructed.

A large and important part of the newly proposed Appalachian Regional Development Act Amendments of 1982 is the emphasis placed on an increased role for private investments and job creation. In drafting this legislation, attention was directed toward increased private sector financial contributions and additional local government support for the programs. Such strong local and federal coordination is crucial to the completion of the Appalachian Highway System and the future economic development and self-sufficiency of the Appalachian regions.

Given the New Federalism which has been become such a resounding theme in our Nation today, and the broad-based public support for this approach, it is our responsibility in Congress to help stimulate and motivate the private sector to actively participate in solving the problems currently facing our society. H.R. 6100 and title II, the Appalachian Regional Development Act Amendments of 1982, provide these incentives along with the necessary funds to help those in the Appalachian regions to help themselves, and in turn to help our country. I urgently request the serious consideration and support of my distinguished colleagues for H.R. 6100.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I wish to congratulate both the gentleman from Minnesota, Mr. OBERSTAR, who chairs this Subcommittee on Economic Development, and the ranking minority member, Mr. CLINGER of Pennsylvania. Both are very knowledgable of this subject matter and have been extremely conscientious in putting this fine piece of legislation together. I rise in support of H.R. 6100. The basic aim of the National Development Investment Act is to encourage public officials and private enterprise to work together to help solve the serious problems of high unemployment, decaying infrastructure, and lack of capital in distressed areas, currently facing many of our urban and rural communities.

This legislation has been carefully crafted to eliminate the problems of the original Economic Development Act. Eligibility criteria have been tightened, local governments will be required to work in cooperation with the private sector, and the Federal share of development money has been reduced to 50 percent for capital projects to assure local commitment.

The program will no longer continuously feed communities which are not helping themselves, but will instead require a commitment by the community to work toward successful economic improvement.

Given the current poor fiscal condition of our States and localities, it is imperative that the Federal Government continue to assist local communities in their efforts to promote economic development. Productivity and growth will be further eroded if our local economies continue to deteriorate.

I urge your support of this measure.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. SAVAGE).

Mr. SAVAGE. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act. I favor its not only keeping but also improving programs currently under the Economic Development Administration.

This bill addresses past problems and criticisms of EDA by sharpening our focus on current economic development needs.

More specifically and most importantly, I support it because it will ease our present staggeringly high unemployment rate by promoting private and public sector jobs. Moreover, it represents a renewed recognition of the pressing need to maintain our public infrastructure, such as roads, water and sewer lines. In addition, I support it because it provides loans for capital for small business development, and begins to deal with the workers' distress when a plant closes or relocates.

Of course, in terms of how great are our needs, $500 million a year is very little, and this proposed revitalization of our Federal economic development program is a bit late. Yet, it will do more than save this program, which now is scheduled to be phased out—it will begin correcting and rebuilding it.

Indeed, now more than ever, it is vital that we maintain our Federal concern for reasonable employment opportunities, economic development, and the maintaining of our public infrastructure.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BLANCHARD), chairman of the Subcommittee on Economic Stabilization of the Committee on Banking and Currency, which worked with us on this legislation.

Mr. BLANCHARD. Mr. Chairman, I would like to commend the chairman of the Committee on Public Works and Transportation and its members for crafting and moving out of committee a very fine piece of legislation. I am glad we on the Banking and Currency Committee played a small part in it, and I support the bill.

Mr. Chairman, this country needs the National Investment Development Act. Many communities in this Nation are suffering economic distress, and some, including my own State of Michigan, are facing the worst economic problems they have known since the Great Depression.

The Federal Government has a responsibility to help these areas help themselves, and I believe the program embodied in this legislation while it will not solve all the economic ills, will give some stimulus and some help to these states and communities and areas to get their economies back on the right track.

There are a number of aspects to the National Investment Development Act program which I think represent an

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improvement over the past EDA programs, and which I believe will result in a more efficient, and in the long run, a more productive use of Federal funds. First, the program is truly targeted to truly distressed areas. The distress is measured by unemployment or by per capita income, and once the distress criteria can no longer be met, no further assistance would be forthcoming. There are many areas in this country which could put Federal assistance to good use, but with the limited funds authorized in this bill, this targeting will put the money where it is most needed.

Second, the requirement that the Federal funds be matched by the recipient area will not only spread the limited Federal monies, but will represent a true commitment on the part of the recipient area and, I believe, a careful and more productive use of those moneys.

Third, the emphasis in the program on private sector involvement is an important step toward a realistic and lasting economic development program. Governments must do their part but true economic growth requires investment and involvement of the private sector, for that is, after all, where the jobs and the economic vitality are.

Finally, and perhaps most important of all, this bill puts the planning and decisionmaking in the hands of the States and areas and communities instead of the Federal Government, which has been the case all too often in the past. In the decade-and-a-half since the EDA was first created, our States and communities and localities have become the real experts on what economic development is all about, and what their needs and assets are and how they can best be coordinated and utilized. Under this program, they will make the decisions, and the Government's role will be that of a "helping hand," which I think is as it should be.

This is a good bill, Mr. Chairman, and one which the country badly needs. I want to commend Chairman HOWARD and Chairman OBERSTAR, and their colleagues on the Public Works Committee from both sides of the aisle, for spending the better part of a year examining all aspects of the Economic Development Administration programs and fashioning a program tailored to the times and to what they have learned works best. This is a carefully thought out and workable program. I am pleased that the Banking Committee has had a hand in bringing this bill to the floor. I urge my colleagues to support it.

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. DUNN).

Mr. DUNN. Mr. Chairman, I would like to begin by also complimenting the ranking member of the committee, the gentleman from Pennsylvania, as well as the distinguished chairman, the gentleman from Minnesota. I wonder if I might have the attention of the chairman for a couple of questions.

I attended one of the gentleman's hearings, and some of the reservations that were expressed at those hearings have indeed been addressed in the gentleman's bill, but nevertheless I still have a couple of reservations, one of them being a similar conduit for revitalizing areas, that being the Economic Development Corporation. Under that scenario local planning units, local banks, local businesses all get together and indeed decide what is best for their community and go about it through the route of tax-exempt revenue bonds.

I wonder if that is not a more efficient way for a local government to decide what its needs are than what the gentleman proposed here in the bill.

Mr. OBERSTAR. If the gentleman will yield, the concept the gentleman has expressed is one that is parallel to the concept of this legislation but does not have within it the feature that I think is a central part of this legislation, which is the up-front infrastructure funding available to a community that money that is needed to invest in water and sewerlines and streets and industrial park development. The concept the gentleman has described does not incorporate that.

Mr. DUNN. The up-front cost brings me to the second part of my question. When we talked again at the hearing about the communities that are about to lose a large employer, and the bill provides for funding for those, can the gentleman give me an example of the type of funds for, say, an area that does not currently have unemployment but is about to lose a major employer? What kind of grant would they be seeking under the bill the gentleman is proposing?

Mr. OBERSTAR. They would be working to develop a strategy for investment of resources to replace the business that would be lost by, say, a military base closure or loss of a major industry. To give the gentleman an example, in northeastern Minnesota a few years ago there was a question as to whether Reserve Mining Co., a major iron ore mining facility, would be forced to close because of environmental questions. A grant from the Economic Development Administration helped an entire county to plan for alternative economic development in the event that industry should close. As it turned out, the industry did not close. The county used those plans to develop alternative industrial development opportunities, which have been an important supplement now that that industry has not closed, to help their economy.

Mr. DUNN. What the gentleman is basically saying is that it would be used for this planning strategy.

One final question. I have heard many jokes in the last few years about EDA being used to provide funds for fast food restaurants and such.

On page 6, at line 18, section 2 reads:

> "(2) revolving loan funds to promote the establishment and growth of small businesses and to retain indigenous firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs;

Is it the chairman's opinion that this language is indeed strong enough, specific enough to limit these type of business out of this type of grant application?

Mr. OBERSTAR. In the context of this legislation, the Federal Government is not making the decision for the local government as to what type of investment is best for that community. It is up to the mayor, the council, the local economic development committee, to decide what they need, what suits their local condition best and will best create jobs. We are not attempting to prejudge or to eliminate any kind of investment.

Mr. DUNN. If I might continue, in looking to revitalize an area I do not believe the gentleman would do that, but suppose the example I used of a new McDonalds, could that be creating some sort of new industry in that area? I have a reservation as to whether the gentleman's language here is specific enough.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CLINGER. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DUNN. I will be glad to yield.

Mr. CLINGER. I think the example the gentleman cited of McDonald's really would not apply to EDA. That sort of thing, I think, has been criticized on the industrial bond program, and so forth, but I would really question whether EDA has ever financed a McDonald's. I think they have focused and limited their money to the kind of job generating we are talking about, basically industrial development.

□ 1710

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from Delaware (Mr. EVANS.)

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act.

I, too, would like to offer my congratulations to the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD), and the ranking member from California (Mr. CLAUSEN), and especially, to the chairman of the Economic Development

Subcommittee, the gentleman from Minnesota (Mr. Oberstar), and the ranking minority member the gentleman from Pennsylvania (Mr. Clinger), all of whom have done an outstanding job; and to the gentleman from Ohio (Mr. Stanton), and to the chairman of our Subcommittee on Economic Stabilization and our ranking minority member on Economic Stabilization, the gentleman from Connecticut (Mr. McKinney) and the gentleman from Michigan (Mr. Blanchard).

Over the years I have seen the Economic Development Administration up front, at first hand, as director of development for the State of Delaware back in the late 1960's. I saw some outstanding results.

More recently, through EDA assistance, Delawarans have benefited from the construction of a containerized cargo crane at the Port of Wilmington, the construction of a vocational skills center at Goldey Beacom College, and the construction or the beginning of construction of the Marine Industrial Development Park at Lewes, which is the southern campus of the University of Delaware.

Badly needed jobs have been created and others saved with the investment of relatively few Federal dollars in projects such as these in Delaware.

We need to develop the factors that affect economic development and mean more permanent jobs for American workers. This bill is designed to do just that.

Despite the fact that my friend and our former colleague from Michigan, Dave Stockman, now the Director of the Office of Management and Budget, opposes this bill, we have a responsibility here in this body, under the Constitution, to act independently.

I think this is a wise investment of the limited resources we have available to us.

I must also point out to my colleagues, however, that I have seen EDA make some serious mistakes for which it has been quite appropriately criticized by many, including this administration.

The bill before us today corrects many of those mistakes and many of those problems have been solved under this bill and it adapts the original goals of the act to the economic realities of the 1980's.

The gentleman from Minnesota and the gentleman from Pennsylvania have both pointed out that the level of eligibility has been reduced from 80 percent to close to 40 percent of the Nation.

I will not enumerate on those reasons and those many areas that the bill has been changed except to emphasize that the bill insures that funds go only to areas of greatest need but also where they can realistically produce the greatest results: more productive jobs in the private sector.

Another key element of the legislation is its emphasis on coordination. No longer can we as a nation afford to federally finance isolated public works projects; we cannot do that in a haphazard manner anymore, and this bill takes that into account.

This legislation will not solve all the economic ills of our Nation but it certainly is a major step in the right direction. It provides a new approach to economic growth and development.

No longer will projects be funded in that haphazard manner. They must be a part of a cohesive and a workable investment strategy.

The community itself must take an active and responsible role in the development process. It must look to the private sector as a necessary component for any meaningful economic growth to take place.

Mr. Chairman, taking this realistic approach, the National Development Investment Act is one of the most significant initiatives of this type that the Congress has considered in recent years. I support it strongly. It is reasonable. It is rational. It is the way to target our limited resources in the most effective manner possible and produce jobs for Americans.

The CHAIRMAN. All time of the gentleman from Pennsylvania (Mr. Clinger) has expired.

The gentleman from Minnesota (Mr. Oberstar) has 12 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Lundine).

Mr. LUNDINE. Mr. Chairman, I rise today in strong support of H.R. 6100, the National Development Investment Act. This legislation, which provides a new authorization and focus to replace the soon to expire Public Works and Economic Development and Appalachian Regional Development Acts of 1965, is critically needed to bring about national economic revitalization.

The promotion of a partnership between the Federal Government and local communities that is based on local initiative and long-range investment strategies is an important ingredient to insure that the structural adjustments are made in our economy that will support industrial growth. Such local long-range investment strategic investment planning must involve the private sector to a much greater degree than in the past. H.R. 6100, recognizes this and encourages private sector leveraging of local investment strategies.

I want to particularly commend the committee for including a provision in this bill on employee ownership. By doing so, this bill responds to the needs of employee purchasers to have access to capital and technical assistance. Such assistance is particularly important in cases where employees seek to purchase plants or firms which otherwise would be shut down. I am pleased that this legislation directs EDA to give priority attention to instances where employee-ownership efforts can prevent plant or business shut down.

Employee stock ownership plans (ESOP's) have grown significantly in recent years; there are more than 5,000 of them in America today. Most of these ESOP's hold only small percentages of a company's stock; Nevertheless, such stock plans can facilitate the capital expansion of a business, broaden the base of ownership, and provide an incentive for improved productivity.

In a small but growing number of cases, however, ESOP's have been used by employees to acquire a majority interest in a firm. A 1980 report by the Senate Select Committee on Small Business noted that there were more than 250 firms of 10 employees or more that are majority owned by their employees. This report went on to note that the motivation of roughly 70 percent of these employee purchases was to preserve jobs. The success of this option has been examined and confirmed over the last few years during hearings by the House Banking Committee on which I serve, the House Small Business Committee, the Senate Finance Committee, and the Senate Select Committee on Small Business.

Experience suggests that there are at least three major reasons, in today's economy, why businesses which are on the brink of closing can be kept afloat as employee-owned firms. First, a particular division of a conglomerate may suffer from absentee management. If, instead it is guided by those at the plant level who are familiar with its products and operation, performance may well improve. Second, a plant may be "trapped" within an older, declining firm, even though its own operations are profitable. Third, in this era of fast tax writeoffs and frequent mergers, a parent company may even abandon plants which are still profitable in search of greater returns on investment.

The Federal financial commitment to employee ownership contained in H.R. 6100 will be crucial in leveraging private credit to new or potential employee-owned businesses. The technical assistance that will be provided by this bill recognizes the need for help to employee-owned firms in redesigning their organizations to insure employee participation in management decisions. Finally, the direction to the Secretary under this bill to conduct feasibility studies in employee ownership cases will assure the best use of Federal resources and enable EDA and local governments to factor the possibility of employee ownership into a comprehensive local development strategy.

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The employee ownership provisions of this bill build upon the limited but important involvement of EDA in employee ownership ventures over the last few years. Under the current title IX program, EDA has assisted about a dozen employee purchases of plants and businesses.

The advantages of such assistance is no more vividly illustrated than in a case which enabled the employee purchase of a specialty steel corporation which was about to be shut down in my congressional district in Dunkirk, N.Y. In 1976 EDA granted $10 million to the State of New York which was, in turn, loaned to 35 management employees to purchase the Al Tech Specialty Steel Corp. Since then, the record of Al Tech has been very successful. Perhaps the most impressive fact is that within the first 2 years Al Tech employees paid more than $10 million in Federal income taxes alone. Obviously, when one considers in addition, business taxes, State and local taxes, and the $25 million which the firm contributes annually to the local economy, EDA's assistance is easily justified.

There are many other success stories owing to employee ownership which we could discuss here today. The general success of ESOP's and employee ownership has been confirmed by studies conducted by the Survey Research Center at the University of Michigan and the Journal of Corporation Law. The latter study found, for example, that labor productivity in ESOP firms had grown at a rate of 1.5 percent higher than in non-ESOP businesses.

Before concluding, Mr. Chairman, I would like to take a moment to also commend the committee for their action in including in this legislation an extension of the Appalachian Regional Development Act to complete the area redevelopment program and the Appalachian highway system.

This has been a very successful program in the northernmost reaches of Appalachia, which I represent, and indeed throughout the whole of Appalachia. The Appalachian highway program, in particular, has been critically important to the upstate New York area and has been instrumental in the construction of the yet to be completed Southern Tier Expressway, to enable the critical linking of western New York to the rest of the State. Travel time from upstate New York to New York City has been reduced already from 10 hours to 7 hours. I think you can appreciate the importance of this development.

In summary, Mr. Chairman, I offer my strong support to the provisions of H.R. 6100. It offers the kind of Federal targeted assistance to local initiatives that is desperately needed to modernize our industrial base and economically depressed areas to insure a stable foundation for economic growth in the future.

Mr. OBSERTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. Mottl).

Mr. MOTTL. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act.

As a Representative from the Cleveland area, I have seen and been part of that city's gallant fight back from severe economic straits. We still have a long way to go, but we will make it. We need the kind of assistance provided in the National Development Investment Act.

The Public Works and Transportation Subcommittee on Economic Development held a hearing in Cleveland last January, to explore the problems of urban unemployment and to obtain insights into how economic development legislation could better serve larger, older cities like Cleveland, as well as other parts of this country.

I was privileged to take part in that hearing. We heard from 16 witnesses, including Cleveland's director of economic development, and the Greater Cleveland Growth Association, as well as spokesmen for other Ohio cities, contractors, and unions.

Cleveland is one of the finest examples of Federal, local, and private cooperation in pulling the city from bankruptcy back to hope. The city was and is, like many similar, older manufacturing cities, suffering from a long-term loss of industrial job opportunities and population. In recent years, however, it has decided to fight back.

The new mayor established an operations improvement task force, composed of the city's top business leaders and management professions, to undertake a top-to-bottom analysis of the city's operations. The task force recommended major management recommendations, and worked with the city administration on almost a weekly basis to assist in their implementation.

The city, the Greater Cleveland Growth Association, the Cleveland private industry councils and private interests have joined together in one of the largest technical assistance efforts in the country to help local businesses secure Federal contracts.

Cleveland has organized a major citywide development corporation, which may ultimately be responsible for administering its $1 million EDA revolving loan fund. It is already a very aggessive SBA section 503 corporation.

The city has significantly expanded its urban development action grant program capacity.

It is moving ahead to develop major areas around the EDA-assisted Playhouse Square theater complex, and is pulling together a major neighborhood commercial revitalization program, which will be supported by community development block grant funds, and which will begin bringing jobs and business capacity back to its neighborhoods.

Cleveland is also laying the groundwork for designation as an enterprise zone.

As I said, Mr. Chairman, we still have a long way to go. But now the city has the hope and determination, and the tools to pull itself out of its past troubles.

In recent years it has resourcefully used assistance from EDA, and will be in a prime position to take full advantage of the economic development tools provided by H.R. 6100.

At our hearings last January, the city and the Greater Cleveland Growth Association both provided considerable insights into the economic development process, many of which were incorporated into H.R. 6100.

I urge my colleagues to give the city the chance to benefit from the assistance which will be provided by the National Development Investment Act.

□ 1720

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. Albosta), who has played a very significant role and dedicated many hours to the formulation of this legislation.

Mr. ALBOSTA. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act. This legislation will continue the Economic Development Administration programs and will target these programs to those areas of the country most in need of economic assistance.

As a member of both the Subcommittee on Economic Development and the full Public Works and Transportation Committee, I participated in countless hearings concerning EDA programs and proposals to change these programs. In fact, I brought the subcommittee to my own State of Michigan last December to hear directly from representatives of business, labor, and government on what needs to be done to help areas like Michigan rebuild their economy.

Out of these hearings came H.R. 6100, a well-thought-out piece of legislation that uses specific criteria to determine an area's economic problems and then requires that a development strategy be put together before any Federal money is spent. This new EDA program will enable the Federal Government to get the maximum bang for the buck.

By providing grants to communities for the construction of industrial parks and the necessary water and sewer lines, EDA gives a community the tools to build a solid economy by being able to attract new business in or expand existing firms. In Michigan, for example, EDA during the past 16 years has provided $90 million in public works grants for industrial parks and water and sewer line expansion. At the same time, $34 million in business loans were made to Michigan companies willing to locate a new or expand an existing facility in the high-unemployment areas of the State. As a result, approximately 25,000 new jobs have been created.

In a State with record unemployment we need this type of a program to help put Michigan on the road to recovery. EDA by itself will not cure Michigan's economic problems. But EDA will give us the tools we so desperately need to start the rebuilding process.

EDA is a proven program combining both Government and industry efforts to improve our Nation's economy. The National Development Investment Act will make the EDA program even more effective and I strongly urge my colleagues to approve H.R. 6100 as passed by the Public Works and Transportation Committee.

Before concluding, I would like to compliment the gentleman from Minnesota, the distinguished chairman of the Subcommittee on Economic Development for his outstanding leadership in working to preserve EDA and improve its programs. I would also like to compliment the gentleman from Pennsylvania, the ranking minority member of the subcommittee for his fine work on the EDA legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. Bouquard), a member of the subcommittee.

Mrs. BOUQUARD. Mr. Chairman, I would also like to express my appreciation to our chairman, the gentleman from Minnesota, Mr. Jim Oberstar, for his outstanding leadership, as well as the gentleman from Pennsylvania (Mr. Clinger) and all who have had an active part in making this legislation a reality.

Mr. Chairman, economic development assistance is needed for the Nation and the opportunity for a transition from the Appalachian Regional Commission to alternative funding sources is a necessity for Appalachia. We cannot continue to see progress slip through our fingers. That is why I am supporting H.R. 6100. It incorporates the finish-up program proposed by the Governors, who made it explicitly clear what should be done, how they would accomplish the unfinished task, and how much funding they felt was needed.

ARC has raised the expectations and given self-esteem to the people of my district and all over Appalachia. The Governors have made good decisions as to what is needed to be done. In my district alone, things have changed dramatically. ARC has assisted 53 vocational education centers and 9 recreation facilities with over $7 million. These are things people take for granted, but they were absent before ARC.

We have been able to put in utility systems water-sewer projects servicing our citizens in several counties. Thirty of these bicounty projects received $7.9 million in ARC assistance. We now have waste treatment plants. Both of these help us with our industrial development and attraction and expansion of industry. In all, 114 community development projects in my district have received $18.4 million Appalachian funds. Transportation has been improved. Under the Governors' program corridor J could largely be completed, shortening commuter and transportation distance to Chattanooga. Our port development projects will help business and industry, and create badly needed jobs.

During the period of the Appalachian program, earlier outmigration was reversed, and population grew substantially. Between 1960 and 1980, it increased by over 117,000. Personal income rose from 77.4 percent of the national average in 1959 to almost 90 percent in 1979 and those living in poverty dropped from over 34 percent to 16 percent of the population.

However, the recent economic problems in the Nation have been felt especially hard in my district. Unemployment, which had been below the national average, has now risen to 12.6 percent in Hamilton County—almost 3 percentage points above the national average of 9.8 percent. My district, and our State need time to adjust to the changing economic conditions, and to find alternative funding sources as the Appalachian finish-up program is completed.

Furthermore, we still have pockets of major deprivation. For example, much remains to be done in Meigs County. They need basic community facilities. I know there are other such counties in Appalachia. We cannot let them down. The finish-up program would provide special assistance for these counties.

H.R. 6100 incorporates the Governors' finish-up activities for the region. It is a reasonable request. I think it is frugal; I like it because it is targeted, but most of all the finish-up fulfills the promises made in 1965.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. Eckart).

Mr. ECKART. Mr. Chairman, I thank the chairman of the subcommittee and fellow Slovene for the fine work he has done, and also my colleague, the gentleman from Pennsylvania for his great work.

Mr. Chairman, today we have the opportunity to relieve some of the vast human suffering of this country's millions of unemployed. The legislation before us, H.R. 6100, proposes a modest economic development program that emphasizes comprehensive planning to create and retain desperately needed jobs. The unemployed do not want a dole—they want dignity and a job. H.R. 6100 will help to give them both.

The measured approach of this legislation insures that its benefits reach only those truly in need. Its eligibility criteria are both rigid and fair: Unemployment must be higher than the national average for the preceding 24 months, or per capita income must be lower than the national average, or unemployment must rise suddenly as a result of a plant closing, and so forth.

In northeastern Ohio, unemployment is almost mind boggling. Just when we were hoping that the economic tide was turning, we got more bad news—another 360,000 out of a job nationwide this month. The people of northern Ohio will not wait much longer for relief—indeed they cannot wait much longer.

In addition to being a very personal tragedy, unemployment also takes its toll on the community. The shutdown of a factory means more than the loss of the factory workers' jobs—it means that the nearby gas stations, drugstores, and supermarkets also suffer because their customers no longer have the money to patronize their businesses. While this has turned into a national tragedy, this administration has been painfully slow to respond.

If we pass this bill today, we show America's unemployed that we are willing to respond to their needs. We show that we are willing to take concrete action that will help to relieve suffering, rebuild our industrial base, and put people back on the job.

Not at all surprisingly, this legislation is strongly supported by the U.S. Conference of Mayors, the National Association of Counties and many labor organizations, among others. These organizations recognize the importance of a revitalized economic base; if we can work together to rebuild the badly decaying infrastructure in this country we will again bring businesses back to what are now the distressed areas of our Nation. Such a revitalization will have a ripple effect on our Nation's economy as a whole, thereby creating more jobs for more people who want to work.

In conclusion, I believe that this legislation is especially critical because it establishes a structure within which Federal, State and local governments can work together to promote development, preserve our Nation's beleagured infrastructure, and create jobs. Let us all work together to help put our people back to work.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6100, legislation to amend the Public Works and Economic Development Act of 1965.

The legislation, the National Development Investment Act, is vital to the programs of the Federal Economic Development Administration, an agency which—since its inception—has proven to be an important source of funds to help distressed areas combat high unemployment.

In our current period of national recession, it makes no commonsense—in the name of budgetary responsibility—to curtail the proven worth of EDA's record in providing a variety of flexible programs to help local governments put people to work, to construct badly needed public facilities and infrastructure and to undergird the private sector in a partnership with public governments in setting up and financing new business enterprises.

I want to commend the gentleman from Minnesota, Mr. OBERSTAR, for his patience and diligence in building a sound record in the hearings as chairman of the Subcommittee on Economic Development, and in modifying and improving the programs contained in the legislation before us today.

Both the majority and minority members of the House Public Works and Transportation Committee are also to be commended for their diligence in reporting this legislation.

In Puerto Rico, the various programs of EDA have given our island economy a variety of programs to help combat unemployment. No other Federal agency in the broad field of economic development has—since 1966—responded with effective grants, loans and other types of Federal assistance to help stimulate our local economy.

The modification of programs which H.R. 6100 provides for will build upon the expertise of EDA to provide basic economic development tools at the local level. It contains provisions which enable EDA to work with State and local governments in developing a long-range development investment strategy, one geared to the unique problems of any area.

The legislation authorizes $500 million in each of the next fiscal years for economic development programs, and continues the work of the Appalachian Regional Commission highway program.

On the national level, the legislation creates a new grant program for the establishment of a locally administered revolving loan fund, used to either retain existing businesses or stimulate new enterprises.

The committee has wisely included language that makes any community wishing to participate in this loan fund provide the necessary loan management capability.

The eventual assistance that conceivably could be provided to small businesses on the local level will be another stimulus to the private sector, and one that will help mayors and local communities provide the "seed capital" so necessary to help new enterprises in the startup stage.

H.R. 6100 is a sound, reasonable bill and one which offers a measure of hope to those areas of our Nation which have been battered by the national recession.

It leaves to local initiative and the private sector considerable flexibility to help turn this economy around.

Puerto Rico, I note particularly that from 1966 to the present, the Federal Economic Development Administration regular programs has provided $113 million in public works, business loans and guarantees, technical assistance, planning and special programs to help the Puerto Rican economy.

H.R. 6100 would continue that record. It makes no sense to completely phase out an agency that involves the private sector so effectively as EDA has done over the years.

I am in strong support of the legislation and hope that all the rhetoric we hear about the need to involve the private sector is one that will be backed up by more than words, as we do in this bill.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Puerto Rico for his fine statement and for the support he has given to this program which has been so important to his area.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I rise in strong support of this legislation.

Through the years I realize that there have probably been, without question, some abuses or perceived abuses of EDA. In my particular area I have been very pleased with the effectiveness of Appalachia, as well as EDA. It has done a tremendous job in working with the private sector to bring truly an industrial base that is bearing fruit today. In most of my 23 counties we have shown an increase in population over the last 10 years. As a matter of fact, my district had grown more than any other single congressional district in the State of Georgia during the past 10 years.

□ 1730

During the previous 10 years, it was the lowest in population.

These programs have worked in my particular area. I urge the Members to support this legislation. I think it is truly an area that we can help make people taxpayers rather than tax eaters.

A wise use of the public money is to provide for water and sewage facilities, roads, industrial parks and similar facilities to promote the expansion of the industrial base of this Nation. We cannot provide the necessary jobs for our jobless, not the necessary tax base to provide for the needs of our population, unless and until we have the needed services to support new or expanded plant sites. EDA and ARC have proved their worth. I sincerely hope this House and this administration will support their continuation. I urge the support of this bill.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act, a vital bill which provides continued and revitalized programs for economic development through 1985.

This bill is a consensus bill, a result of countless hearings both here in Washington and in local communities of high unemployment which have used funds like these in the past to provide the needed stimulus to build industrial parks and public facilities to encourage the establishment or expansion of industries. I would like to point out to the critics of these programs that over a 17-year lifespan EDA alone has created 1.5 million jobs, $4.7 billion in local development initiatives, and over $9 billion in additional investment. Because of these figures I will have to conclude that the program pays for itself with the tax revenues created by the additional jobs.

Let me relate to my colleagues some specific examples of how the economic development program has helped to not only maintain employment but also to create additional jobs in northeastern Pennsylvania, the area of the country which I proudly represent.

One of our local hospitals, because of an EDA investment of only $264,000, together with $70,000 of local funds, managed to save 157 jobs which would otherwise have been lost.

A local industrial park using $230,000 of EDA money together with $400,000 of private money created an initial 300 jobs with an estimated payroll of $4 million.

In another instance, 1,200 new jobs were created when $455,000 of EDA money was used to expand an existing facility. The project generated $2.5 million in State and private investment and the EDA investment per new job was only $2,400.

This measure addresses past criticisms including criteria which was too broad to make the program truly effective by eliminating the one-time, permanent designation and requiring an applicant to requalify every time it applies for assistance. The bill retains grants to aid local communities in the construction of public facilities and improve basic infrastructure necessary to support continued economic development activity. It provides emergency assistance to localities suffering from a sudden and severe economic dislocation of industry. It addresses the serious problem of shortage of capital resulting from lingering high interest rates by making revolving loan money

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available for business expansion and retention.

My friends, this period of extended high interest rates and chronic unemployment have placed a tremendous burden on communities across our Nation. Job creation, business expansion, and the construction and maintenance of public facilities have been slowed to a standstill. Programs such as these have long recognized the need for some type of national economic development program for regions of our Nation which suffer from regional economic disparities. The programs have proved successful in the past and with these streamlined revisions promise to help spur economic development for the next 5 years.

I urge my colleagues to vote for passage without amendments.

● Mr. GEJDENSON. Mr. Chairman, I rise in strong support of H.R. 6100, the Development Investment Act. At a time when the administration is calling for the phaseout of the Economic Development Administration, the committee is to be commended not only for reauthorizing a well-proven vehicle for job creation and economic recovery, but for refining the program to address current needs.

Many distressed areas are hindered in their ability to attract businesses because they lack an adequate infrastructure—roads, sewers, transit services, waterlines—sought by firms seeking to open new plants or expand existing ones. The decay is most acute in older industrial areas, where years of use and inadequate maintenance have led to serious deterioration. According to the 1981 Connecticut Department of Transportation report of the "Condition of State Roads and Bridges," over 60 percent of the highways and bridges are in less than good condition. It was noted that although the useful life of a bridge is 50 years, Connecticut has 700 bridges that are over 50 years old.

H.R. 6100 leans EDA's focus more toward infrastructure repair and rehabilitation. The decay of these public facilities has become so extensive that it is beginning to impede economic recovery. This bill provides the stimulus needed to overcome years of capital neglect.

In addition, H.R. 6100 puts added emphasis on small business, targeting its assistance to smaller firms as defined by local communities. This is accomplished by establishing grants, for use in revolving loan funds, that would be used to attract new firms or to provide incentives for existing businesses to remain in the area.

Seven years ago, Connecticut responded to the last major recession by matching State economic recovery programs with EDA funding. In my own district, we saw the creation of the Killingly Industrial Park, a major source of employment. The Federal EDA has proved to be a vital tool for providing employment stimulation and business development. The need for this Federal/State partnership is needed more than ever in light of the present recession and high interest rates. Just as EDA has been an essential vehicle in aiding troubled areas, its services remain essential now to bridge the gap to better economic times.

I urge my colleagues' overwhelming support of the bill that is before us.●

● Mrs. HECKLER. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act, a bill that is essential for the economic well-being of thousands of towns and cities in this country.

Throughout my tenure in this House, I have witnessed the vital role played in my congressional district by programs funded under the auspices of the Economic Development Administration. Many of the towns and cities in my district have had to contend with industries that have either folded or left the area, due in part to massive amounts of imported goods. And, while I have made every effort to stem this seemingly endless flow of imports, the municipalities left reeling by economic dislocation have needed and will continue to need Federal assistance.

The localities who have been hit hard by unfair foreign competition and other economic difficulties are more than willing to work hard and lift themselves up by their bootstraps; first, however, they need to have bootstraps with which to lift themselves. Over the years, Federal economic development programs have helped provide some semblance of stability as local economies seek ways of creating job opportunities and fostering business growth.

Mr. Chairman, I believe that the bill before us makes an effective program even more effective. By limiting funding to those areas in real distress, we will be getting more development for the taxpayers dollar which is absolutely necessary for the continued success of the program. In hearing comments from the officials of the Southeastern Regional Planning and Economic Development District, who have developed and administered economic development plans with the highest level of ingenuity and competency, I recognize the strengthening and sharpening of this program by H.R. 6100. At the same time, I recognize that there is still a great need for the development assistance provided in the bill.

Mr. Chairman, I urge the adoption of this bill to spur the revitalization of the distressed areas of our Nation.●

● Mr. ROGERS. Mr. Chairman, in the early 1960's, one of the most serious problems in the Appalachian region was the lack of adequate health care.

Evidence of the problem was widespread. Throughout the Nation, there were 50 percent more doctors per 100,000 people than in Appalachia. Death from infectious diseases was one-third higher than the national average. Tuberculosis death rates were 40 percent higher, and infant mortality rates were twice the national average in many counties. Outside cities, health care facilities were almost nonexistent.

ARC recognized that adequate health care was essential to economic development. The Commission moved in quickly to correct the problems by funding a network of clinics and hospitals, with a goal of putting a primary health care facility, often staffed by a nurse practitioner or physician assistant, within 30 minutes' driving time of every person in the region.

In the vast majority of Appalachian communities, the objective has been met, with commendable results. The Commission's primary health care program has become a model for the national Rural Health Initiative program. ARC funds spent on training and recruitment of health personnel have helped produce a 30-percent increase in the number of physicians alone.

But, at the end of 17 years, some 60 counties in the region remain outside the health care network. ARC aims to complete this network with some of the funds requested in its finish-up program, which we are considering here today. In addition, the Commission will continue its effort to bring more physicians to Appalachia through a special recruiting program that is already underway.

ARC will also commit some of its finish-up money to further reduce infant mortality rates, which already have dropped to near the national level in most counties.

What ARC is asking in this bill is reasonable. The plan for improvement of the region's health care, set out back in 1965 after the first ARC bill was passed, was well thought out. It requires very little more work to bring these few remaining areas up to the standard that has been achieved throughout the region.

The ARC health finish-up plan calls for $8 million annually for 3 years to be spent primarily on 82 counties identified as eligible for this funding because they have severe need for a primary care program or because they have unusually high infant mortality rates.

Because of this health care need alone, there is merit to this bill. We have here a program that has come very close to achieving what it set out to do, and we know that in 3 years its goals will have been completely realized.

The difference between success and near success may not seem like much in terms of time and dollars, but it means everything to a mother who

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cannot get her sick baby to a clinic in time. ARC projects an additional 600,000 people will gain access to those clinics if these funds are approved.

In this one part of the ARC program we have seen how dramatically careful planning and wise spending can affect the well-being of an entire segment of our population. I urge you to join me in supporting completion of this project, which has made such a vital contribution to the tremendous improvement we have seen since 1965 in the standard of living of the Appalachian people.●

● Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act, which targets those distressed areas of the Nation badly in need of development assistance for the receipt of Federal grants. I was pleased to cosponsor this measure when it was introduced earlier this year.

Many of my concerns at the time of introduction of this bill have been alleviated and I will continue to monitor the implementation of an enacted version with regard to my previous reservations—basically concerning the needs of rural areas.

By placing the responsibility for development largely at the local level, requiring a strategy for the area concerned that includes long-term goals, and by limiting Federal grants, the impetus for continuing economic development with the use of private and public nonprofit financing is reinforced. Conditions set forth in the proposal should result in realistic planning strategies for the grantees. The targeted nature of the bill should also act as a rein on uncontrolled expansion of the program, unlike the former Economic Development Act growth of coverage. This is one area in which it is especially important that the Congress maintain sufficient oversight to assure the purposes of the legislation.

Most importantly, the bill extends the authorization of the Appalachian Regional Commission programs through 1987, and ARC highway funding through 1990. With economic and budgetary realities apparently foreclosing the option of full funding for the work of the ARC, support for the finish-up plan supported by the Governors of the Appalachian States is vital. The structure of the Commission, with localities determining needs and setting priorities in conjunction with State governments, has proven an effective means to accomplish the most good for the Appalachian region. The highway system, providing vital transportation links with the surrounding areas and States, is a necessary part of the long-term economic improvement plan for the Appalachian area.

I urge my colleagues to support this important legislation.●

● Mr. PERKINS. Mr. Chairman, title II of H.R. 6100 before us today provides for the Applicachian Regional Commissioin finish-up program that was developed by the Governors of the Appalachian States.

I support this measure enthusiastically, and I believe it is absolutely necessary if we are to have continued progress toward economic stability and growth for the Appalachian region.

It would be the height of folly to terminate the work of the Appalachian Regional Commission without the orderly procedure contained in this bill. And it would be wasteful beyond belief to leave programs in which we have invested so much hanging in midair without ever reaching a successful conclusion.

I think we are well past the time of having to defend the effectiveness of the Appalachian regional development program. We all recognize that it has contributed greatly to the welfare of a region that has as great a potential as any in this country.

It was born of the sixties, and certainly has been one of the most successful development programs ever undertaken by the partnership between the Federal Government and the State.

The 1960 Census showed that over half the people of my congressional district in eastern Kentucky lived in poverty as defined by the then generally accepted standards. By 1976, that sad figure had been halved.

Twenty-three years ago, per capita personal income in that district ws less than half of the national average. In the decade before 1980, it climbed from 60 to 73 percent of the national average.

In the early sixties, unemployment had been almost three times that of the Nation as a whole. By last year, my district had gained more than 43,000 jobs.

During the sixties, there was a steady drain of population away from eastern Kentucky. That drain has now been reversed, and the 1980 census showed we had a 25 percent gain in population. That is more than twice the national average.

These changes are heartening, and have given new spirit and new hope to the people who live in our mountainous region.

No one would claim that all of these benefits have flowed directly from the Appalachian Regional Commission, but certainly no one would deny that the A.R.C. has made a significant contribution to the progress that has been made since 1960.

There is, I think, a general feeling of confidence in Appalachia—a feeling that we are on our way.

But, as the Appalachian Governors said in their report to the Congress the job is not yet done. Many districts, including my own, still lag behind the Nation in too many economic indicators. Substantial gains have indeed been made in income levels, but in the Seventh District, approximately a quarter of the population still lives within the legal definition of poverty. A third of our counties have incomes averaging only 50 percent of the national average. Unemployment today is more than one-third higher than the national average. Only 4 of the 27 counties presently in the district have unemployment rates below double digit levels. One county has an unemployment rate of 28.2 percent, and another 25.5 percent. Nine other are above 15 percent. Only four are below the national average of 9.8 percent, and they are just barely below it.

Among the 60 counties in the 13-State Appalachian region identified by the Governors' report as the most distressed and underdeveloped, 10 are in my district. Many of the communities in these 10 counties still lack the most basic public facilities. Poverty and unemployment rates are disproportionately high.

The finish-up program contained in H.R. 6100 would provide special assistance to these counties, which are Bath, Carter, Knott, Lawrence, Lewis, Magoffin, Menifee, Morgan, Powell, and Wolfe. They have a total population of 130,000.

The Governors' report finds four counties in my district, Greenup, Lewis, Montgomery, and Wolfe, as having health manpower shortage areas and which lack a primary health care program for the residents. A special regionwide health program would allow the State to respond to these health problems.

Mr. Chairman, the significant gains we have made must not be allowed to slip away as a result of Federal neglect. I want us to keep the gains and to solidify them; and I want us to move on to new gains in the counties where there is more work to be done.

I congratulate the Governors of the Appalachian States for the work they have done in drafting the finish-up agenda, and I am grateful to the committee for bringing this legislation to the floor today.

H.R. 6100 deserves our strong support, and I urge the Members to vote for it.

Give Appalachian the tools and it will finish the job.●

Mr. OBERSTAR. To conclude general debate, Mr. Chairman, I yield the balance of the time to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, as we wrap up debate on this particular bill, and move toward the amending process and hopefully the successful passage of this bill, let me just say to everyone involved, the gentleman from Minnesota, the gentleman from Pennsylvania, and the others who worked so hard, I think this is a historic moment. I think it is a time when our committee has recognized that we do have limited Federal dollars to spend, and here in this piece of legislation we have been innovative and creative, we have come up with some new ideas, we have figured out how to target our economic development dollars more carefully, and therefore helped to use those moneys resourcefully in creating jobs.

This particular bill is I think a new model for future legislation. It does what the gentleman from New York (Mr. LUNDINE) suggests. It provides for employee ownership. It does what the gentleman from Minnesota so articulately wanted to provide, and that is targeting of limited dollars to the areas of greatest need. It does what the gentleman from Pennsylvania suggests, and that is to focus in on local economic development strategies. And it does what the gentleman from Puerto Rico has just said, it looks at the private sector in terms of economic development.

I urge all of our colleagues, Democratic and Republican, conservative and liberal, those from the Northeast and the Midwest, those from the South and the West, to come together to pass this bill with a strong bipartisan commitment, and let this bill become law so that we can move back into the arena of economic development providing jobs and economic resources for the local communities.

Mr. Chairman, I rise in strong support of the National Development Investment Act (H.R. 6100). This legislation revises our Nation's economic development program by rewriting the Public Works and Economic Development Act of 1965. In addition, it provides funding for a finish-up program for the Appalachian Regional Commission.

H.R. 6100 incorporates many of the important lessons we have learned about economic development in the past 17 years—particularly about the importance of strong cooperation between State and local government and the private sector in stimulating new investment and generating permanent, unsubsidized jobs in distressed areas.

The main emphasis of the legislation is on the preparation of local economic development strategies. It does away with the project-by-project approach of the current program, calling upon communities to establish development investment strategies that concentrate resources on coordinated economic development efforts. The bill requires a community to analyze its economic problems, inventory available resources and previous economic development investments, and present a long-term timetable for specific future investments. The program's share would be limited to 50 percent of the total cost of carrying out any strategy.

The act also establishes criteria against which all strategies would be evaluated. Priority would be placed on those that have the greatest potential for success—that, for instance, leverage the most capital and produce the private-sector jobs needed for economic growth and increased productivity. No plan would be selected without evidence of substantial private-sector involvement.

Aimed at rebuilding the economic base of our Nation's distressed areas, the new bill also puts added emphasis on infrastructure repair and rehabilitation, instead of new construction, to help overcome decades of public capital neglect. It concentrates its impact on small businesses—which generate two-thirds of the Nation's new jobs—by establishing locally administered revolving loan funds to provide seed capital business startups and expansions. And, it provides assistance to promote employee stock ownership, primarily employee purchases of plants or firms that otherwise would be shutdown.

In a further refinement, the National Development Investment Act sets tighter targeting provisions—scaling back from the 80 percent of the Nation that now qualifies for assistance to only 41 percent. It narrows the distress criteria, requiring eligible communities to have either an unemployment rate 1 percent above the national average for the last 2 years, a per capita income of 80 percent of the national average, or a sudden rise in unemployment due to a major plant or base closing. These stricter eligibility criteria should help channel assistance to those communities most in need of economic stimulation.

In conclusion, the National Development Investment Act is a strategy to reverse economic decline in distressed areas through partnerships between the public and private sectors. In a time of severe fiscal restraint, it uses limited Federal resources to leverage the kind of long-term investment needed to create permanent private-sector jobs and place communities on firmer economic footings. By involving State and local government and businesses more directly, the new bill increases the chances for successful completion of projects. I urge my colleagues to support H.R. 6100, the National Development Investment Act of 1982.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment recommended by the Committee on Public Works and Transportation now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL DEVELOPMENT INVESTMENT

SEC. 101. The Public Works and Economic Development Act of 1965 is amended to read as follows: "This Act may be cited as the 'National Development Investment Act'".

"TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress reaffirms the proposition that this Nation's economic strength is derived from the health of its regions, States, and local communities, both rural and urban, and that national interest dictates the maintenance and enhancement of economic vitality at the subnational level.

"(b) Congress also recognizes that economic conditions and political relationships change and that legislation must address these changes.

"(c) Congress further affirms that this legislation is designed to make government more efficient and responsive by supporting the following principles: leave to private initiative all the functions that citizens can perform privately; use the level of government closest to the community for all public functions it can handle; utilize cooperative intergovernmental agreements where appropriate to attain economical performance and popular approval; reserve national action for residual participation where State and local governments are not fully adequate and for the continuing responsibilities that only the National Government can undertake, such as monitoring the manner in which Federal funds are used in order to ensure the carrying out of the activities for which assistance is given.

"(d) The private sector remains the ultimate generator of employment and economic growth, but the public sector must reverse decades of infrastructure neglect as a necessary concomitant to private business stability and expansion. State and local governments now have a greater capacity than in previous decades to direct their own destiny, in part because of past Federal efforts; this new capacity must be incorporated in any new legislation at the national level. America's increased involvement in international trade has brought both challenges to some industries, and opportunities for others; these challenges and opportunities must be addressed. Capital shortages will for the foreseeable future curtail the Nation's ability to meet public and private investment needs; it is therefore imperative to marshal the resources of all levels of government and the private sector to create the critical mass of capital and other assets needed to generate growth. Finally, there is a continued need to assist in adjustment of change, which is the only permanent feature of our national, regional, and local economies.

"(e) In recognition of these constants and changes, Congress finds it an appropriate role for the Federal Government to foster the coordination of investments between the public and private sectors and to promote long-term economic development partnerships at the State and local levels, in both rural and urban areas.

"(f) The purposes of this Act are therefore—

"(1) to establish a framework within which Federal, State, and local governments, and the private sectors, in urban and

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rural areas, can combine their resources to achieve economic development in all parts of the Nation;

"(2) to help create a strong investment climate which promotes the expansion and retention of job opportunities for local residents; and removes economic barriers in local areas which impede the free market forces;

"(3) to build, rehabilitate, and repair public infrastructure where it is inadequate to support and encourage private investment in the area;

"(4) to recognize and rely upon improved State and local governments' capacity to direct their own destinies;

"(5) to link public and private funds to foster coordination of resources between these sectors, in order to leverage the maximum investment in the long-term economic vitality of all areas;

"(6) to facilitate local and regional economic adjustment and economic development diversification in a changing national economy, by assisting State and local efforts to foresee adverse economic changes; to prevent their consequences where possible; to respond as necessary; and to achieve economic self-sufficiency;

"(7) to assist in relieving capital shortages and fill local credit gaps which impede private business startups and expansion;

"(8) to assist communities and industries to respond to the opportunities and challenges of a world increasingly knit together by international trade; and

"(9) to enhance the economic development of Indian reservations, pursuant to the Federal Government's trust responsibilities to Indian tribes.

"ELIGIBLE ACTIVITIES

"Sec. 102. (a) Upon application of a State, economic development district, unit of local government, Indian tribe, or private or public nonprofit organization established for economic development purposes which meets the eligibility criteria hereinafter established by this Act, the Secretary is authorized to make a grant for a portion of the cost, as provided in section 108 of this Act, of projects submitted in a development investment strategy. Development investment assistance may be for the following purposes—

"(1) the construction, repair, rehabilitation and improvement of public facilities, including the acquisition of land and other public works improvements to encourage and support private development;

"(2) revolving loan funds to promote the establishment and growth of small businesses and to retain indigenous firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs;

"(3) to conduct feasibility studies, site preparation, and other technical assistance to prepare for development and to enhance the investment climate; and

"(4) development activities which address and prevent economic dislocation and facilitate economic adjustment including assistance to promote qualified employee ownership organizations and which contribute to economic diversification and long-term economic vitality of the area.

"(b) The Secretary shall provide technical assistance and conduct feasibility studies to assist any person to establish a qualified employee ownership organization for purposes of subsection (a)(4).

"APPLICANTS

"Sec. 103. (a) A State may apply for a grant under this title for an eligible project within any unit of local government within the State, other than a unit of local government with a population of fifty thousand or more, if such unit meets the requirements of section 105 and is not within the boundaries of an economic development district.

"(b) A unit of local government within a State, other than a unit of local government with a population of fifty thousand or more, which meets the requirements of section 105 and is not within the boundaries of an economic development district may apply for a grant under this title for an eligible project within such unit, but only if such unit consults the State in the preparation of the grant application.

"(c) An economic development district may apply for a grant under this title for an eligible project within any unit of local government within such district if such unit meets the requirements of section 105.

"(d) A unit of local government within an economic development district may apply for a grant under this title for an eligible project within such unit if such unit meets the requirements of section 105, but only if such unit consults the economic development district in the preparation of the grant application.

"(e) An Indian tribe may apply for a grant under this title.

"(f) A unit of local government with a population of fifty thousand or more which meets the requirements of section 105 and is located outside an economic development district may apply for a grant under this title for an eligible project within such unit and a private or public nonprofit development organization representing an area within such unit may apply for a grant under this title for an eligible project within such area, but only if such grant application is approved by such unit before its submission.

"(g) In the case of a unit of local government which has a population of fifty thousand or more, is located outside of an economic development district, and does not meet the requirements of section 105, such unit may, for an area which meets the requirements of section 105 and is within such unit, apply for a grant under this title for an eligible project within the area and a private or public nonprofit development organization representing an area which meets the requirements of section 105 and is within such unit may apply for a grant under this title for an eligible project within such area, but only if such grant application is approved by such unit before its submission.

"APPLICATION FOR GRANT

"Sec. 104. (a) An application for a grant under this title shall include, but need not be limited to—

"(1) a certification that the area for which the grant is to be made meets the distress requirements set forth in section 105;

"(2) a certification relative to the performance of any responsibilities which the Secretary has agreed to accept under section 306 of this Act; and

"(3) a development investment strategy prepared in accordance with section 106.

"(b) In approving applications for grants under this title, the Secretary shall consider the purposes of this Act as set forth in section 101 of this Act, including but not limited to the following:

"(1) the severity of distress in the area for which the grant is to be made;

"(2) the ratio of private sector investments committed in such area to the amount of the grant applied for;

"(3) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the expansion of employment opportunities;

"(4) the effectiveness of the development investment strategy and the degree to which the proposed project contributes to its implementation (including the strategy's relationship to economic problems identified in the strategy), expands employment opportunities in the existing labor market, provides incentives to retain indigenous private businesses, expands or improves public facilities, and encourages private investment;

"(5) the extent to which the strategy and activities are consistent with State and local goals and contribute to long-term economic growth and private sector employment opportunities and establish an overall strengthened economic and business environment which will be self-sustaining; and

"(6) the extent to which assistance under section 102(a)(4) will assist a qualified employee ownership organization to obtain majority ownership of a business.

"DISTRESS REQUIREMENTS

"Sec. 105. (a) In order to be eligible for a grant under this title, the applicant must certify that any activity or project to be funded under such grant will be carried out or located in an area which meets any one of the following criteria:

"(1) the area has a per capita income of 80 per centum or less of the national average;

"(2) the area has an unemployment rate one per centum above the national average percentage for the most recent twenty-four-month period for which statistics are available; or

"(3) the area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(b) Documentation of distress shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Secretary unless it is determined to be inaccurate. The most recent statistics available must be used.

"DEVELOPMENT INVESTMENT STRATEGY

"Sec. 106. (a) Except as provided in subsection (b) of this section, an applicant for a grant under this title shall prepare a development investment strategy for the area for which the grant is sought which—

"(1) identifies the economic development problems sought to be addressed by the grant;

"(2) identifies past, present, and projected future economic development investments in such area and public and private participants and sources of funding for such investments;

"(3) identifies the extent to which the development investment strategy takes into account—

"(A) availability of developable land and space in the area;

"(B) public works, public service, and development facilities in the area;

"(C) availability of low-cost capital;

"(D) tax policy on investments in the area;

"(E) level of skill of the labor force; and

"(F) ability of State and units of local government to provide financial assistance in the management and implementation of the strategy;

"(4) sets forth a strategy for addressing the economic problems identified in paragraph (1) and discusses the manner in which the strategy will solve such problems;

"(5) provides a general discussion of the projects necessary to implement the strategy, an estimate and analysis of the costs and anticipated benefits of implementing the strategy, and an estimate of the timetables for completion of such projects; and

"(6) provides a summary of public and private resources which are expected to be available for such projects.

"(b) In any case in which a unit of local government is the eligible applicant under subsection (b) or (d) of section 103, the unit of local government shall consult the State or economic development district, respectively, in the preparation of a development investment strategy. In any case in which a private or public nonprofit development organization within a unit of local government is the eligible applicant under subsection (g) of section 103, the unit of local government shall approve the organization's development investment strategy.

"PRIVATE SECTOR INCENTIVES

"SEC. 107. (a) To stimulate small business development and to promote internal economic growth which contributes to an improved local tax base and the creation of permanent employment opportunities, the Secretary is authorized to make grants to an applicant and to a State to establish a revolving loan fund to be used for making loans or guaranteeing loans to small businesses for initial or working capital, or the purchase, rehabilitation or expansion of facilities or equipment. In addition, loans or guarantees may be made to businesses where a relatively small amount of capital is needed to complete financing necessary to retain the business in the area. A grant made to a State under this section shall be made on the condition that the revolving loan fund established by such State shall be available only in areas in such State which meet the requirements of section 105 of this Act.

"(b) No grant for the establishment or recapitalization of a revolving loan fund shall be made for more than $1,000,000.

"(c) No loan or guarantee shall be made from a revolving loan fund which has received a grant under this title unless the financial assistance applied for is not otherwise available from private lenders on terms which in the opinion of the administrator of the revolving loan fund will permit the accomplishment of the project.

"(d) Any applicant for a grant for a revolving loan fund shall give assurances that amounts of any loan which are repaid to the revolving loan fund will be available only for the purposes set forth in subsection (a).

"(e) No loan or guarantee may be made from a revolving loan fund which has received a grant under this title unless the applicant for such loan or guarantee provides reasonable assurance of repayment of the loan.

"(f) The Secretary may make additional grants for a portion of the cost, as provided in section 108(b) of this Act, of recapitalization of a revolving loan fund, taking into consideration the past performance of such fund.

"(g) The grantee of any grant for a revolving loan fund shall administer the fund.

"FEDERAL SHARE

"SEC. 108. (a) The amount of any grant for a project for any eligible activity described in paragraph (1) of section 102 shall be that amount which when added to amounts available from all other sources is sufficient to complete such project, except that in no event shall the amount of any grant under this title exceed 50 per centum of such cost of completing the project as determined at the time of the grant application. No additional funds shall be granted or otherwise made available under this Act for any such project for which a grant has been made under this Act.

"(b) The amount of any grant for the establishment of a revolving loan fund under paragraph (2) of section 102 shall not exceed an amount which is equal to the amount of funds available from all other sources for the establishment of such revolving loan fund. The amount of any additional grant for the recapitalization of a revolving loan fund previously established with a grant under this Act shall not exceed an amount which is equal to one-third of the amount of funds available from all other sources for such recapitalization.

"(c) In the case of a grant to an Indian tribe, the Secretary may reduce or waive the non-Federal share.

"LIMITATIONS

"SEC. 109. (a) Except for expenditures to Indian tribes, not more than 15 per centum of the appropriations made pursuant to this title may be expended in any one State.

"(b) The Secretary shall not obligate more than $2,000,000 in any fiscal year to any person (including any State or local government or public organization) for grants under this title, other than grants which promote qualified employee ownership organizations.

"OBLIGATION OF FUNDS

"SEC. 110. (a) Not later than May 31 of each fiscal year, the Secretary shall obligate for grants under this title not less than 50 per centum and not more than 60 per centum of the funds appropriated for such fiscal year pursuant to this title.

"(b) Not later than September 30 of each fiscal year, the Secretary shall obligate for grants under this title the remaining funds appropriated for such fiscal year pursuant to this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There is authorized to be appropriated to carry out this title, to be available until expended, $425,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985. Not more than 25 per centum of the amount appropriated under this section for any fiscal year shall be expended to carry out section 107 of this title.

"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION

"INVESTMENT STRATEGY AND PLANNING

"SEC. 201. (a)(1) The Secretary is authorized to make grants for economic development planning, including the preparation of development investment strategies under section 106 of this Act and the payment of administrative expenses, to States, economic development districts, Indian tribes, counties which meet the distress requirements of section 105 of this Act and which are located outside of economic development districts, and those other units of local government having populations of fifty thousand or more which meet such distress requirements and which are located outside of economic development districts. Such planning shall be a part of a comprehensive planning process and shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program. The Secretary is authorized to make grants for preparation of a development investment strategy under section 106 of this Act to any unit of local government having a population of 100,000 or more which meets the distress requirements of section 105 of this Act on condition that such unit consult with any economic development district of which it is a part in the preparation of such development investment strategy.

"(2) Any State economic development plan prepared with assistance under this section shall be prepared by the State with the active participation of units of local government and economic development districts located in whole or in part within such State and shall set goals for economic development within such State. Each State receiving assistance under this subsection shall submit to the Secretary an annual report on the planning process assisted under this section.

"(3) Any economic development planning by an economic development district or a unit of local government for which a grant is made under this section shall be consistent with the State economic development plan for the State in which such district or unit is located.

"(b) Grants under this section shall be used, to the maximum extent possible, to provide logical coordination of investment for community facilities, economic development, manpower training, and transportation services.

"(c) Any applicant for assistance under this section is encouraged to provide project planning, financial analysis, marketing, management, feasibility studies, and other technical and financial assistance to communities and neighborhoods within its boundaries.

"EVALUATION AND DEMONSTRATION

"SEC. 202. (a) The Secretary is authorized to conduct a program of evaluation of Federal, State, and local development investment efforts in order to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States;

"(2) assist in formulating, implementing, or improving programs at the National, State, or local levels which are designed to increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b) The Secretary is authorized to conduct any demonstration program to test the feasibility of new ways to increase productivity and growth and the understanding of regional and local economies, to foster innovative technology and research in the field of economic development, to match the labor force with projected labor markets, to improve United States competitiveness, or to encourage economic diversity and regional balance.

"(c) Programs authorized under subsections (a) and (b) of this section may be carried out by the Secretary acting through the staff of the Department, in cooperation with or by the provision of funding to other departments or agencies of the Federal Government, or by contract.

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"FEDERAL SHARE

"SEC. 203. The amount of any grant under section 201 shall not exceed 75 per centum of the cost of economic development planning or for the preparation of a development investment strategy. In determining the amount of the non-Federal share of costs under this section, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. In the case of a grant to an Indian tribe under section 201, the Secretary may reduce or waive the non-Federal share.

"OBLIGATION OF FUNDS

"SEC. 204. Not later than December 31 of each fiscal year, the Secretary shall obligate for grants under section 201, 90 per centum of the funds appropriated for such fiscal year pursuant to this title (other than those funds available for purposes of section 202). The remainder of such funds shall be obligated during such fiscal year only for making grants under section 201 in areas meeting the criteria set forth in section 105(a)(3) of this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. (a) There is authorized to be appropriated to carry out this title, to be available until expended, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985.

"(b) Of sums authorized to be appropriated under subsection (a) of this section, not to exceed $15,000,000 in each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, shall be available for the purposes of section 202.

"TITLE III—ADMINISTRATION

"DEFINITIONS

"SEC. 301. For purposes of this Act—

"(1) the term 'economic development district' means—

"(A) an economic development district designated on or before January 1, 1982, under section 403(a)(1) of the Public Works and Economic Development Act of 1965; and

"(B) any district within a State which is designated by the Secretary, which district is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than one county and does not contain within its boundaries any part of another economic development district designated under subparagraph (A) or under this subparagraph;

"(2) the term 'qualified employee ownership organizations' include—

"(A) a qualified employee trust as defined in section 3(c)(2) of the Small Business Act, except that—

"(i) such term shall not be limited to plans maintained by small business concerns or to loans guaranteed under such Act;

"(ii) in the case of any form of financial assistance, the principles of section 3(c)(2)(B) of such Act shall apply under regulations prescribed by the Secretary; and

"(iii) there shall be periodic reviews of the role, in the management of the concern involved, of employees to whose account stock is allocated; and

"(B) any business organized on a cooperative basis;

"(3) the term 'Indian tribe' means the governing body of a tribe, an Indian authority or tribal organization or entity, an Alaskan Native village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior;

"(4) the term 'unit of local government' means any city, county, town, parish, village, or other general purpose political subdivision of a State;

"(5) the term 'small business' means a business that is independently owned and operated, is not dominant in its field of operations, and meets such other criteria as the Secretary, after consultation with the Administrator of the Small Business Administration, may by regulation establish, including but not limited to, numbers of employees and dollar volume of business by industrial classes;

"(6) the term 'Secretary' means the Secretary of Commerce; and

"(7) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"APPOINTMENT OF ASSISTANT SECRETARY

"SEC. 302. The Secretary shall administer this Act with the assistance of an Assistant Secretary of Commerce, created by section 601 of the Public Works and Economic Development Act of 1965. Such Assistant Secretary shall perform such functions as the Secretary may prescribe.

"CONSULTATION WITH OTHER PERSONS AND AGENCIES

"SEC. 303. (a) The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

"(b) The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

"ADMINISTRATION OF ASSISTANCE

"SEC. 304. No grant shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"POWERS OF THE SECRETARY

"SEC. 305. In performing his duties under this Act, the Secretary is authorized to—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

"(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

"(4) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act;

"(5) procure by contract the temporary or intermittent services of experts and consultants or organizations therefor as authorized by section 3109(b) of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) in accordance with section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed;

"(6) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne, or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this Act from the application of sections 517, 547, and 2679 of title 28, United States Code; and

"(7) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this Act.

"CERTIFICATION

"SEC. 306. (a) The Secretary may discharge any of his responsibilities relative to a project for which a grant may be made under title I of this Act by accepting a certification by the applicant of the applicant's performance of such responsibilities. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

"(b) Acceptance by the Secretary of an applicant's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

"SAVINGS PROVISIONS

"SEC. 307. (a) No suit, action, or other proceedings lawfully commenced by or against the Secretary or Assistant Secretary or any other officer in his official capacity or in relation to the discharge of his official duties under the Public Works and Economic Development Act of 1965, shall abate by reason of the taking effect of the provisions of this Act, but the court may, on motion or supplemental petition filed at any time within twelve months after such taking effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the Secretary or Assistant Secretary or such other officer of the Department of Commerce as may be appropriate.

"(b) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties under the Public Works and Economic Development Act of 1965 shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

"ANNUAL REPORT

"SEC. 308. The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1983. Such report shall be printed and shall be transmitted to the Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

"PREVAILING RATE OF WAGE

"SEC. 309. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

"RECORD OF APPLICATIONS

"SEC. 310. The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for a grant under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved: (1) the name of the applicant, (2) the amount and duration of the grant for which application is made, and (3) the purposes for which the proceeds of the grant are to be used.

"RECORDS AND AUDIT

"SEC. 311. (a)(1) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which (A) fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and (B) review the efficiency, economy, and effectiveness of the project carried out under this Act.

"(2) Not later than ten days after January 1, and July 1 of each year, each recipient shall transmit a report to the Secretary containing all information prescribed under paragraph (1) which relates to all activities carried out during the preceding period relating to grants made to it under this Act. Each report submitted in January of each year shall include an audited statement of all funds spent on the project or undertaking during the preceding fiscal year prepared by an independent certified public accountant in accordance with the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

"(b) For the purpose of reviewing the efficiency, economy, and effectiveness of programs carried out under the provisions of the Act, including audit and examination, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient, subrecipient, contractor, or subcontractor that are pertinent to assistance received under this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 312. There is hereby authorized to be appropriated for salaries and administrative expenses to carry out the provisions of this Act $30,000,000 for the fiscal year ending September 30, 1983, $35,000,000 for the fiscal year ending September 30, 1984, and $40,000,000 for the fiscal year ending September 30, 1985. Appropriations authorized under this Act shall remain available until expended unless otherwise provided by appropriations Acts. Any contract entered into pursuant to this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.".

The CHAIRMAN. Are there amendments to title I?

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. DONNELLY), a member of the subcommittee, who has contributed considerably in time and effort and ideas to the formulation of this legislation.

Mr. DONNELLY. Mr. Chairman, I wish there was substantial time so I could join the chorus of praise for the leadership of the gentleman from Minnesota and my friend from Pennsylvania.

Mr. Chairman, this is a good bill. The committee has worked very diligently and put a lot of effort into the restructuring of this agency. Let me just simply say I hope the legislation passes.

The CHAIRMAN. Are there amendments to title I?

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN:

Page 28, line 16, strike out "All" and insert in lieu thereof "(a) Except as provided in subsection (b), all".

Page 29, after line 5, insert the following:

(b) If, on any portion of a project assisted by the Secretary under this Act, the lowest bid on construction work, not based on paying wages in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), is at least 10 percent less than the lowest bid based on paying wages for such work in accordance with such Act, and the bid of the contractor or subcontractor whose bid, not based on paying wages in accordance with such Act, is accepted, subsection (a) of this section shall not apply to such construction work.

Mr. HAGEDORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HAGEDORN. Mr. Chairman, the elimination of excessive Federal spending is something that most Members of Congress like to talk about when we are back in our districts. An amendment I am offering today to the National Development Investment Act gives Congress the means to put those words into action.

Budget cuts have made it incumbent upon us to make the most out of each Federal dollar spent. We need to make sure that each dollar we devote to economic development is used wisely to combat poverty and to create new jobs rather than to pay excessive wage rates mandated by the half century old Davis-Bacon Act.

I have said in this Chamber many times before that Davis-Bacon adds significantly to the cost of Federal construction projects.

Conservative estimates show that the Davis-Bacon costs your taxpaying constituents at least $1 billion each year in unnecessary construction and administrative costs. That billion dollar figure is twice the total yearly authorization that the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. CLINGER) are seeking for EDA and H.R. 6100.

I believe that the time has come to take a fresh look at the Davis-Bacon issue from a cost versus savings standpoint and from a point of view rather than from a labor versus business perspective.

Both advocates and opponents of the Davis-Bacon Act can support this amendment because it will provide each side with the opportunity to prove the point once and for all. The way this amendment would work is simple.

EDA projects would be open to both Davis-Bacon and non-Davis-Bacon bids. If the lowest non-Davis-Bacon bid comes in at 10 percent or more below the cost of Davis-Bacon bids, the prevailing wage provided in that act will be waived. if the non-Davis-Bacon bid is lower but not a full 10-percent lower, then the contract will be awarded to the lowest Davis-Bacon bidder.

I urge that each Member support this amendment. If supporters of the Davis-Bacon Act are right and it does not add at least 10 percent to the cost of Federal construction on EDA projects nothing will change. If, on the other hand, millions of dollars can be saved for the taxpayers, we owe it to the American people to prevent the continued foolish waste of their tax dollars.

I believe we need to find out if these savings can actually be realized.

I do not need to remind anyone here that we are living in difficult economic times that require fiscal restraint and some tough political votes. Passage of my amendment would be just one small way of demonstrating that Congress is serious about bringing spending under control.

My amendment is procompetition. It eliminates the anti-small-business aspect of the Davis-Bacon Act, and it is protaxpayer. We simply cannot afford to miss another opportunity for significant savings.

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So let us put our money where our mouths have been and vote to save the American taxpayers this continued excess expenditure of their tax dollars.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, during our hearings to consider H.R. 6100 and other legislative proposals under the jurisdiction of the Economic Development Subcommittee we received testimony on the impact of Davis-Bacon legislation on the cost of Federal construction projects and its effects on local contractors.

At that time, we heard testimony from the U.S. Chamber of Commerce, the American Farm Bureau, the National Federation of Independent Business, the Associated Buildings and Contractors and the Associated General Contractors. Every witness spoke of the overwhelming extra expense tacked onto Federal construction costs as a result of Davis-Bacon legislation. Estimates ran as high as $2 billion per year. But to take the most conservative estimate—that proposed by a group of House Democrats, the Conservative Democratic Forum—an estimated outlay savings of $560 million would have occurred in fiscal year 1982 from the repeal of Davis-Bacon. To put this figure in perspective, the Federal Government could recoup the entire authorization for H.R. 6100 and more by repealing Davis-Bacon.

The American Farm Bureau testified that a scientific study conducted by Oregon State University reached two highly significant conclusions: First, in a study of 215 projects in 100 counties, costs were from 26 percent to 38 percent higher on federally funded projects as compared to similar buildings built in the same counties during the same 2 years by the private sector. Second, local contractors were used on 47 percent of the private—non-Davis-Bacon—projects; but only on 28 percent of the federally aided projects. Contractors on the Davis-Bacon projects more often came from adjacent counties or even further away, and were more likely to come from an urban center. The unavoidable conclusion from this data is that Davis-Bacon does increase the construction cost of federally funded projects and is actually working to the detriment of those whom it was designed to protect—the local contractors. I believe the only total solution to the problems created by Davis-Bacon is its repeal. However, one modification has been proposed by my colleague Mr. Hagedorn, which would go a long way toward ameliorating the negative effects of this provision in H.R. 6100. Basically, this amendment would waive the Davis-Bacon requirement only when at least a 10-percent savings of tax dollars would result. It would call for this exemption when the winning bid on an EDA project comes in at least 10 percent lower than the next lowest bid. Of course, if the full 10 percent cannot be saved the Davis-Bacon requirements remain in effect.

I appreciate this opportunity to bring into focus the severe impact of Davis-Bacon legislation on EDA, and urge adoption of the Hagedorn amendment.

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for his contribution.

The American Farm Bureau did testify before our subcommittee. They have conducted a study, utilizing the facilities of the Oregan State University and they found that in a study of about 250 projects, both Davis-Bacon and non-Davis-Bacon that the cost savings would range in the area of 26 to 38 percent to the American taxpayer if we were to repeal Davis-Bacon.

I am not suggesting we repeal it. I am giving them a full 10-percent advantage.

And I must think in these times we can muster the courage to vote in the interest of the American taxpayer in this area, and use it as an example of what can be done by changing this archaic law.

Mr. WEBER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

I would like to rise in support of the amendment that my colleague from Minnesota is offering.

In addition to the savings argument, I would like to point out one additional argument on this whole Davis-Bacon area.

Often, as the gentleman pointed out in his opening statement, this is portrayed as a business versus labor issue. I do not think that is accurate, either. I agree with the gentleman it should be considered as a cost versus savings issue. But furthermore, in a district like mine that consists of 31 rural counties in southwestern Minnesota, there are many small contractors in small towns who are in effect prohibited from being competitive on many of these projects.

In these cases we find that the Davis-Bacon Act actually has an antilabor and antibusiness discriminatory effect when it comes to small towns. Is that not the general effect of the act?

Mr. HAGEDORN. That is a very important observation. Originally the reverse was intended.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Hagedorn) has expired.

(At the request of Mr. Weber of Minnesota and by unanimous consent, Mr. Hagedorn was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. What has been occurring, of course, is originally it was meant to keep migrant workers from moving into the industrial areas and taking away jobs from the big cities. In this day and age we find just the opposite, where the people from the larger communities are moving in taking over the public construction jobs in our small rural areas, because of the fact that small contractors cannot meet the prevailing wage standards as interpreted by the Department of Labor which have a strong union bias, and therefore they just operate out of the bidding process.

This is very discriminatory against small business. And we hear a lot in this Chamber again, rhetoric about helping small business.

Well, this is an opportunity once again to put one's voting card in the slot and vote.

Mr. WEBER of Minnesota. If the gentleman will yield further, can we say in addition to its other benefits this amendment would be pro-rural development in a very real sense of the word and encourage job formation in our rural areas.

Mr. HAGEDORN. Most importantly. If all the good things come out of EDA, as the chairman and the ranking member and many of us have heard that allegedly do, then we need more infrastructure, we need new facilities to build and to provide job opportunities and job expansion.

And we ought to leverage our money to the maximum extent and not blow it with the highest-cost proposals that we can push through this Congress. This is a competitive procompetition piece of legislation, an amendment that I believe deserves and warrants support.

Mr. WEBER of Minnesota. I thank the gentleman.

□ 1740

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield.

Mr. HAGEDORN. Yes. I will be happy to yield to the distinguished ranking member.

Mr. CLAUSEN. Well, this matter has been a subject of discussion in the Public Works and Transportation Committee, where the gentleman has previously addressed the subject of Davis-Bacon.

I would like to ask two or three questions.

First of all, does this directly or indirectly repeal the Davis-Bacon Act?

Mr. HAGEDORN. No, sir. I say to the gentleman from California (Mr. Clausen), this absolutely does not repeal Davis-Bacon. It would merely waive it in this one small area of Federal construction loans and grants.

Mr. CLAUSEN. Well, does it in any way tamper with the way in which the

Davis-Bacon Act is being administered?

Mr. **HAGEDORN**. It does not in any way tamper, other than it would waive it if there is a 10-percent differential between the lowest Davis-Bacon contractor versus the non-Davis-Bacon contractor.

Mr. **CLAUSEN**. Finally, does it in any way exempt any of the agencies from the application of the Davis-Bacon regulations?

The **CHAIRMAN**. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. HAGEDORN was allowed to proceed for 2 additional minutes.)

Mr. **HAGEDORN**. Not in any way, other than in this instance: if there are 10 percent or less differences. It does not waive Davis-Bacon, and it only applies to the EDA administration. There is no other single area of the Federal Government involved with this amendment today.

Mr. **CLAUSEN**. So the triggering device is, in effect, the 10-percent figure, where there would be, in effect, a 10-percent advantage given to a Davis-Bacon contractor; is that correct?

Mr. **HAGEDORN**. That is exactly right. I am so confident that this will work that I am willing to give the Davis-Bacon contractor a 10-percent advantage and if we cannot get a competitive bid of more than 10 percent submitted on one of these projects that we allow them to go under existing law.

Mr. **WEBER** of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. **HAGEDORN**. Yes; I will be happy to yield to the gentleman.

Mr. **WEBER** of Minnesota. So if I understand correctly then, this amendment is guaranteed either to save money or to have no effect at all. In other words, if it does not save us dollars for sure, it would not even go into effect; is that correct?

Mr. **HAGEDORN**. That is exactly correct. If we cannot save 10 percent for the American taxpayers, we will continue to pay the highest bids that are submitted.

Mr. **WEBER** of Minnesota. So Members voting in favor of this amendment can be assured that it will save them money or have no effect whatsoever?

Mr. **HAGEDORN**. Absolutely.

Mr. **WEBER** of Minnesota. I thank the gentleman for yielding.

Mr. **PEYSER**. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I listened with great interest to the amendment of my friend here dealing with Davis-Bacon. It has been very interesting over the years that I have been in the Congress to see repeated attempts of a variety of sorts—and I must admit this is a little different variety than we have had before—to really start getting at Davis-Bacon and defeating it.

While someone says this really does not impact Davis-Bacon, it really does impact Davis-Bacon.

It is also interesting to note that over the last 20 years every President of the United States has supported Davis-Bacon, including the present President in the White House. The only difference is that the President in the White House today, through his Department of Labor, just a month and a half ago issued a set of regulations that were supposed to go into effect on the 27th of July that would be very similar to what the gentleman has stated in his amendment, that they are not trying to hurt or kill Davis-Bacon, but they just want to make a few changes.

Those few changes that the Department of Labor put in, with the approval of the administration, would absolutely wipe out Davis-Bacon and leave a nice framework there. However, the courts, when the case was taken to court by members of the building trades, have issued a temporary injunction against the Labor Department because the changes, frankly, are so flagrant and this will hopefully result in a permanent injunction against the change in regulations.

Now, I would also like to call to the attention of the Members of the House that I received, as I am sure many of you did, a card from the National Federation of Independent Business. This is supposed to be small businesses' representative in Washington. This is the same organization that rated every Democratic Member of Congress this year and any other Member who voted against the Gramm-Latta budget and the tax bill last year. In the ratings, as you know, that each organization puts out, we received a zero if we voted against Gramm-Latta and against the tax program. That was the rating.

This organization, in my opinion, really does not represent small business at all, or it never would have taken the steps that led small business into the desperate situation they are in today.

They come out in very strong support of the amendment of the gentleman from Minnesota (Mr. HAGEDORN). That by itself, I think, is a clear reason not to support the amendment because of the actions of this organization; but I think in truth we have to look at one thing: Davis-Bacon has served and is serving this country well. The attempts to chisel away at it and to make little bites here and there are really, I believe, something that is like spring coming every year, someone tries to do this. Fortunately, the Congress has had the courage not to fall prey to this type of action.

Therefore, I would say at this time, one, do not fall into the trap of saying, well, this really does not do anything and it is just going to save 10 percent. I do not think this has anything to do with material costs. Basically, the gentleman is talking about labor costs.

Mr. **HAGEDORN**. Mr. Chairman, will the gentleman yield?

Mr. **PEYSER**. I yield to the gentleman.

Mr. **HAGEDORN**. The total contract.

I am amazed. We have all heard all the accolades about cleaning up the great piece of legislation that existed and how many improvements we are making today, and yet the gentleman from New York will stand in the well and suggest that a law that has been on the books for 50 years is perfect and should never be examined. I think the gentleman is out of touch with the times as much as the legislation is.

Mr. **PEYSER**. Well, I would like to take back my time and simply say to the gentleman that this legislation, Davis-Bacon, has been examined every year that I have been in the Congress. Every year somebody has a new method of improving, which really is a method of destroying Davis-Bacon.

Now, I understand the gentleman does not approve of Davis-Bacon and the gentleman feels, I am sure, because I can recall a few years back if the gentleman had his option to eliminate Davis-Bacon, the gentleman would vote for that, but that is not what is coming up today. What is coming up is a little chiseling effect of it and which will have a very detrimental effect on the whole program.

The **CHAIRMAN**. The time of the gentleman from New York has expired.

(At the request of Mr. HAGEDORN, and by unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. **HAGEDORN**. Mr. Chairman, will the gentleman yield?

Mr. **PEYSER**. I will be glad to yield to the gentleman.

Mr. **HAGEDORN**. In regard to chiseling away at Davis-Bacon, saving the American taxpayers 10 percent, I think the American voters would wish there were a few more chiselers in the Congress that would chisel away at these types of laws that appear to be carved in stone, never to be looked at, never to be amended.

We have had GAO studies. I do not know who the gentleman's favorite economist is today. I am sure it is not Milton Freedman; maybe Walter Heller.

Mr. **PEYSER**. I assure the gentleman, it was not Mr. Laffer.

Mr. **HAGEDORN**. The gentleman can name the economist and most likely we can find where the economist has called for the repeal of Davis-

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Bacon, not just reform; so clearly the gentleman is in the minority on that issue.

Mr. PEYSER. I think that I will be in the majority on this vote, though, which will reject this amendment.

I hope that everyone recognizes this for what it really is, an effort to defeat Davis-Bacon. That is the way it will be viewed and that is the way it actually is.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was planning to vote against this amendment, until I heard the gentleman in the well. I may still vote against it, despite what the gentleman has said.

I think to characterize the independent businessmen, who represent thousands and thousands of small businesses, as we have heard in the well, is unfortunate, and I resent that on their behalf.

□ 1750

Now, as to the Davis-Bacon Act, I happen to think it is a good law. I do not think the Government of the United States ought to be in the position of using Federal funds to drive down wages. Neither do I believe that the Government of the United States should be in the position of using Federal funds to inflate them.

There is not an honest person in this room who does not know that this has happened. We know it has happened. We know that people, contractors and governments—both local and State—have been paying more than they might have.

The General Accounting Office itself told us that $480 million more was spent on the Metro because we have the Davis-Bacon law.

It has had some effects that have been difficult, but I still think it is a good law because of the principle which it establishes. But the issue is in the courts, the injunction which the gentleman in the well referred to, is now going on appeal. I do not think it is appropriate now to take an action that certainly would affect the Davis-Bacon Act; whether we admit it or not, we know it, and I do not think we should take it while it is still in the courts.

I hope very much that the amendment will be defeated, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The gentleman is recognized for 5 minutes.

Mr. MILLER of California. Mr. Chairman, I think the gentlewoman from New Jersey hit on the exact point of this debate, and that is the principle for which the Davis-Bacon law was passed.

The principle for which the Davis-Bacon law was passed was to make sure that in hard times, hard times like the Depression, the Federal Government did not use its dollars to undermine the wages and the working conditions of people in this country because at that time there were contractors, moving around, coming into areas, trying to siphon off the few jobs there were and undermine the wages of organized working people in this country.

It is very interesting that we now find, in the worst times since the Great Depression, that the other side of the aisle would raise an amendment to do exactly the opposite, because what this amendment mandates is that we undermine the wages, the prevailing wage in an area paid to working men and women.

That is what this amendment does, because interestingly enough, this amendment does not reform Davis-Bacon; this amendment takes it, with all its warts, that the other side does not like, and simply says, "We will accept that. And if you can undercut wages by 10 percent." The Government will finance the undercutting of those wages.

Now, if you are putting up a building, concrete costs so much per yard, steel costs so much per ton; so where are you going to negotiate? You are going to negotiate on the wages, exactly contrary to the purpose of the Davis-Bacon Act.

Let us review what has happened here: The administration, no fan of Davis-Bacon, the Secretary of Labor, no fan of Davis-Bacon, have decided that they would change the manner in which Davis-Bacon was administered.

The gentleman from Minnesota and others have raised problems with Davis-Bacon regarding wage area determinations, how we determine prevailing wages, how we classify workers. The administration has obviously heard his arguments and has sought to change the administration of the law.

They have been temporarily restrained by the courts, and that will be worked out. That is a reform, if you happen to believe it is necessary, a reform of the law.

This is not. This is a direct attack on the purpose and the principle of the Davis-Bacon Act of this country, to protect workers in hard economic times; and it comes at a time when we find unemployment in the building trades and related trades running into double digits at a minimum. We find it at a time when people have packed up and left the Northeast, they have left the Midwest, they have driven to Arizona, they have driven to Alaska, they have driven to California looking for jobs. They are the modern-day Okies.

Yet we have here a mandate that undermines the principle of the law that, in similar times, the Congress, the President of the United States, enacted for the purpose of protecting the American worker.

We have had disagreements, the gentleman on the other side and myself, about how Davis-Bacon is administered. As the gentleman from Illinois knows, I currently have an investigation underway investigating the administration of Davis-Bacon. This is not to say that Davis-Bacon is a holy act, but this is to suggest that this amendment goes nowhere near the questions that have been raised, some legitimately so, by opponents of the Davis-Bacon Act.

I would hope that Members of this Congress would not, in these economic times, make what is a very direct attack on the wages of construction workers across this country, at a time when we have seen the best organized unions in this country, in an effort to deal with inflation, give back hours, give back working conditions, give back holidays, give back time.

We have seen it in the industrial unions and we have seen it in the construction unions, and I think for this Congress to speak in this fashion is very bad in these economic times.

So I hope the Members would be very clear about this amendment. If you have trouble with Davis-Bacon, the administration has taken action. You may wish them to go further. That is the political process. They may go further. I do not happen to agree with everything they have done, but this is not the way to correct it.

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the legislation and in opposition to the amendment.

Mr. Chairman, I am opposed to exempting Federal construction programs authorized under the National Development Investment Act from the prevailing wage standards established by the Davis-Bacon Act.

First of all, I think that creating piecemeal exemptions from the Davis-Bacon Act is absolutely the wrong approach. I know of no reason to treat economic development construction projects differently from other types of Federal construction. The same skills are required, and such projects are equally subject to abuses as all other types of Federal construction.

Second, this experimental exemption plan ignores the really crucial question of the whole Davis-Bacon debate: What is the purpose of the act?

We must consider the purpose of the Davis-Bacon Act.

The object of the law was, and is to prevent the Federal Government from undercutting local labor standards in the process of awarding contracts for Federal construction work. The act is intended to protect all construction

workers and contractors, union and nonunion. The need for a prevailing wage law is inherent in the Government contracting industry, since the Government is required by law to award contracts to the lowest bidder, unless there is a compelling case that the firm is unqualified. And it is very difficult to establish this before the work is started. In view of the pressure of competition, and the fact that contractors have little control over interest rates and the cost of materials, I feel that without a prevailing wage law there would be every opportunity to unscrupulous contractors to slash wages in order to win Government contracts. The reputable business, committed to paying sufficiently high wages to attract and keep skilled and experienced construction workers, cannot hope to compete with these tactics. The repeal of the Davis-Bacon Act would enable disreputable contractors to win contracts because they hire low-wage workers.

By encouraging uniform wage rates which are consistent with local practice, I believe the Davis-Bacon Act fosters competition based on merit, and not on how little contractors can pay their workers.

As well as being a matter of basic fairness to workers and reputable contractors, Davis-Bacon also protects Government and taxpayers. Skilled and experienced construction workers are not generally willing to work for substandard wages. The contractor trying to win Government work by drastic reductions in wage rates will hire the lowest-paid people available. These are almost certain to be those with the least training and experience in the industry. The likely consequence will be a shoddy construction job, extra costs when faulty work must be redone, and higher expenses for maintenance and repairs over the life of the project.

These are the basic reasons which led Congress to pass the Davis-Bacon Act 50 years ago. Conditions in the construction industry have improved greatly since 1931, partly because of the Davis-Bacon Act and other labor laws. However, the number of violations of the act increases every year. This alone demonstrates that the act is still needed, and that unscrupulous contractors can still exist despite the protections of the law.

Mr. Chairman, the act has an important role to play in preventing serious abuses on Government construction work. It should be retained, and applied to all Federal construction projects. The exemption for economic development projects should not be made.

Mr. **HAGEDORN**. Mr. Chairman, will the gentleman yield to me?

Mr. **HOLLENBECK**. I yield to the gentleman from Minnesota.

Mr. **HAGEDORN**. I thank the gentleman for yielding.

Mr. Chairman, I just want to ask the gentleman, does he really believe that the American people will only get shoddy construction unless it is done under Davis-Bacon when so much of the construction in America today goes and is being done without union labor and under a procompetitive business?

□ 1800

Mr. **HOLLENBECK**. The gentleman from Minnesota is misrepresenting my remarks.

Mr. **HAGEDORN**. The gentleman said, "shoddy."

Mr. **HOLLENBECK**. I did not say, if the Davis-Bacon Act were repealed, or exemptions were allowed, shoddy work would result. I said that is one of the threats inherent in his approach and in the repeal of Davis-Bacon.

Mr. **HAGEDORN**. I do not believe it is a threat, if the gentleman will continue to yield. I just certainly hope that the gentleman did not mean that those public construction projects, if there are any, and especially those in the private sector that did not have to deal with Davis-Bacon, are being done in a shoddy manner in any such case.

Mr. **DeNARDIS**. Mr. Chairman, will the gentleman yield?

Mr. **HOLLENBECK**. I yield to the gentleman from Connecticut who has a long record of support for the working person's rights and dignity.

Mr. **DeNARDIS**. Mr. Chairman, I rise in opposition to the Hagedorn amendment which calls for a Davis-Bacon exemption when the winning bid on an EDA project comes in at least 10 percent lower than the next lowest bid. I need not remind my colleagues that one of the primary purposes of the Davis-Bacon Act was to prevent cutthroat competition by so-called fly-by-night firms that undercut local wages and working conditions. It seems to me that the amendment under consideration promotes and invites just such cutthroat competition. To place the Federal Government in the position of rewarding those undercut local wages and working conditions is a proposition I simply cannot support. While I am not opposed to the consideration of possible refinements in administration of the act, I cannot support the amendment before us, and I urge my colleagues to oppose it.

I would like to think that we could solve the problems on Federal construction projects by simply looking at costs. Unfortunately, I do not think we can. We have all been tempted with "a deal you can't turn down," and in most instances we have all lived to regret it.

The **CHAIRMAN** pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. Hollenbeck was allowed to proceed for 5 additional minutes.)

Mr. **PEYSER**. Mr. Chairman, will the gentleman yield?

Mr. **HOLLENBECK**. I yield to the gentleman from New York.

Mr. **PEYSER**. Mr. Chairman, I have just a brief comment I would like to state at this time. When the gentleman was referring to the ability of laborers to do their jobs, one of the main things organized labor does is to develop a course of apprentice programs that turn out the kind of workers that really can do a fine job. I think it is vitally important, if we attack things like Davis-Bacon and attempts of this kind of an amendment, what we are going to do is to end those apprentice programs and end the opportunity for young men and women to learn these skills.

Mr. **ERLENBORN**. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do rise in support of the amendment offered by the gentleman from Minnesota. I am not going to repeat all the arguments that have already been made in support of the amendment, but I would like to comment on and respond to some of the observations that have been made by the opponents.

The gentleman from New York (Mr. Peyser) suggested that every President since the act was passed has supported Davis-Bacon, have been opposed to its repeal, which may be correct. I have not looked at that history with that in mind. But, let me say that I think there are other Government officials who have consistently recommended in the last 20 years that the Davis-Bacon Act should be repealed becasue it no longer performs the function it should.

I think there is a notable difference between those Government officials and the Presidents the gentleman refers to. Presidents get elected through a political process and with the support or the opposition of labor unions. The other public officials that I have reference to are the Comptrollers General of the United States, who neither seek political support nor who utilize it, who are an arm of this Congress and who have consistently over the last 15 or 20 years in more than one formal report recommended the repeal of Davis-Bacon because not only does it no longer perform the function for which it was intended, but it is counterproductive.

The most recent of these reports was issued only a year or two ago. The title of that report stands starkly in my mind because it was quite expressive. The title was, "The Davis-Bacon Act Should Be Repealed."

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The Comptroller General had looked at all the problems with the act, had seen and reported its inflationary impact, had pointed out it no longer does perform the functions that it was intended to, and looked at all the alternatives for changing the regulations trying to lessen its adverse impact, and rejected all of them because they were unworkable. He came to that very simple conclusion that Davis-Bacon should be repealed.

I think we all should understand that, like Presidents, the people in this Chamber are elected with the support or the opposition of groups like organized labor. So, it is really unlikely, in my opinion, particularly with the current President not in favor of repeal, that we might do that. I think, therefore, the suggestion contained in this amendment is quite a valid one. Those who have consistently supported the Davis-Bacon Act have said, "Oh, it doesn't have any inflationary impact. It doesn't cause greater costs in these projects."

Well, let us find out. Let us find out whether they are right or they are wrong. Let us just try this one little, small experiment affecting only the projects under this act.

Someone else said, "Well, this doesn't really have any great impact on local governments."

That certainly also is false. Under the projects that would be authorized in this act, 50 percent of the cost of the projects would be borne by your local communities.

The Comptroller General has pointed out that costs of these contracts are driven upward by the Davis-Bacon Act, and therefore the costs borne by your local governments will be driven upward. In these times that are so difficult economically, we do not need to drive up costs for local governments.

Lastly, my good friend, the gentlewoman from New Jersey, said that this matter is in the courts, and therefore we should not disturb it. I think that is a total misunderstanding of what is in the courts and what is in this amendment. What is in the courts is a challenge to the regulations promulgated by the Secretary of Labor. This amendment does not go to those regulations whatsoever. This has nothing to do with what area they are considering for determining the prevailing wage, how many apprentices can be utilized on the job, or the 30-percent rule as opposed to the 50-percent rule. We are not going to get into that area whatsoever. So, we are not going to disturb the courts or their challenge that is now being heard in the courts between building trade unions.

What we are doing with this amendment is saying, can we experiment to see if we can save your local taxpayers and the Federal taxpayers with this approach of having a small exception to Davis-Bacon.

I hope the amendment will be adopted.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield.

Mr. DUNN. Mr. Chairman, let me just try to put some light on the rhetoric here. I have heard everything from nonunion contractors or fly-by-night operators to the original concept of Davis-Bacon. I have not spent 20 years in the White House or 20 years on the floor here, but I have spent 20 years in the construction business, and nonunion contractors are not fly-by-night operators.

The original concept of Davis-Bacon, like the gentleman from California correctly said, was to prevent the Federal Government from coming in and taking the contractors from outside the area and undercutting the prevailing wage. That was the original intent of Davis-Bacon. I support that original intent, but believe me, that is not the way Davis-Bacon works today.

The senario, the speech, the rhetoric about prevailing wage does not exist. Davis-Bacon uses highest prevailing union wage rates in any given area. I have had 20 years' experience in dealing with this.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. DUNN and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. I yield to the gentleman from Michigan.

□ 1810

Mr. DUNN. It is my own personal experience where I have operated the largest single company in a metropolitan area and my company was the prevailing wage rate in that area. We were a nonunion company.

Davis-Bacon with its regulations came in, skipped over the number of people that I employed on a daily basis, and went to the prevailing union wage, a minuscule part of our community.

The end result to the Federal taxpayers, to the community, was much more than 10 percent.

This is a good amendment. It is procompetition. It involves the local contractors, the small guy, and gives them a chance to skip the paperwork and bid.

It is an anti-big-union labor amendment.

I urge my colleagues to support this amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Florida.

Mr. SHAW. The gentleman made reference to an additional cost to local government. I was not going to speak on this particular amendment until you struck that familiar chord.

I was the mayor of Fort Lauderdale for three terms. In that position I had many contracts, both union and nonunion because of Federal involvement. There is no question but that those with Federal money, where Davis-Bacon was strictly applied, cost the city of Fort Lauderdale a lot more money. There is no question about that.

I can also testify here that the quality was no better.

We have simply, by the application of this law, the application, not the word of the law, but the application of the law, we have destroyed competition. We have taken the small businessman completely out of the competitive stream and in doing so we have paid substantially more for Federal projects.

In these particular days when we are talking about going back and cutting human services, and that is what this is about, cutting human services, we have to also look, and if unions cannot compete in this particular situation they are going to have to be able to take these particular cuts.

I think it is a good amendment. I compliment it and I certainly would urge its support.

Mr. ERLENBORN. I thank the gentleman for his contribution and yield back the balance of my time.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Minnesota, the chairman of the subcommittee.

Mr. OBERSTAR. The gentleman from Georgia is the chairman of the Subcommittee on Investigations and Oversight and has had under consideration for some time extended hearings into the application of the Davis-Bacon Act as it applies to programs under the jurisdiction generally of the Public Works and Transportation Committee.

Could the gentleman tell us what further plans he has for hearings on that matter?

Mr. LEVITAS. Yes. I thank the distinguished chairman of the subcommittee for making this point because it was as a result of the hearings in the full committee on the markup of this particular piece of legislation and as a result of the request and suggestion of the gentleman from Minnesota, the chairman of the Subcommittee on

Economic Development, that, I as chairman of the Subcommittee on Investigations and Oversight, initiated a major study into the entire range of Davis-Bacon impact.

As the Members know, our committee probably has as many programs relating to Davis-Bacon matters as any committee in the Congress.

There has been a great deal of discussion over the last few years about problems in Davis-Bacon. Many of them are those which have been referred to by the gentleman from Minnesota (Mr. HAGEDORN) and the gentleman from Illinois (Mr. ERLENBORN), and others. I refer to problems involving administration, the 30-percent rate, where the areas of wage determination are to be made, what is covered and, of course, basically, whether the additional costs are justified at all. Others, in labor, complain that the Davis-Bacon law is poorly administered and poorly enforced.

It is my belief that the time has come for there to be a comprehensive, not a piecemeal, investigation dealing with this entire matter, resulting in a report with specific recommendations. We can no longer sweep this problem and issue under the rug.

I am extremely pleased that the gentleman from Minnesota (Mr. HAGEDORN) is now the ranking Republican member on the Subcommittee on Investigations and Oversight. I know in light of his interest that we will cooperate fully in having these hearings go forward, so once and for all the charges and the countercharges, the claims and the counter claims can be brought into the public and resolved.

Witnesses who believe that Davis-Bacon should be maintained in its present form will be afforded every opportunity to be heard. Those who desire the repeal of Davis-Bacon will be heard. Those who want to see modifications will be heard.

As the Members know, President Reagan has not recommended the repeal of this Davis-Bacon legislation but there are many of us who believe, at the very least, there needs to be some revision and, at the very least, there needs to be, for once and for all time, a comprehensive addressing of the entire matter, not a piecemeal dealing with it. Some proponents of Davis-Bacon shy away from such an approach, and some opponents prefer little nibbles that do not address the real concerns.

So for that reason I can say, as chairman of the subcommittee, that our subcommittee, in light of the recommendation and suggestion of the gentleman from Minnesota (Mr. OBERSTAR), is moving forward at the present time and we will have these hearings and investigation. There will be public hearings and any Member and any outside person who is interested will be afforded the opportunity to participate. We will determine the facts, and we will make recommendations of a specific nature for the first time in modern history.

Mr. HAGEDORN. Will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman very much for his comments. I look forward to the exhaustive studies and the analysis of the impact of Davis-Bacon.

But, Mr. Chairman, I believe the best analysis of all is still in the marketplace. That is why I ask today for your support for this tiny little program, $500 million out of $41 billion in capital budget that this Government spends annually.

When you leverage that with the impact on counties and municipalities and States, Mr. Chairman, is it too much to ask for a real test out there in the private sector rather than wait for more hearings by our committee?

Just one little test and then we will put that in with all of the data that you and I collect.

Mr. LEVITAS. Let me say to my good friend, and I say this in sincerity, and the gentleman has worked with me long enough to know that when I say it I mean it——

Mr. HAGEDORN. I know you do.

Mr. LEVITAS. I do not believe that we are going to accomplish anything of significance unless we really take a very hard look at the whole problem.

I think what would happen if we made another piecemeal attempt to deal with this is that that piecemeal attempt would come and go and we still would not have really looked at what needs to be done.

The General Accounting Office has issued this report and they have issued others. There have been articles in important journals, some of them, like the Washington Monthly, considered to be liberal in its views, which recommend changes or repeal of Davis-Bacon.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. We will let all of those people come in and let us get to the bottom of this once and for all and stop making it a political football.

Let us find out what we need to do to change, if change is needed.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding and I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN), which would exempt from the coverage of the Davis-Bacon Act certain projects authorized for assistance under this bill if a nonunion contractor succeeded in undercutting the total cost of a project by more than 10 percent.

Mr. Chairman, this is an unnecessary amendment. Although it is billed as an amendment that would save money, there is little doubt that it will cost the American people money. There is no doubt in my mind, for instance, that this bill will result in increased unemployment and in substandard construction practices. What kind of bargain would that be?

I think that this amendment, which, in effect, represents a piecemeal repeal of the act, is ill-timed. I cannot think of a worse time to take this kind of action against the livelihood of our construction workers. I think that we ought to take a more thoughtful approach, by appropriate legislative oversight, to make certain that the Davis-Bacon program works properly. I do, therefore, salute the gentleman from Georgia (Mr. LEVITAS) who has just informed us of his plans to study the program and to recommend improvements, if necessary. Then we can consider the matter calmly and on its merits. At this time, speaking as a long-time supporter of the Davis-Bacon program, and one who has voted repeatedly against amendments restricting its application, I urge my colleagues to reject this amendment.

Mr. PASHAYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I look with interest upon the whole notion that the amendment before the committee would save money. I have no doubt that it would save money.

But I must oppose the amendment because I do not think that asking people who work and build this country to reduce their wages is a good way to go about saving money.

I do not think there is anything wrong with the Federal Government adopting a policy—when Federal money is involved—of paying substantial wages rather than a policy of paying subsistence wages.

We are talking here not about people who want to be on unemployment or want to be on welfare. We are talking about people who work and build this country. These are working people who work.

I think for that they should be rewarded.

There are a lot of other ways that this Government could save money. It could save money be reducing the profits of the companies that supply the construction. It could save money by reducing the costs of supplies. It could save money by reducing the amount of Government spending over-

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all and reducing the level of interest as well.

I do not think it is good policy for this Government to select one particular group of people, the people who work to build this country, and under the guise of saving money to put an unfair burden on their backs.

☐ 1820

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Illinois.

Mr. SIMON. I simply want to commend the gentleman, and I agree wholeheartedly with what he has to say. And the net impact, if we start down this road, right now, in my district in Southern Illinois, 4 counties have over 20 percent unemployment; I have a bricklayers' local with 9 percent of its people working; operating engineers with 20 percent working. And what this kind of an approach is going to do it to put these hard-working people, who desperately want work, out of work. I commend my colleague.

Mr. PASHAYAN. I thank my colleague.

I do not think it is worthwhile to experiment with the livelihood of people who work. Although the author of the amendment says that this is just a small adjustment, still we are asking people to experiment with their livelihood. And these are not the best of times, let us face it.

No one is saying that Davis-Bacon is perfect. It is going to need some adjustment here and there. It sometimes has a very heavy effect in remote rural areas. But what my colleague from California (Mr. Miller) is trying to work out, the adjustments that have to be made, I do not think are best made by this amendment or an amendment like it.

Mr. SIMON. I commend my colleague, and I hope we will resoundingly defeat the amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, attempts like this to piecemeal reach the Davis-Bacon Act—that is what we have here, not an attempt to repeal or amend the Davis-Bacon Act, but an attempt to limit its application in a very narrow part of a particular program or set of programs in the Government—have been going on for years here. I have been recalling to the Members for years that we are not talking about some modern scheme that came from the bowels of the Democratic National Committee, but we are talking about a well-thought-out policy that was initially designed to provide stability for the construction industry—not only for people who work as laborers in the industry, but also for people who are the entrepreneurs. Indeed the strongest lobby for the adoption of this kind of a law was small construction companies—as evidenced by the States that adopted Davis-Bacon-type laws before the Federal Government did. The first Davis-Bacon-type laws to protect local contractors against outsiders coming into a stable community and undercutting the local businessmen go way back to Kansas in 1891 and Idaho, Arizona and Oklahoma soon after—States not known ever in their history to be dominated by organized labor. Those four States, together with New York, Massachusetts and New Jersey, all enacted prevailing wage laws before the Federal statute was passed in 1931.

It took Mr. Davis and Mr. Bacon 4 years to succeed passing a law which they originally introduced in 1927. The Davis-Bacon Act was finally enacted when Herbert Hoover gave the measure his vigorous support and signed it into law in 1931. And no one ever has in my generation accused Herbert Hoover of deliberately trying to hurt American business.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PASHAYAN. Will the gentleman agree with me when I say that every institution in this country needs a certain amount of minimum legal protection? Banks need it against debtors, business needs it in all sorts of ways, and labor needs it, as well. And this is one of those fundamental protections, the protection of local labor and contractors, really, that the construction trades are still very much in need of. I do not think this kind of an unscientific tinkering is the best way to go about whatever adjustments might be necessary.

Mr. FORD of Michigan. I agree completedly with the gentleman, and I compliment him on his perception of what is really at stake. I think it is necessary however, to recognize that when you try to characterize this in some fashion, as some special benefit for some segment of organized labor that has to be attacked because it is costing the taxpayers money, you are doing real violence to the history of the act and the application of the act.

The essential center of it is that the Federal Government should not, by spending Federal funds, undercut any local community's labor base or business base.

Someone over there mentioned Dade County in Florida and said that they could have saved money if they got nonunion labor from outside of Dade County to perform their contracts. I do not think that anybody running for office in Dade County would like to advocate that to save money you let a nonunion contractor come in from another State and pay below prevailing wages in the area to get a public project.

Mr. SHAW. Mr. Chairman, will the gentleman yield on that point?

Mr. FORD of Michigan. No, I do not yield at this time. The gentleman had his own time.

Mr. SHAW. I would like to set the gentleman straight as to where the city of Fort Lauderdale is located. It is in Broward County, not Dade County.

Mr. FORD of Michigan. Excuse me if I have insulted either Broward County or Dade County. I will apologize to both of them simultaneously.

But the very point the gentleman makes illustrates the importance of not fooling around program by program with this kind of a basic policy. It is a basic policy that has been around for a long time. It was valid when it started. It is valid today. And I have to say to the gentleman from Minnesota, I have seen a lot of attacks on Davis-Bacon. This one makes the least sense of any that I have ever seen, because you not only place a premium on undercutting the wage base for you citizens in an area getting a Government project, but you give a special consideration for somebody who is a champion wage undercutter. If a contractor cuts his employees' wages 6 or 8 percent you ignore his bid, but if he cuts their wages 20 percent you reward him with the contract. If you mean to tell me that you can help the constituents of your district or mine by promoting cutthroat competition against local contractors and local workers by your kind of an amendment and benefit them, I would be interested to hear the gentleman's explanation.

Mr. STANGELAND. Mr. Chairman, the debate on this amendment has gone on for a good deal of time. I think our minds are made up.

I ask unanimous consent that all debate on this amendment and all amendments thereto cease at 6:40 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. HOWARD. Reserving the right to object, Mr. Chairman—and I do intend to object—I believe this is an important amendment, and I would like to state that I shall object to extensions of time for Members who are speaking, but I shall also object to an attempt to not permit Members to have a full 5 minutes debate on it.

So, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, fairly often, proposals are made to remove prevailing wage protections from various Federal construction projects.

Let us remember that the Davis-Bacon Act was established to improve the equity and efficiency of the construction industry. Therefore, in evaluating the success of such a law the question to be asked is whether the conditions perform the function for which they were designed. Also whether the benefits provided justify the costs that may be involved. Let us look at the benefits the Davis-Bacon provides? It insures the local contractors, committed to upholding local labor standards, have a fair chance to compete for Government projects, rather than being undercut by outside firms bringing in outside cut-rate labor. Further, it affords a measure of stability to a notoriously unstable industry. Then the act helps insure that wages in construction will be sufficiently stable and predictable to allow for the recruitment, training and maintenance of a fully skilled construction labor force within the locality. Also it helps protect the Government against operators who might seek to win Government contracts by paying wages too low to attract competent craft workers. While such a move might be profitable for the contractor, it would be dangerous for the Government. The actual consequence could be shoddy work, since those willing to work for substandard wages would tend to be least skilled and least experienced workers.

Finally, the Davis-Bacon Act prevents the economic power of the Government from being used as a device to force down construction wages.

These benefits will be reflected in the overall costs of new installations—operating and maintenance costs as well as the initial construction charges. Other benefits accrue to the local construction industry in the form of stability, the maintenance of a skilled work force, and the guarantee of a fair chance for local contractors to compete for Government work. Other benefits are provided to the local economy, including incomes for area business and employees, reduced unemployment, and a stabilized community.

Mr. Chairman, mindful of the few shouts of "vote" I will be brief.

We have in some form debated this Davis-Bacon amendment or versions thereof every 2 years. Thus the prepositioning of the Members I think will be demonstrated by the RECORD. But I do believe that the most practical points made in the debate is the fact that you should not in piecemeal fashion attempt to correct something as embracive as the Davis-Bacon Act. I think it would be far more practical, as the gentleman from Georgia (Mr. LEVITAS) pointed out, to go into it in a full-scale, total committee fashion.

With all due respect to my good friend from Illinois (Mr. ERLENBORN) and my good friend from Minnesota, the sponsor of this amendment, this is not an experiment. It would cause a very complicated procedure, and I do not think it would give a clear picture to anyone, proponent or opponent, of the Davis-Bacon Act, as to what the results would really be.

So I would suggest that practicality dictate at this time that the amendment be rejected.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an intriguing idea that we have here. Down in North Carolina we play a lot of basketball. We do it fairly well. But the idea of giving the other side a 10-percent head start and then calling it, as the gentleman from Connecticut called it, cutthroat competition, is the most incredible idea I have ever heard. I wonder how many athletic events, with one side given a 10-percent head start, would even have anything but a foregone conclusion. If this is this Congress idea of cutthroat competition, then it is so far removed from the reality that my colleague, the gentleman from Minnesota, seems to try to inject into this body, that it is incapable of considering this whole proposition.

I realize, my distinguished colleagues, that we have carefully exempted ourselves from things like social security taxes and EEOC and OSHA, and all of these other problems that the rest of the country has got to encounter, but this one other example of our removing ourselves from reality, giving the unionized contractor a 10-percent headstart and then calling it cutthroat competition. But for those of you who are tuned to reality, let me remind you that we have a $100-billion-plus deficit.

□ 1830

And bills like this are the way we got a $100-billion-plus deficit. A little more spending, a little more inefficiency, a little more zinging it to the American taxpayer so that some special interest group can be given a 10-percent headstart at the expense of all those working men and women out there who do not have a 10-percent headstart, who have got to scramble, who have got to have cutthroat competition. They are the ones we are penalizing so we can get a few votes from organized labor.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I shall not take the full 5 minutes.

It occurred to me most of the people, if not all of the people who were opposed to the amendment come from major metropolitan areas. Many of us represent rural areas or areas that have small towns.

I might relate one particular instance that I had when I talked to a mayor of a small town in my district. The town is about 20,000 people. He told me that the Davis-Bacon Act alone in his community costs him over $100,000 a year, a town of 20,000 people, and the Davis-Bacon Act costs him that much money.

That is the case throughout my congressional district. Many small towns, medium-sized cities, that are under the pressure of having to conform with the prevailing wage that perhaps is in Dayton or Toledo, Ohio. It is extremely unfair to those people who live in those types of communities, not only taxpayers, but certainly the local government as well. I think it is important to keep that in mind.

If I had my choice I would offer an amendment that would totally do away with Davis-Bacon. I think its time is far gone.

If my colleagues will remember, back when we had the fair trade laws, and those fair trade laws were enacted to protect small businesses back after the Second World War, those have been since repealed either by legislative activity or by the Federal Trade Commission.

I think the Davis-Bacon Act in many cases represents the same problem that developed with the statutes in the past.

But all throughout this debate the important person that we have to remember besides talking about local government, particularly small towns, is the taxpayer. It is important to remember that $1 billion—$1 billion is spent each year as a result of Davis-Bacon, and that is what it costs the taxpayers in this country.

If you bring it down to a lower level, down to the real level of small towns, you are talking $100,000 to a town of 20,000 people, I think that brings it home.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I appreciate very much the point that the gentleman makes about the cost, particularly to the small communities. But what the gentleman neglects to mention is that what really results is the opportunities for public projects are foregone or abandoned as a result of the additional cost which this imposes. Not only additional labor cost, but the additional administrative costs and all the problems that go with it.

So I want to join with my colleagues in support of this amendment and congratulate the gentleman from Minnesota in a very unique way of bringing it forward to us. It is a very simple amendment. It is not going to complicate the process. It is going to make it much simpler. And in the long run it

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presents us with an opportunity to save substantial Federal dollars so that more dollars will be made available for public projects and more jobs will be created.

I cannot see what is wrong with saving the taxpayers money in this area so that more money and more jobs can be created. I am in strong support of the amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Minnesota (Mr. Hagedorn), the sponsor of the amendment.

Mr. HAGEDORN. I thank the gentleman for yielding.

I heard earlier tonight remarks that "I cannot vote for this because it hurts the unions."

My friends and colleagues, there is more than the AFL–CIO union. There is the American taxpayers union for one. There are hundreds of millions of tired taxpayers today that are looking for relief from this kind of legislation that this Congress insists on perpetrating, and I hope that you will just give this one little experiment an opportunity to work, and then let us take an evaluation of it 2 or 3 years down the road.

I am going to stop bothering my colleagues, if you just give it a chance. I promise the Members that. Just give it a chance. Let us see if it will work once.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I would just like to say that the gentleman has raised many of the points that people who have had problems with Davis-Bacon have raised over the years.

That is why the White House has taken action, they happen to agree with the gentleman. That is a reform of Davis-Bacon. They are contending they may save $800 million with that. This does not do any of that. This is simply directed at the prevailing wage in that area.

A lot of small communities have said they do not like the way the prevailing wage is arrived at. The White House is addressing that problem. That is not what this amendment does at all. This directs and undercuts the prevailing wage, not the union wage, not the union worker, the prevailing wage in that geographical area.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have spent scarcely 2 minutes under the 5-minute rule on the substance of H.R. 6100 in which most everyone has been in general agreement. And better than an hour in debate on a very important issue, one that is far reaching in its scope and significance but one I submit that is not the subject of this legislation.

A very similar amendment, but not identical, was offered in the subcommittee and again in full committee by the gentleman from Minnesota and in full committee was soundly defeated by a vote of 26 to 11.

Now, we have talked about erosion of the Davis-Bacon Act this afternoon and about social experimentation in this legislation with a labor matter. Perhaps all of those things apply.

What concerns me is that it has perhaps obscured the central issue of this legislation. We are attempting with this bill to help communities who have suffered economic distress and unemployment to deal with their problems locally in their own way, their own creativity and ingenuity.

Now, as an issue by itself, Davis-Bacon is a very fundamental issue in labor relations. It is one that the gentleman who is chairman of the Subcommittee on Investigations and Oversight of Public Works has said hearings will be conducted on it. The Education and Labor Committee has also indicated they, too, have the jurisdiction and properly should inquire into this issue and they will do so.

But if I may deal with this matter as it relates to economic development, it really does not belong in this legislation.

Just yesterday there was a $7½ billion construction bill on the floor and no one attempted to deal with Davis-Bacon in that bill. This is relatively a small piece of legislation that really ought not to be encumbered with an experiment in labor relations.

On the substance of the measure, though, I must say that while the effect may be to cut wages 10 percent, there is no attempt in this measure to put a limit on prevailing profits. There is no attempt to put a limit on interest rates. There is no attempt in this amendment to put a percentage limitation on building material costs. There is no attempt to limit the amount of profit and overhead that a contractor may charge. Only the wages are singled out. That is unfair. And on the test of fairness, the amendment fails.

I urge the committee to reject the amendment on the basis of fairness.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just briefly and very simply what the Davis-Bacon Act says is that when this Government, using the taxpayer's money, is going to be involved in a construction project, the workers on that project must be paid the prevailing wage as that prevailing wage is determined by the Government.

A few years ago in our hearings we had the President of the National Association of Manufacturers before us, certainly not a prounion or proworker or prolabor organization, and I asked him directly whether he had any problems with the philosophy of when the taxpayers' money is being used that the workers get a prevailing wage and he had no problem with the philosophy.

☐ 1840

What we are dealing with here is not how it is implemented. What we are dealing with here is basic national policy and the philosophy that this Government will use. And who are the taxpayers, by the way? The taxpayers are the working people who pay the money for these construction projects as well as the construction people themselves. For some reason or another, we seem to think that the only people's money that is involved here are the contractors themselves and somehow someone is trying to take away their money. The workers pay the taxes to build things in this country, also.

This amendment says that this provision can be waived if you can get the contract price 10 percent below what the prevailing wage would be. Now, where does the contractor look? There is going to be no difference in the equipment cost. There is going to be no difference in the material cost. There is certainly going to be no reduction in the contractor's profit, and it is interesting that we have no provision if we want to save the taxpayers money by putting a limitation on the profit a contractor can make in this area. So the only place he can get it is out of wages and if he can find workers who will work 10 percent or more below what the prevailing wage is, then by this amendment he must, because the amendment says shall, he must be given that contract. If he is an employer who wants to pay the prevailing wage to his workers, then by law the Government is saying that you cannot have the contract.

I think this is everybody's money involved and I think we have to be fair with everyone and this would be the most unfair thing we could do to accept this.

So I urge the committee to reject this amendment and reject it overwhelmingly and then get on to passing this fine piece of legislation.

● Mr. EVANS of Delaware. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Minnesota, Mr. Hagedorn, that would repeal the requirements of the Davis-Bacon Act in this legislation.

The Davis-Bacon Act was implemented with perhaps the most indisputably fair and worthy goal possible: That every working man and woman deserves an honest day's wages for an honest day's work.

Unfortunately, some problems have arisen in connection with the act, problems that certainly deserve the careful attention of the Federal Government. The administration is currently drafting proposals to deal with some of the shortcomings of the act administratively. These proposals will be carefully examined by this Congress as we fulfill our oversight responsibilities.

I believe this sort of comprehensive examination of the entire complex and important issue is the correct way to approach some of the problems with Davis-Bacon. We should not try to deal with this important issue in a piecemeal, bill-by-bill manner, as this amendment does.

I urge my colleagues to join me in voting "no" on the Hagedorn amendment.●

● Mr. FRENZEL. Mr. Chairman, the Davis-Bacon Act has been controversial since its enactment in 1931. The record is replete with evidence that Davis-Bacon has had an inflationary effect on the construction industry and on our economy.

In addition, administering this program has become a tremendous cost burden to the American taxpayer. Even with the massive body of regulations that has grown around the act during the last 50 years, the Department of Labor has still been unable to come up with a workable or comprehensive way to collect or interpret data.

In my judgment, the Hagedorn amendment provides a reasonable test method for proving whether the program does indeed push up the cost of Government construction projects. In those cases where the Davis-Bacon bids are truly reflective of the prevailing wages in a local area, the Hagedorn amendment would effect no one, either employer or employee.

However, if the bids that contain Davis-Bacon provisions are unreasonably out of line with the prevailing local rates, the Hagedorn amendment would allow for alternative bids to be considered. Only if Davis-Bacon is inflationary will the Hagedorn amendment have any effect. In those cases, all it will do is save the taxpayer some money. I believe that Mr. HAGEDORN has provided the House with a unique opportunity for putting the Davis-Bacon Act to the test, and I encourage my colleagues to vote in favor of his amendment.●

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in support of the Hagedorn amendment to H.R. 6100.

The Hagedorn amendment will allow contractors bidding on EDA projects to submit bids which are not bound by Davis-Bacon prevailing wages. If the lowest non-Davis-Bacon bid is 10 percent or more below the lowest Davis-Bacon bid, an exemption from the act would be granted. But, if a full 10 percent savings cannot be achieved, normal procedures would prevail.

This is an ideal opportunity for Congress to reduce the costs of Federal construction. The Government Accounting Office has estimated that the Department of Labor's prevailing wage under Davis-Bacon runs 5 to 15 percent higher than the actual wages paid in comparable non-Federal construction projects.

I agree with Congressman HAGEDORN that this is an opportunity that Congress cannot pass up. Savings from Federal construction is a goal I strongly support, and I urge my colleagues to vote for the Hagedorn amendment.●

Mr. WEISS. Mr. Chairman, the Hagedorn amendment to the National Development Investment Act (H.R. 6100) would undermine the effectiveness of the Davis-Bacon Act. If this amendment were approved the Federal Government would be in the business of forcing wages down for labor thus damaging the labor market, and generally weaking the economy.

The Davis-Bacon Act was landmark legislation adopted to protect both business and labor and to stabilize local economies. Passed primarily to prevent carpetbagging businesses from depressing wages, this act continues to provide a buffer against activities that would harm a labor market.

The Hagedorn amendment is a deliberate effort to cripple Davis-Bacon. The Hagedorn amendment would permit the Federal Government to award construction contracts to nonunion contractors who bid 10 percent or more below union bids; based on prevailing wages costs. This would encourage the exploitation of immigrant and, perhaps, illegal laborers who have been forced in the past to accept illegally low wages under threat of exposure by their employers. The Hagedorn amendment also reflects the dangerous and irresponsible leanings of many conservatives to lower labor costs regardless of the consequences.

When the Labor Department issued a notice of proposed rulemaking for teenage labor just a few weeks ago the intent was to cheapen labor costs. But what wold have resulted was the abuse of teenage workers, possibly costing jobs for adults and encouraging teenagers to go to work rather than get an education. I joined with many of my colleagues in Congress at that time in urging the Labor Department to recalla the proposed regulation. After much public furor over the Labor Department's proposal, the President dropped the plan.

More to the point, however, were the proposed regulations issued this spring by the Labor Department to accomplish much the same thing that the Hagedorn amendment seeks to do. Despite strong opposition and warnings that the changes violated the intent of Congress in passing Davis-Bacon, the Labor Department went ahead and issued the regulations. Several labor organizatioons joined together and filed suit to seek an injunction against enactment of the rules for the reason I have just given, and a temporary injunction was issued.

That suite is not yet resolved, but I am confident that the courts will rule in favor of the unions. Congress did not intend for there to be gaping loopholes in Davis-Bacon, because it was understood that any loophole could effectively undercut that act.

At this time it would be inappropriate for Congress to do what the courts already have indicated may well be illegal. Congress has a responsibility to allow the ongoing judicial review to be seen through.

I strongly oppose the Hagedorn amendment, and support protection of the Davis-Bacon Act, and urge my colleagues to do likewise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HAGEDORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 237, not voting 57, as follows:

[Roll No. 274]

AYES—140

Andrews
Anthony
Archer
Ashbrook
Badham
Bailey (MO)
Barnard
Beard
Bereuter
Bethune
Bliley
Breaux
Brown (CO)
Broyhill
Butler
Byron
Chappell
Cheney
Coats
Coleman
Corcoran
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Daub
Deckard
Derrick
Dickinson
Dreier
Duncan
Dunn
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (IA)
Fields
Forsythe
Fountain
Fuqua
Gibbons
Gingrich
Goldwater
Goodling
Gramm
Gregg
Grisham
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hartnett
Hefner
Hendon
Hightower
Hiler
Hillis
Holt
Hopkins
Hunter
Hutto
Hyde
Jeffries
Jenkins
Johnston
Jones (OK)
Kazen
Kindness
Kramer
Latta
Leach
Leath
Livingston
Loeffler
Long (MD)
Lowery (CA)
Lujan
Lungren
Martin (NC)
McClory
McCollum
McDonald
McEwen
Mica
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Napier
Neal
Nelson
Oxley
Parris
Paul
Porter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rose
Roukema
Rousselot
Rudd
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (OR)
Snowe
Snyder
Spence
Stangeland
Stenholm
Stump
Tauke
Tauzin
Thomas
Walker
Wampler
Watkins
Weber (MN)
White
Whitley
Whittaker
Whitten
Winn
Wolf
Wortley
Young (FL)

VOL
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15
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13
1982
UMI

NOES—237

Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Beilenson
Benedict
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Burton, Phillip
Carman
Carney
Chappie
Clausen
Clinger
Coelho
Collins (IL)
Conable
Conte
Coughlin
Coyne, James
Coyne, William
D'Amours
Daschle
Davis
de la Garza
Dellums
DeNardis
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Evans (DE)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Heftel
Hertel
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jones (TN)
Kastenmeier
Kemp
Kennelly
Kildee
Kogovsek
LaFalce
Lagomarsino
Lantos
LeBoutillier
Lee
Leland
Lent
Levitas
Lewis
Long (LA)
Lott
Lowry (WA)
Lundine
Madigan
Markey
Marks
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McDade
McGrath
McHugh
McKinney
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Mollohan
Morrison
Mottl
Murphy
Murtha
Natcher
Nelligan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Quillen
Rahall
Ratchford
Regula
Reuss
Ritter
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Simon
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Solarz
St Germain
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Taylor
Traxler
Vander Jagt
Vento
Volkmer
Walgren
Washington
Waxman
Weber (OH)
Weiss
Williams (MT)
Williams (OH)
Wilson
Wolpe
Wright
Wyden
Wylie
Yatron
Young (MO)
Zablocki
Zeferetti

NOT VOTING—57

Bafalis
Bedell
Broomfield
Brown (CA)
Brown (OH)
Burgener
Burton, John
Campbell
Chisholm
Clay
Collins (TX)
Conyers
Courter
Craig
Crockett
Daniel, R. W.
Dornan
Ertel
Ferraro
Fithian
Frenzel
Garcia
Ginn
Hall (OH)
Hansen (UT)
Huckaby
Ireland
Jones (NC)
Lehman
Luken
Marriott
McCloskey
McCurdy
Mitchell (MD)
Moffett
Nichols
Pursell
Railsback
Rangel
Rhodes
Richmond
Rinaldo
Rosenthal
Roth
Santini
Schneider
Shumway
Siljander
Solomon
Stanton
Trible
Udall
Weaver
Whitehurst
Wirth
Yates
Young (AK)

□ 1850

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Rangel against.

Mr. Trible for, with Mr. Mitchell of Maryland against.

Mr. Frenzel for, with Mr. Garcia against.

Messrs. SAVAGE, CHAPPIE, ATKINSON, and SAWYER changed their votes from "aye" to "no."

Mr. DUNCAN and Mr. TAUZIN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. FIEDLER. Mr. Chairman, on rollcall No. 274 I was recorded incorrectly by the computer. My intention was to vote "aye."

□ 1900

The CHAIRMAN. The Clerk will designate title II.

Title II reads as follows:

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 201. This title may be cited as the "Appalachian Regional Development Act Amendments of 1982".

SEC. 202. The sixth sentence of subsection (a) of section 2 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and in severely distressed and underdeveloped counties lacking resources for basic services.".

SEC. 203. Subsection (b) of section 105 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and not to exceed $5,800,000 for the two-fiscal-year period ending September 30, 1984 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his alternate and his staff), and not to exceed $5,800,000 for the two-fiscal-year period ending September 30, 1986 (of such amount not to exceed $900,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $2,900,000 for the fiscal year ending September 30, 1987 (of such amount not to exceed $450,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).".

SEC. 204. Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 205. (a) Subsection (g) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "$215,000,000 for fiscal year 1983; $234,000,000 for fiscal year 1984; $250,000,000 for fiscal year 1985; $270,000,000 for fiscal year 1986; $289,000,000 for fiscal year 1987; $312,000,000 for fiscal year 1988; $337,000,000 for fiscal year 1989; and $364,000,000 for fiscal year 1990.".

(b) Subsection (h)(1) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum". The amendment made by the preceding sentence shall apply to projects approved after March 31, 1979.

SEC. 206. Subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 is amended by striking out "December 31, 1980" and inserting in lieu thereof "October 1, 1987" in the first sentence, and by inserting "authorized by title 23, United States Code" after "road construction" in the second sentence.

SEC. 207. Part B of title II of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following new section:

"SEC. 215. The Commission is authorized to make grants to States and public and nonprofit entities for projects, approved pursuant to section 303 of this Act, which will—

"(1) assist in the creation or retention of permanent private sector jobs, the upgrading of the region's manpower, or the attraction of private investment;

"(2) provide special assistance to severely distressed and underdeveloped counties which lack financial resources for improving basic services;

"(3) assist in achieving the goal of making primary health care accessible in the region; or

"(4) otherwise serve the purposes of this Act.".

SEC. 208. Clause (2) of subsection (b) of section 224 of the Appalachian Regional Development Act of 1965 is amended to read as follows: "(2) to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors;".

SEC. 209. Section 224 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this Act, grants with funds authorized under this Act shall not, after October 1, 1982, exceed 50 per centum of the costs of any project approved under this Act (except projects under section 201); but such grants may increase the Federal contribution to any project, notwithstanding limitations in other Federal laws, to such percentage as the Commission determines within the limitations in this Act.".

SEC. 210. Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following: "In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, $166,000,000 for the two-fiscal-year period ending September 30, 1984; $158,000,000 for the two-fiscal-year period ending September 30, 1986; and $75,000,000 for the fiscal year period ending September 30, 1987.".

SEC. 211. Section 405 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1987".

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I will be very brief, Mr. Chairman. I want to take this opportunity to thank our colleagues on both sides who addressed the just recently defeated amendment with dignity, with respect, with full discussion of the issues, without any acrimony. It was a very commendable debate.

We bring to the House floor a measure designed to generate economic growth at the community level. We have fashioned a bill that is responsible in its funding, that is broad-based in its appeal across this country—East and West, North and South. It is a bill for the 1980's.

Mr. Chairman, I would like to yield at this time to the gentleman from Pennsylvania, to whom I want to express my deep appreciation for the splendid cooperation and thoughtful contribution that he has made to the passing of this landmark piece of legislation.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his comments. I would just like to make one point. The question has been raised about funding levels for this program, and I think it should be pointed out that probably under any circumstances we are going to have a continuation of the Economic Development program. There is approximately $200 million in the budget. There is about $200 million that has been passed by the Appropriations Committee. The administration itself must more or less concede that we will have funding for the Economic Development Administration next year.

My point is this: If we do not change this authorization, then the money that is appropriated and that will be available for the Economic Development Administration will be spent in some of those programs which we all concede were not as effective as others. Beyond that, we will also have still 84 percent of the country eligible to apply for this assistance, and clearly that is one of the things we tried to cut in this legislation.

I believe, and I am sure the Members agree, that we should change that authorization so that the money we are sure is going to be there will be focused, targeted to those areas of the country which are in greatest need of that aid, and it will be in those programs which all of our testimony indicated are effective, meaningful contributions to economic development.

Mr. OBERSTAR. The gentleman has made a very, very important point. Funds are available; they will be spent. We should spend them in a reasonable way, targeted and focused in a way that will best generate economic development, and in a way that can be managed through the will of the Congress and the spirit of the 1980's.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. GEPHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, pursuant ot House Resolution 539, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The CHAIRMAN. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 281, nays 95, not voting 58, as follows:

[Roll No. 275]

YEAS—281

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Burton, Phillip
Byron
Carney
Chappell
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conte
Coyne, James
Coyne, William
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emerson
Emery
Erdahl
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Leath
LeBoutillier
Lee
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Lundine
Madigan
Markey
Marks
Marlenee
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Simon
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weiss
White
Whitley
Whitten
Williams (MT)
Williams (OH)
Wolf
Wolpe
Wortley
Wright
Wyden
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—95

Archer
Ashbrook
Badham
Bailey (MO)
Bethune
Bliley
Brown (CO)
Broyhill
Butler
Carman
Chappie
Cheney
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Dannemeyer
Daub
Derwinski
Dickinson
Dreier
Dyson
Edwards (AL)
Edwards (OK)
English
Erlenborn
Fiedler
Fields
Forsythe
Fountain
Gibbons
Gingrich
Goldwater
Gramm
Gregg
Grisham
Gunderson
Hance
Hansen (ID)
Hartnett
Hiler
Holt
Hopkins
Hunter
Jeffries
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lewis
Livingston
Loeffler
Lowery (CA)
Lungren
Martin (IL)
Martin (NC)
McClory
McCollum
McDonald
Michel
Moore
Moorhead
Oxley
Parris
Paul
Petri
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Roukema
Rousselot
Rudd
Sensenbrenner
Skeen
Smith (AL)
Smith (NE)
Smith (OR)
Snyder
Staton
Stenholm
Stump
Thomas
Walker
Weber (MN)
Weber (OH)
Whittaker
Wilson
Winn
Wylie
Young (FL)

NOT VOTING—58

Bafalis
Bedell
Bingham

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15
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1982
UMI

Bolling
Broomfield
Brown (CA)
Brown (OH)
Burgener
Burton, John
Campbell
Chisholm
Clay
Collins (TX)
Conyers
Courter
Craig
Crockett
Daniel, R. W.
Dornan
Ertel
Ferraro
Fithian
Frenzel
Garcia
Ginn
Hall (OH)
Hansen (UT)
Hoyer
Huckaby
Ireland
Jones (NC)
Lehman
Luken
Marriott
McCloskey
McCurdy
Mitchell (MD)
Moffett
Nichols
Pursell
Railsback
Rhodes
Richmond
Rinaldo
Rosenthal
Roth
Santini
Schneider
Shumway
Siljander
Stanton
Tribie
Udall
Weaver
Whitehurst
Wirth
Yates
Young (AK)

☐ 1920

The Clerk announced the following pairs:

On this vote:

Mr. Garcia for, with Mr. Frenzel against.

Mr. Mitchell of Maryland for, with Mr. Craig against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have a 5 legislative days within which to revise and extend their remarks on the bill, H.R. 6100, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, pursuant to the provisions of House Resolution 539, I call up from the Speaker's table the Senate bill (S. 2144) Appalachian Regional Development Act Amendments of 1982, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBERSTAR moves to strike out all after the enacting clause of the Senate bill, S. 2144, and to insert in lieu thereof the provisions of the bill, H.R. 6100, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6100) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2144

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the House insist on the House amendment to the Senate bill, S. 2144, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees: Messers. OBERSTAR, ROE, EDGAR, and RAHALL, Mrs. BOUQUARD, and Messrs. CLAUSEN, CLINGER, HAMMERSCHMIDT, and MCEWEN.

A further message from the Senate, by Mr. Spanner one of its clerks, announced that the Senate agrees to the amendment of the House with amendments to a bill of the Senate of the following title:

S. 2271. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2036) entitled "An act to provide for a job training program and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. QUAYLE, Mrs. HAWKINS, Mr. KENNEDY, and Mr. METZENBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S.J. Res. 230. Joint resolution to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post's Day."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT APPROPRIATION ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-738) on the resolution (H. Res. 559) waiving certain points of order against the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6957, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-739) on the resolution (H. Res. 560) waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6968, MILITARY CONSTRUCTION APPROPRIATION ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-740) on the resolution (H. Res. 561) waiving certain points of order against the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6755, CENTRAL AMERICA ECONOMIC REVITALIZATION ACT OF 1982

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-741) on the resolution (H. Res. 562) providing for the consideration of the bill (H.R. 6755) to authorize assistance to promote economic revitalization in the Caribbean Basin region, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3432, WATER RESOURCES POLICY ACT OF 1981

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-742) on the resolution (H. Res. 563) providing for the consideration of the bill (H.R. 3432) to amend the Water Resources Development Act of 1974 relating to planning and evaluating water resources projects, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RESIGNATION OF MEMBER AND APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER laid before the House the following resignation as a Member of the Select Committee on Aging:

HOUSE OF REPRESENTATIVES,
August 12, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Due to a significant amount of unfinished business to which I must attend as Chairman of the Task Force of American Prisoners and Missing in Action in Southeast Asia, as well as the increased demands on my time as a member of the Select Committee on Narcotics Abuse and Control, I respectfully request that I may be relieved of my position as a member of the Select Committee on Aging. I do this with great reluctance, but I sincerely feel that this is the appropriate action to take.

Sincerely,

ROBERT K. DORNAN,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to clauses 6 (e) and (g) of rule X, the Chair appoints the gentlewoman from Massachusetts (Mrs. HECKLER) to the Select Committee on Aging to fill the existing vacancy thereon.

REPORT ON HOUSE RESOLUTION 521 DISAPPROVING PRESIDENT'S RECOMMENDATION TO EXTEND CERTAIN WAIVER AUTHORITY UNDER TRADE ACT OF 1974 WITH RESPECT TO ROMANIA

Mr. GIBBONS, from the Committee on Ways and Means, submitted a privileged report (Rept. No. 97-743) on the resolution (H. Res. 521) disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania, which was referred to the Union Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, AUGUST 13, 1982, TO FILE REPORT ON H.R. 6954

Mr. WHITE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tomorrow, August 13, 1982, to file a report on H.R. 6954.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from Florida?

There was no objection.

PERSONAL EXPLANATION

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, this afternoon during rollcall No. 271, the Wilderness Protection Act of 1982, I was unavoidably delayed. Had I been present, I would have voted in the affirmative.

☐ 1930

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6530, ESTABLISHING MOUNT ST. HELENS NATIONAL VOLCANIC AREA

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers of the Committee on Agriculture and the Committee on Interior and Insular Affairs may have until midnight tonight to file a conference report on the bill, H.R. 6530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

NONVIOLENT PROTESTERS ARRESTED FOR ACTS OF CIVIL DISOBEDIENCE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. VENTO. Mr. Speaker, I take this time to call attention to the fact that within the hour at Puget Sound a number of nonviolent protesters have been arrested with regard to their acts of civil disobedience in trying to prevent or demonstrate their concern about the loading of a Trident submarine with nuclear warheads.

Mr. Speaker, I wrote to the President last week concerning this, not because I agree with this type of nonviolent display; I believe clearly, as many of my colleagues do, that the answer is within the political process, not within the concept of this type of behavior. But I wrote because I am concerned that the President confronted the problem by increasing the penalty by a factor of 10.

Some weeks before this, the President invoked his powers, which in fact increased the jail term to 10 years and the penalty to $10,000 fine for this particular act of civil disobedience. I object to that, and I appeal to the fairness of this House, this country, and this President not to impose this type of chilling effect on those who want to exercise and express an opinion which is contrary to ours or contrary to the President's.

Mr. Speaker, the letter which I wrote to the President, along with other material, is as follows:

AUGUST 6, 1982.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: Recently, I have learned that under the Executive Order 10173, a Presidential determination was made that the security of the United States is endangered by reason of the planned protests associated with the arrival of the U.S.S. Ohio at Bangor submarine base in the State of Washington.

Mr. President, I am extremely concerned about the arbitrary exercise of this important Presidential power that is reserved under 50 USC 191. I am requesting that you rescind this declaration and reconsider the course of action that you have taken to deal so harshly with these expected non-violent protesters.

While I do not agree with the tactics of the civil disobedience expressed by some groups, I am equally appalled at the combative and confrontational policy which is being pursued by your Administration. The proposed protest in the Puget Sound area upon the arrival of the U.S.S. Ohio clearly is an over-ambitious outgrowth of the constitutional guarantees afforded U.S. citizens. These protesters understand that they are involved in an act of civil disobedience and that there is a legal liability associated with their actions.

What concerns me is not the actions taken to provide for the secure passage of the U.S.S. Ohio, but the substantial increase in the penalties that could be imposed for violations of these security measures. This arbitrary action has a chilling affect on any non-violent protest associated with nuclear arms reduction and will lead to expanded confrontation rather than resolution.

These protesters have acted in "good faith" by alerting military authorities and others of their proposed action. Ironically, if they had not publicly stated their proposed action and surprised the military authorities, it is quite likely that the executive action would not have occurred and hence, the legal liability would be considerably less. Is this the signal that we want to send to non-violent protesters? The contingent of protesters, including ministers and families, is hardly a covert group that is a threat to national security. The message they are trying to communicate is a message of peace, a message of nuclear disarmament. Perhaps this is a message, Mr. President, that you and I ought to heed.

Mr. President, I appeal to your common sense and fairness that the policy in these matters ought to be even-handed and not aggravate or compound the problem.

Thank you for your consideration.

Sincerely,

BRUCE F. VENTO,
Member of Congress.

PASTOR'S FLOTILLA TO CONFRONT TRIDENT

(By Jackie Roodler)

The Rev. Jon Nelson is embarking on a carefully planned act of civil disobedience that could send him to jail for 10 years when a brand new Trident nuclear submarine glides through the picturesque Hood Canal near Seattle in the next few days.

Nelson, a member of the politically and religiously active Youngdahl family of Minnesota, will be one of 37 people waiting in three boats to stop the mammoth sub in restricted waters near the Bangor submarine base in Washington State, where it is to be outfitted with 408 nuclear warheads.

Among Nelson's crew members will be his 78-year-old mother, Ruth Youngdahl Nelson of Edina, the national Mother of the Year in 1973 and wife of the late Rev. Clarence Nelson, formerly pastor of Arlington Hills Lutheran Church. Also in the flotilla of protesters will be Nelson's sister, Elizabeth Lompp of Stuttgart, Germany, a participant in the European peace movement.

Nelson believes the Trident and its dozen sister subs represent a "suicidal end of the world."

"The Trident is this country's first first-strike weapon because its missiles are tar-

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geted on Russian missiles instead of cities," Nelson said, "That's why it is called a destabilizing force, If the Russians see anything on their computers, they will be much quicker to fire."

When Pentagon officials recently testified before Congress on the Trident's capabilities, Nelson said, they indicated its missiles could kill 60 million to 80 million Russians. Another 10 million to 12 million people in the United States and other free world countries would be killed within two weeks by radiation "drift."

The Pentagon, Nelson said, termed those deaths "acceptable collateral damage."

Nelson, 48, is a graduate of Gustavus Adolphus College in St. Peter. He is now a Lutheran campus pastor at the University of Washington in Seattle. Nelson was in St. Paul Tuesday to attend a Lutheran campus ministers' conference at Macalester College. He admits he comes by his activism naturally.

The nephew of three-term Gov. Luther Youngdahl and numerous other politicians and clergymen, including the Rev. Clifford Nelson, a former pastor at Gloria Del Lutheran Church who is now pastor at Fort Snelling Chapel. Nelson became involved in social issues as a college student.

He said he worked closely with the late Rev. Martin Luther King, took part in civil disobedience measures during the Vietnam War, and went to jail for 90 days for trespassing at the Bangor submarine base.

And with 13 children—"three born to us," seven adopted and three permanent foster children—Nelson said he and his wife, who also runs a day care center, have a lot invested in the future. "So it's clear to me we have to say no to this insanity."

Blocking the path of the Trident, which stands five stories tall and is longer than two football fields, will be no small challenge. Thirty Coast Guard helicopters and a convoy of helicopters will be escorting it.

"People ask me what good I can do," Nelson said. "I say this is an act of prayer—it's where I belong. I have to be faithful to the human instincts God has given me. But you don't just leap to do civil disobedience. It comes as a last alternative when you work through the system and all political methods fail.

"But it is our conviction that the government, not us, is illegal. If international laws and treaties were given a fair test, it would be found they outlaw weapons that threaten enemy weapons that are in place."

The eventual confrontation, which could take place anytime between Thursday and Sunday, won't catch the government by surprise. About three weeks ago "and without fanfare," Nelson said. President Reagan declared a national emergency in the Puget Sound area and raised the penalty for protesting against the Trident from one year in prison to 10 years and a $10,000 fine. injunction to block enforcement of the law, Nelson said. But the judge ordered them to negotiate with the government. The negotiations are still going on.

The 37 protesters, who represent several countries, are part of a group of 100 people who trained at Ground Zero, a center for non-violent resistance training adjacent to the submarine base. They also leased property near the canal, and it's likely they'll launch Nelson's motorized SS. *Plowshares* and two sailboats from there. They've already been warned to expect an attack with water guns, Nelson said.

Why has the group given the government detailed information on its plan? Civil disobedience in the best tradition, Nelson said, "is open, non-violent and accepting of penalties because it's an act of prayer."

Nelson seems to have hope for the future, although he said Reagan represents a "stage of genetic development I don't hold out a lot of hope for.

"The little people will have to mature as a species or we won't survive," he said. "The question is whether political leaders will pick up on it (the growing international anti-nuclear movement) fast enough."

REINTRODUCTION OF NUCLEAR FREEZE RESOLUTIONS

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARKEY. Mr. Speaker, today we are reintroducing the nuclear weapons freeze and reductions resolution.

All across this country the movement to freeze the nuclear arms race is growing and growing. Millions and millions of people are standing up and saying enough is enough.

Last week the nuclear freeze resolution was defeated by the slimmest of margins. But for the nuclear freeze movement across this country, the vote was a victory.

It was a victory for those who wanted to bring this issue before the Congress. It was a victory for those who wanted to wake up the White House to the public outrage over its nuclear war-fighting policies. It was a victory for those who are questioning the mindless stockpiling of nuclear weapons, on both sides.

The freeze movement is here to stay. It will not go away.

The movement will only stop when the arms race stops.

That is why we are reintroducing this resolution today. It is the people's resolution. And no one vote, no one defeat, on one massive lobbying effort by the White House is going to bend the will of the people.

H.J. Res. 571

Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war; and

Whereas a freeze followed by reductions in nuclear warheads, missiles, and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) as an immediate strategic arms control objective, the United States and the Soviet Union should—

(a) pursue a complete halt to the nuclear arms race;

(b) decide when and how to achieve a mutual verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems; and

(c) give special attention to destabilizing weapons whose deployment would make such a freeze more difficult to achieve.

(2) Proceeding from this freeze, the United States and the Soviet Union should pursue major, mutual, and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.

H.R. 5158 HITS THE DUST AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 30 minutes.

● Mr. CORCORAN. Mr. Speaker, the media this week is making U.S. District Court Judge Harold H. Greene almost as famous in the telecommunications field as our friend and colleague TIMOTHY E. WIRTH of Colorado. Since Judge Greene's fair and timely decision on Wednesday, he has been a major newsstory all over this country, as well as inside this Congress. And since congressional turf is important, especially regarding telecommunications in the U.S. House of Representatives, you can be sure, Mr. Speaker, that our colleague from Colorado has had much to say about Judge Greene's decision. That is not surprising, nor inappropriate. But what is surprising and inappropriate to principle is his change in tune.

Mr. Speaker, H.R. 5158 was designed as a substitute restructuring plan for A.T. & T. from the U.S. Department of Justice antitrust settlement with A.T. & T. for the benefit of many special interests, large and small. After listening to what the proponents of H.R. 5158 are now saying, one would think the Greene decision is the original H.R. 5158. Nothing could be further from the truth. The Greene decision repudiates H.R. 5158 and justifies its ignoble defeat in the Energy and Commerce Committee of this House.

Mr. Speaker, I say this for many reasons, but let me mention just three. H.R. 5158 First, required A.T. & T. to separate its regulated and unregulated activities in ways that many thought were anticompetitive; second, required that the divestiture of the BOC's occur before the assets of the divested companies were valued rather than after those assets were valued; and third, required that so-called embedded terminal equipment would be included in the assets that were transferred to the BOC's.

Our colleague from Colorado has steadfastly insisted that these controversial provisions must remain in the bill on grounds that they constituted an essential supplement to the proposed antitrust agreement which did not contain similar provisions. In his public statement announcing his decision to withdraw H.R. 5158 from Commerce Committee consideration, Mr. WIRTH referred specifically to each of these provisions. In doing so, however, he made it absolutely clear that he would not, under any circumstances, delete any of them:

> Bell has made it very clear, for instance, that it will not tolerate an independent voice for its local companies during divestiture. It will not tolerate effective safeguards to protect ratepayers against its own monopoly. It insists upon taking ownership of installed telephones away from the local companies.
>
> Mr. Chairman, I have been willing to compromise language; I have been willing to compromise substance. I cannot in good conscience, however, compromise fundamental principles.

In the 178-page opinion that accompanied his order requiring certain revisions in the proposed settlement, Judge Green considered carefully the arguments that had been made by those who had filed comments with him urging that he require modification of the decree to include the three controversial provisions referred to above. After a full analysis of all the comments, the Judge decided to require none of the suggested modifications, as discussed below.

Judge Green concluded that it was unnecessary for A.T. & T. to separate its regulated activities from its unregulated activities as several commenting parties had proposed and as Mr. WIRTH had so strongly advocated. The judge noted that such separation might be justified if, after divestiture, A.T. & T. would have monopoly power in any market. But the judge concluded that A.T. & T.'s local telephone service was its only monopoly and, after divestiture of its local telephone operations, this monopoly would be lost:

> There is substantial merit in the suggestion that, absent divestiture, A.T. & T. would still possess significant monopoly power, and that whatever competition developed in the past did so despite anticompetitive conditions * * *. But the overriding fact is that the principal means by which A.T. & T. has maintained monopoly power in telecommunications has been its control of the Operating Companies with their strategic bottleneck position. The divestiture required by the proposed decree will thus remove the * * * main barriers that previously deterred firms from entering or competing effectively in the interexchange market * * *. For these reasons, it appears that after divestiture, A.T. & T. will largely lack the monopoly power that the opponents of the decree suggest, and the trend of increasing competition may therefore be expected to continue. [Judge Green Opinion, pp. 70 and 72.]

Similarly, Judge Green considered, and rejected, requests that he demand that the proposed settlement be modified to require that the BOC's be divested prior to the time their assets were valued. The judge rejected this proposal largely because he thought it was a foolish and unworkable idea:

> An immediate spin-off of the Operating Companies, while superficially appealing, would be entirely impractical and, notwithstanding the Court's urging, none of those who has advocated such a spin-off has presented a plan that is even remotely feasible. In fact, such an action would leave entirely unresolved all of the problems of administering coordination, interconnection, and continuity of service that are addressed in the proposed decree. [Judge Green Opinion, p. 168–69.]

Judge Green also explicitly rejected requests that he order a modification in the proposed settlement to take away from A.T. & T. all embedded terminal equipment and give that equipment instead to the divested BOC's. The judge ruled that the equipment properly belongs to A.T. & T.:

> The embedded CPE consists primarily of Western Electric equipment, and it is therefore appropriately allocated to A.T. & T. [Judge Green Opinion, p. 111.]

Mr. Speaker, as you know in his decision, Judge Greene ordered A.T. & T. and the Department of Justice to make certain modifications within 15 days to the proposed agreement settling the Government's antitrust suit against A.T. & T. What the final result will be I do not know. That properly depends on the parties to the court suit and the judge. However, I do know this: Like the House Energy and Commerce Committee, Judge Greene rejected H.R. 5158.●

THE FUTURE OF SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. LATTA) is recognized for 30 minutes.

Mr. LATTA. Mr. Speaker, every congressional office has been receiving countless letters from citizens worried about the future of the social security system. Those who have retired and dependent upon their monthly social security checks are worried about media reports that benefits may be cut and those who have not yet retired worry whether adequate funds will remain in the trust fund to pay them benefits when they retire in the years ahead. Those paying into the fund are concerned over the increased amounts being deducted from their paychecks for social security taxes and are weighing future benefits against today's payments. These are but a few of the many questions being posed across the length and breadth of this land. I have, therefore, taken this time to speak to the social security system and to review its history, its growth, its problems, and its future.

ITS HISTORY

The Social Security Act which passed in 1935 was a relatively simple and straightforward program. It established a social security trust fund into which a worker paid a small premium during his or her working years for an insurance policy (FICA) which would pay a given sum of money upon retirement at age 65 based upon the amount contributed. At the time of passage, both President Roosevelt and the Congress emphasized that this insurance would be a supplement to other sources of income of the retirees. At the time he signed the law on August 14, 1935, President Roosevelt stated:

> We can never insure 100 percent of the population against 100 percent of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family * * * against poverty-ridden old age.

When one considers the many additional benefits which have been added to this supplemental retirement program since its enactment, it is needless for me to say that President Roosevelt's admonishment was not heeded.

ITS GROWTH

When the social security program began, a 1-percent tax was paid on earned income up to $3,000 annually. This represented a total payment of $30 per worker into the fund each year with the employer making a matching payment. This rate of payment remained until 1950 when it was increased to 1½ percent. Since 1950, both the amount of the tax and the earnings base have been gradually increased. In 1982 the maximum tax is $2,170.80 on earnings of $32,400 at a 6.7-percent rate. Under present law, the maximum tax is scheduled to go to $4,360.50 in 1990.

Not only have the taxes been increased over the years, so have the benefits. Initially benefits averaged $22.60 a month. The first social security check went to a person in Vermont in January 1940. The recipient had paid $22 into the trust fund and collected benefits totalling $20,944.42. The last monthly check, having been gradually increased over the years to $112.60, was paid in December 1974.

A worker retiring at age 65 in 1982 who has paid the maximum tax on the maximum earnings allowable under the law will have paid $14,766 into the trust fund. This person will receive $8,148 annually in monthly payments of $679 during his or her retirement plus all subsequent increases provided by law. A nonworking spouse of this worker will also be eligible for an additional 50 percent in retirement benefits at age 65 notwithstanding the fact that no contributions were made by said spouse into this account number. The actuaries say a worker retiring today can expect to live an average of 15 years, thereby drawing a minimum of $122,220 in social security benefits. When the social security system began only 62 percent of all women and 54 percent of all men were expected to live until age 65; today, 82 percent of all women and 68 percent of all men are expected to live until age 65. This means more people to collect retirement benefits for longer periods than was originally projected.

In 1940 Congress added survivors' benefits. A few years later, coverage was expanded to the self-employed including farmers, doctors, lawyers, merchants, ministers, and others. In 1954, disability benefits were added and later liberalized. The law was changed in 1956 to permit women to retire at age 62 rather than 65 on their own accounts at 80 percent of benefits; in 1961, men were permitted to make the same choice. Two-thirds of all social security retirees are taking advantage of this early retirement which means they pay into the trust fund for a shorter period and collect the reduced benefits for a longer period. Medicare was enacted in 1965 in order to help defray the hospital and doctor bills of people 65 and older. In 1965 student benefits were added to the social security program, liberalised in 1972, and scheduled to be phased out in 1985 after Congress finally realized other taxpayer-financed programs were available.

ITS PROBLEMS

In addition to the tremendous financial demands made on the trust fund by the above program additions, the Congress has from time to time in the past granted increases to the retirees and then in 1975 indexed social security benefits to the Consumer Price Index. From January 1940 to June 1981 social security benefits were increased for a combined total of 788 percent. During that same 41-year period, the Consumer Price Index rose by only 522 percent.

The ratio of workers paying into the trust fund to those drawing benefits has gone from 20 to 1 in 1940 to 3.2 to 1 at the present. By the year 2030, it is projected there will be only two workers to one retiree. This declining ratio of workers to retirees naturally means less money paid into the fund every year despite the increased tax burden being placed on the individual worker.

Thirty-six million retirees are now receiving monthly checks. Social security annual benefit costs have gone from $33.8 billion in fiscal year 1970 to an estimated $206.5 billion in fiscal year 1983—including medicare. This will be 26 percent of the total Federal budget for the year.

Notwithstanding the huge tax increases which have taken place over the years to support the program, by 1975 the trust fund was paying out more money than it was taking in. As a matter of fact, it is now paying out $17,000 more in benefits every minute than it collects in payroll taxes.

The social security system now has three trust funds. The original and largest is the old age and survivors insurance (OASI) trust fund, which provides benefits to retirees, their dependents, and their survivors. In 1956, the disability insurance (DI) trust fund was created to provide benefits to disabled workers and their dependents. In 1965 the hospital insurance (HI) trust fund was created for medicare. Since the OASI trust fund was being rapidly depleted, Congress approved legislation last year to authorize interfund borrowing from the financially healthier disability insurance (DI) and hospital insurance (HI) trust funds. This temporary borrowing authority expires in June 1983. At that time the combined reserves of all three funds will be dangerously low and a simple extension of the borrowing authority will not suffice. Total end-of-year combined reserves are projected at $36 billion—enough to fund less than 9 weeks of benefit payments and medicare reimbursements.

ITS FUTURE

A recent NBC-Associated Press poll revealed that 73 percent of all Americans have no or little confidence that social security benefits will be there and available to them when it is their turn to retire. To these people and to those now on social security worried that their benefits may be cut, let me say no administration or Congress is about to permit the system to go into default with 36 million people drawing checks. At the time President Reagan announced that current retirees would receive their full 7.4 percent cost-of-living increases this year, he stated he was "determined to protect the current benefits of all social security recipients." In order to make certain that current checks go out without being cut and that future retirees receive the benefits for which they are presently being taxed, it is obvious from the facts set forth that attention to the funding problem confronting social security can no longer be ignored by the Congress.

A bipartisan commission has been established and is presently considering various methods to solve both the short-term and long-term financial problems of the system. The commission not only has a December 1982 reporting time, the Treasury Department has already announced that the checks cannot go out next July unless action is taken. Both of these dates will keep the pressure on the Congress as well as the commission. Action by the Congress will come shortly after the commission makes its report.

COMPETITIVE SHIPPING AND SHIPBUILDING REVITALIZATION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 60 minutes.

Mrs. BOGGS. Mr. Speaker, today I am introducing legislation that I believe will help support and maintain two of this Nation's most valuable yet overlooked assets, the U.S. merchant marine and the shipbuilding mobilization base. In turn, passage of this legislation will help achieve one of President Reagan's goals, as well as a longstanding objective of the Congress; namely, to insure a merchant fleet capable of carrying a fair portion of our Nation's foreign trade. I am joined in sponsoring this legislation by Representatives PAUL TRIBLE, ADAM BENJAMIN, CHARLES BENNETT, DAVE BONIOR, DON BONKER, CHARLIE DOUGHERTY, TRENT LOTT, HAROLD FORD, JOE GAYDOS, TOM HARTNETT, ARLAN STANGELAND, CHARLIE WILSON, DON YOUNG, LEO ZEFERETTI, BARBARA MIKULSKI, GENE SNYDER, GLENN ANDERSON, and JOHN MURTHA.

Enactment of H.R. 6979 would provide the following benefits:

It will strengthen our national defense by providing a bulk fleet that is capable of serving as a naval and military auxiliary in time of national emergency.

It will strengthen the Nation's shipbuilding mobilization base by providing critical work for commercial shipyards, many of which will close if the bill is not enacted,

It will generate new Federal and State tax revenues,

It will provide jobs to thousands of shipyard and shipboard workers at a time when unemployment is at its worst in 30 years,

It will provide substantial work for the hundreds of allied industries dependent upon shipbuilding in every State, and

It will furnish the stated advantages at no cost to the American taxpayer; the U.S. Treasury will spend no additional funds if the bill is enacted.

These benefits would be derived through the transport of 5 percent of our Nation's bulk cargoes on U.S.-flag, U.S.-built ships in 1983 and increased 1 percent per year thereafter until a minimum of 20 percent of U.S. bulk cargoes would be carried on U.S.-flag, U.S.-built ships by 1998.

These modest measures will help fulfill a commitment made by President Reagan in August 1980, covering the points that he specifically stressed as necessary to the vitality of the maritime industry and the Nation:

ON CARGO POLICY

> A specific naval-maritime program must be developed that will . . . recognise the challenges created by cargo policies of other nations. The United States has traditionally espoused free trade. However, the international shipping trade is laced with a network of foreign governmental preferences and priorities designed to strengthen foreign fleets, often at the expense of U.S. maritime interests. We must be prepared to respond constructively for our own interests to the restrictive shipping policies of other nations. A major goal of the United States must be to insure that American-flag ships carry an equitable portion of our trade con-

sistent with the legitimate aspirations and policies of our trading partners.

ON SHIPBUILDING MOBILIZATION CAPABILITY

Should our shipbuilding capability continue to decline, America's mobilization potential will be seriously undermined because a large reduction in a skilled shipbuilding workforce today makes any increase tomorrow very difficult. This is a dangerous threat to our national security, jobs, and a key U.S. industry.

ON THE STATE OF THE MARITIME INDUSTRY

America is a maritime nation. Yet our maritime industry is at a critical stage. Ninety-five percent of our trade moves in foreign vessels—a serious situation. Our active U.S.-flag fleet has declined to 533 ships—about ⅓ the total lost (1,787) by our country during World War II.

The United States does not have a merchant fleet capable of moving a significant portion of its foreign waterborne trade, nor does it have a merchant fleet that could function as an effective auxiliary in time of war or national emergency. We do not even have the ability to maintain and preserve a shipyard mobilization base sufficient to meet national defense requirements. Further, U.S. operators and shipbuilders are hard pressed to compete with other countries, such as Japan, where special financing subsidies for domestic vessel construction are available.

I ask my colleagues to give this bill their full consideration. I have compiled information documenting the need for this legislation, and the benefits that will be derived from its enactment. I request that this information, which follows, be inserted into the RECORD in its entirety.

This Nation cannot survive and prosper as an economic and political entity without the ships and shipyards necessary to support national defense and the industrial economy. I strongly believe that the trend we see in American shipping and shipbuilding can and must be reversed. With the support of the Congress, that objective can be achieved.

Mr. Speaker, the purpose of the Competitive Shipping and Shipbuilding Revitalization Act of 1982 is to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag, U.S.-built ships, to strengthen the defense industrial base, and for other purposes.

H.R. 6979 would achieve these objectives by requiring all exporters and importers of bulk commodities in the foreign commerce of the United States to ship 5 percent of their cargoes on U.S.-flag, U.S.-built ships beginning in 1983, and to increase the use of U.S.-flag, U.S.-built ships by 1 percent of all bulk cargoes per year until 20 percent of all U.S. bulk tonnage is shipped in U.S.-flag, U.S.-built ships.

Enactment of this legislation would:

Decrease this country's dependence on foreign shipping for strategic materials;

Rebuild the bulk component of the U.S.-flag merchant fleet engaged in international commerce that today numbers a mere 40 ships—most of which are near the end of their useful life; and

Provide needed work for the commercial shipyards located in the following States which compose the Nation's shipbuilding mobilization base: Alabama, California, Connecticut, Florida, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington, and Wisconsin.

Provide substantial work for support industries such as mining, steel mills, and foundries, as well as manufacturers of fabricated metals/alloys, pipes and valves, propulsions and machines, and other materials and equipment.

WHY IS IT NEEDED?

The ranking of the U.S. bulk fleet among world fleets has fallen. In 1970, the U.S.-flag, liquid and dry bulk fleet engaged in international commerce totaled 81—today it consists of only 48 ships. If provisions are not made for replacement we can most assuredly expect a further, perhaps irreversible decline in the U.S. bulk fleet. In addition:

Since 1950, the U.S.-flag, U.S.-built fleet carriage of U.S. foreign commerce has shrunk from 42 percent to less than 4 percent (1980) of its total foreign tonnage. In the liquid bulk trades, the U.S. carried approximately 3.9 percent and in the dry bulk foreign trades, a mere 1.3 percent. Liberia, Greece, Panama, Canada, Great Britain, Japan, and Norway, however, carry a substantial portion, almost 75 percent, of our foreign waterborne commerce.

Other countries, especially the U.S.S.R., are expanding their bulk fleets as we allow ours to atrophy. More than 270 new shipbuildings totaling approximately 2,610,000 deadweight tons have been added to the Soviet fleet since 1978, with emphasis on bulk carriage. In contrast, U.S. shipyards received orders for only seven bulk vessels last year. If the trend continues, not only will our fleets dwindle, but also our resources to rebuild them.

Our country requires merchant ships capable of serving the national defense. The Falkland Islands crisis proved that naval and merchant vessels are complementary. Warships guard men and cargo, while civilian ships help transport troops and supplies.

Of the 71 critical raw materials needed to maintain our industrial security, 68 are imported. Most of these imports are currently carried on foreign-flag vessels. This dependency on foreign-flag carriage jeopardizes our ability to function successfully in a national emergency. U.S. national security interests can best be served by an active U.S.-flag, U.S.-built bulk fleet.

Many countries reserve a portion of their seagoing trade for vessels of their national fleets. Even lesser developed countries are planning or proposing cargo-sharing regimes. The United Nations Conference on Trade and Development (UNCTAD) has formulated a code for liner conferences that provides for a large share of general cargoes to be served for nations that adopt the code and that participate in bilateral cargo-sharing agreements. The United States is currently not a signatory to the code.

RANK CHANGES IN THE WORLD'S LEADING MERCHANT FLEETS: 1938—1950—1980

Rank	Country	Million GRT [1]
	1938	
1	U.K	17.6
2	U.S.A	11.4
3	Japan	5.0
4	Norway	4.6
5	Germany	4.2
6	Italy	3.2
7	France	2.9
8	Netherlands	2.8
9	Greece	1.9
10	Sweden	1.5
11	U.S.S.R	1.3
12	Canada	1.2
Total		57.6
Percentage of world's fleet		86.6
	1950	
1	U.S.A	27.5
2	U.K	18.2
3	Norway	5.4
4	Panama	3.4
5	France	3.2
6	Netherlands	3.1
7	Italy	2.6
8	U.S.S.R	2.1
9	Sweden	2.0
10	Canada	1.9
11	Japan	1.9
12	Greece	1.3
Total		72.6
Percentage of world's fleet		85.8
	1980	
1	Liberia	80.3
2	Japan	41.0
3	Greece	39.5
4	U.K	27.0
5	Panama	24.1
6	U.S.S.R	23.4
7	Norway	22.0
8	U.S.A	18.5
9	France	11.9
10	Italy	11.1
11	Germany, F.R	8.3
12	Spain	8.1
Total		315.2
Percentage of world's fleet		75.1

[1] GRT: Gross registered tons—the weight of the vessel without cargo.

Source: "Transport 2000," July/August 1982, p. 24.

SUMMARY—BULK CARRIERS IN THE WORLD FLEET—OCEANGOING SHIPS OF 1,000 GROSS TONS AND OVER, AS OF JAN. 1, 1981

[Tonnage in thousands]

Country of registry (descending order)	Total	
	Number	Dwt.[1]
Liberia	1,742	147,410.2
Greece	1,358	54.614.0
Japan	1,037	55,464.3
Panama	709	24,484.3
U.S.S.R.	628	10,387.7

SUMMARY—BULK CARRIERS IN THE WORLD FLEET—OCEANGOING SHIPS OF 1,000 GROSS TONS AND OVER, AS OF JAN. 1, 1981—Continued

[Tonnage in thousands]

Country of registry (descending order)	Total	
	Number	Dwt.[1]
United Kingdom	594	37,409.4
Norway	399	36,495.8
Spain	188	10,729.1
Singapore	183	7,814.2
China (People's Republic of)	182	5,055.4
France	165	17,500.6
Korea (Republic of)	153	4,784.1
Germany (Federal Republic)	111	8,202.6
Denmark	102	6,336.7
Sweden	97	4,395.5
Poland	94	2,987.8
Argentina	87	2,184.9
Yugoslavia	86	1,998.0
Canada	80	798.0
China (Republic of)	52	1,977.5
Romania	51	1,585.3
Turkey	51	1,493.8
United States[2]	48	2,317.6
Israel	11	331.0
United Arab Republic	15	156.3

[1] Dwt.—Dead weight tons: a vessel's cargo carrying capacity in terms of weight measurement.

[2] U.S. carriers engaged in foreign commerce.

Source: U.S. Department of Transportation, Office of Trade Studies and Statistics.

COMPARATIVE VESSEL STATISTICS FOR SELECTED YEARS: U.S.—U.S.S.R.

Year	Merchant Marine[1]	
	Soviet Union	United States (Privately-owned merchant fleet)
1960	873	1,008
1965	1,345	948
1970	1,942	793
1975	2,404	580
1976	2,420	577

[1] 1,000 gross tons and over.

Source: U.S. Department of Transportation, Maritime Administration; U.S. Department of the Navy, Public Information Office.

WHAT ARE THE NATIONAL SECURITY IMPLICATIONS?

Shipbuilding, a strong maritime industry and our national security go hand in hand.

As the world's leading trading nation, as an island nation of have-nots in the area of strategic commodities, and as the chief guarantor of freedom of the Western World, the U.S. is in dire need of a rational, reasonable and effective maritime industry. Ronald Reagan, August 19, 1980.

In assessing the role of the merchant marine and shipbuilding industry in support of national security, the concept of "national security" must be considered in its broadest context. It must be extended beyond questions of reinforcements and/or resupply of troops overseas . . . to include the contribution made by these industries to the nation's economy. Adm. Isaac C. Kidd, Jr., former NATO Supreme Allied Commander, Atlantic.

A shipyard mobilization base, with a trained pool of shipbuilding labor is a national necessity. Currently, 26 yards make up this base, but many are in danger of closing. This bill would provide substantial building and repair work for U.S. commercial shipyards for years to come.

A liquid bulk ship operating capability is also essential. In the recent Falklands dispute, three of every four British ships were commercial vessels. Of these, almost half were tankers. Vice Adm. J. Kent Carroll, commander, the Military Sealift Command, has called the need for the right type of U.S.-flag tankers one of the most pressing current needs for military planners. This bill would help meet that need.

Because we import vast quantities of strategic commodities, and because most of these move in foreign-flag dry bulk ships, we are vulnerable to a cutoff of supplies that are vital to the U.S. industrial base. This vulnerability increases when one considers that the Soviet Union is more self-sufficient with regard to strategic raw materials than any other nation in the world, relying on foreign sources for only seven strategic minerals. This bill would substantially reduce our vulnerability to a supply cutoff. Further, U.S. Industries involved in production of military products would suffer in the event of supply cutoff. The inability of these industries to continue to import and export goods would also strike a serious blow to U.S. defense capabilities.

USES FOR U.S. IMPORT OF SPECIFIC METALS

Material	Material usage
Antimony	Flame retardant batteries, ceramics, chemicals.
Asbestos	Pipe, floorings, roofing, friction products, insulation, coatings.
Bauxite and alumina	90 percent for aluminum; remainder for chemicals, abrasives, refractories.
Cadmium	Plating, batteries, pigments.
Cesium	R. & D. in MHD power.
Chromium	Construction, machinery, transportation, paints, chemicals, ceramics.
Cobalt	Aerospace, cutting tools, electrical, magnetic materials, catalysts.
Columbium	Construction, petroleum industry, transportation, machinery.
Copper	Electrical, construction, machinery, transportation.
Corundum	Grinding and polishing optical components, fabricated metal products.
Diamond (industrial)	Machinery, transportation equipment, grinding and cutting equipment.
Fluorspar	Steel and aluminum production, fluorine compounds.
Gallium	Electronics.
Gold	Jewelry and arts, electronics, dental, investment bullion.
Gypsum	Building products, agriculture.
Ilmenite	Pigments, titanium metal, drilling mud, chemicals.
Iron ore	Steel.
Lead	Batteries, paint, chemicals, ammunition, construction, electrical.
Lithium	Aluminum production, glass, ceramics, lubricants.
Magnesium	Refractories, magnesium compounds.
Manganese	Steel production, batteries, chemicals.
Mercury	Electrical, paint, chlorine production.
Sheet mica	Electric, electronics.
Molybdenum	Machinery, transportation, oil and gas industry.
Nickel	Transportation, chemical industry, electrical, construction materials.
Phosphate rock	Fertilizers, animal feed, food products.
Platinum	Automotive, chemical.
Potash	Fertilizer.
Salt	Chemical industry, highway deicing, food products.
Selenium	Electronics, glass, chemicals, pigments.
Silver	Photography, electrical, silverware, solders.
Strontium	Color TV tubes, signals, pyrotechnics.
Sulfur	Agricultural chemicals, chemical products.
Tantalum	Electronic components, machinery, transportation.
Tin	Cans and containers, electrical, construction, transportation.
Tungsten	Metal working and construction machinery, transportation, lamps, electrical.
Vanadium	Steel and titanium alloys, catalyst.
Zinc	Construction materials, transportation and electrical equipment, machinery, chemicals.

Source: U.S. Department of the Interior, Bureau of Mines.

WHAT ARE THE ECONOMIC BENEFITS?

Enactment of H.R. 6979 offers numerous important economic benefits to the United States at no cost to the U.S. Treasury.

Passage of this bill would provide for:

Construction of 158 bulk ships of 120,000 deadweight ton capacity by 1998. The availability of assured cargo would stimulate investment in the construction of vessels in U.S. shipyards to meet the need for new tonnage and to replace existing tonnage that becomes obsolete.

Increased business to shipbuilding support industries. The shipbuilding industry has a great impact on other industrial concerns in the United States. The Defense economic impact modeling system, prepared by the Office of the Secretary of Defense, identifies mining, steel mills, and foundries as support industries along with fabricated metals/alloys, pipes and valves, machinery and propulsion, and semiconductors as supporting products. According to this source, each dollar invested in the shipbuilding industry, yields an additional dollar generated throughout the private sector.

Thousands of job opportunities for American workers, in maritime-related service, supply and material industries. This legislation would create 146,150 man/years of employment in American shipyards, as well as 6,162 seagoing jobs. Especially important, more than 200,000 existing American jobs in ship construction and repair, ship operation, and maritime-related service, supply, and material industries would be saved. Absent this legislation, jobs will be lost. One group that undoubtedly would be hit hardest by an employment cutback would be minorities. Approximately 28 percent of the U.S. shipyard work force and approximately 17.5 percent of the shipboard work force consists of minorities.

Millions of dollars annually to the U.S. Treasury through corporate taxes on both shipbuilding and shipping profits and income taxes on shipyard workers and seamen. The Treasury Department has estimated that multinational companies escape over $100 million per year in U.S. taxation by registering vessels under foreign flags and using foreign crews. Subpart F of the Internal Revenue Code provides a special exclusion for shipping income of foreign-based companies. This exclusion amounts to an indirect subsidy of foreign-flag shipping.

A boost in our international balance of payments. When U.S. companies and U.S. crews are used to transport America's imports and exports, dollars are retained in or transferred to the American economy via the services U.S. operators provide to foreign countries. These dollars are used to purchase American goods and services. For the past decade, however, more money has been paid out to foreigners for ocean transportation than to domestic operators. Of the $8 billion worth of shipping services recorded in the balance of payments for 1980, only $2.6 billion was paid to U.S.-flag carriers. The remaining $5.4 billion was paid to foreign carriers, leaving a deficit of some $2.8 billion. If U.S.-flag vessels had a larger share of American bulk cargo imports and exports, this trend would be quickly reversed.

PROJECTED EFFECTS OF 20-PERCENT BULK CARGO RESERVATION

	1982	1983	1984	1986	1988	1990	1992	1994	1996	1998
Oil (million long tons)	266	264	262	260	258	256	254	252	250	248
Coal (million long tons)	103	106	111	124	140	156	172	188	204	220
Dry bulk (million long tons)	340	351	362	379	391	402	414	426	438	450
Total (million long tons)	709	721	735	763	789	814	840	866	892	918
U.S. carriage (percent)		5	6	8	10	12	14	16	18	20
U.S. ships required		36	44	61	79	97	118	138	160	184
U.S. ships current		21	21	19	17	15	13	11	9	7
Ships transferred from layup or other trades		15	8							
Cumulative		15	23	25	25	25	25	23	21	19
Ships to be built in United States				9	10	10	12	12	13	14
Cumulative				17	37	57	80	104	130	158

Source: U.S. Department of Transportation, Maritime Administration. Shipbuilders Council of America.

WHAT STATES WOULD BENEFIT FROM THE BILL

Shipyards and their related allied industries are scattered in approximately 26 States across the Nation. Enactment of this bill would have a positive economic impact on these shipyards and their allied industries. Without such legislation, the impact on the shipbuilding industry would be severe. Twelve of the twenty-six active shipyards would be in danger of closing, perhaps permanently. In turn this could damage the growth of many companies directly and indirectly related to the shipbuilding industry.

SHIPBUILDING SUPPORT INDUSTRIES

CALIFORNIA

Alloys

Kaiser Aluminum & Chemical Sales, Inc., Oakland, California.

Cable hanagers

Kinnaman Electric, Wilmington, California.

Electric cables

Kinnaman Electric, Wilmington, California.

Hose (fire and deck)

The American Rubber Manufacturing Co., Oakland, California.

Ladders (accommodation)

Kings Point Machinery, Inc., San Francisco, California.

Life rafts; or life floats

C. J. Hendry Co., San Francisco, California.

Lighting equipment and fixtures

Kinnaman Electric, Wilmington, California.

Loran

Raytheon Co., South San Francisco, California.

Navigating instruments

Raytheon Co., San Francisco, California.

Pipe (corrosion-resisting)

Amercoat Corp., Brea, California.

Pipe fittings

Amercoat Corp., Brea, California.

Pumps

Pacific Pumps, Inc., Huntington Park, California.

Borg-Warner Corp., Byron-Jackson Div., Los Angeles, California.

Wire rope

C. J. Hendry Co., San Francisco, California.

CONNECTICUT

Bushings

Chase Brass & Copper Co., Waterbury, Connecticut.

Distillers

American Machine & Foundry Co., Waterford, Connecticut.

Ducts

Anaconda American Brass Co., Waterbury, Connecticut.

Expansion joints

Croll-Reynolds Engineering Co., Inc., Stamford, Connecticut.

Expansion joints

Anaconda American Brass Co., Waterbury, Connecticut.

Hose (fire and deck)

Hewitt-Robins Ind., Stamford, Connecticut.

Hydraulic machine drives

Vickers Incorporated, Waterbury, Connecticut.

Lighting equipment and fixtures

Rostand Mfg. Co., Milford, Connecticut.

Safety Electrical Equipment Corp., New Haven, Connecticut.

Thermometers, gages

Dresser Industries, Inc., Manning, Maxwell & Moore Div., Stratford, Connecticut.

Tubes

Chase Brass & Copper Co., Waterbury, Connecticut.

Anaconda American Brass Co., Waterbury, Connecticut.

Bridgeport Brass Co., Div. of National Distillers & Chemical Corp., Bridgeport, Connecticut.

ILLINOIS

Diesel engines

Caterpiller Tractor Co., Peoria, Illinois.

General Motors Corp., LaGrange, Illinois.

Gratings

U.S. Steel Supply Div., U.S. Steel Corp., Chicago, Illinois.

Insulation (acoustical)

Ozite Corp., Chicago, Illinois.

Pumps

Aurora Pump Div., The New York Air Brake Co., Aurora, Illinois.

Welding tees

Taylor Forge & Pipe Works, Chicago, Illinois.

INDIANA

Pipe (correction-resisting)

Stellite Div., Union Carbide Corp., Kokomo, Indiana.

Pumps

Dean Brothers Pumps, Inc., Indianapolis, Indiana.

KANSAS

Pumps

Colt Industries, Kansas City, Kansas.

KENTUCKY

Alloys

Tube Turns, Division of Chemetron Corp., Louisville, Kentucky.

Expansion joints

Tube Turns, Louisville, Kentucky.

Pipe fittings

Tube Turns, Louisville, Kentucky.

Welding tees

Tube Turns, Div. of Chemetron Corp., Louisville, Kentucky.

MARYLAND

Distillers

Tate Engineering, Inc., Baltimore, Maryland.

Furniture

Turnbull Enterprises, Inc., Baltimore, Maryland.

Hatch covers

Wiley Manufacturing Corp., Port Deposit, Maryland.

Joiner doors

Jamison Cold Storage Door Co., Hagerstown, Maryland.

Manifolds (bilge, ballast, feed and fire pump, etc.)

Tate Engineering, Inc., Baltimore, Maryland.

Thermometers, gages

Tate Engineering, Inc., Baltimore, Maryland.

MASSACHUSETTS

Blowers

Coppus Engineering Corp., Worcester, Massachusetts.

Panelboards

Henschel Corp., Amesbury, Massachusetts.

Pumps

Warren Pumps, Inc., Warren, Massachusetts.

Telegraphs (electric; engine and fireroom, docking, steering, etc.)

Henschel Corp., Amesbury, Massachusetts.

BEST COPY AVAILABLE

MICHIGAN

Blowers

American Standard Industrial Div., Detroit Michigan.

Clarage Fan Co., Kalamazoo, Michigan.

Capstans

Jered Industries, Inc., Birmingham, Michigan.

Controllers

American-Standard Controls Div., Detroit, Michigan.

Pipe fittings

Aeroquip Corp., Jackson, Michigan.

MINNESOTA

Controllers

Honeywell, Inc., Minneapolis, Minnesota.

Thermometers, gages

Honeywell, Inc., Minneapolis, Minnesota.

MISSOURI

Insulation (acoustical)

Gustin-Bacon Manufacturing Co., Kansas City, Missouri.

Pipe fittings

Gustin-Bacon Manufacturing Co., Kansas City, Missouri.

Welding tees

Midwest Piping & Supply Co., Inc., St. Louis, Missouri.

Wire Rope Corp. of America, Inc., St. Joseph, Missouri.

NEW JERSEY

Alarm systems

Walter Kidde & Co., Inc., Belleville, New Jersey.

Bearings

Lignum-Vitae Products Corp., Kearny, New Jersey.

Blowers

L. J. Wing Mfg. Co., Linden, New Jersey.

Boiler feed systems

Leslie Co., Lyndhurst, New Jersey.

Cable hangers

Indmar Sales Co., Hoboken, New Jersey.

Controllers

Leslie Co., Lyndhurst, New Jersey.

Davits

Welin Davit & Boat, Perth Amboy, New Jersey.

Electrical boxes

Lovell-Dressel Co., Inc., Kearny, New Jersey.

Fire extinguishing systems

Walter Kidde & Co., Inc., Belleville, New Jersey.

Food service equipment

S. Blickman Inc., Weehawken, New Jersey.

Furniture

S. Blickman, Inc., Weehawken, New Jersey.

Gratings

Great Bend Mfg. Corp., Paterson, New Jersey.

Hatch covers

Marryatt, Lane & Co., Inc., Paterson, New Jersey.

Insulation (acoustical)

National Distributing Co., Inc., Little Ferry, New Jersey.

Joiner bulkheads

National Distributing Co., Inc., Little Ferry, New Jersey.

Ladders (accommodation)

Great Bend Mfg. Corp., Paterson, New Jersey.

Lighting equipment and fixtures

Lovell-Dressel Co., Inc., Kearny, New Jersey.

Loran

Radio Corp. of America, Radiomarine Products Department, Camden, New Jersey.

ITT Mackay Marine, Clark, New Jersey.

Navigating instruments

Radio Corp. of America, Radiomarine Products Department, Camden, New Jersey.

Propellers

Ferguson Propeller and Reconditioning, Ltd., Hoboken, New Jersey.

Pumps

Coffin Turbo Pump Co., Englewood, New Jersey.

Wire rope

Colorado Fuel & Iron Corp., Trenton, New Jersey.

NEW YORK

Alloys

Federated Metals Div., American Smelting & Refining Co., New York, New York.

Bearings

Farrel Corp., Rochester, New York.

Capstans

Marine Engine Specialties Corp., New York, New York.

Superior-Lidgerwood-Mundy Corp., New York, New York.

Lake Shore, Inc., New York, New York.

Davits

Lake Shore, Inc., New York, New York.

Davits

Lane Lifeboat and Davit Corp., Brooklyn, New York.

Smith-Meeker Engineering Co., New York, New York.

Diesel engines

Marine Engine Specialities Corp., New York, New York.

Alco Products, Inc., New York, New York.

Igersoll-Rand Co., New York, New York.

Distillers

Adsco Div., Yuba Consolidated Industries, Inc., Buffalo, New York.

Ducts

Juniper Elbow Co., Inc., Middle Village, New York.

Rudman & Scofield, Inc., New York, New York.

Electric cables

Graybar Electric Co., Inc., New York, New York.

Normandy Electric Wire Corp., Brooklyn, New York.

Electrical boxes

Graybar Electric Co., Inc., New York, New York.

Arnessen Electric Co., Inc., Brooklyn, New York.

Expansion joints

Garlock, Inc., Palmyra, New York.

United States Rubber Co., New York, New York.

Adsco Div., Yuba Consolidated Industries, Inc., Buffalo, New York.

Fire extinguishing systems

American LaFrance, Elmira, New York.

Food service equipment

Frigitemp Corp., Brooklyn, New York.

Rudman & Scofield, Inc., New York, New York.

Furniture

Martin-Parry Marine Corp., New York, New York.

Rudman & Scofield, Inc., New York, New York.

Furniture

Jamestown Metal Corp., Jamestown, New York.

Hatch covers

MacGregor-Comarain, Inc., New York, New York.

Hose (fire and deck)

American LaFrance, Elmira, New York.

Insulation (acoustical)

Eastern Cold Storage Insulation Co., Inc., New York, New York.

Joiner bulkheads

Martin-Parry Marine Corp., New York, New York.

Arnot Marine, New York, New York.

Joiner doors

Jamestown Metal Corp., Jamestown, New York.

Arnot Marine, New York, New York.

Life rafts; or life floats

C. C. Galbraith & Son, Inc., New York, New York.

Lane Lifeboat & Davit Corp., Brooklyn, New York.

Lighting equipment and fixtures

Graybar Electric Co., Inc., New York, New York.

Modern Metal Manufacturing Co., Inc., Brooklyn, New York.

Arnessen Electric Co., Inc., Brooklyn, New York.

Crouse-Hinds Co., Syracuse, New York.

Russell & Stoll Co., Inc., New York, New York.

Loran

Edo Corp., Long Island, New York.

Navigating instruments

Moeller Instrument Co., Inc., Richmond Hill, New York.

Panelboards

Graybar Electric Co., Inc., New York, New York.

Modern Metal Manufacturing Co., Inc., Brooklyn, New York.

Arnessan Electric Co., Inc., Brooklyn, New York.

Propellers

Columbian Bronze Corp., Long Island, New York.

Pumps

Goulds Pumps, Inc., Seneca Falls, New York.

Purifiers

De Laval Separator Co., Poughkeepsie, New York.

Scaffolding

Patent Scaffolding Co. Inc., Long Island City, New York.

Telegraphs (electric; engine and fireroom, docking, steering, etc.)

McNab Incorporated, New York, New York.

Marine Electric Corp., Galbraith-Pilot Marine Corp., Brooklyn, New York.

Thermometers, gages

Moeller Instrument Co., Inc., Richmond Hill, New York.

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Taylor Instrument Companies, Rochester, New York.

Weksler Instruments Corp., Freeport, New York.

Tubes

Marine Engine Specialties Corp., New York, New York.

Revere Copper and Brass, Incorporated, New York, New York.

OHIO

Bearings

The Timken Roller Bearing Co., Canton, Ohio.

Shenango-Penn, Dover, Ohio.

Bushings

Sandusky Foundry & Machine Co., Sandusky, Ohio.

Shenango-Penn, Dover, Ohio.

Cable hangers

Nelson Stud Welding, Lorain, Ohio.

Diesel engines

The White Motor Corp., Springfield, Ohio.

Fire extinguishing systems

The Fyr-Fyter Co., Dayton, Ohio.

Food service equipment

Hobart Mfg. Co., Troy, Ohio.

Hatch covers

The Overbeke-Kain Co., Marine Products Div., Bedford, Ohio.

Hose (fire and deck)

The B. F. Goodrich Co., Akron, Ohio.

Hydraulic machine drives

Denison Engineering Div., American Brake Shoe Co., Columbus, Ohio.

Insulation (acoustical)

Owens-Corning Fiberglass Corp., Toledo, Ohio.

Joiner doors

The Overbeke-Kain Co., Marine Products Div., Bedford, Ohio.

Life rafts; or life floats

B. F. Goodrich Industrial Products Co., Akron, Ohio.

Lighting equipment and fixtures

Mink-Dayton, Inc., Dayton, Ohio.

Carlisle & Finch Co., Cincinnati, Ohio.

Panelboards

Lake Shore Electric Corp., Bedford, Ohio.

Pipe (corrosion-resisting)

Sandusky Foundry & Machine Co, Sandusky, Ohio.

Welding tees

Lunkenheimer Co., Inc., Cincinnati, Ohio.

Wire rope

Armco Steel Corp., Middletown, Ohio.

OREGON

Pumps

Bingham Pump Co., Portland, Oregon.

Scaffolding

Albina Engine & Machine Works, Inc., Portland, Oregon.

PENNSYLVANIA

Alloys

Aluminum Co. of America, Pittsburgh, Pennsylvania.

Anchors

Baldt Anchor, Chain & Forge Div., Boston Metals Co., Chester, Pennsylvania.

Bearings

Cooper Split Roller Bearing Corp., Carnegie, Pennsylvania.

Bearings

Kingsbury Machine Works, Inc., Philadelphia, Pennsylvania.

Blowers

Joy Manufacturing Co., Pittsburgh, Pennsylvania.

Bushings

American Manganese Bronze Co., Philadelphia, Pennsylvania.

American Brake Shoe Co., Pittsburgh, Pennsylvania.

Capstans

Erie Forge & Steel Corp., Erie, Pennsylvania.

Controllers

Copes-Vulcan Div., Blaw-Knox Co., Erie, Pennsylvania.

Davits

Erie Forge & Steel Corp., Erie, Pennsylvania.

Diesel engines

Baldwin-Lima-Hamilton Corp., Philadelphia, Pennsylvania.

Expansion joints

Yarway Corp., Philadelphia, Pennsylvania.

Dresser Manufacturing Div., Dresser Industries, Inc., Bradford, Pennsylvania.

Gratings

Beaver-Advance Corp., Ellwood City, Pennsylvania.

Hatch covers

Lukens Steel Co., Coatesville, Pennsylvania.

Greer Marine, Div. of Fuller Co., Catasauqua, Pennsylvania.

Hose (fire and deck)

The General Fire Extinguisher Corp., Philadelphia, Pennsylvania.

Ladders (accommodation)

General Engineering Works, Inc., Philadelphia, Pennsylvania.

Lighting equipment and fixtures

Joy Manufacturing Co., Pittsburgh, Pennsylvania.

Manifolds (bilge, ballast, feed and fire pump, etc.)

General Engineering Works, Inc., Philadelphia, Pennsylvania

Pipe (corrosion-resisting)

A. M. Byers Co., Ambridge, Pennsylvania.

Allegheny Ludlum Steel Corp., Pittsburgh, Pennsylvania.

Standard Pipe & Supply Co., Inc., Philadelphia, Pennsylvania.

Pipe (corrosion-resisting)

United States Steel Corp., Pittsburgh, Pennsylvania.

Pipe fittings

Aluminum Co. of America, Pittsburgh, Pennsylvania.

Standard Pipe & Supply Co., Inc., Philadelphia, Pennsylvania.

Propellers

American Manganese Bronze Co., Philadelphia, Pennsylvania.

Baldwin-Lima-Hamilton Corp., Philadelphia, Pennsylvania.

Purifiers

Sharples Corp., Philadelphia, Pennsylvania.

Scaffolding

Beaver-Advance Corp., Ellwood City, Pennsylvania.

Soot Blowers

Copes-Vulcan Div., Blaw-Knox Co., Erie, Pennsylvana.

Tubes

United States Steel Corp., Pittsburgh, Pennsylvania.

Wire rope

Jones & Laughlin Steel Corp., Pittsburgh, Pennsylvania.

Wire rope

American Cable Div. of American Chain & Cable Co., Inc., Wilkes-Barre, Pennsylvania.

Wire Rope Sling Dept. of American Chain & Cable Co., Inc., Wilkes-Barre, Pennsylvania.

RHODE ISLAND

capstans

Ideal Windlass Co., Inc., East Green, Rhode Island.

Davits

Ideal Windlass Co., Inc., East Greenwich, Rhode Island.

TENNESSEE

Capstans

Nashville Bridge Co., Nashville, Tennessee.

VIRGINIA

Alloys

Reynolds Metals Co., Richmond, Virginia.

Loran

Sperry Piedmont Co., Div. of Sperry Rand Corp., Charlottesville, Virginia.

WASHINGTON

Capstans

Western Gear Corp., Seattle, Washington.

Skagit Corp., Sedro-Woolley, Washington.

WISCONSIN

Bearings

Waukesha Bearings Corp., Waukesha, Wisconsin.

Bushings

Kahlenberg Brothers Co., Two Rivers, Wisconsin.

Diesel Engines

Waukesha Motor Co., Waukesha, Wisconsin.

Allis-Chalmers, Milwaukee, Wisconsin.

Nordberg Manufacturing Co., Milwaukee, Wisconsin.

Fairbanks Morse Power Systems Div., Colt Industries, Beloit, Wisconsin.

Distillers

Cleaver-Brooks Co. (Aqua-Chem, Inc. Affiliate), Milwaukee, Wisconsin.

Davis Engineering, Waukesha, Wisconsin.

Fire Extinguishing Systems

Ansul Chemical Co., Marinette, Wisconsin.

Hydraulic Machine Drives

Oilgear Co., Milwaukee, Wisconsin.

Panelboards

Allis-Chalmers Manufacturing Co., Milwaukee, Wisconsin.

Pipe (Corrosion-Resisting)

Ampco Metal, Inc., Milwaukee, Wisconsin.

Pipe Fittings

Ampco Metal, Inc., Milwaukee, Wisconsin.

Pumps

Allis-Chalmers, Milwaukee, Wisconsin.

Tubes

Ampco Metals, Inc., Milwaukee, Wisconsin.

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Welding Tees

Ampco Metal, Inc., Milwaukee, Wisconsin.

WHAT DO OTHER COUNTRIES DO

Maritime nations throughout the world have enacted legislation reserving a substantial portion of trade for their own merchant fleets.

At least 45 maritime countries reserve cargo for their fleets through laws or discriminatory practices.

Ten of the thirteen members of the Organization of Petroleum Exporting Countries have enacted cargo preference laws or decrees.

Communist countries, expecially the Soviet Union, have effectively supported their merchant fleets through government control of all cargo booking functions.

Other non-Communist nations routinely route cargoes to their own flag ships by controlling cargo booking functions through law. This list includes major oil exporters such as Algeria, Iran, Libya, and Nigeria.

Major shipbuilding nations, including Japan, Korea, and Taiwan, offer heavily subsidized financing plans to shipping companies placing orders in their domestic shipyards. This allows foreign shipyards to offer effective interest rates substantially lower than U.S. yards can offer.

The major trading partners of the United States support their merchant fleets through subsidies, generous tax advantages, and investment financing assistance.

Nations such as Liberia and Panama offer total corporate tax exemption to attract U.S. companies to register their merchant tonnage under the Liberian or Panamanian flag.

The United States is the world's greatest trading nation. Yet, U.S. vessels carry less than 4 percent of the total tonnage moving in U.S. foreign trade. In the liquid bulk arena, U.S. vessels carried only 3.9 percent of the total foreign trade in 1980. In the dry bulk trades, this figure falls to a mere 1.3 percent. Liberia, Greece, and Panama carry approximately 53 percent of U.S. foreign oceanborne commerce, primarily in the bulk trades, while 43 percent is shared by 87 additional countries.

Other maritime nations carry significantly more of their own foreign oceanborne trade than the United States. For example, the Soviet Union transports 50 percent on its state vessels; Great Britain transports 32 percent on its merchant vessels; Japan carries 39 percent; Greece carries 48 percent; and Norway carries 37 percent.

CARGO PREFERENCE POLICIES OF OTHER COUNTRIES

Algeria—100% carriage of liquefied natural gas shipments.

Argentina—50% of all trade, 100% of government cargoes.

Brazil—40% of all trade, 100% of government cargoes.

Chile—50% of all trade.

Colombia—50% of all trade.

Ecuador—50% of all trade, 100% of all hydrocarbons.

France—66% of oil imports, 50% of coal imports.

Gabon—100% of government cargoes, 40% of liner cargoes through unilateral implementation of UNCTAD.

Indonesia—100% of fertilizer, 45% of European cargoes.

Korea—100% of certain specified cargoes.

Kuwait—Oil contracts specify preference for Kuwait-flag.

Mexico[*]—100% of government cargoes, 100% of oil exports.

Morocco—40% of all imports, 30% of all exports.

Peru—50% of all trade.

Philippines[*]—100% of government cargoes.

Saudi Arabia—Royal decree providing preference for all cargoes.

Spain—Limited preference on certain imported commodities.

Thailand—100% of all government cargoes.

Venezuela—50% of all trade, 100% of government cargoes.

Zaire—100% of government cargoes.

ABSENCE OF THE FREE MARKET

The realities of world shipping clearly demonstrate that the free market theory is not the mechanism governing the supply and demand of vessels in international trade. Government intervention in the form of subsidies, tax-breaks, cargo allocations, and other preferential treatment has altered the way business is done in the shipping market. Furthermore, many socialist governments operate their state-owned fleets with political rather than profit-oriented goals in mind. Vessels of these fleets charge rates well below those rates that a free market would produce. The result is a market dominated by the actions and policies of national governments intent upon building and maintaining merchant fleets under their national flags regardless of the cost.

Other nations, pursuing valid national security goals, have fundamentally biased the international market in shipbuilding and ocean transportation services. France, for example, pursues an aggressive maritime growth policy including a cargo preference plan reserving two-thirds of oil imports and 50 percent of coal imports for French-flag vessels. France carries approximately 25 percent of its total foreign trade aboard French-flag vessels.

Government-backed low interest financing for shipbuilding, as practiced by countries such as Japan and Korea, among others, creates demand for their shipbuilding services. Foreign shipowners or Korean exporters can receive loans from the Korean Export-Import Bank for up to 80 percent of the cost of vessels with repayment over 8 years at interest rates between 8 and 8.5 percent.

Other countries use national standards policies, taxation policies, regulatory frameworks, insurance practices, and subsidies to promote their own maritime services. Shippers covered by the government-backed French export insurance company, Coface, must make all shipments on French-flag vessels. Brazil levies a stamp tax on freight carried in non-Brazilian bottoms. Argentian regulations include reduced port charges, rebates on wharfage fees, and elimination of consular fees for national-flag vessels.

State-controlled fleets, such as the U.S.S.R.'s, are 100 percent government subsidized, can operate without a primary regard for profit, and have seriously eroded market opportunities for free world maritime fleets.

WHAT ARE THE COSTS OF THE BILL

COSTS TO THE GOVERNMENT

The Treasury will expend no additional funds if this legislation is enacted.

The U.S. Treasury will, in fact, receive added revenues from corporate and personal taxes paid by shipyards, shipping companies, supporting industries, and their employees.

Without this legislation, the U.S. Government will be burdened with the added costs associated with high unemployment in shipbuilding and related industries. An increase in unemployment affects the Federal Government's costs associated with medicaid, unemployment insurance, food stamps, and interest charges on the national debt.

State governments carry a large share of the strain of unemployment, too. If, for example, two shipyards were shut down, State costs for unemployment compensation in the first year alone could exceed $40 million. In addition, U.S. Government costs for food stamps could exceed $10 million, bringing the total to $50 million.

Approximately 13,000 additional shipboard and shipyard workers would be hired as a result of this legislation. If those individuals who would be added to the employment rosters by newly created jobs under this bill were left on unemployment instead, the costs associated with unemployment and food stamps benefits could approach $80 million for a 1-year period.

COST SAVINGS

Series construction of the 158 ships required under this program will reduce current U.S. shipyard costs by 15 percent. This cost reduction is based on a minimum of 10 ships of similar design being constructed by each individual shipyard. In addition, with this commercial shipbuilding program, shipyard overhead applied to naval work would be reduced.

A reliable, long-term workload would increase shipyard labor productivity, and effect reduction in component costs of shipyard suppliers and manufacturers, as well as create the necessary stability for increased capital improvements in facilities.

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[*] Mexico and the Philippines are currently updating their laws to reserve a greater percentage of their commerce for their domestic fleets.

The steady workload of this program will create conditions similar to those under the very successful mariner construction program of the fifties, which had standard designs and common components. This will significantly reduce construction times with attendant cost savings.

Several maritime unions have pledged:

Further reductions in manning scales. The union training schools will provide skilled personnel to crew the newer and more technologically advanced vessels.

Contractual arrangements consistent with required skills and the need for higher productivity.

No interruption of service for long-term contractual arrangements.

Joint contracts for each new vessel providing for a top-to-bottom, three-crew, two-ship operation, whereby three crews rotate between two ships on a regular basis. This increases familiarity with the vessels, and productivity of the seamen. Present daily crew costs for U.S. bulk carriers built in the 1970's and operating with a shipboard work force of 26 averages $6,398.06 per day. Proposals being made in the context of this bill would reduce crews from 26 to 22. Through crew reductions and other measures, average costs would be reduced to $4,847.79 per day, a savings of $1,550.27 per vessel per day. On an annual basis this would reduce operating costs by approximately $565,000 per vessel.

COSTS TO THE SHIPPER

The U.S.-foreign cost differential per ton of cargo on a new 120,000 DWT dry-bulk vessel, produced in a 10-ship series, is estimated by the U.S. Maritime Administration to be $10.98. When the 15 percent cost-savings by shipbuilders and labor for the program are applied, the differential, is reduced to $8.05 per ton. If applied to the total value per ton of bulk exports and imports in 1982, this differential would represent only a 3-percent increase.

A 1977 GAO report estimated that a 20-percent U.S.-flag transport requirement would add eight-tenths of 1 cent per gallon to the cost of petroleum.

The bill would establish policy to insure that importers and exporters of bulk commodities would be able to ship goods on U.S.-flag, U.S.-built vessels. To this end, the Department of Transportation would review U.S. bulk ship operation and shipbuilding activities annually.

IS THIS TOO MUCH TO PAY FOR NATIONAL SECURITY

Mr. Speaker, the merchant marine, ocean transportation and shipbuilding mobilization base are major logistical elements of this Nation's commercial and strategic security. The declaration of policy (title I) of the Merchant Marine Act of 1936 delineates this national policy. I believe that the U.S. merchant fleet and shipbuilding industry can be revitalized through this legislation to meet the national requirements for an efficient and well-equipped merchant fleet. In summary, I urge my colleagues to consider these points:

In light of the national security benefits to be gained this legislation is an inexpensive way to foster the development of two essential components of national defense, the U.S.-flag, U.S.-built merchant marine and the U.S. commercial shipyard industry.

Failure to enact this bill could add to the continuing strain of a declining U.S.-flag, U.S.-built merchant fleet and shipyard mobilization base and increase U.S. dependence on foreign carriage, of both imported and exported bulk commodities. This could pose a situation in which this Nation would have virtually no control.

Enactment of this bill would stimulate vital industrial segments of this Nation's economy, increase employment, impact beneficially on our balance of payments, add tax dollars to the U.S. Treasury, and foster the growth of the U.S.-flag bulk merchant fleet.

This legislation provides for a U.S.-flag merchant marine and shipbuilding mobilization base capable of fulfilling national requirements during peace and war, both industries that are indispensable to this Nation's military and defense structure.

In order to afford the costs of an adequate defense, this Nation must have the means to guarantee its economic security. As this legislation would result in no additional cost to the U.S. Treasury, and only a very low percentage increase in cost to the bulk commodity exporters and importers, it is obvious that we cannot afford the alternative substantial dependence on foreign shipping, even possibly including ships of the Soviet bloc.

In conclusion, Mr. Speaker, I would like to have the text of the Competitive Shipping and Shipbuilding Revitalization Act of 1982 appear in the RECORD along with a section-by-section analysis of the legislation and a series of questions and answers on the proposal.

Thank you.

The material follows:

H.R. 6979

A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in United States flag ships, to strengthen the defense industrial base, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competitive Shipping and Shipbuilding Act of 1982".

FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) The Congress finds and declares the following:

(1) The United States is totally dependent upon foreign-flag bulk shipping services in that United States-flag vessels now carry less than 4 percent of its bulk import and export commodities in international trade.

(2) Virtually all bulk imports of the United States are critical to American industrial production or to the maintenance of adequate energy supplies.

(3) Bulk exports of the United States contribute substantially to the United States balance of trade, provide major sources of employment in the United States, and contribute to the food supply and other essential requirements on a worldwide basis.

(4) The United States cannot afford to rely heavily upon foreign sources to provide the transportation services needed to maintain the flow of essential bulk imports and exports if it is to ensure its economic and political independence in times of emergency.

(5) The United States has substantially lost and is continuing to lose the major portion of revenues generated by the carriage of its bulk imports and exports in international trade.

(b) It is therefore declared to be purpose and policy of the Congress in this Act—

(1) to take immediate and positive steps to promote the orderly and rapid growth of the bulk cargo carrying capability of the United States merchant marine in order to transport 20 per centum of our bulk imports and exports in United States flag ships within fifteen years or less;

(2) to assist and cooperate with the importers and exporters of bulk commodities so that they will be able to ship their goods in United States flag ships in a commercially practicable manner; and

(3) to encourage the construction of new efficient and environmentally safe bulk carrying merchant vessels in United States shipyards.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "United States flag ship" means an ocean going ship or vessel of whatever description having United States citizen crews and built in, and documented under the laws of, the United States, and with respect to the construction, hull, superstructure, main propulsion machinery and other machinery articles or components of which not more than 50 percent of the cost thereof is attributed to foreign manufacture.

(2) The terms "bulk commodity" and "bulk cargo" mean cargo transported in bulk without mark or count by an oceangoing ship or vessel of whatever description in the foreign commerce of the United States.

CARRIAGE OF BULK CARGOES ON UNITED STATES FLAG SHIPS

SEC. 4. (a) For the purpose of this section, any percentage of bulk commodities shall be measured by the aggregate tonnage of all such shipments landed at the port at which they enter or leave the United States.

(b) In calendar year 1983, at least five percent of all bulk commodities moved by water and imported to or exported from any point in the United States shall be carried on United States flag ships.

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(c) In each calendar year after calendar year 1983, the percentage set forth subparagraph (b) of this section shall increase by one percent until the percentage of bulk commodities carried on United States flag ships during any year is 20 percent.

(d)(1) The Secretary of Transportation, in consultation with representative maritime industry associations of owners, operators, shipbuilders, manufacturers, and labor, shall prepare estimates of current and projected costs of United States flag bulk ship operation and United States bulk shipbuilding.

(2) The estimates prepared under paragraph (1) shall be updated on an annual basis and shall be considered as information vital to the security of the United States. As such, these estimates shall not be released to foreign interests under any circumstances.

(3) In order for the percentages of bulk cargo imports and exports required to be carried in United States flag ships as set forth in this section to be enforced, the actual cost of United States flag bulk ship operation and United States bulk shipbuilding under this program shall be at least fifteen percent below the estimates of projected costs determined as above. To the extent that the percentages of United States flag carriage are not enforceable, they shall be credited against the annual required percentage for each importer and exporter concerned.

REPORTING OF AMOUNT SHIPPED ON U.S. FLAG SHIPS

SEC. 5. (a) Any person, corporation, partnership or other business entity which imports or exports bulk commodities in the foreign commerce of the United States, and whose volume of business exceeds $1 million annually (in imports or exports or any combination thereof) shall submit to the Secretary of Commerce, on or before January 31 of each year, a sworn statement certifying that the percentages of its imports and exports carried on United States flag ships in the preceding year were at least the percentage of trade reserved to United States flag ships under section 4 of this Act.

(b) Any exporter or importer who fails in any calendar year to use United States flag ships to carry the percentage of his imports or exports required under this Act shall, in the next calendar year, use exclusively United States flag ships to carry all shipments until he has recouped the deficiency from the preceding year. Any importer or exporter who fails to recoup the deficiency and meet the required percentage in this second calendar year shall be subject to the penalties set forth in subsection (c) of this section.

(c) Any exporter or importer who fails to comply with the requirements of this Act shall be prohibited from importing to or exporting from the United States any bulk commodities for a period of one year.

(d) In the event that the Secretary of Commerce has reason to believe that any person or business entity has violated the terms of this Act, he shall within thirty days investigate the possible violation. In the event that his investigation develops any substantial evidence of a violation, the Secretary shall appoint an administrative law judge who shall notify said person of the suspected violation and afford him reasonable opportunity to refute the charges at a public hearing. The judge shall then promptly determine whether the charges were well founded and issue a decision either suspending the person from importing and exporting for a period of one year or dismissing the charges.

(e) Any person suspended from importing and exporting may appeal the decision of the judge to the United States district court for the District of Columbia within thirty days of being notified of the decision. Such appeal may be heard pursuant to chapter 7 of title 5, United States Code, and section 1331 of title 28, United States Code.

(f) The Secretary of Transportation is hereby authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1982—SECTION-BY-SECTION ANALYSIS

SECTION 1. COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1982

SECTION 2. FINDINGS, PURPOSES, AND POLICY

In Section 2(a) the Congress declares that: the United States is dependent upon foreign-flag bulk shipping services; U.S.-flag vessels now carry less than four precent of its bulk import and export commodities; virtually all bulk imports are critical to American industrial production or maintenance of energy supplies; bulk exports contribute substantially to the U.S. balance of trade, provide major sources of employment, and contribute to the food supply on a worldwide basis; the United States cannot rely upon foreign sources to provide transportation services in times of national emergency; and, the United States has substantially lost the major portion of revenues generated by the carriage of its bulk imports and exports in international trade.

In Section 2(b) the Congress declares that the purposes and policy of the Act are to: take immediate and positive steps so as to transport 20 percent of U.S. bulk imports and exports in U.S.-flag ships within 15 years or less; make it possible for importers and exporters to be able to ship their goods in U.S.-flag ships in a commercially practicable manner; and, encourage the construction of bulk carrying merchant vessels in U.S. shipyards.

SECTION 3. DEFINITIONS

Section 3(1) defines "United States flag ship" as an oceangoing ship having U.S. citizen crews and built in, and documented under U.S. laws. Section 3(1) also requires that no more than 50 percent of the total materials and components of the vessel can be attributed to foreign manufacture.

Section 3(2) defines the terms "bulk commodity" and "bulk cargo" as cargo transported in bulk without mark or count by an oceangoing ship engaged in the foreign commerce of the United States.

SECTION 4. CARRIAGE OF BULK CARGOES ON U.S. FLAG SHIPS

Section 4(a) makes it clear that when bulk commodities are expressed as a percentage, that percentage shall be measured by adding the tonnage of all bulk shipments coming into or leaving the United States.

Section 4(b) requires that in 1983, at least five percent of all bulk commodities moved by water and imported to or exported from the United States must be carried on U.S.-flag ships.

Section 4(c) requires that the five percent figure set forth in Section 4(b) be increased by one percent each year until a maximum of 20 percent is reached. Thus, in 15 years, a minimum of 20 percent of all U.S. bulk imports and exports will be transported on U.S.-flag ships.

Section 4(d) requires the Secretary of Transportation, in consultation with specifically cited members of the maritime industry, to prepare estimates of current and projected costs of U.S.-flag bulk ship operation and U.S.-bulk shipbuilding. These estimates will be used to determine the enforceability of the Act against each importer and exporter concerned. The estimates shall be updated on an annual basis and shall remain confidential. As required by Section 4(d)(3), before the Act is enforceable, the actual U.S. cost of bulk ship operation and shipbuilding must be at least 15 percent below the determined estimates. To the extent that the required percentages are not enforceable, those percentages shall be credited against the annual required percentage for the following year.

SECTION 5. REPORTING OF AMOUNT SHIPPED ON U.S. FLAG SHIPS

Section 5(a) sets forth the reporting requirements for determining whether or not the importer or exporter has met the required percentage of trade reserved to U.S.-flag ships. The provisions and reporting requirements of the bill are applicable to U.S. import and export bulk shippers in the foreign commerce, whose volume of business exceeds $1 million annually.

Section 5(b) requires that any exporter or importer who fails to carry his required percentage of cargo on U.S.-flag ships shall, in the next year, use exclusively U.S.-flag ships to carry all shipments until he has recouped the deficiency from the preceding year. Should the deficiency not be recouped in the second year, the party will be subject to the penalties set forth in Section 5(c).

Section 5(c) provides an enforcement mechanism whereby any exporter or importer who fails to comply with the Act shall be prohibited from importing or exporting bulk commodities for a period of one year.

Section 5(d) gives the Secretary of Commerce the authority to investigate any possible violations of the Act. Should substantial evidence of a violation be shown, an administrative law judge shall be appointed and the party under investigation shall be afforded an opportunity to refute the charges at a public hearing. A prompt determination shall be made and a decision issued to dismiss the charges or to exercise the penalty provisions of the Act.

Section 5(e) provides for an appeal process whereby any person suspended from importing or exporting may appeal the decision to the United States District Court for the District of Columbia within thirty days of being notified of the decision.

Section 5(f) authorizes the Secretary of Transportation to issue such regulations as may be necessary to carry out the provisions of the Act.

QUESTIONS AND ANSWERS

What is "bulk cargo"?

Bulk cargoes are raw materials, either liquid or dry, usually shipped in large quantities (full shiploads) between various ports. The major liquid bulks are oil and chemicals; the major dry bulks are minerals and agricultural products.

How many bulk ships are there in the United States?

There are only 40 oceangoing bulk ships operating in the foreign trade and registered in the United States.

What size fleet will the legislation generate?

This legislation will require a U.S.-flag bulk fleet operating in the foreign trades of at least 184 vessels by 1998.

What percent of U.S. foreign oceanborne commerce is carried on U.S.-flag ships?

Only 3.6 percent of all U.S. foreign oceanborne trade is carried on U.S.-flag ships. Approximately 3.9 percent of U.S. oceanborne foreign liquid bulk and 1.3 percent of U.S. oceanborne foreign dry bulk is carried on U.S.-flag ships.

If the "Competitive Shipping and Shipbuilding Revitalization Act of 1982" were enacted, what portion of U.S. bulk cargoes would be required to move on U.S.-flag vessels?

The bill provides for five percent of all bulk cargoes to be carried on U.S.-flag vessels in 1983 and increased by one percent annually until a minimum of twenty percent of bulk imports and exports is carried by the U.S. fleet. This goal would be reached by 1998.

What allied industries would be affected by this bill?

The Defense Impact Modeling System, prepared by the Office of the Secretary of Defense, identifies mining, steel mills and foundries as supporting industries, along with fabricated metals/alloys, pipes, and valves, and semi-conductions as supporting products for shipbuilding. It estimates that for each dollar that goes directly into the shipbuilding industry an additional dollar is generated throughout the private sector.

How would a shipper be penalized if he did not comply with the Act?

At the outset, the bill is designed to permit flexibility in meeting requirements. Should a shipper fail to comply with the designated share of cargo on U.S.-flag vessels, he would be permitted to make up the difference by carrying an additional percentage the following year. However, in the next year, if he again failed to ship the proper percentage of his exports and/or imports on U.S.-flag, U.S.-built vessels, he would be prohibited from carrying oceanborne foreign bulk cargo for a period of one year.

Does the "free market" really exist in international trade?

The answer is "no". International trade does not operate in a free and open market because of protectionist mechanisms such as cargo preference, bilateral shipping agreements, favorable tax and tariff policies, and preferential currency and customs treatments administered by foreign governments in their own interests.

How many nations reserve cargo for their national flag fleets?

At least 45 nations reserve cargo for their national flag fleets.

What is the cost to the government of this legislation?

The U.S. Treasury will expend no additional funds if this legislation is enacted.

Why is it mandatory that we maintain our shipbuilding capabilities and our shipbuilding mobilization base?

It is important in order to support our national security and economic needs in the event of war or emergency as well as to avoid future problems in recruiting, training and retaining shipyard workers, and to provide work for support industries essential to the economy.

Why are bulk vessels essential to national security?

Bulk vessels are essential for the transport of strategic raw materials used in defense planning and are designed to carry bulk military cargoes in time of national emergency. Bulk vessels can also be designed with certain "National Defense Features" to make them quickly and easily converted to carry non-bulk cargoes that will be needed in a defense emergency.

How can we reach our goal of a strong merchant marine, as required for the national security?

Many approaches have been tried, both in the United States and in other countries. The single most effective method is to reserve a fair and necessary share of cargoes for the national-flag fleet. This bill would achieve that for the United States, in much the same way that foreign nations successfully do for their own fleets.

Mr. Speaker, at this point I would like to yield to my distinguished colleague, the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague for yielding and wish at this time for the record to commend her for her outstanding leadership in this matter.

Repeatedly, this is not the first time. And I think the gentlewoman from Louisiana should be especially commended for leading this attack on the problem and taking out the special order today.

Mr. Speaker, I am a sponsor of the Competitive Shipping and Shipbuilding Revitalization Act because it clearly and squarely and effectively addresses the world and world trade as they exist today.

It is an act of self-help of the kind that must be repeated dozens of times across the industrial base if the United States is to increase its chances of surviving other than as a colony of more aggressive industrial nations.

What we have today is a world governed largely by European principles.

We have a world economy where strategies and tactics are based more on Karl von Clausewitz's book, "On War," than on the high-principled "Wealth of Nations."

We have a world in which the precepts of Niccolo Machiavelli on the survival of the state mean more than alliances and highly principled economic theories.

What we have is economic warfare on a complacent and slumbering United States.

This bill recognizes that fact and moves to shore up one point of attack.

Furthermore, it does nothing more than most of our political friends and economic enemies do.

In fact, it requires less than their measures.

To determine what our friends do, let us examine the policy of one of Europe's leading maritime nations. This nation ranks well above the United States in bulk carriers.

First, this nation is not England, Europe's traditional maritime power.

This nation is France, which has little sea-going tradition.

The French require that 66 percent of all oil imports and 50 percent of all coal imports—and I guess that includes coal from the United States—travel in French-flag ships.

This policy offends high principled theories about competition and open markets and the way the theorists want the world economy to work.

But it dovetails nicely with Mr. Mitterrand's announced plan to have France reconquer its economy.

And it recognizes fully the following advice from "The Prince" by Machiavelli:

> There is such a GAP between how one lives and how one ought to live that anyone who abandons what is done for what ought to be done learns ruin rather than preservation.

American policymakers have ignored what has come to be customarily done around the world in favor of what high-principled theory says ought to be done.

And both our merchant marine and our shipbuilding industry have learned ruin.

Meanwhile, the French have a maritime-growth policy. Approximately one-quarter of France's foreign trade travels under the French flag.

Has anyone ever envisioned Mexico as a maritime force?

All of the oil Mexico exports must move in Mexican bottoms.

Furthermore, 10 of the 13 nations in OPEC have cargo preference laws.

As an Arabic proverb says:

> When you are an anvil, you will suffer like an anvil; when you are a hammer, you will hit like a hammer.

You see, in matters of moving goods in world trade—as in world trade itself—the United States is an open and free market.

But the rest of the world is largely closed.

If not by law, then as custom, Japan carries 39 percent of its oceanborne foreign trade in Japanese ships and Great Britain carries 32 percent.

About 45 maritime countries reserve cargo for their fleets to help insure they have fleets, I am told.

The United States does not.

And the United States rapidly is losing its fleet.

This bill would begin a transformation from anvil to hammer.

As for shipbuilding, the magazine Business Week took a look last June and came to the following conclusion:

> Not even subsidies of up to 50% of the cost of a ship have kept U.S. yards competitive with countries like Korea and Japan where the industry is even more heavily subsidized.

Mr. Speaker, I repeat for emphasis, Korea and Japan are even more heavily subsidized, and this makes it a question of something other than efficiency and comparative advantage.

In addition, these larger subsidies also come into play when other nations—and American companies—go ship shopping.

The warlike practices being used in shipbuilding were drawn to my atten-

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tion not long ago by the President of Hudson Shipbuilders of Pascagoula, Miss.

Hudson makes utility-supply vessels for offshore operations, and its workers are trying to compete in the export market.

And the following is an answer Hudson got on a bid last April:

> FYI, your prices were very favorable compared to the Japanese. Japanese finance of 80% loan at 8.75% over seven years won the day in the end.

Hudson's president wrote that Japanese exporters can provide Government-guaranteed loans in ways that effectively provide 100 percent financing for purchasers of Japanese ships. This Japanese industry has been heavily capitalized by the Government.

The Koreans make similar guarantees, Hudson's letter noted.

Furthermore, the practice is not confined to boats and small ships. I understand it applies to anything that floats.

So keeping work in their yards is not a matter of pure free-market economics as it is here but a matter of political policy.

And the policy is not only to keep their work for their yards, but to gather in all of the world's work that they can—gather it with subsidies and cartels and any other weapon they can forge.

Others will speak on defense implications, Mr. Speaker, but I want to touch them in passing.

In the Falklands war, the British commandeered the *Queen Elizabeth* and certain merchant ships to move their troops and supplies.

Should the United States face such a crisis as things stand today, we would have no choice but to do what the British did.

We, too, would have to commandeer the *Queen Elizabeth* and certain of England's merchant ships—or try to.

You see, we are not strong enough in this regard to rely on our resources for a force of more than 8,000, I have read.

This bill would make us stronger.

But the thing I like best about the Revitalization Act is the self-help it offers.

It is one strand of the bootstraps that American industry needs to pick itself up off the ground where the hammer blows of the trade warriors have driven it.

First, the 158 bulk ships it is designed to produce will require nearly 4 million tons of steel.

Since every 1 million tons of steel is the equivalent of 5,000 steelmaking jobs, it would create real work for 20,000 steelworkers over its life.

Mix in shipyard workers and those who make parts and components in mills and foundries and shops and factories across the country—and those who will transport them—and you have real economic activity.

You have people working and people buying, which puts still more people back to work.

Repeat it a few times across the industrial base and you have an economy that is showing signs of recovery, and the makings of a change of luck.

And making your luck is much better than waiting for it.

As a Japanese proverb says: "to wait for luck is the same thing as waiting for death."

American shipping and American shipbuilding have been on the anvil far too long.

□ 1940

In conclusion, Mr. Speaker, again I want to reiterate, and with the possibility of being repetitious, that the gentlewoman in the well has demonstrated repeatedly her dedication to this problem, not in words alone, but in her action. I take great pride in being a colleague of hers, joining with her, hopefully working hand in hand and we are going to follow this legislation, hopefully putting it into effect and make sure that all the good that is incorporated therein does come to bear fruit and that we have legislation once and for all, probably the first time in the history of the country, that is so practical to be effective in the terms that I have outlined.

Congratulations.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from Pennsylvania and I would like to say that the gentleman has outlined so magnificently the competitive disadvantage at which the U.S shipbuilding industry finds itself, the market that is out there, the one world market in which we must, indeed, find America's fair share, the beautiful way in which the gentleman has put forward the need for jobs and the need for our defense capabilities, that I only wish that right now the gentleman's speech had been the concluding speech before the final vote on this legislation.

Mr. Speaker, I would hope that we would be able to go forward with this bill that has been cosponsored by so many of our colleagues and which has a great deal of interest to many others who will be coming along to cosponsor it as well and that we will be able to put forward the Competitive Shipping and Shipbuilding Revitalization Act of 1982, which as the gentleman from Pennsylvania has told us, will promote increased ocean transportation of bulk commodities in the foreign commerce of the United States, in U.S.-flag, U.S.-built ships, to strengthen the defense-industrial base and for other purposes; most especially for the purposes of being able to be competitive in an interdependent world.

● Mr. BONKER. Mr. Speaker, I am joining today with my distinguished colleague from Louisiana, Mrs. LINDY BOGGS, in sponsoring the Competitive Shipping and Shipbuilding Act of 1982.

As a member of the House Merchant Marine Committee, I have seen the need for Congress to promote the use of U.S.-flag, U.S.-built vessels in the shipment of bulk commodities, and in so doing, increase U.S. national defense capabilities through the support of the U.S. merchant marine and shipbuilding mobilization base.

This legislation provides a necessary component to our efforts to revitalize the American economy. The mechanism is simple: It requires all exporters and importers of bulk commodities in the foreign commerce of the United States to ship 5 percent of their cargoes on U.S.-flag, U.S.-built ships beginning in 1983, and to increase this amount 1 percent per year thereafter until a minimum of 20 percent of all U.S. bulk tonnage is shipped in U.S.-flag, U.S.-built bottoms.

In marking up legislation to deal with port development to handle our emerging international coal trade, the Merchant Marine Committee added similar bulk cargo language to the bill. The committee then saw the positive benefits of such a requirement. A stable and economically healthy bulk fleet is essential for several reasons:

Our economy would benefit from transportation receipts—a medium-sized bulker earns $12 million per year.

Our economic security would be enhanced by an ability to carry crucial commodities essential to our economic and military well-being. Foreign-flag vessels carry almost all our imports of such precious materials such as nickle, chromite, manganese, and rubber.

National defense requirements would be met by being able to supply bulk commodities to allies and to ourselves, and providing the necessary transportation of military hardware abroad in periods of conflict.

Last but not least, this legislation will provide economic stimulus to a sector of the economy that too long has had to rely on promises alone. It will provide jobs to thousands of shipyard and shipboard workers at a time when unemployment is at its worst in 30 years.

Mr. Speaker, we on the Merchant Marine Committee have been sorry witnesses to the decline of our bulk fleet. In 1970, the U.S.-flag, liquid and dry bulk fleet engaged in international commerce totaled 81; today it consists of only 48 ships. We cannot allow this decline to continue.

I would refer my colleagues to the commendable material Mrs. BOGGS has introduced into the record today along with the legislation. It should answer any of the questions that may arise.

This legislation represents a real commitment on the part of Congress to revitalizing a key sector of our economy, one that plays a vital role in our national security as well. I would urge my colleagues and the administration to support it.●

□ 1950

BANKRUPTCY COURT ACT OF 1982

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am introducing legislation today, along with my colleagues, Representative DON EDWARDS, of California, Representative ROBERT MCCLORY, of Illinois and Representative M. CALDWELL BUTLER, of Virginia, to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution. This legislation is designed to remedy the constitutional crisis facing the bankruptcy court system as a result of the U.S. Supreme Court's decision in Northern Pipeline Construction Co. against Marathon Pipeline Co. issued on June 28, 1982.

In a badly split decision, the Supreme Court ruled in Northern Pipeline that the present bankruptcy court system violates article III of the Constitution. The Court held that the jurisdiction conferred on the bankruptcy courts by the Bankruptcy Reform Act of 1978 cannot be constitutionally exercised by those courts, because bankruptcy judges are not afforded the constitutional protections set forth in article III to insure judicial independence—tenure during good behavior and guarantee against salary diminution while in office. The effective date of the Northern Pipeline decision was stayed until October 4, 1982, to give Congress time to remedy the problem and to protect the orderly administration and adjudication of bankruptcy proceedings in the interim.

The Northern Pipeline decision confirmed the express doubts of both the House Judiciary Committee and the House of Representatives as a whole about the constitutionality of the court provisions which were eventually included in the 1978 law. The Judiciary Committee and Civil Rights Subcommittee gave lengthy consideration to the constitutional issues surrounding the court system in both the 94th and 95th Congresses and concluded that the limited circumstances in which a departure from the requirements of Article III have been permitted were not present in the bankruptcy context. The original bankruptcy bill passed by the House—H.R. 8200, 95th Congress—created the bankruptcy courts as article III courts. The present bill is virtually identical to the article III bankruptcy court provisions which were previously passed by the House.

The Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary held 2 days of hearings on this matter on July 21 and 22, 1982. Hearings were held by the Senate Judiciary Subcommittee on Courts on July 22 and 23. Both hearing records strongly support the need to create article III bankruptcy courts exercising unified jurisdiction as the only efficient court system to clear constitutionality.

The major provisions of the legislation which is being introduced today are as follows:

First. Beginning April 1, 1983, the President would be authorized to appoint, by and with the advice and consent of the Senate, 227 bankruptcy judges for the several judicial districts—proposed section 152, title 28, United States Code. Such judges would hold office during good behavior and would receive an annual salary of $65,000. All judicial appointments would be made by October 1, 1983.

There are currently 241 bankruptcy judges—220 full-time and 21 part-time judges. In an April 2, 1982, report, the Advisory Committee, appointed by the Director of the Administrative Office of the U.S. Courts pursuant to section 407(a) of Public Law 95-598, has recommended that, based on the present workload, 303 bankruptcy positions are needed. There have been at least 180 full-time bankruptcy judges since 1969. The current salary of a bankruptcy judge is $58,500; $61,200 without the current cap on Federal salaries. The present salary of a Federal district court judge is $70,300.

Second. Where the judicial workload necessitates, article III bankruptcy judges could be temporarily designated and assigned to perform judicial duties on the Federal district and circuit courts.

Third. An appeal from a final order or judgment of an article III bankruptcy court would be taken to a bankruptcy appellate panel, composed of three bankruptcy judges of the circuit, and then to the court of appeals for the circuit. If the parties to the proceeding agree, an appeal from a bankruptcy court judgment could be taken directly to the court of appeals.

Fourth. Jurisdiction and venue of the bankruptcy courts would be the same as under present law.

Fifth. The U.S. bankruptcy judges who are serving on the date of enactment of the legislation would constitute the bankruptcy courts for the period beginning on the date of enactment and ending on March 31, 1983—referred to as the "transition period." The terms of office of all U.S. bankruptcy judges who are serving on the date of enactment of the act would expire on March 31, 1983. During the transition period such judges would be authorized to exercise the jurisdiction and powers conferred by title 28, United States Code, on bankruptcy courts. Such judges would be continued at their present salary level.

Sixth. After March 31, 1983, former U.S. bankruptcy judges whose terms expired on that date could be temporarily designated and appointed to hear bankruptcy cases. However, any such designation and appointment would terminate 30 days after all appointments of article III bankruptcy judges to the U.S. bankruptcy court involved had been made or on September 30, 1983, whichever is earlier.

Seventh. A former bankruptcy judge who is not appointed to the article III bankruptcy court after March 31, 1983, would be eligible to receive improved retirement benefits under proposed section 377, title 28, United States Code, if such judge continues in service until March 31, 1983, serves as a bankruptcy judge for at least 10 years, and advises the President in writing of his willingness to accept appointment to the article III court. Proposed section 377 is based on H.R. 5107 which was marked up by the Subcommittee on Monopolies and Commercial Law on November 20, 1981.

Absent congressional action by October 4, 1982, the bankruptcy court system will collapse. The bankruptcy courts will lack jurisdiction to determine any bankruptcy matter. Great uncertainty in the judicial system and credit community will result.

Such potential chaos could not occur at a less opportune time. The Nation has been in a period of severe financial distress for many months now, and no dramatic improvement in the economy is readily foreseeable. The rate of unemployment approaches 10 percent. Many major corporations, employing tens of thousands of employees and having billions of dollars of assets and liabilities, are now operating under chapter 11 of the Bankruptcy Code. Failure to remedy the problem by October 4, by creating a bankruptcy court system of clear constitutional authority, will jeopardize many jobs and threaten heavy losses for creditors and stockholders alike.

The priority and importance of this matter are obvious. If we are to avoid the chaos and confusion that would result from inaction, the Congress must move quickly.●

FINANCIAL DANGER AND THE FEDERAL RESERVE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise tonight to continue and to round out what I said last night, which appears in yesterday's RECORD, concerning the calamitous situation that both the domestic as well as international finan-

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cial situation and monetary systems of the world are confronted with.

I presented, in great detail, some statistics and specifics, but more importantly, I did not get an opportunity because of insufficient time to tie in the responsibility and the either malfeasance or nonfeasance of the Federal Reserve Board.

There is so much that is not known generally by Americans, and specifically by the Members of Congress, as to the nature of the Federal Reserve that I am simply astounded, and have been over the 20 years that I have served on the Committee on Banking, Finance and Urban Affairs, to find the greed, the indifference or the lack of knowledge because as it is not turning out, it has everything to do with the well-being of our country, its fundamental standard of living, which is what is at stake here.

But above all, and beyond that, there are questions so fundamental as war and peace that are being decided in those private directors' rooms of these huge financial institutions and their interconnected corporate interests, because of the almost illegal relationship—if not out and out illegal—the interconnecting directorships of the hugest interests in our country.

Now, they transcend national boundaries and are more than national entities; they are multinational. They go beyond and transcend the control of any one sovereign nation in the whole world.

Now such issues as war and peace, unbelievably, are decided there.

So this matter is a very grave concern. What impels the most immediate concern, however, is the situation with respect to the crisis that the Mexican currency finds itself in, and its unavoidable impact on the United States. At this point nationally it has not been registered. It certainly has not been reflected in the national press and even in the regional press along the border where the world is so self-contained. This is true not just in the United States. There are very important happenings just across the Canadian border or the Mexican border right next door, and the newspapers in Texas, upon reading them, will have no account of the most transcenting things which are happening and have happened.

The recent so-called devaluation—and the reason I say it is so-called is because when you have a floating system in these international currency relationships there is no such thing as a devaluation because you have no fixed rate of exchange. This is the viciousness of the instability in this floating system that has been on us since about 1968 or 1969. But in Mexico at this time the situation is chaotic. It is ominous in its potential for grave and calamitous confrontations that our country might face.

We are not prepared any more than we have been for some of these other crises. That is what I find so inexcusable because it is not fair to this great country.

In the debate the other day on the Cuban Radio, Radio Marti, the debate on the defense authorization, the debate last December on the Sinai, Americans do not realize that we have over a thousand of the 82d Airborne Division in the Middle East right as a result of an unprecedented—I say unprecedented—congressional action. To think there were only just about 12 of us, and I was the only one who offered any kind of amendment or even debate. Yet we have these military—not observers, not civilians, but military—right now over there except that they are on the other side of that Lebanese geography.

But now the whole question is whether or not our country is going to further find itself held hostage because, as I said then, the only thing our military are now there for are as hostages. This is what they are looking for now, in addition, with the Lebanese situation. But all of this was anticipated. We should have anticipated it because in the great money circles and in the offices of the central banks, whether it is the Arabian oil money-bloated countries that now have such power over us that on the eve of the Israeli invasion reaching Beirut, the Prince of Saudi Arabia picked up the phone and called Mr. Reagan and said, "If you do not restrain Israel we will pull our money out of your banks right now and create a crisis." Within 12 hours, Mr. Reagan did do what he could to restrain Israel for the first time.

Now, all of this was in our newspapers. I could not believe it because most of this has not in the past been. Yet what was the basis of it? It was the basis of something that started to build up several years ago that some of us, solitarily, warned about, spoke about. In fact, I spoke on this House floor—back in 1976—and as a result of that speech the Chairman of the Federal Reserve Board at the time, Mr. Burns, called me and invited me to have breakfast with him at the Federal Reserve.

I will have this much to say for Chairman Burns: He at least took cognizance, which is more than I can say for any of the Chairmen previously serving or those who have been serving since Mr. Burns, since I have been on this committee, that is, which has been almost 21 years.

Mr. Burns said at the breakfast that he had read my remarks and that he agreed.

What were my remarks? My remarks were motivated, as mine are tonight, as I will show later, because it was obvious that the statistics revealed it, independent statistics—they did not emanate from the Fed; the Fed does not provide this to Congress or to anybody. The Fed is a runaway powerful monopoly out of total control, even though it is a child, a creature, of this Congress.

Most Congressmen and most Americans think that it is independent, autonomous; that it is something that was struck from the brow of the Greek God Jove and that it does not have to account to anybody.

The fact is that it is a creature of ours. Its legal description is that it is the fiscal agent of the U.S. Treasury. But instead of an agent, it is a master, where it is deciding these fateful decisions for this country.

It has already taken us a long way to bankruptcy, national bankruptcy, believe it or not.

□ 2000

This is not the profligate liberal spenders. These are the most conservative elements. I do not like to use the word "conservative" because it is not fair. I respect that word, although I do not label myself as such. I call them reactionaries—reactionaries, not conservatives, and they are the ones that have wasted the substance of this country and are leading us fast, irretrievably, to out and out bankruptcy. This is why I have been speaking out for more than 15 years, but specifically on this occasion that motivated me, the visit with Chairman Burns, I said that in less than 1 year and 3 months the amount of moneys that the largest banks in our country, concentrated in New York—Chase Manhattan, First City National, Hanover Trust, Manufacturers Trust—had invested in 1 year and 3 months from $3 billion to over $47 billion in so-called developing countries that had no financial structure that could insure any kind of a repayment of those loans. In less than 3 years—it is almost 2 years—from $3 to $47 billion. You do not have to be an expert to know that that is an overhang that can create a quivering or a shakeup in any financial market if there happens to be such a thing as a default.

Well, believe it or not, today that stands, the American banks, to over $300 billion with the potential for total disaster now more than imminent, as I brought out last night. So, Chairman Burns wanted me to know that he was concerned and had been, and in fact he said to me, "I returned recently from the Bankers Convention in Honolulu, and I infuriated the bankers because I took them aside and chastised them for this, and told them they would have to restrain themselves, and they almost chased me out, they got so angry at me they almost cursed me."

I said, "Mr. Chairman, I am amazed. You mean to tell me you feel that is all you can do? You mean you do not have the power, at least some implied and residual powers, you and the Fed have used that. Certainly you can do something more than just warn these greedy, predatory interests."

Franklin Roosevelt called them malefactors of great wealth, because indeed and in fact that is what they have been. They have not hesitated 1 minute to speculate against the dollar since 1970, 1971, when I first noted it. They have not hesitated 1 minute. Why? Because, in effect they have no nationality. They may be incorporated in the United States, but their heart and their soul is where the money is, and all through our history, from the Continental Congress, from the beginning of the formation of this country, our leaders, whether it was Jefferson—even Hamilton, who I guess by today's definition would be called a conservative—even he warned; and through history Jackson and his big battle with the Second United States Bank, and the like. There was Lincoln in 1864, and then later on Woodrow Wilson in 1916, who specifically said that this is the greatest threat to the well-being—and what is the word—independence of the Republic.

We have seen that now happening within the last three decades gradually, and believe it or not, by 1952 and 1953, with the obsequious cooperation of the Congress when it passed special legislation which was not debated at all, that enables this system—we are the only country in the world that handles our money in this way.

If any of you have a dollar, please look at it, and it says "Federal Reserve Note." It used to be a few years ago that you would find some that said, "U.S. Treasury Note." Not today. We are the only country in the world where the people, the Government, has to have a Federal Reserve Bank, which is really the private bankers, print their money and pay interest for it. Every dollar bill you have you are paying interest on it. Believe it or not. It is so fantastic Europeans do not want to believe it. We are the only country in the world that handles the money that way.

That became totally possible after 1952, along about 1953. But, more insidious has been the callous disregard of accountability, of responsibility; the wholesale sellout of the United States and its financial, whether it is monetary and fiscal, destiny to a handful of private power-using, insatiable bankers.

The issue is, shall the people govern or shall the bankers? That is the issue, and it has been, but now it has reached the point that I am afraid it is later than Americans realize. I think there is a point of no return now, and only catastrophy, and then what can come?

But, we may be facing it quicker because of developments south of the border, where the tensions are so great, the violence is already there, and it is going to grow. It is not going to decrease. Our next door neighbor, with 50 percent unemployment, with a labor force that has a potential of being increasing exponentially every year because the average age of the Mexican citizen right now is 15 years; inflation right now at this point exceeds 55 percent. Mexico has had and does now have the greatest external debt of any country. Our bankers have in Mexico exposed almost—almost in excess of $200 billion.

It was the only one that reported a few months ago, a few weeks ago, that Mexico rushed through a secret deal that was made with our Government last year and acquired about 14 F-5's. Why? Mexico has always prided itself that it believed in self-determination. They call it Auto-Determinacion. Nonintervention, meddling in no other country's internal affairs.

This is the reason why Mexico all along has maintained relations with Cuba. They have prided themselves on being the first Latin American country to stabilize to the point where they could have successful, peaceful access to power by civilians, not military. It has prided itself in not having to have a standing army of any consequence, but now all of a sudden we make a deal, we tie sophisticated jets, and they got two of our destroyers just about 3 months ago. I was the only one revealing that, even though I am sure some of the Members of the House were invited to the ceremonies where they were going to decommission from the active duty list, the destroyer list, and sell them as scrap to the Mexican Government.

Why would Mexico all of a sudden want two destroyers? I asked the question then and I got criticized and assailed in Mexico for being anti-Mexican. I said, "Well, what is the purpose now? Is this to go out and get our shrimping boats," as they have been both in the Gulf of Mexico as well as over on the Pacific coast, but what is the real reason? The real reason is that our banking interests that have invested huge and initial investment, $2.1 billion in this great Mexican development known as their gas and oil fields that some people say are as vast or greater than the Arabian potential—it was Chase Manhattan, First City National—it is our bankers here that control the whole thing.

All of a sudden they got rather squeamish because of what is happening in Guatemala, their next door neighbor to Mexico, which has already spilled over to Mexico. That does not get reported here. What is happening in El Salvador, the smallest nation in the Western Hemisphere, and we have our Secretary of State drawing the line and saying, "Here is where we are going to have to gain a victory, this is where we draw the line on communism."

Down the line in Nicaragua, and now in some of the countries we also have just finished making a deal with Venezuela for the sale of 16 F-16's. Why would Venezuela want F-16's?

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Then, on top of that, what has happened in the meanwhile with the war between Britain, that is I call it the Second War of Jenkins Year for the British because it is so similar to the Jenkins War in 1739 that I just cannot get over it.

I have always respected and admired and revered the British and the English for their tremendous capacity as diplomats, and I still cannot figure out the unbelievable venture in the Falklands.

Yet all of that had its impact on the United States. It is not being discussed. It is not being written about in this country.

Also our relations with Canada have deteriorated.

But all down the line what this means in the background is your financial relationship, just like in Poland. If it had not been for the overhang of the banks, mostly West German, no telling what we would have done with that big crisis of the Polish workers.

But the whole issue is banking, financial, money.

As I say, now it is in Mexico with the devaluation, so-called, which what it means is that Mexico is prostrate. Last weekend I was on the border and it was exchanging anywhere from 60 to 90 pesos for $1. I cannot begin to describe to you the chaos and the potential for great mischief, and which we had better get ready to handle as a crisis.

I have always believed in anticipatory government. That is that you do not wait until you have a hot potato and then react out of a crisis, but you anticipate it. So you prepare yourself with some pincers so that you can get that hot potato off the fire without burning yourself or minimizing the damage. But we do not seem to be working that way.

Today I will follow through after rounding out the significance of the presentation of the specifics last night and its interrelationship with the Federal Reserve Board.

The Federal Reserve Board of the United States is the nearest equivalent we have to what other countries call their central banks. It is, therefore, a tremendous power nationally, internationally, but most of all domestically because it does not feel that it has to account to the President or Congress, which means to the people.

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This is a reason for my bills. But most of all tonight I want to resume what I call the impeachment of Mr. Volcker, No. 4, I believe.

I have spoken three times in which I gave a general outline of the impeachment resolution language, plus three specific allegations or specifying the items of impeachable offense.

In other words, I was not satisfying myself with just a general clause, which is all that is necessary to present an impeachment resolution.

It is a highly privileged resolution. It can be brought up by any Member provided it is in the proper form.

As I said before in the RECORD, I tried to get the Judiciary Committee to look into it but the chairman apparently was of a different mind and, therefore, I decided, and I have so explained here previously, that I would bring it to the floor of the House.

In order to do so at the proper time I want to first prepare, as if I were arguing or as if I were a member of the Judiciary Committee.

So tonight I proceed with the support to the third charge in which I have alleged the wrongful, the malfeasance and the culpable actions of the Fed through the Open Market Committee, which is really the one that controls our fate.

It it the Open Market Committee that decides whether any administration is going to stay or fall, because they have the power of deciding what will be paid for Treasury bills and the like.

Also on top of this gimmick, where instead of agents they are the masters in this unique national financing scheme that no other country in the world has.

We talk about how democratic we are but, fellow citizens, in many, many ways it is moot. If we continue along the lines of economic slavery, which is what this is, what good does it do to boast of political freedom?

Today economic freedom is the issue.

I became aware of what I felt was improper leaks from the so-called Open Market Committee, which is secret, incidentally. I do not know why they call it the Open Market Committee. There is no reason for that name because it is anything but open. It is secret. It consists of five private bankers, plus the members of the board of the Federal Reserve Board. So you can imagine putting the same interests in charge of their own regulation.

We know what the history of that has been, reading through the history of this Nation back to its point of expansion after the Civil War. But here in this case it has been more than insidious. It has been sinister, catastrophic, abominable to the fate of American liberty, American democracy, American participatory democracy, representative democracy.

I became aware of speculation because of premature release of certain information that would enable certain financial interests; all of them headquartered in New York. We must remember that in New York, in less than a 3-square-mile area, you have over 33 percent of the financial wealth of this country concentrated. It is controlled. Maybe it is more than that by now.

So I raised issues but, of course, I could not get answers as an individual member of the committee.

At that point, and this was when Chairman Burns was still the chairman, which means before 1977, I could not get the chairman to join me in raising an interrogatory. So then Mr. Burns went out and Mr. Paul Volcker was appointed, and I had what seemed to me plain evidence that again something had happened.

So I raised my voice and I started talking about it and I came out and categorically said there have been improper leaks from the Federal Reserve.

As a result of that, the Hanover Bank in New York has had a windfall at the cost to the taxpayers.

Nobody listened either, but I finally did persuade some other Congressmen.

Let me say by way of parentheses, and this is something I have faced all of my career in the context of Washington, the social, ethnic framework of reference, there is only 5 Members that have names like mine in the whole Congress out of 535. But from what we call the Mexican-American side, there is only three of us, one from California and two of us from Texas.

But even here the atmosphere is such that I have many Members, some have been here some time, say "Hey, Henry, how is New Mexico today?"

Well, of course, I am from Texas.

Or I have Members say "Oh, Mr. DE LA GARZA," and I say, "You mean GONZALEZ."

"Oh."

This is the way it was back in my home territory about 45, 50 years ago, almost identical.

So if my name were Kennedy, and I noticed that Senator KENNEDY introduced an almost identical bill to the one I have been introducing for 15 years to bring the Federal Reserve within the accountability range which was intended when Congress debated what turned out to be the Federal Reserve Act of 1913, I noticed he got the newspapers to report it. He had quite a number of articles. In 15 years that I have been introducing it I have not had anybody report it, even my hometown papers, which is fine with me.

I feel impelled because of the tremendous importance and consequences of this unrestrained activity.

Anyway, going back to the second leak, we finally did make a request, and on one occasion the visit of Paul Volcker to the other body, the committee demanded some action.

So what did the Feds do?

As I have said, we have no oversight. The General Accounting Office can not go on behalf of the Congress to look over the Fed's books. They do not have an independent audit. They do not even have an Inspector General.

So they appointed a committee, and at this point I include in the RECORD that I finally got hold of that special counsel to look into the matter.

The material referred to follows:

FULBRIGHT & JAWORSKI,
Washington, D.C., November 7, 1980.

To: The Board of Governors of the Federal Reserve System and The Federal Reserve Bank of New York.

Attached is the Report of Special Counsel on the Erroneous Money Supply Estimates Published During October 1979. This Report sets forth the results of Special Counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Company and persons connected with Manufacturers, the Federal Reserve Board or the Federal Reserve Bank of New York, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. This Report is accompanied by an Appendix and Exhibits which set forth a more detailed statement of the evidence obtained in the inquiry.

We would be pleased to meet with you at your convenience to discuss the Report and respond to any questions you might have.

Sincerely,

ALAN B. LEVENSON,
Special Counsel.

REPORT OF SPECIAL COUNSEL ON THE ERRONEOUS MONEY SUPPLY ESTIMATES PUBLISHED DURING OCTOBER 1979

I. INTRODUCTION

A. Purpose of report

This Report sets forth the results of Special Counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Company ("Manufacturers") and persons connected with Manufacturers, the Federal Reserve Board ("Board") or the Federal Reserve Bank of New York ("New York Fed"), improperly and knowingly profited from the preparation and release of erroneously money supply data during October 1979.

B. Background of engagement

On October 25, 1979, the Board announced it was revising downward certain money supply estimates it had released for the weeks ended October 3 and October 10, 1979 by approximately $700 million and $2 billion, respectively.[1] The Board attributed these revisions to errors in deposit data submitted to the New York Fed by a major money center bank. On October 26, 1979, Manufcturers stated, in response to inquiries, that it had made errors in computing the data it had previously reported to the New York Fed.[2]

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[1] The money supply estimates first published by the Board for the weeks ended October 3, 10 and 17, 1979 are generally referred to in this Report as "the erroneous money supply estimates." Errors in the estimate for the week ended October 17 were discovered shortly after the October 25 public announcement of the money supply estimate for that week.

On October 29, 1979, Vice Chairman Frederick H. Schultz and Governor J. Charles Partee of the Board testified before the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives ("House Banking Committee") concerning these revisions. Members of the House Banking Committee expressed concern with the possibility that the underlying errors had been the result of some plan or scheme, or that the institutions involved, or persons connected with those institutions, had used their knowledge of the errors for financial gain. The Chairman of the Committee requested that the Board conduct an investigation to determine if any institution or individual had improperly profited from these errors. Vice Chairman Schultz stated that the Board would do so.

C. Scope of engagement

On November 6, 1979, the Board and the New York Fed engaged Alan B. Levenson of the law firm of Fulbright & Jaworski as Special Counsel to conduct an inquiry to determine whether any institution or individual, including Manufacturers and persons connected with Manufacturers, the Board or the New York Fed, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. Mr. Levenson was directed to make a complete inquiry into the facts of the matter and to prepare a report on the results of the inquiry. He was authorized to select other persons in Fulbright & Jaworski to assist in the inquiry and to retain the services of a public accounting firm and other experts if deemed necessary. Mr. Levenson and the other persons in Fulbright & Jaworski who assisted in this inquiry are collectively referred to herein as "Special Counsel."

Consistent with the scope of the engagement, Special Counsel has not made any inquiry, and has not attempted to reach any conclusions, with regard to any other matter, including what action, if any, could have been taken to prevent the errors or erroneous money supply estimates.

D. Contents of report

This Report is divided into six parts. Part I introduces the Report, describes its purpose, and sets forth the background and scope of Special Counsel's engagment. Part II is a summary of facts and conclusions. Part III describes the investigative approach and the procedures used in the inquiry. Part IV sets forth comments on the nature and scope of the inquiry. Part V discusses the manner in which the erroneous money supply estimates were prepared, released and revised, and certain securities trading activities of Manufacturers and the individuals at each institution who could have had relevant confidential information. Part VI discusses the trading activities of major dealers in certain government securities markets during October 1979. The Report is self-contained, but is accompanied by an Appendix and Exhibits which set forth a more detailed statement of the evidence obtained in the inquiry.

II. SUMMARY

A. Background

The Board's primary function involves the formulation of monetary policy. The money supply—the amount of money in circulation—is a critical component of monetary policy. During October 1979, the Board released money supply estimates on a weekly basis. The basic money supply estimate, M-1, generally represented the sum of demand deposits and currency in circulation.[3] Like other estimates, the M-1 estimate was inherently imprecise, and it was often revised over a period of weeks following initial release as additional information became available. The Board had always stressed that the weekly money supply estimates should not be given undue attention because of their volatility and potential for revision. Nevertheless, professionals in the securities markets, and particularly the government securities markets, looked to the Board's weekly estimates as one indication of possible interest rate changes and of the general success of announced monetary policy.

On October 6, 1979, the Chairman of the Board of Governors, Paul A. Volcker, announced a new program intended to restrain the growth of the money supply and bank credit to help reduce inflation. This announcement appeared to increase the sensitivity of the securities markets to further Board announcements, such as publication of the money supply estimates, that might indicate the success or failure of the announced program. The securities markets were generally unstable during October 1979.

On October 11 and 18, 1979, the Board released money supply estimates for the weeks ended October 3 and 10, respectively, which showed unexpected strength in the money supply. On October 12, the day after release of the money supply estimate for the week ended October 3, the securities markets were relatively stable. On October 19, the day after release of the money supply estimate for the week ended October 10, the securities markets, and particularly the debt markets, fell sharply. Subsequently, on October 25, the Board announced there had been overstatements in the money supply estimates for those weeks of approximately $700 million and $3 billion, respectively, due to reporting errors by a major money center bank. On October 26, the securities markets advanced slightly.

A person with prior knowledge that the Board was going to release money supply estimates that were significantly overstated might have been in a position to have profited from this knowledge by entering into transactions in the securities markets, particularly the government securities markets, just before and after the release. It was predictable that the securities markets might react to this news, although it was only one item among others material to the markets. The critical dates for this purpose would have been just before and after October 11 and 18, 1979. In addition, a person who knew of the imminent revision of the money supply estimates might have been in a position to enter into profitable transactions just before and after release of the revisions on October 25.

B. Facts

The following is a summary of the facts based on the evidence obtained in our inquiry.

1. The Errors in Manufacturers' Reports of Deposits, Vault Cash and Federal Funds Transactions

Each week Manufacturers, like other member banks of the Federal Reserve System, was required to file with the New York Fed a report of its daily deposit balances on form FR 414, titled "Report of Deposits, Vault Cash and Federal Funds Transactions" (the "deposit report" or "FR 414"). On October 1, 1979, Manufacturers converted to a new automated general ledger system. This new system, which replaced a manual general ledger, increased the number of accounts significantly and, as a result, required changes in certain account classifications. The worksheet designed to accumulate data for the deposit reports under the new system incorrectly accounted for two significant items. In addition, the employees responsible for computing these data made a number of clerical errors, some of which appeared to result from unfamiliarity with the new general ledger system and the revised worksheet. Consequently, the FR 414's filed by Manufacturers with the New York Fed each week during October 1979 did not accurately reflect certain categories of Manufacturers' deposits.

2. The Use of Deposit Reports

Data from deposit reports during October 1979 were used to determine the reserve requirements for banks and, in addition, were used by the Board to compile money supply estimates. Individuals at Manufacturers responsible directly or indirectly for deposit reports were generally aware during October 1979 that the deposit reports were used in determining reserves. They were not aware, however, that these reports were used by the Board to compile the money supply estimates, and this use was not a matter of general knowledge.

3. Preparation of the Money Supply Estimates

New York Fed and Board personnel processed Manufacturers' deposit reports in the customary manner, which included inquiries to Manufacturers to obtain verification of the accuracy of certain of the data in the reports. Having received verification from Manufacturers through the New York Fed, and not knowing of any specific errors, the Board relied on the data in compiling the money supply estimates. As a result, the Board's first published money supply estimates for the weeks ended October 3 and 10 were overstated.

4. Revision of the Money Supply Estimates

By October 25, Manufacturers, the Board and the New York Fed had discovered, and Manufacturers had corrected, the most significant errors in Manufacturers' deposit reports for the weeks ended October 3 and 10. Therefore, on October 25, the Board revised downward the previously published estimates for the weeks ended October 3 and 10 and released a first published estimate for the week ended October 17. By Monday, October 29, however, Manufacturers and the New York Fed had discovered, and Manufacturers had corrected, errors in Manufacturers' deposit reports for the week ended October 17. These errors were disclosed by Vice Chairman Schultz during his testimony before the House Banking Committee on October 29. On the next regular publication date of the money supply estimates, November 1, the Board revised downward the estimate for the week ended October 17 and also announced further revisions to the esti-

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[2] The errors in deposit reports initially submitted by Manufacturers to the New York Fed for the weeks ended October 3, 10, and 17, 1979, are generally referred to in this Report as "the errors."

[3] Those portions of this Report which discuss the compilation of the money supply estimates address only the compilation of M-1 before and during October 1979. The Board has since adopted differently defined measures of the money supply with different designations.

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mates for the weeks ended October 3 and 10.

Although the money supply estimates were frequently revised after publication, the revisions announced on October 25 were perceived to be out of the ordinary because of their magnitude. These revisions can be primarily traced to errors in deposit reports submitted to the New York Fed by Manufacturers during October 1979; there were, however, other revisions made for reasons unrelated to Manufacturers. The revisions announced after October 25 were not perceived to be as significant as those announced on October 25 because of their smaller size and the fact of the earlier announced revisions. A detailed description of Manufacturers' errors and their relationship to the erroneous money supply estimates can be found in Parts II and III of the Appendix to this Report.

5. Securities Trading

The large majority of persons interviewed and questioned in our inquiry did not engage in any securities trading activities during October 1979. Where individuals did engage in securities transactions, none of those transactions, with one possible exception discussed later in this Report, appeared to be related directly or indirectly to advance knowledge of the errors or the erroneous money supply estimates. The persons responsible for Manufacturers' securities trading activities stated that they did not have advance knowledge of the errors or the erroneous money supply estimates. Manufacturers' trading activities during October 1979 were consistent with those statements. Further, an analysis of reports of trading in certain government securities by major dealers filed with the New York Fed during October 1979 showed no unusual unexplained trading activities.

C. Conclusions

1. Manufacturers and persons connected with Manufacturers, the Board or the New York Fed did not improperly and knowingly profit from the preparation, release or revision of the erroneous money supply estimates during October 1979.

2. There is no indication that any other institution or individual improperly and knowingly profited from the preparation, release or revision of the erroneous money supply estimates during October 1979.

III. DESCRIPTION OF INVESTIGATIVE APPROACH AND PROCEDURES

A. Investigative approach

Improper and knowing benefit from the preparation, release or revision of the erroneous money supply estimates during October 1979 could have resulted from (1) participation in a plan or scheme intended to distort the money supply estimates so as to take advantage of any effect of the erroneous estimates on the financial markets, or (2) unauthorized disclosure of, or trading activity based on, confidential information about the errors or the erroneous money supply estimates.

Both of these possibilities were investigated. It was important to identify, and understand the roles of, the individuals at each of the three institutions involved in or responsible for the process of providing information used in estimating the money supply or in the actual compilation of the estimate. After doing so, we were able to reconstruct how the errors and revisions occurred and thus to reach a conclusion as to whether the errors were the result of a plan or scheme or where a mistake. In addition, identifying those persons with advance knowledge enabled us to make inquiry into what use, if any, had been made of such information. Our reconstruction of the events leading to the erroneous money supply estimates and their revision is set forth in detail as a chronology in Part IV of the appendix to this Report.

To check the accuracy of the responses in the inquiry process, the statements of various persons were compared with written records, documents and our understanding of how events occurred. We also made a limited inquiry into trading activities in certain government securities markets, having determined that any attempt to benefit improperly would most likely have been reflected in these markets because these markets were most responsive to interest rate changes.

B. Investigative procedures

In our inquiry, we used the following investigative procedures:

1. Initial Briefings

Immediately following the engagement as Special Counsel, we requested and received briefings from certain individuals at Manufacturers, the Board and the New York Fed as to their understanding of what had been involved in the erroneous money supply estimates. We discussed with these individuals the components of the money supply estimates and the general practices for collection and processing of source data used in the compilation of those estimates. From these briefings, we identified the individuals at the Board, the New York Fed and Manufacturers who could have had access to or knowledge of the errors in Manufacturers' deposit reports or the erroneous money supply estimates before publication of the revised estimates.

2. Review of Documents

At the outset of our inquiry, to prevent routine document retention procedures from resulting in unavailability of data, we requested the three institutions to preserve all records relating to the errors in the money supply estimates and to trading in securities by Manufacturers and persons at the three institutions. Each institution agreed in writing to do so.

We obtained and reviewed copies of documents relevant to the collection and processing of the data used in compiling the erroneous money supply estimates and their subsequent revision. These documents included the deposit reports filed by Manufacturers with the New York Fed between October 1 and November 8, 1979, and the worksheets and ledgers underlying those reports; documents reflecting the processing of Manufacturers' deposit reports by the New York Fed and the Board and the Board's compilation of the money supply estimates; and documents, including individuals' notes and memoranda, relating to the discovery of the errors and their subsequent correction. In addition, we reviewed documents relevant to trading in securities by Manufacturers, persons at the three institutions, and major government securities dealers, including trading reports filed with the New York Fed and brokerage statements. We also reviewed miscellaneous other documents, including publications on the compilation of money supply estimates and their impact on the financial markets.

3. Interviews

We interviewed a total of 193 individuals at the three institutions who we determined could have had access to or knowledge of confidential information about the errors or the erroneous money supply estimates. 46 of these individuals were employed at the Board, 63 were employed at the New York Fed and 84 were employed at Manufacturers and its subsidiaries. The transcripts of these interviews totalled approximately 4,200 pages.

We began interviews nearly simultaneously at the Board and the New York Fed. Before each of these interviews, the witness was advised of the purpose of our inquiry, the capacity in which we were acting, his or her right to be accompanied by counsel and his or her right to decline to answer our questions.

After completing most of the interviews initially planned at the Board and the New York Fed, we conducted interviews of employees at Manufacturers. Counsel for Manufacturers was present at each interview with the consent of the witness and Special Counsel.

At each interview the witness was sworn and a verbatim transcript of the interview was taken by a qualified court reporter. In only a few instances was it necessary to conduct more than one interview of the same witness. At none of the three institutions did any witness refuse to answer any questions asked about his or her knowledge of what had occurred. No witness asked to be accompanied by personal counsel.

4. Questionnaires

We sent questionnaires to 109 persons at the New York Fed and other Federal Reserve banks, the Board and the United States Department of the Treasury. This group consisted of persons who we learned from our interviews could have had secondary or other limited access to confidential information about the errors or the erroneous money supply estimates. These questionnaires were designed to identify whether or not the recipient or any other persons might have information relevant to our inquiry that should be obtained by personal interview.

Each recipient was informed of the nature and purpose of our inquiry before being asked to complete and swear to the accuracy of the responses to the questionnaire. All questionnaires were completed, executed and returned to us.

Based upon our review of the completed questionnaires, we determined that it was not necessary to conduct additional interviews.

5. Retention of a Public Accounting Firm

Because of the nature and complexity of the accounting, financial and other data involved in our inquiry and the need for systems analysis capability, we retained the accounting firm of Price Waterhouse & Co. ("PW") to assist us.

PW assisted us in the inquiry in two principal ways. First, PW prepared detailed analyses with flow charts tracing Manufacturers' deposit data into the deposit reports filed by Manufacturers with the New York Fed, through their processing at the New York Fed and into the data supplied by the New York Fed to the Board, and then through processing at the Board into the compilation of the erroneous money supply estimates and their revisions. Second, PW prepared working memoranda on various aspects of the inquiry, including: (i) an overview and analysis of the errors in the deposit data reported by Manufacturers; (ii) a reconciliation of the deposit data submitted by

Manufacturers with the records of the New York Fed and the Board; (iii) a report on the effect of the errors in the data submitted by Manufacturers on the erroneous money supply estimates and their revisions; (iv) an analysis of certain trading activities by Manufacturers' trust division and trading departments during October 1979; and (v) an analysis of certain government securities transactions by major dealers during October 1979.

6. Review of Reports Prepared by Manufacturers' Public Accounting Firm

Soon after announcement of the corrections to its deposit reports, Manufacturers requested its outside accountants to review its procedures relating to reporting deposit data to the New York Fed during each of the three weeks ended October 17, 1979, and to report their findings to a committee of the bank's board of directors. Subsequently, Manufacturers requested its outside accountants to recalculate the deposit data reported to the New York Fed for the month of October 1979. Manufacturers' outside counsel also asked the accountants to assist in their special review to determine whether Manufacturers, its parent, Manufacturers Hanover Corporation, or any of their officers or employees, considered to have possibly been in a position to have been aware of the submission of the incorrect reports, had obtained financial or monetary gain as a result of knowledge thereof prior to the October 25, 1979 announcement of the Board. At outside counsel's request, only accounting personnel not routinely engaged in the examination of Manufacturers' financial statements assisted in this review. We received copies of the accountants' two reports from Manufacturers' outside counsel. With the assistance of PW and the full cooperation of Manufacturers' outside accountants, we reviewed these reports and the underlying workpapers.

7. Analyses of Securities Trading Activities

We met with experts in the financial markets from the private sector and government to discuss methods of inquiry into market statistics for evidence of transactions based on advance knowledge of the erroneous money supply estimates.

With the assistance of PW, we analyzed certain trading activities of Manufacturers. This analysis is described in detail at pages 18 to 23. We also reviewed the trading activities of individuals at Manufacturers, the Board and the New York Fed who had access to or knowledge of relevant confidential information. In addition, we analyzed, with PW, reports of trading activities by major dealers in certain government securities markets during the relevant period. A description of this analysis is set forth at pages 26 to 28.

IV. COMMENTS ON NATURE AND SCOPE OF THE INQUIRY

No limitations were imposed by the Board or the New York Fed on our inquiry. Further, we received the full cooperation of the Board, the New York Fed and Manufacturers, as well as their respective employees and representatives.

As may be expected where the testimony and questionnaire responses of more than 300 persons are involved, statements by different individuals varied with respect to certain matters. None of these variances, however, reflects on any matter material to our conclusions.

As noted above, in addition to our interviews and questionnaires, we performed limited analyses of certain financial markets. These analyses were limited to certain government securities markets because we determined these were most likely to be affected by misuse of confidential information about money supply estimates. Further, it would have been impossible to investigate adequately activities in all markets.

V. MANUFACTURERS AND PERSONS CONNECTED WITH MANUFACTURERS, THE BOARD, OR THE NEW YORK FED DID NOT IMPROPERLY AND KNOWINGLY PROFIT FROM THE COMPILATION, RELEASE OR REVISION OF THE ERRONEOUS MONEY SUPPLY ESTIMATES DURING OCTOBER 1979

A. General

As discussed above under Investigative Approach, improper and knowing benefit from the compilation, release or revision of the erroneous money supply estimates during October 1979 could have resulted from (1) participation in a plan or scheme intended to distort the money supply estimates so as to take advantage of any effect of the erroneous estimates on the financial markets, or (2) unauthorized disclosures of, or trading activity based on, confidential information about the errors or the erroneous money supply estimates. Both these possibilities were investigated.

Based on the evidence obtained in our inquiry, we conclude that Manufactuers and persons connected with Manufacturers, the Board or the New York Fed, did not imporperly and knowlingly profit from the preparation, release or revision of the erroneous money supply estimates during October 1979.

B. The erroneous money supply estimates were not the result or part of a plan or scheme or international act by any person, institution of group of persons or institutions

As discussed above, we developed an understanding of the process of compiling the money supply estimates. Then we questioned the persons involved in either the collection and processing of Manufacturers' deposit data or the compilation and release of the money supply estimates about their knowledge of, and participation in, the process during October 1979. Through depositions and examination of relevant documents, we reconstructed the manner in which the errors occurred and the erroneous money supply estimates were developed, discovered and revised.

No witness had information indicating that there was any plan or scheme to distort the deposit reports or money supply estimates. All the witnesses with first hand knowledge of the errors identified their cause as errors in the deposit reports submitted to the Mew York Fed by Manufacturers. At the time the errors were made, those individuals at Manufacturers who had access to the deposit reports were unaware that data included in the deposit reports were used to compile the money supply estimates.[4] Further, persons at the New York Fed and the Board, although concerned about the accuracy of certain data in Manufacturers' deposit reports, did not know that the money supply estimates were erroneous at the time the estimates were published.

With the assistance of PW, we analyzed certain government securities markets to see if there were any activities suggesting that someone was trading with advance knowledge that might have resulted from a plan or scheme. Nothing in this analysis indicated that there was such a plan or scheme.

1. The Erroneous Money Supply Estimates Were Primarily Traceable to Unintentional Errors Made in Deposit Reports Submitted by Manufacturers to the New York Fed During October 1979

a. Compilation of money supply estimates

During October 1979, the basic money supply estimate, M-1, was one of a series of estimates of the money supply published by the Board. The published figure, an estimate of the daily average for the week ending on Wednesday, was released by the Board to the public eight days later on Thursday afternoon. Estimates were often revised because of corrections by the suppliers of data or the by Board or Federal Reserve Banks. Revisions were published as part of the Board's usual press release on the following Thursday.

During the eight days between the end of a reporting week and the publication of the money supply estimate for that week, the Board also compiled a preliminary unpublished projection of the money supply estimate for the current week. This preliminary projection allowed the Board to monitor movements in the key components of the money supply and to detect potential problems that might be encountered at a later stage in the publication cycle. To compile the preliminary unpublished projection and the first published and revised estimates of the money supply, the Board relied on several data sources, including deposit reports submitted to the Federal Reserve System by member banks.[5]

b. Reporting errors

The erroneous money supply estimates reflected errors in the data reported by Manufacturers on the weekly deposit report FR 414.[6] The FR 414 is a required weekly report of balances in demand, time and savings deposit accounts, vault cash and of federal funds transactions. The data reported were the basis for the computation of the reserves each bank was required to keep with the Federal Reserve System. Some of the data reported on the FR 414 were also used by the Board to compile the money supply estimates.

Each business day clerical employees at Manufacturers, using an internal worksheet based principally on the bank's daily general ledger, computed daily balances for the categories listed on the FR 414. The daily balances were reported orally to the New York Fed each day with a one-day lag and at the week's end, the FR 414 showing daily balances was filed with the New York Fed.

On October 1, 1979, Manufacturers put into effect a new automated general ledger system which replaced a manual ledger system. The new system expanded the

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[4] New York Fed officials testified that it was credible that these individuals at Manufacturers were not aware of the relationship between money supply estimates and the deposit reports.

[5] For a detailed discussion of the components of M-1, see Beck, Sources of Data and Methods of Construction of the Monetary Aggregates, "Improving the Monetary Aggregates: Staff Papers" (November 1978).

[6] There were errors on other types of reports filed by Manufacturers during October 1979, but only the errors in the FR 414's had a direct impact on the published money supply estimates. See pages 2 and 29–30 of the Appendix.

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number of accounts from approximately 200 to more than 700 and thus required revised account classifications as well as new worksheets, including the worksheet used in computing the deposit categories on the FR 414. Although Manufacturers ran selected portion tests of the new system, it did not run a parallel test of the computation of the deposit categories on the FR 414 under the old and new systems.

Reporting errors were made by Manufacturers in its FR 414's during October 1979. The cause of the most significant errors was an incorrectly designed worksheet used to compute the deposit categories for the FR 414 from the new automated general ledger. The most significant problem with this worksheet was the erroneous treatment of deposits due to Manufacturers's overseas branches in the calculation of the demand deposit category "due to banks." This error was reflected in Manufacturers' FR 414's for the weeks ended October 3 and 10. In addition, there were a number of clerical errors.

c. Effect of Manufacturers' FR 414 errors on the money supply estimates [7]

The errors in data reported by Manufacturers on its FR 414 for the week ended October 3 initially resulted in an overstatement of $627 million in the money supply estimate of $378,166 million released on October 11.[8] As of November 8, Manufacturers' corrections totalled $496 million. In addition, corrections of data from sources unrelated to Manufacturers increased the estimate by $555 million, resulting in a net increase of $59 million from the first published estimate on October 11 to the revised estimate on November 8.

The errors in data reported by Manufacturers on its FR 414 for the week ended October 10 initially resulted in an overstatement of $3,225 million in the money supply estimate of $385,532 million released on October 18.[9] As of November 8, Manufacturers' corrections totalled $2,883 million. In addition, corrections of data from sources unrelated to Manufacturers increased the estimate by $160 million, resulting in a net decrease of $2,723 million from the first published estimate on October 17 to the revised estimate on November 8.

The errors in data reported by Manufacturers on its FR 414 for the week ended October 17 resulted in an overstatement of $501 million in the money supply estimate of $382,160 million released on October 25. Later corrections of data from sources unrelated to Manufacturers decreased the estimate by an additional $267 million, resulting in a net decrease of $768 million from the first published estimate on October 25 to the revised estimate on November 8.

The errors in data reported by Manufacturers for the week ended October 24 were minimal.

2. There Was Nothing Irregular About the Manner in Which the New York Fed and the Board Processed Manufacturers' Deposit Reports and Relied on Them in Compiling Erroneous Money Supply Estimates

a. Summary of customary procedures [10]

During October 1979, FR 414's of New York member banks were submitted to the New York Fed. Customary operating procedures at the New York Fed included quality edits on these reports as a check on their accuracy. An "edit" was the process of manually comparing one day's deposit data to the previous day's data or, by computer, testing reported data against pre-established tolerance levels. An unusual change in any category was discussed with the reporting bank, which was asked to verify that the figures were correct or to make appropriate changes. Because of the volatility of the amounts of some categories of deposits, it was not unusual for data reported by a large bank to show significant weekly changes. Neither was it unusual for a bank to correct its data.

Edited FR 414's were sent to the Board, where they were edited again. If the Board data processors or Board economists responsible for compiling the money supply estimates raised questions about data submitted by New York member banks, the data were referred back to the New York Fed to be explained or to be verified by the reporting bank.

b. Processing of Manufacturers' deposit reports during October 1979 [11]

We were unable to reconstruct all details of the transmission, editing and verification of Manufacturers' erroneous deposit reports through the New York Fed to the Board and into the money supply estimates because of the lack of complete documentation. However, it is clear that Manufacturers' erroneous deposit reports that were rejected by the computer as showing a degree of change beyond tolerance levels or that were, during a manual examination, found to be unusual were questioned repeatedly by both the New York Fed and the Board.

In response to questions from persons at the New York Fed, Manufacturers disclosed that it had installed a new computer system, was having some difficulties, and that revisions might be necessary. However, Manufacturers also indicated that its FR 414's were correct so far as it knew. These verifications were accepted by the New York Fed and, through the New York Fed, by the Board, and the data were relied on to compile the money supply estimates.

3. There Was Nothing Irregular About the Manner in Which the Errors in Manufacturers' Deposit Reports and in the Money Supply Estimates Were Discovered and Corrected by the Board, the New York Fed and Manufacturers

Discovery and correction of the errors occurred as a result of the application of customary procedures within each of the three institutions. Shortly before publication on October 18 of the money supply estimate for the week ended October 10, a significant error in the FR 2416 [12] filed by Manufacturers was discovered and corrected.[13] Some of the deposit categories on the FR 2416 were roughly comparable to those on the FR 414. Thus, discovery of the FR 2416 error and continuing concern about certain data on Manufacturers' FR 414's, despite verification, led persons at the New York Fed to believe shortly after publication of the money supply estimate on October 18, that there could have been significant errors in Manufacturers' deposit reports. The problems with the data that Manufacturers had provided in its deposit reports were gradually discovered by the Board, the New York Fed and Manufacturers. Between October 18 and 25, certain officials at the Board, the New York Fed and the Department of the Treasury learned of the probability of large revisions in the money supply estimates for the weeks ended October 3 and 10. On October 25, the Board announced significant revisions in the money supply estimates for those weeks.

After the announcement on October 25, upper level management at Manufacturers first became aware that errors in Manufacturers' deposit reports had caused the revisions. Manufacturers then drafted a statement to be used in responding to press inquiries which acknowledged that there had been reporting errors which grew out of a new form used to calculate data reported to the Federal Reserve System.

Errors were also made in the data provided by Manufacturers for the week ended October 17 which were included in the money supply estimate released October 25. These were discovered by the New York Fed and Manufacturers and corrected by Manufacturers. Other insignificant errors were made in the data for the week ended October 24. All of the corrections of the data were reflected in revised estimates published in November 1979.

4. Those Persons Who Were in a Position to Have Profited Improperly From a Plan or Scheme to Distort the Money Supply Estimates Did Not Engage in Any Securities Trading Activities in October 1979 Inconsistent With Their Previous Securities Trading Activities.[14]

A plan or scheme to distort the money supply estimates would probably be reflected in unusual securities trading activity by persons with access to or knowledge of confidential information about the errors, the erroneous money supply estimates or their revisions or in unusual activity in the securities markets most responsive to interest rate changes. Our inquiry, as discussed in the following sections of the Report, revealed no unusual securities trading activity by Manufacturers as an institution or by individuals at Manufacturers, the Board or the New York Fed. In addition, our inquiry revealed no unusual unexplained activity reported by major dealers in certain government securities markets.

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[7] For purposes of this Report we have rounded the money supply estimates to the nearest million dollars. The figures actually released by the Board are rounded to the nearest $100 million. In addition, the figures cited are not seasonally adjusted. A more detailed analysis and description of the effect of the errors on the money supply estimates appear in Part III of the Appendix.

[8] On October 25, the Board announced revisions in the money supply estimate for this week of $725 million, based in large part on corrections to Manufacturers' deposit reports of $627 million.

[9] On October 25, the Board announced revisions in the money supply estimate for this week of $3,055 million, based in large part on corrections to Manufacturers' deposit reports of $3,225 million.

[10] A more detailed description appears in Part IV A of the Appendix.

[11] A more detailed description appears in Part IV B of the Appendix.

[12] FR 2416, "Weekly Report of Assets and Liabilities for Large Banks," is a detailed report of assets and liabilities for a single day, Wednesday, filed voluntarily each week with the various Federal Reserve Banks by 171 large commercial banks throughout the country.

[13] A more detailed description appears at pages 29–30 of the Appendix.

[14] There is one possible exception to this; see pages 23–24, *infra*.

C. Manufacturers and those individuals at Manufacturers, the Board and the New York Fed who had access to or knowledge of confidential information about the errors in Manufacturers' deposit reports, the erroneous money supply estimates or their revisions did not misuse such information

With the assistance of PW, we analysed the activities of Manufacturers' commercial banking trading departments, its trust division and Lionel D. Edie & Company, Inc. (a wholly owned subsidiary of Manufacturers that provides investment management) during October 1979 to determine whether Manufacturers as an institution might have taken improper advantage of knowledge of the errors in the deposit reports or in the money supply estimates. The analysis focused on transactions and positions taken by Manufacturers that might have anticipated the announcement of the erroneous estimates, particularly on October 18, or the subsequent announcements of revisions of the estimates, particularly on October 25.

The analysis of the commercial banking trading activities concentrated on the following areas: (1) investment portfolio; (2) trading portfolio; (3) domestic liability management department; (4) foreign exchange; (5) international department liability management; (6) major overseas branches and subsidiaries (on the basis of the limited information readily available); and (7) treasurer's department of Manufacturers Hanover Corporation, Manufacturer's parent company. The analysis of the activities of the trust division and Lionel D. Edie focused on fixed income securities. We understood that these were more likely than were equity securities to be affected by information about the money supply estimates.

Although the type and extent of analysis varied according to the nature of the particular trading activity and the availability of information within each area, the general approach was as follows. Through interviews with key managers in each area, depositions, and examination of relevant internal documents, we reviewed management policies and decisions underlying trading activity during October 1979. We obtained the automated and manually prepared reports used in each area, such as the daily dealer records of transactions, the daily records of trading positions and the monthly statements of profits and losses, balance sheets, and average positions or balances. We analysed trading positions and transactions in comparison to internal trading limits, to movements in the relevant financial markets in October, and to the chronology of events associated with the submission by Manufacturers of the erroneous deposit data and the discovery of the errors. In the commercial area, we compared Manufacturers' average balances and trading volumes or positions taken in October to Manufacturers' prior balances volumes and positions to determine whether trading activity during October appeared to be unusual, and we compared profits earned in October to those in prior months to determine whether there were any unusual or unexplained variations during October.

To determine whether any person used confidential information concerning the errors in the deposit reports or in the money supply estimates for the purpose of trading for personal benefit, we identified the persons with access to such confidential information. We interviewed or sent questionnaires to the persons at each of the three institutions who were involved in the preparation or processing of data used to compile the money supply estimates, or who we knew had access to such data or to the estimates.

In addition, with the assistance of PW, we conducted a limited inquiry into certain government securities market activities by major dealers for the period from late September through early November 1979.[15] The purpose of this inquiry was to identify for further investigation any anomalies in market activity, i.e., significant variations in trading volume or direction by a dealer with respect to the timing of the money supply announcements and as compared with comparable dealers, all dealers in the aggregate and the dealer's usual activity. In addition, the information obtained was used to check the direct statements of the persons interviewed. The absence of any anomalous market activity, although not determinative, tended to corroborate statements by these persons that confidential information had not been improperly used.

1. Manufacturers, and Those Individuals at Manufacturers, the Board and the New York Fed Who Had Access to or Knowledge of Confidential Information About the Errors in Manufacturers' Deposit Reports, the Erroneous Money Supply Estimates or Their Revisions Did Not Engage in Securities Trading Activities for Their Own or Related Accounts Inconsistent With Their Previous Securities Trading Activities

a. Securities trading activities by Manufacturers

Our analysis, performed in conjunction with PW, revealed that there were no unusual securities trading activities in October and specifically on or about the critical dates of October 11, 18 and 25 by Manufacturers' commercial banking trading departments or, with regard to fixed income securities, by its trust division or Lionel D. Edie.

In each instance, unless otherwise noted, management responsible for the relevant investment portfolio stated that they had no knowledge of the erroneous money supply estimates or of errors in deposit data submitted by Manufacturers until such errors were made public when the revisions were announced.

(1) *Investment Portfolio.* There was no evidence of unusual activity in the investment portfolio in the month of October.

(2) *Trading Portfolio.* Profits earned from trading in government, federal agency and municipal securities, and bankers' acceptances did not represent a significant part of Manufacturers' net income in October 1979. Average closing positions and net trading profits and losses earned in October 1979 did not appear to show any unusual or unexplained variances from previous months.

Positions taken in the government and agency portfolio were reduced following the announcement of new reserve requirements on October 6, and, after that date, Manufacturers largely stayed out of the market. Long and short positions taken in the latter half of October appeared to react to market conditions and public information affecting interest rates and prices. There was no evidence of unusual trading activity.

The Municipal Securities Department also attempted to reduce the size of its portfolio following the October 6 announcement. No significant increases or decreases in the portfolio occurred in the latter half of October.

The Bankers' Acceptance Department carried out a selling, rather than a trading, function. Its function was to generate funds by selling discounted drafts drawn under letters of credit issued by Manufacturers' International Lending Department. Following the announcement on October 6, Manufacturers attempted to reduce gradually the size of its acceptance portfolio. There were no significant fluctuations in the size of this portfolio during the latter half of October.

(3) *Domestic Liability Management Department.* The Domestic Liability Management Department was responsible for obtaining "wholesale" deposit funds from banks, large companies, and other financial institutions. No evidence was found of efforts to anticipate any changes in interest rates that might result from the announcement of the erroneous money supply estimates, or the subsequent revisions of those estimates.

A section of the Department called the Money Desk was responsible for maintaining Manufacturers' Federal Reserve Account at the level required by the Board through transactions in federal funds and repurchase agreements. The Assistant Vice President responsible for the Money Desk stated that he was informed of errors in Manufacturers' deposit data on October 22 and, on October 23, of the estimated effects of these errors on Manufacturers' reserve requirements for the week ending October 24. As a result of this information, he took action on October 23 and 24 to reduce the reserve account balance so as to meet the revised reserve requirement for that period. He testified that he was not aware that there was any connection between the errors in deposit data and the money supply estimates until the causes of the erroneous money supply estimates were made public. The record reveals that, before public announcement, he discussed the errors only with others assigned to the Money Desk, and neither he nor they engaged in any securities trading for personal benefit.

Manufacturers' wholesale deposit liabilities during October 1979 were maintained at levels close to the goals set by management. Balances in Manufacturers' Federal Reserve Account fluctuated considerably from day to day. These fluctuations appeared to relate primarily to the weekly pattern of inflows and outflows of funds across Manufacturers' demand deposit, commercial loan, and other accounts, and the need to control the day-to-day balance in the Reserve Account so as to meet as closely as possible the aggregate reserve requirements each week. The average balances of wholesale deposit and other funding sources during October 1979 did not show any unusual variances from previous months.

The increase in the aggregate cost of wholesale money provided by the Domestic Liability Management Department in October and November 1979 appeared to be consistent with the general level of increase in market interest rates in that period. There was no evidence that Manufacturers was able to avoid a substantial increase in its interest costs as a result of the general increase in market rates.

The volume of federal funds sold during October did not show any unusual or unexplained variations either in the pattern of day-to-day trading during the month or in comparison to previous months. The increase in profits from federal funds trading in October appeared to be due primarily to a significant increase in the spreads available in the market following October 6.

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[15] *See* pages 26 to 28, *infra*.

Most of these profits appeared to have been earned in the period immediately following the October 6 announcement of increased reserve requirements.

(4) *Foreign Exchange.* Foreign exchange limits and positions taken were small in comparison to Manufacturers' total assets and the profits were not a significant part of net income. There was no evidence of any attempt by Manufacturers to take foreign exchange positions in anticipation of any exchange rate movements that might result from the announcement of the erroneous money supply estimates or the subsequent revision of those estimates. Foreign exchange profits earned in October 1979 did not show unusual features in comparison to previous months.

(5) *International Department Liability Management.* Positions taken by the International Department Liability Management (Nassau branch) during October 1979 showed no evidence of trading patterns in anticipation of changes in market interest rates which might have occurred following the announcement of the erroneous money supply estimates or their subsequent revisions. Average asset and liability balances maintained in October did not show any unusual fluctuations in comparison to previous months. Fluctuations in profits earned in the October and November accounting periods (to the 21st of each month) did not appear to be related to the erroneous money supply estimates or their subsequent revisions.

(6) *Major Overseas Branches and Subsidiaries.* Daily commentaries on United States market conditions telexed by Manufacturers' International Department to overseas locations during October 1979 included no statements which indicated advance knowledge of the erroneous money supply estimates or of their subsequent revisions. Based only on summarized data available, the general level of overseas branch foreign exchange and deposit trading in October did not show significant fluctuations compared to other months in 1979. Balance sheets and income statements for October for four major trading branches did not show significant unexplained fluctuations in October compared to September or November 1979.

(7) *Manufacturers Hanover Corporation.* Treasury Department activities of Manufacturers' parent company consisted of short-term money market investments, issuance of commercial paper, and loans to subsidiaries. These activities did not show patterns indicating anticipation of significant changes in market interest rates that might follow publication of the erroneous and revised money supply estimates. Funding activity carried out by the parent company during October did not show any unusual fluctuations in comparison to previous months.

(8) *Trust Division.* The Trust Division stayed out of the long term bond market during October 1979. The Division maintained a substantial proportion of its fixed income portfolio in short maturities. In accordance with the needs of individual portfolios, the Trust Division purchased and sold bonds with maturities greater than one year and swapped bonds of a particular type or quality for another. Towards the end of October, the Division purchased longer term securities. There was no evidence of unusual activity in fixed income securities by the Trust Division in October 1979.

(9) *Lionel D. Edie & Company, Inc.* In mid-September, Lionel D. Edie's New York Office issued fixed income investment guidelines. These guidelines were not changed during the time period relevant to the erroneous money supply estimates and were implemented by the New York Office in accordance with the needs of individual portfolios during September, October and November. Most of the long term securities purchased were corporate bonds. During October 1979 other purchases and sales of long term securities and swaps of one bond of a particular type or quality for another were made in accordance with the needs of individual portfolios. There was no evidence of unusual trading in fixed income securities by Lionel D. Edie in October 1979.

b. Securities trading activities by persons at Manufacturers, the Board and the New York Fed

The large majority of persons interviewed or responding to questionnaires did not engage in any securities transactions in October 1979. Others whom we questioned had engaged in transactions during October. However, with one possible exception discussed below, none of these transactions appeared to be related, directly or indirectly, to confidential information about the errors, the erroneous money supply estimates or their revisions, and none appeared to be inconsistent with previous trading activity. In addition, each person interviewed or responding to a questionnaire stated that he or she had no knowledge of any person engaging in securities trading activities on the basis of nonpublic information concerning the erroneous money supply estimates.

We found only one securities transaction by any person at Manufacturers, the Board or the New York Fed that raised questions we were unable to resolve. This transaction involved Rudolph Thunberg, then a Vice President of the New York Fed. Mr. Thunberg, who is no longer with the New York Fed, testified under oath to the following effect. Upon returning to his office at the New York Fed on October 25, having been out of town since October 16, he was informed of the erroneous money supply estimates and their impending revision. Later in the morning, in response to a telephone message, he called someone whose name he did not recognize. That person was a broker at Bear Stearns & Co. who informed him about a new municipal bond fund (a unit investment trust) similar to one Mr. Thunberg had inquired about previously. Mr. Thunberg had earlier decided to make this type of investment if presented with a yield he believed attractive. He asked the broker to send him a prospectus for the fund, which arrived several days later, but he was otherwise noncommittal. That afternoon, after waiting for the revisions to the money supply estimates to be released at 4:10 p.m., and seeing that they had appeared on the Dow Jones wire at 4:13 p.m., Mr. Thunberg called the Bear Stearns & Co. broker at approximately 4:30 p.m. to place an order for 25 units (for approximately $25,000) of the fund. That broker was out of his office but another broker took Mr. Thunberg's order, which was stamped 4:39 p.m. Mr. Thunberg did not discuss the money supply error or revision with the broker.

We note that Mr. Thunberg testified that his account with Bear Stearns & Co. was his first and only brokerage account and was opened for purposes of this transaction. The investment constituted a significant portion of his portfolio and was in fact the largest investment he had ever made. Mr. Thunberg also testified to the effect that his other assets were substantial in relation to his investment in the municipal bond fund. In addition, we note that the value of the units in the fund advanced very slightly during the week following Mr. Thunberg's purchase.

Mr. Thunberg cooperated with our investigation in testifying under oath about the transaction and providing documents. We had one brief telephone interview with the two brokers at Bear Stearns & Co., and they gave us the documents we requested. The limited information obtained from them is consistent with Mr. Thunberg's account of the transaction. In response to our request for sworn testimony from the brokers, the Director of the Legal Compliance Division of Bear Stearns & Co. told us that the firm had no objection but that the brokers declined to be interviewed under oath. We were given no explanation for their refusal. Without the brokers' sworn testimony, we were unable to reach any conclusions with regard to the matter. For this reason, we referred the matter to the Securities and Exchange Commission and requested that they make an inquiry. We understand that the matter is under consideration by the Commission staff.

2. Persons at Manufacturers, the Board and the New York Fed Who Had Access to or Knowledge of Confidential Information About the Errors in Manufacturers' Deposit Reports, the Erroneous Money Supply Estimates or Their Revisions Did Not Disclose This Information Outside of the Official Course of Business

Based on interviews and our reconstruction of the events, we determined that, prior to the public release of the revisions, most of the discussions about the errors, the erroneous money supply estimates or their revisions occurred among three classes of persons: those involved in or responsible for the collection and processing of the erroneous data; those who relied on the erroneous data in developing the money supply estimates; and those high-level officials who normally have access to money supply estimates before publication. In addition, information concerning the errors was disclosed to certain persons at the Department of the Treasury in the official course of business by high-level Board and New York Fed officials during a meeting and luncheon. The Treasury officials did not discuss the errors with any persons other than those present at the meeting or luncheon prior to the time that information concerning such errors became public.

The only advance disclosure of confidential information to a non-government person occurred on the evening of October 24, 1979. The public information officer of the New York Fed was responsible for the public release of the estimates. In the belief that Manufacturers' high-level management had been fully briefed on the errors, he called Manufacturers' public information officer to find out how Manufacturers was planning to handle disclosure of the revised money supply estimates. He told the officer that revisions to previously published money supply estimates due to errors in Manufacturers' deposit reports would be released the following day. Manufacturers' public information officer was not then aware of this fact, and he was asked to keep it in confidence until the revisions to the money supply estimates were released to the public. The record reveals that he did not discuss the matter with anyone before the following day's press conference, nor did he engage in any securities transactions before public release of the information.

Individuals' statements that they did not disclose information to anyone outside of the ordinary course of business were corroborated by our analysis of the most relevant securities markets, those for government securities. Had there been a leak of the information about the errors, one would have expected to find evidence of activity in these markets. There were no unusual unexplained market transations reported by any major government securities dealers during October.

VI. NO OTHER INSTITUTION OR INDIVIDUAL APPEARS TO HAVE ENGAGED IN SECURITIES TRANSACTIONS WITH CONFIDENTIAL INFORMATION ABOUT THE ERRORS IN MANUFACTURERS' DEPOSIT REPORTS, THE ERRONEOUS MONEY SUPPLY ESTIMATES OR THEIR REVISIONS

We undertook, with the assistance of PW, an analysis of the securities markets in which transactions by a knowledgeable person with advance information about the erroneous money supply estimates would probably have occurred. Our inquiry was limited for practical reasons to the financial markets considered most likely to be involved in any attempt to profit from improper and knowing use of advance information about the errors or the erroneous money supply estimates. In theory, of course, virtually any investment medium could be affected by expectations about the money supply and its relationship to interest rates. We concluded that it would be impossible to investigate adequately all markets, and the experts whom we consulted indicated that advance information about the errors would probably have been used by a knowledgeable person, if at all, to purchase or sell government securities, including government-backed securities and futures contracts therein. Accordingly, our inquiry was limited to an analysis of certain government securities transactions.

The largest dealers in government securities voluntarily filed with the New York Fed a daily report on form FR 2004. These reports provided data on the dealers' transactions, positions, borrowings and financing in several varieties of U.S. Government securities. It is our understanding that substantially all transactions in U.S. Government and agency securities were reflected in transactions reported on form FR 2004.

The FR 2004 data were the best available data on transactions in the government securities markets. However, a substantial portion of the data was filed by telephone and telex and was transcribed onto forms at the New York Fed and the reports were not confirmed by the New York Fed. In addition, the forms, issued by the Federal Reserve in 1976, did not include information on sophisticated financing arrangements developed since that time.

The New York Fed provided this data to us in automated form for the period from September 26 through November 5, 1979. With the assistance of PW, we extracted from the FR 2004's the data for purchases and sales of the types of securities that would be most sensitive to interest rate fluctuations. These included Treasury Bills of 92 days or less, U.S. Government Coupon Securities due after one year and Federal Agency Securities due after one year.

Unusual trading activity was defined as trading activity in any of the three classes of securities that deviated significantly in volume and/or direction from the trading by other dealers within the same group (large commercial banks, brokerage and investment firms, unaffiliated dealers) or by all other dealers or from the individual dealer's normal trading activities. Although data for the entire period were analyzed, our focus was on trading that took place on or about October 18, the date on which the erroneous estimate for the week ended October 10 was released, and October 25, the date on which the revisions were announced to the public.

A. There was no unusual unexplained trading activity reported by major government securities dealers in October

Review of dealer trading activity during October had to take into account the major events affecting the securities markets at that time. For a period prior to October 6, 1979, market volumes were steady, at apparently normal levels. After Chairman Volcker's announcement on October 6 that the Board was adopting a new policy on money supply, however, market volumes and interest rates became volatile and remained so for the rest of the month of October.

Three instances of reported trading activity that on first examination appeared to be unusual were identified from the FR 2004 reports; these were investigated. What appeared to be the largest anomaly, a large net sale and a large net purchase for one dealer, resulted from a typographical error on the dealer's FR 2004's. A decimal point was erroneously misplaced by two digits in the report of a sale and a purchase.

The second anomaly, net sales of a class of government securities on two consecutive days, was significantly smaller than the first anomaly. After inquiry, we found that the dealer had received a large allotment of that class of securities, and most of the net sales were accounted for by sales of the securities taken in the allotment. The net sales were small relative to the gross positions this dealer held in this class of securities and relative to its total volume of trading reported on its FR 2004.

The last anomaly, net sales of a class of government securities on two days in October 1979, was also significantly smaller than the first anomaly. The dealer had taken two allotments of this class of securities early in the month of October, and as a result, maintained a net long position. Following the Board's announcement on October 6, and the subsequent fall in securities prices, the dealer reduced its long position by selling securities from the allotments. The net sales which were identified as an anomaly were primarily sales of the securities taken in these allotments.

Based upon our inquiry, we found and have concluded that there was nothing unusual about what initially appeared to be anomalous trading activity.

(This Report is accompanied by an Appendix and Exhibits that contain a more detailed statement of the evidence on which our findings and conclusions are based.)

Respectfully submitted,

ALAN B. LEVENSON,
Special Counsel.
FULBRIGHT & JAWORSKI.

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FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

(Mr. FISH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FISH. Mr. Speaker, yesterday the House passed H.R. 5203, the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act. The action taken on the Harkin amendment to H.R. 5203 was an important victory for the sanctity of State responsibility over chemical registrations. No one should doubt the authority of Congress to act on chemical registrations. The issue raised by the Harkin amendment, which was answered in the affirmative, is whether it is a wise policy to tamper with existing law.

When a national problem involving public health and safety calls for a national response, the Constitution in article I, section 8 clearly empowers the Congress to act on behalf of the general welfare of the American people. In many such cases we make a finding that the response of the several States is uneven. So we set a Federal standard, a national norm. But out of a proper respect for the particular interests of our sister State governments, we normally defer to their judgment that a stricter standard would be more appropriate to their circumstances. We are asked now to limit a State's power to do just that. If we do, we would be diluting a principle long observed.

Over and over again, we have affirmed an appropriate balance in our federalist system between the clear constitutional powers of the Congress and the equally clear responsibility of the States to deal with their own health and safety needs by legislating more strictly than the Federal norm. For example, the Solid Waste Disposal Act specifically provides for retention of State authority to enact stricter standards than those required by the Federal Government. The Clean Air Act permits States to adopt certain standards that are at least as strict as Federal requirements.

Mr. Speaker, a decision by this House to abandon our usual deference to the elected State Representatives must be based only on the most compelling grounds. I can conceive of situations arising in a time of national mobilzation in which expedition and the paramount interest of the Nation would call for curtailing the role of the States. This is clearly not the case before us. An inconvenience to manufacturers, a potential effect on trade are not equal in importance to fundamental principles of States responsibilities.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. SCHNEIDER (at the request of Mr. MICHEL), from 3 p.m. for the balance of the day, today on account of illness.

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SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hunter) to revise and extend their remarks and include extraneous material:)

Mr. Corcoran, for 30 minutes, today.

Mr. Gingrich, for 60 minutes, on August 16.

Mr. Gingrich, for 60 minutes, on August 17.

Mr. Latta, for 30 minutes, today.

Mr. Smith of New Jersey, for 10 minutes, on August 13.

(The following Members (at the request of Mrs. Boggs) to revise and extend their remarks and include extraneous material:)

Mrs. Boggs, for 60 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Alexander, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. Schneider, to revise and extend her remarks in support of the Wilderness Protection Act, H.R. 6542, in the body of the Record today.

Mr. Porter, prior to the vote on H.R. 6542 today.

Mr. Wirth, prior to the vote on H.R. 6542 today.

Mrs. Boggs, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,856.

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. McCloskey.
Mr. Hopkins.
Mr. Bailey of Missouri.
Mr. Rudd.
Mr. Derwinski in three instances.
Mr. Sensenbrenner.
Mr. Clinger.
Mr. Porter.
Mr. Moorhead.
Mr. Oxley.
Mr. Bereuter.
Mr. Shuster.
Mr. McGrath.
Mr. Lagomarsino.
Mr. Craig.
Mr. Coughlin.
Mr. Gilman in two instances.
Mr. Goodling in two instances.
Mr. Marlenee.
Mr. Dougherty.

(The following Members (at the request of Mrs. Boggs) and to include extraneous matter:)

Mr. Ottinger in two instances.
Mrs. Boggs in two instances.
Mr. Brinkley in two instances.
Mr. Mazzoli.
Mr. Synar.
Mr. Montgomery.
Mr. Ford of Michigan.
Mr. Dixon.
Mr. LaFalce.
Mr. Wyden.
Mr. Fuqua.
Mr. Zablocki.
Mr. Matsui.
Mr. Mineta in two instances.
Mr. Lehman.
Mr. Rosenthal.
Mr. Bedell.
Mr. Miller of California.
Mr. Moffett.
Mr. Ratchford.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 537. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute; to the Committee on the Judiciary.

S.J. Res. 230. Joint resolution to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post's Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1193. An act authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Friday, August 13, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4572. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of August 1, 1982, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 97-225); to the Committee on Appropriations, and ordered to be printed.

4573. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the decision to convert to contractor performance the bus service and motor vehicle operation activity at Fort Ord, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4574. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the decision to convert to contractor performance the maintenance and repair of canvas, tents, tarps, furniture, upholstery, and other equipment at Fort Ord, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4575. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to study the conversion to contractor performance the Marine Corps various functions at different installations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4576. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a report of the value of property, supplies and commodities provided by the Berlin Magistrate for the quarter April 1, 1982 through June 30, 1982, pursuant to section 719 of Public Law 97-114; to the Committee on Appropriations.

4577. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving U.S. exports to Indonesia exceeding $100,000,000 or more, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4578. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend the National Flood Insurance Act of 1968, as amended; to the Committee on Banking, Finance and Urban Affairs.

4579. A letter from the Secretary of Education, transmitting the annual report on the status of vocational education in fiscal year 1981, pursuant to the Vocational Education Act of 1963, as amended; to the Committee on Education and Labor.

4580. A letter from the Director of ACTION, transmitting final notice of Young Volunteers in ACTION (YVA) guidelines, pursuant to section 420(d) of the Domestic Volunteer Act of 1973, as amended; to the Committee on Education and Labor.

4581. A letter from the Chairman, Federal Communications Commission, transmitting a summary of actions taken in connection with the rulemaking proceeding relating to revision of its uniform system of accounts, pursuant to section 1253 of Public Law 97-

35; to the Committee on Energy and Commerce.

4582. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of March 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4583. A letter from the Director, Federal Emergency Management Agency, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4584. A letter from the Executive Director, the President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 209(e) of title 18, United States Code; to the Committee on the Judiciary.

4585. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting the fourth annual report on fishery allocations, permits and foreign import barriers, pursuant to section 201(f) of the Fishery Conservation and Management Act of 1976, as amended; to the Committee on Merchant Marine and Fisheries.

4586. A letter from the Assistant Administrator for Water, Environmental Protection Agency, transmitting final and proposed regulations of the Clean Water Act relating to variances from secondary treatment requirements for municipal discharges to marine waters, pursuant to section 301(h) of Public Law 97-117; to the Committee on Public Works and Transportation.

4587. A letter from the Comptroller General of the United States, transmitting a report on appropriated funds for Defense Commissary Operations (GAO/AFMD-82-45, August 11, 1982); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure of Federal Departments and Agencies To Collect Audit-Related Debts" (Rept. No. 97-727). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure of the Air Force and Navy To Develop Common Radar Warning Receivers Is Costly" (Rept. No. 97-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "DOD Wastes Hundreds of Millions of Dollars by Duplicating Base Support Services" (Rept. No. 97-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Direct Broadcast Satellites: International Representation and Domestic Regulation" (Rept. No. 97-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Security Classification and Executive Order 12356" (Rept. No. 97-731). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on "Presidential Libraries: Unexplored Funding Alteratives" (Rept. No. 97-732). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. H.R. 5618. A bill to require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms; with an amendment (Rept. No. 97-733). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4828. A bill to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; with an amendment (Rept. No. 97-734). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. House Joint Resolution 429. Joint resolution to establish State commissions on teacher excellence; with amendments (Rept. No. 97-735). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 6485. A bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes; with an amendment (Rept. No. 97-736). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6732. A bill to amend the International State Container Act; with an amendment (Rept. No. 97-737). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 559. Resolution waiving certain points of order against H.R. 6956, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-738). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 560. Resolution waiving certain points of order against H.R. 6957, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-739). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 561. Resolution waiving certain points of order against H.R. 6968, a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-740). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 562. Resolution providing for the consideration of H.R. 6755, a bill to authorize assistance to promote economic revitalization in the Caribbean Basin region (Rept. No. 97-741). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 563. Resolution providing for the consideration of H.R. 3432, a bill to amend the Water Resources Development Act of 1974 relating to planning and evaluating water resources projects, and for other purposes (Rept. No. 97-742). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Resolution 521. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania (Adverse report No. 97-743). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 6954. A bill to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense (Rept. No. 97-744). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself, Mr. Edwards of California, Mr. McClory, and Mr. Butler):

H.R. 6978. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOGGS (for herself, Mr. Trible, Mr. Anderson, Mr. Benjamin, Mr. Bennett, Mr. Bonior of Michigan, Mr. Bonker, Mr. Dougherty, Mr. Lott, Mr. Ford of Tennessee, Mr. Gaydos, Mr. Hartnett, Ms. Mikulski, Mr. Snyder, Mr. Stangeland, Mr. Wilson, Mr. Young of Alaska, Mr. Murtha, and Mr. Zeferetti):

H.R. 6979. A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Colorado:

H.R. 6980. A bill to amend the Wild and Scenic Rivers Act of 1968 as amended by designating portions of the Elk River, Colo. and the Encampment River, Colo.; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON:

H.R. 6981. A bill to amend chapter 44 (relating to firearms) of title 18 of the United States Code to modify the Federal gun control system; to the Committee on the Judiciary.

By Mr. HOPKINS (for himself, Mr. Snyder, Mr. Hubbard, and Mr. Rogers):

H.R. 6982. A bill to temporarily waive the 120-percent factor used in determining whether extended unemployment benefits are payable in a State; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6983. A bill to amend title 17 of the United States Code to improve the protection afforded to computer software, and for

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other purposes; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 6984. A bill to amend title II of the Social Security Act to restore eligibility for child's insurance benefits in the case of children aged 18 through 22 who attend postsecondary schools and whose family income is $30,000 or less; to the Committee on Ways and Means.

By Mr. RATCHFORD (for himself, Mr. Pepper, Mr. Goodling, and Mr. Weiss):

H.R. 6985. A bill to amend the Vocational Education Act of 1963 to make grants available for vocational programs for older persons and to establish a grant program for the establishment of model centers for vocational education for older persons; to the Committee on Education and Labor.

By Mr. REGULA (for himself, Mr. Forsythe, Mr. Goodling, Mr. Mitchell of New York, Mr. Jacobs, Mr. Bevill, Mr. Hendon, Mr. Solomon, Mr. Kindness, Mr. Sunia, Mr. Dougherty, Mr. Hammerschmidt, Mr. Hiler, Mr. Weber of Ohio, Mr. Minish, Mr. Young of Alaska, Ms. Mikulski, and Mrs. Martin of Illinois):

H.R. 6986. A bill to authorize the President to impose a tariff surcharge on the products of certain countries in order to offset the expense of providing U.S. defense assistance to such countries; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 6987. A bill to permit the investment by employee benefit plans in residential mortgages; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. SHARP:

H.R. 6988. A bill to amend the Federal Election Campaign Act of 1971 to reduce the contribution limitation for multicandidate political committees with respect to elections for Federal office and to impose additional limitations with respect to congressional elections; to the Committee on House Administration.

By Mr. FUQUA:

H.J. Res. 570. Joint resolution proposing an amendment to the Constitution of the United States providing for a procedure for removal from office, in every 10th year of service, of the judges of the Supreme Court and inferior Federal courts; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. Conte, Mr. Bingham, Mr. Moakley, Mr. Udall, Mr. Lowry of Washington, Mr. Weiss, Mr. Waxman, Mr. Evans of Iowa, Mr. Yates, Mr. Blanchard, Mr. Richmond, Mr. Lundine, Mr. Moffett, Mr. Fowler, Mr. Rodino, Mr. Reuss, Mr. Mottl, Mr. DeNardis, Mr. Edgar, Mr. Hall of Ohio, Mr. Roybal, Mr. McHugh, Mr. Evans of Indiana, Mr. Eckart, Mr. D'Amours, Mr. LaFalce, Mr. Fauntroy, Ms. Mikulski, Mr. Barnes, Mr. Kogovsek, Mr. Gray, Mr. Ottinger, Mr. Lantos, Mr. Weaver, Mr. Gejdenson, Mr. Shannon, Mr. Stark, Mr. Kastenmeier, Mr. AuCoin, Mr. Daschle, Mr. Early, Mr. Kildee, Mr. Beilenson, Mr. Coelho, Mr. Foglietta, Mr. Pease, Mr. Ford of Michigan, Mr. Mazzoli, Mr. Matsui, Mr. Mineta, Mr. Stokes, Mr. Fascell, Mr. Oberstar, Mr. Shamansky, Mr. Schumer, Mr. Dorgan of North Dakota, Mr. Howard, Mr. Glickman, Mr. Brown of California, Mrs. Kennelly, Mrs. Schneider, Mr. Harkin, Mr. Edwards of California, Mr. Dixon, Mr. Bedell, Mr. Rosenthal, Mr. Garcia, Mr. Ratchford, Mr. Rangel, Mr. Leach of Iowa, Mr. Boland, Mr. Frank, Mr. Seiberling, Mrs. Martin of Illinois, Mr. Minish, Mr. McKinney, Mr. Russo, Mr, William J. Coyne, Mr. Luken, Mr. Mavroules, Mr. Peyser, Mr. Dwyer, Mr. Smith of Iowa, Mrs. Fenwick, Mrs. Schroeder, Mr. Lehman, Mr. Williams of Montana, Mr. Brodhead, Mr. Patterson, Mrs. Heckler, Mr. Scheuer, Ms. Oakar, Mr. Washington, Mr. Hollenbeck, Mr. Studds, Mr. John L. Burton, Mrs. Chisholm, Mr. Dellums, Mr. Neal, Mr. Pepper, Mr. Florio, Mr. Addabbo, Mr. Bonior of Michigan, Mr. Panetta, Mr. Martinez, Mr. Nowak, Mr. Horton, Mr. Solarz, Mr. Boner of Tennessee, and Mr. Wirth):

H.J. Res. 571. Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. MOORE:

H.J. Res. 572. Joint resolution establishing May 15, 1983, as "Peace Officers' Memorial Day"; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.J. Res. 573. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. SIMON:

H.J. Res. 574. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

H.J. Res. 575. Joint resolution proposing an amendment to the Constitution of the United States which prohibits the Congress from making any law which causes the total amount of money expended by the United States in any fiscal year to exceed the total amount of revenue of the United States received during that fiscal year; to the Committee on the Judiciary.

By Mr. GILMAN (for himself, Mr. Barnes, Mr. Bedell, Mr. Bingham, Mr. Brown of California, Mrs. Chisholm, Mr. DeNardis, Mr. Dymally, Mr. Edgar, Mr. Fauntroy, Mrs. Fenwick, Mr. Jeffords, Mr. Leach of Iowa, Mr. Matsui, Mr. Moffett, Mr. McHugh, Mr. McCloskey, Mr. Pritchard, Mrs. Schneider, Mr. Seiberling, Mr. Simon, Mr. Studds, Mr. Won Pat, and Mr. Zablocki):

H. Con. Res. 394. Concurrent resolution expressing the sense of the Congress concerning continuing U.S. participation with respect to a comprehensive law of the sea treaty; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

456. By the SPEAKER: A memorial of the House of Representatives of the State of Illinois, relative to the acquisition by the University of Illinois of the federally owned land currently being used by the Dixon Springs Agricultural Center; to the Committee on Agriculture.

457. Also, a memorial of the Legislature of the State of New York, relative to section 504 of the Rehabilitation Act of 1973; to the Committee on Education and Labor.

458. Also, a memorial of the Legislature of the State of New York, relative to the whereabouts of Raoul Wallenberg; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 450: Mr. Parris.

H.R. 1454: Mr. Solarz and Mr. Schumer.

H.R. 1784: Mr. Vento, Mr. Crockett, Mrs. Collins of Illinois, Mr. Lowry of Washington, Mr. Mitchell of Maryland, Mr. Dellums, and Mr. Stokes.

H.R. 1919: Mrs. Schneider.

H.R. 2322: Mr. Young of Florida, Mr. Roberts of South Dakota, and Mr. Savage.

H.R. 3399: Mr. Frenzel.

H.R. 4617: Mr. Peyser.

H.R. 5310: Mr. Gephardt, Mr. Breaux, Mr. Frenzel, Mr. Price, Mr. Skelton, Mrs. Boggs, Mr. Emerson, Mr. Rahall, Mr. Hagedorn, Mrs. Bouquard, Mr. Leach of Iowa, Mr. Fary, and Mr. Simon.

H.R. 5362: Mr. Mattox.

H.R. 6087: Mr. Rahall, Mrs. Kennelly, Mr. Glickman, Mr. Coelho, Mr. Madigan, Mr. Bowen, Mr. McKinney, Mr. Ford of Tennessee, and Mr. Sabo.

H.R. 6190: Mr. Clinger, Mr. Ertel, Mr. Walgren, Mr. Napier, Mr. LaFalce, and Mr. Lee.

H.R. 6219: Mr. Traxler.

H.R. 6311: Ms. Ferraro and Mr. Stump.

H.R. 6467: Mr. Hunter, Mr. Sensenbrenner, Mr. Zablocki, Mr. Hubbard, Ms. Ferraro, Mr. Snyder, Mr. Gunderson, and Mr. Beard.

H.R. 6591: Ms. Ferraro and Mr. Mavroules.

H.R. 6613: Mr. Hyde, Mr. Rudd, Mr. Courter, and Mr. LaFalce.

H.R. 6623: Mr. Crockett and Mr. Rangel.

H.R. 6690: Mr. Goodling.

H.R. 6783: Mr. Synar and Mr. Hughes.

H.R. 6852: Mr. Smith of Oregon.

H.R. 6885: Mr. Conable, Mr. Fish, and Mr. Daschle.

H.R. 6963: Mrs. Boggs, Mr. Breaux, Mr. Huckaby, Mr. Livingston, Mr. Long of Louisiana, Mr. Moore, and Mr. Tauzin.

H.J. Res. 172: Mr. Roemer.

H.J. Res. 323: Mr. Hightower, Mr. Florio, and Mr. Kastenmeier.

H.J. Res. 454: Mr. Tauke, Mr. Forsythe, Mr. Howard, Mr. Markey, Mr. Gore, Mr. Ford of Michigan, Mr. Goldwater, Mr. Emerson, Mr. Conable, Mr. Archer, Mr. Beard, Mr. Biaggi, Mr. Heftel, Mr. Moorhead, Mr. Sabo, Mr. Richmond, Mr. Hunter, Mr. Murtha, Mr. Hawkins, Mr. Pursell, Mr. Erdahl, Mr. Hutto, Mr. Holland, Mrs. Fenwick, Mrs. Kennelly, Mr. Jones of Tennessee, Mr. Latta, Mr. Kazen, Mr. Corrada, Mr. Ford of Tennessee, Mr. Frost, Mr. Whittaker, Mr. Moakley, Mr. Mottl, Mr. Dicks, Mr. Jacobs, Mr. Hopkins, Mr. Natcher, Mr. Hansen of Idaho, Mr. Wirth, Mr. Miller of California, Mr. Whitten, Mr. Beilenson, Mr. Paul, Mr. Coughlin, Mr. Crockett, Mr. Dan Daniel, Mr. Dickinson, Mr. Downey, Mr. Dymally, Mr. Fountain, Mr. McDade, Mr. Leath of Texas, Mr. Marriott, and Mr. Oxley.

H.J. Res. 472: Mr. Weaver and Mr. Daschle.

H.J. Res. 523: Mr. Ratchford, Mr. Shamansky, Mr. Lent, Mr. Brinkley, Mr.

McHugh, Mr. Garcia, Mr. Benjamin, Mr. Clinger, and Mr. William J. Coyne.

H. Con. Res. 383: Mr. Peyser.

H. Res. 456: Mr. Mineta.

H. Res. 553: Mr. Downey, Mr. Edgar, Mr. Barnes, Mr. Ratchford, and Mr. Foglietta.

H. Res. 558: Mr. Ford of Michigan, Mr. Nelligan, Mr. Matsui, and Mrs. Kennelly.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

560. By the SPEAKER: Petition of the American Legion, Quezon City, Philippines, relative to issuing discharges or statements of service to certain Philippine veterans; to the Committee on Armed Services.

561. Also, petition of the County Council, County of Hawaii, Hilo, Hawaii, relative to support of S. 2036, reauthorizing the Comprehensive Employment Training Act; to the Committee on Education and Labor.

562. Also, petition of the American Legion, Quezon city, Philippines, relative to "Special Immigrants"; to the Committee on the Judiciary.

563. Also, petition of the American Legion, Quezon City, Philippines; relative to repeal of section 107 of title 38 United State Code, to expand beneficiaries; to the Committee on Veterans' Affairs.

564. Also, petition of the American Legion, Quezon City, Philippines, relative to extending the grants-in-aid program to the Veterans' Memorial Medical Center; to the Committee on Veterans' Affairs.

565. Also, petition of the American Legion, Quezon City, Philippines, relative to allowing judicial review of claims denied by the Veterans' Administration; to the Committee on Veterans' Affairs.

566. Also, petition of the American Legion, Quezon City, Philippines, relative to restoration of recognition of the Philippine Commonwealth Army Veterans; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

Mr. LEE:

—Page 9, after line 9, insert the following:

"(7) Notwithstanding any other provision of this Act, the Commission shall not issue a certificate of public convenience and necessity to construct, operate, or maintain a coal pipeline until the U.S. Geological Survey conducts a comprehensive study of the uses of the coal pipeline's water sources over the life of the coal pipeline and, to the extent feasible, beyond the life of the coal pipeline, and considering the cumulative effect of all uses of the water sources certifies to the Commission that the use of the water sources will not cause a significant adverse impact on the quality and quantity of the water sources. The U.S. Geological Survey shall include in its determination of a coal pipeline's impact on its water sources a study of the pipeline's impact on water supplies in States surrounding those States from which water is proposed to be taken.

—Page 9, after line 9, insert the following:

"(7) Notwithstanding any other provision of this title, no certificate shall be issued unless the Commission determines that—

"(A) each source of water to be used by the proposed coal pipeline lies in only one state, or

"(B) for those sources of water to be used by the proposed coal pipeline which are located in more than one State, there is in effect for each of these sources an interstate compact between the States in which the source is located which governs the use by the pipeline of water from the source. A source of water which passes through or under a State is deemed to be located in that State even though the proposed pipeline would draw water from that source only when it passed through or under a different State.

—Page 12, after line 12, insert the following:

"(f) No certificate shall be issued under this section for a coal pipeline for which water would be taken from any aquifer or other body of groundwater which underlies more than one State unless—

"(1) there is in effect an interstate compact between the affected States which governs such sale or transfer; or

"(2) all the affected States consent to such sale or transfer."

Reletter the subsequent subsections accordingly.

—Page 13, after line 2, insert the following:

"(h)(1) In this subsection—

"(A) 'affiliate' means an entity which—

"(i) directly or indirectly is controlled by a carrier,

"(ii) directly or indirectly controls a carrier, or

"(iii) directly or indirectly is controlled by a person who also directly or indirectly controls a carrier.

"(B) 'control' means the possession, direct or indirect, of the power to direct the management and policies of a person. Any person, who—

"(i) is a director of another person, or

"(ii) owns in excess of 5 percent of the stock, partnership interest, or any like evidence of participation, of another person,

shall be deemed to have control of the other person.

"(2) No carrier certificated under this section shall transport any coal mined or supplied by it or an affiliate, which is, has been, or will be owned by it or an affiliate, or which will be used by it or an affiliate."

—Page 30, line 18, after "Code," insert "or for which a right-of-way is granted over, under, upon, or through Federal lands under this Act or any other law of the United States,".

—Page 31, line 3, after "Code," insert "or for which a right-of-way is granted over, under, upon, or through Federal lands under this Act or any other law of the United States,".

By Mr. NOWAK:

—Congressional Findings

I. In section 2(2) change "is" to "may be."

—Page 4, strike out line 13 and all that follows through line 25 on page 5 and insert in lieu thereof the following:

"(a) Any certificated transporter of coal by pipeline desiring to acquire a right-of-way across lands belonging to a common carrier engaged in the interstate transportation of coal may apply to the Interstate Commerce Commission for an order requiring use of the common carrier's lands for a coal pipeline right-of-way. The Commission may by order require the use of the railroad rights-of-way or facilities and shall fix just and reasonable compensation therefor.

"(b) In determining whether to issue such an order, the Commission shall take into account the willingness of the respective parties to negotiate the terms and conditions for a grant of the right-of-way and the need for the right-of-way."

—Page 8, line 7, strike out the comma and all that follows throught line 12 and insert in lieu thereof "; and".

Page 8, after line 17, insert the following:

"(5) If the Commission finds that issuance of any certificate under this section will result in diversion of revenue or traffic from an existing carrier, the Commission shall not approve the application for the certificate."

Renumber the subsequent paragraphs accordingly.

—Page 8, strike out line 1 through 17 and insert in lieu thereof the following:

"(4) No application for a certificate may be approved under this section unless the Commission determines in writing that—

"(A) the coal pipeline or extension thereof will provide the capacity necessary to fulfill the requirements of a common carrier of coal;

"(B) there is a substantial likelihood the rates to be charged by the applicant for the transportation of coal will be less than those which would otherwise be actually charged by other common carriers for the transportation of such coal; and

"(C) there is a substantial likelihood that the coal pipeline will not materially impair the financial ability of any other common carrier to provide necessary transportation.

"(5) As part of the determination to be made under paragraph (1)(B) of subsection (b) of this section, the Commission shall consider and include in its written determinations under this subsection a discussion of at least the following issues:

"(A) The extent to which the rates to be charged by the applicant are reasonably expected to be lower than those which would otherwise be charged by other carriers for the transportation of such coal over the expected useful life of the coal pipeline.

"(B) The extent to which the coal pipeline or extension thereof would be likely to impair the financial integrity of other carriers or the existing level or type of transportation services any such carrier is able to provide.

"(C) The extent to which the coal pipeline or extension thereof would assist in meeting transportation needs for the attainment of national coal utilisation goals in a safe, adequate, economical, and efficient manner.

"(D) The extent to which existing carriers have the ability to meet the same transportation needs as the coal pipeline or extension for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner.

"(E) The environmental impact of the coal pipeline or extension and alternative routes, means of transportation of coal, or methods of utilization of coal.

"(F) The balance between the energy needs of the area to be benefited by the coal pipeline or extension and the impact on the area from which the coal is to be transported, including the impact on the water needs of such area.

"(G) The effect that the coal pipeline or extension thereof will have on other carriers.

"(H) The extent to which the coal pipeline or extension would affect surface or groundwater at the point of origin from which the coal is to be transported, at the point of destination to which the coal is to be transported, and at the point of disposal of water utilized in the transportation of coal.

"(I) The extent to which the coal pipeline or extension thereof would disrupt the coal industry in regions of the United States other than the region in which such pipeline will originate.

"(6) No certificate may be issued under this section unless an environmental impact statement is prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and notice of the availability of such statement is published in the Federal Register.

"(7) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless, before the issuance of the certificate, each State which has a legal interest in the groundwater to be used and beneath whose lands any part of the ground water aquifer constituting any part of the source of the groundwater to be used lies shall consent in writing to the use of its water before the issuance of the certificate.

Renumber the subsequent paragraphs accordingly.

—Page 12, after line 12, insert the following:

"(f) Not later than 10 days after any application under this section is filed with the Commission, the Commission shall notify the Secretary of Agriculture of the filing of the application, and the Commission and the pipeline applicant shall provide such information as the Secretary of Agriculture shall require to conduct a review of the effect of the diversion of water by the pipeline project on agriculture, including irrigation needs. The Secretary of Agriculture shall have 120 days from the date of receipt of such notification to conduct such review and to advise the Commission with respect thereto. The Commission shall make no final determination under this section with respect to the application until it has received a report and accompanying finding from the Secretary of Agriculture.

Reletter subsequent subsections accordingly.

By Mr. SHUSTER:

—Page 4, lines 16 and 17, strike out "private lands" and insert in lieu thereof "those lands owned by any common carrier engaged in the interstate transportation of coal which are needed for such transportation and are".

—Page 5, line 16, strike out the semicolon and insert in lieu thereof a period.

Page 5, strike out lines 17 through 21.

Page 27, line 20, strike out "unless" and all that follows through line 25 and insert in lieu thereof a period.

—Page 5, after line 25, insert the following:

"(e) A person issued a certificate under section 10952 of this subchapter to construct a coal pipeline or extension thereof may not acquire by exercise of the power of eminent domain under this section rights-of-way over, under, upon, or through any lands located in any State if the chief executive officer of such State certifies to the Commission, within 90 days after the certificate is issued, that the laws of such State relating to eminent domain allow the acquisition of such rights-of-way by eminent domain, except that such person may acquire by exercise of the power of eminent domain under this section all or any part of the rights-of-way necessary to construct, operate, and maintain such coal pipeline or extension in such State if such person is unable to acquire such rights-of-way under the laws of such State within a reasonable period of time."

Page 25, after line 21, add the following:

"(f) The amendments made by this section shall take effect on the date of enactment of this Act, except that section 10951 of title 49, United States Code, as added by subsection (a) of this section, shall take effect two years after such date of enactment.

—Page 7, line 23, strike out "and".

Page 7, line 24, strike out the period and insert in lieu thereof the following: ", and (D) establishing a maximum allowable cost for the construction of the coal pipeline or extension. For purposes of the preceding sentence, maximum allowable cost shall be exclusive of any cost increase that results from subsequent inflation or an unanticipated grave, natural disaster or other natural phenomenon of an exceptional, inevitable, and unavoidable character.".

—Page 8, strike out lines 1 through 17 and insert in lieu thereof the following:

"(4) In making its findings under paragraph (1)(B) of this subsection with respect to any proposed coal pipeline, the Commission shall, at a minimum, determine the extent to which the pipeline—

"(A) would help meet national needs for coal utilization, considering, among other matters, alternate routes or means of transportation of coal and the relative costs of such alternative routes or means;

"(B) would balance the energy needs of the area to be benefited by the project and the water requirements and other impacts on the area from which the coal is to be transported;

"(C) would be likely to impair the financial integrity of other modes of transportation or the level or type of transportation services any such mode is able to offer;

"(D) would be likely to result in lower rates for the coal transported than would be in effect if such coal were transported by other modes of transportation; and

"(E) would unduly impact on the surface and ground water at the point of destination and disposal of such water in the environment.

—Page 9, after line 9, insert the following:

"(7) No certificate of public convenience and necessity may be issued to or held by any person under this section who controls, is controlled by, or is under common control with, any person who—

"(A) uses or will use coal transported by the coal pipeline constructed or proposed to be constructed pursuant to such certificate, or

"(B) supplies or will supply coal to such pipeline.

In addition to the meaning given the term 'control' by section 10102(6) of this subtitle, any person who owns 5 per centum of the voting stock of another person shall be deemed to control such other person for purposes of this paragraph.

—Page 12, after line 21, insert the following:

"(g) No application may be approved under this section unless an environmental impact statement is prepared with respect to such application under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and notice of the availability of such statement is published in the Federal Register. Such statement shall be prepared by the Commission in consultation with the head of any other department, agency, or instrumentality of the United States which will be involved if such application is approved.

Page 12, line 22, strike out "(g)" and insert in lieu thereof "(h)".

Page 12, line 24, insert after "costs" the following: "(including, but not limited to, the costs of preparing an environmental impact statement with respect to such application under subsection (g) of this section)".

—Page 13, after line 2, insert the following:

"(h) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless each State which has a legal interest in any part of the groundwater to be used for the pipeline or beneath which any part of an aquifer lies which contains any part of the groundwater to be used for the pipeline consents in writing, before the issuance of the certificate, to the use of such groundwater.

—Page 13, after line 2, insert the following:

"(h) Any person issued a certificate under this section shall be deemed to be a Federal agency for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 with respect of rights-of-way acquired by power of eminent domain under section 10951 of this title.

—Page 34, after line 24, add the following new section:

NONSEVERABILITY

Sec. 13. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall be invalid.

H.R. 6957

By Mr. BEARD:

—On page 30, line 2, after "Agriculture," strike "$449,815,000" and insert in lieu thereof "$349,815,000".

By Mr. BROYHILL:

—Page 14, strike out line 12 through line 19.

—Page 14, line 19, strike out "$63,638,000" and insert in lieu thereof "$31,819,000".

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

Sec. 101. (a) The restrictions upon the authority of the Federal Trade Commission established in section 20 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57c note) shall apply with respect to the use of funds appropriated for the Commission in this Act.

(b) The provisions of section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) shall continue in effect until the end of the fiscal year ending September 30, 1983, notwithstanding subsection (i) of such section (15 U.S.C. 57a-1(i)).

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

Sec. 101. (a) None of the funds appropriated in this Act may be used by the Federal Trade Commission to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any of the antitrust Acts (as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44)) or the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) None of the funds appropriated in this Act may be used by the Federal Trade Commission to conduct any study or investigation of any agricultural marketing orders.

By Mr. LEVITAS:

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

SEC. 101. None of the funds appropriated in this Act may be used by the Federal Trade Commission (1) to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than a rule described in section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)); or (2) to carry out any such rule which became final under such Act on or after August 1, 1982.

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

SEC. 101. None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than a final rule described in section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)), unless such final rule is promulgated in accordance with the provisions of section 21 of the Federal Trade Commission Improvements Act of 1980, notwithstanding subsection (i) of such section.

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

SEC. 101. (a)(1) None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) unless such final rule is promulgated in accordance with this section.

(2) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Tansportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(3) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Nothwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall—

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in

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the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ———, which final rule was submitted to the Congress on ———.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

SEC. 101. (a)(1) None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) unless such final rule is promulgated in accordance with this section.

(2) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(3) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall—

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent

the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h)(1) Notwithstanding the provisions of section 21(i) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(i)), the Commission shall not use funds appropriated in this Act in connection with the promulgation of a final rule after the date of the enactment of this Act and before January 1, 1983, unless the Commission submits such final rule to the Congress in accordance with section 21 of such Act (15 U.S.C. 57a-1).

(2)(A) Any final rule promulgated by the Commission through the use of funds appropriated in this Act and submitted to the Congress on or after January 1, 1983, shall be subject to the provisions of this section.

(B) In any case in which—

(i) the Commission submitted a final rule to the Congress under section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) before January 1, 1983;

(ii) such final rule was disapproved by the Congress under section 21 of such Act (15 U.S.C. 57a-1); and

(iii) the Commission did not submit a final rule relating to the same acts or practices, under section 21(c) of such Act (15 U.S.C. 57a-1(c)), before January 1, 1983;

the Commission may submit a final rule relating to the same acts or practices in accordance with subsection (c).

(C) In any case in which the Commission would have been required to resubmit a final rule under section 21(g)(2) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(g)(2)), but for the expiration of such provision in accordance with section 21(i) of such Act (15 U.S.C. 57a-1(i)), as modified by the provisions of paragraph (1), the Commission shall be required to resubmit such final rule in accordance with subsection (g)(2).

(i) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ——, which final rule was submitted to the Congress on ——.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

By Mr. WALKER:

—On page 25, after line 23, insert the following new section:

Sec. 203. No funds appropriated under this act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

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SENATE—*Thursday, August 12, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

In the words of scripture, *Husbands love your wives as Christ loved the church and gave Himself for it* . . . Ephesians 5:25, (KJV) . . . *fathers do not frustrate your children* . . . Ephesians 6:4, (RSV).

Father in heaven, Thy Word is unequivocal in its teaching that the family is the nucleus of society, the basic unit of social order. History teaches that no culture can survive the disintegration of the home; and no unit of society—school, community or church—can replace parents or compensate for failure in the family. Forgive those of us who give family such a low priority.

Gracious God, help the Senate to take seriously the family, to put the family on its agenda. Help it not to perpetuate schedules that are destructive of family life. Help the Senators not to be so busy trying to save the Nation that they let their children go to hell. In the name of Thy Son. Amen.

RECOGNITION OF THE MAJORITY LEADER

The **PRESIDENT** pro tempore. The majority leader is recognized.

Mr. **BAKER**. I thank the Chair.

THE JOURNAL

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. **BAKER**. Mr. President, after the time for the two leaders has expired, the Senator from Florida (Mr. Chiles) will be recognized on special order for 15 minutes, to be followed by a period for the transaction of routine morning business in which Senators may speak for not more than 3 minutes each and to extend not past 10:45 a.m.

At 10:45 a.m. or the closing of the time for the transaction of routine morning business, whichever occurs first, the Chair under the previous order will lay before the Senate S. 2222, calendar order No. 665, the Immigration Reform and Control Act of 1982, as was arranged yesterday and subject to an objection by the minority leader.

Mr. President, the Senate will continue the debate of the immigration bill during the day today. I have not yet conferred with the distinguished manager of the bill, the Senator from Wyoming, on how late he would propose to stay in tonight.

I remind Senators that for 2 weeks now we have been on notice that in these final days before our August recess it may be necessary to ask the Senate to remain past the usual recess or adjournment hour of 6 p.m. on any evening, and such is the case today. If we can make good progress on this bill, if the managers on both sides wish to stay past 6 p.m., I advise my colleagues that we will stay past 6.

Mr. **CHILES**. Is that past 6 today or tomorrow?

Mr. **BAKER**. Today.

Mr. President, it is my hope that we could finish this bill even today. Once again, I will confer with the managers on both sides about that when we have an opportunity to confer. If we cannot do that, then we will be on the bill tomorrow and there will be votes tomorrow.

Mr. President, I will try to have a further announcement in respect to the schedule later in the day after I have had an opportunity to confer with Senators, and especially with the minority leader.

Mr. **ROBERT C. BYRD**. Mr. President, if the distinguished majority leader will yield, I am ready to state that there is no objection on this side of the aisle to proceeding with the immigration bill today.

Mr. **BAKER**. I thank the Senator.

Mr. **ROBERT C. BYRD**. Secondly, I should like to ask the distinguished majority leader, if I may, what his plans are, if he can state them at this time, with respect to the antitrust bill?

Mr. **BAKER**. Yes.

Mr. **ROBERT C. BYRD**. And the bankruptcy bill.

Mr. **BAKER**. I thank the Senator.

Mr. President, on the antitrust bill—that is S. 995—I have had a number of inquiries about whether that might be scheduled prior to the August 20 recess. My reply has been and is now to the distinguished minority leader that having stated a must list that we must deal with in order to go out on August 20, I would not anticipate that S. 995 could be called up before August 20, unless we have finished all of the items on the must list, and that would include the debt limit. If we have finished all of the items on the must list before August 20, then I would be perfectly willing to try to proceed to S. 995 before August 20 but only on that condition.

I might say, parenthetically, that I have no desire to bottle up S. 995. It would be my intention to schedule it at some point after the August recess if we cannot reach it before August 20.

On the bankruptcy reform bill, I must say to my friend, the minority leader, I nave not conferred with my staff on that and I will do so and give him a further statement at that time.

Mr. **ROBERT C. BYRD**. I thank the majority leader.

Mr. **BAKER**. Mr. President, I have no need for any further time that remains under the standing order. I offer it to the minority leader.

Mr. **ROBERT C. BYRD**. Mr. President, I thank the majority leader. I accept his offer of time and will yield it back to him if I do not use it.

RECOGNITION OF THE MINORITY LEADER

The **PRESIDING OFFICER** (Mr. Kasten). The minority leader is recognized.

Mr. **ROBERT C. BYRD**. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin and the remaining time to the distinguished Senator from Florida (Mr. Chiles).

CARNEGIE PANEL OF EXPERTS ASSESSES NUCLEAR BALANCE

Mr. **PROXMIRE**. Mr. President, the Carnegie Endowment recently assembled a panel of 32 experts in diplomacy, international relations, and nuclear warfare for a conference on the status of the nuclear balance. The results of their deliberations are important to the Senate's continuing review of the relative balance of power between the U.S.S.R. and the United States.

The panel has made a number of distinct and pertinent observations. First, they conclude that the command, control, and communications capabilities of this Nation are our weakest link in the nuclear preparedness field. The ability to react to warnings; the response time to place strategic systems

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

on higher levels of alert; the need for clear and unambiguous channels of communications—all of these are generally not discussed by Congress in the same detail as the more glamorous weapons systems. Yet command and control is, in many ways, more important, not only to our war fighting ability, but to arms control and the elimination of risk taking.

The panel also concluded that the United States is not vulnerable to a blinding attack and that a surprise attack is not likely. When coupled with their stated analysis that the United States and Soviet strategic forces are in rough balance, this provides a much welcomed relief from the more alarmist positions taken by some in the administration.

The Carnegie experts did not conclude their analysis without addressing the long-term goals of our strategic program. They called for improving the deterrent capability of the U.S. submarine force and bomber force. They suggested that more time and attention be spent on antisubmarine warfare research. And in a more controversial point, they recommended developing more and larger accurate weapons for our land-based ICBM's. This latter argument does not carry the same weight of logic as the others, it seems to me, given the increasing vulnerability of all fixed based land systems. We should be considering alternatives to vulnerable land-based systems rather than improving their warhead characteristics.

Mr. President, I ask unanimous consent that a Milwaukee Journal article about the Carnegie panel be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Aug. 6, 1982]

UNITED STATES CAN RESPOND TO FIRST STRIKE

WASHINGTON, D.C.—UPI—Although the command and communications system controlling U.S. nuclear forces is the country's "weakest link," the nation is not vulnerable to a first strike that would knock out its ability to respond, a panel of experts says.

The Carnegie Endowment's Panel on U.S. Security and the Future of Arms Control said that, without remedial steps in communications, the U.S. ability to respond to an attack—given a warning of as little as 10 minutes—was questionable.

But, it said, even with the existing communications system, the U.S. is not vulnerable to a "blinding attack" that would knock out its early warning system or prevent the president or his successors from issuing orders for a "controlled and effective response."

Survival of the decision-making authority is essential, the panel said.

"Convincing the Soviet Union that the United States could continue to manage its forces effectively after a Soviet attack in itself makes an important contribution to deterrence," it concluded.

At the same time, the panel said, a surprise attack is unlikely.

"A real risk of outbreak of nuclear war is far more likely to arise in the context of a grave crisis, in which external pressures, not abstract calculations of the theoretical possibility of a surprise decapitating strike, might make Soviet leaders think seriously about a nuclear attack and be prepared to take greater risks," the panel said.

The panel—composed of 32 policy-makers, business leaders, technical experts and military strategists—included Brent Scowcroft, the national security adviser in the Ford administration; Leslie Gelb, chief of State Department's Bureau of Politico-Military Affairs in the Carter administration; and Gen. Robert Pursley, former commander of U.S. forces in Japan.

With U.S. and Soviet forces in "rough balance," the panel said, "political and psychological factors"—especially perceptions of how vulnerable U.S. forces are to a debilitating first strike—assume greater importance.

SOVIETS GIVEN EDGE

President Reagan said at a news conference March 21 that the Soviet Union had "a definite margin of superiority," and "the Soviets' great edge is one in which they could absorb our retaliatory blow and hit us again" after launching a first strike.

However, the panel said, the strength of the U.S. nuclear arsenal is its reliance on a triad of overlapping forces—land-based missile, sea-launched missiles and bombers.

"To the extent that we exaggerate the significance of the vulnerability of one component of our forces and fail to put it into the context of overall vulnerability, we inflict this political damage upon ourselves," it said. "In this sense, rhetoric about a 'window of vulnerability' is not helpful."

The study acknowledged that the vulnerability of America's 1,052 land-based intercontinental ballistic missiles had increased as the Soviets built larger and more accurate missiles.

Failure to resolve the problem, it added, is eroding the U.S. ability to deter a Soviet attack and "could lead U.S. allies to reassess their dependence on the American nuclear guarantee."

Among the things the panel recommended were:

Larger and more accurate warheads for land-based missiles.

Larger and more accurate submarine-launched missiles.

Advances in technology to counter improved Soviet antisubmarine warfare.

Deployment of new cruise missiles aboard bombers better protected against attack.

The panel recommended continued emphasis on arms controls, despite its mixed results over the years.

REVIVAL OF KHATYN CONTROVERSY—ANOTHER REMINDER TO TAKE ACTION AGAINST GENOCIDE

Mr. PROXMIRE. Mr. President, approximately 40 years ago, 4000 to 10,000 Polish officers were brutally murdered in the Khatyn Forest of the Soviet Union. Just who was responsible for the mass murder is a controversy that has yet to be resolved. Last week in Russia, a protest by a Nordic group was staged in order to revive that controversy.

The dispute over whether the executions of those Polish officers were ordered and carried out by the Soviets or the Nazis is not the focus of my remarks. The point is that such brutal murders, in fact, did occur.

Mr. President, 40 years ago, this world witnessed the systematic annihilation of not only those Polish officers, but millions upon millions of other innocent lives. Those instances, and countless others, have left their mark on all historically conscious and compassionate human beings.

This mark, which has already stained the continents of Africa, South America, Asia, and Europe, was so significant that the world decided to adopt a treaty that would make acts committed with the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group," an international crime. The International Convention on the Prevention and Punishment of the Crime of Genocide was unanimously adopted by the General Assembly of the United Nations on December 9, 1948. Since that time, 88 nations have given their full support to the convention. The United States stands alone in our refusal to ratify this treaty.

Mr. President, the controversial incident which I cited in my opening paragraph is a poignant reminder that the experiences of genocide will never simply vanish.

What went on many years ago, whether it happened to the Polish officers, the Jews, the Armenians, or any group which has suffered this unthinkable crime, cannot be changed. What can be dramatically altered is the way a newer, more sophisticated, more compassionate, and more experienced world will handle such matters in the future.

We all must hope that 40 years from now, newer controversies, like the one in Khatyn, will not arise. I urge the Senate to help make this abstract concept of hope an admirable reality. Let us ratify the Genocide Convention.

Mr. President, I thank the Democratic leader, and I yield the floor.

THE CALENDAR

Mr. BAKER. Mr. President, is the distinguished minority leader in a position at this time to consider certain items that may be dealt with by unanimous consent according to our calendar?

Mr. ROBERT C. BYRD. Mr. President, we are ready to go forward on this side.

I yield back to the majority leader such time as he may require from the time of the two leaders under the standing order.

Mr. BAKER. I thank the Senator. I appreciate the typical cooperation of the minority leader in that respect.

Mr. President, there are several items, and I will go through them as they appear in my folder.

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NATIONAL COIN WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 516, a resolution to designate April 17 to 23, 1983, as National Coin Week, and I ask for its immediate consideration.

Mr. ROBERT C. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 516) to provide for the designation of April 17 to 23, 1983, as National Coin Week.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 516) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the Senate has approved today House Joint Resolution 516 to authorize the President to issue a proclamation designating the week of April 17 through 23, 1983, as "National Coin Week."

Coin collecting is a hobby enjoyed by millions of Americans. Coins are also popular as investments. There are few cities in the United States of any size that do not have a coin club. Numismatists are enthusiastic about their hobby and enjoy the opportunity to introduce noncollectors to this interesting and educational hobby.

National Coin Week was first introduced in 1924, and is now an annual event. Celebration of a "National Coin Week" provides an opportunity to coin collectors to foster the interest of young and old in a subject that is entertaining and instructive, as well as valuable in encouraging thrift.

I am pleased to cooperate in this effort.

POTATO RESEARCH AND PROMOTION ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2160.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 2160) entitled "An Act to amend the Potato Research and Promotion Act.".

Mr. ARMSTRONG. Mr. President, it is often said that nothing is ever as easy as it seems. There was never a more clear example than this legislation, H.R. 2160, the Potato Research and Promotion Act Amendments of 1982. Making such a simple change in a simple law, a change that affects no one on Earth except potato growers and costs the taxpayers nothing, has been one of the more difficult pieces of legislation to move that I have been associated with.

I introduced the original Senate version of this bill, S. 862, on April 2, 1981—nearly 17 months ago. The bill was talked about a great deal early this year in the Agriculture Committees of both Houses. It was finally reported out of the Senate Agriculture Committee on March 31 of this year, but with an amendment that has greatly hindered the progress of the bill. Since this version had already passed the House, it would have made more sense, I think, to have simply passed it without amendment, so that the Nation's potato growers could continue a program that is very important to them. Instead, the presence of the Senate amendment forced it back into the House Agriculture Committee and the process began again.

The House wisely, in my view, returned the measure to us for action, again without the earlier amendment—which I might say was totally unrelated to the scope of this legislation.

The original Potato Research and Promotion Act was signed into law in January of 1971 and approved by a growers referendum shortly thereafter. The act established the National Potato Promotion Board under the Secretary of Agriculture, and authorized the board to assess potato growers up to 1 cent per hundredweight to fund advertising and marketing programs, export promotion, and to provide research assistance to the potato industry. The problem was that Congress did not foresee the rate of inflation we have faced since that time. As a result of steadily increasing prices, the fund provided by this "checkoff" system is simply inadequate for its purpose.

The current 1 cent assessment generates about $2.5 million per year, representing over 97 percent grower participation in the program. Participation is strictly voluntary, though nearly all producers choose to take part, indicating strong producer support for the program.

Since 1971, though, the Consumer Price Index has risen over 100 percent, and the fund does not provide enough money for the kind of research and promotion that the producers want. This bill would provide additional funds by putting the checkoff level on a formula basis, like many other similar promotion boards, based on the average price of potatoes over the previous 10 years. In this way, the price could be adjusted as consumer prices change, up or down. In current dollars, the fund could then be increased to around $5 million in the next year, with modest increases in later years.

It must be made clear that we are not talking about tax dollars. This is a program where potato growers can choose whether or not they wish to contribute to their own board. In fact, it is ludicrous on the surface that allowing people to contribute more of their own money to their own fund for their own purpose requires an act of Congress, but it does.

Finally, I want to point out that even with the adoption of this bill, producers will still have to approve the change in a referendum, and each individual producer will still have the opportunity to decline participation. This is a noncontroversial bill, since it affects only potato growers and results in no cost to the taxpayer.

I thank the Agriculture Committee chairman, Senator HELMS, for his help on this important bill, and urge my colleagues to support it.

Mr. SYMMS. Mr. President, I rise to support the passage of H.R. 2160 the Potato Research and Promotion Act.

The bill, which passed the House on March 9 and the Senate on May 5, 1982, will authorize a mechanism necessary to generate increased and much needed revenues from direct assessments to the Nation's potato producers. More specifically, it will change the method by which this assessment is calculated. Rather than a flat 1 percent per hundredweight, it would allow the National Potato Promotion Board to determine the assessment, so long as it does not exceed one-half of 1 percent of the average potato price received by growers over the past 10-year period.

These funds are used for research and development assistance, export promotion, and advertising and marketing of potatoes. It is a worthy cause, but it also carries with it a sense of urgency. Not only are current assessments insufficient to meet costs that have risen markedly over the past decade, but congressional action only opens the door for a producer referendum to approve the new assessment formula. Consequently, I note with concern and a growing sense of urgency the unfortunate delays that have plagued congressional action on H.R. 2160 and I urge its prompt adoption by this body.

Mr. BAKER. Mr. President, I move that the Senate recede from its amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EMERGENCY SERVICES IMPROVEMENT ACT OF 1982

Mr. BAKER. Mr. President, Calendar No. 701, S. 2625, as has been cleared for action on this side, if it is agreeable to the minority leader.

Mr. ROBERT C. BYRD. Yes, Mr. President, that is agreeable.

Mr. BAKER. I ask unanimous consent that the Senate proceed to the consideration of S. 2625.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2625) to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 2, line 3, beginning with "section", strike through and including "amended", and insert the following:

"This bill may be cited as the 'Emergency Services Improvement Act of 1982'.

SECTION 1. Section 484(j) of title 40, United States Code is amended";

On page 2, line 19, strike "educational";

On page 3, line 12, strike "206", and insert "207";

On page 3, line 20, strike "excess", and insert "surplus";

On page 3, line 23, strike "excess", and insert "surplus";

On page 4, line 11, strike "207(a).'.", and insert "208(a).'.";

On page 4, line 13, strike "206", and insert "207"; and

On page 4, in the material after line 14, strike "207.", and insert "208.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Emergency Services Improvement Act of 1982".

SECTION 1. Section 484(j) of title 40, United States Code, is amended by striking subsection (j)(2) and inserting in lieu thereof the following new paragraph:

"(2)(A) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for the civil defense needs of the United States or for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such activities. If the Secretary determines that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

"(B) Before making any determination concerning the property described in paragraph (2)(A), the Secretary shall confer with and ask the guidance of the Director of the Federal Emergency Management Agency. The Director shall continuously review the available property under the control of the Department of Defense and shall immediately notify the Secretary whenever he has identified property appropriate for civil defense purposes.

"(C) The Director shall notify the Congress whenever the Secretary has refused to accept his recommendation to allocate property to the Administrator of the General Services Administration as provided under subsection (2)(A).".

SEC. 2. (a) The Federal Civil Defense Act of 1950 is amended by inserting after section 207 the following new section:

"TRANSFER OF PROPERTY TO STATE AND LOCAL GOVERNMENTS

"SEC. 208. (a) Upon notification of the Administrator of General Services in accordance with the Federal Property and Administrative Services Act of 1949 by any agency other than a department or organization within the Department of Defense that such agency has surplus property under its control, the Director shall be notified by the Administrator of General Services of the availability of such surplus property. Before transferring or allocating any such property, the Administrator shall consult with and ask the guidance of the Director of the Federal Emergency Management Agency concerning which such property would be suitable for civil defense purposes. The Administrator shall carefully and completely consider the recommendations of the Director and, based on such recommendations, shall transfer property to the appropriate State agency for distribution to the civil defense organizations identified by the Director.

"(b) The Director shall notify the Congress whenever the Administrator has refused to accept his recommendations to transfer property identified by the Director as provided in section 208(a).".

(b) The table of contents of such Act is amended by inserting after the item relating to section 207 the following new item:

"Sec. 208. Transfer of property to State and local governments.".

Mr. ROTH. Mr. President, I am pleased that the Senate is acting today on legislation which I first introduced 3 years ago. This bill is intended to improve the availability of surplus Federal property to State and local emergency services organizations by establishing emergency preparedness as an important national priority. I believe the legislation is an efficient and effective way to assist State and local emergency preparedness organizations perform their lifesaving duties and I urge my colleagues to support it.

The Emergency Services Improvement Act would help address the needs of State and local emergency and disaster preparedness organizations for trucks, generators, firehoses, tools, and other emergency supplies. Currently, there are over 1½ million volunteer firefighters, 28,000 fire companies, some 6,000 civil defense agencies, and countless local rescue squads providing services to their local communities in fighting fires, rescuing and treating hurt or trapped persons, and planning for natural or manmade disasters. Many of these organizations are volunteer based and operate on funds raised from private sources. They do not have the time or the money to become knowledgeable concerning Federal property programs and have found themselves, over the past 5 years, less and less accessible to Federal personal property declared as surplus.

Before 1977, many of these groups relied, to some degree, on their ability to obtain usable surplus equipment from the Federal Government to help them maintain and improve their services. Most often, the property they obtained was old and in a state of disrepair but they utilized their talents to restore the equipment to working order. In many cases, the trucks and generators they received were of Korean war vintage and their willingness and ability to devote considerable time and effort to revamp the aged Federal equipment was commendable. My Committee on Governmental Affairs received dozens of letters and photographs detailing how the equipment was being rebuilt and used from local disaster preparedness groups across the country.

Changes made in the law in the 1970's greatly reduced the availability of surplus Federal personal property to State and local firefighting rescue and civil defense organizations. Civil defense organizations at the local level have operated for many years as coordinating groups for all disaster preparedness organizations in their efforts to acquire surplus personal property from the Federal Government. In 1976, over $170 million worth of surplus equipment was sent through civil defense organizations to volunteer firefighting companies, sheriffs' offices, and rescue squads. Last year, only $30 million went to these same organizations. Many civil defense organizations have been unable to acquire equipment for disaster preparedness groups in their areas.

Local emergency preparedness organizations make good use of available Federal surplus property. In my own State, the Frankford Volunteer Fire Co., used surplus military equipment in the blizzard of 1980 to provide shelter and aid to 35 people in its firehouse. One of my constituents, Mr. Wayne Ellingsworth, director of Sussex County, Del., Department of Emergency Services, noted in testimony before my committee concerning a severe blizzard which struck the county in 1980:

> Most of our success in saving lives during this blizzard was attributed to those 41 four-wheel drive vehicles that my department

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had acquired through the excess equipment program then administered by the Defense Civil Preparedness Agency.

Mr. President, S. 2625 would establish emergency preparedness in the law as a priority need for the donation of surplus Federal property. It would require the Federal Emergency Management Agency (FEMA) to continuously survey available Federal property in the Defense Department and the civilian agencies to locate equipment appropriate for emergency services. When such equipment is found, FEMA would notify the General Services Administration (GSA) to transfer it to local emergency service organizations. GSA is the agency responsible for Federal property programs. The bill also specifically requires the Defense Department to consider the emergency preparedness needs of local organizations before sending its surplus equipment to the GSA for final disposal.

I think this legislation will improve the access of State and local emergency preparedness organizations to available surplus Federal property. It represents a cost-effective method of enhancing the ability of local volunteer fire and rescue squads to perform their lifesaving duties without increasing local taxes. I strongly urge my colleagues to support this measure.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I intend to proceed to a budget waiver which is on the calendar as No. 738, Senate Resolution 434, and the waiver is to accompany Calendar No. 704, H.R. 6260, if that is agreeable to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, both requests are agreeable.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 434.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 434) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6260.

The resolution (S. Res. 434) was considered and agreed to, as follows:

S. Res. 434

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6260. Such waiver is necessary because H.R. 6260 authorizes appropriations for the Patent and Trademark Office which includes the implementation of new patent and trademark fee schedules on October 1, 1982, and such a bill or a companion Senate bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974.

The waiver of section 402(a) is necessary to permit enactment of H.R. 6260 in a timely manner so (1) the Patent and Trademark Office of the Department of Commerce can be authorized for fiscal years 1983, 1984, and 1985, and (2) new patent and trademark fee schedules can be implemented by October 1, 1982. With regard to the latter point, time is of the essence since a notice period and hearing on the proposed fee schedules must occur prior to October 1, 1982.

The levels of appropriations authorized by H.R. 6260, although $8 million above the President's request for fiscal year 1982, are supported by the Reagan administration and would be within budget outlay levels for that purpose.

The Appropriations Committees of the Senate and House of Representatives have therefore had adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS TO THE PATENT AND TRADEMARK OFFICE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6260, which is the accompanying bill to the budget resolution just adopted.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6260) to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, I am pleased that the Senate is today considering H.R. 6260, a bill to amend Public Law 96–517, the University and Small Business Patent Procedures Act. This is the House-passed version of S. 2326, which I introduced 3 months ago with Senators Thurmond, DeConcini, Hatch, and Kennedy.

S. 2326 was originally introduced as a substitute to S. 2211, the administration's proposed amendment to Public Law 96–517, which would have required all recipients of U.S. patents to pay 100 percent of the cost of patent user fees to be set by the Patent Commissioner.

While I generally support the concept of user fees in this time of budgetary restraint, as a way of making the Patent and Trademark Office (PTO) more self-sufficient, I am concerned that the 100-percent recovery fees being proposed by the administration would have a strong chilling effect on those who have been demonstrated to be the most innovative, job producing, sector of our economy—small businesses and independent inventors.

Under the administration's proposal, all patent recipients would be required to pay a minimum of $800 in filing and issuance fees, and a minimum of $2,400 in maintenance fees. While these costs are not likely to pose a significant financial burden for large firms, they could discourage small businesses and independent inventors from applying for patents.

Mr. President, we cannot allow this to happen. It is a well-known fact that small businesses account for a far greater number of inventions and innovations than do large firms. Moreover, small firms have been shown to have a faster growth rate, to create more jobs, and to create them more rapidly, and to contribute substantially more to the U.S. economy in terms of taxes paid.

Imposing the kind of user fees proposed by the administration could be just the thing to bring the innovative sector of this marvelous small business economic engine to a halt. And I do not need to tell any of you who have been reading the business pages that this is not the time to present any sector of the small business community with more hurdles to surmount.

On the contrary, this is the time when we should be doing everything in our power to encourage the development of new ideas and small innovative businesses.

S. 2326, the bill which we are considering today in the amended version of H.R. 6260, was designed to recognize the particular economic needs and circumstances of innovative small businesses, as well as those of universities and independent inventors.

Mr. President, I do not believe the right to protect the exclusivity of an idea should be determined solely by the ability to pay. My bill would allow small businesses and inventors to continue to exercise their full innovative capacity, while at the same time allowing them the uncontestable right of ownership of their ideas. That right, as well as the overall state of innovation in this country, would be seriously jeopardized, in my opinion, if small firms and independent inventors were required to pay fees at the 100-percent level.

My bill would establish a two-tier system for the payment of patent user fees. Simply stated, it requires that large firms pay at the 100-percent level, while smaller firms, independent inventors, and nonprofit organizations would pay at a 50-percent level.

I believe this two-tier approach is both reasonable and feasible. In fact, I have been assured by the PTO that no undue difficulty in administering such a system is anticipated.

The House Judiciary Committee incorporated the main provisions of S. 2326 in H.R. 6260 and added a section permitting arbitration of patent disputes when agreeable to both parties involved in the controversy. In addition, while the Senate measure would have allowed one consumer price indexing adjustment of the fees specified in the bill, H.R. 6260, makes such adjustments automatic every 3 years. The House version was unanimously approved by the House Judiciary Committee on May 11 and passed the full House by a voice vote on June 8.

H.R. 6260, the amended version of S. 2326, is a good bill and I strongly urge the Senate to adopt it.

I should like to take this opportunity to thank my colleagues, Senators THURMOND, DECONCINI, HATCH, and KENNEDY for their help in promoting this legislation.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, another budget waiver is Calendar No. 740, Senate Resolution 438, which is to accompany S. 2059. If there is no objection by the minority leader, I ask unanimous consent that the Senate proceed to the consideration of the budget resolution.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 438) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2059.

The resolution (S. Res. 438) was considered and agreed to, as follows:

S. RES. 438

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2059, a bill to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes. Such waiver is necessary to permit reauthorization of funds for the functions of the Department of Justice under section 601(c) of the Ethics in Government Act of 1978, with respect to independent counsels appointed under chapter 39 of title 28, United States Code.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 2059, calendar order No. 707, the subject matter of the budget waiver.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2059) to change the coverage of officials and the standards for the appointment of a special prosecutor on the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 3, line 6, after "amended", insert "by";

On page 3, line 7, strike "by";

On page 3, line 10, strike "by";

On page 3, line 13, strike "by";

On page 3, line 22, strike "5315", and insert "5313";

On page 4, line 10, strike "incumbency;", and insert the following: "incumbency, but in no event longer than five years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office:

On page 4, line 18, strike "'(7)", and insert "'(8)";

On page 4, line 22, strike "director; and", and insert "director, during the incumbency of the President; and";

On page 4, line 24, strike "'(8)", and insert "'(9)";

On page 5, line 3, after "(a", insert "(1)";

On page 5, after line 6, insert the following:

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, or the appearance thereof.".

On page 6, line 1, strike "section 591(a)", and insert "subsection (a) or (c) of section 591";

On page 6, line 15, strike "28", and insert "28 of the";

On page 6, line 16, strike "Code,", and insert "Code";

On page 6, line 16, strike "'finds that", and insert "'that";

On page 6, line 21, strike "28,", and insert "28 of the";

On page 6, line 22, strike "Code,", and insert "Code";

On page 6, line 22, after "amended", insert "by";

On page 6, line 23, strike "by";

On page 7, line 2, strike "by";

On page 7, line 8, strike "by";

On page 7, line 11, after "written", insert "or other established";

On page 7, strike line 14, through and including line 17, and insert the following:

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out "specific information" and inserting in lieu thereof "information sufficient to constitute grounds to investigate"; and

(2) in clause (B) by striking out "such information warrants" and inserting in lieu thereof "reasonable grounds exist to warrant".

On page 8, line 12, after "for", insert "all or part of";

On page 9, line 5, strike "by", through and including line 7, and insert the following: by—

(1) striking out "to the extend that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible"; and

(2) striking out "written policies" and inserting in lieu thereof "written or other established policies".

On page 9, line 19, after "written", insert "or other established".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act Amendments of 1982",

SEC. 2. (a)(1) Chapter 39 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel"; and

(B) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The tables of chapters for titles 28 of the United States Code and for part II of title 28 are amended by striking out the item relating to chapter 39 and inserting in lieu thereof the following new item:

"39. Independent Counsel.".

(b)(1) Section 49 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel";

(B) striking out "special prosecutors" wherever it appears and inserting in lieu thereof "independent counsels"; and

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(C) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The item for section 49 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "special prosecutors" and inserting in lieu thereof of "independent counsels".

(c) Title VI of the Ethics in Government Act of 1978 is amended by—

(1) striking out "SPECIAL PROSECUTOR" in the heading for section 601 and inserting in lieu thereof "INDEPENDENT COUNSEL";

(2) striking out "special prosecutors" in subsection (c) of section 601 and inserting in lieu thereof "independent counsels"; and

(3) striking out "SPECIAL PROSECUTORS" in the heading for section 602 and inserting in lieu thereof "INDEPENDENT COUNSELS".

SEC. 3. Paragraphs (3) through (6) of subsection (b) of section 591 of title 28 of the United States Code are amended to read as follows:

"(3) any individual working in the Executive Office of the President who is compensated at or above a rate equivalent to level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice compensated at a rate at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than five years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President; and

"(9) the President's spouse, the President's children and their spouses, and the President's parents, brothers and sisters and their spouses during the incumbency of the President.".

SEC. 4. (a)(1) Section 591(a) of title 28 of the United States Code is amended by striking out "specific information" and by inserting in lieu thereof "information sufficient to constitute grounds to investigate".

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, or the appearance thereof.".

(b) Section 592(a) of title 28 of the United States Code is amended to read as follows:

"(a)(1) Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. In determining whether grounds to investigate exist, the Attorney General shall consider—

"(A) the degree of specificity of the information received, and

"(B) the credibility of the source of the information.

"(2) In conducting preliminary investigations pursuant to this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpenas.".

(c) Section 592(b)(1) of title 28 of the United States Code is amended by striking out "that the matter is so unsubstantiated that no further investigation or prosecution is warranted" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted".

(d) Section 592(c)(1) of title 28 of the United States Code is amended by—

(1) striking out "finds that the matter warrants further investigation or prosecution" and inserting in lieu thereof "finds reasonable grounds to believe that further investigation or prosecution is warranted";

(2) striking out "that the matter is so unsubstantiated as not to warrant further investigation or prosecution" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted"; and

(3) adding at the end thereof the following new sentence: "In determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.".

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out "specific information" and inserting in lieu thereof "information sufficient to constitute grounds to investigate"; and

(2) in clause (B) by striking out "such information warrants" and inserting in lieu thereof "reasonable grounds exist to warrant".

SEC. 5. Section 593 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

"(f) Upon a showing of good cause by the Attorney General, the division of the court may grant a single extension of the preliminary investigation conducted pursuant to section 592(a) of this title for a period not to exceed 6 days.

"(g) Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorney's fees incurred by such subject during such investigation if—

"(1) no indictment is brought against such subject; and

"(2) the attorney's fees would not have been incurred but for the requirements of this chapter.".

SEC. 6. (a) Subsection (a) of section 594 of title 28 of the United States Code is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) adding after paragraph (9) the following:

"(10) consulting with the United States Attorney for the district in which the violation was alleged to have occurred.".

(b) Subsection (f) of section 594 of title 28 of the United States Code is amended by striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible". by—

(1) striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible"; and

(2) striking out "written policies" and inserting in lieu thereof "written or other established policies".

(c) Section 594 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) The independent counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.".

(d) Paragraph (1) of subsection (a) of section 596 of title 28 of the United States Code is amended by striking out "extraordinary impropriety" and inserting in lieu thereof "good cause".

SEC. 7. Section 598 of title 28 of the United States Code is amended by striking out "after the date of enactment of this chapter" and inserting in lieu thereof "after the date of enactment of the Ethics in Government Act Amendments of 1982".

Mr. COHEN. Mr. President, I am pleased that the Senate is considering today S. 2059, the Ethics in Government Act Amendments of 1982. This bill would amend the special prosecutor provisions of the Ethics in Government Act of 1978 to better insure impartial investigations of high-ranking executive branch campaign officials, as well as members of the President's family, and to remove inequities from the present law. Six of my distinguished colleagues—Senators LEVIN, RUDMAN, EAGLETON, STEVENS, SCHMITT, and SASSER—are cosponsors of my legislation, which was unanimously reported by the Committee on Governmental Affairs on June 17.

In the almost 4 years since the Ethics Act was passed, there has been substantial criticism of the special prosecutor provisions. Much of this publicity stemmed from the controversial nature of the first two cases in which special prosecutors were appointed pursuant to the act: two Carter administration officials were investigated for alleged possession of cocaine. After extensive investigation, prolonged media attention, and high costs to both the Government and the officials investigated, the special prosecutor in each case concluded that there was no basis for an indictment. Some critics, however, have expressed larger concerns about the special prosecutor process itself, saying that the law creates unfairness by applying a higher standard of criminal law to public officials and that the act usurps the legitimate discretion and prosecutorial authority of the Attorney General.

To evaluate these and other concerns, the Subcommittee on Oversight of Government Management has studied the special prosecutor law for over a year. Last year, the subcommittee held extensive hearings on the law at which we received testimony from both its strong supporters and its critics. S. 2059 would implement recommendations which we made as a result of our investigation and hearings.

S. 2059 retains the basic structure of the current law because the subcommittee concluded that dangers of conflict of interest were not unique to Watergate, but rather are inherent in our system of government. As a political appointee of the President, a close adviser to the President, and part of an administration which hopes to gain political success, an Attorney General may be placed in a difficult situation when investigating allegations against a senior executive official. Even when such an investigation is truly handled impartially, the public may doubt that it was if the official is cleared by the Department. In other cases, the Attorney General may bend over backward and prosecute an official when prosecution is not warranted, in order to avoid the appearance of favoritism.

When such conflicts of interest exist, or when the public perceives there to be a conflict, public confidence in the investigation of public officials is eroded, if not totally lost. By providing a special prosecutor to conduct impartial and thorough investigations of officials, the present law guards against conflicts of interest and guarantees that public officials are not above the law.

The recent case of Secretary of Labor Donovan illustrates clearly the importance of the special prosecutor process to the official involved, the public, and the administration. In December of last year, Leon Silverman was appointed special prosecutor to investigate allegations of bribery and related offenses by Secretary Donovan. After conducting a thorough investigation, Mr. Silverman issued a fully documented report in which he concluded that there was insufficient credible evidence on which to base an indictment on any allegation. When Mr. Silverman's findings were made public, the cloud of suspicion was lifted from Secretary Donovan. The public and the press accepted the findings of the special prosecutor as impartial and thorough. I do not doubt that the Department of Justice could have performed the same type of investigation; however, the same level of public confidence could not have been achieved if the Attorney General, a fellow Cabinet member of Secretary Donovan, had conducted the investigation and reached an identical conclusion.

S. 2059 reaffirms the need for the special prosecutor law by extending it for 5 years.

An endorsement of the special prosecutor process does not mean, however, that the present law is perfect. To the contrary, our investigation and hearings revealed that there are substantial weaknesses in the Ethics Act. The foremost problem is that the law has created unfairness by imposing a stricter application of criminal law on public officials. This inequity results from the very low standards for triggering a preliminary investigation and for appointing a special prosecutor. These standards leave the Attorney General little practical opportunity to dismiss even frivolous allegations without seeking a special prosecutor. This process subjects officials to exhaustive, costly, and lengthy investigations in cases which would not ordinarily be pursued against private citizens. For example, in both the Hamilton Jordan and Timothy Kraft cases, special prosecutors were appointed to investigate alleged possession of cocaine by these officials despite the fact that the Department of Justice rarely prosecutes for possession of cocaine in the quantities alleged.

The subcommittee also concluded that the coverage of the present law is flawed. The act does not cover persons who create great dangers of conflict of interest—the President's family—yet at the same time it covers persons who present little realistic dangers of conflict—for example, middle-level executive officials and officials who have long since left public service.

S. 2059 would remedy these and other problems of the present law. First, it would revise the standard which triggers a preliminary investigation to allow the Attorney General to consider the credibility of the accuser, as well as the specificity of the information, in deciding whether to pursue an allegation.

Second, the bill would tighten the standard for appointment of a special prosecutor from the present very low threshold requiring appointment unless the matter is "so unsubstantiated that no further investigation or prosecution is warranted" to one requiring appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." In determining whether reasonable grounds exist, the Attorney General would follow the written or other established prosecutorial policies of the Department of Justice. These changes would enable the Attorney General to screen out allegations which would not ordinarily be prosecuted, while assuring that serious cases are sent to a special prosecutor. Permitting the Attorney General to follow the prosecutorial guidelines of the Department, which govern ordinary criminal cases, would remove a major inequity in the law.

Third, S. 2059 would amend the law so that its coverage more closely reflects those instances posing the greatest danger of conflict of interest. It would restrict coverage to only those officials who occupy top-level executive branch positions close to either the President of the Attorney General but would extend coverage to members of the President's family. It would also more clearly define which campaign officials are subject to the act. In addition, the bill would permit the Attorney General to use the special prosecutor process to investigate an individual not otherwise covered by the act, such as a very close friend of the President, if a Department of Justice investigation of this person would create conflicts of interest. Other provisions of S. 2059 would limit and standardize the coverage of officials under the act, so that officials would no longer be covered for many years after they leave office.

S. 2059 also would make the law less burdensome to both the Government and the subject of the special prosecutor investigation. By changing the name of the special prosecutor to "independent counsel," this legislation would remove the Watergate connotation from an investigation. S. 2059 also would authorize the court to award attorneys' fees to the subject of a special prosecutor investigation under strictly limited circumstances.

Additional provisions would check the potential for abuse of power by the special prosecutor by requiring him or her to follow prosecutorial guidelines of the Department of Justice, by expressly enabling him or her to dismiss a case without further investigation and to consult with the U.S. attorney, and by allowing removal of a special prosecutor for the more definable standard of "good cause."

S. 2059 recognizes that statutory independence of a special prosecutor is crucial to public confidence in the prosecutor's findings and decisions. In amending the removal standard, S. 2059 retains three important provisions of the present law which guard against unwarranted removal of the special prosecutor. Upon removing a special prosecutor, the Attorney General must file reports with the court and the Judiciary Committees of both the Senate and the House fully speci-

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fying the facts and grounds underlying the removal. These reports may be released to the public. S. 2059 also retains the provisions of present law that enable a special prosecutor to obtain judicial review of his removal and permit the court to reinstate the special prosecutor or to provide other appropriate relief for improper removal. By retaining these protections, I am confident that S. 2059 in no way compromises the independence of the special prosecutor.

Mr. President, it is crucial that the Senate address these issues immediately by passing S. 2059. Under a sunset provision, the special prosecutor law will expire in October 1983. Failure to correct the inequities of the present law now could produce another unfortunate case similar to those experienced during the Carter administration and could provide ammunition to those who favor outright repeal or expiration of the entire law.

The special prosecutor process was an important reform that must be retained. Congress would be remiss if it does not act swiftly to reaffirm its strong commitment to this reform by extending, and correcting deficiencies in the present law. Far from diluting the special prosecutor process, S. 2059 would improve the law by making it fairer and less burdensome. In this way, we can better insure that public officials and private citizens are treated impartially—and equally—under the law.

I wish to express my appreciation to my cosponsors and all the members of the Governmental Affairs Committee for their assistance in my subcommittee's efforts to reform the special prosecutor law.

Mr. President, I ask unanimous consent that a section-by-section analysis and an explanation of the provisions of S. 2059 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2059: THE ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

SECTION-BY-SECTION ANALYSIS

Short title

The first section sets forth the short title of this bill, the Ethics in Government Act Amendments of 1982.

Section 2: Name of Special Prosecutor

Section 2 would change the name of the special prosecutor to "independent counsel" in order to reduce the stigma of, and remove the Watergate connotation from, a special prosecutor investigation and to more accurately describe the purpose of appointing an individual to conduct an investigation.

Section 3: Coverage

Section 3 would amend the coverage of officials who are potential subjects of the special prosecutor process.

First, the present law (Section 591) would be amended to reduce coverage of middle-level Executive officials who, because they are close to neither Presidential nor Department of Justice decision-making, do not present realistic dangers of conflict of interest. Under the proposed amendments, the President, Vice-President, Cabinet members, Director and Deputy Director of the Central Intelligence Agency, Commissioner of the Internal Revenue Service, and positions in the Department of Justice paid at amounts equivalent to or above Level III of the Executive Schedule would continue to be covered. The amendments would limit coverage of officials in the Executive Office of the President to persons compensated at rates of pay at or above Level II of the Executive Schedule rather than Level IV or above, as under present law.

Section 3 would more precisely define which campaign "officers" are subject to the Act by specifically covering the chairman and treasurer of the principal national campaign committee seeking election or reelection of the President and any other officers of the campaign exercising authority at the national level, such as the campaign manager or director. The present law's coverage of campaign officials (Section 591(b)(6)) is vague and overinclusive by not limiting coverage to only officers who hold positions of authority. This section also specifies that these campaign officials are covered only during the incumbency of the President. No length of coverage is specified under present law.

Section 3 would extend coverage to family members of the President for only the incumbency of the President. Under present law, family members of the President are not covered.

This section also would reduce and standardize the length of time during which executive officials remain subject to the Act. Under Section 591(b)(5) of the present law, an official remains covered for the entire incumbency of the President under which he serves and the full term or terms of the next President if the new President is of the same political party. Thus, an official can remain subject to the Act for as long as 16 years after he or she leaves public office. The proposed amendment would cover all Executive officials for the incumbency of the President under which they serve plus one year, but in no event longer than five years after the individual leaves office, regardless of which political party holds the presidency.

Finally, Section 3 would reduce the length of coverage of officials who remain in office only in a transitional capacity under a new administration. Under present law, these officials can continue to be covered for the entire incumbency of the new President. The proposed amendment would specify that officials who continue to hold office for not more than 90 days into the term of the next President shall be covered during the periods such individuals serve, plus one year.

Section 4: Standards for Conducting a Preliminary Investigation and Appointing a Special Prosecutor

Section 4(a)(1) and 4(b) would raise the present standard for determining whether a preliminary investigation is required. The proposed amendment states that "upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate" that any person covered by the Act has violated a federal criminal law, the Attorney General must conduct a preliminary investigation. The proposed amendment stipulates that in determining whether "grounds to investigate" exist, the Attorney General shall consider the degree of specificity of the information and the credibility of the source of the allegation. The proposed standard differs from Section 592 of the present law which does not enable the Attorney General to consider the credibility of the accuser, but rather provides that a preliminary investigation must be conducted whenever the Attorney General receives "specific information" that a covered official has violated a federal criminal law. This standard can result in preliminary investigations for allegations with little or no factual merit.

Section 4(a)(2) adds a new subsection to the statute. This section vests discretionary authority in the Attorney General to conduct a preliminary investigation and apply for the appointment of a special prosecutor pursuant to the provisions of this chapter when the Attorney General receives information of criminal activity by a person not covered by the Act if he determines that investigation of such person by the Attorney General or other Department of Justice officer may result in a personal, financial, or political conflict of interest, or the appearance thereof. The present law does not allow the Attorney General to use the special prosecutor process for persons who are not expressly covered by the Act.

Section 4(b) adds a new section 592(a)(2) to the statute. This is a clarifying amendment which provides that in conducting the preliminary investigation the Attorney General has no authority to convene grand juries, plea bargain, grant immunity or issue subpoenas. Although the legislative history of the Act expressly denies these powers to the Attorney General, the Act itself is silent on this issue, thus giving rise to varying interpretations on the permissible extent of the preliminary investigation.

Section 4(c)-(d) would raise the standard for appointment of a special prosecutor to require appointment if the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." The amendment directs the Attorney General to comply with written or other established policies of the Department of Justice with respect to the enforcement of criminal laws in determining whether reasonable grounds for further investigation or prosecution exist.

The present law (Section 592 (b)-(c)) requires appointment unless the Attorney General concludes that the matter under investigation "is so unsubstantiated that no further investigation or prosecution is warranted." This trigger of appointment is almost automatic, leaving little practical opportunity for the Attorney General to dismiss allegations supported by little or no factual support. The standard fails to incorporate the prosecutorial guidelines and policies of the Department of Justice, and requires a special prosecutor investigation even for offenses which would not be prosecuted if made by an ordinary citizen. By ignoring the standardised policies of the Department, the Act imposes a different, more stringent application of criminal law on public officials.

Section 5: Extension of Preliminary Investigation and Reimbursement of Attorneys' Fees

Section 5 provides that the Special Prosecutor Division of the court may, upon a showing of good cause by the Attorney General, grant a single extension of the preliminary investigation for a period not to exceed 60 days. The present law (592(a)) places a 90-day limitation on the preliminary investigation with no provision for extension. This strict 90-day limitation may force the Attorney General to seek appointment of a special prosecutor simply because the 90-day period was too short.

Section 5 also would allow the court to grant, in its discretion, reimbursement of all or part of the attorneys' fees incurred by the subject of a special prosecutor investigation if no indictment is brought and if the fees would not have been incurred but for the special prosecutor appointment. No provision for reimbursement exists in the present law and officials may incur extensive legal fees during an investigation by a special prosecutor. The proposed amendment would not allow reimbursement for expenses incurred during a preliminary investigation as even private citizens would be subject to this type of investigation.

Section 6: Powers and Removal of the Special Prosecutor

Section 6(a) would authorize the special prosecutor to consult with the U.S. Attorney for the district in which the violation of criminal law was alleged to have occurred. Although this is not prohibited under present law, the proposed amendment would expressly authorize the special prosecutor to do so in order to assist him in determining the policy of the particular jurisdiction regarding prosecution of the alleged offense.

Section 6(b) would require the special prosecutor to follow the written or other established prosecutorial policies of the Department of Justice. Section 594(f) of the present law requires the special prosecutor to comply with the written policies of the Department "to the extent that the special prosecutor deems appropriate." Section 6(b) would amend this section to require compliance "except where not possible" in order to create a presumption that the special prosecutor will follow prosecutorial guidelines.

Section 6(c) states that the special prosecutor shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice. Although this is permissible under present law, the proposed amendment clarifies this authority so that special prosecutors will not unduly prolong investigations.

Section 6(d) of the bill would provide for removal of the special prosecutor by the Attorney General for "good cause," a standard which is used for removal of some independent agency officials. The amendment would not change the present law's provisions for full reports to Congress upon removing a special prosecutor and opportunity for judicial review of such removal; these are maintained as checks against interference by the Attorney General in the independence of the special prosecutor.

The present law (Section 596(a)(1)) provides for removal by the Attorney General only on the grounds of "extraordinary impropriety" or mental or physical disability.

Section 7: Expiration of the Special Prosecutor Provisions

Section 7 would extend the sunset date of the Act to five years after the adoption of these amendments.

The present law (Section 598) provides that the special prosecutor provisions will expire in October, 1983, unless otherwise extended by Congress.

S. 2059: PROVISIONS OF THE ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

1. COVERAGE

A. Amending the number of officials subject to the Special Prosecutor process

Current Law: Section 591(b) of the Act defines the federal executive and campaign officials who are potential subjects of the special prosecutor process. These covered positions include the President, Vice-President, all Cabinet members, the Director and Deputy Director of the Central Intelligence Agency, any Assistant Attorney General, and the Commissioner of the Internal Revenue Service. In addition, all positions in the Executive Office of the President above Level IV of the Executive Pay Scale and in the Department of Justice above Level III are subject to the Act. Finally, any officer of the principal national campaign for the election or re-election of the President is covered.

Problems with Current Law: Currently, there are over 120 positions subject to the special prosecutor provisions, 93 of which are in the Executive Office of the President. Based on testimony received at its hearings, the Subcommittee found that investigations of individuals holding many of these positions, who are close to neither Presidential nor Department of Justice decision-making, would create little danger of conflict of interest, or the public perception thereof, if conducted by the Department of Justice. In light of the extreme stigma and costs which a special prosecutor investigation can impose on its subject, coverage of the Act should be limited to those positions which present realistic dangers of conflict.

Also, the Subcommittee concluded that the Act's coverage of campaign officials is overinclusive, as many campaign "officers" do not hold positions of authority which would give rise to conflicts of interest.

S. 2059: The Act would be amended to reduce coverage of middle-level Executive officials. Section 3 of the proposed amendments specifies that the Act would cover: the President, Vice-President, Cabinet members, Director and Deputy Director of the Central Intelligence Agency, Commissioner of the Internal Revenue Service, any Assistant Attorney General, and officials in the Executive Office of the President receiving salaries at or equivalent to Level II or above, and Department of Justice officials paid at or above rates equivalent to Level III of the Executive Schedule.

Also, Section 3 of the proposed amendments would reduce the number of campaign "officers" subject to the Act by covering the chairman and the treasurer of the principal national campaign committee seeking election or re-election of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director during the incumbency of the President.

B. Amendment to cover family members of the President

Current Law: Under present law, only present or past government or campaign officials are subject to the Act.

Problem With Current Law: Ironically, while the Act's coverage of officials is overinclusive, the Act's coverage is underinclusive by failing to cover a class of persons very close to the President who would present dangers of conflict of interest if investigated by the Department of Justice: the President's family. The so-called "Billy-gate Affair," in which Billy Carter was suspected of having an improper relationship with the Libyan government, illustrates the perceived conflict of interest which arises when the Department of Justice investigates the President's family members.

S. 2059: Section 3 of the proposed amendments specifies that the Act would cover the President's spouse, the President's children and their spouses, and the President's parents, brothers and sisters, and their spouses during the incumbency of the President.

C. Amendment to establish a catch-all provision for individuals not covered by the act

Current Law: Under present law, the Attorney General may use the special prosecutor provisions for only persons who are covered by the Act.

Problems with Current Law: The Department of Justice testified that there may be instances in which investigation of persons not covered by the Act would create actual or perceived conflict of interest problems if conducted by the Attorney General, e.g., business associates and close friends of the President. Under present law, the Attorney General has no discretion to use the special prosecutor mechanism to investigate these persons.

S. 2059: Section 4(a)(2) of the proposed amendments provides that: "Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personnel, financial, or political conflict of interest, or the appearance thereof."

D. Reducing and standardizing length of coverage of persons subject to the act

Current Law: Section 591(b)(5) provides that individuals who hold covered positions, except campaign officers, continue to be covered for the full term of the President who appointed them and that President's second term, even if they have left government service. Also, these individuals continue to be covered for the full term or terms of the next President if he or she is of the same political party.

Problems with Current Law: Under existing law, an official can remain subject to the special prosecutor provisions for as long as 16 years after he or she leaves public office. There was a consensus at the Subcommittee's hearings that there can be no realistic fear of conflict of interest if an individual has been out of office that long. Also, this coverage turns on which political party wins the Presidential election, and thus creates a "politicization" of the administration of justice.

The present law also covers "holdover" officials long after they leave office. These are officials who continue to hold office into the term of the new President in merely a transitional capacity. Although these officials may serve for only a very short period of time, under the present law they would be covered for the entire term(s) of the new President and any successor of the same political party.

S. 2059: In order to reduce and standardize coverage, the proposed amendments provide that all officials would be covered by the Act for the incumbency of the President under which they serve plus one year, but in

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no event longer than five years after the individual leaves office. This coverage would apply to all Executive Branch officials, regardless of which political party holds the Presidency. Campaign officials and the President's family would be covered only for that President's incumbency.

In order to remedy the "holdover" problem, the amendments state that: "Any individual . . . who continues to hold office for not more than 90 days into the term of the next President [shall be covered] during the period such individual serves plus one year."

This language enables an official to serve up to three months into the new term without subjecting himself or herself to coverage for the full incumbency of the new President. Although there may be holdovers who serve longer than 90 days, this new language should substantially ameliorate the problem of covering holdover officials for the entire incumbency of the new President.

2. AMENDMENTS OF THE PRELIMINARY INVESTIGATION PHASE OF THE PROCESS

A. Revise standard which triggers a preliminary investigation

Current Law: Section 592(a) requires the Attorney General to conduct a preliminary investigation whenever he receives "specific information" that any of the persons covered by the Act has violated a federal criminal law, other than a petty offense.

Problems with Current Law: This standard is so low that a preliminary investigation can result for allegations with little or no factual basis. The Department of Justice and others testified that preliminary investigations are required even when the source of an allegation is known to lack credibility. Such an automatic trigger wastes Departmental resources and creates unfairness by requiring investigations of officials for allegations which would not be pursued under ordinary circumstances.

S. 2059: Section 4(b) of the proposed amendments changes the standard to require the Attorney General to conduct a preliminary investigation whenever he receives "information that the Attorney General determines is sufficient to constitute grounds to investigate" that any person has violated a federal criminal law other than a petty offense. In determining whether "grounds to investigate" exist, the Attorney General shall consider (a) the specificity of the information received, and (b) the credibility of the source of the information.

B. Allow court to grant single extension of the preliminary investigation and restrict use of investigative tools during the preliminary investigation

Current Law: Section 592 of the Act provides that the preliminary investigation may not exceed 90 days and that the Attorney General may conduct a preliminary investigation "as the Attorney General deems appropriate." While the Act is silent on the powers the Attorney General has in conducting the preliminary investigation, the legislative history of the Act expressly denies the powers of subpoena, plea bargaining, use of grand jury or other prosecutorial functions during the preliminary investigation on the theory that the Attorney General's purpose is to merely screen cases which are referred to a special prosecutor.

Problems with Current Law: The strict 90-day limitation on the preliminary investigation ignores the reality that fact-gathering is time-consuming, particularly in light of the sensitive nature of cases involving public officials. Typical criminal investigations take between two and five years before an indictment. The 90-day limit may force the Attorney General to seek appointment of a special prosecutor simply because he did not have sufficient time to investigate the allegations received.

By failing to prohibit specifically the use of investigative tools during the preliminary investigation, the Act can result in differing interpretations on the permissible extent of the preliminary investigation. The Subcommittee concluded that the express language of the Act should be clarified so that attorneys general will be prohibited from conducting a full-blown investigation rather than simply screening cases as the Act intends.

S. 2059: Section 5 of the bill authorizes the court to grant a single extension of the preliminary investigation upon a showing of good cause by the Attorney General. In no case would the extension exceed 60 days. The amendments allow only a single limited extension in order to prevent abuse or intentional delays by the Attorney General and to assure that public confidence is not jeopardized. The intent is that extending the preliminary investigation should not become a routine practice.

Section 4(b)(2) of the bill clarifies the intent of present law by providing that the Attorney General has no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas during the preliminary investigation.

3. RAISE THE STANDARD WHICH TRIGGERS APPOINTMENT OF A SPECIAL PROSECUTOR

Current Law: Unless the Attorney General can state in his application to the court that "the matter is so unsubstantiated that no further investigation or prosecution is warranted," he must apply for a special prosecutor.

Problems with Current Law: Extensive testimony at hearings indicated that this trigger of appointment leaves little practical opportunity for the Attorney General to dismiss allegations following the preliminary investigation. For example, former Attorney General Civiletti testified that in the case involving an allegation of cocaine use by Hamilton Jordan, although he specifically concluded that a prosecution would not have resulted on the basis of facts received, he was unable to dismiss the case because of the very low trigger. The standard is far lower than that generally used by prosecutors in both federal and state courts systems in determining whether a case should be investigated extensively, i.e., probable cause. Moreover, the present appointment standard ignores the legitimate use of prosecutorial discretion and guidelines that the Department has developed to standardize its discretion and policies of law enforcement. Consequently, persons subject to the act are held to a different, more stringent application of criminal law than are ordinary citizens. For example, in the Hamilton Jordan and Timothy Kraft cases, special prosecutors were appointed to investigate allegations of cocaine use, a violation which is not pursued extensively under normal circumstances. Former Attorney General Civiletti testified that the alleged violation in both of the cases would not have been prosecuted under the Carter administration or any administration except for the stringent requirements of this Act.

The Subcommittee concluded that the low threshold and failure to incorporate prosecutorial guidelines in the present standard create unfairness by imposing a special, stricter application of criminal law on public officials.

S. 2059: Section 4(c)-(d) of the bill raises the appointment standard to require appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." In determining whether "reasonable grounds" exist, the bill requires the Attorney General to comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

This new standard would strike an appropriate balance between the need to permit the Attorney General to exercise limited discretion in evaluating the results of the preliminary investigation and the need to assure that ultimate prosecutorial decisions are left to the special prosecutor. The bill anticipates that the Attorney General will be able to justify his decision to the court that a special prosecutor is not needed upon a showing that the Department of Justice or the U.S. Attorney for the district involved does not, as a matter of established practice, prosecute the alleged violation of federal criminal law.

As under current law, the bill provides that if the Attorney General makes no determination at the end of the 90-day preliminary investigation period, the court shall appoint a special prosecutor.

4. REIMBURSEMENT TO SUBJECT OF INVESTIGATION

Current Law: There is no provision for reimbursement of persons who are investigated by a special prosecutor.

Problems with Current Law: Officials incur extensive legal fees, in some cases easily exceeding $100,000, and receive much adverse publicity during a special prosecutor investigation.

S. 2059: Section 5 of the bill authorizes the court, in its discretion, to award all or part of the attorneys' fees incurred by the subject of a special prosecutor investigation if no indictment is brought and if the fees would not have been incurred but for the special prosecutor appointment. There is no provision for reimbursement of cost incurred during a preliminary investigation, as the Subcommittee concluded that under the amended version of the Act, even ordinary citizens would be subject to a preliminary investigaton.

5. AMENDMENTS TO POWERS AND REMOVAL OF SPECIAL PROSECUTOR

A. Powers of Special Prosecutor

Problems with Current Law: There is no express provision in the law stating that the special prosecutor may dismiss matters without extensive investigation. It is possible that special prosecutors may extensively investigate allegations which would be dismissed in ordinary cases.

S. 2059: Section 6 of the bill specifies that the special prosecutor has full authority to dismiss matters within his jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

Section 6 of the bill also provides that the special prosecutor must follow the written or other established policies of the Department "except where not possible." This shifts the burden to the special prosecutor to substantiate to the court why he deviated from established policies and thus reduces the different treatment given to officials under the Act. Finally, the Act specifies that the special prosecutor may consult with the U.S. Attorney for the district in which the violation allegedly occurred.

B. Removal of the Special Prosecutor

Current Law: Under Section 596, the Attorney General may remove the special prosecutor only on the grounds of extraordinary impropriety, or physical or mental incapacity.

Problem With Current Law: There is no standard defining what constitutes "extraordinary impropriety," and such a high standard may permit the special prosecutor to abuse his powers.

S. 2059: Section 6(d) of the bill amends the standard for removal from "extraordinary impropriety" to "good cause," a standard which is used for the removal of some independent agency officials. This allows the Attorney General to have a developed body of law on which to base removal. The current law's provisions for full reports to Congress upon removing a special prosecutor and opportunity for judicial review of such removal are maintained as checks against dangers that the Attorney General will interfere with the independence of the special prosecutor.

6. CHANGE NAME OF SPECIAL PROSECUTOR

S. 2059: The bill would change the name "special prosecutor" to "independent counsel" in order to remove the Watergate connotation from a special prosecutor investigation and to more accurately indicate that the investigation is being conducted by an impartial investigator.

7. AMEND SUNSET PROVISION

S. 2059: The special prosecutor provisions are scheduled to expire in October, 1983. S. 2050 would extend the expiration date to five years from the adoption of these amendments.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. **RUDMAN.** Mr. President, I would first like to commend Senator Cohen for his leadership in holding hearings and promulgating legislation to reform the special prosecutor section of the Ethics in Government Act of 1978. This important aspect of the Ethics in Government Act of 1978 was one of the many pieces of legislation growing out of the Watergate controversy. As we all remember, only too well, the investigation into the affairs of President Nixon fostered within the general public an element of mistrust in the ability of the executive branch to properly investigate itself. In order to prevent any reoccurrence of the events of that time, Congress developed special prosecutor legislation which was enacted as title 6 of the Ethics in Government Act of 1978.

The last 4 years have served as a testing period for the act, providing Congress with an opportunity to appraise its application. The initial investigatory provisions of the act were triggered 11 times, and special prosecutors were appointed in three of those cases. However, none of the cases resulted in prosecution, and, in fact, the act has generated substantial criticism. Hearings held by Senator Cohen indicate that some serious flaws exist in the law. In fact, some testimony, especially that of Ambassador Elliot Richardson, suggest that the act is unnecessary. In our opinion, the act remains necessary; however, it requires substantial revision. In saying this, I must point out that the act is not intended to imply any mistrust or doubt in the veracity and impartiality of our U.S. Attorney General. Indeed, I do not doubt that they would properly investigate allegations of malfeasance by high ranking officials in the executive branch. Instead, the act is intended to prevent potential conflicts of interest that would give rise to an appearance that the Attorney General would be incapable of impartially investigating allegations. Essentially, it prevents a problem before it arises.

During hearings before the Governmental Affairs Subcommittee on Oversight of Government Management it became clear that several changes would be needed to improve the special prosecutor legislation and develop it into a more equitable and fair method of investigating high ranking officials in the executive branch. Chief among the flaws in the present law are the trigger mechanisms prompting first, a preliminary investigation, and second, the appointment of a special prosecutor. Presently, the law requires a preliminary investigation whenever the Attorney General receives specific information that a subject violated a Federal criminal law. This standard is so low that a preliminary investigation can result from allegations with little or no factual basis. The end result is often a waste of departmental resources and an unfair investigation of the subjects involved. S. 2059 would respond to this problem by providing some leeway for the Attorney General to determine when there is sufficient information to constitute grounds for an investigation.

The standard which triggers appointment of a special prosecutor is also so low that it is almost automatic. Present law requires the appointment of a special prosecutor unless the information is "so unsubstantiated that no further investigation or prosecution is warranted." The evidence indicates that the standard for appointment leaves little practical opportunity for the Attorney General to dismiss allegations. Consequently, insignificant and unnecessary investigations can occur which are not only unfair but potentially damaging to individuals. Therefore, the ethics in Government Act Amendments of 1982 would provide additional flexibility for the Attorney General, requiring appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." This would provide the Attorney General with additional discretion so that unwarranted cases would not be pursued.

An additional major flaw in present law is the designated class of executive office and Department of Justice positions subject to the provisions of the act. The act applies to some individuals who are not close to either top officials to some individuals who are not close to either top officials of the President's office or the Department of Justice, and, therefore, investigations would not present the conflict of interest or public perception problems that gave rise to the act. Senator Cohen's legislation would respond to this problem by reducing the number of individuals covered by the act. On the other hand, the bill would also respond to the glaring problems associated with the Carter administration's "Billygate" affair. The proposed legislation would add family members to the class of persons subject to the act.

Since any designated class can also be underinclusive, Senator Cohen's legislation would take a simple step to insure that a potential conflict arising outside of the designated class would be covered. S. 2059 would provide the Attorney General with discretionery authority to use the special prosecutor provisions of the act to investigate any person not covered by the act if he perceives that a potential conflict may arise. In this manner, the rigidity of the class designation is eliminated.

In my mind, these are the major elements of the Ethics in Government Act Amendments of 1982. The changes provide a necessary adjustment to the present law, reaffirming the position that the law is necessary, but insuring additional measures of fairness. By accepting office, top officials in the executive branch subject themselves to increased public scrutiny. This justifies the special prosecutor provisions of the Ethics in Government Act. We must assure the public of impartial investigation of malfeasance by eliminating the appearance of a conflict of interest. Nonetheless, these procedures must be balanced with a measure of fairness for the individuals covered by the act. S. 2059 strikes such a balance and should be enacted into law.

Mr. **SASSER.** Mr. President, Watergate abuses of a decade ago inspired Congress to set up a statutory procedure for the appointment of a special prosecutor, independent of the Justice Department, to investigate allegations of criminal law violations by high-ranking executive branch officials. The 1978 Ethics in Government Act set the standards for the appointment of such a prosecutor.

Such a special prosecutor guards against conflicts of interest in the executive branch and assures impartial and thorough investigations of highly placed public officials. The legislation

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before us, S. 2059, extends for 5 years the special prosecutor provisions of the Ethics Act.

It also draws on the experience of the past 4 years to correct certain inequities in the law. The coverage of the act is broadened to include members of the President's family who might otherwise receive favored treatment by the Justice Department. And the "trigger" for appointment of a special prosecutor is adjusted to allow the Attorney General to consider the credibility of an accusor before an investigation is launched. This is to prevent endless investigations of meritless allegations of wrongdoing made by unreliable sources.

I believe these adjustments are sound and the overall objectives of the Ethics in Government Act are well served by these and other changes made by S. 2059. That is why I am proud to cosponsor this legislation.

My congratulations to Senator Cohen, chairman of the Subcommittee on Oversight of Government Management, and to Senator Levin, the ranking Democrat on the subcommittee, for the work they have done on this legislation. The hearing held by the subcommittee on this bill was a comprehensive probe of the application of this law over the past 4 years.

I urge rapid passage of this legislation.

Mr. LEVIN. Mr. President, I am proud to speak in support of the legislation which Senator Cohen has just described so eloquently. Under Senator Cohen's able leadership as chairman of the Senate Governmental Affairs Oversight Subcommittee, on which I am the ranking minority member, the subcommittee held a series of extensive hearings on the special prosecutor provisions of the Ethics in Government Act of 1978. During those hearings, we heard and learned much from an array of distinguished witnesses who were all well experienced in the actual operation of these provisions.

At the time of those hearings, I stated that the special prosecutor provisions must reflect our best effort to balance two competing interests: to insure that persons in high office are prosecuted for their crimes without political favoritism, and to insure that these same persons are not unfairly prosecuted solely because of their positions.

I believed then, as I do now, that the statute as then on the books guaranteed that high public officials would be impartially prosecuted for their crimes. The focus of my concerns then was on the second of the competing public interests; whether the statute's provisions needlessly created disparate and unfairly harsh treatment of these officials, and if so, how this disparity could be remedied without weakening the law. Our goal should be that high public officials be treated no better and no worse than other citizens.

Senator Cohen has already well described the changes which the subcommittee has proposed be made in the existing statute. Those changes address the concerns I have about the stigma and costs attendant to special prosecutor appointment, and the extent to which a public official would be prosecuted for a crime for which other citizens would not. Changes in the quality of the information necessary to trigger an investigation and in the number of officials covered by the act also insure that the existing law's effectiveness will be improved.

The changes proposed do not weaken the act's original intent and purpose. In proposing these changes, we have not lost sight of a matter of critical importance: The need for an independent, untainted investigation and prosecution of criminal allegations against high public officials. What we have attempted to do rather is to learn from the actual experience under the existing law, from those who have been on both sides of the process as it now works, and to fashion amendments which increase the fairness and efficiency necessary to meet the second public interest requirement I mentioned earlier. This legislation achieves just that.

Again I commend Senator Cohen and my colleagues on the subcommittee for their hard work on this legislation and urge its speedy passage.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROFESSIONAL TRAINING FOR CERTAIN STAFF OF THE SELECT COMMITTEE ON ETHICS

Mr. BAKER. Mr. President, Senate Resolution 425 has been cleared for action by unanimous consent on this side if it is cleared by the minority.

Mr. ROBERT C. BYRD. Mr. President, the resolution, Senate Resolution 425, has been cleared.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Resolution 425, calendar order No. 714.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 425) to authorize the Select Committee on Ethics to provide training assistance to its professional staff.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 425) was agreed to as follows:

S. Res. 425

Resolved, That the Select Committee on Ethics (hereinafter referred to as the "Select Committee") is authorized, with the approval of the Committee on Rules and Administration, to provide assistance for members of its professional staff in obtaining specialized training, whenever the Select Committee determines that such training will aid it in the discharge of its responsibilities.

Sec. 2. (a) Assistance provided under authority of this resolution may be in the form of continuance of pay during periods of training or grants of funds to pay tuition, fees, or such other expenses of training, or both, as may be approved by the Committee on Rules and Administration.

(b) The Select Committee shall obtain from any employee receiving such assistance such agreement will respect to continued employment with the Select Committee as it may deem necessary to assure that it will receive the benefits of such employee's services upon completion of his training.

Sec. 3. The expenses of the Select Committee in providing assistance under authority of this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BURNS PAIUTE INDIAN COLONY

Mr. BAKER. Mr. President, S. 1468 has been cleared on this side, if it is agreeable to the minority.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, then I ask that the Chair lay before the Senate calendar order No. 726, S. 1468.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1468) to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select

Committee on Indian Affairs with an amendment, as follows:

On page 2, after line 17, insert the following:

> SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), is amended by deleting "2,000" and inserting in lieu thereof "50,000".

So as to make the bill read:

S. 1468

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment, Burns Paiute domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.
>
> SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: ": *Provided further,* That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation".
>
> SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), is amended by deleting "2,000" and inserting in lieu thereof "50,000".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I am pleased that the Senate is turning its attention for a moment to the consideration of S. 1468, a bill which will designate a parcel of land in Harney County, Oreg., to be held in trust for the Burns Paiute Tribe pursuant to the requirements of Federal law 25 U.S.C. 373b. This statute provides that parcels of land, where the value of the land exceeds $2,000 and the allottee dies without legal heirs, shall be held in trust by the United States for such Indians as Congress may designate. S. 1468 fulfills this affirmative duty to designate a deserving tribe the rightful possessor of the public allotment in question.

I introduced this bill in July of 1981 to address a matter that arose in 1978 in Harney County, Oreg., where a Burns Paiute Indian named Jesse T. James died intestate and without legal heirs. Included in his estate was a parcel of land stretching over 160 acres of trust land, land which is classified as a "public domain allotment." Federal law 25 U.S.C. 373b requires that such allotments "be held in trust for such needy Indians as the Secretary may designate, where the value of the estate does not exceed $2,000, and in the case of estates exceeding such sum, such estates shall be held in trust by the United States for such Indians as the Congress may designate."

Since the value of the allotment exceeds $9,000, Congress must designate which Indians are to receive possessory rights to this property. During hearings on this matter before the Board of Hearings and Appeals in the Bureau of Indian Affairs, the Board stated:

> Based on the record before the Board . . . were it within (our) authority to decree, (we) would allow the (Jesse T. James) allotment to go to the Burns Paiute Tribe.

Indeed, the record has ample evidence that the Burns Paiute Indians are deserving of this land allotment. They have occupied the southeast corner of the State of Oregon for the last several hundred years and the present Burns Paiute reservation comprises 770 acres. The Burns Paiute Tribe currently farms 110 acres of land on which they cultivate alfalfa, and proceeds from the sale of this crop compose a major source of tribe revenue. As is true with an overwhelming number of Indian tribes across this country, the poor economic conditions have occasioned high unemployment rates and, with respect to the Burns Paiute Indians, inpoverished conditions. The Jesse T. James public allotment would expand the Burns Paiute Tribe's economic base, and in so doing, would double the Burns Paiute Indians' potential for farming since over 80 percent of the allotment is viable agricultural land. In light of the equities involved in this case, S. 1468 is a legitimate congressioanl response to a situation that requires, by statute, congressional action.

I would like to point out to my colleagues one other change this proposed legislation will make on the procedures to be followed in cases similar to the instant case. As I mentioned earlier, current Federal law requires Congress to act when the value of the property in dispute is greater than $2,000. Section 2 of S. 1468 amends section 2 of 25 U.S.C. 373b by changing the threshold amount that triggers congressional action from the current $2,000 to a more reasonable amount of $50,000. The original amount, established in 1942, is far too low and it imposes an obligation on Congress which is both burdensome and unnecessary. Instituting a higher threshold amount will serve the intent of the original act and will conform to the interests of both the Congress and the executive branch. The Secretary of the Department of the Interior is capable of making the determination of need when the value of a public allotment to be probated is less than $50,000.

Mr. President, I am grateful for the opportunity to speak on behalf of this needed piece of legislation. I urge the Senate to adopt S. 1468 as reported by the Senate Select Committee on Indian Affairs.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AWARDING OF SPECIAL CONGRESSIONAL GOLD MEDALS

Mr. BAKER. Mr. President, I am prepared to proceed to the consideration of H.R. 4647, if the minority leader is.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 734, H.R. 4647.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 4647) to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour.

There being no objection, the Senate proceeded to consider the bill.

Mr. RIEGLE. Mr. President, on April 8, 1981, we witnessed the passing of a truly great American, Joe Louis. I believe that President Reagan's subsequent decision to grant special permission for Joe Louis to be buried in Arlington National Cemetery is a fitting tribute to a great champion and an outstanding athlete.

Joe Louis' professional boxing record is certainly impressive. He first took the world heavyweight title in 1937, only 3 years after winning the AAU title. He held the crown until 1949, defending his title 25 times. Of the 71 professional fights that Joe fought he lost only 3, scoring 54 knockouts. It is no wonder that he is recognized as one of the great boxing champions of all time.

Perhaps one of Louis' most spectacular victories was against Max Schmeling in 1938. This fight became more than just a simple heavyweight contest, and Joe Louis raised the pride of all Americans, becoming a symbol of hope in those severely troubled times.

Joe Louis' life was a string of victories. He broke the barrier of racial segregation in professional sports 10 years before Jackie Robinson became the first black man to play major league baseball. Joe also served his country with distinction in World War II—enlisting at the prime of his

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boxing career and taking part in numerous exhibition fights which boosted Army morale and enhanced our national spirit.

Mr. President, on April 30, I introduced legislation authorizing the President of the United States to present a commemorative medal to the widow of Joe Louis. I am gratified that the Congress has finally acted on this matter, and know that my colleagues join me in this fitting tribute to a great American hero.

LOUIS L'AMOUR

Mr. ARMSTRONG. Mr. President, I am delighted that today we are recognizing the literary talents and contributions of Louis L'Amour, a man who has done much to celebrate the spirit of the American west.

Mr. L'Amour's thrilling but historically accurate western novels portray the courage, ruggedness, and character of the early west and the pioneers who settled it.

L'Amour, born in Jamestown, N. Dak., is a self-educated man, but his literary accomplishments are outstanding. He has authored more than 70 western novels which have been printed in several foreign languages and have sold over 82 million copies. Many of these novels have been adapted into motion pictures.

Although Mr. L'Amour's primary literary achievements are western novels, he has also written about the ancient civilization of the Fertile Crescent in the Middle East, the trade routes that sent European civilization across the globe, screen plays, television scripts, and a collection of poetry. He was chosen by the United Nations' Education, Science and Cultural Organization to write an indepth report on the Ute Indian Tribe of southwestern Colorado.

It is fitting in an age when courage, self-reliance, and boldness are needed so desperately throughout the land, that we take time to honor and appreciate the labor of this versatile American writer, whose works inspire us to work diligently to preserve the land and culture that means so much to us today.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill, H.R. 4647, was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL RECOVERY ROOM NURSES DAY

Mr. BAKER. Mr. President, I am prepared to go to Senate Joint Resolution 188, if there is no objection.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 736, Senate Joint Resolution 188.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 188) to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day".

The joint resolution (S.J. Res. 188) was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, and its preamble, are as follows:

S.J. Res. 188

Whereas the immediate postanesthetic period is the most critical in a patient's recovery;

Whereas the primary focus of the American Society of Post Anesthesia Nurses is the education of its membership, with a goal of excellence in the care of patients who have undergone surgery and the administration of anesthetic agents;

Whereas the postanesthesia recovery nurse is skilled in basic and sophisticated life support and monitoring techniques;

Whereas the availability of professional, skilled nursing personnel has been demonstrated to reduce the incidence of postoperative complications and mortality;

Whereas the postanesthesia recovery nurse provides safety and comfort to the patient who is unable to meet his or her own physical needs; and

Whereas the postanesthesia recovery nurse, in a single day, must care for patients who range in age from a few hours to one hundred years or more, and must treat each with calm, personalized, professional care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 1, 1983, as "National Recovery Room Nurses Day" and calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BAKER. Mr. President, I have another matter, a House message on S. 2271. If the minority leader has no objection, I intend to proceed with consideration of that.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2271.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2271) entitled "An Act to authorise appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1983".

AUTHORIZATION FOR PROGRAM ACTIVITIES

Sec. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, for fiscal year 1983, $50,389,000.

(2) Engineering Measurements and Standards, for fiscal year 1983, $20,807,000.

(3) Computer Science and Technology, for fiscal year 1983, $10,000,000.

(4) Core Research Program for Innovation and Productivity, for fiscal year 1983, $11,188,000.

(5) Technical Competence Fund, for fiscal year 1983, $6,986,000.

(6) Fire Research Center, for fiscal year 1983, $4,991,000.

(7) Central Technical Support, for fiscal year 1983, $13,500,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal year 1983:

(1) of the total amount authorized under subsection (a)(1) not less than $1,000,000 shall be available for the "Office of Weights and Measures";

(2) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $1,000,000 shall be available for "Measurement Standards for the Handicapped";

(3) of the total amount authorized under subsection (a)(3), not less than $10,000,000 shall be available for "Computer Science and Technology"; and

(4) of the total amount authorized under subsection (a)(4), $3,200,000 for "Discrete Process Technology (Robotics)".

EXCESS FOREIGN CURRENCY

Sec. 3. In addition to the sums authorized in section 2, not more than $500,000 is authorized for fiscal year 1983 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foriegn currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

Sec. 4. In addition to the sums authorized in section 2, the sum of $1,980,000 is authorized to be appropriated to the Assistant Secretary to carry out activities performed by the National Technical Information Service.

OFFICE OF PRODUCTIVITY, TECHNOLOGY AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of $1,898,000 is authorized to be appropriated to the Assistant Secretary for fiscal year 1983 for the purpose of research, development, and related activities in the field of innovation and productivity.

SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1983 and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 8. The Secretary of Commerce shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute, enacted before, on, or after the date of enactment of this Act, which names the Secretary or the Bureau as a consultant to another Government agency, or calls upon the Secretary or the Bureau to support or perform any activity for or on behalf of another Government agency, or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau by such other Government agency for such service, unless funds are specifically appropriated to the Secretary or the Bureau to perform such service. The Secretary may, however, waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with two further Senate amendments which I send to the desk on behalf of the Senator from New Mexico (Mr. SCHMITT) and the Senator from Nevada (Mr. CANNON), and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

UP AMENDMENT NO. 1225

(Purpose: To amend the House amendment redefining Robotics research program, and to amend the House amendment to S. 2271 by eliminating a floor on the Office of Weights and Measures and providing a floor for Metals Processing)

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. SCHMITT and Mr. CANNON, proposes an unprinted amendment numbered 1225:

On page , line , insert the following: In section 2(b)(4) strike "'Discrete Process Technology (Robotics)'." and substitute "'Robotics Research and Development'.".

On page , line , insert the following: In section 2(b)(1) strike "(a)(1) not less than $1,000,000 shall be available for the 'Office of Weights and Measures';" and substitute "(a)(4) not less than $3,000,000 shall be available for 'Metals Processing';".

Mr. SCHMITT. Mr. President, S. 2271, "The National Bureau of Standards Authorization Act for Fiscal Year 1983," was originally passed by the Senate on April 29, 1982. On May 19, 1982, the House of Representatives amended and passed S. 2271, authorizing funds for the National Bureau of Standards (NBS) and for the Office of Productivity, Technology, and Innovation. The House also set floors for four activities.

S. 2271, as amended and passed by the House of Representatives, is acceptable to the Committee on Commerce, Science, and Transportation with minor modifications to the House amendments. The modifications we recommend do not increase the total authorization.

In section 2b(1), strike "(a)(1) not less than $1,000,000 shall be available for the 'Office of Weights and Measures'" and substitute "(a)(4) not less than $3,000,000 shall be available for 'Metals Processing.'" The committee has been assured that the NBS will make available the $1,200,000 for the "Office of Weights and Measures" and that no floor is necessary. The President proposed eliminating Federal support for "Metals Processing," a joint Federal Government-industry program initiated in fiscal year 1982. This program is important for developing new alloys and products, for conservation of critical materials, and for controlling metals-alloying processes. It conducts research and develops measurement standards for rapid solidification techniques and for alloy coatings and to generate new phase diagrams. The committee believes this is an important effort which requires continued Federal support in fiscal year 1983 and recommends adoption of this amendment which directs NBS to make available $3,000,000 for continuing funding at the level provided in fiscal year 1982.

The committee recommends modifying section 2(b)(4) from "'Discrete Process Technology (Robotics)'" to "'Robotics Research and Development.'" The committee believes a formal robotics R. & D. program to improve robotics performance measures, programing languages and standards, visual and tactile sensors, and hierarchal control strategies is needed along with a floor for these activities. The committee recommends changing the title to insure that NBS activities are focused on robotics research and development and that $3,200,000 are made available.

S. 2271, as amended by the House of Representatives, includes a funding floor of $10,000,000 for the Institute for Computer Sciences and Technology (ICST). These funds are intended in part to meet previously mandated efforts, especially the Brooks Act (Public Law 89-306), for the economic and efficient purchase and use of ADP equipment by Federal agencies. The committee believes that ICST must also devote substantial effort and resources to assist in the development of international standards for ADP, to expand its research program for standards development, and to conduct policy-oriented research and analyses related to the efficient use of computers and data processing by the Federal and non-Federal sectors. These efforts are necessary for promoting the orderly growth and international competitiveness of U.S. computer and data processing industries and for determining the appropriate roles of the Federal Government in the computer and data processing fields and especially in the merging fields of computers and data processing, information processing, and communications.

Mr. President, this concludes my comments in support of the adoption of S. 2271, as amended by the House of Representatives, and with the two amendments proposed by the Committee on Commerce, Science, and Transportation. Senate passage of S. 2271 with these amendments is acceptable to the House Committee on Science and Technology and will likely be passed by the House of Representatives, thereby avoiding the need for conference.

Mr. CANNON. Mr. President, I am pleased to join with the distinguished chairman of the Commerce Subcommittee on Science, Technology, and Space, Senator JACK SCHMITT, to cosponsor an amendment to enhance the metals processing research of the National Bureau of Standards.

I stress the value and importance of the provisions in this bill for support of the National Bureau of Standards program for research on metals processing. The industrial base of our country, so essential to our defense and civil needs, is in continuous jeopardy because of its dependence on foreign sources for a number of critical materials. Our national program to stockpile a safe reserve of such materials has been neglected by the administration. This makes it particularly important—indeed vital—that we pursue alternate metal processing which may be made possible by research in metallury. In this way, we may be able to develop required performance characteristics without use of certain critical alloys or with sharply reduced levels of such alloys.

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This amendment will allocate $3 million of the Bureau's budget in fiscal year 1983 for metals processing research involving such areas as rapid solidification techniques, new alloy coatings, and generation of new phase diagrams. It is a program which the 96th Congress initiated and is at least as vital to our national interest now as it was when first authorized. Major elements of our country's industrial activities involved in military and civil production depend upon advanced metal processing technology for competitive survival. This, in turn, affects the well-being of our metal mining industry, which has suffered severely in recent years.

I commend my colleague, Jack Schmitt, and am pleased to join with him in restoring this important program to the National Bureau of Standards.

The motion to concur in the House amendment with the Senate amendments (UP No. 1225) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I thank the minority leader for permitting us to transact this routine business at this time, and I thank the Senator from Florida, who has a special order, for deferring his remarks so we might conclude these activities.

RECOGNITION OF SENATOR CHILES

The **PRESIDING OFFICER.** Under the previous order, the Senator from Florida (Mr. Chiles) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, for over 2½ months now, Senator Nunn and I have come to the floor of the Senate to urge our colleagues to move promptly to pass a package of anticrime bills. We both were delighted, of course, that the Senate has come up with a time agreement for the consideration of one such package of anticrime proposals, S. 2572. Both Senator Nunn and I are original cosponsors of that bill, and the fact that over 50 Senators have signed on as sponsors of S. 2572 indicates that crime fighting legislation has strong support here in the Senate. Senator Nunn and I also introduced our own package of crime fighting proposals, S. 2543, and we were able to have that bill placed directly onto the Senate Calendar. It too received support from some 18 other Senators. My hope is that the Senate can move on one of these proposals as soon as possible, so that we can try to put anticrime laws on the books this year.

One essential element of any reform in our criminal justice system has to be the overhaul of today's habeas corpus laws. Senator Nunn and I have focused on the need for reform in this area for over the last month, and we have taken turns speaking out every day on the shortcomings in the present law and on the broad base of support for habeas reform. Some of the strongest words of support come from those persons most directly involved in the criminal justice system. The National Conference of Chief Justices has endorsed the need for habeas reform, and has specifically endorsed the reform proposals contained in title 4 of S. 2543, the anticrime bill that Senator Nunn and I introduced.

Earlier this week, in a speech to the American Bar Association, Supreme Court Justice Lewis Powell outlined his concerns with the present habeas laws, and called for reforms to eliminate frivolous habeas appeals. I would like to share some of his remarks with my colleagues. Mr. Justice Powell was discussing the causes of the overload in the Supreme Court's docket. He said, and I quote:

> Another cause of overload of the Federal system is the law conferring Federal habeas corpus jurisdiction to review State court criminal convictions. There is no statute of limitations, and no finality of Federal review of State convictions. Thus, repetitive recourse is commonplace. I know of no other system of justice structured in a way that assures no end to the litigation of a criminal conviction. Our practice in this respect is viewed with disbelief by lawyers and judges in other countries. Nor does the Constitution require this sort of redundancy.

In a note to his remarks, Justice Powell cited a specific example that occurred during the 1981 term of the Supreme Court, in which petitions were filed in more than 30 cases by a single prisoner. Each petition became a case on the Supreme Court's docket, duplicate copies were sent to each Justice, and each Justice had to make a personal decision as to the merits of each one of the petitions.

Justice Powell went on to point out that, while many of the habeas cases are not unduly burdensome, each case starts up a process, requires staff work, and ultimately requires a judicial decision. He also noted that the present system of dual review demeans our State courts, and the endless review process tends to frustrate rehabilitation within the penal system.

Justice Powell put his finger on what may be the root cause for today's system. He said and I quote:

> We have tolerated a system under S. 2254 so easily abused because of the rare case in which an unconstitutional and unjust conviction is not identified until years later. One would think that we are wise enough to provide for the exceptional case, without continuing a system that otherwise seems indefensible.

I agree with that observation, and I too believe that we are capable of providing for the exceptional case where a miscarriage of justice has occurred.

I also agree with Justice Powell's assertion that he does not favor the total repeal of our Federal habeas corpus statutes. That is not what our habeas reform proposals would do. Instead, the proposals in S. 2543 and the administration's proposals both attempt to carry out what Justice Powell thinks we must do, and that is to consider means of limiting collateral review by Federal courts of State convictions to cases of manifest injustice—where the issue is guilt or innocence. That was the original purpose of the writ of habeas corpus, and I believe that we in Congress need to act to bring the habeas statute back in line with that original purpose.

Mr. President, another distinguished jurist has added his voice to those in the academic community, the justice system, the Congress and the public who are calling for reform of our habeas laws. We in Congress have an opportunity to make those reforms, but unless we act promptly, our opportunity will slip away. Time is running out in this Congress, with as few as 26 days remaining in this session. We can take action to make the changes which Justice Powell and so many others have recommended, but only if we act now.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER.** Under the previous order, there will now be a period for the tansaction of routine morning business to extend not beyond the hour of 10:45 a.m., with statements therein limited to 3 minutes each.

Mr. GORTON addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Washington.

THE IUS VERSUS CENTAUR DECISION

Mr. GORTON. Mr. President, the Sunday News Journal of Wilmington Del., recently carried an article respecting Congress decision to proceed with the sole-source development and procurement of a high-energy upper stage rocket to be used by NASA and the Defense Department in connection with the Space Shuttle. Although Senator Heflin and I succeeded in amending the urgent supplemental appropriations bill (H.R. 6685) to require the competitive procurement of any high-energy upper stage space booster that may be needed in the 1990's, that language was deleted during conference. As a result, as this article points out, the American people are purchasing at a substantially greater cost the Centaur upper-stage booster made by General Dynamics Corp. even though the need for this upper-stage and the safety of it is seriously questioned by both NASA and DOD. I ask unanimous consent that a copy of the article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Sunday News Journal (Wilmington, Del.), Aug. 1, 1982]

Costly Rocket Rattles Critics—Centaur Cited as Duplication

(By Joe Trento)

Washington.—Obscure legislation will bring the General Dynamics Corp. a long-sought windfall and cost taxpayers $2 billion to build a space booster that NASA and Department of Defense officials say is a wasteful duplication.

The $2 billion Centaur would replace the already completed $715 million Boeing Co.'s Inertial Upper Stage.

The purpose of the upper-stage rockets is to boost spacecraft to the planets and to high earth orbit that America's space shuttle fleet cannot reach.

The Boeing IUS was chosen by NASA and the Defense Department several years ago because experts said it was safer and more reliable than the Centaur. Spokesmen for both companies defended their upper-stage systems as being superior.

The legislation sponsored by former astronaut Sen. Harrison "Jack" Schmitt, R-N.M., was attached to an emergency federal budget bill signed into law by President Reagan earlier this month. It provides NASA funds for development of the Centaur, a liquid-fueled, upper-stage spacecraft booster, and stipulates that it replace the Boeing IUS on two key NASA planetary flights in 1986.

Critics of the measure say it:

Will mean wasting the almost $715 million investment in the IUS.

May delay two important space missions.

Bypassed competitive bidding procedures.

Simply is not safe enough.

Schmitt dismisses the critics, saying while the Centaur isn't perfect, it's needed.

The decade-long fight between General Dynamics and Boeing to build the upper stage has been fierce. NASA has switched back and forth between both contractors and finally settled on Boeing, for what the NASA program manager described as "safety reasons."

The contract Boeing won in 1976 was to be for an "interim" upper stage that would fulfill NASA and Air Force needs until the early 1990s.

NASA and the Air Force planned to have aerospace contractors bid again on a more powerful and possibly manned upper stage, called the high-energy upper stage, in the late 1980s.

Schmitt said the IUS was too limited to serve this purpose.

Schmitt, fearful that support for such a program would fade, said he forced NASA into the Centaur program to make certain that some move was made toward a high-energy upper-stage booster.

He added that neither the Reagan Administration nor the Defense Department seemed interested in pushing the high-energy program. "It is a foot in the door," the former Apollo 17 astronaut said.

"This administration has no space policy. This was a way of getting a high-energy upper-stage in the budget . . . It is not a perfect solution," he added.

Other senators say they have received complaints that plans to open the bidding on the high-energy upper-stage, to be used in the 1990s, were sidetracked by Schmitt's legislation. These senators say that Schmitt in effect gave General Dynamics not just the contract for the interim upper stage, but for the final upper stage as well.

"Hell, after we put all this money into this, no one will vote for another upper stage," one California senator said.

Schmitt "snowed these guys on this. They just won't take him on cause he walked on the moon," an aide to Sen. John H. Glenn Jr., D-Ohio, said.

The day before the Schmitt legislation was passed, a letter to House Speaker Thomas P. "Tip" O'Neill Jr., from Vernon Orr, secretary of the Air Force, and NASA Administrator James M. Beggs, called the Schmitt legislation "restrictive and wasteful."

President Reagan, in his July veto of the 1983 supplemental budget appropriation, told the Congress that Schmitt's legislation forcing NASA to buy the Centaur was a wasteful duplication. "Language mandating minimum spending levels for certain NASA progams will severely disrupt two important scientific missions and lead to the waste of more than $150 million . . .," the president told the Congress.

When the White House was asked last week why the president eventually signed legislation containing the Schmitt measure, a reporter was referred to the Office of Management and Budget.

A staffer there who's an expert on the NASA budget commented, "Because the bill gave money to government agencies that would have run out of funds, the President just held his nose and signed the thing." The staffer asked not to be identified.

Rep. Harold C. "Cap" Hollenbeck, R-N.J., the ranking Republican on the House Subcommittee on Space Science and Applications, said: "This action by Congress clearly bypassed competitive bidding, committee oversight. It exploited a weakness in the legislative system and it is going to cost NASA, the Defense Department and the American taxpayer plenty."

NASA and Air Force engineers originally selected Boeing because the company offered more reliable and safer solid-fuel design, officials said. General Dynamics wanted to revamp a proven and more powerful early version of the Centaur. That Centaur upper stage was originally designed to fly atop the old Atlas and Titan ICBMs for deep space probes launched during the 1960s.

But NASA had never launched an upper stage from a manned spacecraft, and wanted to be sure the system was safe and reliable. The stage had to have back-up and safety devices and at least 98 percent reliability. Boeing achieved this with solid-fuel rockets. But not before huge cost overruns and delays preceded the delivery of the first IUS in June.

Two years ago NASA was so discouraged with Boeing that it issued a contract to General Dynamics to start again on Centaur. The contract was canceled because of budget restrictions and after Boeing overcame its technical problems.

The first Boeing upper stage has exceeded all NASA and Defense Department design specifications, officials said.

The first operational IUS is to be launched aboard an Air Force Titan ICBM this fall. The first shuttle launch of the IUS is set to boost a NASA communications satellite aboard space shuttle Challenger in January.

Schmitt's legislation requires that NASA drop out of the IUS program, set to boost two planetary spacecraft in 1985, and replace them with Centaur. The now nonexistent Centaur would be used to launch the $600 million Galileo spacecraft on a mission to Jupiter and to launch the Solar-Polar mission from the cargo bay of a space shuttle. The Solar-Polar mission is a joint National Aeronautics and Space Administration/European Space Agency project to send a spacecraft to study the sun.

Frustrated members of the House Science Committee's subcommittee on Space Science and Applications, charged with overseeing NASA, are angry about the change and fear it may endanger key NASA missions.

Hollenbeck, like Schmitt a Republican, said: "NASA spends more than half a billion dollars to develop Galileo and designs it to fly on the IUS. By the time the mission was set to go in 1985, the IUS would have been tested a dozen times by the Air Force and NASA in space. Now by legislative fiat, NASA is forced to count on a booster that doesn't exist, when we have already paid $715 million for one that works and is in hand."

"This is like building a successful moon rocket and then having some senator come in with a law and say, "Well, I don't like the way it looks, or the name of the company that built it, so let's delay the whole program, spend another billion dollars or more and do it again," Hollenbeck said.

Schmitt concedes, "There is a chance the Centaur might not work, but I think it can be done and we have to try. I think there is room for both IUS and Centaur in the program."

Some members of Congress have been personally critical of Schmitt, who has picked up the nickname of "Moonrock" in the senate, for his legislation. One Republican congressman, who asked not to be named, attributed Schmitt's legislation to "his myopic view of his own expertise."

Schmitt's staff members, who are not permitted to speak for the record, hinted that their boss supported Centaur for national security reasons. "You know he is on the intelligence committee and is privy to secrets," one Schmitt aide said.

But sources on the intelligence committee, and at the CIA, say there is no mission planned requiring Centaur. These sources explained that intelligence satellites fly in low earth orbit and that the shuttle needs no assistance in placing them in space.

Schmitt concedes "that there is no military mission as yet . . . but I believe that such lifting capacity will be needed for anti-killer satellite defense. I think the problem is the military hasn't really thought about the uses of space."

The Air Force says it plans to spend $8 billion in military uses of space this year.

According to Hollenbeck, no matter what the Congress does now, the General Dynamics Corp. will almost certainly receive $150 million over the next two years for its liquid-fueled Centaur upper-stage system.

But the real costs of Schmitt's legislation could total $2.1 billion. That figure includes changes NASA and the Defense Depart-

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ment will have to make to alter its existing hardware to fit the Centaur.

NASA and the Air Force must reconfigure hardware to fit the 12-foot-diameter Centaur instead of the 9½-foot diameter IUS.

In addition, it will cost NASA about as much in penalties for breaking its contract with Boeing and shutting down production of the two planetary probes as it would have cost to purchase the two Boeing upper stages.

NASA spokesman William O'Donnell said that if "unforeseen problems develop with Centaur, such as incompatibility with the shuttle, we will have no back-up to launch those two planetary missions."

The Defense Department estimated that it would spend between $200 million to $500 million to modify payloads to fit the Centaur. Total Defense Department costs came to an additional $1.1 billion to $1.46 billion. NASA estimated that to switch to Centaur would cost the civilian space agency another $626 million.

In the NASA figure is $110 million to modify shuttles Columbia and Challenger to carry the pressurized and liquid-fueled Centaur.

It's these modifications that bother NASA engineers most. Although Centaur would have greater power in its liquid-fuel configuration than the existing IUS system built by Boeing, IUS is approved for manned flights. The 19-foot-long booster stage could fit in the shuttle cargo bay, be safely handled by the astronauts, released by spring latches and fired when the shuttle was safely away from its cargo.

The Centaur does not operate in the same manner. The Centaur must launch into precise mathematical windows in space. In addition, the liquid fuels aboard evaporate, which means that the stage must be launched within seven days, or run short of fuel.

If there is a malfunction that prevents launch, the solid-fuel IUS needs no special preparations to bring it back safely. The Centaur must be carried back, fully pressurized in the cargo bay, with gases from the boiling fuel being vented into the cargo bay during the critical re-entry process.

With the volatile liquid fuel aboard, the risk of an explosion is greater.

According to NASA upper-stage manager B. C. Lam, "this was the key problem with Centaur all the way."

The existing IUS also a compatible with both the Air Force's Titan and the shuttle. But while the early versions of the Centaur were compatible with throwaway rockets like the Titan, the version designed for the shuttle isn't.

The Air Force also objected to the fact that the Centaur was so much larger than IUS that it used up too much space in the 60-foot-long shuttle cargo bay, forcing extensive redesignating of Defense Department payloads.

To successfully compete with a commercial European consortium called Ariane Space, the space shuttle has to have an upper stage to launch communications satellites into what is called a geosynchronous orbit. This 22,500-mile-high orbit allows satellites to stay in the same place relative to earth to allow for uninterrupted communications. The space shuttle itself is capable of orbiting large payloads no higher than 700 miles without the upper stage.

The ability of the space shuttle to get commercial, military and scientific spacecraft into geosynchronus earth orbit will determine if the Space Transportation System is commercially viable.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, before the Chair makes a further announcement on the immigration bill, I have been advised that all parties have cleared for consideration the budget waiver which must accompany this bill. That is calendar order 739.

Mr. President, I ask unanimous consent, and I am advised the minority leader is agreeable to this, that the Chair now lay before the Senate Calendar order No. 739, Senate Resolution 435, the budget waiver to accompany S. 2222.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 435) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2222.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 435) was agreed to, as follows:

S. Res. 435

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2222. Such waiver is necessary because S. 2222 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorization.

The waiver of section 402(a) is necessary to permit enactment of important reforms of the immigration laws and policies of the United States. S. 2222 is the result of two years of deliberations by the bipartisan Select Commission on Immigration and refugee Policy, as well as a year's series of hearings in the Congress, including joint hearings conducted by the appropriate subcommittees in the Senate and the House of Representatives.

S. 2222 provides an authorization for fiscal year 1983 of $60 million to implement measures which will improve control of both illegal and legal immigration to the United States.

At the time of the 1983 budget hearings, the Attorney General testified before both the Committees on the Judiciary and the Appropriations Committees of the Senate and House of Representatives that the administration would support appropriations needed to carry out immigration reforms in 1983. Furthermore, because the 1983 appropriations process is not yet complete, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2222, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the privileges of the floor be granted to the following members of the Subcommittee on Immigration and Refugee Policy staff:

Richard W. Day, Charles Wood, Donna Alvarado, Arnold Leibowitz, Valentine Jones, Frankey DeGooyer, Avelina Sabangan, Ellen Hughes, Ally Milder, Ed Baxter, Eric Hultman, and Jerry Tinker during the pendency of S. 2222, the Immigration Reform and Control Act of 1982, today, August 12, 1982, and each day the measure is pending and for rollcall vote thereon.

The PRESIDING OFFICER (Mr. Andrews). Without objection, it is so ordered.

COMMITTEE AMENDMENT AGREED TO

Mr. SIMPSON. Mr. President, I move that the committee substitute be agreed to, and that the bill, as so amended, be treated as original text for the purpose of amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment in the nature of a substitute was agreed to.

Mr. SIMPSON. Mr. President, I wish to deeply thank the majority leader, Senator Baker, for his courtesy and similar persistence in seeing that this matter is considered before the Senate, and also that same message to Senator Robert C. Byrd, with deep appreciation for his assistance in seeing that this measure is before us for consideration.

I also thank the subcommittee members: Senator Thurmond; Senator Grassley, who has done yeoman work; Senator DeConcini, who has been most helpful in his participation, and particularly tribute to Senator Kennedy, the ranking minority member of the subcommittee, who has been an extraordinary helpmate in the crafting of this measure.

Senator Kennedy has some reservations which he will present to you today, but I thank him deeply for his method in which he participated.

Mr. President, we have a phrase we use in Cheyenne during Frontier Days, "Grab a tight rein because here we come out of chute No. 4."

That is where we are with this one. Here is an issue that will consume our interest for a bit, our legislative deliberations, one that will not go away. The current U.S. immigration policy is hopelessly inadequate to deal with modern conditions, including the growing immigration pressure yet to come in this country.

The current policies no longer serve or promote the well-being of a majority of the American people. Immigration to the United States is out of control and it is so perceived at all levels of government by the American people—indeed, by people all over the world. I deeply feel that uncontrolled immigration is one of the greatest threats to the future of this Nation, to American values, traditions, institutions, to our public culture, and to our way of life. It exists in sharp contrast to controlled immigration, which, indeed, has been one of the finest traditions of our remarkable heritage.

Mr. President, let me present a few statistics. When I began my service on the Select Commission of Immigration and Refugee Policy 3 years ago, serving there with three other Members of this body—Senator Kennedy, Senator Mathias, and Senator DeConcini—I think all of us sincerely trusted that we would never reach the point where we would come to talk so often about numbers, since behind every number is a very real face and a very real human being. Unfortunately, we do make this reference, since the numbers show so very clearly the essence and the extent of our problem.

In the 5 years just passed, total legal permanent admissions to the United States, including refugees, increased from a little over 450,000 in 1976 to 800,000 in 1980 if we include the 135,000 Cubans and Haitians entering in that year. As recently as 1965, the total was under 300,000. During that same 5-year period, the numerically unlimited category of "immediate relatives" of U.S. citizens grew 40 percent, from 114,000 to 152,000. In this same period, refugee admissions have ranged from 5,000 in 1977 to over 200,000 in 1980, 4 times the 50,000 level indicated as the normal flow in the Refugee Act of 1980.

The United States today is taking in more legal immigrants and refugees for permanent resettlement—that is a key definition; not just temporary camps or readying them for another country—than the rest of the world combined, perhaps twice as many. It is because of the inflow of the "immediate relatives" and refugees that legal immigration to the United States has reached so high a level.

Mr. President, as my colleagues are well aware, the level of refugee admissions is set by the President after consultation with the Judiciary Committees of the House and the Senate. As a result of the maturing of that consultation process, which has occurred through the fine assistance of my ranking member (Mr. Kennedy) and the great assistance of my counterpart in the House, the chairman of the House Judiciary Subcommittee with regard to immigration—let me pay tribute to Ron Mazzoli, that able and articulate, dogged and determined, delightful friend. During the development of this legislation and during the period since the enactment of the Refugee Act, we, as I say, have reached a maturing process in consultation—all of us. I believe the process now provides an appropriate degree of control over refugee admissions. However, present law still provides no control whatsoever over the number of "immediate relative" admissions.

Mr. President, in addition, thousands of illegal immigrants now enter the United States every year. Some estimate the annual inflow at over 500,000. The present inflow is substantially higher than it was 10 years ago. Some indication of that can be found in these dramatic figures on apprehensions. In 1967, the number was 162,000. In 10 years, those apprehensions have increased to 1 million per year.

Consider, then, that just 4 years ago, applicants for asylum numbered less than 5,000 for the year. Today, that backlog is over 105,000. We are well informed that a significant fraction of those may actually be "economic migrants" and not, thus, legally qualified for asylum. Who would have ever dreamed we would have become a country of first asylum?

The number of illegal aliens already in the country is unknown. The select commission used a figure of 3.5 to 6 million for the best estimate for 1978. Whatever the number presented 4 years ago, there are surely many more now. Immigration—legal plus illegal—now appears to be accounting for 30 to 50 percent of our annual population growth of about 2 million.

Well, Mr. President, I am certain there may still be some of my colleagues thinking, "well, so what?" Why should we do anything? Let me make an effort to explain why those persons, as elected representatives on behalf of the American public, should be concerned.

Net immigration, legal plus illegal, 750,000 per year. A net immigration of 750,000 would lead to a U.S. population in 100 years of 300 million, even if it were assumed that the fertility rate of the existing population remains at its present low level, which seems improbable, and if the fertility rate of the new immigrants immediately declines to that of the present population as a whole, which is even less probable, given the high fertility rates of the countries from which most of the immigrants now come. About 100 million of this 300 million would consist of immigrants arriving after 1980, and their descendants.

Indeed, these overall figures actually underestimate the impact of immigration, since it may actually be concentrated in only a few regions of the country. For example, under the same assumptions and assuming continuance of existing settlement patterns, the population of California would double by 2080. Over one-half of the State's population would consist of post-1980 immigrants and their descendants.

I am not going to delve into the problems of excessive population. Those items are well known and there are organizations that express that very clearly and very sincerely. I shall not discuss them.

Not only is the total number of legal and illegal immigrants high, but less than 5 percent even of the legal immigrants are individually admitted on the basis of characteristics which are likely to benefit the Nation as a whole, and this is limited only to an analysis of labor market impact.

As a result of this and of the fact that the present procedures for the determining of the effect on the labor market would appear to be of limited effectiveness, I believe that our present policies have produced adverse job impacts, especially upon low-income, low-skilled Americans—who are the most likely to face direct competition. Such adverse impacts include both unemployment and less favorable wages and working conditions than would otherwise be offered. Not only do such impacts cause economic harm to the directly affected Americans and their families, and in many cases a public assistance burden on the taxpayers, but it may also increase the social and political problems associated with unemployment and poverty.

Let me add here that if it is determined as a national objective that the use of foreign labor is beneficial under particular circumstances—and I believe such use should be limited—then the law should allow this use under

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appropriate limitations and conditions. Obviously, however, if the necessary limitations and conditions cannot be enforced, then no beneficial results can be assured.

Although population and job impacts are of great significance, I think most people would agree that the national interest of the American people also includes certain even more important and fundamental aspects, such as the preservation of freedom, personal safety, and political stability—as well as the public cultural qualities and political institutions which are their foundation.

Mr. President, a careful comment, please, that must be carefully heard, because it is easily misunderstood and easily distorted.

If immigration is continued at a high level, and yet a substantial portion of these new persons and their descendants do not follow the historical patterns of earlier immigrant groups in becoming full participants in American society and our public culture, then they have the potential to create here a measure of the same social, political, and economic anguish which exist in the countries from which they have voluntarily chosen to depart. That is reality.

Mr. President, now that the problem has been presented, I should like to outline what we believe to be the solution—the form of immigration reform which we believe the American people desire and deserve, and which America's future requires.

First, I wish to firmly make the general point that immigration can always continue to benefit the United States if the law is reasonably amended to be appropriate for contemporary conditions—if the amended law can be enforced.

Mr. President, the major provisions of S. 2222 contains provisions intended to reduce the problem of illegal immigration.

The potential benefits and protections of even the most carefully designed statutory standards for determining who may enter the United States, as well as for how long and under what conditions they may remain, will not be available in practice if those statutory standards cannot be enforced.

All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter, and Reagan administrations, as well as the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of U.S. immigration laws cannot be achieved by direct enforcement alone.

Why? Because as long as greater job opportunities are available to foreign nationals who succeed in physically entering this country, intense illegal immigration pressure on the United States will continue, and that pressure will decline if the availability of U.S. employment is eliminated, or if the disparity in wages and working conditions is reduced, either through improvement in the Third World or deterioration in the United States.

The United States, of course, should always assist in Third World development activities but the achievement of substantially higher living standards in those nations is a prospect only for the long run. Since deterioration in the United States is certainly not an attractive resolution, only one approach remains: To prohibit the knowing employment of illegal aliens.

S. 2222 provides for penalties against employers who knowingly employ illegal aliens and also against persons who knowingly and for a fee recruit or refer for employment such illegal aliens. In order to protect persons subject to penalties and also the members of minority groups legally in this country, the bill provides for a system to verify that employees and potential employees are U.S. citizens, legal aliens, or authorized to work in the United States.

It has been claimed that any new verification system would be "too costly" and that it would pose a threat to privacy and to civil liberties. I respectfully disagree. The Social Security Administration recently estimated that the cost of replacing all social security cards with a tamper- and counterfeit-resistant version would be $108 million per year for 10 years—but since total replacement would not be required, the cost would actually be much less. The Department of Labor has estimated that the cost of a verification system which would utilize a telephone call to a new Government data bank would average $333 million per year for the first 5 years and about $200 million per year thereafter.

These are not small numbers, but there are also tremendous costs in inadequate or no enforcement. For example, each unemployed person in the United States receives an average of about $7,000 per year in unemployment and welfare benefits. If the number of illegal aliens in the United States today is estimated to be 6 million, and if even 2 percent of those hold jobs which unemployed Americans would take, then the savings would be $840 million per year. Actual displacement is probably substantially higher. Thus, a new system to verify work eligibility may well not exceed in cost the amount directly saved as a result of reduced public assistance alone, not even considering the value of the other benefits of reducing illegal immigration.

The question of how the revising of the form of the social security card, which is one of the most attractive available alternatives, could pose risks to liberty was asked of many witnesses at the hearings of the Subcommittee on Immigration and Refugee Policy. I do not believe that a satisfactory answer was ever presented. Many persons who are well known for their sincere interest in civil liberties agree that the threat is not serious, including Father Ted Hesburgh, former Chairman of the U.S. Commission on Civil Rights and also Chairman of the Select Commission on Immigration and Refugee Policy; the editorial writers of the New York Times, Washington Post, Los Angeles Times, Boston Globe, and other major newspapers across the country; former Attorneys General Elliot Richardson and Benjamin Civiletti, and many others.

Furthermore, the bill contains specifically crafted safeguards intended to minimize the risk of undue invasion of privacy and the risk of Government abuse. In addition, I think we should harken that there are far stronger protections already in place in this land, the most important being not "the law," which can always be changed, but rather the cultural elements which underlie the law, including the values and traditions of our form of government, which are part of the American character. There is no "slippery slope" toward loss of liberties, only a long staircase where each step downward must be first tolerated by the American people and their leaders.

In an attempt to further deter the violation of U.S. immigration law and to reduce the harmful impact of such violations when they do occur—through reducing the time illegal aliens are able to remain in the country after apprehension—S. 2222 contains improvements in exclusion, deportation, and asylum adjudication procedures.

The bill provides a summary exclusion proceeding without an appeal for those who enter the country without documents and who are not claiming asylum. For all cases involving asylum, the bill provides for extensive administrative consideration, within the Justice Department but outside of the Immigration and Naturalization Service: First a full due process hearing on the record before a specially trained immigration judge and then, if desired, an administrative appeal to a newly created U.S. Immigration Board. Consistent with the practices of most other countries, there will be no right of further review on the merits of an asylum claim. The constitutionally guaranteed right to seek a writ of habeas corpus will, of course, be available in order to remedy any violations of procedural due process.

In addition to tightening of asylum proceedings the bill streamlines the adjudication procedure for both deportation and exclusion. In exclusion cases not involving asylum and not subject to the summary exclusion procedure, an administrative hearing and appeal will be available as in asylum cases. In deportation, the procedure will be the same except that judicial review of the decision of the Board will be available.

As a result of the measures discussed and the increased resources that we anticipate will be devoted to enforcement by the Immigration and Naturalization Service, illegal immigration should be reduced substantially.

We fully recognize, I think, the possibility that substantial adverse economic impact might occur on certain employers who have, quite lawfully, become dependent on illegal foreign workers. We feel that we deal properly with this problem in the bill. First, the prohibition on the employment of illegal aliens will not apply—this is a key part of the legislation—to those who are hired before the bill is enacted. Second, the legalization or amnesty program will legalize many currently illegal workers. Third, the certification of the Department of Labor which must be obtained for certain job-related visa categories, is modified in order to allow for a more efficient and accurate determination as to when a foreign worker is needed. Finally, the H-2 program is modified so that employers who are able to demonstrate a genuine need for a foreign worker for temporary services or labor will receive an approval within a reasonable length of time.

In addition to reducing illegal immigration, S. 2222 is intended to modify legal immigration so that it will better serve the national interest—by increasing control over the number admitted and by amending the selection criteria.

Although "immediate relatives" of U.S. citizens will indeed continue to be exempt from numerical limitations, the number available for the family reunfication preference categories would be determined by subtracting the number of "immediate relatives" admitted in the prior year from the cap of 350,000 in that category, therefore, and increase in the number of "immediate relatives" will be compensated for by a reduction in the visa numbers available for other family reunification categories. A similar approach will link the numerically exempt "special immigrants" with the independent preference categories. The limit will be the cap of 75,000 in that entire category minus the number of "special immigrants" admitted in the prior year.

So the effect of these changes is that at least for the next 10 to 30 years, the total of all new immigrants, excluding refugees, will not exeed 425,000, which is approximately the current level.

S. 2222 also makes several changes in the current criteria for allocating numerically limited immigrant visas.

The family preference categories would not include what is now referred to as the fifth preference.

There is an amendment pending to modify that. I think it may be acceptable. We will deal with that later in the debate.

But what we want to recall is that what we were trying to do is reserve for closer relatives the limited visas available for family reunification and to allow an increase in immigration opportunities for those who have no close relatives in the United States but do have skills that will benefit the American people as a whole—the so-called "seed immigrants," those who had already received fifth-preference status and where on the waiting list as of March 1, 1982, will be protected and applications processed. For these same reasons, the second preference will be narrowed somewhat to cover only spouses and minor children of permanent residents—more properly meeting the definition of "the nuclear family". The percentage of family reunification visas allocated to this category is, therefore, greatly increased.

The highest priority independent preference category is reserved for aliens with exceptional ability in the sciences, arts, professions, or business. This is the present third preference with certain modifications: "Business" is added to the fields covered and "exceptional ability" is required of members of the professions. There is also a new independent category for substantial investors in the U.S. economy who create jobs for U.S. Citizens and permanent residents other than their own relatives.

In addition to the changes with respect to immigrants, S. 2222 amends certain nonimmigrant categories as well. For example, the bill amends the current H-2 temporary worker program in order to establish a special procedure for seasonal workers in agriculture.

Mr. President, last, but certainly not least, in the controversy department, there is legalization or amnesty.

S. 2222 provides for the legalization of illegal aliens into two categories of legal status. An amendment will be presented to modify the provisions in the bill, and I think that may become quite acceptable.

First, aliens who have continuously resided illegally in the United States since before January 2, 1978—this is under the bill—will qualify for permanent resident status, not citizenship.

Second, those who have continuously resided illegally in the United States between the dates of January 1, 1978, and January 1, 1982—under the present bill—or who are in the Cuban/Haitian "entrant" status, will qualify for a temporary status, not citizenship, which may be adjusted to permanent status after 2 years if the alien meets certain conditions of present law.

Persons convicted of certain crimes, Nazis and other persons who have persecuted others, Communists, anarchists, saboteurs, and those seeking to overthrow the Government will be excluded from each category of legalization, as under present law. Most other classes of excludable alien, including aliens who are likely to become a "public charge" under present law, will also not qualify, unless a waiver is obtained.

We seek to achieve three major goals through legalization, which is very controversial.

The first is to avoid the wasteful use of the Immigration and Naturalization Service's limited enforcement resources, the United States is most unlikely to obtain as much enforcement for its dollar if the Immigration and Naturalization Service exhausts its efforts in attempts to locate and deport those who have become well settled in this country, rather than to prevent new illegal entry or visa abuse.

The second goal is to allow currently economically dependent employers to continue lawfully hiring from this pool of labor.

The third is to eliminate the illegal subclass of persons now present in our society. Not only does their illegal status and their resulting weak bargaining position cause these people to depress U.S. wages and working conditions, but it also limits their participation in U.S. society, which may have the effect of hindering the participation even of legal immigrants from the same country of origin, as they become people who are afraid to go to the police, afraid to go to the hospital unless it is for a birth, and afraid to go to their employer, who says, "One peep from you, and it's off to the I. & M." If you could not find them coming in, how are you going to find them to get them out?

Mr. President, that concludes my description of the major provisions of the bill. I will conclude with a few personal remarks.

I became chairman of the Immigration Subcommittee at the beginning of this session of Congress. It has been a fascinating year and a half—quite an educational process for me, as was my time on the Select Commission on Immigration and Refugee Policy.

Mr. President, in those nascent efforts I originally rejected certain of the key provisions now in this bill, possibly feeling a bit like some of my colleagues must feel at this moment on the issue. I wish all of my colleagues could have shared in that rich 3-year learning process, for I assure them that the longer one is in it, the more one understands that this is the approach we must take. ROM MAZZOLI, my House counterpart, and I have discovered that this is the approach we must take.

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The bill we have drafted is the product of an evolutionary process of many years. It has to be clearly stated that this bill does not suddenly rise up as a solution to higher unemployment or as a panacea for some rough economic times. No, indeed. It has been incubating for many years, and now we hope we can bring it to fruition. It owes much to hundreds, yes, even thousands, of Americans, even to those who are not Americans. The subcommittee itself conducted 18 days of hearings and 5 formal consultations on the myriad subjects related to this bill. In addition to these extensive hearings, we had access to all of the excellent prior work on immigration reform done in the past few years, including the efforts of the administrations of Presidents Ford and Carter, the final report of the select commission—and I attended a good many hearings and meetings of that fine group during that process, too; the very perceptive and interesting proposals of that fine and able senior Senator from Kentucky, Dee Huddleston; the efforts of my able colleague from Massachusetts, Ted Kennedy, the ranking member of the subcommittee, who chaired this subcommittee for 12 years and has given of his assistance and support through the hearings as has his capable and very bright staff, including the minority staff counsel, Jerry Tinker; the excellent ideas of the Reagan Task Force on Immigration, headed by our most capable and knowledgeable Attorney General Smith—a real trooper on this issue—and his staff; and, finally, the portions of the proposals and the bill submitted by the President in July of last year.

Those various proposals and recommendations are remarkably similar. This should not be surprising to anyone, since they were all the product of intelligent, caring men and women who were attempting to deal with the same problem—that immigration to the United States is out of control.

Because those of us involved in the drafting of S. 2222 faced the same problem, it is then not surprising that our solutions are not dramatically different from proposals of the recent past.

The entire issue is a very, very tough one. It evokes feelings and accusations of guilt, emotionalism, and racism and it is so susceptible for a vehicle to engage in high drama. Ron Mazzoli and I have done our level best to prevent the national debate from going in that way.

Some have suggested that now is not an appropriate time to debate immigration reform in the Congress. The mood is too "restrictive" they say. It brings out our "dark side." Fair immigration reform cannot be accomplished in such an atmosphere.

I want to express my strong disagreement with that view. First, I do not believe there is an atmosphere of restrictiveness or mean spiritedness—not in any Member here—concerning immigration reform in this body. Second, matters are only going to grow worse if we do not obtain control over immigration to this country.

Now is the time to act. Every poll taken in the Nation shows that over 90 percent of the American people believe our immigration laws and policies are out of control and must be reformed. Pressures to migrate are increasing worldwide and some of the greatest pressure is on this country. As long as people around the world know that once they arrive in the U.S. illegally they will be able to obtain jobs, they will obviously continue to come in increasing numbers.

I firmly believe that this is the time to reform our immigration laws. A wide diversity of public interest groups involved in immigration, the editorial writers of the major newspapers of this country, and the administration have agreed that this bill is a fair, workable, and humane approach to controlling illegal and legal immigration. If we do not act now in a rational way, I am deeply concerned that the debate in the future will become increasingly unpleasant and clouded by racism, restrictionism nativism, and other elements which we have successfully excised out of this reform effort.

I am pleased that the balance which we achieved in S. 2222 has received such wide acclaim throughout the country, including editorial support in the Washington Post, New York Times, Los Angeles Times, the Boston Globe, and many other of the fine newspapers across America.

The bill, of course has its critics, especially among certain special interest groups. Indeed, I get hammered pretty hard in Wyoming on this issue—I assure you I did not go into this fray to gain political support from my constituents. This is a "no win" issue in that sense. But I tell my wife, Annie, to keep up the housepayments in Cody, Wyo., so that if enough folks back home do not believe what I am doing is right for the country, or if they should wish a Senator who would use a lesser standard, I will at least have a roof over my old bald dome.

Actually, though, the people in Wyoming are like most Americans: If we have faith in their commonsense and let them know honestly what we are doing, they understand very well. In particular they understand that the future of America—the America of their immigrant ancestors, their children, and their grandchildren and their great grandchildren—is more important than some special short-term benefit for themselves.

Mr. President, this is one national issue that will not go away, and anyone who feels that there is not a massive constituency out there for immigration reform is misreading the tea leaves. I say this to my colleagues: Do not be anxious or fearful that we here repeat the wretched racist overtones or previous immigration reform in this land. Here I hope you will consider that there are no hidden agendas or subtle meanings within this proposal—No mysteries or alchemy—but simply the expression of the national legislature that we intend to clearly exercise that first and primary function of a sovereign nation, which is to control its borders, and that we intend to send a signal to the rest of the watching world that to work in the United States of America, you must be in "legal" status. This legislation expresses nothing more profound than those two basics.

I look forward to the debate, the consideration of the amendments, and the legislative processes which will likely lead us really only to the beginnings of a solution of this destabilizing, disruptive, and gut-hard issue.

Mr. President, I yield to the Senator from South Carolina (Mr. Thurmond), who has to attend an urgent meeting.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this is a subject in which I have long been interested. When I became chairman of the Judiciary Committee, I concluded that action must be taken to rectify the situtation now existing in this country with regard to immigration.

I requested that I be made a cosponsor of the bill. I do not believe the Record shows that. If it does not show that, I ask unanimous consent that I be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the Senate now has before it one of the most important measures considered by the Committee on the Judiciary this year. The Immigration Reform and Control Act of 1982 is directed at increasing control over both illegal and legal immigration, which has become a significant problem in this country.

The distinguished Attorney General of the United States, William French Smith, in testimony before the committee on April 20, 1982, stated:

> It is now time for the Congress to act boldly and realistically by enacting comprehensive immigration reform in this session. The Administration continues in its firm commitment to this effort.

The Attorney General feels strongly about this legislation, as do a majority of the members of the Committee on the Judiciary. S. 2222 was reported by a vote of 16 to 1 on May 17, 1982. It is time for Congress to act on this measure.

NEED FOR LEGISLATION

Mr. President, in the last 5 years legal immigration to America has increased from 450,000 in 1976 to 800,000 in 1980, including the 135,000 Cubans and Haitians that entered in 1980. During that same period, the category of "immediate relatives," over which there is currently no limitation, increased by 40 percent. Refugee admissions went from 5,000 in 1977 to more than 200,000 in 1980.

We have no firm knowledge of the number of illegal aliens in this country. Some have estimated the flow to be in excess of 500,000 a year. One indicator is the number of apprehensions. In 1967, it was 162,000. In 1977, apprehensions were more than 1 million. The Select Commission on Immigration and Refugee Policy in 1978 used the figures of 3.5 to 6 million as an estimate for the number of illegal aliens in the United States. Now, 4 years later, we can only assume these figures are higher. In the words of Attorney General Smith, "we have lost control of our borders."

Presently, net immigration, which includes both legal and illegal, is approaching 800,000 annually. Although compared to a population of 230 million Americans, the figures seem acceptable, but such comparisons are deceiving. If we assume the same levels of immigration, fertility rates, and settlement patterns, the population of California would double by the year 2080. Other areas of the Nation would also be inordinately affected by continued levels of current immigration flow.

We are a Nation of freedom and opportunity. But that too is being threatened by a policy of unrestrained immigration and refugee admissions. The political stability, personal safety, and the preservation of our cultural and political institutions must be brought to account. We can no longer be the sole refuge for victims of the economic ills of other nations. Moreover, the record of the ability of certain immigrant groups to assimilate into our society has been questionable.

Although 50 to 60 percent of illegal aliens come from Mexico, of those who remained in the United States for 7 years, only 5 percent had naturalized. It is clear that Mexican nationals wish to share in the rewards of our capitalist system of government, but have reservations about becoming American citizens. Other immigrant groups have much higher percentage rates of naturalization. If these individuals cannot easily assimilate into our society, that poses social, economic, and political problems that must be recognized and addressed by Congress.

RESPONSE TO PROBLEM—S. 2222

Mr. President, S. 2222 is not the ultimate answer to the immigration and refugee problem in America. It is intended to pose solutions to the major problem of illegal immigration. The bill approaches this in two ways.

First, it makes changes in the law that will enable the authorities of the Immigration and Naturalization Service (INS) to engage in better enforcement of the immigration laws. Improved border control and interior enforcement is provided for in S. 2222.

Second, it reduces the incentives to enter the United states illegally. S. 2222 seeks to accomplish this by providing increased penalities for employers who knowingly hire illegal aliens and the institution of an improved verification system so that honest employers are not punished for good faith efforts to hire foreign-looking workers.

These two policies, stronger enforcement and a reduction of incentives to enter and stay in the United States, are really the only ways of controlling our borders short of building a wall around the entire country. We must permit a certain flow of immigrants to meet the needs of certain sectors of our economy, including agriculture, as well as other areas of employment where U.S. labor is unavailable or unwilling to meet the demand. We must, however, increase border and interior enforcement, and reduce incentives for foreign workers to come to America and for U.S. employers to hire such individuals at below-market wages.

REFORM OF LEGAL IMMIGRATION

Mr. President, the other major aspect of S. 2222 is to make reform in the present law regarding legal immigration. Family reunification, which has been a major basis for legal immigration in the past, is retained, but with certain modifications. For example, the per-country ceiling for Mexico and Canada has been increased from 20,000 to 40,000 a year. The independent category of legal immigration is more closely tied to preference immigrants in "family reunification" categories. Thus, there will now be a limitation on overall relative immigration.

Changes are made in the labor certification process to make it more responsive to the needs of the domestic labor market. There are also new provisions which make changes in the nonimmigrant H-2 provisions which cover temporary agricultural or service employees.

The student visa program, long subject to abuse, has been changed to require that foreign students, whether academic or vocational, return to their native country for a period of 2 years after graduation and before they obtain permanent resident status in the United States. Students will also be required to adjust their status to permanent resident and receive it from abroad.

LEGALIZATION PROGRAM

Finally, Mr. President, S. 2222 provides for a legalization program for those illegal aliens who are presently in this country, but who have developed equities that justify their receiving an adjustment to permanent resident status and receipt of a green card entitling them to work legally in the United States. The bill permits the Attorney General to adjust the status of an alien, not otherwise excludable or ineligible, who can establish residence prior to January 1, 1978. The Attorney General is also authorized to adjust the status of certain aliens who entered prior to January 1, 1982, to temporary resident. Such temporary residents will not be eligible for Federal financial benefits other than for old age, blindness, disability, or needed health care because of serious illness or injury.

Mr. President, this program of legalization is not something I support without reservation. If I did not believe that the only way the Federal Government can gain control over immigration and refugee policy is by way of a legalization program, I would be opposed to it. I supported the legalization program originally in S. 2222, but opposed the version reported by the committee. For that reason, I reserve my rights to reconsider the type of legalization provision, if any, that may be included in this measure. Frankly, the bill as now drafted is too generous. It rewards, unreasonably, illegal entrants who have had little or no time to build the equities generally recognized to be necessary in order for an immigrant, legal or not, to adjust status. I would prefer to see some changes in this provision.

Moreover, there are significant cost implications connected with this legalization program, whatever its form. The administration has indicated to me that it will propose a legalization program more consistent with the original legislation of the administration and within a reasonable budgetary range.

CONCLUSION

Mr. President, S. 2222 contains several other changes in asylum adjudication procedures, reports to Congress, and visa waivers which will further reform the current law. The Senator from Wyoming (Mr. Simpson), chairman of the Subcommittee on Immigration and Refugee Policy, has detailed those changes in this opening statement. I will not go over them here.

Speaking of the Senator from Wyoming, I must commend him for bringing this measure to the floor of the Senate. There is no way I can describe the long, arduous, and difficult path that Senator Simpson had to traverse in order to place this legislation before the Senate. It was a tough job, but Al Simpson was up to it. I knew he could do it when I asked him to chair the Subcommittee on Immigration and Refugee Policy. He has not let me down nor has he let the Senate down.

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I trust my colleagues will recognize this effort and reward it with their support and their votes.

Mr. President, I wish to commend the distinguished Senator from Massachusetts for his interest in the immigration question and for the hours he has spent on this matter. I hope he will see fit to support this bill as it goes through the Senate.

Mr. President, I yield the floor.

Mr. **SIMPSON**. Mr. President, I thank the Senator from South Carolina for those generous remarks. I could not have had a more supportive chairman of a committee, and I deeply appreciate that, and will say it one more time with great sincerity.

I now yield to the Senator from Massachusetts.

The **PRESIDING OFFICER**. The Senator from Massachusetts is recognized.

Mr. **KENNEDY**. First of all, Mr. President, I want to express my very sincere appreciation and respect for the Senator from Wyoming, who has been the chairman of the Immigration Subcommittee, for the tireless work he has done on this particular subject which has enormous importance for this country here at home and in our relations abroad particularly in the Western Hemisphere.

This generally, Mr. President, is not what we call a front burner issue. Perhaps in the minds of many Americans it is, but I would say, given the general conditions we are facing here at home with the state of our economy and other challenges overseas and in our foreign policy, that this generally would not be considered an issue of that particular magnitude.

But it is an issue of enormous importance because what we do on the issue of immigration says a great deal about the kind of society that we are and that we want to become.

The issue of immigration is a public policy question which is as old as this Nation, and I think the Senator from Wyoming pointed it out very well, and I would certainly agree, that it has been over the history of this Nation one which has reflected the proud instincts of our country and our people but has also reflected the rather darker aspects of our Nation's people.

Mr. President, as the Senate initiates debate today on S. 2222, the Immigration Reform and Control Act, I want to take this opportunity to note the historic significance of our undertaking today—as well as to commend the unflagging dedication and leadership of Senator SIMPSON in moving forward this long overdue effort to achieve immigration reform.

The action we begin today marks the first significant effort by the Senate to reform our Nation's immigration laws since the major reforms of 1965—which I was honored to manage on the Senate floor. The 1965 act finally removed from our laws the discriminatory national origins quota system and the notorious Asian-Pacific triangle provisions—perhaps the most discriminatory laws ever enacted by the U.S. Congress.

Until today, there has been no general effort to restructure our immigration law—even though we took a major step in 1980 in reforming our laws on the admission and resettlement of refugees.

In 1978, Congress acted to lay the basis for the reforms we are considering today, when we established the Select Commission on Immigration and Refugee Policy. As the chief Senate sponsor of the legislation creating the Select Commission, I did so in the hope that it would finally bring some high-level study and review of our outdated immigration laws, which previous executive branch interagency task force's had failed to achieve, and which Congress had failed to address.

It was also clear then that immigration was becoming a controversial issue, clouded by misunderstandings and false stereotypes, and overwhelmed by the fear of illegal immigration—all to the detriment of legal immigration.

Suddenly, one of the oldest themes in our Nation's history was becoming one of our most contentious and misunderstood public policy issues.

In part, this was a product of the times—a reflection of our preoccupation with stubborn and increasingly critical domestic and international challenges. But part of the problem derives as well from our existing immigration law, which is a generation out of date.

After 2 years of work—after 12 regional hearings around the country, dozens of consultations and exhaustive research—the Select Commission, under the chairmanship of Father Ted Hesburgh of Notre Dame, filed its recommendations with the President and Congress in March 1981. These recommendations have largely formed the basis for the bill we are considering today.

And this is due, Mr. President, in no small part to the efforts of my distinguished colleague and chairman of our Subcommittee on Immigration and Refugee Policy, Senator SIMPSON.

He served, as I did, on the Select Commission. He was immersed, as I was, in the complex and difficult immigration issues we confronted during our 2-year review. We sat together, all day in a room not far from here in the Capitol with 14 other commissioners—including our colleagues, Senator DECONCINI and Senator MATHIAS—and we wrestled from 9 a.m. in the morning until late that night, over many of the immigration issues contained in the bill before us today.

To Senator SIMPSON's credit, following the submission of the Select Commission's recommendations, he took them and moved them forward. He initiated, along with congressman MAZZOLI, the first joint hearings between the two immigration subcommittees of the House and Senate in more than 30 years. And he launched a year-long series of hearings to listen to all sides to this controversial issue.

Having joined him in many of those hearings—as well as in the numerous consultations we have held with representatives of the executive branch, the voluntary agencies and other interested groups—I know firsthand of the dedicated and thoughtful work he has devoted to the development of this bill. And I want to commend him for it.

As ranking minority member of the subcommittee I have been honored to work closely with him, in a bipartisan effort to achieve immigration reforms based upon reason, fairness, and careful study. We have attempted to review immigration policy in light of America's best interest, yet with full regard for our immigrant heritage and our humanitarian traditions.

We have rejected—as we must continue to reject—calls for harsh and discriminatory enforcement of our immigration laws, including the deputizing of local police officers to enforce our complex immigration policies.

We have rejected cruel and racist calls against immigration—of using immigrants and undocumented aliens as scapegoats for some of the problems our Nation faces today—problems that have nothing to do with immigration.

We have rejected calls to drastically reduce our annual immigration quotas or to restrict the admission of refugees—sometimes from the very people who also call for the establishment of a massive temporary worker program.

And we have rejected calls that we should begin the mass deportation of undocumented aliens who have been leading productive lives in our country for many years.

The Judiciary Committee rejected all of these proposals, Mr. President, because they are wrong—because they are shortsighted—and because they are contrary to our national interests and humanitarian traditions.

I am confident, Mr. President, that the Senate will also reject these proposals when they come to the floor.

We have come a long way, Mr. President, toward achieving immigration reforms that many of us have advocated for many years. But I believe we still have some distance to go.

That is the spirit in which I offered a number of amendments to this bill when it was marked up in the subcommittee, and when the full Judiciary Committee considered it in May. And this remains my intention in offering a series of amendments to the bill.

As my colleagues know, I voted against reporting the bill because of the serious concerns I had about it in its present form—concerns which I know from the tens of thousands of pieces of mail that I have received, are also the concerns of many Americans.

Therefore, at the outset of this debate, I would like to review for the record some of the issues I hope to address in my amendments—which I outlined in the minority views I filed with the committee's report.

EMPLOYER SANCTIONS

Mr. President, my overriding concern is that this bill must not become a vehicle for discriminatory action against Hispanic Americans and other minority groups.

The recent nationwide raids by the Immigration and Naturalization Service—called Operation Jobs—have spread unnecessary fear and alarm in the Hispanic community, whose members feel that the very name given the raids suggests that migrants and undocumented aliens are being unfairly blamed by the administration for the current high levels of unemployment in the United States.

I believe we must be extremely cautious to avoid legislation that raises the level of intolerance and discrimination in our society. The employer sanctions provisions contain this danger, and I regret that the committee did not accept my amendment that addresses this issue.

I have in the past supported legal sanctions against employers who knowingly hire undocumented aliens. I have done so as a matter of principle: It is wrong that the sanctions under current law fall solely on the undocumented aliens, not on employers who may be exploiting them. The Government needs stronger enforcement tools to deal with the serious problem of employers who engage in a pattern and practice of hiring and exploiting undocumented aliens.

However, throughout the select Commission's work, as well as during our extensive hearings, two central objections were raised again and again: First, that the proposed employer sanctions might result in discrimination against certain American workers, especially Hispanics and Asians; and second, that employers would be unnecessarily burdened with paperwork in implementing the sanctions.

The history of immigration legislation in recent decades is that once an immigration law is enacted, Congress does not act again for many years to come. To assure that Congress will not ignore any discrimination that arises in the implementation of employer sanctions, I believe an amendment should be added to provide the following two safeguards:

First, the employer sanctions should be "sunsetted" after 3 years, so that Congress will be obliged to face this issue of discrimination squarely. If, as some fear, the sanctions become a pretext for discrimination, then they should expire—and properly so—unless Congress enacts new legislation with additional protections. If no discrimination materializes, then the sanctions will be continued.

Second, to insure that a fair and impartial study of the sanctions program is available to Congress, the General Accounting Office and the Commission on Civil Rights should be explicitly required in the statute to undertake an independent study of their implementation.

Finally, part of the incentive to hire undocumented aliens is their willingness to accept substandard wages and working conditions. We must intensify the enforcement of existing laws, including the minimum wage, the Fair Labor Standards Act, social security insurance, unemployment insurance, and title VII of the Civil Rights Act. Vigorous and effective enforcement of these laws will reduce the incentive for employers to hire undocumented aliens. To accomplish this, I propose authorizing additional funds to support these enforcement efforts while employer sanctions are implemented.

I hope the Senate will accept these reasonable proposals. If they are adopted, minorities in our society will be given a pledge that, if a pattern of discrimination emerges, Congress will not ignore it. Given the significant changes proposed by this legislation, this is the minimum assurance we should provide.

Surely, if the President of the United States cannot certify that no pattern—I repeat, no pattern—of discrimination has resulted from employer sanctions, then I think we must all agree that they should be terminated, forcing Congress to take remedial action if they are to be continued.

PREFERENCES FOR IMMIGRATION

Mr. President, the pending bill makes a number of unfortunate and unwise changes in the existing immigration preference system. These changes will jeopardize our country's historic commitment to family reunion as the principal goal of our immigration policy.

For the first time, this bill places the admission of the immediate relatives of U.S. citizens—spouses, children and parents—under a rigid annual ceiling. In addition, the current fifth preference for the admission of brothers and sisters of U.S. citizens is eliminated entirely.

These changes are contrary to the recommendations of the Select Commission as well as to the views of every recent administration—Republican or Democratic. I agree with the Reagan administration's view that these changes will compromise our traditional concern for family reunification.

Throughout our history we have never placed a ceiling on the admission of immediate relatives, and there is no valid reason for doing so now. Under the terms of the bill, immediate relatives of American citizens are still given the highest priority; but if their numbers increase in the years ahead, other family reunion preferences will be cut back.

We should also restore the fifth preference, at least for unmarried brothers and sisters. This would amount to only 17,000 persons a year—hardly a significant number—yet it represents an essential element in the family reunification goals of several communities in our society.

JUDICIAL REVIEW OF ASYLUM CLASS ACTIONS

Mr. President, I support the important reform of the asylum adjudication process that has been achieved in this legislation. However, I regret that the committee limited judicial review of the asylum process without granting full independence to the new Immigration Board, as originally proposed when the bill was introduced. As a result, the committee bill does not achieve the autonomy the asylum process needs in order to assure fair and nonpolitical adjudication of asylum claims. In this situation, the limitation of judicial review is particularly objectionable, since it has been the only avenue for challenging discriminatory decisions.

There are valid arguments for limiting judicial review of individual asylum applications under the new procedures, however, there is no justification for denying judicial review to asylum class actions, where there is an alleged pattern and practice of discrimination in the processing of asylum claims.

We must assure both the appearance and the reality of fairness in the asylum adjudication process by giving some recourse to the courts if a class of cases is questioned. I will want to review this issue with the distinguished manager of the bill.

TEMPORARY FOREIGN WORKERS

Mr. President, the select commission unanimously voted against establishing a massive, new temporary foreign worker program, and I support the actions of the committee in rejecting such proposals. Adoption of the legalization program and implementation of the new immigration system will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here.

Until the impact of these changes is assessed, there is no valid justification for a large new temporary foreign worker program. Any such program would have serious consequences for American labor and American wages. The committee has acted responsibly

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in rejecting calls for a new "Bracero" program.

The need for temporary workers can be met by the existing H-2 visa program, and I intend to offer an amendment to restore the existing law and regulations.

Employers seeking H-2 workers must be required to seek American workers first, and we should plan the elimination of this program in the future, not its expansion.

FOREIGN STUDENTS

Mr. President, under the provisions of this bill, no future foreign students will be able to adjust their immigration status without first leaving the United States for 2 years, unless they marry an American citizen. I believe this provision is too restrictive, especially in areas such as engineering, computer sciences, and other areas of high technology, where the United States is facing critical shortages in industry and in teaching.

I believe it is essential that the pending bill should be amended to permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in this country without leaving for 2 years. To do otherwise is contrary to our national interest. It also ignores the current reality that exceptionally qualified students do not return to their homes in the Third World or elsewhere; they simply move to Japan or Europe and use their skills to help those nations compete against the United States. It makes no sense, when our own faculties and firms are starved for scientific talent, for the United States to train engineers or computer specialists at MIT or Berkeley for jobs in Tokyo or Bonn.

My office has been deluged by letters from American companies, research institutions and universities documenting in very persuasive terms that this change in student visas would be contrary to our national interests. I am confident the Senate will see that too.

LEGALIZATION OF UNDOCUMENTED ALIENS

It is clear, Mr. President, that there will be attempts on the Senate floor to seriously restrict, or to reject altogether, the reasonable legalization proposals contained in the pending bill. I urge the Senate to reject these amendments—as did the Judiciary Committee, and as every governmental study of this question has done over the past decade.

The Select Commission voted unanimously to recommend that a flexible and generous program be established to adjust the status of undocumented aliens who are contributing members of their communities in the United States. It did so because the existence of a large undocumented/illegal migrant population should not be tolerated—and because the costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. The Commission recognized that mass deportations were out of the question, for both legal and humanitarian reasons. More importantly, such deportations would undermine new enforcement programs and would waste available enforcement resources.

For a legalization program to work, it must be comprenhensive, it must reach out to as many undocumented aliens as possible, and it must have as few exceptions as possible. It is for this reason that I am gratified the committee voted to support my amendment to make the legalization program more inclusive by moving the cutoff date forward from January 1, 1980, to January 1, 1982. This will mean that as new enforcement programs are implemented, a large, subterranean, exploited class of people will not be left in limbo; it helps to finally resolve the issue of millions of undocumented aliens in our midst.

Although the legalization program is clearly a crucial element of immigration reform, concern has been expressed over the impact it may have on State and local social service programs. According to the Research of the Select Commission and others on the characteristics of the undocumented alien population, these concerns are exaggerated. Undocumented aliens are here to work, not to seek welfare; they are in many respects undocumented taxpayers contributing to the communities in which they live without the benefits of those taxes.

Despite this documented fact—and despite the estimates of the Congressional Budget Office—we have seen paraded before us a whole set of "scare statistics" which suggests a reasonable, workable legalization program will cost billions of dollars.

Mr. President, those figures are pulled out of thin air, and are based upon assumptions that all the undocumented aliens who came here to work—and who are working—will suddenly all go on welfare, and that their dependency rates will equal that of refugees or our population as a whole. But these assumptions fly in the face of logic and facts.

Opponents cannot have it both ways. They cannot be in favor of employer sanctions because it curtails the "magnate" of jobs which brings undocumented aliens to the United States, and they cannot support Operation Jobs because it proves that undocumented aliens are taking well-paying jobs from Americans—and then turn around and argue we cannot legalize them because they will all be going on welfare. If they are here to work on well-paying jobs, why would they go on welfare? On its face it is illogical an all available research does not support such fears.

And that is what they are, Mr. President, "fears"—false fears—raised by opponents to a humane and responsible legalization program. They have no real basis in fact, and I urge the Senate to reject them.

LEGAL IMMIGRATION

Finally, Mr. President, there is a tendency in many quarters to mix the issue of legal immigration and illegal aliens. In recent days we have seen a lot of lobbying for immigration reform from people who are really lobbying against immigration. In their arguments for immigration reform there is the unmistakable implication that immigration to the United States is bad—that the numbers are too high, the impact is undesirable, and the consequences for the future are negative.

Mr. President, these implications are contrary to American history, and I reject them, as did the Select Commission on Immigration and Refugee Policy.

Yes, illegal immigration must be controlled. But there is no evidence that the current levels of legal immigration are dangerous or contrary to our national interests. In fact, the Select Commission concluded quite the contrary. Their report unanimously stated:

> Based on its research and analysis, the Commission has found the contributions of immigrants to the U.S. society to be overwhelmingly positive. It believes that an immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel prize winners who have come to the United States as immigrants (30 percent of all U.S. Noble laureates), the introductions of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country.

The Commission also rejected the notion that current immigration is destabilizing or somehow threatening to our national unity. Although the admission of immigrants and refugees to the United States has increased numerically over the past decade, the proportion of foreign-born citizens in the United States is dramatically lower than at any previous point in our history. In 1890, the percentage of foreign born was 14.7; in 1970, it was down to a bare 4.7.

Veiled reference is also frequently made to the more than 800,000 immigrants and refugees who entered the United States in 1980. But those who use that figure do so knowing it was an extraordinarily unusual year due to the influx of Cubans and Haitians. The numbers before and since are much lower, and they are going down rapidly. We will not reach the 1980 level again in the foreseeable future.

We must avoid scare statistics designed to feed false fears. Otherwise we will undermine the very goals and reforms this bill seeks to attain.

Mr. President, we have historically been a country which has welcomed individuals to our Nation, and I think we could just go over the individuals who serve in this body even today and find that there is a significant percentage of them who served in this body and in the House of Representatives, as Governors and in legislatures, in commerce, in the arts, in the churches, and find out it was not very long ago when either their parents or grandparents came to this country, and who have made an extraordinary contribution to it.

So, Mr. President, it is important that we deal with this issue, as the Senator from Wyoming pointed out, looking at the facts devoid of emotionalism, and trying to act in our Nation's interests today and for the ensuing months and years.

Mr. President, I mentioned I feel this body has been extremely fortunate and that we have been well served by the tireless efforts of the Senator from Wyoming in this important area of public policy.

Some of us come from and represent States, and proudly so, which have felt the benefit, but also have been stung by the discriminatory aspects of past immigration laws.

When I first came to the U.S. Senate and was appointed to the Judiciary Committee, I requested to be on the Immigration Subcommittee because there were many aspects of the immigration law that worked in a discriminatory and harsh way on the citizens of my State.

The State of Wyoming is blessed with many different people who have come from many different backgrounds, but I dare say that on the range of different concerns, the people of that State would probably not be as intense on this issue as people might be in my State or many other States of this Nation.

But in spite of that fact, I think the Senator from Wyoming has really performed a very important service to this body and to our Nation making this recommendation to the Senate, although I felt compelled to vote in the committee against this proposal for reasons I have outlined earlier and for the reasons I will outline when I offer my amendments.

Mr. President, I think it is important to recognize the important work of the Select Commission on Immigration, which studied this issue for about 18 months.

I take some satisfaction as the chief sponsor of that Commission, because I felt this issue deserved the thoughtful consideration, which I think it did receive by many dedicated individuals coming from a wide range of different backgrounds. It has been primarily because of those recommendations that the legislation is here before us. The work of that Commission, and the hearings which have been held by the subcommittee, have done a great deal to clarify some of the difficulties we are facing as a country in terms of the flow of immigrants into this country.

Mr. President, a great deal has been said and will be said about numbers, individuals, coming to this country. I think it is important to look back upon the history of the flow of individuals to this country.

We can look back to the early part of this century where we see from 1900 to 1910 in excess of 800,000 people came to this Nation. From 1910 to 1920, about 550,000; from 1920 to 1930, some 450,000; and from 1970 to 1979, about 400,000.

Reference has been made about 1980 and 1981, about the high numbers in those years, but any reference to those numbers ought to also acknowledge that this Nation was faced with the extraordinarily complex situation of the hemorrhaging of South Vietnam and Indochina and the boat people which saw tens and tens of thousands of individuals seeking refuge, and who were admitted to this country.

We also faced the situation where tens of thousands of individuals left Cuba and were brought to this Nation, as a result of a public policy, Mr. President, which I deplored at that time and under the previous administration.

But when we look at the numbers which are coming to this country—and I am talking now just about the numbers which are legal, not undocumented, aliens—we ought to recognize that the projections into 1983 suggest we will soon be back around 550,000 numbers.

We all recognize that there was an important increase in the late 1970's, even last year, with the Indochina refugees and also with the Cuban refugees. But the flow lines are going back to 550,000, which is generally the same figure that this country has had over the period of these last 100 years. That is important, because there will be a great deal that will be said about the flow lines and birth rates and numbers coming to our shores. Those happen to be the facts and those happen to be the figures, Mr. President.

In 1965, Mr. President, we changed the immigration law in two very important ways, in other ways but in two very significant and important ways. First of all, we eliminated what was then known as the national origin quota system, which allocated quotas for individuals to come to this country on the basis of their ethnic background. If you were blue-eyed and blond, you could come to the United States of America virtually in unrestricted numbers. But if you traced your ancestry to the Mediterranean basin, to Italy, or to Greece, or to other countries in the Mediterranean basin, there was strict restrictions—let alone Africa or let alone Asia—strict restrictions on family reunifications and on the numbers that would come to the United States of America.

There have been discriminatory aspects which have been incorporated in the statutes in this country. But that was one of the most insidious provisions that has ever been enshrined in American law.

A second provision, Mr. President, was a provision called the Asian Pacific triangle, a carefully devised geographic area which included generally all Asians—that said if you come from that particular geographical area, you were effectively denied the opportunity of coming here even to join your family that might have come here at some earlier period of time. You could measure the number of Asians that came here in the 1950's and the 1960's by a few hundred, if that many.

Well, we changed those provisions, Mr. President, and I think we changed them wisely. We eliminated the national origins quota system and we eliminated the Asian Pacific triangle and we said the countries around the world were going to be fairly and equitably treated on the basis of two important criteria: One was going to be family reunification. I think one of the proud values of this Nation is the importance of families and the reunification of families.

It was not that long ago, in terms of American history, where particular families were able to save up enough resources to send someone here to the United States. That individual saw the land of opportunity, worked hard, contributed. Their desire was to be reunified with their parents, reunified with their brothers, reunified with their sisters or reunified with their children. And that took place. That was part of the driving effort that saw this country develop into one of the strong economic and cultural nations of the world. It is a proud tradition, a proud part of our heritage, the reunification of families, husbands and wives, fathers and mothers and children, brothers and sisters together. That was the key element of the 1965 act. And, Mr. President, that is an aspect which is being eroded by the present legislation before this body and which I object to.

Second, Mr. President, we provided in that legislation that we would permit certain individuals to come to this country if they could show and demonstrate by their skills that they would be able to increase employment opportunities for American citizens.

So, Mr. President, those were the fundamental concepts which were built into the 1965 act.

We also had the provision later to deal with refugees, the Refugee Act of 1980.

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I think, Mr. President, as we address this issue, we should be under no illusions. In spite of the comments and statements that have been made, in spite of the provisions which have been included in this legislation, the enforcement provisions, this legislation will not and cannot fully resolve the issue of the undocumented aliens. I think it is important to understand that, Mr. President.

We have, as the Senator from Wyoming has pointed out, estimates of 3.5 million, and there have been estimates as high as 6 million, undocumented aliens in this country. We are bordering a country, Mexico, that has 32 percent unemployment and whose population is going to double in the next 20 years. It is hard to believe that the limited enforcement provisions in this bill will control these pressures, especially when we look at the cutbacks in the enforcement of existing laws—the fair labor standards law, or farm contractor compliance provisions or minimum wage provisions.

How in the world do we think we will ever be able to enforce employer sanctions when we cannot enforce existing laws? I dare say even if they were enforced in a way that has been established even under the ideal situation of the primary sponsors of this provision, we should be under no illusion that we are not going to have to take some significant, important, and probably costly measures to try and do something about the flow of individuals coming across the borders, or we are going to be faced—and let us face it—with an issue that we are going to have to try and build a fence across our southern borders with spotlights and trenches. We can ask ourselves how that is going to affect our relations with certainly one of our most important allies and friends south of the border—Mexico.

Having said that, Mr. President, I recognize that we should not throw out the reasonable or the good in an effort to achieve the perfect. But I do believe that history would bear out that whenever the Congress has written into immigration legislation provisions that can be used to discriminate, they have been used to discriminate. I say that having studied this issue and having spent many, many hours on the general issue of immigration.

Mr. President, I believe that we have such a provision in this legislation, the employer sanctions provision, which has been described by the Senator from Wyoming and which I will talk about at the time I offer my amendment.

In the past, I have felt that if we could devise a procedure in which you could find a pattern or practice of an employer exploiting undocumented aliens, we ought to be prepared to address that issue. I am prepared to support such a provision and, for a reasonable period of time to test that provision. If, at the end of that time, we could require a Presidential certification that employer sanctions were not being used in a discriminatory fashion, and if studies would be made available to the Congress on that particular issue, I would support it.

We provide Presidential certification on human rights in El Salvador. We provide Presidential certification on human rights with regards to Argentina. Why are we not prepared to ask for Presidential certification on the violation of human rights of American citizens in an area which provides enormous anxiety—and I think legitimately—to millions of Americans who have suffered the whip of discrimination over the period of the past years?

I do not think that is unreasonable, Mr. President, and I think it is extremely essential.

I think without those particular provisions, we may very well be taking steps which will write into this law a provision which can be used for discriminatory purposes.

"You do not look American. You may not quite have the papers. Therefore, we are not going to hire you."

That fear of millions of American citizens being denied the opportunity for employment because of this particular provision is a legitimate concern and one which I will address later.

Mr. President, I know there are probably others who want to speak on the general issue. Then I shall be prepared to offer an amendment.

Mr. SIMPSON. Mr. President, before we come to the opening remarks of Senator GRASSLEY and Senator HUDDLESTON, I feel I must respond to the remarks of the Senator from Massachusetts. I would like to think of something quite erudite and wise, but the one that came to me was, "Holy smokes, dig in for a long day!" I wondered, I guess, when that would come. I am very puzzled by those remarks of my colleague. I say I wondered when they would come. They have not come for 3½ years, and they are here.

Family reunification, the rich tapestry of that, is just as real to me as it is to the Senator from Massachusetts. The reason it is just as real is it is in the bill. The whole bill discusses family reunification. It remains the criterion; it is the very essence of our heritage.

I have worked with the Senator from Massachusetts for 3½ years in a spirit of accommodation and compromise and spirited discussion and friendship. That will remain, I can assure you, Mr. President, whatever occurs. In all that time together, in all these amendments presented by the Senator from Massachusetts—some 12 of them—we have reached accommodation on about half of them already. The only thing I have attempted to do for the last 3½ years is to avoid high drama. It will serve no purpose whatsoever in this debate. It will rob it of everything appropriate and humane. Racism, spotlights, trenches—good heavens. That is the stuff that you have to wade through in this arena.

There are three ways you win or lose an issue in the U.S. Senate. You use equal parts of racism, emotionalism, or guilt and just mix them all up. You get the right mix to win one, you get the right mix to lose one. But those are the ingredients. Those are the principal ingredients of activity that I have observed in my short 3½ years.

The Mexican Government—I have been to Mexico to confer with them. I have talked to President Lopez Portillo and Garcia Ramirez, and Castaneda. I said, "What would you have us do in immigration reform?"

They have said, "You're a sovereign nation, we don't want to tell you what to do. But please do one thing for us, take care of our people."

I said, "How do you do that when they are there illegally?"

"Well, do the best you can, please."

Well, we cannot.

Mr. President, do you know who is going to be discriminated against if we do not do anything in this arena? The minorities of this country—the Hispanic Americans, the black Americans. Those are the people who are going to be discriminated against if we do nothing.

I can tell you what Congress will do in its wisdom if we do nothing. They will say, give the INS more money, give the border patrol more money, and get with it. What that means is more project jobs, more targeted searches, more intrusions in the workplace. And finally, we will have an employer portion of America which says, "I am never going to hire anybody again who looks foreign, because I keep getting busted."

How that can be good for the people of this country and its minorities, I fail to see.

To suggest, Mr. President, that now is not the time to debate immigration reform in Congress will not ring; that the mood is too restrictive, that it brings out the dark side in our country, will not ring.

For 8 years we have been grappling with this issue. Any fair immigration law cannot be accomplished in such an atmosphere.

So, as I say, I am totally puzzled, but not at all surprised. Spirited debate in 3½ years, but it will not wash. It will not wash.

The Senator from Massachusetts supported this measure in the subcommittee. That will be an item of record. He did vote for this measure in the subcommittee. I did not ever wish to make that any part of the discussion, but it must be.

Then he had very sincere reasons for not supporting it in the full committee, but I understood fully, as I will always understand whatever he will express to me with regard to them. But I think finally, you have to draw the cue ball back and get the right English on things. That is where we are at this point.

The other things that have to do with that type of flight do not fit the scope of the debate. They do not fit the intensity of the debate. They do not fit the decorum of the debate. They would lead only to a further degree of puzzlement and almost bemusement.

So I look forward to the amendments presented by the Senator from Massachusetts. I look forward to working with him. I look forward to his continuing friendship. But I am one who believes that, somewhere, the system will begin to work when we deal with each other in the privacy of our offices just exactly the way we deal with each other on the floor of the U.S. Senate. Maybe then we can clean away the stuff that we have a word for in Wyoming, which is very rich and very real, and get on with the business of trying to operate the country in a congressional manner.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we shall have an opportunity to get into the details of the matters about family reunification. But I want to make it very clear that the Senator from Wyoming is enormously persuasive. He is a very compelling debater. But it is important for this body to understand the facts—the facts.

Fact number one: In the history of this country, we have never included in the total immigration ceilings the spouses and children of U.S. citizens.

Sure, they are going to be able to come in ahead of others, but once you put a ceiling on those particular numbers, then you begin to squeeze down other numbers. I will be interested in listening to the Senator from Wyoming explain how this legislation will permit what is permissible today, and that is the admission of brothers and sisters of American citizens to come to the United States, because in the expression of someone from Massachusetts or the expression of someone from Wyoming, "It ain't so."

As the Senator pointed out, I supported the subcommittee action to get the bill to the full committee. My views generally on these issues which I have outlined, Mr. President, with all due respect to the Senator from Wyoming, have been issues that I have stood for since I have been in the Senate. As the Senator will see from the 12 or so amendments that I will be offering, a heavy percentage of them deal with the issue of family reunification. If there have been no changes in terms of the reunification of families, there will not be any trouble in getting those amendments accepted. If there have been, then the Senate will have a chance to vote on it. But I do not think that this body ought to be under any illusions that this issue does not alter and change existing laws on the reunification of families, because it does, and it does so in important ways.

One of the points that has not been mentioned by the Senator from Wyoming is that we only began to permit family reunifications since 1965 for hundreds of thousands of Asians. They were not like the Irish that came in over 100 years ago, and were able to bring in all their brothers and sisters. After eliminating the discriminatory provisions of the 1965 act, we permitted some of those individuals to come in. But we are saying now we are going to close that door.

So I do not yield on this issue, no matter what the dialog is or how far it is characterized, that this is a significant change and it is going to affect particular groups. It is important that this body understands that. They will make their judgement on it. I have no illusion about what the outcome is going to be; the Senator from Wyoming has the votes, but it is important I think that the membership of this body understand at least what is in the bill and what is not. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before coming to this body last year, I was a Member of the other body for 6 years, and as a Member of that body I was never on any of the committees that dealt with the immigration issue. As an outsider looking in, I always was asking, as my constituents in my State were asking me, "Why can't this illegal immigration problem be solved? Why can't we protect our borders? Why can we not regulate the flow of people in and out of our country?"

I have to say that, as a Member of the other body, not being involved with the committees dealing with this legislation, I was one of those who asked those questions, expecting immediate answers, and wondering why there was not an immediate solution.

Then, having come to this body and having been appointed to the Judiciary Committee and the Immigration Subcommittee, and for a year and a half now dealing with this issue, with the experience and the in-depth view I have had as a member of this subcommittee, I can say that I have those questions answered now, not only for myself but also for my constituents—that this is probably one of the most complicated issues I have ever been involved with in my 24 years of public service—8 years in Congress and 16 years in the State legislative bodies.

It is an issue that cuts across all economic and philosophical bounds and brings together an odd assortment of people of philosophical backgrounds in favor of this legislation, and brings together a diverse group in opposition to this legislation.

Approximately 30 years have passed since the last major reform of the U.S. immigration policy. The time has arrived to undergo this painful process again.

Theodore H. White recently described in his book "America In Search of Itself," the situation America finds itself in resulting from our current set of chaotic complicated immigration laws, I quote from the book:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our Nation, its culture, and its ethnic heritage could become one of the central debates of the politics of the 1980's.

I think one can see from that, this debate has already begun, and let us hope that S. 2222 is just the first step in the reformation process.

Though most Americans currently residing in the United States owe their presence here to the open door immigration policies of the past, perpetuation of the myth that this country is one without limits can only prove harmful in the long run. Technology is 1 of the major reasons why today's immigration phenomenon is entirely different from the immigration waves of the past. As Mr. White continued to explain:

> . . . The earlier immigrants from Europe spent weeks trekking to ports, and then more weeks in the steerage of tramp steamers, to reach the promised land. A modern immigrant can be here in three or four hours from any airport from the Caribbean, in fifteen hours from Asia. . . . It once took years of work and savings for an honest man to buy passage for his family to join him. Now, after six months, a diligent immigrant can afford air passage for all the rest of his family. The result has been a stampede, almost an invasion.

America currently accepts over twice as many legal immigrants as the rest of the world combined. This does not include the estimated 3 million to 6 million aliens illegally in the country. Control of our borders is essential in order to protect U.S. citizens from a continued high unemployment rate and to foster a reliance on our laws and respect for our laws by those outside our country who wish to reside here.

Elected officials who loudly claim that illegal immigration is not a problem for this country are not only deluding themselves but doing a disservice to the Americans they represent. The illegal population estimate to which I just referred was first enunci-

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ated in the report of the Select Commission on Immigration and Refugee Policy. It is a generally held view that approximately 500,000 people have continued to enter this country each year since that estimate was made, bringing the figures closer to between 6 million and 10 million. I fail to understand how anyone can perceive an ever-increasing population of this size to have little if any impact upon American life.

The current unemployment rate of 9.8 percent and the impact illegal immigration has on that rate cannot be ignored. This impact is demonstrated by INS's Operation Jobs, conducted in nine major cities, which freed up over 54,000 jobs.

INS conducted a random survey soon after the operation was completed which indicated that 73 percent of those vacancies created were filled later by legal workers. Though some newspaper accounts stated that 30 to 80 percent of those aliens apprehended returned to the same job, it is unequivocally clear that Americans are being displaced by illegal workers. As Senator Simpson indicated in his Tuesday editorial to the New York Times, if only 2 percent of the illegal alien population held jobs that unemployed Americans would take, this would result in a saving of $490 to $840 million in unemployment benefits and public assistance. If 1 million Americans are being displaced, it is estimated that $7 to $9 billion would be realized in aid savings. Not only that, but those 30 to 80 percent who allegedly returned to their jobs would be unable to do so if this legislation is passed.

If the illegal flow was substantially curtailed, not only would the effects on current unemployment rates be immediate, but also the future American employment atmosphere would be greatly enhanced. Sylvia Ann Hewlett in her article on coping with illegal immigration accurately describes the situation we will be facing in the not too distant future if the economic conditions in predominately sending countries persist. I quote a passage from her article:

> The pressures that will make for an accelerating inflow (in the absence of tighter controls) are fairly obvious and stem from the inability of many Third World countries to absorb their rapidly expanding populations into productive, decently paid occupations. The world's population was about four billion in 1975 and will reach approximately 6.4 billion by the year 2000. Most of this population growth is in developing countries which already have serious unemployment and underemployment problems. These nations will need 600—700 million new jobs between 1980 and 2000 just to keep unemployment from rising.
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> To put this in perspective, this is more jobs than existed in all of the industrialized countries combined in 1980. These pressures will not be significantly lessened by declining birth rates, which tend to accompany the industrialization of Third World nations, since most of the people who will enter the work force during the next two decades have already been born.
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> As half of our illegal immigrants are Mexican nationals, U.S. policy may well be more affected by the specifics of the Mexican situation than by the general characteristics of the Third World. Despite its high growth rates and oil wealth, Mexico, too, reflects the problems described above. The current Mexican population of over 70 million is projected to increase by at least two-thirds by the year 2000, and the total number of jobs that would have to be created in Mexico during the next 20 years in order to accommodate all new entrants to the labor force and absorb the present arrears of unemployed and underemployed into productive full-time employment is more than 30 million. Even if Mexico were to sustain a growth rate of 6.6 percent per year over the next 20 years (a record of sustained economic growth that is virtually unprecedented among developing countries), only 20 million new jobs would be created before the end of the century. This leaves a sizeable deficit. And no matter how many new jobs are created in Mexico, the huge real wage differential between the United States and Mexico (currently ten to one in many cases) will continue to drive workers to seek to cross the border.

It is clearly demonstrated, by Ms. Hewlett and countless other experts in the field, that the effect illegal aliens have on current and future unemployment rates is frankly staggering. In addition, what effect illegal status itself has on the alien cannot be dismissed. This status contributes to the creation of an underground society afraid to employ basic police and health related services necessary for not only their own protection, but for the general community's welfare. Crimes go unreported and diseases go untreated. All in all, this is a sad state of affairs.

This legislation contains the basic and necessary elements for a solution. The provisions in the bill relating to employer sanctions, increased interior and border enforcement, asylum adjudication, and a secure worker eligibility system are essential in order to regain control over our borders. With certain revisions in the area of legalization, which I will address later on in the debate, I believe this legislation will accomplish the important goal of immigration reform.

At this point, I should like to commend Senator Alan Simpson and state how much I have enjoyed working with him on the Immigration Subcommittee over the past 2 years. I know of no other committee chairman who has given such careful attention and deliberation to an issue. He has attended what by this time has been, years of hearings, listened to a countless number of witnesses, and has digested innumerable pages of testimony. Though we have disagreed about certain specifics contained in the legislation, he has been nothing less than totally honest and candid with me throughout this process. I think I can safely say that we share common goals in the area of immigration reform, we have resolved our differences, and now will work together in producing a final product acceptable to us both.

The staff of the Immigration Subcommittee is probably one of the most knowledgeable and hardworking staffs in the Senate. I commend Dick Day, Donna Alvarado, Chip Wood, and Arnold Leibowitz on their fine work. I also compliment Ally Milder of my staff for her diligent work as well. Of particular help to me has been the Federation for American Immigration Reform including Dr. John Tanton, Mr. Roger Conner, and Mr. Barnaby Zall. I truly appreciate their able assistance.

Finally, Mr. President, if the Senate does not take the opportunity to pass this legislation this year, another 30 years may go by before the opportunity comes again. This legislation will influence the character of American life for the foreseeable future. Should we fail in our duty now, I am afraid the outcome could be much worse than anyone has anticipated. Mr. President, I urge the passage of the Immigration Reform and Control Act of 1982.

I thank the Chair.

I yield the floor.

Mr. HUDDLESTON. Mr. President, in taking up the Immigration Reform and Control Act of 1982, S. 2222, the Senate is attempting to solve one of the most complex problems facing the United States today. Immigration, without question, is one of those rare policies which ultimately impacts upon almost every aspect of our society and economy, and to a large degree determines what kind of a country we are.

The question that faces us on this extremely complicated issue is how to assure the most beneficial results while minimizing the detrimental consequences. However, I am certain the distinguished chairman of the Subcommittee on Immigration and Refugee Reform, Senator Simpson, found out a long time ago that there are no easy answers. As he has threaded his way through this maze of special interests, he has discovered that for every solution to a particular problem, there are at least two or more groups opposed it. For the distinguished Senator from Wyoming, I am certain that at times he believes he has taken on the most thankless job in Congress.

Yet, I wish to assure him that he has the gratitude and thanks of this Senator and I think of the American people. We thank him for his perseverance, his good judgment, his compassion, his dedication, and his patience. Because of all of these good traits, the distinguished chairman has brought us to the point where we have an extremely good chance to address in a constructive manner many of the immigration problems that this country faces.

Senator Simpson, along with his counterpart over in the House, my good friend, Congressman Mazzoli, from Louisville, have worked diligently and hard and have approached this job without any preconceptions, in my judgment. They have taken into account the opinions and interests that have been expressed by every person who is interested in this subject matter throughout the country. I think they have produced a good starting point.

Of course, this expression of gratitude also goes to the members of the subcommittee—Senator Thurmond, Senator Kennedy, Senator DeConcini, and Senator Grassley. They have all contributed a great deal to this process and they too deserve our thanks.

As a nonmember of the Immigration Subcommittee, I may be one of the few Senators who can fully understand and appreciate all the frustrations and obstacles they have had to overcome to produce this immigration bill. Since 1975 I have actively fought for meaningful immigration reform without the benefit of any direct committee connection. During that period of time there were a number of successes that chipped away at some of the problems. These have included: In 1975, an amendment to require greater planning and direction in the refugee assistance program; in 1978, a bill I introduced with Senator DeConcini to permit the INS to confiscate vehicles used in smuggling illegal aliens; in 1980, several amendments to strengthen the Refugee Reform Act; and later, an amendment that put the Senate on record supporting the concept of an immigration ceiling. Nonetheless, we still have a great deal more to accomplish in the area of immigration control, and S. 2222 takes us much closer to that goal.

The need for this kind of legislation should be clear to all by now. In 1980 we admitted more people to the United States than in any other year in the history of this country. More than 800,000 people were admitted legally, and at least that number came illegally. Close to 1 million illegal immigrants were apprehended and another 900,000 ineligible aliens were turned away at ports of entry. Estimates of the illegal immigrant population in the United States have risen from 3.5 to 6 million 5 years ago to perhaps 8 or 10 million today.

How did we get to this state of affairs? For 15 years, from 1965 to 1980, Congress refused to face the problems of immigration. For 15 years we chose to ignore the problems that were thought to be too far in our future. However, while a few concerned individuals struggled to make us aware of the worsening situation, both legal and illegal immigration continued to mount.

Then in 1979 we woke up to find what has turned into a ceaseless flow of "boat people." We resettled hundreds of thousands, far more than the rest of the world combined. And we are continuing to accept thousands of refugees each month, not just from Southeast Asia but from all around the world. In the process we have spent billions of dollars in this seemingly endless effort.

To help these refugees, Congress passed the first major change in our immigration laws since 1965, the Refugee Act of 1980. But even this major loosening of our immiegration laws was not enough to meet the unending demand. The number of refugees has risen to 16 million worldwide and all our efforts, and those of the U.N. High Commission for Refugees, seem unable to reduce the number.

Americans are the most generous people in this planet in admitting immigrants and refugees. In fact, the United States admits more immigrants and refugees for permanent resettlement than the rest of the world combined. But as Americans continue their historical generosity in the face of unending pleas for entry, they have become increasingly concerned that the lack of control in immigration, as Senator Simpson has referred to it "compassion fatigue," has set in.

Resentment has turned to violence between Americans and new immigrants in Colorado and Texas. In Florida, researchers found that at least part of the cause for the 1980 riot in Miami was resentment about the large numbers of new Cuban entrants forcing blacks out of the growing economy.

Two-thirds of Americans wanted complete suspension of immigration until unemployment fell below 5 percent, according to a November 1980 Gallup-Newsweek poll. Think of the resentment that must exist now that unemployment is well over 10 million Americans and approaching 10 percent.

Some people blame the Cuban exodus of last year for the "great awakening" of the American people. However, I think that they have been concerned over uncontrolled immigration for much longer.

A 1977 Roper poll found that 91 percent of those polled wanted "an all-out effort" to stop illegal immigration, and 75 percent wanted legal immigration reduced below 400,000 per year. In 1980, that poll was repeated; again 91 percent wanted all-out action on illegal immigration, and the number calling for decreased legal admissions rose to 80 percent. In such a climate, comprehensive immigration reform is difficult. We must regain control over immigration before we can hope to completely reform it.

Fortunately, we are finally moving in that direction. S. 2222 addresses the more serious issues facing us on immigration—employment of illegal aliens, amnesty for illegal aliens, and an immigration ceiling. It also deals with many of the lesser problems. However, as I said when S. 2222 was introduced, it is a good beginning but it can be improved. Since that time the bill has undergone change and I believe additional improvements will be made here on the floor of the Senate.

I again thank the distinguished floor managers of the bill, Senator Simpson and Senator Kennedy, for the outstanding work they both have done on this very complex issue. And, I again assure them, as I have in the past, that they will have my full support and cooperation in fully developing and passing this bill.

And, I urge all my colleagues to do likewise. Unless this Congress acts on these immigration control proposals, we may not be able to avoid a tremendous backlash, which could permanently endanger the most generous immigration policies on Earth.

I do have some changes that I might suggest during the course of this consideration. One, of course, would deal with an overall ceiling that would include the number of refugees that come into the country under the ceiling which will be established by the bill.

While I will await the appropriate time to discuss the merits of that particular issue, I would just like to make one comment here. Every writer I have read on this subject, every person who has expressed an opinion, has always included somewhere within his or her remarks that, "of course, the United States cannot take into this country all of the people who want to come here."

Everybody is willing to walk up to that problem, but very few so far have indicated the courage and the determination to develop a solution to that problem.

What I would hope we would be able to do during the course of this deliberation is to say, "We agree. The United States cannot take everybody who wants to come to this country." That is an almost irrefutable fact, and hardly anyone would ever disagree with it.

The question then is whom do we take? How many and what kind of a mechanism do we establish to make the determination as to who shall come and who shall not?

The Senator from Massachusetts has already indicated in his comments that there is competition existing among the various categories of immigrants who want to come to this country, and he wants to eliminate some of that competition. Well, there is a competition existing, and always has existed, among all categories and among all individuals who want to come to this country because of that single irrefutable fact that we cannot take everybody who wants to come here.

I have indicated before, and I think it is accurate, that there are at least 16 million refugees in the world. In our wildest dreams I have not heard anyone suggest that we ought to open our doors and welcome them all to this country. Obviously, we cannot.

There is another question, and that is is the United States really a part of the solution to the refugee problem in the world or are we a part of the problem? There is a significant amount of evidence, there is a significant amount of opinion that it has been the overly generous policies of the United States, the willingness of the United States to rush in and try to solve every problem that exists in the world with a gigantic resettlement program, the policies of the United States that amount to a recruiting policy that the State Department has followed particularly in Southeast Asia, which have contributed to the large flow of refugees that still exist in various parts of the world.

The problem of refugees is an international problem. If it is ever going to be solved it will be solved by international actions and not the action of any one country.

But, the fundamental fact is that: Of course, the United States can no longer take all who want to come.

I hope the Senate of the United States will face up to that during the debate and will decide that that being the case we ought to determine ourselves what the number ought to be and how we go about selecting that number.

In recent years, the immigration flow into this country has been determined more by Fidel Castro than it has by the Senate of the United States. It has been determined more by the despots in Southeast Asia than it has by the Senate or the President of the United States.

The question is, Are we willing to surrender that part of our sovereignty? Are we willing to say that this country has no right to control its borders, has no right to determine who comes and how many and under what conditions?

I do not think the American people want us to adopt that kind of policy. So we will have an opportunity during the course of these discussions to address head on the question of whether the Congress of the United States will make the determination or whether we will leave it to someone else and sit almost hopelessly by while more and more numbers come to our shores without our approval, without our consideration.

One of the great problems we have had over the years, of course, is that we always dealt with those problems on an ad hoc basis. There is always a tremendous amount, a lot more, of emotion connected with the issue than there has been logic or commonsense, and we have always waited until we are in the middle of a crisis before we get very concerned about it. You cannot write immigration policy and refugee policy when thousands of people are approaching our shores in leaky boats or when a great exodus has already begun. Now is the time to put in place the kind of mechanism that will enable us to deal with the situations we are confronted with in the future.

Former Secretary of State Al Haig, looking over the situation that now exists in Central and South America, commented some time ago that what we are likely to see in the near future as far as immigrants coming into this country from that part of the world, will make the Mariel boatlift from Cuba look like a Sunday picnic.

So it is a serious matter, and it is one that ought to be approached in a serious and thoughtful way.

I feel confident that before we finish deliberation on this bill we will have an opportunity to give it the consideration it deserves.

Again I thank the sponsors of this bill for getting us to this point where we can consider these important issues. I think if we do not now enact the kind of legislation the people of the United States expect us to we may not be able to avoid a backlash throughout the country that could permanently endanger the best motives of many in this country who want us to continue to be the most generous country in the world as far as immigration policy is concerned.

I thank the Chair.

(Mr. HUMPHREY assumed the Chair.)

Mr. CHILES. Mr. President, I am delighted that today the Senate begins its consideration of S. 2222, a bill to reform our immigration laws and policies.

The need to act is clear. We know that our immigration laws have not been examined in any comprehensive way in years. We know the events of recent years have underscored the shortcomings of our current laws. We know that both legal and illegal immigration are at unprecedented levels. Our current laws set a cap of 270,000 a year. However, over 800,000 people legally immigrated into the United States in 1980, and over 600,000 in 1979.

While legal immigration is a serious problem, illegal immigration presents an even more serious problem. It is estimated that there are between 3.5 million and 6 million illegal immigrants in the United States.

The very fact that we have that kind of a variant is indicative of the kind of problems we have. We know that was the estimate that was made in 1978. Goodness knows how much it has risen in the last 4 years, or how much it will continue to rise unless we reform our policies. In fact, the reports of the Judiciary Committee indicate that the immigration, legal and illegal, is now amounting to 30 to 50 percent of the annual population growth in the United States. Those figures show us that our present immigration policy is, in fact, not a policy at all. As a result of today's absence of policy, the United States, for all of its power and richness as a nation is unable to control one of the most fundamental aspects of national sovereignty, the ability to control our borders.

Mr. President, the issues, serious as they are, remain an abstract concern to many of the citizens of this country. They read about the Haitian situation in Florida; they have seen pictures of the Mariel boatlift; they have seen pictures of the boat people from Cambodia; they come across some news about immigration from Mexico and Latin America. But, by an large, their daily lives have not been affected by the immigration crisis that the country is facing.

That is not the case, Mr. President, with the people in my home State of Florida. Floridians have felt and, more importantly, continue to feel the impact of uncontrolled immigration which our present laws have created.

First, Florida had to contend with the Mariel boatlift, and the absence of U.S. policy which enabled Castro to force us to accept inmates of his prisons and mental institutions along with those fleeing his oppressive regime. Florida's State and local officials were left with the responsibility for thousands of people who needed food, shelter, medical care and education.

Our absence of policy ended up turning Cuban criminals loose onto the streets. Violent crime in Florida has skyrocketed. Miami has become the murder capital of the Nation, and Florida has 6 of the top 10 criminal cities in the country.

At the same time, we see thousands of Haitians and people from other countries beginning to land illegally on Florida shores. Once again the people of Florida have had to pay more than their share to provide for this new wave of entrants. The Federal Government stood idly by and did little or nothing to stop the flow of people. The Immigration and Naturalization Office of Florida was overwhelmed. Backlogs of literally thousands of immigration cases appeared overnight. A holding facility for newly arrived aliens was set up at an abandoned military base called Krome North.

The conditions at Krome were horrible. There was overcrowding, lack of proper sanitation, and the real threat of the outbreak of diseases within the compound and throughout south Florida. That led the State of Florida to file suit against the Federal Government. I supported that lawsuit and encouraged the Governor to file it. In fact, I later introduced an amendment in the Senate to relieve the overcrowding at Krome and the threat it posed to the health and safety of south Florida.

In any case, it became clear to the people of south Florida that the Federal Government simply did not care about its problems. The irony, of course, Mr. President, is that the State of Florida was powerless to do anything about it. Immigration is a Federal responsibility. The Federal Government had failed to meet its responsibility in the first instance and then continued to fail to meet its responsibility.

For those of us who represent Florida here in the Congress, it was a time of tremendous frustration. We attempted, Democrat and Republican, Senator and Congressman alike, to get the Federal Government to recognize its responsibility to deal with this problem and to put policies into place that would assure that the problem would not occur again. All too often, though, what I heard was that, "Lawton, this is a local problem. You all ought to take care of it. It is not the problem of the Federal Government."

Fortunately, however, we were able to get some help for Florida. Last fall, the administration established a policy of interdiction, turning back boats filled with aliens before they reached our shores. That was a move which all Floridians had called on the Government to take and its success was immediate. From the days of last summer, when 400 to 500 persons landed on Florida shores each week, the flow has been cut to a mere trickle.

Eventually, the Government opened a new processing center for illegal entrants in Puerto Rico and, under our prodding, the conditions at Krome were improved.

Last year, in order to assure that such crises would not occur again, I joined with Senator Huddleston in introducing an immigration reform proposal, S. 776. That bill called for streamlining our appeals procedures and for closing the loopholes in the annual immigration ceiling and for doing something about illegal jobs, the magnet which attracts illegal migrants to the United States.

Nevertheless, despite these few bright spots, the problems facing Florida are far from being solved. Every attempt to get Federal reimbursement for costs incurred in providing for the refugees has been a major struggle and Florida has been forced to bear many costs which the Federal Government should have carried.

Every time we passed a bill or received some aid, we found OMB or some agency trying to take that money away, or to put tremendous burdens on the State, or delaying the payments owed to the State. Little has been done about the backlog of some 17,000 asylum cases now pending in Florida. Some of the Haitians who came here last summer have been held in the Krome Detention Center for over a year pending the outcome of their applications for asylum.

It is not surprising, given the lack of policy and direction in today's immigration laws, that the Haitian issue ended up being decided in the courts. Homicide remains the major cause of death among Mariel refugees. Dade County is facing a critical shortage of jail space due to the 500 Mariel refugees who are being held there for crimes they committed in Florida. Those 500 have averaged over two felony arrests each in the 2 years they have been here. As a result of this overcrowding, Dade County is now under a court order to improve the conditions in its jails, but, at the same time, it has no money to do so.

Mr. President, the picture I paint is not a pretty one. I recognize that there has been some improvement and some positive steps taken, but serious problems remain. More importantly, the people of Florida feel, and rightfully so, that there is nothing to prevent the immigration crisis that they faced in the past from happening again in the future. They know that our laws do not work and they believe, with good reason, that the Federal Government's help is usually too little and too late.

Nevertheless, the people from Florida from all walks of life have worked together to try to seek solutions to these problems on an individual level. But there are limits to what individuals and States and localities can do when they are dealing with a problem that is the exclusive responsibility of the Federal Government. For that reason, they have come here to Washington to make their voices heard and to press for solutions both of the problems facing Florida and to our national immigration problem.

Earlier this year, a half dozen housewives from Miami came here with a petition signed by over 25,000 south Florida residents. The petition which these women had carried from door to door throughout south Florida called for immediate action on immigration reform legislation. The people of Florida have shown their hospitality. They have shown their compassion throughout this ordeal. Going back to 1960, when we had the first Cuban exodus, the people of Florida opened their doors, welcomed the people, and helped them assimilate into this country. But as long as the hopelessness of our present policy, or lack of policy, continues to exist, they will also show the tensions and the despair that go hand in hand with feeling that their Government has abandoned them.

I speak for all of them when I say that it is imperative that Congress act to put into place a new set of immigration policies that will enable the United States to control immigration.

To some extent, the fact that the bill is before us today is a tribute to the persistence of Floridians. Their voices are finally being heard. But it is also a tribute to the leadership, the will, and the determination of the Senator from Wyoming (Mr. Simpson) and the members of his subcommittee. I want to congratulate him and each of the members of the subcommittee for the work that they have done.

As I said earlier, immigration is an abstract problem to most Americans. The issues of immigration are not easy. They are certainly not very sexy. I am certain that immigration is not the hottest issue in Wyoming. But the Senator has managed to raise the public's attention and educate the public as to the nature of the immigration problems facing us. Moreover, he has conducted a comprehensive set of hearings on all aspects of the problem, and he has produced a bill which seeks to fairly address the concerns of all persons interested in this issue. He has kept the debate on a substantive level, and he has brought a well-thought-out proposal to the Senate floor. My hat is off to the Senator from Wyoming, and I congratulate him on his efforts.

The provisions of S. 2222 reflect the careful study and care which Senator Simpson has brought to the immigration issue. I would like to make a few comments on the bill itself. The most important reform it makes is the way that it deals with the question of illegal jobs.

The problem caused by illegal jobs cannot be overstated. It is estimated that there are as many as 6 million illegal aliens in the United States. Just last week 10.8 million Americans were unemployed. The Congressional Budget Office estimates that each unemployed worker costs $7,000 in unemployment and welfare benefits. If only 1 percent of the jobs that are held by illegal aliens were held by unemployed Americans, the cost of unemployment could be reduced by over $400 million. It is likely that much more than 1 percent of the illegal aliens work in jobs that unemployed Americans would be delighted to fill.

Mr. RANDOLPH. Will the able Senator from Florida (Mr. Chiles) yield?

Mr. CHILES. I yield.

Mr. RANDOLPH. Mr. President, the Senator speaks of the unemployment in this country. It is approximately 10 percent in West Virginia, with thou-

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sands of steelworkers and aluminum workers unemployed. In a cross-section of our State, regardless of where it is, we are hit heavily by unemployment. The only reason I mention unemployment there is because we are perhaps the fourth or fifth State in unemployment figures, compared with other States.

It is estimated that there are more than 10,000 illegal aliens working in the District of Columbia. Does the Senator believe that is a high, low, or medium figure?

Mr. CHILES. I would say to the distinguished Senator from West Virginia that there is no way of knowing. I would not say that it is high. I think that it might be a median figure or maybe lower. I would not guess that it is high, given the fact that we have no control over the situation today.

Mr. RANDOLPH. I believe the estimate that I have mentioned has validity to it, and I wanted to have it made a part of the RECORD. I thank the Senator.

Mr. CHILES. Displacement of American workers is just one of the costs of illegal immigration. Illegal aliens exist as a subclass within our society. They are beyond the obligations and protections of our laws. The Supreme Court recently decided that illegal aliens have a constitutional right to a free public education. At this point, it is uncertain what the impact of that ruling is going to be on other benefits, but it is clear that illegal immigration is a costly burden to the American economy and the taxpayers.

Illegal aliens have come to the United States for one reason. That is to work. As long as they are able to find employment in the United States, they are going to send word back to others to join them, and the others are going to come as long as they can get those jobs.

We can try to solve that problem by increasing the border patrol, but with thousands of miles of border, there is no way that we will ever be able to provide enough border patrols, enough guards, enough fence, enough boats, enough dogs to thoroughly police the border. Thousands of people will enter the United States illegally each year, and many of them will succeed.

Mr. RANDOLPH. Will my colleague yield again?

Mr. CHILES. I yield.

Mr. RANDOLPH. If the illegal aliens within the United States that the Senator mentioned are working here in very, very large numbers in every State, in the larger cities, is it not also illegal for those citizens of the United States who are the owners of these businesses to hire these people?

Mr. CHILES. It should be, but it is not.

Mr. RANDOLPH. I thank the Senator.

Mr. CHILES. S. 2222 takes a direct approach and, I believe, the proper approach to curbing illegal immigration. It attempts to eliminate the magnet which draws the illegal aliens to the United States, the magnet of illegal American jobs. Quite simply, it closes the loophole in our present laws and makes it a crime for an employer to knowingly hire an illegal alien. I believe this prohibition is the key to controlling illegal immigration. Unless we remove the incentive that brings illegal aliens to the United States, other attempts to solve the problem are going to be futile.

S. 2222 calls for the Justice Department to develop a secure worker verification system that cannot be easily counterfeited. The system is necessary to make the prohibitions against employing illegal aliens enforceable. It will protect employers from inadvertently hiring an illegal alien. At the same time, it will provide a method for identifying an employer who intentionally violates the law. The verification system will also protect American workers from discriminatory hiring practices by placing the same documentary requirements on everyone.

In order for the system to be effective, it must be designed to encourage the cooperation of the business community. In addition to being secure against fraud, it has to be efficient and easy to use. It should minimize the paperwork requirements and expense to employers.

Prohibitions against hiring illegal aliens, coupled with an effective worker verification system, will go to the source of our illegal immigration problem and give us a method for controlling it.

The alternative is to do nothing and to allow the current situation to continue, unchecked.

Another equally important provision is the reform of the asylum process. Our laws currently guarantee that the United States will provide asylum to any alien who is in the United States and who can prove that he has a well-founded fear of political persecution if he returns to his homeland.

In the past we had relatively few aliens who requested asylum. Just 4 years ago, as few as 5,000 requests for asylum were pending with the Immigration and Naturalization Service.

Today the backlog of pending asylum cases is over 105,000. That may seem like an abstract number to some people, but I assure you it is not an abstract number to the people of Florida, where 200,000 Cubans and Haitians seeking political asylum entered the United States. There are currently 17,000 cases pending in Florida alone. Many of those cases have been pending since 1979.

Unfortunately, when the current law was written, Congress did not account for the possibility that the United States would be a country of first asylum.

When we were changing the law in 1980, we envisioned, that the people would go from Cambodia to Thailand, or that they would go from one country to another, but that they would be set up in camps outside of the United States. We could then screen the refugees and determine who should be admitted to this country.

We did not know that the boats were going to land on our shores. Yet, during the Haitian influx, there were 400 to 500 refugees landing on Florida's beaches daily.

Now each one of them gets a case-by-case determination for their status. And now, under the court decisions, they have said that they can avail themselves to every right that a citizen has to use our courts. You can tie that process up forever. We are right back to where we were talking about habeas corpus. You can never have finality in the cases.

Some asylum cases have been pending since 1979. They are not near completion. If we do not do something to close off the process of allowing the alien to have all the constitutional rights of a citizen, then, again, we might as well admit that we have given up the game, we might as well get ready for the deluge of people who are going to come because that word is beginning to go out.

The word is going out that the Texas case says we now provide educational benefits to all illegal alien children. The word is now going out from the Spellman case that we cannot hold an illegal alien, we cannot detain them while they are seeking to determine their status.

So if we cannot hold them and if we have to give their kids educational rights, we have no reason to really claim that we are solvent, we have no reason to claim that we can have a border or any checkpoints, and we can invite everyone to come into this country.

As the epitome of a free and democratic Republic, the United States has a great responsibility to provide refuge to those who are fleeing persecution. But we cannot, and should not, accept every alien who arrives in the United States and makes a claim for asylum simply because he is here and wants a better life. If we are going to do that, let us just say that that is our policy. We might as well. Then everybody can come.

The legal definition of a refugee is very narrow. It needs to be reserved to those who are truly victims of persecution.

If we are going to grant asylum to refugees, we must have an efficient and equitable system for deciding who qualifies. To do less is a disservice to all those who apply, whether they are eligible or not, as well as to the people of this country.

S. 2222 will expedite the asylum process by giving immigration officers the authority to summarily exclude undocumented aliens who do not appear to have a legitimate basis for making an asylum claim. Only those who express fear at returning to their homeland or who specifically request political asylum or would be admitted to the United States. They will receive a hearing before an immigration judge, who will be specifically trained to hear asylum cases. There will only be on appeal available to a newly created, independent immigration board, outside of the immigration and naturalization service. Asylum decisions would not be subject to judicial review.

I support this provision of S. 2222. It will put us in a much stronger enforcement position in the event of another mass migration. Had the system been in place 2 years ago, we could have avoided many of the administrative delays that characterized the Cuban/Haitian crisis.

Finally, Mr. President, I am pleased that S. 2222 requires a new annual immigration ceiling that includes immediate relatives of U.S. citizens. Immediate relatives of American citizens is one of the fastest growing immigration categories. Between 1976 and 1980, the number of immediate relatives increased 40 percent from 114,000 to 152,000. Yet this significant source of immigration into the United States is not counted against our annual immigration quota. This gives us an unrealistic impression of the number of aliens who are being admitted to the United States each year. Our immigration cap is 270,000 but the number of legal immigrants who actually enter the United States each year is over 400,000 refugee admissions raise the number of illegal immigrants to nearly 600,000 in an average year.

I believe that the United States should be able to decide in advance exactly how many new residents we will accept each year from foreign nations. Family reunification should be one of the primary objectives of our immigration policies. S. 2222 retains that objective by allowing for unlimited entry of immediate family members of U.S. citizens but it requires that those family members be counted against our annual immigration ceiling.

Mr. President, I believe that S. 2222 is a good bill that will make many improvements in our immigration laws. It will close some of the most glaring loopholes in our current laws and holds the promise of restoring order to our chaotic immigration policies, but I believe the bill could be strengthened to make it even more effective. I would like to take the opportunity today to mention ways in which I believe the bill could be made even more effective.

My first concern is with the failure to include refugees in the immigration ceiling. When Senator Huddleston offers his amendment to include refugees in the cap, I will have some further remarks on this issue. At this point, it is worth noting that our immigration laws are among the most generous in the world. The United States accepts more immigrants and refugees than any other nation. In fact, we accept more than all the other nations put together. But if we are to provide jobs and a healthy economy for the people who are already here, we must place limits on that generosity. If we accept the premise that we need a ceiling on immigration, then it seems to me that all aliens who come to the United States, with the intention of staying should be included in the ceiling, regardless of whether they come to reunite with their families, to work, or to escape persecution. The failure to include refugees in the annual immigration cap is a serious omission in the bill which will perpetuate one of the loopholes in legal immigration policies today. I hope that we will act to correct this problem in the bill.

I am also concerned that S. 2222 does not provide adequate safeguards against the kind of immigration emergency that we experienced in Florida. We need to have a contingency plan in place which outlines exactly what steps the Federal Government will take in the event of another immigration emergency.

The reforms that S. 2222 calls for in the asylum procedures will greatly enhance our ability to control an immigration emergency, but those reforms do not go far enough. I feel strongly that we need to address the issue of the Federal Government's responsibility for averting another immigration crisis and that we must clarify the President's authority to act to prevent another massive, uncontrolled influx of aliens within the context of this bill.

In conclusion, Mr. President, again I commend Senator Simpson, Senator Kennedy, and all of the members of the subcommittee for their efforts to bring about comprehensive reform of our immigration laws. This is a monumental task and I believe that S. 2222 is an admirable legislative package. It gives us an opportunity to eliminate the growing problems in our immigration laws, and to restore the United States to a position in which we, not other governments, or the people of other nations, control immigration to this country. I hope that the Senate will use this opportunity to close all of the loopholes in our immigration laws and to pass a strong, comprehensive immigration reform bill.

Mrs. HAWKINS. Will the Senator yield?

Mr. CHILES. I yield to my colleague.

Mrs. HAWKINS. Mr. President, I join my colleague from Florida in commending Senator Simpson and his fine staff for their dedication to the issue of immigration reform. While we disagree in several important respects on what should and should not be included in this bill, there is no question in my mind that the distinguished Senator from Wyoming deserves much credit for keeping this important issue alive and on the minds of Congress and the Nation. I do believe that before we proceed, we should outline the serious omissions in the bill before us today.

Our State of Florida, as the senior Senator has so ably outlined, has been seriously affected by an immigration policy that has lost its sense of direction and purpose. Nothing is more important to Florida than a purposeful, useful, and appropriate immigration bill. In a poll taken last week by the major newspapers across our State, immigration was the second highest issue of concern to Floridians. The health of the economy was No. 1, immigration No. 2, and crime No. 3, even though, as my colleague has stated, 6 of the top 11 cities with the highest crime rates are in our State. Immigration is now the No. 2 concern in the minds of our citizens.

To put it bluntly, however, Mr. President, this bill unfortunately does not deal with the most serious immigration problems we are experiencing in Florida today. What the bill does not include is my foremost concern.

Conspicuously absent from this legislation is a provision to protect States and cities in the event of an influx of undocumented aliens encouraged by a hostile foreign power. This kind of legislation is critical to a comprehensive immigration bill. During a period of 5 months in 1980, south Florida was inundated with 125,000 Cubans.

During that same year and in subsequent years, thousands of Haitians succeeded in reaching the shores of Florida. In Dade County alone, 1 out of every 18 people is now an undocumented Cuban or Haitian. The cost of Florida's good faith and good will has been tremendous. Florida's taxpayers have spent over $150 million to help these aliens adjust to American society. This expense does not include the sacrifices made by the members of the community because of strains placed on local fire and police services, local governments, and courts.

Many of the people of Florida are rightly frustrated and downright angry because, although they have no control over our immigration or foreign policy, they are expected to support undocumented aliens invited by the Federal Government. The Federal Government has always been a gracious and benevolent host, offering food, housing, and medicine to foreign

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guests who have suffered what we have never known: Religious and political persecution. I take no issue with the generosity of the Federal Government. All I ask is that someone other than Floridians foot the bill

This bill contains no guarantee that the Federal Government will pay for its guests. In my opinion, this is a grave omission.

Senator Simpson has stated that this is related to the idea of immigration emergency powers. Senator Simpson is very sympathetic to my problem and to Florida's problem, and we have had many discussions on it. The Senator believes it would be better to hold separate hearings on the subject and to deal with it separately from the rest of the immigration issue.

I am open to that suggestion. However, I am convinced that unless we deal with this issue now, when we are dealing with all other major immigration problems, the time will come when we are once again inundated by undocumented aliens—with still no protection from the Government.

Another omission from this bill is the question of emergency powers. Senator Chiles has said quite a bit about emergency powers in his remarks, and I concur with everything he said. I have great confidence that should another immigration emergency like the 1980 Mariel boat lift occur, the Reagan administration would act promptly and decisively to deal with the situation. There are a range of actions an administration could take, under current law, to deal with an immigration emergency. I do believe there is a need significantly to expand those powers to give an administration greater control over such an emergency. We should actively support efforts to bring up this issue. I feel we ought to debate it, and we ought to talk about it. It may not receive the support that it needs, but I would like to emphasize that this is still a tremendous problem in Florida.

Everyday we have a line of immigrants, four deep, surrounding the INS building in Miami. You have to get in line by 4 a.m. in Miami just to get a card to walk inside. Immigrants have to sell the spots in the line simply to get in to talk to someone inside the immigration building.

That is a constant problem. It is one I saw again last week when I was there.

A final serious problem with this legislation concerns the amnesty provisions. Amnesty seems to me a very shortsighted way of dealing with our immigration problems. Indeed, it appears to me to guarantee that there will be even more illegal immigration. What it suggests to those who propose to come to this country illegally is this: If they can hide out long enough until more illegal aliens arrive, then another amnesty will be granted. It perpetuates a vicious circle. If the United States once ignored its immigration laws and welcomed illegal aliens into its society, then it surely will do so again. Amnesty rewards lawbreaking. It makes a mockery of American law. It will perpetuate the very immorality and lack of ethics that it seeks to end.

Who pays for amnesty? It is an expensive process. The cost to American taxpayers for the amnesty program is expected to run into billions of dollars in social services and welfare benefits. These costs will not be borne by the Federal Government alone. State and local governments will groan under the burden as well.

The entire idea of amnesty must be carefully rethought, and I will support efforts to restructure the amnesty provision into a more acceptable form. The bill as it stands now seems to ignore concerns of great importance to Floridians. I hope that the Senate will give careful consideration to the concerns I have mentioned. We must pass immigration legislation that meets the needs of all areas of the country.

In no way do I want to take away from the thoughtful, careful, and thorough work of those members of the Immigration Committee, including Senators Simpson, Grassley, Kennedy, and others. They have held meetings throughout the United States and have spent a great number of hours of work on this new immigration bill. It is a beginning tool for reformation of our immigration problems. I commend those who have worked on it. Florida simply asks you to consider the items that I mentioned—to find some way to assure Floridians that never again will they be called upon to bear such a financial burden as well as dangerous health problems and overcrowding.

I daresay there is not a community in the United States that could have accepted as many new people in such a short period of time with as much peace and harmony as did Dade County, Fla. Its residents are to be commended. They are still struggling and still making accommodations because of the great influx. I want to pay tribute to the citizens of Florida who have had to accept these invited and uninvited guests to our shores. All we ask is that there be some concern for the thoughts that are still uppermost on the minds of Floridians today as we take up this most important bill.

Mr. KENNEDY. Will the Senator from Florida yield?

Mrs. HAWKINS. Yes.

Mr. KENNEDY. I welcome the statements that have been made by both Senators from Florida on this extremely difficult issue for Florida. I was one that was sharply critical of the efforts undertaken by our Government in 1980, where we vacillated the policy between opening our shores and closing our shores to Cubans, and failed to utilize the international machinery which is available and which President Ford used in 1975 during the Vietnam refugee crisis—actually, a diplomacy which was worked out even under President Johnson with Cuba in 1965 which resulted in a negotiation and an orderly movement of some individuals and reunification of families, in which the voluntary agencies were very much involved and which was an orderly and humane process.

The statements that have been made by both of the Senators from Florida I think are important to this dialog. I have voted in support of assistance to local communities in the past, I want to give the assurance that I will contribute every bit of help and assistance I can in the future to Florida and other States and communities who are bearing that particular burden.

Mrs. HAWKINS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I share the observations of the Senator from Massachusetts, and indeed in our discussions and as we worked together with the refugee resettlement issues and the Refugee Act of 1980, we did not consider this simply a Florida issue. It is a national issue. I pledge, win, lose, or draw with regard to this effort, that we will receive the President's emergency powers provisions. They are in the final draft. There are administrative procedures now in place which would take care, we are advised, of the Mariel Harbor situation. But I pledge that regardless of what may occur with this legislation, or any other aspect of the refugee settlement reauthorization, we will have in the subcommittee the receipt of the legislation, hearings on the legislation and markup on the legislation prior to the election day recess. That is a pledge of the chairman of the subcommittee.

I believe we are now ready to proceed with amendments to the legislation.

Mr. RANDOLPH addressed the Chair.

Mr. SIMPSON. I am sorry. I yield to Senator Randolph.

Mr. RANDOLPH. Will the Senator yield to me? I will speak just very briefly.

Mr. SIMPSON. I will certainly yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I commend all the members of the Senate committee as they bring to this forum S. 2222.

There will be times during the discussion when this Senator from West Virginia, now speaking, and others may actively support amendments that will be offered. I ask at this time, if I may be permitted, not as one who has been in the hearings or who has gone through the process of intensive study, but as a concerned Senator among the 100 Senators, whether I may be listed as a cosponsor of S. 2222. I ask unanimous consent, Mr. President, to be so listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, one of the most gracious men in this Chamber, who was chairman of the first committee I served on in this body and who has been very attentive, helpful, and supportive in almost all the things I have been involved in. I deeply appreciate his asking to be a cosponor of this measure.

Mr. RANDOLPH. Mr. President, I am grateful for the Senator's words.

I had the pleasure of serving with Alan's father. I am going to use his name now, and it can be stricken from the Record later, if that is the proper procedure. There are Members of the Senate who do not know that Alan Simpson's father was a Member of this body for several years. The Senate changes in membership. New Members come and sometimes, understandably, do not know those Members who were here 10 or 20 years before.

So, when a father is succeeded here by his son, both constructive Senators, I wish to have that made part of my tribute, not only to the son but to the father as well.

I am delighted to know that the father is going to be celebrating a very wonderful occasion in Casper, Wyo., in a very few days. I wish I might be there with those friends who will salute him on that occasion.

Mr. President, it may seem that I go back too far, but I quote from the Farewell Address of George Washington. It was never spoken; it was written. In that address, our first President of the United States said these words:

> Citizens by birth or choice of a common country, that country has a right to concentrate your affections.

The word affection was used at that time perhaps more than now, but the word meant commitment. Washington spoke of commitment to a country—a country, of course, that was going to be peopled by native and naturalized citizens.

So, today, although this bill may not appear to have the national attention or impact that other measures have had in the past few days here, there perhaps is no more vital and crucial subject matter to be discussed and decided in the Senate than what we are now beginning.

So I commend not only the Senator from Wyoming (Mr. Simpson) but also the Senator from Massachusetts (Mr. Kennedy) and all those who have given painstaking study to this problem. I thank especially Senator Simpson, whom I have come to know, to respect, and to honor.

Mr. President, S. 2222, the Immigration Reform and Control Act is an urgently needed measure. The problems of uncontrolled immigration and illegal aliens are of great concern to citizens throughout our Nation. We are not unsympathetic to the plight of people who wish to come to this country and we will continue to be generous under S. 2222; but, we must as a nation secure control of our destiny.

The number of illegal immigrants residing in the United States is estimated at 3.5 to 6 million, and some experts have estimated a net growth of 500,000 new illegal immigrants per year. Current law cannot contain this problem because it is legal to employ aliens who are in the United States illegally. The major reason for illegal immigration is the prospect of employment in this country. Merely increasing levels of existing enforcement is unrealistic.

The procedure for granting political asylum to refugees reaching our shores is not working. It is increasingly used by immigrants seeking procedural delays to remain and work in the United States. There are currently five levels of appeals on asylum cases, which can take years to complete. In 1979, there were approximately 4,000 asylum cases pending; currently there are over 105,000 backlogged in various states of adjudication.

Finally, our programs for the admission of legal immigrants and temporary workers must be refined.

S. 2222 makes substantial progress toward resolving these problems. It contains provisions to prohibit the hiring of illegal aliens and imposes sanctions against employers who knowingly employ such persons.

It establishes a streamlined system to handle asylum cases and the cases of persons who attempt to enter this country with or without documentation.

S. 2222 also sets an annual ceiling on legal admissions to the United States of 425,000 per year. Unfortunately, this ceiling does not include refugees. In this regard, I am cosponsoring an amendment to bring refugees under this ceiling. This amendment is sponsored by the very able Senator from Kentucky (Mr. Huddleston) who has been a knowledgeable and active student in this field.

There may be other amendments to S. 2222 that I will support. However, this is a sound and reasonable measure and it is my sincere hope that the Senate will act affirmatively.

Mr. DOLE. Mr. President, the challenge presented to our Nation of immigrants as we attempt to assimilate hundreds of thousands of new entrants has caused us to question the vitality of our world reputation as a safe harbor and land of freedom and opportunity for the oppressed and homeless. It is a tribute to our free land and its citizens who extend their blessings to todays immigrants and refugees, that we continue to find strength in our ethnic and racial diversity as the globe's melting pot.

The economic, religious, and political freedom and opportunity sought by our ancestors is as strong a magnet today as it was in the early 19th century when waves of immigrants began to reach our shores. We must not forget that as we open our gate to the world, we invest in the future of our country, welcoming the many hard working and hopeful newcomers, most of whom develop strong community and patriotic ties and contribute to our Nation's strength.

The spirit of compassion that has marked our dealings with those who seek new roots here by staking their futures in our land is viewed by some as having been strained by the sheer overwhelming numbers of aliens entering our land for political freedom and family reunification.

Senator Simpson's characterization of a growing climate of "compassion fatigue" unfortunately describes the dilemma that this distinguished body faces in maintaining a reasonable level of legal immigration and controlling the mounting numbers of illegal aliens settling in the United States. Many, including the Attorney General, have concluded that we have lost control over our borders. Escaping detection, millions of illegal aliens have settled in communities throughout the land.

If the United States is to continue to preserve a stable economic and political sovereignty in the face of the multitudes yearning for freedom and opportunity, we must temper our compassion and generosity for those of other lands with a heartfelt concern for those legally here who must maintain the vitality and strength of our treasured way of life. The immigration laws of our land have developed with a recognition that there must be some reasonable limits to our generous open door policy, limits which can still make us the most welcoming nation in the world.

I support the fundamental values and judgments represented by this legislation. While we must keep the eternal flame at our gate held high, we should recognize that the strength and resilience of our way of life, the very things that attract the worlds' hopeful, must be weighed as we mold our Nation's immigration course for decades to come. Our immigration policy must be flexible and realistic enough to respond to world economic, population and political pressures that have pushed and pulled millions of migrants across the face of our Earth and have created a large subculture of illegal aliens in our Nation who submit

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to social and economic exploitation, often creating social instability.

The Senator from Kansas believes that legalization and sanctions against the hiring of illegal aliens are a realistic and effective means of exercising humanitarian concerns and regaining control over the enforcement of our immigration laws. Many of the millions of cowering illegal aliens, failing to report crime or disease and often subjected to exploitation, have sunk their roots here, and have become contributing community members.

If we expect to effectively enforce our immigration laws we must support stepped-up enforcement and focus on stemming the daily tide of aliens drawn primarily by jobs. The bill's prohibition against knowingly hiring illegal aliens is critical to eliminating the irresistable magnet of economic opportunity that attracts the illegal alien. The fear of apprehension and deportation alone has not deterred enough aliens.

S. 2222 represents a compassionate as well as pragmatic approach to a problem that faces every nation fortunate enough to have been blessed with freedom and opportunity. It is the product of a true bipartisan effort with a solid foundation laid by the findings of the Select Commission on Immigration and Refugee Policy, weeks of joint congressional hearings and the efforts of the administration's task force.

The carefully considered provisions of this omnibus bill represent a comprehensive and propitious vehicle to guide our immigration policy into the next century in the face of unprecedented world migration. It carefully balances the vital concerns for our Nation's economic and political welfare with a long and proud tradition of compassion for those who flee persecution to seek the blessings of our land as did our immigrant ancestors. I urge my colleagues to support Senator Simpson's legislation which represents a fundamentally compassionate and pragmatic blueprint for regaining control over immigration problems that must be laid to rest.

DOLE AMENDMENT TO S. 2222

The Senator from Kansas will introduce an amendment to strengthen provisions for the protection of personal information contained in any permanent worker verification system developed to enforce certain immigration laws and to encourage the utilization of available Federal and State identification system resources to avoid the development of a costly and redundant system to detect illegal aliens seeking employment.

Mr. MATTINGLY. Mr. President, my colleague from Wyoming, Senator Simpson, has done a masterful job of dealing with some significant and controversial issues inherent in any immigration reform bill. He should be commended for his knowledge, his dedication, and his enthusiasm for tackling this difficult task. The fact that the basic structure of immigration law is changed about once a generation attests to the immense difficulty of this task.

On Tuesday, March 23, I stood on the Senate floor and expressed my support for Senate bill 2222. The United States as a sovereign nation must insure the well-being of its people. While protecting our borders is essential, we have failed miserably to control illegal entry. There are currently between 4 and 6 million illegal aliens in our Nation's work force. This has an enormous negative impact on our own citizens and on the economic condition of our Nation.

The problem of illegal immigration is only one of the problems that we must deal with in this legislation. Under current law, 270,000 immigrants may enter for permanent residence annually. This is in addition to certain relatives of U.S. citizens and refugees designated by the President in consultation with the Congress. In 1980 alone, total immigration, including Cuban and Haitian entrants and Indonesian refugees, was estimated at more than 800,000. The United States admits more of the world's stock of 14 million refugees than any other nation.

Responsible immigration policy must be our goal. History has proven that our country is strong because of the diverse backgrounds of our people. Thirty percent of all U.S. Nobel laureates came to the United States as immigrants. Legal immigrant residents have contributed greatly to the strength of the Nation.

I am sure that the debate on many provisions of S. 2222 will be heated and controversial. I would urge my colleagues to remember that we must act in a manner which will insure that those who currently reside in America and those new Americans that will come to our shores in the future will be protected. As I have said before, Senator Simpson's bill, S. 2222, is fair and does not fatigue the compassion of America.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia.

I will communicate those remarks to my father, who will be "roasted" in Casper, Wyo., on August 17. His intellect is undiminished, although his physical limitations are severe, and he will be most appreciative of those remarks.

Mr. KENNEDY. Mr. President, I should like to inquire of the manager of the bill as to his reaction to a procedure I will offer at this time for the convenience of the Members of the Senate.

I have three amendments that relate to family reunification. Even though they are independent issues, they obviously are related to each other in this particular legislative proposal.

I suggest that I be able to offer the amendments seriatim, and we could talk about each one. We will have an opportunity ourselves to debate this issue, and we will have an opportunity to exchange our views on those issues. Then I would like to have a rollcall vote on each. I am prepared to vote on them together, for the convenience of the Senate and for the understanding of Senators. It would probably be in their best interests and in the best interests of public policy.

Mr. SIMPSON. Mr. President, the suggestion is a helpful one. We could deal with the amendment of immediate relatives, second preference, and fifth preference. They are all interrelated. We could handle them in that order.

Perhaps we could have 1 hour of debate on those amendments. A half-hour equally divided might do it. I like that suggestion.

Then we could have three rollcall votes of 10 minutes each in a series. I await some negotiation to be assured that that is agreeable to Members on this side of the aisle.

So, if the Senator wishes to proceed with the debate, we will seek an agreement on the three stacked votes a little later.

Mr. KENNEDY. Mr. President, why do we not proceed along that line, in consideration of the amendments, and then we can consider the time for the vote later?

AMENDMENT NO. 1997

(Purpose: To strike out provisions by which the number of available family reunification visas would be reduced by the number of immediate relatives admitted in the previous fiscal year)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 1997.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 25, strike out "three hundred and fifty thousand" insert in lieu thereof "two hundred and fifty thousand".

On page 122, beginning on line 1 with "(i)", strike out all through "residence," on line 5.

On page 122, line 6, strike out "(ii)" and insert in lieu thereof "(i)".

On page 122, line 8, strike out "such".

On page 122, line 9, strike out "(iii)" and insert in lieu thereof "(ii)".

On page 122, line 11, strike out "(iv)" and insert in lieu thereof "(iii)".

On page 124, lines 12 and 13, strike out "immediate relatives specified in section 201(b),".

On page 124, line 15, strike out "such".

On page 130, lines 19 and 20, strike out "immediate relatives specified in section 201(b),".

Mr. KENNEDY. Mr. President, what this amendment does is recognize that throughout our history we have considered it a basic right of an American citizen to bring his or her spouse and child without regard to ceilings and limitations, and I see no reason why we should abandon this principle now.

Mr. President, I believe the pending legislation takes a major step away from our Nation's historic commitment to the reunification of families as the fundamental objective of our immigration laws. For the first time in our history, this bill places an annual ceiling on all legal immigration—except for refugees. The spouses and children of American citizens will not come under a ceiling. Although they are given the highest priority and are assured of admission, their admission could come at the expense of other family reunification preferences.

Unless my amendment is adopted, we will seriously penalize the admission of families under the established preferences, creating backlogs where none exist, and making existing backlogs even longer.

Mr. President, the administration has indicated it supports the objectives of this amendment. In fact, it was contained in the amendments the administration forwarded to the subcommittee during our markup of the bill.

In addition, the Select Commission voted almost unanimously—15 to 1—in support of the provisions of this amendment. Let me read from the Commission's discussion of its recommendation on continuing the present system where some immigrants are numerically limited but certain others—such as immediate relatives—are exempt:

> Proposals have been made to the Commission which maintain that regardless of what number is set, all immigrants and refugees should be admitted under a total, fixed ceiling, with adjustments made within the immigrant categories as a result of any fluctuations in the number of refugee admissions each year. While attracted by the fact that a firm ceiling on total numbers of immigrants would facilitate planning, the Commission, nevertheless, concludes that the present system—under which a varying number of refugees may be admitted subject to Presidential/congressional consultation, and the immediate relatives of U.S. citizens and certain special immigrants are admitted outside of any numerical limitation—provides the proper flexibility to meet U.S. needs. Therefore, while favoring numerical limits on most groups of immigrants, the Commission recommends that, to allow for flexibility in refugee, immediate relative and special immigrant admissions, total U.S. immigrant and refugee admissions be subject to no total cap or ceiling.

Mr. President, I hope that this amendment will be accepted and I also point out again that it is consistent with the administration's position. When the administration testified before the subcommittee, for the reasons that I have mentioned and that is primarily the reunification of families, they had an identical position.

Mr. SIMPSON. Mr. President, right off the bat, we come to one of the critical issues that have to do with the title of the bill and that is control, and that is where we are with this amendment. Immediate relatives of U.S. citizens is the designation.

Now immediate relatives of U.S. citizens are not presently subject to any numerical limitation under our law.

Under S. 2222, they are not subject to any numerical limitation under our law but here is the condition: The bill does require, in effect, that if the number of immediate relatives increases, then offsetting reductions will be required in numerically limited family reunification categories.

The State Department has advised us in our previous hearings and debates that immediate relative admissions increase at the rate of 7,000 to 10,000 per year. That number may well increase after some of the newly legalized group—legalization is an important part of this bill—are naturalized. Presently 155,000 immediate relatives are admitted each year. It is the largest immigrant category and it is neither accounted for nor controlled.

So there are only two ways to achieve control over total legal admission of immigrants. We either impose a cap, and include immediate relatives in that cap, or we require offsetting reductions elsewhere while not restricting immediate relatives.

A U.S. citizen I do not think should be told that he cannot bring in his spouse or minor children. Therefore, we have chosen the second course. Unrestricted admission of immediate relatives with offsetting reductions against the total cap of 425,000.

So that is the essence of the argument in opposition to the amendment of the Senator from Massachusetts. I do oppose it because the amendment would very effectively simply remove the cap and, if there is one thing I sense in the debate at least in the past 2 or 3 years, it is that somewhere in this debate we will place a cap on legal immigration. As unfortunate or fortunate as we may believe that to be, a cap will be set.

So this amendment would effectively remove the cap. It would restore the present situation and it would prevent us from obtaining control over immigration. It is indeed the true opening, the true wedge in the control aspects of the legislation.

So those are our choices. That is why we arrived at this inclusion of immediate relatives, and I conclude my remarks for the moment.

Mr. KENNEDY. Mr. President, I am not opposed to putting caps on particular categories. We did that in the 1965 act. But I think it is important to note, as the Senator from Wyoming has pointed out, this will be the first time in our history where we have done it for immediate relatives, the spouses and children of U.S. citizens, and, as the Senator from Wyoming has rightfully pointed out, if we look at those numbers from 1976 through 1981 they have gone from 114,000 up to 151,000 in 1981. They are estimated to be 155,000 this year, and that is the figure in the bill offered by the Senator from Wyoming.

But as that figure increases and the 425,000 ceiling remains the same, it is going to mean that there will have to be a reduction in other categories.

The other categories relate to the reunification of families too. So we should be under no illusion about what the implication of this ceiling means.

Again, as I stated at the outset, I think on the issue of members of families we should be able to give the assurance to American families that under an immigration law there will be the opportunity for their reunification. And my concern is that, first of all, we have never limited this, and I do not think it is a wise thing to do—but second, I think it should be very clear to Members of this body, if we do not accept this particular amendment, we are deferring and delaying, if not perhaps for all intents and purposes, in some instances eliminating the possibilities of members of families to be reunified.

As I said, I know that the Senator has given this a great deal of thought and attention.

I point out, as I mentioned earlier, that the Select Commission supported this position 15 to 1 and that reflected a wide range of different opinions, both politically, ideologically, and from those who had strong differing views on other provisions of this act.

So that is what the amendment would do and that is the reason that I proposed the amendment.

Mr. SIMPSON. Mr. President, that is a fair resumé of the issue.

I think I would make one statement, that actually we do not place the cap on immediate relatives of U.S. citizens, but I do not want to get into sophistry of meaning. We do say that in this legislation we do not limit immediate relatives but we do indeed, as the Senator points out, then require offsetting reductions in what are other areas of the preference system that have to do with family reunification. But again immediate relatives of U.S. citizens, in the sense of a cap, are not within there, but, of course, those numbers

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are offset down in the numerically restricted preference system.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. SIMPSON. Yes; I yield to the Senator from Florida.

Mr. CHILES. It sounds to me as if the thrust of the bill is to say the debate really should be as to what the cap should be. But the whole idea of the cap, as I understand it, is that the people of this country are going to know how many people a year we are going to attempt to assimilate. If we have provisions not covered by that cap, then saying we have a cap is kind of meaningless, just as saying that we have a cap today is meaningless.

The cap today is 270,000. In 1980 we took in 800,000; the year before that, 1979 over 600,000. As we said, only since 1965 did we start having a family preference, and it is a growing thing. All of us support that, but we should recognize that it is growing. To say you are going to have a cap on immigration but that you are not going to cover the family in that cap may produce a situation where the exception will quickly be bigger than your cap. And it might just turn out that way if you really start thinking about it. It is as if you were saying "I only want my land and the land that borders on mine. That is all I want."

Well, it is the same thing. If we are going to allow a preference to everybody who has family, you just geometrically start measuring that. In the end, there is no restraint, unless you have an overall cap.

It would seem to me if we are debating how many people should come into this country, the debate necessarily should come on what the total number should be. But if you exclude the family, and members who come in under the family preference, then there is no way we have made any kind of constraint on what the total number would be.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. Yes.

Mr. BUMPERS. The Senator from Wyoming has said that while there is no cap on immigration of members of an immediate family of American citizens, there must be some kind of a cap or the Senator would not be offering his amendment. I do not understand that. The Senator from Wyoming has said that what the bill does is it does not limit the members of an immediate family that can come in but it reduces the overall cap of 425,000, is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. What is the effect of the Senator's amendment then?

Mr. KENNEDY. First of all, historically there never has been a cap on the immediate members of the families of U.S. citizens. But what the Senate has done under this legislation is to put an overall figure of 425,000, and put the immediate members of families within that 425,000.

The fact of the matter is there are only 155,000 who are coming now, and they get the first preference, so they will not be adversely affected in and of themselves because of what the historic trends may be because it may go up to 55,000 or go up 10,000 more, to 165,000. Maybe it will be 175,000 in another year. So for all intents and purposes for the next 20 years or so that particular group would never likely reach 425,000.

Once we see that group growing, what it does do is squeeze down the other categories, which are all family reunification categories as well.

Mr. BUMPERS. Does the Senator's amendment merely say there is some kind of a subceiling, is there not, on this first preference group—within 425,000 is there not a subceiling on how many can be members of the immediate family before you start squeezing other groups?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. What is that figure?

Mr. KENNEDY. 270,000.

Mr. BUMPERS. All right.

Is the effect of the Senator's amendment to raise that sublevel limit or to remove the cap?

Mr. KENNEDY. No. We would retain that level, we would retain that 270,000.

Mr. BUMPERS. But you would not squeeze the others.

Mr. KENNEDY. But you would not squeeze the others, that is exactly right. So we would retain the cap. We say, "Look, you say 155,000. All right, we will just take that group out and follow historic precedent and we will leave 270,000 for all the others." But at least we know that that is going to be the level for the future. Even within those categories, there will be some delay in family reunification.

It is not the contention of the Senator from Massachusetts just to eliminate 155,000 and say that is just going to be an open figure for whoever wants to come in here. What we are saying though is with regard to the families, the immediate relatives, they should not be included.

Mr. BUMPERS. Does the Senator have other amendments that do the same thing for other categories?

Mr. KENNEDY. No; the Senator will have two other amendments dealing with the existing second preference and the fifth preference. One deals with spouses and unmarried sons and daughters of permanent resident aliens. Under the Simpson proposal it says the nuclear family ends when you turn 21 years of age, even if they are unmarried sons and daughters that you cannot bring them to the United States. I think that works a particular hardship on some groups.

Mr. HUDDLESTON. Mr. President, if the Senator will yield, it does not say you cannot bring them to the United States. They are still eligible for immigration under the immigration laws of the land. We are not excluding them by that.

Mr. KENNEDY. You are excluding them for all intents and purposes.

Mr. HUDDLESTON. It does not make it automatic.

Mr. KENNEDY. If we can come back to the second and fifth in just a few minutes and deal with this one here, I think we might argue about that one.

Mr. BUMPERS. Let me ask one final question. We have an overall cap of 425,000 immigrants and refugees; is that correct?

Mr. KENNEDY. The refugees are outside.

Mr. BUMPERS. I guess I am thinking about the Senator from Kentucky's amendment. Refugees are outside of the 425,000.

Mr. KENNEDY. The refugee figure is outside. It is covered by the Refugee Act of 1980, and that has been outside. It has fluctuated from 19,000 in 1977 to 111,000 in 1979, but has basically averaged 50,000 over the past 20 to 30 years.

(Mr. SPECTER assumed the chair.)

Mr. BUMPERS. My question really is a hypothetical one that is certainly not likely to occur in the immediate future. But, under the Senator's amendment, is it conceivable that—the Senator from Wyoming said that there is no limit on how many members of an immediate family can come to the United States, emigrate to the United States. Now, what if the figure could conceivably exceed 425,000? Would that be permissible?

Mr. KENNEDY. Well, if they are immediate relatives, I think it is inconceivable that you would go in excess of 425,000. It is not conceivable to me that it would go in excess of 425,000. But in these other preference categories, we take unmarried adult sons and daughters of U.S. citizens. That is considered an immediate member of the family for the purposes of this definition.

Mr. BUMPERS. My question is: You do have a ceiling of 425,000 in the bill; is that not correct?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. Now, forget the amendment, under the bill—this, I recognize, is a wild assumption and not likely to occur, but just thinking for a moment—if we had 500,000 immediate family members who wanted to come to this country, would that be permissible under the bill?

Mr. KENNEDY. No; the answer would be no. If you had 500,000 wives and children of U.S. citizens, 75,000 would not be able to come to the United States because of the ceiling.

Mr. **BUMPERS**. But would 425,000 be eligible?

Mr. **KENNEDY**. The Senator is correct, 425,000 would be eligible, and that is all.

Mr. **BUMPERS**. What the Senator does is take the cap off on immediate family to this extent: You say that however many come in under that category, which is first preference, if it exceeds the subceiling level you cannot squeeze the other preferences in because of that excess; is that correct?

Mr. **KENNEDY**. That would be the effect of the amendment. What I want to do is just follow current law with regard to the immediate families.

Mr. **BUMPERS**. I thank the Senator.

Mr. **SARBANES**. Will the Senator yield for a question?

Mr. **KENNEDY**. Yes.

Mr. **SARBANES**. As I understand it, at the same time the Senator's amendment would exclude immediate relatives from the count against the overall figure, and it would at the same time lower the overall figure remaining for the other preference categories; is that correct?

Mr. **KENNEDY**. The Senator is correct.

Mr. **SARBANES**. And with respect to the other two amendments which the Senator has indicated he intends to offer, which I think involve important concern for the definition of family, I understand the Senator's amendments would count unmarried sons and daughters in the second preference category and unmarried brothers and sisters in the fifth preference category against any figure established for the preference categories; is that correct?

Mr. **KENNEDY**. The Senator is correct. So that there probably would be some delay, but at least they would be on a faster track system.

Mr. **SARBANES**. The amendment before us, which goes to the immediate family, as I understand it, is to maintain the existing approach under which that limited group is treated as being outside the preference categories with respect to the numbers; is that correct?

Mr. **KENNEDY**. The Senator is exactly correct. The history of our immigration laws is that immediate spouses and children of U.S. citizens have never been included in a ceiling. It is 155,000 now, but it is not expected to alter or change dramatically from that figure. But it will obviously go up in the years ahead.

Mr. **SARBANES**. Am I correct that, under the existing law, to be included in the immediate family category, means first of all the immediate family of an American citizen?

Mr. **KENNEDY**. The Senator is correct.

Mr. **SARBANES**. Not a permanent resident. So you must start with an American citizen. The immediate family then runs to the spouse of an American citizen, the children of an American citizen.

Mr. **KENNEDY**. Minor children.

Mr. **SARBANES**. The minor children of an American citizen and the parents of an American citizen; is that correct?

Mr. **KENNEDY**. That is correct.

Mr. **HART**. Mr. President, at some point in time, would the Senator from Wyoming or the Senator from Massachusetts yield me 3 minutes just for a general statement on the bill?

Mr. **SIMPSON**. I certainly will yield. Let me just respond to the inquiries of the Senator from Arkansas and the Senator from Maryland, then I will propose a unanimous-consent request and then I will slice out 3 minutes for the Senator from Colorado.

This is a very difficult issue of comprehension. I know, because I have been dabbling around in it for 3½ years. But let me say that there is no limit on immediate relatives in the United States right now. And there will be none in this bill.

I do not want it to be read that we are capping immediate relatives—we are not. We are, however, saying that that issue then, when we impose a cap, which we do in this bill of 425,000, and we include in that cap immediate relatives, we are not saying how many may come. Maybe 150,000 will come. But whatever the number is that comes, there will be a reduction in other preference categories down the list.

So I think that, for the purposes at least of debate, to say that there is a limitation or a cap on immediate relatives, that is just not so.

But the kicker is that if they come in great numbers, and I respectfully comment to the Senator from Massachusetts, as many could come to the United States as could possibly be numbered and there would be no limitation on them under present law. Right now, the numbers are in the figure of a 10-year attitude or feeling that it might increase 70,000 to 100,000 in 10 years, incrementally up in 20 years, and so on. But there is no limit right now to how many could come: 100,000 could come, 200,000 could come, 300,000 could come, and there is no limitation upon that whatsoever.

Mr. **BUMPERS**. Mr. President, let me ask the Senator this question: Is there a sublevel that the number that could come in before you deducted from other categories? Is there a 150,000 level for members of an immediate family before you deducted from some other preference within the 425,000? I want to be sure I am clear on that.

Mr. **SIMPSON**. Mr. President, the number that we have chosen is 155,000.

Mr. **BUMPERS**. So if 175,000 come, you have to take the 25,000 off the other categories?

Mr. **SIMPSON**. It would be after it reaches that figure.

Mr. **BUMPERS**. After 150,000?

Mr. **SIMPSON**. That we would begin to reduce the other categories.

Mr. **BUMPERS**. What the Senator from Massachusetts is saying is if they exceed 150,000, you will not deduct the excess from other categories.

Mr. **KENNEDY**. That would be the effect.

Mr. **BUMPERS**. Is that the effect of what he is trying to do?

Mr. **SIMPSON**. That would be the effect of the Senator's amendment.

Mr. **KENNEDY**. Mr. President, if I could just add one other point, because we have talked a good deal about whether this affects family reunification or whether it does not affect family reunification.

I just heard the statement of the Senator from Wyoming that we are really not affecting family reunification. Let me point out that unless you think that a brother or a sister is not a member of the family, you will be affecting family reunification under this bill. I will have more to say about that on the fifth preference later.

But I think it is extremely important for the Members of the Senate, whose attention has been diverted with the second supplemental and the debt ceiling and other matters, to understand that the position of the Senator from Massachusetts is that I am not opposed to caps. We wrote them in the 1965 act and I support them in this provision, with a certain very important exception—and that is with regards to the immediate spouses and minor children of American citizens, which have never been included in a ceiling.

But also understand, in this other preference category, under the bill that is before us, we have effectively excluded brothers and sisters of American citizens. To that extent, I will have more to say about it. But they, as far as I always thought, are members of a family.

THE NEED FOR IMMIGRATION REFORM

Mr. **PERCY**. Mr. President, I want to commend the members of the Senate Judiciary Committee, in particular the distinguished chairman, Senator SIMPSON, for their work in bringing to the Senate floor the Immigration Reform and Control Act of 1982, S. 2222. No one can deny that consideration of immigration law reform is long overdue.

In the last 5 years, total legal permanent admissions to the United States

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increased from a little over 450,000 in 1976 to 800,000 in 1980. In addition, the population of illegal immigrants residing in the United States at any one time has been estimated at between 3.5 and 6 million. Some experts have estimated a net growth of 500,000 new illegal immigrants per year since then. Apprehensions of illegal aliens, one measure of the flow of illegal immigrants, grew from 162,000 in 1967 to more than 1 million in 1977.

Perhaps the most important part of S. 2222 is title I which addresses the problem of illegal immigration. Its key provision makes it unlawful for an employer to knowingly hire an illegal alien, a measure I have long supported.

All independent, comprehensive studies of the problem of illegal immigration, including those by the previous two administrations, the present administration and the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of our immigration laws cannot be achieved by direct enforcement alone. It is, therefore, essential to reduce the incentives to persons who enter this country illegally.

S. 2222 takes the very necessary step of prohibiting the knowing employment of undocumented aliens. The bill also provides for increased border patrol and other enforcement activities.

Legal immigration control is also addressed by S. 2222. The bill puts an overall limit on legal immigration and reforms existing preference categories for both family reunification and independent immigrants. I have reservations about the proposed changes in the family reunification preferences. I intend to support amendments to reinstate the fifth preference category for unmarried brothers and sisters of adult citizens, and to retain second preference status for adult unmarried sons and daughters of permanent residents.

I do, however, believe we should have an overall limit on legal immigration. Obviously, there is no way this country can accommodate all persons who wish to immigrate here. The ever-increasing numbers of persons who wish to immigrate demand that we establish some limit. This bill takes a reasonable approach by not specifically limiting the number of immediate relatives that may be admitted under the first preference but does put a limit on total legal immigration with the exception of refugees who are admitted under a separate admissions system authorized by the Refugee Act of 1980.

Last, the bill provides for legalization of undocumented aliens already in this country within certain limitations. I support this part of the bill as the only solution to a serious problem. Legalization has three major goals: First, not to expend the efforts of the Immigration and Naturalization Service in locating and deporting those aliens who have settled in this country; second, to allow currently economically dependent employers to continue lawfully employing this pool of labor; and third, to eliminate this subclass of people who have little or no rights or protection under our laws.

I am, however, concerned about the projected costs of the legalization program to not only the Federal Government, but State and local government as well.

I have several other concerns about the bill and possible amendments to it.

I do not support the amendment that will be offered to place refugees under the same numerical ceiling with other legal immigrant categories and intend to speak at more length when it is offered.

I am also concerned about the elimination of judicial review of asylum class actions and the potential for discrimination against minority groups and will give close and careful review to amendments offered to address these concerns.

On balance, Mr. President, I support S. 2222 and urge my colleagues to do so as well.

Mr. SIMPSON. Mr. President, may I state the unanimous-consent request which I believe has been agreed to on both sides of the aisle?

I ask unanimous consent that there now be 40 minutes of debate on three Kennedy amendments dealing with family preference, all three amendments to be debated during the 40-minute period, and that there be three back-to-back votes on those amendments at the conclusion or the yielding back of time, with the first vote to be 15 minutes and each succeeding vote 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. That is satisfactory.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Since I have the floor, Mr. President, I yield now on a separate time schedule for 3 minutes to the Senator from Colorado—is that a different matter?

Mr. HART. It is a general statement on the bill itself.

Mr. SARBANES. Is this time being yielded from the bill?

Mr. SIMPSON. There is no time limit on the bill.

Mr. SARBANES. Mr. President, I ask unanimous consent that the time used by the Senator from Colorado not be charged against the time agreement with respect to the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. The Senator has not called up his amendment.

The PRESIDING OFFICER. The first amendment has been called up.

Mr. HART. Mr. President, I thank the Senator from Wyoming for his indulgence.

Mr. President, the distinguished Senator from Wyoming and his colleagues in the Senate and the House have made a tremendous effort to modernize our immigration laws. To a large extent, many of us believe they have succeeded, and the bipartisan support the bill has attracted is testimony to their efforts.

However, a number of us are very concerned that several provisions of the bill as it now stands do not provide adequate safeguards against possible hiring discrimination against American citizens, nor adequate provision for due process of law in class-action suits involving refugees.

I plan to support Senator KENNEDY's amendment to require monitoring of the employer sanctions provision over the next 3 years, and to provide for GAO and Civil Rights Commission participation in the monitoring process. I also plan to support efforts to insure judicial review for class-action suits in refugee asylum cases.

In addition, I am concerned about a possible amendment which would permit State and local law enforcement officers to assume immigration enforcement responsibilities which are the proper prerogative of the INS. This amendment is strongly opposed not only by civil liberties and Hispanic organization, but by the Police Executive Research Forum, which believes local police involvement in enforcing immigration laws would harm already tenuous police-minority relations and strains limited local resources.

We also need to waive the 2-year foreign residency requirement for students with critical skills. William Perry, former Under Secretary of Defense for Research and Engineering, has estimated in 1985, U.S. colleges will produce only 15,000 electrical and computer engineers, while the market will require 51,000 such graduates. I plan to support Senator KENNEDY's efforts to amend the bill in this area; labor certification requirements will insure that no American jobs will be at risk.

Finally, I am concerned that State and local governments should not be saddled with any financial burden that may result from passage and implementation of this bill. I will therefore support reasonable efforts to reimburse States and municipalities for financial costs incurred as a result of the legislation program.

Beyond these issues and in the long run, I have serious reservations about the practical effects of both current law and this bill. Immigration is a domestic problem, but it is also a foreign affairs problem, an international relations problem. More comprehensive solutions to immigration problems than those contained in current or proposed legislation must ultimately be developed with the cooperation—and participation—of other governments.

For example, proposals which would provide tax and investment incentives to American and Mexican firms willing to locate in the five northern States of Mexico, from which most undocumented Mexican aliens come, in return for increased Mexican efforts to direct citizens from those states to local industries, warrant serious consideration. A consistent human rights and foreign policy in the Caribbean Basin would facilitate intergovernment action on immigration problems. Examination and development of long-term proposals such as these should be the next step in immigration policy reform.

In the meantime, Mr. President, all of us add a word of thanks and congratulations to those who have spent such a considerable amount of time in fashioning this legislation before us.

I thank the Senator from Wyoming.

Mr. SIMPSON. I thank the distinguished Senator from Colorado, with whom I have worked so closely for so long, for his comments.

I might say, Mr. President, that indeed we will address each of the issues raised by the Senator, if not here then in future revisions of the Immigration and Nationality Act.

Now, Mr. President, I believe we are back within the scope of the time agreement, 20 minutes on each side. I yield myself 2 minutes. I want to return to the issue of the immediate family and the cap.

It is not pleasant for any of us to consider reducing the numbers for other categories, but we have a choice here of either attempting to reduce the increases in immigration, as apparently it is clearly indicated the American people wish to do, or not trying to do that and allowing immigration then to increase in a nonaccounted for area, increase by numbers where we really do not know what the numbers will be, but we know they will be larger with any legalization process, or they will get larger.

Our feeling throughout that the issue was, if we are going to take care of immigrants, let us take care of spouses and minor children of U.S. citizens. That is what we do in this bill because we put no limit on that. But whatever number of spouses and minor children of U.S. citizens come, whatever those numbers, they are not heavy enough to impede in any way on a figure of 155,000. But whatever they are, they will go under the cap and as that cap is set we will then have to reduce the areas of the other preferences.

That is the issue. It did come before the Select Commission on Immigration and Refugee Policy. It was a serious debate in the Select Commission.

In that time that we debated it, the vote was 15 to 1 against an absolute cap, but the bill did not contain an absolute cap on immediate relatives.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMPSON. I yield myself 1 additional minute.

I would repeat, then, that this bill is not inconsistent with the Select Commission's recommendations because there is no absolute cap set on immediate relatives. There is, as I say as clearly as I can, a reduction on the preferences below, when and if that time should come.

I emphasize again that the cap, by that definition, is not there.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to set aside my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1951

(Purpose: To accord a second preference in the allocation of family reunification visas to qualified immigrants who are the adult unmarried sons and daughters of permanent resident aliens)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1951.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 126, strike out lines 3 through 14, and insert in lieu thereof the following:
>
> "(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).".

Mr. KENNEDY. Mr. President, in this second category we have talked about earlier, we have altered the second preference in a way that says that if an individual is here as a permanent resident alien—for example, admitted here into the United States because they have certain skills for employment in the United States—we are putting a limitation which has not existed heretofore on their ability to bring their children to the United States. The bill establishes a cutoff in the legislation at the age of 21. My amendment just says that they can bring unmarried sons and daughters, without regard to age.

This amendment simply restores the existing terms of the second preference immigration category.

I support the efforts by my distinguished colleague, Senator SIMPSON, to increase the numbers available for this preference—to help relieve some of the enormous backlogs that have developed especially in Mexico.

However, I think it was unnecessary to limit the admission of unmarried sons and daughters to those who are under 21 years of age. According to the committee's report,

> The elimination of unmarried sons and daughters over 21 reflects the committee's view that the limited visas available for this preference should be used to reunite "nuclear families."

Mr. President, I do not know of any legal definition of what a "nuclear family" is, but commonsense and past practice tells us that simply because a son or daughter reaches 21 he does not leave the nuclear family—especially if he is unmarried.

If this provision in the bill is left to stand, we will have established a preference that will divide families, rather than uniting them.

I agree with the provisions of current law, that sons and daughters of permanent resident aliens who are married should be assumed to have left the nuclear family. But it is totally unjustifiable to say that simply because a son or daughter turns 21 he should be barred from living with his family in this country.

Again, I think it is an issue of family unity. I think most of us would say that once the individuals of a family are married, then they are no longer immediate family members. Make no mistake about it, Mr. President, with the limitations and the caps that have been placed in this bill, unless we do this, what we are saying to those unmarried sons and daughters is that they just will not be able to be reunited with their families if they turn 21. This amendment would address that problem. We recognize that if they are married, they have a different situation.

We understand that those who would be affected are about 25 percent of the second preference category.

I want finally to point out that we are not increasing the 270,000 cap, so that they would have to be in line with others. But at least, they would not be denied the ability to be reunited.

Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, there is only a limited number of visas available for family reunification for permanent residents. Therefore, it is the feeling of the subcommittee and the full committee that visas should be reserved for reuniting the very closest family members—those who are most likely to live together in the United States. The legalization program will bring additional heavy pressures for visas in the second preference—aliens who will be legalized if this bill should pass within the permanent resident status—that type of legalization. They will petition, then, for family members under this second preference. Indeed they will. By limiting this preference to spouses and children, there is some assurance that permanent residents will be able to bring in their immediate families.

An expansion of this preference under this amendment would simply mean that children of permanent residents may have to wait in line for many years. That may result in new illegal immigration, since the immediate family is always most unlikely to stay separated.

We have tried to avoid those periods of separation and here, as with the fifth preference, aliens on the second preference waiting list as of March 1, 1982, who do not fit the new definition—the old group includes the adult or married sons and daughters of permanent residents—would retain their preference under a savings clause. That would be as of the date of the approval of their visas. So, again, it was one of those choices which one finds painful at the time. But if we are going to put a cap on—and, as the Senator from Massachusetts has said also, there is a cap coming; we know that; we knew that in the Select Commission. We have known it in this legislation. Then we have to find priorities within the cap. Here, we think, is a way to do that when we reserve those for reuniting the closest family members in that procedure.

I thank the Chair.

Mr. SARBANES. Will the Senator yield, Mr. President?

Mr. KENNEDY. Yes; I yield on my time.

Mr. SARBANES. Mr. President, I support the amendment offered by the Senator from Massachusetts. It seems to me that the response made by the able chairman of the subcommittee, and I join with others in commending the extraordinary effort he has given to developing this legislation, really ends up defining the family unit in a way that is inapplicable to the concept of the family held not only by recent immigrant groups but also by many Americans of long lineage in this country. It seems to me one of our great strengths as a nation, if we can maintain the concept, is the broader definition of the family unit which is contained in the amendment offered by the Senator from Massachusetts.

Mr. President, we should be clear about one thing. This amendment does not involve any additional numbers so it does not carry with it any question that the numbers would be increased. It simply includes within the preference—here we are talking about the second preference—unmarried sons and daughters. I submit that they ought to be regarded as members of the family unit.

I think one of the undesirable trends that has taken place in this country is a narrowing definition of the family unit and the resultant concept of the nuclear family, which loses any sense of a broader family network and the reciprocal reinforcement to its numbers in terms of support and assistance provided to one another which comes from that view of a family.

If this amendment carried with it additional numbers, I could understand the concern of some. It does not do that. And I understand that the other amendment to be offered by the Senator with respect to the fifth preference will not increase the numbers, either.

Therefore we ought to maintain the concept which now exists in the law and I hope the Senate will support the amendment which has been offered by the Senator from Massachusetts.

I believe any parent wishing to be joined by an unmarried son or daughter, would naturally consider them part of the family unit. The Senator's amendment concedes that if they were married, a different situation would be obtained. I gather that same distinction is carried over in the proposal to be made with respect to the fifth preference, which actually would be an adjustment in the existing law with respect to fifth preference. It is important to note this distinction on the basis of marital status with the idea that if you are married you have set up a separate family unit and receive different treatment.

Mr. SIMPSON. Mr. President, the number available for family reunification categories is limited. If the second preference is to include adult sons and daughters, then the result is inevitable, because a permanent resident will bring in an adult son or daughter, and when they do bring in an adult son or daughter, some other permanent resident will not be able to bring in his minor son or daughter.

The issue is this—and I address the questions back to the perceptive Senator from Maryland—does an adult son or daughter need the care and attention of a parent as does the minor child? That is what we were trying to assure by the amendment within the bill.

Mr. SARBANES. Will the Senator yield on that point? As I understand it, with the numbers provided here, within a reasonable period of time we would be able to accommodate all of the unmarried sons and daughters, whether minors or not.

Mr. SIMPSON. Mr. President, married sons and daughters were always omitted from this preference. They were never in it.

Mr. SARBANES. I am not talking about married sons and daughters. I am talking about unmarried sons and daughters, whether minors or not, and making the point that, as I understand it, with the numbers provided in the committee bill—which are not changed by this amendment; they are not increased—we would be able to communicate within a reasonable period of time all such unmarried sons and daughters, whether minor or not, that is, whether below or above the age of majority.

Mr. SIMPSON. Mr. President, the issue dovetails in with what we did with the fifth preference in the bill, thich is elimination of it except to take care of the backlog which is there, which is now about 700,000 people. We then opened up the second preference; from a previous percentage of entire legal immigration which was 26 percent of 270,000, we now open that up to 65 percent. The reason for doing that is to try to take care of some of the problems that come from the elimination of the fifth preference, which is brothers and sisters of adult U.S. citizens. And even though I may not directly address the Senator's concerns at least it gives the Senator the rationale as to why the fifth preference and the second preference are addressed together.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SIMPSON. I will.

Mr. SARBANES. What is the waiting list on the second preference; what is the time period?

Mr. SIMPSON. The time as of clearance of applications in second preference? I can get that information for the Senator.

Mr. KENNEDY. If I may directly respond to the question of the Senator from Maryland, he is exactly correct. There are only three or four countries where there is a waiting list at the present time. We are increasing the percentages for second preference from 26 percent to 65 percent of the 270,000 ceiling, so we are making an adjustment to deal with those particular backlogs. I think the point that has been taken by the Senator from Maryland is certainly an accurate one. We would not expect that there would be any unreasonable delay. I think the

Senator from Maryland has stated the reasons well.

Mr. SIMPSON. Mr. President, I cannot give the Senator the numbers of human beings, but I can give the Senator the dates with regard to the waiting period in second preference: Mainland China, January 1982; Jamaica, November 1981; Korea, January 1982; Mexico, May 1973; Philippines, April 1979; Hong Kong and the Colony, February 1977. I cannot furnish the numbers, but those are the figures of the waiting period.

Mr. SARBANES. Are those the only countries with waiting periods?

Mr. SIMPSON. In the second preference?

Mr. SARBANES. Yes.

Mr. SIMPSON. That is correct, under the system now.

Mr. SARBANES. Then I submit to the distinguished chairman of the subcommittee that the conflict which he posited only a few minutes ago with respect to second preference as between unmarried sons and daughters in a minor status and unmarried sons and daughters who have reached the age of majority is not a conflict which exists in the current law with respect to almost all countries.

Second, if we are going to make a change in the fifth preference—and we will address that in a moment; as I understand it your proposal eliminates it altogether, and the Senator from Massachusetts addresses part of that—we will still get a shift in the percentages available in the second preference, which again lends some assurance that this conflict will not arise.

In light of that, it is very difficult for me to see what the argument is against the amendment offered by the Senator from Massachusetts.

Mr. SIMPSON. Mr. President, may I inquire as to the time remaining?

The **PRESIDING OFFICER.** The time remaining is 10 minutes and 13 seconds on the Senator's side and 11 minutes and 45 seconds to the opposition.

Mr. HUDDLESTON. Will the Senator yield me 1 minute?

Mr. SIMPSON. I will yield to the Senator from Kentucky.

Mr. HUDDLESTON. I suggest that there is one element that is being somewhat overlooked. If we are talking about the potential pressures that may build up of adding the legislation number to the family reunification numbers that would exist otherwise—then once these persons are made legal residents and achieve permanent resident status, all of them and all of their families become immediately eligible for this particular category. And while no numbers are involved as far as the ceilings are concerned, the additional numbers that would be built up, we would be under very heavy pressure in short time to do something about the big backlog that would occur.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. SIMPSON. I yield an additional 30 seconds to the Senator.

Mr. HUDDLESTON. I yield back the time.

Mr. SIMPSON. Mr. President, I would direct this to the Senator from Maryland. We are told that the number available in the preference categories will decrease as the number of immediate relatives increases. That I think we could call a given. The number legalized may well be in the millions. If legalization takes place under this bill, and we designate that people who came here prior to January 1, 1977, as permanent resident aliens who will therefore have the opportunity to seek to bring in their relatives, the Senator may be assured that that figure may well be in the millions. Therefore, I think whether we have numbers today that one can draw on or refer to, it is only unrealistic to expect that backlogs will not increase heavily in the future under the new system.

Mr. SARBANES. Will the Senator yield on that point?

Mr. KENNEDY. I yield 2 minutes.

Mr. SARBANES. If the number, as the Senator from Wyoming asserts, is going to be in the millions, then, of course, we are going to have tremendous waiting lists in any event, any way we look at it—if that is a correct assertion. It seems to me then that the scheme proposed by the committee will not under any circumstance enable us to avoid the difficulties mentioned by the Senator. Given that situation, it is better to maintain the view of the family reflected in the amendment of the Senator from Massachusetts.

Otherwise, what you are doing, is imposing a definition of the family, again without any benefit on the overall numbers, that does not reflect the close family relationship which exist in many instances—relationships which we should seek to enhance and maintain.

I think it is a good thing for the family unit to be brought together. What we are talking about here are unmarried sons and daughters and parents who wish to reunited with one another and in the fifth preference are talking about unmarried brothers and sisters wishing to be reunited with their siblings.

Mr. KENNEDY. Mr. President; how much time do I have?

The **PRESIDING OFFICER.** Ten minutes and 7 seconds.

AMENDMENT NO. 1998

(Purpose: To allocate visas for qualified immigrants who are the unmarried brothers or sisters of certain citizens of the United States and for certain immigrants qualifying under the previous fifth preference category)

Mr. KENNEDY. Mr. President, under the previous agreement, I ask unanimous consent that the amendment before the Senate be temporarily set aside, and I send an amendment to the desk.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1998.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 126 with line 22, strike out all through line 6 of page 127 and insert in lieu thereof the following:

"(4) Unmarried brothers and sisters of citizens and previous fifth preference.—

"(A) Qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, and

"(B) qualified immigrants who (i) as of the date of enactment of the Immigration Reform and Control Act of 1982 had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date, and (ii) continue to qualify under the terms of this Act as in effect on the day before such date.

shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).".

Mr. KENNEDY. Mr. President, the purpose of this amendment is to recognize that the fifth preference, which under existing law provides for the reunification of brothers and sisters of U.S. citizens, would be modified to permit the reunification of brothers and sisters of U.S. citizens if they are unmarried. This, I think, is a very modest adjustment to what I consider an extremely unfortunate action to eliminate entirely the possibility of brothers and sisters of American citizens to be united.

Following the logic of the earlier amendment, this amendment is very limited in stating that it will restore the fifth preference for the admission of brothers and sisters of United States citizens, but limiting it to unmarried brothers and sisters.

I know my distinguished colleague, Senator SIMPSON, will recall from our service on the Select Commission, that this issue was one of those on which the Commission was deeply divided. A

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majority—nine commissioners—voted to maintain the existing fifth preference, and seven commissioners voted to limit it to unmarried brothers and sisters.

I voted to keep the preference as it is, and the Senator knows that I offered similar amendments during the subcommittee and full Judiciary Committee markup of this bill.

I would like to see us restore the fifth preference as it is under current law. However, in a spirit of compromise—and to acknowledge the concerns of many that this preference should be limited in order to give greater numbers to more immediate family reunion categories—I am offering an amendment that allows at least unmarried brothers and sisters to join their families here.

I believe it would be wrong to totally close the door to all brothers and sisters, as this bill does. The fifth preference represents an essential element in the family reunification goals of several communities in our society—especially Asian families—whose opportunity to take advantage of this provision began only after the 1965 reforms, which removed the racist national orgins quota system. Now, just 17 years later, we are again closing the door.

Mr. President, if we limit fifth preference to unmarried brothers and sisters, the demand for numbers would be considerably smaller than they are now—only 17,000 persons a year. This is hardly a significant number, and will not result in the huge backlogs that have developed in recent years.

In any case, I do not believe the existence of a backlog in a certain immigration category should be the basis for eliminating it. We should judge the category on the merits, whether it serves to foster family reunification.

Eliminating the fifth preference entirely, as this bill does, is contrary to those family reunification goals, and I hope the Senate will support my amendment to restore the opportunity for unmarried brothers and sisters of U.S. citizens to join their families in our country.

For many reasons which have been pointed out in the discussion of the earlier amendment and for the reasons I outlined in my opening statements, if we do not accept this amendment, we are placing an extremely harsh and unfair burden on those families who were severely and adversely affected prior to the enactment of the 1965 act, which were limited by the national origins quota system and the Asian Pacific triangle, and who have not had the opportunity that other groupe have had in our society to be able to reunify their families in the United States.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. CRANSTON. Mr. President, I compliment the Senator on these amendments. He has a number of amendments which I believe have a great deal of merit.

I am very interested in the fifth preference amendment. In terms of justice, equity, compassion, and commonsense, it should be supported, and I hope it will be.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 8 minutes and 17 seconds, and the other side has 4 minutes and 32 seconds.

Mr. SIMPSON. Mr. President, this has been a difficult portion of the legislation; but I remind Senators that the fifth preference backlog is now nearly 700,000 persons. That is more than three times the 1978 level. That backlog is going to continue to grow, under this amendment.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. I will yield for a question, for 30 seconds. I have a limited amount of time.

Mr. BOSCHWITZ. Then, I will wait until the Senator finishes his statement.

Mr. SIMPSON. I appreciate that. I have 8 minutes.

The backlog is going to continue to grow, under this amendment.

It should be recalled that less than half of that backlog was the brothers and sisters of U.S. citizens themselves. The rest are the spouses and children of those brothers and sisters. We do intend to clear up the existing backlog.

That date should be amended from March 1 to April 9, which I think is a more appropriate date, because that was the day the subcommittee fully addressed that issue, and that would mean an extension of the fifth preference—as to those who have been approved for fifth preference as of April 9, rather than March 1.

Those backlogs are most desirable, as they create continuing pressure for private bills—if you look, you will see where we have gone with that over the years—remedial legislation, and illegal entry.

So the issue is back to this: If numbers are made available for brothers and sisters of U.S. citizens, these numbers will be taken away from the closer family members—that is, spouses, sons and daughters of permanent resident aliens, and married sons and daughters of U.S. citizens.

The committee decided that it was preferable to make the limited visa numbers available to the closer family members. That is what we had to do throughout the situation, because of one thing—we know that a cap is coming. There is no question—I doubt that anyone in this Chamber or within hearing of my voice knows—that we are going to put a cap on legal immigration.

When we do, the sorting process gets tough. So throughout in what we did with S. 2222 was recognize who should be reunited first and we felt it should be the very closest family members. I hate to use that definition "nuclear family." It has all sorts of connotations for me with my other duties. But what we do define it as is a spouse and minor children. That is unfortunate perhaps but in hearings it was clear that the American definition of a nuclear family includes a spouse and minor children. It certainly does not fit an Asian definition of a nuclear family, and that is painful indeed.

So what we are doing throughout and what we did throughout was try to see that we reunited the closest family members first, and that minor children would be recognized first in these situations and that adult children would take a lesser position in the squeezed categories that are going to come under a total cap. Those were the reasons.

The date I mentioned as a proposed amendment of mine at a later time will be the one that the committee proposed. It was either the April date or May 27, and we will have that defined carefully at the time of the amendment.

I thank the Chair.

Mr. BOSCHWITZ. Mr. President, will the Senator now yield for a question?

Mr. SIMPSON. I yield.

Mr. BOSCHWITZ. The Senator talked about 700,000 backlog. This amendment, as I understand it, really does not apply to approximately 79 percent of that backlog. This amendment applies only to adult unmarried brothers and sisters. Is that correct?

Mr. SIMPSON. Excuse me. Will Senator BOSCHWITZ state that again?

Mr. BOSCHWITZ. I say this amendment by the distinguished Senator from Massachusetts applies only to adult unmarried brothers and sisters, is that correct?

Mr. KENNEDY. Just unmarried brothers and sisters. It can be minor or over 21.

Mr. BOSCHWITZ. Right. That is correct, is it not?

Mr. SIMPSON. That is correct.

Mr. BOSCHWITZ. And really the question and numbers of the fifth preference has come from married brothers and sisters arriving and then the spouses bringing in their relatives under either that or other preferences as well but particularly that preference.

So I support the Senator from Massachusetts. This is a relatively narrow increase in the definition as he has it. As I understand the objectionable parts of the preference that the Senator and I have talked about really come from the relatives of the married brothers and sisters.

Mr. SIMPSON. Mr. President, we have been advised it is maybe a higher figure, that perhaps as many as half within that preference are spouses and children of such brothers and sisters. But I am not able to furnish the numbers at this time.

Mr. BOSCHWITZ. Is the Senator saying that the unmarried brothers and sisters of U.S. citizens that this amendment applies to are half of the 700,000? I believe it is a very small fraction.

Perhaps I should address that question to the proponent, the senior Senator from Massachusetts.

Mr. KENNEDY. The Department of State has given us the figure of 17,000.

Mr. BOSCHWITZ. I thank the Senator.

Mr. SARBANES. Mr. President, will the Senator from Massachusetts yield me time?

Mr. KENNEDY. I think we have about 4 minutes remaining; is that correct?

The PRESIDING OFFICER (Mr. QUAYLE). The Senator has 4½ minutes remaining.

Mr. KENNEDY. I yield 2 minutes.

Mr. SARBANES. Mr. President, I rise in support of the amendment.

I point out to the distinguished chairman of the subcommittee that the existing law, and I hope he will correct me if this is not accurate, permits in the fifth preference both the unmarried and married brothers and sisters of a U.S. citizen. Is that not correct?

Mr. SIMPSON. That is correct, brothers and sisters of adult citizens?

Mr. SARBANES. The amendment of the Senator from Massachusetts is limited to unmarried brothers and sisters. So whatever problems there have been with the backlog, which is the issue that the Senator from Minnesota was touching upon, they are primarily the consequence of the numbers connected with married brothers and sisters of U.S. citizens. This would not arise on the basis of the amendment of the Senator from Massachusetts, which deals only with the unmarried brothers and sisters.

I give a hypothetical case of 25-year-old American citizen who has no parents, and no other brothers and sisters except one whom he wishes to bring into the country one who is unmarried and has not yet started his own family in some other place.

It seems to me that we should maintain the fifth preference for that sort of situation. It again goes back to the fact that these are unmarried brothers and sisters. They have not begun a family elsewhere and they are the unmarried brothers and sisters of an American citizen. Again, the inclusion for continued eligibility under the fifth preference does not raise the figures. They are still subsumed within the overall figure placed on the preference categories.

It seems to me that this is a very reasonable and indeed modest proposal. The Senator from Massachusetts has indicated that a reliable estimate of the numbers we are talking about would be 17,000 in total to cover the unmarried brothers and sisters of American citizens and to continue, thereby to unite that family unit. It is a very narrow definition of the family that would preclude uniting an American citizen with his unmarried brother or sister.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. SIMPSON. I will use the remaining time on this.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. SIMPSON. I will just say that, even with this amendment, we will still be giving up visas which would go to closer family members. And I am intrigued by the Senator from Maryland with his thoughtful approach to things, as I have learned it in this body. Indeed he is right. That is a reasonable approach. I do not choose to make it a substitute for the amendment by the Senator from Massachusetts. We shall see what occurs with that amendment, but I have been intrigued with the proposal of making it applicable to unmarried minor brothers and sisters or as the House of Representatives has discussed, even up to the age of 27. That is intriguing to me, but it does not fit well in this debate in context with this amendment.

Mr. KENNEDY. Mr. President, we have concluded the time on all three amendments but there is an underlying theme in all three of my amendments. That is, in the 1965 act we acted to recognize the importance of the family and the family unit, with secondary provisions with regard to the admission of skilled workers. But it was the family and family unit that was our priority. As this bill has come out of the committee I think we have eroded and weakened that priority.

We who support this amendment recognize that there has to be something done about the fifth preference. We have recognized that. That is where the principal backlog has been. That is why rather than restoring the fifth preference in its entirety we have limited it to the reunification of unmarried brothers and sisters with American citizens. We have also recognized the importance of permitting children to be reunited with their family, and not be prohibited because they turn 21. Third, this idea of the reunification of the family will be weakened because of the inclusion within a rigid ceiling for the first time in our history of immediate relatives of American citizens.

I think that is a significant and important retreat upon what I consider to be the commitment of the American people to family reunification. Yes, we have to do something about the flow of people coming into this society. We cannot deal with all of those who want to come here, but I think the American people feel strongly that we should not compromise on the importance of the family unit. That is the underlying theme in all three of these amendments, and I am hopeful they will be accepted by the Senate.

Mr. SIMPSON. The remaining time, Mr. President?

The PRESIDING OFFICER. Twenty-eight seconds to the Senator from Wyoming.

Mr. SIMPSON. Indeed, the underlying theme is the historic commitment of family reunification and immediate family, and we meet that here, especially the immediate family, and we meet the other one, too, spouses and minor children.

Where we make our difference is we think they should take precedence over adult brothers and sisters, and what has happened to change the attitude of the past is that a cap on legal immigration is imminent.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator yields 37 seconds?

Mr. KENNEDY. I yield back 37 seconds.

Mr. SIMPSON. I shall yield back my 1½ seconds.

The PRESIDING OFFICER. Eight seconds.

VOTE ON AMENDMENT NO. 1997

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 70, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—30

Biden
Boschwitz
Bradley
Bumpers
Cannon
Chafee
Cranston
D'Amato
Dixon
Dodd
Eagleton
Glenn
Hart
Hayakawa
Inouye
Kennedy
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Proxmire
Riegle
Sarbanes
Specter
Tsongas
Weicker

NAYS—70

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Brady
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Cohen
Danforth
DeConcini
Denton
Dole
Domenici
Durenberger

East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Heflin
Heins
Helms
Hollings
Huddleston
Humphrey
Jackson

Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Percy
Pressler
Pryor

Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

So the amendment (No. 1997) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1951

The PRESIDING OFFICER. The pending business before the Senate is amendment 1951 offered by the Senator from Massachusetts. This will be a 10-minute vote. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—37

Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Cranston
D'Amato
DeConcini
Dixon

Dodd
Eagleton
Glenn
Hart
Heflin
Heins
Inouye
Jackson
Kasten
Kennedy
Leahy
Levin
Matsunaga

Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Percy
Riegle
Sarbanes
Specter
Tsongas
Weicker

NAYS—63

Abdnor
Andrews
Armstrong
Baker
Baucus
Brady
Burdick
Byrd,
Harry F., Jr.
Chiles
Cochran
Cohen
Danforth
Denton
Dole
Domenici
Durenberger
East
Exon
Ford
Garn
Goldwater

Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn

Packwood
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

So Mr. Kennedy's amendment (No. 1951) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1998

The PRESIDING OFFICER. The question now is agreeing to amendment numbered 1998 of the Senator from Massachusetts. The yeas and nays have been ordered. The clerk will call the roll. This will be a 10-minute vote.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 41, nay 59—as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—41

Bentsen
Biden
Boschwitz
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
D'Amato
DeConcini
Dixon
Dodd

Domenici
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Heins
Hollings
Inouye
Jackson
Kasten
Kennedy
Leahy

Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Percy
Riegle
Sarbanes
Specter
Tsongas
Weicker

NAYS—59

Abdnor
Andrews
Armstrong
Baker
Baucus
Boren
Brady
Burdick
Byrd,
Harry F., Jr.
Cochran
Cohen
Danforth
Denton
Dole
Durenberger
East
Garn
Goldwater
Gorton

Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn

Packwood
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

So the amendment (No. 1998) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. GLENN. Mr. President, my vote earlier today on the third Kennedy amendment (UP 1998) to S. 2222, rollcall vote No. 314 was inadvertently not recorded. I therefore ask unanimous consent that the Journal and the Record be corrected to record that I voted "aye."

The majority leader has approved this. He was on the floor, but he had to leave the Chamber.

Mr. President, I ask that this appear in the Record at a point not interfering with the present debate.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

(The foregoing vote has been changed to reflect the above order.)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield to the distinguished majority leader.

Mr. BAKER. I thank the Senator from North Carolina.

CONFERENCE REPORT ON H.R. 5930

Mr. BAKER. Mr. President, I wish to make an announcement.

I have been approached by Members who are urgently interested in doing the war risk conference report tonight—that is, the conference report on H.R. 5930, the aviation insurance bill. I have indicated that I would be willing to call up that privileged matter sometime around 6 or 6:30 p.m., after other amendments that the managers of the immigration bill think are available and appropriate until that time.

So the Senate should be on notice that sometime this evening, we will perhaps proceed to the consideration of that conference report.

I believe there is a 90-minute limitation on the conference report. I understand that the principals may be willing to reduce that to an hour, or perhaps even less.

JOB TRAINING PROGRAM

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2036, the jobs training bill.

The Presiding Officer laid before the Senate the amendments of the House of Representatives to the bill (S. 2036) to provide for a job training program, and for other purposes.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Hatch, Mr. Quayle, Mrs. Hawkins, Mr. Kennedy, and Mr. Metzenbaum conferees on the part of the Senate.

Mr. BAKER. Mr. President, I take this brief additional time to commend the distinguished occupant of the chair, the Senator from Indiana (Mr. Quayle), for his participation in the passage of this measure.

SENATE SCHEDULE

Mr. BAKER. Mr. President, based on the information given to me by the managers of the bill and the time it will take to do the conference report, I estimate that the Senate should be able to finish its work tonight by 7:30 or 8 o'clock.

It is the intention of the leadership to ask the Senate to convene in the morning at approximately 10 and to conduct business on the immigration bill.

APPOINTMENT BY THE VICE PRESIDENT

The **PRESIDING OFFICER**. The Chair, on behalf of the Vice President and upon recommendation of the majority leader, in accordance with section 276(a)(2) of title 22, United States Code, appoints the Senator from Vermont (Mr. STAFFORD), chairman, and the Senator from Iowa (Mr. GRASSLEY), vice chairman, to attend the Interparliamentary Union Conference, to be held in Rome, Italy, September 14-22, 1982.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with the consideration of S. 2222.

The **PRESIDING OFFICER**. The Senator from North Carolina.

Mr. **HELMS**. I yield to the Senator from Minnesota.

Mr. **BOSCHWITZ**. Mr. President, I ask unanimous consent that Peter Levinson, a professional staff member of the House Immigration Subcommittee, be allowed to join me on the floor during the consideration of this measure.

Mr. **BAKER**. Mr. President, will the Senator yield to me to reserve on his request for the moment?

I discussed this with the Senator from Minnesota and indicated to him that I had no objection to that request. I wonder if he will postpone that request until I can confer with the minority leader, and then I will be in touch.

Mr. **BOSCHWITZ**. I withdraw my request.

The **PRESIDING OFFICER**. The Senator from North Carolina.

AMENDMENT NO. 1987

(Purpose: To eliminate provisions relating to the legalization of the status of certain aliens under the Immigration and Nationality Act)

Mr. **HELMS**. Mr. President, I call up amendment No. 1987 and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from North Carolina (Mr. HELMS), for himself and Mr. EAST, proposes an amendment numbered 1987.

Mr. **HELMS**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> On page 121, lines 14 and 15, strike out "and aliens whose status is adjusted to permanent residence status under section 245A,".
>
> Beginning on page 154, line 15, strike out all through line 10 on page 162.
>
> On page 162, line 11, strike out "TITLE IV" and insert in lieu thereof "TITLE III".
>
> On page 162, line 13, strike out "SEC. 401." and insert in lieu thereof "SEC. 301.".
>
> Beginning on page 165, with line 23, strike out all through line 10 on page 166.

Mr. **HELMS**. Mr. President, I say to the distinguished manager of the bill, if I can entice him a little, that I am willing to enter into a time agreement on this amendment, if he has any interest in doing so.

Mr. **SIMPSON**. Indeed, I do. I will receive the proposal with great glee.

Mr. **HELMS**. I thought the Senator would.

Thirty minutes equally divided—would that be acceptable to the Senator?

Mr. **SIMPSON**. That is acceptable to the Senator from Wyoming.

Mr. **HELMS**. Mr. President, I ask unanimous consent that the time limitation on this amendment be 30 minutes, equally divided.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HELMS**. Mr. President, I have the highest admiration and even gratitude for the distinguished chairman of the Immigration and Refugee Policy Subcommittee. What a whale of a job he has done on this legislation.

Producing this legislation is something like presiding over the conference between the House and the Senate on a farm bill. The distinguished chairman has had all sorts of pulls and tugs on him, and I am reluctant to be pulling and tugging a little myself. He has shown perseverance in bringing this comprehensive immigration reform bill to the floor of the Senate.

While I commend the distinguished chairman of the Immigration and Refugee Policy Subcommittee for his perseverance in bringing a comprehensive immigration reform bill to the floor of this body, I respectfully disagree with the decision to grant amnesty to millions of foreigners who entered our country illegally and who are living here illegally.

My amendment therefore would delete the amnesty provisions of S. 2222. Basically, it would delete title III in its entirety, the title that supplies the authority for legalization. References in other sections relating to amnesty would also be deleted from the bill and the titles would be renumbered appropriately.

Mr. **SYMMS**. Mr. President, could we have order please?

The **PRESIDING OFFICER**. The Senate will please come to order.

Those Senators or staff desiring to converse please retire to the cloakroom.

Mr. **HELMS**. Mr. President, I thank the Chair. I do not mind if other Senators cannot hear me, but when I cannot hear myself, it does become a little confusing.

Mr. President, Attorney General William French Smith testified last year on the immigration crisis. He accurately summed up the problem where he declared: "We have lost control of our borders."

The National Commander of the American Legion in a letter to Members of the Senate on July 28 clearly described our predicament. He wrote:

> This Nation stands virtually alone among Western nations in having failed even minimally to exercise its sovereign rights to police its own borders.

The American Legion and the Veterans of Foreign Wars are among those who oppose amnesty for illegal aliens. Their opposition reflects massive public concern over our present immigration crisis.

How many illegal aliens are here today? While it is impossible to calculate exactly, estimates range from some 3.5 million to over 10 million. Some estimates run as high as 15 million. The administration is currently using a figure of 6 million which, it would appear, is a conservative estimate. Whatever the exact figure is, it is clear that effective measures are necessary to regain control of our borders.

The bill before us provides for blanket amnesty for millions of illegal aliens. There are amendments which change various dates and alter welfare benefits. My amendment, on the other hand, is simple and direct. My amendment eliminates amnesty from the bill entirely by deleting title III.

Mr. President, it is wrong to reward lawbreakers. It is wrong to set in motion a program which will encourage further lawbreaking and which will polarize our society. Citizenship in our great Republic is too precious to grant in a vast blanket program to millions of foreign nationals who have flagrantly violated our laws. We expect our fellow citizens to obey the law. We proudly say that this is a nation of laws. Yet, amnesty for millions of illegal aliens—for millions of conscious lawbreakers—would show our own citizens and indeed the world, that our great country cannot muster the will necessary to enforce our own very generous immigration laws.

What will the working man and woman in this country think of this massive surrender? What will the children of the working man and woman of this country think of this surrender? Will it teach them respect for the law?

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Or, will it engender disrespect for the law and for our institutions? My office has been deluged by phone calls and letters opposing amnesty for illegal aliens. The public outcry against amnesty for millions of illegal aliens may well exceed anything that we in this Congess have experienced in recent years.

Our duty, as representatives of the citizens of these United States of America, is to protect the interests of the American people. We are not here to legislate bailouts for foreign governments whose internal policies have led to severe problems in their own countries. These governments must accept the responsibility to improve the conditions in their own countries in order to achieve progress.

MEXICAN VIEWPOINT ON ILLEGALS

Mr. President, as Mexicans comprise the majority of illegal aliens inside our borders, it is worthwhile to reflect on what the Mexicans themselves are saying about the illegals here. I would like to read to this body some excerpts from an article by a well known Mexican columnist, Carlos Loret de Mola. The article is entitled, "The Great Invasion, Mexico Recovers Its Own" and it appeared in the July 20, 1982, edition of Exelsior, Mexico's leading newspaper.

Senor Loret states that the "Mexicanization of Los Angeles" has been a sociological phenomenon of tremendous implications. He calls the entry of illegal Mexican aliens into these United States an unstoppable invasion which in his view is the most important in human history. He draws attention to the idea that these illegal Mexican aliens are conquering a great region, once primitative and virgin, that belonged to our fatherland, and we lost it.

Senor Loret goes even further stating that the Southwest seems to be slowly returning to the jurisdiction of Mexico without firing a single shot, nor requiring the least diplomatic action, by means of a steady, spontaneous, and uninterrupted occupation.

Mr. President, the fundamental question before us is the preservation and enforcement of our sovereignty. Put simply, amnesty is a massive surrender in the face of what Senor Loret has characterized as an unstoppable invasion. Amnesty will legitimize what Senor Loret has characterized as an uninterrupted occupation.

Mr. President, I ask unanimous consent that the entire article from Exelsior be printed in the Record at the conclusion of my remarks, as well as an editorial from Exelsior on the same topic.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

AMNESTY COULD INCREASE ILLEGAL FLOW

Mr. **HELMS**. Mr. President, amnesty for the millions of illegal aliens currently in these United States would establish a dangerous precedent which could well encourage additional illegal immigration. Additional millions of desperate people could head to the United States on the heels of economic chaos or political chaos in their homelands. For example, between the Rio Grande and the Panama Canal there are over 100 million people. If only 10 percent of these people flee economic chaos or political chaos engendered by Communist expansion in this area the illegal population could very well be doubled in this country.

An Associated Press report from Mexico City on July 14, 1982, states that American officials predict that,

> One of Mexico's worst recessions since World War II probably will increase the flow of Mexicans going illegally to the United States in search of jobs and a better life.

Inflation in Mexico is running at some 60 percent per year and Mexico's foreign debt could reach some $80 billion in the near term. The Mexican peso was devalued by 40 percent in February of this year further adding to Mexico's economic problems.

By the end of 1982, it is expected that an additional 1 million Mexicans will be unemployed. Unemployment and underemployment now total about 45 percent of the labor force in Mexico and Mexico needs to create over 850,000 new jobs every year just to keep up with its population growth which is one of the highest in the world. Mexico is a resource-rich country with oil reserves which are well known as well as mineral and potential agricultural wealth. Yet, Mexico for decades has adopted a type of socialist experimentation—including so-called land reforms—which has brought the country to its current straits. We would hope that the Mexican Government and all governments in the region would encourage policies which will lead to real economic growth. We should not adopt our immigration laws just to bail out other nations from the effects of decades of poor economic policies.

Mr. President, I ask unanimous consent that an article from the current August 16 issue of U.S. News & World Report entitled "Mexico: Another Neighbor in Distress" be printed in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 2.)

AMNESTY WILL INCREASE WELFARE COSTS

Mr. **HELMS**. Mr. President, amnesty would increase welfare costs dramatically. Many millions of illegal aliens would qualify for various welfare programs—AFDC, SSI, medicaid, food stamps, State and local assistance, and public housing.

Today, a number of factors are holding down the use of welfare programs by illegal aliens. These include fear of discovery by authorities as well as the fact that a large percentage of illegal aliens are working males with families across the border. Amnesty would change the situation dramatically.

Mr. President, I realize that there are a variety of amnesty proposals that have been discussed in recent days. By moving dates for permanent residency around, by moving dates for temporary residency around, and by suggesting a variety of welfare package benefits, all of these amendments are avoiding the fundamental cost issue in the long term. Whether we start paying out welfare benefits tomorrow or 3 years from now or 10 years from now, the bill will eventually come due for the American taxpayer. My amendment is simple and direct, it eliminates amnesty and thereby eliminates the problem of additional hundreds of millions—and even billions—of dollars of taxpayer money being spent on welfare for illegal aliens.

AMNESTY AND U.S. UNEMPLOYMENT

Mr. President, there are today almost 10 million Americans out of work. Congress should be making every effort to remove illegal aliens from our work forces and should avoid voting for legislation which will grant them legal rights and benefits through an amnesty program. It should be understood that illegals are at work in a broad spectrum of jobs. Attorney General William French Smith testified last July that, "Only 15 percent of the illegals are estimated to work in agriculture; 50 percent are employed in service industries; and 30 percent are in blue-collar jobs." The Federation for American Immigration Reform has pointed out that, "Half of all new jobs created in the late 1970's went to legal and illegal immigrants." F.A.I.R. also has pointed out that, "There is not a single labor market that immigrants enter in which the majority of workers are not Americans." Marvin Stone, editor of U.S. News & World Report, has pointed out in this regard that, "If newcomers show skill and initiative as workers and entrepreneurs, they often cut in on the livelihood of local people and arouse hostility; if not, they lean heavily on the public purse."

It is a myth that illegal aliens seek and obtain only low-paying jobs, indeed, a number of studies and reports have found that illegal aliens obtain well paying jobs. For example, the Phoenix Gazette of December 9, 1981, in reference to a nuclear reactor plant in Arizona stated that, "Immigration officals said they believe the relatively high wage scale, which begins at about $10.50 per hour, has attracted a large population of illegal workers." Human Events ran a story on December 12, 1981, which described a case in Elgin, Ill., in which Immigration and Naturalization Service officers "arrested 69 aliens who earned between $4.50 and $13 an hour." Within hours, the Human Events story reported, "hundreds of local residents had applied for these jobs, all of which were filled within 3 days."

Prof. Donald L. Huddle of the Department of Economics at Rice University has written a report on "Undocumented Workers in Houston Non-Residential and Highway Construction: Local and National Implications of a Field Survey." Professor Huddle has estimated, for example, that one-third, and possibly more, of the workers in the construction industry in the Houston area are illegals. He notes that "residential construction is more heavily infiltrated by illegals than in commercial construction." This is because unions "still act as a partial barrier" in the commercial construction field. The wages earned by illegals ranged from $4 to $9.50 per hour. A study by Frank Bean and Allan King at the University of Texas for Governor Clement's Task Force on Immigration was quoted in the Houston Post of April 7, 1982, and estimated that one in every five Texas Hispanics is illegal.

From his research, Professor Huddle extrapolates that—

> For the United States as a whole, the number of illegals working in construction may reach an estimated 1 million or more.

He then goes on to state that—

> The wages collected by the illegals in construction nationally probably exceed $7 billion per year and could well be over $9.5 billion.

Former Secretary of Labor, Ray Marshall, has stated that removing illegal aliens from the work force could cut our unemployment rate in half. According to Professor Huddle's research,

> The amnesty provisions of the Simpson-Mazzoli bill are too generous * * * giving amnesty to illegals * * * will be costly in terms of implementation, will cost unemployed American citizens hundreds of thousands if not millions of jobs, and lead to many more millions of relatives of illegals not now in the U.S. becoming legalized in the future.

It is important to consider a report by the Congressional Budget Office which shows that each unemployed American received $7,000 annually in unemployment benefits and other public assistance. Thus, 10 million unemployed Americans cost the taxpayers a minimum of $70 billion annually. This does not include the loss of revenues to the Federal Government from tax payments generated by working Americans.

Where there is a genuine need for seasonal foreign workers, for example, in the agricultural field, the answer is a temporary guest worker program. Amnesty is not the answer. In fact, by giving permanent resident status and access to our generous welfare programs to millions of illegals currently in low-paying agricultural jobs, amnesty will encourage legalized aliens to move away from this type of work and into the welfare system.

AMNESTY CAN POLARIZE OUR SOCIETY

Mr. President, I fear that the granting of amnesty to millions of illegal aliens could polarize our society. With 10 million Americans out of work, with our economy suffering from unbalanced budgets, and with increasing crime and lack of respect for our laws, amnesty could engender a tremendous backlash.

This backlash could affect relations between Hispanic and non-Hispanic Americans generally as well as between illegal Hispanic and Hispanic-Americans who have either legally settled here themselves or whose parents or ancestors came to our land to settle. It is not just illegal Hispanic aliens that we are talking about, of course, there are illegal aliens here from all parts of the world. We must not allow, through an amnesty program, the polarization of our society.

Referring to illegal Mexican aliens, it is important for this body to consider the opinion of Hispanic-Americans who are legal citizens. The Dallas Times Herald, for example, on June 3, 1982, carried an article entitled, "Illegal alien issue splits Hispanic citizens." The article pointed out that,

> In Dallas, most of the complaints to the U.S. Immigration and Naturalization Service about illegal aliens come from Mexican-Americans.

The article goes on to state that the regional INS Director, William Chambers, reported that 85 percent of the complaints about illegal aliens are made by Mexican-American citizens. He added that,

> A lot of people are surprised by this, and it used to be that Mexican-Americans did not get into reporting illegal aliens. But they (Mexican-Americans) are being much more adversely affected than previously. The illegal aliens go into their neighborhoods to live and they are in direct competition with them for jobs.

In an article published by the Washington Post on July 19, 1982, additional information is presented which demonstrates that polarization is already in progress. For example, the distinguished State Senator Hector Uribe who represents the lower Rio Grande Valley in Texas was quoted as warning that,

> Those most traumatized (by the Supreme Court's education decision) are Mexican-Americans at the lower rung of the ladder. They see themselves paying for the education of illegal aliens' children. And they see their jobs being taken away by these illegal aliens.

The Post article pointed out a study by the Institute for Constructive Capitalism at the University of Texas which found that among various demographic groups, Mexican-American citizens were those most likely to believe that illegal immigration was the most important problem facing Texas. Another study, a poll taken by the Southwest Polymetrics Co. of Austin, Tex., found that 58 percent of those surveyed in the lower Rio Grande Valley—State Senator Uribe's district—opposed free education to illegal alien children. Among the Mexican-American respondents to the poll, the percentage of negative respondents was even higher.

Raul Besterio, superintendent of schools in Brownsville, Tex., expressed his sentiments in the Post article and the sentiments of many Mexican-American citizens stating that,

> Think how I feel. I'm a Mexican-American. People say why are you against your own people. Well, I'm an American. I was born and raised here. The federal government made me a Mexican-American.

Mr. President, the polarization process has begun in our country between illegal aliens and our fellow citizens. This body must face up to this fact and act in a responsible manner to prevent any escalation in this process and to heal the wounds that already exist.

Mr. President, I hope that all Senators will carefully consider the far-reaching consequences of amnesty for illegal aliens. I realize that there is no easy way out. All of the choices before us are difficult when we confront the immigration crisis, and I say that to emphasize the respect that I have for the distinguished Senator from Wyoming (Mr. SIMPSON) and his committee.

The treatment of aliens and the question of citizenship have been issues throughout the ages. The consequences of the decisions made by ancient societies on these matters, by the Romans and others, endured for generations—indeed for centuries. The decisions that we make on these matters will affect our Nation's destiny and the lives of those who come after us.

Mr. President, the pending amendment, which will prevent the granting of amnesty for millions of aliens who are in this country illegally, is very important. I hope that Senators will carefully consider the implications of their vote and support the amendment.

EXHIBIT 1

THE HISPANIC MOVEMENT

EDITORIAL

In the United States for the first time in history Hispanic organizations and congressmen of Spanish or Latin American origins, surely with a preponderance of Mexican blood, have worked out a legislative agenda and program to strengthen and coordinate the power of this transcendent group. Member organizations plan to make themselves felt more than ever in the political life of that country, and they believe they can transform the decade of the 80s into the decade of the Hispanics.

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Anything that contributes to unify and strengthen the Latinos and Hispanics in the United States constitutes an important step in the area of social justice and institutional progress. Every day there are more Hispanics in that gigantic nation to the north because of their demographic capacity and the well-known results of migration.

The world is for all its inhabitants. Nations that are located in privileged geographic areas in the long run will have to pay the price for their rich natural resources, and there will not be in any part of the world privileged minorities, nor territories reserved for selected races or dominant groups.

Latinity or Hispanicness is a powerful presence in the United States. They (the Hispanics) must make their intelligence, their capabilities, and their rights known in a political world that cannot, must not be hostile, nor reject them.

History repeats itself. There is no territory that does not belong to Man in the greatest sense of the word. The biblical teaching, people the earth, does not recognize frontiers nor admit of privileges.

The Hispanics will make their presence felt more and more in the United States as a great force, contributing also, as individuals and as a group, important cultural and social values.

The Great Invasion—Mexico Recovers Its Own

Los Angeles, Calif.—This is the second largest Mexican City in the world for the number of our compatriots settled there, and it must have as many Spanish-speakers as Madrid. The Anglosaxons are still the most numerous and there are a lot of Negroes, but the numerical advance of the Mexicans is astonishing. Ten movie houses at once show the Cantinflas comedy "El Barrendero." On the streets one has the impression of a great Mexican city. "La Opinion," with a circulation of 60,000 copies, is one of three daily newspapers in Spanish in this enormous country. When did the Mexicanization of Los Angeles happen?

It has been a sociological phenomenon of tremendous implications.

A peaceful mass of people hardworking, carries out slowly and patiently an unstoppable invasion, the most important in human history. You cannot give me a similar example of such a large migratory wave by an ant-like multitude, stubborn, unarmed, and carried on in the face of the most powerful and best-armed nation on earth.

But neither barbed-wire fences, nor aggressive border guards, nor campaigns, nor laws, nor police raids against the undocumented, have stopped this movement of the masses that is unprecedented in any part of the world.

In 1950 they were called "Pachucos" (half-breeds); today they are called "Chicanos." They have marked social and family characteristics, agility for adapting to the environment and for conquering a great region, once primitive and virgin, that belonged to our fatherland, and we lost it. But it seems to be slowly returning to the jurisdiction of Mexico without firing a single shot, nor requiring the least diplomatic action, by means of a steady, spontaneous, and uninterrupted occupation.

These are not assault troops. Nor are they potentates who take over a territory through economic power and purchase of properties. They are a mass of workers, artesans, women, and students who arrive to reinforce the base of the common people and the human virtues of this society in California. Much like them, despised and persecuted, were the humble Christians in the sovereign empire of Rome; but the meek brought down the Caesars and established—for some two thousand years now—their own style of life over those all-powerful enslavers of the ancient world.

There is a great difference in circumstances. Today we perceive as powerful those who control and manage U.S. society; and it seems crazy to dare to believe it, but let's not forget that great social movements, and changes in social structure, were done by populist forces, so long as they know how to work together.

The United States is the richest and best organized country in the world, within the limitations of the capitalistic system. Its industrial power and way of living absorbs immigrants and readily converts them to nationals. But the Mexicans in the southern part of this nation continue to be Mexican and even impress their personality on their surroundings, in limited proportions and yet ever growing.

Usually they take low-paying jobs, nevertheless, they put such industry, will-power, and self-interest into their efforts—precisely because of unequal status in a hostile and deprecatory ambience—that they end up making themselves indispensable.

California society does not dare to suppress them. The efforts of misguided authorities to expel them always end in failure. They (the Chicanos) are a social and physical reality that cannot be uprooted.

The U.S. upper classes in the western states live in increasing splendor. Their apogee of luxury and comfort doubtlessly marks the inevitable beginning of their decadence. The Mexican invasion continues.

Who are they? Those who have a great capacity to take risks, the more ambitious, those with more character, the strongest from the rural and suburban areas of their home country. A human current of natural selection flows out of Mexico and settles down in the United States, where a second selection takes place. Those who are selected must meet two tests: that of leaving, with fortitude, their family and society and giving up familiar ways and customs; and then that of having the character to adapt to new working conditions. A human current with these qualities, if it can succeed in maintaining itself united and coherent, will end by winning: It's a question of time.

The territory lost in the XIX century by a Mexico torn by internal strife and under centralist dictatorships led by paranoid chiefs, like Antonio Lópes de Santa Ana, seems to be restoring itself through a humble people who go on settling various zones that once were ours on the old maps.

Land, under any concept of possession, ends up in the hands of those who deserve it. All of us Mexicans should prove ourselves worthy of what we have and what we want. The problem is one of organization.

And those humble Mexicans—the braceros, the "wetbacks" the undocumented—teach us with their example of tough, iron-like character and their spirit of great adventure how to overcome a hostile environment. Let us imitate them from within the Mexico that belongs to us.

Exhibit 2

Mexico: Another Neighbor in Distress

Despite billions in oil wealth, Mexico is a nation caught up in a mounting wave of unease and despair, marking it as yet another potential trouble spot in America's back yard.

The confidence once generated in this country of 71 million by petroleum riches has given way to jittery uncertainty in the face of inflation, unemployment, an ailing peso, huge foreign debts and rampant waste and corruption.

American officials analyzing Mexico's declining fortunes worry that they could lead to political instability. And turbulence in Mexico would make it a more vulnerable target for the Communist guerrillas already battling in Central America.

Other angers raised by the malaise here disturb Washington planners:

One is that an unstable Mexico will be unable to fill the role of oil supplier, as the Reagan administration hopes, to help offset the U.S. dependence of the flow from the volatile Mideast.

Another is that the stream of illegal immigrants from Mexico will continue on a massive scale if there is no dramatic turnaround in the economy.

A third: Without a firm hand in Mexico City, drugs and other contraband will continue to be smuggled from this country into the U.S.

Looking at the array of economic and social difficulties ahead, a frequent visitor to this country finds it easier to understand why Mexicans now use the terms "sad and crushed in spirit" and "resignation" to describe their mood.

Inflation is the most visible sign of Mexico's ills. Prices jumped by more than 30 percent in both 1980 and 1981 and are expected to shoot up 70 percent more this year. The value of the peso has plunged in the past year from 26 to 70 to the dollar in a new free market announced August 5, and more drops are expected.

A DULL DIET

All classes of society share in the discontent. A factory worker with two children, earning the minimum wage of around $10 a day, complains of a diet consisting of nothing but "meat, beans and coffee."

Officially, there are wage and price controls in place to control inflation. But the public-administration system is limited and inefficient, allowing what one observer describes as "daily anarchy, with everybody charging what he can get away with."

Higher prices come at a time when more and more workers are out of jobs. Unemployment and underemployment in Mexico have long been estimated at nearly 50 percent. The economy must create 700,000 to 800,000 new jobs each year to keep up with Mexico's 3 percent annual birth rate, one of the world's highest.

Today's recession is creating an even larger pool of unemployed. Union leaders predict that a million additional Mexican workers may be laid off by the end of the year in the construction, automotive, textile, shoe, cotton and general manufacturing industries.

Jobless workers are not protected by unemployment insurance, and some here are bracing for trouble. "A major social disaster will probably hit this country in the next six to eight months," says one U.S. businessman.

The need to fight inflation and provide employment comes at a time when Mexico is strapped for revenue and is running out of borrowing power despite its rank as the world's fourth largest oil producer.

The worldwide decline in oil prices has reduced Mexico's revenue expectations drastically over the past two years, forcing heavy government borrowing to finance industrial-development projects and subsidize social services.

Result: Foreign debt is expected to reach 85 billion dollars by the end of 1982, making it one of the highest in the world. Of the estimated 26 billion dollars the government expects to borrow this year, 17 billion will go just to pay interest of foreign loans.

The government's massive need for credit is squeezing the private sector. Banks pay over 50 percent interest on deposits, and charge from 60 to 100 percent interest on business loans.

Borrowing money, Mexican business executives say, is a step you take only if you are "either desperate or crazy."

DYING BUSINESSES

The lack of credit, coupled with government-ordered wage increases, has forced more than 10,000 small and medium-size companies into bankruptcy so far in 1982.

Although graft and the mordida—the bribe—are deeply rooted in Mexico, the problem has worsened with the sudden influx of oil wealth in recent years. The magnitude of the corruption—highlighted by recent scandals involving police and government officials—has shocked even the most complacent Mexicans, who believe the nation's oil wealth has been squandered and mismanaged.

Adding to the sense of gloom is the evident deterioration of this once-lovely capital city. Officials admit privately that it is virtually impossible to provide efficient water, power and garbage-collection services.

An estimated 17 million people live in greater Mexico City. Some 2.5 million cars congest city streets combining with industrial pollution, to create a heavy cloud of dirty air that hangs over the city much of the time.

Crime, because of the economic crisis, has become a major problem. Local newspapers comment on "muggings, theft and now rampant crime on our streets."

Economic critics place a good deal of the blame for Mexico's plight on outgoing President José López Portillo. The main complaints:

The President poured billions of dollars of oil money into an economy incapable of absorbing it efficiently. Rapid development through large-scale borrowing was chosen over clamping down on inflation. The result, coming in the midst of worldwide recession, was an overheated economy that became overdependent on foreign loans and oil sales at the worst possible time.

Complicating the President's ambitious plans for development were the country's pervasive social programs. The official party, the Party of Revolutionary Institution (PRI), prides itself on its doctrine of social justice. Basic foods, transportation, water and gasoline are subsidized by the government, which also owns or shares control of more than 800 industries, many of them inefficient. As a result, the subsidy drain amounts to between 20 and 25 percent of the federal budget.

The task of grappling with Mexico's massive problems will fall to President-elect Miguel de la Madrid, 47, a U.S.-educated lawyer and economist who scored an easy victory in national elections last July 4.

The new leader will be inaugurated on December 1, but already he has made clear that austerity and sacrifice will be the cornerstones of his policies. Basic thrust of his strategy, as outlined by one adviser: Renegotiate the incredible foreign debt, strengthen the private sector, eliminate wasteful subsidies, accelerate industrial development and create jobs by judicious use of oil income and public and private savings.

Enforcing austerity will not be easy. For example, the present government, in an effort to reduce the subsidy burden, announced on August 2 major price hikes for bread, tortillas, electricity and gasoline. But labor leaders are demanding pay increases for the workers and warn that they will call a general strike if prices continue to rise.

PRI leaders also worry that government moves to bail out business will produce a backlash. Says one: "In Mexico, you can't cut back on social justice without political dangers."

SLANT ON U.S.

The right-of-center de la Madrid is seen bringing a new view to foreign policy as well. While determined not to become dependent on the American economy, he hopes to improve Mexico-U.S. relations. López Portillo's warm support for Communist Cuba and Sandinista Nicaragua has irritated the Reagan administration. De la Madrid's advisers believe he will turn slowly—so as not to alienate Mexican leftists—away from that course.

He is said to feel the economy can be turned around in two years and that Mexicans will regain their traditional confidence in the future. Others here feel it will take far longer. There also are pessimists who warn that the problems may be unsolvable and that an eventual military takeover is a possibility. But there is no sign of such a scenario now. Some armed forces leaders have been critical of López Portillo's chumminess with Cuba and Nicaragua as well as the economy's deterioration, but the military, it is felt, still strongly backs the civilian government.

Still, some Mexicans fear that the slide toward economic and social chaos must be slowed or Mexico will plunge down a dangerous path challenging the basic foundations of democratic rule.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time.

Mr. HELMS. Mr. President, I yield to the Senator from North Carolina such time as he may require.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I have joined with my distinguished colleague from North Carolina in supporting this opposition to blanket full and complete amnesty in this legislation.

I also commend the Senator from Wyoming for his great work in bringing this matter before the Senate.

However, the concept of amnesty as espoused in this bill, in my opinion, is ill conceived and ill placed.

I know it is understandable to put this problem behind us of illegal aliens in this country and simply grant a blanket amnesty, but as a matter of public policy and public law, I do not think it is sound.

First of all, amnesty has the idea of forgiveness because of some unanticipated or some inequitable impact of the law. That is the origin of the concept.

In this case, I think it is clear that the rationale for amnesty is simply this: The sheer numbers of people who have poured into the country illegally—it becomes unmanageable, so we simply forgive it.

On that theory, we might forgive drug trafficking, we might forgive any kind of illegal activity simply because of the sheer numbers of people involved that we cannot cope with it.

I do not find, as a concept, that this is the sort of situation historically in Anglo-American law that amnesty is meant to apply.

Beyond that, I think it is inconsistent with the goals of this legislation. The purpose of this legislation is to gain control of our borders which many Americans concede today we no longer seem to have. We simply become a dumping ground.

I know we have had many fine people come in legally and illegally. But the problem remains that we are trying to regain control of our borders. That is the whole purpose of the legislation.

Mr. President, the concept does not apply here.

I respectfully urge my colleagues to delete it. I think the timing is poor. We should at least see if the legislation will work in allowing us to gain control of our borders, if we can, and then if amnesty would seem appropriate, let us do it.

But to put it in this bill at this point is premature, ill conceived, and I strongly urge my colleagues to strike it from the legislation.

Mr. President, since our time is limited, I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 6 minutes and 45 seconds remaining. The Senator from Wyoming has 15 minutes remaining.

Mr. HELMS. Mr. President, I yield 4 minutes to the Senator from Idaho.

Mr. SYMMS. I thank the Senator from North Carolina for yielding, and I wish to express my support for the amendment offered by my good colleagues, Senators Helms and East, and in expressing my support for this amendment which deletes from S. 2222 the provision granting amnesty to illegal aliens, I do not detract in any way from the monumental efforts made by Senator Simpson and others, and I voice the great admiration for the job that Senator Simpson has done and others on the committee, the distinguished Senators who brought this bill to this committee because I realize this has been a very long and difficult task for them and it has certainly been that I know for many of them, particularly Senator Simpson

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working on this issue coming from a Western State. In a bill as comprehensive as this it does create a lot of disagreement as to the approach and the degrees of minor subjects. But I do believe, as Senator HELMS and Senator EAST have pointed out, that total blanket amnesty goes a little too far in this bill for illegal aliens residing in the United States prior to January 31, 1982.

It is a subject that, in my opinion, strikes right at the core of our national immigration policy. The problem, of course, is that we currently have residing, as has been talked about here, anywhere from 3.5 to 15 million people in the country, and the problem will further be compounded by the fact that to date we have not been able to devise a method of gathering and deporting these people. It seems to be an insoluble problem. But we are just talking about defining it out of existence by granting blanket amnesty.

I had the opportunity this morning, Mr. President, to visit with Mr. Tom Dunnigan who runs the labor association in my State, and where they are employing farm laborers, and in this case, in some instances, people who are illegal get in those work forces working in those crews, and he made the point with me that even though it would provide a lot of the people who are working in the farm community—it would make them legal, he feels that it is going to rapidly and very dramatically expand the use of many of the transfer payment welfare programs that the Federal Government operates because of these people.

The response of this bill is to solve the problem by defining it out of existence. If we have a problem of illegal aliens, we will no longer have a problem if we make or define them as legal aliens. No one is hurt, everything is fine, and everyone is happy.

The problem with the approach, Mr. President, is that it fails to address the issue and in fact postpones the day of reckoning while the problem grows worse. We have lost control of our borders and have not devised a viable means of controlling the illegal influx.

In another light, Mr. President, what do we gain by granting amnesty to those who have circumvented our laws at the expense of those who are seeking to enter our country by legal means? By what right or through whose decree do illegals merit such favored treatment?

I can think of no reason other than a desire on our part to avoid the issue by trying to make it go away, or define it out of existence. Have we fully thought out the consequences of such an action? Such a declaration of amnesty creates a dangerous precedent for the continuing handling of this problem. It is my feeling and the feeling of many of my constituents in Idaho that this bill does little in actually stemming further illegal immigration. Amnesty will only increase the flow.

Such a declaration creates the impression—and rightfully so—that there are no penalties or sanctions for disobeying our laws. It creates the feeling that those who abide by U.S. immigration laws—with the redtape and waiting periods—are suckers.

Such a declaration of amnesty will result in the loss of jobs of American citizens and aliens who are legally here. The administration uses the figure of 6 million illegal aliens that would surface and openly compete for jobs we need for our own citizens. This competition for jobs would occur not in the agricultural field but in the blue collar and service industry areas. We need these jobs for Americans.

In addition to the loss of jobs and job opportunities as a result of amnesty, we also face the very bleak prospect of Federal, State, and local treasuries being required to pay out additional sums in welfare. Many presently noneligible illegal aliens would automatically qualify for numerous welfare benefits as a result of the bill's amnesty provision. The administration's own figures indicate that the increased costs of welfare brought about by this bill would be as high as $10 billion in the first 4 years.

Mr. President, the amnesty provisions of this bill must be deleted. I have no substitute or answer for this problem but I know that amnesty is "the ostrich hiding its head in the sand." If we must spend additional time and resources to reach a viable solution, then let us do so. Our citizens, indeed the entire world, must know that we have the will to establish and enforce realistic, effective immigration laws.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, may I emphasize, in opposition to this amendment, that under our measure, as presented by S. 2222, legalization is not a reward for violation of the immigration law. If we start with that premise I think we can work the issue a little more appropriately.

Legalization into this measure is a practical solution to a serious national problem.

There is in this country because of illegal immigration in the numbers we have had in years past a population estimated at 3.5 to 6 million by the Select Commissions, and that was 4 years ago. One identifiable fact is real: There is a fearful subclass of at least 3 to 6 million human beings in the United States, and most likely many more. This results in a group of human beings who live in enclaves or groups fearful to report crimes against their property or their person or their families; afraid to seek medical help, afraid to go to a hospital unless it is to give birth, and then the individual is giving birth to a U.S. citizen. These persons have a weak bargaining position with their employers—indeed they do because if they complain too loudly or too long they will simply be reported to the INS, and that situation cannot be good for this country. I think that diminishes us.

We seek to achieve three major goals through legalization. When I first heard legalization proposed by the Select Commission I blanched. I said, "What for? Why should we do that?"

Again it is one of those issues that you realize is the only practical solution to the problem.

What are the three major goals we seek through legalization? The first is not to expend the efforts of the Immigration and Naturalization Service in these law enforcement activities. They have a limited, a totally limited, budget. We are very unlikely to see them obtain any kind of enforcement for the dollars that we expend if they are going to expend it in locating and deporting from the United States those who have become settled in this country rather than being about their job of preventing new illegal entries or visa abuse, which are the known factors and the known causes of our problem.

The second goal—and this is a very important one—is to allow the currently economically dependent employers to continue lawful hiring from that pool of labor. These employers have lawfully become dependent upon the illegal supply of human beings. Legalization will assist in that transition from an illegal flow and illegal use to a legal pool of labor.

The third is to eliminate, as I say, this illegal subclass of persons with the weakest of bargaining conditions, who are limited in their participation in U.S. society which, sadly enough, even has the effect of hindering the participation of legal immigrants from the same country of origin.

As I shared with you some hours ago, there is even a more pragmatic and fascinating reason for legalization, and that is, if you could not find them coming how are you going to find them to get them out? It is an impossible task. I believe if there is anything that would rupture the fabric of this country it would be the search for illegal undocumented aliens. I would hate to see it take place.

We need a reasonable legalization program. We are not out to reward illegal activity but to resolve a critically serious national problem.

I understand Senator GRASSLEY will be offering an amendment which contains a very reasonable and responsible and very thoughtful modification of the bill's legalization program. I intend to support that amendment of

Senator Grassley, and I urge my colleagues, therefore, to reject the amendment of the Senator from North Carolina.

I appreciate his intent, but it is in no way to be considered as a reward, in no way then do we legalize those who are here illegally, and hinder those who have been waiting patiently. All those are very real arguments, but the issue indeed is one of avoiding a critical national problem.

I support the Grassley compromise, and will yield to the ranking member of the subcommittee, the minority floor manager.

Mr. KENNEDY. Mr. President, I join with my colleague from Wyoming in urging that the Senate resist and reject the amendment of the Senator from North Carolina. The Senator from Wyoming, I think, has stated very well the reasons why we should reject this amendment.

A legalization program has been recommended time and time again, by Republican and Democratic Presidents alike—by President Ford, by President Carter, and recently by President Reagan.

As the Senator from Wyoming and the past administrations have pointed out, unless we take these steps in terms of adjusting the status of these individuals we are going to have a permanent class in our society which is subject to extraordinary exploitation, that refuses to report crimes because of fear of the consequences.

We also find there will be a better opportunity for targeting the limited resources of the Immigration Service into the current challenges we are facing with the flow of individuals who are coming here illegally, even at the present time.

Mr. President, I am interested in the fact that the Senator from North Carolina has offered this amendment, although he must not object to the concept of amnesty, because he himself has introduced a private bill that has been before the Judiciary Committee to provide amnesty for one of his own illegal constituents. The amnesty for that individual—an individual who has been involved in visa fraud—was tabled in the last Congress but reintroduced in this Congress. I do not know the particular merits of that situation. I know the fact of the situation, but I do not know the particular merits.

One thing I think is important is the principle, and that is that we should free ourselves in this body from the series of private bills which all of us get called upon to introduce to take care of some aliens needing amnesty. And yet when the time comes to try and deal with amnesty for individuals who do not have the benefit, for whatever reason, of having a Member of the U.S. Senate to advance a private bill, we draw the line against those individuals.

Mr. President, I do not know whether the Senator, since he is here, wants to make any comment on the private bill that he has introduced with regard to granting permanent residency for an individual who was involved in visa fraud.

Mr. HELMS. I would just say that the Senator, by bringing up this matter, is making my point for me. Blanket amnesty is perilous for this country. There is a difference between 6 million cases, with no consideration of individual merits, and one case where careful examination of compassionate circumstance is possible. I think it ought to be on a case-by-case basis. The Senator has said that he does not know the merits of the situation in the private bill I introduced. I hope he will study the case carefully before he makes any harsh judgments on it. But I thank the Senator for bringing it up.

Mr. KENNEDY. Well, this individual was involved in visa fraud in behalf of his wife.

The PRESIDING OFFICER. The 4 minutes yielded to the Senator have expired.

Mr. KENNEDY. Will the Senator yield me 30 more seconds?

Mr. SIMPSON. Yes.

Mr. KENNEDY. It just seems to me, Mr. President, for the reasons that have been outlined here during the course of this discussion, as the Senator from Wyoming has pointed out, that the provisions in this bill offer the best practical solution of this troublesome problem. We cannot be involved in the mass deportation of these individuals. This legislation is trying to deal with the challenge that we are facing here and now, the fact that there are undocumented aliens who have lived here, their children live here, for many years, and to regularize their status and to deal with the current situation in a realistic and practical way. I hope the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Will the Senator yield?

Mr. SIMPSON. Could I inquire of the time remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes 35 seconds and the Senator from North Carolina has 2 minutes 47 seconds.

Mr. SIMPSON. I yield 3 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. GRASSLEY. I thank the distinguished chairman of the subcommittee for yielding to me.

I, too, as does my friend from Wyoming, oppose the Helms amendment. I, too, had difficulty with the legalization proposal when I first got into the issue of immigration reform. As I sat through the hours of hearings on the subject, I came to realize that to me there is really no practical alternative for either American citizens or for the majority of illegal aliens other than legalization.

I suppose that wherever you might go in most sections of America, and if any of us stand up and said that all these people should be rounded up and shipped home, there would be much agreement with our position. I think it would be very easy to go to Idaho, North Carolina, or even to Iowa and say those things and receive support. But when you look at the practical aspect, it just is not an answer. We do not have the resources to put forth. All you have to do, as I had an opportunity to do, is to fly with the border patrol over the Rio Grande and see so many people coming into our country, as that plane, a symbol of authority, is flying over. That plane is ignored. They come in and they do it every day. The problem is massive.

You must take the bill in its totality, not just the legalization aspects, but the employer sanctions as well and the other aspects of the bill. We have no way of saying, nor do we try to say, that the legalization aspects are the only answer. But they are part of an answer.

And I would ask the Senator from North Carolina to look at this as just one of the very important aspects of the bill. Even if his amendment is adopted, it would not solve the problems that we are trying to solve.

Such deportation proposals, if they were to be carried out, would lead to the disruption of peoples' lives. It would be extremely costly and it would contribute to racial tension.

As many may be aware, I had and still do have concerns regarding the legalization program. But I think we have worked that out. This solution will be presented by way of an amendment shortly. The amendment would move permanent residency back from January 1978 to January 1977. It would move temporary residency back from January 1982 to January 1980. In addition eligibility for welfare would be greatly diminished and a block grant would be provided to the States.

Therefore I urge the Senate to accept this amendment as I feel it answers many questions regarding legalization.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SIMPSON. Mr. President, the time remaining is 35 seconds, is that correct, if I quit talking?

The PRESIDING OFFICER (Mr. Brady). Twenty seconds.

Mr. SIMPSON. Let me just say the reference to private bills is one of the things we can correct with legaliza-

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tion. We will have equities for these people. Please understand one thing. Legalization does not mean suddenly that they are transferred into U.S. citizenship. That is not the issue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMPSON. I ask unanimous consent for 1 additional minute to conclude my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. These persons would not automatically become U.S. citizens. They would be designated, prior to a certain date, as permanent resident aliens; between a certain date, they would be designated as temporary resident aliens; and they would then be on the track to citizenship if they so desired. That is the purpose of the legalization.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Will the Senator yield a minute on the bill?

The PRESIDING OFFICER. There is no time limit on the bill.

Mr. DOMENICI. Can he yield off the bill?

The PRESIDING OFFICER. There is no time on the bill.

Mr. DOMENICI. I ask unanimous consent that the Senator from New Mexico be yielded a minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to ask the distinguished Senator from Wyoming a question. Do I understand correctly that illegal aliens entering America after the cut off dates as provided in the bill or as provided in the distinguished Senator from Iowa's amendment and those illegal aliens that enter from that date and on and on in the futures will not be part of the amnesty.

Mr. SIMPSON. Mr. President, under the proposal in Senator GRASSLEY's amendment, we say that those who come here before January 1, 1977, will be designated as permanent resident aliens. We say that those who come between January 1, 1977, and January 1, 1980, will be designated as temporary resident aliens, and those who come here after that date will be subject to deportation.

Mr. DOMENICI. I gather, then, it is the hope that there will be fewer illegal aliens in the future?

Mr. SIMPSON. That is the while thrust of the legislation, which is the Reform and Control Act.

Mr. DOMENICI. I have read the bill and I am not sure that is so, but I would like the Senator's view. What is the Senator's opinion as to the principal part of this bill that is going to cause there to be fewer in the future? What is going to cause there to be fewers illegal aliens in the future under the new bill?

Mr. SIMPSON. Two things. Employer sanctions against those who knowingly hire illegal, undocumented workers, and some kind of a universal employment verification system, which will be put into place within 3 years using perhaps, a revised social security card, or data bank system, or a telephone system. That system, which must be in place within 3 years, must utilize a counterfeit-resistant, tamper-resistant method. Without those two elements, there will be no reform. It would make no difference if the legalization is there.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Therefore, if we do not have employer sanctions that work, the Senator would conclude the cutoff date for amnesty would probably ultimately become a floating situation because in 10 or 15 years we would have to enact another amnesty, is that about right?

Mr. SIMPSON. The entire purpose of the legislation is a one-time only legalization. We do not know how many may come forward.

Mr. DOMENICI. With reference to tourists and students—which I happen to think also the United States is unique in the world in not being able to know how many of either we have left, even though they are supposed to leave—what is this bill going to do, if anything, to make sure that America's laws, which have both of those as temporaries, actually are enforced?

Mr. SIMPSON. Mr. President, we addressed both of those issues, the so-called nonimmigrant visa, which includes the tourist visa, and the student visa. They are both addressed here. We require that students, other than students trained in high technology and some other categories, must return to their country before they adjust status. They must remain there for 2 years before they adjust status into another category.

Tourists, will be monitored under a computer system, monitored by the State Department and INS, and a visa control system.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. HELMS. Mr. President, in conclusion, let me say that there is no immediate mass deportation required by this amendment of mine which is pending. The crisis has been building for a decade and it may take a decade to wind it down. But if we set the precedent of amnesty once, we will be encouraging future millions of illegals to take a chance.

Let me say to Senators that if this amendment, or something closely akin to it, is not adopted, Senators will rue the day that they allowed this bill to go through with amnesty for 6 million aliens, or is it 10 million, or 15? We do not even know.

I repeat, there is not simple solution, there is not easy solution. Certainly, we need to strengthen our border patrol. We have more people guarding the Capitol of the United States today than we have guarding our entire southern borders. That is a ludicrous situation under the circumstances.

Let me warn the Senate that giving amnesty to illegals will be costly in terms of implementation. It will cost unemployed American citizens hundreds of thousands if not millions of jobs that they might otherwise get, and will lead to many more millions of relatives of illegal aliens not now in the United States becoming legalized in the future.

I am satisfied in my conscience in offering this amendment, Mr. President, no matter how it comes out. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Will the Senator yield?

Mr. HELMS. Have I time remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. HELMS. I yield.

Mr. CHILES. I want to say to the Senator from North Carolina that I really think we ought to try to close the borders first. We ought to try to find out if we can close the borders first. Then we all recognize that we have to do something about all those people who are here. I would like to do just what he has said. I have become persuaded that we are not going to be able to pass this bill if we do not have some amnesty feature in it. I am so concerned for the plight of my State, and the position that we are in. If we do not do something to be able to stop the flow and to set up a speedy procedure for determining who is alien and who is entitled to political asylum and who is not then the situation in my State will get even worse. We will just be overwhelmed. Because of that, this bill can help stop the flow and speed up procedures. I will support the bill. However, I hope we will come up with something that is much more restrictive than the amnesty the bill now holds. I am not going to vote for the Senator's amendment now, but if we do not get that more restrictive amnesty, I might ask him to offer it again.

Mr. HELMS. I am sorry the Senator will not vote for my amendment, but I understand his reasons.

Mr. CRANSTON. I wish to state my opposition to the amendment offered by the Senator from North Carolina to strike the legalization program from S. 2222.

Despite my criticisms of S. 2222, the legalization program is absolutely essential if the bill is to become law.

Legalization has its humanitarian aspect which is important.

But equally important is the pragmatic commonsense need to avoid the severe disruption of communities and places of business that will take place if there is not a legalization program from the hundreds of thousands of individuals estimated to be affected by S. 2222.

I remind my colleagues that American immigration policy has tolerated, and often actively encouraged, persons to enter the United States without proper immigration papers to work and to live here. S. 2222 marks a dramatic reversal of what has been our actual policy for many years. This is not a case where the law and practice have been clear and consistent. This is not an amnesty. As a matter of fact there is little for which to absolve undocumented workers.

They are significant contributors to American productivity. They aided the growth of my State and much of the Southwest. They continue to do so. They are honest, hardworking people and welcome members of many communities.

It would be a tragedy to drive them from this land as proposed by Senators Helms and East. I urge rejection of this proposal.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. Pressler) is necessarily absent.

The PRESIDING OFFICER (Mr. Hatch). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 17, nays 82, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—17

Armstrong
Boren
Byrd,
  Harry F., Jr.
Cohen
Denton
East
Exon
Ford
Heflin
Helms
Humphrey
Jepsen
Long
McClure
Nickles
Symms
Zorinsky

NAYS—82

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker

NOT VOTING—1

Pressler

So Mr. Helms' amendment No. 1987 was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 1226

(Purpose: Revising legalization program and to provide State block grants for legalization impact assistance)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. Grassley), for himself, Mr. Thurmond, Mr. Laxalt, Mr. Denton, and Mr. Gorton, proposes an unprinted amendment numbered 1226.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 154, line 21, and page 162, in the matter following line 8, strike out "1982" and insert in lieu thereof "1980".

Page 155, line 4, and page 156, line 10, strike out "one-year" and insert in lieu thereof "eighteen month".

Page 155, amend lines 6 through 13 to read as follows:

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status since January 1, 1977, or

"(B) the alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1977, through a passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status since January 1, 1977, and

Page 156, amend lines 12 through 19 to read as follows:

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuously in the United States in an unlawful status since January 1, 1980; or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorised stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status since January 1, 1980; and

Page 157, amend lines 1 through 4 to read as follows:

"(ii) the alien is—

"(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

"(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

"(III) a national of Haiti who was paroled into the United States under section 212(d)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

"(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service;

Page 157, line 24, strike out the semicolon and insert in lieu thereof ", and".

Page 158, line 4, strike out the semicolon and insert in lieu thereof a period.

Page 158, strike out line 5 and all that follows through page 159, line 12.

Page 159, line 20, strike out "twenty-fifth" and insert in lieu thereof "thirty * * *

Page 160, line 21, strike out "thirty-first" and insert in lieu thereof "forty-second".

Page 161, after line 24, insert the following new subsection:

"(d)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and "(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B) to (ii) (relating to certain Cuban and Haitian entrants).

"(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980

(Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

Page 162, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Page 162, line 9, strike out "(c)" and insert in lieu thereof "(c)(1)".

Page 162, after line 10, insert the following new paragraph:

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

Page 162, after line 10, insert the following new section (and insert a corresponding item in the table of contents):

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

SEC. 302. (a) There are authorized to be appropriated for grants (and related Federal administrative cost) to carry out this section such sums as may be necessary for fiscal year 1983 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (g)(1)) meeting the requirements of subsection (b) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (g)(2)) residing in the State in that fiscal year and

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year and

(iii) the amount of net expenditures the State is likely to incur in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (g)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsection (e).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted the State under this section. Such report (for fiscal years after fiscal year 1983), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e) The provisions of sections 506, 507 (other than subsection (b) thereof), 508 of the Social Security Act (relating to reports and audits, criminal penalties, and nondiscrimination, respectively, under the maternal and child health service block grant) shall apply to activities, funds made available, and allotments under this section in the same manner as those provisions apply to activities, funds made available, and allotments under title V of such Act; and for this purpose—

(1) any reference to that title in any of those sections shall be deemed a reference to this section, and

(2) a reference to section 502(a) or 502(b) or to section 505 in any of those sections shall be deemed to be a reference to subsection (b) or to subsection (d), respectively, of this section.

(f) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(g) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(2) of such Act, until the end of the three-year period beginning on the date such permanent resident status was granted,

whichever is later. (3) The term "program of public assistance" means a program which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

Mr. GRASSLEY. Mr. President, the crisis situation of rampant illegal immigration——

The PRESIDING OFFICER. The Senator will suspend. The Senate will please be in order. The Senator deserves to be heard.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the crisis situation of rampant illegal immigration to the United States is obviously a complex problem which has been steadily growing more serious over the past 20 years, and especially over the past decade.

The result is that we currently have a population of 3.5 to 6 million persons or maybe more who came to this country illegally because they knew they would find work and who are now living as a furtive underclass, afraid to claim even the most basic of human rights. The existence of such a class of underground residents undermines the fabric of our democratic society, and this problem must be addressed as part of a comprehensive effort to control illegal immigration.

The most obvious answer to this problem would seem to be to simply locate and to deport these aliens who are illegally in this country. However, as the distinguished Senator of the Subcommittee on Immigration and Refugee Policy has pointed out, "If they could not be located when they were coming in, how can we find them to get them out?" Even if we were to substantially beef up our interior enforcement for the INS, which is doubtful in these times of trimming the Federal budget, it would still be practically impossible to apprehend these persons who come from many countries and are located in all States.

During the Iranian crisis, as an example, the INS was unable to apprehend even the Iranian students who had entered legally and for whom INS had records.

Furthermore, we know that many of the illegal immigrants are concentrated disproportionately in certain industries and geographical areas which have grown dependent on their labor. Even if we could locate these persons, their sudden removal could cause severe economic disruption for a temporary period of time in those industries and areas of the country that have grown dependent upon these workers.

Also, attempts at mass deportation have been undertaken in the past such as Operation Wetback in 1954, and the rights of many citizens and permanent residents of Hispanic background were violated in the course of that drive.

Finally, this Nation, I believe, is unwilling to place an army on the borders, thereby straining the cordial relations with our neighbors Canada and Mexico.

If it is true that over half of the illegal immigrants—1.5 to 3 million—are from Mexico, then a sudden deportation of such a large number to a country that already has unemployment and underemployment rates of 30 to 40 percent, a burgeoning population, and a severe economic difficulty would

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almost certainly jeopardize the stability of that country and possibly our own strategic interests. A stable country to the south is clearly in our national interest.

The only realistic remedy—and I say this after considerable thought—to deal with the current population of undocumented immigrants in the United States is to legitimatize their status in a way which will insure that these people continue to work and will become productive and participating members of their communities.

I have worked very closely with Senator SIMPSON and with the Reagan administration on this problem. Clearly, a legalization program is needed, but the Reagan administration has indicated that the legalization provisions reported by the full Judiciary Committee in S. 2222 are likely to produce a heavy expense to the Federal Government, as these people would be able to adjust status after only 2 years to permanent residence and thereupon become eligible for the full range of public assistance benefits available to our citizens.

We hope these persons will continue to work, and we believe they will. Nevertheless, as we saw with the refugee program, access to cash assistance programs can create high rates of public dependency among groups that formerly were hard working in their homeland.

Therefore, I have worked closely with Senator SIMPSON and the administration in developing a compromise legalization program which will insure legal status for the vast majority of illegal immigrants, while limiting the eligibility to financial assistance programs for a period of time.

Because these persons may be eligible for medical or financial assistance programs available to citizens by the individual States, we have also added a provision for a block grant program to the impacted States in meeting excess costs attributable to this population.

Essentially, this amendment will grant permanent resident status to illegal immigrants who entered before January 1, 1977, and have resided here continuously; and it will grant temporary status to those who entered prior to January 1, 1980. After 3 years of temporary residence, the latter group may adjust status to permanent residency.

The temporary residents are ineligible for all Federal assistance programs, such as AFDC, food stamps, and medicaid. The permanent residents are ineligible for Federal programs for the first 3 years of their permanent residence.

I believe this compromise reflects a workable legalization program which is fair to those illegal immigrants who have established ties with the United States as well as with the American people.

The PRESIDING OFFICER. There is no time agreement.

Mr. SIMPSON. Mr. President, I ask unanimous consent that we have a time agreement on this amendment of 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, is its 30 minutes to a side or 30 minutes equally divided?

Mr. SIMPSON. Thirty minutes equally divided.

Mr. DOMENICI. I object. I have a few questions, and I do not want to have to ask unanimous consent. If Senators want to have a time agreement, I would not need more than 5 minutes for my questions. If 5 minutes are added to the request, I will have no objection.

Mr. SIMPSON. Mr. President, 35 minutes equally divided, with 5 minutes for Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

Mr. SIMPSON. Mr. President, I think Senator GRASSLEY has come to a very reasonable compromise in connection with the legalization proposals, which I can certainly support. I do so and I think the cosponsors of the bill do so because it does not decrease the number of aliens eligible for legalization under the original bill.

It will not result in legalized aliens being held in any kind of temporary status for an unreasonable or unconscionable length of time. It does address the legitimate concerns about the possible cost of legalization in a way which does not place a large fiscal burden upon the Federal Government.

I thank Senator GRASSLEY. He has worked absolutely diligently in this area. He had a serious concern about it and as a result of that serious concern developed his compromise. He has done so with great skill.

We do restrict benefits under this amendment for persons legalized. That is in accord with U.S. policy for the past 100 years. We have always been concerned that legal immigrants not receive Federal payments.

The first immigration statute of 1882 prohibited entry of paupers and persons likely to become a public charge. Similar restrictions have been included in every immigration statute since that time. An immigrant who is likely to become a public charge is excludable initially, and an immigrant who becomes a public charge after admission is subject to deportation.

So, because of the adjustment of benefits contained in this amendment, OMB has indicated to us, through the Attorney General's office, that funds are available—this is a critical issue—for a block grant to the States to offset any emergency or other benefits. It reduces the cost to State and local governments that they may have to provide in the future for legalized aliens.

As I say, the administration has embraced the concept of the block grant to the States.

Many groups, such as the National Association of Counties, the National Municipal League, and the National Governors Conference strongly support Senator GRASSLEY's amendment because it recognizes that this is a Federal responsibility, and it provides the State and local governments with the needed financial safeguards against these added financial burdens. I am pleased to announce that those groups have indicated that with this amendment, they are fully supportive of the legislation.

Mr. KENNEDY. Mr. President, if I may have the attention of the Senator from Iowa, one of the adjustments we made in the committee was to move the cutoff date from 1980 to 1982 so that we would deal fully with the problem we are faced with today. When we start moving back from 1982 to 1980, we are leaving in limbo a large number of undocumented aliens who are here today.

I do not think an argument can be made with regard to any prospective date, because that would serve, perhaps, as an inducement for individuals to come in order to be included. But those who were here in 1982, prior to the time this issue was addressed, if we are serious about dealing with the problem, they should be included, too.

What will be the status of those people between 1980 and 1982? It seems to me that they will be left in limbo.

Mr. GRASSLEY. To be perfectly candid, they are subject to deportation if they are illegally in this country.

Mr. KENNEDY. Why does the Senator take 1980, then? If you came here on January 1, 1981, you would be deported, and if you got here on Christmas Eve in 1979, you would be able to stay.

Mr. GRASSLEY. Any date we take in legislation is arbitrary. But let me say this: The word was out in the report of the Commission in 1980 that there may be legalization and there was probably an anticipation of legislation, and there were maybe 1 million people covered by the date since 1980 who came into this country in anticipation of legalization. That is one of the reasons. We are talking about numbers and costs associated with those numbers. Should we legalize people who purposefully came into the country in anticipation of legalization?

Second, I think it is legitimate that these people have some connection with the community, be part of the community, and I think those residing here prior to 1980 have established

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some equity. They are a part of the community. Frankly, I am not prepared to extend the program to what may be a million people who have come to the country since that date and who in that short period of time, in my judgment, have not established that equity. I have tried to say to my friends particularly on this side of the aisle, who are opposed to any legalization, Listen, a lot of these people are part of the community; they have established equity.

It is a matter of justice. There is precedent in previous legislation, other times that immigration legislation has passed in which we have legalized people.

Those are the answers I feel confident in giving to the Senator and I am not expecting him necessarily to agree with them because I know the Senator feels strongly.

Mr. KENNEDY. I respect the views of the Senator from Iowa. It just seems to me that the reasons that were given by the Senator from Wyoming earlier about trying to put this issue behind us, first by the legalization program and second by the other provisions on enforcement, which I will have more to say about later, have a sense of logic to them. But what we will be doing if we accept the Grassley amendment—and I am not under any illusion that we will not because it has the support of the chairman of the subcommittee—but we will be saying that there still will be this subclass of individuals who will be subject to exploitation, as well as their children.

But let me ask the Senator this question: I take some issue about the fact that these individuals who come here are overutilizing the welfare system. For the most part, I think if one examines the facts, and I know the Senator has, those who are coming here are generally the more ambitious. They want to work. They are willing to work under extremely difficult circumstances. They are not individuals who exploit the system, as was stated by the Senator from Wyoming, perhaps with the exception of when they are giving birth to individuals here that changes their status. Generally they are not exploiting the system. I am most interested in regularizing their presence here and I am wondering if the Senator—and, as I indicated earlier to the Senator from Florida, I have supported in the past and will support in the future separate provisions to try and help communities that are particularly burdened—would he be willing to defer the benefits but at least permit the adjustment of the status? It puts them on the road to citizenship. It will, I think, go a long way from the continued exploitation of those individuals, but we would defer granting to them the kinds of inclusion in the welfare programs which the Senator is very much concerned about in terms of the financial burdens to local communities and to the States and even to the Federal Government.

I have not had a chance to talk with the various interest groups, but it does seem to me if that is acceptable to the Senator we could work out the language and that would remove the financial burden yet permit the legalization of these individuals in the society and would, I think, go a long way toward avoiding the exploitation we have seen, and nonetheless meet the concerns of the Senator from Iowa—which I quite frankly do not believe are quite as significant as he does but albeit this would at least avoid that problem.

Mr. GRASSLEY. Let me say to the Senator from Massachusetts, and I might invite the attention of the Senator from Wyoming, because I worked very closely with him on this compromise, that those of us who worked on it were a long time coming to a compromise. Obviously, I think any time during the legislative process we should consider all alternatives. But I think that we have worked on this especially as far as cost was concerned and I know that the Senator's proposal does not affect the cost. I am satisfied particularly from the standpoint that we feel that this port of legalization should be available to those who have been in the community a certain period of time and we have chosen that to be January 1980, that being an important element of this compromise. The Senator's proposal does not answer that particular aspect of our compromise, regardless of costs, as I know his is not going to be any more costly than our proposal.

Mr. KENNEDY. We say that within that period from 1978 to 1982 they have to be in place, so to speak, for 2 years before they could adjust to the permanent residency, and then it takes 5 years to move toward citizenship. So they would have to have that 2 years, in any event. Then we would permit permanent residency. We would defer their opportunity or their ability to take advantage of the various benefit systems. So the cost would not be any different.

What I inquire of the Senator, if he is not concerned about the cost, is that we accept the concept in terms of limiting the cost, but we leave in place the legislation date of 1982.

This would seem to me to deal with the cost problems, yet make the legislation program as inclusive as possible to put this subclass, so to speak, on some road to legitimacy if they can meet these requirements.

Mr. GRASSLEY. Will the Senator yield?

Mr. KENNEDY. Do we have a little time? I think we are getting close.

Mr. GRASSLEY. I will take some of the time.

Mr. KENNEDY. All right.

Mr. GRASSLEY. Does the Senator's proposal also allow those people, who he would legalize in this country beyond the period of time that I do, to petition for relatives? And if so he is increasing further the backlog.

Mr. KENNEDY. It would not permit it for those between 1978 and 1982. Once they qualify as permanent resident aliens, they would then be entitled to petition and move toward citizenship.

I think what we are trying to do, if we are not going to deport all these individuals, is to try to legalize them, and take them out of a subclass of exploitation. But it would not alter or change their position in terms of application for the reunification of family until they qualify.

Mr. GRASSLEY. The Senator from Wyoming wanted to comment.

Mr. SIMPSON. How much time does the Senator have on the amendment?

The PRESIDING OFFICER. Six minutes 57 seconds.

Mr. SIMPSON. I will take 2 minutes, if I may.

Mr. GRASSLEY. I yield 2 minutes.

Mr. SIMPSON. Mr. President, we have covered the issue of why we have provided this legalization because they have attained "equities." They have contributed to their community, worked in their community, put roots down—participated. These are aliens that other people ask us to cover with private bills. Usually they are young, single males without families. They are working here. They came here to work. That was their sole reason for coming to the United States.

When they are involved in the cutoff date, after the date that Senator Grassley is proposing, they are likely to run home if they are unable to work in the United States after the implementation of employer sanctions.

But I would say that each year we extend the date we include about 500,000 additional human beings, and when we do that then the local governments have serious reservations and complaints.

Let me say this. Of all the immigration laws I have studied and which have been on our books through our history, this is the most generous legalization date we have ever had.

In fact, the old method was to have a registry date, which was sometimes 15 years back. This is the most generous date which has ever been proposed in any statute of our country. I thank the Senator and I thank the Chair.

Mr. GRASSLEY. Mr. President, I yield 1½ minutes to the Senator from Alabama.

Mr. DENTON. Mr. President, I thank my colleague from Iowa.

I want to voice my support for his legalization amendment, and express my admiration for the chairman of the subcommittee who has worked so long and so hard to make this a fair bill.

I consider the limited legalization program he proposes to be fair and a reasonable attempt to reduce substantially the ever-increasing number of illegal aliens.

I am convinced that the overwhelming majority of this Nation's citizens are unwilling to accept a near blanket amnesty for those who entered the United States in blatant disregard of our immigration laws. It would be patently unfair to the taxpayers of this country to enact a legalization program which is estimated to cost for fiscal years 1983 to 1990 $26 billion in Federal, State, and local tax dollars, a program which would also be unfair to the thousands of foreign nationals, perhaps more certainly potential hard workers, who have waited patiently through the present backlog of visa applications in order to enter this country through legal procedures.

The Grassley amendment is stringent enough to avoid rewarding lawbreakers and to discourage further illegal immigration. The amendment is expected to cut nearly $21 billion in the anticipated costs that I mentioned previously, an 80-percent savings. I urge my distinguished colleagues to accept this compromise position.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Well, Senator, I inquired earlier, I gathered from that that the adjustment was not acceptable; am I correct?

Mr. GRASSLEY. Yes, Senator.

Mr. KENNEDY. Mr. President, I regret that because I do think, as the Senator from Wyoming has stated again, the individuals who are coming here are single, interested in jobs and in work. I do not think the case has been made about the heavy drain upon the various benefits programs. I have not seen the evidence.

I, for one, was quite prepared to see, since that was the case, that we exclude them from participating in certain benefit programs, but at least not deny them the opportunity for inclusion in the legalization program.

If we accept the Grassley amendment, we should not fool ourselves by not recognizing that we are still going to have a very substantial group of undocumented aliens in this Nation who are going to be subject to continued exploitation, with all of the implications that have been pointed out in the previous discussion and debate. So I hope the amendment will be defeated.

Mr. GRASSLEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes, 55 seconds.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to modify my amendment, striking the words "a program" in section 302(g)(3) on line 17 at page 10 of the unprinted amendment, and insert in lieu thereof "State or local programs."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. Will the Senator please send the modification to the desk?

The modification is as follows:

(3) The term "program of public assistance" means state or local programs which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 2 minutes to the senior Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Grassley amendment. This amendment strikes a good compromise, in my opinion, on this subject of legalization. First, it moves the date for permanent residency from January 1, 1978 to January 1, 1977.

Next, it moves the temporary residency date from January 1, 1982 to January 1, 1983.

Next, it provides for a block grant program to fund it.

Next, it prohibits permanent residents from getting welfare benefits for a period of 3 years after the enactment of S. 2222.

Mr. President, I commend the able Senator from Iowa for his willingness and effectiveness in putting this compromise together. It addresses the concerns of many Senators, including myself, the administration and those groups who have expressed concern about an amnesty for illegal aliens in this country.

I feel this is a good amendment, and I hope the Senate will approve it.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not know that I even need my 5 minutes, but I remember now when I was talking a few minutes ago I mistakenly, Senator GRASSLEY, in referring to your amendment, referred to the Senator from Idaho, and I know the Senator is not from Idaho and I regret having said that.

I ask unanimous consent that the RECORD be corrected, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me ask the distinguished sponsor of the amendment a question. Do I understand correctly that if the Senator's amendment passes, as far as social benefits available to the aliens legalized by this amnesty, that none could accrue and occur before the year 1986? Just arithmetically, is that not correct?

Mr. GRASSLEY. The Senator is correct.

Mr. DOMENICI. Does the Senator have an estimate of what that cost in 1986 to the Federal Government and to the local governments would be? I have a dollar number here. There are so many different estimates. CBO, OMB, and the Justice Department all have figures.

Mr. GRASSLEY. To the Senator from New Mexico, the only answer I can give him with any certainty, is that it is strictly dependent upon the number of people who come forth for identification and legalization.

Mr. DOMENICI. Of course, I understand that, and I say this respectfully, but that is the case in all these estimates. Yet we have had estimates for what the base bill would cost, and they are figuring some estimate of how many people will come forth and how many will be eligible for benefits. But if we use the same base, do we know what the cost might be?

Mr. GRASSLEY. It would be expected by the time those legalized become eligible to be the same as for U.S. citizens.

Mr. DOMENICI. We have a dollar number that I would use just for purposes of discussing it. We think about $232 million in 1986 for the Federal share and about $135 million for State and local share under the Grassley amendment.

Mr. GRASSLEY. We have some projections that include the figures that the Senator gave for the year that he suggested but we also have them extended out for 7 years—1983 to 1990—of course, there is no cost in the first 3 years. The final cost is estimated to be $5.5 billion.

Mr. DOMENICI. For the entire period you just discussed?

Mr. GRASSLEY. Yes. But the figures the Senator gave for the year he suggested are similar to what we have.

Mr. DOMENICI. I thank the Senator.

Mr. GRASSLEY. Let me clarify that by saying that is a combination of Federal and State costs.

Mr. DOMENICI. The $5.5 billion, I was going to say, must be Federal and State.

Mr. GRASSLEY. Yes.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes and 17 seconds remaining.

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Mr. GRASSLEY. The Senator from New Mexico understands that we have proposed as part of my amendment a block grant to States that are impacted to the greatest extent by the legalization provision.

Mr. DOMENICI. I understand that. And I thank the Senator.

Mr. President, I think we have before us one of the most difficult situations that Congress is ever going to face. And I am sure that after months of work and a lengthy set of committee hearings that we have a good bill before us. I personally think that the proposal that the distinguished Senator from Iowa offered makes it somewhat better.

But I really do not think we ought to be excited about the future because it is not going to work out as it is predicted here. Those who are saying that even with the employer sanctions that are going to be made into law and with the other disincentives that are allegedly here, I think it is safe—I will not be around probably—to predict that you are going to have hundreds and hundreds of thousands of illegal aliens in the country even after this becomes law, and I mean in the sense that they will be brandnew illegal aliens.

I think the issue is economic. As long as we have poverty in high proportions in the world and on our borders, man's ingenuity, pushed by the drive to survive, is going to bring hundreds of thousands here and they are going to be here. That does not mean the bill is not good. It is. That does not mean this amendment is not good. It is.

But I think to talk about this as if we are going to forever be rid of the problem that illegal aliens bring to our country and the problem that we bring to illegal aliens in our country is to delude ourselves.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I ask unanimous consent for 1 additional minute, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I think we are just kidding ourselves. So I think that any notion that we ought to be yet more generous here that is premised upon the fact that we are not going to have the problems any more, so we ought to really solve them all by moving the date back to 1980 or move it up to 1982 for those who are here, I think that is premised on a proposition that is absolutely not going to happen.

It does not mean we ought not try this. We ought to. But I just think, unless and until we face up to the fact that there are millions of Mexican-Americans who are going to come here to seek work—and they are going to come here; there may not be quite as many, they are going to come regardless of this bill, they are going to come regardless of the employee sanctions—they are going to be another group with all the problems that have been discussed here on the floor.

So I think we ought to make it a privilege to become legal in this country. And the value of the privilege has always been based upon how much time a person has to spend to earn that privilege. So I think the longer we can insist that they are here, the more we preserve the privilege of being a citizen of the United States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Just on this issue of the cost to the Federal Government of the legalization program, I think it is important to put in the RECORD the CBO estimates of what the cost would be. They recognize the estimate is very uncertain. But their estimate of the costs in 1983 is only $50 million. The GAO, on the other hand, have estimated that the undocumented aliens paid in 1976 in local, State, and Federal taxes, something between $3.5 billion and $5 billion in 1976 dollars. Billions of dollars going in, and here we are with an amendment trying to suggest—with no real documentation—there are these tremendous costs in benefits.

The fact of the matter is that I am sufficiently convinced that these needs and costs are so exaggerated, that I would be willing to see that they would not be eligible for these benefits.

I have no illusion about what the outcome of this vote is going to be. But I welcome the opportunity to vote against it, and I hope that my colleagues will do so as well. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Have both Senators yielded back their time?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator From Iowa (Mr. GRASSLEY). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 16, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—84

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
Eagleton
East
Exon
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sasser
Schmitt
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—16

Chafee
Cranston
DeConcini
Dixon
Dodd
Ford
Hart
Inouye
Kennedy
Levin
Metzenbaum
Moynihan
Sarbanes
Specter
Tsongas
Zorinsky

So Mr. GRASSLEY's amendment (UP No. 1226) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I send an amendment to the desk and ask for its immediate consideration.

Mr. SIMPSON. Mr. President, may I ask the Senator from Colorado if he would defer. I told the majority leader and the minority leader that the next amendment would be the amendment of Senator HUDDLESTON, and then immediately after that the body would turn to the war risk conference report. Will the Senator from Colorado defer that amendment until tomorrow? We will be involved in session between the hours of 10 and approximately 2 or 2:30 to conclude amendments on this legislation. Will the Senator from Colorado agree to that?

Mr. ARMSTRONG. Mr. President, I sort of like the Baskin-Robbins system of offering amendments where everybody takes a number and we do them in sequence. I am willing to do that, but if we are going to do that and if I am going to defer to the Huddleston amendment, I would just like to know what my number is. I do not have to offer it now, but either we have an ordering for amendments or we do not.

Mr. SIMPSON. I think that my fellow floor manager and I would indicate you might lay that amendment down tonight at the conclusion of the war risk conference because——

Mr. ARMSTRONG. Mr. President, that would suit me to a "T" although I must say that if it is laid down, it will be finished so quickly that it will scarcely merit any discussion, so I will be glad to lay it down and then continue it over to tomorrow or handle it tonight, as the managers think best, and I withdraw the amendment.

Mr. SIMPSON. Mr. President, that is why we will lay it down.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that there be 1 hour of debate equally divided on the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1227

(Purpose: To include refugees and asylees within the numerical limitations for family reunification immigrants and independent immigrants)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BOSCHWITZ. May we have order, Mr. President.

The PRESIDING OFFICER. There will be order in the Chamber.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. COCHRAN, Mr. CHILES, Mr. GRASSLEY, Mr. RANDOLPH, Mr. PRESSLER, Mr. JOHNSTON, Mr. RUDMAN, Mr. FORD, and Mr. KASTEN, proposes an unprinted amendment numbered 1227.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 122, line 11, strike out "and".

On page 122, line 13, insert after "section 214(d)," the following: "and (v) 82 percent of the number of aliens admitted under section 207 or granted asylum under section 208 during the previous fiscal year,".

On page 123, line 1, insert "the sum of (i)" after "(B)".

On page 123, line 8, insert after "residence," the following: "and (ii) 18 percent of the number of aliens admitted under section 207 or granted asylum under section 208 during the previous fiscal year,".

Mr. HUDDLESTON. Mr. President, I advise the Members of the body that the cosponsors——

The PRESIDING OFFICER. Will the Senator refrain for just one moment?

Will the other Senators who desire to talk please leave the Chamber so we can give respect to the Senator from Kentucky so he can present his amendment?

The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the cosponsors of this amendment are Senators COCHRAN, CHILES, GRASSLEY, RANDOLPH, PRESSLER, JOHNSTON, RUDMAN, FORD, and KASTEN.

May I state very succinctly what the amendment does. It is a very short amendment. It merely places within the cap that is established in the legislation that is now pending, 425,000 immigrants per year, all immigrants that come into the country under the designation of refugees.

Mr. President, the Washington Post a few weeks ago editorialized, and I would like to quote from that editorial:

> The burning desire of so many refugees and immigrants to come to this country is a tribute. They come not simply because we are prosperous but because also we are free. The sad fact is that we are no longer able to follow our humanitarian instincts and accept as we did for so many years anyone who wants to come. Because of economic conditions and the need to maintain social and political stability, we must regulate the flow and make hard choices about who will be admitted.

Just a couple of days ago that same newspaper editorialized in opposition to the amendment that we are presenting at this time.

Mr. President, I submit that the duplicity of the Washington Post on this issue on this question is characteristic of the attitude of many people who are genuinely concerned about the question of immigration, the question of refugees, the question of just what precisely the role of the United States should be.

What my amendment does is require that we address this issue face on, that we make some of those hard choices that were referred to in the first editorial that I quoted from.

Now, S. 2222 that is before us makes in my judgment some very significant improvements in the immigration and refugee policy of this country, but it does have a glaring flaw, a weakness, which is the failure to establish a comprehensive, all-inclusive immigration ceiling for the United States. What I mean, very simply, is that refugees must also be recognized as the immigrants that they are and that their numbers, with some flexibility, must come within the ceiling.

By failing to establish an all-inclusive ceiling, we are admitting that a substantial portion of our refugee policy will not be based on a rational and logical determination of what is in the best interest of our Nation. Instead, we will continue to permit special interest groups, outside pressures, the political process itself, to dictate our immigration policy.

The Refugee Act of 1980, which S. 2222 would continue to set refugee limits, has failed to keep refugee admissions under control.

Instead, it has created a vague open-ended admission process that has never come close to keeping refugee flows anywhere near the 50,000 per year normal flow specified in that statute.

In reality, the 50,000 has now become a floor instead of an average and the admission levels will move upward from that floor, resulting in a significantly higher average over the coming years.

This is not just idle speculation. In the 3 years the Refugee Act has been in effect—assuming this year's admission level will be 140,000 as set by the admission—we have a yearly average of 177,000. In other words, we are running at over 300 percent of the so-called normal flow.

In fiscal year 1980, legal admissions of immigrants, including the massive influx from Cuba, was 808,000 persons. It is significant, Mr. President, I think, to reflect that if S. 2222 were in effect at that time, if this legislation applied in 1980, the legal admission level would still have been about 800,000 people. That is why we must have a ceiling and one written into this law through the amendment that I am offering.

The consultation process is not adequate for assuring congressional control over refugee admission policies. The most recent consultation process produced a situation whereby the administration dictated an admission level of 140,000 for fiscal year 1982, and that was done in the face of substantial opposition from the Congress.

I know that Chairman SIMPSON on this side and Congressman MAZZOLI on the other side have taken the position that the consultation process will be more strictly utilized to bring refugee admissions more under control. I personally believe that both of them will make every effort to fulfill that commitment. However, there are other serious considerations. First of all, the consultation process has no teeth. Judiciary Committees can do little more than was done last time, which is simply to recommend a different figure, a lower figure in this case, which was promptly ignored by the administration.

Mr. President, it is the responsibility of Congress and should be the responsibility of Congress to set the figures and the limits of our immigration and refugee policies. We have abdicated this authority and that responsibility and it has been assumed by the executive branch.

The current ambiguous and open-ended refugee law created the circumstances which permitted the U.S. Department of State to undertake a policy of recruiting large numbers of economic migrants in Indochina by bullying the Attorney General into making an unsubstantiated ruling which presumed that all migrants leaving Laos, Cambodia, and Vietnam were refugees.

This was done even though it was well known that many were economic migrants and therefore not entitled to the same benefits we have reserved for legal refugees.

While Indochinese economic migrants were being welcomed with open arms—indeed, there is much evidence that they were being actively encouraged to come—the Haitian economic migrants were being detained in camps awaiting deportation.

Where, I ask, is the fairness in this?

The Refugee Act of 1980 was designed to assure that all refugees were treated alike. Obviously, it has failed to accomplish that.

Mr. President, I think it is worth pointing out here what refugee status means. When a person is declared to be a refugee for purpose of admission to the United States, he immediately becomes a special, privileged person so far as the United States is concerned. He has available to him assistance programs and benefits with a criterion that is not the same as we apply to our own citizens. It is more generous. He has assistance given to him by the various voluntary agencies and others that is not available to our citizens.

I just say this to point out that with these situations existing, we should take some care. We should follow the law that has been written, which describes what a refugee is, before embarking upon massive programs of resettlement.

Our present open-ended refugee law has contributed substantially to a refugee assistance bill that costs U.S. taxpayers over $2 billion each year. However, at a time when severe national economic problems are forcing the Congress to make draconian cuts in vital domestic assistance programs we do not see the same kinds of cuts in the refugee programs. Instead, we simply use a little sleight of hand to make it appear that the cuts are larger than they actually are.

The technique used here is to shift more of the assistance burden to the State and local governments.

The present ad hoc refugee policy which ignores the intent of Congress is merely a continuation of past policies which have done the same.

Mr. President, in my judgment, the only way to get a handle on the total immigration into this country is to establish a reasonable ceiling, one that can be abided by, one that is flexible enough to meet emergency situations that may arise; and the amendment I have offered on behalf of myself and the cosponsors has that flexibility. If a situation arises someplace in the world and the United States feels that we should extend open arms to meet a particular crisis, we can do that. We can bring in any number that might be required.

We simply then have the floating concept that is built into the bill. Of course, there is nothing sacred about the 425,000 number. It is very generous. It still leaves the United States more generous than any other country in the world. Actually, from the terms of offering permanent resettlement to foreign persons, it is more generous than the rest of the world combined. But it can be changed, if necessary, if conditions exist. Congress can change the figure, but it should be Congress and not the executive branch that pulls a figure out of the air and determines how many new people will be brought into the country.

I believe this amendment strikes the necessary balance we need in dealing with this very serious problem.

I need not recite again the statistics gathered by the recent polls that indicate what the general public feels about this problem. They are beginning to see the difficulties with which we are confronted. I think the average American citizen basically maintains his outer generosity. He or she wants the United States to be the beacon of hope, the haven for those who are disadvantaged around the world. But because of the uncontrolled nature of our immigration and refugee policy in recent years and because of the difficult times we are experiencing now, the vast majority of the American people want substantial reductions in the immigration and refugee flow to this country. I think we can do that in a humane way, in a proper way.

As I have said, nearly everybody says that we cannot take them all. Somebody needs to say, "OK, that is true; we cannot." But let us develop a mechanism to determine whom we can take, how many we can take, and what process we go about in determining which ones we will take.

That is what this amendment does. It is a very simple amendment. I believe it will vastly improve this bill and will, for the first time, bring the immigration and refugee program of this country under control.

The flagrant misuse of refugee laws is not a new or unusual occurrence. The repeated abuse of the Attorney General's parole authority has been well documented over the years.

Attorney General Bell called this practice of ignoring the letter and intent of the statute doing an end run on the law. With this type of attitude going unchallenged by the Congress over the years, it should come as no surprise that this administration and the past administration felt very comfortable in going far beyond the bounds of the Refugee Act.

Unless Congress reasserts its power and authority in this area, future administrations will feel just as free to make their own refugee law. The political and economic pressures which have contributed to past flows of migrants will not only continue but most experts predict that they will increase. The 1980's are expected to be the "Decade of the Refugees" due to increased tensions worldwide.

Even though the flow of migrants in Indochina may be slowing we now find ourselves faced with the same problem in an area much closer to home—the Caribbean Basin.

The Cuban mass migration in 1980 was merely a small taste of what could be yet to come. The former Secretary of State has publicly stated that we could be swamped with massive flows of refugees from that area. Unfortunately, the Secretary is a little late with his warning because we are already receiving a flood of migrants from that area.

Conservative estimates place the number of El Salvadorans in this country illegally at over 400,000. Special interest groups have already begun to demand that these illegal immigrants be given asylum.

It is also well known that Castro has identified at least 2 million of his people who might be expelled to this country when it suits his political or economic needs. What is not so well known is that this action could happen at any time. Without a very firm policy in place I do not believe we can deal effectively with this type of massive movement of people.

If the United States brings illegal immigration under control through fair and effective employer sanctions and if a ceiling is placed on legal immigration, the pressures to come into the United States under the open-ended refugee-asylum provisions will increase significantly. If we have learned anything from our past experience with immigration, it is that people will do nearly anything to immigrate to this country.

America is a Nation of immigrants and the children and grandchildren of immigrants who have come here seeking, and finding, a better life than they could have found anywhere else in the world.

We have that tradition to uphold, and we should uphold it proudly. But at the same time we have an obligation to our own citizens to restrict our immigration to numbers we can manage, both economically and socially. We must perform that obligation to the best of our abilities as well.

I believe a balance can be struck in which we can both uphold our traditions and perform our obligations to our own citizens. S. 2222 takes a giant step in that direction. I urge the Senate to take the extra step of committing to an overall ceiling on immigration, as my amendment would do.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from Mississippi.

Mr. COCHRAN. I thank the Senator from Kentucky.

Mr. President, I commend the Senator for the leadership and the diligence he has shown in this area. For some time, he has been one of those in the Senate who has researched the facts and tried to focus the attention of the Senate on this very serious problem of how to control unlimited refugee immigration into the United States.

I have joined him in cosponsoring this amendment, and I urge the Senate to approve it. I am confident that without this amendment, the bill is going to fall short of its effort to establish effective controls over legal admissions into the country. This bill, as drafted, establishes only a partial limit on legal admissions. This amendment sets a comprehensive ceiling.

From what has developed over a period of years, 425,000 is a generous figure. During the period from 1921 to 1980, our average immigration level was only 274,469. As a matter of fact, I am confident that this figure is much more generous than public sentiment indicates it should be. I believe the public supports stricter controls over immigration.

Mr. President, it is obvious that unlimited numbers of people, however unfortunate their situation may be, coming into this country in large, unrestrained numbers, are necessarily forced to compete with American workers for jobs. This is causing problems in certain areas of the country already.

We have heard about events in Miami, in Denver, and along the Gulf Coast involving fishing practices which have been caused, in large part, by the unrestrained numbers of refugees who have been allowed to settle in the United States.

I think we all know that there is sentiment in this country to be a good neighbor, to be caring and concerned, and I think we are. As a nation, we do not have to prove that over and over every day. I think history bears that out and speaks much more strongly than any speech in this Chamber can to describe how humane and concerned we are as a nation. I think we will continue to be.

The adoption of this amendment would require that Congress determine how many people will be admitted into the country in any 1 year. If there is an international event that justifies, in the President's mind, the admission of more than that number, he is free to do that. But, of course, those extra numbers that are admitted have to be taken into account in future years to assure that the overall ceiling will not be surpassed.

This amendment recognizes the need for flexibility to respond to an international crisis by permitting unlimited admissions in any 1 year.

Mr. President, I must say before I sit down that I really think the Senator from Wyoming, ALAN SIMPSON, and others who have worked with him have done a great job, not only in serving on the Commission but in working in the Judiciary Committee to report the recommendations that are contained in this bill. I intend to vote for the bill whether this amendment is agreed to or not. But I hope that it is included in the bill because it strengthens the commitment of Congress to take a more active role in establishing refugee policy.

When the Refugee Act of 1980 was adopted, a normal flow of refugees was expected to be 50,000 a year. Since then, as we have seen, the numbers have increased dramatically.

Mr. President, the amendment that the Senator from Kentucky is offering will provide needed control over the total number of those who are permitted to immigrate yet will maintain the flexibility that we must have in this area of responsibility.

Mr. JOHNSTON. Mr. President, will the Senator yield 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. May I ask the Chair who is controlling the time on my side?

The PRESIDING OFFICER. The Senator from Kentucky is controlling time on his side.

Mr. HUDDLESTON. Very good. Then I will yield to the Senator from Louisiana.

Mr. JOHNSTON. I want to engage the distinguished Senator from Kentucky in a colloquy and congratulate him on this amendment.

In my judgment, the immigration problem in this country is one of the most serious facing this country and will be for the rest of this century and unless we come to grips with it I think the country is in terrible shape.

I congratulate the Senator and ask him—perhaps he covered this in his opening statement, but if he did not I wish for him to explain to our colleagues in the Senate about the infrastructure which is out there which is being financed by the Government, paid by the Government in order to get refugees into this country. Is it not a fact that our Government is paying up to $1,000 per person to get refugees?

Mr. HUDDLESTON. There is no question that a substantial industry has built up around the entire world, some if it legitimate, some of it very illegitimate, stemming principally from the generosity of the United States, the ease with which people are brought into this country and what is available to them once they get here.

The Senator from Louisiana may be referring to the voluntary agencies that exist for the purpose of assisting immigrants who come here, particularly refugees. Many of these do an outstanding job and provide a good service. They are, in fact, of course paid a fee per refugee that they bring in. For instance, the last information I had relating to the Haitians who are being released is that the payment to the voluntary agency is $650 for each one. They more or less commit that they will take care of the needs of that refugee, but in most cases that is not the case. The person probably will wind up on one or more of the public assistance programs.

Mr. JOHNSTON. In effect, what it amounts to is a $650-bounty for which they do very little except get the alien here. Once they are here, then are they not those same organizations that bring lawsuits to free them from detention?

Mr. HUDDLESTON. Some of them do that. Many of them have been around the Capitol in the last few days lobbying very hard against this amendment and against some other provisions of this bill.

Mr. JOHNSTON. I do not criticize their motivation. It may be not only legitimate but wonderful. But the point is, we have an industry built up out there with jobs dependent upon the number of refugees brought into this country, financed by the Federal Government, and there is no reason to think that that industry is not going to continue to prosper and to increase the number of people it brings into this country, and to continue to operate, along with that profit motive, somewhat of a propaganda machine; is that not somewhat correct?

Mr. HUDDLESTON. I do not know that they suggest any kind of restriction on the numbers that are brought in. I think the Senator's assumption is right, that they contribute to the flow.

Mr. SARBANES. Mr. President, will the Senator yeild on that point?

Mr. JOHNSTON. May I——

Mr. SARBANES. The assumption, I understood, is that they are not only concerned about the numbers, but out to make a profit. I do not think that is fair or legitimate with respect to the various church organizations and comparable groups that are involved with the question of resettling the refugees.

The Senator from Kentucky is not suggesting that in response to the Senator?

Mr. HUDDLESTON. I am not suggesting that. I do not believe the Senator from Louisiana did.

Mr. JOHNSTON. No, I am not suggesting that. I said the motivation is probably very good.

Mr. SARBANES. The Senator made reference to the profit motive. I do not understand that motivation or that reference. These are church groups.

Mr. JOHNSTON. Employment motives, shall we say? I think it is correct that there are many, many thousands of jobs of well-motivated people who

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are dependent on bringing refugees into this country. Is that fair or not?

MR. HUDDLESTON. I do not know there are that many. But I certainly do not want to either question the——

Mr. SARBANES. I say I do not think that is fair to the church groups that are involved.

Mr. JOHNSTON. They are not all church groups.

Mr. SARBANES. No, they are not all, but they are an important part of what is involved.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. I have the floor.

Mr. JOHNSTON. I do not mean to say all the groups are illegitimate or whatnot. But I do think there is, as I say, an industry.

That is not the principal motive for my supporting the Huddleston amendment. But can the Senator tell me how many people are poised in Central America ready to come here?

Mr. HUDDLESTON. I do not think anyone can give the Senator that figure but I quoted earlier the former Secretary of State who said that if the conditions continue as they appear to be in South America, we can expect the influx will make the influx from Cuba of 130,000 look like a Sunday picnic.

We do know that Fidel Castro has the names of upward of 1 million people who signed up during the Mariel boat lift who he could at any time give reason to leave the country to come here.

So we do know that the number is substantial. The conservative estimates now are there are 400,000 El Salvadorans in this country illegally. We know there are a good many from all the other countries.

Mr. JOHNSTON. What the Senator is saying is that there are out there on the starting blocks ready to come with the first excuse given or whatever with the first nose under the tent ready to come amounts that far exceed those who have already come, not just Salvadorans?

Mr. HUDDLESTON. I think that is a safe assumption.

Mr. JOHNSTON. But all over South America?

Mr. HUDDLESTON. I think that is a safe assumption.

Mr. JOHNSTON. I thank the distinguished Senator. I congratulate him on the leadership he has given.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. HUDDLESTON. Let me make one statement that relates to the question the Senator from Louisiana asked first about the infrastructure out there. Many people do not realize that a great number of the Haitians who came here came here because they were recruited by entrepreneurs, very unsavory characters who promised them safe passage, promised them entry into this country, and of course, all of the things this country has to offer. In exchange they took their savings. The standard fee was several hundred dollars to put them on a boat and set sail for our coast. That, too, is an industry that has been built up. That industry also exists in Southeast Asia. In Indochina many of those refugees get here through the same kind of system. It is not an inconsiderable industry that has been established.

I yield to the Senator.

Mr. BRADLEY. Can the Senator from Kentucky confirm for me that his amendment would place refugees in the overall total of immigrants allowed into this country, 200,000, 250,000 of the total in that year. There are 100,000 refugees, and that means 325,000 minus the 75,000 exceptional ability immigrants, and that would be the total, is that correct?

Mr. HUDDLESTON. That would put the refugee essentially on the same level as the immediate family.

Mr. BRADLEY. And the category the Senator has referred to is refugees, is that correct?

Mr. HUDDLESTON. I am sorry, I did not hear.

Mr. BRADLEY. The category that the Senator's amendment refers to is refugees.

Mr. HUDDLESTON. That is correct, and asylumees also.

Mr. BRADLEY. Does the Senator's amendment at all refer to a category called entrant?

Mr. HUDDLESTON. No; so far as I know, there is no legal status of that category except that created by the statement of a former President.

Mr. BRADLEY. Is it correct to state that if the Senator's amendment had been law in 1980, it would not have prevented any of the Cuban-Haitian immigration because they were not categorized as refugees but as entrants; is that correct?

Mr. HUDDLESTON. I am not sure because their status has not been determined. Whenever their status is determined, they are either going to be deported as exclusionary or they are going to be asylees or refugees. They cannot stay in limbo forever. Once they are, then whatever category they come in would apply.

Mr. BRADLEY. Is there a date by which the entrant category must become another category?

Mr. HUDDLESTON. No.

Mr. BRADLEY. So that it could in fact remain entrant forever.

Mr. HUDDLESTON. The Senator is talking about the Asians now?

Mr. BRADLEY. The Cuban and Haitian category called entrant.

Mr. HUDDLESTON. Theoretically they could. They are still entrants. Their cases are being determined.

The PRESIDING OFFICER. All the time of the Senator has expired.

Mr. HUDDLESTON. Their condition is in limbo until the Congress or the courts decide what their status is.

Is my time up?

The PRESIDING OFFICER. The time has expired.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield myself 3 minutes.

Refugees and immigrants are two distinct groups. I speak against the Huddleston amendment. There is no one I respect more on this issue. He has worked in this area for many years. He has been sensitive to it. He followed it even when he had no committee assignment. All of us on the subcommittee agree that he is most extraordinarily adept in this area.

But there are two distinct groups, and they must be treated separately. They should not be competing with each other for admission to the United States.

Refugee admissions are now controlled by the Refugee Act of 1980. The President requests and justifies refugee numbers for the next fiscal year. He justifies that proposal through a consultation with the Judiciary Committees, receiving a recommendation from Congress and setting the final figures.

Last year this administration proposed 173,000 admissions, and we on the committee, the manager of the bill on the opposite side, and myself, revised the limit downward. We reduced the numbers to 140,000 after congressional consultation. The House agreed.

In addition, at the request of Congress we agreed to manage that number so that entries to the United States, would if possible, be at even a lower rate. This has happened so that this year actual admissions to the United States of refugees will be probably less than 100,000. The consultation mechanism is working.

The administration I think needs the flexibility which is provided by the Refugee Act to consider both domestic and foreign policy interests in the U.S. refugee program.

If we include refugees in this total cap, we will seriously reduce this flexibility.

Here is the difference: Immigration policy is principally concerned with family reunification. We have discussed that for most of the day; whereas refugee policy is concerned with the United States accepting its fair share of persons who are fleeing persecution in their homeland. Both policies obviously have a humanitarian purpose, but the two groups should never be allowed to compete for admission.

This administration strongly opposes the amendment also because of the severe limitations it would place on the flexibility that it requires in addressing domestic and foreign policy interests.

So I say, Mr. President, in objecting to the amendment, that we do have control. It is finally working. Last year, as I indicated, the 173,000 figure is now down to less than 100,000, and we will reach the normal flow of 50,000 I feel quite assured within a very limited time.

Mr. SIMPSON. Mr. President, I yield 7 minutes to Senator Danforth.

Mr. DANFORTH. Mr. President, I rise to oppose the amendment offered by Senator Huddleston. Before I speak, I would ask unanimous consent that a letter from the State Department in opposition to this amendment be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Coordinator
for Refugee Affairs,
Washington, D.C., August 12, 1982.

Hon. John C. Danforth,
U.S. Senate,
Washington, D.C.

Dear Senator Danforth: The Immigration Reform and Control Act of 1982 (S. 2222) provides urgently needed reforms to improve our control over immigration to the United States. Its carefully balanced provisions have been developed over a long period in a truly bipartisan spirit.

Recently Senator Walter Huddleston proposed that S. 2222 be amended to include refugee admissions under the fixed numerical ceiling which the bill would impose on routine immigrant admissions. We urge that you oppose this amendment since we do not believe that it serves our national interest to combine immigrants and refugees in the same ceiling.

Refugees and immigrants pose separate problems and we should continue to treat them separately. S. 2222 will give us flexibility in selecting the categories and levels of immigration we desire while helping the United States regain control over its borders. As to refugees, the approach that Congress developed two years ago in the Refugee Act of 1980 best provides for the necessary degree of domestic controls while permitting the President the flexibility to cope with those emergency situations that generate refugees. We urge, therefore, that you oppose any amendment to S. 2222 which would alter the procedures which Congress just recently established in the Refugee Act of 1980.

The notion of a combined ceiling on immigrants and refugees is not new. Congress rejected it during its work on the Refugee Act of 1980. The Bipartisan Select Commission on Immigration and Refugee Policy, the Reagan Administration, and the authors of S. 2222—Senator Alan K. Simpson and Representative Romano Mazzoli—have also rejected it.

The Refugee Act has established a comprehensive statutory procedure to admit refugees. It replaces the limited conditional entry and open-ended parole provisions of previous laws. In transferring the responsibility for refugee policy decisions from the Attorney General to the President, it recognizes that refugee admissions are so important that they should be made at the highest level. Finally, while the Refugee Act provides for policy direction by the President, it likewise establishes that the final decision on refugee admissions will be the product of consultations between the Administration and the Congress. This system is working. Refugee admissions are coming down as an act of conscious policy: from 212,000 in fiscal year 1980 to 159,000 in fiscal year 1981 and a fiscal year 1982 total of 100,000 or less. The Administration has now been engaged in extensive consultations with States, the voluntary agencies, and Congress on the admission levels for next fiscal year. We fully expect that admissions will continue to decline. The Huddleston Amendment would thoroughly disrupt these procedures.

The cornerstone of American immigration policy has been a commitment to family reunification. Within the framework of S. 2222, future immigration of immediate relatives of U.S. citizens and resident aliens would comprise roughly 75 percent of our immigrants. Senator Huddleston's Amendment in combining immigrants and refugees would pit these two groups with different origins and different problems against each other. Instead of giving the President the capability of providing separately for the unique problems of these two groups, it would put him in the impossible position of having to choose, for instance, between providing relief for refugees from Communist repression and the admission of parents or children of longtime U.S. residents. It is clearly not in the best interest of the U.S. to structure the President's choices in this invidious fashion.

The Huddleston Amendment would not only reduce the President's flexibility, it would also invite a return to the still all too familiar pattern of special interest legislation. Further, it would demoralize many of the American religious and non-sectarian groups and individual citizens who form the backbone of our proud record of refugee assistance. And finally, it would tell the world that the United States has retreated from its leadership position on the refugee question and thus set back the Administration's efforts to broaden the international base of refugee resettlement.

The American people want a clear statement on immigration policy. The Simpson/Mazzoli bill gives that clear statement. The Refugee Act of 1980 gives a clear statement on the separate refugee problem. Let us not confuse these issues.

As two of our country's public officials most concerned with America's proud record of human rights and humanitarian assistance, we urge you to speak out against Senator Huddleston's amendment. The Refugee Act of 1980 is working. The provisions of S. 2222 should be given an opportunity to prove effective.

Elliott Abrams,
Assistant Secretary of
State for Humanitarian Affairs.
H. Eugene Douglas,
Ambassador at Large.

Mr. DANFORTH. Mr. President, this well-intentioned but misguided amendment runs directly against the proudest traditions of this country. It would pit against each other two types of people seeking to come into this country—immediate family members or persons already living in the United States—citizens or permanent resident aliens—and refugees, people fleeing persecution in their own countries.

We all know who would win that kind of perverse competition—the relatives of those already here.

I wish there were no refugees in the world, then we would not have this problem. But there are millions of them. They are fleeing Vietnam, Afghanistan, Ethiopia, Poland, and so on. I have seen these people.

In October 1979, I went to the border of Thailand and Cambodia with two of my colleagues, Senator Sasser and Senator Baucus. We were there at the height of the exodus of Cambodians fleeing their country. After suffering for years the ravages and atrocities of Pol Pot, the Cambodian people were starving under the rule of the Vietnamese puppet government.

The people we saw were dying. Walking skeletons, these human beings stared blankly at those around them. They crossed the border and lay down on the ground to die. The children did not laugh or play, their bellies were distended from malnutrition, and their faces were shriveled up like those of little old men.

This Nation's refugee policy helped keep those people alive—not because they would eventually come to the United States, but because we could credibly demonstrate to other countries in the region our willingness to help them with a large refugee population.

The biggest problem with the world's refugees is not finding them a third country for permanent resettlement. The biggest problem is finding a place of temporary refuge, a place of first asylum, where they can stay either until conditions in their home country permit their return or until resettlement can be arranged.

Vietnamese refugees had overloaded the capacity of friendly countries in that region to respond humanely. Hundreds of thousands more Cambodians exacerbated the problem. Thailand, the principal refuge for both groups, was having great logistical and political difficulty with the presence of so many refugees in their country. The Thai Government was able to withstand internal pressures against providing asylum for one reason, and one reason alone—the United States committed itself to resettling a large number of refugees in this country. Equipped with this knowledge, the Thais were able to withstand internal pressure to turn away those coming across their borders for refuge.

Tens of thousands of Cambodian lives were saved in 1979 and 1980. Those people are alive today not only because they were fed, and clothed, and sheltered. They are alive because there was a place to go for food and shelter. Our refugee policy was fundamental to that fact.

This amendment would effectively shut off our ability to respond similar-

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ly at a time of future crisis. This is a life-threatening amendment, and it is wrong.

Others have made the arguments that ours is a nation of immigrants who often came seeking refuge from oppression. I agree. I also believe very strongly that the principal difference between America and the Soviet Union is the value that we as a society place on the sanctity of human life, dignity, and personal freedom. A flexible refugee policy personifies these proud American traits. Let us not reject our heritage. Let us not tie our hands. Let us vote down this insidious amendment.

Mr. **BOSCHWITZ** addressed the Chair.

The **PRESIDING OFFICER**. Who yields time?

Mr. **SIMPSON**. I yield 7 minutes to the Senator from Minnesota.

The **PRESIDING OFFICER**. The Senator from Minnesota.

Mr. **BOSCHWITZ**. Mr. President, I also rise in opposition to this amendment and state, as does my friend from Wyoming, that this amendment is the wrong forum, the wrong bill to discuss and to control refugees. We have a refugee bill. It has gone through committee in the House and it will be before us.

I agree with my friend and colleague from Kentucky that perhaps some redefinition of refugees and their rights and privileges in this country is proper. But this is not the bill to do it, nor is this the bill to limit the number that comes to this country.

We have talked, and I have heard other talks here, about the rich tradition that we have, and indeed it is. And nowhere is it better exemplified than in Russia and in Eastern Europe where they must build walls to keep their people in while, unfortunately, we must pass laws to restrict the number of people who come to this country.

It was mentioned here on the floor during the course of this debate that there are hard choices here—425,000 people were going to be admitted into this country other than the refugees. I do not consider that a hard choice, Mr. President. That is only one-fifth of 1 percent of our population. That is really not a large number to admit to a country of 240 million. That is approximately one-fifth of 1 percent, as I say.

During the two decades of 1956 to 1978, the U.S. ratio of legal immigrants was approximately 2.8 people per 1,000. My friend and seatmate, the Senator from Mississippi, says that we are more generous than any country in the world. It is just not so, Mr. President.

During that same period of 1956 to 1978, when admissions, legal admissions to this country were 2.8 per 1,000, in Canada it was 17 per 1,000 and in Australia it was 15 per 1,000. So, indeed, it is a generous number, I do not dispute that, but it is not a number that is going to cast hardships on our society.

My friend from Mississippi pointed out that during a long period of time, starting in 1921, that the average number was 271,000 that came into this country legally. If he had gone back a few years, the numbers were over 1 million, year after year, and during that period of time most of the forebears of the Members of this body undoubtedly came to this country.

In considering this number, Mr. President, no one has spoken about emigration, the numbers that leave our country. And historically approximately 30 percent of as many people who have left have come in. So when you talk about 425,000, probably the net figure is closer to 300,000 who stay in this country, new entrants or net new entrants each year.

Even during the period of peak immigration, Mr. President, from 1908 to 1913, when each year over a million people came to this country, emigration averaged 32.1 percent of immigration. During that period of time we used to keep records and there was a commission and a report called "The Repatriation in American History," by Thomas Kessner. And during the highest time of our immigration, 32 percent of the number immigrating had emigrated and left our country. So that the net amount of immigration really is not the figure that is before us.

I heard a Senator say that they are competing for jobs in this country. I also want to add to that that they are the ultimate of consumers. They come to this country with nothing and they have to buy what we consider the most regular part of our lives, the most basic things in our society. So they not only come and take jobs, often jobs that others will not take, but they come and they consume as well. And they create jobs. Indeed, if you look back in the history of our country, among the most creative people are those who come to our shores and seek haven in our country.

One of my colleagues talked about all these folks who were out on the starting blocks about to come in, that if this bill—as though this bill would make a difference—were passed and if the refugees numbers were not taken as a diminution of a total of 425,000, that these people would somehow come quicker.

Of course, the flow of illegal immigrants needs to be checked. It is the first duty of any country to be secure within its borders. But while that needs to be checked, that is not going to be affected by this figure, Mr. President. Illegal immigration does not require quotas. Illegal immigration continues. The people who run these unfortunates, who charge $2,000, I heard, are going to stop if we raise or decrease quotas.

Indeed, Mr. President, we do have that rich tradition, that proud tradition, and I am part of it, Mr. President. I am one of the two immigrants here in the Senate. Senator HAYAKAWA is the other. We are two Members of the Senate, indeed, who can seek higher office, who can run for President or Vice President. I believe at last count we may be the only two who are not seeking those offices. [Laughter.]

In any event, Mr. President, I came when I was too young to understand the promise of America and what it meant, but I heard it very often from my parents. That promise must be kept alive.

The **PRESIDING OFFICER**. The time of the Senator has expired.

Mr. **BOSCHWITZ**. May I have 1 additional minute?

Mr. **SIMPSON**. For the Senator, 1 additional minute.

Mr. **BOSCHWITZ**. Indeed, that promise has to be kept alive.

I thank my colleague from Wyoming. His generosity is always so marvelous.

The promise of America, Mr. President, is something that we have to keep alive. People, as my friend from Missouri, Senator DANFORTH, said, are kept alive because they feel that promise is out there. We have a marvelous tradition in this country. We are indeed the hope of mankind. It is something that we cannot allow to die. It is something that we have to kindle and increase. I yield the floor.

Mr. **SIMPSON**. Mr. President, may I inquire of the time remaining?

The **PRESIDING OFFICER**. The Senator has 15 minutes, 40 seconds.

Mr. **SIMPSON**. I yield 4 minutes to the Senator from South Carolina.

Mr. **THURMOND**. Mr. President, I want to say in the beginning that no Member of the Senate has taken more interest in immigration matters and sounder positions than the able Senator from Kentucky. I have to disagree with him on this particular matter.

Mr. President, it is with some reluctance that I intend to vote against the Huddleston amendment because I am sympathetic with its purpose. As I understand the amendment, it would include annual refugee admissions within an overall ceiling on immigration and refugee admissions for each year. If the number of refugees exceeds the number provided for, it would be charged against other admission classifications.

Mr. President, I share the goals of the Senator from Kentucky to limit the number of immigrants and refugees coming into the United States. We cannot take them all. Senator HUDDLESTON has been in the forefront on immigration and refugee matters for years and I respect and support his efforts to bring our immigration and refugee policy under control. I am afraid, however, that I cannot support him on this particular amendment.

Mr. President, the Committee on the Judiciary has wrestled with this question on refugee policy and the relationship between the executive and legislative branch authority to control it. Two years ago, the Congress passed the Refugee Act of 1980, which provided for an annual ceiling of 50,000 refugee admissions and required consultation between the President and the Congress before any refugee admissions beyond that level could be authorized. The track record of that law is fairly good.

In 1980, refugee admissions reached a high of 232,000, far in excess of the 50,000 emergency level in the Refugee Act. In 1981, refugee admissions dropped further, and in 1982, the Congress, pursuant to consultation with the President, authorized a ceiling of 140,000 refugee admissions. To date, only 100,000 refugees have been admitted during fiscal year 1982. Although these levels are not as low as I would like, the process is working.

Mr. President, we will also have an opportunity in the committee to study and review the proposal of the Senator from Kentucky when we take up those immigration and refugee reforms not contained in S. 2222. For example, emergency powers of the President in dealing with refugee matters will be the subject of consideration by the committee early next year. I can assure the Senator from Kentucky that his proposal to review the level of refugee admissions and the role of the Congress in that process will be given careful consideration.

Mr. President, this amendment is well intended, but it goes against the reforms we are trying to achieve in this bill, which is to focus on legal and illegal immigration. Refugee policy is important, but should be addressed separately. For these reasons, I will vote against the amendment.

Mr. President, I ask unanimous consent that a letter to me from the Secretary of State, Mr. Shultz, on this amendment be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., August 12, 1982.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: I am writing in regard to the amendment proposed by Senator Huddleston to S. 2222 which would include refugees in an overall "cap" on immigration.

The passage of such an amendment would seriously limit the President's flexibility to conduct foreign affairs, inasmuch as it would severely restrict his ability to formulate solutions for those international situations that can—and all too—frequently do—create refugees.

I am aware of the factors that originally underlay Senator Huddleston's approach, but I believe the Congress has dealt with them effectively. Thus, the concerns of some Members over the use by the Executive Branch of the parole authority were reflected in the amendments to the Immigration and Nationality Act that are contained in the Refugee Act of 1980, and these concerns should now have been met. Moreover, the consultations mandated by the Refugee Act have become an increasingly effective vehicle for the exercise of meaningful oversight of the U.S. refugee program by the appropriate Congressional committees. This is largely because the Congress has set forth comprehensive guidelines. The refugee admissions system is therefore now running smoothly, and there is no reason to believe that it will not continue to do so.

Under these circumstances, I do not believe that Senator Huddleston's amendment is necessary or desirable. I hope that you will oppose passage of the Huddleston amendment to S. 2222, the Immigration Reform and Control Act of 1982.

Sincerely,

GEORGE P. SHULTZ.

Mr. SIMPSON. Mr. President, would you please review the time situation?

The PRESIDING OFFICER. Ten minutes, nine seconds.

Mr. SIMPSON. I yield 4 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to oppose this amendment to the Immigation Reform and Control Act of 1982 that would place under a single numerical ceiling both refugee and immigration admissions.

S. 2222 places a limit on all legal immigration into this country with the exception of refugees. This bill leaves in place the refugee admissions system created by the Refugee Act of 1980. I strongly endorse a separate refugee admissions system and will oppose the amendment.

The present law provides for a "normal flow" of up to 50,000 refugees a year. It allows the President to increase this number after appropriate consultation with the Congress if it is justified by humanitarian concerns or is otherwise in the national interest. This system recognizes that immigration and refugee admissions serve different purposes. Immigration policy in large part reflects family reunification. Refugee admission levels are generally set in response to critical humanitarian situations or foreign policy considerations.

The Huddleston amendment will reduce considerably the ability of the U.S. Government to respond to refugee emergencies. The loss of this flexibility could have the unfortunate effect of undermining various foreign policy objectives.

As we all know, our Government offers assistance to refugees not simply out of compassion, but because large refugee populations can threaten the stability of countries of first asylum. This is especially true for developing nations which are ill-equipped to cope with large influxes on their own. The presence of refugees can raise serious tensions between sending and receiving countries in a particular region, and the refugees can come to fear mistreatment in the first asylum country as much as they might fear persecution in their homeland if they were to return.

At the height of the Indochinese refugee crisis in 1979–80, the previously generous countries of first asylum in Southeast Asia adopted desperate measures in the face of new waves of refugees. Thousands of Khmer and "boat people" from Vietnam lost their lives after being pushed back across land borders or back out to sea. In time, however, many receiving countries were able and willing to offer refuge with assurances of support from the international community.

The granting of first asylum provides time for the development of humane solutions to refugee problems. These include voluntary repatriation when conditions in the homeland permit, settlement in the region or, as a last resort, resettlement in third countries. Africa is a good example of an area where first asylum countries have traditionally offered hospitality to refugees, where refugee problems have been resolved through regional cooperative efforts, and where requests for outside support have come only recently in response to rapidly increasing refugee populations.

It is to the credit of the international community and to the United States that its response has helped ease many African and other refugee situations in the last few years. After decades of ad hoc arrangements, there are now international mechanisms to help first asylum countries provide immediate humanitarian relief, longer term maintenance, and voluntary repatriation or resettlement where appropriate. The Geneva conference on Indochinese refugees in July 1979 and the conference on African refugees in April 1981 underlined the need for greater coordination and broader international participation.

One of the major reasons for the success of these efforts has been the leading role of the United States in pledging support and having the ability through the Refugee Act to accept large numbers of refugees in times of crisis. Our support at the 1979 and 1981 Geneva conferences set examples that many countries subsequently followed. Our lead also reassured the countries of first asylum in Africa and Southeast Asia that their plight would not be ignored by the international community.

The cooperation has led to an alliance between donor countries, recipient countries, and international orga-

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nizations that has made it possible to manage refugee problems of unprecedented scope. While much remains to be done, the emergency stage is behind us in assuring the survival of Afghans in Pakistan, refugees in the Horn of Africa, and the Khmer people. What worries me is that this relief network is fragile. Any precipitous decrease in the ability of the United States to meet an unforeseen refugee crisis could lead to the unraveling of the system. Receiving countries may again believe their only recourse is to deny asylum to new arrivals and to treat harshly those who have already arrived. No one, including the United States, gains from a return to chaos and brutality.

As responsible members of the international community, we must work to resolve the root causes of refugee flows. We must also recognize the urgency of responding to refugee problems as they arise. In some situations, third-country resettlement of some refugees may be the only solution. The Huddleston amendment would eliminate our ability to respond to international emergencies. It would also undermine our efforts to encourage more nations to assist in refugee resettlement and to accept a larger share of the financial burdens associated with refugee care which bears so heavily on the United States. The Huddleston amendment which combines immigrants and refugees under one ceiling would undermine our position of leadership in the international community with respect to the humane treatment of refugees.

Mr. SIMPSON. Mr. President, will the Chair please review the time remaining?

The PRESIDING OFFICER (Mr. HEINZ). The Senator from Wyoming has 5 minutes, 46 seconds; the Senator from Kentucky has zero minutes and zero seconds.

Mr. SIMPSON. I yield such time as remains of my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Wyoming.

I acknowledge both the interest and the expertise of the Senator from Kentucky (Mr. HUDDLESTON), who has taken very considerable interest in the whole issue of refugees and immigration policy. I do take issue with his recommendation to this body as to how this body and this Nation can best address those particular concerns.

I must join with my distinguished colleague, Senator SIMPSON, in opposing the amendment offered by our good friend from Kentucky. I do so because I believe it will be destructive of the important immigration reforms we have proposed in this carefully balanced bill—a bill that seeks greater control over immigration to our country, without undermining the flexibility of our laws or closing our doors to immigrants and refugees.

By placing refugees and immigrants under a single rigid ceiling, the pending amendment mixes two, totally separate categories of migration. It places us in the position of taking immigration numbers from family reunion cases if we attempt to respond to humanitarian emergencies involving refugees.

Under the provisions of this amendment, if our country chooses to accept additional refugees beyond the ceiling, we could do so only if we reduced future immigration numbers for family reunion and other immigrants standing in line around the world.

The questions involved in the admission of refugees and immigrants are different. Our response to them must also be different.

Immigrants come to our country in a predictable fashion. Under annual ceilings and quotas. Many are admitted under established preferences reflecting our concern for family reunification. They come in an orderly way, with no expenditure of taxpayer's funds. And when they apply for admission, or when their American citizen relatives petition for them, they do so knowing they may have to wait, but that they can expect to be admitted on a certain date.

Refugees, on the other hand, are admitted under extraordinary circumstances, reflecting the unpredictability of their plight and the urgency of their needs. We cannot foresee who or how many refugees may have a claim upon our attention or concern. Each refugee situation and each refugee must establish why they should be admitted, and why they are "of special humanitarian concern" to the United States, as stipulated by the Refugee Act of 1980.

Furthermore, their admission is dependent upon the authorization and appropriation of public funds.

The Senator from Kentucky has spoken of the lack of congressional control over the admission of refugees. But the admission of every single refugee to the United States involves the action of at least eight committees of both Houses of Congress. Every year, the Budget committees act to set overall spending ceilings. The authorizing committees act on budget requests. The appropriations committees allocate the funds, and the judiciary committees consult and approve the final admission levels. These steps hardly reflect a lack of congressional control. Some may disagree with the votes and actions of these eight committees—and they may disagree with the verdicts of the Judiciary committees after their consultations with the President on refugee admissions—but I do not think they can say there is "the flagrant misuse of refugee laws" or that there is a lack of congressional involvement and control over the admission of refugees.

In fact, the Refugee Act of 1980 has proven to be a significant new tool in bringing greater order and control to the resettlement of refugees in our country, as all those who have worked in this field agree. No one—not the select commission on immigration and refugee policy, not the Reagan administration's task force on immigration, and not the Judiciary Committees of the House and Senate—has recommended changing the basic terms of the Refugee Act. The law is working well, and the act provides the controls Congress has long needed over the admission of refugees.

Reference has been made to the past abuse of the Attorney General's "parole authority." The Refugee Act explicitly abolished the use by the Attorney General of his parole authority for the admission of refugees.

Reference has also been made to the fact that every year the admission of refugees has exceeded the "normal flow" of 50,000. But that figure, Mr. President, was known to be inadequate for the past 2 years when the Refugee Act was written. We knew then, that we were in the midst of responding to the Indochinese refugee emergency, and that the numbers would be larger for the first few years. There was no secret about that.

But the numbers are now coming down—by more than 50 percent in 2 years. We will soon be near the so-called "normal flow" figure—a figure based upon the overall average of the past 20 years.

And, beginning this fiscal year, that "normal flow" figure will disappear from law—in accord with the "sunset" amendment of the Senator from Kentucky.

So, in the future, the annual authorization for the admission of refugees will be zero. The admission of a single refugee must now be justified by the President and come under the full range of controls established in the Refugee Act. The President must consult, and the judiciary committees must agree, before a single refugee can be admitted. For those who have argued that refugee ceilings have tended to become floors, it should be noted that there will soon be no ceiling—that any figure must be justified each year.

Finally, Mr. President, as justification for this amendment we have heard references to the Cuban influx of 1980—to the specter of the uncontrolled influx of tens of thousands of persons. But the fact is that this amendment is irrelevant to that issue. The Cuban influx came outside the Refugee Act. They were not admitted as "refugees," but given a new status called "entrants." If this amendment were law in 1980 it would not have helped in dealing with such a mass influx, since the Cubans were deemed not to be refugees.

And even if they were classified as refugees, the terms of this amendment would not address the problem—it would only penalize the admission of family reunion and other legal immigrants the following year, and cripple our ability to respond to genuine refugee situations.

Other provisions in this bill are designed to help us deal with mass asylum problems.

Mr. President, I think it is worthy to note that all the national organizations and voluntary agencies involved in our Nation's effort to assist immigrants and refugees for more than 30 years, have unanimously urged the Senate to reject this amendment. I hope we will follow their sound advice. I ask unanimous consent that their views be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL OF VOLUNTARY
AGENCIES FOR FOREIGN SERVICE,
INC.,
New York, N.Y., July 22, 1982.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: As the national organizations who have been responsible for refugee resettlement in the United States since World War II and before, and as agencies also deeply concerned with broader immigration issues, we are writing to express our grave concern over a recent legislative initiative. In a letter dated June 21st, addressed to their colleagues, Senators HUDDLESTON and COCHRAN have urged that the Immigration Reform and Control Act of 1982 which will shortly be considered by the Senate, be amended so as to combine numerical limitations for both immigration and refugee admissions under the same ceiling. The purpose of our letter is not to advocate either higher or lower refugee or immigrant admission levels, but rather to express reservations about placing refugee and immigrant admission levels under the same ceiling. We believe that such a combined ceiling is unwarranted and would be contrary to the national interest of the United States.

The notion of combining refugee and immigrant admissions under one ceiling has been suggested periodically in the past. All recent major reviews of immigrant and refugee policy—the bipartisan Select Commission on Immigration and Refugee Policy, interagency reviews undertaken by the Ford, Carter and the most recent Reagan administration review, and the bipartisan Simpson-Mazzoli proposed legislation—all considered this proposal and rejected it for what we think are persuasive reasons.

We believe the current system for setting admission numbers is both a more thoughtful and realistic process than implied in the joint letter from Senators HUDDLESTON and COCHRAN. Recent admission numbers reflect the serious efforts of the responsible subcommittees charged with admissions oversight, and their chairmen, to consider both international and domestic concerns in setting admission levels.

The issues of immigration and refugee admissions are substantively different. Immigration policy reflects in large part family reunification considerations. Refugee admission levels are generally set in response to critical humanitarian situations and/or foreign policy concerns. Placing two conceptually different programs under a single admission ceiling would force destructive competition between responding to refugee crises and reuniting divided families, and would pit one ethnic group against another within our own society.

Interestingly enough, the single numerical ceiling would not address the very issue which seems to be the basis for many of the points made in the June 21st letter—uncontrolled immigration. For example, the 1980 influx of large numbers of Cubans to our shores was an aberration which would not have been addressed by the existence of a combined ceiling for immigrant/refugee admissions. Nor would such a ceiling in any way affect the chronically high numbers of illegal admissions to the United States. In short, the proposed ceiling will not help us deal with our most acute admissions problem—direct, unplanned arrivals in the United States.

Ironically, the single ceiling issue is proposed at a time when the number of refugee admissions has decreased dramatically (by nearly 50 percent over the last 2 years) due to both domestic and international considerations. It is important to note that under the current system the essential elements of both control of overall numbers as well as flexibility to respond to acute international problems has been maintained in the best American tradition. It is also worth noting that the United States is not bearing the burden of refugee resettlement alone. For instance, both Canada and Australia have recently resettled more refugees on a per capita basis than has the United States.

As national organizations representing broad and often overlapping religious, ethnic and generally concerned constituencies, it is our belief, based on decades of working with immigrants and refugees, that the combined ceiling proposal would have two critical effects: (1) it would virtually destroy the flexibility our country needs to respond to pressing humanitarian and foreign policy concerns—concerns to which the American public has traditionally responded—and would abrogate our historical international leadership in this area. (2) It would generate serious divisiveness within our own society over the allocation of numbers within the single ceiling. In view of these considerations we urge retention of the present system as provided for by current law.

Sincerely,

WELLS C. KLEIN,
Chairman, Committee on Migration
and Refugee Affairs.

On behalf of:

American Council for Nationalities Service.

American Fund for Czechoslovak Refugees.

Buddhist Council for Refugee Rescue and Resettlement.

Church World Service.

HIAS (Hebrew Immigrant Aid Society.)

International Rescue Committee.

Lutheran Immigration and Refugee Service.

Migration and Refugee Service, United States Catholic Conference.

Polish American Immigration and Relief Committee.

The Presiding Bishop's Fund for World Relief/The Episcopal Church.

Tolstoy Foundation.

World Relief of the National Association of Evangelicals.

YMCA of the USA.

U.S. COMMITTEE FOR REFUGEES,
New York, N.Y., July 20, 1982.

DEAR SENATOR KENNEDY: When the Simpson/Mazzoli bill (S. 2222) to reform U.S. immigration policy reaches the floor of the Senate this month, it is expected that an amendment with major negative implications for international refugee protection will be offered by Senator WALTER D. HUDDLESTON of Kentucky. The anticipated amendment would include refugees who may be resettled in the United States along with all other immigrants to the United States under a single numerical limitation.

Traditionally immigrant and refugee admissions procedures have been separated because their underlying bases have been recognized as distinct. The concept of a single ceiling is seductively simple, but its implications hold serious threats. The combined approach to admissions has been considered and rejected by the Select Commission on Immigration and Refugee Policy and all other responsible authorities who have studied the matter in recent years.

This letter does not concern any particular level of refugee admissions, but rather the way the United States makes its decisions regarding admissions. The U.S. Committee for Refugees, with its programs historically focused on international refugee concerns, feels that the impact of the Huddleston amendment will so affect U.S. refugee resettlement policy that the protection of refugees overseas is threatened.

Of course, resettlement has clear immigration impact which must be acknowledged directly and dealt with constructively. But the purposes, implications, and international outcomes of the two admissions processes are completely distinct. Whereas general immigration largely relates to family reunion, the rescue and resettlement of refugees is a human rights effort. Its base is ideological, seeking to uphold certain humanitarian principles and valuing the right of individuals to be free from persecution based on particular inherited or chosen distinctions.

Refugee resettlement has been kept separate from other immigration processes because of this intimate relationship with foreign policy and humanitarian concerns.

When the Refugee Act of 1980 was enacted, Congress chose to include what USCR believes is a sound procedure for determining the number of refugees to be admitted to the U.S. each year. To the extent there have been problems regarding refugee admissions in the 27 months since the "consultation" procedure was enacted, they are not attributable to the letter or intent of the law.

Senator HUDDLESTON seeks to change the existing refugee admissions framework, notwithstanding the fact that refugee admissions ceilings and actual admissions themselves have declined steadily since 1980. We believe his interest is to limit total admissions. There are serious questions about this objective; but even if the end were justified, the proposed approach is not. If a single numerical ceiling for immigrant and refugee admissions becomes law, USCR feels there would be four major unacceptable results:

1. Enactment would significantly limit the flexibility needed by the President to re-

spond promptly to foreign policy matters in which refugees are a factor.

2. This restricted ability to negotiate and respond would seriously undercut U.S. leadership in humanitarian, human rights, and related foreign policy areas.

3. A single numerical ceiling would be devisive domestically. Limited and undifferentiated numbers would pit those seeking to respond to refugee needs against nationality groups and those seeking to reunify families. Congress must be responsive to both groups, but through separate processes.

4. USCR believes enactment of a single numerical ceiling would send a chilling message to the world. The important principles of refugee protection are under assault in many areas. In some cases the actions and inaction of our government have directly contributed to this troubling phenomenon. Enactment now of such a restrictive amendment would further compromise the remaining moral leverge the United States has with the rest of the world in matters of refugee protection. In specific situations, such as that of Cambodians in Thailand, first asylum is so fragile that this enactment could cause the provision of haven there to be lost.

As citizens we all daily face the task of responding to many issues. So, of course, do Members of Congress. With respect to the particular issue of a single numerical limitation on refugee and immigrant admissions, we believe many members of the Senate do not have a clear understanding of the potential results as set forth in this letter. You may wish to consider contacting them promptly to share your own thoughts.

Sincerely,

Roger P. Winter,
Director.

National Association of Evangelicals,
Washington, D.C., August 5, 1982.

Hon. Edward M. Kennedy,
U.S. Senate,
Washington, D.C.

Dear Senator Kennedy: The National Association of Evangelicals and its subsidiary World Relief Corporation are deeply concerned about Senator Huddleston's amendment to the Simpson-Massoli Immigration Reform and Control Act of 1982, S. 2222. We are strongly opposed to the recommendation that refugees and asylees be considered along with immigrants under a single numercial limitation. We urge you to be among those who oppose this amendment.

If adopted, this amendment would have several unacceptable results: (1) it would seriously undermine the ability of the United States to respond adequately to humanitarian and human rights concerns around the world; (2) it would be domestically divisive in that those responding to refugee needs would be competing with nationality groups and those seeking to reunify families; (3) acceptance of this amendment would send a chilling message to the international community and thus threaten important principles of refugee protection already under assault in many areas.

The National Association of Evangelicals through its humanitarian relief agency, World Relief Corporation, has resettled over 32,000 refugee immigrants and entrants since 1979. This has been made possible through the generous efforts of a concerned and involved constituency representing 42 denominations and millions of Americans.

We believe that your opposition to the Huddleston amendment will best enable the United States to respond with justice and compassion.

Faithfully yours,

Robert P. Dugan, Jr.,
Director.

Mr. KENNEDY. In conclusion, Mr. President, I think the American people are concerned by what is in reality and also, I say, in appearance, an open border of this Nation. But the Huddleston amendment will not address these issues.

There is no question that there are as many as 1 million undocumented aliens who come into the United States every year. The Huddleston amendment will not deal with that problem.

It is true that we did accept tens of thousands of individuals who came from Cuba in recent times as a result, I think, of a misuse of Executive power. But the Huddleston amendment will not deal with that issue.

It is true that the Haitians have come here and landed on the shores of Florida and caused concern. But the Huddleston amendment will not deal with that issue.

So, although I think all of us are concerned about how we as a country are going to be able to deal with these rather fundamental and basic questions I dare say the Huddleston amendment does not help. It simply pits refugees against the reunification of family members, and this is not an attractive or compelling alternative. Yet, that is the choice he requires us to make.

Mr. President, I join with my colleagues here this afternoon and hope that we will reject the Huddleston amendment. If we do, I shall certainly work with not only the chairman of the subcommittee, but with the Senator from Kentucky, to consider how this Nation is going to be able to deal with the long-term problems, of refugees and immigrants.

As I stated earlier this morning, some 9 or 10 hours ago, this bill is basically a very measured bill at best. We are going to have to deal further with the flow of people into this Nation. I know the Senator from Kentucky understands that. I know he has worked long and hard on it and it is going to take the best efforts of all of us in Congress and also at the executive level in the conduct of American foreign policy to try to deal with that. I pledge to the Senator from Kentucky my willingness to try to deal with it, but I feel this amendment falls short of that objective.

Mr. SIMPSON. Mr. President, I believe the Senator from Florida would like——

Mr. CHILES. Mr. President, I would like to ask unanimous consent for 5 minutes. I have been waiting all through this debate to get some time on this amendment.

Mr. SIMPSON. Even though the Senator from Florida is on the opposing side of the issue, whatever remaining time I have I yield to him for that purpose.

The PRESIDING OFFICER. The Senator has 14 seconds.

Mr. CHILES. I ask unanimous consent for 5 minutes, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. The only point is, Mr. President, I would ask that there be 5 minutes available to the other side if that request is granted.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Reserving the right to object, let it be expressed that with this 5 minutes, there be an additional 5 minutes for the opposing side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHILES. Mr. President, I have been listening with interest to the debate. I heard the statement of the distinguished Senator from Missouri. I heard him say we should not pit these two proud groups of people against each other, the refugees and those people who are seeking to come in as immigrants.

Who represents the proud people in my State? Who keeps them from being pitted against each other when they are deluged with people who have been coming in because we have not had an immigration policy in this country?

Some have said refugees do not belong in this bill. I thought half of this bill covered illegal aliens, and trying to deal with them. We looked at what to do about amnesty for some who were already here, we are trying to do something about work certification, we are trying to do something about speeding up the determination of whether a person is entitled to political asylum or not. I thought the other half of the bill dealt with legal immigration. Now, if refugees do not intend to become immigrants, if they do not intend to become citizens in this country, then they do not belong in this bill. But if refugees are going to become citizens, if they are going to become permanent residents, where else should they be but in this bill?

We are talking about an annual cap on immigration. For the first time, we are talking about trying to put an annual ceiling in place. If the number in that ceiling is wrong because we have refugees in it, then we should increase the number. But we are also talking about doing something to protect the proud people who live in this country, the proud people who have jobs and families. Those are people who have come as refugees, or come as immigrants, as we all have, but who have worked their way through that system and maybe had to wait for years to be here. Perhaps, for those people, we ought to be considering refugees and immigrants together.

We are going to just fool ourselves. We are going to say we will put a cap on but we are not really doing anything about refugees within that cap. What happens if there is an uprising in Poland and we decide we are going to allow some Poles to come into this country? I would be for that if they are fleeing communism. I would also be for saying there is a limit to what this country can assimilate in a year.

We ought to look at that. We ought to determine what that number we can assimilate is. If we make a special exception, we ought to do it. But we should not have a policy that says that the cap we set does not count. We ought to let in all the other people who are able to come and perhaps let these others come in, too. But should we not say at some stage: "Look, if we are going to allow these Poles to come in, we may have to take a look at the other people we are allowing to come in?" We may have to say that some will have to wait for another year.

It is interesting to hear the Senator from Minnesota talk, and I know how strongly he feels about this. But he may be speaking in the abstract when he says that there are no problems of immigration in this country, that we can take these scores of thousands who come in and look at them only as so many per thousand. Tell that to somebody in my State.

Tell that to somebody in my State. Tell them that there is no problem, when 6 of Florida's cities are among the top 10 in the Nation in terms of crime rates, and when Miami has become the murder capital of the world. To Florida, immigration is not abstract because we have been deluged by refugees; we have been deluged by immigrants.

What we in Florida are saying is that we want to do our share. Every day we come up here, and we try to get some money to see that we pay back the State and local government for their costs. Every day we fight all the way through Congress, and we fight the administration. The administration cut pay-back for immigrant costs from 36 months to 18, and we are fighting every day. Our hospitals are full. We do not know what to do. Our school system got 6,500 new pupils in 1 year and we got $600 a pupil. That did not pay for the teachers, let alone the special bilingual classes, let alone the construction costs for those pupils. And now that money has been cut off too. We lost that now. And then we say having a single immigration cap is just an abstract problem; that we will cover this somewhere else; we say that we do not have to put refugees in the same bill.

As far as I am concerned, if we are really talking about doing something, if we are saying that we are going to establish a policy for this country in regard to immigration, if we are going to have something to say about who comes in, then we have to have the Huddleston amendment. We have to have a total cap.

Mr. TSONGAS. Mr. President, I rise to speak in opposition to the amendment offered by my distinguished colleague, Mr. Huddleston. It would lump refugees and other immigrants in the same category, thereby limiting their total immigration to 425,000 persons a year.

The proposed amendment would frustrate one of the central aims of the Nation's immigration policy. The tradition of the United States as a haven for refugees runs deep in our history, from the earliest landings of the Pilgrims in the 17th century to the arrival of Indochinese war victims in the past decade. The tradition of the United States as a haven for those fleeing persecution and hardship is fundamental to this Nation's identity.

This amendment puts that long and hallowed tradition in jeopardy. It would, for example, force refugees to compete with brothers and sisters of U.S. citizens desiring to immigrate. If this Nation is to remain true to its historic ideals, such a crimp on the immigration of refugees is intolerable.

Refugees are sometimes portrayed as a burden, exacerbating unemployment and straining the demand for scarce Federal funds. In fact, the vast majority of refugees have become hard-working and tax-paying Americans. The same kind of people that this amendment would unduly restrict from our shores have contributed importantly into building the United States into the great Nation it is.

If the proposed amendment passes, it would be a signal to the rest of the world that the United States has lost sight of one of its most cherished ideals.

Mr. President, I urge my colleagues to vote against this amendment and keep that ideal alive. Also, I ask that an article by Lawrence Fuchs, the former Executive Director of the Select Commission on Immigration and Refugee Policy, which appeared in the Washington Post on Friday, August 6, 1982, be placed in the Record.

The article follows:

[From the Washington Post, Aug. 6, 1982]

Immigration and Fear

(By Lawrence H. Fuchs)

The debate on immigration legislation is heating up in a climate of fear engendered by economic malaise, concern over Haitian immigrants, anger at Fidel Castro for pushing 125,000 Cubans on the United States in 1980 and the repeated—but factually wrong—assertion that the United States is now accepting more immigrants than at any time in its history and more than the rest of the world put together.

Fear is a major factor behind an amendment introduced by Sen. Walter Huddleston (Ky.) that would lump refugees together with other immigrants under an overall world ceiling of 425,000 for all legal admissions to the United States.

The Select Commission on Immigration and Refugee Policy studied this and other immigration matters for two years. Finding that legally admitted immigrants and refugees contribute to the well-being of the United States in many ways (the creation of jobs, productivity, the strengthening of our Social Security base), it urged the Congress to distinguish between illegal and legal immigration and to differentiate further between lawfully admitted immigrants and refugees.

Should refugees be included in the cap? The answer of the 16-member bipartian commission, which included eight members of Congress, was an emphatic and unanimous no. Rather, it endorsed the Refugee Act of 1980, which provides for a normal flow of 50,000 refugees annually and a process by which the president can increase that number in consultation with Congress.

The commission followed the principle of separating refugees from immigrants because to lump them together would be bad public policy.

First, it would compromise the United States morally, taking us back to the situation we faced in 1938, when we refused to admit orphan refugee children fleeing persecution and facing death because they came outside of the quotas set for immigrants.

Second, it is unwise to make refugees compete with close relative of U.S. citizens and resident aliens for scarce visas. If it became important for the United States to rescue refugees in any given year, the immigration of relatives of U.S. citizens and resident aliens would be delayed, causing tremendous resentment.

Third, refugee policy is often related to foreign policy, and the president needs flexibility with respect to refugee policy that is not required concerning immigrants. A sudden flare-up in Poland, another rebellion in Hungary, or comparable developments elsewhere might require the president to act quickly.

Finally, it would not work for long. Precisely because of the pressures of foreign policy, Congress, under stimulation from the White House, would violate its own cap, as it did repeatedly through special legislation before the passage of the Refugee Act of 1980.

Advocates of the Huddleston amendment repeatedly exaggerate the number of illegal entrants to the United States, asserting, contrary to the careful work of the Select Commission, that 500,000 of them come into this country each year to stay. That number simply has no basis in fact.

The restrictionists also repeatedly use the number of persons admitted to this country in 1980 to support their charge that there are now more immigrants coming to the United States than ever before. That year was extraordinary because of the admission of 135,000 Cubans and Haitians as "special entrants" who were not admitted as immigrants under our normal, lawful admissions procedure and because we admitted the largest number of refugees in our history, 233,000, far above the average of 50,000 between 1960 and 1980. Nineteen-eighty was not the largest year of immigration in U.S. history. That was 1907, one of six years in which more than 1 million were lawfully admitted to the United States.

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The severe restrictionists frequently assert that the United States accepts more immigrants and refugees than the rest of the world put together. Evidently, they do not count the refugees in Somalia or Pakistan. Tiny Somalia, with a miserable per capita gross national product of $130 has accepted more than 1.5 million refugees from Ethiopia—one for every 2.4 of its own population.

To permit the fear and confusion that underlies the Huddleston amendment to prevail in the Senate debate would constitute not just a concession to mean-spiritedness but also to irrationality.

Mr. HATFIELD. Mr. President, I am pleased to have this opportunity to speak on behalf of the many Senators who oppose this amendment offered by my distingushed colleague from Kentucky which would place refugees under the overall cap on legal admissions to the United States.

I understand Senator HUDDLESTONS motivation for placing refugees under the 425,000 ceiling. He is concerned with the total number of entrants to the United States each year, and he wants to have refugees included with asylees and general and special immigrants to the United States. I share with him the concern that our domestic resources are dwindling and our resource needs are growing, and that our country's infrastructures cannot withstand an unregulated flow of immigrants. That is why I have supported the 425,000 cap. I think it strikes a fair balance between the interests of family reunification, which is primarily why we accept immigrants to the United States, and the awareness of the limitations on our country's ability to assimilate newcomers into our economy and our society.

But there is a fatal flaw in the logic of the Huddleston amendment. The amendment totally ignores the distinction that is drawn between why America accepts refugees and why America accepts general immigrants. There are two separate policies involved here. As I mentioned, America has traditionally accepted immigrants for the purposes of family reunification and "special" immigrants for particular job opportunities. That is why we have preference categories and an unlimited acceptance of "immediate family members."

However, when you talk about "refugees," you are not talking about family reunfication any more. We met 17 months ago and passed the Refugee Act of 1980. Section 101 of that act states that it is the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." This historic policy is why America stretched out its arms to the refugees from Hungary in October of 1956, the refugees fleeing Castro in 1961, the Vietnamese refugees in 1975 and subsequent years, and to the other refugees who have found America as a shelter from persecution.

This historic policy is the cornerstone of our commitment to human rights and to the individual's inalienable right to be free from the grips of tyranny and political persecution. This commitment is what distinguishes the United States from the other world powers and is what gives us moral leverage in negotiating international disputes. It is important, therefore, for all of us in this Chamber to keep in mind that there are two separate policies involved with respect to general immigration and to refugees. The issue is not what happens to these foreigners once they are settled in the United States—that is the argument being offered by the proponents of this amendment. The issue is why we admit refugees to this country. People who are fleeing from a well-founded fear of persecution are not coming to the United States for family reunification purposes. And the decisions to admit these refugees involve very delicate and volatile international considerations that comprise our Nation's foreign policy.

The Senate and the President understand that the United States cannot become a haven for the world's 12 to 16 million refugees. That is why we passed the Refugee Act of 1980 that requires the President to submit to appropriate consultation whenever the President feels that it will be necessary to accept more than 50,000 refugees in a fiscal year because of humanitarian or national interests considerations.

I have seen literature being circulated by the proponents of this amendment which points to 1980 when 808,000 people were admitted to the United States. Conspicuously absent from their analysis of refugee and immigration issues are two crucial considerations. First, since 1980, the number of refugees has steadily dropped, from 159,000 in 1981, to this year's 75,000 figure. Second, the 808,000 number was inflated by the influx of Cuban and Haitian entrants. I say "entrants" because that is the title the Carter administration gave them. I want to emphasize that these Cubans and Haitians were not refugees but merely applicants for asylum, and without proof of a well-founded fear of persecution, they could not be considered refugees.

My point is that if this amendment is a response to the problems encountered with the stream of immigrants from Haiti and Cuba in 1980, or if it is designed to prevent similar occurrences, then this amendment is not necessary. Senator SIMPSON and others have instituted in S. 2222 various provisions which will address and prevent those types of occurrences. There are summary exclusion provisions, asylum procedure changes, and penalties for transporting an illegal alien to this country which, with the other initiatives in S. 2222, will bring order to the admissions process. All the Huddleston amendment would do is abridge the President's powers to respond to international crises which involve refugees. This is precisely why the administration vehemently opposes this amendment. And while I disagree with numerous elements of the administration's refugee policy, I join with them in their opposition to an amendment which would restrict America's ability to negotiate and respond to international matters with human rights overtones.

There is another serious flaw in the amendment offered by my colleague from Kentucky which I feel should be considered by the Members of the Senate. What the amendment will do, quite simply, is put the interests of those seeking to immigrate for family reunification purposes against those seeking to immigrate to flee political persecution. This type of confrontation is unhealthy and unwise. Refugees admitted in year 1 would be deducted from the immigration visas granted in year 2. In effect, a year which sees a large number of refugees would mean that those individuals in the reunification preference categories would be out in the cold the following year. Unmarried adult sons and daughters of U.S. citizens, as well as spouses and unmarried sons and daughters of permanent residents, would be displaced because of the number of refugees admitted in the previous year. This is not what S. 2222 wants to happen. We don't want the interests of those coming in for family reunification purposes to be in direct conflict with those seeking refugee status.

To be blunt about this, the amendment being considered by the Senate at this time is a backdoor approach to cutting family reunification visas. The present total of aliens issued immigrant visas or adjusting their status to lawful permanent residents, excluding refugees, is approximately 425,000. The Simpson-Mazzoli bill is designed so that there is no reduction in the current level of legal immigration to this country. This 425,000 is a figure which has survived the scrutiny of committee after committee after committee.

What Senator Huddleston's amendment would do is to cut that number to a figure well below 425,000. In effect, the amendment is saying, "We only want 425,000 foreigners per year admitted to the United States, and whatever number we don't use for refugees and immediate family members, we'll apply to whoever else is in the pool." This flies in the face of our history and heritage as a country. The Huddleston amendment from year 2 on will cause nothing but chaos in this country. And it will send out a bleak message to the international community on the future of America's role in refugee protection and on human rights issues.

If proponents of this amendment really wish to allow the President the flexibility to deal with the refugee matters, then they should be upfront about what this amendment will do. This amendment will drastically reduce the number of visas available for family reunification. The proponents of this legislation have clouded the issue by muddying the waters with the inclusion of refugees in the admissing pool. The Huddleston amendment will reduce nonrefugee admissions by a number anywhere from 90,000 to several hundred thousand, depending on the number of refugee admissions. The tension between refugee admissions and family reunifications is built into this amendment, and this tension will breed tremendous adverse consequences.

I think the United States should have control of its borders. We do have tough economic problems that are exacerbated by the flow of illegal aliens. That is why S. 2222 is so badly needed. We must rid our country of illegal immigration practices, and we must bring order to legal immigration. We will have a proper forum to address refugee issues when the Senate takes up the reauthorization of the Refugee Act. The challenge before this body is to bring order to legal immigration and to put an end to illegal immigration. We can do these things without crippling our country's commitment to humanitarian principles and to reunifying families. But we must not impair the President's powers in the area of foreign policy, and we must not blunt our country's duty to allow for an orderly reunion of family members. I am of the opinion that this amendment will do precisely that, and for that reason, I oppose this amendment.

The PRESIDING OFFICER. The time yielded the Senator has expired.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield back the remainder of my time to go to the rollcall vote.

The PRESIDING OFFICER. The yeas and nays have not yet been ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MATTINGLY (after having voted in the affirmative). On this vote I have a live pair with the Senator from Oregon (Mr. Hatfield). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) is necessarily absent.

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—35

Armstrong
Boren
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles'
Cochran
Cohen
DeConcini
Denton
East
Ford
Grassley
Hawkins
Heflin
Helms
Huddleston
Humphrey
Johnston
Kassebaum
Kasten
Long
Nickles
Nunn
Pressler
Pryor
Randolph
Roth
Rudman
Sasser
Stennis
Wallop
Warner
Zorinsky

NAYS—63

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Brady
Burdick
Chafee
Cranston
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Exon
Garn
Glenn
Goldwater
Gorton
Hart
Hatch
Hayakawa
Heinz
Hollings
Inouye
Jackson
Jepsen
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Packwood
Pell
Percy
Proxmire
Quayle
Riegle
Sarbanes
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Tsongas
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mattingly, for.

NOT VOTING—1

Hatfield

So Mr. Huddleston's amendment (UP No. 1227) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I have an important matter I wish to present in the form of a unanimous-consent agreement.

Mr. President, for some time now we have been struggling with the idea that in order to make the August 20 recess it was necessary to dispatch our responsibilities in respect to a list of items which included the supplemental appropriation bill, this immigration bill, and other matters.

The last major item other than conference reports that is on that list of must items is the debt limit. It has now been reported from the Finance Committee, and it is the intention of the leadership to ask the Senate to proceed to the consideration of the debt limit on Monday.

All Senators will perhaps remember that for a period of time now extending over the past almost 18 months I have indicated that we are going to have a debate on abortion when the parties principally involved in that matter could decide when they wanted to have that debate and choose the vehicle which would carry that debate.

The most recent development in that situation has been by general process of elimination or by osmosis. The debt limit was chosen as the vehicle for that debate and that will be indeed the vehicle for the abortion debate.

So it will be a difficult debate. It is a sensitive issue, one which divides the Senate and the country, but it deserves our attention and our careful thought.

Mr. President, it is not treating lightly that subject to say it does not require us to debate the issue forever.

I would hope that the Senate could agree voluntarily and by unanimous consent to an arrangement that would limit to a generous amount of time that period of time in which we will debate the abortion issue in connection with or contemporaneous with the debt limit.

Mr. President, I have discussed this matter at length with the principal parties involved in the debate on this side of the aisle, and they, I think, are in general agreement. I have discussed this matter with the minority leader and Members on that side of the aisle.

I shall now present a unanimous-consent agreement which represents my best efforts and I believe the synthesis of the best thought that we can put together on how we might go about having a full-fledged, thorough debate on this sensitive issue within a reasonable timeframe.

Mr. President, I put the request at this time.

Mr. President, I ask unanimous consent that, when the Senate turns to the consideration of House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit, an amendment by the Senator from North Carolina (Mr. Helms) incorporating only those provisions of S. 2148, Calendar Order No. 478, page 1, line 1, through page 5, line 21, shall be in order; that there shall be 8 hours of debate equally divided on the Helms amendment; and that no amendment to the Helms amendment shall be in order.

Mr. President, I further ask unanimous consent that, following the final disposition of the Helms amendment, the Senate set aside House Joint Resolution 520 and turn immediately to the consideration of Senate Joint Resolution 110, Calendar Order No. 658, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion; that there shall be 8 hours of debate on such joint resolu-

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tion equally divided; and that no amendment shall be in order to such joint resolution.

Mr. President, I further ask unanimous consent that, following final disposition of Senate Joint Resolution 110, the Senate immediately resume consideration of House Joint Resolution 520. When the Helms amendment dealing with abortion and Senate Joint Resolution 110 are disposed of, I further ask unanimous consent that no other matter or measure dealing with abortion shall be in order for the remainder of the second session of the 97th Congress, save those which will make or maintain present law which is as follows: None of the funds provided by this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; provided, however, that the several States are and shall remain free not to fund abortions to the extent that they in their full discretion deem appropriate.

Mr. President, before the Chair puts the request, the essence of this request is that on the debt limit there will be two measures debated relating to abortion, the Helms amendment to the debt limit, and after the disposition of that measure, the Senate will proceed to the consideration of the Hatch constitutional amendment dealing with abortion. After the final disposition of that measure, we will resume consideration of the debt limit.

This proposed order does not put any limitation on the length of time we can debate the debt limit nor does it limit amendments to the debt limit except as they may relate to abortion.

Mr. President, this order also provides that after we have had our debate on abortion, on the Hatch amendment to the Constitution, and the Helms amendment in the nature of statutory language, that is the last we are going to debate abortion this session of Congress.

That is a tall order, Mr. President, but I think it is an orderly arrangement for the discharge of the Senate's responsibility to address an important and sensitive issue but to do so within a reasonable timeframe and to dispatch those questions in a methodical and orderly way as the people of this country want us to do.

I put the request.

Mr. GOLDWATER. Mr. President, reserving the right to object, what are we going to do with the Garn legislation on abortion?

Mr. BAKER. Mr. President, my understanding is that the Senator from Utah (Mr. GARN) is not going to offer that legislation. If this agreement were granted it would not be in order. But the Senator from Utah has indicated, I believe I am correct in saying this, if this order is granted he would not propose to offer it on this debt limit in any event.

Mr. GARN. If the majority leader would yield, Mr. President, that is the case. I have been the sponsor of two constitutional amendments for several years. But I am in agreement with this orderly disposal. It would preclude me from offering them this year, but certainly not in the new 98th Congress.

Mr. GOLDWATER. It seems to me that 8 hours are rather pushy on a constitutional amendment, especially one that has this country so divided. I want to do all I can to expedite matters, but I will be doggoned if I do not believe that is awfully fast work, especially when we have not done much all year. [Laughter.]

Mr. BAKER. The principal accomplishment of this Congress is that we have not so far contracted legislative indigestion, in my judgment.

Mr. GOLDWATER. Well, we have contracted diarrhea, which is not good. [Laughter.] I withhold my objection.

Mr. HUMPHREY. Mr. President, reserving the right to object, I have to agree with the Senator from Arizona about the brevity of the time. But in any case it strikes me that there might be a good deal of competition for that time. Apparently it is agreeable to the principal parties. I just want to be sure, I want to be assured, that the Senator from New Hampshire will be able to speak his mind fully on this issue. I do not want to be selfish, but I would like to be assured that I would have at least 30 minutes in this agreement, because I do believe that the 8-hour restriction——

Mr. BAKER. Mr. President, I assure the Senator from New Hampshire that if this order is entered into, to the extent that I have control of the time I will be glad to provide that 30 minutes; to the extent that the chairman of the Judiciary Committee will have control I will urge him to do the same. I believe there is no question but that the Senator will receive his time.

Mr. HUMPHREY. To the extent that the Senator controls time, I would like unequivocal assurance to be included as being a part of this unanimous-consent agreement, if necessary, that I may have 30 minutes.

Mr. BAKER. Mr. President, I wish to amend my request so that control of the time would be in the usual form.

Now, Mr. President, will the Chair state how the time will be controlled in the usual form.

The PRESIDING OFFICER. By the majority and minority leaders or their designees.

Mr. BAKER. I thank the Chair. Mr. President, I wish to assure the Senator I will designate 30 minutes to him.

Mr. HUMPHREY. Very well. I thank the majority leader.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not now intend to object, but with respect to the position of the proposal relating to existing law, it is my understanding that that is referred to as the Hyde amendment, and it is my understanding it is part of the appropriations bill and not a part of the authorizing legislation. Am I correct in my understanding it will continue to be a part of the appropriation legislation and not become part of the permanent law?

Mr. BAKER. Yes, that is my interpretation.

Mr. METZENBAUM. I thank the Senator.

Mr. CHILES. Mr. President, reserving the right to object, I wonder whether the majority leader would explain under the time agreement, under both the Hatch and Helms bills, are they open to amendment or would amendments be in order?

Mr. BAKER. Mr. President, they would not be under the form of this agreement.

Mr. CHILES. Well, I listened to the majority leader and he said we were going to have full debate on this subject and the subjects were important and they were entitled to full debate. Can we really have that if there are no amendments that are in order?

Mr. BAKER. Of course there is a great deal of debate flexibility in offering amendments but, on the other hand, there is no requirement in my view at least that a Member must offer an amendment in order to make his views known. I think the net effect of the prohibition against amendments is to either increase or decrease the particular likelihood that a particular measure will be adopted. I think, on the other hand, if we were to open the way for amendments it is virtually certain, I think it is certain, we would have no agreement at all. I think this is the best that can be done. I think it is a reasonable arrangement, and I think it will give Senators a generous opportunity to express their views on the subject.

Mr. CHILES. Well, I think there are certainly some of us here who feel that how we would vote on one or both of these bills would certainly be influenced by whether or not we could offer amendments and whether or not those amendments could be adopted. Of course, we have unanimous-consent agreements all the time in which we provide some time for amendments, we provide a procedure where we can have amendments, and I am a little concerned about when we are talking about having a full debate on this very, very important subject, yet there cannot be any amendments.

I agree with the majority leader that these are subjects that ought to come up. I certainly do not want to keep them from coming up but, at the same time, it just seems to me that some of us, if we cannot have any amendments, we are certainly going to be foreclosed from being able to work our will on this legislation.

Mr. BAKER. Mr. President, I hope the Senator will not object. I think it is remarkable that the parties, the Members who are as divided as they are on these issues, are this close to agreement, the principals are. I refer to principals only in a descriptive sense, those who have been most prominent in this debate on this side of the aisle that I am aware of.

We have, on the one hand, Senators Packwood and Helms. You have Senator Hatch, Senator Hatfield and, believe me, it is no small feat to arrive at a place where they are agreeable to this arrangement, and essential to this arrangement is we know precisely what we are dealing with and what we are dealing with are two measures that are spelled out in exact detail, exact words. The language by reference is identified in this request, and if we must deal with other uncertain and unknown amendments I can tell the Senator that the thing will not go and we will be in what seems like an endless debate on this subject.

Mr. PACKWOOD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. PACKWOOD. Let me say to my good friend from Florida that I initially had some of the same misgivings he does, but I realized what the situation is going to be if we cannot proceed as stated by the majority leader. I will be very candid, I do not think the constitutional amendment is going to pass the House if it passes here, and whatever rights are reserved by the Senator from Utah as to introducing his amendment next year will depend on the outcome of the elections, and there would be some of us here who would be happy to put it off and not have any vote on the subject, those satisfied with the Supreme Court decision. Others want to vote and want to change it.

The only way we are going to have a relatively limited debate on a subject—and let us be serious, that we all are very familiar with—is if this particular agreement could be reached, and I can assure the Senator from Florida if it cannot be reached then what we are going to be faced with are not 2 votes but probably 20 on the subject of abortion, and the Senator will have ample opportunity for amendments and ample opportunity to vote on all kinds of amendments all during September.

I do not mean that as a threat. I just think realistically that is what is going to happen, and I think this was the best that could be fashioned, and it will give everybody who wants to vote an opportunity to vote on this subject. I have gone around with Senator Helms and Senator Hatfield on this, and this is as much as we could do.

Mr. CHILES. I assure the Senator——

The PRESIDING OFFICER. Does the Senator continue to reserve his right?

Mr. CHILES. I do.

On the constitutional amendment, on the Hatch amendment, I understand there was an amendment offered in committee that has been talked about widely as to whether the rights would be just for the States as opposed to the States and/or the Federal Government. That is an area which is persuasive to the Senator from Florida, that this should be a question reserved to the States.

Now, under the unanimous-consent agreement with no amendments that question will never be presented to the Senate because it will just be a vote as to whether you will take the provision as it is written, and you will never be able to express yourself on the other provision, and it seems to me that that is an amendment that is fairly close in the committee, there has been a lot of talk about that amendment. It is an amendment that happens to be persuasive with me. And yet, under the unanimous-consent agreement, I would not have an opportunity to vote for that amendment.

Mr. BUMPERS. Will the Senator yield while he still reserves the right to object?

Mr. CHILES. Yes.

Mr. BUMPERS. Mr. President, I would submit that I could not think of a better reason to vote against both proposals. I am not going to object. I am not even going to reserve the right to object, Mr. President.

But here is an amendment which has not been reported from anyplace. The Hatch amendment has been reported out of the Judiciary Committee. We debated the constitutional amendment on the balanced budget for roughly 10 days here. I was on the losing side of that, but we did have some very good debate; not as much as I would like and some of it was not as high level, but at least there was a lot of thoughtful consideration that went to that.

But, by the same token, here you have a constitutional amendment that you are going to be limited to 8 hours on and you cannot even debate it. I would like to ask any Senator how you are going to respond to your constituents who say, "You agreed to the agreement on the amendment and you had to vote yes or no and you could not even offer an amendment to perfect it even though you would have liked to and possibly voted for it after that."

I would suggest to the Senator that he not object on that ground.

Mr. CHILES. Mr. President, the Senator from Florida is not afraid to express himself and is not afraid to vote on any question, but he would like to be able to state what his views would be and not be put in a position where, by virtue of the unanimous-consent agreement, he is not able to state those views.

Mr. BAKER. Mr. President, I understand what the Senator is saying, but I must say again that we worked on this for days now. There are good arguments on both sides, and one was expressed eloquently by the Senator from Arkansas that at least you are dealing with a certain quantity instead of an uncertain quantity.

Mr. CHILES. Is the majority leader saying that if the Senator from Florida requested the Hatch amendment be open to amendment that there would be no unanimous-consent agreement?

Mr. BAKER. Yes, Mr. President, I am expressing the view that if that were to occur I think there would be an objection. There may be an objection anyway. But what I am saying is this is the best way I know how to do it.

Mr. HUMPHREY. Mr. President, reserving the right to object, let me ask the majority leader: Is the Hatch amendment going to be considered as business separate from the debt limit?

Mr. BAKER. Yes, that is correct. The constitutional amendment cannot be added as an amendment to the debt limit. So this proposed unanimous-consent agreement provides that after we dispose of the Helms amendment we would temporarily set aside the debt limit and proceed to consider the Hatch constitutional amendment, freestanding, and after the disposition of the Hatch constitutional amendment, we would return to the consideration of the debt limit bill.

Mr. HUMPHREY. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as Members can probably tell, the issues dealt with, as sensitive as they are in the unanimous-consent request, have not yet been fully resolved. I think there is still a chance we could get an agreement, but so that Members may try to work out their differences on one remaining section of it, I withdraw the request at this time.

The PRESIDING OFFICER. The request is withdrawn.

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ORDER OF PROCEDURE

Mr. HEFLIN. Mr. President, will the majority leader give us what the schedule will be tonight?

Mr. BAKER. Mr. President, what I want to do now is to put us on the conference report on the war risks. To do that, there is a 1-hour time limitation on that conference report.

After that conference report is finished or during the time we are in a position to do so, I will put the request once more.

The PRESIDING OFFICER. Will the majority leader send the time agreement to the desk?

Mr. BAKER. Mr. President, I understand the managers on boths sides have agreed to this, and I will now state it for the consideration of the Senate.

TIME LIMITATION AGREEMENT, CONFERENCE REPORT ON H.R. 5930

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of the conference report on H.R. 5930, that there be a time limitation of 1 hour to be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. DeCONCINCI. Mr. President, reserving the right to object, I would like to ask the majority leader if he would consider having the vote on the conference report on tomorrow.

Mr. BAKER. Mr. President, I will be happy to consider that, but I wonder if the Senator from Arizona will consult with the principals, Senator Cannon, Senator Packwood, and Senator Kassebaum. If it is agreeable with them, it is fine with me.

Mr. President, I would like to go on with this and if the Senator wishes to object, of course, he may, but a conference report is privileged.

Mr. DeCONCINI. Could I pose that question, if any principal would object?

Mrs. KASSEBAUM. Will the majority leader yield?

Mr. BAKER. I yield.

Mrs. KASSEBAUM. I could not agree to that because I have some who are supporting my position who have stayed tonight purposely and who will be leaving town tomorrow. I feel because they have made such an effort to stay, I am not agreeable to changing the time. I feel we ought to proceed.

The PRESIDING OFFICER. Is there objection?

Mr. DeCONCINI. I withdraw my objection. I find it very difficult to stay late in the evening when we do not have votes, as we did last night. It seems to me if we are going to spend the time away from our families, or whatever we may have planned for the evening time, it ought to be when we have votes and not to sit around here and wait for 2 or 3 hours and then decide to have a voice vote on the subject matter.

That is why it seemed to me if there was a possibility of having it tomorrow, it would make more sense.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, will the majority leader restate the request?

Mr. BAKER. The request is when the Senate turns to the consideration of the war risks conference report, there be a time limitation of 1 hour equally divided.

Mr. METZENBAUM. Does that include amendments? Is it 1 hour including amendments?

Mr. BAKER. Mr. President, I will amend the request. One hour on the conference report—Mr. President, is there no item in disagreement?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. No amendment would be in order in any event.

The PRESIDING OFFICER. Is there objection to the time limitation request of the majority leader? The Chair hears none, and it is so ordered.

Mr. SARBANES. Mr. President, will the majority leader let us know what the proposed program is for tomorrow?

Mr. BAKER. Yes.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION IN LEADERSHIP TIME

Mr. BAKER. Mr. President, after consulting with the minority leader, I believe this is agreeable. I ask unanimous consent that the time allocated to the two leaders under the standing order for tomorrow only be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR NUNN ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders, the Senator from Georgia (Mr. Nunn) be recognized on a special order for not to exceed 15 minutes

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2222 ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at 9:30 a.m., the Senate resume consideration of S. 2222, the Immigration Reform and Control Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that any time remaining after the execution of the special order be allocated to the transaction of routine morning business, in which Senators may speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is not anticipated that the Senate would be asked to remain late tomorrow. I would expect we would be here until the middle of the afternoon, which is the reason for the early convening.

I would hope, Mr. President, that we could reach third reading on the immigration bill tomorrow. It is possible that it would be desired, or may be necessary, to put off a vote on final passage until Monday or Tuesday. But I hope we can complete all amendments to the immigration bill on tomorrow.

AVIATION INSURANCE EXTENSION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 5930 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record August 10, 1982.)

Mr. BAKER. Mr. President, I understand that the managers of the conference report have agreed that the control of the time for proponents will be with the Senator from Oregon and the time in opposition will be with the Senator from Kansas. For my part, Mr. President, I designate the Senator from Oregon to manage and control the time for proponents.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as I have half the time, after conferring with the distinguished Senator from Nevada (Mr. Cannon), I designate control of my half of the time to Senator Kassebaum.

Mrs. KASSEBAUM. Mr. President, I am sorry; I was conversing and I did not hear the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, as I understand, the Senator is opposed to the conference report?

Mrs. KASSEBAUM. That is correct.

Mr. ROBERT C. BYRD. In order that there might be 30 minutes allotted to the opposition, I said that after conferring with Mr. CANNON, it was agreeable for me to yield the time that is under my control for the opposition to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. I appreciate that very much, Mr. President. I thank the Democratic leader.

(Mr. HAYAKAWA assumed the chair.)

Mr. PACKWOOD. Mr. President, do I understand correctly that the other 30 minutes on behalf of the conference report is designated to me and under my control?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, the matters that we consider here tonight are relatively simple and easy to understand. This is the issue of labor protection: What are you going to do for employees in an industry that was regulated by the Federal Government, although it was private industry, when the Federal Government changes the rules and those employees are left in a lurch and, perhaps, dismissed? It is not a new subject to the Congress; it is not a new subject to this country.

The historic forerunner of labor protection was in the railroads. The Interstate Commerce Commission, before it would ever approve mergers, acquisition, or transfers between railroads, would always impose some kind of labor protection. I want to emphasize that this was on private industry.

The railroads were privately owned in those days when labor protection was started; they were mostly making a profit. But because they were regulated by the Government and because there were certain things they could and could not do and there were certain things the Government, even though this was private enterprise, said "thou shall and thou shall not," when we were going to change the rules, we said, we are going to make sure employees shall not be injured.

We started applying the same concept in the airline industry in 1950, in the United Airlines-Capital Airlines merger, and we called it the United-Capital provisions. We have done that ever since 1950, bearing in mind again these are private industries, but regulated by the Government.

We changed the rule slightly in 1972, in the Allegheny-Mohawk merger and we called them the Allegheny-Mohawk provisions. The Civil Aeronautics Board, in every case of acquisition or a merger, would put them into effect so the employees would not be injured.

We even more dramatically put them into effect specifically in legislation in 1973 in the Conrail bill, in which we granted the most extraordinary labor protection terms that Congress has ever granted. We said that if you had 5 years or more of service working for Conrail, you could receive your full salary from the time you were terminated until you were 65.

Then came the Airline Deregulation Act of 1978. This is most important. As all of us are aware, much legislation around here is the result of compromise, compromise between the principal parties concerned—I mean directly, immediately, concerned—the airlines and the employees.

In that Airline Deregulation Act, in order to bring the parties together and to get some cooperation for moving us toward deregulation, Congress made a promise. We said if the Airline Deregulation Act were passed, the adminstration would issue within 6 months regulations guaranteeing higher protection. Unfortunately, the last administration, President's Carter's administration, did not get around to issuing those regulations until the very last hour of the administration, and as soon as this administration came in, they repealed the labor protection orders that the Carter administration had put forth and they have never issued any regulation since.

So the quid pro quo, the promise of this Congress that employees who lost their jobs because we were moving from regulation to deregulation, the promise that we made that they would be protected, has not been fulfilled. Those employees in that industry affected justifiably feel that they perhaps have been betrayed, because it was one of the agreements that brought them along to support the Airline Deregulation Act.

Then we come to 1979, the Milwaukee Railroad bill. In that bill, Congress—again, a private industry but regulated by the Government and we are moving toward deregulation in the railroad industry. In the Milwaukee Railroad bill, we provided that if you had 3 years of service, you were to receive 3 years of retirement at 80 percent of your salary—3 years, you got 3 years' retirement at 80 percent of your salary.

In the present bill that we are considering, if you worked 3 years in the airline industry, you would get a year-and-a-half of benefits at 60 percent of your salary—not nearly as generous as we treated the employees of the Milwaukee Railroad.

Then in 1980, the Rock Island Railroad bill was introduced by my distinguished colleague from Kansas (Mrs. KASSEBAUM) to take care of the Rock Island situation and the employees of the Rock Island Line. That bill, as we addressed it on the floor of the Senate, had labor protection provisions in it. If I may quote my distinguished colleague from Kansas, as she was talking on the floor about this bill:

> Another important aspect of this issue is jobs; 4,000 employees of the Rock Island stand to be dislocated as a result of the Rock Island's demise. The labor protection provisions we adopted in the Milwaukee Railroad Restructuring Act will be applicable to the lines purchased under the provisions of this proposal, to provide them with assistance.

Then, she said:

> Regarding the labor protection—this was a difficult issue to deal with—one of the major concerns was about the employees on the lines that would be purchased—that there would be a possibility of wildcat strikes, and that is one of the things we were hoping to deal with in this legislation.

That is perfectly understandable. We supported it, the bulk of Congress did, the Senator from Kansas did. It was a private industry, previously regulated, and we were saying that if, because of any actions we take, the employees are going to be jeopardized we were going to help them tide over.

We come to the A.T. & T. breakup, the bill that passed the Senate not long ago, S. 898. In that bill, Congress provided—and it passed the Senate overwhelmingly, only four or five votes in opposition—that because, as we moved from a regulated to a deregulated climate in the communications industry, employees were adversely affected, if you had worked for A.T. & T. for what was called the probationary period—6 to 12 months depending upon your occupation—and you lost your job because we were moving toward deregulation you got 7 years full salary. We voted for that. The Senator from Kansas voted for it.

Now, we come to the present war risk bill in which we have agreed to try to give labor protection to those employees who will lose their jobs because of mergers or acquisitions or route changes, and I might say give them protections not nearly as great as we have given to employees of other regulated industries and giving it to them because we promised it in 1978 when we deregulated the airlines, or started toward the gradual deregulation, and we have not performed.

Now, the Senator from Kansas will raise one point that is not on the substance of these provisions but is on the procedure. She will say that we went beyond the bounds of the conference. The bill as it passed the House, the war risk bill, had no labor provisions in it. As it passed the Senate, it was discretionary. It said we will leave it up to the Civil Aeronautics Board until 1985 and then the discretionary authority to impose labor protection provisions will terminate. We went to conference and we put in some mandatory provisions.

Now, interestingly, I think the Senator from Kansas will argue that the mandatory provisions are beyond the scope of the conference because there was nothing in the House bill and only discretionary provisions for the CAB in the Senate bill.

But the Senator from Kansas herself in very able efforts at negotiating this attempted prior to the meeting of the conference to bring the parties together and to get them to agree. She offered some labor protection provisions which were mandatory for 5 years as far as acquisitions and mergers were concerned—mandatory. But they were not acceptable to the conferees and instead we put in other provisions.

I raise that point only to say that if the Senator from Kansas raises the arguments that these mandatory provisions are beyond the scope of the conference, indeed, she was prepared and did offer mandatory provisions—5 years, the same length that ours are. I hope, therefore, she would not riase the argument. But if she does I want it to be fairly understood that she, too, was willing to go beyond the discretionary provisions in the Senate bill had her proposed compromise been accepted.

Mr. CANNON. Mr. President, will the Senator yield me some time?

Mr. PACKWOOD. I would be happy to yield as much time as the Senator from Nevada needs.

Mr. CANNON. Mr. President, I do not think I have ever seen an issue where the prospective results of a legislative provision were blown further out of proportion. We are not talking about something new or untried here; we are talking about the codification of protections which have been part of every airline merger or acquisition in recent history. The opposition can talk about how this authority has been permissive all they want, but the fact is these provisions have been included in every single case where a merger or aquisition has been finalized by the CAB. And to further demonstrate how preposterous some of the charges in the press have been recently, in the last 4 years of mergers or aquisitions handled by the Board, the airlines involved requested that these provisions be imposed. How can these provisions be so monstrous and debilitating to an airline when for the last 4 years under deregulation, every airline to come before the Board for a merger or acquisition has asked the Board to make these LPP's a condition of their combination?

I ask my colleagues not to be swayed by misrepresentations in the press. The key issue here is the fact that we are putting the unions on notice. The benefits section of this amendment is only effective for the next 5 years, so if labor wants to retain these benefits in the future they will have to negotiate in the collective bargaining process to keep them beyond 5 years. But it is only fair to give employees that transition time before taking away something they have always had in the past, just as we gave the airlines time to transition to deregulation.

Finally, I want to note that this provision does not remove the collective bargaining process from 408 type cases even for the next 5 years. A key clause in this amendment says that any negotiated settlement for LPP's different from those imposed by statute shall take precedence and be controlling. So if a failing carrier can only be acquired if the employees will agree to give up all or part of these benefits, that can and probably will occur as part of the bargaining process.

This amendment is fair to employees and imposes nothing new on management. I urge my colleagues to support the conference report.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, at the close of debate I intend to raise a point of order against consideration of this conference report, 97–722. I will rely upon rule XXVIII of the Standing Rules of the Senate.

I would like to respond to my distinguished chairman, the Senator from Oregon, and say that this is not just a question of labor protection. I am glad he raised the Rock Island case because it shows indeed that in principle I am supportive of labor protective provisions, but we had lengthy and extensive hearings on the Rock Island case and it was debated on the floor of the Senate. It was also dealing with a railroad that had gone bankrupt and was being dismembered. It was a question of how best to provide protection for the employees.

Mr. President, as chairman of the Aviation Subcommittee, I cannot agree with my fellow conferees in their decision to include the extensive new substantive law governing labor-management relations in the airline industry. The amendment is beyond the scope of the conference. True, I did try and arrive at some compromise before we reached this particular situation that would be agreeable to both ALPA and the airlines. This was unsuccessful. But the scope of the conference report goes beyond even the suggestions that were made for compromise.

No one has indicated why the amendment is so important that the normal legislative route, based upon reasoned review by the subcommittee, must be totally abandoned and open debate of the issue avoided.

At the most fundamental level this amendment is a major step backward in the deregulation process. While the industry which lived for 40 years in the hothouse of public utility regulation is now being thrust into a highly competitive environment, the committee is seeking to mandate a rigid form of labor protection provisions that were discretionary under regulation.

No other unregulated industry has ever been subject by legislative fiat to labor provisions of this magnitude. The provisions could subject virtually any transaction between two airlines to labor protection provisions. At a minimum every intercarrier transaction even indirectly affecting an airline route will require the airline to argue the labor issue at the Department of Transportation. Beyond this fundamental policy issue most of the provisions go well beyond prior precedent.

For example, LPP's will be imposed automatically on any transaction involving 20 percent of the aircraft or other property owned by the seller or lessor. This automatic trigger fails to take into account the scale of the transferor carrier's operations. A small carrier could be subject to the provisions if it sells one aircraft.

Section 408(b)(2)(C) governing the application of these provisions to any transaction that directly or indirectly affects a route is so broad that it could be applied to any transaction. The standard for the CAB to apply in imposing the LPP's in these cases is to prevent labor unrest which could "impair the continued stability and efficiency of the carriers involved." The CAB has stated that this is a new and much broader test than used in the past and was taken out of context from a single Board decision. In addition, the Government has no business deciding when to protect deregulated industries from their own decisions. They should know what is in their own best interest and can settle any labor dispute arising from the transaction.

The only argument my fellow Conferees could offer for this dramatic expansion of the role of the Federal Government into the affairs of the private sector is that they seek only to assure that what the CAB did as a matter of discretion to help employees of a regulated industry in some intercarrier transactions should be required as a matter of right to virtually all such transactions in an unregulated industry. I simply fail to see the logic or merit to this approach when it has not been thoroughly explored and debated in hearings.

Indeed the provisions go well beyond prior Board practice. Under the amendment, anytime there is a route transfer which DOT finds should be subject to LPP's, the full Allegheny-Mohawk provisions including seniority integration provisions must apply.

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Although the CAB has applied LPP's to some route transactions, it has never applied the seniority integration provisions to those transactions. Under the proposed amendment, even if there is no transfer of equipment, pilots and flight crews will be forced to transfer. This is not only a potential problem for the airlines but can have serious negative effects on the work force of the acquiring carrier. For example, if this provision had been in effect when Braniff leased its South American route to Eastern the crew integration process would have resulted in substantial bumping and furloughs of Eastern crews. It was for this reason that Eastern's employees—including pilots—objected to the application of the LPP's.

Concerns have been raised that labor needs, and is entitled to, a transition since LPP's were imposed in the past. I am sympathetic to this concern. And the original Senate amendment—which passed by unanimous consent only 6 weeks ago—did just that by preserving the status quo for up to 2 more years while the Aviation Subcommittee held hearings to determine what additional protections might be necessary. I might add that the question of a transaction is not a new issue. Specifically, 3 years ago in the Pan American National Merger Case 79-12-163, the CAB stated clearly and succintly that the historic rationale for applying LPP's was inconsistent with deregulation. The Board stated then that it would not impose LPP's routinely and that labor and management should rely on the collective bargaining process to take care of these situations. This provision may only delay the inclusion of the issue in the collective bargaining process.

Let us look at some of the other serious problems raised by this hastily drafted and unreviewed legislation. Section (b)(1)(2) would impose LPP's, to take effect in the future, if a large aircraft operator enters into a transaction with a commuter and the latter subsequently purchases an aircraft over 60 seats. The LPP's would take effect even if the commuter operated the large aircraft on a route that was not even linked to the qualifying carriers route system.

We already are seeing that many trunk carriers are entering into various arrangements with commuters. U.S. Air, Delta, Eastern, Pan Am, and United all have various joint ventures with commuters which involve or may involve exercise of control. The LPP trigger could deter these commuter carriers from purchasing large aircraft unless they were willing to jeopardize their relationship with the qualifying air carrier. This provision has serious anticompetitive implications that have not even been addressed in any hearing.

Under this bill, jurisiction to impose LPP's is transferred to the Department of Transporation on January 1, 1983. Agency review of antitrust issues related to mergers and acquisitions is abolished but the CAB retains jurisdiction over the public convenience and necessity determinations of the certificate transfer under section 401 of the act and over approval of the underlying intercarrier agreements to which this section applies under section 412 of the act. So as of the first of next year virtually every single intercarrier transaction will be reviewed by three separate Federal agencies—looking at the same facts. The CAB will decide if the transaction is within the pubic interest under section 401, and not anticompetitive under section 412; the Justice Department will decide whether to seek to enjoin the transaction for antitrust reasons; and the Department of Transportation—for the first time in its history—will be holding evidentiary hearings to decide whether LPP's should be imposed. The bill totally emasculates the legislative scheme as set forth in the Federal Aviation Act without any review or direction from the congressional committees with aviation jurisdiction. Moreover, the total multiagency process could take months and cost parties a fortune in legal fees. How such a three-ring circus can benefit anyone is a question that, under the course of action chosen by the conference, will remain unanswered.

Section (d) of the amendment creates a new basis for Federal questions of jurisdiction over airline labor protective provisions in U.S. district courts without regard to the amount in controversy. A large transaction could result in hundreds of actions being filed all over the country adding new burdens for the district courts. In addition, because jurisdiction for review of the substance of these transactions will be in the Court of Appeals the judicial process will become completely fragmented. As far as I am aware, this provision has not been reviewed by the judiciary committees of either House.

Full application of the Allegheny Mohawk labor provisions can be very costly to the airlines. The provisions are actually derived from LPP's created for railroad mergers in the 1930's and 1940's. The provisions were applied to the airlines in 1950 and have remained virtually unchanged since 1960. These provisions provide, among other things, that:

Workers reassigned to lower paying jobs will receive up to 100 percent of their previous salary for up to 4 years.

Workers who lose their jobs are eligible for a lump sum payment of 1 year's salary if they have worked for the airlines for 5 years or they may elect 60 percent of their average monthly compensation for up to 5 years for a worker with 15 years seniority. Based on the average salary scale in the industry, a pilot with 12 years seniority could receive over $185,000 in payment under the LPP's. A senior pilot might receive as much as $450,000 over 5 years.

Prior to deregulation these costs were passed on to consumers. It was a price that we the travelling public paid to preserve the public utility character of the industry. Today, we are being asked to impose these public utility costs on a highly competitive industry without any serious public review of the possible benefit or detriment of the policy.

It was because of the obvious complexity of these issues that I initially proposed the amendment that was contained in the Senate bill which merely retained jurisdiction over domestic mergers at the CAB until 1985. I stated that the subcommittee intended to hold hearings on these issues this year.

Mr. President, I do intend to hold hearings if, indeed, my point of order is upheld by the Chair. I understand that in that event the matter would be recommitted to conference, and I hope at that point there would be consideration of the original Senate-passed request.

I hate to see this become a pro or con labor issue. It is not that. But I think we should be seriously concerned about a conference report that comes back to us, that has not been debated or passed on the floor of either body.

If the point of order is upheld, I do intend to go forward with hearings.

The conference committee has voted to proceed with a nongermane amendment. The conferees have no idea what the impact of the bill will be on the industry, why it is needed, and, most significantly, why it must be approved with such urgency that the normal legislative process should be completely ignored. Because there are no satisfactory answers to any of these questions, I cannot support the conference report. Mr. President, I raise a point of order under rule 28 that the conferees have exceeded their authority by including new matter not committed to them by either House.

I yield 5 minutes to the Senator from Arkansas.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The time has not expired on the conference report. A point of order is not in order.

Mr. BOSCHWITZ. Mr. President, I should like to ask a question of the Senator from Oregon with respect to Braniff Airlines, which had a large base in our State and has gone bankrupt.

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How does that apply to Braniff? Do its employees of any type receive moneys from Braniff or somebody else?

Mr. PACKWOOD. It does not apply to bankruptcies. If Braniff were not in bankruptcy and transferred some of its lines to other carriers, it would apply; but it does not apply to a pure and simple bankruptcy.

Mr. BOSCHWITZ. Would not this provision prevent somebody from buying up Braniff? Suppose somebody decides to look at some of the Braniff routes and decides to create a new carrier?

Mr. PACKWOOD. Will the Senator repeat the question?

Mr. BOSCHWITZ. Suppose somebody saw some Braniff route they liked and decided to hire some Braniff employees for a new airline. Would there be any way for it to apply to Braniff employees?

Mr. PACKWOOD. Yes, it could apply to Braniff employees, if we are talking about mergers, acquisitions, and route transfers. But if Braniff goes belly-up, out of business, gone, there is no protection.

Mr. GLENN. Mr. President, will the Senator yield for a question along that line?

Mr. PACKWOOD. Whose time are we on?

Mrs. KASSEBAUM. I should like it to be on the time of the Senator from Oregon.

Mr. GLENN. If someone wanted to buy 20 percent of Braniff rolling stock or flying equipment——

The PRESIDING OFFICER. The Chair states to the Senator from Ohio——

Mr. PACKWOOD. Mr. President, I yield to the Senator for a question.

Mr. GLENN. If someone comes along and wants to buy over 20 percent of Braniff's airplanes, would they not also have to assume the liability for all these wages for the next 5 years, potentially up to 5 years, for the Braniff employees? Would this not tend to prevent someone from even purchasing any Braniff equipment?

Mr. PACKWOOD. This provides that the labor protection provisions would be superseded by any collective bargaining agreement that is agreed to.

If I were a Braniff employee and a company wanted to buy over 20 percent of the defunct Braniff, or if I were the unions representing those employees, I would quickly negotiate an agreement that might abrogate my labor protection rights or limit them, or do anything to get me back in the sky, rather than be in a situation where I am bankrupt and dependent solely on unemployment compensation. There is no guarantee that a union would do that.

The Senator's point is well taken, that these provisions could be imposed; and if that would deter anybody from buying a piece of Braniff, it would not be to the benefit of the employees.

Mr. GLENN. If I were considering buying something like that, why would I not go abroad and buy airplanes, rather than buying Braniff stock?

Mr. PACKWOOD. I am not quite sure I follow the Senator. You go abroad and bring here airplanes that you are going to hire people to fly?

Mr. GLENN. Yes. I would not buy Braniff, because I would have to take on a lot of unnecessary baggage, which I would not have to do if I went to Great Britain, for example, and bought planes.

Mr. PACKWOOD. What we are doing in these provisions, although they are less than we have imposed on other industries, is simply applying by statute roughly the same thing that the Civil Aeronautics Board has been applying since it started its Allegheny-Mohawk provisions in 1982.

The reason we are putting it in statute is that I feel the employees were betrayed when we did not follow up on the 1978 Airline Deregulation Act and issued regulations that would have guaranteed employee protection. Had we done that, we would not be in this situation today. Had the unions known we were not going to do it, I do not think we would have had any airline deregulation at all. So I can understand why they are now hesitant to trust to the good faith and descretion of the Government, if we adopt the position of the Senator from Kansas, that the Civil Aeronautics Board will voluntarily, and in its wisdom, apply the same standards that they have applied in the past.

Mr. GLENN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 5 minute to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Kansas.

Mr. President, I want to discuss two elements of this.

First, when I came to the Senate just 7½ years ago it occurs to me that the Senate was much more inclined to live with the rules of the Senate in a rather strict way than they are now, but I have seen in 7½ years not just a denigration but an absolute ignoring of some of the basis rules of the Senate.

It has gotten to where it is common for us to appeal the ruling of the Chair and vote against the Chair. When the Chair rules that an amendment is nongermane, we all know it is nongermane, but we vote on the substance of it rather than the procedure. We routinely—maybe this has always been done, but it has gotten to where it is just routine to legislate on appropriations and if someone challenges we appeal the ruling and we vote according to the substance of the legislation, not the fact that we know it is legislation on appropriations. And just 2 days ago we had a brouhaha on this floor about an appropriation with no authorization and it prevailed and it seems to me that this is just going on apace.

The Senator from Kansas has raised a very valid point. We are debating a provision that may have merit. I do not think it has merit, but I do not know. But there is one thing for sure: It was never debated in this body. It was never debated in the House of Representatives. It was not in the Senate bill. It was not in the House bill. And when the two committees went to conference it was just put in right out of the sky.

It is not that the Allegheny-Mohawk regulations have not been there before. They were, but to just say we are going to incorporate that into this bill and take it back into the conference report is dead wrong. It is a gross violation of the rules of this body, and the Senator from Kansas has correctly raised a point.

So far as the merits are concerned, I voted for airline deregulation. I said turn them loose, let them compete. I voted for trucking deregulation. And it has been tough on the airlines. It is tough to go in and buy a ticket anymore without being accosted about my vote on that.

Braniff is gone. Five more airlines are on the endangered species list.

Can we in good conscience, on the one hand, deregulate the airlines and on the other come back and say a matter which should always be left to collective bargaining is now in the hands of the Senate or Congress? We are going to tell the airlines that in the future if they merge they must pay these pilots or these machinists or whatever, 60 percent of their salary for 5 years.

The point has been made by the distinguished ranking minority member on that committee, "We are serving notice on labor that this only applies for 5 years and you have to get your own thing going by collective bargaining, then, if you want to keep these benefits."

What is sacred about 5 years? Why not 1? Why not 3? Why 5?

This is a fit subject for collective bargaining. We cannot in good conscience have it both ways.

Talk about Conrail and Rock Island. Every one of those have very serious distinctions. How about Tyco and Morton Norwich? They merged last week. What are we doing for them?

How about all the other mergers that are taking place in this country every day? What are we doing for them? Why the airlines?

It compounds the felony because we just deregulated the airlines and then come back and tell them how to run their business.

Mr. President, yesterday afternoon I was driving down Constitution Avenue. I saw on the Justice Building—I had never seen it before. On the Justice Building it says "A free nation can survive only by the supremacy of law."

And as a lawyer, one supremely dedicated to the Constitution as well as the laws of the country, I thought, what a magnificent statement that is. But I got to thinking: There is something that is inherent in that and it is supremacy of good laws. We have to make sure that we pass good laws. No one wants bad laws to be the supreme law of the land. This is bad law and it is bad precedent.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BUMPERS. If the Senator will yield me 30 additional seconds, I want to say it is bad precedent, one that will come home to haunt us. We should be willing at some point, as every legislative body must if it is going to be viable and effective, live by our own rules, and I hope Senators will vote to sustain the point of order of the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Arkansas, and I yield 5 minutes to the Senator from New Hampshire.

Mr. RUDMAN. I thank the Senator from Kansas.

Mr. President, I always enjoy listening to the chairman of the Commerce Committee who is one of the more artful debaters on this floor. Tonight the distinguished chairman has attempted, I think, to make a silk purse out of a sow's ear, but I do not think he has quite succeeded.

I think this is an outrage that we are asked to vote on this issue here tonight. I do not know what the implications of this issue are. I do not know what the economic impact is.

The Senator from Nevada wants to tell us that we are following a precedent for 20 years. I submit to this Senate that that is why we have elections every 2 years because some of us wish to change the precedents. I agree with very little that has happened around here for the last 20 years including whatever precedent is being cited.

There are only three issues involved here tonight.

The first issue is most of us do not know what we are voting on. Normally, we do this at 4 o'clock in the morning. We are about 6 hours early or 7 hours early tonight.

Second, I believe that before we give special treatment in the statutory form to the employees of the airline industry we should rather carefully look at a lot of other industries, for example, the defense industries. Maybe we will cut the defense budget $40 billion in 1986. Then I expect that that is Government action and we should do something about their executives and their employees.

And I submit to you, Mr. President, that if this goes through and the major American airlines find themselves in difficulty financially, they will come back to us to help them with a subsidy to pay the amount of money that will be accrued under this obligation.

Finally, let us just make something very clear here. The airlines will not pay this. The American people will pay it. They will pay it on their airline tickets. They will pay it through taxes. They will pay it.

The Senator from Ohio stated it exactly correctly. Under the Braniff transaction if Braniff should move under the bankruptcy laws under a chapter 11 reorganization this will apply and add that cost.

We have a lot of airline pilots living in New Hampshire and I have heard from many of them. The fact of the matter is we should give it a full hearing, exhaust it before the committee, have a report here and vote on something we know about instead of voting in the dark with the lights on.

I thank the Chair.

Mrs. KASSEBAUM. I thank the Senator from New Hampshire.

I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. president, I thank the Senator form Kansas, and I compliment her for bringing this to the attention of the Senate.

I certainly concur with her, that this is certainly outside the legislative realm that should be considered, and I think her point of order is well taken and should be well taken.

I hope that we as Senators will support her for that reason if none other, but we also could support her and should support her on the substance of the issue.

I think of special interest legislation, this is certainly it. Talk about intefering with collective-bargaining process, talk about believing in free enterprise. What this is saying is let the Federal Government mandate collective bargaining. Let the Federal Government give the labor protections.

That is ridiculous.

Let us not mandate. This is an interference in the collective-bargaining process.

If the airline companies want to negotiate this with the airline unions, that is fine. Let them negotiate. Let us not mandate that they have to provide this.

When Senators look at this special interest legislation, I hope they will look at what some of these labor provisions are that are in this. They are unbelievable.

Do Senators realize that if a person works more than 1 year or less than 2 he gets 6 months of payments at 60 percent of his salary, and I hope most Senators are aware of some of the provisions.

They say, yes, that the commercial airlines will pay compensation for furloughing employees up to 60 percent of their salary anywhere from 6 months up to 5 years, reparation of wages loss if an employee is transferred to a lower paying job. They have moving allowances. They merge seniority lists and they also provide for binding arbitration.

Some of the provisions in here are unbelievable.

I start looking at the provisions that say, yes, if a person works 3 years and less than 5, it provides for 18 months of compensation at 60 percent of pay or if they had 15 years they would receive 60 months or 5 years of compensation at 60 percent.

Mr. President, we are not talking about necessarily low-paid individuals. Looking at some of the averages, the average for the Airline Pilots Association pilots, the 21 top companies, the average compensation is $96,000. So their 60 percent is equal to $57,000 that they would receive for 5 years, if they had 15 years of service, $57,000. Unbelievable.

That breaks down to $1,100 a week, and the unemployment compensation in my State for an unemployed worker is $129 a week. These people would be receiving $1,100 a week.

Unemployment compensation nationally, unemployment compensation, is $115 a week. Do you know what the pilots, the top paid pilots, of a 747 receive? One hundred and sixty thousand dollars a year, and we have some that make that much, and they would receive $96,000 for 5 years. Unbelievable. Special interest legislation? I should guess so.

And to address Senator GLENN's statement about Braniff, I talked to the Braniff people today, and I will read a short part of the letter, Mr. President. I ask unanimous consent that this letter be printed in the RECORD. This is from Mr. Putnam, who is chairman, president, and chief executive officer of Braniff International.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BRANIFF INTERNATIONAL,
Dallas-Fort Worth Regional Airport, Tex.

This is in response to the amendment to H.R. 5930 being proposed as labor protective provisions for the airline industry. The well publicized financial problems of the airline industry have been underscored by our own filing under Chapter 11 of the Federal Bankruptcy Statutes in May 1982. The proposed legislation, if enacted, would raise serious and perhaps insurmountable obstacles

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in our path and make it far far more difficult for us ever to recognize and emerge from Chapter 11. If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests. The larger concern is that this legislation transcends Braniff and its current problems and has a quite serious implication for capital investment and traditional capital sources for the airline industry. Lenders to the industry normally look to the value of the underlying assets to reduce their risk to acceptable levels. This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill served by further hindering the restructuring efforts of a seriously troubled industry.

HOWARD D. PUTNAM,
Chairman, President and Chief Executive Officer.

Mr. NICKLES. Senator Glenn, Mr. Putnam's letter states:

> The proposed legislation—

He is talking about this particular provision—

> if enacted, would raise serious and perhaps insurmountable obstacles in our path and make it far more difficult for us to reorganise and emerge from chapter 11. If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests.
>
> This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill-served by further hindering the restructuring efforts of a seriously troubled industry.

I might add, as to a conversation I had today with Mr. Sam Coats, vice president of Braniff, he said if this legislation was passed, "We would probably have to forget about Braniff being able to restructure, being able to sell parts of its rolling stock", and there really would not be protection of their employees but a hindrance of their employees getting back into the marketplace. These pilots would not be able to jump back into those planes and go up in the skies because nobody would be able to buy those planes.

Mr. President, in a very short time, this body will be asked to approve the work of a Senate-House conference committee on H.R. 5930, the war risk insurance extension bill. Unfortunately, the conference committee adopted an amendment to this bill which not only violates the norms of proper legislative procedure but which also set an extremely dangerous precedent for the future. If the Senate chooses to approve the work of the conference committee in this particular instance, I very strongly believe that we will be making a serious error.

The amendment that is in question here would codify and make mandatory certain "labor protective provisions," known as the Allegheny-Mohawk protective provisions, for the commercial airline industry. These provisions had been discretionary and were sometimes used in mergers and acquisitions in the regulated airlines industry by the Civil Aeronautics Board between 1972 and the adoption of airline deregulation legislation in 1979.

The conference committee amendment would require commercial airlines to pay compensation for furloughed employees at up to 60 percent of salary for 6 months to 5 years; reparation of wage loss if an employee is transferred to a lower paying job; moving allowances; merged senority lists; and binding arbitration.

This amendment would require huge payments by commercial airlines to employees who are furloughed as a result of a merger, acquisition or even the sale of assets such as excess planes in their fleet. The Office of Management and Budget recently assessed the impact of these provisions as follows:

> These provisions are expensive. In severence payments alone, assuming average airline salaries, they could provide $190,000 to pilots, $75,000 to maintenance personnel, $63,000 to ticket takers, and $57,000 to cabin attendants, over a period of 5 years. Similar provisions in effect for the Pan Am/Trans World route swap of 1975, cost Pan Am approximately $4.5 million because 130 employees were severed. These are direct costs, excluding litigation, arbitration, and administration.
>
> In addition, the proposed amendment is so broad that it may apply to transactions as minor as sale of aircraft. If so, the cost of severed employees alone, for 747 aircraft, could exceed $6 million over a 5-year period.
>
> The airlines are currently in poor financial shape—industry losses for 1981 were $400 million. Braniff has gone bankrupt and several other large airlines are in serious financial difficulty. Federal imposition of labor protection payments at this time, particularly payments tied to mergers and acquisitions, could prevent airlines from taking sensible steps to restructure themselves in order to compete better in today's market. In short, the Federal Government would be limiting the ability of airlines to compete successfully.

Mr. President, I fully agree with these comments which were made by the Director of the Office of Management and Budget in a July 13 letter to Senator PACKWOOD.

As Mr. Stockman noted, Braniff has gone bankrupt. The Braniff bankruptcy is of special interest to me because Braniff was a major air carrier in my State of Oklahoma. Mr. Howard D. Putnam, CEO of Braniff, has expressed strong concerns with the labor protective provisions. His statement is already in the record.

In addition, the adoption of this amendment would set a very dangerous precedent in the field of labor-management relations. The issues involved here should be considered not by the Congress but by labor and management in contract negotiations. For us here to intervene at this particular time is both premature and unnecessary. If labor protection provisions are mandated by Congress for airline employees, we will be opening a Pandora's box in which employees in other fields—the automobile industry, the oil industry, steel, railroads, electric utilities, the merchant marine—will also be justified in seeking relief from the Congress and not through the negotiating process with management. Such a precedent not only undermines the collective bargaining process but it also grievously threatens the very heart of America's free enterprise system.

Finally, Mr. President, this amendment adopted by the conference committee makes a mockery of the legislative process. The backers of this amendment have chosen to avoid public discussion and debate on this issue by seeking to adopt a rider in conference that has not been considered by the appropriate legislative committees. In the Senate, no hearings have been held on this very far-reaching amendment. The Aviation Subcommittee heard only five paragraphs of testimony on this issue a year ago. There have been no other hearings held in either Chamber. To adopt a nongermane amendment, as the conference committee would have this body do, is the very height of foolishness. This amendment should be referred to the appropriate legislative committees so that the necessary groundwork that needs to be done by way of hearings and serious reflection can be accomplished before the entire Senate votes on this issue.

Mr. President, what we have here is at its core the mischief of factions. James Madison discussed this entire question in Federalist No. 10. Madison warned that democratic government is seriously threatened and undermined when a minority seeks to obtain and protect its interests at the expense of the national interest. In the amendment we are considering today, a small minority of 33,000 airline pilots are seeking to obtain legislation that will benefit them greatly. I myself very strongly believe that the national interest will be adversely affected if this amendment is approved. Mr. President, I urge the Members of this body to reject this amendment and to stand up and be counted as defenders of the national interest. The time has come for the Members of this body to demonstrate to the Nation that the Senate is a body where the interests of the country as a whole and not the interests of a narrow special interest group are the interests that shape and affect and determine the decisions we make and the votes we cast.

Mr. THURMOND. Mr. President, I rise today in opposition to the labor protection provisions contained in the conference report to H.R. 5930, the war risk insurance bill.

Under these provisions, airlines engaging in a merger, acquisition or sale of as little as 20 percent of their assets would be required to pay demoted employees the difference in their salaries for up to 4 years, and furloughed employees up to 60 percent of their salaries for 5 years. Moreover, these provisions would virtually require the appropriate regulatory agency to impose equivalent sanctions in the event of a mere transfer of routes.

Mr. President, these provisions appear to me to be special interest legislation at its very worst. While I would oppose mandating such labor protection provisions in almost any industry, I believe they are particularly inappropriate for the airline industry.

Airline employees are among the most highly paid workers in our Nation. In 1981, the average annual compensation for pilots approached $100,000. The average annual compensation industrywide exceeded $35,000. Yet these are the workers who will be accorded protections virtually unknown in any other industry, if we enact these provisions.

To make matters worse, these provisions were adopted by the conferees on this bill without hearings in either House of Congress as to their necessity or probable impact on the industry. The airline industry is already reeling from ever-increasing fuel costs, decreased ridership, and flight cutbacks in profitable routes resulting from the illegal PATCO strike. Merger or acquisition may in many cases prove to be the only salvation from bankruptcy. These provisions, however, could very well have the effect of extinguishing this last ray of hope, leaving employees in even worse shape than they would have been without them.

Another matter that concerns me greatly as chairman of the Judiciary Committee is that the conference amendment provides Federal question jurisdiction over any controversy arising out of the application of these ill-conceived provisions. Federal courts are now straining under unbearable caseloads attributable in large measure to the expansive grants of Federal jurisdiction Congress has made over the past decade. This amendment can do nothing else but increase this caseload, and without any inquiry even as to the propriety of Federal jurisdiction in these matters, much less as to its necessity.

Mr. President, the labor protection provisions included in this bill are matters at which we should look long and hard—not adopt without any inquiry or inspection. I call on my colleagues to sustain the ruling of the Chair.

LABOR PROTECTION AND COLLECTIVE BARGAINING

Mr. HATCH. Mr. President, in this country's long history of collective bargaining between labor and management, the legitimate areas and subject matters for such bargaining have been well defined. Understandably, parties on both sides of the table in industrial relations seek to avoid Government intrusion into areas better left to contract negotiators.

Airline employees are among the world's most highly compensated. In 1981, the average compensation for employees was $36,900—66 percent higher than the U.S. industry average. This is the result of collective bargaining and labor contracts in which the unions have negotiated higher wages. Congress should not intercede into the collective bargaining process and impose—by Federal law—labor protective provisions.

This sound policy of keeping the Government on the sidelines in labor-management negotiations was ignored when so-called labor protection provisions were attached to an otherwise noncontroversial bill extending airline war risk insurance. The provisions would apply in the case of airline mergers, acquisitions, and in the sale of as little as one-fifth of an airline's planes or other assets.

The provisions include compensation for furloughed employees of up to 60 percent of salary for a period ranging from 6 months to 5 years. They also include reparation of wage loss if an employee is transferred to a lower paying job, moving allowances, merged seniority lists, and binding arbitration.

These are matters that go to the very core of collective bargaining. They are not matters that should be settled by Congress. Certainly, these are not matters that should be decided without congressional hearings.

These are costly provisions, particularly for an airline industry that suffered a record operating loss of $420 million last year, and where losses continue in 1982 at an unprecedented level.

The Director of the Office of Management and Budget, David A. Stockman, has stated that "the administration is strongly opposed" to the provisions. Such opposition should be examined. Mr. Stockman and others should be heard. Here, we have another reason why the provisions should not have been slipped through in conference without a hearing.

We must prevent a reckless and costly action. We have the opportunity to see to it that this important subject is aired at an appropriate hearing or, better still, settled at the collective bargaining table where it belongs. Congress should stand clear of the negotiating table.

Mr. TOWER. Mr. President, I wish to include at the appropriate place in the Record a copy of Mr. Howard D. Putnam's statement made in regard to H.R. 5930, the war risk insurance conference report. In his position as president and chief executive officer of Braniff International, Mr. Putnam strongly opposes inclusion of the labor protective provision (LPP) in H.R. 5930.

As you know, Braniff Airlines has sought protection under chapter 11 of the bankruptcy laws. Braniff is currently trying to reogranise so that they may resume service, even if on an extremely limited basis. Mr. Putnam points out that enactment of the labor protective provision included in H.R. 5930 would be severely detrimental to Braniff's attempts at reorganization. I concur with Mr. Putnam's assessment of the LPP. Not only will the LPP further cloud the hopes of the 9,000-plus unemployed Braniff workers, the LPP raises many unanswered questions with far-reaching implications the Congress must fully understand before enacting into law.

Enactment of H.R. 5930 with the LPP amendment would inadvertently prevent Braniff Airlines from regrouping and putting together a new organization which would bring many of the Braniff unemployed back into the work force. A vote in favor of H.R. 5930, as it is now written, is a vote against Braniff. The effect of passage would effectively close Braniff's doors interminably. I urge my colleagues to oppose this provision in consideration of the conference report.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Braniff International,
Dallas-Fort Worth
Regional Airport,
August 10, 1982.

This is in response to the amendment to H.R. 5930 being proposed as labor protective provisions for the airline industry. The well publicized financial problems of the airline industry have been underscored by our own filing under Chapter 11 of the Federal Bankruptcy Statutes in May 1982. The proposed legislation, if enacted, would raise serious and perhaps insurmountable obstacles in our path and make it far far more difficult for us ever to reorganize and emerge from Chapter 11.

If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests. The larger concern is that this legislation transcends Braniff and its current problems and has a quite serious implication for capital investment and traditional capital sources for the airline industry. Lenders to the industry normally look to the value of the underlying assets to reduce their risk to acceptable levels.

This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill served by fur-

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ther hindering the restructuring efforts of a seriously troubled industry.

HOWARD D. PUTNAM,
Chairman, President and Chief Executive Officer.

Mrs. KASSEBAUM. I yield 1 minute to the Senator from Florida.

Mrs. HAWKINS. Mr. President, I rise in opposition to the report of the conference committee as being a clearly nongermane amendment to the War Risk Insurance Act.

As I listened to the arguments—and there are many—I am sure we are just reaching the tip of the iceberg. I am convinced that there are many more arguments that could be made on many sides of this controversy, but I am mostly convinced that the proper place for these arguments is in committee not in conference and not on the Senate floor tonight.

We all have the right to know and to share in the knowledge that will be gained from those hearings, and we need to know these things.

The possible effects of this legislation on the airline industry are so far-reaching that it is hard to describe the impact it would have on the rest of the deregulation of this industry.

You need a thorough understanding, and I think one of the things we learned tonight is that really airlines are not deregulated; they have just been meddled with. I am asking my colleagues to support Senator KASSEBAUM's point of order.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time is left, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon has 14 minutes and 38 seconds. The Senator from Kansas has 3 minutes and 56 seconds.

Mr. PACKWOOD. Mr. President, let me put some things in perspective, if I might. First, the arguments of the 747 pilots and the $160,000 a year, that is an attempt to prove a generalization from a specific. Let us talk about the average salary of the people who are involved. Airline pilots are well paid, but they are in terms of numbers of the three principal collective-bargaining groups the least in terms of size. The other two that are involved are the Teamsters with roughly 35,000 members, and the Machinists with 60,000. The Teamsters make about $22,000 a year on the average, and the Machinists $21,000 to $22,000. We are not talking about people making $150,000 or $160,000 a year. These are average Americans making average salaries who are going to lose their jobs possibly because of actions taken by this Congress.

We promised them in 1978 when they helped us to get deregulation that they would be taken care of, and we reneged on the promise. No wonder they do not believe us, we reneged. Now they want something written in law, something the bureaucrats cannot renege on.

Let us talk about hearings. The distinguished chairman of the Aviation Subcommittee had hearings on sunset legislation for the CAB, and testimony was received on the issue of labor protection from the airline pilots, the Association of Flight Attendants, the International Association of Machinists & Aerospace Workers, the Transport Workers Union of America, the Brotherhood of Railway & Airline Clerks, and the flight engineers. Hearings were held on July 15 and 16, 1981, on sunsetting the CAB, and the same unions testified as to labor protection. It is not an unknown issue.

Let us take also the issue that goes beyond the scope of Congress, and the Senator from Kansas can correct me if I am wrong. Her argument is that the House had nothing, the Senate allowed an extension of the discretionary authority of the CAB to impose these provisions, provisions they have imposed for years, and the conference, she says, went beyond that and added some mandatory provisions.

I have said before that the Senator from Kansas herself offered mandatory provisions. The conference did not accept them. She did not formally offer them in conference, but attempted to negotiate them between the parties. I will not read from this document which is a letter to the airline pilots saying that "we would work it out." It was a 5-year mandatory protection plan clearly beyond the scope of the conference. If her point is to be taken, and I bring this up only to say her point is not really that we have gone beyond the procedures, because I do not think she would have raised an objection had we adopted her substance. Her objection is to the policy we adopted, not the procedures we followed.

Let us talk once more about what this Congress has done. I missed my junior colleague from New Hampshire, Senator RUDMAN. He said, "I do not care what happened 20 years ago. I am here to change them." He was one of the ones who voted last year—and I know he always knows what he is doing when he votes—for the A.T. & T. settlement, the language here which would have guaranteed 7 years of labor protection.

What we are doing for the people in the airline industry is something they deserve to have done that we reneged on. It is comparatively modest in relation to what we have done for other industries. The only industries we do it for, we do not do it for General Motors, we do not do it for nonregulated industries.

The only industries we have ever done it for were railroads, airlines, communications, industries that are regulated, and because they are regulated certain obligations are placed upon them, and then as we try to move to deregulate them we say:

> Because you have been in a unique situation and because for years the relation between your unions and the Government has been controlled by the Government in many areas, as you gradually move toward deregulation we are going to put some phase-out provisions in.

Let us cut it all the way and let us understand why we got here. The airline industry went for all the marbles and they lost. We were trying to negotiate a 2-year earlier sunsetting of the Civil Aeronautics Board, 1983 instead of 1985. We came very close to getting the agreement. One of the agreements we wanted in terminating regulation sooner was statutory protection for the workers involved because they had been cheated by the 1978 act, cheated. We could not quite swing it, and I will give great credit to Paul Ignatius of the ATA. He did the best he could to make this arrangement come off whereby we would have terminated regulation 2 years earlier. But his association split. He could not hold them together. There are a number of airlines that support the conference report, but his association split. It happens every now and them.

And a majority of them stated:

> The heck with it. We'll go 2 more years, phase out the CAB in 1985, and we won't have any labor protection at all. We are going to gamble all or nothing that Congress will not, by statute, impose labor protection.

And, my fellow Senators, they gambled all or nothing, and they lost, because they would not compromise and they would not bargain. Now that they have lost, they are making a last ditch effort to save themselves by objecting on a procedural motion to something that they, themselves, the airlines, were prepared to accept. They were prepared to accept the offer of the Senator from Kansas.

Well, first, we have cheated the employees for too long. Second the big boys played in a big-stakes game, and they lost. Now they do not want to pay their debt.

All I am asking this Senate to do is to fulfill a promise we made 4 years ago when when we deregulated the industry and treat these employees decently. Not as generously as we treated A.T. & T.'s employees, not as generously as we have treated other employees under the Conrail settlement, but to treat them decently. It is the least we can do.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Will the Senator yield me 2 minutes?

Mr. PACKWOOD. I am happy to yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I understand the parliamentary situation to be that if all the time is used and the Chair rules and an appeal of the ruling of the Chair is taken that there would be no time for debate. Is that correct?

The **PRESIDING OFFICER.** When there is unanimous consent agreement on a matter, a subsidiary motion which is not provided for in the agreement is decided without debate.

Mr. **CANNON.** I thank the Chair. Therefore, I will make an assumption here that the Chair may make an unfavorable ruling in this case in which an appeal would, undoubtedly, be taken.

I just wish to briefly say that if the Chair should make such a ruling in favor of the point of order, it would be both wrong and inconsistent with past rulings on the scope of the conference. The Senate amended the law as it pertains to the administration of section 408 of the Federal Aviation Act. In conference, the House came in and insisted upon further amendment directly related to section 408 and its administration. And further still, the changes adopted by the conference simply continue in law the existing reality that LPP's are imposed or requested in major 408 cases.

Therefore, in the event that the Chair should rule in favor of the point of order, I would certainly urge my colleagues to vote for the appeal because the Chair would then, indeed, be in error on its ruling.

I thank the Senator for yielding.

The **PRESIDING OFFICER.** Who yields time?

Mrs. **KASSEBAUM.** Mr. President, I yield 1 minute to the Senator from Arizona.

The **PRESIDING OFFICER.** The Senator from Arizona.

Mr. **GOLDWATER.** Mr. President, 1 minute is not very long.

I have listened to the Senator from Oregon pontificate on the bad things that the airlines have done to their employees. Well, the airlines pay $36,900 a year compared to $22,200 for the rest of the U.S. industry.

But this is not the dangerous thing, Mr. President. Suppose they did cheat them. We are cheating the people of the United States when we try to conduct legislation the way we have conducted this one—no hearings, no debate.

The first I heard about it was when I came down one morning and somebody said, "Oh, they have raised airline employees' salaries. They made it possible for an airline pilot to pick up $450,000 for not working for 5 years." I thought, by golly, I wish I could get a job like that.

The question is not whether we have done wrong or right by these employees. The question is whether we are following the rules of the Senate. And, Mr. President, we are not. I think it is a terrible, disgraceful thing for this body to accept what has been done under the hidden cloak of the labor unions who have won a great point here.

How long is it going to be, let me ask you, before the same trick is used on the truckers, the people who drive this vehicle, the people who work there, the postmen?

"MANDATORY FEATHERBEDDING" IS A NIGHTMARE

It is not every day in the week, of course, that my views and that of the Washington Post coincide. Far from it.

But the editors of the Post were squarely on the mark when they warned against what they called a "Shakedown Flight" and said:

> With all the signs of a typical Washington fast shuffle, moves are underway on Capitol Hill to saddle the airline industry with some mandatory featherbedding disguised as labor protection.

This jet speed featherbedding forebodes a nightmare for American industry.

What other group of American employees could receive up to $450,000 if furloughed from their jobs?

That astonishing figure is what could be paid to the highest paid airline pilots who are furloughed. They could receive $90,000 a year for 5 years, and that multiplies in 5 years to $450,000. No wonder, then, that the pilots want to keep this hidden in the legislative clouds with no hearings.

If Congress endorses this featherbedding for some of the highest paid workers in the Nation, then obviously the doors will be flung wide open for costly and inflationary benefits to millions of other workers.

Is there a fundamental difference between the merger or other business transactions among two airlines than between any other businesses?

If we believe that the Government should keep its hands off the bargaining table; if we believe in the competition of the free marketplace; if we believe that featherbedding imposes drastic economic penalties which the Nation cannot afford, then we will agree—at least this once—with the Washington Post, when it concludes:

> Before the airlines were deregulated, the Civil Aeronautics Board could make a case for insisting that jobs be protected in mergers and swaps, since airlines were benefiting from government-protected franchises. But today there is no case whatever for legalized shakedowns of financially shaky airlines.

I ask unanimous consent that the editorial from the Washington Post, an editorial from the New York Times, and a document showing compensation of U.S. airline employees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

CONGRESS ON A SHAKEDOWN FLIGHT

With all the signs of a typical Washington fast shuffle, moves are under way on Capitol Hill to saddle the airline industry with some mandatory featherbedding disguised as labor protection. House and Senate conferees are trying to slip into an otherwise noncontroversial bill a provision by which airlines would have to make costly payments to pilots and other employees affected by any mergers or possibly even sales of assets, including aircraft.

The proposal, which has undergone no hearings, would—among other things—guarantee furloughed employees 60 percent of their salaries for up to five years; and it would compensate for up to four years any employee for any wage loss suffered through transfer to a lower-paying job. This could mean that the highest-paid furloughed pilots would be entitled to demand $90,000 a year for five years—whether their airlines could afford it or not. Isn't this the sort of thing better left to collective bargaining?

Of course—unless you're a member of the Air Line Pilots Association, which would much rather put the payments into law than bargain for them. This organization's president is the labor representative on the executive committee of the Republican National Committee. There, as in the White House, ALPA is remembered with gratitude for its support of President Reagan's decision to fire striking air traffic controllers last year. ALPA is just as fondly remembered on Capitol Hill, where the group has dropped more than $425,000 in campaign contributions on carefully selected targets—namely, more than 200 representatives and senators, including key members of the congressional conference committee considering the provision.

Officially, the administration is on record against the measure. OMB director David Stockman has so argued, labeling the proposed amendment "unacceptable" and "an intrusion by the federal government into private collective bargaining negotiations." He points out that such provisions would be especially damaging for the airlines in serious financial difficulty—and could prevent them from taking "sensible steps to restructure" and compete.

Before the airlines were deregulated, the Civil Aeronautics Board could make a case for insisting that jobs be protected in mergers and swaps, since airlines were benefiting from government-protected franchises. But today there is no case whatever for legalized shakedowns of financially shaky airlines. The conferees should reject any such proposal.

[From the New York Times, Friday, July 16, 1982]

FROZEN IN THE COCKPIT?

Feudalism is an economic system long dead—except in the psyche of the airline unions. They want to attach airline workers to their planes and check-in counters, the way medieval serfs were tied to their land.

Under proposed legislation, airlines would have to guarantee equivalent jobs (or severance payments as high as $190,000) to any employee affected by merger, sale or lease of facilities. The airlines argue, correctly, that Government should not impose rigid labor protection rules on their now-deregulated industry. If employees are more eager to win such costly protection than, say, higher wages, let them bargain for it.

Before the industry was deregulated in 1978, the Civil Aeronautics Board insisted that jobs be protected in mergers and route swaps. Where equivalent work was not avail-

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able, workers could get 60 percent of their wages for five years.

Such broad Government protection for airline labor was only fair, the board argued, because airline management was benefiting from valuable Government-protected franchises.

But now the franchises are gone, and so is the regulators' rationale for "labor protection provisions." That is why the pilots and airline machinists' unions are pressing Congress for a law to accomplish the same thing.

Such legislation would make little sense even in good times. To adjust to market conditions, airlines need the flexibility to buy, sell and merge facilities. They could, if they wished, barter that flexibility for lower wages or reduced fringe benefits. But as Wallace Hendricks, a University of Illinois labor economist, points out, no airline union has valued protection provisions highly enough to pay the necessary price.

In any case, these are not good times. A half-dozen airlines are already in trouble; others will probably need to dump routes, merge facilities or lease out aircraft. No airline can afford to pay labor protection costs that might run as high as $6 million for the sale of a single jumbo jet.

No hearings have been held on this labor protection provision. Neither the House nor the Senate voted to put such a provision in its version of an aviation insurance bill. Supporters will simply tack it on in conference committee next week, provided that influential conference members do not object. That, in effect, leaves it up to the senior uncommitted conferee, James Howard of New Jersey.

Representative Howard, chairman of the House Transportation Committee, is known both for his affection for organized labor and his practical commitment to airline deregulation. May his mind win out over his heart.

U.S. SCHEDULED AIRLINE INDUSTRY COMPENSATION PER EMPLOYEE, 1981

U.S. Airlines: $36,900.

U.S. industries: $22,200.

In 1981 the average compensation for 312,000 airline employees was 66 percent higher than the U.S. industry average. Annual airline compensation increases averaged 10.7 percent over the last five years.

COMPENSATION OF U.S. AIRLINE EMPLOYEES, 1981

	Total work force	Work force excluding pilots	Pilots (including copilots and flight engineers)
Compensation (including fringes, i.e., social security, unemployment, insurance, and pensions)	$36,900	$29,756	$96,309
Wages (excluding fringes)	27,581	22,014	73,998

Airline employees are among the world's most highly compensated. This is the result of collective bargaining and labor contracts in which the unions have negotiated higher wages. Congress should not intercede into the collective bargaining process and impose—by federal law—labor protective provisions (LPPs).

Mrs. KASSEBAUM. I thank the Senator.

I yield 1 minute to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I want to say, first, the issue of salary levels is not relative to this discussion. I hope that we could avoid the politics and end our debate in this Chamber.

As the Senator from Kansas has pointed out, the labor protection provision goes well beyond the previous practice under the circumstances. I say to my colleagues, as a former airline pilot, I have been a particular target of the parties involved in this dispute and the feelings run very high on both sides and there are good arguments on both sides. I think in fairness to all of the parties, we owe open and complete hearings to this subject.

Second, the Senator from Kansas is absolutely right. Unusual procedure has been resorted to in this case. Our usual procedures have been short circuited. I urge my colleages to support the efforts of the Senator from Kansas out of fairness. Let us have full and open hearings on this issue so that, first of all, we deal fairly with the parties but, second, so we all fully understand the fine points of the issue at hand here.

I thank the Chair.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Many airlines lease the majority of the planes they operate. Many small airlines own only a small percentage of the planes they operate. The airline business is very seasonal. It has been sometimes necessary in the past and undoubtedly will be necessary in the future for some of these small carriers to sell a small number of aircraft due to these off seasons.

The sale of a very few aircraft could constitute more than 20 percent of the planes owned and therefore would be a qualifying transaction.

Sections (6)1 (A) & (B) of this legislation are intended to cover merger or merger-type situations where one qualifying air carrier takes over a substantial portion of the property or operations of another qualifying air carrier. The legislation is not intended to cover a situation where a small air carrier sells or leases a small number of planes strictly out of economic necessity.

Section (b)(1)(A) provides that the lease of a substantial portion of the properties of a carrier is a qualifying transaction. It should be made clear that this means the leasing of owned aircraft and not the subleasing of leased aircraft.

Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise because I originally introduced airline deregulation legislation with the Senator from Nevada, Senator Cannon. I do have a memory of both the history of the hearings and also of the dialog and the discussion.

We went to extraordinary lengths, Mr. President, to accommodate the airlines in this country. The issue was: Is there an area of public policy that we can get the Federal Government out in order so we can release the forces of competition? One area which was suggested was the airline industry. So we fashioned and shaped a piece of legislation.

The airlines came to us and said, "Oh, no. Leave the Federal Government in. If you insist on deregulation we only want a certain number of routes opened to competition each year. So the Senate and the Congress of the United States said, "All right. In order to make some progress, we will do that."

Then the small towns said, "Look, you have to look out after us." The fact was that during the previous 10-year period, one-third of all of the small communities in the Nation lost air service.

So he said, "OK. For the small communities, we will assure comparable service." And we looked out after the small communities.

Then the airline employees said, "All right. If this is going to be done in the interest of competition and to provide more service for the consumers, we ought to have some degree of protection."

And we adopted an amendment offered by the Senator from Missouri, Senator DANFORTH, and others. We thought at that time we made some adjustment for the airlines, we made some adjustment for the small communities, and we made some adjustment for the employees. Well, the fact remains that we did make adjustments for the airlines and for the small communities, but not one thing has been done for the employees. Two successive administrations have failed to carry out the policy we adopted. And now, to make matters worse the protection employees have been able to rely on for 30 years will be eliminated unless we adopt this conference report.

As one who is very much involved in the fashioning and shaping of the legislation, listening to this discussion and debate, participating in the amendments that were put forward, I think that the Senator from Oregon is exactly right and we have a responsibility to those employees.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM. Mr. President, how much time remains in the debate?

The PRESIDING OFFICER. One minute 47 seconds.

Mrs. KASSEBAUM. Mr. President, I would like to offer my concluding remarks at this time.

I certainly agree with the Senator from Oregon that there should be protection for the airline employees which was guaranteed to them under the deregulation act. But the enforcement of that is up to the administration that is in office and which bears that responsibility. We certainly do agree with that.

As I say, it is not just a question of the labor protection provisions, but how we address them in a legislative framework.

Mr. PACKWOOD. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Kansas is prepared to yield back the remainder of hers.

Mrs. KASSEBAUM. Mr. President, I am prepared to yield back the few seconds remaining.

Mr. PACKWOOD. Mr. President, I yield back my remaining time.

Mrs. KASSEBAUM. Mr. President, I raise a point of order under rule XVIII that the conferees have exceeded their authority by including new matter not committed to them by either House.

The PRESIDING OFFICER. Rule XXVIII states:

> Conferees shall not insert in the report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report.

New matter has been inserted. The point of order is valid.

Mr. PACKWOOD. Mr. President, I take appeal from the decision of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HUMPHREY (When his name was called). Present.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER (Mr. Wallop). The Senate will be in order.

Mr. RANDOLPH. Mr. President, I renew my point of order.

The PRESIDING OFFICER. In the opinion of the Chair, the Senate is in order. The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, the Senate is not in order. I do not like to say what I am saying, but let us have order when votes are being taken.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The rollcall may proceed.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, it apparently does no good. I am grateful for your giving me no——

Mr. STEVENS. Mr. President, a point of order. A vote is in progress.

Mr. RANDOLPH. I can make a point of order during a vote. There is nothing that keeps me from doing that. The point of order is that the Senate has not been in order.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The rollcall may continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Hatfield) and the Senator from Idaho (Mr. Symms) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—59

Abdnor
Armstrong
Baker
Boren
Boschwitz
Bradley
Brady
Bumpers
Byrd, Harry F., Jr.
Chafee
Cohen
Danforth
Denton
Domenici
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Pell
Percy
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Schmitt
Simpson
Stennis
Stevens
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—38

Andrews
Baucus
Bentsen
Biden
Burdick
Byrd, Robert C.
Cannon
Chiles
Cochran
Cranston
D'Amato
DeConcini
Dixon
Dodd
Dole
Durenberger
Eagleton
Hart
Heinz
Inouye
Jackson
Kennedy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pressler
Riegle
Sarbanes
Sasser
Specter
Stafford
Tsongas
Weicker

ANSWERED "PRESENT"—1

Humphrey

NOT VOTING—2

Hatfield
Symms

So, the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The conference report is recommitted.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past 10 p.m. in which Senators may speak.

AUGUST 15, 1982, DESIGNATED AS WILL ROGERS AND WILEY POST DAY

Mr. MURKOWSKI. Mr. President, I send a joint resolution to the desk on behalf of myself, Mr. Stevens, Mr. Boren, and Mr. Nickles, and ask for its immediate consideration. I might state that this request has been cleared with the minority leader.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 230) to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post Day."

The PRESIDING OFFICER. The joint resolution will be deemed to have been read once by title and once at length, and, without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the resolution.

Mr. MURKOWSKI. Mr. President, today I am introducing for passage a joint resolution requesting the President to designate Sunday, August 15, 1982, as "Will Rogers and Wiley Post Day." On August 15, 1935, Mr. Rogers and Mr. Post were killed in an airplane crash 24 kilometers south of Point Barrow, Alaska. Both aviators were in the process of flying to Siberia.

Wiley Post was the first aviator to complete a solo flight around the world. On June 23, 1931, Mr. Post took off in his plane, the "Winnie May" from New York City, and circumvented the Earth in the record time of 8 days, 15 hours, 51 minutes, returning to New York on July 1. His course traversed the British Isles and the Soviet Union, and is described in "Around the World in Eighty Days." Mr. Post repeated the flight in 1933, bettering his record by approximately 21 hours. He later performed historic experiments with substratospheric flights and made substantial breakthroughs with new equipment designed for that purpose. It is significant to report that Mr. Post made these achievements without the benefit of one eye, since he lost his left eye in 1926 in an oil-field accident.

Mr. President, Will Rogers is a well-known name in the homes and hearts of Americans, and has been recognized as the foremost American humorist of his day. He had the God-given faculty of making people laugh and think at the same time. He was, in a sense, an institution—possibly the greatest debunker of stuffed shirts and fanciful ideas in our history. He thrived in the developing years of our country the days when families would gather around the radio to hear his thoughts. In a few words, transmitted over the air, Will Rogers could say more and

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say it better than most of the would-be statesmen could say in hours.

His wit was much revered and respected and discriminated against no one. He poked fun at Presidents, heads of state, Members of Congress—at everything and at everybody when he saw fit. However, he was able to make the victims of his wit like his barbs, simply because they were harmless. He had the ability to make people look at themselves and chuckle in a very healthy and natural fashion.

Born in 1879, in Oklahoma, Mr. Rogers might very well have been the most popular American of his day. Rogers twirled his lariat through much of the civilized and noncivilized world, with the portions of the world that he could not reach personally, being contacted by his motion pictures. He was the most enthusiastic air traveler covering 500,000 air miles before his death.

He shared his life openly and liberally, and I truly believe that "he never met a man he didn't like."

Mr. President, August 15, 1982, marks the 47th anniversary of the death of these two pioneers. I am pleased by the opportunity to present to the Senate a joint resolution making this anniversary their day.

Mr. STEVENS. Mr. President, it is with great pleasure that I join with my colleague from Alaska in sponsoring this resolution which asks the President to declare August 15, 1982 "Will Rogers and Wiley Post Day."

There will be ceremonies in Barrow on the 15th dedicating a monument to the two famous men. The monument is notable beyond being 27,000 pounds in that it is a joint project of the Will Rogers Lions Club of Claremore, Okla. and the Lions Club of Barrow.

It will be 47 years on August 15 since Wiley Post and Will Rogers died in an airplane accident on their way to Barrow to visit friends prior to flying on to Siberia. They had come from Fairbanks in interior Alaska where they had refueled and visited with friends.

Wiley Post and Will Rogers added immeasurably to the advancement of aviation in our country. Alaska, because of its dependence on air travel, was able to grow toward statehood through advances made due to the work of Wiley Post in aeronautics and Will Rogers' popularization of flying as a way to travel—particularly in Alaska.

As my colleagues probably know, Alaska has not been called the "flyingest" State in the Union for no reason. Ever since Carl Ben Eielson introduced airmail to Alaska's interior in the midtwenties we Alaskans have not been able to get enough of flying. The Federal Aviation Administration estimates, for example, that 1 out of every 39 Alaskans is a licensed pilot. That is six times as many pilots per capita as compared to the rest of the United States.

The trip to Alaska in 1935 which ended so tragically near Barrow had not been Wiley Post's first. He had stopped in Alaska during his round-the-world flights in 1931 and 1933, the 1933 trip being a solo trip. The round-the-world flights brought positive attention to Alaska and its strategic location—both commercial and military.

North Slope Borough Mayor Eugene Brower has already declared the 15th Wiley Post/Will Roger Day. It is only fitting that the U.S. Congress call on the President to do the same because these men belonged not only to Alaska, Oklahoma and Texas, but to the United States, if not the world. I urge my colleagues to join with us in recognizing these two great Americans by declaring August 15 Will Rogers and Wiley Post Day.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (Senate Joint Resolution 230) with its preamble, follows:

S.J. Res. 230

Whereas the courageous and pioneering spirit of America's aviators and the service provided by that spirit, deserve to be properly commemorated and recognized;

Whereas Wiley Post and Will Rogers have been acknowledged as pioneer aviators in America;

Whereas Wiley Post was the first aviator to complete a solo flight around the world;

Whereas Wiley Post upon completion of that record flight continued to make substantial contributions to the development of American aviation;

Whereas Will Rogers was considered to be the most enthusiastic air traveler of his day, completing some 500,000 air miles by 1935;

Whereas Will Rogers contributed greatly to the development of the United States through his pioneering spirit;

Whereas Will Rogers and Wiley Post embarked on August 15, 1935, on a projected trip to Siberia;

Whereas Will Rogers and Wiley Post met with their death as their plane crashed on August 15, 1935, 24 kilometers south of Point Barrow, Alaska;

Whereas it is appropriate to honor the patriotism and sacrifice of all those individuals who honorably served the development of their country in times of peace as well as war;

Whereas August 15, 1982, marks the 47th anniversary of the death of Will Rogers and Wiley Post.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate August 15, 1982, as "Will Rogers and Wiley Post's Day", and to call upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

THE NEW RECORD UNEMPLOYMENT RATE

Mr. PELL. Mr. President, the Nation's new unemployment rate of 9.8 percent, announced Friday by the Department of Labor, marks the greatest economic tragedy that this country has experienced since the Great Depression.

More than 1 American in every 10 is out of work today. More than 10,790,000 workers throughout the country are now unemployed, and more than 1 million more are not counted because they have given up looking for work. In Rhode Island, the statistics are equally upsetting: 9.3 percent of the labor force, amounting to 44,700 workers, is counted as unemployed. The jewelry, machinery, and construction industries, in particular, have contributed the most to the unemployed workers who walk the streets and wait in line in Rhode Island.

If the size of the average American household is 2.7 members, we can estimate that more than 20,000,000 American family members, and more than 90,000 Rhode Island family members, are faced with unemployment, frustration, uncertainty, and disillusionment with their country's economic and political systems. These facts constitute a national tragedy, and it is a tragedy that the administration can no longer ignore.

I have stated before that unemployment is the most serious problem facing our country today, and that our highest priority as a nation should be to get our citizens back to work. The new record in the unemployment rate that we have set today makes our responsibility even more urgent than it has been.

It is not the fault of these workers or their families that national economic policies have resulted in such a deep and prolonged recession. It is time that we recognize that it is the economic policies of the administration that have caused hardship, unemployment, and bankruptcy throughout the Nation.

The monthly release of unemployment rates for the Nation and for Rhode Island have become the grimmest and most angering events in the public consciousness. Each month we are newly reminded that the economic policy of this administration is no policy at all, and that it in fact is nothing more than a senseless and brutal destruction of every responsibility that a government owes its people in favor of a military budget which grows ceaselessly and without reason. I share the grief and desolation which every unemployed worker feels. Congress must act to bring down the high jobless rate and restore economic growth.

CLEARING THE RECORD

Mr. PELL. Mr. President, one of the most unfortunate and anguishing human dramas occurs when an individual's reputation is needlessly damaged by a criminal prosecution. These instances are rare—a tribute to our judicial system—but when they do occur, the initial damage to personal reputation is never totally removed by an ultimate acquittal and exoneration. The headlines of indictments and criminal prosecution are front page news; acquittals are lucky to be found buried in the back pages.

Such is the story of Wharton Shober, a former president of the Hahnemann Medical College. He and his family suffered greatly as a result of his encounter with the criminal justice system, notwithstanding his eventual acquittal. I would like to share his experience with my colleagues. I ask unanimous consent the Mr. Shober's article in the February 22 Princeton Alumni Weekly, entitled "Absence of Redress" be printed in full in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Princeton Alumni Weekly, Feb. 22, 1982]

ABSENCE OF REDRESS

(By Wharton Shober)

On November 2, 1978, the Philadelphia newspaper headlines trumpeted: Ex-college President Indicted for Bribery and Mail Fraud Faces 107 Years Imprisonment. In shock, my 78-year-old father (Princeton '23), who was then recovering from a heart attack, telephoned the news to my home abroad. So began an ordeal for me and my family that lasted until June 28, 1980, when the charges against me were thrown out of court for lack of evidence. Indeed, the federal judge presiding indicated that the government had no case and never should have indicted me when he said: "If a crime has been committed here, it has been committed by the government prosecutor against defendant Shober."

It is still not over. The lurid headlines which marked the proceedings for 20 months remain a ghastly memory. My wife, teenage children, and other relatives will carry the scars for the rest of their lives. During my indictment and trial someone regularly sent photocopies of the newspaper articles to every potential customer of the overseas-based hospital management company I had helped found in early 1978. Obviously I was unable to take any aggressive business posture, and although my employers believed in my innocence, the company I headed effectively lost 20 months of business expansion. The personal financial results of the indictment were catastrophic: By the time I was acquitted, lawyers bills had taken my life's savings and placed me $600,000 in debt.

THE HAHNEMANN STORY

The story began in late 1970 when the presidential search committee for Hahnemann Medical College & Hospital of Philadelphia asked me if I would be willing to be a candidate. I was available, having recently sold my interest in an international communications company which I had founded and led for 13 years. At first, however, I wisely said no. Why in the world would anyone want responsibility for an insolvent, near-bankrupt medical school and hospital surrounded on three sides by innercity ghetto, with a campus composed of a decaying 50-year-old hospital and 75-year-old college buildings so run-down that they should have been carried on the books at their land value only? Hahnemann revenues were $33 million, the true annual loss on operations exceeded $1 million, there was no endowment, and there was an immediate danger of forced liquidation or bankruptcy.

A few months later, a loved one of mine almost died in a small community hospital. She probably would not have been in danger if her local physician had kept up with modern medicine and treated her accordingly. Upon investigation, I found there was no system, at that time, requiring physicians to "keep up." Yet, with medical knowledge doubling every 10 years, no physician could remain current unless he had continuing medical education. This was a major factor in my decision to see if Hahnemann could not be saved, put on a positive road, and encouraged to develop a system whereby physicians would embrace continuing education.

FINANCIAL TURNAROUND

I took up my duties as president and chief executive officer on August 30, 1971, and plunged into what would be the most interesting and challenging period of my life. When I resigned six years later, Hahnemann had a modern campus and hospital valued at $165 million, revenues of $120 million, and a positive cash flow. This had been achieved by reorganizing Hahnemann as an aggressive nonprofit private-enterprise institution built around individual profit centers. In addition, we gave a new emphasis to fund raising, encouraged the acquisition of government and private health care contracts, and developed an incentive system for clinical faculty, whereby they shared in profits they generated from patient care.

Profit-sharing encouraged the clinical faculty to visit community hospitals and organize seminars on their specialties for doctors all over the state. This resulted in the local doctors referring patients with complex diseases to our teaching hospital. Within 18 months we had a waiting list of referral patients for elective procedures. Soon our affiliate "feeder" network expanded from three to 61 hospitals. Meanwhile, I turned to the deplorable physical state of the campus. We financed Hahnemann's first student housing—one 16-story apartment building and a second 22-story building—by a federal grant, community fund raising, and a tax-exempt bond issue. We set up a college of health sciences, a cancer institute, a heart institute, and a state-wide physician continuing education system. In late June 1977, I resigned and was made president emeritus.

How did my activities on behalf of Hahnemann result in a criminal indictment and trial? One of the major government contracts we secured was to finance the Hahnemann Health Medical System, which was created to provide continuing education for physicians at community hospitals. This system was first introduced in Wilkes-Barre and Luzerne County, and it was an immediate success. So much so that Congressman Dan Flood, who represented this area in Washington, inserted a line item in a large appropriation bill for $14.5 million to help Hahnemann build its new $65-million hospital. When Flood, a man whose contributions to American medicine are enormous, came up for re-election, I asked some friends to contribute to his campaign. They did, 17 persons, giving a total of $10,000. Unknown to me, Flood was under investigation by the FBI at the time. Three years later he was indicted by a federal grand jury and eventually pleaded guilty to a misdemeanor and was fined one dollar. He was not indicted for anything in connection with Hahnemann.

LEGAL BLACKMAIL

In January 1978, Assistant U.S. Attorney Alan Liebermann summoned me to his Philadelphia office and told me that the $10,000 my friends gave to Flood's re-election campaign made me guilty of bribery. He also said I was guilty of 17 counts of mail fraud. Each count carried five years in the slammer. This was a potential of 85 years plus 22 years for charges relating to "bribery of a public official." After attempting to terrify me (he succeeded), he then offered me immunity from prosecution if I would testify against Flood whom, he said, "the government wanted to get." He promised that if I refused, he would indict me, prosecute me, and send me to prison. I told him that he had absolutely no basis for these charges, that his only motive could be the headlines a college president's indictment would generate for him, that his threats put him in the same category as the late Senator McCarthy, and that his attempted blackmail made him a disgrace to the legal profession and to his oath of office.

Eleven months later I learned of my indictment from my father's telephone call. He had learned of it by reading the newspapers, which without exception assumed I was guilty. They embellished the negative half-truths leaked to them by the Assistant U.S. Attorney's Office until my acquittal 20 months later. One particularly onerous front-page article was entitled "Blue Blood, Black Mark" and traced the "previously" honorable tradition of my family from revolutionary times to the present "black mark." My indictment had to do only with my fund raising for Dan Flood. I was not accused of taking one cent or of having made any personal gains.

By the time of the trial, Assistant U.S. Attorney Libermann had moved on to a cushy job in private practice, and his successors Frank Shermann and Jean Dimergian prosecuted me. During the trial's seven-week duration all of the prosecution witnesses—even those granted immunity by the government in return for their testimony against me—attested to my innocence. The federal judge, E. Max Troutman, did not require my lawyer, Richard Sprague, to present a defense to the jury. We called no defense witnesses. We did not put on a defense of any kind. I was acquitted of all charges by the judge. The case didn't go to the jury. This was the first time Judge Troutman had thrown a government case out of court after hearing only the prosecution in his 12 years on the bench.

Before and during the trial Federal Prosecutors Shermann and Dimergian offered me several "deals" if I would plead guilty to a misdemeanor. My wife and children, who stayed with me in the courtroom each day of the seven-week trial, supported me in my decision to refuse their offers. My defense attorney told me that Shermann and Dimergian were surprised that I wouldn't accept their offer—after all, they reasoned, my downside risk was 107 years in jail. The prosecutors obviously believed that the guilt or innocence of the accused was immaterial.

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The game of law was more important than the justice which they had sworn to uphold and defend.

The FBI investigation and the trial cost the taxpayers an estimated $10 million. It cost me my life's savings and left me $600,000 in debt. The cost in terms of my family's suffering could not be measured in dollars.

America's present criminal justice system, which permits an unprincipled federal prosecutor to secure an indictment from a grand jury that can hear only the evidence the prosector presents, is not fair and should be changed. The wrongfully accused should be given some means of redress to his accusor or to the government. Whether this ever comes to pass or not, I can tell you that a prosecutor's power, when leveled by a rogue against a single innocent individual, is awesome.

Imperfect as our legal system is, I nevertheless believe it to be one of the best in the world. If this had happened in a totalitarian country, I would surely have been convicted and imprisoned. In America, I lost only my money and my reputation, not my life.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO MRS. MARGUERITE HILDRETH HUEY

Mr. HEFLIN. Mr. President, just a few short weeks ago, I stood here to pay tribute to the Centennial Celebration of the city of Enterprise, Ala.

Today, I am saddened to rise to say a few words about an outstanding citizen of Enterprise who recently passed away, Mrs. Marguerite Hildreth Huey. Mrs. Huey was a beautiful, very gracious lady, a true southern lady. She will be sorely missed by all who knew her.

Mrs. Huey was a lifelong citizen of Enterprise, being the daughter of the town's first postman. After college, she was an elementary school teacher. When she married, she turned her time and energies toward being a dedicated housewife, mother, and civic leader. Following the death of her husband, she was called on to serve as city librarian, which she did for some 10 years.

Mrs. Huey loved her town of Enterprise, and she loved doing everything she could to help it prosper. She was active in her church, in school, and civic organizations.

In the weeks before her death, she was as interested in Enterprise's centennial celebration as anyone else in town. She kept up with the plans and the progress, and only regretted not being able to be a more active help.

Mrs. Huey is a fine example of why cities and States are great. Enterprise, Ala., and her countless friends will miss her.

Mr. President, I ask unanimous consent that an editorial from the Enterprise Ledger be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Enterprise Ledger, June 27, 1982]

A TRUE SOUTHERN LADY

This week, a very gracious lady of Enterprise was laid to rest. Enterprise will miss her. She brought to the city a love and refinement that was distinctive and stood out wherever she went. She was a true Southern lady in every sense of the word.

Mrs. Marguerite Hildreth Huey loved Enterprise. In her final days, she was as interested in the upcoming Centennial celebration as any member of the Centennial Committee. She wanted to know the very latest activities being planned. A few short weeks ago, it is reported that she wrote that she felt so privileged to have lived in the most wonderful town of the greatest country in the world during the most dramatic century of its history.

The daughter of Enterprise's first postman, (Hildreth) the Encoala of her graduating class contained the notation that she "is one who makes the day brighter with her smile." Her even disposition belied the proverbial thoughts associated with a "red head."

After working her way through Howard College, she returned to Enterprise to teach the sixth grade at City School (College Street Elementary School) for five years. Upon her marriage, she resigned and took up her duties as housewife and civic leader.

She changed her church upon her marriage and became as active in her new church as she had been in her old one. She served as president, among numerous other offices in the Womens Society of Christian Service and was also an honorary member of the Board of Stewards.

She served as president of one of the earliest Band Parents organizations at the high school and was also instrumental in reactivating the high school PTA. She served as chairman of the Mothers' March on Polio, and served for 29 years as a member of the Coffee County Board of Pensions and Security.

An active member of the Pierian Club, she served that organization on a number of occasions as president. She was constantly called on for her knowledge of parliamentary law.

Following the death of her husband, Mrs. Huey took over the duties of city librarian as the library moved to quarters in the City Recreation Center. For 10 years, she worked and expanded the library until it was bursting at the seams as new quarters became needed.

She was a master at handwriting and many a person in Enterprise or from Enterprise proudly possesses diplomas, certificates, inscribed Bibles, and guest registers which were prepared by her.

She was always a partiotic American—one who shamelessly displayed her emotions over the Flag, "The Star Spangled Banner," and "God Bless America." She was proud of the knowledge that her forefathers fought in the Revolution and played a prominent role in colonial Virginia.

She was a great mother, a splendid grandmother and great-grandmother. She loved her family like she did her city and her church.

And as she realized that her death was imminent, she accepted her fate with never a complaint. She was always concerned for others.

Mrs. Huey left a legacy of service, loyalty and gentility that will be long remembered by those she has come in contact with. We will miss her greatly.

A MAN OF PEACE, SHERIFF THOMAS E. GILMORE

Mr. HEFLIN. Mr. President, I rise today, out of admiration and respect, to pay tribute to a truly great Alabamian, Sheriff Thomas Gilmore of Greene County, Ala.

I do admit, however, that I am somewhat saddened to speak about Sheriff Gilmore in this context, for he has recently announced his decision to not seek reelection. In January, when he steps down after a dozen years of service, Alabama will lose one of the most capable, and well-known sheriffs in the State's history.

Thomas Earle Gilmore first ran for sheriff in 1966, and lost by a very small margin. In 1970, he ran again, and was elected—becoming the first black sheriff in Greene County history. He has been reelected ever since, and his decision to not seek the office again this year came as a great surprise to many citizens of that area.

In his 12 years in office, Tom Gilmore has done an outstanding job as sheriff, all the while advancing a nonviolent philosophy of law enforcement. When he first took over as sheriff in 1971, he, as do most law enforcement officers, carried a gun. However, since he felt he could, and should, enforce the law nonviolently, the gun was soon put aside. Sheriff Gilmore went on to serve almost all of his 12 years in office in this nonviolent fashion. His dedication to his work is illustrated by his continued service despite a legal quirk under which his salary is at least some $10,000 below all other sheriffs in Alabama.

Greene County, and all of Alabama, are certainly going to miss his talents in the field of law enforcement. Luckily, however, he will continue to be a benefit to those around him, as he plans to become involved in community-service work with the poor. An ordained minister, he also plans to continue as pastor of the Eastern Star Baptist Church in Demopolis.

Sheriff Gilmore has often said, "I'd like to have it said of me that I was a man of peace." Today, Mr. President, I say with all honesty that no truer words could be spoken. Thomas Gilmore was, and is, a man of peace, a man who for 12 years enforced the law with a badge and not a gun, a man of whom his country and State are rightfully proud.

I ask unanimous consent that an article from the Birmingham News and an editoral from the Tuscaloosa News about Sheriff Gilmore be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Birmingham News, July 15, 1982]

Sheriff Gilmore, "A Man of Peace," To Take Off His Badge

(By Frank Sikora)

Eutaw.—He is probably Alabama's most famous, most underpaid sheriff. A man of the cloth, he wore a badge, but not a gun.

But Sheriff Thomas Earle Gilmore, 41, will step down come January, after a dozen years on the job.

He was the first black sheriff in Greene County history. His decision not to seek reelection has been one of the shockers in this campaign year.

"But it's been something I've been thinking about for some time," he said. "You'll never break away from something if you're afraid to get off the iceberg."

He has no plans, he says, except to pastor his church in Demopolis, Eastern Star Baptist, with a congregation of 300.

"I'm also thinking about doing community-service work," he said. "I want to work with the poor."

Greene County, always rated high in the area of poverty, should be a challenging arena, he said.

In the early 1960s Gilmore, who was born and reared in Forkland, went to California. But he came back in 1965 to take part in and eventually lead civil-rights demonstrations in his home county.

He was arrested with others and once was rapped on the head by then-Sheriff Bill Lee's walking stick.

"Facing the police lines," he said, "got me to thinking about running for sheriff."

He ran in 1966 and lost in a challenged election. But in 1970, it was a different story as he and other blacks swept the slate.

Whites were dubious of his ability in law enforcement, but within a short time he began to win approval. Former Eutaw Mayor William Tuck one day acknowledged:

"I have to admit that Tom Gilmore there is doing a good job as sheriff. He's been fair."

Of his own career, Gilmore said:

"I'd like to have it said of me that I was a man of peace. That's what I was striving for. If it can be said of my stay in office that 'peace prevailed,' then I can ask no more."

When he took over the job in 1971, he toted a pistol. But he soon put it aside, he said.

"I wanted to respect the non-violent philosophy of Dr. Martin Luther King," he said. "I felt I could enforce the law non-violently. And I think I did.

"I was conscious of the police-community relations problems across the nation and I wanted to make some steps to make it better. I still feel there oughta be a non-violent unit in every police department."

In 1973, while he was helping residents flee the rising Tombigbee River, Gilmore was shot in the shoulder. He was alone at the time and thought he had been ambushed.

It turned out to be a stray bullet fired by a young man shooting at cans.

He also at times faced guns while making an arrest.

"But I was fortunate to come out without getting hurt and come out on the winning end."

His biggest disappointment, he said, was his inability to solve the shooting of a 5-year-old girl who was wounded in the face by nightriders who fired into her home.

"I really tried," he said. "But it was one of those cases, it seems, where people wouldn't make the effort to do a bang-up investigation."

The girl recovered, but the case still weighs on his mind, he said.

Gilmore has been the state's lowest-paid sheriff, by law. Because Greene is a poor county, its sheriff through the years has had trouble collecting enough fees to earn a respective living. In the late 1950s, the Legislature passed an act setting a salary of $7,500.

In the 1970s, however, sheriffs went off the fee system and salaries are now $22,000 and up, depending on size. But Greene was not included, because it would take a Constitutional amendment to change it.

The county did allow Gilmore about $4,800 in expenses, bringing his total to $12,300 a year, still far below his peers.

[From the Tuscaloosa News, July 4, 1982]

Gilmore Won Respect

With some justification, Thomas Gilmore could be called a leader in the movement for civil rights in Alabama. But one suspects the amiable Greene County sheriff would rather be known as a good, God-fearing man who won the respect and admiration of both races with his evenhanded enforcement of the law.

Gilmore, today one of the best-known black elected officials in the United States, announced Friday he is stepping down from the sheriff's post to which he was first elected in 1970.

For Gilmore, it will mark the end of a career in law enforcement. His retirement also caps a rather remarkable personal achievement.

When Gilmore was elected in 1970, there were doubts about his ability to function effectively as chief law enforcement officer in a rural, impoverished Alabama county. There were pressures and obstacles from many sides and citizens of both races were apprehensive for the future.

But Gilmore's performance in office silenced the doubters. He dispensed justice fairly, operating unarmed in often difficult situations, and he compiled a record of sound law enforcement.

His career was spotlighted in the 1979 televised movie titled "This Man Stands Alone." While there may have been times when Gilmore felt alienated and isolated in his job, nothing could be further from the truth today.

"I have tried to project this county in a real positive light," he said in announcing his retirement plans. The courage and quiet dignity he exhibited in performance of his duty went a long way toward accomplishing that goal. He retires with the admiration and friendship of residents of both races.

ANN FROEHLKE

Mr. STEVENS. Mr. President, today marks the last day of service for the U.S. Senate of Ann Froehlke. We will miss her.

Ann has worked on Capitol Hill since 1977 where she first worked for me as the assistant minority leader. Always the hard worker, Ann was dedicated, loyal, and totally selfless. In an arena where quid pro quo is the norm and success is often at the expense of others, Ann was more than willing to give without expecting anything in return. Where others put themselves ahead of their peers, Ann always deferred praise and worked without expectation of constant reward.

Ann's reputation gained her a position on the staff of the Vice President after the election in 1980. Although I depended upon her heavily, I was proud of the opportunity that was presented to her. Since 1980, Ann has served Vice President George Bush with distinction. One has only to spend but a little time in the Vice President's office in order to appreciate the professionalism and patience it takes to provide direction to the scores of Senators, visitors, departmental liaisons, and staff members that depend upon her daily.

I wish Ann the very best. I will miss her and I know her friends and colleagues will feel a deep void with her absence. She has added something very special to all of our lives, and we wish her well in her future pursuits.

DUDLEY DIGGES MORGAN

Mr. STEVENS. Mr. President, I would like to take a moment to give recognition to a young man who recently left the service of the Republican cloakroom. I make reference to Dudley Digges Morgan.

Digges served with distinction in the Republican cloakroom for over 3 years. His leadership, professionalism, and congeniality were always appreciated and respected. His absence will be and is noticed.

The loss of Digges in the Republican cloakroom is the gain of the Department of Commerce where Digges will serve as a member of the congressional affairs team. Those Senators who know him, trust and respect his judgment; I must say it is well earned.

In the days ahead, I look forward to working with Digges in his new capacity at the Commerce Department. He will be an asset wherever he goes throughtout his career.

TERRORIST ATTACK KILLS TWO ILLINOISANS IN PARIS, FRANCE

Mr. PERCY. Mr. President, on Monday, August 9, terrorists attacked a Jewish neighborhood in Paris, France, and six people were killed. Two Illinoisans were among those killed and two Illinoisans were also wounded in this mindless criminal act. I have called upon the French Government to urgently take steps to insure that these acts cease and that those responsible will be apprehended and brought to trial swiftly. All of us are grieved by the attack and horrified that anti-Jewish terrorism has struck

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yet again. Let us comfort all who mourn this tragedy.

There is a moving tribute to Ann Van Zanten, one of the six killed in the attack, published in the Chicago Sun-Times on August 11. Ann Van Zanten, age 30, was born in St. Louis. She was a historian of architecture at the University of Illinois at Chicago Circle. Those who knew her have said that she was one of Chicago's "most energetic, effective cultural resources," writes William Marton, who wrote the appreciation of Ann Van Zanten. I ask unanimous consent that the article from the Sun-Times be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Also killed was Grace Cutler, age 66, of Skokie, Ill. Olga Traficante, who worked with her at the law firm of Adamowski-Newey-Adamowski, said of Grace Cutler: "She was such an extraordinary woman, beautiful inside and out." I ask unanimous consent also that an article from the Chicago Tribune about Grace Cutler be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[From the Chicago Sun-Times, Aug. 11, 1982]

ANN VAN ZANTEN—LOSS OF A CULTURAL ASSET

(By William Marlin)

CHICAGO.—Paris, which is often romanticized as a city of light, was of great interest to Ann Van Zanten, an architectural historian, who was killed Monday in a terrorist attack on Goldenberg's restaurant, a popular Jewish establishment in the ancient Marais quarter near Notre Dame Cathedral.

Her husband, David Van Zanten, a history professor at Northwestern University in Evanston, Ill., and an architectural scholar, was slightly wounded.

Recently named curator of the Chicago Historical Society's fine collection of architectural drawings and records, Ann Van Zanten was born in St. Louis in 1952. She had been preparing for an exhibit on the pioneering Chicago architect Louis Sullivan that was scheduled to open at the St. Louis Art Museum in 1984.

She graduated with honors from Brandeis University in 1972 and earned a doctorate at Harvard in 1980. Her dissertation was on Cesar Daly, an Irish-French architectural journalist, and his influence publication, Revue de l'Architecture Generale.

In a very short time, it became clear to the students and stewards of Chicago's architectural heritage that Ann Van Zanten would become one of the city's most energetic, effective cultural resources. In addition to teaching at the University of Illinois at Chicago Circle and serving on the education committee of the Chicago Architecture Foundation, she was recently elected president of the Chicago chapter of the Society of Architectural Historians. Her grace and openness made her a sought-after spokesman for the city's past.

Still on view at the Historical Society is an exhibition for which she shared curator duties with Sally Chappel, a historian. The exhibition is on the work of the two architects—John Lloyd Wright, a son of Frank Lloyd Wright, and Barry Byrne. Upon hearing of the Paris attack, Elizabeth Ingraham, Wright's daughter, a Colorado-based educator and architect, said: "Ann was a sensitive, intelligent young historian. Her fine depiction and critique of my father's work will stand as a tribute to her promising talents. Her death is one more example of how the wanton fires of violent times put a shadow on the future."

That Ann Van Zanten nourished an emotional as well as intellectual affinity for both Paris and Chicago is pointed up by her writings about the Paris-based Ecole des Beaux Arts in connection with an exhibition at New York's Museum of Modern Art three years ago. In her interpretation of the Ecole, she was dealing with an institution where the consciousness of history was sent out in the building world like a beacon.

She knew that Louis Sullivan spent time there, learning at least enough about history to make a good deal of it himself; she knew that Chicago's affable titan, Daniel Burnham, saw sufficient promise in a young designer named Frank Lloyd Wright to offer to pay his way to the Ecole.

Kevin Harrington, assistant professor of architectural history at Illinois Institute of Technology, reflected: "When a friend is killed by insane violence, our protective insulation to such conflict is ripped away. We must really face the terror and horror of savage murder, and we also mourn the death of one whom we are not prepared or willing to lose.

"Ann Lorens Van Zanten was a thoughtful, reflective scholar whose work so early in her career promised important contributions in the future. We have been robbed on that possibility. Scholars seek to expand our knowledge because they believe it will enrich our lives. Ann was interested in communicating what she learned to a wider public, and Chicago's architectural sophistication provided a wide audience of professional and amateur interest."

EXHIBIT 2

[From the Chicago Tribune, Aug. 12, 1982]

SKOKIE WOMAN'S DEATH IN PARIS STUNS FRIENDS

(By Thomas Hardy)

Olga Traficante's first thought was that Jo Goldenberg's restaurant would be the last place her friend Grace Cutler would dine during her Paris vacation.

"When I saw that horrible scene on TV, I thought of Grace and told my husband she'd never go to a restaurant like that because there are so many wonderful Jewish restaurants in Skokie," where Cutler lived, Traficante said.

Tragically, the landmark Jewish restaurant was exactly where Cutler was eating lunch when terrorists tossed a hand grenade into the restaurant and then began firing at the screaming occupants with machine guns, killing 6 persons and injuring 22.

Cutler, 66, a longtime widow, was among those killed. Her companion, Eva Shure, 65, a Chicago teacher and a member of Cutler's bridge club, was injured in the attack, which was aimed at Paris' Jewish community.

Also killed was Ann VanZanten, 30, of Evanston, conservator of architecture for the Chicago Historical Society. Her husband, David VanZanten, 35, head of the art history department at Northwestern University, was injured.

News of the Paris attack stunned Cutler's colleagues at the LaSalle Street law firm of Adamowski-Newey-Adamowski, where she had worked for 16 years as a legal secretary and office manager.

She left the firm July 1 because the partnership began to disband after Benjamin Adamowski, a former Cook County state's attorney who ran against Richard J. Daley for mayor in 1963, died in March and his son, Robert, moved to California.

Traficante, who also worked at the Adamowski firm, said she and Cutler "became immediate friends and wonderful colleagues" when Cutler joined the fledgling firm in 1966.

"She was such an extraordinary woman, beautiful inside and out, and she was a whiz of a secretary," Traficante said.

"She was delighted to be going on a one-week trip to Europe. She loved the theater, ballet and cultural things, and her friends were teachers and the like who had similar interests."

Cutler grew up in Chicago, attended Tuley High School and was a longtime resident of the Rogers Park neighborhood before moving to her Skokie condominium about six years ago, friends said.

"She was an excellent and hard-working employee," said Robert Adamowski. "Over the years, hers became more of a family situation than an employer-employee relationship."

Adamowski said Cutler's husband was killed in a car crash when her younger son, Howard, now a Chicago pharmacist, was 2 years old.

SINAI SUPPORT AND FIELD MISSIONS

Mr. PERCY. Mr. President, the U.S. Sinai Support and Field Missions have been a bright spot in the Middle East since they were established, first to operate a tactical early warning system and later to oversee adherence to the Egypt-Israel Peace Treaty articles.

The mission phased out its operations this spring, giving over many of its duties to the newly organized Multinational Force and Observers. But the accomplishments of the personnel and the effectiveness of both the Field and Support Mission should not go unnoticed here at home.

The highly technical operations was established in one of the world's most desolate and harsh environments. Inspection of military installations in the 15,000 square-mile area of the Sinai was conducted by field mission personnel and operation of a tactical early warning system in the Sinai was part of this effort from 1976 until early 1980.

The U.S. commitment to assisting in attaining peace in this troubled area of the world is demonstrated in the work of the people involved in the Sinai Support Mission. In an area where the political climate can be as volatile as the natural forces, the missions' objectives were undertaken with a sensitivity that insured its success.

The prime Government contractor—E-Systems of Dallas, Tex.—has achieved its charge with remarkable efficiency, bringing in the contract with cost underruns that have resulted in considerable savings to the U.S. Government.

In his transmittal letter to the President, Sinai Support Mission's Director Frank Maestrone noted, "The private American contractors who have worked with the mission since its inception in 1976 have responded rapidly and efficiently to the many varied challenges that have arisen over the last 6 years."

The skill with which the E-Systems project was handled continued through the phaseout operation, as the contractor ended activities prior to the completion date, without detriment to the operation or the morale of staff.

The success of the Field and Support Missions is a tribute to the private and public sectors, working together to insure the sanctity of the Middle East Peace Accords. We owe a word of thanks to our country's professional men and women and the American corporations, such as E-Systems, who offered their efforts and expertise to this mission of peace in the Middle East.

Mr. President, I ask unanimous consent that a statement by the President of the United States, commending the Sinai Support and Field Missions, be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

The White House,
Washington, July 14, 1982.

A unique American peacekeeping operation in the harsh and isolated desert environment of the Sinai Peninsula ended on April 25, 1982, when Israel completed its withdrawal from the Sinai in accordance with the terms of the 1979 Egyptian-Israeli Peace Treaty. On that day, the Sinai Support Mission and its overseas arm, the Sinai Field Mission, concluded six years of keeping the peace between Egypt and Israel. As the Sinai Support Mission closes out this operation, I want to pay tribute to the many dedicated men and women who, during this critical period, served with distinction either with SSM here in Washington or with SFM in the Sinai.

"The orange men and women," as the Sinai Field Mission staff were called because of the international orange color of their clothing and their helicopters, played a crucial role in maintaining the peace in that area, first under the Second Sinai Disengagement Agreement of 1975 and then under the 1979 Peace Treaty. Initially, they operated an electronic early warning system guarding the approaches to the strategic Giddi and Mitla Passes. When the Israeli troops withdrew further east of these passes under the terms of the Peace Treaty, SFM was assigned a new role, the verification of Egyptian and Israeli compliance with the force and armament limitations specified in the Treaty for controlled areas in the western Sinai. The verifications involved on-site inspections of units and facilities scattered over a 15,000 square mile area of the Sinai. During this period, SFM personnel earned the respect and confidence of both the Egyptians and the Israelis because of their expertise, professionalism, and impartiality.

In addition to these most important contributions to keeping the peace, the Sinai Support Mission rendered noteworthy assistance in the creation of its successor organization, the Multinational Force and Observers, which assumed Sinai peacekeeping responsibilities on April 25, 1982. The speed with which the MFO was created and made operational would have been hard to achieve without the expertise and cooperation of the Sinai Support Mission.

To all those who served in the Sinai Support and Field Missions, let me say, congratulations for a job well done. You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

Ronald Reagan.

HENRY FONDA—ONE OF THE MOST AUTHENTIC AMERICANS

Mr. KENNEDY. Mr. President, today is a time to mourn the passing of Henry Fonda, who was one of the most authentic Americans of all time. From "Young Mr. Lincoln" to "Mr. Roberts" to "On Golden Pond," he gave us extraordinary gifts of performance which reflect some of the greatest and most decent qualities of our country. In the characters he portrayed he helped to show us the essence of our national character.

For me, his presence brought the joy of friendship, and his loss is a deeply personal one. He was anything but a fair weather friend. In the hardest days of the 1980 campaign, Henry Fonda was always there, always ready to speak his mind, to offer his hand and his help. They say he died of heart failure, but I know this: All his life his great and generous heart never faltered or failed his friends. He was truly a man to share a hope with, the most caring and committed of allies to have, who made the happy times happier and the more difficult times more bearable.

The entire Kennedy family, which loved his movies long before we had the privilege of knowing him, joins me in expressing our sympathy to his wife Shirlee, his son Peter, his daughters Jane and Amy, his son-in-law Tom Hayden, and his grandchildren. We shall remember him, and we shall miss him now and always.

SOUTH BOSTON'S CHAMPIONSHIP SEASON

Mr. KENNEDY. Mr. President, for the first time in Babe Ruth baseball, a team from the city of Boston will be playing in the finals for the national championship. Last weekend, the South Boston team in the Babe Ruth League won the New England regional title and qualified for the 13-year-old Babe Ruth world series that begins this weekend in Frederick, Md.

I take this opportunity to congratulate all the players on the team, their manager, and their coaches for the outstanding record they have compiled so far. The roster is Southies' newest honor roll:

1B Dominic Sulfaro;
3B Keith Callow;
SS Dan Suplee;
1B Robert McGarrell;
OF Greg Yanovitch;
2B Edward Yalmokas;
OF Mike Burke;
3B John Gwynn;
SS Steve McKenna;
2B Tony Galvin;
OF Matt Mullen;
2B Mike Turner;
OF Paul Joseph;
OF Paul Walsh;
C Mike Doyle;
Manager George Feeley;
Coach Mal Hornsby; and
Coach Jim Greene.

I also congratulate the parents and families of the team, who have been such wonderful and supportive fans. All of Boston will be rooting for the team in the coming days. But win or lose, their sportsmanship, commitment, and come-from-behind tradition have already proved that they know how to play the game.

I ask unanimous consent that articles on the team from today's Boston Globe and South Boston Tribune may be printed at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Boston Globe Aug. 12, 1982]

In Southie, a Reason to Cheer

(By Will McDonough)

In some ways, the scene is so familiar. The school bus carrying the youngsters stops at Columbia Circle on the edge of South Boston and waits for an escort.

Then it moves slowly up the Strandway, passing Carson Beach, McNary Field and the G Street hill, all of which had been pictured in the papers and on television in a bad light in recent years.

But instead of standing there staring grimly or hurling objects at the bus, the locals are jumping for joy, running out of their houses, leaping from the barstools at the L Street Tap or Flanagan's Lighthouse and dancing delightedly on the sidewalks.

"I think, more than anything else, this has brought Southie closer together than anything in a long time," says George Feeley, head coach of the South Boston 13-year-old Babe Ruth All-Star team, which heads to Frederick, Md., today to play for the national championship.

"In the past couple of weeks, everyone has put busing and Proposition 2½ and all of the other problems people have to deal with over here aside, and just gone crazy cheering for these kids. We in the town call them the Second Coming of the Bad News Bears."

Last Friday night in Cranston, R.I., the South Boston team characteristically refused to surrender and captured the New England championship by beating the home club in the finale.

"We had more people from Southie in Cranston watching the game and giving our kids standing ovations at the end of every inning than they had people from Cranston," says Feeley. What happened was that after being confronted by controversy for so long, the people of South Boston found something that could unite them in happiness, the way it was in the old days when they derived great pleasure from their high school teams . . . teams that vanished with busing, desegregation and Judge W. Arthur Garrity.

In this group of 15 youngsters, they rediscovered what they felt their community had always represented. Grit. The ability to bounce back. The courage to hang together in the face of heavy odds and still manage somehow to win.

This is a team that, due to 2½ and other budget cuts, played its regular-season games on a field that looks shabby compared to the others it visited in winning 13 of 15 playoff games.

"The managers in the league have to maintain the field because the city won't," Feeley says. Feeley and his fellow coaches, such as Jim Greene and Mel Hornsby, work on the fields on Saturday mornings. They keep the equipment in their cars because the city doesn't provide a place to store it.

During the playoffs, the Southie kids rode to the sites of the games in cars. "One night I had nine kids and the equipment in my two-door Chevy Nova," says Feeley. "We had to play some games at 5 o'clock, and the parents wouldn't be home from work yet, so we had to go around bumming rides from people on the street, and they came across for us."

Other teams in the playoffs drove to the games in air-conditioned buses, and their uniforms matched from head to toe. The Southie kids had caps and shirts that matched—the rest was mixed.

"We didn't look pretty but we got the job done," says Feeley. "Of the 13 games we won, we won eight of them by one run. In almost every game we played, we were behind. This team loved to play from behind. We didn't know what to do if we had the lead. Four times we were behind by four runs in the late innings and we came back to win." In its third game of the local regional, Southie fell behind by four to West Roxbury in the last inning, and elimination seemed imminent. Thinking the game was gone, but not telling the kids, Feeley put in five subs, and they came up with five runs in their last at-bat to keep the team alive.

Now Southie has become the first team from the City of Boston ever to qualify for a national final in baseball. That's a remarkable achievement, considering that, for the most part, baseball is dying within the city due to lack of money.

As a bonus, these kids have received honors that people from Southie don't expect and really don't know whether they want. "We were honored by Mayor White with a proclamation," says Feeley. "We accepted, and the kids were happy, even though the mayor isn't that popular. Then Tuesday night, I'm sitting at home and the phone rings. My wife answers it, and the voice on the other end says Senator Kennedy wants to talk with me.

"I think someone is pulling my leg," continues Feeley, "but when I get on, it is him. He is very nice. He says his house is not that far from Frederick, Md., and if we get a chance when we are at the nationals to bring all the kids over for a swim in the pool."

Because of his stand on the busing issue, Ted Kennedy is not big in Southie. But the parents, in a quick poll, voted to accept his offer.

The feeling is that these kids aren't old enough to truly understand the ramifications of busing or Proposition 2½. They have never flown in a plane before, and the prospect of being airborne intimidates some of them. Many of them have never worn a suit coat and tie before, which is why they have been scrambling around to cousins and neighbors, trying to acquire a wardrobe.

These kids are throwbacks in sneakers and T-shirts who preferred swimming at L Street to practicing. They didn't care if the other guys came in the air-conditioned buses, wore nicer uniforms and went through fancy drills in the warmups.

Southie hit a paltry .235 in the finals. Its best pitcher came down with a sore arm. It never played a home game. And still it won 13 times, with a different kid getting the winning hit in every triumph.

"We would like to do well in the finals," says Feeley, "but it is not the most important thing. These kids are going down there to have fun and enjoy themselves. We want it that way. Most of them have enrolled in Catholic schools. None will go to the high school. As far as most people are concerned over here, there is no high school. So this is probably the last time they will ever play together. We want them to remember how much fun it was—for them and for of us."

[From the South Boston Tribune, Aug. 12, 1982]

GOOD LUCK BABE RUTH ALL STARS

BABE RUTH ALL STARS ADVANCE TO WORLD SERIES

The South Boston Babe Ruth League's Thirteen Year Old All Stars are for real. This past Friday evening the rookies defeated Cranston, Rhode Island 6–3, to take the Babe Ruth New England Championship. The kids will leave from Logan Airport this afternoon for Frederick, Maryland to represent New England in the Babe Ruth World Series. This is the first time a team from the City of Boston will have a chance to win the World Championship.

Other teams that will take part are Frederick, Maryland; Brooklyn, New York; Nashville, Tennessee; Glendale, California; Appleton, Wisconsin; Pine Bluff, Arkansas; Idaho Falls, Idaho; Jefferson, Missouri; and Southie. The local team will play its first game Sunday afternoon at 3:00 p.m. against Idaho Falls, Idaho. All of the games will be played at McCurdy Stadium in Frederick. This is a double elimination tournament.

In order to make it to the finals the kids defeated Cranston, R.I. 10–7; Portland, Maine 10–7 in ten innings and then met undefeated East Haven, Connecticut. East Haven was holding a 1–0 lead when Matt Mullen walked, Greg Yunovitch singled, Ed Yalmokas and Mike Doyle walked and Dom Sulfaro singled to make it 3–1. Dom Sulfaro led off the sixth with a single, was sacrificed to second by Callow and scored on a ground ball by Mike Burke to make it 4–1. East Haven scored a run in the sixth and two more in the seventh with two outs to tie the game. Mike Doyle led off the eighth with a walk, stole second and third and scored on a ground ball for a 5–4 lead. Pitcher Dan Suplee got the final three outs of the game, striking out the last two for the win.

On Friday night, the Southie team, needing just one more win for the championship, took on Cranston who had won the losers bracket defeating Manchester, New Hampshire; Blackstone Valley, Rhode Island; Westfield, Ma.; and East Haven. Cranston took an early 4–0 lead after just two innings, but the locals scored single runs in the third, fourth, fifth, and sixth innings to tie it up. In the top of the seventh the Southie defense fell apart allowing Cranston to score four runs. The local lads answered with two of their own but fell short and lost 8–6. Hitting for Southie were Ed Yulmokas, Dom Sulfaro, Keith Callow, and Dan Suplee.

One half hour later both teams returned to the field for the final game. Mike Doyle's single in the first inning was the big hit as Southie took a 2–0 lead. Cranston answered with one of its own but hits from Steve McKenna, Greg Yanovitch, and Keith Callow scored four more runs for a 6–1 lead. Cranston came back with a run in the third and fourth innings but relief ace Dan Suplee gave up just two more hits over the last five innings as the Southie nine took the Championship game 6–3. The Southie kids have now won the Suffolk County-Norfolk County East District Championship, the Eastern Mass. State Championship and the New England Regional Championship and who knows what might happen in the World Series.

Members of the team include: Tony Galvin, Mike Doyle, Dan Suplee, Paul Walsh, Keith Callow, Matt Mullen, Steve McKenna, Greg Yanovitch, John Gwynn, Mike Burke, Dom Sulfaro, Mike Turner, Paul Joseph, Ed Yalmokas, Bob McGarrell, Coaches Jim Greene, Mel Hornsby and George Feeley. The members of the team would like to extend their gratitude to the following people; Sam Moran for the use of the lights to prepare for the night games, the family of Bob McGarrell for the use of their facilities for the party Sunday, to the crazy Southie fans who were "Voluntarily" bused to Cranston to watch the games, to the kids from Old Harbor for the banner, the Boston Fire Dept. for their reception upon returning from Cranston, and of course the parents.

ANNIVERSARY OF THE BERLIN WALL—THE COMMITMENT ENDURES

Mr. GLENN. Mr. President, 21 years ago today the Berlin wall was quickly erected by East Germany. The city of West Berlin had all previous ties to the West severed in a matter of days. Because of the West's steadfast commitment to keeping West Berlin free regardless of cost, West Berlin today remains an island of democracy in a sea of suppression.

Despite the difficulties of doing so, West Berlin freely accepts any citizen from any country of the world. The Soviet-dominated Government of East Berlin continues to pose difficulties for anyone desiring to enter or leave its borders.

The Berlin wall represents a very important symbol in East-West relations. For as long as the symbolism of East Berlin and West Berlin is alive, so too will the realities of division endure. As long as there is an East Berlin and a West Berlin, there can be no real world unity.

Nowhere else in the world do democracy and tyranny thrive so near to one another. Nowhere else in the world is it more clear how far East and West have to go to achieve peace and understanding.

Just as bridges must be built between West Berlin and East Berlin, so must bridges be built between the United States and the Soviet Union. With nation states growing ever closer in interactions and dependencies, the choice is to either foster this evolution or discourage it. The lessons from history are that the costs of isolationism and indifference are too great.

But that choice, Mr. President, is not ours to make. Those moves away from isolation and indifference to human hopes must come from the Soviet Union, for it is they who have built walls to keep their people in, and to foster even greater distrust in an era that demands more openness, sincerity, and honesty in world dealings.

On this anniversary of the Berlin wall, let us renew the commitment of the United States to tearing down those barriers that exist between East and West. Let us reaffirm our intent to pursue world peace and understanding through more contact, not less.

If we truly live in an enlightened time, then may we mutually respect the right of persons to freely determine their own destiny—without walls of political repression.

SKILLED LABOR CRISIS VIII—INTERNATIONAL HIGH-TECH COMPETITION AND ENGINEERING SHORTAGES

Mr. BENTSEN. Mr. President, this is the eighth in a series of speeches I am devoting to the widening gap in our Nation between labor skills being demanded by employers and those skills possessed by men, women, and youths. My previous speech in this series—delivered last December—focused on the generic issue of robotics. It noted that as many as 1 million assembly line jobs could be permanently lost to the wave of robots expected to flood our factory floors during this decade. Other estimates run even higher.

The impact of automation and unemployment is a recurring theme, with its roots stretching back to Ned Ludd in 18th century Leicester. Those historians among us will recall the most pronounced manifestation of that theme when upward of 1,000 early textile mills were damaged by rampaging English workmen, justifiably fearful of skill obsolescence and technological unemployment. These Luddites gave vent to a frustration and fear that has been little recognized and certainly not addressed in the public policy of our Nation. That omission is curious because many of our ancestors were motivated to courageously join this great American adventure in the 18th, 19th, and 20th centuries because their agrarian skills did not match those demanded by firms in their homeland increasingly relying on steam and water to power assembly lines.

The robotics revolution is the tip of what may become the most pronounced economic issue of this decade: Rising technological unemployment side by side with labor shortages. For, while robotics and automation generally destroy jobs, they create new ones, as well. Indeed, the history of economic growth here and abroad is one of job and skill obsolescence matched eventually by the creation of even more, higher paying jobs as the emerging technology is harnessed to yield new consumer goods and services.

Training for these new jobs outside the classroom has historically been provided by the private sector and represents a substantial portion of the $30 billion or more spent on skill development by that sector. In light of the Nation's virtually nonexistent public mechanism for retraining experienced workers with obsolete skills, every Member of this body should hope that this historical pattern repeats itself in the case of the robotic and electronic revolution sweeping through our plants, factories, and banks. For that revolution is certainly going to cost us millions of current jobs.

I, for one, Mr. President, am not totally satisfied to leave the creation of millions of new jobs for these displaced men and women to the occasionally slow workings of the market process alone. We must reinforce that process with positive efforts to retrain experienced displaced workers, and thereby avoid compounding the human tragedies of unemployment with the loss of scarce and valuable labor talent and skills needed to fully utilize our economic resources.

I will return, Mr. President, to the theme of updating experienced worker skills in my next speech. You will recall, however, that I introduced legislation—S. 2476, the Skilled Labor Training Act—on May 4, designed to deal with this major problem.

In my speech today, I look at the flip side of the unemployment-and-skill-shortage coin in reviewing the shortage of engineers—key factors in the emerging electronic and computer technologies. Those shortages are opportunities, of course, opportunities to minimize or even prevent substantial technological unemployment if displaced workers can acquire the technical skills increasingly in short supply.

In several of my earlier speeches in this series, I explored some areas, such as computer occupations, where these opportunities exist. And, I believe our Nation is best served by a national labor policy designed to exploit these opportunities and encourage the retraining of displaced workers, as the Japanese and German Governments do, in short-handed skills.

But retraining is just part of the answer to our skilled labor shortage. Another aspect is to insure that our schools and colleges are providing the type skills to youths which will be in demand. It is far from clear that this elementary objective is being met today. It is unequivocably not being met in the area of engineering education.

HIGH-TECHNOLOGY COMPETITION

In my last speech, I mentioned the confluence of currents which will result in an unprecedented surge of Japanese high-technology goods this decade to world markets. The uniquely labor—and knowledge—intensive character of high-tech goods is particularly suited to the Japanese national resource mix. And the chronic and persistent need for that nation, poor in natural resources, to achieve balance-of-payment surpluses provides more than sufficient incentive for a sharp and robust national focus there on the export of high-tech goods. That focus will only sharpen in the future because such goods represent the most striking worldwide potential growth market—the clearest target for any nation seeking to maximize opportunities for real income growth through exports.

American firms face major and serious competition at home and abroad in dealing with the relentless Japanese drive to export. Fully one-half of our radios and recording equipment now comes from Japan; 25 percent of our autos, cameras, and TV's come from there.

Even more alarming for American firms and their workers dependent on exports are two other fundamental factors at work in the Western Pacific littoral.

Japanese firms long ago shook off the image of clever initiators. In industry after industry, they have applied the fruits of intensive and original innovation and R. & D. to become world leaders and carve out new markets. This innovative surge is reflected in the fact that domestic patent applications in Japan exceeded domestic applications in the United States as early as 1968. Domestic Japanese applications doubled in the following decade, even while applications here and in West Germany—the other leading technical R. & D. nation—stagnated. And, from 1966 to 1976, Japanese patent applications filed in the United States soared 600 percent, while applications from British firms, by way of comparison, actually slumped 40 percent.

During the 1970's, the terms of technology trade in Japan were sharply reversed: Technology imports rose slightly less than 11 percent, while ex-

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ports jumped an astounding 140 percent. Companies on the first Tokyo Stock Exchange, in numbers reported by Dr. Gene Gregory of Tokyo's Sophia University, earned some $425 million from technology process exports over that period, versus $350 million they paid abroad for technology process imports. The short of it, Mr. President, is that we will be facing even higher quality and innovative high-technology exports from Japan as this decade unfolds.

The second phenomena poising dangers for the U.S. competitive position worldwide in the technology goods is the feverish activity in Hong Kong, Singapore, South Korea, and Taiwan to capture export markets. Many electronic firms in these nations are on the verge of moving from the initator to the innovator stage themselves in a pattern destined to threaten Japanese ascendency in many electronic commodity markets. That competition will spill over and exacerbate the diminished American potency in high-technology commodities. I do not suppose we need to concern ourselves with the importation of Korean autos, but when Japanese aluminum firms begin shutting capacity under a flood of cheaper Korean products, can electronic products be far behind? The danger is very real that American firms will soon be facing Japanese-quality products produced in nations like Korea and Taiwan by both native and Japanese-owned firms using labor paid one-fifth what Japanese workers earn and only one-tenth what U.S. workers earn.

In not too many years, we may be fondly gazing back at the early 1980's when only the Japanese offered us competition in the rich world market for 64K RAM systems, biotech monitoring devices and other high-tech goods.

AN IMPROVED COMPETITIVE BASE

I have no doubt that we are capable of gearing up to compete well with any foreign producer of high-technology hardware. To match that capability with deed is something else. It will require a notable shift in the way corporations utilize labor with technical knowledge and skills. Engineers must be brought into the mainstream of corporate policy decisions. Those decisions should become more driven by the technical avenues of new products opened up by engineers, rather than solely by efforts to squeeze technical advances to fit the mold of existing products and markets. In addition, American firms must pay more attention to longer term research and marketing factors capable of influencing their economic health well into the future, and not be blinded by the next quarter's earnings per share.

The public sector has a role to play in promoting American competitiveness in high technology, as well. That role has both a macroeconomic and a microeconomic character. The present blend of tight money and excessive deficits has resulted in a recession and a halting recovery which will feature rising Government spending, not rising investment. That pattern must be reversed. A national economic policy featuring lower interest rates must be pursued in order to facilitate the flow of affordable resources into those sectors like electronics where the jobs of tomorrow will be created. The failure of Washington to deliver on its promise of lower interest rates and to create an environment conducive to greater investment threatens not only future unemployment, but the loss of what competitive edge our high-tech firms have today in world markets.

At the microeconomic level, I believe that public policy here—as it does in Japan and Germany—should be designed to reduce roadblocks and widen bottlenecks which unduly limit the ability of domestic firms to innovate and maintain a fair competitive situation. Perhaps the most glaring example of such a bottleneck currently is in electrical engineering education. Such education is one of the cornerstones of America's hopes for rising productivity and the preservation of our market shares around the world in the high-tech products of the future. Yet, as a nation, we are not providing a sufficiently large cadre of trained engineers to meet the demands of the labor market.

Typically, any such situation should be short lived. Rising wages would attract ambitious students to engineering curriculums and the market shortage would eventually be resolved. And, up to a point, that is precisely what has happened. The surge in demand for electrical engineers has indeed pushed wages up notably. College students are flocking to engineering courses.

ENGINEERING SHORTAGES

But there the textbook description of a labor market in operation ceases. Our engineering schools have become a bottleneck because they cannot enlarge enrollments to meet this surging demand. They cannot compete with the wage offers of private industry for aspiring young professors or increasingly even for senior ones. And therein lies the difficulty. Aspiring would-be engineers are not able to find spaces at our engineering schools and colleges, and we are consequently producing far fewer engineers than we should because we do not have the faculty to train them.

An international comparison is useful here. Japan—a nation with one-half the population of our own country—graduated 18,700 electrical engineers at the bachelor-degree level in 1980 versus only 14,600 here. They also awarded 7,000 more engineering degrees of all types in 1980 than we did.

As a consequence of this education bottleneck, various industry groups, including the American Electronics Association, are projecting enormous gaps between demand and supply in engineering. For example, an AEA member survey identified an annual demand for 50,000 new electrical engineers by 1985—over three times the number we now graduate yearly. Including computer experts and other skilled professional occupations, those firms expect to be creating a total of 113,000 new jobs annually by then. The National Science Foundation recently forecasted a 47-percent shortage of industrial engineers, as well, in this decade.

The inability of colleges and universities to compete successfully for faculty with private industry is even more pronounced in the computer area. Some computer science faculties are only half filled. The identical problem exists in mathematics, as well, where industry is reaching even into high schools and elementary schools for mathematicians.

The heart of the problem in each case is that professionals holding graduate degrees cannot be recruited by schools to meet the surging demand of students for classroom slots. Over 10 percent of all authorized and funded faculty positions in engineering are vacant now. In Texas alone, according to a 1981 report to its commission on higher education, the 10 public and 5 private engineering schools had a total engineering faculty shortage of 130 slots. Nationally, some 2,000 faculty slots sit empty. And those 2,000 empty engineering faculty positions could swell to 7,000 by 1990 through retirements and the further loss of teachers to private enterprise.

These engineering faculty vacancies are widespread. A partial listing includes:

University of Colorado: 15 vacant slots out of 157 positions.

Iowa State: 24 vacant out of 275.

University of Minnesota: 20 vacant out of 174.

Oregon State: 9 vacant out of 88.

Penn State: 30 vacant out of 248.

University of Rhode Island: 12 vacant out of 71.

University of Wyoming: 8 vacant out of 75.

The dangers posed by these faculty shortages and the lid they place on our supply of engineers can scarcely be exaggerated. Yet, these dangers will multiply because the pipeline of new prospective engineering faculty members is leaking badly. The same forces moving to limit the movement to education from private industry are at work on prospective graduate students, as well.

DECLINING GRADUATE STUDENT POOL

The national pool of graduate degree engineers, especially Ph. D.'s, are the source of replenishment for dwindling faculties. But American bachelor degree engineers are not continuing on to graduate school in search of Ph. D.'s. The decline is dramatic. In 1971, some 2,900 Ph. D.'s in engineering were awarded to U.S. nationals compared to only 1,800 in 1980—a 30-percent decline. In fact, we are awarding fewer new engineering Ph. D.'s to American citizens than at any time since 1964. Let me hasten to note, Mr. President, that our engineering graduate schools are not empty. For example, in 1980, about 1,000 Ph. D.'s were awarded to foreign nationals in addition to the 1,800 awarded U.S. citizens. Most of these foreign students promptly return home, however, and they take graduate slots which would sit vacant otherwise, unwanted by U.S. students.

In addition, the share of new Ph. D. students going into teaching is dwindling. For example, one-half of Stanford's engineering Ph. D.'s went into teaching in 1971; only 24 percent did so in 1980. The brain drain from graduate engineering programs is at least matched by the drain of prospective faculty from computer science graduate programs. In Texas, for example, 256 Ph. D. degrees in computer science were awarded in 1975 while only 200 were awarded in 1980. That 200 represents only one-third the number needed to fill computer science faculty positions. Even so, only one-half of these new Ph. D.'s entered teaching, producing only one-sixth the number of teachers needed for college computer science courses.

EQUIPMENT SHORTAGES

Engineering schools are having a difficult time dealing with the tidal wave of would-be engineers for reasons other than shrinking faculty. Foremost among these other limiting variabies is the inadequate number and dismal condition of equipment used in the science classroom. Because of rapidly evolving technology, equipment becomes obsolete in about 7 years now, and the pace is accelerating. Yet, few engineering schools are blessed even with an adequate quantity of equipment for use in labs and classrooms much less with up-to-date equipment. As Federal support for research eased in the 1970's, engineering schools diverted funds from equipment purchase to subsidize graduate students and research assistants. The result, as the Engineering Education News reported in June, is that the average piece of engineering teaching equipment in use today is about 20 years old.

A similar survey last year by the Association of American Universities found that university research equipment is twice as old as that used in industry. The Wall Street Journal surveyed our engineering schools this spring and termed the state of teaching equipment there a national disgrace, with most of it actually predating the computer era. Schools face enormous hurdles in merely stocking existing classrooms with comtemporary equipment, much less in meeting the burgeoning demand for new undergraduate slots—a demand supressed for the moment by limited faculty.

The magnitude of the equipment shortage can be gaged in several ways. For example, a recent National Science Foundation survey found that equipment needs are so pervasive in engineering schools that only one-fifth of their existing equipment will be replaced by engineering researchers over the next 5 years.

The Texas Society of Professional Engineers estimated recently that just nine public engineering schools in Texas had a critical need for $36 million to modernize campus engineering equipment. And, a total of $98 million was projected to be needed to replace hardware because of technical obsolescence at these institutions. That projection confirms similar estimates made in October 1981 by Prof. R. H. Page, dean of engineering at Texas A&M University. Dean Page projected that equipment replacement costs statewide would total $88 million comparable to $17,400 for each of the engineering bachelor degrees awarded in 1980–81.

The American Electronics Association gathered data this past June from a number of engineering schools on equipment needs while surveying faculty shortages. This survey found that these amounts were needed merely to update existing equipment:

University of Colorado: $4 million.
University of Idaho: $2 million
Iowa State University: $5.1 million over the next 5 years.
University of Kansas: $1.5 million.
University of Minnesota: $2.75 million.
Oregon State University: $750,000.
Portland State: $1.35 million.
University of Rhode Island: $1 million.
University of Wyoming: $3.3 million.

It will be a major task for these schools to meet their equipment needs. And, to expand equipment in order to digest additional students poses simply unsurmountable hurdles for these schools, which typically have annual equipment acquisition budgets of $40,00 to $50,000. For example, to meet increased student demand just for undergraduate mechanical and electrical engineering and for computer courses, the Iowa State engineering school estimates it alone would need $22.1 million in new equipment.

Nationally, the National Science Foundation's Deputy Director, Donald Langenberg, projected that engineering equipment replacement costs exceed $1 billion now and could be as much as $4 billion. Indeed, so critical is the problem that the NSF intends to boost funding to universities for engineering equipment by 23.5 percent in fiscal year 1983, while its overall budget will rise at the far smaller rate of 7.7 percent. Independent and more detailed calculations by Dean Page confirm the $1 billion figure.

REMEDIES

It would be convenient for Congress to focus just on engineering in designing public policy to deal with our critical skills shortages. But, the problem is far broader and more pervasive than that. And, I will be reviewing broader policy prescriptions in my next speech. Yet, the pivotal role of engineering technologies in productivity growth, in the future competitiveness of American products here and abroad, and in the creation of new domestic employment opportunities generates a special sense of urgency. That urgency is redoubled by the reality that the faculty shortage in engineering will require years to ameliorate.

What are the options for widening the bottleneck in engineering education? In crafting an answer, it is instructive to recall that Japan experiences an excess demand for bachelor degree engineers, just as we do. And that excess demand is resolved in a uniquely Japanese fashion. Universities and firms there do not compete for graduate students and employees by bidding wages up. Instead, Japanese firms implicitly collude to hold all beginning wages low—at $7,800 this year, for example. Japanese universities do not face the chore of having to compete in the marketplace for graduate students and faculty by outbidding private firms.

Policy prescriptions for the engineering shortage in the near term here must involve devices to enlarge engineering education opportunities by encouraging graduate degree engineers in private enterprise to teach part time and full time on a sabbatical basis. Such a system would act to stretch out the existing fixed supply of qualified engineers to meet some faculty requirements. And, a variety of specific tax and other devices can be designed to encourage such sharing, including tax credits for employers of those engineers who go on sabbatical to teach as proposed in my legislation, S. 2474, the Scientific Research and Education Act.

Longer term solutions to the engineering shortage must involve more enduring steps to assure a greater flow of graduate students, and to make engineering teaching a more rewarding profession. Encouraging grants by the private sector to supplement graduate student and faculty salaries, as proposed in that same bill, is one relatively cost-effective option.

A similar private-sector role exists, I believe, in ameliorating our billion-

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dollar engineering equipment shortage. For example, I introduced S. 2475, the Scientific and Technical Equipment Act on May 4, which would expand the charitable tax deduction provision to include engineering teaching equipment donated to vocational secondary schools, and postsecondary colleges and universities.

Many other options exist, Mr. President, including all sorts of Federal subsidies and grant programs. A word of caution here though. I am convinced that the current budget crisis and the $100 billion plus deficits stretching out years ahead preclude a massive new Federal initiative in this area. Yet, the urgency to address our engineering shortage is real, and cannot be ignored. Therefore, I favor and certainly encourage my colleagues here, Mr. President, to consider steps to mobilize private-sector resources to fill the engineering gap. Such steps would certainly yield results more cost-effectively than would Federal handouts, and would yield prompt results, as well.

In any case, it is important that the debate on our engineering shortage be joined now by Congress. It is the tip of the critical skills shortage, and a tip that must be dealt with now.

Mr. President, in my next speech in this series, I will review what I consider the most promising broad-based remedy outside the classroom for our critical skills shortage.

HOUSE VOTE ON THE NUCLEAR FREEZE

Mr. KENNEDY. Mr. President, last week the House of Representatives voted by the narrowest of margins against a nuclear freeze resolution based on the initiative which Senator Mark Hatfield and I, and Representatives Conte, Markey, and Bingham cosponsored in the Congress last March. All those who champion the freeze should be greatly encouraged by the 204–202 House vote. In the short span of 5 months, the leaders of this country have been awakened to the nationwide call for an end to the nuclear arms race.

The nuclear freeze movement came into existence only 2 years ago. From town hall meetings and city hall councils to this summer's nuclear freeze rally in New York, millions of people have already said no to the arms race and yes to a nuclear freeze. In November of this year, fully one quarter of the people will vote on nuclear freeze initiatives on their ballots; it will be an issue in States, the localities, and in every congressional race as well. They will remember those in Congress who are heeding their call for a mutual and verifiable nuclear weapons freeze as the first step toward reversing the nuclear arms race—and those who are not.

On August 11, the Boston Globe published an editorial describing the success represented by the House vote. In demonstrating such extraordinary support for the freeze, Members of the House are demanding an end to the nuclear arms race and a change in the attitude of the Reagan administration. As the Globe points out, the freeze movement is "telling the administration it had better be serious in its pursuit of an arms control agreement." I ask unanimous consent that the full text of this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

KEEPING ARMS TALKS HONEST

Only in the narrowest sense could last week's rejection of the nuclear freeze petition by the U.S. House of Representatives be seen as a defeat for the arms control movement.

In the larger context, the preceding debate and the razor-thin margin show what remarkable progress has been made by freeze organizers in the past six months.

The House voted 204–202 for a substitute resolution backing the Reagan Administration's START approach to strategic arms talks in Geneva with the Soviet Union. But the central message is that three months before Election Day 1982 there is enormous nationwide interest in arms control—and widespread skepticism about the Administration's sincerity and effectiveness in pursuing that aim through START.

It would be mistake to view support for the freeze as an endorsement of any particular tactical strategy in the arms talks. What it is, in the view of many freeze proponents, is a vehicle to keep the Administration honest on arms control.

At a New Hampshire town meeting last winter, one supporter summed the freeze message in simple terms that still apply: "I support our government and I hate communism as much as anyone," he said. "I just want the government to work on this. I'm not able to sit down with the Russian leaders. All this vote is, is to ask our leaders to sit down with them and talk hard."

The freeze campaign began in a limited way two years ago, but as late as this past February its organizers were counting on a slow-and-steady effort that might take several years to reach national political prominence. Then suddenly the idea caught on.

Under normal circumstances, the fact that Geneva talks are under way could have been expected to deflate the movement, but that has not happened. Instead it is gaining force.

The Republicans paid a great compliment to the freeze movement last week. They sliced their victory as thin as they could, mustering and accordion-like majority so as to expose the minimum number of Republicans to the possibility of voter retribution in the fall.

The only New England legislator to vote against the freeze was David Emery who will challege Senator George Mitchell for his seat this fall.

By placing arms control on the election agenda, the freeze is sending a message from the grass roots to two audiences.

It is telling the Administration it had better be serious in its pursuit of an arms control agreement. And it is telling legislators they had better do their homework on national security or else face a grilling on the compaign trail by an aroused electorate.

As Harry Truman once explained about mules, before they'll do what you want, you first have to get their attention.

However Congress voted last week, the freeze is doing that.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress); agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House: From the Committee on the Budget, for consideration of the entire House bill and Senate amendment: Mr. Jones of Oklahoma, Mr. Panetta, Mr. Gephardt, Mr. Latta, and Mr. Frenzel, and as additional conferees from the Committee on the Budget, solely for consideration of title I of the House bill and title I of the Senate amendment: Mr. Aspin, Mr. Donnelly, and Mrs. Martin of Illinois. From the Committee on Agriculture, solely for consideration of title I of the House bill and title I of the Senate amendment: Mr. de la Garza, Mr. Foley, Mr. Bowen, Mr. Richmond, Mr. Harkin, Mr. Wampler, Mr. Findley (on all matters except as listed below), Mr. Hagedorn (on all matters except as listed below), Mr. Coleman (in lieu of Mr. Hagedorn) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment, and Mr. Thomas (in lieu of Mr. Findley) on sections 101–130 of the House bill and section 151 of the Senate amendment. From the Committee on Foreign Affairs, solely for consideration of section 130 of the House bill and that portion of section

101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment: Mr. ZABLOCKI, Mr. HAMILTON, Mr. BINGHAM, Mr. BROOMFIELD, and Mr. LAGOMARSINO. From the Committee on Banking, Finance and Urban Affairs, solely for consideration of title II of the House bill and title III of the Senate amendment: Mr. ST GERMAIN, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. STANTON of Ohio, and Mr. WYLIE. From the Committee on Energy and Commerce, solely for consideration of sections 402 and 403 of the Senate amendment: Mr. DINGELL, Mr. WIRTH, Mr. FLORIO, Mr. BROYHILL, and Mr. LENT. From the Committee on Public Works and Transportation, solely for consideration of section 403 of the Senate amendment: Mr. ANDERSON, Mr. RAHALL, Mr. EDGAR, Mr. CLAUSEN, and Mr. SHUSTER. From the Committee on Post Office and Civil Service, solely for consideration of title III of the House bill and sections 601–604 and 606–610 of the Senate amendment: Mr. FORD of Michigan, Mr. UDALL, Mr. CLAY, Mr. DERWINSKI, and Mr. TAYLOR. From the Committee on Government Operations, solely for consideration of sections 605 and 611 of the Senate amendment: Mr. BROOKS, Mr. JOHN L. BURTON, Mr. EVANS of Indiana, Mr. HORTON, and Mr. WALKER. From the Committee on Veterans' Affairs, solely for consideration of title IV of the House bill and sections 701–706 and 708 of the Senate amendment: Mr. MONTGOMERY, Mr. APPLEGATE, Mr. LEATH of Texas, Mr. HAMMERSCHMIDT, and Mr. WYLIE.

The message also announced that the Speaker has signed the following enrolled bill:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 1:05 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:06 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. BENJAMIN, Mr. DIXON, Mr. FAZIO, Mr. CONTE, Mr. McDADE, Mr. EDWARDS of Oklahoma, Mr. MYERS, Mr. MILLER of Ohio, Mr. COUGHLIN, Mr. KEMP, and Mr. O'BRIEN as managers of the conference on the part of the House.

The message also announced that pursuant to the provisions of title 22, United States Code, section 276a–1, as amended by Public Law 95–45, the Speaker appoints as members of the delegation to attend the conference of the Interparliamentary Union to be held in Rome, Italy, September 14–22, 1982, the following Members on the part of the House: Mr. PEPPER, chairman, Mr. DERWINSKI, vice chairman, Mr. FOUNTAIN, Mr. PICKLE, Mr. DE LA GARZA, Mr. BOWEN, Mrs. BOGGS, Mr. WASHINGTON, Mr. BROOMFIELD, Mr. McCLORY, Mr. STANTON, and Mr. BUTLER.

The message further announced that the House has passed the following bill, without amendment:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5427. An act to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5427. An act to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Relations.

H.R. 6128. An act to revise, codify, and enact, without substantive change certain general and public permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance"; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 12, 1982, he had presented to the President of the United States the following enrolled bill:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4061. A communication from the Navy transmitting, pursuant to law, a publication entitled "Register of Commissioned and Warrant Officers of the United States Navy and Reserve Officers on Active Duty"; to the Committee on Armed Services.

EC-4062. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Turkey; to the Committee on Armed Services.

EC-4063. A communication from the General Counsel of the Federal Emergency Management Agency transmitting a draft of proposed legislation entitled "National Flood Insurance Act Amendments of 1982"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4064. A communication from the Chairman of the Federal Home Loan Bank Board transmitting, pursuant to law, the annual report of the Depository Institutions Deregulation Committee for April 1, 1981, to March 31, 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-4065. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on the non-disclosure of safeguards information by the Commission for the quarter ending June 30, 1982; to the Committee on Environment and Public Works.

EC-4066. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act of the Council D.C. ACT 4-238; to the Committee on Governmental Affairs.

EC-4067. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Updating Interest Rates Charged on Outstanding Civil Service Retirement Contributions Would Save Millions"; to the Committee on Governmental Affairs.

EC-4068. A communication from the General Counsel of the Occupational Safety and Health Review Commission transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4069. A communication from the Secretary of the Aviation Hall of Fame, Inc. transmitting, pursuant to law, the Audit Report for calendar 1981 and a current list of officers and trustees; to the Committee on the Judiciary.

EC-4070. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of August 1, 1982; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Judiciary, the Committee on Governmental Affairs, the Committee on

Environment and Public Works, the Committee on Veterans' Affairs, the Committee on Foreign Relations, the Committee on Finance, the Select Committee on Indian Affairs, and the Committee on Small Business.

EC-4071. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter April 1 through June 30, 1982; to the Committee on Armed Services.

EC-4072. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, reports on studies with respect to converting certain functions at certain installations to contractor performance; to the Committee on Armed Services.

EC-4073. A communication from the Commissioner of Social Security, transmitting, pursuant to law, a report on a new matching program under the Privacy Act; to the Committee on the Governmental Affairs.

EC-4074. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on the Governmental Affairs.

EC-4075. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for strengthening Research Library Resources Program; to the Committee on Labor and Human Resources.

EC-4076. A communication from the Director of ACTION, transmitting, pursuant to law, a copy of the final notice entitled "Young Volunteers in ACTION (YVA) Guidelines"; to the Committee on Labor and Human Resources.

EC-4077. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a required supplemental summary of the fiscal year 1983 budget; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-4078. A communication from the President of the Federal Financing Bank, transmitting, pursuant to law, notice that the annual report of the Federal Financing Bank will be included in the appendix to the budget; to the Committee on Banking, Housing, and Urban Affairs.

EC-4079. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, notice of a delay in the submission of the Public Utility Regulatory Policy Act Annual Report; to the Committee on Energy and Natural Resources.

EC-4080. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on Horse Protection for fiscal year 1981; to the Committee on Environment and Public Works.

EC-4081. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the responsibilities of the Department under the Employee Retirement Income Security Act (ERISA); to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Mary Ann Cohen, of California, to be a Judge of the United States Tax Court for a term expiring fifteen years after she takes office; and

Lapsley Walker Hamblen, Jr., of Virginia, to be a Judge of the United States Tax Court for a term expiring fifteen years after he takes office.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON (for himself, Mr. Jackson, Mr. Hatfield, Mr. Baucus, Mr. Garn and Mr. Inouye):

S. 2829. A bill granting the consent of Congress to the northwest interstate compact on low-level radioactive waste management; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2830. A bill to provide primarily for the reduction of soil blowing; and to control snow depostion and conserve moisture; to protect crops, orchards, and livestock; to provide food and cover for wildlife; to conserve energy, to increase the natural beauty of the landscape; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 2831. A bill for the relief of Beatriz Sandoval; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2832. A bill for the relief of Seyed Ebrahim Seyedrezai and Zohreh Hakim-Davar; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2833. A bill to designate Lincoln's Birthday as a legal public holiday and to provide that, for purposes of pay and leave, Federal Employees may select either Lincoln's Birthday or Washington's Birthday as a legal public holiday; to the Committee on the Judiciary.

By Mr. CHILES:

S. 2834. To amend title 10 of the United States Code to allow the Secretary concerned to take into consideration various factors in determining the amount of space in military medical facilities programed for retired members, their dependents and dependents of deceased members of the uniformed services; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Boren and Mr. Nickles):

S.J. Res. 230. A joint resolution to authorize and request the President to designate August 15, 1982 as "Will Rogers and Wiley Post day"; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. GORTON (for himself, Mr. Jackson, Mr. Hatfield, Mr. Baucus, Mr. Garn, and Mr. Inouye):

S. 2829. A bill granting the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; to the Committee on the Judiciary.

INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Mr. GORTON. Mr. President, the bill I am introducing today on my behalf and on behalf of Mr. Jackson, Mr. Hatfield, Mr. Baucus, Mr. Garn, and Mr. Inouye is a bill granting the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management. In 1980, the 96th Congress passed the Low-Level Radioactive Waste Policy Act, Public Law 96-573. In that law, Congress declared the policy of the Federal Government that each State be responsible for providing for the availability of capacity for the disposal of low-level radioactive waste generated within its borders. This capacity may exist either within or outside the State. The Congress also declared that low-level radioactive waste can be most safely and efficiently managed on a regional basis. Pursuant to this declared policy, Congress authorized States to enter into interstate compacts in order to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

The bill which I now introduce is the compact which has been developed pursuant to the authority granted by Public Law 96-573 to develop regional compacts. It is the compact of the following States: Washington, Oregon, Idaho, Montana, Utah, Wyoming, Hawaii, and Alaska. It has been adopted by the legislative action of the States of Washington, Oregon, Idaho, and Utah. Legislative approval is pending in Hawaii. Executive order adopted in Montana anticipates legislative ratification in Montana.

Interstate compacts entered pursuant to the Low Level Radioactive Waste Policy Act of 1980 are required by that law to be consented to by the Congress. I introduce this bill in order to obtain that consent.

The issue of radioactive waste disposal is significant for persons residing in the State of Washington. This is so because of the existence of a large low-level radioactive waste disposal facility at the Hanford Nuclear Reservation near Richland, Wash.

Several years ago, the voters of the State of Washington passed Initiative 383. The purposes of that initiative were to cause Federal-State cooperation in the siting of low-level radioactive waste repositories, considering the interest of those residing close to those repositories, a recognition of the environmental and public health implications of radioactive waste disposal, and a Federal commitment to addressing the transportation of radioactive waste problem with regional responsibility for regionally generated radioactive waste.

The initiative was passed by a majority of over 73 percent of the State's electorate. Going under the banner

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"Don't Waste Washington," the proponents argued that the State of Washington should not be responsible to all the other States in the Nation to provide a waste disposal facility for all their low-level radioactive waste. The initiative did not provide for, nor did its proponents advocate, a total exclusion of deposits of out-of-State nuclear waste within the State. Rather, the initiative asserted that management of low-level radioactive waste was safest and most efficient on a regional basis, a policy which is wholly consistent with the statement of Federal policy in Public Law 96-573.

I introduce this bill today at the request of Gov. John Spellman, Governor of the State of Washington. I do so because I feel that prompt congressional approval of this and other low-level radioactive waste interstate compacts is desirable. I am aware that other States and other regions are at this time at more developmental stages of establishing compacts than is the State of Washington or the Northwest region. I am also aware that informed action on the Northwest Interstate Compact on low-level radioactive waste management requires some knowledge of the extent to which this compact will interrelate with others, so as to accomplish some national efficiency and fairness in national low-level waste management policy. Nevertheless, introduction of this bill at this time serves to inform and speed development of other regional compacts and Congress consideration of them, rather than the contrary.

The bill which I introduce today does differ in one respect from that which I was requested to introduce by Governor Spellman. It is a change which I believe is essential to national acceptance of this compact. The Northwest Compact, as ratified by the several States, provides that party States must refuse to accept for disposal any low-level radioactive waste generated outside of the region, except as may be allowed by the Northwest Compact Committee, after July 1, 1983. Such a restriction is authorized by the Low Level Radioactive Waste Policy Act, Public Law 96-573, but may only become effective after January 1, 1986. Rather than propose congressional consent to the proposed effectiveness date of the exclusionary provision, section 3 of the bill I now offer ratifies the January 1, 1986, effectiveness date of Public Law 96-573.

Mr. President, this is an important issue for the citizens of the Northwest region of our country, and indeed for the entire country. I encourage the most prompt consideration of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

"ARTICLE I—Policy and Purpose

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—Definitions

"As used in this compact:

"(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulation;

"(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) "Host state" means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

"Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—Regional Facilities

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container;

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

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"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

"ARTICLE V—Northwest Low-Level Waste Compact Committee

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to reveiw and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (⅔) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

"ARTICLE VII—Severability

"If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable."

SEC. 2. Congress finds that the compact consented to herein is in furtherance of the policy contained in section 4 (a) (1) of the Low-level Radioactive Waste Policy Act of 1980 and with the intent of Section 274 (b) of the Atomic Energy Act of 1954. In order that this compact may be given full effect, the Nuclear Regulatory Commission is authorized and directed to require licensees subject to its jurisdiction under the Atomic Energy Act of 1954 to comply with the provisions of this compact. The Commission shall consult and cooperate with the states which are parties to this compact in carrying out this section.

SEC. 3. The Consent of Congress granted pursuant to this act is limited by the following conditions:

a) Notwithstanding the provisions of Article V and Article VI, Paragraph (3) of the Northwest Interstate Compact on Low-Level Radioactive Waste Manngement, Article IV, paragraph (2) of that compact shall not take effect until January 1, 1986.

b) The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

LOW-LEVEL RADIOACTIVE WASTE COMPACT

● Mr. HATFIELD. Mr. President, I am honored today in joining with my distinguished colleagues from the States of Washington, Montana, Utah, and Hawaii in cosponsoring the Northwest Interstate Compact on low-level radioactive waste management.

This legislation is very important to my State and to the other States that have either joined in the compact or are in the process of doing so. Public Law 96-573, passed by Congress in 1980, authorized States to organize in interstate compacts for the purpose of managing low-level radioactive wastes. The northwest region, including Oregon, Idaho, Washington, Utah, Montana, Wyoming, Alaska, and Hawaii, has formed the first such compact and has sent it to the Congress for ratification. The compact has been ratified by State legislatures in Oregon, Washington, Utah, and Idaho, and by executive order in the State of Montana.

Many schools and hospitals in Oregon produce low-level radioactive wastes that must be disposed. Oregon's only nuclear power generating facility, Trojan, located at Ranier, Oreg., also produces quantities of low-level radioactive wastes that require special disposal. This compact, if ratified by Congress, will allow States, such as mine, to reach agreements on disposal of these wastes. In Oregon's case, an agreement to accept chemical wastes at the Arlington, Oreg., site, from other States in exchange for the acceptance of low-level radioactive wastes in other sites will be the result of passage of this important legislation.

Mr. President, it is my hope that the Senate can expeditiously move to consider this matter.●

● Mr. JACKSON. Mr. President, I join in the cosponsorship of this bill with Senator GORTON and others to approve the Northwest Interstate Compact on low-level radioactive waste management because the low-level radioactive waste disposal problem is in need of early resolution. I believe the problem must be dealt with by the States on a regional basis.

This was my position in 1979 when the comprehensive nuclear waste management bill, S. 685, was introduced with a title dealing with low-level radioactive waste. That title was inserted in the bill at my initiation because of my concern about finding a solution to the low-level radioactive waste management problem. In S. 2189, the later version of S. 685 which passed the Senate as the Comprehensive Nuclear Waste Policy Act, we provided in title VI for the development of a low-level radioactive waste disposal policy. When the House and the Senate were not able to arrive at a consensus on all facets of nuclear waste disposal in the waning days of the 96th Congress, we were able to provide, nevertheless, a clear policy for the disposal of low-level radioactive waste.

The Low-Level Radioactive Waste Policy Act, Public Law 96-573, made it national policy that the States were to assume the responsibility for disposal of low-level radioactive waste. To aid the States in this matter, the Congress proposed that regional interstate compacts be developed for disposal of the low-level radioactive waste from within the region and to deal with the disposal of any low-level waste shipped to a disposal site within the region from States not included in the regional compact.

States in the various regions of the country have moved to varying degrees toward establishement of regional affiliations for dealing with the low-level radioactive waste problem. The States of the Northwest which include Washingtion, Oregon, Idaho, Utah, Montana, Wyoming, Alaska, and Hawaii are the first to develop a formal compact which has been ratified by a number of the State legislatures and approved in other cases by executive order by the Governor. The Southeast States have also developed a compact which is in the process of being ratified by State legislatures, but it has not as yet been formally submitted to the Congress for its approval. It appears at this time that each State will be able to affiliate itself with one group of States in some region of the country for achieving disposal of low-level radioactive waste generated within its borders. This regional approach is necessary because few States generate sufficient low-level waste to justify on an environmental or economic basis the opening of a separate site within each State for a disposal facility. At the present time, about six regionally located sites will meet the requirements of the Nation for disposal of low-level radioactive waste.

The Congress will have to review the Northwest Interstate Compact as to whether it is consistent with the provisions of Public Law 96-573, and may wish to compare this compact with regional compacts from other parts of the country to insure that a reasonable uniform approach is being achieved and that no State ends up being excluded from one of the regional compacts. Hopefully, we can achieve enactment of a law ratifying the regional compacts at an early date that no one State feels that it is becoming a regional disposal site for the low-level radioactive wastes from areas of the country far removed from its borders.

The State of Washington has cooperated in dealing with the current national problem in an exemplary fashion. It is time that we begin to develop regional disposal sites in other areas of the country so that the problems of low-level radioactive waste disposal of States far removed from the borders of the State of Washington are not visited upon it beyond the earliest possible time for other regions to solve their own low-level radioactive waste disposal problems.●

By Mr. PRESSLER:

S. 2830. A bill to provide primarily for the reduction of soil blowing; and to control snow deposition and conserve moisture; to protect crops, orchards, and livestock; to provide food and cover for wildlife; to conserve energy; to increase the natural beauty of the landscape; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SHELTERBELT ACT

Mr. PRESSLER. Mr. President, today I am introducing the Shelterbelt Act which I originally proposed in the House of Representatives and as an amendment to the 1981 farm bill. The amendment was included in the Senate version of the farm bill, but unfortunately, the provision was deleted in the conference committee.

The Shelterbelt Act would promote the preservation, restoration, improvement, and establishment of shelterbelts to reduce wind erosion and provide numerous additional benefits. Shelterbelts also provide protection for livestock, crops, and wildlife, as well as conserve energy. Many of our Nation's current shelterbelts were established under the planting programs of the 1930's and need to be restored or replaced. For example, in South Dakota, three-fourths of our shelterbelts were planted between 1930 and 1965; only 10 percent were planted between 1965 and 1975. Also, many of the shelterbelts established during the 1930s have been destroyed, due to the economic pressure on farmers to farm all available land. It is important that the present shelterbelts be maintained and the destroyed shelterbelts be replaced.

The Shelterbelt Act of 1982 would provide farmers with assistance to establish and maintain shelterbelts. The establishment of shelterbelts is essential to preserving our Nation's agricultural productivity. Topsoil losses due to wind erosion in recent years have dramatically increased. If this trend is permitted to continue, the productivity of American farm land will decrease. A recent USDA study on soil erosion estimated that if current erosion rates continue, corn and soybean yields could be reduced by as much as 30 percent in the next 50 years as soil fertility declines. A loss of productive topsoil will reduce yields, increase consumer food prices and reduce the available grain for export.

With the current depressed farm economy, farmers cannot afford to take land out of production and invest to establish shelterbelts without some assistance. Farm income is at the lowest level since the 1930's, and farmers cannot afford to borrow money at the current high interest rates to plant trees. Shelterbelts are a long-term investment—it takes many years for the trees to reach maturity and provide protection for the topsoil. The shelterbelts must also be replaced and maintained if wind erosion is to be controlled. If farmers are to control wind erosion, they must be given some assistance to establish shelterbelts. This legislation would aid farmers in establishing shelterbelts.

This legislation would authorize the Secretary of Agriculture to enter into agreements with landowners and operators to establish and maintain shelterbelts in cooperation with the soil and water conservation district under the regulations prescribed by the Secretary. The agreement would be for a period of 5 years, in which, in return for establishing a shelterbelt and maintaining it within the prescribed regulations, the Secretary of Agriculture shall make an annual payment to the landowner or operator and bear such costs of establishing and maintaining shelterbelts as the Secretary determines appropriate.

Mr. President, I urge my colleagues to join me in supporting the Shelterbelt Act.

By Mr. HATFIELD:

S. 2833. A bill to designate Lincoln's Birthday as a legal public holiday and to provide that, for purposes of pay and leave, Federal employees may select either Lincoln's Birthday or Washington's Birthday as a legal public holiday; to the Committee on the Judiciary.

LEGISLATION RELATING TO PUBLIC HOLIDAYS

● Mr. HATFIELD. Mr. President, a source of continuing wonder and awe that I feel for my country is its having been blessed with extraordinary men and women to lead it through formative times and times of crisis. Men like George Washington, Thomas Jefferson, Alexander Hamilton, the Adams, Benjamin Franklin, and others, from the vantage point of the 20th century, have the appearance of being far larger than life. I sometimes find it difficult to picture them in the midst of the ordinary routine of daily life. They seem to have been individuals that lived, in some sense, at a higher plane of existence—with higher motives than those that motivate us, higher thoughts than those that clog our minds, and grander, more courageous deeds than those to which we even have the opportunity to aspire.

The man that stands above them all in my own mind is Abraham Lincoln. His wisdom, endurance, and sense of perspective never fail to amaze me as I read about his life. Is there anyone who has visited the monument in which his life is memorialized, the Lincoln Memorial, who has not felt the thrill of touching greatness when reading the Gettysburg Address or President Lincoln's Second Inaugural Address.

I say all this simply to bring the attention of the Senate to the obvious: Abraham Lincoln is a gigantic figure in American history. For this reason, today I am introducing a bill to provide for the celebration of President Lincoln's birth each year. This legislation would permit Federal employees to select either Lincoln's Birthday or President Washington's Birthday as a legal public holiday.

At present, we celebrate a President's Day on a date in February that changes each year. Since that date rarely falls on either of the former Presidents' birthdays, the significance of the celebrations have been diminished. The bill I am introducing would rectify that situation without adding any costs to the Federal budget. The same number of leave hours available to Federal employees in honor of the Presidents would be maintained, but those hours of leave would be divided between two different dates each year. I have hopes that such an arrangement would actually be of benefit to the Federal work force because of the fact that Federal offices would not be completely closed on those two days, while Federal employees would have a greater choice of days in which to take paid leave.

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I am pleased to recognize the efforts of the distinguished Representative of the 12th District of Illinois in the House of Representatives, Hon. PAUL FINDLEY, who has introduced a companion measure, H.R. 6667, in the other body. The 12th district, which currently is privileged to be represented by Congressman FINDLEY, was also privileged to be represented by Congressman Abraham Lincoln in the 19th century. The bill we have introduced into our respective Chambers is a fitting tribute to one of America's greatest heroes.

I ask unanimous consent that the text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6103(a) of title 5, United States Code, is amended by inserting

"Lincoln's Birthday, February 12."

after

"New Year's Day, January 1.".

(b) Section 6103 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purpose of statutes relating to pay and leave of employees—

"(1) each employee in each year may select either Washington's Birthday, the third Monday in February, or Lincoln's Birthday, February 12, as a legal public holiday; and

"(2) the day not selected under paragraph (1) shall not be considered to be a legal public holiday with respect to such employee in such year.".

SEC. 2. This Act shall take effect January 1, 1983.●

By Mr. CHILES:

S. 2834. A bill to amend title 10 of the United States Code to allow the Secretary concerned to take into consideration various factors in determining the amount of space in military medical facilities programed for retired members, their dependents and dependents of deceased members of the uniformed services; to the Committee on Armed Services.

LEGISLATION ON SIZING MILITARY MEDICAL FACILITIES

● Mr. CHILES. Mr. President, over the past several years, the ability of our military hospital system to meet its obligations to serve the needs of eligible patients, has been reduced. I rise to offer legislation which will relieve this situation and right a wrong we have done to our retired military personnel.

Today, we in some parts of this country we face critical facility and personnel shortages, which have had the effect of driving up CHAMPUS costs as patients are forced to go outside for necessary medical services.

The General Accounting Office has reviewed this situation and completed a study titled "Legislation on Sizing Military Medical Facilities Needed To Correct Improper Practices, Save Money, and Resolve Policy Conflicts." This report recommends that the criteria for planning the size of new military hospitals and clinics should be based on commonsense considerations of first, cost effectiveness; second, staff availability; third, realistic workload projections; and fourth, teaching and training requirements.

It is hard to believe, but today, only teaching and training requirements are considered. Law and regulation do not permit considerations of workload, or heaven forbid, cost effectiveness.

Two studies have been done to assess the cost of direct medical care by the military compared to the use of civilian facilities. The studies looked at the projected life-cycle costs over a 20-year period. The analyses showed that it is considerably less costly to the Federal Government to provide services in its own facilities rather than providing care through local civilian providers under CHAMPUS.

Mr. President, CHAMPUS costs are going through the roof. In an attempt to gain control of CHAMPUS, guidelines were issued to require "nonavailability" statements before inpatient care could be sought in civilian hospitals by beneficiaries living within 40 miles of a military hospital. This has not resulted in significant savings because no additional resources have been programed in the military's direct care system for additional workloads. Today, the CHAMPUS budget exceeds a billion dollars yearly, and will continue to rise, unless something sensible is done.

The major problem seems to be that the military is unable to consider projected workload for other than active duty personnel and their dependents. This despite the Defense Department's obligation to retired personnel and their dependents, who are becoming a large and fast growing segment of the population, and who are now being poorly served.

It is no wonder that the General Accounting Office recommends:

> DOD should have the flexibility to add space in its plans for new or replacement medical facilities to treat retirees and dependents of retired and deceased members.

Mr. President, the House Armed Services Subcommittees on Military Installations, and Facilities and on Military Personnel and Compensation recently held hearings. The Acting Assistant Secretary of Defense for Health Affairs, Dr. John F. Beary III, testified that "efforts to provide cost effective medical care to the retirees and their dependents" could be hampered without remedial legislation. The Surgeon General of the Air Force, Lt. Gen. Paul W. Myers, testified that—

> If medical treatment facilities were sized to provide care for the eligible beneficiary population, the overall cost to the Government and to the beneficiary would be less.

The Surgeon General of the Navy, Vice Adm. J. William Cox, testified that he "fully endorsed a change in the sizing policy that would make military health care systems more cost effective." And the Deputy Surgeon General of the Army, Maj. Gen. Quinn H. Becker testified that—

> We feel that inclusion of factors which will address mobilization capacity and care to retired and their dependents is appropriate and will result in adequately sized, cost-effective facilities that will respond positively to all aspects of the Army's medical mission.

Mr. President, the legislation I am introducing today will give the Defense Department the flexibility to size its facilities based on what is cost effective to the Federal Government. It will also recognize our obligation to treat our retired military personnel, their dependents, and the dependents of deceased military personnel with the same respect and care given to active duty personnel. We can do no more.

Mr. President, I ask unanimous consent that the bill be placed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1087 of title 10 of the United States Code is amended by striking out the second sentence and inserting in lieu thereof the following:

The amount of space so programed shall be limited to that amount determined by the Secretary concerned to be either (1) necessary to support teaching and training requirements in uniformed services facilities or (2) most cost effective to the federal government based on the results of a complete life-cycle cost analysis which considers all reasonable and available medical care treatment alternatives. Space so programed shall be further limited based on the best available projections of expected inpatient and outpatient workloads and based on the number of physicians and other medical personnel which the Secretary concerned determines can and will be made available to staff the facility.●

ADDITIONAL COSPONSORS

S. 1256

At the request of Mr. EXON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users.

S. 2222

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

At the request of Mr. Simpson, the name of the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2222, supra.

S. 2585

At the request of Mr. Cranston, the names of the Senator from Wisconsin (Mr. Kasten), the Senator from Indiana (Mr. Lugar), the Senator from Pennsylvania (Mr. Heinz), the Senator from Alaska (Mr. Murkowski), and the Senator from Georgia (Mr. Mattingly) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2631

At the request of Mr. Kasten, the name of the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2648

At the request of Mr. Pell, the names of the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Riegle), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 2648, a bill to provide for the continuation of the national diffusion network.

S. 2676

At the request of Mr. Dodd, the names of the Senator from North Carolina (Mr. Helms), and the Senator from Ohio (Mr. Metzenbaum) were added as cosponsors of S. 2676, a bill to establish a national hostel system plan, and for other purposes.

S. 2702

At the request of Mr. Andrews, the name of the Senator from South Dakota (Mr. Pressler) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

S. 2806

At the request of Mr. Hatfield, the names of the Senator from South Dakota (Mr. Abdnor), the Senator from Utah (Mr. Garn), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 2806, a bill to restrict Federal funding of abortions.

S. 2807

At the request of Mr. Robert C. Byrd, the names of the Senator from Louisiana (Mr. Long), and the Senator from Nebraska (Mr. Exon) were added as cosponsors of S. 2807, a bill to amend the Federal Reserve Act.

SENATE JOINT RESOLUTION 200

At the request of Mr. Glenn, the names of the Senator from Arizona (Mr. Goldwater), and the Senator from Maine (Mr. Cohen) were added as cosponsors of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

AMENDMENT NO. 2016

At the request of Mr. Quayle, the name of the Senator from Vermont (Mr. Stafford) was added as a cosponsor of amendment No. 2016 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND REVISION

AMENDMENT NO. 2021

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENT NO. 2022

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself and Mr. Bentsen) submitted an amendment intended to be proposed by them to the bill S. 2222, supra.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President. I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 12, at 10 a.m., to consider the nominations of Milton Masson and John Carter to be members of the Board of Directors of the U.S. Synthetic Fuels Corporation, and Oliver Richard to be a member of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, August 12, at 2 p.m., to conduct a hearing to consider S. 2186 and S. 2710, bills dealing with Indiana wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, August 12, at 2 p.m., to consider the Levi guidelines.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Water Resources, and Environment, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, August 12, at 9:30 a.m., to consider S. 2805, a bill which would permit the Government to modify existing contracts for the sale of Federal timber.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE TAX CODE—FROM BIAS TO FAIRNESS

● Mr. GRASSLEY. Mr. President, Dr. Paul Craig Roberts has written an article which I believe captures, in excellent perspective, the advantages of a flat-rate income tax, and the disadvantages of the present system. Dr. Roberts' article appeared in the Los Angeles Times last month, and today I ask that it be reprinted in the Record for the benefit of my colleagues.

Mr. President, this is one of several articles that I have put into the Record regarding tax reform. It is my hope that by the time hearings on the flat-rate tax are held this fall in the Finance Committee, my colleagues in the Senate will have had the benefit of a wide range of views and critiques on this issue.

At the same time, Mr. President, I again urge the Secretary of the Treasury, Donald Regan, and his able staff, to continue their study of the feasibility of low-rate, broad based alternative tax systems, in accordance with the bill I introduced, S. 2376, earlier this year.

It continues to be my belief that only thorough analysis and study, and a very broad understanding of the problems in the current tax system, can set us on our way toward desirable tax reform.

The article follows:

[From the Los Angeles Times, July 7, 1982]

In Behalf of Fairness, a Flat-Rate Tax

(By Paul Craig Roberts)

Rarely do the left and the right agree on matters of taxation, but the recent spate of new bills introduced in Congress indicates a bipartisan convergence toward replacing the

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existing income-tax structure with a flat-rate tax.

With support for the issue ranging from Sen. Bill Bradley of New Jersey on the Democratic left to Sen. Jesse Helms of North Carolina on the Republican right, there is wide room for agreement.

The current tax code is highly progressive and riddled with deductions and exemptions. The result is that some income is highly taxed and other income is not taxed at all. In fact, a large industry that is expert in shifting income from high-taxed to low-taxed areas has developed.

Even worse, under the current tax code it often pays for people in high brackets not to make profitable and productive investments that would increase both their taxable income and, through the higher employment that would result, the incomes of others. Instead, it pays for them to purchase tax shelters that lower the taxes on their existing income. There is something wrong with a tax system that lets people do better by minimizing their taxes than by maximizing their earnings. The rising rate of unemployment over the last decade is one of the costs of a tax system that encourages capital to move out of productive investments and into tax shelters.

A flat-rate tax would eliminate all deductions and exemptions, taxing all income at the same rate. And, since the tax base would be much larger, the tax rate would be much lower. A 13% flat-rate tax would raise the same revenues as the existing progressive income tax. Such a reasonable tax rate would encouage people to use their talents to maximize their taxable incomes rather than to avoid taxes.

Is a flat-rate tax fair? Definitely.

First, it treats all income the same, whereas the current tax system discriminates in favor of, and against, different sources of income. For example, there is nothing fair about taxing income from private pensions but not from Social Security pensions, or taxing income from saving accounts and investments at a higher rate than income from wages and salaries, or taxing wages from overtime higher than wages from a normal workweek. These are just a few of the many ways in which a progressive tax system discriminates against different sources of income.

Second, a flat-rate tax would treat all individuals and households the same, whereas the current tax system discriminates against individuals and households on the basis of marital status and the size of income. For example, the current tax system discriminates against married income-earners and against people who achieve financial success by requiring them to pay a disproportionate share of the tax burden. This is an anachronism at a time when all other forms of personal discrimination—race, sex and age—have been declared illegal.

Fairness is requiring a person or household with 10 times as much income to pay 10 times as much in taxes, which is what a flat rate tax does. No one has ever proved, nor can it be proved, that fairness is requiring a person with 10 times as much income to pay 20 times as much in taxes. The "ability to pay" argument in favor of soaking the rich does not claim that a progressive tax system is fair; it merely says that the rich can be treated unfairly because they are better able to affort it.

For most people, the gains and losses of the transition from the current tax system to a flat-rate system would balance out, leaving their average tax rate the same. For example, homeowners would lose their mortgage-interest deduction but would be paying a comparable amount less in income taxes.

For the poor, who are already paying less than 13%, an income exclusion could be instituted to protect lower-income earners. The exclusion would introduce de facto progressivity into the system, and only taxpayers with above-median incomes would pay the full flat rate.

In addition to fairness, there are two important economic gains to be had from a flat-tax rate system:

All taxpayers would be allowed to keep a much larger percentage of all future income earned, whether from a raise or promotion, overtime or saving and investing.

Part of the tax burden would be shifted from currently taxed productive activities to activities that are now off the books in the underground economy. In addition, the tax burden would be shifted to capital that is currently employed in tax shelters, where it produces tax savings instead of taxable income. A low flat-rate tax would make shelters or off-the-books activities unprofitable and bring those activites and that capital back into the tax base.

That in itself would greatly improve the fairness of the tax system—for all of us.●

SEEING TOMORROW'S WORLD TODAY

● Mr. **HATFIELD**. Mr. President, last fall, I introduced S. 1771, the Global Resources, Environment, and Population Act of 1981, which is now pending before the Governmental Affairs Committee. Because I believe the current U.S. Government's global foresight capability—its ability to project and analyse long-range global resource, environment, and population trends—is grossly deficient, I am seeking through this legislation the establishment of an interagency Council on Global Resources, Environment, and Population to be chaired by the head of the President's Council on Environmental Quality.

Recently, in the July 29 issue of the Christian Science Monitor, Gov. Russell Peterson writes persuasively of the ever-more pressing need of the Federal Government to face up to its inadequate foresight capability. Dr. Peterson knows of what he speaks when he says that the "United States and its leaders are beset by crises which cannot be understood, much less resolved, without an adequate appreciation of their cause beyond our borders and their consequences beyond the next decade or even the next election." In addition to his career in private business, he has served as Governor of the State of Delaware, Chairman of the Council on Environmental Quality under Presidents Nixon and Ford, and Director of the Office of Technology Assessment. Today, he is president of the National Audubon Society and chairman of the Global Tomorrow Coalition.

Mr. President, I ask that the full text of Governor Peterson's article be printed in the Record.

The article follows:

[From the Christian Science Monitor, July 29, 1982]

Seeing Tomorrow's World Today

(By Russell W. Peterson)

In this day and age, it is inexcusable that the U.S. federal government does not have an organised and coordinated "foresight capability" to aid policymakers in understanding the global population, resource, and environmental trends that shape the world in which we exist.

The United States and its leaders are beset by crises which cannot be understood, much less resolved, without an appreciation of their causes beyond our borders and their consequences beyond the next decade or even the next election. Yet, if anything, since the "Global 2000 Report to the President" two years ago first documented the federal government's lack of foresight capability, the situation has deteriorated.

In its simplest terms, foresight capability is a matter of sound data, coordinated projections of global trends, analysis of their interactions, and informed policymaking. Based on the work of the 13 federal agencies and departments which went into the preparation of "Global 2000," the Council on Environmental Quality (CEQ) and the State Department concluded that "the executive agencies of the U.S. government are not now capable of presenting the President with internally consistent projections of world trends . . . for the next two decades."

Just what does this mean for U.S. policymaking? Misinformation and misperception.

For example, the health of the economy, at home and abroad, is currently the most politically pressing problem in the U.S. Yet at a time when our economic interdependence with other countries is greater than ever (the third world alone accounts for more than 25 percent of our overseas investment, more than 35 percent of our exports, and more than 45 percent of our imports). "Global 2000" found that the government's measure of worldwide economic health—GNP—is based on questionable assumptions. Among other things, federally used projections assumed major expansion in agricultural production as a result of stepped up fertiliser use. But they didn't consider possible changes in climate or explicit environmental impacts. They did assume unlimited water availability at constant real prices and no deterioration of the land resulting from urbanization.

I believe the government's lack of foresight capability exists at three levels—data analysis, projections coordination, and political commitment. And I am convinced that at every level we are witnessing serious setbacks. The quality of government data, particularly the already limited global data, is being undercut dramatically by budget reductions in federal resource agencies.

Efforts to ensure consistency of assumptions and data, which go into projections for different sectors, are almost impossible without clear coordination. The only existing mechanism for coordination, the Office of Management and Budget's Statistical Policy Branch, has been eliminated. Political commitment to calling attention to issues that look across jurisdictions and beyond elections is vital. But despite its theoretical potential, the administration's "Interagency Global Issues Working Group" chaired by CEQ has thus far failed to respond substantively to even the problems of technical coordination so basic to providing useful foresight capability. I know of no instance in which the President personally has used his office to call attention to this problem.

Such setbacks are totally out of sync with growing public interest, both at home and abroad. Since the publication of "Global 2000," countries such as Japan, Canada and Mexico have begun their own Global 2000 inquiries. In the US, 56 separate organizations, including the National Audubon Society, the League of Women Voters, the Overseas Development Council, and the Planned Parenthood Federation of America, have joined together in the new Global Tomorrow Coalition to call attention precisely to the need for understanding global interdependence. Their initial action supported unanimously has been to call out for the creation in the Executive Office of the President of "an improved capacity to coordinate and analyze data collected by federal agencies and other pertinent sources on the long-term interactions of trends in population, resources, and environment—and their relationship to social and economic development."

Clearly, this is not a question of government "planning for the world." It is the question of whether the right hand of the government knows what the left is doing. That requires central coordination and communication, backed up by commitments to improve agency resources and educate officials on a regular basis. Congress has begun to explore the issue of foresight capability—reports on government computer projections are being prepared; House hearings have examined the problem conceptually; and three bills touch upon it legislatively.

In the Senate, S. 1771 includes among its requirements an interagency Council on Global Resources, Environment, and Population, to be chaired by CEQ and funded by the member departments. It would coordinate agencies' biennial production of long-term projections of global populations, resource, and environment trends; encourage their analysis, particularly in light of current policy; and report regularly to Congress on these efforts. The fact that this bill is authored by Sen. Mark Hatfield and cosponsored by such senators as Charles Mathias, Slade Gorton, Alan Cranston, and Bill Bradley is proof of serious congressional concern about foresight capability.

The time for action is now, S. 1771 is pending before the Governmental Affairs Committee, chaired by Sen. William Roth whose experience with the problems and relations of federal, state and local governments should be helpful in focusing on the problems that permeate and plague the global community. The Governmental Affairs Committee should undertake during the summer the kind of critical debate this issue and this bill warrant.

Its goal should be Senate enactment of legislation on foresight capability in 1982, signaling to both the administration and the nation that we cannot afford even in an election year to lose sight of global population, resource, and environment trends and their impacts on social and economic factors.●

THE SUGAR LOAN PROGRAM

● Mr. INOUYE. Mr. President, on Monday, August 9, Senator QUAYLE introduced an amendment, No. 2016, to the public debt limit bill, House Joint Resolution 520, which would reduce the sugar loan program from 17 to 14 cents a pound.

Mr. President, never in the history of our Nation's agricultural programs has the Congress promised American farmers one support level when they planted a crop and then reduced it before they had a chance to harvest that crop. Not only does Senator QUAYLE seek to reduce the sugar price support level after American sugar farmers have planted their crops, he seeks to reduce the program by a whopping 18 percent.

Mr. President, less than 1 year ago the U.S. Senate voted against reducing the sugar support program from 18 cents to 16½ cents by a margin of two-to-one. Why the Senate should now cut the level agreed upon in conference from 17 cents to 14 cents defies understanding. To do so would clearly break faith with the American sugar producer. It would also benefit no one except for a few large corporations who want to buy sugar at what is currently a depressed price on the world market. As we all know, the so-called world market is a dumping ground for suplus sugar wherein the present price of 7 cents per pound is well below the actual cost of producing sugar.

In promoting his amendment, my colleague has seriously misstated the facts and misled other Senators. For example, Senator QUAYLE charges that the cost of the sugar program has "gotten completely out of line" and that it "has proven much more costly and inflationary than even its severest critics had anticipated." Nothing could be further from the truth. The sugar program has operated at no cost to the U.S. Government. Instead, it has provided the Treasury with several hundred million dollars in fees and duties levied on sugar imports.

The average price of raw sugar in New York, fee and duty paid, was 30.09 cents per pound in 1980 and 19.66 cents per pound in 1981. Using Senator QUAYLE's own assumption that a penny's change in the price of raw sugar makes a $300 million difference in the cost to the consumer (which is not true), the American consumer should have saved $3,129,000,000 on sugar and sugar-containing products last year as a result of the drop in the price of that commodity. This did not happen. In fact, the National Soft Drink Association's survey of sales in the soft drink industry, as reported in the Food Institute Weekly Digest of July 31, 1982, stated that the wholesale value of soft drinks rose some 13.2 percent ($2,330,000,000) in 1981, on a volume increase of only 3.8 percent. We now find this $20 billion soft drink industry, which recently came before this Congress to get a special exemption from the Antitrust Act for their bottlers, is back in an attempt to increase their profits even further at the expense of American sugar growers and consumers. The actions of these industries and their supporters are shameful, as are their attempts to portray our hardworking and efficient domestic sugar industry as the beneficiary of an unwarranted windfall.

Senator QUAYLE asserts that the retail price of sugar in the United States is higher than any other country, except Japan and Denmark. This is also untrue, although I recognize that he may have based his statement on a source that was incorrect. The publication in question, Foreign Agriculture (December 1981), cited the retail price of sugar in Washington, D.C. at $1.32 per kilogram when it was really half that amount. In the same vein, the city of New York's August 5 Department of Consumer Affairs Bulletin shows that the price of sugar in July is actually below last year's price for the same month.

Senator QUAYLE goes on to argue that the United States enjoys no comparative advantage in the production of sugar. He claims that cane sugar growers in a number of countries including Colombia, Peru, Kenya, and Australia, achieve much higher yields than those achieved in the continental United States. He further states that the yields in Peru and Colombia exceed those in Hawaii.

Mr. President, this just simply is not so. The July 1982 Foreign Agricultural Circular, published by the U.S. Department of Agriculture, summarises sugar yields in metric tons per hectare. Perhaps this was his source. For the 1981–82 crop, it gives the following yields:

	Tons
Mexico	5.78
Hawaii (a 2-year crop)	23.68
U.S. Mainland	6.36
Argentina	6.35
Brazil	4.91
Colombia (13 to 18 months between harvest)	13.58
Ecuador	7.17
Peru (average crop 18½ months)	13
Venezuela	4.24
Costa Rica	5.11
Dominican Republic	5.64
Kenya (a 2-year crop)	11.5

From these figures we can see that Hawaiian growers produce more tons of sugar per acre per year and more tons of sugar per man-hour than any other place in the world. We produce as much sugar in Hawaii with 8,500 workers as they do in the Dominican Republic with 85,000 workers.

Regardless of what Senator QUAYLE says, the American sugar farmer is the same kind of farmer as the American corn, soybean, wheat and dairy farmer. He is the world's most productive farmer, certainly as measured in production per man-hour. I am certain that if our Government were to guarantee American sugar beet and sugar cane growers the same prices that governments in Europe guarantee their farmers, the United States would be a major sugar exporter.

Mr. President, Senator QUAYLE says he sees no real reason why we should spend billions of dollars to protect an industry which has no real comparative advantage in world markets. I agree. But no one is asking that one dime be spent to protect an inefficient industry that is unable to compete in the world market. What is being asked is that the American sugar producer be given the same kind of protection that is given to producers in other countries—protection from dumping at ruinous prices during periods of excess production. Sugar, unlike other crops, is a commodity for which the demand is inelastic and for which consumption increases little even with a massive drop in price. The world sugar market, which is limited to less than one-fifth of the world's production, is a most volatile market for the most volatile of all commodities.

Mr. President, Senator QUAYLE berates the U.S. Government for its imposition of sugar quotas this past May, when the collapse of prices on the world market made such protection necessary. In imposing these quotas, the administration acted both within the law and our agreements under GATT. The U.S. Cane Sugar Refiners Association brought suit before the U.S. Court of International Trade in New York in an effort to halt the use of quotas to defend our sugar program. Judge Newman ruled in favor of the Government. The association then appealed the case to the Court of Patent and Customs Appeals in Washington, and again the court found that the President had acted within his authority and consistently with established trade practices. Now these same opponents of the domestic sugar industry are seeking to undo the price support program with the claim that a 14-cent level will permit the Government to uphold the program without imposing quotas. Authorities in the U.S. Department of Agriculture say that this is impossible given the current price of sugar being dumped on the international market.

Not content to denounce the sugar program with bogus numbers about consumer cost and false charges of inefficiency, certain Senators allege that the program hurts those developing countries that supply us with sugar. This too is false. Let me illustrate by way of a table that shows the premium which a foreign country receives for selling its sugar in the United States under the current price support program:

Price of raw sugar in New York, Aug. 10, 1982	[1] 22.61
Less CIF (freight and insurance)	−1.50
Less Import fee (current)	−1.42
Less Duty	−2.81
Less Price raw sugar world market, Aug. 10, 1982	−7.00
Premium from U.S. quota	[1] 9.88

[1] Cents per pound.

The foreign producer now receives a price in New York which is more than double the price abroad. The Dominican Republic, which has 17.6 percent of the import quota established by the USDA, will earn almost $200 per ton next year. Using today's prices, that will mean $115 million in additional income, thanks to the quota program.

I challenge anyone to find a single ambassador from a sugar-exporting country who would publicly opt to sell the United States unlimited quantities of sugar at the current world price as opposed to selling us the amount set under the current quota system at the much higher price established by the U.S. price-support program.

Senator QUAYLE quotes the European Economic Community's concerns in defense of his amendment. The EEC is, in fact, a major source of the trade problem which we have had to address through the sugar price support program. Up until 1975, the EEC was a net importer of sugar. Then, because of its subsidies which guaranteed the European producer between 27 and 30 cents a pound for sugar, European sugar beet production expanded rapidly. Last year, the EEC became a primary source of the surplus sugar dumped on the world market. Moreover, the EEC has refused to join the International Sugar Agreement, of which the United States is a member. The ISA's goal is to maintain world sugar prices between 13 and 23 cents a pound, but it has been unsuccessful largely because of the EEC's lack of cooperation. In response to Senator QUAYLE's arguments about trade, I would say that sugar quotas are no more a violation of our trade philosophy than are quotas on textiles, cheese, peanuts, beef, steel, automobiles, or a host of other commodities.

Mr. President, the Mid-Atlantic and Northeastern States have historically been dependent on imported sugar which is refined along the eastern seaboard—sometimes in foreign-owned plants. It is thus understandable why editorials from this region, which have been extensively reproduced by Senator QUAYLE, often support these refiners of foreign cane and the big industrial users who buy sugar abroad. However, I find it difficult to comprehend why anyone from the other regions of our country which depend on our domestic sugar industry would support the Quayle amendment.

Mr. President, I wish to enclose a number of news stories, editorials, and articles on this subject which will further enlighten and illustrate the need to support American sugar producers. I ask that they be printed in the RECORD immediately following my remarks.

Mr. President, I urge my colleagues to join with me in voting down Senator QUAYLE's ill-timed, ill-conceived, and illogical amendment.

The material follows:

[From the Christian Science Monitor, Aug. 4, 1982]

THE SWEETER SIDE OF SUGAR QUOTAS

(By Thomas O. Enders)

Our recent imposition of quotas on US sugar imports was an action taken only as a measure of last resort in defense of the domestic support program passed by the Congress last fall.

Quotas were forced upon us by the declining world price for sugar. The situation was further aggravated by unusually low US demand for sugar in 1982, due in part to higher than average imports last year. We expect that our demand for imported sugar will revert to a more normal level in 1983. At that time we would expect country quota levels to reflect more fully traditional levels of sugar exports to the US.

Secondly, there will be some positive impact on exporters' revenues derived from the imposition of quotas. Because the US support program will no longer have to be protected solely by duties and fees, imported sugar will get a price closer to the internal US price than it had. The higher price will help to offset the reduced quantities allowed into the US market.

Export earnings will, therefore, be higher for many, if not all, foreign suppliers than under the fee-based system.

Finally, the US action is not an isolated incident but part of a pattern of worldwide and deeply rooted imbalances in the international sugar economy—imbalances which have had serious results for both developing-country and US producers.

US sugar policy has been aimed at addressing some of the fundamental conditions which account for these imbalances. We have been working to make the International Sugar Agreement function effectively so as to dampen the violent supply and price fluctuations which have long characterized the so-called "free" sugar market. The cooperation of the European Community in those efforts was crucial to their success.

I regret that we were unable to persuade the community to reduce or end its subsidy of sugar exports nor to cooperate effectively with the sugar agreement. However, we will continue to work with the community and with other major sugar producers to try to devise a workable international system for sugar.

[From the Arkansas Gazette, July 25, 1982]

PROGRAM STABILIZES SUGAR PRICES; ULTIMATE WINNER U.S. CONSUMER

(By Leland DuVall)

Arkansas farmers do not grow sugar beets. They concentrate on soybeans, rice, cotton, wheat, corn and a variety of specialty crops. Therefore, it might seem that people in the state would have little or no interest in the kind of "sugar program" the Agriculture Department might offer.

The whole system under which commodities are produced and marketed in this country is interrelated—economically and politically—and farmers may be able to use the "sugar model" to help them understand such factors as how we got a farm program in the first place, the effects of government market intervention, and the reaction of the nonfarm population to the production-marketing system.

The "sugar title" of the Agriculture and Food Act of 1981 commanded special treatment, which removes it from the mainstream of farm legislation. President Reagan needed the votes of a few members of Congress to get approval for his "larger" program. He "struck a deal" with a few lawmakers who represented sugar growing districts and promised price supports for the crop in return for their vote.

Under the present sugar program, the price is supported at 17 cents a pound. Given the other factor that go into wholesale markets, this was expected to mean that sugar would reach the market at a price of about 20 cents a pound. Actually, the "delivered" price of raw cane sugar at New York is about 22 cents a pound, refined beet sugar at Chicago is about 27 cents a pound, the price of refined cane sugar at New York is 33 cents, and the world price of raw sugar is 7.5 cents a pound. Quotas limit our sugar imports.

No special understanding of markets is needed to see that the United States offers an attractive premium over the world price. If sugar moved freely, imports would hit the trade centers in such volume that the price would come down to meet the slightly strengthened world price. Raw sugar might be available at 10 cents a pound, instead of 22 cents. Those who argue the government has no business tinkering with the market make the case that the support program is adding 12 cents a pound to the "cost" of sugar at the retail level at a time when people are concerned about inflation.

Since per capita consumption of sugar in the United States is about 80 pounds, an analyst might be tempted to multiply that amount by the 12 cents that is supposed to be the premium extracted because of the sugar program to determine how much the law adds to the cost-of-living. That works out to $9.60 a year per person in a higher cost for all food and drinks that contain sugar.

Nothing is that simple. Different people consume different quantities. Retail prices seldom come down just because the ingredients are cheaper. Once in place, the higher prices remain because consumers have become accustomed to the prices and volume would not be increased significantly by price cutting.

This tendency of retail prices for consumer goods to be highly sensitive to rising prices of raw materials and to ignore collapses in the market is the basis for arguments in favor of a "stabilized" commodity price. In the case of sugar, and of many other commodities the role of the United States is that of the balancer.

1. This country is the world's major wheat producer and the supplier of grain where shortages develop. Large subsidies are offered in the European Common Market and in many other growing regions with the argument that the users do not want to rely exclusively on imports. The price of wheat grown in the European Community may be twice the price received by American farmers. Without import limits, the Europeans argue, United States would bury their farmers, force them out of business, and monopolize the market. Therefore, the amount of wheat brought in this country is determined by a formula designed to hold imports to the amount needed to assure adequate supplies—after their own wheat is marketed. Purchase in this country is at the lowest available price, but the resale to the mills is at the European premium price.

The same situation applies to many other commodities grown in abundance in this country and purchased around the world.

2. In the case of sugar, the roles are reversed. The United States currently produces about 55 percent of the sugar consumed in this country and imports the remaining 45 percent. Sugar is grown in at least 100 countries and all of them expect to export their surpluses. On balance, about 80 percent of the world sugar supply is consumed in the country where it is grown.

The average cost of producing sugar (world basis) has been estimated at about 19 cents a pound. Farmers in the United States apparently just about match that level or they may be a little ahead of the game. Obviously, they could not hope to stay in business by meeting head on the price at which the other producing countries are willing to sell their "surplus," or the amount left over after they have taken care of domestic needs. The simple truth is that the major sugar producing countries are prepared to sell their surplus at the price that will move the product.

This leaves American sugar farmers in position to be whip-sawed between their production costs and the price at the ports for the "surplus" of other producing countries or, under current conditions, 7.5 to 10 cents a pound. Maybe next year or the year after, other sugar-producing countries would experience crop failures as they did prior to 1974 when the price soared to 65 cents a pound. In the absence of a "Sugar program," we might be able to buy raw sugar this year at 10 cents a pound or less.

If that happened, sugar production in the United States would be abandoned by reason of wholesale bankruptcy and we would depend entirely on foreign supplies. Remember that each producing country with excess capacity takes care of its own needs first then exports the "surplus" at the price needed to move the commodity. This summer, it is 7.5 to 10 cents; next year and the year after, there might be a smaller supply and a larger demand, with the United States bidding for virtually all its supply. The result could be "1974 with an adjustment for inflation." Maybe we need all the stability we can get in the commodity markets.

[From the Star-Bulletin & Advertiser, Dec. 13, 1981]

American Sugar Needs Support To Compete

(By Dr. Thomas K. Hitch)

The United States has not had an affirmative sugar policy since 1974 when the 1934 Sugar Act expired. Our sugar policy from 1934 to 1974 (40 years) was to have sugar prices stabilized in the American market by assigning marketing quotas, based on U.S. requirements, to domestic and foreign producers so that prices found a level that would be fair to both the American consumer and the American sugar producer.

Since 1974—with no sugar policy—the price of raw sugar in the American market has been on a roller coaster—as high as 65 cents in 1974, as low as 9 cents in 1976, as high as 44 cents in 1980 and now at about 16 cents.

The U.S. beet and cane sugar producers cannot remain in business on a permanent basis with this kind of wildly fluctuating price level—with two of the last eight years being boom years ('74 and '80), one being barely profitable (1975), and the over five being deeply depressed years with tremendous losses.

Even during these years the American consumer has not benefited, because while there have been more years of cheap sugar than of dear sugar, the price of sugar in the years when there was a world sugar shortage rose to such astronomical heights that it probably hurt the consumer more in those years than he has helped in the cheap years. Also, when very high sugar prices push the price of candies, ice cream, soft drinks, and baked goods up they tend to stay up after the price of sugar falls so that the American consumer to a certain extent lives with high sweetening prices even when sugar becomes cheap again.

To understand the world sugar market, one has to realize that some 80 percent of the sugar produced in the world has a guaranteed home at a guaranteed price; that prices in these countries do not fluctuate up and down with world under- and over-production; and that the so-called "world price" for sugar is set by demand and supply forces that affect only that 18 percent of the world's sugar production that is uncommitted—and therefore very cheap when world production is surplus and very dear when world production is short.

To put it another way, all the major sugar exporting countries of the world have a government guaranteed set price for sugar consumed in that country with the price set at a level that will make it profitable to grow sugar in such large quantities that it is a major export item. This is true for Cuba, Brazil, Australia, Philippines, South Africa, Argentina, India, Mexico, and the EEC as well as the rest of the smaller sugar exporting countries.

Take the EEC. Through its Common Agricultural Policy (CAP) European growers are not only guaranteed 27 cents a pound, but are encouraged to produce excess sugar for export, and in the last decade the EEC has become a major exporter of subsidised sugar in contrast to having traditionally been a net importer of sugar. European sugar is now being sold in large quantities in the U.S. market when the price for raws is about 15 cents after paying shipping and insurance, while the price in Europe is 27 cents.

This situation is demonstrated by the fact that when the "world sugar market" price shyrocketed from about 10 cents a pound in 1973 to 65 cents a pound in 1974, there was no change in the domestic price of refined sugar in the countries that produced 60 percent of the world's export sugar and only a modest change upward in the other exporting countries—while the price in the U.S. more than doubled. The same thing happened when "world" sugar prices fell.

Furthermore, most of the world's sugar importing countries are buffered against fluctuations in this small but highly volatile world market—buffered generally by long-term agreements with sugar exporting countries to provide them with a normal supply at a normal price. This is shown by the fact that in that same period of rapid price rise (1973-1974) the countries that consumed 23 percent of all world sugar imports had no change in the domestic price of sugar, those accounting for 12 percent of world imports only a 1 to 15 percent rise, and with only a handful of countries (with the U.S. being far and away the major one) suffering from the full inflation of prices.

The so-called world sugar market, being only a small fraction of world sugar production, is a market where in periods of world sugar shortage the buyer pays exorbitant prices and where in periods of world surplus

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all homeless sugar is dumped. If the U.S. does not adopt a constructive sugar policy it will ultimately lose its domestic sugar industry—which will be a considerable economic loss since among agricultural products sugar ranks tenth in terms of acreage, fifth in terms of tonnage, and sixth or seventh in terms of dollars to the farmer.

The U.S. sugar industry will not be killed by cheap foreign sugar that is produced more efficiently than ours: it will be killed by foreign sugar that is dumped into our market at either a loss to the producer or at a profit that is provided by subsidies from the government of origin. U.S. sugar production is probably among the most efficient in the world—just like our production of wheat, corn, rice, soya beans, and many other agricultural products. But it cannot live on a 12 cents, or 15 cents, or even 17 cents per pound price—a price which incidentally is about the same as good top soil at your corner garden shop. In short, if the U.S. were to require that foreign sugar not be allowed to be sold in the American market at a lesser price than it is sold for in the country of origin, the U.S. sugar industry would be profitable and have a long and successful life.

Furthermore, if we lost our domestic sugar industry, the nation and its consumers would have to live with the roller coaster of the "world" sugar market, and could even find itself facing an OPEC-like foreign sugar cartel since the top 13 sugar exporting nations ship about 80 percent of the sugar entering world trade—numbers much like those in the oil cartel.

Finally, if the U.S. lost its domestic sugar industry it would face catastrophe in the event of war or major shipping interruptions. Let us remember that in such times, sugar has always been about the first commodity to be rationed, that Napoleon developed the beet sugar industry when the British blockade stopped the flow of essential foreign sugar to Europe; and that all the countries of the world that protect their domestic sugar industries do so primarily because of these strategic considerations.

Let's get an affirmative U.S. sugar policy before it is too late.

[From the New York Times, July 18, 1982]

Is the U.S. Sugar Subsidy Too Sweet?

(Washington is in another tangle over imports. This time it's the sugar growers insisting on continued protection against lower-priced imports. Otherwise they say, the domestic industry will not survive. The companies that use sugar the most disagree.

(Last December, President Reagan signed legislation that set a price support level of 17 cents a pound on raw sugar. With existing import duties and fees, the new support price was expected to keep domestic sugar prices at about 20 cents a pound.

(But a world sugar glut since then has overwhelmed the effort, threatening to drive prices below 20 cents. To avoid the possibility of a costly stockpiling operation, the President in May set import quotas on sugar for the first time since 1974. In response, Senator Paul E. Tsongas, Democrat of Massachusetts, and Dan Quayle, Republican of Indiana, proposed legislation that would reduce sugar price supports to 14 cents. The Senate will soon tackle this issue.

(The question, examined below, is whether protection for the industry is justified. Daniel K. Inouye, the Democratic Senator from Hawaii, the largest sugar-producing state, argues one side. Nicholas Kominus, president of the United States Cane Sugar Refiners Association, tackles the other.)

No, It Offsets Dumping

(By Daniel K. Inouye)

To understand the need for a sugar program, one must first know something about the "world sugar market," where the United States buys 45 percent of its sugar.

Sugar is the most tightly controlled commodity in the world. Over 100 countries produce sugar, 80 percent of which is consumed locally or sold to others under long-term contracts. The other 20 percent is released on the world market, with one-fifth coming to this country.

The "free" sugar market is a residual market, where countries, most with strict import controls and subsidy programs for their own sugar industries, dump their surpluses—often at a loss. Slight variations in world production can therefore cause tremendous fluctuations in the volume of sugar available on the free market, where only a fraction of the world's sugar is sold.

Since the consumption of sugar changes only very gradually, its price on the world market fluctuates wildly. This is why we saw raw sugar prices go from 65 cents a pound in 1974 to between 7 and 10 cents in 1976–78; then to 42 cents in late 1980 and finally back to 7 cents in June of this year.

If the United States were an inefficient, high-cost producer, an argument could be made that we should buy our sugar more cheaply abroad and concentrate on producing corn, wheat, cotton and soybeans. However, we are not a high-cost sugar producer. The average cost of production worldwide is more than 19 cents a pound, only slightly below the average cost in the United States. We are a lower-cost producer than the Common Market, which is now a leading sugar exporter thanks to its subsidy program and which pays its producers far more than the United States and then dumps the surplus abroad.

In Hawaii, where three-fourths of the available cropland is planted in sugar, the domestic industry produces more sugar per acre and more sugar per man-hour than any other place in the world. We are highly efficient, but no one can afford to grow sugar at the current world price of 9 cents per pound. The world's lowest-cost producer, South Africa, expects to lose $156 million on its sugar exports this year. Meanwhile, our Hawaiian industry, which lost $83.5 million on a comparable volume in 1981, expects to lose more than $25 million this year.

Opponents of the present sugar price support program charge that it is unduly generous to the domestic industry. In fact, it is inadequate to meet the industry's needs, as can be seen from what is happening to sugar producers across the country. An example is the sugar beet industry, whose acreage has declined almost 15 percent since the enactment of the sugar program last December. In Hawaii, the sugar cane industry has announced similar reductions over the next few years. The Louisiana industry has reduced its production by 10 percent. Only the more efficient producers in an already efficient industry are able to stay in business.

Opponents of the sugar program are apt to compare the difference between the world price and the price that domestic users pay for sugar and conclude that this represents the program's cost to the consumer. However, the cost of shipping, refining of raw sugar and marketing, which are not functions of the world price, are conveniently ignored. Yet, these factors account for most of the price differential.

It is important to note that most of the average American's annual consumption of sugar (80 pounds) is consumed as a sweetener in commercially prepared food and soft drinks. The value of sugar constitutes a very small portion of the price of these products. While increases in sugar prices are frequently used to explain increases in the price of soft drinks, candy, or baked goods, those prices do not come down when the price of sugar drops.

Moreover, consumers pay more for sugar in the mid-Atlantic and Northeastern states, which rely heavily on imported sugar, than elsewhere in our nation, where much of our domestic sugar is produced. This has been true for decades, yet one would expect the opposite if one accepted the argument that the sugar program unfairly prevents customers from buying cheap world market sugar.

Ultimately the consumer must pay a price that reflects the average cost of producing a commodity. Allowing foreign producers, who dump their sugar on the world market at a loss, to drive efficient American producers out of business would only increase the cost of sugar to the American consumer in the long run.

Our domestic sugar program is once again under attack in Congress and some sectors of the press. Should these attacks—prompted largely by the importers and users of what is, for the time being, cheap sugar—be successful, then we will soon witness the rapid decline of our domestic sugar industry. We will also see, as the Department of Agriculture has warned, "an increase in sugar prices of several hundred percent" as domestic sugar disappears and we become totally dependent on the world market.

The United States needs to protect its domestic sugar industry from unfair competition abroad. The current price support program does this in a modest way by providing a floor under which the price of domestically produced sugar cannot fall. Indeed, the sugar loan level of 17 cents a pound mandated by the 1981 Farm Bill is the lowest for any commodity program.

Both our American producers and our consumers need the protection of the sugar program. Failure to provide this protection will mean another domestic industry down the drain with all its attendant misery and costs.

Yes, It Costs Too Much

(By Nicholas Kominus)

H. L. Mencken may have had the sugar producer in mind when in an essay entitled "The Husbandman" he wrote: "When the going is good for him he robs the rest of us up to the extreme limit of our endurance; when the going is bad he comes bawling for help out of the public till."

In 1980, when the world price of sugar shot up, the nation's sugar producers did not hesitate to increase their own prices. As a result, they enjoyed record profits. But, as much as the producers enjoy riding the world market up, they hate riding it down. So last year they came to Washington, lobbying for help. Unfortunately, they got help—much help. The sugar program that emerged is dreadful.

The producers got the program, in part, by resorting to scare tactics. They argued that the program was needed to protect consumers from a so-called "sugar OPEC." This was nonsense. Sugar, unlike petroleum, is produced in practically every nation of the world, and substitutes are available. At the time, some were impressed by the argument. But the recent drop in the world price of sugar from 44 to 8 cents a pound has put the "sugar OPEC" argument to rest.

Meanwhile, consumers are stuck with a program that is artifically forcing up the price of sugar, and thereby contributing to the disturbing reappearance of inflation. As the price of sugar goes up, it inflates the price of many processed foods and beverages.

When President Reagan implemented the current sugar price support program, he said, "I personally regret the necessity for signing these proclamations. The sugar program enacted by Congress to protect higher-cost domestic producers will result in higher costs for all American sugar consumers."

The program is, indeed, forcing American consumers to pay more for sugar than consumers in most of the other nations of the world.

Today, the price of raw sugar on the world market is around 8 cents a pound, a result of overproduction in the United States and other parts of the world. Despite producer attempts to discredit it, the world sugar market is not a dumping ground. It is a viable and important market, which accounts for as large a percent of total sugar trade as do the world markets for wheat, feed grains and soybeans.

The United States price, which is forced up by import quotas, duties and fees, is around 22 cents, or nearly three times higher than the world price. By artificially maintaining the United States price that high the program is costing consumers an estimated $3 billion a year in higher sweetener costs.

That price tag becomes even more significant when it is measured against the small number of sugar producers. There are, in fact, fewer than 14,000 sugar producers. Thus, the cost of the $3 billion program is an astounding $215,000 per producer.

By comparison, the annual cost of the dairy program, in which 324,000 producers participate, is estimated to be $11,250 per producer. The wheat program, in which 879,000 producers participate, is estimated to cost $475 per producer. It is also interesting to note that the school lunch program costs $113 a year per child, and that the food stamp program costs $622 per participant.

The sugar producers enjoy these lopsided Government benefits without any strings attached. Unlike the other crop programs, they can produce all they want. In addition, huge sugar producers get to "play" with the taxpayers' money. Under the program, they can offer sugar to the Government as collateral for loans and these loans are expected to total around $1 billion in the coming crop year. Producers can reinvest the loan money in money markets, as some have in the past, reaping windfalls from the spread between the low interest rates charged by the Government and the currently high market rates. Moreover, if producers decide to default, they pay no interest.

The sugar program is also proving to be a total embarrassment to the Reagan Administration, which has been forced to impose restrictive import quotas in order to avoid the possibility of the Government having to buy domestically produced sugar. The quotas have been a cause of no small irritation in the developing sugar nations, most of which are in the Caribbean and Latin America. And the quotas have all but decimated the Administration's Caribbean Basin initiative.

More important, the quota problem transcends the sugar trade. It could have a serious impact upon our foreign trade generally. Sugar quotas will, as special trade representative William E. Brock said, "make it more difficult" to argue against trade barriers in the European Economic Community and Japan. As long as the quotas remain in force, every nation we have a trade problem with will gleefully point to them as an example of our transgressions.

It is ludicrous to jeopardize our $42 billion agricultural export trade to overprotect a minor industry. The sugar beet and cane crops are produced on less than 1 percent of the nation's farms, and they account for less than 1 percent of crop acreage.

Ironically, the sugar program is pricing sugar out of the sweetener market. High sugar price supports are permitting the corn sweeteners to capture more of sugar's traditional markets. As a result, some sugar refineries and factories are closing.

In recent months, all Government programs have been re-examined, and Government benefits to millions of Americans have been reduced. Sugar and its producers should be no exception.

[From the Honolulu Star-Bulletin, July 28, 1982]

False Sugar Comparisions

(By Eiler C. Rounholt)

In printing the pro and con articles on the sugar program, pitting Sen. Daniel K. Inouye against Nick Kominus, president of the U.S. Cane Sugar Refiners' Association, which had appeared in the New York Times, you performed a distinct public service.

It provides some insight into what we are confronted with here in trying to defend our domestic sugar industry. Inouye's remarks added significantly to an understanding of the problem. I fear Kominus served merely to confuse.

I was particularly disturbed at Kominus tactics in comparing the cost of the sugar program per producer with the cost of the dairy and wheat program per producer. Had the same standard of comparison been used for each, the result is zero cost per producer for the sugar program. Let me explain.

Kominus used the estimated cost to the government per producer of the dairy and wheat programs. In the case of sugar, he used an estimated cost to the consumer. Moreover, he used a cost estimate which includes the cost of all sweeteners; alternative sweeteners constitute some 40 percent of U.S. sweetener consumption. Although the estimated cost included all sweeteners, he divided that cost by the number of sugar producers; excluding the many hundreds of thousands of corn producers who get 40 percent of the benefit of our domestic sweetener program from the denominator.

I do not know what consumer cost can be ascribed to the dairy and wheat programs. We do know that. Americans consume more dollars worth of dairy products and of wheat than they do sugar. We have no world dump price standard against which we can measure dairy or wheat and estimate consumer costs.

Kominus' compulation contains a further unwarranted assumption that the consumer benefits from low sugar prices. In the price he pays for sugar-containing products. Almost three-fourths of our sugar consumption is in that form and the record clearly shows that a drop in the price of raw sugar is not translated into a drop in consumer prices.

The price of raw sugar on the New York market fell by 70 percent from October 1980 to October 1981. Meantime the price of 14 major sugar-containing products increased by an average of 8.4 percent. The average American buys some 20 pounds of sugar a year for home consumption. The price which he pays for that sugar may increase slightly as a result of the sugar program but that is a small price to pay for the increased stability and for maintaining the domestic production of more than half of our sugar needs.

As the Department of Agriculture has testified, the price of sugar would increase several hundred percent on the world market without the U.S. production.

Kominus' artful attack on the sugar program also criticizes sugar processors for making money by placing sugar under loan to the government. In 1978 some processors did invest low interest loan funds in higher interest money market instruments at a profit. These loan funds replaced funds processors already had paid to growers, the principal beneficiaries of the program. As the Commodity Credit Corp. now charges the government's cost of borrowing to the recipient of the loan (the rate is currently 13.5 percent) this opportunity for gain no longer exists. Kominus, well aware of that fact, sought once again to deceive.

The sugar program is essential to the survival of our domestic industry and to the welfare of the hundred thousand Americans directly employed in the production of sugar. It is a program which operates at no cost to the government, a program which assures a sufficient supply of sugar at reasonable and more stable prices.

It is a program which provides significant economic benefit to the many less developed countries which have duty-free access to our market under the Generalized System of Preferences. It is a program which provides significant economic benefit to our traditional suppliers of foreign sugar by assuring them of their historic share of the higher price U.S. market in periods of sharply depressed prices on the world market.

[From the Honolulu Star-Bulletin, July 20, 1982]

The Battle Over Sugar Prices

Since we have regularly contended the sugar industry must do more to tell its story to the media in Washington and New York, it was a pleasure to see U.S. Sen. Daniel K. Inouye's byline over a story on sugar in the Sunday New York Times.

Inouye argued effectively, we thought, that the world sugar market is a mercurial dumping grounds where prices fluctuate wildly. And that to protect the U.S. market from such unreasonable swings is a rational national policy.

His article appears in the adjoining columns. We trust many readers will find it persuasive.

But the Times pitted Inouye's arguments against those of the president of the United States Cane Sugar Refiners Association.

These also are reprinted in the adjoining columns and they contain some figures that have Hawaii sugar growers suspecting unfair comparisons.

Nicholas Kominus claims the sugar program is adding $3 billion a year to the U.S. sweetener bill and benefiting 14,000 sugar producers at the rate of $215,000 per pro-

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ducer versus a mere $475 in help for each of 870,000 wheat producers.

The basis for Kominus' figures is not yet known here but they are seen as sharply overstated.

In any event, the sugar debate is on again and it is going to be a tough one for the domestic sugar industry. Some sense of it may be gained from the adjoining articles.

We'll be back with more when the Hawaii industry has its answer to the figures being tossed against it.

[Letter: On Price Supports]

The Sugar Industry Has Taken Its Lumps

To the Editor: Your May 19 editorial claiming that Congress is adopting "Too Sweet a Deal for Sugar Growers" reflects a lack of understanding about the sugar industry.

The editorial contends that "Sugar producers . . . have never fully appreciated the virtues of the free market." But since 1974, producers and consumers have been victimized by the wild price swings of the so-called free market.

Domestic sugar producers have operated without the benefit of Federal legislative protection since 1974, and fully understand the devastating impact of the so-called free market. Twice during those past seven years world production has been low, and the prices paid by consumers have been extremely high.

Those low supplies and high prices undoubtedly benefited producers. But each boom has been followed by an equally sharp bust. The busts have driven thousands of sugar producers out of business, and have forced the closure of eight of Colorado's 11 sugar-processing facilities.

Because we have no Federal sugar legislation today, there is no mechanism in existence to provide for domestic supply stability.

Americans consume 14 percent of the world's sugar, and we import an average of 40 percent of our supply each year. This heavy dependence on imports, coupled with the lack of a domestic sugar program, places the American farmers and consumer at the mercy of the world market. Our costly petroleum experience should have taught us to avoid this situation.

In adopting a sugar program as part of the 1981 Farm Bill, the House and Senate Agriculture Committees are seeking to free domestic producers and consumers from booms and busts.

The 19.6-cents-per-pound support level being considered by the committees is hardly a "rich price support program," as your editorial claims. The average cost of production for sugar cane is 23 cents a pound, and beet growers must spend an average of 24 cents a pound to produce their commodity. The levels being considered by the House and Senate Agriculture Committees fall far short of the cost of production, let alone any profitable level.

You also estimate a Federal expenditure of close to $1 billion for this proposed sugar program. But the costs of sugar programs have historically been balanced by the income produced by the tariffs on imported sugar. In fact, most of those tariffs produced a net profit for the U.S. Treasury.

The proposed sugar program will not only provide supply and price stability for our domestic consumers; it will probably generate income for the Treasury. That type of program deserves the full support of everyone including The Times.

JOHN STENCEL, *President,*
Rocky Mountain Farmers Union,
DENVER, May 20, 1981.

[From the Honolulu Star-Bulletin, June 29, 1982]

An Uphill Battle for Sugar Growers

The American sugar growers have a terrible public relations problem on the U.S. East Coast.

The press there, including the Wall Street Journal and New York Times, is extremely hostile to federal programs to protect sugar, taking a consumer viewpoint in favor of a free market.

What these publications fail to acknowledge is that the world sugar market is not a free market. It is a dumping ground that responds violently to relatively small surpluses or shortages.

In 1974 these prices soared to more than 40 cents a pound because of shortages. Currently they are down around 6.5 cents or about one-third the production cost in Hawaii, which is close to the world average in production costs.

The "world market" handles less than 20 percent of the sugar produced in the world. That is what explains its high volatility in reaction to dumping of surpluses from protected markets or shortages in them.

It seems to us totally unfair to throw an important domestic industry to the wolves of this market as the Easterners would like to do. If U.S. consumers fully understood the situation they wouldn't want to be on that price roller coaster either.

[From the Hawaii Tribune-Herald, June 14, 1982]

Sugar No Longer So Sweet in Hawaii

(By Gordon Sakamoto)

HONOLULU.—Hawaii produces 20 percent of the sugar used in the United States, but the "dumping" of foreign sugar is upsetting the delicate economic balance in the islands.

The Hawaiian sugar industry accounts for eight percent of the state's revenue and eight percent of its jobs.

The dramatic slide in the world price of sugar, temporarily slowed by the recent imposition of emergency import quotas by President Reagan, has made growers—among them some of the biggest corporations in Hawaii—reconsider their century-long affiliation with sugar.

In 1981, sugar production resulted in a staggering $83.5 million loss to the Hawaii industry, despite strenuous efforts by all parties, including the union, to reduce costs. The outlook for 1982 is discouraging. There will be another loss in the millions of dollars, according to economists.

In cost-cutting moves this year, three major plantations went on a two-week enforced shutdown that put half of the industry's 8,400 employees off the payroll. Another shutdown is planned for the fall. Executives also took hefty pay cuts, the sugar workers' union, the International Longshoremen's and Warehousemen's Union, agreed to defer half of a 10 percent contract wage increase. The companies looked also to other means of trimming losses.

Additionally, the Hawaii Sugar Planters Association, which represents the industry, asked the Hawaii Legislature for a $50 million "Sugar Stabilization Fund." The request was not granted, but the industry won some tax relief and other financial benefits.

The arithmetic for the Hawaii sugar industry is simple: It costs 21 to 22 cents to produce a pound of raw sugar in the state. The federal government, under the 1981 Farm Act, will subsidize sugar up to 19.08-cents a pound. But the world price, because of the huge infusion of foreign sugar, has dropped to as low as 8.02 cents a pound.

The import quota has helped ease the difference, but not to a point where the industry can turn a profit.

Given that picture, some of the major growers have given a clear indication they will not absorb further losses.

Amfac already has announced it will phase out the 12,000-acre Puna Sugar Co. on the island of Hawaii by the end of 1984. It will mean the layoff of 500 sugar workers.

Since the Puna announcement, Amfac also has cut back sugar acreage at another plantation. A second company has made a similar move.

The cuts mean acreage in sugar cane will be reduced to the 200,000-acre level, down from the high of 242,476 acres in 1968.

Of additional concern to Hawaii sugar growers is President Reagan's Caribbean Basin Initiative, which could further add to the industry's woes. As it now stand, the initiative will allow duty-free imports, among them sugar, from Caribbean nations into the United States.

Henry A Walker, president of Amfac, was blunt in sounding a warning.

At the company's stockholders' meeting, he said "Never again must Amfac be plagued to the extent it has been by sugar's cyclical swings. Never again can we risk the existence of this company now, otherwise, on the verge of joining the front ranks of American corporations. We cannot and will not, let sugar get in the way."

But he also made it clear it is not the wish of Amfac to pull out of sugar in Hawaii.

"There are times when we feel we should get out of sugar. But we have long-term leases, commitments to our employees, long-term benefits, pension programs, obligations to our communities. We simply do not want to walk out of the communities if there is an alternative."

Tommy Trask, regional director of the ILWU, agreed that the industry needs union support.

In accepting the wage increase deferral, he said, "We wanted to indicate to the general public this and that we are prepared to help the industry. We recognize their plight. We are concerned about the whole sugar scene and we're nervous about what we see happening.

"But we have to look at it in bittersweet fashion. The vast majority of the work force will retain their jobs. Survival is the key to this whole thing."

A bank economist offered additional numbers that would result were sugar to go out of business in Hawaii.

"Massive unemployment would develop in Hawaii with an accompanying recession if the sugar industry were to fold," he said.

"There are about 9,500 sugar workers on whom a total 30,000 jobs depend.

"If sugar went down entirely, the statewide unemployment rate, which presently is five percent, would become 13 percent, and welfare costs would go up 17 percent from the present $250 million to $300 million.

Especially hurt would be the economy on Kauai, where 96 percent of the cropland is in sugar cane. On the island of Hawaii, it's 82 percent of 91,000 acres, on Maui 47,000 and Oahu 32,000 acres.

The employment rates would be 20 percent on Kauai, 16 percent on Hawaii and 14 percent on Maui.

Between 1934 and 1974, regulation of the sugar industry in the United States took the form of several legislative acts. However, in 1974, legislation to extend the Sugar Act was defeated. Since then, the U.S. has been the only major producing nation without a national sugar policy.

As a result, the domestic industry has been at the mercy of fluctuating world prices that characterise the market for the small part of the world's sugar that is not regulated. Unfortunately, the world market for sugar has low prices more often than high.

Hawaii's sugar industry has experienced both extremes in the last decade, from the very good profits of 1974 and 1980 to the major losses of 1981 and lesser losses in between.

Since 1974, the Department of Agriculture has operated under "permanent authority" of the Agriculture Adjustment Act of 1949, which authorized the Secretary of Agriculture to support prices of selected non-basic commodities. Cane sugar and sugar beets were covered by the act.

Sugar prices have been on a roller coaster, with high prices in 1974 and extremely low prices in 1976 and the first half of 1982.

The U.S. spot price for sugar rose to a peak of 65 cents per pound for one day in November 1974. Two years later, it was down to 8.9 cents per pound, and earlier this year 8.02 cents a pound.

According to Robert Hughes, president of HSPA, when the Sugar Act was terminated in 1974, the consumer was subjected to the vagaries of the world market.

"Beginning in 1975, when we were dependent on the world market, we were subjected to these volatile prices," he said. "We had never suffered such losses before. A company cannot tolerate or stand to take such losses for very long. And that's why it threatens the entire sugar industry in Hawaii since it is the third largest contributor to the state economy and sugar is the largest agricultural export commodity in the state."

The most recent problems began after the 1980 shortage.

"That reaction caused a tremendous increase throughout the world—roughly eight million tons worth," said Hughes. "That's eight million tons on top of the yearly average of 87 million tons.

"Suddenly, the world went from a shortage to surplus in a very short time. Until the surplus is eroded through the reduction of production, world prices are going to be on the low side."

Hughes said reaction already has begun in some areas.

"In the United States, preliminary planting of beet sugar will be down by about 11 percent. Also, the European Economic Community has indicated it is going to exercise some restraints in the planting of beet sugar."

Hawaii's sugar cane growers cannot match the flexibility of beet sugar growers on the U.S. Mainland and Europe.

When sugar prices go up, beet sugar growers increase acreage. When prices sag, farmers switch to economic crops such as cotton, wheat, corn and soybeans.

In Hawaii, said a University of Hawaii agriculture professor, "We know of no crop—or combination of crops—that can entirely replace sugar. And we know of no agricultural activity that is as compatible with tourism as large-scale cultivation of sugar."

[From the New York Times, June 1, 1982]

A Way of Life in Hawaii Is Threatened by Squeeze in the Sugar Industry

(By Robert Lindsey)

Keaau, Hawaii, May 26.—For three generations, members of the Tony Cawagas' family have turned the green stands of cane that blanket the hills and valleys around here for as far as anyone can see into sugar for a world beyond the Hawaiian Islands that they never saw.

Just as he followed his father and his grandfather to the sugar mill, Mr. Cawagas expected that one day his son, too, would be there.

Now, at the age of 38 years, he is looking for a job and says that he has little hope of finding one.

The Puna sugar mill at Keaau is closing and, with it, a way of life is ending.

LONG A DOMINANT CROP

For most of the last 150 years the economy of the Hawaiian Islands has been rooted in agriculture, predominantly sugar cane and pineapple.

Dense stands of tall sugar cane are as ubiquitous as fields of corn are in Nebraska. Successive waves of Chinese, Portuguese, Japanese, Filipinos and, most recently, Koreans have come to work the fields.

For generations, families have lived and died on the great sugar plantations that covered much of the islands with a green mantle that swept from ocean's edge to mountain peaks.

But now, under assault from other countries that produce sugar more cheaply, the Hawaiian sugar industry is receding, causing a painful transition for the islands' economy and jarring the lives of people who have known no other life but the plantation.

Growers here say that last year they lost more than $80 million on sugar production. This year, despite a much criticized decision by the Reagan Administration to impose import quotas on sugar that are raising consumer prices while increasing the growers' income, the growers say that they still expect heavy losses.

HIGHEST PAID IN WORLD

The 7,000 or so workers in the Hawaiian sugar industry are the highest paid agricultural workers in the world, the growers say.

Mr. Cawagas earns about $20,000 a year, including fringe benefits, a wage that does not guarantee affluence in a state where the cost of living ranks among the highest in the nation. But he says he understands enough about world trade to know that Hawaii is pricing itself out of the sugar market.

"We can't compete with the other countries," he said. Cheaper labor costs account largely for the price advantage of sugar produced in the Philippine Islands, Thailand, Latin America and elsewhere.

None of the major growers have predicted that the Hawaiian sugar industry is doomed, but representatives of the state government, labor and industry agree that it is in serious trouble even with the controversial new import quotas.

"Our membership has got to realize these are changing times," Thomas Trask, regional director of the International Longshoremen's and Warehousemen's Union, which represents sugar workers, said recently. The union says it is working with growers in an effort to increase workers' productivity. "The survival of these plantations, and jobs, has to be uppermost in the minds of the membership," Mr. Trask said.

Here on the island of Hawaii, Amfac Inc., the state's largest sugar producer, and one of its oldest, which is aggressively diversifying into nonagricutural pursuits, announced earlier this year that it would close its 16,000-acre Puna Sugar Company plantation and mill when the last of its cane was harvested two years from now. Almost 150 of its 479 employees are already gone.

Last week, Amfac announced that it would reduce operations at one of its four remaining plantations on the island of Oahu, by 20 percent.

"We still don't know if we can save Oahu Sugar Company," said Robert Rostron, a company executive, "but we believe we have a workable plan that gives us a fighting chance." Amfac and other major landowners in the state say they are continuing to study the possibility of still further curtailments in sugar production.

To a large extent, the problems plaguing Hawaii's sugar industry are similar to those being experienced by the automobile industry and others hurt by cheap foreign imports. But in Keaau and surrounding communities, the townspeople see the closing of the plantation as the passing of an era.

Noboru Shimauku, 60, who took a job at the plantation store when he was graduated from high school and has worked at the mill since then, said that the cane fields and mill were so much a part of his life and that of the community that he never imagined life without them. "It was always here," he said. "It's like a dream that you never expect to have."

NO PLANTATION FOR THEM

"I worry most about the middle-aged people," said Carmelito Arkangel, industrial relations director of the plantation, an employee since 1938. "Most of their working careers has been with the plantation. Now there is no plantation to go to."

The Puna plantation opened in 1899 and has been virtually the only economic resource in this community, which is about nine miles south of Hilo.

The company store is gone now, as are most of the small houses that for decades employees rented from the plantation, but Keaau is still very much a company town. Its employees support the local shops and churches, and everyone in town is wondering what will happen when the mill finally closes. On an island with an unemployment rate of 9 percent, 50 percent higher than the state average, prospects are not good for finding more work.

"When I was young, my father told me, "As long as the smokestack is standing you'll have a job," and Hiroshi Kawasoe, the plant manager, who has been an employee since 1947.

"We had peaks and valleys before, but lately there were more valleys and they got longer and longer," he continued. "And now the smokestack will be coming down. It's going to be very hard on the eonomy when you take 16,000 acres out of production. There's no other crop that can replace it."

OVERCAME EARLIER TROUBLES

The plantation and the surrounding community have had troubles before, but they weathered them.

In the early 1950's, when bulldozers and trucks were introduced to mechanize much of the hand labor of the past, the community was hit hard by layoffs of hundreds of workers, and there have been periodic slumps when sugar prices were depressed.

Because of variations in climate, terrain, age and other factors, the cost of producing sugar varies widely among Hawaii's 14 sugar plantations, and the Puna plantation is one of the least efficient. Amfac officials say that the cost of producing a pound of sugar here last year was 23 cents, as against an average of 19.3 cents in the state. Even with the recent price increase resulting from the

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Reagan Administration's import restrictions, Puna is still not economically viable, the company says.

Amfac, in a kind of voluntary land reform program, has agreed to give each of the laid-off workers five acres of plantation property, as well as to donate $2 million to an employee trust for roads and other development costs. State and zoning officials have not yet approved the unusual land subdivision, and there is considerable skepticism that five acres will be adequate for anyone to make a living as a farmer. Still, some employees say they will try to farm the land.

Zacarias Bermudes, 58, said he would give it a try and, if it did not work out, he would return to the Philippine Islands, from which he embarked for Puna 14 years ago.

[From the Wall Street Journal, Aug. 5, 1982]

Coca-Cola Co. Profit Rose 10 Percent in 2nd Quarter—Overseas Sales Gains Helped, but Strength of Dollar Limited Growth of Net

Atlanta.—Coca-Cola Co. said net income for the second quarter increased slightly more than 10 percent and revenue declined 2 percent.

Overseas sales gains helped the profit increase, according to Sam Ayoub, chief financial officer. But the company said the strength of the dollar against weakened foreign currencies limited Coke's earnings growth to 10 percent instead of 15 percent.

"When margins improve overseas, it affects everything because that's 63 percent of our business," Mr. Ayoub said.

Analysts said the results were in line with their expectations for the soft drink giant.

In the second quarter Coke earned $139.8 million, or $1.13 a share, compared with year-earlier profit from continuing operations of $127 million, or $1.03 per share. In the 1981 period, a gain of $1.9 million from discontinued operations made net $129 million, or $1.04 a share. Revenue fell to $1.57 billion from $1.6 billion.

For the first half, Coke earned $247.4 million, or $2 a share, up 10 percent from profit from continuing operations of $224.6 million, or $1.82 a share. In the 1981 period, a gain of $4.3 million from discontinued operations made net $229 million, or $1.85 a share. Revenue fell 3.7 percent to $2.84 billion from $2.95 billion.

Last June, in a move partly intended to lessen its dependence on foreign operations, Coke acquired Columbia Pictures Industries Inc.

"We want to increase our activities in the U.S. That's why we acquired Columbia. Our target is for Columbia to grow at 20%, our wine business to grow faster, so eventually, the U.S. business will be a larger chunk of total profit," Mr. Ayoub said.

Coke noted that Columbia's earnings won't be consolidated into its operations until the third quarter.

The company also said that its adoption of a change in the method of accounting for foreign-currency translation had "aided" its results for the 1982 second quarter and six months.

"If 1981 results had been restated for (the accounting change), their earnings gain would have been more on the order of 7% to 8%," said Emanuel Goldman, an analyst with Sanford C. Bernstein & Co. He added, however, that Coke's earnings "would have been 5% higher if the U.S. dollar hadn't been so strong. Coke is one of the many companies that has been hurt by the strength of the dollar."

Nonetheless, analysts said the soft-drink giant is weathering economic storms both here and abroad fairly well.

In the U.S., Coke said soft drink case sales increased 3% to 4% during the first half. Presumably that growth rate is better than some of its competitors, because Coke said it continued to gain in U.S. market share.

In overseas markets, Coke said soft-drink sales increased 4% overall during the first half, with Western Europe, Canada, Japan and Mexico showing sales increases between 5% and 12%. Only Brazil and Argentina failed to post increases, the company said.

In other business areas, Coke said juice unit sales increased during the quarter and first half, while coffee unit sales increased during the second quarter but declined for the six months.

Coke also said its wine business had a sales increase of 11% in the quarter while the rest of the industry generally experienced flat sales.

[From the New York Times, July 29, 1982]

Generals Foods

General Foods said that an improving worldwide coffee business and higher margins on several convenience foods helped it raise profits for its first fiscal quarter of 1983 to $61.5 million, or $1.24 a share, from $49.3 million, or 99 cents a share, in the period last year. Sales remained flat at $2.07 billion.

James L. Ferguson, chairman of the White Plains-based company, said that besides coffee, General Foods was pleased with the performance of certain packaged food lines, especially Jell-O brand Pudding Pops, a new product that one analyst predicted would bring annual sales of $125 million.

Liquidation of inventories by many grocery stores because of high interest rates helped cause flat sales, Mr. Ferguson said.

* * *

Nabisco Brands

Nabisco Brands, based in New York, said second-quarter profits increased to $70.5 million, or $1.11 a share, from $52.3 million, or 83 cents as share, in the period last year. The report included nontax-deductible expenses of $9.3 million, or 15 cents a share, for the July 1981 merger of Nabisco Inc. and Standard Brands.

Sales increased by 7.8 percent, to $1.52 billion, from $1.41 billion the previous year.

"This was a case of a very strong showing in their core business, cookies and crackers," said Alan S. Greditor, food analyst for Drexel Burnham Lambert. Nabisco is trying to expand this core and divest itself of unrelated divisions.

For the first half of the year, Nabisco Brands' profits rose 18.8 percent, to $129.7 million, or $2.04 a share, from $109.2 million, or $1.73 a share, in the period last year. Revenues increased by 4.3 percent, to $2.92 billion, from $2.80 billion in 1981.

[From the Food Institute's Weekly Digest, July 31, 1982]

Highlights of NSDA's Soft Drink Survey—1981

Soft drink sales grew at a 3.8% rate, while value rose 13.2% to $20 billion at the wholesale level, according to the results of the National Soft Drink Association's Sales Survey of the Soft Drink Industry—1981. A total of 3.9 billion cases of soft drinks of all types were sold, and per capita consumption increased to 412.3 12-ounce unit equivalents.

Regular soft drinks accounted for 85% of the market, and diet drinks the remaining 15%. Categorized by flavor, cola represented 63% of the regular market, lemon lime 10.4%, pepper-type 5.4%, and orange 4.9% of sales. In the diet market, cola held a 65.3% share, lemon-lime 13.3%, and other flavors 21.4%.

Soft drink sales through food stores represented 59.4% of 1981 sales, while vending machines represented 16.4% of sales and other retail outlets 24.2%. Soft drinks packaged in cans accounted for 36% of the market, refillable glass 29%, plastic 19.9% and one-way glass 15.1% of the market. While sales in cans continued to decline from 1980's 37.2% share, the amount of soft drinks sold in plastic containers continued to increase from 1980's 17.9% share of the container market.

[From Reuters, Aug. 2, 1982]

Castro Says Cuba Will Not Reduce Sugar Output Despite Low World Prices

Havana.—Cuban president Fidel Castro said his country will not cut sugar production, despite low world sugar prices. "Sugar is the principal staple of our commerce with Socialist nations, at good prices, and we are protected by clauses in our agreements with them against the increase in the price of imported products we receive from them," he said in a nationwide address. Cuba's 151 mills produced 8.2 million tons raw sugar from the 1982 harvest ended in June, the second highest ever for Cuba.

But, he said, with world sugar prices around seven cents a pound and the ever-increasing price of imports from developed nations, it now takes two and a half tons of Cuban raw sugar to buy what one ton bought in 1970. "We have difficulties and our difficulties in coming years could be even greater," he said. They are due to the low price of sugar and other exports, "the pressure of imperialism" to limit credit, high interest rates on the financial market, the high price of imports and the difficulty in finding markets, he said.

The Soviet Union is expected to buy over three million tons of raw sugar from Cuba in 1982. Other communist states, including China, will buy one million tons. Past indicators suggest the Soviet Union will pay at least three to four times the world market price for Cuban sugar, western diplomats said.

"When one considers that Cuba receives its petroleum and many industrial products for about half the world price from the Soviet Union, and receives its military hardware virtually free of charge, it becomes clear just how much the viability of the Cuban economy owes to this aid," one diplomat said.

[From Sugar y Asucar, July 1982]

Brazil Sugar Exports a Problem

At the moment, sugar represents the main commodity for export for Brazil, but presents the biggest problems from the point of view of price in the international market, principally because of the record harvests which have been obtained by competing producer countries and the recuperation of production of countries such as Cuba and India. Brazilian export specialists say the situation worsened when the Common Market decided to reduce the volume of beet sugar that should be used for the formation of stocks (2.0 million tons) and, consequently, increase its exportable surplus by 5.0 million tons.

Planters in Pernambuco and Alagoas, the main northeastern sugar cane production states, will not have their debts (U.S. $201 million) absorbed by the Institute of Sugar and Alcohol (I.A.A.), as has been hoped. The I.A.A. has absorbed the debts of planters in the state of Rio de Janeiro since these farmers were penalized by a delay in irrigation projects. Northeastern planters have large debts with foreign institutions and they had proposed that the I.A.A. receive in exchange for assuming these debts an equivalent quantity of export-type demerara and/or refined sugar.

[From Reuters, July 26, 1982]

Philippines To Maintain Sugar Liquidation Prices

Manila.—The Philippine Sugar Commission announced it is maintaining the liquidation prices of export and domestic sugar at 168 pesos and 165 pesos per picul, respectively, for crop year 1982-1983 despite the depressed market price of sugar. It said the move implements the directive of President Ferdinand Marcos for the Commission to encourage the expansion of sugar production and improve income of sugar farmers, planters and millers.

It was also designed to enable sugar producers to overcome the present softness of the world sugar price which is eights cents per pound or the equivalent of about 80 pesos per picul, the commission said. Commission chairman Roberto Benedicto said that the maintenance of the present sugar liquidation prices above the prevailing world market price is made possible by the government's protective pricing policy, under which the Philippines entered into long-term contracts for the export of sugar at an average price of 23.5 U.S. cents per pound or 271.90 pesos per picul.

[From Reuters, July 16, 1982]

Brazil in Deficit $680,000,000 Because of Low World Sugar Prices Which are Less Than Half Their Costs To Produce—Government Attempting To Finance Losses

Brasilia.—Brazil announced a series of measures aimed at wiping out a 680 million dollar public spending deficit brought on by a fall in world sugar prices.

"The depression of international sugar prices, now at a level equivalent to less than half our internal production and transport costs. . . has put enormous pressure on government finances," ministers said in a statement.

Industry and commerce ministry officials said the authorities faced a deficit in the sugar sector of 120 billion cruzeiros.

They are forced to make a number of decisions to fill the gap. A presidential decree last night introduced an additional contribution on the producer price of sugar of up to 20 percent.

Government officials said other measures included a 35 percent rise in the consumer price of white sugar to 86 cruzeiros per kg, a 5.6 percent increase in the pump price of petrol and a 5.4 percent increase for alcohol.

The fall in world sugar prices could cut Brazil's export earnings from the commodity this year to 750 million dollars from 1.1 billion last year, the officials said in Brasilia.

The additional contribution provided for under the presidential decree will initially be set at 10 percent but can be raised to 20 percent in accordance with the financing needs for the sugar sector, the officials said.

The government also plans to rearrange some agricultural and agro/industrial programs, saving 15 billion cruzeiros, and the treasury will cover another 30 billion cruzeiros by issuing new money, they said.

The remainder of the deficit will be funded equally by the additional contribution and price increase for white sugar.

Producer prices for sugar, alcohol and cane will also go up between 22 and 24 percent but these are regular adjustments made to keep up with inflation, the officials said.

Industry and commerce ministry officials denied rumors that sugar and alcohol institute (IAA) president Hugo De Almeida may resign following the latest package of measures.

The officials said the latest moves had not changed the functions of the institute to plan and execute domestic policy and export sugar.

The only change is that the running of a fund financing sugar policy would be transferred to the central bank which would open a "sugar account" in the same way as it already has a "coffee account."

Almeida had been concerned, however by recent criticisms by Sao Paulo factory owners of government sugar policy, published in several newpapers, the officials added.

[From Reuters, July 14, 1982]

Barbados Government Announces $10,000,000 Loan for Its Sugar Industry Will Also Give Price Supports

Bridgetown.—Barbados has announced a 10 million dollar soft loan and a new price support mechanism for its ailing sugar industry.

Prime Minister Tom Adams told parliament the government is offering the loan to Barbados sugar factories LTD, which owns the country's six sugar factories. This will be coupled with a 1982 support price of about 46.25 cents a kilo.

He said "without a strong and viable export agriculture Barbados will stagnate economically for many years to come. The earnings of the Barbados sugar industry abroad correspond almost exactly with the available cash foreign reserves of Barbados and have done so for many years.

Falling production, unseasonal weather, an alarming number of illegal cane fires and low export prices have hit the industry hard.

Export earnings fell from a 1980 high of 54.7 million dollars, when production reached 135,000 tons. to 25.7 million last year as it fell to 96,000, a figure expected to be repeated this year.

Some of the mainly private plantation owners have said, because of heavy losses suffered last year and this year, they cannot guarantee to produce a 1983 crop. Sugar industry officials said they need 25 million dollars to prepare for next year's harvest. Adams said the loan conditions will be announced later.

[From the Honolulu Advertiser, July 15, 1982]

Philippines Like U.S. Sugar Quotas

(By Fernando Del Mundo)

Manila.—President Reagan's imposition of import quotas on sugar could be a "saving grace" for the Philippines—not only helping its economy but also putting a lid on a potential "social volcano."

Analysts say Reagan's move could provide the Philippines a market for its sugar with a guaranteed price. They say it may prove a "saving grace" for a country that depends on sugar as its major dollar earner amidst a slump in the world sugar markets.

With other traditional exports, such as coconut and copper, battered by the recession in the west, the nation's economy has been foundering.

The outlawed Communist party of the Philippines has taken advantage, stoking peasant discontent. It has gained adherents and the party's military wing, the 5,000-strong New People's Army (NPA), is growing.

Guerrillas regularly come down from the hills to collect "taxes" from peasants and warn sugar planters to pay workers just wages or face "NPA justice."

Recently, Communist guerrillas assassinated a town mayor and four of his aides in the "sugar bowl" island of Negros. The attack came after the mayor was set free despite charges that he murdered seven farmhands and was responsible for the disappearance of eight others.

In Calatrava town, also in Negros, authorities are looking into the murders of 23 people, allegedly committed by a vigilante group led by a former national police officer.

Activist priests and nuns say the Philippines could become the "Cuba of the Far East." They say the revolt could erupt in Negros, where the disparity between rich and poor is more pronounced than anywhere in this largely Roman Catholic country.

A study commissioned by the Association of Major Religious Superiors called Negros a "social volcano." Says the study, "Unless something radical and immediate is done about this situation, there will be an explosion which will shake the entire nation."

Filipino officials scoff at such talk. "I've heard of this volcano in my youth," said a sugar planter. "I still have to see an eruption."

As for the nation's sugar market, the government of President Ferdinand Marcos has done a creditable job in easing the impact of the depressed sugar economy.

Since post-World War II years, all of the sugar the Philippines produced went to the U.S. until 1974 when the U.S. Sugar Act lapsed and import quotas were scrapped.

That forced the Philippines to sell on world markets, where prices have been erratic, from a high of 64 U.S. cents a pound in 1974 to about 6 cents a pound at present.

Last May, Reagan announced the U.S. was temporarily reviving import quotas to protect American farmers. Traditional U.S sugar suppliers were given a fixed share with the Philippines getting 13.5 percent, the third largest after the Dominican Republic and Brazil.

Reagan's move further dampened sugar trade, hitting most Third World suppliers severely. However, it has had no impact on the Philippines.

In December 1979 when the price of raw sugar was 40 cents a pound, the Philippines sold 2 million metric tons at 23 cents a pound, spread over a four-year period. The contracts held despite market booms and busts.

Apparently the government, which tightly controls sugar trading, has learned its lesson. In 1974, it lost an estimated $250 million by waiting for the price to go up from 64 cents. The market suddenly collapsed and sugar stored in warehouses and swimming pools rotted.

This year, the Philippines—one of the world's leading sugar suppliers—is expected to produce about 2.3 million metric tons of

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the crop. Half for export and half for domestic use.

The volume allotted for export is split between long-term buyers and the open market. However, domestic consumption has gone up in recent years, forcing the government to renege on some of its contracts, with the U.S. again giving the Philippines quotas, the government's marketing problems appear solved.

"It's a long way away from 6 cents a pound to 20 cents a pound," one analyst said. "Reagan is not going to remove the quotas unless the American farmers are assured of profits."

[From the Honolulu Star-Bulletin, May 12, 1982]

PROTECTING DOMESTIC SUGAR PRODUCERS

Every time the issue of protecting domestic sugar producers comes up in Washington, the critics claim that the consumer is being cheated. Funny that we don't hear the same outcry against wheat or dairy price supports.

The domestic sugar industry, in particular the Hawaii sugar industry, is fighting for its life against a flood of subsidized foreign sugar that is being dumped on the American market at prices far below production costs.

The Reagan administration is no friend of agricultural subsidies, but it agreed last year to go along with price supports for sugar in exchange for Southern votes for the administration budget proposals. That sort of a deal is as old as politics, but you'd think it was totally unprecedented if you read comments like those of columnist William Safire on this page last Friday.

Now the administration is being further berated for imposing import quotas on sugar rather than pay millions of dollars in price supports. Besides the obvious financial consideration, this alternative has the advantage of discouraging foreign exporters and perhaps cutting back world production.

It has been widely accepted that agriculture requires special treatment from government to ensure its survival, even in countries that are otherwise committed to a policy of nonintervention in economic matters. To quote Claude Villain, agriculture director of the European Economic Community: "Obviously we could not allow the storms and tempests of international markets simply to destroy our agricultural economy."

Nowhere is that observation more apt than in Hawaii. Loss of the sugar industry would be nothing less than a disaster for Hawaii's economy, agricultural and otherwise.

If the domestic sugar industry were allowed to be destroyed by dumping of foreign sugar, American consumers would be entirely at the mercy of foreign suppliers and the notoriously volatile world market. It is by no means clear that they would get cheaper sugar over the long run that way.

We cannot endorse protection for domestic sugar at levels that permit large profits, but that is not at issue. We are talking about survival. The case for protection is strong.

[From the Washington Post, Aug. 11,1982]

AMBER WAVES OF GRAIN BLIGHT TRADE AMITY WITH EUROPEAN ALLIES

(By Ward Sinclair)

Chris Righton, a prosperous wheat farmer in England's central cereal belt, doesn't much like it, but some people think of him as a bogeyman taking food from the table of his American farmer friends.

Righton is a bit player in the drama of growing tension between the United States and the 10-member European Economic Community.

Most of the sources of that tension are well known: defense policy, the Soviet gas pipeline, steel subsidies. Less well known but equally central is agriculture.

Hounded by recession at home and sagging farm sales overseas, the Reagan administration, U.S. farm organizations and farm state members of Congress have begun a fierce attack on the agricultural policies of the European Economic Community, stirring concern on both sides of the Atlantic over the possibility of a farm trade war.

The U.S. complaint is that European governments are unfairly denying U.S. farmers sales they would otherwise have, partly through outright protectionism, partly through subsidies without which European farmers could not compete.

A basic goal of EEC policy is to promote domestic social stability by keeping farmers prosperous and by keeping them on their farms, even though they may not be efficient enough to be competitive with American farmers.

The EEC achieves its aim by keeping internal prices high and shielding its farmers from foreign competition through a complicated system of price supports, common pricing, minimum import prices, import duties and export subsidies.

Some U.S. products—notably corn gluten, soybeans, vegetable fats and oils—go into the EEC duty free, largely because they are unavailable domestically.

But many other U.S. products are subject to import duties that make them unattractive and to an EEC policy of buying first from member nations. The EEC policy has encouraged production and has led to surpluses of some commodities, which are moved into world markets.

"A major concern here," said one U.S. official, "is that these EEC policies will lead to a rewriting of world agricultural trade practices. Under their approach, Europe would be insulated from these changes. When the world has too much and other countries reduce production, the EEC members don't adjust because they are protected. It has happened with wheat, wheat flour, poultry and eggs, meat and sugar. The EEC is not responding."

Yet there is an opposite side to this story. Notwithstanding U.S. complaints, huge ironies run through the picture. For example:

As a whole, the EEC is the United States' most lucrative agricultural market. This country will sell $9 billion worth of agricultural goods to EEC nations this year, yet in return buy only $2 billion worth, much of it in the form of dairy products and wine.

While the administration criticizes EEC subsidies, the EEC points right back at U.S. farmers' government help: price support loans, direct income supplements, grain storage payments, marketing orders, export credits, low-interest operating and farm-purchase loans and other devices.

Subsidy, as such, may be in the eye of the beholder. An Organization for Economic Cooperation and Development study found that between 1976 and 1978 U.S. and European national governmental budget outlays for agriculture—that is, "subsidies"—were almost the same. Spending averaged 39.2 percent of agricultural value added in the EEC, 37.6 percent in the United States.

A new paper by the Department of Agriculture (USDA), following the line that the Europeans are plunging into new export markets, reports that EEC shipments to the Soviet Union are up more than 200 percent since 1979. The report does not note that the United States cut its share of the Soviet market in a major way by imposing a partial grain embargo in 1980.

A frequent charge that EEC exports impinge on U.S. market runs into statistical trouble. In wheat, for example, EEC exports doubled between 1969 and 1981 to 14 million tons, but the EEC's share of the world market dropped from 16.6 to 14.9 percent.

U.S. exports, meanwhile, went from 16.5 million tons to 41.9 million tons, and the market share moved from 38.4 to 44.8 percent.

This is roughly where a Chris Righton comes in.

When an American wheat farmer sends a bushel of his grain to, say, the Soviet Union, he will get about $2.50 for it. Because the United States dominates world wheat trade, the American price effectively becomes the world price.

But when Righton sends a bushel of his wheat to the Soviets, he will get about $4.53 for it. Same type of wheat, same quality, same purchaser, perhaps even the same export trader. The difference is that EEC policy guarantees Righton a price for his grain by subsidizing his effort, and U.S. farm policy does not.

An argument put forth by EEC members is that the United States, instead of complaining about the subsidy, should take steps to force up world prices. That appeals to U.S. farmers, but the Reagan administration says such a move would intrude in free markets and price U.S. farmers out of world markets.

Farmer Righton, on a visit here this year, expressed a common EEC outlook: "I don't think we're as damaging to U.S. interests as we are made out to be. We in Europe are, after all, your very best customers. Your administration is putting a smokescreen over American farmers' eyes: By promising to discipline the EEC, they avoid having to do anything directly for farmers at home."

The whys and wherefores are in hot dispute, but the gloves, clearly, have been removed. Both here and in Europe there is concern that Agriculture Secretary John R. Block's threats will turn to more contention reminiscent of the painful "Chicken War" over curbs on U.S. poultry sales in the 1960's.

After Block told the House Agriculture Committee last winter that "we are going to do battle with the EEC wherever and whenever it is necessary," Chairman E (Kika) de la Garza (D-Tex.) admonished him to cool it.

Don't pick a fight with America's best farm market, de la Garza warned. But the warnings continue to roll from the administration.

"We have only one alternative," Block said in a speech this summer. "That alternative is to deviate temporarily from our free-market stance and engage in costly short-run trade wars. If that is what it takes to achieve the principles of free markets, then we'll have to start looking more seriously in that direction."

As one approach, U.S. agricultural interests have taken complaints about unfair subsidy and competition to the General Agreement on Tariffs and Trade (GATT) over such issues as wheat flour, poultry, pasta, canned fruits and raisins, Mediterranean citrus policy.

More are likely to come as the United States presses its cases.

The Europeans, for their part, seem not cowed. Claude Villain, EEC director general for agriculture, recently told a Minnesota audience, "Europe is not going to abandon its agriculture. . . . It is important that you on this side of the Atlantic should realize this."

Edith Cresson, the French minister of agriculture, met with Block late last month and, according to sources, delivered the same message in an acrimonious encounter. European embassy agricultural attaches repeat the theme whenever meeting with Americans.

Block and other administration farm spokesmen have tempered their rhetoric somewhat since June, but the tensions remain. And on Capitol Hill there are moves to convert Block's talk into legislative remedies to boost U.S. farm exports with the same type of subsidies the secretary denounces.

Congress already has begun moving to implant a new system of export subsidies for American farmers. The Senate, for example, adopted in its budget reconciliation bill last week a provision allowing up to $190 million in payment to farmers to meet "unfair competition" from abroad.

Sen. Jesse Helms (R-N.C.), Agriculture Committee chairman, was the chief sponsor of the subsidy proposal. "The EC has not stopped their unfair trade practices," Helms said. "It's time we gave them a dose of their own medicine."

The House version of the reconciliation bill contains no such provision, but Rep. Tom Hagedorn (R-Minn.), among others, is pushing legislation similar to the Helms approach. The House Agriculture and Foreign Affairs committees have scheduled a general hearing for today on the agricultural export issue.

The administration has not yet taken a formal position, but officials at USDA see these legislative approaches as ways of putting pressure on the European Economic Community to be more conciliatory in allowing U.S. products into their markets and in reducing its subsidies to farmers.

"We have had no export subsidies since 1974," one official said, "but if we did this, we would impress the Europeans. But it could lead to some serious give-and-take. . . . No one wants a trade war, but this is highly political."

Tony Bond, a British agricultural attache here, agreed, but from another perspective.

"If the United States retaliates, we could be back to the chicken wars," he said. "We couldn't complain if Congress approved export subsidies because we have them. We would say it's all very well, but it makes nonsense of the row you're supposed to be having with us."●

A SALUTE TO EDWARD J. DERWINSKI

● Mr. DOMENICI. Mr. President, occasionally, those of us in public service are privileged enough to be remembered by a constituent whose loyalty goes beyond the boundaries of the voting booth at election time, and whose high regard for the efforts of his representatives leave the realm of the political and manifests itself in a more personal manner.

Recently, I received such a tribute by a newcomer to the State of New Mexico, Mr. Leopold Sobanski, in honor of his Representative of many years, the Honorable Edward J. Derwinski of the Fourth Congressional District of Illinois, who, regrettably, will soon be leaving public office after many years of dedicated service.

Leopold Sobanski's salute to his former Congressman provides us with a model for the kind of excellence that all public servants should strive to achieve, and a welcome reminder that our efforts do not go unnoticed, nor is our job without the most heart warming of rewards.

Mr. President, I ask that Mr. Sobanski's tribute to Congressman Derwinski be printed in the Record for all of us to enjoy.

The tribute follows:

A Salute to Edward J. Derwinski

Earnest was he in each action
Did his best to serve the land,
Warned against all foolish spending
A man trusted to the end.

Reaching out for good of nation
Dared he face his critics all,

Justice was idealism—
He obeyed its every call

Definite was he in opinion,
Ever kept an open mind,
Represented well his people
Placed his heart in task assigned.

Win or lose he cast his wisdom
In debate in Congress Hall
'Nd won trust of those around him,
Was admired by them all.

So his curtain now is lowered
King who wielded well his pen
Instrument he told his people
To use readily now and then.

Let us rise now, shout our tribute to Ed Derwinski, Congressman.

July 29, 1982.●

REGULATION OF PECANS

● Mr. HOLLINGS. Mr. President, I call attention to the very unwise action taking place at the U.S. Department of Agriculture regarding pecans. The Department has proposed regulations that greatly change how this crop is marketed. While the White House goes forward with efforts to limit Federal regulation and governmental involvement, I find it curious that the administration would press forward with an agricultural marketing order for pecans. The order would be a burden for small producers and shellers resulting in a price increase to consumers.

Mr. President, I ask that a cogent article by Mr. Edward H. Sims of the Editor's Copy Syndicate (Vol. 56, No. 32) be printed in the Record at the close of my remarks. Mr. Sims does an excellent job of presenting the case against the proposed pecan marketing order and I commend it to the Senate.

The article follows:

Block and Pecans

Most Americans may not know it but until recently pecans grew only in the U.S. southeast and southwest. They are a uniquely-American nut and only in recent years have the Israelis and others begun to grow pecans.

The best thing about the American pecan is that it's so tasty that every year for many years all nuts have been sold at high prices—without regulation, controls or supports from the federal government.

The pecan crop and industry, then, has been a model of the American free enterprise system. Growers could easily sell their nuts, at good prices; shellers could and did sell their shelled product at good prices.

This is exactly the kind of marketing system that best exemplifies the philosophy of Ronald Reagan and his administration. No controls, no regulation from Washington. Success and sellouts every year. (By contract, almonds and walnuts are subject to federal regulation; the government has storage warehouses full of both.)

Ironically, there is now an effort being made—by the Reagan Administration—to begin federal regulation of the pecan industry. Certain large growers, and others, believe they can make more money if the industry is regulated by a joint board in Washington. The consumer will, of course, pay if they make more money with higher prices.

A not very ingenious idea among growers is to tax shellers; in other words, to make them pay for the regulation progran—which shellers don't want, naturally enough, to do.

When news of this regulatory attempt reached certain members of Congress they protested vigorously. But for some reason the move within the Department of Agriculture was so committed even warnings and protests from one or two top White House advisors, and key senators, went unheeded. Secretary of Agriculture John Block avoided telephone calls from protesting senators and congressmen until he had announced the effort would be continued with several department hearings.

Interestingly, the department had just finished asking for views from the industry; opposition to the idea of regulating the pecan industry ran over four to one against the new tax and control effort.

What, then, is behind this unReagan-like effort to increase the regulatory power of the federal government where not needed or justified? Who seeks control of the industry, a new tax and, almost certainly, higher prices to the consumer?●

FISCAL YEAR 1982 DEFICIT AND OUTLAYS

● Mr. HOLLINGS. Mr. President, the Wednesday, August 4, edition of the Wall Street Journal carried an editorial entitled "Stealth in the Night." In it, the paper claimed the the Congressional Budget Office's estimate of the fiscal year 1982 deficit is about $140 billion and that fiscal year 1982 outlays are expected to run about $30 billion over the OMB estimate of $731 billion. Both these statements are false.

The Director of CBO, Dr. Alice Rivlin, testified before the Budget Committee on July 27. In her testimony, she stated that the fiscal year 1982 deficit would be in the range of $109 to $114 billion and that outlays were projected to be approximately $734 billion.

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Mr. President, I ask that a copy of a letter from Dr. Rivlin to the editor of the Wall Street Journal which points out the error be printed in the Record.

The letter follows:

Congressional Budget Office,
Washington, D.C., August 5, 1982.

Mr. Robert Bartley,
Editor, the Wall Street Journal,
Washington, D.C.

Dear Mr. Bartley: In your editorial "Stealth in the Night" of August 4, 1982, you erroneously reported that the Congressional Budget Office would soon release a revised estimate of the fiscal year 1982 deficit at around $140 billion. You indicated that this estimate would be based on a $30 billion increase in expenditures above the $731 billion estimated by the Office of Management and Budget in its mid-session review. These numbers are totally inaccurate.

In fact, I already released CBO's updated estimates for 1982 in testimony before the Senate Budget Committee on July 27, 1982. This testimony was summarized in your own newspaper (page 3 of your July 28th edition). I stated that outlays for 1982 would be approximately $734 billion, very close to the $731 billion estimated by OMB. I estimated 1982 revenues at between $620 and $625 billion, leaving a total 1982 deficit of between $109 and $114 billion—again, this is similar to the OMB estimate of $109 billion.

The CBO has no intention of issuing a reestimate of the Fiscal Year 1982 deficit next week. Moreover, since Fiscal Year 1982 is nearly over, it would not be possible for the estimates to change by the amounts indicated in your editorial.

Sincerely,

Alice M. Rivlin,
Director.●

JUDGE GREENE'S OPINION ON THE SETTLEMENT OF THE UNITED STATES AGAINST A.T. & T. ANTITRUST SUIT

● Mr. HOLLINGS. Mr. President, yesterday Judge Greene issued a truly historical opinion on the settlement presented by the Department of Justice and A.T. & T. to resolve the current antitrust litigation. In this opinion, Judge Greene states that the Government had presented sufficient evidence of antitrust violations by A.T. & T. in numerous areas of the telecommunications business. Further, the judge found that the heart of the proposed settlement—the divestiture of the local operations of A.T. & T.—was in the public interest. This finding coincides directly with this Senator's consistently held view that only through such divestiture could we have a genuinely competitive telecommunications industry.

Judge Greene also found that the settlement proposed by the parties had certain deficiencies and ordered a series of important modifications that I believe are in the public interest and that must be agreed to if the settlement is to be accepted. First, the judge helped insure the financial viability of the local telephone operations by allowing these companies to market terminal equipment, to keep publishing the "Yellow Pages," and to enter new fields upon a showing that such entry would not impede competition. He also made sure these local companies would have a favorable debt/equity ratio. Second, the judge found that because of first amendment concerns, A.T. & T. should be prevented from becoming an "electronic publisher" over its own transmission facilities for at least 7 years.

Finally, the judge will continue close oversight of the implementation of the settlement. All of these modifications are certainly beneficial to the health of our national telecommunications and information system.

I am particularly glad to see that Judge Greene will maintain his tight control over this case. The A.T. & T. antitrust case is of tremendous historical import. It has required great skill, persistence, judgment, and professionalism by all involved. But the person who has truly risen not only to but above the task has been Judge Greene. Yesterday's masterful opinion by the judge again shows how fortunate we all are to have him on the bench and to have him in charge of this case. The public has greatly benefited from his impressive work, and I congratulate him.●

S. 2828—OLDER AMERICANS HOUSING DEMONSTRATION ACT OF 1982

● Mr. DODD. Mr. President, yesterday I introduced S. 2828, the Older Americans Housing Demonstration Act of 1982, and explained why we desperately need such legislation. I ask that the text of this bill be printed in the Record.

The text follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans' Housing Demonstration Act of 1982".

STATEMENT OF FINDINGS AND PURPOSE

Sec. 2. (a) The Congress finds that—

(1) older Americans face unique housing problems created by their often lower, fixed incomes and today's tight housing market;

(2) many older Americans live in dwellings which have more space than they need, want, or can afford, and some wish to sell their large homes and move to smaller, more manageable units, but cannot;

(3) other older Americans wish to remain living in their homes but find themselves "house rich" and "cash poor" and cannot unlock their home equity to help pay ever-spiralling utility, tax, repair, and maintenance bills;

(4) housing assistance programs now available do not address the special needs of these older Americans; and

(5) programs should be designed and implemented so that those senior citizens who wish to remain in their homes can convert home equity into income through such means as deferring property taxes, and those senior citizens who wish to sell their homes can buy or rent smaller units thereby making the large homes vacated available for younger, lower income families.

(b) It is the purpose of this Act to provide for a demonstration and evaluation of programs to meet the housing needs of older homeowners.

AUTHORIZATION OF DEMONSTRATION PROGRAM

Sec. 3. (a) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1982, a program for the development, demonstration, and evaluation of improved methods, concepts, and techniques which will assist older homeowners who (1) wish to sell their homes but are unable to purchase or rent a smaller unit without assistance, or (2) wish to stay in their homes but are unable to pay the utility, tax, repair, and maintenance costs.

(b) In selecting groups of homeowners and projects to receive assistance under this Act, the Secretary shall assure that a broad spectrum of senior citizens, localities, and project types is represented.

SCOPE OF DEMONSTRATION

Sec. 4. (a) The housing assistance methods, concepts, and techniques to be demonstrated under this Act shall include—

(1) in the case of older homeowners who wish to sell their houses, a demonstration of the advisability of (A) giving such homeowners priority under existing programs, and (B) revising regulations such as the asset test which may prevent such a priority from being given;

(2) a demonstration of the feasibility of implementing procedures to assure the availability of large homes which are vacated by older homeowners to nonelderly, lower income families receiving assistance under section 8 of the United States Housing Act of 1937; and

(3) a study and demonstration of ways for older homeowners who do not wish to relinquish residency to convert their home equity into income.

(b) In carrying out the provisions of this Act, the Secretary shall coordinate and jointly target resources with appropriate other agencies such as the Administration on Aging of the Department of Health and Human Services.

REPORTING REQUIREMENT

Sec. 5. (a) Not later than December 31, 1982, the Secretary shall transmit to the Congress proposed regulations to carry out the demonstration program authorized by this Act. The Secretary may not enter into any contracts or other obligations pursuant to this Act prior to the expiration of 30 days following the transmittal of the report required by this subsection.

(b) Not later than December 31, 1983, the Secretary shall transmit to the Congress a final report on the activities undertaken pursuant to this Act.

AUTHORIZATION

Sec. 6. Of the additional authority to enter into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 for the fiscal year beginning on October 1, 1982, the Secretary may utilize up to $10 million, to the extent approved in an appropriation Act, in that fiscal year to carry out the older Americans housing demonstration program authorized by this Act.●

THE HIGH COST OF DEFENDING AMERICA: IS THE PRICE OUT OF LINE?

● **Mr. GOLDWATER.** Mr. President, inflation has been the overriding problem of our economy and it has been reflected not only in the increased costs of weaponry for our military, but also in the increased costs of just plain day-to-day living. For example, we can look at an aircraft like the F-15 Eagle fighter and we see that in a matter of 6 years it has increased 137 percent in price.

Now, if we look at our new Senate Office Building, we will see that it has gone up well over 200 percent. Likewise, the Rayburn House Office Building, finished some time ago, had a cost increase greater than that being experienced by our weapons system. A commercial aircraft, the Boeing 747, has increased 137 percent in the same time. The jeep, with which all of us are acquainted, has increased 69 percent.

Yet, at the same time, a man's two-piece suit has gone up 121 percent, a sirloin steak 152 percent, bread 187 percent, a four-bedroom house 200 percent; so as we level our guns in this period of excitement when we are debating an unheard of tax increase, a period in which we continue to be afraid of tackling the items in the budget that can really be effectively cut, let us not aim all of our shots at the armed services and our weapons, because their increases do not begin to compare with just the plain ordinary costs of daily living. I ask to have printed in the RECORD a very effective article on this by Deborah Meyer, appearing in the Armed Forces Journal of August 1982.

The article follows:

[From the Armed Forces Journal, August 1982]

THE HIGH COST OF DEFENDING AMERICA: IS THE PRICE OUT OF LINE?

(By Deborah G. Meyer)

Cost overruns are not simply a 20th century curse. Governments have been plagued by them for as long as governments and government projects have existed. It's an easily explained phenomenon, but not easily corrected. Poor estimating procedures; unrealistic inflation rates; stretched out procurement schedules; labor disputes; technical problems; budget perturbations; and elaboration of original requirements are but a few of the many factors that can wreak havoc on the best price estimates offered by the most well-intentioned bureaucrats.

INFLATION: HARD TO DESCRIBE, EASY TO RECOGNIZE

There is no way to deny the fact that the cost of weapons systems has increased dramatically over the past five, 10, 15, years; a $2,200 ¼-ton jeep in 1967 now costs well over $12,000. A look at other standard weapons in the table on page 42 will show that costs of other basic military essentials have also risen substantially.

But skyrocketing prices have affected every facet of American life over the past decade, not just weapons systems. You don't get change back from your dollar at McDonald's anymore. Most couples can't afford to buy a home while they're still young, and little Johnny down the street is going to have to save every penny of his dollar-a-week allowance for a couple of years before he can afford to buy his first bicycle.

Rapid rises in energy costs, food prices, new home and car prices, and exorbitant mortgage interest rates have had basically the same effect on consumer prices that other factors have had on defense items. A comparison of the Consumer Price Index (see accompanying table) for new homes, new cars, and other relevant consumer items shows that the same general cost growth trend existed over the past decade in both the civilian and military sectors.

Prices and increases shown in tables and graphs throughout this article to illustrate similarities in consumer and military cost growth are not, of course, directly comparable. Many of the variables that affect cost growth in a weapons system (learning curves, technological improvements, production rates, etc.) would not affect, say, the cost of a loaf of bread. It is not the intention of this article to purify the data for those kinds of differences. It should be noted, however, that a number of factors can also perturb consumer prices, i.e., a poor grain crop may send the price of that loaf of bread through the ceiling, while other food stuffs remain fairly stable.

The great nemesis of all cost estimates, inflation, probably more than any other factor over the past decade and half, is responsible for the great variations in price from original cost estimates. As one analyst points out to AFJ. "I wonder how well General Motors would do if they were asked to predict what a Cadillac would cost in 1992?" According to an April 13, 1982, GAO study—"Defense Budget Increases: How Well Are They Planned and Spent?"—the defense budget grew by $72 million in current dollars from 1980 to 1982 ($41.4 billion in FY82 dollars) and of that amount, $30.6 billion—or nearly 43 percent—was directly attributable to inflation.

DoD's inflation figures are much higher than the national average during the same time period, and part of that is due to the types of materials (strategic metals, for example) that are needed to build many of the weapons systems.

A comparison of similar types of hardware sold commercially over the past five years, compared with some of the weapons programs identified by the Services in accordance with the Nunn Amendment requirements (cost growth of over 15 percent), illustrates that even in the highly competitive commercial market, prices have still risen significantly.

COMPARING THE COST GROWTH OF MILITARY VERSUS COMMERCIAL HARDWARE

[Dollars in millions]

	1977	1982	Percent change
Weapons systems:			
F-14 Tomcat fighter	$18.9	35.7	89
F-15 Eagle fighter	12.9	30.6	137
A-10 Thunderbolt	5.8	11.5	98
SSN-688 submarine	319.6	671.5	110
Trident missile	20.2	12.5	−38
Commercial items:			
Boeing 747	35	83	137
Ship (containership)	75	110	47
Jeep (commercial)	[1] 4,599	[1] 7,765	69
Calculators (printing)	[1] 129	[1] 45	−65
Lawnmowers (riding)	[1] 775	[1] 1,100	42

[1] Dollars.

Source: Military data from Merrill Lynch "Aerospace Defense 1982 Review." All other data obtained from private commercial sources.

DOD: CLOSELY WATCHED BY BIG BROTHER, BUT WHAT ABOUT EVERYONE ELSE?

When an Administration deems it necessary to make drastic cuts in social programs, the clamor of the perennial guns vs. butter debate is expected to get louder; when that Administration couples those cuts with increased defense spending the hue and cry is deafening.

As a result, the Department of Defense is now more closely scrutinized, in terms of how it spends this country's money, than any other Federal agency or department. Congress, while still a staunch supporter of a strong defense, feels a tremendous responsibility to the American public to ensure that what money does go into DoD's coffers is wisely spent.

That is not to say, of course, that DoD had a blank check from Administrations past and the blessings of Congress for whatever it wanted. In 1969, the Selected Acquisition Reporting (SAR) system was established, requiring the armed Services to provide quarterly updates on the progress of certain selected defense programs, including data on cost and performance. The SAR system became a legal requirement in 1976 under the DoD Authorization Act.

More recently, in an amendment to the FY82 Defense Authorization Bill. Sen. Sam Nunn (D-GA), in what has been hailed as one of the most important pieces of legislation in some time, introduced a requirement for the individual Services to report in addition to the SARs on any program under their purview that has increased in cost more than 15 percent in a given time period. When a particular system does exceed those cost levels, no additional funds may be obligated until the Service can justify the increase.

Although DoD and now NASA are required to report periodically to Congress on the status of selected major acquisitions, there is no standardized reporting system for any of the other Federal agencies or departments. Many show significantly higher cost overruns in their budget then does DoD, according to an April GAO report to Congress on the "Status of Major Acquisitions as of September 30, 1981: Better Reporting Essential to Cost Growth." Its data showed that 18% of the Federal government's 22 departments or agencies showed cost overruns greater than DoD's, in spite of the fact that most had fewer programs underway, and for the most part of much shorter duration. A comparison of randomly selected civilian programs which are fairly comparable in terms of length, shows that DoD actually fares better than average in terms of annual cost growth on a percentage basis.

Legislation has been proposed recently by Rep. Toby A. Roth (R-WI) to put the same onus of responsibility on all Federal agencies to report on selected programs in the same manner as DoD and NASA. Jack Borsting, Assistant Secretary of Defense Comptroller, has represented DoD at those hearings and, along with the GAO, supports the need for such a system.

A common example of how difficult it may be for the government to estimate the cost of any long-term project is the cost of government buildings. The Rayburn House Office Building for example, was originally budgeted for $81-million; it ultimately cost taxpayers $125-million. The Philip A. Hart Building, now one year old, increased in cost

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from $47.9-million to $137.7-million. Other examples are the Library of Congress' James Madison Building (from $75.0-million to $130.7-million) and the House of Representatives' Annex #2 (from $15.0-million to $25.5-million).

COST GROWTH COMPARISONS: MILITARY VERSUS NON-MILITARY GOVERNMENT PROGRAMS [1]

[As of Sept. 30, 1981]

Program (year baseline estimate was made)	Agency/Department	Placement change from baseline estimate	Percent annual change (average)
Next generation radar (1981)	Commerce	104	104
Gas demonstration plant (1979).	Energy	72	36
Irrigation project (CO) (1967).	Interior	404	35
Distribution of terminals (social security) (1979).	Health and Human Services	88	44
Frangible approach light towers (1975).	Federal Aviation Administration.	256	43
Space transportation systems (1972).	NASA	92	10
Sequoyah nuclear plant (1969).	Tennessee Valley Authority	514	43
Washington rapid transit (1969).	Washington Metro Transit Authority.	225	19
Average		231	42
F-15 fighter aircraft (1970).	Defense	100	11
Pershing II missile (1978) [2].	Defense	14	5
M-1 tank (1976)	Defense	293	50
MLRS rocket system (1979)	Defense	15	8
AHIP (scout helicopter) (1980).	Defense	51	51
AV-8B Harrier (1979)	Defense	0	0
F-18 Hornet (1975)	Defense	220	37
Average		100	24

[1] Cost changes for military items are not based on cost estimates provided in original justifications for authorization appropriations from Congress, GAO says, but from estimates developed after the major portion of RDT & E had been accomplished.

[2] Editor's Note: Pershing II costs have increased 57 percent since GAO did this study.

Source: General Accounting Office's Report to the Congress, April 22, 1982, "Status of Major Acquisitions as of Sept. 30, 1981: Better Reporting Essential to Controlling Cost Growth."

HOW FEDERAL AGENCIES COMPARE IN ESTIMATING COSTS

[Projects with cost growth of more than 50 percent from baseline estimates]

Department or agency	Number of projects	Average cost growth in percent
Architect of Capitol	2	60
Appalachian Regional Commission	1	1,014
Corps of Engineers	130	51
Department of Commerce	8	53
Department of Defense	147	82
Department of the Interior	33	152
NASA	14	54
Tennessee Valley Authority	10	264
Veterans Administration	12	74
Washington Metropolitan Area Transit Authority	2	220
Total	359	203

Source: General Accounting Office's Report to the Congress, Apr. 22, 1982, "Status of Major Acquisitions as of Sept. 30, 1981: Better Reporting Essential to Controlling Cost Growth."

ECONOMIC TROUBLES OVERSEAS

The U.S. of course, isn't the only place suffering from high prices. Continued inflation, low economic growth, and still rising unemployment have plagued Europe in much the same way, with similar effects on European prices. As a result, European weapons systems are no bargain. The British Ministry of Defense will not release figures on the unit cost of individual weapons systems to the press, and the French Embassy was unwilling to supply AFJ with those figures either. However, we were able to obtain some comparable per unit figures on German systems. Comparing the costs of the German Leopard I and II with the US M-60 and M-1 tanks, US tanks may be a relative bargain. The Torando aircraft, roughly similar to an F-5E but configured with a swing wing, is also more expensive.

HOW WEAPONS COST HAVE INCREASED OVERSEAS: [1]

[Costs per unit, in millions of dollars]

System	Cost at IOC	Cost today	Percent change
Leopard I (German)	$0.6	$1.3	116
Leopard II (German)	1.6	2.0	25
Torpedo (multi-national)	27.5	36.7	33

[1] Figures are approximate. Due to fluctuations in currency, inflation factors, pricing structure, etc., precise figures are not obtainable. Rate of exchange based on 2.45 deutsch marks. (Information obtained from German Liaison Office.)

VICTIM OF "HONEST" INFLATION FACTORS?

The Reagan Administration and the Pentagon fully realize that in a nation beset by economic woes, huge cost overruns in even the most important government programs are not acceptable. As a result, they are making every effort to ensure that poor management and unrealistic projections on the basis of low inflation rates are not the cause of increased costs in DOD. Much ado was made in February of the Administration's "honest" inflation factors (Mar AFJ) and how those factors will make per unit cost for weapons over the next several years seem much higher. Whether or not these more realistic numbers will make a difference in future weapons systems costs remains to be seen.

HOW INFLATION AFFECTS OUR LIVES: REMEMBER 1967?

Item	1967	1982	Percent change
Brooks Brothers 2-piece suit	$145	$320	121
Sirloin steak	1.14	2.87	152
Pepperidge Farm bread	.31	.89	187
4-bedroom house	39,000	120,000	208
Olds station wagon	4,807	11,949	149
Rolex men's watch	800	7,950	894
Machinegun	500	2,400	380
M-60 tank	198,000	1,200,000	506
¼-ton jeep	2,218	12,549	466

Source: Consumer prices from Forbes, Apr. 26, 1982. Military prices supplied by DOD.●

● Mr. SARBANES. Mr. President, this year marks the 60th anniversary of the founding of the American Hellenic Educational & Progressive Association (AHEPA), an outstanding organization which for most of this century has provided a multitude of services to Greek Americans and has made many contributions to that great mosaic which is American pluralism.

Since 1922, when this organization was founded in Atlanta, Ga., its membership has grown to such an extent there are now AHEPA chapters throughout our Nation. AHEPA's membership continues to grow and includes a host of prominent Greek Americans and others, including many Members of the Congress of the United States.

The order of AHEPA, as its name indicates, was founded to assist Greek immigrants in adjusting to their new home and Nation. It has not, however, been limited to this effort. The notable achievements of AHEPA and its members over the past 60 years are ones in which we can all truly take pride. AHEPA has provided relief for victims of natural disasters both in this country and in Greece; built a dormitory for the residents of St. Basil's Academy in Garrison, N.Y.; promoted research and screening for Cooley's anemia; established an outstanding scholarship program which allows many young people to continue their education. In addition, AHEPA has undertaken many other projects to benefit Hellenic College and the Holy Cross Orthodox School of Theology, as well as the Greek Orthodox Church in this country as a whole.

Among AHEPA's main functions is the promotion of good citizenship, loyalty to this great Nation, and close and cordial relations between Greek Americans and Greece. AHEPA'ns have a special pride in both their country of origin, Greece, and their country of choice, the United States. Unquestionably AHEPA carries forward the enduring Greek principle of responsible participation in government and society.

The AHEPA family, which includes the auxiliary organizations of the Daughters of Penelope, Maids of Athena, and Sons of Pericles, has helped its members, their families, and friends to develop a keen sense of civic responsibility and patriotism, a love of family and church, and a devotion to democratic practices and ideals, all reflected in their concern for their fellow men and women and a dedication to a just society. AHEPA has expressed the finest precepts of Hellenism, formulated by the brilliant philosophers and lawgivers of ancient Greece, and vibrant today in the democratic ideals and institutions of the United States.

The AHEPA has succeeded in combining the best traditions of both the United States and Greece whose histories have been marked by a dedication to human justice and freedom. I know that my colleagues join me in wishing the Order of AHEPA continued success and good fortune in their efforts to carry on the finest traditions of both the Greek and American peoples.●

THE MOREHOUSE SCHOOL OF MEDICINE

● Mr. MATTINGLY. Mr. President, I rise today to pay tribute to an institution in my State of Georgia and our capital city of Atlanta—Morehouse School of Medicine. Morehouse is the first predominantly black medical institution to be established in the United States in this century and one of only three in the Nation.

This school, which was established in 1975 with the mission of training family-care physicians to serve inner city and rural areas of the country, observed a significant milestone on July 21 with the dedication of its $6.5 million Basic Medical Sciences Building. This is the school's first permanent facility and was built with Federal and private funds.

The keynote speaker at the dedication ceremonies in Atlanta was the distinguished Vice President of the United States, the Honorable George Bush.

My colleague, Senator Nunn, and I, being members of the Board of Trustees of Morehouse School of Medicine, had planned to be in Atlanta for the dedication. We were prevented from doing so at the last minute because of the Senate consideration of the tax bill on that date. I was particularly disappointed because I had been accorded the high honor of introducing the Vice President.

Mr. President, I take this opportunity to commend and congratulate those individuals and organizations who have worked tirelessly to bring this new medical school into being. I ask to have printed in the Record at this point the prepared remarks of the Vice President.

The material referred to follows:

Remarks of Vice President George Bush

Thank you very much ladies and gentlemen. I am very pleased to be here today with many outstanding educators—wonderful men and women who have dedicated themselves to helping people from all walks of life, people of all colors and political persuasion and especially our nation's poor.

I feel most comfortable and at home here. Certainly, I don't feel like William Allen White did in 1928. White was attending a Democratic convention as a reporter. Senator James Reed was scheduled to open the proceedings. As he stood at the rostrum, Reed looked around and found there were no ministers present to open the proceedings with a prayer, but he did notice White, a Republican, seated in the press gallery. So he said, "Gentlemen, since there are no ministers present, I shall call on my good friend, William Allen White, to open the convention with prayer."

White, boiling mad, strode to the podium and said, "Ladies and gentlemen, you will have to excuse me. You see, I am a little out of my element, and the fact is, I prefer the Lord does not know that I am here."

Well, ladies and gentlemen, I feel very much in my element here, and I am very glad that the Lord does know I am here.

I not only want the Lord to know, but the American people to know how important it is that we have gathered to dedicate the New Basic Medical Science Building of Morehouse School of Medicine. It is difficult for me to express my admiration and appreciation to you who have devoted your lives to the advancement of medicine in order that all men and women may lead healthier, longer and more productive lives.

Morehouse School of Medicine is the first and only predominantly black medical school to be established in the United States in the 20th Century. This is not a particularly impressive record for our country, in fact it is a tragic record, considering the burdens of our needy in today's society. But no one can deny that the faculty and students of Morehouse are deserving of our praise and warrant our continued support for what they have done to advance the health care of our most needy citizens.

I read in your brochure that the mission of the Morehouse School of Medicine is "to train more minority students as primary care physicians by preparing them to appreciate the health needs of underserved populations and to understand the role of primary care physicians in meeting those needs." It is a simple declaration of purpose. It is also one that, in its subtlety, underscores all you have done and all strive to do.

Today as we consider the problems of the present and the burdens of the future, it is glaringly apparent that additional schools of medicine, such as this great institution, are needed throughout the United States.

In 1985, Morehouse School of Medicine will award its first, four year, medical degree. In order to assist in this endeavor, President Reagan, last September 15th, reenforced his belief that Morehouse and other historically black colleges and universities must be treated uniquely.

In an Exective Order, the President mandated that the Secretary of Education supervise the development of a Federal program designed to achieve a significant increase in the participation by historically black colleges and universities in federally sponsored programs. "This program seeks to identify, reduce, and eliminate barriers which may have unfairly resulted in reduced participation, and reduced benefits from, federally sponsored programs." The President added that: "This program will also seek to involve private sector institutions in strengthening historically black colleges." On a personal note, it is a source of pride that I have been asked by the President to actively participate in the development of black colleges and universities—an endeavor in which I am deeply involved and deeply committed.

It is in this spirit that Morehouse School of Medicine will receive $2.6 million from the Department of Education.

The President has also taken action to save Meharry Medical College in Nashville, Tennessee from closing. We are absolutely determined that this prestigious institution, founded more than 100 years ago, which has educated more than 40 percent of all black physicians in the United States, will survive and maintain its stature as one of the great schools of medicine in this country.

We in the Administration strongly share your opinion that our black colleges and universities are a national treasure. We are determined not only to see them survive, but to see them grow and to see them prosper. We hope you join with us in making schools such as Morehouse, Howard, Tuskegee and others shining examples not only for generations to come, but as inspirations to men and women of our generation—those who are dedicated to seeking excellence for our society.

I am hopeful that we together will also inspire state and local governments along with the private sector, to involve themselves more actively in the affairs of this and other great black institutions and in the goals that we seek.

All of us have a responsibility to carry out what de Tocqueville saw as the uniqueness of the American people—and that is the propensity of one American helping another. We are, in a vitally important way, doing precisely that through institutions such as Morehouse School of Medicine.

To the students of this and other institutions, we must, as Mary McLeod Bethune wrote, leave, "a responsibility to our young people." It was in her Last Will and Testament in which she said, "The world around us really belongs to youth for youth will take over its future management. Our brethren must never lose their seal for building a better world. They must not be discouraged from aspiring toward greatness, for they are to be the leaders of tomorrow. Nor must they forget that the masses of our people are still underprivileged, ill-housed, impoverished and victimised by discrimination. We have a powerful potential in our youth and we must have the courage to change old ideas and practices so that we may direct the power toward good ends."

Those beautiful words do not mask, but underscore the difficult challenge that Mary McLeod Bethune left to us. But we must pursue this challenge in our daily lives if we are to make America the land of liberty, justice, equality and opportunity for coming generations.

It will be through education that new opportunities for our nation's less fortunate will be provided. It will be through education that justice is furthered and bigotry scorched from the consciousness of people and by which true equality no longer is a dream, but a reality.

The responsibility educators and educational institutions face is enormous. But the achievement of great goals and the pursuit of high ideals are at best difficult. Together we accept these responsibilities, these challenges. And, in the face of all the burdens that make us weary, we must remember the words of Cicero and be inspired and comforted by them: "Courage is that virtue which champions the cause of right."

Congratulations to Dr. Sullivan, the faculty and the students of Morehouse. This is a great day for all of you. It's an honor for me to be part of this ceremony which commences a new era for this great institution.●

SENIOR EMPLOYMENT PROGRAM FUNDING

● Mr. **BAUCUS**. Mr. President, I am very pleased that both the Senate and the House of Representatives have included $210.6 million for the senior community services employment program (SCSEP) in the supplemental appropriations bill, H.R. 6863. This funding will allow the program to continue operation beyond September 30.

The Senate has repeatedly affirmed its support for this successful program, most recently by passing Senate Resolution 340. This resolution, introduced by the distinguished Democratic leader, expresses the sense of the Senate that no action should be taken to terminate or otherwise weaken this program, which is authorized under title V of the Older Americans Act.

Title V programs have proven to be productive and cost-effective all over the country. Older Americans have found useful and satisfying jobs that have helped keep them active, involved, and self-supporting.

Mr. President, I fail to understand why President Reagan has proposed to eliminate this program. Thousands of hardworking older Americans are able to share their experience and skills with others in their communities through title V programs. If SCSEP were terminated, these low-income senior citizens would be forced to rely instead on increased public assistance, such as food stamps and welfare.

While I believe that we must reduce Federal spending to get the budget deficit down to acceptable levels, I think it is shortsighted to pick the best, most cost-effective programs to make spending cuts.

Mr. President, I continue to be impressed by the achievements of the Green Thumb program in Montana, which operates under SCSEP. I would like to share with my colleagues some reports and profiles from that program, and I ask that they be printed in the Record.

The material follows:

Worker Profile

Richard "Dick" Klang is a worker who was selected to go to work as a bus driver for the Shelby Senior Center. During the course of his Green Thumb physical, the doctor discovered that he had an aneurism and would not okay him to go to work. Area Supervisor, Dale Munyon, talked to the doctor to see if Dick would ever be able to go to work; the doctor would not give details but did say that in his experience, complete recovery for someone Dick's age was somewhat unusual, but he didn't rule it out completely.

After the diagnosis of the aneurism, Dick spent about a month in a Great Falls hospital and was then transferred to Spokane for surgery. In about another month, he was released from the Spokane hospital and returned to the Shelby area to continue his recuperation. This is an instance where the physical required by Green Thumb probably saved this man's life as he had no idea he was in any danger.

The bus driving job was still open as the Center Director thought all along that Dick would recover and that he would be able to work for them. As it turned out, she was correct and he is driving for the Center. After Dick was released by his doctor to return to work, he started slowly and is now up to completing a day's work, regardless of the number of hours that might be required. Some of his assignments consist of driving to Great Falls and he handles the trip well.

When this project was first discussed with Center Director, Elsie Robbins, it was agreed that she would place Dick on their payroll after a 90 day period (which will be up shortly). This is one of our better Centers as far as hiring Green Thumb workers is concerned as they have hired one worker as a cook and were instrumental in the hiring of another Green Thumb worker for the Senior Center in Kevin, Montana.

Dick is a very active, young-looking 77 and is well thought of by the people he works for and with. He praises Green Thumb for the opportunity to get back into the flow of life. He had the idea that he was of little use to anyone until his involvement with Green Thumb showed him that he was still important to his community.

Project Profile

When the Department of Natural Resources and Conservation (DNRC) Forestry Division, at Missoula, Montana asked for Green Thumb help, we had no idea of the many projects the workers would be involved in. The Forestry Division has a field approximately 10 acres in size of Ponderosa pine seedlings. Green Thumb workers fertilize, hoe, weed and prepare seedlings for transplanting throughout Montana. They also cull and tie bundles of willow and cottonwood seedlings for transplantation to the countryside as windbreaks. The DNRC buys Fir, Spruce, Tamarack, Ponderosa, and Lodgepole cones; the workers then thresh, sort, and weigh the seeds and start new trees.

Buildings and nurseries on the ground needed repair for office and storage space. The workers have painted, paneled, repaired ceilings, roofs, and floors, hung doors, insulated, and installed storm windows. Elsewhere on the grounds, the workers have repaired fence, rototilled pathways, and built a bridge over a drain ditch.

One of the most important "crews" in the State of Montana are the Smokejumpers and the Missoula Fire Coordination Center is known throughout the Northwest for its excellence. Green Thumb workers painted the Smokejumpers' dormitories and caulked windows. They have repaired fire fighting equipment and built new storage compartments.

Regina Munroe, 61, is a seamstress performing valuable support work for the Fire Coordination Center. She repairs sleeping bags, patches tents, and sews canvas covers for axes, shovels, and canteens. Periodically, she makes huge canvas "cardholders" that are designed to show when a fire fighter goes out and returns from a fire. The card holder is hung on a tree at the campsite.

Other Green Thumb workers involved in the projects are Charles Hackman, 62, John Lizotte, 61, George Kulju, 67, and Jack Sharman, 65.

The supervisors of these projects have nothing but praise for all of the Green Thumb workers.

Worker Profile

In the autumn of 1903 a baby girl was born to the Lester family near Poplar, Montana on the Fort Peck Indian Reservation. They named the tiny papoose, Sarah. She grew up in the country. Her father provided for his family by raising vegetables, poultry, horses and from an occasional job cutting hay. The rest of the time he spent trying to collect wood for the winter. Fortunately, Sarah was able to enter school at age 10. She attended the Presbyterian Mission school in Wolf Point from 1913 to 1921.

In 1922, Sarah married Theodore Taylor Crowe. Her husband worked for farmers in the spring and fall. They had eight children, 7 boys and 1 daughter. Since then four of her children have died but she has gained 13 grandchildren and 14 great-grandchildren.

From 1938 to 1940, Sarah worked for the WPA in a sewing room. She made Khaki pants and shirts and baby blankets. In July of 1946, Theodore died from a liver ailment. She was left to raise 5 children alone. Sarah went to work wherever she could find it. She picked up maid work, washed dishes, and did work as a kitchen helper.

As Sarah neared retirement age, she applied for Social Security but was told she couldn't draw it because she didn't have enough steady work to build up her account. She received Supplemental Security Income until she went to work for Green Thumb. Sarah has worked for Green Thumb since 1979. She will finally have enough paid into Social Security by 1983 to qualify for her own benefits. Her only other income is a $75 monthly Veterans benefit she receives because one son was killed in Korea.

Sarah has worked for the past three years teaching others Indian handicrafts. She now works in the Tribal Cultural Center at Poplar where she will represent Sioux history through artifacts made and displayed at the center.

Project Profile

The rural community of Geyser, Montana is located just off Highway 200, halfway between Great Falls and Lewistown. Older folks in Geyser and from the nearby community of Raynesford gather weekly at the school for a pot-luck style dinner and business meeting. It was at such a gathering on April 19, 1982 that Toni Austad and Dale Munyon met with the group to show the Green Thumb film and talk about the program.

While there, Dale and Toni learned that the Seniors were building a center in Geyser; that materials were available but there were no funds to hire anyone to do the work that would complete the center. Within a few weeks, Dale had completed a project intake with center representatives and begun a search for eligible workers. Unfortunately, he ran into considerable difficulty as the people he interviewed from the area were all above Green Thumb income guidelines.

The problem was solved by transferring a Great Falls worker to Geyser. Henry Clinton, who had previously requested a transfer, moved his home (a converted school bus) right next to the center. Henry, age 58, will be joined by another Great Falls worker, Robert Braun, age 61, who will share living quarters and expenses.

To date, work on the center has consisted of installing energy-saving windows and doors. Electrical wiring has been strung and pipes for plumbing placed in position—actual hook-ups will be done by local professionals. The balance of work to be completed will be installing insulation, partitions, and trim for doors and windows. The interior will also be sheetrocked, taped, and painted. In addition, a solar panel, donated by a Geyser resident, will be installed.

Members of the center are pleased with the progress made so far. In fact, one resident will be hiring Henry after the project is completed to remodel a bunkhouse.

[From the Circle Banner, Apr. 22, 1982]

Dispatchers Provided by Green Thumb

When a Circle or McCone County citizen is in an emergency situation or otherwise urgently needs assistance, they immediately think of the telephone number, 485-3405, and who answers? Often it is one of two Green Thumb employees Verna Wilhelm or Frank Vejtasa, who are dispatchers at the sheriff's office and relay messages that are called in. Actually they are the liaison between the private citizen and the police, sheriff and the ambulance and are trained to relay messages.

McCone County has been benefitting from these two people, who are provided by Green Thumb, Inc. Sponsored by the National Farmers Union, the program is funded under Title V of the Older Americans Act. They hire people 55 and over, with limited income to work in local communities. Green Thumb employees work about 20 hours a week and do needed services that otherwise would not be affordable by local communities.

Wilhelm has been a dispatcher here for two years and says, "It's a challenge and really interesting." When first taking the job it made her a bit apprehensive. There is a squawking two-way radio, a special line to the hospital, the ambulance and the log book. Every call is written into the log book, recording the message and time for a reference.

"The job is important and there's satisfaction in it, when it's done right," Wilhelm said. She lives in Circle now after farming and ranching near here for many years with her late husband. Now that it's spring she spends more time on the farm to help her son with the calving.

Summing it all up, Vejtasa says, a dispatcher is the central point for emergency calls—any emergency, fire, police, crime calls. "We receive the calls, then contact the proper authorities," Vejtasa remarked. "We have direct contact with other towns in the area too, like Glendive, Wolf Point, Richey and Jordan. Every call is logged.

A Circle native, Vejtasa entered the Army Air Corps after high school. Following that he was in the photographic business for ten years in Salt Lake City. The next 20 years Vejtasa was in the construction business in Denver, building homes.

Retiring now in his home town, he finds the dispatcher's job both interesting and feels he is providing a valuable service.

So Wilhelm and Vejtasa are among 250 Montana Green Thumb workers who demonstrate the assets of hiring older people. Green Thumb has discovered that older workers are more reliable and miss work less time for all reasons than younger people.

Presently, with President Reagan's budget slashes, the Green Thumb rates precariously on the verge of being abolished in September, unless it is reinstated. For this area the contact person for Green Thumb is Byron Erickson. Employers or applicants may contact him at 1105 E. Montana, Livingston, MT 59047 or call 222-7879 for information.●

S. 2784—THE MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT OF 1982

● Mr. QUAYLE. Mr. President, I have been visited of late by a veritable parade of corporate executives whose missions have been to inform me of the possibility or probability of a plant closing in one or another Indiana city. Fort Wayne, Ind., waits anxiously for International Harvester to make a decision on whether or not to maintain its operations in that city. The strain on the city's economic and emotional stability is tremendous.

Oakland, Calif., faces the same dilemma as the courts ponder the Raiders' contemplated move to Los Angeles. Oakland will be left with $1.5 million in unfunded annual indebtedness for their stadium without a professional team. It is interesting to note that the Raiders were the third most profitable league team last year, but the recent California court ruling will eliminate any need for loyalty on the part of the Raiders' owners, or for that matter, any NFL owner, to the city that has made them so successful.

The Major League Sports Community Protection Act of 1982, S. 2784, offers a city a sense of security relative to the investment that it must make in any major league team. S. 2784 clairifies the intent of Congress that the antitrust laws not apply to league decisions disallowing teams from abandoning a profitable location for the purposes of enhanced revenues. It also provides a similar antitrust exemption for any plan for sharing revenues among league teams, so that teams in smaller communities can be assured of economic strength and stability.

Baseball has enjoyed an antitrust exemption since 1922. This bill would provide an element of consistency in congressional policy toward all major league sports. The exemption will serve the interests of the entire league and the participating communities. Equally important is the protection provided the local taxpayers who have a proprietory interest in the success of their local sports facility.

We must approach any antitrust exemption with extreme caution. Antitrust law is a mainstay of our free enterprise system. However, the Supreme Court itself has urged the Congress to address the unique problem presented by sports and antitrust. Current litigation involving the Oakland Raiders has produced a clear conflict between Federal and State law. The Congress can clarify this conflict through passage of this legislation. Hearings have been held on the issue of sports and antitrust on nine different occasions since 1951. It is clear to me that the issue continues to surface, but has yet to be resolved.

There are many cities around the country that are very anxious to have an NFL franchise. A major league sports team provides an economic boost to cities—a happy note in these difficult times. Indianapolis, Ind., is one of those cities that has an eye on an expansion team. I fear that the NFL's thoughts of expansion will be fleeting dreams in the absence of a narrower antitrust definition for league sports. I, and many of my colleagues, want our home States to have the opportunity to compete for expansion teams. Those of you who already have teams want to keep them.

As I watch the industry exodus to the South, I am frightened by the implications for the economic stability of our Nation. I see its impact on individual communities in Indiana every day. My sympathies are with Lionel Wilson, mayor of the city of Oakland, as are the sympathies of at least 27 mayors who have signed a resolution in support of this legislation. I feel the same sense of remorse as I watch the pursuit of individual gain at the expense of so many.

A team that is an asset to a community and a community that is an asset to a team should stick together. This type of cooperative community spirit is the essence of all team sports—and the essence of this legislation. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 2784 and I urge my colleagues to support this important step toward the stabilization and overall enhancement of team sports in the United States.●

JOSEPH MATLUK—OLDEST MEMBER OF UKRAINIAN AMERICAN VETERANS

● Mr. SPECTER. Mr. President, I am pleased to congratulate Joseph Matluk, a resident of Pennsylvania, who will be celebrating his 87th birthday on August 22. This occasion will be used to honor Mr. Matluk as the oldest veteran member of the Ukrainian American Veterans.

Mr. Matluk was born on August 22, 1895, in Western Ukraine and emigrated to the United States at the age of 18. He enlisted in the U.S. Army in 1917 and was assigned to Company B, 306th Sanitary Unit Ambulance Field Hospital in Columbia, S.C. He served until 1918 and received an honorable discharge.

Mr. Matluk is distinguished not only as the oldest member of the UAV, but also as one of the founders of the organization. The Ukrainian American Veterans was founded in Philadelphia in 1948. The group is composed of men and women of Ukrainian descent who have served in the Armed Forces of the United States. Although the UAV was not organized until after World War II, its membership includes veterans from World War I, World War II, the Korean conflict, and the Vietnam era. Mr. Matluk continues to be active in the UAV at Post No. 4 in Philadelphia.

The United States owes a great debt to all our veterans, but it is particularly heartening to learn of immigrants who, having spent only a few short years in this country, willingly enlisted in our Armed Forces when we needed them. My father was one of these people who after arriving from Russia in 1911, fought in World War I as a member of the U.S. Army. I have always been proud of my father's act of patriotism and Mr. Matluk and his family can be justifiably proud of his role in World War I and in the founding of the Ukrainian American Veterans.●

S. 1095: JUST WHAT DOES IT DO?

● Mr. ABDNOR. Mr. President, I believe it has been most unfortunate that Senate floor action on S. 1095 has been stalled for more than a year. Much of this failure, I believe, can be traced to a variety of misunderstand-

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ings over this bill—both its scope and its intent.

This is a sound bill, one that has received wide support. The Southern Governors' Association met earlier this year. During the course of that session, the Southern Governors' Association adopted a resolution supporting the approach that was reported by the Committee on Environment and Public Works in S. 1095.

To help my colleagues understand what S. 1095 does—and does not do—I ask that a copy of the Southern Governors' Association resolution, together with a copy of key portions of the report by the Committee on Environment and Public Works, be printed at the conclusion of my remarks in the Record.

The material that is printed in the Record does not include information on what is in title III of S. 1095. As my colleagues know, the Senate has passed S. 2494. That important legislation, authorizing a water resources research program, extracts language that is essentially identical to title III of S. 1095. S. 2494 does not replace language in title I, II, or IV of S. 1095.

Therefore, whenever S. 1095 is considered by the Senate, I intend to move to delete title III. The remaining portions of S. 1095 should be addressed by the Senate. I would hope the Senate will be able to move forward on this bill befcre this year is over.

The material follows:

Southern Governors' Association—Water Policy in the South

The continued availability of water for all uses is an issue of major concern to the state government leaders of the South; and while some areas of the South are enjoying economic development and population growth in excess of the national average, this growth brings with it far greater demands on finite water supplies.

As major energy facilities and energy production in general require large amounts of water, a severe water shortage could hinder domestic energy production and impede progress toward energy independence. A lack of water in the South has national implications since the Southern States comprise the energy-producing region of the country. If existing energy production capacity is threatened by the current water shortage, the potential for expanded energy production capacity eventually will become non-existent.

Despite substantial investment, use of much of the nation's water remains restricted due to contamination, and water problems have begun to loom as a possible threat to the traditional mobility of American population and economic activity. This has been caused, in part, by the relegation of water programs to the academic and technical realm, which has resulted in inattention at the executive level to the major policy issues raised by water problems. Critical state resource decisions therefore are made at the program management level.

Unless the Administration, Congress, the states, and interest groups unite behind a comprehensive national water resource management strategy, critical decisions on national water supplies and quality more than likely will be made through confrontational politics, with the prospects of long-term solutions dim.

Water policy in the South must be developed in such a way as to recognize the need for some uniformity in the management approach taken by each state. The need to insure adequate supplies of water for each sector, including energy production, must be a cornerstone of regional water policy.

Congress is currently considering legislation for a National Water Resources Research and Planning Act, which would establish a five-member National Board for Water Policy to replace the Water Resources Council. A five-member state advisory board would also be established to issue policy recommendations to the national board. Development of a sound basis for analysis will help to ensure that the Southern Governors are properly represented on the state advisory board, if legislation is enacted, and that water policies equitable to the South are considered. In addition, during 1982, Congress will review and reauthorize the Clean Water Act. The Southern Region should develop and have available sound information to input to this process.

The Southern Governors' Association, through its Lead Governor for Energy and Environment, should develop specific positions on these issues and communicate those positions to the Congress, or other appropriate body, to ensure that the unique needs of the South are considered in the development of national water policy.

General Statement—Background

The Federal Government spends several billion dollars a year for the construction of traditional water resources projects—dams, levees, sewage treatment plants, and harbor channels. Much of this work is undertaken with little participation by the affected states, and without the incentive to utilize scientific advances, which might dramatically improve the effectiveness of the project, or lead to less costly and more efficient alternatives.

This bill seeks to consolidate several existing programs into a less costly, more competitive approach that stresses continued assistance to various state water resources planning and research programs, and improve coordination among Federal agencies.

In recent years, members of Congress, officials of the Administration, and other levels of government, and members of the public have expressed a need for greater attention to our national water resources program. As a focus for an effective national water policy, it was argued that a more independent organization was needed. Existing organizations, for a variety of reasons to be discussed later, proved ineffective.

At the same time, many argued that it was essential to encourage greater state participation in the development and administration of our water resources.

Despite these concerns, the Administration's budget proposes to rescind $5,000,000 in fiscal year 1981 funds for the Water Resources Council (WRC) and $11,800,000 for the Office of Water Research and Technology (OWRT), a branch of the Department of the Interior. The budget then recommended the abolition of both of these offices by not providing any fiscal year 1982 funds. The Water Resources Council is the only interagency group empowered to oversee a coordinated national water policy. The Office of Water Research and Technology, a combination of earlier programs, funds the 54 state water research institutes, as well as other important water research programs.

In place of the WRC, the budget document announced the creation of an Office of Water Policy within the Department of the Interior. As the vast majority of the dollars spent on water resources work is appropriated to departments other than Interior, there is concern that such a change would produce a lack of independence which would be detrimental to water resources. Further, there is concern over the cutoff of funds, especially for the state planning agencies, funded by WRC, and the state water research institutes, funded by OWRT.

While the amounts of money are modest in the overall perspective on the Federal budget, these funds are often critical to the effective operation of these state-oriented organizations.

The Committee voted, in its March 15 recommendation to the Budget Committee, to transfer $40,000,000 from the Corps of Engineers construction general account to finance a reduced level of WRC and OWRT activity in fiscal year 1982.

Subsequently, the Subcommittee on Water Resources scheduled hearings to discuss these issues. Following those hearings, S. 1095 was introduced. The legislation was designed to address three issues: the need for a more independent organization to address issues relating to national water policy, the role of the Federal Government in assisting state and regional planning, and the need for a program of federally-assisted water research. This bill was amended and reported by the Subcommittee on Water Resources on May 8. It was further amended and ordered reported by the Committee on Environment and Public Works on May 13.

PREVIOUS LEGISLATION AND EXISTING PRACTICE

This bill is drafted as a substitute for the Water Resources Planning Act. That Act (Public Law 89-80) established the Water Resources Council (WRC), and charged it with the responsibility to develop standards by which water projects are designed and constructed, and to coordinate Federal water resources policy.

The WRC has never functioned effectively. Its large membership proved unwieldy. As one hearing witness noted, meetings were usually attended by assistants to assistants to assistants. The WRC could not act unless there was unanimity among its members. Finally, under the preceding Administration, the WRC was charged with the responsibility for undertaking independent project review. Whether independent project review was valuable or not, the WRC gradually grew less effective.

The Water Resources Planning Act also provides planning assistance to state water resources agencies (title III), and to river basin commissions (title II). In many States, these funds are a valuable supplement to state resources and are used effectively for planning activities.

This bill also repeals Public Law 95-467, which covered various aspects of the Federal water research program. Public Law 95-467, coordinating earlier Acts of Congress, provided money to the water research institutes, established at each land grant college. In addition, OWRT has provided grants on a competitive basis to individuals and organizations to study specific problems, and to construct demonstration desalination plants.

SPECIFIC PROVISIONS—TITLE I

The bill establishes a National Board for Water Policy. Members of the Board include four Cabinet-level officers, and a chairman appointed by the President, with the advice and consent of the Senate. The bill also creates a State Advisory Committee, to react to issues before the Board and bring additional matters to the attention of the Board. The Chairman of this State Committee will serve as a non-voting participant at all Board meetings.

The Board will have a broad mandate to address the water resources needs of this nation, and to encourage improved coordination among agencies.

The Board's establishment will in no way affect Congressional action this year on major water resources legislation. The Board, however, will be expected to undertake an assessment of the success of such changes in law later this year, as well as analyze future needs for further changes in law to meet more effectively our national goals.

It is important to note that this Board will provide advice not only to the President, but also to the Congress. While the Board is obviously an agency of the Executive Branch, the reporting requirement should enable the Congress and the Executive Branch to work together more effectively than before toward development of a sound water resources program for our nation.

This Title also establishes an Office of Water Programs which will administer the programs described in subsequent titles of this bill. The Office may also advise the Secretary of Interior on policy matters relating to the programs within the Department of the Interior.

TITLE II

With respect to State and regional planning and water resources research, this bill generally continues the existing Federal commitment, although at a reduced funding level, during fiscal year 1982 and fiscal year 1983, while evolving toward a more competitive approach beginning in fiscal year 1984.

In title II, the bill proposes a major change in the State planning assistance program, as it is now operated. Following a two-year transition period, the State water program grants will be come competitive. Not all States will automatically receive such grants. States may submit plans to the new Office of Water Programs for 50-50 financing of the State water program. The Office will examine these, then fund them selectively according to criteria it will develop. The Committee anticipates that probably half the States and river basin commissions will qualify under this competitive approach for Federal support.

The system of competitive State planning grants will not adversely affect the smaller States. In fact, it is intended that the program grants will be evaluated and administered by the new Office of Water Programs in a manner that assures equal access by large and small States, and provides regional equity.

The Office will be expected to reject a State application that simply seeks funding for the salaries of State personnel to continue past programs. Rather, the Federal assistance will be focused on those States developing or implementing a State-wide plan for the management of its waters, and on States that have an integrated quality-quantity approach to water problems. The basis, however, must be an overall program to better address the State's needs.

TITLE IV

The bill continues a Federal relationship with the river basin commissions, but in a manner that should make them more effective. Rather than perpetuate the present law that separately funds the River Basin Commissions, this bill places these commissions, together with the States, under one funding umbrella. Thus, the Office of Water Programs should be able to better assess the program needs for a state and its region.

The reasons the basin commission concept failed in the past, are numerous. The reasons are all grounded in the law, not the theory. The chairman was a Federal agent, and the commissions were often treated as simply another Federal agency, rather than a regional organization designed to benefit the State. The commissions were never expected to assess, in any realistic manner, the priorities for the basin. When a commission prepared a report, it went to the Water Resources Council, but was never used or submitted to Congress.

This bill seeks to overcome each of those problems, by reducing the Federal presence on each commission, directing certain new responsibilities on a commission's planning, and establishing a procedure for a submission of basin studies, and recommendations to the Congress. If the legislation as implemented fails to achieve these improvements, then the commissions cannot expect to be funded beginning in fiscal year 1984, when the competitive program grants begin. The river basin concept remains a sound one. It deserves two additional years to see if can be made to work under a stronger law.●

ORDER FOR RECESS UNTIL 10 A.M., AND PRIOR PROVISIONS ADVANCED 1 HOUR

Mr. BAKER. Mr. President, I indicated that the Senate would convene at 9 a.m., and I am advised now by the managers of the immigration bill that they wish to change that to 10 a.m.

I ask unanimous consent that the convening hour be changed to 10 a.m., and the other arrangements provided for earlier in the evening be advanced by 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED INTRODUCTION OF CRIME BILL

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I send to the desk a bill and ask that it be read.

The PRESIDING OFFICER. Is there objecton to the introduction of the bill?

Mr. BIDEN. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, an objection is heard to the introduction of the bill on this day which, of course, is the prerogative of any Senator.

May I inquire of the Chair, is it not true that on the next legislative day the Senator from South Carolina would have the absolute right to introduce the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, not now but after conferring with the minority leader, it will be the intention of the leadership to adjourn the Senate and create a new legislative day so that the Senator from South Carolina may introduce this bill as a matter of right.

Mr. President, does any other Senator now seek recognition?

Mr. President, will the Chair inquire if there is further morning business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BAKER. Mr. President, I move that the Senate now stand in recess, pursuant to the order previously entered, until 10 a.m. tomorrow.

The motion was agreed to and, at 9:46 p.m., the Senate recessed until tomorrow, August 13, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, August 12, 1982:

INTERNATIONAL COMMUNICATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the International Communication Agency, vice Robert John Hughes.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Robert B. Hotz, of Maryland, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Margaret Bush Wilson, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., 495-28-6662, U.S. Army.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Adams, John S., Jr., 134-30-6020
Adams, John W., 424-50-6290
Alberti, Arthur R., 438-42-9748
Aldridge, Alfred G., Jr., 512-34-5906

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Alexander, Robert N., 450-56-1403
Allen, Edward B., Jr., 010-30-2486
Anderson, Wesley R., 516-46-4388
Andreoni, Alan J., 178-32-9369
Andres, John C., 473-38-4648
Arthur, Hayward B., 092-32-2764
Ayotte, Jean G., 037-26-2411
Bach, Lloyd C., 503-46-1586
Baldwin, Donald A., 375-38-9466
Ballard, Almon B., 423-48-9753
Ballister, Joseph C., 006-26-6881
Barfield, James E., 274-32-0287
Barfield, James E., Jr., 249-56-8386
Barrow, Robert R., 186-32-6855
Bartoski, Joseph N., 188-30-0837
Bates, Thomas M., 432-64-6569
Bauer, Raymond M., 314-36-2732
Beck, Paul H., 143-24-5738
Becksted, Dennis P., 527-52-0567
Besecker, Raymond F., 071-30-1215
Bevers, Charles R., 442-38-5462
Biegalski, Conrad S., 577-54-7713
Biehunko, Robert L., 454-56-6839
Bihler, Richard P., 101-32-8839
Birkenstock, Jesse, 585-03-0201
Bitonti, David F., 233-62-3724
Bjork, Herum P., 473-44-2850
Blackburn, Ronald B., 406-50-2537
Bloomgren, Edwin L., 050-30-5144
Bodnar, James J., 505-46-2000
Bogy, Peter E., 429-68-6232
Borandi, Bernard A., 286-68-4388
Bourque, Paul F., 031-28-1889
Bowers, Ellis M., 462-58-8599
Bowman, Richard L., 264-58-7547
Bowman, Robert C., 241-66-1555
Brant, Roger F., 180-28-3156
Brickey, Robert E., 528-46-5752
Brown, Sudro, 457-70-3478
Bruce, Alan H., 485-48-9840
Burgner, Gary A., 547-50-5636
Burkhead, Hubert W., 536-38-2292
Burry, Lyle W. Jr., 506-40-3547
Bush, William J., II, 233-64-6810
Busse, Roger H., 407-44-3585
Bynes, Robert H., 452-30-3026
Caffery, John M., III, 401-50-9266
Callaway, Patrick W., 575-36-7096
Campbell, Alan D., 553-56-6397
Canfield, Robert W., Jr., 409-54-3106
Cantrell, James E., 373-32-3542
Carle, Edward R., 110-30-8538
Carpenter, Myron B., Jr., 530-26-5026
Carroll, Edward G., Jr., 083-30-1075
Carter, Charles R., 418-52-5656
Casey, William J., 009-24-7553
Cernohous, Arthur B., Jr., 477-40-8291
Cetola, Robert T., 179-32-2252
Chancellor, James J., 436-54-8569
Christo, Thomas A., 073-34-2930
Clark, John W., 499-40-9145
Clark, Kirk B., 521-54-6929
Claunch, Jon E., 415-56-8745
Clemons, Charles A., 275-32-3335
Clifford, George B., 566-52-1193
Cloud, Charles M., 456-66-2986
Cly, Robert P., 304-46-6386
Coakley, Roger L., 508-54-0125
Cobb, Lawrence D., II, 554-48-2970
Coffey, Earle E., 332-26-9495
Cole, Clifford A., 548-34-9403
Cole, Leon R., 495-34-5110
Colwell, David L., 477-42-2339
Cone, Kenneth B., 068-30-8561
Conklin, Howard L., 141-34-7536
Cook, Raymond A., 022-32-0367
Cooper, Earl J., 048-30-6314
Coppin, Edward C., 530-22-4873
Coronado, Jose, 451-68-5730
Cory, David B., 510-36-5715
Cory, James R., 336-34-6429
Cotton, Ralph A., 545-52-3502
Courtney, Henry T., 542-44-9477
Craige, Fitzgerald F., 145-32-9542
Crawford, Timothy S., 293-40-7550
Crews, Donald A., 133-28-7064
Csady, John M., 080-32-8568
Cummings, Robert W., 469-40-4818
Czech, Felix, 035-26-6799
Dagley, Larry K., 353-32-5569
Dahl, Martin J., 470-50-2349
Daigneau, John R., 047-24-4262
Dake, Terrence L., 504-36-7978
Dandridge, Robert E., 250-64-4768
Daniels, Ralph F., 374-40-7286
Davis, Charles E., 544-36-6552
Davis, Winston R., 018-34-5733
Davison, Edwin G., JR., 452-62-7404
Debenedictis, Pasquale B., 063-30-1748
Dee, William, 022-32-1865
Denkinger, Marc G., 385-38-9787
Dibeler, Vernon H., II, 222-28-8185
Dix, Thomas J., 391-38-9255
Docekal, Charles E., 340-30-6635
Dorrough, Robert E., JR., 458-48-6741
Dougherty, Terry E., 174-30-1512
Driggs, James D., 174-28-8587
Duckworth, Kenneth J., 200-30-3274
Dudek, Albert G., 178-32-5975
Dugar, James V., 276-32-3465
Eaton, Dellas G., 517-34-1363
Ehrenberger, Edward D., 187-30-5627
Emmons, Edwin I., 454-66-1611
Evans, Charles E., 450-58-3383
Eyler, David R., 215-36-9045
Facey Edward A., III, 013-30-2303
Fadel, Chaker J., 291-32-0703
Fagin, Vincent B., Jr., 499-44-8969
Feindt, Theodore H., 153-30-5048
Fellin, John N., 127-30-0253
Ferguson, William G., 471-44-0946
Ferrell, Charles W., 459-58-5712
Finkleman, David, 579-52-7283
Fitzgibbons, Thomas B., 504-28-5778
Foster, Carl H., Jr., 426-80-7040
Foster, Walter N., Jr., 038-22-9903
Fox, Leo H., 037-22-6595
Francis, Ralph L., 003-32-0510
Funk, Charles R., III, 214-36-4630
Fuos, Alton C., 459-58-3463
Gaither, Henry M., III, 414-54-9505
Galloway, Terrence L., 202-28-9205
Gardner, Benjamin A., Jr., 238-64-4915
Garten, John W., 548-36-5267
Garver, Edward G., Jr., 185-32-3525
Gassner, John F., 489-34-8549
Gaston, Thomas D., 538-34-3564
Gately, Joseph M., 023-30-0405
Gehres, Loran L., 246-60-1487
Gentile, John L., 131-26-1108
George, David I., 547-46-6886
Gibbons, Paul, 188-32-6142
Giermanski, James R., 369-40-6475
Gilbert James A., 525-74-8056
Gillson, Arthur W., 274-36-3965
Glynn, Michael O., 089-22-4005
Goddard, Welsey H., 411-70-8768
Governor, Richard P., 012-28-3354
Gowdy, Thomas H., 279-30-5759
Green, Peter M., 566-52-0180
Greenman, John A., 543-46-6483
Grove, David A., 282-34-1515
Grove, James B., II, 364-36-5758
Guenther, Frank J., 224-52-4545
Guerin, Frank J., Jr., 434-44-8179
Guidry, Robert J., 434-48-8420
Gutermuth, William E., 211-30-7006
Hagstrom, George T., 065-30-8086
Haith, Paul R., 507-36-8704
Hall, David M., 063-32-7943
Hamilton, John J., Jr., 112-30-0656
Hammock, Paul G., 406-48-5947
Hamner, Reginald T., 419-48-8297
Handy, James H., 539-30-3621
Hannan, Jon E., 329-32-4809
Harris, James A., Jr., 227-52-3786
Hartke, Edwin J., 273-34-8512
Hartmann, John R., 381-38-0763
Hartnagel, Richard L., 319-28-0029
Haruguchi, James S., 576-36-4065
Haverstock, Laban C., 115-30-7269
Hayes, Norman L., 275-40-1359
Healy, Timothy W., 529-46-7968
Heim, Donald C., 094-30-8812
Heiney, Otto K., 171-32-1172
Heiss, Jimmy L., 396-40-4192
Heller, George H., 055-34-0103
Hendrickson, Alven M., 529-38-5960
Henshaw, Robert A., 133-30-5871
Hepburn, Philip R., Jr., 521-54-6805
Heslin, John H., 565-48-8619
Hickman, David B., 444-38-0950
Hoffer, Leland H., 335-32-8178
Hogan, Danny A., 227-56-6985
Holliday, Jimmy C., 490-40-7247
Hollingshead, Craig A., 479-44-7231
Holloway, Jay, 212-38-1217
Holmes, Edward T., 323-32-2448
Hone, Stephen A., 552-48-4452
Horihan, Charles R., 475-50-0971
Horton, Burrell M., 433-62-2298
Horton, Donald R., 415-62-5496
Hottle, Warren P., 579-50-5987
Houston, John L., 274-32-6718
Huberman, Robert K., 559-18-3568
Hudack, Larry J., 550-46-4856
Hunter, Ronald A., 023-30-8360
Hunter, Sammie R., 432-66-3882
Hurst, Wendell L., 304-46-6938
Isackson, Richard, J., 055-28-9460
Jack, Tharon L., 232-601-1350
Jackson, Hugh M., 320-30-5221
Jacob, William A., III, 317-38-2998
Jenkins, Carlton, 245-56-3764
Johnson, David T., 281-32-7864
Johnson, Marion H., 431-66-2274
Johnson, Robert E., 481-34-7843
Joslin, Charles S., Jr., 011-32-5647
Jourdan, Ronald N., 322-32-9285
Jurko, Robert C., 270-22-5762
Kaim, Edmund R., 067-32-6244
Keller, Peter A., 478-48-2686
Kelsay, William F., 409-60-7617
Kerkman, Dennis J., 393-38-4163
Kessler, Thomas M., 489-42-3211
Kiehle, James H., 228-52-7804
Kingman, Richard E., 509-34-4485
Kirkpatrick, Edward E., 488-40-0715
Kish, Stephen J., Jr., 236-60-9987
Kitow, Edwin K., 359-26-9593
Kitto, Albert R., 211-28-0264
Klobucar, Frank E., 316-38-0474
Klotzkin, Kenneth C., 071-30-0846
Knox, Paul D., 502-36-8288
Kohout, William R., 402-58-2482
Kollar, Joseph J., 057-32-7804
Kramer, Ross E., 534-36-1353
Kramer, Terrence L., 278-34-6573
Kulwicki, Joseph F., III, 196-30-0261
Kurtz, Hugo E., 487-44-7160
Landreth, Jay H., 539-26-9596
Larochelle, Andre L., 047-28-9711
Laugen, Elwood N., 534-36-2882
Leach, Maurice R., 565-40-5524
Lemaster, David R., 449-52-6030
Lester, John R., 251-62-3396
Levanduski, Robert J., 128-30-2584
Lewis, Thomas E., Jr., 257-56-2100
Lightsey, Leon G., 418-44-4893
Lindenfelser, Kenneth H., 139-32-3048
Loan, Charles J., Jr., 273-32-7076
Lucas, James H., 250-56-3543
Lunquist, William J., 056-34-2223
Lusk, Kermit R., 235-64-8442
Lutz, Dale M., 508-44-7417
Luzzatto, Ernesto V., 130-32-9432
Macner, Francis J., Jr., 076-30-7229
Mages, James G., 521-54-6921
Maher, James P., 334-28-1489
Malbasa, Joseph, 285-34-0976
Malone, Robert H., III, 258-62-9566
Marker, Richard L., 519-36-3943

Markstaller, Gary E., 542-34-1181
Martin, Gerald W., 364-40-9393
Mason, Earl S., 501-30-5852
Mason, Larry B., 489-42-9872
Mate, Joseph J., 211-30-3487
Matheson, Lorne D., 522-48-0668
Matney, Bascom B., 235-58-5610
Matthews, John W., 422-52-1712
Maxton, Gary L., 273-34-8193
McCarthy, John T., 579-50-8067
McCormick, James M., 425-80-8621
McDonald, Clinton R., 519-36-6552
McHugh, Robert, 155-30-3062
McKelvey, James A., 562-56-5517
McLester, Judson C., III, 100-32-8409
McMillan, Robert J., 155-32-1974
Mesh, Richard I., 096-32-4129
Messerian, Lazarus A., 236-60-0652
Meyer, John P., 482-50-0274
Miles, Richard P., 425-76-2537
Miley, Robert T., 200-30-8328
Miller, George P., 099-32-6774
Miller, John C., 210-30-1874
Miller, John M., 376-38-7265
Miller, Larry L., 450-58-9810
Minerman, Charles M., 485-40-8464
Misek, David W., 320-36-0267
Mishev, Boyan N., 065-32-9674
Modders, John N., 367-42-2511
Moore, Dale E., 443-38-2741
Moore, Donald B., 021-28-7958
Moore, Harry E., Jr., 162-34-9424
Moore, Robert H., 426-76-4197
Morley, Edward C., 058-28-1537
Morse, James L., 458-58-5820
Mosher, Alan L., 379-38-4141
Mullen, David E., 537-32-4964
Mullis, James M., Jr., 251-54-5864
Mummert, George W., 181-32-2532
Murphy, Edward M., 076-34-2885
Murr, James C., 462-70-2683
Nelson, Charles H., 477-34-9553
Nelson, Donald E., 325-26-5028
Nelson, Gerald W., 523-48-2178
Nelson, Jerald D., 481-46-9977
Nelson, Roger A., 392-38-8406
Neville, Frank H., 428-60-9215
Newnam, Albert H., 461-58-7789
Nicholson, Hollis W., 470-42-0640
Nielsen, Reese R., 528-56-0084
Niland, Joseph F., 033-22-0589
Nishina, Vincent H., 576-34-9495
Nolan, Richard J., 485-42-1400
Noonan, Michael W., 563-50-5028
Nordstrom, Thomas R., 353-28-4405
Norris, Terry D., 282-34-2385
Oakman, Walter H., 096-32-1618
Oates, Ralph H., 223-52-2879
O'benland, Carl T., 274-34-5448
O'Connell, Dennis F., 072-30-0547
Olsen, Douglas O., 529-40-7913
Oltorik, Thomas F., 210-26-0380
Oyler, Thomas O., Jr., 262-56-0184
Palitto, Robert V., 286-36-1856
Parsons, Vernon H., 501-32-2307
Patrick, Herbert L., III, 248-70-2596
Patterson, James A., 416-52-0129
Pearce, Harry T., 411-66-1337
Pearlman, Joseph, 111-30-7711
Peters, Michael J., 525-94-0804
Pfalzgraf, John R., 235-64-3028
Pfohl, Donald E., 183-28-5690
Pierce, James E., 286-36-2018
Pierson, David E., 450-66-2156
Piwnica, John S., Jr., 089-32-2426
Poche, Stephen S., 562-52-9201
Poe, Thomas W., Jr., 422-52-5264
Potochick, Michael R., 363-38-1377
Powell, Thomas S., Jr., 550-48-2388
Pressey, Michael L., 009-26-6275
Pritchard, Clyde B., 444-36-7362
Puckett, Benjamin C., Jr., 259-54-8144
Putlock, Robert J., 154-30-7224
Quamme, Harlan J., 470-38-2704
Quarnaccio, Michael J., 155-32-9561
Quinn, William J., 072-32-9080
Quon, Chu E., 061-32-4398
Ramsell, Richard B., 478-42-3232
Rand, William C., 549-56-0233
Ranslam, Michael E., 544-34-5837
Rauch, Francis A., Jr., 075-32-6842
Rausch, Raymond J., 398-34-8932
Reiling, Keith T., 541-42-8475
Reilly, Edward A., Jr., 195-30-5847
Reimers, James P., 501-38-2670
Rennick, Alan L., 510-36-5437
Rennie, David T., 429-54-3809
Reynolds, Randolph S., 417-54-5910
Rick, Robert S., 396-34-3625
Rickman, William T., 410-54-9249
Riddell, Gordon A., 009-26-1534
Riessen, Herbert P., 479-38-6954
Riffey, Douglas G., Jr., 224-58-3391
Roberts, Julian C., 413-58-1262
Robinson, Curran A., 009-26-5654
Robinson, Freddie G., 406-44-1571
Rollins, Ashton, II, 003-28-3228
Rosborough, Donald L., 311-44-1756
Rothman, Frederick P., 215-40-2196
Rotker, Kenneth I., 059-32-6542
Rowe, William J., III, 040-32-8582
Rucker, Jack L., 480-40-5092
Ruehl, Terrence E., 295-32-9841
Ryan, Larry G., 555-46-2978
Saban, William D., 520-36-9849
Salmans, Larry D., 512-34-4278
Sanders, Richard D., 333-30-7189
Schadle, Clark W., 450-72-4115
Schaefer, Gene E., 277-36-9685
Schellhase, Milton G., 539-40-4298
Schimmel, Charles, Jr., 186-32-1102
Schlag, Alfred L., 520-44-9420
Schorr, Robert W., 262-50-6828
Schredl, Michael G., 561-50-2235
Scott, Richard W., 020-32-6373
Scott, Robert W., 152-30-0305
Search, David E., 294-36-6027
Seibold, Ronald R., 339-30-5437
Seidt, Richard J., 041-30-5223
Shanks, Theodore E., 541-46-7525
Sharp, Allen, 306-32-8076
Shawl, Robert M., 545-52-6940
Shivers, Walter W., 150-28-1073
Shoff, Firman E., 200-24-2852
Skartvedt, David A., 535-34-8544
Skinner, Robert R., 236-64-8772
Smaldone, Gerard A., 092-30-3783
Smith, Howard O., 135-32-4194
Smith, John H., 475-40-7849
Smith, William W., Jr., 159-32-4553
Smittle, Nelson D., 281-28-5166
Smullen, Robert A., 370-38-6777
Soistman, Edward C., Jr., 267-64-7998
Spencer, Clifford M., Jr., 421-52-6292
Stabenow, Karl R., 201-34-4254
Stanley, David J., 012-32-7951
Statzer, Charles E., Jr., 409-54-2272
Steinbrink, Loren G., 509-42-7364
Stephens, Robert B., 258-68-2399
Sternick, Michael A., 154-30-5665
Stewart, Jerry R., 457-54-8753
Stief, Mahlon H., 482-52-6981
Storgaard, Richard D., 534-36-4618
Straber, Richard A., 316-38-5684
Sule, Robert J., 537-34-1978
Swansiger, William A., 172-34-6052
Sweet, Charles R., 372-30-2930
Taylor, James R., 508-42-1564
Tharrington, John C., 228-46-6803
Thieme, Alfred, Jr., 450-50-7882
Thomas, Joseph M., 417-50-3723
Thomas, Robert P., 373-40-5605
Thompson, Lane A., 579-54-2947
Thompson, Russell D., 425-58-6378
Thompson, William J., 544-34-3269
Thune, George O., 076-24-8576
Tierney, John P., 109-30-1400
Treadaway, Robert E., 449-50-9327
Truax, John E., 517-36-3243
Turner, Pierce D., 422-42-1136
Valentine, Jon N., 018-30-1187
Van Doren, Emerson B., 044-32-4795
Vandendriessche, Dean, 266-38-5208
Ventura, Joe E., 465-56-9871
Vinup, Glen W., 531-36-6045
Wagner, Albert M., 267-58-1847
Walker, Robert W., 495-38-1362
Ware, Billy I., 428-70-7222
Weber, David C., 311-40-4088
Werne, Thomas, 400-48-2501
Werner, Arthur D., 462-50-6550
West, Lyle H., 288-30-6694
Weyler, Kenneth L., 016-32-7508
Whaley, Wallace W., 247-80-1451
Whiddon, Edward H., 256-54-1387
White, Edward R., III, 419-50-8975
White, Henry J., Jr., 041-24-8146
Whitman, Horace T., II, 501-44-4382
Wiese, Richard R., 416-60-0391
Williams, Leonard D., 450-50-5499
Williams, Robert E., 572-60-0141
Williams, Roger E., 235-44-5576
Wilson, Kelly T., 540-48-5443
Wilson, Lowell H., 306-38-3394
Wiltuck, Robert, 171-30-2793
Winkler, James F., 501-20-7443
Wirstrom, William C., 434-52-2435
Wolff, Warren W., 400-46-2417
Woodcock, Larry A., 358-28-9173
Woodman, Donald K., 577-54-9523
Wordell, Lynden E., 011-30-9403
Wright, Gerald W., 446-40-5310
Wrucha, Jerry A., 352-34-5873
Yingling, Carl G., 162-32-2806
Yoder, Phillip D., 242-52-3674
Youd, Henry S., 049-30-4467
Young, Richard S., 305-38-2429
Youngblood, John S., 566-56-4362

CHAPLAIN CORPS

Fernandez, Nobincio, 575-26-1863
Lunceford, Joe E., 247-64-4456
Morgan, Hugh H., 417-40-2733
Schwartz, Barry D., 023-30-4848

DENTAL CORPS

Benson, Glenn F., 475-42-3307
Brigleb, Richard C., 302-34-3384
Goodman, John T., 460-64-9331
Hochenedel, August M., Jr., 435-60-1137
Jumbelic, Russell G., Jr., 193-28-1210
McIntosh, James N., 239-56-3972
O'Hara, James K., 576-36-8508
Smith, Robert N., 038-26-7885
White, Philip H., 469-50-2453

MEDICAL CORPS

Adams, Richard C., 296-30-5650
Boyd, Carl R., 307-48-4708
Campbell, James M., 112-46-4022
Carpenter, James L., 359-30-3183
Corvalan, Juan C., 078-42-7029
Garretson, Richard H., 234-54-5775
Gregg, Paul T., 233-58-9488
Kutner, Stephen S., 128-26-2169
Legaspi, Linda S. E., 278-44-9748
McGee, Hugh E., Jr., 145-30-9499
Mojicamorales, Victor M., 582-96-6406
Nell, Patricia A., 485-38-8881
Noltimier, Louis A., 502-22-4952
Remo, Elvira C., 059-34-7634
Rolle, Albert E., 261-46-4327
Simmons, John W., Jr., 256-38-4140
Tengelsen, Clifford L., 090-22-7013
Tessier, Paul A., 032-24-0321
Tolentino, Naty M., 196-44-6310
Wooming, Geoffrey E., 565-86-4218

NURSE CORPS

Acosta, Norma N., 097-30-7920
Asberry, Beryl, 467-64-4914
Bauer, Verdella M., 480-40-3144
Buth, Virginia W., 093-30-9530
Cartledge, Alice M., 463-56-6543

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Cassidy, Freida M., 403-52-9478
Chambers, James L., 188-26-8009
Clapp, Mary A., 466-72-7591
Clark, Shirley C., 237-54-8390
Coyle, Mary C., 012-34-6788
Decker, Carla L., 287-36-2597
Devine, Sheila A., 049-30-1015
Eakin, Margaret A., 014-28-8221
Ehardt, Joseph W., 346-28-3846
Elliott, Donald E. W., 148-36-9878
Fairchild, Verna D., 303-40-1283
Flood, Mary A., 262-62-1222
Garrison, Howard, 252-36-9113
Gates, Dorothy E., 016-30-8452
Holdys, Delores J., 328-32-8012
Joseph, Desiree R., 076-34-5020
King, Kathleen F., 551-54-2962
Mercereau, Mae D., 330-24-3011
Miner, Wilmer G., 082-26-5148
Mock, Lois A., 564-56-2857
Moquin, Thomas F., 545-48-5342
Morgan, Mary E., 097-28-0725
Nutt, Mae K., 423-54-7977
O'Neil, Richard J., 505-50-6119
Palmer, Paula E., 531-74-1319
Payes, Elizabeth A., 025-28-7292
Phelan, Phyllis A., 511-28-1774
Purcell, Helen A., 016-28-7703
Rafai, Elizabeth H., 112-30-7106
Rasmussen, Dorothy Y., 529-50-2102
Richier, Betty J., 301-38-0212
Shaifer, Andrea C., 425-88-1453
Shaner, Nancy J., 275-36-8976
Smith, Mary R., 060-34-7063
Stern, Barbara A., 141-32-3816
Thompson, Christina T., 467-42-1088
Walls, Elizabeth A., 169-32-9377
Whittemore, Kathleen, 393-38-6171
Williams, Jeanette C., 554-46-5648
Zauner, Alice A., 207-38-5465

MEDICAL SERVICE CORPS

Boyd, Kenneth L., 571-48-4313
Butler, Charles H., 058-24-6660
Carroll, Robert G., 153-34-9854
Demoss, Robert W., 454-72-9545
Fritz, Andrew A. Jr., 524-44-1203
Gill, Richard A., 516-40-3432
Hearn, Charles J., 464-18-8170
Lucchest, Mario C., 463-58-4297
Pacheco, Richard R., 573-48-7858
Press, David, 131-24-3951
Sarbach, Douglas L., 296-32-2090
Scheffer, Richard H., 037-24-8000
Smith, Richard H., 449-54-2582
Wallace, Edward A., 522-44-9946
Watson, James M., 466-44-4064
Weiss, Willis G. Jr., 168-28-3971
Westin, Charles A., 510-36-7708
Wood, Verl H., 413-48-7697

BIOMEDICAL SCIENCE

Allison, Darrell C., 445-40-7852
Bleakley, Neil M., 230-54-9490
Bronstein, Leroy J., 569-42-1102
Glaze, William C. H., 451-64-7164
Jillson, Theresa J., 480-50-6709
Lefsky, Lawrence H., 262-52-3075
Lopez, Carmen R., 301-42-4616
Mcowen, James S., 265-58-7764
Morgan, Shelah G., 281-38-6286
Schwertner, Harvey A., 454-66-8255
Shoff, Charles M., 270-34-7582
Stein, Franklin J., 457-70-5860
Wallach, Joel D., 493-40-3088
Wexler, Allan V., 256-54-7758

IN THE ARMY

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3359:

MEDICAL CORPS

To be colonel

Del Campo, Enrique, 355-30-6709
Ten Eyck, James R., 543-34-9068

DENTAL CORPS

To be lieutenant colonel

Gay, William D., 413-68-7218
Mehlisch, David F., 215-32-4170

MEDICAL CORPS

To be lieutenant colonel

Anderson, John, 228-22-3751
Austin, Robert G., 537-14-3673
Bronshuag, Michael, 127-30-1543
Brown, Frederick B., 037-28-5914
Danto, Bruce L., 382-20-5115
Davis, Joseph E., 064-26-5423
DeSimone, Theresa V., 076-22-4388
Dorsey, John M., 367-24-5302
Everett, Elwood D., 442-40-1584
Gretz, Herbert F., Jr., 193-26-2621
Halpern, Abraham L., 175-32-3667
Iapaolo, Felice M., 037-30-7174
Jackson, Carmault, Jr., 146-14-8378
Lufkin, Edward G., 504-30-0779
Manuel, Wilbert J., 435-58-2587
Morse, James A., 504-16-5756
Nghiem, Quang X., 017-32-9949
Owings, William O., 416-44-6641
Paule, James M., 460-64-1874
Powell, Malcolm R., 358-22-9238
Ralla, Frank A., 354-12-5611
Ringler, Harold, 564-46-8090
Slawson, Robert G., 482-38-6318
Van Norman, Russel, 464-44-4307
Wilson, Robert M., 523-50-3426

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Barnes, Bert G., 451-32-0928
Campbell, Rupert C., 249-40-6931
Carlson, John W., 013-26-0846
Fox, Oren R., 554-44-0769
Gabaldon, Antonio, Jr., 525-48-7846
Holgate, Clifford W., 206-26-3175
Mason, John T., 004-32-1775
Matthews, Charles G., 426-46-1844
Mialaret, Gerard J., 435-40-1449
Nienas, Jimmie D., 368-30-0735
Peck, Ernest G., 497-28-2183
Polson, James D., Jr., 259-26-0484
Ray, Dudley C., 254-42-9702
Shaughnessy, M. E., 530-18-5371
Sivilla, John M., 044-28-3068
Snyder, Ernest M., 218-30-9359
Tech, Larry L., 393-36-5134
Westergard, Raymond, 186-24-4960
Winslett, Ronald D., 257-52-0755

MEDICAL CORPS

To be colonel

Hemry, David A., 520-44-4164
Hudgins, James J., 426-84-8172
Zusman, Jack, 113-26-4655

ARMY PROMOTION LIST

To be lieutenant colonel

Abernathy, Claude A., 229-50-2775
Barton, Dennis R., 529-52-4556
Bimler, Joseph R., 093-32-4149
Blazier, John C., 453-72-1330
Brackett, Louis V., 529-54-1984
Cacioppe, Richard C., 146-30-2719
Cardis, Douglas B., 367-40-8030
Chisholm, Leslie F., 471-46-5857
Coon, Albert C., 519-32-9186
Dorsey, Clayton E., 519-40-7811
Fenner, Arlan L., 459-48-6133
Fey, Henry F., 466-52-7942
Fiarkoski, Joseph A., 088-26-1697
Gaspard, Milbon J., 435-46-3859
Giroux, Norman R., 006-32-4511
Goar, Douglas J., 475-44-8439
Gray, Richard L., 225-60-5991
Guarino, William J, 436-36-0878
Hannon, John J., 025-28-9720
Harvey, William R., 416-54-8733
Hatley, Patrick B., 445-34-1593
Herb, Joseph C., 541-46-8938
Hihnala, Jack E., 516-40-7162
Kanaczet, Richard P., 039-26-7908
Kennedy, Robert J., 221-28-7201
Lack, John A., 427-76-4596
Leinweber, Don L., 519-46-6197
Lewer, Larry W., 478-40-1352
Lundy, Robert J., Jr., 194-34-1196
McIntosh, Donald R., 196-30-8074
McWhirter, Johnny L., 440-40-5059
Maner, Omer E., 418-46-3912
Middeler, Thomas A., 291-36-8159
Musk, Gautrey J., 005-30-7954
Nelson, Broxie J., 249-52-4876
Newhall, David G., 475-46-9077
Norman, Joel W., 424-50-9456
Pinta, Robert J., 357-26-5792
Rees, Harold R., Jr., 007-42-1160
Rees, Raymond F., 541-42-1616
Reeves, Larry W., 478-42-4153
Rose, Robert R., 063-32-1389
Ruggiero, John T., Jr., 170-34-8847
Saunders, Shelley M., 404-58-1366
Smith, Wayne A., 136-34-3208
Stansberry, Tony L., 491-48-6020
Steinhardt, Norbert, 308-42-2881
Stewart, Ronald B., 190-36-4952
Tourville, Kenneth, 393-36-1538
Whitman, William T., 018-30-2467
Williams, Frank C., 223-50-1505
Wood, Walter R., 402-46-1020
Yoas, Lynn F., 383-36-4903
Zeigler, Paul L., 147-34-5062

ARMY NURSE CORPS

To be lieutenant colonel

Chrietzberg, V. S., 349-34-1607

DENTAL CORPS

To be lieutenant colonel

Adams, William C., 417-56-4018

MEDICAL CORPS

To be lieutenant colonel

Fewell, Ronald D., 430-78-5921
Inguito, Galicano B., 142-30-4723
Pierce, John A., 046-14-8631
Rastogi, Shivnandan, 480-74-6573

MEDICAL SERVICE CORPS

To be lieutenant colonel

Beasley, Glenn D., 428-66-5813
Darby, Lester A., 530-22-4479

VETERINARY CORPS

To be lieutenant colonel

Hagle, Richard, 564-42-0432

IN THE MARINE CORPS

The following-named officer of the Marine Corps for permanent appointment to the grade of lieutenant colonel under provisions of title 10, United States Code, section 624, subject to qualification therefor as provided by law:

Peterson, Robert L., 5294

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel under provisions of title 10, United States Code, section 5912, subject to qualification therefor as provided by law:

Akers, Olen S., 2650
Arms, John P., 9685
Ayers, George W., 5433
Baker, Richard F., 4804
Bianchini, Victor E., 8157
Bowman, James H., 3433

Brady, James J., 4930
Brutch, Paul P., 8084
Buethe, Frank A., 3903
Burke, Arthur B., Jr., 8936
Buxton, Cole J., 3243
Campbell, Thomas J., 5649
Candelori, Angelo V., 4086
Carman, James P., 1964
Carter, Jacques W., Jr., 9115
Clark, Arthur L., 6148
Cleary, James J., 3675
Councilman, John D., 7211
Coyne, John T., 3390
Cronin, John F., 1288
Culp, Leonard D., 7493
Deaver, John H., Jr., 3668
Detweiler, Robert C., 7176
Dickerson, Michael G., 4188
Dill, Glenn V., 2215
Dilworth, Eldon R., 0006
Donnelly, Francis L., 9306
Downey, Lawrence L., 4619
Farmer, Frank E., 3269
Fitzgerald, Richard J., 0952
Flynn, Robert G., 1729
Gannon, John J., 7507
Gardner, Michael R., 7153
Gardner, Winston W., Jr., 6933
Halvorsen, John P., 7810
Harvey, Albert C., Jr., 8406
Hixson, Michael J., 7546
Jeffries, James H., III, 8441
Jordan, John E., 1169
Kendrick, Gardner S., 5924
Kennedy, Agnes M., 8851
Kindt, David J., 4456
Lawson, Walter J., 8917
Lince, Ronald D., 6060
Marshall, Robert D., 3296
Massenburg, Joseph W., Jr., 5197
McDonald, Patrick G., 9278
McGuinness, James C., Jr., 5197
McLean, Ralph T., 4093
Meyers, George F., Jr., 6148
Miller, Ronald G., 0300
Nelson, Stanley R., 3824
Nippard, Roos E., 8029
Petty, Charles R., 1821
Prior, William A., Jr., 0228
Pristavec, Thomas L., 1559
Rivers, John F., 8009
Rogers, Milton B., 4481
Rule, Gordon, 9253
Sampson, Charles W., 3368
Sattler, Albert J., Jr., 6855
Sherretz, Lundie L., 8776
Snell, James C., 9430
Snowden, John B., III, 3209
Sowers, Ronald L., 5174
Venditto, Carl R., 6419
Vogel, James R., 0542
Wallace, Terry P., 3344
Walton, Rodney, 4038
Wilder, Raymond E., 8688
Wilkinson, George C., Jr., 0006

The following-named officers of the Marine Corps for permanent appointment to the grade of Chief Warrant Officer, W-4, under provisions of title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Alger, Duff E., 4718
Allen, George R., 8968
Amoroso, Daniel L., 4932
Bancroft, Alfred M., 0493
Beard, Joseph F., 3434
Bookhardt, Henry, 7492
Borowitz, Thomas J., 4348
Boyd, Joseph S., 5731
Brown, Lemuel F., 2446
Burroughs, Joseph B., Jr., 8561
Carver, David A., 8692
Class, George N., 1671
Collier, Michael L., 2799
Combs, Willie L., 0640
Conner, James R., 5957
Crawford, Truman W., 4365
Creech, Joseph H., 5162
Czaikoski, Stephen H., 2126
Czosnyka, Ronald J., 5470
Davenport, John W., 4279
Deberry, Mickey L., 0095
Doggett, Donald L., 9501
Douglas Donald D., 3396
Epley, Stephen A., 9573
Farley, William C., 8683
Farmer, Robert D., 4117
Filla, Paul T., 3395
Flanagan, Robert W., 8062
Flihan, Frederick J., 0769
Gaston, Michael W., 8621
Gaulin, George V., 7214
Giglia, Alfonso N., 7543
Gutierrez, Elias, 0070
Hamm, Michael D., 5771
Hannappel, Michael R., 2657
Helms, Tony A., 2802
Hopton, Raymond F., 8262
Hunter, Martin L., 5670
Hurst, Douglas M., 5245
James, Richard E., 1107
Jewell, James E., 6372
Jones, Charles L., 6674
Jones, Joseph M., 1556
Jungwirth, Kenneth J., 6553
Klepper, Paul J. II, 2470
Knight, Chester E., 4299
Leiston, Robert J., 4758
Livensparger, Stuart A., 9922
Livingston, Jerome E., 4878
Lloyd, James R., 7231
Lofton, Morgan J., 8245
Long, John E., 9592
Long, Paul E., Jr., 5753
Lopez, Homero R., 3945
Mackie, Merle E., Sr., 8055
Mahoney, Patrick T., 2641
McGrath, Gary L., 2667
McKinney, Francis W., 4343
Moore, Robert H., 9278
Mosman, Thomas W., 0324
Mullins, Daniel S., 5304
Myers, Clarence E., 7565
Neu, Melvin P., 5651
Noel, John B., 1735
O'Connell, Daniel J., 8381
Patch, Bradley P., 4624
Polanco, Geronimo, Jr., 9739
Randler, Howard W., 2737
Ricker, Ralph J., 1543
Robinson, Lloyd A., 5854
Rodney, Marvin C., 7021
Rolle, Castell S., Jr., 0293
Rosanelli, Louis L., 9801
Rowe, David T., 3180
Rowinsky, Bob A., 5751
Sanford, Thomas H., 0999
Santacruz, Javier, Jr., 2547
Scanlon, Donald L., Jr., 8668
Shane, Fred J., 9759
Shepard, William H., 2747
Sherry, Charles K., Jr., 1258
Simmons, Gary G., 3842
Smith, Charlie F., 0015
Smith, Lyle W., 4229
Sofranac, Paul, 5805
Stannard, Clinton D., 0093
Sterling, Thomas S., 5997
Strickland, Joseph E., 2019
Sunn, Steven E., 5998
Tampleton, Doyle W., 9643
Thompson, Charles E., 2502
Tootle, Garvin O., 1364
Torres, Felipe, 2281
Twilliger, Wayne G., 9081
White, Gerald L., 2679
White, Lawrence J., Jr., 9961
Whittaker, William E., Jr., 3675
Wiggins, Donald E., 3206
Wilson, Leonard D., 2067
Winchester, John D., 0380
Wolf, W. L., 5294
Wood, David R., 8081
Young, Billie, 5260

The following-named officers of the Marine Corps for permanent apointment to the grade of Chief Warrant Officer, W-3, under provisions of title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Adkins, William D., 2776
Ainsworth, James M., 5793
Aldrich, William J., 9460
Allbritton, Ronald H., 0240
Amano, Richard, 2836
Artis, George W., 8099
Ash, Michael D., 9417
Ashe, Johnnie E., 2168
Atwell, Everett R., 1415
Ayers, William S., 3309
Back, Robert R., 4893
Bahr, Timmy A., 6983
Bailey, Wesley W., 2874
Baker, James D., 9106
Ballentine, Richard J., Jr., 4689
Bath, Robert A., 7397
Blakley, James R., 8324
Blaschak, James M., 9255
Bobo, Frederick S., 9580
Bolton, Burl D., 2807
Bonaro, Anthony, 4354
Bowen, Donald H., 8955
Brevell, James E., 3188
Brown, John E., 4661
Canterbury, Michael G., 8733
Carter, Dandridge S., 9868
Carter, Michael D., 1644
Carver, Dennis, 7189
Cary, Daniel D., 0676
Case, Douglas L., 1112
Castro, Robert, Jr., 6357
Chandler, John W., 9269
Chavez, Jose C., Jr., 7332
Cifelli, Donald G., 4258
Cone, Donald P., 0730
Craig, Douglas B., 8281
Craig, Dwight D., 4580
Crooks, Kevin R., 5351
Crowl, Daniel F., 9279
Cyphers, Arlene J., 4609
Daniels, Richard C., 4853
Davidson, Ronald J., 6904
Davis, Gunnar F., 3064
Davis, Joseph R., 4727
Davis, Michael R., 8377
Davis, Rickey D., 0480
Deanes, Joseph W., 6488
Denoncourt, Roger D., 1643
Dorssom, David L., 8333
Downie, Rodney R., 4051
Earnest, Gerald W., 4986
Edelbrock, Robert C., Jr., 9663
Edwards, James R., 1198
Ellis, Ernie L., 3897
Ewadinger, James L., 2745
Finklea, Gordon R., 8434
Fraley, Gary D., 5805
France, Clarence N., 8212
Freeman, Edward D., 9416
Frierson, Douglas, 5927
Fryer, Frederick G., 1167
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EXTENSIONS OF REMARKS

FREEDOM FOR MYKOLA HORBAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GILMAN. Mr. Speaker, the Soviet Union, along with the United States and 33 other nations, signed the Final Act of the Helsinki Conference on Security and Cooperation in Europe in 1975. The Soviets agreed to respect the human rights and fundamental freedoms of their citizens. Also by reference to the Universal Declaration of Human Rights, they also agreed to guarantee the fundamental right to emigrate. However, not only have the Soviets not kept their agreement, but they have singled out members of the Helsinki Watch Groups for particular harassment.

The Ukrainian Helsinki Group was founded in 1976, a year after the Moscow Group, to monitor the Soviet Government's compliance with the human rights clauses of the Helsinki Accords. The Helsinki Group demands that the Government respect such fundamental rights of the individual as freedom of religion, expression, and movement. It also calls for the Government to support the Ukrainians' right to self-determination, the signatories to the Helsinki Final Act having agreed to "respect the equal rights of peoples and their right to self-determination."

Mykola Horbal, a Ukrainian poet and a member of the Ukrainian Helsinki Group, has been unjustly imprisoned in the Soviet Union because of his application for emigration to the United States and his participation in the Helsinki Group. Mr. Horbal, who is married and has one son, was arrested by the Soviets in 1970 for circulating a poem he had written. That arrest occurred shortly after he had received his affidavit to emigrate to the United States. Mr. Horbal was sentenced to 5 years in a labor camp and 2 years in internal exile. He was subsequently released in 1977, the year in which he joined the Ukrainian Helsinki Group. He was arrested again in 1979, on a fabricated charge of rape, and was then sentenced to 5 years in prison.

Many of us are concerned about Mr. Horbal's unjust imprisonment but also about his physical and mental health. Reports smuggled out of the Ukraine reveal that he has been physically mistreated and is so depressed psychologically that he has even contemplated suicide. For these reasons, I have written to Ambassador Dobrynin expressing my concern about Mr. Horbal's situation and asking the Ambassador to secure Mykola Horbal's release, and to permit him to exercise his right to emigrate from the Soviet Union, if he so chooses. I have also written to the American Ambassador to the Soviet Union, Hon. Arthur A. Hartman, and asked him to pursue with the Soviet authorities the release of Mr. Horbal.

In a recent interview with Mr. Horbal, he stated that he was very interested in the effect that the Helsinki Accords could have on improving the human rights of citizens in totalitarian countries. He regretted the fact that the European nations were not more united in their efforts to fight for the freedom of the individual. But he did express faith in the United States, referring to it as the "country which has provided a safe haven for millions of the world's poor and deprived."

On July 27, the House Foreign Affairs' Subcommittee on Human Rights and International Organizations held a hearing on the status of the Pentecostals who have been living in the U.S. Embassy in Moscow since 1978. Witnesses at that hearing reminded us that persistent focus by Members of Congress on human rights violations in the Soviet Union is extremely important. Only by frequently and consistently speaking out on these issues can we help courageous individuals, such as Mykola Horbal, secure their freedom.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982 (H.R. 6514) has a Senate counterpart, S. 2222, which is sponsored by Senator ALAN K. SIMPSON, chairman of the Senate Subcommittee on Immigration and Refugee Policy.

Senator SIMPSON is one of the most knowledgeable people in the country about immigration and refugee matters. As a member of the Select Commission on Immigration and Refugee Policy and as chairman of the Senate Immigration Subcommittee, he has studied all aspects of the immigration matter from every possible perspective.

Senator SIMPSON has come to the same conclusion as I have about the best method of controlling illegal immigration to this country—penalties against employers who knowingly hire undocumented workers. There simply is no other workable alternative. Undocumented workers come here to get jobs. That is the lure, that is the magnet.

We have to end that lure, turn off that magnet, by making it illegal for employers knowingly to hire those who do not have permission to be in this country.

In his usual straightforward and sensible fashion, AL SIMPSON made the strongest case possible for penalties against employers who knowingly hire undocumented aliens in the New York Times earlier this week.

He made the point, which has become obvious to all those who have studied the immigration issue in great detail, that our immigration reform bill contains a simple straightforward employer sanctions provision which protects both employers and employees.

In the early 1970's, under the leadership of Chairman PETER W. RODINO, JR., the House of Representatives twice passed employer sanctions bills. Unfortunately, both times the Senate took no action.

This year, under Senator SIMPSON's strong leadership, the Senate seems determined to push ahead. Yesterday's Washington Post also endorses the Simpson/Mazzoli bill, especially the employer sanctions provisions. As the Post points out, employer sanctions is the right way to go.

For the benefit of my colleagues, I am including a copy of Senator SIMPSON's article from the New York Times of August 10, 1982, and the editorial from the Washington Post about the Simpson/Mazzoli bill.

The articles follow:

[From the New York Times, Aug. 10, 1982]

ILLEGAL ALIENS

(By Senator ALAN K. SIMPSON)

WASHINGTON.—All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter and Reagan Administrations, and by the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of immigration laws cannot be achieved without greatly reducing the incentive represented by the temptation of employment in the United States.

For this reason, section 101 of the proposed Immigration Reform and Control Act of 1982 is the single provision most urgently needed to assist in reducing illegal immigration. This section would make unlawful the knowing hiring or illegal aliens and would

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● This "bullet" symbol identifies statemen.s or insertions which are not spoken by the Member on the floor.

provide a system that enables employers to verify that job applicants are American citizens or legal aliens. Section 101 and the bill's other provisions are strongly supported by the Administration, by an impact of illegal immigration, we must consider long-term effects. Moreoever, even a totally selfish person does not act solely to achieve economic goals; adverse noneconomic impacts can often make an economic benefit unpalatable. Thus, consideration of the effects of illegal immigration on our population, of potential social and political changes and of historical immigration objectives must be part of the decision-making process.

The Chamber argues that any secure verification system would be "too expensive." As evidence, it has published some extraordinarily high cost estimates. More objective sources present less-alarming figures: $100 million to $300 million per year. Certainly, these are not small numbers, but inadequate enforcement also involves major costs. The number of illegal aliens in this country in 1978 has been estimated at 3.5 million to six million. Even if those estimates are used and it is assumed that only 2 percent hold jobs that unemployed Americans would take, then the cost in public assistance and unemployment benefits to the jobless is $490 million to $840 million. The actual number of people displaced from jobs is probably substantially higher. The number of illegal aliens is estimated to have increased by 500,000 per year. This calculation does not even consider the other, less easily quantifiable costs of illegal immigration.

The Chamber states that the verification procedure would be "too burdensome" for employers. Actually, the procedure would be optional for those with three or fewer employees. Larger employers would be required simply to examine in good faith a United States passport or two other documents—say, a driver's license, birth certificate, Social Security card—complete and sign a short form and have that form signed by the employee. The employer would not be responsible for the authenticity of the documents, only for their reasonably appearing genuine. Without this system, the two key goals of section 101 could not both be achieved: screening illegal aliens out of the workforce and avoiding discrimination against citizens and legal aliens who look or sound "foreign" to employers.

The most disappointing part of the Chamber's argument is the assertion that individuals, including businessmen, have no obligation to assist the Government in enforcing our laws. That view is certainly not consistent with our tradition of responsible citizenship and limited government.

Does the Chamber feel that businesses' legal obligation to withhold income and Social Security taxes is also unreasonable? There no practical alternative. Moreover, a legitimate businessman ought not knowingly hire illegal aliens and thereby provide the major incentive for violating one of the most fundamental laws of a sovereign nation—the one controlling its borders.

Fortunately, most businessmen do not share the Chamber's view. Other business groups support the bill—the National Association of Manufacturers, for example. Many local Chambers of Commerce, including those in Texas and California, where there are great numbers of illegal immigrants, have acknowledged the need for such reform.

The sponsors are attempting to protect America from uncontrolled immigration for the sake of their children and grandchildren, while keeping at bay the specter of meanness, nativism and racism. Fortunately, a sizable majority of Americans are willing to hark to an appeal to rise above any special interest they may have in order to obtain workable immigration reform. It is puzzling why the United States Chamber of Commerce is not.

[From the Washington Post, Aug. 11, 1982]

LAW AND THE ILLEGALS

The Senate is about to begin consideration of the Simpson-Mazzoli bill, a comprehensive revision of our immigration laws. The proposal is the result of years of study, extensive hearings and wise compromise on some of the more controversial aspects of this problem. One of the most important provisions is designed to control illegal immigration by penalizing employers who hire undocumented workers. Such a sanction, sponsors of the bill believe, is the only way to control borders, since most illegal immigrants come here specifically to work.

The Select Commission on Immigration and Refugee Policies, created by Congress in 1979, estimated that between 4 million and 9 million undocumented workers are now in this country, but former labor secretary Ray Marshall, who was a member of that commission, admits that the estimate is a result of a compromise among a widely varying set of guesses as to the actual number. Officials simply don't know how many illegal aliens are here, but they do know that unemployment in this country is now at 9.8 percent, and that every job held by an illegal alien is one not available to an American citizen.

Many employers oppose any change in the present law-enforcement system since they prefer to pay very low wages to workers who cannot avail themselves of their rights. Mr. Marshall and many labor leaders believe that the only way to preserve these jobs and improve wages and working conditions in some industries is to eliminate that option for employers. He is right.

Another controversial question concerns refugees. Under the provisions of the Simpson-Mazzoli bill, 425,000 new immigrants would be allowed to enter the United States each year. This ceiling does not include refugees who, under existing law, may be admitted in any number on the authority of the president as long as he notifies Congress of his intentions. Such flexibility is needed to deal with emergency situations where quick action must be taken for humanitarian reasons.

It was assumed that under the provisions of the law, about 50,000 refugees a year would enter the country, but for a variety of reasons—the continuing needs of Indochinese refugees, the Cuban boat lift—that figure has been much higher in recent years. Sen. Walter Huddleston (D-Ky.) would apply the 425,000 ceiling to immigrants and refugees combined. He would continue the president's flexible power to meet emergency situations by allowing large numbers of refugees in during any given year, but would then subtract numbers over the ceiling from the following year's quotas.

Those supporting the Huddleston position believe that Americans are suffering from "compassion fatigue," that we are already doing more than our share to accept the homeless and the persecuted of the world and that, for purposes of our own long-range economic planning, we must have a firm and fixed number of new admissions to the country. To disagree with this position is not to accuse its proponents of mean-spiritedness.

The United States has accepted on a permanent basis large numbers of refugees in recent years, and it has not always been easy. And we should take care that the total numbers do not regularly substantially exceed the original expectations of Congress. Nevertheless, the Huddleston amendment should be rejected because it will inevitably curtail this country's ability to accept its share of the world's refugees. In stark political terms, if refugees have to compete for quota numbers with the brothers and sisters of American citizens, there is no doubt who will be admitted.

This nation was founded as a haven. That quality is part of our national character, and there will always be room here for those who come without connections and without special skills simply because they must come here to survive. The Huddleston amendment severly restricts that tradition when a prudent application of existing law ought to be enough. The Simpson-Mazzoli bill should be passed without the Huddleston limitation, and the House should concur.●

DR. H. M. S. RICHARDS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOORHEAD. Mr. Speaker, on August 29, there will be a special celebration and festival of thanksgiving to honor Dr. H. M. S. Richards on his 88th birthday.

The son and grandson of preachers, Dr. Richards is the founder and speaker-emeritus of the Voice of Prophecy radio broadcasts. He is a pioneer radio evangelist who first conceived of radio ministry in 1920 but it was not until 10 years later that KNX radio began daily broadcasts of his "Family Worship" program.

In 1937, the program received a new name, "The Voice of Prophecy," and wider distribution over the Don Lee Broadcasting System. Five years later, the program went nationwide when it was picked up by the 89 stations of the Mutual Broadcasting System.

Today, the VOP program is carried by the NBC and intermountain radio networks and hundreds of independent stations in the United States and Canada. Across North America, some 750 stations air the program either Sunday or daily, and overseas, another 1,100 stations carry programs that bear the same name or are closely affiliated with the Voice of Prophecy.

In 1967 and 1970, Dr. Richards was recognized by his fellow broadcasters of the National Religious Broadcasters organization with the honor citation for his dedication and steadfastness to humanity and Christianity.

Simply put, Dr. Richards is an uncommon man of wisdom and compassion. In his dealings and teachings with people, he has always sought to

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bring them together, not to divide them; he has always stressed their vast commonality, not their differences; he has always appealed to their desire for union, not discord.

He is a man of special insight and grace who rises above the banal and mundane, yet never belittles those who cannot. He does not become embroiled in the small and unimportant. He shuts out no man by closing his mind to that man's ideas or beliefs.

Mr. Speaker, it is a pleasure for me to play a small part in honoring a great man.●

BUFFALO EVENING NEWS CALLS PROPOSED BALANCED BUDGET AMENDMENT A SHAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LaFALCE. Mr. Speaker, the Buffalo Evening News published last week a thoughtful editorial that labels the proposed balanced budget amendment what it really is—a sham. This editorial is required reading.

The editorial subjected the amendment passed by the Senate last week to the scrutiny that is required as we approach consideration of this matter. It raised very serious questions that all of us must consider if we are to treat this issue responsibly. Amending the Constitution is something that is not done lightly, especially when there are such serious policy and practical questions about the amendment.

Let me highlight the editorial's key points:

More than a loophole, the proposed amendment borders on sham. If it were a commercial product, it might be hauled into court for violation of truth-in-advertising statutes.

* * * * *

While we don't doubt the sincerity of many amendment supporters, they have chosen a tool both ineffective and inappropriate. The Constitution is no place for complex codes of economic policy, however, precise or porous. There is, moreover, a fatal contradiction in the approach. The tougher the amendment, the greater its destructive impact on the economy could be; yet the more special exemptions and escape hatches that are included, the less it can pretend to really fulfill its intent.

The hard fact is that the disease of irresponsible budgeting is not so instantly cured. This amendment is a placebo, not the sturdy medicine of steady, disciplined budgeting decisions by men and women elected to do that job each year. The House, where the amendment is now headed, ought to bury this illusion in the reality of defeat.

Following is the full text of the editorial that appeared in the Buffalo Evening News of August 7, 1982:

HOUSE SHOULD REJECT BALANCED-BUDGET SHAM

The balanced-budget amendment to the U.S. Constitution approved 69 to 31 by the Senate offers the wrong answer to the genuine ills of irresponsible budgeting in Washington.

More loophole than law, the proposed amendment borders on sham. If it were a commercial product, it might be hauled into court for violation of truth-in-advertising statutes.

This is not to contend that its proponents don't voice the legitimate worries of millions of their constitutents.

The nation has not seen a balanced federal budget since 1969. It has had only one in the last 23 years. Regrettably, balanced budgets have become a curiosity, a virtually extinct species. Further, federal spending, which consumed just under 20 percent of the nation's total goods and services in 1964, is expected to consumer more than 24 percent this year. So the lack of discipline in Washington on fiscal policies is mercilessly evident, the danger of this inexorable spending spiral incontestably real.

But what an irony! Some of the same politicians who for years have demonstrated an inability or unwillingness to bring spending and taxation into rough balance, now want to order this goal with the snap of a constitutional finger. They would insert into the Constitution a standard they themselves have repeatedly breached.

But even this proposed prohibition is riddled with escape hatches, as if the proponents doubt their ability or desire to put the principle into practice. The proposed amendment does call for Congress, prior to each budget year, to adopt "a statement of receipts and outlays for that year in which total outlays are no greater than total receipts."

But this would not apply, as it should not, in wartime. It would not apply whenever 60 percent of the membership of each house of Congress agreed to violate it. Still another exception adds: "Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays . . . except those for repayment of debt principal."

Concerning the latter exemption, it is worth noting that billions of dollars each year are involved in debt repayment. Other billions are placed in "off-budget" programs. Unlike states and cities, the federal government does not now write separate capital budgets for road, building and other similar projects. But with receipts from borrowing exempted, Washington presumably could circumvent the proposed balanced-budget mandate by the simple expedient of creating multi-billion dollar capital budgets.

While we don't doubt the sincerity of many amendment supporters, they have chosen a tool both ineffective and, worse, inappropriate. The Constitution is no place for complex codes of economic policy, however precise or porous. There is, moreover, a fatal contradiction in the approach. The tougher the amendment, the greater its destructive impact on the economy could be; yet the more special exemptions and escape hatches that are included, the less it can pretend to really fulfill its intent.

The hard fact is that the disease of irresponsible budgeting in Washington is not so instantly cured. This amendment is a placebo, not the sturdy medicine of steady, disciplined budgeting decisions by men and women elected to do that job each year. The House, where the amendment is now headed, ought to bury this illusion in the reality of defeat.●

THIS IS HOW IT USED TO BE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. RUDD. Mr. Speaker, a constituent of mine, Mr. Robert F. Flowers of Scottsdale, Ariz., has brought to my attention some very thought-provoking reminders of then and now. Let me share these reminders with my colleagues.

I commend this short piece of wisdom to all of my colleagues:

THIS IS HOW IT USED TO BE

Do you remember when:

Attending college was a privilege rather than a right?

A farmer could plant what he wished?

Taxes were a nuisance rather than a burden?

The Supreme Court protected society rather than the criminals?

The aged were cared for by their children?

Foreign officials visited the White House without asking for money?

We entered a war to win it?

A life sentence didn't mean "parole in 10 years"?

Our flag was respected—at home and abroad?

America conducted her foreign affairs without consulting the U.N.?

A father went on welfare only out of desperation, and got off it as soon as possible?

Charity was a virtue instead of big business?

We could laugh at jokes about the Irish, Negroes, Italians, Jews, or Polacks without being considered bigots?

The doctor's first question was, "Where does it hurt?" instead of "Do you have insurance?"

U. S. Grant was the name of a president rather than a federal handout?

Giving aid to the ehemy was treason? (Now it is called foreign aid.)

We had prayers in our schools? (Now we have sex education.)

The churches preached religion instead of politics?

You were safe on the streets and in your home?

The news media presented the truth rather than false propaganda?

The motion pictures were wholesome family entertainment instead of violence and sex?

A policeman was a human being instead of a fascist pig?

The three R's were reading, writing and arithmetic instead of robbery, rape and riot?

The Supreme Court consisted of judges instead of political hacks?

A radical had to have a soap box to reach 40 people? Now the news media provides him with a microphone to reach 40 million.

The country was run by Americans instead of a group of aliens?

This was a Christian nation?

—AUTHOR UNKNOWN●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. CLINGER. Mr. Speaker, on August 10, 1982, I was absent from the floor of the House for a vote. Had I been present, I would have voted in the following fashion:

Rollcall No. 259: H.R. 5427, Radio Marti, the House by a recorded vote of 78 ayes to 284 noes with 1 voting "present," rejected an amendment that sought to authorize the Board for International Broadcasting to prepare material for voluntary broadcasting by commercial radio stations, "no."●

GEORGE ALEXANDER

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BRINKLEY. Mr. Speaker, too often our public servants are taken to task because of real or imagined inadequacies such as a late social security check or lost mail. Therefore, it is my particular pleasure to present kudos to George Alexander, staff assistant for manufactured housing of the Veterans' Administration's Loan Guaranty Service.

During my tenure in the House of Representatives, I have known few Federal employees more dedicated than George to his fellow man. His diligence in trying to provide alternative housing to this Nation's veterans at a reasonable price has provided him with a nationally recognized reputation as one to the most knowledgeable men in the manufactured housing industry.

George's experience with the manufactured housing industry has grown with the development of the mobile home. He has seen firsthand the growth of small box-like trailers we knew decades ago to the establishment of standards which have created prefabricated factory-built houses comparable to site-built homes, but at a much lower price.

A native and resident of Canton, Ga., before joining the VA, George spent 17 years in this native State representing a major appliance manufacturer. It was during this period that his love for the industry was nurtured. In tribute to his assistance to manufactured housing, he was twice elected president of the Georgia Manufactured Housing Association, and twice elected president of the Southeast Manufactured Housing Institute. His leadership was further recognized in his home State when he was named to the Georgia Manufactured Housing Association's Hall of Fame.

The recognition of his talents grew as he was asked to join public service 8 years ago by the Veterans' Administration. As staff assistant for manufactured housing, his input into new regulations and laws has assisted many veterans in acquiring affordable housing not previously available. As former chairman of the Subcommittee on Housing of the House Committee on Veterans' Affairs, I will be forever indebted to George for his assistance with Public Law 95-476, the Veterans' Housing Benefits Act of 1978. This law put manufactured housing on a standard formula with conventional housing, and enabled many veterans with marginal incomes to become homeowners. VA guaranteed home loans for conventional housing have faltered in the last few years, but VA guaranteed home loans for manufactured housing have continued to rise. This is in no small part due to the efforts of George Alexander.

George Alexander has always given of himself, not only in the area of alternative housing, but in civic affairs as well. He is a deacon of the First Baptist Church in Clarendon, Va., a member of the Lions Club, a Mason, and a member of the Veterans of Foreign Wars—having once served as post commander in his hometown of Canton, Ga. He is a veteran of service in the Pacific theatre during world War II, and was honorably discharged with the rank of first lieutenant. He and his dear wife, Patricia, are the proud parents of three children, George, Ada, and Anne Marie.

Mr. Speaker, today, in recognition of his lifelong dedication to manufactured housing and to his fellow man, George is being given the highest national honor in the manufactured housing industry. Today, during the 28th annual Midwest Manufactured Housing and Recreational Vehicle Show in South Bend, Ind., George will be named to the Recreational Vehicle/Manufactured Housing Hall of Fame. He will join a select group of individuals who have been so honored. The naming of George Alexander to the RV/MH Hall of Fame brings great credit to him and to the Veterans' Administration.

I am proud to call George Alexander my friend because he is an uncommon man given to uncommon deeds.●

SONGS OF LABOR

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, this Labor Day, September 6, 1982, will celebrate the 100th anniversary of the first Labor Day. In honor of this occasion Mr. Rudy Grother, librarian at the Whittier Elementary School in Sedalia, Mo., submitted the following poem written by John Greenleaf Whittier, who died 90 years ago on September 7, 1892:

SONGS OF LABOR

Haply from them the toiler, bent
Above his forge or plough, may gain
A manlier spirit of content,
And feel that life is wisest spent
Where the strong working hand makes
Strong the working brain.●

PAUL HEKLER HONORED

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOORHEAD. Mr. Speaker, Mr. Paul Hekler will be honored by his many friends, associates, and well-wishers at a retirement dinner on August 18 in Burbank, Calif.

After 11½ years as executive director of the Burbank Chamber of Commerce, Mr. Hekler is putting the cap on a distinguished career.

Much of that career was spent with the Burbank Chamber, where as executive director he was responsible for a growth in membership from 500 members to 760 members. During that period, the chamber's revenues also increased from $41,000 to $175,000.

He was the principal reason for the 1975 accreditation of the Burbank Chamber by the U.S. Chamber of Commerce, a distinction that only 370 of the Nation's 5,000 chambers enjoy.

In 1972, he was presented with the William E. Hammond Memorial Award as the outstanding first year chamber executive in California. In 1976, he became the president of the Southern California Association of Chamber Executives. He was a director in the California Chamber Executives Association, a member for the American Chamber Executives Association and a class adviser for training chamber managers.

Mr. Hekler has long been active in other community affairs. He held positions of leadership in the Disabled American Veterans Charities, the Burbank Rotary Club, the Burbank Community Hospital, Toastmasters, Sertoma, and the Lions Club. He was a director with Friends of the Airport.

Mr. Speaker, Mr. Hekler has given a great deal to his community and his neighbors. I am grateful for his contributions and I wish him a long and fruitful retirement.●

AN EDITOR'S THOUGHTS ON LEBANON

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BEREUTER. Mr. Speaker, the world's attention continues to be riveted on the tragic events occurring in Lebanon.

The Lincoln, Nebr., Star recently editorialized on the issue of how the United States should respond to the continued violence and Mr. Begin's apparent arrogance. As we ponder this critical life and death matter, I urge my colleagues to at least consider the Star's point of view and have inserted the full text in the RECORD.

[From the Lincoln Star, Aug. 5, 1982]

LET HIM GO IT ALONE

As Menachem Begin's army strengthens its diabolic grip on West Beirut, crushing the Palestinian resistance and innocent civilians alike, a couple more observations are appropriate:

Many Israelis, worried about their worsening image in the world, are adopting a kill-the-messenger mentality. They apparently are blaming television—which shows daily the raids on Beirut—for adverse world opinion, instead of their government's war policy. They and Israel's friends should not forget, however, that the unblinking camera recorded the aftermaths of the 1972 Munich atrocity and others committed by the PLO. The violent acts themselves, and the one-sided media treatment long afforded the subject, combined to picture the entire, complex Palestinian problem as one dimensional—that dimension being Palestinian terrorism. The cameras now bring another dimension to the problem.

Begin says, in response to the possibility the U.S. will impose sanctions against Israel if the violence in Lebanon doesn't stop, that his people "do not kneel but to God." He said he'll resist the sanctions. Very well, let him continue the war and answer to the God he says he is communing with. But American citizens ought not to have to pay for the slaughter. Not with another round of ammunition or another dollar of aid.●

RESEARCH AND DEVELOPMENT: TO PRUNE, PROMOTE, AND PRESERVE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FUQUA. Mr. Speaker, a number of my colleagues and I have been increasingly concerned about maintaining the health of our Nation's overall science and technology base. Limited Federal budgets have curtailed real growth in long-term investments in research and development. This has created some apprehension about our future economic competitiveness in this highly technological world. Obviously new relations between government, industry, and the university research community need to be explored.

Dr. Edward E. David, Jr., president of Exxon Research and Engineering Corp., in a recent Science editorial made a number of thoughtful comments. Noting increases in industrial-university cooperation, he stated:

> Even so, we must remember that R. & D. does not prosper through funding alone; there are values to preserve. Essential are the integrity of the scientific research process, the freedom of academic opinion and expression, and the dominance of excellence. These and other necessities will be harder to preserve in this era as new techniques and relationships are brought into play.

Attached is the entire text of Dr. David's article as it appeared in the August 13, 1982, issue of Science magazine.

TO PRUNE, PROMOTE, AND PRESERVE

In times of austerity and turbulence, it is essential to prune, yet to promote new growth and, above all, to preserve values for tomorrow. These are such times. The United States still supports the most extensive and the most successful scientific enterprise in history. But low investment, high interest rates, and demands for instant gratification have combined over the past decade to erode long-term commitments. Thus, while the 1970's were marked by a striving in the science community to recreate the conditions of the golden age following World War II, when the federal-academic research axis reigned supreme, few believe it is practical today.

Science is indeed an endless frontier, but federal science budgets most decidedly are not. There is lip service to the Bushian ethic in Washington, but at the core there is skepticism of research and development as autonomous functions. Autonomy is giving way in industry, government, and academia alike to a closer integration with the innovation system. A symptom of this trend is the rapid growth of industrial funding for academic research—one of the only growth segments of university and college support.

Regardless of how this trend may be perceived, there is little doubt that we are entering a new era in the funding and performance of R. & D. in the United States. And, as befits a new era, new initiatives are emerging. Much of academia is showing verve and ingenuity in meeting such critical problems as uncompetitive faculty salaries, a paucity of U.S. graduate students, inadequate research funds, and antiquated laboratories. In fields such as microelectronics, robotics, microbiology, and catalysis, industry-university research consortia are achieving prominence. University and industry groups have banded together to support common goals in organizations such as the Council for Chemical Research and efforts such as the National Engineering Action Conference, held on 7 April (Science, 30 April 1982, page 456).

To procure vitally needed instruments and facilities, Colorado State University has used debt financing. George Olson, Vice President for Research at Colorado State, has pioneered this technique successfully for more than 10 years. Similarly, there is thinking that mechanisms for setting up limited partnerships to finance development projects might be applied to financing academic research as well.

Despite these vigorous responses, it is possible that not all needs will be met. Even so, we must remember that R & D does not prosper through funding alone; there are values to preserve. Essential are the integrity of the scientific research process, the freedom of academic opinion and expression, and the dominance of excellence. These and other necessities will be harder to preserve in this era as new techniques and relationships are brought into play.

Less well recognized is the need to preserve the privilege of decision in R & D activities. In order to tap the creativity of people, it is necessary to give them a certain freedom of action and leeway to follow their ideas. Otherwise, society cannot take advantage of their talents. On the other hand, the funder, whether it be a corporation, government agency, or limited partnership, must set a framework for evaluating technical activities in relation to its own purposes.

Balancing the influence of the performer and that of the funder is a delicate matter and a prime test of R & D leadership. Today the balance is tipping again toward the funder and away from those who tend the base of knowledge and technique. A priority for scientists and engineers is preservation of the balance, and this will be achieved most effectively through persuasion. Those in industry must recognize that their institutions cannot micromanage academic or industrial fundamental research. Even if that were possible, it would negate much of the value to be found in first-class research. This point must be stressed; funders of research will, first and foremost, be buying human talents. It is those talents which will create a better future.—Edward E. David, Jr., President, Exxon Research and Engineering Company, Florham Park, New Jersey 07932.●

II. ISRAEL, FRIEND OR ENEMY?

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. McCLOSKEY. Mr. Speaker, yesterday, I commented upon the need to reconsider our longstanding "special relationship" with Israel.

Today, after 34 years of solid support and friendship for Israel, the United States has suddenly come face to face with an unpleasant possibility: Israel has become a liability to U.S. interests and policies abroad, and may rapidly be becoming a potential enemy.

It was only 3 years ago, in August 1979, that Presidential candidate Ronald Reagan spoke of Israel as "perhaps the only strategic asset in the area (the Middle East) that the United States can really rely on."

In September 1978, Israel had joined with the United States in the Camp David accords, subscribing to U.N. Resolution 242 "in all of its parts." and thereby laying the basis, at least so we thought at the time, for the eventual creation of a Palestinian homeland on the West Bank and Gaza.

Secretary of State Cyrus Vance stated to the U.N. General Assembly on September 29, 1978:

> We believe that the Palestinian people must be assured that they and their descendents can live with dignity and freedom and have the opportunity for economic fulfillment and political expression.

In 4 short years, however, the government of Menachem Begin has made it clear that it has renounced both its acceptance of Resolution 242 in 1967 and its agreement at Camp David in 1978.

Begin has made it crystal clear that he intends to annex both the West Bank (Judea and Samaria) and Gaza. He has referred to both as part of the historic "Eretz Israel" (land of Israel).

In April 1982, Israel Defense Minister Ariel Sharon said the Sinai withdrawal was Israel's final territorial concession.

> In Sinai, at Yamit, we have reached the limits of our concessions. . . . We shall turn to increasing and consolidating our settlements on the Golan Heights, in Judea, Samaria and the Gaza District.

When asked about annexation of the West Bank, Begin has responded: "How can we annex what is already ours?"

The enormity of Begin's change of position from that taken at Camp David can be compared to Hitler's change of position after Munich.

Resolution 242, the foundation for Camp David, is clear:

> The establishment of a just and lasting peace in the Middle East which should include the application of both the following principles;
>
> (i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
>
> (ii) Termination of all claims or states of beligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.

In essence, Israel agreed at the United Nations in 1967, and reaffirmed at Camp David in 1978, to withdraw its military forces from the Golan Heights, West Bank, and Gaza (the occupied territories) at such time as Israel was accorded the right to live within secure and recognized boundaries, recognized as a nation, and free from threats or acts of force.

It has been firm U.S. policy to secure these rights for Israel since 1967. We have given Israel more than $20 billion in aid to achieve these rights. This year one-fifth of U.S. foreign aid, $2.2 billion, goes to Israel, a nation of 3.5 million people.

But Resolution 242 cuts both ways. It imposes duties on Israel as well as conveying rights.

The Begin government has now demanded the rights but renounced the accompanying duties. His administration has just published a map of the West Bank showing 40 percent of the lands set aside for Jewish settlements, 50 percent for agriculture, and only 10 percent for the existing Arab population of more than 700,000 people. Israel is rushing to expand and increase its existing settlements, a process which the United States has said violates the Camp David accords.

These are not Israel's only defiant breaches of solemn agreements with the United States.

In 1952, Israel agreed to limit its use of U.S. supplied arms to defensive purposes.

After we gave the fearsome CBU, or cluster bomb, to Israel in 1973, Israel executed a specific, secret agreement in December 1976 that cluster bombs would be used only in the defense of Israel against regular forces in a war of the intensity of 1967 or 1973, when Israel confronted two or more nations; they were not to be used in areas of civilian population.

I found cluster bombs in the streets of west Beirut and in the courtyard of an 800-bed Lebanese mental hospital on July 25. Two days later in Jerusalem, I asked Defense Minister Ariel Sharon why he had ordered use of cluster bombs in Beirut in violation of that agreement. He replied:

> In wartime you look at agreements through different eyes.

Those are U.S. bombs and shells that have been savagely destroying a city of 600,000 civilians, block by block. Every Arab in the Islamic world knows that the United States has the power to cut off military aid to Israel when Israel violates its agreement with us.

In every Arab heart, as the Omani Ambassador told me a few weeks ago, there is the growing conviction that America, and Americans, are condoning the killing of the innocent Lebanese civilians of Beirut, A 12-year-old Lebanese boy said bitterly to Representive MARY ROSE OAKAR on the streets of west Beirut last week:

> You Americans have killed my little sister.

The anger of 100 million Arabs is not a light burden. A friend of the United States, Egypt's President Hosni Mubarak, told our congressional group on July 28:

> Unless the United States takes action soon, you will need armored divisions to defend your embassies.

Our Ambassador to Jordan told us the following day:

> If we don't change our policies soon, a lot of us are going to be returning to Andrews Air Force Base in wooden caskets.

An Israel that cannot be trusted to honor agreements, an Israel that feels it proper to destroy a city of 600,000 civilians to wipe out 6,000 PLO soldiers, an Israel that subscribes to Resolution 242 in order to remove the Egyptian threat on its southern border in 1978, but then renounces its agreement 4 years later to annex the West Bank and Gaza—that is not the Israel we have respected for more than 30 years.

There is no benefit in having a strong ally in the Middle East if that ally makes us the enemy of 100 million Arabs upon whom we are counting to stop the expansion of Soviet influence.

It is clearly a time to recognize Israel as a potential enemy of all that the United States seeks to achieve in the world, not just peace in the Middle East, but acceptance of the principle that the use of force does not justify an incredibly greater force in return.

There is one hope: Secretary of State George Shultz has expressed his desire to resolve the Palestinian issue. If America's Jewish community supports Shultz and voices its disagreement with Begin, perhaps we can get back on the track to a lasting peace in the Middle East.

As writer I. F. Stone put it recently:

> If a Jewish state in Palestine, why not a Palestinian state too? Who better than we should understand Palestinian desperation and homelessness? Can we not open our hearts?●

JOBS FOR VOCATIONAL EDUCATION STUDENTS

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, I am in strong support of vocational education programs throughout the Nation that teach our students valuable and marketable skills in today's economy. In South Dakota, vocational education has proven to be one of the best investments of our educational dollars as students receive practical training in areas such as agriculture, home economics, construction, electronics, auto mechanics, sheet metal, and many other trades. For the benefit of my colleagues, I am enclosing an excellent testimony on the employment statistics of students who have graduated from the Mitchell Vo-Tech School in Mitchell, S. Dak. I have visited this school several times and have seen the program firsthand. This editorial appeared in the July 27, 1982, edition of the Mitchell Daily Republic.

VO-TECH STUDENTS FINDING WORK

When bad economic conditions and high unemployment rates are making big headlines these days, it's inspiring to know that students graduating from the Vo-Tech are finding work. Assistant Director of the Mitchell Vo-Tech Dick Ziegler informed us last week that the average placement figure for students graduating in sheet metal, agricultural business, architectual drafting, building construction, air conditioning and heating and electrical construction and maintenance and cooking is 70 percent.

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This 70 percent figure doesn't compare with the 93 percent placement figure in 1980 and the 85 percent figure in 1981, but is very good considering how high unemployment and youth unemployment rates are right now.

One reason Vo-Tech students are faring better in getting employment than young people overall is that their training gives them an advantage, Ziegler said. He said companies especially sheet metal companies, have come back to look for Vo-Tech graduates after hiring them in the past. Apparently, companies are much happier with employees who have Vo-Tech training than with those who have to be trained on the job.

Vo-Tech training is less expensive and more practical in some cases than college training. That's probably why the Mitchell Vo-Tech has seen more college graduates coming in its doors to seek training for second careers. And, colleges are wise to consider letting students transfer credits from Vo-Techs. This would allow students who don't have money for four years of college a new option and would be an advantage to colleges as well.

Ziegler said it was surprising to find that students graduating in drafting and construction are doing so well, with these areas down in general. We think this is a reflection of the excellent training these students are receiving at the Vo-Tech and their high motivation to find jobs.

Ziegler said students, aware of the economy, are preparing themselves for work through good study habits, class attendance and attitudes. He said they are carefully preparing resumes and begin looking for employment before they graduate. Some went out-of-state during Easter breaks to look, Ziegler said. We think the Vo-Tech is doing an excellent job of preparing students for the market and warning them ahead of time how to be prepared.

Students are more aware of needing saleable skills and parents are encouraging them to acquire these skills. Some are applying for Vo-Tech programs much earlier and families are sending several children to the Vo-Tech, Ziegler said.

It's good news, when all we hear these days is bad news about people finding work, that Mitchell Vo-Tech graduates are doing so well. Teachers and administrators at the Vo-Tech are making it a point to encourage and motivate their students in spite of the economy.●

PERSONAL EXPLANATION

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. McGRATH. Mr. Speaker, on Thursday, August 5, I was absent for a series of votes on House Joint Resolution 521, the nuclear weapons freeze resolution. I was necessarily absent because of illness. Had I been present, I would have voted as follows:

Rollcall No. 249: On the Broomfield substitute, I would have voted "no."

Rollcall No. 250: On the motion to recommit, I would have voted "yea."

Rollcall No. 251: On final passage, I would have voted "yea."●

THE PRESIDENT'S BALANCING ACT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. OTTINGER. Mr. Speaker, appearing in the New York Times recently was an editorial column by Tom Wicker on the subject of President Reagan's advocation of the proposed balanced budget amendment.

Mr. Wicker concentrates on the President's continued efforts to force a military buildup in our country, at the same time he asks Americans to sacrifice everything to "help save our economy." The deficits caused by Mr. Reagan's military buildup are being covered by his supporting the balanced budget amendment. It is quite clear to me that he is trying to fool the American people.

I hope that, as the balanced budget amendment comes to the House, my colleagues will keep Wicker's arguments in mind.

[From the New York Times]

THE BIGGEST HOAX

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes." The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year $750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from $140 billion to $160 billion, even after approval of the proposed $99 billion tax increase for the same years. Without a shred of evidence other than voodoo throbbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of $214 billion for 1983, $243 billion for 1984 and $279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, Chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.●

KEN DAVIS TO RECEIVE NATIONAL ENGINEERING AWARD

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FUQUA. Mr. Speaker, being chairman of the Science and Technology Committee has afforded me an opportunity to meet scientists and engineers and I have developed a deep respect for those in the engineering field who labor to give Americans a better life. Among those is one who stands above most of the others. He is W. Kenneth Davis, who has had a highly successful career starting with Standard Oil of California and continuing with the Atomic Energy Commission in its early days, then to the Bechtel Corp. and currently as Deputy Secretary of Energy.

Plaudits to him include the Arthur S. Fleming Award, the American Institute of Chemical Engineers' Professional Progress, and Robert E. Wilson Awards. He has also received the Atomic Industrial Forum's Oliver Townsend Award and was selected twice the UCLA regents' lecturer. He has been elected to the National Academies of Science and Engineering and served as vice president of the latter.

Ken has authored hundreds of technical papers and served on vital committees and boards too numerous to mention here, but all having a positive impact on our struggle to become energy self-sufficient.

Ken's success in his field and dedication to his country must be a role model to young men and women who choose engineering as their life's work.

Ken Davis is respected the world over as one of the most able engineers in his field. To underscore his superior performance over many years, the American Association of Engineering Societies has chosen him to receive its National Engineering Award. This prestigious award is certainly warranted and I would ask, Mr. Speaker, that all Members of the House join me in saluting a truly outstanding engineer and American, Ken Davis.●

PORTER ASSAILS SOVIET UNION DISINFORMATION PRACTICES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. PORTER. Mr. Speaker, I rise to protest the Soviet Union's continued propaganda and disinformation blitz spreading confusion and erroneous media impressions about U.S. diplomatic practices. Recently, we have seen examples of blatant Soviet efforts to forge important diplomatic and State documents to hurt the United States and its allies and foster cynicism about American intentions.

At a time of heightened tension and of renewed warfare in key regions of the world, the Soviets continue to exacerbate differences and undermine peace efforts. The latest themes stressed in Soviet external propaganda devoted to attacking the United States are summarized in the July 30 International Communication Agency's Soviet Propaganda Alert," which I insert in today's CONGRESSIONAL RECORD:

SUMMARY

In June and July, Soviet external propaganda stressed:

ARMS CONTROL AND PEACE MOVEMENTS

Soviet propaganda focused on alleged U.S. duplicity at the Geneva START talks. President Reagan's speech at the U.N. Special Session on Disarmament (SSOD) was seen as an attempt to hide Washington's bid for military superiority by portraying the U.S. as a "peace-maker." Peace demonstrations in the U.S. and Western Europe supposedly showed increasing worldwide realization that Washington, not Moscow, is the true threat to peace. A related major theme, following the space shuttle's latest flight, concerned U.S. military plans for space.

ISRAELI INVASION OF LEBANON

Soviets accused the U.S. of collusion with Israel in its move against the PLO in Lebanon. According to Soviet charges, the U.S. wants to impose a Camp David-type arrangement on Lebanon and neighboring territories, leading to "U.S. imperialist denomination over all the area."

GAS PIPELINE SANCTIONS

Soviet propagandists decried the sanctions as economic warfare. They claimed that this new version of the Cold War would not damage the Soviet economy, which could resist such pressures. The sanctions allegedly undermine the Versailles economic summit agreements and are designed to increase U.S. economic control over its allies.

HAIG RESIGNATION

Alexander Haig's resignation became an opportunity for Soviets to highlight U.S. "problems" in international relations. The former Secretary of State was described as a scapegoat for the administration's foreign policy failures, not as resigning over policy or personal disagreements.

ESCALATION OF THE IDEOLOGICAL WAR

President Reagan's European visit was seen as launching a stepped-up anti-Soviet campaign. Soviet propagandists kept up their attacks on VOA and ICA, accusing the U.S. of increasing its psychological warfare against the USSR.

CHEMICAL AND BIOLOGICAL WARFARE

Soviet propaganda continued to emphasize alleged U.S. hypocrisy in condemning the USSR for the use of chemical and biological warfare (CBW). Soviets maintained their claim of innocence on all charges of CBW.●

HOUSE BINARY VOTE ANSWERS "HOW MUCH IS ENOUGH?"

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ZABLOCKI. Mr. Speaker, last month the House of Representatives rejected the Reagan administration's plans to resume production of lethal chemical weapons, after a 13-year moratorium on such production. By a vote of 251 to 159, the House adopted my amendment to the fiscal year 1983 Defense authorization bill which deleted the $54 million requested for lethal binary chemical weapons production.

As our House and Senate colleagues take up this important issue in the Defense authorization bill conference this week, I would like to bring to their attention an article and editorial which appeared recently in the Salt Lake Tribune.

I regret that the photo accompanying the editorial cannot be included in the CONGRESSIONAL RECORD. What it shows so graphically and dramatically, over a headline which reads "How Much is Enough?", are storage containers of nerve agent stretching as far as the eye can see into the horizon.

My colleagues will recall that Tooele Army Depot in Utah, the site shown in the photograph, is a major storage location for the existing U.S. stockpile of lethal chemical weapons. According to the Tribune, "There is already enough nerve gas stored at Tooele Army Depot to theoretically kill every human on Earth, possibly several times over."

I commend the following article and editorial from the Salt Lake Tribune to the attention of my colleagues:

[From the Salt Lake Tribune, July 25, 1982]

HOUSE WISE IN KNOCKING DOWN APPEAL FOR MORE NERVE GAS

The Senate-passed authorization of $56 million to start production of a new-generation nerve gas, ultimately a $10 billion program, fortunately has been defeated by an overwhelming vote in the House. Hopefully the House view will prevail when this item is reviewed in a later conference between members of both houses on the overall Defense Authorization Bill.

There is already enough nerve gas stored at Tooele Army Depot to theoretically kill every human on earth, possibly several times over. The stock was examined several years ago by Salt Lake Tribune representatives, with permission of the TAD commander. One-ton drums of the liquid human insecticide were stacked on wooden platforms over an open area roughly two city blocks long and 60 yards wide. (They are shown in photograph at right, taken at that time. The drums have since been moved to inside storage.)

Just a tiny fraction of one drop of the liquid, contacting human skin or inhaled, can kill a person within minutes through paralysis of the central nervous system. And the U.S. military arsenal already has enough nuclear capacity to kill every Russian 10 times over.

The continued expenditure of billions of dollars for redundant weaponry, particularly the horror of nerve gas, is morally repugnant and fiscally insane.

How many times can you kill an enemy? What is rational about spending $10 billion for a new batch of chemical weapons designed to destroy human beings when the same $10 billion could relieve so much suffering and anxiety among America's growing army of poor?

Opponents in the House pointed out that renewed U.S. output of the gas would weaken NATO, whose European members have not requested deployment of the gas on their soil and reportedly fear being asked by Washington to do so. It was also noted that, since soldiers wear gas masks and protective clothing, civilians would be the main victims, possibly dying by the millions.

The Pentagon considers chemical warfare capacity necessary in case the Russians initiate its use. The U.S. already has that capacity.

The GB gas at Tooele is not hazardous to handle, a depot spokesman said. But the military wanted second-generation weapons, consisting of two non-lethal chemicals that mix to form the deadly gas only after firing. Safety procedures in implementing use of the Tooele liquid presumably are well established and its use as a weapon still viable if the decision were made. That's enough.

Of all the weapons man has devised in his lemming-like penchant for self-destruction, none is more repugnant than the chemical and biological killers.

If Russia did use them in an invasion of Western Europe, the U.S. has the option of using its present stocks at Tooele and elsewhere. And if the Russians were desperate enough to risk world condemnation by resorting to chemical warfare in Europe, it would likely provoke retaliatory escalation of the conflict to nuclear. In which case chemicals would be superfluous.

[From the Salt Lake Tribune, July 20, 1982]

Nerve Gas Plan Faces Defeat?

Washington.—A bipartisan House coalition predicted Monday it will successfully block President Reagan's proposal that the United States resume production of lethal nerve gas.

Reagan has urged Congress to approve $56 million for so-called binary nerve gas next year as part of a program estimated to cost an ultimate total of $10 billion.

The administration maintains the binaries—which consist of two non-lethal chemicals that mix to form deadly nerve gas only after firing—are safer to store than existing gas stocks and are needed to deter Soviet chemical warfare.

But congressional opponents of the Reagan plan told a press conference Monday that resuming U.S. production of nerve gas after a 13-year moratorium would seriously hurt relations with allies in NATO.

"The plan weakens NATO," said Foreign Relations Committee member Clement Zablocki, a Wisconsin Democrat, who is sponsoring an amendment to cut out funds for nerve gas production. He noted none of the governments of Western Europe have requested deployment of the gas on their soil.

Rep. Jim Leach of Iowa, one of 14 House Republicans working actively to block the program, said the prospect of being asked by Washington to deploy the new gas has led to considerable anguish in West European capitals.

Defense Secretary Caspar Weinberger has repeatedly told Congress no NATO government has been asked to accept new American nerve gas. Weinberger says it could be stored in the United States and rushed to the battlefield by air transport at the last moment.

However, opponents of the binary gas production say it could not possibly serve the Pentagon's stated goal of deterring Soviet chemical attacks unless the U.S. weapons were stored in Europe for ready access.

They charge that, because soldiers in any war would wear gas masks and protective clothing, civilians would be the chief victims of nerve gas and might die by the millions.

The Pentagon maintains, however, it is vital to have the capacity to wage chemical war if the Soviets initiate it, thus forcing the Kremlin's troops into bulky protective gear that would slow their advance and disrupt their strategy of fast and relentless attack.●

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. OXLEY. Mr. Speaker, on Wednesday, August 11, I was at the White House on official business and was unable to cast my vote on rollcall Nos. 258 and 259. Had I been present, I would have voted in this fashion: "no" on rollcall No. 258, and "no" on rollcall No. 259.●

GERM WARFARE SAFEGUARDS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues two editorials that appeared in the July 31 edition of the Press-Courier of Oxnard, Calif., in my district.

The first editorial entitled "Germ Warfare Safeguards" describes the Soviet dedication to development of chemical warfare agents and the dangers faced by the United States by not having a comparable capability to serve as a deterrent.

The second editorial entitled "Free Trade Productive" is critical of a decision by the Mexican Government to phase out the free trade zone status of Baja, California.

Germ Warfare Safeguards

The House voted its concept of righteousness recently when it refused, by a 251 to 159 margin, to appropriate $54 million for the production of artillery shells containing nerve gas.

That would be fine if only the Soviets were motivated by a similar code of good behavior. But, of course, they are not.

The Soviets have systematically developed an immense chemical warfare capability. Their stocks of lethal chemical agents are estimated to total 350,000 tons—nearly nine times that maintained by the United States as a deterrent to chemical attacks on U.S. forces.

Every Soviet and Warsaw Pact military unit has specially trained chemical warfare personnel attached. Every one of the Soviet army's 170 divisions are trained and equipped for chemical warfare using such weapons as sarin and soman nerve gas, mustard blistering gas, and hydrogen cyanide blood agents.

Other components of the Soviet's chemical arsenal include phosgene choking gas, lewisite blistering agent, adamsite vapor gas, and chloropicrin, a lethal liquid produced by combining chloroform with concentrated nitric acid.

Moreover, the Soviets have also developed a range of biological weapons, most notably the deadly mycotoxin known as "yellow rain."

In short, the Soviets take both chemical and biological warfare seriously and their armed forces train extensively to use it effectively. Any doubts about their willingness to use such loathsome weapons in violation of explicit arms control agreements and international treaties should have vanished with evidence of soman nerve gas victims in Afghanistan and yellow rain casualties in Laos and Cambodia.

What the Reagan administration wants is a minimal deterrent that could threaten the Soviets with retaliation in kind if chemical weapons are used against American troops. The last U.S. nerve gas shells were produced nearly 15 years ago; most date from the Korean War era.

Many of these munitions are deteriorating. Some actually leak, posing hazards to those who work around storage depots. The $54 million would have begun production of a safer alternative—binary shells featuring inert chemicals that do not produce nerve gas until they are combined in flight.

Maintaining at least a minimal deterrent is the best way to ensure that Soviet chemical and biological weapons are never used against U.S. forces or their allies.

Unless the House can be persuaded to reverse itself, its vote will have increased the chance that Soviet chemical and biological weapons will someday be used against the West.

FREE TRADE PRODUCTIVE

The Mexican government indicates it will begin phasing out the 50-year-old free trade zone status of Baja California—and that's bad news for businessmen on both sides of the border.

The free trade zone has allowed Baja California residents to shop in the United States and return home with their purchases without paying normal duty.

The reason the free zone was established was that Baja California and its major city of Tijuana are nearly 2,000 miles from Mexico City and its manufacturing plants. The special importing arrangement was set up to allow Baja Californians to make their purchases only a few miles away. Americans have enjoyed shopping in Tijuana.

The Mexican government should go slow on such changes. Business on both sides of the border is slack because of the devaluation of the peso and a drop in toursim. Cutting back on free zone status will not help the economy along the border or in the Mexico City area.●

THE FOOD AND AGRICULTURE RECONCILIATION ACT—FISCAL YEAR 1983

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CRAIG. Mr. Chairman, in order to offset the growing Federal deficit, Congress is now contemplating a huge tax increase because it is unwilling to control wild Federal spending, especially in the entitlement programs such as food stamps. Contained within

H.R. 6892, the Food and Agriculture Act, are the reconciliation instructions to strengthen various commodity programs and to delineate the requirements for food stamps. I could not accept, however, the sections dealing specifically with the food stamp provisions. Thus, I was unable to vote in favor of this bill.

The growth of the food stamp program is staggering to the imagination. In 1965, the program spent $35.6 million. The program in 1981 was over $11.4 billion. For fiscal year 1983, this Congress is looking to spend $12.4 billion of the taxpayers' hard-earned money. Just 7 years ago, the entire food stamp program operated nationwide at a cost of $4.6 billion. Over the next 3 years, funding will be increased by $4.6 billion. Congress is now increasing the funding of the program by the very amount it used to run on in 1975.

This legislation goes nowhere near far enough to reduce spending and tighten the administration of the program. I would not be concerned if all these tax dollars were being spent to assist those persons who are unable, through no fault of their own, to provide for their own subsistence.

Congress should keep in mind that there is a tempest brewing among many hard-working Americans and Idahoans who do not believe it is right that wages from their work go to support others who choose not to work, but to receive food stamps. I had introduced legislation, H.R. 6478, which would have helped bring this program under control and eliminate the voluntarily unemployed from the food stamp program. The essence of this legislation was contained in the supplemental views on food stamps in H.R. 6892.

I heartily endorsed the efforts of Congressman COLEMAN, ranking minority member on the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, in his attempts to reduce the abuses in the program. Specifically, I felt the need to include legislation to strengthen the provisions of error-rate reductions and sanctions, the thrifty food plan, the job search system, and the expedited service.

The committee bill contains a section that will require States to reduce their error rates to 5 percent by 1985. I supported the minority substitute, which would have saved an additional $120 million; and would have required the States to repay all benefits issued in error by over 9 percent in 1983, 7 percent in 1984, and 5 percent in 1985 and succeeding years. These are reasonable goals for the States to achieve, and would require them to act more fiscally responsible. Obviously, however, this Congress does not think so. All it has to do is dip down into the taxpayers' pockets and pull out more cash in order to cover its mistakes.

Another item of concern is the thrifty food plan. The minority substitute would have indexed food stamps. Currently, there are increases every October. With the indexes, this Congress could have saved $430 million. The thrifty food plan, for a family of four, could have increased from $233 per month to $257 per month—only $2 less each month than they would have received.

Since the Agriculture Committee and the House have agreed with the concept of having people look for jobs when they apply for food stamps, it follows that it should be the Secretary of Agriculture who determines how and when this law should be enforced. The House chose to adopt language which allows the State to decide whether or not they wished to employ the rule of requiring food stamp applicants to look for a job. Consequently, a total of $32 million in savings was lost because this provision was adopted.

Further, I support legislation which would have tightened the rules governing emergency food stamp cases. Currently, people can come into the food stamp office, state they have no income and then receive food stamps within 2 or 3 days. No verification of income or assets is required. The General Accounting Office supported revisions in expedited service because of the volume of abuse. Congress needs to have language which requires verification of income and assets, and provides that the States process these applications as quickly as possible; but in not more than 7 days.

No one should be misled by these recommendations. I am all for protecting the truly needy of this country. But, to provide increased assistance to those who really need help, Congress must remove those people from the system who are fully capable of helping themselves. I believe the Government lacks compassion by encouraging able-bodied people to remain idle. Further, the Government is penalizing over 100 million American workers who are now supporting the food stamp program.●

LEGISLATION TO CONTINUE UNEMPLOYMENT BENEFITS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. HOPKINS. Mr. Speaker, today I want to alert my colleagues to an urgent problem which the people of Kentucky, as well as many others will soon face. The problem is that many States will soon lose their eligibility for extended unemployment benefits which are currently available to their citizens.

The extended benefits program provides up to 13 additional weeks of benefits to unemployed workers who have exhausted their 26 weeks of regular benefits. The State and Federal governments equally share the cost of this program.

The reason Kentucky and many other States will trigger off and become ineligible for extended benefits is that they no longer meet the 120-percent criteria. This requirement states that the number of people in the State receiving unemployment benefits must be 120 percent of the average rate of the same period over the past 2 years. Many States are in danger of losing their benefits for a variety of reasons having to do with the individual employment makeup of the State and Federal eligibility criteria. However, the 120-percent requirement shows up repeatedly as a reason for a State's ineligibility.

Today I am introducing a bill which would temporarily waive the 120-percent criteria and allow States who desperately need these benefits to continue to receive them. My bill would also waive the current 13 week waiting period between extended benefit periods. With this waiver, a State could immediately start extended benefits once it triggered on.

Waiving the 120-percent criteria has been done a number of times before. The most recent time was in 1975. I believe this is a workable and reasonable approach to help our unemployed workers as soon as they need assistance. This method will continue the benefits currently available to workers in the most cost-effective way. As I stated earlier, States may lose their eligibility for a variety of reasons, but I believe this bill contains a provision that many States need and support.

Mr. Speaker, I am fortunate to represent central Kentucky—an area with one of the lowest unemployment rates in the State. However, that statistic is of little comfort to the individuals in the Sixth District who are currently on extended benefits after having been involuntarily laid off and who face losing this means of providing their families with basic necessities. I am introducing this bill on their behalf, and also on the behalf of the entire 17,421 people on extended benefits and 62,477 people drawing regular benefits in Kentucky who may need extended benefits after September.

I am introducing this bill with the hope that there will not be a need for the extension of the benefits for very long. However, at this time I think there is a need for these benefits. I urge my colleagues to support me in this effort to solve this problem now, while there is still time, rather than hurriedly react after it is too late.

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The bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF 120-PERCENT FACTOR.

(a) GENERAL RULE.—Effective with respect to compensation for weeks of unemployment beginning after the date of the enactment of this Act and before January 1, 1983, subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if—

(1) paragraph (1) of such subsection did not contain subparagraph (A), and

(2) such subsection did not include the second sentence thereof.

(b) WAIVER OF REQUIRED 13-WEEK PERIOD BETWEEN EXTENDED BENEFIT PERIODS.—For purposes of determining whether an extended benefit period is in effect for weeks beginning after the date of the enactment of this Act, subsection (b)(1)(B) of section 203 of such Act shall not apply if the close of the prior extended benefit period referred to in such subsection was before the date of the enactment of this Act.●

SLAVE LABOR ON SOVIET'S GAS PIPELINE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DERWINSKI. Mr. Speaker, one of the major issues surrounding the Soviet Union's natural gas pipeline, is the use of slave labor. A recent report from Bonn, West Germany, confirms that the Soviet Union is using tens of thousands of human rights activists and political prisoners to complete the pipeline. This point needs to be made in lieu of the unfortunate way in which the bill, H.R. 6838, was raced from the Subcommittee on International Economic Policy and Trade directly for consideration by full Foreign Affairs Committee without full and due deliberation. It is my hope that the House will give thoughtful consideration of the damage that could be caused by the misdirected foreign policy impact of this bill which terminates certain export controls.

I wish to insert an article by Alice Siegert of the Chicago Tribune of July 21, which gives direct insight into the Soviet's need for our technology for the completion of the pipeline.

The article follows:

[From the Chicago Tribune, July 21, 1982]

SOVIET PROJECT CITED—LABOR FORCED ON PIPELINE, GROUP SAYS

(By Alice Siegert)

BONN.—A West German human rights organization claims that the Soviet Union is using tens of thousands of convicts and political prisoners to speed completion of the controversial pipeline that will pump natural gas from the gas fields in Siberia to Western Europe.

The International Society for Human Rights in Frankfurt said seven forced labor camps had been set up in the last two years on construction stretches along the 3,000-mile line.

Among prisoners forced to work on the pipeline project were human rights activists and citizens persecuted for their religious or political activities. They included Semyon Glusman, a psychiatrist who had exposed the application of psychiatry for political purposes in the Soviet Union, Lithuanian architect Julius Sasnaukas, Ukrainian writer Sinovi Krassivski, ethnic German human rights activist Juri Grimm and Baptist ministers Vladimir Marmus and Alexander Ussatyuk.

The rights organization said sticking to the pipeline deal seems scandalous in view of the conditions under which the prisoners have to work.

During the long Siberian winter, the organization said in a statement, the forced laborers are housed in railroad cars that offer no protection against the bitter cold.

"Earth-moving work machines are hardly used," the statement said. "Heavy loads must be carried by men. Work accidents are the rule. Women, whose job is to insulate the pipes with asbestos and glass wool suffer water blisters and boils on their hands.

"Protective gloves are issued only every six months. Convicts working with asbestos often suffer from exzema. Severe cases of atrophy of the lungs occur among prisoners forced to work continuously with glass wool."

The human rights group said that forced labor camps had been set up at Ust Ishim, Urengoy, Surgut, Tavda, Tyumen, Irbit and Lysva.

"These camps are right on the course of the planned pipeline," a spokesman said.

The disclosures were made just before Chancellor Helmut Schmidt flew to the United States where he will try to overcome objections by the Reagan administration to the pipeline deal.

Washington's embargo on vital components for the pipeline has exploded in a bitter conflict between the U.S. and the European Common Market. Though Schmidt's trip originally was intended as a private visit, the rift in trans-Atlantic relations has forced a change in plans.

He now will try to allay the irritations and at the same time seek a revision of the U.S. sanctions in his talks with Secretary of State George Schultz and other leading Republicans. Economics Minister Otto Lambedorff already is in the U.S. to press the European case with Reagan administration officials, U.S. senators and congressmen.

Also on Tuesday the Common Market foreign ministers, meeting in Brussels, appealed to the U.S. to lift the export controls.

The Europeans deny that the anticipated natural gas supplies from Siberia will make them dependent on the Soviet Union. Moreover, they argue that the ban on U.S.-licensed technology violates their national sovereignty.

"For the first time in times of peace, the U.S. President has tried to seize control of non-U.S. territory," German business leader Otto Wolff von Amerongen said in an interview.

"American parent companies have been coerced no longer to make licenses available, existing contracts notwithstanding and despite the common practice of recent decades. That is a blow against international division of labor . . ."●

JACK KEMP'S FINEST HOUR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. SHUSTER. Mr. Speaker, both publicly and privately, I have witnessed Congressman JACK KEMP's response to the vituperative, slanderous, cheap-shot attacks inflicted upon him for his opposition to the proposed tax hike. Rather than responding in kind to such vilification, his replies have been restrained, reasoned, and responsible.

For the architects of the $99 billion tax increase to whisper that Republican opposition represents disloyalty is to expect Republicans to be disloyal to their basic principle of limited government.

For proponents of the increased tax bite to imply that U.S. Representatives have no right to speak out on a major tax issue is to ignore the U.S. Constitution, which clearly gives primacy to the U.S. House of Representatives on tax matters.

For a Republican administration to embrace a massive tax increase after promising to reduce taxes is, at best, to confuse the American people with its inconsistency, and, at worst, destroy their confidence in the integrity of this administration.

Rather than being disloyal to their party or its principles, JACK KEMP and the Republican Members of Congress who oppose this tax increase are the keepers of the flame that lights the principles of the GOP.

One need not agree with Congressman KEMP to respect the manner in which he is handling himself in this trying situation. He continues on the high road of principle, while some of his opponents apparently have chosen a different path.

In this incredible debate for the soul of the Republican Party, we are witnessing JACK KEMP's finest hour.●

HOUSING CRISIS IN MICHIGAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FORD of Michigan. Mr. Speaker, we are in a housing crisis. In an article which appeared in the Macomb Daily on Saturday, July 24, staff writer Robert A. Selwa examined how it affects Wayne County. In my district, Dearborn Heights, Flat Rock, Inkster, and Taylor are among the municipalities which experienced actual net losses in housing stock.

Tight money and exorbitant interest rates are killing home construction and home buying. President Reagan's veto of the housing bill stopped 250,000 homes from being built and 500,000 jobs from being created. That veto and other Reagan vetoes of bills to stimulate the economy and create jobs and alleviate human suffering explain the persistence of the Reagan recession.

I call this article to your attention, Mr. Speaker, so that my colleagues will have a full understanding of just how serious the situation is in my district and the surrounding areas.

Rehabilitation Could Save the Housing Industry

We are in a housing crisis. The housing situation is at its worst in metropolitan Detroit since the keeping of statistics on the subject began in the post-World War II era.

For the first time in the history of the region, there were more dwellings demolished than built last year.

The shrinking housing market reflects the economy, but the issue is deeper than that. The need remains, and is growing greater instead of lessening, for decent housing—the goal of the nation since the Great Depression and a goal toward which we were advancing until recently in metropolitan Detroit.

The latest housing report of the Southeast Michigan Council of Governments shows the grim picture.

A net loss of 1,309 housing units was registered the past year in the seven counties that make up metropolitan Detroit for SEMCOG: Macomb, Wayne, Oakland, Livingston, Monroe, St. Clair and Washtenaw.

Never before has that occurred.

Detroit led the way in net loss of dwellings, but some of the suburbs also had net losses, even in Macomb County with its previously ever-expanding bedroom communities.

If the family is a basic unit of society, the home is a basic structure of a block, a neighborhood, a city.

The United States Census of 1980 showed that in the past decade Detroit had a net loss of 58,696 housing units, the largest loss of housing for any city in American history.

The housing construction industry came to a virtual standstill in metropolitan Detroit three years ago. Destruction of houses continues in Detroit, and now some of the other municipalities are experiencing a diminishing housing stock as well.

SEMCOG shows the disastrous trend continues in Detroit. Slipping to sixth place in population nationally with the 1980 Census, Detroit—using $5.1 million a year in federal block grant funds specifically for housing demolition—has a net loss of 3,459 housing units in 1980 and a net loss of 4,630 housing units in 1981. That's more than 8,089 dwellings as a net loss for this decade already.

While the suburban cities are nowhere near that crisis amount, small net losses are being experienced in many of them, such as Mount Clemens, New Haven, Roseville and Utica in Macomb County, Hazel Park, Keego Harbor, Lake Orion, Northville, Pleasant Ridge, Pontiac, Pontiac Township, Royal Oak Township and South Lyon in Oakland County, Dearborn Heights, Ecorse, Flat Rock, Hamtramck, Highland Park, Inkster, Lincoln Park, Melvindale, River Rouge and Taylor in Wayne County.

Even Grosse Pointe and Grosse Pointe Park had net losses in housing this past year.

During the National League of Cities convention in Detroit last year. Councilwoman Joan Specter of Philadelphia asked:

"How can you tear down homes when you have so many homeless people? In Detroit, they're leveled. To tear down a building in Philadelphia is sacrilege. I ask, what have you done with the people?"

If the argument is that the older cities of the Northeast-Midwest region are in trouble, take a look at the housing statistics for Philadelphia—a net gain this past decade of 11,406 dwellings in a city close in area and population to Detroit.

Look at New York—a net gain of 21,217 housing units.

Look at Boston—a gain of 8,996.

Or Milwaukee—a gain of 7,397.

Minneapolis had a housing gain of 1,645 units; Columbus, of 54,203 units, Toldedo, of 13,259 units.

And, elsewhere in Michigan, Grand Rapids had a net gain of 1,682 housing units.

Our older cities and our older suburbs are capable of conserving and improving their housing stock.

Our older homes are our greatest urban natural resource.

The National Association of Realtors notes that the number of people in the prime home-buying age group of 20 to 39 years is increasing to 31 percent of the population during the 1980's. The association holds that a home is a symbol of a sound way of life.

Housing demolition is carried out with federal block grant funds using the Congressional statement of intent that the funds may be used to eliminate blight. This runs counter to two other specific Congressional statements of intent for the funds: to increase the supply of low and moderate income housing; and to conserve the existing housing stock.

Good, affordable homes are needed too much by people for federal funds to be going toward demolition.

As an intricate part of a total strategy of reviving the housing industry, measures need to be taken by Congress so as to assure that the funds intended to increase the supply of housing and conserve the existing housing stock will be used as intended.

A specific provision needs to be written into the law prohibiting the use of funds for housing demolition.

When the emphasis shifts, as intended, to housing rehabilitation, both the housing situation and the economy will be improved.

Jobs will be created in housing rehab and related fields, permanent jobs because of the skills developed. This kind of employment is particularly needed in an economy in which housing construction has virtually ended and the existing housing stock needs to be cared for.

This is the time to re-emphasize our national goal of a decent home for every American, and bring to the forefront the realization that our older homes are our greatest urban natural resource.●

RESOLUTION 242

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ROSENTHAL. Mr. Speaker, I would like to introduce into the Record a letter from a constituent that raises a point deserving wider attention.

As the dust begins to settle and immediate peace in Lebanon is, we all hope, close at hand, the point raised by my constituent's letter is one that we must not lose sight of: That for all the verbal manipulations of the PLO, they have still not repudiated their central aim—the liquidation of Israel.

Peace arbitrators from many countries have worked long hours to bring an end to the current crisis. Many points have been compromised but it must be remembered that, despite Arafat's deception efforts, the PLO has not accepted United Nations Resolution 242 which requires "acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area."

If the PLO were to acknowledge Israel's right to exist, it would be difficult to reconcile with the PLO charter, established in 1968, that states:

Article 15

The liberation of Palestine, from an Arab viewpoint, is a national duty and it attempts to repel the Zionist and imperialist aggression against the Arab homeland and aims at the elimination of Zionism in Palestine.

The world must recognize the PLO for what it stands for and not be fooled by protestations of peace. Arafat is still a wolf in sheep's clothing, trying to pull the wool over our eyes.

My constituent's letter follows:

Kweller & Dubin Associates,
Hollis, N.Y., July 30, 1982.

Hon. R. Reagan,
White House, Washington, D.C.

Dear Mr. President: Your special envoy, Ambassador Philip Habib, has been seeking for some six weeks to bring a peaceful end to the occupation of Lebanon by the terrorist PLO. Mr. Habib has demonstrated extraordinary patience, but it is now clear that the PLO has been playing for time, that the terrorists have no wish to resolve the Beirut crisis peacefully but intend, rather, to so delay and lengthen the negotiations as to wear out the patience of our country and force the United States to recognize and negotiate with them.

I am confident that your Administration will not fall prey to such an effort. That confidence is based on your Administration's refusal to give credence to the false report that Yasir Arafat was ready to recognize Israel. All Americans may take comfort in your Administration's wise and prudent evaluation of the Arafat "breakthrough" as a mere propaganda device designed not to advance the cause of peaceful reconciliation among the parties to the conflict but to confound and confuse Americans of good will.

No mere mouthing of adherence to any UN resolution will qualify the PLO for a role in the Middle East negotiations. Rather, our country must make clear that the PLO must abandon its charter, which vows the destruction of Israel by military means, which calls the establishment of the Jewish state null and void and which seeks to purge the Jewish presence from the Holy

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Land. Only then can the PLO claim the right to sit at the peace table.

I agree with you, the goals of American policy that you have spelled out so well: To restore a central government in Lebanon so that the Lebanese people will have control of their own country; to guarantee the northern border of Israel, so that there would no longer be a force in Lebanon that could, when it chose, create acts of terror across that border; and to get all the foreign forces—Syrians, Israelis and the PLO—out of Lebanon.

Israel shares these goals. So do the people of Lebanon, whose land and people was ravaged by years of PLO terrorism, as documented recently in the New York Times. That is why the Lebanese people, Moslem as well as Christian, welcomed the Israeli forces as Liberators. . . .●

DISTINGUISHED CONGRESSMAN ADDRESSES UNIVERSITY OF NORTH CAROLINA, CHARLOTTE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. NEAL. Mr. Speaker, our distinguished colleague from Illinois, the Honorable Paul Simon, visited my home State recently to deliver a commencement speech at the University of North Carolina at Charlotte. While he was there, Mr. Simon was interviewed by Ed Williams, associate editor of the Charlotte Observer.

In this interview, Mr. Simon made some thoughtful, provocative, and sensible observations about our Nation's problems and about the future of the Democratic Party. I would like to submit a copy of the interview for the Record at this time so that his colleagues may have the benefit of his comments. The article from the June 26, 1982, Charlotte Observer follows:

[From the Charlotte (N.C.) Observer, June 26, 1982]

Dreaming Liberal Dreams and Paying for Them

(Note.—Paul Simon, 53, has been a congressman from southern Illinois since 1974. He is a member of the House Budget Committee where, though known as a liberal, he is "not of the knee-jerk variety" and "does not necessarily push for higher spending," the Almanac of American Politics notes.

(Simon is the author of a new book, "The Once and Future Democrats: Strategies for Change" (Continuum, $12.95). When Simon was in Charlotte recently to speak at the UNCC graduation, Observer Associate Editor Ed Williams talked with him about the book and the Democrats. Here's part of that conversation.)

Q. What's the problem with the Democrats, and how do they solve it?

A. My assumption is you shouldn't win just because the other guy is doing a bad job. There are those who say the Democratic Party should not focus on any issues, we should simply let the Republicans foul up and we take over by default. I don't think the country moves in the direction we ought to go doing that.

There are three thrusts in the book. One is that we have to be the party of compassion. We have to stand up for those who face real problems in our society.

Second, we have to be a party that stresses productivity. At some point in our history—I think it can be pinpointed to the LBJ years—we continued to stress that everybody ought to get a piece of the pie, but we forgot that for that piece of the pie to grow the pie had to grow.

Third is the whole issue of quality—the quality of life, through culture, in education, in what we produce in our factories, everywhere.

Q. How does that make Democrats different from Republicans?

A. I think the one area where they have contributed is productivity, though I think they're so out of balance that the productivity contribution has been minimized. We're now at about 70% plant capacity. If you solve the society's capital formation problems, but you don't solve the distribution problems, you've failed. All the capital formation help you give to Chrysler, GM or anyone else isn't going to help if people can't buy cars. So you can't solve one problem while you're causing other problems.

I think the parties differ in the area of compassion. I don't think Reagan is a badly motivated man, but I don't think he understands what poor people face in Charlotte, or in Carbondale, Ill. His program reflects that.

In some instances, his party is on the popular side. In my district food stamps are unpopular, and it's the poorest district in Illinois. And yet, I think someone writing 50 years from now will regard food stamps as one of the finest things we have done. We have virtually eliminated severe malnutrition in this country through food stamps.

And in the area of quality, we're not doing anything at all. In fact, one of the basic problems with the Reagan budget was that it was put together without asking. How does this impact on the quality of life in our country?

Q. In the past, it has seemed to be that the Democrats were so overcome by either compassion or the desire to build up political capital that they created programs the nation couldn't pay for. How do you combine the qualities about Democrats that are attractive with more efficiency in running programs and a better grasp of economics?

A. We can run programs more efficiently, no question about it. We've made some mistakes in that area.

I think your assumption is wrong when you say we can't afford these programs, but correct when you said we have not budgeted properly. Democrats, along with Republicans, have not been balancing the budget. In percentage terms, the great growth in the budget is not social programs or defense, it's interest. Dave Stockman testified before the Budget Committee the other day that he thought by '85 or '86 we would be spending about 19% of the budget on interest. That is a reflection on Democrats and Republicans. The worst, ironically, of any president is Ronald Reagan, right now, in terms of the deficit.

But when you say we can't afford it, we have a smaller revenue base than any Western European country. It's interesting that a conservative columnist like George Will says we have to expand the revenue base of this country. The Reagan move to the $750 billion tax cut over five years was extremely popular. It was also irresponsible, and I think the deficit figures we are seeing show that. Reagan said when the tax bill passed, said in a speech, by fiscal '85 we'll have a $7 billion surplus. Now, that same administration projects a $233 billion deficit by fiscal '85.

Q. Public opinion polls consistently show that Americans believe in helping people who can't help themselves, but also think the programs by which we do it are wasteful, inefficient and in some cases corrupt. How should Democrats conduct those programs so as to do what Americans want to do but do it better?

A. Part of it is leadership that appeals to the best in us, not the worst. If you took a poll in my district, should we eliminate or cut back on foreign aid, it would be overwhelming in favor of doing so. But ask those same people, should we help starving people overseas, and they'd say yes. A party has to appeal in constructive ways.

I think the chapter in the book that is probably the most controversial is the one where I advocate that we guarantee everyone a job through the public sector if they can't get jobs in the private sector. I don't think it's enough to simply tell the stories about the welfare mother in Chicago, you know the anecdotes that Reagan repeats over and over again. He has repeated those anecdotes, yet we now have more people on AFDC than we've had at any time since the Depression. Somehow just repeating the anecdotes and condemning welfare doesn't get people off welfare.

We're not going to let people starve. We're either going to pay them for being productive or we'll pay them for being non-productive. And we have devised a system—our welfare-unemployment compensation system—where we pay people for being nonproductive. We ought to have programs that pay people for planting trees, for teaching functionally illiterate people how to read and write, for doing a thousand and one things that could enrich our society, and will not cost any more.

Q. The real problem with the Democrats, Sen. Ernest Hollings said, is that a lot of people don't believe they will pay the bills.

A. That has to be dealt with. While there's a difference between conservatives and liberals, it should not be over whether we pay the bills. I would favor a higher level of government expenditures than my more conservative friends. But whichever program we favor, we ought to pay for it as we go along.

Q. What do you think will be the outcome of Reagan's programs?

A. The Reagan program is not working. It could have worked. What basically we had was a shift from spending for social programs to defense. If that had been the only change, it would have been a wash, and while I would not have agreed with that shift, no great economic damage would have been done. When he combined that with that tax cut, then real damage was done.

The theory was that our economy would take off. In fact, the stock market went down, the bond market went down, real interest rates are at an all-time high. It's because, I think, the financial markets think the Reagan program has real inflationary pressures built into it.

The one that concerns me, and that we're modifying a little, is in defense. Harry Truman asked for a tax increase at the beginning of the Korean war, and we had a lower inflation rate at the end of it than we had at the beginning. In the Vietnam period, from fiscal year '65 to '70, we had a defense increase of $26.9 billion. I think most people would agree that one reason for inflation today is that LBJ did not ask for a tax increase to fund it.

Now, from fiscal year '81 to '86 we're being asked for a $197 billion defense increase—even with inflation, that's three or four times what LBJ did during the Vietnam period. And with it a tax cut. That scares the financial markets.

Q. Your vision of the Democratic Party is attractive to a lot of Democrats, but to a lot of other Democrats it seems wrong—a resurrection of a New Deal philosophy that doesn't fit today's realities. Are you trying to make the Democratic Party something it can't be?

A. I think there are enough things that appeal to conservatives that you can pull at least the bulk of them. The program I espouse is not going to appeal to Larry McDonald in Georgia, who is a regional vice president for the John Birch Society. FDR brought along the conservative Democrats, because he had things that appealed to them also. Conservative Democrats are interested in a balanced budget, one of the things I talk about in the book. Conservative Democrats are interested in restructuring the welfare program, in taking another look at unemployment compensation. I don't think conservative Democrats are necessarily opposed to doing more in the arts and humanities than we do. I think the right kind of leadership can pull it together.

There is a word you used that is important, and seems to have been forgotten: vision. A country has to dream dreams and have a vision. A nation is never on a plateau; it's either going uphill or its going downhill. I think we're going downhill now.

Instead of dreaming dreams and having a vision of where we ought to go and what we ought to do, we're now trying to defend the status quo. That's not good for a country. That's one of the most unfortunate things about the Reagan program.●

NICARAGUA RULERS SHOW FEW SIGNS OF DEMOCRACY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DERWINSKI. Mr. Speaker, I wish to direct the attention of the Members to an article in the July 18 Chicago Sun-Times which comments on the unfortunate events in Nicaragua. Patrick Oster, the Washington Bureau Chief of the Sun-Times, provides a fascinating and objective look at the tragic political situation in that land. The article follows:

[From the Sunday Sun-Times, July 18, 1982]

NICARAGUA RULERS SHOW FEW SIGNS OF DEMOCRACY

(By Patrick Oster)

MANAGUA.—As Nicaragua marks the third anniversary of the July 19, 1979, ouster of dictator Anastasio Somoza Debayle, there are signs that the democratic promise of the Sandinista-inspired revolution is finished.

Several of the moderate officials who once held high positions in the initial coalition government have fled the country, disillusioned by the increasingly Marxist ways of the radical left leadership that really runs this country of 2.7 million people.

Nicaragua is not yet totalitarian. But it is becoming increasingly difficult to argue it is pluralistic, non-aligned and has a mixed economy as the Sandinistas promised.

Today, political parties not aligned with the Sandinista National Liberation Front (FSLN), the Sandinista party, are banned from criticizing the government—as are private citizens—because of laws imposing a "state of emergency" March 15. The press is censored, too.

The emergency was declared because the threat of invasion from Honduras by counterrevolutionaries—mostly former national guardsmen of the Somoza regime.

The active armed forces have been built up to an unprecedented level of 22,000.

Critics charge that the counterrevolutionary activities are more nuisance than threat and are being used as an excuse to move Nicaragua to the left. The government, in turn, which accuses the Reagan administration of supporting counterrevolution, says it's not unreasonable to fear an invasion inspired by the United States, which has invaded Nicaragua 14 times.

Whatever the merits of the state of emergency, it's clear that even before it was declared the Sandinistas loved to monopolize political power.

Two non-Sandinista members of the junta quit in the spring of 1980 after the Sandinistas packed the Council of State to give themselves a majority.

Financial expert Arturo Cruz, who took one of the junta vacancies, also left when it became clear that the nine-member Directorate of the FSLN, not the junta, was running things.

The private sector still controls about half the economy. But increasingly, the government is nationalizing firms that are lucrative or key to the economy. Business owners complain they don't know where they stand.

The Sandinistas promised elections when they took over in 1979. But they have postponed them until 1985. Even then, FSLN officials have made it clear that the elections will be designed to strengthen Sandinista control, not jeopardize it.

Leaders of the only two free trade unions in Nicaragua have been beat up or threatened. Attempts to organize workers in factories or on farm cooperatives are viewed as counterrevolutionary.

Through impressive literacy and health campaigns, the Sandinistas have improved the lives of campesinos, who make up a majority of the population. But campesinos in private trade unions aren't being given land under reform programs like Sandinista union members.

Nicaragua joined the organization of non-aligned nations after 1979. But its pro-Soviet votes at the United Nations make its independent stand questionable.

There has been a close relationship with Cuba, whose Premier, Fidel Castro, helped unite the once-warring three factions of the FSLN. The CIA estimates there are about 6,000 Cubans in Nicaragua, 2,000 of whom are military advisers.

Members of the Sandinista Directorate have made numerous trips to Communist-bloc countries. But they have made many trips to Western Europe, Africa and Asia, too.

Most of these trips have been to seek aid for Nicaragua's ailing economy. The gross national product dropped 25 percent in 1979, putting the country back to its 1962 level. Slow growth since then has been complicated by damage caused by torrential rains in May.

The pressure to improve economic conditions, the cause of some dissension could force the Sandinistas to keep what pluralistic elements they have in order to please moderate governments helping them.

Likewise, they are feeling pressure from criticism from Eden Pastora, the famous Commander Zero, who left the country in disgust over its increasingly Marxist character.

Some hope this pressure will stop the drive left. But it seems a slim hope.●

SOUTH BOSTON 13-YEAR-OLD BABE RUTH ALL-STAR TEAM

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOAKLEY. Mr. Speaker, on Monday, August 16, South Boston's 13-year-old Babe Ruth All-Star Team will be in Washington, D.C. The team, which recently captured the New England championship for its league, will be competing for the national championship in Frederick, Md., under the leadership of Coach George W. Seeley, Jr., this weekend.

Mr. Speaker, these boys deserve special praise for the special happiness and pride they have given to the residents of South Boston. They have worked hard with what little resources given to them, combined with the dilemma of inevitable injuries, in order to produce a first-rate ball team.

Below is a list of the coaches and players of this magnificent team. The South Boston Babe Ruth All-Star Baseball Team will go to bat for the championship this Sunday. I hope all of my colleagues will join me in wishing these outstanding boys the best of luck in their endeavor.

Coaches: George Seeley, Jim Greene, and Mal Hornsby.

Players: Paul Walsh, Dominic Sulfaro, Keith Callow, Dan Suplee, Bob McGarrell, Mike Doyle, Greg Yanovitch, Edward Yamoulkas, Mike Burke, John Glynn, Steve McKenna, Tony Galvin, Matt Mullen, Mike Turner, and Paul Joseph.●

PROPOSED BALANCED BUDGET AMENDMENT

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mrs. BOGGS. Mr. Speaker, the Senate has now approved an amendment to the Constitution to require a balanced Federal budget. The focus of attention on this issue is shifting to the House of Representatives. Last week the Committee on the Judiciary completed a series of hearings on pro-

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posals to write a balanced budget amendment into the Constitution.

While the House of Representatives is making progress in considering these balanced budget proposals, many questions still remain to be resolved about the effect of writing economic policy or theory into such a venerable document as our Constitution. The New Orleans Times-Picayune/States-Item newspaper in my congressional district has raised serious questions about this approach in recent editorials I would like to share the latest one with my colleagues.

The editorial follows:

[New Orleans Times-Picayune/States-Item Aug. 9, 1982]

Political Balancing Act

In theory, everybody wants a balanced budget, regardless of whether he is a laborer trying to make sense of his checking account, a mogul heading a multinational conglomerate or a leader putting together a country's economic policy.

That much is easy to accept, and there's nothing wrong with this basic desire for fiscal security.

So what's wrong with a constitutional amendment to require a balanced federal budget? For starters, the Constitution is supposed to be an outline, full of broad, sweeping statements about the rights of people and their relationship to their government. The balanced-budget amendment before Congress, with its restrictions on the use of taxes and its complex conditions for allowing an unbalanced budget, is a verbal quagmire.

Ratification of such an amendment would set a precedent for littering of the Constitution with nit-picking amendments.

At this point, the congressional debate over the proposal is a waste of time. Besides taking up time that should be devoted to important matters, the debate does nothing more than let its backers say how much they oppose wasteful spending.

Since this is an election year, such congressional grandstanding is directed more toward the voters back home, and members doubtless are hoping their constituents will hear those statements and somehow disregard the fact that next year's unbalanced budget—the one threatening to strangle economic recovery aborning—is projected to carry a deficit of at least $140 billion.

The proposed amendment carries about as much might as one requiring sunny days. What would happen, once the amendment were part of the Constitution, if Congress decided to pass an unbalanced budget? Would all 535 representatives and senators be thrown into jail? And what would have to be cut to balance the budget?

The amendment is silent on such matters. Instead, it is rife with procedures for unbalancing the budget—in wartime, for instance, or when Congress votes to create a deficit—along with a provision for raising the national debt and with a prohibition against using taxes to balance the budget.

All this is too unwieldy to be acceptable as anything but a political device to obfuscate the inability of the president and Congress to balance the budget at a time when it rarely needed balancing, or at least reducing, more.●

TERRORISTS ARE NOT VICTIMS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LEHMAN. Mr. Speaker, with the very serious questions raised by the one-sided reporting about the Lebanon crisis, I would like to recommend that my colleagues read the "Viewpoint" article published in the July 18, 1982, Miami Herald. Rabbi Abraham Cooper of the Simon Wiesenthal Center in Los Angeles has written a thought-provoking piece reflecting on some of the ironies that have surfaced during the recent conflict in the Middle East.

The article follows:

[From the Miami Herald, July 18, 1982]

Terrorists, Not Victims

(By Rabbi Abraham Cooper)

Entebbe, July 4, 1976.—Six years ago, the world applauded the daring of Israel's military as it saved the hijacked passengers and crew of an Air France jumbo jet from under the nose of Idi Amin. Congratulations poured in; books, films, and articles followed. But though there have been many victories on the battlefield, Israel's image has continued to erode in the eyes of the world. There are profound ironies in the latest anti-Israel blasts.

Imagine the outpouring of adulation from U.S. public opinion had England announced that, as a result of the conflict with Argentina, it succeeded in foiling a Soviet sea missile and passed on the technological breakthrough to the President. Or if the Swedes had exhibited enough guts to confiscate the fully armed Soviet nuclear spy submarine beached last fall at Karlskrona. Yet Israel's smashing defeat of Soviet technology, military strategy, and hardware—and its immediate shipping of Soviet tanks and SAM-6 missile units to U.S. military experts—have barely raised a whisper outside the Pentagon.

Imagine the sense of satisfaction in the State Department if Angola were willing and able to expel the Cuban troops from Central Africa. Yet the resounding defeat of two major Soviet clients—the Syrians and the Palestine Liberation Organization (PLO)—evoke anger and frustration in Washington.

Why does Israel continue to lose on the public-opinion front in direct proportion to its military achievements? There are many theories, but I suggest that one central reason is America's traditional love of the underdog.

Clearly, in the last 15 years, despite the growth of OPEC's stranglehold over the West, Israel has shed the underdog image and has emerged, however reluctantly, as a regional power. Conversely, the Palestinian issue is now touted as the key to "a lasting peace" in the Middle East even though it played at best only a minor role in the major conflicts through the 1973 Yom Kippur War.

The PLO and its supporters successfully portray their cause not only as classic underdogs but indeed have utilized and perverted terminology often associated with Jewish suffering. By labeling Lebanon as their "Holocaust," by hurling charges of "systematic genocide," they manage to deflect public opinion from the fact that it is they, along with the Syrians, who destroyed the sovereign state of Lebanon, who slaughtered 60,000 Lebanese civilians, who displaced whole villages.

Why has Israel failed so miserably to get its point across effectively? An additional cause is the more-universal failure by Western institutions to preceive the true nature and threat of international terrorism.

By claiming eminent domain of their people's struggles and by labeling themselves the voice of the oppressed, international terrorists have in effect issued themselves blank checks to strike anybody, any institution, anywhere in the world.

Incredibly, the PLO chameleon has struck again. The unending arms caches cynically hidden in basements of apartment houses, schools, hospitals, and even mosques are overlooked as the very people who brought Lebanon to its knees cooly and automatically act the helpless victim. Suddenly, Arafat and his commanders are kissing babies in West Beirut, and the gullible media are there to record yet another public-relations ploy. These same "brave leaders" have proven their courage during the battle by staying in bunkers three stories underground while combatants and innocents alike are left to pay the consequences of their policies.

The time has come for our allies abroad and many people here to shed unjustified romatic visions of these terrorists.

If we want to help the peace process, let's mobilize behind the Camp David Accords, which bind Israel, Egypt, and any other Arab party ready to address legitimate Palestinian problems. But before there are any more Beiruts, it is time we learned to separate the firefighter from the arsonist.●

THE GENTLEMAN FROM MISSISSIPPI, JOHN SHARP WILLIAMS

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MONTGOMERY. Mr. Speaker, a copy of an article in the Saturday Evening Post, dated July 22, 1911, was recently brought to my attention. The subject of the column was John Sharp Williams, who served as both Congressman and Senator from my State of Mississippi. I want to share it with my colleagues.

[From the Saturday Evening Post, July 22, 1911]

Who's Who and Why—the Gentleman From Mississippi

When John Sharp Williams stuck his head through the door of the Democratic cloakroom in the Senate the other day and took a calm and contemplative look around, with a corncob pipe in his teeth the while and little rings of smoke festooning themselves on the tattered remains of what was once his curly hair, and then dodged back to his chair in the cloakroom to continue his narrative, we all knew everything was all right.

For a time we had been a little uncertain about John Sharp. We had doubts whether he would run true to his old House form, or would be impressed with his dignity as a Senator and have his toga valeted every morning. However the fears were groundless. John Sharp wears his dignity as a Senator with the same nonchalance with which he wears the bow of his black tie around under his left ear and all is well.

You see, John Sharp has been away from our seething midst for quite a spell. They are wise in Mississippi; and they fixed it so their legislature meets but once in four years or six—or something like that. At any rate, their legislature does not get to pestering around every year as legislatures do in most states; and the result is that when they elect a Senator down there they elect him far enough in advance of the beginning of his term to give him ample time to appreciate what has been done for him, and to allow him a period of rest, reflection and resolve. Thus, though John Sharp was chosen in the Senate primaries on Aug. 1, 1907 and elected to the Senate on Jan. 23, 1908, he didn't begin to be Senator, the strict sense of being on the payroll until March 4, 1911.

Meantime John Sharp, after leaving the House of Representatives at the close of the Sixtieth Congress, lived on Cedar Grove Road in Benton, Miss. which is on Rural Free Delivery Route Number One, following the varied pursuits of a planter, which include the scholarly and reverent cultivation of a mint patch, the higher education of some hounds, calm contemplation with Epictetus, communion with Marcus Aurelius, occasional excursions with Empedocles, Horace, Seneca and others of the restful old boys, and the consumption of hot bread for breakfast. Two years of this agricultural labor and John Sharp came back to Washington, his hair a little grayer, his mustache a little scraggier, but his eyes just as bright and his mind just as clear and his trousers needing to be pressed just as much.

Still he said nothing. When the Senate finally decided to fix up its committees they put John Sharp on the Finance and Military Affairs among others, and he sat for hours in the reciprocity hearings held by Senator Penrose's bunch of loyal and loving friends of that great Administration measure—that is, as loyal as they are loving, both of which they are neither, as Coe I. Crawford would say—and listened to various delegations and deputations tell how reciprocity would hurt them on the one hand, and enrich them on the other; but he didn't sparkle a single spark on the floor of the Senate, where practically every other new Senator had increased the wonder as to how he got there by making a public address—and some of them seven or eight.

John Sharp said nary a word. Then on May 25, when Senator Root was pointing our how gravely the foundations of the Republic are threatened by the incendiary scheme of electing Senators by direct vote of the people—and his own foundations too, by the way—John Sharp climbed aboard of Mr. Root for a brief space. And just as he began to mount he explained it all. "Mr. President," he said, "I had not intended to open my mouth at this session of the Senate of the United States, but it seems to me it is necessary that my own position should be made clear on this question." Then he made it clear in about 500 words, not only to the Senate but to Senator Root. Making things clear is one of John Sharp's specialties. After that he retired to the cloakroom and his corncob pipe; and save for a question or two, he has said nothing up to the moment of writing.

Presently, however, we shall hope to see and hear John Sharp in action. What the Senate of the United States needs more at the present time than any one thing is the presence of somebody who has a sense of humor. It takes itself so seriously these days that it creaks with dignity. Admitting that it is a great and solemn thing to be a Senator, it must be admitted that many solemn if not great things are Senators. Never a ray of sunshine penetrates that turbid assemblage. First Heyburn talks and then Bacon talks, and then Bacon talks and Heyburn follows; and even the bronze lady of the dome weeps dolorously every minute they are in session. So if John Sharp isn't scared of his surroundings and hasn't left that pretty wit of his down on the plantation, we shall live in palpitating anticipation that some day he will cut loose and give the presiding officer the chance to say, for the first time in this session: "The Senator will suspend while the chair informs the galleries that laughter and other evidences of approval and disapproval are forbidden by the rules of the Senate."

Not that John Sharp is a jokesmith or humorist, but that he has concealed about him ideas that can be clothed otherwise than in the usual cerementitious language that prevails and not lose any of their force or appositeness at that. When he was in the House it was a joy to hear him speak, especially when he was removing the hide of Gen. Grosvenor or ex-Uncle Joe Cannon or the melancholy John Dalzell. Heaven knows he has ample field for his hide-remover where he is now; and its advent will be hailed with loud cheers by all and sundry, and particularly by those unfortunates who make their living by observing what the Senators do and how they do it.

John Sharp doesn't seem a day older than when he was with us before. He isn't any more impressed apparently with the sacred traditions of the Senate than he was with the sacred traditions of the House. What he is doing, most likely is studying his associates in that select body—watching them work out—with an eye cocked to one side and a chew of tobacco in the right place, fixing them in his mind and getting them sized up, so he can tell where to begin when it seems necessary to let a little light into the scull of a benighted but dignified brother. Well, John Sharp is somewhat of a light-letter when he gets at it. He sure knows how.

He hasn't changed any. He is the same whimsical, delightful, brilliant chap he always was—absentminded, preoccupied and unimpressed by any but the essentials, careless, happy-go-lucky and smarter than a steel trap. Did you ever hear of the time when he was living down at the old hotel on the Avenue and was going to dine at the White House? His wife was not here at the time and John had to look out for himself in the way of sartorial embellishment. He began work on his toilet at half past six—the dinner was at eight—and he made heavy weather of it. From time to time he went to the room of his neighbor, Cooper of Texas, to consult about details.

"I suppose I've got to wear a high collar and one of the dadbinged white ties?" he suggested to Cooper.

"Sure you have, John Sharp—and tie the tie yourself."

John Sharp went back and struggled with the tie. Finally he got it in shape.

"Shall I put on a black waistcoat or a white one?" he asked plaintively. "You know I don't bother my head about these things."

"Put on a white one, John Sharp," counseled friendly Cooper.

John Sharp went back to his room and fussed around some more. Then, complete and superb as he thought, he went in to have Cooper take a final look at him. He burst in and struck an attitude.

"Observe me Cooper," he shouted. "Observe the sartorial model from Yazoo, Mississippi! Take a look at the mold of fashion and the glass of form! How do I look, Cooper? How do I look?"

"Well, John Sharp," Cooper replied mildly, "I think you would look a leetle mite better if you went back to that room of yours and put on your pants!"●

OLDER AMERICANS VOCATIONAL EDUCATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GOODLING. Mr. Speaker, I am pleased to cosponsor the Older Americans Vocational Education Act along with my colleague from Connecticut (Mr. Ratchford). I feel that it is important to raise the issue of skill training and age discrimination in the context of Education and Labor Committee's hearings on the reauthorization of the Vocational Education Act.

The bill proposes to establish a 3-year demonstration program to encourage the development of training and retraining efforts for workers age 55 or older. In addition, the bill would amend the current Vocational Education Act to provide for the inclusion of the older worker in State plans. This legislation embodies a crucial concept which has been overlooked in the past.

While I support this concept and endorse this legislation because it raises the issue of vocational training for older workers, I also have several concerns which I hope to address when the committee begins to markup the vocational education amendments.

Without a comprehensive look at the Vocational Education Act, I am concerned that by merely broadening the pool of eligible recipients, the vocational services might be seriously diluted.

In the present fiscal environment, it will be necessary to carefully craft the authorization to insure inclusion of the older worker without harming programs designed for youth and young adults.

In addition, I am concerned with the proposal to set up demonstration programs without an appropriate role for State boards of vocational education. If training centers for the elderly are ever to take root, State level involvement will be essential. This is another area which must be carefully examined in committee.

While I think these concerns are legitimate and ones that must be addressed in committee, I am positive that this bill will play a vital role in placing the issue of vocational training for the older worker before the committee and ultimately before Congress. This is a concept that must be dealt with as the committee proceeds with its consideration of the Vocational Education Act.●

SOVIET DAY OF SHAME

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DERWINSKI. Mr. Speaker, just 14 years ago on the 21st of this month, the Soviet military forces crushed the reform-minded government of Alexander Dubcek of Czechoslovakia by invading that country and occupying it with military troops. With its recent invasion and occupation of Afghanistan and the continued suppression that exists in Poland and the other captive nations, the Soviet Union continues to pursue its quest for world domination.

On August 21, 1968, a day which has appropriately been called the Soviet Day of Shame, Russian troops dealt the devastating blow to the liberalization that was developing in that small country. Although a Soviet satellite for 21 years prior to the invasion, Czechoslovakia had tried to maintain a degree of self-government. This Soviet military occupation violated the sovereignty of Czechoslovakia and it clearly was a transgression of international law. This unprovoked aggression was a clear infraction of the United Nations Charter although this world body was ignored by the tyrants in the Kremlin.

Although the invasion of Czechoslovakia by the Soviet Army and forces of its satellite states squelched the independence of a sovereign state and denied its people the right of self-determination, it is important to note that there exists a strong yearning for freedom and a strong nationalistic spirit in the people of Czechoslovakia. Their opposition to Soviet domination has never ended. Although there is a certain tightening in the Government's policies toward the dissidents, more than 1,000 courageous Czechoslovak citizens, signed a petition to require the Government to adhere to the Helsinki Final Act. They demanded restoration of their fundamental civil and political rights in the manisfesto, "charter 77." This was followed by "petition 78" which was developed for the practical purpose of supporting the signers of charter 77.

The signatories of these two human rights manifestos and their supporters have been consistently prosecuted by the Czechoslovak Communist government. Based on reports from Western European publications, the Red regime is highly displeased with the charter 77 document, and is monitoring the actions of the nearly 1,000 signatories. To express an unpopular view in any Soviet-occupied country may lead to police reprisals and imprisonment. Reports have verified that such action is being used on those signers of the human rights manifestos. Despite the severe oppression, their numbers have been growing.

It is of paramount importance for us to encourage the brave people of Czechoslovakia in their ongoing struggle for their political, economic, and national rights. We must continue to dramatize and object to the heavy-handed reprisals which are a way of life under Communist regimes.

Therefore, I join with the millions of freedom loving people throughout the world in supporting the people of Czechoslovakia in their hopes and prayers for the withdrawal of Soviet troops. Someday they will regain the freedom that was once theirs.●

INTRODUCTION OF THE OLDER AMERICANS VOCATIONAL EDUCATION ACT

HON. BILL RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. RATCHFORD. Mr. Speaker, a remarkable phenomenon is unfolding that will have far-reaching implications for our society. The aging of the American population is no secret to any of us, yet at few levels of public policy formulation has this dramatic demographic shift been considered in a meaningful way.

It is estimated that by the year 2000, the number of persons age 55 or over will increase by 19 percent. As policymakers, we must begin to consider the implications of a population that will not only live longer, but an increasing proportion of which will want to work longer. Sadly, this trend will be accompanied by a sharp increase in the poverty rate—the worst being among older women and minorities. The pressures of inflation and the disproportionate cuts in Federal programs for the elderly have influenced the attitude of many older persons toward work. Recent surveys show that 74 percent of 55- to 64-year-old persons wanted to continue in some type of part-time work beyond retirement. A 1981 Lou Harris poll showed the figure to be as high as 79 percent.

However, many individuals over the age of 50 who have lost their jobs or who have never worked, are experiencing great difficulty in entering or reentering the work force. We know that many are forced into social security at age 62 because they cannot find employment. Critical barriers to employment or reemployment of the older worker include obsolete job skills, lack of skills, individual attitudes, lack of job search skills, and employer discrimination in hiring older persons, particularly when training is involved.

Obsolete skills and the lack of skills are hardly the result of declining learning abilities. These problems are especially prevalent among the male population of older workers, displaced by plant closings or the influx of new technology. The lack of skills is most characteristic of older women entering the labor force for the first time after years of work in the home raising a family.

As a result of this dilemma, there has been a sharp increase in the number of older individuals taking educational courses to acquire job skills. According to a 1981 Lou Harris/NCOA survey, the number of people over the age of 40 seeking specific job skills has more than doubled in the past 7 years. Presently, and with few exceptions, programs funded through the Vocational Education Act have focused primarily on younger persons. Those focused on older persons are, for the most part, geared to preretirement counseling. Further, despite Federal mandates, funding required to broaden the scope and number of educational programs for the adult learner has been absent.

Federal job training programs that serve the older person are quite limited and primarily serve the low-income, chronically unemployed or hard to employ. Displaced homemaker programs do not assist persons over the age of 60, and the States by and large have failed to provide these services on their own. This is why I have introduced legislation today which would provide a greater focus on the older worker in vocational education programs, and provide for the establishment of a 3-year $20 million demonstration program to encourage the development of training and retraining for the older worker.

Under this legislation, entitled "The Older Workers Vocational Education Act," model centers would be established to focus greater attention on the special vocational needs of the older worker, and to promote employment opportunities for them. Serving those age 55 and older, these model centers would provide training and retraining in the following areas: to update skills and prepare the older worker for new careers when technological advances have rendered their current skills obsolete; promote employment in areas of job potential in growth industries. The centers would also provide assistance for: later-life career changes, with special emphasis on the older displaced homemaker; information counseling and support services to assist older persons in obtaining employment; encourage vocational education providers, including community colleges and technical schools, to offer more job training opportunities targeted and easily accessible to the older person. Finally the centers would also promote the training of paraprofessionals in gerontology and geriatrics, to help meet the increasing demand for such services.

Under my legislation, the Secretary of the Department of Education would be given broad authority for the design and conduct of the demonstration program. By placing a $400,000 cap on the level of any one grant, I expect that some 50 to 70 grants could be funded each year throughout the Nation. Eligible recipients of grants under this program would include States, State or local education agencies, postsecondary and vocational training institutions, any business or labor organization, and a public agency, non-profit or for-profit organization. State sponsored model centers could readily trap other available resources at the State level and could be easily coordinated with other employment and training programs. In addition, the private sector has demonstrated its willingness and competence in conducting training and retraining programs.

It is my hope that the adoption of this legislation will provide a greater focus on the special needs of the older worker in vocational education. It is aimed at fostering the development of skills development and employment counseling programs that will assist the many older Americans who want to continue to work or reenter the work force. As with the promotion policies and procedures of many firms which discriminate against the older worker, so too is the case with training opportunities. For many firms, there are powerful economic and organizational forces that lead to the selection of younger workers for the most intensive and expensive forms of training—this despite the discovery by some firms that older workers are more committed to company objectives than younger workers, that they hold vast experience and are willing to learn new skills, and that they are reliable. One recent study reveals that many executives report that it was by sheer accident that they discovered the value of their retired workers when, in desperation, they called upon them for assistance in handling backlogs of work. The executives reported that it proved to be more economical to have their own experienced former employees handle the extra work on a part-time or temporary basis than to call in outsiders with no experience whatsoever.

The Grumman Corp. in New York has successfully used about 600 older workers over the past 10 years in positions ranging from skilled technicians and engineers to publications writers. Grumman executives found the older workers to be experienced, talented, and willing to get back to work. The Bankers Life & Casualty in Chicago is also serious about the use of older workers. Bankers recruits older workers from outside the company, and has established a temporary pool to provide full- and part-time jobs for its own retirees. At IBM, retirees hold a number of positions throughout the company and many work up to 120 hours per year. They are hired to run preretirement sessions and health education programs for other retirees, active employees, and the spouses of both; to be call dispatchers and switchboard operators, among other things. In the Greater Hartford, Conn., area, the Travelers Insurance Co. has formed a consortium with other insurance companies to provide training in computer processing for retirees. Monsanio has established a successful program which relocates middle-level executives to St. Louis for a year-long retraining program conducted at Washington University. General Electric retrains middle-aged engineers at its Utica plant, and has found this practice to be more cost-effective than hiring younger college graduates. In responding to the adverse impact of foreign competition on its business, the International Silver Co. converted one of its plants and retrained many of its older employees as toolmakers.

The second careers program in Los Angeles helps mandatorily retired corporate executives find a way to remain active in either volunteer capacities or through full- and part-time work. They service many of the largest corporations in southern California by helping them fill their needs not only for permanent help, but also for vocation relief personnel, for experienced people needed temporarily on short-term projects, or for help in meeting a deadline. This program has met with tremendous success, and the staff has found the older worker to embody a unique combination of experience, skill, and maturity, making training and placement easy. The College Emeritii in San Diego, Calif., has operated a job development and job search and training program for those over 55 years of age for the past 5 years. Courses offered include training for apartment house management, court conservator, volunteer leadership, computer work, and office skills. Yet another example of a successful program in this area is the Grassmont Adult Career Center health education reentry program based in LaMesa, Calif. This program offers training to adults for a variety of health related jobs such as medical clerk, nurse assistant, medical office management, medical transcription specialist, dental health assistant, psychiatric technician, and vocational nursing. It also offers reentry courses for nurses and licenses vocational nurses. About 900 students go through this program each year with as many as 60 percent over the age of 55. Many at the age of 70 or older have been enrolled, and job placement has been high.

These examples of both private and public sector sponsored employment and training programs demonstrate the possibilities for dramatically increasing the number of older workers that can remain in or reenter the work force. While these examples are quite impressive, the availability of such services has been severely limited to date. Relatively few private sector concerns have undertaken such bold initiatives, and the Federal and State governments have been remiss in their responsibilities toward the older worker. One recent study revealed that while many States provide consumer and life-coping programs to meet the psycological and social needs of the older person, few offer opportunities for the older person to gain the vocational skills necessary to reenter the labor force when they may lack the skills to do so, or who are unemployed due to a lack of competencies.

Additional evidence exists at the Federal level. Another recent study found that 270 programs concerned with adult education and training existed in 29 Cabinet-level departments and agencies, with Federal support estimated to be in excess of $14 billion. However, only a small fraction of this money supported learning opportunities for adults beyond the traditional college age. It has also been found that academic institutions, because of a shortage of funds, have been unable to support such programs in the absence of any Federal mandates for lifelong learning.

Under my legislation, Mr. Speaker, the Vocational Education Act would be amended to provide a greater focus on the special training and employment needs of the older person, and to provide for this important new demonstration program, I hope these actions would pave the way for broad-scale efforts in the future to address a growing desire by an expanding aging population to remain active in the work force. It is also important to note that increased labor force participation by the older worker will not only help their economic status, but improve the general economy as well. In a noted Data Resources, Inc., study, it was found that increased older worker participation would yield an additional $10 billion in revenues to the ailing social security trust funds by the year

2005, and would have a very positive effect on the overall economy.

The reasons for prompt enactment of this legislation, Mr. Speaker, are compelling and I call upon my colleagues in the House to join me today in cosponsoring the Older Americans Vocational Education Act.●

COUGHLIN POLL: A MAJORITY BACKS ECONOMIC PROGRAM OF ADMINISTRATION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. COUGHLIN. Mr. Speaker, in keeping with past practice, I want to share with colleagues the results of my yearly mail questionnaire poll of the 13th Congressional District of Pennsylvania.

The response again was heavy with a total of 14,401 individual replies received before the July 15 deadline. In addition to the completed questionnaires, many constituents expressed additional views with comments on the survey pages and through separate letters.

Among the key results:

A majority of 59 percent express faith in President Reagan's economic program and believe we must continue with relatively minor modification. Thirty-two percent expressed no faith in the President's economic program.

When asked about raising taxes to lower the Federal deficit, 70 percent cited from a number of choices that they would raise excise taxes on tobacco, alcohol, and other so-called luxury items.

On controlling inflation, 52 percent believe the Federal Reserve's tight-money policy has brought down the rate of inflation and must be maintained for now despite high interest rates. A constitutional amendment to require a balanced budget was supported by 49 percent while 24 percent were undecided.

In foreign affairs, 61 percent favor an immediate freeze on nuclear weapons deployment regardless of comparative strengths of United States and Soviet missile forces, but a plurality of 48 percent opposes the United States initiating a unilateral freeze. A plurality of 44 percent opposes President Reagan's Carribean Initiative to extend more economic aid to stabilize governments and economies in friendly nations in Central and South America while a majority of 56 percent opposes continued military aid to El Salvador.

In addition, I asked other questions involving ranking by choice, listing more than one choice of action, and "yes" and "no" questions.

A majority favor major cutbacks in funding for foreign aid including aid to Israel and Egypt, as well as some cutbacks in funding for the poor including welfare and food stamps. Aid to the elderly including social security benefits led the field for those calling for no cutbacks. This was followed by no cutbacks for health care including medicare and medicaid.

Respondents split almost evenly on whether the Environmental Protection Agency was basically doing a good job of protecting the quality of our land, air, and water resources. The actual percentage responses to these and other questions are detailed below.

The questionnaires were mailed to homes and postal boxes throughout the congressional district. Each questionnaire afforded space for two residents to respond. A message in the survey informed constituents that additional questionnaires were available from my district office.

The results were compiled by my staff and doublechecked for accuracy. To insure accurate results, responses were weighted by ZIP code.

I will mail a copy of the results to the White House.

QUESTIONNAIRE RESULTS—1982

1. The state of the economy concerns us as individuals and as a Nation.

A. Which statement best describes your views? (one only)

I have faith in the thrust of President Reagan's economic program and believe we must continue it with relatively minor modifications	59%
I have no faith in President Reagan's economic program and believe we must change it substantially	32%
Other (specify):	9%

B. Faced with a $100 billion Federal deficit, how would you fund the following programs? (Totals more than 100 percent.)

	No cutback	An increase
Education (including student loans, grants)	31%	10%
Mass transportation (including operating subsidies)	31%	18%
Aid to poor (including welfare, food stamps)	21%	6%
Health care (including medicare, medicaid)	42%	9%
Aid to elderly (including social security benefits)	52%	11%
Defense (including MX missile, B-1 bomber)	26%	9%
Foreign aid (including aid to Israel, Egypt)	12%	1%

	Some cutback	Major cutback
Education (including student loans, grants)	30%	28%
Mass transportation (including operating subsidies)	37%	14%
Aid to poor (including welfare, food stamps)	50%	23%
Health care (including medicare, medicaid)	38%	10%
Aid to elderly (including social security benefits)	27%	9%
Defense (including MX missile, B-1 bomber)	47%	18%
Foreign aid (including aid to Israel, Egypt)	47%	19%

C. If you were to raise taxes to lower the Federal deficit, which, if any, of the following actions would you take? (One or more—totals more than 100%.)

Cancel the 10 percent income tax rate reduction for everyone scheduled for July 1, 1983	32%
Increase the Federal tax on gasoline by five cents a gallon	27%
Raise excise taxes on tobacco, alcohol and other so-called luxury items	70%
Modify the tax leasing rule to raise corporate taxes	47%
Place a temporary tax surcharge of four or five percent on incomes above $40,000 a year	35%
Other (specify):	19%

D. Do you favor a Constitutional amendment to require a balanced budget and, at the same time, limit the amount taxes can be raised.

Yes	49%
No	27%
Undecided	24%

2. Because of the way cost-of-living adjustments (COLA's) are calculated, Social Security and other Federal retirement payments have increased at a faster rate than real (adjusted for inflation) wages and salaries paid to workers.

A. Do you favor tying Social Security and other retirement COLA's to the increase in real wages and salaries paid to workers?

Yes	65%
No	19%
Undecided	16%

B. Are you currently receiving Social Security or other Federal retirement benefits?

Yes	23%
No	77%

3. The Federal Reserve has pursued a "tight money" policy to control inflation although it has kept interest rates high. Which statement would you support?

The "tight money" policy has brought down the rate of inflation and must be maintained for now	52%
The "tight money" policy has gone too far and control over the money supply must be loosened in order to bring interest rates down faster.	48%

4. U.S.-Soviet relations remain troubled, causing worldwide concern.

A. Regardless of comparative strengths of U.S. and Soviet missile forces, do you favor an immediate freeze on nuclear weapons deployments?

Yes	61%
No	29%
Undecided	10%

B. Should the U.S. initiate such a freeze unilaterally?

Yes	38%
No	48%
Undecided	14%

5. U.S. relations with Central and South American countries are becoming more important.

A. Do you support President Reagan's Caribbean initiative to extend more economic aid to stabilize governments and economies in friendly nations in that region?

Yes	39%
No	44%
Undecided	17%

B. With elections concluded and a new government installed in El Salvador, do you favor continued military aid to that country?

Yes	20%
No	56%
Undecided	24%

6. Considering the effect on the economy and jobs, do you believe the Environmental Protection Agency basically is doing a good job of protecting the quality of our land, air and water resources?

Yes	40%
No	42%
Undecided	18%

7. Given the increase in crime, would you favor spending as much as $2 billion for additional prisons despite its impact on the deficit?

Yes	50%
No	37%
Undecided	13%

8. Should government-supported family planning clinics be required to inform parents or guardians when unmarried minors seek contraceptive prescriptions or devices?

Yes	34%
No	60%
Undecided	6%

Party preference of those responding

Republican	66%
Democrat	21%
Non-partisan	12%
Other	1%

Ages of those responding

18 to 21	1%
21 to 35	20%
35 to 50	23%
50 to 65	33%
65 and over	23%

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THIRD U.N. CONFERENCE ON THE LAW OF THE SEA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GILMAN. Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress concerning continuing U.S. participation with respect to a comprehensive law of the sea treaty. The sense of this resolution has been expressed in House Concurrent Resolutions 271 and House Concurrent Resolution 361 both introduced by the gentlewoman from Rhode Island (Mrs. SCHNEIDER,) earlier this year and of which I am a cosponsor.

The resolution I am introducing today updates these earlier resolutions by taking note of the President's decision of July 9 that the United States would not sign the Convention on the Law of the Sea. That convention was adopted by the Third U.N. Conference on the Law of the Sea last April 30, when 130 states abstained and 4 states opposed adoption. The United States, you will recall, called for the vote and opposed adoption because of the seabeds provisions, part XI, of the treaty.

Although the United States voted against and has decided not to sign the treaty, we have been informed that the Government plans to sign the final act of the conference. The final act is an instrument common to international treaty negotiations and it is common practice for participants in such negotiations to sign such an act, thereby certifying that they have participated in the negotiations. The U.S. decision to sign the final act thus certifies we have participated in the 10-year negotiating effort of the Third U.N. Conference on the Law of the Sea. However, this final act also enables the U.S. Government to participate as observers in the preparatory commission of the conference. That commission will be established 60 days after 50 states have signed the final act and consists of representatives of signatories of the final act. The commission will prepare draft rules of procedure for the assembly and the council of the first financial period of the authority, personnel for the secretariat of the authority, make recommendations on various matters such as the budget of the authority, and prepare draft rules, regulations, and procedures to enable the authority to begin its functions regarding seabed mining. The commission will exist until the first session of the assembly has met, at which time its property and records will be transferred to the authority.

It is important to note that members of the preparatory commission who sign the final act can participate fully in the deliberations as observers, but not in making decisions. Thus the United States can take part in deliberations but not in the voting on the various measures I have identified above. In order to vote, the member state must have signed the convention as well.

Based on the April 30 vote in which the conference adopted the convention and the fact that 137 coastal states of the world—the remainder are landlocked—perceive benefits in signing the treaty, there is a high probability that the preparatory commission will come into being within 2 or 3 months following the December 1982, signing ceremony.

The administration says it will sign the final act but not send an observer to the preparatory commission. We would only be able to observe, not vote, says the administration.

Such a posture is not only unbecoming to the U.S. Government, but would result in further isolating ourselves from deliberations on fundamentally important aspects of the LOS regime that most countries will sign and ratify. We owe it to ourselves not only to be fully informed on what happens at the preparatory commission, but by sending an observer to influence in the corridors the deliberations on the rules and regulations for seabed mining as well as the rules of procedure for the council and assembly. Mr. Speaker, it seems to me that our minimal responsibility as a world leader is to continue to participate in the continuing process of this treaty and participate fully in the deliberations of the preparatory commission.

Accordingly, I urge our colleagues to support this resolution, the text of which I am inserting at this point in the RECORD.

H. CON. RES. 394

Whereas a comprehensive ocean law treaty is of strategic importance to the United States and to the protection of its foreign policy interests;

Whereas for more than ten years the United States has taken a leadership role in promoting a comprehensive treaty on the law of the sea;

Whereas the United States supported the resolution adopted by the United Nations in 1970 which endorsed, inter alia, the principle that the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind;

Whereas the Third United Nations Conference on the Law of the Sea, representing more than one hundred and fifty countries, formulated a comprehensive treaty over an eight-year period;

Whereas the United States reviewed the draft treaty on the Law of the Sea and participated in the eleventh session of the Third United Nations Conference on the Law of the Sea in March and April of 1982;

Whereas on April 30, 1982, the Conference adopted the draft treaty, the Convention on the Law of the Sea, by an overwhelming majority despite the objection by the United States to certain provisions of the treaty;

Whereas the provisions of the treaty make vital and valuable revisions in and additions to the existing body of international law of the sea, including provisions governing fishing, marine scientific research, protection of the marine environment, and exploitation of offshore energy resources;

Whereas provisions of the treaty relating to military navigation and overflight are vital to the national security interests of the United States;

Whereas the treaty establishes a regime of uniform national boundaries that is vital to the efficient transportation of energy resources and other goods in international commerce;

Whereas the establishment of such a regime of uniform national boundaries would limit the steady seaward expansion by certain countries of their national boundaries;

Whereas the seabed contains an abundant supply of hard minerals such as nickel, copper, manganese, and cobalt, and it is in the national interest of the United States for these minerals to be available independently of the export policies of foreign countries;

Whereas, although the President on July 9, 1982, announced that the United States would not sign the Convention on the Law of the Sea at the official signing ceremony in December 1982, the President did state that the United States would sign the Final Act of the Conference on the Law of the Sea certifying the participation of the United States in the Conference; and

Whereas, since signing the Final Act of the Conference will entitle the United States to participate as an observer at the meetings of the Preparatory Commission of the Conference, which will formulate the rules and regulations for seabed mining, the United States will have an opportunity to influence those rules and regulations

BEST COPY AVAILABLE

through participation at those meetings: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress urges the President—

(1) to avoid taking any actions which could foreclose eventual United States participation in the Convention on the Law of the Sea;

(2) to conduct an evaluation of the objectives of the United States for ocean use and the relevant foreign policy interests of the United States with respect to the Convention, weighing the different alternatives available to the United States; and

(3) to designate a high level United States representative as an observer to the meetings of the Preparatory Commission of the Conference on the Law of the Sea that will formulate the rules and regulations for seabed mining, in order to demonstrate the continuing commitment of the United States to the multilateral process of formulating a law of the sea and to demonstrate the strategic importance to the United States of the Convention on the Law of the Sea.●

THE ROLE OF RELIGION AND THE CHURCH IN OUR NATIONAL LIFE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GOODLING. Mr. Speaker, I commend the attention of this body to the following sermon of Dr. Benjamin Griffin before the congregation of the Trinity United Church of Christ, York, Pa. on June 29, 1975, and again on July 4 of this year. As a matter of historical and religious significance, this sermon recounts the role of York in the American Revolution. However, of particular importance is the timely question of the role of religion and the church in our national life.

Mr. Speaker, this sermon was brought to my attention by Andrew T. Schumacher of York, Pa. I thank him for sharing this message with me and giving me the opportunity to share it with my colleagues in the House of Representatives.

The sermon follows:

[Sermon preached by the Rev. Dr. Benjamin Griffin before the Congregation of Trinity United Church of Christ, York, Pa.]

FOR GOD AND COUNTRY

"And you shall proclaim liberty throughout all your land." Lev. 15:10

Two hundred years ago Captain Michael Doudel, his officers, and sixty-eight riflemen marched as a body to the German Reformed Church to hear a patriotic sermon by Daniel Wagner, the pastor, who told them "to keep God before their eyes continually and they would be assured of his guidance and protection." At one o'clock that same Sunday afternoon this Company of York County Continental Army soldiers began their long march to General Washington in Cambridge, Massachusetts. They arrived in Massachusetts on July 25th and by July 30th they saw action at Bunker Hill. One of the members of the York Committee, which prepared and no doubt helped finance Yankee Doudel's Company, was that sturdy patriot, Colonel Thomas Hartley, whose home stood on the very ground on which Trinity Church now stands. It was this same Colonel Hartley who in 1791 brought George Washington to worship in our German reformed Church.

I do not know why the York Company under Captain Doudel chose to come to the German Reformed Church of which Trinity Church is its direct descendent. Perhaps because it was situated on the way out of town, it was convenient. But there were other churches on what is now Market Street. I doubt if they came to our church because there were large numbers of Pennsylvania Germans in the Doudel Company; extant records reveal few German names. I suspect, although I have no way of knowing this with any certainty, that one of the reasons the riflemen came to our church on that historic Sunday was that the pastor and the congregation were known as firm supporters of the Revolution. I mention this guess because at the time of the Revolution not all citizens and not all churches backed the revolt against the King. Some historians estimate that less than half of the population of the American colonies actively supported the Revolution in 1775. There can be no doubt that Pastor Wagner and our church were strong supporters of the Revolutionary cause. York County joined the Revolution two hundred years ago this week. Trinity Church through its pastor gave its blessing and sent forth its prayers for this great adventure in liberty.

In the United Church of Christ we are the Church of the New England Congregationalists and the Pennsylvania German Reformed people. There was a direct relation in our parent denominations of religious convictions and political ideals. In the mid-eighteenth century there was a major religious revival called the Great Awakening. This gave rise to a new interest in education and in humanitarian causes. Some, especially the clergy, who were most influenced by this revival were also becoming more and more sure that they should resist authoritarian control from England. In this setting, John Wise, an early Congregational pastor, was probably the first to proclaim that taxation without representation was tyranny.

Pennsylvania German Reformed people were more and more touched by the political unrest in the colonies. They felt bound by conscience to fulfill obligations to the movement for independence. Members of those small Reformed congregations in Pennsylvania served in the war effort as soldiers and on town committees. Michael Schlatter, the great German Reformed founding missionary to our churches in this Commonwealth, and the founder of the German Reformed Church in York County, enlisted as a chaplain in the Continental Army. When the Constitution was adopted and George Washington became President in 1789, the Reformed ministers congratulated the new president for "the happy and peaceful establishment of the new government."

Today we too quickly assume that in 1775 it was an easy thing to support the Revolution and to enlist in the cause. Today we tend to glorify and romanticise the Revolution. Yet when Thomas Hartley and the other leading merchants and farmers of York County took the active lead in organizing and raising funds for the support of Michael Doudel's Company they were risking not only their economic fortunes but their lives as well. Some of those eager York County farmers who could "hit the nose at one hundred and fifty yards" did not come home again to this beautiful county. And, no doubt, there were good people in York churches, including the Reformed Church, who believed that Pastor Wagner should not have gotten himself involved in such a political cause as a revolt against the established government. In 1775 it was not at all clear and certain that the Revolution would succeed. Indeed, in 1775 many who were later to be strong patriots were not convinced that independence from the Crown was either necessary or desirable.

It is not enough today for us to recount and to remember the day when York joined the Revolution. Nor is it enough to be proud of the role Trinity Church and the German Reformed people played in the whole enterprise of the founding of our Republic. We need to ask, "what does the American Revolution mean today to us?" We need also to ask about the role of religion and the church in our national life. I hope that we can all admit that part of what it means to honor our tradition is to continue that tradition in our own time. Otherwise, all that we are doing today is taking a tourist trip back into the past.

George Washington believed that religion and morality are indispensable supports to the national welfare. Washington did not believe, as indeed, none of the Founding Fathers believed, that this meant blind support. Yet in a democratic republic the spiritual life of the people and their basic moral decency and trust are absolutely essential if the nation is to remain a nation of free men and women. Watergate symbolises many things, but what it means, I think, more than anything else is what can happen when there is a corruption of basic morality—and by that I mean that some things are always right and some things are always wrong—and when there is a breaking of the trust between the elected government and, we, the people. Theodore White in his book about the fall of our former president, a book he calls Breach of Faith, argues that what finally happened was that the trust we, the people freely give to our chief magistrate was abused.

I am one of those who believes that Watergate was our greatest national crisis since the Civil War. Like the Civil War it was fundamentally a moral crises. I know that it is easy in these days to be cynical about politicians and the courts. Yet one of the things we learned through Watergate is that there are politicians of both parties who still retain a deep moral consciousness and that the courts still have on their benches men of impeccable moral character with a firm loyalty to the rule of law. As this nation is about to begin the third century of its independence, we must rededicate ourselves to those moral virtues of honesty, fairness, and decency without which this nation cannot survive.

One of our national slogans is "One Nation Under God." I think we need to underline that word "under". The nation is not supreme and ultimate; God alone is. The nation deserves our support and our loyalty, but our ultimate and final trust and allegiance is to God alone. Our destiny and that of our nation depend not on guns and butter but upon the sovereign will and care of Almighty God. Our Judea-Christian tradition constantly reminds us that God is God not only of individuals but of nations as well. Religion has a responsibility of ever

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keeping before us the ultimate sovereignty of God. Pastor Wagner two hundred years ago told the Doudel Company, "to keep God before your eyes continually and you will be assured of his guidance and protection." That is still good advice to us as individuals and as a nation as we today rededicate ourselves "to a reaffirmation of faith, democratic ideals and love of country."●

CONFIRMATION OF CONGRESSIONAL INTENT ON SECTION 213(b)(1)(c) of H.R. 4961

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MATSUI. Mr. Speaker, section 213 of the Senate amendment to the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, prohibits the Internal Revenue Service from retroactively reclassifying a motor vehicle operating lease that includes a terminal rental adjustment or TRAC clause as other than a true lease. A question of legislative intent has arisen as to whether section 213 and it specific reference to commercial leases should be interpreted so as to carry a negative implication that a lease of a vehicle for the lessee's personal use necessarily requires that the lessor of such vehicle be subject to a different tax treatment then that provided by section 213 to a lessor of a vehicle used for commercial purposes.

To address this concern, I wrote Senator Bentsen, the principal sponsor of this provision, and requested that he respond to a number of specific inquiries on the matter. The following correspondence details this exchange:

Congress of the United States,
House of Representatives,
Washington, D.C., August 2, 1982.

Hon. Lloyd M. Bentsen,
U.S. Senate,
Washington, D.C.

Dear Senator Bentsen: I am writing to you as the principal sponsor of the provisions contained in section 213 of the Senate Amendment to the "Tax Equity and Fiscal Responsibility Act of 1982," H.R. 4961, which would prevent the Internal Revenue Service from retroactively reclassifying a motor vehicle operating lease that includes a terminal rental adjustment or TRAC clause as other than a true lease.

As you are aware, the need for this remedial legislation arose when the IRS in May 1980 published a "technical advice memorandum" that took the position that the presence of a TRAC clause in the standard lease form which the motor vehicle leasing industry had used for over 30 years should cause such a lease transaction to be treated for federal income tax purposes as a conditional sale. Despite the fact that this position was a reversal of that which the IRS had generally followed on audit in years past, and despite the fact that the position was adopted without notice to the Congress or to the public and without the benefit of public hearings in which interested parties could state their views on the serious economic and tax issues connected with the change of position, the IRS refused to exercise its discretion to apply the new position on a prospective basis only. Moreover, notwithstanding the April, 1981 decision of the United States Tax Court in the *Swift Dodge* case that the new position was wrong as a matter of law, the IRS has continued to apply the changed position retroactivley in the audit of selected motor vehicle lessors.

I became aware of, and concerned about, this problem both because the taxpayer in the *Swift Dodge* case is headquartered in my Sacramento, California, district and because my broader constituency includes numerous commercial and consumer leasing interests throughout the state of California. I have followed closely efforts on the House side by my colleagues on the Ways and Means Committee directed at the problems caused by the 1980 IRS technical advice memorandum. In particular, I have been supportive of H.R. 6358 introduced this spring by Mr. Holland and cosponsored by Mr. Vander Jagt, which included the substance of the proposal you sought to include in a Senate approved tax bill. The purpose of this letter to you, the primary mover of the Senate version of this legislation, is to ask that you confirm my understanding and that of my constituents interested in this proposal of several provisions of section 213.

First, I am concerned as to the effect of the language in section 213(b) (1) (C) which limits the applicability of the protection provided by section 213 to motor vehicle operating leases under which the lessee uses the leased property in a trade or business or for the production of income. It is my understanding that this language was not intended by the Senate Committee on Finance to carry any negative implication that a lease of a vehicle for the lessee's personal use, or for both business and personal use, necessarily requires the lessor to be given a different tax treatment than where the vehicle is leased exclusively for the lessee's business use. I also understand that it was not the intent of the Finance Committee to change, or to imply any need for change, in existing law as reflected by the Tax Court's 1981 decision in the *Swift Dodge* case which rejects the notion that presence of a terminal rental adjustment clause in a lease for personal use prevents the lease from being respected as such for federal income tax purposes.

On a related issue, I understand that section 213 was not intended to create any negative inference that the effect of a TRAC clause in a motor vehicle operating lease should be different than the effect of such a clause in a lease for some other type of equipment. I also understand that the committee similarly did not intend that the rule of law set forth by the Tax Court in the *Swift Dodge* case concerning the effect of TRAC clauses generally should not be applicable to leases for equipment other than motor vehicles.

Second, I seek your confirmation of the Finance Committee's intent with regard to clause (ii) of section 213(b)(1)(A) of the Senate approved amendment to H.R. 4961. This provision appears to permit, but not require, publication by the Secretary of Treasury or his delegate of a regulation providing that a motor vehicle operating agreement which includes a TRAC clause is not a lease for federal tax purposes. It is my understanding that by approving this language, the Senate was neither authorising nor anticipating any substantive change by Treasury regulation of existing law as confirmed by the *Swift Dodge* decision. To the contrary, I understand that you and other members of the Finance Committee intended to allow such a change to be effected only in the most extraordinary circumstances and, in any event, only after a thorough analysis has first been made and communicated to Congress by high-level Treasury and IRS officials as to why such a change might be warranted.

It is also my understanding that the language of this clause was chosen, with the protections of the Administrative Procedures Act in mind, so that it can be satisfied only by Treasury promulgation of a final, substantive rule or regulation prescribed in the future after publication of notice of the proposed rulemaking in the Federal Register showing the text of the proposed regulation, and after providing opportunity for public hearing at which any affected taxpayers or any other interested members of the public could personally appear to submit their comments or suggestions for revision of the proposed regulation.

In closing, I want to take this opportunity to express again my support and that of my constitutents for your efforts and those of other members of the Finance Committee to provide a much needed and long overdue legislative solution on this issue which is of critical importance to numerous industries in my state and across the nation.

Very truly yours,

Robert T. Matsui,
Member of Congress.

U.S. Senate,
Washington, D.C., August 4, 1982.

Hon. Robert T. Matsui,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Matsui: I write in response to your letter of July 28, 1982, in which you raised several inquiries concerning section 213 of the Senate amendment to H.R. 4961 which provides that the presence of a terminal rental adjustment or TRAC clause in a qualified motor vehicle agreement shall not be taken into account in determining whether the agreement is a lease for federal tax purposes.

As you correctly noted, I together with Senator Armstrong and other members of the Senate Finance Committee, worked actively to include in the Committee-approved tax bill the substance of legislation we had drafted which was identical to H.R. 6358, introduced this spring by two of your distinguished colleagues on the House Committee on Ways and Means, Mr. Holland and Mr. Vander Jagt. Our proposal as well as the Holland bill, H.R. 6358, and earlier legislative efforts directed at solving the problems caused by the May 1980 IRS technical advice memorandum, would all have applied to any motor vehicle lease which included a TRAC clause without regard to how the vehicle was used by the lessee.

During the course of the Senate Finance Committee's markup proceedings, however, our proposal was modified to include the provisions in subparagraph (C) of section 213(b)(1) at the urging of Treasury Department and IRS officials present who were apparently concerned that estimates made on our proposal showing no appreciable revenue effect were based on assumptions that the property would be used only for business purposes by the lessee.

I can assure you that the Finance Committee accepted this modification because of its deep concern over revenue impacts generally, and not because the Committee intended that a different rule of law or tax

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treatment should apply to lessors of nonbusiness use motor vehicles or other types of equipment. As a matter of fact, I and a number of other members of the Finance Committee believe that a good case can be made that there would be no adverse revenue effect even if section 213 were to apply across the board to all leases with TRAC clauses, including those covering personal and dual use vehicles. I can also assure you that the Committee would view any negative inference that lessors under consumer leases should be subject to different substantive tax rules than lessors under commercial leases by virtue of section 213(b)(1)(C) as both bad law and bad tax policy.

The notion that the tax treatment of lessors under otherwise valid leases should depend on the actual use to which a lessee puts the leased property is contrary to both the theory and the result of *Swift Dodge* which rejects the notion that the presence of a TRAC clause in a lease for personal use prevents the lease from being treated as such for federal income tax purposes. Moreover, any requirement that a lessor substantiate his entitlement to the tax attributes associated with the leased property on the basis of how a lessee actually uses the property would create such hopelessly complex and costly administrative problems for both the IRS and lessor taxpayers as to defy resolution. I should also add that the Committee did not intend to create any negative inference that for federal tax purposes the effect of a TRAC clause in a motor vehicle lease should be different than the effect of such a clause in a lease for some other type of equipment.

With regard to your second inquiry, I can also confirm your understanding of the effect of the language in clause (ii) of section 213(b)(1)(A) of the Senate passed amendment to H.R. 4961. As I stated above, when my colleagues from Colorado and I initiated action on this provision in the Finance Committee, it was our intent to include in the Committee-reported bill the substance of legislation we had drafted which was identical to the Holland bill, H.R. 6358. In explanatory remarks accompanying H.R. 6358, Mr. Holland stated that he viewed his bill, in accordance with the theory and result of the Tax Court decision in *Swift Dodge*, as declaratory of existing law. (128 Cong. Rec. 9769 May 12, 1982.) Mr. Holland also stated that his bill was based on the premise neither Congress nor the Treasury Department would consider any changes to existing law unless the Department had previously conducted a major policy level study of the economic and tax issues bearing on the question whether there is sufficient reason to deny fleet lessors the depreciation and investment tax credits otherwise allowed owner-lessors of depreciable business property.

In urging our colleagues on the Finance Committee to support our proposal, Mr. Armstrong and I made it clear that by including the provisions of section 213(b)(1)(A)(ii), the Senate Finance Committee would not be contemplating a change in existing law as confirmed by the Tax Court in *Swift Dodge*. We made it clear that we shared Mr. Holland's view that such a change could be effected by prospective Treasury Department regulations only in the most extraordinary circumstances. Indeed, I and others on the Committee assume that no court could find reasonable a Treasury regulation that was contrary to the *Swift Dodge* holding unless Treasury had first come to Congress with a thorough study of the type described above.

In addition, the Committee also understood and intended that prior to promulgation of a final substantive rule in accordance with the protections provided by the Administrative Procedures Act, Treasury would first have to publish a notice of the proposed rulemaking in the Federal Register showing the text of the proposed regulation, and provide opportunity for public hearing at which affected taxpayers or other interested members of the public could personally appear to submit their comments or suggestions for revision of the proposed regulation.

Thus, the intent and understanding of the Committee with respect to section 213 was to provide a statutory rule of law that the presence of a terminal rental adjustment clause in a qualified motor vehicle operating lease shall not be taken into account in determining whether the agreement is a lease. The statutory rule is intended to, and will continue to, apply unless the Congress enacts a law (or Treasury publishes a regulation) which provides that any agreement with a terminal rental adjustment clause is not a lease.

The Committee clearly did not intend that Treasury exercise an unfettered discretion in publishing a regulation. In addition to the general statutory requirements of notice of proposed rulemaking (which includes notice of time, place, and nature of the public rulemaking proceedings, reference to legal authority, and the terms or substance of the proposed rule) and opportunity to participate in the rulemaking process, the statutory requirement that there be a basis and purpose for the regulation must be complied with. The general requirement of reasonableness in the exercise of delegated legislative power must be satisfied. Thus, if and when a regulation is proposed, it must be made known to the Congress and to the public at large why the regulation is proposed.

I hope this discussion serves to clarify both the understanding and intent of the Members of the Finance Committee who, without objection from any Committee member, approved the inclusion of section 213 in the Senate Amendment to H.R. 4961. I look forward to working with you and other members of the Ways and Means Committee who support this provision to secure its final enactment.

Sincerely,

LLOYD BENTSEN.●

OUR HANDICAPPED CHILDREN

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DOUGHERTY. Mr. Speaker, I am a cosponsor of House Resolution 558, expressing the sense of the House that regulations recently proposed by the Secretary of Education should not be permitted to take effect because of my very real concern that this action would seriously threaten the free, appropriate public education which Congress voted to insure for the millions of deserving handicapped children.

In 1977, Public Law 94-142 was enacted only after an extensive study of the exclusion and neglect of handicapped children that resulted from the policies of the State and local school systems. It was then the intention of Congress that this law would, and I quote from the act itself, provide for "full educational opportunity to all handicapped children" and guarantee "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child."

Unfortunately, it has become apparent that these intentions are being circumvented and even disregarded in the recent decisions of the Supreme Court and the Department of Education.

On June 28, the decision of Hendrick Hudson School Board against Rowley was read. This case was the first judicial interpretation of Public Law 94-142 and the majority opinion stated that "to require the furnishing of every special service necessary to maximize each handicapped child's potential is further than Congress intended to go."

This is, however, exactly where we intended to go. As was recognized in the dissenting opinion, in both the House and Senate reports, it was clearly stated that the act would "guarantee that handicapped children are provided equal educational opportunity" and that each child would be given "an educational plan that is tailored to achieve his or her maximum potential." Surely words such as these should not be misunderstood to mean anything less than opportunity commensurate with the education provided other children.

The second decision taken was the most direct and, by far, the most scathing. The Department of Education has proposed new regulations that could severely erode the law's provisions. If we allow this deregulation to be adopted, we would be allowing our intentions to be subverted and we would be giving tacit consent to the undermining of the program and all it has done for handicapped children.

The issue at hand is fast becoming fear. The fear of parents that their handicapped children will not be given the chance to learn and lead a normal life. The fear of professionals and educators that a return to the shameful practices of segregation, exclusion, and warehouse programs are imminent. The fear that the child will be forced away from the regular classroom—away from a regular way of life.

And, finally, this fear should be ours. For if we choose to let these new regulations pass and if we allow our intentions to be consciously subverted, then we will have failed. The threat posed is real and the potential harm is clear. A decade of work on behalf of all our handicapped children could easily be destroyed by regressive changes.●

TRIBUTE TO ADDIE AND MATHEW BARNES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MILLER of California. Mr. Speaker, on August 23 my good friends, Addie and Mathew Barnes of Richmond, Calif., will be celebrating their 50th wedding anniversary. I would like to recognize this momentous occasion, an I know that my colleagues will join me in paying tribute to a wonderful couple whose family has contributed so much to our community. In their 50 years of marriage they have raised 8 children, and have been blessed with 16 grandchildren and 3 great grandchildren.

Mr. Speaker, I know you will join me in wishing this family many years of continued health and happiness.●

IT IS TIME WE BECOME AGGRESSIVE TRADERS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MARLENEE. Mr. Speaker, I would like to bring to my colleagues attention a recent article written by Pat Goggins, publisher of the Western Livestock Reporter, on Japanese lobbying efforts in the United States.

AS I SEE IT

(By Pat Goggins)

Like the old saying goes, "you've got to make hay when the sun shines."

You as a rancher are out there going day and night attempting to get that big crop of hay put away. It's true you're busy, you've hardly had time to think or read. But as you're sitting on that swather or bailer and you're done reading this column do some thinking.

The Japanese are "making a lot of hay" here in the United States.

The Beef Industry Council of the United States is, at the present time, budgeting somewhere around $7 million to educate and promote the beef product to several key areas of the United States consumers.

I hope this opens the eyes, not so much of the American consumer, but I hope it opens the eyes more so of the American producer and feeder. After all, it's the 'buck' that makes the world go around.

Do you realize that of the ten top agricultural banks in the United States, nine of them are in the West and Northwest, in California, Washington, Oregon, Idaho and Arizona.

That's the same area for the most part that the Japanese are looking at in a big way. Not only from the standpoint of wanting our products from those areas but moreso, they are buying land in this part of the country in a big way.

I just returned from a short jaunt to California and I couldn't believe how things have changed from the Oriental influx and in the business sector, Japan has a real foothold.

Let me give you a few facts that certainly opened my eyes and I think would be interesting to you.

In Washington, D.C. for instance, one of the strongest lobbys there is the Japanese Lobby. As late as 1977, only 17 foreign agents for Japan were registered with the Justice Department. Today there are 140.

Within the last five years, Japanese trading with the United States has increased from just over $10 billion to $37 billion.

Now get this. In this same period of time, the Japanese annual direct investment here in lobbying has risen from $1.8 billion to more than $6.5 billion.

While we are talking about approximately $7 million promoting America's greatest product, beef, the Japanese are spending $6.5 billion here to get our market and keep it. Yes, they have quietly become the largest, best funded foreign contingent in Washington.

You ask, who is representing them. Do they have Japanese people over here themselves?

Well, they do in the background, but the front boys, the boys that get the job done, the boys that do the arm twisting, the officials that get the job done with their buddies are all Americans and I might add, well paid Americans at that.

There are many law firms receiving fees in the six figure retainer bracket.

From Japanese fishing, electronics, auto, trade interests, what kind of people are they?

Well, let me point out a few you will recognize. I suppose one of the oddest figures I ran across on the whole list was former Idaho Senator, Frank Church, who was, just a short time ago, head of the Senate Foreign Relations Committee, the same committee that denounced U.S. businessmen for foreign payoffs. He chaired the investigation of Lockheed's businesses in Japan that toppled the government and led to congressional probes that tore apart the CIA in that country.

Of course, a man like Church offers an awful lot to these Japanese for a correct fee. He would call a former Senator friend or call a Senate secretary or talk with a reluctant bureaucrat, it's no doubt he'll get things done for past favors he conceded along the line. Church is now an agent of the Japan External Trade Organization and the Daiwa Steel.

Frank Church is with a firm called Whitman and Ransom, a law firm that brings in thousands annually for what the former Senator describes as routine legal work . . . passports, legal transactions, visas. But say, don't let anybody kid you, it's more than that for the long six figure price the Japanese are paying, they aren't looking for someone to look for a passport or visa.

They've got people like Robert Strauss, for Special Trade Representative and the Democratic National Chairman as one of their team here in America.

They have William Colby, former CIA director, and former Transportation Secretary Brock Adams. They've got former Reagan campaign manager John Sears and the current Democratic National Chairman, Charles Manett.

They are all there and doing business for the Japanese and they're putting their political contacts on the line for a fee.

So you see, we in the cow business, you and I have to buckle up, brace up and get with it if we're going to keep our outfit going. We cannot compete with these kind of figures with a $6 to $7 million budget.

If we could just get a dollar a head from everybody in the United States, pay back half of that to the people who will spay heifers, use the other $15 to $18 million and educate and promote you'd see the greatest industry in the history of the world here in an American livestock endeavor.

It's there to be had. It's up to you and me.

A quick look at some statistics makes it clear this lobbying has brought increased sales. Last year Japanese exports to the United States increased 23 percent while its U.S. imports increased only 2 percent, and we currently have an $18 billion trade deficit with Japan.

We often think in terms of the problems this trade imbalance creates for U.S. producers, but there is also another problem area that needs to be addressed—the difficulties U.S. retail office machine dealers face when negotiating with Japanese suppliers. The following letter I received outlines what these problems involve:

DEAR MR. MARLENEE: I am the owner of a small, family-owned office machine dealership, selling a number of product lines. I, as well as my customers base, have over the past several years become totally dependent on foreign equipment. American office machine manufacturers have either gone out of business or sell mainly through their own sales forces, not through dealers.

Now, these Japanese companies plus a few European manufacturers are engaging in practices which are likely to bankrupt us. We, as small dealers, simply cannot force them to negotiate in good faith, much less treat us fairly and equitably. Most of the problems center around the following:

1. New products not adequately field-tested;
2. False product claims by the manufacturers, resulting in customer dissatisfaction with the equipment purchased;
3. Unfair quotas and dealer agreements presented to dealers on a take-it-or-leave-it basis;
4. Terminations and cancellations without cause;
5. Delays in supply and delivery of machines, replacement parts and supplies.

There is no doubt that the United States needs to be more aggressive to reduce our current trade deficit with the Japanese, but let us not forget the United States dealer of Japanese products in our efforts to end unfair Japanese trade practices.

SHIPPING ACT OF 1982

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. SENSENBRENNER. Mr. Speaker, recently the House Judiciary Committee considered H.R. 4374, the Shipping Act of 1982. I voted against

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this bill because I believe that granting antitrust immunity is counter-productive for the shipping industry and consumers. However, since the bill has been reported out of the Judiciary Committee, it has come to my attention that H.R. 4374 would have a serious effect on U.S. ports. I would like to make a part of this an analysis of the Shipping Act of 1982 as it affects American port cities.

ANALYSIS: POTENTIAL EFFECT OF THE "SHIPPING ACT OF 1982" ON AMERICAN PORT CITIES

(By Prof. George E. Garvey, Columbus School of Law, Catholic University of America, formerly Counsel, Committee on the Judiciary, U.S. House of Representatives and Jerome M. Zeifman, General Counsel, National Institute of Economics and Law, formerly General Counsel, Committee on the Judiciary, U.S. House of Representatives)

The proposed Shipping Act of 1982 (S. 1593 and H.R. 4374) contains several procedural and substantive changes to existing law that could adversely effect United States port cities. The most significant sections grant total immunity from the antitrust laws to ocean common carriers and allow them to: "allot ports or restrict or otherwise regulate the number and character of sailings between ports," and to "engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators . . ."

BACKGROUND

There are significant restrictions under the existing Shipping Act of 1916 on activities among carriers and/or ports that discriminate against other port facilities. The most significant sections are:

1. Sec. 14b(4) prohibits the FMC from approving any dual-rate contract that requires "the contract shipper to divert shipment of goods from natual routings not served by the carrier or conference of carriers where direct carriage is available." A dual-rate contract provides lower rates to shippers that commit all or a portion of their traffic to the contract carrier or conference.

2. Sec. 15 requires the FMC to disapprove any agreement "that it finds to be unjustly discriminatory or unfair as between . . . ports."

3. Sec. 16 prohibits a carrier or other person from giving "any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage . . ."

4. Sec. 17 states that "no common carrier by water in foreign commerce shall demand, charge or collect any rate, fare or charge which is unjustly discriminatory between shippers or ports. . ."

Further, the FMC has read the policies of related statutes, e.g., Sec. 8 of the Merchant Marine Act of 1920 and Sec. 205 of the 1936 Merchant Marine Act, into the "public interest" standard of Sec. 15.

The Federal Maritime Commission strictly scrutinizes any agreement that diverts traffic from a port that would be the natural routing for the goods. It will not, for example, approve conference agreements containing port equalization provisions (provisions to pay shippers the difference between the cost of transportation to a nearby port and that to a more distant port designated by the carrier or conference) when adequate service is available at the more convenient port. See, *Port of New York Authority v. Federal Maritime Commission*, 429 F. 2d 663 (5th Cir 1970); *Pacific Far East Line* v. *United States*, 246 F. 2d 711 (D.C. Cir. 1957). The FMC will generally find any carrier rate agreement that attracts cargo from an area "naturally tributary" to a port to some other port to be unjustly discriminatory.

Any agreement allocating or restricting the use of a port today must be filed with and approved by the FMC. The proponents of the restrictive agreement must establish that there are substantial transportation needs or important public benefits that justify the restriction. *Federal Maritime Commission* v. *Aktiebolget Svenska Amerika Linien*, 390 U.S. 238 (1968). Further, the FMC must conduct an adequate investigation prior to approving any agreement discriminating against a port. *Marine Space Enclosures* v. *Federal Maritime Commission*, 420 F. 2d 577 (D.C. Cir. 1969). As a result, an agreement diverting traffic from its natural port now comes to the Commission with a strong presumption of invalidity.

S. 1593, THE GORTON BILL

The Senate bill substantially dilutes the existing rights of less powerful terminal operators.

As noted earlier, sec. 14b presently prohibits the use of any dual-rate contract that requires a contract shipper to divert goods from their "natural routings." S. 1593 would prohibit agreements that deny contract shippers "the right to tuilize competing services that involve loading to or from a vessel at a port or ports located beyond a carrier's or conference's geographic scope . . ." The Senate Report explains that this section guarantees a contract shipper "the right to use competing services of ports outside the geographic range served by the conference . . .," Senate Report, p. 33. The bill would not, however, require the conference to provide a vessel, and the use of a non-conference vessels would be a breach of the loyalty contract. The right to use any port is meaningless to a contract shipper without the right to utilize a non-contract carrier.

It is also noteworthy that the restriction on loyalty contracts relates only to ports beyond the "geographic range served by the conference." Implicitly, a conference may require contract shippers to use only one or more designated ports within the range it serves. This could mean, for example, that a conference serving the North Atlantic could require contract shippers to use the Ports of New York and Baltimore, or perhaps Montreal, to the exclusion of Ports in Boston or Hampton Roads.

The fundamental shift the legislation makes in favor of strong, "rationalized" shipping cartels is inherently unfavorable to ports. Under existing law, agreements that allocate or discriminate against ports are highly suspect. Under S. 1593, such agreements would enjoy a strong presumption of validity. Common carriers would, for example, be authorized to allot ports and restrict sailings between ports, Sec. 4(a)(5), and both carriers and marine terminal operators are likewise authorized to enter into "exclusive, preferential, or cooperative working arrangements." Sec. 4(a)(6) and 4(b)(3).

Section 12 of S. 1593 retains some of the restrictions of existing law. Among other things, common carriers may not unjustly discriminate against ports, Sec. 12(a)(6), or give undue preference to any particular person or locality, Sec. 12(d)(2). These restrictions, however, would have to be read as part of a regulatory scheme intended to promote full rationalization of shipping services, while explicitly rejecting the principles of antitrust law. In addition, the law would expressly authorize the allocation of ports and exclusive, preferential agreements between ports and carriers.

The Senate Report demonstrates that the proposed law would minimize the existing concern over agreements that divert traffic from its natural routings and with abuses of dominant economic power. It would not "prohibit carriers from treating shippers or ports differently when the *transportation circumstances* surrounding the services are not substantially similar," Senate Report, p. 40. Puther, "rates, charges, and services should not be found to be unjustly discriminatory because they result in changes in transportation patterns," *id.* The parties to a contract allocating ports must now establish that there is some pressing justification for the agreement. S. 1593 would make such agreements presumptively valid and require an objecting port to establish that the agreement is not justified by different "transportation circumstances."

Finally, the remedies available to an injured port would be substantially reduced by S. 1593. A port injured by unreasonably discriminatory provisions of an unapproved agreement may presently have a statutory right to three times its damages under the Clayton Act. S. 1593 would eliminate that right and limit any recovery to reparations to be awarded at the discretion of the Federal Maritime Commission.

S. 1593 intentionally strengthens the power of shipping cartels to control all aspects of international ocean borne carriage. Consistent with this goal, it is unlikely that agreements diverting conference traffic through favored ports would be found "unjust" or "unreasonable" if they increase conference convenience or profitability.

H.R. 4374, THE BIAGGI BILL

The problems that the Senate Bill would create for ports would be greatly aggravated if the House Bill, H.R. 4374, were enacted.

Ports are presently able to obtain antitrust immunity under the 1916 Act for agreements approved by the FMC. H.R. 4374, however, may not exempt ports that enter into agreements with carriers. Section 3, for example, allows common carriers to enter into "exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators." A carrier acting under such agreement would immediately have antitrust immunity but the status of the marine terminal operator is not clear. This uncertainty is particularly pronounced in the Judiciary Committee amendment to H.R. 4374, which limits the application of the Act to "agreements among ocean carriers." The consequences for a port could be extremely grave. Marine terminal operators would be liable for acts of immunized carriers and potentially subject to criminal prosecution and treble damages.

The loyalty (dual-rate) contract provisions of H.R. 4374 would remove the protection currently afforded ports. The restriction against diverting traffic from its natural routing would be deleted and no similar provision created. Powerful conferences could use loyalty contracts to divert all traffic to favored ports.

Section 10 restricts certain unfair or discriminatory practices and prohibits undue or unreasonable preferences regarding particular persons or localities. Like S. 1593, however, the House Bill would require an interpretation that promotes the development of strong, profitable conferences.

If the carriers determined to operate through a "consortium" or "joint service" agreement, they could greatly increase their power under H.R. 4374. Unlike other groups acting in concert, consortia and joint services are free of the restraints of Sec. 10(c) of the Act. They would, therefore, *not* be prohibited from engaging in boycotts or predatory practices.

RIGHT OF INDEPENDENT ACTION

Representatives of port authorities have sought to have the proposed legislation protect the right of all conference members to act independently. *See*, Testimony of John M. Brady, Chairman, Traffic Board, North Atlantic Ports Association, Inc., before Senate Commerce Committee Sept. 24, 1981; Letter from J. Ron Brimson to Senator Gorton, Feb. 8, 1982. When carriers operate in two adjoining conferences, one allowing independent action and the other not, ports have experienced the diversion of traffic to terminal facilities in the range where independent action is allowed. To avoid this problem, the ports have sought an amendment that would ensure an absolute right of independent action on ten days notice.

Neither the House nor Senate Bills would provide the right of independent action sought by port authorities. Both bills would provide a limited right of independent action conditioned on the use of loyalty contracts and any combination designating itself a consortium or joint service would be totally free of the obligation to provide a right of independent action.

CONCLUSION

The Shipping Act of 1982 would, if enacted, substantially dilute the substantive and procedural protection that ports presently enjoy under the Shipping Act of 1916. Conferences would likely to be able to exact substantial concessions from all ports, and smaller ports could be precluded from any meaningful participation in conference controlled traffic. The possibility that large volumes of ocean traffic could be channeled through several preferred ports would increase dramatically.

The primary purpose of existing law has been to protect less powerful carriers, shippers and ports from monopolistic abuses by foreign controlled shipping cartels. The primary goal of the proposed legislation would be to promote strong, a fully "rationalized" shipping cartels able to control all aspects of traffic from point of origin to final destination. This change would seriously jeopardize the ability of cities to develop and promote their port facilities without making unreasonable concessions to any conference that dominates the trade served by the port.●

TRIBUTE TO JONATHAN BINGHAM

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DENARDIS. Mr. Speaker, let me first thank the gentleman from New York, Mr. ADDABBO, for conducting this special order on one of our most esteemed colleagues.

Mr. Speaker, I envy my senior colleagues. They have had the privilege of serving in the same body with JONATHAN BINGHAM longer than I. They have had him before them for years as a constant model of decency in politics, honesty in Government.

JACK BINGHAM has served in the U.S. House of Representatives for 18 years, I for 20 months. But in that time, my admiration for JACK as deepened immeasurably. Every day he demonstrates his devotion to the principle of respectful dissent and debate, which is the heart's core of democracy. He brings honor to the legislative process. He dignifies debate by his participation. He focuses attention always on the merits of the issues, not on personalities or politics. Although I greatly admire JACK's initiative in the nuclear arms freeze and his unflagging support of our ally Israel, I have often disagreed with him. Yet even in disagreement, I have rested assured that JACK BINGHAM would guide discussion with the high-mindedness that so becomes him and this Chamber.

My esteem for JACK actually began long before I entered Congress. And when I was elected in 1980, I eagerly awaited the privilege of having JACK BINGHAM as my colleague. You see, JACK was born in New Haven, Conn., which I now represent. The Bingham's remain a prominent and venerated family in that city. Hiram Bingham, JACK's father, served as Governor of Connecticut and then as U.S. Senator from Connecticut from 1924 to 1933. He was, in addition, a scholar, a professor at Harvard, Yale, and Princeton, an explorer, an aviator, a military man, a banker, and a man of letters. JACK inherited his father's gifted talents as well as his sense of duty, and has served New York and the United States as well as his father served his State and country.

And now we are assembled to bid farewell to our friend and colleague. When we look on it, we are really the ones who will lose by JACK's retirement. Whatever path he chooses next, there is no doubt that JACK will continue to serve the people of this country. But there will never be another JACK BINGHAM in this body again. I just want to offer him my graditude and to wish him and his family Godspeed. I consider it a challenge to live up to JACK's standard of fairness and decency during my future years in Congress. I pray that all of us can.●

HON. JONATHAN BINGHAM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SCHUMER. Mr. Speaker, JACK BINGHAM has not only been a faithful and conscientious public servant to the members of New York's 22d Congressional District but also a personable and respected colleague to his fellow Members in the House of Representatives. He has served the Bronx, our city, and our State with compassion and integrity. Over the years, JACK has displayed an uncanny ability, which I very much admire, to present an argument in such a calm and articulate fashion that it is accepted by even its most staunch opponents. When he was an aide to Adlai E. Stevenson at the United Nations in the early 1960's, JACK refined the subtle diplomacy for which he is well known.

Ever since he upset Charles Buckley, head of the Bronx Democratic organization, in 1964, JACK has proved that he is indeed worthy of the acclaim we are bestowing upon him. A respected reformer throughout his career, JACK presided over many of the changes the House has undertaken since Watergate. One of his greatest contributions to the reform movement occurred in 1974 when he proposed to the Democratic Steering Committee that all committee chairmen be voted upon separately, thus making them accountable for their committee's actions and effectively eliminating the antiquated and prejudicial seniority system. In addition, JACK has always given his utmost support to Israel and to the plight of Jews around the world. As a ranking member of the House Foreign Affairs Committee, he helped enact the Soviet-Jewish Refugee Assistance Act of 1972 which sent $264 million to Israel in aid in the resettlement of Soviet Jews. JACK has consistently raised his voice in defense of Israel whenever the situation mandated it.

Furthermore, JACK has served as a watchdog for the public interest regarding nuclear energy. He has established himself as one of the prime authorities on the subject and his opinion is highly regarded. He successfully led a movement to abolish the pronuclear Joint Atomic Energy Commission in 1977, transferring most nuclear jurisdiction to the Interior. In 1976, his bill prohibiting private industry from beginning production of enriched uranium failed only when the Speaker, then Carl Albert, who rarely casts his vote except in cases of ties or close votes, voted against him. He authored the Nuclear Nonproliferation Act of 1978, banning the exportation of nuclear reactors and fuel to countries that refuse to submit their facilities to international inspection. Following the Three Mile Island accident, he fought for a mandatory 6-month moratorium on the issuance of construction permits for atomic powerplants.

JACK BINGHAM will be a hard man to replace in Congress. I do not know of many people who possess those inherent characteristics which make JACK so unique.●

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HOUSE OF REPRESENTATIVES—*Friday, August 13, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, from whom all blessings flow, guard and guide Your people in all the paths of life and in all parts of our world. We pray for those who know the dangers of war and destruction and who face despair. Give to people everywhere the desire for peace and nurture within them the knowledge that all men and women are created in Your image and share in the unity of Your divine handiwork. May not our own interests—so easily seen—blind us from the goals and interests of others that together we may rejoice in joy and wonder and love of life, which are Your gifts to us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RAHALL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 28, answered "present" 1, not voting 93, as follows:

[Roll No. 276]

YEAS—312

Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Archer
Ashbrook
Badham
Bailey (MO)
Bailey (PA)
Beard
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Boner
Bonior
Bouquard
Bowen
Brinkley
Brodhead
Broomfield
Broyhill
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappie
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Courter
Coyne, James
Coyne, William
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
English
Erdahl
Erlenborn
Evans (DE)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fiedler
Findley
Fish
Florio
Foglietta
Foley
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hartnett
Hatcher
Hawkins
Hefner
Hendon
Hertel
Hightower
Hiler
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Jeffords
Jeffries
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McDade
McDonald
McGrath
McHugh
McKinney
Mica
Michel
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Rousselot
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Shannon
Sharp
Shaw
Shuster
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Waxman
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Zablocki
Zeferetti

NAYS—28

Atkinson
Barnes
Brown (CO)
Butler
Coughlin
Derwinski
Dickinson
Dreier
Emerson
Evans (IA)
Fields
Gejdenson
Goodling
Hall, Ralph
Harkin
Jacobs
Johnston
Markey
Miller (OH)
Mitchell (MD)
Murphy
Roberts (KS)
Roemer
Sabo
Schroeder
Smith (AL)
Walker
Washington

ANSWERED "PRESENT"—1

Oberstar

NOT VOTING—93

Andrews
Anthony
Applegate
Aspin
AuCoin
Bafalis
Barnard
Bedell
Boggs
Bolling
Bonker
Breaux
Brooks
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappell
Cheney
Chisholm
Clay
Conyers
Craig
Crane, Daniel
Daschle
Dixon
Dornan
Edwards (AL)
Emery
Ertel
Evans (GA)
Fenwick
Fithian
Flippo
Ford (MI)
Ford (TN)
Forsythe
Fountain
Frank
Frenzel
Garcia
Gibbons
Ginn
Goldwater
Gradison
Hall (OH)
Hansen (ID)
Hansen (UT)
Heckler
Heftel
Hillis
Holland
Huckaby
Ireland
Jones (NC)
Lehman
Long (MD)
Lujan
Luken
Lundine
Marks
Marriott
Mattox
McCloskey
McCurdy
McEwen
Mikulski
Moffett
Nichols
Oakar
Ottinger
Pursell
Ratchford
Richmond
Rosenthal
Roth
Roukema
Santini
Savage
Seiberling
Shamansky
Shelby
Shumway
Siljander
Smith (OR)
Smith (PA)
Stanton
Trible
Watkins
Weaver
Wilson
Young (AK)
Young (MO)

☐ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate recedes from its amendments to the bill (H.R. 2160) entitled "An Act To Amend the Potato Research and Promotion Act.".

The message also announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

The message also announced that the Vice President and upon the recommendation of the majority leader, pursuant to section 276(a)(2) of title 22, United States Code, appointed Mr. STAFFORD (chairman) and Mr. GRASSLEY (vice chairman) to attend, on the part of the Senate, the Interparliamentary Union Conference, to be held in Rome, Italy, September 14-22, 1982.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. It is the intention of the Chair to adjourn the House at 3 o'clock this afternoon. We do have an appropriation bill and a couple of rules that we would like to complete. Therefore, we will forgo the 1-minute speeches this morning.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6957, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 560

Resolution waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes

Resolved, That upon the adoption of this resolution it shall be in order, clause 7, rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20; beginning on page 9, line 1 through page 10, line 6; beginning on page 11, line 2 through page 12, line 4; beginning on page 14, lines 12 through 24; beginning on page 15, lines 6 through 13; beginning on page 15, line 20 through page 16, line 6; beginning on page 17, line 13 through page 24, line 17; beginning on page 26, lines 2 through 6; beginning on page 26, line 18 through page 27, line 2; beginning on page 27, line 2 through the figure "$449,815,000" on page 30, line 2; beginning on page 30, line 9 through page 33, line 10; beginning on page 34, lines 11 through 23; beginning on page 35, line 15 through page 37, line 18; and beginning on page 40, lines 10 through 23; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7, line 1 through page 8, line 2; and beginning on page 15, line 20 through page 16, line 6: *Provided*, That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

The SPEAKER. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 560 provides waivers of clause 2, rule XXI, and clause 6, rule XXI against certain provisions of House Resolution 6957, Departments of Commerce, Justice, State, the Judiciary, and related agencies appropriations bill for fiscal year 1983. These provisions are specified within the resolution.

Clause 2 of rule XXI prohibits unauthorized appropriations and legislation in an appropriation bill. H.R. 6957 includes various programs which have not yet completed the authorization process and without this waiver would be subject to a point of order.

Clause 6 of rule XXI prohibits reappropriations in an appropriations bill. The waiver is required due to three programs, the economic development assistance program, the National Oceanic and Atmospheric Administration, and the Small Business Administration. All three of these programs have unobligated funds remaining from fiscal year 1982 which the committee plans to use in fiscal year 1983.

Further, the rule provides that in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

This proviso is necessary because the rule does not extend protection to a portion of the paragraph on page 30, lines 2 through 8, of the bill regarding contributions to international organizations. The specific language prohibits the use of funds appropriated by the act for payment of certain interest costs for loans incurred by international agencies. The chairman of the Committee on Foreign Affairs, Mr. ZABLOCKI, appeared before the Rules Committee asking that the waiver not be granted because the language was legislative in nature.

The Rules Committee did not grant the waiver for the language in dispute but wanted to make sure that other provisions in the paragraph were protected.

Mr. Speaker, this measure appropriates $9,069,567,000 for fiscal year 1983. This amount is a net increase of $546,692,000, $692,000 over fiscal year 1982 appropriations.

Under this measure $193,450,000 will be appropriated for the Economic Development Administration. This has been a great program for the people of New York and I applaud the committee for showing wisdom and foresight in making this allocation of funds.

Further, as chairman of the Select Committee on Narcotics Abuse and Control, I was pleased to see a slight increase in the appropriations for the Drug Enforcement Administration and the FBI. I realize that presently we are under tight budget constraints, however, I hope the committee in the near future will consider even a larger increase in funds.

Mr. Speaker, this is a very straightforward and noncontroversial rule and I urge my colleagues to support its adoption.

□ 1030

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding the customary time, and I yield myself such time as I may consume.

Mr. Speaker, let me say right up front that I am urging my colleagues to vote against the previous question on this rule so that we can offer a substitute rule making in order two vital amendments relating to the Federal Trade Commission—one which would extend the legislative veto authority over FTC regulations beyond September 30, of this year; and the other of which would extend existing restrictions on the Commission's authority over agricultural cooperatives beyond September 30.

Mr. Speaker, having said that let me say that even if it were not for the bill's back door attempt to continue the FTC without the important restraints we placed on it in the 1980 FTC authorization, I would still oppose this rule because the bill is a budget buster. To quote from an administration policy statement of August 12,

> The Administration is strongly opposed to the unwarranted and unrequested increases in annually funded discretionary programs in H.R. 6957. . . . The bill, as reported, represents an increase of $633 million over the 302(b) allocation for discretionary programs consistent with the Budget Resolution and $169 million over the Committee 302(b) allocation for annually funded discretionary programs.

Mr. Speaker, I hesitate to say this is the customary rule for appropriations

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bills nowadays, but I am afraid that is getting to be the case. As my colleagues know, appropriations bills are privileged, and ordinarily do not need a special rule. But in recent years more and more appropriations bills have required special rules waiving points of order because the authorizations have not yet been enacted for many of the items contained in the appropriations bills. And clause 2 of rule XXI prohibits legislating in an appropriations bill or appropriations for matters not previously authorized by law.

In his letter to the Rules Committee of August 10 on this appropriations bill, Chairman Whitten listed some 28 matters in this bill for which authorizations have not yet been enacted. Most of those 28 authorization bills are in the works in one House or another at this time. On the Federal Trade Commission, an authorization was reported in the other body on May 28, but, according to the testimony of the gentleman from North Carolina (Mr. Broyhill), before the Rules Committee, "No bill to reauthorize the FTC has been scheduled by the Energy and Commerce Committee to date," though a subcommittee has reported a straight 1-year authorization.

Mr. Speaker, I think my colleagues will appreciate the special case presented by the $63.6 million appropriated for the FTC contained in the bill. The only reason we have an FTC today is because we finally forced the issue in late 1980 after closing down the agency, and we adopted the FTC improvements bill which placed new restrictions on the agency. Two of the most important provisions were the legislative veto over regulations, and restrictions on FTC interference with agricultural cooperatives and marketing orders. If the previous question is defeated on this rule, as I hope it will be, I intend to make those two amendments in order as printed in yesterday's Record by the gentleman from North Carolina (Mr. Broyhill), and the gentleman from Georgia (Mr. Levitas). I would hasten to point out to my colleagues that it will still be in order under this rule to offer an amendment to strike all funding for the FTC as an alternative. I know there is concern about other provisions in that 1980 act that cannot be brought up at this time. Let me say that such matters would be in order as amendments to a continuing appropriations bill without needing special waivers. But, hopefully, by our action on this rule today, we will be sending a clear signal to the appropriate committee that it should move on bringing an authorization bill to the floor at the earliest practical date.

I would like to point out also for my own part that this is the first appropriations bill that has hit the floor this year, the first one. We clearly have indications that it is over the budget.

Also it is the appropriation bill for State, Justice, Commerce, and other related agencies. For myself, I have a lot of questions about a lot of the funding for Justice and the State Department and a number of the things that they are doing.

Let me just read some of the funding that is included in this appropriation bill.

It, of course, includes the funding for the United Nations, the World Intellectual Property Organization, the World Health Organization, the Food and Agriculture Organization, the International Labor Organization, the World Meteorological Organization, Universal Postal Union, Inter-American Indian Institute, Inter-American Institute for Cooperation on Agriculture, International Office for Epizotics, and a whole long list of organizations that are included in this bill that is over the budget.

So I would hope that my colleagues would vote down the previous question so that I can offer the substitute rule and that you will listen very closely to the debate.

Let us try to cut back on the funding included in this appropriations bill.

Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Speaker, today the House is considering the Commerce, Justice, State, and related agencies appropriations bill appropriating moneys for these agencies for fiscal year 1983.

This bill includes appropriations for the Federal Trade Commission for 1983.

I am very troubled by the fact that this bill has reached the floor without an authorization bill in place. This rule waives any points of order that might be made with respect to the bill.

The Energy and Commerce Committee is the authorizing committee with respect to the Federal Trade Commission. Unfortunately, no reauthorization bill for the FTC has been scheduled for full committee markup. The only action that was taken occurred last May, when the subcommittee considered a committee print, not an introduced bill. The subcommittee considered a committee print which contained only a 1-year authorization for the continuation of funding for the FTC for another year.

Let me recount the legislative history so as to explain why I am concerned about this.

A little over 2 years ago, in the last Congress, we had quite a debate with respect to the various authorities and various regulatory activities that the FTC was taking at that time. We began to consider a number of amendments to counter those particular actions that were being taken.

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When the FTC was reauthorized, there were several major changes that were made to the act at that time.

One of these changes was the inclusion of a provision which we call the legislative veto. It provided that any trade rule promulgated by the Federal Trade Commission would have to be submitted to the Congress. This gave the Congress a chance to review that rule before it went into effect. And if the Congress vetoed that trade rule, that rule would not go into effect.

There was another proposed restriction on the Commission's authorities that was extensively debated at that time, and that was with respect to agricultural co-ops. Many of you remember that the Federal Trade Commission had initiated several proceedings against agricultural co-ops. These proceedings were in violation of the Capper-Volstead Act, which is a Federal law under the jurisdiction of another committee that regulates agricultural co-ops.

So section 20 of Public Law 96–252 provided that the Federal Trade Commission would not have authority to use funds to conduct any study, investigation or prosecution of agricultural co-ops because of the provisions of the Capper-Volstead Act. Section 21 of that public law provided for a congressional review of trade regulation rules.

Now, the problem is that these two amendments, sections 20 and 21, were sunsetted in Public Law 96–252. These two sections of the Federal Trade Act expire on September 30, about 6 weeks from today if we do nothing.

Many of the Members recall there was very substantial support for these two provisions in the House of Representatives. Now, there is still substantial support for these two provisions in the House. I am not advocating any new amendments to the Federal Trade Act. All I am asking the House to do is that they defeat the previous question so that we may offer amendments so as to maintain the status quo.

We are advocating these amendments to do no more or no less than to maintain the law as it is today, to keep in the law the restriction on Commission authority relating to agricultural co-ops and to keep in the law the congressional review of any Federal Trade rules.

I might add that since the September 30 deadline is rapidly approaching, when these provisions will expire, the only choice we have is to act today.

The SPEAKER pro tempore (Mr. Kildee). The time of the gentleman from North Carolina (Mr. Broyhill) has expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. BROYHILL. The only choice that we have is to defeat the previous question because if the appropriation goes through today, there is no incentive to bring an authorization bill forward. If we defeat the previous question, we can then adopt a rule that would allow full consideration of these amendments that would continue for 1 more year the legislative veto and the restrictions on the Commission's authority relating to agricultural co-ops and marketing orders.

I do not advocate, and I do not believe the Members advocate, allowing either of these amendments to expire on September 30, so I would urge the Members to support us in defeating the previous question so as to permit these amendments to continue the law as it is today, no more and no less.

I thank the gentleman for the courtesy of extending me extra time.

Mr. ZEFERETTI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during consideration in the Rules Committee meeting yesterday, Congressman BROYHILL testified in regard to the two amendments he proposes to offer on the floor. One amendment would have prevented the FTC from conducting any study or investigation into the agricultural co-ops, and the other would have allowed the continuation of a legislative veto for FTC rules.

To offer these amendments would have required the waiver of clause 2, rule XXI, since these amendments obviously would constitute legislation in an appropriation measure.

It has been the practice of the Rules Committee to look very carefully at any request for this waiver, and the committee feels that a situation has to be of an emergency nature, or one where the waiver not being granted, would result in serious consequences.

The committee has heard testimony from several committee chairmen regarding what they believe to be the indiscriminate use of this waiver. That was the case yesterday on this very bill. In yesterday's hearings the Rules Committee felt Mr. BROYHILL's amendments were not of an emergency nature and should be properly discussed and acted on in consideration of the FTC authorization.

Further, Mr. Speaker, Mr. BROYHILL's amendment, on agricultural co-ops can be written to be a straight limitation, and would not have any problems being offered in the Committee of the Whole.

The second amendment, a legislative veto, is in violation of the rules of the House because it is again legislation on an appropriation bill, and is nongermane to the bill.

Mr. Speaker, I yield 6 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I am rising for purposes of asking the Members to defeat the previous question on this rule so that an amended rule can be offered which would make it possible to offer two amendments, one dealing with the agricultural co-ops, and the other dealing with legislative veto with respect to the Federal Trade Commission.

Now, why do I make this request? The reason is very simple. What has been attempted by the rule as it is now presented is a back door attempt to repeal and undo what this very House did overwhelmingly just about 2½ years ago—and to do so not through the authorization process, but through the appropriations process.

Now, my good friend, the distinguished gentleman from New York, mentioned that these two amendments would constitute a violation of the rules of the House, and the gentleman is absolutely correct. They would. That is why we need to have a rule which would make them in order. But by the same token, what the Appropriations Committee has brought to the floor is an appropriation for the Federal Trade Commission which has not yet been authorized by the authorizing committee. And that is a violation of the rules of this House, and that is why the waivers exist in this rule this morning.

If it were not for the waiver in this rule, a point of order could be made against the FTC appropriation.

Now, it is not the fault of the Appropriations Committee. I want to make that very clear. It is not the fault of the Appropriations Committee. The authorizing committee has not yet reported out an authorization. And the Appropriations Committee is faced with the alternative of trying to bring some funding forward in violation of the rules of the House in seeking a waiver.

Well, all I am suggesting to you is that if that violation of the rules is to be condoned, then at least give the Members of this House an opportunity to maintain the position we took without this back door effort to strip out and undo what we did before.

The American people understand what this is about. There are many Members of this House, quite frankly, in light of the history of the Federal Trade Commission in recent years, who would like to see no funding for this agency. I do not share that view, but there is a need to focus on this problem. And if you remember, I suggest to my colleagues, several years ago, because of the same type of situation we are in today, the exact same type of situation, the FTC was not authorized and ultimately did not get funds appropriated because of this same type of fight. What we are seeing here is a minority of the Members of the House attempting to impose their will through the use of the rules of the House on the majority of the Members of this House. And not just a narrow majority. An overwhelming, bipartisan majority.

What we are going to be dealing with in voting on this rule and the previous question is whether or not the Members of this House want to go on record as wanting to keep the legislative veto on the FTC, to let the American people, through their elected Representatives, decide whether these rules which have the effect of law be subject to consideration by the people they elect.

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Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa, the chairman of the Appropriations Subcommittee.

Mr. SMITH of Iowa. Mr. Speaker, I think the gentleman has covered this but I do want to make clear that anything that results in legislation on the Appropriations Committee is not the fault of the subcommittee. We do not want to get into legislation on this appropriations bill. Sixty-seven percent of this bill has not been authorized and we would never have a bill if we do not go forward with some programs for which authorization has not been extended.

It is not our intention to get involved in the writing of legislative programs. Those are arguments for the legislative committee.

Mr. LEVITAS. I appreciate the statement of the chairman of the subcommittee. And that is precisely why I wanted to exculpate and exonerate the Appropriations Subcommittee for their role in this matter. The responsibility lies in the authorizing committee.

Mr. ZEFERETTI. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

My distinguished friend from Georgia, there is no backdoor effort here to suppress any process. As the chairman has indicated, two-thirds of that bill has not been authorized. There is no backdoor effort here. This is a process that we follow under the recommendations of the Rules Committee, under the precedents and rulings of the House. It has been the practice of the Rules Committee to seldom allow legislation on an appropriations bill. This is not a practice that has been limited to just this bill or the FTC. It is a process that we follow in the Rules Committee often.

Mr. LEVITAS. Would the gentleman let me just comment on that.

First of all, as the gentleman knows, there have been occasions where legislation on appropriations bills has been made in order by rules. That is a fact. And I know the gentleman would

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agree with it. But the gentleman, I am sure, also understands that the Federal Trade Commission is a special case, because this is not the first time this issue has come to the floor of this House.

We have had this exact same argument and this exact same dispute at least four times.

The SPEAKER pro tempore. The time of the gentleman from Georgia (Mr. Levitas) has expired.

Mr. LOTT. Mr. Speaker, I would like to yield the gentleman 3 additional minutes from my time so I can ask the gentleman some questions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. Levitas) is recognized for 3 additional minutes.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Mississippi.

Mr. LOTT. First of all, I would like to ask the gentleman from Georgia, how many cosponsors does the gentleman have on his legislative veto bill in the House at this time?

Mr. LEVITAS. As of the last time I checked there were about 253 Members of this House in both parties who have cosponsored this.

Mr. LOTT. Is it not a fact that this may be the only chance that we will have this year to vote on this very important legislative veto issue?

Mr. LEVITAS. Well, from the looks of things that may well be the case, I am sorry to say, because as the gentleman knows it is being pigeonholed at the present time. This is the only chance we will have to veto the issue. The American people are going to have a chance to veto this issue in November.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I think the gentleman's position on this measure points up a deficiency in the present Congress.

The regulatory reform bill, which provides specifically for a legislative veto, has been languishing in the Rules Committee now for months and months. We have reported it out of the Judiciary Committee.

Mr. LEVITAS. In February.

Mr. McCLORY. And all we need to do is just have the Rules Committee grant us a rule and let us debate this substantive issue. Then the arguments that are being made that we are attempting to legislate on appropriations measures could not be advanced. We can legislate on the substantive subject that the gentleman is presenting in the regulatory reform measure and we should do it.

And it is a sorry reflection on this Congress that we are not taking up the regulatory reform bill, not only because of the issues that the gentleman raises but for a multiplicity of issues that are involved in the whole regulatory process.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Mississippi.

Mr. LOTT. I thank the gentleman for yielding.

Is the gentleman aware as a matter of fact in this rule and in this appropriations bill that there are some 28 instances, as I understand it, when points of order were waived against legislation on this appropriations bill?

Mr. LEVITAS. I understand there are a number of points of order waived in this bill. It seems to me that we are sort of picking and choosing. And the reason it seems to me to be so outrageous is this is not a new issue. This is exactly the same issue this House struggled with for 3½ years.

We reached a decision. We expressed our will. The law was signed. All that the gentleman from North Carolina (Mr. Broyhill) and I seek to do is take two of those provisions which this House expressed itself on and continue them if the FTC is going to continue. That is all we are asking. I do not think that is unfair.

Mr. ZEFERETTI. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

Does the gentleman realize his amendment is a nongermane amendment?

Mr. LEVITAS. Yes.

Mr. ZEFERETTI. Does the gentleman realize we have never in the Rules Committee waived nongermaneness on an appropriations bill?

Mr. LEVITAS. I have seen nongermaneness waived on conference reports.

Mr. ZEFERETTI. But not on appropriations bills. That is what I am talking about.

Again, as I indicated earlier the amendment of the gentleman from North Carolina (Mr. Broyhill) could be handled as a straightforward limitation on an appropriation amendment, and we could act on that without any type of waiver.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

(By unanimous consent, Mr. McClory was allowed to speak out of order.)

DISCHARGE PETITION ON BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. McCLORY. Mr. Speaker, my remarks are relevant to the subject that we discuss as far as the languishing in the Judiciary Committee of the regulatory reform measure is concerned.

Mr. Speaker, I do not believe I have ever before signed a discharge petition to deprive a committee of the House of its authority over pending legislation. Certainly, I have never signed a petition to discharge my own committee—the Judiciary Committee—of its appropriate consideration of any measure pending before it. But the balanced budget constitutional amendment proposal has been delayed to the point that unless the committee is discharged from its further consideration the Members of the House will be deprived of the opportunity to debate and vote upon this all-important issue. Yesterday, I added my name to discharge petition No. 18 which if signed by 218 Members will have the effect of bringing the balanced budget proposal to the floor of the House for 10 hours of debate and for a vote.

Our colleague, Billy Lee Evans of Georgia, and I are urging Members on both sides of the aisle to sign this discharge petition today so that the proposal sponsored by 222 Members, of which Ed Jenkins of Georgia and Barber Conable of New York are the principal sponsors, may come to the floor. Unless 218 names are added to that petition today, this measure may well be dead for the 97th Congress. Indeed, the only reason I have signed the petition and the reason Billy Lee Evans and I are urging Members to sign the discharge petition is that the Judiciary Committee itself will frustrate our opportunity to consider this measure in this Congress. Whether you are for the amendment or not, I urge you to sign the discharge petition and to give every Member of this House the chance to express his or her views and to vote on this crucial issue.

Mr. ZEFERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Speaker, I rise in support of the previous question on the rule.

Mr. Speaker, the subcommittee that I chair has jurisdiction over the FTC. We have been working since early this year to develop a bipartisan consensus on the Energy and Commerce Committee regarding an FTC reauthorization bill.

I cannot expect the gentleman from Georgia to be aware of that, but I can expect the gentleman from North Carolina to be aware of it, because he has been a participant in the negotiations. There has been a full consensus, particularly on the two points that concern him, and there has been no dispute that those matters should go forward and will be contained in the authorization bill.

We have made substantial progress toward our objective and I believe we will shortly have a bipartisan bill for the consideration of our full Energy and Commerce Committee.

In these circumstances, I hope the House will agree with me that it would be most distruptive and inappropriate for provisions dictating the conduct of the Commission's activities to be enacted through the appropriations process. The ordinary reasons for avoiding such a use of the appropriations process are compounded in this instance by the recent history of the FTC and the complex and controversial nature of some proposals that have been made with regard to some radical changes in the FTC's authorization authority that have been coming out of the other body.

As the Members of the House are undoubtedly aware, in 1980 we enacted the FTC Improvement Act to fine tune the procedures of the Commission to insure fair procedures and full deliberation without doing fundamental damage to the crucial role of the FTC in preserving free and fair competion.

This year, a number of groups have contended that there are additional changes which should be made in the Federal Trade Commission Act. Some of these proposals raise legitimate questions and entail only further fine tuning of the FTC Act. Others, however, would involve radical changes in the jurisdiction of the Commission, removing whole classes of people from the scrutiny of the FTC.

In developing the consensus bill that we hope shortly to introduce, we have attempted to accommodate legitimate concerns, without adopting radical measures that would damage businesses, bilk hard-pressed consumers, and fuel inflation.

But the House is not faced today with the question of whether particular proposals reflect a fair accommodation of the arguments that have been raised regarding the FTC. I am confident that when those issues are considered through the appropriate deliberative procedures of the authorization process, we will arrive at an acceptable outcome.

Instead, what we are faced with today is whether we should attempt to resolve complex and controversial matters through the hasty approach of last minute floor amendments to an appropriations bill. That question answers itself.

Commendably, the Appropriations Committee resisted any temptation to add riders to its bill regarding the FTC. Yet without any prior deliberation, such riders are now offered on the floor.

A special word may be in order concerning efforts to add a legislative veto as a rider to the FTC appropriations bill. Members of the House may differ strongly on the merits of the legislative veto. Nevertheless, if there is support for such a measure it will emerge from the authorization process. And I have been prepared to accept a legislative veto as part of the compromise package we are very close to completing for consideration by the Energy and Commerce Committee.

But the legislative veto is a very sensitive item. It should not be hastily considered and adopted today without even a chance for Members to examine its terms. I submit that we owe the importance of this issue a much greater degree of deliberation.

In sum, I urge the House to follow the example of the Appropriations Committee and reject FTC riders to this bill. Subversion of the orderly procedures of the House will serve no one's purposes in the long run.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FLORIO. Mr. Speaker, I think this is particularly inappropriate because of the other body's concern and apparent support for radical changes.

I think it would be particularly unwise to have an appropriation conference committee dealing with authorizing measures with no members of the authorizing committee as conferees.

If the gentleman's apprehension is that we get to the end of this fiscal year and nothing has been done, which I fully expect not to be the case, there is always going to be an opportunity for a continuing resolution to be considered by this body, at which time there is the authority to go forward to deal with the problems that the gentleman from North Carolina and the gentleman from Georgia are concerned about, that is, the lapse of certain provisions of the authorizing legislation.

Mr. Chairman, I would suggest that this is a highly unusual approach that is being advocated by some here today and this House would be well served, and the Nation would be well served, by defeating that approach.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has again expired.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. LEE. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. LEE. Mr. Speaker, the rightful concern that the gentleman expresses that a conference committee dealing with the appropriations matter with authorization elements are contained within, why not withdraw this appropriation proposal, go back to the authorizing committee, which we both serve on, and give the committee the opportunity to work its will?

Mr. FLORIO. Mr. Speaker, reclaiming my time, the gentleman certainly has his opportunity to advocate that and urge defeat of this appropriation, if he thinks that is the appropriate way to go. That is in accordance with the normal rules of the House, approve it or do not approve it.

I may very well find myself in support of the gentleman's position. I have seen some amendments that are going to be offered with regard to cutting the FTC, cutting FTC funding for rules. If those things go forward, I may very well support the gentleman's efforts not to approve the appropriation; but I think that is totally different than the question we are faced with now as to whether we should give legislative sanction to authorizing on an appropriation bill.

Mr. LEE. I thank the gentleman.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

I have asked for this time so that I could reply at least in part to the statement that has been made by the gentleman from New Jersey. The gentleman has stated that attempts have been made to work out a consensus in the authorizing committee on this bill.

I agree that perhaps the gentleman and I could work out some consensus on various parts of an FTC reauthorization bill. But there is absolutely no way, and I have told this to the gentleman, that I can make a deal with the gentleman that would prevent other Members from offering their amendments here on the floor and having the House work its will with respect to those amendments.

Whenever you bring up an FTC reauthorization bill, you are going to have some controversy on it because that particular agency is involved in a number of controversial issues. Members tend to react to these issues as they arise.

I might point out that as far as I know, there has been no consensus worked out with the gentleman from New Jersey with respect to the legislative veto or the agricultural cooperative amendments.

As I recall, when I offered those amendments in the subcommittee, the gentleman voted against them and voted the proxies that he had in his pocket, defeating our amendments on those particular items.

The issue, of course, has been raised here with respect to amendments to appropriation bills. I am reluctant to offer amendments to appropriation bills, but the reason that we see more and more Members coming to the floor and offering amendments to appropriation bills is in response to their inability to offer amendments on authorization bills.

This legislative veto issue is one that has been around for a long time. We have had to offer that amendment from time to time on a piecemeal

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basis. We were fortunate enough to get it adopted in the last Congress to the FTC reauthorization bill.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. LOTT. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. BROYHILL. Unfortunately, the conference committee sunsetted that particular section, section 21 of Public Law 96-252. It expires on September 30, 1982.

I would remind Members that the Federal Trade Commission, in contrast with other Federal agencies has very broad rulemaking powers. In effect, what we are saying is that the FTC has very broad lawmaking powers, because those rules have the force and effect of law.

We as a Congress have turned over to this independent agency the responsibility to make laws. It seems to me that we have some responsibility as elected representatives to oversee their work product.

I remind Members again that the legislative veto and the restrictions on FTC authority with respect to agricultural cooperatives expires on September 30. We are asking no more, no less, than the present law be extended for an additional year. We are not advocating any new amendments.

Mr. FLORIO. Mr. Speaker, will the gentleman yield for a question?

Mr. BROYHILL. I would be glad to yield.

Mr. FLORIO. Mr. Speaker, just to set the record straight with regard to my own thoughts and my own position on the legislative veto and the existing agricultural cooperatives, I have conveyed to the gentleman, I hope he understood, that I have no difficulty continuing those provisions on the authorization bill.

Mr. BROYHILL. I will reclaim my time. I would like to ask the gentleman why he voted against the amendments in the subcommittee.

Mr. FLORIO. The gentleman is fully aware of the fact that the bill that came out of the subcommittee was a straight authorization in terms of just the money.

The gentleman is certainly privy to our conversations that have indicated that that has not been the dispute in the negotiations. My apprehension about the gentleman's course of conduct now is not with regard to the legislative veto, not with regard to the agricultural cooperative exemption, which we agree on and want to improve with the concurrence of the gentleman. My apprehension is that we will go to conference on an appropriation bill, knowing the feeling in the other body with regard to the exemption for the professions.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FLORIO. Mr. Speaker, I will ask the gentleman to yield to me.

Mr. BROYHILL. I yield to the gentleman.

Mr. FLORIO. I am concerned that we are talking about a backdoor way to write into the authorization through the appropriation process an exemption from the FTC of the professions on a very controversial matter that the gentleman, I think shares my views about, but the gentleman is opening the door to have the appropriations conferees write into law that exemption, because it could not stand the heat of the normal legislative process.

Mr. BROYHILL. Mr. Speaker, if I may reclaim my time, this is the first that any other amendment has been mentioned that could be proposed in the authorizing committee. I am not proposing any amendment other than the ones that we have discussed here today.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, I know he is not; but the gentleman is either inadvertently—I assume inadvertently—providing the mechanism when we go to conference, the other body has less stringent rules on germaneness, to get that provision into this bill and then we will change the authorizing legislation.

Mr. BROYHILL. The gentleman is raising an issue that has not been raised and is not the intent of this gentleman or the intent of the gentleman from Georgia.

Mr. ZEFERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Speaker, I rise here today, not to support or to oppose this amendment, but just to reflect on it.

I was chairman of the subcommittee that had jurisdiction over the FTC when for the first time in more than 3 years we actually got an authorization bill passed in this House. At that time I was in very close touch with the gentleman from North Carolina (Mr. Broyhill) and the gentleman from Georgia (Mr. Levitas) on the question of the legislative veto. We worked closely with them in structuring a form of the legislative veto in the FTC bill.

I felt, somewhat reluctantly, that as a practical matter its time had come. We had not been able to get an FTC authorization bill through the House in 3 years without it. The House had expressed its will quite clearly on the matter; so as a matter of political pragmatism, I accepted the legislative veto and worked with the gentleman from Georgia and the gentleman from North Carolina to put in an acceptable form of the legislative veto.

This is perhaps a throwaway, but I would have to tell you that while as a matter of principle I agree with many, if not most of the things that the gentleman from Georgia has been saying about Congress reflecting the will of the American people and having some input into the work of the FTC and factoring in, cranking into their computer our feelings about some of their work, while that is very well and good as a matter of principle, as a matter of actual practice in the first exercise of the legislative veto process here, the result was violently and flagrantly anticonsumer and, in my opinion, grossly against the wishes of the American people.

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The only example we have had so far of the legislative veto as a living, throbbing, human force in our work was the used-car amendment. I suggest to you that if we had put this very modest proposal to the American people in a national referendum, the purchasers of used cars, that great American public out there, would approve 95 to 5 the proposal that they would like to have a sticker on that car informing them as to whether the car had any known defects, letting them know whether that car had a warranty or not.

That was a very modest proposal. I cannot believe that that great American public that buys used cars would not have happily received that information.

Yet this Congress, in its infinite wisdom, chose to deprive them, chose to kill that FTC rule and deprive the used-car buying public of that very modest, basic information for them, the very basic knowledge that they needed to exercise in their choice.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. Scheuer) has expired.

Mr. LOTT. Mr. Speaker, if I could just conclude, I would like to again urge my colleagues to vote "no" on the previous question so we can vote for the legislative veto for FTC regulations and on the amendment offered by the gentleman from North Carolina with regard to agricultural cooperatives, being covered by the FTC.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I appreciate the gentleman yielding to me.

The reason I do so, if I could get the attention of the gentleman from New Jersey, is to say that the reason that the timing of this is important is that, as the gentleman knows, the legislative veto provision expires on September 30.

We do not know at this point when, if at all, either a reauthorization or a continuing resolution will be coming to the floor and passed through both Houses of Congress. The need to get this provision on legislative veto in this bill at this time is to make certain that if we do not have a continuing resolution or an authorization passed by September 30, this provision will not disappear.

It is only for that reason, and for that reason alone, that if there is going to be any reauthorization—any appropriation for the FTC—it should be accompanied by this provision so that it will not expire.

I would be perfectly willing to see all funds dropped from the FTC under the waiver provided for in the bill so you could have your authorization. But in the absence of that, it seems to me that we have got to have these provisions as amendments or else they will expire on September 30 without any assurance that they will be continued through any other process.

I thank the gentleman for yielding.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I want to echo the remarks that have just been made. It is not the intent of the gentleman from Georgia, nor my intent, to go beyond keeping what is presently in the law. We can still have an authorization bill that addresses any other issues that we might want to address or that other Members may want to bring up; but our concern is that these two provisions which are in present law may expire on September 30, and we have no other choice but to take this avenue, this legislative avenue, to try to continue those authorities, to continue the status quo.

Mr. FLORIO. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's concern. I think it is ill-founded at this point. There is time to go forward with the authorization or the continuing resolution with the gentleman's amendatory language to insure the preservation of the matter that the gentleman is concerned about.

I am apprehensive, and I think with good justification, because it has been represented to me that the other body fully intends to attempt to put the professional exemption into the appropriation. We, then, by taking the action the gentleman advocates, would be sanctioning authorizing in an appropriation, and I am just concerned that the action that the gentleman advocates, in fact, provides for a professional exemption.

Mr. BROYHILL. Mr. Speaker, I would like to reclaim my time.

The SPEAKER pro tempore. The Chair announces that the gentleman from Mississippi (Mr. LOTT) controls the time.

Mr. LOTT. Mr. Speaker, I yield, for a final comment before we vote, to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, we are apprehensive because there has been inaction on an authorization bill, we have no part in anything that might be done by the other body, and I know that the gentleman from Iowa will certainly protect the rights of the House and the position taken by the House in any conference.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. ZEFERETTI. Mr. Speaker, I would like to conclude by making just two points.

One, Mr. BROYHILL's amendment, the agricultural co-op amendment, can be rewritten to be a straight limitation amendment, and that would be in order. I think the gentleman from New Jersey, who is chairman of the authorization committee, has expressed a desire to work with the gentleman from North Carolina on the legislative veto issue.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ZEFERETTI. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, we can offer an amendment like that. However, it would go somewhat beyond what present law is. Our position was that we wanted to maintain the status quo, the present law as it is; no more, no less. We will do that if necessary, but it would be better to do it this other way so as to maintain the law as is and not to go beyond it.

Mr. ZEFERETTI. Mr. Speaker, the objective of the agriculture co-op amendment can be achieved as a limitation, but on the other one, the legislative veto amendment, it is really in violation of the rules of the House. It is an authorization kind of responsibility, not appropriate as legislation on an appropriation bill as well as being nongermane.

I would suggest that my colleague support us and vote for the previous question.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 144, nays 208, not voting 82, as follows:

[Roll No. 277]

YEAS—144

Addabbo
Akaka
Alexander
Anderson
Annunzio
Aspin
Bailey (PA)
Barnes
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Brinkley
Brodhead
Burton, Phillip
Coelho
Collins (IL)
Coyne, William
Crockett
D'Amours
Dellums
DeNardis
Derrick
Dicks
Dingell
Donnelly
Downey
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hance
Harkin
Hawkins
Hightower
Hollenbeck
Howard
Hoyer
Hughes
Jeffords
Kastenmeier
Kennelly
Kildee
LaFalce
Lantos
Leach
Leland
Long (LA)
Lowry (WA)
Markey
Marks
Martinez
Matsui
Mavroules
McHugh
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Moakley
Murphy
Murtha
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Price
Quillen
Rahall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Sabo
Scheuer
Schneider
Schumer
Seiberling
Sharp
Shelby
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Traxler
Udall
Vento
Walgren
Washington
Waxman
Weiss
Williams (MT)
Wirth
Wright
Wyden
Yates
Yatron
Zablocki
Zeferetti

NAYS—208

Albosta
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Bailey (MO)
Barnard
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Bliley
Boner
Bouquard
Bowen
Broomfield
Brown (CO)
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappie
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
Derwinski
Dickinson
Dorgan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erlenborn
Evans (DE)
Evans (IA)
Fiedler
Fields
Findley
Fish
Flippo
Forsythe
Fountain
Fuqua
Gilman
Gingrich
Goldwater
Goodling
Gramm
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hiler
Holt
Hopkins
Horton
Hubbard

Hunter
Hutto
Hyde
Jacobs
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kazen
Kemp
Kindness
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery (CA)
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCollum
McDade
McDonald
McGrath
McKinney
Mica

Michel
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Oxley
Parris
Pashayan
Patman
Paul
Petri
Pickle
Porter
Pritchard
Railsback
Regula
Rhodes
Ritter
Roberts (SD)
Robinson
Roemer
Rogers
Rose
Rudd
Russo
Schroeder
Schulze
Sensenbrenner
Shaw
Shuster

Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Vander Jagt
Volkmer
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wolf
Wolpe
Wortley
Wylie
Young (FL)

NOT VOTING—82

Andrews
Applegate
Badham
Bafalis
Bedell
Bolling
Bonker
Breaux
Brooks
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappell
Cheney
Chisholm
Clay
Conyers
Craig
Crane, Daniel
Davis
Dixon
Dornan
Emery
Erdahl
Ertel
Evans (GA)
Fenwick

Fithian
Fowler
Frank
Frenzel
Garcia
Ginn
Gradison
Grisham
Hall (OH)
Hansen (UT)
Heckler
Heftel
Hillis
Holland
Huckaby
Ireland
Jones (NC)
Kogovsek
Kramer
Lehman
Lujan
Luken
Lundine
Marriott
Mattox
McCloskey
McCurdy
McEwen

Moffett
Mollohan
Nichols
Oakar
Pursell
Ratchford
Roberts (KS)
Rosenthal
Roth
Roukema
Rousselot
Santini
Savage
Sawyer
Shamansky
Shannon
Shumway
Siljander
Smith (OR)
Smith (PA)
Stanton
Trible
Watkins
Weaver
Young (AK)
Young (MO)

☐ 1130

Mr. LONG of Maryland and Mr. BEVILL changed their votes from "yea" to "nay."

Mr. OTTINGER, Mr. DONNELLY, Mrs. SCHNEIDER, and Mr. PEYSER changed their votes from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LOTT

Mr. LOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LOTT:

Strike all after the resolving clause and insert in lieu thereof the following: "that upon the adoption of this resolution it shall be in order, clause 7, Rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, Rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20; beginning on page 9, line 1 through page 10, line 6; beginning on page 11, line 2 through page 12, line 4; beginning on page 14, lines 12 through 24; beginning on page 15, lines 6 through 13; beginning on page 15, line 20 through page 16, line 6; beginning on page 17, line 13 through page 24, line 17; beginning on page 26, lines 2 through 6; beginning on page 26, line 18 through page 27, line 2; beginning on page 27, line 2 through the figure "$449,815,000" on page 30, line 2; beginning on page 30, line 9 through page 33, line 10; beginning on page 34, lines 11 through 23; beginning on page 35, line 15 through page 37, line 18; and beginning on page 40, lines 10 through 23; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, Rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7, line 1 through page 8, line 2; and beginning on page 15, line 20 through page 16, line 6. *Provided*, That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. It shall be in order to consider amendments to said bill printed in the Congressional Record of August 12, 1982, by and if offered by Representative Broyhill of North Carolina and Representative Levitas of Georgia, and all points of order against said amendments are hereby waived.".

POINT OF ORDER

Mr. ZEFERETTI. Mr. Speaker, I make a point of order against the amendment in the nature of a substitute.

The SPEAKER. The gentleman will state his point of order.

Mr. ZEFERETTI. Mr. Speaker, I make a point of order that the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. LOTT) is not germane to House Resolution 560, the rule providing for the consideration of H.R. 6957, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

☐ 1140

Under the rules of the House and the precedents by which we are guided it is not in order to amend an order of business resolution or, as we commonly refer to it, a rule, to accomplish by indirect means that which may not be achieved by direct means.

In other words, it is not in order to amend a rule to allow the offering of an amendment to a bill or resolution which otherwise would not be germane.

Mr. Speaker, the Broyhill-Levitas amendment provides legislative veto over certain FTC regulations and would provide expedited procedures in the House and an accelerated discharge petition procedure.

Mr. Speaker, this amendment amends the rules of the House and is clearly within the jurisdiction of the Rules Committee and not germane to this bill.

The Chair has very clearly set out this principle. Most recently on May 29, 1980, the Chair sustained a point of order which was made against the offering of an amendment to House Resolution 682 providing for the consideration of H.R. 7428, the temporary extension of the debt limit.

In that instance an amendment to the rule was offered to allow an oil import fee amendment to be offered to the debt limit bill.

The amendment obviously was not germane to the bill and the Chair ruled that an amendment to the resolution making it in order also would not be germane.

The substitute amendment to the rule offered by the gentleman from Mississippi (Mr. LOTT) would make in order amendments to H.R. 6957 which are not germane to the bill and, therefore, clearly would not be germane to House Resolution 560.

The SPEAKER. The Chair recognizes the gentleman from Mississippi, (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I would like to be heard in opposition to the point of order.

Mr. Speaker, for the life of me I do not quite understand why there is the continuing effort here to thwart the efforts to get a vote on the will of the House on this FTC issue.

The point of order has been made on this substitute rule saying it is not germane to the original rule.

The test of germaneness, though, is whether an amendment addresses the same purpose as that which seeks to amend the purpose of the House Resolution 560, and that purpose is to waive certain points of order against numerous provisions of the bill, H.R. 6957; namely, either legislative provision or unauthorized programs or agencies.

This substitute rule only makes one minimal change at the end of the rule which was read. It makes in order two amendments printed in yesterday's RECORD and waives all points of order against those amendments.

The purpose of this substitute is, therefore, the same as the purpose of the original rule, to waive points of

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order against certain legislative provisions.

I do not think it will do any good to claim that this rule is nongermane because one of the amendments goes to the jurisdiction of another committee, since all of the legislative provisions go to the jurisdiction of a number of other legislative committees and that is the purpose of the rule originally offered and my substitute.

It is germane, Mr. Speaker, and I would urge that the Chair overrule the point of order that has been made by the gentleman from New York (Mr. Zeferetti).

The **SPEAKER**. Is there any other discussion on the point of order?

The Chair is ready to rule.

The gentleman from New York (Mr. Zeferetti) makes the point of order that the amendment offered by the gentleman from Mississippi (Mr. Lott) to House Resolution 560 is not germane to that special order as reported from the Committee on Rules. Specifically, House Resolution 560 waives certain points of order against H.R. 6957, the Commerce, Justice, State, and Judiciary appropriation bill for fiscal 1983, because the report on that bill has not been available for 3 days and because certain provisions in that bill are unauthorized by law or contain changes in existing law in violation of clause 2, rule XXI. Nothing in that special order waives points of order against nongermane amendments which might be offered to the bill.

The precedents of the House on page 492 of the House Rules and Manual indicate that a resolution reported from the Committee on Rules providing for consideration of a bill relating to a certain subject may not be amended by an amendment which would permit the additional consideration of a nongermane amendment to the bill. In the opinion of the Chair, the amendment to be made in order not only constitutes legislation on an appropriation bill but would be nongermane if offered to H.R. 6957. Nothing in that general appropriation bill amends the rules of the House, and the amendment which would be made in order provides a privileged procedure for expedited review of FTC regulations, and constitutes a change in the rules of the House. The precedents indicate that such rules changes are not germane to a bill not containing rules changes. P. 506—House rules and Manual. Although the procedures contained in the amendment are the same as those currently contained in the FTC Improvement Act of 1980 with respect to congressional review, section 21 of that act ceases to be effective after September 30, 1982. The amendment would, therefore, constitute a change in law for fiscal 1983. The Chair rules that the amendment is not germane to House Resolution 560 and sustains the point of order.

Mr. LOTT. Mr. Speaker, in view of the ruling of the Chair, I have a substitute rule at the desk.

PREFERENTIAL MOTION OFFERED BY MR. ZEFERETTI

Mr. ZEFERETTI. Mr. Speaker, I offer a preferential motion.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER**. The gentleman will state his parliamentary inquiry.

Mr. LOTT. Mr. Speaker, should not the substitute rule be read first, before the preferential motion?

The **SPEAKER**. A preferential motion to refer takes precedence over the motion to amend, as ascertained by the Chairs inquiry "for what purpose did the gentleman rise?"

The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. Zeferetti moves to refer House Resolution 560 to the Committee on Rules.

MOTION TO TABLE

Mr. LOTT. Mr. Speaker, I have a motion to table at the desk.

The **SPEAKER**. The Clerk will report the motion.

The Clerk read as follows:

Mr. Lott moves to lay on the table the motion to refer.

The **SPEAKER**. The question is on the motion to lay on the table offered by the gentleman from Mississippi (Mr. Lott).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. LOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 173, nays 179, not voting 82, as follows:

[Roll No. 278]

YEAS—173

Archer
Ashbrook
Atkinson
Bailey (MO)
Beard
Benedict
Bennett
Bereuter
Bethune
Bliley
Boner
Bouquard
Broomfield
Brown (CO)
Broyhill
Butler
Byron
Campbell
Carman
Carney
Chappie
Clausen
Clinger
Coats
Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
Derwinski
Dickinson
Dougherty
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fiedler
Fields
Findley
Fish
Forsythe
Fountain
Fuqua
Gilman
Gingrich
Goldwater
Goodling
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hamilton
Hammerschmidt
Hansen (ID)
Hartnett
Hendon
Hiler
Holt
Hopkins
Horton
Hunter
Hutto
Hyde
Jeffries
Johnston
Kazen
Kemp
Kindness
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCollum
McDade
McDonald
McGrath
Michel
Mitchell (NY)
Molinari
Moore
Moorhead
Morrison
Myers
Napier
Neal
Nelligan
Oxley
Parris
Pashayan
Paul
Petri
Pickle
Porter
Pritchard
Regula
Rhodes
Ritter
Roberts (SD)
Robinson
Roemer
Rogers
Rudd
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Vander Jagt
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (FL)

NAYS—179

Addabbo
Albosta
Alexander
Anderson
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bowen
Brinkley
Brodhead
Burton, Phillip
Coelho
Collins (IL)
Conyers
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
DeNardis
Derrick
Dicks
Dingell
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gore
Green
Guarini
Hall, Sam
Hance
Harkin
Hatcher
Hawkins
Hefner
Hertel
Hightower
Hollenbeck
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
LaFalce
Lantos
Leach
Leland
Long (LA)
Long (MD)
Lowry (WA)
Markey
Martinez
Matsui
Mavroules
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Montgomery
Mottl
Murphy
Murtha
Natcher
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Price
Rahall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Weiss
Whitley
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—82

Akaka
Andrews
Applegate
Badham
Bafalis
Bedell
Bolling
Bonker
Breaux
Brooks
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappell

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Cheney
Chisholm
Clay
Craig
Crane, Daniel
Dixon
Dornan
Emery
Ertel
Evans (GA)
Fenwick
Fithian
Fowler
Frank
Frenzel
Garcia
Ginn
Gradison
Gray
Hall (OH)
Hansen (UT)
Heckler
Heftel
Hillis
Holland
Huckaby
Ireland
Jones (NC)
Kogovsek
Kramer
Lehman
Lujan
Luken
Lundine
Marks
Marriott
Mattox
McCloskey
McCurdy
McEwen
McKinney
Miller (OH)
Moffett
Nichols
Oakar
Pursell
Quillen
Railsback
Ratchford
Roberts (KS)
Rosenthal
Roth
Roukema
Rousselot
Santini
Savage
Shamansky
Shumway
Siljander
Skelton
Smith (OR)
Smith (PA)
Stanton
Trible
Watkins
Young (AK)
Young (MO)

□ 1200

Mr. JENKINS changed his vote from "yea" to "nay."

Mr. GILMAN changed his vote from "nay" to "yea."

So the motion to table was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. LOTT. Mr. Speaker on the previous question would it be in order, if the previous question is defeated, to have a motion to recommit with instructions to the Rules Committee to report back a rule with the amendments in order that have been defeated here today on the FTC legislative veto and the agriculture cooperatives matters?

A motion to refer with instructions, Mr. Speaker, is what I am referring to.

If that is the case, Mr. Speaker, I would urge my colleagues to vote "no" on the previous question.

The SPEAKER. The Chair could not anticipate what the motion to instruct would be and consequently he cannot rule on such an inquiry until such time as he saw the motion.

Mr. LOTT. Mr. Speaker, if I could inquire further on a parliamentary inquiry, would instructions be in order if the previous question is defeated on the motion to refer back to the Rules Committee?

The SPEAKER. The Chair would advise the gentleman if a proper motion to recommit with instructions were offered, the answer is "Yes."

The Chair cannot rule that all such motions would be in order.

Mr. LOTT. Mr. Speaker, I would urge my colleagues to vote "no" on the previous question then so we can have instructions on the motion to refer to the Rules Committee.

Mr. ZEFERETTI. Mr. Speaker, I want to make sure my colleagues know we are going to vote "aye" on the previous question so we can continue the process.

Mr. Speaker, I move the previous question on the preferential motion.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 170, not voting 81, as follows:

[Roll No. 279]

AYES—183

Addabbo
Albosta
Alexander
Anderson
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bonior
Bowen
Brinkley
Brodhead
Burton, Phillip
Byron
Coelho
Collins (IL)
Conyers
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
DeNardis
Derrick
Dicks
Dingell
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzales
Gore
Gray
Green
Guarini
Hance
Harkin
Hatcher
Hawkins
Hefner
Hertel
Hightower
Hollenbeck
Howard
Hoyer
Hubbard
Hughes
Jeffords
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
LaFalce
Lantos
Leach
Leland
Long (LA)
Long (MD)
Lowry (WA)
Markey
Martinez
Matsui
Mavroules
Mazzoli
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Montgomery
Mottl
Murphy
Murtha
Natcher
Nelson
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Price
Rahall
Rangel
Reuss
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Udall
Vento
Walgren
Washington
Waxman
Weaver
Weiss
Whitley
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Zablocki
Zeferetti

NOES—170

Archer
Ashbrook
Atkinson
Bailey (MO)
Beard
Benedict
Bereuter
Bethune
Bliley
Bouquard
Broomfield
Brown (CO)
Broyhill
Butler
Campbell
Carman
Carney
Chappie
Clausen
Clinger
Coleman
Collins (TX)
Conable
Conte
Coughlin
Courter
Coyne, James
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
Derwinski
Dickinson
Dougherty
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fiedler
Fields
Findley
Fish
Forsythe
Fountain
Fuqua
Gilman
Gingrich
Goldwater
Goodling
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hartnett
Hendon
Hiler
Holt
Hopkins
Horton
Hunter
Hutto
Hyde
Jacobs
Jeffries
Johnston
Kemp
Kindness
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCollum
McDade
McDonald
McGrath
Michel
Miller (OH)
Mitchell (NY)
Molinari
Moore
Moorhead
Morrison
Myers
Napier
Neal
Nelligan
Oxley
Parris
Pashayan
Paul
Petri
Porter
Pritchard
Quillen
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rudd
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stump
Tauke
Tauzin
Taylor
Thomas
Vander Jagt
Volkmer
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—81

Akaka
Andrews
Applegate
Badham
Bafalis
Bedell
Boland
Bolling
Bonker
Breaux
Brooks
Brown (CA)
Brown (OH)
Burgener
Burton, John
Chappell
Cheney
Chisholm
Clay
Coats
Corcoran
Craig
Crane, Daniel
Dixon
Dornan
Emery
Ertel
Evans (GA)
Fenwick
Fithian
Fowler
Frank
Frenzel
Garcia
Ginn
Gradison
Hall (OH)
Hansen (UT)
Heckler
Heftel
Hillis
Holland
Huckaby
Ireland
Jones (NC)
Kogovsek
Kramer
Lehman
Lujan
Luken
Lundine
Marks
Marriott
Mattox
McCloskey
McCurdy
McEwen
McKinney
Moffett
Nichols
Oakar
Pursell
Railsback
Ratchford
Rose
Rosenthal
Roth
Roukema
Rousselot
Santini
Savage
Shumway
Siljander
Skelton
Smith (OR)
Smith (PA)
Stanton
Trible
Watkins
Young (AK)
Young (MO)

□ 1220

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the preferential motion offered by the gentleman from New York (Mr. ZEFERETTI).

The preferential motion was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6863), making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following statement:

One of the Members, a respected member of the Republican Party, thought that I denied him the opportunity on the vote previous to the last vote of having the ability to change his vote. He thought it was an extremely fast gavel.

Let me say to the Member, I want to apologise if such a thing happened. I did not see him. Even though the vote would be against my principles, or the vote would be against my philosophy, I would never deny a man the opportunity of voting in this well.

So the Member, if he feels that way, I apologize to him. I just did not see the gentleman.

APPOINTMENT OF CONFEREES ON S. 2036, JOB TRAINING PROGRAM

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2036) providing for State and local employment and training assistance, insist on the House amendments thereto, agree to a conference with the Senate, and ask that the Chair be authorized to appoint conferees on the part of the House.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. LOTT. Mr. Speaker, reserving the right to object, the gentleman from Kentucky is asking for a late filing?

The SPEAKER. The gentleman is asking for a conference committee.

Mr. LOTT. A conference committee? It is on the CETA bill?

The SPEAKER. The gentleman is correct.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. Perkins)?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I will not object, but I wanted to call to the attention of the gentleman from Kentucky that I would be offering a motion to instruct the conferees as soon as the objection is cleared up.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, let me state that I think his motion would be premature before we ever go to conference. I do not know just how the House conferees will feel, but he will have ample time in the future. We would like to get by without an instruction here and will try to resolve the gentleman's problem, if we are afforded that opportunity, before he instructs us.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, the gentleman from Kentucky knows that this amendment passed by a voice vote in this House. A similar amendment passed, dealing with draft registration and student loans and grants, by an overwhelming majority, more than a 3-to-1 vote, and we have reason to believe that the Senate is going to accept this legislation, but there are those who are going to be appointed as conferees who are going to be opposing it.

I think it is a terribly important issue. Therefore, I would like to offer it now.

Mr. PERKINS. Mr. Speaker, if the gentleman wants to offer it, he has that right, but I think that he is jumping the gun. The conferees may want to accept this amendment, but I would like to discuss it with the conferees before he offers his motion to instruct us.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, is it the gentleman's opinion that I would have the opportunity to offer this motion at a later time?

Mr. PERKINS. If the gentleman will yield further, Mr. Speaker, absolutely, he will have that right.

Mr. SOLOMON. The gentleman can assure me of that?

Mr. PERKINS. Mr. Speaker, I can assure him of that. I can assure him of that. I have been instructed, with the conference going on for weeks and weeks and weeks——

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, if I may, while I am further objecting, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. As I understand it, the rules would not allow me to offer this at a future time, which is why I am doing it now, unless the conference goes for more than 20 days.

The SPEAKER. If the House has a motion to recommit, the gentleman could offer it at that time or after 20 days.

Mr. SOLOMON. Mr. Speaker, I do not want to recommit. I think it is a terribly important piece of legislation. I think the amendment is terribly important and, therefore, I think everybody on this floor understands the issue, and with all due respect to the chairman, I would like to offer it at the appropriate time.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. Perkins)?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Solomon, of New York, moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill S. 2036, be instructed to agree to the following provision of the bill:

TITLE VI—ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

ELIGIBILITY FOR PARTICIPATION AND ASSISTANCE

Sec. 601. The Secretary shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

The SPEAKER. Does the gentleman wish to debate the motion?

Mr. SOLOMON. Mr. Speaker, I would just like the time allocated in case other Members wish to debate. I do not intend to take more than 1 minute.

The SPEAKER. The gentleman from New York (Mr. Solomon) is recognised for 1 hour.

Mr. SOLOMON. I thank the Speaker.

Mr. Speaker, I will not use anywhere near that time. I just want to point out that this is the amendment which prohibits those who are in violation of the Draft Registration Act from participating or being eligible for the jobs training program.

This amendment passed by a voice vote in this House when the legislation passed; a similar amendment passed dealing with grants and loans to college students by an overwhelming vote, and unless there is requested time from that side of the aisle—is there, Mr. Chairman?

I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, first let me state that during my tenure in the House there have been very few occasions that I have heard a motion to instruct conferees before the conferees are appointed.

The gentleman from California (Mr. Hawkins) is not here today. He is

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chairman of this subcommittee. He is not on the floor.

The gentleman from Illinois (Mr. Erlenborn) is not on the floor.

I think the conferees should have the right to go to conference, and if at a later date, if it is necessary that this motion be offered, the gentleman will have that right. But at this time I feel that it is untimely, unwise, and ties the hands of the conferees.

We have always tried to act fairly and to uphold what the House has done, and I would hope that this motion at this time would be voted down.

Mr. RHODES. Mr. Speaker, will the gentleman yield to me?

Mr. SOLOMON. I yield to the honorable gentleman from Arizona (Mr. Rhodes) for purposes of debate only.

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, the thought occurs to me that before the motion to go to conference was brought to the floor, the ranking minority members of the Committee on Education and Labor and its subcommittee should have been notified and should have been given the opportunity to be on the floor.

□ 1230

I think the gentleman's motion is absolutely timely considering the fact that the matter was brought up. I suggest to my good friend from Kentucky that if indeed he feels that the presence of other Members is necessary before the debate on the gentleman's motion, that it might be good policy to withdrawn his motion to go to conference until such time as they can be here.

Mr. SOLOMON. I thank the gentleman for his remarks. I would be most willing to withdraw the motion if the gentleman would withdraw his motion, and I would be glad to take it up later. I have been trying to get hold of Mr. Hawkins and Mr. Erlenborn and others. They were not on the floor earlier.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky for debate purposes only.

Mr. PERKINS. Let me say in response to the Speaker that I have never made a motion of this type and then withdrawn it. I want the Speaker to rule. I certainly do not feel that I should withdraw the motion at this time. We want to go to conference. We want to do the right thing, and we certainly do not want to have our hands tied.

Mr. SOLOMON. If I may reclaim my time, Mr. Speaker, I know that there is a lot of pressure that many Members have to catch planes. We all know this issue. This motion is to instruct the conferees on the amendment that overwhelmingly passed this House by a voice vote, and was passed on different legislation, on the student aid loan legislation, which simply prohibits anyone who is in violation of the Draft Registration Act from being eligible. It sets a requirement as we did in the other legislation, from being eligible to participate in this program.

Mr. PERKINS. Mr. Speaker, will the gentleman yield further?

Mr. SOLOMON. I yield to the gentleman for debate purposes only.

Mr. PERKINS. Let me state that I know the gentleman's amendment is very popular among all the Members of this Chamber. I think we are all aware of that. But, I cannot see any reason, unless it is for publicity purposes, for a motion of this type being made at this time. I would still hope that the gentleman would withdraw this motion and let the conferees go to conference.

Mr. SOLOMON. I have a great deal of respect for the chairman, but I will tell him, this matter is so important, and it is going to do a favor for these young men who are not aware that they have to register. I do not want to see them saddled with a felony conviction for the rest of their lives. We are doing them a favor by passing this legislation.

Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York (Mr. Solomon).

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. Perkins, Hawkins, Ford of Michigan, Clay, Biaggi, Simon, Weiss, Corrada, Washington, Erlenborn, Jeffords, and Petri, Mrs. Fenwick and Mr. DeNardis.

PERMISSION TO HAVE UNTIL NOON, MONDAY, AUGUST 16, 1982, TO FILE CONFERENCE REPORT ON H.R. 6955, OMNIBUS RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the conferees on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.), have until noon on Monday, August 16, 1982, to file a conference report.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was give permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I take this time for the purpose of receiving the legislative schedule for the balance of today and next week. I am pleased to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for yielding.

This concludes the legislative business for the day and for the week. Members may expect confidently to catch their planes, if that is their desire.

I will ask unanimous consent that we come in at 10 o'clock on Tuesday.

On Monday, we will have 11 bills under suspension of the rules. They are as follows:

H.R. 6188, Platte River water resource studies;

H.R. 5536, feasibility studies, Central Platte Valley, Nebr.;

H.R. 6162, NTIA (National Telecommunications and Information Administration) authorizations, fiscal years 1983 and 1984;

H.R. 5008, Communications Technical Amendments Act of 1982;

H.R. 6954, National Security Act amendments re JCS;

H.R. 6222, adjust Federal Reserve requirements;

H.R. 6732, International Safe Container Act;

H.R. 1489, Puerto Rican passenger vessels;

H.R. 4828, surplus vessels for humanitarian purposes;

H.R. 5618, Organic Farming Act; and

S. 1894, Indian tribe mineral resources.

We will have general debate only on the following two bills, on which the rules are already adopted:

H.R. 6323, EPA research authorization; and

H.R. 6324, NOAA (Oceans and Atmosphere) authorizations.

We will have no votes on Monday.

On Tuesday, we will ask to come in at 10 o'clock. We will have the Private Calendar, followed by any votes on whatever suspensions may have been required from the day before. Members should be aware that we may take the conference report on the budget reconciliation, the conference report on the 1982 Tax Act and/or the supplemental appropriations conference report sometime next week. We are not certain, but it is conceivable that we may have those.

Mr. LOTT. Mr. Speaker, I would like to get a clear understanding for the Members that are here as far as this schedule for the rest of the day. Did I understand the gentleman to indicate that there would not be any further business?

Mr. WRIGHT. The gentleman is correct.

Mr. LOTT. I thank the gentleman for that clarification, and I yield further to the gentleman.

Mr. WRIGHT. For the balance of the week we will consider the following bills:

H.R. 6956, HUD appropriations, fiscal year 1983;

H.R. 6957, State-Justice, appropriations, fiscal year 1983;

H.R. 6986, military construction appropriations, fiscal year 1983;

H.R. 6755, Central American Economic Revitalization Act of 1982; open rule, 1 hour;

H.R. 5540, Defense Production Act; open rule, 1½ hours;

H.R. 6323, EPA research authorization; complete consideration;

H.R. 6324, NOAA (oceans and atmosphere) authorization; complete consideration;

H.R. 5831, consolidated farm and rural development; open rule, 1 hour, rule already adopted; and

H.R. 6307, Resource Conservation and Recovery Reauthorization Act of 1982; open rule, 1 hour.

Adjournment times will be announced daily, and as we have already noted, Members may expect to be in late sessions. At the close of the week's business, the House will adjourn for its summer district work period, and will reconvene at noon on Wednesday, September 8, 1982. Conference reports may be brought up at any time, and any further program will be announced later.

ADJOURNMENT TO MONDAY, AUGUST 16, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. Murtha). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, AUGUST 17, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House meets on Tuesday, it meet at 10 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule, be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the majority leader whether or not there is any chance of taking up the regulatory reform bill next week. I did not hear this mentioned as a part of the schedule, and that has been something which has been discussed on regular occasions. Is that at all contemplated?

Mr. WRIGHT. The gentleman is correct. It was not mentioned. It has been discussed on numerous occasions, and it is not contemplated for next week.

Mr. WALKER. If we do not take it up next week, of course the House would be going into recess, and there would be no chance of getting into that until sometime in September at the very earliest?

Mr. WRIGHT. The gentleman is correct also.

Mr. WALKER. That concerns me a great deal, because that is the one that has been around since February.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LOTT. Mr. Speaker, I would like to reemphasize again that we will be coming in at 10 o'clock on Tuesday and the balance of the week. Members need to be aware of that, and it will include probably Friday.

Mr. WRIGHT. The gentleman is absolutely correct. We had initially scheduled the home district work period at the close of business on Thursday. We cannot be absolutely certain of that. We are attempting and hope to achieve that goal, but Members should expect to come in earlier and probably stay late on Tuesday, Wednesday, and Thursday.

Mr. LOTT. Does that include the possibility of a Friday session?

Mr. WRIGHT. That is exactly what I was trying to address. The possibility must always be held open. We hope to be able to conclude business on Thursday as planned in order that at the close of business on Thursday we may begin our home district work period, but it is conceivable, because of the urgency of some piece of legislation incapable of being completed on Thursday, that we might have a Friday session. I do not expect one. We do not plan one. Members, however, should be on notice that there will be long sessions beginning at 10 o'clock on Tuesday, Wednesday, and Thursday, and quite possibly going late on those 3 days.

No votes are planned on Monday.

Mr. LOTT. I thank the gentleman.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6467, PROFESSIONAL SPORTS STABILIZATION ACT OF 1982

Mr. MITCHELL of Maryland. Mr. Speaker, I respectfully ask unanimous consent that my name be withdrawn from cosponsorship of H.R. 6467, Professional Sports Stabilization Act of 1982, sponsored by Congressman Don Edwards.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6529, THE JOBS AND BUSINESS OPPORTUNITIES FOR THE HANDICAPPED ACT OF 1982

Mr. MITCHELL of Maryland. Mr. Speaker, I respectfully ask unanimous consent that my name be withdrawn from cosponsorship of H.R. 6529, the Jobs and Business Opportunities for the Handicapped Act of 1982, sponsored by Congressman Barry M. Goldwater, Jr.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

TRIBUTE TO HENRY FONDA

(Mr. DAUB asked and was given permission to address the House for 1 minute.)

Mr. DAUB. Mr. Speaker, in 1925, at a small community playhouse in Omaha, Nebr., a young actor began a career that would span over five decades and win him the love and respect of the American people. That actor was Henry Fonda who passed away yesterday at the age of 77.

In both his personal life and the roles he played, Henry Fonda taught us life's lessons—lessons of moral strength and of justice, of caring and of courage.

We in Nebraska are particularly proud of our native son—and particularly grateful to Henry Fonda. Throughout his life he stayed in close touch with his family and friends in Omaha and gave his support to our local theater groups. His family has asked that memorial contributions be made to the Henry Fonda Memorial Wing of the Omaha Community Playhouse where his career began.

Our American heritage is rich because of the contributions of great men and women. Henry Fonda epitomized the American character and became an integral part of this heritage. We will always remember him, and because his unparalleled career is captured on over 80 films, generations of Americans after us will remember him as well. Henry Fonda is a part of America—and always will be.

☐ 1240

A TRIBUTE TO THE LATE HENRY FONDA

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I want to associate myself with the remarks that were just made by the gentleman

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from Omaha, Nebr. (Mr. DAUB) in tribute to the deceased Henry Fonda.

Mr. Speaker, it is with great sadness that I join with my colleagues to mark the passing of an actor, who, like no one else before him, captured the spirit of America and the aspects of the American character that we prize the most—rugged individualism, courage, and steadfast adherence to one's principles no matter what the challenge. That actor was Henry Jaynes Fonda, who died at the age of 77 yesterday in Los Angeles, Calif.

From childhood, throughout my youth, and during my later years, I have witnessed this man's dedication to the work he so loved. Whatever the role he played, whether outlaw or hero, he played it with spirit, and yet with such studious care that the public tended to transfer the attributes of his roles to his personal character. Perhaps there is a message for all of us in this dedication of his—whatever we are called to do, let us strive to do it well.

Acting did not come easily to Henry Fonda—he was by nature shy and retiring, an essentially private man. Usually we think of actors as extroverts. It was the mother of another famous actor, Marlon Brando, who persuaded young Henry to try his hand at what was to become his life's work.

Born on May 16, 1905, in Grand Island, Nebr., Henry Fonda's acting career began in Omaha, where in 1925 he played in Philip Barry's "You and I" at the Omaha Community Playhouse. It ended, appropriately enough, with his capture of an Academy Award for best actor of the year for his role in "On Golden Pond," in which he starred with Katharine Hepburn. In the 56 years of his career, he made an indelible impression on the heart of the people of this country with his roles in such classic American films as "Drums Along the Mohawk" (1939), "The Grapes of Wrath" (1940), based on John Steinbeck's novel, "My Darling Clementine" (1946), "The Ox-Bow Incident" (1943), and "Fort Apache," among others. In 1978, the American Film Institute gave him its Life Achievement Award and in 1979 he was honored by the Kennedy Center in Washington.

Mr. Speaker, it is with great honor and respect that we mark the passing of Henry Jaynes Fonda. No words can fully express the emptiness we all feel and the void which he has left. Our prayers go out to his family, for we know what a loss they have suffered and pray that God will give them strength.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND SPAIN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 97-227)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Friday, August 13, 1982.)

SOCIAL SECURITY: LET US SET THE RECORD STRAIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 10 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, it is indeed unfortunate that the American people have been subjected to an overabundance of misinformation and political demagoguery about the program that directly affects the lives of more citizens than any other program—social security.

We have seen bumper stickers that politicize the issue, mailings by a congressional campaign committee that advocate sending money to a particular political party in order to save social security, a traveling political road show by a prominent Member of the House, and television commercials with charges and countercharges about who is really proposing to cut social security.

Mr. Speaker, it is a matter of record that I did not agree with the social security changes that were proposed by the Reagan administration last year. However, I was very distressed when I learned that the House leadership told Social Security Subcommittee Chairman JAKE PICKLE, a Member for whom I have great respect, to cease holding meetings on the social security issue. For several weeks, Chairman PICKLE had been working cooperatively to develop a bipartisan plan so that social security benefits would not be interrupted. The rug was pulled out from under the chairman and his subcommittee for what can only be described as political reasons.

We have also heard a great deal of self-righteous political rhetoric about the administration-backed budget which passed last year. It is interesting to note that those who attack that budget rarely, if ever, refer to the changes in social security benefits that were proposed on the other side of the aisle by the House Budget Committee. That budget package proposed to:

Phase out the minimum benefit after 1982; phase out college student benefits after 1982; eliminate summer student benefits and COLA for student benefits; terminate parent's survivor benefits for those with children over 16; round benefits to the lower dime; to reimburse the Social Security Administration for documents; and to pay benefits only if eligible on the first of the month.

Another major provision that was included in the Budget Committee proposal—but not the administration-backed bill—would have delayed half of the 1982 cost-of-living adjustment from July 1982 to October 1982. If the committee's bill had passed, social security recipients would have received only half of the cost-of-living adjustment they actually received on July 1, 1982.

Mr. Speaker, it is also important to note that major social security benefit reductions that were enacted under the Carter administration in 1977 are just now taking effect. The Senate Finance Committee has calculated that the average beneficiary retiring this year at age 65 will realize a $130 per month reduction in benefits, or more than a $5,000 reduction over the next 3 years because of the Carter amendments.

The 1977 social security amendments also provided for a reduction in social security benefits to a dependent spouse by the amount of any Federal, State, or local civil service pension received by that spouse and established a 5-year period for implementing the benefit cuts. In addition, this 1977 legislation froze the level of the minimum benefit at the 1978 level.

Furthermore Mr. Speaker, my caseworkers and I have been hearing from a large number of my constituents who have had their social security disability benefits terminated as a result of eligibility reviews that were mandated by the Social Security Amendments of 1980. This legislation, I point out to my colleagues, was signed into law by former President Carter, a year before I took office.

Mr. Speaker, in order to alleviate the serious hardships that these people have been experiencing as a result of the Social Security Administration's abrupt termination of their disability benefits, I have cosponsored legislation that is designed to correct this serious problem. Mr. Speaker, I hope you will use your influence to see that this legislation is reported from committee in a manner that provides for an equitable appeal process. Furthermore, let us hope that this will be done at the earliest possible date.

Finally, Mr. Speaker, the bipartisan National Commission on Social Security Reform is currently meeting in an effort to reach a consensus on the best means to provide for the short-term and long-term solvency of the social security system. Let us put partisan politics aside and make a sincere and concerted effort to do what is best for the American people while not cutting social security benefits.

THE PENDING RESOLUTION OF IMPEACHMENT OF THE CHAIRMAN OF THE FEDERAL RESERVE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to continue yesterday's presentation, and first I would point out that in today's RECORD, that is, yesterday's record of proceedings, I included for the first time the report that I had not been able to get. In fact, I did not even know it had been pursued and had been made available until fairly recently. I was finally able to get a copy of it, and it is included in today's RECORD, that is, in the record of the proceedings of August 12, specifically last night, when I continued my discussion on my pending resolution of impeachment of Paul Volcker, the Chairman of the Federal Reserve Board, and the two bills calling for a revision of the 1913 Federal Reserve Act in order to bring this powerful, runaway monopoly under the control of people. I would like to see control brought back to the people, at least as far as feasible, although, as I said last night, I think time is on us; it is just too late. I feel that there is no way we can reverse the course that seems to be inexorably leading us to national bankruptcy and economic prostration.

☐ 1250

In this report, which the record has a complete copy to the report except for the appendixes to the report, that report has some of what the special counsel that was hired referred to as documentary supporting evidentiary facts to the course of their investigation.

I want to point out that in that report, to show you how self-serving these inquiries have been and how even in the guise of a report the Federal Reserve does not render an accounting to the Congress. I explained last night that before 1979, to be exact, when the Chairman of the Board was Mr. Arthur Burns, around about 1976 I became aware of what was apparent to me, a leak from the so-called Open Market Committee of the Federal Reserve, which, as I explained last night, it is not open, it is secret. Usually the actions and decisions made are so sensitive that they must be maintained in secret.

Once this anomaly known as the Open Market Committee was created in 1923 the control over the destiny of this country's economic, financial, fiscal, and monetary well-being and policies left the people, left the Government, left the Presidency, left the Congress, and went to the hands of the bankers who now, as I said last night, have complete control of our destinies to the point where such grievous decisions as war or peace are being decided by these elements.

I became aware of the leak because of the sudden thrust of some financial decisions in New York and that looked to me as if they were made only on the basis of information that had been leaked out in time for one or two of these financial interests, these big banks like the Manufacturers Hanover Trust, to make a big killing; that is, a tremendous windfall of improper profit at the cost of the financial stability of the Nation's financial system.

So in this report, and I am now referring to the printed record today, the special counsel that was hired by the Federal Reserve Board after 1979 and after I finally got this matter before the attention of the proper committee, which I belong to, in 1976 when I first learned of that first leak I could not get anybody interested.

But I did raise speculation that caused the gentleman that was ostensibly responsible for the leak to find himself having to explain to some reporters, but who never printed the story, and then went back to his home place in Philadelphia and died. So that ended the matter. I could not do much.

But when the second leak was obvious, by then Mr. Paul Volcker had become Chairman of the Board. It was obvious to me that the same thing had happened.

This time I was able to get some interest and finally the special counsel's report indicates, and I am going to read from it in order to give you the history of it—incidentally, the special counsel was the lawyer from the law firm of Fulbright and Jaworski. In other words, only after pressure from the committee did the Board decide to get an outside counsel to get into the matter.

I am going to read now this history. The special counsel says in his introduction of this report on page 20792 of the CONGRESSIONAL RECORD for the House of August 12, and I quote:

> On October 29, 1979, Vice Chairman Frederick H. Schultz and Governor J. Charles Partee of the Board testified before the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives—

That is the one I belong to and have belonged to for 21 years almost, otherwise known as the House Banking Committee—

> concerning these revisions.

This is what they called the leaks:

> Members of the House Banking Committee expressed concern with the possibility that the underlying errors . . .

And these, again, are a description of the leaks—

> had been the result of some plan or scheme or that the institutions involved, or persons connected with those institutions, had used their knowledge of the errors for financial gain. The chairman of the committee requested that the Board conduct an investigation to determine if any institution or individual had improperly profited from these errors. Vice Chairman Schultz stated that the Board would do so.
>
> On November 6, 1979, the Board and the New York Fed engaged Alan B. Levenson of the law firm of Fulbright and Jaworski as special counsel to conduct an inquiry to determine whether any institution or individual, including Manufacturers . . .

Meaning Manufacturers Hanover Trust—

> and persons connected with Manufacturers, the Board or the New York Fed, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. Mr. Levenson was directed to make a complete inquiry into the facts of the matter and to prepare a report on the results of the inquiry. He was authorized to select other persons in Fulbright and Jaworski to assist in the inquiry and to retain the services of a public accounting firm and other experts if deemed necessary. Mr. Levenson and the other persons in Fulbright and Jaworski who assisted in this inquiry are collectively referred to as "Special Counsel."

Mind you, this was done only after we had raised speculation and finally got some of the colleagues to exert a little bit of pressure and make a request. Lo and behold, one of the few times that the Federal Reserve acceded to it and they said, "OK, we will conduct an inquiry."

But we did not even have available this report. I had to dig and dig and dig and finally just a few weeks ago I got my hands on it.

But you read the report, and it is printed here in the RECORD for the citizenry to see. I defy anybody, lawyer or not, to define this as anything but the most nervy whitewashing of any kind of an inquiry I have ever known of and particularly on these high levels of Government.

☐ 1300

It was obvious from the very beginning, since the Feds apparently do not have an Inspector General. We do not know. The Congress does not have control. It cannot even send the General Accounting Office over there and examine, like it does any other Federal agency. But not the Feds. They are independent. Even though they are creatures of the Congress. The overwhelming number of Americans I have talked to and Members of the Congress do not seem to know that. They are under the impression that the Federal Reserve Board is an autonomous, independent, free-wheeling agency of the Government.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

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Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. HANCE. It is very interesting, what the gentleman is saying, and I find that very true with the public. They think that the Federal Reserve Board reports to Congress, that they are under our control. And yet when you talk to the people who are strong supporters of the Fed, they say, "Well, we want them to remain independent."

My question always is: Independent of whom? Should they be independent of the Congress? Should they be independent of the public? I say that they should not be.

If you look at the present state of the economy right now, with unemployment being as high as it is, you can go back to October 1979, and look at the present problem, because they started changing their policies at that time, setting the interest rates not by the discount rate, which had been done in the past, but by doing it through the so-called supply of the money, when they did not even know exactly what money was.

It carried President Carter into a recession in the 1980's. They let up briefly at one time, and they got President Reagan into a recession. Last year the tax cut was designed to stimulate the economy. But it is not going to do so when interest rates are running 15 to 20 percent.

Mr. GONZALEZ. No way.

Mr. HANCE. There is no business in this country that can continue for a long period of time paying 15 to 20 percent off the top and continue in business.

I think that the time has come for us to look at the makeup of the Federal Reserve Board and bring them under control of Congress, that we do not need to be giving our rights away to some other agency, to let them be independent of the elected officials. We are the ones who are elected by the people in our districts. We have taken an oath of office. We are held accountable. Those people should be held accountable.

I think the gentleman is exactly right, in that the general public has no idea that these people are completely running loose on their own. The people think they are under the control of Congress, and they are not.

I applaud the gentleman for bringing this to the attention of the Congress and the attention the gentleman has been bringing on this issue for some time.

Mr. GONZALEZ. I really thank most sincerely my distinguished colleague from Texas. I really thank him for this presentation, even though it saddens me to hear corroboration of what I had suspected as an individual Member, and I really welcome this support.

I have been speaking out for more than 18 years, actually, since Mr. Johnson was President. So it is not anything now that I have any political motivation. But I realize that one man can do so much, and that is it. But the main thing is that I know, and I have faith in the processes. I have faith. The thing that spurs me on is that all of this has not been fair to our country. Our country is a great country. The people are great. They deserve to be by us represented faithfully and truthfully. I think the overwhelming preponderance, if not 100 percent, of our Congresses have been Members who are very diligent. In the very beginning, in the Continental Congress, for instance, the greatest leaders, the Founding Fathers of this country, had to wrestle with this problem. But they were able to control through their integrity and basic commitment to the public interest. But they feared it and said so and spoke out very specifically.

And then subsequent to that, Presidents like Andrew Jackson then very specifically, with finally the National Currency Act of 1865; before that, President Lincoln was very apprehensive. He spoke out almost in the same words that his predecessors had in 1775, 1776, 1777. And then later, Woodrow Wilson, in 1916, very specifically, after the passage of the Federal Reserve Act.

What happened was that what they feared, that is, the loss of control by the people. After all, the Constitution has the most radical words, even today—certainly in 1789. The very first words of the preamble, "We the people of the United States, in order to form a more perfect Union * * *." It does not say, "We the Congress," it does not say, "I the President," it does not say, "We the judiciary." It says, "We the people." That is the sovereign. Where we come from, all power comes from the people. That was revolutionary in a world where all of the power was supposed to be in sovereign kings, who in turn got their sovereignty from God, divine right. That was very startling and revolutionary. Even the French Revolution did not go that far in its battle cry, which was coincidental with the American Revolution.

Even today, it is still revolutionary. But we have lost that, because we have now this superoligarchic combine in our country that has taken over control. The decisions are not being made in Congress. Congress would never have legalized usury. The Feds have.

The idea that in this country we would have a prime rate of 21 percent interest, that today we are supposed to genuflect and thank these mighty, powerful beings because they have gone down to 15½ percent—that is still usury. It is still extortionate.

The gentleman is dead right, I say to my distinguished colleague from Texas, there is no society, much less ours, predicated on the kind of economy we are, there is no business that can remain alive, like mine are in San Antonio, trying to stay alive, if they have to floor inventory to be able to stay. At 18 percent, 19 percent, 20 percent, how in the world can they stay alive and pay that extortionate rate of interest? No way.

And yet these people have told me, these chairmen, and all, that it is like an act of God. You cannot do anything about it. That is a lot of baloney. It is hogwash. Of course, a lot can be done about it.

In fact, as I pointed out here, something has been done about that since 7,000 years before Jesus Christ, in the reign of Hammurabi. They even had laws against usury. And all through our history. But the idea that this country would be having an economy that is more equated with a lesser developed country, where you have a different economy, there is no such thing as mass production, mass consumption, mass credit availability.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from North Carolina.

Mr. ANDREWS. I am very impressed with what the gentleman says and with his obviously extensive research, reading and study on the subject. And it is a very important one. The one thing that bothers me about what the gentleman is saying is, how can the Federal Reserve be accountable to Congress without the Congress in effect acquiring the authority to tell the Federal Reserve, in effect, what to do? And if that should happen, then do you not in essence cause the Federal Reserve just to become an instrument that would execute the will of Congress, and hence Congress becomes in effect the Federal Reserve, and the authority that the Federal Reserve now has would be bestowed in Congress?

I do not know how you can split the difference. Somebody has to have control.

Mr. GONZALEZ. I understand the gentleman's question and his concern. I think I have a pretty good comprehension. But I think what we have got to remember is the definition of the Federal Reserve. It is a creature of Congress, to begin with. The Congress created it with the passage of the Federal Reserve Act which, incidentally, was the result of a special committee from the House. It could never get to the Senate. After the 1907 terrible panic and depression. And it was called the Pujo committee, named after the then-member of the House and the committee. It was not until 1912 that they finally got that committee. It went into the matter. The same thing happened at that period; that is, you had restrictions and unyielding credit allocations to this country that was continuing to burgeon and grow.

Our country today, this is why our leaders are failing, because they are assuming our country has reached limits. It is a dynamic country. This country is producing, and its capacity for production has not even been tapped. We proved that during World War II.

But you have to have the engines of credit to go along, especially in an economy such as ours where you have mass production predicated on mass consumption and, in turn—and especially since World War II—mass credit is what I call it, but actually what it is, is consumer credit available. You cannot have it available if you are going to go into extortionate interest rates. But the definition of the Federal Reserve Board is that it is the fiscal agent of the U.S. Treasury.

□ 1310

Now, if it does not account to its principal—after all an agent is an agent for somebody, a principal.

But the Feds have been acting and continue to do as if they do not have to account to anybody, and they do not. They do not account to Presidents. They do not account to the Congress. Certainly we cannot get information. We requested information—and I again was one of those pressuring and yelling until we got them, and the committee requested the Federal Reserve Board to give us the statistics on the number of American banks taken over or heavily infiltrated by Arabian or Middle East oil-producing nations—most of those that had exercised the embargo on us in 1973. To this day, we cannot get it because the Feds came back and said—we wanted it country by country and they said, "No, all we can give you is region by region."

Well, that brings in Turkey and Greece and everybody else.

Now, what happened the other day, to show how prostrate we have become as a result of the absence of the people having protection.

Right at the time of the initial phase of the invasion or rather the penetration of the Israeli forces into Beirut, the Saudi prince called President Reagan and said, "If you don't restrain Israel, we will pull out all our money from your banks and create chaos."

And the President responded within 12 hours.

But we do not know. There is nobody who can tell you. The other day when we had the Chairman of the Feds on a more important matter—what I discussed the night before last, and that is the crisis that is imminent, on our head. Banks are falling over, savings and loans are going out like popcorn in a popper, businesses are collapsing at a higher rate per week than ever since the Depression, even during the Depression.

Now, I asked the Chairman, I said, "Mr. Chairman, what can you tell us." We had him there on the Penn Square Bank failure in Oklahoma. I asked him, I said, "Can you tell us how many more of these banks are out there in that wild blue banking yonder." And he grinned and he puffed—he has a cigar he always puffs on, and then he shook his head and he said, no, he could not tell us.

I said, "Then how can you come and tell us that you have solidity in the resources available to avoid a crisis when all the Federal Deposit Insurance Agency has is no more than $15 billion to try to cover $1 trillion of insured deposits."

Now, who is kidding who?

The savings and loan deposit insurance—rather insurance corporation, it has no more than about $6 billion to cover, well, about 20 times that amount. So that is what we are talking about? Naturally they have limits. I said the Federal Reserve is not unlimited because you have now converted the Federal Reserve into a giant bank of Sark. This was this great scheme, on this Island of Sark, near England, in which all they had was a computer device there taking these flight capitals, and they finally speculated and it collapsed with great impairment to the banking system and lost the money of many innocent people.

All this the Feds have brought us because of the lack of accountability, they do not have to come and account for the decisions.

Congress never intended that when it passed the Federal Reserve Act. But through certain functions and appendages, and then also some sleeper clauses in some legislation, we have ended up where we are the only nation that conducts our monetary and fiscal policies this way. We are the only nation that handles its money matters——

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I do not mean to interrupt the gentleman's presentation, but I want to say that the gentleman has been consistent in his criticism of the Federal Reserve Board over the months and the years. I appreciate that because there are far too few Members of Congress who are interested in taking a whack at this issue of monetary policy.

We get mired down in questions of fiscal policy and tend to forget monetary policy. We leave that to the Federal Reserve.

As the gentleman points out, the Federal Reserve has in its palm about half of the economic game plan in this country. Half of the economic plan is controlled by people who are not elected by or accountable to anyone.

I know the gentleman has a resolution to impeach Paul Volcker. I do not think he should be impeached. I think Paul Volcker ought to be fired. The reason he cannot be fired is because Congress does not have the mechanism to replace the Chairman of the Federal Reserve Board and we ought to have that mechanism in place.

The first bill I introduced here in the U.S. Congress was a bill I called the Paul Volcker Retirement Act. It was a bill designed to make the Chairman of the Federal Reserve Board accountable.

People in this Chamber seem to think that monetary policy is some mysterious force that they cannot control or they do not understand. Look. Anybody serving in Congress ought to know enough economics to understand one fundamental fact and that is this. You cannot have Reaganomic supply-side economics, expansionary fiscal policy, and at the same time have high interest rates. That sort of approach will not do anything but throw America into the deepest recession that we have seen in decades.

Mr. GONZALEZ. Exactly.

Mr. DORGAN of North Dakota. The point I am trying to make is this. It is not a mystery to the gentleman in the well nor is it a mystery to me why we have the recession we have in America today. We have the recession in this country today because we have a misallocation of resources. We have got a whole series of structural problems in several areas.

But when Paul Volcker took over the helm of the Federal Reserve Board, he decided he would no longer be interested in the level of interest rates. He decided to look instead at the amount of money in circulation—at M_{1B} and several other components. As a result of that change in policy we saw a dramatic change in the way interest rates behaved.

Unfortunately interest rates went to a tremendously high level. They have fluctuated around that level. But they have not come back down into a moderate area. As long as we do not have a moderate interest rate policy—and I am not talking about easy credit for everybody, I am talking about moderate interest rates for those who are creditworthy—we will not have economic recovery in America.

The gentleman in the well has been one of the few people who has consistently pushed for inspection of this country's monetary policy and for reform of the structure of the Federal Reserve Board.

Let me say also that there have been people from the gentleman's State who have preceded him in Congress, such as the late Wright Patman, who

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spent a lifetime here trying to get structural change in the Federal Reserve Board. I think we are working for a very worthwhile goal that such people labored long and hard to achieve.

They call some of us "radical" who want to change the Federal Reserve Board. They say we want to do something unusual. You bet we want to do something unusual. We want to get interest rates back down to something that is reasonable, because if we do not do that we are not going to have the economic growth and jobs and profits that keep America strong and where it ought to be in the scheme of this world of ours.

So I just wanted to say that although I do not agree with every approach the gentleman suggests—as he does not agree with all of my approaches—at least both of us understand, and more people should understand, that the core problem in our economy today is the structure of the Federal Reserve Board and the ascendence to power there of the "monetarists" who think they can keep interest rates at 16 percent without bringing economic calamity to this country. They are wrong.

And it seems to me they ought to be replaced.

I appreciate the efforts the gentleman is making in that regard.

Mr. GONZALEZ. I in turn want to thank this distinguished colleague once again, because I have expressed by gratitude to him. And also I note, and I think the record should reflect since the inception of his service he has also rendered very valuable service. And I think we share the experience of being like what I call lonely coyotes out in the brush country baying to the Moon as if nobody is going to listen. But we have, and the interest is there.

I think we both will agree that it is a matter in which Members outside of those belonging to the pertinent committee or committees, plagued as they are with a plethora of issues and all, find it very difficult to drop everything and concentrate on this. This is our challenge.

This is the only thing I really hope to accomplish. I am not doing anything more. In fact just three nights ago I rendered tribute to Chairman Wright Patman because he has been my inspiration. I have probably the biggest debt in what ever I am trying to do here in my ability to do so to him.

□ 1320

All I say is that I want to thank the gentleman very much for his participation and his support on concentrating now congressional attention on this very important and grievous matter.

Mr. Speaker, I resume this report because it is part of the exhibit attached to my individual specific allegations or bill of particulars on the impeachment resolution, known as No. 3.

The record will show that over the course of weeks I have presented three specific allegations, or what they call bill of particulars on the resolution of impeachment.

Again, there are many, many folks, especially those not connected with this legislative world, that do not understand the nature of this very sensitive resolution.

Also, I have tried to go through channels. I urged the Committee on the Judiciary by contacting its chairman to please give me a hearing, if nothing else, just a hearing; but that has been denied me; so I then had to make the decision to present the case to the House and at the proper time bring up the resolution of impeachment, which as everybody knows, is a highly privileged resolution; but I did not want to do so until on the record I had made the case as if I had been a counsel or a member of the Committee on the Judiciary. I will do so; but on article III, or the bill of particulars known as No. 3, I allege specifically that Mr. Volcker has been guilty of a usurpation of authority, an act of malfeasance, in having secret meetings with such individuals as the president of the First City National Bank, Walter Riston in Florida, with such individuals as Bunker Hunt from Texas, in order to make deals involving the banking system and in aid the pursuance of Mr. Hunt's speculation and speculative activity, which involved banking lines of credit in excess of $15 and $20 billion in the most speculative field of all, which is silver and its ally, the gold market speculative ventures, and where they simply lost their shirts as banks are doing now in wholesale amounts in the gold speculative field where we become so vulnerable that if a country wanted to, like Russia, as they have on two occasions in December 1976 and again 1 year later in 1977, all they have to do is just move some of that gold into Switzerland in the international and they put pressure on the dollar.

Now, the fact that Russia has not lately does not mean anything, other than their policy for the moment does not call for that, but the power is there; and yet we have been led by Secretaries of the Treasury, against stout resistance from individuals like myself, but again kind of let down by my colleagues on the committee at the time with the repeal of that 1932 Gold Restriction Act without any protection; but again on that occasion I had the chairman of the Federal Reserve Board then, Mr. Burns, called me and invited me to breakfast and I had breakfast.

He said, "Look, I agree with you. You are right on this whole thing. We are vulnerable."

And I said, "I think it is abominable that we should be doing it and leaving the public unprotected and the banks themselves, because they are soon going to get into speculation on gold.

Now it is even part of the commodity market speculation. If all the statistics were to be published today, I can tell you that tremendous amounts of depositors' money have been blown away because the gold and silver markets are the most speculative control of any economic activity. They are controlled by people that have been in that for 450 years, in London, in Zurich, even in France; but nobody would listen.

The Treasury, in fact, even had gold sales and at the time I was protesting that we did not have protection, I said that all this gold is going to end up in the vaults of the Central Bank of France, in England, and others.

Then Secretary Simon said, "Oh, no, that cannot happen because we have restrictions in our bids. They can bid."

I said, how innocent, how naive can anybody be? The central banks are not going to come in themselves. They will have agents. Well, that is exactly what happened.

I say that over 75 percent of those gold sales ended up in the central banks of France, England, and other countries, as reserves. Can you imagine that?

It is the pressure from those countries and the development of the European monetary system, the European monetary fund, where our central bank has done nothing to protect the American interests. That is part of the charges that I will be drawing up. Before I finish the bill of particulars on the resolution of impeachment, I will have quite a number of specifics. The element of specificity will not be lacking; but what a shame that I should have to be doing this. I do not have the resources. I do not have the staff. I will do what I can; but what a shame that the permenent Committee on the Judiciary could not be doing this. They are the ones that ought to be evaluating.

I am presenting the documentation, the specifics and the evidentiary facts.

This one specific instance, here is what this counsel, and nobody knows how much money they paid that firm, half a million dollars or what; but the report says:

> Oh, there is no evidence to show that this error was evidence of guilt of any kind.

In other words, it says, "The report sets forth the results of special counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Co. and persons connected with the Board or the Federal Reserve Bank of New

York improperly and knowingly profited from the preparation and release of erroneous money supply data."

In other words, it was just an error that somebody made oodles of money out of—and we cannot prove that anybody intended it, when in the report in another section they say the only ones they contacted were the people that would be guilty of such a thing that happened.

Well, since when has anybody in the law enforcement aspect, whether they are lawyers in the Justice Department or prosecutors in the State system or police officers attempting to enforce the law, when do you think they will ever find a suspect that is going to gratuitously admit that he had bad intentions? This is all this report says. After interviewing all these persons involved—who were the persons involved? The agents, the officers of the Fed in New York, the Federal Board, the Hanover Manufacturers Trust Bank.

Well, that is exactly what the Fed has been doing. We Americans have put the fox to take care of that chicken in the roost.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Yes, I yield.

Mr. HANCE. What the gentleman is saying is that they asked them if they had done anything wrong.

Mr. GONZALEZ. That is exactly what it amounts to.

Mr. HANCE. So it would be like in a criminal case if they asked the criminal, "Have you done anything wrong?"

Mr. GONZALEZ. Exactly.

Mr. HANCE. Then even if he told the truth and said yes, he probably would want to come back and plead insanity.

Mr. GONZALEZ. Well, I will tell you the truth, with what is happening now, you would not blame him for that plea, would you?

Mr. HANCE. Not at all; but I think Congress will address that and change that this year.

Mr. GONZALEZ. But what if the counsel had said, well, you know, even if it were an unintended error, this reveals that there is some possibility here that there was improperly released information. That error could not have been profited by unless that information had been released prior to the public disclosure weeks later of the decision made in secret by the open market committee as to what interest would be paid, what the worth of Treasury bills are.

Now, this is the agent telling its principal what it is going to do.

Mr. HANCE. Mr. Speaker, if the gentleman will yield further, did they at any time ask that it be turned over to Congress, that Congress investigate it fully?

Mr. GONZALEZ. Well, all we have asked for through the years, and I was one of those that vociferously joined Chairman PATMAN when we made the last request, that the General Accounting Office be permitted to go in and audit the Federal Reserve. That is all.

Then we have had several bills. I have joined in a couple, one by Representative RON PAUL, that out and out asked for an independent audit of the Federal Reserve.

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Now, I think, even though I am for it, I still think that the first thing we ought to do is make sure that the General Accounting Office, which is the only agency directly available to the Congress, have that authority. They can do it.

For instance, have you ever heard of the Federal Reserve Board having an Inspector General? In other words, the presumption is there that they can do no wrong. But all history shows us that power, that uncontrollable power, corrupts. I am pointing to specific actions of corruption. How else can we interpret? What availability, what accessibility does a commercial bank that happens to be a member of the Federal Reserve System and has a meeting or a need for a meeting and needs to consult with the Chairman of the Federal Reserve Board have? Do you think he can get it? No.

But why should the Chairman be meeting in secret in Florida with the head of the First City National, Walter Wriston, and a speculator like Bunker Hunt, in Florida, in secret, accountable to nobody? This whole arrangement is incestuous.

To begin with, you should not even have the Open Market Committee. What is the Open Market Committee? The Open Market Committee consists of five private bankers—five select bankers from the system, bankers, private bankers—plus the members of the Federal Reserve Board.

They meet in secret to determine the fate of any administration, because they determine the Treasury bill rate and everything else.

In other words, I will conclude by saying that this is one more addition, in the bill of particulars to my third specific allegation of impeachment of the Chairman, specifically, although I have a separate resolution of impeachment for the Open Market Committee and its members because the Chairman alone does not act, even though he has tremendous power. Yet he is a principal accessory.

The way it operates, it operates like some public entities have in the past, where they have had bosses. In other words, he is pretty much the law.

What I am saying is that the destiny of this country is in the balance. We have already been economically impaired so badly—I am not a pessimist by nature but I do not see how it can be retrieved now.

They boast about having reduced the prime interest to somewhat, where is it now, about 15 percent? That means nothing. Your merchant back home is still paying 17, 18, 19 percent if he wants credit. That is obnoxious. It is wrong.

The people have a right to demand action. The people back home do not understand, when they say nothing can really be done, and the President says he has no control over the Fed. In fact, the President had a secret meeting with Paul Volcker after he invited him, and Volcker acquiesced and went. It is still secret. We do not know what came out of it. It is just as if the President had asked a foreign potentate to meet with him. They never even issued a communique.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. HANCE. I thank the gentleman for yielding.

Mr. Speaker, one thing that was obvious after the meeting between the President and Mr. Volcker back in January and February is that the President did endorse the policies of Mr. Volcker at that time.

Mr. GONZALEZ. Absolutely.

Mr. HANCE. If you compare the tax cuts with those of President John F. Kennedy, President Kennedy did just the opposite. He tried to get interest rates down so that the tax cut would work. But under the present conditions, with a 20-percent interest rate, the tax cut will not work to stimulate the economy.

Mr. GONZALEZ. Oh, no. You cannot compound a wrong with a worse one. To me, the whole tragedy is even today the proposed tax matter is being debated on the basis of whether you are for or against the President. That is ridiculous. The thing we have to have in mind is: Is this a fair tax? Is this a right tax? Is this tax consonant with the basic principles of taxation we have always legislated on? This was the principle that I thought ought to have ruled us last year, but it has not.

The tragedy is that now you are beginning to get the pressure from businessmen who say you have to support the President, not "Is this a right bill? Is it conscionable? Is it fair? Is it equitable?

Look at what happened as a result of last year's bill: General Electric will not pay one penny in taxes on its income this year. That tax burden has to be shifted to somebody else. We are finding out now in the tax bill they want us to approve where some poor widow or citizen who is trying to save a little money will have to pay 10 percent on the interest on that money. That is so unconscionable that I just do not know what to do other than to say that unless we bring this back

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around and the people assert their authority through their representative agents, who are us, and their President, that we have lost our liberty, because today, economic liberty is what is at stake for the average American.

What good does it do to have political freedom if you do not have enconomic freedom? That is what is at stake.

It is an issue as between whether the people will rule or the bankers will rule. That is what it amounts to.

Mr. Speaker, I yield back the balance of my time.

A BILL FOR SPORTS FANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 15 minutes.

● Mr. FISH. Mr. Speaker, in July, I became a cosponsor of H.R. 6467, the Major League Sports Community Protection Act of 1982. This bill, introduced in May by my distinguished colleagues Messrs. EDWARDS, STARK, and HYDE, would help to restore stability to our Nation's professional sports leagues and give fans and communities a much-deserved degree of protection for the enormous investments they make on behalf of their sports teams. It deserves prompt and favorable consideration by every Member of this body.

Mr. Speaker, my decision to cosponsor this legislation was not arrived at lightly. I am no opponent of our free enterprise system. Nor is this bill a bailout of the owners of National Football League clubs. Quite simply, this bill is necessary to protect fans and communities from irresponsible actions by team owners who have forgotten on whose behalf the games are played. It will entitle leagues to refuse to permit well-supported and financially successful clubs from relocating, and it encourages leagues to maintain geographic and competitive balance by permitting revenue sharing.

H.R. 6467 will protect the loyal fans who are, after all, the lifeblood of professional sports. The simple truth is that sports teams could not survive without the support of the local fan who buys the tickets, attends the games, and watches the telecasts. Sports teams and their home communities traditionally have a unique and very special relationship with one another—a relationship that involves each adopting the other as its own. Here in Washington, for example, the Redskins are our Redskins. And it is our hockey team, the Capitals, that so many residents are working to keep in Washington. It is this bond between team and community that makes professional sports so different from any other business. No other business exists for its customers the way a sports team exists for its fans. It is the interests of those fans that we in Congress are obligated to protect.

Moreover, communities have substantial interests in the continued operation of their local franchises that deserve protection. The presence of a major league franchise results in tremendous economic and psychic benefits to a community. The contribution a club makes to the local economy is measured in the tens, and sometimes hundreds of millions of dollars. Dozens of local businesses depend on the continuing operation of professional sports teams, and major league teams help to boost tourism and investment. Moreover, these franchises are an indispensable unifying force to their communities, and bring together people of all ages, races, and economic stations. The players are an inspiration to a community's youth, and the clubs and their players are often intimately involved in a wide variety of civic, charitable, and cultural programs.

For their part, communities make significant contributions to the success of their local sports teams. They construct and maintain, often at substantial public expense, stadiums and related facilities that are so essential to a team's economic and playing field success. More importantly, though, the communities and their residents identify with their teams. The team's victories belong to the whole community, and the civic pride that a sports team provides cannot be measured in dollars. The loss of a franchise is immeasurable, and communities should not be forced to bear such losses simply because a particular owner wants to fatten his bottom line.

Mr. Speaker, I am at a loss to understand some of the opposition that has arisen to this measure. H.R. 6467 is an extremely narrow bill that will have no effect on any player or collective bargaining issue. It has no effect on any competing league. It has no effect on broadcasting or cable television. And it has no effect on baseball's current antitrust status.

Other arguments raised against H.R. 6467 are equally spurious. It does not, as its opponents contend, give leagues a blank check to move teams at will. Precisely the opposite—H.R. 6467 only protects league decisions to maintain clubs in their existing locations. In addition, because H.R. 6467 would encourage more equal sharing of revenues among the clubs of a league, it would discourage franchise shifts that are motivated by an owner's desire to move to larger, more profitable markets.

Finally, I have heard it said that H.R. 6467 is unfair because it would deprive the Oakland Raiders of their recent court victory over the NFL. To the contrary, no single event more clearly underscores the need for legislative action to protect the sports fan of America than the attempt by the Raiders to abandon Oakland for the cable-TV riches of Los Angeles.

When the Raiders announced their intention to abandon Oakland, they had just concluded their 12th consecutive sellout season—a record of support virtually unmatched in professional sports. Mayor Lionel Wilson, in his testimony last February before our Subcommittee on Monopolies, told of the tremendous psychological loss that the entire East Bay would suffer if the Raiders' threatened departure were to become a reality. As the New York Times reported on June 2, "The Raiders put Oakland on the map." To the fans in the East Bay who so loyally supported the Raiders, the team was "The most dynamic thing to happen" to Oakland, and rooting for them was "almost a religious experience." I am inserting the New York Times article in the RECORD at the end of my remarks. Perhaps the relationship between Oakland and the Raiders was best summarized by the team's captain, Gene Upshaw, who said on national television that "The Raiders and Oakland have given each other pride and identity."

When the Raiders announced their plan to move—despite the unanimous opposition of the other 27 NFL clubs—they ranked near the top of the league in ticket receipts and total income. They had been enormously successful on the field throughout the 1970's and had always been a highly profitable franchise. In short, there was no reason for them to move except Al Davis' desire to seek even larger profits in Los Angeles.

Finally, it should not be overlooked that the Raiders earned these revenues and profits while playing in the publicly financed Oakland-Alameda County Coliseum. This modern facility was built especially for the Raiders, largely on the strength of commitments made by the team and AFL Commissioner Joe Foss that they were in Oakland to stay. If they are now permitted to abandon Oakland, that stadium—which local residents will be forced to pay off—will be an ever-present reminder to fans and taxpayers everywhere of the cost of misplaced trust.

If the Federal antitrust laws require the NFL—or any other sports league—to stand by and permit its most successful and well-supported franchises to relocate at will, and in express disregard of past commitments to the fans, the Congress, and other members of the league, then those laws are not serving the public interest and should be changed. Unless Congress acts now, the door will remain open for a series of hit-and-run transfers that would benefit individual owners at the expense of the communities and loyal fans that have supported the clubs over the years.

In circumstances such as these, there is every reason for Congress affirmatively to act to protect the rights and interests of fans and communities. No injustice will be worked by requiring the Raiders to honor their contractual obligations to their partners in the NFL and their civic and moral obligations to the fans and community of Oakland.

The Committee on the Judiciary, of which I am a member, has already held several days of hearings on sports and antitrust issues. Those hearings, conducted under the skilled direction of Chairman RODINO, have been extremely valuable in defining the relationship of antitrust principle to professional sports leagues and clarifying the form that any remedial legislation should take. I look forward to early hearings on H.R. 6467 and to the prompt enactment of this valuable and much-needed protection of our Nation's sports fans.

[From the New York Times, June 2, 1982]

AS RAIDERS SET SIGHTS SOUTH, FANS IN OAKLAND FEEL BETRAYED

(By Wallace Turner)

OAKLAND, CALIF., June 1.—The Oakland Raiders have left a lot of fans here feeling like a wife whose husband has left her for an ugly but rich rival.

"Rooting for a team is like a marriage," said Dan Vigil, a regular in the Cactus Room, a bar that is almost a shrine honoring the Raiders. "If the team leaves, there will be no repairing the divorce."

"I feel as betrayed as any of the other fans of the Raiders," said Don Henson, manager of Sam's Hof Brau near the Alameda County Coliseum, where the Raiders have played although they now want to go to Los Angeles, where the Coliseum has more seats and a potentialy richer cable television market.

After battling through two trials in Federal District Court in Los Angeles, the Raiders have won a preliminary victory that may allow them to move despite the National Football League's last-ditch resistance. Even though appeals have begun, the heart has gone out of many fans who look on the breakup as inevitable and now want the offender out of the house quickly.

GREED IS ASSAILED

"It's wrong to bust up a relationship like this for greed," Mr. Henson said. His restaurant's walls are plastered with framed photographs of Oakland teams, with the Raiders' football victories getting more space than the Oakland A's or the Golden State Warriors. These teams were once national champions, in baseball and basketball, as the Raiders were in football two seasons back.

"People don't know where Oakland is, but they know the Raiders," Mr. Henson said, putting his finger on another aspect of the distress. "The Raiders put Oakland on the map."

Something downgrades Oakland's image among its residents. The Raiders' frequent success helped overcome that. The feeling is that if the Raiders go, can total failure be far behind?

Al Puncsak, 63 years old, has owned the Cactus Room in downtown Oakland for 25 years. He has followed the team since 1960, when the Raiders played their first games at Kezar Stadium in San Francisco. The Cactus Room is lined with Raider mementos: Jerseys marked Stabler, Villapiano, Banaszek, Upshaw, Cannon. There are 23 footballs autographed to "Big Al" Puncsak.

ALMOST A RELIGIOUS EXPERIENCE

"Watching this team has almost been a religious experience," he said. "It brings tears to my eyes to think about them leaving. They have been the most dynamic thing to happen to this city. We gave them life, we gave them birth, and the thought that they might leave really hurts. They are more than football players to the people who come in here. They are like sons to us."

David Self is director of the quasipublic Oakland Economic Development Corporation, which is fighting hard to keep the Raiders. As a lawyer, he is pushing a suit that attempts to extend the city's right of eminent domain so it would require a sale to the city of the Raiders' N.F.L. franchise. So far, he has failed.

Calling Oakland a "viable, sound, progressive city with bright prospects for the future," Mr. Self said development would be cut back.

"Loss of the Raiders," he said, "would be like losing a son or a daughter that you raised since infancy, like having him snatched away by adoption."

TEAM BRINGS BUSINESS TO CITY

Mr. Self estimated that the team was worth $25 million to $50 million a year to Oakland. The Chamber of Commerce says $36 million. Rudy McMillan, a Holiday Inn food and beverage manager, said that brunches on game day drew up to 300 people and that the food and bar business jumped 70 percent. Joe Litjens, general manager of the Hyatt Oakland Hotel, said half the visiting teams stayed in his place, using 45 to 75 rooms. A football weekend means $300,000 additional gross receipts for the hotel's many functions, he said.

People come from all over to stay overnight, see the game, eat, drink and spend money, Mr. Litjens said.

What this can mean was explained by Mike O'Callaghan, who was Governor of Nevada from January 1971 to January 1979, some of the Raiders' most glorious years. it was a drive of four and a half hours from the Governor's Mansion in Carson City to the Coliseum.

"After you left Reno, you didn't stop until the parking lot," he said. "We'd go over on Saturday night, get up and go to mass on Sunday before breakfast with John Madden and Pete Banaszek and some others, see the game, have dinner afterward and then drive home Sunday night. I guess I saw at least half their home games in those years."

I'M GLAD HE'S LEAVING

Resentment focuses on Al Davis, managing partner of the football club, who pushed the move.

"I'm glad he's leaving," said Ken Prote, 29, a house painter. "If that's how Al Davis is, then good riddance to him. With the right management we can always get another team here to love."

Skip Ulrich, 35, who parks cars on game days, said, "If Al Davis leaves, he will really be blowing it. The fans here are really dedicated to the team. They have sold out the stadium for years. How could they be more faithful anywhere else?"

Bruce Henderson, 24, sells T-shirts and bumper stickers. One that sells well now is "Oakland Traitors" with Mr. Davis's picture in place of the pirate that adorns the teams's emblem. Mr. Henderson said, "I'm not a football fan, but I cater to what the market wants."

Not everyone is bitter. Former Governor O'Callaghan left Carson City when his second term ended. He lives in Las Vegas as executive vice president of The Las Vegas Sun. Los Angeles is five hours away.

"I've already ordered my tickets in Los Angeles," he said. "A group of us got together and ordered a box."●

PLO HOLDS LEBANON HOSTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HANCE) is recognized for 5 minutes.

Mr. HANCE. Mr. Speaker, I rise today in support of one of America's allies at a time when world opinion is slowly responding to the propaganda campaigns fueled by our common enemies.

On June the 6th, the Israeli Army entered Lebanon hoping to achieve two goals: Push the PLO out of Lebanon and return control of Lebanon to the Lebanese.

Today, the Israeli Army sits on the outskirts of Beirut close to completing its mission. The Russian-backed band of terrorists and murderers known as the PLO have the choice of either leaving Lebanon or to continue hiding behind the innocent civilian population.

None of us like to see the kind of bloodshed and killing and violence that has erupted since June the 6th. But this is not the time for any of us to fall prey to the propaganda efforts that would have us review our thinking of the PLO.

I submit to this distinguished body that our vision is becoming blurred, our memories hazy, if we think for a moment that Israel should be condemned for taking aggressive action against a foe whose past atrocities shocked the world, a foe who has robbed Lebanon of its sovereignty and inflicted years of bloodshed on the Lebanese people, a foe who has been a constant hurdle in the path of peace.

We should applaud Israel's resolve. We should urge the PLO to stop hiding behind the skirts of innocent women and the tears of their children, urge them to lay their Russian weapons on the streets of Beirut and leave Lebanon.

The Camp David peace process will never work as long as the PLO holds Lebanon hostage.

But with the PLO disarmed and rightfully disgraced in the eyes of peace-loving people throughout the world, those nations who desire a lasting peace in the Middle East can come to the bargaining table in good faith. Lebanon, Israel, Egypt, Saudi Arabia, and all our Arab friends in the region can get on with the business of build-

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ing a safe and secure future for themselves and all nations of the world.

CONFERENCE REPORT ON H.R. 6863

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-747)

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 9, 14, 31, 38, 39, 40, 52, 53, 56, 75, 76, 80, 81, 94, 102, 109, 116, 118, 129, 133, 141, 142, 148, 152, 154, 155, 162, 163, 164, 171, 173, 179, and 181.

That the House recede from its disagreement to the amendments of the Senate numbered 20, 22, 25, 26, 28, 30, 32, 33, 34, 35, 36, 46, 48, 54, 61, 68, 70, 77, 78, 79, 87, 99, 101, 104, 105, 106, 110, 111, 125, 127, 134, 136, 139, 156, 157, 165, 167, 168, 170, 174, 175, and 176, and agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,400,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$53,700,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$37,145,000*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the first sum named in said amendment, insert *$4,000,000*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$10,680,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert *$2,000,000*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$18,100,000*; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$24,957,000*; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", $1,080,000, to remain available until expended: Provided, That there are transferred to, and vested in, the Secretary of the Interior all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to (1) the Act of May 16, 1910, and other authorities formerly exercised by the Bureau of Mines, but limited to research and development relating to increased efficiency of production technology of solid fuel minerals; (2) section 908 of the Surface Mining Control and Reclamation Act of 1977, relating to research and development concerning alternative coal mining technologies (30 U.S.C. 1328); (3) sections 5(g)(2), 8(a)(4), 8(a)(9), 27(b)(2)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(g)(2) and 1337(a)(4) and 1337(a)(9)); and (4) section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213): Provided further, That the personnel employed, personnel positions, equipment, facilities, and unexpended balances of the aforementioned transferred programs shall be merged with the "Mines and minerals" account of the Bureau of Mines.

And the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$11,200,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert *$4,000,000*; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert *$40,000,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert *$112,500,000*; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, $5,000,000, and for necessary expenses to carry out section 1139(b) of Public Law 97-35, $5,000,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert *$15,000,000*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$8,998,000*; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert *$39,000,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$180,000,000*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$86,774,000*; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: *$75,726,000 of which*; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert; *$375,000* and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 15, 17, 18, 19, 21, 22, 24, 37, 41, 42, 43, 44, 45, 47, 49, 50, 51, 55, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 69, 74, 83, 84, 86, 88, 89, 91, 93, 96, 97, 98, 100, 103, 107, 108, 112, 114, 115, 117, 119, 120, 121, 123, 124, 126, 128, 132, 135, 137, 138, 140, 143, 145, 146, 149, 150, 151, 153, 161, 166, 172, 177, 178, 180, 182, and 183.

Jamie L. Whitten
(except amendments 58 and 115),
Edward P. Boland
(except amendment 115),
William H. Natcher
(except amendment 115),
Neal Smith,
Joseph P. Addabbo,
Clarence D. Long,
Sidney R. Yates
(except amendment 115),
Edward R. Roybal
Tom Bevill
Adam Benjamin, Jr.,
Julian C. Dixon,
Vic Fazio,
Silvio O. Conte,
Joseph M. McDade,
Jack Edwards,
John T. Myers(except amendments 54 and 177),
Clarence E. Miller,
Lawrence Coughlin.
Jack F. Kemp,
George M. O'Brien,
Managers on the Part of the House.

Mark O. Hatfield,
Ted Stevens,
Lowell P. Weicker,
James A. McClure,
Jake Garn,
Harrison Schmitt
(except amendment 150),
Mark Andrews,
James Abdnor,
Alfonse M. D'Amato,
Mack Mattingly,
William Proxmire,
John C. Stennis,
Daniel K. Inouye.
Ernest F. Hollings,
Thomas F. Eagleton,
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
Patrick J. Leahy,
Dennis DeConcini,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863), making supplemental appropriations for the fiscal year 1982, rescinding certain budget authority, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

CHAPTER I—DEPARTMENT OF AGRICULTURE

Soil Conservation Service

CONSERVATION OPERATIONS

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Soil Conservation Service to exchange a parcel of land in Bellingham, Washington, for other land.

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

If the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SCHOOL LUNCH DEMONSTRATION PROJECTS

The conferees note that bonus commodities constitute a program separate and distinct from the school lunch program, and will remain so, as long as the Department is in possession of surplus agricultural commodities for distribution. The conferees have received assurances from officials of the Department of Agriculture that the study methodology will allow a separate accounting of the value of bonus commodities in these demonstration projects. The conferees are in agreement that the purpose of this study is to analyze alternative approaches to the current operation of the school lunch program, but not to analyze alternatives to the distribution of actual bonus commodities. Therefore, the pilot projects may proceed as planned by the Department, with distribution of bonus cash or bonus letters of credit in lieu of bonus commodities, but the Department is directed to eliminate such bonuses from consideration in the evaluation phase of the school lunch demonstration projects.

Because the Department has stated that it is possible to provide a sufficient assessment of the projects within only two years of operation and still submit a full report to Congress by December 15, 1984, the conferees agree that plans for continuance beyond the end of the 1983–84 school year shall not be made unless the projects are extended by the Congress.

Agricultural Research Service

OREGON STATE UNIVERSITY BIOMASS ENERGY PROJECT

The Oregon State University, in cooperation with private energy and biomass consultants, has developed a proposal for a feasibility study on the use of agricultural residues and forest slash as fuel resources for a combined-cycle, closed-loop electrical powerplant. This approach offers great potential for the utilization of current waste products in a highly efficient power generation facility, which also has rural utility applications. The conferees are concerned that the Department has taken no positive action on the funding of this meritorious proposal since the inclusion of report language in the conference report on the Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1982 (H. Rept. 97–313). Therefore, the conferees urge the Department to give careful consideration to this worthwhile proposal.

CHAPTER II—DEPARTMENT OF COMMERCE

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

(Disapproval of Deferral)

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which disapproves $100,000 of the proposed deferral D82-225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs", effective upon enactment into law of this bill.

Economic Development Administration

ECONOMIC DEVELOPMENT REVOLVING FUND

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that during fiscal year 1982, obligations for direct loans shall not exceed $30,000,000 and total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal, and that unobligated balances in the Economic Development Revolving Fund shall be available for necessary expenses of protecting the Government's liability in Federally guaranteed loans made prior to October 1, 1981 under title II of the Trade Act of 1974, including defaults of loan guarantees and care and protection of collateral and other costs necessary to protect the Government's investments.

International Trade Administration

PARTICIPATION IN UNITED STATES EXPOSITIONS

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which appropriates $10,000,000 for the participation of the United States in the Louisiana World Exposition, to remain available through September 30, 1985. The amendment also provides that no additional Federal funds shall be available for this purpose and that the funds appropriated shall be available only upon enactment into law of authorizing legislation.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,163,000, to remain available until expended: Provided, That of the funds appropriated under this head, $200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Ad-

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ministration and the Alaska Eskimo Whaling Commission as amended in July 1982.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides $200,000 for research on bowhead whales, $50,000 for implementation of the 1982 amendments to the cooperative agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission, and $1,913,000 for increased FTS costs.

The conferees are agreed that any further absorption of funds in this account for any purpose shall not be derived from the FY 1982 program level of $35,000,000 established in prior FY 1982 appropriations acts for the Sea Grant Program.

COASTAL ZONE MANAGEMENT

(Transfer of Funds)

Amendment No. 7: Provides $3,000,000 by transfer as proposed by the House instead of $3,600,000 by transfer as proposed by the Senate.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which provides that during 1982, total commitments to guarantee loans shall not exceed $675,000,000 of contingent liability for loan principal.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Amendment No. 9: Appropriates $400,000 as proposed by the House instead of $200,000 as proposed by the Senate.

This amendment will permit the SEC to fill 79 currently vacant positions and will provide $232,000 for the acquisition of ADP equipment.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOAN AND INVESTMENT FUND

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that during fiscal year 1982, total commitments to guarantee loans shall not exceed $3,000,000,000 of contingent liability for loan principal.

(Disapproval of Deferral)

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which disapproves $2,500,000 of the proposed deferral D82-233A for the Business Loan and Investment Fund, effective the date of enactment into law of this bill.

SURETY BOND GUARANTEES REVOLVING FUND

(Disapproval of Deferral)

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which disapproves the proposed deferral D82-234 for the Surety Bond Guarantees Revolving Fund effective the date of enactment into law of this bill.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that during fiscal year 1982, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

The conferees are extremely concerned that the Small Business Administration has limited this program to a level of $150,000,000 for fiscal year 1982, despite the fact that the House and Senate Appropriations Committees disapproved a reprogramming proposal to limit the program to this amount and directed SBA to make available the full authorization of $250,000,000 for the program. The conferees note that this disregard of the Committees' directives has had an extremely detrimental effect on the ability of small businesses to obtain necessary funds to comply with State and local pollution control requirements. Therefore, the conferees expect that the Small Business Administration will take all necessary action to comply with the original directives of the Appropriations Committees on this matter so that as many applications for such guarantee assistance as possible can be funded up to the authorized level during the remainder of the current fiscal year.

DEPARTMENT OF JUSTICE

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

Amendment No. 14: Appropriates $9,015,000 as proposed by the House instead of $10,000,000 as proposed by the Senate.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Amendment No. 15: Reported in technical disagreement. The managers on the part of the house will offer a motion to recede and concur in the amendment of the Senate which makes available not to exceed $80,290 in fiscal year 1982 funds for payment of a settlement pursuant to the Back Pay Act for back wages from prior fiscal years.

FEDERAL BUREAU OF INVESTIGATION

Amendment No. 16: Appropriates $4,400,000 instead of $4,000,000 as proposed by the House and $4,750,000 as proposed by the Senate.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *:Provided further, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation acts*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

IMMIGRATION AND NATURALIZATION SERVICE

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies the language with regard to the purchase of automobiles.

DRUG ENFORCEMENT ADMINISTRATION

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies the language with regard to the purchase of automobiles.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

(Including Transfer of Funds)

Amendment No. 20: Appropriates $41,750,000 as proposed by the Senate instead of $1,500,000 as proposed by the House. Of the $41,750,000 provided, $1,000,000 will be made available by transfer, as provided for in Amendment No. 21.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available $1,000,000 by transfer from the Antitrust Division.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently Federally owned and that the building to house aliens be constructed in a separate building from an existing Bureau of Prisons building housing Federal prisoners.

The conferees are agreed that the Department of Justice is not to locate the alien detention facility, for which funds are provided by this conference agreement, in any location other than El Reno, Oklahoma, or Oakdale, Louisiana, unless the Department submits a proposal and receives approval for another location for such facility under the reprogramming procedures established by the Committees on Appropriations of the House and Senate.

FEDERAL PRISON INDUSTRIES, INCORPORATED

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Amendment No. 23: Increases the limitation on vocational training expenses to $2,963,000 as proposed by the Senate instead of to $3,162,000 as proposed by the House.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

RESEARCH AND STATISTICS

(Transfer of Funds)

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed, insert the following:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(Transfer of Funds)

For an additional amount for "Research and statistics", $450,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

Salaries and Expenses

Amendment No. 25: Appropriates $37,978,000 as proposed by the Senate instead of $37,378,000 as proposed by the House.

The conferees are agreed that of the $1,600,000 provided for preparation of the United States legal case for arbitration of the Gulf of Maine Boundary dispute by the International Court of Justice, not more than $260,000 shall be available for contractual services unless the Department of State submits a reprogramming proposal for such a purpose and receives approval of the proposal in accordance with the procedures established by the Committees on Appropriations of the House and Senate. The conferees are concerned that the Department of State's justification submitted in support of this request failed to accurately represent the actual obligations already incurred for this activity. The conferees note that the Department has already incurred obligations approximating $1,400,000. The conferees direct the Department of State to submit a full and complete justification in support of these actions.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

(Rescission)

Amendment No. 26: Changes "Grant" to "Grants" in the language of the bill.

CHAPTER III—DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

Amendment No. 27: Appropriates $53,700,000 instead of $61,900,000 as proposed by the House and $14,400,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Foreign duty pay	4,500		4,500	4,500
European Brigade	39,300	39,300		39,300
Temporary storage	1,300	1,300		
Discretionary skill shortage pay			11,400	11,400

MILITARY PERSONNEL, NAVY

Amendment No. 28: Appropriates $57,474,000 as proposed by the Senate instead of $55,656,000 as proposed by the House.

Summary.—The agreement on items in conference appears in the following table. Although the conferees have denied the request for $156,000 for Navy nuclear officer accession bonuses, it is agreed that the Navy may proceed with the program within funds already available.

[In thousands of dollars]

	Budget	House	Senate	Conference
Foreign duty pay	1,974		1,974	1,974
Nuclear officer accessions	156	156		

MILITARY PERSONNEL, MARINE CORPS

Amendment No. 29: Appropriates $37,145,000 instead of $31,945,000 as proposed by the House and $40,645,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Foreign duty pay	1,400		1,400	1,400
Selective reenlistment bonus	9,000		9,000	5,500
Weight allowance, Okinawa	1,700	1,700		

RESERVE PERSONNEL, ARMY

Amendment No. 30: Appropriates $9,000,000 as proposed by the Senate instead of $4,200,000 as proposed by the House.

Summary.—The agreement on the item in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Drill attendance	4,800		4,800	4,800

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 31: Appropriates $2,000,000 as proposed by the House instead of $800,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Platoon leaders class	900	900		900
Subsistence cost increase	300	300		300

RESERVE PERSONNEL, AIR FORCE

Amendment No. 32: Appropriates $3,650,000 as proposed by the senate instead of $4,000,000 as proposed by the House.

Summary.—The agreement on the item in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
ROTC subsistence	400	400	50	50

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

Amendment No. 33: Appropriates $4,300,000 as proposed by the Senate instead of $27,300,000 as proposed by the House.

Army European Brigade.—The Conferees agree that the brigade should be disestablished and deleted from the force structure as proposed by the Senate. However, it is also agreed that the 4,100 manyears should not be deleted but rather should be utilized to fill out other existing Army units in the United States which are presently undermanned.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 34: Provides $117,400,000 in transfers as proposed by the Senate instead of a direct appropriation of $40,974,000 and transfers of $76,426,000 as proposed by the House.

A summary of the transfers approved by the conferees is as follows:

[In thousands of dollars]

Source of transfer	Program	Amount
Aircraft procurement, Navy—1982/84	RDF Support	26,200
Do	AV–8B Modification	13,700
Do	SH–60B advance procurement	9,100
Do	EC–130 modification	2,100
Weapons, procurement, Navy—1982/84.	Tomahawk	2,000
Do	Phoenix modification	2,000
Do	Mk75/Mk76 gun mounts	3,500
Research, development, test, and evaluation, Navy—1982/83.	Dual mini sites	470

Amendment No. 35: Provides $19,600,000 in transfers, as proposed by the Senate instead of $37,226,000 as proposed by the House.

Amendment No. 36: Provides $71,100,000 in transfers as proposed by the Senate instead of $20,000,000 as proposed by the House.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $7,500,000 in transfers from Weapons procurement, Navy, 1982/1984.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 38: Appropriate $23,000,000 as proposed by the House instead of $18,000,000 as proposed by the Senate.

PROCUREMENT

OTHER PROCUREMENT, ARMY

Amendment No. 39: Deletes the language proposed by the Senate which would have appropriated for transfer $20,000,000 from Other Procurement, Army to appropriations available to the Federal Emergency Management Agency.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 40: Deletes the language proposed by the Senate which would have appropriated $57,000,000 for the MCM Mine Countermeasures ship program and the TAO Fleet-oiler ship program.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"AIRCRAFT PROCUREMENT, AIR FORCE"

"For an additional amount for 'Aircraft procurement, Air Force', $120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or for fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees note that the only official budget document before the Congress on this matter requested fully funding two new KC-10s at a cost of $120,000,000 including $5,000,000 for initial spares. A subsequent letter from the Deputy Secretary of Defense which recommended using these funds

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to initiate a $3,200,000,000 multi-year procurement buy of KC–10s is not an amendment to the President's budget. It is the sense of the Conferees that a change in the budget of that magnitude clearly requires the submission of an amendment from the President.

The conferees have agreed not to require the reprogramming at this time of the $50,000,000 appropriated in fiscal year 1982 for wide-bodied aircraft procurement as proposed by the Senate. However, these funds should not be obligated without the prior approval of the House and Senate Appropriations Committees, and the Department should use the reprogramming process to request such approval.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$19,700,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The details of this amendment are set forth in the classified annex to this report.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum named in said amendment, insert "$6,500,000."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The effect and details of this amendment are set forth in the classified annex to this report.

ADMINISTRATIVE PROVISIONS

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes language prohibiting the Defense Department from purchasing coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum named in said amendment, insert $800,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This provision increases the Defense Department transfer authority limitation from $750,000,000 to $800,000,000.

CHAPTER IV—DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

PUBLIC SAFETY AND JUSTICE

(Including Rescission and Transfer of Funds)

Amendment No. 46: Changes heading as proposed by the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $3,401,500 of which $800,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council. The increase of $800,000 above the House allowance is for court-appointed attorneys assigned to indigent defendants under the Criminal Justice Act program.

HUMAN SUPPORT SERVICES

(Including Rescission and Transfer of Funds)

Amendment No. 48: Changes heading as proposed by the Senate.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $40,044,000 of which $1,900,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council. The increase of $1,900,000 above the House allowance is for the city's youth employment program.

ADMINISTRATIVE PROVISIONS

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate adding a new section which amends Title 11 of the District of Columbia code. The new section authorizes the use of hearing commissioners to perform the more ministerial functions presently carried out by judges of the Superior Court. The provisions of this section will remain in effect until September 30, 1983, thereby permitting the appropriate authorizing committees the opportunity to consider comprehensive court reform legislation.

The conferees are aware of a severe caseload backlog in both the Superior and Appeals courts of the District. The Superior Court has 1,851 felony cases pending with an average time of 240 days from arrest to disposition. This situation could be seriously exacerbated by ongoing efforts of the Mayor and Police Chief, with the assistance of the U.S. Attorney's Office, in the area of repeat offenders. The courts must be able to respond to this initiative and reduce the existing backlog. The conferees feel that this pilot effort will prove useful and become an important part of the criminal justice system in the District of Columbia.

Furthermore, the conferees direct that the courts work with the appropriate committees of the Congress in determining the number and status of the hearing officer positions.

ACCUMULATED GENERAL FUND DEFICIT

The conferees are concerned with the District government's accumulated general fund deficit of $309 million (as of September 30, 1981) and what appears to be a somewhat less than vigorous commitment to reduce the deficit through every possible means. The conferees strongly urge District officials to renew their efforts to reduce the deficit without relying solely on their pending proposal to sell deficit bonds. Although the plan to retire the accumulated deficit by purchasing bonds has been pending before the Congress for several months, the conferees direct District officials to develop and submit an alternative plan by April 15, 1983, for eliminating the deficit.

The conferees remind District officials that the $10 million appropriated in the regular bill for fiscal year 1982 is to be applied to reducing the cash portion of the general fund deficit.

CHAPTER V

The conferees agree that for the purposes of Chapter V report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the Committee of Conference. The statement of the managers, which may repeat some report language for emphasis, does not negate the language referred to above unless expressly provided herein.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(Transfer of Funds)

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $2,000,000 be transferred to Operation and Maintenance from the Construction program.

DEPARTMENT OF ENERGY

OPERATING EXPENSES

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 52: Appropriates $57,000,000 for Operating Expenses, Atomic Energy Defense Activities as proposed by the House instead of $48,900,000 as proposed by the Senate.

PLANT AND CAPITAL EQUIPMENT

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(Transfer of Funds)

Amendment No. 53: Transfers $14,000,000 to Plant and Capital Equipment, Energy Supply, Research and Development Activities from the Geothermal Resources Development Fund as proposed by the House.

The conferees have agreed to a transfer of $14,000,000 currently appropriated to a default reserve for geothermal loan guarantees issued and to be issued pursuant to the authorities provided in Public Law 93–410, as amended. This transfer of funds is agreed to with the understanding, which has been confirmed by the Department and the Office of Management and Budget, that the funds currently in the default reserve are not necessary to support either existing loan guarantees or new loan guarantees which may be issued; and that notwithstanding this transfer of funds, the current ongoing program to evaluate applications for loan guarantees pending at the Department and where appropriate to award loan guarantees for worthy geothermal projects will be continued in an expeditious fashion and that this transfer will not adversely affect implementation of the program. The conferees also wish to note that in light of the fact that these geothermal loan guarantees are issued with and supported by the full faith and credit of the United States, a default reserve is not necessary. Therefore, on the basis of these assurances from the Administration, and the full faith and credit backing of the United States for these guarantees, and transfer of funds is approved. As noted in the Senate report, additional funds may be necessary to complete this project in future years.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 54: Appropriates $7,300,000 for Plant and Capital Equipment, Atomic Energy Defense Activities as proposed by the Senate instead of $35,700,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to the execution of work pursuant to section 202 of the 1981 Energy and Water Development Appropriations Act.

The Committee of Conference notes that the Sheley Bridge across the Little Tallahatchie River below the Sardis Reservoir, which was restored by Tallahatchie County, has become damaged and if not repaired will seriously affect the flow in the river and adversely affect drainage in the basin. The conferees, therefore, direct the Corps of Engineers, within available funds, to stabilize the banks of the river in the vicinity of the bridge and to provide necessary protection to the bridge supports and provide other assistance as necessary to prevent recurrence of the problem. This action is necessary to prevent obstruction in the water flow to the detriment of the flood control project.

The Corps of Engineers is directed to accept, without interest penalty, payments or in-kind contributions by School District No. 52 for its portion of the separable recreation costs for development and management at Sky Camp, Fall Creek Lake in Lane County, Oregon, until July 28, 1998.

CHAPTER VI—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

OVERSEAS AND SPECIAL DEVELOPMENT ACTIVITIES

(Foreign currency program)

Amendment No. 56: Restores the phrase "to remain available until expended", as proposed by the House.

LEBANON EMERGENCY RELIEF

(Transfer of funds)

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The Senate amendment earmarks $10,000,000 in emergency relief funds for the American University of Beirut.

ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

"ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: Provided, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than $20,000,000 for the Eastern Caribbean; not less than $41,000,000 for the Dominican Republic; not less than $10,000,000 for Haiti; not less than $50,000,000 for Jamaica; not less than $10,000,000 for Belize; not less than $70,000,000 for Costa Rica; not more than $10,000,000 for Guatemala; not less than $35,000,000 for Honduras; not more than $75,000,000 for El Salvador; not less than $2,000,000 for the American Institute for Free Labor Development; not less than $2,000,000 for the Inter-American Foundation; and $25,000,000 unallocated: Provided, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: Provided further, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of the act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organisation of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers on the part of the House and the Managers on the part of the Senate are in agreement that funds appropriated in this Act for the Economic Support Fund may be approved for use for Haiti only in accordance with the provisoins of Section 721 of the International Security and Development Cooperation Act of 1981.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The amendment of the Senate is as follows: "Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution."

MILITARY ASSISTANCE PROGRAM

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $2,000,000, to remain available for obligation until September 30, 1983: Provided, That such amount and $25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: $10,000,000 shall be available only for Honduras; $5,000,000 shall be available only for Somalia; $2,000,000 shall be available only for Costa Rica; and, $10,000,000 shall be available only for Portugal.

The managers on the part of the Senate will move to concur in the amendment of the Senate.

The conferees are concerned over the increasing number of reports that refugee agencies operating in Honduras, including the United Nations High Commissioner for Refugees, are having difficulties because of alleged harrassment by Honduran military forces. The conferees expect the Administration to do everything it can to ensure that the operation of refugee receiving centers and the safe flow of refugees are not impaired. It is expected that this concern will be made known to the government of Honduras before making available to Honduras the MAP assistance provided in this bill.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 61: Appropriates $3,512,000 for the International Military Education and Training Program as proposed by the Senate.

FOREIGN MILITARY CREDIT SALES

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $50,000,000, which sum shall be available only for Sudan.

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In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made $50,000,000 of such gross obligations during such fiscal year.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SPECIAL DEFENSE ACQUISITION FUND

(Limitation on obligations)

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SPECIAL DEFENSE ACQUISITION FUND

(Limitation on obligations)

There are authorised to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, $125,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers on the part of the House and the Senate recognise that the SDAF is a new program and can, if properly used, serve as a valuable management tool in regard to foreign military arms sales. The managers expect that the SDAF will be utilised according to the purposes which were originally presented to the Congress; namely that procurement of items for the SDAF would be those of high foreign demand that are in short supply and in U.S. inventory; would consist of relatively unsophisticated military items such as medium tanks, artillery, ammunition, antitank missiles, and basic communications systems; would have no adverse impact on U.S. defense readiness; and would not stimulate unnecessary foreign arms sales.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 64: Reported in true disagreement.

CHAPTER VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: Provided further, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: Provided further, That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernisation of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have deleted the language which would have reduced the Department's personnel compensation and benefits. The conferees are concerned that the Department is moving too slowly in implementing the reforms contained in Part 2 of the Housing and Community Development Amendments of 1981. The conferees hereby direct the Secretary of Housing and Urban Development to prepare a report on the current status of the regulations by August 23, 1982. Such report shall contain the target publication and implementation dates for each of these regulations.

INDEPENDENT AGENCIES

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $150,000: Provided, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Committee of Conference has included language which would require that the Selective Service System establish, at the time of mobilization, civilian review boards for the purpose of reviewing appeals made by alternative service workers to their job assignments or reassignments. The $150,000 provided is for program development and training costs of the civilian review boards.

VETERANS ADMINISTRATION

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring $4,198,000 to the medical and prosthetic research appropriation for agent orange studies.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

The House and Senate reports on the Supplemental Appropriation Bill, 1982, address the item of Grants to the Republic of the Philippines. Both reports specifically state that, "The funds are to assure the continued effective care and treatment of United States veterans at the Veterans Memorial Medical Center at Manila." This language needs to be clarified insofar as the term "U.S. veterans" is concerned. Those veterans eligible for this "continued and effective care and treatment" by this medical facility are those who have served under the command and control of U.S. forces and were engaged in combat operations during World War II for and on behalf of the United States.

CHAPTER VIII—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 68: Appropriates $55,000,000 for management of lands and resources as proposed by the Senate instead of $60,000,000 as proposed by the House for fire suppression costs.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

LAND ACQUISITION

For an additional amount for "Land acquisition", $700,000: Provided, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with $1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is expected that this sum will permit the Bureau of Land Management to complete acquisition of the Yaquina Head Outstanding Natural Area, Oregon.

UNITED STATES FISH AND WILDLIFE SERVICE

Amendment No. 70: Appropriates $1,800,000 for resource management as proposed by the Senate instead of $2,000,000 as proposed by the House. The reduction from the amount provided by the House is $200,000 for additional training in fire fighting for Fish and Wildlife Service employees.

Amendment No. 71: Appropriates $4,000,000 for construction and anadromous fish instead of $8,000,000 as proposed by the House. The reduction from the amount provided by the House is $4,000,000 for construction of the Gainesville, Florida national fish research facility.

NATIONAL PARK SERVICE

Amendment No. 72: Appropriates $10,680,000 for construction instead of $17,680,000 as proposed by the House and $6,000,000 as proposed by the Senate. The increase above the amount proposed by the Senate includes $2,000,000 for restoration of fire-damaged portions of the Home of Franklin Delano Roosevelt National Historic Site; $680,000 for construction of a water system for the Kalaupapa National Historic Site, Hawaii, on Molokai Island; and $2,000,000 for plans and specifications necessary for reconstruction of the Filene Center at Wolf Trap Farm Park for the Performing Arts. The managers agree on the importance of prompt Federal support for reconstruction, and expect that this strong support will prompt vigorous and generous support from the private sector. The Filene Center funds are provided subject to enactment of authorisation which will address issues such as facility location, facility design, and loan payback provisions.

Amendment No. 73: Earmarks $2,000,000 for construction instead of $9,000,000 as proposed by the House for the Filene Center at the Wolf Trap Farm Park for the Performing Arts.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Part Service to obligate up to $160,000 to rehabilitate the mounted police training barn at the Rock Creek Park Horse Center for use by the National Center for Therapeutic Riding by November 1, 1982. The managers direct the Service to reprogram necessary funds to rehabilitate the Edgewater Stables as a replacement mounted police training facility.

Amendment No. 75: Appropriates $30,000,000 for land acquisition and state assistance as proposed by the House instead of $29,000,000 as proposed by the Senate.

Amendment No. 76: Earmarks $13,500,000 for land acquisition for Big Cypress National Preserve, Florida, as proposed by the House instead of $12,500,000 as proposed by the Senate.

Amendment No. 77: Earmarks $5,500,000 for land acquisition for Cape Cod National Seashore, Massachusetts, as proposed by the Senate instead of $6,500,000 as proposed by the House.

Amendment No. 78: Earmarks $1,000,000 for land acquisition for the Cumberland Island National Seashore, Georgia, as proposed by the Senate.

Geological Survey

Amendment No. 79: Deletes the rescission of $16,200,000 proposed by the House for the Exploration of National Petroleum Reserve in Alaska.

Bureau of Mines

Amendment No. 80: Provides $4,073,000 in new budget authority and $991,000 by transfer for mines and minerals as proposed by the House instead of $4,198,000 in new budget authority and $991,000 by transfer as proposed by the Senate.

The managers agree that within previously appropriated funds the Bureau of Mines is to provide $100,000 for the initial phase of a project to apply the latest subsidence monitoring instruments in an integrated system for abandoned mines in Eastern Pennsylvania, and $125,000 for planning and design of a controlled burnout technology demonstration.

Office of Surface Mining Reclamation and Enforcement

Amendment No. 81: Appropriates $13,251,000 for abandoned mine reclamation fund as proposed by the House.

Although funds have been provided in this Supplemental for the Rural Abandoned Mine Program to take advantage of the design work that is already complete, the managers agree that no further such projects will be funded in the manner described in section 406 of Public Law 95-87, the Surface Mining Reclamation and Control Act. Future projects of this type, including those currently in the planning stage, will be funded through the reclamation grants made available to the individual States. In this regard, the States are encouraged to utilize the expertise of the Soil Conservation Service and State and local conservation districts in planning reclamation projects.

Bureau of Indian Affairs

Amendment No. 82: Appropriates $18,100,000 for operation of Indian programs instead of $7,000,000 as proposed by the House and $22,900,000 as proposed by the Senate.

Up to $5,450,000 of the funds identified for implementation of the proposed reorganization plan of the Bureau of Indian Affairs shall be reprogrammed to the social services program to meet the fiscal year 1982 requirements for general assistance and child welfare payments.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $11,100,000 for transfer to the State of Alaska.

The managers expect the State of Alaska to take action at the earliest possible date to provide the balance of the required funding for upgrading, operations and maintenance of the seventeen day schools which will be transferred to the State as of the 1982-83 school year.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Provided further, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "Indian Affairs" in the paragraph headed "Tribal Trust Funds" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:*

"No funds shall be deposited in such Indian money, proceeds of labor (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than 10 percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985, through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any pupose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of Territorial Affairs

Amendment No. 85: Appropriates $24,957,000 for Trust Territory of the Pacific Islands instead of $21,400,000 as proposed by the House and $26,457,500 as proposed by the Senate.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: Provided, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: Provided further, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: Provided further, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: Provided further, That $2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: Provided further, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: Provided further, That of the remaining funds, $2,500,000 shall be transferred to the "Administration of territories" account for technical assistance activities, to remain available until expended*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that within the funds made available in this Supplemental, $517,000 shall be made available for purchase of construction equipment for Ponape, Federated States of Micronesia, and $2,500,000 shall be transferred to the administration of territories account for technical assistance activities. The managers direct the Office of Territorial and International Affairs to concentrate such technical assistance in the areas of financial management, communications, and maintenance training.

Department of Agriculture

FOREST SERVICE

Amendment No. 87: Appropriates $64,900,000 for national forest system as proposed by the Senate instead of $69,400,000 as proposed by the House. The reduction from the amount provided by the House is $4,500,000 for timber stand improvement.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $3,000,000 for a partial payment in partial settlement of land claims of the Chugach Natives, Incorporated.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the uniform allowance for each uniformed employee of the Forest Service shall not exceed $400 annually.

DEPARTMENT OF ENERGY

Amendment No. 90: Appropriates $1,080,000 for fossil energy research and development instead of $2,580,000 as proposed by the House and deleted by the Senate.

The agreement provides $1,080,000 for additional funds for the Waltz Mill, Pennsylvania, fluid gasification research facility as proposed by the House. The Department of Energy is directed to propose a reprogramming to initiate planning and engineering design to convert the Homer City, Pennsylvania, facility into a test center capable of accommodating a variety of tests on different coal gasification processes.

The managers agree that the coal mining research and development activity is to be transferred from the Department of Energy to the Department of the Interior. The coal preparation program is to remain in the Department of Energy.

The managers further agree to language to conform action taken in Public Law 97-100 to consolidate leasing functions in the Department of the Interior.

Language proposed by the House to prohibit the Department of Energy from proceeding with a reduction in force in Fossil Energy headquarters is stricken.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

FOSSIL ENERGY CONSTRUCTION

(Deferral)

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, $28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the termination costs of SRC-I; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned activities.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that of the $28,100,000 made available for undertaking the various SRC-I Post-Baseline activities, $4,500,000 shall be used for toxicological studies and no funds shall be made available for identified market development activities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

Amendment No. 92: Appropriates $11,200,000 for Indian health facilities instead of $17,000,000 as proposed by the House and $4,400,000 as proposed by the Senate.

The increase above the amount provided by the Senate will allow for construction of sanitation facilities needed for housing units constructed with HUD funds which will be completed in this fiscal year.

The managers agree that no funding for sanitation facilities associated with HUD unit will be provided to the Indian Health Service in fiscal year 1983. HUD and the Indian Health Service are, therefore, directed to continue implementation of the Memorandum of Understanding in order to provide the necessary sewer and water facilities for HUD Indian housing units.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

INSTITUTE OF MUSEUM SERVICES

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides $720,000 for the Institute of Museum Services to remain available for expenditure until September 30, 1983.

The managers agree that not to exceed $75,000 may be used for moving expenses and increased administrative costs related to the move.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

The managers agree that $8,000,000 previously appropriated for relocation, historic preservation and demolition shall be reprogrammed to purchase real estate which will be converted to public park use.

Amendment No. 94: Restores House language which prohibits the use of funds for any activity related to mineral or geothermal leasing on certain designated Federal lands in the municipal watersheds of the cities of Seattle and Tacoma, Washington.

CHAPTER IX—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

EMPLOYMENT AND TRAINING ASSISTANCE

Amendment No. 95: Appropriates $4,000,000 for construction of facilities at the Joliet, Illinois Job Corps Center, instead of $6,500,000 as proposed by the House.

(Rescission)

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which rescinds $48,186,000 of unobligated balances. The House did not consider this rescission.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows: *: Provided, That not more than $46,325,840 shall be for grants to States under paragraphs (3) of section 506(a) of the Older Americans Act of 1965, as amended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Funds appropriated under this head shall be availale for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agree with the intent of the Senate amendment to make funding available for a Federal supplemental benefits program automatically upon enactment of authorizing legislation. The bill language agreed to by the Conferees clarifies that available uncommitted balances in the Advances account be utilized for such benefit payments.

The Conferees are agreed that if additional appropriations are necessary, they will be made available in a subsequent appropriations bill.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

(Transfer of funds)

Amendment No. 99: Transfers $400,000 to this account as proposed by the Senate instead of $1,157,000 as proposed by the House.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which permits the Secretary of Labor to grant final approval to those State plans under section 18 of the Act that have staffing levels that are at least equivalent to Federal staffing levels.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

Amendment No. 101: Appropriates $11,500,000 as proposed by the Senate, instead of $11,000,000 as proposed by the House.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

Amendment No. 102: Restores appropriations of $7,000,000 for a grant for construction of a health teaching facility under section 720 (a)(1) of the Public Health Service Act, as proposed by the House.

Amendment No. 103: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that funds shall not be withheld from health systems agencies which meet certain staffing criteria.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

Amendment No. 104: Appropriates $112,000,000 as proposed by the Senate instead of $142,000,000 as proposed by the House.

DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Amendment No. 105: Changes reference to "each county" as proposed by the Senate, instead of "State and local educational agencies" as proposed by the House.

Amendment No. 106: Changes reference to "county" as proposed by the Senate, instead of "local educational agency" as proposed by the House.

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that in the case of Puerto Rico, poverty data gathered by the Bureau of the Census in the 1975 survey of income and education shall be used if 1980 census data are not available.

The Conferees are agreed that the $148,000,000 in supplemental funds made available for fiscal year 1982 will be allocated only to those counties which stand to gain or lose depending on whether 1970 or 1980 Census data are used. The intent is to ensure that if 1970 Census data are used in the distribution of the regular Title I appropriations for the 1982-1983 school year, supplemental funds would be allocated only to those counties which would realize a gain if 1980 Census data were used as the basis for allocating funds. conversely, if 1980 Census data are the basis for making Title I allocations under the regular appropriation, funds under the supplemental appropriation would be allocated only to those counties which would have a lower allocation as a result of not using 1970 Census data.

In addition the Conferees further note that in cases where Title I funds are allocated to counties on the basis of 1980 Census data, the Department shall use the criteria of poverty established under the 1980 Census for determining each county's allocation.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Amendment No. 108: Reported in technical disagreement. The mangers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $200,000 under section 7 of Public Law 81-874 for the Waubay School District in South Dakota. The House bill proposed no funding for this purpose.

VOCATIONAL AND ADULT EDUCATION

Amendment No. 109: Appropriates $2,520,000 as proposed by the House. The Senate bill proposed to delete this appropriation.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 110: Appropriates $217,000,000 as proposed by the Senate, instead of $169,000,000 as proposed by the House.

Amendment No. 111: Earmarks $77,000,000 for Title IV, part A, subpart 2 (supplemental educational opportunity grants) of the Higher Education Act as proposed by the Senate, instead of $2,000,000 as proposed by the House.

HIGHER AND CONTINUING EDUCATION

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, $10,000,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which $5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: Provided, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: Provided further, That the remaining $5,000,000 shall enable the Secretary to award grants under parts A and B of title III of the Act to eligible institutions which has an application approved, but did not receive a grant in fiscal year 1982: Provided further, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347 (e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321 (b) of the Act: Provided further, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COLLEGE HOUSING LOANS

Amendment No. 113: Directs that the college housing loan program shall operate under the terms and conditions contained in H.R. 4560 as passed by the House of Representatives on October 6, 1981 except that the gross commitments for the principal amount of direct loans shall be $40,000,000, instead of $75,000,000 as proposed by the House. The Senate proposed to strike the directive in the House bill.

The Conferees are aware that between $300,000,000 and $400,000,000 will be required to redeem participation sales certificates maturing in 1987 and 1988. Redemption of the principal of these certificates is left to the Department's discretion; however the Government National Mortgage Association requires that all principal must be paid at the time the certificates mature. In order to deal with this problem in appropriation bills for 1983 and beyond, the conferees direct the Secretary of Education to develop and submit a clear-cut, long-term plan to the House and Senate Committees on Appropriations. The plan should be submitted by September 15, 1982 and should also include a schedule for the repayment of the certificates showing how much of the certificates can be redeemed each year under current assumptions of receipts and expenses, as well as the sources of receipts and expenses.

CHAPTER X—LEGISLATIVE BRANCH

SENATE

Amendment No. 114: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the Senate amendment which appropriates $160,000 for the expenses of the Commission on Executive, Legislative, and Judicial Salaries.

HOUSE OF REPRESENTATIVES

ALLOWANCES AND EXPENSES

Amendment No. 116: Appropriates $5,987,000 for allowances and expenses, contingent fund of the House, as proposed by the House.

CHAPTER XII—DEPARTMENT OF TRANSPORTATION

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogrammed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Coast Guard to promptly submit a reprogramming request regarding the acquisition of a replacement aircraft for the C-130 that was recently destroyed. For the interim, the Coast Guard shall make every reasonable effort to deploy an existing aircraft to Kodiak, Alaska.

ALTERATION OF BRIDGES

Amendment No. 118: Appropriates $3,000,000 as proposed by the House.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: *$93,200,000, of which $57,500,000 shall remain available until September 30, 1983,*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes the funds appropriated for international security charges available until expended.

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Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes the funds transferred from the appropriation "Construction, Metropolitan Washington airports" available until expended.

FEDERAL HIGHWAY ADMINISTRATION

INTERSTATE TRANSFER GRANTS—HIGHWAYS

Amendment No. 122: Appropriates $112,500,000 instead of $197,000,000 as proposed by the House. The conference agreement includes the following amounts:

Albany	$8,000,000
New York	1,000,000
Iowa	1,000,000
Twin Cities, Minn	1,400,000
Omaha	4,000,000
New Jersey	7,500,000
Washington, D.C	5,000,000
Philadelphia	5,000,000
Hartford-New Britain	10,000,000
Minneapolis	2,200,000
Northeast Illinois	20,000,000
Tucson	3,000,000
Denver	5,000,000
Oregon	10,000,000
Baltimore	1,500,000
Duluth	2,400,000
Indianapolis	8,000,000
Cleveland	12,500,000
Memphis	5,000,000
Total	112,500,000

The conferees recognize that this level of funding is far below what is necessary to fulfill the obligation that the Federal Government has to fund Interstate transfer grant projects. The conferees note that many meritorious Interstate transfer projects have been brought to the attention of the Appropriations Committees and these projects will be given full consideration in the fiscal year 1983 bill. The conferees continue to acknowledge the special consideration which should be given to cities which had original contract authority under this program.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $6,875,000.

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which has the effect of making Rail service assistance funds available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 125: Deletes transfer of $8,400,000 proposed by the House.

The conferees direct Amtrak and the Department of Transportation to jointly evaluate the merits of extending the Hoosier State route from its present route between Chicago and Indianapolis to a new route between Chicago and Cincinnati via Indianapolis and Shelbyville, Indiana. This study shall determine if operation of two trains per day over this expanded route will produce a short term avoidable loss of less than 9 cents per passenger mile (as adjusted to reflect constant 1979 dollars); ridership of more than 80 passenger miles per train mile; and a revenue to operating cost ratio of at least 50 percent. Results of this evaluation are to be reported to the Appropriations Committees no later than October 15, 1982.

Amtrak is also directed to immediately set aside $33,400,000 from its fiscal year 1982 operating and capital appropriation for possible use in the Indianapolis to Cincinnati corridor. Should the joint Amtrak-DOT study conclude that the extended Hoosier State route will meet all of the above mentioned criteria, Amtrak is directed to immediately proceed to submit to Congress an amendment to the statutory Route and Service Criteria pursuant to 45 U.S.C. 563(c)(3)(B) which waives Amtrak's procedures for making route and service decisions. Upon the effective date of this amendment, Amtrak shall immediately proceed to purchase this line from Conrail for the agreed upon price of $8,400,000, and to upgrade the Indianapolis to Cincinnati line to Class 5 track standards. The conferees expect this track rehabilitation work to be accomplished over two work seasons.

The conferees also strongly encourage Amtrak to secure assistance from the State of Indiana, local governments and the private sector to share the cost of improving rail passenger service in the Chicago to Cincinnati corridor. Such assistance could include grade crossing safety improvements, marketing of Amtrak services, station improvements, assistance for local rail freight service, or other capital rehabilitation improvements.

The conferees expect the Department of Transportation to take all necessary actions to ensure that the October 15, 1982, deadline is met.

Amendment No. 126: Reported in technical disagreement. Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which converts the existing deferral to a permanent exemption from State and local taxes.

REDEEMABLE PREFERENCE SHARES

Amendment No. 127: Deletes heading "Including Transfer of Funds" as proposed by the Senate.

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $20,000,000 and has the effect of making redeemable preference share funds available until expended. The House proposed appropriating $25,000,000 for fiscal year 1982, of which $5,000,000 was to be derived by transfer.

COMMUTER RAIL SERVICE

Amendment No. 129: Inserts "Including" in the heading as proposed by the House.

Amendment No. 130: Appropriates $5,000,000 to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act and $5,000,000 to carry out section 1139(b) of Public Law 97-35 as proposed by the House and deletes restrictive language proposed by the House.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN DISCRETIONARY GRANTS

Amendment No. 131: Appropriates $15,000,000 instead of $29,500,000 as proposed by the House. The conference agreement includes $15,000,000 for the Wilshire Corridor project in Los Angeles.

The conferees will not accept any further delay in releasing preliminary engineering funds for the Santa Clara County Guadalupe Corridor project. The conferees direct UMTA to release these funds immediately and expect notification to that effect by September 1, 1982.

Amendment No. 132: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: *From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to language permitting advances toward extraordinary cost payments, following approval by the House and Senate Committees on Appropriations, and direct that this authority be used to make the payments to Buffalo, New York, Dade County, Florida and other locations as mutually agreed to by the Urban Mass Transportation Administration and the appropriate transit authorities.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 133: Appropriates $22,000,000 as proposed by the House. The conference agreement includes the following amounts:

Chicago	$5,000,000
Boston	10,000,000
Sacramento	5,500,000
Duluth	500,000
Portland	1,000,000
Total	22,000,000

RELATED AGENCIES

Amendment No. 134: Conforms heading.

NATIONAL TRANSPORTATION SAFETY BOARD

EMERGENCY FUND

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $1,000,000.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

Amendment No. 136: Deletes heading "Including Transfer of Funds" as proposed by the Senate.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $20,000,000 and has the effect of making redeemable preference share funds available until expended. The House proposed appropriating $25,000,000 for fiscal year 1982, of which $5,000,000 was to be derived by transfer.

CHAPTER XIII—DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That none of the funds appropriated by this act shall be used to impose or assess any tax* *due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum*

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the appropriation of funds to collect certain taxes due on custom-made firearms.

Amendment No. 139: Appropriates $72,354,000 for taxpayer service and returns processing as proposed by the Senate instead of $77,232,000 as proposed by the House.

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides $340,000 for the tax counseling for the elderly program to retroactively reimburse volunteer tax counselors.

Amendment No. 141: Appropriates $15,563,000 for examinations and appeals as proposed by the House instead of $14,563,000 as proposed by the Senate.

Amendment No. 142: Appropriates $19,121,000 for investigations and collections as proposed by the House instead of $16,604,000 as proposed by the Senate.

ADMINISTRATIVE PROVISION

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment prohibits the expenditure of funds for redecorating and remodeling the offices of the Commissioner and Chief Counsel of the Internal Revenue Service.

UNITED STATES SECRET SERVICE

Amendment No. 144: Appropriates $8,998,000 for salaries and expenses instead of $7,080,000 as proposed by the House and $11,272,000 as proposed by the Senate. These funds would provide for essential protective travel, overtime, and related basic functions of the Secret Service for the remainder of fiscal year 1982.

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides that $1,518,000 for expansion of the Beltsville, Maryland, training facility, shall remain available until expended.

ADMINISTRATIVE PROVISION

Amendment No. 146: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment would restrict the authority of the Treasury Department Inspector General to non-law enforcement activities until such time as this matter is resolved by basic legislation.

UNITED STATES POSTAL SERVICE

Amendment No. 147: Appropriates $39,000,000 for payment to the Postal Service Fund as proposed by the Senate instead of $20,000,000 as proposed by the House and deletes language proposed by the Senate. This amendment appropriates $39,000,000 for revenue foregone to subsidize certain preferred rate mailers.

Amendment No. 148: Rescinds $208,660,000 from the appropriation account, "Payment to the Postal Service Fund" as proposed by the House instead of $189,660,000 as proposed by the Senate.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $4,100,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $600,000 shall be for the preservation of House and Senate historical records.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $4,100,000 for operating expenses, of which $1,500,000 is for allocations and grants for historical publications and $300,000 each for the preservation of House and Senate historical records.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

Amendment No. 150: Reported in disagreement.

TITLE II

INCREASED PAY COSTS

LEGISLATIVE BRANCH

SENATE

Amendment No. 151. Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

HOUSE OF REPRESENTATIVES

Amendment No. 132: Appropriates $10,484,000 for increased pay costs, as proposed by the House.

SENATE OFFICE BUILDINGS

Amendment No. 153: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

HOUSE OFFICE BUILDINGS

Amendment No. 154: Appropriates $200,000 as proposed by the House.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 155: Appropriates $18,813,000 for the national forest system as proposed by the House instead of $16,813,000 as proposed by the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 156: Appropriates $21,294,000 as proposed by the Senate instead of $20,000,000 as proposed by the House.

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, AIR FORCE

Amendment No. 157: Appropriates $1,198,858,000 as proposed by the Senate instead of $1,202,558,000 as proposed by the House.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

Amendment No. 158: Appropriates $180,000,000 instead of $234,500,000 as proposed by the House and $125,500,000 as proposed by the Senate.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 159: Appropriates $86,774,000 instead of $67,300,000 as proposed by the House and $126,400,000 as proposed by the Senate.

Amendment No. 160: Provides $75,526,000 in transfers instead of $95,200,000 as proposed by the House and $36,100,000 as proposed by the Senate.

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: , *$10,000,000 shall be derived by transfer from "Missile procurement, Air Force, 1982/1984", $12,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and $17,626,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983"*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

A summary of the transfers approved by the conferees is as follows:

[In thousands of dollars]

Source of transfer	Program	Amount
Missile procurement, Air Force—1982/1984.	Maverick	10,000
Aircraft procurement, Air Force—1982/1984.	E-3A	12,000
Research, Development, Test, and Evaluation, Navy 1982/1983.	Seafire	17,100
Do	Dual mini sim	526

With regard to Seafire, the conferees agree to transfer of funds from Research, Development, Test, and Evaluation, Navy, 1982/1983. The conferees understand that the Navy is now restructuring the Seafire program and is in the process of developing a new Request for Proposal for a semi-active laser guided projectile. These actions are being taken pursuant to direction received from the authorizing committees to continue the development of these programs for placement on DDG-51 class ships.

The conferees agree that transfer of funds from Missile Procurement, Air Force, 1982/1984, shall be from the Maverick program in lieu of the Rapier program, as requested by the Department.

The conferees agree that transfer of funds shall be from the E-3A program in Aircraft Procurement, Air Force, 1982/1984, in lieu of the ABRES program in Research, Development, Test, and Evaluation, Air Force, 1982/1983, as requestd by the Department.

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Department of Health and Human Services

Health Services Administration

Amendment No. 162: Appropriates $18,160,000 for Indian health services as proposed by the House instead of $16,250,000 as proposed by the Senate.

Department of the Interior

United States Fish and Wildlife Services

Amendment No. 163: Appropriates $4,572,000 for resource management as proposed by the House instead of $3,400,000 as proposed by the Senate.

Department of Transportation

Federal Highway Administration

Amendment No. 164: Restores language proposed by the House temporarily suspending the Federal Highway Administration's rule regarding design standards for resurfacing, restoration and rehabilitation of streets and highways other than freeways.

Coast Guard

Amendment No. 165: Appropriates $78,100,000 for Operating expenses as proposed by the Senate instead of $92,100,000 as proposed by the House.

National Aeronautics and Space Administration

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that $50,000,000 of the $80,000,0000 appropriated for research and program management shall remain available until September 30, 1983.

Veterans Administration

Amendment No. 167: Deletes language proposed by the House appropriating $1,078,000 for medical administration and miscellaneous operating expenses.

OTHER INDEPENDENT AGENCIES

Advisory Council on Historic Preservation

Amendment No. 168: Deletes funds for salaries and expenses proposed by the House for pay costs.

Civil Aeronautics Board

Amendment No. 169: Appropriates $375,000 for Salaries and expenses instead of $700,000 as proposed by the House. The conferees are pleased that they have been able to effect a substantial savings relative to the Board's request. In addition, the Board should realize that it must more aggressively cut expenses and prepare for the early transfer of its remaining functions to other agencies, since "sunset" legislation is expected to be promptly forthcoming.

Federal Communications Commission

Amendment No. 170: Appropriates $3,000,000 as proposed by the Senate instead of $3,124,000 as proposed by the House.

Federal Emergency Management Agency

Amendment No. 171: Restores language proposed by the House and stricken by the Senate indicating that the funds are to be derived by transfer from the State and local assistance appropriation.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: *and an additional $500,000 to be derived by transfer from "Emergency planning and assistance", for a total available by transfer of $2,584,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that none of the transferred funds are to be derived from the flood plain management or fire prevention and control programs.

International Communication Agency

Salaries and Expenses

Amendment No. 173: Appropriates $7,115,000 in new budget (obligational) authority instead of making this amount available by transfer from "Acquisition and Construction of Radio Facilities" as proposed by the Senate.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Amendment No. 174: Appropriates $170,000 for salaries and expenses as proposed by the Senator instead of $250,000 as proposed by the House.

Smithsonian Institution

Amendment No. 175: Deletes funds for the National Gallery of Art proposed by the House for pay costs.

TITLE III—GENERAL PROVISIONS

Amendment No. 176: Deletes House language which limits outside income of Members of Congress. Members of the House will remain subject to the existing House rule on this matter.

Amendment No. 177: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) The Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) The Energy Information Administration, 490 employees: Provided, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: Provided further, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which such special message was transmitted with respect to such rescission, reservation, or deferral: Provided further, That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriation Acts to programs or activities funded in Interior and Related Agencies Appropriation Acts or vice versa.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers reluctantly have included language in section 303 of the bill which requires the Department to maintain employment at no less than the levels specified for certain programs. The managers are concerned that recent and proposed personnel reductions in the Department of Energy may contribute to ineffective execution of certain departmental programs funded in appropriations acts for the Department of Interior and Related Agencies. A July 19, 1982 report by the General Accounting Office confirms these misgivings. Actions by the Department ignoring previous report guidance, a letter from the Chairman and Ranking Minority Members of the House and Senate Department of the Interior and Related Agencies Appropriations subcommittees, and the intent of the House as expressed in passage of H.R. 6863 on July 29, 1982, have left the managers no alternative to recommending the language which appears in section 303.

Should the Department determine that a lower than specified level of employment would be appropriate for a particular program, a special message in accordance with the provisions of the Impoundment Control Act of 1974 shall be transmitted to the Congress, supplemented by a detailed analysis in support of the recommended level. The language also prohibits the withholding of funds necessary to maintain the specified employment levels unless Congress has approved a special message or, in the event of a deferral proposal, a period of forty-five continuous days of legislative session has elapsed.

Within the 450 employees allocated to the Economic Regulatory Administration, the Managers concur that no less than 160 shall be auditors.

With respect to the Fossil Energy Program, the Department of Energy has indicated to the Office of Management and Budget the need for an allocation of 93 additional full-time equivalent positions on a temporary basis for the operation of the energy technology centers in Bartlesville, Oklahoma; Grand Forks, North Dakota; and Laramie, Wyoming. This allocation would permit the continued Federal operation of the Grand Forks and Laramie Centers until January 1, 1983, and the Bartlesville Center until May 1, 1983. The managers understand that the Department of Energy assumes that the operation of these centers may be transferred to non-Federal entities before the dates cited. Because a specific allocation of Federal positions in law could interfere with the orderly transfer of these facilities to private operators, no such allocation is included in the language contained in section 303.

The managers reserve judgement on the merits of any conversion of these three centers to a government-owned-contractor-operated arrangement. The Department is directed to maintain the present Federal employment levels at the Bartlesville, Grand Forks, and Laramie technology centers until a transition plan detailing cost saving and contractual obligations is presented to the House and Senate Committees on Appropriations for review. This approach will permit a smooth and efficient transfer of the functions of the centers at some future date.

For programs and activities funded in Energy and Water Development Appropriation Acts, the managers expect the Department to honor its commitments to make no major personnel adjustments from May 26, 1982, staffing levels pending completion of Congressional action to resolve appropriate funding and staffing levels in the regular fiscal year 1983 appropriation bill.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to funds earmarked for use for flood control and related measures on the Cowlits and Toutle Rivers in the Urgent Supplemental Appropriations Act of 1982.

Amendment No. 179: Deletes language proposed by the Senate prohibiting the Department of Transportation from using funds contained in this Act to obtain judicial review with respect to Federal Motor Vehicle Safety Standard No. 208.

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment changing the section number. The amendment expresses the sense of Congress that the proposed regulations of the Department of Education implementing part B of the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session or the 98th Congress has convened, whichever first occurs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 181: Deletes language proposed by the Senate regarding testing procedures of certain Federal agencies.

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

Sec. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 183: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed, insert the following:

Sec. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 "An Act to authorise appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

New Budget Authority

The total new budget (obligational) authority for the fiscal year 1982 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 budget estimates, and the House and Senate bills for 1982 follow:

Budget estimates of new (obligational) authority, fiscal year 1982	$16,343,043,000
House bill, fiscal year 1982	14,021,579,924
Senate bill, fiscal year 1982	14,391,507,424
Conference agreement, fiscal year 1982	14,578,111,924
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1982	−1,764,931,076
House bill, fiscal year 1982	+556,532,000
Senate bill, fiscal year 1982	+186,604,500

Rescissions

In addition, the total rescission of budget authority recommended by the Committee of Conference, with comparisons to the President's proposals, and the House and Senate bills follow:

President's proposals	−$286,859,000
House bill	−264,860,000
Senate bill	−381,846,000
Conference agreement	−400,846,000
Conference agreement compared with:	
President's proposals	−113,987,000
House bill	−135,986,000
Senate bill	−19,000,000

Jamie L. Whitten
(except amendments 58 and 115),
Edward P. Boland
(except amendment 115),
William H. Natcher
(except amendment 115),
Neal Smith,
Joseph P. Addabbo,
Clarence D. Long,
Sidney R. Yates
(except amendment 115),
Edward R. Roybal,
Tom Bevill,
Adam Benjamin, Jr.,
Julian C. Dixon,
Vic Fazio,
Silvio O. Conte,
Joseph M. McDade,
Jack Edwards,
John T. Myers
(except amendments 54 and 177),
Clarence E. Miller,
Lawrence Coughlin,
Jack F. Kemp,
George M. O'Brien,
Managers on the Part of the House.

Mark O. Hatfield,
Ted Stevens,
Lowell P. Weicker,
James A. McClure,
Jake Garn,
Harrison Schmitt
(except amendment 150),
Mark Andrews,
James Abdnor,
Alfonse M. D'Amato,
Mack Mattingly,
William Proxmire,
John C. Stennis,
Daniel K. Inouye,
Ernest F. Hollings,
Thomas F. Eagleton,
Lawton Chiles,
J. Bennett Johnston,
Walter D. Huddleston,
Patrick J. Leahy,
Dennis DeConcini,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6530

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes:

Conference Report (H. Rept. No. 97-748)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

ESTABLISHMENT OF NATIONAL VOLCANIC MONUMENT

Section 1. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Monument, August 1982", are hereby designated as the Mount St. Helens National Volcanic Monument (hereafter in this Act referred to as the "Monument").

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(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the Monument established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest and in the office of the chief of the Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the Monument. Such minor boundary revisions may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least 60 days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

Sec. 2. (a) The exterior boundary of the Gifford Pinchot National Forest is hereby extended to include all lands and waters within the boundaries of the Monument. Lands and interests therein acquired pursuant to section 3 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

Sec. 3. (a) The Secretary shall acquire all lands and interests in lands within the boundaries of the Monument by donation, exchange in accordance with this Act or other provisions of law, or purchase with donated or appropriated funds, except as provided in subsection (c) and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of this Act. Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange. Those mining claims in the Green River-Polar Star area shall not be acquired without the consent of the owner.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the Monument, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary shall exchange lands and interests in lands referred to in paragraphs (2) and (3) in accordance with the provisions of this subsection. With respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Secretary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in lands which are not acquired pursuant to the provisions of this subsection.

(2)(A) If Burlington Northern Incorporated offers to the United States the following described lands and interests therein, except mineral and geothermal interests, the Secretary shall accept such lands and interests therein (for the purposes of this Act, the term "Burlington Northern Incorporated" shall include any subsidiary of that corporation):

Township 7 North, Range 6 East:	*Acres*
Section 1: Lots 1, 2, and 3, south half northeast quarter, and north half southeast quarter	*310.11*
Township 8 North, Range 5 East:	
Section 21: All	*640.00*
Section 23: All	*640.00*
Section 25: All	*640.00*
Section 27: All	*640.00*
Section 29: All	*640.00*
Section 31: All fractional	*623.52*
Section 33: All	*640.00*
Section 35: All	*640.00*
Township 8 North, Range 6 East:	
Section 5: All fractional	*480.44*
Section 7: All fractional	*637.58*
Section 9: All	*640.00*
Section 15: West half	*320.00*
Section 17: All	*640.00*
Section 19 All fractional	*631.76*
Section 21: All	*640.00*
Section 27: West half	*320.00*
Section 29: All	*640.00*
Section 31: All fractional	*630.44*
Section 33: All	*640.00*
Township 9 North, Range 5 East:	
Section 25: All	*640.00*
Township 9 North, Range 6 East:	
Section 5: Lot 1, southeast quarter northeast quarter, and southeast quarter	*240.41*
Section 9: All	*640.00*
Section 17: All	*640.00*
Section 21: All	*640.00*
Section 29: All	*640.00*
Section 31: All fractional	*639.52*
Section 33: All	*640.00*

(B) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern Incorporated all right, title, and interest of the United States to the following described national forest system lands and interests therein, except mineral and geothermal interests:

Township 7 North. Range 6 East:	*Acres*
Section 4: All fractional	*680.88*
Section 6: All fractional	*670.04*
Section 10: All	*640.00*
Section 22: All	*640.00*

(3)(A) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands, except mineral and geothermal interests, the Secretary shall accept such lands and interests therein:

Township 9 North, Range 3 East:	*Acres*
Section 1: South half	*320.00*
Township 7 North, Range 4 East:	
Section 25: Northwest quarter northwest quarter	*40.00*
Township 8 North, Range 4 East:	
Section 2: All fractional	*494.28*
Township 9 North, Range 4 East:	
Section 1: All fractional	*658.52*
Section 3: South half northeast quarter, and south half	*400.00*
Section 4: Lots 2 and 3, south half north half, and south half	*560.30*
Section 5: South half northeast quarter, and south half	*400.00*
Section 6: Lot 7, southeast quarter southwest quarter, and south half southeast quarter	*155.38*
Section 7: All fractional	*623.44*
Section 8: All	*640.00*
Section 9: All	*640.00*
Section 11: All	*640.00*
Section 13: All	*640.00*
Section 15: East half east half	*160.00*
Section 16: North half northwest quarter	*80.00*
Section 17: North half northeast quarter	*80.00*
Section 22: A portion of east half and east half west half	*271.±*
Section 23: All	*640.00*
Section 24: All	*640.00*
Section 25: All	*640.00*
Section 26: North half, southeast quarter, and a portion of the southwest quarter	*572.±*
Section 27: A portion of the northeast quarter	*66.±*
Section 35: A portion of the northeast quarter	*105.±*
Township 10 North, Range 4 East:	
Section 25: Southeast quarter	*160.00*
Township 9 North, Range 5 East:	
Section 5: All fractional	*640.32*
Section 6: All fractional	*679.52*
Section 7: Lots 1 and 2, northeast quarter, and east half northwest quarter	*340.57*
Section 8: North half	*320.00*
Section 17: All	*640.00*
Section 19: All fractional	*694.72*
Township 10 North, Range 5 East:	
Section 5: A portion of the east half northeast quarter northwest quarter and east half	*233.±*
Section 17: Northeast quarter northeast quarter, and a portion of the northeast quarter and east half southeast quarter	*154.±*
Section 19: A portion of the south half southeast quarter	*20.±*
Section 20: A portion of the south half south half	*60.±*
Section 21: East half, east half northwest quarter, northwest quarter northwest quarter, northeast quarter southwest quarter, and a portion of the southwest quarter, northwest quarter southwest quarter	*523.±*
Section 29: All	*640.00*
Section 30: Northeast quarter, south half, and a portion of the east half northwest quarter	*550.±*
Section 31: All fractional	*688.55*
Section 32: All	*640.00*
Section 33: North half	*320.00*
Township 11 North, Range 5 East:	
Section 32: Lots 1 and 2	*16.43*

(B) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests therein, except mineral and geothermal interests:

Township 10 North, Range 5 East:	*Acres*
Section 6: Mineral survey	*193.96*
Section 7: Mineral survey	*12.65*
Township 11 North, Range 5 East:	
Section 28: Mineral survey	*24.89*
Section 29: Portion of mineral survey 837	*5.20*
Township 8 North, Range 4 East:	
Section 29: All	*640.00*
Section 30: All fractional	*604.07*
Section 32: All fractional	*702.99*

Township 13 North, Range 3 East:	
Section 6: All fractional	*652.25*
Township 4 North, Range 3 East:	
Section 10: All	*640.00*
Section 16: All	*640.00*
Section 20: All	*640.00*

(4) Except as provided in paragraph (7), the instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and the Weyerhaeuser Company or the Secretary and Burlington Northern Incorporated, as the case may be.

(5) It is the sense of the Congress that the exchanges authorized pursuant to this subsection should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use the authorities of subsection (a) if the exchanges authorized by this subsection are not completed within a reasonable time after the expiration of such ninety day period.

(6) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein caused by a direct action on the part of the current landowner below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred caused by direct action on the part of the current landowner, the Secretary shall not carry out the exchange for those lands of interests so affected under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) The provisions of this subsection (except for the provisions of paragraphs (5) and (6)) do not authorize the exercise by the Secretary of the power of eminent domain, and any exchange of lands or interests in lands carried out under this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Secretary and Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement.

(d) Nothing in this Act shall affect any prior contractual obligation of Burlington Northern Incorporated or Weyerhaeuser Company regarding lands owned by them and included in an exchange pursuant to this Act nor shall such obligations be transferred pursuant to this legislation to the United States.

(e) Any terms, conditions, or obligations imposed by the Act of July 2, 1864 (13 Stat. 365), as amended, that apply to lands and interests in lands exchanged under this Act by Burlington Northern Incorporated shall apply in equivalent manner to lands and interests in lands obtained by Burlington Northern Incorporated under this Act.

(f) Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interests authorized by this Act. In the course of preparing the assessment, the Secretary shall conduct at least one public hearing in the vicinity of the mineral or geothermal interests to be conveyed by the United States in such exchange. Any exchange of mineral or geothermal interests may be made by the Secretary only after providing the Committee referred to in section 1 of this Act thirty days' notice of his intention to do so.

ADMINISTRATION

Sec. 4. (a) The Secretary acting through the Forest Service shall administer the Monument as a separate unit within the boundary of the Gifford Pinchot National Forest, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(D)(1) The Secretary shall manage the Monument to protect the geologic, ecologic, and cultural resources, in accordance with the provisions of this Act allowing geologic forces and ecological succession to continue substantially unimpeded.

(2) The Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the Monument or (B) cause substantial damage to significant resources adjacent to the Monument.

(3) Nothing in this Act shall prohibit the Secretary from undertaking or permitting those measures within the Monument reasonably necessary to ensure public safety and prevent loss of life and property.

(c) The Secretary shall permit the full use of the Monument for scientific study and research, except that the Secretary may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the Monument.

(d) In order to protect the significant features of the Monument, reduce user conflicts, and ensure visitor safety, the Secretary is authorized to control times and means of access and use of the Monument or parts thereof: Provided, That nothing in this section shall be construed as to prohibit the use of motorized vehicles, aircraft or motorboats for emergency and other essential administrative services, including those provided by State and local governments, or when necessary, for authorized scientific research.

(e)(1) The Secretary shall provide for recreational use of the Monument and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Except for roads needed for recreational and interpretive purposes as may be recommended by the comprehensive management plan submitted in accordance with the provisions of subsection (i), roads or other developed facilities within the Monument should be located generally in areas which were developed prior to the 1980 eruption.

(f) Subject to valid existing rights, all Federal lands within the Monument are hereby withdrawn from all forms of entry or appropriation of disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any mining activity carried out pursuant to valid existing rights shall be conducted in accordance with applicable Federal and State law.

(g) Timber harvesting shall not be permitted on Federal lands within the Monument except (1) for timber salvage contracts awarded by the Forest Service before the date of enactment of this Act, and (2) to the minimum extent necessary to control fire, insects, diseases and other agents that would endanger irreplaceable features within the Monument, cause substantial damage to significant resources adjacent to the Monument, or endanger public safety. National forest system roads within the Monument may be used to the extent necessary for such timber harvesting activities. If the Secretary intends to carry out timber harvesting activities under clause (2), the Secretary shall advise the Committee on Energy and Natural Resources of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives of the action the Secretary intends to take at least 30 days in advance of initiating action to contract for such sales, except that in emergency situations the Secretary shall submit a report to such Committees, describing the action taken within 30 days thereafter.

(h) The Secretary shall permit hunting and fishing on lands and waters within the Monument in accordance with applicable Federal and State law, except that the Secretary may designate zones within the Monument where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities. Nothing in this subsection shall be construed as affecting the jurisdiction or responsibilities of the State of Washington with respect to wildlife and fish within the Monument.

(i) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 1(b), a detailed and comprehensive management plan for the Monument. The initial Monument management plan may be expressed as an amendment to the October 1981 Mount St. Helens Land Management Plan. Subsequent Monument plans shall be integrated with and periodically revised as a component of the Gifford Pinchot land management planning process. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;

(2) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the area, including anticipated timetables and costs;

(3) identification of, and implementation plans for, visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

MANAGEMENT OF ADJACENT FEDERAL LANDS

Sec. 6. Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument for the purpose of precluding activities outside the Monument boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument necessary to protect public health and safety in emergencies involving volcanic activity.

SCIENTIFIC ADVISORY BOARD

Sec. 7. (a) There is hereby established the Mount St. Helens Scientific Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the

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advice and recommendations of the Board with respect to—

(1) the measures needed to protect and manage the natural and scientific values of the Monument; and

(2) the administration of the Monument with respect to policies programs, and activities which are specifically intended to retain the natural ecologic and geologic processes and integrity of the Monument.

The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the Monument designed to gain scientific information for future interpretation and enjoyment by visitors to the Monument. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines, as follows:

(1) three members appointed by the Secretary (one of whom shall be a professional employee of the Forest Service);

(2) two members appointed by the Secretary of the Interior (one of whom shall be a professional employee of the United States Geological Survey);

(3) two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington; and

(4) two members appointed by the Chairman of the National Science Foundation.

(c) Each member shall be appointed to serve for a term of three years, except that one of the initial appointees of each appointing offical shall serve an initial term of four years, one of the initial appointees of each appointing official shall serve an initial term of two years, and one of the initial appointees of the Secretary shall serve an initial term of one year.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the protection of the Monument and potential and ongoing research programs within the Monument.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) The Board shall terminate ten years from the date of its first meeting.

EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON

Sec. 8. (a) Nothwithstanding the provisions of the last paragraph under the heading "Forest Service" of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expend for the benefit of Skamania County—

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment ot this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. There is hereby authorized to be appropriated to carry out the provisions of this Act, not to exceed $12,000,000 for the Fiscal Year Beginning October 1, 1982, and such sums as may be necessary for each fiscal year thereafter.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same,

E de la Garza,
Morris K. Udall,
James Weaver,
John F. Seiberling,
Thomas S. Foley,
Pat Williams,
George E. Brown,
Joe Skeen,
Don H. Clausen,
Sid Morrison,
Charles Pashayan, Jr.,
Gene Chappie,
Managers on the Part of the House.

James A. McClure,
Mark O. Hatfield,
Malcolm Wallop,
Henry M. Jackson,
Dale Bumpers,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Findings

The House bill contains a section setting forth findings regarding Mount St. Helens and the resource values of the area. The Senate amendment includes no such section.

The Conferees agreed to adopt the Senate position.

Designation

The House bill designates a "Mount St. Helens National Volcanic Area" while the Senate amendment designates a "Mount St. Helens National Volcanic Monument."

The Conferees agreed to adopt the Senate position. The Conferees stress that this new Monument is to be administered by the U.S. Forest Service in accordance with this Act and laws generally applicable to the Forest Service. The Monument is not under the jurisdiction of the Department of the Interior and should in no way be considered a National Park or a unit of the Park System. The Monument created by this legislation will be treated in the same manner as the two existing National Forest Monuments, Misty Fjords and Admiralty Island, in the Tongass National Forest in Alaska.

Boundary Differences

The House bill included approximately 115,000 acres in the area while the Senate amendment encompassed some 105,400 acres.

The Conferees resolved these differences by establishing a boundary for the National Volcanic Monument which includes approximately 110,000 acres.

The agreed upon boundary is referenced on a new map dated August 1982.

Boundary Adjustment Authority

The House bill includes a provision authorizing the Secretary of agriculture to make minor adjustments in the Monument boundary (up to 320 acres in size) after appropriate notice in the Federal Register and the pertinent committees of Congress. The Senate amendment includes no such provision.

The Conferees agreed to adopt the House provision modified to exclude references to specific acreage limits. The Conferees expect that this authority will be used by the Secretary only for truly "minor" boundary adjustments. This authority should not be viewed as giving the Secretary the ability to make significant additions to or deletions from the Monument. It is expected that this authority will most likely be used to adjust the boundaries in response to the changing land ownership pattern around the area which will result from the land exchanges authorized by Sec. 3.

Expansion of the National Forest Boundary

Both the House bill and the Senate amendment include a provision extending the exterior boundary of the Gifford Pinchot National Forest to include certain lands affected by the May 1980 eruption. The two versions are very similar with only minor technical differences.

The Conferees agreed to adopt the House provision.

Land Acquisition

General Authority/timber valuation date

Both the House bill and the Senate amendment provide essentially the same general authority for acquisition of non-federal lands in the Monument and a set timber valuation date on July 1, 1982, because of potential insect and disease damage if acquisition is delayed. In addition, some minor technical differences exist between the two versions.

The Conferees agreed to adopt the House position with addition of a cross-reference to the Forest Service's existing exchange authority making it clear that land exchanges within the area are to be accomplished under the provisions of this Act and other applicable law governing land exchanges.

State-owned lands

The House bill limits the Secretary's authority to acquire lands within the Monument owned by the State of Washington to exchange only. The Senate amendment permits acquisition by both exchange and donation.

The Conferees agree that State-owned lands should be acquired only by exchange and agreed to adopt the House position.

Land exchange packages for Burlington Northern Inc. (BN) and Weyerhaeuser

The House bill includes specific tract-by-tract legislated exchanges for the two major landowners in the area—BN and Weyerhaeuser. Exchanges are specified for both surface and subsurface for Weyerhaeuser, but only a surface exchange is provided for BN.

The Senate amendment designates "pools" of national forest lands which the Secretary and the landowners are to use to facilitate and consummate an exchange agreement.

The Conferees agreed to adopt the House approach with regard to the surface exchange and have included specific tract-by-tract exchanges for Burlington Northern and Weyerhaeuser. The Conferees also agreed not to legislate the exchange of specific mineral interests of the two companies. The Conferees also agreed to limit the acquisition authority of all mineral and geothermal interests within the Monument to exchange only.

The Conferees recognize that certain lands owned by Burlington Northern included in the Monument are subject to a contract under which International Paper Company has a right to cut and remove timber until the year 2000. The Conference Report includes language making it clear that the United States shall not assume Burlington Northern's obligations under the contract nor shall any rights International Paper may have against Burlington Northern be extinguished by an exchange of lands between Burlington Northern and the United States.

The Conferees assume that when any exchange is consummated pursuant to this Act, the U.S. will receive clear title to the interests conveyed.

The Conferees wish to reaffirm the clear intent of this legislation that acquisition of lands and interests in lands within the Monument should be completed as expeditiously as possible, and acquisition by exchange shall be carried out to the maximum extent feasible.

The Conferees wish particularly to encourage the Department to expedite, insofar as possible, while providing for a public hearing and Congressional review, the environmental assessment prepared for any exchanges contemplated under this Act for mineral and geothermal interests.

Acquisition of mining claims

The House bill includes a provision prohibiting the acquisition of mining claims in the Green River/Polar Star area without the consent of the owner. The Senate amendment includes no such provision.

The Conferees agreed to adopt the House language and note that the boundary agreed to in this area excludes all but a very small portion of the existing claims. The Conferees note that the boundary adjustment authority contained in Section 1 of the bill can be used by the Secretary at his discretion to exclude these remaining claims.

MANAGEMENT POLICIES AND DIRECTION

General direction

Both the House bill and the Senate amendment include a section providing a general statement regarding how the new Monument is to be managed.

The Conferees agreed to adopt the House position modified to insure flexibility necessary to provide for a variety of different activities and uses within the Monument.

Authority to protect life and property

Both the House bill and the Senate amendment include a provision authorizing the Secretary to take reasonable actions to protect life and property both within and outside the Monument.

Although the two versions are similar, the Conferees agreed to accept the Senate position which provides for slightly broader authority than the House language. The Conferees want to emphasize the importance of protecting the health, safety, and property of Monument visitors as well as those residents living in the general area.

For example, the Conferees are aware that there is considerable concern regarding the condition at Spirit Lake where there is serious danger of downstream flooding as the water backs up behind the unstable lakeshore. The Conferees note that the Act provides sufficient authority to take appropriate actions to prevent loss of life and property.

Recreation-related roads and developments within the monument

Both the House bill and the Senate amendment contain similar provisions regarding visitor facilities and recreation uses within the Monument. The House version includes specific language generally limiting the construction of roads and developments in the area to those which existed prior to the May 1980 eruption. The Senate amendment does not include such a limitation on roads and developments.

The Conferees agreed to accept the House provisions modified to ensure that recreation-related roads and developments which are recommended in accordance with the management plan for the Monument may be permitted without regard to their location prior to the May 1980 eruption.

Mining and mineral leasing withdrawal

Both the House bill and the Senate amendment contain a provision withdrawing federal lands in the Monument from mining and mineral leasing, subject to valid existing rights. The versions are essentially the same with only minor technical differences.

The Conferees agreed to adopt the Senate position.

Water quality protection

The House bill includes a provision directing that any mining in the Monument take place in such a manner so as to "maintain the water quality in existence in the affected area immediately prior to the commencement of such activity." The Senate amendment has no comparable provision.

The Conferees agreed to delete House language with regard to water quality and include instead a provision directing that any mining be carried out in accordance with applicable state and federal law.

Scientific study/motorised equipment

Both the House bill and the Senate amendment include language regarding the need to ensure opportunities for continued scientific research and the use of motorized equipment in the area for emergency and scientific study. The language of the two versions is similar in form and substance.

The Conferees agreed to adopt House language with regard to scientific study and adopted slightly modified House language with regard to motorised vehicles, making it clear that essential administrative and emergency services provided by state and local governments are to be permitted within the Monument.

Timber harvesting in the monument

Both the House bill and the Senate amendment place certain limitations on timber harvesting activities in the Monument.

The Conferees agreed to adopt Senate language modified to ensure that commercial harvesting, while permitted in limited circumstances is to be undertaken only to the minimum extent necessary to control fire, insects, and disease on federal lands that would endanger irreplaceable features within the Monument, cause substantial damage to significant resources adjacent to the Monument, or endanger public safety. The respective Committees of Congress are to be kept apprised regarding the use of this authority.

The Conference agree that the "control" of fire and/or insect infestations in the area could include preventative or presuppression activities provided they are kept to the minimum level necessary and carried out only to the extent necessary to deal with those emergency situations or those imminent emergency situations identified in Subsection 4(g).

The Conferees stressed that this authority was very narrowly drawn and should definately not be considered as general authority to provide for commercial timber harvesting operations within the Monument.

The Conferees expect that the Secretary will seek the advice of the Scientific Advisory Board regarding the effects of possible timber removal authorised by subsection 4(g) on areas of special scientific concern within the Monument. While the final management decisions regarding the implementation of timber removal activities rests solely with the U.S. Forest Service, the Conferees felt that the Board could make a contribution by making its scientific and research expertise available to the Forest Service on a regular basis with regard to this matter.

The Conferees further expect that the Secretary will provide the Scientific Advisory Board, as soon as reasonably possible, copies of any notices of timber salvage operations submitted to the Committee of Congress pursuant to Subsection 4(g).

Limitation on timber hauling on national forest system roads

The House bill includes a provision placing limits on the use of National Forest roads in the Monument for timber harvesting purposes. While such activity is permitted under certain circumstances, the language provides limits on the Secretary's authority based on public notice, evaluation of alternatives and effect on the resources. The Senate amendment includes no comparable provision.

The Conferees agreed to adopt the House provision slightly modified to reflect the compromise language regarding timber harvesting activities in the Monument in general.

Hunting and fishing

Both the House bill and the Senate amendment contain a provision making it clear that hunting and fishing are to be permitted in the Monument subject to reasonable limitations.

The Conferees agreed to adopt the House language with the addition of the Senate provision regarding the jurisdiction of the State of Washington over fish and wildlife management within the Monument.

Management plan

Both the House bill and the Senate amendment include provisions directing that a management plan be prepared for the Monument. The House bill includes fairly detailed language regarding what the plan is to contain. The Senate amendment does not include this specific language.

The Conferees agreed to adopt the House position.

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Scientific Advisory Board

Both the House bill and the Senate amendment include essentially the same provisions regarding the establishment of a Scientific Advisory Board to advise the Secretary with regard to the management of the Monument—especially those aspects associated with opportunities for scientific research and study. The language is essentially the same in both the bills.

The Conferees agreed to adopt the House language modified to give the Governor of Washington some additional flexibility with regard to the appointments he is authorized to make.

Management of Adjacent Federal Lands

The Senate amendment includes language making it clear that nothing in the Act authorizes or directs the Secretary to establish buffer zones surrounding the area as a result of the creation of the Mount St. Helens National Monument. The House bill has no such provision.

The Conferees agreed to adopt the Senate position. The Conferees note that the primary intent of this provision is to ensure that federal lands surrounding the new Monument will continue to be managed in accordance with existing law—including applicable land management plans—and that the Monument status should not be viewed as placing additional management constraints on adjacent federal lands.

Exemption From the National Environmental Policy Act

The Senate amendment specifically exempts the exchanges authorized pursuant to the Act from the requirement of the National Environmental Policy Act that an Environmental Impact Statement be prepared. The House bill includes no comparable provision.

The Conferees agreed to adopt a provision requiring only that the Secretary prepare an environmental assessment with regard to the exchange of any mineral interests within the Monument. The Committee expects that such an assessment can be prepared in a more expeditious manner than an Environmental Impact Statement which might be required under NEPA. A requirement for public hearings and an opportunity for the Senate Committee on Energy and Natural Resources and the House Interior and Insular Affairs and Agriculture Committees to review and comment on any proposed exchange are also included.

Conferees note that the legislated exchanges set forth in Subsection 3(c) do not require an environmental assessment or impact statement.

Authorization/Budget Compliance

Both the House bill and the Senate amendment authorize the appropriation of funds to carry out the purposes of the Act. The Senate amendment authorizes $12 million in fiscal year 1983 and such sums as necessary thereafter. The House bill authorizes such sums as may be necessary effective only for fiscal years beginning after September 30, 1983, and includes a section regarding compliance with the Budget Act.

The Conferees agreed to adopt the Senate position.

Title

The title of the House bill refers to the "Mount St. Helens National Volcanic Area". The title of the Senate amendment refers to a "Mount St. Helens National Volcanic Monument".

In accordance with the Conferees' decision to designate the area as a National Volcanic Monument, the Conferees agreed to adopt the Senate position.

E de la Garza,
Morris K. Udall,
James Weaver,
John F. Seiberling,
Thomas S. Foley,
Pat Williams,
George E. Brown,
Joe Skeen,
Don H. Clausen,
Sid Morrison,
Charles Pashayan, Jr.,
Gene Chappie,
Managers on the Part of the House.

James A. McClure,
Mark O. Hatfield,
Malcolm Wallop,
Henry M. Jackson,
Dale Bumpers,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, for today, for 60 minutes, and for Monday, Tuesday, and Wednesday, August 16, 17, 18, for 60 minutes each.

(The following Members (at the request of Mr. Hiler) to revise and extend their remarks and include extraneous material:)

Mr. Corcoran, for 30 minutes, today.

Mr. Fish, for 15 minutes, today.

Mr. Marks, for 60 minutes, August 16, 1982.

Mr. Marks, for 60 minutes, August 17, 1982.

(The following Members (at the request of Mr. Hoyer) to revise and extend their remarks and include extraneous material:)

Mr. Hance, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hiler) and to include extraneous matter:)

Mr. Evans of Delaware.

Mr. Broomfield.

Mr. Fish.

Mr. Clinger.

Mr. Rinaldo.

Mr. Porter in two instances.

Mr. Lungren.

(The following Members (at the request of Mr. Hoyer) and to include extraneous matter:)

Mr. AuCoin.

Mr. Moffett.

Mr. Weiss.

Mr. Coelho.

Mr. Williams of Montana.

Mr. Ottinger.

Mr. Bingham.

Mr. Gaydos.

Mr. Synar.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on August 12, 1982, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 541. An act concerning the successful completion of the test flight phase of the Space Shuttle program.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until Monday, August 16, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

4588. Under clause 2 of rule XXIV, a letter from the Secretary of Education, transmitting certain amendments to the act of September 30, 1950 (Public Law 874, 81st Congress) and Public Law 93-380, and for other purposes, was taken from the Speaker's table and referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. House Concurrent Resolution 304. Concurrent resolution expressing the sense of Congress that, to encourage educational programs in science and technology, a National Science Center for Communications and Electronics should be established (Rept. No. 97-745). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1894. A bill to permit Indian tribes to enter into certain agreements for the disposition of trial mineral resources, and for other purposes; with an amendment (Rept. No. 97-746). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 6863 (Rept. No. 97-747). Ordered to be printed.

Mr. FOLEY: Committee of conference. Conference report H.R. 6530 (Rept. No. 97-748). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. FIEDLER:

H.R. 6989. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 6990. A bill to provide a program of Federal supplemental unemployment compensation; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 6991. A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam; to the Committee on Armed Services.

By Mr. BLILEY:

H.J. Res. 576. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

By Mr. BREAUX (for himself and Mr. Forsythe):

H.J. Res. 577. Joint resolution to disapprove the governing international fishery agreement between the United States and Korea; to the Committee on Merchant Marine and Fisheries.

By Mr. BROOMFIELD:

H.J. Res. 578. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

PRIVATE BILL AND RESOLUTION

Under clause 1 of rule XXII.

Mr. EDWARDS of Alabama introduced a bill (H.R. 6992) to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Jack L. Williams, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3252: Mr. Bliley.

H.R. 3649: Mr. Stump.

H.R. 5054: Mr. Crockett.

H.R. 6054: Mr. Johnston.

H.R. 6066: Mr. Scheuer.

H.R. 6483: Mr. LeBoutillier and Mr. Guarini.

H.R. 6506: Mr. Badham.

H.R. 6527: Mr. Eckart, Mr. Nelligan, Mr. LeBoutillier, Mr. Kindness, Mr. Archer, Ms. Oakar, Mr. Gilman, and Mr. Miller of Ohio.

H.R. 6576: Mr. Addabbo, Mr. Courter, Mr. Daniel B. Crane, Mr. DeNardis, Mr. Dorgan of North Dakota, Mr. Fithian, Mr. Hagedorn, Mr. Hammerschmidt, Mr. Hartnett, Mr. Heftel, Mr. Lagomarsino, Mr. LaFalce, Mr. Lujan, Mr. Marriott, Mr. McEwen, Mr. McHugh, Mr. Miller of California, Mr. Mitchell of New York, Mr. Molinari, Mr. Murtha, Mr. Neal, Mr. Oberstar, Mr. Peyser, Mr. Rangel, Mr. Ratchford, Mr. Roberts of South Dakota, Mr. Schumer, Mr. Shamansky, Mr. Stokes, Mr. Studds, Mr. Williams of Montana, and Mr. Williams of Ohio.

H.R. 6789: Mr. Tauke.

H.R. 6833: Mr. Bevill, Mr. Latta, Mr. Kindness, Mr. Staton of West Virginia, Mr. Robert W. Daniel, Jr., Mr. Rudd, Mr. Stump, Mr. Dreier, Mr. Rousselot, Mr. Chappie, Mr. Hartnett, Mr. Johnston, Mr. Weber of Minnesota, Mr. Hiler, Mr. Gregg, Mr. Hightower, Mr. Ralph M. Hall, Mr. Montgomery, Mr. Stenholm, Mr. Gramm, Mr. Roemer, Mr. White, Mr. McDonald, Mr. Wilson, Mr. Kemp, Mr. Williams of Ohio, Mr. Kazen, Mr. Lewis, and Mr. Martin of North Carolina.

H.J. Res. 157: Mr. Patman.

H.J. Res. 454: Mr. Lehman, Mr. Quillen, Mr. Frank, Mr. Fauntroy, Mr. Barnes, Mr. Nelligan, Mr. Pashayan, Mr. Edgar, Mr. Montgomery, Mr. Solarz, Mr. Kemp, Mr. Burgener, Mrs. Heckler, Mr. Rodino, Mr. Frenzel, Mr. Waxman, Mr. Smith of Pennsylvania, Mr. Dornan of California, Mrs. Holt, Mr. Hance, Mr. Guarini, Mr. Dougherty, Mr. Mineta, Mr. Gradison, Mr. Fish, Mr. Smith of New Jersey, Mr. Hubbard, Mr. McEwen, Mr. Washington, Mr. Myers, Mr. Mavroules, Mr. Fazio, Mr. Dixon, Mr. O'Brien, Mr. Horton, Mr. Gingrich, Mr. Bailey of Pennsylvania, Mr. Bevill, Mr. Bingham, Mr. Bowen, Mr. Breaux, Mr. Brown of California, Mr. Philip M. Crane, Mr. Donnelly, Mr. Foglietta, Mr. Jones of North Carolina, Mr. Pepper, Mr. Snyder, Mr. Solomon, Mr. Stanton of Ohio, Mr. Sunia, Mr. Swift, Mr. Traxler, Mr. Williams of Ohio, Mr. Won Pat, Mr. Young of Missouri, and Mr. Railsback.

H.J. Res. 504: Mr. McCollum and Mr. Tauke.

H.J. Res. 557: Mr. Benjamin, Mr. Biaggi, Mr. Boner of Tennessee, Mrs. Collins of Illinois, Mr. Corrada, Mr. Daub, Mr. Dornan of California, Mr. Edgar, Mr. Fauntroy, Mrs. Fenwick, Mr. Fish, Mr. Ford of Michigan, Mr. Frank, Mr. Fuqua, Mr. Hollenbeck, Mr. Mazzoli, Mr. Minish, Mr. Pepper, Mr. Rangel, Mr. Rosenthal, Mr. Shamansky, Mr. Scheuer, Mr. Tauzin, Mr. Whitehurst, Mr. Wilson, Mr. Zeferetti, and Mr. Green.

H. Res. 421: Mr. Bedell, Mr. Evans of Georgia, Mr. Fowler, Mr. Gephardt, Mr. Jenkins, Mr. Lundine, Mr. Pease, and Mr. Seiberling.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under Clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6467: Mr. Mitchell of Maryland.

H.R. 6529: Mr. Mitchell of Maryland.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

By Mr. BEDELL:

—In section 10(b) of the bill, insert after "United States Constitution," the following: "except as provided in subsection (c) of this section,".

Strike out section 10(c) of the bill and insert in lieu thereof the following:

(c) No State shall sell or otherwise transfer, for use outside of such State in a coal pipeline or extension thereof with respect to which a certificate is issued under section 10952 of title 49, United States Code, water which is taken from any river or other body of surface water which is located in or which passes through more than one State or any aquifer or other body of ground water which underlies more than one State unless—

(1) there is in effect an interstate compact (A) between the States in the drainage basin of such river or other body of surface water, or (B) between the affected States in the case of such an aquifer or other body of ground water, which governs such sale or transfer, and

(2) all the States which are parties to such compact consent to such sale or transfer.

By Mr. LENT:

—Page 4, line 17, strike out "necessary to construct such pipeline or extension" and insert in lieu thereof "owned by any common carrier engaged in the interstate transportation of coal".

Page 5, after line 2, insert the following:

"(b) The power granted in subsection (a) of this section may be exercised to acquire a property interest greater than that needed to effect a crossing, but in no event greater than 200 feet.".

Reletter subsequent subsections accordingly.

—Page 7, after line 12, insert the following:

"(2) No certificate may be issued unless the Commission determines in writing, including the reasons for the determinations, that—

"(A) there is a substantial likelihood the rates to be charged by the applicant for the transportation of coal will be less than those which would be charged by other common carriers for the transportation of the same coal over the expected useful life of the coal pipeline; and

"(B) the coal pipeline will not materially impair the financial integrity of another carrier or the existing level or type of transportation services that carrier is able to provide, nor require another carrier to significantly raise its rates on other traffic in order to achieve or maintain adequate revenues.

"(3) In making the determinations required by subsections (b)(1) and (b)(2) of this section, the Commission shall consider and include in its written determinations a discussion of the additional following issues:

"(A) the environmental impact of the coal pipeline or extension and alternative routes, means of transportation of coal, and methods of utilization of coal;

"(B) the extent to which existing carriers have the ability to meet the same transportation needs as the coal pipeline or extension for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner;

"(C) the balance between the energy needs of the area to be benefited by the coal pipeline or extension and the impact on the area from which the coal is to be transported, including the impact or the water needs of such area;

"(D) the extent to which the coal pipeline or extension would affect surface or ground water at the point of origin from which the coal is to be transported, at the point of destination to which the coal is to be transport-

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ed, and at the point of disposal of water utilized in the transportation of the coal;

"(E) the extent to which the coal pipeline or extension thereof would disrupt the coal industry in regions of the United States other than the region in which such pipeline will originate; and

"(F) the extent to which the construction of the pipeline or extension thereof would be impeded or delayed unless the power of eminent domain is granted to the applicant under this Act.

"(4) If the Commission fails to make the determinations under paragraphs (b)(1) and (b)(2) of this section, the application for a certificate shall be denied.".

Redesignate the subsequent paragraphs accordingly.

—Page 14, line 1, strike out the semicolon and all that follows through the period on line 10 and insert in lieu thereof a period and the following: "In addition, the coal pipeline shall be constructed with a capacity 25 percent greater than the capacity necessary to transport the total volume of coal of the original supporters.".

—Page 22, after line 19, insert the following:

"§ 10957. Abandonment

"(a) A person holding a certificate issued under section 10952 of this title may—

"(1) abandon any part of its coal pipeline; or

"(2) discontinue the operation of all coal pipeline transportation over any part of its coal pipeline;

only if the Commission finds (A) that the present or future public convenience and necessity require or permit the abandonment or discontinuance, or (B) that water used for transporting the coal has been reduced by circumstances beyond the control of such person to an amount insufficient to continue the transportation of coal, or (C) that the available supply of coal is depleted to the extent that continued service is unwarranted.

"(b)(1) A proceeding to permit abandonment or discontinuance under subsection (a) of this section begins on application filed with the Commission. If the Commission—

"(A) finds public convenience and necessity requires or permits abandonment or discontinuance, it shall—

"(i) approve the application as filed; or

"(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

"(B) fails to find public convenience and necessity requires or permits abandonment or discontinuance, it shall deny the application.

"(2) On approval, the Commission shall issue to the person holding a certificate issued under section 10952 a certificate describing the abandonment or discontinuance approved by the Commission.

"(c) The abandonment or discontinuance approved by the Commission shall take effect on the 60th day after the date of issuance of the certificate under this section.".

Renumber the subsequent sections accordingly and conform the analysis beginning on page 24, after line 23, accordingly.

—Page 23, after line 2, insert the following:

"§ 10958. Financing

"A purchaser, consumer, or user of coal to be transported through a certificated coal pipeline shall not, through use of a tariff or otherwise, require a customer of theirs to pay a fee, surcharge, or other payment relating to the coal pipeline at any time prior to the receipt of coal delivered through the pipeline.".

Renumber the subsequent section accordingly and conform the analysis beginning on page 24, after line 23, accordingly.

By Mr. RAHALL:

—Page 7, line 12, before the period insert the following: "; provided, that no such application shall be approved unless the Commission finds that the applicant has provided fair arrangements for the protection of the interests of railroad, water and motor carrier employees who may be affected thereby at least as protective of employee interests as those established under section 11347 of this title.".

H.R. 5540

By Mr. WEBER of Ohio:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Administrator of the Small Business Administration determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to small business.".

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section to any small- or medium-sized defense-related business firm unless the Secretary of Commerce determines that such loan, loan guarantee, or commitment for a loan guarantee will not give such business firm a competitive advantage over other small- or medium-sized defense-related business firms.".

Redesignate the following subsections accordingly.

H.R. 6755

By Mr. ROTH:

—Page 2, line 9, strike out "$350,000,000" and insert in lieu thereof "$342,500,000".

Page 2, line 25, strike out "$43,750,000" and insert in lieu thereof "$36,250,000".

Page 3, strike out lines 5 through 9; and in line 10, strike out "(3)" and insert in lieu thereof "(2)".

H.R. 6956

By Mr. DASCHLE:

—Page 32, after line 7, insert the following:

SMALL BUSINESS LOAN REVOLVING FUND

To carry out the purposes of the "Veterans' Administration Small Business Loan Revolving Fund", as authorized by law (Public Law 97-72, title III), $25,000,000.

H.R. 6957

By Mr. COLLINS of Texas:

—Page 33, after line 24, insert the following new section:

SEC. 303. None of the funds appropriated in this title may be used to pay any contribution for expenses necessary to meet annual obligations of membership in the United Nations or any affiliated agency in excess of 20 percent of the total annual assessment of the United Nations or such agency. This section shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.

—Page 43, after line 21, insert the following new section:

SEC. 404. (a) This section may be cited as the "Neighborhood School Act of 1982".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method to public school attendance.

(c) The Congress is hereby exercising its power under article III, section 1, and under section 5 of the fourteenth amendment.

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

Definition

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including resoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

Suits by the Attorney General

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted prusuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder."

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(i) It is the sense of the Senate that the Senate Committee on the Judiciary report out, before the August recess of the Senate, legislation to establish permanent limitations upon the ability of the Federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

By Mr. SENSENBRENNER:

—On page 26, line 22, strike "241,000,000" and insert in lieu thereof "100,000,000".

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SENATE—*Friday, August 13, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Father in Heaven, forgive our indifference toward Thee which causes us to presume upon Thy lavish provision. Forgive us for taking for granted common gifts which cannot be bought or earned—the gifts of heart and lungs and bodily organs that function unremittingly; the gifts of sight and hearing, taste and touch. Thank Thee for daily food and comfortable beds which so many do without; for work when so many are unemployed; for friends when so many are lonely and friendless.

Help us, gracious God, to comprehend and accept Thy love which is unconditional, impartial, and eternal. May we realize that there is nothing we can do to cause Thee to love us more—and there is nothing we can do to cause Thee to love us any less. We thank Thee for Thy perfect love; forgive our nonresponse and receive our inexpressible gratitude. We ask this in the name of Him who demonstrated Thy love supremely on a cross. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized for 2 minutes.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDATION TO THE CHAPLAIN

Mr. BAKER. Mr. President, I commend the Chaplain on his prayer this morning and express great relief that he did not again pray against the hard and arduous schedule of the Senate.

REASON NO. 14: THE REFUND GAME

Mr. BAKER. Mr. President, I want to take this opportunity to address my good friends the Senate photographers and members of the press corps, and to indicate to them that next Friday may not turn out to be the best day for photo opportunities with Members of the Senate. Then, again, next Friday could turn out to be a wonderful day for photographs of Members of the Senate.

If, and only if, the Senate completes those legislative items which have been publicly designated as "essential," then my friends in the camera crews will be able to catch Members with big smiles on their faces as they leave the Capitol for the Labor Day recess. But if those items on the "must list" have not been completed, there will be a mass of frowns and long faces, maybe even some tears, because it will then be necessary for the Senate to remain in town until the 27th of August.

Mr. President, I extend this warning not only as an individual who appreciates a good picture, but also as one who is protective of the best interests of his colleagues.

I remind Members that we have finished everything now except the debt limit and the immigration bill, and I hope we can get to third reading on the immigration bill today and finish the debt limit next week, together with any essential conference reports or other matters of urgent importance.

Here is reason No. 14 of my 18 reasons why the Senate should make the effort to make the most of next week and go home on Friday. Reason No. 14 is the refund game. You are tired. You are overworked. As the Chaplain points out, your family misses you. There is no time for privacy. You suddenly realize you cannot take it any more. What will you do? What will you do?

If you are really thoughtful and really frustrated, you will rent a condominium in the mountains or at the beach, so that you can escape from all the frustration with your family. But such plans are popular, so you make early reservations to assure that your plans will not be thwarted.

You hear the majority leader say one day that there is a good possibility that the Senate can recess on August 20 and make our recess coincide with that of the House of Representatives. So you make a deposit, to make sure that your reservation on your rented condominium will stick. You tell your family that their day in the Sun is approaching, and you begin to count the days.

Mr. President, what may be forgotten is that the majority leader said that there is a possibility of recessing on the 20th and that there were no guarantees.

So, Mr. President, reason No. 14 is simply this: Make your deposits, but make them refundable. [Laughter.]

Mr. STAFFORD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. STAFFORD. The Senator from Vermont, on behalf of those of his colleagues who are candidates for reelection, notes that reason No. 14 did not cover the Members who will have to go home this weekend and campaign, rather than go to the beach.

Mr. BAKER. Mr. President, it is easy to tell that the majority leader is not up for reelection. [Laughter.]

How quickly those thoughts pass from one's mind. The Senator is exactly right.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I understand that the Senator from Georgia has a special order for 15 minutes.

Before I yield the floor, I ask unanimous consent to reserve to the minority leader such time as he may wish under the standing order, as abbreviated, for his use during the course of this day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after the recognition of the Senator from Georgia on special order, there will be a period for the transaction of routine morning business, not to extend past 10:30 a.m., with the proviso that Senators may speak therein for not more than 1 minute each.

At 10:30 a.m., the Senate will resume consideration of S. 2222, the immigration bill. It is the hope of the leadership that we can reach third reading on that bill today. It is not anticipated that we will have a vote on final passage today.

I hope to have a further announcement on this matter later today.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER (Mr. SYMMS). Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I have been daily emphasizing the importance of prompt reform of our habeas corpus proceedings. I have discussed, with example after example, the drastic need for legislative action designed to stop career criminals from continually abusing the writ of habeas corpus. This procedural abuse has grown and increased every year. As a result, every year more and more local, State, and Federal judges have been expressing the need to eradicate this crippling abuse.

Not surprisingly, Senator CHILES and I do not stand alone in our concern over the burden which misuse of the writ poses for our criminal justice system. The cases, which we have cited to the Senate, have generated great alarm beyond this legislature. Individuals most closely involved in the daily operations of the judicial system have repeatedly spoken out on the dire need for legislative reform in the area of habeas corpus.

As I pointed out previously, the Conference of Chief Justices and the National Association of Attorneys General have adopted resolutions strongly supporting reform of the laws now pertaining to habeas corpus proceedings. The Department of Justice has endorsed similar measures. Previously, I mentioned the case Schneckloth against Bustamonte in which Justice Lewis Powell suggested that habeas corpus abuse was creating a serious credibility gap as to the merits of the State court decisions.

As recently as last week, the problems of our overcrowded courts were publicly addressed by Justice John Paul Stevens and reemphasized by Justice Powell. Justice Stevens' speech before the American Judicature Society dealt with the difficulties facing a court system continually overburdened with litigation. He revealed that his colleagues on the Supreme Court faced roughly 4,000 petitions for full review each term. The number continues to increase dramatically every year. Yet, the Supreme Court is only capable of considering 150 to 200 of these cases for full briefing, oral arguments, and opinions per year. Justice Stevens pointed out that fundamental changes are needed to reduce the caseload problem in the Federal court system. Justice Powell echoed similar concerns, noting that the dramatic increase in cases the past decade "may prevent the degree of judicial care, in selecting cases for full review, that probably existed a decade or more ago." Justice Powell stressed the need for reform limiting review of State cases by Federal courts.

Certainly large portions of the rising caseloads plaguing our courts can be directly traced to frivolous habeas corpus petitions. Senator CHILES and I have detailed to the Senate case upon case of this type of unnecessary and repetitive litigation. The time is long overdue for this Senate to initiate legislation to alleviate this procedural headache. Clearly, we are not without the power to help our courts maintain an efficient system of criminal justice in this country. Senator CHILES and I continue to support and recommend that this Congress act soon to resolve these problems. We have introduced S. 2543, the Crime Control Act of 1982, as a piece of legislation including effective measures for reform in habeas corpus proceedings. Our bill would eliminate needless petitions by enacting a 3-year statute of limitations as well as requiring increased deference to State court findings by the Federal courts.

I again urge the Senate to heed the recent comments of both Justices Stevens and Powell and act promptly, through S. 2543, to end the flood of unnecessary, repetitive, and costly litigation which now plagues our criminal justice system.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 10:30 a.m. with statements therein limited to 1 minute each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAGE INCREASE LIMITATION ON NORTH PACIFIC DIVISION CORPS OF ENGINEERS

Mr. GORTON. Mr. President, the distinguished chairman of the Appropriations Committee has included a provision in the supplemental appropriations bill which will greatly benefit a number of constituents in my State, and for which we are very grateful to him. There is currently a large disparity that exists between wages paid North Pacific Division Corps of Engineers and their counterparts in the Bonneville Power Administration and the Bureau of Reclamation. Legislation passed in the last few years imposed a limitation on wage increases for Corps of Engineers employees while it has not affected wages of employees of other Federal agencies offering similar positions in the Pacific Northwest. Thus, for example, an employee working at a Corps of Engineers dam project will automatically earn less money than an employee performing the same duties at a Bureau of Reclamation dam project. This unjustified discrepancy has caused a considerable amount of unrest among the workers affected by this wage limitation, particularly at Chief Joseph Dam, a corps project, where the workers are paid less than their counterparts at Grand Coulee, a Bureau of Reclamation project just 40 miles down the Columbia River from Chief Joseph.

Senator HATFIELD has included a provision in H.R. 6863, the supplemental appropriations bill, which would rectify this unfair situation. The provision requires that corps employees who are currently paid from Corps of Engineers special power rate schedules be paid wages determined by the Department of Defense Wage Fixing Authority. This change will assure that wages of the corps employees currently paid from the special power rate schedules will be consistent with wages of the Department of Energy and the Department of the Interior employees performing similar work in the Pacific Northwest.

Senator HATFIELD is to be commended for working to achieve equity in this situation. The people of my State are affected by this provision, and I extend to him our sincere thanks for attempting to terminate this discriminatory wage discrepancy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of the pending business, S. 2222, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

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The Senate resumed consideration of the bill.

The **PRESIDING OFFICER**. The Senator from Wyoming.

Mr. **SIMPSON**. Mr. President, I yield to the Senator from Texas.

The **PRESIDING OFFICER**. The Senator from Texas.

UP AMENDMENT NO. 1228

(Purpose: To require that the Attorney General consult with certain committees of the Congress and voluntary agencies before prescribing certain regulation regarding the legalization program)

Mr. **BENTSEN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1228.

Mr. **BENTSEN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the top of page 162, before line 1, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(e) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with qualified voluntary agencies designated pursuant to subsection (c)(1), shall prescribe regulations establishing a definition of the term 'resided continuously', as used in this section, and for establishing the requirements necessary to prove eligibility for immigration benefits under this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

Mr. **BENTSEN**. Mr. President, my amendment is a simple one. It calls for the Attorney General to promulgate regulations establishing a definition of the phrase "resided continuously", as used in the legalization section of this bill, and for establishing the requirements necessary to prove eligibility for benefits under this section, after consultation with the Judiciary Committees on the Congress and with the voluntary agencies who will assist in implementing the legalization program.

This bill gives the Attorney General the discretion in two essential areas of eligibility for the legalization program. First, the evidence and procedure that will be required to establish entry into the United States on a date certain to acquire either permanent resident or temporary resident status, and second, in arriving at the definition of the phrase "resided continuously".

My amendment does not negate this discretion. It leaves the discretion for the implementation of these particular matters with the Attorney General and simply requires a consultation process designed to insure that the congressional intent and the practical logistics of implementing the legalization provisions are considered by the Attorney General. Consultation with Judiciary Committees will insure that the Members of Congress who have worked so diligently in formulating this bill, continue to have input in the very important decisionmaking process involved in implementing the legalization program. I think this concept has proven very effective, and successful, with the Refugee Act, which requires that the administration consult with the Congress in arriving at annual refugee quotas. I believe that this consultation would guarantee that the standards promulgated by the Attorney General in this area will be clear, consistent, and realistic.

I also believe it would be extremely helpful for the Attorney General to consult with the members of the respective Judiciary Committees on the definition of the phrase "resided continuously." I have reviewed some of the case law in this area and there is disagreement among the Federal circuits on what constitutes continuous residence. It is clear that continuous residence does not mean uninterrupted physical presence. What is not clear is the length of the interruption that will be tolerated. The standard applied appears to be that one has not resided continuously in the United States if there has been a "meaningful interruption" of the alien's presence in the country. That standard is subject to interpretation and disagreement.

As I mentioned earlier, the legalization program is not and should not be considered a "reward" for illegal immigration. It is a recognition of our past failures in controlling illegal immigration. It is an attempt to "wipe the slate clean" and start anew. This can be accomplished only if the standards set forth in these provisions are followed. My amendment would, therefore, facilitate the promulgation of those standards by providing for input from the committees of the Congress most familiar with the problem. So I would urge my colleagues to support this amendment. It is an uncontroversial amendment and I hope that the Senator from Wyoming will be amenable to accepting amendment.

Mr. **SIMPSON**. Mr. President, I support the amendment of the Senator from Texas. I appreciate his patience this morning in dealing with the amendment.

The amendment simply clarifies the procedure which is now required under the Administrative Procedure Act in allowing public and congressional comment on Federal rules. That consultation is necessary to insure that the Congress has an opportunity to review the implementation of legalization in terms of legislative intent, and that the voluntary agencies, which are such a key part of any operation with regard to resettlement or immigration, will have the opportunity to comment on rules which they will follow in assisting the Justice Department to process those eligible for legalization.

Because the legalization program technically begins at the date of enactment, the Attorney General must devise some interim regulations, and those can be issued on an interim or interim-final basis before the consultation process is completed.

That is agreeable to the sponsors.

We think the amendment is helpful and mandates that consultation must occur before final regulations are completed.

I thank the Senator from Texas for offering the amendment. I think it is appropriate. It is acceptable.

Mr. **BENTSEN**. Mr. President, I appreciate the attitude of the chairman of the subcommittee, who has worked so hard in this particular regard. I move adoption of the amendment.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 1228) was agreed to.

Mr. **BENTSEN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **SIMPSON**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Colorado.

UP AMENDMENT NO. 1229

(Purpose: Expressing the sense of the Congress with respect to the enforcement of the immigration laws of the United States)

Mr. **ARMSTRONG**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1229.

Mr. **ARMSTRONG**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 162; line 11, strike out "REPORTS TO CONGRESS" and insert in lieu thereof "GENERAL PROVISIONS".

At the bottom of page 166, add the following:

ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

SEC. 402. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of U.S. citizens and aliens.

On page 79, in the table of contents, strike out "TITLE IV—REPORTS TO CONGRESS" and insert in lieu thereof "TITLE IV—GENERAL PROVISIONS".

On page 79, in the table of contents, after the item relating to section 401, add the following new item:

"Sec. 402. Enforcement of the immigration laws of the United States.".

Mr. ARMSTRONG. Mr. President, I offer this amendment because I believe it important that the Senate seriously consider the conduct of the so-called operation jobs, an attempt to round up illegal aliens launched earlier this year by the Immigration and Naturalization Service, and, having reflected upon the conduct of Operation Jobs, to make an unequivocal statement that we expect, that we demand, that we insist upon the highest possible standard of law enforcement, not only to the end that those who are violating the law be brought to justice, but even more important to the end that those citizens whose rights might be affected are accorded in every respect the full protection of the law. And even those persons who may not be citizens, even in fact may be illegal aliens, are accorded those human rights to which their personhood entitles them.

Mr. President, I bring this to the attention of the Senate because in the conduct of operation jobs in the Denver metropolitan area there is some question whether or not, in fact, such standards of law enforcement were entirely observed. It is not my purpose to rehash this in any great degree, but let me just tick off the facts that prompted me to contact the U.S. attorney for Colorado and also the U.S. Attorney General at the time Operation Jobs was underway.

First, in the course of conducting this roundup of illegal aliens, there was a sort of atmosphere which suggested a publicity stunt. I am not suggesting that everything that was done was wrong, but there was just something about it which did not smack of law enforcement as it did of public relations. Not being entirely unfamiliar with public relations myself, and I judge that most Senators know something about that subject, I do not entirely criticize that either. But the area of law enforcement, anything which in any sense might appear to prejudice the rights of any person in the cause of public relations is something that ought to be very seriously considered.

Specifically, I note with dismay that two U.S. citizens were, in fact, included in this roundup and were detained for several hours under circumstances which do not suggest the most scrupulous regard for their constitutional rights.

In addition, during the course of this roundup, officers entered a number of public places, which may, but in my opinion may not, reflect good judgment. There is no question in my mind that they were within their legal rights to enter public places to look for aliens, but these particular places which they entered, specifically some taverns and so on, raise a question of whether or not good judgment was actually used.

In addition, there were allegations, which I have not been able to substantiate, that they improperly entered some public places, including schools.

On at least one occasion the result of this roundup was to frighten a young man who saw the approaching officers, with the result that he fled the scene. Unfortunately, in the process of fleeing, he was killed.

I do not necessarily blame that on the immigration officers. In that particular instance, I have no reason to think that they were acting beyond the scope of their authority. And yet it is a fact that a young man is dead, a young man who I believe to have entered his country illegally but nonetheless it is an episode which should cause some concern.

The very worst of it, Mr. President, is that after officers entered some places where, frankly, I have doubts that they should have entered, after the atmosphere in which the entire roundup was conducted, after the episode with the young man which I have just described, there was, within the Hispanic community in Colorado, a sort of feeling of hysteria, a feeling that anyone who was Hispanic or who even looked like they might be Hispanic, whether they were aliens, legal or not, whether they were U.S. citizens, might be subject to being stopped on the street and forced to prove their citizenship; that they might, in fact, be subject to harassment.

Mr. President, I do not suggest that this is the moment for us to attempt to evaluate the success of operation jobs, nor am I one of those who thinks that it is possible to conduct any law enforcement operation of this type without some incidents that we wish had not occurred. I do say that in this particular case, enough concern was raised that I wanted to draw it to the attention of my colleagues and, having done so, to ask for the adoption of the sense-of-the-Senate resolution which I have offered as a new section 402 of the bill. That is just to make it clear to anyone who follows that procedure or who intends to take action under this statute if it is adopted that the Senate cares about the legal position of the people involved, that the Senate cares about the constitutional rights of those citizens, and even cares about the rights of those who are not citizens.

Mr. President, I see no reason for extended discussion. I shall be happy to respond to any questions. Other than that, I am prepared to move the adoption of the amendment.

Mr. SIMPSON. Mr. President, I thank the Senator from Colorado. He again proves his sensitive nature in this amendment, because this is, indeed, what we are trying to do. I concur with the amendment, which reaffirms that our immigration laws are enforced in a humane fashion—that is certainly the intent—and that the rights of citizens and aliens are protected in the enforcement of these laws. Certainly, we do increase the protection and we do assure that the enforcement will be carried out in a humane manner. As I say, that is what we have been trying to do throughout the entire hearing process and the drafting process on S. 2222. This very well reaffirms our intent.

Let me say that some of the rather unfortunate—indeed unfortunate—situations the Senator from Colorado has outlined could very likely be resolved by the passage of this legislation so we would not have those types of operation throughout the country.

I thank the Senator from Colorado, Mr. President. We do accept the amendment.

Mr. KENNEDY. Mr. President, I join my colleague from Wyoming in commending the Senator from Colorado for making his recommendation. There is no question, that, over a period of years, there have been raids both in communities and in jobsite areas which have resulted in discrimination against American workers.

I know the Senator has commented on the operation jobs program and the indignities which were brought about by that operation. These searches, these raids, cause enormous concern to American citizens and permanent resident aliens. I think the recommendation that has been made by the Senator from Colorado will, for the first time, establish in the law some important guidelines which should be followed. I think it is a very helpful and constructive recommendation. I certainly welcome seeing such language included in this bill.

Mr. DOMENICI. Mr. President, I commend the Senator from Colorado for what I heard him say—may I ask him his intention with reference to the concept, in the sense-of-the-Senate resolution?

Could he briefly tell the Senator from New Mexico what it says? What specifically will we be recommending by this sense-of-the-Senate approach?

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I shall be happy to respond.

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The sense-of-the-Senate language which is contained in the amendment I have offered simply expresses the sense of this body that we call upon those who are charged with enforcing immigration laws to do so vigorously and uniformly and that, in doing so, the Attorney General and other responsible law enforcement officials should take all due care and those deliberate actions which are necessary to safeguard the constitutional rights, personal safety, and human dignity of U.S. citizens and aliens.

I distinguished, in this recommended language, U.S. citizens from aliens because, obviously, U.S. citizens have certain rights that stem from their citizenship, while those persons who are here as aliens have other kinds of rights of a more limited nature. But, I point out to my colleague from New Mexico, someone who may be here as an alien, even as an illegal alien, even as somebody who has entered this country under circumstances that may be reprehensible, even though those rights may be different from a U.S. citizen's rights, nevertheless, it would be the desire, I am sure, to accord to such persons, even those here under the wrong circumstances, the human dignity and the human rights to which his personhood itself entitles him.

I do not think that in this resolution, we establish any new legal rights for anyone. What we are saying is how we feel about the enforcement process. I particularly wanted to reflect in my remarks a concern about the specifics of an enforcement operation which occurred in my State, the details of which I am familiar with, so that, laid down beside this sense-of-the-Senate language, it would provide a degree of guidance to law enforcement officers.

Mr. DOMENICI. Let me say to my friend from Colorado that I commend him for his statement on the floor and for the resolution. I have a little different perspective than some in that both of my parents were immigrants. One was an illegal alien for a long time and did not even know that she was. I had an experience, when I was a very young boy, with the Immigration and Naturalization Service. The INS officers visited my home and the experience was one of the most frightening memories of my childhood. From that experience, and from reports I hear from others I think I would add that it appears to me that frequently, there is an absence of common, ordinary horsesense on the part of immigration officers in the manner that they discharge their official duties.

I hope that our intent in this resolution is to expect the highest level of professional conduct from the INS in dealing with people, citizens or aliens alike, with regard to their human dignity. I do not want to add my interpretation of it; I have just given it. I do not think we can accord people that basic right of human dignity without using good commonsense.

I know the INS officers have a difficult job and I would not burden the Senate with the experience that I had as a young boy with my family, but it appears to me that there is a propensity for some kind of hysteria—the Senator mentioned it—in the community of Hispanics.

I think sometimes the Immigration officials act as if they are hysterical. They frequently do things that, with the Senator's language in mind, in retrospect, they conclude did not evidence common ordinary sense in dealing with people. I commend the Senator for good language. I think we ought to make it eminently clear that we do not think these problems are all going to go away because we pass this bill. Even if this bill is going to be everything everybody says it is going to be, we are still going to have illegal aliens. We are going to have them here for a long time. We are going to have large numbers of them. They may not even sign up for either the permanent or the temporary designation and may thus remain illegal aliens. History indicates when you have one of these kinds of programs, illegal aliens are fearful to sign up. They are afraid of the Immigration officials. We are going to have them here and they will not even prove they qualify.

History in other countries such as Belgium, Holland, and England would indicate that huge percentages are going to remain in their illegal status out of fear and trepidation. They are not going to have enough confidence to come forward to prove their eligibility for legalization. They are going to remain in the subculture classification that concerns the Senator here today. They will remain undocumented. Some will be exploited. This bill will not solve their problems any more than it solves all of our immigration problems. We have to continue to look for and approach them in an effort to carry out the laws.

I do not think those episodes are going to go away. Those instances are going to be there. I personally think that we need very levelheaded, stable, consistent people running these operations. I think the Senator's sense-of-the-Senate resolution will clearly indicate that that is a high quality and standard that is going to be required in carrying out the responsibilities of this sense-of-the-Senate resolution.

I thank the Senator for it, and I support his approach.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1229) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1230

(Purpose: To protect the privacy and security of a system to determine employment eligibility in the United States, and for other purposes)

Mr. SIMPSON. Mr. President, I send to the desk an unprinted amendment on behalf of the Senator from Kansas (Mr. Dole) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Simpson), on behalf of the Senator from Kansas (Mr. Dole), proposes an unprinted amendment numbered 1230.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, between lines 20 and 21, insert the folowing:

"(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

On page 84, line 21, strike out "(D)" and insert in lieu thereof "(E)".

On page 85, line 1, strike out "(E)" and insert in lieu thereof "(F)".

On page 85, line 5, strike out "(F)" and insert in lieu thereof "(G)".

On page 85, between lines 11 and 12, insert the following:

"(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

● **Mr. DOLE.** Mr. President, part A of title 1 of S. 2222, as reported from the Committee on the Judiciary, establishes Federal criminal sanctions for employers who knowingly hire illegal aliens. The employer, under this process, must verify he has examined documents which establish both (a) eligibility to work, and (b) identity showing that the individual presenting proof of eligibility is not presenting false identification. A valid U.S. passport would establish both. Otherwise one document in each of the following categories would be presented: (a) Social security card or birth certificate, and (b) INS—issued "adit" card, drivers license, other State-issued card, or other documents approved by the Attorney General.

The above verification procedure would be in effect for a 3-year transitional period. During that time, the

President would be directed to develop and implement a secure system to verify work eligibility. The system would not be available for any other law enforcement purpose and if it were to involve the use of a card, the card could not be used for any other purpose. However, if the transitional procedures proved to be effective, the new system would not be required.

These provisions, which constitute an attempt to deal with a highly complex set of issues relating to personal identification systems, could lead to the establishment of a Federal database on every employed person in the United States which would be very costly and fraught with potential violations of individual privacy and freedom.

This proposed amendment to section 101(c)(1), title 1, of S. 2222 would broaden the scope of the Presidential directive described above. The President would be directed to examine existing Federal and State identification systems including but not limited to: Social Security, drivers license, food-stamp eligibility, passports, and others to evaluate their suitability for purposes of this act. The proposed amendment also directs the President to make recommendations to Congress for the establishment of civil and criminal sanctions for unauthorized misuse or disclosure of the information or identifiers contained in the system.

Mr. President, without these above changes, the committee bill could lead to the establishment of an expensive and redundant personal identification system which may be overly centralized at the Federal level. The system may not have adequate safeguards to prevent unauthorized access to personal information on virtually every individual in the United States as well as tens of thousands of individuals seeking admission to the United States for employment purposes.

The amendment will encourage a carefully safeguarded, economical, and efficient possible use of otherwise available Federal and State identification systems.●

Mr. SIMPSON. Mr. President, Senator Dole is not able to be present today because of his deep involvement in conference committees and he asked me to present this amendment.

This amendment will provide additional safeguards to protect privacy and the security of personal information utilized in the more secure system to determine employment eligibility to be established under the bill. It will provide coordination and cooperation with other State and Federal agencies in using expertise developed in the area.

I have discussed this amendment with the distinguished minority floor manager. I believe he shares my view that it is a desirable amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1230) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1955

(Purpose: To strike out provisions amending the Immigration and Nationality Act regarding the admission of nonimmigrant temporary workers)

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes a printed amendment numbered 1955.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, in the table of contents, strike out the item relating to section 211.

On page 79, in the table of contents, redesignate the items relating to sections 212 and 213 as items relating to sections 211 and 212, respectively.

On page 120, line 23, strike out "212(b)" and insert in lieu thereof "211(b)".

Beginning on page 140 with line 13, strike out all through line 21 of page 146.

On page 146, line 23, strike out "Sec. 212." and insert in lieu thereof "Sec. 211.".

On page 147, line 22, strike out "Sec. 213." and insert in lieu thereof "Sec. 212.".

On page 154, line 7, strike out "212(b)" and insert in lieu thereof "211(b)".

On page 165, line 10, strike out "213(a)" and insert in lieu thereof "212(a)".

Mr. KENNEDY. Mr. President, the purpose of this amendment is simply to restore existing laws and regulations governing the H-2 temporary foreign worker provisions of the Immigration and Nationality Act.

The United States has long had a limited program through which temporary workers are allowed to enter the country on an H-2 nonimmigrant visa. Petitions for these workers are reviewed by the Department of Labor, which must certify that U.S. workers are not available and that the employment of aliens will not adversely affect the wages and working conditions of other similarly employed American workers.

From 1973 through 1976, H-2 admissions averaged a little more than 30,000 workers annually, 12,000 of whom were agricultural workers. In 1977 and 1978, the number dropped below this level to 28,000 in 1977 and 23,000 in 1978.

Although there remain some problems and bureaucratic redtape in the administration of this program, it has generally worked satisfactorily. Furthermore, we can improve the fairness of the program to both U.S. workers and employers without any change in the statute, but through simple changes in the regulations.

This is because the H-2 program is largely a function of regulations. There are only four paragraphs in the immigration law establishing the program. Otherwise, it is entirely governed through regulations prescribed by the Attorney General, after consultations with the Secretary of Labor. Also, there is nothing in the statute that bars him from consulting with the Secretary of Agriculture or anyone else.

However, because the H-2 program in the agricultural area has only been used in the East—since western agricultural growers have always been able to depend upon a continuing supply of undocumented aliens—there was strong pressure to establish a formal temporary worker program in this bill if employer sanctions are established. The western agricultural growers fear that the H-2 program will not work to meet their anticipated labor needs.

But the burden of proof must rest on the employer through the labor certification process. We must resist establishing a large-scale temporary program—of going back to the old "bracero" program—because there is absolutely no evidence that it is needed.

When the Select Commission considered this issue, we voted overwhelmingly against establishment a massive, new temporary worker program. However, we did recommend some changes, which the President is directed in this bill to review.

Mr. President, the Commission voted against a new temporary program because the adoption of the legalization program, and the implementation of the new immigration system established in this bill, will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here. In short, all those undocumented aliens upon which western agricultural growers have become so dependent, will be legalized.

But in response to the fears of some growers, and because of their lack of experience with the H-2 program, the committee attempted to write into this bill certain reassuring provisions which are now, under existing law, simply regulations. Through a long process of negotiations, the committee

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picked some of the regulations and wrote them into the bill, while ignoring others.

In the process, I believe the cumulative affect of this process has been to seriously weaken the labor certification and other labor controls on the H-2 program. This has understandably alarmed labor organizations, who see a weakening of the current high standards employers are now required to meet in seeking American workers first.

Mr. President, the need for temporary workers can be met by the existing H-2 program, as established in the Immigration and Nationality Act, and governed by regulations. If changes are needed, as suggested in this bill, then let both sides present the evidence to the Department of Labor and let the regulations be adjusted.

My amendment simply strikes the new H-2 language in the bill, leaving existing law and regulations to govern the admission of H-2 workers.

In conclusion, Mr. President, I think it is important to emphasize that the H-2 temporary worker program was designed to provide employers with temporary foreign labor only during unique and emergency circumstances. It was never intended to become a permanent, ongoing guest worker program. And it should not become one now.

We should be looking to the day when we can eliminate this program—to end America's dependence upon foreign workers—not to perpetuate it.

By returning to the H-2 program as it now is, we will be reaffirming the intention of Congress that this program should not become a formal, and continuing, guest worker program.

Mr. President, I would like to share with my colleagues a factsheet that clearly makes this point. I ask unanimous consent that it be printed at this point in the Record.

There being no objection, the factsheet was ordered to be printed in the Record, as follows:

The Guestworker Program in S. 2222—A Factsheet Prepared by AFL-CIO

THE H-2 PROGRAM: WHAT DOES IT DO?

The H-2 Program was designed to provide employers with temporary foreign labor in unique and emergency circumstances. It was not designed to accommodate the hundreds of thousands of guestworkers implied by the committee bill. In order to quality for the present program, the employer must establish that a reasonable effort has been made to attract American workers. These protections for American citizens, rather than any formal cap, define the size of the program. The simple requirement that domestic workers get first crack at jobs in this country is, however, one of the things changed by the committee bill.

NUMBERS: HOW MANY GUESTWORKERS ARE WE TALKING ABOUT?

The program has admitted about 30,000 foreign nationals annually: This year it will be about 42,000. Not all of the visas are agricultural labor, of course; some 20 percent, in fact, are in the construction industry, which certainly faces no shortage of qualified domestic labor. While proponents of this new H-2/Guestworker program for obvious reasons won't talk numbers, they clearly mean to import a lot of people. Their program has no upper limit, and few protections for Americans. We could see several hundred thousand guestworkers shipped in for American jobs. Earlier this spring, the Attorney General described the new proposal in such very massive terms during a speech before the California Chamber of Commerce in Los Angeles.

GUESTWORKERS IN IMMIGRATION POLICY: DO WE NEED MORE ALIEN LABOR NOW?

The program must be taken in context. Other parts of the legislation would legalize the status of several million illegal aliens, but nobody knowns exactly how many people will be involved. Nor can anyone predict their occupational or regional mobility, their skill levels, or their unemployment rates once their status is adjusted. The bill also encourages family reunification under a new system, which means even more unfamiliar variables in the labor market. No proponent of this guestworker program, for instance, is pretending to predict the labor force participation rates of the spouses and minor teenage children admitted during the first three years following enactment. These new factors are bound to have impacts on regional and national labor markets already burdened by eleven million jobless. But until we know what they are, there is no evidence to support a new "need" for more foreign workers, particularly since the current program would accommodate any special, emergency situations.

DOMESTIC IMPACT: WHO GETS HURT?

The more guestworkers admitted, the more violence done to more of our society. On the front line would be those competing (in their own country) with cheap foreign labor. Typical in low-skill, low-wage occupations are women, minorities and new entrants into the labor force, some facing unemployment rates over fifty percent.

The consumer ends up paying for production methods which are reliant on foreign labor and which discourage the upgrading of low level jobs. In fixing wages at H-2 levels, the government depresses the ordinary instincts and incentives to improve productivity. In place of efficiency, the bill promotes "labor subsidies," underwritten by the American taxpayer, the consumer and those workers least able to pay.

Most arguments pushing guestworkers also focus on a supposed shortage of qualified American labor, but their perceived shortage exists only under the terms and conditions offered by the employer, which may be well below the going rate. They conveniently do not focus on what would happen if a free labor market were really working instead of being distorted by thousands upon thousands of imported foreign workers. If Americans were allowed to ask for better conditions, for example, instead of being undercut and routinely displaced by guestworkers, those better conditions might attact more domestic workers. It does happen, of course. Not too many years ago, coal mining was the dirtiest, most dangerous job in the country, but over time conditions improved to the extent that today the mines face no labor shortages.

NEED VERSUS DESIRE: WOULD TEMPORARY WORKERS REALLY BE TEMPORARY?

While chairing hearings last October 22, Senator Simpson observed "Once employers can use foreign workers, they want to keep using them and discourage U.S. workers, thereby justifying a continued 'need' for Mexican labor." He was absolutely right.

THE TRACK RECORD: WHAT IS THE EXPERIENCE WITH GUESTWORKER PROGRAMS?

Whether here or abroad, they have been a blight. The Biblical exodus from Egypt, in fact, is the first good story of a failed guestworker program. A little later (1973) West Germany stopped recruiting its Gastarbiters, but not all left. In 1973-74 two million European guestworkers returned home, but five million stayed, with some seven million dependents. Now, with a serious unemployment problem of its own, the German government has been forced to try special bounties to persuade the guestworkers to leave.

In our own country, we stopped the bracero program in 1964, after a twenty-two year history of racism and abuse. To make matters even worse, that program actually increased illegal immigration, by raising Mexican expectations of the promised land through bracero recruitment efforts.

THE NATIONAL TEST: LOOKING FOR AMERICANS

Currently, the H-2 program requires employers to make sure that there are no available American workers before foreign workers are recruited. This "national test," while obviously designed to protect our citizens, has come under fire for being "excessively burdensome." Actually, it is nothing of the kind. Typically all that is required is a job order filed free of charge at a local employment service office. The government takes it from there. To remove the "national test," however, poses considerable problems for US workers who might want to apply for the job. If, for instance, the would be employer is merely required to look within his own local area or state, there is a good chance the job offer will never reach most farm workers farther up the migrant stream. Farm labor rarely remains stationary; the occupation requires mobility. All that we would require of the employer is that he let Americans know what he wants of them, before he asks our government to forget about us.

LEGAL STATUS: PROTECTING THE H-2 WORKER

This proposal has official guarantees, but the dog won't hunt. In practice, the limited tenure of guestworkers prevents enforcement of certain, often the most important labor laws. Any protracted enforcement procedure (whether legitimate due process or not) nullifies protection of the temporary worker. A company can tie the Wagner Act in knots if it wants to. The cost to the average citizen is bad enough: To someone on a month-to-month visa, it is insurmountable. Justice delayed ends up justice denied.

One of the big question marks in this bill is what Secretary Donovan would do with the relevant regulations. Currently, there are explicit guarantees that the H-2 worker shall be transported, housed and treated with some modicum of decency. Of course, should the committee bill become law, each of those provisions may be rewritten and, possibly, returned to sender. Not that the current protections afford the farm worker any special comforts; but, on the other hand, the bill provides no guarantees that minimal protections would not go out the window either.

EMPLOYER ASSOCIATIONS: LOOPHOLES FOR CARTELS?

The bill authorizes an association of agricultural producers to petition for an H-2 certification on behalf of its members. If the association is the sole employer of the alien labor, then only the association can be held liable for misrepresentations to the H-2's and the government. Should the association members violate their contract with the workers—for pay, hours, or other working conditions—only the association itself would be held responsible. Moreover, if the association makes false representations to the government in order to secure H-2 workers, the association, and not its members, is to be held liable and barred from the program for one year. This would enable employers to set up association which would be dissolved and reconsituted at will to avoid liability for the misdeeds of its members. The guilty parties would be unpunished and eligible for new certifications.

The bill also allows associations to represent producers of many crops in an association. Current regulations properly limit these associations to a single crop. Crops tend to have different peak harvest periods. Under the bill's language, once one crop is harvested, the guestworkers would be moved to another, then another, and so on. This raises the very real possibility of a vast, floating labor pool of alien workers moving around the country under these associations.

THE DEPARTMENT OF AGRICULTURE: A NEW REGULATOR FOR THE LABOR MARKET?

At the present time, the Department of Labor (DOL) is responsible for regulations covering H-2 workers. Only the DOL can approve a petition for any kind of H-2 workers. This is appropriate, because of DOL's overall stewardship of the labor market. Section 211(d) of the proposed immigration bill would vest the authority to write H-2 regulations with the Attorney General, and would dilute DOL's role by imposing the Department of Agriculture (USDA) in the process of writing the regulations.

The DOL would continue to issue all regulations relating to certification for H-2 workers, but would have to work in conjunction with the USDA in advising the Attorney General on regulations governing agricultural H-2 workers. These workers would not gain at all by adding yet another step in the regulatory process. In fact, extending the process to one more federal bureaucracy is more likely to undermine the protections they currently have.

INTERNATIONAL IMPLICATIONS: A RELATIONSHIP BASED ON EXPLOITATION?

Although promoted as a near-magical "population safety valve" for Mexico, this guestworker proposal has been a diplomatic Edsel. Before we pressure that we are doing our neighbors some big favor, consider for a moment the situation were we in their place. Consider the spectacle of our exploited compatriots working jobs beneath acceptable Mexican standards. Think about being a part of a permanent, if individually rotating, subclass relegated to the least desirable jobs. Denied the basic and minimal social services, the situation could easily excite as much tension as admiration on the border.

Marginal, substandard conditions make for a highly dangerous and provocative foreign policy, which is why Mexican church, labor and other organizations have denounced guestworker programs in the past. International traffic in exploited human beings is a reckless enterprise. Only last year Senator Simpson said, "potential short-term economic benefits must be weighed against the potential long-range social dangers which might result." Amen.

Mr. KENNEDY. Mr. President, let me make clear that the purpose of my amendment is to insure that the current rules and regulations which have been tried, tested, and worked effectively will continue to work in force over the period of the future and be applied to any temporary worker program.

It seems to me, Mr. President, that these rules and regulations have worked, they have been effective and they have also protected American workers.

It has not been an easy process to develop these rules and regulations over a period of years. Many States have been affected by the workers coming in for temporary periods of time. I know in Massachusetts, which does permit some temporary workers, a limited number, at the time of picking apples and some other crops that this is a procedure which is important in terms of protecting the interests of workers and also insuring fairness to those that are going to come in as temporary workers.

It does not seem to me to be wise for us at this time to alter that process in a way which may very well jeopardize the job conditions of Americans, particularly at this time of high unemployment, and that may very well have some adverse impact on the wages of American workers in different regions of the country.

Mr. President, it is a simple amendment, but it is extremely important and I hope that the Senate is prepared to accept it.

Mr. SIMPSON. Mr. President, I wish to resist this amendment. This is a very difficult area of H-2 workers, which is the statutory form of a temporary worker program. You will note that in S. 2222 we do not embrace the concept of "temporary worker" or "guest worker."

We found that not appropriate and so, to do what we had to to provide agriculture with the necessary personnel, especially growers in the West, livestock personnel, we had to make adjustments in the H-2 program that is presently on the statute books. We did that by a streamlining process.

The problem is that some U.S. employers have become absolutely dependent upon illegal labor. The committee did not want employer sanctions, which is the most critical part of this bill, to create an abrupt negative impact on these U.S. employers, and so we provided a transitional program for admitting needed workers by means both expeditious and protective of U.S. workers in similar jobs.

The existing H-2 program which admits entertainers, professional athletes, and only really 18,000 agricultural workers, is protective of U.S. labor, and that is very critically important. But it is not sufficiently expeditious to provide needed workers, particularly in the agricultural industry.

This new H-2 program in S. 2222 provides a clearer and more expeditious procedure for addressing temporary labor shortages, particularly in agricultural labor.

Of all the provisions considered in the last year and a half with regard to this legislation, I would say that we spent more time on these H-2 provisions in this bill. They were carefully drafted. We not only had hearings, we had extensive consultations, informal consultations with labor unions, agricultural growers, representatives of migrant groups, the Department of Agriculture, the Department of Labor, the INS and each down through the esoteric distinctions of onions, grapes, berries, sheep—it was a fascinating procedure.

All contributed in a most significant way to the new H-2 program which is contained in the bill. Of all the areas of the legislation—and certainly some perilously mounted there—this is the one that hangs by the silken thread. Without those provisions, the committee believes that U.S. employers, agricultural employers in particular, will have difficulty obtaining needed workers during the transition period.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. I will yield in a moment. I have a few more remarks.

Clearly, Mr. President, there is a need for a specific program for agriculture.

In 1960, there were 400,000 U.S. migrant farmworkers. By 1970, the number declined to 200,000. In contrast, now the U.S. Department of Agriculture estimates that there are 300,000 to 600,000 illegal migrant farmworkers in the United States.

It is not likely that a great number of the labor pool will qualify for the continuous residency requirement in the legalization program. Therefore, American agriculture must have some means to convert the current illegal work force into a legal one, and we believe that we provide that in S. 2222.

I am happy to yield to my colleague from Idaho.

Mr. SYMMS. I should like the Senator to explain something for my edification. He mentioned to me yesterday something about the H-2 program. He referred to it again this morning. Can the Senator tell me how the H-2 program is going to replace what many of us thought we should have—a guest worker permit system? How is the H-2 program going to answer the demand for farm labor, particularly in the Western States, where, as the Senator from Wyoming knows, there is a guest worker program right now, but it is not legal?

Mr. SIMPSON. Mr. President, the committee rejected, as I indicated, all

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proposals to have a massive, new temporary guest worker program. We felt that it had failed in Europe wherever it was used. We had interesting testimony to show that temporary workers, or guest workers, came to France and Germany, and now we find those Governments trying to pay them to return to their countries—if you can believe that. They offer Turkish persons in Germany a certain sum of money to return.

We did not want to go to that. We provided that after 80 days, when the persons involved in agriculture indicate that they need or require a flow of workers, they simply make their petition or application, within the 80-day period. Then, within 20 days, under this legislation——

Mr. SYMMS. Eighty days prior?

Mr. SIMPSON. Eighty days prior to when they need the workers.

MR. SYMMS. Let us say they need sugar beet workers in western Idaho, for example, and they make a petition 80 days before that they need 5,000 workers.

To what page is the Senator referring?

Mr. SIMPSON. I refer the Senator to the report language on H-2 workers on page 44. That is a very complete description of what we did, what we require.

We also recognize the special problems of livestock. We are indicating that under the new procedure, aliens may perform seasonal labor for not more than 8 months in any calendar year, except where there is a case of agricultural labor or services in which the Secretary of Labor recognizes, before the enactment of this, that a longer period was necessary.

As I indicate, the entire procedure is set out. The employers are not required to file for temporary agricultural workers more than 80 days before the labor or the services are required. Then the Secretary of Labor is directed to make his certification at least 20 days before the date the labor or services are required, if the employer has complied with the criteria for certification and if he has not had other qualified people referred to him as he would ordinarily.

That petition is then filed. There is an expedited procedure. If the employer, in reliance upon this approval, does not receive these employees, these temporary, seasonal workers, then he can actually demand that that take place. He can have a de novo hearing within hours, and he either receives those persons or he can go outside the labor force to do so.

Mr. SYMMS. Let us say, for example, that you are trying to bring 5,000 workers to a certain area for a very timely type of work—say, working on sugar beets or picking perishable commodities, harvesting potatoes. Does the farmer or the producer then have to have the name of each worker, or does he go to the Department and file for 5,000 workers or 500 or 50, and they come in?

Mr. SIMPSON. If the Labor Department does not furnish the labor that has been promised, the employer can then bring them in.

Mr. SYMMS. He can bring them in himself, the employer can?

Mr. SIMPSON. That is correct.

Mr. SYMMS. Does the Senator perceive, then, that a lot of workers now coming in illegally will start coming in under the H-2 program?

Mr. SIMPSON. Many of them will be legalized under the provisions of this measure.

Mr. SYMMS. The amnesty program of this bill?

Mr. SIMPSON. That is correct.

Mr. SYMMS. In the future, when aliens are brought in, they will come under the H-2 program, so-called, as guest workers. In the Western part of the United States, we are using Mexican nationals for agricultural labor that is what I am talking about.

Mr. SIMPSON. They will be described as H-2 workers.

Mr. SYMMS. What does the amendment of the Senator from Massachusetts say?

Mr. SIMPSON. He is simply moving to strike the new H-2 temporary worker provisions of S. 2222, leaving existing law and regulations, if I state it correctly.

Mr. SYMMS. In other words, there would be no way under this bill to bring in new workers if the amendment of the Senator from Massachusetts is agreed to. Is that right?

Mr. KENNEDY. No, that is not correct at all.

Under the regulations that are in effect at the present time, which I want to continue, 28,000 were brought in during 1977 and 23,000 were bought in during 1978. But at the same time this bill has rejected the concept of returning to a bracero type of program.

What we are saying is that we have rules and regulations that have been established and are basically going to guide this program in the future. But there is no ceiling.

The law governing this program is virtually one page long. It provides enormous discretion to the Attorney General. We felt it was important that such discretion be continued. However, it has not been the position of the committee that we return to a bracero type of program.

The existing H-2 provisions provide for adequate numbers in the past, they have met the agricultural needs in the past. I would expect that there would be some increase in the future, but it will be done in a way to protect American workers, their wages and their working conditions.

Mr. SYMMS. I appreciate that. I am not trying to be argumentative. I am trying to understand this: In the Columbia Basin—in Oregon, Washington, and Idaho, for example—in past years, 80 percent to 90 percent of the perishable crops have been harvested by what would be termed here "illegal aliens." It is a guestworker program that works very well.

The problem with it is that because of the illegality of it, the workers are always running. I appreciate the amendment of the Senator from Colorado. I have witnessed some horrible human rights violations—but I will not burden the Senate with them—of immigration authorities chasing people who legitimately come to the United States for only one reason—to earn an honest living, to provide for their families. Yet, somehow, they run like hunted criminals if a law enforcement officer comes near.

In other words, what the Senator from Wyoming is saying is if the amendment were agreed to, then there would be no means to bring in new workers other than the 23,000 workers the Senator mentioned. I believe Senator HAYAKAWA introduced a bill earlier this year allowing for 1 million workers to come in, the guest-worker program.

I personally think that would be a reasonable figure, if we try to include what is happening in this country. But I wish to know how are these crops going to be harvested if new workers are required anywhere in the country if the Kennedy amendment should be agreed to?

Mr. SIMPSON. Mr. President, in my mind it would be indeed much more difficult if the Kennedy amendment were agreed to. The whole purpose of the H-2 provisions and the streamlining or expediting that is in S. 2222 was to expedite the flow of persons for seasonal work in the United States. We expedited this procedure particularly for the employer and particularly the agricultural grower. In addition, for the first time under S. 2222, the Secretary of Agriculture is involved.

The Secretary of Agriculture was never involved. For the first time now, under S. 2222, we have the involvement of the Secretary of Agriculture—we have him involved in the consultation process. Under the report language on page 46, we say the Secretary of Labor. We do not take away any of the powers of the Secretary of Labor. But we say:

> The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, is required to report annually to the Congress on the certification process, including the impact of temporary alien workers on labor conditions in the United States and on compliance with the conditions of the program.

The bill even provides appropriations of $10 million in each fiscal year to recruit domestic workers for jobs which temporary alien workers might otherwise perform and to monitor the conditions of employment of nonimmigrants and authorizes that type of procedure.

It makes agricultural workers more readily available to American agriculture than under the present law, at the same time protecting U.S. workers. Agricultural growers in the Northeast and in Florida have used H-2 worker programs successfully for years. Under S. 2222, we will now find that use available in other parts of the United States.

Mr. SYMMS. In other words, when people from the Caribbean, and so forth, are brought in for agricultural harvest in the Northeast and the Southeast, we would be doing a similar thing with Mexican nationals, I assume, in the Western States.

Mr. SIMPSON. That is correct.

Mr. SYMMS. And it is the opinion of the Senator there will be enough flexibility. I guess the concern the farmer will have is, will he really be able to rely on the bureaucratic maze of Government to act fast enough to realize that peaches, cherries, potatoes, and other crops like that are perishable and have to be harvested at a certain time? And it is the opinion of the Senator from Wyoming that that will be an expeditious process.

Mr. SIMPSON. Mr. President, indeed one of the critical issues we discussed was perishable crops, the seasonal nature of what was required, the immediacy—maybe even within just hours or days—of the crop to be harvested. With the procedures we have here, the promise is made and there is the commitment. If the commitment does not come through where the perishable aspects are critical, then we have a method to even overcome that in this legislation.

Mr. SYMMS. I thank the Senator very much for his enlightenment to this Senator on this question.

Mr. SIMPSON. I thank the Senator from Idaho.

Mr. KENNEDY. Mr. President, I shall only mention here some of the aspects of the current regulations which are eliminated under the provisions of this legislation.

First of all, there does have to be an active effort for recruiting workers and the recruitment provisions are weakened. It does seem to me that if the jobs are going to be available, there should be some requirements for indicating that those jobs are available, whatever those jobs are going to be, and whatever the wages are going to be. But those particular provisions are significantly weakened under this legislation.

Second, there is also a user fee requirement now, so if employers are going to need individuals to work in a particular industry, we are not going to burden the Federal Government on the costs of processing and seeking foreign workers. Why should the Federal Government have to bear the burden for some particular grower, whether that grower happens to be in Massachusetts—and they do grow apples up there and other produce—or whether it exists in the other parts of this country?

We hear a great deal about user fees in other areas. The fact of the matter is, this weakens those particular provisions in the current regulations that require user fees. It says that if agricultural groups are going to need foreign workers, they must bear the financial responsibility in terms of trying to find out if those workers are available.

Another provision weakens the opportunity for American workers because it says that if the individual who shows up for work and is trying to bargain above the minimum wage, then the grower can say, "We do not have to pay you more; we can take a foreign worker at the minimum wage."

I believe that the impact of that can be adverse in terms of the working conditions for workers in this country.

The fact of the matter is, 70 percent of minimum wage recipients in the United States of America are heads of households, and so we are not just talking about part-time workers here. It may be part-time for a particular crop, but we are talking about men and women who are trying to provide for their families, and under this particular provision, they are able to say that if the American worker or resident alien shows up for this job or if several show up for this job and say they are prepared to do it at somewhat above the minimum wage, that the grower is able to turn them down and get a foreign worker.

And then there is the whole question of responsibility for these individuals, once they begin to work in these agricultural areas. The change in the rules and regulations on these multicrop associations I think diffuses the responsibility of individual employers for some essential protections.

We have not established any ceiling on the H-2 program. We have not said it is 50,000, 500,000, or 1 million. We have not established any figure. But what we are asking for is that the tried and tested rules and regulations which have been established to control the temporary worker program, and also for the protection of the American workers, will continue.

This body has seen what happened when we had the bracero program. I was here in the period of the 1960's when one of the darker chapters of the employment situation in this country was the extraordinary exploitation of the braceros. I think it is essential that we do not send out a message as we consider this legislation that we are going back to that regrettable time.

As I mentioned earlier, the statutory language governing this program is effectively four paragraphs long, and that what is guiding those paragraphs are existing rules and regulations.

I say the rules and regulations which are in effect now and have applied for the admission of 28,000 temporary workers in 1977, 23,000 in 1978, should not be weakened in terms of protecting both the guest worker and protecting the American worker, particularly at this time of dramatic unemployment.

Mr. SIMPSON. Mr. President, I certainly share the views of the Senator from Massachusetts about the scope and misuses of the bracero program.

I happened to personally witness that when I was a young man in Crook County, Wyo., and it was as offensive to me then as it is now. I will leave out some of those personal recollections of that program.

But let me say that the H-2 provisions in S. 2222 actually in many ways are strengthening labor market protections under current law because we have built into the legislation what were previously some Labor Department regulations. I think that is worthy of note.

But I agree we must monitor it carefully. So in the law we have put the provision for a report annually to Congress on the certification, including the impact of temporary alien workers on labor conditions and on compliance with the program.

I thank the Chair.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MITCHELL. Mr. President, I rise in support of the amendment to strike the H-2 provisions of S. 2222. I am deeply concerned that the changes S. 2222 would make in the H-2 program could lead to the widespread use of foreign labor in this country at a time when almost 11 million Americans are unemployed.

The H-2 program, or bonded program as it is known, is designed to allow employers to hire foreign workers on a temporary basis if: First, qualified American workers are not available and second, hiring the foreign worker will not adversely affect the prevailing wage rates in the area. Although most H-2 workers work in the agricultural sector, many work in other industries in this country including the construction industry.

S. 2222 would make several major changes in the law governing the H-2 program. Taken together, they could lead to the increased use of foreign

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labor at the expense of American workers. Specifically, I am concerned about three changes.

First, S. 2222 would give the Attorney General the authority to issue the regulations governing the program, in consultation with the Secretary of Labor and the Secretary of Agriculture. Under current practice, these regulations are issued by the Secretrary of Labor. In my view, this is as it should be. The H-2 program, after all, involves the supply and demand of U.S. workers which is a labor issue.

I can understand the desire of agricultural interests, primarily in the West, to bring the Secretary of Agriculture into the regulatory decisionmaking process. However, I am concerned that bringing the Secretary of Agriculture into the process will result in regulations being issued which make it easier to bring foreign workers into the country. I believe this would be detrimental to workers in my home State of Maine, and around the Nation.

Second, current law governing the H-2 program allows foreign workers to be brought into the country if "unemployed persons capable of performing such service or labor cannot be found in this country." In practice, what this "national test" means is that the Department of Labor makes a search for available workers only in those States or regions of the country where such workers are known to exist.

S. 2222 would delete the reference to "in this country." No one knows exactly what affect this will have on the search made for U.S. workers. I am concerned that this would lead to regulations being issued which would require an employer to search for U.S. workers only in the immediate area, or the State, or perhaps a part of a State. This could lead to foreign workers being brought into the country when able and willing U.S. workers are available in adjacent States, or other parts of the same State.

Finally, I am opposed to the changes S. 2222 would make in the enforcement provisions governing the H-2 program. Under current regulations, if an employer does not "comply with the terms" of the labor certification which allows him to bring foreign workers into the country, the Regional Administrator of the Department of Labor may deny that employer's certification for the coming year. Under S. 2222, the Secretary of Labor may not issue a certification if, during the previous 2 years, the employer has substantially violated an essential term or condition of the labor certification. What is an essential term? What constitutes a substantial violation? Neither of these phrases is defined in the bill or the committee's report. I am concerned that the vagueness of this language will render the enforcement provisions meaningless and can only lead to increased litigation as to whether an employer violated his certification.

The regulations governing the H-2 program apply to the logging industry as well. I am particularly concerned about the potential impact changes the H-2 program will have on Maine woods workers. For many years, Maine's woods workers have been competing with Canadian woods workers for scarce jobs in the logging industry. This competition is made even more intense in today's current recession in which the demand for wood products, of all kinds, is sharply reduced.

Under current practice, a logging contractor who typically signs a contract with a paper company to supply a certain amount of wood hires woods workers to do the cutting. In January, these contractors usually apply to the Job Service to bring in Canadian woods workers for the start of the cutting season, around the first of May. Contracts may be signed for up to 11 months. However, with the economy the way it is most cutters do not cut for more than 6 months.

In 1980, the Secretary of Labor certified 642 Canadian woods workers to come into Maine. In 1982, this number dropped to 366. Compared to the number of H-2 workers certified nationwide, this is not a large number of foreign workers. In my view however, it is too large if one, just one, unemployed Maine woodsman is willing and able to do the job.

We hear a lot of talk these days about protecting American industries from unfair foreign competition. What about protecting American workers from unfair foreign competition?

I am not totally opposed to the H-2 program. I believe it can serve the useful function of allowing employers to bring in foreign workers on a temporary basis when no American workers are available to do the job. There have been some problems in the administration of the program and that process needs to be streamlined. But I do not believe these problems justify the wholesale changing of the law governing the program.

It is not absolutely certain the changes in the law governing the H-2 program by S. 2222 will result in more foreign workers coming into the country. However, it seems to me that this is a distinct possibility. No one knows for sure what impact this legalization will have on the labor market.

In Maine we have a saying: "If it ain't broke, don't fix it." The H-2 program ain't broke. Let us not try to fix it.

I urge my colleagues to support the Kennedy amendment.

Mr. SYMMS. Mr. President, before we go to the vote, I just wanted to say to my colleagues here—and I hear what they are saying about the old bracero program—let us not kid ourselves as to what is happening today. I think it would be a real mistake if the Senator's amendment passed because we have a guest worker or a bracero program working in the western part of the United States right now but it is just not a legal one. I think we can protect the rights of those workers more if somehow they did not have to hide as if they were coyotes from law enforcement officers, so that they can live in better housing and be treated more as we would all like to treat human beings.

That is the problem we face. It is a compliment to the United States, in one way, in that people will break the law to come in here to get jobs that Americans do not want.

Twenty years ago or so we were spending about 25 percent of the Federal budget on welfare transfer payment-type programs. Today we are spending over 50 percent of it, and there is not the encouragement—there is not the American citizen wanting those jobs in the western part of the United States. These workers who are up there harvesting potatoes, changing sprinkler pipes, picking fruit crops are making very good wages, so we do not want to fool ourselves on that either. It is not that people are not making what they consider to be good wages, and in some cases American citizens would consider them good wages. I am talking about anywhere from $50 to—it is not unusual to see fruitpickers making $50 a day, and in some cases more than that. Some days they will make much more than that. But I think what we need to understand is that if this amendment should pass and you limit it even more to the allowance of people who come into the country, guest workers if you wish to call them that, that is what is happening now, and I do not think we should try to pass something here that is going to limit the flow of workers, an adequate supply of workers.

If the Senator from Wyoming is correct in his assumpton that the farm labor market in the Western States will be able to go in and apply and get adequate supplies of workers, then he has a possibility of having that program work. If you cut this off and try to enforce some kind of a new law, then this is not going to change much of what is happening right today. There will just be more counterfeiting of identification cards and more of the same thing going on.

I hope when this is over—and I am very concerned about this legislation, I must say—I would be much happier if we had a guest worker program so that you could legitimize a temporary worker to come in and fulfill a seasonal-type employment, then I think you would have a leg to stand on to enforce some firm immigration requirements.

But this is going to be very difficult to accomplish, having what the noble goals of this legislation are, to really have the impact that people here who are promoting it think that it is going to have.

I think we should recognize the reality of what is going on right now in the Western United States. I hope the Senator from California, Senator Hayakawa, will come to speak to that because a great deal of the fruit cropc in California, Washington, Oregon, Idaho, the entire western part of the United States is actually, in fact, harvested by illegal aliens. They are not harvested by American nationals.

I urge my colleagues to vote down this amendment because I think it will be something which will seriously weaken the ability of this legislation to be successful and to accomplish the goals the authors of the legislation hope it will accomplish.

Mr. KENNEDY. Mr. President, just to make a brief comment and then I hope we will go to a vote, the purpose under this legislation, as I understand it, is that those individuals who have been utilized in agriculture in many parts of the West, and in industry in many parts of the East, are going to be legalized and adjust their status to permanent resident aliens and come out of this subclass, and eventually move toward citizenship.

So we are not just legislating for today; we are trying to legislate down the road. We are establishing in this legislation guidelines that will guide us over the period of future years.

Existing regulations obviously can be altered and changed to deal with new realities. But I still do not believe we ought to weaken in a significant way, for the reasons I outlined earlier, the current regulations which were established to protect both agricultural workers and those who work in other aspects of our economy.

I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. Dole), the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Hayakawa), the Senator from Maryland (Mr. Mathias), the Senator from Alaska (Mr. Murkowski), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Wallop), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. Dole) and the Senator from Oregon (Mr. Hatfield) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon) is necessarily absent.

The PRESIDING OFFICER. (Mr. Chaffee). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 28, nays 62, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—28

Biden
Bradley
Chafee
Cohen
Cranston
Danforth
Dixon
Dodd
Glenn
Hart
Heinz
Inouye
Jackson
Johnston
Kennedy
Levin
Long
Metzenbaum
Mitchell
Moynihan
Pell
Percy
Proxmire
Riegle
Sarbanes
Sasser
Specter
Tsongas

NAYS—62

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Boschwitz
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
D'Amato
DeConcini
Denton
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hawkins
Heflin
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Leahy
Lugar
Matsunaga
Mattingly
McClure
Melcher
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Randolph
Roth
Rudman
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Warner
Zorinsky

NOT VOTING—10

Cannon
Dole
Hatch
Hatfield
Hayakawa
Mathias
Murkowski
Schmitt
Wallop
Weicker

So Mr. Kennedy's amendment (No. 1955) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that on the amendment of the Senator from New York, there be a time agreement of 15 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1231

(Purpose: To provide that new or replacement social security cards shall be tamperproof)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Moynihan) proposes an unprinted amendment numbered 1231.

Mr. MOYNIHAN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d)(1) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and, to the maximum extent practicable, shall be a card which cannot be counterfeited".

(2) The amendment made by paragraph (1) shall apply with respect to all new or replacement social security cards issued more than 190 days after the date of the enactment of this Act.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the amendment made by paragraph (1). Such amounts shall not be paid out of the Trust Funds established under Section 201 of the Social Security Act.

Mr. MOYNIHAN. Mr. President, the purpose of my amendment is to require the Social Security Administration to print social security cards on banknote paper. As the distinguished chairman knows, as the Senate knows, for the first time, this legislation makes it a crime of perjury for an employer to employ an illegal alien. Under penalty of perjury, he must satisfy that he has verified that the individual is eligible to be employed. In the overwhelming number of instances, the identification presented will be the social security card.

For half a century, this card has been printed on pasteboard. It is, without equal, the most easily counterfeited document issued by the Federal Government. The extent of that counterfeit use has been testified to by the General Accounting Office. An estimate of the fraud and abuse resulting—may we have order, Mr. President?

The PRESIDING OFFICER. The point of the Senator from New York is well taken. If he would suspend for one moment.

We must give the Senator from New York an opportunity to be heard.

The Senator will proceed.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, the Senate Permanent Subcommittee on Investigations estimates that the cost to the Federal Government of counterfeit social security cards today is $24 billion. Can you imagine what the cost to employers will be as they find themselves accused of perjury for accepting in good faith an easily and almost foolproof counterfeited document? The only respon-

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sible response would be to produce a more tamper-proof document.

How do we do it? We do it in the same way we do it with our currency: we print it on banknote paper.

Mr. President, this Chamber has voted to do exactly that. Last October 15, unanimously, in a social security measure, we agreed to a proposal I submitted to require tamper-proof banknote paper cards. Unfortunately, the House conferees would not accept that on the advice then of the administration. That has long been a position through different political areas and parties of the Social Security Administration.

Mr. President, I am informed by Mr. Paul Simmons, the Deputy Director of the Social Security Administration, that the Administration is planning to print all newly issued or replacement cards on tamperproof stock beginning about January 1983. That is the first change in half a century in the social security card. It is interesting how quickly it would take effect. At a cost of about $1.3 million a year—an administrative cost, not from the fund—we would replace almost half the social security cards in 5 years. That is a combination of new issues and replacements.

The administration has seen the light here; they accept the argument. However, Mr. President, I have to say that, once before, I obtained such an agreement from the Carter administration and they reneged. I do not in any sense suggest bad faith to the present administration. To the contrary, they have changed their mind after vigorously arguing the opposite case. The facts have persuaded them. They do not feel they need statutory authority. However, if given a statutory mandate, they will surely do what ought to be done.

Mr. President, I ask that a series of documents on this matter supporting the case be included in the RECORD, including one recent example of someone picked up for counterfeiting social security cards because the card "wasn't messy enough"—it was too obviously new.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

STATEMENT OF NEWTON VAN DRUNEN FOR THE HEARINGS ON FEDERAL IDENTIFICATION FRAUD

Mr. Chairman and Members of the Subcommittee:

My name is Newton Van Drunen. I am 54 years old. I was born in Canada and I am a citizen of the United States. I am presently incarcerated in a federal prison in Chicago, Illinois, and I am serving a ten-year sentence for counterfeiting and conspiracy offenses.

Throughout my youth, I spent a great deal of time working with members of the Mexican community. As the years went by, I began to identify more and more with their plight in this country. I speak Spanish fluently, and today I consider myself a part of the Mexican community.

I began my career smuggling aliens in 1956 or 1957. I can't recall how I got started, but during that time I also worked as an industrial arts teacher. On the side, I exported cars from the U.S. to Mexico. I started dealing in documents—as a middle-man, not a counterfeiter—in the late 1960s. I provided documents for illegal Mexicans and arranged work for them in factories around Chicago. In order to get jobs for Mexicans, I first had to get them a social security number. I did this by simply completing the application forms as there were no specific requirements at that time to get a number. When employers became concerned about hiring illegal aliens and began requiring more documentation, I furnished aliens with baptismal certificates in addition to the social security cards. I purchased these at church supply stores and just filled them out for each of my clients.

I was arrested and convicted in 1973 for illegally smuggling aliens from Mexico. In 1975, I was sent to Sandstone Federal Prison in Minnesota.

It was at Sandstone that I had my first experience with printing. I had not counterfieted any documents before going to jail, although I was very interested and eager to learn. Unbelievably, I was placed in the prison print shop to work and learn the trade. This shop did a lot of work for the Immigration Service.

Various INS internal documents crossed my hands in the print shop. Most important to me later on would be the information about the new INS alien registration card and the fact that INS had contracted with Polaroid to manufacture the card.

I couldn't believe this information was actually coming through my hands while in prison. I though at first the government was setting me up because my wife continued running my business by furnishing vendors from the stock of documents I had accumulated. After I got over my fears, though, I learned various tricks of the trade from other inmates who were professional printers and counterfeiters.

When I got out of prison in 1976 I continued to sell documents as a middle-man. It was at this point that I set up a print shop by purchasing commonly available equipment. I did not try to counterfeit the INS card in use at that time, as I did not choose to create an inferior document. All of the information I had learned in jail about the new INS alien registration card was stored in the back of my mind until such time as the card would be issued in 1977. However, I did some experimenting to create my version of the new card. I assumed the government would use a sophisticated magnetic strip with coded information which would be placed inside the card. I later learned I was wrong—INS did not use as sophisticated a process as I had envisioned.

Meanwhile, I began producing my own Texas birth records, Selective Service cards, and social security cards. All of the Mexicans I sold to, through a network of vendors, knew the documents and the social security numbers were phony. I was selling identification packets consisting of the social security card, Texas birth certificate, baptismal certificate, and the Selective Service card for $75.00 per package. This price was usually doubled by the vendors when they delivered the documents to Mexicans.

A few months after my release from Sandstone, I was arrested again by INS in 1977 but fled after I was released on bail. As a fugitive, I continued to operate my business in the Chicago area. To avoid capture, I used several fake identities which I created, and I manufactured the documents to support these identities.

One of the most successful documents I counterfeited during this fugitive period was a reproduction of the photocopied letter issued by U.S. District Court Judge Grady as a result of his decision in an important immigration case. One hundred and forty-five thousand copies of this "Silva-Levi" letter were issued to aliens who, by possession of the letter, could remain legally in the U.S. and work. I simply reproduced hundreds of copies of this letter and sold it to vendors for $15 each. The letter was a cinch to counterfeit, it did not have a serial number which could be traced, and it did not identify the person to whom it was issued. For false identification purposes, it was an ideal identity document.

I also counterfeited the INS form I-94 and issued it with the "Silva-Levi" letter. This is another dream document to reproduce. With an unsophisticated stamp noting "work authorized", a Mexican illegal can work almost without trouble in the U.S.

For a brief period, I made out income tax forms for Mexicans if they wanted me to. Some used the phony social security numbers I gave them to file for refunds. I don't think there is much coordination between IRS and the Social Security Administration. I figured it would take a while for these agencies to find out if any of the Mexicans were sharing social security numbers or using phony ones.

On a scale of "one to ten," the social security card is a "one"; it's just extremely simple to reproduce. Also, from various sources including social security office workers, I learned generalities about the social security numbering code. As far as I was concerned, phony social security numbers were undetectable by employers. The danger, if any, was in using a number issued to another person. Anyone could use my card for at least one to three years before detection, if at all. That was sufficient for my clients' needs. By 1980, I had learned enough about "unissued" social security numbers—those to be used by a state in fifteen or twenty years—and then only gave "unissued" numbers to my clients.

By the time INS first issued its new alien registration card in July 1980, I had already developed a loyal following. At one time I had a large number of vendors working throughout the Chicago area. Some of my vendors migrated to California, Arizona, New Mexico, Texas, Florida, Georgia, Indiana, Illinois, Michigan, Minnesota and Nebraska, and continued selling my documents in these states. I set the prices for the vendor and told them how much to charge the customers. For example, social security cards, birth certificats, and drivers licenses cost the vendor $15 and the customer $30. Harder-to-produce Texas birth certificates and birth registration cards together cost the vendor $45 and the customer $90. I took special request orders, and even counterfeited government agency envelopes. Since I did not deal directly with customers, I can't say exactly how many people purchased from my vendors the tens of thousands of documents I counterfeited.

I was finally able to get my hands on a just-issued INS alien registration card in the summer of 1980. Over several days, I worked out a theory of just how the card could be fabricated. I could not destroy the card I was studying, because it was someone's valid card, so I took measurements and made a few test cards. About two weeks after I first saw the new card I created my first acceptable copy of it.

I know that optical readers for the coded information on the back of cards would not be available to Immigration inspectors at the same time the cards were to be issued. So, I didn't worry about breaking the code but used alien registration numbers that I made up. I knew that one number stood for the country of birth, therefore I used the correct number of Mexico. I also knew that another number on the back stood for the alien's date of entry or date of legalizing status.

I gambled that the government would use phosphorescent ink on the new card. I lost. INS used florescent ink, which is of a lesser quality ink and requires ultra-violet light for detection. I stopped using the more difficult phosphorescent ink quickly, but I never bothered to change to florescent ink.

I also erred in the type of film used to photograph one layer of the card. It turns out the government uses a different type of film, which is readily available on the commercial market.

The biggest problem with the new INS card is that every part of it can be completely reconstructed once the materials are discovered. The type, style, ink, paper, and even the overlays are commercially available.

I was able to counterfeit only 300 of the new alien identificaton cards before my arrest in 1981. After I made a new card, I maintained a filing system for everyone who bought a card from me. I guaranteed each person that the card would be corrected, within a 30-day period, if there were any errors. As I perfected the new card, I planned to have each customer receive a new and better one. Since I did not keep in touch with my customers, I put a series of identifying numbers alongside the file card, which also had a picture of the customer. If I gave the person a social security number, I would write that down on the file card, I also had a code on the file card for the vendor who sold the document.

I sold this INS card for $60 to the vendor, and told vendors to charge customers $120 each. I was adamant about making sure my vendors told illegal customers these identity cards were phony. I even quizzed customers, through vendors, and had the vendor give me the customer's response so I could be certain the customer wasn't fooled into thinking the purchased documents were official.

My purpose in testifying today, Mr. Chairman, is to offer some positive suggestions about the reliability of identification documents currently in use. In general, I think the INS alien registration card (I-551) has some very attractive features to withstand tampering. The document, however, is not counterfeit proof. To improve on it, INS should consider:

Using decoders which can be carried around easily by the Border Patrol and other Immigration inspectors;

Adding original art work to the border of the card;

Using phosphorescent ink so the card can be checked with a flashlight during inspection, and would be more difficult to photograph;

Using a serrated edge on the insert;

Using a two-color plastic to make photographing more difficult; and

Imprinting "U.S.I.N.S." on the plastic laminate itself.

I want to thank you for this opportunity to testify. I am available to answer any of your questions.

STAFF STATEMENT OF SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. Chairman and Members of the Subcommittee:

Since August 1981, the staff of the Subcommittee has been studying the fraudulent uses of federal identity documents. The leadership had us undertake this inquiry as part of the Subcommittee's emphasis on fraud and waste in the government. We wanted to do two things: first, to trace the extent counterfeit, altered, or fraudulently-obtained identity documents can be used to penetrate government benefit programs; and second, to ascertain the reliability of these documents as a secure means of identification. In the past year, the reliability of federal identity documents has taken on added significance as Congress considers pending legislation to revise U.S. immigration policy and create a worker identification system.

Our investigative work indicates that the scope of the false identification problem is enormous and its impact on government and business is pervasive. In 1976, a Department of Justice study estimated that false identification cost the American public $15 billion in program and commerical losses. During the course of our investigation we saw no indication that false identification crimes and the resulting fraud have in any way diminished. If the $15 billion is adjusted to reflect annual inflation increases since January, 1977 the current cost of false identification is over $24 billion.

To: Senator MOYNIHAN.
From: Elise Rabekoff.
Re tamper-proof Social Security cards: conversation with Paul Simmons.
Date: August 12, 1982.

I spoke with Paul Simmons, deputy director of SSA, about whether the Administration would support your tamper-proof Social Security card amendment. He told me:

1. SSA feels they don't need statutory authority to print cards on tamper-proof stock.

2. SSA is planning to print all newly issued or replacement cards on tamper-proof stock beginning around January 1983. They can't guarantee a date because they haven't submitted the project to contractors yet. They estimate this will cost $1.3 million yearly.

3. SSA will announce this three weeks from now.

4. You can announce this on the Senate floor.

[From the New Republic, July 12, 1982]

NOTEBOOK

Frank and Maria Richards had a clever forgery scheme going: by selling bogus Social Security cards and other fraudulent documents to illegal aliens in Los Angeles, they had made $1.5 million. But after a few years, when the fake applications began to appear too neat to pass for government work, astute federal investigations caught on. "Sloppy applications are more acceptable because they're more like the normal ones," Daniel Lane of the Department of Health and Human Services told the Senate Permanent Subcommittee on Investigations on June 16. This discovery opens new avenues to those seeking to ferret out waste and fraud. In keeping with its characteristic logic, the Administration might collect bureaucrats' handwriting samples or simply mandate messiness in government—provided that the always superior private sector doesn't catch on, of course.

Mr. MOYNIHAN. I reserve the remainder of my time.

Mr. BENTSEN. Will the Senator yield 1 minute?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. BENTSEN. I want to congratulate the Senator on his amendment.

I noticed on one of the network news programs the other night that they apprehended two Mexican nationals crossing the border who estimated they each sold some 50,000 dollar's worth of counterfeit social security cards. They had a whole stack they were trying to sell. Those people that argue against this amendment, in effect are arguing for a card that is "counterfeitable," not one that is "noncounterfeitable." I disagree with those who try to tell me that is an invasion of privacy. Anytime I go to cash a check, I am asked to show my driver's license. I do not resent that—except for the photograph, and I cannot help that. But, frankly, I am proud to be a U.S. citizen. A social security card that will assist in that kind of identification, would be very helpful and make it easier for the employer to comply with this law.

I certainly congratulate the Senator on his amendment.

Mr. MOYNIHAN. I appreciate the support, as I have always had in the Finance Committee, of the Senator from Texas, who knows what a problem this is, and a needless problem.

Mr. President, I withhold the remainder of my time.

May I say, if I may continue, a problem we can address with a sensible solution. Not every problem admits itself of such a response.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I certainly concur with the last remark of the Senator from New York; indeed, a sensible solution sometimes does escape us in this place. I thank the Senator because he has brought an interesting issue to us. It is something we have spent a great deal of time discussing in the Select Commission on Immigration and Refugee Policy, and in the subcommittee and the full committee.

I think the Senator from New York will be very pleased at the information I can share with him. We do not want to preclude any options available to the administration in developing the more secure system. A data bank call-in has been discussed and improved State drivers' licenses and identification cards as well.

I think the Senator would be interested to know that 41 States have an

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I.D. card that is voluntary, that is used for those who do not choose to carry a driver's license, and they may purchase that for $2 or $3. Forty-one States have those.

A tamperproof, revised social security card is one of our options. As I say, the use of the social security card has been a distinct possibility throughout, but we do not want to suggest that it is the system which the Administration must develop.

As to what the Senator from New York is telling us about identification cards in the United States, here I have an exhibit that is more graphic than anything I could express. I wish I had it portrayed in a larger form. This exhibit is a sample of what is happening in the United States of America.

This card at the top left of the exhibit is a fake green card. That is a fake green card that was obtained somewhere along the border. It may have been obtained at a bourse table in one of the cities during the county fair. They sell them openly under the trees down there. You can get them anywhere in the United States.

With this fake card, this one man obtained a valid social security card, a valid AFL-CIO card, a valid food stamp card, a valid medicare card, a valid driver's license, a valid unemployment insurance coverage card—one man.

So the issue, really, is it not, do they leave more on the table than they take off or do they do things Americans will not do? The issue is that our systems are being diminished by that type of conduct, and it is flagrant and it is real.

I advise my colleague from New York that the Social Security Administration has advised us that in the very near future, it will announce the issuance of tamperproof social security cards on banknote paper, and that those new tamperproof cards, just as the Senator from New York has expressed, will be issued on that type of medium and will be issued in approximately 6 months.

I think that will resolve perhaps the need for this amendment, and I urge that information upon the Senator.

Mr. MOYNIHAN. Will the Senator yield to me 1 minute on his time?

Mr. SIMPSON. I will yield that minute of my time.

Mr. MOYNIHAN. Mr. President, I know the care and concern with which the distinguished Senator from Wyoming has handled this legislation. If it is his judgment that this ought not to be placed in the bill, I am prepared to withdraw it. I am withdrawing it because the Social Security Administration knew I was going to put it on this bill at every opportunity that came along from the time last October when, after the Senate unanimously agreed to this, they blocked it in conference.

My understanding from Mr. Simmons is that they expect to have this begin in January. The Senator said 6 months. My understanding is closer to 3½ months. That is his direct word to us.

Certainly, regardless of its uses with respect to this legislation, 24 billion dollars' worth of fraud is enough per year—a half billion a week. It is time, after a great deal of friendly persuasion, the Social Security Administration has given in to legislative mandate, or the prospect thereof. In the interest of comity, I am prepared to withdraw the amendment, not to ask for a vote, but I hope I could hear from the chairman that he will take it as a matter of personal concern to see to it that the assurances he and I have been given by the Social Security Administration are abided by.

Mr. SIMPSON. Mr. President, I can assure the Senator from New York of that, for I indeed supported the Senator from New York in his original proposal in October and voted with him on that proposal.

Mr. MOYNIHAN. The Senator surely did.

Mr. SIMPSON. So I am very dedicated to that, and I do assure that I will assist in every way possible in doing that.

Mr. MOYNIHAN. I thank the chairman. I thank him, with the great satisfaction that after 5 years, we seem to have achieved this. Let us hope that it is actually done.

Mr. President, I ask unanimous consent to withdraw the amendment I have at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Before the Senator from New York leaves his desk, I would like to make some comments just so that there is no misimpression on the part of this body from the dialog that just went on. Somehow if we can—and obviously we can—come up with a more counterfeitproof-type of social security card and more suggestions for promoting that and get legislative intent—I agree that ought to be done—however it is important to make clear that in and of itself does not satisfy the requirements of the bill. I do not think it was implicit that the Senator tried to satisfy the requirements of the bill. I think that the Senator is using this forum as an opportunity to further accomplish his goals. I do not find any fault with that. I just want to make sure that the end result of the bill accomplishes some sort of employment verification system. It might lead to a card and we would want that card to be counterfeitproof.

But the most important goal is that that system, whatever the system might be, establish identity of the individual. In other words, is Joe Smith really Joe Smith, that he is the person he says he is. That is identity. We want that to be established. We want eligibility to be established. The person whose identity is established, is he eligible to be in this country? We want to establish who the person is. We want it to say that he is legally in this country. Then the subject of how that indentity is made, whether it be through a card, and that it be counterfeitproof, is secondary to the major goal of the legislation. There is not any intent, is there, on the part of the Senator from New York that any of the statements he made would in any way satisfy the identity or the eligibility goals of our legislation?

Mr. MOYNIHAN. It was not my intent to state that one way or the other.

It is because the distinguished manager of the measure wishes that to be resolved in accordance with the legislation and because the Social Security Administration said they are going to go ahead and do what we have been trying to get them to do for 5 years now, that, rather than complicate the legislation, I withdrew the amendment.

I see the point of the Senator from Iowa. I cannot comment on it, because I do not know the intentions of the Senator from Wyoming. But the Senator certainly is correct. I did not in any way suggest that accepting my amendment would resolve all the concerns of the Senator from Wyoming. I would not be able to speak for him, and I do not do that.

Mr. GRASSLEY. Mr. President, I just wanted to make those points because the establishment of eligibility and identity are two points that are the very key to carrying out the purposes of this legislation. I wanted to make that point clear, and I think we have done so.

Mr. SIMPSON. I thank the Senator from New York for his fine cooperation and assistance.

Mr. MOYNIHAN. I am grateful.

Mr. SIMPSON. Mr. President, Senator PRESSLER, I believe, wishes to be recognized.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1232

(Purpose: To facilitate travel by foreign nationals to the United States)

Mr. PRESSLER. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself Mr. INOUYE, and Mr.

SASSER, proposes an unprinted amendment numbered 1232.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 149, line 15 of the Committee amendment, insert the following immediately before the period: "; except that in no event may the program be put into operation later than October 1, 1983".

On page 150, line 19 of the Committee amendment, strike "five" and insert in lieu thereof "eight".

On page 150, strike all from line 25 through line 8 on page 151 of the Committee amendment, and insert in lieu thereof the following: "unless the sum of the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country".

On page 153, line 6 of the Committee amendment, insert "and" immediately after "(1)(A)(i),".

On page 153, strike lines 7 through 12 of the Committee amendment.

On page 153, line 13 of the Committee amendment, strike "(C)" and insert in lieu thereof "(B)".

Mr. PRESSLER. Mr. President, I am offering this amendment on behalf of myself, Senator INOUYE, and Senator SASSER.

I thank the chairman and the ranking minority member and their staffs for their cooperation in working this out. I originally offered a revised version of this; and after our discussion with the Senator from Wyoming and his staff and the minority, we have concluded that the most profitable course of action at this time is to propose a series of changes in section 213 of the bill as it now exists. While I must admit that I would have preferred my original substitute for section 213, I realize that there are those who have genuine concerns about an expansion of the visa waiver program along the lines I originally suggested.

I also want to stress that I realize how much time and effort Senator SIMPSON has put into the crafting of S. 2222. It is not my desire to do anything which could be interpreted as an attempt to obstruct a full and fair discussion of S. 2222. A great deal of work has gone into the measure and Senator SIMPSON deserves an opportunity to present the fruits of his labor to the Senate.

Let me now take a few moments to describe the purpose of the visa waiver program and of my amendments to S. 2222.

It is an accepted fact that the vast majority of international travelers to the United States pose no threat to the security of our Nation. Millions of visitors arrive every year from all over the world, but primarily from nations which are major allies and trading partners. We are talking, for instance, about Western European and Japanese tourists and business people. These visitors spent over $12 billion in our country last year, thereby providing one of our largest sources of foreign trade revenue.

It is also worth noting that aside from its economic benefits, international travel promotes greater international understanding and cooperation. As chairman of the Subcommittee on Arms Control of the Foreign Relations Committee, I can assure you that international understanding is oftentimes a commodity in short supply.

In specific terms, what we are talking about when we speak of a visa waiver is a program which would permit travelers from low-risk countries, such as Western Europe, to travel to the United States without a visa. In other words, they would be permitted to travel solely on their passports as is the case in almost every other nation.

Our current visa system requires all foreign travelers to obtain a visa from the U.S. Embassy in their country before coming to the United States. Due to the explosive growth of travel to this country over the past decade, this has resulted in our embassies being flooded with visa applications. The backlog in some embassies, most notably that in Great Britain, has resulted in delays of 4 to 6 weeks for visa applications to be processed. As you can imagine, this is very disruptive to the travel plans of British tourists and business people. There is also evidence that it is sometimes such a discouraging factor that it results in a loss of foreign tourists. During hearings which I conducted on this issue we received testimony that we could be losing several hundred million dollars in foreign trade income annually because of the negative influence of the visa requirement.

In response to this problem, Senator SIMPSON has proposed, in S. 2222, that a visa waiver pilot program be conducted for 3 years in order to determine the potential benefits and problems of eliminating the visa requirement. This pilot program would be used to determine whether or not it would be feasible to expand future visa waiver eligibility to a major portion of our allies and trading partners.

As I have indicated, I strongly support the concept of the visa waiver, and I am supportive of the pilot program Senator SIMPSON is proposing. However, there are a few changes which I have suggested and which Senator SIMPSON has agreed to adopt. Let me take a moment now to outline these.

First, the current section 213 provides that five countries be included in the pilot program. I have proposed that this number be expanded to eight. This will enable us to include more nations which provide us with the lion's share of our international travel revenues.

Second, I have proposed that a specific deadline be set for the initiation of the program. This deadline, October 1, 1983, gives the Immigration and Naturalization Service 9 months to implement and perfect their computerized system for screening and monitoring foreign visitors to the U.S Immigration and Naturalization Service has assured me that the system will be in place by January 1, 1983. Naturally, should INS feel ready to begin the visa waiver system before October 1, then I would be very pleased to see that done.

The third of my amendments makes a slight change in the formula for calculating which nations would be eligible for the visa waiver pilot program. Under my amendment, those nations which have had less than 2 percent of their visa applications rejected during the previous year would be eligible. In the current form of section 213, this 2-percent figure would be comprised of rejections, withdrawals, and those persons refused entry at a U.S. port. As I said, this change will make only a small statistical change, but it should simplify the task of determining eligibility.

The last of my amendments strikes a current requirement of S. 2222 that the international airlines which are participating in the program provide certain data to INS. As section 213 now stands, the carriers must notify the Attorney General when a foreign visitor does not use the return portion of his airline ticket. This was originally intended to provide a measure of control over determining which foreign visitors might have overstayed the 90 days they are allotted under the pilot program. However, it appears to me that the computerized tracking system being implemented by INS would fulfill this need in a much more reliable fashion. The requirement that the airlines keep track of foreign visitors is not only inappropriate and burdensome, it is also a very unreliable measuring system.

It is my view that with the changes I have suggested the visa waiver pilot program in S. 2222 is an acceptable first step toward the goal of modernizing our system for facilitating international travel. I hope that my colleagues will agree with this view and will accept my amendments,

Last, I once again thank and congratulate my friend and colleague Senator SIMPSON as well as the Senator from Massachusetts and the minority and majority staffs for their assistance in this matter and for their able handling of this very complex piece of legislation.

Mr. SIMPSON. I thank the Senator from South Dakota.

● Mr. SASSER. Mr. President, I support the amendment offered by my distinguished colleague from South Dakota (Mr. PRESSLER). I commend him on his work on this amendment which is so important to bolstering our tourism and trade revenues.

This amendment will waive the visa requirement for certain low-risk foreign countries and should eliminate significant barriers to travel in this country by businessmen and tourists from countries like Great Britain and France which have a traditionally low visa application refusal rate, generally under 2.5 percent annually.

It is my understanding that the administration and many travel and tourism associations like the Travel Industry Association, the American Hotel and Motel Association, and the American Society of Travel Agents support this amendment. Their support indicates that this amendment could substantially help improve the opportunity for expanded foreign travel in this country.

This is very important for the country and for Tennessee which is a major tourism attraction for foreign visitors. Travel and tourism is a vital element of Tennessee's economy. It adds $2.5 billion to Tennessee's economy, and it helps generate some $114 million in State and local tax revenues.

More and more foreign visitors are coming to Tennessee, especially to see the 1982 World's Fair in Knoxville. It is prudent public policy to encourage foreign travel and tourism in this country, and I urge my colleagues to support the Pressler amendment.●

Mr. SIMPSON. Mr. President, this compromise does expand the visa waiver program from five countries to eight countries and provides that it will go into effect on October 1, 1983.

I do support the amendment. It is a 3-year pilot program to provide visa waivers for those countries which provide a reciprocal privilege to our citizens.

I have discussed this amendment with the distinguished minority floor manager. We believe it is a desirable amendment and are prepared to accept it.

Mr. KENNEDY. Mr. President, I welcome this amendment. Some 4 years ago, I introduced legislation on this proposal. It was passed on two occasions in the U.S. Senate. I had supported it 4 years ago and I certainly welcome the recommendation made by the Senator from South Dakota. I hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1232) was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that on the next amendment by Senator D'AMATO that there be a time agreement of 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

UP AMENDMENT NO. 1233

(Purpose: To deny second preference status to spouses and children of aliens acquiring permanent residence under the legalization provisions until certain other aliens have entered the United States)

Mr. D'AMATO. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) for himself, Mr. MOYNIHAN and Mrs. HAWKINS, proposes an unprinted amendment numbered 1233.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 6, insert after "permanent residence" the following: "(other than an alien who acquired such status under section 245A (a), until each alien from the country of such alien's birth who had received or was entitled to receive a visa before October 1, 1983, as a quota immigrant had applied for admission to the United States or had the validity of the visa terminated)".

Mr. D'AMATO. Mr. President, I wish to congratulate the distinguished Senator from Wyoming (Mr. SIMPSON) who has labored in this area that no one has dared tread for many, many years. He has done an outstanding job in a very, very difficult and sensitive area.

Today I offer an amendment that seeks basic equity and fairness. S. 2222 would place approximately 600,000 people who have followed the law, made applications for their visa and who, in addition, are related to bona fide U.S. citizens and who have as their sponsors citizens residing in this Nation. In some cases, these applications date back to 1970. These 600,000 will be, for all intents and purposes, excluded and never have an opportunity to enter this country. In essence, what we are doing is something so fundamentally in error that it is hard to conceive that we cannot find a better way to exclude those people who seek freedom, who have bona fide sponsors and who have obeyed the law. It is not justice.

Mr. ROBERT C. BYRD. Mr. President, I rise in opposition to this amendment. During consideration of S. 2222 by the Senate Committee on the Judiciary, I offered language related to section 211 of the bill—the so-called H-2 temporary workers program. The committee adopted my language by a vote of 10 to 5. Subsequently, I reached an agreement with Senator SIMPSON, the distinguished chairman of the subcommittee with jurisdiction over this legislation, and with other Senators, that resulted in a modification of my original language. This agreement represents what I consider to be a fruitful compromise on this issue.

I urge the retention of the compromise provisions relating to the H-2 program which are contained in S. 2222, as reported by the Judiciary Committee.

Under current law, a foreign worker can be admitted into the United States for temporary labor or service only if the Secretary of Labor has determined that sufficient domestic workers are not available anywhere in this country to perform such service or labor.

The requirement in existing law is vague, and it has produced extremely burdensome requirements for agricultural employers. I can personally speak of the frustration suffered by fruitgrowers in the eastern panhandle of West Virginia.

Time and time again, West Virginia growers have informed me of the unnecessarily cumbersome nature of the present H-2 system. The Labor Department has used the indefinite nature of the present requirements for participation in the H-2 program to frustrate the applications of employers for certifications of eligibility for that program.

The requirement that sufficient domestic workers must be located and hired before temporary foreign workers are hired has been warped by counting domestic workers, regardless of their qualifications, willingness, or availability to perform the work required of them at the time and the place needed.

The provision in S. 2222, as reported, would require the Secretary of Labor to find that domestic workers would not only have to be available, but would be willing, able, and qualified to do the work as well.

Adding these terms, which have well-established meanings in labor law, as interpreted by the courts and the Labor Department, will produce a far more workable and reasonable H-2 program.

Domestic workers found to be qualified, willing, and able will have to present themselves at the time and place needed for the work required of them. In the case of crops that are extremely time-sensitive, such as tree fruit, and in particular the apples and peaches grown in the eastern panhandle of West Virginia, the workers must be ready to harvest on short notice.

The predictability of the workers needed to harvest such crops is a critical element for these growers. Uncertainty about the status of the labor force can result in a harvest rotting on the trees.

The Labor Department tries to locate workers for the harvest of tree fruit in West Virginia 2 or 3 months in advance of the date of need. If the domestic workers located by DOL do not appear at harvest time; if they appear late; or if they do not remain on the job, then the grower is placed in a situation of economic ruin.

My constituents in West Virginia have faced this situation on more than one occasion. My language, as contained in S. 2222, requires that a worker must be willing to appear at the time and place needed—and thereby improves the operation of the H-2 program.

I commend Senators KENNEDY and SIMPSON for their fine efforts in connection with this legislation. I am most pleased that the bill reported by the Judiciary Committee addresses the concern that I have raised about the H-2 program and its effects on West Virginia growers. I might also mention that the language related to the H-2 program in the bill has the strong support of the West Virginia Farm Bureau.

Once again, I urge the retention of the language of S. 2222, as reported, with respect to the H-2 program.

● Mr. D'AMATO. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts and in support of the H-2 provisions in S. 2222, the Immigration Reform and Control Act of 1982. The H-2 provisions of current law permit agricultural employers to hire temporary alien workers only if "unemployed workers capable of performing such service or labor cannot be found in this country."

Agricultural employers and the various State employment services are required to search for and recruit workers everywhere in this country before they can justify bringing in temporary workers. Such workers will not remain in this country, but will be here only long enough to make up a temporary labor shortage. The present situation and one which the amendment offered by the Senator from Massachusetts would perpetuate, forces agricultural employers and the Federal-State employment services to spend time and money seeking and interviewing farmworkers throughout the country—who may or may not agree to migrate to the farm or orchard in need.

The H-2 provisions of S. 2222 restrict the scope of the search for temporary workers to the time and place of need. A countrywide search would no longer be required. It makes very little sense to expect New York applegrowers to assume that qualified workers can be found in California, workers who would be willing to move to New York on a temporary basis. Restricting the scope of the search for domestic workers will help to ease the burden that now is all too often borne by U.S farmers. Indeed, I have received several letters from agricultural employers in New York State who are overwhelmed by the bureaucratic morass which the Federal Government has created in the administration of the H-2 program.

I would like to emphasize, Mr. President, that S. 2222 does require annual reports to the Congress regarding the potential impact of the H-2 provisions on domestic labor conditions, so that the Congress will be able to determine whether these provisions will adversely affect domestic workers. I do not believe that they will.

In conclusion, Mr. President, we must ease the regulatory burden on agricultural employers in this Nation. I urge my colleagues to support our agricultural employers and defeat the pending amendment.

Let me share with you, if I might, some of my concerns of what will take place if S. 2222 is adopted in its present form. Within 2 years we will go from a situation where we now admit relatives, brothers and sisters of U.S. citizens, bona fide citizens of this country at a rate approximately 90,000 annually to approximately 7,000 annually. That is a total worldwide figure of 7,000.

Some of these people again filed applications as long ago as 1970. They have been waiting. They have sponsors and not only do they have sponsors but those sponsors are U.S. citizens. They have followed the law.

Not only do we penalize them as a practical matter, we say to most, "You will never, never, never come or have an opportunity to come to these shores."

Yet, we confer legal status, cloak them with S. 2222, to those in many cases who have deliberately violated the law and given them an opportunity to be reunited with their families.

We reward some for breaking the law and penalize others for following the law.

My amendment would permit those who have filed applications prior to October 1, 1983, to be grandfathered in, giving them priority over those who are now without status who are here illegally and that we will give to them the right to come to these shores first.

I just believe that it is a matter of equity, of fair play. I believe that it would be very difficult to many to support this comprehensive legislation, unless this inequity is dealt with. I will find it very difficult to be able to support this bill unless there is recognition of this inequity.

It is hard to imagine if we are going to take in 7,000 people in each year, while we have in excess of 600,000 who are waiting. We know the life expectancy of people is getting older and older. But 100 years? That is what we are talking about. What we are really saying is that most of these people will never be allowed to come in because they followed the law. Yet, if they had broken the law and come over we would let them stay here.

I believe that this amendment goes a long way toward correcting that deficiency.●

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, this amendment by the Senator from New York would severely, and I speak in opposition to it, restrict the ability of legalized aliens to bring in their relatives. This amendment would prohibit the admission of any relatives of legalized aliens until all other aliens in the current backlogs have been admitted into the United States.

The aliens presently in the backlogs who would come in prior to that are relatives of U.S. citizens and permanent resident aliens.

On its face, I think we might believe that that amendment would seem appropriate. In other words, why should not the families of the former illegal aliens have to wait until all of those who have been patiently waiting in the backlogs, legally, have been admitted?

Also under our law they would go to the end of the lines to wait in the backlog in any event.

However, if none can come in until all previously backlogged aliens have been admitted it means this: it means that spouses and minor children of former illegal aliens would have to wait until all of the backlog brothers and sisters, including adults in the fifth preference, had been admitted. That will take years and years, since we only gave them a rather small percentage of the available visas to use for those who are in the pipeline already.

There are 700,000 persons in the fifth preference backlog, alone, just that one alone. It will be an extraordinary number of years before all of those brothers and sisters of U.S. citizens are admitted and they are in the pipeline. In the meantime spouses and children then of permanent resident aliens will not be able to reunite.

I do not think that is a good result. It does not seem appropriate.

I think this amendment would contribute to illegal flows in the future, since spouses and children would very likely simply always attempt to come to the United States illegally again rather than wait for so many, many frustrating years to join their spouses and children who are truly the description of the nuclear family.

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For those reasons I do not support the D'Amato amendment and urge its defeat.

Mr. D'AMATO. Mr. President, if I might respond——

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. The fact is my amendment addresses this problem on a country-by-country basis, so indeed where there might be a preference and would be, and I think justifiably so, to those who apply first and those who have legal status and, let us say in the case of the Philippines that would not be the case but in, let us say, Venezuela, where there is no backlog or in many of the other Central American countries or indeed for most of the countries that exist, yes, that would be the case, and I think it is equity and justice for perhaps 10 cases.

I would point out something else. I think we really go to an extreme when we say we are going to create special preferences for people who are violating the law, and penalize those who have followed the law saying, "You for all time, shall be denied the right to come to this country."

I find particularly repugnant a section in this bill which would permit those with $250,000 of capital to invest to receive preference. While if you filed in 1970 and you are poor, if you have a brother and sister in the United States, you will never come here. If you have $250,000 to invest in this country, "Come on in," I do not think that is what has made this country great. My grandparents could not have come here if we had that kind of law or that kind of thinking or philosophy. They followed the law, and I think when we begin to depart from that because of expediency, we are in a sorry state.

Mr. KENNEDY. Mr. President, there is much wisdom in what the Senator from New York has stated here on the floor of the Senate this afternoon, and it reaches one of my very deep concerns about this whole piece of legislation.

In the effort to try to deal with what all of us have understood to be sort of an uncontrolled kind of movement of people into this country, across borders in some instances, and because of what has happened in terms of the entrance of the boat people and Cuban refugees of recent years, the concern with that, what this body has done is now pitted American families against American families.

As one who was, as I mentioned yesterday, the floor manager of the 1965 act, as we tried to eliminate aspects of discrimination in our immigration, the national origins quota system, the Asian Pacific Triangle, we put an important priority on families and family reunification.

Now yesterday for the first time we eliminated the fifth preference, the opportunities of brothers and sisters of American citizens to be joined with their families here in the United States. The Senate even rejected a very limited program for brothers and sisters who were unmarried, part of what I consider to be a family, with all due respect, and I think the Senator from Maryland made the case very eloquently yesterday. I did not feel less of a brother or less of a brother to a sister after I was 21 than I did before. But we have eliminated the fifth preference. For the first time we have put the bringing of wives and small children under a ceiling which is going to put pressure on other family relationships in those other categories.

I think, Mr. President, with all due respect, that the Senate is really losing sight of what the problem is for this country, and in an attempt to deal with what "is the problem," in terms of being able to reach these arbitrary feelings, we are ending up with the hard and difficult choices which the Senator from New York has stated.

We are pitting the wives and children of legalized aliens against the brothers and sisters of American citizens. That is a fine how-do-you-do for this Nation. I mean, how did we get ourselves into this particular bind when the real problem has been that we have the undocumented people moving on across borders down through the Southwest as a result of 32 percent unemployment, a population in Mexico that is going to double in the next 20 years, and as the result of the gross mismanagement of the Cuban situation under the previous administration? Absolutely inexcusable.

With all of the human tragedy which has been spoken about so eloquently by both Senators from Florida, and has been——

Mr. SIMPSON. Excuse me, Mr. President, will the Senator yield? Is the Senator on my time in this debate? If so, I would like it transferred on the clock because I will be on the opposite side. I would like to make that inquiry.

Mr. KENNEDY. I think the Senator will be satisfied with my conclusion.

Mr. SIMPSON. Eventually. (Laughter.) Mr. President, I certainly hope that that conclusion will be reached very shortly. [Laughter.]

Mr. KENNEDY. Fine. I thank the Senator. I thank the Senator for yielding the time.

Mr. President, I feel that the statement has been made, I think we are in an extremely unfortunate situation as posed by the Senator from New York where we are getting the wives and children of legalized aliens versus the brothers and sisters of American citizens, and that is a part of the pitting families against families to deal with a public policy question which I think is certainly outside of this extremely important policy question where we ought to be trying to have public policy that is bringing families together rather than immigration bills that are going to continue the separation.

Ultimately we are going to have to make a judgment, and the Senator has put the question well, as to where we are going to draw the line, because we all vote yea and nay. I will vote with those who give preference to the close family relationships, but I regret very much being placed in that position. So regrettably I will have to vote against the amendment of the Senator from New York. However, I think he raises an extremely important and compelling argument.

Mr. D'AMATO. Mr. President, I yield back any of my time that may be remaining.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I appreciate the conclusionary remarks of my colleague from Massachusetts. That was helpful. The other remarks I would have to disassociate myself from.

There have always been those hard and difficult choices, it will always be that case.

I would say to the Senator from New York, all of the persons in the present backlog are not waiting patiently in line, following the law. Nearly 85 percent of those from Mexico who are waiting in line under the legal authorization are already in this country. That may be a startling fact but that is the reality.

Mr. D'AMATO. Mr. President, will the Senator yield for an observation?

Mr. SIMPSON. I will.

Mr. D'AMATO. I would conclude that those figures could be applicable as well to those families supposedly waiting for reunification, and we would find on careful analysis that the great precentage are here, that they are not going to be great in numbers in terms of bringing in because we have now conferred a legal status upon those who are here, this great number coming forth of children and wives, so that the same thing, the same statistic, would probably be applicable.

Mr. SIMPSON. I doubt that we will ever see those types of figures for those waiting in line for other countries simply because there is no proximity like that to our border.

Let me just say that when we have to deal with this fifth preference we have 700,000, and many of those in that backlog will be legalized under this bill. This backlog will then be greatly reduced.

Let me then conclude and say we have not placed a cap on immediate relatives in this legislation. Let that be quite clearly said. We have not done that. We still allow unrestricted immediate relatives into the United States.

But we do say that then those are offset against the family reunification preference system because if there is one thing that will come out of this body, whether this bill comes out or not, we are going to set a cap on legal immigration into the United States. When you do that you squeeze, and you squeeze human beings, and that is the unfortunate thing. But the whole thrust of what we have been up to is to allow that squeeze to affect much less spouses and minor children and affect much more adult brothers and sisters. That was the hard grisly choice.

The **PRESIDING OFFICER**. Who yields time?

Mr. **D'AMATO**. Mr. President, I ask unanimous consent that I may have another minute of the time I yielded back.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **D'AMATO**. Mr. President, the fact is that there are 171,000 filipinos waiting to come in. I doubt many of them are here. There are 96,000 Koreans; I doubt many of them are here.

The Senator points to the fact, in terms of Mexico, where there are 56,000 who have legally applied and probably many of them are here, but certainly you would not contend that in terms of the Chinese. We have a great Chinese-American community, 75,000 waiting to come in.

So, yes, in terms of Mexicans and those in Central America, those facts may be correct. Many of them are here.

Again, there is something basically, philosophically, tragically in error when this Nation deprives itself from following the law and discriminates against those who have followed the laws of this land and the procedures and who have waited patiently and who are looking to be reunited with their brothers and sisters, citizens of this country.

I thank the Chair.

The **PRESIDING OFFICER**. Who yields time?

Mr. **SIMPSON**. Mr. President, I thank the Senator from New York. He has brought his great interest to the body.

I would conclude by saying that I think we would all be surprised, on the Senator's side and on this side of the issue, as to how many of those that are in the backlogs of the various countries are multiple filings, persons who have filed under, perhaps, various preferences. We do not know how many those are. That backlog may be clearly distorted by that reason.

I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. (Mr. D'Amato). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from Maryland (Mr. Mathias), the Senator from Alaska (Mr. Murkowski), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Wallop), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield), would vote "nay."

Mr. **CRANSTON**. I announce that the Senator from Nevada (Mr. Cannon) is necessarily absent.

I further announce that the Senator from Montana (Mr. Melcher), is absent on official business.

The **PRESIDING OFFICER** (Mr. East). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 53, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—38

Abdnor
Armstrong
Biden
Boren
Boschwitz
Bradley
Byrd, Robert C.
Chiles
Cohen
D'Amato
Dodd
Durenberger
East
Exon
Hawkins
Hayakawa
Heinz
Humphrey
Jackson
Jepsen
Kassebaum
Kasten
Mattingly
McClure
Metzenbaum
Mitchell
Moynihan
Nickles
Pell
Quayle
Riegle
Roth
Sarbanes
Sasser
Specter
Stevens
Symms
Zorinsky

NAYS—53

Andrews
Baker
Baucus
Bentsen
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Cochran
Cranston
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Eagleton
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Heflin
Helms
Hollings
Huddleston
Inouye
Johnston
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Randolph
Rudman
Simpson
Stafford
Stennis
Thurmond
Tower
Tsongas
Warner

NOT VOTING—9

Cannon
Hatch
Hatfield
Mathias
Melcher
Murkowski
Schmitt
Wallop
Weicker

So Mr. D'Amato's amendment (No. 1233) was rejected.

Mr. **SIMPSON**. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **KENNEDY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1947

(Purpose: To provide for the termination of provisions relating to the unlawful employment of aliens unless certain circumstances occur)

Mr. **KENNEDY**. Mr. President, I have an amendment at the desk on which I should be glad to engage in a time limitation.

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that on the next amendment there be a time agreement of 20 minutes equally divided.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. **KENNEDY**. Mr. President, I call up my amendment and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will state it.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 1947.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d) The amendments made by this section shall terminate, and the provisions of the Farm Labor Contractor Registration Act of 1963 amended by subsection (c) which were in effect on the day before the date of enactment of this section shall apply, three years after the date of the enactment of this section, unless ninety days before the close of such three-year period the President prepares and transmits to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive report certifying that the provisions contained in the amendment made by subsection (a) have been carried out satisfactorily and have not resulted in a pattern of discrimination against United States citizens or other eligible workers seeking employment.

Mr. **KENNEDY**. If I may have the attention of the Members of the Senate, I think this amendment is exceedingly important. I do not think it is very complicated, but I think it reaches to the heart of one of the most important aspects of the legislation before us.

Under the legislation before us, Mr. President, we are going to put in place employer sanctions. At the present time, if there is some kind of raid on a plant or a factory, the individuals who are picked up are undocumented aliens and the employers who may be exploiting them, are set free. There is no question that the current system works a hardship on the individual involved and no hardship on the employers.

Under the legislation, if there is a pattern or practice of the hiring of undocumented aliens, there is a sanction

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against the employers. I shall let the chairman of the subcommittee spell it out in some detail.

However, there is, Mr. President, a legitimate and serious concern in my mind, and in the minds of many of those who have watched this issue closely over a period of years, about some of the ramifications of this proposal.

As I indicated in my opening statement on this bill, one of my principal reservations about it—and the reason I voted against reporting it out of the Judiciary Committee as drafted—is my concern that this bill must not become a vehicle for discrimination against minority groups in our country.

Unfortunately, the employer sanctions provisions in this bill poses this danger. There are deep and understandable fears about them, especially in the Hispanic Community.

I believe it would be irresponsible of Congress not to address those fears—to say clearly and unequivocally in the law we are proposing—that if those fears do prove valid, if discrimination does result in the implementation of employer sanctions, then they shall be terminated until Congress enacts Remedial Legislation. That is the objective of the Amendment I am offering today.

Mr. President, the history of immigration legislation in recent decades has been that once a law is enacted, Congress does not act again on immigration for many years. To assure that Congress will not ignore any discrimination that results from employer sanctions, I offered an amendment in committee—which I am offering now—that provides a crucial safeguard in the law; namely, that employer sanctions will end after 3 years unless the President certifies in a comprehensive report to the Judiciary Committees of Congress that employer sanctions "have been carried out satifactorily and have not resulted in a pattern of discrimination against United States citizens or other eligible workers seeking employment."

If the President cannot give this certification after 3 years, then employer sanctions ought to be terminated.

If, as argued by many, no pattern of discrimination develops, then the sanctions will be continued. Congress does not have to act. This is not a full-blown "sunset" provision; it is merely a safeguard built into the bill.

However, if this safeguard is accepted, and if it is coupled with the other amendments I will be offering to provide for an independent review of employer sanctions and increased funding for the enforcement of existing labor and civil rights laws, then I believe minority groups in our country will be willing to take the risks involved in an employer sanctions program. If they are adopted, minorities in our society will be given a pledge that, if a pattern of discrimination develops, Congress will not ignore it.

Without that assurance they will not support this bill—nor can I.

Finally, Mr. President, as someone who has followed immigration legislation over a period of years, I have seen where provisions have been built into the law for the purpose of not discriminating, but nonetheless end up having a discriminatory impact. I think the best way we can try to address this in this case is to require a Presidential certification.

We require Presidential certification on the issue of human rights in El Salvador. We require Presidential certification on the movement of military aid and assistance to Argentina or to Chile. It seems to be we ought to be willing to require a Presidential certification that this particular employer sanction is not being used in a discriminatory way against American citizens.

That is the essential aspect of this amendment.

In another amendment later that I will offer, we will require the Equal Employment Opportunity Commission as well as the GAO to do a study on this particular provision to make information on this issue available to the Congress.

This amendment deals with Presidential certification. I think that is the minimum we can ask, and I think it is an essential aspect to insure that this particular provision will not be used in a discriminatory way.

I withhold the remainder of my time.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. This provision that the Senator seeks to sunset is the very key portion of the legislation. The committee bill contains provisions to prevent employment discrimination. There is a requirement that employment eligibility be checked for all employees, and the bill provides for reports to Congress on any pattern of employment discrimination that would develop.

I also will be offering an amendment which will provide for an employment discrimination report every 18 months, which will mean that three reports will be issued in the next 4½ years.

There is this concern as expressed by my colleague from Massachusetts that the employer sanctions program will be used somehow as an excuse by employers who wish to avoid hiring certain persons because of race or national origin or because they simply "look foreign."

The committee felt that any such discrimination in hiring is an obvious violation of title VII of the Civil Rights Act of 1964. If an action were brought against such an employer, the employer might allege that his decision not to hire was motivated by fear of employer sanction. If, however, the plaintiff were to show by a preponderance of the evidence that the employer did not actually have such fear, then such allegation would not have helped the defendant's case.

I think the most likely form of such evidence would be a sworn statement that documents had been presented to the employer showing that the applicant was authorized to be so employed, along with documentary evidence itself, which of course, would be in the possession of the applicant. If the documents appeared on their face to be genuine and to belong to the applicant, if the employer were unable to present equally convincing evidence that such documents had not been presented or that despite the documents the employer had reasonable ground for believing the applicant to be an alien ineligible to be employed, then the judge or jury would likely conclude that the employer's reason for deciding against hiring the applicant was something other than a fear of employer sanctions.

This amendment also with its sunset provisions would enable a President who is opposed to sanctions to simply do nothing and thereby kill the program. Congress then, I am certain, would have to pass a bill which would focus solely on employer sanctions and did not contain other more appropriate features. I fear that employer sanctions if discussed as an individual item in itself would be a rather tough, long haul, without any kind of accompanying legislation such as verifier system, increased enforcement and the other things that S. 2222 calls for.

I again believe that if we do nothing with employer sanctions, if we do nothing with verification systems worse prejudice and discrimination will happen. For if we continue under existing law we will beef up the INS and the border patrol and say, "There, go ahead and do your duties with the new moneys we have given you." We will see a continuing array of searches. We will see a continuing array of intrusion in the workplace, into various operations, and that cannot be good for the minorities in this country.

I urge that the amendment be defeated. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes 55 seconds.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, I want to acknowledge at the outset that the chairman and the members of the committee that have supported this proposal have made every effort to try and assure that this legislation would be free of any provisions that could be utilized for discriminatory purposes. I certainly recognize and respect those efforts.

But the fact remains, Mr. President, that this is an extremely modest amendment and it addresses what has been a problem in the past, and that is that individuals who are foreign looking, whose skin may be a different shade from others in society, will be discriminated against because the employer will say "Look, I cannot be certain of your standing in our society. I know if the choice is between an individual whose skin is not white, I will take the person whose skin is white because the chances are he or she isn't an undocumented alien."

This provision may not be used in a discriminatory way—may not be—but there is a chance that it will be and there is a chance that it will be in many areas of this country.

As to Presidential certification, this body has been willing to have that on a wide variety of issues, basically in the foreign policy area.

All we are saying in this amendment is that the President of the United States must certify, after 3 years and after he reviews the information, that he makes a finding that it is not being used in a discriminatory way and then it will continue. If he cannot, then it will lapse. I think it should lapse.

The **PRESIDING OFFICER.** The Chair advises the Senator that his 2 minutes have expired.

Mr. **KENNEDY.** I yield myself 1 more minute.

The fact is, as one who has served on the Immigration Subcommittee for a number of years, I know that Congress does not act on these piecemeal provisions, and I daresay I do not believe it would act on this piecemeal provision. It only deals with the issue when there are dramatic public policy questions before it, as they are with regards to the numbers now with undocumented aliens.

Mr. President, citizens in this country who fear the risk of discrimination and who have felt the whip of discrimination in the past are entitled to this kind of protection.

Mr. **SARBANES.** Will the Senator yield for a question?

The **PRESIDING OFFICER.** The Senator is advised his minute has elapsed.

Mr. **SIMPSON.** How much time remains, Mr. President, on my time?

The **PRESIDING OFFICER.** The Senator has 5 minutes and 59 seconds.

Mr. **SIMPSON.** I yield 2 minutes of my time to the Senator from Maryland.

Mr. **SARBANES.** Will the Senator yield for a question?

Under the Senator's amendment, if I understand it correctly, if the President certifies that these provisions are not being used in a discriminatory fashion, then the provisions would remain in effect, is that correct?

Mr. **KENNEDY.** The Senator is correct.

Mr. **SARBANES.** So it is only if the President sends to Congress a certification that they are being used in a discriminatory fashion that the provisions would lapse.

Mr. **KENNEDY.** The Senator is correct. I believe that if a President makes a finding that they are being used for discriminatory purposes or in a discriminatory way, they should lapse.

Mr. **SARBANES.** Is it not the premise of the provisions that they would not be used in a discriminatory fashion?

Mr. **KENNEDY.** The Senator is correct.

Mr. **SARBANES.** I do not know of anyone who has advanced the proposal that these provisions should be included in the legislation if, in fact, they are used in a discriminatory fashion. The assertion, as I have understood it, has been that the provisions will not be used in a discriminatory fashion. Is there anyone who is making the contention that if they were used in a discriminatory fashion, the provisions should remain in the law?

Mr. **KENNEDY.** No one has made that assertion.

Mr. **SARBANES.** Then, what is the difficulty with an amendment that says that if the President certifies they are not being used in a discriminatory fashion, the provisions will continue, but if the President states that they are being used in a discriminatory fashion, the provisions will lapse?

Mr. **KENNEDY.** I find that there is no good answer for that. Perhaps the principal sponsor of the legislation may have an answer to it.

Mr. **SIMPSON.** Mr. President, the dual question asked by the Senator is not a bad one at all, if we could go to that. But this amendment says that there will be a sunset on employer sanctions in 3 years unless the President certifies no pattern of employment discrimination resulting from employer sanctions.

What I am expressing is that the amendment would enable a President opposed to sanctions to simply opt out and thereby kill the program.

The employer sanctions has always been the very key to any kind of control of illegal immigration.

Representative Rodino of New Jersey, has spent years in attempting to revise the laws of the United States, and the key provision, he insists, must be employer sanctions. Without employer sanctions, there will be no control over illegal immigration.

Mr. **SARBANES.** I support the employer sanctions, but I understood the Senator's statement earlier to be that he did not anticipate that the existence of these provisions in the law would result in a pattern of discrimination against those seeking employment. I take it that the Senator would not want to include the provisions if, in fact, it were stipulated for matters of discussion that they would use any discrimination.

If that is the case, what is wrong with a proposal that if the President certified that they were being used in a discriminatory pattern, the provisions would then sunset? If he certified they were being used properly, without discrimination, the provisions would continue. Surely, we do not want the provisions to continue if they are being used in a discriminatory fashion.

Mr. **SIMPSON.** Mr. President, the issue is this: If the President does not like employer sanctions and he does not certify it, it ends. I think that is the message I am trying to convey.

There is always a danger of discrimination in employment, unfortunately, but there is nothing in this bill which is going to increase discrimination. Let me tell the Senator why.

We have new safeguards in S. 2222 which should actually reduce discrimination, and the principal one is that each employee in the United States is going to be asked the same information, regardless of what he looks like. He will have a verification system which may be a revised social security card or some other document in the 3-year period for determination. At the time of new-hire employment, that person presenting himself will have to produce that, and it will have to be produced by people who look foreign and by people who are less than hirsute and white, such as your correspondent.

Mr. **SARBANES.** I am not disagreeing with the distinguished chairman of the subcommittee with respect to those provisions, and I know how hard he has worked to try to develop a careful system. The only point I do not understand is that no one would assert that this system should be kept in place if, in fact, it were being used in a discriminatory pattern. I take it that we agree on that. Is that correct?

Mr. **SIMPSON.** I think that indeed would be correct. It would be offensive, if that were shown to be so.

Mr. **SARBANES.** The only question is whether requiring a Presidential certification in order to continue it is reasonable.

The Senator suggested that if you had a President who did not like employer sanctions, he could simply terminate the system. Of course, he could not do it for that reason. He could do it only if he certified that it was being used in a discriminatory pattern. One might say that he could certify that it was not the case and he did it because he did not like it. I think that is a

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pretty harsh comment on any President, since the reason for making the certification is stipulated in the amendment, as I understand it, and that is to find a discriminatory pattern.

Second, if you had a President who fell so short of his responsibilities in carrying them out in a genuine fashion, Congress, of course, would be in a position, I take it, to overrule that.

So it seems to me that the amendment does not seek to go to any of the essential premises of the scheme which the chairman of the committee has included in his legislation. It does provide one additional safeguard against discriminatory treatment, and that is the requirement of a Presidential certification.

The PRESIDING OFFICER. The Chair advises the Senator from Wyoming that all the time of the opponents of the amendment has expired.

Mr. SIMPSON. I ask unanimous consent for 1 additional minute.

Mr. KENNEDY. Make it 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMPSON. Mr. President, we believe that in the bill we take care of the issue as to whether discrimination is resulting. I refer to page 50 of the report. Reports will be filed, and one of the issues to be included in that report is discrimination against members of minority groups. There are other things. It is at the bottom of page 50. I will not read it because of the limitation of time.

I say to the Senator from Maryland that a peculiar situation arose when we had testimony from the Civil Rights Commission on the entire issue, and they said: "We don't like employer sanctions. We are opposed to employer sanctions in whatever form they take."

Therefore, we had to exclude them sometimes from various areas of discussion, because they said already they did not favor employer sanctions. It did not have anything to do with discrimination or civil rights. It had to do with one rock-hard issue to them. That is why we are saying it could be a rock-hard issue to the President of the United States.

Mr. KENNEDY. Mr. President, the fact is that the Civil Rights Commission was divided on that issue because they thought there was the real danger that employer sanctions would be used in a discriminatory way.

All that is provided in the bill now are reports. I do not think they have the teeth necessary to deal with discrimination if, in fact, it is found to exist.

I say to the Senator from Maryland that when I initially offered this proposal in the committee, I also asked for a report to be done by the Civil Rights Commission, also by the GAO. Later, I will ask for it to be done by the EEOC, so that Congress will have the information as well.

I do think, with respect to the danger of discrimination, that if the President cannot make a certification that this is not being used in a discriminatory way, this provision should be sunsetted.

There is no reluctance around this body to require a President to make findings and report to Congress on other matters of importance. We give the President both the authority and the responsibility.

I do not think the argument of frivolousness has been made with regard to those grants of authority. I do not think that charge should be leveled at this one.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I have two serious concerns about the employer sanctions provisions contained in section 101 of S. 2222. The first is the potential discriminatory impact the sanctions will have on American citizens who are members of minority groups, especially Hispanic citizens.

There is no doubt that the problem of illegal immigration is a crisis which we can no longer afford to ignore—with anywhere fron 3 to 5 million illegal aliens currently in the United States accounting for somewhere between 30 to 50 percent of the annual population increase in the United States. Since 1971 every major immigration reform bill that has been introduced has contained some provision imposing penalties on employers for knowingly hiring illegal aliens. President Ford's Cabinet-level Domestic Council Committee on Illegal Aliens 1976 report, President Carter's 1977 Task Force Study on Immigration Reform and most recently President Reagan's Select Commission on Immigration Reform in its 1981 report, all recommended the enactment of employer sanctions. Thus, based on the research that has been done on the problem of illegal immigration over the last several years, some form of employer sanctions appears to be an essential part of any effort to achieve a solution. However, in the course of the recent Subcommittee on Immigration and Refugee Policy hearings, an objection was raised to employer sanctions on the grounds that they might result in discrimination against certain American workers.

Mr. President. While I do not believe that it is fair to only impose sanctions on undocumented aliens as we do under current law while allowing employers who may be exploiting those aliens to escape liability, I also do not believe that it is equitable to create a system that makes employers reluctant to hire certain American citizens, particularly Hispanic Americans. It is for that reason that I support the amendments proposed by the distinguished Senator from Massachusetts (Mr. Kennedy), which would do the following:

First, require the President to monitor implementation of employer sanctions and certify in writing to Congress within 3 years that the sanctions have not resulted in a pattern of discrimination. If he cannot make that certification, the employer sanctions would be terminated unless Congress takes remedial action and;

Second, require the General Accounting Office to undertake a review of the implementation of employer sanctions each year. The Civil Rights Commission would also be authorized to investigate allegations of discrimination under employer sanctions.

With these amendments we can insure that employer sanctions will be monitored and will be terminated if they cannot be implemented in a nondiscriminatory manner.

In addition to the monitoring and certification process, I also believe that we should promote vigorous enforcement of the Fair Labor Standards Act, social security insurance laws, unemployment insurance and title VII of the Civil Rights Act to eliminate substandard wages and working conditions. If we encourage full enforcement of these laws, we will reduce the incentive for employers to hire undocumented aliens.

Mr. KENNEDY. Ms. President, I do not know what time remains, but I yield it back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from Maryland (Mr. Mathias), the Senator from Alaska (Mr. Murkowski), the Senator from New Mexico (Mr. Schmitt), the Senator from Wyoming (Mr. Wallop), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon, and the Senator from Texas (Mr. Bentsen) are necessarily absent.

The PRESIDING OFFICER (Mr. Abdnor). Are there any other Senators wishing to vote?

The result was announced—yeas 22, nays 69, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—22

Boren
Chafee
Cranston
D'Amato
Dixon
Exon
Glenn
Hart
Heinz
Inouye
Kennedy
Matsunaga
McClure
Mitchell
Nickles
Pell
Riegle
Rudman
Sarbanes
Specter
Symms
Tsongas

NAYS—69

Abdnor
Andrews
Armstrong
Baker
Baucus
Biden
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Cohen
Danforth
DeConcini
Denton
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Ford
Garn
Goldwater
Gorton
Grassley
Hawkins
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Levin
Long
Lugar
Mattingly
Melcher
Metzenbaum
Moynihan
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Sasser
Simpson
Stafford
Stennis
Stevens
Thurmond
Tower
Warner
Zorinsky

NOT VOTING—9

Bentsen
Cannon
Hatch
Hatfield
Mathias
Murkowski
Schmitt
Wallop
Weicker

So Mr. Kennedy's amendment (No. 1947) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1234

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an unprinted amendment numbered 1234.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d) Nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 2000e-5 of Title 42 of the United States Code, or any other authority provided therein.

On page 166, after line 10, insert the following:

Sec. 402(a) Eighteen months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding 18 month period, for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of unlawful discrimination has resulted against United States citizens or aliens, other than unauthorized aliens as defined in section 274A(a)(4), seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

Two more such reports shall be prepared and transmitted, one 36 months after the date of the enactment of this Act and one 54 months after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, I have talked this amendment over with the floor manager.

This amendment simply requires that the General Accounting Office, and the Equal Employment Opportunity Commission undertake independent reviews of the implementation of the employer sanctions program established in this bill.

The amendment authorizes the GAO to report, each year, to the Judiciary Committees of the House and Senate, to determine whether employer sanctions—Have been carried out satisfactorily; have resulted in a pattern of discrimination against U.S. citizens or eligible workers; or have created an unnecessary regulatory burden for employers hiring such workers.

In addition, it authorizes the EEOC to investigate allegations of discrimination if they develop during the implementation of the employer sanctions program.

Mr. President, I know there are some reporting requirements already in the bill requiring the President to study some of these issues. But I believe we should go beyond simply relying on the executive branch to study employer sanctions, and explicity authorize additional funds, if they are required, to the GAO and the EEOC to carry out independent studies.

I believe that attaching this explicit authorization to this bill, will give some assuarance to those in our country who are concerned over the possible impact of employer sanctions, that the Congress will receive independent assessments of the program, along with the reports from the President and related executive branch departments.

Mr. SIMPSON. The amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. Kennedy).

The amendment (UP No. 1234) was agreed to.

UP AMENDMENT NO. 1235

(Purpose: To provide for congressional review of refugee admissions in excess of 75,000 in any fiscal year.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers) proposes an unprinted amendment numbered 1235.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, between lines 11 and 12, insert the following:

CONGRESSIONAL REVIEW OF REFUGEE ADMISSIONS

Sec. 206. (a) Subsection (a)(1) of section 207 (8 U.S.C. 1157) is amended to read as follows:

"Sec. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President—

"(A) determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest;

"(B) transmits such determination in writing to both Houses of Congress; and

"(C) the Congress fails to adopt a concurrent resolution of disapproval of the determination under the provisions of section 210.".

(b) Section 207 (8 U.S.C. 1157), as amended by subsection (a) of this section, is further amended by striking out subsection (a)(2) and redesignating subsection (a)(3) as subsection (a)(2).

(c) Chapter 1 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CONGRESSIONAL REVIEW

"Sec. 210. (a)(1) The President, after making a determination under subsection (a)(1) of section 207, shall submit such determination to the Congress for review in accordance with this section. Such determination shall be delivered to the Congress while it is in session. Such determination shall be referred to the Committees on the Judiciary of each House of Congress.

"(2) Any such determination shall become effective in accordance with its terms unless, before the end of the period of 30 calendar days of continuous session after the date such determination is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such determinaton.

"(b)(1) The provisions of this subsection are enacted by the Congress—

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"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any concurrent resolution disapproving a determination of the President shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on the Judiciary.

"(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 15 calendar days of continuous session of the Congress after the referral of such resolution to that committee it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

"(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same determination of the President); and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same determination of the President.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same determination). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

"(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

"(5) Notwithstanding any other provision of this section, if a House has approved a concurrent resolution with respect to any determination of the President, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same determination.

"(c) If a determination by the President is disapproved by the Congress under subsection (a)(2), then the President may make a different determination and shall submit the determination to the Congress in accordance with subsection (a)(1).

"(d)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If an adjournment sine die of the Congress occurs after the President has submitted a determination under subsection (a)(1), but such adjournment occurs—

"(A) before the end of the period specified in subsection (a)(2); and

"(B) before any action necessary to disapprove the determination is completed under subsection (a)(2); then the President shall be required to resubmit the determination involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

"(e) For purposes of this title:

"(1) The term 'concurrent resolution' means a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the determination made by the President dealing with the matter of ——, which determination was submitted to the Congress on ——'. (The blank spaces shall be filled appropriately.)

"(2) The term 'detemination' means any determination made by the President pursuant to section 207(a)(1).

"(f) The provisions of this section shall take effect on the date of the enactment of this Act.

(d) The table of contents of the Act is amended by inserting after the item relating to section 209 the following new item: "Sec. 210. Congressional review.".

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 30 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, perhaps we can finish in less time than 30 minutes. I know Senators have planes to catch.

First of all, on a philosophical note, I think this bill presents a real dilemma for most of the Members of this body. It presents us with a conflict between our normal commitment to human rights, our humanitarian instincts, our Judeo-Christian beliefs and ethics, on the one hand, and on the other hand, our commitment to the first law of nature, which is self-preservation.

Now, I think that the bill is correct, at least to this extent: there must be a limit, there must be a cap on how many immigrants we are going to take into this country. But I also believe there must be a cap on how many refugees we are going to permit to enter. Otherwise, our work is for naught.

We are in the position of people on a lifeboat. If you have 10 people on a lifeboat and that is the capacity for the lifeboat, and you take on 5 more people, both the 10 who are in the lifeboat and the 5 who are climbing aboard are all going to be lost.

The analogy is that the United States—a great, powerful nation, a great agrarian land with tremendous resources—can absorb, in the interest of human rights, a lot of people, but not everybody. So we are in the position, and rapidly moving into an even more precarious position, of accepting more people in our lifeboat than we can sustain.

I voted for the first Kennedy amendment, which is almost a contradiction to my commitment to a cap. But I voted for it because I cannot think of anything more traumatic, more perverse, than saying that a family may not be reunified. Every parent in this body and every parent in this country can identify with not being able to live with your children or your wife, or even your brothers and sisters. We take those things for granted in this country.

Mr. President, the fact that I voted for that, on the one hand, and I voted for the Huddleston amendment, on the other, is, I think, a manifestation of the ambivalence we all feel about what the proper action ought to be here. It is almost a Sophie's choice. Somebody said a while ago that the D'Amato amendment was an amendment which forced Senators to decide which child you grab when a house is on fire. It is a Sophie's choice, similar to the situation where Sophie had to make up her mind whether she wanted to save her son or her daughter. She arrived in Auschwitz and got off the train and the guard said, "You can keep one of your children, but not both." So here is a desperate mother having to decide which one of her children is going to go to the gas chamber.

Well, this situation is not quite that dramatic, of course, but it is an illustration of the terrible conflict and choices we are having to make on this bill.

Now, the amendment that I am offering here does not affect the cap of 425,000 immigrants in the bill. I want to repeat that. It does not affect the 425,000 immigrants who are allowed for family reunification and so on under the preferences. It does not disturb that cap.

What it does do is put a cap on the number of refugees that we can accept into this country, except under certain conditions.

Now, to understand what we are faced with, let me point out that the existing law of the land is that, unless the President comes over to the Congress and consults with us and issues a determination that he wants more than 50,000 refugees, then 50,000 is the limit. But it is an ineffective limit, because we have been admitting a lot more than that.

The President has submitted a determination to us before the beginning of each fiscal year saying, "We want more than 50,000." Now, I want you to bear in mind, that under existing law, before the beginning of each fiscal year the President has to come to the Congress and say, "Here is the way it looks to me, but I am going to consult with you about it." He is then bound by law to consult with the Judiciary Committees of both the House and the Senate. After that consultation, he, and he alone, makes the determination as to how many refugees will be admitted into this country in the ensuing year. If he says, "I think this coming year we need 150,000 refugees," his say is final; not ours, his.

My amendment changes that ever so slightly. We will raise the current 50,000 limit to 75,000—and I want to point out that at the end of this year there is no limit on the number of refugees that can be admitted into this country so, what I am saying is that we are going to take the committee bill of 425,000 for immigrants, add 75,000 refugees, in order to produce a total cap of 500,000 who may enter this country next year.

There could be no interchanging of numbers between categories. If we do not have 75,000 refugees, that would not raise the number of immigrants coming into the country. If we do not have 425,000 immigrants, that does not raise the number of refugees that can come into the country.

What the amendment simply says is that the President, if he wants more than 75,000 refugees to come into this country in any one year, not only must consult and make the determination that he wants more and why, but also that Congress reserves, under my amendment, the right to disapprove the President's request within 30 days under expedited procedures after he submits it.

If the President comes over and says, "I want 150,000 refugees next year," twice as many as my amendment would permit, Congress has the right to say, "Mr. President, you are helping to sink our ship. That is too many refugees." We have 30 days in both Houses to disapprove it under expedited procedures.

I think it is only fair to say at this point that I have never been a great champion of legislative vetoes. I do not much like the concept. And I assume the Supreme Court is going to rule on the constitutionality of legislative vetoes sometime, but it has not done so yet.

I want to say one thing. In this bill, if we pass this amendment, you are saying to the President when he signs it, "Mr. President, if you sign this bill, there is a provision by which Congress reserves unto itself some say-so about who and how many people are going to cross our borders next year."

Is that an unfair reservation to the Congress?

Mr. HUDDLESTON. Will the Senator yield.

Mr. BUMPERS. I am happy to yield.

Mr. HUDDLESTON. I thank the Senator for yielding.

Certainly my efforts here will indicate that I am in general agreement with the direction that the Senator from Arkansas intends to take.

There are just a couple of questions I would like to ask the Senator. First, on the question of 75,000, why would the Senator increase that number from 50,000 which is in the Refugee Act of 1980?

Mr. BUMPERS. That is a very good question. Let me answer it this way: In 1980, there were 212,000 refugees that came into this country, most of them Cuban. That was during the great Mariel boat lift. In 1981, last year, we accepted 159,000. This year there is a limit of 140,000. The President sent over his message before the beginning of the fiscal year for 1981 and said, "I want 140,000." But through June of this year there have only been 53,000 who came into the country.

I reached the figure of 75,000 in two ways. You can look at it either way, and it is necessarily an arbitrary figure. With the number of refugees coming into the country right now, this would be the lowest year we have had for some time for refugees. If the flow continues at its present rate we will accept about 75,000 refugees into this country this year. The other way of looking at 75,000 is that it is a little less than half of what we accepted last year. It is admittedly an arbitrary figure, but one which I think will cause the Congress to look very carefully if the President says he want more than that.

Mr. HUDDLESTON. I have not had the chance, of course, to study this amendment in any great detail, but as I understand it the amendment also provides an emergency provision which allows the President to act without any limit. Is that correct?

Mr. BUMPERS. This amendment does not change the emergency provisions in existing law.

Mr. HUDDLESTON. So by declaring the Cuban boat lift an emergency, that would be outside the 75,000 and Congress would have no authority? Or by declaration any other situation—the Southeast Asian situation, where we were bringing in 14,000 a month—could be determined as an emergency? Does the President have the authority to make the declaration as to what is an emergency?

Mr. BUMPERS. He does have it.

Mr. HUDDLESTON. If you look at the record of the State Department, everything is an emergency.

Mr. BUMPERS. I understand that.

Mr. HUDDLESTON. If a situation is not an emergency when it starts out, they will make it one.

Mr. BUMPERS. If I thought I had a ghost of a chance in getting this amendment passed by capping the emergency numbers, too, I would do it. This is a very pragmatic concern on my part. I voted for the amendment of the Senator from Kentucky because the emergency provision is indeed a big loophole. But I think this is a modest step in the right direction, and, based upon my conversations with other Senators, it is probably the best thing we can hope for.

Mr. HUDDLESTON. I think certainly it is in the right direction when it restores to the Congress some reasonable way to exert its own authority and its own opinion as to what the refugee level ought to be. As a practical thing, it does have loopholes, and I do not know that as an operative piece of legislation it would put us into any better situation than we are in now.

We had the Cuban boat lift, for instance. There was no consultation of that with Congress or anybody else. There was no law that covered that. The President at that time just said, "We welcome you with open arms. We will call you legal entrants."

I do not know how this would address that situation. Can the Senator give me any help as to whether or not this would, in fact, give Congress an opportunity to participate on those kinds of deliberations and decisions?

Mr. BUMPERS. My amendment does not address the emergency powers of the President, but I do want to say one thing. As I say, I would like to put it in but I do not believe we can pass it. I think there is a chance we can pass this measure and I think it is an improvement in the bill. I will also say that the President's emergency power has only been used one time in the history of this country and that

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was in 1980 when the President allowed the Mariel boat lift.

Second, just from a political standpoint, I believe that was the most devastating decision of the Presidency of Jimmy Carter and I think it was one of the reasons for his defeat. I think any other President is going to look at this hole card very closely in light of that.

Mr. HUDDLESTON. As I say, I do agree with many parts of this amendment. I am concerned that it does not, in fact, put a ceiling on immigration. The only way to do that, in my judgment, is to have one overall cap. This does restore to the Congress, however, some limited authority in order to deal with the executive branch in trying to develop a rational program and rational figures. From that standpoint, I will support the Senator's amendment. I would hope that he might amend that figure back to the level which is in the present bill of 50,000, but, nevertheless, I think it is an improvement over the situation that exists at the present time.

Mr. BUMPERS. I thank the Senator very much.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I was pleased with the debate between my two colleagues on the issue of refugee levels because both of them have followed it closely, Senator BUMPERS from his standpoint in the State of Arkansas and Senator HUDDLESTON who has had long experience in this issue.

I understand what is being sought, but I have difficulty with it.

As I understand it, this amendment provides that the first 75,000 refugees will be free on board. In other words, without consultation, without any consultation with the Congress. May I inquire if that is correct?

Mr. BUMPERS. The Senator is not exactly correct. That is the maximum.

Mr. SIMPSON. There will be nothing affecting over 75,000 unless there is consultation with Congress, notification to Congress of the number chosen by the President, and Congress then failing to pass a concurrent resolution rejecting the numbers over 75,000.

Mr. BUMPERS. The Senator is correct, Mr. President.

Mr. SIMPSON. Mr. President, I think as we continue to use this figure of 50,000 in our refugee discussions, many may be a bit surprised that the Refugee Act, which we shall reauthorize here very shortly, in a few days, states that the number of refugees who may be admitted under this section in fiscal years 1980, 1981, and 1982 may not exceed 50,000.

Mr. BUMPERS. The Senator is correct. Incidentally, that expires at the end of this year and there is no limit after October 1 of this year.

Mr. SIMPSON. That is correct. That is what I am emphasizing because, instead of having the normal flow of 50,000 as we referred to it, the normal flow will be zero. The normal flow under the legislation in 1983 will effectively be zero, because we will no longer have the 50,000 allowed without consultation. So, in effect, here we have an amendment which actually increases the number of refugees which may be admitted without consultation. Is that not correct?

Mr. BUMPERS. The Senator is not entirely correct. Incidentally, if the committee, in reauthorizing the Refugee Act, wants to reduce it to 50,000, it certainly will get my support, or if it wants to reduce it to zero.

Would the Senator like me to amend my amendment either to cut it to zero or to 50,000?

Mr. SIMPSON. In the form of the amendment as it presently reads, we are really saying there can be 75,000 who can come into the United States of America, admitted without consultation of Congress. I think that is certainly not a good step at all.

Mr. BUMPERS. I must have misunderstood the Senator, Mr. President. The President must consult with us as he does right now. If he wants to admit 10,000 next year or 5,000, he still must consult with us. The only difference is that if he wants more than 75,000, we reserve the right to ourselves to say no.

Mr. SIMPSON. But under the Senator's amendment, Mr. President, there is no consultation process under 75,000.

Mr. BUMPERS. Yes, there is, Mr. President. We do not change the consultation process one iota. If he wants 1 or 75,000, he must consult with us, he must make a determination, he must send it over and it must be put in the CONGRESSIONAL RECORD, exactly as it is today.

Mr. SIMPSON. It says in the amendment, Mr. President, "Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President," then it goes on.

Mr. BUMPERS. Mr. President, the intent of that provision is that unless he gives us justification for more than 75,000—in which case, if we read on—we are reserving to ourselves the right to veto. But he still must make a determination. Whether it is zero or up to 75,000, he must consult and he must make a determination.

Mr. SIMPSON. Mr. President, I would not read that amendment that way. Perhaps we can adjust, but there is a time agreement.

Let me say this to the Senator from Arkansas. The present procedure works. Let me express to him how that is.

Mr. President, under the Refugee Act—let me swiftly give these figures. We had a proposed figure of 234,000. We had a ceiling then of that amount. We actually had admissions of 212,000. Then Congress became aware of where we were going with the misuse. The parole authority had gotten us into such poor condition that we just never quit. We were hooked on the old parole authority.

So in 1981, we had proposed admissions of 222,000. The ceiling was proposed at 217,000, the authorized ceiling. The actual admissions were 159,000. In 1982—this was my first consultation process—they proposed 173,000. The subcommittee and the Judiciary Committee said, no, 140,000. That was accepted.

This year, the best knowledge we have is that they will come in with about 99,000. So we are coming down very swiftly. We were headed for the historical flow of 50,000. Now that is removed. The flow can be anywhere between zero and what it is at present, which is 99,000. We believe the administration is likely to come in in 1983 with a proposed figure of about 85,000. We will go to consultation on that figure.

I submit that, Mr. President, just to show that it is working. It is, indeed, working and working well, the present law.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. SIMPSON. Yes.

Mr. HUDDLESTON. It is working simply because the State Department has not yet taken into account some of the situations that exist in the world and begun to address them. We have 400,000 illegal El Salvadorans in this country at the present time. It is only a matter of time until the State Department determines that there is an emergency there. When that happens, they will admit 200,000 or 300,000 and there is nothing in the present law, no matter what the recommendations of the subcommittee may be, that will in any way restrain them.

Mr. SIMPSON. Mr. President, the restraint has come because Congress is finally exercising its muscle in the consultation process. They can even come up with numbers in an emergency situation that we could consult on. I think that the issue is that it has taken this long for the Refugee Act to impact upon the administration's decision and I hope any administration, at least this one—and the previous one was beginning to respond to it—understands that indeed Congress is going to call the shots. That was best proven by the change of numbers last year from 173,000 down to 133,000.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to send a modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (UP 1235) was modified.

The amendment, as modified, is as follows:

On page 140, between lines 11 and 12, insert the following:

CONGRESSIONAL REVIEW OF REFUGEE ADMISSIONS

SEC. 206. (a) Subsection (a)(1) of section 207 (8 U.S.C. 1157) is amended to read as follows:

"SEC. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President—

"(A) determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest;

"(B) transmits such determination in writing to both Houses of Congress; and

"(C) the Congress fails to adopt a concurrent resolution of disapproval of the determination under the provisions of section 210.". *Provided, however,* That nothing herein shall be construed to allow the President to determine that fewer than seventy-five thousand refugees should be admitted without consultation with Congress.

(b) Section 207 (8 U.S.C. 1157), as amended by subsection (a) of this section, is further amended by striking out subsection (a)(2) and redesignating subsection (a)(3) as subsection (a)(2).

(c) Chapter 1 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CONGRESSIONAL REVIEW

"SEC. 210. (a)(1) The President, after making a determination under subsection (a)(1) of section 207, shall submit such determination to the Congress for review in accordance with this section. Such determination shall be delivered to the Congress while it is in session. Such determination shall be referred to the committees on the Judiciary of each House of Congress.

"(2) Any such determination shall become effective in accordance with its terms unless, before the end of the period of 30 calendar days of continuous session after the date such determination is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such determination.

"(b)(1) The provisions of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same determination). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

"(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

"(5) Notwithstanding any other provision of this section, if a House has approved a concurrent resolution with respect to any determination of the President, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same determination.

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any concurrent resolution disapproving a determination of the President shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on the Judiciary.

"(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 15 calendar days of continuous session of the Congress after the referral of such resolution to that committee it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

"(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same determination of the President); and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same determination of the President.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members.

"(c) If a determination by the President is disapproved by the Congress under subsection (a)(2), then the President may make a different determination and shall submit the determination to the Congress in accordance with subsection (a)(1).

"(d)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If an adjournment sine die of the Congress occurs after the President has submitted a determination under subsection (a)(1), but such adjournment occurs—

"(A) before the end of the period specified in subsection (a)(2); and

"(B) before any action necessary to disapprove the determination is completed under subsection (a)(2);

then the President shall be required to resubmit the determination involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

"(e) For purposes of this title:

"(1) The term 'concurrent resolution' means a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the determination made by the President dealing with the matter of , which determination was submitted to the Congress on '. (The blank spaces shall be filled appropriately.)

"(2) The term 'determination' means any determination made by the President pursuant to section 207(a)(1).

"(f) The provisions of this section shall take effect on the date of the enactment of this Act.

(d) The table of contents of the Act is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Congressional review.".

Mr. BUMPERS. Mr. President, I have only 20 seconds left. The modification is designed to clarify the point that the Senator from Wyoming raised. That is that the President must consult in any event as he does now and if he wants more than 75,000 refugees, then Congress withholds to itself the two-House veto.

The PRESIDING OFFICER. All time of the Senator from Arkansas has expired.

Mr. SIMPSON. Mr. President, may I earnestly suggest to the sponsor that I know what he is trying to accomplish with regard to refugee limitation. The amendment was unclear. I would like to have the opportunity and pledge him that I shall give him the opportunity to review this with the subcommittee and the staff. Our first knowledge of this amendment was this morning.

We have already now modified it once. I deeply feel that it has some flaws in it that we will regret if we

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should accept it. I must respectfully advise the sponsor that I will move to table the amendment and the modification, whatever form it may take, and assure the Senator from Arkansas that I will hold a hearing on that if he wishes, or the staffs will meet, but with this limited time I cannot accommodate the amendment in its present form.

Mr. BUMPERS. Will the Senator yield?

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes 39 seconds.

Mr. SIMPSON. I will yield 1 minute.

Mr. BUMPERS. Mr. President, I just want to say to my colleagues that unless we adopt this amendment, there will be no limit on how many refugees will be admitted next year. My purpose here is to make that limit a fairly generous number, much higher than the Senator from Kentucky would like, higher than others would like, but at least there is a limit and there is a congressional limitation. If we do not put a limit on the number of refugees, then what we are doing on this entire bill is really for naught.

Mr. KENNEDY. Mr. President, during the course of this debate we have heard a good deal about the impact of refugees on our society. And from the discussion one would conclude that they have all been negative.

An article in this morning's Washington Post, Mr. President, tells a different story, a story of how one homeless refugee has come to our shore, built a new life for himself, and greatly contributed to our society.

Mr. President, the article speaks for itself, and I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Aug. 13, 1982]

Energetic Vietnamese Refugee Builds a Business Empire in U.S.

(By Jay Mathews)

Seattle, Aug. 12.—On his first U.S. job as a welder, Quang Tran was laid off because he worked too hard, he said. Someone at the union had complained that this young Vietnamese refugee was so productive that his ironworker shop had stopped hiring more men.

Seven years later, the slim, boyish, hyperactive Tran is famous here for becoming a Vietnamese refugee tycoon.

In the midst of a flood of 600,000 Indochinese refugees into the United States, straining welfare rolls and raising unemployment figures, Tran's story shows how many of the earliest refugees have lifted themselves and pulled up some of their American neighbors with them.

A month shy of his 30th birthday, Tran has established his own shipbuilding and repair company on 22 acres of what was barren Seattle waterfront. He grossed about $8 million last year.

Employes like Sonny Parker, a forklift operator from Texas, call him "a crazy man," devoted to working seven days a week. Workmen on the dock describe their initial shock at seeing Tran, president of his Eagle Marine Construction Co., staying on the work site every day in his overalls and reserving the most dangerous welding chores for himself.

The Seattle port authorities wish Tran would restrain his impulse to put up new buildings first and seek permission later. Some port workers wish he would relax some of his exacting hiring standards.

But Tran is setting such an example of energy and excellence, businessmen here said, that he has given many people in Seattle a different impression of the huge refugee community, which often has been criticized for its drain on the city's resources.

According to a survey in late 1981, commissioned by the U.S. office of refugee settlement, only 55 percent of refugees had entered the labor force and 13 percent of those had actually found work.

The remaining 45 percent included young adults struggling with English, women caring for children, the sick and the bewildered. Most of them were receiving some kind of public assistance.

But Linda Gordon, the office's chief data analyst, noted that many of those surveyed had only recently arrived in the United States. Her office's statistics showed that after a readjustment period, refugees like Tran who had arrived in the first wave after the communist victory in Indochina in 1975 have settled into productive jobs and are beginning to contribute to their communities.

"He doesn't party and he doesn't drink and he doesn't do any of the other things that most people do to reward themselves," said Bob Gallaway, sales manager for Tran's company.

Tran displays some signs of his new prosperity; he drives a Delorean and pilots a cruiser he converted from a fishing boat. But most of his time is spent around his small dockside office, decorated with pictures of the little landing craft he has lovingly designed and built.

He keeps a sleeping bag in the office, and in busy periods prefers to sleep overnight on the floor.

Gallaway calls Tran "the little general" because he is often "yelling and screaming and running around." But when he arrived in the United States in April, 1975, he was little more than a former lieutenant with seven years experience in the navy of a defeated country, some knowledge of how to repair damaged ships and little more than a high school education.

Tran was born in Haiphong, North Vietnam. In 1954 his father, a Sino-Vietnamese engineer, fled the communist takeover of the north and resettled in the Cholan district of Saigon. His father died when Tran was 7, and his elder brother supported the family by managing a toothpick factory.

Tran was drafted in 1968. Assigned to a dock facility in the southern delta, he often had to go into disputed territory and try to raise and recover river boats knocked out by Vietcong mortars. U.S. Coast Guard Chief Warrant Officer Robert L. Havner, who worked with Tran then, remembers him as "one in a thousand. Even then he was working 24 hours a day."

His energy won him a chance at further training in the United States, at Governor's Island in New York and later San Diego and San Francisco.

Tran's roommate at Governor's Island took him home to New Jersey for a brief visit, and Tran remembers the splendid summer home of his roommate's wealthy realtor father. To him it was a monument to the American way.

When he had to return to Vietnam, Tran said, "I had the idea that I was going to come back. This was the land of opportunity. If you work for it, you get it."

On April 28, 1975, with desperate Vietnamese pounding on the gate of the American Embassy, Tran and most of his family managed to get on a C150 refugee flight because of their connections with the U.S. military and U.S. businesses.

He headed for Seattle, where a refugee employment service center found him a job teaching welding.

"I like to teach," he told himself, "but if I teach like this, I got no future."

He became a welder for a local ironworking factory, but was laid off. Disgruntled with life as an employee, he started to contract with local fishing companies to manage the conversion of surplus Navy ships into fishing boats.

His reputation for careful workmanship and meeting deadlines spread. A steel supplier, who later befriended Tran and helped him get a line of credit, heard of this unusual refugee suddenly getting into the business. Then, at a shop, "I kept hearing this guy yelling 'Give me my . . . stuff.' I had to meet him."

Having saved his money and found a bank willing to gamble on his unusual blend of talents, Tran founded the Eagle Marine Construction Co. in 1979. He soon won contracts to build 1,500 cargo flaps, design and build two special landing craft for fishing and supply work in two Alaskan towns, and refit a huge barge.

Workers applying for the projects had to take a test supervised by Tran and only about 10 percent passed. When dangerous jobs like overhead welding were required, Tran often did them.

"I feel I am more responsible than they," he said. "And if I get hurt it's okay, because I'm still single."

Faced with a recession particularly dangerous to young companies like his, Tran has added a small parts and tool-making facility and has begun to advertise and try to take advantage of government contracts which cater to minority-owned firms. Tran said he has not taken a vacation since he arrived in 1975.

He said he has no marriage prospects. "Who would want to get involved with someone who works all the time?" he said.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I can only say that at least this year there will be two figures at the parapet, Ron Mazzoli in the House of Representatives and myself in this Chamber, with our respective chairmen, Strom Thurmond and Peter Rodino, to assure the Senator that in the conference process we will have a limit on refugees.

Mr. President, has the time been yielded back by the proponents?

The PRESIDING OFFICER. All time has expired.

Mr. SIMPSON. Then I yield back all time of the opposition to the amendment.

Mr. BUMPERS. Did the Senator move to table?

Mr. SIMPSON. I did move to table.

Mr. BUMPERS. I ask for the yeas and nays.

Mr. SIMPSON. I do move to table the amendment of the Senator from Arkansas.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I have a unanimous-consent agreement that I submitted to the minority leader and which I believe has been cleared by the managers of this measure, and I would like to present it now for the consideration of the Senate.

S. 2222

Mr. President, I ask unanimous consent that any rollcall votes ordered after the hour of 2:45 p.m. today in relation to S. 2222 be postponed, to begin on Tuesday, August 17, at 10 a.m., with the first vote to be 15 minutes in length and any remaining rollcall votes occurring back-to-back to be 10 minutes in length.

Mr. President, I further ask unanimous consent that no amendments be in order on Monday or Tuesday in relation to S. 2222 and that the bill be advanced to third reading and to final passage without any intervening action following the back-to-back rollcall votes on amendments on Tuesday.

HOUSE JOINT RESOLUTION 520

Further, I ask unanimous consent that following the period for morning business on Monday, the Senate turn to consideration of Calendar No. 752, House Joint Resolution 520, the debt limit bill.

And finally, Mr. President, I ask unanimous consent that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, Mr. President, is the leader's request postponing the vote on this amendment?

Mr. BAKER. Not on this one.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING ADJOURNMENT

Mr. BAKER. Mr. President, I have a subsequent request. I ask unanimous consent that during the adjournment of the Senate over until Monday, August 16, that messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred; that the Vice President and the President pro tempore and the acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

ORDERS FOR MONDAY

Finally, Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday, the reading of the Journal be dispensed with, no resolution come over under the rule, the call of the calendar be dispensed with, and following the time allocated the two leaders under the standing order and special orders there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not more than 3 minutes each.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I merely want to state for the record there is no way to keep the distinguished Senator from Tennessee, the majority leader, from adjourning the Senate today until Monday if he wants to do that. He prefers to do it by unanimous consent. If he does not have unanimous consent, the majority leader can move it at the end of the day. That is not debatable; he has the votes to do it, and I want the record to so show.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, AUGUST 16, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield the floor.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with the consideration of the bill.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I withdraw my motion to table. The amendment may be considered on an up-and-down basis.

The PRESIDING OFFICER. Without objection, the motion to table has been withdrawn. The question is on the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Maine (Mr. COHEN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

The result was announced—yeas 41, nays 45, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—41

Boren
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
D'Amato
DeConcini
Denton
Eagleton
East
Exon
Ford
Glenn
Grassley
Hart
Hawkins
Heflin
Helms
Huddleston
Inouye
Jackson
Johnston
Kasten
Levin
Long
McClure
Mitchell
Moynihan
Nickles
Nunn
Pryor
Randolph
Riegle
Roth
Rudman
Sasser
Stennis
Zorinsky

NAYS—45

Abdnor
Andrews
Armstrong
Baker
Baucus
Biden
Boschwitz
Bradley
Cranston
Danforth
Dixon
Dole
Domenici
Durenberger
Garn
Goldwater
Gorton
Hayakawa
Heinz
Humphrey
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Lugar
Matsunaga
Mattingly
Melcher
Metzenbaum
Packwood
Pell
Percy
Pressler
Proxmire
Quayle
Sarbanes
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Tsongas
Warner

NOT VOTING—14

Bentsen
Brady
Cannon
Cohen
Dodd
Hatch
Hatfield
Hollings
Mathias
Murkowski
Schmitt
Stafford
Wallop
Weicker

So Mr. BUMPERS' amendment (UP No. 1235) as modified was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I will oppose S. 2222, the Immigration Reform and Control Act.

But before I explain my criticisms of the bill, I first want to say what I think is right about it—and there is much that is.

First, the bill explicitly recognizes the special relationship we have with

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our next-door neighbors, Canada and Mexico. Those nations, by reason of proximity and history, deserve special treatment for immigration purposes. I have advocated such special recognition for immigration from Canada and Mexico for many years and I am very pleased to see this provision in S. 2222.

Second, the bill will promote reasonable immigration into the United States and coordinates normal immigration with our admission policies for refugees under the Refugee Act of 1980. I am disappointed, however that Senator Kennedy's efforts to restore the fifth preference category failed on the floor yesterday.

Third, the bill accepts the existence of a valued population of undocumented workers who have contributed substantially to our national productivity, to our culture, and who have become welcome members of many communities.

Finally, this legislation is built upon an impressive foundation of study by many citizens and groups and was subject to extraordinary deliberation in the Judiciary Committee under the leadership of my colleagues Senators Simpson and Kennedy.

I applaud the thoughtful and conscientious work the Senator from Wyoming has done in his usual thorough way on this measure even though I disagree with many of his conclusions. I applaud the effective leadership the Senator from Massachusetts has provided in his customary courageous way—and I agree with virtually all the stands he has taken on this measure.

Differences remain.

The bill, in my view, imposes a new and controversial legal order upon the United States for the purpose of controlling illegal immigration. I disagree deeply with the direction taken by S. 2222 to control illegal immigration.

My fundamental objection to S. 2222 is its system of verification of the requirement that no employer shall hire any individual who is not authorized to work in the United States.

The authors of the bill argue that such a work authorization system is necessary to protect employers and, in their words, minority workers. It is even suggested by one advocate that "minority workers could use the system to demonstrate that they are citizens or aliens authorized to work in this country, and to counter any possible suspicion."

I find this offensive and repugnant to the concept of individual dignity and liberty.

Apparently, many do not agree with me.

Apparently, many of my colleagues are ready to vote to require that every American be authorized by his or her Government to work.

What more is there that a "Big Brother" government can do to obtain control over every citizen and resident of the United States?

My distinguished colleagues on the Judiciary Committee argue that the work permit system will never be used for law enforcement purposes other than enforcement of the immigration laws.

I accept those assurances at face value.

But the Senators who make them today may not be here to defend against some future effort by the Government to use ID cards for nefarious purposes. The Senators who assured the citizens of 1935 that social security cards and numbers would never be used for identification purposes are not here today to argue against the provision in S. 2222 which leads toward the use of the social security card and number as a universal identifier.

So while I accept the good faith of my colleagues, I doubt deeply their ability to keep their word into the future when they are no longer here.

Any system that leads to the requirement that citizens be identified, no matter how you do it, or what you call it, boils down to an internal passport system that will sooner or later be abused by the Government.

S. 2222 will make every individual in the United States—whether born here or not—subject to the control of immigration authorities—even if they spend every day of their lives in their own hometowns.

Such a result, in my view, infringes upon our traditional respect for individual liberty in the United States best expressed in the Revolutionary War slogan "Don't Tread On Me" and New Hampshire's State motto, "Live Free or Die."

I am told repeatedly by the bill's supporters that virtually every country in the world has such a system. Scandinavian nations are held up as prime exhibits as are other European nations. That should not be persuasive to anyone who appreciates the history and traditions of our Nation.

One of my reasons for opposing the identification card approach is based upon my personal experience and what I have witnessed in Hitler's Germany, Mussolini's Italy, and in various Communist countries. The first tool of a totalitarian system is a domestic passport, let us not have them in our beloved land.

I understand why such a provision is necessary in the scheme set forth in S. 2222.

It is basic that the key to any program of controlled immigration is the ability to limit entry to lawful means.

Obviously, any system of allocating fairly the right to immigrate to the United States from other countries depends upon assuring that persons will use only the system of lawful immigration and not be able to resort successfully to unlawful ways of entering and remaining in the United States.

S. 2222 seeks to obtain control over illegal immigration first by making it unlawful to hire an illegal alien or an alien unauthorized to work. Under such an approach, it is elementary that employers have an affirmative defense. The bill provides such a defense through the verification system which involves statements made under penalty of perjury plus assorted identification documents, pending the development of a so-called secure verification system.

I would approach the problem of employers hiring undocumented workers differently. I do not think employers should be made to be immigration policemen. But for the purposes of this discussion I concede that S. 2222, if passed, will contain a provision making it against the law to hire an alien unauthorized to work in the United States.

Having made that assumption, it appears adequate to me to limit the bill's requirement for verification to the system proposed in section 101(b) of the bill. Verification that an alien is authorized to work should be limited only to those provisions provided in section 101(b). Those are: First, attestation by both employer and employee that the provisions have been complied with and that the employee is authorized to work; second, examination of the individual's U.S. passport, or third, social security card or U.S. birth certificate, plus some other identity document.

I urge that we consider dropping the requirement that the President be directed to move toward the development of a secure verification system. This limitation would help guard against the growth of an I.D. card system. Frankly, I prefer that the verification be limited further to simple statements made under penalty of perjury that the individual is authorized to work plus presentation of a social security card as is now required under law.

The verification of identity provisions are in my view an overreaction to the need to assure that aliens and employers comply with the law.

I think Americans and, for that matter, most people are law-abiding.

The current situation, as the distinguished chairman of the Subcommittee on Immigration well knows, is highly ambiguous on the question of hiring illegal aliens. Hiring illegal aliens is not against the law today. In addition, our immigration policy for the most part has been based in recent years upon the tolerance of illegal aliens working and living in the United States.

Thus, I believe that if the law is changed as it is in section 101(a) of S. 2222 and elsewhere in the bill, most

American employers will comply with the law. That has been our experience with many changes in law, which seemed to be highly controversial, even inflammatory, such as the public accommodations title of the Civil Rights Act of 1964, and the Voting Rights Act of 1965. Most Americans complied with those laws when passed by Congress and signed by the President.

No evidence has been presented to me that employers will not comply and the committee report concedes that employers will comply.

Would compliance under such a scheme as I have outlined be absolute?

Probably not. But compliance would be substantial and workers and job applicants would be fairly treated.

Perfection in compliance with S. 2222, in my judgment, is not worth subjecting every American to a police card system of identity. And I think that is where the bill leads.

Much has been made of the accusation that employers unfairly exploit illegal aliens and undocumented workers. The areas of mistreatment are said to be substandard or unlawful wages and hours; dangerous, unsafe, and unhealthy working conditions; and outright cheating with respect to withholding tax payments not made and other abuses related to payroll practices.

Mr. President, every one of these abuses is a violation of some Federal law as well as of some State law.

I have urged that we act to see to it that those workplace laws are enforced.

My State of California does have such a program.

It is not a substitute for stopping the employment of undocumented workers.

But it has been effective in securing a higher degree of compliance with basic workplace laws.

In fact, recent exit interviews conducted in detention centers operated by INS show that illegal alien workers employed by California employers suffered less economic exploitation and law violation than workers from other States.

In my view, we should move toward a significant enforcement program to receive better compliance with our tax laws which require withholding of taxes on wages and prompt payment of payroll taxes for social security and unemployment insurance. In addition, I would hope to see expanded efforts to enforce minimum wage and fair hours laws as well as stepped up efforts in the health and safety fields.

But, instead of taking steps to help all workers, S. 2222 imposes substantial new regulatory burdens upon employers. All employers will be subject to the prohibition against hiring unauthorized aliens. All employers of four or more workers must retain paperwork with respect to compliance with section 101(b) for 5 years. That is a significant requirement.

I am not persuaded that the committee has considered the cost of compliance to small businesses and large, as well as the cost to individual citizens seeking to obtain jobs.

I even have some doubt that the committee has met the requirements of paragraph 11 of rule XXVI that an evaluation of the regulatory impact of the bill be made. The rule requires the evaluation to estimate the numbers of individuals and businesses who would be regulated and a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected; a determination of the impact on personal privacy; and a determination of the amount of additional paperwork that will result from the regulations.

Since committees rarely comply in detail with rule XXVI, paragraph 11, I suppose it would be unsportsmanlike to raise a point of order against the bill on the grounds that the report of the committee does not comply with the provisions of paragraph 11 of rule XXVI.

Nevertheless, in spirit, if not literally, I do believe such a point of order could be taken against the bill.

It will suffice to say that the regulatory and paperwork impact of S. 2222 is grossly underestimated and is a sufficient ground to vote against the bill in my opinion.

UP AMENDMENT NO. 1236

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY) proposes unprinted amendment numbered 1236.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, at line 13, after "ing" strike all thereafter through line 15 to the semicolon.

Mr. GRASSLEY. Mr. President, this amendment modifies a provision in the bill which both the majority and minority floor managers of the bill feel is inconsistent with the basic thrust of amendments adopted previously to this bill.

Mr. President, since the managers of the bill are aware of the amendment and since this has been cleared with the majority manager, I ask that the amendment be adopted.

Mr. SIMPSON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 1236) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that the pending matter be laid aside temporarily for the consideration of the conference report on H.R. 6530.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MOUNT ST. HELENS NATIONAL VOLCANIC AREA—CONFERENCE REPORT

Mr. McCLURE. Mr. President, I submit a report of the committee of conference on H.R. 6530 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount Saint Helens National Volcanic Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. McCLURE. Mr. President, I rise in support of the conference report on H.R. 6530. I commend my distinguished colleagues from the State of Washington, Senators JACKSON and GORTON, for their hard work in bringing this legislation to fruition.

The House offer, recommended by Congressman SEIBERLING, on a settlement of the differences in the boundaries described in both bills was accepted by the Senate conferees after discussions with Senate conferees and sponsors. Concerns over the additions to the boundary of the Goat Creek area were difficult to reconcile. However, the boundaries were adjusted to exclude the known mining claims.

In the Kipuka area, the conferees adjusted boundaries to eliminate known active timber sale areas.

The conference committee in resolving boundary differences in relation to the extant mining claims and mineral interests agreed to exclude known mining claims to the maximum extent

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possible and to acquire mineral interests only by exchange.

In the case of those mining claims remaining inside the boundary of the Mount Saint Helens National Volcanic Monument, the Secretary may acquire the claims in the Polar Star-Green River area only with the consent of the owner. Further, the Secretary has ample authority to make minor boundary adjustments to exclude those claims which are near the boundary in the Green River-Polar Star area.

Mr. President, this legislation directs the Secretary to use exchange as the primary tool of acquisition of the private lands and interests in lands in the monument. The conferees expect that the Secretary shall move expeditiously to complete these exchanges, however, since it is also the intent of the conferees to use the exchange authority to the maximum extent possible, the Secretary should allow such reasonable time as may be necessary for parties to exchanges to work out the details of any complicating factors so that the exchanges may be carried out smoothly and effectively.

Mr. President, this legislation represents a response from society to a natural phenomenon of great magnitude that occured on May 18, 1980, and repeated a number of times up to today and will be predictably repeated in the future.

I believe this legislation strikes a balance in how Congress wishes the land to be managed. It gives the Secretary flexibility to manage and yet preserve, educate, interpret, and protect. The collection, conduct, and dissemination of scientific data by the USGS and Forest Service will be foremost in the management objectives.

Mr. President, I wish to thank Senators JACKSON, GORTON, and WALLOP and the Senate conferees for their work in this legislation. I wish to thank the Senate Energy and Natural Resources Committee staff for their work and perseverance in bringing this legislation to a successful conclusion.

Mr. JACKSON. Mr. President, I rise in strong support of the conference report on H.R. 6530—the Mount St. Helens National Volcanic Monument bill.

Mr. President, I believe that the compromise reached by the conferees in this regard is fair and equitable. I think it strikes a reasonable balance that fairly considers the various interests represented. Throughout the process, both Senator GORTON and I have tried to be responsive to the concerns expressed by the many witnesses and others who have commented on this bill.

The measure before us today creates a national volcanic monument comprising approximately 110,000 acres. The Senate-passed bill included some 105,400 acres. The conference agreement makes important additions in Smith Creek, Kipuka, and Goat Creek. The mining claims in the Green River Polar Star area have been almost entirely excluded from the monument. The Secretary will be able to use the boundary adjustment authority provided in the bill to delete even these last remaining claims.

The conference report provides for expeditious legislated exchanges of the surface resources of the two largest non-Federal landowners in the area—Burlington Northern and Weyerhaeuser. The subsurface rights are to be exchanged as expeditiously as possible under the general exchange authority provided in the act and existing law. In an effort to insure as little fiscal impact as possible, the Conferees agreed to limit the acquisition authority of the Secretary with regard to mineral interests to exchange only. As I noted earlier, almost all the surface rights in the area will also be acquired for exchange. With regard to the exchange of mineral interests, the conferees adopted language making it clear that only an environmental assessment rather than an impact statement is required to be prepared. This should help expedite the exchange of these interests.

The conference report includes specific language regarding the management of the area which represents a good compromise between the two versions. Language has been included regarding the very narrow circumstances under which timber salvage operations can take place within the monument. Provisions are made to insure that the Secretary can take necessary actions to prevent loss of life and property. Direction is provided the Secretary with regard to the construction of roads and related developments, scientific research and study, and hunting and fishing.

Mr. President, we have an opportunity today to set aside for future generations a truly special resource. The scientific, research, recreation, and other opportunities that Mount St. Helens will provide are, in my view, of inestimable value. I am proud to have played a role in the establishment of this area, and I urge my colleagues to join with me in adopting this conference report.

I want to express my deep appreciation to the chairman of the committee, Senator MCCLURE, the chairman of the subcommittee, Senator WALLOP, and, may I say, to the members of the staff of both majority and minority who worked so hard in dealing with a number of intricate details involved in the legislation. I especially want to commend Tom Williams, Mike Harvey, Gary Ellsworth, and Tony Bevinetto of the Senate Energy Committee staff as well as Dale Crane, Nick Ashmore, Bob Boar, and Bob Lowery of the House Interior and Agriculture Committee staffs. I also want to express my appreciation to my colleague, Senator GORTON, and to his staff, especially Catherine Besteman, for working with us very closely on this bill.

Mr. President, I think it dramatizes what can be accomplished when people work together in a common effort to resolve a lot of difficult pros and cons in legislation of this kind.

Mr. GORTON. Mr. President, today we are considering the conference report on the establishment of a Mount St. Helens National Volcanic Monument. Prior to the conference, the Senate version of the bill and the House version of the bill passed their respective Houses unanimously. The differences between the two versions were slight, and the conference committee was able to conclude its work expeditiously. The conferees are to be commended for the speed with which they conducted the conference, and for producing an excellent compromise bill. I am extremely pleased with the final bill, and it is considered a fair compromise by all the competing interests which must be served by this bill. In fact, it is an improvement over both the original House and Senate bills. I give my enthusiastic support to the final bill worked out in the conference committee, and urge its immediate approval by the Senate.

Mr. President, this is one of those felicitous occasions in my view in which the product of the conference committee is superior to either the bill, which originally was passed by the House of Representatives, or that which originally passed the Senate.

It is due, as my senior colleague has said, to diligent and skillful work on the part of our staffs. It is due most particularly to the understanding and generosity of the chairman of the Energy and Natural Resources Committee, the distinguished senior Senator from Idaho, whom I wish particularly to thank for facilitating the passage of perhaps the most significant single bill dealing with public lands and with their preservation during the course of this Congress.

I recommend to my colleagues the immediate passage of the conference report.

Mr. McCLURE. Mr. President, I too, would like to especially thank my colleagues from the State of Washington, and to again express what Senator JACKSON has expressed with respect to the help of the staff on both sides of the aisle.

The professional staff of the committee, on both the majority and minority side, have been very helpful. They are very competent people, and it has been a pleasure to work with them in working out the details of this matter.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the pending measure. In so doing I wish to congratulate the two Senators from the State of Washington. Their persuasive powers were not to be denied. I wish we had such persuasion in other matters, such as sugar. [Laughter.]

I would ask the same support which I gave the two Senators pertaining to this matter because, as you know, the matter comes up next week possibly—we hope it will.

Again I wish to congratulate the two Senators for the most effective manner in which they represented their State with reference to this bill.

Mr. McCLURE. I, of course, agree with my distinguished colleague from Hawaii on both matters, the matter of Mount St. Helens and sugar.

Mr. President, I move the adoption of the conference report.

The **PRESIDING OFFICER.** The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the conference was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with its consideration of the bill.

The **PRESIDING OFFICER.** The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the distinguished Senator from Oklahoma has asked for me to yield him 1 minute, and I yield him 1 minute.

Mr. NICKLES. Mr. President, I thank my good friend, the Senator from Pennsylvania.

I wish to thank the chairman of the Immigration Subcommittee for the fine work he has done, and also the work of his staff and the minority staff.

UP AMENDMENT NO. 1237

(Purpose: To clarify how violations are counted when determining an employer's penalty, establishing separate and distinct units of corporate liability)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES) proposes an unprinted amendment numbered 1237.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 85 after line 25 insert the following: "In counting the number of previous determinations of violations for purposes of determining whether clause (i) or (ii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

Mr. NICKLES. Mr. President, the amendment that I offer is to modify the provisions of this legislation so that the enforcement of the new responsibility which employers will have to bear recognizes the realities of the workplace. This bill lays out, in section 274, the employer penalties for a first violation, a second and subsequent violations, and for a pattern or practice of violations. These penalties are sound and justified. However, the bill does not make clear how INS is to determine if a violation is multiple or singular, whether a violation should count as one or more than one. The House bill does specify how a violation is counted, and establishes separate and distinct units of corporate liability. My amendment would adopt this concept of the House bill.

S. 2222, in its present form, would place the responsibilities for compliance on single corporate entities when in fact, hiring decisions are most often made on a local basis. This is especially true for multidivision and multiplant location corporations who do not, as a matter of practice, clear all hirings through a corporate headquarters. Thus, if not modified, this bill will focus the liability and any resulting punishment for employment of illegal aliens on the aggregated corporate level and not where the hiring decisions are made. The effect would be akin to "punishing the father for the sins of his children."

It is my belief that, by adopting this amendment to create separate and distinct units of liability, we will be placing the onus of compliance directly on those people who do the hiring. Under the provisions of this amendment, it is these people who bear the burden of implementing the effort to control illegal immigration through this act who will be held responsible for failure to comply.

Furthermore, the amendment clarifies that all violations by an employer during one adjudication proceeding against that employer be treated as a single violation. Thus, if the employer failed to check several employees' documentation and INS brought action against the employer, that action would be considered one violation. Therefore, whether a proceeding involves 1, 5, or 20 employees, that proceeding is counted as one violation.

If accepted, this amendment would serve to avoid unnecessary prosecution. More importantly, it would preserve the intent of the act and its sanctions without forcing business to put in place costly centralized systems of preemployment screening and paperwork which could be better and less expensively handled at the plant level. It would also clarify how one counts violations.

Mr. President, I want to make perfectly clear that when I refer to "final management authority" in my amendment I am referring to final "hands on," direct, operational control over the day-to-day hiring and employment practices of the separate entity. I am not referring to general management control of a corporation over its subdivisions, which would exist in other cases.

Mr. President, it is my understanding that the House bill, H.R. 6514, includes similar language to my amendment. I also understand that the administration endorses this amendment. I believe that it is important that the Senate also recognize separate units of accountability and attribute violations on a disaggregated basis.

Mr. President, to summarize, this amendment by its adoption will recognize separate and distinct units of liability. We will be placing the onus of compliance directly on those people who do the hiring.

Under the provisions of this amendment it is the people who will bear the burden of implementing the effort to control the illegal immigration through this act and who will be held responsible for the failure to comply.

This amendment, Mr. President, has been cleared on both sides, and I ask for the adoption of the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1237) was agreed to.

Mr. NICKLES. I thank the Chair and I thank the Senator from Wyoming and the Senator from Pennsylvania.

The **PRESIDING OFFICER** (Mr. BOSCHWITZ). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I commend my colleague, the distinguished Senator from Wyoming, Mr. SIMPSON, and Congressman MAZZOLI for their outstanding work in developing the Immigration Reform and Control Act, now being considered by the Senate.

In the life of our Nation, there has been no subject of greater importance than immigration because the immigrants have populated and created the great strength of the United States of America. In my own life, there has similarly been no subject of greater importance than immigration because both of my parents were immigrants. My mother, Lillie Shanin Specter, emigrated to the United States at the age of 5 from Poland to St. Joseph, Mo., with her parents. My father, Harry Specter, emigrated to the United States at age 18 from a small village named Batchkurina, 170 miles south of Kiev in the Ukraine section of Russia. Last month, I had the opportunity to visit my father's birthplace and saw firsthand how much greater my opportunities were than his.

In enacting this legislation, the Congress, the courts, and the administrators of this statute should be ever mindful that the United States continues to be not only the greatest Nation on Earth but the Nation with the greatest opportunity on Earth. The essence of life is freedom, and the core of freedom is the opportunity for the individual to develop his greatest potential. Toward that end, this statute is intended to and should be interpreted to allow the maximum opportunity for as many people as possible to emigrate to the United States.

A fundamental principle for statutory construction is that remedial legislation should be liberally construed. Too often, administrators and courts lose sight of a statute's purpose behind labels such as "liberal" or "conservative" with the admonition against judicial lawmaking. This statute is designed to provide the maximum opportunity for immigrants, which is reasonably consistent with its provisions.

In case of a tie in baseball, the runner is safe. In horseshoes, points are awarded for being close. Under this statute, the immigrant prevails on less rigid standards. As my law school professor, Freiderich Kessler, used to ask: "Can you make the argument without blushing?" If the immigrant's argument can be made without blushing, the immigrant should prevail.

This interpretation benefits both the immigrant and the Nation. Our national strength lies in our diversity. The United States of America continues to be the international melting pot where the sky is the limit; and the foreign-born, as well as first or eighth generation Americans, can contribute to the Nation in lofty places such as the U.S. Senate.

Our American creed emphasizes the worth of each individual. Let the immigrant applicant become a part of our Nation if at all possible. We shall all be stronger with the implementation of that purpose which is embodied in this important legislation.

Mr. SIMPSON. Mr. President, I have learned to respect the thoughtful Senator from Pennsylvania. We serve together on two committees—Veterans' Affairs and the Judiciary. He is, indeed, correct. Our present adjudication systems do not work well. Caseloads are growing—backlogs are growing. Appeals are layered one on top of the other. Our asylum situation is absolutely out of control with 106,000 pending asylum actions. Layer upon layer, indeed.

Questions have been raised about the independence of the present adjudication, and I understand what the Senator is saying, all of those procedures being under the INS. The administration requested that the new Immigration Board and immigration judges remain within the Justice Department but independent of the Immigration Service. So we provide in S. 2222 that very independence while continuing the supervision of the Justice Department over the adjudication process.

But we have established a new system which is completely independent of, as I say, the INS. I know that the Senator has examined that carefully. We provide for the new U.S. Immigration Board with increased stature for the nine members appointed for 6 years.

Mr. SPECTER. I had made this statement available to the distinguished Senator from Wyoming earlier and I would like to seek his view as to the accuracy of my general statement of the legislative intent and his response on the general principles of statutory construction I have set forth. I think he is in general agreement that it is our intent that this statute be construed in a way to permit the administration, wherever it can be done, to favor the immigrant, consistent with the provisions of the statute.

Mr. SIMPSON. Indeed, that is the intent, and it is the intent of S. 2222.

If you would look at the entire statutory structure of the measure, you will find that the first thrust is family reunification—and immediate relatives and compassion. We would not have come this far with this measure if it lacked compassion for family reunification, as in the poignant story that you tell of your own relatives and your visit there.

In the adjudication process, it is easy for the administrators to get lost in their efforts and not consider the very human aspects that you portray. I can only tell the Senator that strict statutory construction in the immigration law field is going, I think, to be carefully monitored because of the humanitarian concerns.

Mr. SPECTER. That is precisely the point that I wish to make, and I think it would be useful, as this statute is interpreted by many in the administrative branch and also in the courts, that that expression of the statutory construction be heeded.

If I may now, I would like to proceed to the subject of Shailesh Patel. This matter has come to the attention of the distinguished Senator from Wyoming, as well as his subcommittee, in terms of legislation which I had introduced for Mr. Patel, both as a general matter for all those who came under his category and legislation for him specifically.

Essentially, and succintly stated, Mr. Patel came to this country from India in 1966 on a student's visa in order to study at Villanova University.

He graduated from Villanova in 1970 with a degree in mechanical engineering. Except for a short visit to India in 1971, when he married and returned to the United States with his wife Premlata, Shailesh Patel has lived here continously for 16 years.

In May of 1972, Mr. Patel's student visa expired. He then placed a critical decision. He could, as millions of other immigrants have done, simply go underground, with little practical chance of being found, prosecuted, or deported. Instead, consistent with the scrupulous respect he has shown for our laws throughout his residence here, Mr. Patel sought a legal adjustment of his status. He was operating a service station in which he had invested over $15,000, and he was understandably confident that he would gain permanent residence on the basis of the immigration law's "investor clause," which granted a preference to any immigrant who has invested $10,000 or more in a job-creating U.S. business.

However, his application was rejected because his service station was leased rather than owned—an arbitrary interpretation of the "investor clause" that lacked precedent.

Shailesh Patel's ultimately unsuccessful appeal lasted until 1978. A reapplication for permanent residence was also rejected and a deportation order was issued in 1981. The Patels are in the United States with the status known as "extended voluntary departure."

I submit that Shailesh Patel has become a model citizen, a productive citizen, a patriotic and law-abiding citizen in every sense but a technically legal one.

Mr. Patel's stakes in this country begin with his family. He has three children—Apurva, Sheetal and Alpa. Each was born in the United States. Each is a U.S. citizen. Each attends school in the West Chester School District. Each has made good friends here. This is the only home they have known. If their parents are deported, these children—aged 9, 7, and 5—will either have to stay here without their parents or go to a country they have never seen, where they do not speak the language, where they could not possibly succeed in school, where they have no friends, and where they face serious psychological difficulties. It is a nightmarish situation in which these

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children, and thousands of children of other immigrants, are the victims.

Mr. Patel has leased and operated a Sunoco service station in Berwyn since 1978. He employs three persons. He has invested about $35,000 in a lease deposit and in new equipment. With the income from the station, he has purchased a fine home in West Goshen Township. Deportation would mean the loss of the service station and the home. Similar self-employment in India would be impossible.

The loss would not only be to the Patels, but to the entire community that has come to rely on his skill. Mr. Patel's special efforts and consideration for his customers have earned him their highest esteem, as evidenced by the approximately 300 letters, petitions, and telephone calls I have received in his behalf.

The Patels have no criminal record. They have paid all applicable local, State, and Federal taxes throughout their residence in the United States. They have neither sought nor required any State or Federal welfare assistance. They are a credit to their community and to this country.

Because of my concern for the Patels, and the uncounted immigrants who share their nightmarish battle with our immigration laws, I introduced S. 1789 to give amnesty to law-abiding immigrants who lived here for 10 years and had American-born children.

The processing of that bill is now made unnecessary by the prospective enactment of S. 2222.

What I wish to do at this time is to continue this colloquy with the distinguished Senator from Wyoming to establish the legislative history which I think is clear—but there is nothing like making it explicit in the legislative history—that the Patels do, in fact, fall within the provisions of S. 2222 and will be permitted to remain in the United States.

Mr. SIMPSON. Mr. President, I am well aware of the situation of the family referred to, the Patels. We have discussed that previously. It is a good question.

There are a number of groups of people in the United States whose members are known to the Immigration and Naturalization Service, but who do not fall into the statutory immigrant or nonimmigrant category.

The bill as drafted leaves it to the discretion of the Attorney General as to which of these groups should be considered in unlawful status and, therefore, included within the legalization program. We are informed by the General Counsel's office of the INS that persons on extended voluntary departure do fall within the scope of the legalization provisions.

Mr. SPECTER. I thank the distinguished Senator from Wyoming. In simple and direct terms, that means that the Patels would be able to stay, does it not?

Mr. SIMPSON. That is correct, as I interpret it.

Mr. SPECTER. That interpretation is good enough for me, and I think has very considerable weight in the legislative history.

If I may now, I would like to refer to another specific case that I have heretofore discussed with the distinguished Senator from Wyoming, where the situation does fall within the provisions of the statute for preference, but, again, I think it is highly advisable to establish this legislative history.

This relates to two Venezuelan citizens about whom I have heretofore written to the Commissioner of Immigration and Naturalization, Mr. Nelson. These two Venezuelan citizens, who have two sons in the United States, have sought, so far unsuccessfully, to enter this country. But under S. 2222, they would have a preference under the provisions of section 202 (b)(1), entitled "Aliens of Exceptional Ability," which specifies that preference be given to qualified immigrants who, because of their exceptional ability in the sciences, arts, professions, or business, will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States.

These two Venezuelan citizens, who are husband and wife, are approximately 58 years of age. Dr. Ela Bacalao was born in Romania on June 19, 1924, and graduated with an M.D. degree in 1947 from the Venezuelan Central University, according to the information provided to me.

She received postgraduate training in the United States through New York University Postgraduate Medical School between 1949 and 1953, including in that period a 1-year course in basic sciences, a year as assistant resident in the gynecology department of Bellevue Hospital in New York, and a 6-month course in gynecological citology at New York Hospital, Cornell Medical Center.

She then served as a research fellow for 2 years, 1962–64, in the gynecological pathology department of Columbia Presbyterian Medical Center, and, subsequently, for 10 years, 1965–75, was in charge of an important training program in Venezuela.

Since 1975 she has devoted her time to the private practice of medicine in gynecology in Venezuela.

Her husband, Dr. Pedro Bacalao, was born in Venezuela on March 7, 1923. He graduated with an M.D. degree in 1946 from the Venezuelan Central University, and then undertook postgraduate training in the United States through New York University Postgraduate Medical School between 1949 and 1953, including in that period a 1-year course in basic sciences, a 1-year residentship in orthopedic surgery in the New Jersey Orthopedic Hospital, and 6 months residency specializing in fractures in Orange County Memorial Hospital, both in New Jersey.

He was then a fellow in orthopedics for 2 years, 1962–64, in the Hospital for Special Surgery, Cornell Medical Center, New York City, and later belonged to the staff of the Orthopedic Department of the University Hospital, Venezuelan Central University, for 17 years, 1954–71.

Since 1971, he has devoted his full time to private practice of medicine in Caracas in a private hospital.

These very distinguished physicians, I think, do fall within the preference which is established by the section that I heretofore referred to. They are typical of the many people who will be accorded this preferential status which will, I believe, work to the benefit of the national economy, the cultural interests, or welfare of the United States, as those terms are delineated in the statute.

At this time, I would ask the distinguished Senator from Wyoming for his concurrence on that by way of legislative history on the subject which we have discussed heretofore.

Mr. President, my distinguished colleague is correct. Title II of S. 2222 does provide for preferential allocation of independent immigrant visas. In order to qualify for a preference, the applicant must have exceptional ability in the sciences, the arts, the professions, or business, needed skills, or substantial investments in the United States, or businesses in which the alien would be the principal manager and which would benefit the Nation's economy and create employment opportunity for not fewer than four workers.

Mr. SIMPSON. The family that the Senator refers to could apply for the first of these three preference groups. The three preferences are persons with exceptional ability in the sciences, arts, or professions. Among other persons, this section of the bill is to admit persons who would substantially benefit the economy, cultural interests, or welfare of the United States, or persons with exceptional medical ability could fall within this category. One of the members of this family could show such exceptional ability and if each of the others is otherwise qualified, they would be eligible for admission, subject, of course, to applicable numerical restrictions.

Mr. SPECTER. I thank the distinguished Senator from Wyoming for that response.

The final matter I wish to have a very brief colloquy on relates to the subject of the U.S. Immigration Board, which, under an earlier draft, was to be selected by the President with the advice and consent of the

Senate. I know that this provision was modified after extensive deliberation by the distinguished Senator from Wyoming so that the Board would be selected by the Attorney General.

I understand the considerations which led to that selection process and I had considered the possibility of introducing an amendment to return the statute to its original status. I think, however, that the objective can be achieved in large measure through colloquy by agreeing upon an explicit statement of statutory intent that this Board to be an independent judicial board, to function independently of control by the Attorney General.

The reality is that under the original provisions for the President to make the appointments, very likely they would be on the Attorney General's recommendation, and as the case, realistically viewed, in such matters, the advice and consent of the Senate is, very frequently, pro forma. So that, as a practical matter, we can have the same quality from the Board under the current provision if there is a clear-cut determination that the Board is independent from the Attorney General. That independence, I think, is absolutely necessary because of the requirement that there be a separation for investigative, prosecutorial, and judicial functions.

I know it is the intent of the committee that there be that type of independence, but I would just like to establish that positively for the record at this time.

Mr. SIMPSON. Mr. President, the administration has requested that the new Immigration Board and immigration judges remain within the Justice Department, but independent of the Immigration Service. Provisions of S. 2222 provide that very independence while continuing the supervision of the Justice Department over the adjudication process.

Current provisions of S. 2222 provide for a new U.S. Immigration Board with increased stature for the nine members appointed for 6-year terms by the Attorney General. It also provides for new immigration judges of increased stature and specially trained asylum adjudication judges who have training in international law and international affairs. Thus, the present provisions of the bill increase both the stature and the independence of the immigration adjudication system.

Immigration pressures on the United States are increasing. Asylum applications have grown to a number which would have been unbelievable a few years ago. We need a fair immigration adjuducation system within the Justice Department. We have provided that with increased training, increased stature, and increased independence.

Mr. SPECTER. Mr. President, there is one final matter which I shall not pursue at this moment, but which I have discussed with the distinguished Senator from Wyoming. That relates to the pattern and practice which activates the possibility of criminal prosecution with respect to the consideration of such three violations. I understand it is the desire of the Senator from Wyoming that this matter be reviewed with careful attention to the precise language, so I shall defer any further reference to that provision at this time. I shall await that colloquy and will consider it at a later time.

Mr. SIMPSON. I thank the Senator from Pennsylvania. I appreciate that very much.

Mr. SPECTER. I thank the distinguished Senator from Wyoming. I compliment him for a job well done. I thank him for the attention he has given to the matter I have presented this afternoon.

I wish to commend the Senator from Wyoming on retaining an unusual degree of composure, as he has been surrounded by some 99 Senators at various times during these proceedings, each one wishing to put his measure on the top of the list.

I yield the floor.

Mr. HAYAKAWA. Mr. President, the Senate has at last begun discussion and debate on a matter of tremendous importance to the future of our Nation. I believe that every Member of this body will agree that action must be taken to modernize our immigration laws, and I hope that an acceptable solution can be engineered from the core of the Immigration Reform and Control Act of 1982. S. 2222 is the product of many hours of hearings and deliberation. Senator SIMPSON deserves our highest praise for his efforts and commitment to address the very difficult issues surrounding our immigration policies.

However, I have some specific concerns with this bill as do a number of my colleagues. We have many amendments with which to deal, but I hope that by the end of our debate we can form a consensus and pass S. 2222.

We have, by some estimates, from 3 to 12 million illegal aliens in this country. Immigration, legal and illegal, from the Third World has never been higher. The forces behind this flow of humanity to our bountiful shores will only get stronger, and our ability to deal responsibly with the issue rests largely on our ability to understand the circumstances of and impacts related to the flow of foreigners into our Nation.

It is time to come to grips with our acceptance and treatment of refugees from around the globe. We must gain some sense of control over our 2,000-mile border with Mexico. This must be done with compassion and understanding for those less privileged than ourselves.

Unlike other political problems, there is no clear ideological division on these issues. There is no sharp conservative or liberal division. Moreover, immigration is a highly emotional issue involving ethnic and racial agendas, attitudes, and fears which are not always clear or expressed. Immigration, in addition, involves emotions which are not easily compromised. It is no wonder then, that most experienced politicians see the immigration question as dangerous territory with serious short-run costs and no clear advantages. They do so despite the fact that public opinion polls repeatedly show that the overwhelming majority of Americans are greatly dissatisfied with our immigration policy and want the Government to take action to solve the problem.

We must be absolutely certain that we do not compound our current immigration law problems as we move to change the laws. I am particularly concerned about the manner in which we deal with the flow of temporary workers into and out of our Nation. The Judiciary Committee has recognized this phenomenon and included language to modify the H-2, temporary worker program that is currently under the purview of the Department of Labor. This H-2 program is too restrictive and too burdensome to function in the West. Therefore I will be offering an amendment to include a guest worker program that will meet not only the needs of employers but will treat these temporary immigrants with respect and give them the freedom that they deserve.

I shall offer several other amendments Mr. President which I will discuss at the appropriate time. This debate on the reform of our Nation's immigration laws is long overdue. Let us proceed, but never let us lose sight of our unique place in global affairs as a nation of immigrants. Thank you.

Mr. McCLURE. Mr. President, I take the floor at this time on a Friday afternoon, with the indulgence of my friends from Wyoming and California, for just a few moments because I think this is, perhaps, one of the most important pieces of legislation we shall have in many respects for the many people who live in this country who do employ labor, as well as for those who desire to come to this country, either on a temporary permit for study or for permanent residence.

As I review this legislation, and I think the Senator from Wyoming has done a remarkable job in moving it to this point—he is a remarkable person in having been willing to undertake this thankless task in the first place. My remarks, if they sound less than enthusiastic about the work product, are in full recognition of the difficulty of addressing the question.

Mr. President, many people in my State of Idaho must depend upon seasonal work. We are an agricultural

State. But we are a State in which agriculture is, for many, not a 12-months-a-year occupation. There are crops that are planted in the spring, tended in the summer, and harvested in the fall, with varying amounts of work required at those times but with reductions in the work force required.

In a State of that character, it is very, very difficult to find enough resident workers to accomplish all the work that must be done. I had hoped that when we got to the question of the workers who would come into this country, we would have a much better and more flexible and, I believe, more workable provision than that provided for the expansion of the work certification under this bill. We at one time did have a farm workers bill known as the bracero program. I know from my conversations with employers in my State and elsewhere that that worked from their standpoint. I know, with respect to the people from the countries of their origin, mostly in Mexico, that it worked well for them. I know from my contacts with the Ambassador from Mexico as well as other officials in Mexico, they wish it could be instituted again.

They do not like this illegal immigration any better than we do. They do not like the wetback problem any more than we do. They would like to have the opportunity to have men in Mexico who cannot find work in Mexico given the opportunity to provide the labor that is necessary in our country, but to return to their wives and their families in their own country at the end of that work period. That, I believe, is good for them and it is good for us.

I do not see that being made very workable under the provisions of this bill. I would have been much better satisfied if there were a more explicit provision for that kind of temporary worker program.

Mr. President, my most fundamental question with respect to this bill lies in the question of whether or not it is workable. I look at the enforcement mechanisms that are in this legislation and it seems to me there is only one change in enforcement. That is in employer sanctions.

Employer sanctions become the very centerpiece around which any improvement in the status quo must evolve. I do not think it is going to work, Mr. President. It is not going to work for two reasons.

First of all, all the employer has to do to satisfy the requirements of the bill is to look at documents to be presented by the work applicant and make a record that those documents were there, and he is free of any criminal sanction.

Those documents are and will be readily available to tens of thousands, hundreds of thousands, perhaps millions of people, and all the employer has to do to avoid that problem is make sure that he has gone through the paperwork. That does not seem to me to be a workable provision. If it is not workable, we are deluding ourselves.

The other side of that is the employer problem, not just the paperwork burden but the hazard of making an error in the paperwork or preserving the paperwork in the event he is charged with criminal action; he has to be able then to defend himself. I know the argument is, and I have made it with a number of people with whom I have discussed this problem over the last several years, that you can be exposed to a civil penalty in which a bureaucrat, whoever it may be, in this case the Immigration and Naturalization Service, simply makes a charge against a person and you are subject to civil penalties. You must defend yourself against those civil penalties, you have no presumption of innocence. You do not have the value that comes from a jury trial, a jury of your peers in your own community. Being charged with a criminal penalty is really safer than the imposition of a civil penalty in which there are no safeguards.

But the employer does not want to be charged with a crime. The employer does not want to be exposed to the hazard of having to hire his own attorney and go into court and defend himself and have his reputation damaged as a result of a criminal charge brought against him simply because he did not keep the paperwork well enough. I am concerned about the employer problem, as well as the employee problem, as well as the lack of any really effective enforcement mechanism.

Finally, Mr. President, I am concerned with the civil rights questions that must necessarily spin out of the application of this statute. I say that from the standpoint, Mr. President, that I know that an employer is going to keep a bunch of forms on hand and he is going to fill out those forms when somebody applies for work, or at least he is going to do that when that person has brown skin. He is going to do that only when there is reason for him to believe that that person might have been a citizen of another country and not legally present in this country. There will become a pervasive pattern of discrimination between people who appear to have a right to be here and those who appear to be alien to the United States.

Growing out of that will inevitably come the demand for equal enforcement for all people regardless of race or origin or accent. Every employer across the land will then be required as a matter of fact to follow the paperwork burden that is being imposed ostensibly for a very small portion of our population but which will become universal in its application when you look at the question of whether or not there is civil rights discrimination between races.

Mr. President, while I recognize the dilemma that is faced by this country in trying to deal with this flood of immigration across unprotected, unguarded, and open borders, every person in this country must be willing, if they wish to stem illegal immigration, to have the Federal Government ask them who they are, where they are from, what right do they have to be here, applicable to every one of us at any time. We are not at that point, Mr. President. I do not think the American public has looked at the consequences of that, nor are they ready to confront that. And this bill does not do so.

Mr. President, we will not have ended this question with the passage of this legislation. We will simply have pushed it ahead of us a little while until we find out that this has not done it either.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I shall just take 2 minutes to respond and then defer to the Senator from California, who has been more than patient.

I am interested in the comments of Senator McClure. I wish he could have been here this morning when we had a rather significant colloquy and debate with his colleague from Idaho about the seasonal worker issue. I think he was totally satisfied with what we are doing here. We finally have included the Secretary of Agriculture in the proceedings. He has never been there before.

I will be the first to say that upon passage of S. 2222, which I hope will take place Tuesday at 10 o'clock or soon thereafter, we will have made a very small step forward. It is not an end all, an all-seeing piece of legislation of any kind. It was never expected to be that. But it is the first step toward doing two things: The first and most important duty of a sovereign nation is to get control over its borders, and we start. The second message sent throughout the entire world will be, "Hey, to work in the United States of America, you have to have some kind of documentation," which every other developed country on Earth has. We seek nothing more mythical or mystical or curious than that.

When we say, however, that nothing there is workable, I would certainly challenge it. The transitional system which utilizes existing documents will only be in effect for 3 years. That pushes us to something. The President must develop that system.

Employer sanctions. Without employer sanctions, do not bother to pass S. 2222 because it will be just as

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hollow as everything we have passed for the last 30 years that had anything to do with immigration reform.

I do share the views of the Senator from Idaho that indeed this is a small step, but I can assure the Senator that it is much, much better than doing absolutely nothing.

AMENDMENT NO. 1907

(Purpose: Providing for agricultural guest worker program)

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I wish to call up amendment No. 1907.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 1907.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT No. 1907

Insert the following section after the existing section 211 and renumber the subsequent sections accordingly.

AGRICULTURAL GUEST WORKERS

SEC. 212. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 205(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in Mexico which he has no intention of abandoning who is a national of Mexico and is coming to the United States for a period not to exceed one hundred and eighty days in any calendar year to perform temporary services or labor.".

(b) Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(c)(1)(A) The Attorney General, the Secretary of Agriculture, the Secretary of Labor, and the Secretary of State, shall by regulation establish a program (hereinafter in this subsection referred to as 'the program') for the admission into the United States of nonimmigrants described in section 101(a)(15)(O). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2), on the issuance of nonimmigrant visas for such nonimmigrants. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(O) in the chronological order in which the aliens submit applications for such visas.

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area within which an alien may be employed.

"(2) The Attorney General shall establish monthly and annual numerical limitations on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(M), based on the number of seasonal or cyclical agricultural workers sought by employers in the United States. In establishing such numerical limitations, the Attorney General also shall consider historical employment needs in the United States, the availability of domestic workers, and the projected labor needs of prospective employers. The Attorney General shall consult with the Secretary of Agriculture, and the Secretary of Labor in establishing numerical limitation under this paragraph.

"(3) The Attorney General, on the request of the Secretary of Labor, and the Secretary of Agriculture, shall impose a restriction on the employment of aliens described in section 101(a)(15)(M) who are issued nonimmigrant visas under the program which prohibits the aliens from accepting employment provided by a specific employer or at a specific site if such employer, or employees of such employer or at such site, demonstrate to the Secretary of Labor, and the Secretary of Agriculture, that the aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor, and the Secretary of Agriculture, shall establish a procedure for such employer and such employees to request, and the criteria for the imposition of, any restriction under this paragraph.

"(4) Any alien described in section 101(a)(15)(M) who obtains a nonimmigrant visa under the program and who violates—

"(A) any restriction with respect to the period of time for which the alien is allowed to remain in the United States, or

"(B) any restriction imposed under paragraph (3),

shall be ineligible to obtain a nonimmigrant visa under the program during the five-year period beginning on the date such violation occurs. Any alien who enters the United States unlawfully after the date the program becomes effective, is ineligible to obtain a nonimmigrant visa under the program during the ten-year period beginning on the date such entry occurred.

"(5)(A) The Secretary of State is authorized to take such steps as may be necessary in order to expend and establish consulates of the United States in Mexico in order to implement the program.

"(B) The Secretary of State shall cooperate with representatives of the Government of Mexico in order to insure that residents of Mexico are made aware of the nature and operation of the program.

"(C) The Secretary of Labor shall insure, to the extent practicable, that aliens who are nationals of Mexico and who reside in the United States are informed of the nature and operation of the program.

"(6) The Attorney General, the Secretary of Agriculture, and the Secretary of Labor shall report to Congress semi-annually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program."

(c) Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking out "or" before "(3)", and

(2) by inserting "; or (4) any alien admitted as a nonimmigrant under section 101(a)(15)(O)" before the period at the end.

(d) It is the sense of Congress that the President should negotiate with representatives of the Government of Mexico to establish an advisory commission to consult with and advise the Attorney General regarding the regulations to be promulgated, and the monthly and annual numerical limitations to be established, under the program established under section 214(e) of the Immigration and Nationality Act.

(e)(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"LUMP-SUM BENEFITS FOR CERTAIN NONIMMIGRANT MEXICAN WORKERS

"(x)(1) Upon the return to Mexico of an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act after the performance of temporary services or labor in the United States under the program established under section 214(e) of such Act, an amount equal to the sum of—

"(A) the taxes imposed under section 3101 of the Internal Revenue Code of 1954 on the income of such alien consisting of remuneration for the performance of such services or labor, and

"(B) the excise taxes imposed under section 3111 of such Code on the employer or employers of such alien with respect to having such alien in their employ pursuant to such program,

shall be paid in a lump sum to such alien if it is demonstrated to the satisfaction of the Attorney General either in an application for such benefit filed after his return by certification under paragraph (3), that he has not violated any restriction referred to in section 214(e)(4) of the Immigration and Nationality Act and has no intention of abandoning his residence in Mexico.

"(2) An application by an alien for a benefit under this subsection may be made only at the consulate of the United States in Mexico which is nearest the residence in Mexico of such alien, and payment of such benefit may be made to such alien only at such consulate.

"(3) The Secretary of State and the Secretary of the Treasury shall each, upon written request of the Attorney General, make certification to the Attorney General with respect to any matter, determinable for the Attorney General by the the Secretary of State or the Secretary of the Treasury, as the case may be, under this subsection, which the Attorney General finds necessary in administering this subsection.".

(2) Section 210(b) of such Act (42 U.S.C. 410(b)) is amended—

(A) in paragraph (19), by striking out "or,";

(B) in paragraph (20), by striking out "individuals." and inserting in lieu thereof "individuals; or"; and

(C) by adding at the end thereof the following new paragraph:

"(21) Temporary service or labor performed by an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act in the United States under the program established under section 214(e) of such Act.".

Mr. SIMPSON. Will the Senator yield?

Mr. HAYAKAWA. Yes, I yield.

Mr. SIMPSON. I ask unanimous consent that there be a time agreement of 30 minutes equally divided on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HAYAKAWA. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. I would like to inform the distinguished Senator from Wyoming I do not intend to take up anything like 30 minutes on either side of this discussion. I just want to introduce the amendment and we shall vote on it in due time.

I congratulate the distinguished Senator from Wyoming, first of all, for his conscientious study of this entire problem of immigration, and despite the fact that he and I disagree on some aspects of it, I want to congratulate him on the thoroughness and the conscientiousness with which he has covered the subject, trying to cover all bases and deal with every problem that is involved.

My amendment, No. 1907, will institute a guest worker program over and above the H-2 program which is included in the legislation that the distinguished Senator from Wyoming has introduced. I do not believe that the H-2 program will provide the necessary agricultural labor that we so badly need in California and the Western States. This agriculture program I submit without hesitation because it has been discussed in depth with former President Lopez Portillo of Mexico. It has been discussed indepth with Mexican citizens in California and with California farmers. It has also been discussed with former Ambassador Hugo Margain of Mexico, here in Washington, who is now back in Mexico City.

There is an enormous transient population of agricultural workers needed to harvest the crops of America, and we need something more flexible and more numerous than the guest worker program that is provided by the H-2 program.

My amendment proposes that the Attorney General should establish numerical limits on the issuance of nonmigrant visas which would allow workers in the United States for up to 180 days—roughly 6 months—per year. At the end of that time, they would return to Mexico—as the distinguished Senator from Idaho says, back to their families, back to their villages.

If they stay within the law, they will go back. Then, the following year, they will be entitled to come to the United States again, to work for another 6 months, and go back again; and they can do that year after year, as long as they wish, because we need them.

California, for example, has extremely labor-intensive crops in which the work is hard, the pay is relatively low, and in which we are unable to get American workers to work.

Let me tell a very simple story: A farmer in Fresno needed 700 harvesters for his crop. He advertised for them on radio. He stood in shopping centers and handed out flyers. He put ads in newspapers, trying to get 700 workers. He did not get them. He got less than 60. As I recall, of those 60, 50 were illegal aliens, and the 10 who were not resigned after the second day.

Meanwhile, there were 25,000 people in that county on food stamps and on welfare. Confronted with the alternative of being on welfare or working in the hot sun gathering crops, doing heavy physical labor, they decided to stay on welfare.

That is why we need these transient workers that Mexico provides us so generously.

Therefore, Mr. President, this guest worker program is a supplement to and not in competition with the H-2 program that the distinguished Senator from Wyoming presents—a program which has its uses. I submit this amendment to create such a guest worker program.

Mr. President, this amendment will establish an agricultural guest worker program to meet the needs of western farmers who will have their current work force drastically reduced with the institution of employer sanctions. This amendment is designed to complement the H-2, temporary worker program which is contained in S. 2222. The Judiciary Committee approved the H-2 program with the clear recognition that a need exists in our Nation for temporary alien workers, workers who will take jobs which domestic workers refuse.

I propose this amendment for two reasons Mr. President: First, we must recognize the importance of alien workers to western agriculture. Over 50 percent of this Nation's fruit and vegetables come from one State—California. These crops are highly labor intensive, especially during the critical harvest season. If we exclude alien workers from the fields, we will be denying farmers the majority of their work force. This will drive farmers out of business, drive consumer prices up, and increase our reliance on Mexico as a supplier of fresh fruits and vegetables. Second, I feel very strongly that if we do not legalize, regularize, and direct the flow of illegal aliens, we will simply be compounding the problems we face today. We will drive the illegals further underground while the incentives which push them north, and the regional demand for their services will remain. I say let this reform of our immigration laws be successful. Let us be realistic, let us be humanitarian, let us consider and accept this guest worker proposal.

My amendment calls for the Attorney General and the Secretaries of Labor and Agriculture to establish regulations for the admission of temporary workers. The Attorney General would establish numerical limits on the issuance of nonimmigrant visas, which would allow workers into the United States for up to 180 days per year. As opposed to the "Bracero-like" approach of the H-2 program, workers would not be bound to work for a specific employer. However, guest workers would be prohibited from specific worksites if employees or employers demonstrate that aliens will displace available, qualified, and willing domestic workers. As an inducement for the workers to return home, my amendment provides for the return to the worker of the social security taxes they have paid and the contributions their employers have made in their behalf. The money would be returned in the country of origin and only if the worker has complied with the requirements of the program.

Some may ask: Why should we consider a special program to meet the needs of western farmers, especially in these times of high unemployment? The answer is simple. Western agriculture has legitimately grown to rely on the services of illegal aliens, in fact I would estimate that in most labor-intensive crops the work force is 50 to 80 percent illegal alien. Farmers have been unable to attract and retain domestic workers to do field work. The work is hard and the pay relatively low, especially when compared to the income potential that one can realize through welfare, food stamps, and so forth. Further, the demand for workers is highly variable and seasonal in nature, the job tenure is brief, and the potential for advancement is minimal.

The Immigration Reform and Control Act of 1982 is based on the assumption that the legalization provision and the H-2 temporary worker program will satisfy those employers who currently rely on illegal aliens to make up their work force. For the most part, legalization will be of little benefit to the illegals currently in agriculture, the number of whom is less than 8 percent of the total illegal alien population in the country. Most illegal aliens in the service industries and in manufacturing live in urban residential areas. Illegal aliens in agriculture are nomadic. They come into this country for a few months when work is plentiful and return home in the fall to be with their families. They normally have no desire to stay in the United States, and they could not meet the continuous residency requirement if they wanted to.

Let us look at the H-2 program. It has been available for several years but has been of little benefit to agricultural employers. It has brought in only about 13,000 workers a year, primarily for the sugarcane fields of Florida and the apple orchards of New York; 13,000 workers a year. During these years the U.S. Department of

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Agriculture has estimated that 300,000 to 500,000 of the 5.1 million workers in agriculture were illegal aliens. The only reason the H-2 program has worked on the east coast is that their crops have allowed them to provide continuous employment for 8 to 11 months. Agriculture in the West is different, with farmers demanding large numbers of workers for short periods of time. For example, the raisin harvest in Fresno County, Calif., requires about a hundred thousand workers for a 3- to 4-week period. There is no way the local labor market can supply this quantity of workers.

Farmworkers in the West must have the freedom to move from employer to employer, from crop to crop, from county to county. However, H-2 workers are contracted to work with a single employer—or association of employers—and transferring workers between employers is difficult if not impossible. This lack of freedom for the workers is not only impractical, but is abusive of their basic rights and dignity. Another complication is the difficulty in predicting the actual dates of need and the number of workers required because of weather and market variability. Given the short harvest season for many of our highly perishable fruits and vegetables, the requirements that farmers provide transportation from the country of origin and housing are virtually impossible to justify.

The push factors which compel Mexican workers northward cannot be legislated away. S. 2222 is based on the faulty assumption that by taking away the opportunity to work, the flow of illegals will be stopped. We must recognize that there are major structural problems with Mexican economy. Currently 45 to 55 percent of the Mexican work force is unemployed or underemployed and the recent 50-percent devaluation of the peso makes dollar earnings more attractive than ever. Today, the population of Mexico is over 70 million and will double by the year 2000. The working age population is growing at 600,000 to 800,000 a year; and, at best, only about 450,000 new jobs are likely to be created each year. Given this situation, Mexican nationals will have no choice but to come to the United States in search of jobs, jobs which will pay them up to 10 times the amount they would earn for the same work in Mexico.

It is often argued that alien workers deprive domestic workers of the opportunity to work. In theory this may be correct, but in practice it is far from the truth. A farmer from Arizona that has attempted for several years to utilize the H-2 program commented at a hearing here in Washington last winter:

> We have tested the availability of U.S. workers over the past 3 years. Our job offer has always exceeded the considerable requirements of the Department of Labor and we have attracted thousands of domestic workers to our 200 jobs. Yet, 80 percent of our openings have consistently remained to be filled by foreign workers. U.S workers have rarely worked more than a few days out of our 9-month season (90 percent of the 1,100 U.S. workers we hired last year worked 10 days or less). We do not understand the complexities of this phenomenon. There is no simple answer. Our wages are good. Our workplace is governed by a union contract with extensive benefits. We have been monitored on a daily basis by government officials. The fact remains: we will need foreign workers, for the foreseeable future, to harvest our crops.

I am convinced that we will rely on foreign workers as long as we have such generous relief programs for those people who would most likely take the low-paying, low-status jobs that aliens most often take. The incentives to not work are simply too great and the alternative, hard work, is undesirable.

Mr. President, this amendment provides an excellent opportunity for the Senate to deal realistically with an issue of tremendous importance, not only to the farmers of the Western States, but to consumers, and the Mexican nationals who, for years, have been migrating into this country for a short period of time to earn a few American dollars to raise their standard of living. My amendment provides the necessary flexibility to employers and employees alike. It guarantees that domestic workers will not be displaced. And most significantly it is a program that will operate with a minumum amount of Government involvement. It will function in a free and simple manner thus guaranteeing that alien workers will indeed participate and not opt to remain as illegal aliens. The workers will receive the protections from employer abuses to which their illegal status now subjects them.

I urge my colleagues to consider this proposal with care.

Mr. President, I also wish to bring up amendment No. 1908.

The PRESIDING OFFICER. The Senator's next amendment will be out of order until this amendment is disposed of.

Mr. SIMPSON. Mr. President, my remarks will be 2 or 3 minutes in length, in response to each amendment. I will respond to that amendment now.

Mr. HAYAKAWA. By all means.

Mr. SIMPSON. Mr. President, the committee, after very extensive hearings and research concerning guest worker programs in this country and in other countries, came to the position that it is not in the national interest for the United States to become dependent upon foreign workers.

We were stunned at the situation that has occurred in Germany and France with regard to temporary or guest workers—the "Gastarbeiter" program in Germany. In those two countries, they are at a position now where they are offering a financial inducement to those people to return to their home country. They are offering cash bonuses.

We found nowhere in the developed countries of the world where the guest worker program was an attractive solution.

I realize that the Senator is essentially speaking of agriculture. Nevertheless, it has not worked in other countries. Therefore, we decided to reject the guest worker program proposals, both in the Select Commission and in the subcommittee and full committee. In doing that, we realized that employers have been dependent upon an illegal flow of workers, and we understand that.

So, in this bill we provide transitional assistance to U.S. employers through the streamlining of the temporary worker program already in our laws, which is the existing H-2 program.

Besides the hearing and consultations, the Members and staff worked many, many hours—more than any other area of this, I think—with representatives of agricultural growers.

Not only did we have growers, but also, we had the definitions of produce within the growers' ranks: berries, strawberries, onions, citrus, broccoli. We got down to some pretty thin slices of the vegetable kingdom with regard to whom we heard from as agricultural growers: labor unions, including activist labor; even uncertified unions; migrant worker groups; the Department of Labor; the Department of Agriculture, and others. This was done to put together the H-2 provisions in the bill, which is a delicate balance to protect the U.S. worker and to provide sufficient workers to meet U.S. agricultural labor needs.

In our experience, the bracero programs—and Senator Symms and I discussed that this morning—and the European experience are bringing more problems than benefits often associated with such foreign worker programs.

The agricultural employers have indicated a preference for the H-2 approach in which the foreign workers are admitted for specific jobs because it assures them, under this bill, that they will get those workers. This would not necessarily be so if the foreign workers were allowed to go from employer to employer or from State to State, as is provided in this amendment.

The admission of workers for specific jobs and employers provides better protection for U.S. labor, assuring that foreign workers will work only in jobs where it has been certified that no American workers are available.

Furthermore, the H-2 system provides better control. The INS will know where each worker is located and can better assure their return home when the visa has expired.

Although I have discussed those reform plans with Mexican leaders in my time in Mexico, they never indicated to me, oddly enough, that any massive guest worker program in the United States would be desirable or beneficial to the Mexican Government.

Finally, the European experience, as I say, indicates that these large programs lead eventually to nothing but increased pressures for both legal and illegal immigration.

Mr. SYMMS. Mr. President, I should like to make a point.

I hope I did not give the Senator from Wyoming the mistaken impression this morning that I perfer the H-2 program over the guest worker program. I thought I heard him say that when I was in my office, and I bolted out of my chair.

Mr. SIMPSON. No, Mr. President, that was never the intent. I talked about how I enjoyed the debate as we discussed the temporary worker, the H-2 worker program. I found that a very fruitful debate.

No, the Senator from Idaho mentioned the guest worker program.

Mr. SYMMS. I might speculate that one of the reasons why the Mexican Government has not talked about the need for the guest worker program is that they have one working now. It is not against the law for a Mexican national to go to the United States, get a job, earn money, and go back home. They do that now in California and the Pacific Northwest. That is exactly what is happening now.

I think that what Senator HAYAKAWA is trying to do is to have a control on who is coming in and who is not.

What I am fearful of in this legislation is that, with the amnesty that will be granted to everyone, people will just simply go out and start providing historical work records for people, and they will be giving amnesty to people and we will still have the same thing going on that is going on now.

We have a guest worker program that works in California, Oregon, Idaho, Washington State, Nevada, in that part where there is some intensive hand-labor agriculture. But it is being done and it is being done illegally, so, of course, the Mexican Government likes what happens now. It is the U.S. Government that is complaining about it.

Mr. President, whose time am I on? I may be taking the chairman's time.

The PRESIDING OFFICER. The time of the Senator from Wyoming.

Mr. SYMMS. If it is all right, does the Senator mind yielding further?

Mr. SIMPSON. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. Eight minutes.

Mr. SYMMS. Maybe I could get 2 minutes from the Senator.

Mr. SIMPSON. I will be glad to yield. I only wished to check how much time was remaining.

The PRESIDING OFFICER. Seven minutes and fifty-four seconds.

Mr. SIMPSON. I beg the Chair's pardon?

The PRESIDING OFFICER. Seven minutes and forty-nine seconds.

Mr. SYMMS. I will talk rather fast.

Mr. SIMPSON. I yield 2 minutes and 49 seconds to the Senator.

Mr. SYMMS. I thank the Senator. That is very generous of him in view of the fact that I support the Hayakawa amendment. I think it shows that my friend from Wyoming certainly is a gentleman on this.

On the question that we are talking about I talked with Mr. Tom Dungan yesterday morning, of the Washington Labor Association, which is very close to where my home is. He told me that last week when they wrote their payroll checks it was somewhere around 1,100 checks, average earnings per worker $154 per worker, and it was not a particularly good week.

He said sometimes they run up much higher than that. But this particular week it was $154 per worker, and he said a great number of these people are on public assistance programs, food stamps, and so forth, mostly the food stamp program because he said they go in with a family of four or five or six and show the check of $154 and then they can qualify. So the person who disburses those welfare benefits does not realize that there were five other members of the family who received $154 checks also. So, in fact, the family may be making from $3,000 to $5,000 a month. Yet they go in and show that they only made $154 a week, which would be a great deal less than that.

Under this legislation, we are going to legitimatize most of the people who have been illegal in the country so then they will become eligible for these programs also.

If we can have the guest worker program where the farmer could in fact hire people who come in with a card who are guest workers, they would not be eligible for those programs and we could keep it all up above board and know where we are going and know what we have, and then we could have a legitimate case for these sanctions to get employers to handle only those.

Back to the H-2 programs, as I see it, what happens if the farmer orders, say, 200 cherrypickers in the Stockton area in the H-2 program and the day before cherrypicking starts it starts raining and it ruins the cherries? Who is liable? Who has to pay the workers then if the Labor Department actually provided the workers?

Mr. SIMPSON. Mr. President, we used to have a phrase for that in the law business called force majeure. It was a dazzling phrase. It meant acts of God. If the crop were ruined by something that was outside the control of the parties, then certainly there is no liability on the employer in that situtation.

Mr. SYMMS. What if the cannery goes on strike?

Mr. SIMPSON. The same thing. Those are the things that are written.

Mr. SYMMS. Something beyond the control of the farmer?

Mr. SIMPSON. Beyond the control of the parties.

Mr. SYMMS. So he would not be liable.

I had a farmer friend of mine in Idaho tell me that a year ago in the summer, he put a request in at the Labor Department Employment Service for 120 workers for a Monday morning, and he got 2. Then he was able to hire a crew through different people and he came to find out some of those workers in the crew, who all filled out the forms that said their date of birth, that they are citizens of the United States, a form similar to this that they fill out, turned out when Immigration came to be illegal aliens.

The PRESIDING OFFICER. The time allotted to the Senator from Idaho has expired.

Mr. SYMMS. Mr. President, will the Senator from California yield me 2 minutes?

Mr. HAYAKAWA. I am glad to yield 2 minutes to the Senator.

Mr. SYMMS. Then he said if we had a program where the workers we were hiring had a card that they were legal then it would be easy to administer by the Government.

That is why I think the Senator's amendment is proper to this legislation because under the H-2 program I believe that the Labor Department will have a very difficult time in actually coming around and delivering these workers and actually getting them there for these perishable crops by the very nature of it. I think that it is going to be a complicated part.

The point I wish to make to my friend from Wyoming is if we are going to have the employers enforce the law then there has to be an adequate supply of labor for the farmer to hire. Otherwise, people are going to walk in and they are going to say, "Sure, I am a U.S. citizen. Here is my social security card. Here is my driver's license. Here is my ID card."

We will go right on down the road we are going down now.

I said earlier the reality of it is that in the western part of the United States a very high percentage of perishable commodities are being harvested with Mexican nationals at the present time, and I am very concerned that if we do not have some arrange-

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ment in this bill—how many workers does the Senator have in this amendment?

Mr. HAYAKAWA. That has to be determined by the Attorney General.

Mr. SYMMS. I told the Attorney General earlier this year at a breakfast meeting that he should have about a million as a number that would be somewhere in the right category, and it did not go over with a great deal of enthusiasm at the Attorney General's office, but I think it is a realistic number.

When one starts looking at what is happening in the whole Columbia basin, the 100-million-bushel crop of apples picked in Yakima, I invite colleagues to go out and inspect. I also say if one happens to go to a good restaurant in Washington, D.C., tonight, go back into the kitchen where the people are washing dishes and doing the work and start yelling, "Immigration," and see what happens. People will start running through the doors to get out.

There are literally thousands upon thousands of jobs in this country that are being done by illegal immigrants into the United States, and there should be some kind of program we will be able to get where we can get it up aboveboard.

I praise the Senator for offering the amendment. I certainly intend to support it. I hope he will get a record vote on this amendment so that some of us, at least from the Western States, who are very aware of the problem, can record ourselves in favor of this program.

Mr. HAYAKAWA. I thank the distinguished Senator from Idaho.

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 4 minutes and 8 seconds remaining, and the Senator from California has 6 minutes and 15 seconds remaining.

Mr. SIMPSON. Mr. President, I shall not expend the remainder of that time, and I will yield back after I finish these remarks.

I hope the Senator from Idaho will realize that the sponsor of this bill is a western Senator. I am right across his border, and this has been one of the most extraordinary parts of developing workable immigration reform—to meet the needs of the West and still realize this tremendous national obligation.

In fact, where I was impaled on the horns of the largest dilemma throughout the entire effort was when finally I came to this tough, rock-hard decision. That is that while I am trying to draft a bill for 230 million Americans who are already here, what am I going to do with 1,000 needed sheepherders for the West? Believe it or not, we reached that accommodation in this bill. But those are the kinds of things that we have addressed in great detail.

Mr. SYMMS. On that point I would like to compliment the Senator, and I will tell him that the sheep industry in Idaho—and I apologize for my comment, I did not mean in any way to infer that my good friend is not from a Western State. He is, he is from Wyoming—the sheep industry and the people in Idaho are happy with this portion of the bill where you have taken this under consideration, and they think it will work, and I want to compliment the Senator for that.

I also want to tell the Senator, and I said this earlier today or I believe it was yesterday, that I think the Senator has worked long and hard on this, and I certainly would not have wanted to have the job.

I come from a background in a produce industry where I have seen this literally and lived with it going on for the last 20-some years, and I have seen what actually has happened, and after you have had some experience in this, that is why I make the comment about the restaurants.

I invite any of my colleagues to just go into a good Washington restaurant, Washington, D.C., in Cleveland, St. Paul, or somewhere, and take a look in the kitchen.

You sense there are people in there who might possibly not be U.S. citizens, and you pull out your Senate badge and flash it like a law enforcement officer and say "Immigration," and people will start running for the doors.

It is incredible how many people are in the country, and that is why I think the Senator from California is talking about, we are talking about literally, thousands of farmworkers who have become a part of our society now, and I do not see why we could not just get a card out there and then we would have them under control, and they would not be eligible for food stamps and all the transfer payment programs.

There is a lot of merit in this, and I think it would make the bill more workable, get a card system or a guest workers system, because there is a guest worker system now working illegally, and it is not good the way it is. I am the first to admit that, but it is a fact, it is a reality.

Mr. SIMPSON. Mr. President, I can certainly add to what the Senator says about the restaurant personnel. The reason for the emaciated condition of the sponsor is because they know who I am downtown now. [Laughter.] If they are not fleeing from the kitchen, they are out front asking me for a change of status. So it has been a harrowing year and a half, I can assure you.

Mr. President, just one other item that needs to be said and that is in the legalization program adopted through the Grassley amendment, it is important to note that for 3 years there will be no benefits for the new permanent residents aliens I supported fully this amendment. Also, for 3 years there will be no benefits for temporary resident aliens. The block grant will take care of emergency needs, and we think that solves that one problem as you discuss those welfare abuses which are certainly real.

For the first time, may I point out to my colleagues, we have the Secretary of Agriculture in the consultation process, and that has never happened under any program ever before.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator's time has expired. Who yields time? The Senator from California.

Mr. HAYAKAWA. Mr. President, I am ready to go to another amendment.

The PRESIDING OFFICER. The Senator from California has 6 minutes, 3 seconds left.

Mr. HAYAKAWA. I am happy to yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HAYAKAWA. I yield.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Senator SIMPSON that appeared in the New York Times on August 10.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 10, 1982]

ILLEGAL ALIENS

(By Alan K. Simpson)

WASHINGTON.—All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter and Reagan Administrations, and by the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of immigration laws cannot be achieved without greatly reducing the incentive represented by the temptation of employment in the United States.

For this reason, section 101 of the proposed Immigration Reform and Control Act of 1982 is the single provision most urgently needed to assist in reducing illegal immigration. This section would make unlawful the knowing hiring of illegal aliens and would provide a system that enables employers to verify that job applicants are American citizens or legal aliens. Section 101 and the bill's other provisions are strongly supported by the Administration, by an imposing array of newspapers and special-interest groups and by the Senate Judiciary Committee.

Yet, the United States Chamber of Commerce has spiritedly lobbied against this provision. The most startling feature of its opposition is that it appears to be based solely on a selfish perception of employers' short-term, purely economic interest: profitability. That is not the right perspective.

To properly assess the economic impact of illegal immigration, we must consider long-term effects. Moreover, even a totally selfish person does not act solely to achieve economic goals; adverse noneconomic impacts can often make an economic benefit unpalatable. Thus, consideration of the effects of illegal immigration on our population, of potential social and political changes and of historical immigration objectives must be part of the decision-making process.

The Chamber argues that any secure verification system would be "too expensive." As evidence, it has published some extraordinarily high cost estimates. More objective sources present less-alarming figures: $100 million to $300 million per year. Certainly, these are not small numbers, but inadequate enforcement also involves major costs. The number of illegal aliens in this country in 1978 has been estimated at 3.5 million to six million. Even if those estimates are used and it is assumed that only 2 percent hold jobs that unemployed Americans would take, then the cost in public assistance and unemployment benefits to the jobless is $490 million to $840 million. The actual number of people displaced from jobs is probably substantially higher. The number of illegal aliens is estimated to have increased by 500,000 per year. This calculation does not even consider the other, less easily quantifiable costs of illegal immigration.

The Chamber states that the verification procedure would be "too burdensome" for employers. Actually, the procedure would be optional for those with three or fewer employees. Larger employers would be required simply to examine in good faith a United States passport or two other documents—say, a driver's license, birth certificate, Social Security card—complete and sign a short form and have that form signed by the employee. The employer would not be responsible for the authenticity of the documents, only for their reasonably appearing genuine. Without this system, the two key goals of section 101 could not both be achieved: screening illegal aliens out of the workforce and avoiding discrimination against citizens and legal aliens who look or sound "foreign" to employers.

The most disappointing part of the Chamber's argument is the assertion that individuals, including businessmen, have no obligation to assist the Government in enforcing our laws. That view is certainly not consistent with our tradition of responsible citizenship and limited government.

Does the Chamber feel that businesses' legal obligation to withhold income and Social Security taxes is also unreasonable? There is no practical alternative. Moreover, a legitimate businessman ought not knowingly hire illegal aliens and thereby provide the major incentive for violating one of the most fundamental laws of a sovereign nation—the one controlling its borders.

Fortunately, most businessmen do not share the Chamber's view. Other business groups support the bill—the National Association of Manufacturers, for example. Many local Chambers of Commerce, including those in Texas and California, where there are great numbers of illegal immigrants, have acknowledged the need for such reform.

The sponsors are attempting to protect America from uncontrolled immigration for the sake of their children and grandchildren, while keeping at bay the specter of meanness, nativism and racism. Fortunately, a sizable majority of Americans are willing to hark to an appeal to rise above any special interest they may have in order to obtain workable immigration reform. It is puzzling why the United States Chamber of Commerce is not.

AGRICULTURAL GUEST WORKER PROGRAM

Mr. SCHMITT. Mr. President, I support the amendment offered by the Senator from California (Mr. HAYAKAWA). New Mexico shares a 180-mile border with Mexico, so naturally it has been one of my priorities to find a practical and fair solution to the problems of undocumented workers from Mexico. The pending amendment is a key to resolving those problems. It simply recognizes that a significant number of Mexicans supplement their income by working temporarily in the United States and that our Nation has a continuing need for short-term labor.

I commend the manager of the bill, Senator SIMPSON, for addressing this so-called push-pull phenomenon in those provisions of the bill that streamline the H-2 program. Unfortunately, the need for temporary labor in agriculture is so great that the agencies mandated to implement the H-2 program will be inundated with so many applications for H-2 workers that they will be hard pressed to process them before the crops rot on the vine. We can avoid this potential nightmare by adopting the Hayakawa amendment.

Mr. President, the pending amendment is very similar to a bill that I have introduced in each of the last two Congresses. During this 4-year period, I have spent considerable time thinking about this issue, as Senator HAYAKAWA has, and this amendment and my bill reflect a shared belief that the American economy is greatly benefited by the presence of temporary workers from Mexico. There is no reason to believe that our economy could not benefit in the same way if we shift the status of these workers from illegal to legal. Adopting this amendment would do just that.

We cannot forget that employing Mexican workers in the United States contributes to the Mexican economy and also diffuses political and social problems caused by widespread Mexican unemployment. In no other part of the world does a developing nation with such severe economic problems border such a technologically and economically advanced nation. The Mexican economy simply could not absorb the Mexican workers who are already in the United States if we suddenly stop the flow of labor. Given the strategic and economic importance of a strong and stable Mexico, our long-term policy toward our neighbor must be geared toward improving its economic development. Our Nation has a historical commitment to assist our neighbor. Now is the time to review that commitment.

In the short term, a temporary agricultural guest worker program would stabilize the situation and reduce the pressure which drives so many illegal aliens north to look for jobs.

Mr. President, I urge my colleagues to consider carefully the implications of not adopting this amendment. It will not encourage more illegal immigration as some have suggested, but will provide workers for an industry that has always had problems recruiting sufficient numbers of Americans.

Mr. President, I ask that an article which details my views on Mexican migration and which recently was published in the Immigration and Nationality Law Review be inserted in the RECORD.

The material follows:

LOS COMPANEROS: A RATIONAL MEXICAN MIGRATION POLICY

INTRODUCTION

The problem of illegal migrant labor from Mexico is a problem with an obvious solution. The proposals advanced by the previous Administration for vastly increased border restrictions are unaffordable; unworkable proposals for employer sanctions are inherently discriminatory and proposals for some vague amnesty are worse than nothing. Clearly the designers of these proposals were completely unfamiliar with the facts of Mexican worker migration.

Unfortunately, some Americans see the Mexican migrant as a threat to the American worker, the American economy and the American way of life. According to their view, Mexican aliens are entering the country in ever-increasing numbers; thus, taking jobs from American workers, draining the welfare system and disrupting American life by refusing to adopt American ways. Accordingly we should respond to this threat by sealing the border and punishing employers who hire such illegal aliens.

This view does not square with the new facts developed by modern research.[1] According to all recent factual studies, Mexican migrant workers add productivity and jobs to the American economy, work largely in low-skilled jobs only they will take and pay far more in taxes than they receive in social services. Having no real desire to become Americans, they do not adopt American ways because they think of themselves as Mexicans. The vast majority return home regularly and permanently after earning enough money to meet the economic crisis which brought them North.

It is also well-established that many American employers need low-skilled seasonal labor. They meet this need by hiring illegal aliens, most of whom are Mexican migrants. Many marginal small businesses and farms are kept from unnecessary bankruptcy by the availability of these willing workers.

We can meet the needs of both Americans and Mexicans and continue to reap the benefits of their efforts by legalizing work which is presently illegal but unenforceably so. A realistic program of temporary visas for Mexican workers is the only feasible economic answer and the only moral human answer. A program of eight months based on the number of available jobs and with responsible safeguards for American workers,

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Footnotes at end of article.

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can work to the benefit of good relationships between Mexico and the United States. By addressing the issue of economic migration in a reasonable and bilateral manner, we can strengthen our political and economic ties with Mexico and help both our neighbor and ourselves at the same time. This is the essence of "Los Compañeros." Compañero is the Spanish word for companion, friend, equal. The Los Compañeros bill, S. 1427, is entitled the "United States-Mexico Good Neighbor Act."

CURRENT U.S.-MEXICAN RELATIONS

Mexico and the United States share a 1,960 mile border including 180 miles which borders my state, New Mexico. Proximity and history have resulted in an often unrecognized, yet substantial and natural economic and cultural interdependence between our two countries and their adjoining states. The examination of the migrant Mexican labor issue must be viewed against the background of other issues affecting United States-Mexico relations.

The United States has an enormous and long-standing economic presence in Mexico. According to Richard Fagen, a Professor of Political Science at Stanford University and a former President of the Latin American Studies Association:

"The United States is the primary source of direct foreign investment (in Mexico) . . . by the end of 1976, U.S. private banks were carrying the impressive total of $11.5 billion in outstanding loans and credits to Mexico, an increase of $2.5 billion over the previous year's figure."[2]

The United States currently supplies more than 60 percent of Mexico's imports which is balanced by a strong Mexican presence in the U.S. economy. Mexico is our leading trading partner in Latin America, and our fifth largest in the world.[3] With the continuing exports of Mexican oil and gas, Mexico will become even more important to the United States as a trading partner. The desirability and mutual benefit of having a close-by source of imported energy for the United States and a close-by export market for Mexico is obvious to all.

This interdependence extends to many other areas with both international and domestic impact. Manufacturing, agriculture, land and water use, law enforcement and, of course, labor. For this reason, it serves our interests to preserve and strengthen Mexico as a nation and our good relations with that nation. These interests have been compared by Lucey with our interests in a strong Europe after World War II:

"We felt that it was in our long-term interest to see a Europe strong enough and united enough to negotiate on equal terms with the United States. We were, and perhaps still are, the strongest supporters of European unity. For the same reasons, the United States will benefit from a Mexican neighbor strong enough and confident enough to negotiate with us on terms that are perceived by both parties to be equal. It has not been and never will be in our interest to have a Mexico that is other than a full partner in the joint undertakings that close neighbors must constantly pursue. It will be in the distinct interest of both our countries if Mexico experiences healthy economic growth, develops jobs and opportunities for her poorest citizens, and approaches economic equality with the United States."[4]

Our historic and even our-recent dealings with Mexico show an irrational insensitivity to the importance of dealing fairly and equally with this vital neighbor. The recent natural gas negotiations epitomize our short-sighted approach.[5] Six U.S. natural gas distributors negotiated with PEMEX, the government-owned Mexican petroleum company, to buy natural gas. Under present law,[6] the Secretary of Energy must approve the final terms. Then Secretary of Energy, James Schlesinger, rejected the price asked by Mexico (which was the going price in the world market) as being too high, reasoning that the gas could be piped to the U.S. more cheaply than it could be shipped from other overseas areas; thus, Mexico could afford to lower its price for the U.S. market. This argument ignored the fact that there are always competitors for scarce commodities, in this case the Japanese. Instead of pursuing this line quietly, Schlesinger publicly stated that Mexico "has to sell us the gas sooner or later."[7] Mexico finally agreed to sell the U.S. some (but not all) of the gas initially contracted for, but at a far higher price. This agreement was reached only under the pressure of a Presidential visit to Mexico.

In another energy-related incident, while asking Mexico to hold the line on oil price increases, the U.S. Government accepted a bid from Phillips Petroleum to purchase oil from the Elk Hills Naval Petroleum Reserve at a price of $41 per barrel—above the going world price. This demonstrated a clear hypocrisy in our dealings with Mexico. Naturally, the Mexican government responded appropriately by raising the price of oil to us.[8]

Thus, to solve the vexing problems between us, we must develop a coherent policy focusing on all aspects of our relationship with Mexico, including energy, trade, labor, cultural exchange and foreign policy. Our present course, if maintained, bodes ill in this respect. Although this discussion focuses on the migrant labor issue, its resolution must be viewed in the context of all other major issues.

HISTORICAL DEVELOPMENT

The current American economic presence in Mexico results from decades of American involvement in Mexico's affairs. In the 1840's our westward expansion led to a war with Mexico (1846–1848) that resulted in the transfer to the United States most of California, Arizona and New Mexico. Prior to that, Texas had successfully revolted from Mexican rule and became an independent nation, eventually joining the Union in 1845. In 1853 we negotiated the Gadsden Purchase, which essentially established the border at its present location.

Our own Civil War kept us out of Mexico during the turbulent years of Maximilian and Juarez; but when the dust settled in 1876 under Porfirio Diaz, expanding U.S. business interests moved into the Mexican economy. During the Diaz regime (which lasted until 1911), American and other foreign companies controlled Mexico's petroluem and mining industries with the approval of the Diaz government.

This time of relative tranquility came to an end when the Mexican revolution (1910-1920) broke out over the issues of land reform and a control of their economic destiny. A decade of turmoil followed, causing untold suffering for millions of Mexicans which was graphically described by population biologist Paul Ehrlich:

"Untold thousands were killed in the fighting or simply as innocent bystanders. Toward the end of the decade, the worldwide influenza epidemic of 1918–1919 took its toll. Many thousands of additional Mexicans fled across the border to the United States, and many of them stayed there permanently. Although demographic records are far from complete, it appears that altogether Mexico's population (in 1910 about 15 million) declined by a million during the decade."[9]

During the revolution the U.S. first supported one side and then another, following no consistent policy. The low point of U.S.-Mexican relations in this century came in April, 1914 when the U.S. Navy occupied the port of Veracruz at the cost of 300 Mexican lives.

American employers have always welcomed Mexican labor. In the 1880's, Mexican workers took the place of excluded Chinese coolies in railroad and agricultural work. During the decade of the Revolution, Mexicans entered the U.S. as "economic refugees" fleeing the conditions which made it impossible for them to live at home.

In the 1920's the U.S. imposed restrictions on Mexican immigration for the first time, establishing the Border Patrol in 1924,[10] requiring visas and enforcing the head tax and literacy requirements by 1930.[11] The Great Depression slowed migration to the United States as jobs north of the border became scarce. In the early years of the Depression, we sent back to Mexico many Mexicans who had entered legally before 1928 because they had no documents. Our policy towards Mexico and other Latin American nations became more important under President Roosevelt's Good Neighbor Policy.[12] This policy represented the first real effort to develop a coordinated policy for relations between our two countries. The cooperation which this policy began resulted in the development of the Bracero program in 1942.[13]

The controversial Bracero program attempted to use Mexican labor to fill wartime labor shortages in U.S. agriculture. American farmers had used Mexican workers under various contract labor programs during the first World War[14] and because of several farmworker shortages in World War II, it was decided to reinstitute this approach. The Bracero program began in 1942 with an international agreement[15] and continued for 22 years under various statutory provisions. The program, under both provisions, allowed American farmers to contract for the use of Mexican workers on their farms. It ostensibly required them to offer no less than the prevailing wage rate, as well as to house and feed the workers. Due to lax enforcement in practice, the workers did not always receive all of the protections envisioned.

The Bracero program did not totally eliminate illegal migration from Mexico; although, even when adjusted for population growth, the problem then was not as substantial as today's estimates indicate. Border patrol and Immigration and Naturalization Service (INS) apprehensions averaged 230,740 from 1942-1964.[16] Some say the program stimulated illegal entry since more Mexicans wanted to come to the United States than the Bracero program had room for. Some growers preferred to use illegal labor to avoid the requirements of the Bracero program. By greatly expanding the program and increasing enforcement, the U.S. diverted much of the illegal flow to legal channels.[17] At its peak in 1956, the Bracero program admitted 445,197 workers.[18] This followed the largest enforcement effort, Operation Wetback, in 1954. This sweeping roundup of Mexican workers resulted in the expulsion of over one million people,[19] including many legal residents and even citizens of the United States.

American organized labor has consistently opposed all temporary worker programs. The Bracero program was opposed from the beginning because it secured on paper benefits for Mexican workers which American workers had not achieved:

"Not only were the Mexicans guaranteed room, board and a decent wage, they were also granted various fringe benefits that the native farmworkers had not been able to achieve in a century of struggle. Included among these benefits were medical care, social security, free transportation and subsistence en route, tools and equipment, minimum working standards and a guaranteed amount of work time."[20]

This opposition became stronger in the 1960's and resulted in the end of the Bracero program in 1965 when the legislation authorizing the importation of labor expired. However, American farmers (as well as other employers) have continued to use Mexican workers without the legal framework of a Bracero program, defending those actions as an economic necessity.

Organized Labor's objections to foreign migrant workers stem from the belief that employment of these workers had highly adverse effects on employment opportunities, wages and working conditions for American workers. Numerous modern studies[21] demonstrate that this is not generally true, but Labor's traditional opposition continues.[22] Migrant workers do not cause widespread unemployment of American workers, instead they, for the most part, take low-skill jobs in marginal businesses which are not attractive to American workers, most of whom are protected by various unemployment benefits. The existence of this social net beneath U.S. labor is a major factor in assuring that jobs for Mexican migrants will always be available in this country. Without foreign workers, most of the businesses who employ the migrants would fail or locate in other countries with available labor.

While some Mexican workers continue to be paid less than the minimum wage in rural agricultural work, they receive the legal minimum or more in urban areas. The average hourly wage rate for illegal migrant workers is estimated to be $2.77/hour with only about 28.6 percent of the workers receiving less than the current minimum wage.[23]

The prearranged contracts of the Bracero program, unfortunately, encouraged exploitation of Mexican workers. Since the end of the program, horror stories of wage and other exploitation have been drastically reduced[24] as labor shortages have became more critical than labor costs in low-skill employment categories.

In the 1960's, Congress reshaped American immigration policy scrapping the discriminatory quota system of the 1920's in favor of the a nondiscriminatory system favoring family reunification.[25] In place of quotas developed from the number of immigrants already in the U.S. from a particular country, the new law set the same quota for each country.[26] In 1976, we extended this quota to Mexico allowing only 20,000 visas a year,[27] ignoring our historical immigration patterns and failing to reflect any special relationship resulting from our proximity to Mexico and the interdependence of our economies and cultures; thus, the problem of illegal migration was exacerbated by restricting the number of Mexicans who might legally immigrate.

THE CURRENT IMMIGRATION SITUATION

Because of the difficulty of measuring a largely illegal population, we cannot know many of the facts about immigration and migration from Mexico. We do know the number of Mexicans who enter the U.S. legally as permanent residents or temporary agricultural workers ("H-2" programs). Of those who become permanent residents, some receive visas under the 20,000 quota and others enter under relative and occupational preferences. 53,400 immigrated in 1976 and 44,600 in 1977.[28]

Some Mexicans enter the United States under the "H-2" temporary workers program. Section 101(a)(15)(h)(ii) of the Immigration and Naturalization Act[29] provides for the entry of temporary workers after the Department of Labor certifies that domestic workers cannot be found for particular jobs upon application of the employer. The "H-2" program resembles the Bracero program in that the workers are tied to a specific worksite; ordinarily farms. It also requires that benefits available to foreign workers also be provided to domestic workers. According to Aaron Podin, head of the Division of Labor Certification at the Department of Labor, the Department vigorously enforced its regulations, resulting in the admission of only a small number of workers which has adversely affected many employers with no other labor alternative. In fiscal year 1977, the program used only 27,760 workers, of which 977 were Mexicans. In 1978 Mexicans admitted under the "H-2" program numbered only 1,039.[30] The program currently is expanding somewhat, largely as a result of litigation between agricultural employers and the department.[31]

Illegal migrants make up the largest portion of Mexican nationals in the United States. We have no reliable estimates of their numbers, but the range of recent estimates of the total number of illegal aliens in this country range between 2-12 million. Most researchers agree that the actual number is closer to 2 million than to 12, of whom about two-thirds to three-quarters are Mexicans.[32] Many of these estimates use the number of apprehensions by the INS as a base. The INS apprehended 792,600 Mexicans in 1977, 841,500 in 1978 and 1,069,400 in 1979.[33] These figures include many repeated apprehensions of the same persons. The widely varying estimates of the illegal population based on this data also overlook or underestimate the volume of annual return migration to Mexico, which all recent studies have found to be as high as 9 out of every 10 illegal entrants.[34]

As a consequence of recent studies,[35] we know more about the characteristics of the illegal Mexican migrants than about their absolute numbers. They are mostly males between 22 and 30 years of age. They are poorly educated with three or fewer years of schooling, although probably better educated than the average of their peers. A majority of the youngest migrants have completed the sixth grade. Although more than half are married when they first migrate to the U.S., fewer than one percent bring their wives and children with them.

Most Mexican migrants come to the United States as temporary wage-laborers, not permanent settlers.[36] The most recent group studies by Dr. Wayne Cornelius[37] stayed in this country an average of only 5.5 months and came an average of less than three times in a lifetime.[38] This figure is consistent with the estimates of others who have studied the field,[39] and according to the Cornelius study, migrants come to this country to accumulate relatively small amounts of cash to meet specific needs at home. They migrate to the United States, rather than Mexican cities, because they can more easily find jobs that pay an average of $120 per week versus $10 per week they might be paid in Mexico. This is an irresistible economic pressure to "go North".

During their short stay in the U.S., Mexican workers take a variety of jobs. Naturally, a large number work in agriculture—between 40 and 50 percent according to most recent authorities.[40] Other migrants take commercial, industrial, construction and service jobs. The most recent group studied by Dr. Cornelius broke down as follows: 45 percent in agriculture, 20.8 percent in industry, 14 percent in commerce, 10.6 percent in construction and 8.6 percent in service.[41] In non-agricultural occupations, they take unskilled jobs such as janitors, garbage collectors, dishwashers or busboys. Less than 14 percent hold skilled or semi-skilled jobs.[42] According to Dr. Cornelius:

"(The) jobs often held by Mexican illegal aliens have several characteristics in common. They require little or no technical skill and only a rudimentary command of English, if any at all. They involve dirty, often physically arduous tasks, wages at or slightly above the legal minimum, low social status, low job security (often due to the short term or seasonal nature of the work), and little chance of advancement. In short, they are menial, dead-end jobs which are nevertheless attractive to the migrant by comparison with the alternatives in his home community."[43]

Needless to say, it is likely that such jobs as these would go unfilled absent these temporary workers. Consequently their presence in actuality increases our economic productivity. Approximately two-thirds of the migrants are also employed in Hispanic dominated businesses which are unlikely to hire more expensive and less available U.S. workers.

Mexicans migrate to the United States for two reasons: jobs in the U.S. "pull" them and bad conditions in Mexico "push" them. Some policymakers in the U.S. emphasize the push factors. The interagency Task Force on Immigration Policy reported in 1979 that many Americans blame high Mexican birth rates and an unequal distribution of opportunity and wealth within Mexico as the primary causes of illegal migration.[44] Rather than use immigration as a safety valve for its internal problems, those Americans expect Mexico to make a commitment of purpose and capital to the solving of the social and economic problems underlying illegal migration.[45]

Mexican policymakers emphasize the pull factors of wage differentials and continuing requirements for low-wage workers in the United States.[46] According to the Interagency Task Force, Mexico tends to see the illegal entry of their workers into the United States as a natural response to the United States' need for cheap labor. According to many Mexicans, "if their workers were not wanted and needed by American business, their workers wouldn't come to the United States in the first place."[47] Modern research tends to support the Mexican position that "pull" outweighs "push."

According to David F. Ronfeldt of the Rand Corporation and Ceasar D. Sereseres of the University of California, the migrants also have a clearly beneficial economic impact on the United States:

"Recent field research indicates that the undocumented workers contribute more to

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the U.S. economy than they take out. Accordingly, the undocumented workers often take the lowest paying, least skilled, dirtiest jobs—in agriculture, canneries, packing houses, restaurants, hospitals, machine shops, garment and construction industries—while Americans prefer to collect unemployment or welfare. These workers enable some industries to survive that otherwise might succumb to rising wages or cheaper imports. The undocumented workers pay far more in taxes and social security than they consume in social services. Extremely few seek welfare or unemployment benefits and the aliens are carefully law-abiding to avoid detection and deportation. The vast majority are temporary migrants who work in the United States about a half-year before returning to Mexico; very few stay longer than a year."[48]

A study in San Diego County, the area of the nation most severely affected by the illegal entry of Mexican workers, estimated the total contributions of illegal aliens to unemployment insurance, workmen's compensation, social security and disability at $48.8 million in 1976. In the same period, the total cost impact attributable to illegal migrants on the San Diego County Social Service Delivery System was estimated at $6 million. Out of the $260.3 million estimated earnings of the aliens, most was spent in the U.S., however, $96.7 million was sent home to Mexico as a form of indirect foreign aid.[49] It is generally concluded that illegal aliens have an overall beneficial impact on the communities they work in.

SOLUTIONS

The solution to illegal Mexican migration in the long run lies with eliminating the push and pull factors which contribute to it. To eliminate the push factor of unemployment in Mexico, we should provide technical assistance for and encourage private investment in labor-intensive rural development in the migrants' home areas. We can hope and expect that the development of Mexico's petroleum resources will help to stimulate the economy and provide long-term expansion of job opportunities. This may help to eliminate a portion of the push factors; however, this process will take many years.

We can assist the process of job growth in Mexico by extending trade and tourism preferences to Mexico. As former Ambassador Lucey said:

"Mexico needs the U.S. market for her manufacturers if her economy is going to develop the jobs needed to absorb her population increase. The United States cannot express concern about Mexican migration and be disinterested when it comes to Mexican economic growth."[50]

However, the push factors are formidable and will be around for a long time. Forty-six percent of Mexico's population (estimated at 64 million) is below the age of 15; and of the working age population, 45 to 55 percent are unemployed or underemployed.[51] Even with a drastic drop in Mexican population growth, these figures would not be affected for a long time.

It will be even more difficult to eliminate the pull factors which contribute to illegal migration. Proposals by former President Carter and others for employer sanctions overlook the inherently discriminatory effect of such actions. If the law is well enforced, employers will be afraid to hire anyone who looks like he might be a Mexican national; thus, discriminating against Hispanics who are citizens or legal residents of the U.S. The alternative of identity cards is abhorrent to American traditions of individual freedom.

Attempting to completely close the border would be the most drastic approach to eliminating illegal migration. Given our societal attitudes and budgetary limitations, such an effort is unrealistic. The expense involved in closing the border, both in money and in human rights, would be prohibitive. A "Tortilla Curtain" which forced Mexico to absorb the migrants into an already overburdened economy, would create the potential for turmoil south of the border. It would threaten not only our relations with Mexico, but would also potentially destablize Mexico's internal situation. This is to say nothing of the human cost. Even a small increase in border enforcement leads to an increase in smuggling activity and the profits of the smugglers praying on human economic deprivation.

In the short run we must recognize the existence of the real factors which cause illegal migration. We must move to regulate the flow of migrants in a way that recognizes the human facts of the situation while still providing necessary labor for the U.S. economy.

A program which would allow the number of Mexican workers required by U.S. business to enter this country legally for seasonal work would serve to bring Mexican migration under control. Such a program would meet the legitimate unmet needs of American employers for workers, while providing temporary employment opportunities for Mexicans in economic need and recognizing that these workers will come across the border someway.

As sensible as that seems, some[52] have criticized guest worker programs asserting that such will either continue to encourage illegal migration or depress domestic employment opportunities.

Such arguments ignore the fact that the Mexican government simply cannot absorb the workers currently in the United States if this government were to conduct another "Operation Wetback" or erect a "Tortilla Curtain" thus sealing the border. Even these actions might not stem illegal migration unless tremendous resources were allocated to the effort, including deployment of the military. Those options are simply not realistic and are necessarily excluded from serious consideration. Given the strategic importance of a strong and stable Mexico, it is obvious that American foreign policy should not contribute to increased social upheaval in that land. Rather, our policy should be geared toward assisting Mexico as it develops economically. In short, the solution is two-fold: a temporary worker program coupled with Mexican economic development.

The argument that such a program will either encourage more illegal migration or harm domestic workers is another example of conveniently ignoring the present situation. The undocumentados are here now and will undoubtedly be here tomorrow unless we begin to attempt channelizing them into a legal and realistic program.

To address this problem, I have introduced the "Compañeros" legislation which would create a temporary worker program (S. 1427, the United States-Mexico Good Neighbor Act). Identical legislation has been introduced in the House of Representatives (H.R. 5128). This legislation would provide for the legal provision of labor needs in the United States while also being a direct, people-to-people form of "foreign aid" and a means of training large numbers of future workers for Mexico's growing economy.

Putting available facts and logic together, the essential elements of a solution to the problem of illegal aliens are as follows:

Make the workers' stays legal for the six months or so they need to be here and are, in fact, needed within our labor force.

Base the number of temporary worker visas on the number of unfilled, unskilled or semi-skilled jobs in agricultural, service and other appropriate industries.

Allow U.S. workers to protect their jobs at specific business locations if qualified and willing U.S. workers are available.

These elements are embodies in the United States-Mexico Good Neighbor Act.

Under the provisions of the bill, the Attorney General in consultation with the Secretary of State, would set up a program of temporary worker visas. Acting in consultation with the Secretaries of Agriculture, Labor and Commerce, the Attorney General would establish annual and monthly quotas for temporary worker visas based on need over-and-above available domestic labor. These visas would be issued by U.S. Consulates in Mexico on a first-come first-serve basis. The Mexican national holding such a visa would then be eligible to spend up to six months (eight months will probably be a more workable time) in the U.S. seeking or working at a job.

Clearly different from the old Bracero program, the legislation does not place any geographical and contractual restraints on where the visa holder may seek employment. Similarly, there is no prohibition on the type of work in which he or she may engage.

There is, however, a provision designed to help protect American workers at any given work location from unreasonable labor competition. The Secretary of Labor, under specific guidelines, could make a finding that at a specific business or agricultural site, there are sufficient qualified and willing domestic workers available. If so, Mexican nationals holding temporary visas would be restricted from working at that site.

Should a visa holder fail to return to Mexico after the expiration date of the visa or enter the U.S. illegally, there would be stiff prohibitions on his or her eligibility for future visas. However, it is clear that the real incentives for the worker to adhere to the provisions of the program would be that their stay in the U.S. would be legal and not subject to the uncertainties and potential abuses of an illegal status. A program that conforms to reality is always more workable than one which creates an impossibly artificial reality.

As a legal worker, the Mexican national would be clearly protected by the laws and Constitution of the United States. Decent working conditions and needed social services could be obtained without fear of deportation.

The legality of the Compañeros program would eliminate the economic incentives for smugglers. Furthermore, remaining border and immigration law enforcement efforts would be enhanced since the numbers of illegal aliens should decline to a more manageable level. American employers would find the legal workers more attractive than illegal migrants under the threat of apprehension by the Immigration and Naturalization Service.

CONCLUSION

We cannot eliminate illegal migration in the short run. However, we can manage the flow of migrants with a Companeros visa program which will conform to law and to the realities of the present situation.

By recognizing the Mexican perspective on illegal migration as well as our own economic realities and by accepting our own responsibility for the current situation, we can meet this problem in a friendly and constructive fashion. By working for good relations with our close neighbor, Mexico, we can finally turn our proximity into opportunity; our neighbors into friends. In today's world, we need all the friends we can get.

ACKNOWLEDGMENTS

This paper on Los Compañeros was prepared with the assistance of Douglas McCullough of my staff. His help is greatly appreciated as is the modern research by the numerous workers in this field, without which the development of real solutions to the problems of economic migration would not be possible.

FOOTNOTES

[1] See the following studies: W. Cornelius, "Mexican Migration to the United States: Causes, Consequences and U.S. Responses" (1978) [hereinafter cited as Cornelius]; Bustamante, "Undocumented Immigration from Mexico: Research Report," 11 International Migration Review 149–177 (1978): Dagodag, "Source Regions and Composition of Illegal Mexican Immigration to California," 9 International Migration Review 499-511 (1976); Dinerman, "Patterns of Adaptation Among Households of U.S.-bound Migrants From Michoacan, Mexico" (Paper presented at the Joint National Meeting of the Latin American Studies Association and the African Studies Association, Houston, Texas, November 1977); Exter, "Rural Community Structure and Migration: A Comparative Analysis of Acatic and Acatlan de Juarez in Jalisco, Mexico," Latin American Studies Program Dissertation Series, No. 71 (1976); Mines, "Las Animas: A Village of Migrants" (Unpublished paper, Department of Agriculture and Resource Economics, University of California, Berkeley, 1977); Mines, "The Workers of Las Animas: A Case Study of Village Migration to California" (Unpublished research essay, Department of Agriculture and Resource Economics, University of California, Berkeley, 1978); D. North and M. Houstoun, "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study" (1976); Orange County Task Force on Medical Care for Illegal Aliens, "The Economic Impact of Undocumented Immigrants on Public Health Services in Orange County" (Calif.) (Final Report presented to the Orange County Board of Supervisors, March 1978); M. Villalpando, et al., "A Study of the Socioeconomic Impact of Illegal Aliens on San Diego County" (1977); Zarrugh, "Gente de mi tierra: Mexican Village Migrants in a California Community" (Ph.D. dissertation, University of California, Berkeley, 1974).

[2] Fagen, "The Realities of U.S.-Mexican Relations," 54 Foreign Affairs 686 (1977) [hereinafter cited as Fagen].

[3] Lucey, "The United States and Mexico," Vital Speeches, Feb. 1, 1979 at 235 [hereinafter cited as Lucey].

[4] Id.

[5] P. Ehrlich, L. Bilderback and A. Ehrlich, "The Golden Door," [hereinafter cited as Ehrlich].

[6] 15 U.S.C. 717b.

[7] Ehrlich, note 5 supra.

[8] New York Times, Feb. 25, 1980 at 1.

[9] Ehrlich at 135.

[10] Act of May 26, 1924, 43 Stat. 153.

[11] "Illegal Aliens: Analysis and Background," Committee Print, House Judiciary Committee.

[12] Scruggs, Otey M., Evolution of the Mexican Farm Labor Agreement of 1942. Agricultural History, v. 34, July 1960; pp. 141-142.

[13] The Bracero program stretched from 1942-1964 in three distinct phases. The "war-time phase" (1942-1947) was initially created by executive agreement and then by statute (57 Stat. 70 [1043]). The program continued in the so-called "transition" phase (1948-1951) under frequently revised agreements and finally the "Public Law 78" phase (1951-1964).

[14] Congressional Research Service, Library of Congress, "Temporary Worker Programs: Background and Issues," 6–15 (1980) [hereinafter cited as Temporary Workers].

[15] Agreement with Mexico respecting the temporary migration of Mexican agricultural workers, July 23, 1942, 56 Stat. 1759, E.A.S. 278.

[16] Temporary workers, 37.

[17] Id. at 27.

[18] Id. at 36.

[19] Sustamante, supra, 150.

[20] R. Craig, "The Elucero Program: Interest Groups and Foreign Policy." Supp. 1 Cir.

[21] See, e.g., Cornelius, Bustamante and Mines, Note 1, supra.

[22] See, generally, Second Report of the Select Commission on Immigration and Refugee Policy (October 1980).

[23] See Cornelius, at 64.

[24] See Cornelius at 52-71.

[25] Illegal Aliens at 40.

[26] Act of Oct. 3, 1965, Public Law 89-236, 79 Stat. 911.

[27] Act of Oct. 20, 1976, Public Law 94-571, 90 Stat. 2703.

[28] 1977 Immigration and Naturalization Service Annual Report. In 1978 the figure was 92,367.

[29] 8 U.S.C. 1101 *et. seq.*

[30] Temporary Workers at 59.

[31] Statement of Aaron Podin before the Select Commission on Immigration and Refugee Policy, Oct. 29, 1979.

[32] See Cornelius at 10.

[33] 1977 and 1978 Immigration and Naturalization Service Annual Reports. 1979 figure provided by the INS.

[34] See Cornelius at 28.

[35] See Note 1, *supra.*

[36] The migrants enter the U.S. without inspection, crossing the border often with the aid of professional smugglers or "coyotes" who charge between $250 and $300 for their service.

[37] Dr. Cornelius interviewed adult males in nine rural communities of Jalisco, Mexico. These men were illegal migrants before 1969, illegal migrants after 1969, former Braceros, legal migrants or men who had not migrated but were potential migrants.

[38] See Cornelius at 26.

[39] See e.g., North and Houstoun, supra, 86; Bustamante, supra, 164–165; see also Hearing on "Undocumented Workers: Implications for U.S. Policy in the Western Hemisphere," by House Committee on International Affairs, Subcommittee on Inter-American Affairs, 95th Cong., ser. 3901, pt. 4 at 172 (statement of Alejandro Portes) [hereinafter cited as Hearings].

[40] Cornelius, supra; North and Houstoun, supra; and Villalpando, supra.

[41] See Cornelius at 54.

[42] Id. at 55.

[43] Id. at 56.

[44] Interagency Task Force on Immigration Policy, Departments of Justice, Labor and State, Staff Report, 286 (1979) [hereinafter cited as Task Force].

[45] *Id.*

[46] Hearings at 361.

[47] Task Force at 285.

[48] Hearings at 361.

[49] Villalpando, "Facts and Myths About the Illegal Migrant," in The Problem of the Undocumented Worker, 47–48 (Latin American Institute, University of New Mexico, 1979).

[50] See Lucey at 235.

[51] See Cornelius at 38, 43.

[52] Briggs, "Foreign Labor Programs as an Alternative to Illegal Immigration into the United States: A Dissenting View" (1980); D. North, "Non-Immigrant Workers in the United States: Current Trends and Future Implications" (1980).

Mr. BOSCHWITZ. Mr. President, I request unanimous consent that the attached articles be included in the RECORD following the debate on amendment No. 1907 which would require the establishment of an agricultural guest worker program. These articles detail some of the realities as seen from the perspective of the press and people of our Nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLEGAL MEXICAN ALIENS: A FLOATING POPULATION

(By Senator S. I. HAYAKAWA)

Problems for the U.S. created by a continually increasing number of undocumented Mexican workers crossing a 2,000-mile border are not going to simply go away. So long as there are millions of people starving in Mexico—with little or no hope—they will risk everything to cross the border for survival for themselves and their families.

The U.S. holds out a promise to Mexicans trapped at the bottom of the ladder, as it has for immigrants throughout history. One major difference, however, is that the native Mexican immigrant only has to cross an invisible border, not the Atlantic or Pacific Ocean. In contrast to immigrants from Europe or Asia, Mexicans really don't want to stay in this country. If given a choice, most of them would prefer to stay home. However, half of Mexico's citizens are unemployed or underemployed. Social scientists estimate that malnutrition affects 60 percent of adults and 80 percent of children under five.

Roots and family concepts are strong among Mexicans. A Mexican folk song now popular north of the border expresses the loneliness of illegal aliens.

"Between hills and mountains . . . In the village where I was born . . . The memories of mornings . . . I have lived through . . ."

The undocumented brings with him solitude and loneliness. He works and saves, and sends money home. About 40 percent of what the migrants earn in the U.S. is sent home. This system has been called "the purest form of foreign aid." The money gets to the people who need it most, instead of being filtered through government agencies.

The illegal Mexican worker yearns to go home, and 90 percent of them do return—they have been called a "floating population." In order to safely get back to Mexico, they have even arranged for their own arrests. The harder we make it for them to go back and forth across the border, the greater the chances they will bring their families—one by one—and settle permanently in the United States, creating enormous social problems for local governments and communities.

Until the 1920's the border was basically "open," a stipulation of the treaty ending the Mexican-American War of 1848. Each time we have needed large numbers of laborers we have reached out to the Mexican worker. During World War I and again during World War II when we had a manpower shortage, thousands of Mexican workers were recruited. During World War II this was known as the "bracero program," under which Mexico supplied the workers, and the U.S. government was the labor contractor for America's agribusiness. The braceros were restricted to short-term agricultural work and more or less indentured to one employer. They were afforded more humane treatment than the migrants who had come before, but only slightly. The bracero program was terminated, and rightfully so, in the early 1960's, but many migrants who had worked as braceros continued to do so—as illegal aliens. In a sense of the word, the bracero program really didn't end, it simply went underground.

Thus, with a long history of short-term migration established, children grew up assuming that one day they too would go north. Most undocumented workers today are either former braceros or the sons of braceros. Although neither country wants

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to admit it, the temporary worker is accepted by both the U.S. and Mexico. When workers migrate to find seasonal work, they provide the U.S. with a cheap labor force, and the Mexican government considers it a blessing. The migration provides Mexico with an escape valve for rising political and economic tension.

The time has come now for our two countries to face the problem realistically. With a 100-year history of temporary migration and our 2,000-mile border, there is no point in trying to stop starving people from coming across the border to find work. If this migration is legalized and controlled, the majority of Mexican workers will come for seasonal short-term employment, and then return to their villages. They will not be forced, out of loneliness, fear and despair, to bring their families here to settle permanently. A legal "Guest Worker Program" is the only answer for these people, for the United States and Mexico.

On April 8, 1981, I introduced the "Guest Worker Act of 1981." This bill establishes a five-year guest worker program with Mexico. Qualified Mexican nationals who post a $500 bond with the United States Government will obtain guest worker visas good for six months. At the end of that time they must return to Mexico. After six months they are eligible for another six-month work visa. Their deposit will be refunded with interest at the prevailing rate. Each time an alien pays a "coyote" (smuggler) to bring him across the border it costs from $200 to $500. There is a saying in the villages in Mexico that you usually make it the fourth time you cross the border. This bill also establishes a bilateral advisory commission composed of Mexicans and Americans who will consult with the Attorney General to work out details and regulations.

It is important for us to establish a legal framework for Mexican labor in the U.S. in order to harmonize the use of such workers, to prevent abuse by "coyotes" as well as unscrupulous employers, to reduce the flow of illegal migrants, and to permit a better understanding of the opportunities and problems for Mexican workers in the United States and Mexico.

The United States and Mexico are neighbors in a shrinking world of international politics. It is important to both countries to maintain a working, open and friendly relationship between the two nations. The migration of Mexican nationals into the U.S has been a sore spot for years. My "Guest Worker Program" will help solve the problem, ease tension in the Western Hemisphere, and improve relations with Mexico.

The Guest Worker Program: a Pure Form of Foreign Aid

(By Senator S. I. Hayakawa)

The contrast between America and Mexico is unique. Mexico is the only Third World nation that borders such an affluent, highly technological country.

It has been demonstrated over the years that when the U.S. economy is in a recessionary state, tremendous anti-alien feelings build up in the country. Mexican workers have been called lazy undesirables who clog the welfare rolls and take jobs from Americans. But there is a total inconsistency in such a statement; either they take American jobs—or they don't work and live off welfare—they can't do both.

The facts are that the majority of Mexican illegals come here to work—they have little understanding of public assistance and would fear deportation if they applied for welfare.

Undocumented workers pay the same withholding taxes as we do, but are unable to draw social security, unemployment or receive an income tax refund because of their illegal status. For example, an alien who works 60 hours a week at minimum wage (overtime is rarely paid) will earn $201, of which $33.17 is withheld.

The tax contributions of undocumented aliens add up to a staggering windfall. One study estimated undocumented aliens contribute as much as $1.5 billion a year in withholding taxes. In regard to the Social Security Trust Fund in particular, without these funds it would face depletion earlier than current financing schedules indicate.

The time has come for America and Mexico to face the problem of this floating population—realistically.

With a 100-year history of temporary migration and a 2,000-mile common border, there is no point in trying to put a unilateral stop to people crossing the border to work. If migration is legalized and controlled, the majority of Mexican workers will come here for seasonal and short-term employment and then return to their villages, as roots and family concepts are strong among Mexicans.

Typically it is the young man who goes North and he brings with him solitude and loneliness. He works and saves to send money home. About 40 percent of what the migrants earn is sent to their families in Mexico. This system has been called the "purest form of foreign aid." The money goes directly to the people who need it most, instead of being filtered through government agencies.

In World War II, with a manpower shortage in America, the U.S. and Mexican governments got together and created what came to be known as the "bracero program," under which Mexico supplied the workers and the U.S. government was the labor contractor for America's agribusiness. The injustices and inequities of the bracero program are well known, and it was rightfully terminated in the 1960's.

So it is important for us to establish a legal framework for Mexican labor to harmonize their use and to prevent abuse by "coyotes" (smugglers), as well as unscrupulous employers—and to reduce the flow of illegal migrants.

To that end I have introduced in the U.S. Senate the "Guest Worker Act of 1981," which establishes a five-year guest worker program with Mexico. Qualified Mexican nationals who post a $500 bond with the U.S. government will obtain guest worker visas good for six months, after which time they must return to Mexico. At that time their deposit will be returned to them with interest at the prevailing rate.

Also in my bill, protection is provided for American workers by a provision which permits the Attorney General, at the request of the Secretary of Labor, to restrict the employment of guest workers at specific job sites when it has been shown that American laborers are available and willing to take the jobs.

A primary purpose of a legal guest worker program is to encourage guest workers to return to Mexico after a specified period of time. Estimates of the number of illegal aliens in the U.S. range from 1.4 million to 3 million. Therefore, my proposal provides for the participation of up to one million guest workers each year. Anything short of this figure would hardly discourage illegal traffic and the program would accomplish nothing.

The United States and Mexico are neighbors in a shrinking world of international politics. It is important to both countries to maintain a working, open and friendly relationship—this is one way to accomplish this goal.

[From the PSA California Magazine, April 1982]

Interview With Wayne Cornelius

(In 1974, Wayne Cornelius set out on the largest research project the U.S. government had yet sponsored on Mexican migration. He began at the source: the towns and villages of the state of Jalisco, where seasonal migration within Mexico itself and across the border into the United States has been a way of life since the 1880s. He lived among the migrant families, watched the arid land turn to dust and saw the young men of the villages set out for the North. Cornelius followed them and studied their destinations: the restaurants and fields of California and Illinois. Over the next several years, Cornelius, then a professor of political science at the Massachusetts Institute of Technology, became the most widely quoted U.S. expert on migration—in part because he said the unsayable: far from being a drain on the U.S. taxpayer, the migrants were, he contended, a boon to the economy. Most migrants, he said, traveled back and forth across the border without settling in the United States.

(Cornelius also claimed that the number of illegal Mexican immigrants had been highly inflated by the Immigration and Naturalization Service (INS). In contrast to the Border Patrol's claim that eleven million Mexicans were here illegally, Cornelius estimated that the figure was probably closer to between one and three million. Studies since then have supported his figures.

(A former Fellow at Harvard's Center for International Affairs and the Woodrow Wilson International Center for Scholars, Cornelius is now director and founder of UC San Diego's Center for U.S.-Mexican studies at UC San Diego, the nation's largest university-based program devoted exclusively to Mexico and U.S.-Mexican relations.

(Cornelius has received a series of top awards from fellow Latin American Scholars—and an outpouring of anger from many U.S. citizens, ranging from the far-right proponents of a Berlin-style wall along the border to such Chicano activists as San Diego's Herman Baca, who favors an open border and calls him "Wayne Confuseus," to some of his colleagues, who still contend that the professor's interpretation of data favors the immigrants.

(His most controversial statements surround a "temporary worker visa system," which he drafted for Stuart Eizenstat, President Carter's domestic policy adviser. The proposal was designed to legalize much of the back-and-forth flow, without resorting to the geographic and employer restraints that had made Mexican workers virtual slave-laborers under the "bracero program" of the 1950s and 1960s. The plan was rejected by the Carter administration, but the idea stuck. Senators S. I. Hayakawa (R-CA) and Harrison Schmitt (R-NM), the ex-astronaut, proposed legislation to create a guest worker program based in part, on Cornelius's ideas. The Reagan administration has also proposed a program with shades of Cornelius's temporary worker visa. The latest proposal is another plan devised by historians Harry E. Cross and James A. Sandos and published in January by the Institute of Governmental Studies at UC Berkeley. The plan has striking similarities to Cornelius's and is seen by some immigration experts as more realistic than the Reagan approach.

(Cornelius, though, has backed away from the temporary worker visa. He is, in short, an angry man—angry at what he considers a prostitution of his original proposal, and at what he calls a rising "new American nativism." At his UCSD office, he spoke with reporter Richard Louv. Louv is on leave from the San Diego Union to write a book about American migration.)

PSA. Most observers, regardless of their politics, believe that the United States has no cohesive immigration policy. Why not?

Cornelius. As one congressman told me, it's not the facts that matter, but people's perceptions of the facts. The reason we can't come up with effective major legislation is that that would be tantamount to recognizing publicly that we need this labor, that it is not just charity to poor Mexicans or a free ride for the uncaring Mexican government. In ten or fifteen years, many of the debates that we're involved in now will seem ridiculous. We're going to be confronted with significant labor shortages in certain parts of the country, for certain kinds of jobs. The baby bust is already having some effect, with American fertility rates dropping since the last 1960s.

PSA. Why do we need foreign laborers when we don't appear to need unskilled American kids? That just doesn't seem to make sense to most people.

Cornelius. First, while some individual youngsters may find it more difficult to get a job because of undocumented migrants, there is a lot of evidence that for the most part unemployed U.S. citizens and foreign undocumented immigrants are not competing for the same jobs. U.S. citizens are not interested, as a general rule, in the kinds of jobs filled by Mexican immigrants. In fact, in some areas of the country where Mexican migration is the heaviest, youth unemployment is lower than the national average. Second, there is simply no future for U.S. workers in the kinds of jobs filled by foreign migrants in this country. We do have an obligation to provide access to the right kind of job training, mass transit and education. That, over the longer haul, must be the goal of social policy—not deporting Mexicans.

PSA. With the economy at a standstill, isn't that question irrelevant, especially now that we've cut CETA training programs for unemployed youths?

Cornelius. Obviously, in a period of short-term economic contraction like this, a menial job may in fact be the most satisfactory alternative for a young U.S. citizen, but certainly not in the longer haul.

PSA. Stanford University economist Clark Reynolds has said that because of falling birth rates, the U.S. might need as many as five to fifteen million foreign workers in the next twenty years to fill low-income jobs, just to keep our economy going at its present rate. Does that sound reasonable to you?

Cornelius. That's one reasonable projection. Surprisingly, the number of low-skilled jobs is increasing. This is true even in agriculture, despite mechanization and despite all the acres of land that get paved over and turned into shopping centers every year. In urban areas, as long as the domestic immigration into Sunbelt cities continues to grow, there will also be an expanding need for personal services of all types, for a very broad range of goods and services that are provided by foreign labor today. With the baby bust, we're going to be confronted with the same kind of situation that the European countries were confronted with in the late 1950s and early 1960s, when large-scale importation of foreign labor was essential to economic expansion. In advanced industrial countries, it's impossible to eliminate that class of jobs. It is a structural feature of most Western economies. Whether that is good or bad, it's a fact.

PSA. Who is the typical immigrant?

Cornelius. There isn't any. Of course, I know the most about the Mexican migrants, who make up about 60 percent of illegal entrants. One of the popular misconceptions is that there is one kind of Mexican migrant. The migration includes several subpopulations, including temporary, illegal long-distance migrants who come mostly from the western portion of Mexico's central plateau; temporary, legal migrants, sometimes called "greencarders" who may live just over the Mexican side of the border or deep in Mexico; long-term, long-distance illegal immigrants who enter the U.S. clandestinely or with temporary visas and then stay, and permanent legal immigrants, many of whom lived in the U.S. as illegal immigrants prior to their documented entry. These categories don't even begin to capture the full diversity in the Mexican immigrant population.

PSA. California has been called the "new Ellis Island." With so many immigrant groups, legal and illegal, in what context should we place Mexican immigration?

Cornelius. Most of the Asian immigrants entering California are entering legally as political refugees, and therefore are entitled to a set of government benefits, assistance in resettlement and other social services to which undocumented Mexicans have no access. And of course, they are here as legal residents and therefore are not subject to the kind of abuse some Mexicans suffer because of their illegal status. In terms of numbers, Indochinese immigrants may well outnumber Mexican legal immigrants. Between 140,000 and 150,000 Indochinese immigrants are settling in the U.S., mostly in Southern California, per year. But if you include all those Mexicans here illegally, of course, Mexicans far outnumber Indochinese.

PSA. How separated from mainstream U.S. culture are these two groups?

Cornelius. Culturally, there is a far greater gap for the Indochinese than for the Mexicans. Although the Indochinese do have some enclaves in Orange and San Diego counties, Mexicans have a much large support network of friends and relatives. We're just beginning to study this, with a five-year study of San Diego's Indochinese refugees compared to Mexican immigrants.

PSA. And the other groups?

Cornelius. There are many countries contributing to the illegal flow of immigrants—even Japan, as has been recently demonstrated by the INS raids of Japanese neighborhoods of Los Angeles, raids that reportedly shut down about 40 percent of the small businesses in those neighborhoods for a few days. The problem there is Japanese who overstayed their visas, who have remained to work as illegal immigrants. Now, the same could be said of Canadians, Filipinos, Koreans and probably a dozen other nationalities, but what makes these groups so much less visible than the Mexicans is that most of them entered the U.S. legally on tourist or student visas, which they overstayed. They were not caught illegally trying to cross the border, as most Mexicans typically are. We simply don't know the relative numbers of these groups. For one reason, the INS has focused perhaps a disproportionate degree of its attention on Mexicans. The raid of the Japanese neighborhoods may reveal the tip of the iceberg of illegal, non-Mexican immigration. The East Coast, I might add, is affected primarily by refugees from the Caribbean basin and Central America. And this tends to be highly localized—for example, Colombians seem to go primarily to New York City; Haitians and Cubans to the Miami area.

PSA. What concerns you about U.S. public opinion?

Cornelius. Americans seem to have a need to believe that immigrants are to blame for their problems. Public opinion surveys show a growing nativism. A survey in 1979 in San Diego found that nearly half of the respondents felt that legal immigration should be reduced; what was most interesting was the specific anti-Mexican bias, even in a local area whose economic livelihood depends heavily upon Mexican labor and consumer spending by Mexican immigrants and tourists. Three times during the last sixty years, anti-immigrant sentiment among the U.S. public emboldened officials to carry out mass roundup and deportation campaigns aimed specifically at Mexicans. It could be argued that the United States is now overdue for another such nativist spasm. The stage has been set. When the spasm comes, U.S.-Mexican relations will deteriorate swiftly, regardless of other mutual interests such as trade, energy and tourism.

PSA. Say we could turn off the spigot, stop the migration. What would happen to the economy in the Southwest?

Cornelius. First, turning the spigot off completely would take a militarised border, gun turrets and a wall. But assuming that restrictionist policies would work, in the short term, cutting off the supply of immigrant labor would be truly disruptive. Some of the marginal operations wouldn't be able to survive. The larger establishments might shift to less labor-intensive kinds of activities, or move their businesses out of the country to nations with cheaper labor.

PSA. Would that work to decrease the total number of U.S. jobs?

Cornelius. It might well. It would certainly not help the hard-core unemployed. In other words, the net increase of employment opportunities to U.S. workers would be very small and in fact might be negative, because of the impact on our economy. Given the range of options of most employers, I don't think that all the good things that are supposed to happen, as the restrictionists see it, are going to happen. What will not happen, in most cases, is an increase in wages that would make these kinds of jobs attractive to U.S. citizens.

PSA. Most Americans believe that Mexican illegal immigration is draining our social services and tax base.

Cornelius. Yes, if they are in the United States for long periods, especially if they have children with them; the immigrants do take advantage of health services and education. I'd point out, though, that those who do use tax-supported health facilities more often than not pay cash for the services they receive. Our studies in San Diego have shown that a very large portion of health services to legal and illegal immigrants is being provided by private practitioners and health providers on the other side of the border. The reason is partly

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pride, and also because the immigration service is involved with screening Medi-Cal patients—they don't want to get deported. For the same reasons, few of them are receiving any kind of income transfer payments—welfare, food stamps. On balance, they are not a drain on the U.S. taxpayer.

PSA. What tax contribution do they make?

Cornelius. The vast majority are undocumented taxpayers. And their overall contribution to the financing of the services they do use is quite substantial. Now, the legitimate grievance that local and state governments have is that the bulk of the money undocumented immigrants pay in to the public treasury goes off to Washington. The local governments have the greatest grievance because most of the taxes undocumented workers pay goes into federal and state income taxes and Social Security. Increasingly, less of that money comes back to the local governments.

PSA. Which creates the crises for local hospitals?

Cornelius. Right. Local and state governments are bearing an unfair burden for the human services for this population. The federal government shirks its responsibility, by and large, and refuses to recognize the existence of the problem.

PSA. What about Social Security?

Cornelius. They're subsidizing it. This is true if you consider the total population, not just the permanent settlers, but also the short-term migrants who come here to work for a few years and then go back to live in Mexico. They're paying into the Social Security Trust Fund and usually are not taking anything out. This is less true of immigrants who are staying here permanently and manage to legalize their residence. But overall, the immigrant population is younger than the U.S. population, paying in more than they consume in Social Security benefits.

PSA. What do you think of the Cross-Sandos proposal for a five-year guest worker pilot program, viewed by some as a fresh approach? [The proposal requires a $300 deposit, to be returned, with interest, if the migrant returns to Mexico; provides the worker with the right to join U.S. labor unions and look for jobs anywhere he or she wishes; requires that the worker be paid by check, so that standard tax and benefit deductions would be made, enabling the worker to draw disability payments; features a special withholding tax on the guest worker's paychecks, which would create a fund for hospital and health-care expenses, and allows for each migrant to carry a tamper-proof identity card.]

Cornelius. The main problem is that there's no quick fix, and this approach would delude people into thinking that there may be one. I only wish they had come up with something fresh. Three-quarters of what they propose appears to be lifted directly from my 1977 proposal for a temporary worker visa system. Other ideas were taken from S. I. Hayakawa's bill. I can't identify a single element of Cross-Sandos that has not been proposed, debated and rejected in the U.S. political and academic domains during the past five years. It's just another hodgepodge, a Frankenstein's monster no more politically viable than ones that came before. It's likely to arouse such a vociferous nationalist reaction on the Mexican side that there would be no hope of acceptance.

PSA. Why have you backed off from your own proposal for a temporary worker visa?

Cornelius. Legalizing entry of Mexican immigrants is still the most humane and rational approach. But I no longer labor under the illusion that it is possible, within the context of the U.S. economy and politics of the 1980s.

PSA. What about the Reagan proposals, which include a "guest worker" program, a permanent worker ID card, employer sanctions and amnesty for some undocumented immigrants?

Cornelius. In some ways, it's an improvement over the Carter proposals, but still unworkable. Take employer sanctions: there are already twelve states in the nation that have legislation to this effect, including California; given the fact that there is already a federal law governing contracting in farm labor, which also specifically prohibits agricultural employers from hiring undocumented immigrants, if we look at the actual impact it has had, I think we need to ask seriously if employer sanctions can ever be enforced. We can't even enforce the minimum wage law for the general population. How can we keep track of the millions of employers? In thinking you can enforce employer sanctions, you're assuming the feasibility of a truly counterfeit-proof credential. I think there would immediately be a whole new industry springing up to produce facsimiles of whatever new kind of credential you want to create.

PSA. You seem to be saying that the problem isn't the immigrants themselves, but their illegal status; but you're also saying that it's impossible to legalize them, given the political climate. If legalizing the migration is politically unfeasible—or just plain wrong, as some of your opponents say—what are we left with?

Cornelius. The status quo, which I don't regard as either morally acceptable or economically rational. Or increased restrictionist pressures, fueled by economic stagnation and popular hysteria.

PSA: What about the long-term view? Is there any cause for optimism?

Cornelius. We have evidence from a variety of surveys, among them the United Nations World Fertility Survey, that there has been a significant and continuing drop in fertility rates that can be expected to cut future population growth in Mexico. By the year 2000, Mexico may have roughly 100 million people rather than 120 million, as had been projected in the 1970s. The problem, of course, is that this doesn't mean an immediate reduction in the growth of the labor force. There also appears to be improvement in Mexico's ability to feed itself. But the regions of Mexico that sends the most migrants are less affected by the strides in agriculture. Mexican oil will certainly make a difference. But we simply can't predict the long-range effect on the economy. As for what happens in the meantime, the migrants and their U.S. employers will continue to be the central actors determining what really happens in the labor market—not the government, whose capacity to intervene effectively at this point is dramatically diminished.

PSA. Are we at a crossroads, moving toward an enriched, culturally pluralistic Southwest—or toward a separatist movement, another Quebec?

Cornelius. If we are moving toward another Quebec, it certainly won't be because of a preference of the immigrants, especially those who remain here for a long time. They're mainstreamers. They want to make it in this society. They particularly want their children to make it, and they know that to achieve that goal their children must get some kind of schooling, proficiency in English and knowledge of U.S. customs to make them competitive in the U.S. job market. The older immigrants do tend to retain their use of Spanish, don't vote and stay separate from the majority culture. This is partly because they're too busy making a living. But their children are another matter, and this is where the focus should be placed. Whether they're successfully integrated into the society will depend largely on whether they have access to the kind of education that will give them the tools to survive in American society.

PSA. If our schools are having trouble providing English-speaking children with that kind of education, how are they going to succeed with Spanish-speaking children?

Cornelius. That's certainly a serious problem, which is at the root of our overall social policies. But what is the alternative? The long-term price of not providing this education, and good health care, will be huge. It's unfortunate that there are so many people who associate immigration with separatism. A lot of people in the majority culture are intolerant of cultural and linguistic differences. Some of them really don't believe in cultural pluralism as a worthy goal of society. They feel threatened, choose to put up barriers, and prefer to think the worst of those who enter the country and don't divest themselves immediately of their language and culture. We have a real opportunity in the Southwest for cultural pluralism. If we fail it won't be because of the immigrants, but because of ignorance and fear and prejudice.

Getting a Handle on Immigration Will Require Starting From Scratch

(By Frank del Olmo)

Like so many things, the U.S. Immigration and Naturalization Service does, last week's Operation Jobs generated lots of controversy, anger and publicity, but accomplished very little.

The nationwide series of raids was targeted at illegal immigrants holding well-paying jobs, the kind that U.S. citizens might take if they were available. About 5,500 people were arrested, less than one-tenth of 1 percent of the estimated 6 million believed to be living in this country illegally.

There are no reliable figures yet on how many of those vacated jobs will be filled by Americans. Spot checks indicate that many of those arrested have already returned to work while they appeal the deportation order. So it will be awhile—if ever—before we see whether Operation Jobs proves that illegal immigrants displace U.S. workers.

But one conclusion can be drawn from Operation Jobs: Enforcement of immigration laws is beyond the abilities of the Immigration and Naturalization Service; it should be abolished.

If the United States is ever to get its immigration system in order, new laws and more money will not be enough. There has to be a drastic reorganization of the federal agencies that administer those laws, primarily the immigration service, an agency of the Justice Department.

The immigration service has been incapable of effectively doing its job for a number of years. This first became clear in 1972 when the Justice Department launched Operation Clean Sweep, a wide-ranging investigation of corruption in the INS.

Operation Clean Sweep demonstrated that the immigration service was a deeply troubled agency—underfunded by Congress, overwhelmed by the millions of people it had to deal with, and operating largely out of sight of the general public. All this resulted in a demoralized atmosphere in which corruption could flourish.

Unfortunately, while immigration has become an issue for public debate in the last few years, things have not improved much for the immigration service.

The agency still does not get the funding that its leaders believe is necessary to control illegal entry. In 1972 the INS budget was $130 million, enough to pay and support 2,005 Border Patrol agents, 1,346 immigration inspectors and 1,219 criminal investigators. This year, the agency has a $400-million budget and more Border Patrol agents, 2,700. But there still are 1,350 inspectors and only 770 investigators.

And horror stories about the agency's mismanagement and ham-handed methods still abound. In Operation Jobs, we learned of agents refusing to allow the detained suspects to see lawyers or even spouses in some instances, and coercing suspected illegal aliens into waiving their rights. The sad thing is that anyone who deals with INS regularly knows how routine these kinds of allegations are.

Even those members of the general public who occasionally must deal with INS on more mundane matters tell angry stories of long lines, lost files, unanswered telephones and harried, impolite clerks.

A major reason for this is that INS has a split personality—it must service legal immigrants and resident aliens, while trying to track down illegal immigrants, doing neither job particularly well.

Since World War II, the law-enforcement function has come to dominate INS operations as civil servants who began their careers in the Border Patrol rose to the agency's highest ranks. These policy makers still tend to think of all immigrants as the Mexicans they used to chase along the Rio Grande.

The reality of this country's immigration dilemma is far more complicated than that. Mexican workers tend to come as migrants, not immigrants, hoping to earn enough money here to buy a piece of land or a small business back home. They may be the least of our problems when compared to the Haitians, Iranians, South Americans, Asians and other foreigners who would like to settle in this country permanently.

Getting a handle on this phenomenon will require more sensitivity and farsightedness than our current immigration agency is capable of. So it should be put out of its misery, and a new system built from the ground up.

The Border Patrol's functions could be absorbed into a single, comprehensive border management agency, along with the Customs Service. Law-enforcement specialists believe that illegal immigration can be controlled more efficiently, and more humanely, at the point of entry rather than searching all the scattered likely destinations in the nation's interior.

The idea of a single border agency has been bouncing around the Office of Management and Budget since Richard M. Nixon was President, but it has been effectively opposed by the agencies involved and their employee unions.

The INS's service function—helping new and prospective legal immigrants—should go to a new Bureau of Immigration. Specialists predict that most of this country's population growth in the coming years will occur not from natural births, but from immigration. That is as good an argument as any for spending more money to build a better system of immigrant admissions and acculturation than we have now.

There are bills working their way through Congress now that would make far-reaching changes in U.S. immigration laws, making them more restrictive but also fairer and less arbitrary. I have serious doubts whether they will work, because the economic forces that cause illegal immigration may be too strong to be legislated away. But these reforms have been designed by thoughtful people who are trying to create a national consensus on a complex and emotional issue while avoiding the nativism that has tainted past debates about immigration to this country.

If these immigration reform proposals pass, it would be a tragic joke to leave their administration to one of the most heavy-handed, overworked and ill-prepared agencies in the federal bureaucracy.

Mexican Official Assails Bill To Curb Immigration

Coronado. (UPI)—Mexico's leading expert on illegal immigration into the United States Thursday called the immigration bill before the U.S. Congress a "step backward."

Dr. Jorge A. Bustmante, director of the Center for Northern Mexico Border Studies, said the Simpson-Mazzoli bill "starts from the premise that illegal immigration is an illness which must be cured by drastic measures."

"The bill is a step backward from the need to rationalize costs and benefits to the United States of what is, in effect, an international labor market with demand for cheap labor on one side and a labor pool on the other," Bustamante told a binational conference sponsored by the Center for U.S.-Mexican Studies of the University of California at San Diego.

The bill sponsored by Sen. Alan Simpson, R-Wyo., and Rep. Romero Mazzoli, D-Ky., would make it unlawful to hire illegal aliens; make it an offense for an illegal alien to use false documentation in seeking a job; set up an experimental two-year, guest-worker program for 50,000 Mexican nationals annually; and grant varying degrees of legal status to qualifying illegal aliens in the United States prior to Jan. 1, 1980.

Cutting off the flow of illegal aliens would be tantamount to "economic suicide" to sectors of the U.S. economy, Bustamante said, and not just the seasonal agricultural sector that attracts .only 37 percent of illegal aliens.

Recent studies indicate that the majority obtain jobs in the hotel and restaurant trade, other service industries, light industry, and the garment and shoemaking fields.

Bustamante said the Simpson-Mazzoli bill responds to the present bad economic situation in the United States, which he said makes it temporarily impossible "to analyse the phenomenon in a fair-minded way."

He said the bill formalizes the treatment of illegal aliens as "a subclass of worker whose lack of access to the courts is perceived in Mexico as unfair, unjust, and an offense to all Mexican nationals . . . the closest thing to slavery, the denial of rights of human beings to this underclass of workers."

He said Mexican President Jose Lopez Portillo has not voiced disapproval of the bill so as not to intervene in U.S. internal affairs. Bustamante said this silence has been misinterpreted by the Reagan administration as tacit approval of the proposed immigration law.

[From the Los Angeles Herald Examiner, Mar. 23, 1982]

Agents On Horseback Seize 200 Illegal Aliens

(By Lennie La Guire)

U.S. Border Patrol agents on horseback charged into Orange County strawberry fields yesterday in a raid that netted more than 200 suspected illegal aliens.

And as astonished motorists watched from a crowded freeway dozens of agents on foot also entered the fields, chasing the workers into surrounding foliage.

Assistant Chief Patrol Agent Tom Gaines of the Chula Vista Border Patrol said approximately 237 suspected illegal aliens were taken in during the two-hour sweep of five strawberry fields bordering the Santa Ana Freeway.

The workers taken into custody were put aboard buses headed for Tijuana, said Jim Grim, assistant chief patrol agent for the San Ysidro district.

"We'll do the paperwork on them on the bus on the way to the border and then dump them at the border", he said.

Sixty agents aided by a helicopter participated in the raid over 600 acres near the intersection of the Santa Ana and San Diego freeways. Two of the growers who leased portions of the land denied any of their workers were picked up.

"It was very fortunate for us we didn't have any pickers in the field," said rancher Don Wall, who said he lost about $80,000 after a similar raid last year when he couldn't find workers to replace those rounded up.

"Even when you get legal workers from this area they get spooked by such raids and they don't like to get hassled and they don't come back," he said.

Another grower, Glenn Tanaka, said, "We were lucky. We didn't have any workers in the field."

Asked if any of the growers would admit that they did, he laughed and didn't reply.

Grim said that following the usual pattern, workers dropped off across the border would return.

A rancher said the raid could severely affect strawberry growers.

"This is a very critical time for strawberry growers," said Jerry Collins of the Irvine Co., owner of the land leased by at least five tenant farmers.

"It is very possible to lose from a half a million to a million dollars if they don't have workers in the field at this time," he said.

But Gaines warned that the raids would continue.

"For us it's a routine operation and we're going to be up there for several days," he said. He added that the raids were made "in order to free up some jobs for American workers."

Grim said that growers would not he held accountable "unless there is an indication that they are (knowingly) hiring illegal workers."

[From the Fresno (Calif.) Bee, Mar. 27, 1982]

Locals Find Picking Not Berry Good Job

Santa Ana.—Local residents who flocked to strawberry fields when immigration agents routed regular pickers have apparently decided berry picking isn't as lucrative as expected: Most quit the first day, officials said.

To make a hoped-for $12 an hour, they had to pick between 2,300 and 2,900 berries an hour."It's very hard work down on your hands and knees, especially if you're not conditioned to it," said Bob Harkness of SF Farms. "To make the money, you'd have to stick with it."

Only four of the 20 new pickers who showed up at SF Farms on Wednesday came back to work Thursday, said Harkness, sales representative for the 160-acre Irvine strawberry spread. On Thursday about 30 newcomers—many of them victims of Orange County's 6 percent January unemployment rate—picked for a while, he said.

Rain prevented harvesting Friday, further deepening the losses of Orange County's strawberry industry, already hard-hit by this week's federal round-ups of illegal field workers, Harkness said.

The new workers were apparently dissuaded by the amount of backbreaking work required to earn the $12 an hour that had been mentioned in a newspaper article, he said.

To make $12 an hour, a person would have to pick 12 flats an hour, each containing 12 one-pint baskets, he said. Each basket holds between 16 and 20 berries, meaning a laborer would have to pick 2,880 berries an hour. Growers' pay scales differ, but at SF Farms, workers have the option of taking the minimum $3.35-an-hour wage or going for $1-a-flat incentive rate.

"During a peak harvest, a good worker could make as much as $12 an hour," Harkness said, but generally the good pickers average about $7 or $8 an hour.

Acknowledging that growers "have to rely on Mexican help during the harvest," he noted that the raids coupled with the wet weather are seriously hurting the harvest this year.

Thursday's raids by the U.S. Border Patrol resulted in the round-up of 329 Mexican illegals and one Guatemalan from fields in Irvine, Orange and Fountain Valley, said Border Patrol Deputy Chief Dale Musegades.

On Monday and Tuesday, agents picked up 340 illegal immigrants and sent most back to Mexico by bus.

Wednesday's raids didn't hit SF Farms and a fairly normal picking day ensued, Harkness said; but federal agents did hit ranches in Anaheim, Fullerton, and Buena Park, netting 221 illegals, Musegades said. He said up to 40 of the county's estimated 60 farms have been raided.

State employment Development Department officials say they hadn't been posting job openings for farmhands, because they thought locals weren't interested in the manual labor.

But dozens of inquiries have come in from unemployed workers, and this week for the first time the strawberry growers placed large job orders for emergency pickers in Orange County's five EDD offices.

In Fullerton, about 30 EDD applicants were sent out to a ranch but were beaten to the fields by other workers who had heard about the raids, said employment counselor Louise Sherill.

[From the Sacramento (Calif.) Bee]

FEAR OF IMMIGRATION RAIDS GROWS IN HISPANIC AREAS

(By Diane Alters)

Hispanic people living in Sacramento are so afraid of being swept up in a nationwide roundup of illegal aliens that priests at Our Lady of Guadalupe Catholic Church have released them from their obligation to attend Sunday Mass.

The decision is a result of panic that has seized the Spanish-speaking community during a weeklong campaign by the U.S. Immigration and Naturalization Service to search out and arrest illegal aliens, said the Rev. Keith Kenny of the parish.

The fear even touched American citizens of Mexican descent, who say they are afraid of being arrested in the sweep because they look like Mexicans, said Don Chaires, a local lawyer who specialized in immigration law.

Depite persistent rumors of arrests, local INS chief David Johnston said Sacramento would not be part of the controversial weeklong raiding operation, called "Operation Jobs" by the INS. Although the local office conducts its own raids, none has taken place this week, he said.

A Border Patrol agent who declined to give his name at the agency's Franklin Boulevard office also said no one had been arrested locally under the program.

The raids have taken place in factories, hotels, restaurants and other businesses in San Francisco; Los Angeles; Dallas; Houston; New York; Denver; Newark, N.J.; Detroit; and Chicago. About 3,500 suspected illegal aliens, many from Mexico, were arrested Monday through Wednesday, national INS officials said. The operation is to end today.

"They're in immediate danger of arrest," Kenny said of parishioners who would otherwise be obligated under church law to attend Mass but who are afraid to leave their homes. Arrest is considered a grave danger, the basis for allowing such an unusual release from obligation, he said. Nobody knows how many people in the parish are in the country illegally, he said. Another Catholic Social Services official estimated that "thousands" were in the Sacramento area illegally.

Monsignor James Poole of St. Charles Borromeo, which also has many Hispanic parishioners, said he had not heard similar fears in his parish, and had not released anyone from the obligation to attend Sunday Mass.

Kenny expressed skepticism that the raids had not been conducted here. "They're notorious liars," he said of immigration officials.

"I have done nothing but answer people's calls for two days. They're scared," said a counselor at the Catholic Social Service's immigration division. The woman, who asked not to be identified, described rumors of local raids. None of the rumors has been substantiated.

INS officials have said the raids would remove illegal aliens from jobs that could be held by unemployed Americans. But clergy, politicians and minority groups in the nine cities raided issued angry criticisms of the INS.

In the San Francisco area, operators of fish markets and chicken plants said they were having trouble finding replacements for aliens arrested this week.

"It's not the kind of work most white middle-class Americans want to do," said Nickie Becker, manager of the Petaluma Poultry Co., where INS agents arrested 18 of 125 employees.

Les Amunesen, manager of the Point St. George Fishery in Santa Rosa, disagreed with INS officials that aliens were in "high-paying" and "attractive" jobs. The 53 aliens arrested Tuesday at his plant were fish cleaners who had worked there two years. Job applications since then were for truck drivers and fork-lift operators, which he doesn't need, Amunesen said.

In Denver, the Roman Catholic archbishop and the Episcopal bishop protested the roundups. One priest there said he would harbor illegal aliens in his church, "just as the church served as a refuge in the Middle Ages."

In Los Angeles, attorneys for an immigrant rights group won a federal court order Wednesday barring the imminent deportation of 150 of 425 Mexicans arrested there. U.S. District Judge William Mathew Byrne ordered all aboard a busload of detainees in Los Angeles to be asked whether they wanted to talk to a lawyer.

"To say INS is really interested in the rights of these people is absurd," Byrne said.

[From the Los Angeles Times, Aug. 1, 1982]

MOST ALIENS REGAIN JOBS AFTER RAIDS—SURVEY CONTRADICTS INS FINDINGS THAT SWEEPS SUCCEEDED

(By Larry Stammer and Victor M. Valle)

Eighty percent of the suspected illegal aliens apprehended in Los Angeles and Orange counties three months ago during nationwide immigration raids on factories are back on the job, a survey by The Times has found.

The results contrast sharply with an earlier survey by the U.S. Immigration and Naturalization Service and call into question INS success in meeting its stated objective of opening "higher-paying" jobs for unemployed Americans and legal residents by deporting illegal aliens.

Dubbed "Operation Jobs," the highly publicized sweep of 5,635 suspected illegal aliens from factories in nine cities throughout the country during the week of April 26-30 resulted in thousands of unemployed flocking to the factories to apply for the jobs vacated by those arrested.

WIDESPREAD CRITICISM

Despite widespread criticism at the time from immigrants' rights attorneys and U.S. Sen. Alan Cranston (D-Calif.), who called the raids "terroristic," Omer G. Sewell, deputy district director for the INS in Los Angeles, pronounced the sweep a success.

"I think we certainly did meet our target," he told a press conference the day the raids ended. "Our target was to open up a substantial number of jobs to American citizens and lawful residents. . . . Judging from reports about large numbers of job applicants seeking these jobs, we believe it's been successful, and we're very, very proud," Sewell said.

Responses to a Times survey of union leaders, management and employees in Los Angeles and Orange counties three months later show, however, that the INS approach failed.

The Times found that of the 801 workers arrested in the two counties during the weeklong sweep, 646—or 80%—are back on the job.

One personnel manager reported, "Some of them were here the very next day. They were deported that evening and they were back the next morning."

NUMBER UNKNOWN

It is not known precisely how many of the returning workers were deported and then crossed back into the United States illegally or were permitted to remain in the United States pending a review of their immigration status after asking for a hearing.

Based on answers from several firms, however, it appears that a sizable majority—nearly seven out of 10 returning workers—had been deported.

Those numbers approximate the INS breakdown. The agency reported that 68.7%, or 550, of the 801 workers arrested agreed to voluntary deportation, and 31.3%, or 251, asked for immigration hearings.

Employers also indicated that many of the Americans and legal residents who were hired to fill vacancies did not stay on the job, either because they believed that the pay was too low or because the working conditions were not to their liking. Wages averaged $4.80 an hour in the Los Angeles-Orange County area and ranged from the minimum $3.35 an hour to $7.50 an hour, the INS has reported.

One firm, where wages ranged from $3.35 to $4 an hour, reported hiring 90 new workers immediately after the raids. But Rudy Pompa, employment manager of the B. P. John Furniture Co. in Santa Ana, said 75 of them quit shortly after.

"They told me they found another job, that the work was too hard, that there wasn't enough pay. One tried to provoke the foreman to fire him in order to collect unemployment. His benefits had run out and he was looking for an extension," Pompa said.

Hal Takier, personnel manager of West American Rubber Co. in Orange said. "The Americans? None of them stayed; maybe 1%. It isn't the work. It's just that they feel like they want something better, whether they have education or not." When 10 arrested workers returned, Takier said, "I was just glad to get 'em back."

Operation Jobs, executed at a cost of $500,000 nationally, including $160,000 to transport deportees to the border, was an experiment to determine whether the INS should concentrate enforcement efforts on illegal aliens holding supposedly "higher-paying" jobs that Americans and legal residents might take. In the past, the agency had been criticized for rounding up illegal aliens in low-paying jobs for which there was insufficient domestic labor.

The reaction from most employers to Operation Jobs was summed up recently by Walter Gibson, controller at Carolyn Shoes Inc. in Monterey Park: "I think if the announced purpose was making jobs . . . then they failed because they did not create jobs. Now, if their purpose was to harass those people who didn't take the time to document themselves, then they succeeded."

Some employers disputed the INS contention that the raids involved workers in higher-paying jobs, and several complained that production lines had to be shut down.

The immigration service is evaluating the effectiveness of the raids. No decision has been made whether to continue them.

Philip Smith, assistant district director for investigations at the agency's Los Angeles office, said one week was not enough time to adequately test the effectiveness of Operation Jobs.

The experiment would have had greater impact if 1,000 suspected illegal aliens had been picked up every week for several weeks, he said.

"But in depressed economy, it did accomplish something," he added. "It focused attention on the immigration problem. . . . It did accomplish the goal of getting people to zero in on employment opportunities in which illegal aliens were arrested. . . . but it certainly did not solve the illegal immigration problem or the unemployment problem."

Two weeks after the raids, the INS conducted an "informal survey" of factories in Los Angeles, Chicago, Dallas and Houston to determine how many U.S. citizens and legal permanent residents were hired to replace the arrested workers. Other cities included in the sweep were Detroit, Denver, Newark, New York and San Francisco.

That survey, depending on how the answers were treated statistically, indicated that between 65% and 70% of the jobs vacated by arrested workers had been filled by Americans or legal residents, based on employers' answers.

INS spokesman Bob Walsh in Washington, D.C., said the survey had no "scientific credibility" and that the government had no way of knowing whether employers answered truthfully. Thirty-one of the 39 firms contacted agreed to answer the agency's questions.

Unlike the INS survey, in which respondents were asked to volunteer information to a law enforcement agency that might act on the information obtained, The Times promised confidentiality to those companies requesting it.

The Times survey was limited to Los Angeles and Orange counties and included all of the 12 firms raided instead of using a random sample.

Eight of the 12 firms cooperated, five on the condition that their statistical answers be included only in a total figure for all 12 companies. The eight were Acme Lighting and Manufacturing Co. in the City of Industry, B. P. John Furniture Co. of Santa Ana, Carolyn Shoes of Monterey Park, El Rey Mexican Foods of the City of Industry, Kern's Foods of the City of Industry, Magdesian of California in Monterey Park, Pharmavite of Pacoima and West American Rubber Co. of Orange.

Three firms—Accurid Co. of Santa Fe Springs, Price Pfister Brass Manufacturing Co. and U.S. Sales Co., both of Pacoima—refused to cooperate. One firm, Hiebert Inc. of Carson, claimed not to know how many of its workers had returned to work. In those cases, The Times contacted workers, union officials or lower-level management personnel in an attempt to determine the situation.

Although there is no way to independently verify the answers, union officials and workers who spoke to reporters without the knowledge of their employers tended to corroborate management reports from cooperating firms that a majority of the arrested workers were back on the job.

They also provided specific numbers. A union official, for example, reported that he was informed by Price Pfister management that 67 of the 83 people arrested had returned to work, reportedly after they produced "green cards" establishing them as legal permanent residents or had asked for hearings to contest their deportation.

UNION FILED GRIEVANCES

Manuel Barbosa, business representative of Teamsters Local 389 at Price Pfister, said the union has filed grievances to get the company to rehire the remaining 16 workers.

"I'm not the INS," Barbosa said. "I just represent my members. It's not a condition of union membership that you have to be a U.S. citizen."

Price Pfister was the first company hit in the raids and was the subject of widespread publicity. The firm reported that it received 1,000 job applications the next day.

At Hiebert Inc., an office furniture manufacturer, Personnel Manager Bill Hite said he did not know how many of the 183 arrested workers had returned to work, although he said "quite a few came back." Another company official said that 95 percent had returned.

The company reported to the INS two weeks after the raids that it had hired 200 U.S. citizens or legal permanent residents through the state Employment Development Department. An official at the state agency, when informed of the company claim, said, "Oh dear, no! That certainly wasn't the case." An Employment Development Department spokesman said records indicated that the department made only 23 referrals to the company.

In some cases, the return rate was nearly 100 percent. El Rey Mexican Foods reported 34 of the 35 arrested workers back on the job. Acme Lighting and Manufacturing Co. said 19 of the 20 arrested returned. West American Rubber Co. reported the lowest return rate, with only 10 of the 52 arrested workers back on the job.

CHANGE IN HIRING PRACTICES

The raids have resulted in several employers changing their hiring practices. They report—and the INS confirms—that more of them now ask the agency to check the names of job applicants against INS computer files of legal residents, although there is no legal requirement to do so.

Hite, presonnel manager at Hiebert, said that his firm logs the time and day it attempts to verify the resident status of job applicants and the INS official contacted.

Hal Takier, personnel manager of West American Rubber Co., said, "Whether it's legal or not, I've been asking for a green card and a Social Security card. Usually we take a photo of it and put it on their application. I have no choice, and still you know you're going to have counterfeits and phonies . . . but that's what we have to do to keep our skirts clean."

Other employers, however, say privately that they are skirting the issue.

Said one, "We do require some type of identification, but we're not so naive to think it's not bought on the corner . . . . Depending on how badly we need the workers, we'll accept their identification."

Indications that employers are taking back arrested employees in large numbers, including those who were deported as well as those who sought hearings before an immigration judge, drew criticism from one immigration service official in Washington, D.C.

Informed of The Times' findings, Deputy INS Commissioner Joseph Salgado said, "It would be a disappointment to me to think that American employers, who have a vested interest in this country, would elect to hire or rehire people they know are illegal aliens before Americans. That would be a disappointment to me. That would be a major disappointment. I'm not saying I would be surprised by it."

Disappointment or not, several employers said that as long as they cannot find legal residents and Americans to fill jobs, they will hire anyone.

Several employers and INS agents said that most efforts to stem the tide of illegal aliens looking for work in the United States will be ineffective until Congress imposes sanctions against employers who hire illegal aliens.

Others, like Gibson, the controller at Carolyn Shoes, said that if illegal aliens are to be stopped, they must be stopped at the border.

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But, he said, the underlying cause of illegal immigration will remain, regardless of how the U.S. government tries to slow it.

"The shoe industry has Puerto Rican workers in New York; in Florida, mostly Cubans; and here, mostly Latins (Mexicans). Whether they are documented or not, I imagine they are documented as much as the Cubans are documented.

"The only difference is the State Department says the Cuban government is communist and the Mexican government isn't. But the workers are the same. They still want to eat no matter what their government is. You can call the Cubans political refugees, but they are principally economic refugees, the same as the Mexicans are economic refugees."

[From the Los Angeles Times, Aug. 1, 1982]

Couple Deported; Children Left On Own—INS Raid: The Pain of Separation

(By Victor M. Valle)

Aurelio Norte is a part-time accordion player, and when he gets off from his factory job, he often sings in the cantinas of San Fernando about those deported by the Immigration and Naturalization Service.

In dreary cantinas where men like him gather, he sings as one who knows the pain of being separated for days from his children. In April, he and his wife, Rebecca, were apprehended for the first time at a Pacoima mail order company where they had worked more than four years.

They were among the hundreds of undocumented aliens deported in "Operation Jobs," a week of factory raids designed to remove illegals from jobs that could be held by unemployed U.S. citizens and legal residents.

Aurelio and Rebecca eventually got their jobs back, as did most workers seized at their plant. But for the Nortes, the cost was especially high. Aurelio was separated from his wife and six children for 16 days, during which time he made seven unsuccessful attempts to recross the border from Mexico. Rebecca returned home 10 days later on her fourth attempt.

"SUFFERED THE MOST"

"Of all the people arrested in the raid, we suffered the most," Aurelio said. "We suffered physically, we suffered spiritually."

Aurelio, 42, has squared, weathered features that make him appear older. His voice is coarse, restrained and proud. He brought his family to this country more than four years ago to escape poverty in his native state of Durango.

Rebecca, 40 has smooth, gentle features. In her voice you can hear the twang of northern Mexico. Her eyes reflect the sound of humiliation in her husband's voice.

"You feel bad, you feel bound, you feel very small," Aurelio said, recalling how he felt when immigration agents entered the plant. A female immigration agent, he said, questioned and then handcuffed him, which he found especially embarrassing.

"I was afraid, I was shaking, I saw the rest of the people hiding. I ran to hide," Rebecca said, recalling her thoughts as the raid began.

"They searched for us as if we were inhuman," Aurelio said of the way the agents pushed over boxes and packages to get at workers who hid. "And when they put us in the van, one of the agents said—'Boys, yell Viva La Migra! He was laughing, inflaming us, acting like a big shot."

"I didn't say anything when he did that, I just thought, my God, how things turn out. I was, as they say, crying inside, because I left my children at home, alone."

Fortunately, their 18-year-old daughter Marisela was not picked up in the raid. She was on her break at a corner food stand when the agents arrived. Her friends at work told Marisela that her parents had been taken, and then took her home.

"They broke out crying all once," Marisela said, after she told her three sisters and three brothers—the youngest 6 years old—and what had happened.

"And me without money and food," she said. "It seemed pretty hard, pretty ugly. I had to stop working to stay home with sisters and brothers."

But an uncle, friends from work, and members of the Hermandad de Trabajadores Mexicanos in Pacoima (Brotherhood of Mexica Workers), a group acting as a liaison between undocumented aliens and labor unions, brought the children food and money while their parents were gone.

Although the children were safe, Rebecca and Aurelio had no way of knowing that.

They were arrested in different parts of the plant and the immigration agents did not find out that they were married. And they did not volunteer that fact, Aurelio said, since those apprehended try to withhold details about themselves to avoid being identified by immigration authorities.

Positive identification of a person deported several times can prevent that person from legally emigrating later, said an agency spokesman. It can also mean fines and a jail sentence if a person were caught and identified several times.

HELD SEPARATELY

Aurelio and Rebecca were first separated when they were led into different vans that transported them to section B-17, the temporary holding facility in the basement of the Federal Building in downtown Los Angeles. Men and Women were taken to different rooms in the building.

Before being questioned, Aurelio considered asking for a hearing to appeal deportation. But he said he began to have second thoughts when an agent threatened to detain him for three months and set his bail at $5,000.

Seeing his wife through a darkened window as she walked into a room with those who agreed to voluntary departure helped him make up his mind.

The possibility of his being detained and of Rebecca struggling to cross the border could mean that his children would be left by themselves for weeks, he said.

Aurelio signed the voluntary departure form, as had Rebecca.

"My back was to the wall. Anyway, God willing, I'll go to Tijuana, leave and in three days I'll be back," he said to himself.

That night, he began his ride back to Mexico in a bus filled with men like himself. He arrived without sleep in San Luis Rio Colorado in the state of Sonora about 4:30 a.m. and, figuring that Rebecca had been sent to Tijuana, he boarded the next bus for there.

However, Rebecca arrived in San Luis one hour later. Luckily she decided to stick with her female workmates as they headed back to Tijuana.

Aurelio called home when he got to Tijuana. But when he tried to ask where Rebecca was and to say where he was staying, "Tears poured down my face, and the children let out crying, begging me to come home," he said in a coarse whisper.

Late that afternoon, Rebecca called home, receiving word of where Aurelio was waiting. She walked into the poorly lit market and saw her husband leaning against the counter with his back facing here she said.

"We met, we talked, we lamented, and then we telephoned the family," he said. "Then we began thinking about how to get back."

He and his wife had hidden $220 between them in the heels of their shoes, which they would use to survive if they were ever deported and to pay a *coyote* to smuggle them across the border.

In the week that followed, the couple and three other friends from work made several aborted attempts to cross the border. Their first try began with a *pollero*, a person who guides people past the border fence to a *coyote* waiting to take them to Los Angeles.

ARRIVED NEAR FENCE

After meeting their guide outside their hotel early one evening, they rode a bus to the border, arriving near the fence while there still was light.

"You have to get to the line early," Aurelio said, "because once it gets dark, you have to watch out for the *judiciales* (plaincothes Mexican police). They're more dangerous than immigration (border patrol).

"They take all your money and beat you, and accuse you of trafficking in marijuana. They do this to scare people. If you try to talk . . . for your rights, God help you."

They walked under the fence through a dry canal just north of the Playes de Tijuana and hid behind a large tree waiting for the dark.

Late that night, the group began crawling through the brush and through mud. Border patrolmen in a Jeep were parked not far off.

They were almost spotted near a dirt road "when the mosquito, the helicopter, passed over," Aurelio said, "Our guide told us to take care, get under the weeds, and don't look up because they'll see your eyes shine.

"About three kilometers ahead, there were some men on these three-wheeled motorbikes," he said. "There were about eight of them and they were getting some people."

He said they were spotted but the border patrolmen were too busy to give chase as the Nortes and their party ran into a muddy area where the motorbikes could not follow.

"It was then that they (border patrolmen) called the men on horses," Aurelio said.

When mounted patrolmen caught up with them, he said, "they made their horses lunge at us, yelling, 'move, quick.' One of the horses stepped on my friend's foot. They told us to run, faster, faster. They thought my wife was a man, because of the way she was dressed. I felt bad because of the way they treated her."

Eventually, after Rebecca had run a few miles, the patrolmen noticed she was a woman and they let them walk, Aurelio said.

Their group was then picked up by a van and taken to the *corralon* (the big holding pen) in Chula Vista. They had to sleep on the detention center's cold concrete floors before being returned to Tijuana.

ANOTHER CYCLE STARTS

The ride back to the border began another cycle.

"You had bad luck today," the border patrol driver told them as they got off. "Tomorrow you'll have another chance." Aurelio said the driver said this with cold blood. "They always try to make you feel small," he said. "They tossed us across the line like throwing a soccer ball" into a field.

Three attempts later, Rebecca crossed using a local passport (good only for work in the San Diego area) brought to her by her brother. The passport could get her across the border, but not beyond the border patrol check point in San Clemente.

She made her way back by hiring a *coyote* who took 12 hours to drive her home, she said.

"I felt better then," after speaking to Rebecca on the telephone, "but I still was sick," Aurelio said.

In the course of another unsuccessful attempt to cross over, Aurelio was pulled out of a restaurant by plainclothes Mexican police in Tijuana and forced to pay a bribe, he said.

He also lost his 1973 Lincoln for two months and had to pay $368 in towing charges and border patrol fines when his brother-in-law used the car to try to drive him home. On this, his sixth attempt, they were stopped at San Clemente by the border patrol, and it was back to square one again.

After yet another failed attempt, in which he was caught by the border patrol trying to walk around San Clemente by way of the beach, the bus driver taking them to Chula Vista made his passengers an offer.

"He told us if we behaved, if we were quiet, he would take us direct to Tijuana," thus avoiding a few hours of hard sleep on a concrete floor.

Two days later, while Aurelio was suffering from a fever, an elderly man walked five of them across the border near the Tijuana airport, he said. They were picked up at a K-Mart in San Ysidro by a young woman in a station wagon and driven past the San Clemente check point to Los Angeles without being stopped.

"On Saturday I got back and on Monday I started working again," he said.

"I would have kept trying until death," he said. "My kids are in school here, they are learning English, and I have four years seniority at my job. In Mexico you cannot support a family, you suffer too much. That's why we live outside our own country."

"I'm an illegal, but I'm not a criminal, a murderer," Aurelio said. "We are simply workers, and we don't take away anyone's bread. What we earn, we earn with our own effort."

[From the San Francisco Chronicle, May 6, 1982]

S.F. Protesters Blast Alien Raids, Charge Racism

(By Katy Butler)

A bitter wave of protest mounted yesterday—Mexican independence day—against the federal immigration agency's week of raids on undocumented alien workers.

About 400 people chanted and marched outside the office of the Immigration and Naturalization Service in San Francisco, waving flags and signs with messages such as "Sweep up the Reagan administration" and "Who is the real alien, pilgrim?"

The raids netted 5500 permitless workers across the country, and sparked protests and denunciations from activists, politicians and employers.

"I think the raids are disgusting," said a 30-year-old San Francisco city health worker of Mexican ancestry. He would not give his name because of restrictions on political activity by government workers.

"There is selective enforcement of the laws against these people just because they're brown," he said. "This was Mexico once and there were no borders then. Traveling will continue."

He called the raids "a scapegoat plan to take attention away from Reagan's poor economic policies."

Meanwhile, several employers who lost workers in the raids said yesterday that some of those picked up, who turned out to have the residency permits called "green cards," and others who had since applied for the cards, had all returned to work. But replacement workers have been quitting the tough, dirty jobs in droves.

"They've been dropping like flies, six or seven a day," said Nickie Becker, office manager of Petaluma Poultry Processors, which has gone through about 30 replacements so far for the 18 chicken slaughterers taken by the INS last week. "It's chaos and it's been very costly."

Susie Souza, a bookkeeper for the Point St. George Fishery in Santa Rosa, said nearly a dozen of the company's 53 detained workers were back on the job or expected soon.

One family of four obtained green cards, Souza said, and another five had applications pending. One worker caught in the dragnet held residence papers and has returned to work, and another woman, who had an application pending, was shipped to Mexicali by the INS and is expected back once her permit comes through.

"We've filled all the jobs, but a lot have quit already because they don't like the work," Souza said.

Mayor Dianne Feinstein yesterday strongly attacked the raids and a U.S. attorney's investigation of the residence status of people seeking bilingual voting information.

She said the immigration raids reminded her of the Japanese internments of World War II and the anti-communist McCarthy era of the 1950s.

"People have been taken from their homes and places of employment and put in facilities over things that happened years ago and 'phoom'—they're gone," Feinstein said. "This represents a day in history I thought we were long past."

In Sacramento, at a small Cinco de Mayo rally outside the federal building, Mario Obledo, the former state health secretary who is seeking the Democratic nomination for governor, called the INS actions "Nazi-type" measures undertaken by "terrorists."

The raids netted 5500 undocumented alien workers and their family members across the country last week, including 800 in California and 467 in the Bay Area. Many of those apprehended are fighting deportation.

David Ilchert, director of the U.S. Immigration and Naturalization Service in San Francisco, said yesterday that of the 435 employed undocumented aliens grabbed in the Bay Area, 37 were earning $7.25 an hour or more, 154 were earning $5.25 to $7.24, 229 were making $3.25 to $5.24 and 15 were making $3.25 or less.

"Five or six" people detained had green cards but were not carrying them, he said. They were released after providing the documents, which he said permanent resident aliens are required to carry. "We made no mistakes," said Ilchert.

"A lot of activist groups claim the raids were racist," he said. "My answer is, as a practical matter, 80 percent of those apprehended without documents at job sites in California are Mexican or Hispanic. It's a fact of life."

Mr. BOSCHWITZ. I wish to add my congratulations to the congratulations of others for the work the Senator has done on this bill.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, if we are voting on this Tuesday, I shall ask for the yeas and nays now. Shall I?

Mr. SIMPSON. The Senator may, although that is part of the unanimous-consent agreement that there will be rollcalls. You may ask for the yeas and nays.

Mr. HAYAKAWA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator wish to yield back the remainder of this time?

Mr. SIMPSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The rollcall will be put off until Tuesday.

Mr. BOSCHWITZ. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BOSCHWITZ. Are all rollcalls going over until Tuesday?

The PRESIDING OFFICER. Only on S. 2222, the pending legislation.

Mr. BOSCHWITZ. I thank the Chair.

The PRESIDING OFFICER. Other legislation will be discussed Monday. There has been no deferral of rollcall votes.

Mr. BOSCHWITZ. I thank the Chair.

AMENDMENT NO. 1908

(Purpose: To require a properly executed warrant before an officer or employee of the Immigration and Naturalization Service may enter a farm or other agricultural operation)

Mr. HAYAKAWA. Mr. President, I call up amendment 1908.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 1908.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in section 111, add the following:

(c) Section 287 (8 U.S.C. 1357) is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service may not enter onto the premises of a farm or other agricultural operation without a properly executed warrant.".

Mr. HAYAKAWA. Mr. President, I ask my listeners today to imagine themselves members of the Immigration and Naturalization Service patrol looking for illegal aliens in agricultural country, let us say Guadalupe,

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Calif. As they go along the road, they see a farm over here with a number of brown-skinned men stooped over gathering cauliflower or strawberries or whatever the crop may be, and they look like Mexicans.

They say to themselves, "By God, they must be illegal Mexicans—they must be illegal aliens."

So they charge onto the field and grab whomever they can. They charge on there in trucks, in four-wheel drive vehicles, on horseback. In doing so, they not only frighten those workers to death but they also destroy the crops. If it is cauliflower, they destroy the cauliflower; if it is strawberries, they crush the strawberries.

Now according to the rules by which the INS works, they have to have a search warrant if they are looking for illegal aliens working in a hotel or a motel or a restaurant, but if they are looking for illegal aliens in an open field on a farm or in an orchard, they do not have to have a search warrant.

My amendment No. 1908 will require that the Immigration and Naturalization Service, in their search for illegal aliens, must have a search warrant if they are going to search or invade the premises of a farm or an orchard with no fence around it, an open field. They have to treat that as private property in the same way they treat a Holiday Inn as private property or in the same way they treat a McDonald's restaurant as private property. In the latter cases, they would have to have a search warrant to go in and look to see who is working in the kitchen.

But in farms, they do not have to do that. In so doing, they violate the civil liberties of the workers out in those fields. It is a very serious matter, Mr. President. Supposing they grab all those people and find out, first of all, that not all of them are Mexicans. Many of them may very well be American citizens of Mexican descent. Some of them are Filipinos or Japanese, but they have been out in the sun so long, they all look the same color as the Mexicans, anyway.

Others are here on green cards, legitimately, and some may very well be illegal aliens, but you do not know. You round up the whole bunch.

Whether they are illegal or not, you disrupt the operation of that farm, you scare them to death, and you cannot get the harvesting operation going again the next day, or the day after, because so many of the workers are scared to death to come back to work, including those who are citizens of the United States.

My amendment, Mr. President, will insist that, in order to raid a farm or open space or unfenced area in which there are workers, the INS will have to have a search warrant, just the same as they do in order to raid, let us say, a factory, a manufacturing plant, a hotel, a restaurant, or a walled enclosure or building. This seems to me to be a simple matter of the application of the fourth amendment, and that is, protection from unreasonable search and seizure.

Mr. President, this amendment would require that agents of the Immigration and Naturalization Service obtain a search warrant prior to entering a farm or ranch for purposes of interrogating suspected illegal aliens. This amendment places before the Senate a simple question: Should the fourth amendment of the Constitution apply to the farms and ranches of this Nation? To me the answer is a simple Yes. The INS operates today with a glaring double standard. While required to obtain a search warrant to enter a factory or restaurant, they can enter the private property of a farmer without justification or prior discussion with the owner.

Farmers are denied the basic right which is guaranteed under the fourth amendment—protection from unreasonable search and seizure. My amendment will remedy this situation and provide farmers and farmworkers the protections inherent in the Constitution. I urge my colleagues to consider carefully the current operations of the INS and examine the merits of my proposal. Immigration Service statistics show us that 8 percent of the illegal aliens employed in the United States are working in agriculture. However, almost 50 percent of the undocumented alien workers apprehended are agriculture workers.

These statistics reflect a bias in the enforcement activities of the INS. They demonstrate that the INS is selectively enforcing the law by going to the industry where it is the simplest and most cost-effective to carry out the law. This must be changed.

The border patrol argues that because agricultural lands are "open fields," they are beyond the scope of protection of the fourth amendment. Their agents need not obtain consent, a search warrant, or show probable cause that some criminal activity is occurring prior to entering a farmer's fields. In short, border patrol agents enter agricultural land at will to search for undocumented workers.

However, unlike traditional "open field" cases where law enforcement officers see the so-called "fruit of the crime," the only thing the border patrol witnesses are human beings working in the field. It is not until the INS agents enter the field that an illegal versus legal status can be determined.

My amendment does not establish any special protection for farmers it merely guarantees them the same rights and protections enjoyed by every other employer in the Nation. Likewise, the agricultural workers will be protected from the antagonism of impulsive interrogation by the INS.

Harassment of agricultural employers and employees has gone on for years—agriculture is an easy target. Fieldworkers are easy prey. Yet I must ask: Does the fact that they are relatively easy to locate justify the violation of their constitutional rights? Does the phrase "equal protection under the law" not apply to the farmers and farmworkers of this Nation?

I am embarrassed that this legislation is needed. Our system has failed an important sector of our society; we must take action now. The guarantee of the fourth amendment is basic to the free functioning of our Nation, our economy, and our people.

Before closing, I would like to return to the existence of a double standard in INS enforcement practices. Last month, the Ninth Circuit Court of Appeals issued a decision which clearly widens the gap in fourth amendment protections between factory and fieldworkers. The court reviewed the question of whether citizenship status questioning is constitutionally valid when based upon suspicion of alienage alone. Their determination was that suspicion of alienage alone is insufficient. The court stated that: "The fourth amendment requires an individualized suspicion of illegal alienage of those subject to detentive questioning." The court went on to state: "We feel the fourth amendment rights of workers would be impermissibly diminished were we to sanction the unconstrained use of warrantless, detentive questioning * * *."

I am heartened by the Ninth Circuit Court and their belief in the rights of individuals in our society, rights we all enjoy regardless of the color of our skin.

I trust my colleagues would endorse the court's declaration that:

> The apparent Hispanic ancestry of one sought for questioning, while possibly relevant, is insufficient, even if noticed in conjunction with the knowledge of the presence of a person in an area known to contain a high concentration of illegal aliens.

Mr. President, this amendment has the support of the League of United Latin American Citizens, known in California as LULAC, the Mexican-American Legal Defense Fund, and the major agricultural organizations of the country.

Mr. President, this amendment to our Nation's immigration laws, simply, is greatly needed as a matter of protection of our civil rights.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I compliment the Senator from California again for this amendment also. I can tell him that I have seen exactly those things happen.

I recall that I had a good friend who lived right next door, literally, to where I was living. He was arrested one day with a group of workers, of which about half of them were American citizens, were legal in this country, anyway, and half were not. He spent a good part of the day in the sheriff's office.

I asked him, "Why didn't you say something? Why didn't you speak up and tell them?" Well, he was scared, literally, as the Senator points out. When this happens, it is enormously disruptive.

In Stockton, Calif., where the Senator is well aware, they harvest a big cherry crop and they have about 10 days to harvest those cherries. When the disruption takes place it becomes enormously difficult for people to get a crew back into the field, just because of the fear of this thing.

I think it would certainly be a protection that would be helpful to the civil rights of the American people if search warrants were required to go onto the farms.

I have heard stories told of the Immigration Service driving out across the fields, damaging sprinkler pipes, running over crops, potato crops, that are growing, and so forth. It is just one example after another of abuses, I think, that take place.

Mr. President, I have to say to the people in the Immigration Service that they have a tough job. I do not envy them for it. It is very difficult for them to try to get the arrests made, and so forth.

This would be consistent, I think, with policy that is acceptable in this country and the protection of the human rights of the citizens of this country who may be Hispanic by their historic birthright that are going to be abused if this is not part of this bill. They are being abused now and I think we should correct it now.

So I am in strong support of this.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I am pleased to join in cosponsoring the amendment offered by my friend and colleague from California, Senator Hayakawa, which will require INS to obtain search warrants before entering onto the private property of farmers, growers and other citizens.

The objective of the amendment is to stop open-field raids by INS that disrupt farming operations and harass many people.

Raids on farm fields are a form of summary punishment inflicted by INS agents on farmers and their employees. Raids can cost thousands of dollars in lost and damaged crops and in lost wages.

S. 2222 should make raids by INS an exercise of the past.

The response of Alan Nelson, Commissioner of Immigration, to Senator Simpson, appearing in Wednesday's Record seems to overlook the fact that our amendment will be part of S. 2222.

If S. 2222 becomes law, farmers and growers will be violating the law if they hire unauthorized workers. That is not now the case.

California farmers will comply with the law.

In addition, INS will have ample opportunity to check farmers' records to see to it that they are following the law.

Thus, there is no need for the element of surprise inherent in a warrantless raid on open fields.

What is necessary is to amend the bill as proposed by Senator Hayakawa to put an end to the spectacle of INS agents chasing workers through open fields by truck, helicopter, and on foot as if they were merely so many animals to be hunted down instead of men and women—and, sometimes, children.

I congratulate my colleague for his proposal. I express again my admiration for his sincere commitment to securing and preserving values of human dignity.

I urge my colleagues to support Senator Hayakawa's amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I oppose the amendment. The purpose of S. 2222 is to improve control over illegal immigration, and increased enforcement is the key element of that. This amendment would defeat that purpose by greatly diminishing the ability of the INS to enforce immigration laws in the very occupations and industries which are dominated by an illegal labor force.

The current law provides for the arrest without warrant of aliens who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws. This amendment would reverse a tremendous reservoir of case law holding that the protections of the fourth amendment—pertaining to unreasonable searches and seizures—extend to people not places and that special protection according to people is not extended to open fields.

That represents a considerable body of case law which has never been overturned.

This amendment would extend fourth amendment protections beyond what the U.S. Supreme Court has determined the Constitution requires.

This amendment would very effectively end all Immigration and Naturalization Service farm and ranch check enforcement programs.

The INS estimates that 4 to 6 hours would be needed to process a routine warrant, including travel between the site and the U.S. Attorney's office, clerical requirements to complete the warrant and the supporting documents, and approval by the magistrate. Resources are simply not available for this type of operation.

In addition, agricultural work crews are extremely mobile, moving rapidly from field to field and farm to farm, and by the time a valid warrant is secured the crews will frequently have moved to another location rendering invalid any kind of warrant.

I cannot help but see that countless resources will be wasted by countless attempts to rewrite warrants under these continually changing conditions.

Let me ask unanimous consent to have printed in the Record at this point a letter from the Commissioner of Immigration and Naturalization Service dated August 10, 1982, describing this amendment and its impact upon the efforts of law enforcement by the INS.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., August 10, 1982.

Hon. Alan K. Simpson,
Chairman, Subcommittee on Immigration and Refugee Policy, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your letter of August 4, 1982 regarding the amendment proposed by Senator Hayakawa to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service to enter on the premises of a farm or other agricultural operation without "a properly executed warrant".

Set forth below are specific responses to the questions you raised concerning the anticipated impact on Service enforcement efforts should that amendment be adopted.

1. Section 287(a)(2) of the Immigration and Nationality Act grants Immigration Officers the authority, without a warrant, to arrest aliens who in the officer's presence or view are attempting to enter the United States in violation of the immigration laws, or are reasonably believed to be in the United States in violation of the immigration laws.

Farm and ranch operations normally are conducted in open areas providing unrestricted avenues of escape to individuals wishing to evade the detection of immigration officers. It was the intent of present statutes in such circumstances to enable Service officers to apprehend aliens who are in their presence or sight and who are in violation of the immigration laws before they are able to abscond.

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The circumstance of violations occurring in plain view is, of course, not normally present in factory situations where employees usually are enclosed within a confined area and not observed. Moreover, in such situations, if owner consent is sought and refused, exists may be monitored by Service officers while a search warrant is sought, to prevent aliens from absconding.

2. (a) The special problems associated with obtaining a warrant to search agricultural lands arise from the practiced difficulties in obtaining a warrant in time to respond to an observed violation. Present standards require a "particularized description" of the location to be searched, as well as of the evidence or person to be sought. The probable cause necessary to support these standards, in most cases, necessitates between four and six hours to process a routine warrant. This includes travel between the site to be searched and the U.S. Attorney's office, clerical requirements to complete the warrant and supporting documents, approval by a magistrate, etc.

Agricultural work crews, who are usually in the employ of a labor contractor under contract to several farms are extremely mobile moving rapidly from field to field and farm to farm. By the time a valid warrant could be secured, these crews likely will have moved to another location, rendering the warrant invalid. Countless resources would be waste by repeated attempts to rewrite warrants under constantly changing conditions.

(b) Regarding the proposal to obtain consent of the owner or agent, it is presently Service policy for officers, whenever possible, to inform the owner of their presence when entering on private lands. However, where the owner is not available or not known, as frequently is the case when farm land is leased or sublet, it is often difficult to locate the individual with legal control over the land. By the time such notification could be sought and secured, the aliens likely will have been alerted to the presence of immigration officers and will have departed.

Furthermore, if the receipt of consent were mandated by legislation, it is unlikely that such consent would ever be granted by an owner with the knowledge that the alternative for the Service is a search warrant which probably could not be effectively executed.

3. The authority of immigration officers to enter onto open lands without a warrant or consent to enforce the immigration laws is based on Section 287(a)(2) of the Immigration and Nationality Act which provides for the arrest without warrant of aliens who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws.

Furthermore, it is a well-settled law that the Fourth Amendment does not bar entry onto so-called "open fields" by a law enforcement officer in the performance of his official duties. The term "open fields" has been interpreted to include private lands but not including dwelling or the immediately surrounding area. (See *Hester v. U.S.*, 265 U.S. 57 (1924)).

In *Katz v. U.S.*, 389 U.S. 347 (1967) the Supreme Court determined that "the Fourth Amendment protects people, not places." In *Hester*, the court decided that the special protection accorded to people by the Fourth Amendment is not extended to the open fields. Passage of the proposed amendments would extend procedural requirements well beyond what the Surpreme Court has determined the Constitution requires to protect the people from unreasonable searches.

4. Consistent with outstanding case law, the dwellings and curtilage (an area of domestic use immediately surrounding a dwelling) on agricultural premises may not be entered by Service officers without consent or a valid search warrant.

5. The present proposed amendments apparently would not affect INS authority within 25 miles of the border. ("Notwithstanding any other provision of this section other than paragraph (3) subsection (4) . . .".)

6. The proposed amendment, if passed, would definitely adversely affect the ability of the Immigration and Naturalization Service, particularly the Border Patrol, to enforce the immigration laws. Farm and Ranch operations presently account for the apprehension of approximately 60,000 employed illegal aliens annually. Passage of the proposed amendment would drastically reduce these apprehensions. Although it is difficult to know the precise extent to which this number would be decreased, the proposed legislation would seriously curtail Farm and Ranch Operations as an effective enforcement tool.

7. Should farm and ranch checks by Service officers be substantially curtailed, there could be serious additional ramifications on the migration of illegal aliens to the interior.

The ineffectiveness of Service Farm and Ranch enforcement resulting from passage of the proposed amendment would tend to create a type of "free zone" for illegal aliens in the agricultural areas of the interior, as it would be extremely difficult or impossible to effect their apprehension and removal. This would tend to stabilize the status of these individuals, which, in turn would encourage them to bring in other family members—spouses, children, etc., in light of the reduced risk of Service detection. Internal migration could be expected to increase resulting in added burdens to American social and educational systems within the rural areas of the interior.

8. The proposed amendment would seriously reduce the Service officers' capability to effectively track and pursue large groups or smuggled aliens or other illegal entrants who are enroute from border areas to interior locations. Presently the INS enters into long-term agreements with landowners outside the 25 mile limit in order to maintain continuity of surveillance and tracking across private lands. The Hayakawa amendment would discourage such agreements and possibly render existing agreements invalid by requiring entry only with a warrant.

Such circumstances would result in smuggling groups traveling virtually unchecked across private lands and into the interior where they would be undetected.

9. The effect of the proposed amendments on Service anti-smuggling activities is in part related to INS officers' ability to track and detect smugglers and smuggling groups across open areas into their interior. If this activity were seriously restricted by warrant or consent requirements, the overall result could be expected to be fewer smuggling groups detected, less smuggling information and intelligence gathered, and fewer smugglers apprehended and prosecuted.

Furthermore, the owners and management personnel of farms or other agricultural related businesses (e.g., labor contractors) are, in some cases, principals in felony investigations involving alien smuggling, harboring, and transporting. It would be virtually impossible to effectively implicate such individuals if the consent or warrant requirements were legislated.

10. The proposed amendment could be anticipated to have a definite adverse affect on the enforcement of employer sanctions provisions in agricultural areas. Because warrants would be rendered ineffective [No. 2(a)] and consent would infrequently be granted, it would be impossible to effect the apprehension of illegal aliens employed in these areas. Cases against notorious employers of illegal aliens would be difficult, effectively placing these employers outside the range of sanctions enforcement.

11. The INS does not selectively enforce the immigration laws with regard to agricultural areas. In support of his amendment, Senator Hayakawa has cited a statistic that almost 50 percent of undocumented alien workers apprehended by INS are in agriculture. Actually, of the approximately one million Service apprehensions annually (953,475 in fiscal year 1981) only 8 percent are located in agricultrual occupations.

Of the one million illegal aliens apprehended yearly by Service officers, approximately 168,000 (in fiscal year 1981) are located after they have entered the United States and secured employment. Half of these employed aliens are located in agriculture, including almost 60,000 which are apprehended as a result of Farm and Ranch checks.

It should be remembered however, that Farm and Ranch Operations are conducted by the Border Patrol which represents this Agency's greatest enforcement presence, with jurisdiction predominantly in agricultural areas along the Southern and Northern borders of the United States. It is not unreasonable to expect that of the number of employed aliens apprehended by the Border Patrol, the majority would be working in agricultural occupations.

The Immigration and Naturalization Service maintains that a more accurate reflection of Service resource allocation for enforcement in agricultural areas is the percentage of actual enforcement time devoted to such activity rather than the apprehensions which result. The overall percentage of INS field enforcement man-hours devoted solely to effect the apprehension of illegal aliens in agricultural occupations in fiscal year 1981 was 2.0 percent.

In conclusion, it is our opinion that the hyper-technical requirements mandated by the Hayakawa amendment would have a definite adverse impact on the enforcement capabilities of INS and, in essence, would be antagonistic to the basic thrust of S. 2222—which is to control illegal immigration into this country.

Please do not hesitate to contact me if I can provide further information on this matter. And congratulations on your success in bringing this important legislation to the floor of the Senate.

Sincerely,

ALAN C. NELSON,
Commissioner.

Mr. SIMPSON. Let me say in conclusion that there was commentary during the early effort of the Senator from California on this issue that the INS was selectively enforcing the laws. The Senator cited a statistic that almost 50 percent of undocumented alien workers apprehended by the INS are in agriculture.

Actually, in terms of the record, there are approximately 1 million apprehensions annually 953,475 in fiscal year 1981, and only 8 percent were located in agricultural occupations. Of the 1 million illegal aliens apprehended yearly by the Service, approximately 168,000 are located after they entered the United States and secured employment, and half of those are located in agriculture, including almost 60,000 which are apprehended as a result of farm and ranch checks.

The most significant thing, to put it in perspective, is that a more accurate reflection of the Service's resources and allocations on this issue of enforcement in agricultural areas is the percentage of actual enforcement time devoted to that kind of activity, rather than as to the apprehensions within that area. The overall percentage of INS field enforcement man-hours devoted solely to apprehensions of illegal aliens in agricultural occupations in fiscal year 1981 was 2 percent.

I think those are rather significant figures. If this amendment were to pass, what we would effectively have is a free zone for illegal aliens in the United States of America, known for the lack of any appreciable enforcement or apprehensions. In other words, this amendment would create a type of free zone for illegal aliens in the agricultural areas of the interior of our Nation, making it extremely difficult or impossible to effect their apphehension or their removal.

I think such an amendment would also perpetuate the status quo for these illegal immigrants. They are going to stay there. They will, in turn, be encouraged to bring in their family members, their spouses, their children, in light of the reduced risk of detection in these zones. I think illegal migration in the interior of the United States could be expected to increase.

Those are some of the reasons. The rest of the reasons are very clearly set out in the letter from the Commissioner of the Immigration and Naturalization Service.

Mr. President, for those reasons, I urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. There has been no allocation of time.

Mr. SIMPSON. I believe we have a unanimous-consent request that on the next amendment we have 30 minutes equally divided as a time limitation. I ask unanimous consent that that be the limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Would the Senator from California be agreeable to laying the pending amendment aside for the consideration of another amendment?

Mr. HAYAKAWA. I have two more amendments to offer.

The PRESIDING OFFICER. The Senator will have to dispose of the pending amendment before we proceed to another amendment. The Chair would suggest that the Senator ask unanimous consent that the pending amendment be set aside.

Mr. HAYAKAWA. First of all, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, a vote on the amendment will take place after 9 a.m. on Tuesday.

Without objection, the pending amendment will be set aside. The Senator can offer another amendment.

AMENDMENT NO 2019

(Purpose: To express the sense of the Congress that English be declared the official language of the United State)

Mr. HAYAKAWA. Mr. President, I call up amendment No. 2019 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 2019.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment of dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE V—SENSE OF THE CONGRESS

SEC. 501. It is the sense of the Congress that—

(1) the English language is the official language of the United States, and

(2) no language other than the English language is recognized as the official language of the United States.

Mr. HAYAKAWA. Mr. President, this amendment declares that it is the sense of the Congress that the English language is the official language of the United States and that no language other than the English language is recognized as the official language of the United States.

I would like to add as cosponsors Senator LAXALT and Senator DENTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Language is a unifying instrument which binds people together. When people speak one language they become as one, they become a society.

In the Book of Genesis, it says when the Lord saw that mankind spoke one universal language, He said, "Behold, they are one people, and they all have the same language * * * and nothing which they propose to do will be impossible for them."

If you will recall the Bible story, God destroyed this power by giving mankind many languages rather than the one. So you had the proliferation of language breaking up human pride and, therefore, human power.

But there are more recent political lessons to be drawn on the subject of language when you think that right here in this U.S. Senate and the Congress we have descendants of speakers of at least 250 to 350 languages. If you go back to the grandparents of just the Members of Congress, you have speakers of, I would say, at least 350 languages. But we meet here as speakers of one language. We may disagree when we argue, but at least we understand each other when we argue. Because we can argue with each other, we can also come to agreements and we can create societies. That is how societies work.

Take in contrast to this the situation in, for example, Belgium, where a small country is sharply divided because half of the population speaks French and the other half speak Flemish. Those who speak Flemish do not like the people who speak French and those who speak French do not want to speak Flemish.

Think of Canada, just to the north of us, where the French-speaking people feel paranoid about the fact that they are a minority and feel that they are being picked upon and abused by the English-speaking majority.

Think about Ceylon, right now, of course, known as Sri Lanka. Sri Lanka is sharply divided right to this day because the speakers of Sinhalese, which is the language of Sri Lanka, and the speakers of Tamil, which is the language of India. A number of people moved from India into Sri Lanka, and they created a language bloc thus the two are fighting each other.

Think of the recent history of India. Between 1957 and 1968, something like 1 million people were killed in what were essentially language riots. They were riots about other things as well, about cultural differences, but essentially those cultural differences could not be resolved because there were a hundred languages there dividing those people. So they could not understand each other and they could not come to the resolutions we arrive at daily in a Chamber like this or in the House of Representatives.

So, Mr. President, the fact that we have a common language, one language, is one of the most important things we have tying us together. Now we live in a time of unprecedented immigration. Not only speakers of Spanish, but speakers of Cantonese, speakers of Thai, speakers of Vietnamese, speakers of a variety of European languages, speakers of Mandarin—they are coming from all over the world and joining us in our society.

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From the Philippines, we have speakers of Tagalog and other Filipino languages. Somehow or other, within a generation or two, we have to get them all together, talking to each other, electing each other to city councils, doing business with each other, buying and selling from each other, creating governments, creating societies. We can only have this unified society if we ultimately agree on a common language.

This is not to say, Mr. President, that I oppose the study of other languages. We are very backward as a nation in our study of other languages. I think more of us should study Spanish. I am very proud of the fact that two of my children speak Spanish very well. I do not. One of them speaks Japanese, too. I do not.

I have told my students for many, many years, in the coming world that they will grow up in, certain languages are going to be important in world history that they will have to know. They ought to choose, as we go into the 21st century, at least one of these languages—Spanish, Russian, Chinese, Japanese, or Arabic. There are very few of my students who ever bothered studying any one of these languages. We are very poor at languages because we are linguistically provincial. Nothing I say in this amendment encouraging the use of an official language in the United States is intended to discourage the study of all languages around the world so we, in business and diplomacy, will be better represented around the world.

Mr. President, when you think there are 20,000 Japanese businessmen in New York speaking English and about 2,000 American businessmen in Tokyo not able to speak Japanese, you can see why there is a trade imbalance between Japan and the United States. I say in all seriousness, we ought to be linguistically more sophisticated than we are. At the same time, I believe we should unite as speakers of English insofar as we have a society in common.

Mr. President, the United States, a land of immigrants from every corner of the world, has been strengthened and unified because its newcomers have historically chosen ultimately to forgo their native language for the English language. We have all benefited from the sharing of ideas, of cultures and beliefs, made possible by a common language. We have all enriched each other.

The Italians are better for having lived next door to the Jews; the Jews are better for having socialized with the Chinese; the Chinese are better for having mixed with the Italians, and so on. All around, we are better Americans because we have all melded our cultures together into this wonderful cultural symphony which is the United States of America.

There are those who want separatism, who want bilingual balance, who want bilingual education. I am all in favor of bilingual education only insofar as it accelerates the learning of English. I do not believe that the taxpayer should be taxed to promote an enclave of speakers of Yiddish, speakers of Japanese, speakers of Spanish, speakers of Bulgarian, speakers of Russian, of Tibetan, or any other language. Essentially, the taxpayers' responsibility is to see to it that we all speak English together no matter where we come from. That cultural unity which we ultimately achieve—that is the United States.

If you think of the culture that we have, you think, as I said a little earlier, of the melding of cultures right here in Congress. You look at the lineup of any American professional baseball team or football team. You see all foreign names there, all English-speaking, all managing to get along, and you see what a miracle this is. The wonderful thing about the United States is that that kind of cultural intermixing, that cultural melding, is possible.

When you go to other parts of the world, you find to your amazement that China is full of Chinese; that Russia is full of Russians and practically nobody else. Italy is full of Italians and Korea is full of Koreans, and so on around the world. But we are full of people from all parts of the world having learned one language and ultimately having learned to get along with each other to create institutions of a multiracial, multicultural democratic society.

Mr. President, that is what I want to preserve when I say I want an amendment that says the English language shall be the official language of the United States.

I thank the Chair.

Mr. President, I do not know if the distinguished Senator from Wyoming wishes to make a further comment on this subject, but I yield to him.

Mr. SIMPSON. Mr. President, I hope many are aware of the deep feelings—I am sure they are now, after hearing him—of this remarkable linguist and semanticist in our midst, who will be retiring from this body at the end of this session.

When he speaks on issues of ethnicity and racism and English, he brings a very special perspective that is heard by all of us. I share many of the views of the Senator from California on the subject of the English language in this country. I have so indicated within the committee hearings. We have always indicated the importance of English as a unifying force in creating the American identity and the key part of it in relation to our public culture. I do not refer to the private culture, for no one in this Nation should intrude upon the private culture of the various ethnic groups in this country.

I have been asked often in the course of the debate on the immigration bill, to hold a hearing on the subject of cultural unity, to discover and review and assess the social and cultural impacts of immigration on the United States of America. I can assure the Senator that I intend to hold a hearing on that subject, the discussion of common values and customs, public customs.

One of the witnesses at that hearing will be James Michener, who has asked to testify, and I have known that remarkable gentlemen for some 5 years. He was in my home in Wyoming when he was writing his book "Centennial." I visited with him at St. Michaels, and he has shared with me this comment, that "the most serious problem that could confront the United States of America in the future is the issue of biculturalism." He is married to a Nisei, Maura Michener, and to hear them both speak on that issue is a fascinating thing.

So we will have that hearing. In the discussion of immigration, any reference to immigration reform or control turns out, unfortunately, to be a code word for ethnic discrimination. This bill, if it has done nothing else, has tried to avoid that association. It truly is not nativist, not racist, not mean, and for the purpose solely of avoiding any confusion as we discuss it in relation to this, I must oppose this amendment at this time. But I pledge that the hearings will be held on the issue of social and cultural impacts of immigration. The kickoff witness will be Jim Michener, and I am looking forward to that. It should be fascinating. I am sure the country will benefit from it. I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The Senator from California has 2 minutes 47 seconds. The Senator from Wyoming has 10 minutes 36 seconds.

Mr. HAYAKAWA. I yield to the Senator from North Carolina whatever time I have left.

Mr. HELMS. I do not desire time.

Mr. SIMPSON. Is the Senator from North Carolina requesting time on this amendment?

Mr. HELMS. No.

Mr. SIMPSON. I thought not. Therefore, I yield back the remainder of my time.

The PRESIDING OFFICER. If all time is yielded back, the question is on the amendment.

Mr. SIMPSON. The amendment under the previous order will come to a rollcall vote.

The PRESIDING OFFICER. Not unless the yeas and nays are ordered, and they have not been ordered.

Mr. **HAYAKAWA**. I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The rollcall will take place after 10 a.m. on Tuesday. The amendment has been laid aside.

UP AMENDMENT NO. 1238

(Subsequently numbered amendment No. 2024.)

(Purpose: To set forth the policy of the Congress regarding State services to illegal aliens)

The **PRESIDING OFFICER**. The Senator from North Carolina.

Mr. **HELMS**. Mr. President, I thank the Chair. I send an unprinted amendment to the desk and ask for its immediate consideration.

Mr. **SIMPSON**. Mr. President, I think I am correct in stating this unanimous-consent request, that there be 20 minutes on this amendment equally divided.

The **PRESIDING OFFICER**. Is there objection?

Mr. **HELMS**. Not at all, Mr. President.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1238.

Mr. **HELMS**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 162, line 11, strike out "REPORTS TO CONGRESS" and insert in lieu thereof "GENERAL PROVISIONS".

At the bottom of page 166, add the following:

POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

SEC. 402. (a) Title I, as amended by section 122, is further amended by adding at the end thereof the following:

"POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

"SEC. 108. (a) The Congress finds and declares that—

"(1) the illegal entry and residence of aliens within the United States have occurred in recent years at unprecedented rates and represent a threat to the national security of the United States and a burden on the Federal treasury;

"(2) the illegal entry and residence of aliens within the United States constitute a severe burden upon the States in all aspects of the enforcement of State laws and constitute a particular burden on State treasuries;

"(3) illegal aliens and their dependents do not contribute taxes sufficient to cover the cost of their presence to the States or to the United States;

"(4) insofar as the States provide free public services, especially public education, to illegal aliens and their dependents, an incentive is created for illegal immigration; and

"(5) it is the policy of the United States to discourage illegal immigration, and Federal and State welfare, educational, and other social policies should accordingly be directed to this end;

"(6) consistent with national immigration policy as made by the Congress, the States should be free to provide or not to provide, in their discretion, free public services, including public education, to illegal aliens and their dependents.

"(b) No State shall be required to provide free public services, including free public education, to illegal aliens and their dependents.".

(b) The table of contents for title I is amended by addding after the item relating to section 127 the following new item:

"Sec. 128. Policy regarding State services to illegal aliens.".

On page 179, in the table of contents, strike out "TITLE IV—REPORTS TO CONGRESS" and insert in lieu thereof "TITLE IV—GENERAL PROVISIONS".

On page 79, in the table of contents, after the item relating to section 401, add the following new item:

"Sec. 402. Policy regarding State services to illegal aliens.".

Mr. **HELMS**. Mr. President, this amendment seeks to establish a congressional policy to restore the right of the States to provide or not provide, as they see fit, free public schooling and other benefits to illegal aliens. In a June 1982 case the Supreme Court ruled that in the absence of congressional policy on this matter the Constitution does not allow the States to withhold free public schooling from illegal aliens. I propose by this amendment to provide the congressional policy the Supreme Court said was lacking.

In the case of Plyeer against Doe, the Court asserted that a distinction by the States between illegal aliens and legal residents in providing free public schooling was not "rational" under the Court's 14th amendment analysis. The Court, speaking through Justice Brennan said:

> Faced with an equal protection challenge respecting the treatment of aliens, we agree that the courts must be attentive to congressional policy; the exercise of congressional power might well affect the State's prerogatives to afford differential treatment to a particular class of aliens. But we are unable to find in the congressional immigration scheme any statement of policy that might weigh significantly in arriving at an equal protection balance concerning the State's authority to deprive these children of an education.

Justice Brennan continued:

> [I]n the area of special constitutional sensitivity presented by this case, and in the absence of any contrary indication fairly discernible in the present legislative record, we perceive no national policy that supports the state in denying these children an elementary education.

Mr. President, it is the purpose of my amendments to fill the gap in Federal policy perceived—rightly or wrongly—by Justice Brennan. The amendment consists of two basic parts. The first part lists congressional findings and declarations to the effect that illegal immigration is a threat to national security and also burdens Federal and State treasuries. It further states that U.S. policy is to discourage illegal immigration and that the States should thus be free to provide or not provide public benefits to illegal aliens in their discretion.

The second part of my amendment reduces these principles to a provision of Federal law. It says: "No State shall be required to provide free public services, including free public education, to illegal aliens and their dependents."

The intent here is to restore the right of the States to withhold public services, if they so choose, consistent—I emphasize this—with Federal immigration law and policy.

Mr. President, I reserve the remainder of my time.

Mr. **SIMPSON**. Mr. President, I suggest the absence of a quorum. I have not yet received a copy of the amendment.

The **PRESIDING OFFICER** (Mr. ANDREWS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **SIMPSON**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mrs. **HAWKINS**. Mr. President, I try to take every opportunity to inform my colleagues and the Reagan administration of the immigration problems that plague my State, Florida. By now, I am sure everyone is aware that the 125,000 Cubans that arrived on Florida's shores during the 1980 Mariel boatlift have resulted in tremendous economic and social costs to my State. And that those costs continue to mount 2 years later. The people of Florida feel like they have been abandoned by the Federal Government. They are also concerned that there is nothing to prevent Florida from being overwhelmed again should the leader of a hostile foreign power instigate another emergency.

It was a great disappointment to me when I learned that the immigration bill before us, does not address this fear. As a result, I felt compelled to offer an amendment to S. 2222 that would reassure Florida and other States that could be threatened by hostile foreign leaders. My amendment was based on a simple premise. Foreign policy and defense are solely a Federal responsibility. States are not permitted to conduct their own foreign policies or maintain armies and navies. Hence, when our foreign policy fails communities held hostage by Federal action or inaction, it is the re-

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sponsibility of the Federal Government to hold them harmless.

Based on this principle I intend to offer an amendment to reimburse communities devastated by undocumented aliens due to foreign policy blunders. However, I believe that this might complicate swift and final action on this very important piece of legislation. And due to the exceptional consideration of the distinguished Senator from Wyoming, I believe it is no longer necessary. Senator SIMPSON has shown extraordinary understanding and sympathy for the problems facing Florida. I believe that he is committed to addressing many of those problems before the end of this session of Congress.

I have received assurances from my friend from Wyoming that the amendment that I had intended to offer will now be considered when the Senate Immigration Subcommittee holds hearings and markup on the reauthorization of the Refugee Act of 1980. I have spoken with the distinguished chairman of the House Subcommittee on Immigration, Refugees and International Law, RON MAZZOLI. He indicated that though the issue raised by my amendment was not included in the reauthorization of the Refugee Act of 1980, as recently passed by the House, he is sympathetic to its consideration on the bill. I express my gratitude to Chairman MAZZOLI and also my colleague from Florida, Congressman BILL MCCOLLUM, with whom I have been working closely on this issue. Both of these men have dedicated themselves to the critical need to reform our immigration laws. I was particulary impressed to find Chairman MAZZOLI spending much of the day yesterday on the floor of the Senate. There could, I believe, have been no more eloquent statement of the gentleman from Kentucky's concern and commitment to this issue.

Mr. President, I offer special thanks to my friend from Wyoming. He has made every effort to accommodate my concerns regarding this issue. But not only this, Senator SIMPSON has shown great skill, leadership, and determination in bringing this vital legislation to the Senate floor. And I believe he deserves the very highest commendation for his efforts.

Mr. SIMPSON. Mr. President, I am very appreciative of the concern evidenced by the very able Republican Senator from Florida. Her concern has been a continuing one. She has testified before the Senate Subcommittee on Immigration and Refugee Policy and, in addition has made personal representations to me on a number of occasions bringing clearly home to me and my colleagues in the Congress the terrible difficulty caused by the inability of the Federal Government to respond to the Cuban-Haitian influx in Florida from April to October 1980. She has sincerely and appropriately stated that there is a need both for new legislation and for advanced planning which will prevent such an influx from again incurring and causing such a burdensome impact on the citizens of Florida.

Refugees are a Federal responsibility and it is the Federal Government's duty to protect citizens of the various States, particularly citizens of border States, from sudden inflows of refugees and asylees that impact on the social services of a State and on the quality of life in the United States.

I do want to now assure the Senator from Florida that immediately after the disposal of S. 2222 I shall request the administration to submit to the subcommittee on Immigration its form of emergency legislation which will address all of the issues that she has raised so cogently before this body. The legislation will address Presidential powers to interdict ships coming inappropriately to our shores, prevention of U.S. citizens and permanent residents from assisting those coming to the United States without authorization.

In addition all forms of financial assistance to areas impacted by the refugee emergencies will be covered during our hearings on the Refugee Act of 1980 reauthorization.

I can assure the Senator from Florida that her amendment will be considered during our hearings on the Refugee Act of 1980 and that act will be reported out during September 1982.

Let me say again that I am very much personally aware of the problems that exist in Florida and appreciate the representations by the Senator from Florida and want to assist in her effort to assure that the Federal Government will be able to respond swiftly and fully to these situations in the future.

UP AMENDMENT NO. 1239

Mr. SIMPSON. Mr. President, I ask unanimous consent at this time that the Helms amendment be set aside so that I may propose various committee amendments to be considered en bloc as one unprinted amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Could the Senator send the committee amendments to the desk?

Mr. SIMPSON. Yes, indeed.

Mr. President, I send committee amendments as an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes committee amendments as unprinted amendment numbered 1239.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

IV. REPORTS TO CONGRESS

SEC. 401. (a) On page 163, line 15, delete all that follows "Act" and insert in lieu thereof the following:

". Reports concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted three times: the first not later than 18 months after the date of enactment of this Act, the second not later than 36 months after the date of enactment of this Act, and the third not later than 54 months after the date of enactment of this Act."

Amendment intended to permit more frequent periodic reports (every 18 months) rather than only one report after 36 months as in existing Committee bill.

H-2 WORKERS

Page 142, line 6. After the word "employed" delete the comma and insert in lieu thereof a period.

Page 142, line 7. Delete the words "and such certification has been issued."

Deletion intended to continue existing situation where Secretary of Labor's certification is advisory to AG.

TITLE II REFORM OF LEGAL IMMIGRATION

On page 126 lines 6 and 7, and lines 23 delete March 1, 1982 and substitute in lieu thereof May 27, 1982.

Amendment designed to provide additional safeguards for fifth preference persons who had petitions approved and second preference sons and daughters who had petitions approved.

Mr. SIMPSON. Mr. President, I reviewed this with the sponsors and we then will proceed with Senator HAYAKAWA's amendment momentarily.

Mr. President, these committee amendments are with relation to reports, with relation to certification, and with relation to the dates on preference categories.

Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1239) was agreed to.

Mr. SIMPSON. Mr. President, is the status of business that the Helms amendment is presently set aside?

The PRESIDING OFFICER. The status of business is that the Helms amendment was set aside before the Senator from Wyoming made his proposals on these other amendments.

Mr. SIMPSON. I thank the Chair and I appreciate that clarification.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1240

(Subsequently numbered Amendment No. 2025.)

(Purpose: To add a title relating to providing educational assistance for children of illegal aliens)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1240.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 14, strike out "This" and insert in lieu thereof "Titles I through IV of this".

At the bottom of page 79, add the following:

TITLE V—ALIEN CHILDREN EDUCATION ASSISTANCE

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Reimbursement payment.
Sec. 504. Applications.
Sec. 505. Withholding.
Sec. 506. Payments.
Sec. 507. Authorization of appropriations.

At the bottom of page 166, add the following:

TITLE V—ALIEN CHILDREN EDUCATION ASSISTANCE

SEC. 501. This title may be cited as the "Alien Children Educational Services Assistance Act".

DEFINITIONS

SEC. 502. As used in this title—

(1) the term "alien children" means undocumented aliens to whom State or local educational agencies are required by order of any Federal court to provide educational services or who are permitted under any such order to receive the benefits of State funds available for educational purposes. Any person who is an alien child (as described in the preceding sentence) at any time after the date of the enactment of this title shall be considered to maintain such status for purposes of this title regardless of any subsequent change in status under any other law;

(2) the term "local educational agency" has the same meaning given the term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(3) the term "State educational agency" has the same meaning given the term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

(4) the term "State" means a State and the District of Columbia.

REIMBURSEMENT PAYMENT

SEC. 503. (a) Each State educational agency and each local educational agency in a State shall receive reimbursement for reasonable costs of providing educational services to alien children within the State, except that no reimbursement payment under this title may exceed $450 for each such child in any fiscal year.

(b) A State educational agency may receive a payment under subsection (a) only for directly providing educational services to alien children in the schools of such agencies.

APPLICATIONS

SEC. 504. Each State educational agency and each local educational agency which is authorized to receive assistance under this title shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary deems reasonably necessary. Each application shall—

(1) describe the costs of providing educational services to alien children within the State by the applicant;

(2) provide such audit procedures as are necessary to verify the number of alien children eligible for assistance and receiving assistance under this title; and

(3) provide such fiscal control and such accounting procedures as may be necessary (A) to insure a proper accounting of Federal funds paid to the applicant under this title, and (B) to insure the verification of the costs of furnishing educational services to alien children by the applicant.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

WITHHOLDING

SEC. 505. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State or local educational agency, finds that there has been failure to comply with the provisions set forth in the application of that agency approved under section 504, the Secretary shall notify the agency that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

PAYMENTS

SEC. 506. (a) From amounts available under section 507, the Secretary shall pay, in accordance with the provisions of this title, to each State or local educational agency which has an application approved under section 504, an amount equal to the amount needed for the purposes set forth in the application.

(b)(1) Payments under this title shall be made as soon after approval of the application as practicable.

(2) Payments under this title may be made in installments, in advance or by way of reimbursement with necessary adjustments on account of overpayments and underpayments.

AUTHORIZATION OF APPROPRIATIONS

SEC. 507. There are authorized to be appropriated such sums as may be necessary for fiscal year 1984 and for each succeeding fiscal year ending prior to October 1, 1986, to carry out the provisions of this title.

Mr. HAYAKAWA. Mr. President, on June 15, 1982, the U.S. Supreme Court ruled that States may not deny a free public education to alien children illegally present in the United States.

In both the concurring and dissenting opinions, Congress was chastized and scolded by the Court for failure to set a national policy regarding illegal immigration. My fellow colleagues, I, too, feel that by not addressing this problem we have neglected our duties and responsibilities to our Nation. The States, counties, and school districts are now faced with a tremendous problem: Now to pay for the education of those children of undocumented workers or aliens who attend their public schools.

Mr. President, I have a solution to this problem. I am submitting an amendment to this bill which gives Federal reimbursement assistance to those States and local educational agencies affected by the decision of the Supreme Court.

I decided to offer this amendment after reading and discussing the High Court's opinions, however a strong belief and philosophy in the value of education is the basis of my action. The education of a child, any child, whether a citizen of this Nation or not, is an important matter. This is exactly that the Court expressed when reviewing the case of Plyler against Doe, Texas against certain undocumented alien children. In deciding the fate of those undocumented alien children, the Court, for the first time ever, applied to illegal aliens the 14th amendment promise that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

The majority opinion is a very precise statement of American truth and justice. The Court ruled that illegal aliens are persons protected by the Constitution's guarantee of equal protection and that the Texas law violated this guarantee.

It was argued that these undocumented workers were not persons within the jurisdiction of the State and thus had no right to equal protection. Fortunately, this was rejected by the majority and Justice Brennan wrote:

> Whatever his status under the immigration laws, an alien is surely a "person" in any ordinary sense of that term. The equal protection clause was intended to work nothing less than the abolition of all caste—and individuals, class-based legislation.

This very law that the Court's rule pointed to is what makes our Nation so great. Why do we have hordes of people from all over the world coming to our shores, crossing over our borders—illegally—risking life and limb to gain entry into America? It is because our Constitution has been a beacon of light and shimmering hope not only to the people of this Nation, but to people of all nations for over 200 years. It sets down principles and truths to establish justice in the message that all men shall be treated equally.

I strongly agree with Justice Brennan when he wrote of the "ensuring disability" alien children would suffer if denied a public education. He said education:

> Has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social cast borne by our nation when select groups are denied the

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means to absorb the values and skills upon which our social order rests.

It was Justice Powell who said:

> Congress—vested by the Consitution with the responsibility of protecting our borders and legislating with respect to aliens—has not provided effective leadership in dealing with this problem. It therefore is certain that illegal aliens will continue to enter the United States and, as the record makes clear, an unknown percentage of them will remain here. I agree with the Court that their children should not be left on the streets uneducated.

I am not saying, as Justice Brennan so carefully refrained from arguing, that free education is a "fundamental right" but "neither is it merely some Government benefit indistinguishable from other forms of social welfare legislation." I don't believe education should be considered a form of welfare and put into the same category as food stamps or aid to families with dependent children. It is a highly motivating vehicle which can be used to steer one's life away from such dependent vices as welfare.

It is clear to me that we as legislators have failed to provide this Nation with effective immigration policies. This amendment corrects a weakness in S. 2222 and I urge my colleagues to vote with me for a strong and more cohesive immigration bill.

Mr. SIMPSON. Mr. President, I understand fully the intent of the Senator from California, what this amendment intends to do. But I really believe that this amendment is outside of the basic scope of S. 2222 because, rather than focusing on control and reform, we are focusing on the issue of providing a service.

Further, S. 2222 provides for the control of future illegal immigration and channels the current population of undocumented aliens into legal status.

It would be counter, I think, to the intent of this legislation to begin authorizing Federal funds for services for illegal immigrants. We handled that in the Grassley amendment with regard to block grants.

We sincerely believe that future illegal immigration will be drastically curtailed through the adoption of employer sanctions and the universal verifier. As I say, we have provided these block grants to meet the basic subsistence programs provided to legalized aliens by States and counties.

We have tried to assure that this is not a bill involved with expenditures, except for those that are absolutely necessary to meet the needs of control.

Therefore, I resist the amendment, but assure the Senator from California that we will have hearings on this issue because certainly it does have to do with the issue of immigration, and the subcommittee is the Subcommittee on Immigration and Refugee Policy.

We will have hearings on this issue and address not only the issueaddressed by this amendment, but also the amendment of Senator TOWER, which will be presented in several minutes, and also the amendment of Senator HELMS, which we will again address in a few moments.

All three of those amendments will be addressed in hearings of the subcommittee because they are indeed critically important.

Mr. President, I yield back the remainder of my time, if we have a time agreement. I am not certain that we have a time agreement on that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Those in favor of the amendment will signify by saying aye; those opposed, no.

The amendment (UP No. 1240) was rejected.

Mr. SIMPSON. Mr. President, I believe the sponsor of the amendment would like to wait until he consults with Senator TOWER, who will be in the Chamber in a few moments, to determine whether or not he wants to have a voice vote.

I ask unanimous consent that the voice vote on the amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. But it was fun for a moment.

Mr. President, we now await Senator TOWER. His is the last amendment that I am aware of. We will also deal with placing back on the floor the amendment of Senator HELMS.

AMENDMENT NO. 1954

(Purpose: To require that hearings on asylum applications shall be closed to the public unless the applicant requests otherwise)

UP AMENDMENT NO. 1241

Mr. SIMPSON. Mr. President, at this time, on behalf of Senator KENNEDY, I send two amendments to the desk, one unprinted, and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator request unanimous consent that the amendment proposed by the Senator from California be temporarily set aside?

Mr. SIMPSON. I would ask unanimous consent under these circumstances that it be set aside, temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator ask that these amendments be considered en bloc?

Mr. SIMPSON. Mr. President, I am not aware at this time whether that is the case. I will have to clear that with the sponsor.

The PRESIDING OFFICER. The Senator may send them up singly.

Mr. SIMPSON. Mr. President, I thought the Chair was asking about the amendment of the Senator from California.

The PRESIDING OFFICER. The amendment of the Senator from California has been set aside temporarily, by unanimous consent. The amendments that we are now discussing are the two amendments which were to be offered by the Senator from Massachusetts. The question of the Chair was, Did the Senator from Wyoming desire to have these two amendments considered en bloc?

Mr. SIMPSON. My response to that question on those two amendments is yes.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk read as follows:

> The Senator from Wyoming (Mr. SIMPSON), for Mr. KENNEDY, proposes amendment numbered 1954 and unprinted amendment numbered 1241.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1954

On page 107, line 16, strike out "open" and insert in lieu thereof "closed".

On page 107, line 17, strike out "closed" and insert in lieu thereof "open".

UP AMENDMENT NO. 1241

Page 109, following line 18.

This amendment provides for exemption from disclosure of asylum and asylum related records and documents. This provision is necessary to safeguard asylum applicants and others who may be endangered by disclosure of asylum information. Such records or documents could be released to a court if they were needed in a case and their release served the interests of justice. This exemption from disclosure is consistent with the Freedom of Information Act.

Mr. SIMPSON. Mr. President, on behalf of Senator KENNEDY, I have sent those two amendments to the desk. These amendments protect the privacy of asylum applicants.

Mr. President, I am supportive of the amendments, I think they are an important addition.

● Mr. KENNEDY. Mr. President, I am offering this amendment at the suggestion of officials in the Department of State to allow asylum proceedings to be closed unless the asylum applicant wishes to have them open to the public.

This is necessary, Mr. President, to protect asylum applicants. They are seeking asylum precisely because they fear persecution in their native lands—many at the hands of their governments. To force them to state in public their grounds for seeking asylum may have serious consequences for their families who remain behind as well as to themselves.

There is no effort here restricting the asylum process, or to shroud it in secrecy. If an applicant desires, for any reason, to have the asylum hearing open, he can do so.

Mr. President, this small change has also been recommended by the Attoreny General and is supported by the administration. I urge its adoption.●

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendment (No. 1954) was agreed to.

The amendment (UP No. 1241) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

UP AMENDMENT NO. 1238

Mr. SIMPSON. Mr. President, I believe we set aside the Helms amendment. I ask unanimous consent that that be the pending business.

The PRESIDING OFFICER. That would be the pending business.

Mr. SIMPSON. Mr. President, I have now had the opportunity to review the amendment of the Senator from North Carolina. I regret to say that I must reluctantly resist the amendment at this time and at the appropriate moment, I shall move to lay the amendment on the table.

The issues raised in the now famous Plyler against Doe case are very, very important, very significant. I believe that those issues deserve more consideration than we can possibly devote to them at this time. I do not feel comfortable with addressing the tremendous scope of that case at this time.

The case itself is terribly controversial. There are issues of congressional intent and policy in that case.

I really am unable at this time to assess the full implications of that case. We are going to know a lot more soon, when we see if it spreads into areas other than education.

I pledge to the Senator from North Carolina that I shall hold a hearing on this very controversial matter as soon as it is possible. I believe many Senators, including the sponsors of this bill, will be very interested in the testimony of experts and other interested parties as we pursue the true impact of this case.

Mr. President, that concludes my remarks on the amendment. On behalf of the sponsor, Mr. President, I request the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I move to table the amendment and I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT 1242

(Subsequently Numbered Amendment 2026.)

(Purpose: To add a title relating to providing education assistance for alien children)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), on behalf of Mr. TOWER, proposes an unprinted amendment numbered 1242.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 14, strike out "This" and insert in lieu thereof "Titles I through IV of this".

At the bottom of page 79, add the following:

TITLE V—ALIEN EDUCATION ASSISTANCE

PART A—GENERAL PROVISIONS

Sec. 501. Short title.
Sec. 502. Definitions.
Sec. 503. Authorizations and allocation of appropriations.
Sec. 504. Treatment of certain jurisdictions.
Sec. 505. State administrative costs.
Sec. 506. Withholding.
Sec. 507. Application of certain rules.

PART B—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

Sec. 511. State entitlements.
Sec. 512. Applications.
Sec. 513. Payments.

At the bottom of page 166, add the following:

TITLE V—ALIEN EDUCATION ASSISTANCE

PART A—GENERAL PROVISIONS

SHORT TITLE

SEC. 501. This title may be cited as the "Alien Education Assistance Act".

DEFINITIONS

SEC. 502. As used in this title:

(1) The term "alien children" means aliens to whom State or local educational agencies provide educational services, and includes Cuban and Haitian refugee children (as defined in section 101 of the Refugee Education Assistance Act of 1980). Any person who is an alien child (as described in the preceding sentence) at any time after the date of the enactment of this Act shall be considered to maintain such status for purposes of this Act regardless of any subsequent change in status under any other law.

(2) The terms "average per pupil expenditure", "construction", "elementary school", "local educational agency", "secondary school", "school facilities", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 503. (a) There are authorized to be appropriated for each of the fiscal years 1984, 1985, and 1986, to remain available until expended and subject to allocation in accordance with subsection (b), such sums, but not to exceed $68,000,000 in any fiscal year, as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 505.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under part B for such year, the allocations to State educational agencies under each of such parts shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

SEC. 504. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in section 511(a) in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period for the purposes set forth in section 511(a), shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under section 511 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

SEC. 505. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

WITHHOLDING

Sec. 506. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of part A or B of this title, the Secretary shall notify that agency that further payments will not be made to the agency under such part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such part, or payments by the State educational agency under such part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

APPLICATION OF CERTAIN RULES

Sec. 507. Notwithstanding any other provision of law, classroom facilities obtained by a local educational agency with assistance under title I of the Elementary and Secondary Education Act of 1965 may be used in any fiscal year for educational services of alien children if the number of alien children enrolled in the elementary or secondary public schools under the jurisdiction of such agency, during that fiscal year, is equal to—

(1) at least 500, or

(2) at least 5 per centum of the total number of students enrolled in the public elementary or secondary schools during such fiscal year,

whichever is less.

PART B—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

Sec. 511. (a) The Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for each of the fiscal years 1984, 1985, and 1986 for the purpose of assisting local educational agencies of that State in providing basic education for alien children. Payments made under this part to any State shall be used in accordance with applications approved under section 512 for public educational services for alien children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State, or for the construction of necessary school facilities for such children, or both.

(b)(1) Except as provided in paragraph (2) and in subsection (c), the amount of the grant to which a State educational agency is entitled under this part, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of alien children enrolled in elementary or secondary public schools under the jurisdiction of each local educational agency within that State during the period for which the determination is made;

multiplied by—

(B) the average per pupil expenditure in the State, or $1,000, whichever is less.

(2) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 504, but for purposes of this part and section 506 any payments made under section 504 for the purposes set forth in section 511(a) shall be considered to be payments under this part.

(c) Determinations by the Secretary under this part for any period with respect to the number of alien children shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this part to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

Sec. 512. (a) No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this part will be used for the purposes set forth in section 511(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 511;

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing;

(4) provide procedures for an accounting of the number of alien children within the State; and

(5) provide for periodic audits in accordance with the provisions of sections 434(a) and 435 of the General Education Provisions Act, and for making such reports as the Secretary may reasonably require to carry out this part.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

Sec. 513. The Secretary shall pay to each State educational agency having an application approved under section 512 the amount which that State is entitled to receive under this part.

● Mr. TOWER. Mr. President, this amendment is in keeping with the directives of the Supreme Court that the additional costs of admitting these children to public schools might fairly be shared by the Federal and State Governments.

The Texas Education Agency estimates that there will be 25,000 illegal alien students enrolled in Texas schools in the upcoming school year, at a cost of $62.5 million to the State. The amendment provides Federal assistance for fiscal years 1984, 1985, and 1986, up to $68 million to those districts most affected. Each district with a level of enrollment of undocumented aliens comprising 500 or 5 percent of the total would be entitled to an amount up to $1,000 per child for costs associated with education. Such expenses could include both construction and operating costs.

Texas will educate these children willingly, but it would be unconscionable if the Federal Government were to shirk its responsibility for a situation it has created through allowing unregulated and underregulated flows of immigrants entrance to this country.

The mere numbers of undocumented alien children in this State and the fact that other States have been able to educate their alien population with minimal adverse consequences do not tell the full story. Cultural and linguistic barriers augment to a significant degree the normal costs associated with standard State educational programs. While these additional costs would present a problem for wealthy school districts, the majority of illegal alien students are enrolled in our poorest districts, such as Brownsville, where the market value of property utilized to determine a taxable base for support of public education is typically below the statewide mean. Especially in these heavily affected districts, Federal assistance is essential in order to maintain a standard of quality education for all children.

The high number of documented Spanish-speaking aliens in these areas further exacerbates the problem of providing for the special education needs—such as bilingual education programs—of a large Spanish-speaking school age population.

Citing Brownsville as an example:

City of 85,000; 39.3 percent below age 18, as opposed to nationwide of 28.1 percent below age 18; median value of owner-owned home nationwide is $47,200, as compared to Brownsville which is $28,500; average household in Brownsville is 3.69 persons, compared to 2.75 nationwide.

Sitting across the Rio Grande from Brownsville is Matamoros, which has a population of 300,000 and an economy hard hit by more than 30 percent inflation and a devalued peso. In addition, Brownsville has experienced a 4,000 increase in documented and undocumented public school enrollment over the last 2-year period.

This is not merely a "Texas" problem. Recent testimony presented estimates the number of undocumented alien students in Colorado at 5,000; refugees in Florida at 19,000. Employment opportunities, mobility factors, and the opportunity for free public education exist in all 50 States. As this population increases, it will continue to spread throughout the country.

Education experts testified before the House Subcommittee on Elemen-

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tary, Secondary, and Vocational Education that the impact of these children will also be keenly felt in New York, New Jersey, Michigan, and Illinois.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Austin, Tex., July 14, 1982.

On June 15, 1982 the United States Supreme Court held in *Plyler* v. *Doe* and *Texas* v. *Certain Named and Unnamed Undocumented Alien Children* that Section 21.031 of the Texas Education Code, which withholds from local school districts any state funds for the education of children who were not "legally admitted" into the United States, and which authorizes local Texas school districts to deny enrollment to such children, violates the Equal Protection Clause of the Fourteenth Amendment. As you are aware, the Justices were narrowly divided in their 5-4 decision.

We, the elected leadership of the State of Texas, agree with the dissent filed by Chief Justice Burger in which Justices White, Rehnquist and O'Connor joined that:

"It does not follow, however, that a State should bear the costs of educating children whose illegal presence in this country results from the default of the political branches of the federal government. A State has no power to prevent unlawful immigration, and no power to deport illegal aliens: those powers are reserved exclusively to Congress and the Executive. If the federal government, properly chargeable with deporting illegal aliens, fails to do so, it should bear the burden of their presence here. Surely, if illegal alien children can be identified for purposes of this litigation, their parents can be identified for prompt deportation."

We have also noted that in the concurring opinion, Justice Powell expresses sympathy for the "exasperation" which the citizens and governing authorities in Texas must feel over this issue. In fact, he states that:

"Their responsibility, if any, for the influx of aliens is slight compared to that imposed by the Constitution on the federal government. So long as the ease of entry remains inviting, and the power to deport is exercised infrequently by the federal government, the additional expense of admitting these children to public schools might fairly be shared by the federal and state governments."

When one adds Justice Powell's comment to those of the dissenting Justices, it appears to us that the majority of the court has indicated that the expense of educating these children should be borne, at least in part, by the federal government.

There appear to be two courses of action open to Texas. One, Texas can pursue any available remedies through the courts. The other route, obviously more preferable, would be to proceed through the political process and work with Congress to obtain impact funding for those Texas school districts which are severely affected. The purpose of this letter is to ask your help in achieving the second alternative and to offer our assistance in any way possible to achieve that goal.

It is necessary to understand that, while Texas will abide by the majority opinion which states that nothing is to be gained by creating a subclass of illiterate citizens and that children not in control of their residency should be afforded a public education, these students will in all likelihood be "high cost" students. It is our opinion that the majority of these students will need the benefit of bilingual education, compensatory work in academic subject areas and additional textbooks including bilingual versions thereof, and that at least the normal incidence of special education will occur. There will be additional maintenance and operation costs, increases in state equalization to those districts severely impacted, and further local enrichment funds and capital facilities required. It should be noted that these numbers do not include federal dollars, do not assume local property tax increases, and use statewide averages for local enrichment and debt service costs.

Additionally, one of our greatest concerns is that best estimates indicate that there are currently 25,000 illegal alien students in the public schools today and that many of these students became part of that system after the 1980 census counts were conducted. It is also anticipated that there will be continued growth of approximately 3000-5000 in average daily attendance per year. Therefore, few of the federal programs, with the exception of Special Education, that flow federal dollars to Texas school districts will reflect these counts. This has the practical effect of denying Texas school districts federal dollars which these students would normally earn through calculations pursuant to federal formulas.

It is our considered view that there is a precedent at the federal level for impact aid to reimburse school districts for costs incurred in providing supplemental education services to these type of children. For example, the Transition Program for Refugee Children operated under the authority of Public Law 96-212, The Refugee Act of 1980, provides for this type of financial assistance to cover services such as testing, special English language instruction, bilingual education, remedial instruction and special materials and supplies. In fact, for the 1981-82 school year Texas received $1.2 million for these refugee children and it is estimated that Texas will again receive $1.2 million in 1982-83.

The technical problem which the State faces in reaching a precise and accurate count of the number of these children who are present in the public schools in order to build a statistical base upon which to make future estimates is that the reasoning underlying the district court's orders appears to preclude school districts from requesting documentation, at least in the absence of Congressional imprimatur. We are able to identify their age and alleged residence through the normal method of presentation of a birth certificate. However, there is no notation on a birth certificate as to whether that child is legally or illegally present within the United States. It will be necessary at such time that the Congress appropriates federal funds to assist in the education of these children that Congress also direct the State of Texas to provide accurate enrollment data. For your information we have provided enrollment data as we currently collect it by ethnic group and a preliminary estimate by local school districts in the Valley area as to the number of illegal alien children present.

We are aware that other delegations may feel that this is a "Texas problem." It does indeed have its initial impact on Texas due to the long, virtually open border which provides illegal aliens access to the United States. However, once these individuals enter the United States there is no guarantee that they will remain within the State of Texas. We suggest that employment opportunities, mobility factors, and the opportunity for free public education exist in all 50 states, and that as this population increases it will begin to spread throughout the country.

We consider this matter of extreme importance not just for Texas but as a matter of national policy. We will be happy to work with you in any manner that you deem beneficial in order to obtain equitable support to provide these youngsters with an education while at the same time not diluting the educational resources for those children legally present in the state. Additional specific data may be obtained from Raymon L. Bynum, Commissioner of Education (512/475-3271).

WILLIAM P. CLEMENTS, Jr.,
Governor of Texas.
WILLIAM P. HOBBY,
Lieutenant Governor.
BILLY CLAYTON,
Speaker of the House.
MARK WHITE,
Attorney General.
JOE KELLY BUTLER,
Chairman, State Board of Education.

[From the Austin News Summary, June 16, 1982]

VALLEY PLEA: LET FEDS PAY FOR ALIEN TIDE

BROWNSVILLE.—Congress should help pay to educate the growing number of illegal alien children in Texas classrooms now that the Supreme Court has ruled they are entitled to free schooling, public school officials say.

"They had impact aid for the Cuban and Vietnamese children that have been brought in. We were hoping to get some type of subsidy to help us," Assistant Superintendent Tom Keller said.

Keller and others say they were not surprised at the Supreme Court's ruling on Tuesday that the children of undocumented workers are entitled to a free education.

The court struck down a Texas law that had allowed school districts to charge tuition or refuse admission to illegal aliens.

Brownsville schools began enrolling illegal aliens in November 1980 after the system lost a federal district court fight over its policy to refusing such children admission.

About 1,600 illegal aliens from Mexico and Central American countries are among the 30,000 students enrolled in Brownsville—and illegal alien enrollments are even higher in Houston and Dallas.

Dallas school officials predicted that the ruling could bring as many as 5,000 aliens into the Dallas Independent School District during the next few years.

"I would not be surprised at all to see our illegal alien enrollment double next year," Superintendent Linus Wright said.

The district had about 1,300 illegal alien students during the 1981-1982 school year, he said.

The superintendent of the Houston Independent School District, Billy Reagan, said the cost of educating the expected influx of alien children would be "phenomenal."

He said the ruling would serve as a "magnet for these people."

"I'm hoping this now will be an impetus for Congress to move and insist that present immigration laws be enforced," Reagan said.

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The HISD ended the school year with an enrollment of about 5,000 aliens who cost the district at least $7.5 million to educate, he said.

Attorney General Mark White said in Austin the decision underlines the need for either better immigration enforcement or impact aid for school districts like Brownsville.

"I have consistently stated and continue to state that the children should be educated and should not suffer because of the actions of their parents or the inaction of the federal government in enforcing the law," White said.

Gov. Bill Clements in Houston echoed local school officials in predicting an increase in illegal aliens moving to Texas.

"We have created a situation that makes illegal immigration, primarily from Mexico, attractive. I don't think anyone could possibly reach any other conclusion," Clements said at a Houston news conference.

He said Texas would comply with the ruling, but may need federal funds to do it.

The Brownsville lawyer who represented illegal alien children in the suit said it was a victory for many children who otherwise might have been expelled.

"Hopefully, it will help kids who didn't apply for admission because they didn't want to go through it and then be told to leave," said Linda Yanes.

Yanes said that one of her clients was denied admission but his brothers and sisters, who were born in the United States were enrolled. It is not uncommon along the border to have resident aliens, illegal aliens and U.S. citizens within a single family.

School officials expressed fears that the ruling will encourage families living across the Rio Grande in Matamoros, Mexico to move here and take advantage of the free schooling.

"I think that will happen especially in the border areas where Mexico is finding it hard to provide their own facilities," said Gracie de Pena, school board president.

"No one is against educating the children, per se," she said.

Officials here say a relatively low tax base, high child-adult ratio and the large number of children entering school speaking only Spanish contribute to the alien problem.

[From the Dallas Times Herald, June 16, 1982]

Ruling Could Raise School Costs by $20 Million

(By Ernie Sotomayor)

The annual cost of educating illegal aliens in Texas may increase by as much as $20 million because a new wave of undocumented students will be attracted to the state's public schools by Tuesday's U.S. Supreme Court ruling, said Texas Education Commissioner Raymon L. Bynum.

Bynum was joined by most other state officials, including those who pushed hard for allowing illegal aliens into public schools, in saying Texas must now make a strong bid for increased federal funding to pay for educating the 20,000 to 30,000 illegal alien children already enrolled in Texas schools.

The commissioner said he was unable to say precisely how many illegal aliens are now enrolled in Texas schools or how many more would come in September. But Dallas school officials predicted the current estimated enrollment of 2,500 illegal aliens could double in five years, while Brownsville educators said that an additional 800 students could register annually during the next few years.

"I think more aliens will come to this country because of the ruling," Bynum said. "We have a federal law not being adequately enforced, and that is putting an undue burden on local school districts.

"I don't know how many will come. But the cost now runs about $55 million to $60 million a year," said Bynum. "I think I could increase $10 million to $20 million after this."

Bynum said the Texas Education Agency will begin lobbying the Department of Education to increase its Title I funds, which supplement the cost of educating economically disadvantaged students. School districts have these funds to help offset the cost of educating other immigrants, such as Indochinese refugees.

Rick Arnett, general counsel for the Texas Education Agency, said it costs more to educate illegal alien children than other students.

"Generally they are behind, and they are going to require some kind of immediate remedial program, and they are going to need some special language programs too," he said.

Dallas school officials joined San Antonio Independent School District educators in saying increased illegal alien student populations will require the hiring of additional bilingual education teachers. That, the officials said, will be difficult because there is currently a shortage of hundreds of bilingual education instructors in the state.

Brownsville officials said the increased enrollment will require facilities equivalent to a new school every year.

Officials in other districts around the state, such as Lubbock, Austin and Midland-Odessa and San Antonio's 17,000-student Edgewood Independent School District, said they expect little impact because their illegal alien student populations are minimal. Houston school officials said they estimate there are now 5,000 illegal alien students enrolled in their district but they expect no major increase.

Secretary of State George Strake, the Republican nominee challenging incumbent William P. Hobby in the lieutenant governor's race, was the only political figure to attack the ruling. He said the Supreme Court justices based their decision on "strained reasoning."

"I think it is incredible that those five men could say, in effect, 'Anyone on the globe is entitled to the benefits of U.S. citizenship.' Using the logic of the Supreme Court, children in Uganda, India or Burma must be educated for free so long as their parents can successfully evade the immigration laws and get them here," he said.

State Sen. Hector Uribe, a Brownsville Democrat who represents the Rio Grande Valley, warned that the Texas Legislature will have to provide additional funds immediately for schools in his district because his area of the state cannot wait for the federal government to respond.

"The burden has been foisted upon the poorest of school districts to provide education to children of illegal aliens," Uribe said, ". . . The quality of education is going to suffer unless the federal or state government provides assistance."

While Uribe called the court's ruling "humane and compassionate," he complained that it would put an additional burden on school districts which already tax at higher rates than most other districts in the state and provide fewer services.

During the last legislative session, Uribe tried without success to pass a bill that would have provided impact funds to school districts with a high percentage of illegal alien children. Tuesday's ruling should increase the chances of a similar bill passing during the next legislative session, he said.

Gov. William P. Clements Jr. was more reserved in his reaction, siding with officials in urging more federal aid and saying that he didn't believe the education issue was "the problem some believe it is."

The Texas law that was struck down by the court was sponsored originally by former Brownsville state Rep. Ruben M. Torres, who is now chairman of the Texas Board of Pardons and Paroles. Torres, who could not be reached for comment, argued at the time that the education of illegal aliens would put too much of a financial burden on school districts in his area.

Wave of Aliens May Come

Brownsville.—The Supreme Court's ruling Tuesday that illegal aliens are entitled to a free education could trigger a new wave of undocumented immigration from Mexico, say school officials in this border city.

"I have worries about it. Maybe it will just open the door to have people immigrate in the future," said school board member Carlos Barrera. "If there's any unrest in Mexico, that's going to hurt us."

Brownsville, a city of 90,000, sits across the Rio Grande from Matamoros, which has a population of 300,000 and an economy hit hard by more than 30 percent inflation and a devalued peso.

A relatively low tax base, high child-adult ratio and the large number of children entering school speaking only Spanish contribute to the problem, school officials say.

Barrera and other officials said they expected the ruling but still feel the federal government should help school districts with large alien enrollments.

"I don't think anybody is against educating the children, per se. It's just that we have a big responsibility to our citizens and legal residents," said Gracie de Pena, school board president.

Sen. John Tower, Texas, said in Washington that the court's decision may cause severe financial hardship for many Texas school districts and added that he anticipates "some federal assistance will be required to enable them to assume this added burden."

Gov. Bill Clements said in Houston, "We have created a situation that makes illegal immigration, primarily from Mexico, attractive. I don't think anyone could possibly reach any other conclusion."

He said children of illegal aliens in public schools in Texas had risen from 12,000 to between 18,000 and 20,000 in the last two years.

"We undoubtedly will try to evolve something through the Education Department to assist us in this regard," Clements said. "There are vast sums of money going into all forms of education, and perhaps we can get some assistance from the federal government."

[From the Houston News Summary, June 23, 1982]

Tower Blasts Education Ruling—Says Supreme Court Provided Incentive for Illegal Immigration

(By Judy Wiessler)

Washington.—The Supreme Court provided an incentive for illegal immigration and a probable expansion of "all kinds of" benefits in illegal aliens in its recent Texas education ruling, Sen. John G. Tower, Texas, said.

"It occurs to me that if they're eligible for (free public) education, they ought to be eligible for everything else," Tower said Monday.

He predicted that last week's decision in a Texas case that illegal alien children have a right to free public schooling "will stimulate the flow of illegal aliens" because it will "open up all kinds of other things for illegal aliens."

The primary lure may not be free education, he said, but "a vast number of other things" that aliens will assume they can get as a result of the court ruling.

He cited "the possibility that, based on this decision, illegal aliens could exert rights to other services and benefits" that could be an incentive for them to come here illegally.

"If you take the decision to its obvious conclusion, that's where it's going," he said.

The Supreme Court case dealt only with public education and did not question other benefits or services. The majority opinion did point to a "distinction" between education and other benefits, saying public education is not "merely some governmental 'benefit' indistinguishable from other forms of social welfare legislation."

Tower said he would not "second guess the Supreme Court" but added, "I'm inclined to think better legal reasoning went into the minority opinion than the majority opinion."

Tower has invited nine other senators from states along the Mexican border, including Sen. Lloyd M. Bentsen, Texas, to meet with him later this week on ways to get federal help for school districts with concentrations of illegal alien children.

He said unnamed officials at the White House were receptive to the idea of some form of "impact aid" for districts such as those along the border and in large cities like Houston and Dallas.

● Mr. **BENTSEN**. Mr. President, I am pleased to join my colleague Senator TOWER as an original cosponsor of the pending amendment to reimburse States and local school districts for costs they incur in educating alien children.

Mr. President, our immigration policies have been characterized as ineffective, out of control and in a state of shambles. Our failure at the National Government level has led to unprecedented immigration of illegal aliens and their families, individuals who settle in our States and cities, taxing the finite resources of many communities beyond the limits of their abilities to provide basic services.

Numerous references have been made today to the fact that Plyler against Doe is a precedent-setting decision—one which mandates that services to the general public be available to illegal aliens. While the majority opinion of the Court seeks to differentiate between educational programs and services that are traditionally considered a form of welfare, the narrow margin of the decision and the concurring opinion of Justice Powell underscore the likelihood that the parameters of the Court's opinion will be broadened. In effect, since the Court has determined these children are entitled to educational services because they are not responsible for their parents' status as illegal immigrants, then what justification can be offered to deny health care and welfare assistance to the dependents of illegal aliens?

Mr. President, my State of Texas has a very great stake in the outcome of this amendment because we share the 2,000-mile border with the country from which the vast majority of illegal aliens are said to migrate. But I would like to stress to my colleagues that they should not be deceived into thinking the problem of illegal aliens is confined to Texas, New Mexico, Arizona, California, and Florida. This is a national problem and it is a growing problem. In the absence of a firm and enforceable immigration policy, the tide of illegal immigrants will continue and the drain of community resources will increase. In my judgment, passage of this amendment will serve two extremely important functions: first, it will relieve the inequitable burden the Federal Government has placed on local and State jurisdictions; and second, it will encourage Federal and local officials to better document the numbers and whereabouts of individuals who are entering this country illegally. A first step in stemming the tide of illegal immigration.

Mr. President, the pending amendment is just, it is necessary, and it is the most equitable way for the Federal Government to assume its fair share of responsibility.

I commend my colleague from Texas for his initiative in offering the amendment, in particular I want to thank him for his cooperation in accepting my suggestion that States and local communites be permitted to determine how funds allocated through the program will be expended. I urge my colleagues to join with us in support of the pending amendment.

Mrs. **HAWKINS**. Mr. President, I rise in support of the amendment offered by the Senator from Texas.

The recent decision by the Supreme Court to require local school districts to provide educational opportunities to the children of illegal aliens sent shock waves throughout communities across the country. Not only would the people in a given community have to pay taxes to support the education of children of resident aliens and others who are in this country legally, but now they must also pay to educate the children of aliens who broke American law in order to live and work in this country. This is no small number of people. As has been mentioned repeatedly on the floor, there are an estimated 3.5 to 6 million illegal aliens now in this country, and the number of children of these individuals probably numbers in the hundreds of thousands. The decision by the Supreme Court to require the education of the children of illegal aliens will place a sudden and tremendous burden on many school districts.

The experience of my State, Florida, offers a glimpse of what may be in store for many States as a result of this Supreme Court ruling. The Mariel boatlife brought 125,000 Cubans to this country in 1980 in the span of only 5 short months. Out of this number, 15,000 Cuban children ended up in the Dade County school system that were not there the year before. This resulted in tremendous problems for affected school districts. Facilities were overcrowded. There were too few teachers. And there were problems teaching children, who at the time they entered the schools, spoke only Spanish. Though there has been some progress in the Dade County School District integrating these new children, the district continues to face serious financial problems. Local Florida officials estimates that the cost of educating the children of the Marieltos exceeds $40 million in the 2 years they have been here. Many of these cost are expected to continue. Fortunately, the amendment offered by the Senator from Texas includes school districts that now have a large number of children of Cuban and Haitian entrants. Since immigration is a Federal responsibility, I believe that the Federal Government should be responsible for those costs forced on localities as a result of a failure of the Federal Government to enforce its laws.

I thank my friend from Texas for his leadership on this issue, and I urge my colleagues to support this amendment.

Mr. **SIMPSON**. Mr. President, S. 2222 provides for the control of future illegal immigration and channels the current population of undocumented aliens into legal status. It would be counter to the intent of this legislation to begin authorizing Federal funds for services for illegal immigrants. We sincerely believe that future illegal immigration will be drastically curtailed through the adoption of employer sanctions, and we have provided for block grants to meet the basic subsistence programs provided to legalized aliens by States and counties.

Mr. President, the amendment is outside the basic thrust of S. 2222 by providing services rather than focusing control.

Further, S. 2222 has tried not to be a bill involved with expenditures except for those absolutely necessary to meet its control needs.

Mr. President, I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

BEST COPY AVAILABLE

UP AMENDMENT NO. 1243

(Subsequently numbered amendment No. 2027.)

(Purpose: To modify provisions imposing sanctions against employers who hire, or recruit or refer, for employment certain unauthorized aliens)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Mr. TOWER and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for Mr. TOWER, proposes an unprinted amendment numbered 1243.

Mr. SIMPSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 80 with line 9, strike out all through line 14 on page 89 and insert in lieu thereof the following:

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section willfully to hire, or for consideration knowingly to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to a date 180 days after the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the procedures of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1) or (2) with respect to such hiring, recruiting, or referral, except that non-compliance with the procedures of subsection (b) shall not be admitted as evidence in a proceeding under subsection (c) for the purpose of proving that a violation of paragraph (1) or (2) was willfully or knowingly committed.

"(4) As used in this section, the term "unauthorized alien" means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) A person or other entity hiring, recruiting, or referring an individual for employment in the United States may attest, under penalty of perjury and on a form established by the Attorney General by regulation, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Commerce, and the Small Business Administration, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1) by examining the individual's—

"(1) United States passport, or

"(2)(A) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act, or United States birth certificate, and

"(B)(i) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(ii) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(iii) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(c)(1)(A) Whenever the Attorney General has reasonable cause to believe that a person or entity has or is engaged in a violation of paragraph (1) or (2) of subsection (a), the Attorney General shall provide such person or entity with notice and the opportunity to request a hearing respecting the violation within 30 days after receipt of such notice. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General, individually or by regulation, in accordance with section 554 of title 5, United States Code.

"(B) If an immigration judge determines by a preponderance of the evidence that a person or entity violated paragraph (1) or (2) of subsection (a), the Attorney General shall issue and cause to be served on such person or entity an order to cease and desist from such violation. Such order may require such person or entity to verify, in accordance with such procedures as the Attorney General deems necessary, the employment status of each individual sought to be hired, or for consideration recruited or referred, after the date of such order. The Attorney General shall review such order for its effectiveness two years after its date of issuance and may terminate such order at such time.

"(C)(1) If a person or entity fails to comply with an order of the Attorney General under subparagraph (B), the Attorney General may commence proceedings in any district court of the United States to insure compliance with such order. As part of such proceedings the Attorney General may ask for and the district court may grant relief, including—

"(I) in the case of the first violation of such order, a civil penalty of up to $10,000;

"(II) in the case of a subsequent violation of such order, a fine of not more than $10,000, or imprisonment for not more than 12 months, or both, for each violation of such order; and

"(III) a permanent or temporary injunction, restraining order, or other order against such person or entity as the Attorney General deems necessary.

"(ii) In any suit seeking to review the immigration judge's determination, the suit shall be determined solely upon the administrative record upon which the determination was made and the immigration judge's finding of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(d) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(e)(1) There shall be established an Interagency Immigration Reform Task Force (hereafter in this subsection referred to as the "Task Force") composed of the Attorney General, the Secretary of Labor, the Secretary of Commerce, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the United States Civil Rights Commission or their respective designees.

"(2) The Task Force shall have the responsibility for coordinating, developing, and recommending policies and practices designed to maximize effort, promote efficiency, promote compliance, and reduce any possibility of discrimination based on national origin in carrying out the provisions of this section.

"(3) On or before October 1 of each year, the Task Force shall prepare and transmit to the President and to the Congress a report setting forth its recommendations for legislative and administrative changes, including proposed guidelines for the Attorney General, as may be necessary to promote the purposes of this section.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.".

(2) The amendment made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

(3) The Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated $10,000,000 for the fiscal year 1983.

(4) The Secretary of Labor is authorized, in the enforcement of section 15 of the Fair Labor Standards Act of 1938, to give priority to the enforcement of such provisions of such section as are applicable to employers who are in violation of section 274A(a)(1) of the Immigration Reform and Control Act of 1982.

On page 89, line 22, strike out "(1)(A)" and insert in lieu thereof "(1)".

Mr. TOWER. Mr. President, the employer sanctions currently included in S. 2222 are objectionable on four main grounds: First, unreasonably burdensome to the employer; second, costly for the American taxpayer; third, unlikely to curb significantly the flow of illegal immigrants; and fourth, potentially discriminatory against any job applicant of foreign origin.

The paperwork alone, which S. 2222 would generate through mandatory usage of verification forms by an employer, is staggering. With an estimated 70 million job changes annually in the private, nonagricultural sector, not including referrals or recruiting or "casual" employment, that amounts to the Federal Government generating and ultimately monitoring 70 million transactions a year, 190,000 transactions a day, or 2.3 transactions a second. Even if the employee is later terminated voluntarily or involuntarily, the employer must retain these documents for a 1-year period of time. Not only are the bureaucratic nightmares which this provision could create obvious; but the American taxpayer is asked to foot the bill for the creation of a vague and undefined "secure system of national identification" which has been estimated to cost into the billions.

Social security officials have claimed that it is impossible to verify the legal status of every application requesting benefits or a card—yet, even in the absence of the as yet undefined, so-called secure identification system, this same impossible task would be required of employers. In addition, this procedure of verification of worker eligibility is required of all employees of an employer covered by this act, with the imposition of severe fines on an employer who does not comply with this section of the bill, even if the employer is found to have employed only American citizens in his or her place of business.

Question: I run a small store and I am covered by the provision of this bill. My next door neighbor sends his 17 year old son to work, part-time after school. I know that his son is an American citizen. I don't ask to see a driver's license or other document, but I hire him. Have I broken the law?

Under the terms of this bill, yes.

Or: I am in agricultural employer and I need several hundred workers immediately because my crop is ready for harvest. The local growers association or a crew leader sends me these workers, after running their own system of verification of the citizenship of these individuals. Do I have to follow an additional system of "checking off" eligibility of these 200 or so job applicants before I allow them to begin work which may need to be completed within two days or one week?

Again, the answer is yes under this bill.

In addition, it would be more realistic and more convenient for INS officials to neglect border enforcements in favor of detecting technical violators—the employer who does not have the time or the resources to verify every potential employee's legal status, the employer who knows absolutely that he has American citizens working for him and therefore chooses not to comply with the verification procedure, or the employer who simply does not know that he must verify his employee's eligibility and retain those documents. Employers would be found who did not comply.

These provisions are unreasonable in their demands and illogical in their requirements. There is no rational justification for shifting to the private sector the Federal Government's responsibility to uncover our Nation's illegal aliens.

The ultimate losers under this bill are the employer who, for the reasons given above, fails to comply with this section and the potential employee who, regardless of his willingness or suitability for a particular job, is denied the chance to work because he or she has an alien surname or is "foreign-looking."

Bear in mind that an employer under S. 2222 must reasonably believe that whatever documents are presented to him by the applicant are genuine in order for the employer to be safe from prosecution. The potential for discrimination is great since the employer himself has the burden to show that he did not hire an illegal. Further, few employers will feel capable to make the judgment as to the validity of the papers presented. Thus, the probability is that employers will attempt to avoid hiring individuals from Hispanic or other foreign heritage at all to preclude liability under this section.

By the same token, those unscrupulous employers who do not want to hire a certain minority group could probably also assert to a job applicant that his documents did not appear to be genuine, and that he would rather not risk breaking the employer sanctions law.

This amendment targets enforcement of employer sanction provisions against willful violators, for which a higher standard of proof must be met than that currently provided in the bill.

No employer would be required to verify worker eligibility, as the bill now provides. The burdensome paperwork requirements generated by S. 2222 are eliminated as well as the imposition of fines for noncompliance with this procedure or the failure to maintain records.

Under my amendment, the employer would be afforded an affirmative defense against a charge of willfully hiring illegals if he voluntarily chose to use a standard verification form provided by the Attorney General. The verification form, moreover, would be strictly limited in terms of the information required and would be used only for the purpose of determining eligibility to work. It could not be turned into a general information sheet on the applicant to be used for any other purpose.

These provisions protect the law-abiding citizen, while going after the business or entity who is intentionally hiring illegal aliens. For these entities, however, severe penalties could be imposed, including the ability of the Attorney General to monitor the future hiring practices of the organization. Note that after a 2-year period of "good behavior" the entity could petition for release from future supervision by the Attorney General under the order, thus allowing an employer to bail out after a good compliance record has been established.

My amendment provides another decided benefit to Hispanics and other alien minorities by authorizing the Secretary of Labor to concentrate enforcement of existing labor laws against willful violators.

One California study relied upon by MALDEF revealed that 6,000 labor law violations were committed by employers who also employed undocumented workers—because these aliens would work without complaint under substandard conditions. Strengthened enforcement in this area will not only help ferret out the willful violators, but may improve overall standards of work conditions for all American citizens.

Realistically, there may still be some instances of discrimination against Hispanics by virtue of the fact that the use of a verification form may be selectively applied, until regulations governing use are developed by the Attorney General in conjunction with the task force. The relative potential of such discrimination is minuscule as compared to that which would occur if employers had no opportunity for an affirmative defense to the charge of hiring illegals. Hispanics or other minorities would never get a foot in the door without this protection. At the same time, the burden of proof has shifted to the Attorney General to prove a willful violation of this section, and an employer's voluntary noncompliance with the verification procedures will under no circumstances be held against him as evidence that he willfully violated the law.

The establishment of the task force to monitor any possible discriminatory effects of the bill, as well as their role in transmitting recommendations to the Attorney General for use in implementing future regulations is a positive factor which benefits significantly all ethnic minorities which would be affected by this bill.

I am confident that those regulations will reflect constitutional guarantees against discrimination on the basis of national origin and established EEOC guidelines on employment practices.

I also believe that increased border enforcement could be a more effective alternative to those promoting current section 101 employer sanction standards. There are more police officers assigned to guard the Capitol and adjacent buildings in Congress than there are INS officers patrolling our borders during any 8-hour period.

Most illegal border crossings occur within a 60-mile gap bordering parts of Texas and California. Border guards know when and where illegal crossings occur, but lack the proper resources to enforce the law.

In addition, I would like to state for the RECORD two statements which I have received on this amendment:

As a past National President of LULAC, and as a person interested in the rights of all human beings, I am of the opinion that this amendment is the best route to take and I wholeheartedly support the amendment which is being offered by Senator Tower to the employer sanctions portion of this bill. Willie Bonilla, August 13, 1982 (1:50 p.m.), speaking from Corpus Christi, Texas.

I think that this is a positive step—a step in the right direction—and is preferable to the provisions currently in the bill. I understand the legislative process, and I know that such improvements must be done step by step. Henry Cisneros, Mayor of San Antonio, August 13, 1982 (2:00 p.m.), speaking from San Antonio, Texas.

Mr. President, I ask unanimous consent to have materials from various organizations in support of this amendment printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSINESS ORGANIZATIONS OPPOSED TO SECTION 101

American Retail Federation.

Associated Builders & Contractors.

Association of General Contractors.

National Restaurant Associates.

Association of General Merchandise Chains.

American Association of Nurserymen.

United Fresh Fruit & Vegetable Association.

National Club Association.

National Broiler Council.

LOCAL CHAMBERS OF COMMERCE OPPOSED TO SECTION 101

Arizona, State of.

Business and Industry Association of New Jersey.

New Hampshire Industry and Business Association.

El Paso, Texas.

City of Big Spring, Texas.

Lake Charles, Louisiana.

Providence, Rhode Island.

Atlanta, Georgia.

Chattanooga, Tennessee.

Yakima, Washington.

Excerpts From MALDEP Position Paper on Employer Sanctions

Employer sanctions will make the employer responsible for determining a job applicant's legal status through reviewing certain documents, each of which is readily available on the already thriving black market. Rather than risk hiring an individual whose documents show he is legal but who may nevertheless "appear illegal" to the employer, many employers will choose to close their doors to all "Hispanic-looking" or "foreign-looking" job applicants, whether or not their documents appear to be genuine. Still other employers who may not want to hire Hispanics for discriminatory reasons can easily assert to the job applicant that his documents do not appear genuine and he would rather not risk breaking the employer sanctions law. Employment discrimination laws, such as Title VII, will be of little value to a worker who is turned away from a job in this manner. First of all, Title VII protections only apply to workplaces with 15 or more employees. Second, job applicants simply do not have the time and resources to become involved in costly and time consuming administrative or legal procedures: their sole interest is in finding employment.

Employer sanctions will be enforced selectively and it is uncertain how widespread "good faith" deterrence will be. It is therefore unlikely that employer sanctions will significantly decrease job opportunities for undocumented workers. It is also uncertain that American workers will want to take jobs that become available. For example, many of the Texas companies raided by the INS during Operation Jobs report they have had trouble finding U.S. citizens to fill the positions (Washington Post, July 18, 1982, p. 2.)

MALDEF proposes the enforcement of current labor laws, such as the Fair Labor Standards Act and Minimum Wage laws, in order to create disincentives for employers to hire undocumented workers. A California study revealed that 6,000 violations of these laws were committed by employers who also employed undocumented aliens—because these aliens would work without complaint under sub-standard conditions. With proper enforcement of these laws, employers who pay undocumented workers below the minimum wage will be punished for doing so and will also grow disinclined to repeat this behavior, thus creating jobs that American workers may want.

Excerpts From the Statement of the Chamber of Commerce of the United States on Immigration Reform and Control Act

CHAMBER POLICY REEXAMINED

The Chamber submitted a rather extensive statement to Senator Simpson's Subcommittee last September during previous hearings on this topic. That statement was based on long-standing Chamber policy which opposed the concept of placing the burden of enforcing immigration laws on the business community.

I want to stress that Chamber policy is formed through strict procedures. Any Chamber policy must meet the qualification that it be "national in character, timely in importance and general in application and of significance to business and industry." Although the overwhelming majority of employers do not knowingly hire illegal aliens, it is our conclusion that an employer sanctions law would clearly meet these criteria.

Proposed policy originates in one of the Chamber's standing policy committees. These Committees are made up of members who represent a cross section of the Chamber's membership. After careful deliberation, a proposed policy is submitted to the Chamber's Board of Directors. Adoption of a policy by the Board requires a two-thirds vote.

In view of the recent Congressional and Administration attention given to immigration reform, it was decided that a reexamination of our existing policy was in order. After considering specific proposals introduced by the Administration and pending in Congress, the Labor Relations Committee, which I chair, on October 28, 1981, unanimously reaffirmed its opposition to employer sanctions. The Chamber's Board of Directors, on November 11, 1981, also affirmed unanimously this position. Then, on April 1, 1982, the Labor Relations Committee specifically considered the employer sanctions provisions set out in Section 101 and rejected them unanimously.

SECTION 101 WOULD REGULATE HIRING PRACTICES OF ALL BUSINESSES

Section 101 makes it unlawful for "a person or other entity" to hire, recruit, or refer for employment:

An alien, knowing the alien is an unauthorized alien with respect to employment.

An individual (even U.S. citizens) without complying with the required verification procedures.

During a 3-year transitional period, a person or entity that hires recruits, or refers for employment must attest, under penalty of perjury, on a form issued by the Attorney General, that he has examined documents which establish both eligibility to work and the identity of the job applicant.

Eligibility to work would be established by a social security card or a birth certificate.

Identity would be established by an alien registration (green) card, a driver's license with a photo, a similar identification document issued by a State, or other personal identifying information which the Attorney General finds, through regulation, sufficient for this purpose. A United States passport would establish both eligibility and identity.

After examining these documents and recording the information, the person must keep on record the form provided by the Attorney General and make it available for inspection to Immigration (INS) officers. If the individual is terminated voluntarily or involuntarily, the form must be retained for at least five years from the hiring date by the persons who recruit, refer or hire.

A person has complied with the requirements of examining the documents if he concludes the documents "reasonably appear on the face to be genuine."

After expiration of the 3-year transitional period, the President must develop and implement a "secure system to determine employment eligibility to be used with respect to all applicants for employment." This secured system would be based on a verification process not otherwise specified in the bill.

Civil and criminal penalties for hiring an unauthorized alien range from $1,000 to $2,000, or jail sentences of not more than six months, or both. The Attorney General has injunctive power to stop a "pattern or practice" of employment of unauthorized aliens.

A person that hires, recruits, or refers, but does not follow the verification procedures or maintain the required paperwork will be subject to a civil penalty of $500 for each individual, even if the individual is a citizen.

Since the bill divides the employer sanctions section into two parts, we will analyse them separately. First, the three year transitional period, then, the permanent program.

INEFFECTIVE ENFORCEMENT AND INCREASED CONFUSION

The requirements during the 3-year transitional period would result in an ineffective enforcement mechanism and in increased confusion. Ineffective enforcement would occur because the required documents may be obtained or forged easily. Confusion would occur because the burden on employers to detect illegal aliens and to distinguish legitimate documents from illegitimate documents is unclear.

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U.S. passports

Requiring a U.S. passport would be the most secure system. But, according to the Passport Office of the State Department, only 12 million citizens hold passports. Thus, with a work force of over 100 million people, the passport would not satisfy the identity-verification requirement.

Birth certificate

Easy to obtain

A mailed request to most town clerks or city registrars will obtain a copy of someone else's legitimate birth certificate.

Forged birth certificates are commonly used within the illegal alien population. One birth certificate is often used by several individuals.

Confusion

Birth certificates widely vary in size, form, and information contained.

Social security card

Easy to obtain

A December, 1977 General Accounting Office (GAO) report[1] noted that the federal government has no control over the use of illicit cards.

A December, 1980, GAO report[2] noted that cards are commonly counterfeited, stolen, or are peddled by federal employees. One spot-check showed 3 million person with two cards. Cards are called "Keys to the Kingdom" which virtually all illegal aliens can easily obtain.

In a report entitled "Keeping Undocumented Workers Out of the Workforce: Costs of Alternative Work Permit Systems",[3] it was noted that simple possession of a social security number should not be viewed as an indicator of legal presence in the country "because so many undocumented workers are found in possession of such cards, most of which are genuine, but secured fraudulently."

Confusion

Social Security Officials claim it is impossible for them to verify the legal status of every applicant requesting benefits or requesting a card. Yet this impossible task would be imposed on employers.

Genuine cards vary in shape, size, color, format, and age.

Many U.S. citizens have lost their cards.

Driver's license

Easy to Obtain

In certain states, citizenship is not required to obtain a license.[4]

Licenses can be interchanged among relatives and friends—a common practice within the illegal alien community.

Licenses can be easily duplicated.

Confusion

Many citizens do not drive and have no need for a license.

Does an employer accept a license from another state?

Certain states do not require a photograph on their driver's licenses.[5]

Alien documentation cards (green cards)

Easy to Obtain

Cards are sold openly in county fairs, grocery stores and other public places in this country and foreign countries.

"Coyotes" or illegal immigration smugglers provide "green cards" as part of their services.

A March 29, 1982 National Law Journal[6] story noted that one individual, operating a stolen car ring, was apprehended with 7,000 forged "green cards."

Cards are interchanged among relatives and friends.

Confusion

Though called "green" cards, some are green, other pink, others blue. Some have photographs taken when the immigrant was young—and is old now.

UNCERTAINTY FOR EMPLOYERS AND CITIZENS

In addition to the specific problems outlined, there are additional problems. For example:

Are those U.S. citizens who are unable to produce or obtain these documents precluded from employment?

Will some employers who are shown these documents but still have doubts on the legal status of a job applicant refuse to hire a person who is a U.S. citizen?

Because most employers cannot be expected to be experts in determining the legitimacy of an identification document, how will they know whether it "appears on its face to be genuine?"

It is important to emphasize at this point that the section 101 requirements would apparently apply to virtually every U.S. employer. The section makes it unlawful for "a person or other entity" to hire, recruit, or refer to employment an unauthorized alien. The term "person or other entity" is not defined. We must presume that the intent is to cover all employers, regardless of size and capacity to comply. Even casual employment, such as baby-sitters, would appear to be covered. We question the ability of the INS, which has primary responsibility for enforcing the employer sanctions, to carry out this responsibility in any effective manner.

ENFORCEMENT BURDEN RESTS ON EMPLOYERS

If an illegal alien is discovered in the workplace, a presumption will be made by INS officers that the employer has either knowingly hired that alien or that the employer has failed to check for documents that "reasonably appear" genuine.

It will be incumbent upon the employer to show that documents offered by an employee when the hiring occurred are, or appear to be, genuine. No guidelines are given on how an employer can meet this burden.

Further, an INS officer will not be able to distinguish between an employer that followed the verification process as contrasted to an employer that did not follow the process but has nevertheless filled out the forms indicating compliance. Again, the burden will be on the employer to show good faith compliance.

Only by the employer retaining the offered documents or by the employer photocopying these documents will the burden be relaxed.

Is it fair or practical for employers to request and hold social security cards or driver's licenses from their employees? Thus, for the overwhelming number of employers—if INS discovers an illegal alien in the workforce—a presumption will be made that the employer knowingly hired that illegal alien and the employer will be at a loss to offer immediate proof to the contrary.

This problem for the employer can be increased further since, under section 101, an appeal from an INS officers' penalty assessment will be made to another INS officer. As such, INS officers play an important role of police and jury in a highly subjective and unclear procedure.

This likely presumption that an employer knowingly hired an illegal alien simply because one is discovered in his work force is unfair.

Many companies have internal policies which restrict hiring to U.S. citizens or permanent residents. Unfortunately, because of a lax border enforcement, and because there is such widepread use of illegitimate documents, illegal aliens gain entry easily into the U.S. work force. As an example, public testimony and news stories have shown that illegal aliens have been found working as:

Prison guards at state correctional institutions

Cooks at U.S. military academies

Typists at Capitol Hill offices

Stewards at U.S. military installations

Janitors at the INS.

These employers presumably did not knowingly hire illegal aliens Thus, the presumption that an employer knowingly hires an illegal alien simply because one is discovered in the work force is both unfair and extremely difficult to overcome.

Experiences with well-intentioned laws such as the Occupational Safety and Health Act and the Equal Employment Opportunities Laws, has shown that some federal officials are more concerned with assessing civil fines than with achieving the stated objectives of the laws. These laws provide for government intervention in the workplace and for civil penalties if regulatory mandates are not followed. Section 101, with its technical penalties for failure to follow complicated verification and recordkeeping procedures, will lead to similar enforcement abuse.

POST TRANSITION PERIOD: A SECURE SYSTEM TO DETERMINE EMPLOYMENT ELIGIBILITY

Section 101 provides that, within three years after its enactment, the President "shall develop and implement a secure system to determine eligibility to be used with respect to all applicants for employment."

It provides further that such a system shall be designed to give personal information on individuals and that verification will be provided for eligibility to work. Although certain restrictions are put on the use of the verification system, no further explanation is given.

Thus, the system which Congress is asked to enact is undefined. The system with which the business community is asked to ultimately comply is unclear. The procedures which an employer will have to follow every time a person is hired in order to avoid a $500 fine are unknown.

Congress is being asked to approve an undefined system—no matter how burden-

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[1] "Impact of Illegal Aliens on Public Assistance Programs: Too Little Is Known," GGD-78-80, December 1, 1977.

[2] "Reissuing of Tamper Resistant Cards Will Not Eliminate Misuse of Social Security Numbers," HRD 81-20, December, 1980.

[3] "Keeping Undocumented Workers Out of the Workforce: Evaluation of Alternative Strategies," by David North, Center for Labor and Migration Studies, May, 1978.

[4] Most, if not all, states simply ask for identity, not citizenship. Thus, possession of a social security card will enable a person to receive a driver's license.

[5] According to the Driver's License Guide Company, Redwood, Calif., nine states (Maine, Mississippi, New Jersey, New York, Pennsylvania, Tennessee, Vermont, West Virginia, and Wisconsin) do not require a photograph or provide for licenses without a photograph.

[6] National Law Journal, Mar. 29, 1982, p. 29.

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some, no matter how unreasonable, it might turn out to be.

For example, if the system eventually provides for a national I.D./worker authorization card, it is unknown which agency will administer it. The Social Security Administration may be the most appropriate agency (i.e. by re-issuing "foolproof" social security cards), but this agency has been reluctant to assume the extra duties of INS enforcement. Or will the President create a new independent agency? At this point, we simply don't know.

The only guidance provided as to the ultimate system is by examining existing proposals. Perhaps the most relevant example, the "Immigration and Nationality Security Act of 1981" (S. 776) provides for:

A national identification/work permit card for every citizen and permanent resident in the workforce.

A federally run, computer data bank system to determine worker eligibility.

Under S. 776, employers, before hiring a job applicant, would have to make a telephone call to a regional government office requesting verification of employment eligibility. This would be handled by a computer hook-up and an electronic voice.

Absent this instant hook-up or verification (because of computer malfunction or other reasons), an employee of the federal government would most likely handle the phone call and provide the verification. A $500 civil fine would be imposed on any one failing to follow this procedure even if the person is a citizen.

EXPENSIVE AND UNWORKABLE

In earlier testimony before the subcommittees, the Attorney General estimated that the start-up costs for a national identification card would be between $860 million and $2 billion. The Chamber estimated that start up costs for the phone call-in system could be up to $2.5 billion. Thus, the range for starting the type of verification system outlined in S. 776 ranges from $860 million to $4.5 billion, with unknown continuing annual costs.

But, if past government cost estimates for adopting a similar I.D. card are any indication, we can reasonably expect that their will be substantial additional costs.

For instance, in 1977, the INS adopted a program to make a fool-proof alien "green" card projecting an estimated cost of $13 milion and a 7-year implementation plan. According to a GAO report,[7] as of November 1980, the card was behind schedule and costs had increased to $67 million, a five-fold increase in three years.

The system proposed by S. 776 would also run counter to the dynamic job-changing practices of our national work force. It would impact severely on certain industries and on certain localities.

Many industries are "project oriented" and thus experience a significantly high turnover rate. In the construction industry, with about 6 million workers, a labor turnover rate of 500% annually is common. In agriculture, a labor turnover rate of over 100% per quarter is common.

The U.S. Bureau of Labor Statistics does not have information on the exact figure on the number of job turnovers. Based on limited information, a labor turnover rate of 70 million annually may be a minimum.

If this system were enacted, the federal government would have to handle at least:

70 million phone calls per year;
192 thousand phone calls per day;
8 thousand phone calls per hour;
2.3 phone calls per second.

The phones of the federal government would never stop ringing, and there would surely be severe impacts on our economy.

Further, the system would impact severely on businesses in remote areas or with no access to a telephone. Unless an employer wishes to violate the law, a whole project might be unnecessarily delayed because an employee's identification card number has been forged or appears twice in the computer or simply because there is a busy signal on the telephone.

We don't know if a system like the one outlined in S. 776 would be the one adopted by the President. However, given the magnitude of the problems associated with such a system, is it reasonable to ask Congress to enact, and the business community to accept the unknown system proposed by Section 101? The answer must be no.

BILL IMPOSES FINES EVEN IF EMPLOYER HIRES ONLY U.S. CITIZENS

We must point out a technical section which will impose unjust penalties. It is probable that many employers would not know about or would not be able to utilize the prescribed verification procedures. Then, even if that employer hires only U.S. citizens, civil fines for violation of the employer sanctions law would be assessed, since the section ascribes strict liability.

It is also probable and most convenient for INS officials to neglect border enforcements and to request the records of employers to detect technical violations of the law. Then, as a measure of immigration control, the amount of penalties recovered would be the measuring gauge rather than the protection of our borders. A "successful" employer sanctions law would be operating while employers would be fined for hiring U.S. citizens.

For instance, a small business with 100 employees may, over the course of a few months, hire 10 people. If that business does not follow the prescribed procedures—a $5,000 fine can be levied even if all 10 new employees are U.S. citizens.

This section is illogical in its requirement, unreasonable in its demands, and irrelevant to the objective of controlling illegal immigration.

EFFECTIVE STEPS CAN BE TAKEN TO DEAL WITH THE PROBLEM OF ILLEGAL IMMIGRATION

Though we have concluded that an employer sanctions proposal cannot achieve its intended purpose, we nevertheless believe that certain actions can be taken that will assist the Federal government in gaining control over the illegal alien problem. We offer these recommendations now, in the spirit of a dedication to confront and solve the problem, and in addition to the recommendations which we expect to develop later this year when the National Chamber Foundation study is completed. We recommend:

Tightening the procedures for obtaining and for using border crossing passes.

Tightening the procedures for obtaining and enforcing student visas and tourist visas.

Increasing the capacity of INS to patrol the borders.

Exploring the extent to which increasing legal immigration or working visas can ease the pressures of illegal immigration.

Exploring the development of a broad program of voluntary business cooperation rather than relying on coercive sanctions.

Although shown to be successful when applied, these programs have never been tried on a coherent and broad basis.

TIGHTEN PROCEDURES FOR OBTAINING AND FOR USING BORDER CROSSING PASSES

Illegal aliens enter this country by either crossing the border illegally and escaping detection from INS officers or by crossing legally with a visa and violating the terms of the visa.

For Mexican illegal aliens, the most widely used visa for legal entry is the border crossing card (I-186 Form). This card permits entry into the United States, for business or pleasure, within 25 miles of the borders and for up to 72 hours.

Most Mexican illegal aliens who obtain the I-186, through legitimate means, enter this country, and immediately mail the cards to Mexico. Then, if they are arrested and deported, the border pass is waiting to be used again for easy entry. The border pass is also used by friends and relatives, or others wishing to gain entry to the United States.

Some Border Patrol officials believe that this method is used by a majority of Mexican illegal aliens. Another report estimates that this method is used for 70%–80% of all illegal entries.

In 1978, there were 103 million crossings from Mexico by aliens using these passes and crossing the border at key ports in the Southwest.[8] This compares with a Mexican population of 68 million.

These passes are good for the life of the holder and do not contain a date of entry or exit. If they did, mailing them back to Mexico would make them useless since they could be seized if presented for re-entry to the United States if no exit date were recorded. Increased personnel, and an automated system for recording, would be needed to enact a program whereby border passes identify the holder and have the date of entry and exit recorded. This kind of program could significantly reduce illegal entry.

INCREASE THE CAPACITY OF THE INS TO PATROL OUR BORDERS

Most illegal aliens who are apprehended are found in a 30-mile section south of San Diego, called the Chula Vista Sector, and in a 20-mile section at El Paso, Texas. However, helicopter reconnaissance, which has been shown to deter illegal crossings, has been impeded because immigration officials have lacked funds to buy gasoline. On the East Coast some seaports are left unpatrolled at night and illegal aliens enter freely by boat.

Right now, there are more police officers assigned to guard the Capitol and adjacent buidlings, then there are INS officers patrolling our borders.

The Border Patrol Supervisors Association estimated that an increase in its force, from 2,400 to about 6,000, would stop about 90 percent of illegal border crossings attempts. Border guards know when and where illegal border crossings occur, but lack proper resources to enforce the law.

This bill provides no funding for increased border enforcement. This alternative should be considered also.

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[7] "Prospects Dim for Effectively Enforcing Immigration Laws", November 5, 1980, GGD-81-4.

[8] *1978 Statistical Year Book of the Immigration and Naturalization Service*, U.S. Department of Justice, page 57, table 10.

[From the Wall Street Journal, Aug. 12, 1982]

EMPLOYERS AS COPS

Smallbusinessmen, watch out. A bill coming before the Senate floor would provide you with another regulatory nuisance, without solving the problem it is intended to solve.

The bill is Sen. Alan K. Simpson's Immigration Reform and Control Act of 1982 (a companion bill has been introduced by Rep. Romano L. Mazzoli). It is a complicated bill, with hundreds of provisions including amnesty for illegal aliens who arrived in the U.S. before 1982, as well as a long-overdue streamlining of asylum procedures. But the most important provision, in the view of the sponsors, would impose civil and criminal penalties on employers who knowingly hire illegal immigrants.

The idea is to shift onto businesses the burden of enforcing our immigration laws. The Immigration and Naturalization Service hasn't been very effective in policing U.S. borders or in making sure foreigners don't stay here after their visas expire. So, it is argued, the only way to stop illegal immigrants is to make employers responsible for denying them jobs. But, at best, employer sanctions won't work. At worst, they could be a regulatory nightmare like OSHA.

At first, under the Simpson bill, the obligations on business would only be a slight bother. Everytime someone is hired, the employer would have to fill out a form saying he'd seen at least two pieces of identification—Social Security card, driver's license, etc.—indicating legal residence. However, ID cards are easily forged: You can even buy U.S. identification in Tijuana or Santo Domingo. So this rule, while boosting paper and filing cabinet sales, would be completely useless in stopping the hiring of illegal aliens.

The real trouble would begin after three years, when the president would be authorized to introduce some kind of national identification system. The most common proposal is for something like the telephone checking system retailers use for credit cards: Before anyone could be hired, the employer would have to call up a government data bank to make sure the applicant's ID is genuine. A University of Michigan study in the mid-1970s estimated that there are about 70 million new hires a year—which translates into 7,500 calls every hour. If you've had any experience with the filing systems of the Social Security Administration or other government agencies, you can imagine how much fun it will be waiting for an answer.

Big companies would be able to adapt to sanctions. They already have personnel departments that make detailed investigations into job applications' backgrounds. They have copying machines and hordes of bookkeepers. They have expensive lawyers to make sure the company keeps out of trouble. Perhaps for these reasons, the Labor Management Committee of the Business Roundtable has endorsed the principle of employer sanctions.

But for small companies, without personnel or legal departments, and where the boss is scurrying around so much that he has to make snap hiring and firing decisions, the measure would be a real headache. Unless there is an OSHA-style inspection force ready to barge in on everybody's files, the incentive for most small businessmen will be to ignore the rules.

Even with the penalties, moreover, many businesses—particularly in construction, retailing, hotels and restaurants and light manufacturing—will still have an economic incentive to hire illegal aliens. Often this will be because the work is menial and Amercians won't take it. Sometimes it is because the illegal alien will work for lower wages. Perhaps the major reason is that these are businesses with high worker turnover where bosses must hire people instantly: A building subcontractor doesn't care where you're from when he needs concrete-pourers right away. It is no accident that the greatest number of illegal immigrants have been in the boom economies of Texas and California. Indeed, it is widely believed that both states' economies would have suffered if they hadn't been able to draw on illegal labor.

None of this is to suggest that illegal immigration isn't worrisome. A nation that prides itself on the rule of law can hardly be comfortable when millions of people are breaking the rules. But employer sanctions will not remove the incentives for illegal immigration. Even if they reduce the flow somewhat, the disruption they will cause in small businesses may make the cure worse than the disease.

EMPLOYER SANCTIONS

(The following occurred earlier:)

Mr. SYMMS. Mr. President, I ask unanimous consent that the remarks I am about to make and the article I intend to insert in the RECORD be printed in the RECORD at the proper place in the debate over the Tower amendment which deals with the subject of employer sanctions.

The PRESIDING OFFICER. Without objection so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Wall Street Journal dated August 12, 1982, entitled "Employers as Cops."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 12, 1982]

EMPLOYERS AS COPS

Smallbusinessmen, watch out. A bill coming before the Senate floor would provide you with another regulatory nuisance, without solving the problem it is intended to solve.

The bill is Sen. Alan K. Simpson's Immigration Reform and Control Act of 1982 (a companion bill has been introduced by Rep. Romano L. Mazzoli). It is a complicated bill, with hundreds of provisions including amnesty for illegal aliens who arrived in the U.S. before 1982, as well as a long-overdue streamlining of asylum procedures. But the most important provision, in the view of the sponsors, would impose civil and criminal penalties on employers who knowingly hire illegal immigrants.

The idea is to shift onto businesses the burden of enforcing our immigration laws. The Immigration and Naturalizaton Service hasn't been very effective in policing U.S. borders or in making sure foreigners don't stay here after their visas expire. So, it is argued, the only way to stop illegal immigrants is to make employers responsible for denying them jobs. But, at best, employer sanctions won't work. At worst, they could be a regulatory nightmare like OSHA.

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The real trouble would begin after three years, when the president would be authorized to introduce some kind of national identification system. The most common proposal is for something like the telephone checking system retailers use for credit cards: Before anyone could be hired, the employer would have to call up a government data bank to make sure the applicant's ID is genuine. A University of Michigan study in the mid-1970s estimated that there are about 70 million new hires a year—which translates into 7,500 calls every hour. If you've had any experience with the filing systems of the Social Security Administration or other government agencies, you can imagine how much fun it will be waiting for an answer.

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Even with the penalties, moreover, many businesses—particularly in construction, retailing, hotels and restaurants and light manufacturing—will still have an economic incentive to hire illegal aliens. Often this will be because the work is menial and Americans won't take it. Sometimes it is because the illegal alien will work for lower wages. Perhaps the major reason is that these are businesses with high worker turnover where bosses must hire people instantly: A building subcontractor doesn't care where you're from when he needs concrete-pourers right away. It is no accident that the greatest number of illegal immigrants have been in the boom economies of Texas and California. Indeed, it is widely believed that both states' economies would have suffered if they hadn't been able to draw on illegal labor.

None of this is to suggest that illegal immigration isn't worrisome. A nation that prides itself on the rule of law can hardly be comfortable when millions of people are breaking the rules. But employer sanctions will not remove the incentives for illegal immigration. Even if they reduce the flow somewhat, the disruption they will cause in small businesses may make the cure worse than the disease.

Mr. SYMMS. Mr. President, I rise in support of the amendment offered by the Senator from Texas (Mr. TOWER).

One of the biggest single concerns that the people in my part of the country—and I am talking about the

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Columbia Basin drainage, all the way from Yellowstone Park to the Pacific Ocean—are concerned with in this legislation is how we are going to have the employers enforcing this law without having racial or other kinds of discrimination take place.

Already it is very customary, Mr. President, in my State for agricultural employers to require application forms for people to fill out as to whether or not a person is a citizen, if not the alien registration number, and so forth. I think, after this legislation passes, we will probably find we may be doing this in our offices to protect ourselves unless an amendment would be made which deals with the criminal sanctions which will be imposed on employers.

Mr. President, I encourage my colleagues to heed very carefully the arguments made by the Senator from Texas on this. I think it would be a very beneficial program in this country to not try to have the small businessmen of America end up being the ones who have to enforce the immigration laws of the United States.

If an employee comes in, a potential employee, to a small business, farm, ranch, or small business on Main Street and applies for work, if they have some sort of identification, a social security card is primarily what they use today, but a social security card or some other acceptable form of identification and present that to the employer, and if the employer then would later be penalized or have charges brought against him, what may happen is that the small business employers, in order to protect themselves, will gradually start being less and less inclined to hire Americans with a Hispanic birthright.

I think that is a fact. It certainly is a fact of what is happening with the migration patterns in this country, people moving up from south Texas into the Snake River and the Columbia Basin area, the Yakima Valley in Washington State and the Wenatchee and Columbia drainage area where there are a great number of people working in hand labor who are Hispanic by their birthright.

I certainly encourage my colleagues to support this amendment and to read carefully the editorial of the Wall Street Journal of August 12, 1982.

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER. Did the Senator request the yeas and nays on the unprinted amendment numbered 1443?

Mr. SIMPSON. Yes, Mr. President, I do request them.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that my previous statement on the previous amendment be recognized as being in opposition to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I ask for the yeas and nays on the second amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I recall we laid aside the last Hayakawa amendment, and I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that that amendment be sequenced as we have previously agreed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I have a very brief comment on the Tower amendment on employer sanctions.

That amendment would gut the enforcement of the law prohibiting the knowing employment of illegal aliens. If the amendment were to pass, it would have an effect similar to having a free tax audit.

It would be as if a person were allowed to commit tax fraud without any possibility of penalty until after he was apprehended and ordered not to repeat the offense. In fact, because the amendment provides that the order can be terminated after 2 years, this cycle could be repeated. An employer could knowingly employ many illegal aliens over a long time, finally be apprehended and ordered to cease and desist, comply for 2 years, have the order terminated, then be safe to violate the section again without threat of penalty until caught again.

The substitution of a willful standard may be interpreted to mean that even if the employer knows he is hiring an illegal alien, if he can show that he does not prefer illegal aliens; that is, that he is indifferent to whether he hires an illegal alien or not, then he would not be violating the prohibition. Obviously, this would seriously weaken the law.

No improved verification system is required. Therefore, verification would be accomplished indefinitely by a showing of, first, a U.S. birth certificate or social security card, and second, a driver's license. The U.S. birth certificate and social security card are readily available in counterfeit form. Indeed a genuine birth certificate referring to another person can easily be obtained. With a birth certificate a driver's license can be obtained. This same criticism can be made of the transitional system in the bill, the difference is that the bill requires that a system without these flaws be developed and implemented in 3 years.

The amendment would make us of the verification system optional. This could lead to discrimination. He could require documents only from those who look or sound "foreign" to him.

I urge my colleagues to consider the amendment carefully. The amendment, indeed, would lead to some conclusions that I do not think would be appropriate in connection with this bill, and it has been resisted by several organizations of national stature.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to oppose the amendment by the Senator from Texas. This amendment would essentially render useless the employer sanction provision in the bill. The Wall Street Journal in its editorial yesterday called this provision a real headache, that strict employer sanctions will not remove the incentive for illegal immigration, that they will cause disruption in the workplace.

These types of arguments are real copouts.

Those who oppose employer sanctions admit that illegal immigration may be a problem but nowhere do they offer another solution.

They claim the incentives for illegal immigration will not be curbed by employer sanctions.

If those do not, what will? Do not illegal aliens come to this country to work? Our border with Mexico stretches for 2,000 miles; short of building a wall there is really no other solution to this problem.

It is important to remember that over half of the illegal population is Mexican. The rest consists mainly of student and tourist overstays and those who illegally enter through our harbors and airports. If the latter group changes residence, it is virtually impossible to track them down.

If strong workable employer sanctions are not imposed what will entice this other group to return home?

Claims are heard that employees will not comply with the law. Most Americans are law-abiding people. To say that businessmen are going to deliberately break the law is to insult them. In fact, though the chamber has come out against employer sanctions, both the Business Roundtable and the National Association of Manufacturers are supportive of these provisions. In addition, the Alliance for Immigration Reform, a group made up of large corporations such as Xerox, NCR, Ford, and Caterpillar, has been actively lobbying in favor of the bill.

That group has certain reservations about the bill in the areas of foreign students and independent immigrants, therefore it is not a blanket endorsement.

It should be pointed out that not all chambers oppose this legislation. For example, the San Diego and Houston chambers, both of which are areas heavily dependent on illegal labor, support employer sanctions.

More importantly, according to the Wall Street Journal, this bill is going to prove most burdensome to small employees. I point out that the NFIB's most recent poll of their members shows two to one support for employer sanctions.

As far as I am concerned, these arguments do not hold water and should be dismissed.

I urge defeat of the amendment.

Mr. SIMPSON. Mr. President, I believe the Senator from Minnesota seeks recognition. With the approval of the Senator, I ask unanimous consent that on this amendment there be a time agreement of 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1244

(Subsequently numbered amendment No. 2028.)

(Purpose: To prevent the transfer of unused visas from one contiguous foreign state to the other contiguous foreign state)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an unprinted amendment numbered 1244.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, lines 9 and 10, strike out "(or the number determined under subparagraph (C))".

On page 124, line 25, insert quotation marks and a period immediately after the period.

On page 125, strike out lines 1 through 8.

Mr. BOSCHWITZ. Mr. President, I enter this amendment on behalf of myself and the distinguished Senator from Kentucky (Mr. HUDDLESTON). This amendment would conform the Senate bill to the House bill with respect to the transferability of numbers between Canada and Mexico.

I have agreed with my friend and colleague, the distinguished junior Senator from Wyoming, on most aspects of the immigration bill and have congratulated him time and again for the great work that he has done on the bill, and so it is with great reservation that I disagree with him in this particular area.

Mr. President, each country is entitled to 20,000 entrants each year as a maximum with two exceptions, and each exception is a country that borders us: One to the north, Canada, and one to the south, Mexico.

In those two instances, Mr. President, the maximum is not 20,000 but 40,000, and it is not that that we are addressing. That we understand. They are our neighbors. There is a greater interrelationship between our peoples than perhaps other countries, so a larger number is quite properly in order.

However, in the event the 40,000 is not used by one of those two countries, the numbers that remain available would be transferable to the other country. As an example, if only 10,000 Canadians choose to come south to the United States in a given year, then 70,000 Mexicans would be entitled to legally come to this country.

Mr. President, it is that that we are seeking to change by this amendment, not to make those numbers transferable. We have done a great deal in this bill for our friends from Mexico. We are making legal a very large number of people either in a permanent or temporary status in this country in allowing them to stay. I am not quite sure how many hundreds of thousands of people are involved, but certainly this bill has to be regarded as an enormous gesture of our friends from Mexico. It is, indeed, quite correct in so doing, and it is, indeed, quite correct in its effort to control the flow of people across our borders because, as the Senator from Wyoming has so correctly stated to me on a number of occasions, one of the first duties that a country owes to itself is to control its borders.

The number of immigrants in this country who have come from countries other than Mexico is very large. I am not sure whether the Senator from Wyoming is familiar with the numbers, but it seems to me that the number of immigrants who now live in this country and who have come from countries other than Canada or Mexico is certainly far larger, much larger, than the number of immigrants who have come from those countries.

To give those two countries such a large, disproportionate share of the total number of immigrants that we allow into this country, in my judgment, does not represent equity. We will allow a total of 350,000 immigrants in under the various preferences; 80,000 of those would be attributable and assigned to only two countries—Mexico and Canada. All other countries would have the remaining 270,000, and any other country would not be allowed to have immigrants to this country in excess of 20,000.

Mr. President, it is not equitable that one country have perhaps as many as 80,000 and all other countries of the world be limited to just 20,000.

Again, this is not an effort to penalize any of our neighbors. That is not the neighborly thing to do, of course. This bill deals very fairly, very expansively, with our neighbors, particularly our Mexican neighbors.

Mr. President, that is the sum and substance of the amendment—that the 40,000 cap be maintained for both Canada and Mexico, a cap that is twice as large as the cap for any other country in the world, but the transferability between those caps be disallowed, so that in the event one of those countries does not use the entire 40,000, what they do not use will not be transferable to the others, but what they do not use will apply to every other country of the world.

I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, regretfully, I will resist this amendment by my good friend from Minnesota—and that is not a hollow statement. He is a delightful fellow. His pin number is one higher than mine in this body, and he continually reminds me of that fact. He recalls that I am simply number 65 and he is number 64, something of that nature.

Mr. BOSCHWITZ. Mr. President, if the Senator will yield, I believe it is 65 and 66.

Mr. SIMPSON. Whatever, it is one below.

Mr. President, I will be very brief.

There were no per country ceilings for Mexico and Canada until 1976. The policy that we emphasize here recognizes a very special friendship, relationship, and proximity that we have with our contiguous neighbors in trade and mutual strategic interests and commitment to democratic principles.

By allowing the unused numbers of one of these contiguous neighbors to go to the quota of the other, we will be reducing the pressure for illegal immigration while recognizing this very special, sensitive relationship we have with our neighbors, and it will relieve the backlogs with those countries. These things come from my visit with Mexican officials—the President, the President-designate, and others—that they are very pleased at this special recognition of a special privilege. And that is what it is; that is what it is provided for. That is why it applies only to Canada and Mexico. But the historical flow would show that Mexico will most benefit.

I reserve the remainder of my time.

Mr. BOSCHWITZ. Mr. President, I wish to note that the distinguished Senator from Kentucky (Mr. HUDDLESTON) and I have been on opposite sides in most of this immigration bill, that on this particular amendment we are together, that we recognize the very special friendship we have with

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our neighbors, both Canada and Mexico, about which my friend from Wyoming speaks.

As a member of the Foreign Relations Committee, I am aware that we have very special friendship with many countries throughout the world but have not given them attention of an extraordinary sort in this bill. Throughout this bill, we have given extraordinary attention and consideration to our friends from Mexico.

I recognize that the chairman of the Immigration Subcommittee, Mr. Simpson, has had conversations with the Mexican Government. Yet, I must respectfully defer. Whether or not it impacts on illegal immigration, I must also contest, because an illegal immigrant does not worry or think about quotas, anyway, and whether or not they are going to come here in large numbers will be protected, as the Senator well knows, by the employer sanction rather than by a quota of one type or another.

The distinguished chairman talks about relieving the backlog. I believe the backlogs from other countries are as high as or higher than the backlog for Mexico, and as such, they, too, need some consideration.

So I must respectfully take another view from that of my friend and join Senator Huddleston in proposing this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, just one comment. The purpose of the amendment is to reduce the backlogs, 85 percent of the Mexican people in the backlogs already reside in the United States. I know that is curious, but that is true. This would simply reduce those backlogs, and it would be of great assistance to us in reducing the pressure for illegal immigration.

I yield back the remainder of my time.

Mr. BOSCHWITZ. I yield back the remainder of my time.

Mr. GRASSLEY. Mr. President, I rise for the purpose of making a statement in regard to the fact that I was going to offer an amendment on the subject of law enforcement. I am not going to offer that amendment, and my statement gives an explanation.

My amendment, to permit cooperation between the Immigration and Naturalization Service and State and local law enforcement agencies, was accepted by the immigration subcommittee, but deleted during full committee consideration of the bill.

I have discussed this amendment with the Senator from Wyoming and other Senators, with the administration, especially the Department of Justice and the INS, and with many organizations interested in the proposal. As a result of these discussions and extensive legal research into the questions addressed by my amendment, I now believe that the activities which my amendment is intended to foster can be conducted without limitation under current law. Both administrative opinion and case law indicate that cooperation between Federal immigration officers and State and local law enforcement officials is not only permitted, but is considered useful and should be encouraged.

My intention when I offered this amendment was to clarify a confused situation in which State and local law enforcement agencies were unsure as to their liability if they cooperated with Federal immigration officers. Legal authorities in several States indicated that the situation was so unclear as to preclude any cooperation, not from fear of doing wrong, but because they did not know where the limits to their actions, if any, would lie. I sought to ameliorate this chilling effect.

I first looked at this situation to determine if there was a substantial difference of legal opinion. I was surprised to find the reverse, a substantial uniformity of legal opinion. The current case law involved in this area is fairly complete. Congress power over immigration is plenary and without substantial restriction. The case of Carlson against Landon (1952), provides such an analysis. Historically, State and local officers have been able to enforce criminal violations of immigration laws. See Testa against Katt (1947). Although Federal power preempts State and local power over immigration, as in the case of Hines against Davidowitz (1941), the Supreme Court, in DeCanas against Bica (1976), has held that a State may exercise its police powers to protect its citizens from the effects of immigration.

Perhaps more important, the Supreme Court, just a few weeks ago, in Pyler against Doe, the Texas school case, held that a State may protect its citizens against illegal immigration so long as its actions are consistent with Federal law. On page 22 of the opinion, Justice William Brennan, a staunch supporter of civil rights, says:

> As we recognized in *De Canas* v. *Bica*, 424 U.S. 351 (1976), the States do have some authority to act with respect to illegal aliens, at least where such action mirrors Federal objectives and furthers a legitimate state goal.

And on page 27, Justice Brennan writes that:

> Although the State has no direct interest in controlling entry into this country, that interest being one reserved by the Constitution to the Federal Government, unchecked, unlawful migration might impair the State's economy generally, or the State's ability to provide some important service. Despite the exclusive Federal control of this Nation's borders, we cannot conclude that the States are without any power to deter the influx of persons entering the United States against Federal law, and whose numbers might have a discernible impact on traditional State concerns.

Clearly, then, the Supreme Court, the highest judicial body in the land, recognizes the value of such cooperation and holds that it is permissible.

Perhaps the only real difficulty in this area arises from a directive issued in 1978 by then-Attorney General Griffin Bell. The Bell directive established the policy of the Carter administration that Federal-State cooperation in this area was not to be encouraged, and should not be viewed as desirable by that Justice Department leadership. In my conversations with Attorney General William French Smith and his staff at the Department of Justice, I have found a much more positive impression of cooperation between State and local and Federal authorities. I have been assured that Commissioner Nelson and Attorney General Smith will immediately begin a review of the Bell directive in order to correct the misimpression it has created that cooperation of any kind between Federal, State, and local law enforcement authorities in the area of immigration is unhealthy and in order to foster legitimate efforts to better coordinate these resources.

Therefore, with these legal and administrative authorities from the highest judicial and law enforcement levels, I believe that my amendment is no longer necessary to clarify a previously cloudy area. The activity on this issue has provided sufficient guidance to State and local legal authorities to allow them to know where they stand on cooperating with the Federal Government.

Mr. President, with that understanding of this complex and heretofore obfuscated issue, I will not offer my amendment. I thank my colleagues.

UP AMENDMENT NO. 1245

Mr. SIMPSON. Mr. President, I send to the desk a final amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Wyoming (Mr. Simpson), for Mr. Kennedy, Mr. Chafee, Mr. Tsongas, Mr. Bradley, and Mr. Brady, proposes an unprinted amendment numbered 1245.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

> On page 127 beginning with the quotation marks on line 11, strike out all through "United States" on line 24 and insert in lieu thereof the following:
>
> "(1) Aliens who are members of the professions holding Doctoral Degrees or Aliens of Exceptional Ability.—Qualified immi-

grants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

Page 147, after line 6, insert the following new paragraph:

(4) by inserting before the period at the end the following: "; *And provided further*, That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and who is applying for a visa as an immigrant described in section 202(b)(1), up to a limit of 1,500 such waivers per year, for aliens who have been offered a position on the facility os such institution teaching in the field in which he obtained such degree, and 4,500 such waivers per year for aliens who have been offered a research or technical position by a U.S. employer in the field in which he obtined such degree, or

(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof."

2. Page 147, line 3, strike out "and".

3. Page 147, line 6, strike out the period and insert in lieu thereof, ", and".

Page 166, after line 10, add the following new subsection (f) to Section 401:

"(f) a report on the need for qualified immigrants under section 202(b) of the Immigration and Nationality Act:

Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs 1 and 2 of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States.

● Mr. KENNEDY. Mr. President, the amendment I am offering—cosponsored by Senators TSONGAS, CHAFFEE, BRADLEY, and BRADY—is designed to correct some unfortunate limitations contained in this bill on the ability of certain highly trained foreign students to adjust their immigration status without leaving the country for 2 years. The amendment also seeks to restore the language of existing law on the terms governing the admission of professionals, managers and executives.

As drafted, this bill would require all future foreign students to leave the United States for 2 years before they can adjust their immigration status—except if they marry an American citizen. I believe this is too restrictive, especially in areas such as engineering, computer sciences, and other areas of high technology, where the United States if facing critical shortages in industry and in teaching.

It is contrary to our national interests to force students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to leave the country.

It also ignores the current reality that such qualified students do not return to their homes in the Third World or elsewhere, but simply move to Japan or to Europe and use their skills to help those nations compete against the United States. It makes no sense when our universities and businesses are starved for scientific talent, for the United States to train engineers or computer specialists at M.I.T. for jobs in Germany.

My office has been deluged by letters from American universities, research institutions, and companies, documenting in very persuasive terms that this change in student visas would be contrary to our national interests.

Mr. President, the numbers of students involved is apparently very small—although the Immigration Service does not have precise statistics. But only approximately 5,000 foreign students adjust their immigration status to other than family reunion preferences. That is hardly a "brain drain"—yet it represents an important pool of talent in the high-technology, teaching, and research fields.

I have been willing to reach a compromise on this amendment—to establish a numerical limit of 5,000—with a requirement for a study within three years to determine what changes should be made in the future. However, I have not been willing to narrow or limit the kinds of students who can adjust beyond the high professional standards contained in existing law for third preference—or the new independent categories contained in the bill. Any such limitation would be arbitrary and not based upon any thoughtful review of the needs of industry or the academic world.

The revised amendment I am offering establishes a ceiling of 5,000, requires a thorough and independent review of the program, and restores the existing law on the standards contained in the first and second preferences on the admission of professionals in the new independent immigration category.●

● Mr. TSONGAS. Mr. President, I rise in support of Senator KENNEDY's amendment to the the proposed Immigration Reform and Control Act. A provision of the bill would require foreign students to return to their home country for 2 years after completing their studies before they could become eligible for immigration to the United States. It is this provision that Senator KENNEDY's proposal would amend.

The provision is intended to limit the "brain drain" from developing countries into the United States. In effect, however, it is more likely merely to divert talented individuals away from United States employment and toward jobs in Europe and Japan.

By excluding these persons, we would deny American industry and academia talent that it sorely needs. With America's rate of economic growth falling behind the level prevailing in many other countries, we are gambling dangerously with our future if we deter foreign students of exceptional merit from settling here.

Further, the bill in its present form would be counterproductive to the continued health and future growth to the high-technology industry in this country. High technology companies in Massachusetts, for example, employ 250,000 persons, one-third of the State's manufacturing labor force, and had sales last year of $19.5 billion, according to the Massachusetts High Technology Council. The high-technology business, particularly in electronics and computers, pits the United States against Japan, West Germany, and several other countries in what is a keen international competition for limited markets. Foreign-born graduates who remain in the United States help us to compete. If barriers are erected against their participation, the United States suffers in lost technological innovation and productivity.

Senator KENNEDY's amendment would amend S. 2222 to permit students of exceptional merit and ability—those who could contribute to essential academic, professional and industrial programs—to remain in the United States without leaving for 2 years. This proposal is eminently sensible.

Already in some areas of the high tech industry, there is a shortage of engineers and highly qualified workers. And the problem is likely to grow more acute. For instance, a survey conducted by the American Electronics Association projects a need for 200,000 electrical/electronic and computer science engineers by 1985. But it also

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projects a shortfall of 20,000 annually in the number of U.S graduates that will be available for these jobs.

Currently, newly graduated foreign students are an important source of faculty for American colleges and universities, particularly in engineering and computer science. With over 1,600 faculty positions in these fields now vacant, there is a critical need for qualified teachers to fill the void. The president of the American Council on Education, J. W. Peltason, puts the point this way: "If our institutions are unable to utilize these students as faculty, America's ability to educate the next generation of scientists and engineers will be severely hampered."

For these reasons, Mr. President, I urge passage of the amendment providing a waiver of the 2-year return requirement for those qualified graduates whose talents are needed by U.S. industry and academia.●

● Mr. CHAFEE. Mr. President, many of our universities rely on foreign graduate students to fill teaching positions in areas such as engineering and computer sciences when American graduate students are not available to fill those positions. For example, Brown University in my home State of Rhode Island has been hiring foreign graduate students over the last few years to fill teaching positions in the field of computer science. Thus, Brown and other academic institutions across the country are concerned about the provision in S. 2222 which requires all foreign students to return to their countries for 2 years upon completion of their education unless they marry an American citizen.

I share the universities concern and I believe that the provisions of S. 2222 affecting foreign students of exceptional merit are too restrictive. Therefore, I support the amendment proposed by the distinguished Senator from Massachusetts, Mr. KENNEDY, which would permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in the country upon completion of their education. The adoption of this amendment is essential to help our universities deal with the problem of critical shortages of teachers in high technology areas and I urge the adoption of the amendment.●

● Mr. BRADY. Mr. President, I urge my colleagues to support amendment No. 1956 offered today by Senator KENNEDY to S. 2222, the Immigration Reform and Control Act. Without Senator KENNEDY's amendment, S. 2222 will impede the research, technological, and economic interests of the United States. S. 2222, as it stands, will deprive the United States of highly skilled professionals needed in industry and universities and deprive the American economy of the professional mobility and development in high technology fields which have been its hallmark.

If unchanged, S. 2222 would reorganize the preference system to create a first preference for independent immigrants limited to persons of "exceptional ability." The INS in practice, has interpreted this phrase to mean primarily persons holding Nobel prizes and similar international honors. Obviously we wish to continue to attract and admit such persons; however, it is essential to industries and universities to be able to train and develop younger scientists of extraordinary promise. It is well-known that outstanding achievements in the mathematical and science fields, in particular, occur early in the careers of talented youth. If unchanged, the bill would necessarily deprive the the United States of the benefit of these important early achievements. Senator KENNEDY's proposals would allow the United States to continue to attract and hire these younger outstanding individuals.

A second part of the Kennedy amendment would provide flexibility in the requirement that all foreign students return to their native countries following completion of their studies. This provision is crucial to both universities and industry. According to the American Electronics Association, U.S. electronics and other high technology firms face a serious shortage of engineers. Because aerospace and defense industries may hire only U.S. citizens, foreign Ph. D. graduates represent a major pool for universities and nondefense industries.

Additionally, American-trained Ph. D's serve to supplement science and engineering faculty at U.S. colleges and universities. The United States currently is experiencing a shortage of 1,600 to 2,000 faculty members in the fields of engineering and computer science alone. Foreign students are needed to train urgently needed American engineers and computer specialists.

According to the National Science Foundation, 70 percent of foreign science and engineering doctorate recipients leave the United States at the end of their studies. However, those students who remain in this country are an important supplement to the American-born graduates.

Mr. President, I support this amendment, and urge all Senators to join me to make it possible for us to maintain the preeminence of American science and technology.●

Mr. SIMPSON. Mr. President, I have cleared this with the minority and move the adoption of the amendment. It has to do with special recognition of high-tech and professional personnel, including professors, and including the important reservoir of highly skilled persons in high-tech industries. However, I have serious reservations concerning many aspects of the amendment. Senator Kennedy shares some of my concerns. We accept the amendment now, but shall examine its provisions carefully in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1245) was agreed to.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the bill itself at the time set under the unanimous-consent agreement for S. 2222.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent to make conforming and technical amendments to the various amendments presented today and yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent to have printed in the RECORD the order of the voting on the amendments Tuesday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hayakawa Amendment No. 1907.

Hayakawa Amendment No. 1908.

Hayakawa Amendment No. 2019.

Simpson motion to table Helms Amendment No. 2024.

(If tabling motion fails)—vote on Helms Amendment No. 2024.

Vote on Hayakawa Amendment No. 2025.

Vote on Tower Amendment No. 2026.

Vote on Tower Amendment No. 2027.

Vote on Boschwitz Amendment No. 2028.

Third Reading.

Vote on passage.

Mr. SIMPSON. Mr. President, I shall take 1 minute to thank very sincerely the ranking minority member of this subcommittee, Senator TED KENNEDY, for his attendance throughout; Senator THURMOND and his very capable staff, particularly Eric Hultman; Senator GRASSLEY and Ally Milder, his assistant; Jerry Tinker, who has been a most remarkable minority counsel of the subcommittee; Senator DECONCINI, the remaining member of the subcommittee and his capable person, Ed Baxter; and on my own behalf to Dick Day, the chief counsel and staff director of this subcommittee who I took away from a nice law practice in Cody, Wyo., for this, and he will never recover; and to Chip Wood, Donna Alvarado, Arnold Liebowitz, Tina Jones, Frankie DeGooyer, Avelina Sabangan, and Ellen Hughes of the subcommittee. I offer my profound thanks.

Mr. STEVENS. Mr. President, we are all indebted to the distinguished Senator from Wyoming for his perseverance in handling this bill.

It is my understanding now that no further amendments to this bill are in order after today. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, before we conclude our debate on immigration issues, I want to note some immigration problems confronting some Americans and permanent residents at the American University of Beirut.

Within just the past 10 weeks, when AUB has faced so many other trials, it also has been confronted with a threat to its faculty by the regulations of the Immigration and Naturalization Service.

As an American university serving the Middle East, AUB places high value on a faculty which is rooted both in the American educational tradition and in the Middle Eastern cultural milieu. This balance is achieved by maintaining a significant number of faculty members who are Middle Easterners who have earned their advanced degrees in the United States and who have major employment experience here as well. Many of these individuals have strengthened their U.S. ties even further by obtaining permanent resident status or by becoming naturalized citizens.

For those Middle Eastern faculty members who are not already naturalized citizens when they leave the United States to teach and conduct research at AUB, two problems arise:

First, they are prevented, by their necessary absence from the United States, from meeting the continuous residency requirement and therefore becoming eligible for naturalization; and

Second, they risk forfeiting, through their extended absences, the very resident alien status which provides their strong cultural link to the United States and assures them the possibility of applying for citizenship at a later date.

Some 50 or 60 members of AUB's faculty, or approximately 12 percent, are confronted with these problems. This poses a serious threat to the university since these individuals' ties to the United States are sufficiently strong that they will resign their professorships to return to the States rather than abandon their U.S. residency and the prospect of citizenship.

On May 23 of this year, Dr. Khalil Abu Feisal, chief of staff of American University Hospital, was required by immigration officials at New York's John F. Kennedy Airport to forfeit his green card. Dr. Abu Feisal had come here to recruit new medical faculty. The irony, Mr. President, is immense. This man, whose dedication to service and training in Beirut is contributing immeasurably to the American image in the Middle East, finds himself undercut in the very task of trying to find others to render the same service. I might add that while awaiting an administrative hearing on his case, Dr. Abu Feisal returned to Beirut and has been endangering his own life for the past 2 months in order to help care for wounded in the current fighting.

Yet more recently, on August 2, Dr. Bashara Faris, the head of AUB's Department of Ophthalmology, had his green card confiscated when he landed in New York. Dr. Faris is the only doctor in Beirut skilled in laser techniques for reattaching the eye's retina. He had come to the United States for 2 months of research at Boston's famed Eye Research Institute. I can assure my colleagues that his expertise is in very high demand here. He would have no difficulty staying. Yet he wants to go back to serve American medicine in the Middle East. But he will not do so if the condition for getting his green card back is that he remain.

I hope these cases make plain that pursuit of present policy by INS will cause American intersts in the Middle East to suffer substantially. All the 50 or 60 faculty members in question much prefer to continue at AUB. But their American ties are also important to them, and the security situation in Lebanon over the past year—and especially over the past 2 months—has underscored for them the value of their present ability to return to the United States.

If these dedicated people are required to give up their appointments at AUB in order to preserve their permanent resident status, AUB simply will not be able to continue in anything like its present form. A 12-percent faculty reduction would be devastating. The likelihood of recruiting large numbers of new faculty is more than remote given the current situation in Lebanon. Moreover, precisely the type of faculty member desired—those of Middle Eastern heritage with American educations and cultural ties—would be impossible to obtain.

To threaten AUB's continued existence in this way is not only a shame, it is contrary to American policy interests. At this very moment, the Agency for International Development is consulting with AUB about how the expertise of its faculty can be used in the reconstruction of Lebanon, once the fighting finally ends. And this is only the latest example of the immensely important role AUB plays for us in the Middle East. For years the university has been America's best face forward in the Arab world, and this fact has long been acknowledged by the U.S. Government.

Mr. President, I do not believe the legislation before us today is the appropriate place to deal in a definitive way with AUB's problem. But I do feel a legislative solution to this situation may be required at an early date. In the meantime, I call upon the Immigration and Naturalization Service to reexamine the manner in which it is implementing the current statute with respect to AUB faculty members. Taking into account American policy interests in the Middle East, I believe it would be fully appropriate for INS to call a moratorium on the further confiscation of green cards from AUB personnel until such time as the Congress has had the opportunity to give this matter its attention. In the absence of such a change in policy implementation, the Service threatens to cause a major faculty exodus from an institution which now more than ever is important to American interests.

THE ARMENIAN PEOPLE

Mr. LEVIN. It is important in the context of this debate on immigration reform to look back at U.S. commitments to the Armenian people, victims of the first genocide of the 20th century.

American concern and support for the Armenian people go back to our extensive missionary presence and charitable work in Armenia in the 19th century. But official American dealings with the Armenians have consisted of broken promises and nonaction. During the terrible massacres of Armenians in 1894 and 1895, President Cleveland declined to protest to the Turkish Government, although he was asked to do so by both the House and the Senate. After the massacres and deportations of Armenians in 1915 and 1916 American public support for Armenians was even greater.

In President Wilson's "14 Points" speech of January 8, 1918, he called for a "free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principal that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined." His 12th point stated, "* * * the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absoultely unmolested opportunity of autonomous development * * *". Justice to small nations became the American theme for a negotiated peace.

After the armistice ending the war with Turkey was signed October 31, 1918, the Armenians of Turkey declared their independence. The Armenian contribution to the allied cause had been substantial for such a small nation. There was every reason to suppose that when the Allies met in Paris, Armenian independence would be recognized.

By the end of the war, the mandate system, under which a small nation was put under the temporary guidance of a more advanced nation to prepare it for self-government, was increasingly accepted as allied policy. Armenia desperately needed protection and guidance. Armenia's population had been decimated by massacres, the survivors relocated, and the countryside devastated. The United States was widely assumed to be the logical choice to be Armenia's "mandatory," or protector, which President Wilson favored. He wrote to the head of the Armenian Committee for the Independence of Armenia on February 14, 1919, "* * * I beg that you will assure the committee that I shall be as watchful as possible to do my utmost on Armenia's behalf." In a speech in Boston on February 24, 1919, President Wilson asked, "Have you thought of the sufferings of Armenians? You poured out your money to help succor the Armenians after they suffered. Now set up your strength so that they will not suffer again."

The Treaty of Versailles, signed June 28, 1919, accepted most of President Wilson's "14 Points" as the basis for peace, including the principle of the independence of nations. Throughout late 1919 and early 1920, the American Government received thousands of resolutions and appeals on behalf of Armenia from citizens and organizations. The Allies, completing work on the Turkish treaty, asked the United States to accept the mandate responsibility for Armenia. On August 10, 1920, the Treaty of Sevres, making peace with Turkey, was finally signed. It was guaranteed the creation of an Armenian state. But on September 13, 1920, Turkish Nationalists armies invaded Armenia, and Armenia appealed to the League of Nations for admission to membership and defense help. The League rejected the pleas. Although President Wilson offered his personal mediation, Armenia was forced to sign an armistice which left part of Armenia under the control of the Turkish Nationalists. On December 2, 1920, the rest of Armenia was officially declared a Soviet republic.

The 1923 Treaty of Lausanne reversed the Treaty of Sevres in nearly every respect, and the status of minorities in Turkey was restored to what it was before World War I, which meant it was entirely up to the Turkish Government.

All through the drawn out peace process, the United States repeated that we would "do something" for Armenia, and yet we procrastinated and in the end did nothing. Because it was seen as our responsibility, none of the other allies did anything to help the Armenians, and the separate, independent nation of Armenia became another of history's broken promises. We had led them to believe that we would not abandon them, but in the end, we did. The dream of a free Armenian nation for the heroic survivors of the persecuted people was frustrated just at the time when it looked like it would at long last become a reality.

This history alone creates a compelling, continuing moral commitment by the United States to the Armenian people. Armenians today are scattered throughout the Middle East—in Turkey, Iran, Lebanon, Iraq, and the Soviet Republic of Armenia. In some areas, their unique culture identity is being systematically repressed by institutionalized discrimination against Armenian schools and churches. At present, the only way for most Armenians to come to the United States is through the preference system, based on family reunification. Since many do not have families here, they are unable to emigrate. Although there is an Armenia in the Soviet Union, it is not a free and independent nation. And some Armenians are trying to get out. In fiscal year 1981, 4,077 Armenians from the Soviet Union came to the United States. The numbers are down now, because of our strained relations with the Soviets, so it is unclear how many Armenians would emigrate if they could.

I am concerned that repression against Armenians could worsen in many of these countries. I would ask my friend Senator SIMPSON, as chairman of the Subcommittee on Immigration and Refugee Policy, if it is his intention that the State Department and the Immigration and Naturalization Service be specially sensitive to our unfulfilled commitments to the Armenian people when criteria are determined and applied for allowing refugees into the United States under the pending act and existing laws.

Mr. SIMPSON. I thank my fine colleague, Senator LEVIN, for raising this important issue today. I greatly appreciate Senator LEVIN's bringing to our attention the plight of the Armenian people.

I assure my colleagues that as long as I am chairman of the Immigration Subcommittee, I will do my best to make certain that this situation is not forgotten when discussions take place of which persons should be considered refugees and which refugees should be admitted to the United States.

Mr. CHILES. Mr. President, 2 years ago, my State was the point of entry of an uncontrolled influx of thousands of refugees from Cuba and Haiti. In just 5 months, 125,000 had arrived requesting political asylum in the United States. Mixed among those were hardened criminals, mentally ill people, and others, who should never have been allowed to enter the United States. American citizens, anxious to rescue Cubans from the repressive Castro regime, provided the transportation for the refugees. They left with lists of relatives provided by Cuban-Americans. But they returned with those who Castro chose to release. Today, there are still 1,227 Cubans in the Federal penitentiary in Atlanta who are being held because of the serious crimes they committed in Cuba.

The city of Miami was quickly overwhelmed by hungry, impoverished refugees. Meanwhile, the Federal Government, uncertain of its role in such a crisis, delayed taking the decisive steps necessary to control the influx. Refugees were released into the community without sponsors, food or housing. Tent cities and temporary shelters arose to accommodate them. Jackson Memorial Hospital, the county hospital in Dade County, was overrun by refugees seeking medical care.

In the early days, it was the State and local governments, not the Federal Government, that provided for the refugees. Thoughout the crisis, the Federal Government was placed in a position of reacting, rather than actively controlling the situation.

Mr. President, I am sure that no one here wants to be confronted with another crisis of this kind but, as Thomas Enders, our Assistant Secretary of State, has pointed-out, we cannot rule out the possibility of such large scale immigration emergencies in the future. And that possibility becomes more concrete when we remember that the Cuban Government has already shown itself capable of such cynical manipulation in the past.

Just prior to the Mariel crisis, Secretary Enders noted that the United States had signals which indicated that a mass migration from Cuba to Florida was about to occur. Unfortunately, because we did not have a contingency plan ready to be put into place, we were unable to take any steps to control the situation which we knew was about to occur. Had some sort of plan been in place, the United States could have determined what persons would be allowed to enter. Because we had no plan, Castro was able to control the situation. And the end result, instead of an embarrassment for Castro, was an opportunity for the Cuban Government to empty its jails and mental institutions, and to force the United States to accept the dregs of his society as the price for allowing legitimate refugees to file from his oppressive regime.

Had a contingency plan been in place, I do not believe that Castro would have even tried to do what he did. But he recognized that the U.S. Government had no way to control the course of events. A contingency plan will help deter such events from occurring, and clearly state the U.S. determination to control its borders. Secretary Enders underscored the importance of this notion of deterrence when he testified in support of a contingency plan before the Senate Judiciary Committee. He said:

> Castro, and the Cuban people, must be in no doubt or uncertainty about the nature of

our response to a new Mariel. If they believe we are unprepared to handle an illegal immigration emergency; if they believe we will waver between attempting to stop the migration and welcoming it; if they believe we will in the end welcome the arrivals and resettle them in American communities, then the temptation to deal us another blow will be very great.

Mr. President, I agree with Secretary Enders that it is absolutely essential that the U.S. Government make it clear that we have both the determination and the tools to prevent another Mariel from occurring in the future. That means that it is imperative that the U.S. Government act now to put into place a contingency plan that can be put into effect should we be confronted with the possibility of another mass immigration crisis.

In this regard, I am not alone in calling for prompt action to establish a contingency plan for immigration emergencies. Last year, when the administration unveiled its immigration reform package, it called for establishing just such a contingency plan. In April of this year, just before S. 2222 was marked up by the Senate Judiciary Committee, the administration reiterated its belief that a contingency plan must be an essential part of any meaningful immigration reform effort. In testimony before the Judiciary Committee, Attorney General Smith stated:

> It is our firm judgment that there remains a serious need to provide the President with special legal authorities in the event of a declared immigration emergency. These provisions can be drawn carefully and narrowly so as to minimize the disruption of normal and legitimate activities. We need not sacrifice our liberties in the pursuit of preparedness for an immigration crisis. But neither can the Government responsibly limp along with the legal authorities that proved so painfully inadequate during the Mariel boatlift.

Mr. President, the administration submitted a specific proposal that carefully defined the way in which the executive branch could excise its authority to deal with any future immigration crisis. The Judiciary Committee did not see fit to include that proposal when it dealt with S. 2222. I had planned to offer the administration's proposal as an amendment to S. 2222.

However, I have been persuaded not to move forward with the specific language of the amendment at this point. The amendment itself is very detailed and Senator SIMPSON has suggested that it would be more appropriate to fully consider all of its provisions before bringing the proposal to the floor. Given the time pressures we are under and the importance of acting on S. 2222 as soon as we can, I agree that a specific examination of the proposals can wait.

Mr. President, it is critical, however, to keep in mind that the fact that we are not considering the specifics of the contingency plan proposal today in no way means that the executive branch is without power to respond to an immigration crisis. It has been my belief that the executive branch has the authority under existing law to draw up a contingency plan and to implement that plan in an immigration emergency.

The amendment which I had planned to offer simply defined in more detail the way in which these powers can be exercised. But the fact that we are not acting today in no way effects the existence of those powers.

The administration concurs with me in my belief that it has the authority to develop a contingency plan to deal with immigration emergencies.

Mr. SIMPSON. Mr. President, I am very well aware of the interest the Senator from Florida has shown in this issue and the efforts he has personally taken to assure that the people of Florida will not be severely impacted by another sudden influx of refugees or asylees. As the Senator from Florida has indicated, the administration already has taken administrative steps to prepare this country to respond quickly and effectively in the event of another mass migration.

I am advised by the Justice Department that the President has directed the Attorney General to oversee and coordinate the U.S. Government's response to mass illegal immigration. To that end, the Justice Department has now prepared a detailed contingency plan to insure that the United States will be prepared to deal promptly and effectively with any sudden illegal large-scale immigration, including one that is deliberately generated by a foreign government. A coordinated Federal effort will be made to utilize the resources of appropriate agencies to thwart and control illegal mass migrations. These efforts will be fully coordinated with State and local officials, whose involvement is critically important in any effective emergency response. The contingency plan identifies and assigns responsibilities to Federal civilian as well as military agencies for the management and implementation of the Government's planned response. The necessity of such planning was demonstrated by the mass migration by sea into the Florida area, but the contingency plan is drawn suitably to deal with similar situations elsewhere in the United States as well.

The contingency plan consists of five phases, each encompassing an area of operation that can be addressed separately and involving a different mix of agency efforts from that involved in other phases. Individual agency plans have been developed by the respective agencies consistent with their designated mission responsibilities. Particular emphasis of the plan is placed on the "ready phase" to insure early knowledge of any future mass migrations and the "interdiction phase" to restrict the actual number of illegal aliens who enter the country. Illegal aliens who elude interdiction efforts will be taken into custody, identified and moved to holding centers pending exclusion or deportation proceedings. Safeguards are provided to assure that bona fide refugees would not be returned to a place where they would face persecution.

Mr. CHILES. Mr. President, I am delighted that the administration is drawing up such a plan, and I am sure that the people of Florida are delighted, too. I have just received a copy of that Justice Department memorandum. It not only describes the status of the contingency plan; it also lists the specific provisions in existing law which give the executive branch the authority to develop and, if necessary, to implement the contingency plan. I should like to submit that listing of authority for the RECORD, and make certain that it becomes a part of the legislative history of this bill.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUSTICE DEPARTMENT LISTING OF AUTHORITY

SEC. 212(f) of the Immigration and Nationality Act authorizes the President by proclamation to suspend the entry of all aliens or a class of aliens if he finds that their entry would be detrimental to the interests of the United States.

Under 50 U.S.C. 191, upon a Presidential proclamation a national emergency exists by reason of an actual or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States; may inspect such vessels at any time and may in some cases, if necessary, take possession and control of such vessels.

8 U.S.C. 1324(b) provides for the forfeiture and seizure of any vehicle or vessel used to bring aliens illegal into the United States in violation of 8 U.S.C. 1324(a)(1) or used to transport aliens within the United States in violation of 8 U.S.C. 1324(a)(2).

50 U.S.C. App. 16 authorizes the forfeiture of any vessel used in violation of the provisions of the Trading of the Enemy Act, 50 U.S.C. App. 1 et seq. This provision was invoked in the recent Mariel boatlift and the District Court for the Southern District of Florida has held that vessels used in the Mariel boatlift are subject to forfeiture under this provision. While this provision would be available if there were another mass migration from Cuba, it would not be available if the migration were from a country other than one covered by the Trading of the Enemy Act.

19 U.S.C. 1581(e) authorizes the seizure of a vessel or vehicle which is subject to forfeiture or to secure any fine or penalty. It has been the government's position that a vessel or vehicle used to bring illegal aliens into the United States in violation of 8 U.S.C. 1323 is subject to seizure in order to secure any fines levied.

Under general non-statutory authority, land traffic check points could be set up at reasonable locations for the purpose of stopping, warning and questioning vehicles that could be involved in facilitating the migration.

8 U.S.C. 1182(f), as noted, authorises the President to suspend the entry of aliens or classes of aliens if it finds their entry would be detrimental to the interests of the United States. Pursuant to this provision, the President could authorise the stopping of United States flag vessels, stateless vessels, or with the permission of a foreign government, a foreign flag vessel carrying illegal aliens to the United States.

8 U.S.C. 1323 provides for civil penalties for bringing to the United States aliens without valid visas.

8 U.S.C. 1324 provides for criminal penalties for bringing into the United States aliens who have not been duly admitted by an immigration officer. However, in *United States* v. *Anaya*, the Court held that the provision does not prevent the mere bringing of undocumented aliens to this country's borders, but only the surreptitious landing of aliens.

50 U.S.C. App. 16 provides criminal penalties for persons violating its provisions and implementing regulations. Under 31 C.F.R. 515.415, the bringing of a Cuban national who does not have a valid immigrant or non-immigrant visa into the United States is prohibited.

Sec. 235(b) of the Immigration and Nationality Act provides for the detention until further examination can be conducted, of every alien who does not appear to the examining officer to be "clearly and beyond a doubt entitled to land."

Mr. CHILES. Mr. President, by listing these authorities, I do not want to suggest that there are not other provisions in current law which could be used by the Government to respond to immigration emergencies. I believe that it is important, however, that we make it clear on the RECORD at this point that there is authority to respond to immigration emergencies and to make it clear that the administration is developing a contingency plan based on current law to deal with immigration emergencies. I hope that the Senator from Wyoming concurs in this analysis.

Mr. SIMPSON. Mr. President, I concur with the Senator from Florida and with the Justice Department and State Department that the Government can use existing policies to respond to immigration emergencies.

However, the administration remains convinced that additional legal authorities are requested if the country is to respond adequately to another Mariel or similar emergency. Beyond existing legal authorities, it is the firm judgment of the administration that there remains a serious need to provide the President with special legal authorities in the event of a declared immigration emergency.

The administration is now finalizing draft legislation that would provide these authorities and will soon transmit them to Congress. Thereafter, I have indicated that I will promptly move to conduct hearings and a markup on the bill. The administration also urges the earliest possible consideration of its emergency legislation.

I am pleased that action is being taken both under existing policies and that there is a recognition by you and by the administration of new administrative policies to assure that the people of Florida are not made to again suffer unnecessarily.

Mr. CHILES. Mr. President, I agree with the Senator from Wyoming that we need to act promptly on the legislative proposal that the administration plans to submit. It is important that we make sure that the Federal Government has the ability to respond to all possible contingencies. It is also important that Congress carefully review that proposal, to make certain that the new measures provided are appropriate. I commend him for his commitment to move quickly to hold hearings on the administration's proposal, and to move the proposal through the Immigration Subcommittee. I stand prepared to do whatever I can to help him.

I thank the Senator from Wyoming for discussing this important issue. It is essential that Congress and the administration signal their determination to respond to any future mass migrations to the United States. By making clear that there is authority to respond to such crises, and by showing our determination to strengthen existing authority, we are sending a message to the people of the United States and to the people of other countries that we are determined never to allow a Mariel to occur again. We sent a signal that the United States, and not the Fidel Castros of this world, will set our immigration policies.

Mrs. HAWKINS. Mr. President, I rise in support of the comments made by the senior Senator from Florida regarding the need to grant the President of the United States special emergency powers in the event of an immigration emergency. Our Nation was caught unprepared during 1980, when Fidel Castro opened the Mariel Harbor on the north coast of Cuba to anyone who wished to leave his island paradise. As Senators know, Castro included along with bona-fide Cuban emigrants significant numbers of criminals, social outcasts, mentally handicapped, and Cuban spies. The cost of our goodwill has been high—over $1.1 billion. Especially exasperating is the tremendous cost to such localities as Dade County in south Florida, which has had to cope with the tremendous increase in demand for social and community services as 120,000 people descended into the area in a matter of months.

Let me try to give Senators an idea of the numbers of homeless people involved in the Mariel boatlift. In a period of about 5 months, according to the 1980 census, roughly the same number of undocumented aliens arrived on Florida's shores as populate the cities of Peoria, Ill.; South Bend, Ind.; Boise City, Idaho; Cedar Rapids, Iowa; or Topeka, Kans. The population of Wyoming's three largest cities combined is smaller than the number of Cubans who landed on Florida's shores in only 5 months. Let me say that under no circumstances will we be caught off guard and without aid again.

Do not mistake me: I continue to support the United States idealism in granting political asylum to those who flee political persecution. I believe that this country must hold out its hand in generosity to those whose love for freedom and liberty is so great that they are willing to risk their lives for it. Furthermore, most of the Cubans who came to Florida during that period are upstanding, deserving people. I am proud to count many of these Cubans as my friends.

What occurred during the Mariel emergency, however, was a clear-cut case of diplomatic terrorism. Castro manipulated for his own gain the longing for freedom felt by his people. He arranged to innundate Florida with more people than the area could possibly assimilate in such a short period of time. Thus, the Cuban regime contrived to create an entirely avoidable immigration emergency for the United States. What is especially frightening is that the elements necessary for Castro to create an even greater immigration emergency are at his disposal at this very moment. The State Department estimates conservatively that one-tenth of the Cuban population, 1 million people, would like to leave Cuba. Using this tremendous power of discontent, Fidel Castro could make the Mariel boatlift look like child's play. Clearly, the President needs extraordinary powers in order to cope with extraordinary circumstances that might again be thrust upon this Nation either by events or by design.

When fires rage, when flood waters overflow their banks, when volcanoes erupt, the emergency authority of local officials to preserve the public good and restore order is a clear-cut given. Emergency circumstances require emergency authority. We must apply the same principle in an immigration emergency. We must grant the President those powers now and not delay consideration until we are in the middle of another immigration emergency. Emergency powers is the only major provision dealing with our national immigration situation that has hither to been ignored.

This issue should come as a surprise to no one. Over a year ago the administration submitted its immigration proposals to Congress. Included prominently among its suggestions was a provision expanding Presidential powers in the event of an immigration emergency.

Perhaps some feel that the emergency powers provisions will be controversial. Amnesty itself is controversial. Employer sanctions is controversial. Elements of the H-2 program are controversial. Immigration policy best to deal with our country's immigration problem is fraught with controversy. Let us accept that, and move on.

Senator SIMPSON has assured Senator CHILES and me that he will hold hearings on the subject of emergency powers later this year. I hold the Senator from Wyoming in high regard and know him to be a man of honor. And so are we all honorable men and women. If he says he will hold hearings, then he will hold hearings. But after those hearings are held, emergency powers will never be enacted by this Congress. This would certainly be no fault of the Senator from Wyoming. We are now nearing the end of this session of Congress, and the increasing press of urgent business is felt with each passing week. The difficulty in getting this bill to the floor should indicate the impossibility of getting an addendum to this bill later this year. The time to debate, discuss, and vote on this issue is now. The people of Florida have lived in fear and without aid long enough. It is time now to offer protection to Florida and all the other States that could face a sudden and massive influx of undocumented aliens. If the President is to deal effectively with an immigration emergency, he must have expanded authority to restrict travel and close ports, harbors, and airports. He must be able to redirect vessels. In short, the President must be given all the tools by which he can assure American communities against a loss of security, stability, and safety that is sure to follow a mass immigration.

As I drove through one of the communities in south Florida not long ago, I passed a church that had on it a sign with the words, "Why has the United States Government abandoned Miami?" I reiterate the question. I urge my colleagues to answer the question and to show the people of Miami and other communutities that the Government cares about them.

CLARIFYING JUDICIAL REVIEW

Mr. KENNEDY. Mr. President, as the distinguished manager of this bill is aware, I have been concerned over the limitations of judicial review contained in this bill.

During the committee's markup, I offered a number of amendments to clarify an ambiguity in the bill regarding the possible limitation of judicial review of asylum class actions. I am also concerned over the limitations on judicial review of exclusions and deportations.

However, following the discussion of my amendments in committee, I note that the committee's report has been changed in order to address some of the concerns raised in my amendment.

Therefore, I should like to ask the manager of the bill a few questions to clarify the legislative intent of the limitations on judicial review contained in this bill.

First, Mr. President, let me indicate—as I did in my opening statement—I have supported many of the important reforms of the asylum adjudication process achieved in this bill. But I am concerned over the limitations of judicial review.

Is it the understanding of the manager of the bill that the habeas corpus jurisdiction permitted in the bill is sufficient to allow persons to seek judicial review if a class of cases develop alleging discrimination?

Mr. SIMPSON. Although there appears to be disagreement among several circuit courts of appeal on the issue of whether the class action provisions of rule 23 of the Federal rules of civil procedure are available in habeas corpus proceedings, an issue which has not yet been resolved by the Supreme Court—there is no doubt that at a minimum the following statement is true—and here I would note the 1982 case of Bertrand against Sava:

> A Federal court may permit multi-party habeas actions similar to the class actions authorized by the Rules of Civil Procedure when the nature of the claim so requires.

Mr. KENNEDY. If this bill were law some years ago, could the case that resulted in Judge King's decision on the Haitians been allowed?

Mr. SIMPSON. I cannot answer specifically concerning the case to which the Senator refers, but let me say generally that the issue of whether aliens have been denied asylum and unlawfully detained or otherwise subjected to significant restraints on liberty in violation of their constitutional right to due process may be considered by a Federal court in habeas corpus proceedings guaranteed under the Constitution.

Due process for an alien applying for asylum will include the individual adjudication of his claim through fundamentally fair procedures, procedures which could be relied on for an objective determination, on the merits, of whether or not the individual applicant satisfies the statutory definition of "refugee" in INA section 101(a)(42) and whether or not his "life or freedom" would be threatened "on account of race, religion, nationality, membership in a particular social group, or political opinion" if he were to be returned to his home country—or another country to which he might be deported—as provided in INA section 243(h).

An example of such a due process violation would be a pattern or practice of denying asylum applications of aliens from a particular country because of their national origin rather than on the basis of the merits of their individual claims. If all applicants from Haiti were denied asylum solely because they came from Haiti, or even because of the fact that in the past most applicants from Haiti had been determined not to qualify, then procedural due process would not have been provided and judicial review through habeas corpus would be available.

Mr. President, if any of my colleagues wish additional detail, including a discussion of cases, they may consult the committee report at pages 12 through 14.

Mr. KENNEDY. I know there is some dispute between lawyers on this question, and I think we need to clarify it.

Finally, Mr. President, I have submitted two other amendments relating to the limitations on judicial review of exclusion cases, to assure that persons being held for deportation under the exclusion provisions of the immigration law can seek judicial review—as they can under current law.

As everyone who follows immigration law knows, our exclusion laws are hopelessly vague and out of date. The select commission voted unanimously that we should throw them out and reform them entirely—which is the intention, I know, of the chairman of our subcommittee and the manager of the bill.

However, until those reforms are accomplished, is it the view of the manager of the bill that persons in exclusion proceedings can seek judicial review if they believe they have been the subject of discriminatory treatment?

I have already discussed asylum cases.

In nonasylum deportation cases a substantive review of the U.S. immigration board's decision would be available, including whether the findings of fact were supported by substantial evidence.

In addition, for exclusion cases, the issue of whether aliens are being excluded and unlawfully detained or otherwise subjected to significant restraints on liberty in violation of their constitutional right to due process may be considered by a federal court in the habeas corpus proceedings guaranteed under the constitution.

Due process for an excluded alien includes the individual adjudication of his case through fundamentally fair procedures, procedures which could be relied on for an objective determination, on the merits, of whether or not he is excludable. An example of such a due process violation would be a pattern or practice of adverse determinations with respect to aliens from a par-

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ticular country because of their national origin rather than on the basis of the merits of their individual cases.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent now that we go on to other business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESERVATION OF THE HISTORIC CONGRESSIONAL CEMETERY IN THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6033, preserving the congressional cemetery. This has been cleared with the minority.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6033) relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.

There being no objection, the Senate proceeded to consider the bill, which was considered to have been read twice.

Mr. STEVENS. Mr. President, this is a very worthwhile bill. I visited that cemetery. I visited the graves of some of my friends there.

I ask that we have immediate consideration of this bill.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME TO FILE CONFERENCE REPORT ON H.R. 4961

Mr. STEVENS. Mr. President, I ask unanimous consent that the managers on the part of the Senate to the conference on the disagreeing votes of the two Houses on H.R. 4961, the Miscellaneous Revenue Act, have until midnight on Sunday, August 15, to file a conference report. This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a Tax Convention with New Zealand (Treaty Document No. 97-27), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD. This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Convention between the United States of America and New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, together with a related Protocol, signed at Wellington on July 23, 1982. I also transmit the report of the Department of State on the Convention.

The Convention, based on the OECD and draft United States model income tax conventions, takes into account changes in the income tax laws and tax treaty policies of the two countries. It provides limits on the tax at source with respect to taxes on investment income and provides rules for the taxation of capital gains, business profits, personal service income and other income. It also specifies the method used to avoid double taxation and provides for administrative cooperation between the tax officials of the two countries to avoid double taxation and prevent fiscal evasion.

I recommend that the Senate give early and favorable consideration to the Convention and related Protocol and give advice and consent to their ratification.

RONALD REAGAN.

NEBRASKA AND THE UNITED STATES NEED A SUGAR INDUSTRY

Mr. ZORINSKY. Last summer I joined 63 of my Senate colleagues in approving the sugar title of the 1981 Food and Agriculture Act. I did do in the belief that a viable domestic sugar industry is in the Nation's best interest. I continue to adhere to that belief.

I was further convinced that the beet sugar industry is also important to Nebraska. It provides jobs and wages, and taxes and, yes, even purchases of soda pop and bakery products. The beet sugar industry is a good customer for Nebraska farm implement dealers, fertilizer suppliers, railroads, and other providers of goods and services.

The American sugar industry is a highly integrated operation—that is due to the nature of the crop. Unlike producers of corn, wheat, or cotton, a sugar grower cannot grow a crop without ready access to a sugar mill or processing plant.

And due to the economics of the industry, the grower cannot survive without an ongoing relationship with a processor.

If sugar mills go out of business, as is happening in Nebraska and adjoining, Colorado, so do the growers who depend on that mill, unless there is a nearby competitor with adequate capacity to take on additional growers—not a likely event. High costs simply make it impossible to transport raw, unrefined sugar hundreds of miles for processing.

What may cause a mill to go out of business? One reason may be the loss of growers who supply the mill—and that can happen if prices farmers receive for their sugar fall low enough and stay low enough to induce them to switch to more profitable crops. Without adequate supplies of raw sugar, the mill cannot stay in business.

Later, if sugar prices increase, the grower does not have the alternative of returning to sugar production—the mill is gone. It is not likely that a mill can restart production if it has been closed for any length of time—the odds are that it has been sold for other purposes or torn down. Nor is it likely that a new mill or processing plant will be built—it is estimated that a new plant today would cost more than $50 million to build.

In the last 8 years, it is estimated that 21 sugarcane mills or sugar beet processing plants have closed down in the United States.

Americans consumed 9.77 million tons of sugar, raw value, last year—enough to amount to 79.5 pounds for every man, woman, and child in the United States.

Only 55 percent come from U.S. sugar producers—the rest was imported. The sugar produced on U.S. farms amounts to only 6 percent of the sugar produced in the world last year. Where is U.S. sugar produced?

Thirty percent comes from sugar beets grown in 17 Midwestern and Western States: Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming.

Twenty-five percent comes from sugarcane in four Western and Southern States: Florida, Hawaii, Louisiana, and Texas.

More than 15,000 individual farmers and their families are involved in producing sugar in the United States—many of them dependent entirely on their sugar crop. Remarkably, these 15,000 individuals supply half of the sugar consumed by 250 million Americans.

As telling as any argument for the maintenance of a U.S. sugar production capability, however, is the fact that if this basic commodity were no longer available from nearby American farms, sugar users in Nebraska would be totally beholden to cane refiners in the Gulf States or refiners located along the Northeastern seaboard—quite a freight haul to Hastings. These distant refiners would, in turn, have to depend on growers in politically unstable Central and South America for a commodity essential to all Nebraska households and one that is critical to the State's bottlers, bakers, and confectioners.

Frequently, one hears the argument that it is not necessary to support the price for a domestic sugar industry when the world price of sugar is far lower than the domestic price. Let us understand the world price a little better.

The so-called world price is based on only about 20 percent of the world's production—the other 80 percent either is consumed in the country where it is produced or sold under bilateral agreements—such as one which requires Cuba to supply the Soviet Union a fixed amount of sugar each year—at a price well in excess of the world price.

There is no world market in sugar in the traditional sense—it is a dump market for overproduction in any given year that cannot be consumed locally or sold under bilateral agreements. This oversupply, available only in years of overproduction which cannot be predicted from year to year, provides no supply assurance, no expectation of reasonable prices.

Likewise, there is no free market in sugar—almost every nation has erected one or another barrier to the free entry of sugar. The European Economic Community permits only limited imports from former colonies of its country members; Brazil, Cuba, and Australia do not permit sugar imports at all. Canada, Japan, and the EEC subsidize sugar production at a level substantially higher than any proposed for the United States.

Nebraska sugar beet farmers and processors and other segments of the U.S. sugar industry cannot remain viable in the misnamed world free market when the fact is that this country's sugar industry would be the only group that plays by free trade rules. More than 80 percent of the world's sugar production is marketed in protected home markets—Australian refiners pay 23.8 cents per pound for Aussie-produced raw sugar; sugar imports into Australia are prohibited—or sold under preferential trade agreements—Russia pays Cuba 31.5 cents per pound for raw sugar under long-term contract, which takes about two-third's of the Cuban output.

The balance of the world's sugar production—averaging about 20 percent—is dumped at whatever price it can bring. It is against such dumped sugar that American farmers must compete and thus a loan program becomes essential to keep the industry afloat in years of world glut. The dividend for American consumers come in the years of short world supply. During those periods if there were no U.S. industry, Americans would pay dearly for sugar, if indeed it was available at all.

The Senator from Massachusetts (Mr. TSONGAS), sponsor of legislation to eliminate the sugar support program, perhaps feels no such concern. The two cane refineries in Boston—one owned by Philippine interests—operate essentially on imported raw sugar. They remain viable by simply passing along their refining costs to consumers whether they pay 10 cents or $10 per pound for imported raws.

The Quayle-Tsongas approach to reduce the sugar support level for the purpose of having a level that can be conveniently achieved is somewhat like the story of the freshman economics student, who proudly announced that he had, that afternoon, run home beside the bus and achieved a savings of 30 cents. His father advised that if, on the following day he would run home beside a taxi, he could achieve a savings of $2.

Like other agricultural commodities subject to wide fluctuations in production and price, sugar has been the subject of varying efforts by government to support and stabilize prices and supply.

The old Sugar Act, which created price stability and assured adequate supplies for American consumers, expired in 1975. There was no sugar program for a brief period, and a stopgap program was enacted in omnibus farm legislation in 1977. That program and intermediate programs established by administrative authority of the U.S. Department of Agriculture continued until enactment of the Agriculture and Food Act of 1981.

The 1981 act provided an interim "purchase program" that operated for sugar produced before March 31, 1982. It provided for the U.S. Government to offer to purchase any sugar at 16.75 cents per pound. Beginning October 1, 1982, a loan program similar to those established for several other farm commodities will take effect. The price support loan rate will be 17 cents per pound for 1982 sugar, 17.5 cents per pound for 1983, 17.75 cents per pound for 1984, and 18 cents per pound for 1985.

Congress designed the sugar program to be administered in a manner that does not cost the taxpayer any money. There are existing laws and authorities—in the form of import fees, duties, and/or quotas—that can be implemented to assure there is no Government cost to support the price of sugar produced in the United States.

Here is how it works: With a purchase program this year at 16.75 cents per pound, USDA determined that it would have to maintain the actual price at 19.88 cents per pound to be certain that the Government would not actually purchase sugar. USDA calculated its price objective by adding the purchase cost to adjusted transportation costs and an incentive of 0.2 cent per pound.

By its imposition of fees and quotas, the Government seeks to keep the price of sugar high enough to prevent taking over any domestic sugar—either under this year's purchase program or under the price support loan program in subsequent years.

Such fees and quotas are unique to sugar—in no other commodity is there such a mechanism to maintain prices high enough to prevent Government takeover. Thus, when there is chronic overproduction in some other commodities, producers often forfeit commodities and the Government has no recourse but to take possession.

The current sugar program is no bonanza to American beet and cane producers. The price support loan rate for 1982 crop sugar will cover only about 70 percent of the average cost of producing sugar as USDA calculates it. Compared with other commodities, the sugar price support level covers far less of the total production cost to the grower.

I believe the sugar support program adopted last summer achieves a fair balance among the interests of consumers, taxpayers and the producers of an essential commodity. Agriculture Secretary Block has stated that the import quotas will be removed when the glut-induced distressed price of imports advances. The mechanics of the fee arrangement similarly reduce the fees as the prices of imports achieve a more realistic level. I am convinced that for now, we should keep the sugar support program on the books at its present modest level. I will, therefore, work to defeat the Quayle-Tsongas amendment.

LONG-TERM FIXED-RATE SBA LOANS: "THE MINNESOTA PLAN"

Mr. BOSCHWITZ. Mr. President, small businesses are the most credit-sensitive segment of our economy. Low interest rates are vital to the survival and growth of small businesses. While interest rates have declined substantially over the past year or so, small businesses need stable, long-term financing to grow and prosper.

Today I take pride in announcing an innovative approach that will lower interest rates on SBA loans and provide much-needed long-term, fixed-rate financing to small businesses in Minnesota. My State of Minnesota has long been recognized for its innovative and progressive business community. Once again, recognition is due for the Small Business Administration's guaranteed loan pilot program in Minnesota.

This pilot program is generally referred to as the Minnesota plan—and for good reason. Last October, the

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Minnesota Small Business Finance Agency (MSBFA) presented the SBA with a plan to lower interest rates on SBA guaranteed loans and allow SBA to guarantee long-term, fixed-rate loans—without cost to the Treasury or changing SBA eligibility requirements.

MSBFA's Chairman Robert Anderson and Executive Director Jean Laubach deserve much credit for developing the plan with Minnesota's banking and investment community, and their perserverance in refining the plan to accomodate the concerns of SBA. Minnesota Bankers Association President John Ingebrand and Executive Vice President Truman Jeffers are to be commended for their support, which is extremely important for the plan's success. In addition, SBA Administrator Jim Sanders and Region V Director Dick Durkin played a crucial role in making the plan a reality. As a member of the Small Business Committee, I am pleased to have been involved in the process for what could become a national program. Clearly, the Minnesota plan is the result of a team effort to make the best use of SBA loans on the best terms possible for small businesses in Minnesota.

Under the Minnesota plan, the MSBFA, a State agency, acts as a conduit for packaging the guaranteed portion of SBA loans for sale in the secondary market. MSBFA sells taxable, long-term fixed-rate bonds to investors in lots of $5 to $10 million. The proceeds from these bonds can only be invested in SBA guaranteed loans—giving the bonds a high rating and making them extremely safe for investors. The proceeds of the bonds are used to purchase the guaranteed portion of SBA fixed asset loans from banks, providing banks an additional marketing tool for their customers and a liquid secondary market. In return, the banks agree to make SBA guaranteed loans on terms comparable to the bonds. The small business borrower agrees to a prepayment penalty, declining over the term of the loan, in exchange for the long-term fixed-rate loan. The small business makes its loan payments to the bank; the bank pays MSBFA and MSBFA uses the loan payments to retire the bonds. In effect, the small business gets the benefits of issuing long-term bonds.

MSBFA and investment bankers estimate the Minnesota plan will reduce interest rates on SBA loans for plant and equipment by 1 to 3 percent, depending on market conditions. Equally important, small businesses will have an alternative to variable rate financing that provides the certainty and stability necessary to plan and expand.

The dedication and determination of MSBFA, SBA and Minnesota's banking community to the needs of small business cannot be overstated. I applaud their efforts and pledge my efforts to make the Minnesota plan the standard against which guaranteed loans are judged.

Mr. President, I ask unanimous consent that a letter from the Minnesota Bankers Association and a fact sheet describing the Minnesota plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINNESOTA BANKERS ASSOCIATION,
Minneapolis, Minn., August 10, 1982.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR RUDY: We are pleased to learn of the favorable action by the Small Business Administration in approving the proposal for a Minnesota program to develop long-range capital for the expansion of small businesses, and that you will announce this new development this week. We certainly appreciate your assistance in the development and approval of this project.

I also want to let you know that the Minnesota Bankers Association Board of Directors has approved our support for the new Minnesota program, and we will be encouraging our members to actively participate in the plan.

Please extend our congratulations to everyone involved in this significant announcement.

Sincerely

TRUMAN L. JEFFERS,
Executive Vice President.

"MINNESOTA PLAN" FACT SHEET

Description

Pilot program in Minnesota to provide long-term fixed rate SBA guaranteed loans to small businesses.

Current SBA loans activity

Term of under 7 years.

Variable rate of up to prime plus 2¾ percent, adjusted quarterly over the term.

Minnesota plan

Term of 15–20 years.

Fixed rate determined by rate of bonds issued by Minnesota Small Business Finance Agency (MSBFA), a state agency authorized to issue bonds.

Interest rate 1 to 3 percent below current SBA rate, depending on market conditions.

How it works

MSBFA sells long-term, fixed-rate taxable bonds in lots of $5–10 million in the bond market.

Proceeds from the bonds are placed with a Trustee.

The Trustee can use the proceeds to invest only in the guaranteed portion of SBA loans.

Banks sell their guaranteed SBA loans to the Trustee, agreeing to "pass-through" the interest rate on the bonds to a small business borrower.

Small business borrower agrees to a prepayment penalty in exchange for a long-term, fixed rate loan.

Small businesses make loan repayments to the bank, which turns over the proceeds to the Trustee.

The Trustee uses the loan repayments to retire the bonds.

Benefits to small businesses

Long-term financing 1 to 3 percent below current rates depending on market conditions.

Fixed rate financing comparable to large "blue chip" businesses.

Benefits to banks

Additional marketing tool to service small business customers.

Liquid secondary market for SBA guaranteed loans.

Benefits to investor

Low-risk investment.

Effect on SBA programs

Management tool to reduce interest rates on SBA loans.

No change in eligibility requirements (credit test, size standards, amount of loan).

No increase in guaranteed loan authority or budget authority.

SALE OF SOME NATIONAL FOREST LANDS

Mr. JACKSON. Mr. President, I want to bring to the attention of my colleagues a recent press release from the Forest Service regarding the administration's program to sell off the Nation's public lands to reduce the national debt.

It appears, Mr. President, that the reservations that many of us expressed last year when the administration proposed this program are indeed well founded. According to the Forest Service, only some 51 million acres are included at this point in the "retention" category; 60,133 acres have been identified for sale without additional legislative authority. The remaining 140 million acres are being reviewed to determine which should be sold and which should be retained. I should note here, Mr. President, that the Forest Service is now indicating that some of the acreage in the "retain" category may have been double counted and that the amount actually designated for retention at this point is only about 48.5 million acres.

I am frankly astounded that the Forest Service is only willing to identify less than 27 percent of the entire forest system off limits for sale at this time. Even to suggest that over 70 percent of our Nation's national forest system is potentially available for sale to the highest bidder is shocking to me. And I am sure it is equally shocking to the millions and millions of Americans who use these forests for hunting, fishing, camping, hiking, and other forms of recreation.

Of course, I understand full well that the administration will not sell off 140 million acres of national forest system—the Congress and the American people would not stand for it even if they wanted to. I understand that, according to the Forest Service, "substantial" acreage will be added to the "retained" category. And, Mr. President, I understand that additional legislative authority will be necessary to liquidate the Nation's national forest holdings.

Nevertheless, this announcement regarding this proposed sale greatly concerns me. In my State of Washington, for example, out of almost 9 million acres of national forest lands only about 2 million acres currently fall into the retain category as a result of their wilderness or wilderness-study status. The remaining lands in Washington State are being studied to determine if they qualify for sale. I can assure my friends in the Forest Service that they will be hearing from the citizens of my State regarding the disposition of these lands.

Mr. President, I and a number of my colleagues sounded the alarm months ago regarding privatization and asset management. I said then that I thought the idea was shortsighted, ill-conceived, and definitely not in the best interest of the citizens of this Nation who use the public lands. Actions such as this on the part of the Forest Service only serve to underscore how misguided and potentially devastating this program can be. I can only hope that President Reagan, John Crowell, Jim Watt, David Stockman, and the other proponents of this scheme to sell the public's lands will reconsider their position.

I ask unanimous consent that a copy of the press release appear in the RECORD at this point.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

[News Release]

LEGISLATION TO BE SOUGHT FOR SALE OF SOME NATIONAL FOREST LANDS

WASHINGTON, August 10.—A legislative proposal will be developed to give the U.S. Department of Agriculture's Forest Service new authority to sell excess lands carefully selected from the 191 million acres the agency administers.

Under existing authorities, only about 60,000 acres of national forest lands qualify for sale, Secretary of Agriculture John R. Block said today.

The proposal for new legislation will be part of the USDA legislative program for the 98th Congress, Block said.

As part of the president's federal assets management program, national forest system lands are to be placed in one of three categories. These categories consist of lands to be retained, lands meeting critiera for sale and lands requiring further study before deciding whether to retain or sell them.

The first category initially consists of some 51 million acres that are to be retained. It includes all Congressionally-designated areas such as wilderness, wild and scenic rivers, national recreation areas and national monuments. After further review of other national forest system lands, substantial acreage will be added to this "retained" category.

The second category consists of lands which can be offered for immediate sale without additional legislative authority. Totalling 60,133 acres in 26 states, these lands have initially been identified as excessive to the needs and objectives of the Forest Service. Tracts convenient to urban and suburban areas where private or local government ownership would provide greater benefits than federal ownership are included in this category. Additions will be made to the category of lands meeting criteria for disposal after needed legislation is passed, Block said.

The remaining 140 million acres of national forest system lands have been placed in a category for further study. An initial review of the acreage in this category will quickly identify those lands which need more intensive study to determine whether they might qualify for sale once the needed legislation is enacted.

After the initial review, lands in this third category not identified for intensive study would be placed in the retention category.

Block said 15 to 18 million acres of national forest system lands are likely to receive this intensive study; they would include lands in scattered and checkerboard ownership patterns; portions of the national grasslands; other national forest areas with a low percentage of federal ownership; and certain other lands already under paid special use permit.

Block said oppotunities exist to improve the use of certain lands and to reduce administrative costs. Block also indicated that development of the legislation will require close coordination between the executive branch and Congress.

National forest system acreage initially identified as qualifying for sale under existing authority

Alabama	40
Arizona	3,923
Arkansas	1
California	22,701
Colorado	4,200
Georgia	9,340
Hawaii	2
Idaho	510
Indiana	324
Kansas	1
Maine	260
Michigan	999
Minnesota	2
Montana	172
Nebraska	3
Nevada	2
New Hampshire	1
New Mexico	40
New York	13,232
North Carolina	2
Oregon	1,227
South Dakota	1,628
Utah	503
Washington	745
Wisconsin	160
Wyoming	106
Total acres	60,133

LET US SET A BETTER EXAMPLE

Mr. PRESSLER. Mr. President, I have not always agreed with the Washington Post's editorial positions. However, I strongly concur with a recent Post editorial on the recent Senate vote concerning the Hart Building gym. I ask unanimous consent that this editorial be printed in the RECORD immediately following my remarks.

I voted in favor of the amendment to delete additional funding for this project included in H.R. 6863, the supplemental appropriations bill. Unfortunately, the amendment failed. I voted for this deletion because I believe that Congress must set an example by reducing frivolous Government expenses during this time of massive Federal deficits and high interest rates.

In the past months, the Senate has had to make difficult budgetary decisions concerning programs for the elderly, the handicapped, the unemployed, this country's students, and veterans. I do not understand how we can ask the American people to make sacrifices and tighten their belts if Congress is not willing and able to cut funding for something so unnecessary as a third Senate gym. If we want the respect and cooperation of the American people, we must earn it. Yesterday's vote to retain funding for the Hart gym is a sad comment on congressional priorities.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 12, 1982]

GYMDOGGLE

It wasn't really a third gymnasium that the austere Senate was about to create for itself, Louisiana's Bennett Johnston protested before the vote the other day, because basically the Senate only has one full gymnasium with swimming pool and so forth now—poor things. The Senate's second so-called gymnasium, Mr. Johnston explained, is merely an exercise room (with equipment, of course, plus separate locker and shower rooms). So why not go ahead and appropriate the mere $736,400 needed to finish up its third gymnasium, which is only, as he tells it, the Senate's second-and-a-half or maybe its second-and-a-quarter gym?

Make sense to you? No? Well, try this: and besides, since the thing has now been begun, not to finish it as a gym would be wasteful and anyhow some day someone would finish it and the cost by then would be higher. What's that you say? You still aren't persuaded? What are you, anyway—some kind of Communist? The Senate, in its infinite, selfless wisdom, did buy the argument by a vote of 50 to 48 on Tuesday. So there will be yet another gym for the 100 legislators. No staff, no family, no friends. Just 100 senators availing themselves of these luxurious facilities. What a joy—makes you feel physically fit all over just to think of it.

Or, do we mean physically ill? Sen. Proxmire, with whose words we don't always agree, had it absolutely right. As you might imagine, he led the opposition to this boondoggle, and in the course of doing so, he said this: "For the past year and a half, this Congress, and especially this Senate has been trying to hold down spending. Think of the sacrifices we have imposed. We have cut federal assistance for disadvantaged schoolchildren. We have hammered down appropriations for the handicapped—men, women and children. We have cut food stamps. We have reduced Medicaid. We have forced elderly people to make higher payments for their Medicare. . . . almost all Americans have been asked one way or another to make a sacrifice. And yet, now we will provide over $700,000 for a third Senate gymnasium and over $1 million for a new especially fancy and super-equipped media hearing room [yet another legislative self-indulgence scheduled for this glitzy new Senate office building]. Why do we need still another gym?"

There was no good answer, but that will not surprise you. And it probably will not

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surprise you either that many of those who voted for this latest gift to themselves are among the world-class "economizers" on the Hill—when it comes to economizing on other people's medical benefits or food stamps. Nor we suppose will you exactly faint from shock to learn that there are others on the list (which we print for your edification) from the party that has made such a big thing of Mrs. Reagan's life style—of which we hope to hear nothing further from these gym-builders.

You hear it said a lot about this town—we sometimes say it ourselves—that it is really too bad that the people who work so hard in government, whether in Congress or the executive branch, are so dismally misunderstood by the public, so suspect, so vulnerable to bum raps. Then, just when you're full of sympathy, they go and do something stupid and insensitive like this. Three quarters of a million dollars to finish up a third gym for the same 100 senators who already have two gyms. How come the new gym won't also have an espresso machine and a wine bar? Or did we miss something?

A COMPREHENSIVE TEST BAN TREATY IS VITAL TO SURVIVAL

Mr. PROXMIRE. Mr. President, recently the Milwaukee Journal carried a letter from me on the critical importance of the administration's resuming negotiations with the Soviet Union for the resumption of a comprehensive nuclear test ban treaty. Frankly, I cannot think of an issue more important than the survival of mankind on this planet and negotiations for a test ban treaty are designed to achieve exactly that.

The President deserves credit for pushing the START negotiations. We should go beyond SALT II and ratify it. But those measures will still leave us short of the most fundamental action we can take to stop the nuclear arms race. It will continue and escalate even as we reduce and eliminate weapons systems as long as testing enables both massive nuclear powers to refine and improve the deadly destructive capability of their weapons.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IT STARTED AT HIROSHIMA: WHERE WILL IT ALL END?

The administration has decided not to continue negotiations with the Soviet Union for a comprehensive test ban treaty. For 20 years we have had a test ban treaty honored by both the US and the Soviet Union. What's wrong with it? To answer that question, we must ask: What is the purpose of a test ban treaty? Answer: To stop the testing of newer, more devastating nuclear weapons which speed up the arms race.

Not only do these tests permit the development of ever more devastating weapons, but they permit Third World countries to develop their own arsenals of weapons, join the nuclear club and, in the process, enhance the likelihood of nuclear war. No action by the USSR or the US could more surely protect this old Earth from a nuclear war than the agreement—first, by the two superpowers and then, by other countries—to cease testing of nuclear arms at any level.

The present test ban treaty only prevents tests above a certain level of power, which is 10 times greater than that of the bomb dropped at Hiroshima. Almost any weapon or concept can be thoroughly refined and improved with testing at that power.

The present treaty does protect the environment to a considerable extent. Tests of greater power would pollute the environment and cause radioactive-induced illness throughout the world, even if carried out underground. But the fundamental purpose of slowing the arms race has not been seriously affected by the current treaty.

Neither the START negotiations nor a revival of SALT II will accomplish this. Although both would serve a useful arms-control purpose in limiting the nuclear arsenals of the two superpowers, neither would stop testing. Even with severely limited nuclear arsenals, two very dangerous problems will continue:

1. Both the US and USSR can vastly increase the deadliness of their nuclear weapons while sharply reducing their number and, at the same time, comply with any conceivable nuclear arms limitation treaty. Both countries can increase their ability to strike first and hardest, as long as testing continues. They can do this while abiding fully by any arms reduction treaty. Both nations can rush down the road to final nuclear power, while the world is lulled into a happy assumption that nuclear arms limitations are guiding us to safety.

2. Non-nuclear countries see the superpowers racing ahead developing know-how and infinite nuclear power. That know-how, developed through testing and for which testing is absolutely essential, becomes worth its weight in the most precious of values to other countries. They test to learn it themselves or they beg, buy, borrow or steal it from one superpower or the other.

The Russians have indicated a willingness to discuss and perhaps agree to a comprehensive test ban treaty. In 1978 they even indicated agreement to on-site inspection. We have far better verification procedures than ever before. I do not say we should agree to such a treaty until we are fully satisfied that we can enforce it. I do say we should negotiate with all our heart and soul to develop a comprehensive test ban treaty that we can verify and count on. What could be more important?

SEN. WILLIAM PROXMIRE

WASHINGTON, D.C.

CAMBODIAN CHILDREN'S ART: EXPRESSING THE MEMORY OF DEATH

Mr. PROXMIRE. Mr. President, many Cambodian refugee children who have found a haven in the United States are learning to take a new interest in life through art classes in their schools.

These are children who have seen their loved ones killed and their homes destroyed; children who have miraculously survived bomb explosions within feet of their hiding places; children who have been forced to work in labor gangs, building roads and dams and hauling heavy rocks; children who have grown into fearful and defensive adolescents through long years of tragedy and horror.

Now that they are in the United States, these children and young people are learning to breathe more easily. Slowly, they are learning to smile, to laugh, to speak without fear, and to trust other people.

Evidence of this slow adjustment to a free and peaceful society can be found in these children's artwork. Newly arrived refugee children paint and sculpt the instruments of death and destruction: tanks, guns, airplanes, hand grenades. A refugee child in Boston, Mass., recently presented his teacher with a precisely sculpted hand grenade, complete with a removable pin. The teacher tried to explain to the child that if he did not hollow out the inside of the clay grenade, it would explode when it was fired in the kiln. She did not understand why the class of refugee children burst into laughter.

As the Cambodian children become more accustomed to peace and safety, they begin to paint and model dragons, oxen, snakes, frogs, and other mythical and real animals from Asia. They reach a point at which they can move beyond the memories of death and begin to draw upon what memories they have of a coherent and ordered world. Some children, who have difficulty making the transition, create strange animals that are half dragon and half tank.

The memories of death and destruction expressed by these children in their art are memories which no child should have. These children have experienced the horror of mass killing as no child should ever experience it. At an age at which most children are learning to make sense of the world in an atmosphere of love and stability, these children have learned that the world is filled with senseless hatred and cruelty. We who enjoy the benefits of peace and freedom must take action to minimize the number of children who learn these tragic lessons and grow up with these terrifying memories.

To achieve this goal, we must prevent the recurrence of programs of mass slaughter similar to the one that took place in Cambodia. And we cannot take an effective stand against such atrocities if we do not ratify the International Genocide Convention. As a party to this important treaty, we would lend the weight of the world's most powerful and influential nation to international efforts to stop such programs of systematic killing. We could bring the weight of world condemnation to bear on the perpetrators. Efforts could be made to halt such senseless murder and, in the case of actual genocide, to punish those who are responsible. Our support of this treaty would, in addition, create a strong deterrent that might prevent the initiation of systematic death campaigns.

In their artwork, children reflect their experience of the world and attempt to give it meaning. Let us hope that the children of the future will reflect an experience that is peaceful and safe. Let us do what we can to insure that they draw pictures of flowers and animals, not of tanks and guns. Let us therefore affirm our commitment to these children by ratifying the Genocide Convention.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND SPAIN—MESSAGE FROM THE PRESIDENT PM 164

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with acompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and Spain, signed at Washington on July 29, 1982.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements scheduled to expire this year. I urge that the Congress give favorable consideration to this agreement at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *August 13, 1982.*

MESSAGE FROM THE HOUSE

At 1:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5203. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act; and

H.R. 6892. An act to provide changes in legislation to meet reconciliation requirements in the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5203. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6892. An act to provide changes in legislation to meet reconciliation requirements in the first congressional budget resolution, fiscal year 1983, for the House Committee on Agriculture.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 13, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 445. An original resolution to express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom (Rept. No. 97-522).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlevkov to emigrate.

By Mr. McCLURE, from the committee of conference:

Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes (Rept. No. 97-523).

By Mr. McCLURE, from the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, jointly, with an amendment in the nature of a substitute and an amendment to the title:

S. 1606. A bill to establish a supplemental insurance fund administered by the Secretary of Energy to pay the costs of necessary remedial action following damage to nuclear powerplants, including certain remedial action at the Three Mile Island facilities in Pennsylvania, to require participation in such fund by the licensees of nuclear powerplants as a condition for the licensing and continued operation of such plants, and for other purposes (with minority and supplemental views) (Rept. No. 97-524).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 447. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1606; referred to the Committee on the Budget.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 448. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409.

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment:

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes (Rept. No. 97-525).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982;

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984; and

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Milton M. Masson, Jr., of Arizona, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 1 year;

John B. Carter, Jr., of Texas, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 2 years; and

Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission for a term expiring October 20, 1985.

(The above nominations were reported from the Committee on Energy and Natural Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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By Mr. PERCY, from the Committee on Foreign Relations, with an understanding:

Ex. N, 92-2. International Convention on Tonnage Measurements of Ships, 1969, which was signed for the United States at London, June 23, 1969 (Ex. Rept. 97-57).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

Treaty Doc. 97-25. Convention for the Conservation of Salmon in the North Atlantic Ocean, signed in March 1982 by the United States, Canada, the European Community, Iceland, and Norway (Ex. Rept. 97-58).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY (for himself, Mr. Rudman, Mr. Stafford, Mr. Weicker, Mr. Tsongas, Mr. Kennedy, Mr. Dodd, and Mr. Leahy):

S. 2835. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on the Judiciary.

By Mr. TSONGAS (for himself and Mr. Pell):

S. 2836. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN (for himself, Mr. Cohen, Mr. Nunn, Mr. Armstrong, Mr. East, Mr. Hatch, Mr. Symms, Mr. Thurmond, and Mr. Moynihan):

S. 2837. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent with instructions that when reported, the bill be referred to the Committee on Governmental Affairs for not to exceed 60 days.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE, from the Committee on Finance:

S. Res. 445. To express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom; placed on the calendar.

By Mr. D'AMATO:

S. Res. 446. Resolution to honor Michael R. Masone; to the Committee on the Judiciary.

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

S. Res. 447. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the considerations of S. 1606; to the Committee on the Budget.

By Mr. PERCY, from the Committee on Foreign Relations:

S. Res. 448. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409; to the Committee on the Budget.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself, Mr. Rudman, Mr. Stafford, Mr. Weicker, Mr. Tsongas, Mr. Kennedy, Mr. Dodd, and Mr. Leahy):

S. 2835. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on the Judiciary.

CONNECTICUT RIVER ATLANTIC SALMON COMMISSION

● Mr. HUMPHREY. Mr. President, today Senators Rudman, Stafford, Leahy, Weicker, Tsongas, Dodd, Kennedy, and I are introducing legislation which would authorize the formation of the Connecticut River Atlantic Salmon Commission whose objective is to restore the sea-run Atlantic salmon to the Connecticut River Basin. The decline in numbers of the Atlantic salmon is a matter of historical record, and efforts to restore this valuable game fish have been ongoing for many years. Recognizing that this problem of mutual concern could be solved only through cooperative action, the Governors of New Hampshire, Vermont, Connecticut, and Massachusetts, on January 4, 1982, signed into law, legislation which authorizes a compact to restore the Atlantic salmon. The compact calls for the formation of the Connecticut River Atlantic Salmon Commission with membership including the four compact States, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

The Constitution grants States the right to establish such a compact subject to the consent of Congress. Also, when it is desired, as it is in this case, to make the Federal Government a partner in the compact, affirmative action by the Congress is required.

By historical accounts, efforts to restore the Atlantic salmon to the Connecticut River Basin began as early as 1867. These efforts continued over time but achieved only limited success due to lack of a formal compact among the States whose cooperation was essential to the restoration program. The affected States view their Connecticut River compact proposal as the necessary step toward achieving their goal of restoration.

Because the proposed Commission involves participation by the U.S. Fish and Wildlife Service and the National Fisheries Service, these two agencies were consulted. Both agencies have reviewed the proposed legislation and have indicated their concurrence.

On the House side, an identical bill is being submitted today.

This bill requires no Federal appropriations; it merely authorizes the formation of a four-State compact. It represents a cooperative effort to solve a problem of mutual concern involving four separate entities; it would provide the mechanism by which the Atlantic salmon could be restored to its former abundance to the benefit of the entire four-State region. I ask unanimous consent that the text of the bill together with a relevant letter from Charles E. Barry, executive director, New Hampshire Fish and Game Department be printed in the Record.

There being no objection, the material ordered to be printed in the Record follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to and approves the entering into by the States of Connecticut, Massachusetts, New Hampshire, and Vermont of an agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin and to the creation of a Connecticut River Atlantic Salmon Commission.

Sec. 2. The Secretary of Commerce, or the designee of the Secretary of Commerce, and the Secretary of the Interior, or the designee of the Secretary of the Interior, may participate as members in a Connecticut River Atlantic Salmon Commisson created under any agreement or compact consented to and approved by the Congress in the first section of this Act, and may cooperate with any such Commission and any committee of any such Commission.●

State of New Hampshire,
Fish and Game Department,
Concord, N.H., June 1, 1982.

Hon. Gordon J. Humphrey,
U.S. Senate, Washington, D.C.

Dear Senator: As of January 4, 1982, the governors of Vermont, New Hampshire, Massachusetts and Connecticut have signed into law legislation which authorizes a compact to restore sea-run Atlantic salmon to the Connecticut River Basin. The Compact calls for the formation of the Connecticut River Atlantic Salmon Commission with membership including the four Compact states, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

In 1981, a major milestone was achieved in the restoration program when a record 530 Atlantic salmon returned to the Connecticut compared with 175 in 1980 and one in 1974. Our goal is to restore an annual run of 6,000 by 1997. Those of us who joined to form the Compact believe it to be a critical step toward assuring continuing cooperation and the establishment of equitable regulations once the salmon begin to return regularly in large numbers.

As you know, the U.S. Constitution grants the right to states to establish a compact subject to the consent of the Congress. Also, when it is the desire, as in this case, to make the Federal Government a partner, Congress must take affirmative action.

Therefore, we would like to know your feelings about sponsoring a bill in the current session of Congress. I have enclosed a briefing paper prepared by the U.S. Fish and Wildlife Service, Northeast Regional Office which provides background information and a "draft bill". Please call if you have any questions or wish to call a meeting. I can be reached at (603) 271-3511.

Sincerely,

CHARLES E. BARRY,
Executive Director.

By Mr. TSONGAS (for himself and Mr. PELL):

S. 2836. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Banking, Housing, and Urban Affairs.

TERMINATING SOVIET GAS PIPELINE SANCTIONS

● Mr. TSONGAS. Mr. President, today I am introducing a bill to terminate U.S. economic sanctions regarding the Soviet gas pipeline. I invite cosponsors of this important bill.

It is clear now that the gas pipeline from the Soviet Union to Western Europe will go forward whether or not U.S. sanctions are applied. Sanctions may cause some delay in construction and will probably reduce the initial capacity of the pipeline, but our European allies are nonetheless determined to proceed and indeed are proceeding with the project.

In the United States, a number of firms have already been excluded from the pipeline project with a significant impact on export earnings and jobs for segments of the U.S. economy.

The NATO alliance is under serious strain as dramatically evidenced by the announcement of the European Community denouncing the pipeline sanction decision. The sanctions policy is driving a wedge between the United States and Western Europe, to what must be the obvious delight of the Kremlin.

The effectiveness of these sanctions on Soviet policy toward Poland is considered nill or minimal by a wide spectrum of experts, several of which recently testified before the Senate Foreign Relations Committee. Unilateral economic sanctions against the Soviet Union are easily circumvented and exert very little economic political leverage.

There remains the question of Soviet hard currency earnings generated by the pipeline. There is no doubt that such earnings will be high, but the sanctions will not have a substantial impact on the flow of currency to the Soviet Union.

The pipeline built without U.S. supplied equipment will operate at or near the capacity of the Soviet gas fields to supply the line.

Opponents of the pipeline have argued that it will deepen European economic dependence on the Soviet Union. This may well be the outcome but it is worth noting that our European allies are united in their support for the pipeline in spite of such dependence. In any case, Europe will pay cash for Soviet natural gas, and it is fair to say that the Soviets need hard currency as much as or more than the Europeans need natural gas. Dependence in this case will be mutual.

The U.S. pipeline sanctions are damaging our relations with Europe, and inflicting harm on the U.S. economy while the intended victim, the Soviet Union, escapes almost unscathed.

Sanctions are a ponderous and costly foreign policy lever, and must be used only when the policy impact is assured and the cost to the U.S. economy is minimal. The pipeline sanctions satisfy neither requirement.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end thereof the following new subsection:

"(1) TERMINATION OF CERTAIN CONTROLS.—Those export controls imposed under this section on December 30, 1981, and June 22, 1982, on goods or technology shall not be effective on or after the date of enactment of this subsection."●

By Mr. GARN (for himself, Mr. COHEN, Mr. NUNN, Mr. ARMSTRONG, Mr. EAST, Mr. HATCH, Mr. SYMMS, Mr. THURMOND, and Mr. MOYNIHAN):

S. 2837. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes; by unanimous consent, referred to the Committee on Banking, Housing, and Urban Affairs, and then sequentially to the Committee on Governmental Affairs for a period of not to exceed 60 days.

OFFICE OF STRATEGIC TRADE ACT OF 1982

Mr. GARN. Mr. President, today I am introducing, along with several of my colleagues, the Office of Strategic Trade Act of 1982. This legislation, made necessary by the failure of our current export control system to meet our commercial, strategic, foreign policy, and other related needs, would focus and centralize export administration within an independent Federal agency designated the Office of Strategic Trade.

This coordinating and policymaking agency would be the hub of a control system relying upon the expertise of appropriate other agencies and departments. The Department of State, for example, would be the primary consultative body with respect to foreign policy controls, the Department of Defense with respect to national security controls, and the Department of Commerce, and to a certain degree the Department of Agriculture, with regard to short supply controls. Nevertheless, Mr. President, while relying upon the expertise of various agencies, the Office of Strategic Trade would be captive of none.

This bill is a rewrite of the Export Administration Act of 1979 and would replace that act when it expires in 1983. Hearings this Congress in both the Banking Committee and the Governmental Affairs Committee, as well as the past experience of many involved with export controls, have revealed the need for basic structural changes in our administration of export controls.

The measure that I am introducing today is a modified version of a bill that I introduced in 1980. In hearings held at that time on the bill and similar issues Lawrence Brady, having served as Acting Director of the Office of Export Administration, and today the Assistant Secretary of Commerce for Trade Administration, testified:

> I feel there are certain areas in which the Commerce Department, no matter what personalities are in authority, will always be deficient in its implementation of long-term export control policies as mandated by the Export Administration Act.

Mr. Brady would be hard pressed to make an argument that conditions have changed sufficiently to make such views invalid today.

Recent press accounts have drawn attention to the great extent to which the Soviet military buildup has been supported by Western exports. This has been going on for some time despite our export control system. The advanced accuracy of the guidance systems of Soviet ICBM's, for example, was made possible by the sale to the Soviets of American ball-bearing grinders, which sale was approved by the Office of Export Administration. The Soviets obtained their shaped charge technology used in warheads for antitank guided missiles from the U.S. oil tool industry. Similarly, a recent CIA study reported that "since the early 1970's the Soviets and East Europeans have legally purchased more than 3,000 minicomputers, some of which are now being used in military-related organizations." The fact that Soviet troops rolled into Afghanistan on trucks manufactured at the

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Kama River plant built by American and Western European companies has been well reported.

Furthermore, Mr. President, the problems are not limited to a few glamorous cases. Rather, the problems are basic and structural in nature. The spectacular, well-publicized incidents are representative of many more, similar, small-scale failures of the system. The aggregate effect on our national security of these may be as great or greater than the few cases that find their way into the news.

There is an important point that I wish to stress, Mr. President. For although Under Secretary Lionel Olmer and Assistant Secretary Lawrence Brady have done an excellent job in trying to improve export administration—their efforts, I know, have been strenuous—after nearly 2 years, progress has been slow and material results precious few. Report after report tells us that plans are being formulated and reform is on the way, but it has yet to arrive. My own personal experience and the experience of others has been, and the record itself shows, that the inherent contradiction in assignments within the Commerce Department between export promotion, on one hand, and export controls, on another, make it improbable that there can be any long lasting reconciliation that will provide the adequate emphasis and resources necessary for the Commerce Department to carry out the purposes of the law.

Mr. President, the Office of the Inspector General, within the Department of Commerce, recently conducted an investigation that further demonstrated the need for an Office of Strategic Trade. The report of that investigation, submitted on June 11 of this year, states, in part, that the failure of the Commerce Department to rectify inadequacies in its export administration operations "raised serious questions about the Department's commitment to, and ability to, enforce the Export Administration Act of 1979." I do not know what better evidence one could ask for demonstrating the need for this legislation. The Commerce Department itself, in its own analysis, has shown the failure to enforce adequately the export control statutes, despite the fact, as the report notes, that these inadequacies have been identified in earlier reviews, and "despite strong public statements by the present and past administrations in support of tight controls."

Again, Mr. President, I think that it would be a mistake to pin the blame for this failure on the well-meaning and hard-working officials who have been assigned this task within the Department of Commerce. The fact is, Mr. President, that there is an almost irresistable bias for Federal agencies to serve the interests of their constituency. No one applauds a Commerce Department official when exports are controlled, but that same official is likely to be praised for his wisdom when export licenses are granted. The pressure at the Commerce Department, because of its very nature, is toward export promotion.

The report of the Inspector General referred again and again to the conflict in the Department presented by its conflicting duties of trade promotion and export control. Allow me to read again from this report:

> The inspection team repeatedly was advised that the problems it noted reflect the Department's dual and possibly conflicting missions of trade promotion and export control. The team was not able to reach this conclusion unequivocally. It is clear, however, that the Department's failure to provide adequate resources, policy guidance and management direction has impeded the compliance effort and produced at very least the perception of a de facto supremacy of the trade promotion mission over the Department's export control function.

Let me emphasize, Mr. President, that this was not just the impression of the inspection team. This view is one that is widespread within the Commerce Department. The very officials charged with enforcing the export control statutes recognize and admit the existence of this conflict. Reading again from the report:

> Virtually without exception, each of the staff interviewed in OEA (the Office of Export Administration), OEA/CD (OEA's Compliance Division), the Office of the General Counsel and the U.S. Customs Service referred to this conflict and acknowledged its impact—real or perceived.

Moreover, the Inspector General's report goes on to state:

> We found no evidence that the "delicate balance" referred to, or the Department's dual commitment to trade promotion and export control, have yet been translated into adequate staffing resources and management priorities for enforcement of the Export Administration Act. We did find ample evidence that those involved in implementing the Act, both inside and outside the Commerce Department, perceive the long history of inadequate enforcement as a manifestation of a lower priority vis-a-vis export promotion.

Therefore, Mr. President, it is not just this Senator's impression that Commerce does not, and over the long run has not and will not, devote adequate priority and resources to export controls. This is the impression of the people within the Department itself, within the Office of Export Administration. Most people know where their bread is buttered. An employee at OEA knows what the priority of his Department is and which decision on an export license is going to receive praise. That is why we need an agency that is captive of no other agency, and that includes, I might add, being free from the excessive influence of the Department of Defense as well. We need an agency with the stature and bureaucratic insultion to carry out fully all of the purposes of the export control statutes.

The impression within the Commerce Department that export control receives a low priority is not unjustified. The Inspector General's report points out nine major problems with Commerce's performance, "which severely hamper its ability to enforce controls on U.S. exports." The problems listed in the report include:

No comprehensive appraisal of or effective overall strategy to address the Nation's technology leakage problem;

Insufficient trained personnel;

Inadequate management direction and oversight;

Failure to use modern, state-of-the-art intelligence, investigative, and enforcement techniques and systems;

Lack of strong leadership and clear lines of organizational responsibility;

Unwarranted interference in the detailed conduct of investigative operations;

Inadequate cooperation and coordination with the U.S. Customs Service and vital information sources in the U.S. intelligence community;

Inadequate travel funds, law enforcement equipment, and other support resources; and

Use of antiquated or inefficient internal administrative and management systems and procedures.

Mr. President, these are not a few, insignificant problems that can be cleared up with a change in personnel. This is representative of widespread neglect over the course of years with the enforcement of laws vital to our national security.

Needless to say, our defense budget would be many billions of dollars less were it not for the cost of developing countermeasures to the weapons that we helped the Soviets develop and deploy.

Western goods, services, and technology have aided the Soviet military in three broad ways:

First, by transferring know-how for weapons systems that the Soviets did not possess, saving them billions of dollars in R. & D., as well as making up for gaps in Soviet technology;

Second, by giving the Soviets knowledge about Western weapons systems, allowing them to develop countermeasures, thereby undermining the Western qualitative edge in armaments that has been our defense against Soviet bloc quantitative superiority.

Third, by facilitating overall Soviet economic growth, allowing them to have both guns and butter. This has allowed growth in consumer-oriented production as well as increased infrastructure necessary for the financing and manufacture of armaments. The Kama River truck plant is one example of this.

Mr. President, ambivalence at the Commerce Department over export controls has also damaged our commercial interests. As I have argued, officials at the OEA are never quite sure what the priorities are. That leads to indecision and delay, even in the case of licenses for nonsensitive exports. According to the latest report by the Commerce Department; on September 30, 1981, 2,811 export license applications were in processing, 793 of which had been in processing for over 90 days.

In spite of herculean efforts, the administration of export controls remains inadequate. Controls are confusing, incoherently administered, shortsighted, and ineffective. At times Commerce spends inordinate resources examining inconsequential exports while truly sensitive items receive little more than cursory review. For 2 years a Soviet cover organization purchased 10.5 million dollars' worth of controlled U.S. high technology while the Commerce Department, informed of these Soviet efforts, failed to take any steps to stop this illegal transfer of technology. Presumably, the Department's resources were involved in trying to reduce the backlog of thousands of routine export applications. Both American export performance and American security are damaged.

For these reasons, I consider it appropriate at this time to reintroduce the proposal to remove expert administration from the Commerce Department, where it conflicts with that Department's mandate to promote exports and has often been forced to take a back seat to commercial concerns. Coordinating export administration activities in an independent agency will give the priority necessary and the bureaucratic insulation essential to balance appropriately the input received from the various Departments of the Government involved in the export control process.

I am reluctant to be advocating the establishment of a new agency. But, in this case we are moving an operation from one department and giving it the independence and authority necessary to do its job, a job that is vital to our national security. It should not, therefore, result in any significant new expense for the Government, since personnel and facilities would simply be transferred from the Commerce Department to the new Office of Strategic Trade. Certainly, the billions of defense dollars alone that can be saved from effective export controls justifies this step. It is critical to our Nation's security that a dialog start between Congress and the administration on this vital issue. This bill should act as the catalyst to this dialog. Most of all, we must insure that the attention is given to enforcing export controls that the Soviets devote to circumventing them.

As the Inspector General's report concludes:

> The problems arising from past inadequacies cannot be corrected by rhetoric.

Mr. President, I ask unanimous consent that the bill be included in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Office of Strategic Trade Act of 1982".

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FINDINGS

Sec. 2. The Congress makes the following findings:

(1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.

(2) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.

(3) Uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the trade balance of the United States.

(4) The failure to restrict the transfer of national security sensitive technology and goods to the Soviet Union and other countries where actions or policies are adverse to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, its allies, and other friendly nations, and increasing the defense budget of the United States.

(5) The failure to restrict the export of national security sensitive technology and goods is attributable in large part to the diffusion of decisionmaking responsibilities regarding strategic trade matters among several Federal agencies, and the lack of adequately trained and disciplined personnel.

(6) Because of the overlapping and frequently confusing responsibilities of the many Federal agencies that administer controls over strategic trade, the United States export control system has not served national security, foreign policy, or export interests effectively.

(7) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology (and goods which contribute significantly to the transfer of such technology) that could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

(8) Further, the availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(9) Minimization of restrictions for reasons of national security and/or foreign policy on exports of agricultural commodities and products is of critical importance to the maintenance of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

Sec. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States—

(A) to restrict the export or re-export of goods and technology which could make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments or common strategic objectives.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

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(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods or technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make reasonable prompt efforts to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before imposing controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls.

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments or common strategic objectives in restricting the export of goods and technology which could make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments or common strategic objectives.

(10) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.

(11) It is the policy of the United States to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, but excluding technical data;

(4) the term "technology" means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in the design, production, manufacture, repair, overhaul, processing, engineering, development, operation, maintenance, or restoration of goods of commodities, including computer software. Information or know-how may take tangible form, such as models prototypes, drawings, sketches, diagrams, blueprints, or manuals, or take an intangible form, such as training or technical services. Technological data shall also include all goods or commodities that will be used in the industrial application of the technological information, regardless of the end-use classification of the goods or commodities;

(5) the term "export of goods" means—

(A) an actual shipment or transmission of goods out of the United States, or

(B) an actual shipment or transmission of goods, or portions thereof, originally exported from the United States to any destination other than that indicated to the appropriate United States authority as the initial destination of the goods at the time of original export from the United States.

(6) The term "export of technology" means—

(A) an actual shipment or transmission of technology out of the United States; or

(B) any release of technology of United States origin in a foreign country;

(7) the term "Director" means the Director of the Office of Strategic Trade;

(8) the term "Office" means the Office of Strategic Trade; and

(9) the term "United States" means the States of the United States, its commonwealths, territories (leased or owned), its dependencies, and the District of Columbia.

ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND STRUCTURE OF OFFICE OF STRATEGIC TRADE

SEC. 5. (a) ESTABLISHMENT AND PRINCIPAL OFFICERS.—(1) There is established as an independent executive agency an Office of Strategic Trade. The Office shall be headed by a Director of Strategic Trade, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve for a term of four years, and who shall be assisted in the fulfulling of his responsibilities by a Deputy Director of Strategic Trade. The Office of Strategic Trade shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Director. The Director shall exercise all of the executive and administrative functions and authorities conferred in or transferred to the Office of Strategic Trade by this Act. The Director or his designee shall act as Chairman of the Interagency Advisory Committee for Export Policy (ACEP), which shall consist of representatives from the Department of Commerce, the Department of State, the Department of Defense, the Department of Energy, the Department of the Treasury, the Central Intelligence Agency, and the National Aeronautics and Space Administration.

(2) There shall be in the Office of the Director of the Office of Strategic Trade an Exporter Services Facility which shall act as liaison with the business community and shall receive and respond to inquiries from the public or interested persons.

(b) OTHER PRINCIPAL OFFICERS.—(1) There shall be in the Office an Operations Division which shall be headed by an Assistant Director for Operations, It shall be the function of the Assistant Director for Operations to process incoming applications for export licenses, to disseminate such applications to the licensing division for evaluation, and to forward approved licenses to the applicant. In addition, the Operations Division shall monitor conformity of export applications and licenses with the terms and conditions applicable to them. The Operations Division shall perform such other functions as the Director may determine to be appropriate which were carried out prior to the effective date of this Act by the Office of Export Administration's Operating Division.

(2) There shall be in the Office a Compliance Division which shall be headed by an Assistant Director for Compliance and which shall carry out functions performed prior to the effective date of this Act by the Deputy Assistant Secretary of Commerce for Export Enforcement. The Compliance Division may also conduct physical inspections for controlled items, and shall monitor overseas compliance with the Export Administration Act of 1979.

(3) There shall be in the Office a CoCom Division which shall be headed by an Assistant Director for CoCom Affairs and which shall carry out functions relating to the representation of technical positions (including those of military and strategic significance) in connection with the Coordinating Committee for Multilateral Export Controls (CoCom). The CoCom Division shall also provide representatives to the Department of State to assist in negotiations with other members of the Coordinating Committee.

(4) There shall be in the Office a Licensing Division which shall be headed by an Assistant Director for Licensing and which shall be responsible to the Director for the evaluation of criteria and establishment of policy relating to the commodity control list, munitions control list, foreign policy controls, and short supply controls. The Licensing Division shall prepare draft documents and license criteria for license applications and submit such documents to the Advisory Committee for Export Policy for review. In addition, there shall be within the Licensing Division—

(A) an office of the Operating Committee, which shall disseminate license documents from the licensing officers to the interagency committee members, specify deadlines, collect responses and recommendations from the respective agencies, summarize each agency position for the Office of the Director, and prepare cases for review by the Export Administration Review Board;

(B) an Office of Computer Licensing, which shall prepare draft documents analyzing criteria for licensing with respect to computers in accordance with the commodity control list;

(C) an Office of Capital Goods Licensing which shall prepare draft documents analyzing criteria for licensing with respect to capital goods in accordance with the commodity control list;

(D) an Office of Electronics, which shall prepare draft documents analyzing criteria for licensing with respect to the field of electronics in accordance with the commodity control list;

(E) an Office of Short Supply Licensing which shall prepare draft documents analyzing criteria for licensing with respect to the field of short supplies;

(F) an Office of Munitions Control which shall carry out the functions formerly carried out by the Department of State's Office of Munitions Control in maintaining the munitions control list;

(G) an Office of Technological Data which shall monitor and review the transfer of unembodied technology and knowledge through cultural exchange, educational, or other programs or means;

(H) an Office of Evaluation which shall monitor and review exports under general and validated licenses to determine whether items should be added to or deleted from commodity control lists, to assess foreign availability and comparability, and to make periodic (not less often than quarterly) specific recommendations, regarding additions to or deletions from the commodity control list to the Assistant Director for Licensing; and

(I) an Office of Foreign Policy Controls which shall formulate and maintain the list of foreign policy controls, in consultation with the Export Administration Review Board.

(5) There shall be in the Office a General Counsel.

GENERAL PROVISIONS

SEC. 6. (a) TYPES OF LICENSES.—Under such conditions as may be imposed by the Director which are consistent with the provisions of this Act, the Director may require any of the following types of export licenses:

(1) A validated license, authorizing a specific export, issued pursuant to an application by the exporter.

(2) A qualified general license, authorizing multiple exports, issued pursuant to an application by the exporter.

(3) A general license, authorizing exports without application by the exporter.

(4) Such other licenses as may assist in the effective and efficient implementation of this Act.

(b) COMMODITY CONTROL LIST.—The Director shall establish and maintain a list (hereinafter in this Act referred to as the "commodity control list") consisting of any goods or technology subject to export controls under this Act.

(c) FOREIGN AVAILABILITY.—In accordance with the provisions of this Act, the President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology where he determines adequate evidence has been presented to him that the goods or technology are available without restriction from sources outside the United States in comparable quantities and comparable in quality to those produced in the United States, and that adequate evidence has been presented to him demonstrating that the absence of such controls would not prove detrimental to the foreign policy or national security of the United States.

(d) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

(e) DELEGATION OF AUTHORITY.—The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Director, the Secretary of Defense, or the Secretary of State pursuant to the provisions of this Act.

(f) NOTIFICATION OF THE PUBLIC CONSULTATION WITH BUSINESS.—The Director shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Director shall establish suitable procedures for obtaining the views of a broad spectrum of enterprises; labor organizations, and citizens interested in or impacted by export controls on the United States export control policy and the foreign availability of goods and technology.

NATIONAL SECURITY CONTROLS

SEC. 7. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authorities and duties contained in this subsection shall be exercised by the Director, in consultation with the Secretary of Defense, and such other departments and agencies as the Director considers appropriate, and shall be implemented by means of export licenses described in section 6(a) of this Act. In accordance with the provisions of section 12 of this Act, the Secretary of Defense shall have the right to review any export application under this section which the Secretary of Defense requests to review.

(2)(A) Whenever the Director makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Director shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(B) Whenever the Director denies any export license under this section, the Director shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. The Director shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this section, or the Director shall indicate in such notice which officers and employees of the Office who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restriction, if appropriate.

(3) In issuing regulations to carry out this section, the Director shall give particular attention to the devising of effective safeguards to prevent a country that poses a threat to the security of the United States from diverting covered goods and technologies to military use and to the need to take effective measures to prevent the reexport of covered goods and technologies from other countries to countries that pose a threat to the security of the United States.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls for national security purposes under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as whether its policies are adverse to the national security interests of the United States, the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President considers appropriate. the President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(c) NATIONAL SECURITY CONTROL LIST.—(1) the Director shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the national security control portion of the commodity control list. Those items on which the Director and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Director and the Secretary of Defense are unable to concur on such items, the matter shall be referred by the Director to the President for resolution.

(3) The Director shall issue regulations providing for review of the list established pursuant to this subsection not less frequently than every 3 years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments, with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled under this section. The Director and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, and, in the case of the Direc-

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tor, any dissenting recommendations received from any agency.

(d) Militarily Critical Technologies.—(1) The Secretary of Defense, in consultation with the Director, shall review and revise the national security control list established pursuant to subsection (c), as prescribed in paragraph (3) of such subsection, for the purpose of insuring that export controls imposed under this section cover and (to the maximum extent consistent with the purposes of this Act) are limited to militarily critical goods and technologies and the mechanisms through which such goods and technologies may be effectively transferred.

(2) The Secretary of Defense shall bear primary responsibility for inclusion in the national security control list, the militarily critical technologies as described below. In developing such items for inclusion, primary emphasis shall be given to—

(A) arrays of design and manufacturing know-how,

(B) keystone manufacturing, inspection, and test equipment,

(C) goods accompanied by sophisticated operation, application, or maintenance know-how, and

(D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would reveal or give insight into a United States military system and would thereby facilitate either the design and manufacture of that system or the development of countermeasures against that system.

which, as determined by the Secretary of Defense, are not possessed and able to be utilised by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

(3) The description of the military critical technologies referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act.

(e) National Security Control Agency.—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there shall be established within the Office of the Under Secretary of Defense for Policy a National Security Control Agency. The Secretary of Defense may delegate such of those authorities and responsibilities, together with such ancillary functions, as he may deem appropriate to the Agency.

(f) Annual Report.—The Secretary of Defense shall report annually to the Congress on actions taken to carry out this section.

(g) Export Licenses.—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general licence in lieu of a validated license.

(2) To the maximum extent practicable, consistent with the national security of the United States, the Director may require a qualified general license in lieu of a validated license under this section for the export of goods or technology, except where—

(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement; or

(B) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Director, United States export controls on such goods or technology, by means of such validated license, are necessary prior to the conclusion of such agreement

(3) To the maximum extent practicable, consistent with the national security of the United States, the Director may require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

(h) Foreign Availability.—(1) The Director, in consultation with the Secretary of Defense and such other Government agencies as may be appropriate in the circumstances as well as with such technical advisory committees established pursuant to subsection (i) as the Director may deem appropriate, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Director determines, in accordance with procedures and criteria which the Director shall by regulation establish, that any such goods or technologies are available in fact to such destinations from such sources in comparable quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology would have no effect in achieving the purpose set forth in subsection (a) of this section, the Director may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Director shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

(2) Subject to paragraph (4), the Director shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Director determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in comparable quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Director makes a determination of foreign availability under this paragraph with respect to any goods or technology, the Director shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

(4) A technology or good proposed for, or subject to, export control for national security purposes, which is not possessed in comparable quantity of quality by a nation or combination of nations threatening to the national security of the United States, shall not be deemed to be available to that nation or combination of nations from foreign sources until the Secretary of State verifies that negotiations with the appropriate foreign governments have been undertaken. For purposes of this Act, assessment of comparable quantity of quality shall include but not be limited to the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technological data packages, back-up packages, long-term durability, scale of production, ease with which machinery will be integrated in the mode of production, and spoilages and tolerance factors for end products produced by the machinery. In any case in which, in accordance with this subsection, export controls are imposed under this section notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available from other countries to countries to which exports are controlled under this section and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(5) In order to further carry out the policies set forth in this Act, the director shall establish within the Office a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this Act.

(6) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office concerning foreign availability of goods and technology subject to export controls under this Act, and the Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

(i) Technical Advisory Committees.—(1) Upon written request by representatives of a substantial segment of any industry which produces any goods or technology subject to export controls under this section or being considered for such controls because of their significance to the national security of the United States, the Director shall appoint a technical advisory committee for any such goods or technology which the Director determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Defense, State, Commerce, the intelligence community, and, in the discretion of the Director, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Director, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Nothing in this subsection shall prevent the Director or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Director, to present relevant material to such committees.

(3) Upon request of any member of any such committee, the Director may, if the Director determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of 2 years, unless extended by the Director for additional periods of 2 years. The Director shall consult each such committee with respect to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Director, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

(6) Subject to subsection (h) (4) of this section, whenever a technical advisory committee certifies to the Director that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in comparable quantity and of comparable quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a) of this section, and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (h)(1) of this section, the Director shall investigate such availability, and if such availability is verified, the Director shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Director shall publish that determination together with a concise statement of its basis and the estimated economic impact of the decision.

(j) Multilateral Export Controls.—The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with the view toward accomplishing the following objectives:

(1) Agreement to publish the list of items controlled for export by agreement of the Committee.

(2) Agreement to hold periodic meetings with high-level representatives of such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

(3) Agreement on more effective procedures for enforcing the export controls referred to in paragraph (1).

(k) Commercial Agreements With Certain Countries.—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which calls for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency with sufficient detail to the Director.

(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions, except where the unpublished technical data involve a technology identified by the Secretary of Defense as a militarily critical technology.

(l) Negotiations With Other Countries.—The Secretary of State, in consultation with the Secretary of Defense, the Director, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(m) Diversion to Military Use of Controlled Goods or Technology.—(1) Whenever there is reliable evidence that goods or technology which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes have been diverted to an unauthorized use or consignee in violation of the conditions of an export license, the Director for as long as that diversion continues—

(A) shall deny all further exports to or by the party or parties responsible for that diversion of any goods or technology subject to national security controls under this section to an unauthorized use or consignee regardless of whether such goods or technology are available to that country from sources outside the United States; and

(B) may take such additional steps under this Act with respect to the party or parties referred to in subparagraph (A) as he determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

(2) As used in this subsection, the term "diversion to an unauthorized use or consignee" means the use of United States goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the United States Munitions List, or the transfer of United States goods or technology to any consignee or and user engaged in or contributing to such design, production, or maintenance.

(n) Recordkeeping.—The Director, the Secretary of Defense, and any other department or agency consulted in connection with a license application or revision of a list of controlled commodities, goods, or technologies, shall make and keep records of their respective advice, recommendations, or decisions, including the factual and analytical basis of the advice, recommendations, or decisions.

FOREIGN POLICY CONTROLS

Sec. 8. (a) Authority.—(1) In order to carry out the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Director, in consultation with the Secretary of State and such other departments and agencies as the Director considers appropriate, and shall be implemented by means of export licenses issued by the Director.

(2) Export controls maintained for foreign policy purposes shall expire one year after imposition unless extended by the President in accordance with subsections (b) and (e). Any such extension and any subsequent extension shall not be for a period of more than one year.

(3) Whenever the Director denies any export license under this subsection, the Director shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Director shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Director shall indicate in such notice which officers and employees of the Office who are familiar with the application will be made reasonably available to the applicant for

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consultation with regard to such modifications or restrictions, if appropriate.

(4) In accordance with the provisions of section 12 of this Act, the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(b) Criteria.—When imposing, expanding, or extending export controls under this section, the President shall consider—

(1) the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) the reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) the ability of the United States to enforce the proposed controls effectively; and

(6) the foreign policy consequences of not imposing controls.

(c) Consultation With Industry.—The Director, before imposing export controls under this section, shall consult with such affected United States industries as the Director considers appropriate, with respect to the criteria set forth in paragraphs (1) and (4) of subsection (b) and such other matters as the Director considers appropriate.

(d) Alternative Means.—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

(e) Notification to Congress.—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 9(g)(3) of this Act, whenever the President imposes, expands, or extends export controls under this section, the President shall immediately notify the Congress of such action and shall submit with such notification a report specifying—

(1) the conclusions of the President with respect to each of the criteria set forth in subsection (b); and

(2) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 14(c) of this Act.

(f) Exclusion for Medicine and Medical Supplies and for Certain Food Exports.—This section does not authorize export controls on medicine, or medical supplies. Before export controls on food are imposed, expanded, or extended under this section, the director shall notify the Secretary of State in the case of export controls applicable with respect to any developed country and shall notify the Director of the United States International Development Cooperation Agency (IDCA) in the case of export controls applicable with respect to any developing country. The Secretary of State with respect to developed countries, and the Director of the IDCA with respect to developing countries, shall determine whether the proposed export controls on food would cause measurable malnutrition and shall inform the Director of that determination. If the Director is informed that the proposed export controls on food would cause measurable malnutrition, then those controls may not be imposed, expanded, or extended, as the case may be, unless the President determines that those controls are necessary to protect the national security interests of the United States, or unless the President determines that arrangements are insufficient to ensure that the food will reach those most in need. Each such determination by the Secretary of State or the Director of the United States International Development Cooperation Agency, and any such determination by the President, shall be reported to the Congress, together with a statement of the reasons for that determination. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of medicine or medical supplies or of food under the International Emergency Economic Powers Act. This subsection does not apply to any export control on medicine or medical supplies which is in effect on the effective date of the Export Administration Act of 1979 or to any export control on food which is in effect on the date of the enactment of the Export Administration Amendments Act of 1981.

(g) Foreign Availability.—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled under this section.

(h) International Obligations.—The provisions of subsections (b), (c), (d), (f), and (g) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill obligations of the United States pursuant to treaties to which the United States is a party or pursuant to other international agreements.

(i) Countries Supporting International Terrorism.—The Director and the Secretary of State shall notify the committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before any license is approved for the export of goods or technology valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

(j) Crime Control Instruments.—(1) Crime control and detection instruments and equipment shall be approved for export by the Director only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961.

(k) Control List.—The Director shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Director. If the Director and the Secretary of State are unable to agree on the list, the matter shall be referred by the Director to the President. Such list shall be reviewed not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, for the purpose of making such revisions as are necessary in order to carry out this section., During the course of such review, an assessment shall be made periodically of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled for export from the United States under this section.

SHORT SUPPLY CONTROLS

Sec. 9. (a) Authority.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Director shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) Monitoring.—In order to carry out the policy set forth in section 3(2)(C) of this

Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary of Commerce requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary of Commerce determines that there is insufficient information to justify weekly reports.

(3) The Director shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(c) Petitions for Monitoring or Controls.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Director requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

(B) Each petition shall be in such form as the Director shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Director shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Director written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Director shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Director, in consultation with the Secretary of Commerce, shall—

(A) determine to impose monitoring or controls, or both, on the export of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

(B) publish in the Federal Register a detailed statement of the reasons for such determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Director shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Director shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Director may consolidate petitions, and responses thereto, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Director may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Director with respect to the same subject as that of the petition.

(8) The Director may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Director makes a determination under paragraph (3) if the Director considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

(9) The authority under this subsection shall not be construed to affect the authority of the Director under any other provision of this Act.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Director of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Director in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

(d) Domestically Produced Crude Oil.—(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will within 3 months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such findings to the Congress and the Congress, within 60 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergen-

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cy Oil Sharing Plan of the International Energy Agency.

(e) Refined Petroleum Products.—(1) No refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than 5 days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Director shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Director may not grant such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

(3) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

(4) For purposes of this subsection, "refined petroleum product" means gasoline, kerosene, distillates, propane or butane gas, diesel fuel, and residual fuel oil refined within the United States or entered for consumption within the United States.

(5) The Director may extend any time period prescribed in section 12 of this Act to the extent necessary to take into account delays in action by the Director on a license application on account of the provisions of this subsection.

(f) Certain Petroleum Products.—Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed under this section except that, if the Director finds that a product is in short supply, the Director may issue such regulations as may be necessary to limit exports.

(g) Agricultural Commodities.—(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (A) or (B) of paragraph (2) of section 3 of this Act. The Secretary of Agriculture shall, be exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.

(2) Upon approval of the Director, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed to carry out the policy set forth in section 3(2)(C) of this Act subsequent to such approval. The Director may not grant such approval unless the Director receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds, (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Director may issue such regulations as may be necessary to implement this paragraph.

(3) If the authority conferred by this section or section 8 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(h) Barter Agreements.—(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(C) of this Act.

(2) The Director shall grant an exemption under paragraph (1) if the Director finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term "barter agreement" means any agreement which is made for the exchange without monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of the Export Administration Act of 1979.

(i) Unprocessed Red Cedar.—(1) The Director shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal lands. The Director shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the 3-year period beginning on the effective date of the Export Administration Act of 1979 as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(B) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs may be exported from the United States.

(2) The Director shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Director considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(3) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(4) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(A) lumber without wane;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

(j) Export of Horses.—(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Director, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Director, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

Sec. 10. (a) Prohibitions and Exceptions.—(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this Act, the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organised under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organised under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such persons.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Director.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organised under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) FOREIGN POLICY CONTROLS.—(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 8 of this Act shall implement the policies set forth in section 3(5).

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Director, together with such other information concerning such request as the Director may require for such action as the Director considers appropriate for carrying out the policies of that section. Such person shall also report to the Director whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Director detemines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Director shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Director, considers appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) PREEMPTION.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 11. (a) FILING OF PETITIONS.—Any person who, in such person's domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a good historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a good, may transmit a petition of hardship to the Director requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Director shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) DECISION OF THE DIRECTOR.—Not later than 30 days after receipt of any petition under subsection (a), the Director shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Director's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Director considers appropriate.

(c) FACTORS TO BE CONSIDERED.—For purposes of this section, the Director's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of export controls shall reflect the Director's consideration of factors such as the following:

(1) Whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Director shall take into account—

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

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(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the good under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular good.

(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits shall not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

Sec. 12. (a) Primary Responsibility of the Director.—(1) All export license applications required under this Act shall be submitted by the applicant to the Director. All determinations with respect to any such application shall be made by the Director, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Director without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Director shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

(b) Initial Screening.—Within 10 days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Director shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Director and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(c) Action on Certain Applications.—In each case in which the Director determines that it is not necessary to refer an application to any other department or agency for its information and recommendations, a license shall be formally issued or denied within 90 days after a properly completed application has been submitted pursuant to this section.

(d) Referral to Other Departments and Agencies.—In each case in which the Director determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Director shall, within 30 days after the submission of a properly completed application—

(1) refer the application, together with all necessary analysis and recommendations of the Office, concurrently to all such departments or agencies; and

(2) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be referred to any such department or agency with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(e) Action by Other Departments and Agencies.—(1) Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Director, within 30 days after its receipt of the application, the information or recommendations requests with respect to such application. Except as provided in paragraph (2), any such department or agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Director to have no objection to the approval of such application.

(2) If the head of any such department or agency notifies the Director before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review by such department or agency, such department or agency shall have an additional 30-day period to submit its recommendations to the Director. If such department or agency does not submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Director to have no objection to the approval of such application.

(f) Action by the Director.—(1) Within 90 days after receipt of the recommendations of other departments and agencies with respect to a license application, as provided in subsection (e), the Director shall formally issue or deny the license. In deciding whether to issue or deny a license, the Director shall take into account any recommendation of a department or agency with respect to the application in question. In cases where the Director receives conflicting recommendations, the Director shall, within the 90-day period provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(2) In cases where the Director receives questions or negative considerations or recommendations from any other department or agency with respect to an application, the Director shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant of the specific questions raised and any such negative considerations or recommendations, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(3) In cases where the Director has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of the determination, of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this section, the applicant shall be so informed in writing within 5 days after such deferral.

(4) If the Director determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Director may extend any time period prescribed in this section. The Director shall notify the Congress and the applicant of such extension and the reasons therefor.

(g) Special Procedures for Secretary of Defense.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Director, and confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Director shall notify the Secretary of Defense of such request, and the Director may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Director pursuant to this paragraph and, not later than 30 days after notification of the request, shall—

(A) recommend to the President that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;

(B) notify the Director that he would recommend approval subject to specified conditions; or

(C) recommend to the Director that the export of goods or technology be approved.

If the President notifies the Director, within 30 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(3) The Director shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

(4) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any recommendation made by the Secretary of Defense under subsection (c) or (d) of section 7 of this Act with respect to the list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(h) MULTILATERAL CONTROLS.—In any case in which an application, which has been finally approved under subsection (c), (f), or (g) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Director shall notify the applicant of the approval of the application (and the date of such approval) by the Director subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within 60 days after such date, the Director's approval of the license shall be final and the license shall be issued, unless the Director determines that issuance of the license would prove detrimental to the national security of the United States. At the time at which the Director makes such a determination, the Director shall notify the applicant of the determination and shall notify the Congress of the determination, the reasons for the determination, the reasons for which the multilateral review could not be concluded within such 60-day period, and the actions planned or being taken by the United States Government to secure conclusion of the multilateral review. At the end of every 60-day period after such notification to Congress, the Director shall advise the applicant and the Congress of the status of the application, and shall report to the Congress in detail on the reasons for the further delay and any further actions being taken by the United States Government to secure conclusion of the multilateral review. In addition, at the time at which the Director issues or denies the license upon conclusion of the multilateral review, the Director shall notify the Congress of such issuance or denial and of the total time required for the multilateral review.

(i) RECORDS.—The Director and any department or agency to which any application is referred under this section shall keep accurate records with respect to all applications considered by the Director or by any such department or agency, including, in the case of the Director, any dissenting recommendations received from any such department or agency.

(j) APPEAL AND COURT ACTION.—(1) The Director shall establish appropriate procedures for any applicant to appeal to the Director the denial of an export license application of the applicant.

(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (f)(4) of which the applicant is notified), the applicant may file a petition with the Director requesting compliance with the requirements of this section. When such petition is filed, the Director shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within 30 days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Director has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

VIOLATIONS

SEC. 13. (a) IN GENERAL.—Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(b) WILLFUL VIOLATIONS.—(1) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and

(B) in the case of an individual, shall be fined not more than $250,000, or imprisoned not more than 10 years, or both.

(2) Any person who is issued a validated license under this Act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or $1,000,000, whichever is greater; and

(B) in the case of an indidvidual, shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

For the purpose of this paragraph, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed $10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed, except that the civil penalty for each such violation involving national security controls imposed under section 7 of this Act or controls imposed on the export of defense articles and defense services under section 38 of the Arms Export Control Act may not exceed $100,000.

(2)(A) The Authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the regulations issued pursuant to section 10(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the regulations issued pursuant to section 10(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 10(a) of this Act shall be made available for public inspection and copying.

(d) PAYMENT OF PENALTIES.—The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) REFUNDS.—Any amount paid in satisfaction of any penalty imposed pursuant to subsection (a) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within 2 years after payment, on the ground of a material error of fact or law in the imposition of the penalty. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) ACTIONS FOR RECOVERY OF PENALTIES.—In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

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(g) Other Authorities.—Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

Sec. 14. (a) General Authority.—To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Immunity.—No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 5002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) Confidentiality.—Except as otherwise provided by the third sentence of section 10(b)(2) and by section 13(c)(2)(C) of this Act, information obtained under this Act on or before the date of enactment of this Act, which is deemed confidential, including Shipper's Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Director in his sole discretion determines that the withholding thereof is contrary to the national interest. Information obtained under this Act or the Export Administration Act of 1979 after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act or the Export Administration Act of 1979 shall be withheld from public disclosure unless the release of such information is determined by the Director in his sole discretion to be in the national interest. This subsection shall not affect any judicial proceeding commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

(2) Nothing in this Act shall be construed as authorizing the withholding of information from the Congress or from the General Accounting Office. All information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request of the chairman or ranking minority member of such committee or subcommittee. No such committee or subcommittee, or member thereof, shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information referred to in the second sentence of this paragraph shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 313 of the Budget and Accounting Act, 1921, be made available only by that agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office who is authorized by the Comptroller General to have access to such information. No officer or employee of the General Accounting Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(3) Departments or agencies which obtain information which is relevant to the enforcement of this Act shall furnish such information to the department or agency with enforcement responsibilities under this Act to the extent consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, except that—

(A) the provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and

(B) return information, as defined in subsection (b) of section 6103 of the Internal Revenue Code of 1954, may be disclosed only as authorized by such section.

(d) Reporting Requirements. In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) Simplification of Regulations.—The Director, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 7(g), shall review the regulations issued under this Act and the commodity control list in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 15. (a) Exemption.—Except as provided in section 13(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) Public Participation.—It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

ANNUAL REPORT

Sec. 16. (a) Contents.—Not later than December 31 of each year, the Director shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Director in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3;

(2) general licensing activities under sections 7, 8, and 9, and any changes in the exercise of the authorities contained in sections 7(a), 8(a), and 9(a);

(3) the results of the review of United States policy toward individual countries pursuant to section 7(b);

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 7(c)(3);

(5) actions taken to carry out section 7(d);

(6) changes in categories of items under export control referred to in section 7(e);

(7) determinations of foreign availability made under section 7(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 7(f)(5);

(9) consultations with the technical advisory committees established pursuant to section 7(g), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

(10) the effectiveness of export controls imposed under section 8 in furthering the foreign policy of the United States;

(11) export controls and monitoring under section 9;

(12) the information contained in the reports required by section 9(b)(2), together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(13) actions taken by the President and the Director to carry out the antiboycott policies set forth in section 3(5) of this Act;

(14) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 12, including an analysis of the time required to process license applications, the number and disposition of export license applications taking more than 90 days to process, and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(15) delegations of authority by the President as provided in section 6(e) of this Act;

(16) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act;

(17) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 14(d), and any action taken, on the basis of the review required by section 14(e), to simplify regulations issued under this Act;

(18) violations under section 13 and enforcement activities under section 14; and

(19) the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 15(b).

(b) Report on Certain Export Controls.—To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) Report on Negotiations.—The President shall include in each annual report a detailed report on the progress of the negotiations required by section 7(j), until such negotiations are concluded.

REGULATORY AUTHORITY

Sec. 17. The President and the Director may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 7(a), 8(a), 9(a), or 10(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.

TRANSFER OF FUNCTIONS

Sec. 18. (a) Transfers to Director.—In addition to authorities and responsibilities elsewhere provided for in this Act, there are transferred to the Office of Strategic Trade the following functions and authorities:

(1) those of the Offices of East-West Trade and Munitions Control of the Department of State with respect to the munitions list pursuant to the Arms Export Control Act; and

(2) such other functions and authorities, not specifically or otherwise vested or delegated by statute, as the Director, in consultation with the Director of the Office of Management and Budget, determine to be appropriate.

(b) Incidental Transfers.—The Director of the Office of Management and Budget, in consultation with the Director, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

EFFECT ON OTHER ACTS

Sec. 19. (a) In General.—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) Coordination of Controls.—The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) Civil Aircraft Equipment.—Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in Civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(d) Nonproliferation Controls.—(1) Nothing in section 7 or 8 of this Act shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 12 of this Act shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Director, the applicant shall have the rights of appeal and court action provided in section 12(j) of this Act.

(e) Termination of Other Authority.—On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611-1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

Sec. 20. (a) Requirement of Authorizing Legislation.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

(b) Authorization.—There are authorized to be appropriated to carry out the purposes of this Act—

(1) $9,659,000 for each of the fiscal years 1982 and 1983; and

(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

EFFECTIVE DATE

Sec. 21. This Act shall take effect upon the expiration of the Export Administration Act of 1979.

TERMINATION DATE

Sec. 22. This authority granted by this Act terminates on September 30, 1984, or upon any prior date which the President by proclamation may designate.

SAVINGS PROVISIONS

Sec. 23. (a) In General.—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act.

(b) Administrative Proceedings.—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1979, which is pending at the time this Act takes effect.

TECHNICAL AMENDMENTS

Sec. 24. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" and inserting in lieu thereof "section 13 of the Office of Strategic Trade Act of 1982 and by subsections (a) and (c) of section 14 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "Export Administration Act of 1979" and inserting in lieu thereof "Office of Strategic Trade Act of 1982".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended by striking out "section 12 of the Export Administration Act of 1979" and inserting in lieu thereof "section 14 of the Office of Strategic Trade Act of 1982".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "7(a) of the Export Administration Act of 1979" and inserting in lieu thereof "9(a) of the Office of Strategic Trade Act of 1982"; and

(2) by striking out "(A)" and inserting in lieu thereof "(C)".

(d) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following item:

"Director of Strategic Trade.".

(e) Section 5315 of such title is amended by adding at the end thereof the following:

"Assistant Directors, Office of Strategic Trade (4).".

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AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947

SEC. 28. The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

"(5) the Director of Strategic Trade;".

Mr. COHEN. Mr. President, I am pleased to join as a cosponsor of the Office of Strategic Trade Act of 1982. Senator GARN and I actively pursued similar legislation in the last Congress, and I congratulate him on his continued commitment to this concept.

I have long been concerned about the degree to which the Soviet Union uses U.S. technology in weapons development. Acquiring U.S. technology is given a very high priority and directed by the highest levels of the Soviet Government. The Soviets employ all means available to them to obtain American know-how, including exploitation of existing scientific exchanges, intelligence services, and industrial espionage.

Our country has an agreement with the Soviet Union regarding the international research and exchange program (IREX) which provides students the opportunity to study abroad. While most U.S. students in the Soviet Union are studying history and fine arts, Soviet students come to this country to study computers and the hard sciences at our leading universities. In the past 2 years, more than a third of the 50 proposals offered under one part of the IREX program had to be rejected or modified in order to minimize the technology loss.

An even more common technology drain is that found through scientific visits to academic conferences and attendance at commercial trade fairs. Soviets need only a visa approved by the State Department to enter the United States for this purpose. A Soviet scientist, for example, was able to study fuel-air explosives in this country and to return to the Soviet Union to work on related weapons development.

The vast majority of militarily significant technology obtained by the Soviet Union is acquired through intelligence agencies of the Soviets and other Eastern European countries. The legal acquisitions are also important, since many times the combination of the knowledge of both sources is critical for developing the complete capability. The Soviets, for example, purchased, illegally and legally, high-technology microelectronics equipment that enabled them to enhance the sophistication of a wide range of military systems.

A recent hearing by the Permanent Subcommittee on Investigations pointed out the extent to which industrial espionage is used as a vehicle for Soviets to obtain U.S. technology. I heard testimony from William H. Bell, a former executive from Hughes Aircraft, who is now serving time in Federal prision for selling classified material to a Polish spy. The story of Mr. Bell is a classic case of industrial espionage where the Polish agent was able to appeal to Mr. Bell after learning of his vulnerable personal situation. A recent divorce and remarriage had strained Mr. Bell's personal finances, and over a period of time, he disclosed to the Polish agent, and most likely to the Soviets, radar systems for some of our most sophisticated weapons, including the B-1 and Stealth bombers, all-weather radar for tanks, and a NATO air-defense system.

I congratulate this administration for being the first to recognize the seriousness of the technology drain problem. But many practical obstacles remain. How do we balance the need for effective restraint in controlling exports with the basic rights of the citizens of our free society? How can we best utilize and organize the resources to enforce a strong export control policy? And how can we encourage the cooperation of our allies in curbing their own exports of high technology to the Soviet bloc countries?

I feel that the Office of Strategic Trade Act of 1982, by establishing an independent office to oversee export control policy, is an important first step in improving this process. The organizational structure would signal the importance of these functions, both to the Soviets and to our allies. The Commerce Department, which now has the responsibility of determining export policies, has an inherent conflict of interest in being responsible both for export promotion and for controlling exports that have strategic significance.

I expressed my frustration at recent PSI hearings that voluminous hearing records exist documenting the extent of the problem, but no action has been taken. I commend Senator GARN for taking action by introducting this bill, and I am pleased to lend my support to this effort.

● Mr. MOYNIHAN. Mr. President, for several years I have been concerned about serious flaws in our policies on trade with the Soviet Union and other Warsaw Pact nations. During the past decade, we observed a major military buildup by the Soviets, in which they outspent us by $100 billion for strategic forces alone, while the United States relaxed restrictions on transfer of its high technology and equipment.

The consequences of improvident export licensing practices and inadequate enforcement of controls were brought home in a study by the Director of Central Intelligence, which was conducted at the request of the Select Committee on Intelligence, of which I am vice chairman. I shall submit a copy of the unclassified version of this report, released in April 1982, for the RECORD at the end of my remarks.

The DCI's study confirmed what many of us had previously warned was the case. It stated that the technological superiority of the United States and its allies, which is critical to the preservation of a credible counterforce to the quantitative edge of the Warsaw Pact, is "eroding as the Soviet Union and its allies introduce more sophisticated weaponry—weapons that all too often are manufactured with the direct help of Western technology."

The study goes on to point out that the Soviets have been very successful in acquiring both classified and unclassified Western technology obtained through the KGB and other organizations using both clandestine and overt collection methods. Stemming the flow of technology to the Soviets, the DCI concluded, is one of the "most complex and urgent issues facing the free world today."

While the intelligence community can identify and analyze the nature of the problem, it is not its responsibility to formulate and execute strategic trade policies. Since the adoption of the Export Control Act of 1949 these functions have been the primary responsibility of the Department of Commerce in so far as they concern commercial technologies and goods which have military applications. In addition, Commerce has been responsible for promoting foreign trade. Over the years, the Department has vigorously advanced the interests of exporters seeking to expand their markets in the Communist world. Unhappily, and perhaps understandably, it has not given anywhere near comparable emphasis to its export control duties, much to the detriment of national security.

Because of the Commerce Department's failure to carry out the congressional mandate to protect national security, I joined several of my colleagues in 1979 in offering several amendments to the Export Administration Act, which were designed to enhance the authorities of the Secretary of Defense and tighten the criteria for approval of export licenses. These amendments were adopted, but they left the Commerce Department primarily responsible for administering the control machinery.

Evidence has recently come to light indicating that the Congress should take the next logical step, which is to remove the export control function from the Commerce Department and thereby eliminate the institutional conflict of interest. In May, the Senate Permanent Subcommittee on Investigations received extended testimony that indicated significant weaknesses persist in the Department's compliance program. In June, no less an authority than the Inspector General of the Commerce Department issued a report of investigation which found similar problems including:

No comprehensive approval of an effective overall strategy to address the Nation's technology leakage problem;

Insufficient trained personnel, travel funds, and support services;

Failure to use modern intelligence and investigative techniques;

Inadequate management direction and leadership.

The Inspector General pointed out that many of the problems highlighted in his report had been identified previously and that the Commerce Department had failed to correct them "despite strong public statements by present and past administrations in support of tight controls over the export of high and dual-use technologies."

The report concluded that: "This failure raises serious questions about the Department's commitment to, and ability to enforce the Export Administration Act of 1979."

I am therefore today joining my colleague on the Select Committee on Intelligence, the Senator from Utah, in introducing the Office of Strategic Trade Act of 1982. The bill would establish an Office of Strategic Trade (OST) as a new independent agency, with a Director who would be appointed by the President with the advice and consent of the Senate and would be made a member of the National Security Council. The Office would be given the authorities now carried out by Commerce under the Export Administration Act. In order to assure close coordination, the commercial licensing functions relating to defense articles, now exercised by the State Department under the Arms Export Control Act, would also be transferred to the OST.

Mr. President, this bill should not be viewed as the final edifice, but only as a potential first step in developing a clear, coherent, and consistent strategic trade policy. It is possible that this legislation could be strengthened by appropriate amendments. In addition, it is important to keep in mind that, whatever legislation we may enact, the primary responsibility for formulating export control policy and seeing that it is properly implemented will remain with the President. The West European reaction to the administration's sanctions to prevent the supply of parts for the Trans-Siberian Gas Pipeline is a consequence of the administration's earlier failure to make its opposition to that project clear and unequivocal. My colleagues will recall that the President proposed at Ottawa in July 1981 that the West not provide credits and technology to build the pipeline. A few days later, the credibility of that position was undermined when the administration approved the sale of pipelaying equipment to Moscow.

Similarly, the administration asserts that its grain sales policy takes advantage of Soviet dependency on imports and serves Western interests by depleting Moscow's hard currency reserves. However, it conveniently overlooks the fact that, when the Carter grain embargo was terminated, controls were also removed on exports of phosphates which will increase Soviet crop yields.

The foregoing are problems that are well within the existing statutory authorities to remedy. What has been lacking has been clear policy direction and implementation. There are limits to what legislation can accomplish, but Congress will and must make the effort if the executive branch fails to do so. We offer this bill in a constructive and bipartisan spirit and in the hope that it will contribute to much needed and long overdue improvements in our export control system.

The report follows:

Soviet Acquisition of Western Technology

INTRODUCTION

The United States and its Allies traditionally have relied on the technological superiority of their weapons to preserve a credible counterforce to the quantitative superiority of the Warsaw Pact. But that technical superiority is eroding as the Soviet Union and its Allies introduce more and more sophisticated weaponry—weapons that all too often are manufactured with the direct help of Western technology.[1] Stopping the Soviets' extensive acquisition of military-related Western technology—in ways that are both effective and appropriate in our open society—is one of the most complex and urgent issues facing the Free World today.

This report describes the Soviet program to acquire US and Western technology, the acquisition mechanisms used, the spectrum of Western acquisitions that have contributed to Soviet military might, the projected Soviet priority needs for Western technology, and the problems of effectively stemming the transfer of Western technology that could someday find application in weapons used to threaten the West.

SOVIET ACQUISITION OF WESTERN TECHNOLOGY: A NATIONAL-LEVEL PROGRAM

Since at least the 1930's the Soviet Union has devoted vast amounts of its financial and manpower resources to the acquisition of Western technology that would enhance its military power and improve the efficiency of its military manufacturing technology. Today this Soviet effort is massive, well planned, and well managed—a national-level program approved at the highest party and governmental levels.

This program accords top priority to the military and military-related industry, and major attention is also given to the civilian sectors of Soviet industry that support military production.

The Soviets and their Warsaw Pact allies have obtained vast amounts of militarily significant Western technology and equipment through legal and illegal means. They have succeeded in acquiring the most advanced Western technology by using, in part, their scientific and technological agreements with the West to facilitate access to the new technologies that are emerging from the Free World's applied scientific research efforts; by spending their scarce hard currency to illegally purchase controlled equipment, as well as to legally purchase uncontrolled advanced Western technologies having military-industrial applications; and by tasking their intelligence services to acquire illegally those U.S. and Western technologies that are classified and export controlled.

The Soviets have been very successful in acquiring Western technology by blending acquisitions legally and illegally acquired by different government organizations. The Soviet intelligence services—the Soviet Committee for State Security (KGB) and the Chief Intelligence Directorate of the Soviet General Staff (GRU)—have the primary responsibility for collecting Western classified, export-controlled, and proprietary technology, using both clandestine and overt collection methods. They in turn make extensive use of many of the East European Intelligence Services; for their efforts in acquiring Western technology, these countries are paid in part with Soviet military equipment and weapons.

Clandestine acquisition of the West's most advanced military-related equipment and know-how by the KGB and GRU is a major and growing problem.

These intelligence organizations have been so successful at acquiring Western technology that the manpower levels they allocate to this effort have increased significantly since the 1970s to the point where there are now several thousand technology collection officers at work. These personnel, under various covers ranging from diplomats to journalists to trade officials, are assigned throughout the world.

Soviet foreign trade organizations, or enterprises, although quasi-independent entities, are partially subordinated to the Ministry of Foreign Trade, and their activities are closely coordinated by this Ministry.

They have major responsibilities for both legal and illegal acquisitions and purchases; they work closely with the KGB and GRU in arranging trade diversions. East European trade companies assist them in clandestine and illegal acquisition operations.

Official Soviet and East European science and technology (S&T) organizations also play a major role in both open and clandestine acquisition of Western technology. The Soviet State Committee for Science and Technology (GKNT) is the key player in arranging government-to-government science and technology agreements to facilitate access to and the acquisition of established as well as new technologies, including those just emerging from Western universities, laboratories, and high-technology firms. It is the GKNT that oversees the allocation of scarce Soviet hard currency for the legal purchase by various Soviet organizations of selected Western technology for Soviet military purposes. If the GKNT is unable to acquire the necessary technology by open or legal means, it tasks Soviet intelligence to clandestinely acquire the technology.

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[1] While there are numerous interpretations of "technology" for weapons, it is defined in this report as the application of scientific knowledge, technical information, know-how; critical materials, keystone manufacturing and test equipment, and end products which are essential to the research and development as well as the series manufacture of modern high-quality weapons and military equipment. Western technology is defined as that technology developed by the Free World.

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It is the well-organized and well-coordinated use of all these organizations that has made the Soviet program to acquire Western technology so successful. As a result, the Soviets have acquired militarily significant technologies and critically important industrial Western technologies that have benefited every major Soviet industry engaged in the research, development, and production of weapon systems.

SOVIET MECHANISMS FOR ACQUIRING WESTERN TECHNOLOGY

Soviet acquisition mechanisms include: *legal means* through open literature, through legal trade channels, and through student scientific and technological exchanges and conferences; *illegal means* through trade channels that evade US and Western (i.e. CoCom)[3] export controls, including acquisitions by their intelligence services through recruited agents and industrial espionage. While a large volume of technology is acquired by nonintelligence personnel, the overwhelming majority of what the United States considers to be militarily significant technology acquired by and for the Soviets was obtained by the Soviet intelligence services and their surrogates among the East European intelligence services. However, legal acquisitions by other Soviet organizations are important since it is often the combination of legally and illegally acquired technologies that gives the Soviets the complete military or industrial capability they need.

Because of the priority accorded to the military over the civilian sectors of the Soviet economy, Western dual-use technology—i.e., technology with both military and civilian applications—almost always finds its way first into military industries, and subsequently into the civilian sectors of industries that support military production. Thus, Soviet assurances that legally purchased dual-use technology will be used solely for civilian applications can seldom be accepted at face value.

Legal acquisitions generally have their greatest impact on the Soviets' broad industrial base, and thus affect military technology on a relatively long-term basis. The Soviet Kama Truck Plant, for example, was built over some seven years with massive imports of more than $1.5 billion worth of US and West European automotive production equipment and technology. Large numbers of military-specification trucks produced there in 1981 are now being used by Soviet forces in Afghanistan and by Soviet military units in Eastern Europe opposite NATO forces. Similarly, large Soviet purchases of printed circuit board technology and numerically controlled machine tools from the West already have benefited military manufacturing sectors.

The Soviets give priority to those purchases that meet the direct needs of the Soviet military-industrial complex by paying for them in hard currency. Over the past 10 years, the Soviet legally and illegally purchased large quantities of Western high-technology microelectronics equipment that has enabled them to build their own military microelectronics industry in a short time. This acquired capability in microelectronics is the critical basis for the present wide-ranging enhancements of Soviet military systems and for their continuing sophistication.

Acquisitions through illegal trade channels often have both industrial and military applications, and thus are important in the near term. Illegal acquisitions of technology fall into two general categories, both of which are extremely difficult to detect and monitor. One is the diversion of controlled technology from legitimate trade channels to prescribed destinations. This is done through US and foreign firms that are willing to engage in profitable impropriety; through agents-in-place in US or foreign firms or foreign subsidiaries of US firms; through Soviet and East Europe-owned firms locally chartered in the West; and through foreign purchasing agents (including arms dealers). For instance, to evade the US embargo on microelectronic technology exports to the Soviet Union, the Soviets and their surrogates have set up dummy corporations in the West that purchase sophisticated microelectronics manufacturing equipment. This equipment is then shipped and reshipped, sometimes with the knowledge of individuals in the companies, to disguise its ultimate destination—the Soviet Union or Eastern Europe. Both the Soviet and Warsaw Pact intelligence services are in the mainstream of this illegal technology trade flow. The other type of diversion is an in-place diversion, in which legally acquired technology and equipment—in the computer area, for example—are put to military end uses not authorized in export license applications.

The acquisitions that most directly affect Soviet military development have come from intelligence collection and related illegal trade diversions. Soviet Bloc intelligence services have concentrated their effort in the United States, Western Europe, and Japan. These services target defense contractors and high-technology firms working on advanced technology (both classified and unclassified), foreign firms and subsidiaries of US firms abroad, and international organizations with access to advanced and/or proprietary technology, including access to computer data base networks throughout the world.

Both legal and illegal acquisitions of U.S. and Western technology and equipment are coordinated with information obtained through the complex network of international governmental scientific and technical agreements and exchanges that the USSR maintains with the advanced industrial nations. These include know-how, equipment, and computer data base collection activities of Soviet scientists and engineers who participate in academic, commercial, and official S&T exchanges. Visiting Soviet and East European technical and student delegations to the United States generally consist of expert scientists, many of whom are connected with classified work in their home countries. Such was the case with the Soviet scientist who managed to get assigned to fuel-air explosives work. When he finished his U.S. study programs, he almost certainly returned to the USSR to work on related weapons. Other Soviet and East European scientists have come to the United States to work in the aerohydrodynamic, cryogenic, optic, laser, computer, magnetic bubble computer memory, nuclear, microelectronic, and structural and electronic material areas. Given the military importance of these fields to the Soviet Union, it appears likely that a high percentage of these scientists will work on military-related programs in these areas after they return home.

From the beginning, Soviet candidates in various academic and scientific exchange programs have nearly always proposed research activities involving technologies in areas that have direct military applications and in which the Soviets are technologically deficient. Table 1 provides a list of the key high-technology fields that Soviets and East European visitors come to the United States to study, research, or discuss, many of which are on the U.S. Militarily Critical Technology List today. In each of the past two years, more than a third of the 50 program proposals offered under the Graduate Student/Young Faculty Program of the International Research and Exchanges Board (IREX) has been completely unacceptable in terms of prospective technology loss, and many other programs needed to be modified or have access constrained before the exchanges could be allowed.

TABLE 1.—*Major fields of technology of interest to Soviet and East European visitors to the United States*

Computers:
- Architecture.
- Automatic control.
- CAD (computer-aided design).
- Cybernetics/artificial intelligence.
- Data bases.
- Image processing design.
- Image processing/retrieval.
- Memories.
- N/C (numerically controlled) units.
- Networks.
- Pattern recognition.
- Programing.
- Robots.
- Software.

Materials:
- Amorphous.
- CAD.
- Composites.
- Cryogenics.
- Deformation.
- Metallurgy.
- N/C machine tools.
- Powder metals.
- Superconductors.
- Testing/NDT (nondestructive).

Semiconductors:
- CAD.
- Circuits.
- Defects.
- Devices.
- Design.
- Ion implantation.
- Production technology.
- SAW (surface acoustic wave) devices.

Communications, navigation, and control:
- Antennas.
- Microwave/millimeter waves.
- Radio wave propagation.
- Satellite communications.
- Signal processing.
- Telecommunications.

Vehicular/transportation:.
- Marine systems.
- Shipbuilding.

Laser and optics:
- Fiber optics.
- Gas lasers.
- Optics.
- Tunable lasers.

Nuclear physics:
- Cryogenics.
- Fusion.
- Materials.
- MHD (magnetohydrodynamics)
- Reactors.
- Structural designs.
- Superconductors.

Microbiology:
- Genetic engineering.

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[3] The Coordinating Committee (CoCom) was established in 1949 to serve as the forum for Western efforts to develop a system of strategic export controls. It is composed of the United States, the United Kingdom, Turkey, Portugal, Norway, the Netherlands, Luxembourg, Japan, Italy, Greece, France, the Federal Republic of Germany, Denmark, Canada, and Belgium.

The Soviets correctly view the United States and several other Western countries as a continuing source of important and openly available scientific and technical information, which they take every opportunity to obtain access to. Some of the unclassified documents so acquired are previously classified materials which had been downgraded to unclassified through U.S. procedures providing for automatic declassification after a stipulated period. When collected on a massive scale and centrally processed by the Soviets, this information becomes significant because it is collectively used by Soviet weapons designers and weapons countermeasure experts.

The Soviets also regularly attend high-technology trade shows, and attempt to visit commercial firms in the West, particularly small and medium-sized firms that are active in developing new technologies. These apparent trade promotion efforts often mask Soviet attempts to acquire emerging Western technological know-how before its military uses have been identified and government security controls have been applied. Emerging technologies are particularly vulnerable to foreign collection efforts of this type.

Soviet intelligence continues to place a high priority on the collection of S&T information on genetic engineering and futuristic weapons such as lasers and particle beam weapons. The Soviets have been stepping up their efforts to acquire new and emerging technologies such as very-high-speed integrated-circuit (VHSIC) and very-large-scale integration (VLSI) technology from Western universities and commercial laboratories for both military and commercial applications.

Over the past few years there has been an increased use of Soviet- and East European-owned firms locally chartered in the United States and abroad to exploit Western-controlled and military-related technology. There are more than twenty Soviet- and East European-owned firms in the United States, and near the end of the 1970s there were more than 300 similar firms in Western Europe. In addition to the United States, heavy concentrations are in the United Kingdom, Sweden, the Netherlands, Italy, the Federal Republic of Germany, France, Canada, Belgium, and Austria. These firms are avenues for Soviet acquisition of advanced Western technologies, as was shown when the US engineer arrested in late 1981 was charged with selling US secret documents to an East European intelligence officer employed by a Polish-owned firm chartered in Illinois. Furthermore, firms chartered in the United States can legally purchase controlled US technology and study it without actually violating US export controls unless they attempt to export the equipment or related technical data from the United States without a license.

SOVIET ACQUISITIONS AND BENEFITS

Today's recognition of the crucial role of Western technology in the development and production of Soviet weapon systems and related military equipment is not unique. Soviet dependence on Western technology was visible and clear-cut in the years immediately after World War II, when the Soviets stole Western nuclear secrets leading to their development of a nuclear weapon capability, and copied a US bomber in its entirety leading to production of their TU-4. To achieve major improvements in their military capability quickly, they exploited captured scientists and industrial plants and resorted to a combination of espionage, stealing, and copying Western systems.

Since that early period of near-complete reliance in the 1950s, the Soviets' dependence on Western technology to develop their weapons has decreased. Nevertheless, despite several decades of Soviet priorities focused on science, technology, and weapon systems, the Soviets, because of their inability to be innovative and effectively apply new technology to weapons developments, still depend on Western technology and equipment to develop and manufacture some of their advanced weapon systems more quickly.

Today, Soviet military designers carefully choose the Western designs, engineering approaches, and equipment most appropriate to their deficiencies and needs. These needs are still substantial and pervade almost every area of weapons technology and related manufacturing equipment. Table 2 lists classes of Western technology acquired by the Soviets and East Europeans and illustrates the wide range of Soviet military technology needs. In the following paragraphs of this section, Soviet Bloc acquisitions have been grouped according to their likely applications: strategic systems, aircraft systems, naval systems, and tactical systems. Also cited are acquisitions in the microelectronic and computer areas that have broad application to military and industrial programs. In certain of these areas, notably the development of microelectronics, the Soviets would have been incapable of achieving their present technical level without the acquisition of Western technology. In other areas, acquisitions have allowed the Soviets to reduce the indigenous effort they would otherwise have had to expend.

TABLE 2.—SELECTED SOVIET AND EAST EUROPEAN LEGAL AND ILLEGAL ACQUISITIONS FROM THE WEST AFFECTING KEY AREAS OF SOVIET MILITARY TECHNOLOGY

Key technology area	Notable success
Computers	Purchases and acquisitions of complete systems designs, concepts, hardware and software, including a wide variety of Western general purpose computers and minicomputers, for military applications.
Microelectronics	Complete industrial processes and semiconductor manufacturing equipment capable of meeting all Soviet military requirements, if acquisitions were combined.
Signal processing	Acquisitions of processing equipment and know-how.
Manufacturing	Acquisitions of automated and precision manufacturing equipment for electronics, materials, and optical and future laser weapons technology; acquisition of information on manufacturing technology related to weapons, ammunition, and aircraft parts including turbine blades, computers, and electronic components; acquisition of machine tools for cutting large gears for ship propulsion systems.
Communications	Acquisitions of low-power, low-noise, high-sensitivity receivers.
Lasers	Acquisitions of optical, pulsed power source, and other laser-related components, including special optical mirrors and mirror technology suitable for future laser weapons.
Guidance and navigation.	Acquisitions of marine and other navigation receivers, advanced inertial-guidance components, including miniature and laser gyros; acquisitions of missile guidance subsystems; acquisitions of precision machinery for ball bearing production for missile and other applications; acquisition of missile test range instrumentation systems and documentation and precision cinetheodolites for collecting data critical to postflight ballistic missile analysis.
Structural materials	Purchases and acquisitions of Western titanium alloys, welding equipment, and furnaces for producing titanium plate of large size applicable to submarine construction.
Propulsion	Missile technology; some ground propulsion technology (diesels, turbines, and rotaries); purchases and acquisitions of advanced jet engine fabrication technology and jet engine design information.
Acoustical sensors	Acquisitions of underwater navigation and direction-finding equipment.
Electro-optical sensors	Acquisition of information on satellite technology, laser rangefinders, and underwater low-light-level television cameras and systems for remote operation.

TABLE 2.—SELECTED SOVIET AND EAST EUROPEAN LEGAL AND ILLEGAL ACQUISITIONS FROM THE WEST AFFECTING KEY AREAS OF SOVIET MILITARY TECHNOLOGY—Continued

Key technology area	Notable success
Radars	Acquisitions and exploitations of air defense radars and antenna designs for missile systems.

The Soviet strategic weapons programs has benefited substantially from the acquisition of Western technology. The striking similarities between the US Minuteman silo and the Soviet SS-13 silo very likely resulted from acquisition of US documents and expedited deployment of this, the first Soviet solid-propellant ICBM. The Soviets' ballistic missile systems in particular have, over the past decade, demonstrated qualitative improvements that probably would not have been achieved without Western acquisitions of ballistic missile guidance and control technology. The most striking example of this is the marked improvement in accuracy of the latest generation of Soviet ICBMs—an improvement which, given the level of relevant Soviet technologies a decade ago, appears almost certainly to have been speeded by the acquisition of Western technology. Their improved accuracy has been achieved through the exploitation and development of good-quality guidance components—such as gyroscopes and accelerometers. The quality of these instruments, in turn, depends to a considerable degree on the quality of the small, precision, high-speed bearings used.

Through the 1950s and into the 1960s, the Soviet precision bearing industry lagged significantly behind that of the West. However, through legal trade purchases in the 1970s, the Soviet Union acquired US precision grinding machines for the production of small, high-precision bearings. Similar grinding machines, having lower production-rate capabilities, were available from several foreign countries. Only a few of these machines, either US or foreign, would have been sufficient to supply Soviet missile designers with all the quality bearings they needed. These purchases provided the Soviets with the capability to manufacture precision bearings in large volume sooner than would have been likely through indigenous development. The Soviets probably could have used indigenous grinding machines and produced the required quality of bearings over a long period by having an abnormally high rejection rate.

While some of the Soviet acquisition in the aircraft area appears directed toward the development of countermeasures against Western systems, the Soviets appear to target data on Western aircraft primarily to acquire the technology. Furthermore, while the Soviets have acquired a large amount of hardware and data from planes downed or captured in Vietnam and elsewhere, they continue to attempt to acquire the most advanced technologies through both legal and illegal transactions with the West. Assimilation of Western technology has been of great benefit to both their military and commercial aircraft development programs—to the extent that aircraft from certain Soviet military design bureaus are to a significant degree copies of aircraft of Western design. Soviet military aircraft designers have "ordered" documents on Western aircraft and gotten them within a few months, including plans and drawings for

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the US C-5A giant transport aircraft early in its development cycle; these plans, although dated now, have contributed to current Soviet development of a new strategic military cargo plane. Designers were in particular need of data on US technological advances, but more importantly, they needed information on aerospace manufacturing techniques.

Soviet aircraft designers have been interested in US military transports and wide-body jets and probably have managed to accelerate the development programs for their IL-76 Candid and IL-86 transports. The IL-86 looks much like the Boeing 747 and the IL-76 resembles the C-141. Neither system is an identical copy.

The IL-76 also is used by the Soviets as the platform for their new AWACS (Airborne Warning and Control System), which is expected to be operational in the mid-1980s. This system will provide the Soviets with a major improvement in attacking low-flying missiles and bombers. The Soviet AWACS is strikingly similar in many ways to the US AWACS, and is a major improvement over their old AWACS.

The Soviets' acquisition effort in the naval systems area reflects well the two major factors that motivate their requirements: the acquisition of technology not readily available to them—yet critical to their programs—and the acquisition of equipment which, while producible in the Soviet Union, allows them to divert resources to more pressing naval programs. The Soviets appear to have concentrated their acquisitions in areas related to aircraft carriers, deep sea diving capabilities, sensor systems for antisubmarine warfare and navigation, and ship maintenance facilities. In the maintenance area, two huge floating drydocks purchased from the West for civilian use by the Soviets have been diverted to military use. Drydocks are critical for both routine and fast repair of ships damaged in warfare. In 1978, when the Soviets took possession of one of the drydocks, they diverted it to the Pacific Naval Fleet. The other was sent to the Northern Fleet in 1981.

These drydocks are so large that they can carry several naval ships. More importantly, they are the only drydock facilities in either of the two major Soviet fleet areas—Northern or Pacific—capable of servicing the new Kiev-class V/STOL aircraft carriers. Soviet advanced submarines carrying ballistic missiles, Soviet Kiev aircraft carriers, and Soviet destroyers were among the first ships repaired in these drydocks. It is important to note that the drydocks themselves are so large that no Soviet shipyard would have been capable of accommodating their construction without major facility modifications, associated capital expenditures, and interruptions in present weapons programs. Their importance will be even more pronounced when the Soviets construct the still-larger carriers (for high-performance aircraft) projected for the 1990s. The Soviets even have acquired Western aircraft carrier catapult equipment and documentation for this larger carrier; catapult technology, though relatively common in the West, is outside the Soviet experience.

Within the past few years, the USSR also has contracted for or purchased foreign-built oceanographic survey ships equipped with some of the most modern Western-manufactured equipment. In place of US equipment that was embargoed, other Western equipment has been installed on the ships. This modernization of what is the world's largest oceanographic fleet with Western technology will help support the development of Soviet weapon system programs and antisubmarine systems against the West.

Although the Soviets have a strong indigenous technology base that could support the development of much of their tactical weapons systems, this does not prevent them from maintaining an ambitious program for acquiring and benefiting from Western technology in this area. In some cases, their acquisitions satisfy deficiencies in Soviet technology; smart weapons technology and electro-optical technology are examples of this. Signal and information-processing technology, particularly for Soviet air defense systems, is another. More often, however, technology is exploited to speed up a developmental program or to improve upon original Western designs in an expeditious manner. The Soviets appear to have concentrated their tactical systems acquisitions on Western tank, antitank, and air defense-related technology and equipment in order to derive concepts and know-how to benefit their weapons programs and to design countermeasures to the Western systems. The Soviet SA-7 heat-seeking, shoulder-fired antiaircraft missile contains many features of the US Redeye missile. Such acquisitions have enabled the Soviets to obtain advanced tactical weapon capabilities sooner than otherwise would have been possible.

Western equipment and technology have played a very important, if not crucial, role in the advancement of Soviet microelectronic production capabilities. This advancement comes as a result of over 10 years of successful acquisitions—through illegal, including clandestine, means—of hundreds of pieces of Western microelectronic equipment worth hundreds of millions of dollars to equip their military-related manufacturing facilities. These acquisitions have permitted the Soviets to systematically build a modern microelectronics industry which will be the critical basis for enhancing the sophistication of future Soviet military systems for decades. The acquired equipment and know-how, if combined, could meet 100 percent of the Soviets' high-quality microelectronic needs for military purposes, or 50 percent of all their microelectronic needs.

Table 3 identifies the microelectronic production-related equipment that has been acquired by the Soviet Bloc. These acquisitions have been grouped into areas related to the four steps required to produce a microchip: wafer preparation, circuit-mask making, device fabrication, and assembly and testing.

TABLE 3.—MICROELECTRONIC EQUIPMENT AND TECHNOLOGY LEGALLY AND ILLEGALLY ACQUIRED BY THE SOVIET BLOC

Equipment or technology	Comments
Process technology for microelectronic wafer preparation.	The Soviets have acquired hundreds of specific pieces of equipment related to wafer preparation, including epitaxial growth furnaces, crystal pullers, rinsers/dryers, slicers, and lapping and polishing units.
Process technology for producing circuit masks.	Many acquisitions in this area include computer-aided design software, pattern generators and compilers, digital plotters, photorepeaters, contact printers, mask comparators, electron-beam generators, and ion milling equipment.
Equipment for device fabrication	Many hundreds of acquisitions in this area have provided the Soviets with mask aligners, diffusion furnaces, ion implanters, coaters, etchers, and photochemical process lines.

TABLE 3.—MICROELECTRONIC EQUIPMENT AND TECHNOLOGY LEGALLY AND ILLEGALLY ACQUIRED BY THE SOVIET BLOC—Continued

Equipment or technology	Comments
Assembly and test equipment	Hundreds of items of Western equipment, including scribers, bonders, probe testers, and final test equipment have been acquired by the Soviets.

Soviet computer technology has long been limited by fabrication and production technology problems and by difficulties in software development. Since 1969 the USSR and East European countries have been developing a family of general purpose computers known as the Ryad series. These computers, which make up virtually the total Soviet and East European effort in large general purpose computers, have been and will continue to be used in a wide variety of civil and military applications. Western technology has been important to development of the Ryad series by providing proven design directions both at the system and component levels. The architectural designs of the Ryad computers, for example, are patterned after those of the highly successful mass produced IBM 360 and 370 series, computers that are used in a wide range of applications and are highly serviceable in the field.

With this approach, the Soviets and East Europeans eliminated many of the risks involved in undertaking the development and production of a new series of general purpose computers, and saved considerable amounts of manpower and time. Since the early 1970s the Soviets and East Europeans have legally purchased more than 3,000 minicomputers, some of which are now being used in military-related organizations. Furthermore, they are also developing minicomputers that are direct copies of Western models. Soviet and East European development of computer systems has been aided by all available means—legal and illegal, including clandestine—for acquiring the needed technical know-how.

Thus, the Soviets and their Warsaw Pact allies have derived significant military gains from their acquisitions of Western technology, particularly in the strategic, aircraft, naval, tactical, microelectronics, and computer areas. This multifaceted Soviet acquisitions program has allowed the Soviets to:

Save hundreds of millions of dollars in R&D costs, and years in R&D development lead time.

Modernise critical sectors of their military industry and reduce engineering risks by following or copying proven Western designs, thereby limiting the rise in their military production costs.

Achieve greater weapons performance than if they had to rely solely on their own technology.

Incorporate countermeasures to Western weapons early in the development of their own weapon programs.

These gains are evident in all areas of military weapons systems. While difficult to quantify, it is clear that the Western military expenditures needed to overcome or defend against the military capabilities derived by the acquisition of Western technology far outweigh the West's earnings from the legal sales to the Soviets of its equipment and technology.

OUTLOOK FOR THE 1980'S

The Soviet's military R&D and weapon test-and-evaluation efforts are continuing at a rapid pace. Several hundred development projects for weapons systems and major system elements are now under way, and it is expected that through the 1980s the number of new or modified advanced Soviet weapon systems emerging from these projects into production and deployment will remain at the high levels of the last two decades—some 200 weapon systems per decade.

Soviet military manufacturing capacity increased by a significant 80 percent during the 1960s and 1970s, and new plant expansion now under way at one-fourth of their key weapons manufacturing facilities will add considerably to their capabilities. These new facilities will be ready to produce weapons in the next four to 10 years. Plant expansion is in the following areas: ground warfare vehicles, including new tanks; aviation, including facilities for a new B-1-type bomber and a new long-range military transport aircraft having strategic airlift capabilities; naval shipbuilding, including submarines for ballistic missiles and cruise missiles, as well as full-size aircraft carriers for high-performance aircraft capable of competing with the United States in global operations; and electronic and microelectronic manufacturing facilities throughout the U.S.S.R. The development and production of new Soviet weapons at these facilities is sure to be more complex and costly than during the 1970s.

All of this military development and plant expansion activity, however, is taking place at a time when the Soviet economy has reached its lowest level of growth since World War II. Soviet annual GNP growth may well be limited to an average of 1 to 2 percent by the mid-1980s. Stagnation in industrial sectors that are key to both the civilian and the military sectors will make it increasingly difficult for the Soviets to satisfy the needs of both. Thus, Soviet leaders will have to make tough choices among defense, investment, and consumption; the competition among rival claimants for resources will become intense. Under these conditions, it may be impossible for the Soviets to maintain current growth in military production without hurting the civilian economy.

Despite these economic difficulties, there are no signs that the Soviets are shifting resources away from the military sector or slowing down development of weapon systems that will be entering the production stage by mid-decade. New generations of Warsaw Pact weapons will require selected critical component and modern manufacturing technologies. It is in these areas that Soviet illegal acquisitions of Western technology, complemented by legal acquisitions, are most likely to be concentrated over the next five to 10 years.

Among the more important technologies are microelectronics, computers, and signal processing. Microelectronics will play a very significant role in advances in computers and signal processing, and all of these technologies will be important in developing advanced Soviet missile, aircraft, naval, and tactical weapon systems, and associated detection systems. Additional projected Soviet technological needs related to such systems are presented in the appendix.

As the result of both tactical and strategic force modernizations, Soviet and Warsaw Pact military manufacturers are increasingly pressed by large-scale production requirements and the related need to control manufacturing and materials costs. Thus, particularly critical for the 1980s are Soviet needs to improve their manufacturing capability. To a large extent, the level of manufacturing technology in Soviet plants determines the Soviets' capability to move new technology from R&D into military applications. Manufacturing technologies play a significant role not only in the development of advanced component technologies, such as microelectronics and computers, but also in the actual production of modern military systems.

Future Soviet and Warsaw Pact acquisition efforts—including acquisitions by their intelligence services—are likely to concentrate on the sources of such component and manufacturing technologies, including:

Defense contractors in the United States, Western Europe, and Japan who are the repositories of military development and manufacturing technologies.

General producers of military-related auxiliary manufacturing equipment in the United States, Western Europe, and Japan.

Small and medium-size firms and research centers that develop advanced component technology and designs, including advanced civil technologies with future military applications.

The combination of past Soviet acquisition practices and projected Soviet military needs indicates that the United States and its Allies are likely to experience serious counterintelligence and related industrial security and export control problems over the next five to 10 years.

The task of stopping Soviet Bloc intelligence operations aimed at Western military and industrial technologies already poses a formidable counterintelligence problem, both in the United States and abroad. But that task is likely to become even more difficult in the future as several trends identified in the 1970s continue into the 1980s:

First, since the early 1970s, the Soviets and their surrogates among the East Europeans have been increasingly using their national intelligence services to acquire Western civilian technologies—for example, automobile, energy, chemicals, and even consumer electronics.

Second, since the mid-1970s, Soviet and East European intelligence services have been emphasizing the collection of manufacturing-related technology, in addition to weapons technology.

Third, since the late 1970s, there has been increased emphasis by these intelligence services on the acquisition of new Western technologies emerging from universities and research centers.

The combined effect of these trends is a heavy focus by Soviet Bloc intelligence on the commercial sectors in the West—sectors that are not normally protected from hostile intelligence services. In addition, the security provided by commercial firms is no match for the human penetration operations of such foreign intelligence services. But the most alarming aspect of this commercial focus by Soviet Bloc intelligence services is that as a result of these operations the Soviets have gained, and continue to gain, access to those advanced technologies that are likely to be used by the West in its own future weapons systems.

The Soviet intelligence effort against Western defense contractor firms poses a serious problem in itself. With more than 11,000 such firms in the United States and hundreds of subsidiaries abroad, US counterintelligence efforts are stretched thin. Protection of US firms abroad from hostile intelligence threats is the responsibility of host governments, but they too are feeling the burden of well-orchestrated Soviet Bloc efforts. The Soviet intelligence threat and the illegal trade problem appear to be severe in Japan. It appears that Western industrial security—both defense and commercial—will be severely tested by the Soviet intelligence services and their surrogates among the East European intelligence services during the 1980s.

Western industrial nations also can expect increased Soviet Bloc intelligence activities directed at the acquisition of their key industrial technologies. Western export controls are presently being updated and broadened; the CoCom allies have recently agreed to strengthen controls and to enhance their enforcement. Moreover, serious hard currency shortages, along with generally increased restrictions on Soviet S&T visitors to the United States, will make the Soviets even more dependent on intelligence and other illegal efforts to acquire the goods and equipment they will need.

The massive, well-planned, and well-coordinated Soviet program to acquire Western technology through combined legal and illegal means poses a serious and growing threat to the mutual security interests of the United States and its Allies. In response, the West will need to organize more effectively than it has in the past to protect its military, industrial, commercial, and scientific communities.

Appendix: Projected Soviet Technological Needs and Acquisition Targets Through the 1980's

Given the dynamic nature of their collection program, it is expected that the Soviets will continue their attempts to acquire a broad range of Western technologies. Certain areas, however, represent priority collection targets for them; these areas are critical to the Soviets' enhancement of their weapons capability.

Over the past decade, the Soviets' most pronounced improvements in strategic weaponry have been in the development of a MIRV ballistic missile capability and a significant improvement in the accuracy of their ICBMs. The former capability was made possible largely through the introduction of onboard digital computers and the latter through the improvement in the quality of the missile guidance systems and the procedures used to calibrate them. Technology acquisitions from the West contributed significantly to these improved capabilities.

The Soviets probably will continue to make their highest priority the acquisition of Western microelectronics and computer technology for in-flight guidance computers. This acquisition effort will be motivated by a desire to overcome reliability problems and also to provide the on-board processing capability required for the development of new guidance options with the potential for extremely high accuracies.

The Soviets will also give top priority to acquiring information on the latest generation of US-inertial components upon which the MX ICBM and the Trident SLBM guidance systems are based. Despite the past accuracy improvements of Soviet ICBMs, these two US systems incorporate technologies beyond present Soviet technological capabilities. Moreover, their SLBM accuracies are significantly behind those of US systems. In addition to information on hardware, the Soviets are expected to seek calibration software algorithms which, as the guidance instruments themselves reach their practical performance limit, would

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allow for continued improvement in weapon system accuracy.

Western solid rocket propulsion technology also will be a high-priority Soviet acquisition target in the 1980s. While the Soviets have vast experience with the liquid-propellant systems which represent the bulk of their ballistic missile force, they are shifting the emphasis to solid propulsion systems, which have practical advantages over liquid systems in a variety of applications. At the same time, the Soviets have had only limited success with the progress of their solid-propulsion program. They probably will pursue the acquisition of information on solid-propellant production procedures, and propellant grain design, motor case, and rocket nozzle technologies.

The Soviets' ABM R&D effort has contined apace since the 1960s. As a result, they have gained considerable expertise in the development of large fixed-site radars for eary warning, tracking, and engagement, and their interceptor technology has also improved substantially over the years. Areas remain, however, in which the Soviets will still seek and would benefit from sophisticated Western ABM technology. These include signal processing for detection, discrimination, target assignment, and sensor technology, particularly in the long-wave infrared portion of the electromagnetic spectrum applicable toward improving their launch detection capability.

Priority Soviet targets in the aircraft area will include Western materials technology, particularly composite materials to allow weight-efficient designs. The Soviets would also benefit from the acquisition of certain engine technologies, in particular those critical to the development of high-bypass turbofans for large strategic airlift type of aircraft. While, in general, Soviet avionics technology appear adequate, the Soviets have yet to demonstrate a capability to deploy reliable, accurate airborne inertial navigation systems for long-range navigation and weapons delivery. Thus, while long used in the West, these systems are still prime candidates for acquisition.

Very high priority probably will be given to the acquisition of computer-aided aircraft design technology, an area in which the Soviets are clearly impressed by US progress. In general, they also will continue to benefit from the acquisition of efficient aircraft production technology from the West to reduce costs.

While the Soviets have a strong indigenous air defense radar and missile technology, their general lag in microelectronics and microprocessing will direct them to attempt wherever possible in the West the acquisition of advanced signal-processing hardware and software.

The Soviets will continue to emphasize the acquisition of naval-related technologies applicable to improving their antisubmarine warfare capabilities, an area in which much Western technology is superior to theirs. Thus, a significant effort to acquire acoustic sensor technology can be expected, in particular that technology applicable to the development of large towed acoustic arrays that would assist the localization of Western submarines in open waters. They probably will also target the acquisition of Western signal-processing hardware and software required to fully exploit the detection capabilities of these sensors.

Another critical problem area to which the Soviets will direct acquisition is that of submarine quieting. Here also the Soviets lag the West significantly. As a result, not only are their submarines more vulnerable to detection, but the self-generated noise reduces the effectiveness of their own acoustic sensors.

An area in which the Soviets have historically lagged behind the West is precision submarine navigation—in particular, in the development of submarine inertial navigation systems. The need for improvements here will become more pressing as the Soviets develop long-range cruise missiles for land attack which require precise knowledge of launch location.

The Soviets also will continue to target technologies related to the design and construction of large aircraft carriers (for high-performance aircraft) to reduce the likelihood of poor design choices that would arise in what is for them an entirely new type of construction program.

Much of the Soviet acquisition effort in the area of tactical weapons is likely to be targeted against seeker and sensor technology for tactical missiles and precision-guided munitions. The Soviets will apply considerable effort in particular to acquiring advanced Western electro-optical technology including that related to antitank weapons. As in other weapons areas, the signal processing and microelectronics technologies supporting tactical weapon systems will also be priority acquisition targets. Technical documentation on entire weapon systems, if obtained, will be used to develop countermeasures.

In the microelectronics area the USSR is now at the stage of implementing its LSI (large-scale integration) technology to high-volume production. Despite the large acquisitions of Western technology and production equipment over the past 10 years which have brought them to the LSI level, additional acquisitions from the West are needed for the more sophisticated weapons projects of the future. Ever-increasing needs for higher precision Western equipment will extend at least through the 1980s.

In addition, the Soviets will require considerable expansion of their microelectronic material base to support continued expansion of integrated-circuit production. In this regard, the USSR is seeking Western help to build two or three poly-silicon plants that will more than double current Soviet capacity for military applications. Also, with increasing advances in the technology, the USSR already will be seeking additional Western assistance in key complementary technologies such as packaging and printed circuit board production.

The USSR is expected to focus its future acquisitions efforts on the emerging technologies related to very-high-speed integrated circuits (VHSIC) and very-large-scale integration (VLSI). It is important to note that, while VHSIC is thought of as a military development program, and VLSI as a civilian technology, there is little difference between the two as far as Soviet production needs are concerned. The same materials, production, and test equipment will be used to produce both. In both of these technological areas, the USSR has developed effective means for illegally acquiring Western advanced products.

Prime Soviet collection efforts in computer technology through the 1980s are likely to include large-scale scientific computers such as the US-built CRAY-1 Computer. Computers of this class offer significant improvements over Soviet models in weapons systems design and simulation and in the processing of numerical data for many military applications. Other hardware targets will include: very dense random-access memory chips; high-capacity disk drives and packs; the so-called "superminicomputer" class of machines; and the latest in general purpose computer technology. All of the above targets offer opportunities for significant performance improvements and represent technologies of substantial Soviet lag.

In computer software, the Soviets will continue to attempt to collect IBM programs and programs of other vendors written for these machines because of past Soviet decisions related to copying IBM computers. The large and growing number of IBM-compatible computers in the USSR means that collection activity in this area can be expected to increase. The compelling attraction of computer networks also should spur great Soviet interest in acquiring network-control software and other programs related to networking.●

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1606

At the request of Mr. HEINZ, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1606, a bill to establish a supplemental insurance fund administered by the Secretary of Energy to pay the costs of necessary remedial action following damage to nuclear powerplants, including certain remedial action at the Three Mile Island facilities in Pennsylvania, to require participation in such fund by the licensees of nuclear powerplants as a condition for the licensing and continued operation of such powerplants, and for other purposes.

S.1698

At the request of Mr. DENTON, the names of the Senator from Idaho (Mr. McCLURE), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

S. 2127

At the request of Mr. COHEN, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2127, a bill to revise the procedures for soliciting and evaluating bids for Government contracts and awarding such contracts, and for other purposes.

S. 2357

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2357, a bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities.

S. 2411

At the request of Mr. SPECTER, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2411, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

S. 2634

At the request of Mr. NICKLES, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes.

S. 2734

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2734, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs.

S. 2735

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2735, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 2736

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2736, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 2780

At the request of Mr. COCHRAN, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2780, a bill to limit the insanity defense and to provide a procedure for commitment of defendants found guilty who are mentally ill.

S. 2784

At the request of Mr. DECONCINI, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Ohio (Mr. GLENN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the Senator from Florida (Mrs. HAWKINS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'AMATO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE JOINT RESOLUTION 228

At the request of Mr. NUNN, the names of the Senator from New York (Mr. MOYNIHAN), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982 as "National Tourette Syndrome Awareness Week."

AMENDMENT NO. 2016

At the request of Mr. QUAYLE, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of amendment No. 2016 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2019

At the request of Mr. HAYAKAWA, the names of the Senator from Nevada (Mr. LAXALT), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of amendment No. 2019 proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

SENATE RESOLUTION 445—ORIGINAL RESOLUTION RELATING TO CONSULTATIONS WITH ROMANIA ON EMIGRATION AND INCREASED PERSONAL FREEDOMS

Mr. DOLE, from the Committee on Finance, reported the following original resolution; which was placed on the calendar:

S. RES. 445

Whereas by bilateral trade agreement the Socialist Republic of Romania is entitled to most-favored-nation status in its trade and commercial relations with the United States;

Whereas under the Trade Act of 1974 the continued extension of most-favored-nation status is conditioned on the freedom of Romanian citizens to emigrate to the country of their choice, unless this condition is waived by the President;

Whereas the President may waive this condition only if he determines that it will substantially promote the objective of greater freedom of emigration;

Whereas there are numerous reports of continuing serious difficulties concerning freedom of emigration from the Socialist Republic of Romania and of repression of religious and cultural freedom;

Whereas both the United States and the Socialist Republic of Romania are signatories to the Final Act of the Conference on Security and Cooperation in Europe, (commonly known as, and hereinafter in this resolution referred to as, the "Helsinki Final Act");

Whereas the signatories to the Helsinki Final Act pledged to respect human rights and fundamental freedoms, including emigration for the purpose of family reunification and to "deal in a positive and humanitarian spirit" with requests to emigrate for this purpose;

Whereas the signatories under Principle VII of the Helsinki Final Act pledged to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience", to respect the right of persons belonging to national minorities to equality before the law, to afford them "the full opportunity for the actual enjoyment of human rights and fundamental freedoms", and to "protect their legitimate interests in this sphere" and confirmed "the right of the individual to know and act upon his rights";

Whereas the Government of the United States will soon enter into consultations with the Socialist Republic of Romania concerning problems of emigration procedures: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States in such consultations should seek creditable assurances that the Socialist Republic of Romania will review its emigration procedures with a view toward—

(1) clarifying and simplifying them;

(2) maintaining a steady consideration of emigration applications;

(3) eliminating unreasonable preapplication reviews and waiting periods; and

(4) reducing the emigration application backlog, with special consideration for those awaiting departure for 1 year or more: And be it

Further resolved, That continued harassment and persecution of religious groups and ethnic minorities in Romania contravenes the provisions of the Helsinki Final Act as well as fundamental human rights and freedoms, and that the Government of the United States should pursue these matters with the Romanian Government and in appropriate international fora, including the Conference on Security and Cooperation in Europe.

SENATE RESOLUTION 446—RESOLUTION TO HONOR MICHAEL R. MASONE

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 446

Whereas Michael R. Masone is celebrating his 50th anniversary as a member of the Island Park Fire Department; and

Whereas he was one of the earliest members of this Fire Department, and remains the oldest living member of the Department; and

Whereas he also served the people of Island Park for forty years as the Superintendent of Public Works; and

Whereas his distinguished service to the community, both as a public servant and as a volunteer, have endeared him to the people of Island Park, New York; and

Whereas it is fitting for the Senate of the United States to recognize the unselfish service of such Americans as Michael Masone to their communities: Now therefore be it

Resolved That the Senate hereby honors Mr. Masone at the request of another member of the Island Park Fire Department, Senator Alfonse D'Amato.

SENATE RESOLUTION 447—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 447

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1606. Such waiver is necessary because S. 1606, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983. Such bill was ordered reported by the Committee on Energy and Natural Resources on March 31, 1982, and by the Committee on Environment and Public Works on July 22, 1982, after being jointly referred to such committees pursuant to the order of September 9, 1981. Such waiver is necessary because both committees did not complete action and report on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such fiscal year 1983 authorizations.

The waiver of section 402(a) is necessary to permit Congressional consideration of S. 1606, which is not expected to result in any significant fiscal year 1983 budgetary impact. The bill would provide new direct spending authority not subject to either authorization or appropriations action. The source of budget authority would be a fee paid by certain electric utilities.

Although the bill was ordered reported by the Committee on Energy and Natural Resources on March 31, 1982, the Committee on Environment and Public Works did not complete action until after May 15, 1982, nevertheless the Senate has had adequate notice of this bill and its enactment is not expected to interfere with or delay the legislative process of the Senate.

SENATE RESOLUTION 448—BUDGET WAIVER WITH RESPECT TO CONSIDERATION OF H.R. 6409

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 448

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6409, a bill to authorize appropriations for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes. Such waiver is necessary to allow the authorization of an appropriation of $10 million for the costs of the design and fabrication of exhibits, and the appointment by the President of a Commissioner General for the exposition. The need for the expeditious passage of authorizing legislation is great. There are less than two years remaining to put together a presentation of which the American people can be proud.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982 deadline because the Committee was unaware of the time constraints on the planners of the exposition and the Administration had failed to formally request authorizing legislation prior to the deadline.

The effect of defeating consideration of this authorization will severely impede the preparations for the Louisiana World Exposition.

The desired authorization will not delay the appropriations process and is being accommodated in the supplemental appropriation.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NO. 2023

(Ordered to be printed and to lie on the table.)

Mr. COHEN (for himself and Mr. Levin) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

IMMIGRATION REVISION AND REFORM

AMENDMENT NO. 2024

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENT NO. 2025

(Ordered to be printed.)

Mr. HAYAKAWA proposed an amendment to the bill S. 2222, supra.

AMENDMENT NOS. 2026 AND 2027

(Ordered to be printed.)

Mr. SIMPSON (for Mr. Tower) proposed two amendments to the bill S. 2222, supra.

AMENDMENT NO. 2028

(Ordered to be printed.)

Mr. BOSCHWITZ (for himself and Mr. Huddleston) proposed an amendment to the bill S. 2222, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Water and Power to examine the Bonneville Power Administration's transmission line siting practices in the State of Montana.

The hearing will be held on Thursday, August 26, beginning at 9 a.m. in the Federal Building conference rooms located at 200 East Broadway, Missoula, Mont.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Water and Power, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510, attention: Mr. Russ Brown (telephone: 202-224-2366); or office of Senator Melcher, P.O. Box 8568, Missoula, Mont. 59807, attention: Mr. Earl Hiett (telephone: 406-329-3528). Witnesses are requested to provide the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee.

For further information regarding this hearing you may wish to contact Ms. Susan Littleton at 202-224-2366, or Mr. Brown or Mr. Hiett at the numbers listed above.

ADDITIONAL STATEMENTS

THE WALL

● Mr. HEINZ. Mr. President, I call the attention of my distinguished colleagues and, indeed, of the whole country to a very important fact. Twenty-one years ago today the Berlin Wall was thrown up to staunch the flow of freedom-loving people from East Germany to the West.

The wall sits gray and defiant astride a city that ought to be free, united, and prosperous. But for the last 21 years it has been only half free.

To Americans, to West Berliners, to free people everywhere, the wall symbolizes utter disregard for the natural rights of men and women to think for themselves, to express themselves openly, to worship as they choose, and to earn a living as they please.

The wall severs families and friends from each other. For over two decades, it has denied Germans who are captives of an oppressive regime the hope of a better life in the West. It is an ugly gash across the soul of humanity—put there by a Communist regime that thinks men are nothing more than what they eat.

The wall was built on August 13, 1961, 12 years after the founding of the German Democratic Republic. In those dozen years, over 3 million people, or about one-sixth of the total population of the GDR, had streamed to the West. With the mass exodus of factory workers, farmers, professionals, intellectuals, housewives, and people from every other walk of life, East Germany was beginning, as Willi

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Brandt put it, to "bleed to death economically and intellectually."

To stop the hemorrhaging, the East German police state—prodded by the Soviets—erected the wall without warning—under cover of night. It went up a meter thick and 3 meters high. Since then, brave and desperate men and women have continued to vote with their feet by fleeing the gigantic prison of East Germany. Between 80 and 90 people have been killed attempting to escape over the wall. One such martyr was Peter Fechter, an 18-year-old construction worker who on August 17, 1962 was shot by border guards. He fell at the foot of the wall, where he was left for 50 minutes until he bled to death—as a warning to other would-be escapees.

Mr. President, I call this to the attention of my colleagues and all my countrymen because this blight continues. Just because the wall has stood for 21 years, we must not allow ourselves to become complacent. The wall is still there—a grim and truculent symbol of denial and negativism. It still comes between people who have a natural right to life and liberty, and the life and liberty they seek.

The wall is as relevant as ever because the crimes it stands for continue to be perpetrated. Just 8 months ago, martial law was declared in Poland. Can there be any doubt that the perpetrators of this heinous act were the builders of the wall?

Today in Philadelphia, some of my constitutents are laying a wreath on the Liberty Bell to remember the victims of the Berlin Wall and of martial law in Poland. There could be no better symbol of the contrast between democracy and dictatorship. The architects of the Declaration of Independence and the U.S. Constitution believed that the political system they built must guarantee individual freedoms if it was to survive. The architects of the wall and of martial law know their system must deny those freedoms if it is to survive.

I take this opportunity to salute and congratulate the Pastorious Unit of the Steuben Society of America, the German Society of Pennsylvania, the Polish-American Congress, the Archdiocese of Philadelphia, and the consulate of the Federal Republic of Germany for remembering this day and the millions of Poles and Germans who have refused to give up their struggle for freedom.●

A GAMBLE WITH NATURE—NEED FOR COASTAL BARRIER LEGISLATION

● **Mr. EAGLETON.** Mr. President, I hope the Senate will soon consider S. 1017, the Coastal Barrier Resources Act. I am a cosponsor of this bill which would establish a system of undeveloped coastal barrier structures. The bill protects and conserves fish and wildlife resources for approximately 13 percent of the 1.4 million acres of coastal barriers along the Atlantic and gulf coasts. Coastal barriers create and maintain wetlands and estuaries vital to our fish stocks. The barriers are a home for more than 20 endangered species, including the bald eagle and peregrine falcon.

It could also be called a Protection Act for our own Federal tax dollars and, more important, human lives. The Department of the Interior has estimated that over the past 6 years, the Federal Government has spent $800 million in aid for development and redevelopment on barrier islands. Residents of barrier islands are particularly vulnerable to the "storm surge" that accounts for 9 out of 10 hurricane-related deaths.

On May 21, 1982, the St. Louis Post Dispatch published an editorial, entitled, "Ending a Gamble With Nature." It is worthwhile reading.

Mr. President, I ask that the text of this editorial be printed in the RECORD.

The editorial follows:

ENDING A GAMBLE WITH NATURE

In a system that has been called "Russian roulette with lives and property," the federal government has for years been subsidizing the development of coastal barrier islands that are subject to periodic, unavoidable destruction by hurricanes. Last year Congress took a step toward ending this foolish and costly form of gambling with nature. In its Budget Reconciliation Act of 1981, Congress rescinded federally financed flood insurance for developers of barrier islands. Now the Senate Environment and Public Works Committee has approved the Coastal Barrier Resources Act (S. 1018), which would end all other federal subsidies for commercial and residential growth on undeveloped, storm-prone islands and beaches.

Secretary of Interior Watt, who on this issue sides with environmentalists but for different reasons than theirs, sees the bill as a way to save the federal government between $200 million and $500 million a year. The Interior Department has issued a map showing 159 coastal barrier sites in 16 states, from Maine to Texas, that would be affected by the act. Not only would passage of the act eliminate wasteful federal expenditures but it would also help to preserve places that would still serve as recreation areas for humans, as habitat for a wide range of fish and wildlife species and as storm buffers for the mainland.

The full Senate is expected to act on S. 1018 in late June or July. And a House subcommittee on the environment is due to hold hearings about the same time. Given its administration and bipartisan congressional backing, this legislation should encounter no problems except possibly the calendar. Delay in scheduling should not be allowed to jeopardize final passage this year.●

PROPOSED RESTRICTION OF POWERBOATERS IN HELLS CANYON NATIONAL RECREATION AREA

● **Mr. SYMMS.** Mr. President, I am pleased to submit to the CONGRESSIONAL RECORD the correspondence of Shirley Sanchotena of Boise, Idaho, who for the past 6 months has fought the proposed restriction of powerboaters in the Hells Canyon National Recreation Area. The management plan proposed by the U.S. Forest Service is clearly a disservice to the people of Idaho—to the recreationalists, and to those employed in the mining, timber, and grazing industries. Shirley Sanchotena has argued with great tenacity the case of the powerboaters, and I am pleased to make her comments a part of today's RECORD.

The material follows:

BOISE, IDAHO,
December 22, 1981.

Re Hells Canyon National Recreation Area.
Sen. STEVE SYMMS,
Lewis-Clark Hotel,
Lewiston, Idaho.

DEAR SENATOR SYMMS: I am writing on behalf of the Western Whitewater Association to protest and object to the Hells Canyon National Recreation Area Plan which was recently signed into effect by the Forest Service Chief.

The plan is not the original "Alternative C" which was proposed during the public hearings on this matter. The new "Alternative C" was never brought before the public until after it had been signed into effect, therefore its legality is questionable.

We feel that there is no reason for power boat restrictions in Hells Canyon from Lewiston to Hells Canyon Dam. The controversial part of the river, Rush Creek to Wild Sheep, pretty much controls itself. For those of us who do enjoy boating in Hells Canyon, this 10 mile stretch between Rush Creek and Wild Sheep rapids is the most challenging part of the river.3

We feel that we have been totally discriminated against in this particular regulation. The Forest Service is limiting the use of this river to a very few "special" people who have no more right to use the river than the powerboaters do. The Forest Service had proposed this plan as a National Recreation Area, not a wilderness. The floaters have already been granted the sole use of approximately seven rivers in which powerboats are totally restricted—if they want a truly wilderness experience, they should use these rivers and allow the powerboaters to enjoy Hells Canyon. The Forest Service in their proposed management plan on the Salmon River have stated in the environmental impact statement that Hells Canyon is primarily a power-boat river and the Salmon is primarily floaters. If this is true, why are they restricting us in Hells Canyon?

We feel that the Forest Service has no reason to impose these restrictions in Hells Canyon and are being totally arbitrary in even considering these restrictions. They have let the interests of a few environmentalists totally distort their reason on this plan.

The NRA Plan will have a very detrimental effect on the economy of the counties and cities who depend on the money brought in from power boats and tourism in this area to support their schools and businesses. It seems that at a time when the Administration of our country is advocating less federal assistance and more self sufficiency in local government the Forest Service has totally disregarded the efforts of our

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President. The boating industry in the effected area is a million dollar industry, not counting the gas, groceries, supplies and other income the people of these communities derive from power boats and their guests in the effected area.

Power boats are a much more feasable way for the people to see this area and enjoy its benefits. We are able to take our small children as well as our elderly parents into an area which they would never be able to see if it were not for being able to boat in. The physically handicapped can also enjoy the beauty of the area from a power boat which is something they could never dream of doing any other way. Why should floaters and environmentalist be so much more privileged than the average citizen?

In our discussions with the floaters of this area, they are not opposed to powerboats in Hells Canyon and in fact enjoy the security of knowing the powerboats are there should they get in trouble and need assistance. From personal experience, I know of two floaters who would not be alive today if we had not been nearby when they flipped their raft running Granite Rapids. I do not know of a power boater who spends any time at all in Hells Canyon who has not rescued floaters, their food and clothing after they have had problems in a rapid. No one objects to us then.

There are many other reasons which I could go into as to why we should not be restricted from Hells Canyon and in particular the stretch from Rush Creek to Wild Sheep, but basically it all goes back to the interests of the Forest Service Chief who has not taken into consideration the interests of anyone except a few of "select" people. He has not taken into consideration the people of the effected areas, the economic impact on the communities, nor the desires of the majority of the people when he took it upon himself to sign this into effect.

As a very concerned citizen, please use all the powers and processes available to you to have this plan rescinded and revised to be made a fair plan and in the best interests of the majority of the people of this area and this State.

Thank you.

Very truly yours,

SHIRLEY SANCHOTENA.

WESTERN WHITEWATER ASSOCIATION,
Boise, Idaho, February 18, 1982.

JOHN CROWELL, Jr.,
Assistant Secretary of Agriculture, Department of Agriculture, U.S. Forest Service, Washington, D.C.

DEAR MR. CROWELL: We are writing in regard to the Hells Canyon National Recreation Area Management Plan recently signed into effect by Max Peterson.

On behalf of the power-boaters of the area as well as all those who will be economically affected by this final plan, we urge you to reconsider the plan and implement a plan more favorable, both to the economy of the area and to those who use this area for recreation, preferably Plan A.

The impact of the Final Hells Canyon National Recreation Area Management Plan as signed into effect by the Chief, will be devastating to the economy of the State of Idaho as well as unjust, biased and totally without merit as to prohibiting power boats from using selected portions of Hells Canyon.

The Western Whitewater Association respectfully requests that you revise the final HCNRA plan to provide equality for power boaters in Hells Canyon.

Very truly yours,

SHIRLEY SANCHOTENA,
Secretary.

BOISE, IDAHO,
May 4, 1982.

RE HELLS CANYON NATIONAL RECREATION AREA.

JOHN B. CROWELL,
Assistant Secretary of Agriculture for Natural Resources and Environment, Department of Agriculture, Washington, D.C.

DEAR MR. CROWELL: I am writing in regard to the Management Plan for the Hells Canyon National Recreation Area signed into effect on April 30, 1982 by Max Peterson.

It is apparent to me that Mr. Peterson has no concern for people other than environmentalists. I am very displeased with Mr. Peterson's revised management plan. The revised plan does not ease any restrictions regarding power boats.

The Hells Canyon National Recreation Area is designated as a recreation area, not a wilderness area. It seems to me that the Forest Service is attempting to make a wilderness for one group at the expense and detriment of another group. The Forest Service itself, in its reports, states that there is no environmental impact on the river by powerboats. The Forest Service can state no concrete reason why powerboats should be restricted other than that there is the possibility of over-crowding of campsites in the future. If this is so, why are powerboats being restricted and floaters are maintained at the present level or a very slight decrease. Lets be fair about this whole thing, if you are going to restrict one group, all others should be restricted at the same level.

I have never seen in any of the Forest Service reports where the present level of powerboats in the portion of the Canyon between Rush Creek and Hells Canyon Dam is creating any problems other than the complaint of floaters that powerboats disturb their "wilderness experience". If they want a wilderness experience they should have gone to one of the approximately 20 rivers in Idaho that are already closed to powerboaters. Powerboaters also enjoy having a "wilderness experience" experience and the Forest Service is preventing us from doing that by preventing us from using the most interesting portion of the river.

It seems to me that the Forest Service is making a mockery of President Reagan's administration. The President is advocating cutting back on needless government spending and regulations. What is the Forest Service doing but spending millions of dollars of tax payer's money to implement and regulate a needless, arbitrary and senseless plan.

President Reagan is attempting to stimulate economic growth in a period of very depressed economies. This plan will destroy the economy of several of the surrounding communities by preventing powerboat use at the present level. The President of this country must be very proud of Mr. Peterson and the Forest Service.

The Forest Service is attempting to prevent the people of the Northwest from enjoying the areas in which they live so that outsiders may use this area. This is a typical inequity of government regulation and I urge you on behalf of the powerboaters of the Northwest to have this plan rescinded and have someone who is more equitable and fair review the plan. Better yet, save everyone a lot of money and just leave Hells Canyon at the present level.

I urge you, please do not allow this unfair, unreasonable, costly and purely arbitrary plan to be put into effect.

Very truly yours,

SHIRLEY SANCHOTENA.

BOISE, IDAHO,
June 2, 1982.

R. MAX PETERSON,
U.S. Department of Agriculture, Forest Service, Washington, D.C.

DEAR MR. PETERSON: Thank you for your letter dated May 28, 1982. I, however, do not feel that you understand the problem of which I am writing.

In your letter, you state that Public Law 94–199 calls for a broad range of recreational uses. With that I do not disagree. What I am disagreeing with is your statement that the "management plan now provides for increased powerboat access and share of the river." How can you say that powerboats have increased access and share of the river when you have arbitrarily and drastically restricted the number of powerboats above Rush Creek rapids to the point of being almost nonexistent. If you think you have increased powerboaters share, maybe you should study more carefully the figures on usage of the river.

I do not see how you can continuously state in the HCNRA Management Plan study that powerboats cause no environmental impact, there is not a problem of overuse and yet you see fit to restrict powerboats to such an unreasonable limitation as stated in the most recent plan finalized on April 30th.

I feel that powerboaters are being unfairly and indiscriminately restricted from using a portion of the river in which we have as much right as the floaters. If you feel it necessary to cut down usage on the river, why only cut back powerboaters? It seems much more equitable to increase the powerboat usage from what it is in the April 30th plan and cut back floaters so that you still have the same amount of usage on the river, but it will be an equal usage basis.

You state in your letter that this is not a Wilderness area but rather a recreational area. If so, why is it necessary to exclude and restrict powerboats but leave the floaters at their present level.

I do feel that the Forest Service is spending an exorbitant amount of money to draft and manage a portion of the plan which is totally unnecessary and arbitrary.

I do not believe Public Law 94–199 was intended to be used to discriminate against certain user groups. The Comprehensive study on the area states that there is not a problem of overuse at this time. If there is not a problem of overuse at this time, why do powerboats have to be so severely restricted? If present use does not create a problem, why can the limitations and restrictions not be set at the present use level, instead of being cut to an almost non-existent number?

You state that you are trying to minimise conflicts between user groups. Do you feel that these restrictions are going to curb any conflicts? Having used the Canyon a number of times, I have never had any conflicts with floaters. In fact, there have been several times that had not a powerboat been present, floaters would have drowned. Apparently powerboats create a conflict unless the floater is drowning—then they appreciate seeing a powerboat on the river. Your arbitrary restrictions are not going to curb any conflicts between user groups!

I strongly urge you to take a second look at the present management plan and reconsider your decision. The United States is supposed to be the epitomy of fairness and equality, please make your plan conform to these standards.

I would appreciate a response to my questions.

Very truly yours,

SHIRLEY SANCHOTENA.

BOISE, IDAHO,
July 6, 1982.

R. MAX PETERSON,
Chief, Forest Service,
Washington, D.C.

DEAR MR. PETERSON: Thank you for your June 29, 1982 letter. Again, I feel that it is necessary that I reply.

Even though you have clarified your statement as to the increased use and share of the river for powerboats in your Comprehensive Plan of April, 1982, I feel that you have not studied the Forest Service reports and plans for the HCNRA. I am aware that there have been no regulations for powerboats in previous years, yet, is that a reason mandating that powerboats be arbitrarily and almost totally eliminated from a certain stretch of the river. Powerboaters are not objecting to regulations, only to total elimination. I feel it is totally unreasonable to say that just because one segment has been regulated and the other has not, the unregulated segment should have more stringent and unreasonable restrictions placed on them.

The Forest Service in its study and Final Management Plan for the Salmon River has stated in writing that Hells Canyon has been and always will be a powerboat river and that the Salmon lends itself well as a floatboat river. Please give me a good reason why powerboats should be, for all intents and purposes, excluded from a certain stretch of Hells Canyon so floatboaters can enjoy "the relative solitude of floatboating to see and experience vestiges of primitive America as provided for by the Wild and Scenic Rivers Act." If they desire "relative solitude", they have approximately 26 other whitewater rivers in Idaho that powerboats have already been totally excluded from running, either by regulation or the physical makeup of the river, where they can enjoy this "relative solitude." Powerboaters would also like to enjoy "the relative solitude" of Hells Canyon, but we are not so narrow minded as to request that floaters be arbitrarily excluded strictly because of our preferences. We are aware that they are entitled to equal use and enjoyment of Idaho's rivers.

I would also like to reply to your statement that the 1981 level of powerboat use did not exceed the regulated level of use provided for in your new plan. Using your own Forest Service figures, 227% more powerboaters used Hells Canyon in 1981 than your new plan will allow when implemented.

The following are the Forest Service figures I used in my computation.

Powerboats will have only 6,600 allowable maximum user days above Rush Creek, down from the 1981 figure of 15,014. This is a cutback of nearly 8,500 user days. Thus, the number of user days you eliminate is 128% of the number of days you will allow. Even before the implementation of your new plan, estimated user days for powerboats is 15,014 compared to 23,451 user days for floaters. With your new plan, 60,000 floatboaters may travel the same stretch of river that only 6,600 jetboaters may use for the same time period. I ask you, how can you justify these figures and call this plan a fair and equal plan. Is this arbitrary or not? These figures are from your own Forest Service publications and unless the Forest Service has implemented a new form of math, are totally outrageous, unfair, arbitrary and discriminatory. Do you call this equal use?

Your reports also state that there is no environmental impact from use at this time. Why then do you feel it necessary to restrict the great numbers of people to accommodate a selected few.

According to Forest Service publications, floaters presently are using only 63% of the launches available to them. Your plan calls for review when 80% usage is reached. Powerboaters on the contrary have no such excess allotments, only a 127% reduction in present use. How can you honestly call this fair and justified?

It appears to me that you have a personal vendetta against the powerboaters. I can see no justifiable reason for the restrictions you have imposed upon powerboaters. The facts compiled by the Forest Service in all of the studies give nothing to support the restrictions you have felt it necessary to impose. There are no facts to support your arbitrary restrictions, let alone to support the amount of taxpayer's money you are planning to use to enforce these restrictions.

Again, I urge you to reconsider your final management plan. I do not see how you can justify your actions in imposing these restrictions nor do I see how you can get away with the total discrimination you are imposing on powerboats and call this a democracy. I wonder if the present administration would approve of your decision if they were aware of the facts.

Again, I await your reply.

Very truly yours,

SHIRLEY SANCHOTENA.

Boise, Idaho, July 7, 1982.

JERRY ALLEN,
Forest Supervisor, Wallowa-Whitman National Forest, Baker, Oreg.

DEAR MR. ALLEN: I am writing in regard to your recent news release regarding the Hells Canyon National Recreation Area Comprehensive Management Plan, in particular the portion regarding power boats.

I feel your statement was misleading and did not state the correct facts regarding power boats, perhaps the confusion regarding the plan is in your office.

To begin with, you state in your news release that the powerboat allocation places a limit "which substantially exceeds the historical level, on powered boats in the Wild section of the river." Using the figures provided by the Forest Service, 227% more powerboaters used the river from Rush Creek to the Dam in 1981 than your new plan will allow when implemented. How can you possibly state that there is a 40% increase in the number from previous levels? Powerboats will have only 6,600 allowable maximum user days above Rush Creek, down from the 1981 figure of 15,014. It is beyond me to figure out how you can honestly say that powerboat use above Rush Creek will double the 1981 level. Also, I have not seen anywhere in the plan where it provides for room for growth.

It appears to me that the Forest Service is arbitrarily imposing restrictions against powerboats that are totally discriminatory. For the section above Rush Creek, using your figures, powerboats will be allowed 36 people (6 boats, 6 people per boat average) while floaters will be allowed to send 125 people through the same stretch in the same time period. Do you call this fair and equal? Where is your stated 40% increase?

Also, you state in the news release that in the past powerboats have not been allowed above Granite Rapids. This is a restriction that no one but you seems to have been aware of.

If the need for restriction is because of increased use as you state in the news release, why is it that powerboats are being almost totally eliminated while floaters are maintained at approximately the same level? This portion of the river is supposed to be a recreational area for all, not just a select segment.

I feel it was extremely inappropriate for you to release the misleading information. If there are conflicts between floaters and powerboats, perhaps they are instigated by misleading statements from the Forest Service itself. In all of our boat trips in Hells Canyon, there has never been a conflict between our powerboat and floaters. In fact, there have been several times when floaters could possibly have drowned had we not been there in our powerboat to retrieve them from the water after their trade rafts capsized or they were thrown out of the raft.

Contrary to your apparent impression, powerboats do not feel that it is not necessary for any restrictions, we are only requesting that we be allowed a portionately equal amount of use, which is not the imaginary 40% increase you state.

I feel that the integrity of the Forest Service is put into question when statements such as contained in the June 16 news release are made. You should check your facts before making other statements. Rather than clarifying any controversy, you are instigating more. It is becoming more apparent that the plan finalized by Max Peterson is totally arbitrary and unreasonable.

Very truly yours,

SHIRLEY SANCHOTENA.●

FORBES COLUMNIST BACKS MILITARY REFORM

● Mr. HART. Mr. President, the military reform movement continues to attract support from a very broad range of the political spectrum. The August 16 issue of Forbes magazine contains a column by Mr. Ashby Bladen which supports the reform effort. In fact, Mr. Bladen states he has been interested in military reform for nearly 30 years.

As the column says:

> 'Maintaining a hugely expensive but basically ineffective military establishment is not a smart thing to do.' When the expense is translated into massive deficits, it hurts the Nation two ways: It hurts the economy, and it hurts our security.

Some of Mr. Bladen's criticism of the Army may be a bit dated; General Meyer's initiatives to create a regimental system may do much to improve our soldiers' motivation, and if the Army continues to move toward maneuver warfare, its battlefield capability could rise dramatically.

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But the column's central point could not be more true: The basic problems of the American military establishment cannot be solved by throwing money at them. Mr. Bladen offers this as advice to the President; but it is equally good advice for Congress.

Mr. President, I submit for the Record the Forbes column, "A Glimmer of Hope."

The column follows:

[From Forbes magazine, Aug. 16, 1982]

A Glimmer of Hope

(By Ashby Bladen)

Ever since President Reagan's election I have been saying that there is no hope. He has embraced California economist Arthur Laffer's painless solution to our financial problems, and I have told you several times in this column why I believe that it cannot work. But now I think I see a glimmer of hope.

The situation is roughly analogous to the summer of 1970, when President Nixon and the Fed had painted themselves into a corner from which there also appeared to be no escape. Nixon was supporting the Fed's anti-inflationary tight money policy, but after the failure of the Penn Central Railroad, it was obvious that that policy was about to drive large companies into bankruptcy by platoons. However, at the beginning of June a knowledgeable friend, Wesley Stanger, picked up a rumor that President Nixon was going to recommend an incomes policy—that is, price and wage controls, "jawboning" or some variant thereof. I said to myself, "That is the only possible escape."

I knew that an incomes policy would fail ultimately, but in the short run it would serve as an excuse for relaxing the Fed's ruinously tight monetary policy. And that is just about the way things actually worked out. Nixon promised to issue a series of "inflation alerts"—a mild form of jawboning against excessive wage and price boosts. That allowed the Fed to relax its policy, and the incipient panic subsided. The stock market staged a powerful rally, and the following year Nixon actually brought in wage and price controls.

Coming back to the present, if the Fed ever did control long-term interest rates, it certainly doesn't any longer. I have said over and over again in the pages of this magazine that as long as we are looking at a federal financing requirement of a couple of hundred billion dollars a year, interest rates will remain so high as to destroy the viability of much of the economy. President Reagan desperately needs a plausible excuse for cutting the projected budget deficits. But he has already commited himself to not going further in cutting transfer payments, so there remains only one possible solution to the deficit problem—cutting future military expenditures.

Just recently another very knowledgeable friend, Dick Francis, told me that President Reagan has recruited a committee of leading businessmen, under the chairmanship of J. Peter Grace, to study and make recommendations about cost effectiveness in the Army. Of course, there is no such thing as cost effectiveness, in the ordinary business sense, in the military. The test of an army is whether it wins or loses; and, in my opinion, the American Army, as presently organized, is a loser. That is why I have been interested in military reform for nearly 30 years.

In 1954 my job was to hang a microphone on the briefing officers at Operation Flashburn, the first big maneuver involving nuclear weapons. At the wrap-up briefing the Army Chief of Staff concluded that those weapons dictated more massive formations and closer control from the top. I differed, but, wisely for a private first class, silently. Never again will it be possible to mass a division on a one-mile front because somebody is likely to come along and drop an atom bomb on it. From now on war will be a small unit affair, and that calls both for highly trained units that consider themselves to be elite and for competent noncoms and junior officers who are not afraid to make decisions.

By and large, the American Army has neither of those things. Moreover, the basic system of motivation and discipline is an 18th-century one that was compatible with the technology of the Tower musket, and that depends on being willing to shoot somebody once in a while—something that, mercifully, we are no longer willing to do. The American Army is very good at destroying every other motivation, except fear that might cause people to work effectively together.

Maintaining a hugely expensive but basically ineffective military establishment is not a smart thing to do. Bill Marquard, president of American Standard, is on President Reagan's military cost-effectiveness committee, and Dick Francis, American Standard's treasurer, is head of the task force that reports to it. I know them well, and they are both absolutely first-class businessmen. They take an appropriately broad view of their mandate, and if anybody can do the job, they can. But it is a Herculean task, and at this point I am no more sanguine about the ultimate outcome than I was about Nixon's incomes policy. However, in the short run, President Reagan can escape from the budget impasse by announcing that the committee has convinced him that the basic problems of the American military establishment cannot be solved by throwing money at them. Instead, a rethinking of the principles on which it is organized and motivated is in order. That is the only way I now see for him to retreat gracefully from the projected deficits that are causing the current ruinously high level of interest rates.●

LOS ANGELES COUNTY SUPPORTS EXIMBANK

● Mr. GARN. Mr. President, for 8 years now, I have advocated in this body strong support and adequate program authority for the Export-Import Bank. The Eximbank is our primary weapon on our efforts to restore market conditions to the area of international trade financing. Our major trade competitors have progressively sought to undermine the international marketplace by underwriting the products of their nationals with highly subsidized official export credit.

Virtually the only defense that we have had for American exporters and for the principles of free trade based on quality, price, and product reliability, has been the Export-Import Bank.

In order to reevaluate current policies regarding the Bank, along with several of my colleagues, I cosponsored S. 2600, a bill to restructure the Bank, giving it increased authority and funding. Not only in my position as chairman of the Banking Committee, but also through my membership in the Appropriations Committee, I have worked strenuously to achieve adequate funding for the Bank.

It is well known that the Bank is currently undergoing difficult challenges, both at home and from abroad, and so I mention my own efforts in support of the Bank in order to report how gratifying it is to see that this support is shared by individuals and groups from all across the country.

Just recently, Mr. President, I received a letter from Mr. James S. Mize, executive officer of the Board of Supervisors of Los Angeles County, reporting the unanimous adoption by the board of supervisors of a resolution urging action to support the Export-Import Bank. This Bank is vital to our national economic health, for it protects our exporters against unfair credit practices and thereby defends the free market, upon which the strength of our Nation is based. I am pleased to see that there is growing national recognition of the importance of the Export-Import Bank. I urge my colleagues to give thought to the importance of the Bank, as expressed in the letter announcing the action taken by the Los Angeles County Board of Supervisors, and I ask that the text of the letter be included in the Record at this point.

The article follows:

Board of Supervisors,
County of Los Angeles,
Los Angeles, Calif., July 30, 1982.

Hon. Edwin Garn,
Senate Office Building,
Washington, D.C.

Dear Senator Garn: At its meeting held July 27, 1982, on motion of Supervisor Michael D. Antonovich, unanimously carried, the Los Angeles County Board of Supervisors went on record as urging action to develop an Import-Export Bank, that is strong in funding and strong in policy, and whose public posture is one of willingness to match, or better, foreign subsidized financing. Further, the Board urged the Congress of the United States to establish a comprehensive, long-term export policy which will accomplish these goals.

In making his motion, Supervisor Antonovich cited that export items which are manufactured in the greater Los Angeles area represent more than 250,000 local jobs. The Import-Export Bank is the defensive financing tool available to large capital goods exporters and for thousands of suppliers. Import-Export Banks have been a profit making agency which have returned more than one billion dollars to the Federal treasury and retained two billion dollars more in earnings since it was capitalized in 1945. Finance and export is an appropriate investment for this country, in which returns from tax receipts and reduction in unemployment benefits far out-weigh the risk of lending money below market rates.

Further, Supervisor Antonovich stressed that it is important for the United States to have an aggressive export policy. Since this country can no longer rely on production quality and productivity to sell their products abroad, it is extremely important that we be able to compete on the world market in terms of finance.

Very truly yours,

JAMES S. MIZE.●

MOST-FAVORED-NATION STATUS

● Mr. DOLE. Mr. President, on August 10, the Subcommittee on International Trade of the Finance Committee, chaired by Senator DANFORTH, engaged in one of the most important tasks of the committee: the annual review of the President's determination regarding extension of most-favored-nation (MFN) status to Hungary, Romania, and the People's Republic of China. Trade with these nations certainly has attained an important share of overall U.S. imports and exports in recent years, reaching a 1981 volume of over $5.7 billion, with a substantial U.S. surplus. But increasing trade does not obscure the more fundamental issue for review: to determine whether the essential basis for that trade—the emigration policies of these nations—satisfies the congressional purpose of conditioning the granting of MFN on such a basic human right. As cochairman of the Helsinki Commission, which monitors compliance by signatory nations with the broad recognition of human rights set forth in the Helsinki Final Act, I maintain an especially strong interest in these matters.

"IT IS FORBIDDEN"

On page 1 of the August 9 Washington Post, Michael Dobbs commented in an article concerning Moscow and Warsaw about the most ubiquitous expression in the Russian language: "It is forbidden." He mentioned the horror of one British mother upon hearing these words from her 18-month-old child—his first words. Such stories are a useful reminder that oppression remains the standard by which the Soviet bloc countries deal with their citizenry. They have engrained in their language the currency of fear, the cynical denial of liberty.

Until 1975, "It is forbidden" was the first response most citizens of Soviet bloc countries received when they asked for permission to emigrate from their homelands to seek a fresh beginning elsewhere. The next responses often included job loss, arrest, harassment, and denial of schooling for children. There are few tools available to the United States that will persuade another country not to brutalize its citizens when it is intent on doing so. But the privilege of tapping the great U.S. market is one of them.

Led by Senator JACKSON, who testified before the subcommittee yesterday, the Congress constructed in the Trade Act of 1974 a mechanism by which this country could lend a hand to those abroad who share our values and who wish to live their lives free from fear. Since 1975, 1978, and 1979, when the first MFN agreements were signed with Romania, Hungary, and China, respectively, emigration has improved markedly. There are few issues concerning China. With the notable exception of a few family reunification cases, emigration issues are handled calmly by and large with respect to Hungary these days. And I am pleased that emigration from Romania continued to increase in 1981, and apparently is being allowed at unprecedented levels at the present time. For the thousands of fortunate ones who were allowed to leave these past few years, "It is forbidden" became an injunction of the past.

THE NEED FOR IMPROVEMENT IN ROMANIA

But I am not satisfied about the situation in Romania. In recommending renewal of MFN for that country the President himself acknowledged "grave concern" about the "repressive emigration procedures" that clearly inhibit many people from applying or successfully realizing their desire to emigrate. I share this concern. While emigration is up, as usual it appears that no effort was made to process applications until the Romanian Government became concerned that MFN might not be renewed. Further, suppression of religious rights and continued reports of discrimination directed toward the Hungarian minority, are dismaying evidence that the spirit, if not the letter, of the 1974 Trade Act is not being satisfied.

Mr. Jack Spitzer, president of B'Nai B'rith, testified before the subcommittee on behalf of the presidents of the major Jewish organizations. He strongly urged that MFN should be extended. He, Senator JACKSON, and other witnesses noted that the Romanian Government has agreed to meet this fall both with the Jewish organizations' representatives and U.S. Government representatives to discuss ways of eliminating the current problems in processing emigration applications. Because of recent improvements and this forthcoming attitude on the part of the Romanians, they strongly support the President's decision to renew MFN for Romania. I agree that it would not be beneficial to deny that extension and, in fact, it could be counterproductive.

Nevertheless, because of the wide seasonal fluctuations in the imigration process—approvals seem to be tied to the Romanian Government's estimate of congressional attitudes about MFN—and the evidence presented by several witnesses to the subcommittee of severe repression of the rights of religious groups and ethnic minorities, I believe it is important for the Senate to go on record voicing its concern about these matters. The resolution adopted by the Finance Committee today would express the sense of the Senate that the administration should undertake to achieve certain improvements in the emigration process, and that it further should pursue the matter of human rights violations. I am happy to say that Senators HELMS and SYMMS have agreed to cosponsor the resolution, along with Senators DANFORTH, MOYNIHAN, DURENBERGER, BENTSEN, HEINZ, CHAFEE, BAUCUS, and WALLOP.

These matters are properly the subject of discussions between our two governments, as we are both parties to various international agreements recognizing basic human rights, and our commercial agreement that extends MFN to Romania is conditioned on their emigration practices. I therefore hope that the Government of Romania will view this resolution as a serious expression of congressional concern directed to a fundamental plank in our bilateral relationship.

Finally, Mr. President, I wish to recognize the continued leadership in this area of Sentor DANFORTH, who, as chairman of the Trade Subcommittee, has maintained a particularly strong effort to facilitate the release of hundreds of applicants for emigration from both Romania and Hungary. His efforts throughout the year, together with those of Senators MOYNIHAN, HELMS, HEINZ, and many others of us, are an essential tool to humanize a frustrating process and to obtain relief for many U.S. citizens with ties to persons in those countries. Those individual petitions, together with the annual review conducted by the Trade Subcommittee, provide an unparalled legislative opportunity to keep these serious human rights issues in the public eye. I can assure the Members that the committee will keep a close eye on the emigration process this year in anticipation of next year's determination.●

S. 2781. EXPORT-IMPORT SMALL BUSINESS ASSISTANCE ACT OF 1982

● Mr. COHEN. Mr. President, I am pleased to cosponsor the Export-Import Small Business Assistance Act of 1982.

Small businesses are at a great disadvantage in our international trading system. Ambiguous antitrust laws, complex and costly trade relief statutes, and a lack of expertise and export capital all contribute to the general inability of small businesses to vigorously participate in world trade.

In contrast, large corporations dominate international business transactions. Only 10 percent of the nearly 250,000 manufacturing entities in the United States are engaged in exporting. Fourteen companies in this country account for 50 percent of our nonmilitary capital goods exports.

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Large businesses have further advantages in the accessibility they have to export financing. The Export-Import Bank, which provides financing for U.S. exports, grants one-half of its benefits to three American companies. Two-thirds of the export credits are granted to seven companies producing nuclear plants, aircraft, and high-technology products. The reluctance of Eximbank to grant loans of less than $5 million has continually frustrated small business concerns who have sought export assistance.

The bill I am cosponsoring would require that the Export-Import Bank set aside 12 percent of its annual direct loan authority for loans of less than $5 million. This would result in small businesses having more access to export assistance loans.

Mr. President, our present economic problems have been particularly hard on our small businesses. We cannot continue to overlook the importance of exports as a means of strengthening small businesses during this difficult period. There is potential for small businesses as exporters.

Last year, the Senate-passed legislation, the Export Trading Company Act, which would clarify the antitrust laws to encourage the formation of export trading companies by small companies. S. 2781 would provide an important complement to that effort by increasing the availability of export credits to small businesses.

In our increasingly interdependent world, the services of the Eximbank are becoming even more necessary. Since other major trading partners offer more attractive export financing rates through Government programs, we must retain an export promotion program to protect our competitiveness. I believe, however, that there should be more equality in the distribution of benefits from Eximbank financing and that this legislation would introduce more equity into this system.

Our national defense and our economic strength depend on protecting our technological lead through the innovative efforts of private industry. We need to encourage small businesses to contribute more to this effort, and I commend Senator DeConcini for introducing legislation which supports this objective.●

JUST WHEN NEEDED, EXIMBANK JEOPARDIZED

● Mr. GARN. Mr. President, one of the ironies of the debate over the Export-Import Bank is that pressure has mounted to restrict the Bank's activities just when it is needed most. The past year of negotiations within the Organization for Economic Cooperation and Development to limit official export credits has shown significant and important progress. Our negotiating team has been aggressive and tireless in its efforts to rein in the profligate credit subsidy programs of the governments of our trading competitors. As I say, the result has been significant and praiseworthy.

Much of that progress has been made possible, however, because the Congress has shown a strong determination to support the Eximbank. I am pleased that our efforts to raise program authorizations for the Bank above the fiscal year 1982 recommendations were successful last year. That sent the important signal to our competitors that the United States was not going to unilaterally disarm itself in the ever-smoldering export credit war. The other countries in the OECD credit talks responded with concessions.

In addition, I am also pleased that the Banking Committee last summer, by a vote of 11 to 1, reported the Competitive Export Financing Act of 1981. That sent another signal to our competitors, who again became more conciliatory in the export credit negotiations. Just a few weeks ago, further significant concessions were obtained, as I have mentioned.

There is still much to be accomplished. Our goal is to eliminate financing as a factor in international competition. The dictates of a free market require products to be bought and sold on the basis of quality, reliability, and price. Financing should be a neutral factor. It currently is not. The progress is in that direction. Credit terms for industrial countries are not far from market rates, but the point is that they are still not at market rates, nor are they automatically tied to the movements of the market. This is our goal, and it is not yet achieved, so it would be foolhardy to undermine what has been our most powerful tool for obtaining concessions in the export credit negotiations, namely the Export-Import Bank, before our goals are fully achieved.

Mr. President, failure to give strong support to the Eximbank at this time will result in the loss of billions of dollars of export sales that we otherwise would have fairly won, and the continuation of a costly export credit war for many years. Granting the Bank sufficient authority now, which need not cost a dollar in appropriations, will save billions in the future. That sounds to me like true fiscal conservatism.

Recently, I received a letter from a manufacturer in Salt Lake City, urging me to support the Export-Import Bank. That manufacturer, which is by no means the size of Boeing, or Westinghouse, or General Electric, was urging me to support what some would call Boeing's bank. My constituent did not seem to think that Boeing was the only beneficiary of the Eximbank's services. I do not think so either, for thousands of companies have received Eximbank support for their exports directly, and many thousands more have received them indirectly by producing components of other products that find their way into international trade, made possible through Eximbank programs.

Mr. President, I ask that the letter from Mr. Don S. Wiest, director of exports for Beehive International, together with a study that accompanied his letter, be inserted in the Record at this point.

The material follows:

BEEHIVE INTERNATIONAL,
Salt Lake City, Utah, August 3, 1982.

HON. JAKE GARN,
U.S. Senator,
Salt Lake City, Utah.

DEAR SENATOR GARN: As Director of Exports for Beehive International, a fourteen year old Salt Lake City manufacturer of video data terminals and desk top computers. I would appreciate your consideration of the message contained in the attached brochure. It is self explanatory.

In summary it urges those of us involved in international trade to champion the cause of the Export-Import Bank. Since our company ($40 million in sales during FY81) exports approximately 38% of our manufactured goods to 41 countries abroad, we are concerned that all possible be done to maintain a healthy level of U.S. exported products. It appears that the purpose of NET, the sponsoring organisation of this brochure, is concerned in this direction; I am too.

Sincerely,

DON S. WIEST,
Director of Exports.

JUST WHEN WE NEED IT MOST, AMERICA'S EXPORT-IMPORT BANK IS IN JEOPARDY—HERE IS HOW YOU CAN HELP

Last year, the Export-Import Bank provided partial financing for the export sale of more than $2 billion worth of American-built commercial jet airplanes—airplanes that would not have been built or sold without the Bank's participation.

Some members of Congress and the administration are attempting to cut the Bank's effectiveness, giving a false impression that it will reduce the federal budget. However, no tax revenues are involved. We think they are promoting false economy.

The Bank provides partial funding for many other U.S. industries. Export sales by those industries bring needed capital into our nation's economy, help steady our balance of payments, and most importantly create jobs for tens of thousands of American men and women.

Cutting the Bank now, when we need it most, makes no sense.

HOW THE EXPORT-IMPORT BANK WORKS

Simply put, the Export-Import Bank is an agency of the United States Government that helps arrange export financing for the sale of American-made products. The Bank makes direct loans to overseas businesses for a portion of the total purchase price (in the case of airplanes, 42.5%). The Bank also helps overseas companies find loans in the commercial financial market by providing guarantees that those loans will be repaid. In some cases, the Bank does both, providing loans directly to the buyer and making a guarantee for some portion of the balance.

In most ways, the Export-Import Bank behaves like any other bank. It borrows money from commercial sources (through the Federal Finance Bank, a coordinating body for government agencies), then loans the money out. The Bank's income is the interest and principal payments on those loans, along with fees paid by borrowers and the beneficiaries of the guarantees. That income is used to repay the commercial borrowings.

The Bank was established in 1934, and since 1948 it has devoted its efforts exclusively toward promoting exports. During that time it has generated more than $100 billion in export sales. It has also turned a handsome profit; to date, the Bank has returned more than $1 billion in dividends to the United States Treasury, and it has a reserve fund of "retained earnings" of more than $2 billion.

The Bank uses no tax money, and is not a drain on the federal treasury. Each year, Congress grants the Bank authority to borrow money to be used for loans. By raising or lowering its capacity to borrow, Congress determines how active—and how effective—the Bank will be.

THE EXPORT-IMPORT BANK IS NECESSARY TO MANY U.S. SALES

It is argued that America's overseas customers ought to be able to arrange financing of their airplane purchases solely through commercial sources. More than half do. However, such financing is difficult at best, and sometimes impossible for others. Without partial Bank financing and/or guarantees, commercial sources are wary of airlines from lesser developed nations. And during the past three years, lending rates from traditional credit sources have been well beyond the reach of some airlines.

America's chief competitor in airplane manufacturing is Airbus Industrie, a consortium formed by European private capital and the governments of France, Germany, and the United Kingdom. In the past three years, Airbus airplane sales have increased dramatically, while U.S. manufacturers' sales have sagged. In some measure, this is due to financing and other inducements offered by the European governments. Until a one-year agreement reached last September, Airbus financing was available for as little as 7.5%. Such financing simply overshadowed other competitive advantages held by U.S. airplanes, and many sales went to Airbus because the financing deal was just too sweet to pass up.

September's agreement, called the Commonline Agreement, now stipulates that sales of European- and U.S.-manufactured airplanes be financed at approximately the same rates, effectively 12% over a 10-year period. But even 12% is below the world credit market at this time. The governments behind Airbus can finance airplane sales out of their treasuries; private industries simply do not have the resources to respond.

Thus, the Export-Import Bank is virtually the only resource that can put an American firm on an equal footing with its foreign competition. In fact, it was the Export-Import Bank's participation in overseas financing that brought the European governments to the bargaining table and made the Commonline Agreement possible in the first place. And only a strong Export-Import Bank can make other such trade agreements possible in the future.

WHAT THE BANK'S CRITICS WANT, AND WHY

Some members of Congress and some members of the Reagan administration have proposed that the Bank's authority to borrow be reduced by nearly $1.8 billion. There are several reasons given. We do not believe any of them are convincing.

"The Export-Import Bank is a federal subsidy for industry."

It is not. No tax dollars are spent, and virtually every loan and guarantee made by the Bank is repaid in full, with interest.

"Bank borrowing pushes up interest rates."

The Bank's pressure on interest rates is negligible. Its use of credit amounts to less than 2% of the federal borrowing.

"Cutting the Bank will trim the federal budget."

Technically that is true, although in reality it is not accurate. The Bank is carried as a line item on the Unified Federal Budget. But since no tax money goes toward the Bank—which is self-sustaining—it does not cause any increase in the federal budget deficit.

"The Bank is losing money. In the long run, it will become a drain on the federal treasury."

That's 1/48th right. In 1982, for the first time in its 48 years, the Bank will probably lose money. This is because it had to borrow money from commercial sources at interest rates higher than the 12% rate at which it was making loans. When interest rates come down—as the administration assures us they will—the Bank will return to profitability. Until then, the Bank's temporary losses will be easily covered by its $2 billion reserve fund of "retained earnings," exactly the kind of situation for which that reserve fund was created.

CUTS IN THE BANK THREATEN FUTURE OF U.S. MANUFACTURERS

Under pressure from the Reagan administration, and in an effort to keep the 1982 losses as low as possible, the Export-Import Bank has already restricted its activities in making loans to the overseas purchasers of U.S. airplanes. The Bank's actions—and the result on U.S. sales—give some indication of what the administration's proposed cuts might mean to the U.S. economy.

Thus far, the Bank has discouraged loans to airlines from developed countries, turned down loans on established airplanes such as the 747 and the 737, discouraged financing of "follow-on" orders of additional airplanes to a fleet, and established a 3% set-up fee for all loans, effectively adding 0.5% to the interest cost of a 10-year loan. These actions work to the disadvantage of American manufacturers. During the past year alone, restrictions have cost U.S. manufacturers several key sales. For Boeing, as an example, this is a particularly crucial period, since introduction of the 767 and 757 models requires a competitive sales stance if the new models are to gain a solid position for the coming decade's market share.

WHAT THIS MEANS TO YOU

You have a vital interest in America's export policies. Export sales bring money into this country's economy, help stabilize our balance of payments, and bring jobs to hundreds of thousands of American men and women in every state.

WHAT IS NEEDED FROM CONGRESS

Congress and Congress alone can determine the Export-Import Bank's authorization for 1983. Some elected representatives have urged that the Bank's role be severely cut back. Others have asked that the Bank's authority be increased and its role strengthened. One Senator, John Heinz, a Republican from Pennsylvania, has proposed that a $1 billion "war chest" be established in the Bank to respond quickly and surely to financing deals offered by foreign governments. Beyond that, we want the U.S. government to recognize the importance of exports and we want the Export-Import Bank to have a policy of not just saving exports, but stimulating American exports now and for the long term.

Last year, Congress was asked by the administration to cut the Bank's authorization. Instead, Congress chose to give the Bank greater loan authority. We believe Congress should act in a similar fashion this year.●

MEDICARE PROGRAMS: MANAGERIAL PROBLEMS AND OPPORTUNITIES

● **Mr. DURENBERGER.** Mr. President, we are all familiar with the problem of high health care costs. Nowhere is this more evident than in the medicare program, where actual costs in 1980 exceeded initial projections by $30 billion.

Part of the problem is reimbursement policy. Part of it is inflation. And part of it is program management. The management of public programs differs from that of the private sector. The inefficiencies we pin on the bureaucracy are often a result of structural constraints imposed by the politics of public programs.

John C. Anderson, Ph. D., an associate professor of management sciences at the University of Minnesota, has recently published a study with Kathleen Sullivan entitled, "Publicly Financed Health Programs: Managerial Problems and Opportunities." It is part of a series of health issues supported by Hoffman-LaRoche, and it is a much needed examination of the management of public programs.

I encourage my colleagues to read the study's summary and conclusion, which I have included as part of the RECORD. The complete study is also well worth reading.

The summary and conclusions follow:

SUMMARY AND CONCLUSIONS

The several decades of public debate on a variety of proposals for expanding the role of government in the financing and administration of health care for the American public is evidence of a lack of broad public consensus on such health-related social goals as assurance of access, quality and equity in the distribution of health services, and containment of rising health care costs. We have not yet resolved a basic issue concerning whether health care is a right or a privilege. In addition, there is not yet a U.S. health policy with clearly specified priorities, nor is there consensus on an optimal approach to organizing an administrative and financing structure to attain those goals. Partially as a result of these factors, the job of the public program manager is exceedingly difficult. A fragmented health care system with dissimilar organization, philosophy, structure and mission currently exists with managers trying to contain costs, improve quality and extend access all at the

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same time. As health care expenditures absorb an increasing proportion of the Gross National Product and as public resources become scarcer, a formula for the optimum expenditure of health care dollars becomes more essential. In the development of such a formula or policy it is undoubtedly useful to draw upon the lessons learned in the past 15 years experience of the largest public health care programs, Medicare and Medicaid.

It is the objective of this report to examine the areas wherein sound management theory has positively impacted publicly financed health programs. Using a well-defined framework for analysis, this report identifies the types of internal, external, and environmental management opportunities and constraints that have characterized the two largest publicly financed health care programs, Medicare and Medicaid and makes some observations concerning the development of additional programs and/or national policy.

Key to any analysis of the performance of the Medicare and Medicaid programs is the fact that "good" government management is not synonymous with "good" business management. Administrators in the public sector, particularly in Medicaid and Medicare, must frequently accept goals that are set by legislation. They are required to run organizations that are designed by individuals and agencies beyond their domain, work with people whose careers are outside their control, and attempt to accomplish massive objectives with the application of severely limited resources in insufficient time. Business managers limit their objectives to a set of tasks consistent with their resources. These public sector conditions, radically different from the conditions in which private managers operate, must be carefully considered in evaluating management performance in the public sector, not to protect the sensibilities of government managers but to more clearly identify the real sources of constraints in public program management.

The political environment in which Medicare and Medicaid function constrain the process of long-term resource utilization planning. The Congress, or a particular State legislature, is totally isolated from the day-to-day operations of the programs. Moreover, unlike management committees in the private sector, legislative bodies are charged with oversight responsibilities for a myriad of programs, projects and activities which limits their ability to spend too much time on any individual area. Also, some States' legislatures are only in session for several months during a year. This lack of continuity constrains any ongoing development of long-range goals and priorities. Because things are so dynamic and conflicting, management frequently operates in a responsive mode rather than with a predictive, anticipatory problem-solving approach.

In the face of multiple political power centers impinging on the authorities and resources of program management, strategic planning is often given a lower and optional priority. Instead, crisis management frequently substitutes for strategic planning, and services or eligibility are cut in an effort to immediately impact the bottom line. The results of these actions in terms of program effectiveness and capacity can be disastrous and compromising in terms of the intent of both programs.

Evaluations of Medicare and Medicaid Management performance are necessarily imprecise and problematic due to the lack of data and clear-cut criteria against which to measure the attainment of objectives. Performance standards for many aspects of program operation are hard to come by. Specific characteristics of public program experience that hamper not only management performance but the development of performance standards for purposes of evaluation and planning include the following:

Program objectives and relative priorities are subject to constant reshaping by political forces with the result that substantial program changes occur so frequently there is never sufficient stability to observe and evaluate the impact of management decisions over time, and those decisions are frequently made in a crisis environment as a result of political pressures.

The distribution of decision-making authorities within and among public agencies, legislative bodies, and program constituent organizations seriously compromises the adequacy of management's authority and resources to implement its decisions.

The budget constraints imposed upon funding bodies or their unwillingness to invest adequate resources in the staffing and technology of administering organizations hampers the collection and analysis of data critical to the decision-making process.

In addition, Medicare and Medicaid performance is often hampered by legislation and regulation at the state or federal level which is sometimes contradictory and compromising to optimally efficient and effective program management. It has been recognized that the stability of the program administering agency impacts its relationship with other organizations in the system. Another significant obstacle with respect to managing publicly financed health programs is the apparent organizational flux that so often characterizes these programs. It is not uncommon for there to be frequent change in the designated adminstering agency and/or fiscal intermediary. These changes make it difficult to maintain beneficial relationships with the legislature and provider communities. Lack of program managers autonomy and authority over external entities such as county agencies or state treasury department staff whose contributions impact the bottom line of both programs is another noteworthy constraint.

Finally, the complexity of the Medicaid eligibility process requires enormous staff time and funds that could otherwise be applied to beneficiary services. The elimination of this kind of burden should be a high priority in future U.S. health policy.

The above mentioned constraints limit management capabilities within Medicare and Medicaid. The obstacles are, however, virtually inherent in the current publicly financed program environment. As a result, future U.S. health policy development must be cognizant of the limitations of public administration in a health system characterized by instability, distance from oversight committees, and lack of managerial autonomy and performance standards.

Viewing existing performance of Medicare and Medicaid in terms of criteria such as efficiency, effectiveness, capacity and flexibility, raise some provoking questions. Enough data exist to strongly speculate that current programs do not provide for the most efficient use of resources. Some effectiveness in the operation of specific programs has been achieved, yet we may be failing to achieve maximum effectiveness toward the broader goals of assurance of access, quality and equity in the distribution of health care services. Serious capacity issues are apparent in terms of organizational and economic resources. Finally, existing programs have exhibited flexibility to meet evolving needs yet have done so without evidence of a blueprint for the future.

There are, however, some managerial initiatives that can be and in selective instances have been pursued within the current context of publicly financed health programs. These initiatives, described more fully in the body of the report, represent opportunities for management. They include:

The application of advanced claims processing technology to provide managers with key program data and information in a timely manner to facilitate informed decision-making;

The careful use of edits in the claims processing system to protect the fiscal integrity of the program and insure the appropriateness of vendor payments;

Timely claims processing, communication with, and payment of providers to ensure maximum provider participation and consequent beneficiary access to care;

The implementation and operation of program controls and the tracing and analysis of program performance to design and implement corrective action strategies in a timely, cost-effective manner;

The closing of policy loopholes and deletion of unneeded and contradictory program policy; an ongoing effort to evaluate and assess the program from this perspective will enhance overall program operation;

Quality performance in audit functions and settlement of cost reports will lead to tighter control within the program;

Working to amend legislation that is unfavorable to the efficiency and effectiveness of public programs is a continuing and necessary activity as the dynamic health care environment continues to evolve;

The proper allocation of administrative resources including spending one dollar to save two or more where such action is cost justified; in certain cases increases in administrative costs will yield substantial returns leading to greater operational efficiency;

The design of the internal Medicaid agency hierarchy to ensure that units key to better program performance are at a level high enough to carry out their corrective action strategies. Proper authority must be vested in those individuals responsible for performance if successful implementation is to be achieved.

To date these initiatives have often occurred sporadically, with too little consistency across individual state and federal agencies. Recent experience has evidenced management improvement of program operations in both Medicare and Medicaid, yet little effort has been concentrated on longer range planning and analysis.

To alleviate some of the obstacles that are seemingly part and parcel of the public sector, it is important that program managers and committees try to inject as much stability in the process as possible. Furthermore, it is imperative that sufficient information for planning and control is generated so that budgets can be justified and policy changes can be affected. In addition, development of and adherence to performance standards would go a long way in convincing decision makers of the validity of certain management initiatives. Allocating staff to perform third party liability recovery functions and quality control functions contributes to programwide cost effectiveness. Finally, a problem anticipation mechanism must be developed and truly operational so that harmonious program objectives are pursued and the crisis problem solving mode gives way to a well-reasoned managerial approach.

In turn we need to press hard for the utilization of performance standards in current programs. We need comparable dimensions across programs to map out the future direction of U.S. policy. Information on program operations must flow up to the decision makers, and policy must flow down. The lines of communication are broken in the current system. The solution is not to develop a new arm of government, but rather to recognize the limitations of publicly financed health programs and aggressively seek consistent indicators of performance and program accountability. What seems essential to significantly improve the performance of publicly financed health program management is to reduce the impact of political conflict and instability on program operations, either by reducing the levels of conflict and instability in the environment or by shielding the administrative organizations from them. Until a system can be designed that addresses these deficiencies in the variety of organizational structures that characterize publicly financed programs, the public sector should not be further burdened with additional administrative responsibilities by the extension of coverage to new segments of the population or new areas of service.●

AWARD TO DEPUTY SECRETARY KENNETH DAVIS

● Mr. McCLURE. Mr. President, I take this opportunity to congratulate someone whom I have come to know and respect over the past 2 years, Mr. W. Kenneth Davis, the Deputy Secretary of Energy, for an award he received. The American Association of Engineering Societies has announced that it is making its National Engineering Award to Ken Davis for his contributions to mankind as an engineer.

Ken Davis has served his country in public service, first as Director of Reactor Development in the former AEC, and currently as Deputy Secretary of Energy. He has been instrumental in the construction of many projects around the world whose objective is energy production—the production of energy to improve the quality of life for the citizens of many countries.

As a engineer, he has contributed his time to serve as an adviser to his country in many capacities. He has been elected to be vice president of the National Academy of Engineering. As a professor, he has impressed upon students the proud tradition that engineers have had in building this country. As a scholar, he has written many articles and papers on energy applications and engineering challenges.

As the Deputy Secretary of Energy, Mr. Davis has utilized his vast experience and knowledge to help shape energy policies that are designed to make this country less dependent on foreign sources and take advantage of the fact that this country has the capability of using its abundant natural resources, especially coal and nuclear energy.

Mr. President, I join my many friends in congratulating W. Kenneth Davis for being honored with the AAES' National Engineering Award.●

BROAD SUPPORT FOR EXPORT TRADING COMPANY LEGISLATION

● Mr. HEINZ. Mr. President, an important commentary appeared recently in the August 15 issue of Business Week. The article, written by former Secretary of Commerce Peter G. Peterson, makes a compelling case for approval of export trading company legislation because of the favorable impact it will have on exports.

That bill, S. 734, is now moving toward enactment. Thanks to the leadership of Congressman St Germain on the House side, we now have a House-passed version with both bodies having agreed to go to conference. While it is unlikely we can complete all action on the bill prior to the August recess, I hope that I will be able to finish it soon after our return in September.

Mr. President, I ask that Mr. Peterson's thoughtful article be printed at this point in the Record.

The article follows:

[From Business Week, Aug. 16, 1982]

Curing the American Export Malady

(By Peter G. Peterson)

Recent declines in U.S. exports have contributed substantially to our current recession. In 1981 our net exports in the crucial manufacturing sector—historically a strong part of U.S. trade—fell a full $7 billion. In the first half of 1982 they dropped still further, showing an actual deficit of more than $4 billion. Over the past six quarters such declines translate into the loss of more than a quarter of a million job opportunities. Clearly, our flaccid performance in selling abroad has profound consequences for the quality of our lives at home.

Fortunately, the chances are good that Congress will soon approve a vehicle that could play a useful part in reversing our dolorous export decline the House of Representatives and the Senate have both passed, in slightly different forms, legislation that would promote the formation of export trading companies. Such companies could increase markedly the exporting capacity of America's businesses. Export trading companies could find buyers for U.S. goods, package and warehouse merchandise, arrange transportation and insurance, prepare documents for customs, distribute the goods, and serve foreign customers on behalf of the sellers after the sales are made. By reducing the costs and risks of international trade and by providing economies of scale in the services they provide, export trading companies could offer our small and medium-sized businesses the opportunity to go after their logical share of the global market.

LACK OF FAMILIARITY

Smaller businesses offer genuine growth potential for American exports. At the moment, our smaller companies—those employing fewer than 250 people—contribute about 6 percent of exports in manufacturing, even though they account for around 17 percent of manufacturing production. Thousands of small and medium-sized businesses produce goods and services that are competitive overseas. This is particularly true of innovative companies that make such salable products as environmental controls and medical equipment.

Yet many of these companies are inhibited from exporting by their lack of familiarity with foreign markets, customs, and laws. Individually they cannot afford the costs and risks necessary to penetrate markets abroad. Collectively they share the attitude that exporting is, figuratively as well as literally, foreign territory.

There is ample evidence that the export trading companies of foreign countries work well. More than half of Japan's exporting is handled by such companies, and Japan's trade surplus in manufacturing reflects their contribution. Japan's surplus has risen from $12.5 billion in 1970 to an astonishing $115.6 billion in 1981. This works out to some 2.5 million additional jobs in the Japanese economy. (Another reason for Japan's large surplus, in my view, is a significantly undervalued yen.) West Germany, France, and Hong Kong are also major users of specialized export entities.

Unfortunately, export trading companies based in the U.S. have not been a dominant force in American exports. The entities most resembling trading companies in this country—export management companies and so-called Webb-Pomerene companies—account for less than 12 percent of total U.S. exports. American export trading companies have been slow to grow primarily because they lack adequate financing and because businessmen who would otherwise start them fear the uncertainties of the antitrust laws.

The legislation now before Congress promotes the formation of export trading companies by dealing with these problems. First, the legislation would enable a number of businesses to join together to form an export trading company whose proposed operations could then be certified, in advance, as not violating the antitrust laws. Second, the legislation would amend current banking regulations to allow banks to participate in the ownership of export trading companies. The House bill would open this opportunity to bank holding companies and bankers' banks—financial organizations that provide services solely to other banks—with the approval of the Federal Reserve Board. The Senate bill would permit all banks to participate in export trading companies, under prescribed limitations. In either case, the participation of banks is crucial because it would give exporters new opportunities to obtain export financing, a form of credit to which smaller companies have only limited access.

Perhaps more important, banks could use their domestic retail branches to reach out to smaller companies, particularly those in smaller metropolitan areas where foreign trade is not emphasized. The same banks could use their international branches to identify potential foreign customers.

DEVELOPING A NETWORK

We would be mistaken to think that this new legislation will cause export trading companies to proliferate in short order. It will take time for trading companies to develop the necessary staff of sales agents and to utilize fully the international network of buyers and sellers that participating banks will provide. It will take even more time than some people expect because newly

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formed trading companies will be in competition with foreign companies that have both critical mass and many years of successful experience. The new legislation will promote export trading companies over the next several years, rather than the next several months.

By the same token we would be mistaken to think that the decline in our dollar share of world exports—a long-term disease of complex etiology—can be cured quickly with a single technique. The causes of this decline are manifold: our decreasing productivity, our overvalued dollar, the diminution in the competitive quality of our products, and the slowing of our relative rates of technical progress, as well as a chronic shortage of U.S. enterprises with a truly global view of their markets.

POOR VISION

Still, if I could prescribe but one cure for the American export malady, it would be to trim the seriously overvalued dollar. A major cause of this overvaluing is our high interest rates, and they are due, in my judgment, to our enormous prospective budgetary deficits. Increasing exports linked closely to reducing deficits. (It would also help if the yen were to evolve into a truly international, "senior" currency.)

If I then could propose a second cure for our export disease, it would be to attack our MEGO (My Eyes Glaze Over) attitude toward exports. West German Chancellor Helmut Schmidt clearly does not consider it trivial or demeaning to be aware of the major export orders his country is trying to get. But when did you last hear any U.S. President speak authoritatively on exports? Or consider the vast resources devoted to selling savings bonds compared with those selling American products abroad. It is not even close. Again, by contrast, think of the Japanese Export Trading Organization, a remarkable organization of nearly 1,300 people scanning the world for potential Japanese export orders.

In 1980, Reginald Jones, then head of the President's Export Council, wrote of the need for an "export imperative." Two years later, our actions still make that sound like a contradiction in terms. We are now in an unprecedented situation, not only in our troubled domestic economy but also in our equally troubled global economy, which is in its third year of stagnant world production and its second year of stagnant world trade. Everyone is trying to increase exports while reducing imports, to get a bigger share of a fixed export pie. Moreover, ballooning subsidies—for investment, research, production, marketing, financing—threaten to distort world trade as they encourage imitation or retaliation. That is not likely to make a bigger pie. Indeed, if the U.S. does not negotiate some new rules to deal with these sources of distortion, we will find ourselves in fresh conflicts with our trading partners. We are facing too many such conflicts already.●

THE NEW FEDERALISM

● Mr. **DURENBERGER**. Mr. President, the National Governors' Association this week held its annual meeting in Afton, Okla. A major topic on the agenda was the development of a New Federalism plan, and some of the specifics of sorting out governmental responsibilities among the partners in our federal system.

I am a strong supporter of President Reagan's New Federalism initiative. It is a bold, historic step that will restore the necessary balance in American Government.

The NGA has spent several months in sincere negotiations with the White House to develop that initiative into a specific plan that is equitable and effective. At the closing session of the NGA meeting, the Governors voted to continue this cooperative effort, in an attempt to resolve some basic differences that remain.

The major points that continue to be of concern include medicaid eligibility, the link between food stamp payments and welfare benefits, and the question of a special fund to help States that suffer extreme economic hardship.

Two documents from the NGA conference are especially illustrative of the work of the Nation's Governors on the New Federalism initiative. First, an "action plan" proposed by outgoing NGA Chairman Richard Snelling of Vermont, which passed the NGA executive committee on Sunday. And second, the action plan that was finally adopted by the NGA membership, expressing a continued willingness to negotiate with the White House. I ask that these two documents be printed into the Record.

The material follows:

The Governors' Federalism Initiative

Governors are the elected spokesmen of the states, and the federal system is formed of and from states.

In this light it was to be expected that the first voices to be raised on behalf of a new federalism, of a thoughtful reappraisal of the relationship between federal and state governments, would be those of Governors.

To a considerable degree, moderate constructive discussion concerning decentralization of government, decongestion of federal bureaucratic apparatus and the need to escape the narrow, badly targeted confines of categorical grants, has been led by the National Governors' Association.

Thus, the Governors were quick to respond positively to the initiative of President Ronald Reagan when he told the Congress he would be asking for enactment of legislation to establish an improved assignment of responsibilities between states and the federal government—which included a pledge that the process would not increase the fiscal burdens of the states.

At our winter meeting, the Governors acted to encourage the President's initiative by providing a process for reconciling our own long and carefully established goals of a new federalism with the outline plan offered by the President. NGA adopted a negotiating policy statement and delegated authority to the Chairman to appoint and head a team of six Governors to attempt to define a mutually acceptable plan for "new federalism."

For the past five months, the NGA team has carried on these negotiations with the Administration in an effort to agree on a federalism proposal. Our goal was agreement on specific legislation which would have the full support of the President and of the states, and our belief was that such mutual support was essential to favorable action by the Congress, in veiw of the long history of Congressional reluctance to surrender responsibilities it has preempted from state, county and municipal legislative bodies over the years.

Initially the Governors and the White House set late April as a reasonable deadline for reconciliation, and we agreed that federalism legislation should be presented to this session of the Congress if the vital public policy area described as "federalism" were to be recognized as a high priority matter of national debate.

When we were unable to obtain the White House focus necessary to achieve the initial goal, it was agreed we would strive for an agreement—or a determination we could not agree—by July 1st. That date came and past.

In early July, the negotiating representatives for the Governors urged the President and his advisors to recognize the urgency of reaching agreement in time to present any accord to the Governors for their action at this summer meeting.

I must report to the Executive Committee that it no longer seems prudent to pin our hopes for a new federalism on the outcome of any negotiations with the White House which proceed from the assumption that the public policy convictions of the President and the Governors regarding the substance and design of a proper federal-state relationship can or must be reconciled.

Although there is great diversity of opinion among the Governors, there also is a strong central consensus that the federal system must ensure the capacity of government at every level to meet an aggregate responsibility for assuring a standard of decency for every citizen of this nation, while placing authority for program design and management accountability close to the people.

It is fair to say that there may be broader agreement among the Governors concerning the appropriate specifics of a new federalism than there is among a dozen or so key advisors to the President of the United States. In good part, the failure of the negotiations must be laid to confusion and disagreement in the White House on such important areas as how to implement the President's own "offer" to have the federal government fully assume responsibility for Medicaid.

The Governors have repeatedly agreed that the foundation for a revised federalism is recognition of the federal primacy of responsibility for income maintenance and assurance of minimum health standards. The Governors have responsibly coupled that position with an express understanding that the states should assume both increased burdens for funding and full responsibility for service delivery in dozens of areas now subject to federal categorical grant programs.

The states have not sought and do not seek higher federal outlays. The states seek a better use of federal funds as a guarantor of equity and justice for the citizens of all the states.

Our negotiations with the White House seem to have foundered on the question of whether, in the end, the federal government would maintain any responsibility for assuring minimum levels of essential services or for dealing positively with the problems which the disparity of fiscal capacity among the states pose for state and local officials who honestly seek reasonable levels of service for the needy in areas which have subaverage fiscal resources.

Parallel to our efforts to reform the federal system, the NGA has been intensely active before the Congress and the nation on budget and tax issues which were essential to the preservation of state capacity.

The President's Budget Proposal for 1983 sought to reduce federal outlays to state and local governments to $81.4 billion, which would have represented a 26 percent cut in constant dollars from 1981 outlays.

The firmness and the resolve of the Governors to separate their willingness to discuss the shape of "new Federalism" from any acquiescence on Administration fiscal proposals, deserves considerable credit for the fact that first budget resolution for 1983 provide for outlays of $88 billion which almost preserve state capacity afforded by the $86.6 billion authorized for 1982.

NGA is stronger and better informed as the result of both its fight to preserve its fiscal capacity and its negotiations on behalf of a sensible federalism. We know now that federal appropriations in assistance to state and local governments will continue to be under heavy pressure from both Congress and the Administration. We do not ask for increases, but we must continue to fight for maintenance. The lesson clearly is that there will almost certainly be continuing erosion of constant dollar purchasing power. State and local governments will be left more and more on their own, with or without any revision of the federal system.

And we know also that the present Administration is the strongest advocate of a revised federal system to occupy the White House in many decades. But we also must face the fact that the Administration's federalism is, in many particulars, not a state's view.

The experience and knowledge gained in 1982 should be directed to promoting the NGA policies across a broad front, with the primary thrust directed toward the Congress.

The association of the spokesmen of the states must assume the principal responsibility for articulating and detailing the elements of a thoughtful new federalism. Our plan should be consistent with historic NGA policies. Our plan should address the issues of fairness among states with varying capacities and the obligation of the federal government to ensure a minimum decent level of assistance to those genuinely in need.

The Governors plan should adopt the premise of President Reagan's proposal that no fiscal advantage shall be sought as between the federal government and the states. Federalism does not deal with how much taxes the federal government extracts from the private or corporate citizens of the states, or how much it spends in those states. Federalism addresses the questions of the purposes of federal intrusion and the responsibilities of governments at every level.

Governors' Federalism Action Plan

The National Governors' Association accepts the report of Governor Snelling presented to the Executive Committee on August 8, 1982 regarding the status of federalism negotiations. The NGA extends its sincere thanks and appreciation to the members of the negotiating team, Governors Alexander, Babbitt, Busbee, Matheson, Snelling, and Thompson.

The Governors recognize the substantial amount of progress made by the NGA federalism negotiating team, and officials of the Reagan Administration, in establishing an improved assignment of responsibilities between the states and the federal government. We applaud the President for following the Governors' lead and elevating federalism to a position of national priority and for the flexibility he has shown in many of the issues under negotiation. The Governors recognize the overall spirit of compromise shown by both the Governors and the Administration through the past five months.

The Governors recognize that a greater level of participation by members of the NGA Executive Committee and the President is required to move the federalism dialogue ahead. To that end, the National Governors' Association directs its Executive Committee to implement the following federalism action plan:

1. Continue discussions with the President regarding his federalism initiative.

2. Reconstitute the NGA federalism negotiating team.

In line with the direction taken in the Report of the Task Force on the Agenda for the Eighties, the NGA Executive Committee shall serve as the federalism negotiating team, together with the chairmen of appropriate NGA standing committees, a lead governor on federalism, and such other Governors as the Executive Committee deems appropriate.

3. Develop NGA federalism reform proposal.

The National Governors' Association assumes responsibility for developing our own NGA federalism reform proposal as a high priority which shall incorporate the historic principles of the National Governors' Association respecting federalism.

4. Secure Executive Committee approval of the federalism reform proposal.

At its December meeting, the NGA Executive Committee should have, for review, the proposal in draft, for presentation to the Governors at the 1983 winter meeting. When a draft proposal has been approved by the Executive Committee it shall be presented to the President to seek his approval.

5. Present the proposal at the 1983 National Governors' Association winter meeting.

The federalism initiative should be brought before the Governors for debate and action at the 1983 winter meeting. The Executive Committee will ensure that each Governor is fully briefed well in advance of the February meeting and that as many concerns as possible are resolved before the plenary vote.

6. Ensure the early and continuing communication between the Executive Committee and others interested in federalism reform.

The Executive Committee should take such steps as necessary to ensure that the views of the National Governors' Association and those of other interested parties are freely and constructively interchanged. The process must include continuing consultation between the Chairman of NGA, the federalism lead Governor, Standing Committee Chairmen and:

The National Conference of State Legislatures.

Congressional leaders.

Administration officials.

Local officials.●

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT

● Mr. HEINZ. Mr. President, today I am pleased to join my colleagues, Senators MOYNIHAN and MATHIAS, as a cosponsors of S. 2061, the Public Lands Conservation, Rehabilitation, and Improvement Act. This legislation is a cost-effective approach to solving two intractable problems facing this Nation: High youth unemployment and the deterioration of our State and municipal parks as well as our national park and wilderness infrastructure.

My home State of Pennsylvania has 113 State-run parks, most or all of which are in need of rehabilitation and improvement. In addition, the city of Philadelphia has 89 parks maintained by the city's department of recreation, and my hometown of Pittsburgh has 15 major parks and over 200 facilities cared for by the city. These are the areas which would be aided by the formation of a National Conservation Corps. These public lands will be rehabilitated by unemployed, disadvantaged, and minority youth in the cities; we will be saving the facilities, while giving the young people of our inner cities meaningful employment and hope.

Mr. President, the unemployment figures for our country are alarming. An incredible 52.6 percent of black teenagers nationally are out of work. In Philadelphia, the 1981 average unemployment rate for blacks aged 16 to 19 was 48.2 percent. Statewide, the minority unemployment rate is 17½ percent. Over 20 percent of those Pennsylvanians between the ages of 16 and 19 are out of work. Simply put, too many youths are without work, and we have work to be done.

This bill establishes a National Conservation Corps to enhance and rehabilitate our Nation's public lands. The Corps will include unemployed young men and women between the ages of 16 and 25. While addressing the deteriorating condition of our public lands, this conservation work would also provide employment opportunities and training for our young people.

Public lands and resources, including parks, rangelands, wildlife refuges, forests, water resources, fishery facilities, and historic and cultural sites, have become subject to increasing public uses and demands, the condition of many of these lands and resources have deteriorated. Additionally, the Government agencies have been unable to adequately staff and fund the maintenance necessary to arrest this deterioration.

Youth conservation programs have proven to be a highly successful and cost-effective means to assist land management agencies at all levels of government. Both the Youth Conservation Corps (YCC) and the Young

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Adult Conservation Corps (YACC) have had excellent past records in the improvement and rehabilitation of public lands. Of course, the grandfather, so to the speak, of the conservation movement, the role model of this proposed conservation corps, the Civilian Conservation Corps (CCC), employed over 3 million young people—performing work valued at over $1.5 billion during its 9-year life, terminating in 1943.

The returns on investment of both the YCC and the YACC were excellent. For example, YACC returned $1.25 on appraised conservation work for each $1 expended in fiscal year 1980. In Pennsylvania, the Young Adult Conservation Corps averaged a return of $1.33 for each $1 expended during its 3-year life. Of course, no dollar amount can be placed on the enjoyment of our Nation's natural resources which is furthered by sound conservation. Nor do these figures include the benefits realized by putting previously unemployed young people to work.

This legislation is targeted toward those who are economically, socially, physically, or educationally disadvantaged, and who may not otherwise be productively employed. Preference is to be given to those youths residing in areas which have substantial unemployment both urban and rural.

Mr. President, it is important that we give these young people a chance; this is an opportunity for them to prove themselves to be worthy contributors to our Nation's well-being. In the past they have proved themselves. For example, members of the Pennsylvania Young Adult Conservation Corps had a 61-percent positive termination record. This means that before their 1-year enlistment was due to expire, most had found other work. The YACC only took in kids that were already out of school or out of work. Targeted conservation work is a proven method of providing disadvantaged youth in a meaningful job—and a steppingstone toward other employment.

Let me stress that the work being performed is not contrived and unnecessary. We are faced with a backlog of needed conservation work on our public lands. The work that will be done by this Conservation Corps is work that is necessary and that, in absence of such a Corps, simply would not be accomplished. This is work in the parks, forests, and local communities: Rehabilitation and improvement of facilities, picnic areas, hiking trails, access, and even historical regions. In the cities, there will be a timber management program. Youths in the big cities will assist in the rehabilitation of decaying infrastructures. Preference in work will be given to those projects which provide long-term benefits to the public and are labor intensive.

As you can see, Mr. President, this program is beneficial to all of us. It puts economically disadvantaged teens to work and improves those public lands which are in need of rehabilitation. It is a cost-effective means of performing work that otherwise would not get done. There is a need for conservation work in this country. There is also a need to put our unemployed youth to work—a chance for them to prove themselves as worthy contributions to this country's welfare. Considering these needs, and the excellent past record of conservation groups in this country, I consider the Public Lands Conservation, Rehabilitation, and Improvement Act to be a superb way to solve the problems of high youth unemployment and the deterioration of our Nation's park and wilderness infrastructure.●

DON LOESLIE, VICE PRESIDENT, MINNESOTA WHEAT GROWERS AND VICE PRESIDENT NATIONAL WHEAT GROWERS

● Mr. DURENBERGER. Mr. President, recently, Don Loeslie, vice president of the Minnesota Wheat Growers and vice president of the National Wheat Growers, delivered some remarks that I believe put into clearer perspective the essential role agriculture plays in the economy of the urban areas, as well as the rural areas, of our Nation.

The remarks were delivered to a meeting of county commissioners from Hennepin, Ramsey, Washington, Carver, Scott, Dakota, and Anoka Counties. These commissioners—from the most populous areas of Minnesota—realize the importance of a sound agricultural economy and the positive impact it can have on jobs, industrial development, and a strengthened tax base. We need to improve public understanding of the positive role agriculture can play in a truly national economy. Don Loeslie makes this point factually and openly, and I think that every Member of this body will profit by reviewing his remarks. I ask that they be inserted at this point in the RECORD.

The remarks follow:

> "Burn down your cities and leave your farms and your cities will spring up again as if by magic. But destroy our farms, and the grass will grow in the streets of every city in the country." William Jennings Bryan said this back in 1896, and it is just as true today. Agriculture is important not just to farmers, but to each of you in the room today. And the depressed state of the agricultural economy is being felt far beyond the farm gate to the auto dealers, hardware stores, to the schools, to our state government, to America itself? We are farmers and you as the urban businessman and worker, therefore, have a common problem and that is why we are here today. We need your help but we have something to offer in return and if we work together we can achieve our common goals. We want to express our sincere appreciation to John Derus, the Chairman of the Hennepin County Board of Commissioners, for providing the opportunity for us to meet. When Mr. Derus met with the Wheat Growers some months ago and talked about the vital role that agriculture plays in his county, in the middle of the most metropolitan area of our state, it was both refreshing and encouraging. So many people, even in rural communities, do not consider, or appreciate that food, clothing, and many other goods do not, in fact, come from stores. They are produced in raw form on farms; and the people who process and market these goods and those who manufacture the supplies and equipment necessary in the farming operation are themselves a part of American agriculture and their living is directly dependent on a viable agricultural economy.
>
> Twenty-five years ago, we didn't export agriculture. We ate what we grew and we exported the things that labor and management made, such as cars, radios and refrigerators. Twenty-five years later, we export agricultural products and U.S. labor no longer has the world share of the things that labor makes. Farmers, however, are not the only beneficiary of this transition. For every one dollar in agricultural products exported, the United States received $2.05 in benefits back to this country, of which 75 percent is a direct asset to non-agricultural America. For every one billion dollar increase in agricultural exports, we create 35,000 new jobs to service agriculture and to fulfill demand for consumer goods as this money multiplies itself through every sector of the U.S. economy.
>
> Minnesota agriculture's problems started in 1979. First, we had a trucker's strike that prohibited us from moving our products to market. Then we had a prolonged strike by the grain millers in the twin ports of Duluth and Superior that prohibited our farmers from again moving their grain into the marketing channel. President Carter invoked the now famous and proven ineffective grain embargo against the Soviet Union in January, 1980 and prices tumbled. We have been facing the same high interest rates that the rest of the country has, except that with farm prices so low, farmers have not had a choice of curtailing expansion or reducing inventories, he has been forced to borrow at these high interest rates in order just to survive. President Reagan lifted the embargo to the Soviets but held out the threat of future embargoes and banned other U.S./Soviet commercial transactions to the point that it served as a defacto embargo, encouraging the Soviets to maximize their grain and oilseed needs as well as industrial requirements from other nations.
>
> Let's focus on the Soviet embargo for a moment. The Russians got all of the grain they needed during the embargo from other supplying countries. It is estimated to have cost them about one billion dollars more than if there had not been an embargo, but it cost our country about $3.4 billion to keep them from buying from us and that doesn't include the $7 billion that we lost at the producer level which was not allowed to multiply through the economy. We effectively gave away all but 20 percent of our share of the Soviet market to our competitors and these competitors are gearing up their production to meet this demand and are negotiating long-term agreements to lock in this demand for years to come. The

farmers lost $7 billion, but the nation lost $11.5 billion in national output, 310,000 jobs, and $3.1 billion in personal income earned and up to $1.9 billion in foreign exchange revenues as marketing and transportation services were stymied, and this money was also not allowed to multiply itself through the economy. And these losses continue to build as importing countries continue shifting and diversifying their sources of supply to other exporting countries so they will not be left high and dry if the U.S. finds some reason to impose export restrictions against them. Is it any wonder our state and our nation are having the economic problems that they are?

Let's put things in perspective. Last year in Minnesota, we produced 140 million bushels of wheat. A simple 25 cent downward swing in the market results in a $35 million dollar loss to the State's economy. But prices have dropped $1.00. In my county alone there is a loss of 12 million dollars. This is a 140 million dollar loss in revenue to our state. And this does not include the corn or soybeans or other crops that are produced in the State. Donald Wilkinson, the Governor of the Farm Credit Administration, reports that total debt in agriculture is $200 billion. The annual interest payment of this debt is $21 billion, but net farm income is projected to be between $15 and $18 billion, substantially less than the 23.3 billion dollars that it costs to run the U.S. Department of Agriculture. If we were like any other business, we would be bankrupt. In Minnesota, close to 50 percent of the gross revenue is generated by agriculture. Seventy percent of the wealth is in agriculture, but this sector is not even paying income tax. It is time to acknowledge that while twenty-five years ago, the national economy led agriculture's recovery, now with the dominant role that agriculture and agricultural exports play in the overall economy, it will be up to agriculture to lead the Nation out of its economic doldrums.

It is easy to see that a healthy non-agriculture needs a healthy agriculture. Agriculture is the Nation's number 1 industry with assets of $1.1 trillion which is equal to 88 percent of capital assets of all manufacturing corporations in the United States. It is the Nation's number 1 employer, with one job out of every five employed in the food and fiber system. Farming alone has approximately 4.4 million workers—as many as the combined payrolls of transportation, the steel industry, and the automotive industry. The agriculture sector supports the livelihood of 8 to 9 million people involved in storing, transporting, processing and merchandising the output of the nation's farms and around 3 million in the farm supply sector. It is the Nation's number 1 inflation fighter because American farmers are the most efficient in the world. And it is the number 1 exporter with over $45 billion in exports in 1981, offsetting, to a large degree, the cost of oil and other imported goods.

Farmers are consumers. We spend $13.2 billion for farm tractors, motor vehicles and machinery and equipment and it requires 150,000 workers to produce the equipment alone. This is 6.5 million tons of steel, providing jobs for 40,000 workers in the steel industry and the list goes on and on.

With so much of the U.S. economy dependent in the first instance on a viable agricultural economy, and with so much of our agricultural products exported, bringing hard currency back into the country and reducing inflation, the United States can no longer afford a "cheap food policy" as we once knew it. In a recent study for the National Association of Wheat Growers, Chase Econometrics concludes that even if the U.S. economy does recover from the current recession, a major portion of the work force which is now unemployed in the largest segment of the economy, which is the agricultural-related industries, will remain jobless unless a concerted effort is made to improve farm income and the farm support industries.

All of us . . . farmers, businessmen, factory workers, shop clerks, school teachers. . . . have a common goal in seeking a strong agriculture. Farmers may have less than three percent of the population, but if you include agriculturally related business you have 25 percent of the population. If we include everyone that is directly or indirectly affected by agriculture, we should have 100 percent of the population. As the Minnesota Women for Agriculture state, "If you eat, you are involved with agriculture."

It is a myth then, that agricultural exports are harmful to the economy, that they are inflationary and cost the consumers money. It is also a myth that a profit in agriculture at the producer level is a cost or is inflationary, as compared to the benefit received by the entire economy. It is a myth that businesses and agriculture should be adversaries or that they have nothing in common. And it is a myth that we do not have the votes to achieve our goals, but to do so, everyone directly and indirectly involved in agriculture has to pull together.

We are asking your help then, in any way that you can, to educate the urban population that they too have a vested interest in seeing a viable U.S. and Minnesota agricultural economy. We ask your help in explaining to other elected officials that a strong and viable agriculture is one of the best economic recovery programs that this state and nation can ever ask for. That investments in agriculture should be considered as investments that bear returns to all segments of the economy, not just as expenses. That programs and regulations that suppress agriculture and limit its growth and well being suppress and limit the growth of the entire economy, farm and non-farm alike. As agriculture goes, so goes America and so goes each of you in this room.●

ORDER OF PROCEDURE

Mr. **STEVENS**. Mr. President, do I understand correctly that if the Senate stands in adjournment this evening there will be no matters come over under the rule on Monday?

The **PRESIDING OFFICER**. The Senator is correct.

ADJOURNMENT UNTIL MONDAY, AUGUST 16, 1982

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the Senate stand in adjournment until 12 noon Monday.

There being no objection, at 7:35 p.m., the Senate adjourned until Monday, August 16, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate August 13, 1982:

DEPARTMENT OF STATE

James L. Buckley, of Connecticut, to be Counselor of the Department of State, vice Robert Carl McFarlane.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

William Arthur Webb, of Pennsylvania, to be Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1987, vice J. Clay Smith, Jr., term expired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast, 498-34-9821FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, 515-28-8461, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. LaVern E. Weber, 445-16-9506, Army of the United States.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Wesley L. McDonald, 579-24-4664-1310, U.S. Navy.

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EXTENSIONS OF REMARKS

ALFRED M. LENTO, "CITIZEN OF MERIT"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. GAYDOS. Mr. Speaker, in every society there are those who see where a crowd is going and follow it. There are others who step in front of it.

Those are the leaders. The movers, the shakers, the people who make things happen for other people.

Nationally and internationally, such individuals receive widespread recognition for their efforts and accomplishments. Locally, such contributions often go unnoticed.

That is not the case, however, in Bethel Park, Pa., where on August 9, 1982, borough officials formally commended a man—Alfred M. Lento—for his work in promoting the future industrial development and economic growth of the community. He was duly recognized as a "Citizen of Merit" by Mayor Reno Virgili during a ceremony in the municipal building.

Specifically, Mr. Lento was cited for his record of civic service and for convincing county, State, and Federal authorities of the viability for industrial progress in the borough. His efforts, the borough council noted, opened the door for business expansion and stimulated job opportunities in a variety of fields.

His success in the endeavor can be traced to the interest and activity of the Bethel Park Industrial Association, an organization of 94 firms which Mr. Lento welded together in a common bond and which he now serves as chairman.

Mr. Lento was highly qualified to lead the association. He is a man who believes success comes in "cans," failures in "can'ts." He is a businessman in his own right, heading a steel fabricating company employing 40 people and the spearhead of an effort to develop a multi-million-dollar shopping center project that ultimately will provide another 200 jobs in the borough.

His ability to perceive future possibilities has long been recognized by his peers. Mr. Lento has been a member of the borough's zoning and planning board for 5 years and currently fills the position of chairman. He also is secretary-treasurer of the Allegheny County Redevelopment Authority and twice has been honored by that organization for his achievements. The Bethel Park School District has cited Mr. Lento for his support of its vocational-educational work-study program for students.

Mr. Lento is more than just a credit to the businessmen of Bethel Park and Allegheny County, Pa. He typifies the dedicated small businessmen of America, who believe that only in the dictionary does success come before work.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I congratulate Mr. Lento on his meritorious award and the Bethel Park Borough Council for its recognition of his contribution to the community—and the country.●

AN ALTERNATIVE TO THE CONVENTIONAL CONSTRUCTION OF MILITARY FAMILY HOUSING

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. ST GERMAIN. Mr. Speaker, I am today introducing legislation aimed at correcting a major deficiency in our current housing policy regarding our military departments. The domestic leasing authority of these departments, for every purpose including family housing, limits the term of any lease to 12 months. Moreover, existing law narrows the leasing of such housing to a small number of situations covered by very selective specific criteria.

The overall effect of these limitations has been to deny the military departments the option of long-term housing leases as an alternative to construction, even if such leasing were the most economic choice, or as it is in a number of cases, the sole practical choice.

In a number of communities, such as Norfolk, Va., and Newport, R.I., adequate suitable housing to satisfy military department needs is lacking, and cannot be overcome either through individual leasing, the various housing allowances permitted, or otherwise. Moreover, Government land for the construction of such housing is either limited or unavailable. These problems are compounded by the fact that acquisition of land for new construction is often opposed locally because such steps would have the effect of removing property from the tax rolls while increasing the local costs of necessary services such as schools, police, and fire protection.

All these problems considered, it is becoming clear that conventional construction of family housing is not a practical answer in a number of cases—for either the departments or the local communities involved.

In light of this growing problem, community leaders and others in these towns and cities have been exploring the idea of legislation authorizing 25-year leases for housing as a means of overcoming the problem. Bankers, builders, the mortgage lending institutions, and others involved are of the general opinion that a 25-year lease could induce private industry to build such housing, and that a 25-year lease would be the minimum necessary for construction financing. From the viewpoint of economic understanding, study of this type of option will show that a 25-year lease can be as cost effective as conventional construction, thus offering a cost savings to both the military departments and the taxpayer.

Mr. Speaker, the legislation I introduce today has the special benefit of providing these impacted communities with a lease-form that would be "bankable" and by which the developer, along with the community could secure financing on the merit of financial commitments the military departments would be able to make.

I insert the bill in the RECORD at this point:

H.R. 6991

A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 169 of title 10, United States Code, is amended by adding at the end thereof the following new section: "§ 2833. Leases: alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam

(a) Notwithstanding 31 USC 665, 41 USC 11, and 10 USC 2828 family housing projects within the United States, Puerto Rico, and Guam specifically authorized by law in an annual military construction authorization act, or otherwise required, may, if the Secretary of Defense determines it to be in the best interest of the government, be acquired by lease for any period not in excess of 25 years, and the costs of such leasing for any year may be paid out of annual appropriations for operation and maintenance for that year.

(b) No lease shall be made under this section for which the average estimated annual rental during the term of the lease exceeds $250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives.".

(2) The table of sections at the beginning of Subchapter II of Chapter 169 of title 10, United States Code, is amended by adding at the end thereof the following new item: "2833. Leases: alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam.".

Sec. 2. The amendment made by the first section of this Act shall apply only with respect to housing units first authorized to be constructed or acquired for a fiscal year beginning after September 30, 1982.

Explanation of the New Provision

Section 2833 adds a new provision to title 10, United States Code, to allow the Secretary of Defense to acquire family housing projects in the United States, Puerto Rico, and Guam, by lease where the cost will be covered by periodic payments over a term not to exceed 25 years. The Committee recognizes that conventional construction will be the choice in most domestic projects for the acquisition of family housing, but that from time to time it will be more economic to buy over a term, or that this will be the only available option. The legislation gives the Secretary of Defense a useful additional acquisition tool for use in those circumstance. To insure its judicious use, reporting requirements like those for overseas leases are included in the new provision. Thus family housing projects at any location within or without the United States may now be acquired through leases up to 25 years, provided the Secretary of Defense determines that it is in the government's interest to do so, and the Committees have the opportunity to review the terms of the transaction and the circumstances under which the alternative is to be applied. The Committee wishes to emphasize that, as noted above, this is an option to conventional construction of projects, and that this new provision is independent of and not intended to bear on or be encumbered by the domestic leasing program for individual or groups of units already in being that may be leased under 10 USC 2828.

THE LAST BEST CHANCE FOR HOUSING

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WYDEN. Mr. Speaker, less than a month ago, my colleagues Dick Gephardt, Barber Conable, and I made a joint statement introducing H.R. 6781, the Residential Mortgage Investment Act of 1982.

This bill represents a marketplace solution to the most pressing problem facing the beleaguered housing industry today: a severe shortage of affordable mortgage capital.

It is designed to eliminate the unnecessary regulatory impediments that have discouraged private pension fund managers—who control a vast $300 billion pool of capital—from investing in housing and mortgage-backed securities.

By removing these regulatory obstacles, which apply exclusively to investments in housing, H.R. 6781 will open up billions of dollars of new capital for the capital-starved housing market. This in turn is bound to create downward pressure on mortgage interest rates.

Our bill has quickly attracted a tremendous amount of support on both sides of the aisle. More than 220 of our colleagues have agreed to cosponsor H.R. 6781.

It is heartening to those who fought a valiant but ultimately unsuccessful battle for emergency housing stimulus legislation to know that a majority of the House agrees with us that there is still time to pass a major housing bill in this Congress.

We have been calling our bill the "no-cost," "no-subsidy housing" bill because it contains no hidden subsidies and will not cost the taxpayers 1 cent.

All our bill does is implement a key recommendation of the President's Commission on Housing by allowing mortgages and mortgage-backed securities to compete for the attention of pension fund managers on an equal footing with other prudent investment options.

We believe that mortgages are not second-class investments and that there is no sound economic reason for treating them as second-class investments. Real estate investments are sound, safe, and fully collateralized.

Because of unprecedented financing costs, less than 5 percent of American families can afford to buy a new home and unemployment in the construction industry is twice the national average.

We must not shrug our shoulders and say that there is nothing we can do to come to the rescue of home buyers and homebuilders.

We cannot turn our backs on the millions of Americans who have been denied the American dream of homeownership.

We cannot turn our backs on the thousands of carpenters and builders who have been thrown out of work in the wake of the worst housing slump in more than 40 years.

More than 220 of our colleagues do not want to go home this year until we have done something for the beleaguered housing industry.

I urge my colleagues who have not yet signed on to H.R. 6781 to join us immediately and I urge all Members to enthusiastically support quick action and passage of this vital piece of legislation.●

YEAREND SPENDING SPREES

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. COELHO. Mr. Speaker, yesterday I introduced H.R. 6970, legislation designed to prevent yearend spending sprees of Government agencies. The language is identical to that approved as part of H.R. 4717 in the 96th Congress by the Committee on Government Operations. Regrettably, H.R. 4717 did not see action on the House floor despite committee approval.

In its June 28, 1982, issue, U.S. News & World Report reported that key bureaucrats were being warned to stay on the job in August and September to "make sure they spend all their allotted money before the Government's fiscal year ends on September 30."

It appears we in Congress have been so caught up in the budget debate for the past 2 years that this issue just has not received the attention it deserves.

Mr. Speaker, for the convenience of my colleagues who may wish to cosponsor the bill with me, I include at this point in the Record the text of H.R. 6970.

H.R. 6970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no department or independent agency of the executive branch shall obligate, during the last two calendar months of fiscal year 1983, 1984, or 1985, more than 20 percent of its total controllable budgetary resources (determined in accordance with subsection (e)(2)) for such fiscal year.

(b)(1) The Director may authorize a waiver for any agency from the requirements of subsection (a)—

(A) if and to the extent the Director determines necessary to assure that a serious disruption in the execution of any of the agency's programs or operations would occur in the absence of such waiver, and

(B) if the Director has submitted a written report on such waiver to the Congress as early as practicable and before the agency involved has obligated an amount which exceeds the 20-percent requirement in subsection (a).

(2) Nothing in this subsection shall be construed to authorize the Director to authorize a waiver of any requirement of any provision of law which is similar or comparable to subsection (a).

(c) The head of each department and independent agency of the executive branch shall submit a report to the President and the Congress not later than 90 days after the close of each of the fiscal years 1983, 1984, and 1985 describing such department's or agency's compliance with subsection (a)(2). Each such report shall specify the total controllable budgetary resources for such fiscal year (determined in accordance with subsection (e)(2)) and the amount of such resources obligated in the last two calendar months of such fiscal year. In the event that the resources so obligated in such months exceeds 20 percent of such

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total resources, such report shall contain an explanation of the reasons for the failure to comply with the requirements of subsection (a)(2) and identify any authorization for a departure from such requirements obtained from the Director of the Office of Management and Budget.

(d)(1) In exercising the apportionment authority under section 3679 of the Revised Statutes (31 U.S.C. 665) for the fiscal years ending on September 30 of 1983, 1984, and 1985, the Director of the Office and Management and Budget may apportion annual appropriations and set aside reserves in a manner consistent with the purposes and requirements of this section.

(2) Any reserves established or other actions taken in connection with the apportionment process for the purpose of satisfying the requirements of paragraph (1) of this subsection shall be exempt from the last sentence of section 3679(c)(2) of the Revised Statutes (31 U.S.C. 665(c)(2)) and from section 1012(a) and 1013(a) of the Impoundment Control Act of 1974 (31 U.S.C. 1402(a), 1403(a)). Nothing in this section affects the authority of the Comptroller General under section 1015 of such Act (31 U.S.C. 1405) to report a reserve or deferral to the Congress if he concludes that the reserve or deferral is not exempt under this paragraph.

(e) For the purposes of this section—

(1) the term "independent agency of the executive branch" includes any establishment in the executive branch which is not a component of an executive department and includes the Executive Office of the President; and

(2) the total controllable budgetary resources for a fiscal year of a department or independent agency is the sum of the amounts contained in annual appropriations for that department or independent agency for that fiscal year excluding—

(A) any amount contained in an appropriation Act enacted after the end of the third calendar month of that fiscal year;

(B) any amount appropriated for the purpose of making payments to any person or government if, under the provision of law governing such payment, the United States is obligated to make such payment to persons or governments who meet the requirements established by such law;

(C) any amount appropriated for the purpose of any grant, subsidy, or contribution; and

(D) any amount appropriated for emergency expenditures affecting the protection of human safety or property.

SEC. 2. The provisions of the first section shall apply to any fiscal year beginning after the date of the enactment of this Act.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. CLINGER. Mr. Speaker, on August 12, 1982, I was absent from the floor of the House for a vote. Had I been present, I would have voted in the following fashion:

Rollcall No. 272: H.R. 5595, Federal Payment to the District of Columbia, the House agreed to an amendment that requires at least $14.3 million of the funds provided by the bill be used to eliminate any deficits in the D.C. Teachers' and Police Officers' and Firefighters' Retirement Funds, "no."●

BLOOMFIELD HILLS, MICH., MARKS 50TH ANNIVERSARY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. BROOMFIELD. Mr. Speaker, this Sunday, August 15, marks the 50th anniversary of the beautiful city of Bloomfield Hills, Mich. As the Representative of the people of that city, I am honored to recognize this grand occasion.

In 1927, Bloomfield Hills separated from Bloomfield Township to incorporate into the Village of Bloomfield Hills. At that time there were about 1,100 people living in Bloomfield Hills. Then, in 1932, the village became the city. Gov. Wilber M. Brucker approved the charter of August 15.

The city of Bloomfield Hills is not large, just under 5 square miles. It is a comfortable, charming community of about 4,000 people. There are no industrial properties and only a relatively few commercial establishments and small businesses.

Stately Woodward Avenue runs through the center of Bloomfield Hills. Most of the city, however, is transected by shaded, residential streets and lanes.

Bloomfield is known for its beautiful homes, large, wooded lots, and lovely neighborhoods. The Honorable George Romney, former Governor of the State of Michigan, could capably attest to the city's ideal setting, since he is himself a resident.

Bloomfield Hills is known as the home for the very highly regarded preparatory school of Cranbrook. Cranbrook is a private educational institution made up of six facilities occupying 300 acres of impressively landscaped property that includes a small lake. The site was donated by the late George G. Booth and his wife, Ellen Scripps Booth. Since its founding, Cranbrook had developed a well-earned reputation for academic excellence.

The 50th anniversary of this small but prominent city is truly a great event. I am very proud to represent the city of Bloomfield Hills and its citizens, and it is a great honor to rise in recognition of this important occasion.●

GAO ASKED TO STUDY FISHERIES QUOTAS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. AuCOIN. Mr. Speaker, fishermen along the coast of Oregon have been engaged this summer in a controversy centering on the salmon seasons set by the Pacific Fisheries Management Council and the Oregon Fish and Wildlife Commission. As anyone who is familiar with the fishing industry knows, these management agencies have the authority under the Magnuson Fishery Conservation and Management Act to regulate fishing.

The Pacific Fisheries Management Council establishes quotas, the maximum number of fish which can be harvested without depleting the resource. Quotas for salmon are based on the Oregon production index, which is developed by the Oregon Department of Fish and Wildlife to indicate the availability of the resource in the Oregon production area. For years, fishermen have contended that this index is faulty.

This year, the use of the Oregon production index has produced the shortest commercial fishing seasons for coho on record: Fishing between Leadbetter Point, Wash., and Cape Falcon, Oreg., lasted 8 days and fishing between Cape Falcon and Cape Blanco was stopped after 12 days. On top of that, confidence was strained further by three announcements within 1½ weeks that changed various seasons. One of which by the Department of Commerce was a complete flip-flop which closed and reopened the season within a span of 3 hours.

Recent flip-flops in Government decisions in setting Northwest ocean salmon seasons raise questions about the way those decisions are made. Along with my colleague from Iowa Mr. SMITH, the chairman of the Appropriations subcommittee with jurisdiction over the issue, I am asking the General Accounting Office, the watchdog arm of the Congress, to do a program audit to get the answers.

Angry fishermen are saying one thing and Government fish managers another about how many fish can be caught every season. No one knows if the Government is right or if its wrong. That is why a respected third party needs to come in, sort out the confusion, and produce some answers. This controversy boils up every year; it is getting worse and this latest series of on-again, off-again seasons is the last straw.

I want the General Accounting Office to study the current method of establishing fisheries quotas and determine if these methods are sound scientifically.

Insert my letter to the GAO at this point in the Record.

The letter follows:

House of Representatives,
Washington, D.C., July 30, 1982.

Hon. Charles Bowsher,
General Accounting Office.
Washington, D.C.

Dear Mr. Bowsher: Since the Magnuson Fishery Conservation and Management Act became law in 1976, fishing has been under the close scrutiny of the federal government. The MFCMA established the Fishery Conservation Zone and set up Fishery Management Councils which have the responsibility of writing a management plan governing the Fishery Conservation Zone.

The goals of a fishery management plan include preventing overfishing and allowing a certain amount of salmon to survive the ocean season. The Councils not only assess the availability of the resource but they also determine the number of fish which can be harvested without depliciting the resource. Almost from the beginning, however, there has been raging controversy over the reliability of government estimates which lead to the management of seasons and fish harvests.

This controversy reached new heights in the Pacific Fisheries Management Council area this year when the National Marine Fisheries Service, at the direction of the Secretary of Commerce, announced the closure of all commercial and sports salmon fishing in federal waters and hours later reversed that decision. Such rapid alternation of policy do nothing to enhance the credibility of the management process.

Meanwhile, the economic stakes for both commercial and recreational fishing are enormous. The commercial and sports fishing seasons have been drastically cut-back on a yearly basis. In the last year, a cut of approximately fifty percent occurred, leading more fishermen to give up the only livelihood they know. Their families' futures are being determined by government estimates which may, or may not be accurate. No one knows for sure.

Such economic stakes put a premium on the accuracy of the data base and estimates which management agencies use to govern the fish harvests. It is necessary, therefore, to get to the bottom of the controversy so that Congress can be confident that management of the Fishery Conservation Zone is scientifically and biologically sound.

In the Pacific Fisheries Management Council region, the component of the management plan which seems to cause the most serious difficulty is the method of determining the quota of fish to be harvested by both commercial and recreational fishermen. The quotas are based on the "Oregon Production Index," an indicator of the number of fish available in the Oregon production area. The quotas have come under great criticism this year for being too low.

There is real doubt among the fishermen as to the accuracy of the OPI. A major factor in the OPI is the rate of fish escapement. Placing the greatest importance on the number of immature fish, as the OPI does, disregards many other important impacts upon fish runs. Fishermen strongly believe that many other variables are involved. They often report actual sightings of fish which are larger than the OPI indicates.

A third factor is that not all of the fish are tagged. A tag indicates where the fish comes from, be it Oregon, Washington or Canada. Fishermen simply do not know whose fish they're catching.

Something needs to be done now to determine if there is a more accurate way of determining the Oregon Production Index and the quota. Fishermen just can't survive much longer if their seasons will be cut short every year and the fishermen and the management people need to stop arguing with each other and start working together.

There has absolutely been enough controversy questioning the acuracy of the methods use in determining the OPI. It is time for a solution. I am sure that no one would object to a shortened fishing season, if indeed, the resource would be as seriously depleted as the OPI indicates.

Commercial fisherman are rapidly going out of business. Last year, over 8,400 fishermen held a commercial license in Oregon. This year, 400 of those gave up.

A charterboat businessman in may district is losing over 45% of his total gross income because of the uncertainty in not knowing exactly how long the season will last. This particular business will probably lose 600 bookings in the month of August alone. Last year, he grossed $65,000 during that month. I'm sure his income won't be as high this year.

Because answers must be found now, we are requesting that the General Accounting Office study the current method of establishing fishing quotas and determine if there are any alternative ways to determine a quota more accurately.

A review by an independent agency is needed to assess the entire problem. Fishermen, management people, and policymakers need to rely on an impartial study to make their decisions.

Thank you for your cooperation. I look forward to hearing from you.

With warm regards.

Sincerely,

Les AuCoin,
Member of Congress.●

TRIBUTE TO JACK BINGHAM

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I was saddened and disheartened when I heard of the retirement of my dear friend and ally, Jack Bingham. I have served with Jack for many, many years. He has been an invaluable member of the Interior Committee during our many fights to preserve this Nation's environment. The significance of his leadership role in specific successful efforts to preserve our Nation's heritage are highlighted by his contributions as:

First, a key leader in the successful effort to establish a $725 million addition to our Nation's urban park and recreation areas.

Second, a key collaborator with our former colleague William Fitz Ryan in the establishment and strengthening of the Gateway National Recreation Area.

Third, a key leader in the establishment of the Women's Rights National Historic Site in Seneca Falls.

These are but a few of his innumerable achievements in preserving our environment for now and the generations to come.

I have often turned to Jack in his capacity as a senior member of the Foreign Affairs Committee for insight on our Nation's foreign policy and most recently he has been in the forefront of the nuclear freeze movement.

But he is no newcomer to the major policy fights in this institution. Jack and I were part of a small group of Members who began the long struggle to end this Nation's involvement in Vietnam. I will always remember Jack's dedication and courage in what was, at first, a lonely fight.

I am dismayed that he leaves because of the vagaries of reapportionment. My wife, Sala, and I will miss Jack and June Bingham and we wish them well in the future.●

A TRIBUTE TO MRS. CECILIA DUMKE

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. RUSSO. Mr. Speaker, today, I would like to pay special tribute to a truly outstanding and beloved woman from my district on the occasion of her 90th birthday. Mrs. Cecilia Dumke, of Oak Lawn, has been a source of inspiration to all those whose lives she has touched through her examples of strength, determination, and accomplishments.

This beautiful lady, weighing less than 90 pounds, possesses the boundless energy of a teenager, the relentless drive of a bulldozer, the indomitable courage and optimism of a missionary. She has lived her life as a prime exponent of "positive mental attitude" long before that phrase became a popular slogan. If a successful life is measured in terms of achievement, love, and respect then Ceil Dumke must be acknowledged as a resounding success.

Ceil, as she is known to her countless friends, was born in Chicago, August 19, 1892. She married, making her home on the South Side where she gave birth to two children, Fred and Lucille. Though only of modest means, she still managed to open her heart and her home to encompass another daughter, Marie, into her family circle.

When her son was not quite 1 year old, he contacted polio, which resulted in the loss of the use of his legs. With uncompromising pride, guidance, and abundant love, she was determined Fred would not surrender to his handicap. She prodded him, encouraged

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him, and imbued in him a spirit that would not accept defeat or give in to a mere physical impairment. Her favorite rallying cry was, "You can do it—of course you can." One day, returning from work, she noticed Fred on his crutches watching on the sidelines as the neighborhood kids played sandlot ball. She scolded him, "Why aren't you playing?" She ordered him up to the plate with the words, "You hit the ball, your sister will run for you"—and hit it, he did.

She never let Fred ever think he could not do everything he wanted to. Fred left his special school as a teen and enrolled as a regular student at Parker High School with Ceil adamantly insisting to school officials he could do it. He did. Fred Dumke went on to a successful career in business and then achieved an outstanding record in municipal government as a trustee and, finally, as mayor of Oak Lawn the second largest village in Illinois.

During the devastating tornado that ripped Oak Lawn in 1967, Mayor Dumke's dynamic leadership was acknowledged by the media as being a primary factor in the village's swift recovery. Reporters following the ubiquitous mayor around the stricken village were amazed at his energy and command of the situation. One reporter commented. "He's everywhere—you forget he is on crutches". Ceil had done her job well.

Even though she had three children to raise, alone, and held a full-time job as a clerk. She still devoted time and energy to many projects which benefited handicapped children. For many years, Kiwanis, Lions, and the Veterans of Foreign Wars recognized Ceil as one of their most dedicated and tireless volunteers.

For the past 25 years, she has been the leading volunteer for the Kiwanis Club's Peanut Day. Dubbed for the "Peanut Queen", she takes her post at 95th and Cicero—the busiest intersection in the village—at 5:30 a.m. and works til dusk and no one dare move into Ceil's territory. Needless to say, she has been No. 1 in sales since she began. Her efforts have been instrumental in helping fund the Kiwanis camp in Plymouth, Ind., Garden School, Park Lawn, and Arrow School.

She has adopted Park Lawn School in Oak Lawn as her very special project. Through her efforts, she has succeeded in raising over $125,000 for the benefit of this school for special children. She has supplied the energy and the driving force behind many endeavors—her annual birthday party, fireman's concert, and raffles all for the benefit of her kids at Park Lawn. She is at present undertaking a new goal to raise funds for Park Lawn's new residence which will open in October.

This valiant lady has had her share of setbacks and sorrows, but she possesses the resiliency and inner strength of a willow tree bending temporarily to the wind, but always coming back strong and upright again.

This spirited lady has given so much to her family, her friends, and her community. She has set a standard of excellence in every task she has undertaken which will be difficult for anyone to equal. I know my colleagues join me in sending most sincere wishes to Ceil Dumke to have the best birthday ever and keep having many more.

You can do it—of course you can.●

A TRIBUTE TO CONGRESSMAN JONATHAN BINGHAM

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I am proud to join my colleagues in saluting Representative JONATHAN BINGHAM, who will be retiring at the coming election. Congressman BINGHAM has served in this House since 1964 and his dedication to various committee assignments and unending constituent services has resulted in overwhelming endorsement term after term.

Congressman BINGHAM's impressive record of service has prevailed during his tenure as chairman of the House Foreign Affairs Committee's Subcommittee on International Economic Policy and Trade. At the same time Mr. BINGHAM has served on the International Security Subcommittee.

These priorities not withstanding, JONATHAN BINGHAM continues as a member of the Interior and Insular Affairs Committee, with assignments on the Subcommittees on Energy and the Environment, and National Parks and Insular Affairs. Lastly, this Congressman remains a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, and serves on the steering committee of the Northeast-Midwest Congressional Coalition.

While we can always review the litany of activities in which such esteemed Representatives as JACK BINGHAM are involved, we must also remember that after so many years of these strenuous pursuits, our colleagues may wish to devote time to other personal or professional projects. I am confident that we will continue to hear from Representative BINGHAM through community involvement, literary pursuits, and lectures. Knowing this helps us all to accept this loss of our dear colleague.

Again, I am proud to join my colleagues in wishing JONATHAN BINGHAM the very best.●

TRIBUTE TO JACK GRIFFIS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. DYMALLY. Mr. Speaker, with a mixture of pride and sadness, I rise to pay tribute to a fine man and a good friend. Jack Griffis, who passed away last month, was a model citizen whose dedication and spirit we would all do well to emulate.

For 25 years, Jack made his home in Gardena, Calif., and for 25 years, he served his community actively, faithfully, and responsibly. Affiliated with a legion of organizations, many of them charitable, Jack was especially well-known throughout his community for his many benevolent works.

Not a man to sit idly by, content with the status quo, Jack was always willing to speak up for what he felt was right. This determination and this loyalty to cause were readily visible during Jack's tenure as president of the Gardena Valley Democratic Club and through his work on the Gardena Citizens Advisory Committee.

Perhaps the greatest testament to Jack Griffis' unswerving integrity is the fact that he was able to secure the respect and admiration of even his political opponents.

The community that presented Jack Griffis with a "Resolution of Commendation" for "invaluable and devoted service" in January of 1982 will miss this man very much.

I, to, will miss this man who so well embodied the classically American values of leadership, integrity, good will, and perseverance.

Because strong communities ulitimately add up to a strong nation, Jack Griffis' achievements serve as a meaningful legacy not only for members of his own community, but for all Americans who desire to actively participate in sustaining and improving upon the greatness of their country.●

BUSINESS—LABOR-BACKED PROGRAM SUCCEEDS IN WAUKESHA

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. ZABLOCKI. Mr. Speaker, in these difficult economic times, our unemployed workers are facing enormous problems in making ends meet. Meeting simple household expenses and food bills are difficulties that must be confronted on a daily basis. I am pleased to say that one project in my own area of Waukesha, soon to become part of the Fourth District of

Wisconsin which I have the honor of representing, is successfully offering discounts to unemployed workers while helping Waukesha merchants attract business.

Mr. Speaker, the Waukesha people for unemployed people-unemployed discount program, is one of a kind. The program allows workers who can show verification of unemployment to shop at discount prices in businesses ranging from food stores to barber shops to auto repair shops. I understand that well over 60 Waukesha merchants are presently participating in this program.

The support this program has received from the Waukesha business community and the local labor unions in commendable and indicative of the fact that business and labor can work together to meet the people's needs.

I am heartened to hear that the Waukesha Chamber of Commerce, under the leadership of President Robert Heckel, and the Waukesha County Labor Council, under the leadership of President George Urban, have both endorsed this program. The help of Mr. Abel Garcia, president of the IAMAW Local 1377, has been invaluable. Without a doubt, the hard work and firm commitment of the president of the people for unemployed people-unemployed discount program, Mr. Doug Stone, has led to success on a daily basis with a firm potential for future expansion.

Mr. Speaker, I hope other communities can learn from the Waukesha experience. I am inserting in the Record an excellent article which appeared in the August 4, 1982, issue of the Milwaukee Journal, entitled "Waukesha Initiates Discount Program for Unemployed," by Mr. Sam Martino.

Waukesha Initiates Discount Program for Unemployed

Waukesha.—Esther Johnson, a laid-off factory worker at the Waukesha Engine Division of Dresser Industries, stood at a grocery store checkout counter and displayed a small, yellow card.

The card indentified Johnson to Michael La Rossa of La Rossa's Marketplace, 1800 W. St. Paul Ave., as a participant in Waukesha's unemployed discount program.

La Rossa is one of about 60 Waukesha-area merchants who have joined in offering discounts to unemployed workers like Johnson.

"Every little bit helps," said Johnson as she paid her bill of $2.69 for a box of corn flakes, some onions and a bag of noodles. She received a 10% discount on her purchase.

"I think the program is a good idea. It gives the unemployed a break at a time when we are out of work."

La Rossa said, "They are struggling. It doesn't seem like any of the major food chains are participating. We are doing our part."

La Rossa spoke of a spirit of community involvement in wanting to help the unemployed.

John Schmitt, president of the Wisconsin AFL-CIO, said he knew of no other similar program in Wisconsin.

"I suppose if it works out in Waukesha, other cities may look at it," Schmitt said. He said the program also would help area merchants attract business.

The unemployed discount program received its start in June after laid-off workers from Waukesha Engine asked the Waukesha County Labor Council to endorse the program. The council did and enlisted support from a number of separate unions.

Laid-off union workers canvassed the city asking merchants to provide discounts to unemployed workers.

Since then the movement has slowly gained momentum.

The Common Council Tuesday night approved giving the unemployed workers a discount of 15 cents off the regular 50-cent bus fare.

The YWCA has provided unemployed workers with opportunities to sign up for recreational or craft programs without charge.

The United Way in Waukesha County has included the discount program in its recent literature on the unemployed.

"For assistance in making your dollar go further while you are unemployed, you should call or stop by the Waukesha Unemployed Discount Program," the United Way said. "You don't have to be a union member, all you need to do is provide verification of your unemployment."

Unemployed workers who provide identification from the Wisconsin Job Service or an employer that they are laid off can obtain an unemployed discount program card from the Waukesha Labor Temple at 1726 S. West Ave.

NOT JUST UNION MEMBERS

Doug Stone, coordinator of the program said about 20% of the 600 people who had registered for the unemployment discpunt program cards were not union members.

"The non-union people have the same circumstances that the union people do. They are unemployed," Stone said.

Despite a post-World War II record unemployment rate in Waukesha County, there has not been a rush to get into the unemployed discount programs, according to Stone.

Stone said many people were embarrassed to seek help.

However, Stone said, "this is not charity. In good times we will do business at these businesses."

Paul Bower, recording secretary of Local 3740 of the Steelworkers Union at International Harvester, said many laidoff workers from Waukesha industries did not live in Waukesha.

He said many of the workers were from Milwaukee and other suburbs and were unable to take advantage of the discount program unless they drove miles into Waukesha.

Stone said he was hoping that the program would expand to merchants throughout Waukesha County.

SMALL SAVINGS HELP

At an automotive parts store, John Dietz, manager of Automotive Specialists of Wisconsin Inc., 910 W. Sunset Dr., has entered a 20 percent discount account code into his computer.

The computer automatically figures the discount on merchandise sold to people with the unemployed discount program card.

Merchants who participate in the program have placed signs in their store windows. Some of the signs note the amount of discount provided by the merchant.

In an attempt to minimise any potential abuse in the program, laid-off workers must reapply for a discount card every two months.

The new cards will be issued Aug. 9.

Laid-off workers receive a list of merchants and professionals who offer discounts.

The list of participants includes food stores, doctors and pharmacies, hardware and lumber outlets, barber shops and beauty salons, clothing stores, shoe stores, auto repair and part stores, television repair outlets and fast-food restaurants.●

WELCOME TO NEWEST MEMBER OF AGING COMMITTEE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. RINALDO. Mr. Speaker, since I entered Congress in 1973, I have worked closely with the gentlelady from Massachusetts, Mrs. Heckler, whom I admire and respect, both as a colleague and a friend. Therefore, as ranking minority member of the Select Committee on Aging, I take particular pride and pleasure today in welcoming her to the committee.

I am very familiar with Mrs. Heckler's commitment to the elderly during her 16 years in Congress, and I know that she will continue to serve older Americans with competence and vigor as a committee member.

The Congresswoman's initial activity as a member of the committee occurred this very day, when she testified at a committee hearing in Fall River, Mass. Following is the text of her testimony:

Statement of Hon. Margaret M. Heckler Before the Select Committee on Aging

As the Representative of this congressional district, I sought the opportunity to testify here today, to bear witness to my commitment to the social security system and to the retired persons who receive its OASI benefits.

Having represented this district since 1967, I have worked on behalf of scores of programs—including social security—that affect the elderly. To express my concern for those retirees subject to the "notch problem," I am a cosponsor of H. Con. Res. 222, directing the Secretary of Health and Human Services to conduct a study immediately on steps needed to correct the "notch problem," and to report such steps to Congress. Moreover, I have written to the National Commission on Social Security Reform, urging that the commission develop solutions to the problem and include them in its report—due in a few months—to Congress.

The "notch problem" is a result of H.R. 9346, the Social Security Amendments of 1977. On December 15, 1977, when this measure received final consideration from the House, the chairman of this committee, the Hon. Claude Pepper, said: "I need not remind my colleagues that this is one of the most important measures which has ever been before this House because it sustains

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and insures the hope of millions of Americans, who have no other source of income in their later years except what they derive from social security." [1]

Mr. Pepper voted for the final version of H.R. 9346 on December 15, 1977. So did I, because the very structure and solvency of social security was threatened. Speaker of the House "Tip" O'Neill, urging approval of the measure, described the situation in this way: "There are those of us who may happen to talk to a senior citizen. He or she is going to come up to you and say, 'What about my social security? Is it going down the drain? If you voted against this, you are going to say, 'Well, we are going to do something about this along the line.' But what a miserable Christmas that senior citizen is going to have." [2]

The Speaker also asserted: "I say to the Members on the Democratic side of the aisle that if I have ever seen an issue that is a Democratic issue, it is this issue."[3] In my view, in terms of my vote, saving social security was a bipartisan priority.

Almost every member of the Massachusetts congressional delegation agreed that H.R. 9436 should become public law. Rep. Edward Boland agreed. Rep. Joseph Early agreed. Rep. Robert Drinan agreed. Rep. Michael Harrington agreed. Rep. Edward Markey agreed, Rep Joe Moakley agreed. Rep. James Burke, chairman of the House Ways and Means Committee Social Security Subcommittee that developed the bill, agreed.

We agreed that social security should not go down the drain. The situation was the following, in the words of then Ways and Means Committee Chairman Al Ullman: "Unfortunately, in the last few years this huge system has developed financing problems which require the most serious and careful attention of the Congress. Starting in 1975, the system began to run annual trust fund deficits with outgo exceeding income. In 1977, the cumulative deficit in the three funds financed from the payroll tax is expected to reach $5.6 billion. These trends have caused a loss of confidence in the system both on the part of current beneficiaries and of workers paying social security taxes who expect to receive benefits in the future. I am sure that Members of the House are aware through communications from their constitutents of the fears that have been aroused." [4]

I want to state, however, that we did not all agree on inclusion of the so-called "decoupling" provision, which led to the "notch problem." For instance, in a statement I made on the House floor on October 26, 1977, on the House version of the bill, I said: "There are short-term and long-range financial problems this legislation attempts to address. I agree with some provisions; I disagree with others." [5]

And I want to state that there was no separate vote on the "decoupling" provision. It was included in the original Ways and Means Committee version of the bill, and members had no opportunity to indicate their approval or disapproval, except by floor statements.

Mr. Pepper, whose dedication to the elderly was and is unquestioned, was one of those members who did make a floor statement of approval on the provision. Addressing it during the December 15, 1977, debate, he said: "The 'decoupling issue' is addressed in a way that greatly reduces the projected long-range deficit in the trust funds and at the same time provides a wage-indexed formula which allows retirees to share in productivity increases in the economy over their working years and which protects those scheduled to retire in the near future from being disadvantaged because of the formula change." [6]

Those who voted for the measure—including myself—did so with the belief that the social security system had to be shored up, in order to protect the benefits of the 33 million persons—one of seven Americans—who were receiving benefit checks each month.

This measure, which became Public Law 95-216, provided short-term funding and made some structural changes by—

Raising the wage base for employers and employees in each of the years 1979 to 1982;

Increasing payroll tax rates, beginning in 1979;

Shifting revenues from the retiree and survivor fund to the disability insurance fund, beginning in 1978;

Easing restrictions on outside earnings by social security recipients over age 65;

Guaranteeing pre-existing levels of benefits to persons over age 60 who marry or remarry, effective January 1979; and

Permitting persons to qualify for social security benefits based on their spouses' earnings after 10, rather than 20 years of marriage.

On the "decoupling" issue, the problem has been the transition period, under which persons born January 1, 1917, through December 31, 1921, have been discriminated against in benefit payments. This is unfair, unjust, and cruel, and I am pledged—through the Department of Health and Human Services, the National Commission on Social Security Reform, and Congress—to work to correct it.

In bearing witness to my commitment to the stability of the social security system and the continuation of its benefits to those who have worked so hard to earn them, I believe that this hearing should be a forum for the truth. The truth is that those who voted for H.R. 9436 were dedicated to saving the system. As Mr. Pepper said, "If the word goes out at the end of this day that, notwithstanding the Senate passing the bill by an overwhelming majority, the House of Representatives defeated it, a wave of fear will sweep through the hearts of every one of those Americans wondering about the future solvency and soundness of our social security funds which are the sole source of livelihood for very many of those people." [7]

He also said, and this hearing highlights his words: "The bill does not do everything the elderly would like to have it do. It is not perfect in terms of the taxes that it provides. But we have the future ahead of us, if we keep the funds sound, to improve it from the tax point of view and from the viewpoint of the recipients." [8]

It is unfair to him, to me, and to the other members who voted for the measure, to brand us as anti-social security, as anti-elderly, when in fact we were the champions of older Americans. As champions, we must move forward, to keep the funds sound and to improve them, particularly in terms of equity for those who suffer from the "notch."●

PERSONAL EXPLANATION

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. DAVIS. Mr. Speaker, yesterday I voted against H.R. 6846, The Wilderness Protection Act of 1982. This is not a change of heart, but an admission of error.

I inadvertently voted no on the bill to ban oil and gas leasing in our wilderness areas. Although I am opposed to additional wilderness designations, especially in my district in Michigan where over 40 percent of the land area is Government owned, I am not in favor of oil and gas drilling in those wilderness areas already designated.●

COAL SLURRY PIPELINE BREAKS: AN UNADDRESSED PROBLEM

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, recently, much attention has been given to the hazards and destruction caused by broken pipelines, both offshore and inland. Most of this attention has focused on oil pipeline breaks, because of the cleanup problems and their commonplace occurrence. A major rupture in a Wyoming oil line is the latest in hundreds of such breaks, this one being one of the most serious spills. There were 115 such breaks, reported in 1981 alone. I have included the Washington Post front page article of August 3, 1982, describing the break in Wyoming.

I raise this discussion today only for one reason: In all of the debate about pipeline breaks, no one has raised the question with regard to potential breaks in coal slurry pipelines. This should be a pertinent discussion, because of the recent considerations of bills supporting the building of coal slurry pipelines. Any consideration of H.R. 4320, which proposed Federal eminent domain to provide the rights-of-way for pipelines to carry coal slurry, must also address this recurring problem with its dangerous impact on the environment and property. Also, the contamination caused by coal slurry presents special difficulties in cleaning up, with severe damage to animal and plant life. The danger of a break, caused by heavy vehicles traversing the pipeline, is only one common source of disruption; there are land slides, earthquakes, construction activity that will necessarily occur along the hundreds of miles of projected slurry lines.

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[1] Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 38999.

[2] O'Neill, Representative Thomas. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39035.

[3] Ibid.

[4] Ullman, Representative Al. Statement on H.R. 9436, CONGRESSIONAL RECORD, Oct. 26, 1977, p. 35230.

[5] Heckler, Representative Margaret, Statement on H.R. 9436, CONGRESSIONAL RECORD, Oct. 26, 1977, p. 35263.

[6] Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39026.

[7] Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39015.

[8] Ibid.

Another problem that is not addressed is responsibility for any possible pipeline breaks. It is often difficult to fix responsibility. Therefore, any legislation must address these specific hazards in advance.

The breaks usually take place in remote areas, such as the recent northern Wyoming spill. Who should investigate, who must respond to the immediate emergency, and who is responsible for the cleanup and repair of the surrounding environment? Also, if there is damage to private and public property, who is financially liable?

It is the duty of any committees drafting legislation to explore the possibility of any problems legislation might create. We must anticipate these problems and be ready in advance. These questions must be addressed well in advance. No legislation for coal slurry that overlooks the problem of a broken pipeline and the dumping of slurry should be considered. Slurry breaks are not discussed because there are not as many slurry lines as there are oil pipelines. If H.R. 4320 is enacted, I can assure you that it will become a commonplace subject, and we might someday read about just such a break on the front page of the Post. Oil in flow is not coarse and does not do damage to the pipe; slurry is just the opposite. Pipe erosion is a problem with current existing slurry lines. Spills of oil are serious, but are they any more damaging and noxious than the impact that would be caused by a spillage of coal slurry? This is a good question. I feel it is still unanswered.

PIPELINE BREAK DUMPS CRUDE INTO WATERWAYS

(By Jay Mathews)

LOS ANGELES, Aug. 3—A ruptured oil pipeline has contaminated part of a reservoir, a river and a creek and threatened fish and other wildlife in northern Wyoming in one of the largest inland oil spills on record, state and federal officials said today.

Environmentalists, fighting what they see as a major threat to wilderness areas, immediately called the spill a sign of what could happen if Interior Secretary James G. Watt allowed more oil drilling in such remote areas.

"If this kind of thing can occur in such relatively flat and open land, we feel it has ominous implications for wilderness areas," said Bill Cunningham, northern Rockies representative of the Wilderness Society.

Wyoming officials said they had not yet determined the cause of the break in the 12-inch crude oil pipeline which spilled what they estimated to be more than 6,000 barrels, or about 250,000 gallons, of oil 10 miles south of Byron, Wyo.

The rupture apparently occurred during the weekend but was not discovered until yesterday morning, a common problem in remote areas. A passerby saw oil on the surface of Yellowtail Reservoir, about 20 miles east of Byron, and valves feeding the pipe were shut off, a Coast Guard official said.

A Coast Guard official sent to investigate the leak said it had not yet been determined what impact the spill had had on local wildlife but said the volume of oil lost approached the state's last major spill in 1980 into the Platte River.

The 1980 spill, apparently caused by underground telephone cable construction, killed 1,752 muskrats, 19 geese, 19 ducks and destroyed 183 goose eggs, according to the state's game and fish department.

Pete Petera of the game and fish department said the area affected by this week's spill served as a home for mink, muskrats and other fur-bearing animals who could be harmed by the oil. He said the lower Shoshone River, which received the oil spill from Whistle Creek and transported it to the reservoir, did not have many game fish.

The reservoir, however, is full of trout and walleyed pike, Petera said. Although the spill is reported to have extended only 200 yards into the flood prevention reservoir, "I don't think it's going to do the fish a danged bit of good," he said.

David Jossi, a private contractor working with the Department of Transportation in Washington, said there were 115 crude oil pipeline breaks in 1981 which spilled 578,169 barrels of the heavy oil onto American soil. Ninety-nine of the breaks were caused by construction equipment such as backhoes.

A spokeman for the state department of environmental quality said an initial report on this week's spill mentioned construction work in the area of the break. But officials from Wyoming state departments, as well as Coast Guard and Environmental Protection Agency officials, had reported no definite cause for the rupture late today as they continued to drive and fly by helicopter over the area.

A Coast Guard official said a containment boom floated across the mouth of the Shoshone River was keeping oil from spreading further into the reservoir. Another containment device was holding oil at the surface where Whistle Creek and the river meet so that the oil could be easily removed.

Officials of the Marathon Pipeline Co., which operated the pipe system, could not be reached for comment. Cunningham said pipelines laid in remote areas were dangerous not only because spills were difficult to detect but because rocky terrain made them susceptible to landslides and, in some areas, earthquakes. Jossi said transportation department figures show damage from pipeline failures in 1981 totaled about $5.2 million.

A suit brought by Wyoming against the pipeline company involved in the 1980 spill is pending in court. A suit by the pipeline company against the telephone company on whom it blames the rupture has also not been settled.●

THE IDEOLOGY OF THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. McDONALD. Mr. Speaker, the peace movement in the West has continuously and persistently attacked the defense policies of the Western world while playing down the imperialist nature of the Soviet system. They take time to condemn U.S. policy in Central America, yet fail to say anything of Afghanistan. Furthermore, they promote their ideas with cliches masquerading as scientific theories of Soviet behavior—theories which can only lead to more Afghanistans. Mr. Burkovsky writes:

> One of the most serious mistakes of the Western peace movement and of its ideologists, is the obdurate refusal to understand the nature of the Soviet regime, and the concomitant effort to lift the question of peace out of the context of the broader problem of East-West relations.

Vladimir Bukovsky knows the Soviet system well; he suffered under their definition of peace for 12 years. In the following continuation of his penetrating article, which originally appeared in the May 1982 Commentary magazine, Mr. Bukovsky examines the propaganda versus reality of the ideologists of the peace movement.

Part II of the continuing article follows:

[From Commentary Magazine, May 1982]

THE IDEOLOGY OF THE PEACE MOVEMENT—PART II

One of the most serious mistakes of the Western peace movement and of its ideologists is the obdurate refusal to understand the nature of the Soviet regime, and the concomitant effort to lift the question of peace out of the context of the broader problem of East-West relations. After several decades of listening to what they believe to be "anti-Communist propaganda," they have simply got "fed-up with it." They ascribe everything they hear about the East to a "cold-war-type brainwashing," and make no attempt to distinguish what is true from what is not. This attitude, which I can only describe as a combination of ignorance and arrogance, makes them an easy target for any pseudo-theory (or outright Soviet propaganda) that happens to be fashionable at any given moment. Besides, baffled by endless and contradictory arguments among the "specialists" about the nature of the Soviet system, the leaders of the peace movement believe they have found a "new approach" which makes the entire problem irrelevant.

A few months ago in England, I attended a public debate on the problem of unilateral disarmament. The leader of a big peace group opened his speech by saying that from his standpoint, it is irrelevant who is the aggressor and who the victim. He said: "It is like when two boys have a fight in the churchyard. It is impossible to find out who started the fight, nor is there any need to do so. What we should do is to stop them."

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This metaphor reflects very well the prevailing attitude among peace-movement members. They believe they have gotten around a baffling problem, whereas they have in fact inadvertently adopted the concept of the "normal opponent." From the "churchyard" standpoint, the present conflict seems very ordinary: two bullies have become so embittered by their prolonged quarrel—in which anyway the essence of the disagreement has been lost or forgotten—that they are quite prepared to kill each other and everybody else around. They are temporarily insane, mad, but are basically normal human beings. Pride and fury will not permit them to come to their senses, unless we, the sane people around them, are prepared to intervene. Let us make them talk to one another, let us pin down their hands, let us distract them from their quarrel. We cannot, to be sure, pin down the hands of one of them. Then, in the best Christian tradition, let us make the other repent, in all good Christian humility. Let us disarm him to convince his adversary of his peaceful intentions. Let us turn the other cheek. Sooner or later the other will come to feel ashamed.

This view sums up exactly what I mean by a combination of ignorance and arrogance. Indeed, if we look upon the world from the "churchyard" standpoint, there probably is no need to find out who is the aggressor and who the victim. There is no need for police or armed forces. All we can see is a row of graves with the dead lying orderly in them and a couple of children quarreling with each other. Unfortunately, outside the church walls there is a bigger and far more dangerous world with gangsters, murderers, rapists, and other perverse characters.

Needless to say, this churchyard model simply does not merit serious consideration. Unfortunately, it is a widespread belief (and not only within the peace movement) that the Soviet government, like any other government, is preoccupied with the well-being of its people, and will therefore be eager to reduce military expenditures. This notion comes so naturally to our peace-makers that they just do not notice they have taken on a view of the Soviet system which is both very old and unquestionably wrong. If they only took the trouble to study a little Soviet history, they would know immediately how misleading this seemingly natural view is. Not only are the Soviet rulers indifferent to the living condition of their populace, they *deliberately* keep it low; on the other hand, disarmament (irrespective of the problem of well-being) would lead very rapidly to the collapse of the Soviet empire.

Normally we try to understand an opponent by taking his place, getting into his shoes, so to speak. That is why most people try to explain Soviet behavior in terms of "normal human motives," that is, by motives familiar to them. And that is exactly why they constantly pile one mistake upon another. For it is extremely difficult for a "normal" human being to put himself inside the skin of a mentally ill one. It is almost as in nature itself: when we test natural phenomena under extreme conditions, we suddenly find some unpredictable anomaly that is baffling to us. Logic itself becomes abnormal in certain extreme cases. If we add up two numbers, say, or multiply or divide them, we invariably obtain a new number. But if we use zero or infinity our whole rule suddenly goes wrong.

But let us take an example relevant to the present discussion. Let us take the key question: why is the Soviet Union so aggressive, so eager to expand? We see how many schools of thought there are among those studying the problem (and we see, too, how all of them are wrong).

There are some people who believe that the present Soviet expansionism is just a continuation of the Russian pre-revolutionary colonial policy. In other words, it is a bad legacy. Indeed, this notion about Soviet expansionism was the dominant one for a very long time—and still is in some quarters. In line with it, there have been repeated attempts to offer the Soviets a division of the world into spheres of influence. We owe to it the Yalta agreement, the Potsdam agreement, and assorted other disasters. Each time the Soviets have accepted the division into spheres of influence, and each time they have violated it. Is this because they need more mineral resources, more territory, a wider market for their goods? No. Their own territory is undeveloped, their own mineral resources are in the earth, they do not have enough goods for their own internal market. There are no useful mineral deposits in Cuba or Afghanistan. There is no Russian national interest in Angola or Vietnam. In fact, these new "colonies" cost the Soviet people many millions of dollars a day apiece. So, Soviet policy is no classical case of colonialism.

Then there is another theory, far more pernicious because much more widely accepted and because to reject it one needs a real knowledge of Soviet life. I mean the theory according to which Soviet aggressiveness is the result of the fear of hostile encirclement. The proponents of this theory argue that Russian history, particularly the history of repeated invasions of Russian territory within the last century, has made the Russian people almost paranoid about an external threat.

This theory sounds very scientific because many facts may be cited to back it up. Still, it is no more than a shrewd combination of obvious lies, wrong interpretations, and very perfunctory knowledge. It is mainly based on an overestimation of the importance of history for any given nation and on an oversimplification of the Soviet system.

To begin with, there is an obvious lie in this theory—that is, a deliberate confusion between the people and the government in the USSR. Those who know the Soviet system only moderately well may still need to be reminded that the people have no privilege of representation in the government—that is, have no free elections. Thus, the government does not reflect the feelings of the population. So if we are to believe that the population is frightened by the long history of invasions, the government has no reason to share these fears. The Soviet government, with its vast and omnipresent intelligence system, is extremely well-informed about every move and every smallest intention of the West (anyway not very difficult to achieve in view of the remarkable openness of Western societies). By 1978–79, when their arms build-up was at a high pitch, whom were they supposed to be so afraid of? Their great friend, the French President Giscard? Or their even better friend in West Germany, Willy Brandt? Britain, with its puny armed forces (and ongoing discussion on unilateral disarmament), or perhaps Nixon and Carter, who between them shelved all the major armament programs? Japan, which has no army at all?

Clearly the Soviet government had no reason to be frightened. In fact, the theory of Soviet paranoia does not imply a frightened government, but rather a frightened *nation*. In a "normal" country this might drive the government to become aggressive. But in the Soviet Union the people mean nothing and have no way of pressuring their government to do anything. They would not be allowed to voice any fears. So, who is so frightened in the Soviet Union? Besides, as far as the rules are concerned, their own experience of war, World War II, could not frighten them for a very simple reason: they won the war. Can you show me any victorious general who is so afraid of war as to become paranoid? The psychology of Soviet rulers is in any case totally different.

One need only look at a map of the world to see how ridiculous this theory is. Can we honestly believe that the poor Communists in the Kremlin are so frightened that they must protect themselves by sending their troops to Cuba and Cuban troops to Angola? By sending military equipment and advisers to Ethiopia and Vietnam and then by sending Vietnamese troops to Kampuchea? Take another look at that map: it is not at all obvious that the U.S.S.R. is encircled by hostile powers. Rather the other way around: it is the Western world that is encircled by the hostile hordes of the Communists. Well, if their paranoia can be satisfied only by surrendering the whole world to their control, what difference can it make to us whether they act out of fear or out of endemic aggressiveness?

Finally, and most importantly for an understanding of this pernicious theory, is the fact that it was invented by the Kremlin propaganda experts. It was very successfully exploited in the years of détente, when Western governments, acting under its influence, deliberately permitted the Soviets to achieve military superiority. They would probably deny it now, but I remember very well the discussions of that period. The argument of the ideologists of détente was that once the Soviets caught up, they would relax; this would in turn lead to the internal as well as external relaxation of the Communist regime, i.e., to liberalization. The results of this brilliant experiment we can see now.

The Soviet population, too, has been subjected, day after day for sixty-five years, to an intense propaganda campaign about this putative "hostile encirclement." The Communist rulers unscrupulously exploit the tragedy of the Soviet people in World War II for the purpose of justifying both their oppressive regime and their monstrous military spending. They try their best to instill into the people a pathological fear of the "capitalist world." Fortunately, the people are sane enough to laugh at the very idea. Thus, contrary to this theory, there is no paranoid population demanding to be protected in the Soviet Union, despite the best efforts of a perfectly sober and cruel government.

No, it is not the fear of invasion or a World War II hangover that has driven the Soviet rulers to wage an undeclared war against the whole world for half a century now. It is their commitment—repeated quite openly every five years at each Party Congress since the beginning of this century—to support the "forces of progress and socialism," to support "liberation movements," everywhere on the globe.●

THE WILDERNESS PROTECTION ACT OF 1982

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. SYNAR. Mr. Speaker, yesterday the House of Representatives voted 340 to 58 to pass H.R. 6542, the Wilderness Protection Act of 1982. I opposed several provisions of this legislation, and I wanted to take this opportunity to outline my reasons for voting "no" on final passage of the bill.

DESIGNATED WILDERNESS AREAS

I first want to emphasize that I strongly support the goal of permanently withdrawing designated wilderness areas from resource development and commercial activities. Moreover, the American public clearly supports this action as well.

When Congress enacted the Wilderness Act in 1964, its purpose was to set aside for the enjoyment of our citizens and future generations certain pristine areas of our Nation. While the goal was to maintain areas "untrammeled by man," in fact, the same legislation provided for some mineral leasing in the wilderness areas through 1983. Needless to say, these conflicting goals have given rise to repeated controversy since 1964. Most pointedly, the current administration has acted in a manner which was disturbed many and I am certain that yesterday's overwhelming vote was, in large part, a reaction to those excesses.

Mr. Speaker, I believe that reaction, though understandable, was itself excessive.

If Congress is serious about protecting the pristine nature of these areas, then we should and must close designated wilderness areas to commercial activities and resource development of all kinds. But, our approach should be to study carefully, move cautiously and choose wisely.

Once chosen, designated wilderness areas should be withdrawn from development in perpetuity for the benefit of the American people. To do otherwise is to make a mockery of our stated intention to preserve lands "untrammeled by man."

H.R. 6542 withdraws designated wilderness areas from oil, gas, shale oil, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing. However, it permits mining of so-called strategic minerals in those same wilderness areas.

The assumption seems to be that these minerals are somehow more strategic to the United States than is petroleum, and that mining activities related to strategic mineral development is somehow less disruptive in wilderness areas than is the production of oil and gas. In my opinion, neither assumption is valid.

I believe the Interior Committee has erred in allowing mineral development activities of one sort—but not others—to proceed. If it is the will of the American people and the Congress to close wilderness areas, then they should be closed to development activities of all kinds.

My belief that disruptive activities in designated wilderness areas should be prohibited also compelled me to oppose the amendment offered by Mr. YOUNG of Alaska to allow seismic blasting in designated wilderness areas.

STUDY AND FURTHER PLANNING AREAS

There may be certain areas of the country considered or proposed for wilderness which so clearly belong in that category that Congress may well determine that their pristine nature and environmental qualities warrant immediate—if only temporary—protection from development activities. In such cases, Congress must determine that, even without significant mineral resource evaluation, the wilderness value outweighs whatever mineral resource value the area might possess. In unique cases such as this, it would be appropriate for Congress to provide temporary or permanent protection for the area without further study or exploration.

However, with the exception of this limited number of cases, I cannot support the provisions of the legislation which would withdraw other study areas or further planning areas from any leasing activities in a blanket manner. I believe these areas should have, for the most part, been excluded from coverage under the bill. While the committee report notes that these study and further planning areas are withdrawn only temporarily, in fact, many areas may be withdrawn indefinitely. We should maintain the status quo for most, if not all, of these areas until and unless Congress has determined that their unique natural qualities warrant permanent protection from development and so designates them as wilderness. In line with this view, I supported the amendment offered by Mr. YOUNG of Alaska which would have excluded such study and planning areas from coverage under the bill.

URGENT NATIONAL NEED

I also have questions as to the appropriateness and practically of the committee's inclusion of a provision to allow the President—with the concurrence of the Congress—to open wilderness areas to development in the event of urgent national need. From a practical standpoint, the provision is of little benefit. An example of an urgent national need would certainly be a serious oil import disruption which threatened the Nation's economic well-being. At such a time, there may well be proposals to open designated wilderness areas to petroleum exploration and production. Petroleum resources from these lands, however, would take years to develop and produce—by which time, of course, the Nation would long be past its crisis. I also question the appropriateness of the provision from a policy standpoint. As columnist George Will stated in a recent article about wilderness protection:

> There are 80 million acres of designated wilderness, 56 million of them in Alaska. Only 1.2 percent of the lower 48 States is wilderness; only 4 percent could ever be so designated. Surely the Nation's vitality and security are not so marginal as to depend on that 4 percent.

Moreover, there are several hundred million acres of publicly owned lands outside our wilderness system which are available for mineral leasing, exploration and development. These lands are in addition to the one billion-plus acres of Outer Continental Shelf lands which ultimately may be available for exploration and production.

If we truly believe in the maintenance of a wilderness system in our Nation, "untrammeled by man," we cannot afford to compromise our commitment. And I submit that it makes even less sense to contemplate compromising that commitment under the illusion that wilderness system development would provide any immediate or significant help in time of a national crisis.

In conclusion, I support the goal of the Interior Committee in providing for the permanent protection of designated wilderness areas. However, my personal view is that the committee has missed the mark on several points, and I felt compelled to oppose the legislation on final passage.

If Congress does not take final action this year on H.R. 6542, I look forward to working with Interior Committee Chairman UDALL and other Members next year.●

EXPLANATION OF MISSED VOTES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Ms. FERRARO. Mr. Speaker, due to personal family business, I was not present for consideration of legislative business in the House on Thursday, August 12, 1982. Had I been present, I would have voted as follows on the recorded votes taken that day.

Rollcall 269: Motion to approve the Journal of the previous day's proceedings, "yea."

Rollcall 270: Amendment to H.R. 6542 to allow the use of explosives during seismic exploration in wilderness areas, "no."

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Rollcall 271: Passage of H.R. 6542, a bill to withdraw certain lands from mineral leasing, "yea."

Rollcall 272: Amendment to H.R. 5595 to require at least $14.3 million of the funds provided by the bill be used to eliminate any deficits in the District of Columbia Teachers' and Police Officers' and Fire Fighters' Retirement Funds, "nay."

Rollcall 273: Passage of H.R. 5595, a bill to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, "aye."

Rollcall 274: Amendment to H.R. 6100, the National Development Investment Act, to exempt projects funded with EDA grants from wage requirements of the Davis-Bacon Act if the bid of the contractor awarded the grants is 10 percent less than the next lowest bid, "no."

Rollcall 275: Passage of H.R. 6100, a bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, "yea."●

NURSING HOME RESIDENTS DESERVE RESPECT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. OTTINGER. Mr. Speaker, I rise today to express further my opposition to proposals made by the Department of Health and Human Services to alter current health and safety requirements for skilled nursing facilities participating in the medicare and medicaid programs. As a recent editorial in the New York Times stated, these changes will weaken seriously the protection that 1.3 million nursing home residents enjoy.

I believe the proposed changes will hinder the effectiveness of many States' health care provider surveillance programs without introducing the flexibility which has long been needed in the conduct of survey and certification programs. New York State has a carefully developed and effective surveillance program which could be enhanced if increased flexibility were allowed by the Federal Government. However, the State is opposed to the proposed changes which would reduce the frequency of surveys and allow accreditation by the Joint Commission on Accreditation of Hospitals to replace State surveillance requirements. Such changes could jeopardize New York's ability to assure the delivery of a continuously high quality of care in skilled nursing homes, intermediate care facilities, and certified home health agencies.

For the benefit of my colleagues, I am inserting in the RECORD two editorials from local Westchester County, N.Y. newspapers, the Daily Argus and the Citizen Register, respectively, which express the detriment the proposed nursing home regulations would create. I call them to the attention of all Members because it is important that we convince the administration not to relax the health and safety standards currently governing the Nation's nursing home industry. Eliminating excessive paperwork is one thing, but endangering patients who depend on the Government for protection is another.

The text of the editorials follow:

[From the Daily Argus, May 24, 1982]

NURSING HOME RESIDENTS DESERVE RESPECT

(By Vic Rosenthal)

On April 28, 1.3 million people of this country were honored for the contributions they have made and continue to make to society. These people are too easily forgotten and rarely discussed except in the most negative or stereotypic terms.

Institutionalized as they are, they may suffer from neglect, mistreatment or outright abuse. Though they make up a diverse cross-section of American society, they are usually treated as one minority group.

They are nursing home residents.

Nursing homes have been in existence for decades, but it wasn't until the 1960s, after Medicaid and Medicare, that the industry boomed. It was during the late 1960s and early '70s that we learned of the tremendous profits being reaped by nursing home owners. We also learned that many residents of these homes were receiving grossly substandard care and treatment, and were having their life savings and minute incomes expropriated.

It was at this time, when scandals were being publicized, that residents, family members, advocate groups and government officials began to make noise about the inadequate care being provided, and the use of public money. Government hearings were held across the country, books and studies were written, and the government started to look closely at the system. Through the mid and late 1970s the federal and state governments promulgated regulations, passed nursing home reform legislation and a Patients Bill of Rights.

As these laws and regulations were adopted, many of the worst nursing homes were finally forced to close because they could not meet the new standards. Unfortunately, however, because of inadequate surveillance and enforcement, substandard conditions persisted. Many facilities remained in a large middle-ground, providing minimal custodial care.

When Ronald Reagan was elected, his administration declared that the nursing home industry was over-regulated. Secretary of Health and Human Services Richard Schweiker appointed a task force to study the federal regulations, which resulted in a proposal to delete many of the regulations protecting the rights of nursing home residents. This proposal was warmly greeted by many segments of the nursing home industry, and the administration claimed that money would be saved.

However, an unexpected problem confronted the administration. Nursing home residents and advocate groups bombarded the president, Secretary Schweiker and Congress with letters opposing the proposed changes. Secretary Schweiker then retracted the task force proposals, claiming he always has been an ardent supporter of residents' rights.

What has become clear recently is that the administration and the industry are still looking to cut the regulations governing nursing homes. The latest proposal is to reduce the surveillance and enforcement of the nursing home regulations. The administration is aware that it is too unpopular to cut services and the rights of nursing home residents, but why not reduce surveillance activities that are apparently ineffective? As in other areas of government, the administration has made it clear that business should be left alone to regulate itself.

The proposals to reduce surveillance and enforcement is taking two forms. First, the administration is proposing to significantly cut the matching funds granted to states for inspection teams. States rely heavily on these funds and will be forced to curtail their surveillance activities. In some states, due to last year's cuts, inspection teams have already reduced the frequency of surveys from annual to bi-annual.

Secondly, the administration is considering transferring the responsibility and authority to conduct surveys from state regulatory bodies to the Joint Commission of Accrediting Hospitals. The commission is a private, voluntary body whose charter indicates that its main purpose is to provide consultation to hospitals and long-term facilities. How can the administration realistically expect a private, consultative body to effectively regulate an industry that receives more than $5 billion annually in public money? Could it be the administration doesn't want enforcement to occur?

Another proposal would change the survey cycle to only one inspection every 36 months. Additionally, the administration would allow the inspection team to check whether corrections of nursing home deficiencies have been made without visiting the facility. Simply a phone call or mail reply might be considered sufficient.

This proposal seems utterly preposterous in view of how many nursing home operators have been unwilling or incapable of correcting problems. Why is it that an administration so concerned with fraud and waste would be so casual and haphazard in its surveillance of a $5 billion program? It's time for the government to take a firm stand and develop a rational, effective program to assure residents of a dignified, quality life. Secretary Schweiker indicated he was a strong supporter of protecting the rights of residents; yet these protections will be meaningless if the enforcement procedures are relaxed.

At this time of the year when nursing home residents are being recognised and senior citizens are being honored, shouldn't the government respond with support and protection? Enforcement and surveillance activities are already inadequate. Any further cutbacks and reductions will virtually strip the government of its ability to monitor the care in nursing homes.

On April 28, the nation saluted nursing home residents. One now hopes the administration would rethink its proposals and reformulate them so as to pay honor and respect to our citizens who have contributed so much.

If it doesn't, Nursing Home Residents Day will have been an empty gesture. Vic Rosenthal is executive director of the Coalition of Institutionalized Aged and Disabled, Inc., an organization of nursing home residents' councils.

[From the Citizen Register, July 24, 1982]

CASUAL GAMBLE ON HEALTH CARE

"This is just tearing out federal protection of helpless people."

Those are the words of Sen. Lawton Chiles, D-Fla., and the sentiment of many others in and out of Congress, regarding Reagan administration proposals for changing inspection rules for nursing homes.

Presumably in the name of regulatory relief or economizing, or both, the administration purposes, for instance, that accrediting by a private body, the Joint Commission on accreditation of Hospitals, be accepted as "sufficient evidence" of compliance with federal standards. A California health official said her state has learned by experience that this is an unreliable yardstick.

As for inspections, these would focus on nursing homes with histories of violations, while replacing annual inspections of the rest with inspections every two years. Another proposal would drop the requirement that nursing homes with problems be reinspected within 90 days; administration officials said that purpose can often be served by telephone or letter.

That sounds like a joke, but it's just typical of this whole rationale of trusting to luck that nursing homes that now pass muster will somehow stay that way and that the others will shape up. This seems rather a casual gamble at the expense of patients' welfare and at the risk of corner-cutting that could result in profiteering at government expense.

What this approach overlooks is the preventive disciplinary value of directly imposed federal standards and reasonably frequent inspections in keeping nursing-home operators on their toes. It is ironic that the very success of those procedures should make the administration imagine that they can be eroded. The administration is basing policy not on the record but on a myopic misreading of the record.●

H.R. 6124

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. EVANS of Delaware. Mr. Speaker, implementation of the credit control legislation (H.R. 6124) reported by the Banking Committee, August 11, would be a pure unmitigated disaster. As we have already seen, the use of credit controls to provide real relief from high interest rates—or, for that matter, any other real economic benefits—is a proven failure.

It is difficult to believe that we could have learned so little from the 1980 experiment as to want to risk another round of economic disaster that is so clearly associated with the imposition of credit controls. This type of legislation does nothing to address the root causes of our economic problems, but simply concentrates on the symptoms. Mr. Speaker, it is said that the proof of the pudding is in the eating. In this instance, the pudding contains a large element of economic cyanide.

I was opposed to the use of credit controls by the Carter administration, and I strongly endorsed the sunsetting of the unnecessary Credit Control Act of 1969. To reimpose any form of Government-related credit controls now would be spectacularly ill timed, with the chief result being a further dampening of an already slow economy. The 1980 experience with credit controls resulted in a real GNP decline of almost 10 percent, the loss of over 1.5 million jobs, and a precipitous decline in auto sales, farm income, and housing starts—with autos, agriculture, and housing the "favored" sectors under the Carter credit allocation plan. The financial markets were placed in serious difficulty, and the whole process had no lasting effect on either inflation or interest rates.

It is certainly tempting, especially in an election year, to try to avoid the often painful measures of fiscal and monetary restraint needed to restore a prosperous economy. Ignoring the present real problems, and reaching instead for a tool whose efficacy is purely illusory will, however, serve no real purpose, but will be paid for dearly in the years to come.●

SUPPORT FOR NEW DAIRY PRICE SUPPORT SYSTEM

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. NELLIGAN. Mr. Speaker, I rise in support of the dairy provisions of H.R. 6892, the Food and Agriculture Reconciliation Act, which passed the House on Tuesday, August 10.

We all agree that the problem of increasing dairy surpluses in Federal reserves is getting out of hand. Last year, the Government purchased 21 percent of our cheese production, 29 percent of our butter, and 65 percent of our dry milk. These purchases cost the American taxpayers about $2 billion. Most of the purchases are still being held in the Federal reserves, and much of the surplus is being lost to spoilage.

We all know that farmers are not to blame for this sad state of affairs. Farmers are simply responding to pricing signals which are established by price-support levels. We need to change those signals so they more adequately reflect consumer needs and market conditions.

The dairy provisions of H.R. 6892, which establish the National Dairy Board and the "two-tier" price-support mechanism, are a step in the right direction.

Composed of representatives from the diary farming community, the Board would determine how much production would be needed each year to meet consumer needs. That amount would be converted into a percentage of the previous year's production.

A dairy farmer would be eligible to receive the full support price only for that percentage of his production which is certified as needed to meet production goals. Any additional production would receive a lower support price.

Other important features of the legislation would allow dairy farmers to conduct a referendum to create a National Milk Promotion Board, and would allow for wider distribution of surplus dairy products to needy Americans.

During debate on H.R. 6892, opponents pointed out that there are potential pitfalls in the new price support mechanism. They noted that the Dairy Board could become a nonresponsive bureaucracy. They said that there were insufficient disincentives to overproduction.

Mr. Speaker, I have conducted an informal poll among dairy farmers in my district. I have found that these farmers, who operate some of the most efficient dairy farms in the Nation, favor the new price support mechanism of H.R. 6892 by roughly a 3-to-2 margin. I feel that this figure, unscientific though it may be, indicates the strong sense which exists in the dairy community that something must be done to solve overproduction problems. It was in large part because of this sense that I voted in favor of H.R. 6892 on Tuesday.

I think we should all be aware, however, that a significant minority of dairy farmers are concerned about the potential for the Dairy Board to degenerate into yet another nonresponsive Federal bureaucracy. Should reforms in the dairy program along the lines of those contained in H.R. 6892 be enacted, as I sincerely hope they will be, we must be alert to this potential danger.

Simply stated, I believe that the reformed dairy price support system affords us both an opportunity and a challenge. The opportunity is to slow the flow of dairy products into the Federal reserves; to reduce the costs of the program to taxpayers by up to $1.3 billion next year; and to create a better economic climate for dairy farmers. The challenge is to insure that the new mechanism is used properly, and is responsive to the interests of those it is designed to serve.

I share the view of 60 percent of the dairy farmers in Pennsylvania's 11th Congressional District that the dairy provisions of H.R. 6892 are needed. I urge my colleagues to continue to support their enactment.●

HAPPY 20TH BIRTHDAY TO SEAL BEACH LEISURE WORLD

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. LUNGREN. Mr. Speaker, 2 weeks ago, on July 31, I had the distinct pleasure of celebrating the 20th anniversary of the Seal Beach Leisure World.

This Leisure World is of course the very first senior citizen retirement community in the Nation. It was on June 8, 1962, when residents first began moving into Leisure World. Since then the 6,482 apartments in the community have long been sold out.

Except for commercial stores, the approximately 9,000 residents of the Seal Beach Leisure World live in a virtually self-sufficient community. This includes their own security as well as a medical clinic. A truism which Life magazine picked up in 1963 is that in "Leisure World there is no leisure." This remains true today as residents have many recreational and community facilities to become involved with. These include: A 9-hole, par-3, golf course with putting green; swimming pool; therapy pool; lapidary shop; 2 woodworking shops; 2 art and ceramic studios; 2 sewing rooms; 4 pool and billiard rooms; 2 horseshoe courts; 2 roque courts; 16 shuffleboard courts; 5 lawn bowling lanes; amphitheater, 2,500 seating capacity with complete stage; 4 clubhouses complete with 12 kitchens; and 17 meeting rooms.

It has often been stated that one is always as young as he or she is in their heart. Well, I know that the average age of the residents is 76 years young and every time I visit Seal Beach Leisure World I am reminded that the senior years of one's life really can be among the very best.

Mr. Speaker, in celebration of Seal Beach Leisure World's 20th anniversary, I would like to share with my colleagues in the U.S. House of Representatives an excellent article written by Margaret Newhouse, editor of the Golden Rain Leisure World News. I think my colleagues will find of particular interest many of the successes which that Leisure World has had in its 20 young years. The article follows:

[From the Golden Rain News, July 29, 1982]

Community Celebrates Its 20th Anniversary

(By Margaret Newhouse)

The community will pause for a fond look backward, residents will take time out from their manifold activities Saturday, July 31 to observe the 20th anniversary of Seal Beach Leisure World.

The Golden Rain Foundation has put together a day-long schedule of commemorative events from 10 a.m. to 3 p.m. in St. Andrews Clubhouse No. 4.

Area dignitaries have been invited.

A film of the early days will be shown and local musical groups will perform. The celebration will be topped off with the appearance of two popular stars from the Lawrence Welk Show for an evening performance in the Ampitheater.

Everyone is invited, of course, and a large crowd is anticipated by the refreshment committee as well as by the organizers of this historic celebration.

Unless, of course, people are too busy pursuing the fabled life of retirement to attend the event. From the beginning of this cooperative design-for-living the community has worn the tag-line, "In Leisure World there is no leisure."

This was a standard saying among early residents, according to an article about retirement towns including Leisure World, in the Nov. 8, 1963 issue of Life magazine.

The article pointed out the tangible attractions that had drawn 8,000 residents to the area: three clubhouses, a golf course, a swimming pool, 2,500 seat Amphitheater, buses for free transportation and extensive medical facilities. It noted the many clubs and free lessons in bridge, ceramics, and dancing.

GETTING A BARGAIN

The price of an apartment was running between $11,320 and $14,000. Life's comment was: "Most residents feel they are getting a bargain, and most can well afford it. The average income is $6,000 . . ."

Obviously, the financial facts of life have changed since the early days. In other ways the living is not so different today.

Some of the clubs that contribute to community life now were being launched. The Life article pictured the Men's Chorus giving forth with a song advising ladies to "tint your hair and keep it curled, and stalk your prey at Leisure World."

One lady may have taken their advice: Genevieve Daugherty was the first bride to be married on the premises, Sept. 15, 1963 in Northwood Clubhouse No. 3. Conversely, the stalking may have been on the other foot, so to speak. The bridegroom Henry McKinley "made himself so indispensable" the lady acquiesced. "We need each other so much," she said.

In 1963 "retirement towns" were relatively new and were reported to be the biggest private housing projects being built in the United States.

Some mental health experts spoke out against the segregated communities. "Senility is a contagious disease," one said.

But Life interviewed a 77-year-old Leisure Worlder who dismissed the gloomy prognosis with an airy remark, "We have many old people here, who are very young."

Some of the youngsters were kicking up their heels on stage as members of a 58½ year-old average age chorus line of flappers in "The Scandals," a production which packed the Ampitheater for two evenings. Ask Mary Plaskett or Dorrie Walthery about the fun. They were there.

HOMEMADE FUN

A lot of the entertainment was of the homemade variety. Residents doings were reported spottily in the local press that was the forerunner of The News. Some were busy practicing for the second annual Christmas pageant. The Little Theater Group was rehearsing "A Night at the Inn."

The Leisure World Orchestra was playing for dances every first and third Friday and planned to play for a New Year's Eve dance.

Gardening was a universal occupation for the new householders. Pictured digging in front of their apartment were Mr. and Mrs. Joseph Sweetnam, 13610 Burning Tree Lane 2-L, who it was reported, received the first key to any Leisure World apartment on June 8, 1962.

More than 100 residents were attending weekly Monday night rehearsals of the Community Singing Club. Officers were Robert Titus, president; Edward Sheehan, vice president; Nita Gilliat, secretary/treasurer and Ruth Wallace, musical director.

The golf course was slated to open Saturday, Nov. 30 and there had been so much interest expressed in playing on opening day that a drawing was set up to establish reservations for starting times.

Only approximately 100 apartments were still for sale as of Nov. 20.

The Leisure World Republican Women's Club had just been chartered, the week of Dec. 18.

Church congregations were forming. The Leisure World Mission Catholic Church announced its first service the last Sunday in November. The Rev. W. J. Mullane made the announcement as the workmen were putting together the last pew.

Thanksgiving services were scheduled that year, 1963, by the (newly named) St. Theodore of Canterbury Episcopal Church and the Lutheran, Community and Catholic churches.

Toward the end of December the dart ball team members helped the Lutheran pastor Dr. Clifford B. Holland and his wife move in.

And if all went as planned the Leisure World Orchestra played for residents to dance out the year and dance in the new, a happy social occasion carried on in later years with a hired band.

In January of 1964 the new Lions Club completed its organization with the election of officers and was to receive its charter from the district governor in March. C. K. Close was named president.

The Christian Church, the Rev. Robert Graham, minister, was drafting its bylaws.

The first organization meeting of the Garden Club took place and the Coin Club was reported as being "one of the most active groups."

Leisure World continued to attract national publicity. Mabel Menke was chosen to appear on the "Queen For a Day" TV show.

Groups forming included Kiwanis and Golden Rain Toastmasters. The president of Leisure World Toastmasters, Sewell VanWormer, turned out to welcome the Golden Rain group.

An item Feb. 26 was "The Rev. Maury Whipple Bishop has arrived from the Unity School of Christianity, Lee's Summit, Mo. to be full-time minister of the Leisure World Unity Church."

Bertha C. Bruce, president pro tem, announced in March that the California Retired Teachers group was organising.

Of wide interest was the news that a new addition to the Medical Center would open April 12 housing a physio-therapy clinic, eye-ear-nose and throat clinic and four medical suites for the use of eight doctors.

Delegate Mrs. Naomi Kettler reported April 17 that the LW Richard Baylden chapter, DAR was welcomed as the newest in the state at the recent State Convention in Coronado.

That spring the Sweet and Low chorus of approximately 50 members practiced to present a concert. the ensemble chorus would sing three compositions by Elthea Turner.

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In May the LW Church of Religious Science went "over the top in the required number of members to have a full fledged church" reported the Rev. Dorothea Dyrenforth, minister.

The groundbreaking ceremony for the Community Church May 31 was announced by the Rev. Harold E. Baker, minister.

The Larks, a bird watching group was to meet.

And the homemade fun was still brewing. VWWI Barracks 2860 announced it would sponsor a contest "I Love Leisure World Because . . ." The first three lucky writers would win a four-day all expense trip to the New York World's Fair.

KEO planned a similar contest.

The Leisure Worlders, a square dance group celebrated its first anniversary. Al Colcough was president and caller.

The second baking contest for residents, a repeat of a successful event held in February, was announced in May. Rules were strict: "No packaged items will be eligible."

A headline May 29 proclaimed "Sale of New Design Manors Begun In Last Unit—No. 15."

New officers of the Senior Rotarians were chosen. Harry Schaffer was president.

THE SCANDALS

Bigger and better, the "Leisure World Scandals" played the Amphitheater July 18 and 19 with a cast and crew of more than 200. The show presented "an amusing if not truthful, view of the 'Seven Ages of Leisure World' from 'infancy' through 'the gracious years.'

"The skits, mainly pantomimes, poke fun at those who take themselves and life too seriously, and provide Leisure Worlders the opportunity to a laugh at their own follies and problems."

A comic character Jerry Atrics was portrayed by George Reish; a song and dance routine was performed by Bob Titus and Jessie Jenkins; skits included "This Is the World That Is," based on the popular TV show "That Was the Week That Was;" and a "Dear Abby" skit by Dora Walthery and Gordon Hayward.

"It is hoped that the ridiculous antics of our Leisure World 'teenyearers' will be somewhat balanced by the harmony of our Barbership Quartet and the Beauty of the square and round dancers," Hap Hazard, stage veteran and producer of the show, commented.

Beautification projects were blossoming. A headline Aug. 21 stated "7 Trees Planted In/Trail Blazer Project" (at the intersection of El Dorado and Oakmont), according to a plan outlined by the Garden Club Tree Planting Committee and the Grounds Committee.

In September a Men's Republican Club was formed with Deane Davis presiding at the first meeting.

A Home Talent night show was planned in the Amphitheater Sept. 19.

ACTING THEIR AGE

More than 100 clubs were listed in Sept. 1964. A member of the Leisure World Square Dancers summed up the spirit of conviviality that encouraged the newly retired to heightened enjoyment of life. She said, "I wouldn't dream of doing this back in Nebraska—but here it's different. There's no youngsters around to watch us whoopee it up, we can act our age."

Not all the creative energy was expended on the Amphitheater stage. That fall the second annual Festival of Arts and Crafts was scheduled. It would present creations of 64 organizations and individuals.

Resident's access to the surrounding area attractions was enhanced in October with the opening of "A nearly 100-mile strip of San Diego Freeway connecting Leisure World with the entire freeway complex of Southern California."

In November plans were shaping up for what was to become a colorful event that would stand out in memory as one of the annual community undertakings.

"A mile long Armistice Day parade with more than 200 gayly decorated vehicles is expected when the 'Leisure World on Wheels' parade of trikes, bikes and electric carts rolls down St. Andrews Drive Nov. 11.

"At latest count, 112 trikes, 40 bikes and 31 electric carts will participate in the parade."

The parade was followed by an Armistice Day program which would include visiting dignitaries, clergymen, bands (the Star Club Kitchen Band plus the Marina High School Band of Huntington Beach). Prizes were offered for the best costumed riders. Clowns and trick rides enlivened the procession.

"Historical themes found pilgrims marching side by side with pioneers and their covered wagons. Indians danced as their squaws waived fresh 'scalps' . . . electric carts, some so minutely decorated they resembled miniature floats in the Rose Bowl parade," took part.

A color guard of veterans of World War I led off in what was termed "the biggest most colorful Armistice Day parade in Orange County.

"It was observed with the dignity of an appropriate program but undeniably, with a touch of festivity during the preceding parade," the writer reported.

Progress was noted on another front: "The business office has recently moved into a mobile trailer in back of the United California Bank."

The religious life of the community, which from the outset had not been neglected, grew in scope.

"The first step toward unification of religous life at Leisure World was taken Tuesday, Nov. 12 when leaders of 14 denominations met and formally organized the first Religious Council of Leisure World," according to the Rev. H. Carl Roessler, Religious Director.

The roster of clubs now numbered 52.

January 14 it was reported, "The Rev. Mr. Frank V. D. Fortune assumed duties last Sunday as minister of the St. Theodore of Canterbury Episcopal Church."

Meantime, residents were avidly seeking new friends to fill the void of friends and family left behind in the move to new surroundings.

HOMETOWN REGISTRATION

"More than 7,000 replies to a recent Hometown Registration Survey have been returned (Feb. 11, 1965) by residents to the LW Resales, Inc."

The Women's Club, celebrating its second anniversary, was said to be the second largest club in the Orange District.

As might have been predicted, "An overflow crowd attended the first World Day of Prayer service to be observed in Leisure World."

Theatricals flourished. "With four members of the Leisure World Little Theater Group in the cast, the Play "Suds In Your Eye" got off to a flying start last Friday night at the Peppermint Playhouse, 124 Main St., Seal Beach."

The little city by the sea was erecting its own milestones. An item in April 1 read "Leisure World will join with the City of Seal Beach in the celebration of the city's 50th anniversary which officially got underway with the issuance of a mail cancellation die this week commemorating the Golden Jubilee."

Leisure World was still attracting the attention of a world curious to see this "Eden-like" place sprouting on the California coast.

Which reminds one of the old saying "The more the change the more it is the same thing." Consider this comment quoted in the March 11, 1965 newspaper "Maybe some day we will see a Leisure World in Tokyo."

These were the parting words of Japanese visitor Katsuyoshi Uyama to community relations director, James H. Gormsen, following a tour of Leisure World Friday.

Sound familiar?

They say the first years are the hardest and they are probably right. At any rate, a brief glimpse at some of the highlights of the early years here reveals that the road may have been rocky, but the travelers had a lot of fun along the way.

The new experiment in retirement living was watched by outsiders with many a doubt expressed as to its future.

It is to the credit of the pioneer move-ins and all community-minded people who have followed that Leisure World, contrary to some predictions, established itself as an eminently desirable place to live and remains so.

The community has grown up. Some of the homemade fun has been supplanted by professional entertainment. Lawrence Welk is packing them in in the Amphitheater as once did the "Leisure World Scandals."

The world is still knocking at our door, notebook and camera poised. How many touring groups from how many countries have stopped by lately to have a look at how our community runs?

Within recent memory are a group of doctors, executives and educators from Japan, a Japanese construction company, an Australian television documentary filming crew, an Australian real estate conglomerate and retirement housing builders from Israel.

And, a heartwarming circumstance, other visitors came not primarily to admire the obvious—the fine physical plant and spacious well-tended grounds.

They asked probing questions about the efficient government. A research team came from the University of Florida to study the longevity and quality of life of the residents.

Perhaps the nicest compliment of all, a television station came to interview some of our Leisure World couples who have stayed happily married for 60 years.

That all says a lot for the first 20 years of Leisure World Seal Beach. Residents may be pardoned a glow of pride as they look back over the years Saturday.●

SENDING TAX BILL TO CONFERENCE TRAMPLES CONSTITUTION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. PORTER. Mr. Speaker, the constitution was badly trampled last week in Washington when the House totally abdicated to the Senate its responsibility to initiate the tax bill. Article 1,

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section 7 of the Constitution provides that "All bills for raising revenue shall originate in the House of Representatives . . ."

Instead, the Senate held hearings, drafted a tax bill in Senator Dole's Finance Committee, debated and considered amendments to it on the Senate floor, adopted it and sent it over to the House of Representatives.

The House Ways and Means Committee held no hearings and drafted no legislation, and the House itself had no debate on raising revenue and considered no amendments, but merely, by motion, sent the Senate bill—with a House bill number on it—directly to conference committee.

The conferees, a few from the House, a few from the Senate, will determine what this bill will contain, and there will be one vote, up or down, on its adoption. If it comes out anything like what went in, it will be a bill raising taxes over 3 years by $100 billion—the largest tax increase in U.S. history—affecting Americans across the entire economic spectrum in essential and important ways—their livlihoods, their abilities to produce and consume, and their proclivities to save and invest.

So what that the House did not initiate or even consider this vital matter? So what that there were no hearings or debates or amendments?

Well, the Founding Fathers did not just throw that provision giving the House exclusive power to initiate revenue matters in there to even up with the Senate's exclusive power to advise and consent to treaties. No, they had something far more fundamental in mind. You will recall that England had levied tax after tax on its colonies without consulting them or their people for a moment. The Boston Tea Party dramatized it; the Declaration of Independence articulated it. If there was one grievance more on their minds in 1776 than any other, it was taxation without representation.

So, when they sat down 11 years later to write a constitution, they wanted the taxing power to be most under control of and responsive to the people. And they put it—very intentionally—squarely where the people would have the greatest say-so: in the House of Representatives, whose Members have to face judgment of the people every 2 years, unlike the Senators, who have the long and insulated tenure of 6 years without fear of rejection.

No, I do not want the Senators—God love the wonderful gentlemen—writing tax laws for me. I want someone having that responsibility who has got to come back to me very soon for my approval. That is what the Founding Fathers wanted and exactly what they constructed to protect us.

Two hundred years later there are some—far too many—in the Congress who do not care, do not think you will notice or care, and who walk upon our basic law with apparent impunity. Perhaps those who trample the genius of our system so readily ought to be the first to receive its recall notice.●

WATER THE COAL SLURRY BILL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, in the current debate regarding the granting of eminent domain to coal slurry pipeline companies, there are some misconceptions regarding the question of water. I have assembled this factsheet to dispel any misconceptions on the important aspect of State water rights protection.

First myth: Current language in both the House bill, H.R. 4230, and the Senate bill, S. 1844, adequately protects the State's right to control its water.

Fact: This assumption is simply not true. Traditionally, the only mechanism that States have had for the reservation of water has been so-called water export bans. On July 2, 1982, the Supreme Court struck down the Nebraska water export ban. The case, Sporhase and Moss against the State of Nebraska, is a far-reaching and complicated case; but one thing is certain: No State law that bans the export of water on totally arbitary grounds can withstand a constitutional court test. Some 19 Western States rely on these bans to protect water.

Both bills contain language deferring to State water laws, but there is no language in either bill even purposting to delegate to the States legislative authority over the use of water in interstate coal slurry pipelines. In the Nebraska water case, the State of Nebraska relied on language in 37 Federal statutes and a number of interstate compacts as being congressional authorization for and approval of the Nebraska statute involved in the case. The language, practically the same in each of the 37 Federal statutes, was quoted by the Court in the opinion, as follows:

> Nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or territory relating to the control, appropriation, use, or distribution of water used in irrigation.

The Supreme Court held that the quoted Federal statutory language only "demonstrate[s] Congress' deference to State water law." That language did not protect the Nebraska law. The Supreme Court held the provision of the Nebraska law invalid.

The State water law in H.R. 4230 is practically identical to the quoted language which the Supreme Court held to be merely a "deference" to State water law. By no stretch of the imagination could that language in H.R. 4230 be called a "delegation" of legislative authority to the States.

There is no basis in the bill for the assertion that, "If any State doesn't want its water used for a coal slurry pipeline, the pipeline won't be built." No language in the bill can be construed to have that meaning. If coal slurry promoters are sincere, why do their bills not provide specifically that: "If any State doesn't want its water used for a coal slurry pipeline, the pipeline won't be built."?

Second myth: Both H.R. 4230 and S. 1844 meet the Supreme Court decision in the Nebraska water case.

Fact: Neither bill even purports to overturn the Nebraska water case and neither bill even attempts to deal with the issues raised by the case. Neither bill attempts to give State law the protection which the Supreme Court says Congress can give to State law. If this legislation were to become law and the Nebraska law involved in the Sporhase case were challenged as a basis for refusing to allow Nebraska water to be transported to Colorado for use in a coal slurry pipeline originating in Colorado, that Nebraska law would be held invalid. This legislation would provide no protection for that Nebraska law in that situation.

Third myth: Amendments have been offered in the Senate to correct the Nebraska water decision.

Fact: The fact simply is those amendments to S. 1844 do not correct the problems produced under Sporhase. Nowhere in these amendments is there a delegation of the Federal right to appropriate water. Nowhere in the bill do the words "delegate" or "delegation" appear. Language in the amendments is so vague that it is not at all clear that it would extend to protect State export statutes. The Supreme Court was clear: Congress must speak specifically to delegate its right to adjudicate water. Anyone reading the Senate language can see that it is not specific enough to be an outright delegation of the congressional right.

Fourth myth: Water is no problem because the committees have adequately discussed this issue.

Fact: In spite of urging by myself and others in Congress, there have been no water hearings in any of the three committees that have heard this bill. No experts on the question of water, no Governors, no concerned citizens have testified in the House during this session. The Senate has had 1 day of water hearings, and testimony was limited.

Fifth myth: The coal slurry bill is the vehicle by which to solve problems raised by the Sporhase case.

Fact: This is the most shortsighted of all statements. There are fundamental problems with attempts to correct the Sporhase in the context of a coal slurry bill. There is no assurance whatsoever in the political process surrounding coal slurry that effective language will eventually emerge after conference protecting the interests of the Western and Midwestern States. The Congress would be better advised, if it intends to protect the States' interests, to proceed with a bill dealing with the Sporhase issue first, rather than placing these fundamental State interests into the political turmoil of a coal slurry bill. Any legislation dealing with State water rights is an issue of vital importance to the people of this Nation. Some say that water will be the most important issue in the 1980's. This type of issue deserves extensive hearings that call upon Governors, water experts, and State attorneys general.

Should the Congress proceed with a coal slurry bill first, without resolving the Sporhase issues, it would jeopardize the ability of the States to control the availability of their water to coal slurry pipelines, since legislation dealing with Sporhase would not be in place at the time of enactment of a coal slurry bill, and therefore could not be construed to be legislation within the contemplation of any coal slurry legislative protections for water.

Sixth myth: The water problems of States that share a water source are addressed in legislation currently under consideration.

Fact: One of the most serious omissions in either bill is the absence of language dealing with the situation where States share water sources. Inevitably, the grant of Federal eminent domain powers will encourage substantial water sales and diversions to slurry pipelines from existing aquifers and river beds. As demonstrated by the recent $1.4 billion sale of water by South Dakota to the ETSI coal slurry pipeline, there will be strong temptations for States to make major water sales at the expense of their neighbors' shared water rights. Since virtually every State is downstream from some other State, this is likely to be a growing problem. Second, particularly in the West, most of the significant underground water formations are shared with other States. Because groundwater is replenished so slowly, a significant diversion from one State may have a major impact on the availability of groundwater in neighboring States sharing the water formation.

Both bills fail to take cognizance of this emerging problem over the allocation of shared water sources. Because of its silence on this issue, it will encourage unilateral action by States to the serious detriment of their neighbors. The problem is exacerbated by the fact that coal slurry pipelines will tend to set off a water pricing war, particularly in the West and Midwest.

Amendments were offered in the Interior Committee as well as Public Works attempting to deal with this question; neither passed. This interest, however, shows how important this question is.

CONCLUSION

These are only six of the problems I see with the current round of legislation. The problems of private land condemnation, no common carrier obligation, no true consumer protection against construction cost overruns, and the tremendous loss of long-term rail jobs in exchange for some short-term construction jobs are not addressed in this fact sheet, but remain major stumbling blocks in the granting of eminent domain to coal slurry pipeline companies. I attempt only to address the water issue.

One important point should be made, however: H.R. 4230 and S. 1844 are not coal slurry bills—they are eminent domain bills. Coal slurry pipelines are being built without these pieces of legislation, and the only thing being granted is the awesome Federal power to condemn land for corporate gain.

I hope this discussion is helpful.●

THE PLO IS A CANCER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. BINGHAM. Mr. Speaker, I do not always agree with the columnist James J. Kilpatrick, but in today's Washington Post, he has eloquently called a spade a spade in his analysis of the PLO. He correctly places the blame for the destruction and the bloodshed in Lebanon on the PLO and its leader, Yasser Arafat. Mr. Kilpatrick's column follows:

THE PLO IS A CANCER

For the past two months, night after night on the evening TV news, all of us have gazed in dismay upon the suffering in Lebanon, and night after night the same implicit message has flashed subliminally across the screen: the Israelis are responsible for this. It is high time, it seems to me, to put the lie to this insidious nonsense. Let us place the blame for the destruction and bloodshed squarely where it belongs, on the shoulders of that smirking monster with the maniac grin on his face, Yasser Arafat, leader of the PLO.

From the moment of its creation as a modern state in 1948, Israel has asked but one thing of its Arab neighbors—to live in peace. It is irrelevant to the current situation that in times past Prime Minister Menachem Begin and Defense Minister Ariel Sharon engaged in their own terrorism; we might with equal acuity review the history of Babylonians, Greeks, Persians, Romans, Mamelukes and Ottomans. The issue at hand has to do with Lebanon today. Why are the Israelis there? And who is responsible for the suffering inflicted upon innocent civilians?

The Israelis attacked the PLO for one reason only—because the provocations of the PLO at last had become unbearable. In this regard, we may recall the story of another long-suffering people who resorted to arms when their repeated petitions were answered only by repeated injury. Is that line familiar? It should be familiar. This was the justification advanced by our own forefathers for the American Revolution. Israel has no quarrel with the Palestinian Arabs as a people. Israel's rage is directed at that formless, shapeless nonentity of an entity, the Palestine Liberation Organization. The PLO has none of the trappings of sovereignty or statehood, but it is treated as sovereign state. The PLO's chieftain swaggers to the United Nations to address the nations of the world; the PLO maintains an army supplied and equipped by the Soviet Union; here in the United States we talk constantly of "recognizing" the PLO.

What a fiction! The PLO is not a state. It is a cancer. Like other cancerous lesions, it must be cut out, roots and all, before the malignancy spreads. Left alone, whether through fear of surgery or hope or remission, cancer only gets worse. Who is to blame for the suffering in Beirut? Who prolongs the agony? The PLO moved into that beautiful and inoffensive city like a gangster mob, terrorizing the inhabitants. Aided and abetted by the Soviet Union, the PLO made Beirut a headquarters for international terrorism. With its stunning defeat at the hands of Israeli troops, the PLO reacted in the most cowardly and contemptible fashion: it took the civilians of Lebanon as hostages, and hid behind them while it stalled for time.

It would take a heart of stone not to be moved by the pictures we have seen from Lebanon—the old women weeping, the infant whose arms were blown off. Every humanitarian instinct cries out for cessation. But the smoke from the burning buildings of Beirut should not blind us to this fact—that the PLO could have ended the carnage at any time by laying down its arms and walking out. Arafat chose to fight. The blood is on his hands.●

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Monday, August 16, 1982*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray:

Lord, Thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hadst formed the earth and the world, from everlasting to everlasting Thou art God.—Psalm 90: 1-2 RSV.

Almighty God, eternal Father, make Thy presence felt in this place today. Grant that all who do business here may experience a fresh touch from Thee. As the Senators enter into this very full week, help them to have a perspective which sees the parts in light of the whole. Free them from the tyranny of urgency which makes it impossible to see the forest for the trees. Help them not to allow the transitory to obliterate the transcendent. Give them vision which sees the temporary in light of the permanent, the temporal in light of the eternal.

Guide them to decisions which will honor Thee and bless the people. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of the Senate be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, at the close of business on Friday I believe the Senate adjourned, did it not?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. And an order was entered to provide that no resolution would come over under the rule and the call of the calendar would be dispensed with?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I would remind Members this is a new legislative day as well as a new calendar day.

"IF"

Mr. BAKER. Mr. President, one of my earliest literary recollections is my father's affection for the poetry of Rudyard Kipling. One of Kipling's poems "If" seems particularly appropriate today in light of the urgent business in a fairly short time which we will have to deal with it. I ask unanimous consent that this week's poem "If" be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

IF—

If you can keep your head when all about you
  Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
  But make allowance for their doubting too;
If you can wait and not be tired by waiting,
  Or, being lied about, don't deal in lies,
Or, being hated, don't give way to hating,
  And yet don't look too good, nor talk too wise;
If you can dream—and not make dreams your master;
  If you can think—and not make thoughts your aim;
If you can meet with triumph and disaster
  And treat those two impostors just the same;
If you can bear to hear the truth you've spoken
  Twisted by knaves to make a trap for fools,
Or watch the things you gave your life to broken,
  And stoop and build 'em up with wornout tools;
If you can make one heap of all your winnings
  And risk it on one turn of pitch-and-toss,
And lose, and start again at your beginnings
  And never breathe a word about your loss;
If you can force your heart and nerve and sinew
  To serve your turn long after they are gone,
And so hold on when there is nothing in you
  Except the Will which says to them: "Hold on";
If you can talk with crowds and keep your virtue,
  Or walk with kings—nor lose the common touch;
If neither foes nor loving friends can hurt you;
  If all men count with you, but none too much;
If you can fill the unforgiving minute
  With sixty seconds' worth of distance run—
Yours is the Earth and everything that's in it,
  And—which is more—you'll be a Man my son!

—RUDYARD KIPLING.

SENATE SCHEDULE

TEMPORARY DEBT LIMIT INCREASE

Mr. BAKER. Mr. President, after the expiration of time for morning business, which will follow on after the recognition of the two leaders, the Chair will be asked to lay before the Senate, House Joint Resolution 520, Calendar Order No. 752, to provide for a temporary increase in the public debt. It is anticipated, Mr. President, that there will be a number of amendments to this bill, which is perhaps the most massive understatement I will utter today. Among them will be at least one and, perhaps, several amendments to deal with abortion.

I continue to hope that we can arrive at an orderly arrangement for debate and the disposition of those amendments by unanimous consent. My efforts in that respect have not succeeded in the last week. Perhaps it will be appropriate to renew a request if some of the differences between the parties can be negotiated. But with or without unanimous consent we are going to have the abortion debate this week, and I expect it will be all of this week. I do not intend to ask the Senate to lay aside the debt limit to go to other matters except as that may be urgently necessary to take up privi-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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leged matters or other matters that may be dealt with in a very short period of time.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

In that connection, Mr. President, I remind Senators also that an order was entered on Friday that no further amendments to the immigration bill would be in order, and that on tomorrow, beginning at 10 o'clock in the morning, 10 record votes will occur, which must be near a record for that hour of the morning in the Senate. The first vote will be 15 minutes in length, and the remaining nine will be 10 minutes in length. That will take most of the morning, so Senators should be here and on tap to begin a series of rollcall votes, a series of 10 rollcall votes, beginning at 10 a.m., with uninterrupted voting, to continue almost maybe until the time we will recess, as we normally do on Tuesday, for the two caucuses.

After that, Mr. President, there will be third reading of the immigration bill, to be followed by final passage.

DEPARTMENT OF DEFENSE AUTHORIZATION—CONFERENCE REPORT

Mr. President, after the immigration bill is completed on tomorrow, it is the intention of the leadership to ask the Senate to consider briefly the Department of Defense authorization conference report. I point out to Senators, however, that even with the several votes on the immigration bill tomorrow and the disposition of that conference report—that is to say the Department of Defense authorization conference report—we will still have time for, and indeed we will be expected to continue the debate on the debt limit, including the abortion amendments if they are offered, as I expect them to be.

(Note.—The text of the Department of Defense Authorizations Conference Report is printed in the House proceedings of today's Record.)

Mr. BAKER. Mr. President, Senators should be advised that any day this week may be a late day. I remind my friends and colleagues once more that the 27th of August is our stated adjournment date not the 20th, as is the case in the House of Representatives, and if we have not satisfactorily dispatched our responsibility on the Senate side to deal with important matters, such as the conference reports on the budget, the reconciliation bill, and other matters of that sort, that I will have no hesitation in asking the Senate to remain past Friday. That is not my hope, it is not my wish, but for many days now I have reminded Senators that our adjournment date is the 27th not the 20th. I hope for the 20th, but that is by no means assured.

Now, Mr. President, I think that is all the bad news I will utter at one sitting.

I have no need for the remainder of my time under the standing order, and I ask unanimous consent that any time I have remaining may be used during the remainder of this calendar day.

The PRESIDING OFFICER (Mr. Humphrey). Without objection, it is so ordered.

Mr. BAKER. I yield the floor, Mr. President.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. DIXON. Mr. President, the minority leader has no request for time, so we reserve the minority leader's time, with an understanding that I will require about a half-minute in routine morning business, and I have been asked by the Senator from Wisconsin that he be allotted several minutes.

Mr. BAKER. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. Yes.

Mr. BAKER. Mr. President, if the Senator has no further need for his leader time, is there an order that the Senate will have a period for the transaction of routine morning business at this point?

The PRESIDING OFFICER. That is correct.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for a transaction of routine morning business.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

NEEDED: A STATED ARMS CONTROL POLICY

Mr. PROXMIRE. Mr. President, I want to give credit and encouragement to the Senator from Missouri (Mr. Danforth) for the effort he has made in drafting a resolution calling on the President to clarify his arms control and nuclear warfare policies.

A bipartisan group of 21 Senators has signed this resolution and it also has been supported by a distinguished group of arms control experts from several prior administrations.

As a cosponsor of this resolution, I not only want to commend Senator Danforth but to reemphasize the importance of the President establishing a public policy for Americans to debate. Unfortunately, one cannot characterize just what the position of this administration is with regard to safeguarding our deterrent, or inhibiting the proliferation of nuclear materials, or in pursuing mutually verifiable arms control treaties. The indecision about what to do with the MX missile; the apparent lack of interest in nonproliferation; the set aside of SALT II and the test ban proposals; all raise concerns about the dedication of this administration to arms control and consistent defense planning.

Delay in our arms control efforts only makes a successful treaty less likely. Delay causes increasing confusion at home and abroad. Delay results in serious questioning about the goals and reliability of American leadership.

From time to time there may be legitimate reasons for delay of arms control proposals. But if that delay turns into a pattern of inactivity, then it symbolizes a much more serious deficiency in our national security planning.

Mr. President, I ask unanimous consent that an article from the New York Times about the Danforth resolution be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 12, 1982]

Atom Arms Policy Comes Under Fire

(By Judith Miller)

Washington, Aug. 11—President Reagan's nuclear arms control policies have come under criticism from a bipartisan group of 21 senators and from six former senior Government officials.

On Monday, Senator John C. Danforth, Republican of Missouri, and his colleagues sponsored a resolution urging Mr. Reagan to clarify his policies and recent actions, which, the measure states, "have caused anxiety at home and abroad."

In addition, the six officials, who are either former directors of the Arms Control and Disarmament Agency or former arms negotiators, said in a statement that they could not support the President's decision to defer talks on a treaty for a comprehensive nuclear test ban. Tests are now banned in the atmosphere, the sea and outer space, but are permitted under ground.

The two moves reflect concern in Congress and in arms control circles over Mr. Reagan's approach to arms control.

The statement of the former officials says his decision last month to postpone talks with Britain and the Soviet Union on a complete test ban "undercuts a national security objective set by President Eisenhower and pursued by every Administration since."

The officials added that the decision also cast doubt on American sincerity in the talks with the Soviet Union on strategic, or long-range, nuclear weapons and other arms issues.

The statement, which was issued by the Committee for National Security a Washington-based group, was signed by four former directors of the arms control agency: William C. Foster, who served from 1962 to 1969; Gerard C. Smith, 1969 to 1972; Paul C. Warnke, 1977 and 1978, and Ralph Earle 2d, 1979 and 1980.

The text was also endorsed by Adrian S. Fisher, who served in 1967 and 1968 as negotiator of the treaty to halt the spread of nuclear weapons, and Herbert F. York, who was negotiator in 1979 and 1980 in the talks on a comprehensive nuclear test ban.

Two former arms control directors did not join in the statement: Fred C. Iklé, who is now Under Secretary of Defense for Policy, and George M. Seignious, who worked for President Carter.

On the Senate Floor on Monday, Senator Danforth called on President Reagan to provide a comprehensive report on United States nuclear weapons policy by Dec. 1. The Senator noted that more than 10 years had passed since the United States and the Soviet Union had ratified an accord in the arms field.

"The Government of the United States must get off the dime," he asserted.

Senator Danforth also chided the Administration for deterring efforts to negotiate a total test ban and for delaying ratification on two other treaties limiting underground nuclear testing until verification provisions could be strengthened.

He said ratification of the two treaties was long overdue and the decision to defer the talks for a complete test ban was tantamount to "throwing years of useful negotiations into the wastebasket" The Senator also maintained that it was inconsistent for the President to pursue the strategic arms talks while opposing a complete ban on testing.

In addition, he said that President Reagan's new policies on stemming the spread of nuclear weapons had created "grave uncertainty about United States weapons policy." Specifically, the Senator called on the President to explain how the relaxation of export controls in nuclear fuel and sensitive nuclear technologies would help halt the nuclear weapons spread.

"Our credibility as a leader in non-proliferation is at stake," Senator Danforth said.

THE MISSING TREATY

Mr. PROXMIRE. Mr. President, just the other day my office received a State Department publication entitled "Treaties in Force." This publication lists and briefly describes all active treaties and other international agreements of the United States. In reading this document, I am encouraged by the noble steps taken by this Nation to help insure peace, stability, fairness, and sound relations with the nations of the world.

Nevertheless, Mr. President, I am very disheartened by the omissions from this book. Omissions that do not result from a failure on the part of the State Department or the printer. But a failure on the part of the Senate, of each and every Member of this body, to assure that fundamental human rights are guaranteed by the fabric of international law.

Mr. President, what could be more appalling than our unwillingness to insure the right of survival to all national, ethnical, racial, or religious groups? What could be more basic?

The argument that genocide is a domestic matter and, therefore, not a proper subject for treatymaking has been consistently and successfully refuted. The history of treaties ratified by the United States shows a long line of areas having a direct impact on subjects of domestic concern, including the Slavery Convention and the Refugee Protocol Treaty. In fact, the Supreme Court in Geofrey against Riggs (1890) stated that "the treaty power of the United States extends to all proper subjects of negotiations between our government and the governments of other nations."

Some critics argue that this treaty exceeds Congress treatymaking authority. Mr. President, in the same 1890 case of Geofrey against Riggs, Justice Field said the only limitation in this area is that which the Constitution expressly forbids, such as the attempt to change the form of the Federal or State government or changing State boundaries without consent. In the case of Missouri against Holland, Justice Holmes ruled that there was no unwritten limitations on the power of Congress to give its "advise and consent" to treaties.

Mr. President, paging through the State Department publication, readers will notice that we have ratified treaties protecting polar bears, whales, and seals. I ask the Senate, why can we not take action in protecting the lives of human beings? Throughout the 34-year history of the Genocide Convention, that question has yet to be answered.

As I have said so many times before, the Genocide Convention does have a place both in the Senate and throughout the world. I urge the Senate to recognize that fact and ratify this statement of profound importance.

S. 2838—FINALITY OF CRIMINAL JUDGMENTS IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, I wish to call up a bill at the desk and introduce it at this time.

The PRESIDING OFFICER. The bill will be read the first time.

The bill, introduced by Mr. THURMOND, for himself, Mr. NUNN, and Mr. CHILES, was read the first time.

Mr. THURMOND. Mr. President, I ask unanimous consent that it be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Reserving the right to object, Mr. President. Mr. President, on behalf of several Senators, I must object to this request.

Mr. THURMOND. Mr. President, I ask it be put on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Mr. President, reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

Mr. THURMOND. Mr. President, today, I am introducing a bill to provide important and long-overdue improvements in Federal procedures for review of State criminal convictions. The time has come to establish reasonable parameters for readjudication of criminal judgments and limit ceaseless relitigation of matters fully and fairly determined by State courts.

Mr. President, in this Congress I have been actively involved in seeking changes in this area. On March 10, 1981, I introduced S. 653, a proposal to modify habeas corpus procedures That measure was referred to the Committee on the Judiciary, and a hearing was held on November 13, 1981. As a result of suggestions made at that hearing, I introduced an alternative proposal, S. 2216, on March 16, 1982. A hearing was held by the full committee on that bill, at which time certain improvements were advanced to clarify the intent of the legislation. The bill I am submitting today has evolved from those hearings and will most appropriately define the scope and function for Federal collateral remedies without jeopardizing the legitimate protection of Federal rights.

The administration has strongly endorsed the reforms embodied in this legislation. Limitation of procedures allowing repetitive review of criminal convictions was recommended by the Attorney General's task force on violent crime and advocated by the National Association of District Attorneys. Representatives of the Association of State Attorneys General and the Conference of State Supreme Court Justices testified in strong support for these proposals. Moreover, Federal judges have been equally emphatic in their calls for more reform. Chief Justice Burger recently urged Congress to consider narrowly restricting the availability of Federal collateral relief stating:

> The administration of justice in this country is plagued and bogged down with lack of reasonable finality of judgments in criminal cases.

More recently, Justice Powell observed:

> The present scope of habeas corpus tends to undermine the values inherent in our Federal system of government. To the extent that every State criminal judgment is to be subject indefinitely to broad and repetitious Federal oversight, we render the actions of State courts a serious disrespect in derogation of the constitutional balance between the two systems.

The measure I am now introducing seeks to restore this constitutional balance between the Federal and State judicial systems.

The primary consideration of these reforms is to recognize the dignity and independent stature of State courts and to insure the finality of criminal convictions. Swift and sure punishment is an essential deterrent of the criminal law, but it is a deterrent that has been weakened by the abuse of habeas corpus petitions. The writ was designed as a shield to protect innocent citizens, but it has become a tool

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by which convicted criminals delay punishment and frustrate the judicial process. Adoption of reforms in procedures for Federal review of criminal judgments is a necessary and long-belated step toward regaining public confidence in our criminal justice system.

Justice O'Connor has commented on the need for limiting Federal collateral remedies and the necessity to defer to the results of full and fair State adjudications. She has stated:

> If our Nation's bifurcated system is to be retained, as I am sure it will be, it is clear that we should strive to make both the Federal and the State systems strong, independent, and viable. State courts will undoubtedly continue in the future to litigate Federal constitutional questions. State judges in assuming office take an oath to support the Federal as well as the State constitution. State judges do in fact rise to the occasion when given the responsibility and opportunity to do so. It is a step in the right direction to defer to the State courts and give finality to their judgments on Federal constitutional questions where a full and fair adjudication has been given in the State court.

The reforms contained in this proposal would amend title 28 of the United States Code to effect the following changes:

To ordinarily bar consideration by a Federal habeas court of a claim that was not properly raised in State proceedings.

To establish a 1-year limitation period, normally commencing at the time when State remedies are exhausted, for application for Federal collateral relief.

To require deference to State determinations of factual and legal matters that have been fully and fairly adjudicated in State proceedings.

To vest the authority to issue certificates of probable cause for appeal in habeas corpus proceedings exclusively in the courts of appeals.

To clarify that applications for writs of habeas corpus can be denied on the merits without requiring exhaustion of State remedies.

Mr. President, in closing, I wish to remind my colleagues that crime in this country is out of control. The law enforcement authorities need our help—they need stronger laws, stiffer penalties, and more stringent legal procedures. The bill I am introducing is an important step in that direction.

I ask unanimous consent that a copy of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Finality of Criminal Judgments Improvements Act."

Sec. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

Sec. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

Sec. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"Rule 22. Habeas Corpus and Section 2255 Proceedings

"(a) Application for an Original Writ or Habeas Corpus.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, and appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

Sec. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)" respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(c) by redesignating subsection "(d)" as subsection "(e)," and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

Sec. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the

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exercise of reasonable diligence prior to the procedural default.

"A two year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

HOW THE PRESS GOT IT WRONG IN MOSCOW

Mr. HELMS. Mr. President, as a longtime friend of Dr. Billy Graham, I was concerned—as were a number of his other friends—when I read various press reports about Billy's trip to Moscow in May.

As I say, Mr. President, I have known Billy Graham for many years. Our respective birthplaces in North Carolina are about 20 miles apart. Our families are very close, including our children. I believe I know how Billy Graham thinks, having spent countless hours visiting and talking with him and his family. I know how he feels about America. I know how he feels about Communist tyranny. Thus, when the press reports came in, describing what he was purported to have said in Moscow in May, I was puzzled.

Billy Graham is like the rest of us. There have been times when his views and statements and activities have been misrepresented by the media. I found it comforting, therefore, when I read an article in the June 23 issue of the Christian Century by Edward E. Plowman, entitled "How the Press Got It Wrong in Moscow." Mr. Plowman was traveling with Billy Graham on the trip to the Soviet Union. Mr. Plowman knows what Billy Graham said—he recorded all of Billy's many statements—and he knows what Billy Graham did not say.

Mr. President, I ask unanimous consent that Mr. Plowman's article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Century, June 23, 1982]

HOW THE PRESS GOT IT WRONG IN MOSCOW

(By Edward E. Plowman)

As a journalist who traveled with Billy Graham on his recent visit to Moscow, I am disturbed by the questionable quality of much of the media coverage of that event. A towering exception is John Burns of the New York Times; overall, his reporting was perceptive and right on target.

Normally, I'm defensive when people take potshots at the press, but I feel constrained to set the record straight in this case. Most of the criticism leveled against Graham in the West as a result of his visit rests on distorted and inaccurate reporting. I tape-recorded all of Graham's public talks and almost every one of his many, many press interviews with both Soviet and Western reporters (it was the busiest five-day press schedule of his entire life). It is revealing to compare what he actually said with what he is reported to have said.

For example, contrary to widely published reports, Graham never said or "suggested" that the churches in the Soviet Union have greater freedom, or even as much freedom, as the churches in Great Britain. He neither said nor suggested that there is no religious repression in the Soviet Union, and he nowhere "defended the Soviet policy toward religion" (as a Chicago Tribune reporter asserted).

He did not preach a sermon on Romans 13, exhorting his Baptist listeners to obey the authorities, as numerous newspapers reported. He did not exhibit callousness toward a female demonstrator in the Baptist church or toward the worshipers outside who could not get in.

In reality, he took public exception in a press conference to an Indian clergyman's assessment that the nuclear disarmament conference then in progress dispelled the "myth that there is no religious freedom in the Soviet Union." Graham was the only major speaker at the disarmament conference who spoke up for religious freedom. In his New York Times dispatch, John Burns wrote of Graham: "Although he did not mention the Soviet Union in this context [of a call for religious freedom], it seemed clear that he had the host government primarily in mind when he urged 'all governments to respect the rights of religious believers as outlined in the United Nations universal declaration of human rights.'"

Reporters who followed Graham closely in Moscow could readily agree with Burns' published perception that the evangelist "seemed to steer a careful course between the desire to be gracious to his hosts and the concern to show religious and other opponents of the Soviet regime that he is aware of their plight."

I feel sympathy toward many in the Western press corps in Moscow. A disheartened bunch, they face obstacles and hostility we cannot imagine. One consequence: they have become bitterly anti-Soviet. This trait showed up repeatedly in their coverage of Graham. The vast majority of their questions were actually challenges to him to say something anti-Soviet while on Soviet soil. Ironically, Soviet reporters asked many of the questions that American reporters should have asked.

These Western reporters in Moscow can be persevering. I saw them stand for hours in the rain waiting for Graham to emerge from a private meeting with a communist official about which they were certain he would make no comment. But at other times they were less aggressive, preferring to rely on a wire-service colleague's report or an interview with another journalist. Some reporters who did not see or hear Graham at all nevertheless managed to file major bylined accounts. In critical instances, this secondhand brand of reporting ended in errors and distortions.

During his hour-long sermon at the Baptist church on the John 5 account of the healing of a paralytic man by Jesus, Graham listed marks of a convert's life. Among other things, he pointed out that a believer is not slothful but is a diligent worker and a good citizen, obeying those in authority over him—an allusion to a verse in Romans 13. A wire-service reporter, one of the few news people who remained throughout Graham's speech, elevated that single phrase to the lead paragraph of his story, suggesting that Graham had made a major point of urging his listeners to submit to government authorities. Other reporters and commentators, not knowing the context, twisted the matter worse by reporting that Graham had preached on Romans 13, urging his listeners to submit to the authorities.

On occasion, television reporters tried to create news. On the day before Graham arrived, they obtained letters to the envangelist from the Siberian Pentecostals who have taken refuge in the American embassy for nearly four years. These letters apparently aired their grievances and called on Graham to intervene with the Soviet government on their behalf. When Graham arrived at the Moscow airport, the reporters tried to thrust the letters into his hand—on camera—and asked for his response to the dissidents. This is hardly the objective journalism I was taught. If reporters choose to be conduits for protest, that is their right. But for reasons of journalistic ethics, they then should step aside and let someone else do the story.

I was also distressed by traces of press hypocrisy. Virtually all the reporters said they were sick and tired of the Siberian Pentecostals in the American embassy. They said that the Siberians had become arrogant, manipulative, and unreasonably demanding, and that they wished their U.S. editors would stop asking for "another story" on the group. Yet some press accounts of the meeting between Graham and the Siberians oozed with righteous indignation that the evangelist hadn't done more for them. (Both the Siberians and the reporters were angry that Graham had insisted the visit be a private pastoral one rather than a media event.)

When you take into account the press foulups, much of the public criticism of Graham disappears. That which remains seems to boil down to this assertion: Graham should have spoken out firmly, clearly and specifically against religious repression in the Soviet Union, and he should have done it publicly.

"Publicly" is the bone of contention. For Graham did raise the issues in private with leaders of the Communist Party. He took with him to those meetings lists of religious prisoners. He discussed the plight of the Siberian Pentecostals and other issues of interest to religious leaders. As with all private negotiations, the details of these talks must understandably remain confidential. It is, of course, too early to see what the outcome of these discussions might be.

But one thing is certain. If Graham had taken a loud, condemnatory stand in his dealings with the Soviets, he would not have been received and listened to by people in power. Noisy diplomacy has its place: raise the issues, keep the pressure on, press for action. Quiet diplomacy also has its place, for it is at this level that one deals with people who are able to effect an outcome. So far, Graham, who chose the path of quiet diplomacy, has been the only Western religious figure to gain entry into Soviet cor-

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ridors of power on behalf of the various important concerns of the church.

Most people, including many of Graham's fellow evangelicals, have failed to grasp the full significance of his visit, or to comprehend his strategy. Partly it is the press' fault. How so many seasoned political reporters could miss the important aspects of the story while majoring in minors is beyond me.

Mr. HELMS. Now, Mr. President, I would like for the RECORD to include at this point the text of a statement issued by Billy Graham on May 19, immediately after he returned to the United States from the Soviet Union. I ask unanimous consent that this statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRESS STATEMENT BY DR. BILLY GRAHAM

(New York, May 19, 1982)

During the last few weeks I have had one of the busiest—and yet most fulfilling schedules of my entire ministry. I have just returned to the United States from London, where I had the honor of receiving the 1982 Templeton Prize for Progress in Religion. It was awarded in a private ceremony at Buckingham Palace by Prince Philip, and I am deeply grateful to the international and inter-religious panel of judges who selected me for this high honor. As I indicated when the award was originally announced here in New York some weeks ago, I intend to donate the prize money to various projects, including the cause of world hunger, the education of third world students, and evangelistic projects in Great Britain.

Before coming to London I spent about five and a half days in Moscow, where I had the unprecedented opportunity to preach the Gospel of Jesus Christ both publicly and privately on numerous occasions. I went to the Soviet Union at the invitation of the head of the Russian Orthodox Church, with the cooperation of the All-Union Council of Evangelical Christians-Baptists of the U.S.S.R. During my stay in Moscow I was briefly an observer (not a delegate) at a conference of religious leaders from many countries (including the United States) called to discuss the danger of nuclear war. I also had the opportunity to preach the Gospel in an address to the conference.

As you know, various American officials had expressed some concern to me that the conference would be anti-American and unbalanced in its perspective. Although I was not present for most of the conference and had left Moscow before it was over, I have been pleased to note from press reports (such as that in the London Times of May 18) that this apparently was not the case, due in part to the influence of Western participants, especially Americans.

It was a special privilege for me to preach the Gospel in the Moscow Baptist Church on Sunday, May 9. I was informed later that several hundred were not able to get into the church because the church was full. Immediately after the Baptist service I attended the Divine Liturgy of the Patriarchal Cathedral and spoke for these opportunities to preach the Gospel publicly.

In addition to these public meetings, I had a very full schedule of private meetings with various church and government officials. Their hospitality was always very gracious, and in every one of these meetings I had an opportunity to share very openly and directly my convictions as a Christian. Included in my schedule were several meetings with members of the Central Committee of the Communist Party. These were unique opportunities, and although it would not be appropriate for me to reveal the details of some of these private discussions, I can say that I spoke frankly about some of the issues that are of great concern in the United States, such as religious toleration. I also listened to some of their concerns about the tensions between our two nations.

The conference provided a chauffeur driven car, as they did for a number of the religious leaders visiting Moscow for the conference. Many of the press wondered where I was going and whom I was seeing. I packed into those few days more than any five and a half days of my entire life. For example, I met for three hours with the Institute of American-Canadian Studies; I met for one and one-half hours with the leadership of the All-Union of Evangelical Christians-Baptists; I had dinner at the publishing department of the Orthodox Church; a two hour meeting with the Soviet Peace Committee; one and one-half hour meeting with the Council for Religious Affairs; a meeting with some of the Jewish leaders of Moscow including the Chief Rabbi; a private meeting with the Pentecostals in the United States Embassy; and an hour and one-half meeting with Mr. Ponomarev (who wears many hats). He met me as Chairman of the Foreign Relations Committee of the Supreme Soviet. He is also the Secretary of the Communist Party.

Now in various meetings and conferences like this—what would you think we talked about? We rarely ever discussed the weather! We discussed how to improve relations between our two countries; human rights; and on each occasion I had the opportunity to tell them at length about the religious situation in the United States, the growth of evangelicalism, and give my own Christian testimony. I never left one person but what I felt I had proclaimed the Gospel to him. There were many other meetings that I cannot enumerate.

I would not, of course, pretend in the least to be an expert on the Soviet Union after only five and one-half days in Moscow. I received many impressions that I will, I am sure, be reflecting upon for some time to come. However, my primary goal in going to the Soviet Union was to preach the Gospel, as I have done all over the world for many years. I had more opportunities than I ever expected to accomplish this goal.

Finally, I would like to say a few words about the issue of religious freedom in the Soviet Union, since some of my remarks on this subject have apparently been quoted out of context or misconstrued. It is well-known that the Soviet Union closely regulates all organizations and movements, including religion. There are certainly many who by the standards of our society do not have full freedom to express their criticisms of Soviet policy, and are considered lawbreakers if they do. I am well aware that there are prisoners of conscience in the Soviet Union including some who have said they have chosen to resist the law because of religious reasons. Among these are many Jews as well as Christians.

Again, I cannot claim to be an expert. However, my impressions of religious freedom were perhaps most accurately summed up by the headline in the May 14 issue of the International Herald-Tribune which said, "Graham says Russia offers some measure of church freedoms." The article then quotes from a story by John Burns of the New York Times which said: "The 63-year-old evangelist also called directly for religious freedom, by urging 'all governments to respect the rights of religious believers as outlined in the United Nations Universal Declaration of Human Rights.' Mr. Graham also quoted a section of the Helsinki agreement, signed in 1975 by 35 nations, including the Soviet Union, in which governments are obligated to respect freedom of religion and other beliefs. Later Tuesday, Mr. Graham took another action that invited Soviet displeasure when he visited six Soviet Pentecostalists who have been living in the U.S. Embassy basement since 1978." Thus, I have never said there was religious freedom in the Soviet Union.

Freedom is relative. I don't have freedom in the United States to go into a public school and preach the Gospel, nor is a student free in a public school to pray, or a teacher free to read the Bible publicly to the students. At the same time, we have a great degree of freedom for which I am grateful.

In China there are many restrictions and yet leaders in the United States seem to be applauded for going to China. Perhaps less than two hundred churches are open in a population of about one billion. In the Soviet Union there are an estimated 20,000 places of worship of various religions open and each year hundreds of permits are granted for new churches. Most authorities in the field say there are more practicing Christians than Marxists. However, there are clearly restrictions. The Soviet Union is not the United Kingdom or the United States of America—I know that. It is an atheistic society which does not encourage religion—there are many restrictions on every aspect of Soviet society including the church. This is part of their practice and policy. At present, churches have some measure of freedom to hold public worship services on church properties if they agree to abide by government regulations. In many places families are free to teach their children the Bible and to have prayer in their homes. According to most authorities, by the late 1930's churches had virtually ceased to exist as institutions. Compared with that period in Soviet history, we should be grateful for what has happened in allowing some measure of freedom since then. At the same time, I pray that this measure of freedom—limited as it may be by our standards—will increase.

I also had the opportunity to say some of the things I have been saying in New England at various universities about peace. I plainly stated publicly in an address (that will be printed in full here in the United States in "Christianity Today" in its forthcoming issue) that I am not a pacifist and that I am not for unilateral disarmament. However, I am for a negotiated verifiable treaty to ban all weapons of mass destruction and also greatly reduce conventional weapons. Although I intend to continue to speak out on the issue of peace from time to time, I stated publicly in Moscow that I do not intend to become a leader in the peace movement. I intend to continue my work as an evangelist in preaching the Gospel of Jesus Christ in various parts of the world.

Before going to the Soviet Union I prayed a great deal about it and felt that God had led me. Upon my return I feel even more certain that I was doing the will of God. It may be some time before the full results of my visit can be evaluated, but even the short-term results are gratifying.

Mr. HELMS. Mr. President, what precisely did Billy Graham say on May 11 at the conference in Moscow. The fine publication, Christianity Today, has published the text of Dr. Graham's address.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Graham's Mission to Moscow

(By Billy Graham)

(Following is the text of Billy Graham's address, "The Christian Faith and Peace in a Nuclear Age," which he gave in Moscow on May 11, at the world conference, "Religious Workers for Saving the Sacred Gift of Life from Nuclear Catastrophe.")

Your Holiness Patriarch Pimen, Your Eminence Metropolitan Filaret, honorable representatives of the government of the USSR, esteemed delegates, observers, guests, and friends.

I am deeply honored and humbled by the gracious invitation of His Holiness Pimen, patriarch of Moscow and all Russia, and of the International Preparatory Committee and its chairman, His Eminence Metropolitan Filaret, to give this summary address on "The Christian Faith and Peace in a Nuclear Age" to this important world gathering of religious workers, following the panel discussion this morning on "The Responsibility of Religious Workers in Preventing Nuclear Catastrophe."

I recognize that we come to this conference from many different backgrounds—culturally, politically, and religiously. But in spite of many fundamental differences between us, we come together in an atmosphere of mutual respect and concern because we share at least two things in common.

First, regardless of our background, we are all members of the human race, and the problem we are dealing with is one that affects every human on this planet, no matter what his cultural or political or religious views may be.

Second, although we have various religious differences, we share a basic conviction about the sacredness of human life and the need for spiritual answers to the problems that confront humanity.

I speak to you today as a follower of Jesus Christ. I shall never forget when Mr. U Thant of Burma departed as secretary general of the United Nations and a banquet was given in his honor. When the time came for him to speak, he stood and said simply, "Everything I have ever been, or am, or ever hope to be, I owe to Buddha." Not very many of those at the banquet shared his religious beliefs, but they all understood and accepted his commitment. They admired his humble and bold dedication to his religious faith.

I would make a similar statement to you as a Christian, declaring that everything I have ever been, or am, or ever hope to be in this life or the future life, I owe to Jesus Christ. I am sure my fellow Christians at this gathering would say the same. In these few minutes, therefore, I would like to present what I believe to be the Christian's responsibility for peace in a nuclear age as it is found in the Bible.

There is a farm in the central part of the United States. On that farm is a monument marking the exact point of the geographical center of the nation. It is a fixed reference point from which, I understand, all other geographical points in the nation can be measured. Each of us has his reference point, and as a Christian, the reference point by which I measure my life and thought is the Bible, the Holy Scriptures of the Old and New Testaments.

There is no doubt that the world is facing the most critical moment since the beginning of human history. We live in a time that is without parallel, because never before has humanity held in its hands such awesome weapons of mass destruction—weapons that could destroy life on this planet within a matter of hours. The quantum leap in technology has resulted in a quantum leap in our ability to destroy our entire planet. Every thinking man knows that the world is like a powder keg, and if we cannot soon find a way to eliminate this danger of a nuclear catastrophe then we may be writing the obituary of much of humanity. The whole human race sits under a nuclear Sword of Damocles, not knowing when someone will push the button or give the order that will destroy much of the planet.

The possibility of nuclear war, therefore, is not merely a political issue. We must understand, of course, that there are underlying causes and problems that must be removed before the nuclear arms issue will be completely solved, and these issues must be addressed also. These underlying causes have brought about serious political conflicts between nations, and this is not God's intention.

The nuclear arms race is primarily a moral and spiritual issue that must concern us all. I am convinced that political answers alone will not suffice, but that it is now time for us to urge the world to turn to spiritual solutions as well. We need a new breakthrough in how the problem of the nuclear arms race is approached. The vicious cycle of propaganda and counterpropaganda, charge and countercharge, mistrust and more mistrust among nations must somehow be broken. The unending and escalating cycle of relying on deterrents, greater deterrents, and supposedly ultimate deterrents should also be defused. Policies which constantly take nations to the brink of nuclear war must be rejected. We need to turn from our political and ideological conflicts on all sides and moderate them for the sake of sanctity of human life.

I agree with Albert Einstein, who said, "The unleashed power of the atom has changed everything except our way of thinking. We shall require a substantially new manner of thinking if mankind is to survive." Perhaps a conference like this, stressing the spiritual nature of man and the need for spiritual answers to the problems we face, can help bring about that new way of thinking.

Pope John Paul II has stated: "Our future on this planet, exposed as it is to nuclear annihilation, depends on one single factor: humanity must make a moral about-face." But the question that confronts us is, How can this happen? Technologically, man has far exceeded his moral ability to control the results of his technology. Man himself must be changed. The Bible teaches that this is possible through spiritual renewal. Jesus Christ taught that man can and must have a spiritual rebirth.

This leads me to some specific comments about a Christian understanding of peace in a nuclear age.

First, the Christian begins with the Bible's affirmation that life is sacred. "In the beginning God created the heavens and the earth," the Bible declares (Gen. 1:1). The world is not here by chance, nor is human life a biological accident. God brought it all into existence. Furthermore, man occupied a very special place in God's creation, because man alone was created in the image of God. He had within him the character of God himself, and one reason for this was so man and God could have fellowship with each other. Human life is sacred not only because God created it, but because he loves us and desires to have a personal relationship with us. Life is a sacred gift of God, and the taking of human life is an offense to God's original design of his creation. The individual person has dignity before God, and this is a fundamental fact that stresses his uniqueness and underlines his value within society.

Second, the Bible also teaches, however, that man, the creature, has turned his back on God, the Creator. Our first parents deliberately chose to rebel against God, and this has caused chaos in God's world ever since. This rebellion against God is what the Bible calls sin. It cuts man off from God, but it also cuts man off from other men and even brings disorder into his own individual life. Hate takes the place of love; greed takes the place of sharing; the lust for power and domination over others takes the place of service and humility. Instead of peace there is war. The first son of Adam and Eve committed the first act of violence by killing his brother.

We live in a world, therefore, that is distorted and warped by sin. We may not fully understand why God—who is all-powerful and loving—permits evil in this world. But whatever else we might say, it must be stressed that man, not God, is guilty of the evil in the world. It is man who bears the responsibility, because man was given the ability to make free moral choices, and he chose deliberately to disobey God. The world as it now exists is not the way God intended it to be.

From a biblical perspective, therefore, I am convinced that the basic issue that faces us today is not merely political, social, economic, or even moral or humanitarian in nature. The deepest problems of the human race are spiritual in nature. They are rooted in man's refusal to seek God's way for his life. The problem is the human heart, which God alone can change.

During World War II, Prof. Albert Einstein helped bring a German photographer to the United States. They became friends and the photographer took a number of pictures of Einstein. Einstein never liked photographers, and he never liked any picture of himself. But one day he looked into the camera and started talking. He spoke about his despair that his formula, $E=mC^2$, and his letter to President Roosevelt had made the atomic bomb possible, and his scientific research had resulted in the death of so many human beings. He grew silent. His eyes had a look of immense sadness. There was a question and a reproach in them.

At that very moment the cameraman released the shutter. Einstein looked up and the cameraman asked him: "So you don't believe that there will ever be peace?"

"No," he answered. "As long as there will be man, there will be wars."

The Bible says, "What causes fights and quarrels among you? Don't they come from your desires that battle within you? You want something but don't get it. You kill and covet, but you cannot have what you want. You quarrel and fight" (James 4:1-2, NIV). Jesus declared, "For from within, out of men's hearts, come evil thoughts . . . murder . . . greed, malice, deceit . . . arrogance and folly" (Mark 7:21-22).

I am convinced one of the most vivid and tragic signs of man's rebellion against God's order in our present generation is the possibility of a nuclear war. I include here the whole scope of modern weapons that are able to destroy life—conventional, biochemical, and nuclear weapons. I know that the issue of legitimate national defense is complex. I am not a pacifist, nor am I for unilateral disarmament. Police and military forces are unfortunately necessary as long as man's nature is the way it is. But the unchecked production of weapons of mass destruction by the nations of the world is a mindless fever which threatens to consume much of our world and destroy the sacred gift of life.

From a Christian perspective, therefore, the possibility of a nuclear war originates in the greed and covetousness of the human heart. The tendency toward sin is passed on from generation to generation. Therefore, Jesus predicted that there would be wars and rumors of wars till the end of the age. The psalmist said, "In sin did my mother conceive me." Thus, there is a tragic and terrible flaw in human nature that must be recognized and dealt with. That is why I have come to see that the nuclear arms race is not God's will, and that as a Christian I have a responsbility to do whatever I can to work for peace and against nuclear war.

I have said that life is sacred because God has made it that way, and that man has perverted the gift of life by rebelling against God's will. But does that mean peace is not possible? No! Peace could be possible if we would humble ourselves and learn again God's way of peace.

That brings me to a third point: the word "peace" is used in the Bible in three main ways—much different from the way peace is used in some places.

First, there is spiritual peace. This is peace between man and God.

Second, there is psychological peace, or peace within ourselves.

Third, there is relational peace, or peace among men.

Sin, the Bible says, has destroyed or seriously affected all three of these dimensions of peace. When man was created he was at peace with God, with himself, and with his fellow human. But when he rebelled against God, his fellowship with God was broken. He was no longer at peace within himself, and he was no longer at peace with others.

Can these dimensions of peace ever be restored? The Bible says "Yes." It tells us man alone cannot do what is necessary to heal the brokenness in his relationships—but God can, and has.

The Bible teaches that Jesus Christ was God's unique Son, sent into the world to take away our sins by his death on the cross, therefore making it possible for us to be at peace—at peace with God, at peace within ourselves, and at peace with each other. That is why Jesus Christ is central to the Christian faith. By his resurrection from the dead, Christ showed once for all that God is for life, not death. The Orthodox tradition and its Divine Liturgy especially make central this jubilant and glorious event. The Bible states, "For the wages of sin is death; but the gift of God is eternal life through Jesus Christ our Lord" (Rom. 6:23). The ultimate sign of man's alienation is death; the ultimate sign of God's reconciling love is life.

Throughout all Christendom you will notice there is one symbol common to all believers—the cross. We believe that it was on the cross that the possibility of lasting peace in all of its dimensions has been made. The Bible says about Christ that "God was pleased to have all his fullness dwell in him, and through him to reconcile to himself all things . . . by making peace through his blood, shed on the cross" (Col. 1:19-20). The Bible again says, "For he himself is our peace, who has made the two one and has destroyed the barrier, the dividing wall of hostility . . . He came and preached peace to you who were far away and peace to those who were near" (Eph. 2:14, 17).

The Christian looks forward to the time when peace will reign over all creation. Christians all over the world pray the prayer Jesus taught his disciples: "Thy kingdom come. Thy will be done in earth, as it is in heaven" (Matt. 6:10). Only then will the spiritual problem of the human race be fully solved. Both the Bible and the Christian creeds teach that there will be a universal judgment. Christ will come again, in the words of the ancient Apostles' Creed, "to judge the quick and the dead." But then the kingdom of God will be established, and God will intervene to make all things new. That is our great hope for the future.

Several weeks ago I was at the headquarters of the United Nations. On exhibit there is a magnificent and spectacular statue, which was a gift to the United Nations from the Soviet Union. It shows a man with a hammer, forging a plowshare from a sword, and it is an illustration of the biblical hope found in the words of the prophet Isaiah: "They will beat their swords into plowshares and their spears into pruning hooks. Nation will not take up sword against nation, nor will they train for war anymore" (Isa. 2:4). This ringing hope was also the basis of Patriarch Pimen's July 1981 appeal on nuclear disarmament, which led to this conference.

But in the meantime, God is already at work. The kingdom of God is not only a future hope but a present reality. Wherever men and women turn to God in repentance and faith, and then seek to do his will on earth as it is done in heaven, there the kingdom of God is seen. And it is in obedience to Jesus Christ, who is called in the Bible the Prince of Peace, that Christians are to cooperate with all who honestly work for peace in our world.

When Christ was born, the Bible tells us, the angels sang, "Glory to god in the highest, and on earth peace to men" (Luke 2:14). Jesus declared, "Blessed are the peacemakers, for they will be called the sons of God" (Matt. 5:9). The New Testament urges Christians, "Live in harmony with one another. . . . If it is possible, as far as it depends on you, live at peace with everyone. Do not take revenge" (Rom. 12:16, 18-19). We are to pray for peace, and we—both individually and collectively—are to work for peace in whatever ways God would open up for each of us. Christ came to bring peace, and we are to proclaim the possibility of peace, which the Christian believes is found in Christ.

But some people ask pessimistically, "Can anything really be done for international peace? Is it not already too late?" I would suggest that our responsibility in the world is clear no matter what conditions might be or how late the hour might seem. We must not join with those who stand by and wring their hands, saying all is hopeless. I believe that in spite of the chaos threatening our world there can be hope for our generation and generations to come. We must be realists, but we must also be optimists. When ancient Nineveh was on the verge of destruction, it was saved when the people repented and turned to God.

As a Christian, I have hope for several reasons. For one thing, as a Christian I believe that God is the Lord of all history. He is sovereign and he is able to intervene in human affairs to accomplish his saving and reconciling purposes, no matter how difficult things may seem. We do not live in a world of blind chance. My confidence is in the living God who remains faithful to his purposes and will ultimately accomplish his will for this world which he has created.

I also have hope, however, because I believe it is still possible for us to turn to God and grapple with many of our problems and begin to solve them—as long as there are responsible leaders in the international arena from every area of life who have the dedication and the vision to provide moral and spiritual leadership for our generation. Yes, man often fails, and agreements that are solemnly made in one generation are often broken in the next generation. But that must not lead us to despair.

One of the horrors of World War I was the development and use of deadly poisonous gases that killed and maimed vast numbers of people. Afterward, the nations of the world agreed to ban such weapons, and during World War II the warring parties refrained from using those weapons of mass destruction on the battlefield. Thus it is possible to reach international understandings. And I believe it is the special responsibility of religious leaders who see life as sacred to work toward an international negotiated treaty to vastly reduce or ban today's weapons of mass destruction.

But what specifically can we do? What are the steps people who consider life as sacred can take to be peacemakers in our world, especially those of us who are gathered here today?

It is not my intention today to present a comprehensive plan or procedure for disarmament, for I do not consider myself competent to deal with such a highly technical matter. I also know that any specific remarks on this which I or anyone else here might make could easily be misinterpreted as being biased or political in nature. Our purpose is to rise above narrow national interests and give all of humanity a spiritual vision of the way to peace. All too often religious leaders have accepted war without question as a fact of life by which international disputes are too often settled. In the present nuclear age, however, we must not fall into this psychological trap.

With this in mind, let me suggest five steps that I believe we can and must take if we are to do our part in saving the sacred gift of life from nuclear catastrophe.

1. Let us call the nations and leaders of our world to repentance. In addition to personal repentance, which we all need if we are to be accepted by God, we need to repent as nations and peoples over our past failures—the failure to accept each other, the failure to be concerned about the needs of the poor and starving of the world, the failure to place top priority on peace instead of war, the failure to restrain the international arms race. No nation, large or small, is exempt from blame for the present state of international affairs.

2. Let us call the nations and leaders of our world to a new and determined commitment to peace and justice. For the last several decades the world has witnessed an unprecedented arms race. Would it not be wonderful to have a new race among the nations of the world—a disarmament race—one which is equal on both sides, verifiable, and leads to at least a few generations of peace.

As a Christian, I believe that lasting peace will only come when the kingdom of God prevails. However, let the leaders of our world face the fact that the overwhelming desire of the peoples of the earth is for peace, not war. If a poll were taken of the peoples of the world today you would find, I am convinced, that over 95 percent of the peoples of the world would vote for peace in a nuclear age. Let us urge the leaders of the world to act in accordance with the wishes of the peoples of the world and set nuclear disarmament as the top priority for the rest of this century.

3. Let us call the nations and the leaders of the nations to take specific steps that will lead toward peace. Talk about peace must never become a substitute for actions that will lead to peace. In this connection I would urge three things.

First, I would urge the leaders of the nations, especially the major powers, to declare a moratorium on hostile rhetoric. Peace does not grow in a climate of mistrust in which each side to a greater and greater degree is constantly accusing the other of false motives and hidden actions. Yes, there are fundamental differences of ideology separating our world, and it is unrealistic to assume that these ideologies will be surrendered anytime soon by those who hold them. But the cause of peace is not served when nations refuse to listen to each other's views and to take seriously what is being expressed by the other side. I am encouraged that recently there has been some hint of a lessening in that rhetoric that can only lead to greater suspicion and heightened tensions.

Second, I would urge the leaders of the world to take specific steps to increase trust and understanding among nations and peoples. Often we are suspicious of each other because we do not know each other. Expanded cultural exchanges, student exchanges, educational exchanges, trade relations, tourist travel—all of these can help us get to know one another as people and lead over the years to greater understanding and trust. I include, as a major part of this, opportunities for religious contacts such as we are sharing in the conference. I also think we need to reaffirm our commitment to mutual respect among religions, such as we are practicing here.

In connection with this, we should urge all governments to respect the rights of religious believers as outlined in the United Nations Universal Declaration of Human Rights. We must hope that some day all nations (as all those who signed the Final Act of Helsinki declared) "will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience" (Final Act of Helsinki, section VII).

I also feel it is important for the leaders of the world to get to know one another personally through personal contact. Is it too much to hope for a summit meeting in which the leaders of the major powers do not come together just to sign a prepared document, but simply to get to know one another as human beings?

Third, I would urge the leaders of the world to take specific steps for meaningful negotiations leading to major arms reductions. We should pray for the success of every effort that is made in this direction. We should encourage every initiative that honestly seeks mutual, balanced, verifiable arms reductions among nations. But more than that, we should set before the world the ultimate goal of eliminating all nuclear and biochemical weapons of mass destruction. Several years ago, when I saw the apparent futility of so many negotiations and conferences about disarmament, I came out for what I have called SALT 10—the complete destruction by all nations of the world of all atomic bombs, hydrogen bombs, biochemical weapons, laser weapons, and all other weapons of mass destruction. I know this may be impossible to achieve, but it can be our ultimate goal.

4. Let us call the peoples of the world to prayer. If the peoples of the world would turn to God and seek his will in prayer, it would have a tremendous impact on the issues that face us. As God promised through the prophet Jeremiah, "Call unto me, and I will answer thee, and shew thee great and mighty things, which thou knowest not" (Jer. 33:3).

5. Finally, let us who are assembled here today rededicate ourselves personally to the task of being peacemakers in God's world. As we call upon others to a determined commitment to peace, let us also rededicate ourselves to that same commitment. As we call upon others to take specific steps to work for peace, let us also decide what we can do within our own nations to work for peace. As we call upon others to pray, let us also pray. Let the leaders of our own nations, and the peoples of our own nations, hear our voices as we speak for peace in our world.

I would like to close with this observation. Last Sunday morning His Holiness Patriarch Pimen graciously invited me to attend the Divine Liturgy in the Orthodox Cathedral and say words of fraternal greeting to the congregation and proclaim the gospel. I could not help but recall in my remarks that the date was May 9, the thirty-seventh anniversary of the unconditional surrender in Berlin of the forces of nazism to the Soviet Union and its allies, bringing World War II to an end. I recalled the Soviet Union, more than any other nation in that terrible conflict, experienced death and incredible devastation as a result of that horrible war. I also noted that during the war the great peoples of the Soviet Union and the United States of America were allies, fighting side by side against the common enemy of nazism. We did not agree at that time in our basic ideology, but we united as allies because we faced a common enemy—an enemy so great that our differences faded.

Today, I would suggest we—not only the two great superpowers, the United States and the Soviet Union, but every nation on earth—again face a common enemy. Our common enemy today is the threat of impending nuclear destruction. Is it too much to hope and pray that we can unite in a dedicated alliance against this enemy which threatens to destroy us? May all of us, whether we are from large nations or small nations, do all we can to remove this deadly blight from our midst and save the sacred gift of life from nuclear catastrophe.

Mr. HELMS. Mr. President, again I turn to the publication, Christianity Today, this time for a commentary on Billy Graham's visit to Moscow. I invite Senators' attention to it. It is entitled, "Graham in Moscow: What Did He Really Say?" I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was order to be printed in the RECORD, AS FOLLOWS:

GRAHAM IN MOSCOW: WHAT DID HE REALLY SAY?

What many hoped would be the climax to the life of an evangelist devoted to preaching the gospel has threatened instead to end in tragic rejection by friend and foe alike. Scarcely had Billy Graham arrived in Moscow last month when the quiet warnings of some people rapidly crescendoed to a roar of disapproval. Never before in all his career has the evangelist faced such condemnation from the American press and from evangelical leaders.

Of course, the jury is not yet in with the final word. But in the continuing furor, two quite different questions must be examined: (1) Should Graham have gone to Moscow; and (2) Did he betray his own cause by things he said or omitted saying while there?

These two questions are intertwined. If making this trip of necesssity required such a betrayal, then the answer to the first question is: No, Graham should not have gone.

The evidence, however, does not warrant linking betrayal with his going. Many religious leaders—members of the National Council of Churches, extreme theological liberals, mainline liberals, Southern Baptists (President Bailey Smith, for example), independents, and parachurch leaders (such as Bill Bright)—have all at one time or another visited the Soviet Union. Many Church leaders attended the same conference on nuclear war.

In the past, no one has objected to others undertaking such trips. We must conclude, therefore, that there was nothing inherently wrong or unwise about Billy Graham's visit to Moscow. Given Graham's goals, his priorities, and the promises made to him, we are convinced he chose rightly. Any evangelical with similar goals, priorities, and promises would have—and should have—made the same decision.

But what were his goals? And what assurances did he secure from the Soviets before he went?

First of all, Graham did not go blindly or naively. He realized he would be used. In one interview, he said: "I knew there were risks involved in this mission. I knew I risked being misunderstood and even exploited, but I considered the risk worth taking."

GRAHAM'S GOALS

1. He wanted to preach the gospel publicly at the nuclear conference, at the Orthodox cathedral, at the Baptist church, and privately to Soviet political officials and church leaders.

This he was able to accomplish. In each of these places, Graham presented the claims of Christ to many who had never before heard them and might well never hear again.

2. He wished to plead the case for religious freedom in private meetings with high Soviet officials.

Graham was assured that he would have oportunity to plead the case for the "Siberian Six," the unregistered evangelicals, the registered evangelical churches, and for freedom of religion in general. This request was honored. He did in fact plead their case in private, and the results are yet to be seen. While direct confrontation has sometimes been effective, it is not the only way to move the Soviets to action. It would seem the act of charity and of wisdom to allow Billy Graham to attempt nonconfrontational, behind-the-scenes diplomacy in an effort to win some relief for the people of Russia who are being persecuted for their religions convictions and practices.

Before he finally decided to make the trip, Graham consulted many world leaders: individuals who are highly knowledgeable about Soviet affairs—including such people as Henry Kissinger, the Pope, scholars, diplomats, and many evangelicals. Their advice, overwhelmingly, was than quiet, nonconfrontational diplomacy would be far more likely to secure concessions for the persecuted in that land that direct confrontation and mass-media exposure.

3. He wanted to warn of the tragic consequences of nuclear buildup and the armament race.

More and more, Graham has become convinced of the horror of nuclear warfare. He sincerely hoped to do something dramatic to bring the world to its senses so that tens of millions—perhaps hundreds of millions—will not be destroyed in a nuclear holocaust. He is not a pacifist. He is not even a nuclear pacifist. He did not argue for any unilateral renunciation of nuclear weapons. Rather, he warned of dire consequences to come if the nations continue their current nuclear buildup and prolong indefinitely the arms race. He called for a negotiated reduction and eventual elimination of nuclear armaments and other weapons of mass destruction. Such disarmament would have to be by mutual agreement, and carried out with adequate means of verification. It is a sane, feasible, and very necessary approach to the persent arms race. It would protect the innocent, yet it would hold out possibilities for great relief to our entire planet, and especially the tax-burdened peoples of Russia, Western Europe, and the United States.

4. He hoped to be permitted eventually to hold preaching missions in large cities throughout the Soviet Union.

Right from the first, this goal did not loom as large for Graham as it did in the public news media. Yet, he is convinced that Soviet leaders are open to the possibility of such a mission. He is still convinced that there is at least a fifty-fifty chance that he will be able to do this. Though Graham is aware that there would be great risk in such an evangelistic tour, he also knows that so far his public and private messages have not been censored. He also knows that many Soviet religious leaders wish such a mission.

Certainly these are worthy goals. No fair-minded person—let alone any evangelical Christian—could object to them.

THE COST TO GRAHAM

But what price did Billy Graham pay to achieve his goals? Was the cost too great, as his critics claim? To gain his ends, did he have to sell his soul? Or, more accurately, did he have to compromise his own integrity as a Christian, as a man who loves justice and freedom, as one who prizes religious freedom above life itself, and who wishes to be a loyal American? What was the price tag for Graham?

He was free to preach his gospel message; he did not have to deny his own precious conviction of freedom. Undoubtedly it was assumed by both sides that he would not make open and public denunciations of Soviet policies, including its repression of political and religious freedoms.

But Graham was not silent about political and religious freedom. In private, he pled the case for the Siberian Six and for the 150 imprisoned pastors. In his public address, he boldly called upon the nations of the world to uphold rigorously the Helsinki agreements. He pled especially for full freedom of religious worship and practice, for without freedom and justice there will be no peace: genuine justice is the foundation for peace. (See the full text of Graham's speech, beginning on page 20.) His one concession on this occasion was not to single out specially, and bluntly condemn, the Soviet Union for its lack of religious freedom.

All of this Graham clearly understood. Yet he thought he could accomplish more through quiet diplomacy and public preaching of the gospel than by openly denouncing the Soviet government for lack of religious freedom. Was that price too great? Billy Graham thought not. We agree. But the decision of others will depend on the relative values each assigns, on the one hand, to preaching the gospel, to quiet behind-the-scenes diplomacy on behalf of freedom, and to the necessity of warning against nuclear war and the armament race, and on the other hand, to the opportunity to speak out publicly in condemnation of Soviet violations of political and religious freedom.

It should not surprise us that many people disagreed with Graham. One leading newsman, who reacted strongly against Graham, denounced him bitterly: "Graham was a dupe—a fool. Mouthing the gospel to Soviet leadership and privately urging them to act contrary to their basic convictions was an utter waste of time. Of course, he could preach his gospel and tell them in private to relax their restrictions against religion. But do you think Graham will convert those Communists or move them to lower their tyrannic grip? Of course not. Graham was a fool to think so. He was duped by them to fit into their propaganda and their Marxist program for nothing in return."

That criticism sums it all up. But Billy Graham believes that God can and does use the frail human preaching of the gospel to transform people. It is not his business to preach the gospel only to likely candidates, but rather to every human creature. Moreover, Graham manages his life and ministry by the long look. The gospel is a time bomb. Working quietly through it, the Spirit of God can overturn nations and civilizations. The first Chiristians rarely mentioned slavery, the rights of women, the gladiatorial shows, and direct governmental involvement in moral rottenness. In time, though, the dynamite of the gospel penetrated the Roman empire and its tyranny.

WAS GRAHAM RIGHT?

The question of whether Graham did the right thing in going to Moscow depends on how highly a person values the proclamation and the power of the gospel. Only time and eternity will reveal the full answer. But at this point we are not prepared to condemn him.

The second and equally crucial question concerns what Graham said in Moscow. Did he, on the give-and-take with the press, inadvertently and foolishly betray his own cause and the cause of freedom? In short, did he play his hand properly and adroitly at every point during his six days in Russia?

Billy Graham would be the last person to claim infallibility for himself. Reflecting upon the outcry that greeted him on his return, he commented: "I am an evangelist—not an expert in church-state relations in the Soviet Union. I regret that some of the statements I made regarding my visit to the Soviet Union were misconstrued and misinterpreted by the media. I care deeply about the plight and suffering of believers everywhere in the world where religious freedoms are restricted, including the Soviet Union. I sincerely regret any public statements which I made that might seem to indicate otherwise."

But we insist that the record be set straight. By taking Graham's words out of the context in which they were spoken and placing them in an alien context of their own concerns, some news people, consciously or even unconsciously, falsified many of Graham's statements. They thus wrongly pictured him as betraying his own deepest convictions.

For example, Graham never advocated a U.S. retreat before Russian aggression. He warned of the awful consequences of the nuclear arms race and called for mutual, negotiated, verifiable disarmament. Likewise he did not ignore publicly the issue of political, social, and religious freedom. Rather, in a most pointed manner, and in a most public way, he called the nations of the world to justice and freedom. He did so in a manner that all understood to be a rebuke of Soviet failures in this regard.

He got no applause when he made this point at the Soviet congress. He was met with only a stony silence. Nor did he declare in answer to direct questions that Russia is a land of religious freedom. He conceded instead—something that implied the opposite—that there was more freedom there than he had thought before going, and more than in today's China, though it is not like the United States. And it is hardly an affirmation of approval to state that a political leader is not so bad as Hitler.

Neither did Graham say there is more religious freedom in Russia than in Great Britain. In a context not of religious freedom but of church-state structures, he pointed out that Britain, unlike Russia or the United States, has a state church of which the queen is the titular head. When someone called to his attention how his words had been interpreted, his response was: "Ridiculous! There is no comparison between the religious freedom in Britain and that in Soviet Russia."

One of the most disturbing comments recorded in the news was Graham's statement, "I have seen no religious persecution during my stay in Russia." Out of context this sounded like a blanket endorsement of religious freedom in Russia. Yet Graham's answer was a reply to a very explicit question: "Have you personally witnessed any religious persecution while you have been here?" Graham later expressed deep regret that he had not cited the Siberian Six. He added: "I recognize that there is a difference between religious fervor, which is great in the Soviet Union, and religious freedom, which is severely restricted. The Soviet Union is an officially atheistic state, and many believers pay a price to follow Christ."

The same can be said for his point that a Christian ought to work hard, be a better citizen, and obey his government. Scripture says all of this. But Graham himself has acknowledged that if he had the chance to do it over again, he would not have referred to these biblical truths in a context where they were liable to be interpreted far beyond what the Scripture passages really mean.

All of us can remember times when we should have said more about something, or less, or even differently. But we who sit on the sidelines in this classic struggle should be the last to condemn Billy Graham for lack of foresight in offhand comments to one or more newsmen. We should judge him on the basis of his stated goals and the main thrust of his formal messages. An ocean voyage does not make a missionary, and we should not expect a trip to Moscow to make an instant diplomat. After all, Billy Graham is an evangelist.

An even more obvious lesson to be learned from the news coverage of Graham's trip to Moscow is that evangelicals dare not trust the secular news media's coverage of religious news (see News, pp. 46-48, for further illustrations of the dilemma this poses). On the basis of initial reports, many evangelicals were dismayed at what they believed Graham said. Others became angry and violently attacked Graham for betraying the persecuted people of Russia. Among evangelical leaders, Jerry Falwell and Charles Colson stood out for their temperate response. Perhaps their own experiences with a press not careful to get things straight have taught them to be more understanding.

Finally, those of us who believe the gospel of Jesus Christ is the dynamite of God, able to blast away sin and the sinful structures of an unjust society, may indeed regret any slips and the unfortunate infelicities of unplanned spontaneous comments. But we rejoice at the opportunity to preach the gospel—actual and potential—with the hope that the power of the gospel can change the hearts of men, as well as the evil structures of even a Communist society.

Mr. HELMS. Mr. President, on a number of occasions I have observed various attempts to discredit Billy Graham and his remarkable ministry. I confess to a prejudice in favor of my friend, but I am obliged to say that I have never known anyone more dedicated, or anyone with greater intellectual honesty, than Billy Graham.

It appears to be fashionable these days to try to downgrade effective evangelists. Even clergymen have been known to join in what seems to me to be unconscionable attacks on evangelists who are taking the Word of God to millions.

I have found incredible some of the epithets hurled at Dr. Jerry Falwell, for example. Yet who had done more than Dr. Falwell. His critics should go to Lynchburg, Va., and witness five separate services on Sunday when Dr. Falwell's church sanctuary is packed. They should walk around Liberty Bible College. They should examine the countless projects that Dr. Falwell is successfully pushing.

I think also of my friend, Pat Robertson, who is such a remarkably effective evangelist. And then consider the hundreds of thousands to whom Billy Graham regularly preaches—in stadiums, in auditoriums, and by television.

Whatever mistakes they may make—and, after all, they are human—history will record that they have made the most of every opportunity to reach the hearts and minds of men and women, and to lead literally millions to salvation. They deserve better than to be reviled and misrepresented. They deserve our prayers of support.

LINKAGES EDUCATION/EMPLOYMENT EXPLORATION PROGRAM

Mr. DIXON. Mr. President, today I would like to take note of an exceptional project in my home State of Illinois. Known as the "Linkages Education/Employment Exploration Program," or LEFEP, it is designed to promote educational and training services for young people in Madison County, Ill. The program establishes goals for its participants that include educational improvement and familiarization with the employment sector on a personal basis. It is conducted with the cooperation of business, industry, organized labor, and government and currently includes 89 employers.

Mr. President, apparently this approach has much to recommend it. It has achieved mean gains of 1.4 year in reading, 1.2 year in mathematics, and an attendence rate of 94 percent. One-third of the participants elected to return to school on either a part-time or full-time basis when the program concluded and the other two-thirds were hired on either a part-time or full-time basis after their training period.

The project has been funded 100 percent by the Federal Government as 1 of 10 nationwide Vocational Education/CETA Linkage pilot projects to determine the most effective method of educating and training our disadvantaged youth. Locally administered, it has won national recognition in its first year and, now in its second, it is being expanded as employers prove to be competent and effective instructors.

I believe special recognition is due the project director, Shirley Balsingame, and staff of the State board of education, department of adult, vocational, and technical education, who have been cited as largely responsible for the program's success. Their time and dedication have surely brightened the future of many young people as well as the local community.

Mr. President, I am proud that my State can boast of such innovative projects and enterprising individuals and hope that this program serves as an example to all of us as we seek to formulate policies addressing this Nation's educational and occupational problems.

The PRESIDING OFFICER. Is there further morning business?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to 1 p.m. under the same terms and conditions as heretofore.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, at 1 p.m., the Chair then will lay before the Senate the debt limit bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I anticipate that, at 1 p.m., I will call up an amendment to that bill, and following on after that I would expect there will be an abortion amendment offered.

Mr. President, I suggest the absence of a quorum,.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LONG-TERM, MONITORED, RETRIEVABLE STORAGE OF NUCLEAR WASTE

Mr. JACKSON. Mr. President. The National Nuclear Waste Policy Act, S. 1662, which passed the Senate by a vote of 69-9 in April of this year, now appears to have a good chance to become a public law in this session of Congress. On August 4, the House Committee on Energy and Commerce ordered a companion bill reported to the full House, and the day when the House could act on this matter may almost be in sight. I congratulate the House Chairmen—JOHN DINGELL, MO UDALL, DON FUQUA and MEL PRICE—on the progress made so far.

I am particularly pleased that both the Dingell and Udall versions of the nuclear waste policy bill contain monitored, retrievable storage (MRS) provisions very similar to those sponsored by Senator JOHNSTON in the Senate. These provisions require the President to develop a proposal giving the United States an option to safely isolate spent nuclear fuel and highlevel waste over the long-term in facilities which permit continuous monitoring and ready retrieval of the fuel or waste. Monitored retrievable storage has significant advantages in terms of

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scientific simplicity and clear technical feasibility and in terms of basic fairness and political acceptability. With a viable MRS option as a worthwhile alternative, we can afford a careful and thorough search for suitable geologic sites for irreversible disposal of nuclear wastes.

The case for the MRS was made far more eloquently than I ever could make it by the chairman of the California Energy Commission, Gene Varanini, in a recent issue of the Radioactive Exchange. The July 31 Exchange prints a very interesting interview with commissioner Varanini, who is a recognized expert in matters of nuclear waste policy. I ask unanimous consent that the full text of this interview be printed in the RECORD for the information of my colleagues and the public.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

Gene Varanini, Commissioner, California Energy Commission—On High Level Waste

(Commissioner Varanini has been with the California Energy Resources Conservation and Development Commission since its establishment in 1976. As a consultant with the legislature, he played a significant role in developing the California Power Plant siting law that created the Commission. He has served as a consultant to the Swedish and Australian governments on energy issues and nuclear waste management. He is the author of several notable articles in high level waste management and has been a participant in several major international and domestic conferences. This is the first of two installments.)

Commissioner Varanini, as a state official, what is your view of federal versus state role in the siting of high level waste repositories? Do you endorse the concept of state consultation concurrence included in the current Senate or House bills?

Well, my basic feeling is that the problem isn't really a problem between the state and the federal government and the need to protect the state interest through either a veto or congressional concurrence of veto. The real problem is to establish a viable technology. In my opinion, the only real reason to need a two house override over a state' objection is to overcome the lack of confidence in what the DOE is doing.

The states are taking this political approach supporting the two house override, or stopping DOE activity within their boundaries, because that is the route that is most readily open to them.

In some states these actions have been taken strictly for parochial political reasons. However, in most cases, if you examine the facts, you will find that the fear among state officials about DOE's HLW program is supported by a correct analysis that the program lacks the necessary technological base on which to proceed to develop a deep geological repository. This fear prompts the states to take preemptive action to keep the federal government as far off their turf as possible, lest they become victims of some sort of compromise with the federal government.

In a way, the states that have taken some of the more outrageous political moves against the federal government have perceived the problem and the way to address it better than many who have attempted to deal with the problem on technical grounds.

You are saying then, that the states' political action regarding HLW, sometimes taken for parochial reasons, has successfully stopped actions that should not have been taken anyway, because of a lack of a sound technical and scientific basis . . .

Yes, that is exactly what is happening. But that is the typical type of reaction in any siting process. At the Energy Commission, we have been involved in numerous siting processes, and when opponent groups felt that proposals were technically insufficient, they would use any tactics that were available. The easiest tactic, and the one that has the most profound effect, is to establish some form of political rights. The states are using this tactic now, calling on their constitutionally guaranteed "States' Rights" to protect them from having a high level waste site in their boundaries, without ever getting into some intermediary or mediation type process.

Do you feel that states are justified in opposing DOE activities because the program lacks the necessary technical and scientific basis?

Yes.

In your view, at what scientific or technical level is the U.S. program for dealing with high level wastes? Are we at the point where site specific studies should be undertaken?

No, we are not far enough along to look at specific sites for ultimate disposal of high level wastes. I think we are only in the stages of understanding the science, and we have confused the difference between understanding the science and the engineering technology. In many cases we have violated the first principle of the scientific method. We have jumped, basically, from science to engineering. I think that there is a belief, that no matter what type of environment you find, that a geological repository can be engineered around any of the uncertainties through a multiple barrier system. That would be the way to go if time were of the absolute essence, and it was necessary to rush into this for some fundamental reason where time became more important than doing it right. However, I don't think we are in that case at all. The decision to move ahead is a political one that is based essentially on the belief that if we don't take some cosmetic action to deal with the back end of the fuel cycle, that there will be political retribution and light water reactors will be less robust in the 1990's.

So you would like to see the DOE take a step or two back?

Yes, in my opinion what I've been saying for the past three years is that we should be into long-term storage and in the meantime the concomitant policy would be to establish a thorough fundamental and very scientifically correct process to check out geological disposal and to do it right. And doing it right means understanding the fundamental science, understanding the variety of risks, no matter how small, and overcoming them or mitigating these risks through an engineering technique to the extent that such methodologies exist.

At this stage of development then, you personally favor the monitored retrievable storage approach being advocated by Senator Bennett Johnston and adopted by the British, rather than proceeding immediately toward deep geological disposal?

Yes, I think Senator Johnston has the right approach. His continued push to have the government pursue this route is the type of leadership we need to deal with this problem.

Basically, in the United States we know how to store high level waste. We know how to watch spent fuel and other residuals from the nuclear program very well. If you take the position that you should do what you know how to do, then we should be into a long-term storage program. If we go ahead and store the fuel, we can retrieve it for the value of the spent fuel. Then what we need to do is set up a scientific program, one that honors the scientific method and proceed to solving the scientific uncertainties and lack of fundamental understanding that are imbedded in using the geological options for waste management.

The Swedes have done exactly that and have kept the faith of the Swedish people.

I would add that another element that is not addressed in the arguments regarding monitored retrievable storage facilities is the need to have facilities now to take back and store foreign fuel.

I think we ought to take foreign spent fuel back and get control or custody in that form. I think that it would be a very positive antiproliferation policy and to do this we probably would need a separate facility.

Could you outline in a step by step approach how you would prefer the U.S. high level waste program to proceed?

I think a step by step approach is predicated on two factors: one, doing what we know how to do and, two, making the fundamental commitment to understand the scientifically correct way, and the competitive technologies that are available for the ultimate disposition of high level waste. This means that we probably have to have a retrievable storage system that is capable of being monitored for a significant period of time.

How long, a hundred years?

Well maybe, but the number doesn't mean much to me, fifty to a hundred years is a very long time. Something in that range is probably appropriate. I think we reserve the fuel value in the spent fuel that can be used economically in a recycling type of processing system. Finally we can conduct scientific research, not engineering demonstrations, but scientific research both at the bench level and at full scale that would allow us to fully understand the science behind geologic waste repositories and the nature and extent of the engineering barrier systems.

I think that the geologic high level waste process can be validated or invalidated without having to have a full scale operating repository, and as I said previously, the rush to full scale operating repository is a cosmetic attempt to close the nuclear fuel cycle and to decrease the emotional opposition one finds in many parts of the country and many parts of society to additional commitments to light water reactors.

What about the intergovernmental decision process—the state versus federal role with regard to siting a high level repository? Should this be viewed as a high priority as it is now by the Governors and the Congress, in developing national high level waste programs?

No, I believe that escalating the deliberations of a high level waste disposal strategy to a political level at this point in time will only cause problems down the road. In my view the attention paid to this issue now is a latent drive to use the political process to defer bad science. I think it is simply too easy to use the political process. It is too readily available.

As a state regulator, would you support a state veto over a site recommendation, as part of a final decision process?

I think that an absolute state veto is inconsistent with the whole principle of federalism and it is inconsistent with good science policy. The process should be well defined enough in the bill that the last resort for the state, in terms of the violation of due process of the statutory requirements of the law, should be in the courts.

How would you envision setting up the scientific and technical decisionmaking process that you are advocating?

First I think there needs to be a series of skeptical peer reviews conducted very early on. Committees and various peer processes could be designed to take a look at the scientific and technological proposals. The participants, the scientist and engineers, need to be individuals that don't derive their income either directly or indirectly from the nuclear industry. I also think there has to be an attempt to conduct a virtual scientific mediation process where technical experts with identified biases and identified points of view are brought into the process with the proper mix to assure collective objectivity rather than assuming that any given scientist is by definition objective. You then establish a series of boards, committees funded by the Federal Government, to be involved in this process.

For example, the Swedes went out and brought in diverse views into their process, and actually structured pro and con papers. Scientists with stated points of view were involved. Their work was reviewed by both the scientific community and the policy community. Review committees were established to play the role of skeptics, to question the whole exercise.

Can you put a time line on such a process? Would it take ten years, five years?

I think you could complete this type of process in a fairly short, fairly nominal time frame. As I recall, the Swedes identified the uncertainties, and identified what types of science, and the types of engineering that would be necessary to meet the whole set of uncertainties. Then they identified and agreed upon a series of review stages and the sort of documents that would be needed very early on. This might take several years in order to document the work. However, at one time during my work with the Swedes, we ran an outlined accelerated process to test and confirm theoretical understanding of all the elements of a nuclear waste geological repository system, and found that it could be done very quickly, in about three years.

From that point, then you proceed to specific work, like data compilation, and then through the sort of planning stages that are identified with the national government.

The critical element in undertaking this kind of effort in a reasonable and effective manner is making the decision to keep the waste in long term supervised storage. Once this decision is made, you don't have the pure hysteria that you are going to pile up spent fuel and you are going to shut down reactors.

AIRBAGS OR AUTOMATICALLY CLOSING SEATBELTS

Mr. GORTON. Mr. President, the U.S. court of appeals last week ordered the National Highway Traffic Safety Administration to reinstate a rule it revoked last year requiring so-called passive restraints in all automobiles. The court's order effectively requires all cars manufactured after September 1983 to be equipped with airbags or automatically closing seatbelts.

I am pleased that the court has seen through the faulty reasoning on which NHTSA based its decision to repeal this long overdue safety measure. I am troubled, however, by indications that NHTSA will continue to battle the implementation of this rule.

Earlier this summer, Robert F. McDermott, the chief executive officer of United Services Automobile Association (USAA Group), addressed the San Antonio, Tex., Rotary Club on the subject of passive restraint technology. His speech articulates the importance of this technology to saving lives on America's highways. I ask unanimous consent that Mr. McDermott's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ROBERT F. MCDERMOTT

THE SAFE CAR: IF YOU DON'T ASK FOR IT, YOU MAY BE ASKING FOR IT

I know many of you will say that people cause traffic accidents—and you are right. And you will note further the national campaigns now underway by such groups as MADD (Mothers Against Drunk Drivers) to keep drunk drivers—who are involved in approximately one-half of all traffic fatalities—off the road.

Believe me, USAA and I personally support MADD and all of the other groups fighting against drunken drivers. We also support Defensive Driving Education Programs all over the country. All preventive measures—by individuals, by groups, by highway departments—most certainly address the problem. But all together they do not, and never will, prevent even a majority of collisions, and they do not address the so-called "second collision"—the impact of the individual within the vehicle against the steering wheel, the dashboard, doorknobs, the windshield, or the highway after ejection from the vehicle. It is this "second collision" that is the subject of my address today.

If Americans had accepted the ignition interlock system of a few years back that required buckling up seat belts, if they would respond overwhelmingly to yet another nation-wide program to increase the use of lap and shoulder belts, if three-fourths of them would follow the example of doctors of the Harvard Medical School, then I wouldn't have very much to talk about today.

But even if I had any doubts about whether or not I had something worthwhile to talk about, all I would have to do is poll you as an audience and find out how many of you buckled up on the way here this noon time. I won't embarrass you by asking, because I think I already know the answer—plus or minus a very few percentage points from the national average of 11 percent.

And so, while I give my support to all ongoing accident prevention measures, and to another "Buckle Up Campaign", I finally get down to asking myself the following questions:

How safe are cars once the crash occurs?

Can they be made safer at an affordable price?

Does the consumer want a safer car?

Can we count on the free enterprise system to address these problems responsibly, or do we have to rely on mandates and Court Orders from the Federal Government?

I would like to start my responses to these questions by addressing the subject of passive restraints.

We believe that greater built-in safety features—such as passive restraints—represent the best philosophical approach to automotive safety.

One piece of technology which has already been developed could save some 9,000-10,000 lives a year . . . whether drunks are kept off the road or not.

That technology is called the airbag, which has proven itself as a lifesaver in frontal collisions.

Today, you cannot buy a new airbag-equipped car in this country, even though the airbag technology has been around for nearly a decade, and airbag effectiveness has been proven on the nation's streets and highways.

Another type of passive restraint is the automatic seat belt, which automatically fastens around you when you get into your car. It requires no action by the driver or a front seat passenger.

Yet the Volkswagen Rabbit and one Toyota model are the only automobiles sold today which even offer automatic belts as an option.

Now I know you have all heard the line that airbags and automatic belts are effective only in frontal crashes, as if to imply that a partial solution isn't very worthwhile. That's analogous to implying that a medical discovery that would cure only prostate cancer is unimportant. To put the matter into proper perspective, if these passive restraints prevent only 10,000 deaths per year in frontal crashes, that is the equivalent of 128 Air Florida crashes into the 14th Street Bridge every year.

Let's turn from death to disfigurement to discuss another state-of-the-art passive restraint which, like the airbag, you cannot buy in the United States today.

I heard some good news very recently on the subject of disfigurement. A Swiss pharmaceutical company has developed a new drug called Acutane, which has the potential of curing severe, cystic acne, the kind that leaves deep scars. It is estimated that there are over 300,000 American teenagers who may benefit from this cure when the drug is released for distribution in the U.S. this Fall.

In contrast with this good news, there are another 300,000 Americans this year, last year and every year who are scarred by windshields that shatter into thousands of tiny knives when people are thrown into them in automobile crashes.

The real heartbreak is that there is a cure—also from Europe—that could significantly reduce the severe laceration and disfigurement of these 300,000 Americans. There is a new type of windshield design which provides an extra layer of plastic on the surface of the windshield nearest the occupants, effectively reducing the laceration problem.

It is already installed on thousands of cars in Europe, but it is not available in the United States.

There are still other ways to make cars safer that don't require human intervention . . . The removal or recessing of protruding instrument panels and knobs, for example, could save lives and prevent serious injury to small children and other passengers who are thrown into the dash on impact.

Still another safety measure would be the re-design of car doors so that they don't fly open on crash impact and throw the riders out of the car. It has been estimated that your chances of being killed in an accident are 25 times greater if you are ejected from the vehicle.

What I'm suggesting is that design modifications alone could reduce the number of people killed in traffic wrecks annually by as much as 40 percent . . . That means more than 20,000 lives saved a year—and that's in front of any lives saved as a result of anti-drunk driver campaigns.

But these changes in design—these passive restraint systems that don't rely on human foibles—are not being placed into cars in this country. It's not that I've been talking about "blue-sky" dreams—the technology exists, it has been proven in "real world" conditions and is affordable. For example, airbags built into cars on a mass production basis would only add about $200 to the cost of the vehicle—less than you would pay for wire wheels or a cassette player.

We have been told for years by Detroit that "safety doesn't sell." The auto makers cite the attempt in 1956 by Ford to sell the car-buying public for the first time on the idea of using seat belts, which Ford was making available in its cars that year. The campaign failed, although it may only have proved that in 1956 people liked General Motors cars and Chryslers more than they liked Fords.

Nevertheless, in the past 26 years, there has been no attempt by domestic or foreign auto manufacturers to sell safety features equally with cosmetic features.

But I believe that in the 1980s and beyond, safety will sell—and that consumer demand can bring about safer cars. Since the automobile companies remain reluctant—and that's putting it mildly—to market safety features to consumers as part of the buying decision, we at USAA are working to promote consumer awareness of this existing safety technology, and we're asking car buyers to question auto dealers about the lack of passive restraint safety systems in cars.

This past January, USAA, in conjunction with the Insurance Institute of Highway Safety (IIHS), unveiled to the media and the public the results of a study which ranked cars on the basis of "real world" accident data. That information was compiled from the federal government's Fatal Accident Reporting System and from actual death and injury claims made to the ten largest automobile insurers in the country, one of which is USAA.

The study revealed that twice as many people were killed while riding in small compact or subcompact vehicles than were killed in full-sized cars.

It also showed, coincidentally, that of all cars on the road, the safest were American-made. And the least safe were Japanese-made. Even when comparing compact to compact and subcompact to subcompact, American-made automobiles came out ahead of their Japanese counterparts.

The response to this information leads me to believe that we have begun an effort which has a realistic chance to save thousands of lives and hundreds of thousands of injuries every year.

The week after the news conferences, USAA placed a full-page ad in the Wall Street Journal which displayed the IIHS study's ratings of the various makes of cars. Just two weeks later, General Motors began a massive advertising blits in every major news publication, including, to no one's surprise, the San Antonio daily newspapers. Taking a table from the USAA-published study, the ads were headlined "GM Cars Rated Best." The ad highlighted a list of the "best" and "worst" models in terms of insurance injury claims experience—15 of the 19 best were made by General Motors, while 13 of the 17 worst were made in Japan, and none by General Motors.

Those advertisements appeared in more than 330 newspapers and magazines with an estimated readership of better than 100 million people. General Motors then used that same ad as the inside back cover of its latest annual report.

And beginning in May, GM started a new ad series. The headline this time reads "Are You Driving On The Wrong Side Of This Ad?" The "best" and "worst" charts appear below the headline.

Apparently, we got somebody's attention at General Motors. We still don't know if we got the attention of the Japanese manufacturers.

Frankly, I hope the Japanese, who are extremely sensitive to market pressures, will react as they did when gasoline prices began to go up in the early 1970s.

Back then, most American auto makers steadfastly continued to make their very large and very heavy automobiles, apparently convinced that miles-per-gallon were not as important to American car buyers as styling and luxury. Meanwhile, the Japanese began to gain a large share of the market by making small cars which got very good gas mileage.

Today, the Japanese have a major edge over American auto makers because they responded to American consumers, which Detroit refused to do. In just a few short years, consumer demand for more fuel-efficient automobiles has changed the way cars are made, how they look and how they perform.

Remember, the same people who have been telling us for 25 years that "Safety won't sell," are the ones who, in effect, told us ten years ago that "People don't care about miles-per-gallon."

You can be sure that if the Japanese sense they might lose a competitive advantage—or might gain a competitive advantage—because of consumer demand for built-in safety features, then they will respond quickly to the market place.

As an American who is acutely aware of the economic difficulties facing domestic auto makers, I hope Detroit seizes on the safety edge it already has over the Japanese and adds to it by installing into new cars the life-saving passive restraint systems and other safety features they have already designed.

Good marketeers should be able to recognize a developing trend and take advantage of it—the desire for increased automobile safety has obviously taken hold in this country, as the auto makers' own market surveys have demonstrated.

But if American car manufacturers still refuse to open their eyes—as has been the case historically—then I say let's hope the Japanese take the lead again. Detroit will be forced to follow. Finally, we will begin to stop some of the human wreckage on the roads.

That brings me to a central question: What is responsible free enterprise?

We're not talking here about making a faster computer, or manufacturing a longer-lasting pair of panty hose. We are discussing people being killed and people being hurt—a yearly casualty count in dead and injured which totals more people than now live in Dallas and Houston combined.

Let's face it—automobile crashes pose an enormous public health hazard.

So is it "responsible free enterprise" for the automobile companies to have in hand—tested, proven and affordable—a device known as the airbag which most automotive safety engineers agree will save as many as 10,000 lives a year . . . and then fight any suggestion that the airbag should be offered even on an optional basis to car buyers, much less be made standard equipment?

The key to free enterprise is that the customer is given a choice. Today, when it comes to automotive safety, we—you and I—as customers are not given a choice, even though the products—airbags and automatic safety belts—which could make that choice possible are ready for use.

The auto companies force us to buy cars with standard cosmetic features which we may or may not want, but they won't even give us the option to buy safety features which could save our lives.

In 1979, in response to a request from a Congressional Subcommittee, GM reluctantly supplied four internal GM customer surveys. The studies—carried out in 1971, 1975, 1978 and 1979—all showed very strong consumer demand for airbags in new cars.

Now, what does General Motors want us to believe? Their own private studies of 1971, 1975, 1978 and 1979 or their statement in April, 1982, that consumers do not want airbags?

What would you say if a pharmaceutical company had discovered a drug which could cure cancer in a significant number of cases, but chose to withhold it from the market for any reason?

You would be outraged, wouldn't you? You would say: "The company has no right to withhold that medicine." And you would be absolutely correct.

General Motors, Ford, Chrysler, Toyota, Nissan, Volvo and all the rest have no moral right to withhold the passive restraint technology and other safety features which could significantly cut the number of killed and injured resulting from this public health hazard.

As one who works in one of the nation's most highly regulated industries—the insurance industry—I am hardly an advocate of additional government regulation of business.

But history shows that it's when business refuses to fulfill its free enterprise responsibilities that it literally invites government intervention.

We all know that businesses and individuals don't like to be forced to do anything, and that's why I favor regulation on the passive restraint issue only as a last resort. But I am more tolerant of people who want passive restraints mandated in than I am of those in the auto industry who want them mandated out by not giving us—the car buyers—the chance to decide if we want them or not.

As a practical matter, I think the best way to sell the passive restraint concept to the American people is to give each of us the opportunity to buy them and form our own conclusions . . . and that means the car companies should make passive restraints available as an option, along with voice synthesizers.

I'm confident that once people experience the life- and injury-saving results of these systems, they will demand passive restraints and other safety features as standard equipment. Not only will thousands of lives be saved, but the free enterprise system will have worked again—giving the customer a choice and responding to customer demands.

While there appears to be little interest in passive restraints among automobile manufacturers, there is considerable interest in Washington.

There is legislation now before the Congress which will provide a refundable tax credit to domestic auto manufacturers which install airbags as original equipment. This bill has been introduced by Senator John Danforth (Republican from Missouri). If enacted, it will be to the American auto makers' economic advantage to put in airbags.

And, there is ongoing discussion and interest in a federal airbag demonstration program which would lead to installation of airbags in federal vehicles. While nothing has been decided yet, we have learned that there is more than a little support for such a program within the Reagan Administration.

Probably the most encouraging result of USAA's information campaign has been the invitation to me by General Motors to arrange a meeting between the nation's leading property and casualty insurance executives and GM in Detroit for the purpose of discussing this entire safety subject in a frank and open way.

The desire of General Motors to discuss these matters with us signifies to me a positive step in the recognition of automotive safety concerns. Rather than a confrontation, we hope this all-day session in Detroit will be the beginning of significant action by the automobile companies to help reduce the carnage on our streets and highways.

At present rates, one in every 60 children born today in this country is expected to die in an automobile accident, and two out of every three will suffer injuries in a crash.

Those children could be your children, or your grandchildren. For their sakes, if not for your own, ask for—demand—a safer car from the people who make those cars.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will state House Joint Resolution 520.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Finance with an amendment to strike out all after the resolving clause, and insert the following:

That (a) the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) is amended by striking out "$400,000,000,000" and inserting in lieu thereof "$1,290,200,000,000".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

Mr. BAKER. Mr. President, will the distinguished chairman of the Finance Committee, the manager of the joint resolution for the majority, yield to me for a minute?

Mr. DOLE. I am pleased to yield to the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, this is the debt limit joint resolution. This is the one on which we will have our debate about abortion and perhaps a number of other things.

I have advised a number of Senators, including the minority leader, the Senator from Wisconsin (Mr. Proxmire) and others that there will be an amendment dealing with the gymnasium situation. I wish that to be first. I also wish to have unanimous consent that after the amendment is introduced any rollcall vote that may be ordered on that amendment will be put over until tomorrow at 2 p.m.

The principals on the joint resolution are not here at the moment with the exception of Senator Dole who will manage for us.

Is the Senator from Virginia (Mr. Harry F. Byrd, Jr.) manager on behalf of the minority?

Mr. HARRY F. BYRD, JR. Yes.

Mr. BAKER. I thank the Senator.

Madam President, while I attempt to confer with the minority leader on the arrangements I have just described, with the consent of the managers, I suggest the absence of a quorum for just a moment.

The PRESIDING OFFICER (Mrs. Kassebaum). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The present temporary public debt limit expires on September 30, 1982. Since the permanent debt limit of $400 billion is only 35 percent of the combined limit, it is too low to permit the Treasury to continue operating at the current level of outstanding debt. The Treasury Department would not even be allowed to refund maturing debt issues.

The last increase in the public debt limit, which was enacted less than 2 months ago, increased the debt limit to $1,143.1 billion for the rest of fiscal year 1982. The amount was set as the appropriate debt level for the rest of this fiscal year in the budget resolution passed in June.

Those are two powerful reasons for enacting a new debt limit. The temporary limit expires at the end of September and the permanent limit is too low even to maintain the present amount of debt. If we do not complete action on this resolution before the temporary limit expires, the administration might be able to operate for a few days or a few weeks, depending on its cash balance on September 30. Under the best of circumstances, the Treasury would exhaust all resources for dealing with this contingency before the mid-October adjournment of the Congress.

The new public debt limit provided in this joint resolution is the same level specified in the June budget resolution—$1,290.2 billion—and in House Joint Resolution 520 as passed by the House. The public debt limit passed by the House incorporates $890.2 billion of temporary borrowing authority that lasts for a finite period of time, in this case, through the end of the next fiscal year.

The Finance Committee made two changes in the House resolution. The $1,290.2 billion debt limit was made permanent. pursuant to the amendment offered by the distinguished Senator from Colorado (Mr. Armstrong) and the distinguished Senator from Louisiana (Mr. Long). That was made permanent at that level, a step which makes the permanent amount a credible level. House Joint Resolution 520 does not place an expiration date on the new limit, and as a result, the Government may not have to face a doomsday scenario come September 30, 1983. We think this is an important and necessary change.

I urge the Senate to approve House Joint Resolution 520 as amended by the Committee on Finance.

Madam President, I ask unanimous consent to have printed in the Record a more technical explanation of House Joint Resolution 520.

There being no objection, the explanation was ordered to be printed in the Record, as follows:

Explanation of the Resolution

Present Law

The combined permanent and temporary debt limit is $1,143.1 billion through September 30, 1982. This limit is the sum of the permanent debt limit of $400 billion which has no expiration date and the temporary limit of $743.1 billion which will expire after September 30, 1982. As of October 1, 1983, the statutory public debt limit will be $400 billion, under present law.

The present public debt limit was enacted on June 28, 1982, to provide sufficient bor-

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rowing authority to meet the financing requirements of the Federal Government through September 30, 1982. The level of the debt limit is the amount specified in the first budget resolution for fiscal year 1983 as the appropriate level for fiscal year 1982. In its Mid-Session Review of the 1983 Budget, the Administration estimated that it will be able to finance the Federal Government for the remainder of fiscal year 1982 with the present debt limit.

Since the present limit expires with the current fiscal year, Congress must enact a new public debt limit that will permit the Treasury Department to finance presently authorized spending levels.

The appropriate level of the public debt limit specified in the first budget resolution for fiscal year 1983 is $1,290.2 billion.

On June 23, 1982, the House considered and agreed to H.J. Res. 520 to provide a temporary increase in the public debt limit to $1,290.2 billion for fiscal year 1983.

COMMITTEE ACTION

The committee agreed to increase the debt limit to $1,290.2 billion, as specified in H.J. Res. 520.

However, the committee amended the resolution to change the temporary limit on the public debt into a permanent debt limit that will become effective on October 1, 1982. This action provides the same amount of borrowing authority for fiscal year 1983 as is contained in the House-passed version of H.J. Res. 520.

There are two major differences between the Committee of Finance version of the resolution and the version approved by the House. First, the committee amendment will not precipitate a major crisis when the debt limit runs out. Under the House resolution in that circumstance, the debt limit would become $400 billion on October 1, 1983, and no debt obligations could be issued to refund outstanding debt or to increase the amount outstanding until the amount of outstanding debt decreased to $400 billion, or a new increase was enacted. The committee resolution would enable the Treasury Department to refund maturing issues of the outstanding debt so long as the total amount of debt remains within the permanent limit. As a result, the Federal Government need not come to a halt after fiscal year 1983, as it could under the House-passed resolution.

Second, under the House resolution, Congress is required to act again to increase the debt limit by September 30, 1983, even if the $1,290.2 billion limit would continue to be adequate. Under the committee resolution, it will not be necessary for the Congress to change the public debt limit until a higher debt limit becomes mandatory.

Under the House rules, a joint resolution to change the public debt limit for a fiscal year is generated each time a conference report on a budget resolution is approved by the Congress. A separate joint resolution is produced for each debt limit for each fiscal year covered in the budget resolution. So, there will be a choice of joint resolutions on the public debt available for the Senate to act on whenever another public debt limit must be established. Alternatively, the House could amend Rule XLIX so that its resolution changes the current permanent debt limit.

The table which follows summarizes legislation on the public debt limit since 1947.

STATUTORY DEBT LIMITATION, FISCAL YEARS 1947 TO DATE AND PROPOSED PERMANENT DEBT LIMIT

[In billions of dollars]

Fiscal year	Statutory debt limitation		
	Permanent	Temporary additional	Total
1947–54	275	0	275
1955 through Aug. 27	275	....	275
1955: Aug. 28 through June 30	275	6	281
1956	275	6	281
1957	275	3	278
1958 through Feb. 25	275	....	275
1958: Feb. 26 through June 30	275	5	280
1959 through Sept. 1	275	5	280
1959: Sept. 2 through June 29	283	5	288
1959: June 30	288	5	290
1960	285	10	295
1961	285	8	293
1962 through Mar. 12	285	13	298
1962. Mar. 13 through June 30	285	15	300
1963 through Mar. 31	285	23	308
1963: Apr. 1 through May 28	285	20	305
1963: May 29 through June 30	285	22	307
1964 through Nov. 30	285	24	309
1964: Dec. 1 through June 28	285	30	315
1964: June 29 and 30	285	30	324
1965	285	39	324
1966	285	43	328
1967 through Mar. 1	285	45	330
1967: Mar. 2 through June 30	285	51	336
1968 [1]	358	....	358
1969 through Apr. 6 [1]	358	7	365
1969 after Apr. 6 [1]	358	....	358
1970 through June 30 [1]	365	12	377
1971 through June 30 [1]	380	15	395
1972 through June 30 [1]	400	50	450
1973 through Oct. 31 [1]	400	50	450
1973 through June 30 [1]	400	65	465
1974 through Nov. 30 [1]	400	65	465
1974: Dec. 3 through June 30 [1]	400	75.7	475.7
1975 through Feb. 18 [1]	400	95	495
1975: Feb. 19 through June 30 [1]	400	131	531
1976 through Nov. 15 [1]	400	177	577
1976 through Mar. 15 [1]	400	195	595
1976 through June 30 [1]	400	227	627
TQ: from enactment through Sept. 30, 1971 [1]	400	236	636
1977: from Oct. 1, 1976 through Mar. 31, 1977 [1]	400	282	682
1977: from Apr. 1 through Sept. 30, 1977 [1]	400	300	700
1978: from Oct. 1, 1977, through July 31, 1978 [1]	400	352	752
1978: from Aug. 3, 1978, through Mar. 31, 1979 [1]	400	398	798
1979: from Apr. 2 through Sept. 30, 1979 [1]	400	430	830
1980: through June 30, 1980 [1]	400	479	879
1981: through Feb. 28, 1981 [1]	400	525	925
1981: through Sept. 30, 1981 [1]	400	535.1	935.1
1981: through Sept. 30, 1981 [1]	400	585	985
1982: through Sept. 30, 1982 [1]	400	679.9	1,079.9
1982: through Sept. 30, 1982 [1]	400	743.1	1,143.1
Proposed: From Oct. 1, 1982 [1]	1,290.2	....	1,290.2

[1] Includes FNMA participation certificates issued in fiscal year 1968.

Mr. DOLE. Madam President, I understand that Senator BAKER and the distinguished minority leader, Senator ROBERT C. BYRD, have an amendment pending, and it is my hope that no additional amendments will be offered until that amendment is disposed of or some other disposition is made of it.

THE TAX BILL

In the interim, I would like to indicate just a few thoughts about the so-called revenue increase and spending reduction bill which was agreed upon by the conferees yesterday morning at about 2 a.m.

Let me say at the outset in my view it is primarily tax reform, and we will have all kinds of information breaking down how much is compliance and how much is closing loopholes and how much may be considered to be not reform but just plain raising of revenue, such as the cigarette tax and the tax on telephones. But I might suggest that these taxes are a very small portion of the total amount.

In addition, we did a number of other things during that long conference which, I think, will strengthen the bill. We made certain changes in the pension area, we did add near the end of the conference an unemployment compensation proposal of $2 billion in cost which will help 2 million unemployed persons. We pay for that by taxing benefits, through lowering the threshold on benefits to make certain we can recover the total amount of that expenditure over the next 3 years.

To me that is very important because we find more and more people exhausting their benefits in this time of economic crisis. We believe that under this special—and it is a special—unemployment benefit proposal, every State will be able to participate, every State and the District of Columbia. There may be another jurisdiction or two.

Effective upon enactment through March 31, 1983:

First, we allow up to 10 additional weeks of unemployment compensation benefits would be provided for unemployed workers in States in which extend benefits (EB) have been payable at some time since June 1, 1982.

Second, up to 8 additional weeks of unemployment compensation benefits would be provided in States with extended benefit trigger rates at or above 3.5 percent.

Third, up to 6 additional weeks of unemployment compensation benefits would be provided in all other States.

We hope to have a list of those States, and whether they qualify for 10 weeks, 8 weeks, or 6 weeks placed in the RECORD following my statement. We are now having it rechecked by the Labor Department so that Members may know in both the Senate and the House where their State qualifies. We will also place in the RECORD a more complete description of the unemployment benefit proposal.

Fourth, the additional benefits would be paid to unemployed workers whose entitlement to State benefits (benefit year) or extended benefits ended on or after June 1, 1982; and, who have exhausted all State or State and extended benefits to which they are entitled; who have worked 20 or more weeks—or had the equivalent in wages as specified in the extended benefit program—prior to applying for unemployment compensation; and, who continue to meet all other State and extended benefit requirements.

Fifth, benefit and administrative costs of the program would be financed out of Federal general revenues. That will be reimbursed, as I have indicated, through a tax on benefits.

The proposal is estimated to cost $1.968 billion total; $1.716 billion fiscal year 1983.

I mention it at this time because a number of Senators indicated interest. In fact, Senator SCHMITT from New Mexico and Senator METZENBAUM from the State of Ohio had more or less instructed the Senate conferees in a sense of the Senate resolution that we should provide certain additional benefits for those who are unemployed.

We also had an amendment offered by Senator SCHMITT which would make certain that the funding was available if, in fact, the conferees did act, and so we believe that based on the vote in the Senate on the sense of the Senate resolution—I do not recall the exact vote but it was an overwhelming vote, I think 80 some to 13—we have complied with the sense of the Senate resolution.

We have complied with the request of Senator SCHMITT and others. We would hope that our colleagues would have an opportunity to review what the conferees did, not only in this area but in all other areas.

Second, let me discuss—and I will place more detail in the RECORD—another matter that I felt we might be able to soften, and that was the excise tax on cigarettes.

Under the Senate-passed bill, excise taxes on cigarettes were doubled. They are now 8 cents a pack. They have not been changed since 1951. They were increased to 16 cents a pack. It was my thought throughout the conference—in fact, I had spoken to a number of Senators—particularly the senior Senator from North Carolina, the senior Senator from Virginia, the junior Senator from Virginia, and the junior Senator from North Carolina and both Senators from Kentucky—that we would hope in the conference itself we could find enough money as we went through the conference so we could take any surplus—that is anything above the $98.3 billion—and apply it against the excise tax provision on cigarettes.

As I recall, at about 1 a.m. yesterday morning, the cigarette excise tax matter was among the last matters to be considered. We completed our action on everything else and we had, I guess you could call it, a surplus—maybe Senator BYRD would not call it a surplus—but we had raised more revenue than we needed to raise on the budget resolution by about $1.8 billion.

The Senate conferees were in no position to offer anything to the House, because we had a provision in our bill and the House could recede to our provision and that would end the matter. So knowing of Senator BYRD's concern, a member of the conference, and also the concern of Congressman DUNCAN of Tennessee, I made the proposal which said, in effect, that for 1983, rather than an 8-cent increase on cigarettes, there would be no increase. We had enough money at that point so we could avoid any increase in 1983. The 8-cent increase in 1984 and 1985 would still remain. But it occurred to me and others that that would give those who did not like that particular tax an opportunity, a full year, to try to reduce it, eliminate it, or whatever.

We made, I felt, a persuasive argument and pointed out this was a heavy tax on the industry; that I could say with some objectivity and candor that this is not an area of tax reform; that this is an area where we just needed the money, so we raised the tax, and I had hoped we would have five votes on the House side to accept that suggestion and make the appropriate motion to modify the Senate provision.

After what I thought was a rather—particularly considering how long we had been there and the time of the morning—persuasive case, I was rather politely told by the chairman of the House Ways and Means Committee, I think, as I recall: "Mr. Chairman," he said—I was chairman of the conference—"we appreciate your comments, but the House recedes." And that more or less ended our efforts to soften the impact on those who have a great deal at stake in this particular area.

But having failed in that effort and not wanting to have a higher revenue figure than $98.3 billion, I then asked the same House conferees who said we could not possibly change the cigarette tax because we really did not have the surplus because of what we had done in unemployment compensation, I said,

> OK, if we can't lower the excise tax on cigarettes, would you be willing to spend $1.1 billion of that surplus to delay withholding on interest and dividends from January 1 until July 1?

As I recall the general feeling was that was a great idea. That argument they used on cigarettes was no longer used. So we did delay withholding interest and dividends for 6 months. We think that, in itself, will give banks and thrift institutions and credit unions and companies and others who must comply with this provision, if, in fact, the conference report is adopted, an additional 6 months.

It will also give the American consumer, the person who has interest income and dividend income, time to understand that this is not a new tax. We are getting a lot of mail saying, "You are putting a new tax on interest and dividend income." That is not the case. But this provision has been represented by some as a new tax. All we are suggesting is that you ought to report your interest and dividend income and since many people do not report their interest and dividend income we are going to have withholding with a lot of exceptions, a lot of exemptions, and it is going to pick up about $12 billion over the next 3 years. Now it will pick up about $11 billion because we reduced that figure by about $1.1 billion early yesterday morning. So, there are areas that are misunderstood about the tax bill.

It should also be pointed out—again my good friend from Virginia does not think we did well enough on the spending reduction side, but he also knows some of the problems we had, I hope, on the House side, trying to get any spending cuts. They do not believe in cutting spending, some Members of the House. They would like to increase spending, despite the deficits and interest rates.

We will place in the RECORD sometime today a number of explanations of our spending reductions, how they were achieved and why they are what we feel were solid spending cuts and, frankly, what we feel are smoke in some cases. There is a little smoke in there, but for the most part, it is solid spending reductions.

There were other changes, as I said, made in the conference. We were able to preserve most of the amendments that Senators from both sides of the aisles had an interest in. The foundation amendments, we had a total of six, I believe, on the Senate side. None were agreed to, except the House conferees did agree that they would hold hearings early next year, not just hold hearings, but try to come up with some general legislation that would ease the questions of some of the foundations.

We had, as I recall the Senator from Connecticut, Senator DODD; the Senator from Texas, Senator BENTSEN; the Senator from Colorado, Senator ARMSTRONG; the Senator from South Carolina, Senator THURMOND; and I believe one or two other foundation amendments.

We were able to take care of a number of specific transitional rules, I might say to the Senator from North Carolina, one involving an insurance company in North Carolina. We were able to solve that problem. We were able to solve the problem the Senator from South Carolina had with the transitional rule. We were able to solve the problem Ford Motor Co. had with the safe harbor legislation and that I.T. & T. had with the safe harbor legislation. We will try to put all of that information in the RECORD. We want to make certain that every one was a legitimate amendment and we did make the effort to try to sustain the Senate's position in every case.

It was more difficult because there was not any House bill. Normally, you can trade certain things, but there was not anything to trade. So, we found ourselves at some distance because the

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House had not initiated their own revenue measure.

But, Madam President, in my view, it is still a good bill. It ought to meet most every test except, as I said, with regard to a few provisions. It is, for the most part, closing loopholes, loopholes the President suggested should have been closed. In fact, he made that recommendation in September 1981. So, we are looking forward to dealing with the conference report later on this week.

Madam President, I ask unanimous consent to have printed in the RECORD a summary of the conference agreement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—SUMMARY OF CONFERENCE AGREEMENT

COMPLIANCE AND COLLECTION MEASURES

The bill contains measures to reduce the so-called tax gap from noncompliance and to facilitate the collection of taxes already owed. These include provisions to improve and expand information reporting to the IRS, increase penalties for noncompliance, change interest computation rules, revise pension withholding, and allow partnership level audits. The bill requires that all bonds (both tax-exempt and taxable) be issued in registered form after December 31, 1982. The bill further provides rules for access to tax information for use in nontax criminal investigations and prosecutions.

In lieu of limiting deductions for business meals, the conferees substitute a provision requiring food establishments to report gross receipts and tip information to the IRS. After April 1, 1983, an establishment must allocate 8 percent of gross receipts among its tipped employees unless they already have reported tip income equal to this amount.

The payment of corporate estimated income taxes is accelerated by changes which include increasing payments from 80 to 90 percent of the actual tax due and requiring all remaining tax to be paid on the return due date. The conferees provide special rules for seasonal industries.

Withholding at a flat rate of 10 percent will be required on payments of interest and dividends after June 30, 1983. Special rules are provided to minimize the financial and administrative burdens on financial institutions adjusting to the system, including authority to the Treasury for the first six months after the provision is in place to waive withholding requirements for various payors. Interest payments of $150 or less on an annual basis are exempt. Low income individuals whose tax liability for the prior year did not exceed $600 ($1,000 on a joint return) are exempt, as are individuals age 65 or over with tax liabilities not over $1,500 ($2,500 for a married couple filing jointly). This exempts those over 65 with adjusted gross incomes in 1984 of less than $14,450. ($24,214 on a joint return).

Direct sellers and licensed real estate agents are excluded from the definition of employee for employment purposes. The moratorium on reclassification of independent contractors as employees is extended, pending further Congressional action.

REDUCTIONS IN UNINTENDED OR UNWARRANTED BENEFITS

Individual minimum tax.—The bill strengthens the existing alternative minimum tax by shifting to that tax base items currently subject to the add-on minimum tax and by adding several new items to existing preferences. Interest on tax-exempt bonds is not a preference item. The existing add-on tax is repealed. The conference bill applies a flat 20 percent rate to all preferences in excess of $30,000 for single individuals ($40,000 for joint returns). This provision affects only several hundred thousand of the 90 million individual tax returns filed.

Pensions.—Pension tax benefits for high income individuals are limited. The maximum annual addition to a defined contribution plan is reduced from $45,475 to $30,000 and the maximum annual benefit under a defined benefit plan is reduced from $136,425 to $90,000. Where a combination of plans is provided, the maximum benefits allowable are reduced from 140 to 125 percent, applicable to dollar limits only. Cost of living adjustments are frozen until 1986. The bill achieves parity between corporate and noncorporate plans by increasing allowable deductible contributions to noncorporate plans to the levels allowable for corporate plans, and by placing restrictions on certain corporate and noncorporate plans favoring key employees. Loans to plan participants are limited to the lessor of $50,000 or one-half of the participant's nonforfeitable benefits, and must be repaid within 5 years (except for certain home mortgages). The credit for integration of defined contribution plans with social security will be limited to the statutory OASDI rate. The estate tax exclusion allowed for distributions from qualified plans is limited to $100,000.

Casualty and medical deductions.—The bill makes casualty losses deductible only to the extent they exceed 10 percent of adjusted gross income. The conferees raise the floor for deductible medical expenses from 3 percent to 5 percent in the Senate bill. After 1983, the deduction for drugs is limited to prescription drugs and insulin, and the separate 1 percent floor for drugs is eliminated. The conferees repeal the present law rule allowing one-half of medical insurance premiums up to $150 per year to be deducted without regard to the floor (the Senate bill had allowed a $100 deduction).

Original issue discount and stripped coupon bonds.—The bill provides amortization rules for original issue discount bonds and eliminates unwarranted tax advantages from coupon "stripping." The conferees change the effective date of these provisions to July 1, 1982.

Changes to ACRS.—The bill repeals the more rapid recovery rates scheduled to take effect in 1985 and 1986 under the accelerated cost recovery system. Moreover, the bill requires an adjustment to reduce the cost basis of an asset by 50 percent of the investment tax credit and other credits in computing deductions under ACRS. However, the conference bill permits taxpayers to avoid the reduction in basis for any asset by electing to reduce the allowable investment credit by 2 percentage points. Special transitional rules are provided. These provisions are designed to insure that the combination of ACRS deductions and tax credits do not result in treatment more favorable than expensing of equipment costs.

Safe harbor leasing.—The bill phases out safe harbor leasing by January 1, 1984. During the interim, leasing is extended to certain closely-held businesses. The rules are modified substantially to include limits on the amount of property that may be leased and the amount of benefit from depreciation and investment tax credits available to lessors. Certain abuses of leasing, including its use to increase the benefits of percentage depletion, are expressly barred. Transition rules are provided for certain investments and classes of taxpayers (including airlines and auto manufacturers). Leasing of certain mass transit vehicles, including ferries, continues through 1987.

Cutback of corporate tax preference.—The bill supplements the existing corporate minimum tax with a new set of rules that generally require a 15 percent cutback in the availability to corporations of certain items of tax preference. In addition, the limit on the amount of tax which may be offset by the investment tax credit is reduced from 90 to 85 percent.

Construction period interest and taxes.—The bill requires corporations to capitalize and amortize over 10 years interest and real property taxes attributable to the construction period of nonresidential real estate. The Alaska Natural Gas Transportation System will not be affected by this change, and transition rules are provided for certain hotel, motel, hospital and nursing home construction.

Completed contract method of accounting.—The bill instructs the Treasury Department to amend its completed contract regulations to establish rules relating to the termination and severability of long-term contracts. For all contracts expected to take more than 24 months to complete, Treasury is to provide new rules which would allocate items formerly treated as period costs to the contract. These cost rules will not apply to a construction contractor with average gross receipts over the prior 3 years of $25 million or less, or to any construction contract of 36 months or less.

Tax-exempt bonds.—In order for a private purpose tax exempt issue to be allowed, the bill requires public accountability through reporting, public hearings, and local approval by elected officials or legislative action. To the extent facilities placed in service after December 31, 1982, are financed by industrial development bonds (IDBs) issued after July 1, 1982, accelerated cost recovery is limited, with exceptions for low income housing, municipal solid waste or sewage facilities, UDAG assisted facilities, and certain pollution control equipment. The exemption for small issue IDBs will not be available after December 31, 1986. In addition, IDBs generally will not be available to finance automobile dealerships, as well as recreational, entertainment and retail food and beverage facilities. Several changes also were made to liberalize the present law limitations on mortgage subsidy bonds.

Life insurance company taxation.—The bill includes the Administration proposal to prohibit the abuse of modified coinsurance. The bill also changes the treatment of annuity contracts, taxing withdrawals to the extent of investment income. A number of other changes to life insurance taxation (sought by the industry) will be effective through 1983, including rules governing deductions for policyholder dividends.

Possessions corporations.—With respect to the special credit against U.S. tax liability for a possessions corporation, the conferees accept the compromise proposal developed by the Administration and the Puerto Rican government. This proposal limits the tax benefits of possessions corporations, but is not nearly as restrictive as the Senate bill. The possessions corporation will be entitled to the return on intangibles provided it bears a proportionate share of research and development costs; alternatively, the taxpayer may split income from products made in the possession between the possession and the United States.

Foreign oil and gas income.—This provision repeals the per-country extraction loss rule which currently operates to increase the special foreign tax credit limitation for taxpayers with oil and gas extraction income in other foreign countries. As a result, foreign taxes paid on extraction activities could not be used to offset U.S. tax on other foreign source income. In addition, the bill eliminates the deferral of tax on certain foreign oil-related income. Deferral would still be allowed for income of certain independent traders and refiners.

Mergers and acquisitions.—Tax incentives for corporate mergers and acquisitions are reduced, with transition rules for specific situations.

OTHER PROVISIONS

Airport and airway user taxes are increased to provide funds for airport and airway system development provisions.

The targeted jobs tax credit is extended for 2 years, and modified to encourage summer youth employment.

The bill extends the FICA hospital insurance tax and Medicare benefits to Federal employees.

The Federal Unemployment Tax Act wage base is increased to $7,000 and the effective Federal tax rate, after credit for state taxes, is increased from 0.7 to 0.8 percent. The conference agreement increases unemployment compensation benefits for certain long-term unemployed workers. The threshold above which unemployment benefits are subject to income tax is lowered to $12,000 ($18,000 on a joint return).

The telephone excise tax is raised to 3 percent in 1983, 1984 and 1985. The tax will terminate after 1985.

The present Federal excise tax on cigarettes is increased from 8 to 16 cents per pack. This increase sunsets on September 30, 1985.

An extension of time is allowed for refunds of certain excise taxes for buses.

The special Trans-Alaska Pipeline System adjustment under the windfall profit tax is repealed.

Tax-exempt status for certain veterans organizations and amateur athletic organizations is provided.

The bill extends for two additional years the income tax exclusion for National Research Service Awards.

The bill extends the annual accrual accounting method to certain farming partnerships.

Payments legal under the Foreign Corrupt Practices Act will be allowed a business expense deduction.

Certain debt management authority is provided to the Secretary of the Treasury, including discretion to set yields on U.S. savings bonds.

Beginning March 1, 1983, taxpayers who prevail in litigation where the government has been unreasonable are entitled to an award of attorneys' fees of up to $25,000. Where a taxpayer brings as action for delay or takes a frivolous or groundless position, the Tax Court could award the government damages of up to $5000.

Minor adustments are made in the treatment of personal holding companies and Alaska Native Corporations.

Mr. HELMS. Will the Senator yield for a question?

Mr. DOLE. I am happy to yield to the Senator from North Carolina.

Mr. HELMS. Madam President, perhaps I should ask this question privately rather than for the record but, on the other hand, perhaps it ought to be for the record.

Did the House conferees consider the proposal made by the Senator from North Carolina to impose a 25-percent tax increase across the board for beer, wine, liquor, and cigarettes?

Mr. DOLE. The House considered most of that proposal. It was offered by Congressman DUNCAN. The Congressman from Tennessee offered an amendment to impose a 25-percent tax on distilled spirits and wine, a 10-percent excise on coin-operated amusements, a 10-percent excise on autos costing over $20,000, and a 10-percent excise on boats and yachts costing over $10,000. The revenues from that tax, I believe about $2.8 billion, would have been used to reduce the cigarette tax to 10 cents a pack. However, the Duncan amendment was rejected by the House conferees on a voice vote, and the Senate conferees had no opportunity to consider it.

So I would say that on the House side Congressman DUNCAN made a valiant effort. On the Senate side, the Senator from Virginia made a valiant case for reducing the tax, but we were not in a very strong position. We could not modify our provision.

We could not modify our provision. But I know that Congressman DUNCAN's intent was along the lines of what the Senator from North Carolina suggested.

Mr. HELMS. Perhaps the staff could check and the Senator could insert at this point in the RECORD what the vote was.

As I recall, instead of the 8-cent increase on cigarettes, there would have been 2 cents, and on a six-pack of beer about 4 or 5 cents. Wine would have been negligible and whisky would have been 25 cents, or something in that neighborhood. It seemed to the Senator from North Carolina that was a fair and equitable approach. I believe the Senate conferees were prepared to accept that, as the Senator from Kansas said. As the Senator said, he could not propose because of the conference rules. I am sorry that that was not accepted. I do appreciate the able Senator from Kansas making the effort.

Mr. DOLE. As I indicated, there was a voice vote on the Duncan amendment. Let me say to my friend from North Carolina it was not an empty gesture. We had the money. We were not blowing smoke. We had the $1.7 billion available. There was nothing else to be done on the bill. The choice was as to whether we should raise taxes $100.1 billion or $98.3 billion or to reduce some area. We pledged the Senator from North Carolina, and other Senators, including one of the conferees, Senator BYRD, that we would try to use that to reduce the excise tax. So we did not come in emptyhanded. We came in with the money to reduce the tax. When they refused that offer, as I indicated, we put $300 million more in the Puerto Rican compromise and accepted the administration proposal. We put $1.1 billion in delaying withholding on interest and dividends, and I guess there were a couple hundred million dollars left which may disappear as they put the bill together.

Madam President, I ask unanimous consent to have inserted in the RECORD at this point a further discussion of the cigarette tax debate including a portion of the transcript of the conference discussion of this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Although H.R. 4961 doubled the present excise tax on cigarettes as passed by the Senate, it was my hope that we would be able to reduce that rate in the conference. Since the House members did not come to the conference with a House-passed tax bill, the Senate conferees had less leverage than we would have wanted because there were no House-passed provisions which the House conferees had to protect. As an alternative, we reserved the excise taxes on cigarettes as one of the last provisions which we discussed, hoping that we could persuade House conferees to use any surplus over the reconciliation target to reduce the excise taxes on cigarettes.

Indeed, we did in fact end up with a surplus of $1.7 billion over the $98.3 billion reconcilation target. At that point, the Senator from Kansas suggested to the House conferees that we apply the additional revenue to the increase in the excise taxes on cigarettes. I specifically suggested that the Senate conferees would be pleased if the House conferees would not recede to the Senate provisions concerning excise taxes on cigarettes without modification. Specifically, the Senate conferees expressed the hope that the House conferees would use the surplus revenues to eliminate the increase in excise tax on cigarettes for 1983.

Unfortunately, the House conferees would not take our suggestion and, contrary to our expressed desire, receded to the Senate provision on the excise taxes on cigarettes.

Mr. DOLE. Madam President, the Senator from Kansas assures the Members of the Senate that he is as concerned about the doubling of the excise taxes on cigarettes as anyone. Unfortunately, our attempts to reduce this tax in the conference did not work out as we hoped they would. I hope that those who are concerned about the cigarette excise tax do not use our failure in conference as an excuse to attempt to defeat this bill. I also would hope that at some convenient time we will be able to reduce the excise tax on cigarettes and, if need be, replace it with another revenue provision.

The material that follows is the discussion of the cigarette tax before the conference committee on H.R. 4901, which took place early in the morning of Sunday, August 15, 1982.

Chairman Dole. Could I ask, and I know it can't be totally accurate, but as I understand, based on preliminary estimates and computations, we do have more money than requested or than required by the budget resolution in revenues, is that correct?

Mr. McConaghy. That is correct, Mr. Chairman.

Chairman Dole. And is there an estimate of that amount?

Mr. McConaghy. Yes, if you assume a $1.2 billion with respect to possessions, then we are $1.7 billion over the $98.3 target.

Chairman Dole. I am wondering, and I am probably not in a position to propose this, because we have a provision in our bill, and it relates to the cigarette excise tax.

I would hope that we might use the additional revenue to apply on the first year of the 8 cent tax increase, in other words, the increase that would increase from 8 to 16 cents per pack starting January 1, 1983, if we might use this surplus to reduce or eliminate that tax in the first year, and the tax in 1984 and 1985 would continue at the 16 cent per pack rate as opposed to 8 cents at the present level.

Mr. McConaghy. I think, Mr. Chairman, that if you never had the effective date of that and did not have the increasing into effect for 1983, then the revenue from that would be about $1.7 or $0.8 billion, which is about the surplus you are over if you adopt the provisions suggested.

Mr. Gibbons. I have a little trouble with that figure that you and Mr. McConaghy just came up with, because when we started this discussion, we were not planning to put any extended benefits in this entire package. We have just put in extended benefits that will spend out at the rate of, in a 12-month period, of $3.7 billion.

I hope they will not last that long but at least they will spend out at the rate of $1.9 billion, so instead of being $1.7 billion under or surplus, it looks like to me, we are at least $200 million, at least that short.

I can't see where you laid a predicate for a cigarette tax.

Mr. Pickle. I am confused.

Mr. Gibbons. I will be glad to go back through those figures when we started off. We had not planned to put any unemployment compensation in this whole legislative process. We put in at least $1.6 billion, and Mr. McConaghy said we were $1.9 billion, and Mr. McConaghy said we were $1.7 over, so we are at least $200 million short.

Chairman Dole. As I understand, offsetting receipts, that is not the problem suggested by Congressman Gibbons?

Mr. Rostenkowski. Mr. Chairman, there comes a time in the legislative process when it is very painful, because as we all are aware, the conference, when a body comes to the conference with their proposal after having worked in the vineyard to try and fashion a piece of legislation that really sets the stage for the culmination of many weeks' work, certainly nobody, no one individual has worked harder than you at putting and fashioning this package; and you are totally defenseless at this point, and certainly I realize that, because the House has the privilege of receding and there is no action that the Senate can take.

We have discussed this in our caucus, in our Conference, and it was almost a unanimous vote of that caucus, at least at the time that we were polled, that this provision in the Conference, we would recede to, and so——

Mr. Conable. What provision are you referring to, Mr. Chairman.

Mr. Rostenkowski. The provision with respect to the cigarette tax, and so, Mr. Chairman, I am terribly sorry but at this juncture, the House recedes to the position of the Senate.

Chairman Dole. That is not unexpected.

I suggest that, I can't quarrel with that decision. We thought there would be a House bill, and we could trade off a few things but there is not any House bill, and we can't trade off what we brought, and we brought the best we could.

I do think we were, in retrospect, pretty tough on one industry, but, again, that has been done.

Mr. DOLE. Madam President, I ask unanimous consent to have printed in the Record a summary of the spending reduction provisions of H.R. 4961 agreed to by the House and Senate conferees. I also ask unanimous consent to have printed in the Record a table showing a State-by-State breakdown of the additional weeks of unemployment benefits that will be available under the unemployment compensation provision agreed to by our conference.

There being no objection, the material was ordered to be printed in the Record, as follows:

Summary

Medicare

1. Medicare Payments Secondary for Older Workers Choosing to be Covered Under Group Health Plans—The conferees agreed to the Senate provision which would require employers to offer employees aged 65 through 69 and their dependents the same health benefit plan offered to younger workers and would make medicare the secondary payor to those plans for such employees and their aged spouses. The decision whether to take this private coverage or select medicare as primary payor would be voluntary for the individual. Medicare payments would be reduced for any item or service furnished to an employee or spouse if the combined payment under medicare and the employer's health plan would otherwise exceed, for items or services reimbursed on a cost basis, their reasonable cost, or, for items or services reimbursed on a charge basis, the higher of medicare's reasonable share or the amount allowable under the employer health benefit plan. In no case would medicare pay more than it would otherwise have paid. Employers with less than 20 employees would be exempt from the provision. The measure would become effective January 1, 1983.

2. Reimbursement for Inpatient Radiology and Pathology Services—Under current law, medicare part B pays 100 percent of the reasonable charges of radiologists and pathologists who furnish radiology and pathology services to hospital inpatients and who accept assignment in all cases for these services.

The conferees agreed to the Senate provision which eliminates the special 100 percent reimbursement rate thereby providing that medicare will pay for such services on the same basis as other physicians' services, i.e., 80 percent of reasonable charges after the part B deductible has been met.

3. Elimination of the Inpatient Routine Nursing Salary Cost Differential—The conferees agreed to the Senate provision which eliminates the routine nursing salary cost differential.

4. Reimbursement of Provider-Based Physicians—The conferees agreed to a Senate provision, with minor modifications, which directs the Secretary of Health and Human Services to prescribe regulations which will distinguish between (1) professional medical services which are personally rendered to an individual patient, which contribute to the patient's diagnosis or treatment, and are reimbursable only under part B on a charge basis; and (2) professional medical services which are of benefit to patients generally and which can be reimbursed only on a reasonable cost basis. Reasonable cost reimbursement for provider-based services could not exceed a reasonable compensation equivalent established by the Secretary in regulations.

5. Part B Premium as Constant Percentage of Costs—Individuals who elect to be covered under medicare part B are required to pay a monthly premium. The amount of the premium, which is set annually, is $12.20, effective July 1, 1982.

Currently, annual increases in the premium are limited to the percentage by which cash social security benefits have most recently been increased. The Senate provision would suspend this limitation and increase premiums on October 1, 1982, on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues for each period beginning on such date equal to 25 percent of program costs for aged beneficiaries. The normal part B premium calculation and limitation would resume on July 1, 1985.

The conferees agreed to the Senate provision with a modification under which no premium increase would occur before July 1, 1983. The measure will result in a projected monthly premium of $13.70 beginning July 1, 1983 (rather than the $13.10 projected under current law), and a monthly premium of $15.30 beginning July 1, 1984 (rather than $14.00 under current law).

6. Medicare Reimbursement to Hospitals—The conferees agreed to hospital reimbursement provisions, as follows:

(a) Expansion of Section 223 Limits to Include Ancillary Costs—

(i) The current Section 223 limitation would be extended to include ancillary costs, applied on an average cost-per-case basis, and adjusted for case mix. In no case would reimbursement on a cost-per-case basis be reduced below the current allowable cost-per-case. The new limitation would be applicable to hospital cost reporting periods beginning on or after October 1, 1982. For the first year, the limitation would be set at 120 percent of the mean for hospitals of the same type; for the second year, the limitation would be 115 percent of the mean; and for the third and subsequent years, the limitation would be 110 percent of the mean.

(ii) Appropriate adjustments would be required for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Rural hospitals with less than 50 beds would be excluded. Other appropriate exemptions, exceptions, and adjustments would be required as in the Senate provision.

(b) Three-year Rate of Increase Provision—

(i) A "target" reimbursement system would be established. The target rate would be the previous year's allowable operating costs per case (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus one percentage point. A hospital with operating costs below the target rate would be paid its costs plus a bonus of 50 percent of the savings (not to exceed 5 percent of the target rate); a hospital with costs above the target rate would be allowed 25 percent of its costs in excess of the target for the first two years; none of the excess would be reimbursed in the third year. Provider payments under the target reimbursement system could not exceed the amount payable under the new Section 223 limitations.

(ii) The Secretary of HHS would be required to provide for appropriate exemptions, exceptions, and adjustments as in the Senate provision.

(iii) The target reimbursement system would be applicable to a hospital's first three cost-reporting periods beginning on or after October 1, 1982, but cease upon implementation of a prospective payment system.

(c) Prospective Payments for Hospitals and Skilled Nursing Facilities—The Secretary would be required to develop, in consultation with the Senate Committee on Finance and the House Committee on Ways and Means, medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and, to the extent feasible, other providers, and to report to the committees on the proposals within five months of the date of enactment.

(d) Recognition of State Hospital Cost Control Systems—The Secretary would be authorized to provide, at the request of a State, that medicare hospital payments could be made under a hospital reimbursement control system in the State if, and so long as: (1) the system applies to substantially all non-Federal hospitals and at least 75 percent of hospital inpatient revenues in the State; (2) the system treats payors, hospital employees, and patients equitably; and (3) the Secretary is satisfied that it will not result in greater medicare expenditures over a three-year period. In making this determination, the Secretary could recognize previous cost savings under the system. With respect to the authority provided to the Secretary under current law to establish and continue medicare demonstration projects, the Secretary would be prohibited from terminating a project for six months after he notifies the State of his decision to terminate.

7. Elimination of Private Room Subsidy—The conferees agreed to the Senate provision, Medicare currently determines its payments to hospitals on the basis of the average costs for all its accommodations, including the additional costs of private rooms even though medicare generally is intended to cover only the costs of semi-private room accommodations. The provision requires the Secretary to publish regulations which would eliminate the subsidy for the extra cost of private rooms.

8. Single Reimbursement Limits for Skilled Nursing Facilities and Home Health Agencies—The conferees agreed to the Senate provision which requires the Secretary to establish a single payment limit for hospital-based and freestanding skilled nursing facilities and a single payment limit for home health agencies on the basis of the cost experience of freestanding facilities.

9. Elimination of Duplicate Payments for Outpatient Services—The conferees agreed to the Senate provision which requires the Secretary of Health and Human Services to issue regulations that would eliminate the duplicative payment of overhead expenses from the charges of a physician who performs services in a hospital's outpatient department.

10. Audit and Medical Claims Review—The conferees agreed to the Senate provision which requires that the medicare contractor budgets for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent for contractor audit and medical review activities.

11. Temporary Delay in Periodic Interim Payments—The conferees agreed to the Senate provision. Under present law, hospitals may receive payments for services rendered to beneficiaries on the basis of periodic interim payments (PIP) that result in an average 3-week lag between the rendering of service and the receipt of payment.

The provision changes the periodic interim payment procedure by providing for a delay in the flow of PIP payments during September 1983. A similar deferral is authorized during September 1984.

12. Reimbursement of Assistants at Surgery—The conferees agreed to the Senate provision, with minor modifications. The provision prohibits reasonable charge reimbursement for an assistant at surgery in hospitals where an approved training program exists in the specialty, except under the following exceptional circumstances: (1) the service is complex and requires performance by a team of physicians; (2) the patient has multiple conditions which require the presence of and active care by a physician of another specialty during an operation; (3) exceptional medical circumstances; and (4) other exceptional circumstances as determined by the Secretary.

13. Prohibition of Payment for Ineffective Drugs—The conferees agreed to the Senate provision implementing Section 2103 of the Omnibus Budget Reconciliation Act of 1981 which prohibits the use of Federal funds under medicare Part B and under medicaid to pay for certain less than effective drugs.

14. Health Maintenance Organizations and Other Competitive Medical Plans—The conferees agreed to the Senate provision with the following changes:

(a) accept the Senate definition of an eligible plan, except that State licensed HMO's would not be included in the definition;

(b) accept a provision with regard to HMO and other plan qualification standards which requires the HMO to provide all medicare services, and requires the Secretary to approve a minimum benefit package;

(c) require the Secretary to establish guidelines for beneficiary information;

(d) accept the Senate provision with regard to enrollment mix with a modification eliminating the requirement that medicare enrollment in a plan not exceed 50 percent;

(e) accept the Senate provision with a modification requiring that participating HMO's or plans have at least 5,000 members (although the Secretary could waive the requirement for rural HMO's and plans) and requiring the Secretary to be satisfied that an HMO has the capacity to bear the risk of potential financial losses;

(f) accept a modification requiring enrollment of two medicare beneficiaries who are not members of an HMO in order to convert one medicare beneficiary;

(g) accept, with minor modification, the Senate provision relating to the calculation of the government contribution;

(h) accept the Senate provision relating to distribution of HMO and plan savings except (i) the requirement for approval of a broader minimum benefit package by a committee of members and (ii) the requirement that "rebates and dividends" be offered to beneficiaries.

15. Technical Corrections Relating to Medicare—The conferees agreed to the Senate provision making miscellaneous technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

16. Hospice Care—The conference agreement follows the Senate provision with the following changes:

(a) the benefit period would consist of two periods of 90 days and one period of 30 days;

(b) the reference to "speech therapy" would be changed to "speech-language pathology";

(c) the Senate provisions would be clarified to authorize the Secretary to eliminate duplication where any provider requirements under this provision are identical to requirements already met by the provider under other agreements with the Secretary;

(d) there would be no reimbursement under part B for an individual's attending physician who is employed by the hospice;

(e) counseling would be included as a care service;

(f) the Senate provisions would be clarified to provide that non-care services could be provided, under arrangements, by others;

(g) a five-percent copayment on respite care services and a five-percent copayment on drugs covered are required under the provision.

The entire hospice provision expires on September 30, 1986.

17. Coverage of Extended Care Services Without Regard to 3-Day Prior Hospitalization Requirement—The conferees agreed to a provision which authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

18. Medicare-Coverage of, and Application of Hospital Insurance Tax to, Federal Employment—The provision adopted by the conferees with respect to application of the hospital insurance tax to Federal employment appears under items relating to revenue.

19. Prohibiting Recognition of Payments Under Percentage Arrangements—The conferees agreed that, with respect to all providers, no cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Further, the provision would not apply to a percentage contract that is reasonable and where such contract is a customary commercial business practice or provides incentives for the efficient and economical operation of the provider of services.

20. Interest Charges on Overpayments and Underpayments—The conferees agreed to a modified proposal which would require interest payments with respect to medicare overpayments. Similarly, the medicare pro-

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gram would be required to pay providers interest on underpayments.

21. Prohibiting Payment for Hill-Burton Free Care—The conferees agreed to a provision which requires the Secretary to provide, by regulation, that the cost incurred by a hospital on SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

22. Prohibiting Payment for Anti-Unionization Activities—The conferees agreed to a provision which prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

23. Eliminating "Lesser of Cost or Charges" Provision—Under present law, payment for services furnished by providers is limited to the lower of the provider's customary charge or the reasonable cost of the service. The conference agreement would provide that the lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

24. Extending Medicare Proficiency Examination Authority—The conferees agreed to a provision that would extend to September 30, 1983, the authority of the Secretary of HHS to conduct a program to determine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

25. Retroactivity of Regulations Regarding Access to Books and Records—Section 952 of P.L. 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision requires that the Secretary prescribe in regulations the procedures and criteria to be used in obtaining access to the appropriate books, documents and records. The regulations have yet to be proposed.

The conferees agreed to a provision which would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1983, preceded by a comment period of no less than 60 days.

26. Private Sector Utilization Review—The conferees agreed to a statutory provision which would require the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities. The initiative would include the development of specific standards for measuring the performance of intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

27. Special Part B Enrollment Without Penalty—The conferees agreed to a provision requiring a special open enrollment period under medicare during which time merchant seamen, whose free health care coverage under the Public Health Service Act was eliminated in 1981, could enroll without being required to pay a late penalty.

28. Establishment of Utilization and Quality Control Peer Review Program—The conferees agreed, with modifications, to the Senate provision repealing the existing Professional Standards Review Organization (PSRO) program and requiring the Secretary of HHS to enter into performance contracts for utilization and quality control peer review.

The conference agreement follows the Senate provision requiring two-year contracts with peer review organizations composed of, or having available, a substantial number of licensed physicians with a modification which would:

(a) prohibit contracts with provider or provider-affiliated organizations (although subcontracts for delegated review);

(b) provide that contract termination procedures would not apply to contract nonrenewals.

The conferees agreed to the Senate provision exempting review organizations from the Freedom of Information Act and establishing disclosure rules for such organizations with a modification which would:

(a) require the review organization to disclose to the appropriate State agency information identifying a particular practitioner or provider when, in the organization's judgment, there is reason to believe that a risk to the public health exists; and

(b) require the review organization to disclose information to a State or Federal fraud or abuse agency or an authorized State licensure or certification agency, at the request of such agency on a case-by-case basis. This information could include institution or practitioner-specific data.

The conference agreement follows the Senate provision relating to the transition from the existing PSRO program with a modification which would prohibit the Secretary from terminating an operating PSRO, until such time as the Secretary has entered into a contract with a review organization under this provision.

The conferees agreed to the Senate provision requiring the Secretary to report to the Congress annually with a modification requiring the Secretary to provide information on the efficiency of payment methodologies used by the Secretary in contracting with review organizations.

29. Provisions Not Included in the Conference Agreement—The conference agreement does not include the provisions relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board; and the optional alternative medicare program (medicare vouchers).

MEDICAID

1. Medicaid Optional Copayments—The conferees agreed to the Senate provision regarding copayments with the following modifications:

(a) all copayments would be nominal, except the "nominal" requirement could be waived by the Secretary in the case of nonemergency services in emergency rooms where certain conditions are met;

(1) children under 18 (States at their option could exempt children up to 21 from copayments);

(2) services related to pregnancy (or, at State option, all services for pregnant women);

(3) patients in skilled nursing and intermediate care facilities;

(4) catagorically needy persons enrolled in an HMO (and a State may elect to exclude all medicaid enrollees in an HMO from copayments);

(5) emergency services and family planning services.

2. Liens/Transfer of Assets—The conferees agreed to a modification of the Senate provision, which provides that:

(a) a State may not impose a lien on the home of an institutionalized medicaid recipient if there is a spouse, sibling, disabled or dependant child in the home;

(b) the lien could not be closed until the home is sold or the recipient dies, or while certain nondependent children remain in the home;

(c) a State may deny medicaid to persons who transfer a home for less than market value for a specified period.

The conferees also agreed to a provision to allow medicaid for persons like Mattie Dudley who have burial funds which currently disqualify them from medicaid.

3. Medicaid Error Rate—The conferees agreed to the Senate provision to reduce matching to States with eligibility error rates in excess of three percent with the following modifications: overpayment errors due to resource tests would be treated in the same manner as overpayments due to incorrectly applied spend-down liability, and technical errors would be excluded.

4. Optional Medicaid Coverage of Disabled Children at Home—The conferees agreed to a provision that would allow States home to certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previously medicaid was not available if the child received care at home.

5. Medicaid Technical Amendments—The conferees agreed to provisions making certain technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

6. Six-Month Moratorium on Nursing Home Regulations—The conferees agreed to a provision that would prevent the regulations currently proposed by the Secretary regarding changes in surveys and certification requirements for nursing homes from going into effect for six months.

7. Medicaid Funding in American Samoa—The conferees agreed to a provision that would provide Federal funding for medical services in American Samoa.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

The conferees did not agree to the following proposals: provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1961; and a provision expanding States' options to qualify for a onepercent offset to last year's matching reductions by holding down increases in hospital costs.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Rounding of AFDC Eligibility and Benefit Amounts—The conferees agreed to a Senate provision requiring States to round both their standards and actual monthly benefit amounts to the lower whole dollar.

Prorate First Month's Benefit Based on Date of Application—The conferees agreed to a Senate provision requiring States to pay benefits beginning no earlier than the date an application is filed. The benefit amount would be prorated based on the date of application.

Eliminate Military Service as Basis for AFDC Eligibility—The conferees agreed to a Senate provision excluding absence based solely on military duty as a basis for need. However, if the parent has left the home for other reasons and is not providing support, the family may still be eligible for assistance. In this case, as provided in present law, the custodial parent would have to assign to the State any rights to child support which have accrued.

Job Search—The conferees agreed to a House provision which permits States to require AFDC applicants and recipients to participate in a program of employment search beginning at the time of application. States exercising this option may limit participation to certain groups or classes of individuals who are required to register for WIN and the provision permit the State to shorten the duration of the sanction period. Transportation and other necessary costs incurred by participants must be paid and States would receive 50 percent Federal matching funds for transportation and other services. An initial 8-week search period is allowed plus an additional 8-week period each year (which could add up to 16 weeks in the first year). States may not use the job search requirement as a reason for delaying eligibility determinations or making payments to those otherwise eligible.

Prorating Shelter and Utilities for AFDC Families Which Share Households—The conferees agreed to a Senate provision allowing States to adjust the AFDC benefit when the AFDC family shares a household with other individuals. (States could not prorate in the case of an SSI recipient to whom a one-third benefit reduction applies.) States would be authorized to prorate, on a reasonable basis, the portion of the AFDC grant which the State designates for shelter and utilities. In States which elect this option, the State would be free to design the method of proration and the circumstances in which proration would be applied. The Secretary is authorized to prescribe broad guidelines for States which use this option.

Reduce Federal Match for Errors—The conferees agreed to a modification of a Senate provision limiting the Federal match for erroneous benefit payments in the AFDC program to four percent in fiscal year 1983, and three percent in fiscals years 1984 and 1985. The imposition of fiscal sanctions would be applied on a retrospective basis. The Secretary of Health and Human Services may exercise waiver authority in cases he or she deems appropriate.

Retrospective Accounting Option.—The conferees agreed to a Senate provision allowing States the option of excluding from calculations of AFDC benefit amounts, any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated.

WIN Demonstration Authority.—The conferees agreed to a Senate provision reopening the option for States to operate Work Incentive (WIN) Demonstration Programs. A provision of the 1981 Omnibus Budget Reconciliation Act authorized the States, at their option, to operate three-year work incentive demonstration programs. However, the State had to declare its intention to operate such a demonstration program within 60 days of enactment of the Omnibus Budget Reconciliation Act. The provision would reopen this option for the States for an additional two years. The requirements and regulations which applied to the earlier WIN Demonstration Program would apply to the extension.

Exclusion from Income of Certain State Payments.—The conferees agreed to a House provision which allows States to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by a State to AFDC households.

Technical Amendments to Title XX Social Services and Foster Care Program.—The conferees agreed to a House provision which makes technical corrections to social services and foster care provisions of Public Law 97-35.

The conferees did not agree to the following proposals: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (counting eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT

Collection of Administrative Costs for Non-AFDC Child Support Enforcement—The conferees agreed to a Senate provision repealing the provisions enacted in P.L. 97-35 which would require States, in cases involving non-AFDC families, to charge any absent parent who is obligated to pay child support through the State Child Support Enforcement Agency a fee equal to 10 percent of the child support payment. The provisions restores the law in effect prior to P.L. 97-35 which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. The provision also retains, as a State option, the authority to collect from the parent who owed child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments for Child and Spousal Support by Members of the Armed Forces—The conferees agreed to a Senate provision with a House modification which requires allotments from the pay and allowances of any member of the uniformed service, on active duty, when he or she fails to make child (or minor and spousal) support payments. The requirement would arise when the member failed to make support payments in an amount at least equivalent to the value of two months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the servicemember's pay subject to allotment would be limited. In addition, the servicemember would be given an opportunity to consult a judge advocate or other law specialist.

Reimbursement of State Agency—The conferees agreed to a Senate provision that would allow States to reimburse themselves from the amount of support collected for AFDC that was already paid in the final month of eligibility. Thus, the family would not receive double payment for the same month, first in the form of AFDC and then through receipt of the proceeds of the support collection.

Reduction in Federal Matching for State Child Support Costs—The conferees agreed to a House provision which would reduce the Federal matching rate for State costs of operating the child support enforcement (CSE) program. Effective October 1, 1982, the rate will be reduced from 75 to 70 percent. Effective October 1, 1983, all matching will be eliminated for costs incurred by State and local courts in connection with the CSE program. In addition, the provision reduces State CSE incentive payments from 15 to 12 percent, effective October 1, 1983.

Technical Amendments to Child Support Enforcement Program—The conferees agreed to a House provision which makes several technical corrections in the child support enforcement provisions contained in Public Law 97-35, including the correction of inaccurate references.

SUPPLEMENTAL SECURITY INCOME (SSI)

Prorate First Month's Benefit Based Upon Date of Application—The conferees agreed to a Senate provision to prorate the first month's SSI benefit from the date of application or the date of eligibility, whichever is later.

The provision would also apply to the month in which an individual reapplies after a period of ineligibility.

Round SSI Eligibility and Benefit Amounts—The conferees agreed to a Senate provision to round SSI monthly benefits and income eligibility amounts to the next lower dollar. Rounding would take place after the cost-of-living adjustment is made.

Coordination of SSI and OASDI Cost-of-Living Adjustment—The conferees agreed to a Senate provision coordinating the cost-of-living increases in SSI and social security (OASDI). At the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month, rather than in the second preceding month. In addition, whenever the Secretary determines that there is reliable information, on a recipient's income or resources in a given month, the SSI benefit would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information concerning a future event could be used to determine the monthly SSI benefit.

Phase Out of "Hold Harmless" Protection—The conferees agreed to a House provision continuing the phase out of "hold harmless" payments as follows: hold harmless payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no hold harmless payments made in 1985 and years thereafter.

Exclusion from Resources of Amounts Set Aside for Burial Expenses—The conferees agreed to a House provision which would, for the purposes of determining SSI eligibility, exclude from countable resources burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary). Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies. In addition, the $1,500 limit would be reduced by any amounts held by the individual in an irrevocable burial contract or other arrangements made to meet burial expenses. The Secretary would be authorized to periodically raise the $1,500 limit as may be necessary.

SSI Pass-Through Requirement—The conferees agreed to a House provision to allow a State to shift from the aggregate spending option to the State supplementation pay-

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ment level option. A State could not decrease its State supplementation payment below the level in the previous December.

Treatment of Unnegotiated SSI Checks—The conferees agreed to a House provision that clarifies the authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks.

Recovery of SSI Overpayments—The conferees did not agree to a Senate provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits).

UNEMPLOYMENT COMPENSATION

1. Rounding of Unemployment Benefits—The conferees agreed to a Senate provision under which the Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

2. Reed Act Funds—The conferees agreed to a House provision which extends for 10 years the authority for States to use Reed Act funds for administrative purposes. The provision also permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

3. Exclusion from FUTA of Wages Paid to Student Interns—The conferees agreed to a House provision which exempts from FUTA tax any wages paid to a student enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program.

4. Extension of Exclusion from FUTA of Wages Paid to Certain Alien Farmworkers—The conferees agreed to a House provision which extends for two years, from January 1, 1982, to January 1, 1984, the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA wages.

5. Unemployment Compensation (UC) Financing—The conferees agreed to the Senate provisions which increase the Federal unemployment tax (FUTA) wage base from $6,000 to $7,000 and which increase the FUTA rate from 3.4 to 3.5 percent effective January 1, 1983. (Employers in States with approved State programs will continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate is increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current State law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

The conferees also agreed to the following additional UC financing provisions which:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration (ESAA) and 40 percent to the extended unemployment compensation (EUCA) accounts in the Federal Unemployment Trust Fund. Amounts allocated to EUCA which exceed the Federal share of extended benefit expenditures will be used to repay Federal general revenue advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues will be allocated to ESSA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience rating system and/or benefit reductions;

(c) drop the present law additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferral amount.)

6. Treatment of Certain Employees of Institutions of Higher Education—The conferees agreed to a House provision which allows States to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years or terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

7. Short-time Compensation—The conferees agreed to a House provision which directs the Department of Labor to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor is directed to evaluate the operation and impact of any such programs implemented by the states and report its findings to Congress no later than October 1, 1985.

The conferees did not agree to the following proposals: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

RECONCILIATION INSTRUCTION

[In millions]

	Fiscal Year			Total
	1983	1984	1985	
Senate Finance	4,429	5,564	5,976	15,969
Ways and Means	3,755	4,827	5,168	13,750
Medicare	3,162	4,122	4,240	11,524
Medicaid	674	737	808	2,219
Public assistance	593	705	928	2,226
Conference agreement [1] (preliminary estimates)				
Total savings	3,695	5,958	7,865	17,518
Medicare	2,879	4,430	5,998	13,307
Medicaid	275	364	502	1,141
AFDC	[illegible]	157	163	405
CSE	92	141	151	384
SSI	116	126	144	386
UC	−81	49	49	17
Debt management	329	691	858	1,878

[1] This table does not reflect the additional food stamp outlays of $184 million and additional medicaid outlays of $111 million resulting from two medicare provisions over the three-year period. Thus the total net outlay savings are $17,233 million. The table reflects the savings to each of the programs identified. The minus sign (−) for 1983 in unemployment compensation represents additional outlays.

ADDITIONAL WEEKS OF UNEMPLOYMENT BENEFITS (FSB) ANTICIPATED

[To be available (based on CBO projections except as noted)]

State	First quarter Number of weeks	Second quarter Number of weeks
Alabama	10	10
Alaska	10	10
Arizona	10	10
Arkansas	10	10
California	10	10
Colorado	6	6
Connecticut	6	[1] (6)
Delaware	10	10
Dist. of Columbia	6	8
Florida	6	6
Georgia	6	8
Hawaii	8	8
Idaho	10	10
Illinois	10	10
Indiana	10	10
Iowa	10	10
Kansas	10	10
Kentucky	10	10
Louisiana	10	10
Maine	10	10
Maryland	10	10
Massachusetts	10	10
Michigan	10	10
Minnesota	10	10
Mississippi	10	10
Missouri	10	10
Montana	10	10
Nebraska	6	8
Nevada	10	10
New Hampshire	6	6
New Jersey	10	10
New Mexico	10	10
New York	8	8
North Carolina	10	10
North Dakota	[1] (6)	8
Ohio	10	10
Oklahoma	6	6
Oregon	10	10
Pennsylvania	10	10
Puerto Rico	10	10
Rhode Island	10	10
South Carolina	10	10
South Dakota	6	6
Tennessee	10	10
Texas	6	6
Utah	10	10
Vermont	10	10
Virginia	6	6
Virgin Islands	10	10
Washington	10	10
West Virginia	10	10
Wisconsin	10	10
Wyoming	6	[1] (6)

[1] Based on Department of Labor projections.

Mr. HARRY F. BYRD, JR. Madam President, before commenting on the issue at hand and the debt limitation increase, I will comment just briefly on the conference action.

First, let me say that our colleague, the distinguished Senator from Kansas, did a tremendous job as chairman of the conferees. He worked constantly. I do not know how many hours the conference was in session, but we started early Friday afternoon and went all night Friday night, recessing around 9 a.m. Saturday morning. Then we came back into session at 3:30 Saturday afternoon. We were then in session until almost 3 o'clock Sunday morning.

During that entire period, the distinguished Senator from Kansas, Senator DOLE, had command of the situation, so to speak, and he spent full time going from one conference to another; there were a multitude of miniconference going on simultaneously.

The only comment I will make about the conference action, Madam President, is in regard to the spending re-

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ductions. The Senate proposed mandated a reduction in spending of $17 billion.

The conference would not agree to that much of a spending reduction and indeed added to the spending before the conference was over. So the spending reduction, leaving out the smoke, as the chairman described it, the real spending reduction in this conference report will equal $13 billion compared to the $17 billion approved by the Senate. To me, that was very disappointing. As I said, I had not planned on commenting on the conference report today.

In regard to the debt limitation increase, the acting manager of the bill on the minority side voted against the debt increase legislation when it was before the Finance Committee. But I want to say for the record that on the minority side there were only three votes in opposition, including that of the Senator from Virginia, and on the majority side it was unanimous with no votes cast in opposition.

I wish to refer to just a few figures. In May of this year, the national debt stood at $1.065 trillion. Under this legislation, the debt ceiling and the debt is projected to go to $1.290 trillion as of September 30, 1983.

What that means is that in that short period of time of 17 to 18 months, the national debt will increase by $225 billion or 21 percent.

Madam President, that to the Senator from Virginia is deeply alarming. It dramatizes that we are not getting spending under control, that the deficits are huge.

Let us take it another step. The Senate budget resolution, which the Senate already has approved, provides for an increase in the national debt to a total of 1 trillion and 533 billion dollars by the end of September 1985. When one analyzes that, what the Senate has done by formal action is to initiate spending to the degree that spending will increase by $468 billion in a period of 3 years and 5 months ending September 30, 1985.

To put it another way, the national debt under legislation already initiated by the Senate will increase by 44 percent in 3 years and 5 months.

To me, that puts in focus just how serious is our Nation's economic policy, just how serious is our Government's financial problem. The national debt will increase from $1,065,000,000,000 in May 1982 to $1,533,000,000,000 by September 1985, 3 years and 5 months.

When one analyzes that, one finds that for 3 years in a row the Government will be operating at deficits exceeding $100 billion and averaging somewhere around $150 billion.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1246

(Purpose: To prohibit the use of funds for the physical fitness facility in the Hart Senate Office Building and for the physical fitness facility in the Dirksen Senate Office Building, and for other purposes)

Mr. BAKER. Madam President, I have an amendment at the desk to the debt limit bill for myself, the distinguished minority leader (Mr. Robert C. Byrd), the distinguished Senator from Vermont (Mr. Stafford), and the distinguished Senator from Louisiana (Mr. Johnston). I ask unanimous consent that that be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker), for himself, Mr. Robert C. Byrd, Mr. Stafford, and Mr. Johnston, proposes an unprinted amendment numbered 1246.

Mr. BAKER. Madam President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

Sec. . (a)(1) Notwithstanding the directive of the Senate Office Building Commission of March 19, 1982, and notwithstanding any other provision of law, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building.

(2) The Architect of the Capitol is authorized to obligate and expend from the construction contingency funds for the Hart Senate Office Building amounts which are prohibited to be obligated, committed, or expended by the first paragraph of this subsection for such other necessary expenses relating to the completion of the Hart Senate Office Building as the Architect of the Capitol deems necessary.

(b) No funds may be expended for the operation of the physical fitness facility in the Dirksen Senate Office Building after the date of enactment of this joint resolution.

(The names of Mr. Helms, Mr. Ford, Mr. Thurmond, Mr. Proxmire, Mr. Cohen, Mr. Domenici, and Mr. Chiles were added as cosponsors of the amendment.)

Mr. BAKER. Madam President, I announced last week that I had written to the Building Commission asking them to defer funding of the gym in the new Hart Building pending further action by the Senate. This amendment provides, first, that no funds will be available for the purpose of outfitting the Hart Building gymnasium and, second, that no funds will be available for the operation of the gymnasium in the Dirksen Senate Building.

Madam President, the intent and purpose of that is obvious, I believe. That is, we have one gym, which will be in the Russell Building, and the other two will not be authorized.

I have no desire to debate this at length. Indeed, I ask unanimous consent that the amendment now be temporarily laid aside and that any rollcall votes which may be ordered on that amendment or in relation to it dealing with Senate gyms or any germane second-degree amendment thereto be postponed to begin at 2 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, Madam President, may I inquire, the amendments in the second degree would be in order on this amendment pertaining to the gym of the Hart Building?

Mr. BAKER. Yes.

Mr. HATFIELD. In other words, an amendment to abolish the exercise room in the Dirksen Building, 15 feet by 15?

Mr. BAKER. I say to my friend from Oregon, that is subsection (b).

Mr. HATFIELD. I am very grateful that was incorporated.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. President, I ask that it be in order to ask for the yeas and nays on the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. I ask unanimous consent that the amendment may lie at the desk for further cosponsors during the balance of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, it is my understanding that the Senator from North Carolina (Mr. Helms) is in a position to offer the first of the abortion amendments.

I understand the distinguished manager of the bill, the chairman of the Committee on Finance, has an amendment that he wants to offer first, which is agreeable on both sides of the aisle. I shall yield to him so he may proceed with that. Members should be on notice that immediately after that, I anticipate that the Helms abortion amendment will be offered.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. A parliamentary inquiry. Is there an amendment pending?

The PRESIDING OFFICER. The committee amendment in the nature of a substitute is pending.

Mr. DOLE. And it is open to amendment?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 1247

(Purpose: To decrease the holding period required for long-term capital gain or loss treatment)

Mr. DOLE. Madam President, I send an unprinted amendment to the desk for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, and Mr. HARRY F. BYRD, JR., proposes an unprinted amendment numbered 1247.

Mr. DOLE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (20) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7), of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234 (b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d)(1) Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of property held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Madam President, let me explain briefly what this amendment does. I know of no objection to the amendment. It has been cleared on both sides. In fact, it was in the bill passed last year in the House and in the bill we just finished going to conference on that was in the Senate bill.

I am offering the amendment for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) to House Joint Resolution 520 to deal with an important tax change that was included in the Senate version of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. This change—reducing the holding period for long-term capital gains from 12 months to 6 months—unfortunately was rejected by the House conferees on the tax bill this weekend. However, after discussion with House Members and others who have an interest in this matter, I have determined that it is worth making another try at this time.

The 6-month holding period for capital gains was, I believe, one of the more important provisions of the Senate-passed tax bill. There is considerable evidence that the difference in tax treatment of short- and long-term transactions under present law provides an incentive for investors not to realize short-term gains. Studies of capital asset sales data confirm that investors are "locked in" to investments simply because they do not want to be taxed on short-term gains. As a result, the efficiency of capital markets is reduced because investors hold assets longer than they might otherwise, in the absence of tax considerations. By reducing the capital gains holding period, we expect to reduce the lock-in effect and its adverse impact on capital market efficiency. It should also be noted that, prior to 1976, the holding period was 6 months.

Madam President, this issue has been carefully considered both this year and last, and there is considerable support for it. It is endorsed by the Reagan administration, and it was passed by the House of Representatives last year in its consideration of ERTA. The provision did not survive conference on ERTA, however, just as it did not survive this year's conference. But surely it is significant that each House now has passed major legislation including a 6-month holding period provision. It was a deep disappointment to me that this provision could not be agreed to by the House in the conference on H.R. 4961. However, I discussed the matter at some length with Chairman ROSTENKOWSKI and others, and I believe that the provision will be carefully considered if it is added to another revenue bill, there is considerable interest in this on both sides of the aisle in both the House and the Senate, and as I have indicated before for that reason we are offering it today.

I should also note that the amendment I offer today deals with a technical problem that was overlooked in the comparable provision of H.R. 4961. When we drop the holding period to 6 months, we change the definition of long-term losses as well as gains. It has come to our attention, however, that some investors may have been counting on a short-term loss on assets held between 6 and 12 months to offset other short-term gains they may have had. Unless we expressly provide for that contingency, those short-term losses attributable to sales or exchanges after June 30 will be converted to long-term losses if the asset was held more than 6 months. Accordingly, my amendment contains an appropriate transition rule to allow a grace period for the change regarding the definition of short-term losses, so the taxpayer who relied on prior law will have sufficient time to realize a short-term loss needed to offset a short-term gain.

STRADDLE PROBLEM

Madam President, I should also note that I am aware that the language contained in the amendment I offer today does not include a technical conforming amendment that may be needed to deal with an unintended impact of this change on the treatment of certain stock options under the tax straddle rules enacted last year in the Economic Recovery Tax Act. In general, I believe that where there is no possibility of the conversion of ordinary income or short-term capital into long-term capital gain, through offsetting stock option positions, the complex tax straddle rules should not apply. I hope to offer a technical amendment in the near future or to incorporate language during conference on this measure to deal with this problem and make absolutely clear the relation between the new 6-month holding period rule and the tax straddle rules.

Madam President, I believe that summarizes the case for this amendment. I hope it will be adopted by the Senate and enacted into law.

Mr. HARRY F. BYRD, JR. Madam President, this I think is a good amendment offered by the Senator from Kansas on behalf of himself and the Senator from Virginia. The Senate has passed this proposal earlier, but, as the Senator from Kansas indicated, it was eliminated from the tax bill by the joint Senate-House conference.

While I support the amendment and think it is a good one, and feel it should be enacted, I will have to ask that it not be voted on at this time; there may be Members of the Senate who have different ideas who would be inclined to oppose it. They should have the opportunity to debate it.

May I say to the Senator from Kansas that I do not know whether it is his idea whether there be a recorded vote or whether it should be done by voice vote. If it is to be done by a voice vote, I ask that it not be done at the present time; there may be Members on this side of the aisle who would be inclined to oppose it, although I think it will be approved overwhelmingly when it does come to a vote.

Mr. DOLE. I am perfectly willing to do it either way. I will not ask for a vote until everybody has had a chance to be notified. If there is any doubt, I do not want to approve it at this time. As I said, we used to have a 6-month holding period up until 1976. It was a part of the House provision in the Economic Recovery Tax Act last year. It was a part of the Senate provision this year. We lost it in conference on two occasions, but I certainly do not want to deny anybody an opportunity to speak against the amendment or speak for the amendment. I understand there may be others who would like to speak for the amendment. So we could probably work out some accommodation as was done on the last amendment, to ask permission that this be laid aside until Members have had an opportunity to take a look at it.

Mr. HARRY F. BYRD, JR. I might say that the Senator from Arkansas (Mr. Bumpers) has phoned that he would like to come to debate the issue.

Mr. DOLE. Does the Senator want to do that now?

Mr. HARRY F. BYRD, JR. He is supposed to be on his way.

Mr. DOLE. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Kasten). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I thank the Chair, and I thank the Senator from Kansas.

Mr. President, I have discussed this now with the author of the amendment, the managers of the joint resolution, and the minority leader. I believe it has been cleared by all of the principals involved, and I will state it now for the consideration of the Senate.

Mr. President, I ask unanimous consent that the Dole amendment which is now pending be temporarily laid aside and that it will occur as the pending question at the suggestion of the majority leader at any time after first consulting with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I hope that shortly we can have the Helms amendment pending and I will either yield the floor for that purpose or I will suggest the absence of a quorum.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS, Mr. President, I thank the Chair,

UP AMENDMENT NO. 1248

Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1248.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the end thereof, add the following: TITLE II.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. PACKWOOD. Mr. President, I did not hear the reading. I am sorry.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the end thereof, add the following: TITLE II.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we are about to enter into apparently a rather lengthy discussion on the subject of abortion amendments, maybe more than one.

We had hoped that we would be able to reach a unanimous-consent agreement last week on considering both an abortion bill and an amendment and a constitutional amendment, but we were unable to reach that conclusion.

In that case, I think it clear that we are going to need lengthy discussion on this subject in an effort to attach these amendments to the debt ceiling.

So I wish to have a chance to read to the Senate the "History of Abortion in America" by Dr. James C. Mohr so that the Senate might be aware of what the situation was in this country

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at the time of its founding and what the situation has been involving abortion from the time of the founding of this country until now.

In the absence of any legislation whatsoever on the subject of abortion in the United States in 1980, the legal status of the practice governed by the traditional British common law as interpreted by the local courts of the new American states. For centuries prior to 1800 the key to the common law's attitude toward abortion had been a phenomenon associated with normal gestation known as quickening. Quickening was the first perception of fetal movement by the pregnant woman herself. Quickening generally occurred near the midpoint of gestation, late in fourth or early in the fifth month, though it could and still does vary a good deal from one woman to another. The common law did not formally recognize the existence of a fetus in criminal cases until it had quickened. After quickening, the expulsion and destruction of a fetus without due cause was considered a crime, because the fetus itself had manifested some semblance of a separate existence: the ability to move. The crime was qualitatively different from the destruction of a human being, however, and punished less harshly. Before quickening, actions that had the effect of terminating what turned out to have been an early pregnancy were not considered criminal under the common law in effect in England and the United States in 1800.

Mr. President, let me read that sentence again.

Before quickening, actions that had the effect of terminating what turned out to have been an early pregnancy were not considered criminal under the common law in effect in England and the United States in 1800.

Both practical and moral arguments lay behind the quickening distinction. Practically, because no reliable tests for pregnancy existed in the early nineteenth century, quickening alone could confirm with absolute certainty that a woman really was pregnant. Prior to quickening, each of the telltale signs of pregnancy could, at least in theory, be explained in alternative ways by physicians of the day. Hence, either a doctor or a woman herself could take actions designed to restore menstrual flow after one or more missed periods on the assumption that something might be unnaturally "blocking" or "obstructing" her normal cycles, and if left untreated the obstruction would wreak real harm upon the woman. Medically, the procedures for removing a blockage were the same as those for inducing an early abortion. Not until the obstruction moved could either a physician or a woman, regardless of their suspicions, be completely certain that it was a "natural" blockage—a pregnancy—rather than a potentially dangerous situation. Morally, the question of whether or not a fetus was "alive" had been the subject of philosophical and religious debate among honest people for at least 5000 years. The quickening doctrine itself appears to have entered the British common law tradition by way of the tangled disputes of medieval theologians over whether or not an impregnated ovum possessed a soul. The upshot was that American women in 1800 were legally free to attempt to terminate a condition that might turn out to have been a pregnancy until the existence of that pregnancy was incontrovertibly confirmed by the preception of fetal movement.

Again, Mr. President, I shall read that sentence:

The upshot was that American women in 1800 were legally free to attempt to terminate a condition that might turn out to have been a pregnancy until the existence of that pregnancy was incontrovertibly confirmed by the perception of fetal movement.

An ability to suspend one's modern preconceptions and to accept the early nineteenth century on its own terms regarding the distinction between quick and unquick is absolutely crucial to an understanding of the evolution of abortion policy in the United States. However doubtful the notion appears to modern readers, the distinction was virtually universal in America during the early decades of the nineteenth century and accepted in good faith. Perhaps the strongest evidence of the tenacity and universality of the doctrine in the United States was the fact that American courts pointedly sustained the most lenient implications of the quickening doctrine even after the British themselves had abandoned them. In 1803 Parliament passed a law, the details of which will be discussed in the next chapter, that made abortion before quickening a criminal offense in England for the first time. But the common law in the United States, as legal scholars have pointed out, was becoming more flexible and more tolerant in the early decades of the nineteenth century, especially in sex-related areas, not more restrictive.

In 1812 the Massachusetts Supreme Court made clear the legal distance between the new British statute on abortion and American attitudes toward the practice. In October of that year the justices dismissed charges against a man named Isaiah Bangs not on the grounds that Bangs had not prepared and administered an abortifacient potion; he probably had. They freed Bangs because the indictment against him did not aver "that the woman was quick with child at the time." In Massachusetts, the court was asserting, an abortion early in pregnancy would remain beyond the scope of the law and not a crime. *Commonwealth v. Bangs* remained the ruling precedent in cases of abortion in the United States through the first half of the nineteenth century and, in most states, for some years beyond midcentury. Prosecutors took the precedent so much for granted that indictments for abortion prior to quickening were virtually never brought into American courts. Every time the issue arose prior to 1850, the same conclusion was sustained: the interruption of a suspected pregnancy prior to quickening was not a crime in itself.

Because women believed themselves to be carrying inert non-beings prior to quickening, a potential for life rather than life itself, and because the common law permitted them to attempt to rid themselves of suspected and unwanted pregnancies up to the point when the potential for life gave a sure sign that it was developing into something actually alive, some American women did practice abortion in the early decades of the nineteenth century. One piece of evidence for this conclusion was the ready access American women had to abortifacient information from 1800 onward. A chief source of such information was the home medical literature of the era.

Home medical manuals characteristically contained abortifacient information in two different sections. One listed in explicit detail a number of procedures that might release "obstructed menses" and the other identified a number of specific things to be avoided in a suspected pregnancy because they were thought to bring on abortion. Americans probably consulted William Buchan's "Domestic Medicine" more frequently than any other home medical guide during the first decades of the nineteenth century. Buchan suggested several courses of action designed to restore menstrual flow if a period was missed. These included bloodletting, bathing, iron and quinine concoctions, and if those failed, "a tea-spoonful of the tincture of black hellebore [a violent purgative] . . . twice a day in a cup of warm water." Four pages later he listed among "the common causes" of abortion "great evacuations [and] vomiting," exactly as would be produced by the treatment he urged for suppressed menses. Later in pregnancy a venturesome, or desperate, woman could try some of the other abortion inducers he ticked off: "violent exercise; raising great weights; reaching too high; jumping, or stepping from an eminence; strokes [strong blows] on the belly; [and] falls."

American women of the early nineteenth century who wanted more detailed information could consult books like Samuel K. Jennings' "The Married Lady's Companion." The Jennings volume, which billed itself in subtitle as a Poor Man's Friend, had its second printing in 1808 and was intended for women in rural areas, where there were no physicians, and for families unable to afford a doctor's fee. The book was remarkably straightforward about advising otherwise healthy girls afflicted with "what you call a common cold." "Taking the cold" was a common nineteenth-century euphemism for missing a menstrual period, and there can be no doubt that Jennings's italics sufficiently alerted his readers. Jennings favored bleeding from the foot, hot baths, and doses of calomel and aloes. Calomel was prescribed for almost anything in the early decades of the nineteenth century; aloes, another strong cathartic, remained a standard ingredient in abortifacient, preparations for the next hundred years.

Like most early abortion material, Buchan's and Jennings's advice harked back to almost primordial or instinctual methods of ending a pregnancy. Bloodletting, for example, was evidently thought to serve as a surrogate period; it was hoped that bleeding from any part of the body might have the same flushing effect upon the womb that menstrual bleeding was known to have. This primitive folk belief lingered long into the nineteenth century, well after bleeding was abandoned as medical therapy in other kinds of cases, and it was common for abortionists as late as the 1870s to pull a tooth as part of their routine. This procedure had been given learned sanction in 1808, when the first American edition of John Burns's classic "Observations on Abortion" appeared. Burns, a Glasgow medical professor whose volume remained a standard for half a century, was primarily concerned with spontaneous miscarriage rather than induced abortion, but twice in different contexts stated: "The pulling of a tooth . . . sometimes suddenly produces abortion." Aside from the pain and shock of an extraction without anesthetic, which probably could induce miscarriage in some women, the process must have been psychologically akin to pulling a plug for the patient. In later years it also offered the sophisticated abortionist a medical camouflage upon which he or she might blame possible postoperative complications. Similarly, bathing, though it may have had some abortive effect as a muscle relaxer and a source of internal infection, probably went back to primitive beliefs that the pregnancy could simply be washed away, physically expunged. Finally, Jennings's recommendations of calomel and aloes paralleled Buchan's reliance on black hellebore. These substances were ingested on the reasonably plausible theory that a sufficiently violent disruption of the lower digestive tract might cause the uterus to empty its contents also. This belief became the basis of a booming pharmaceutical business in abortifacient preparations, which will be discussed later in another context.

Joseph Brevitt's "The Female Medical Repository," which was published in Baltimore in 1810, made many of the same points that Buchan and Jennings made, but added some significant details. Brevitt liked hellebore and aloes, but he considered savin especially effective. Savin, as Brevitt's work reminded American women, had a tremendous advantage in the United States over hellebore or aloes because any woman could easily obtain some simply by extracting the oil from one of the common juniper bushes that grew wild all over North America. Both black hellebore and aloes, on the other hand, had to be imported and were, as a result, expensive. Reports of attempted abortion by ingesting savin, and of accidental death from savin overdoses, remained common throughout the nineteenth century. There can be little doubt that juniper extract was the single most commonly employed folk abortifacient in the United States during the early decades of the nineteenth century. Jalap, scammony, and bitter apple could also be tried in a pinch, according to "The Female Medical Repository." Brevitt asserted that the French preferred horehound, and he believed, wrongly, that madder root worked directly upon the muscles of the uterus itself. He cautioned against cantharides, or Spanish fly, because he considered it dangerous to the urinary tract, but the fact that he made such a warning suggests that at least some women were trying it for abortifacient purposes. "Electricity," he added, "generally and sometimes locally applied, has frequently been known to restore the discharge." This idea, too, was subsequently picked up by later nineteenth-century entrepreneurs, who developed a number of galvanic contraptions designed to aid women who were "obstructed."

After listing the usual "external causes" of abortions, which included riding, jumping, falls, and the like, Brevitt added an asterisk and a footnote that helped confirm further the fact that Americans from an early period were practicing abortion: "I feel constrained to note here, the horrid depravity of human weakness, in wretches lost to every sense of religion, morality, and that natural attachment from a mother to her offspring, and every tender tie in nature, seek the means to procure abortion: nor are there wanted, in the other sex, infernals wicked enough to aid their endeavors." Considering the detailed abortifacient information that Brevitt's own volume contained, that statement might appear singularly disingenuous. But it probably was not. In Brevitt's terms the word "abortion" implied the termination of a pregnancy after the pregnancy was certain, that is, after quickening. He was testifying that even illegal abortions were being performed in the United States in 1810, abortions after quickening, and that some physicians were willing to provide abortion services for women at virtually any stage of gestation. The procedures Brevitt counseled, even though they were designed to bring on what the twentieth century would call an abortion, were not considered criminally abortifacient either in Brevitt's terms or in the opinions of his readers, unless a woman persisted in them after she quickened.

The Virginian Thomas Ewell, a surgeon at Navy Hospital in Washington, D.C., was another who wrote forthrightly about unblocking obstructed menses in his "Letters to Ladies," published in 1817. Like many before him, he urged hot sits baths, doses of aloes, and a number of straining exercises. Walking, horseback riding, and jumping, the more the better, all helped bring on abortion, he counseled, especially at the time menses would normally have occurred had the last period not been missed. Ewell, too, thought electricity through the thighs might end a suppression and that light bleeding could be beneficial. To those rather elemental staples, however, Ewell added some medically more advanced ideas including internal douching with strong brandy, water as hot as could be tolerated, vinegar, wine, or strong brine. Considering that the book appeared in 1817, this was reasonably sophisticated advice. Though Ewell could not have known anything about bacteria, each of the douches he recommended (assuming that the water was cooled from a boil) was fairly antiseptic. Moreover, he correctly speculated that the douches were not abortifacients themselves but provoked menstrual flow by causing cervical irritation, as in fact they might have done. If forced into the uterus itself after cervical dilation, which was something medical practitioners knew how to do, such solutions would almost certainly have been effective abortifacients and not prohibitively unsafe.

In addition to home medical guides and health manuals addressed to women, abortions and abortifacient information were also available in the United States from midwives and midwifery texts. Midwives had long enjoyed a dubious reputation as abortion procuresses both in England and in America. This led to difficult problems for male physicians like Valentine Seaman, who wanted to upgrade America's midwife corps. Seaman, who was physician to the lying-in (or maternity) ward of the New York City Almshouse and also associated with New York Hospital, taught midwifery. In his classes he had to instruct midwives on how to perform abortions in order that they might meet such crises as the death of a fetus in utero or an incomplete spontaneous abortion or a badly handled intentional abortion begun by someone else. But when he published his lectures in 1800, he was at considerable pains to point out that he cautioned new midwives against prescribing for obstructed menses on their own, lest they inadvertently become the dupes of women who already knew they were pregnant and wanted abortions. Again the caution suggests that some American women were approaching midwives for abortifacient services.

Herbal healers, the so-called Indian doctors, and various other irregular practitioners also helped spread abortifacient information in the United States during the early decades of the nineteenth century. Their surviving pamphlets, of which Peter Smith's 1813 brochure entitled "The Indian Doctor's Dispensary" is an example, contained abortifacient recipes that typically combined the better-known cathartics with native North American ingredients thought to have emmenagogic properties. For "obstructed menses" Smith recommended a concoction he called "Dr. Reeder's chalybeate." The key ingredients were myrrh and aloes, combined with liquor, sugar, vinegar, iron dust, ivy, and Virginia or seneca snakeroot. A sweet-and-sour cocktail like that may or may not have induced abortion, but must certainly have jolted the system of any woman who tried one.

The snakeroot to which Smith referred appears to have been another of the popular folk abortifacients used in the United States early in the nineteenth century. When Thomas Massie, a medical student at the University of Pennsylvania, wrote his 1803 doctoral dissertation on the properties of Polygala Senega, he quoted a letter from an eminent medical man in Harford County, Maryland, to the effect that seneca snakeroot was frequently used among the illiterate rural population of his area "intentionally to destroy the foetus in utero." Massie's thesis, subsequently selected for publication in 1806, put forward the likelihood that seneca acted directly upon the uterus itself, as he and Brevitt and others also believed madder did, and that regular physicians might administer it "with great advantage . . . to those labouring under obstructed catamenia." Thirty years later John B. Beck, by then the nation's leading authority on the medical jurisprudence of abortion, confirmed that seneca "has now been known and used in this country for a number of years, for the purpose of acting on the uterine organ, with a view of restoring menstrual secretion." Beck added along the same line that folk doctors also liked common North American black cohosh, sometimes called squawroot, for the same purpose. Native Indian women evidently employed an herbal brew of cohosh as an emmenagogue and, according to Beck, the same brew for the same purpose was "a good deal used by our American practitioners."

Finally, and most importantly, America's regular physicians, those who had formal medical training either in the United States or in Great Britain or had been apprenticed under a regular doctor, clearly possessed the physiological knowledge and the surgical techniques necessary to terminate a pregnancy by mechanical means. They knew that dilation of the cervix at virtually any stage of gestation would generally bring on uterine contractions that would in turn lead to the expulsion of the contents of the uterus. They knew that any irritation introduced into the uterus would have the same effect. They knew that rupturing the amniotic sac, especially in the middle and later months of pregnancy, would usually also induce contractions and expulsion, regardless of whether the fetus was viable. Indeed, they were taught in their lecture courses and in their textbooks various procedures much more complex than a simple abortion, such as in utero decapitation and fetal pulverization, processes they were instructed to employ in lieu of the even more horribly dangerous Caesarean section. Like the general public, they knew the drugs and herbs most commonly used as abortifacients and emmenagogues, and also like the general public, they believed such preparations to have been frequently effective.

Moreover, there is little reason to doubt that American physicians sometimes used their knowledge to terminate unwanted pregnancies for their patients. Walter Channing, who lectured on midwifery and the diseases of women and children at the Har-

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vard Medical School during the 1820s, taught his students that pregnancy was impossible to diagnose with complete accuracy during the early months of gestation. Textbooks repeated the same dictum. Even John Beck, an opponent of induced abortions at any stage of gestation, had to assert unequivocally that pregnancy could not be legally determined beyond all doubt prior to quickening. As a medical student reminded himself in his lecture notebook very early in the nineteenth century: "When reliance can be put on the account of ye patient, there is no fear of confounding this disease [amenorrhea or blocked menstrual flow] with any o[ther]. [I]t is chiefly characterized by ye want of the menses at their usual period, but even when this is wanting, difficulties sometimes occur, [W]e cannot always determine the state of the patient, the Menses should be wanting during pregnancy, and those who want to conceal pregnancy often pretend that they are subject to a variety of symptons in consequence of the obstructed menses."

This placed great pressure on physicians to provide what amounted to abortion services early in pregnancy. An unmarried girl who feared herself pregnant, for example, could approach her family doctor and ask to be treated for menstrual blockage. If he hoped to retain the girl and her family as future patients, the physician would have little choice but to accept the girl's assessment of the situation, even if he suspected otherwise. He realized that every member of his profession would testify to the fact that he had no totally reliable means of distinguishing between an early pregnancy, on the one hand, and the amenorrhea that the girl claimed, on the other. Consequently, he treated for obstruction, which involved exactly the same procedures he would have used to induce an early abortion, and wittingly or unwittingly terminated the pregnancy. Regular physicians were also asked to bring to a safe conclusion abortions that irregulars or women themselves had initiated. "The Medical Recorder" of Philadelphia detailed exactly such a case in 1825 and the regular who was called upon, despite some moral qualms, considered it his duty to finish the job for the young woman involved. And through all of this the physician might bear in mind that he could never be held legally guilty of wrongdoing. No statutes existed anywhere in the United States on the subject of abortion, and the common law, as reaffirmed in America in the Bangs case, considered abortion actionable only after a pregnancy had quickened. No wonder then that Heber C. Kimball, recalling his courtship with a woman he married in 1822, claimed that she had been "taught . . . in our young days, when she got into the family way, to send for a doctor and get rid of the child"; a course that she followed.

In summary, then, the practice of aborting unwanted pregnancies was, if not common, almost certainly not rare in the United States during the first decades of the nineteenth century. A knowledge of various drugs, potions, and techniques was available from home medical guides, from health books for women, from midwives and irregular practitioners, and from trained physicians. Substantial evidence suggests that many American women sought abortions, tried the standard techniques of the day, and no doubt succeeded some proportion of the time in terminating unwanted pregnancies. Moreover, this practice was neither morally nor legally wrong in the eyes of the vast majority of Americans, provided it was accomplished before quickening.

The actual number of abortions in the United States prior to the advent of any statutes regulating its practice simply cannot be known. But an equally significant piece of information about those abortions can be gleaned from the historical record. It concerns the women who were having them. Virtually every observer through the middle of the 1830s believed that an overwhelming percentage of the American women who sought and succeeded in having abortions did so because they feared the social consequences of an illegitimate pregnancy, not because they wanted to limit their fertility per se. The doctor who uncovered the use of snakeroot as an abortifacient, for example, related that in all of the many instances he heard about "it was taken by women who had indulged in illegitimate love." Beck realized in the early 1820s that abortion was "sometimes . . . even employed by married women, to obviate," he thought, "a repetition of peculiarly severe labour-pains." But he believed as a general rule that "the practice of causing abortion was resorted to by unmarried females, who through imprudence or misfortune, have become pregnant, to avoid disgrace which would attach to them from having a living child." The important early court cases all involved single women trying to terminate illegitimate pregnancies. As late as 1834 it was axiomatic to a medical student at the University of Maryland, who wrote his dissertation on spontaneous abortion, that women who feigned dysmenorrhea in order to obtain abortions from physicians were women who had been involved in illicit intercourse. Cases reported in medical journals prior to 1840 confirmed the same perception.

In short, abortion was not thought to be a means of family limitation in the United States, at least on any significant scale, through the first third of the nineteenth century. This was hardly surprising in a largely rural and essentially preindustrial society, whose birthrates were exceeding any ever recorded in a European nation. One could, along with medical student Massie, be less than enthusiastic about such an "unnatural" practice as abortion, yet tolerate it as the "recourse . . . of the victim of passion . . . the child of nature" who was driven by "an unrelenting world" unable to forgive any "deviation from what they have termed virtue." Consequently, Americans in the early nineteenth century could and did look the other way when they encountered abortion. Nothing in their medical knowledge or in the rulings of their courts compelled them to do otherwise, and, as Massie indicated, there was considerable compassion for the women involved. It would be nearly midcentury before the perception of who was having abortions for what reasons would begin to shift in the United States, and the shift would prove to be one of the critical developments in the evolution of American abortion policy.

A final point remains to be made about abortion in the United States during the first decades of the nineteenth century. Most observers appeared to consider it relatively safe, at least by the medical standards of the day, rather than extremely dangerous. Burns, the acknowledged international expert, thought the use of violent purgatives as abortifacients very dangerous to the mother and largely ineffective, and this fairly accurate medical opinion would directly influence the earliest abortion statutes both in England and the United States. But Burns described extensively many of the complications that could occur in a spontaneous abortion and made even the worst of them sound manageable. A physically produced abortion handled by a competent physician was not a fearsome process as described by Burns. Samuel Jennings quoted Dr. Denman, one of the leading obstetrical writers of the day, to reassure his readers: "In abortions, dreadful and alarming as they are sometimes, it is great comfort to know that they are almost universally void of danger either from the hemorrhage, or on any other account." Again the context was spontaneous rather than induced abortion, but in a book with such explicit suggestions for relieving the common cold, women could easily conclude that the health risks involved in bringing on an abortion were relatively low, or at least not much worse than childbirth itself in 1808, when Jennings wrote his book. Valentine Seaman advised his midwifery classes that the dangers of abortion were proportional to the stage of gestation at which it occurred; the earlier it came on, the safer it would be. This too must have reassured women who decided to risk an abortion before quickening. According to the lecture notes of one of his best students, Walter Channing told his Harvard classes that abortion could be troublesome when produced by external blows, because severe internal hemorrhage would be likely, but that generally considered, "abortion [was] not so dangerous as commonly supposed."

The significance of these opinions lay less in whether or not they were accurate than in the fact that writers on abortion, including physicians saw no reason to stress the dangers attendant to the process. Far from it. They were skeptical about poisons and purgatives, but appear to have assessed physically induced abortions as medically acceptable risks by the standards of the day, especially if brought on during the period of pregnancy when both popular belief and the public courts condoned them anyhow. Here again was a significant early perception that would later change. That change, like the shift in the perception of who was having abortions for what purposes, would also have an impact on the evolution of American abortion policy.

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I am happy to yield for a question without losing my right to the floor.

Mr. BAUCUS. Mr. President, as the Senator from Oregon well knows, one of the very basic questions facing us here today, unlike the question that underlies this very basic issue, is the degree by which Congress, by statute, can overrule decisions of the U.S. Supreme Court.

I have before me some excerpts of testimony of various constitutional scholars to the Separation of Powers Subcommittee on this issue. I would like to read some excerpts from that hearing and ask the Senator from Oregon in his view whether he agrees with the views of these constitutional scholars.

I will begin first with Prof. Charles Alan Wright. He stated in a letter to the Separation of Powers Subcommittee as follows:

> . . . I find Roe unpersuasive. Nevertheless, Roe exists, it has been repeatedly reaffirmed and even extended, and I do not think Congress has authority by statute to overrule a Constitutional decision of the Supreme Court. Whatever the arguments might have been if the matter were one of first impression, we have long since accepted the notion that "it is emphatically the province and duty of the Judicial Department to say what the law is" (*Marbury* v. *Madison*), that the duty is now more specifically that of "this court" (*United States* v. *Nixon*), and that "the federal judiciary is supreme in the exposition of the law of the Constitution . . ." (*Cooper* v. *Aaron.*)

That is Prof. Charles Alan Wright in his testimony before our subcommittee.

To further state from Prof. Philip Kurland, he wrote to the subcommittee:

> The question is not whether the Supreme Court decisions are sound or unsound. The question is what is the meaning of the word "person" in the due process clauses of the 5th and 14th Amendments. The Supreme Court has decided that a fetus is not a "person" within the meaning of those provisions. If that Constitutional determination is to be overruled, it can be done only by the Supreme Court or by Constitutional Amendment.

I quote further from former Solicitor Erwin Griswold, who wrote to our subcommittee on this very same point; that is, the degree to which Congress can, by statute, overturn a decision of the Supreme Court:

> For the Congress to undertake to interfere with that decision, even under Section V of the 14th Amendment, would, in my view, be an inappropriate legislative interference with the judicial power, and thus a violation of the separation of powers, which is one of the two major premises of the United States Constitution—the other being the appropriate division of powers between the states and the federal government.

I further point out to the Senator from Oregon, as he ponders his answer to the basic question here, a statement by former Solicitor General Archibald Cox, who also told the subcommittee as follows:

> Over the years, a few decisions have proved clearly wrong headed, and perhaps *Roe* v. *Wade* is such a case. I, myself, wrote critically of *Roe* v. *Wade* a little while after the decision came down.
>
> But wrong headed decisions can be changed by time and debate or by Constitutional amendments. But the very function of the Constitution and Court is to put individual liberties beyond the reach of both Congressional majorities and popular clamor. Any principle which permits Congress, with the approval of the President, to nullify one Constitutional right protected by the Constitution, as interpreted by the Court—that principle would sanction the nullification of others, and that is why I say that the principle of the "human life statute" is exceedingly dangerous, and I can only call it radical.

Finally, former Solicitor General Robert Bork told the subcommittee on the same basic question:

> The question to be answered in assessing the "human life statute" is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformation. Only if we are prepared to say that the Court has become intolerable in a fundamentally Democratic society and that there is no prospect whatever for getting it to behave properly, should we adopt a principle which contains within it the seeds of the destruction of the court's entire Constitutional role. I do not think we are at that stage.

Finally, let me quote from a statement signed by six former Attorneys General—Attorneys General Brownell, Katzenbach, Clark, Richardson, Saxbe, and Civiletti. It is very short and I ask the Senator to tell whether he agrees with the statement of these six former Attorneys General as well as other constitutional scholars.

> Our views abut the correctness of the Supreme Court's 1973 abortion decision vary widely, but all of us are agreed that Congress has no Constitutional authority . . . to overturn that decision by enacting a statute redefining such terms as "person" or "human life," . . .
>
> We thus regard (such provisions) as an attempt to exercise unconstitutional power and a dangerous circumvention of the avenues that the Constitution itself provides for reversing Supreme Court interpretations of the Constitution.

My question to the Senator from Oregon is the degree to which he agrees with the basic point of these distinguished Americans—that is, that it is improper to overturn Supreme Court decisions by statute.

Mr. HELMS. Mr. President, I call for regular order.

Mr. PACKWOOD. I agree totally with the——

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon has the floor and he yielded for a question. Now the Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, I appreciate very much the question of the Senator from Montana. I find the question very pertinent.

The consequences of a decision by the Supreme Court to uphold the Congress power to enact this amendment would be disastrous for our system of government as we now know it. If Congress can alter the Court's ruling on a constitutional term as basic as the interpretation of "person" under the 14th amendment, then there is virtually no constitutional protection that Congress could not dilute or eliminate by simple majority vote.

Additionally, if Congress can find today by statute that life begins at conception, then a future Congress can alter or reverse that result. This approach envisions a system of government where constitutional protections are more transitory or illusory than they are today. The basic terms of the Constitution are left to be determined by the shifting majorities in Congress.

It is for these basic reasons that most of the country's leading scholars and those who have served the Nation as the highest ranking legal officers have publicly announced their view that the human life statute is unconstitutional. It is highly unusual to find agreement among six former Attorneys General, three former Solicitors General, and the Nation's most distinghuished constitutional scholars on such a controversial issue.

Mr. President, again, I thank my distinguished colleague from Montana for asking that question. Now I would like to go into chapter two of the book "Abortion in America." That chapter is entitled, "The First Wave of Abortion Legislation 1821–1841."

> The earliest laws that dealt specifically with the legal status of abortion in the United States were inserted into American criminal codebooks between 1821 and 1841. Ten states and one federal territory during that period enacted legislation that for the first time made certain kinds of abortions explicit statute offenses rather than leaving the common law to deal with them. The nature of that early legislation, the probable reasons for its appearance, the significance of the procedures by which most of those first statutes were passed, and the way that those earliest laws reflected the circumstances described in the preceding chapter are the chief burdens of this chapter.
>
> At their May session in 1821 members of the general assembly of Connecticut passed a revised "Crimes and Punishments" law. Zephaniah Swift, Lemuel Whitman, and Thomas Day, the three legal scholars who drafted that omnibus act at the legislature's request, had placed between section 13, "intent to kill or rob," and section 15, "secret delivery of a bastard child," a section 14, part of which was without precedent in the United States:
>
> "Every person who shall, wilfully and maliciously, administer to, or cause to be administered to, or taken by, any person or persons, any deadly poison, or other noxious and destructive substance, with an intention him, her, or them, thereby to murder, or thereby to cause or procure the miscarriage of any woman, then being quick with child, and shall be thereof duly convicted, shall suffer imprisonment, in newgate prison, during his natural life, or for such other term as the court having cognizance of the offence shall determine."
>
> The part of section 14 that was new was the miscarriage clause, for this was the first time that an American legislature had addressed the question of abortion in statute form. Though the law was imperfectly drafted, it is worth analyzing in some detail not only because it was the first measure of its kind, but because many of its essential features would recur shortly in the other thirteen statutes that collectively made up the first stage in the evolution of American abortion policy during the period between 1821 and 1841.
>
> First, the law was primarily concerned with attempted murder by poisoning. Indeed, it might best be characterized as a poison control measure. The revisers, however, were evidently upset not only about the administration of obvious poisons with

murderous intent, but also about the potential dangers of the violent purgatives and pernicious herbal extracts then being recommended in the United States as abortifacients. In their miscarriage clause the revisers followed the English-speaking world's leading authority on the subject, John Burns. In the American edition of his book on abortion, Burns had held: "It cannot be too generally known, that when these medicines [violent purges and the like] do produce abortion, the mother can seldom survive. their effects." If the best available evidence suggested that the use of hellebore, for example, which was known to be fatal in large doses, was as likely to end a woman's life as it was to end her pregnancy, then the public should be apprised of that fact and forced to modify its traditional practices for its own good. It must be stressed in this context that section 14 did not proscribe abortion per se; it declared illegal one particular method of attempting to induce an abortion because that method was considered prohibitively unsafe owing to the threat of death by poisoning. Abortions by mechanical or surgical methods were not affected by this law. Moreover, and this too is worth careful note, the law did not make the woman herself guilty of anything, but rather the "person" who caused the poison "to be administered." It is likely, in other words, that the abortion clause in section 14, the nation's first, was aimed primarily at apothecaries and physicians, who the state could presume should know better than to seek profit by selling preparations that were only marginally effective as abortifacients, but demonstrably dangerous as poisons.

Second, section 14 explicitly accepted the quickening doctrine, even though that doctrine weakened the measure as a poison control statute. A person could only be convicted under this law if the poison was administered to a woman "quick with child." Prior to quickening there continued to be no crime. Phrased differently, the revisers of 1821 chose to preserve for Connecticut women their long-standing common law right to attempt to rid themselves of a suspected pregnancy they did not want before the pregnancy confirmed itself, even though they risked poisoning themselves in the process. In this respect the law testified eloquently to how deeply committed Americans of the early nineteenth century were to the quickening doctrine, to what they considered to be the commonsensical distinction between a living fetus, on the one hand, which had taken on at least one of the manifestations of separate existence, motion, and an inanimate embryo, on the other hand, the very existence of which, paradoxically, could only be proved with complete certainty after it had been aborted.

Third, while no other American jurisdiction had passed any statute dealing specifically with abortion, there did exist one British precedent on the subject. Because the precedent was frequently mentioned in American courts, Connecticut's revisers were doubtless aware of it. Yet the ways in which the revision of 1821 failed to follow that precedent are as instructive as the ways in which they tried to copy it. The law in question was known as Lord Ellenborough's Act, after the chief justice of England who had been influential in its passage in 1803. That year Ellenborough, who was an extreme conservative and upset at the steady liberalization of British criminal law, evidently cast about for as many new capital felonies as he thought he could reasonably create and lumped them together, ten in all, into an omnibus crime bill. Parliamentary debates indicates that the two sections of greatest importance to British lawmakers in Ellenborough's package dealt with capital cases of assault and with a quaint Irish custom of burning one's own house to defraud the London insurance companies. But Ellenborough had also made attempted murder by poisoning a hanging offense and, as a sort of rider to that section, he made attempts to produce abortion by the use of poisons after quickening another new capital felony as well. Almost as if to justify capital punishment for the latter crime, he declared attempts to produce abortion by any method before quickening transportable offenses (convicted offenders would be deported to a penal colony), thereby making illegal in Great Britain in 1803 a practice that Americans would refuse to outlaw for half a century.

As a special committee later reported to the House of Commons, Ellenborough's abortion clauses were very badly drafted. The new offense of abortion prior to quickening included all types of abortions, those involving poisons as well as those involving instruments, while the capital offense of abortion after quickening was worded to include only the use of poisons. No reference was made to other methods. It appears that the Connecticut revisers shared Ellenborough's concern for poisoning, including abortion-related poisoning, but not his concern for abortion per se as a possible offense. They used the more restrictive of his two clauses, the one that referred only to abortion after quickening and only to abortion by the use of poisons, and pointedly refused to follow his precedent on outlawing attempted abortions before quickening. Moreover, the American statute was carefully drafted to retain the woman's own immunity from prosecution; the British law was much more ambiguous on that subject, and as a result women were tried and convicted in England under Ellenborough's Act for self-abortions. Put somewhat differently, America's first anti-abortion law, ironically enough, does not appear to have been greatly opposed to abortion itself. Explicit British precedent on the subject was deliberately modified to suit Connecticut's circumstances and to conform to a strong public consensus on the American side of the Atlantic.

In 1828 the so-called Lord Lansdowne's Act eliminated the inconsistencies in Ellenborough's statute, not by eliminating instrumental abortion before quickening as an offense but by making instrumental abortion after quickening a crime equal to the use of poisons after quickening. This confirmed what would continue to be the English govenment's official attitude toward abortion for over a century thereafter: abortion itself, not just its more dangerous aspects, would be proscribed. Two years later Connecticut's legislators likewise revised their state's criminal codes by enacting another massive omnibus bill. One of that law's 157 sections also made abortion by the use of instruments after quickening a crime equal to the use of poisons after quickening. The revisers of 1830 realized that they were making a change of substance rather than a technical adjustment. The penalty for the offense of attempting an abortion after quickening, now that it is more clearly distinguished from the threat of death by poisoning, was set at seven to ten years' imprisonment, rather than up to life as in the old statute. Though qualitatively different from the various degrees of homicide, and punished less severely than any of them, the attempt to terminate a pregnancy by any means after quickening would henceforth be a statute crime in Connecticut.

On the one hand, this 1830 law followed the Lansdowne precedent of outlawing all kinds of abortion after quickening. On the other, it again rejected the British precedent of punishing attempts to abort before quickening. The latter would remain legal regardless of what method the would-be abortionist decided to try. By 1830, in other words, the first state to move into the realms of abortion legislation in the United States had enshrined in its criminal code no more than a written version of the traditional common law doctrines on abortion that had been sustained by the Massachusetts Supreme Court in 1812. And in a sense, Connecticut's early laws might be viewed as pro-abortion laws rather than anti-abortion laws, since Connecticut's reaffirmation of the common law attitude toward abortion was taken in the face of British precedents that had abandoned that position in favor of a more restrictive one.

In the interval between Connecticut's first two abortion laws three other states—Missouri in 1825, Illinois in 1827, and New York in 1828—also passed laws that dealt specifically with abortion. Both the Missouri law and the Illinois law followed Connecticut's 1821 statute closely and, like that Connecticut law, they were as much poison control measures as anti-abortion measures. Unlike the Connecticut law, however, neither the Missouri law not the Illinois law made any explicit reference to the quickening doctrine; they appeared to make the administration of poisonous substances with the intent to induce abortion illegal at any stage of gestation. Yet in practice, indictments could not be brought under these laws before quickening because intent had to be proved and the only way that intent could be proved was to demonstrate that the person who administered the poison could have known beyond any doubt that the woman was pregnant. Thus, the omission of explicit reference to quickening in these two early laws probably reflected the fact that the quickening distinction was taken completely for granted rather than any effort to eliminate it. Neither state mentioned instrumental abortions, though Missouri moved to proscribe those as well in 1835. Illinios, on the other hand, did not add instrumental abortion to its code as a statute crime until 1867, when, as will become apparent, very different circumstances prevailed in the United States. The law passed in New York was more complex than those enacted in Missouri and Illinois. Because a good deal is known about the origins of New York's 1828 abortion legislation and because it was fairly widely copied by other states in later decades, it too is worth examining in some detail.

The New York criminal code that was drafted and passed in 1828, was published in 1829, and went into effect January 1, 1830, addressed abortion in three separate clauses. Two of them had the cumulative effect of banning abortion by any means after quickening. Under them an early abortion would remain legal, the death of "an unborn quick child" was second-degree manslaughter, and the "person" who performed the abortion was criminally liable, not the woman herself. Moreover, either the woman or the fetus had to die in order for the crime to exist. An unsuccessful abortion, provided the woman was not injured in the process, was not punishable under either of these two clauses. Thus New York, like Connecticut, seemed to be writing the common law into its criminal code.

Section 21 of Title VI, Chapter I, Part IV, the third section of the new code to deal with abortion, appeared twenty-eight pages away from the two clauses just referred to. It read in full:

"Every person who shall willfully administer to any pregnant woman, any medicine, drug, substance or thing whatever, or shall use or employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, or shall have been advised by two physicians to be necessary for that purpose; shall, upon conviction, be punished by imprisonment in a county jail no more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment."

Section 21 was an important law in historical context. It was the first American statute to follow Ellenborough's proscriptive language, a precedent lawmakers in the United States had studiously avoided following for a quarter of a century. It was also the first abortion-related statute to make explicit what was known in legal terms as a "therapeutic exception." The conjunction of these two firsts was more than merely coincidental, and the available evidence about the probable origins of this 1828 enactment throws bright light on the kinds of pressures that led to the nation's earliest statutory abortion policies.

Fortunately for historians, the notes of the commission that revised New York's criminal code in 1828 have survived. Cyril C. Means, Jr., who brought the significance of those notes to the attention of legal scholars in 1968, argued persuasively that New York's lawmakers had been more concerned with protecting their state's women from dangerous medical and quasi-medical treatments than with outlawing or ending the practice of abortion itself. His strongest piece of evidence was the revisers' note to a section of this same title that the legislature subsequently struck from the bill before passing the new code. The unenacted section would have made guilty of a misdemeanor "every person who shall perform any surgical operation, by which human life shall be destroyed or endangered, such as the amputation of a limb, or of the breast, trepanning, cutting for the stone, or for *hernia*, unless it appear that the same was necessary for the preservation of life, or was advised, by at least two physicans." The revisers appended to this proposed section the following note of explanation:

"The rashness of many young practitioners in performing the most important surgical operations for the mere purpose of distinguishing themselves, has been a subject of much complaint, and we are advised by old and experienced surgeons, that the loss of life occasioned by the practice, is alarming. The above section furnishes the means of indemnity, by a consultation, or leaves the propriety of the operation to be determined by the testimony of competent men. This offence is not included among the malpractices in manslaughter, because, there may be cases in which the severest punishments ought not to be inflicted. By making it a misdemeanor, and leaving the punishment discretionary, a just medium seems to be preserved."

This "remarkable disquisition," as Means puts it, indicated that the revisers were concerned about operations generally, rather than abortions exclusively. In other words, major surgery itself was very dangerous, and the state should permit it to be gambled upon only when the patient would actually die without it. If all physicians were cautious, such a law would be unnecessary. But some evidently were not, and the revisers thought it best to force the most unscrupulously ambitious practitioners to gain the consent of at least two of their would-be competitors, presumably the "old and experienced" ones, before proceeding. Means argued that this same assumption also underlay section 21 of the code of 1828, which helps explain why the therapeutic exception was inserted there as well. Had the revisers known about any perfectly safe methods of abortion, according to Mean's reasoning, they would have permitted those methods to remain legal operations, at least prior to quickening.

Means, who was openly trying in 1968 to build a case upon which New York state courts might invalidate anti-abortion legislation on the grounds that twentieth-century medicine had rendered an abortion every bit as safe or safer than a full-term delivery, was less than convincing on several points. First, he hung a great deal of his interpretation upon the fact that the New York revisers were the first lawmakers anywhere in the English-speaking world to include a therapeutic exception in an abortion statute. This action ultimately demonstrated, for Means, the crucial connection that he posited between the revisers' underlying motives in section 21 and the argument they made on behalf of the unpassed surgical section. He does not make much of the fact, however, that therapeutic exceptions had been implicit in previous abortion laws, including Ellenborough's own, and hence it seems more difficult to argue that its inclusion in New York's law of 1828 fundamentally distinguished the rationale of that act from the rationale of any other. The sacrifice of an unborn child in order to save the life of the mother, even during the process of delivery, had been legally and medically acceptable both in England and in the United States at least since 1756, when a London medical convocation on the problem decided it was justifiable. Certainly this was the reason why Channing could lecture at Harvard on methods of in utero craniotomy and the like.

Second, the revisers did, after all, separate abortion from other forms of surgery. This not only set up the possibility that the abortion section would pass whether the more controversial surgical section passed or failed, which is of course what happened, but also implied that abortion as an operation was qualitatively different in degree of danger from attempts to repair a hernia, an amputation, or a mastectomy. It was logically necessary to Means's argument to allege that abortion at any stage in pregnancy in 1828 had to be, or at least could be made to seem, substantially more dangerous than childbirth. Means asserted that this was the case due to the twin threats of shock and infection, which could not have been seriously reduced prior to the successful use of anesthetics in the late 1840s and the introduction of antiseptic theory in this country in the late 1860s. Only at some point between 1867 and 1950, Means surmised, though he did not know when during that long period, could properly performed abortions have become no more dangerous to the mother than childbirth itself in the United States.

This argument is open to serious question. Childbirth was just as subject to shock and infection as abortion until the dates Means cites, and it is difficult to imagine that the deathrate from abortions in 1828 substantially exceeded the deathrate from childbirth, especially since contemporary writers did not stress the great dangers of an abortion induced by mechanical means. Quite the contrary; they were much more likely to bemoan the ease and impunity with which irregular practitioners, greedy physicians, and folk women themselves were able to induce abortion. It seems entirely logical, in fact, that the revisers of 1828 separated abortion from operations like hernia repair, amputation, and mastectomy because Americans would not have considered abortion an operation comparable to any of those either in medical difficulty or in inherent danger. The revisers might have reasoned, in other words, that abortion was minor surgery at worst and would not have been covered under their proposed section regulating major surgery. Hence, if the revisers wanted to restrict abortion, they would have to single it out by itself, which was what they did.

Notwithstanding these questions about some of Means's specific arguments, however, the basic insight that emerges from his discussion seems undeniably on the mark: the evolution of abortion policy in the United States was inextricably bound up with the history of medicine and medical practice in America, and would remain so through the rest of the nineteenth century. Other considerations would begin to enter in, but the fundamental outlines of abortion policy would continue to be hammered out primarily within the context of medical regulation, a subject which became an enormous headache for American state legislators. Even though they were ill-equipped to face the issue, state legislators found themselves deeply embroiled in the question of who should be allowed to do what to whom in the name of medicine. During the middle decades of the nineteenth century, legislators felt a special obligation to protect the public from an occupational group that was, at least collectively, reaching something of a nadir. By the late 1820s physicians, with a good deal of justification, were viewed by many Americans as menaces to their society. And it was in this context, as Means suggested, that the origins of America's abortion policies make the most sense; not in a context of metaphysical debates, demographic trends, or public opinions.

In order to understand what had happened to the practice of medicine in the United States by the late 1820s, a slight digression might be helpful. Physicians had enjoyed elite status in America through the seventeenth and eighteenth centuries. They were generally learned men from families of solid social standing and they were looked up to in the colonies of North America. But the established physicians of the colonial period as a group ultimately lacked a basis upon which to solidify their elite status, because they really could not do what they claimed they could do. They could not cope very well with the common human diseases of the day.

During the first four decades of the nineteenth century, a large number of people came forward to try to fill the gap. They were encouraged to compete in the medical field by the inherent weakness of the older practitioners, by the lack of anything blocking access to the field, such as licensing laws, and by a general democratization of the professions that took place during that period in American history. Most of these

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newcomers lacked formal training altogether or were trained in medical systems at variance with previously accepted doctrines. As early as 1800, for example, two-thirds of the people who made their livings as physicians in the city of Philadelphia were neither members of the local College of Physicians nor graduates of any medical school of any kind. And this was in a major eastern city with a strong tradition of learned medicine established by the likes of Benjamin Rush and Benjamin Franklin. Moreover, the best-educated and most-established physicians in Philadelphia were but provincial practitioners by European standards. Out in the American countryside, where learned physicians had been largely absent from the time of settlement, countless numbers of self-taught lay healers and part-time folk doctors dispensed medicines of all kinds and performed simple surgery.

Even among physicians who held a medical degree, standards of competence varied enormously. Twentieth-century Americans are familiar with educationally rigorous medical schools that enforce almost impossibly difficult standards for admission and train some of society's brightest young men and women in the intricacies of modern medicine. But it would be a great mistake to project such an image backwards into the early nineteenth century. Prior to the Civil War most American medical schools were run as private businesses and competed for paying customers. Few applicants were denied admission and no professor wanted to drive away—by enforcing high standards—the people who literally paid his salary. Many medical schools were out and out degree mills, where tuition dollars virtually bought a medical diploma. No wonder, then, that empirical medicine, using the term objectively rather than pejoratively, remained so strong among the American people at least through the middle of the nineteenth century.

Among those most deeply troubled by the state of medical practice in America during the first half of the nineteenth century were those physicians dedicated to the principles of what later became scientific medicine. These doctors, known collectively as the "regulars," tended to be graduates of the country's better medical schools or to follow the lead of those who were. As a group they believed in the long-term efficacy of such principles as rational research and cooperative intercommunication. The regulars organized and maintained state and local medical societies, published learned journals, and tried to encourage high educational standards among the nation's medical schools. If the regulars realized that their own commitment to scientific education and rational research had not yet paid the kind of dividends that they were looking forward to for themselves and for their patients, they also recognized that most of the alternative approaches to medicine then competing with theirs for the patronage of the American people were patently absurd. Consequently, the regulars bitterly opposed what they regarded as quack theories, though in truth many of the irregulars advocated courses of treatment less detrimental to health than the regulars' own.

There was more at stake for regulars, however, than matters of principle and questions of theory, important as they were. The unrestricted entry of irregulars into the medical field, particularly between 1820 and 1850, also produced an intense competition for paying patients that hurt the regulars badly. As Edward C. Atwater made clear in a fine study of this phenomenon in a single small city, Rochester, New York, the problem was very real. Doctors' incomes fell sharply and regular physicians were being driven not only from high social status, but out of the profession itself.

In the face of such crises many regular physicians in the United States decided to try to defend both their medical theories and their material livelihoods in the best way they could: through the state legislatures. The regulars perceived that their education credentials, their persuasive powers, and their generally well-established social backgrounds would, in the long run, give them something of an advantage over their rivals in those public forums. Their ongoing and ultimately successful efforts to influence medical-related legislation of all kinds became crucial to the evolution of abortion policy at the state level because, unlike most of their irregular rivals and unlike a majority of the American people, regular physicians opposed abortion not only after quickening but before quickening as well.

The regulars' opposition to abortion was partly ideological, partly scientific, partly moral, and partly practical. Ideologically, one of the things that distinguished the regulars was their adherence to the Hippocratic Oath, and the Hippocratic Oath condemned abortion. In this respect the father of medicine had also held a distinctly minority view in his own society; both Plato and Aristotle, for example, condoned the practice. Yet Hippocrate's creed had become one of the touchstones of regular medicine in the United States by the early nineteenth century, and the oath was considered the basic platform upon which the regulars were attempting to upgrade the ethical standards of their profession in a host of different areas, not just in regard to abortion. Since opposition to abortion was in that creed, the regulars tried to stick by it. In one of the earliest cases of ethical self-regulation in the United States, the Oneida County (New York) Medical Society expelled an unwanted member in 1834 on the official pretext that he had performed an abortion.

Scientifically, regulars had realized for some time that conception inaugurated a more or less continuous process of development, which would produce a new human being if uninterrupted. Consequently, they attacked the quickening doctrine on the logical grounds that quickening was a step neither more nor less crucial in the process of gestation than any other. John Beck, for example, in his long-standard 1823 discussion of abortion from the standpoint of medical jurisprudence, put forward two different theories to explain the physiology of quickening in an effort to lessen its importance, though he admitted that the continued viability of that doctrine had a "direct tendency . . . to countenance . . . abortion, at least in the earlier stages of pregnancy." Before Beck, Burns, too, had denied that there was anything physiologically special about quickening, and had opposed any attempt to "prevent life from continuing, until it arrive at perfection" once conception had taken place.

From this scientific reasoning stemmed the regulars' moral opposition to abortion at any stage in gestation. If society considered it unjustifiable to terminate a pregnancy after the fetus had quickened, and if quickening was a relatively unimportant, almost incidental step in the overall gestation process, then it was just as wrong to terminate a pregnancy before quickening as after quickening. Regulars believed it immoral, in other words, to make a life or death decision on the basis of a distinction that they could demonstrate to have very little relation to life or death.

There was more to the physicians' moral opposition to abortion than scientific logic, however, for another dimension also emerged forcefully from their writings throughout the nineteenth century. The nation's regular doctors, probably more than any other identifiable group in American society during the nineteenth century, including the clergy, defended the value of human life per se as an absolute. Scholars interested in the medical mentality of the nineteenth century will have to explain the reasons for this ideological position. It may have been related to the physicians' role as social and intellectual modernizers in a world that still took largely for granted the assumption that a widespread and routine destruction of life was part of the human condition; it may have been related to the fact that physicians tended to be men who wished to find secular absolutes to replace spiritual ones; it may have been related to the physicians' psychological commitment as ministers and defenders of life against the forces seen and unseen trying to snuff it out; or it may have been related to factors that historians simply do not yet fully understood. But whatever the reasons, regular physicians felt very strongly indeed on the issue of protecting human life. And once they had decided that human life was present to some extent in a newly fertilized ovum, however limited that extent might be, they became the fierce opponents of any attack upon it.

Practically, the regular physicians saw in abortion a medical procedure that not only gave the competition an edge but also undermined the solidarity of their own regular ranks. If a regular doctor refused to perform an abortion, he knew the woman could go to one of several types of irregulars and probably receive one. And, as the regulars themselves pointed out, it was not so much the short-term loss of a fee for the abortion that upset them, but the prospects of a long-term loss of patients. As more and more irregulars began to advertise abortion services openly, especially after 1840, regular physicians grew more and more nervous about losing their practices to healers who would provide a service that more and more American women after 1840 began to want. Yet, if a regular gave in to the temptation to perform an occasional discreet abortion, and physicians testified repeatedly that this frequently happened among the regulars, he would be compromising his own commitment to an American medical practice that would conform to Hippocratic standards of behavior. The best way out of these dilemmas was to persuade state legislators to make abortion a criminal offense. Anti-abortion laws would weaken the appeal of the competition and take the pressure off the more marginal members of the regulars' own sect. For all of these reasons, regular physicians became interested in abortion policy from an early date and repeatedly dragged it into their prolonged struggle to control the practice of medicine in the United States. At times abortion policy became a focal point in that struggle, at times an incidentally affected byproduct, but the struggle itself was always there in the background.

Consider the situation in New York once again in this context. The regular physicians there, by controlling through the speaker of the assembly all appointments to the standing committee on medical practice, had pushed through the legislature in 1827 the toughest medical regulation law the state had ever had, tougher than the so-called Anti-Quack Act of 1819. The 1827 law granted great power to the regular physicians, who were organized as the state medical society, by declaring the unauthorized practice of medicine a misdemeanor. There is every reason to believe that these regulars, who were still influential in Albany the following year, were the "old and experienced surgeons" to whom the revisers of 1828 said they listened when they drew up the medically related sections of the state code, including the specially set aside section proscribing abortion for the first time in the United States in terms approaching Ellenborough's. Moreover, not only does the proscription of abortion itself make sense in this context of a temporary ascendancy of the regulars in their long battle to control medical practice at the state level, but so also does the sudden appearance for the first time of a therapeutic exception that stipulated consultation with at least "two physicians" before performing an abortion for medical reasons. One of the cardinal points of the New York regulars' code of ethics was the principle of mandatory consultation in difficult cases; the regulars had given that principle a great deal of attention when they drafted their ethics. In 1828, by persuading the revisers to make explicit something that might well have been left implicit as before, they were able to introduce their cherished principle of consultation into the state code. They also, of course, placed themselves in the position of deciding when the law would be applied to its letter and when it would be bent on behalf of a patient.

Public reaction to the success of the regulars in Albany in 1827 and 1828 was as telling as the legislative results the regulars obtained. Irregulars organised protests and launched a counteroffensive of major proportions in favor of what might be termed laissez-faire medicine. The irregulars succeeded in 1830 in forcing the alteration of the 1827 medical practices act, faltered in the mid-1830s when the regulars regrouped their forces, but then successfully counterattacked again at the end of the decade. Whereas the regulars relied upon their influence in official channels, the irregulars relied upon the anti-elitist spirit of the 1830s and the generally permissive attitude of the American people as a whole regarding the right to decide one's own fate. By the early 1840s, between 30,000 and 40,000 people were said to have signed petitions opposed to the rigid regulation and regularisation of medicine in New York. Under these circumstances, New York's statutory prohibition of abortion, which could have been interpreted to cover abortions before quickening as well as after quickening, lay buried in the code, unenforced. A precedent had been established for future abortion policies, but the practice of abortion itself was little affected by the legislation of 1828 in New York.

The decade of the 1830s, generally speaking, was one of wide-open medical practices throughout the nation, not just in New York. New York's foray into medical regulation was not widely imitated elsewhere, and those states that had passed medical practice acts similar to New York's 1827 law repealed them during the 1830's. Consequently, it is not surprising that the period was not one of vigorous anti-abortion activity in state legislatures. One of the exceptions was Ohio. In 1834 legislators there made attempted abortion a misdemeanor without specifying any stage of gestation, and they made the death of either the mother or the fetus after quickening a felony. The law that contained those provisions also had four other sections: one of them made it an offense for a physician to prescribe any medicine while drunk; another made it a misdemeanor to sell secret remedies that endangered life; a third spelled out how these new offenses would be tried and awarded any fines collected to the common schools of the county where the offense took place and the last stated that the law would go into effect in June 1834. That statute not only revealed the general attitude of legislators toward physicians during the 1830s, but also demonstrated once again that the nation's early abortion laws were enacted by policymakers trying to control medical practices in the name of public safety.

Indiana added an anti-abortion statute to its state code in 1835, and Missouri overhauled its 1825 anti-poisoning law the same year. The Indiana law was an omnibus response to three resolutions passed by the state's house of representatives pointing out confusions and omissions in the old code. The abortion section they added was similar to Ohio's enactment the previous year, but Indiana created no new felony in cases of death after quickening. Missouri made the use of instruments to induce an abortion after quickening a crime equal to the use of poisonous substances after quickening, and added a section that made abortion before quickening a misdemeanor, at least on paper. In 1837 the first session of the Arkansas legislature included in that state's new criminal code a section that made abortion after quickening a manslaughter offense, but said nothing about abortion before quickening. In 1839 the first session of the Iowa territorial legislature included a poison control provision in its new code similar to those passed in Connecticut, Missouri, and Illinois during the 1820s, but did not refer to the subject of abortion anywhere else in the code. In that same year revisers in the state of Mississippi made abortion after quickening second-degree manslaughter but, like legislators in Arkansas, refrained from mentioning anything about the practice before quickening. Alabama enacted a major code revision during the 1840-41 session of its legislature that made the abortion of "any pregnant woman" a statute crime for the first time in that state, but pregnant meant quickened.

The last law enacted in the nation's first wave of abortion legislation was also the strongest, partly because American perceptions of abortion were beginning to change in ways that will be discussed in the next chapter. A code revision in Maine in 1840 made attempted abortion of any woman "pregnant with child" an offense, "whether such child be quick or not" and regardless of what method was used. The two revisers, Philip Eastman and Ebenezer Everett, had added the latter clause consciously in an effort to correct what they regarded as one of the "supposed deficiencies" of the state's existing law. They were aware that the ruling precedent on abortion cases in their state was the 1812 Massachusetts Supreme Court decision sustaining the old common law, for they cited that decision. But they wanted the doctrine changed. The person who performed the attempt was liable to up to a year in jail or up to $1000 fine. If an unborn child was actually destroyed, again regardless of whether it had been quick or unquick, a separate section increased the prison term to a possible five years, though the fine remained the same. A therapeutic exception, if the mother's life was threatened, was included in the law.

Notwithstanding its apparently unambiguous language and hard line toward abortion, the Eastman-Everett Act failed to close several of the loopholes characteristic of this first wave of anti-abortion statutes generally. The largest loophole in these early laws was the necessity to prove intent, which was simply impossible to do, given the tolerant attitude of American courts toward abortion when an irregular physician treated an unquickened woman for something he claimed he thought was not pregnancy. The subsequent fate of Maine's 1840 anti-abortion statute illustrated this difficulty perfectly. In 1853 that law came before the Maine Supreme Court in what appeared to be a cut-and-dried case. But Justice John S. Tenney, even though he recognized that Eastman and Everett had "essentially changed the common law" by trying to eliminate the quickening doctrine, freed an abortionist, who gave his name as Smith, on the grounds that the state prosecutors could not prove that Smith intended that the operation he performed would produce abortion, as distinguished from some other intent. Considering that a woman had died in this case after Smith inserted a wire into her uterine cavity, the loophole of intent, as American courts interpreted it, was very large indeed.

In further assessing the first wave of abortion legislation in the United States, it is worth noting that not a single one of these early abortion provisions was passed by itself. They were all contained in large revisions of the criminal codes in their jurisdictions or in omnibus "crimes and punishments" bills. This is significant because it indicates that there was no substantial popular outcry for anti-abortion activity; or, conversely, no evidence of public disapproval of the nation's traditional common law attitudes. No legislator took a political stand on abortion; no legislator cast a recorded vote for or against abortion as a question by itself. The popular press neither called for nor remarked upon the passage of the acts; the religious press was equally detached. This would later change, but the criminal status of abortion originated as a doctors' and lawyers' issue, not as a popular issue in any sense. The kind of legal scholars to whom legislators delegated the job of code revision would have been aware of the question of abortion because they kept track of legal developments in England and the United States. Physicians, or, more precisely, the regular physicians to whom those legal scholars would look for guidance in drafting their codes, had reasons of their own for wanting abortion proscribed, some of which have been explored. But as far as the vast majority of the population was concerned, the country's first laws on abortion remained deeply buried in the ponderous prose of criminal codes and were evidently little noticed and rarely enforced by anybody.

The United States remained in 1841, notwithstanding an initial wave of abortion legislation, a nation still committed to the basic tenets of the common law tradition. Sixteen of the twenty-six states in the Union in 1840 had passed no abortion laws at all, and the common law as interpreted by the Massachusetts Supreme Court in 1812 remained in effect in those states.

(Mr. WALLOP assumed the chair.)

Mr. PACKWOOD. Mr. President, let me read that sentence again:

16 of the 26 States in the Union in 1840 had passed no abortion laws at all, and the common law as interpreted by the Massachusetts Supreme Court in 1812 remained in effect in those States.

Of the ten states that had decided to address abortion in statute form, five were explicit in making it a crime only after quickening. The remaining five, however, the only ones that might be said to have moved to a more anti-abortion position than the nation opened the nineteenth century with, had passed statutes that were essentially unenforced and unenforceable insofar as they addressed abortion prior to quickening. In all cases the laws contained either the need to prove pregnancy or the need to prove intent, neither of which could be determined beyond doubt without quickening.

The first wave of abortion legislation in American history emerged from the struggles of both legislators and physicians to control medical practice rather than from public pressures to deal with abortion per se. Every one of the laws passed between 1821 and 1841 punished only the "person" who administered the abortifacient or performed the operation; none punished the woman herself in any way. The laws were aimed, in other words, at regulating the activities of apothecaries and physicians, not at dissuading women from seeking abortions. Most of these early laws, in fact, might be labeled malpractice indictments in advance. If anything went wrong in an abortion, and the woman was harmed, the "person" taking her money was being reminded in advance that he or she would be charged with a crime if the woman had quickened.

All of this probably reflected the continued perception of abortion in the United States as a fundamentally marginal practice usually resorted to by women who deserved pity and protection rather than criminal liability. While the accuracy of that perception can never be checked, the available evidence on abortion during the 1830s continued to confirm it. John Beck still believed in 1835 that most abortees were young women in trouble. Professor Hugh Hodge of the University of Pennsylvania asserted in 1839 that the intent of most abortions was "to destroy the fruit of illicit pleasure, under the vain hope of preserving [the abortee's or the paramour's] reputation by this unnatural and guilty sacrifice." The court cases that were recorded by state officials or written up in medical journals prior to 1840 generally involved unmarried young women.

The best data for the 1830s were amassed by a Mendon, Massachusetts, physician, Dr. John G. Metcalf, a Harvard-trained regular with a deep devotion to the value of accurate aggregate statistics. In 1843 he published the detailed records he had kept on 300 obstetrical cases that he was involved in prior to 1839. Five of them eventually ended in abortion, and two of those had been illegitimate pregnancies. Metcalf knew also that one of the women who aborted "had drunk freely of tansy tea [another of the substances popularly thought to have emmenagogic powers] for some days before the occurrence of labour" and that "her paramour, as she averred, had also offered to procure some 'pothecary medicine' to expedite the process, if she would take it, but she declined." Summarizing his experiences during the 1830s, Metcalf also commented that "physicians [were] sometimes applied to for the procurement of abortions," but hoped that "such solicitations" would be resisted unless "the condition of the mother should justify [medical] interference."

Even as Metcalf published his statistics, however, the American perception of who was having how many abortions for what purpose was shifting dramatically. That shift, along with a professional resurgence of the regular physicians following their eclipse and disillusionment during the 1830s, would have a profound impact upon the next stage in the evolution of abortion policy in the United States.

CHAPTER THREE. THE GREAT UPSURGE OF ABORTION, 1840-1880

In the early 1840s three key changes began to take place in the patterns of abortion in the United States. These changes profoundly affected the evolution of abortion policy for the next forty years. First, abortion came out into public view; by the mid-1840s the fact that Americans practiced abortion was an obvious social reality, constantly visible to the population as a whole. Second, the overall incidence of abortion, according to contemporary observers, began to rise sharply in the 1840s and remained at high levels through the 1870s; abortion was no longer a marginal practice whose incidence probably approximated that of illegitimacy, but rather a widespread social phenomenon during the period. Third, the types of women having recourse to abortion seemed to change; the dramatic surge of abortion in the United States after 1840 was attributed not to an increase in illegitimacy or a decline in marital fidelity, but rather to the increasing use of abortion by white, married, Protestant, native-born women of the middle and upper classes who either wished to delay their childbearing or already had all the children they wanted. This chapter will examine the evidence for the first two of these crucial changes; the following chapter will explore the third.

The increased public visibility of abortion may be attributed largely to a process common enough in American history: commercialization. Beginning in the early 1840s abortion became, for all intents and purposes, a business, a service openly traded in the free market. Several factors were involved in the commercialization of abortion, but the continued competition for clients among members of the medical profession stood out. Because that competition was so intense, many marginal practioners began in the early 1840s to try to attract patients by advertising in the popular press their willingness to treat the private ailments of women in terms that everybody recognized as signifying their willingness to provide abortion services. Abortion-related advertising by physicians, which was not prohibited during this period, quickly became a common practice in the United States and was encouraged by members of the also fiercely competitive press corps, hungry for advertising revenue. Abortion-related advertisements appeared in both urban dailies and rural weeklies, in specialty publications, in popular magazines, in broadsides, on private cards, and even in religious journals. To document fully the pervasiveness of those open and obvious advertisements would probably require the citation of a substantial portion of the mass audience publications circulated in the United States around midcentury.

During the 1840s Americans also learned for the first time not only that many practitioners would provide abortion services, but that some practitioners had made the abortion business their chief livelihood. Indeed, abortion became one of the first specialties in American medical history. Even its opponents considered it "a regularly-established moneymaking trade" throughout the United States by 1860. Preeminent among the new abortion specialists was Madame Restell of New York City. Restell, an English immigrant whose real name was Ann Lohman, had begun performing abortions on a commercial scale late in the 1830s, but did not gain public attention until the early 1840s. In 1841 her first arrest placed both her name and her occupation before the public. Although at least one irate citizen made unveiled public suggestions about "a recourse to Lynch law," and although Restell's prosecutor warned that "lust, licentiousness, seduction and abortion would be the inevitable occurrences of every day" if her activities were not stopped quickly and completely, she was convicted only of two minor infractions of the law. The publicity she gained more than offset any temporary inconvenience, and by the middle of the 1840s Restell had branch agencies in Boston and Philadelphia. Salesmen were on the road peddling her abortifacient pills and, if the pills failed to work, her salesmen were authorized to refer patients to the main clinic in New York. Restell's enterprise would remain lucrative and successful into the late 1870s, when Madame Restell herself was destined to be one of the most celebrated victims of America's sharp shift on abortion policy.

It is important to note that Restell was no isolated aberration, but only the most flamboyant and the most publicized of the abortionists who began to appear during the 1840s. In the week beginning January 4, 1845, to cite but a single example, the Boston Daily Times contained the advertisements of a Dr. Carswell: "particular attention given to all Female complaints, such as Suppressions. . . . Dr. Carswell's method of treating these diseases, is such as to remove the difficulty in a few days. . . . Strict secrecy observed, and no pay taken unless a cure is performed"; a Dr. Louis Kurtz of Leipsic, who would treat "private diseases" in the same manner and had the additional selling point of speaking English, German, and French; a Dr. Dow, whose advertisement was similar to Carswell's, but added: "N.B. Good accommodations for ladies"; and for Madame Restell's Boston branch. "Sleeping Lucy," a Vermont clairvoyant, had opened a small business in the abortion trade in 1842; her expanded enterprise would remain vigorous through the 1870s. In its first major statement on abortion in the United States, the prestigious Boston Medical and Surgical Journal noted with alarm in 1844 that abortionists had come out into the open and were thriving. "The law has not reached them," the Journal rightly observed, "and the trade of infanticide [i.e. abortion] is unquestionably considered, by these thrifty dealers in blood, a profitable undertaking."

The popular press began to make abortion more visible to the American people during the 1840s not only in its advertisements but also in its coverage of a number of sensational trials alleged to involve botched abortions and professional abortionists. In Massachusetts, New York, New Jersey, and Iowa such cases evoked direct legislative responses, which will be examined in a subsequent chapter, but in the present context the very fact of public coverage indicated an increased awareness of abortion in the United States. Prior to 1840 virtually nothing had been mentioned about abortion in the popular press; during the period when the first laws concerning abortion were being passed in state legislatures, the practice had not been a public issue. By the early 1840s, however, the press had become interested in the phenomenon. When Madame Restell was arrested for a second time in 1845, the New York City dailies and the new National Police Gazette covered the story closely and expressed concern about the lack of restriction on abortion in the United States. Freed once again, Madame Restell herself took to the columns of the New York Tribune in August of 1847 to counter what she regarded as unjustified slurs upon her and her line of work.

By 1850, then, commercialization had brought abortion out into public view in the United States, and the visibility it gained would affect the evolution of abortion policy in American state legislatures. At the same time a second key change was taking place: American women began to practice abortion more frequently after 1840 than they had earlier in the century. As a reasonable guess, abortion rates in the United States may have risen from an order of magnitude approximating one abortion for every twenty-five or thirty live births during the first three decades of the nineteenth century to an order of magnitude possibly as high as one abortion for every five or six live births by the 1850s and 1860s. Clearly, a change like that was also likely to have some effect upon the evolution of abortion laws.

(Ann Lohman, calling herself Madame Restell, helped commercialize abortion in the United States during the 1840s by the use of modern business techniques, including the use of traveling salesmen and the opening of branch offices. Essential to her thirty-five years of lucrative success was her use of advertising, early examples of which are reproduced here. From New York Sun, Mar. 3, 1846, and Boston Daily Times, Jan. 2, 1845.)

One indication that abortion rates probably jumped in the United States during the 1840s and remained high for some thirty years thereafter was the increased visibility of the practice. It is not unreasonable to assume that abortion became more visible at least in part because it was becoming more frequent. And as it became more visible, more and more women would be reminded that it existed as a possible course of action to be considered. The advertisement of abortion services remained vigorous from the early 1840s, when it first appeared, through the late 1870s, when anti-advertising and anti-obscenity laws drove it from the market place, Madame Restell's empire alone was reported in 1871 to be spending approximately $60,000 per year on advertising. Economists argue that advertising both responds to a perceived market and helps to expand that market. Hence, abortifacient advertising was presumably aimed throughout the period from 1840 through 1880 at a clientele large enough to justify its expense, it presumably helped to maintain the size of that clientele, and it may actually have been a factor in expanding the clientele in certain areas.

A second piece of evidence for high abortion rates for the period was the existence during that time of a flourishing business in abortifacient medicines. The Boston Medical and Surgical Journal asserted that there were at least six practitioners openly retailing abortifacient preparations in Boston by the summer of 1844, and before midcentury the abortifacient drug business would become a major and apparently very profitable enterprise. Moreover, and this point is important in the present context, the effectiveness of nineteenth-century abortifacient preparations is not really an issue. It is probable that these preparations helped to trigger a relatively small number of actual abortions. But the booming business in abortifacients indicated that a significant number of American women were trying to have abortions. After all, they did not know that the drugs were incapable of doing what their advertisers claimed they could do. And it is likely that many of the women who failed to get results with medicines would turn next to surgical methods of terminating their pregnancies.

During the week of January 4, 1845, the Boston Daily Times advertised Madame Restell's Female Pills; Madame Drunette's Lunar Pills; Dr. Peter's French Renovating Pills, which were sold as "'a blessing to mothers' . . . and although very mild and prompt in their operations, pregnant females should not use them, as they invariably produce a miscarriage"; Dr. Monroe's French Periodical Pills, also "sure to produce a miscarriage"; and Dr. Melveau's Portuguese Female Pills, likewise "certain to produce miscarriage." These ads, to repeat, were from a single paper for a single week in 1845. The "meaning and intent" of advertisements like that, it was widely acknowledged, were well known to "every school-girl" in America, and the fact that abortionists frequently advertised in the "personal" columns as astrologers and clairvoyants was also clearly understood by nineteenth-century newspaper readers.

A physician who had grown up in France and studied medicine there before emigrating to New England confirmed, with a good deal of shock, that abortifacient ads in "the press of the United States . . . [were] intelligible not only to fathers and mothers, but also to boys and girls!" The "licentiousness" of the newspapers appalled this Frenchman, who blamed the press for creating an impression in young girls' minds that abortion was a common, acceptable practice. He believed that "a large proportion of the increase of abortion" could "be traced to the dissemination of immoral and criminal advertisements in daily journals."

The abortifacient drug industry that emerged as a large-scale business in the 1840s continued to boom through the 1870s, and was not completely dead even in the early twentieth century. Nevertheless, the industry is difficult to deal with historically. No business records from the small abortifacient manufacturing firms have survived, and none of the in-house narrative histories of major drug companies mentions abortifacient preparations. The best information about the commercial abortifacient preparations that became so common on the American market after 1840 comes from research conducted by a remarkable physician-pharmacologist named Ely Van de Warker in Syracuse, New York, in the late 1860s and the early 1870s.

In an effort to discover what was in the commercial abortifacients that his female patients used so extensively, Van de Warker purchased samples of eleven of the leading brands available in his local area and did two things. First, he took a dose of each according to the directions on the wrappers and described the symptoms. Second, he made what chemical analyses he could of each of them, given the state of chemical analysis generally at that time and the limitations of his own laboratory facilities. Two of the eleven seemed "perfectly inert." Three others were reasonably mild laxatives and, in Van de Warker's opinion, "would not cause an abortion unless used by women very liable to external and mental influences." Such purgatives might, in other words, have considerable powers of suggestion, but were chemically harmless and not really abortifacients. The remaining six, however, could be dangerous drugs in the hands of desperate women willing to try large doses rather than the recommended amounts. The active ingredient in one seemed to be ergot, in another a mixture of ergot with oil of tansy and oil of savin. Aloes appeared to be the chief ingredient of the last four. Van de Warker also mentioned that a twelfth popular brand of abortifacient that he knew about probably depended upon black hellebore.

The volume of the trade in alleged abortifacients during the period from 1840 through 1880, while obviously impossible to gauge with accuracy, was estimated to be very large. Historians of pharmacy have pointed out that this period was one of rapid expansion in the drug industry and that the leading manufacturing firms moved into the field of specialized medicines during this period for the first time on a broad scale. The ingredients identified by Van de Warker in 1871 had been available in North America since the outset of the nineteenth century and continued to be imported or produced here in large amounts. Van de Warker thought the distribution of abortifacient and emmenagogic preparations "enormous" in the United States and estimated their sales to be in excess of a million dollars. He guessed the supply of female pills in the Syracuse-Troy area, which by 1870 had a population of slightly under 100,000 people, to be 63 gross.

The East River Medical Association of New York obtained an affidavit from the Commissioner of Internal Revenue in 1871 declaring that a single manufacturer had produced so many packages of abortifacient pills "during the last twelve months" that 30,841 federal revenue stamps had been required of him. William R. Merwin of Middle Granville, New York, ran a mail-order drug business from his home. When he was arrested in 1973, authorities confiscated 130 dozen boxes of abortifacient pills and an unspecified number of abortifacient instruments for the do-it-yourself trade. John Kern of Chicago, arrested a year later, had 500 boxes of abortifacient pills. A Detroit physician noted in 1874 that a single "humbug" in his city sold over 500 pounds of female pills each year. The profit margin in the abortifacient drug business, incidentally, was handsome. Alexander Ruden, arrested in 1878, wholesaled pills prepared in New York City by Orlando Bradford for $7.50 per bottle of 600. The same pills retailed for 50 cents a pill or $10 per box of twenty. The *American Druggists' Circular and Chemical Gazette*, the standard trade paper for pharmacists and apothecaries, notified local retailers as early as 1850 that they could purchase sugar-coated ergot pills produced in France at attractive bulk rates for resale in the United States. The profits were sufficient to lure Parke, Davis and Company into the business by the early 1870s.

In addition to the brisk trade in commercial abortifacients, what was probably an even larger business in abortifacient drugs was being conducted over-the-counter between women and local apothecaries. The

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story of cottonroot is instructive in this context. Beginning in 1840 several Southern physicians drew attention to the fact that slave women used cottonroot as an abortifacient, and they considered it both mild and effective. Although regular physicians never prescribed cottonroot for any purpose in normal practice, druggists around the country were soon beginning to stock it. By the late 1850s, according to the *Boston Medical and Surgical Journal,* cottonroot had "become a very considerable article of sale" in New England pharmacies. In 1871 "a druggist in extensive trade" informed Van de Warker "that the sales of ext[ract of] cotton-wood had quadrupled in the last five years" and that it was "purchased very extensively by small miscellaneous country merchants, who always have the extract among their stock of drugs." Cottonroot remained available to American women in pharmacies and retained its "popular reputation as an abortive agent" into the early 1880s.

Cottonroot, however, was only one of the drugs involved in the informal trade between women and apothecaries. "Having been part owner of a drug store, in a populous city," wrote Ely Van de Warker, "I speak from personal knowledge."

(The following proceedings occurred during the remarks of Mr. Packwood:)

Mr. JOHNSTON. Mr. President, will the Senator yield for the purpose of speaking on another matter and without his losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE GYMNASIUM IN THE HART OFFICE BUILDING

Mr. JOHNSTON. Mr. President, tomorrow at 2 o'clock, as I understand it, Mr. Baker, I, Mr. Robert C. Byrd, and Mr. Stafford, who is chairman of the Senate Office Building Commission, will sponsor, and the Senate will vote on, an amendment which will kill the Senate gymnasium in the Hart Building.

Mr. President, it is with some amusement, some sadness, some resignation that I could sponsor and recommend this amendment to the Members of the Senate—amusement because this is a matter that has been jockeying about in the Senate now for at least 3 or 4 years.

I was asked by the majority leader at that time, Senator Robert C. Byrd, to chair the Senate Office Building Commission at a time when it was a structure half complete, steel rising up in the air without the funds to complete it.

Senator Robert C. Byrd asked, and I resisted because everyone knows that something like chairing a Senate Office Building Commission is a political liability, but he asked and I agreed, the idea being that the decisions of prior years, in this case decisions that were made in the late sixties and early seventies with respect to the Senate Office Building Commission should be finally completed, that it was unacceptable to have a structure half complete not completed; that all of the debates about whether or not the Senate Office Building was needed had been concluded because the commitment had been made.

I happen to believe that there is a need for additional space. Whether or not the Hart Office Building perfectly meets that need, whether or not the Hart Office Building exceeds the need, whether or not there are particular rooms in that building which are more commodious than they need to be, all of those questions, Mr. President, were resolved some time ago when the Senate voted the Senate Office Building in the late sixties and early seventies, voted to have the Senate Office Building completed.

My job, when I was appointed chairman, was to see that this matter should be completed. Consequently, we worked out a plan which would put a limit on the amount to be spent on the Senate Office Building which was, as I recall, $137 million.

Putting that ceiling on we also had some deductions from the scope of the work to be done. We deducted the restaurant, for example, on the top which all of us thought to be beyond the needs of the Senate.

We deducted a whole list of things, almost 20 in length, which we regarded as very good to complete, but unnecessary to complete. Consequently, among the $137 million we had a whole list of deductions in order of priority. At the same time, Mr. President, we stated publicly, and we stated it was our hope, that if money could be saved in the building of the Hart Senate Office Building such savings would be applied to the completion of those items in order of priority. Some of those things were of very high priority. One dealt with a fire control system which most fair-minded people—I would say almost all fair-minded people—would say to be absolutely essential for the completion of the Hart Senate Office Building.

Another was the computerized control system for the air-conditioning and heating which, in turn, over a very short period of time would save more money than it would cost, and a whole list of other things which I shall not here describe.

Nevertheless, Mr. President, the Architect of the Capitol and the contractor proceeded to build the Senate Office Building and to make a great deal of savings, sufficient to cover that list of priorities and, consequently, the Senate Office Building Commission authorized the Architect of the Capitol to use the savings within the cap of $137 million to complete these various priorities.

Mr. President, we all know what has happened in the meantime. We have been told that the Senate is appropriating money for a third Senate gymnasium; that the same is, as I say, a third Senate gymnasium. I would like to respond, Mr. President, to two points that were stated in the editorial in the Washington Post because I think it is very important for my colleagues who have been roundly excoriated for voting for a third Senate gymnasium. Two points:

First of all, Mr. President, the vote was not for a third Senate gymnasium. The vote was for upholding the decision of the Chair that you should not have legislation on an appropriation bill. I know the idea is that Senators use the rules for themselves when it is convenient, and otherwise ignore the rules.

Mr. President, that is not true. If you allowed legislation on an appropriation bill, if the Senate would routinely overrule the ruling of the Chair and allow legislation on an appropriation bill, then anything from school prayer to school busing—which I support—to abortion, to whatever bill there is would be put on a appropriation bill.

Why is it important that it not be put on an appropriation bill, Mr. President? For the simple reason that an appropriation bill must pass. The activities of Government would come to a stop if you put general legislation on appropriation bills.

To be sure, we have put abortion of a sort, and other matters, on appropriation bills. But the phrasing of those amendments has always been something like this: That no funds authorized in this appropriation may be used for a specific purpose.

The difference between that kind of legislation on an appropriation bill, if you will, and this kind is that that regards only the use of the funds appropriated in that particular appropriation bill. Indeed, if we were to ignore and routinely reverse the ruling of the Chair in legislation on an appropriation bill, then each year we would have a whole series of bills attached to appropriation bills.

If my friends in the press would care to watch, you are going to see that very phenomenon take place with respect to the continuing appropriation. There will be every species of legislation attached to bills which I think are very good and some of which I intend to support. But you will find if you take a bill that has to pass and you allow any bill to be attached to it, then every bill will be attached to it and sooner or later the Senate will rise up and say "Enough." And that is exactly what is going to happen on this particular bill.

I hope this bill relating to the Senate gymnasium will survive. If it does not, the Senate Office Building Commission, in the meantime, will rule on it.

Nevertheless, Mr. President, I think it was a great miscarriage of justice to have my colleagues criticized in the Washington Post as having voted to appropriate money for a third Senate gymnasium. It just simply was not true. My colleagues voted to sustain the ruling of the Chair.

If there is blame to be made for the decision as to whether to finish the third Senate gymnasium, that blame should rest with me and for my colleagues on the Senate Office Building Commission, but principally with me. Because, Mr. President, whether or not we needed the third Senate gymnasium—and I neither designed it nor authorized it nor was chairman of the Commission at the time it was authorized—the third Senate gymnasium, if that is what you want to call it, a third, and really I think it is a first in terms of a physical fitness facility, nevertheless, it exists.

The building is there, the room is there. The question is whether you finish it. And it seems to me when you have the room existing, that you ought to at least put in a floor and you ought to at least put in lights and sides and walls and whatever else because it has great ability to be used for a whole range of uses, such as a hearing room, such as a reception room, such as many other things.

Nevertheless, Mr. President, it is the will of the Senate on the substance of the matter not to complete the Senate physical fitness facility, and I endorse the feelings of my colleagues if that is their wish. I do not think it is good policy.

Nevertheless, I will go along with it. I will, I guess, if not protest, then at least call to the attention of the Senate and of the country that if there was a mistake made, and I think maybe the whole Hart Senate Office Building was a gigantic mistake simply because of the mood of the country, but if that mistake was made, it was made a long time ago and it was not made by this Senate. If I am still in the Senate when it is completed, and I hope I am here long enough, I doubt if it will be too many years before it will be completed, and unquestionably at a greater cost.

I wish the press somehow would be fair enough to recognize that if a mistake is made we ought to make the best of it—which is I think completing a room that is there—and at least to recognize that if some of us stand up, particularly if I stand up and make the point of order, blame me for the point of order, but do not blame the Senate for upholding the rules of the Senate.

Yes, the rules of the Senate are not 100-percent respected; yes, occasionally the Senate will overrule the Chair, but not very often.

Mr. President, it is important that those rules be respected and that you go beyond the particular issue, because if the press puts enough pressure on the Senate and if the country indeed puts enough pressure on the Senate, there is no rule that will be sacrosanct. And if the press believes that the Senate gymnasium should not be completed, so be it. But tomorrow the issue will be something different, where the press and the people will have another opinion.

It seems to me, Mr. President, we ought to be fair with the Members of the Senate and at least accurately detail how they vote.

Having said that, Mr. President, when the vote comes up tomorrow, I will vote for the amendment. As a matter of fact I am a cosponsor of the amendment which will provide for the cessation of any further commitment of funds or completion of the Senate gymnasium and indeed will shut down the so-called second gymnasium in the Dirksen Senate Building. Let me say I was not aware that there was such a thing as a second gymnasium in the Dirksen Senate Building. In fact, I do not think—I still have not seen it—but from what has been described to me it is not worthy of being called that. But it ought to be shut down and this amendment will do just that. And I hope all Senators will be excluded from that so that from now on it will not be said that there are two Senate gymnasiums, because in fact it is not intended to be a second gymnasium.

It any event, Mr. President, having said that I will enthusiastically support it—I say "enthusiastically"—I will realistically, I should say, support the motion to take out the money for the Hart gymnasium.

I yield the floor, Mr. President.

Mr. PACKWOOD. I thank my distinguished colleague. I might say I have seen the "gym" in the Dirksen Office Building and it consists, as I recall, of four or five shower stalls, some lockers, and then there is an adjacent room that has a mat on the floor and there may or may not be some barbells, I cannot remember. But that is the extent of the gym. And there is nothing else there.

And, apart from losing the showers, it is not a great loss if we close it. I think it is probably wise to do so, because in people's minds when they hear the word "gym," they think of the YMCA or a local high school with basketball pavilions, and everything else, and it is marginal at best.

Mr. JOHNSTON. The Senator is entirely correct. First, let me thank him for yielding to me.

Let me say that I would hope that this facility is open to the staff. Many staffers go out and jog at noon or in the evening or whatever and have no place to change and no place to take a shower. I think this ought to be open to the staff.

This amendment does not so state. I might state I did not draw this amendment up. I had one drawn before this one was put in, and my amendment directed that it be made available to the staff. This is not inconsistent with that.

But I hope it is the ruling of the Rules Committee, which is in control of the use of the rooms in the Dirksen Senate Office Building, that they will make it available to the staff, if for no other purposes.

Mr. PACKWOOD. I might join in the sentiment of the Senator from Louisiana. A number of my staff jog at midday, and I wish they had some place to shower.

(Conclusion of earlier proceedings.)

Mr. BAKER. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. PACKWOOD. I yield.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that when we resume consideration of this joint resolution the Senator from Oregon be recognized for the purpose of continuing his debate.

Mr. PACKWOOD. Mr. President, when do we plan to continue?

Mr. BAKER. Mr. President, before the Chair puts the request, in answer to the question of the Senator from Oregon, tomorrow at 10 a.m., according to the order previously entered, we will start a voting cycle that will take us to about noon. There are 10 votes already ordered. It is my anticipation that we will recess tomorrow from noon until 2 p.m., as we usually do on Tuesday, to enable Members on both sides to attend their party caucuses. At 2 p.m. I hope we will devote an hour to the passage of the Department of Defense authorization conference report and then we will be back on the debt limit joint resolution.

Mr. PACKWOOD. Mr. President, do I understand we are not going on on this tonight but we are going to finish morning business, go over until tomorrow and then when we are finished with the already prescribed business I will have the floor back at 3 p.m. or whatever time we finish.

Mr. BAKER. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, once again we will have no further debate on the debt limit joint resolution today. We will resume consideration of this measure tomorrow, after we have done the sequence of votes on the immigration bill and the Department of Defense conference report and vote I believe on the Baker-Byrd amendment tomorrow.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be

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a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are certain items on today's Executive Calendar which are cleared on this side for action at this time, beginning with the Department of State on page 4 and continuing through pages 5 and 6.

May I inquire of the minority leader if he is in position to consider all or any part of these nominations at this time?

Mr. ROBERT C. BYRD. Mr. President, we on this side of the aisle are ready to proceed to the consideration of the first nomination under Department of State, may I suggest.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations on today's Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Robert H. Phinny, of California, to be Ambassador to the Kingdom of Swaziland.

Mr. TSONGAS. Mr. President, As ranking member of the Senate Subcommittee on African Affairs, I find it necessary to oppose the nomination of Robert H. Phinny for U.S. Ambassador to Swaziland.

This decision does not reflect any concern about the personal qualities of Mr. Phinny. I have no doubt that he is an honest, competent, and serious man committed to doing the best possible job representing our country in Swaziland. Nevertheless, after reviewing Mr. Phinny's testimony to the Senate Foreign Relations Committee, I seriously question his qualifications and ability to perform in this sensitive position.

Swaziland, a small nation located in between South Africa and Mozambique, will have an important role to play in the future political development of southern Africa. I believe that our Ambassador to Swaziland must have a sound, comprehensive understanding of the historical, political, and social complexities of the region. This is essential to a successful U.S. southern African policy. I have profound reservations as to whether Mr. Phinny, at this time, is the right man for the job.

To his credit, Mr. Phinny has expressed a desire to devote the necessary time and effort to become acquainted with southern Africa. I hope he is successful. I am also convinced that Mr. Phinny will be surrounded with experienced and qualified Foreign Service officers, particularly the Deputy Chief of Mission. I, however, as a matter of principle and out of concern for a thoughtful southern Africa policy, cannot support the nomination of Robert H. Phinny.

The PRESIDING OFFICER. The question is on agreeing to the nomination.

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, if the majority leader will yield, I now respond to his request that he previously made and state that there is no objection to proceeding to the nominations under the Department of State, the judiciary, under new reports down through U.S. Synthetic Fuels Corporation on page 6.

Mr. BAKER. I thank the minority leader.

In view of that, I ask unanimous consent that the nominations identified by the distinguished minority leader be considered en bloc.

The PRESIDING OFFICER. The nominations previously identified are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Department of State

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the U.S. Commissioner on the United States-USSR Consultative Commission.

The Judiciary

Mary Ann Cohen, of California, to be a judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

Lapsley Walker Hamblen, Jr., of Virginia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

Securities Investor Protection Corporation

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982. (Reappointment.)

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

United States Synthetic Fuels Corporation

Milton M. Masson, Jr., of Arizona, to be a member of the Board of Directors of the United States Synthetic Fuels Corporation for a term of 1 year.

John B. Carter, Jr., of Texas, to be a member of the Board of Directors of the United States Synthetic Fuels Corporation for a term of 2 years.

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to reconsider the vote by which both actions were taken in respect to the nominees.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominess were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has confirmed the nominations.

NOMINATION OF MILTON M. MASSON, JR., TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. SYNTHETIC FUELS CORPORATION

Mr. McCLURE. Mr. President, on August 13, the Committee on Energy and Natural Resources favorably reported the nomination of Milton M. Masson, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation. The vote was 17 to 0. The committee's vote followed a nomination hearing held on August 12.

Mr. Masson is executive vice president and treasurer of Sullivan & Masson, Inc., an architect-engineering firm located in Phoenix, Ariz. Mr. Masson holds a B.S. degree in electrical engineering and is licensed as a professional engineer in 10 States. He has a broad business background, including extensive experience in the construction industry.

Mr. President, Mr. Masson has filed a detailed information statement with the Committee on Energy and Natural Resources, and he has complied with all committee requirements pertaining to Presidential nominees. On behalf of the Committee on Energy and Natural Resources, I recommend that the Senate approve the President's nomination of Milton M. Masson, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation.

NOMINATION OF JOHN B. CARTER, JR., TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. SYNTHETIC FUELS CORPORATION

Mr. President, on August 13 the Committee on Energy and Natural Resources, by a vote of 17 to 0, reported the nomination of John Boyd Carter, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation. Mr. Carter's nomination hearing was held on August 12. He has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement.

Since the early fifties, Mr. Carter has spent the major portion of his business career involved in energy projects and energy companies. He has substantial experience as an investment banker, a financial consultant, and an independent oil operator. He is currently senior vice president and a director of POGO Producing Co., an oil and gas exploration company headquartered in Houston, Tex.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of John Boyd Carter, Jr., for a position on the Board of Directors of the U.S. Synthetic Fuels Corporation.

NOMINATION OF LAPSLEY WALKER HAMBLEN, JR., TO BE A JUDGE OF THE U.S. TAX COURT

Mr. DOLE. Mr. President, on August 12, 1982, the Committee on Finance held hearings on the nomination of Lapsley Walker Hamblen, Jr., to be a judge of the U.S. Tax Court. As chairman of the committee I am pleased to report that the committee has unanimously ordered his nomination to be favorably reported.

Mr. Hamblen who is a resident of Lynchburg, Va., was introduced to the committee by Senator BYRD. As Senator BYRD indicated, Mr. Hamblen is well suited for the position to which he has been nominated. After serving in the U.S. Navy during World War II he attended the Georgia Institute of Technology and the University of Virginia from which he received a B.A. degree. Following undergraduate school he entered law school at the University of Virginia from which he graduated in 1953. He served as president of the law school and was asked to be a member of the Order of the COIF.

Mr. Hamblen was admitted to the bar in West Virginia in 1954, in Ohio in 1955, and in Virginia in 1957. He served as attorney-adviser to the Tax Court of the United States, Washington, D.C.; and trial attorney in regional counsel's office of Internal Revenue Service, Atlanta, Ga., prior to his present position. Since 1957 he has been a member and partner in the law firm of Caskie, Frost, Hobbs & Hamblen of Lynchburg, Va. His practice consists mainly of corporate, probate and tax planning, and representation in corporate, probate and tax matters in controversy or litigation with emphasis on tax aspects of corporate and estate or probate practice, especially corporate acquisitions and related matters.

Mr. Hamblen's business and professional activities include service as special consultant to Worrell Newspapers, Inc., Charlottesville, Va.; former director, vice president, and general counsel, Carter Glass & Sons Publishers, Inc., Lynchburg, Va.; director and member of executive committee, Virginia National Bank, Lynchburg, Va.; trustee, Southern Federal Tax Institute, Atlanta, Ga.; codirector, Annual Virginia Conference on Federal Taxation, University of Virginia, Charlottesville, Va.; former chairman, tax section board of governors, Virginia State bar; and member, tax section, American Bar Association.

Mr. Hamblen has written numerous articles and lectured on numerous occasions in tax law matters. His education and experience make him uniquely qualified to be a judge on the Tax Court. I am pleased that my colleagues have confirmed his nomination.

NOMINATION OF MARY ANN COHEN TO BE A JUDGE OF THE U.S. TAX COURT

Mr. President, on August 12, 1982, the Committee on Finance held hearings on the nomination of Mary Ann Cohen to be a judge of the U.S. Tax Court. It is a pleasure for me as chairman of the committee to report that the committee has unanimously voted to order her nomination favorably reported.

Ms. Cohen brings outstanding credentials to this position. She received a B.S. degree from the University of California in business administration and a J.D. from the University of Southern California law center where she was an editor of the law review. Upon graduation, Ms. Cohen was admitted to the California bar and was employed in a law firm in which she became a partner 2 years later. Since 1969 she has practiced law in the firm of Abbot & Cohen in Los Angeles.

The firm's practice consists primarily of business and tax litigation and counseling. A substantial portion of the practice includes defense of criminal tax investigations and prosecutions which ranges from representation of corporations and/or their officers to defense of tax offenses of individuals. Civil tax matters handled cover a broad variety of situations such as those arising from settlement of complex business litigation; partnership and corporate liquidations; marital dissolutions; and processing of civil aspects of tax cases subsequent to disposition of criminal investigation or prosecution.

Ms. Cohen's familiarity with tax issues involving professional corporations and qualified retirement plans arises out of administration of the law firm, as well as general counseling of clients with respect to such matters.

Ms. Cohen is a member of the American Bar Association and its section on taxation and the committees on civil and criminal tax penalties, of which she served as chairman from 1977 to 1979. She has also been a member of a number of other bar association committees and authored several articles on tax laws.

Mr. President, Ms. Cohen is obviously qualified to be a judge of the Tax Court, and I am pleased my colleagues have confirmed her nomination.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT OF 1982

Mr. KASTEN. Mr. President, I am pleased to join as a cosponsor of S. 2784, the "Major League Sports Community Protection Act of 1982." S. 2784 will help guarantee that the great financial and emotional investments that fans and communities make on behalf of their local sports teams will be protected. This is especially important for smaller cities who now have successful teams, such as the city of Green Bay, Wis., and their great football team, the Green Bay Packers.

Green Bay, Wis., is presently the smallest city represented in the NFL. The Green Bay Packers football team is the oldest member of the NFL and is without question its most successful franchise. The legislation I have cosponsored will help assure that the success of the Packers will continue, and that the Packers can always call Green Bay their home.

Mr. President, the Green Bay Packers are part of the great sports tradition of the State of Wisconsin, and of professional football in this country. The Packers began as a team in 1919, when Earl (Curley) Lambeau formed the club and named it in honor of the company that helped get it started. The Packers' winning ways started that first year when they won 10 straight games.

The Packers were the first team to use the passing game. Such innovations helped the Packers to become NFL champs in 1929, 1930, and 1931.

In 1959 the Packers hired Vince Lombardi as coach. During the sixties under the great Lombardi, the Packers dominated the sport of football, winning four world championships. They overwhelmed their opponents in Superbowls I and II.

Many great athletes have played on Packers teams. In addition to coach Lombardi was Bart Starr, who quarterbacked the Packers in Superbowls I and II. There was Paul Hornung, Herb Adderly, Boyd Dowler, Ray Nitschke, and Don Chandler, to name only a few.

Mr. President, the Packers have a long and illustrious history of success in Green Bay. They will continue to be a great team in the future. The legislation I have cosponsored will help assure that the Packers remain a great team and a part of the heritage of successful sports teams in the State of Wisconsin.

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MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 13, 1982, the Secretary of the Senate, on August 16, 1982, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House insists upon its amendments to the bill (S. 2036) to provide for a job training program and for other purposes; disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Perkins, Mr. Hawkins, Mr. Ford of Michigan, Mr. Clay, Mr. Biaggi, Mr. Simon, Mr. Weiss, Mr. Corrada, Mr. Washington, Mr. Erlenborn, Mr. Jeffords, Mr. Petri, Mrs. Fenwick, and Mr. DeNardis as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6542. An act to withdraw certain lands from mineral leasing, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6542. An act to withdraw certain lands from mineral leasing, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 439. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2305;

S. Res. 440. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4347; and

S. Res. 443. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2812.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. Nunn, and Mr. Childs):

S. 2838. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; read the first time.

By Mr. GARN (by request):

S. 2839. A bill to authorize appropriations for the Bureau of the Mint; to the Committee on Banking, Housing, and Urban Affairs.

S. 2840. A bill to authorize the appropriation of funds for the improvement of mint facilities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JACKSON:

S. 2841. A bill for the relief of Gordon H. Hay; to the Committee on Armed Services.

S. 2842. A bill to provide for equitable waiver in the compromise and collection of Federal claims; to the Committee on Governmental Affairs.

By Mr. DIXON (for himself and Mr. Stevens):

S. 2843. A bill to amend the Internal Revenue Code of 1954 to limit the application of the stock voting rights passthrough to certain employee stockownership plans, and for other purposes; to the Committee on Finance.

By Mr. QUAYLE:

S. 2844. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and to reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. Nunn, and Mr. Chiles):

S. 2838. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; read the first time.

(The remarks of Mr. Thurmond on this legislation appear earlier in today's Record.)

By Mr. JACKSON:

S. 2841. A bill for the relief of Gordon H. Hay; to the Committee on Armed Services.

RELIEF OF GORDON H. HAY

Mr. JACKSON. Mr. President, Mr. Gordon H. Hay, a resident of my home State of Washington has applied for a Navy retirement pension but has been denied.

In brief, Mr. Hay served in the U.S. Navy for almost 4 years during World War II. Upon his release from active duty in December 1945, he agreed to remain in the Reserves. He performed no duties with the Navy following the war as the local Reserve units were unorganized and untrained. However, in 1963 a chief warrant officer and Navy recruiter advised Mr. Hay that "gratuitous points" toward retirement would be awarded for the period from December 1945 to June 1949 if Mr. Hay reenlisted in the V-6 program of the U.S. Naval Reserves. The CWO who made the statement has confirmed in writing that he so informed Mr. Hay; however, it turns out this information was in error.

Believing he was earning retirement points, Mr. Hay was a member of the Naval Standby Reserves during the 1946-49 period following his 13 years of active duty Navy service but he does not have records substantiating the Reserve duty. Having been a Member of Congress during the V-6 classification era, I can vouch that the V-6 program had little organization and was administered with a great deal of confusion. It is certainly conceivable that personnel records were not furnished to the personnel serving in the V-6 program.

There is no question that Mr. Hay served honorably for almost 18 years. It is also clear that, on the erroneous advice of a Navy recruiter, Mr. Hay reenlisted in the Navy Reserves for the purpose of earning retirement credit. Under these circumstances, Mr. Hay has had unfair treatment and I feel it is only fair that the United States make special arrangements to grant Mr. Gordon Hay the pension he earned and that he deserves.

I ask unanimous consent that my legislation in behalf of Mr. Hay be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of determining eligibility for retired pay benefits under chapter 67 of title 10, United States Code, Gordon H. Hay, of Bremerton, Washington, shall be deemed to have performed 20 years of service as computed under section 1332 of such title, the said Gordon H. Hay having reenlisted in the Naval Reserve in 1963 relying on the erroneous representation of a Navy recruiter that the said Gordon H. Hay would receive credit for retirement purposes for service in the V-6 Naval Reserve program from December 1945 to June 1949.

Sec. 2. No benefits shall be paid to the said Gordon H. Hay by virtue of the enactment of this Act for any period prior to such date of enactment.

By Mr. JACKSON:

S. 2842. A bill to provide for equitable waiver in the compromise and collection of Federal claims; to the Committee on Governmental Affairs.

COLLECTION OF CERTAIN FEDERAL CLAIMS

Mr. JACKSON. Mr. President, today I am introducing a bill which has been recommended to the Congress by the General Accounting Office which would authorize agency heads to grant equitable waivers in the compromise and collection of Federal claims involving inadvertent overpayments of travel and transportation expenses. Current law permits agency heads to waive claims for overpayments involving pay and allowances. My bill would simply expand that authority to include waivers for travel and transportation expenses.

My bill would also increase the amount of claims which could be waived from the existing level of no more than $500 per claim to no more than $5,000 per claim.

Mr. President, my interest in this legislation stems from a case which was recently brought to my attention involving 17 of my constituents who are employees of the GAO in the Seattle regional office of that agency. These employees were paid per diem for travel and transportation at a higher rate than authorized and are being requested to make repayment. These overpayments were received in good faith and the employees in question will suffer financial hardship if they are required to make repayment of these funds which they received and expended based on an honest but incorrect understanding of the per diem limits.

It is my understanding that this is a recurring problem which the GAO and other agencies face and that the case involving my constituents is not unique. For this reason the Comptroller General has recommended that the existing law be amended to permit waivers for claims involving travel and transportation expenses. I ask unanimous consent that the bill and a letter from the Comptroller General to Chairman Rodino of the House Judiciary Committee explaining the need for this bill be included in the Record at the conclusion of my remarks to provide further clarification of the need for this bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the analysis of subchapter VIII of Chapter 55 of title 5, United States Code is amended by striking out of the title of section 5584, "other than" and inserting in lieu thereof "including"; and section 5584 of title 5, United States Code, is amended (1) by striking out of the catchline "other than", and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after July 1, 1960," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of pay or allowances on or after July 1, 1960, and including a claim of the United States against a person arising out of an erroneous payment of travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after January 1, 1979,"; (3) by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) by striking out of clause (3) of section (b) the final conjunctive word "or" and by striking out of clause (4) of section (b) the final word and punctuation "later." and inserting in lieu thereof "later; or"; (5) and by adding the following clause at the end of section (b):

"(5) in all cases involving claims for waiver of over payments of travel and transportation expenses and allowances and relocation expenses, if the erroneous payment occurs before January 1, 1979, or if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment was discovered.

(b) the analysis of Chapter 165 of title 10, United States Code is amended by striking out of the title of section 2774., "other than" and inserting in lieu thereof "including"; and section 2774 of title 10, United States Code is amended by (1) striking out the catchline "other than" and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after October 2, 1972," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before or after October 2, 1972, and including a claim of the United States against a person arising out an erroneous payment of travel and transportation allowances on or after January 1, 1979,"; (3) by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) and by striking out of clause (2) of section (b) "of pay or allowances, other than travel and transportation allowances,".

(c) the analysis of Chapter 7 of title 32, United States Code is amended by striking out of the title of section 716., "other than" and inserting in lieu thereof "including"; and section 716 of title 32, United States Code, is amended (1) by striking out of the catchline "other than" and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after October 2, 1972," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before or after October 2, 1972, and including a claim of the United States against a person arising out of an erroneous payment of travel and transportation allowances on or after January 1, 1979,"; by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) by striking out of clause (2) of section (b) "of pay or allowances, other than travel and transportation allowances,".

Comptroller General
of the United States,
Washington, D.C., May 5, 1981.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives.

Dear Mr. Chairman: This responds to your letter of February 13, 1981, in which you request our views on H.R. 1025, 97th Congress, 1st Session, a bill "[t]o provide for equitable waiver in the compromise and collection of Federal claims."

The purpose of the Waiver Acts—5 U.S.C. § 5584, 10 U.S.C. § 2774 and 32 U.S.C. § 716—is to allow the waiver, either in whole or in part, of a claim of the United States against an employee or former employee of a Federal agency or a member or foreign member of the military service or National Guard arising out of an erroneous payment of pay or allowances, the collection of which would be against equity and good conscience and not in the best interests of the United States.

The present bill is similar to a bill, H.R. 13393, originally introduced in the 94th Congress, 2d Session, at the request of the General Accounting Office. The original bill sought to permit the ceiling on the amount of an overpayment which could be finally adjudicated at the agency level from $500 to "* * * not in excess of amounts to be prescribed by the Comptroller General from time to time."

The present bill, H.R. 1025, specifically raises the ceiling on agency action from $500 to $5,000. We believe that this proposed amendment would improve the overall economy and efficiency of waiver processing. It would result in no additional administrative workload to the agencies because they must review waiver requests regardless of whether the cases are forwarded to GAO or settled at the administrative level. The overall procedures for handling waivers will not be significantly changed because waiver cases will continue to be handled in accordance with standards prescribed by the Comptroller General. Agency performance will continue to be evaluated by GAO during onsite reviews of agency operations and doubtful cases and appeals will continue to be submitted to the Comptroller General for review.

Accordingly, we strongly support the provisions of H.R. 1025.

At the same time we would like to repeat a proposal we made to your committee last year in our comments on H.R. 224, 96th Congress, 1st Session, and to reassert our continuing concern for the specific category of equitable claims which is precluded from consideration for waiver. The existing waiver statutes expressly do not apply to overpayments of travel and transportation allowances and expenses and relocation expenses.

Our experience demonstrates that serious hardship has been caused in many travel cases and that employees have been required to make substantial refunds to the Government as a result of circumstances which were not their fault. More particularly, our experience shows that many of these claims arise from erroneous agency authorizations which employees rely on in good faith to their detriment. Indeed, we have decided a number of individual claims where the increasing complexity of the laws relating to travel and transportation entitlements has outdistanced the agencies' ability to regulate these entitlements. The examples presented in Appendix II are indicative of the broad range of travel and transportation expenses and relocation expenses claims for which waiver consideration is precluded by the applicable statutes. No other administrative relief was possible in any of these cases, but in all of them, if waiver had been available it would have been considered and probably granted. At the present time, however, the only available remedy in such cases is the pursuit of a private relief bill through the Congress.

Accordingly, we are offering in Appendix I a proposed amendment addressing our additional concern expressed here. Enactment of the legislation recommended in Appendix I would provide a mechanism for relieving individuals who are overpaid travel and transportation expenses and allowances and relocation expenses in circumstances such as described in Appendix II.

Sincerely yours,
Milton J. Fowler,
Acting Comptroller General
of the United States.

By Mr. DIXON (for himself and Mr. Stevens):

S. 2843. A bill to amend the Internal Revenue Code of 1954 to limit the ap-

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plication of the stock voting rights passthrough to certain employee stock ownership plans, and for other purposes; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLAN EXPANSION ACT

Mr. DIXON. Mr. President, the bill I am introducing today with Senator STEVENS, the ESOP Expansion Act, would remove certain obstacles to the formation of employee stock ownership plans (ESOP's) by closely held corporations with minimal, if any, cost to the U.S. Treasury.

An ESOP is a tax-qualified method of providing employees with beneficial ownership of stock in their company without requiring cash outlay on their part. Before 1978, the Tax Code recognized two types of ESOP's: First, the leveraged ESOP, which could hold any form of employee security and did not require passthrough of voting rights, and second, the tax reduction ESOP, which was eligible for an additional 1 percent investment tax credit and which was required to hold only voting stock and to pass through voting rights to employees who participated in the plan. In 1978, we consolidated these two types of plans and imposed the voting passthrough and voting stock requirements on leveraged ESOP's as well as those eligible for the tax credit. Recognizing that such requirements might be unduly burdensome for closely held companies, we limited the voting passthrough and voting stock requirements to major corporate issues such as mergers and amendments to the articles of incorporation.

Although the 1978 law has not caused difficulties for publicly traded companies, it has created severe problems for many closely held and family businesses that want to share ownership with their employees. The voting passthrough and voting rights requirements may, in cases where there is high employee turnover, cause such a broad dispersal of stock among former employees that a small or family business may become publicly owned against the wishes of those who formed it.

The voting rights requirement may cause additional problems for closely held companies, as the example of a small publishing company in my home State of Illinois will illustrate. This company has outstanding both voting and nonvoting stock. Its corporate treasury contains shares of nonvoting stock which would be available for the formation of an ESOP but for the voting-rights requirement in current law. This company, however, is unable to issue any new voting stock, either for ESOP formation or for other purposes, because of an agreement made at the insistance of some of its creditors. Thus, the company is effectively prevented from forming a tax-qualified ESOP because current law conflicts with the company's need to satisfy its lenders' demands.

Closely held companies such as this one often can be made subject to restrictions against the issuance of new voting stock. Such stipulations may frequently be made by lenders who want to be satisfied that control of the corporation will remain in the hands of those who control it at the time the agreement to extend credit is made. Alternatively, the corporation may wish to obtain additional financing through the issuance of voting stock to limited numbers of new stockholders. These new stockholders, in order to be assured that their share of control of the company will not be diluted, may condition their purchase of stock on an agreement that the company issue no new voting stock thereafter. In either situation, the company, in order to obtain needed financing through debt or new stock issues, must respond to the demands of lenders or prospective stockholders. Obviously, in such cases the corporation is effectively prevented from forming tax-qualified ESOP's by the need for an infusion of capital. In a period of high interest rates, such a situation imposes especially severe burdens on closely held businesses.

In essence, Mr. President, the voting passthrough and voting-stock requirements applicable to ESOP's under current law prevent many small business owners from offering their employees a share in the growth of their company. Not surprisingly, business groups indicate a sharp decline of interest in ESOP's among closely held companies since these requirements were imposed in 1978. The express intent of Congress to avoid unduly burdensome requirements for closely held companies has, in practice, been frustrated.

In 1981, the Senate attempted at least a partial remedy to this situation. By a vote of 94 to 3, this body added an amendment offered by Senator STEVENS which would have repealed the voting passthrough requirement for closely held companies. Unfortunately, this amendment was dropped in conference with the House.

The bill we are introducing today would more broadly remedy the obstacles imposed by current law to the formation of leveraged ESOP's by closely held companies. Section 2 would remove the voting passthrough requirement for closely held companies. Section 3 would remove the voting-stock requirement for such companies. This bill, however, contains an important limitation which would mitigate or prevent any loss of revenues as a result of the change. The bill would apply only to those companies which are willing to forgo the new ESOP tax credits allowed by sections 44G and 48(n) of the code. Moreover, the bill would not affect current legal requirements governing ESOP's in publicly traded corporations. The revenue effect of the bill is estimated, therefore, to be negligible; that is, not in excess of $10 million.

This bill, Mr. President, will promote equity by rendering limited ESOP tax incentives available as a practical matter to closely held as well as publicly traded companies. All ESOP transactions will continue to be subject to the fair market value standard of ERISA, thus insuring that nonvoting stock contributed to an ESOP by a closely held company will have a definable value. Employees of many closely held companies will now have the opportunity to receive a share in their companies' earnings and growth.

In short, Mr. President, I respectfully urge that my colleagues favorably consider this bill, which provides a simple and fiscally conservative means of effectuating Congress concern in 1978 to avoid unduly burdensome requirements with respect to the formation of ESOP's by closely held companies.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Stock Ownership Plan Expansion Act".

SEC. 2. PASSTHROUGH OF STOCK VOTING RIGHTS.

(a) IN GENERAL.—Paragraph (22) of section 401(a) of the Internal Revenue Code of 1954 (relating to qualification requirements) is amended to read as follows:

"(22) If a defined contribution plan (other than a profit-sharing plan)—

"(A) is established by an employer—

"(i) with respect to whom the requirements of section 44G or 48(n) are applicable for the taxable year by reason of an election made by the employer, and

"(ii) whose stock is not publicly traded, and

"(B) after acquiring securities of the employer, more than 10 percent of the total assets of the plan are securities of the employer,

any trust forming part of such plan shall not constitute a qualified trust under this section unless the plan meets the requirements of subsection (e) of section 409A for the plan year ending with, or within, such taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to acquisitions of securities after December 31, 1982.

SEC. 3. ACQUISITION OF NONVOTING STOCK BY A TAX CREDIT ESOP.

(a) IN GENERAL.—Subsection (1) of section 409A of the Internal Revenue Code of 1954 (relating to employer securities) is amended by adding at the end thereof the following new paragraph:

"(15) CERTAIN NONVOTING COMMON STOCK.—Nonvoting common stock issued by the employer (or by any corporation which is a member of the same controlled group of corporations of which the employer is a member) shall be treated as employer securities if—

"(A) none of the common stock issued by the employer (or by any such corporation) is readily tradable on an established securities market, and

"(B) the employer and any corporation of the same controlled group of corporations of which the employer is a member have not elected the application of the requirements of section 44G or 48 (n) for the taxable year of the employer, or of such corporation, for which such stock is transferred to, or purchased by, the plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1982.

By Mr. QUAYLE:

S. 2844. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1982

● Mr. QUAYLE. Mr. President, I am today introducing the Age Discrimination in Employment Amendments of 1982, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes.

This bill has three major purposes: the first is to remove the current 70-year cap on the protections afforded by the Discrimination in Employment Act; the second is to make procedural reforms in the enforcement provisions of the act to make it more consistent with other employment discrimination statutes; and the third is to restore the exemption from the ban on mandatory retirement for tenured faculty members, which expired at the beginning of last month.

I recognize that there are, and will be, other bills to deal with this issue. After meeting with others and discussing various approaches to amending the ADEA, I have decided that there is still a need to introduce my proposal. My bill is drafted on the premise that all issues should be put on the table so that when the committee and the Congress decide to act, it will be after a full attainment of the issue.

1. LIFTING THE AGE 70 CAP

Under present law, the protection against age discrimination is limited to individuals who have not attained age 70. The bill removes that restriction. This provision is premised on the right of older workers to continue working, if they are able and willing to do so, and is supported by the fact that conditions which once justified encouraging early retirement of older workers are changing. Demographic projections indicate that we will have an increasingly older work force, while at the same time an increasing number of jobs do not require great physical stress and take place in an office setting. Increasing opportunities for older workers is thus not only a matter of equity for the workers but also makes commonsense in terms of labor market changes. It also has the potential of providing relief for the hard-pressed social security system.

Over the coming decades, the age distribution of the population will be shifting dramatically. The absolute number of older people in our society will increase and both the public and private sectors will need to pay more attention to the concerns of older workers. While the percentage of older Americans will not change from the current level for the balance of this century, the number of older workers is likely to increase dramatically in the early years of the 21st century.

This change in the structure of the available work force will have great implications for older workers. In the past, the great influx of younger workers created enormous pressure to remove older workers from the labor force. In the future, the demographics will work in favor of retaining older workers and labor market needs will require their utilization.

Yet, few trends in the 20th century have been more pronounced than the decline in the labor force participation of older persons. The participation rates of older workers—especially men—has been declining at an alarming rate for the past 20 years. Participation rates in the labor force for men aged 65 and over has dropped from 34 percent in 1960 to less than 20 percent in 1981. For men aged 55 to 64, the rate has dropped 15 percent over the last 20 years. The participation rates for women over age 65 has always been and still remains very low. Recently there has been an increase in the number of women aged 55 to 64 entering the labor force.

With an increasingly older population, greater attention will have to be paid to Federal policies which intentionally or unintentionally restrict participation in the work force by older Americans. We must encourage more flexible arrangements for continued work.

These facts and issues have been recognized for many years and have been stated countless times in testimony before Congress and in studies presented by the Department of Labor. Recent surveys have shown that 9 out of 10 Americans oppose forced retirement because of age. Removal of the 70-year age cap is a necessary step in encouraging continued participation of older workers in the labor force.

The administration has already spoken out in favor of prohibiting mandatory retirement to individuals over the age of 70. My bill would eliminate not only mandatory retirement but also all other discrimination against workers over age 70.

No American should be forced to retire at a certain age without regard to physical or mental condition. An individual who desires to continue working should be permitted to do so, if capable. Ability, not age, should be the guiding criteria in developing a retirement policy.

The ADEA prohibits arbitrary discrimination against workers, on the basis of age, in all reas of employment policy. This includes hiring, firing, and promotions. We should extend all these protections of the ADEA to workers over 70 and not limit their protection to a prohibition on mandatory retirement. How can we prohibit discrimination in some areas of employment policy and permit it in others?

I do not wish to suggest that the aging process does not affect an individual's capabilities. For this reason I would like to emphasize that "arbitrary" is a key word in the legislative history of the act. In 1965, Willard Wirtz, as the Secretary of Labor, presented the findings of a study on the evidence of age discrimination in our society, which subsequently led to enactment of the ADEA. Secretary Wirtz, carefully distinguished between arbitrary discrimination where there is no factual basis for assumptions about the effect of age on an individual's ability to do a job and those cases where there is in fact a demonstrable relationship between age and ability to perform a job. For this reason, the ADEA permits exemptions to the prohibitions of the act which are based on reasonable factors other than age and bona fide occupational qualifications. These provisions will continue to enable employers to take necessary personnel actions in those cases where age does affect an individual's ability to perform a job.

2. REVISING THE ENFORCEMENT PROCEDURES

The current enforcement provisions of the ADEA are modeled on those of the Fair Labor Standards Act, (the Federal minimum wage law) which are geared to enabling plaintiffs to recover the wages that they have been underpaid, that is, to get a money judgment. In such actions for money damages, the right to a jury trial is, of course, appropriate and even constitutionally required. But the purpose of an antidiscrimination statute, such as the ADEA, is not to collect money damages; it is to change the nature of employment practices. Therefore, the remedies in antidiscrimination laws—most importantly title VII of the Civil Rights Act—are geared to equitable relief, to orders for future compliance for which backpay may be an appropriate auxiliary remedy. Such actions

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are not appropriate for jury trial. I believe that what is appropriate as an individual's remedy for discrimination on account of race or sex or national origin is also appropriate for discrimination based on age. That is why I have revised the enforcement procedure so as to eliminate the jury trial and liquidated damage provisions taken from the FLSA and replaced them with equitable relief provisions as found in other antidiscrimination statutes.

This reform is particularly called for because of the implementation of Reorganization Plan No. 1 of 1978. Prior to that reorganization plan, the ADEA was administered by the Department of Labor, which also administers the FLSA. There was, therefore, at least some logic in having similar enforcement for the two statutes. But the reorganization plan transfers administration of ADEA to the Equal Employment Opportunities Commission and the same logic that supported the transfer dictates the revision of the enforcement procedures.

Like title VII, the emphasis in the ADEA is on voluntary compliance through informal methods of conciliation, conference, and persuasion. Liquidated damages encourage complainants to litigate and discourage informal resolution of lawsuits.

3. RESTORING THE TENURED FACULTY EXEMPTION

When the ADEA was amended in 1978 to raise the protections of the act from age 65 to age 70, a temporary exemption for tenured faculty was provided so that such faculty could continue to be retired at age 65. At that time, the rationale given for the exemption of tenured faculty was that for the foreseeable future the number of available positions would be closely related to the number of retirements, thereby making it difficult to employ younger professors. The exemption expired on July 1 of this year. However, the situation is the same today as it was in 1978 and will continue to be a problem in the foreseeable future.

The tenure system presents a unique case among professions because it is a contract which insures that faculty members are guaranteed employment and acquire the freedom to think, study, teach, and write without fear of reprisal. This guarantee is granted in exchange for a set retirement date. If we do not restore this exemption colleges and universities will be faced with a choice between two very undesirable options.

If mandatory retirement for tenured faculty is eliminated, colleges and universities could elect to keep the tenure system as it now functions essentially intact. The result would be that individuals would have the assurance of continued employment, for life—with harmful effects on education, on the advancement of new faculty members, and on the academic enterprise as a whole. Another alternative would be to eliminate tenure, or substantially alter it, perhaps by introducing periodic reviews of competence—with chilling effects on academic freedom and consequently, on teaching, faculty morale and the advancement of knowledge.

A stipulated mandatory retirement age has the important advantage of allowing institutions to achieve the positive purposes which tenure provides while simultaneously assuring some regular degree of turnover. It also permits far more humane conclusions to careers then would otherwise occur if senior faculty members had to be told by their colleagues when they were no longer fit to teach. Tenure is an effective device to assure academic vitality, but it probably will not endure in the absence of a mandatory retirement age.

I ask unanimous consent that the text of the bill be inserted at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Amendments of 1982".

Sec. 2. (a)(1) Section 7(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows:

"(b)(1) The provisions of this Act shall be enforced in accordance with the provisions of this subsection and subsection (c) of this section.

"(2) The Commission shall, upon receiving a complaint or as a result of investigations, attempt to eliminate the discriminatory practice or practices alleged, and to affect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion.

"(3) Any person claiming to be aggrieved by an act prohibited under section 4 of this Act or the Commission may bring a civil action for such equitable relief as will carry out the purposes of this Act. If the court finds that the respondent has engaged in or is engaging in acts prohibited under section 4 of this Act charged in the complaint, the court may enjoin the respondent from engaging in acts prohibited under section 4 of this Act, and order such equitable relief as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organisation, as the case may be, responsible for the acts prohibited under section 4 of this Act).

"(4) The right of any person to bring or maintain such action shall terminate upon the commencement of an action by the Commission to enforce the right of such employee under this Act.".

(2) Section 11 of such Act is amended by adding at the end thereof the following:

"(j) The term 'Commission' means the Equal Employment Opportunity Commission.".

(b) Section 7(c) of such Act is amended to read as follows:

"(c) Each United States district court subject to the jurisdiction of the United States shall have jurisdiction of actions brought in such court under this Act. Such an action may be brought in any judicial district in the State in which the prohibited acts are alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged prohibited acts, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.".

Sec. 3. Section 12(a) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but less than 70 years of age".

Sec. 4. (a) Section 12(c)(1) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but not 70 years of age".

(b) Section 12 of such Act is amended by adding after subsection (c) the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

Sec. 5. The amendments made by section 2 of this Act shall take effect with respect to civil actions brought after the date of enactment of this Act. The amendment made by section 3 of this Act shall take effect on January 1, 1983, or six months after the date of enactment of this Act, whichever is later. The amendment made by section 4 of this Act shall take effect on July 1, 1982.●

ADDITIONAL COSPONSORS

S. 1141

At the request of Mr. Baucus, the name of the Senator from Idaho (Mr. Symms) was added as a cosponsor of S. 1141, a bill to establish the National Forest Investment Fund, and for other purposes.

S. 2801

At the request of Mr. Jackson, the names of the Senator from California (Mr. Cranston), the Senator from Arkansas (Mr. Bumpers), the Senator from Ohio (Mr. Metzenbaum), the Senator from Vermont (Mr. Stafford), the Senator from Wisconsin (Mr. Proxmire), the Senator from Massachusetts (Mr. Tsongas), the Senator from Montana (Mr. Baucus), and the Senator from Arizona (Mr. DeConcini) were added as cosponsors of S. 2801, a bill to withdraw certain lands from mineral leasing, and for other purposes.

SENATE RESOLUTION 445

At the request of Mr. DOLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 445, a resolution to express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom.

AMENDMENTS SUBMITTED FOR PRINTING

DEBT LIMIT EXTENSION

AMENDMENT NO. 2029

(Ordered to be printed.)

Mr. BAKER (for himself, Mr. ROBERT C. BYRD, Mr. JOHNSTON, Mr. STAFFORD, Mr. HELMS, Mr. FORD, Mr. PROXMIRE, Mr. COHEN, Mr. CHILES, and Mr. THURMOND) proposed an amendment to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2030

(Ordered to be printed.)

Mr. DOLE (for himself and Mr. HARRY F. BYRD, JR.) proposed an amendment to the joint resolution, House Joint Resolution 520, supra.

AMENDMENT NO. 2031

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the joint resolution, House Joint Resolution 520, supra.

BROADCASTING OF ACCURATE INFORMATION TO CUBA

AMENDMENT NO. 2032

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill (H.R. 5427) to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to continue the clean air markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to consider S. 2562, the Federal Energy Reorganization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Monday, August 16, at 9 a.m., to consider S. 2818 and S. 2805, bills relating to timber sales.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 17, at 2 p.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Monday, August 16, to consider S. 2784, the Major League Sports Community Protection Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 16, at 10:30 a.m., to consider the nomination of Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State for Public Affairs, and William Schneider, of New York, to be Under Secretary of State for Security Assistance, Science, and Technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 16, at 2 p.m., to consider the nomination of James Malone Renschler, of Pennsylvania, to be Ambassador of the Republic of Malta.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 17, at 5:15 p.m., to receive a secret consultation by Secretary Shultz.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WILL IMPORTS AND GOVERNMENT REGULATION KILL THE U.S. TEXTILE INDUSTRY?

● Mr. HELMS. Mr. President, my good friend from Mount Airy, N.C., Mr. Jim Crossingham, President of Spencer's Inc., recently sent me a copy of an editorial from the Winston-Salem Journal. The editorial bears the title "The Textile Problem," but it could well be headed "Will Imports and Government Regulations Kill the U.S. Textile Industry?"

The American Textile Manufacturers Institute recently reported that despite a recession-hit market, textile and apparel imports are up 6 percent in the first 6 months of this year over 1981. Our textile trade deficit is headed for a record level. Domestic sales are down. Unemployment in the textile industry approaches 14 percent; in apparel, 16 percent. We have a crisis on our hands, Mr. President, and it is acute in my State, where more than 350,000 people depend on textiles or apparel for their livelihood.

American textile workers are the most productive in the world. But how are they to compete with the starvation wages paid workers in other countries? How can they compete against foreign manufacturers in countries with few or no expensive regulatory burdens?

Will imports and Government regulation kill the U.S. textile industry? I hope not, Mr. President. But I am not encouraged. I ask that this editorial be printed in the RECORD at the conclusion of my remarks. I hope my colleagues and anyone interested in the stability and future of the U.S. textile industry will take time to read it. It is a well-written, articulate, and concise statement of a very serious problem.

The editorial follows:

[From the Winston-Salem (N.C.) Journal, July 18, 1982]

THE TEXTILE PROBLEM

North Carolina has—by a wide margin—more textile workers than any other state in the union, more than 350,000 at last count. While it can be argued that the South in general and North Carolina in particular have not suffered as severely as other areas of the nation during the current economic disruption, a close look at the domestic textile industry picture is not a comforting one.

At the heart of the problem are imports and government regulation. To understand the seriousness of the situation, some history is necessary. During the past two decades, domestic production has not kept pace with consumption. There are fewer textile

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companies in the United States, employing fewer workers, than there were 20 years ago. Their profits are low relative to other industries, and prices have not kept up with the general level of price increases.

The textile industry has been finding it more and more difficult to compete on an even footing with the textile industries in other countries, especially in the Far East. Fortunately for North Carolina, the textile mill products end of the industry hasn't been hit as hard as the labor-intensive apparel segment of the industry. North Carolina has more than 250,000 workers employed in the textile mill products part of the industry but only 88,000 in apparel. Nonetheless, competition shortcomings plague all areas of the industry.

Foreign governments tend to subsidize their textile industries. The United States tends to regulate its industry. Whatever else one wants to say about regulations governing such things as employee safety and the environment, they add significantly to the cost of doing business. The higher standard of living in the United States makes labor costs substantially higher here than in nations with which the American textile industry competes.

Despite these handicaps, the American textile industry could probably hold its own in many areas of the world textile market if free trade ruled. American technology remains dominant. But the U.S. government has a real stake in the prosperity of developing nations and has been reluctant to exercise its influence against protection measures that such nations impose against imports into their own markets.

Furthermore, the United States indirectly subsidizes the industries of such nations as Japan, South Korea and the Philippines by relieving them of substantial portions of their defense cost requirements—there are 46,000 U.S. soldiers in Japan, 39,000 in South Korea and 14,000 in the Philippines. That comes on top of direct aid totaling at least $12 billion since World War II to Japan, South Korea and Taiwan alone.

The basic document governing world textile trade is something called the Multifiber Arrangement, adopted in 1974 and extended last year until July 1, 1986. Under that agreement, nations may restrict textile imports through bilateral agreements, or where no such agreement can be reached, by unilateral action. The United States has some two dozen such agreements in effect. A major element of the Multifiber Arrangement prohibits the restraining of import growth in most apparel categories below 6 percent annually, regardless of the growth in domestic consumption. A flexibility provision allows unused portions of that minimum growth percentage to be carried over for as many as four years for some products, meaning that some imports have grown as much as 24 percent in a year when domestic consumption has grown only 1 or 2 percent.

President Reagan as a candidate agreed with the American industry's proposal that the Multifiber Arrangement be amended to tie import growth more closely to growth in domestic consumption, but so far, that has not been done. Textile imports have grown like Topsy.

Two decades ago, the textile industries in South Korea, Japan, Taiwan and Hong Kong were in their infancy. Apparel exports to the United States were more or less nonexistent. Today, those countries exports to the United States account for about a quarter of the total American market. During the 1970s, clothing imports increased 256 percent, to $3.7 billion. Other textile imports increased 36 percent, to $1.3 billion

The result of all this is simply a depressed domestic textile industry, especially in the apparel segment, with an inevitable increase in unemployment. That has a ripple effect in other industries that supply to or buy from the textile industry. Difficult if not impossible to measure, that effect is, economists generally agree, substantial. If the trend is allowed to continue, the United States could become dependent on imports for its textile needs. In a world as unstable as the current one, that is not a comfortable prospect.

There are no easy answers. U.S. economic objectives frequently collide with foreign policy goals and defense requirements. All are vital to the national interest. But recognizing the problems besetting the textile industry is the first step toward solving them. The taking of that step has been too tentative thus far. That step needs to be taken boldly—and now.●

SOVIET PIPELINE SANCTIONS

● **Mr. PELL.** Mr. President, last Friday I joined my colleague from New England, Senator PAUL TSONGAS of Massachusetts, as a cosponsor in introducing S. 2836, a bill to lift restrictions on exports and reexports of U.S. origin oil and gas goods and technical data to the Soviet Union. This bill in no way would weaken or affect controls on strategic technology or equipment which might strengthen the Soviets militarily, which I strongly support because these make sound national security and foreign policy sense.

Over the past several weeks, the Committee on Foreign Relations has held extensive hearings and briefings on the vulnerability of the Soviet economy to sanctions imposed by the West, and the effectiveness of such sanctions in altering Soviet domestic and international behavior. Obviously, the issue of the June 18 decision by the President to expand the sizes of sanctions already imposed a U.S. sale of equipment and technology destined for use in the construction of the Siberian pipeline as discussed at length. After listening to extensive testimony by a variety of experts in the field, I have come to the conclusion that the administration's decisions with respect to the imposition of sanctions have been seriously in error.

I have become convinced that the United States, acting unilaterally, cannot be effective in influencing Soviet behavior in a positive way. Quite to the contrary, I believe that the President's recent decision to expand sanctions on the sale of oil- and gas-related equipment and technology has only succeeded in driving a serious wedge between the United States and our most critical allies. This has given the Soviets a wonderful propaganda weapon to wield against us in Europe in attempting to convince the Europeans that the United States is insensitive to European interests, and that the real threat to world peace is the United States, and not the Soviet Union.

Were the Soviets to be seriously affected by the unilateral actions which the administration has taken, and Soviet policymakers did in fact alter their decisions with respect to Poland or Afghanistan, then perhaps the domestic cost to American business and labor as well as the political capital expended with our allies might be worth the price. Sadly that appears not to be the case. Most experts agree that at best pipeline construction will be slowed by up to 2 years, but more likely by 6 months to 1 year. However even this construction delay will not stop the Soviets from meeting the deadline to sell gas to Europe by 1984.

Therefore, to ask one segment of the American business community to bear the cost of these sanctions which has been conservatively estimated at $1.5 billion by the administration seems patently unfair. We have tied the hands of U.S. exporters in their attempts to compete abroad, while their European and Japanese counterparts are free to take over what were formerly U.S. markets. How can the administration explain to those in the oil and gas equipment sector why they must not trade with the Soviets, at the same time that the administration has given the go ahead to the sale of U.S. grain which will assist the Soviets with their harvest shortfall? I think the answer is that there is no justification for these decisions.

Given these facts, the administration's decisions with respect to sanctions make little domestic or foreign policy sense. I therefore hope that the President, too, will come to realize the folly of continuing sanctions, and lift these restrictions in the near future. If not, then I urge my colleagues to support the efforts of Senator TSONGAS and myself to correct this mistaken foreign policy decision, and to reverse the unfair burden currently being imposed on certain segments of the U.S. economy.●

HENRY FONDA

● **Mr. BAUCUS.** Mr. President, a friend of mine and three generations of Americans died last week.

Most of us cannot remember a time when Henry Fonda was not entertaining and inspiring millions with his remarkable talent.

His exceptional acting ability, however, was by no means his most remarkable characteristic. Henry Fonda's integrity, honesty, and quiet courage in real life were his greatest attributes.

Many people believe that because he was such a natural and gifted actor, whose roles were often heroic, his fans just assumed he was that way in real life.

Those of us who knew Henry understood that it was the other way around. It was the honesty, thoughtfulness, and intelligence of Henry Fonda the man that was transferred into his acting. It was Henry Fonda the man that captured the hearts of Americans.

If there is ever to be an award for being fair and decent and honest and caring it will surely be called the Henry Fonda award. And fortunately, because of the magic of film, Americans for a long, long time will have the opportunity and the privilege of knowing Henry Fonda, and this great man will continue to mold and influence American ideals. In life and in film, he was what we all want to be and what we all hope America is.●

TRIBUTE TO FORMER SENATOR THRUSTON B. MORTON

● Mr. FORD. Mr. President, funeral services were held in Louisville today for former Kentucky Senator Thruston Ballard Morton, who died Saturday at the age of 74.

Thruston Morton, who represented Kentucky in the Senate from 1957–68, dedicated the greater part of his life to public service. He served three terms in the U.S. House of Representatives, was an Assistant Secretary of State in the Eisenhower administration, and was chairman of the Republican National Committee.

Perhaps the word "action" best fits Thruston Morton. He was a public official, corporate director, navy officer, and much more.

He was born in 1907 in the tradition of public service. His grandfather, S. Thruston Ballard, served as Kentucky's Lieutenant Governor. Through the years, Senator Morton carried on that family tradition with great honor and distinction.

He will be remembered as a leader and a man of integrity. He will be remembered as a statesman and a man who kept his word. He strongly believed in the existence of the two-party system, and he knew that it was essential to our form of government.

His contributions were important and many. His loss is a great one to our country and the people he served so well and so long in the Commonwealth of Kentucky.

An editorial in The Courier-Journal on Sunday, August 15, summed up Senator Morton's career this way: He served his State and Nation well. It is a fitting epitaph, and I ask that the editorial be printed in the Record.

The editorial follows:

[From the Courier-Journal, Louisville, Ky., Aug. 15, 1982]

Thruston Morton: He Served His State and Nation Well

Kentucky has been fortunate over the years to have some strong and respected representatives in Washington. Thruston Ballard Morton, who died yesterday at 74, was for a long time one of them.

He was from the sort of family in which public service came naturally. His grandfather was a lieutenant governor of Kentucky. His brother was a U.S. congressman, Secretary of the Interior and chairman of the Republican National Committee. It was no surprise when Thruston Morton, after four years of duty aboard a minesweeper in the Pacific during world War II, ran for the U.S. House in 1946 rather than return to running the family flour-milling business.

Others were making the same jump into politics and government that year, including another Navy veteran who joined the same "Class of '46" in Congress: California's Richard Nixon.

Mr. Morton served three terms in the House, then three years as an assistant Secretary of State. In 1957 he ran for the Senate, won in an upset by unseating Earle C. Clements, and remained for two six-year terms. The second one followed a hard-fought defeat of Democrat Wilson Wyatt in 1962—a race that included dirty tactics. He later said apologetically:

"It was a helluva campaign and I'm glad I don't have to go through that again. We made the ADA [Americans for Democratic Action] a dirty word. It could have been the American Dairy Association, but the people thought it was communist."

"In this game," he said of such tactics, "you've got to hit. . . . [But] we did a lot of things that made my sensitive family unhappy."

Thruston Morton was generally allied with the more liberal wing of the Republican Party. He had a warm relationship with Dwight Eisenhower, whom he supported for the presidential nomination in 1952 against the almost solid backing of the Kentucky delegation for Robert Taft. In 1960 he was GOP national chairman.

During his years in Washington, Mr. Morton was a popular and genial figure. The press corps especially liked him, finding him frank, open and humorous. It was generally agreed that he could have remained in the Senate for many years, but he decided instead, after 12 years, to return to his home state, where his roots were deep.

Thruston Morton obviously was a successful politician. He could be tough-minded and positive on issues. But there was another side of his nature, less often observed in public life but known to those who were close to him. He was sensitive, idealistic and given to strong loyalties and friendships. His sense of humor was at times whimsical. He never lost the manner of a Kentucky gentleman in the hurly-burly of politics. His death is a sorrow to a wide and varied circle of friends.●

THRUSTON BALLARD MORTON

● Mr. HUDDLESTON. Mr. President, the Commonwealth of Kentucky has a tradition of sending its native sons to Washington to serve not only the interests of Kentucky, but the interests of the Nation as a whole. Thruston Ballard Morton was certainly one of these.

Over the course of a public and business career that spanned almost literally his entire 74 years, Thruston Morton was a sparkling part of that tradition. No matter what one's politics, one had to respect Morton's integrity, his devotion to service to his country, his State, his city, and his political party.

He was a Republican Senator from a predominantly Democratic State, he took stands on issues that were sometimes less than popular, but whatever his politics or his position, the one thing you could count on was that Thruston Morton did what he believed was right.

Mr. President, the Louisville Courier-Journal on Sunday, August 15, printed an excellent article on Thruston Morton's career, and I ask that it be printed in the Record as a testament to the 6 years he spent in the House of Representatives and the 12 years he spent in this great body.

The article follows:

[From the Louisville Courier-Journal, Aug. 15, 1982]

Former GOP Power Thruston Morton Dies

TOUGH LEADER PUSHED PARTY IN DIRECTION OF MODERATION

(By Bob Johnson)

Thruston Ballard Morton, the urbane Kentuckian who served in both houses of Congress, in the U.S. State Department and as Republican national chairman, died of cancer early yesterday at his Louisville home. He was 74.

Morton, who returned to Louisville after his retirement from the U.S. Senate in 1968, had been in poor health for several years.

Belle Clay Lyons Morton, his wife of 51 years, survives.

The funeral will be at 11:30 a.m. tomorrow at Christ Church Cathedral, 421 S. Second St., with a private burial in Cave Hill Cemetery.

Known as a thoughtful advocate of moderate policies during his 22 years in national politics, Morton was also a tough-talking republican partisan.

He was of that generation of American leaders whose careers were shaped in part by World War II and the conflicts that followed.

Morton entered politics in 1946, after serving as a Navy officer in the Pacific. Elected that year to the U.S. House from Jefferson County, which then formed the 3rd District, he promised to seek "a world policy for peace, not a foreign policy for war."

He went on to serve three terms in the House and two in the Senate.

When he retired from the Senate, the country was bitterly divided over the stalemate in Vietnam. Morton urged ending that war and dealing with a changing communist world in ways that might lead to peace.

"I hate communism," he told an interviewer. "But I think that if the Russians and ourselves could sit down together like grown men, and say we're going to stop wars, why, we could do it."

While he could be a bare-knuckle campaigner, Morton also counseled moderation within the Republican Party.

He alone among the Kentucky delegates to the 1952 Republican National Convention supported the nomination of Gen. Dwight D. Eisenhower. The others wanted the more conservative Robert Taft of Ohio.

In 1964, after the GOP nominated Sen. Barry Goldwater of Arizona, Morton publicly warned the party against aligning itself with extremists and Southern segregation-

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ists. He spoke with the authority of a former national party chairman, as permanent chairman of the 1964 convention and as a man Richard Nixon had considered as a possible running mate in 1960.

When asked to assess his career, Morton once said, "I haven't done too much. I think if I've accomplished anything, it's been in trying to give one of the two great parties a sense of being in 1968—not 1868."

"I do think I've had some influence getting them out of the last century."

Former Kentucky Sen. John Sherman Cooper, who served with Morton for 12 years in the Senate, said in a recent interview that Morton was "a very exceptional man of a quality you just don't see all the time."

Marlow W. Cook, who succeeded Morton in the Senate, said, "He was just a guy you have to love."

Cook, who practices law in Washington, said he got his first political experience during Morton's 1946 congressional campaign. Later, as Cook and a new generation of Republicans began their careers, Morton helped.

"If you wanted his advice, it was there. If you wanted him to come, he was there," Cook said.

Kentucky's Republican National Committeeman Larry Forgy said that, during the years Morton and Cooper served together in the Senate, it was "generally conceded in Washington" that Kentucky had two of the most effective senators in the Capitol. He also credited Cooper and Morton with building Kentucky into a two-party state.

Morton was born at Glenview on Aug. 19, 1907, the son of Dr. David Cummins Morton and Mary Ballard Morton, a family long-prominent in Louisville's business and political life.

Morton attended public schools in Louisville, including Male High School, and Woodberry Forest School at Orange, Va. He graduated from Yale in 1929.

A younger brother, Rogers C. B. Morton, who died in April 1979, also served in Congress as a representative from Maryland, as Republican national chairman and as a Cabinet officer under Presidents Nixon and Gerald Ford.

A seventh-generation Kentuckian, Thruston Morton traced his interest in public affairs to the influence of his grandfather, S. Thruston Ballard, whom President Woodrow Wilson chose to serve on a federal commission in 1914.

Morton, then 7, went to Washington with his grandfather and could recall Ballard's conversations with other members of the commission, including Samuel Gompers, one of the founders of the American labor movement.

In 1919, Ballard was elected lieutenant governor of Kentucky, and young Thruston tagged along to Frankfort as a page in the General Assembly.

Morton was nearly 40 when he won his first race for Congress. He was elected three times before deciding in 1952 that he would work for the Republican national ticket rather than seek another term.

While Morton had intended to return to Louisville and his business career after the campaign, Eisenhower's secretary of state, John Foster Dulles, persuaded him to become assistant secretary of state for congressional affairs—the department's top lobbyist on Capitol Hill.

Morton would later say that his one regret in public life was his decision to leave the House of Representatives. "I love the House. It's a much more responsive body, much more interesting. Among 435 guys, you find much more camaraderie, more guys you like," he said.

He also observed that, had he stayed in the House, he almost certainly would have risen to a leadership position. But he was persuaded to run for the Senate in 1956.

Eisenhower was seeking a second term, Cooper was running for the balance of the term of Sen. Alben W. Barkley, who had died suddenly, and the Republicans needed someone to run against Sen. Earle Clements, a former governor and one of the most powerful Democrats in Washington.

At Eisenhower's urging Morton made his first statewide race. Many considered it a hopeless assignment.

"When I ran against Clements in '56, they just tore me apart on agriculture. Hell, my idea of an agriculture problem was a window box. I'd been voting (in the House) for the consumer, not the farmer. Coal? What did I know about coal? It was hard running in a state like Kentucky with all the different interests."

Thanks to Eisenhower's coattails and a bitter split among the Democrats, Morton beat Clements by 6,981 votes. Cooper also won, giving the GOP both Senate seats from a heavily Democratic state.

Reached yesterday at his home in Morganfield, Clements described Morton as "a great friend. Personally, I was very fond of Thrustor.."

Morton won a second term in 1962 by a more comfortable margin—45,000 votes—in a bitter campaign against Lt. Gov. Wilson W. Wyatt. Behind in his own polls, Morton's campaign painted Wyatt and the liberal Americans for Democratic Action, which he had helped found, with a red brush.

"It was a helluva campaign, and I'm glad I don't have to go through that again," he said in an interview. "We made the ADA an ugly word. It could have been the American Dairy Association, but the people thought it was communist."

Morton acknowledged that the attacks on Wyatt, a prominent Louisville attorney, upset the Democrat's family. But from the perspective of a political realist, they were necessary.

"In this game, you've got to hit. I've made a lot of rough statements. But if you don't say it strongly, you wind up in the want ads. If you don't say something that will make the editor put it on the front page, hell, there's no use in saying it."

In the wake of the 1964 presidential campaign, Morton made another of his tough statements, this one aimed at right-wing extremists. The John Birch Society, an extremist group, deserved "a kick in the pants," he said.

His remarks had enormous impact. Other Republicans disowned extremist groups and their influence declined.

"We got buckets of mail from all over calling me a SOB," Morton said. "I really caught hell, but I knocked hell out of the Birch Society."

Morton's rise to leadership within the party had begun in 1959, when Eisenhower tapped him to become Republican national chairman. A number of Republicans opposed Morton because there was little in his background to suggest he could handle the job.

A year later, The New York Times wrote: "But he has so charmed and converted his critics . . . that many now regard him as among the ablest and most efficient chairmen the party has had."

The party was gearing up for the 1960 presidential election, with Nixon, then vice president, the obvious nominee at the Chicago convention. But the GOP's competing wings were engaged in a tug-of-war for control of the party, with Goldwater's supporters pulling from the right and backers of New York Gov. Nelson Rockefeller pulling from the left.

Morton skillfully guided the party through the shoals and, according to Nixon's memoirs, was under serious consideration for the vice presidential nomination.

But Nixon chose Henry Cabot Lodge of Massachusetts in the hope of strengthening the ticket in the East. Nixon narrowly lost the election to Sen. John F. Kennedy of Massachusetts, leaving some to speculate that Morton would have made a better running mate than the aristocratic Lodge.

While he was an effective campaigner, Morton was ever the Yale-educated business executive. A reporter covering a campaign trip to Harlan marveled that he would wear tasseled-loafers and French cuffs.

Cooper, in a recent Washington interview, suggested that Morton was effective because he didn't try to patronize rural audiences. "They just accepted him as a city fellow," he said.

In his speeches to Kentucky political groups, Morton would spin stories about the burdens of running in a predominantly Democratic state.

One told of how he and his brother Rogers Morton, in the hectic closing days of a statewide race, decided to divide the handshaking in a small Kentucky town.

Rogers Morton, who, at 6-foot-7, was four inches taller than Thruston Morton, was to tell prospective voters only that his name was Morton and that he was running for the Senate.

As Thruston Morton told it, he shook hands with a man who later ran into his brother. As Rogers Morton offered his hand, the man looked up at him skeptically and said "You sure are a growin' SOB."

Morton also liked to tell of a campaign stop in Fulton, where the Kentucky-Tennessee state line splits the town. He and Cooper worked the town together and learned later, to their chagrin, that Cooper had spent the day on the Tennessee side of the line.

In Washington, Morton was known more for his concern about international affairs than as an advocate of his state's parochial interests. His voting record was rated "moderate to conservative" by Congressional Quarterly, the respected digest of congressional affairs.

When asked if he considered himself a liberal or conservative, Morton liked to reply that he was "two degrees to the left of center."

His decision to retire from the Senate, announced without fanfare at a Louisville news conference in February 1968, came as a surprise.

Although his chances of re-election were excellent, Morton was tired of Washington. Approaching his 61st birthday, he declared, "To use an old Kentucky expression, I suppose I am just plain track sore."

Cook, then Jefferson County judge, won the seat, and Morton—his career in Washington at an end—returned to Louisville and the business community that he had left in 1946.

Before entering politics, he had served as president and board chairman of Ballard and Ballard Co., the family flour-milling business.

After his retirement from the Senate, Morton served as vice chairman of Liberty National Bank & Trust Co. and as chairman of Churchill Downs Inc.

He took the assignment at the Downs in 1969 after the track had fended off a hostile tender offer from National Industries Inc. Later, he helped get a law passed establishing a state authority that would buy the Downs if it were ever faced with another take-over bid. He also served as president of the American Horse Council, a trade association that promotes the horse industry.

With his 1962 Senate rival, Wilson Wyatt, Morton sponsored a proposal to consolidate Louisville and Jefferson County governments, but the "Morton-Wyatt Plan" failed in the 1970 General Assembly.

He also assumed the leadership of a task force appointed by the Louisville Chamber of Commerce to promote the development of an international airport, a project that was later dropped.

Morton and Cooper teamed up in 1976 to work for then-President Ford's election. In 1980, campaigning for Ronald Reagan, Morton and Cooper made their last appearances together. Cooper said Morton was ill at that time and "showed great courage."

Morton was also director of a number of major companies: United States Trust Co., Cochran Foil Co., Brown Forman Distillers Inc., R. J. Reynolds Industries, the Pillsbury Co., the Pittston Co., and Texas Gas Transmission Corp.

During his five years in the Navy, Morton held three commands in the Pacific, including the destroyer USS Doyle. He retired from the naval reserve with the rank of commander

Besides his wife, survivors include two sons, Thruston Ballard Morton Jr., vice chairman of Cosmos Broadcasting Corp., and Clay Lyons Morton, a Louisville attorney; a sister, Mrs. Jane Morton Norton; and five grandchildren.

Visitation will be at Morton's residence at 5815 Round Hill Road from 2 to 7 p.m. today.

Pearson's, 149 Breckenridge Lane, is in charge of arrangements.

The family requests that expressions of sympathy take the form of contributions to the J. Graham Brown Cancer Research Center or to charity.●

S. 1844, COAL DISTRIBUTION AND UTILIZATION ACT OF 1982

● Mr. BAUCUS. Mr. President, in a few weeks, the Senate will likely begin consideration of S. 1844, the Coal Distribution and Utilization Act of 1982, or the so-called coal slurry bill.

This bill would grant the power of Federal eminent domain for the construction of coal slurry lines nationwide. I have serious reservations about the bill, particularly as it relates to protection of State rights and impacts on water supplies. I intend to fully express my reservations on these grounds when the Senate begins consideration of the bill.

There is another issue, however, which I believe all Senators should keep in mind: the economics of coal slurry.

On August 6, 1982, Mr. Thomas E. Dewey, Jr., president, Thomas E. Dewey, Jr. & Co. of New York, testified on the economics of coal slurry before the House Subcommittee on Commerce Transportation, and Tourism. I believe every Senator should take the time to read Mr. Dewey's cogent remarks.

Mr. Dewey points out the "suspiciously little has been advanced to document the assertion that these pipelines, if built, will transport coal more cheaply than the Nation's railroads." To document this point, he looks at the proposed Energy Transportation System, Inc. line. Assuming the project is built within the new estimated cost of $3.5 billion—and that is highly unlikely—the cost to consumers would be between $35 and $53 per ton to transport the coal. A comparable cost for coal transported by railroad is $12 to $22 per ton.

Even more interesting, Mr. Dewey expresses skepticism that investors can be found for the projects, and that it can be built within the proposed budget of $3.5 billion. This causes Mr. Dewey to conclude that this legislation could lead to some form of Federal Government guarantees to make up for "the requirement for equity capital, lower the cost of debt capital and eliminate the problem of cost overruns * * *." Mr. Dewey believes, and I am convinced he may be correct, that this legislation could lead to the Federal Government writing a blank check to pipelines in the future. Certainly our recent experience with the Alaska natural gas pipeline shows this can happen.

Mr. President, I ask that Mr. Dewey's testimony be included at this point in the Record.

The statement follows:

Statement of Thomas E. Dewey, Jr.

Mr. Chairman, my name is Thomas E. Dewey, Jr., and my business address is 14 Wall Street, New York, N.Y. I appreciate your invitation to testify here today, as well as your having introduced into the Congressional Record my testimony of May 10, 1982, before the Senate Committee on Energy and Natural Resources.

I am a graduate of Princeton University and Harvard Business School, and am President of Thomas E. Dewey, Jr. & Co., Incorporated, a financial advisory services firm founded in December 1975.

Prior to that I was a partner of the international investment banking firm of Kuhn Loeb & Co. from 1965 through 1975 and associated with that firm from 1958 to 1965. My career has covered most phases of industrial, transportation and utility corporate finance, both in the United States and abroad. I have appeared as an expert witness before numerous courts, regulatory bodies and the U.S. Congress.

I am retained as financial consultant by Kansas City Southern Industries, Inc., parent company of the Kansas City Southern Railway Company. I am testifying in their behalf here today on the financial aspects and implications of coal slurry pipelines.

Over the years the proponents of coal slurry pipelines have been seeking federal eminent domain legislation, mountains of testimony have been introduced, but suspiciously little has been advanced to document the assertion that these pipelines, if built, will transport coal more cheaply than the nation's railroads. It is this subject that I intend to discuss in my testimony today.

Short of a full-scale consulting study, it is impossible to examine the economics of all the coal slurry pipelines which have been proposed. Of all the candidates, the one which is farthest advanced is that proposed by Energy Transportation Systems, Inc. (ETSI). It is also among the longest, and thus presumably one of the most cost effective, and it is upon this pipeline that I will focus. My methodology and estimates of interest costs and equity returns can, of course, be equally applied to other proposed pipelines once their length and estimated construction costs are known.

The present official cost estimate for the ETSI pipeline has been given as approximately $3.5-billion, although of course no one knows how much the final cost would be. Recent cost estimating experience with giant construction projects has been very poor, and investors will not soon forget the Alaska pipeline, where the final cost was approximately eight times the original estimate, or the nuclear power plant programs of Washington Public Power Supply System, where cost overruns were so large that the assembled credit base was insufficient to permit completion of the five power plants, at least two of which have now been abandoned.

Nonetheless, we should start with the estimated construction cost and develop our analysis, later to see what conclusions follow as regards competitive efficiency and financeability.

The first step in postulating a financing plan is to estimate what portion of the financing can be financed through the issuance of debt securities and what portion by means of equity securities. Assuming satisfactory credit, large projects such as this are generally financed mostly by debt. Taking into account the factors present in this situation, I would set 70 percent as the maximum debt financing, with the remaining 30 percent required as equity. The $2.45-billion of debt financing will most likely be arranged through private placement with institutional investors, which will not be easy in today's climate, not just because of the size of the issue, but also because traditional sources of private placement financing have become increasingly unwilling to make long-term fixed rate investments in our present inflationary climate. I would therefore be surprised to see a maturity of more than 20 years for this security and I am estimating that an interest rate of 17 percent would be necessary to accomplish the financing. Assuming an annual sinking fund, on a level debt service basis this would require $435-million annually to service the debt.

It is much harder to determine what might be the minimum equity return necessary to attract $1.05-billion. On the one hand, the sponsors of the project, who have other rewards in mind, may be willing to make a substantial investment at a concessionary rate. Arms-length investors, however, will be hard to come by, as the nature of regulation will only allow them to earn up to a stated ceiling, and then only to the extent that they have a net investment in the project. Thus, the idea of getting their money back and still being able to have earnings cannot work in this instance. I have assumed for calculation purposes a blended equity return of 20 percent, figuring that the sponsors will take less and arms-length investors will require more. Again assuming annual payments, including repayment of the original equity, this would require payments to equity owners annually of $216-million.

To the cost of debt and equity must be added sufficient revenues to pay income taxes, as the return to equity owners and repayment of principal of the debt must be earned after taxes. Depreciation, a non-cash charge, is an offset. Assuming straight line depreciation, income taxes for the first year would be $60-million, and in the twentieth year taxes would have escalated to $413-million. Thus the revenues required just to service the capital employed in this pipeline project would rise from $711-million in the first year to $1,064-million in the twentieth year. Assuming constant 100 percent utilization of the pipeline, a highly unrealistic assumption, the capital charge for the 37.5-million tons of annual through-put would rise from approximately $19 per ton in the first year to more than $28 per ton in the twentieth year. Assuming a more reasonable 80 percent utilization of capacity or 30-million tons of annual throughput, the capital cost charge would rise from almost $24 per ton in the first year to more than $35 per ton in the twentieth year.

Capital costs, of course, are not the only costs involved in operating a pipeline. There is labor, insurance, administrative expenses, and of course the cost of water, a very important item. In addition, this particular pipeline will have an added cost, as presently envisaged, of building and operating a water pipeline some 275 miles in length to bring water to the input point of the slurry line. Estimating costs such as these is not within my area of expertise, but I know that some experts feel that capital costs of a coal slurry pipeline should prove to be approximately two-thirds of total cost. In that the figure I am using for capital costs is for the slurry line only and does not include the capital cost of the water line, my extrapolation will therefore probably tend to underestimate total annual costs. Nonetheless, if the above capital cost charges per ton were to equal two-thirds of total cost, total cost per ton at 100 percent of capacity would rise from more than $28 in the first year to more than $42 in the twentieth year, and at 80 percent of capacity would rise from more than $35 per ton in the first year to more than $53 per ton in the twentieth year. Recent railroad tonnage charges for unit trains from the Powder River Basin to the ETSI destination area available to me vary from approximately $12 to more than $22 per ton.

All these numbers are of course constructed on the assumption that, unlike virtually every other giant construction project in modern times, the ETSI pipeline will not exceed its current estimated costs. (It should be pointed out here that as recently as 1979 ETSI's cost estimate for this project was $1.25-billion.) Any cost overruns will of course have to be financed, and firm "hell or high water" contracts against which such financing is to be done will have to be totally open-ended in this regard unless the sponsors can provide some other means of assuring investors that, once begun, the project will be finished and become operational.

There exists a serious question as to whether prospective contracting utilities in the delivery area will have sufficient demand to justify contracting for 37.5-million tons of slurry annually. It is my understanding that ETSI has long planned to have a portion of the slurry available for export and for sale to non-contract purchasers in the delivery area. However, as export and non-contract arrangements do not provide a basis for credit, the contracting utilities would thus wind up with the entire capital charge liability and contingent liability for cost overruns, only spread over a smaller tonnage. The liability of contracting utilities, thus, would on a per ton basis escalate proportionately from the numbers arrived at above.

Even assuming that one or more utilities will be willing to enter into contracts which can provide the basis for this massive financing, there are obvious public policy questions involved in permitting such contracts. Any such contract of necessity takes out of the hands of state public service commissions the continuing overview of the prices to be paid by the utilities for fuel, their largest element of cost after money. Further, the open-ended and inflexibile nature of the obligation could well produce a situation where the utilities, and thus their ratepayers, would be paying more, and perhaps substantially more, for coal than coal could be purchased for elsewhere. The slurry would also have to be paid for whether it was delivered or not.

The above and other factors instill in me a fear that the right of federal eminent domain is only the first half of the eventual shopping list of the sponsors of coal slurry pipeline projects. U.S. government guarantees of debt financing for these pipelines would eliminate the requirement for equity capital, lower the cost of debt capital and eliminate the problem of cost overruns, as the blank check of the taxpayers would be involved. I don't know if any meaningful discussions on this subject have taken place during these or other hearings on this subject, but I find it hard to believe that the Congress would look favorably on putting the taxpayers' credit behind projects whose costs are unknown, economics are dubious, and the demand for whose product is yet to be proved.

Mr. Chairman, I urge the Committee to have developed for it an analysis in depth of the financing plans and economic competitiveness of these pipelines before acting on the bill which is before you.

I appreciate having had this opportunity to testify and will be happy to answer any questions your Members might have.●

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW AND ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, this request has been cleared, I believe with the minority leader, and I will state it now for the consideration of the Senate.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. tomorrow; and that on the convening of the Senate the reading of the Journal be dispensed with, that no resolutions come over under the rule, and that the call of the calendar be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR THE RECOGNITION OF SENATORS CHILES AND TOWER ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order on tomorrow that the distinguished Senators from Florida and Texas, Messrs. CHILES and TOWER, be recognized on special order, in each case for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders, any time remaining prior to the hour of 10 a.m. be devoted to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTES BEGIN AT 10 A.M. TOMORROW

Mr. BAKER. Mr. President, at 10 a.m. on tomorrow, according to the order previously entered, the Senate will resume consideration of the immigration bill, at which time 10 votes have been ordered to occur beginning at that hour, the first vote to be 15 minutes in length and each succeeding vote to be 10 minutes each.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I see no other Senators seeking recognition in morning business. Could I inquire of the minority leader if he has any other business he wishes to transact?

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I have no other business.

Mr. BAKER. I thank the minority leader.

Would the Chair inquire as to whether there is further morning business?

The PRESIDING OFFICER. Is there further morning business? No one appears to seek recognition. Morning business is closed.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and, at 4:47 p.m., the Senate adjourned until Tuesday, August 17, 1982, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 16, 1982:

U.S. SYNTHETIC FUELS CORPORATION

Milton M. Masson, Jr., of Arizona, to be a Member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 1 year.

John B. Carter, Jr., of Texas, to be a Member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 2 years.

DEPARTMENT OF STATE

Robert H. Phinny, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the U.S. Commissioner on the United States-U.S.S.R. Consultative Commission.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SECURITIES INVESTOR PROTECTION CORPORATION

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982.

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

THE JUDICIARY

Mary Ann Cohen, of California, to be a Judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

Lapsley Walker Hamblen, Jr., of Virginia, to be a Judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

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HOUSE OF REPRESENTATIVES—*Monday, August 16, 1982*

The House met at 12 o' clock noon, and was called to order by the Speaker pro tempore (Mr. Foley).

DESIGNATION OF SPEAKER PRO TEMPORE)

The **SPEAKER** pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
August 13, 1982.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on Monday, August 16, 1982.

Thomas P. O'Neill, Jr.
Speaker of the
House of Representatives.

PRAYER

The former Chaplain of the U.S. House of Representatives, the Reverend Edward G. Latch D.D., L.H.D., offered the following prayer:

Thou shalt keep the Commandments of the Lord Thy God, to walk in His ways and to fear Him.— Deuteronomy 8: 6.

Almighty God, our Father, in whose hands are all our days and all our ways, we thank Thee that in Thy mercy we have come to the beginning of another week. Help us to show our gratitude by serving Thee more faithfully and by being more fruitful in our endeavors on behalf of our beloved country.

Grant to our President, our Speaker, our Representatives, and all who work with them the wisdom to know Thy will and the strength to do it day by day. Direct their deliberations, prosper their planning, motivate their minds as they labor for the good of our country that truth and justice, peace, and good will may be established among us now and come to dwell in the lives of all people: to the glory of Thy holy name and the good of all mankind. Amen and amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) entitled "An act to establish the Mount St. Helens National Volcanic Area, and for other purposes."

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2625. An act to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes; and

S.J. Res. 188. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

CONSENT CALENDAR

The **SPEAKER** pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

SUPREME COURT POLICE

The Clerk called the bill (H.R. 6204) to amend title 28 of the United States Code and related statutes with respect to the appointment and jurisdiction of the Supreme Court Police.

There being no objection, the Clerk read the bill as follows:

H.R. 6204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 672(b) of title 28, United States Code, is amended to read as follows:

"(b) The Marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and employees to attend the Court, employees to serve as Supreme Court Police, and necessary custodial employees.".

Sec. 2. Section 672(c) of title 28, United States Code, is amended by changing the period at the end of paragraph (7) thereof to a semicolon and by adding the following new paragraphs:

"(8) Oversee the work of those employees appointed in the capacity of Supreme Court Police, who shall serve as law enforcement officers to police the Supreme Court building, grounds, and adjacent streets, and to protect the Chief Justice, Associate Justices, the officers and employees, guests, and property of the Court and shall be authorized to bear arms and to make arrests in such capacity; and

"(9) Prescribe such regulations, approved by the Chief Justice and consistent with sections 2 through 6 of the Act of August 18, 1949, chapter 479, 63 Stat. 616 (40 U.S.C. 13g–13k), as may be necessary for the adequate protection of the Supreme Court building, grounds, persons and property, and for the maintenance of suitable order and decorum, which regulations shall be posted in a public place at the Supreme Court building and copies of which shall be made reasonably available to the public.".

Sec. 3. Section 1 of the Act of August 18, 1949, chapter 479, 63 Stat. 616 (40 U.S.C. 13f) is amended by striking all language following the word "may" and substituting therefor, "appoint employees to serve as Supreme Court Police, for duty as law enforcement officers in policing the Supreme Court building, grounds, and adjacent streets, and in protecting the Chief Justice, Associate Justices, officers and employees, guests and property of the Court.

Sec. 4. Section 7 of the Act of August 18, 1949, chapter 479, 663 Stat. 617 (40 U.S.C. 131) is repealed and sections 8 through 11 of that Act (40 U.S.C. 13m–13p) are redesignated as sections 7 through 10 respectively.

Sec. 5. Section 8 of the Act of August 18, 1949, chapter 479, 63 Stat. 617 (40 U.S.C. 13m), redesignated by section 4 of this Act as section 7 of the Act (40 U.S.C. 131), is amended to read as follows:

"Whoever violates any provision of sections 2 through 6, inclusive, of this Act, or of any regulation prescribed under section 672(c)(9) of title 28, shall be fined not more than $100 or imprisoned not more than sixty days, or both, prosecution for such offenses to be had in the courts for the District of Columbia, upon information by the United States attorney or any of his assistants: In any case where, in the commission of any such offense, public property is damaged in an amount exceeding $100, the period of imprisonment for the offense may be not more than five years."

Sec. 6. Section 9 of the Act of August 18, 1949, chapter 479, 63 Stat. 617 (40 U.S.C. 13n), as subsequently amended and as redesignated by section 4 of this Act is further amended to read as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

"The Marshal and the Supreme Court Police provided for by section 672(c)(8) of title 28, United States Code, and by section 1 of this Act shall have the authority as law enforcement officers to bear arms while within or outside the boundaries of the Supreme Court building, grounds, and adjacent streets in such a manner and at such times as the Marshal may by regulation prescribe. They shall have the power to enforce and to make arrests for the violation of sections 2 through 6, inclusive, of this Act, any law of the United States, the District of Columbia, or any State, and any regulation prescribed by the Marshal of the Supreme Court under section 672(c)(9) of title 28, United States Code. The Metropolitan Police of the District of Columbia shall have concurrent jurisdiction with the Supreme Court Police to patrol the Supreme Court building and grounds, and to make arrests therein, when requested to do so by the Marshal of the Supreme Court or his duly authorized assistants. Such authority shall not be construed to empower the Metropolitan Police to enter the Supreme Court building and grounds unless the Marshal of the Supreme Court or his assistants have requested or consented to such entry."

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

H.R. 6204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", approved August 18, 1949 (40 U.S.C. 13f), is amended—

(1) by striking out "special policemen" and inserting in lieu thereof "members of the Supreme Court Police"; and

(2) by striking out ", for duty" and all that follows through "adjacent streets".

(b) Subsection (b) of section 7 of such Act (40 U.S.C. 13l(b)) is amended by striking out "promulgated under" and all that follows through the end of the subsection and inserting in lieu thereof "prescribed under this section shall be posted in a public place at the Supreme Court Building and shall be made reasonably available to the public in writing.".

(c)(1) Section 9 of such Act (40 U.S.C. 13n) is amended by striking out "Sec. 9. The special" and all that follows through ": *Provided,* That the Metropolitan Police force of the District of Columbia" and inserting in lieu thereof the following:

"Sec. 9. (a) The Marshal of the Supreme Court and the Supreme Court Police shall have authority, in accordance with regulations prescribed by the Marshal and approved by the Chief Justice of the United States—

"(1) to police the Supreme Court Building and grounds, and adjacent streets for the purpose of protecting persons and property;

"(2) in any part of the United States, to protect—

"(A) the person of the Chief Justice of the United States, any Associate Justice of the Supreme Court, and any official guest of the Supreme Court; and

"(B) the person of any officer or employee of the Supreme Court while such officer or employee is engaged in the performance of official duties;

"(3) in the performance of duties necessary for carrying out paragraph (1) of this subsection, to make arrests for any violation of a law of the United States or any State and any regulation under such law;

"(4) in the performance of duties necessary for carrying out paragraph (2) of this subsection to make arrests for any violation of a law of the United States and any regulation under such law; and

"(5) to carry firearms as may be required for the performance of duties under this Act.

"(b) The Metropolitan police force of the District of Columbia".

(2) Section 9 of such Act (40 U.S.C. 13n), as amended by paragraph (1) of this subsection, is further amended by adding at the end the following new subsections:

"(c) Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section.

"(d) As used in this Act, the term—

"(1) 'official guest of the Supreme Court' means an individual who is a guest of the Supreme Court, as determined by the Chief Justice of the United States or any Associate Justice of the Supreme Court;

"(2) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

"(3) 'United States', when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(d) Section 11 of such Act (40 U.S.C. 13p) is amended by adding at the end the following new sentence: "In addition to the property referred to in the preceding sentence, for the purposes of this Act, the Supreme Court grounds are comprised of any property under the custody and control of the Supreme Court as part of the Supreme Court grounds, including property acquired as provided by law on behalf of the United States in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building.".

Sec. 2. Section 672(c) of title 28, United States Code, is amended—

(1) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraph:

"(8) Oversee the Supreme Court Police.".

Sec. 3. Section 3 of the Act entitled "An Act to provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building", approved December 15, 1980 (40 U.S.C. 13p note), is amended by striking out "Act of May 7, 1934 (40 U.S.C. 13a through 13p), as amended" and inserting in lieu thereof "Act entitled 'An Act to provide for the custody and maintenance of the United States Supreme Court Building and the equipment and grounds thereof', approved May 7, 1934 (40 U.S.C. 13a–13c), and section 6 of the joint resolution entitled 'Joint resolution to provide for the use and disposition of the bequest of the late Justice Oliver Wendell Holmes to the United States, and for other purposes', approved October 22, 1940 (40 U.S.C. 13e)".

● Mr. SAM B. HALL, JR. Mr. Speaker, this bill, H.R. 6204 was introduced by Mr. Rodino for himself and Mr. McClory in an attempt to clarify the authority of the Supreme Court Police to protect Supreme Court personnel both on and off the premises of the Court and to clarify the authority of the Supreme Court Police to use firearms and make arrests in the performance of their protective function. Following a hearing where representatives of the Court testified, the subcommittee worked with representatives of the Court and formulated the amendment in the nature of a substitute.

Currently, security arrangements for the Supreme Court personnel off the premises of the Court are handled through the cooperation of the U.S. Marshal's service. Members of the Supreme Court Police Force are not authorized to carry firearms off the premises of the Court. Their arrest authority off the premises of the Court is unclear. While many members of the Supreme Court Police force are Deputy U.S. Marshals and are therefore authorized to carry firearms and make arrests off the Court premises, passage of this bill will clarify their authority in an appropriate fashion, by amendment to the provisions of title 40 which authorize the Supreme Court Police.

As amended by the committee the bill amends the provisions in title 40 of the United States Code which currently authorized the Supreme Court Police in the following respects:

First, it clarifies the authority of the Supreme Court Police to protect the property of the Supreme Court and persons in the vicinity of the Court property.

Second, it authorizes the Supreme Court Police to protect the Justices, their official guests, and officers or employees of the Court who are engaged in the performance of official duties in any part of the United States.

Third, it clarifies the arrest authority of the Supreme Court Police and limits arrest authority in the performance of their protective function away from the Supreme Court grounds to arrests for violations of Federal laws.

Fourth, it clarifies and makes explicit the authority of the members of the Supreme Court Police force to carry firearms as may be required for the performance of duties under the act.

Fifth, it repeals the requirement that the Marshal of the Supreme Court shall publish regulations deemed necessary for the protection of the Supreme Court Building and grounds in a local newspaper for 10 days prior to their effective date, and substitutes a requirement that the proposed regulations be posted at the Supreme Court Building and be made

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reasonably available to the public in writing.

The amendment in the nature of a substitute improves upon H.R. 6204 by more carefully defining the protective functions of the police and by specifically relating their arrest authority and their authority to carry firearms to those functions. Moreover, the committee amendment requires that the justices identify their official guests and provide written authorization for the Supreme Court Police to carry a firearm while protecting such official guests outside of Virginia, Maryland, and the District of Columbia.●

● Mr. MOORHEAD. Mr. Speaker, ordinarily, I would be opposed to the establishment of another specialized police force. But in view of recent events I think the legislation is well advised. The assault on Justice White last month, threats against Justice O'Connor during her confirmation and documented threats received by the Chief Justice, call for some form of specialized protection.

The current status of the Supreme Court Police is that of a mere guard force with uncertain arrest authority and no explicit permission to carry firearms. Under present law the Supreme Court Police cannot do their job. I think we should change it. I urge my colleagues to vote aye on H.R. 6204.●

● Mr. McCLORY. Mr. Speaker, under current statutes the Supreme Court constabulary lacks authority commensurate with their duties and responsibilities. If the law is read closely, only a superintendent function is permitted. The fact that a Supreme Court employee was shot to death last year cries for a statutory overhaul so that the Supreme Court Police can perform their true law enforcement function.

Street crime, assassination attempts, and terrorist activities have become daily facts of life, yet the police of the Supreme Court have no direct authority to carry weapons when protecting the Justices. In a letter to the Congress from the High Court it was noted that Justice Marshall was the target of at least one threat last year and Justice Sandra Day O'Connor was subject to at least two death threats during the time of her confirmation. A recent assault on Justice White reflects the intensity of feeling that any Supreme Court opinion can generate. This physical vulnerability could have a chilling effect on Court decisions that must be decided without fear or favor. Another deficiency in the present law is its failure to provide for arrest authority. Even if a Supreme Court policeman saw a crime committed on an adjacent street to the Court, he has no arrest authority and indeed could be subject to a personal suit if he intervened.

To get around present statutory deficiencies, Supreme Court Police have to go through the awkward procedure of being deputized as temporary U.S. marshals by the U.S. marshal for the District of Columbia. This authority expires every 6 months and they have to be redeputized. Therefore, any meaningful police authority is derived at the temporary sufference of the U.S. marshal for the District of Columbia. Supreme Court Police are second-class citizens and this arrangement is a heavy blow to morale, besides entailing a lot of unnecessary paperwork.

Mr. Chairman, I strongly support this legislation not only as an accommodation to the Justices but also for the safety and security of all Supreme Court personnel. The Supreme Court Police are law enforcement officers for a coordinate branch of the Federal Government, they should have a clear and unqualified statutory authority to serve in that capacity.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to provide for appointment and authority of the Supreme Court Police, and for other purposes."

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE INTERIOR TO RELEASE CERTAIN CONDITIONS CONTAINED IN PATENT CONCERNING CERTAIN LAND CONVEYED BY UNITED STATES TO EASTERN WASHINGTON UNIVERSITY

The Clerk called the bill (H.R. 6419) to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

There being no objection, the Clerk read the bill as follows:

H.R. 6419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to section 2, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release certain conditions contained in patent numbered 1216646 concerning the land described in subsection (b) conveyed by the United States to Eastern Washington University (formerly the Eastern Washington College of Education) (hereinafter in this Act referred to as the "University"). Such conditions provide that such land will revert to and revest in the United States if the University or any successor of the University—

(1) uses such land for purposes other than recreational and educational purposes, or

(2) attempts to transfer title to such land.

(b) The land referred to in subsection (a) comprises 21 acres and may be described as lot 6, section 34, Township 22 North, Range 41 East, Willamette Meridian, Washington.

SEC. 2. The Secretary shall carry out subsection (a) of the first section of this Act only after the University has demonstrated to the satisfaction of the Secretary that—

(1) the University will dispose of the land described in subsection (b) of such section only for the purpose of acquiring, by exchange or purchase, real property which is more suitable for educational or recreational purposes than such land,

(2) if the University exchanges such land for other real property—

(A) the fair market value of such real property will not be less than the fair market value of such land, or

(B) the University will pay to the United States any amount by which the fair market value of such land exceeds the fair market value of such real property,

(3) if the University sells such land—

(A) the amount received by the University from such sale will be not less than the fair market value of such land, and

(B) the University will pay to the United States any portion of such amount which is not used to purchase other real property as provided in paragraph (1), and

(4) title to any real property acquired by the University by exchange of such land or by purchase with the proceeds of the sale of such land will vest in the United States if the University or any successor of the University—

(A) uses such real property for purposes other than educational or recreational purposes,

(B) attempts to transfer title to such real property, or

(C) prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including lessees, sublessees, or permittees) to prohibit or restrict, directly or indirectly, the use of such real property or any facility thereon by any individual because of such individual's race, creed, color, sex, or national origin.

With the following committee amendments:

Page 2, after line 16, insert the following:

"(c) The authority of the Secretary to release such conditions shall expire five years after enactment of this Act."

Page 2, lines 19 and 20, strike "the University has demonstrated to the satisfaction of the Secretary that—" and in lieu thereof insert:

"The University concludes an agreement with the Secretary, and delivers to the Secretary a recordable document setting forth the terms of such agreement, that—"

Page 3, line 20, strike "and".

Page 4, line 11, change "origin." to "origin, and" and insert the following:

"(5) the University will include the terms of such agreement in any document transferring to the University property acquired by the University pursuant to such agreement."

The committee amendments were agreed to.

The bill was ordered engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO ACQUIRE BY EXCHANGE CERTAIN LANDS WITHIN INDIANA DUNES NATIONAL LAKESHORE

The Clerk called the bill (H.R. 6029), to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana.

There being no objection, the Clerk read the bill as follows:

H.R. 6029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the fourth sentence of section 2(a) of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u—1(a)), or any other provision of law, the Secretary of the Interior is authorized—

(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as "Heron Rookery", and

(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as "Hoosier Prairie".

With the following committee amendment:

Strike all after enacting clause and insert in lieu thereof the following:

That (a) notwithstanding the fourth sentence of section 2(a) of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-1(a)), or any other provision of law, the Secretary of the Interior is authorized—

(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as "Blue Heron Rookery", and

(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as "Hoosier Prairie".

(b) The Secretary of the Interior may not carry out the conveyance specified in subsection (a)(2) unless, simultaneously with such conveyance and in consideration of such conveyance, the State of Indiana—

(1) transfers to the Secretary all right, title, and interest in the land described in subsection (a)(1);

(2) enters into a recordable agreement satisfactory to the Secretary providing that—

(A) the State will not use, or permit the use, of the land described in subsection (a)(2) for any purpose other than the interpretation and public appreciation and use of the Hoosier Prairie Unit of the Indiana Dunes National Lakeshore;

(B) the State will not transfer any right, title, or interest in, or control over, any land described in subsection (a)(2) to any person other than the Secretary;

(C) the State will permit access by the Secretary at reasonalbe times to the land described in subsection (a)(2); and

(D) upon a final determination by the Secretary that

(i) the State has failed to comply with the requirement of subparagraph (A) or (B), and

(ii) after receipt of notice from the Secretary respecting such failure, the State has failed or refused to comply with such requirements

all right, title, and interest in such land shall revert to the United States for administration by the Secretary as part of the lakeshore.

The Secretary may make a determination under subparagraph (D) only after notice and opportunity for hearing on the record. The reversion under subparagraph (D) shall take effect upon publication of such determination by the Secretary in the Federal Register without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States Court of Appeals for the appropriate circuit within 90 days following such publication. In any such action the court may issue such orders as appropriate to carry out the requirements of this subsection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRECTING THE SECRETARY OF THE INTERIOR TO RELEASE CERTAIN RESTRICTIONS CONTAINED IN PREVIOUS CONVEYANCE OF LAND TO THE STATE OF FLORIDA

The Clerk called the bill (H.R. 5627) to direct the Secretary of the Interior to release certain restrictions contained in a previous conveyance of land to the State of Florida and to allow the State of Florida to purchase the mineral interests of the United States in such land.

There being no objection, the Clerk read the bill as follows:

H.R. 5627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to the land described in section 3, part of which was conveyed by the United States to the State of Florida by a patent numbered 1144377 and the remainder of which was conveyed by the United States to the Florida Board of Forestry and Parks (presently named the Florida Department of Natural Resources) by a patent numbered 1123723, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release conditions in such patents which require that such land be used for park or recreational purposes and, if not so used, that such land shall revert to the United States.

Sec. 2. (a) Upon an application filed by the State of Florida in accordance with subsection (b)(1), the Secretary shall convey to the State of Flordia the mineral interests of the United States in the land described in section 3 at the fair market value of such interests, as determined by the Secretary.

(b)(1) Any application for conveyance filed by the State of Florida under subsection (a) shall be filed not later than one year after the date of the enactment of this Act and shall be accompanied by a sum of money which the Secretary estimates is sufficient to pay the administrative costs of carrying out this section. If such sum is less than the actual amount of administration costs, then, whether or not a conveyance is made, the State of Florida shall pay the difference to the Secretary. If such sum is greater than the actual amount of administrative costs, then, whether or not a conveyance is made, the Secretary shall refund the difference to the State of Florida.

(2) As used in paragraph (1), the term "administrative costs" includes the costs of—

(A) conducting such exploratory programs as the Secretary deems necessary to determine the character of the mineral deposits in the land described in section 3;

(B) evaluating the data obtained under such exploratory programs to determine the fair market value of such deposits; and

(C) preparing and issuing any instrument of conveyance under subsection (a) with respect to such deposits.

Sec. 3. The land referred to in this Act is as follows: lot 2, southwest quarter, southwest quarter, section 15, township 4 south, range 15 west, of the Tallahassee meridian, Florida.

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

Section 1. (a) with respect to the land described in section 2, the right of reverter and the reserved mineral interests held by the United States in such land are hereby conveyed, without warranty, to the State of Florida for the purpose of allowing the State of Florida to exchange such lands for privately owned lands, such conveyance to the State of Florida to be contingent and effective upon the conveyance to the United States of marketable title to the land described in section 3, in fee simple absolute, free and clear of all liens and encumbrances, except those acceptable to the Secretary of the Interior.

(b) Immediately upon receipt by the United States of title to the land described in section 3, the Secretary of the Interior shall convey, without warranty, the land described in section 3 to the State of Florida. The document of conveyance shall:

(1) reserve to the United States all mineral deposits found at any time in the land and the right to prospect for, mine and remove the same; and

(2) provide that the land shall revert to the United States upon a finding by the Secretary of the Interior that for a period of 5 consecutive years such land has not been used by the State of Flordia for park or recreational purposes, or that such land or any part thereof is being devoted to other uses.

Sec. 2. The land referred to in section 1(a) is approximately 0.69 of an acre of land, presently encroached upon by the adjoining landowners or occupants, within an area generally described as lot 2, southwest quarter southwest quarter, section 15, township 4 south, range 15 west, Tallahassee meridian, Florida. Part of the tract was included in the land conveyed by the United States to the State of Florida on May 10, 1954, by patent numbered 1144377, and part was included in the land conveyed by the United States to the Florida Board of Forestry and Parks (presently named the Florida Depart-

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ment of Natural Resources) on July 26, 1948, by patent numbered 1123723.

Sec. 3. The land to be received in exchange for the land described in section 2 consists of approximately 1.10 acres of land located in a tract generally described as section 16, township 4 south, range 15 west, Tallahassee meridian, Florida, and more particularly described as follows: Begin at the intersection of the South right of way line of Thomas Drive (State Road No. 392) and the East line of Section 16, Township 4 South, Range 15 West, Bay County, Florida. Thence South 0°31'37" West along the East line of said Section 16 for 468.20 feet to the South line of said Section 16; thence North 89°28'23" West along said South line of Section 16 for 205 feet; thence North 24°10'23" East for 511.11 feet to the Point of Beginning, containing 1.10 acres more or less.

Sec. 4. The State of Florida shall pay promptly to the Secretary of the Interior, any and all costs, including administrative overhead, that may be incurred by the United States in connection with the transactions authorized under section 1 of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes."

A motion to reconsider was laid on the table.

NEW HAMPSHIRE-VERMONT COMPACT

The Clerk called the bill (H.R. 5288), granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

There being no objection, the Clerk read the bill as follows:

H.R. 5288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the compact entered into between the States of New Hampshire and Vermont providing for cooperative agreements to construct and operate facilities for the processing or disposal of solid waste, and to carry out related purposes, which compact was approved by the State of New Hampshire on June 23, 1981, and by the State of Vermont on April 16, 1981. Such compact is substantially as follows:

"ARTICLE I

"A. Statement of Policy.

"It is recognized that municipalities in New Hampshire and Vermont may, in order to avoid duplication of cost and effort, and, in order to take advantage of economies of scale, find it necessary or desirable to enter into an agreement whereby joint solid waste disposal and resource recovery facilities are constructed and maintained. The States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to capture the economic benefits of reduced solid waste disposal costs and to enhance the economy through a reduction in demand for imported energy and the promotion of employment. Furthermore, the States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to maintain a safe and healthy environment, including a clean and renewable supply of the water resources.

"B. Requirement of Administrative and Congressional Approval.

"This compact shall not become effective until approved by the Administrator of the United States Environmental Protection Agency and the United States Congress.

"C. Definitions.

"1. 'Resource recovery facility' shall mean any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise, separating and preparing solid waste for reuse.

"2. 'Municipalities' shall mean in Vermont, a municipality as defined in 1 V.S.A. § 126 and a union municipal district established under the authority of 24 V.S.A. Chapter 121; shall mean in New Hampshire, a public agency as defined in RSA 53-A:2 and a regional refuse disposal district established under the authority of RSA 53-B.

"3. 'Solid waste agencies' shall mean those agencies within New Hampshire and Vermont possessing authority to regulate solid waste disposal and to administer the Resource Conservation and Recovery Act of 1976, as amended (42 USCA Chapter 82).

"4. 'Sanitary landfills' shall mean a facility for the disposal of solid waste which meets the criteria published under 42 USCA § 6944 of the Resource Conservation and Recovery Act of 1976, as amended.

"5. 'Solid waste' shall mean any garbage, refuse, metal goods, tires, demolition and construction waste, yard waste, and sludge from a waste water treatment plant, or other discarded materials, possessing no value to the producer in its present form where it is located, produced by normal residential, commercial, and industrial activities, but does not include hazardous waste.

"6. 'Hazardous waste' shall mean any solid, semi-solid, liquid, or contained gaseous waste, or any combination of these wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, or any waste classified as hazardous at any time under applicable laws and regulations of the United States, New Hampshire, and Vermont or any subdivision thereof pursuant to a valid grant of authority.

"ARTICLE II

"Procedures and Conditions Governing Intergovernmental Agreements

"A. Cooperative Agreements Authorized.

"Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of a resource recovery facility or sanitary landfill or both, and those related services needed for the efficient operation thereof. The agreement may also include the sale of energy and other byproducts.

"B. Approval of Agreements.

"Any agreement entered into under this compact shall, prior to becoming effective, be approved by the solid waste agencies of both New Hampshire and Vermont as in conformance with each State's solid waste management plan.

"C. Method of Adopting Agreements.

"Agreements hereunder shall be adopted in accordance with existing statutory procedures for the adoption of inter-governmental agreements between municipalities within each State, and further in New Hampshire, as provided in RSA 53-B.

"D. Review and Approval of Plans.

"The solid waste agencies of the State in which any part of a solid waste disposal and resource recovery facility which is proposed under an agreement pursuant to this compact is proposed to be or is located is hereby authorized and required, to the extent such authority exists under its State law to assure that the proposed facility is compatible with the existing State plan.

"E. Contents of Agreements.

"Agreements entered into pursuant to this compact shall contain the following:

"1. Duration of the agreement.

"2. Purpose of the agreement.

"3. Provision for a joint board and/or administrator, responsible for administering the cooperative undertaking and the powers to be exercised thereby. All municipalities party to the agreement shall be represented.

"4. The manner of acquiring, holding, and disposing of real and personal property used in the cooperative undertaking.

"5. The manner of financing the cooperative undertaking and establishing a budget therefor.

"6. The manner and method of establishing and imposing fair and equitable charges for the users of the facilities.

"7. A provision establishing a procedure for the arbitration of disputes.

"8. The conditions and procedure under which a municipality may withdraw from or be added to a cooperative agreement.

"9. The manner in which the agreement may be amended.

"10. The methods to be employed in the termination of the agreement and for disposing of property upon termination.

"ARTICLE III

"Effective Date

"A. This compact shall become effective when ratified by New Hampshire and Vermont and approved by the United States Congress.".

Sec. 2. Nothing contained in the compact described in the first section of this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the agreement.

Sec. 3. The right to alter, amend, or repeal this Act is expressly reserved.

● **Mr. SAM B. HALL, JR.** Mr. Speaker, pursuant to article I, section 10 of the U.S. Constitution, this bill extends congressional consent to an agreement already ratified by the legislatures of Vermont and New Hampshire. Under the agreement, municipalities in the two States would be authorized to enter into agreements to jointly construct and maintain facilities for the disposal of solid waste and the generation of electricity. According to testimony before the subcommittee, communities in both Vermont and New

Hampshire have been participating in an interstate solid waste project with the cooperation and support of the Environmental Protection Agency since 1979. The approval of this compact will make it possible for these communities to continue to cooperate and produce electric power by burning their solid wastes.

The Environmental Protection Agency supports enactment of this legislation and its passage would not detrimentally affect any Federal interest.

I urge my colleagues to support this bill giving the consent of Congress to the compact between the States of New Hampshire and Vermont.●

● Mr. MOORHEAD. Mr. Speaker, to avoid duplication and unnecessary expense, New Hampshire and Vermont have entered into a compact of mutual assistance under the Resource Conservation and Recovery Act.

This compact is the implementation on a regional basis of a solid waste disposal plan. Instead of each State having to build separate facilities at enormous cost, both States will use the same facilities at optimum levels. This arrangement is an economical and efficient use of the Federal tax dollar and enables two States to share the burdens and the rewards of a cooperative plan.

Solid waste disposal has turned from a municipal headache into an abundant source of energy. In the cold New England winters the generation of 12.5 kilowatts of electricity from materials that were once buried in the ground, should be a source of financial and physical comfort.

Since the compact is between two States, the Constitution requires a congressional blessing. I strongly support this legislation and urge my colleagues to vote aye.●

● Mr. McCLORY. Mr. Speaker, this is the first interstate compact under the Resource Conservation and Recovery Act of 1976. It enables municipalities of both States to enter into agreements for the construction and maintenance of joint solid waste disposal and resource recovery facilities.

Once the source of perpetual controversy among communities, solid waste disposal has turned into a hidden bonanza for all participants. Technology makes it possible to convert waste into useful power—it is estimated that more than 12.5 million kilowatts of electricity will be generated per year under this program. Moreover, it will also reduce the need for landfill by 80 percent for the communities involved. Separation of solid waste will also make it possible to recover metals for reuse. This is my definition of sound environmental legislation.

Years ago States and local governments were battling about where the next landfill would be; today it seems the reverse. Communities have tried to outbid one another for waste disposal and separation facilities for the jobs and other economic benefits to be derived by placement of such facilities in their community.

We must give credit to the States of New Hampshire and Vermont for implementing resource conservation and recovery. "Yankee ingenuity" is alive and well.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CRIMINAL PENALTY FOR THREATS AGAINST FORMER PRESIDENTS AND CERTAIN OTHER PERSONS PROTECTED BY THE SECRET SERVICE

The Clerk called the bill (H.R. 6168) to amend chapter 41 of title 18, United States Code, to prohibit threats against Presidental candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose.

There being no objection, the Clerk read the bill as follows:

H.R. 6168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) chapter 41 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 879. Threats against certain other United States Secret Service protectees

"(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon a former President of the United States; the spouse, widow, or minor child under the age of sixteen years of a former President; a major candidate or the spouse of a major candidate for the Office of the President or Vice President, or a member of the immediate family of the President, the President elect, the Vice President, the Vice President elect, or a former Vice President, any of whom is receiving Secret Service protection, shall be fined not more than $1,000 or imprisoned not more than three years; or both.

"(b) As used in this section—

"(1) 'major candidate or the spouse of a major candidate for the Office of the President or Vice President' means any person receiving Secret Service protection pursuant to provisions of Public Law 90–331 (82 Stat. 170), as amended;

"(2) 'immediate family' includes—

"(A) any person who is related by blood, marriage, or adoption to the President, President elect, the Vice President, or the Vice President elect and who receives Secret Service protection; or

"(B) any person to whom the President, President elect, Vice President, or Vice President elect stands in loco parentis and who receives Secret Service protection; and

"(3) 'President elect' and 'Vice President elect' shall have the same meaning given those terms in section 871(b) of this title.".

(2) Section 3056(a) of title 18, United States Code, is amended by striking out in the fifth clause the phrase "and 871" and inserting in lieu thereof "871, and 879".

(3) The analysis for chapter 41 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"879. Threats against certain other United States Secret Service protectees.".

(4) Section 871 of title 18, United States Code, is amended by inserting the words ", to kidnap," in subsection (a) after the words "to take the life of".

With the following committee amendments:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) chapter 41 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 879. Threats against former Presidents and certain other persons protected by the Secret Service

"(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon—

"(1) a former President or a member of the immediate family of a former President;

"(2) a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect; or

"(3) a major candidate for the office of President or Vice President, or the spouse of such candidate;

who is protected by the Secret Service as provided by law, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

"(b) As used in this section—

"(1) the term 'immediate family' means—

"(A) with respect to subsection (a)(1) of this section, the wife of a former President during his lifetime, the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age; and

"(B) with respect to subsection (a)(2) of this section, a person to whom the President, President-elect, Vice President, or Vice President-elect—

"(i) is related by blood, marriage, or adoption; or

"(ii) stands in loco parentis;

"(2) the term 'major candidate for the office of President or Vice President' means a candidate referred to in the first section of the joint resolution entitled 'Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates', approved June 6, 1968 (18 U.S.C. 3056 note); and

"(3) the terms 'President-elect' and 'Vice President-elect' have the meanings given those terms in section 871(b) of this title.".

(b) The table of sections for chapter 41 of title 18, United States Code, is amended by adding at the end the following new item:

"879. Threats against former Presidents and certain other persons protected by the Secret Service.".

Sec. 2. Section 871(a) of title 18, United States Code, is amended by inserting after "to take the life of" the following: ", to kidnap,".

Sec. 3. The sentence beginning "Subject to the direction" in section 3056(a) of title 18, United States Code, is amended—

(1) by striking out "and 871 of this title" and inserting in lieu thereof "871, and 879 of this title"; and

(2) by striking out ", joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221" and inserting in lieu thereof "and Federal land

bank associations are concerned, of sections 213, 216."

SEC. 4. (a) Section 1013 of title 18, United States Code, is amended by striking out ", or by any joint-stock land bank or banks".

(b) Section 1014 of such title is amended by striking out "a joint-stock land bank,".

(c) Section 1907 of such title is amended by striking out ", Federal land bank, or joint-stock land bank" and inserting in lieu thereof "or Federal land bank".

● Mr. SAM B. HALL, JR. Mr. Speaker, as introduced, H.R. 6168 accomplishes two major purposes. It amends the Presidential threat statute, 18 U.S.C. 871, to prohibit threats to kidnap the President or other persons named in that section, and it creates a new section 879 which prohibits threats against Presidential candidates and other persons protected by the Secret Service who are not covered by the present sections 871 or 112 of title 18. The need to criminalize kidnap threats against the President is self-evident. The new section 879 will provide the Secret Service with jurisdiction to investigate threats against any authorized Secret Service protectees. Currently, Secret Service investigations and the prosecution of persons who make threats against protectees are hampered by reliance on various State laws. The bill as amended will meet these needs.

The committee amendment in the nature of a substitute substantially changes the bill in only one respect. It deletes the reference to "a former Vice President" in the new section 879. Since the Secret Service is not authorized under current law to protect former Vice Presidents, it is not appropriate that threats on the life of a former Vice President constitute a distinct Federal criminal offense.

The committee amendment otherwise improves the bill by:

More carefully tracking the language of 18 U.S.C. 3056 which authorizes the Secret Service;

Clarifying section "(2)" of the bill (That section amends 18 U.S.C. 3056 by adding a reference to new section 879 of title 18); and by

Making technical amendments to 18 U.S.C. 3056 deleting references to nonexistent "Joint Stock Land Banks" and revising erroneous section numbers.

In addition, I call my colleagues' attention to language in the committee report which clarifies the meaning of the term "knowingly and willfully" as it is used in the new section 879. There has been considerable disagreement among courts construing the identical term in section 871 of title 18. Our report construes "knowingly and willfully" as requiring proof of a subjective intent to make a threat.●

● Mr. MOORHEAD. Mr. Speaker, I lend my support to this bill. It fills a gap in the protective activities of the Secret Service and has also been recommended by the Select Committee on Assassinations.

All of the new persons covered under H.R. 6168 are already protectees of the Secret Service. They are individuals of high visibility and are most likely to receive serious threats.

Presently, when a protectee of the Secret Service, other than the President, receives a threat of death or serious bodily harm, the Secret Service cannot arrest and therefore must rely on local law and local officials for action. Such an arrangement is awkward and uncertain.

During committee action on this bill we discussed its impact on constitutionally protected speech. While free speech is a sacred right within the democratic process, it was hardly meant to protect death threats. History tells us that our public figures are much too vulnerable to let serious verbal threats to go uninvestigated. The Constitution was never meant to protect license or permissiveness. Suffice it to say then that we should err on the side of caution.

I urge my colleagues to vote for H.R. 6168.●

● Mr. McCLORY. Mr. Speaker, a threat against the life of the President is a felony under Federal law. Besides the President, this law applies only to a select few, such as Presidential successors as well as the President and Vice-President-elect. Many other elected public figures and their families now protected by the Secret Service are not protected by a threat statute. Nor do major Presidential candidates have this much needed statutory coverage.

Because the Secret Service is required to protect these persons, their protective job is hampered by the fact that there is no Federal threat statute. Investigation, arrest, prosecution, and conviction must be based upon local law and the cooperation of local officials. Each State has a different law with different degrees of proof. Local resources and quality of local officials may also vary, thereby confounding the job of the Secret Service.

This legislation provides the much needed independent basis for the Secret Service to do its job. It gives them authority commensurate with its responsibility. Under this amendment, investigation and prosecution would be streamlined. A report from the Congressional Budget Office states that this legislation has no budget impact.

In closing, I would like to say that our committee examined the first amendment implications of this extension of the threat statute. I am satisfied a fair balance has been struck between constitutionally protected utterances and intentional death threats. Political rhetoric shall be protected; substantial threats shall be punished. I urge my colleagues to vote for this bill.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes."

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Consent Calendar.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in connection with the bills, H.R. 6204, H.R. 5288, and H.R. 6168, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. WHITE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, August 16, 1982, to file a conference report on the Senate bill, S. 2248, the Department of Defense Authorization Act, fiscal year 1983.

The SPEAKER pro tempore. Is there any objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON AUGUST 17, 18, AND 19, 1982

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, Wednesday, and Thursday, August 17, 18, and 19, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. JOHNSTON. Mr. Speaker, reserving the right to object, has that been cleared with the minority?

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, the minority has been consulted on this.

Mr. JOHNSTON. Has that been cleared with the minority?

Mr. SEIBERLING. It has been cleared with them in the sense that they have been consulted. I cannot say of my own knowledge that they have consented, but as far as I know, there is no objection.

Mr. JOHNSTON. Will the gentleman from Ohio withdraw his request until we have a chance to check?

Mr. SEIBERLING. I will be glad to do that, without prejudice.

Mr. Speaker, I withdraw the request.

The SPEAKER pro tempore. The gentleman from Ohio withdraws his request.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY AND THE REST OF THE WEEK DURING 5-MINUTE RULE

The SPEAKER pro tempore. For what purpose does the gentleman from Michigan (Mr. Dingell) rise?

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have the permission of the House to sit today and for the rest of the week for the purposes of the consideration of legislation while the House is sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Michigan can enumerate what legislation this request relates to.

Mr. DINGELL. It is my expectation to consider the Clean Air Act amendments.

Mr. DANNEMEYER. Reserving the right to object, the request relates only to the legislation dealing with the Clean Air Act?

Mr. DINGELL. That is correct.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair is not recognizing the gentleman for that purpose at this time.

Mr. WAXMAN. Reserving the right to object, and pending that, Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. That is not in order at this point. I wonder if we could ask the gentleman from Michigan to temporarily withhold his request.

Mr. DINGELL. Mr. Speaker, I believe that this is proper business of the House. The Chair has just considered a request of this kind. If it is the wish of the gentleman from California to obfuscate and delay the business of the Committee on Energy and Commerce, the business of the House, then it is his right to do so, and I think it is my right to have him take that step.

PARLIAMENTARY INQUIRY

Mr. WAXMAN. Mr. Speaker, a point of parliamentary procedure.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. I would like to know how the rules would protect Members who have been informed that a controversial unanimous-consent request would not be brought up on a day when there are no votes, except to allow a Member to ask for a quorum call so the Members can participate in a decision that is made.

Mr. DINGELL. I call for the regular order.

The SPEAKER pro tempore. The Chair has indicated that a motion at this time or objection at this time that a quorum is not present is not in order. The gentleman from Michigan insists on his unanimous-consent request.

Mr. DINGELL. That is correct.

Mr. WAXMAN. A point of parliamentary procedure.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. I renew my inquiry to the Speaker on how the rules are permitted to protect Members when there are no indications of any controversy being brought up on a day when the House is not required to have votes.

Mr. DINGELL. Mr. Speaker, I demand the regular order. I make the point of order that is not a proper parliamentary inquiry.

Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The gentleman insists on the regular order. The gentleman from California insists on his right to make an objection, pending which he makes the point of order a quorum is not present.

Mr. SEIBERLING. Mr. Speaker, will the gentleman withhold for a minute his point of order?

The SPEAKER pro tempore. Does the gentleman yield to the gentleman from Ohio?

Mr. WAXMAN. I will be pleased to yield.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, Wednesday, and Thursday, August 17, 18, and 19, 1982.

Mr. DINGELL. I have a similar request pending, and I object.

The SPEAKER pro tempore. The gentleman is within his rights to object to yield for that purpose. The gentleman did not recognize the gentleman for that purpose at this time.

The Chair at this time will withhold recognition for any further purpose for a period. The Chair will protect the gentleman from Michigan's rights in this matter.

Mr. DINGELL. Mr. Speaker, I am entitled to have a ruling on my unanimous-consent request.

The SPEAKER pro tempore. The Chair will reserve a ruling. The Chair will protect the gentleman's rights.

Mr. DINGELL. Mr. Speaker, I believe I am entitled to be protected at this time.

The SPEAKER pro tempore. It is a matter of recognition, and the Chair is going to exercise his rights of recognition at this time. The Chair assures the gentleman that his rights will be protected.

Mr. DINGELL. Mr. Speaker, I would observe that if I am denied recognition at this time, I may very well be denied my rights. I have a unanimous-consent request for which I was properly recognized. I would point out another request was recognized for a similar unanimous consent just previous to me. That request was granted.

The SPEAKER pro tempore. It was not granted.

Mr. DINGELL. Perhaps the Speaker can explain to me why I am being denied my rights.

The SPEAKER pro tempore. The gentleman from Ohio withdrew his request.

Mr. DINGELL. The gentleman previous to that.

The SPEAKER pro tempore. The gentleman from Ohio withdrew his request.

Mr. DINGELL. Are you forgetting that another Member had just made a request on behalf of the Armed Services Committee?

The SPEAKER pro tempore. The gentleman from the Armed Services Committee, Mr. White of Texas, asked to file a report, and that unanimous-consent request was granted.

Mr. DINGELL. Unanimous-consent request that the Armed Services Committee be permitted to sit.

The SPEAKER pro tempore. I am sorry to disagree with the gentleman. The Chair did not grant permission to sit or entertain that motion from the gentleman from Texas.

The Chair will take 1 minute speeches at this time.

OLDER AMERICANS VOCATIONAL EDUCATION ACT INTRODUCED

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, last week, I introduced a bill to help the millions of older Americans in our Nation who want to work but cannot, men and women aged 55 and older who find entering or reentering the job market exceedingly difficult—

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those, Mr. Speaker, who seek to remain hardworking and self-sufficient, but are unable to fit into the changing face of the American job market.

The Older Americans Vocational Education Act would remedy this dilemma for the older worker. The bill establishes a 3-year demonstration program to encourage training and retraining for older workers. It expands the focus of vocational education to include the needs of a greatly neglected segment of our population—the older worker.

By the year 2000, the number of persons aged 55 and over will rise by 19 percent. As policymakers, we must begin to consider the implications of a population which will not only live longer, but will want to work longer. I hope my colleagues will support this small, but valuable investment in older Americans.

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"HERE WE GO AGAIN" ON THE CONGRESSIONAL PAY RAISE ISSUE

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, these remarks, I am afraid, fall under the category of the "Here we go again" department.

Just several weeks ago, the House repealed the tax break for Members of Congress that had been slipped through in the rush of the last day of the session last year. Undoing the damage that the Congress did to its standing with the public took a long time. Yet, here we go again.

Last week, the Senate approved by voice vote an amendment to the pending supplemental appropriation bill which would require a special pay commission to submit recommendations for pay increases for Congressmen and other Federal officials just 2 weeks after the November elections coming up this fall.

This is simply another attempt to raise congressional pay without the honesty of requiring Congress to deal with the issue alone, up or down, on its own merits.

This measure would instruct the commission to report its recommendations to the President by November 15, 1982. Once approved by the President, the recommendations would take effect 30 calendar days after they are submitted to Congress unless a concurrent resolution were adopted overturning those recommendations by both Houses of Congress.

This raises the specter of the probability of a substantial pay increase for Members of Congress with no vote by the Congress one way or the other so that the public will have no say in the matter.

Mr. Speaker, we owe it to the American public to deal with the issue of congressional pay in an open and honest manner and not to push through another sneaky backdoor pay raise.

I want to share with my colleagues a letter I have sent to the Hon. RICHARD BOLLING, chairman of the Rules Committee, urging a separate vote on this raise when the House acts on the conference report on H.R. 6863, the supplemental appropriation bill. I hope all my colleagues will join in this request so that this kind of measure is clearly dealt with by the House on its merits.

A VOTE FOR THE CURRENT TAX BILL WOULD COMPOUND CONGRESSIONAL ERROR

(Mr. WALKER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, suppose some Member introduced a bill in the House which did the following things:

Penalized the savings of our elderly in order to give big financial institutions 30 days' free use of the senior citizens' money;

Hired 5,200 new Federal employees with the express role of harassing productive American working people;

Allowed corporate America to deduct from their taxes the bribes they pay to Government officials;

Raised the utility bills of nearly all Americans;

Cut back on a middly-income family's ability to pay its highest medical bills;

Made everyone's tax attorney or accountant into a Government spy against them;

Created the most massive new regulatory burden in recent years; and

Diminished economic activity resulting in the loss of thousands of jobs.

We would say that someone was crazy to introduce a bill doing all those things, that he or she was committing political suicide. Yet those who voted to send the tax bill to conference without the House even looking at it voted for all those provisions in one bill.

Mr. Speaker, let us hope that this House does not compound the error by allowing the tax bill to become law.

PENDING TAX BILL DESCRIBED AS A PIG IN A POKE

(Mr. BETHUNE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, the people are asked to believe that the big tax increase that is being pushed is really a deficit reduction plan, and aside from the wisdom that you cannot reduce deficits by increasing taxes, the pitch seems to be that we are going to get 3 dollars' worth of spending cuts for every dollar's worth of tax increases and we need to take it and run because that is the best we can do because of all the big spenders here in the Congress who will not let us have more.

This is a bad bargain because the $228 billion worth of tax increases over the next 5 years will be set in stone. They will be set in stone, whereas the mandated spending cuts that were supposed to be given in exchange for this will work out to be about 27 cents for every dollar's worth of tax increases, and the rest of it is just pure smoke and is likely to never materialize given the spending habits of this Congress.

What it boils down to here is the fact that the administration has bought a pig in a poke and now they are trying to sell it to the American people. What we have got is a situation where we are going to be raising taxes over a 5-year period of time in the sum of over $230 billion, and we are expected to rely on the good faith of Congress to deliver three times as much in spending cuts. Who is going to believe that the Congress is going to deliver such spending cuts? I do not think anyone believes that the best way to satisfy the appetite of this big spending Congress is to set a 5-year supply of money on the table and then expect them to cut spending. They have never done it in the past, and they are not going to do it now.

Mr. Speaker, they are not going to use this money to reduce the deficit; they are going to spend it just like they have spent it in the past.

MEDICINE, NOT POISON

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. CONABLE. Mr. Speaker, back when I was a boy, medicine usually did not taste good. But despite efforts to rationalize, we knew we would have to take it if we wanted to get better. The tax bill facing us this week is medicine, not poison. No matter how much we rationalize, most of us know we are going to have to get the deficit down if the economy is going to become healthy again. The fever of inflation and high interest rates will not break if we refuse to deal with the illness.

We can not deal with deficit solely on the revenue side, and should not. Important expenditure cuts are included in this dose of medicine. Other cuts face us, and some of them will not taste good either, but a balanced and politically acceptable course of treatment will include both budget cuts and tax increases, I hope in the 3-to-1 ratio prescribed by the budget.

As a participant in the tax conference, I must tell you it was not a pleasant experience. Without a House version, every element in the Senate bill was wide open, and the conferees had to start from scratch on hundreds of technically difficult proposals. House default of this sort was thoroughly confirmed as poor procedure.

But we did knock some of the sharp corners off the Senate bill. The medicine is not going to kill the patient. The ingredients still put the emphasis on compliance—collecting taxes already due—and on the tightening of some business taxes. There is the sugar-coating of unemployment insurance extension to help the medicine go down.

Mr. Speaker, I will not pretend I like taking medicine, but I intend to help this country get well.

HOUSE REPUBLICANS URGED TO REJECT THE TAX BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the gentleman from New York is a statesman, a scholar on the Tax Code, and a man who, if he had had real representation in the conference, would have produced a better tax bill.

It is tragic for us Republicans that we have had for all practical purposes no input on the Rostenkowski-Dole bill. The Rostenkowski-Dole bill is a 5-year, $228 billion tax increase. It is either the biggest or the second biggest tax increase in history.

On the issue of fairness, it offers us a chance to protect lobbyists' lunches while going after waiters and waitresses. It is a tribute to the power of lobbyists and all-night sessions. It withholds interest on savings and will discourage all senior citizens and others from putting money into savings accounts.

On balance, it is an appropriate bill for the gentleman from Illinois (Mr. Rostenkowski) to offer. It is an appopriate bill for the New York Times, the New Republic, and the Washington Post to endorse, but it is a bill which every House Republican should reject out of a sense of pride, out of the dignity of their institutions, and out of a sense of rejecting the steamroller which forced their members on the Committee on Ways and Means to have virtually no impact on this bill.

Mr. Speaker, every House Republican should vote against this bill and should scorn the process which has brought us to this place.

CONSTITUTIONAL AMENDMENT OFFERED TO CLARIFY ORIGINATION OF REVENUE BILLS

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, over the past few weeks, we have heard a lot of warnings about the need to exercise caution in amending the Constitution. We have been told that the Constitution has served us well for nearly 200 years and that we should leave it alone. And we have been told that the Constitution should never be amended in a way that would limit the flexibility of Congress. "We can't let the Constitution become a straitjacket," we are told. "We can't make everybody's pet issue the subject of a constitutional amendment."

Even so, the experience of this Congress in dealing with the Nation's economic crisis convinces me more than ever that the time has come to change the way we are doing things.

Accordingly, my esteemed colleague, Mr. Brown of Ohio, and I are introducing a constitutional amendment providing that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

If that language sounds familiar, it has been all but overlooked in the development of the tax package we are about to consider.

THE NEED FOR HIGH-LEVEL NUCLEAR WASTE DISPOSAL LEGISLATION

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, once again we are coming to the closing days of a Congress; yet, there is no high-level nuclear waste disposal legislation that has passed the House. The same thing happened 2 years ago. Unless the majority of House Members are allowed to work its will, this Congress may too adjourn without enactment of this vital legislation.

Four committees of this House have finally approved legislation to resolve this problem. The Senate has similarly acted. Yet, none of these measures is scheduled for House debate. No one knows when or if we will be allowed to debate any or all of these measures fully and openly.

I urge my colleagues from both sides of the aisle to join with me in impressing upon the House leadership how imperative it is that this legislation is brought to the full House as soon as possible. Although I fully understand the objectives of those who would oppose this request, I would hope nevertheless that a small minority would not be allowed to frustrate the will of the majority. Further delay in resolving this problem will only serve to harm the entire Nation and will benefit no particular congressional district.

I trust that the leadership will heed this call and take action soon to bring this legislation before the full House. Congress must not fail the American people as it did in the 96th Congress.

CHANGES IN PENSION PROCEDURES IS A NEW "ZINGER" IN THE TAX BILL

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker, last September a few Members of this House got somewhat surprised when they found out that a bill that ostensibly had to do with black lung benefits in fact provided them a new break insofar as their own incomes are concerned.

Well, there is a "zinger" in this tax bill, too, that the American people will probably find out about in due time. Our present Tax Code permits those out there in the real world in the private sector to increase their pensions or the amount of contributions to their pension plans each year based on the increase in cost of living. That is the so-called COLA clause for the private sector.

This plan or this new tax bill takes that away from them. But what does it do to Congress? It does nothing but leave Congress intact. Congress can still adjust its pensions for the COLA. So can the bureaucrats, and so can the military. Do the Members remember that vote we had last week where we voted against capping civil service pensions at 4 percent? They are still protected. We now have a two-tier system of pensions just like we have a two-tier system of compensation. The bureaucrats, the military, and ourselves, are protected against inflation, but we deny that protection to the private sector of the economy.

Mr. Speaker, I say to the Members of the House that is wrong.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow, Tuesday, August 17, 1982.

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PLATTE RIVER WATER RESOURCE STUDIES

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6188), to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a special study to assist the State of Nebraska in establishing water resource conservation and development priorities, consistent with constitutional and statutory provisions of the State of Nebraska, in the Platte River Basin from the western border of the State of Nebraska to the confluence of the Platte and Missouri Rivers.

The purposes of the study shall be to—

(a) determine the availability of water resources within the basin;

(b) identify, define, and quantify the existing and foreseeable intrabasin and interbasin demands on such resources within the State of Nebraska (including irrigation, ground water stabilization and recharge, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, preservation of scenic qualities, flood control, hydroelectric power development, municipal and industrial water supplies, and such other demands as the study may identify);

(c) identify, evaluate, and estimate costs for alternative methods of meeting the identified water demands, including but not limited to withdrawals from the Platte River, groundwater pumping, water conservation, and improved water management.

(d) resolve the identified conflicts by making specific recommendations on the full and best utilization of the available water supply, including a priority ranking for implementing recommended water conservation and development projects.

Sec. 2. The special study authorized by section 1 of this Act shall be a Federal-State study conducted jointly by the Bureau of Reclamation and the Nebraska Natural Resources Commission. The broadly constituted study body responsible for making the recommendations required by section 1 shall consist of such citizens, representatives of agricultural, environmental and development groups, State and local officials, and Federal agency representatives as the Governor of Nebraska and the Secretary shall jointly determine. Federal agencies invited to participate shall include, but not be limited to, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency. The special study authorized by section 1 of this Act shall be completed within thirty months after funds are first appropriated under this Act.

Sec. 3. (a) There is hereby authorized to be appropriated the sum of $350,000 to carry out section 1 of this Act. One-half of this sum shall be made available as a grant to the Nebraska Natural Resources Commission and shall be matched equally by direct contribution or inkind services by the State of Nebraska, its political subdivisions, or other non-Federal entities.

(b) The sums expended or services provided by the State of Nebraska, its political subdivisions, or other non-Federal entities after March 9, 1982, for the purposes of this Act shall be considered in the determination of the matching non-Federal share.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. Kazen) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. Bereuter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Kazen).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6188, as amended by the Committee on Interior and Insular Affairs, would authorize the Secretary of the Interior to participate with the State of Nebraska in a special study that would result in the establishment of water resource development priorities in the Platte River Basin. This unique study would involve not only the Bureau of Reclamation, but also the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Environmental Protection Agency, and other Federal agencies. The bill authorizes the appropriation of $350,000, one-half of which would be made available as a grant to the Nebraska Natural Resources Commission and would be matched by funds and inkind contributions by the State and other non-Federal entities.

Mr. Speaker, over the past few years it has become increasingly apparent that there is not enough water in the Platte River to satisfy all of the demands that have been placed on that resource. In order to resolve conflicts among the competing interests for Platte River water, the Nebraska Natural Resources Commission recently developed a conflict resolution process. This process brings together the competing interests and provides decisionmakers with a rational, documented basis for their actions.

For the conflict resolution process to be a success, it must be based upon the best available information regarding the amount of water in the Platte River, and the nature and extent of the competing demands for that resource. The Bureau of Reclamation, with its vast technical background in water resources, would greatly enhance the quality of the study.

Mr. Speaker, enactment of the bill is supported by the administration.

I urge my colleagues to support this bill, and I reserve the balance of my time.

□ 1230

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first of two Nebraska water bills which we are considering today, H.R. 6188, will authorize the Bureau of Reclamation to assist the State of Nebraska in making a special conflict resolution study of the entire Platte River Valley in Nebraska. This study is designed to assess the relative merits of all proposals which have been made for water development and conservation on that stretch of this, the most important river that flows through our State. There are currently eight proposed water development projects in various stages of development along the river, and there are certain to be a great number of other competing claims for the water which flows in the Platte. Although I fully support the Prairie Bend proposal, to be considered following this bill, I do believe that it is essential that the needs of all Nebraskans be considered as the State proceeds to allocate these Platte River waters and, at the same time, maintain the required minimum streamflows for fish and wildlife habitat and other purposes. Every expert tells us that there is simply not enough water in the Platte River to satisfy all the demands which are being placed upon that limited resource; therefore, it is important that some process for the resolution of these competing interests be initiated.

This bill was introduced in an effort to provide the State of Nebraska with financial, as well as technical, assistance in its efforts to make a comprehensive assessment of the Platte River within the State of Nebraska and to require that very specific recommendations as to the future conservation and use of the waters contained in that river basin be made as a part of the conclusion of the study. The bill requires the establishment of a broadly based study body which will, with the technical assistance of the Bureau of Reclamation, and the advice of the U.S. Geological Survey, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and other Federal agencies, make an inventory of the waters in the Platte, assess the various proposals for development along the Platte, as well as the existing and foreseeable nondevelopment uses such as municipal use and fish and wildlife habitat, and then make specific recommendations as to future allocation of those waters. I believe it is important to stress the requirement for those specific recommendations which this bill mandates.

As primary sponsor of this bill, it is my intention that the Bureau shall have available $175,000 of the $350,000 authorized in the bill to enable it to provide the needed technical assistance to the State agencies, while the remaining $175,000 will simply be passed through the Bureau directly to the Natural Resources Commission, acting on behalf of the State of Nebraska. I want to emphasize that the

$175,000 provided to the State will be matched, on a 1-to-1 basis, by funds and inkind contributions by the State and other non-Federal sources. I believe that it is important for the State to show its commitment through this type of financial involvement.

Mr. Speaker, I believe that the time has come for us to begin to consider these water development issues in a comprehensive or holistic manner. Each of these competing interests must be considered as an integral part of a larger plan for water resource development in the individual States and the country as a whole. We must focus on the need for a new approach to water resource development, rather than continuing to pursue a piecemeal approach to water policy. The conflict resolution bill which I have introduced offers us an example of the comprehensive planning approach, and I consider it to be an essential part of the process of authorizing future feasibility studies for any project on the Platte.

The State of Nebraska has already begun the early stages of this study, and the authorized assistance of the Bureau of Reclamation in that ongoing effort is extremely important. The hydrological and geological data, coupled with the expertise of the Bureau's technicians, analysts and planners, are essential to this important effort. While the Bureau could make these resources available to the State of Nebraska without additional authorization through its programs of technical assistance to the States, I agree with key water leaders in Nebraska that it is important that the Bureau be required to give specific, fulltime and on-going support to this effort.

The study which I am proposing in this bill is a logical follow-on to the Platte level B study of recent years, in that it is drafted to require that specific recommendations concerning future projects and programs be made at the conclusion of the study. While the final decisions as to future development in the Platte River Valley are and should be left to those officials of the State of Nebraska and its political subdivisions who are charged with the responsibility for establishing water policy, the assistance authorized in the legislation will help those officials in arriving at the best decisions for sound water development in Nebraska.

The bill before us would authorize a total of $350,000 to be spent on this conflict resolution study. I have been informed that funding in the amount of $150,000 can be expected for fiscal 1983 by the Appropriations Subcommittee on Energy and Water Development, again contingent upon the passage of this authorization.

I would also like to make note of the support of the administration for this bill. The recognition of the need for the type of conflict resolution process embodied in the bill on the part of the administration gives added credibility to this statewide approach which considers all the users and potential users of these and similar natural resources.

Mr. Speaker, I must reemphasize the strong commitment of these projects on the part of the State of Nebraska, a commitment which is indicated by its willingness to devote its own financial resources to join with the Federal Government in a new water development partnership. Finally, I hope that the House will appreciate that commitment, and recognizing the importance of these efforts, give its approval to this bill.

Mr. KAZEN. Mr. Speaker, I have no further requests for time.

Mr. BEREUTER. Mr. Speaker, I yield 5 minutes to the ranking member of the Committee on Interior and Insular Affairs, the gentleman from New Mexico (Mr. Lujan).

Mr. LUJAN. Mr. Speaker, As a member of Interior's Water and Power Resources Subcommittee and as ranking Republican member of the full Interior Committee, I have had the benefit of hearings on both H.R. 6188 and H.R. 5536. We heard from the administration and from groups within Nebraska. Both bills are supported by the administration and both bills have been reported out of the Interior Committee with a do pass recommendation.

H.R. 6188 sponsored principally by my subcommittee colleague, Mr. Bereuter, would provide the assistance of the Bureau of Reclamation and other Federal agencies to the State of Nebraska in helping the State do a conflict resolution study for the Platte River Basin from the western border of Nebraska to the confluence of the Platte and Missouri Rivers. This portion of the basin spans the entire State of Nebraska from west to east. In such a study, the local people of the basin would set their own conservation and development priorities. I know of no opposition to this bill and am able to endorse the concept of local people setting their own water resource development and management priorities. Moreover, I think it is appropriate that the bill provide, as it does, that the $175,000 grant provided to the State for the study be matched equally by the State agencies participating in the study.

H.R. 5536 is principally sponsored by Virginia Smith of Nebraska and is unanimously endorsed by the entire Nebraska delegation. The severe ground water decline problem in the affected area is a matter of concern and would be included by an area ground water model within the feasibility study. I believe it is also appropriate that the bill provide for cost sharing by the Prairie Bend proponents. As we have been informed by the gentlelady from Nebraska during our June subcommittee hearings, the interested parties already have spent more than $400,000 toward the realization of Prairie Bend and are ready to put up an additional $240,000 in cash to get the study under way. Moreover, the committee has provided that any effect of the proposed Prairie Bend unit on the habitat of migratory wildlife such as sandhill cranes be specifically included in the feasibility study provided for by H.R. 5536.

I urge my colleagues to support H.R. 6188 and H.R. 5536, both important matters of water resources within Nebraska.

● Mr. CLAUSEN. Mr. Speaker, I am pleased to speak today in favor of H.R. 6188, a bill to assist the State of Nebraska in a conflict resolution study for the Platte River Basin. I have agreed to cosponsor the bill with my subcommittee colleague, Mr. Bereuter, of Nebraska, because I firmly believe that it will not only help resolve the competitive interests in and demands on the water resources within Nebraska's Platte River Basin, but also it could serve as a positive precedent for other regions and for the Nation as a whole.

Mr. Speaker, as a member of the Committee on Interior and Insular Affairs and as the ranking Republican member of its Subcommittee on Water and Power Resources, I have for many years been involved with and interested in water resource management and development. I have long urged taking an integrated, coordinated approach to water resources management and planning and generally prefer that to a piecemeal, project-by-project one. H.R. 6188 represents the former approach, which is clearly my preference, rather than the latter, piecemeal one and I commend Mr. Bereuter and his constitutents within Nebraska for bringing this matter through the subcommittee, the full committee, and now to the floor of the House.

Under this bill, various Federal agencies, led by the Bureau of Reclamation, would assist the State of Nebraska in resolving the conservation and development demands and interests and in setting specific priorities for the entire Platte River Basin from the Western Border of Nebraska to the confluence of the Platte and Missouri Rivers. The study participants would be broadly constituted with a wide diversity of interests and great deal of local input. As close to a consensus as is possible should be arrived at as a result of this study. Equally importantly, those making the decisions and setting the priorities will be doing so for themselves, a situation which should serve to enhance the soundness of the results.

I urge my colleagues to support H.R. 6188 as an enlightened approach to

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water resources management and development.●

● Mr. DAUB. Mr. Speaker, I rise in strong support for the enactment of H.R. 6188, a bill which provides for the participation of the Department of the Interior in a study of the water use and development of the Platte River.

The Platte River is Nebraska's primary source of water and it meets the needs of our cities and towns as well as the agriculture demands of the State. This study will entail the cooperative resources of the Nebraska Natural Resources Commission and the Bureau of Reclamation together with other Federal agencies which will produce, I believe, a report that for years hereafter will be instrumental in decisionmaking with regard to the Platte River.

Mr. Speaker, I would like to take this occasion to commend my colleague, friend, and fellow Nebraskan DOUG BEREUTER for his leadership in this matter. The people of Nebraska's First District—as well as all in Nebraska who depend on the Platte—are well served by his dedication, intelligence and legislative skill.●

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SEIBERLING). The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill, H.R. 6188, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the conferees on the bill, H.R. 4961, may have permission to file the conference report thereon at any time until midnight tomorrow, August 17.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FEASIBILITY STUDIES, CENTRAL PLATTE VALLEY, NEBRASKA

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in feasibility studies of water resource development and for other purposes in the Central Platte Valley, Neb., as amended.

The Clerk read as follows:

H.R. 5536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a feasibility study for the Prairie Bend unit, Pick-Sloan Missouri River Basin program, located in Dawson, Buffalo, and Hall Counties in Nebraska for irrigation stabilization of ground-water levels, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, flood control, and other purposes determined to be appropriate. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. Before funds are expended for the feasibility study, the State of Nebraska, or other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the costs may be partly or wholly in the form of services directly related to the conduct of the study.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.

Mr. Speaker, H.R. 5536, as amended by the Committee on Interior and Insular Affairs, would authorize the Secretary of the Interior to engage in a feasibility study for the Prairie Bend unit of the Pick-Sloan Missouri River Basin program. The proposed Prairie Bend unit would be located in central Nebraska.

Local entities have already contributed more than $400,000 to water quality studies and the bill requires the State of Nebraska or some other non-Federal entity to participate and share in the cost of the feasibility study. It is expected that the Secretary of the Interior will require that this share be a reasonable share and not merely a token contribution. According to the Bureau of Reclamation, the study will take 4 years to complete and will cost $1,600,000. Enactment of the bill is supported by the administration.

The area where the Prairie Bend unit would be located is predominately agricultural with several rural towns. Private development of well irrigation has resulted in declining ground-water levels, deteriorating ground-water quality and degradation of waterfowl habitat. Furthermore, some of the creeks and drains in the area experience frequent flooding.

This study will examine the feasibility of a multipurpose project which would maintain a reliable irrigation economy through conjunctive use of ground and surface water, provide flood protection, assist in maintaining desired habitat for migratory birds, provide for water-based recreation, improve ground water quality and regulate streamflows.

Mr. Speaker, the Interior Committee amended H.R. 5536 to require the Secretary of the Interior to include in the feasibility study a detailed report on any effects the proposed project might have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. The inclusion of this requirement demonstrates the committee's particular concern over allegations that habitat for the sandhill crane and the endangered whooping crane might be adversely affected by the construction of this proposed project. The committee makes it perfectly clear that the feasiblility study report should contain the type of detailed information relating to the effects the proposed project might have on wildlife habitat that will enable the Congress to make an informed judgement should authorizing legislation for the project be proposed and considered.

Mr. Speaker, I urge my colleagues to support this bill and I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 5536, would authorize a feasibility study of the Prairie Bend unit in central Nebraska. The Prairie Bend project was originally proposed in 1976. It would provide direct irrigation water for approximately 70,000 acres in central Nebraska and will also help to recharge local ground water tables in an additional 136,000 acres of an area which has suffered some of the most significant declines of any area of Nebraska in recent years. The project enjoys overwhelming local support and the support of the Governor of Nebraska, the Nebraska Natural Resources Commission, the Interagency Water Coordinating Committee, and the entire Nebraska delegation in the U.S. House of Representatives. Similar legislation has been introduced in the Senate and is included in the omnibus feasibility study bill which is currently awaiting consideration in that body. Funds for commencing the feasibility study in fiscal 1983 are expected to be included in the energy and water appropriation measure to be considered later this year.

The study would develop and assess multiobjective alternatives to irrigate up to about 70,000 acres of land using water from the Platte River, stabilize ground water in an area of about 136,000 total acres, provide outdoor recreation, maintain and enhance habitat for water-fowl including the endangered whooping crane, enhance the quality of ground water and other beneficial uses. The study would evaluate the availability of water resources in the area for all beneficial uses and the physical and economic feasibility of alternatives.

The Prairie Bend unit is located in a predominately agricultural area with several rural-orientated towns. The closest large metropolis is Grand Island, Nebr., a city of over 30,000 population. Private well irrigation development has resulted in declines in ground water levels causing increased pumping lifts, operating costs, and energy use. Some of the area and towns are experiencing deteriorating ground water quality and are having to seek other locations for wells for domestic and municipal uses. Pumping may be affecting the wet meadow complexes which are necessary habitat for the endangered whooping cranes and other migratory water fowl. Also some of the creeks and drains in the area experience frequent flooding. Development of a multipurpose project would maintain a reliable irrigation economy by means of conjunctive use of ground and surface water, provide flood protection, assist in maintaining desired habitat for migratory birds including the sandhill and whooping cranes and other wildlife, provide for water-based recreation, a sports fishery, save energy, and improve ground water quality and regulate streamflows.

The Central Nebraska Conservancy Association and the Central Platte Natural Resource Districts are sponsors of the project and are seeking authorization for feasibility studies. The Central Nebraska Conservation Association has water right application on file with the State of Nebraska to divert a portion of the Platte River in the off-season for irrigation and off-stream storage. They have held numerous meetings within the area and have obtained overwhelming local support.

I would like to point out that this bill has the support of the administration, and the Bureau of Reclamation has expressed its willingness to move forward with the study as soon as funds are made available.

Mr. Speaker, the potential effects of actual construction of the Prairie Bend project upon the habitat of the sandhill cranes and the endangered whooping crane is an important issue. The area downstream from the proposed project area is a prime habitat of these graceful and magnificent birds, and of course any adverse impact upon that area must be given the most serious consideration before any project can be authorized. In fact, during committee consideration of this bill, I supported an amendment to specifically require a detailed study of those effects, even though I was confident that the environmental impact statement associated with the feasibility study would do so in the absence of such an amendment.

Mr. Speaker, one particular aspect of the bill, the cost-sharing arrangement by which the local sponsoring agencies have agreed to accept a substantial portion of the cost, is a significant step for the Congress to take in authorizing feasibility studies for water projects. The willingness of the potential beneficiaries to bear that cost is indicative of the strong support in the local area, and will serve as an example for future project sponsors that they will henceforth be expected to contribute to meeting the cost of these projects and the associated studies. The adoption of this bill by the House, as well as the previous bill, marks the dawning of a new day in water resource development, with the inclusion of these cost-sharing provisions.

Mr. Speaker, with these comments, I urge my colleagues to lend their support to the passage of this measure under suspension of the rules.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I am very pleased to be able to rise in support of and to have been afforded the opportunity to offer such a worthy and greatly-needed piece of legislation. Concerned and dedicated residents of the Prairie Bend region in Nebraska have carefully and meticulously built a State and local consensus of support such that I have never seen paralleled.

As a result of these painstaking efforts to demonstrate the pressing need for water conservation and improved water management in this region, the domestic budget-conscious administration fully endorses this project and included a request for $150,000 in its fiscal year 1983 budget estimate to begin this study.

The State of Nebraska also endorses this project, as well as numerous water project organizations, chambers of commerce, service clubs, city and county commissions, and thousands of citizens have expressed themselves formally and in writing in support of this project.

Local support is so strong that these groups have collectively spent more than $400,000 toward this study alone, and have an additional $240,000 in cash ready to help start the study. Also, more than 300 farmers have assessed themselves 10 cents an acre to join the Prairie Bend Association in hopes of such a feasibility study being conducted.

Although the efforts of these people, combined with the overall support this project has received, is important, the reason we should approve this study today is because of the urgent need to conserve and better manage water within the Central Platte Valley of Nebraska.

An irrigation and ground-water recharge project must be developed to combat the declining water table in the area, as well as declining production of many wells if the economy and well-being of the area is to be preserved. Residents of this area are highly dependent upon irrigated agriculture, and decreasing ground-water supplies are their primary water source.

Unfortunately, ground-water levels have been declining while pumping costs have increased. This has resulted in a reduction in well production as ground water levels have declined as much as 25 feet in recent years, and are expected to decline further.

Another serious problem is that the 125,000 residents in the eastern half of this region must rely on ground water for drinking water that is contaminated to the point that many municipalities have abandoned wells because of impurity levels which exceed the U.S. Public Health Service's published maximum safe levels for human consumption.

Corrective action must be taken soon or thousands of irrigated acres will be reverted to dryland, and costs of water treatment for human consumption will continue to rise. Responsible water management, which can only be achieved through a carefully planned program, appears to be the only solution.

Furthermore, even though our major water problems are related to inadequate ground-water supplies, the area also experiences periodic flooding. The flood of June 1967 caused more than $30 million worth of damage in the eastern half of the region, and such a disaster could easily happen again if proper preventive action is not taken.

In addition, there are other water-related needs in this area. Because the Prairie Bend area of the Platte River basin is a sanctuary for up to 7 million migratory waterfowl each year, we must maintain adequate water supplies for them. Also, there are many

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water-related recreation facilities that can only be maintained through better water-management programs.

Therefore, because of the genuine need for such a project, as well as the many groups and organizations that have worked for years toward insuring a comprehensive multipurpose water-resource project is implemented in this area so major water-related problems can be averted, the Prairie Bend feasibility study deserves this body's full support.

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I would like to thank the distinguished gentleman from Texas (Mr. Kazen) for his outstanding cooperation and leadership on this legislation and to extend those thanks and compliments also to the gentleman from Arizona (Mr. Udall) and the staff members on both sides of the aisle.

I yield back the balance of my time.

● Mr. CLAUSEN. Mr. Speaker, I urge the passage of House Resolution 5536 which provides for a feasibility study of the proposed Prairie Bend unit located within the Central Platte Valley of Nebraska. The potential area which would be served by any future Prairie Bend project is north of the Platte River between Kearney and Grand Island, Nebr.

During hearings before the Interior Committee's Subcommittee on Water and Power Resources, all three of our Nebraska colleagues in the House of Representatives spoke in favor of the feasibility study. The gentlelady Virginia Smith, as principal sponsor, Hal Daub from the Second District, and my subcommittee colleague, Doug Bereuter personally appeared before the subcommittee to make the point that the feasibility study for which the administration already has included $150,000 in its fiscal year 1983 budget should go forward.

The study provided for by this bill is supported by the administration which also appeared before the subcommittee. While House Resolution 5536 authorizes no specific amount of funds, the administration plans 4 years to complete the study and has already provided for the study in its 1983 budget.

During the subcommittee hearings, there appeared to be enthusiastic support for the study from other than elected officials as well. These proponents consisted of those affected in the local area by the current problems and included numerous citizens groups as well as the Central Nebraska and Twin Valley Conservation Associations and the Central Platte Natural Resource District. As ranking Republican member of the Water and Power Resources Subcommittee, I have over the years participated in a great many hearings on different proposed projects, and I must say that I was impressed by the diversity and the unanimity of the supporters of the study provided for by this bill.

The information provided the subcommittee indicated problems of a declining ground-water level and increasing pumping depths and costs. The ground water table decline has occurred over the past 30 years and is expected to continue. One study projected that by the year 2020, half of the 80 percent of the wells in the area pumping entirely from shallow gravel and sand aquifers will dry up. This could very well result in cropland reverting to dryland in the absence of other wells into the deeper Ogallala Aquifer. This study would investigate ways to stabilize the ground-water level over approximately 136,000 acres and would include a mathematical ground water model. Moreover, the unit, if constructed, would provide direct surface water service for up to 32,000 acres.

During full Interior Committee markup, we made the requirement to study the effect on wildlife an express provision of the bill specifically to make sure that the impact on the habitat of sandhill cranes and whooping cranes, if any, was taken into account. The Interior Committee reported H.R. 5536 out as amended with a do pass recommendation.

I would think that even the opponents of a Prairie Bend project would want to know whether or not the project is feasible. I urge my colleagues to support the feasibility study provided for in H.R. 5536.●

● Mr. DAUB. Mr. Speaker, we face a number of problems in the years ahead nationally that we in Nebraska are looking at today. The demands for water will increase but as we all know our supplies are not without limit.

In this bill we seek to analyze the water resource development in the Central Platte Valley in Nebraska.

Within the Prairie Bend Unit of the Pick-Sloan Missouri Basin we seek to answer the questions concerning the use of water, whether it be for irrigation, recreation, wildlife, or to insure that ground water tables are stabilized and of good quality. We seek answers not only to these problems for today's use but so as to insure that we make decisions with the future in mind, for it is our children that will surely suffer or benefit from the decisions we make.

I would like to point out that Mrs. Smith and Mr. Bereuter have, in my mind, exercised great wisdom in their support of this legislation. The people of Nebraska are well served by the thoughtfulness and commitment we see evidenced by this legislation.

Water will be the great question for the rest of this century. The experience we undertake in the next few years will largely shape our reaction to it and the wisdom with which we address it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Kazen) that the House suspend the rules and pass the bill, H.R. 5536, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

JOINT CHIEFS OF STAFF REORGANIZATION ACT OF 1982

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6954) to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense.

The Clerk read as follows:

H.R. 6954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Joint Chiefs of Staff Reorganization Act of 1982".

JOINT CHIEFS OF STAFF

SEC. 2. Section 141(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A member of the Joint Chiefs of Staff may submit to the Secretary of Defense any opinion in disagreement with military advice of the Chairman or the Joint Chiefs of Staff. After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may submit to the President any opinion in disagreement with military advice of the Chairman or the Joint Chiefs of Staff.".

CHAIRMAN OF JOINT CHIEFS OF STAFF

SEC. 3. Section 142(b)(3) of title 10, United States Code, is amended by striking out "have not agreed" and inserting in lieu thereof "have agreed and have not agreed and provide military advice in his own right".

DEPUTY CHAIRMAN OF JOINT CHIEFS OF STAFF

SEC. 4. (a)(1) Chapter 5 of title 10, United States Code, is amended by inserting after section 142 the following new section:

"§ 142a. Deputy Chairman

"(a)(1) There is a Deputy Chairman of the Joint Chiefs of Staff. The Deputy Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman and Deputy Chairman may not be members of the same armed force.

"(2) The Deputy Chairman serves at the pleasure of the President for a term of up to two years and may be reappointed in the same manner for one additional term, except that in time of war declared by Congress there is no limit on the number of reappointments.

"(b) The Deputy Chairman acts as Chairman in the absence or disability of the Chairman and exercises such duties as may be delegated by the Chairman with the approval of the Secretary of Defense. When there is a vacancy in the office of Chairman, the Deputy Chairman, unless otherwise directed by the President or Secretary of Defense, shall perform the duties of the Chairman until a successor is appointed.

"(c) The Deputy Chairman may attend all meetings of the Joint Chiefs of Staff but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman in the absence of disability of the Chairman or when there is a vacancy in the office of Chairman.

"(d) The Deputy Chairman, while so serving, holds the rank of general or, in the case of an officer of the Navy, admiral. The Deputy Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 142 the following new item:

"142a. Deputy Chairman.".

(b) Section 525(b)(3) of such title is amended by inserting "or Deputy Chairman" after "Chairman".

JOINT STAFF

SEC. 5. (a) Subsection (a) of section 143 of title 10, United States Code, is amended to read as follows:

"(a)(1) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than four hundred officers. The members of the Joint Staff shall be selected by the Chairman of the Joint Chiefs of Staff in approximately equal numbers from—

"(A) the Army;

"(B) the Navy and the Marine Corps; and

"(C) the Air Force.

"(2) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

"(3) Officers assigned to the Joint Staff shall be assigned for a period of three years, except that in time of war there is no limit on the tenure of members of the Joint Staff. Members of the Joint Staff serve at the pleasure of the Secretary of Defense, and the tenure of a member of the Joint Staff may at the discretion of the Secretary of Defense be extended for a period of up to three additional years.

"(4) Except in time of war, officers completing a tour of duty with the Joint Staff may not be reassigned to the Joint Staff for a period of not less than three years following their previous tour of duty on the Joint Staff, except that selected officers may be recalled to Joint Staff duty in less than three years with the approval of the Secretary of Defense in each case. The number of such officers recalled to Joint Staff duty in less than three years shall not exceed one hundred serving on the Joint Staff at any one time.".

(b) Subsection (c) of such section is amended by striking out ", on behalf of the Joint Chiefs of Staff" and inserting in lieu thereof "in the performance of those duties".

(c) Subsection (d) of such section is amended by inserting "and the Chairman" after "Joint Chiefs of Staff".

(d) Such section is further amended by adding at the end thereof the following new subsections:

"(e)(1) Subject to guidelines established by the Secretary of Defense, each officer serving as a chief of service or as the commander of a unified or specified command may have an opportunity to provide formal comments on any report or recommendation of the Joint Staff prepared for submittal to the Joint Chiefs of Staff before such report or recommendation is submitted to the Joint Chiefs of Staff. A copy of any such comment shall at the discretion of the officer submitting the comment, be included as an appendix in the submittal of such report or recommendation to the Joint Chiefs of Staff. For purposes of this paragraph, the chiefs of service are the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps.

"(2) The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff, and the members of the Joint Staff, support the Chairman of the Joint Chiefs of Staff and the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces.

"(f)(1) The Secretary of Defense, in consultation with the Chairman, shall ensure that officer personnel policies of the armed forces concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.

"(2) In the case of an officer who has served on the Joint Staff and who is selected for recommendation to the President for appointment to a grade above major general or rear admiral, the Chairman shall submit to the President, at the same time as the recommendation for such appointment is submitted, the evaluation of the Chairman of the performance of that officer as a member of the Joint Staff.".

SENIOR STRATEGY ADVISORY BOARD

SEC. 6. (a)(1) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 178. Senior Strategy Advisory Board

"(a) There is established in the Department of Defense a Senior Strategy Advisory Board. The Board shall, from time to time, provide such advice and recommendations on matters of military strategy and tactics as it considers appropriate to the President, the Secretary of Defense, and the Joint Chiefs of Staff.

"(b)(1) The Board shall consist of ten members appointed by the President from among retired officers in the grade of general or admiral, who, while on active duty, served as a member of the Joint Chiefs of Staff or as the commander of a unified or specifed command.

"(2) Each member of the Board shall be appointed for a term of five years, except that—

"(A) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term;

"(B) a member whose term of office has expired shall continue to serve until his successor is appointed; and

"(C) of the members first appointed, three shall be appointed for a term of one year, three shall be appointed for a term of three years, and four shall be appointed for a term of five years, as designated by the President at the time of appointment.

Members whose terms has expired may be reappointed for one additional term.

"(3) The Chairman of the Board shall be designated by the President from among the members of the Board.

"(c) The Board shall meet regularly at the call of the Chairman or a majority of the members of the Board, but not less often than once each month.

"(d) Members of the Board are not entitled to compensation for service on the Board but may be paid per diem and travel and transportation allowances authorized under section 5703 of title 5.

"(e) The Board shall continue in existence until terminated by law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item: "178. Senior Strategy Advisory Board.".

(b) Section 178 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, serious organizational flaws mar the performance of the Joint Chiefs of Staff. As a result, our highest military body might fail to function adequately in case of war. And, as was the case during World War II, World War I, and as far back as the Spanish-American War, we would be faced with the necessity of making fundamental changes to our military organization in the midst of a crisis. The most casual observer must realize that there may not be time for such a realignment in a future conflict. Equally important in a continual-

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ly threatening peacetime environment, timely, clear-cut, realistic, feasible, and prudent professional military advice is often not available to civilian leaders. Consequently, the influence of the military in civilian counsel has diminished over time and, because decisions must nevertheless be made, has often been overshadowed by civilian analysts.

Those and many other significant criticisms of the joint military structure are voiced persuasively by an impressive body of critics who recently shared their views with the Congress.

On February 3, 1982, Gen. David C. Jones, the Chairman of the Joint Chiefs of Staff, announced in a hearing before the Armed Services Committee that he was concerned about basic shortcomings in the organization of the Joint Chiefs of Staff. He further stated that he intended to submit proposals to correct those shortcomings and would work to achieve their acceptance throughout the remaining months of his tenure and thereafter. Though the joint military structure has received much criticism over the years, it was nevertheless unprecedented for an incumbent Chairman of the Joint Chiefs of Staff to fault the organization in such explicit terms and announce a determined reform effort. Almost as extraordinary was the subsequent action of Gen. Edward C. Meyer, the Army Chief of Staff, who joined General Jones in criticizing the present structure and suggested that the Chairman had not gone far enough in his recommendations for change.

Prompted by the actions of two of the most senior Armed Forces officers in the Nation, the Investigations Subcommittee of the Armed Services Committee began hearings on JCS reorganization on April 21, 1982. The subcommittee found near unanimous agreement that organizational problems hamper the performance of the present Joint Chiefs of Staff. But it learned that views diverge on what, if anything, should be done to correct the existing deficiencies.

This section will outline the organizational problems of the existing military structure. It will then explain the proposed Armed Services Committee approach to correcting those deficiencies through legislation and a program of more intense legislative oversight.

Title 10 of the United States Code states that the Joint Chiefs of Staff "are the principal military advisers to the President, the National Security Council, and the Secretary of Defense." The advice rendered by the JCS as a corporate body at present is often inadequate. The joint military system is slow to develop formal military positions. As a result, JCS advice often is not available when needed. When formal advice is finally rendered, its form and substance has been so diluted by the joint staffing process, which in effect gives each service a veto on every word, that it is of little use to civilian leaders. According to former Secretary of Defense Harold Brown:

> When it comes to the formal product, the papers that come up through the Joint Staff that are approved by the action officers, the planners, the various desks, and the chiefs themselves, and to which they put their signatures, are almost without exception either not very useful or the reverse of being helpful. That is, worse than nothing. I think that is the difference between the people and the system.

The advice rendered by the JCS is also faulted for a lack of realism and the absence of strategic content. The structure of the Joint Chiefs is such that the group often cannot deal realistically with issues which affect service interests. Those issues include matters of fundamental importance to national security: The allocation of resources to various defense missions; the unified command plan which assigns the geographical and functional responsibilities of field commanders; roles and missions of the services; and joint doctrine and training. Concerning strategic thought, witnesses suggested that the multitude of disparte responsibilities shouldered by the chiefs leaves little time or inclination for reflective strategic analysis.

Witnesses uniformly distinguished between the performance of individual service chiefs, whose personal advice was given high marks, and the performance of the JCS as a group of advisers acting collegially. Thus, the hearings clearly indicated that JCS problems are organizational in nature and by no means reflect on the competence of the members. Among the most significient of the organizational problems which the committee proposes that Congress do something about through legislation are the following:

The contradiction between the responsibilities of an individual as a member of the Joint Chiefs of Staff and as chief of his service. As a JCS member, a chief is called upon to transcend service interest and participate in developing advice from a joint, unified military perspective—a "national" viewpoint. Yet, as a chief of service, the same individual is looked upon as its principal advocate. General Jones emphasized that:

> If a chief departed a great deal, and consistently, from what came up through the system—from his service—he would be in danger, as has happened in the past, of losing the support of his service.

Also contradictory is the time demanded by the dual responsibilities of the chiefs. Gen. Omar Bradley once indicated that he did not have time to do both jobs well. And General Meyer emphasized this point forcefully during the hearings.

The limitations of the Joint Staff. The quality of Joint Staff work is adversely affected by a number of restrictions. Some of these constraints are contained in present legislation; others result from the overwhelming influence exerted by service interests on the joint military organization. In combination, the restrictions have a number of adverse results: A lack of Joint Staff continuity because assignments are legally limited to 3 years; no guarantee that the most outstanding officers will be assigned to this most important and complex of U.S. military staffs; and crippling procedural constraints that give inordinate influence to service staffs, thereby preventing the Joint Staff from authoring its own work.

Though the hearings revealed a number of other significant problems, the Armed Services Committee choose to attack the most serious, improving the quality of military advice, in H.R. 6954 for several reasons. The legislative measures required to remove restrictions and make the joint military organization more independent are relatively clear cut, modest, and noncontroversial. Moreover, they may possibly be sufficient in themselves with respect to necessary changes in the law because the Secretary of Defense possesses significant authority to initiate internal reorganization without resort to Congress. A larger purpose of H.R. 6954 is to encourage internal Department of Defense action. The committee intends to monitor the process through periodic oversight hearings. In the meantime, the committee would much rather err on the side of caution than to strike out into the uncharted waters of fundamental organizational change. If joint military performance does not improve sufficiently as a result of H.R. 6954 and subsequent Defense Department action, the Congress can always reexamine the organization and implement any additional changes which may be necessary.

Another reason for a modest approach is the reservations expressed by some witnesses who, despite generally acknowledging that problems exist, oppose organizational change. The bill is designed to address many of the major areas of concern voiced by advocates of reorganization while accommodating, through specific legislative provisions, the reservations of opponents. H.R. 6954 does this, however, without in any way diminishing its overall purpose of improving the quality of military advice for civilian leaders and thereby restoring the military voice to its appropriate stature in the highest councils of government.

A brief summary of the provisions in the bill illustrates the committee approach. The Chairman of the JCS would become responsible for providing military advice in his own right as well as acting as the spokesman for the Joints Chiefs of Staff and reporting to the Secretary of Defense and President those issues on which the JCS have agreed and have not agreed.

Any member of the Joint Chiefs of Staff who disagrees with military advice of the Chairman of the Joints Chiefs of Staff would be authorized to submit his views to the Secretary of Defense and, subsequently, to the President.

A Senior Strategy Advisory Board composed of retired former members of the Joint Chiefs of Staff and commanders of unified and specified commands would provide advice to the President, Secretary of Defense, and Joint Chiefs of Staff on military strategy and tactics. They would serve without compensation except for per diem and travel expenses.

To assist the JCS Chairman in carrying out his responsibilities, a Deputy Chairman would be created who would act as Chairman in the absence or disability of the Chairman and exercise such duties as may be delegated by the Chairman with the approval of the Secretary of Defense. The Deputy Chairman would be permitted to attend JCS meetings but would participate as a full member only when acting for the Chairman in the latter's absence or disability. The Deputy Chairman would be of a different service from the Chairman.

Joint Staff officers would be selected solely by the JCS Chairman from among the most outstanding service officers submitted by the respective services. The Secretary of Defense, in consultation with the Chairman, would be responsible for insuring that personnel policies of the Armed Forces concerning promotion, retention, and assignment of officers give appropriate consideration to the performance of an officer as a member of the Joint Staff. The JCS Chairman would be required to submit to the President an evaluation of the performance of an officer who had served on the Joint Staff when he was recommended for promotion above major general or rear admiral.

Length of assignment to the Joint Staff, presently limited to 3 years, could be extended at the discretion of the Secretary of Defense up to 3 additional years. The limit on the number of officers serving on the Joint Staff who had been recalled to Joint Staff duty in less than 3 years would be increased from 30 to 100.

The Joint Staff would become responsible for supporting the JCS Chairman as well as the Joint Chiefs. The Chairman's responsibility for managing the Joint Staff would continue as in present law. His management, however, must take cognizance of the Joint Staff charter and would include providing support for himself as well as the Joint Chiefs of Staff. Subject to guidelines established by the Secretary of Defense, chiefs of service and unified and specified commanders would have an opportunity to provide formal comments on Joint Staff reports or recommendations prepared for the Joint Chiefs of Staff.

The Secretary of Defense would be responsible for insuring that the Joint Staff is independently organized and operated to support the Joint Chiefs of Staff and the Chairman in meeting the congressional purposes expressed in the National Security Act of 1947 to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces.

Let me now turn to one explanation of the provisions in the bill. First, provisions designed to expand and strengthen the sources of military advice.

Although the committee agrees that the dual responsibilities of service chiefs may undermine the advisory capability of the Joint Chiefs of Staff as a corporate group with respect to certain issues, it is not prepared to admit that the JCS is fatally flawed. For one thing, a range of important issues do not involve service conflicts. Little criticism of JCS performance in those areas was heard during the hearings. Another consideration stems from review of the types of issues on which the Joint Chiefs of Staff allegedly stumbles. Decisions concerning such issues as resource allocation, roles and missions, and doctrine would cause intense internal conflicts within the Department of Defense whether it were organized into services, as at present, or in some other way. Those conflicts have their counterparts in most other large organizations, both public and private. Eliminating the Joint Chiefs of Staff or installing a single military individual in its stead, to whom the JCS would provide advice, would by no means eliminate the conflicting issues which must be resolved. Such measures would merely lessen the potential influence of individuals representing the collective knowledge and experience of the organizations most qualified to judge land, sea, and air warfare issues. Consequently, the committee proposes to expand and strengthen the sources of military advice, retaining the JCS as the principal military advisers.

H.R. 6954 would accomplish the committee purpose by establishing a Senior Strategy Advisory Board, strengthening the JCS Chairman's role as a military adviser, and creating a deputy chairman to assist the Chairman in his added responsibilities.

The Board will fill the void in reflective thinking on military matters emphasized by several witnesses, particularly with respect to long-range strategy. It will consist of 10 retired generals or admirals who, while on active duty, served on the Joint Chiefs of Staff or as a commander of a unified or specified command. The Board will provide such advice and recommendations on military strategy and tactics as it considers appropriate to the President, the Secretary of Defense, and the Joint Chiefs of Staff. It should be provided appropriate staff support by the Department of Defense, access to all necessary documents, and the requisite call on information from throughout the Department.

The Chairman of the Joint Chiefs of Staff is uniquely qualified to assume additional responsibilities as an adviser championing the unified military viewpoint. He is the only member of the Joint Chiefs of Staff who has no service responsibilities. Though Chairmen continue to wear the uniform of their services, experience has shown that they have traditionally assumed a joint or unified perspective in evaluation military issues, unbiased by former service ties.

H.R. 6954 makes the Chairman responsible for providing military advise in his own right and gives him access to the Joint Staff for assistance in developing his formal positions. Though his advisory responsibility is not confined by the bill to any one area, the committee intends that the Chairman give special attention to those issues which the collegial JCS has been unable to address effectively—for example, resource allocation, roles and missions, the unified command plan, and joint doctrine and training. The committee also intends for the Chairman to forge stronger links with the unified commanders in developing his positions. He should serve as their spokesman in Washington, establishing priorities and integrating their recommendations, into a coherent set of combatant command proposals.

Strengthening the Chairman's advisory role should provide an opportunity for Defense Department action which would relieve the present burden of the service chiefs by diminishing the issues they address as members of the JCS and making it less difficult for them to arrive at joint positions articulated by the Chairman. Evolution along these lines is not meant to stifle legitimate dissent, however. To insure open channels for expressing opposing views, H.R. 6954 provides that a Chief may submit any opinion in disagreement with the military advice of the Chairman or the Joint Chiefs of Staff to the Secretary of Defense, and subsequently, to the President.

Although the argument for creating a Deputy Chairman is strengthened by the provisions which increase the Chairman's responsibilities, establishing the position makes sense in any case. The JCS Chairman is the senior

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military officer in the United States. His responsibilities are in proportion to his rank. Yet, unlike the Secretary of Defense, secretaries of the military departments, or chiefs of each service, the Chairman has no deputy. As a consequence, when he is absent the acting chairmanship is often passed among the other chiefs. Testimony revealed that it was not uncommon for the acting Chairman to change numerous times within a few days during the Chairman's absence. Adm. Carl Thor Hanson, a former Director of the Joint Staff, testified:

> During one week of my Director's tour, we had, as I recall, seven changes of the Acting Chairman. There was a fairly active crisis at the time and each rotation involved an updated briefing book for the new Acting Chairman and the resultant quickly and possibly inadequately absorbed knowledge.
>
> On more than a few occasions during my tour as Secretary Brown's Military Assistant, I recall his frustration with having to take a quickly and inadequately briefed Acting Chairman to an NSC, SCC, or PRC meeting when then-Chairman Gen. George Brown was out of town. Although theoretically any member of the Joint Chiefs of Staff should be completely conversant with all national security issues, practically the responsibilities of being a Service Chief simply preclude complete familiarity with the complex national security issues faced by the Chairman and the Secretary of Defense daily.

H.R. 6954 would correct this situation and provide added support and continuity in the performance of the Chairman's responsibilities.

I now turn to provisions designed to improve staff support. First, Joint Staff personnel.

Testimony revealed a number of disincentives which at times have had the effect of discouraging officers from seeking Joint Staff assignments. Promotions of Joint Staff members have lagged. Services disagree on the caliber of the officers who should be assigned. Joint Staff influence is perceived as limited; as a result, officers who seek challenge may avoid Joint Staff service.

The committee considers the Joint Staff the preeminent U.S. military staff. The personnel provisions of H.R. 6954 are designed to insure that the committee's conviction concerning the Joint Staff become manifest in the structure of the Department of Defense. The bill clearly requires assignment of the most outstanding service officers to the Joint Staff. To insure that result, the bill provides that selection of Joint Staff assignees shall be made solely by the Chairman of the Joint Chiefs of Staff from service lists containing only officers considered to be among the most outstanding.

The bill also includes two provisions concerning promotions. First, it requires the JCS Chairman to submit an evaluation to the President of the performance of any officer who has worked on the Joint Staff and who is recommended for promotion to a grade above major general or rear admiral. Second, the bill makes the Secretary of Defense, in consultation with the Chairman, responsible for insuring that Joint Staff officers receive equitable career rewards for their performance. Because the demands and complexity of Joint Staff work require talented and dedicated officers, the committee is convinced that performance at the Joint Staff level should be considered a mark of distinction deserving special attention by promotion boards. Though no individual should be guaranteed advancement as a result of Joint Staff service, statistical analyses of serving and former Joint Staff officers should be developed and monitored to insure that Joint Staff performance is given appropriate consideration.

Next, provisions which would improve Joint Staff continuity and experience. Existing legislative provisions limiting Joint Staff assignments to 3 years and prohibiting reassignment in less than 3 years—except for 30 officers—erect insuperable obstacles to staff continuity. At present, the average Joint Staff assignment is less than 30 months; that means the entire staff turns over every 2½ years and the average experience level of Joint Staff officers is less than 15 months.

The legislative faults are compounded by poor Department of Defense management. General Jones indicated that only 2 percent of the Joint Staff officers have previous Joint Staff experience. Moreover, he reported that only 13 percent of middle grade Joint Staff officers, and less than 25 percent of the colonels and Navy captains, have joint schooling.

General Jones remarked to Congressmen:

> It is just as though every time you went through an election and came to Washington, you had a whole new staff and only two percent of them ever had any experience in the Congress.

H.R. 6954 relaxes the legislative restrictions on Joint Staff assignments. It provides that the Secretary of Defense may extend the 3-year assignment for as much as an additional 3 years. Also, as many as 100 Joint Staff members, as opposed to 30 at present, could return to Joint Staff duty in less than 3 years. These less restrictive provisions should afford the flexibility needed to overcome the deficiencies in Joint Staff continuity. At the same time, retaining legislative constraints on the tenure of Joint Staff assignments continues safeguards against the possibility, however remote, that the Joint Staff could evolve into a powerful, self-sustaining, elite military organization superimposed between civilian authorities and the services and combatant commands.

The bill does not address the problems of Joint Staff inexperience caused by faulty Department of Defense personnel management procedures and inattention to joint education. Several witnesses discussed these problems during the hearings. Based on their thoughtful comments, the committee is convinced of the seriousness of those problems and the necessity for corrective measures. But legislative relief is not required. Consequently, the committee intends to monitor Defense Department actions to resolve the problems relating to Joint Staff experience identified in the hearings.

Finally, I will review provisions to improve Joint Staff management and procedures, and establish a Joint Staff charter.

At present the Joint Staff is smothered by complex, voluminous operating procedures which insure that the services control the form and content of Joint Staff work. Although the Chairman manages the Joint Staff, by law, he does so on behalf of the Joint Chiefs. And the Chiefs, over time, have developed an ironclad system which protects service interests and, as a corollary, tends to convert the Joint Staff into an executive secretariat dependent on service staffs.

The following description of the joint staffing process graphically illustrates the debilitating effects of the present system. It is excerpted from an answer for the record received from the Chairman of the Joint Chiefs of Staff.

> General Jones. A typical joint staffing action can be illustrated by outlining how a request from the Secretary of Defense for JCS views on an important defense issue would be handled.
>
> The Joint Staff action officer is under institutional pressure to find a position with which each of the Services can agree * * *. Likewise, the Service action officers are under institutional pressure to insure that Service roles and missions are not abridged, that major Service weapons systems are emphasized, and that a proposed strategy does not imply more than a fair share of emphasis for another Service.
>
> The Joint Staff action officer must prepare the initial draft of the response—called the Flimsy. In doing so, he or she is bound to consider the views of the Service action officers and the appropriate CINCs. . . . Each Service representative might write a portion of the paper, a portion of the paper might be provided by a CINC or his staff, or the Joint Staff A/O might assume the entire task. Generally, because the Service staffs are larger and have Service-unique data and analysis not available to the Joint Staff, the Joint Staff action officer is very dependent on Service Staff inputs.
>
> Once the Flimsy is prepared, the Joint and Service action officers meet to discuss its content. . . . For a substantive paper of some length, each Service action officer may have as many as 100 recommended changes. They quickly learn the art of compromise—each agreeing to support the balance of the changes proposed by the other in return for equal support. The Joint Staff

> action officer then publishes a Buff paper—reflecting the consensus of the meeting. . . .
>
> Each of the action officers who worked on the Flimsy takes the Buff paper to his Service or Joint Staff planner (O-6). . . . There may be as many as 20 issues left to be resolved. The Planners generally are able to resolve all but two or three of them. The Joint Staff Planner then . . . publishes a final draft on Green paper.
>
> The Service A/O and Planner present the Green to their Service Operations Deputy (on some occasions an additional review layer—the Deputy Operations Deputy—is added).
>
> The Operations Deputies represent the first level of review at which a truly joint perspective is brought to bear on the issue. However, the Operations Deputies are dual-hatted, as are the Chiefs, and they are under great institutional pressure to represent Service as well as national interests.
>
> . . . Significant compromise may occur at this level of review. Yet to be resolved issues and divergent views, if any, are highlighted, and the Green is placed on the agenda for the Chiefs to consider.
>
> The Chiefs then consider the Green, make adjustments as necessary, and send the paper to the SECDEF.
>
> In sum, the current Joint Staff process encourages compromise, relies too heavily on Service participation, and depends on staff officers who are well versed in Service interests but are ill prepared to address issues from a joint perspective.

The committee intends that Joint Staff procedures be revised to insure its independence and focus its efforts toward achieving joint military objectives. H.R. 6954 provides that the JCS Chairman shall manage the Joint Staff in the performance of its duties. Moreover, it directs the Secretary of Defense to insure that the Joint Staff is independently organized and operated. Finally, it provides a charter for the Joint Staff which prescribes the objective of its duties: To support the Chairman and the Joint Chiefs of Staff in meeting the purposes set forth in the National Security Act of 1947 (50 U.S.C. 401) to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces. These provisions provide unmistakable authority for the Chairman to revise the current joint staffing procedures and a corresponding responsibility to do so in shaping the Joint Staff to fulfill its charter. In addition, the provisions vest ultimate responsibility in the Secretary of Defense who is charged with insuring Joint Staff independence and that the charter be followed.

H.R. 6954 also modifies the terms of reference for managing the Joint Staff. It removes the condition that the Chairman's management shall be "on behalf of the Joint Chiefs of Staff." Thus the Chairman's authority is independent of the JCS. But his management must conform to the Joint Staff charter and would be subject to challenge by the JCS if that body deems Joint Staff support inadequate to its needs. Finally, the provisions would also give the Chairman latitude to elicit Joint Staff support in the performance of his duties as a military adviser in his own right.

An additional provision insures that the Joint Staff will continue to receive information from the services and the combatant commands with respect to reports and recommendations prepared for the Joint Chiefs of Staff. As previously emphasized, the committee intends H.R. 6954 to establish conditions in which the Joint Staff is the independent author of its own work. But the committee does not intend to diminish the vital channels of communication between the Joint Staff, services, and combatant commands which are necessary to provide the basic information necessary for competent staff work. To maintain continued intimate interaction among the various military elements as well as insure that channels for dissent remain open, H.R. 6954 provides that, subject to guidelines established by the Secretary of Defense, each officer serving as a chief of service or as the commander of a unified or specified command may have an opportunity to provide formal comments on any report or recommendation of the Joint Staff prepared for submission to the Joint Chiefs of Staff before the report or recommendation is submitted.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill H.R. 6954 and urge my colleagues to support it.

This legislation will improve the quality, timeliness, and realism of military advice rendered to the civilian elements of government, and I strongly support it.

During hearings on JCS reform, witnesses repeatedly emphasized a number of organizational problems which impact adversely on the adequacy of military advice at present. We are grateful to Gen. David C. Jones and Gen. Edward C. Meyer for speaking out. The committee also appreciates all of the other witnesses, military and civilian, who gave us the benefit of their views on the functioning of the Joint Chiefs of Staff. I am convinced that the generals' diagnosis is essentially correct because their testimony so closely parallels that of many of the other witnesses, including former Secretaries Harold Brown, Elliott Richardson, David Packard, Stuart Symington, Maxwell Taylor, Brent Scowcroft, and Richard Steadman.

Congress has a constitutional responsibility "to raise and support armies * * * to provide and maintain a Navy; [and] to make rules for the Government and regulation of the land and naval forces." In view of that responsibility, we cannot ignore the problems so forcefully brought to our attention during the hearings on JCS reorganization.

To overcome the organizational problems, H.R. 6954 would strengthen the military structure in three areas. First, the bill would create a Deputy Chairman of the Joint Chiefs of Staff who would act as Chairman in the absence or disability of the Chairman, and exercise such other duties as might be delegated.

Second, the bill would strengthen the channels for providing military advice. Though the Joint Chiefs of Staff would remain the principal military advisers, the bill would establish a Senior Strategy Advisory Board to advise the President, the Secretary of Defense, and JCS on matters of military strategy and tactics. The bill would also make the JCS Chairman responsible for providing military advice in his own right. It would provide, however, that any member of the Joint Chiefs of Staff who disagreed with military advice of the Chairman or the Joint Chiefs might submit his own views to the Secretary of Defense and the President.

Third, the bill would modify and add several provisions to existing law relating to the Joint Staff to insure assignment of outstanding officers, strengthen Joint Staff career incentives, increase Joint Staff continuity and independence, and afford the JCS Chairman greater personnel, supervisory, and management latitude and staff support. It would also safeguard the right of service chiefs and field commanders to comment formally on Joint Staff reports and recommendations.

Mr. Speaker, I acknowledge that H.R. 6954 is not as far-reaching as many witnesses proposed. Several recommended downgrading or eliminating the Joint Chiefs of Staff. The JCS would either become an advisory body to the Chairman, who would become the principal military adviser, or the JCS would be disbanded in favor of a National Military Advisory Council no longer tied to the services. Many of those who support H.R. 6954 agree that fundamental changes along those lines may eventually be required. At the present time, however, such far-reaching reforms do not appear possible. In the absence of such radical reforms, the provisions of this bill are steps in the right direction.

Consequently, I strongly recommend acceptance of H.R. 6954. As the gentleman from Texas, who deserves tremendous credit for his work on this legislation, has stated, this bill may be sufficient to overcome the current organizational problems. That will depend on whether the Defense Department undertakes concerted action to implement it and initiates other reforms internally. If joint military per-

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formance does not improve sufficiently, the Congress will have ample opportunity to take further steps in the future. For today, H.R. 6954 represents significant progress, and I urge the Members' support.

Mr. WHITE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I am pleased to support the bill H.R. 6954, the Joint Chiefs of Staff Reorganization Act.

While the bill does not attempt to address all of the deficiencies in the Joint Chiefs of Staff organization, it attempts to solve some of the more important problems. One such solution is the establishment of the Senior Strategy Advisory Board which will provide advice and recommendations on military strategy and tactics to the President, the Secretary of Defense, and the Joint Chiefs of Staff.

The Joint Chiefs of Staff are chiefs of their respective services as well as members of the Joint Chiefs. Consequently, they must divide their time and energies between the day-to-day direction of their services and their duties as principal military advisers to the national command authorities. Both are full-time jobs and even the outstanding men who have been chosen for these very demanding positions have been unable to find sufficient time to perform both. As a result, current problems which are the most urgent have received most of their attention while long-range planning and studies have suffered; not because of lack of interest, but because of lack of time. General Meyer proposed that the service chiefs be relieved of their Joint Chiefs of Staff responsibilities and be allowed to devote their full time to leadership and management of the services.

Meanwhile, there is a vast reservoir of military experience which at present is largely unused. There are the men who have been Chairmen or members of the Joint Chiefs of Staff, for example, General Jones and Adm. Thomas Hayward, or who have commanded one of the unified or specified commands were of the stature of the late Admiral McCain, for example. In retirement, these men are free of the training, procurement, and operational requirements which always bedevil the members of the Joint Chiefs of Staff. They have the time to study the long-range problems and to evaluate possible solutions. Moreover, they no longer have the demand for loyalty to a particular service so that they can view matters from a true joint perspective.

The Senior Strategy Advisory Board will be composed of such retired generals and admirals who were members of the Joint Chiefs of Staff, or commanders of combatant commands. They will be free to concentrate exclusively on planning, both strategic and tactical. They will be able to bring their vast experience to these issues. Unencumbered with other responsibilities, they can study these problems and present their recommendations and advice to the Joint Chiefs of Staff as well as the President and the Secretary of Defense.

As we found in our hearings, the people who make the strategy today are not the Joint Chiefs of Staff. Much of our strategy is being developed by civilians who have never been in combat or by some lieutenant who starts the paper which then goes to some lieutenant colonel. By the time it comes up to the Joint Chiefs of Staff level, as two or three witnesses testified, they have practically no time to spend on analyzing it or developing an alternative. And that, after all, is one of our big weaknesses. The services have all kinds of acquisition people and weapons development people, but nobody knows a thing about how to fight a war. That is what we need in this modern Army and Navy, in my judgment, and that is what this Advisory Board is intended to supply.

This Board is patterned on something that prevailed in the Navy for many years, and something that has been a tradition in Japan. The General Board in the Navy was a group of senior retired Navy officers who would provide advice and recommendations to the Chief of Naval Operations. The Japanese had a tradition that once their admirals and generals retired—and I think it was also senior civilian people—they would become what were called Genro and were an unofficial body which advised the Emperor when he had momentous decisions to make—for example, at the beginning of World War II, whether to go along with the military and declare war; and later of course, the agonizing decision of whether to surrender.

Mr. Speaker, I believe the Senior Strategy Advisory Board will fill a void in our strategic planning.

I urge my colleagues to vote for passage of H.R. 6954.

Mr. WHITE. Mr. Speaker, I commend the gentleman from New York for his efforts on behalf of this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAN DANIEL), and I also wish to commend him for his efforts on behalf of his bill.

Mr. DAN DANIEL. Mr. Speaker, I rise in support of H.R. 6954. This legislation represents a tremendous amount of productive effort by the chairman of the Investigations Subcommittee, Congressman WHITE. I want to commend the gentleman from Texas for his dedication and resourcefulness in crafting this bill. He has characterized it as a "modest proposal." In some respects, it is. But it addresses the major areas of concern emphasized by several witnesses during the hearings and at the same time accommodates the reservations expressed by others. It is the most significant legislation with respect to the organization of the Joint Chiefs of Staff in almost a quarter of a century.

My major interest is to improve the quality of advice given our highest civilian authorities by the uniformed services. It is the judgment of this Member that the quality of that advice must improve. Former Secretary of Defense Harold Brown told the subcommittee that the formal advisory documents forwarded by the JCS are "not very useful." At the same time, Dr. Brown hastened to praise the competence of the individual chiefs. So it is the procedure that needs correcting.

The Joint Chiefs of Staff, with unsurpassed experience and resources to judge particular land, sea, and air warfare issues, will remain responsible for giving advice from a "national" perspective. Their contributions will be most valuable on issues which involve more than one service—that is, issues the Chiefs traditionally have trouble addressing realistically. Since one of my principal concerns is readiness, I favor this change because I foresee the Chairman, in developing his joint advice, forging stronger ties with the unified and specified commanders and placing greater emphasis on addressing and improving readiness in our field commands.

Finally, the Senior Strategy Advisory Board should add that element of reflection to strategic thinking, long-range planning, and military tactics which has often been lacking.

In sum, this is a balanced, well-thought-out piece of legislation that is long overdue. I strongly urge passage of H.R. 6954.

Mr. WHITE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I have always been very much concerned—as a matter of fact, since the adoption of the 1947 Reorganization Act—that the Congress has not addressed itself to what I think the debate during the consideration of the Reorganization Act called for, and that was a continuing review by the Congress. The 1947 act was not viewed then as sort of an edict, as holy scripture, and, as a matter of fact, the first Secretary of Defense, Secretary Forrestal, had to come in, less than 1 year after he had assumed office, for a very significant amendment to that.

Then, subsequent to that time, we had such things as the Bay of Pigs, for example, and the kind and pattern of judgment-making decisions, evaluations, that heretofore, before the Reorganization Act, and when you had the old Department of War, I do not think would have permitted, even though it was a rigid system, which obviously mandated the system that the Congress sanctioned with the 1947 act, nevertheless I doubt seriously that such a thing as the Bay of Pigs and the admixture since World War II of the military, political, social, even, complexity of the decisions have been addressed by the Congress.

Mr. WHITE. Mr. Speaker, the gentleman has a very important point. I think that the gentleman will find that we have addressed most of the gentleman's concerns.

Mr. GONZALEZ. But does not this tend to further complicate the cumbersomeness of getting the purely military judgment-making evaluations?

When we reach the point where a President is making telephone decisions on a platoon basis in the field, there is something terribly wrong, in my opinion. And when you have such things as last-minute decisions predicated on military know-how, military expertise, such as, should the President call in air support on the so-called Bay of Pigs invasion?

Now, it seems to me that unless this will tend to reduce the continuance of that discrepancy in being able to get the military expertise and judgment in that level, not into the political level, that unless this addresses itself to that, it will just further compound it.

Mr. WHITE. Mr. Speaker, the gentleman is absolutely right in his concern. We have addressed this in two facets. One would be an advisory council in the board that the gentleman from New York (Mr. STRATTON) has provided for, and in the streamlining that the bill provides for in the deputy chairman, and the better use of the staff. All of these things are directed to more crisp, better military advice.

I want to thank the gentleman for his observation.

Mr. GONZALEZ. Mr. Speaker, I want to thank the gentleman and say that my distinguished colleague, the gentleman from Texas, has been a very valuable member of the Armed Services Committee, and perhaps this will be one of the last formal pieces of legislation he is handling. I hope not. But his departure from the Congress is to be regretted, in that he has been a very strong stalwart of proper levels and realistic levels of defense.

I am glad that this issue is being addressed, because we have just had the recent experience of the outgoing Joint Chief of Staff General Jones, which I think really is tragic in the manner in which he was permitted to go, and clearly revealed the continuing dilemma in this area.

So I compliment the gentleman for his leadership in trying to address himself to that problem.

● **Mr. DICKS.** Mr. Speaker, the House just completed debate on the fiscal year 1983 defense authorization bill, which provides for substantial increases in real defense spending. I agree that our national security requires real growth in the resources we allocate to defense. But bolstering budgets will produce fewer defense benefits than desired unless U.S. leaders stand back, survey the strategic forest instead of the tactical trees, stress proven principles and press for practical change.

Unfortunately, sound cohesive strategies all too often fail to shape the requirements for the U.S. Armed Forces, and we will continue to pay more than necessary for capabilities that fail to match ends with means until the shortcoming is corrected.

In fact, if our increased spending commitments are not properly applied they could in fact weaken our security by eroding the public consensus in support of a strengthened defense effort.

There is a general and growing consensus that we have serious problems in our defense planning structure. These weaknesses are not unique to this administration and are at least in large part of an organizational nature. As a member of the Defense Appropriations Subcommittee I am disturbed by the all-too-common fascination with a particular weapon system and the lack of an appreciation of how it fits into an overall fighting strategy and how it compares to other options to meet the agreed-upon goal.

It was for these reasons that last year I requested the Congressional Research Service to perform a major study of this Nation's defense planning apparatus. Mr. John Collins, senior specialist in national defense at CRS has labored hard on this study and it is due to be published shortly. I am confident that it will serve to help stimulate debate on this important issue and shed light on the shortcomings of the present situation.

Central to any improvements must be actions relating to the Joint Chiefs of Staff, who are by law designated as the principle military advisers to the President, and in reality to the Congress.

The present structure has many shortcomings. It allows interservice rivalries to flourish because the Joint Chiefs also serve as Chiefs of their respective services and the Joint Staff is dependent on service staffs for support. There is a lack of realism and absence of strategic content, in the view of many, in JCS positions. The Joint Chiefs are slow to develop positions and when they finally do, they are often diluted beyond usefulness.

These problems exist not because JCS officers and staff are doing less than their best. They are the result of both organizational and longstanding attitudinal factors. We can address the portion of the problem that is organizational through corrective legislation, and H.R. 6954 is a productive step in that direction. And we can encourage a change in the attitudinal precedents by demonstrating the concern of the Congress and providing opportunities to make these changes. This is perhaps the more important aspect of H.R. 6954 and one that can be monitored by close oversight.

We are very fortunate that as the result of some courageous men, the issue of JCS reform has reached more than the talking stage. Much credit must be given to Gen. David Jones, the recently retired chairman of the Joint Chiefs of Staff. It was he who took the first bold step and proposed comprehensive structural changes while still serving as chairman. Recognition is also due Gen. E. C. Meyer, Chief of Staff of the Army who followed on Chairman Jones proposals and made even more dramatic suggestions for changes in defense planning through the JCS.

Finally, and most importantly I want to commend Chairman WHITE. All to often in the past, there has been a tendency to miss opportunities to push needed changes, and not stick to them when the focus of national attention has subsided. It would have been easy, especially in light of the institutional resistance to change that always exists, to let the issue slip back into obscurity. But Chairman WHITE did quite the opposite. The Investigations Subcommittee began a long and very comprehensive series of hearings on the issue beginning on April 26. It was my privilege to have an opportunity to express my concerns and present the results of Mr. Collins' examination of JCS problems on May 5. Overall, the chairman's hearings received the learned observations of a wide range of both incumbent and retired military and civilian personnel that have worked intimately with the Joint Chiefs. The forum these hearings presented was in and of itself an extremely valuable contribution to the national security debate.

But hearings alone will not correct the problem, action is required. This bill, H.R. 6954 is that action, and I am convinced it will produce immediate and beneficial changes in the way the Joint Chiefs operates and in the product it produces.

The bill takes a number of steps to improve the ability of the JCS to provide quality and timely military advice. First, for the first time it gives the Chairman responsibility to provide military advice in his own right in addition to his role as spokesman for the Joint Chiefs. This will allow him to avoid the time consuming and softening process of the present JCS bureaucracy and should produce the kind of frank assessments that we policymakers urgently require. In addition the bill calls for dissenting views from other Joint Chiefs who may disagree with the Chairman. I think this provision is most important, because I am one who believes the best decisions are those that are made after decisionmakers have been presented with the entire range of arguments on an issue. This is the cornerstone of our legal and legislative process, and it is high time it was introduced into the open in the field of strategy development.

This legislation also creates a Deputy JCS Chairman. This step will not only give the Chairman critical support in carrying out his awesome responsibilities but will improve continuity in JCS operations that is lacking under the present rotating acting Chairman concept.

A final provision relating to the military advice function of the JCS is the creation of a Senior Strategy Advisory Board composed of former retired members of the Joint Chiefs and commanders of unified and specified commands. This is a very important, and I think positive concept. This Nation should take better advantage of the accumulated wisdom of its past leaders, and this Board could provide the structural mechanism to better accomplish this. While some details may have to be modified because of the pioneering nature of this Board, we should make sure that its essence is implemented.

The bill also makes a number of changes relating to the Joint Staff. All of us in the Congress recognize the importance of quality staff support to proper decisionmaking. But the present Joint Staff has shortcomings due to lack of continuity, lack of rewards in joint service, and inadequate size in relation to service staffs.

In order to insure that the most outstanding service officers are assigned to the critical joint planning role, and to insure that proper rewards are in place to encourage officers to seek these posts, the bill gives the Secretary of Defense responsibility to insure that policies of the armed services concerning promotion, retention, and assignment of officers give appropriate consideration to the performance of an officer as a member of the Joint Staff. In addition, H.R. 6954 provides guarantees of Joint Staff independence and establishes a new charter, to provide the climate that will allow needed attitudinal changes within DOD and the services to be implemented.

A step that appears modest, but which has very important implications is the authority to lengthen assignments and to return more officers to the Joint Staff without a 3-year absence. One observer likened the present situation to a House Member having an entirely new staff after every election. Clearly we need more experienced personnel in the Joint Staff, and I am confident we can do that without any danger of creating an overpowering "General Staff".

H.R. 6954 does not seek radical or fundamental changes. I for one think that additional reforms may be needed. For instance the central issue of the dual-hat status of JCS members is not addressed in this bill.

But on many of these issues, there is not a clear-cut consensus. And I think it is important to enact legislation that will make real and immediate improvements in the Joint Chiefs and will foster needed attention to additional oversight both within the Department and on the Hill.

H.R. 6954 is an important vehicle for beginning our quest to improve the strategic planning structure. More may be needed in the JCS, and certainly the other factors, including DOD, the National Security Council, and the Congress must be looked at. I am confident that Chairman WHITE will follow through on this task and maintain the type of detailed oversight he has already so ably conducted.

In doing so, we can better insure that our costly, but necessary investment in national defense will not go for naught.●

Mr. WHITE. Mr. Speaker, H.R. 6954 is designed to address the most pressing JCS organizational problems and leave others for future resolution, quite possibly through internal Defense Department measures and without recourse to legislation. This approach by the Armed Services Committee is not intended to infer that the other organizational problems are insignificant. To the contrary, in some cases, they rank in importance with those addressed in H.R. 6954. Though legislation may not be required, periodic legislative oversight may be necessary until Congress is satisfied with the revised organizational structure.

Among those problems not addressed in H.R. 6954 and which should be the subject of executive and legislative branch attention are the following:

First, the chain of command from the President to the unified and specified commanders who lead U.S. forces in the field. The chain now runs by law fromthe President to the Secretary of Defense to the unified and specified commanders. By Pentagon directive, the Joint Chiefs have been inserted in the chain of command so that in practiceit runs from the Secretary of Defense throught the JCS to the unified and specified commanders.

A number of witnesses during the hearing on JSDC reorganization expressed concern that a committee, the JSC, has been included into the chain of commmand. Those witnesses recommended placing a single military individual in the chain.

Within our present organizatioon, that individual would be the JCS Chairman. By law, however, the JCS Chairman is prohibited from exercising "military command over the Joint Chiefs of Staff or any other Armed Forces." It is not clear whether that provision precludes the Chairman from replacing the JCS because the Defense Department directive merely routes the chain throught the JCS. In any case, the Department of Defense should study the issue and initiate measures to streamline the chain of command if that is required. If one of those measures is legislative relief fromthe prohibition against command by the Chairman, the Department should submit a legislative proposal forthwith.

Second, education and training of officers for joint assignments. The Department of Defense operates a number of educational institutions whose purpose is to prepare officers for joint duty. Among them are the Armed Forces Staff College, the Industrial College of the Armed Forces, and the National War College. Yet the hearings revealed that only 13 percent of middle-grade Joint Staff officers, and less than 25 percent of the colonels and Navy captains, have joint schooling. That is only one of a number of indications that disconnects exist between the educational input at the schools and joint performance output on the various joint military staffs. The Department of Defense should take action to tailor the career development of officers selected for joint duty to insure their military education and experience equip them for such assignments.

Third, position of the unified and specified commanders in the joint military organizations. A number of witnesses suggested that the unified and specified commanders, who would be responsible for leading our combat forces in wartime, are not influential enough in the peacetime Defense Department organization to have a sufficient hand in shaping the forces with which they would have to fight. Among the reasons given for the relative weakness of the combatant commanders are insubstantial links to Washington; a unified commander organizational structure which features strong service components rather than a more unified approach; overwhelming service influence over the component commands of the unified commands; absence of independent, integrated, uniform readiness assessments by unified commanders from an overall theater perspective; and headquarters organizations which are not staffed to relate readiness assessments to resource allocation recommendations. The Secretary of Defense should assess the appropriate position of the unified and specified commanders in the joint military organization and insure that they are equipped to meet the requirements of that position.

The serious problems summarized here by no means exhaust the issues which the hearings on JCS reorganization revealed. Those hearings should be studied carefully by the Department of Defense. And the above issues, as well as many other discussed by a host of conscientious and thoughful witnesses, should be addressed expeditiously.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 17, 1982, TO FILE CONFERENCE REPORT ON H.R. 6955

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill, H.R. 6955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. WHITE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITEHURST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill, H.R. 6954.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6954, just passed.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, WEDNESDAY, AND THURSDAY OF THIS WEEK DURING 5-MINUTE RULE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is meeting under the 5-minute rule on Tuesday, Wednesday, and Thursday of this week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON S. 2248

Mr. PRICE submitted the following conference report and statement on the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-749)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1983".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, weapons and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $2,541,600,000.

For missiles, $2,846,600,000.

For weapons and tracked combat vehicles, $4,707,600,000.

For ammunition, $2,486,400,000.

For other procurement, $4,391,100,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft for the Navy in the amount of $11,304,600,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,058,600,000.

For the MK-48 torpedo program $134,300,000.

For the MK-46 torpedo program $141,200,000.

For the MK-60 torpedo program $151,400,000.

For the MK-30 mobile target program, $19,400,000.

For the MK-38 mini-mobile target program, $2,300,000.

For the anti-submarine rocket (ASROC) program, $10,100,000.

For the modification of torpedoes, $89,300,000.

For the torpedo support equipment program, $66,900,000.

For the MK-15 close-in weapons system program, $118,700,000.

For the MK-75 76-millimeter gun mount program, $10,700,000.

For the MK-19 gun mount program, $400,000.

For the 25-millimeter gun mount program, $400,000.

For the modification of guns and gun mounts, $19,700,000.

For the guns and gun mounts support equipment program, $17,500,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1983 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,786,000,000.

For the CVN nuclear aircraft carrier program, $6,795,300,000.

For the SSN-688 nuclear attack submarine program, $1,443,400,000.

For the battleship reactivation program, $417,400,000.

For the aircraft carrier service life extension program, $699,500,000.

For the CG-47 Aegis cruiser program, $3,134,400,000.

For the LSD-41 landing ship dock program, $417,000,000.

For the LHD-1 air-capable amphibious ship program, $55,000,000.

For the FFG-7 guided missile frigate program, $706,400,000, of which $40,000,000 is available only for an X-band phased array radar.

For the mine countermeasures (MCM) ship program, $371,600,000.

For the T-AO fleet oiler ship program, $320,000,000.

For the ARS salvage ship program, $84,000,000.

For the TAKRX fast logistic ship program, $322,600,000.

For the TAHX hospital ship program, $300,000,000.

For service craft and landing craft, $162,100,000.

For outfitting, post delivery, cost growth, and escalation on prior year programs, $828,100,000.

For ship contract design, $97,200,000.

For the manufacturing technology program, $25,000,000.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1983 for other procurement for the Navy in the amount of $3,936,500,000, of which—

(1) the sum of $568,900,000 is available only for the ship support equipment program;

(2) the sum of $1,484,600,000 is available only for the communications and electronics equipment program; and

(3) the sum of $786,200,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement for the Marine Corps (including missiles, tracked

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combat vehicles, and other weapons) in the amount of $2,131,600,000.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $17,485,700,000.
For missiles, $6,038,700,000.
For other procurement, $5,656,700,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of $186,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1983 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

(c) Of the funds authorized to be appropriated in this section for missiles for the Air Force, the sum of $988,000,000 is available only for the Advanced Intercontinental Ballistic Missile (MX) program. Of such amount, $158,000,000 is authorized for basing and deployment and may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 104. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, and other procurement for the reserve components of the Armed Forces as follows:

For the Army National Guard, $50,000,000.
For the Air National Guard, $30,000,000.
For the Army Reserve, $30,000,000.
For the Naval Reserve, $30,000,000.
For the Marine Corps Reserve, $30,000,000.
For the Air Force Reserve, $30,000,000.

(b) The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 105. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement by the Defense agencies in the amount of $859,600,000.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1982, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983".

REQUIREMENTS RELATING TO MULTIYEAR CONTRACTS FOR CERTAIN EQUIPMENT

SEC. 107. (a) Notwithstanding any other provision of law, a multiyear contract for the procurement of any of the equipment listed in subsection (b) may not be entered into until—

(1) the Secretary of the military department concerned has submitted to the Committees on Armed Services of the Senate and House of Representatives a written report setting forth the justification for entering into a multiyear contract for the procurement of the equipment concerned; and

(2) a period of 30 days has elapsed after the date on which the report is received by those committees.

(b) The equipment referred to in subsection (a) is the following:

(1) F-111 weapon navigation computers.
(2) C-2 aircraft.
(3) EA-6B aircraft.
(4) A-6E aircraft.
(5) MULE laser designators.
(6) CH-53E helicopters.
(7) MLRS rocket systems.
(8) ALQ-136 radio jammers.

ENHANCEMENT OF NORTH AMERICAN AIR DEFENSE COMMAND LOW LEVEL RADAR CAPABILITIES IN FLORIDA

SEC. 108. The Secretary of the Air Force, using funds available under section 103, may acquire one tethered aerostat radar set (of the type currently in use at Cudjoe Key, Florida) for deployment at Kennedy Air Force Station, Florida. Concurrently with such procurement, the Secretary shall provide for necessary improvements to the radar set to be acquired and the existing set at Cudjoe Key, Florida. Such improvements and the operation and maintenance of such radar sets may be provided using funds available under this Act.

SECURE COMMUNICATIONS EQUIPMENT AND A SPECIAL CLASSIFIED PROGRAM

SEC. 109. The Secretary of Defense is authorized to procure secure telephone communication systems, including equipment and related items, during fiscal year 1983 for the Department of Defense and other government agencies and entities to support a national program to provide secure telephone service. Of the funds authorized to be appropriated pursuant to this title, not more than $50,000,000 may be used to provide secure telephone equipment and related items to the Department of Defense and other government agencies and entities in support of such a national program. Equipment provided to government agencies and entities outside the Department of Defense under the authority of this section and such related services as may be necessary may be furnished by the Secretary of Defense without reimbursement. In addition, of the funds authorized to be appropriated pursuant to this Act, not more than $132,000,000 is authorized for a special classified program.

PROHIBITION OF ACQUISITION OF 9-MILLIMETER HANDGUN

SEC. 110. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended in connection with the purchase of a 9-millimeter handgun for the Armed Forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, $3,926,367,000.

For the Navy (including the Marine Corps), $6,179,115,000.

For the Air Force, $10,720,884,000, of which $1,000,000 is available only for research, development, test, and evaluation of the C-17 type cargo transport aircraft.

For the Defense Agencies, $2,271,503,000, of which $55,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

(c) Of the total amount authorized to be appropriated in this section for research, development, test, and evaluation for the Air Force related to the basing of the MX missile system, $715,000,000 may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the long-term basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

LIMITATION ON FUNDS FOR THE NAVY

SEC. 202. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) $12,000,000 is available only for the development of a derivative of the Firebolt advanced aerial target;

(2) $15,000,000 is available only for the phased array radar improvement program for the Mark 92 fire control system;

(3) $60,000,000 is available only for the development, test, evaluation, and initial deployment of the 5-inch semi-active laser guided projectile and the Seafire electro-optical fire control system;

(4) $26,500,000 is available only for the Medium-Range Air-to-Surface Missile (MRASM) system;

(5) $138,595,000 is available, subject to subsection (b), only for the DDG–X (DDG–51) ship program;

(6) $900,000,000 is available only for Surface Warfare programs; and

(7) $5,555,000 is available only for the development of an advanced mine to replace the Captor mine.

(b) None of the funds appropriated pursuant to the authorization of appropriations in section 201 for the Navy may be obligated or expended for the DDG–X (DDG–51) ship program until the Secretary of the Navy has submitted to the Committees on Armed Services of the Senate and House of Representatives a plan for the deployment of the 5-inch semi-active laser guided projectile and Seafire electro-optical fire control system concurrently with the deployment of the DDG–51 lead ship.

REQUIREMENT FOR COMPETITION BETWEEN THE AIR FORCE LANTIRN AND FLIR SYSTEMS

SEC. 203. No funds appropriated pursuant to this title for the Air Force may be obligated or expended for the development of the Low Altitude Navigation Targeting System for Night (LANTIRN) system until the Secretary of the Air Force submits to the Commit-

tees on Armed Services and Appropriations of the Senate and House of Representatives a written statement certifying that the LANTIRN program has been restructured to provide a competitive demonstration between the current LANTIRN System and a suitably modified version of the Navy's F/A-18 aircraft FLIR system. The Secretary of the Air Force may not enter into any contract for the production of the Targeting Infrared for Night (TIRN) System until after a competitive demonstration between the LANTIRN System and the suitably modified version of the Navy's F/A-18 aircraft FLIR System has been carried out.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $16,750,050,000.

For the Navy, $21,702,550,000.

For the Marine Corps, $1,472,500,000.

For the Air Force, $17,339,500,000.

For the Defense Agencies, $5,693,650,000.

For the Army Reserve, $704,889,000.

For the Navy Reserve, $671,700,000.

For the Marine Corps Reserve, $51,115,000.

For the Air Force Reserve, $766,300,000.

For the Army National Guard, $1,166,900,000.

For the Air National Guard, $1,779,000,000.

For the National Board for the Promotion of Rifle Practice, $875,000.

For Defense Claims, $172,500,000.

For the Court of Military Appeals, $3,210,000.

(b) There are authorized to be appropriated for fiscal year 1983, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a);

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by subsection (a).

LIMITATION ON FUNDS FOR SHIP OVERHAULS

SEC. 302. Of the amount appropriated pursuant to authorizations of appropriation in section 301 for the Navy, not more than $2,756,000,000 may be obligated or expended for ship overhauls.

RESTRICTION ON LONG-TERM LEASES OF VESSELS FOR THE NAVY

SEC. 303. (a) None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended in connection with a long-term lease of a vessel for the Navy if the lease includes a substantial termination liability unless and until (1) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed lease, and (2) a period of 30 days has elapsed after the date on which such committees receive such notification. Any such notification shall include a description of the terms of the proposed lease and a justification for entering into such a lease rather than obtaining the vessel involved by acquisition.

(b) Subsection (a) does not apply with respect to the lease of a vessel if the vessel was being leased by the Navy on September 30, 1982.

T-5 REPLACEMENT TANKER PROGRAM

SEC. 304. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title for the Navy may be obligated or expended for any activity in connection with the lease of any vessel associated with the T-5 Replacement Tanker program which has a main propulsion system or any other major component not built in the United States.

(b) Subsection (a) does not apply with respect to the lease of a vessel if a contract for the lease of that vessel results from a request for proposal circulated before July 1, 1982.

LIMITATION ON STUDIES OF CONTRACTING-OUT OF CERTAIN COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 305. (a)(1) Except as provided in paragraph (2), funds appropriated pursuant to an authorization of appropriations in this title may not be obligated or expended in connection with any study begun during the period beginning on October 1, 1982, and ending on March 31, 1983, of the benefits or feasibility of contracting for performance by contractor personnel of any commercial or industrial type function or activity of the Department of Defense being performed by Department of Defense personnel on September 30, 1982.

(2) Paragraph (1) does not prohibit the obligation or expenditure of funds in connection with—

(A) any study the purpose of which is to determine the most efficient and cost effective organization of any commercial or industrial type function of the Department of Defense for performance by Department of Defense personnel; or

(B) any study carried out with respect to the contracting for the performance by contractor personnel, rather than Department of Defense personnel, of any of the following:

(i) Custodial functions.

(ii) Laundry functions.

(iii) Refuse collection functions.

(iv) Grounds maintenance functions.

(v) Food service and preparation functions (other than commissaries).

(vi) Base transportation functions.

(b) Of the total amount of funds authorized in this title, $283,800,000 is available only for salaries and other costs for the employment of and performance of functions by direct-hire civilian employees of the Department of Defense in excess of 947,000 such employees.

TITLE IV—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

(1) The Army, 782,500.

(2) The Navy, 560,300.

(3) The Marine Corps, 194,600.

(4) The Air Force, 592,600.

AUTHORITY TO EXCEED END-STRENGTH AUTHORIZATIONS

SEC. 402. (a) Section 138(c)(1)(A) of title 10, United States Code, is amended by inserting the following new sentence after the first sentence: "The end strength authorized for a component of the armed forces for a fiscal year may be increased by a number equal to not more than 0.5 percent of the total end strength authorized for such component for that fiscal year if the Secretary of Defense determines that such increase is in the national interest.".

(b) The amendment made by subsection (a) shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981.

QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

SEC. 403. Effective on October 1, 1982, section 302(a) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 10 U.S.C. 520 note), is amended by striking out "October 1, 1981" and "September 30, 1982" and inserting in lieu thereof "October 1, 1982" and "September 30, 1983", respectively.

SAVING PROVISION FOR CERTAIN ACCRUED LEAVE

SEC. 404. A member of the Armed Forces who was authorized under section 701(f) of title 10, United States Code, to accumulate 90 days leave during fiscal year 1980 and who lost any leave at the end of fiscal year 1981 shall be credited with the amount of the leave lost and may retain leave in excess of 60 days until the end of fiscal year 1982, but in no case may a member accumulate leave in excess of 90 days.

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

SEC. 501. (a) For fiscal year 1983 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 407,400.

(2) The Army Reserve, 258,700.

(3) The Naval Reserve, 105,500.

(4) The Marine Corps Reserve, 38,300.

(5) The Air National Guard of the United States, 101,100.

(6) The Air Force Reserve, 66,000.

(7) The Coast Guard Reserve, 12,000.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

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(1) The Army National Guard of the United States, 14,419.

(2) The Army Reserve, 8,251.

(3) The Navy Reserve, 12,038.

(4) The Marine Corps Reserve, 678.

(5) The Air National Guard of the United States, 5,158.

(6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 503. (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	265	156	132	6
E–8	1,244	329	441	56".

(b) The columns under the headings "Army", "Air Force", and "Marine Corps" in the table in section 524(a) of such title are amended to read as follows:

"Army	Air Force	Marine Corps
1,351	281	95
671	267	40
234	170	21".

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1983, of 1,050,060.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c)(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1983 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 78,311.

(2) The Navy, 66,930.

(3) The Marine Corps, 20,435.

(4) The Air Force, 48,769.

(5) The Army National Guard of the United States, 18,052.

(6) The Army Reserve, 14,579.

(7) The Naval Reserve, 1,000.

(8) The Marine Corps Reserve, 2,971.

(9) The Air National Guard of the United States, 2,328.

(10) The Air Force Reserve, 1,351.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

EXTENSION OF REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS

SEC. 702. Section 602 of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 94 Stat. 1087), is amended by striking out "August 31, 1982" and inserting in lieu thereof "August 31, 1983".

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1983 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251–2297) the sum of $152,340,000.

AMOUNT AUTHORIZED FOR CONTRIBUTION FOR STATE PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 802. Notwithstanding the second proviso of section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260), $60,000,000 of the amount authorized to be appropriated by the first section of this Act is available for appropriations for contributions to the States under section 205 of such Act (50 U.S.C. App. 2286) for personnel and administrative expenses.

TITLE IX—SUPPLEMENTAL AUTHORIZATIONS FOR FISCAL YEAR 1982

PROCUREMENT

SEC. 901. In addition to the funds authorized to be appropriated in title I of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1099), there is hereby authorized to be appropriated to the Air Force for fiscal year 1982 for procurement of aircraft the sum of $120,000,000.

OPERATION AND MAINTENANCE

SEC. 902. In addition to the funds authorized to be appropriated in title III of the Department of Defense Authorization Act, 1982, funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for operation and maintenance in amounts as follows:

For the Army, Army Reserve, and Army National Guard, $6,600,000.

For the Navy, the Naval Reserve, and the Marine Corps, $5,000,000.

For the Air Force, Air Force Reserve, and Air National Guard, $25,000,000.

For the Defense Agencies and other Defense-wide activities, $25,800,000.

INCREASE IN END STRENGTH AUTHORIZED FOR THE ARMY FOR FISCAL YEAR 1982

SEC. 903. Section 401 of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1104), is amended by striking out "Army, 780,300" and inserting in lieu thereof "Army, 782,500".

TITLE X—FORMER SPOUSES' PROTECTION

SHORT TITLE

SEC. 1001. This title may be cited as the "Uniformed Services Former Spouses' Protection Act".

PAYMENT OF RETIRED AND RETAINER PAY

SEC. 1002. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

"(2) 'Court order' means a final decree of divorce, dissolution, annulment, or legal *separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—*

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))";

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))"; or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

"(3) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(4) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled (other than the retired pay of a member retired for disability under chapter 61 of this title) less amounts which—

"(A) are owed by that member to the United States;

"(B) are required by law to be and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

"(5) 'Member' includes a former member.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

"(b) For the purposes of this section—

"(1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face;

"(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

"(D) the court order or other documents served with the court order certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) were observed; and

"(2) a court order is regular on its face if the order—

"(A) is issued by a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order a member to apply for retirement or retire at a particular time in order to effectuate any payment under this section.

"(4) A court may not treat the disposable retired or retainer pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court.

"(d)(1) After effective service on the Secretary concerned of a court order with respect to the payment of a portion of the retired or retainer pay of a member to the spouse or a former spouse of the member, the Secretary shall, subject to the limitations of this section, make payments to the spouse or former spouse in the amount of the disposable retired or retainer pay of the member specifically provided for in the court order. In the case of a member entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date of effective service. In the case of a member not entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date on which the member first becomes entitled to receive retired or retainer pay.

"(2) If the spouse or former spouse to whom payments are to be made under this section was not married to the member for a period of 10 years or more during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired or retainer pay, payments may not be made under this section to the extent that they include an amount resulting from the treatment by the court under subsection (c) of disposable retired or retainer pay of the member as property of the member or property of the member and his spouse.

"(3) Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with a court order.

"(4) Payments from the disposable retired or retainer pay of a member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

"(5) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired or retainer pay.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) may not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse from the disposable retired or retainer pay of a member, such pay shall be used to satisfy (subject to the limitations of paragraph (1)) such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i); and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less any amount paid during such month pursu-

ant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amount paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i); and

"(II) the amount of disposable retired or retainer pay retained under clause (ii).

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to a member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay that exceeds the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4), shall not be considered to be irregular on its face solely for that reason. However, such order shall be considered to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the maximum amount of disposable retired or retainer pay permitted under paragraph (1) and subparagraph (B) of paragraph (4).

"(6) Nothing in this section shall be construed to relieve a member of liability for the payment of alimony, child support, or other payments required by a court order on the grounds that payments made out of disposable retired or retainer pay under this section have been made in the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4). Any such unsatisfied obligation of a member may be enforced by any means available under law other than the means provided under this section in any case in which the maximum amount permitted under paragraph (1) has been paid and under section 459 of the Social Security Act (42 U.S.C. 659) in any case in which the maximum amount permitted under subparagraph (B) of paragraph (4) has been paid.

"(f)(1) The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h).

"(2) An officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(g) A person receiving effective service of a court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy of such order) to the member affected by the court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations for the administration of this section.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

ANNUITIES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1003. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(10) 'Regular on its face,' when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

"(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a written agreement entered into voluntarily with the former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether the election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)".

(d) Section 1450(f) of such title is amended to read as follows:

"(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title.

"(2) A person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) unless—

"(A) in a case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in a case in which such agreement has not been incorporated or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 1004. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (D);

(2) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan.".

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072(2)(F) of this title may be provided medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause.".

(c) Section 1086(c) of such title is amended by inserting after clause (2) the following new clause:

"(3) A dependent covered by section 1072(2)(F) of this title.".

COMMISSARY AND EXCHANGE PRIVILEGES

SEC. 1005. The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of title 10, United States Code (as added by section 904), is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

EFFECTIVE DATES AND TRANSITION

SEC. 1006. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of the enactment of this title.

(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 1002(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of this title, but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

(c) The amendments made by section 1003 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan provided for in subchapter II of chapter 73 of title 10, United States Code, before, on, or after the effective date of such amendments.

(d) The amendments made by section 1004 of this title and the provisions of section 1005 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 1002 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(a)(6) of such title (as added by section 1002 of this title); and

(3) the term "uniformed services" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 1002 of this title).

TITLE XI—GENERAL PROVISIONS

TRANSFER AUTHORITY

SEC. 1101. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

WAIVER OF AUTHORIZATION REQUIREMENT FOR CERTAIN PREVIOUSLY APPROPRIATED FUNDS

SEC. 1102. The provisions of section 138(a) of title 10, United States Code, providing that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law shall not apply with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

(1) Procurement of aircraft for the Army.

(2) Procurement of aircraft for the Air Force.

(3) Procurement of missiles for the Air Force.

(4) Operations and maintenance for Defense-wide activities.

INCREASE IN AUTHORIZATION FOR SPECIAL DEFENSE ACQUISITION FUND

SEC. 1103. Section 138(g) of title 10, United States Code, is amended—

(1) by striking out "and" after "1982" and inserting in lieu thereof a comma; and

(2) by inserting ", and may not exceed $900,000,000 in fiscal year 1984" after "1983".

INCREASE IN DOLLAR THRESHOLD FOR REPORTS TO CONGRESS REGARDING TRANSFER OF DEFENSE ARTICLES

SEC. 1104. Section 813 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 133 note), is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

REPORTS ON FUNDING OF TECHNOLOGY TRANSFER CONTROL POLICY

SEC. 1105. Section 138 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.".

LIMITATION ON DEFENSE FUNDS FOR SPACE SHUTTLE

SEC. 1106. Notwithstanding any other provision of law, during fiscal year 1983 the Secretary of Defense shall not transfer funds to the Administrator of the National Aeronautics and Space Administration to pay any part of the cost of placing Department of Defense payloads into orbit by means of the Space Shuttle except in accordance with laws in effect on July 1, 1982, and interagency agreements made pursuant to such laws.

IMPROVED OVERSIGHT OF COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. 1107. (a)(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 139 the following new sections:

"§139a. Oversight of cost growth in major programs: Selected Acquisition Reports

"(a) In this section:

"(1) 'Major defense acquisition program' means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

"(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).

"(2) 'Program acquisition unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

"(3) 'Procurement unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total of all procurement funds appropriated for the program for a fiscal year, reduced by the amount of funds appropriated for such

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fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year, divided by (B) the number of fully-configured end items to be procured with such funds during such fiscal year.

"(4) 'Major contract', with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program that is one of the six largest contracts under the program in dollar amount.

"(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

"(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and there has been no change in program cost, performance, or schedule since the most recent such report.

"(3) A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives.

"(c) Each Selected Acquisition Report for the first quarter of a fiscal year shall include (1) the same information, in detailed and summarized form, as is provided in reports submitted under section 139 of this title, (2) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (3) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

"(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

"(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (e); and

"(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

"(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

"(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

"(1) The quantity of items to be purchased under the program.

"(2) The program acquisition cost.

"(3) The program acquisition unit cost.

"(4) The current procurement cost for the program.

"(5) The current procurement unit cost for the program.

"(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

"(7) The major contracts under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(8) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(9) Program highlights since the last Selected Acquisition Report.

"(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 30 days after the end of the fiscal-year quarter. If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report.

"§ 139b. Oversight of cost growth of major programs: unit cost reports

"(a) In this section:

"(1) 'Major defense acquisition program', 'program acquisition unit cost', 'procurement unit cost', and 'major contract' have the same meanings as provided in section 139a(a) of this title.

"(2) 'Baseline Selected Acquisition Report', with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means the Selected Acquisition Report in which information on the program is first included or the comprehensive annual Selected Acquisition Report for the fiscal year immediately before the fiscal year containing the quarter with respect to which the unit cost report is submitted, whichever is later.

"(3) 'Procurement program' means a program for which funds for procurement are authorized to be appropriated in a fiscal year.

"(b) The program manager for a defense acquisition program that as of the end of a fiscal-year quarter is a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 139a(b)(3) of this title) shall, not more than 7 days after the end of that quarter, submit to the Secretary concerned a written report on the unit costs of the program. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

"(1) The program acquisition unit cost.

"(2) In the case of a procurement program, the procurement unit cost.

"(3) Any cost variance or schedule variance in a major contract under the program since the baseline Selected Acquisition Report was submitted.

"(4) Any changes from program schedule milestones or program performances reflected in the baseline Selected Acquisition Report that are known, expected, or anticipated by the program manager.

"(c)(1) If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under subsection (b) determines at any time during a fiscal-year quarter that there is reasonable cause to believe—

"(A) that the program acquisition unit cost for the program has increased by more than 15 percent over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report;

"(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 15 percent over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report; or

"(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent over the cost of the contract as of the time the contract was made;

and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the Secretary concerned during the current fiscal year (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year), then the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required under subsection (b).

"(2) If in any fiscal year the program manager for a major defense acquisition program has submitted to the Secretary concerned a unit cost report (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year) indicating an increase of 15 percent or more in a category described in clauses (A) through (C) of paragraph (1) and subsequently determines that there is reasonable cause to believe—

"(A) that the current program acquisition unit cost of the program has increased by more than 5 percent over the current program acquisition unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

"(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 5 percent over the current procurement unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program; or

"(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 5 percent over the cost of the contract as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required by subsection (b).

"(d)(1) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program, the Secretary shall determine whether the current program acquisi-

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tion unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report.

"(2) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program that is a procurement program, the Secretary concerned shall, in addition to the determination under paragraph (1), determine whether the current procurement unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report.

"(3) If the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2)—

"(A) the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the unit cost report that is the basis for such determination was submitted to him and shall include in such notification the date on which the determination was made; and

"(B) except as provided in subsection (e), additional funds may not be obligated in connection with such program—

"(i) after the end of the 30-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 15 but less than 25 percent; or

"(ii) after the end of the 60-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 25 percent.

"(e)(1) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply in the case of a determination of a 15 percent increase (as determined under subsection (d)) if the Secretary concerned submits to Congress, before the end of the 30-day period referred to in such subsection, a report containing the information described in subsection (g).

"(2) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply, in the case of a determination of a 25 percent increase (as determined under subsection (d))—

"(A) if the increase was due to termination or cancellation of the acquisition program; or

"(B) if the Secretary of Defense submits to Congress, before the end of the 60-day period referred to in such subsection—

"(i) a written certification stating that—

"(I) such acquisition program is essential to the national security;

"(II) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(III) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(ii) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report.

"(3) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program shall cease to apply in the case of a program to which it would otherwise apply if, after such prohibition has taken effect, the Committees on Armed Services of the Senate and House of Representatives waive the prohibition with respect to such program.

"(f) Any determination of a percentage increase under this section shall include expected inflation.

"(g)(1) Except as provided in paragraph (2), each report under subsection (e) with respect to a major defense acquisition program shall include the following:

"(A) The name of the major defense acquisition program.

"(B) The date of the preparation of the report.

"(C) The program phase as of the date of the preparation of the report.

"(D) The estimate of the program acquisition cost for the program as shown in the Selected Acquisition Report in which the program was first included, expressed in constant base-year dollars and in current dollars.

"(E) The current program acquisition cost in constant base-year dollars and in current dollars.

"(F) A statement of the reasons for any increase in program acquisition unit cost or procurement unit cost.

"(G) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(H) The fiscal year in which information on the program was first included in a Selected Acquisition Report (referred to in this paragraph as the 'base year') and the date of that Selected Acquisition Report in which information on the program was first included.

"(I) The date of the baseline Selected Acquisition Report.

"(J) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

"(K) The current change and the total change, in dollars and expressed as a percentage, in the procurement unit cost, stated both in constant base-year dollars and in current dollars.

"(L) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

"(M) The identities of the military and civilian officers responsible for program management and cost control of the program.

"(N) The action taken and proposed to be taken to control future cost growth of the program.

"(O) Any changes made in the performance or schedule milestones of the program and the extent to which such changes have contributed to the increase in program acquisition unit cost or procurement unit cost.

"(P) The following contract performance assessment information with respect to each major contract under the program:

"(i) The name of the contractor.

"(ii) The phase that the contract is in at the time of the preparation of the report.

"(iii) The percentage of work under the contract that has been completed.

"(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

"(v) The percentage by which the contract is currently ahead of or behind schedule.

"(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.

"(2) If a program acquisition unit cost increase or a procurment unit cost increase for a major defense acquisition program that results in a report under this subsection is due to termination or cancellation of the entire program, only the information specified in clauses (A) through (F) of paragraph (1) and the percentage change in program acquisition unit cost or procurement unit cost that resulted in the report need be included in the report.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 139 the following new items:

"139a. Oversight of cost growth in major programs: Selected Acquisition Reports.

"139b. Oversight of cost growth in major programs: unit cost reports.".

(b) Section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note), is repealed.

(c) Sections 139a and 139b of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) shall take effect on January 1, 1983.

OVERSIGHT OF DEFENSE EXPENDITURES

SEC. 1108. (a) Concurrent with the submission of the budget to Congress for fiscal year 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report concerning the strength requested in such budget for civilian personnel for the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service. Such report shall state the number of such personnel at the end of fiscal year 1982, the number at the time the report is submitted, and the number requested in that budget and shall include a justification for the number requested. The report shall also include the opinion of the Secretary of Defense on whether the number requested is sufficient for those agencies to accomplish their functions with respect to the reduction of waste, fraud, and abuse in defense expenditures during the next fiscal year, particularly in light of any increases (in real terms) in the levels of appropriations requested in that budget for operations, procurement of new equipment, and

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for research, development, test, and evaluation.

(b) The Secretary shall include in the report under subsection (a) information concerning the savings in defense expenditures achieved by the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service during fiscal year 1982, including a statement for each agency of the amount of such cost savings achieved as a percentage of the number of dollars spent by such agency during such year.

CONTINUATION OF TEST PROGRAM TO AUTHORIZE PRICE DIFFERENTIAL TO RELIEVE ECONOMIC DISLOCATIONS

SEC. 1109. (a) The Secretary of Defense should conduct a test program during fiscal year 1983 in accordance with this subsection to test the effect of exempting certain contracts of the Department of Defense from the provisions of section 2392 of title 10, United States Code, and paying a price differential under such contracts for the purpose of relieving economic dislocations. Under such test program, the Secretary of Defense may exempt from the provisions of such section any contract (other than a contract for the purchase of fuel) made by the Defense Logistics Agency during fiscal year 1983 if the contract is to be awarded to an individual or firm located in a Labor Surplus Area (as defined and identified by the Department of Labor) and if the Secretary determines—

(1) that the awarding of such contract will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that the award of such contract will be made at reasonable cost to the United States;

(3) that the price differential to be paid under such contract will not exceed 2.2 percent; and

(4) the value of such contract, when added to the cumulative value of all other contracts awarded under the test program authorized by this section, will not exceed $4,000,000,000.

(b) Not later than April 15, 1983, the President shall submit a report to Congress on the implementation and results to that date of the test program authorized by subsection (a). The report shall include an assessment of the costs and benefits of the test program.

PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

SEC. 1110. None of the funds appropriated pursuant to an authorization of appropriations in this or any other Act may be used for the purpose of consolidating any of the functions being performed on the date of the enactment of this Act by the Military Traffic Management Command of the Army, the Military Sealift Command of the Navy, or the Military Airlift Command of the Air Force with any function being performed on such date by either or both of the other commands.

PROHIBITION REGARDING CONTRACTS FOR THE PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

SEC. 1111. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to enter into any contract for the performance of firefighting functions or security-guard functions at any military installation or facility, except when such funds are for the express purpose of providing for the renewal of contracts in effect on the date of the enactment of this Act.

MODIFICATION OF REPORTS ON CONVERSION OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE

SEC. 1112. (a) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), is amended—

(1) by striking out "Department of Defense personnel" each time it appears and inserting in lieu thereof "Department of Defense civilian employees"; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Except as provided in subsection (a)(1), subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 10 or fewer Department of Defense civilian employees.

"(e) In no case may any commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a)(2) the conversion of all or any part of such function to performance by a private contractor.

"(f) The provisions of this section shall not apply during war or a period of national emergency declared by the President or the Congress.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1113. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) Any person who is required under section 3 to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.

"(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

"(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

"(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV for failure to meet the registration requirements of section 3 and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than 30 days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.".

(b) The amendment made by subsection (a) shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning after June 30, 1983.

MILITARY RECRUITING INFORMATION

SEC. 1114. (a) The Congress finds that in order for Congress to carry out effectively its constitutional authority to raise and support armies, it is essential—

(1) that the Secretary of Defense obtain and compile directory information pertaining to students enrolled in secondary schools throughout the United States; and

(2) that such directory information be used only for military recruiting purposes and be retained in the case of each person with respect to whom such information is obtained and compiled for a limited period of time.

(b)(1) Section 503 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "The Secretary"; and

(B) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary of Defense may collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade (or its equivalent) or higher and who is enrolled in a secondary school in the United States or its territories, possessions, or the Commonwealth of Puerto Rico.

"(2) The Secretary may make directory information collected and compiled under this subsection available to the armed forces for military recruiting purposes. Such information may not be disclosed for any other purpose.

"(3) Directory information pertaining to any person may not be maintained for more than three years after the date the information pertaining to such person is first collected and compiled under this subsection.

"(4) Directory information collected and compiled under this subsection shall be confidential, and a person who has had access to such information may not disclose such information except for the purposes described in paragraph (2).

"(5) The Secretary of Defense shall prescribe regulations to carry out this subsection. Regulations prescribed under this subsection shall be submitted to the Committees on Armed Services of the Senate and House of Representatives. Regulations prescribed by the Secretaries concerned to carry out this subsection shall be as uniform as practicable.

"(6) Nothing in this subsection shall be construed as requiring, or authorizing the Secretary of Defense to require, that any educational institution furnish directory information to the Secretary.

"(7) In this subsection, 'directory information' means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational agency or institution attended by the student.".

(2) The heading for such section is amended to read as follows:

"§ 503. Enlistments: recruiting campaigns; compilation of directory information".

(3) The item relating to such section in the table of sections at the beginning of chapter

31 of such title is amended to read as follows:

"503. Enlistments: recruiting campaigns; compilation of directory information.".

(c)(1) Chapter 31 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 520a. Criminal history information for military recruiting purposes

"(a) Each State and each unit of general local government of a State is requested to make available, upon request, to the Secretary concerned any criminal history information maintained by or available to such State or unit of general local government which pertains to any person who, within 90 days before the date on which such information was requested (1) has applied for enlistment in the armed forces, or (2) has applied, in connection with such person's application for enlistment, for participation in a program of the armed forces which requires a determination of the trustworthiness of persons who participate in such program.

"(b) In this section, 'criminal history information' means the following information with respect to any juvenile or adult arrest, citation, or conviction of any person referred to in subsection (a):

"(1) The offense involved.

"(2) The age of the person with respect to whom such information pertains.

"(3) The dates of the arrest, citation, and conviction, if any.

"(4) The place the offense was alleged to have been committed, the place of the arrest, and the court to which the case was assigned.

"(5) The disposition of the case.

"(c) Criminal history information received under this section shall be confidential, and a person who has had access to any information received under this section may not disclose such information except to facilitate military recruiting.

"(d) The Secretaries concerned shall prescribe regulations, which shall be as uniform as practicable, to carry out this section. Regulations prescribed under this section shall be submitted to the Committees on Armed Services of the Senate and House of Representatives.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520a. Criminal history information for military recruiting purposes.".

ACTIVE DUTY FOR TRAINING OF PERSONS ENLISTING IN A RESERVE COMPONENT OF THE ARMED FORCES

SEC. 1115. (a) The second sentence of section 511(d) of title 10, United States Code, is amended by striking out "180 days" and inserting in lieu thereof "270 days".

(b) The amendment made by this section shall be effective with respect to persons enlisting in a reserve component of the Armed Forces after the end of the 90-day period beginning on the date of the enactment of this Act.

TEMPORARY INCREASE IN NUMBER ON NAVY OFFICERS THAT MAY SERVE IN THE GRADE OF VICE ADMIRAL

SEC. 1116. During fiscal year 1983, the number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be on active duty in grades above rear admiral is increased by three. None of the additional officers in grades above rear admiral authorized by this section may be in the grade of admiral.

DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL

SEC. 1117. (a) The Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting "the Department of Defense," after "Commerce," in section 2(1);

(2) by redesignating subparagraphs (C) through (M) of section 9(a)(1) as subparagraphs (D) through (N), respectively;

(3) by inserting after subparagraph (B) of section 9(a)(1) the following new subparagraph:

"(C) of the Department of Defense, the offices of that department referred to as the 'Defense Audit Service' and the 'Office of Inspector General, Defense Logistics Agency', and that portion of the office of that department referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations;";

(4) by inserting "Defense," after "Commerce," in section 11(1); and

(5) by inserting "Defense," after "Commerce," in section 11(2).

(b) Section 8 of the Inspector General Act of 1978 is amended to read as follows:

"ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

"SEC. 8. (a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

"(b)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(A) sensitive operational plans;

"(B) intelligence matters;

"(C) counterintelligence matters;

"(D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

"(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within 30 days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

"(4) The Secretary shall, within 30 days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees.

"(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

"(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

"(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

"(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

"(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

"(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

"(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

"(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

"(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

"(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

"(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense.

"(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

"(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

"(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by,

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under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act."

(c) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is—

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

"(C) a part of an ongoing criminal investigation.

"(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

"(3) Nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"( ) Inspector General, Department of Defense."

(e) In addition to the positions transferred to the Office of the Inspector General of the Department of Defense, pursuant to the amendments made by subsection (a) of this section, the Secretary of Defense shall transfer to the Office of Inspector General of the Department of Defense not less than 100 additional audit positions. The Inspector General of the Department of Defense shall fill such positions with persons trained to perform contract audits.

EXTENSION OF PERIOD FOR TRANSFER OF DEFENSE DEPENDENTS' EDUCATION SYSTEM TO DEPARTMENT OF EDUCATION

SEC. 1118. The first sentence of section 302(a) of the Department of Education Organization Act (20 U.S.C. 3442) is amended by striking out "three years after the effective date of this Act" and inserting in lieu thereof "May 4, 1984".

OPEN ENROLLMENT PERIOD FOR RESERVES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1119. (a) Subsection (b) of section 212 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 383) is amended by striking out the period at the end and inserting in lieu thereof ", in the case of a member or former member of the uniformed services who on August 13, 1981, was entitled to retired or retainer pay, and the period beginning on October 1, 1982, and ending on September 30, 1983, in the case of a member or former member who on August 13, 1981, would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.".

(b) Subsection (e)(1) of such section is amended to read as follows:

"(1) The term 'eligible member' means a member or former member of the uniformed services who on August 13, 1981 (A) was entitled to retired or retainer pay, or (B) would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.".

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

SEC. 1120. Section 1006(c) of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 94 Stat. 1120), is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "March 1, 1982" and inserting in lieu thereof "March 1, 1983";

(3) by redesignating clauses (1) through (5) as clauses (A) through (E), respectively;

(4) by inserting "and their impact on mutual defense efforts" before the semicolon at the end of clause (A) (as so redesignated);

(5) by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983";

(6) by striking out "and" at the end of clause (D) (as so redesignated);

(7) by striking out the period at the end of clause (5) (as so redesignated) and inserting in lieu thereof a semicolon and "and"; and

(8) by adding after clause (E) the following:

"(F) a description of what additional actions the President plans to take should the efforts by the United States referred to in clauses (B) and (E) fail and, in those instances where such additional actions do not include consideration of the repositioning of elements of the Armed Forces of the United States, a detailed explanation as to why such repositioning is not being so considered.

"(2) If the report required by paragraph (1) as submitted to Congress is designated as having been classified, pursuant to Executive order, as requiring protection against unauthorized disclosure in the interest of national defense or foreign policy, then not later than 30 days after the submission of such report the Secretary shall submit to Congress a further report containing all the information in the initial report that does not require such protection.".

REPORT ON STANDARDIZATION OF NATO WEAPONS

SEC. 1121. Section 302(c) of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 402; 10 U.S.C. 2451 note), is amended by adding at the end thereof the following: "The Secretary shall also include in each such report—

"(1) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted;

"(2) a summary listing of the amount of funds appropriated for all such existing and planned programs for the fiscal year in which the report is submitted; and

"(3) a summary listing of the amount of funds requested, or proposed to be requested, for all such programs for each of the two fiscal years following the fiscal year for which the report is submitted.

Such report shall also include a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States during the fiscal year for which the report is submitted.".

NATO DEFENSE INDUSTRIAL COOPERATION

SEC. 1122. (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purpose;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

SEC. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and

the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by February 1, 1983. Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983, on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

Sec. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

COOPERATIVE MILITARY AIRLIFT AGREEMENTS

Sec. 1125. (a) Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2213. Cooperative military airlift agreements

"(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

"(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

"(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated not less often than once every three months by direct payment to the country that has provided the greater amount of transportation.

"(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

"(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

"(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

"(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

"(d) Notwithstanding chapter 138 of this title, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.

"(e) In this section:

"(1) 'Allied country' means any of the following:

"(A) A country that is a member of the North Atlantic Treaty Organization.

"(B) Australia or New Zealand.

"(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' has the meaning given to it by section 2331 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2213. Cooperative military airlift agreements.".

PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES

Sec. 1126. (a) The Secretary of a military department may, after the date of the enactment of this Act, enter into contracts for the purchase of administrative motor vehicles without regard to section 783 of Public Law 97-114.

(b) None of the funds appropriated pursuant to authorizations in this Act may be used by the Secretary of a military department to make a contract or agreement for the purchase of administrative motor vehicles that are manufactured outside the United States or Canada unless the contractor was selected through competitive bidding without a differential in favor of foreign manufacturers. This subsection does not apply to contracts for amounts less than $50,000 or to any contract or agreement in effect on the date of the enactment of this Act with the Federal Republic of Germany, the United Kingdom, or Italy, so long as the vehicles procured under such contract or agreement are standardized or interoperable with the vehicles of the host country.

RESTRICTION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

Sec. 1127. (a) Chapter 633 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§7309. Restriction on construction of naval vessels in foreign shipyards

"(a) Except as provided in subsection (b), no naval vessel, and no major component of the hull or superstructure of a naval vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when he determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"7309. Restriction on construction of naval vessels in foreign shipyards.".

PRIOR NOTIFICATION TO CONGRESS ON FOREIGN SOLE-SOURCE PROCUREMENTS

Sec. 1128. Subject to the provisions of chapter 138 of title 10, United States Code (relating to North Atlantic Treaty Organization mutual support), none of the funds authorized to be appropriated in this Act may be used to enter into a prime contract for the purchase of a major article of equipment essential to the national defense from a manufacturer outside the United States that makes the United States dependent on that manufacturer as a sole source unless the Secretary of Defense has notified the Committees on Armed Services and Appropriations of the Senate and House of Representatives, in writing, of such proposed contract.

PURCHASE OF CHEMICAL WARFARE PROTECTIVE CLOTHING AND ITEMS CONTAINING SPECIALTY METALS FROM FOREIGN SOURCES

Sec. 1129. Section 723 of the Department of Defense Appropriations Act, 1982 (Public Law 97-114; 95 Stat. 1582) is amended by inserting after the first colon the following: "Provided, That nothing in this section shall preclude the procurement of specialty metals or chemical warfare protective cloth-

ing produced outside the United States or its possessions if such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or if such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within the North Atlantic Treaty Organization (NATO) so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and section 814 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 2351 note):".

RECOGNITION OF NATIONAL GUARD AND RESERVE FORCES

SEC. 1130. (a) The Congress finds that—

(1) the National Guard and Reserve Forces of the United States are an integral part of the total force policy of the United States for national defense and need to be ready to respond, on short notice, to augment the active military forces in time of national emergency;

(2) attracting and retaining sufficient numbers of qualified persons to serve in the Guard and Reserve is a difficult challenge during a period in which authority to induct persons for training and service in the Armed Forces is not provided by law; and

(3) the support of employers and supervisors in granting employees a leave of absence from their jobs to participate in military training without detriment to earned vacation time, promotions, and job benefits is essential to the maintenance of a strong Guard and Reserve force.

(b)(1) It is, therefore, the sense of Congress that the citizen-military volunteers who serve the Nation as members of the National Guard and Reserve require and deserve public recognition of the essential role they play in the national defense, and particularly require and deserve the support and cooperation of their civilian employers, in order to be fully ready to respond to national emergencies.

(2) The Congress recognizes, and requests all citizens to recognize, the vital need for a trained, ready National Guard and Reserve in the national defense posture of the United States and urges and requests employers and supervisors of employees who are members of the National Guard or Reserve to abide by the provisions of chapter 43 of title 38, United States Code, by granting a leave of absence for military training, exclusive of earned vacation, to employees who are members of the Guard and Reserve and by providing such employees equal consideration for job benefits and promotions as all other employees.

REPORT ON VISTA 1999 TASK FORCE REPORT

SEC. 1131. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of the report entitled "Vista 1999, A Long-Range Look at the Future of the Army and Air National Guard" submitted by the Chairman of the VISTA 1999 task force to the Chief of the National Guard Bureau on March 8, 1982. The study and evaluation shall include to the following:

(1) A detailed evaluation of the findings, conclusions, and recommendations of the "Vista 1999" study.

(2) The views of the Chief of the National Guard Bureau on the "Vista 1999" study.

(3) Any plans and recommendations for implementation of the recommendations of the "Vista 1999" study.

(b) The Secretary of Defense shall submit a report of the study and evaluation required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives no later than February 1, 1983.

MILITARY PERSONNEL CLAIM RESULTING FROM IRANIAN CRISIS

SEC. 1132. (a) The head of the military department having jurisdiction over Colonel Thomas E. Schaefer, United States Air Force, a member of the uniformed services who was held as a hostage in the Islamic Republic of Iran on or after November 4, 1979, and before January 22, 1981, may settle and pay an amount determined under subsection (b) for any claim against the United States made by such member for the loss of personal property in the Islamic Republic of Iran if the head of the military department determines that—

(1) the loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees;

(2) the loss was incurred on or after December 31, 1978, and before January 22, 1981;

(3) the property was owned and possessed in the Islamic Republic of Iran by the claimant and the ownership and possession of such property was appropiate and reasonable considering the official representational duties and responsibilities of the claimant; and

(4) the claimant had no reasonable opportunity to remove the property from the place where it was lost or could not reasonably have been expected to remove the property from such place before it was lost.

(b) The amount payable under subsection (a) shall be equal to the lesser of—

(1) the excess (if any) of the full replacement cost of the lost personal property over the total amount of compensation for the loss available in such case under section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) and from all other sources; or

(2) $75,000.

(c) A claim may be allowed under this section if it is presented in writing within one year after the date of enactment of this Act.

(d) The provisions of section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) that are not inconsistent with any provision of this section shall apply in the administration of this section.

(e) For the purposes of this section, the terms "agency", "uniformed services", "settle", and "military department" have the same meanings provided in section 2 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240).

USE OF CERTAIN GIFTS TO THE UNITED STATES MILITARY ACADEMY

SEC. 1133. (a) Under regulations prescribed by the Secretary of the Army, the Superintendent of the United States Military Academy may (without regard to section 2601 of title 10, United States Code) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the United States Military Academy or any entity thereof. The Secretary of the Army may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.

(b) This section applies with respect to any gift, devise, or bequest made on or after the date of the enactment of this Act for the purpose described in subsection (a) and applies to any such gift, devise, or bequest, or devise made before the date of the enactment of this Act with respect to which the Secretary of the Army has approved application of this section rather than section 2601 of title 10, United States Code.

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 1134. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "An Act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.".

And the House agree to the same.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL STRATTON,
RICHARD C. WHITE,
BILL NICHOLS,
JACK BRINKLEY,
ROBERT H. MOLLOHAN,
DAN DANIEL,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
ROBIN BEARD,
MARJORIE S. HOLT,

When difference regarding intelligence-related activities are under consideration:

EDWARD P. BOLAND,
NORMAN Y. MINETA,
J. K. ROBINSON,

Solely for consideration of section 1011 of the House amendment and modifications committed to conference:

JACK BROOKS,
L. H. FOUNTAIN,
DANTE B. FASCELL,
FRANK HORTON,
JOHN N. ERLENBORN,

Managers on the Part of the House.

JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,

J. Warner,
Gordon J. Humphrey,
Bill Cohen,
Roger W. Jepsen,
Dan Quayle,
Jeremiah Denton,
Nicholas F. Brady,
John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd, Jr.,
Sam Nunn,

For consideration of section 1122 pertaining to the Inspector General section of the bill:

Bill Roth,
Tom Eagleton,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees have agreed to authorizations in Titles I, II, III and VIII for procurement, research, development, test, and evaluation, operation and maintenance, and civil defense that total $177.9 billion. This figure is $5.6 billion below the President's budget request, comparable to the figures recommended in the Senate bill and $0.8 billion above the comparable figures in the House amendment. Both the Senate bill and House amendment contained general provisions that would have had the effect of altering the above figures, but these provisions were not agreed to by the conferees.

The Defense authorization bill provides authorizations for appropriations but does not provide budget authority. Budget authority for Department of Defense programs will be provided in appropriations bills. Because the first budget resolution provides for target levels of budget authority and outlays, there is not a direct relation between the Defense authorization bill and the budget resolution. Nevertheless the conferees were mindful that the Congress has adopted a budget resolution that targets a $9.8 billion reduction in budget authority to the President's budget for National Defense.

The conference agreement would make a reduction of $5.6 billion. The conferees believe that this reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Included are reductions in military pay, both active and retired, military construction and Department of Energy Military Application programs. Reductions in civilian pay from the levels assumed in the President's budget will result in further reductions. The conferees would also note that further adjustments in Department of Defense programs are usually made during the appropriations process.

SUMMARY OF CONFERENCE ACTION ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

[Dollars in thousands]

Item	February fiscal year 1983 request	House	Senate	Conference	Change from request
Procurement:					
Army:					
Aircraft	2,745,900	2,541,600	1,786,900	2,541,600	−204,300
Missiles	2,846,600	2,898,500	2,846,600	2,846,600	
Weapons and tracked combat vehicles	5,030,700	4,707,700	4,705,000	4,707,600	−323,100
Ammunition	2,639,000	2,410,600	2,733,400	2,486,400	−152,600
Other procurement	4,567,500	4,500,500	4,364,000	4,391,100	−176,400
Army National Guard equipment	0	0	50,000	50,000	+50,000
Army Reserve equipment	0	0	30,000	30,000	+30,000
Total, Army procurement	17,829,700	17,067,900	16,515,900	17,053,300	−776,400
Navy:					
Aircraft	11,582,300	11,424,500	11,167,800	11,304,600	−277,700
Weapons procurement	3,901,600	3,860,900	3,810,200	3,840,900	−60,700
Shipbuilding and conversion	18,648,300	18,228,400	18,368,700	17,965,000	−683,300
Other procurement	3,970,200	3,933,300	3,971,800	3,936,500	−33,700
Procurement, Marine Corps	2,300,700	1,984,900	2,198,700	2,131,600	−169,100
Navy Reserve equipment	0	0	30,000	30,000	+30,000
Marine Corps Reserve equipment	0	0	30,000	30,000	+30,000
Total, Navy procurement	40,403,100	39,432,000	39,577,200	39,238,600	−1,164,500
Air Force:					
Aircraft	17,756,700	17,243,400	17,783,800	17,485,700	−271,000
Missiles	6,827,900	6,333,300	5,269,800	6,038,700	−789,200
Other procurement	5,845,200	5,656,700	5,721,600	5,656,700	−188,500
Air Force Reserve equipment	0	0	30,000	30,000	+30,000
Air Force National Guard equipment	0	0	30,000	30,000	+30,000
Total, Air Force procurement	30,429,800	29,233,400	28,835,200	29,241,100	−1,188,700
Defense agencies procurement	890,300	863,400	859,600	859,600	−30,700
Total, procurement	89,552,900	86,596,700	85,787,800	86,392,600	−3,160,300
Research, development, test, and evaluation:					
Army	4,484,000	3,651,741	4,161,741	3,926,367	−557,633
Navy (including Marine Corps)	6,235,316	6,026,208	6,131,698	6,129,115	−106,201
Air Force	11,220,400	10,409,196	10,760,643	10,720,884	−499,516
Defense agencies	2,320,684	2,219,730	2,276,384	2,271,503	−49,181
Total, R.D.T. & E.	24,260,400	22,306,875	23,330,466	23,047,869	−1,212,531
Operation and maintenance:					
Army	18,638,775	18,554,775	18,675,775	18,622,714	−16,061
Navy (including Marine Corps)	24,348,985	23,722,215	24,075,915	23,897,865	−451,120
Air Force	20,472,800	19,783,900	19,937,300	19,884,800	−588,000
Defensewide activities	5,931,110	5,849,310	5,896,010	5,869,360	−61,750
Total, O. & M.	69,391,670	67,910,200	68,585,000	68,274,739	−1,116,931
Civil defense	252,340	252,340	144,530	152,340	−100,000
Grand total, authorization bill	183,457,310	177,866,115	177,847,796	177,867,548	−5,589,762

TITLE I.—PROCUREMENT, AIRCRAFT PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Fixed wing:								
C-12D (Huron)	6	11.0	12	22.0	6	11.0	12	22.0
RC-12D (Guardrail)	6	41.2	6	41.2	6	41.2	6	41.2
Rotary:								
EH-60A (Quickfix) advance procurement (CY)		33.3		25.4		25.4		25.4
AH-64 (Apache)	48	(824.7)	48	(777.7)	0	(137.4)	48	(774.4)
Less advance procurement (PY)		(−64.4)		(−64.4)		(−64.4)		(−64.4)
Net		760.3		713.3		73.0		710.0
AH-64 advance procurement (CY)		116.5		116.5		0		115.0
AH-1S (Cobra/Tow)		0	12	58.8		0	11	53.9
UH-60A (Black Hawk)	96	(569.2)	96	(483.6)	96	(483.6)	96	(483.6)
Less advance procurement (PY)		(−60.6)		(−60.6)		(−60.6)		(−60.6)
Net		508.6		423.0		423.0		423.0
UH-60A advance procurement (CY)		207.6		145.9		145.9		145.9
Total, aircraft		(1,678.5)		(1,546.1)		(719.5)		(1,536.4)
Modification of aircraft		405.6		415.5		405.6		386.0
AH-1		(32.7)		(87.7)		(32.7)		(32.7)
AHIP		(45.1)		(0)		(45.1)		(28.7)
Undistributed reduction		(0)		(0)		(0)		(−3.2)
Spares and repair parts		482.5		421.3		482.5		448.2
AH-1S		(4.7)		(13.5)		(4.7)		(7.7)
Replenishment spares		(331.1)		(261.1)		(331.1)		(293.8)
Support equipment and facilities		179.3		158.7		179.3		171.0
AH-1 flight simulators		(41.6)		(27.7)		(41.6)		(40.0)
High technology test bed		(6.7)		(0)		(6.7)		(0)
Total, aircraft procurement, Army		2,745.9		2,541.6		1,786.9		2,541.6

C-12D utility aircraft (Huron)

The budget request contained $11.0 million for procurement of 6 C-12 aircraft. The Senate bill authorized the amount requested. The House amendment authorized $22.0 million for 12 C-12 aircraft.

The conferees recommend authorization of $22.0 million for procurement of 12 aircraft.

AH-64 attack helicopter (Apache)

The budget request contained $760.3 million for procurement of 48 AH-64 helicopters and $116.5 million for advance procurement. The Senate bill authorized $73.0 million to defer production of the AH-64 for one year and contained no funds for advance procurement. The House amendment authorized $713.3 million for procurement of 48 helicopters and $116.5 million for advance procurement.

The conferees recommend authorization of $710.0 million for procurement of 48 AH-64 helicopters and $115.0 million for advance procurement.

AH-1S attack helicopter (Cobra/TOW)

No authorization was requested for the AH-1S helicopter. The House amendment authorized $58.8 million for procurement of 12 AH-1S helicopters. The Senate bill contained no authorization for AH-1S helicopters.

The conferees recommend authorization of $53.9 million for procurement of 11 AH-1S helicopters.

Modification of aircraft

The budget request contained $405.6 million for modification of Army aircraft including $32.7 million for AH-1 modifications and $45.1 million for the Army helicopter improvement program (AHIP). The Senate bill authorized the amount requested. The House amendment authorized $415.5 million for modification of Army aircraft, including $87.7 million AH-1 modifications and no funds for AHIP modifications.

The conferees recommend authorization of $386.0 million for modification of Army aircraft, including $32.7 million for AH-1 modifications, $28.7 million for AHIP modifications and a $3.2 undistributed reduction.

Aircraft spares and repair parts

The budget request contained $482.5 million for procurement of Army aircraft spares and repair parts including $4.7 million for AH-1 parts and $331.1 million for replenishment spares. The Senate bill authorized the amount requested. The House amendment authorized $421.3 million for Army aircraft spares and repair parts including $13.5 million for AH-1 parts and $261.1 million for replenishment spares.

The conferees recommend authorization of $448.2 million for procurement of Army aircraft spares and repair parts including $7.7 million for AH-1 parts and $293.8 million for replenishment spares.

Aircraft support equipment and facilities

The budget request contained $179.3 million for Army aircraft support equipment and facilities including $41.6 million for AH-1 flight simulators and $6.7 million for high technology test base. The Senate bill authorized the amount requested. The House amendment authorized $158.7 million for Army aircraft support equipment and facilities including $27.7 million for AH-1 flight simulators and no funds for high technology test base.

The conferees recommend authorization of $171.0 million for Army aircraft support equipment and facilities including $40.0 million for AH-1 flight simulators and no funding for high technology test base.

MISSILE PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Amount	Quantity	Quantity	Amount
Surface-to-air missiles:								
U.S. Roland		61.3		61.3		61.3		61.3
Patriot	376	805.1	376	805.1	376	805.1	376	805.1
Stinger	2,256	214.6	2,256	214.6	2,256	214.6	2,256	214.6
Chaparral		0	[1] 16	51.9		0		0
Air-to-surface missiles: Laser Hellfire	3,971	249.2	3,971	249.2	3,971	249.2	3,971	249.2
Antitank/assault missiles:								
TOW (BGM-71A, BTM-71A)	12,000	145.2	12,000	145.2	12,000	145.2	12,000	145.2
Pershing II	91	498.3	91	498.3	91	498.3	91	498.3
Multiple launch rocket system	23,640	368.9	23,640	368.9	23,640	368.9	23,640	368.9
Multiple launch rocket system advance procurement (CY)		53.2		53.2				53.2
Other missile support		4.5		4.5		4.5		4.5
Total, missiles		(2,400.3)		(2,452.2)		(2,400.3)		(2400.3)

MISSILE PROCUREMENT, ARMY—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2240		Conference	
	Quantity	Amount	Quantity	Amount	Amount	Quantity	Quantity	Amount
Modification of missiles		93.0		93.0		93.0		93.0
Spares and repair parts		233.3		233.3		233.3		233.3
Support equipment and facilities		120.0		120.0		120.0		120.0
Total, missile procurement, Army		2,846.6		2,808.5		2,846.6		2,846.6

[1] Fire units.

Chaparral

The budget request did not contain funds for the procurement of Chaparral air defense systems. The House amendment authorized $51.9 million for the procurement of 16 Chaparral air defense fire units. Further, the House report (H. Rept. 97-482) instructs the Army to transfer to the Army National Guard 16 of the 32 Chaparral fire units used as replacements for units in depot maintenance. The Senate bill contained no authorizations for Chaparral air defense systems.

The conferees agree that there is a requirement to equip National Guard units with air defense systems adequate to meet the air threat of the 1980's and beyond. Accordingly, the conferees noted that the Army should give full consideration to Army National Guard air defense requirements in future budget requests.

The House recedes.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[Amount in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tracked combat vehicles:								
M577A2 command post vehicle	114	23.5	0	0	114	23.5	0	0
M113A2 armored personnel carrier	520	92.0	520	92.0	520	92.0	520	92.0
M2/M3 Bradley fighting vehicle	600	(853.1)	600	(865.5)	600	(843.1)	600	(843.1)
Less advance procurement (PY)		(−59.8)		(−59.8)		(−59.8)		(−59.8)
Net		793.3		805.7		783.3		783.3
M2/M3 advance procurement (CY)		49.2		49.2		49.2		49.2
F/IFV/CFV training devices		38.3		38.3		38.8		38.8
Field artillery ammunition support vehicle (FAASV)	250	106.2	144	61.0	0	0	144	61.0
M88a1 recovery vehicle	180	157.8	180	157.8	180	157.8	180	157.8
M1 Abrams tank	776	(1,671.8)	776	(1,592.2)	720	(1,545.6)	865	(1,773.4)
Less advance procurement (PY)		(−214.8)		(−214.8)		(−214.8)		(−214.8)
Less PY authorization transfer		(0)		(0)		(0)		(−198.2)
Net		1,476.0		1,376.4		1,330.8		1,360.4
M1 advance procurement (CY)		432.3		432.3		363.9		380.9
M60 tank training devices		12.6		12.6		12.6		12.6
M1 tank training equipment		58.2		58.2		58.2		58.2
Light armored squad carrier	158	51.7	0	0		0		0
Mobile protected gun-cannon vehicle	76	51.9	0	0	175	11.3		25.0
Mobile protected gun-recovery vehicle	24	7.7	0	0	0	0	0	0
Modification of tracked combat vehicles		378.5		266.6		378.5		357.3
M60 modifications		(162.9)		(132.9)		(162.9)		(162.9)
ITV modifications		(81.9)		(0)		(81.9)		(60.7)
FIST-V		(63.8)		(63.8)		(63.8)		(40.0)
Spares and repair parts		383.5		383.5		373.2		381.3
FAASV		(4.6)		(4.6)		(0)		(4.6)
M-1		(135.7)		(135.7)		(130.0)		(133.5)
Production base support		105.5		147.2		105.5		147.2
Items less than $900,000		.9		.9		.9		.9
Total, tracked combat vehicles, Army		(4,200.8)		(3,882.2)		(3,879.5)		(3,82.1)
Weapons:								
DIVAD gun	96	(575.2)	96	(575.2)	96	(575.2)	96	(575.2)
Less advance procurement (PY)		(−54.1)		(−54.1)		(−54.1)		(−54.1)
Net		521.1		521.1		521.1		521.1
DIVAD advance procurement (CY)		74.4		74.4		74.4		74.4
M240 armor machine gun	5,400	26.4	5,400	26.4	5,400	26.4	5,400	26.4
Squad automatic weapon (SAW)	3,579	10.5	3,579	10.5	3,579	10.5	3,579	10.5
Launcher, smoke grenade	5,742	3.4	5,742	3.4	5,742	3.4	5,742	3.4
XM252 (81mm mortar)	352	10.6	352	10.6	352	10.6	352	10.6
9mm personal defense weapons	11,500	4.4	0	0	0	0	0	0
Vehicle rapid fire weapons system	532	33.4	532	33.4	532	33.4	532	33.4
Magnetic heading set	480	3.7	480	3.7	480	3.7	480	3.7
NHS-gyro group	76	1.5	76	1.5	76	1.5	76	1.5
Modification of other weapons		.9		.9		.9		.9
Support equipment and facilities		139.6		139.6		139.6		139.6
Spares and repair parts		(107.9)		(107.9)		(107.9)		(107.9)
Total, weapons, Army		(829.9)		(825.5)		(825.5)		(825.5)
Total, procurement of weapons and tracked combat vehicles, Army		5,030.7		4,707.7		4,705.0		4,707.6

M557A2 command post carrier

The budget request contained $23.5 million for the procurement of 114 command post carriers. The Senate bill authorized the requested amount. The House amendment authorized no funds for the procurement of the M557A2 Command Post Carrier.

The Senate recedes.

Bradley fighting vehicles

The budget request contained $793.3 million for the procurement of 600 Bradley Fighting Vehicles and $49.2 million for advance procurement of longlead components. The Senate bill authorized $783.3 million for the procurement of 600 Bradley Fighting Vehicles, a reduction of $10 million. The Senate bill also authorized $49.2 million for advance procurement. The House amendment authorized $805.7 million for 600 Bradley Fighting Vehicles and $49.2 million for advance procurement.

The House recedes.

Field Artillery Ammunition Support Vehicle

The budget request contained $106.4 million for the procurement of 250 Field Artillery Ammunition Support Vehicles (FAASV's). The Senate bill deleted funds for the FAASV. The House amendment authorized $61 million for the procurement of 144 FAASV's.

The Senate recedes.

M-1 Abrams tank

The budget request contained $1,457 million to procure 776 M-1 tanks and $432.3 million for advance procurement. The Senate bill authorized $1,330.8 million for the procurement of 720 tanks and $363.9 million for advance procurement.

The House amendment authorized $1,376.4 million for the procurement of 776 M-1 tanks and $432.3 million for advance procurement. The House authorization represents a reduction of $80.6 million. The $80.6 million was initially intended to be used to support the development of a second source contractor for portions of the M-1 fire control system. The $80.6 million is no longer needed because the Army has decided to use a multiyear contracting approach in lieu of the second source approach.

The conferees were informed that because of favorable contract negotiations, it is now possible to procure 855 M-1 tanks, 79 more tanks than originally requested, for $1,360.4 million, which is $96.6 million less than requested. The conferees were told that in order to realize these cost efficiencies, it would be necessary to allow the Army to transfer forward from prior year authorizations a total of $198.2 million.

The conferees agreed to authorize $1.360.4 million for the procurement of 855 M-1 tanks, to authorize $380.9 million for advance procurement for 900 M-1 tanks, and to provide transfer authority to allow the Army to utilize the $198.2 million from prior year authorizations.

Mobile protected gun-cannon vehicle

The budget request contained $51.9 million to procure 76 Mobile Protected Gun-cannon (MPG-C) vehicles, $51.7 million to procure 158 Light Armored Squad Carriers (LASC's), and $7.7 million to procure 24 Mobile Protected Gun-recovery (MPG-R) vehicles. Subsequent to the original budget request, the Army decided to restructure the program by eliminating the requirement for the MPG-R and the LASC. The restructured program resulted in a budget request of $111.3 for 175 Mobile Protected Gun-cannon Vehicles. The Senate bill authorized the $111.3 million for 175 vehicles. The House amendment did not authorize funds for the MPG-C vehicle.

The conferees recommend the authorization of $25 million for the procurement of Mobile Protected Gun-cannon Vehicles, a reduction of $86.3 million from the budget request.

The conferees agreed that none of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement of Mobile Protected Gun-cannon vehicles for the Army until 30 days following submission of a report by the Secretary of Defense explaining and providing rationale for the source selection decision for such vehicles. Such report shall also dscribe the mission variants of vehicles and the numbers of such mission variants to be procured by the Army and Marine Corps to constitute a complete procurement program. Such report shall also include a certification by the Secretary of Defense:

That the baseline light armored vehicle selected by the Army and Marine Corps for procurement from among the candidates evaluated for source selection is the most cost-effective of such candidates; and

That the procurement program for the Army described by the Secretary in his report is affordable within the Army's overall procurement program from fiscal year 1983 through fiscal year 1987.

The conferees further agreed that funds appropriated for the Army procurement program for mobile protected guns should be transferred to the Marine Corps procurement program for light armored vehicles if the requested report and certifications are not received from the Secretary of Defense by December 31, 1982.

Tracked and combat vehicle modifications

The budget request contained $378.5 million for the modification of tracked and combat vehicles. The budget request included $162.2 million for modification kits for the M60 tank series, $81.5 million for modification kits for the Improved Tow Vehicle (ITV), and $63.8 million for modifications to the Fire Support Team Vehicle (FISTV). The Senate bill authorized the requested amount. The House amendment reduced the amount requested by $111.9 million to $266.6 million.

The conferees recommend an authorization of $353.3 million, including $162.9 million for M60 tank modifications, $60.7 million for ITV modifications, and $40 million for FISTV modifications.

Spares and repair parts/productions base support

The budget request contained $489.9 million for support equipment and facilities to include $383.5 million for spares and repair parts. The $383.5 million for spares and repair parts included $135.7 million for the M1 tank spares and repair parts and $4.6 million for spares and repair parts for the Field Artillery Ammunition Support Vehicle (FAASV). The Senate bill authorized $479.6 million for support equipment and facilities to include $130 million for the M1 tank spares and repair parts. The Senate bill deleted $4.6 million for spares and repair parts for the FAASV. The House amendment authorized $531.6 million for support equipment and facilities, including $135.7 million for spares and repair parts for the M1 tank and $4.6 million for the FAASV. The House amendment also authorized $41.7 million for production base supports for the continuation of the Renovation of Armament Manufacturing (REARM) program. Additionally, the House report (H. Rept. 97-482) requested that future Defense Department budgets reflect funding for the REARM program in the Army weapons and tracked vehicle account. This would permit the continuation of the REARM program as an integral part of the weapons and tracked combat vehicles program.

The Senate recedes on the $4.6 million for the FAASV and the $41.7 million for the REARM program.

The conferees recommend authorization of $133.5 million for spares and repair parts for the M1 tank, $4.6 million for spares and repair parts for FAASV, and $41.7 million for the REARM program.

AMMUNITION, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ammunition		2,205.6		1,987.2		2,305.6		2,068.6
Copperhead		(183.6)		(0)		(183.6)		(15.0)
Bushmaster (25mm)		(103.8)		(87.4)		(103.8)		(103.8)
Chemical munitions		(18.4)		(0)		(18.4)		(0)
Undistributed		(0)		(0)		(100.0)		(50.0)
Ammunition production base support		433.4		423.4		433.4		423.4
Less financing adjustments						−5.6		−5.6
Total, ammunition, Army		2,639.0		2,410.6		2,733.4		2,486.4

Copperhead 155mm projectiles

The budget request contained $183.6 million for the procurement of 7,629 Copperhead 155mm projectiles. The Senate bill authorized the requested amount. The House amendment deleted funds for the procurement of Copperhead 155mm projectiles.

The conferees noted that the Copperhead program has experienced technical difficulties and cost growth, and that Copperhead inventory levels are generally sufficient to satisfy currently planned inventory requirements. The conferees were informed that $15 million would be required to cover the cost of terminating the Copperhead program.

Without prejudice, the conferees, therefore, recommend authorization of $15 million.

25 millimeter ammunition

The budget request contained $103.8 million for the procurement of Bushmaster 25mm ammunition. The Senate bill authorized the requested amount. The House amendment authorized $87.4 million for 25mm ammunition, a reduction of $16.4 million.

The House recedes.

Chemical munitions

The budget request contained $18.4 million for the procurement of 155mm binary munitions. The Senate bill authorized the requested amounts. The House amendment contained no funds for the production of 155mm binary chemical munitions.

The Senate recedes with an amendment (see detail explanation in the discussion in section 1124).

Undistributed

The budget request contained a total of $2639.0 million for the procurement of Army ammunition. The Senate bill authorized an increase of $100 million to be used in support of training and war reserve requirements. The House amendment did not authorize any additional funds for this account.

The conferees recommend the authorization of $50 million for training and war reserve requirements.

Ammunition production base support

The budget request contained $10 million for industrial facilities to support binary chemical production. The Senate bill authorize the amount requested. The House amendment contained no funds for binary production.

The Senate recedes with an amendment (see detail explanation in the discussion in section 1124).

Financing adjustment

The Senate bill contained a budget adjustment of $5.6 million in the Army ammunition account. The House amendment did not include the $5.6 million reduction.

The House recedes.

OTHER PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tactical and support vehicles		1,256.5		1,356.5		1,256.5		1,256.5
Communications and electronics equipment		2,339.2		2,221.6		2,135.7		2,162.8
IDHS		(8.5)		(6.4)		(6.0)		(6.0)
Tactical digital facsimile		(6.8)		(0)		(6.8)		(6.8)
Piranha applique jammer		(10.2)		(0)		(6.0)		(8.2)
Army Nat'l Guard equipment		(0)		(11.9)		(0)		(0)
Joint crisis mgmt cap		(44.5)		(0)		(0)		(0)
Hi speed buffer TD-1065		(28.5)		(23.5)		(23.5)		(23.5)
DLDED		(24.6)		(15.4)		(15.4)		(15.4)
4th Psyops GP equipment		(13.5)		(5.8)		(5.8)		(5.8)
Intel comm equipment		(7.9)		(3.9)		(3.9)		(3.9)
Initial spares		(209.5)		(189.5)		(189.5)		(189.5)
Team pack		(9.7)		(9.7)		(0)		(0)
AN/TRC-170		(39.6)		(39.6)		(35.6)		(35.6)
AN/GRC-193		(29.6)		(29.6)		(24.6)		(29.6)
AN/DRC-104		(22.8)		(22.8)		(17.8)		(20.0)
AN/TRC-113		(23.4)		(18.4)		(18.4)		(18.4)
AN/TRC-145		(23.9)		(18.9)		(18.9)		(18.9)
TD-1289		(23.4)		(23.4)		(15.4)		(15.4)
EUCOM C3		(44.9)		(44.9)		(29.9)		(29.9)
KY-57		(53.2)		(48.2)		(48.2)		(48.2)
KY-58		(11.8)		(6.8)		(6.8)		(6.8)
PLRS		(32.4)		(32.4)		(17.4)		(25.4)
SIGINT simulators		(12.0)		(12.0)		(7.9)		(7.9)
Team pack PIPS		(28.0)		(28.0)		(16.0)		(25.7)
Undistributed		(0)		(0)		(−7.6)		(−7.6)
Items less than $900,000		(7.0)		(7.0)		(6.0)		(6.0)
Other support equipment		(971.8)		(971.8)		(971.8)		(971.8)
PY authorization transfer		(0)		(−40.4)		(0)		(0)
Net		971.8		931.4		971.8		971.8
Total, other procurement, Army		4,567.5		4,509.5		4,364.0		4,391.1

Tactical and support vehicles

The budget request contained $1,256.5 million for the procurement of tactical and support vehicles to include 5-ton trucks, 10-ton trucks, high mobility multi-purpose wheeled vehicles (HMMWV), and commercial and utility cargo vehicles (CUCV). The House amendment authorized $1,356.5 million for tactical and support vehicles which represent an increase of $100 million over the budget request. The House indicated that the additional authorization is to procure 5-ton and 10-ton trucks for Army National Guard and Reserve units and to procure additional ¼-ton and ¾-ton vehicles for active Army units. The House also requested the Army to conduct a comprehensive study of its vehicle replacement requirements.

The Senate bill did not authorize additional funds in the Army tactical and support vehicle account.

The conferees agreed that shortages exist in the area of tactical and support vehicles and that these shortages are particularly acute in Army National Guard and Reserve units. The conferees noted that the Senate bill contained a total of $80 million for Army National Guard and Reserve equipment which could, in part, be used to procure tactical and support vehicles.

The House recedes.

Intelligence Data Handling System

The Army request contained $8.5 million for an Intelligence Data Handling System. The Senate bill would authorize $6 million for that purpose. The House amendment would authorize $6.4 million. The conferees recommend an authorization of $6 million.

The House recedes.

Tactical digital facsimile

The budget request contained $6.8 million for the procurement of tactical digital facsimile equipment. The Senate bill authorized the requested amount. The House amendment did not contain funds for tactical data facsimile equipment.

The House recedes.

Piranha Applique Jammer

The budget request contained $10.2 million for the Piranha Applique Jammer. The Senate bill authorized $6.0 million.

The conferees recommended $8.2 million for the procurement of Piranha Applique Jammers.

Army National Guard equipment

The House amendment authorized $11.9 million for the procurement of communications and electronics equipment for the Army National Guard. The Senate bill did not contain a specific authorization for communications and electronics equipment for the Army National Guard.

The conferees agreed that because the Senate bill contained funds for Army National Guard equipment, a specific line item authorization for the procurement of communications and electronics equipment is not necessary.

The House recedes.

Team Pack

The Army request contained $9.7 million for Team Pack, an intelligence system. The Senate bill would provide no authorization for this item. The House amendment would authorize $9.7 million.

The conferees recommended no authorization for Team Pack for fiscal year 1983.

The House recedes.

AN/TRC-170 radio terminal

The budget request contained $39.6 million for the procurement of AN/TRC-170 equipment. The House amendment authorized the amount requested. The Senate bill reduced the amount requested by $4 million and authorized $35.6 million for the procurement of requested equipment.

The House recedes.

AN/GRC-193 HF radio

The budget request contained $29.6 million for the procurement of AN/GRC-193 equipment. The House amendment authorized the requested amount. The Senate bill authorized $24.6 million for the procurement of the equipment requested.

The Senate recedes.

AN/PRC-104 HF radio

The budget request contained $22.8 million for procurement of AN/PRC-104 equipment. The House amendment authorized the requested amount. The Senate bill authorized $17.8 million for the requested equipment.

The conferees recommend an authorization of $20 million for the procurement of the equipment requested.

TD-1289 FM multiplexer

The budget request contained $23.4 million for the procurement of TD-1289 equipment. The House amendment authorized the requested amount. The Senate bill authorized $15.4 million for the procurement of the TD-1289 equipment.

The House recedes.

European Command (EUCOM) command control communications

The budget request contained $44.9 million for the procurement of EUCOM Command Control Communications. The House amendment authorized the requested amount. The Senate bill reduced the amount by $15 million for an authorization of $29.9 million.

The House recedes.

Position locating radar system (PLRS)

The budget request contained $32.4 million for the procurement of PLRS. The House amendment recommended authorization of the requested amount. The Senate bill recommended $17.4 million for PLRS.

The conferees recommend authorization of $25.4 million for the procurement of PLRS.

Signal intelligence simulators

The Army requested $12 million for Signal Intelligence Simulators. The Senate bill would authorize $7.9 million for this purpose. The House amendment would authorize the amount requested. The conferees recommend an authorization of $7.9 million.

The Senate recedes.

Team pack PIPS

The Army request contained $28 million for Team Pack System Improvements. The Senate bill would authorize $16 million for this purpose. The House amendment would authorize the amount requested. The conferees recommend an authorization of $25.7 million

The Senate recedes with an amendment.

Undistributed reduction

The Senate bill authorized an undistributed reduction of $7.6 million within the communications and electronics equipment account. The House amendment did not contain a similar reduction.

The House recedes.

General Defense Intelligence Programs (GDIP)

The budget request contained $7 million for GDIP. The House amendment recommends authorization of the required amount. The Senate bill recommends authorization of $6 million for GDIP.

The House recedes.

Other support equipment

The budget request contained $971.8 million for other support equipment. The Senate bill authorized the requested amount.

The House report pointed out that no authorization was requested in fiscal year 1983 for the procurement of the Armored Combat Earthmover (ACE). The report further indicated that although $40.4 million was appropriated in fiscal year 1982 to procure 36 ACE's, the Army had not developed and approved an acquisition strategy for the ACE program. Consequently, the House amendment authorized a transfer forward to fiscal year 1983 of $40.4 million as an offset to fiscal year 1983 Army Other Support Equipment requests. This resulted in a House authorization of $931.4 million. The Army has since developed an approved acquisition strategy for the ACE program.

The House recedes.

AIRCRAFT PROCUREMENT, NAVY [1]

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Combat aircraft:								
A-6E (Intruder)	8	(255.0)	8	(255.0)	0	(25.6)	8	(255.0)
Less advance procurement (PY)		(−7.3)		(−7.3)		(−7.3)		(−7.3)
Net		247.7		247.7		18.3		247.7
A-6E advance procurement (CY)		13.3		8.3		0		8.3
EA-6B (Prowler)	6	(306.8)	6	(306.8)	12	(511.3)	6	(306.8)
Less advance procurement (PY)		(−16.9)		(−16.9)		(−16.9)		(−16.9)
Net		289.9		289.9		494.4		289.9
EA-6B advance procurement (CY)		26.7		17.6		44.9		17.6
AV-8B (Harrier)	18	(714.1)	24	(845.5)	18	(714.1)	21	(816.0)
Less advance procurement (PY)		(−37.0)		(−37.0)		(−37.0)		(−37.0)
Net		677.1		808.5		677.1		779.0
AV-8B advance procurement (CY)		73.8		90.1		73.9		73.9
F-14A (Tomcat)	24	(1096.4)	24	(1096.4)	24	(1096.4)	24	(1096.4)
Less advance procurement (PY)		(−181.1)		(−181.1)		(−181.1)		(−181.1)
Net		915.3		915.3		915.3		915.3
F-14A advance procurement (CY)		202.4		202.4		202.4		202.4
F-18 (Hornet)	84	(2633.6)	84	(2633.6)	84	(2633.6)	84	(2633.6)
Less advance procurement (PY)		(−189.7)		(−189.7)		(−189.7)		(−189.7)
Net		2443.9		2443.9		2443.9		2443.9
F-18 advance procurement (CY)		283.7		283.7		319.2		283.7
CH-53E (Super Stallion)	11	(258.1)	11	(258.1)	11	(258.1)	11	(258.1)
Less advance procurement (PY)		(−2.5)		(−2.5)		(−2.5)		(−2.5)
Net		255.6		255.6		255.6		255.6
CH-53E advance procurement (CY)		33.5		2.9		33.5		2.9
AH-1T (Sea Cobra) advance procurement (CY)		17.2		17.2		17.2		17.2
SH-60B (Seahawk)	48	(995.8)	27	(695.8)	24	(675.8)	27	(754.1)
Less advance procurement (PY)		(−137.4)		(−137.4)		(−137.4)		(−137.4)
Net		858.4		558.4		538.4		616.7
SH-60B advance procurement (CY)		137.0		137.0		67.0		102.0
P-3C (Orion)	6	(335.0)	6	(335.0)	6	(335.0)	6	(335.0)
Less advance procurement (PY)		(−54.4)		(−54.4)		(−54.4)		(−54.4)
Net		280.6		280.6		280.6		280.6
P-3C advance procurement (CY)		48.8		48.8		48.8		48.8
E-2C (Hawkeye)	6	(336.8)	6	(336.8)	6	(336.8)	6	(336.8)
Less advance procurement (PY)		(−20.6)		(−20.6)		(−20.6)		(−20.6)
Net		316.2		316.2		316.2		316.2
E-2C advance procurement (CY)		21.3		21.3		21.3		21.3
SH-2F (Seasprite)	18	(189.1)	18	(189.1)	18	(189.1)	18	(189.1)
Less advance procurement (PY)		(−20.1)		(−20.1)		(−20.1)		(−20.1)
Net		169.0		169.0		169.0		169.0
SH-2F advance procurement (CY)		20.4		20.4		20.4		20.4
Total, combat aircraft		(7331.9)		(7134.8)		(6957.4)		(7112.4)

AIRCRAFT PROCUREMENT, NAVY [1]—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Airlift aircraft:								
C-9 (Skytrain II)		16.2		40.2		16.2		16.2
C-2 (COD)	8	(251.9)	8	(224.8)	8	(251.9)	8	(224.8)
Less advance procurement (PY)		(−33.0)		(−32.0)		(−33.0)		(32.0)
Net		218.9		192.8		218.9		192.8
C-2 advance procurement (CY)		48.9		10.8		48.9		10.8
Total, airlift aircraft		(284.0)		(243.8)		(284.0)		(219.8)
Trainer aircraft:								
T-34C (Mentor)	30	34.4	30	34.4	30	34.4	30	34.4
TH-57 (Sea Ranger)	21	23.2	21	23.2	21	23.2	21	23.2
Total, trainer aircraft		(57.6)		(57.6)		(57.6)		(57.6)
Other aircraft EC-130Q (Hercules TACAMO)		36.8		36.8		36.8		36.8
Modification of aircraft		1311.1		1356.1		1311.1		1356.1
R/F4		(9.9)		(54.9)		(9.9)		(54.9)
Spares and repair parts		2080.9		2115.4		2040.9		2041.9
AV-8B		(191.9)		(222.5)		(191.9)		(207.2)
F-14		(60.9)		(60.8)		(60.9)		(60.9)
C-9		(0)		(4.0)		(0)		(0)
SH-60B		(236.2)		(236.2)		(176.2)		(181.9)
EA-6B		(30.5)		(30.5)		(50.5)		(30.5)
Support equipment and facilities		480.0		480.0		480.0		480.0
Total, aircraft procurement, Navy		11582.3		11424.5		11167.8		11304.6

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[1] Including Marine Corps aircraft.

A-6E attack aircraft (Intruder)

The budget request contained $247.7 million for procurement of 8 A-6E aircraft and $13.3 million for advance procurement. The Senate bill contained $18.3 million for production line termination costs and deleted advance procurement funding. The House amendment contained $247.7 million for procurement of 8 A-6E aircraft and $8.3 million for advance procurement.

The conferees recommend authorization of $247.7 million for procurement of 8 A-6E aircraft and $8.3 million for advance procurement.

EA-6B attack aircraft (Prowler)

The budget request contained $289.9 million for procurement of 6 EA-6B aircraft and $26.7 million for advance procurement. The Senate bill authorized $494.4 million for procurement of 12 aircraft and $44.9 million for advance procurement. The House amendment authorized $289.9 million for procurement of 6 aircraft and $17.6 million for advance procurement.

The conferees recommend authorization of $289.9 million for procurement of 6 EA-6E aircraft and $17.6 million for advance procurement.

AV-8B attack aircraft (Harrier)

The budget request contained $677.1 million for procurement of 18 AV-8B aircraft and $73.9 million for advance procurement. The Senate bill authorized the amount requested. The House amendment authorized $808.5 million for procurement of 24 aircraft and $90.1 million for advance procurement.

The conferees recommend authorization of $779.0 million for procurement of 21 AV-8B aircraft and $73.9 million for advance procurement.

F/A-18 fighter/attack aircraft (Hornet) (advance procurement)

The budget request contained $283.7 million for advance procurement of 96 F/A-18 aircraft. The Senate bill authorized $319.2 million for advance procurement. The House amendment authorized the amount requested.

The conferees recommend authorization of $283.7 million.

CH-53E helicopter (Super Stallion) (advance procurement)

The budget request contained $33.5 million for advance procurement for CH-53E helicopters. The Senate bill authorized the amount requested. The House amendment authorized $2.9 million.

The conferees recommend authorization of $2.9 million for advance procurement of CH-53 helicopters.

SH-60B ASW helicopter (Seahawk)

The budget request contained $858.4 million for procurement of 48 SH-60B helicopters and $137.0 million for advance procurement. The Senate bill authorized $538.4 million for procurement of 24 helicopters and $67.0 million for advance procurement. The House amendment authorized $558.4 million for procurement of 27 helicopters and $137.0 million for advance procurement.

The conferees recommend authorization of $616.7 million for procurement of 27 SH-60B helicopters and $102.0 million for advance procurement.

C-9 airlift aircraft (Skytrain II)

The Navy request contained $16.2 million for procurement of C-9 airlift aircraft. The Senate bill would authorize the amount requested. The House amendment would authorize $44.2 million, including $4 million for spares.

The conferees recommend an authorization of $16.2 million for procurement of C-9 airlift aircraft for the Navy in view of the authorization of $30 million for Naval Reserve equipment in Section 104 of the conference report.

The House recedes.

C-2 airlift aircraft (COD)

The budget request contained $218.0 million for procurement of 8 C-2 aircraft and $48.9 million for advance procurement under a multi-year procurement strategy. The Senate bill authorized the amount requested. The House bill authorized eight C-2 aircraft at $192.8 million with $10.8 million for advance procurement on an annual procurement basis.

The conferees agreed to an authorization of $192.8 million for procurement of 8 C-2 aircraft and $10.8 million for advance procurement.

Modification of aircraft, Navy

The Navy request contained $1,311.1 million for modification of Navy and Marine Corps aircraft. The Senate bill would authorize the amount requested. The House amendment would authorize $1,356.1 million—an increase of $45 million—for the procurement of side looking airborne radar and tactical electronic reconnaissance equipment for RF-4 aircraft operated by the Marine Corps. The conferees recommend an authorization of $1,356.1 million for the modification of aircraft.

The Senate recedes.

Aircraft spares and repair parts

The budget request contained $2,080.9 million for procurement of Navy aircraft spares and repair parts including $191.9 million for AV-8B, $60.9 million for F-14, $236.2 million for SH-60B, and $30.5 million for EA-6B. The Senate bill authorized $2,040.9 million for Navy aircraft spares and repair parts including $191.9 million for AV-8B, $60.9 million for F-14, $176.2 million for SH-60B and $50.5 million for EA-6B. The House amendment authorized $2,115.4 million for Navy aircraft spares and repair parts including $222.5 million for AV-8B, $60.8 million for F-14, $4.0 for C-9, $236.2 million for SH-60B, and $30.5 million for EA-6B.

The conferees recommend authorization of $2,041.9 million for procurement of Navy aircraft spares and repair parts including $207.2 million for AV-8B, $60.9 million for F-14, $181.9 million for SH-60B, and $30.5 million for EA-6B.

WEAPONS PROCUREMENT, NAVY

[Amounts in million of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic missiles:								
UGM-72 (Poseidon)		9.7		9.7		9.7		9.7
UGM-96A (Trident I)	72	(816.1)	72	(816.1)	72	(813.1)	72	(813.1)
Less advance procurement (PY)		(−116.6)		(−116.6)		(−116.6)		(−116.6)
Net		699.5		699.5		696.5		696.5
UGM-96A advance procurement (CY)		43.3		43.3		36.3		36.3
Modification of ballistic missile		7.5		7.5		7.5		7.5
Spares and repair parts		1.1		1.1		1.1		1.1
Industrial facilities		2.6		2.6		2.6		2.6
Astronautics		12.8		12.8		12.8		12.8
Total, ballistic missiles		(776.5)		(776.5)		(766.5)		(766.5)
Other missiles:								
Strategic missiles:								
BGM-109 (Tomahawk)	120	(285.0)	120	(285.0)	120	(285.0)	120	(285.0)
Less advance procurement (PY)		(−14.0)		(−14.0)		(−14.0)		(−14.0)
Net		271.0		271.0		271.0		271.0
BGM-109 advance procurement (CY)		21.2		21.2		21.2		21.2
Tactical missiles:								
AIM/RIM-7 F/M (Sparrow)	670	132.8	670	132.8	670	132.8	670	132.8
AIM-9L/M (Sidewinder)	500	41.5	500	41.5	500	41.5	500	41.5
AIM-54A/C (Phoenix)	108	(249.1)	108	(249.1)	108	(249.1)	108	(249.1)
Less advance procurement (PY)		(−27.0)		(−27.0)		(−27.0)		(−27.0)
Net		222.1		222.1		222.1		222.1
AIM-54 advance procurement (CY)		34.2		34.2		34.2		34.2
AGM-84A (Harpoon)	231	(214.8)	231	(236.1)	231	(214.8)	231	(236.1)
Less advance procurement (PY)		(21.3)		(0)		(−21.3)		(0)
Net		236.1		236.1		236.1		236.1
AGM-88A (Harm)	208	176.8	208	176.8		95.8	208	176.8
RIM-66B (Standard MR)	650	192.3	650	192.3	650	192.3	650	192.3
RIM-66B advance procurement (CY)		60.3		0		60.3		0
RIM-66C (Standard MR)	150	122.8	150	122.8	150	122.8	150	122.8
RIM-67B (Standard ER)	375	302.8	375	302.8	375	302.8	375	302.8
AGM-65G (Laser Maverick)	90	33.1	90	33.1	90	33.1	90	33.1
Other missile support		5.3		5.3		5.3		5.3
Aerial targets		76.6		76.6		76.6		76.6
Modification of missiles		74.2		74.2		74.2		74.2
Spares and repair parts		103.5		103.5		103.5		103.5
Weapons industrial facilities		11.8		11.8		11.8		11.8
Energy conservation		2.7		2.7		2.7		2.7
Fleet satellite communications	2	231.3	2	231.3	2	231.3	2	231.3
Total, other missiles, Navy		(2352.4)		(2292.1)		(2271.4)		(2292.1)
Total, missiles, Navy		(3128.9)		(3068.6)		(3037.9)		(3058.6)
Torpedoes and related equipment:								
MK-48 torpedo	120	124.3	144	144.3	120	124.3	144	134.3
MK-46 torpedo	440	105.7	440	105.7	440	105.7	440	105.7
MK-46 advance procurement (CY)		35.5		35.5		35.5		35.5
MK-60 captor	500	151.4	500	151.4	500	151.4	500	151.4
MK-30 mobile target	5	19.4	5	19.4	5	19.4	5	19.4
MK-38 mini mobile target	1,200	2.3	1,200	2.3	1,200	2.3	1,200	2.3
Antisubmarine rocket (ASROC)		10.1		10.1		10.1		10.1
Modification of torpedoes		89.3		89.3		89.3		89.3
Support equipment		53.8		53.8		53.8		53.8
Spares and repair parts		13.1		13.1		13.1		13.1
Total, torpedoes and related equipment		(604.9)		(624.9)		(604.9)		(614.9)
Other weapons:								
MK-15 close in weapons system	30	118.7	30	118.7	30	118.7	30	118.7
MK-75 76MM gun mount	3	10.7	3	10.7	3	10.7	3	10.7
MK-19 machine gun	14	.4	14	.4	14	.4	14	.4
25MM gun mount	6	.4	6	.4	6	.4	6	.4
9MM handgun	1,100	.4	0	0	0	0	0	0
Modifications of guns and mounts		19.7		19.7		19.7		19.7
Support equipment		.4		.4		.4		.4
Spares and repair parts		17.1		17.1		17.1		17.1
Total, other weapons		(167.8)		(167.4)		(167.4)		(167.4)
Total weapons procurement, Navy		3901.6		3860.9		3810.2		3840.9

WEAPONS

The President's budget contained $3,901.6 million for Navy weapons.

The Senate bill contained an authorization of $3,810.2 million. The House amendment contained authorizations for Navy weapons totaling $3,860.9 million.

The conferees agreed to authorizations totaling $3,840.9 million for Navy weapons.

UGM-96A (C-4) ballistic missile (Trident I)

The budget request included $699.5 million for procurement of 72 Trident I missiles. The request also included $43.3 million for Trident I missile advance procurement. The Senate bill would authorize $696.5 million for procurement and $36.3 million for advance procurement. The House amendment would provide authorizations in the amounts requested.

The conferees recommend authorizations of $696.5 million for Trident I missile procurement and $36.3 million for advance procurement.

The House recedes.

AGM-88A missile (HARM)

The budget request contained $176.8 million for procurement of 208 HARM missiles. The Senate bill authorized $95.8 million for an indeterminate quantity of missiles. The House amendments authorized the amounts requested.

The conferees agreed to an authorization of $176.8 million for procurement of 208 missiles.

RIM-66B missile (Standard MR) (advance procurement)

The budget request contained $60.3 million for advance procurement for the RIM-66B Standard MR missile. The Senate bill authorized the amount requested. The House amendments authorized no funds for Standard MR missile advance procurement.

The conferees agreed to authorize no funding for Standard MR missile advance procurement.

MK-48 torpedo

The budget request included $124.3 million for procurement of 120 MK-48 torpedoes.

The Senate bill recommended authorization as requested.

The House amendment recommended authorization of $144.3 million for procurement of 144 torpedoes.

The conferees agreed to an authorization of $134.3 million for procurement of 144 torpedoes.

SHIPBUILDING AND CONVERSION, NAVY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Trident ballistic missile submarine (nuclear)	2	(2,768.2)	1	(1,787.6)	2	(2,488.6)	1	(1,787.6)
Less advance procurement (PY)		(−527.1)		(−283.6)		(−527.1		(−283.6)
Net		2,241.1		1,504.0		1,961.5		1,504.0
Trident advance procurement (CY)		243.9		282.0		243.9		282.0
CVN nuclear aircraft carrier	2	(7,270.3)	2	(7,270.3)	2	(7,270.3)	2	(7,270.3)
Less advance procurement		(−475.0)		(−475.0)		(−475.0)		(−475.0)
Net		6,795.3		6,795.3		6,795.3		6,795.3
SSN-688 nuclear attack submarine	2	(1,196.8)	2	(1,196.8)	2	(1,196.8)	2	(1,196.8)
Less advance procurement (PY)		(−169.4)		(−169.4)		(−169.4)		(−169.4)
Net		1,027.4		1,027.4		1,027.4		1,027.4
SSN-688 advance procurement (CY)		416.0		416.0		416.0		416.0
Battleship reactivation (Iowa)	1	(4,11.4)	1	(4,11.4)	1	(4,11.4)	1	(4,11.4)
Less advance procurement (PY)		(−88.0)		(−88.0)		(−88.0)		(−88.0)
Net		323.4		323.4		323.4		323.4
Battleship reactivation (Missouri) advance procurement		94.0		94.0		94.0		94.0
CV SLEP (service life extension program):	1	(698.5)	1	(698.5)	1	(698.5)	1	(698.5)
Less advance procurement (PY)		(−162.0)		(−162.0)		(−162.0)		(−162.0)
Net		536.5		536.5		536.5		536.5
CV SLEP advance procurement (CY)		163.0		163.0		163.0		163.0
CG-47 Aegis cruiser	3	(3,132.9)	3	(3,132.9)	3	(3,132.9)	3	(3,132.9)
Less advance procurement (PY)		(−20.7)		(−20.7)		(−20.7)		(−20.7)
Net		3,112.2		3,112.2		3,112.2		3,112.2
CG-47 Aegis advance procurement (CY)		22.2		22.2		22.2		22.2
LSD-41 landing ship dock	1	379.2	1	379.2	1	379.2	1	379.2
LSD-41 advance procurement (CY)		37.8		37.8		37.8		37.8
LHD-1 air capable amphibious ship advance procurement (CY)		55.0		55.0		55.0		55.0
FFG-7 guided missile frigate	2	666.4	2	666.4	2	666.4	2	706.4
MCM mine countermeasure ship	4	371.6	4	371.6	4	371.6	4	371.6
TAO oiler (MYP)	1	210.2	1	210.2	1	210.2	1	210.2
TAO oiler advance procurement (CY)		109.8		109.8		109.8		109.8
AGOS SWATH ocean surveillance ship advance procurement (CY)		24.3		0		24.3		0
ARS salvage ship	1	74.0	1	74.0	1	74.0	1	74.0
ARS salvage ship advance procurement (CY)		10.0		10.0		10.0		10.0
TAKRX fast logistic ship (Conv.)	4	322.6	4	322.6	4	322.6	4	322.6
TAHX hospital ship (Conv.)	1	300.0	1	300.0	1	300.0	1	300.0
Service craft		79.0		79.0		79.0		79.0
Landing craft		(84.5)		(84.5)		(84.5)		(84.5)
Less advance procurement (PY)		(−1.4)		(−1.4)		(−1.4)		(−1.4)
Net		83.1		83.1		83.1		83.1
Outfitting		136.4		136.4		136.4		136.4
Post delivery		168.3		168.3		168.3		168.3
Ship contract design		97.2		97.2		97.2		97.2
Cost growth		314.2		314.2		314.2		314.2
Escalation on prior year programs		209.2		209.2		209.2		209.2
Manufacturing technology		25.0		25.0		25.0		25.0
Total, shipbuilding and conversion, Navy	25	18,648.3	24	18,228.4	25	18,368.7	24	17,965.0

SHIPBUILDING AND CONVERSION

The President's budget request contained $18,648.3 million for the construction, conversion, reactivation, service life extension and acquisition of 25 naval vessels.

The Senate bill contained an authorization of $18,368.7 million for 25 naval vessels. The House amendment contained authorizations totaling $18,228.4 million for 24 naval vessels.

The conferees agreed to authorizations totaling $17,965 million for 24 naval vessels.

Trident ballistic missile submarine (SSBN)

The President's budget request contained $2,485 million for the Trident submarine program, including full funding for the tenth and eleventh Trident submarines equipped to carry the Trident C-4 missile ($2,241.1 million) and long lead funding for the twelfth and thirteenth Trident submarines ($243.9 million).

The Senate bill recommended authorization of $2,205.4 million for the Trident submarine program, including partial funding for the tenth and eleventh Trident submarines ($1,961.5 million) and long lead funding for the twelfth and thirteenth Trident submarines ($243.9 million). The Senate recommendation excluded funds necessary to purchase equipment unique to the Trident C-4 missile.

The House amendment recommended authorization of $1,786 million for the Trident program, including $1,504 million for full funding of the tenth Trident submarine equipped to carry the Trident D-5 missile and $282 million for long lead procurement for the eleventh, twelfth and thirteenth Trident submarines and ship design work necessary to accommodate the D-5 missile.

The Senate recedes.

Guided missile frigate (FFG-7)

The budget request contained $666.4 million for procurement of two FFG-7 class guided missile frigates.

The Senate bill recommended authorization as requested.

The House amendment recommended authorization of $706.4 million for two FFG-7 class guided missile frigates with the provision that the $40 million addition to the budget request may be used only for the installation of an x-band phased array radar to improve the performance of the missile fire control system.

The conferees agreed to authorize $706.4 million for procurement of two FFG-7 class guided missile frigates with the provision that $40 million may be used only for an x-band phased array radar to provide an improved performance missile fire control system. The conferees intend that at least one of the two FFG-7 ships authorized be equipped with an x-band phased array radar.

The Senate recedes with an amendment.

Ocean surveillance ship (AGOS-SWATH)

The budget request contained $24.3 million for procurement of long lead components for a new class of ocean surveillance ship with a Small Water Area Twin Hull (SWATH) configuration.

The Senate bill recommended authorization as requested.

The House amendment recommended that the authorization be denied.

The Senate recedes.

Cost growth

The budget request contained $314.2 million for cost growth.

The Senate bill recommended authorization as requested by the President.

The House amendment recommended authorization of $577.6 million for cost growth, including the amount requested in the budget request and $263.4 million requested by the President as a supplementary authorization for fiscal year 1982.

The House recedes.

OTHER PROCUREMENT, NAVY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ship support equipment		568.9		568.9		568.9		568.9
Communications and electronics		1,488.0		1,477.6		1,488.0		1,484.6
TRI-TAC		(7.0)		(0)		(7.0)		(7.0)
Prairie Wagon		(137.1)		(133.7)		(137.1)		(133.7)
Aviation support equipment		608.2		582.5		608.2		582.5
Bigeye chemical weapon		(25.7)		(0)		(25.7)		(0)
Ordnance support equipment		785.2		787.2		789.6		786.2
Submarine Tomahawk support equipment (SUBROC)		(31.4)		(33.4)		(31.4)		(32.4)
Small arms ammunition		(15.5)		(15.5)		(15.3)		(15.5)
Trident support equipment		(13.8)		(13.8)		(18.4)		(13.8)
Civil engineering support equipment		172.8		172.8		172.8		172.8
Supply support equipment		91.2		87.7		91.2		87.7
Special activities		(16.1)		(12.6)		(16.1)		(12.6)
Personnel/command support equipment		255.9		256.9		253.1		253.8
Support equipment		(24.0)		(24.7)		(21.2)		(21.9)
Total, Navy other procurement		3,970.2		3,933.3		3,971.8		3,936.5

OTHER PROCUREMENT

The President's budget request contained $3,970.2 million for Navy other procurement.

The Senate bill contained an authorization of $3,971.8 million. The House amendment contained an authorization totaling $3,933.3 million.

The conferees agreed to an authorization of $3,936.5 million for other procurement.

AN/UXC-4 (TRI-TAC)

The budget request contained $7 million for TRI-TAC. The Senate bill authorized the amount requested. The House amendment contained no authorization for TRI-TAC.

The House recedes.

AN/WLQ-4 (Prairie Wagon)

The Navy request contained $137.1 million for procurement for the Prairie Wagon program. The Senate bill would authorize the amount requested. The House amendment would authorize $133.7 million for this program. The conferees recommend an authorization of $133.7 million.

The Senate recedes.

Bigeye chemical weapon

The budget request contained $25.7 million for procurement of tooling and munitions for the Bigeye Binary Chemical Weapon. The Senate bill authorized the requested amount. The House bill contaned no funds for the Bigeye Binary Chemical Weapon.

The Senate recedes with an amendment (see detail explanation in discussion in section 1124).

Ordnance support equipment

The budget request contained $785.2 million for ordnance support equipment.

The Senate bill recommended $789.6 million for ordnance support equipment. The Senate recommendation included an addition of $4.6 million for Trident support equipment associated with the Trident D-5 missile and a reduction of $253 thousand to eliminate funds requested for procurement of 9 millimeter ammunition.

The House amendment recommended $787.2 million for ordnance support equipment, an addition of $2 million to the budget request to authorize support equipment necessary to maintain a capability to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the Tomahawk missile.

The conferees agreed to $786.2 million for ordnance support equipment, an addition of $1 million to the budget request to authorize support equipment necessary to maintain a capability to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the Tomahawk missile.

The Senate recedes with an amendment.

Supply support equipment, special activities

Within the amount requested for Navy supply support equipment, $16.1 million was included for special activities. The Senate bill would authorize the amount requested for this purpose. The House amendment would authorize $12.6 million. The conferees recommend the authorization of $12.6 million.

The Senate recedes.

Personnel/command support equipment, intelligence support equipment

Within the amount requested for Navy personnel and command support equipment, $24 million was included for intelligence support equipment. The Senate bill would authorize $21.2 million for this purpose. The House amendment would authorize $24.7 million. The conferees recommend an authorization of $21.9 million.

The House recedes with an amendment.

PROCUREMENT, MARINE CORPS

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ammunition		630.2		470.0		530.2		470.0
155mm ammunition		(396.1)		(235.9)		(396.1)		(235.9)
Undistributed reduction		(0)		(0)		(−100.0)		(0)
Tracked combat vehicles:								
LVT7A1 assault amphibian vehicle	168	151.5	168	151.5	168	151.5	168	151.5
LVT7 (SLEP)	363	157.2	363	157.2	363	157.2	363	157.2
Light armored vehicles	134	89.7	0	0	134	89.7	134	89.7
Spares and repair parts		15.0		15.0		15.0		15.0

PROCUREMENT, MARINE CORPS—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Modification kits		4.1		4.1		4.1		4.1
Total, tracked combat vehicles, Marine Corps		(417.5)		(327.8)		(417.5)		(417.5)
Artillery		7.5		7.5		7.5		7.5
Weapons:								
M2 50 caliber machinegun	273	3.0	273	3.0	273	3.0	273	3.0
9mm handgun	5,000	2.0	0	0	0	0	0	0
M60 machinegun	60	.2	60	.2	60	.2	60	.2
5.56mm light machinegun	2,907	8.4	2,907	8.4	2,907	8.4	2,907	8.4
M16A1 5.56mm rifle	54,725	28.5	54,725	28.5	54,725	28.5	54,725	28.5
MK-19 40mm machinegun	570	16.5	570	16.5	570	16.5	570	16.5
EOD equipment		.2		.2		.2		.2
SMAW 18mm rocket	295	2.2	295	2.2	295	2.2	295	2.2
Total, weapons, Marine Corps		(61.0)		(59.0)		(59.0)		(59.0)
Guided missiles:								
MIM-23B (Hawk)	213	75.4	213	75.4	213	75.4	213	75.4
MIM-23B (Hawk) modifications		20.7		20.7		20.7		20.7
Stinger	1,560	115.6	1,560	115.6	1,560	115.6	1,560	115.6
FGM-77 (Dragon)		.7		.7		.7		.7
BGM-71-A (TOW)	1,000	28.6	1,000	28.6	1,000	28.6	1,000	28.6
BGM-71-A (TOW) modifications		9.4		9.4		9.4		9.4
Spares and repair parts		12.0		12.0		12.0		12.0
Modification kits		1.5		1.5		1.5		1.5
Total, missiles, Marine Corps		(263.9)		(263.9)		(263.9)		(263.9)
Communications and electronics		476.8		426.8		476.8		476.8
AN/TPS-59 radar		(126.3)		(76.3)		(126.3)		(126.3)
Support vehicles		190.9		190.9		190.9		190.9
Engineer and other equipment		252.9		239.0		252.9		246.0
Medium tractor		(30.2)		(16.3)		(30.2)		(23.3)
Total procurement, Marine Corps		2,300.7		1,904.9		2,198.7		2,131.6

155 millimeter ammunition

The budget request contained $396.1 million for 155 mm ammunition. The Senate bill authorized the requested amount. The House amendment reduced the requested amount to $235.9 million, a reduction of $160.2 million.

The Senate recedes.

Undistributed reduction

The budget request contained $630.2 million for Marine Corps ammunition. The Senate bill authorized a general reduction of $100 million. The House amendment did not contain a similar reduction.

The Senate recedes.

Light armored vehicle

The budget request contained $89.7 million for the procurement of 134 Light Armored Vehicles (LAV's). The Senate bill authorized the requested amount. The House amendment deleted funds for the LAV program.

The House recedes.

AN/TPS-59 radar set

The budget requested contained $126.3 million for the procurement of 10 AN/TPS-59 radar sets. The Senate bill supported the budget request. The House amendment authorized the procurement of 5 AN/TPS-59 radar sets for $76.3 million, a reduction of $50 million.

The House recedes.

Tractors, medium full tracked

The budget request contained $30.2 million for the procurement of 216 medium tractors. The Senate bill authorized the requested amount. The House amendment bill authorized $16.3 million for the procurement of 116 medium tractors. The conferees recommend authorization of $23.3 million for the procurement of medium tractors.

AIRCRAFT PROCUREMENT, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Combat aircraft:								
Strategic offensive:								
LRCA (B1-B)	7	(3,650.1)	7	(3,650.1)	7	(3,650.1)	7	(3,650.1)
Less advance procurement (PY)		(−257.0)		(−257.0)		(−257.0)		(−257.0)
Net		3,393.1		3,393.1		3,393.1		3,393.1
B1-B advance procurement (CY)		475.0		475.0		475.0		475.0
Tactical forces:								
A-10A/B (Thunderbolt II)	20	(398.3)	30	(427.1)	0	(70.0)	0	(70.0)
Less advance procurement (PY)		(−41.0)		(−62.2)		(−41.0)		(−41.0)
PY authorization transfer		(0)		(−35.6)		(0)		(0)
Net		357.3		329.3		29.0		29.0
A-10 advance procurement (CY)		0	LL 20	28.0		0		0
F-5F (Tiger II)	3	(33.3)	3	(33.3)	3	(33.3)	3	(33.3)
Less advance procurement (PY)		(−4.8)		(−4.8)		(−4.8)		(−4.8)
Net		28.5		28.5		28.5		28.5
F-15A/B/C/D/E (Eagle)	42	(1,422.2)	30	(1,082.6)	48	(1,530.6)	39	(1,340.4)
Less advance procurement (PY)		(−125.4)		(−100.4)		(−125.4)		(−100.4)
Net		1,296.8		982.2		1,405.2		1,240.4
F-15 advance procurement (CY)	LL 60/96	305.4	LL 30/30	142.1		202.5		162.0
F-16A/B (Falcon)	120	(2,107.7)	120	(2,107.7)	120	(2,107.7)	120	(2,083.9)
Less advance procurement (PY)		(−372.3)		(−372.3)		(−372.3)		(−372.3)
Net		1,735.4		1,735.4		1,735.4		1,711.6

AIRCRAFT PROCUREMENT, AIR FORCE—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
F-16 advance procurement (CY)		223.3		223.3		390.6		323.3
Other combat aircraft:								
KC-10A (Extender)	8	528.8	8	528.8		354.0		354.0
KC-10 advance procurement (CY)		261.3		261.3		441.0		441.0
E-3A (AWACS)	2	(232.9)	1	(130.6)	2	(232.9)	2	(232.9)
Less advance procurement (PY)		(−92.3)		(−100.0)		(−92.3)		(−92.3)
Net		140.6		30.6		140.6		140.6
E-3A advance procurement (CY)		25.7		50.0		25.7		25.7
MC-130H		0	2	(65.3)		0	2	(65.3)
Less advance procurement (PY)		0		(−27.0)		0		(−27.0)
Net		0		38.3		0		38.3
MC-130 advance procurement (CY)		0	LL 2	32.2		0		0
Total, combat aircraft		(8,771.2)		(8,278.1)		(8,620.6)		(8,362.5)
Strategic airlift:								
C-5B (Galaxy)	2	(970.0)	2	(970.0)	0	0	1	(747.5)
Less advance procurement (PY)		(−270.0)		(−270.0)		0		(−50.0)
Net		700.0		700.0		0		697.5
C-5B advanced procurement (CY)		100.0		100.0		0		102.5
Wide bodied cargo aircraft		0		0		(350.0)	3	(144.8)
Less advance procurement (PY)		0		0		(0)		(−84.8)
Net		0		0		350.0		60.0
Tactical airlift:								
European distribution aircraft	2	5.0	2	5.0	0	0	2	5.0
C-130H		0	8	144.6	4	75.0	4	72.5
C-130H (ski equipped)		0	4	106.5		0	4	106.5
Total, airlift aircraft		(805.0)		(1,056.1)		(425.0)		(1,044.0)
Other aircraft:								
TR-1A	4	(155.4)	4	(155.4)	4	(155.4)	4	(155.4)
Less advance procurement (PY)		(−9.6)		(−9.6)		(−9.6)		(−9.6)
Net		145.8		145.8		145.8		145.8
TR-1A advance procurement (CY)		10.7		10.7		10.7		10.7
Modification of aircraft		2,600.0		2,481.4		2,715.0		2,578.9
OV-10 SEEK TALK		(3.5)		(0)		(3.5)		(0)
F/RF-4		(127.3)		(120.2)		(127.3)		(120.2)
A-7		(41.5)		(90.5)		(41.5)		(90.5)
KC-135 reengining (CFM-56)		(490.6)		(375.6)		(490.6)		(375.6)
KC-135 reengining (JT-3D)		(0)		(0)		(115.0)		(60.0)
B-52		(554.6)		(521.6)		(554.6)		(554.6)
Undistributed		(0)		(−9.0)		(0)		(−4.5)
Spares and repair parts		3,656.6		3,526.6		3,654.4		3,578.4
C-130H		(0)		(10.0)		(0)		(7.0)
MC-130H		(0)		(5.0)		(0)		(5.0)
F-15		(80.1)		(57.1)		(88.9)		(74.4)
KC-10		(39.0)		(39.0)		(28.0)		(28.0)
C-5B		(60.0)		(60.0)		(0)		(47.5)
Wide-bodied cargo aircraft		(0)		(0)		(60.0)		(0)
Undistributed		(0)		(−122.0)		(0)		(−61.0)
Support equipment and facilities		1,767.4		1,744.7		1,767.4		1,765.3
Other production charges:								
LANTIRN		(15.7)		(0)		(15.7)		(15.7)
ECM pods		(237.4)		(275.9)		(237.4)		(275.9)
Classified program		(0)		(0)		(−5.1)		(−5.1)
Common ground equipment		(332.6)		(312.6)		(332.6)		(312.6)
War consumables		(140.8)		(115.3)		(140.8)		(125.3)
Total, other aircraft		(8,180.5)		(7,909.2)		(8,288.2)		(8,079.1)
Total, aircraft procurement, Air Force		17,756.7		17,243.4		17,333.8		17,485.7

A-10 aircraft (Thunderbolt II)

The budget request contained $357.3 million for procurement of 20 A-10 aircraft. The Senate bill authorized no aircraft and $29.0 million for line termination costs. The House amendment authorized $329.3 million for procurement of 30 aircraft and $28.0 million for advance procurement of 20 aircraft in fiscal year 1984.

The conferees agreed to authorize no aircraft and $29.0 million for line termination costs. The reduction from the amount requested is without prejudice.

F-15A/B fighter aircraft (Eagle)

The budget request contained $1,296.8 million for procurement of 42 F-15 aircraft in fiscal year 1983 and $305.4 million for advance procurement to support acquisition of 60 F-15's in fiscal year 1984 and 96 in fiscal year 1985. The Senate bill authorized $1,405.2 million for procurement of 48 aircraft in fiscal year 1983 and advance procurement of $202.5 million to support acquisition of 42 F-15's per year in fiscal years 1984 and 1985. The House amendment authorized $982.2 million for procurement of 30 aircraft in fiscal year 1983 and $142.1 million for advance procurement to support acquisition of 30 F-15's per year in fiscal years 1984 and 1985.

The conferees agreed to an authorization of $1,240.4 million for procurement of 39 aircraft in fiscal year 1983 and $162.0 million for advance procurement.

F-16A/B fighter aircraft (Falcon)

The budget request contained $1,735.4 million for procurement of 120 F-16's and $223.3 million for advance procurement of 120 aircraft per year in fiscal years 1984 and 1985 under a multiyear procurement contract. The Senate bill authorized the amount requested for fiscal year 1983 and authorized $390.6 million for advance procurement to support acquisition of 180 F-16's per year in fiscal years 1984 and 1985. The House amendment authorized the amounts requested.

The conferees agreed to an authorization of $1,711.6 million for procurement of 120 aircraft in fiscal year 1983. The reduction of $23.8 million deletes authorization for SEEK-TALK peculiar modifications to the F-16. The conferees also agreed to an authorization of $323.3 million for advance procurement, an increase of $100.0 million over the amount requested. This increase is to support the procurement of 30 additional F-16 aircraft in fiscal years 1984 and 1985 (for a total of 150 aircraft in each year) either by modification of the existing multiyear contract or by separate contract, whichever is more economical.

KC-10A advanced tanker/cargo aircraft

The request contained $528.8 million for procurement of 8 KC-10A aircraft in fiscal year 1983, $261.3 million for advance procurement and $39 million for initial spares. The Senate bill would authorize $354 million to procure 8 aircraft in fiscal year 1983, $441 million for advance procurement and $28 million for initial spares. The House amendment would authorize the amounts requested.

The conferees noted that the Senate amounts more closely match the authorizations required to fund the fiscal year 1983 increment of a multiyear contract for 44 KC-10A aircraft. The conferees, therefore, recommend authorizations of $354 million for procurement of 8 aircraft in fiscal year 1983, $441 million for advance procurement and $28 million for initial spares.

The conferees also note that the KC-10 multiyear contract is structured to begin with funding authorized for fiscal year 1982. The Administration has requested that $120 million be authorized and appropriated for that purpose. The Senate bill would authorize a supplemental appropriation for KC-10 aircraft in the amount of $120 million. The House amendment contained no supplemental authorization for that purpose. Title IX of the conference report contains a supplemental authorization of $120 million for Air Force aircraft. The conferees recommend that this amount be directed to the KC-10 program.

The House recedes.

E-3A Airborne Warning and Control System (AWACS)

The request contained $140.6 million to procure two E-3A aircraft in fiscal year 1983, $25.7 million for advance procurement for one aircraft in fiscal year 1984 and $10.4 million for spares. The Senate bill would authorize the amounts requested. The House amendment would authorize $30.6 million for one aircraft in fiscal year 1983, $50 million for advance procurement for two aircraft in fiscal year 1984 and $10.4 million for spares.

The conferees recommend authorizations in the amounts requested.

The House recedes.

MC-130H aircraft (Combat Talon)

No MC-130H aircraft were requested in the fiscal year 1983 budget request. The Senate bill contained no authorization for the MC-130H. The House amendment authorized $38.3 million for procurement of 2 MC-130H aircraft in fiscal year 1983 and $32.2 million for advance procurement to support acquisition of 2 aircraft in fiscal year 1984.

The conferees agreed to an authorization of $38.3 million for procurement of 2 MC-130H aircraft in fiscal year 1983. The conferees agreed to authorize no advance procurement.

C-5B airlift aircraft

The request contained $700 million to procure 2 C-5B aircraft in fiscal year 1983, $100 million for advance procurement for fiscal year 1984, and $60 million for initial spares. The Senate bill contained a provision (sec. 1129) that would prohibit the use of funds authorized to be appropriated for fiscal year 1983 or for prior fiscal years for the reestablishment of production facilities for manufacturing additional C-5 aircraft or for the procurement of additional C-5 aircraft.

The House amendment would authorize the appropriation of $860 million for facilities, materials, components, and other recurring and nonrecurring costs to begin a program for procurement of 50 C-5B aircraft and to procure two such aircraft in fiscal year 1983.

The conferees have strongly supported an increased outsize strategic airlift capability. The conferees have agreed to the earliest initiation of the C-5B program as the cornerstone of a comprehensive and balanced airlift program that includes KC-10A aircraft, the Civil Reserve Air Fleet (CRAF) enhancement program or another program to improve the military utility of commercial aircraft, and C-17 type technology development.

The conferees recommend authorization of $847.5 million for C-5B aircraft procurement for fiscal year 1983, consisting of: $697.5 million for procurement of facilities, materials, tooling, recurring and nonrecurring costs and for procurement of one C-5B; $102.5 million for advance procurement; and $47.5 million for initial spares. In addition, the conferees recommend authorizing the transfer of $50 million authorized and appropriated in fiscal year 1982 to the C-5B program.

The Senate recedes with an amendment.

Wide-bodied cargo aircraft

Section 1129 of the Senate bill would authorize $350 million for procurement in fiscal year 1983 of surplus commercial wide-bodied cargo aircraft that are suitable for conversion to military cargo configurations and that were owned by domestic companies on or before May 13, 1982. In addition, the Senate bill would authorize $120.9 million previously authorized and appropriated for the Civil Reserve Air Fleet (CRAF) enhancement program for the purpose of procuring surplus commercial wide-bodied aircraft.

The House amendment contained no similar provision.

The conferees agreed to authorize procurement of three commercial cargo aircraft for military airlift. The conferees have authorized $60 million for this purpose, in addition to reauthorizing for this new purpose $84.8 million appropriated in fiscal years 1981 and 1982 for the CRAF enhancement program.

The House recedes with an amendment.

European distribution system aircraft

The request contained $5 million to procure 2 off-the-shelf small cargo aircraft for use by the Air Force in the European Distribution System. The Senate bill contained no authorization for these aircraft. The House amendment would authorize the amount requested. The conferees recommend authorization of $5 million for two European Distribution System aircraft.

The Senate recedes.

C-130H tactical airlift aircraft

No authorization was requested for procurement of C-130H aircraft in fiscal year 1983. The Senate bill would authorize $75 million to procure 4 aircraft. The House amendment would authorize $251.1 million to procure 12 C-130H aircraft and $10 million for initial spares. Four of the aircraft that the House amendment would authorize would be equipped with skis for arctic operations.

The conferees recommend authorizations of $72.5 million for 4 C-130H aircraft, $106.5 million for 4 ski-equipped C-130H aircraft and $7 million for initial spares.

The Senate recedes with an amendment.

Modification of aircraft

The budget request contained $2,600.0 million for modification of Air Force aircraft. The Senate bill authorized $2,715.0 million. The House amendment authorized $2,481.4 million.

The conferees agreed to an authorization of $2,578.9 million for modification of Air Force aircraft including no authorization for CV-10 SEEK TALK modifications; $120.2 million for F/RF-4 modifications; $90.5 million for A-7 modifications of which $49.0 million is authorized for the A-7 forward looking infra-red (FLIR) modification program; $375.6 million for KC-135 CFM-56) reengining modifications; $60.0 million for KC-135 (JT-3D) reengining modifications; $554.6 million for B-52 avionics modifications; and a $4.5 million undistributed reduction in the aircraft modification account.

KC-135 CFM-56 reengining program. The Air Force request contained $490.6 million to modify 20 KC-135 tanker aircraft and for procurement of CFM-56 engines. The Senate bill would authorize the amount requested. The House amendment would authorize $375.6 million for the KC-135 CFM-56 modification program to modify 15 aircraft in fiscal year 1983. The conferees recommend the authorization of $375.6 million for KC-135 CFM-56 modifications.

The Senate recedes.

KC-135 JT-3D engine modification. No authorization was requested for procurement of used 707 aircraft or JT-3D aircraft engines. The Senate bill would authorize $115 million to procure a number of used commercial 707 aircraft to modify a number of KC-135 aircraft with used JT-3D engines. The House amendment contained no authorization for this purpose.

The conferees recommend the authorization of $60 million for reengining KC-135 aircraft with JT-3D engines.

The House recedes with an amendment.

B-52 avionics modification. The Air Force request contained $554.6 million for B-52 modifications, including $305.8 million for B-52 avionics modernization. The Senate bill would authorize the full amounts requested. The House amendment would authorize $521.6 million for B-52 modifications, reducing the authorization for avionics modernization by $33 million.

The conferees recommend an authorization of $554.6 million for B-52 modifications, including $305.3 million for avionics modernization.

The House recedes.

Aircraft spares and repair parts

The budget request contained $3,656.6 million for aircraft spares and repair parts. The Senate bill recommended authorization of $3,654.4 million for aircraft spares and repair parts. The House amendment authorized $3,526.6 million for this purpose. The conferees recommend the authorization of $3,578.4 million for Air Force aircraft spares and repair parts.

Included in this authorization is $7.0 million for C-130H spares and repair parts and $5.0 million for MC-130H spares and repair parts. Both the budget request and the Senate bill contained no recommended authorization for these items.

The administration requested $80.1 million for F-15 spares and the conferees recommended $74.4 million.

The budget request contained $30.0 million for KC-10 spares. The conferees recommended $28.0 million.

The House recommended an undistributed reduction of $122.0 million in spares and repair parts. The conferees agreed to a $61.0 million undistributed reduction.

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Other production charges

The budget request contained $1,767.4 million for Air Force aircraft support equipment and facilities. The Senate bill authorized the requested amount while the House amendment recommended authorization of $1,744.7 million for aircraft support equipment and facilities.

The conferees recommend an authorization of $1,765.3 million for Air Force aircraft support equipment and facilities.

This recommendation would include authorization of $15.7 million for LANTIRN, $275.9 million for ECM pods, $312.6 million for common ground equipment and $125.3 million for war consumables.

Other production charges, classified program. The Senate bill would have reduced a classified program contained within the amount requested for the Air Force aircraft, Other Production Charges request by $5.1 million. The House amendment would not reduce this program. The conferees recommend a reduction of $5.1 million in this classified program. This action will be reflected in a classified annex to the statement of the managers.

The House recedes.

Airlift

The conferees, in this conference report, have strongly supported an increased outsize strategic airlift capability. The conferees have agreed to the early initiation of the C-5B program as the cornerstone of a comprehensive and balanced airlift program that includes KC-10A aircraft, the Civil Reserve Air Fleet (CRAF) enhancement program or other programs to improve the military utility of commercial aircraft, C-17 type aircraft technology development, and procurement of three wide-body airlift aircraft.

Civil Reserve Air Fleet (CRAF)

While the Civil Reserve Air Fleet (CRAF) program was not within the scope of the matters committed to the Joint Conference Committee, the conferees expect the Air Force to accelerate the CRAF enhancement program that is now a part of the five year defense plan. The Air Force has proposed revisions in its contracting procedures to achieve participation by commercial carriers and there are indications that the program can be executed on an accelerated basis.

The conferees would consider reprogramming requests to achieve that propose.

MISSILES, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic missiles:								
Advanced ICBM (M-X)	9	(1,446.4)	9	(1,164.2)	0	0	5	(988.0)
PY authorization transfer				(−22.3)				(0)
Net		1,446.4		1,141.9		0		988.0
Other missiles:								
Strategic missiles:								
AGM-86B (ALCM)	440	(622.7)	440	(622.7)	440	(622.7)	440	(622.7)
Less advance procurement (PY)		(−1.2)		(−1.2)		(−1.2)		(−1.2)
Net		621.5		621.5		621.5		621.5
AGM-86 advance procurement (CY)		43.0		43.0		43.0		43.0
BGM-109 (GLCM)	120	(520.1)	120	(520.1)	120	(520.1)	120	(520.1)
Less advance procurement (PY)		(−29.8)		(−29.8)		(−29.8)		(−29.8)
Net		490.3		490.3		490.3		490.3
BGM-109 advance procurement (CY)		29.6		29.6		29.6		29.6
Tactical missiles:								
AIM-7F/M (Sparrow)	1,300	198.6	1,300	198.6	1,300	198.6	1,300	198.6
AIM-9L/M (Sidewinder)	1,920	114.7	1,920	114.7	1,920	114.7	1,920	114.7
AGM-65D (Maverick)	2,560	342.6	1,335	270.6	1,355	244.9	1,355	244.9
AGM-88A (Harm)	206	159.8	206	159.8		90.8	206	159.8
Rapier		98.9		148.9		98.9		148.9
Target drones		40.2		40.2		40.2		40.2
Total, other missiles		(2,139.2)		(2,117.2)		(1,972.5)		(2,091.5)
Modification of missiles		160.0		53.7		233.8		94.2
Titan II		(0)		(0)		(73.8)		(0)
Minuteman class V		(35.5)		(0)		(35.5)		(35.5)
Minuteman class IV		(57.8)		(42.8)		(57.8)		(42.8)
Minuteman transfer from fiscal year 1982		(0)		(−5.0)		(0)		(0)
ALCM		(50.8)		(0)		(50.8)		(0)
Spares and repair parts		274.0		223.3		223.3		223.3
Advanced ICBM (M-X)		(50.7)		(0)		(0)		(0)
Other support:								
Spaceborne equipment (COMSEC)		13.1		13.1		13.1		13.1
NAVSTAR GPS		102.0		102.0		102.0		102.0
Space launch support		87.6		87.6		87.6		87.6
Advance procurement (CY)		68.2		68.2		68.2		68.2
Satellite data system		(43.8)		(43.8)		(43.8)		(43.8)
Less advance procurement (PY)		(−21.3)		(−21.3)		(−21.3)		(−21.3)
Net		22.5		22.5		22.5		22.5
Defense meteorological satellite program		137.2		137.2		137.2		137.2
Advance procurement (CY)		30.7		30.7		30.7		30.7
Defense support program		(515.1)		(515.1)		(515.1)		(515.1)
Less advance procurement (PY)		(−107.6)		(−107.6)		(−107.6)		(−107.6)
Net		407.5		407.5		407.5		407.5
Defense satellite comm system		(201.4)		(201.4)		(176.4)		(191.4)
Less advance procurement (PY)		(−8.5)		(−8.5)		(−8.5)		(−8.5)
Net		192.9		192.9		167.9		182.9
AF satellite comm system		28.6		28.6		28.6		28.6
Space boosters		(39.1)		(39.1)		(39.1)		(39.1)
Less advance procurement (PY)		(−35.6)		(−35.6)		(−35.6)		(−35.6)
Net		3.5		3.5		3.5		3.5
Advance procurement (CY)		67.6		67.6		67.6		67.6
Space Shuttle		136.0		136.0		136.0		136.0
Industrial facilities		27.2		27.2		27.2		27.2
Special programs		(1,483.8)		(1,472.7)		1,540.7)		(1,481.2)
Less PY authorization transfer		(0)		(0)		(0)		(−154.0)
Net		1,483.8		1,472.7		1,540.7		1,372.2

MISSILES, AIR FORCE—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Special programs		(1,183.8)		(1,172.7)		(1,140.7)		(1,140.7)
Special update programs		(258.4)		(258.4)		(358.4)		(298.9)
Total, other support		(2,908.3)		(2,797.3)		(2,840.3)		(2,641.7)
Total, missiles, Air Force		6,827.9		6,333.3		5,269.8		6,038.7

MISSILE PROCUREMENT

The President's budget contained $6,827.9 million for missile procurement, Air Force.

The Senate bill contained an authorization of $5,269.8 million. The House amendment contained an authorization of $6,333.3 million.

The conferees agreed to an authorization of $6.038.7 million for the procurement of missiles for the Air Force. In addition to authorization for fiscal year 1983 the conferees agreed to authorize the transfer of $154 million authorized and appropriated in fiscal year 1982, but not used, for the procurement of missiles for the Air Force.

Advanced intercontinental ballistic missile (M-X)

The budget request contained $1,446.4 million to procure 9 M-X missiles in fiscal year 1983 and $50.7 million for initial spares. The amount requested for procurement would include the costs of establishing a production base for the M-X missile, missile support equipment, and the procurement of items related to basing and deployment of the M-X missile system.

The Senate bill provided no authorization for M-X missile procurement in fiscal year 1983.

The House amendment would provide $1,141.9 million for the procurement of 9 M-X missiles, including production start-up costs. The House amendment would delete $282.2 million requested for interim M-X basing and $50.7 million requested for spares. The House amendment would have provided a limited authorization for missile support equipment and for basing and deployment work that would be necessary regardless of the basing mode finally selected for the M-X missile. The House amendment would provide $882 million for missile procurement and $259.9 million for procurement related to basing and deployment. The House amendment also would provide that the $259.9 million that would be authorized for basing and deployment cannot be obligated until the President completes his review of alternative M-X missile basing modes and notifies the Congress in writing of the basing mode in which the M-X missile will be deployed and 30 days of session of Congress have expired after the receipt by Congress of such notice.

The conferees agreed that the M-X missile program should be started with initial procurement authorized for fiscal year 1983 in order to permit the initial operational capability of this system in 1986. The conferees recommend the authorization of $988.0 million for the M-X missile procurement in fiscal year 1983. Of this amount, $830.0 million is for the procurement of 5 missiles and the costs of establishing a production base. The remaining $158.0 million is authorized for missile support equipment and for procurement related to basing and deployment of the missile. The conferees approved language restricting the obligation of the $158.0 million recommended for procurement related to basing and deployment until after the President notifies the Congress that a basing mode has been selected and 30 legislative days have expired after the receipt by Congress of such notice.

The conferees fully endorse the Administration's commitment to the maintenance of a balanced, credible strategic Triad consisting of modern and survivable land-, sea- and air-based legs. The conference committee action on M-X procurement and research and development funding is intended to be consistent with that commitment and with the President's expressed intent to provide to the Congress his plan for permanent basing of the M-X by December 1, 1982.

The conferees have not prejudged the outcome of the President's decision. The conference committee expects that, at the time that decision is provided to the Congress, it should be accompanied by a statement outlining not only the near-term permanent basing system selected, but also any ancillary and complementary systems envisioned to support the initial deployment mode. Depending upon the system selected, such additional adjuncts as ballistic missile defense, deceptive basing, deep underground basing, multiple missile arrays, or south-sope basing, may be appropriate. The requested statement should indicate the Administration's plans for developing such options as are deemed desirable, the anticipated costs and the key decision points involved in developing and deploying such systems.

The conference committee strongly endorses the Administration's efforts to reduce the danger of nuclear war through negotiated strategic and theater nuclear arms reductions.

The conferees believe that the development and procurement of the M-X is consistent with and supportive of the aims advocated by the Administration for increased strategic stability at lower levels of nuclear forces.

The Senate recedes with an amendment.

AGM-65D missile (Maverick)

The budget request contained $342.6 million for procurement of 2560 Maverick missiles. The Senate bill authorized $244.9 million for procurement of 1355 missiles. The House amendment authorized $270.6 million for procurement of 1335 missiles.

The conferees agreed to an authorization of $244.9 million for procurement of 1355 missiles.

AGM-88A missile (HARM)

The budget request contained $159.8 million for procurement of 206 HARM missiles. The Senate bill authorized $90.8 million for procurement of an undetermined number of missiles. The House amendment authorized the amount requested.

The conferees agreed to an authorization of $159.8 million for procurement of 206 missiles.

Rapier missile

The budget request contained $98.9 million for procurement of Rapier missiles for defense of U.S. air bases in the United Kingdom. The Senate bill authorized the amount requested. The House amendment authorized $148.9 million and directed the Air Force to explore cooperative arrangements to extend the Rapier role model (U.S. procurement, European manning) to include U.S. airbases in continental Europe.

The conferees agreed to authorize $148.9 million for procurement of Rapier missiles, of which $50.0 million is to be used for procurement of missiles for defense of U.S. airbases in continental Europe.

Modification of missiles, Air Force

The request contained $160 million for the modification of Air Force missiles. The Senate bill provided $233.8 million for this purpose. The House amendment provided $53.7 million for missile modifications. The House amendment would carry forward $5 million appropriated for the Minuteman III program in fiscal year 1982.

The conferees recommend the authorization of $94.2 million for missile modifications. This recommendation does not include the transfer of $5 million of fiscal year 1982 appropriations as proposed by the House amendment.

Specific items are set forth below.

Class IV missile modifications (Titan II). The request contained $62.4 million for all fiscal year 1983 Class IV modifications to Air Force missiles. The Senate bill would authorize an increase of $73.8 million. The $73.8 million additional authorization provided in the Senate bill was for the purpose of modifying Titan II intercontinental ballistic missiles so that these missiles could be retained in an alert status rather than being phased out of the inventory as planned by the Administration.

The House amendment would authorize the $62.4 million requested for Class IV missile modifications and would be in concurrence with the planned retirement of the remaining 52 Titan missiles during the next three years.

The conferees considered the age, design, and effectiveness of the remaining Titan missiles as a strategic deterrent. The conferees also considered the fact that Titan missiles represent a considerable percentage of the destructive power of the United States' strategic deterrent forces. The conferees recommend the authorization of $62.4 million for Class IV missile modifications in fiscal year 1983. The $73.8 million additional authorization contained in the Senate bill is deleted without prejudice. If the President should decide during fiscal year 1983 that conditions require additional Class IV modifications to Titan missiles, the authorizing committees will entertain reprogramming requests for that purpose.

The Senate recedes.

Class V missile modifications (Minuteman III). The request contained $35.5 million for the procurement of lithium batteries as a source of emergency power for Minuteman III missile silos—a Class V missile modification. The Senate bill would authorize the amount requested. The House amendment contained no authorization for this program. The conferees recommend authorization of $35.5 million for the Minuteman III Class V modification program.

The House recedes.

Class IV missile modifications (Minuteman II). Within the $160 million requested for the modification of missiles, $15 million was requested for Minuteman II modifications related to the deployment of additional missiles. The Senate bill included this amount. The House amendment included no authorsation for this purpose. The conferees recommend a reduction of $15 million from the Minuteman Class IV modification request with appropriate offsets to be provided from the relevant operations and maintenance account.

The Senate recedes.

Air Launched Cruise Missile modifications (HAVE RUST). The request contained $50.8 million for the HAVE RUST modification to air launched cruise missiles. The Senate bill would authorize the amount requested. The House amendment provided no authorization for this purpose. Based on a decision by the Air Force not to proceed with procurement of this program in fiscal year 1983, the conferees recommend that no authorization be provided for fiscal year 1983.

The Senate recedes.

Defense Satellite Communications System (DSCS)

The request contained $192.9 million for procurement of Defense Satellite Communications System (DSCS) satellites for fiscal year 1983. The Senate bill would authorse $167.9 million for that purpose. The House amendment would authorise the amount requested. The conferees recommend the authorization of $182.9 million of DSCS satellite procurement without prejudice.

The Senate recedes with an amendment.

Special programs

The request contained $1,183.8 million for Air Force special programs for fiscal year 1983. The Senate bill contained $1,140.7 million for that purpose. The House amendments would authorize $1,172.7 million for special programs. The conferees recommend the authorization of $1,140.7 million for special programs. This action will be reflected in a classified annex to the statement of the managers.

The House recedes.

Special update programs

The request contained $258.4 million for Air Force missile special update programs. The Senate bill would authorize $358.4 million for that purpose. The House amendment would authorize the amount requested. The conferees recommend the authorization of $298.9 million for special update programs. Details of this action will be included in a classified annex to the statement of the managers. The Senate recedes with an amendment.

OTHER PROCUREMENT, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Munitions and associated equipment		854.2		803.9		841.4		846.4
CBU 90		(54.4)		(0)		(54.4)		(54.1)
9mm handgun		(3.9)		(0)		(0)		(0)
FMU-112/FMU 139 fuzes		(8.3)		(16.3)		(5.0)		(10.3)
BDU-33 practice bomb		(29.4)		(29.4)		(24.4)		(24.4)
9mm ammunition		(0.6)		(0.6)		(0)		(0)
Vehicular equipment		350.4		350.4		350.4		350.4
Electronics and telecommunication equipment		1427.3		1377.8		1425.8		1355.1
Seek talk		(10.5)		(0)		(10.5)		(0)
FY authorization transfer		(0)		(−12.1)		(0)		(−12.1)
Tri Tac		(12.8)		(9.8)		(12.8)		(12.8)
Air National Guard		(0)		(36.7)		(0)		(0)
Distant early warning		(31.2)		(0)		(31.2)		(0)
Tactical signal intelligence support		(20.5)		(18.5)		(20.5)		(18.5)
Transport ground intercept facility		(27.4)		(0)		(27.4)		(11.0)
Classified programs		(2.9)		(2.9)		(1.4)		(2.9)
Other base maintenance and support equipment		3213.3		3124.6		3104.0		3104.8
Production activity		(3.8)		(2.3)		(3.8)		(2.3)
Photo processing/interpretation systems		(11.1)		(6.5)		(11.1)		(9.9)
Selected activities		(2532.5)		(2449.9)		(2423.2)		(2426.7)
Total, other procurement, Air Force		5845.2		5656.7		5721.6		5656.7

CBU-90 (ACM)

The budget request contained $54.4 million for the procurement of 2,000 CUB-90 bombs. The Senate bill authorized the amount requested. The House amendment deleted all funds for the CBU-90 bomb.

The conferees recommend the authorization of $54.1 million for long-lead components to support the procurement of cluster munitions.

FMU-12/FMU-139 fuses

The budget request contained $8.3 million for the procurement of 10,000 FMU-12 or FMU-139 fuses. The Senate bill authorized $5 million for the procurement of FMU-12/FMU-139 fuses.

The House report notes that the FMU-12 fuze which was developed by the Air Force, recently entered low-rate production after an expensive development period. The report further states that the FMU-139 fuze is being developed by the Navy, and it may be at least two years before the FMU-139 is ready for production. The report notes that the Air Force has indicated a requirement for additional fuzes to meet operational commitments. The House amendment, therefore, authorized $16.3 million for the procurement of 20,000 FMU-12 or FMU-139 fuses.

The conferees recommend authorization of $10.3 million for the procurement of FMU-12 or FMU-139 fuses.

BDU-33 practice bomb

The budget request contained $29.4 million for the procurement of 568,480 BDU-33 practice bombs. The House amendment authorized the amount requested. The Senate bill authorized $24.4 million for the procurement of 568,480 DU-33 practice bombs.

The House recedes.

9 millimeter handgun ammunition

The budget request contained $0.6 million for 9 millimeter handgun ammunition. The House amendment authorized the amount requested. The Senate bill contained no funds for 9 millimeter handgun ammunition.

The House recedes.

SEEK TALK

The budget request contained $10.5 million for the procurement of SEEK TALK equipment. The Senate bill authorized the amount requested. The House amendment authorized the transfer forward from prior years SEEK TALK authorizations of $12.1 million as an offset to the Other Procurement Electronics and Telecommunications request for fiscal year 1983.

The conferees recommend an offset of $12.1 million to the electronics and telecommunications equipment, fiscal year 1983 authorization request.

TRI-TAC (AN/UXC-4) digital facsimile

The budget request contained $12.8 million for the procurement of TRI-TAC equipment. The Senate bill authorized the amount requested. The House amendment authorized $9.8 million for TRI-TAC equipment.

The House recedes.

Air National Guard

The House amendment authorized $36.7 million, specifically for electronics and telecommunications equipment for the Air National Guard. The budget request did not specifically contain funds for electronic and telecommunications equipment for the Air National Guard, and the Senate bill did not authorize specific amounts for electronic and telecommunications equipment for the Air National Guard. The Senate bill, however, did contain $30 million for the procurement of a variety of Air National Guard equipment.

The House recedes.

Distant early warning (DEW) radar

The request contained $31.2 million to begin the procurement of radars to replace existing equipment used on the distant Early Warning (DEW) line. The Senate bill would authorize the amount requested. The House amendment would provide no authorization for this purpose. The conferees recommend that no authorization be provided for Distant Early Warning radar procurement in fiscal year 1983.

The Senate recedes.

Tactical signal intelligence support

The request contained $20.5 million for Tactical Signal Intelligence Support procurement. The Senate bill would authorize the amount requested. The House amendment would authorize $18.5 million for that purpose. The conferees recommend the authorization of $18.5 million for Tactical Signal Intelligence Support.

The Senate recedes.

transport ground intercept facility

The request contained $27.4 million for procurement related to a Transport Ground Intercept Facility. The Senate bill would authorize the amount requested. The House amendment contained no authorization for this purpose. The conferees recommend the authorization of $11 million for Transport Ground Intercept Facility procurement.

The House recedes with an amendment.

Electronic and telecommunications equipment, classified programs

The Air Force Electronic and Telecommunications Equipment request contained $2.9 million for classified programs. The Senate bill would authorize $1.4 million for that purpose. The House amendment would authorize $2.9 million for classified programs. The conferees recommend the authorization of $2.9 million.

The Senate recedes.

Intelligence production activity

The Air Force authorization request for other base maintenance and support equipment included $3.8 million for an intelligence production activity. The Senate bill would authorize the amount requested. The House amendment would authorize $2.3 million for this purpose. The conferees recommend an authorization of $2.3 million.

The Senate recedes.

Photo processing and interpretation system

The request contained $11.1 million for a photo processing and interpretation system. The Senate bill would authorize the amount requested. The House amendment would authorize $6.5 million. The conferees recommend an authorization in the amount of $9.9 million.

The House recedes with an amendment.

Base maintenance and support equipment, selected activities

Within the amount requested for Air Force Base Maintenance and Support Equipment, $2,532.5 million was requested for selected activities. The Senate bill contained $2,423.2 million for that purpose. The House amendment contained $2,449.9 million for selected activities. The conferees recommend the authorization of $2,426.7 million for selected activities in fiscal year 1983.

The House recedes with an amendment.

PROCUREMENT, DEFENSE AGENCIES

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Procurement, defense agencies		890.3		863.4		859.6		859.6
Classified programs		(671.8)		(644.9)		(641.1)		(641.1)
Total, procurement, Defense Agencies		890.3		863.4		859.6		859.6

Procurement, defense agencies

The Department of Defense request contained $890.3 million for Defense Agencies procurement. The Senate bill would authorize $859.6 million for that purpose. The House amendment would authorize $863.4 million. The conferees recommend an authorization in the amount of $859.6 million for Defense Agencies procurement.

The House recedes.

GUARD AND RESERVES

[Amounts in millions of dollars]

Item	February—Fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Army Reserve equipment		0		0		30.0		30.0
Army National Guard equipment		0		0		50.0		50.0
Naval Reserve equipment		0		0		30.0		30.0
Marine Corps Reserve equipment		0		0		30.0		30.0
Air Force Reserve equipment		0		0		30.0		30.0
Air National Guard equipment		0		0		30.0		30.0
Total, Guard and Reserves		0		0		200.0		200.0

National Guard and Reserve equipment

The Senate bill contained a provision for authorization of $200 million for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons and other procurement for the reserve components as follows:

For the Army National Guard, $50,000,000.

For the Air National Guard, $30,000,000.

For the Army Reserve, $30,000,000.

For the Naval Reserve, $30,000,000.

For the Marine Corps Reserve, $30,000,000.

For the Air Force Reserve, $30,000,000.

The House amendment contained no authorization for this purpose.

In addition to funds authorized for the National Guard and Reserve elsewhere in this bill, these funds are authorized for items of equipment contained in the tables of authorized equipment of Guard and Reserve units. The chief of each reserve component will determine the priority for spending these funds and shall report to the Committees on Armed Services of the House and Senate by January 31, 1983 on the items of equipment procured with these funds.

The House recedes.

Authority of the Secretary of Defense in connection with the NATO AWACS program (sec. 106)

The Senate bill contained a provision (sec. 103) that would permanently extend the authority of the Secretary of Defense to waive certain reimbursement and surcharges and to assume certain contingent liabilities under the NATO AWACS Programme Memorandum of Understanding. This authority was provided by the fiscal year 1982 Department of Defense Authorization Act (Section 103(a)).

The House amendment contained a provision (sec. 105) that would provide authority identical to that provided by the Senate bill for fiscal year 1983 only.

The Senate recedes.

Restriction on multiyear procurement (sec. 107)

The Senate bill contained a provision (Sec. 102) that would require the Secretary of the military department concerned to submit written reports to the Armed Services Committees of the House and Senate and the House of Representatives justifying multiyear contracts for: F-111 weapon navigation computers; C-2 aircraft; EA-6B aircraft; A-6E aircraft; MULE laser designators; CH-53E helicopters; MLRS rocket systems, and ALQ-136 radio jammers. Under this provision, thirty days must elapse after receipt of such justification reports before the military department concerned may

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enter into a multiyear contract for procurement of the equipment listed in Sec. 102.

The House amendment contained no similar amendment.

The House recedes.

Enhancement of North American Air Defense Command low-level radar capabilities in Florida (sec. 108)

The House amendment contained a provision (sec. 109) that would authorize the Air Force to procure one tethered aerostat radar set for deployment at Kennedy Air Force Station, Florida, and to make necessary improvements to this radar set and to the set currently in use at Cudjoe Key, Florida.

The Senate bill contained no similar provision.

The Senate recedes.

Secure communications equipment (sec. 109)

The House amendment contained a provision (sec. 110) that would allow the Department of Defense to act as the Executive Agent for a National Secure Telephone program. This provision authorized the Department of Defense to use up to $50 million for procurement of secure telephones for government-wide use.

The Senate bill contained no similar provision.

The U.S. has established as a national priority a requirement to protect sensitive information passed over government telecommunications systems. The Secretary of Defense has been designated the Executive Agent to carry out the communications security activities of the United States Government and is responsible for developing and providing secure communications equipment.

In order to adequately protect U.S. government telephone communications, a government-wide secure telephone service has been established. A secure telephone device, developed by the Department of Defense, would be the primary protected communications component of this service. This device would provide service through standard telephone networks. A priority effort is being pursued to implement this program, and initial production requirements of approximately 5,000 secure telephone devices and related equipments have been identified. In order to carry out this effort in an efficient and cost effective manner, the Defense Department will fund, without reimbursement from other government agencies, the initial procurement of these and related equipments.

The purpose of section 109 is to provide an authorization of $50 million to the Department of Defense to enable the department to procure secure telephones for government-wide use. This provision provides an exception to Section 628 of Title 31, U.S.C., Economy Act, thereby allowing the Defense Department to provide secure telephone service to other government agencies without reimbursement. This provision does not add to the bill total but simply provides authorization for the Defense Department to execute the program within the total authorization provided in Title I. The Department is required to notify the Armed Services Committees of the Senate and the House of Representatives as to the source of funds that will be used for this purpose in accordance with normal reprogramming procedures. Further, the provision in no way restricts the Defense Department from using funds that might otherwise be included in Title I for secure telephone programs to execute these programs. It is only intended to provide the authorization required to allow the Defense Department to carry out its responsibilities as the Executive Agent for the National Secure Telephone program.

The Senate recedes.

The special classified program will be the subject of separate classified correspondence between the Armed Services Committees and the Secretary of Defense.

Prohibition of acquisition of 9 millimeter handgun (sec. 110)

The House amendment contained a provision (sec. 108) that would provide that none of the funds appropriated pursuant to an authorization of appropriations in the bill could be obligated or expended in connection with the purchase of a 9 millimeter handgun for the armed forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9 millimeter handgun for the armed forces.

The Senate bill contained no similar provision.

The conferees agreed that the provision would not preclude the Department of the Army from functioning as the executive agent for the procurement of 9mm handguns for the Department of Transportation law enforcement function.

The Senate recedes.

Prohibition against procurement of additional A–10 aircraft

The Senate bill contained a provision (sec. 104) prohibiting procurement of A–10 aircraft for the Air Force beyond the funding levels authorized in the fiscal year 1982 Department of Defense Authorization Act.

The House amendment contained no similar provision.

The Senate recedes.

Prohibition against procurement of additional AH–64 helicopters

The Senate bill contained a provision (sec. 105) prohibiting funding for additional AH-64 attack helicopters beyond levels authorized in the Senate bill unless specifically authorized by further legislation.

The House amendments contained no similar provision.

The Senate recedes.

TACAMO aircraft

The Senate bill contained a provision (sec. 106) that would prohibit the obligation or expenditure of funds authorized for procurement of two communications suites for TACAMO EC–130Q aircraft until a report is submitted to the Armed Services Committees of the Senate and House of Representatives concerning the feasibility of procuring more modern communications gear consistent with the planned purchase of replacement aircraft. Three million dollars was provided in Title II of the Senate bill to perform this study. The House amendment had no comparable provisions.

The conferees agreed that it would be desirable to have such a report submitted but decided against restricting the use of funds authorized in connection with the TACAMO procurement. It is expected that a report on TACAMO communications system alternatives and related procurement strategies will be available at the time of Congressional consideration of the fiscal year 1984 budget request.

The Senate recedes.

CBU/90 antiarmor cluster munition

The Senate bill contained a provision (sec. 107) that would require the Secretary of the Air Force to provide written certification to the Armed Services Committees that CBU/90 procurement is essential to the Air Force inventory before funds authorized for fiscal year 1983 could be obligated or expended. The House bill contains no similar provision.

The Senate recedes.

Prohibition of construction of naval vessels in foreign shipyards

The House amendment contained a provision (sec. 106) that would prohibit the use of funds authorized to be appropriated for the procurement of naval vessels to be used for construction or conversion of naval vessels in foreign shipyards.

The Senate bill contained no similar provision.

The House recedes.

Construction or conversion of new hospital ship in United States shipyards

The House amendment contained a provision (sec. 107) that would provide that the hospital ship (T-AHX) for which funds are authorized to be appropriated in title I should be constructed or converted in a United States shipyard. It further would provide that if the ship is converted from an existing ship, it should be converted from a ship originally built in a United States shipyard.

The Senate bill contained no similar provision.

The conferees noted that these restrictions have been incorporated in the Navy program and that the provision is not necessary.

The House recedes.

Prohibition on procurement of binary chemical munitions and related production facilities

The House amendment contained a provision (sec. 111) that would prohibit the obligation and expenditure of funds for procurement of binary chemical munitions. The Senate bill contained no similar provision.

The House recedes. See the discussion in section 1124 of the Statement of Managers for a detailed explanation of the conference action on chemical munitions.

Sense of Congress on chemical warfare negotiations

The House amendment contained a provision (sec. 112) that would express the sense of Congress that the President should seek to actively promote negotiations aimed at banning the production and stockpiling of chemical weapons. The Senate bill contained a similar provision (sec. 1141).

The conferees agreed to drop section 112 of the House amendment and accept the Senate provision. An explanation of the conference action is included in the discussion of section 1124 of the Statement of Managers.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Administration requested a total authorization of $24,260,400,000 for the fiscal year 1983 Research, Development, Test and Evaluation (RDT&E) appropriations. The conferees agreed on a total authorization of $23,047,869,000 for the RDT&E program, a reduction of $1,212,531,000 from the Administration's request. The following tables summarize the conference actions.

RDT&E SUMMARY

[In thousands of dollars]

	Request	Senate	House	Conference
Army	4,484,000	4,161,741	3,651,741	3,926,367
Navy [1]	6,235,316	6,131,698	6,026,208	6,129,115
Air Force	11,220,400	10,760,643	10,409,196	10,720,884
Defense Agencies	2,320,684	2,276,384	2,219,730	2,271,503
Total, RDT&E	24,260,400	23,330,466	22,306,875	23,047,869

[1] Includes $3,016,000 in special foreign currency.

CONFERENCE SUMMARY

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

[Dollar amounts in thousands]

Item No.	Description	Request	Senate—S.2248, as passed May 14, 1982	House—H.R. 6030 (S. 2248) as passed July 29, 1982	Change from Senate	Conference action
ARMY						
1	Aero technology	24,349	22,349	20,349	−2,000	22,349
2	RPV support technology	1,588	−12	0	+12	0
3	Aircraft avionics technology	8,389	8,389	6,389	−2,000	7,389
4	High energy laser technology	31,327	31,327	35,000	+36,743	45,000
5	Joint services small arms	3,706	3,706	6,506	+2,800	4,700
6	Methanol fueled vehicles	0	1,100	0	−1,100	1,100
7	Aircraft weapons	5,581	5,581	424	−5,157	424
8	Light helicopter advanced technology demonstration	944	944	0	−944	0
9	Terminally guided projectile	6,814	6,814	0	−6,814	6,814
10	High technology test bed	10,711	10,711	0	−10,711	7,300
11	Combat engineering system	2,730	2,730	1,730	−1,000	1,730
12	Advanced development of automatic test systems	11,335	11,335	0	−11,335	7,000
13	Anti-radiation projectile	0	0	5,000	+5,000	0
14	Battlefield data systems	27,868	0	27,868	+27,868	26,000
15	Battlefield data systems	1,891	0	1,891	1,891	2,000
16	High-to-medium air defense development (antitactical missile)	27,172	19,572	0	−19,572	19,572
17	Advanced rocket control system	27,869	12,269	0	−12,269	0
18	UH-60 Blackhawk	6,708	6,708	5,664	−44	5,664
19	Surface-to-air Hawk improvement program	37,971	37,971	52,971	+15,000	42,000
20	Communications system engineering program	1,485	1,485	0	−1,485	0
21	European C^3 system	527	527	0	−527	527
22	Special electronic mission aircraft	498	498	0	−498	0
23	Surface-to-surface missile rocket system (MLRS terminally guided warhead)	16,407	16,407	2,000	−14,407	6,400
24	Lightweight air defense system	3,466	3,466	0	−3,466	0
25	Field artillery ammo development	23,951	23,951	38,994	+16,043	26,000
26	Aircraft propulsion system	1,007	1,007	0	−1,007	0
27	Army helicopter improvement program	75,811	75,811	0	−75,811	75,811
28	Joint services rotary wing aircraft development	49,765	49,765	0	−49,765	30,000
29	Aircraft component improvement program	10,996	10,996	5,000	−5,996	8,000
30	Heliborne missile—Hellfire	19,327	19,327	3,000	−16,327	16,300
31	Education and training	995	995	0	−995	500
32	Fighting vehicle system	50,488	50,488	40,000	−10,488	46,000
33	Tactical electronic surveillance system	0	0	−4,000	−4,000	−4,000
34	Tactical electronic surveillance system	0	0	−4,600	−4,600	−1,700
35	TRADOC studies and analyses	3,287	1,487	1,500	+13	1,487
36	Program wide activities	70,101	65,001	65,000	−1	65,000
37	MAINSITE	17,119	7,119	0	−7,119	3,000
38	Defense Systems Management College	202	202	0	−202	0
39	Defense research sciences	199,921	199,921	182,000	−17,921	184,000
40	Medical defense against chemical agents	26,865	26,865	27,865	+1,000	27,865
41	Tactical ADP technology	7,076	7,076	0	−7,076	7,076
42	High energy laser components	33,116	33,116	0	−33,116	0
43	Nontactical ADP technology	495	495	0	−495	0
44	BMD systems technology	727,311	527,311	259,744	−267,567	377,311
45	Command and control	13,650	10,650	10,600	−50	10,600
46	Command and control	22,133	22,133	10,268	−11,865	20,000
47	Mobile protected gun	37,354	10,354	37,354	+27,000	12,354
48	Aircraft avionics	3,799	3,799	1,229	−2,570	3,799
	Programs not in dispute	2,829,895	2,810,995	2,810,995		2,810,995
	Total, Army R.D.T. & E.	4,484,000	4,161,741	3,651,741	−510,000	3,926,367
NAVY						
1	Advanced air-launched air-to-surface missile	4,011	11	0	−11	0
2	Aircraft systems (advanced)	3,430	3,430	0	−3,430	3,000
3	Training devices technology	7,399	7,399	5,000	−2,399	6,200
4	AV-8B aircraft	114,071	136,071	114,071	−22,000	136,071
5	AV-8BT	0	15,000	0	−15,000	7,500
6	Tilt Fan	36,284	−16	0	+16	0
7	Tomahawk II	19,900	4,900	39,999	+35,000	26,500
8	Avionics development/VAST	8,960	4,060	1,581	−2,529	4,000
9	Helicopter development	26,500	16,400	10,282	−6,198	15,300
10	HXM	9,522	5,022	0	−5,022	5,000
11	Air-to-air missile systems engineering	23,844	22,844	13,844	−9,000	22,844
12	Cruise missile	18,010	18,010	0	−18,010	0
13	VTXTS	9,654	9,654	0	−9,654	9,654
14	IIR Maverick	4,992	4,992	0	−4,992	3,500
15	AMRAAM	4,714	4,714	3,000	−1,714	4,714
16	Materials technology	33,019	41,019	33,019	−8,000	37,000
17	Defense research sciences	290,061	288,961	289,000	+49	289,000
18	Navy strategic communications	69,314	72,314	27,756	−44,558	65,000
19	SSBN subsystems technology	4,869	−2	0	+2	0
20	Trident I (MK-500)	90,565	64,065	90,565	+25,508	74,000
21	Tactical electro-support	4,095	4,095	0	−4,095	0
22	Ships, submarine and boats technology	44,156	34,956	25,000	−9,965	30,000
23	Man-machine technology	1,365	531	0	−531	0
24	Medical development (advanced)	8,858	8,384	8,858	+474	8,384
25	Navy technical information presentation system	1,452	1,258	1,452	+200	1,253
26	Ship propulsion system (advanced)	20,457	20,457	28,487	+8,000	25,000
27	Naval special warfare	6,037	6,037	11,037	+5,000	8,287
28	Marine Corps assault vehicles	15,810	1,000	15,810	+14,810	2,000

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29	Air ASW	13,994	17,994	13,994	−4,000	17,994
30	New ship design	4,911	4,411	4,911	+500	4,411
31	Ship concept formulation	18,810	15,810	18,810	+3,000	15,810
32	Ship systems engineering standards (SSES)	1,749	14,749	18,000	+3,251	15,000
*33	Surface ASW	4,408	8	0	−8	0
34	Combat systems architecture	2,786	−14	0	+14	0
*35	S-3 weapons system improvement program	78,344	68,044	68,000	−44	63,000
36	SH-60 CV variant	9,888	−32	0	+32	0
37	Pentagon combat systems development	1,623	23	0	−23	0
38	Extended modular signal processor	14,497	13,097	0	−13,097	13,097
39	Combat information center conversion	27,014	18,414	18,454	+40	18,414
40	Electro-optics sensor devices	10,422	5,022	0	−5,022	0
41	Air warfare training development	20,090	18,089	0	−18,089	17,000
42	Combat systems integration	17,133	17,133	0	−17,133	8,000
43	LINE HAZEL	42,760	42,760	0	−42,760	1,000
44	ASW surveillance	1,284	1,284	0	−1,284	1,000
45	Advanced signal processor	3,525	3,525	0	−3,525	1,000
46	MK-92 fire control systems	9,628	9,628	24,628	+15,000	24,628
47	Vertical launch systems	33,878	33,378	61,498	+27,615	38,000
48	Submarine engineering	1,950	1,950	0	−1,950	1,000
49	AN/SQS-52C sonar	35,960	35,960	45,960	+10,000	45,980
50	Joint A/N SAL GP (eng.)	986	986	117,986	+117,000	61,000
51	Submarine warfare training devices	3,226	3,226	0	−3,226	0
52	Amphibious assault craft	10,437	10,437	14,437	+4,000	13,437
53	Studies and analyses support, Navy	7,880	5,980	5,000	−980	5,000
54	Target systems development	43,901	43,901	20,000	−23,901	43,901
55	Firebrand	0	0	23,000	+23,000	0
56	R.D.T. & E. instrumentation and material support	31,707	31,707	41,707	+10,000	37,000
57	Studies and analyses support, Marine Corps	2,148	2,148	1,000	−1,148	2,000
58	Long-range planning support	1,281	1,281	0	−1,281	1,000
59	Civilian education program	1,157	1,157	0	−1,157	0
60	General reduction	0	0	−117,000	−117,000	−40,000
61	Special activities	120,380	120,380	134,033	+13,653	134,033
62	Anti-radiation seeker technology	0	0	0	0	4,000
	Programs not in dispute	4,776,198	4,798,198	4,798,198	0	4,798,198
	Total Navy R.D.T.&E.	6,235,316	6,131,698	6,026,206	−105,490	6,129,115
	AIR FORCE					
1	Aerospace propulsion	58,645	58,645	53,000	−5,645	53,000
2	Advanced airborne radar	3,475	3,475	0	−3,475	0
3	Crews systems technology	4,055	4,055	0	−4,055	4,055
4	Cartographic application	890	890	0	−890	0
5	Advanced missile propulsion	894	894	0	−894	0
6	Hypervelocity missile	992	992	10,992	+10,000	3,500
7	Electro-optical warfare	15,927	15,927	12,000	−3,927	14,000
8	Night precision attack	103,758	88,758	110,758	+22,000	100,000
9	Advanced communications system (SEEK TALK)	78,210	70,210	889	−69,321	10,888
10	F-15 squadrons	125,318	113,018	99,018	−14,000	113,018
11	F-16 squadrons	86,142	76,142	42,000	−34,142	76,142
12	Medium range air to surface missile	42,682	−18	42,682	+42,700	42,682
13	Advanced tactical fighter technologies	27,338	27,338	0	−27,338	23,000
14	Electric warfare technology	18,724	18,724	12,000	−6,724	15,350
15	Early warning counter response	27,335	27,335	2,735	−24,600	22,000
16	Conventional standoff weapon	38,858	38,858	0	−38,858	32,500
17	Wide area antiarmor munition	8,503	8,503	28,503	+20,000	18,503
18	Low-level laser-guided bomb	3,016	3,016	1,000	−2,016	3,016
19	Combat identification system	20,552	20,552	16,000	−4,552	19,000
20	Protective systems	110,234	110,234	95,534	−14,700	110,234
21	Intelligence equipment	18,469	18,469	12,869	−5,600	16,469
22	A-10 squadrons	6,488	6,488	5,000	−1,488	5,000
*23	Tactical airborne command and control system	78,852	78,852	63,000	−15,852	71,000
24	Traffic control and landing system	5,060	5,060	4,360	−700	4,360
25	Concept development	984	984	0	−984	0
26	Acquisition and command support	269,229	269,229	265,000	−4,229	267,000
27	Advance systems engineering/planning	5,443	5,443	2,000	−3,443	3,500
28	Defense research sciences	165,858	•165,858	160,000	−5,858	160,000
*29	Personnel utilization technology	7,194	7,194	5,600	−1,594	6,500
30	Space system environmental interactions technology	1,583	1,583	0	−1,583	1,000
31	VHSIC	66,004	66,004	80,004	+14,000	66,004
32	Space laser program	40,561	40,561	0	−40,561	0
33	Advanced computer technology	4,957	4,957	3,457	−1,500	3,457
34	MX	2,759,332	2,277,332	2,609,332	+332,000	2,509,332
35	Military strategic tactical relay system	79,784	129,784	79,784	−50,000	117,784
36	Advanced strategic missile system	49,737	49,737	70,000	+20,263	60,000
37	Space surveillance technology	40,285	40,285	20,285	−20,000	20,285
38	Tanker, transport, bomber training systems	560	560	0	−560	0
39	B-52 squads	121,767	121,767	60,000	−61,767	90,000
40	DEW radar stations	7,995	7,995	0	−7,995	0
41	Aircraft avionics equipment development	21,237	21,237	17,137	−4,100	17,137
42	Computer resources management technology	4,993	4,993	4,697	−296	4,697
43	Chemical/biological defense equipment	16,339	16,339	26,339	+10,000	20,000
44	Advanced military spaceflight capability	2,670	2,670	0	−2,670	0
45	Project Air Force	16,231	16,231	10,000	−6,231	16,231
46	Operational support airlift	2,557	0	2,557	+2,557	2,557
47	Postattack reconnaissance	9,919	9,919	1,000	−8,919	0
48	SR-71 squads					
49	Special activities	0	0	−3,200	−3,200	−3,200
50	Consolidated cruise missile program	1,128,400	1,191,200	870,500	−320,700	1,131,200
						−42,682
	Programs not in dispute	5,512,364	5,512,364	5,512,364		5,512,364
	Total, Air Force R.D.T. & E	11,220,400	10,700,643	10,409,196	−351,447	10,720,884
	DEFENSE AGENCIES					
1	Defense research sciences	112,100	112,100	101,000	−11,100	101,000
2	Technology studies	3,300	3,300	0	−3,300	1,000
3	High energy laser technology	44,700	44,700	0	−44,700	44,700
4	Short wavelength laser technology	0	0	50,000	+50,000	20,000
5	Particle beam technology	31,000	31,000	33,000	+2,000	33,000
6	ALPHA	21,800	21,800	0	−21,800	21,800
7	LODE	14,200	14,200	0	−14,200	14,200
8	Defense Nuclear Agency	326,600	315,000	326,600	+11,100	315,500
9	CINC C³ initiatives	700	700	0	−700	700
10	Long haul communications (DCS)	18,935	18,935	16,181	−2,754	18,935
11	Defense technical information	17,560	17,560	16,000	−1,560	16,000
12	Information Analysis Centers	5,140	5,140	4,000	−1,140	4,000
13	Technical support to USDR&E	16,649	16,649	12,000	−4,649	12,000
14	General support PA&E	3,712	3,712	2,000	−1,712	2,000
15	General support policy/ISA	4,419	4,419	2,000	−2,419	4,419

16	General support net assessment	4,006	4,006	2,000	−2,006	3,500
17	General support MRA&L	3,014	3,014	2,000	−1,014	2,000
18	Technology transfer control	0	0	2,000	+2,000	2,000
19	OSD/JCS studies/analysis	0	−7,000	—	+7,000	—
20	Director, test and evaluation	60,000	54,000	57,000	+3,000	55,000
21	Crypto activities		−19,900	−6,200	+13,700	−13,400
22	GDIP		−300	—	+300	—
23	Defense reconnaissance support program			−32,700	−32,700	−19,700
	Programs not in dispute	1,632,849	1,632,849	1,632,849	—	1,632,849
	Total Defense Agencies R.D.T. & E.	2,320,684	2,276,384	2,219,730	−56,654	2,271,583

* Were reduced without prejudice.

ADVANCED COMMUNICATIONS SYSTEMS

The Administration requested $78.21 million for the Air Force Advanced Communications Systems program of which $77.321 million was for the SEEK TALK secure, jam-resistant UHF voice communication system program.

The Senate bill reduced the SEEK TALK request by $8 million, and the report expressed concern about the lack of a joint service secure, anti-jam airborne communications architecture within the Department of Defense. The Senate report directed the Secretary of Defense to perform an analysis of the projected jamming threat for the mid to late 1980s to determine the future requirements of each of the services for anti-jam voice communications and to propose a system architecture that would provide U.S. forces with the necessary capability. The Senate report further requested the Defense Department to evaluate modifications to the HAVE QUICK system and the potential of modifying the Joint Tactical Information Distribution System (JTIDS) to expand its voice capability before committing to a $3.6 billion Air Force only SEEK TALK system. The Senate report requested that this architecture study be completed and submitted to the Armed Services Committees of the Senate and House of Representatives by December 1, 1982.

The House amendment deleted the entire SEEK TALK request of $77.321 million and proposed that the program be terminated. The House concerns about the SEEK TALK program were similar to those expressed by the Senate. The House viewed SEEK TALK as an expensive, "Air-Force only" program that lacked commitment from the other services and NATO. The House recommended that the SEEK TALK program be terminated, that the HAVE QUICK system be used as the near term U.S. voice communications standard and that JTIDS be developed as the next generation standard for secure, interoperable, jam-resistant communications.

Subsequent to the House and Senate Armed Services Committees reporting their bills to their respective Houses, the Air Force redirected the SEEK TALK program. Several alternative approaches to meeting the Air Force secure, anti-jam airborne communications requirements are currently under consideration including a modified version of the original SEEK TALK approach. The Air Force informed the conferees that a major Air Force jam resistant tactical communications architecture review would be completed in the December 1982/January 1983 time frame.

The conferees believe that the original SEEK TALK program, as described in the President's fiscal year 1983 budget submission, should be terminated and, accordingly, deny the $77.321 million requested for the SEEK TALK program. The conferees, however, do not desire to pre-judge the results of the Air Force architectural study. The conferees understand that $15 million in fiscal year 1982 SEEK TALK funds will not be obligated for SEEK TALK because of the restructuring of the program. The conferees agreed that these funds could be carried forward into fiscal year 1983 and could be used to support the Air Force architectural study effort. In addition, the conferees agreed that a fiscal year 1983 authorization of $10 million should also be provided to support this effort. The conferees direct, however, that this study be expanded to include the analysis, requested by the Senate on page 99 of Senate Report No. 97-330. The conferees agreed that the December 1, 1982, deadline for Congressional receipt of this study should be extended to February 15, 1983. The conferees further agreed that should additional fiscal year 1983 funding be required for the Advanced Communications Systems program, the Air Force may submit a reprogramming request after the anti-jam architectural study has been completed.

The Senate recedes with an amendment.

ADVANCED MINE

The Administration requested $5.555 million for the Navy Advanced Mine system program.

The Senate bill provided the full request. The House amendment supported the Administration's request, however, added a provision requiring that the authorization was only for the Intermediate Water Depth Mine program.

The conferees, in recognition of the deficiencies of the Navy's Captor mine, agreed that an entirely new advanced mine-not a derivative of the Captor mine is required in view of the enemy threat.

The conferees agreed to an authorization of $5.555 million intending that a full competition be conducted for the development of an advanced mine.

Section 202 would require that the authorization be used only for this purpose.

ADVANCED SIGNAL PROCESSOR

The Administration requested authorization of $3.252 million to continue the development of the Navy Advanced Signal Processor (ASP) program.

The Senate bill provided the full authorization; the House amendment deleted the entire request.

The conferees agreed to authorize $1 million for the ASP program, with the understanding that these funds will be used to complete this program during fiscal year 1983.

The House recedes with an amendment.

AIR ASW (ARAPAHO)

The Administration requested $13.994 million for the Navy Air-Anti-Submarine Warfare (Air ASW) program which includes the ARAPAHO project to examine containerized helicopter ASW support for merchant ships.

The Senate bill recommended an additional $4 million of authorization to continue the development of the ARAPAHO project. The House amendment provided authorization as requested.

The conferees agreed to authorize $17.994 million for the Air ASW program; however, the conferees also agreed that the examination of containerized ASW support for merchant ships should be expanded to include a study of the potential applications of containerized concepts for other forms of naval warfare and weapons. Initial emphasis should be placed on those methods employed by the United Kingdom during the Falkland Islands conflict.

The conferees agreed that an initial report should be presented to the Committees on Armed Services of the Senate and the House of Representatives no later than March 15, 1983.

The House recedes.

ANTI-RADIATION PROJECTILE (ARP)

The Administration requested no funds for the joint Army/Navy Anti-Radiation Projectile program.

The Senate bill provided no authorization for this program; the House amendment provided $5 million in additional authorization to the Army program for this purpose.

The conferees agreed that the Anti-Radiation Projectile technology that has been developed in a Navy laboratory offers great promise for a low-cost effective guidance system.

The conferees agreed to an authorization of $4 million in the Navy Research, Development, Test and Evaluation account.

The Senate recedes with an amendment.

BALLISTIC MISSILE DEFENSE (BMD)

The Administration requested $727.3 million for research and development on ballistic missile defense systems technology. The House amendment reduced the request to $259.7 million. This reduction was made in view of tight budgetary constraints and out of concern about the prudence of accelerating development of the Low Altitude Defense System (LoADS) for defense of the MX missile when such uncertainty about the basing mode of the MX persisted. The House also expressed reservations about the degree of cooperation and coordination between the Army and the Air Force in planning and developing basing modes and defensive systems to protect them.

The Senate, prompted by similar concerns, reduced the requested funding by a lesser amount to $527.3 million. Of this amount, not more than $100 million was to be available for a low exoatmospheric/high endoatmospheric system intended to complement LoADS if such a capability was determined to be of utility in defending the MX basing mode selected by the President by December 1, 1982.

The conferees agreed that ballistic missile defense could have an important role to play in providing a measure of increased survivability for the MX missile force. They also agreed, however, that until a resolution of the MX basing issue has been achieved, it would be ill-advised to embark upon an aggressive LoADs development program.

Consequently, the conferees agreed to drop the restrictive BMD language included by both the House (sec. 202) and Senate (sec. 204) in their respective bills and provid-

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ed a total of $377.1 million for BMD systems technology with the understanding that this amount is to be expended in such a way as to achieve an optimal defensive capability for whichever MX basing mode is selected. To this end, the conferees request that, at the time the President's decision on such basing is submitted to the Congress, a report be provided detailing the role envisioned for BMD in the selected basing system, the technologies to be utilized, and the plan for developing and deploying the appropriate systems and their phasing with MX deployment.

The conferees expect the Army and the Air Force to participate fully and cooperatively in the analysis supporting the preparation of the requested report. The goal is a program that realizes the maximum possible synergistic effect from an MX/BMD deployment while eliminating redundant efforts and minimizing independent activities by one service which are at cross-purpose with the work being undertaken by the other service.

B-52 squadrons

The budget request contained $121.767 million for B-52 Squadrons. The Senate bill provided full authorization; the House amendment provided $60.0 million. The conferees recommended authorization of $90.0 million with the desire that priority be given to the B-52 radar and autopilot upgrade. The conferees also desire that testing for Electro Magnetic Pulse (EMP) hardness of the B-52 be cancelled.

C-17 CARGO TRANSPORT AIRCRAFT

The Administration did not request authorization for fiscal year 1983 for research and development of the Air Force C-17 cargo transport aircraft.

The Senate bill did not provide authorization for the C-17 program; the House amendment provided an authorization for research, development, test and evaluation of the C-17 aircraft.

The conferees approve $1 million in R&D for the C-17 type technology effort. There is a long-term requirement for replacement of the C-141 fleet and the Department of Defense desires to continue work on new technology related to future airlifters. The conferees expect an orderly and steady C-17 type aircraft technology program. With the funding from previous years already obligated, and with the $1 million in fiscal year 1983, this should contribute to development work which will point toward a full-scale development decision of a C-17 type technology airlifter in the latter half of this decade. This technology development would benefit any future airlifter. The conferees would be willing to consider reprogramming requests to achieve that purpose.

Section 201 would require that the authorization of $1 million be used only for the C-17 type aircraft.

The Senate recedes with an amendment.

CONVENTIONAL STANDOFF WEAPON

The Administration requested $38.858 million for the Air Force Conventional Standoff Weapon system.

The Senate bill provided the full authorization requested; the House amendment denied all funds for this program.

The conferees were advised that the Office of the Under Secretary of Defense for Research and Engineering has restructured the conventional standoff weapon program into a joint Army/Air Force project to incorporate the technology of the Army Corps Support Weapon System Development project. The conferees support this restructured program, and accordingly agreed to an authorization of $32.5 million with the understanding that this effort will provide a single common missile that is fully compatible with Air Force tactical aircraft and Army ground launcher systems. The authorization is intended for this purpose and additionally for development and integration of a weapon for the Precision Location Strike System (PLSS) aircraft and for a classified program.

The House recedes with an amendment.

DEFENSE RESEARCH SCIENCES

The Administration requested $768.0 million for basic research performed within the Defense Research Sciences lines of each service and the Defense Advanced Research Projects Agency (DARPA). The following sums were requested: for the Army, $199.9 million; for the Navy, $290.1 million; for the Air Force, $165.9 million; for DARPA, $112.1 million.

These amounts represented significant increases over the preceding fiscal years' allocations, reflecting an increased awareness on the part of the Administration of the important role basic research must play in understanding and exploiting promising technologies and anticipating breakthroughs on the part of potential adversaries. In particular, as both committees noted in their respective reports, new and welcome emphasis was being placed upon encouraging the involvement of the academic community in such research.

Due to budgetary constraints, the conferees felt obliged to reduce the extent of the growth planned for these accounts. Consequently, the following sums were authorized: for the Army, $184 million; for the Navy, $289 million; for the Air Force $160 million; and for DARPA, $101 million. The conference committee intended in no way to discourage the Department of Defense's efforts to work more closely with U.S. academic institutions and urges that, to the maximum degree feasible, the reductions imposed upon these accounts not be made at the expense of such increased cooperation.

Furthermore, the conferees ask that $2 million of these funds authorized for the Army's Defense Research Sciences program be made available for the purpose of assessing the requirements of the Defense Department and the intelligence community for a national research resource base which promotes the study and understanding of foreign languages and nations, in particular, the Soviet Union, and which supports the unique requirements of the Army and other military intelligence users for high quality, informed research on matters of special interest which require such understanding. The conferees request that a report containing the findings of this assessment be forwarded to the Senate and House Armed Services committees, no later than March 1, 1983.

DEPARTMENT OF DEFENSE COMPUTER TECHNOLOGY

The conferees recognize that the proliferation of computers used in weapon systems—referred to as embedded computers—has caused a serious logistics support problem within the Department of Defense. The Army has over 60 different computers in its battlefield weapon and command and control systems. During the past two decades, the Department of Defense has devoted substantial time, effort and money in attempting to standardize computers. Although the Department's efforts should be acknowledged, unsatisfactory progress has been made to date and the Department of Defense's computer technology has not kept pace with the advances made by the commercial sector in semiconductors and computers.

At present, the Department of Defense proposes a two-fold plan to achieve computer standardization. The first element is to standardize on a common computer system language called Ada. The conferees fully support Ada and agree that it would contribute significantly to reducing the Department of Defense annual software (computer program) generation and maintenance costs. The second element of the department's plan is the implementation of Instruction 5000.5X—a directive that defines the computer Instruction Set Architecture (ISA) levels with, unless special exemptions are provided, are to be used by elements of the Department of Defense to achieve increased service-wide inter-service computer hardware and software standardization.

The conferees are concerned that standardization at the ISA level may adversely affect the options available to the department for achieving maximum effectiveness in new weapon systems. The House conferees emphasized that at least one major U.S. semiconductor company has developed a powerful computer consisting of just a few large-scale integrated circuit chips optimized to execute the Ada software language that provides multiprocessing capability offering up to one trillion locations of virtual memory.

Because of those concerns, the conferees agree that the Department of Defense should not promulgate or implement Instruction 5000.5X pending the completion and submission to the Committees on Armed Services of the Senate and House of Representatives of a study that addresses the following issues:

(a) A full assessment of the applicability of commercial computer technology including, but not limited to computer hardware, semiconductors and associated ISA's to Defense Department missions.

(b) The desirability of standardization at ISA level in light of alternative approaches, including those taking advantage of the technology mentioned in paragraph (a).

(c) The degree of software transportability (transferring computer programs from one computer to another) that the various approaches permit and how each approach would affect Department of Defense hardware/software logistics support requirements and the cost of computer system ownership.

(d) An assessment of the relative merits and liabilities involved in the incorporation of each approach into Department of Defense weapon systems.

(e) A justification for all on-going service computer development projects including but not limited to the Army's Military Computer Family all other Army computers, the Navy's AN/AYK-43/44, the AN/UYK-7, the AN/UYK-20 and all Air Force computers including the family of military-standard 1750 ISA computers.

(f) A plan to reduce the proliferation of these computers.

The conferees believe that this report would provide a necessary blueprint for Executive branch management and Congressional oversight of the Department of Defense's efforts to streamline its computer logistics situation while laying the ground work for an approach that provides vigorous competition and, to the maximum degree possible, preserves the option for technology insertion.

Pending the submission of the required report, the conferees agreed on the following:

(1) The Department of Defense should accelerate implementation of the Ada high order language and constrain to the maximum extent feasible service variations on Ada to ensure the utmost commonality of systems support software.

(2) An authorization of $9.865 million is provided to complete only the advanced development models of its Military Computer Family (MCF) and to perform systems testing of these prototype computers. No funds authorized by this Act are to be used for product improvement of the advanced development models or to initiate full-scale engineering development of the MCF.

(3) No new development of Air Force military-standard 1750 computer systems may be initiated in fiscal year 1983 beyond the variants that currently exist. If, during fiscal year 1983, the Air Force requires a waiver of this restriction in order to pursue a system development program, this requirement should be coordinated with the Office of the Under Secretary of Defense for Research and Engineering and a report provided to the Congress with a justification for the exception.

(4) The Navy is expected to validate the technical data package for the AN/AYK-14 computer to enable second sourcing should such a plan be approved. Until such time, no funds authorized by this Act may be used to initiate second sourcing.

In consonance with the action of the conferees, the following authorization is recommended:

Service	Program	(In thousands of dollars)			
		Request	House	Senate	Conference
Army	Tactical ADP Tech	7,076	0	7,076	7,076
Army	Non-Tactical ADP Tech	495	0	495	0
Army	Command and Control (Eng. Dev.)	13,650	10,600	10,650	10,600
Army	Command and Control (Adv. Dev.)	22,133	10,268	22,133	20,000
Navy	Avionics Development	8,960	1,531	4,060	4,000
Air Force	Aircraft Avionics Equipment Dev	21,237	17,137	21,237	17,137
Air Force	Computer Resources Management Tech	4,993	4,697	4,993	4,697
Air Force	Adv. Computer Tech	4,957	3,457	4,957	3,457

DIRECTED ENERGY PROGRAMS

The capability of the United States to develop and deploy militarily effective space laser systems is a matter of considerable concern to the conferees. The Senate supported the approach recommended in the President's budget request which emphasizes long-wavelength chemical laser systems for near-term space weaponry capabilities while pursuing short-wavelength technologies at a lower level of effort as longer-term options. The House, by contrast, proposed a restructuring of the space laser programs located in the Air Force and Defense Advanced Research Projects Agency (DARPA) accounts. The House amendment would have terminated development efforts on long-wavelength laser systems and accelerated research and development on short-wavelength laser systems.

The conferees agree that the technology development being pursued in the DARPA Triad program has an important place in understanding the promise and possible shortcomings of long-wavelength chemical laser systems. Consequently, the House recedes to the Senate on the Alpha and Large Optics Demonstration Experiment (LODE) programs restoring them to the requested amount.

In addition, the conferees agree that the laser vulnerability and lethality studies and system development work for which funding was requested in the Air Force account should be pursued as a joint DARPA-Air Force program. The conferees agree that $20 million which was appropriated for fiscal year 1982 should be forward funded to permit the Air Force to participate in this joint program under the Air Force Advanced Radiation Technology program. If additional funds are required by the DARPA in fiscal year 1983 to participate in this joint effort, the DARPA may submit a reprogramming request to cover the funding shortfall.

In appreciation of the important role that short-wavelength lasers might have in space laser applications, the conferees agree to provide $20 million to accelerate development of such systems in addition to the $27.6 million requested for this purpose within DARPA's high energy laser technology program.

In view of the strong objections of the House conferees to the statutory direction included in the Senate bill that would mandate an on-orbit demonstration of long wavelength technology systems within the decade, the Senate reluctantly recedes on this bill language. The Senate conferees continue to believe that the maintenance of an option to deploy a militarily effective laser system in space at the earliest feasible time is a high national priority.

The Senate also recedes to the House addition of $2 million to the particle beam technology program with the Defense Advanced Research Projects Agency program in the belief that such an addition will make possible necessary research in the promising free electron laser technologies.

The conferees believe that the resolution of these issues adopted by the conference committee supports a balanced and comprehensive research and development effort into directed energy technologies and ensures that such R&D will be adequately funded in fiscal year 1983.

DISTANT EARLY WARNING (DEW) RADAR STATIONS

The Administration requested $7.995 million in the research and development account and $31.2 million in the procurement account to initiate a major upgrade of the Distant Early Warning (DEW) Line radar network. The Senate bill fully supported the request. The House amendment denied the request and questioned the utility and cost effectiveness of the proposed upgrade.

The conferees agreed to defer, without prejudice, initiation of the DEW Line upgrade program during fiscal year 1983. This deferral is based on fiscal constraints and not the merits of the DEW Line program.

The Senate recedes with an amendment.

ELECTRO-OPTICAL WARFARE

The Administration requested $15.927 million for the Electro-Optical Warfare program.

The Senate bill provided the full request; while the House amendment reduced the authorization by $3.927 million.

The conferees agreed to an authorization of $14 million with the understanding that the Office of the Under Secretary of Defense for Research and Engineering will conduct a complete review of all service infrared and radio frequency countermeasure programs to reduce the proliferation of systems and provide greater efficiency through triservice commonality.

ENHANCED MODULAR SIGNAL PROCESSOR

The Administration requested $14.497 million for the Navy Enhanced Modular Signal Processor (EMSP) program.

The Senate bill provided authorization of $13.087 million. The House amendment deleted the entire request for authorization.

The conferees agreed to authorize $13.087 million for the EMSP; however, the obligation of these funds is predicated on the Navy modifying existing contracts to require that EMSP be made a Very High Speed Integrated Circuit (VHSIC) proof of principal project and that VHSIC technology insertion be made at the earliest possible date.

The House recedes.

HIGH ENERGY LASER COMPONENTS

The Administration requested $33.116 million for the Army's High Energy Laser Component program.

The Senate bill provided the full request; the House amendment denied the authorization. The Army's past program in high energy lasers has advanced the technology; however, previous attempts at developing prototype laser weapon systems such as the mobile test unit have not materialized. The House conferees strongly opposed the conduct of the Forward Area Laser Weapon (FALW) demonstration but agreed with the Senate position that the close combat laser weapon system program may be continued under the High Energy Laser Component Program.

The conferees, therefore, recommend additional authorization of $13.808 million for the Army laser program weapon technology program. No funds authorized by this Act are to be used for the FALW demonstration.

HIGH TO MEDIUM AIR DEFENSE DEVELOPMENT (ANTI-TACTICAL MISSILE)

The Administration requested $27.172 million for the development of an Army Anti-Tactical Missile and requested authorization of $27.869 million for the development of an Advance Rocket Control System.

The Senate bill provide the full authorization for these two programs; the House amendment denied both requests for authorization.

The conferees are advised that the Department of Defense has restructured the anti-tactical missile program in a way to reduce substantially program development costs.

On the basis of the restructured program for the Anti-Tactical Missile, the conferees agreed to an authorization of $19.572 million to explore the applicability of the HAWK Surface-to-Air missile system as well as other alternatives and for the further development of an Advanced Rocket Control System.

The House recedes with an amendment.

JOINT ARMY/NAVY SEMI-ACTIVE LASER GUIDED PROJECTILE SYSTEM

The Administration requested $0.995 million for the Joint Army/Navy Semi-Active Laser Guided Projectile (SAL-GP) program.

The Senate bill authorized the full request; the House amendment provided additional authorization of $117 million with the provision that this authorization be used only for the 5-inch SAL projectile and the SEAFIRE Electro-Optical Fire Control system.

The conferees agreed to an authorization of $61 million, of which $60 million would be provided only for the 5-inch SAL projectile and the SEAFIRE fire control system. Sec. 202 requires that the authorization of $60 million be used only for this purpose. Moveover, of the total amount authorized, an amount not to exceed $1 million may be used to continue development of the Infrared Search and Track (IRST) system.

Sec. 202 further requires that the obligation and expenditure of funds for the DDG-X (DDG-51) are contingent upon the submission of a plan from the Secretary of the Navy to the Committees on Armed Services of the House and Senate to deploy the SEAFIRE and guided projectile with the DDG-51 lead ship.

JOINT SERVICES ROTARY WING AIRCRAFT PROGRAM (JVX)—MEDIUM ASSAULT TRANSPORT (V/HXM)

The Administration requested authorization of $49.765 million for the Army and $9.522 million for the Navy/Marine Corps participation in a new Joint Services Rotary Wing Aircraft program—the JVX. The Senate bill fully supported the JVX program. The House amendment deleted all authorization for the JVX along with the authorization requested for several other rotary wing aircraft programs. In so doing, the House expressed concern about the proliferation of rotary wing development programs. The House further indicated that future support for the JVX program would be contingent upon the Defense Department developing a comprehensive plan for its future rotary wing requirements.

The conferees agreed to provide a total authorization of $35 million to the Joint Services Rotary Wing aircraft program, $30 million to the Army and $5 million to the Navy/Marine Corps, with the understanding that it will be used to establish a better assessment of the cost, technical risk, schedule and mission requirements associated with the development and ultimate deployment of a 30,000-40,000 pound class tilt-rotor aircraft for joint service use. The conferees strongly support the tilt rotor concept by believe that additional development work needs to be done on the tilt rotor before a commitment is made to its use for multi-mission applications. In this regard, the conferees wish to reserve judgment on the need for a "gap-filler" solution to replace the Marine Corps aging CH-46 medium assault transport helicopter fleet. A decision need not be made to go forward with a "gap-filler" during fiscal year 1983; and the conferees prefer to gain a better understanding of the cost, technical risk and schedule associated with a multi-mission tilt-rotor aircraft.

The House recedes with an amendment.

MARK 92 FIRE CONTROL SYSTEM

The Administration requested $9.628 million for the Navy Mark 92 Fire Control System (FCS) program.

The Senate bill provided full authorization; the House amendment provided additional authorization of $15 million to enhance the capability of the Mark 92 FCS by adding a phased array radar. The House amendment provided statutory language requiring that the additional authorization of $15 million be used only for this purpose.

The conferees recommended authorization of $24.628 million. Sec. 202 requires that this authorization be used only for the Mark 92 FCS upgrade.

The Senate recedes.

MEDIUM RANGE AIR-TO-SURFACE MISSILE

The Administration requested $19.9 million for Navy development of the Tomahawk II, a Medium Range Air-to-Surface Missile (MRASM).

The Senate bill provided authorization of $4.9 million; the House amendment provided authorization of $39.9 million.

The conferees agreed that the Navy should continue the development of the MRASM because it would enable Navy tactical aircraft to standoff at greater ranges from enemy surface ships. The conferees agreed that an authorization of $26.5 million is adequate for the fiscal year 1983 MRASM research and development program. Section 202 would require that this authorization be used only for this purpose.

The Senate recedes with an amendment.

MILITARY STRATEGIC-TACTICAL RELAY SYSTEM (MILSTAR)

The Administration requested $79.8 million for research and development on the Military Strategic-Tactical Relay System (MILSTAR). The Senate bill authorized an additional $50 million to ensure that Extremely High Frequency (EHF) applique packages could be added to Fleet Satellites (FLTSAT) #7 and #8 and to reduce the risk that the MILSTAR sysmeet its scheduled initial operational capability. The House amendment support the Administration's request.

The conferees agreed to authorize $117.8 million to accomplish the purposes envisioned by the Senate. The conferees expect that no less than half the amount added to the original request will be applied toward the FLTSAT/EHF program so that the transition to EHF communications can begin as soon as possible and enjoy the maximum coverage achievable pending the introduction of the MILSTAR system.

The conferees also anticipate that the Administration will take appropriate steps, both with respect to fiscal year 1983 and future years, to ensure that the high priority MILSTAR program is sufficiently funded to meet its planned IOC.

The House recedes with an amendment.

MODULAR AUTOMATED INTEGRATED SYSTEMS INTEROPERABILITY AND EVALUATION (MAINSITE)

The Administration requested $17.119 million for the Army Modular Automated Integrated Systems Interoperability Test and Evaluation (MAINSITE) program. The Senate bill reduced the request by $10 million. The House amendment deleted the entire request and expressed concern about initiating a new command, control, communications and intelligence test bed at a time when the Army is unable to procure sufficient numbers of tactical battlefield radios and secure voice devices because of funding constraints.

The conferees expressed concern about the scope and cost of the MAINSITE program and agreed to provide an authorization of $3 million for the purpose of establishing a detailed plan. This plan should establish a schedule for MAINSITE, refine program cost estimates and provide an assessment of the technical complexity. The conferees reserved judgment on approving MAINSITE until a plan is developed and presented to the Congress. If additional fiscal year 1983 funds are needed to support MAINSITE, a reprograming request may be submitted after the detailed plan has been forwarded to the Armed Services and Appropriation Committees of the Senate and the House of Representatives.

The Senate recedes with an amendment.

MX MISSILE

The Administration requested $2,759.3 billion for the Air Force MX missile system.

The Senate bill recommended authorization of $2,277.3 million; the House amendment recommended authorization of $2,609.3 million. In addition, the House amendment prohibited the obligation of $715 million of the amount authorized until the President completes a review of alternative MX missile system basing modes and provides written notification to the Congress of the long-term basing mode selection. The House amendment fully supported the development of the MX missile together with the Advanced Ballistic Reentry Vehicle (ABRV) system.

The conferees agreed to an authorization of $2,509.3 million for the MX missile system of which $715 million is subject to the same provision as in the House amendment. The conferees agreed with the House position to provide full support for the research and development of MX missile and the associated ABRV.

The Senate recedes with an amendment.

NATO CONVENTIONAL CAPABILITY IMPROVEMENT STUDY

The report accompanying the Senate bill directed the Secretary of Defense to submit a NATO Conventional Capability Improvement Study to the Congress concurrent with the President's budget request for fiscal year 1984. The House amendment had no similar provision.

The conferees expressed continued concern regarding NATO's conventional warfighting capabilities. Although improvements have occurred, additional improvements are necessary in view of the increased capabilities of Soviet conventional forces and an overreliance on theater nuclear weapons for NATO's defense. The conferees, therefore, believe that a timely and comprehensive NATO conventional force modernization program is necessary and urgent.

The U.S. Army recently revised its fighting doctrine to increase the combat effectiveness of existing units. This doctrine anticipates significant technological advances in conventional weapons, precision guided munitions, surveillance techniques, information processing, targeting and engagement systems.

The conferees believe that the Department of Defense should fully evaluate the potential of these technological advances to enhance NATO's conventional force capabilities and should determine whether these programs should be given higher priority in resource allocation decisions.

The conferees are not advocating a massive conventional military force buildup that seeks to match quantity with quantity. Instead the conferees believe that a carefully planned U.S.-NATO conventional force modernization program that is based on such initiatives as the Assault Breaker Technology Demonstration Program can, through its force multiplier effects, represent a cost-effective alternative to seeking a quantitative military balance. Conventional force improvements can enhance the linkage between NATO's deterrent triad of forces, as well as contribute to stability by raising the nuclear threshold level.

The conferees, therefore, direct the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive study of potential advancements in conventional weapons and munitions that may improve the warfighting capabilities of NATO forces. This study should be submitted concurrent with the President's budget request for fiscal year 1984.

The views and analyses of appropriate theater commanders, including the Supreme Allied Commander, Europe, should be incorporated in the study. This study should evaluate programs for each of the services and be consistent with current military doctrine for an air-land battle.

The study should include a comprehensive program for a second echelon interdiction capability and a counter air weapon capability. This program should define a development and acquisition program, including schedule and costs, options for program acceleration, and an early IOC (1986) utilizing past and current development programs. In particular, the second echelon interdiction weapon program should make maximum use of the results from the resources that have already been expended on the Assault Breaker Program (more than $200 million since 1978) and the technologies that were developed in that program, including sensor-surveillance systems, information processing, target acquisition and delivery systems, and submunitions.

The proposed program for the second echelon interdiction weapon system should conform to the emerging military doctrine for an air-land battle. To permit early IOC (1986), while minimizing program costs, the proposed development and acquisition program(s) for the Army and Air Force should make use of common systems, subsystems, and components, including a common missile, sensor or sensors derived from the Assault Breaker-PAVE Mover and Precision Location Strike System programs, and a properly funded program for terminally guided submunitions to meet the weapon system's IOC.

The proposed program for counter air should be measured against the projected European threat environment and designed to augment and complement aircraft through the use of a ground-based system for fixed targets. To minimise program development and acquisition costs and to permit an early IOC, maximum use of past and present developed hardware should be made.

Both programs should entail plans for subsequent European participation through co-development and co-production agreements.

NIGHT PRECISION ATTACK

The Administration requested $103.758 million to continue the development of the Air Force Low Altitude Navigation Target Infrared for Night (LANTIRN) system under the Night Precision Attack program.

The Senate bill provided authorization of $88.75 million with a provision that would prohibit the obligation or expenditure of funds for LANTIRN until the Secretary of the Air Force provides written certification to the Congress stating that the program has been restructured to provide a competitive demonstration between the LANTIRN system and a variant of the Navy F/A-18 Forward Looking Infrared (FLIR) system. The Senate provision would also prohibit the Air Force from entering into a production contract for LANTIRN until completion of the development program competition.

The House amendment provided authorization of $110.758 million of which $7 million was for the integration of the Navy FLIR system on the Air Force F-16 tactical aircraft.

It is the intent of the conferees that the LANTIRN targeting pod be competed against a suitably modified F/A-18 FLIR system. This competition shall not include the automatic target recogniser proposed for LANTIRN, however, both pods are expected to possess sufficient growth capacity to accommodate this capability should it be successfully developed. The conferees agreed that this competition should be conducted between two pods sufficiently mature in their development to enable a valid comparison of both capability and production costs.

The conferees strongly support the requirement for a competitive demonstration between the LANTIRN and a variant of the F/A-18 FLIR systems and agreed to an authorization of $100 million. An additional authorization of $22 million was recommended for the Navy's F/A-18 program to begin development of the necessary modifications of the F/A-18 FLIR system. The conferees also agreed to accept the provision of the Senate bill as amended to permit the transition of the Low Altitude Navigation pod from development to production.

Section 203 contains the Senate provision as amended.

The House recedes with an amendment.

SHIP CONCEPT FORMULATION

The Administration requested authorization of $18.810 million for the Ship Concept Fomulation program.

The Senate bill recommended authorization of $15.810 million with the understanding that none of these funds were to be used for design work on "notional" ships described in the Navy's Extended Planning Annex. The House amendment provided full authorization.

The conferees agreed to an authorization of $15.810 million without restriction on the use of this authorization.

The House recedes.

SHIP SYSTEMS ENGINEERING STANDARDS

The Administration requested authorization of $1.749 million for the Navy Ship Systems Engineering Standards (SSES) program.

The Senate bill provided additional authorization of $13 million; the House amendment provided additional authorization of $16.251 million.

The conferees agreed to an authorization of $15 million and concur in the House position that this authorization is to be used to continue the generic SSES program to develop design criteria for medium and large sized combatants and to initiate the design phase of a variable payload, medium sized combatant (MSC) ship. The detailed design for the MSC is expected to be completed in fiscal year 1984.

The Senate recedes with an amendment.

SURFACE WARFARE

The House amendment contained a provision requiring that an authorization of $1,100.0 million be available only for Navy surface warfare programs. The Senate bill contained no similar provision.

The conferees in recognition of the deficiencies of the Navy's surface fleet agreed that at least $900 million be authorized for surface warfare programs.

This authorization reflects the amount of funds that the Navy plans to allocate for surface warfare programs during fiscal year 1983.

Section 202 would require that $900 million be available only for surface warfare programs.

The Senate recedes with an amendment.

STANDARD MISSILE 2, BLOCK III

The Administration requested $16.483 million to develop the next generation of the Navy Standard Missile, a surface-to-air weapon for surface vessels.

The Senate bill provided the full authorization request; however, $2 million was authorized to study various alternatives to the Standard Missile and none of the remaining authorization was to be obligated or expended until the study effort was completed and the results forwarded to the Committees on Armed Services of the Senate and House of Representatives. The House amendment provided the authorization as requested.

The conferees agreed to an authorization of $16.483 million of which $14.483 million is only for the research and development necessary for developing Standard Missile 2 Block III. The remaining authorization of $2 million is to be used only to study further missile alternatives required by the Navy to maintain maritime air superiority in the future.

TARGET SYSTEM DEVELOPMENT

The Administration's request included $43.901 million for the Navy Target System Development program.

The Senate bill recommended the full authorization request. The House amendment reduced the request to $23.901 million and required that the authorization that was requested for the Vandal target be used instead for the development of a Firebrand Advanced Aerial Target.

The conferees agreed to provide the full authorization request by the Department of Defense; however, $12 million must be used for the development of a derivative of the Air Force Firebolt target. Sec. 202 requires that the authorization of $12 million be used only for this purpose.

The action taken by the conferees would enable the Navy to complete the near term Vandal target while initiating the development of the urgently needed Firebolt.

The House recedes with an amendment.

TERMINALLY GUIDED PROJECTILE

The Department of Defense requested $6.8 million for the development of a terminally guided 155mm projectile. The House denied the Administration's request while the Senate funded the full amount. The

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conferees agreed to restore the Administration's request for $6.8 million.

The conferees recognize the requirement to develop a terminally guided 155mm projectile since a majority of the Army's artillery tubes are that caliber. Prior efforts to develop this capability have involved the exploration of a broad range of technologies but have not yielded a weapon ready for development.

Under the Terminally Guided Projectile program the Army is currently evaluating at least five different technologies to meet this requirement. Similar research has been conducted under the Army's Field Artillery Ammunition Development program (which developed the 8-inch SADARM projectile), the Advanced Indirect Fire System funded by DARPA, and the DARPA Assault Breaker program.

The conferees agreed that since resources are limited and sufficient research has been completed to permit the selection of the most promising technologies, the Army should restrict the scope of the work conducted under this program to two seeker types—the Sense and Destroy Armor (SADARM) seeker and the SKEET seeker developed for the Defense Advanced Research Projects Agency.

The House recedes with an amendment.

TACTICAL AIRCRAFT

In assessing the Administration's request for both the procurement and development of tactical aircraft, the conferees expressed concern over the proliferating number of military aircraft production lines. The Department of Defense is currently procuring aircraft from more than 25 production lines, not a single one of which is operating at the most efficient production rate.

While the conferees recognize that the total number of tactical aircraft being procured today is greater than that achieved by the previous Administration, they nevertheless believe that greater economics can and should be realized. By reducing the number of production lines in operation and increasing the production rates of those that remain, unit costs could be reduced substantially.

In spite of the growing number of aircraft production lines, the Administration has proposed the development of several new military aircraft. These include two new jet trainers (the Navy's VTX and the Air Force's NGT or Next Generation Trainer), a new strategic communications aircraft (ECX) for the Navy, a new strategic airlift (C-17), and a Joint Services Rotor Aircraft (JVX). While the conferees recommended approval of funding for each of these new development aircraft they also agreed to reserve judgment on any production decisions until the Congress is presented a comprehensive plan which persuasively establishes the Administration's ability to fund these new developments without diverting resources from existing production lines. The conferees will not be inclined to support these new developments if they lead only to greater inefficiencies in the production of other aircraft.

The conferees direct the Secretary of Defense to prepare such a comprehensive report addressing both the current and future requirements of each of the services for military aircraft. This analysis should take into account the various requirements for tactical, strategic, airlift, trainer, and utility aircraft, but should focus primarily on tactical requirements. For the Air Force it should address both force size (number of tactical fighter airwings) and force composition. Similarly, for the Navy it should address the number of carrier airwings and composition of those airwings. For the Army and the Marine Corps it should address the modernization of assault and attack rotary wing units. Consideration should also be given to the requirement for modernizing existing inventory aircraft such as the Army's Cobra, which will continue to comprise the majority of our Army and Marine attack helicopter forces well into the next decade.

The conferees also request that within this comprehensive report on tactical airpower requirements, an analysis be presented on how resources should be allocated between the procurement of additional aircraft and the air-to-air and air-to-ground weapons they must deliver to successfully carry out their mission. The conferees question the merits of increasing force structure if it comes at the expense of equipping existing force levels with vitally needed weapons. The conferees request that this report be completed and presented to the Committees on Armed Services of the House of Representatives and the Senate no later than February 15, 1983.

The conferees stress that future support for such new developments as the JVX, ECX, VTX and NGT will be contingent upon the Administration's ability to fund these programs without imposing economic penalties on existing production programs.

SPECIAL CONSIDERATIONS—TACTICAL AIR

Advanced tactical fighter technologies (ATFT)

The Administration requested $27.3 million for the Air Forces' Advanced Tactical Fighter program. The Senate authorized $27.3 million. The House denied the request.

The conferees agreed to an authorization of $23.0 million to permit the Air Force to begin evaluation of promising technologies for possible application to a future tactical fighter aircraft. These funds are intended only for the evaluation of technologies (both airframe and engine) and do not represent a commitment to the development of an advanced tactical fighter.

The conferees request that the title of this program be modified to Advanced Tactical Fighter Technologies to reflect Congressional intent.

F-15E/F-16E

The Senate authorized $13.0 million for the air-to-ground F-15E and $11.0 million for the F-16E. The House deleted both amounts. The conferees agreed to accept the Senate approved funding levels.

These funds are authorized to permit the Air Force to conduct a comparative flight demonstration between the F-15E and F-16E. Until the results of this comparative demonstration are satisfactorily presented to the Congress and the costs associated with both programs are thoroughly defined, the conferees withhold a commitment to the full scale development of either aircraft.

UNDERGRADUATE FLIGHT TRAINING SYSTEM

The conferees agreed to authorize $9.6 million for the development of a new Navy jet trainer (VTX), but expressed concern over the projected cost of the program. The continued support of the conferees for the VTX will be predicated on the Navy's ability to adequately address the VTX program schedule, priority and overall affordability within the Navy's tactical aircraft procurement account. The conferees expressed particular concern about the total projected cost of the VTX program and specifically request that steps be taken to reduce these costs.

SPECIAL PROVISIONS—TITLE II

C-17 cargo transport (sec. 201)

The House amendment contained a provision that would specify that, of the amount authorized for the Air Force Research, Development, Test and Evaluation, $1 million is available only for the effort associated with the C-17 cargo transport aircraft. The Senate bill contained no similar provision; the Senate recedes.

Limitation on funds for the Navy (sec. 202)

Section 203 of the House amendment contained a provision that would place a limitation on funds for the Navy on the following programs: The Firebrand (Firebolt) Aerial Target program, the Mark 92 Gunfire Control system, the 5-Inch Semi-Active Laser Guided Projectile and the Seafire Electro-Optical Fire Control system, the Medium Range Air-to-Surface (MRASM) system, the DDG-X (DDG-51) Ship program as it relates to the Guided Projectile program, the Advanced Mine program, the authorization of funds for Surface Warfare programs and the Vertical Launching Anti-Submarine Rocket system.

The Senate bill contained no similar provision.

With the exception of the Vertical Launching Anti-Submarine rocket system, the conferees agreed to accept the House provision with an amendment. The specific action of the conferees is described under each program in this Statement of Managers. The Senate recedes with an amendment.

LANTIRN system (sec. 203)

The Senate bill contained a provision (sec. 202) that would restrict expenditures on the Air Force Low Altitude Navigation Targeting Infrared for Night (LANTIRN) system. The House amendment contained no similar provision. The House recedes. The specific action of the conferees is discussed in the Night Attack Program of this Statement of Managers.

Submarine advanced combat systems

Section 203 of the Senate bill would restrict the obligation or expenditure of funds for the Navy Submarine Advanced Combat system program pending receipt of a plan from the Secretary of the Navy outlining the Navy's plan to proceed with the improvement of the Mark 92 Gunfire Control system. The House amendment contained no similar provision. The Senate recedes.

BMD technology program

Section 202 of the House amendment would provide that not more than $259.744 million would be available for Army Ballistic Missile Defense (BMD) technology program. The Senate bill contained a provision (sec. 204) that would limit the amount of authorization for the development of a low exo-atmospheric/high endo-atmospheric BMD system to $100 million and additionally would require the Secretary of Defense to submit a report on BMD to the Congress by December 1, 1982. Neither the Senate bill nor the House amendment provision was adopted by the conferees. the specific action of the conferees on the BMD is described in the BMD program in this Statement of Managers.

High energy laser program

Section 204 of the House amendment contained a provision that would prohibit the obligation or expenditure of funds for the

Defense Advanced Research Projects Agency High Energy Laser program. This provision further stated that $50 million would be available only for the effort related to short wavelength laser technology. The Senate bill contained no similar provision. The House recedes. The specific action of the conferees is described in the Directed Energy program in this Statement of Managers.

TITLE III—OPERATION AND MAINTENANCE

GENERAL ISSUES

Fuel cost reestimate

The fiscal year 1983 Department of Defense request included $9.4 billion for fuel purchases. In view of the existing oil surplus and lower than anticipated fuel prices, both the Senate bill and the House amendment reflect a readjustment of the Department of Defense estimate of the cost of a composite barrel of fuel from $49.98 to $47.46. This would result in a net reduction of approximately $440 million.

The resolution of differences is allocating these reductions between the Senate bill and the House amendment within major account titles is as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	−27.5	−24.8	−24.8
Navy	−154.0	−143.8	−154.0
Marine Corps	0	−2.1	0
Air Force	−259.0	−223.3	−259.0
Defense agencies	0	−0.2	−0.2
Army Reserve	0	−0.9	−0.9
Navy Reserve	0	−8.4	0
Air Force Reserve	0	−8.0	0
Army National Guard	0	−2.7	−2.7
Air National Guard	0	−27.4	0

Foreign currency revaluation

In view of the continuing strength of the U.S. dollar since the submission of the fiscal year 1983 Department of Defense request, the Senate bill and House amendment reflect recalculated budgeted currency exchange rates on the basis of more favorable rates existing on April 20, 1982. This revaluation resulted in an overall reduction of approximately $198 million.

The resolution of differences in allocating these reductions between the Senate bill and the House amendment within major account titles is as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Navy	−32.0	−33.8	−33.8
Marine Corps	−10.2	−10.0	−10.2
Air Force	−47.5	−46.2	−47.5
Defense agencies	−11.6	−9.4	−11.6

tracting out Con-

The fiscal year 1983 request contained approximately $33.5 million to perform detailed cost studies associated with the OMB Circular A-76 contracting out program. The Senate bill authorized the amount requested. The House amendment deleted authorization for this purpose. The conferees agreed to a six month moratorium on cost studies with certain exceptions. The conferees restored half of the request by major account title as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	13.5	0	−6.75
Navy	5.7	0	−2.85
Marine Corps	1.2	0	−0.6
Air Force	10.8	0	−5.4
Defense agencies	2.3	0	−1.15

The House amendment also provided that $316.3 million in authorization requested for salaries associated with 17,000 additional contract conversions proposed in fiscal year 1983 be used only for salaries for additional direct hire civilian personnel. The Senate bill contained no similar provision. The conferees agreed to restrict availability of $158.15 million of the authorization requested for contract salaries to be used only for salaries of additional direct hire personnel distributed among the major accounts as follows:

[In millions of dollars]

Major account	House amendment	Conference action
Army	50.0	25.0
Navy	162.0	81.0
Marine Corps	3.0	1.5
Air Force	83.4	41.7
Defense agencies	17.9	8.95

In addition, the House amendment provided that $251.3 million in authorization associated with the functions proposed for conversion in fiscal year 1983 be obligated only in conjunction with performance by Federal civilian personnel. The Senate bill contained no similar provision. The conferees agreed that half of the authorization requested associated with the functions proposed for conversion in fiscal year 1983 be obligated only in conjunction with performance by Federal civilian personnel to be distributed among the major accounts as follows:

[In millions of dollars]

Major account	House amendment	Conference action
Army	50.0	25.0
Navy	100.0	50.0
Air Force	83.4	41.7
Defense agencies	17.9	8.95

Real property maintenance

The fiscal year 1983 request contained $3.7 billion for maintenance, repair and minor construction of real property. The Senate bill added $348.4 million in authorization for real property maintenance. The House amendment increased the request by $295.2 million.

The conferees agreed to increase the amount requested for real property maintenance by $305.3 million in authorization and resolved specific differences in the allocation of increases contained in the Senate bill and the House amendment within major account titles as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	+245.0	+200.0	+203.0
Navy	+75.0	+50.0	+50.0
Marine Corps	+5.0	+15.0	+15.0
Air Force	−20.0	−5.7	−20.0
Defense agencies	+20.0	0	+20.0
Army Reserve	+7.4	+8.1	+8.1
Navy Reserve	+10.0	0	+10.0
Air Force Reserve	0	3.1	0
Army National Guard	0	+10.2	+13.2
Air National Guard	+6.0	+10.0	+6.0

OPERATION AND MAINTENANCE, ARMY

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
General Purpose Forces	6,089.1	6,083.7	−5.4
Base operations			(−11.3)
Currency revaluation			(−66.6)
Contracting out studies			(−2.1)
Borrowed military manpower (−1,500 civilian personnel)			(−30.0)
Force modernization			(−53.0)
POMCUS			(−10.2)
Inactivate CDEC [1]			(−2.0)
CINC readiness fund			(−15.7)
Real property maintenance			(+158.9)
Morale, welfare and recreation			(+16.6)
Bachelor housing furniture			(+10.0)
Intelligence and Communications	916.9	910.7	−6.2
Currency revaluation			(−6.2)
Contracting out studies			(−0.3)
Other			(−1.2)
Classified programs			(−1.5)
Base operations			(−0.2)
Real property maintenance			(+3.0)
Moral, welfare and recreation			(+0.2)
Central Supply and Maintenance	5,012.3	4,988.9	−23.4
Fuel cost reestimate			(−24.8)
Currency revaluation			(−16.6)
Contracting out studies			(−1.3)
POMCUS [2]			(−5.8)
Base operations			(−0.8)
CINC readiness fund			(−11.1)
Force modernization			(−7.0)
Real property maintenance			(+3.5)
Morale, welfare and recreation			(+0.5)
Maintenance and support activities			(+40.0)
Training, Medical and Other General Personnel Activities	3,638.2	3,602.3	−35.9
REARM offset [3]			(−0.1)
Base operations			(−6.5)
CINC readiness fund			(−3.2)
Currency revaluation			(−3.1)
Contracting out studies			(−2.2)
Recruiting/advertising			(−25.0)
Army continuing education system			(−30.0)
Skill qualification test			(−5.0)
Real property maintenance			(+37.6)
Morale, welfare and recreation			(+1.6)
Administration	1,040.7	1,038.8	−1.9
Base operations			(−1.2)
Contracting out studies			(−0.8)
Morale, welfare and recreation			(+0.1)
Support of other nations	130.3	125.6	−4.7
Currency revaluation			(−4.7)
Total, Army	16,827.6	16,750.1	(−77.5)

[1] CDEC—Combat Development Experimentation Command.

[2] POMCUS—Prepositioned material configured in unit sets. Four division sets of equipment are currently prepositioned in Europe to support airlifted reinforcing U.S. soldiers.

[3] REARM—Renovation—armament material is a program to upgrade capital equipment at Army Arsenals.

Base operations

The fiscal year 1983 request contained $3,899.9 million for Army base operation support. The Senate bill reduced the Army request by $20 million. The House amendment authorized the amount requested.

The House recedes.

Civilian personnel

The fiscal year 1983 Army request included 386,444 civilian personnel. The Senate bill reduced this amount by 8,400 with a corresponding reduction in the Army operation and maintenance account of $103.7 million. The House amendment reduced Army civilian end strength by 1,000 with a corresponding reduction in the operation and maintenance request of $20 million.

The conferees agreed to a civilian end strength reduction of 1,500 with a corresponding decrease in the Army operation and maintenance request of $30 million.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $30 million from the Army operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

Intelligence and communications/classified programs

The fiscal year 1983 request contained $916.9 million for intelligence and communications and classified programs. The Senate bill authorized $914.6 million—a reduction of $2.3 million. House amendment contained a reduction of $0.9 million.

The conferees agreed to a reduction of $2.7 million in authorization for Army intelligence and communications activities.

Maintenance support activities

The fiscal year 1983 request contained $476.4 million for maintenance support activities. The Senate bill authorized $538.4 million—an increase of $62 million. The House amendment authorized the amount requested.

The conferees agreed to an authorization of $516.4 million for Army maintenance support activities—an increase of $40 million.

Force modernization

The fiscal year 1983 request contained $1,438.5 million for Army force modernization activities. The Senate bill authorized the amount requested. The House amendment authorized 1,338.5 million—a decrease of $100 million.

The conferees agreed to an authorization of $1,378.5 million—a reduction of $60 million.

Prepositioned material configured in unit sets 5 and 6 (POMCUS)

The fiscal year 1983 request contained $31 million for POMCUS sets 5 and 6 located in the Netherlands and Belgium. The Senate bill authorized the amount requested. The House amendment deleted all authorization for that purpose.

The conferees expressed their concerns about the effect of prepositioning equipment on the ability of U.S. forces to respond to contingencies outside NATO. Nevertheless, because of geographical disadvantages and acute shortages of strategic lift, the conferees are sympathetic to the requirement for POMCUS sets 5 and 6 and support the U.S. commitment to this policy to the extent that such commitment does not degrade overall National Guard and Reserve readiness.

The conferees agreed to an authorization of $15 million for POMCUS sets 5 and 6.

Morale, welfare and recreation

The fiscal year 1983 request contained $179.9 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $198.9 million—an increase of $19 million.

The Senate recedes.

Bachelor housing furniture

The fiscal year 1983 request contained $42.9 million for bachelor housing furniture. The Senate bill authorized the amount requested. The House amendment authorized $63.9 million—an increase of $21 million.

The conferees agreed to an authorization of $52.9 million.

Renovation-armament materiel (REARM)

The fiscal year 1983 request contained $0.1 million associated with the transfer of REARM activities at Watervliet Arsenal to the Department of Defense capitalization program. The Senate authorized the amount requested. The House amendment deleted funding for that purpose.

The Senate recedes.

Army continuing education system (ACES)

The fiscal year 1983 request contained $157.3 million for the Army continuing education system. The Senate bill reduced authorization for that program by $15 million. The House amendment authorized $127.3 million—a decrease of $30 million.

The Senate recedes.

Skill qualification test (SQT)

The fiscal year 1983 request contained $18 million for the Army skill qualification test program. The Senate bill authorized the amount requested. The House amendment authorized $9 million.

The conferees agreed to an authorization of $13 million.

Cancel/delay new unit activations

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identifed $2 million in possible reductions associated with the cancellation or delay of various new unit activation. The Senate bill authorized the amount requested. The House amendment reduced the authorization by $2 million.

The House recedes.

Reduce 4 battalions

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $15 million in possible reductions associated with the reduction of 4 active Army battalions. The Senate bill authorized the amount requested. The House amendment reduced the authorization by $15 million.

The House recedes.

OPERATION AND MAINTENANCE, NAVY

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Strategic Forces	1,774.6	1,774.6	0
General Purpose Forces	11,073.3	10,715.2	−358.2
Currency revaluation			(−24.2)
Uranium enrichment			(−109.0)
TAKX charter and convert			(−40.0)
Fleet command and staff			(−5.0)
End strength support			(−2.5)
Contracting out studies			(−0.4)
Ship maintenance and modification			(−50.0)
Base operations			(−15.0)
CINC readiness fund			(−30.0)
Decommissioned ships			(−187.1)
Increased steaming days			(+75.0)
Morale, welfare and recreation			(+7.0)
Real property maintenance			(+23.0)
Intelligence and Communications	942.4	930.9	−11.5
Other			(−11.9)
Currency revaluation			(−2.5)
Contracting out studies			(−0.1)
Real property maintenance			(+3.0)
Central Supply and Maintenance	6,043.4	5,950.2	−93.2
Fuel cost reestimate			(−154.0)
Aircraft depot maintenance			(−50.0)
Currency revaluation			(−5.4)
Base operations			(−3.0)
Contracting out studies			(−1.4)
End strength support			(−1.3)
Decommissioned ships			(−2.9)
Installation of aircraft modifications			(+101.3)
Real property maintenance			(+13.5)
SUBROC			(+10.0)
Training, Medical and Other General Activities	1,836.9	1,837.7	+0.8
Recruiting/advertising			(−15.0)
Base operations			(−2.0)
Currency revaluation			(−1.7)
Contracting out studies			(−0.3)
End strength support			(−0.7)
Real property maintenance			(+10.5)
Morale, welfare and recreation			(+10.0)
Administration Contracting Out Studies	495.1	494.4	−0.7
Support of Other Nations	.2	.2	0
Total, Navy	22,165.8	21,702.6	−463.2

Note.—Totals may not add due to rounding.

Base operations

The fiscal year 1983 request contained $2.108.7 million for base operation support. The Senate bill authorized $2,088.7 million—a reduction of $20 million. The House amendment authorized the amount requested.

The House recedes.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $30 million from the Navy operation and maintenance request to that account. The House amendment provides for no such transfer.

The House recedes.

Intelligence and communications

The fiscal year 1983 request contained $942.4 million for intelligence and communication activities. The Senate bill authorized $940.1 million. The House amendment authorized $930.9 million.

The conferees agreed to an authorization of $930.5 million—a reduction of $11.9 million.

Installation of aircraft modifications

The fiscal year 1983 request contained $214.4 million for the installation of aircraft modifications. The Senate bill authorized $315.7 million—an increase of $101.3 million. The House amendment authorized $259.4 million.

The House recedes.

Morale, welfare and recreation

The fiscal year 1983 request contained $141.5 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $158.5 million—an increase of $17 million.

The Senate recedes.

Uranium enrichment

The fiscal year 1983 request contained $109 million for uranium enrichment services for the Naval Nuclear Propulsion Program. The Senate bill authorized the amount requested. The House amendment deleted the $109 million authorization requested for that purpose and recommended its transfer back to the Department of Energy budget to be authorized as part of the Department of Energy defense programs.

The Senate recedes.

Fleet command and staff

The fiscal year 1983 request contained $255.6 million for fleet command and staff activities. The Senate bill authorized the amount requested. The House amendment authorized $250.6 million—a $5 million reduction.

The Senate recedes.

General purpose ship maintenance and modification and aircraft depot maintenance

The fiscal year 1983 request contained $5,989 million for general purpose ship maintenance and modification and aircraft depot maintenance. The Senate bill authorized the amount requested. The House amendment contained a $100 million reduction in authorization divided equally between the ship and aircraft depot maintenance accounts.

The Senate recedes.

Increased steaming days

The fiscal year 1983 request contained $2.9 billion for ship operations. The Senate bill authorized the amount requested. The House amendment included an increase of $75 million in authorization for additional steaming hours.

The Senate recedes.

SUBROC

The fiscal year 1983 request contained no authorization for modification necessary to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the TOMAHAWK missile. The Senate bill contained no authorization for this purpose. The House amendment authorized $20 million for SUBROC modifications.

The conferees agreed to authorize $10 million for SUBROC modifications.

Navy commissary store operations

The fiscal year 1983 Navy budget reflects the transfer of 3,000 direct-hire civilians working in commissaries to a nonappropriated fund (NAF) status and requires O&M funds to be used as a source for reimbursing the NAF instrumentality. Due to serious concern regarding legal, personnel, and cost savings issues involved in these transactions, the House amendment deleted $110 million associated with this transfer and the absorption of 3,000 direct hire spaces and directed that commissary employees remain in a civil service status. The Senate bill contained no such provision.

The conferees agreed that the Navy commissary store system should continue to operate as an appropriated fund activity consistent with prior year funding levels. The conferees further agreed to restore the $110 million, provided that $50 million of that amount be used only for salaries associated with 3,000 additional Navy direct hire employees

The House recedes.

End strength decrease

In accordance with a reduction of 5,000 in Navy active duty end strength the House amendment reflected a corresponding reduction of $4.5 million associated with operation and maintenance support. The Senate bill made no such reduction.

The Senate recedes.

Decommissioning ships

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $248.9 million in savings associated with the early decommissioning of 22 ships. The Senate bill would reduce the original request by $154 million related to 13 decommissioning vessels. The House amendment deleted the entire $248.9 million.

Although the conferees concluded that the early retirement of older, less capable ships would not impair fleet effectiveness, they agreed that the Navy should be given the flexibility to retain any vessels necessary to meet unforeseen changes in fleet requirements.

The conferees agreed to a reduction in authorization of $189.9 million. The conferees further agreed to authorize $29 million to continue to operate 5 LSD-28 vessels and $30 million for the operation of 4 DDGs throughout planned deployment schedules in fiscal year 1983.

Support personnel end strength reductions

The Senate bill included a reduction of $3.5 million associated with support for military personnel end strength reduction.

The House bill contained no similar provision.

The Senate recedes.

OPERATION AND MAINTENANCE, MARINE CORPS

(Amounts in millions of dollars)

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
General Purpose Forces	861.8	852.6	−9.2
CINC readiness/fund			(−10.0)
Currency revaluation			(−10.2)
Contracting out studies			(−0.5)
Military personnel support			(−1.5)
Real property maintenance			(+10.0)
Morale, welfare and recreation			(+3.0)
Central Supply and Maintenance	358.9	361.8	+2.9
Contracting out studies			(−0.1)
Real property maintenance			(+3.0)
Training, Medical and Other General Personnel Activities	190.2	187.2	−3.0
Recruiting/advertising			(−5.0)
Real property maintenance			(+2.0)
Administration	71.0	71.0	0.0
Total, Marine Corps	1,481.8	1,472.5	−9.3

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $10 million from the Marine Corps operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

Support personnel end strength reduction

The Senate bill included a reduction of $1.5 million associated with civilian personnel adjustments in the Department of the Navy.

The House bill contained no similar provision.

The House recedes.

Recruiting and advertising

The fiscal year 1983 request contained $56.1 million for recruiting and advertising activities. The Senate bill authorized the amount requested. The House amendment authorized $51.1 million—a $5 million reduction.

The Senate recedes.

Morale, welfare and recreation

The fiscal year 1983 request contained $22.6 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $25.6 million—a $3 million increase.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR FORCE

(Amounts in millions of dollars)

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Strategic forces	3,084.5	3,072.8	−11.7
Base operations			(−5.0)
CINC Readiness Fund			(−4.0)
Foreign currency revaluation			(−5.0)
Real property maintenance			(−2.7)
B–52D			(+2.0)
Contracting-out studies			(−1.0)
Morale, welfare and recreation			(+4.0)
General purpose forces	3,832.6	3,742.5	−90.1
Base operations			(−9.0)
CINC Readiness Fund			(−7.0)
Foreign currency revaluation			(−40.0)
Real property maintenance			(−9.9)
Contracting-out studies			(−1.0)
Morale, welfare and recreation			(+4.0)
Deferral of air wing activation			(−27.0)
Support of end-strength reductions			(−0.2)
Intelligence and communications	1,417.5	1,419.1	+1.6
Programs 3 (classified program)			(+0.6)
Morale, welfare and recreation			(+1.0)
Airlift and sealift	1,202.2	1,196.3	−5.9
Base operations			(−2.0)
CINC Readiness Fund			(−2.0)
Foreign currency revaluation			(−2.0)
Real property maintenance			(−2.0)
Contracting-out studies			(−0.4)
Morale, welfare and recreation			(+.05)
C–140B replacement			(+3.0)
Deferral of air wing activation			(−1.0)
Central supply and maintenance	6,034.5	5,557.2	−477.3
Fuel cost reestimate			(−250.0)
Base operations			(−2.0)
CINC Readiness Fund			(−12.0)
Real property maintenance			(−2.4)
Contracting-out studies			(−2.0)
Deferral of air wing activation			(−10.0)
Support of end-strength reduction			(−1.0)
Depot maintenance contracting			(−190.0)
Inventory control point			(+0.5)
Procurement operations			(+0.6)
Training, medical and other general personnel activities	1,978.1	1,956.3	−21.8
Base operations			(−2.0)
CINC Readiness Fund			(−5.0)
Contracting-out studies			(−1.0)
Real property maintenance			(−3.0)
Morale, welfare and recreation			(+0.5)
USAF Academy operations			(−2.0)
Professional Development Education			(−1.5)
Recruiting/advertising			(−5.0)
Deferral of air wing activation			(−2.0)
Support of end-strength reduction			(−0.3)
Foreign currency revaluation			(−0.5)
Administration	388.5	388.5	
Support of other nations	6.8	6.8	
Total, Air Force	17,944.7	17,338.5	(−606.2)

Base operations

The fiscal year 1983 request contained $2,338.2 million for Air Force base operation support.

The Senate bill reduced the request by $20 million. The House amendment authorized the amount requested.

The House recedes.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for the Joint Chiefs of Staff Commanders-In-Chief Readiness Fund. The Senate bill would transfer $30 million from the Air Force operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

B-52D

The fiscal year 1983 request did not contain an authorization for the B-52D.

The Senate bill contained an authorization of $20 million to maintain enhanced readiness of one of three wings of B-52D's to be retired.

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The House amendment did not contain any authorization for this purpose.

The conferees agreed to an increase of $2 million, and that the objective of retaining the ability to rapidly reactivate one squadron of B-52D's can be accomplished through retaining one of the three squadrons in inviolate storage.

The conferees recognized the value of a comprehensive study and evaluation of the use of B-52D's in force projection and maritime missions and authorized $2 million for such effort.

Titan

The fiscal year 1983 request contained $19.0 million for the operation and maintenance of the Titan II intercontinental ballistic missile system.

The Senate bill provided an increase of $6.2 million. The House amendment authorized the amount requested.

The Senate recedes.

Intelligence and communications/classified programs

The fiscal year 1983 request contained $916.9 million for intelligence and communications and classified programs.

The Senate bill contained a reduction of $.6 million.

The House amendment authorized the amount requested.

The House recedes.

Support to end strength reduction

The Senate bill included a reduction of $8 million as a pro-rata cost for personnel support corresponding to end strength reductions.

The House amendment provided the amount requested.

The conferees agreed that there would be a reduction of $1.5 million.

Morale, welfare and recreation

The fiscal year 1983 request contained $322.4 million for morale, welfare and recreation.

The House amendment authorized an increase of $10 million for this purpose.

The Senate bill authorized the amount requested.

The Senate recedes.

C-140B replacement

The request for lease of aircraft in fiscal year 1983 to replace C-140B aircraft was $9.0 million. The Senate supported the request and the House added $3.0 million to accelerate retirement of the C-140B.

Because of importance of the mission to be performed, the conferees agree that the replacement aircraft selected by the Air Force should be safe and dependable. In addition, the conferees agree that in deciding on the type of fleet of replacement aircraft, of either one or more types, the Air Force should conduct a spirited and open competition that does not preclude either option. The decision should be based on, among other things, total life-cycle costs and overall ability of each fleet type to meet mission requirements.

The Senate recedes.

Eastern Missile Test Range

The Senate bill contained $94 million for the operation and maintenance of this test range. The House amendment did not.

The House recedes.

Western Missile Test Range

The Senate bill included $57.1 million, the amount requested for the operation and maintenance of this test range. The House amendment deleted the $57.1 million.

The House recedes.

Inventory control point

The Senate bill contained $411.2 million the amount requested, associated with the Air Force inventory control point operation, including management of consumable supply items. The House amendment provided an increase of $.5 million.

The Senate recedes.

Procurement operations

The request contained $152.8 million for procurement functions including consumable supply items. The Senate bill authorized the amendment requested. The House amendment added $.6 million.

The Senate recedes.

USAF Academy operations

The Senate bill provided $29.3 million for USAF Academy operation and maintenance for fiscal year 1983, an increase of $3.4 million over fiscal year 1982. The House amendment denied $2 million of the requested increase.

The Senate recedes.

Professional Development Education

The Senate bill authorized a $3 million increase in Professional Development Education. The House amendment authorized $1.5 million of the increase.

The Senate recedes.

Deferral of air wing activation

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $40 million in possible reductions associated with the deferral of the activation of an air wing.

The Senate bill authorized the amount requested. The House amendment reduced the authorization by $40 million.

The Senate recedes.

Although the conferees concluded that current budget restrictions would require the Air Force to defer previously planned growth in force structure, they also agreed that the Air Force should retain the flexibility to distribute this reduction in a manner consistent with evolving priorities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
General purpose forces	343.9	343.9	0.0
Intelligence and communications	1,932.7	1,901.5	−31.2
Intelligence programs			(−19.1)
Foreign currency revaluation			(−0.6)
Contracting out studies			(−0.3)
Civilians			(−11.2)
Central supply and maintenance	1,389.0	1,392.9	+3.9
Foreign currency revaluation			(−1.6)
Contracting out studies			(−0.4)
Fuel cost reestimate			(−0.2)
Civilians			(−8.9)
Real property maintenance			(+15.0)
Training, medical and other general support activities	1,733.3	1,703.9	−29.4
Foreign currency revaluation			(−9.4)
CHAMPUS			(−20.0)
Contracting out studies			(−0.3)
Civilians			(−4.7)
Real property maintenance			(+5.0)
Administration	356.5	351.4	−5.1
Contracting out studies			(−0.3)
Civilians			(−4.8)
Total Defense agencies	5,755.4	5,693.6	−61.8

Note: Totals may not add due to rounding.

Civilian personnel and consumable item management

The Senate bill reduced Defense Agencies personnel end strength by 2,600 spaces and $34.7 million. The House amendment reduced the request by $24.5 million, including a specified reduction of 403 personnel spaces and $9.9 million from the Defense Logistics Agency (DLA). The conferees agreed to a total reduction of $29.6 million and, that within the funds authorized, agreed that the DLA may hire additional personnel to manage the proportion of the 200,000 consumable items to be retained by DLA.

The conferees further agreed that management of weapon-system related consumable items should be retained in the service responsible for the parent system; that a certification procedure for service-retained items should be established at the Joint Chiefs' or Joint Logistics Commanders' level; that items to be routinely transferred to the DLA from the services should be screened against existing criteria; and that of the 200,000 items currently being transferred, DLA should retain those eligible for transfer under existing criteria, and management of weapon-system sensitive items should be restored to the services.

Program 3 (Intelligence and Communications)

The request for Program 3 was $1,932.7 million.

The Senate bill contained a reduction of $8.8 million from the request. The House amendment reduced the authorization by $22.8 million.

The conferees agreed to a reduction of $19.1 million from the request.

Recruiting/Advertising

The total request for joint recruiting and advertising was $21.0 million. The Senate bill contained the amount requested. The House amendment reduced the amount by $2.5 million.

The House recedes.

CHAMPUS

The Senate bill contained $1,080 million, the amount requested, for the CHAMPUS program. The House amendment reduced the CHAMPUS program by $20 million.

The Senate recedes.

OPERATION AND MAINTENANCE, ARMY RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	423.6	433.3	+9.7
Fuel cost reestimate			(−0.6)
Readiness training for tactical intelligence			(+0.3)
Stock funded unit equipment			(+9.0)
CAPSTONE training			(+1.0)
Depot maintenance	7.7	7.7	0.0
Other support	255.0	263.8	+8.8
Fuel cost reestimate			(−0.3)
Automated pay/attendance			(+1.0)
Real property maintenance			(+7.4)
Minor construction			(+0.7)
Total, Army Reserve	686.4	704.9	+18.5

Tactical intelligence training

The fiscal year 1983 request contained $0.4 million for tactical intelligence training. The Senate bill authorized $0.716 million—an increase of $0.316 million. The House amendment authorized $0.7 million.

The Senate recedes.

Testing the automated pay system

The fiscal year 1983 request contained $0.8 million for testing of the automated pay system. The Senate bill authorized $1.795 million—an increase of $0.995 million. The House amendment authorized $1.8 million.

The Senate recedes.

CAPSTONE training

The fiscal year 1983 request contained $0.6 million for CAPSTONE training. The Senate bill authorized $1.593 million—an increase of $0.993 million. The House amendment authorized the amount requested.

The House recedes.

Stock funded unit equipment

The fiscal year 1983 request contained $150.4 million for stock funded unit equipment. The Senate bill authorized the amount requested. The House amendment authorized $160.4 million

The conferees authorized $159.4 million—an increase of $9 million.

Minor construction

The fiscal year 1983 request contained $3.1 million for minor construction. The Senate bill authorized the amount requested. The House amendment authorized $3.8 million—a $0.7 million increase.

The Senate recedes.

OPERATION AND MAINTENANCE, NAVY RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	398.3	398.3	0.0
Depot maintenance	103.8	112.5	+8.7
Installation of aircraft modifications			(+8.7)
Other support	150.9	160.9	+10.0
Real property maintenance			(+10.0)
Total, Naval Reserve	653.0	671.7	+18.7

Installation of aircraft modifications

The fiscal year 1983 request contained $5.9 million for the installation of aircraft modifications. The Senate bill authorized $14.6 million—an increase of $8.7 million. The House amendment authorized the amount requested.

The House recedes.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	24.7	27.4	+2.7
Organizational equipment and consumable supplies			(+1.7)
Mobilization deployment airlift support			(+0.2)
Individual equipment			(+0.3)
Transportation of equipment			(+0.2)
Contracting airlift support			(+0.3)
Depot maintenance	1.5	1.5	0.0
Other support	22.2	22.2	0.0
Total, Marine Corps Reserve	48.4	51.1	+2.7

Organization equipment and consumable supplies

The fiscal year 1983 request contained $17.1 million for organizational equipment and consumable supplies. The Senate bill authorized the amount requested. The House amendment authorized $18.8 million—an increase of $1.7 million.

The Senate recedes.

Mobile deployment airlift support

The fiscal year 1983 request contained $1 million for mobile deployment airlift support. The Senate bill authorized the amount requested. The House amendment authorized $1.2 million—an increase of $0.2 million.

The Senate recedes.

Individual equipment

The fiscal year 1983 request contained $1.2 million for individual equipment. The Senate bill authorized the amount requested. The House amendment authorized $1.5 million—an increase of $0.3 million.

The Senate recedes.

Transportation of equipment

The fiscal year 1983 request contained $1.1 million for the transportation of equipment. The Senate bill authorized the amount requested. The House amendment authorized $1.3 million—an increase of $0.2 million.

The Senate recedes.

Contracting airlift support

The fiscal year 1983 request contained no funding for contracting airlift support. The Senate bill contained no such authorization. The House amendment authorized $0.3 million.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[Amounts in millions of dollars]

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	543.3	543.3	0.0
Depot Maintenance	101.4	101.4	0.0
Other support	121.6	121.6	0.0
Total, Air Force Reserve	766.3	766.3	0.0

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[Amounts in millions of dollars]

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Training operations	184.3	192.2	+7.9
Real property maintenance			(+4.8)
Minor construction			(+2.5)
Security guard support			(+0.6)
Logistical support	852.2	887.3	+35.1
Fuel cost reestimate			(−2.7)
Chemical defense equipment			(+10.0)
Cold weather clothing and equipment			(+10.0)
Camouflage systems			(+4.1)
Real property maintenance			(+3.9)
Repair parts			(+2.8)
Minor construction			(+2.0)
Security guard support			(+2.0)
Medical equipment			(+3.0)
Headquarters and command support	79.3	79.3	0
Medical support	8.0	8.0	0
Total, Army National Guard	1,123.8	1,166.8	+43.0

Chemical defense equipment

The fiscal year 1983 request contained $13 million for chemical defense equipment. The Senate bill authorized $33 million. The House amendment authorized $15.5 million.

The conferees agreed to an authorization of $23 million—a $10 million increase.

Medical equipment

The fiscal year 1983 request contained $5.8 million for medical equipment. The Senate bill authorized $8.8 million. The House amendment contained no such authorization.

The House recedes.

Cold weather clothing and equipment

The fiscal year 1983 request contained $30.2 million for cold weather clothing and equipment. The Senate bill authorized $50.2 million. The House amendment authorized $34.2 million.

The conferees agreed to an authorization of $40.2 million—an increase of $10 million.

Minor construction

The fiscal year 1983 request contained $6 million for minor construction. The Senate bill authorized the amount requested. The House amendment authorized $10.5 million—an increase of $4.5 million.

The Senate recedes.

Security guard support

The fiscal year 1983 request contained $5.5 million for security guard support. The Senate bill authorized the amount requested. The House amendment authorized $8.1 million—a $2.6 million increase.

The Senate recedes.

Camouflage screens

The fiscal year 1983 request contained $1.9 million for camouflage screens. The Senate bill authorized the amount requested. The House amendment authorized $6.0 million—an increase of $4.1 million.

The Senate recedes.

Repair parts

The fiscal year 1983 request contained $113.1 million for repair parts. The Senate bill authorized the amount requested. The House amendment authorized $115.9 million—an increase of $2.8 million.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[Amounts in million of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Operation of aircraft	530.6	530.6	(0.0)
Logistical support	289.6	306.8	(+17.2)
Real property maintenance			(+6.0)
Cold weather equipment			(+8.2)
Chemical defense equipment			(+3.0)
Training support	937.9	937.9	(0.0)
Servicewide support	3.7	3.7	(0.0)
Total, Air National Guard	1,761.8	1,779.0	+17.2

OPERATION AND MAINTENANCE

AIR NATIONAL GUARD

Cold weather equipment

The Senate bill provided $8.2 million for an unfunded requirement for the cold weather equipment. The House amendment contained no such authorization.

The House recedes.

Chemical defense equipment

The Senate bill provided $3 million for an unfunded requirement for chemical defense equipment. The House amendment contained no such authorization.

The House recedes.

OTHER BUDGET ACTIVITIES

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
National Board for the Promotion of Rifle Practice	0.9	0.9	(0.0)
Claims, Defense	172.5	172.5	(0.0)
Court of Military Appeals	3.2	3.2	(0.0)

OTHER PROVISIONS

Operation and maintenance accounts (sec. 301)

Section 301 of the Senate bill would authorize funds for operation and maintenance purposes separately by service (Army,

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Navy, Marine Corps, Air Force, Defense Agencies and other activities). Section 301 of the House amendment would authorize funds for operation and maintenance purposes by major account title (Army, Navy, Marine Corps, Air Force, Defense Agencies, Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve, Army National Guard, Air National Guard, National Board for the Promotion of Rifle Practice—Army, Claims—Defense, Court of Military Appeals—Defense) specifically by budget activity within account titles.

The conferees agreed to authorize funds for Department of Defense operation and maintenance purposes by major account title, with tables and exhibits accompanying the statement of managers subdividing major account authorizations by budget activity. In the event that this constitutes insufficient authorization guidance, the conferees agreed that appropriate corrective action would be considered including authorization of the fiscal year 1984 Department of Defense operation and maintenance request by major account title and budget activity.

Navy ship overhauls (sec. 302)

Section 302 of the Senate bill would establish an authorization ceiling of $2,756.0 million for Navy ship overhauls. The House amendment contained no similar provision.

The House recedes.

Restriction on long-term leases for naval vessels (sec. 303)

Section 303 of the House amendment would prohibit the Navy from entering into contracts for the long-term leasing of naval vessels if such lease contains substantial termination liability unless and until the Secretary of the Navy notified the Armed Services Committees and Appropriations Committees of the Senate and House of Representatives and thirty days have elapsed since receipt of notification. Section 303 would further provide that such notification shall include a description of the lease and justification for leasing rather than purchasing such vessel or vessels. However, this section would not apply to a ship being leased by the Navy as of September 30, 1982.

The Senate bill contained no similar provision.

The Senate recedes.

T-5 replacement tanker program (sec. 304)

Section 304 of the House amendment would prohibit expenditure of Navy operation and maintenance funding authorized by this Act associated with the leasing of any vessel under the T-5 replacement tanker program that has a main propulsion system of other major components not built in the United States.

The Senate bill contained no similar provision.

The conferees recognize the importance of the T-5 replacement tanker program and oppose any restriction that would disrupt the ongoing source selection. However, the conferees agreed to prohibit the expenditure of operation and maintenance funding authorized in this conference report associated with the leasing of any additional T-5 replacement vessels under requests for proposal circulated after July 1, 1982.

The Senate recedes with amendment.

Limitation on studies of contracting out of commercial and industrial type functions (sec. 305)

The House amendment contained a provision (sec. 306) that would limit the obligation or expenditure of operation and maintenance funds in fiscal year 1983 for commencing a study after September 30, 1982, for contracting out a commercial or industrial type function of the Department of Defense that is being performed by Department of Defense personnel on September 30, 1982. The provision also limits $567,600,000 in operation and maintenance funds to be available only for salaries or other related costs of direct-hire civilian employees in excess of the 947,000 direct-hire employees contained in the fiscal year 1983 Administration request.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees agreed to prohibit the use of funds for commencing studies on contracting out prior to April 1, 1983—a six-month limitation on commencing such studies. The six-month limitation on commencing studies would not apply to Department of Defense activities performed by government personnel involving custodial services, laundry and dry cleaning services, refuse collection, grounds maintenance (such as lawnmowing, etc.), food service and preparation (excluding military commissary operations), and base transportation services (excluding vehicle maintenance). During the six-month period when studies may not be commenced. The limitation would not prohibit government activities from determining the most efficient and cost effective organization for performance of the function and associated work in anticipation of formal studies of contracting out the function.

The limitation on funds would also not prevent the renewal or award to a lower bidder of a contract in effect on the date of enactment of the bill. The conferees also agreed to limit the availability of $283,800,000 to salaries or other related costs of civilian employees in excess of the 947,000 direct-hire civilian employee level contained in the fiscal year 1983 Administration request.

The contracting out program. The Senate conferees agreed to support language in the Senate version of H.R. 6317—the military pay bill. That language would be similar, with one exception, to language in section 401 of H.R. 6317 as reported by the House Committee on Armed Services. That one exception involves the provision in H.R. 6317 dealing with the allocation of the costs of the cost comparison process to ensure the allocation takes into account the length of the contract. The language agreed upon could not be included in the conference report but will be considered in the respective pay bills.

The conferees also agreed to consider language in the pay bill prohibiting the Secretary of Defense from administering a civilian personnel ceiling imposed by the Office of Management and Budget, although there is no agreement concerning support for such language.

Stationing of E-4 national emergency airborne command post aircraft

Section 302 of the Senate bill provided that none of the funds appropriated by this conference report could be obligated or expended for stationing of E-4 Emergency Airborne Command Post aircraft or its associated maintenance and logistical support at Andrews Air Force Base, Camp Springs, Maryland unless the President provides written certification to the Congress that the continued deployment of the aircraft at Andrews Air Force Base is essential to the national security of the United States.

The House amendment contained no similar provision.

The conferees were advised that the Administration is presently undertaking a study that addresses the coordination and organization of government during a crisis, including the role of the E-4 Airborne Command Post aircraft. Accordingly, the conferees agreed to delete the provision of the Senate bill and, instead, require the President to advise the Congress, in writing, prior to submission of the fiscal year 1984 Department of Defense request for authorization of the desirability of locating the alert E-4 aircraft and its ancillary equipment farther inland than Andrews Air Force Base.

The Senate recedes.

Restriction on the purchase of coal for military bases in Europe

Section 305 of the House amendment would prohibit expenditure of the Department of Defense operation and maintenance funding authorized by this Act to purchase U.S.-mined coal or coke for use at U.S. military installations in Europe.

The Senate bill contained no similar provision.

The House recedes.

TITLE IV—ACTIVE FORCES

Active duty military strengths for the Army, Navy, Marine Corps, and Air Force in the Senate bill and the House amendment differed by a total of 21,100. The conference agreement, which was 17,600 below the Administration request, is summarized in the following table:

	House	Senate	Conference
Army	783,800	778,600	782,500
Navy	564,200	555,800	560,300
Marine Corps	194,600	193,300	194,600
Air Force	595,700	589,500	592,000
Total	2,138,300	2,117,200	2,130,000

The conference agreement for the Army involved a reduction of 1,300 from the request. The conferees agreed that the Army should have the discretion to implement this reduction in the manner considered most appropriate.

Authority to exceed end strengths (Sec. 402)

The House amendment contained a provision (sec. 401(b)) that would permit the Secretary of Defense to exceed the authorized end strength for each of the active components by not more than one-half of one percent for each component when he considers such an increase in the national interest. The authority provided would have been effective only in fiscal years 1982 and 1983.

The Senate bill contained a similar provision (sec. 402) that would provide permanent authority for the Secretary to exceed the end strengths if the increase is needed to maintain a stable personnel force.

The House recedes with an amendment authorizing such increases when the Secretary determines the increases to be in the national interest.

Saving provision for certain accrued leave (Sec. 404)

The Senate bill contained a provision (sec. 404) that would authorize members of the Armed Forces who were previously authorized to accumulate 90 days of leave during fiscal year 1980 and who lost any leave at the end of fiscal year 1981 to be recredited with such lost leave until the end of fiscal year 1982.

The House amendment contained no similar provision.

The House recedes.

TITLE V—RESERVE FORCES

The average strength for the Coast Guard Reserve in the Senate bill and the House amendment differed by a total of 1,300. There was no disagreement on the average strength for any other reserve component.

The conference agreement, which was 1,300 above the Administration request, is summarized in the following table.

	House	Senate	Conference
Army National Guard	407,400	407,400	407,400
Army Reserve	258,700	258,700	258,700
Naval Reserve	105,500	105,500	105,500
Marine Corps Reserve	38,300	38,300	38,300
Air National Guard	101,100	101,100	101,100
Air Force Reserve	66,000	66,000	66,000
Coast Guard Reserve	12,000	10,700	12,000
Total	989,000	987,700	989,000

Increase in grades for full-time manning (Sec. 503)

The House amendment contained a provision (sec. 503) that would permit an increase in the number of personnel authorized in certain grades for personnel on active duty in support of the reserve components. The increase, authorized for fiscal year 1983 only, would be commensurate with the increase in the total number of personnel authorized to be on active duty in support of the reserve components.

The Senate bill contained a provision (sec. 503) that was identical to the House provision except that the increase would be permanent.

The House recedes.

TITLE VI—CIVILIAN PERSONNEL

The Department of Defense requested an end strength of 1,035,500 for civilian personnel.

The Senate bill would authorize an end strength for the Department of Defense totaling 1,024,400.

The House amendment would authorize a department-wide end strength of 1,050,060.

The conferees agreed to provide an overall Department of Defense authorization for civilian personnel of 1,050,060.

The conference agreement encompasses the following elements. For the Army, the Senate bill reduced the level requested to replace borrowed military manpower by 8,400; the House amendment reduced the level by 1,000. The conferees agreed to increase the level authorized for the Army by 5,900 over the level in the Senate bill. All of these spaces are to be used for the borrowed military manpower program. However, 1,500 of the spaces may be used only for the hiring of dependents of military personnel in overseas areas. For the Navy, the conferees agreed to add 3,000 spaces to the level requested for the Navy to permit the performance of commissary activities by in-house personnel. For Defense agencies, the Senate bill proposed a reduction of 2,600 from the request; the House amendment proposed a reduction of 1,000. The conferees agreed to a reduction of 1,300 for civilian personnel in Defense agencies.

The conferees also adjusted the request by 15,460 spaces to add back most of those spaces withdrawn in advance from the budget in anticipation of contracting out. This increase is an accounting adjustment and entails no additional cost because funds were requested for the performance of the functions that will be studied whether performed by government personnel or private contractors.

The House amendment proposed a reduction of 440 personnel who would be used as new administrators in the contracting out program. The Senate bill contained no similar provision. The House recedes.

The conferees are aware that the Office of Management and Budget has prevented the Army from using 3,000 of the increase approved by the Congress for fiscal year 1982. The increase provided by the Congress was requested by the Administration last year and approved by the Congress after being substantiated by testimony from Department of Defense witnesses.

The conferees are concerned about the undermining of clearly-expressed congressional intent. If this practice continues, future legislation will be drafted in a form to preclude flexibility on the part of the executive branch on these matters.

The conferees again direct the Secretary of Defense to discontinue the practice of reducing civilian personnel authorization requests in anticipation of unspecified conversions to performance by private contractors. If this direction is not complied with, the Congress will seriously consider placing such restrictions in the law next year.

Accounting for overseas dependent employees (Sec. 601(c))

The House amendment contained a provision (sec. 601(c)) that would permit the Department of Defense to account for overseas dependent employees on a pro rata basis if they are part-time personnel.

At the present, the Part-Time Career Employment Act of 1978 permits Federal agencies to count part-time personnel on a proportional basis in an effort to expand job opportunities for personnel wishing to work part-time. That Act does not apply to overseas areas.

The House amendment would permit overseas dependents to be counted in the same manner as is the case within the United States.

The Senate bill contained no similar provision.

The Senate recedes.

TITLE VII—MILITARY TRAINING STUDENT LOADS

One-year extension of reduction in number of students required to maintain a Junior Reserve Officers' Training Corps unit (Sec. 702)

The House amendment contained a provision (Sec. 702) that would extend until August 31, 1983, the provision that permits a Junior Reserve Officers' Training Corps (JROTC) unit to be maintained with a minimum enrollment of 100 students or 10 percent of the students enrolled at the institution who are at least 14 years of age, whichever is less.

The Senate bill contained no similar provision.

The Senate recedes.

TITLE VIII—CIVIL DEFENSE

The Senate bill contained a provision (sec. 801) that would provide $144.53 million for civil defense. The House amendment (sec. 801) authorized $252.34 million as requested by the Administration and distributed the authorization among three civil defense appropriation accounts. The conferees agreed to authorize $152.34 million.

The Senate bill (sec. 802) would permanently increase the appropriations ceiling for emergency management assistance contributions that may be provided to the states for personnel and administrative expenses associated with civil defense from $47 million to $50 million. The House amendment (sec. 802) would increase the ceiling during fiscal year 1983 to $60 million. The Senate recedes.

The House amendment (sec. 803) would redesignate the Federal Emergency Management Agency (FEMA) as the Civil Disaster Agency. The Senate bill contained no similar language. House conferees receded after it was agreed that the Armed Services Committees of the Senate and the House of Representatives will hold hearings on the question of renaming FEMA to the Civil Disaster Agency.

TITLE IX—SUPPLEMENTAL AUTHORIZATIONS FOR FISCAL YEAR 1982

The budget request contained supplemental authorizations totaling $1,451.8 million for fiscal year 1982 as follows:

$263.4 million for naval vessels;

$219.1 million for Air Force aircraft;

$126 million for Army tracked combat vehicles;

$57 million for research, development, test, and evalution for the Air Force;

$365.2 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$254.6 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps;

$105.3 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$61.2 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

The budget request would also increase the end strength authorization for the Army for fiscal year 1982 to 784,400.

The Senate bill in title IX recommended supplemental authorizations totaling $830.5 million for fiscal year 1982 as follows:

$263.4 million for naval vessels;

$219.1 million for Air Force aircraft;

$5.3 million for Air Force missiles;

$16.4 million for research, development, test, and evaluation for the Air Force;

$90.2 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$164.6 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps;

$30.3 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$41.2 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

The Senate bill would also increase the end strength authorization for the Army for fiscal year 1982 to 784,400.

The House amendment contained no comparable provision.

The conferees agreed to supplemental authorizations totaling $182.4 million for fiscal year 1982 as follows:

$120 million for Air Force aircraft;

$6.6 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$5 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps.

$25 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$25.8 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

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The conferees also agreed to an end strength authorization for the Army for fiscal year 1982 of 782,500.

The conferees agreed that the reduction in the request for naval vessels was without prejudice.

The House recedes with an amendment.

In addition to supplemental authorization for fiscal year 1982, the conferees agreed to approve certain transfers of existing 1982 authorization. The approval of transfers in this statement of managers is in lieu of individual reprogramming actions. The transfers approved are:

$23.5 million to Operations and Maintenance, Army, to be derived by transfer of $5.7 million from Missile Procurement, Army; $6.3 million from Weapons and Tracked Combat Vehicles Army; $10 million from Other Procurement, Army; and $1.5 million from Ammunition.

$117.4 million to Operations and Maintenance, Navy, to be derived by transfer of $19.6 million from Research, Development, Test, and Evaluation, Navy; $71.1 million from Aircraft Procurement, Navy; $7.5 million from Weapons Procurement, Navy; and $19.2 million from Other Procurement, Navy.

$2 million to Operations and Maintenance, Marine Corps, to be derived by transfer from Procurement, Marine Corps.

TITLE X—FORMER SPOUSES' PROTECTION

The House amendment contained provisions (sec. 901-907) that would provide certain rights and benefits for the former spouse of a member of a uniformed service. The Senate bill contained no similar provisions, however, the Senate Committee on Armed Services had reported a bill on July 14, 1982, with similar provisions (S. 1814).

General description

The House amendment would permit disposable military retired pay to be considered as property in divorce settlements under certain specified conditions. This provision in the House amendment would have the effect of reversing the decision of the United States Supreme Court in the case of *McCarty* v. *McCarty*, 453 U.S. 210 (1981), which held that a court could not order a division of non-disability retired pay as part of a distribution of community property incident to a divorce proceeding.

The House amendment would also permit the former spouse to receive court-awarded payments directly from the military finance center without having to resort to periodic garnishment proceedings. Direct payments could be made out of military retired pay for court-awarded alimony, child support, and division of property.

The House amendment contained several provisions that would place restrictions on the division of retired pay. Under the House amendment, military retired pay could only be considered property if the marriage lasted at least 10 years while the service member was performing creditable service. Further, the amendment specified that courts could not treat military retired pay as property unless the court has jurisdiction over the member by reason of the member's residence in the state other than because of military orders, domicile (legal residence) in the state, marriage in that state, or consent to the court's jurisdiction. In addition, the House amendment provided that payments for alimony and division of retired pay would terminate if the former spouse remarried before age 60. Finally, the House amendment would require that court orders presented to the service Secretaries for the purpose of direct payments to the former spouse certify that the court had complied with the provisions of the Soldiers' and Sailors' Civil Relief Act.

The amendment also would authorize the service Secretaries to pay to a former spouse a portion of disposable military retired pay to satisfy a court order garnishing retired pay for non-payment of property settlements other than retired pay. This provision would have the effect of expanding existing garnishment procedures in section 459 of the Social Security Act (42 U.S.C. 659) as they apply to military retired pay to include garnishment for non-payment of property settlements unrelated to division of retired pay.

The House amendment contained a provision that would authorize care in military medical facilities or under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) for unremarried former spouses who had been married to the member for at least 20 years while the member was performing creditable service. The coverage provided would be the same as the coverage for retirees, dependents of retirees and survivors. The benefit would only be available during periods when the former spouse was not covered by another health benefit plan as a result of his or her employment.

The House amendment would also direct the Secretary of Defense to prescribe regulations authorizing commissary and exchange benefits for the unremarried former spouse who had been married to the member for at least 20 years while the member was performing creditable service.

The House amendment would authorize coverage for a former spouse under the insurable interest provisions of the Survivor Benefit Plan if the service member voluntarily elected to provide that coverage.

The House amendment would apply to court orders finalized before the McCarty decision, but not to subsequent modifications thereto which have the effect of implementing the holding in the McCarty decision (for example, divesting a former spouse of a previously awarded right to a portion of a member's retired pay) or which, based on the enactment of the new title X, effected a first-time division of retired pay. It would also apply to court orders finalized on or after the McCarty decision as well as to subsequent modifications. The provisions related to medical care and eligibility for commissary and exchange privileges would only apply to former spouses divorced after the effective date of the changes.

Finally, the House amendment contained a provision (sec. 907) that would provide that nothing in title IX of the House amendment would overrule or require the modification of any state law or court decision in any state that treats marital property as community property.

The Senate recedes with amendments.

The conferees agreed to remove the restriction that would require 10 years of marriage before military retired pay could be considered property by the courts. The conferees further agreed, however, that direct payments by the service finance centers to a former spouse from the member's retired pay based on a division of that retired pay as property would be limited to situations in which the former spouse was married to the member for at least 10 years while the member performed military service. The 10-year restriction would not apply to direct payments based on the award of child support or alimony.

Currently, there is no Federal enforcement mechanism for court-ordered property division of military retired pay available to former spouses of military personnel. The conferees agreed to a Federal enforcement provision as described above; however, jurisdiction of the courts to consider military retired pay when fixing the property rights between the parties to a divorce, dissolution, legal separation or annulment would not be affected by the 10-year marriage requirement.

The conferees agreed to retain the 10-year requirement as a part of the enforcement procedures after due deliberation but remain uncertain about the potential impact of restricting Federal enforcement remedies based upon duration of marriage. Specifically, there is insufficient evidence on the retention impact. Therefore, the conferees expect the Armed Services Committees of the Senate and the House of Representatives to monitor closely whether the 10-year restriction on enforcement might become a disincentive for men and women deciding whether to reenlist for a third tour of duty. The conferees believe that there is insufficient evidence to evaluate the contention that returning to the states the authority to divide military retired pay would have a detrimental impact on retention. Continued oversight of the impact of the 10-year provision will better enable the Armed Services Committees to determine whether a duration of marriage rule of any length promotes military manpower goals or whether future legislative modifications may be required.

The conferees agreed to delete the provision in the House amendment that would terminate payments for alimony or a division of retired pay to a former spouse if the former spouse remarried before age 60.

The conferees also agreed that courts could not treat retired pay as property unless the court has jurisdiction over the member by reason of the member's residence in the state other than because of military orders, domicile in the state or consent to the court's jurisdiction.

Finally, in view of the other changes recommended by the conferees, the conferees agreed to delete section 907 of the House amendment.

The conferees adopted the provision contained in the House amendment, related to the application of the new title X to court orders finalized before the McCarty decision. Although the conference report contains no prohibition against courts reopening decisions before that date, the conferees agreed that changes to court orders finalized before the McCarty decision should not be recognized if those changes were effected after the McCarty decision (and before the effective date of the new title X) to implement the holding in that decision (for example, a modification setting aside a pre-McCarty division of military retired pay).

In additions, the conferees intend this provision to preclude recognition of changes to court orders finalized before the McCarty decision if those changes are effected after the McCarty decision and as a direct result of the enactment of the new title X of this conference report. In other words, the courts should not favorably consider applications based on the enactment of this title to reopen cases finalized before the McCarty decision wherein military retired pay was not divided.

Other provisions

With certain exceptions the provisions adopted by the conferees are similar to the provisions of S. 1814 as reported by the Senate Armed Services Committee (S. Rept 97-502). For the purpose of describing these similar provisions, the section-by-section analysis (p. 12-28) in the Senate report is referred to.

Limited medical coverage for deserving former spouses

The conferees recognize that, because the medical care provision is prospective, certain deserving former spouses whose divorces occurred prior to the effective date will not be eligible to receive medical care even though they may suffer from illinesses or diseases that were incurred during a period of the member's military service. For example, one case was brought to the attention of the conferees in which a former spouse was unable to obtain private sector medical insurance because she suffered from a chronic disease contracted while she accompanied her husband on a tour of military duty in the Philippines.

In situations such as these, particularly those in which it can be determined that the illness or disease was caused or aggravated by conditions associated with the member's military service, the conferees strongly encourage the Secretary of Defense and the Secretaries of the Military Departments to use the discretionary authority provided by title 10, United States Code, to judiciously authorize space available medical care in uniformed services medical treatment facilities. In making this recommendation, the conferees expect the Secretaries to limit this special medical designee status to certain deserving former spouses where the marriage lasted for at least 20 years during which the member served in the uniformed services. As with the medical care authorized in this bill, the conferees do not envision exercising this Secretarial authority if the former spouse is enrolled in or covered by a medical insurance program.

TITLE XI—GENERAL PROVISIONS

Transfer authority (sec. 1101)

The House amendment contained a provision (sec. 1001) that would permit the transfer of an authorization made available in the fiscal year 1983 Defense Authorization Act to any other authorization made available in the Act only upon determination by the Secretary of Defense that such a transfer were in the national interest. The authority to transfer could only be used to provide authorization for higher priority items than the items from which authorization was transferred and could not be used to provide authorization for an item that was denied authorization by the Congress. The Secretary of Defense would be required to promptly notify the Congress of transfers. The total amount of transfers would be limited to $1.5 billion.

The Senate bill contained no similar provision.

The conferees believe that this provision is necessary to permit efficient operations of the Department of Defense.

The obligation or expenditure of funds by the Department of Defense for procurement, research and development or operation and maintenance is prohibited by law (section 138 of title 10, United States Code) unless such funds have been previously authorized. Transfer authority would permit the Secretary of Defense to act promptly to continue the efficient conduct of activities authorized by this Act without obtaining prior legislative authorization.

Under agreements that have evolved over the years, the Secretary of Defense has consulted with the Committees on Armed Services and Appropriations of the Senate and House of Representatives about realignments of defense programs subsequent to the enactment of authorization and appropriation. This process, known as reprogramming, has worked well. The conferees direct the Secretary of Defense to use the transfer authority that would be authorized in this section pursuant to the existing procedures governing reprogramming.

The Senate recedes.

Waiver of authorization requirement for certain previously appropriated funds (sec. 1102)

The House amendment contained a provision (sec. 1007) that would waive the provisions of section 138(a) of title 10, United States Code (which requires that funds may not be obligated or expendea by the Armed Forces for certain purposes unless such funds have been specifically authorized by law), with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

procurement of aircraft for the Army;

procurement of aircraft for the Air Force;

procurement of missiles for the Air Force; and

operation and maintenance for Defense-wide activities.

The Senate bill contained no similar provision.

The Senate recedes.

The Senate bill in Title X recommended additional authorization for fiscal year 1982 where appropriations exceeded authorization as follows:

$123.6 million for naval vessels;

$137.8 million for Air Force aircraft;

$12 million for Air Force missiles;

$53.969 million for research, development, test, and evaluation for the Navy; and

$73 million for research, development, test, and evaluation for the Air Force.

The House amendment contained no similar provision.

Consistent with the agreement on sec. 1102, the Senate recedes on its original Title X.

Increase in Authorization for Special Defense acquisition Fund (Sec. 1103)

The Senate bill contained a provision (sec. 1101) that would establish a funding ceiling for the Special Defense Acquisition Fund of $900.0 million for fiscal year 1984.

The House amendment contained no similar provision.

The House recedes.

Transfer of Defense Articles (Sec. 1104)

The Senate bill contained a provision (sec. 1102) that would increase the $25.0 million reporting threshold of the fiscal year 1976 Department of Defense Authorization Act for proposal sales or other transfers from Department of Defense inventories or current production of defense articles to make it consistent with the $50.0 million threshold of the Arms Export Control Act.

The House amendment contained no similar provision.

The House recedes.

Reports on technology transfer control policy (sec. 1105)

The Senate bill contained a provision (sec. 1110) that would require the Secretary of Defense to conduct a study of the effectiveness of the technology transfer control policy of the Department of Defense and require that the results of such study be submitted to the Congress no later than December 31, 1982. The report would include the Secretary's recommendations for making improvements to the Department's technology transfer control policy as well as the desirability of establishing a separate office to manage and coordinate such policies within the Department of Defense.

The House amendment contained no similar provision but provided an authorization of $2 million that was to be used by the Office of the Assistant Secretary of Defense (International Security Policy) to carry out the required effort in the area of technology transfer.

The conferees agreed that there is an urgent requirement to address the issue of technology transfer control and accordingly agreed to the provision of the Senate bill together with the $2 million authorization provided by the House amendment. The conferees also agreed to the provision of the Senate bill requiring the Secretary of Defense to submit to the Congress a written report not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to carry out the technology transfer control policy formulation and related activities of the Department of Defense during the next fiscal year.

The conferees further agreed that should additional funding be required during fiscal year 1983 to carry out this effort, a reprogramming request may be submitted for this purpose.

The House recedes with an amendment.

Limitation on defense funds for space shuttle (Sec. 1106)

The House amendment contained a provision (sec. 1008) that would limit the amount the Department of Defense may be required to pay the National Aeronautics and Space Administration (NASA) for placing DOD payloads in orbit.

The Senate bill contained no similar provisions.

The conferees agreed to the House provision with the understanding that it is not the intention of the conferees to preclude a revision of existing DOD/NASA interagency agreements as they might relate to space shuttle cost sharing arrangements between the DOD and NASA. The conferees intend, however, to insure that such cost sharing arrangements will only be in accordance with laws in effect on July 1, 1982, and interagency agreements negotiated by the DOD and NASA pursuant to such laws.

The Senate recedes with an amendment.

Improved oversight of cost growth in major defense acquisition programs (Sec. 1107)

The Senate bill contained a provision (sec. 1103) that would establish in permanent law a requirement for the unit cost reporting system that was approved in the fiscal year 1982 Defense Authorization Act for a one-year period only.

The House amendment contained a provision (sec. 1003) that would modify the Selected Acquisition Report (SAR) System and requires the Department of Defense to provide on an exception basis contract cost and schedule information for those SAR programs that breached specific cost growth thresholds.

Specifically, section 1003 would require the Secretary of Defense to provide SAR's on those programs that exceed $200 million in RDT&E funds or exceed $1 billion in procurement funding. It would require that comprehensive SAR's be provided only for the fiscal quarter ending December 31 with abbreviated SAR's being submitted for the three other fiscal quarters when there are changes in cost, performance, or schedule. The provision also would require the program manager to submit reports to the service Secretaries when he has reason to believe that there would be a 15 percent increase in contract cost or a 15 percent slippage in contract schedule. Based on the program manager's reports, the service Secretary would submit a program cost assessment report to the Congress that would contain contract cost and schedule information if he determines that there had been a greater than 15 percent increase in program unit cost. The provision further would require additional reports from the program manager and the service Secretary for every 5 percent increase above the original 15 percent cost growth in contract cost or program unit cost. The provision would permit the Defense Department to submit to the Armed Services Committees of the Senate and House of Representatives a request for waiver of the requirement to report major programs that exceed the SAR reporting thresholds.

The Senate recedes with an amendment that incorporates many of the provisions of the House amendment into the unit cost reporting system.

Oversight of defense expenditures (Sec. 1108)

The House amendment contained a provision (sec. 1004) that would require a report by the Secretary of Defense on the adequacy of the civilian personnel strength requested in the fiscal year 1984 budget of the Defense Contract Audit Agency, Defense Audit Service and the Defense Criminal Investigative Service, and information concerning the savings in defense expenditures achieved by them in fiscal year 1982.

The Senate bill contained no similar provision.

The Senate recedes.

Continuation of test program to authorize price differential to relieve economic dislocations (Sec. 1109)

The Senate bill contained a provision (sec. 1132) that would continue a one-year test program that allows a limited price differential to be paid for the purpose of relieving economic dislocations on contracts entered into by the Defense Logistics Agency except for fuel purchases. The test program is an exception to section 2392 of title 10, United States Code, commonly referred to as the Maybank amendment, which prohibits the use of funds appropriated to or for the use of the Department of Defense, in connection with any contract awarded by the Department of Defense, to pay a price differential for the purpose of paying higher prices on contracts in areas of high unemployment (labor surplus areas).

Under the test program, the aforementioned prohibition would not apply to contracts, other than contracts for fuel purchases, entered into by the Defense Logistics Agency during fiscal year 1983 if the Secretary of Defense were to make certain determinations. The Secretary would be required to determine that such contract would not adversely affect national security; that there would be a reasonable expectation that bids would be received from a sufficient number of responsible bidders so that the award of such contract would be made at reasonable cost to the United States; that the price differential to be paid under such contract would not exceed 1½ percent; and that the cumulative value of all contracts awarded under this exception would not exceed $3 billion.

The Senate provision also directed the President to submit a report to Congress by April 15, 1983, on the implementation and results of the test program.

The House amendment contained a similar provision (sec. 1002) that would continue a test program; however, the price differential to be paid under the contract could not exceed 3 percent and the cumulative value of all contracts awarded under this exception could not exceed $5 billion.

The conferees agreed that the price differential to be paid under a contract could not exceed 2.2 percent and the cumulative value of all contracts awarded under this exception could not exceed $4 billion.

The conferees intend that the price differential to be paid under a contract awarded as the result of solicitations issued before the date of enactment of the Department of Defense Authorization Act for fiscal year 1983 or October 1, 1982, whichever is later, may not exceed five percent.

The Senate recedes with an amendment.

Prohibition against consolidating functions of the military transportation commands (Sec. 1110)

The Senate bill contained a provision (sec. 1107) that would prohibit the consolidation of the functions of the Military Sealift Command, the Military Traffic Management Command, and the Military Airlift Command and would require a report from the Secretary of Defense on the management and cost issues associated with consolidation of the commands.

The House amendment contained no similar provision.

The conferees agreed that the functions of the Military Sealift Command and the Military Traffic Management Command should not be consolidated into a Unified Command at this time and suggest that this is an area appropriate for legislative consideration.

The conferees further agreed that the Armed Services Committees of the Senate and the House of Representatives will hold hearings on mobilization enhancement. The Secretary of Defense is encouraged to submit legislative proposals for the purpose of enhancing the peacetime and wartime operations of transportation commands.

Furthermore, the conferees observed that the Secretary of Defense should take necessary measures to improve the communication and information systems that interact between the transportation commands.

The House recedes with an amendment.

Prohibition regarding contracts for the performance of firefighting and security functions (Sec. 1111)

The Senate bill contained a provision (sec. 1116) that would prohibit the obligation or expenditure of funds in this or any other act for entering into a contract for the performance of firefighting or security guard functions at a military installation, except for the renewal of contracts in effect on the date of enactment.

The House amendment contained a similar provision (sec. 1014) that would be limited to fiscal year 1983.

The Senate recedes.

Modification of reports on conversion of commercial and industrial-type functions to private contractors (Sec. 1112)

The Senate bill contained a provision (sec. 1113) that would exempt functions performed entirely by military personnel or by fewer than 50 Department of Defense civilian personnel from the notification and detailed cost comparison requirements contained in section 502 of the Department of Defense Authorization Act, 1981 (Public Law 96-342). The committee report contained language directing that simplified cost comparisons be conducted on these smaller functions to ensure that cost data are fully considered in decisions on commercial activities. The Senate provision would also suspend the requirements of section 502 entirely during war or during a period of national emergency.

The House amendment contained no similar provision.

The House recedes with an amendment exempting those activities with 10 or less employees from the formal requirements of section 502. The conferees intend that the Senate committee report directing that simplified cost comparisons be prepared and cost data be fully considered be adhered to.

Enforcement of Military Selective Service Act (Sec. 1113)

The Senate bill contained a provision (sec. 1121) that would deny eductional assistance under Title IV of the Higher Eduction Act of 1965 to young men who fail to register under section 3 of the Military Selective Service Act. The Senate provision would place primary responsibility for verification of certifications of registration with the Secretary of Education.

The House amendment contained a similar provision (sec. 1010) that would require, as a condition for receipt of any grant, loan, or work assistance under Title IV of the Higher Education Act of 1965, the individual to file a statement of compliance with the registration provisions of section 3 of the Military Selective Service Act. The Secretary of Education, in consultation with the Director of Selective Service, would prescribe the methods for verifying the accuracy of such statements of compliance.

The Senate recedes with an amendment to ensure due process to an individual who has complied but whose compliance may not be immediately verifiable.

The conferees strongly urge that such regulations and procedures necessary to implement this provision minimize the administrative burden on colleges and universities and the delays in processing aid applications and awards.

Military recruiting information (Sec. 1114)

The Senate bill contained a provision (sec. 1114) that would authorize the Secretary of Defense to collect specific, limited high school directory information for use on a confidential basis in military recruiting. In addition, the Senate provision would authorize the service Secretaries to request from state and local governments certain criminal history information about individuals who apply for enlistment in the armed forces or for participation in programs that require a determination of trustworthiness.

The House amendment contained no similar provision.

The House recedes with an amendment to clarify that the Secretary of Defense is authorized to request high school directory information but that such a request implies no compulsion and that compliance with the request by local school boards and principals is completely voluntary on their part.

Active duty for training of persons enlisting in a reserve component of the Armed Forces (Sec. 1115)

The Senate bill contained a provision (sec. 1123) that would extend the period of time allowed between enlistment and the beginning of initial active duty for training from 180 to 270 days for reserve and national guard personnel. In addition, the Senate bill would permit the initial 12-week basic training requirement to be satisfied in the equivalent of 12 weeks, as prescribed by the service Secretary.

The House amendment contained no similar provision.

The House recedes on the increase in the time allowed between enlistment and initial training from 180 to 270 days.

The Senate recedes on a change to the 12-week basic training requirement.

Temporary increase in number of Navy officers that may serve in the grade of vice admiral (Sec. 1116)

Current law authorizes the Navy 15 percent of its total number of flag officers (officers in the grade of commodore and above) in the grades of vice admiral and admiral. Of this number, 25 percent may be in the grade of admiral. Currently the Navy is authorized 37 spaces for admirals and vice admirals. Of this total, 28 spaces are filled with vice admirals.

The Senate bill contained a provision (sec. 1112) that would authorize the Navy 17.5 percent of its total number of flag officers in the grade of vice admiral and admiral.

The House amendment contained no similar provision.

The conferees agreed to authorize 3 additional spaces for the grade of vice admiral during fiscal year 1983. This would provide a total authorization of 31 spaces for the grade of vice admiral.

The House recedes with an amendment.

Department of Defense Office of Inspector General (Sec. 1117)

The Senate bill contained a provision (sec. 1122) that would amend the Inspector General Act of 1978 (Title 5, United States Code, Appendix I (Public Law 95-452)) to provide for an Inspector General in the Department of Defense under the authority, direction and control of the Secretary of Defense. The Senate provision placed no control over the delegation of the Secretary's authority. The Senate provision would also authorize the Secretary to prohibit certain activities of the Inspector General whenever the Secretary found such prohibition necessary for purposes of preserving national security interests. If, however, such authority were exercised, the Secretary and the Inspector General would be required to report to the Congress. The Senate bill would transfer to the Office of Inspector General the Defense Audit Service and that portion of the Defense Investigative Service assigned responsibility for investigating criminal violations. In addition, the Senate bill would transfer the responsibility for post-award audits, together with not less than 1400 positions, from the Defense Contract Audit Agency to the Office of Inspector General. In addition to the responsibilities and authorities of the Inspector General enumerated in the Inspector General Act of 1978, the Senate bill contained a number of additional provisions with respect to the Inspector General of the Department of Defense.

The House amendment contained a provision (sec. 1011) that would amend the Inspector General Act of 1978 to provide for an Inspector General in the Department of Defense under the general supervision of the Secretary of Defense. The authority of the Secretary to supervise could be delegated only to the officer next in rank. The Secretary would not have authority to intervene in or to prohibit activities of the Inspector General. As under the provision in the Senate bill, the Defense Audit Service and that portion of the Defense Investigative Service with responsibility for investigating alleged criminal violations would be transferred to the Office of the Inspector General. In addition, the House provision would transfer to the Office of Inspector General the Office of Inspector General of the Defense Logistics Agency. The House amendment would not transfer any functions of the Defense Contract Audit Agency to the Inspector General but would require the Inspector General to submit within one year a recommendation to the Secretary of Defense and to the Congress addressing whether the Defense Contract Audit Agency should be transferred to the Office of Inspector General. The House amendment further provides that nothing in the amendment should be construed to authorize the withholding of information from the Congress or its committees.

Both the House and Senate provisions would prohibit the appointment of a member of the Armed Forces, active or reserve, as Inspector General of the Department of Defense. Both the Senate bill and the House amendment contained language that would prohibit the public disclosure of information that is specifically prohibited from disclosure by law or specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

The conferees agreed to provide an Inspector General for the Department of Defense appointed by the President and confirmed by the Senate. The Inspector General would work under the general supervision of the Secretary of Defense. The authority of the Secretary to supervise could be delegated only to the officer next in rank. With respect to audits or investigations that require information concerning sensitive operational plans, intelligence matters, counterintelligence matters, ongoing criminal investigations of other administrative units of the Department of Defense related to national security, or other matters the disclosure of which would constitute a serious threat to national security, the conferees believe the Inspector General should be under the authority, direction and control of the Secretary of Defense. The Secretary could prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpenas, with respect to the above-mentioned matters when the Secretary determines such prohibition is necessary to preserve the national security interests of the United States. The Secretary and the Inspector General would be required to report to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees and subcommittees of the Congress should the Secretary exercise his authority established by the amendment.

In addition to the transfers contained in both the House and Senate provisions, the conferees agreed that the Office of Inspector General of the Defense Logistics Agency, should be transferred to the Office of Inspector General of the Department of Defense. The conferees agreed not to transfer any functions from the Defense Contract Audit Agency, however. Instead, the conferees agreed to direct the Secretary of Defense to transfer not less than 100 additional positions to the Office of Inspector General to be filled by the Inspector General with persons trained to perform contract audits. The conferees believe that it is essential that the new Inspector General develop a significant capability in the highly technical area of contract audit. The conferees do not intend that these auditors advise Department of Defense contracting officers in the process of negotiating contracts, a function that the Defense Contract Audit Agency auditors perform. The conferees envision the contract audit capability in the Office of Inspector General to be used (1) to provide the manpower and technical expertise to oversee effectively and review the work of the Defense Contract Audit Agency, and (2) to provide the Inspector General flexibility and resources in situations where he deems it necessary or appropriate to look at entire procurements—the performance of defense contractors as well as the performance of defense personnel.

The conferees also agreed to impose duties and responsibilities on the Inspector General of the Department of Defense in addition to those contained in the 1978 Inspector General Act, including the following:

The Inspector General of the Department of Defense would—

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the department;

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) that the Inspector General deems appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness:

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General deems appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of department auditors to internal audit, contract audit, and internal review principles, policies and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoid duplication and insuring effective coordination and cooperation.

The conferees also agreed to amend section 8 of the Inspector General Act of 1978 to require the Inspector General to report to the Secretary of Defense, or the Secretary of the military department concerned, any alleged or suspected violations of the Uniform Code of Military Justice.

In addition the conferees agreed that members of the Armed Forces should be treated as employees of the Department of Defense with respect to the provisions of section 7 of the Inspector General Act of 1978, that the semi-annual report of the Inspector General of the Department of Defense should include information regarding the numbers and types of contract audits conducted by the department during the reporting period, that any report required by sections 5(a) and 5(d) of the Inspector General Act of 1978 should be transmitted to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives, and that nothing in the provisions recommended would prevent the disclosure of information to the Congress.

The conferees also agreed to amend section 5315 of title 5, United States Code, by adding the Inspector General, Department of Defense, to the Level IV Executive Schedule.

Extension of period for transfer of Defense Dependents' Education System to Department of Education (Sec. 1118)

The Senate bill contained a provision (Sec. 1117) that would repeal the transfer of the Department of Defense Dependents' School system from the Department of Defense to the Department of Education. This transfer is currently scheduled to take place in May 1983 under the terms of the Department of Education Organization Act.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the scheduled transfer date for one year until May 1984.

Open enrollment period for reserves under the survivor benefit plan (sec. 1119)

The Senate bill contained a provision (sec. 1124) that would provide a 12-month open enrollment period to elect coverage in the Survivor Benefit Plan for reservists who before December 1, 1980, had completed sufficient service to be entitled to retirement benefits under the reserve retirement program, chapter 67 of title 10, United States Code, but who were not yet age 60.

The House amendment contained no similar provision. A similar open enrollment period is included, however, in H.R. 6317, the Uniformed Services Pay Act of 1982, as reported from the House Armed Services Committee on May 17, 1982.

The House recedes with a technical amendment.

Report on allied contributions to the common defense (sec. 1120)

The Senate bill contained a provision (sec. 1108) that would express the sense of Congress that the NATO allies and Japan should increase their contributions to the common defense to levels more commensurate with their economic resources. It requires a report from the Secretary of Defense on allied contributions to the common defense.

The House amendment contained no similar provision.

The House recedes with an amendment to extend the existing report for one year.

Report on standardization of NATO weapons (sec. 1121)

The Senate bill contained a provision (sec. 1111) that expands the annual report on standardization and interoperability of NATO weapons and equipment to identify existing and planned development and procurement programs by one NATO member from systems originally developed or procured by another.

The House amendment contained no similar provision.

The House recedes.

NATO defense industrial cooperation (sec. 1122)

Section 1126 of the Senate bill would express the sense of Congress that the U.S. President should propose at the NATO summit meeting in June 1982 that the NATO allies agree to (1) more effectively pool their defense efforts, (2) establish a cooperative defense-industrial effort to reduce otherwise necessary defense costs, (3) share more equitably and efficiently the financial burdens and economic benefits of NATO defense, and (4) begin negotiations promptly to give full effect to these agreements.

The House amendment contained no similar provision.

The House recedes with an amendment.

Study of improved control of use of nuclear weapons (sec. 1123)

The Senate bill contained a provision (sec. 1137) directing the Secretary of Defense to conduct a study and evaluation of initiatives for improving the containment and control of the use of nuclear weapons. The Senate provision further provides that a report on such study and evaluation shall be provided to the Committees on Armed Services and Foreign Relations of the Senate and the House of Representatives by August 1, 1982. The Senate provision also directs the President to report to the Committees on Armed Services and Foreign Relations of the Senate and the House of Representatives on September 1, 1982, on the merits of initiatives developed to control nuclear weapons and on the status of any such initiatives as they may be related to any arms control negotiations with the Soviet Union.

The conferees agreed that the study and reports required by the Senate provision could be useful to the Congress. However, the reporting dates contained in Section 1137 of the Senate bill do not allow sufficient time to make a thorough study or to prepare reports.

The House amendment contained no similar provision.

The conferees recommend technical amendments to the Senate provision that require the Secretary of Defense to report to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House by February 1, 1983, and the President to submit a report on March 1, 1983.

The House recedes with an amendment.

Negotiations for banning of chemical weapons (sec. 1124)

One of the most controversial aspects of the Administration's fiscal year 1983 budget request was the inclusion of $54 million for procurement of long-lead items in support of production of binary chemical munitions. This request was accompanied by a certification by the President that the "production of lethal binary chemical munitions is essential to the national interest."

The Senate approved the recommendation. The House, however, voted to ban production of binary weapons in fiscal year 1983.

The Senate conferees regard the inititation of binary munitions production as vital to the national security. The unilateral cessation of chemical weapons production thirteen years ago has resulted in an increasingly obsolescent U.S. stockpile and raises questions about the deterrent value of America's retaliatory chemical inventory, the Senate conferees stated. Evidence of Soviet and Soviet proxy use of chemical and biological munitions in Southwest and Southeast Asia and the USSR's intransigence in negotiating comprehensive, verifiable bans on chemical weaponary raise the specter of a willingness and ability on the part of the Soviet Union to make use of such weapons when it suits its purposes to do so. The Senate conferees believe that America's determination to maintain a safe, effective, and credible retaliatory chemical arsenal—comprised of modern binary munitions—is the best hope for deterring chemical war and for inducing the USSR to agree to terms that will lead to a total and verifiable chemical disarmament accord.

However, the House managers were adamant and the conferees agreed to eliminate the funding for production this year *without prejudice*.

The House conferees receded on a provision (section 111 of the House amendment) to ban such production.

The Senate receded on section 1135 of its bill which would have placed certain restrictions on the amounts of new binary chemical munitions that could be introduced into the chemical munitions stockpile.

In related action, the conferees agreed to a Senate provision (section 1141 of the Senate bill) in lieu of a similar House provision (section 112 of the House amendment) that would express the sense of the Congress in support of the initiation of arms control negotiations aimed at achieving a total, verifiable ban on all chemical weapons. The Senate receded on section 1134 of the Senate bill that would call for amending the convention on Bacteriological and Toxin Weapons to establish verification standards and procedures.

Cooperative military airlift agreements (Sec. 1125)

The Senate bill contained a provision (sec. 1115) that would expand the authority of the Secretary of Defense to enter into cooperative airlift agreements with the United States allies that are not geographically constrained to Europe and adjacent waters and that include allies other than NATO members.

The House amendment contained no similar provision.

The House recedes.

Purchase of foreign made administrative motor vehicles (sec. 1126)

The Senate bill contained a provision (sec. 1105) that would repeal section 783 of the fiscal year 1982 Department of Defense Appropriations Act which placed specific restrictions on the procurement of administrative motor vehicles manufactured outside the United States or Canada.

The House amendment contained no similiar provision with respect to repealing section 783 of the fiscal year 1982 DOD Appropriations Act. However, the House amendment contained a provision (sec. 1012) that would allow a service Secretary to award a contract over $50,000 for administrative motor vehicles that are to be used outside the United States or Canada only to the lowest responsible bidder from the U.S. or the host nation. The Senate bill contained no similar provision.

The House recedes to the Senate with an amendment regarding section 1105.

The Senate recedes to the House with an amendment regarding section 1012. Both amended provisions are incorporated in section 1126 of the conference report.

Prior notification to Congress on foreign sole-source procurements (sec. 1128)

The House amendment contained a provision (sec. 1009) that would require that none of the funds authorized to be appropriated in this Act could be used for a prime contract for the purchase of a major article of defense equipment essential to the national defense from a foreign manufacturer if such a procurement would make the U.S. dependent on that manufacturer as a sole source unless the Secretary of Defense first notified the Committees on Armed Services and Appropriations of the Senate and House of Representatives of a planned procurement and 30 days elapsed from receipt of such notice.

The Senate bill contained no similar provision.

The conferees agreed that it would be worthwhile for the Congress to be informed of a procurement that would make the United States dependent on a foreign manufacturer for essential equipment and, therefore, agreed on a modification of the provision to provide for the notification as specified without the requirement for the 30 day delay in procurement.

The term "a major article of equipment essential to the national defense" shall apply to major systems as designated by the Secretary of Defense.

The Senate recedes with an amendment.

Purchase of chemical warfare protective clothing and items containing specialty metals from foreign sources (sec. 1129)

The Senate bill contained a provision (sec. 1106) that would amend section 723 of fiscal year 1982 Appropriations Act to allow the Department of Defense to buy foreign-made specialty metals or chemical warfare protective clothing for the purpose of offsetting U.S. sales overseas or furthering NATO rationalization, standardization and interoperability.

The House amendment contained no similar provision.

The House recedes.

Recognition of guard and reserve forces (sec. 1130)

The Senate bill contained a provision (sec. 1127) that would declare the sense of Congress that members of the reserve and national guard deserve public recognition for their important role in national defense and also would urge that employers and supervisors abide by the Veterans' Reemployment Rights Act to ensure that their employees are not penalized in any way for participation in reserve and national guard training exercises.

The House amendment contained no similar provision.

The House recedes.

Settlement of military personnel claim resulting from Iranian hostage crisis (sec. 1132)

The Senate bill contained a provision (sec. 1118) that would provide the Secretary concerned with additional authority to settle claims of up to $55,000 by military personnel for damage to or loss of personal property in a foreign country after December 30, 1978, and before January 22, 1981, the period of the Iranian crisis. In addition, the Senate provision would authorize the Secretary concerned to provide compensation above the amount for loss of property purchased to fulfill representational obligations.

The House amendment contained no similar provision.

The House recedes with an amendment limiting the applicability of the provision to one individual. It would allow Col. Thomas E. Schaefer to recover the full replacement value of property purchased primarily in order to fulfill his representational responsibilities as a military attache in Iran without regard to the table of maximum allowances on the table of depreciation.

Use of certain gifts to the United States Military Academy (sec. 1133)

The House amendment contained a provision (sec. 1018) that would permit the Superintendent of the U.S. Military Academy, under regulations prescribed by the Secretary of the Army, to accept, hold, administer, invest, and spend gifts of $20,000 or less made for the benefit of the Academy.

The Senate bill contained no similar provision.

The Senate recedes.

Designation of Estonia, Latvia, and Lithuania on Defense maps (sec. 1134)

Section 1006 of the House amendment would prohibit the use of funding authorized by this conference report for the preparation, production, or purchase of any map of the Union of Soviet Socialist Republics that does not:

"(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

"(2) include the designation 'Soviet Occupied' in parenthesis under each of those names; and

"(3) include in close proximity to the area of the Baltic countries the following statement: 'The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union'."

The Senate bill contained no similar provision.

The Senate recedes.

Requirements relating to the awarding of sole-source contracts

The Senate bill contained a provision (sec. 1104) that would require a 30 day public notice with certain exceptions prior to negotiation of sole-source contracts over $100,000 and an annual report on all sole-source contracts exceeding $100,000.

The House amendment contained no similar provision.

The conferees urge the Department of Defense to extend, by regulation, to 30 days the existing 10-day notice period in the Commerce Business Daily for sole-source contracts over $100,000. The House Committee on Armed Services will promptly complete its hearings on sole-source procurement.

The Senate recedes.

Critical skill needs and supplies

The Senate bill contained a provision (sec. 1109) that would require the Secretary of Defense, in conjunction with the Secretary of Labor, to conduct a study to determine skilled labor needs and the availability of such individuals in the civilian work force for Department of Defense programs through 1987 or in the event of a mobilization.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees agree that the study should be conducted. To that end, the conferees direct the Secretary of Defense, in conjunction with the Secretary of Labor, to conduct a study to determine the level of skilled labor needed and available in the civilian work force to accomplish the programs planned by the Department of Defense for fiscal years 1983 through 1987 and needed and available during a mobilization period. The Secretary shall submit a report on the results of such study, not later than February 15, 1983, to the Committees on Armed Services of the Senate and the House of Representatives. Such report shall include the following:

(1) an analysis of the expected level of the demand for skilled labor in the civilian work force, by type of skill and by regions of the country, to accomplish defense programs during fiscal years 1983 through 1987 and the expected level of the supply of such labor in the civilian work force available to meet such demand during such fiscal years;

(2) an analysis of the expected level of demand for skilled labor in the civilian work force, by skill and by regions of the country, during a mobilization period and of the ability of the present civilian labor work force to meet such a demand; and

(3) recommendations for programs or legislation to effect any improvements in the level of skilled labor in the civilian work force needed to accomplish defense programs during fiscal years 1983 through 1987 or during a mobilization period.

Social security

The Senate bill contained a provision (sec. 1119) that would express the Senate's commitment to ensuring that the social security system is preserved and strengthened and that would declare Congress' intention to await the recommendations of the National Commission on Social Security Reform prior to deciding any major changes in the current program.

The House amendment contained no similar provision. The House conferees pointed out that the provision would be nongermane to this conference report under the Rules of the House of Representatives.

The Senate recedes.

Summit meeting on reducing the risk of nuclear war

The Senate bill contained a provision (sec. 1120) that would express the sense of Congress that the President of the United States should be commended for his desire to meet with the President of the Soviet Union in June of 1982.

The House amendment contained no similar provision.

The Senate recedes.

Extension of student loan repayment for certain officers

The Senate bill contained a provision (sec. 1125) that would expand the authority to repay a portion of any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of that Act, after October 1, 1975. Under current law, that repayment authority is limited to individuals who enlist in either the active or reserve forces in a military specialty designated by the Secretary of Defense. The Senate bill would extend the repayment authority to reserve and guard officers in grades of O-1 and O-2 who were promoted from enlisted status.

The House amendment contained no similar provision.

The Senate recedes.

Report on maneuver warfare concepts

The Senate bill contained a provision (sec. 1128) that would direct the Secretary of the Army and the Secretary of the Navy to submit a written report explaining the manner in which maneuver warfare concepts are being or have been incorporated into the policies and training of the Army and Marine Corps, respectively. Each such report would be required to indicate the extent to which field manuals and other doctrinal, operational, and training publications reflect such concepts.

The term "maneuver warfare concept" was defined in the provision to mean perceiving or envisioning any armed conflict as time-competitive observation-orientation-decision-action cycles in which the object is to destroy the enemy's cohesion by maintaining a consistently faster cycle.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of the Army and the Secretary of the Navy to submit a written report as outlined in the provision of the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Adjustments in authorisation for procurement of aircraft

The Senate bill contained a provision (sec. 1129) that would prohibit the obligation of any funds appropriated pursuant to the fiscal year 1983 Department of Defense Authorization Act or funds appropriated in prior years for reestablishment of production facilities for manufacturing additional C-5 aircraft or for the procurement of any additional C-5 aircraft. The Senate provision would also limit the authorization for Air Force aircraft procurement in fiscal year 1983, authorise $186.1 million for the NATO AWACS program, and authorise $350 million for the procurement of commercial wide-body cargo aircraft through competitive bidding.

Section 1129 of the Senate bill would also authorise the appropriation of an additional $120 million for procurement of aircraft for the Air Force for fiscal year 1982 and would authorise the transfer of $120.9 million authorized and appropriated in prior years for the Civil Reserve Air Fleet enhancement program to procure commercial wide-body aircraft that are available as surplus.

The House amendments contained no similar provision.

The conferees recommend that section 1129 of the Senate bill not be adopted. The conferees direct that the $84.8 million which is authorised and appropriated by law for the Civil Reserve Air Fleet enhancement program be authorised for procurement through competitive bidding of the most cost effective commercial wide-body aircraft that are available as surplus. The aircraft procured with funds under the preceding sentence shall be suitable for military cargo configurations.

The Senate recedes.

Space laser program

The Senate bill contained a provision (sec. 1130) that would require the Secretary of Defense to expend funds as authorised and appropriated for an on-orbit laser weapon system as quickly as the technology would allow and that would require a report to the Congress by December 1, 1982, describing the management and programmatic actions that must be taken to achieve the aforementioned objective. The House amendment contained no similar provision.

The House conferees were strongly opposed to a legislative mandate prescribing the type of laser technology and the schedule of such technology for an on-orbit experiment. It was the judgment of the House conferees that short, rather than long, wavelength technology should be emphasised. The Senate conferees in contrast strongly supported the Administration's proposal for laser technology.

The conferees agreed to support a vigorous technology program in the Defense Advanced Research Projects Agency for both long and short wavelength lasers. A description of the specific actions taken by the conferees is discussed in the Statement of Managers for Title II.

The Senate recedes.

Report on the teaching of military history

The Senate bill contained a provision (sec. 1131) that would direct the Secretary of each military department to conduct a survey of each school and training program under his jurisdication with a view to determining the extent to which, if at all, military history is taught in such school and training program.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of each military department to submit the results of the survey outlined in the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Convention on toxin weapons

The Senate bill contained a provision (sec. 1134) that would call for amending the Convention on Bacteriological and Toxin Weapons to etablish verification standards and procedures for banning these weapons. The House amendment contained no similar provision.

The conferees agreed to drop this provision because of the House conferees concern regarding germaneness. See also the discussion in section 1124 and in the following section.

Binary chemical weapons

In approving the Administration's request to begin production of binary chemical weapons, the Senate included a provision (sec. 1135) that would limit the number of 155 mm artillery shells that could be placed in the chemical weapons stockpile. The House amendment contained no similar provision.

The conferees agreed to drop this provision along with eliminating all authorisation for the production of binary chemical weapons.

General Accounting Office assessment of unit cost growth reports

The Senate bill contained a provision (sec. 1138) that would require the Comptroller General to review and analyze reports on unit cost growth in major defense systems submitted to the Congress as a result of the unit cost reporting system established last year.

The House amendment contained no similar provision.

The Senate recedes.

However, the conferees strongly believe that the Comptroller General should be prepared to review and analyze Department of Defense reports on unit cost growth in major defense acquisition programs promptly after these reports are submitted to the Congress. The conferees recognize the importance of an independent assessment of the findings and conclusions contained in these unit cost reports. The Comptroller General can expect to receive direction from the Armed Services Committees of the Senate and the House of Representatives to provide the type of review, analysis and recommendations outlined in section 1138 of the Senate bill.

Unit cohesion initiatives

The Senate bill contained a provision (sec. 1139) that would direct the Secretary of Defense to submit a written report regarding unit cohesion initiatives, if any, that have been taken in each of the armed forces and any such initiatives planned for any of the armed forces for the next five years.

The term "unit cohesion initiatives" was defined in the provision to mean, in the case of any armed force, any plan or program of such armed force to retain its members in the same regiment, company, platoon, or other military unit from the time such members enter such armed force until they are discharged, released, or retired from such armed force.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of Defense to submit a written report as outlined in the provision of the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Plaque honoring service members who died during the attempt to rescue Iranian hostages

The Senate bill contained a provision (sec. 1140) that would express the sense of Congress that the Secretary of the Army should construct and place in Arlington National Cemetery a plaque honoring the eight members of the armed forces who died in the April 25, 1980, attempt to rescue American hostages held in Iran.

The House amendment contained no similar provision.

The Senate recedes; however the conferees agree that the Secretary of the Army should construct and place a plaque in Arlington National Cemetery honoring the eight members of the armed forces who died in the April 25, 1980, attempt to rescue American hostages held in Iran.

Limitation on strategic weapons

The House amendment contained a provision (sec. 1005) that would prohibit the use of funds authorized to be appropriated for procurement, testing, deployment, or operation and maintenance of any strategic nuclear weapon or nuclear weapon system if such actions would contravene existing strategic arms policies of the United States. The provision referred to a statement made by the President on May 31, 1982, to the effect that the United States will refrain from actions that undercut existing strategic arms agreements so long as the Soviet Union shows equal restraint. The limitations imposed by this provision would not apply if the President certified to the Congress that such limitations were not in the supreme national interest of the United States and set forth his reasons for such certification.

The Senate bill contained no similiar provision.

The conferees considered the provisions of section 1005 in the light of the strategic and intermediate-range arms reduction negotiations now in progress. The conferees concluded that a statutory provision based upon a single statement of the President would not add anything to the negotiating position of the United States in attempting to reach agreements on the reduction of nuclear weapons.

The House recedes.

One-year restriction on transfer of naval vessels to foreign countries

The House amendment contained a provision (sec. 1013) that would provide that during the one-year period beginning on the date of enactment of this Act, no naval vessel could be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation unless specifically authorized by law.

The Senate bill contained no similar provision.

The conferees agreed that a naval vessel should not be retired from the Naval Reserve force for transfer to a foreign country until a replacement vessel is provided for the vessel being transferred. The conferees further agreed that the Committees on Armed Services of the Senate and the House of Representatives would hold hearings to investigate whether the transfer of naval vessels to foreign nations is in the national security interests of the United States and consistent with the goal of building to a 600 ship Navy.

The House recedes.

Study of foreign language requirement

The House amendment contained a provision (sec. 1016) that would direct the Secretary of Defense to study the feasibility of a two-year requirement for foreign language training for cadets and midshipmen at the service academies and for participants in the Reserve Officer Training Corps programs. The provision also would direct a study of the feasibility and desirability of a bonus for personnel proficient in the foreign language of the country in which they were stationed.

The Senate bill contained no similar provision.

The House recedes with regard to language in the bill; however, the conferees request the Secretary of Defense to conduct the studies outlined in the House amendment and report the findings to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1983.

Limitation on obligation of authorisations

The House amendment contained a provision (sec. 1019) that would place a limitation on the amount of the sum total of authorizations in this Act that may be obligated or expended. Specifically, the section would limit obligation or expenditure to the total amount appropriated pursuant to such authorization or $175,300,000,000 whichever is less.

Under the requirements of the House rules relating to scope, it is not possible to reduce the authorizations in the bill to the sum total $175.3 billion.

In view of that and in view of the adamant opposition of the Senate to a spending limitation that did not include specific direction on authorization by account, the conferees agreed that any further reductions from the authorization permitted under the bill should more appropriately be made, if determined as necessary, in the normal appropriations process.

The House reluctantly recedes.

Melvin Price,
Charles E. Bennett,
Samuel Stratton,
Richard C. White,
Bill Nichols,
Jack Brinkley,
Robert H. Mollohan,
Dan Daniel,
Wm. L. Dickinson,
G. William Whitehurst,
Floyd Spence,
Robin Beard,
Marjorie S. Holt,

When difference regarding intelligence-related activities are under consideration:

Edward P. Boland,
Norman Y. Mineta,
J. K. Robinson,

Solely for consideration of section 1011 of the House amendment and modifications committed to conference:

Jack Brooks,
S. H. Fountain,
Dante B. Fascell,
Frank Horton,
John N. Erlenborn
Managers on the Part of the House.

John Tower,
Strom Thurmond,
Barry Goldwater,
J. Warner,
Gordon J. Humphrey,
Bill Cohen,
Roger W. Jepsen,
Dan Quayle,
Jeremiah Denton,
Nicholas F. Brady,
John C. Stennis,
Henry M. Jackson,
Howard W. Cannon,
Harry F. Byrd, Jr.,
Sam Nunn,

For consideration of section 1122 pertaining to the Inspector General section of the bill:

Bill Roth,
Tom Eagleton,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma submitted the following conference report and statement on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.).

Conference Report (H. Rept. No. 97-750)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

Section 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price Support Program

Sec. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight of milk containing 3.67 per centum milkfat.

"(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1983.

"(C) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

"(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorised by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commercial marketings from such marketings during the base period. For the purpose of this paragraph, the based period shall be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

"(B) Refunds under this paragraph shall be based on reductions in commercial marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount

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of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

"(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.

"(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.

"(E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, remedies otherwise provided at law or in equity.

"(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

"(A) administrators of Federal milk marketing orders;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or

"(C) administrators of State milk marketing programs.".

Subtitle B—Donation of Dairy Products

SEC. 110. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.".

Subtitle C—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

ADVANCE DEFICIENCY PAYMENTS

SEC. 120. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107B (7 U.S.C. 1445b-1) the following new section:

"ADVANCE PAYMENTS

"SEC. 107C. (a)(1) Effective with respect to the 1982 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall make available to producers who participate in an acreage limitation program established for wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, advance deficiency payments in accordance with this section (other than subsection (b)) if the Secretary determines that deficiency payments likely will be made under this Act.

"(2) Advance deficiency payments under paragraph (1) shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made as soon as practicable after October 1, 1982.

"(B) Such payments shall be made in an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 70 per centum of the projected payment rate, as determined by the Secretary. Notwithstanding the preceding sentence, in any case in which a producer has received disaster payments for wheat, feed grains, upland cotton, or rice under section 107(B)(b)(2), 105B(b)(2), 103(g)(4), or 101(i)(3), respectively, the Secretary may make such adjustment in the advance deficiency payments made under this subsection as the Secretary determines appropriate.

"(b)(1) Effective with respect to the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice, if the Secretary establishes an acreage limitation or acreage set-aside program for a crop of wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(b)(5), respectively, and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

"(A) for the 1983 crop of such commodity, shall make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program; and

"(B) for the 1984 and 1985 crops of such commodities, may make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program.

"(2) Advance deficiency payments under this subsection shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made available to producers as soon as practicable after the producer files a notice of intention *to participate in such program, but in no case prior to October 1, 1982.*

"(B) Such payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary.

"(c) Advance deficiency payments under this section shall be made to producers under the following terms and conditions:

"(1) In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency payment for the crop concerned.

"(2) If the Secretary determines under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments.

"(3) Any refund required under paragraph (1) or (2) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

"(4) If a producer fails to comply with the requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

"(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.".

1983 WHEAT LOANS

Sec. 121. Section 107B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b–1(a)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.65 per bushel.".

1983 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 122. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b–1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) Notwithstanding any previous announcement to the contrary, for the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.";

(3) in paragraph (2), inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 5 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

Sec. 123. Section 105B(a)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)(1)) is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.65 per bushel.".

1983 FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 124. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Nothwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) For the 1983 crop of feed grains, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 15 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.";

(3) in paragraph (2), inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of feed grains under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to 5 per centum of the feed grain acreage base in addition to the reduction required under paragraph (2) or (3), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The diversion payment rate shall be established by the Secretary at not less than $1.50 per bushel for corn, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per

centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 RICE ACREAGE REDUCTION AND DIVERSION PROGRAMS

Sec. 125. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

(1) striking out in the first sentence of subparagraph (A) "Nothwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of subparagraph (A) the following: "For the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.";

(3) inserting immediately after the ninth sentence of subparagraph (A) (as amended by paragraph (2) of this section) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of subparagraph (B) the following: "Notwithstanding the foregoing provisions of this subparagraph, the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 per centum of the rice acreage base in addition to the reduction required under subparagraph (A), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payment under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

Subtitle D—Agricultural Export Promotion

Sec. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than $175,000,000 nor more than $190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture of the Commodity Credit Corporation under any other provision of law.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

Sec. 140. This subtitle may be cited as the "Food Stamp Act Amendments of 1982".

REFERENCES TO THE FOOD STAMP ACT OF 1977

Sec. 141. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

HOUSEHOLD DEFINITION

Sec. 142. Section 3(i) (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence—

(A) inserting ", or siblings," after "children"; and

(B) inserting ", or siblings," after "the parents"; and

(2) inserting after the first sentence the following new sentence: "Notwithstanding clause (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.".

ROUNDING DOWN

Sec. 143. (a) The second sentence of section 3(o) (7 U.S.C. 2012(o)) (as amended by section 144 of this Act) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of much diet)" after "adjustments"; and

(2) in clauses (6), (7), and (8), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso of clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appear: and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

THRIFTY FOOD PLAN ADJUSTMENTS

Sec. 144. The second sentence of section 3(o) (7 U.S.C. 2012(o)) is amended by striking out "(6)" and all that follows through "twelve months ending the preceding June 30" and inserting in lieu thereof the following: "(6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, and (8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest dollar increment".

DISABLED VETERANS AND SURVIVORS

Sec. 145. (a) Section 3 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A) has a service-connected disability which is rated as total under title 38, United States Code; or

"(B) is considered in need of regular aid and attendance or permanently housebound under such title;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section

221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through the end of the sentence and inserting in lieu thereof "an elderly or disabled member.".

(c) Section 5(c)(2) (as amended by section 146(a) of this Act) is amended by striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) (7 U.S.C. 2014(e)) (as amended by section 146(b) of this Act) is amended by—

(1) in the first sentence, striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member";

(2) in the fourth sentence, striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(3) in the last sentence—

(A) in the matter preceding subclause (A), striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(B) in subclause (A), striking out "household members" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

INCOME STANDARDS OF ELIGIBILITY

SEC. 146. (a) Subsection (c) of section 5 (7 U.S.C. 2014(c)) is amended to read as follows:

"(c) The income standards of eligibility shall provide that a household shall be ineligible to participate in the food stamp program if—

"(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

"(2) in the case of a household that does not include a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), the household's income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum. In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.".

(b) The first sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "households described in subsection (c)(1)" and inserting in lieu thereof "households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.)".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 147. Section 5(d) (7 U.S.C. 2014(d)) is amended by—

(1) striking out "and" at the end of clause (10); and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective".

ADJUSTMENT OF DEDUCTIONS

SEC. 148. Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) of the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subclause (i) of the proviso of clause (2) of the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 149. (a) Section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following new sentences: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.".

(b) Subclause (B) of the last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

MIGRANT FARMWORKERS

SEC. 150. The last sentence of section 5(f)(4) (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A))".

FINANCIAL RESOURCES

SEC. 151. The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "June 1, 1977" and inserting in lieu thereof "June 1, 1982";

(2) striking out "and" after "vacation purposes,"; and

(3) inserting after "$4,500," the following: "and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts),".

STUDIES

SEC. 152. (a) The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "(1)"; and

(2) striking out ", and (2)" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Subsections (d) and (e) of section 17 (7 U.S.C. 2026 (d) and (e)) are repealed.

CATEGORICAL ELIGIBILITY

SEC. 153. Section 5 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c)(2) to have satisfied the resource limitations prescribed under subsection (g).".

MONTHLY REPORTING

SEC. 154. The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" after "which all"; and

(2) inserting before the period at the end thereof the following: ", except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

PERIODIC REPORT FORMS

SEC. 155. The last sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out ", on a form designed or approved by the Secretary,".

REPORTING REQUIREMENTS

SEC. 156. Section 6(c) (7 U.S.C. 2015(c)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.".

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JOB SEARCH

SEC. 157. Section 6(d)(1)(ii) (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting before the semicolon at the end thereof the following: ", which may include a requirement that; at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 158. (a) The proviso of section 6(d)(1)(iii) (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days from the time of the voluntary quit" and inserting in lieu thereof "ninety days".

(b) Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: "An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.".

PARENTS AND CARETAKERS OF CHILDREN

SEC. 159. Clause (C) of section 6(d)(2) (7 U.S.C. 2015(d)(2)(C)) is repealed.

JOINT EMPLOYMENT REGULATIONS

SEC. 160. Paragraph (3) of section 6(d) (7 U.S.C. 2015(d)(3)) is repealed.

COLLEGE STUDENTS

SEC. 161. Section 6(e) (7 U.S.C. 2015(e)) is amended by striking out "or (B)" and all that follows through "or (C)" and inserting in lieu thereof "; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E)".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 162. Section 7 (7 U.S.C. 2016) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary may require a State agency—

"(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

"(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program.".

INITIAL ALLOTMENTS

SEC. 163. (a) The first sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

(b) Clause (2) of the last sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days".

NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 164. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty.".

HOUSE-TO-HOUSE TRADE ROUTES

SEC. 165. Section 9 (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.".

APPROVAL OF STATE PLAN OF OPERATION

SEC. 166. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.".

POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 167. (a) The last sentence of section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for".

(b) Paragraph (13) of section 11(e) (7 U.S.C. 2020(e)(13)) is repealed.

AUTHORIZED REPRESENTATIVES

SEC. 168. Section 11(e)(7) (7 U.S.C. 2020(e)(7)) is amended by—

(1) striking out "any" each place it appears and inserting in lieu thereof "an"; and

(2) inserting before the semicolon at the end thereof the following: ", except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph".

DISCLOSURE OF INFORMATION

SEC. 169. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended by striking out "or the regulations issued pursuant to this Act" and inserting in lieu thereof ", regulations issued pursuant ot this Act, Federal assistance programs, or federally assisted State programs".

EXPEDITED COUPON ISSUANCE

SEC. 170. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—

"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than $150 per month; or

"(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed $100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 171. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end thereof the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

SEC. 172. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(22) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State.".

CERTIFICATION SYSTEMS

SEC. 173. Section 11(i) (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following new sentence: "Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.".

CASHED-OUT PROGRAMS

SEC. 174. Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1).".

AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 175. Section 12 (7 U.S.C. 2021) is amended by—

(1) inserting "(a)" after the section designation;

(2) in the first sentence, striking out "$5,000" and inserting in lieu thereof "$10,000";

(3) striking out the second sentence and inserting in lieu thereof the following new subsection:

"(b) Disqualification under subsection (a) shall be—

"(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

"(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification ; and

"(3) permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern."; and

(4) designating the last sentence as subsection (c).

BONDS

Sec. 176. (a) Section 12 (7 U.S.C. 2021) (as amended by section 175 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act. Such store or concern may obtain a hearing on such forfeiture pursuant to section 14.".

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting "or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act," after "section 12 of this Act,".

ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCES

Sec. 177. (a) Section 13(b)(1) (7 U.S.C. 2022(b)(1)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection.".

(b) Section 13(b)(2) (7 U.S.C. 2022(b)(2)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.".

CLAIMS COLLECTION PROCEDURE

Sec. 178. The second sentence of section 13(b)(1)(A) (as amended by section 177(a) of this Act) is amended by inserting "within thirty days of a demand for an election" after "election".

COST-SHARING FOR COLLECTION OF OVERISSUANCES

Sec. 179. The first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended by inserting before the period at the end thereof the following: ", except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency".

ERROR RATE REDUCTION SYSTEM

Sec. 180. (a) Section 16 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) the following new subsection:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b)(1) Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by—

(A) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(B) striking out "quality control program" and inserting in lieu thereof "error rate reduction system".

(2) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (c) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

EMPLOYMENT REQUIREMENT PILOT PROJECT

Sec. 181. Section 17 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'qualification period' means a period of time immediately preceding—

"(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

"(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

"(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

"(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program estab-

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lished under section 210, during a qualification period of—

"(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

"(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

"(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

"(A) is under eighteen or over fifty-nine years of age;

"(B) is certified by a physician as physically or mentally unfit for employment;

"(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

"(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

"(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

"(F) is a member of any other group described by the Secretary.

"(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

"(A) has an unemployment rate of over 10 per centum; or

"(B) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.

"(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

"(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

"(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.".

BENEFIT IMPACT STUDY

Sec. 182. Section 17 (7 U.S.C. 2026) (as amended by section 181 of this Act) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

Sec. 183. The first sentence of section 18(a)(1) (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,874,000,000 for the fiscal year ending September 30, 1983; not in excess of $13,145,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,933,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO BLOCK GRANT

Sec. 184. (a) Section 19(a)(1)(A) (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" after "expenditures for".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include an analysis of the impact on both the nutritional status of residents of the Commonwealth and the economy of the Commonwealth. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

SIMILAR WORKFARE PROGRAMS

Sec. 185. Section 20(a) (7 U.S.C. 2029(a)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

"(B) A political subdivision may comply with the requirements of this section by operating—

"(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.".

WIN PARTICIPANTS

Sec. 186. Clause (4) of section 20(b) (7 U.S.C. 2029(b)) is amended by striking out "subject to and currently involved" and inserting in lieu thereof "at the option of the operating agency, subject to and currently actively and satisfactorily participating".

HOURS OF WORKFARE

Sec. 187. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out "either" and all that follows through the end of the sentence and inserting in lieu thereof: ", when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.".

REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

Sec. 188. Section 20(g) (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) inserting after paragraph (1) the following new paragraph:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participating is terminated.".

TECHNICAL CORRECTIONS

Sec. 189. (a) Section 5(f)(2)(A) (as amended by section 107(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 360)) is amended by striking out "propsective" and inserting in lieu thereof "prospective".

(b)(1) Clause (2) of section 6(g) (7 U.S.C. 2015(g)) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 11 (7 U.S.C. 2020) is amended by—

(A) in subsection (i), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services", and

(B) in subsection (j), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(3) The second sentence of section 16(e) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(c) Section 16(f) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "; and" and inserting in lieu thereof a period.

CONFORMING AMENDMENTS

Sec. 190. (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as amended by section 159 of this Act) is amended by redesignating clauses (D) through (F) as clauses (C) through (E), respectively.

(b) Section 6(d) (7 U.S.C. 2015(d)) (as amended by section 160 of this Act) is amended by redesignating paragraph (4) as paragraph (3).

(c)(1) Section 11(e) (17 U.S.C. 2020(e)) (as amended by sections 167(b) and 172 of this Act) is amended by redesignating paragraphs (14) through (22) as paragraphs (13) through (21), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out "section 11(e)(21)" and inserting in lieu thereof "section 11(e)(20)".

(d) Section 17 (7 U.S.C. 2026) (as amended by sections 152(c), 181, and 182 of this Act) is amended by redesignating subsections (f) through (h) as subsections (d) through (f), respectively.

DISTRIBUTION OF SURPLUS COMMODITIES

SEC. 191. (a) The Congress finds that—

(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

(7) in these items of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

(b) It is the sense of the Congress that—

(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.

EFFECTIVE DATES OF PRIOR AMENDMENTS TO THE FOOD STAMP ACT OF 1977

SEC. 192. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101 through 114 of such Act, other than sections 107(b) and 108(c) of such Act, shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 117 of such Act.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 1338 of such Act.

EFFECTIVE DATES

SEC. 193. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 180 and 188 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: ": Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require)" in paragraph (3)(D) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(g) The amendments made by this section, other than by subsection (b), may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.

BUREAU OF THE MINT

SEC. 202. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed $50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1983, 1984, AND 1985

SEC. 301. (a)(1) Except as provided in paragraph (3), the cost-of-living increase under any Government retirement system in annuity or retired or retainer pay of any early retiree during fiscal years 1983, 1984, and 1985, shall be equal to one-half of the assumed increase in the price index for that year.

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if—

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(C) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(3) If the percentage increase in the price index for fiscal year 1983, 1984, or 1985 (as determined by the Office of Personnel Management) exceeds the assumed increase in the price index for that year, then the in-

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crease in the annuity or retired or retainer pay of an early retiree under paragraph (1) for that fiscal year shall be equal to—

(A) one-half of the assumed increase in the price index for that year, plus

(B) the amount by which the percentage increase in the price index exceeds the assumed price index increase.

(4) As used in this subsection—

(A) the term "price index" has the meaning given such term in section 8331(15) of title 5, United States Code; and

(B) the term "assumed increase in the price index" means—

(i) 6.6 percent, in the case of fiscal year 1983,

(ii) 7.2 percent, in the case of fiscal year 1984,

(iii) 6.6 percent, in the case of fiscal year 1985.

(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if ths subsection had not been enacted.

(b)(1) Notwithstanding any other provision of law, any cost-of-living increase under a Government retirement system shall not take effect until—

(A) the first day of the first calendar month after the date such increase would otherwise take effect, in the case of increases taking effect duting fiscal year 1983;

(B) the first day of the second calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1984; and

(C) the first day of the third calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1985.

(2) Nothing in this subsection shall be construed to affect the eligibility for any increase in annuity or retired or retainer pay or the amount of the first increase in annuity or retired or retainer pay under section 3340 (b) or (c) of title 5, United States Code, or comparable provisions of law.

(c) For purposes of this section, the term "cost-of-living increase under a Government retirement system" means any increase under—

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

(a)(1) In the case of any member or former member of a uniformed service who, during any period in fiscal year 1983, 1984, or 1985, is receiving retired or retainer pay and holds a civilian position, there shall be deducted from the pay for such position an amount equal to the amount of any increase in such individual's retired or retainer pay pursuant to section 1401a(b) of title 10, United States Code, which takes effect during any of such fiscal years in which he holds such a civilian position and which is allocable to the period of actual employment in such civilian position. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States.

(2) For the purpose of this subsection—

(A) the term "uniformed service" has the meaning given that term by section 2101 of title 5, United States Code; and

(B) the term "civilian position" means a position, as defined in section 5531(2) of title 5, United States Code.

(3) This subsection shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(4) The reduction in pay required by this subsection does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

(A) resulting from injury of disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

DISABILITY RETIREMENT

SEC. 302. (a) Section 8337 of title 5, United States Code, is amended—

(1) by striking out "1 year" in the second sentence of subsection (d) and inserting in lieu thereof "180 days";

(2) by striking out "each of 2 succeeding calendar years" in the third sentence of subsection (d) and inserting in lieu thereof "any calendar year"; and

(3) by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection, the term 'technician' means an individual employed under section 709(a) of title 32 who, as a condition of the employment, is required under section 709(b) of such title to be a member of the National Guard and to hold a specified military grade.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, an individual shall be retired under this section if the individual—

"(i) is separated from employment as a technician under section 709(e)(1) of title 32 by reason of a disability that disqualifies the individual from membership in the National Guard or from holding the military grade required for such employment;

"(ii) is not considered to be disabled under the second sentence of subsection (a) of this section;

"(iii) is not appointed to a position in the Government (whether under paragraph (3) of this subsection or otherwise); and

"(iv) has not declined an offer of an appointment to a position in the Government under paragraph (3) of this subsection.

"(B) Payment of any annuity for an individual pursuant to this subsection terminates—

"(i) on the date the individual is appointed to a position in the Government (whether pursuant to paragraph (3) of this subsection or otherwise);

"(ii) on the date the individual declines an offer of appointment to a position in the Government under paragraph (3); or

"(iii) as provided under subsection (d).

"(3) Any individual applying for or receiving any annuity pursuant to this subsection shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

"(A) the position is located within the commuting area of the individual's former position;

"(B) the individual is qualified to serve in such position, as determined by the head of the agency; and

"(C) the position is at the same grade or equivalent level as the position from which the individual was separated under section 709(e)(1) of title 32.".

(b) Section 8347(m) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1) and inserting a semicolon in lieu thereof;

(2) by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(4) the Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of chapter 81 of this title.".

(c)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall take effect October 1, 1982, and shall apply with respect to individuals retiring on or after such date.

(2) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect with respect to income earned after December 31, 1982.

(3) Subsection (h) of section 8337 of title 5, United States Code (as added by subsection (a)) shall apply to any technician (as defined in paragraph (1) of such subsection (h)) who separated from employment as a technician on or after December 31, 1979, and before October 1, 1982, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act. Any annuity resulting from such application shall commence as of the day after the date such application is received by the Office.

INTEREST RATES, DEPOSITS, REFUNDS, AND REDEPOSITS

SEC. 303. (a)(1) Section 8334(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) Interest under subsection (c), (d), or (j) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

"(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d), or (j) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

"(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding calendar year from all obligations purchased by the Secretary of the Treasury during such calendar year under section 8348 (c), (d), and (e) of this title, as determined by the Secretary.".

(2) The second sentence of section 8343(a) of title 5, United States Code, is amended by

inserting after "at 3 percent a year" the following: "through December 31, 1984, and thereafter at the rate computed under section 8334(e) of this title,".

(b) Section 8339(i) of title 5, United States Code, is amended to read as follows:

"(i) For the purposes of subsections (a)-(h) and (n) of this section, the total service of any employee or Member shall not include any period of civilian service after July 31, 1920, for which retirement deductions or deposits have not been made under section 8334(a) of this title unless—

"(1) the employee or Member makes a deposit for such period as provided in section 8334(c) or (d) of this title; or

"(2) no deposit is required for such service, as provided under section 8334(g) of this title or under any statue.".

(c) Section 8342(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee or Member who—

"(1)(A) is separated from the service for at least thirty-one consecutive days; or

"(B) is transferred to a position in which he is not subject to this subchapter and remains in such position for at least thirty-one consecutive days;

"(2) files an application with the Office of Personnel Management for payment of the lump-sum credit;

"(3) is not reemployed in a position in which he is subject to this subchapter at the time he files the application; and

"(4) will not become eligible to receive an annuity within thirty-one days after filling the application.

is entitled to be paid the lump-sum credit. The receipt of the payment of the lump-sum credit by the employee or Member voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, until the employee or Member is reemployed in the serice subject to this subchapter.".

(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to refunds made on or after such date. The provisions of section 8334 and section 8339(i) of title 5, United States Code, as in effect the day before the date of the enactment of this Act, shall continue to apply with respect to periods of service and refunds occurring on or before such date.

(2) The amendment made by subsection (c) shall take effect October 1, 1982.

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

Sec. 304. (a) The first sentence of section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

Sec. 305. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.".

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

CREDITABLE SERVICE BASED ON MILITARY SERVICE

Sec. 306. (a) Section 8331(8)(B) of title 5, United States Code, is amended by inserting after "service" a comma and "including any amounts deposited under section 8334(j) of this title".

(D) Section 8332(c) of title 5, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and subsection (d) of this section—

"(A) the service of an individual who first becomes an employee or Member before October 1, 1982, shall include credit for each month of military service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject to section 8332(j) of this title; and

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for each month of military service (performed before the date of the separation on which the entitlement to an annuity under this subchapter is based) only if a deposit with interest, if any, is made with respect to that month, as provided in section 8334(j) of this title.

"(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

"(A) based on a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

"(B) under chapter 67 of title 10.".

(c) Subsection (j) of section 8332 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(j)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection relating to credit for military service shall not apply to—

"(A) any month of military service of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(j) of this title; or

"(B) the service of any employee or Member described in section 8332(c)(1)(B) of this title.".

(d) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue within 90 days after the effective date of this subsection, to the agency by which the employee is employed or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each month of military service after December 1956, as certified to the agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, upon the employee's or Member's request.

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) October 1, 1982; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.".

(e) Section 8334(g)(2) of title 5, United States Code, is amended by inserting after "military service" the following: ", except to the extent provided under section 8332(c) or section 8334(j) of this title".

(f) Section 8348(g) of title 5, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "less an amount determined by the Office to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 8334(j) of this title.".

(g) The amendments made by this section shall take effect October 1, 1982.

RECOMPUTATION AT AGE 62 OF CREDIT FOR MILITARY SERVICE OF CURRENT ANNUITANTS

Sec. 307. (a) The provisions of section 8332(j) of title 5, United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on or before the date of enactment of this Act.

(b) Subject to subsection (b), in any case in which an individual described in subsection (a) is also entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such in-

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dividual is entitled under subchapter III of chapter 83 of title 5, United States Code, (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages and deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1)) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under this subchapter to the individual for the determination month if section 8332(j) of title 5, United States Code, applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) October 1982, in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1982.

(f) The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the preceding provisions of this section.

IMMEDIATE RETIREMENT

SEC. 308. (a) Subsection (d) of section 8336 of title 5, United States Code, is amended to read as follows:

"(d) An employee who—

"(1) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(2) while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

"(A) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(B) a significant percent of the employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity. Notwithstanding the first sentence of this subsection, an employee described in paragraph (1) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, which is not lower than 2 grades (or pay levels) below the employee's grade (or pay level), and which is within the employee's commuting area.".

(b) The amendment made by subsection (a) shall take effect October 1, 1982.

GENERAL LIMITATION ON COST-OF-LIVING ADJUSTMENT FOR ANNUITIES

SEC. 309. (a) Section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee's or Member's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date or the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

FEDERAL EMPLOYEE PAY ADJUSTMENT; EXECUTIVE PAY REVIEW

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305 (c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisons of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

(b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

(c) In accordance with section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642–645), except as otherwise provided in this subsection, the Commission on Executive, Legislative, and Judicial Salaries shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall be effective for any pay period which begins more than 30 calendar days after submission to the Congress, unless Congress during such 30-day period disapproves such recommendations by concurrent resolution.

Subtitle B—Limitation on Travel and Transportation Expenses

TRAVEL AND TRANSPORTATION EXPENSES FOR VACATION LEAVE

SEC. 351. (a) Section 5728 of title 5, United States Code, is amended by inserting a comma and "Alaska, and Hawaii" after "continental United States" each place it occurs in subsections (a) and (b).

(b) Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such regulations as the President may prescribe, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

"(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of apppointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to this actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii

under a new written agreement made before departing from the post of duty.

"(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.".

(c) Notwithstanding section 5728(c)(3) of title 5, United States Code (as added by subsection (b)(2) of this section), the agency shall pay under section 5728(c)(1) of such title (as added by subsection (b)(2) of this section) the expenses of one round-trip of travel of an employee who has served on consecutive tours of duty at posts of duty in Alaska or Hawaii for a period beginning at least five years before the date of enactment of this Act and including such date and the expenses of transportation of such employee's immediate family on one round-trip.

(d) The amendments made by subsection (a) shall take effect with respect to expenses incurred after the date of enactment of this Act for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

(e) For the purposes of subsections (c) and (d), the term "employee" shall have the same meaning as provided in section 5721(2) of title 5, United States Code.

Subtitle C—Cost-of-Living Adjustments Uniformed Services

SEC. 361. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(2), section 2(c)(2), and section 2(c)(4) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

COAST GUARD

SEC. 362. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(4) and section 2(c)(6) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

FOREIGN SERVICE

SEC. 363. For cost savings achieved through a limitation on the amount of the annual adjustment of the annuity payable from the Foreign Service Retirement and Disability Fund, in satisfaction of the reconciliation requirements of section 2(b)((5) and section 2(c)(5) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and sections 826 and 827 of the Foreign Service Act of 1980.

TITLE IV—VETERANS' BENEFITS

COMMENCEMENT OF CERTAIN PERIODS OF PAYMENT

SEC. 401. (a)(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of period of payment

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

"(d) For the purposes of this section, the term 'award or increased award' means—

"(1) an original or reopened award; or

"(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of period of payment.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.

ADVANCEMENT OF EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 402. (a) Section 3012(b)(2) of title 38, United States Code, is amended by striking out "calendar year" and inserting in lieu thereof "month".

(b) The amendment made by subsection (a) shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.

ROUNDING DOWN OF PENSION TO NEAREST DOLLAR

SEC. 403. (a)(1) Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3022. Rounding down of pension rates

"The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the nearest dollar.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3022. Rounding down of pension rates.".

(b) The amendment made by this section shall apply with respect to amounts payable for periods beginning after May 31, 1983.

ROUNDING RULE FOR CERTAIN RATES OF COMPENSATION

SEC. 404. (a) Section 314(p) of title 38, United States Code, is amended by inserting "down" after "rounded".

(b) The second sentence of section 315(2) of such title is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.".

(c) The amendments made by this section shall take effect on October 1, 1982.

ROUNDING DOWN OF FISCAL YEAR 1983 COMPENSATION COST-OF-LIVING INCREASE

SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, 1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

(b) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$57";

(2) by striking out "$162" in subsection (c) and inserting in lieu thereof "$161";

(3) by striking out "$413" in subsection (f) and inserting in lieu thereof "$412";

(4) by striking out "$604" in subsection (h) and inserting in lieu thereof "$603";

(5) by striking out "$62", "$1,403", "$62", and "$1,966" in subsection (k) and inserting in lieu thereof "$61", "$1,402", "$61", and "$1,965", respectively;

(6) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,402";

(7) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,546";

(8) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,757";

(9) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "$1,965";

(10) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$843" and "$1,256", respectively;

(11) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,263"; and

(12) by striking out "$244" in subsection (t) and inserting in lieu thereof "$243".

(c) Section 315 of such title is amended—

(1) by striking out "$116" in clause (1)(B) and inserting in lieu thereof "$115";

(2) by striking out "$38" in clause (1)(D) and inserting in lieu thereof "$37"; and

(3) by striking out "$38" in clause (1)(G) and inserting in lieu thereof "$37".

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(d) Section 362 of such title is amended by striking out "$305" and inserting in lieu thereof "$304".

(e)(1) Subsection (a) of section 411 of such title is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E-1	*$414*
E-2	*427*
E-3	*438*
E-4	*466*
E-5	*479*
E-6	*490*
E-7	*514*
E-8	*541*
E-9	*[1] 566*
W-1	*524*
W-2	*545*
W-3	*561*
W-4	*594*
O-1	*524*
O-2	*541*
O-3	*579*
O-4	*612*
O-5	*675*
O-6	*760*
O-7	*823*
O-8	*902*
O-9	*969*
O-10	*[2] 1,060*

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $608.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,137.".

(2) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$47".

(3) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$124".

(4) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$61".

(f) Section 413 of such title is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$209";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$300";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$388"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$388" and "$78", respectively.

(g) Section 414 of such title is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$124";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$209"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$106".

(h) The amendments made by this section shall take effect on January 1, 1983.

FEE FOR HOME LOANS

Sec. 406. (a)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1829. Loan fee

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one-half of one percent of the total amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fee.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Sec. 501. (a) Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

(1) is prescribed by law;

(2) is in effect before the date of the enactment of this Act; and

(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.

(b)(1) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out "seven" and inserting in lieu thereof "five".

(2) The last sentence of section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows: "The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

(3) Section 4(h) of the Communications Act of 1934 (47 U.S.C. 154(h)) is amended by striking out "Four" and inserting in lieu thereof "Three".

(4) The amendments made in paragraphs (1), (2), and (3) of this subsection shall take effect on July 1, 1983.

INTERSTATE COMMERCE COMMISSION

Sec. 502. (a) Effective January 1, 1983, each office within the Interstate Commerce Commission provided in section 10301(b) of title 49, United States Code (except one of the two offices prescribed by law to expire on December 31, 1984), which was vacant on July 1, 1982, is abolished.

(b) Effective Janaury 1, 1983, section 10301(b) of title 49, United States Code, is amended (1) by striking out "11" and inserting in lieu thereof "7", and (2) by striking out "6 members" and inserting in lieu thereof "4 members".

(c) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985 and such office shall be abolished immediately after the expiration of that date.

(d) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(e) Effective January 1, 1986, section 10301(b) of title 49, United States Code, is amended (1) by striking out "7" and inserting in lieu thereof "5", and (2) by striking out "4 members" and inserting in lieu thereof "3 members".

(f) Nothing in subsection (c) or (d) of this section shall be construed as prohibiting the reappointment of any person serving in such office in terms expiring on December 31, 1982, or December 31, 1983, respectively.

(g) The term of office of one of the two persons appointed to fill an office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1987, shall end on December 31, 1991. At the time of the first of such two appointments, the President shall designate which appointment is to fill the term of office which shall end under the preceding sentence on December 31, 1991.

(h)(1) Section 10301(c) of title 49, United States Code, is amended by striking out "7 years" and inserting in lieu thereof "5 years".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1984, and shall apply to any person appointed, after such date, to fill any office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire after such date, except that such amendment shall not apply to the person designated by the President to fill the term of office which is to end under subsection (g) of this section on December 31, 1991.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

Jim Jones,
Leon Panetta,
Richard A. Gephardt,
Delbert Latta,
Bill Frenzel,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

Les Aspin,
Brian Donnelly,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E de la Garza,
Thomas S. Foley,
David R. Bowen,
Bill Wampler,
Paul Findley
(on all matters except as listed below),

Tom Hagedorn
(on all matters except as listed below),
E. Thomas Coleman
(in lieu of Mr. Hagedorn) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment (food stamps),
Wm. Thomas
(in lieu of Mr. Findley) on sections 101-130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(3)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Clement J. Zablocki,
Lee H. Hamilton,
Jonathan B. Bingham,
Wm. Broomfield,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

Fernand J. St Germain,
Henry Gonzalez,
Frank Annunzio,
J. W. Stanton,
Chalmers Wylie,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

John G. Dingell,
Timothy E. Wirth,
J. J. Florio,
James T. Broyhill,
N. F. Lent,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

Glenn M. Anderson,
Nick Rahall,
Bob Edgar,
Don H. Clausen,
Bud Shuster,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

William D. Ford,
Mo Udall,
W. Clay,
Ed J. Derwinski,
Gene Taylor,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

Jack Brooks,
John L. Burton,
Dave Evans,
Frank Horton,
Bob Walker,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. Montgomery,
Marvin Leath,
John Paul Hammerschmidt,
Chalmers Wylie,

Managers on the Part of the House.

Committee on the Budget:

Pete V. Domenici,
W. L. Armstrong,
Nancy Landon Kassebaum,
Rudy Boschwitz,
John Tower,

Committee on Agriculture, Nutrition, and Forestry: For title I:

Jesse Helms,
Bob Dole,
S. I. Hayakawa,
Dick Lugar,
Walter D. Huddleston,

Committee on Banking, Housing, and Urban Affairs: For title III:

Jake Garn,
John Tower,
Dick Lugar,
Don Riegle,

Committee on Commerce, Science, and Transportation: For sections 402 and 403 of title IV:

Bob Packwood,
Barry Goldwater,
Ted Stevens,
Howard Cannon,

Committee on Governmental Affairs: For title VI:

Bill Roth,
Ted Stevens,
Mack Mattingly,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

Al Simpson,
Strom Thurmond,
Robert T. Stafford,
Alan Cranston,
Jennings Randolph,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The joint statement of managers which follows was prepared by the committees of jurisdiction, but is arranged by title of the conference agreement. A brief overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

By approving the First Budget Resolution for Fiscal Year 1983, which included reconciliation instructions, Congress continued and expanded its efforts to maintain control over Federal expenditures. These reconciliation instructions directed eight Senate and nine House committees to report legislation achieving unprecedented reductions which impact on Federal spending during fiscal years 1983, 1984, and 1985.

The legislative recommendations reported by the Senate Finance Committee and the House Ways and Means and Energy and Commerce Committees were incorporated into H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, which has been approved by a separate Senate-House conference committee. This bill (H.R. 6955) incorporates the legislative recommendations of the other Senate and House committees.

The provisions of the Omnibus Reconciliation Act of 1982 are the culmination of the work of the committees in complying with the reconciliation directives. The savings which have been achieved compare favorably with the reconciliation bills as passed by the House and Senate.

The managers for the Committees on the Budget wish to acknowledge the extraordinary efforts of the conference participants, particularly the chairmen and ranking Members of the House and Senate committees, in achieving these savings.

The Senate bill contained "Sense of the Senate" language directing the conferees on H.R. 4961 to include in the conference report on that measure a provision for a Federal supplemental unemployment benefits program. The House bill contained no such provision.

In view of the fact that the conferees for H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, have included a provision relating to supplemental unemployment benefits, this language is no longer necessary. The Senate therefore recedes to the House.

The Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations; and the House Committees on Armed Services; Energy and Commerce; Foreign Affairs; and Merchant Marine and Fisheries were instructed in the First Budget Resolution to report recommended changes in direct spending programs (as defined by subsection 401(c)(2)(C) of the Budget Act) within their jurisdiction. Savings under the jurisdiction of these committees will occur automatically under this bill because the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service recommended changes in cost-of-living adjustments (COLAs) for civil service retirees. The uniformed service and foreign service retiree COLAs are tied by law to the civil service retirement COLA. The Senate bill included provisions in title II, IV, and V to clarify how the reconciliation instructions for the Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations were met.

The House recedes to the Senate with an amendment to clarify how the reconciliation instructions for the House Committees on Armed Services, Energy and Commerce, Foreign Affairs, and Merchant Marine and Fisheries were met.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

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TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—DAIRY PRICE SUPPORT PROGRAM

The House bill amends the statute governing the dairy price support program to provide that:

(a) A two-tier price support program would be effective for fiscal years 1983, 1984, and 1985.

(b) For that portion of the national milk supply needed to meet domestic commercial market needs, the price support level would be: (1) for fiscal year 1983—$13.10 per cwt. and (2) for fiscal years 1984 and 1985—a level that represents the percentage of parity that $13.10 per cwt. represented as of October 1, 1982.

For that portion of the national milk supply excess to domestic commercial market needs, the support level would be the higher tier level of support reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program that is the responsibility of milk producers.

(c) The funds represented by such reduction would be remitted to CCC by each person making payment to producers for milk purchased from the producer, and in the case of a producer who markets his own milk directly to consumers the funds would be remitted by the producer.

(d) Producers of milk would have responsibility each fiscal year for that portion of the cost of purchases by CCC under the price support program in excess of 5 billion pounds milk equivalent, related costs, the amount of marketing reduction incentive payments due producers for reductions in their milk production, expenses of the National Dairy Board, and any balance remaining from the past year on advances made to the Board by CCC. There would be deducted from such total amount the estimated receipts from the sale or transfer of dairy products in CCC inventories.

(e) If dairy product imports should be increased under section 22 of the Agricultural Adjustment Act, the portion of the cost of the price support program that is the responsibility of producers would be reduced by the milk equivalent of the increased imports.

(f) The price of milk would be supported through the purchase of milk and its products, all such purchases to be made at the higher level of support.

(g) If the lower tier support rate is in effect, nontransferable incentive payments would be made to producers whose marketings of milk during the current period have been reduced from their marketings during the corresponding period of the prior year. The payment would be made on a quantity of milk up to the quantity on which the person was paid at the lower tier support rate and at a rate of payment that could not exceed the difference between the higher and lower tier support levels. If the lower tier support rate is provided for consecutive fiscal years, the Board would recognize actions taken by producers in reducing milk marketings in prior years, except to the extent that such reduction had been offset by increases in subsequent years.

(h) Program decisions would be made by a National Dairy Board consisting of 16 members including the Secretary, 15 members of the Board to be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations representing milk producers and certified by the Secretary. The Board would have authority to dispose of dairy products acquired through price support operations, including those acquired before the date of enactment of the bill. Dispositions would include sales to the domestic commerical trade for unrestricted use at not less than the current market price or 110 percent of the current CCC purchase price based on the higher tier support price, transfers to Federal, State, and local agencies for food assistance programs, sales for commercial export and other sales or donation efforts. The Board could require the operation of the program to be carried out through products other than those purchased by the CCC.

The proceeds from inventory disposition operations would be credited to the account of the Board. Dairy products up to 5 billion pounds milk equivalent would be made available for child nutrition and similar programs, including those conducted under the Older Americans Act at the request of the Secretary without cost.

(i) Nominations to the initial Board would be submitted to the Senate not later than January 1, 1983, and as a transition matter the Secretary of Agriculture would exercise the authority of the Board until such time as the Board was functioning but not later than April 1, 1983.

(j) The Secretary's responsibilities would include providing for collection of the funds resulting from payments on marketings by farmers of their excess production, providing the facilities and support required by the Board, and otherwise cooperating with the Board in the performance of its duties.

(k) Provisions for enforcement are included in the bill, including payments of penalties by persons who willfully fail or refuse to remit amounts due under the program.

The Senate amendment provides that, effective for the period beginning with December 22, 1981, and ending September 30, 1985, the support price for milk shall be set at the level determined appropriate by the Secretary, but not less than $13.10 per hundredweight for milk containing 3.67 percent milk fat.

The Conference substitute amends the statute governing the dairy price support program to provide that:

(a) The price support level for the years beginning October 1, 1982, and October 1, 1983, would be not less than $13.10 per hundredweight; and for the year beginning October 1, 1984 would be not less than the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

(b) The Secretary would be given authority to provide for a deduction of 50 cents per hundredweight for the period beginning October 1, 1982, and ending September 30, 1985, from the proceeds of sale of all milk marketed by producers to be remitted to Commodity Credit Corporation to offset a portion of the cost of the price support program. Authority for this deduction would not apply for any fiscal year for which the projected annual price support purchases are less than 5 billion pounds milk equivalent. If at any time during a fiscal year, the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pound, the authority for making deductions would not apply for the balance of the year.

(c)(1) The Secretary would be given authority to provide for an additional deduction of 50 cents per hundredweight for the period beginning April 1, 1983, and ending September 30, 1985, to be remitted to Commodity Credit Corporation subject to the following conditions.

(2) The provision for this deduction could only be implemented if the Secretary established a program to refund the assessment to farmers that reduce their commercial marketings from a base period. The base period would be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make adjustments in individual bases to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. The refunds would be based on reductions in commercial marketings, as specified by the Secretary, but the Secretary could not require a reduction of marketings in excess of a reduction equivalent to the ratio that the total projected surplus milk for the fiscal year bears to the total milk production estimated for such period.

(3) Authority for the additional deduction would not apply for any fiscal year for which projected annual purchases by Commodity Credit Corporation are less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for making the additional deduction would not apply for the balance of the year.

(d) The Secretary would be responsible for administration of the program described above, and provisions for a Dairy Board as contained in the House bill would be deleted.

SUBTITLE—DAIRY PROMOTION

The House bill provides new authority for a National Dairy Products Promotion program to improve markets and income for United States dairy producers as follows:

(a) The program would be funded by a uniform nonrefundable check-off of 5 cents per hundredweight on all milk marketed.

(b) Initiation of the program would be subject to approval of a proposed promotion order in an industry-wide referendum of dairy producers in which a majority of those voting favor the proposed order. Approval by a milk marketing cooperative of producers would be considered as the approval of member producers, except that the cooperative must provide its members an opportunity to vote if they should so wish.

(c) An additional referendum would be held at the end of a 5-year period to determine whether milk producers favor continuation of the order.

(d) The program would be administered by a Board of Directors of not less than 36 members appointed by the Secretary of Agriculture from nominees submitted by producers and selected on a geographical basis to assure representation of all milk producing regions.

(e) Promotional activities of the Board would be limited to processed dairy products for the first 2 years of the program and must make no reference to any private brand or name.

(f) The government would be reimbursed for its costs (other than salaries paid to government employees incurred in administration of the program from assessments collected from milk producers).

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE B—DONATION OF DAIRY PRODUCTS

The House bill provides additional authority to the Commodity Credit Corporation to dispose of dairy products acquired under the price support program to needy households in the United States and through foreign governments and public and nonprofit private humanitarian organizations for assistance to needy persons outside the United States. The CCC would be authorized to pay reprocessing, packaging, transportation, handling and other charges incurred on the donated commodities.

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations must be coordinated through the mechanism designated by the President to coordinate assistance under Public Law 480 and shall be in addition to the level of assistance programmed under that Act.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make clear that the donations for distribution in the United States would include donations to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.

With respect to the donation of dairy stocks abroad, the Conferees stress that care must be exercised to avoid unintended harmful effects from distribution of dairy products, particularly within developing countries with poor populations. The inability of some needy groups to consume nonfat dried milk without further processing, their particular dietary needs and deficiencies, and the lack of sanitary facilities and potable water are among the factors taken into account in food distributions carried out under Public Law 480, title II aid programs. The Conferees intend that safeguards similar to those exercised under title II, Public Law 480 programs also apply to donations under the new authority.

SUBTITLE C—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, AND RICE

(1) Advance deficiency payments

The Senate amendment provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. For the 1982 and 1983 crops, the Secretary would be required to make advance payments, as follows: (a) for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and (b) for 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance payments in amounts up to 50 percent of the projected final payments. Any overpayments are required to be refunded to the Secretary by producers by the end of the marketing year for the crop involved. Any advance payments made to a producer who fails to meet the program requirements must be repaid, with interest, immediately.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Loan rates for wheat and feed grains

(a) The House bill increases the minimum loan level for the 1983 crop of wheat to $3.80 per bushel (a 25-cent per bushel increase over the 1982 loan level).

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of wheat to $3.65 per bushel.

(b) The House bill also increases the minimum loan level for the 1983 crop of corn to $2.71 per bushel (a 16-cent per bushel increase over the 1982 loan level). The loan price support level for the other feed grains would be set under current law at such level as the Secretary determines fair and reasonable in relation to the level set for corn.

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of corn to $2.65 per bushel.

(3) 1983 wheat acreage reduction program

(a) The House bill requires the Secretary to provide for a 1983 wheat acreage limitation program under which the acreage planted to wheat would be limited to the wheat acreage base for the farm reduced by 15 percent and a paid diversion program under which the wheat acreage on the farm would be reduced an additional 10 percent of the wheat acreage base. The House bill further makes participation in both the acreage limitation and land diversion programs a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a wheat acreage limitation program and paid diversion program on the 1983 crop of wheat under which the wheat acreage would be reduced in the same amounts as in the House provision. The Senate amendment requires participation in the acreage limitation program as a condition of eligibility for program benefits but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation program under which the acreage planted to wheat on the farm would be limited to the farm acreage base reduced by 15 percent and a diversion program under which the wheat acreage would be reduced an additional 5 percent of the wheat acreage base. Producers would be required to participate in both the acreage limitation program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage than a total of 20 percent of the wheat acreage base. This could be accomplished by increasing the requirements for diversion in excess of 5 percent of the wheat acreage base or by increasing the reduction required to be made under the acreage limitation program. In the latter event, however, the Secretary must increase the diversion requirement in an amount proportionate to any increased reduction required to be made under the acreage limitation program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate of $3 per bushel multiplied by the farm program payment yield for the crop by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate not less than $120 per acre as determined appropriate by the Secretary. The payment rate would be adjusted by the Secretary for each farm to reflect differences in yield per acre among wheat farms.

The Conference substitute adopts the House provision with an amendment that provides that the diversion payment would be a minimum of $3 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(4) 1983 feed grain acreage reduction program

(a) The House bill requires the Secretary to provide for a feed grain acreage limitation (or set-aside) program for the 1983 crop of feed grains under which the acreage planted to feed grains would be limited to the feed grain acreage base for the farm reduced by 10 percent and a paid diversion program under which the feed grain acreage would be reduced by an additional 10 percent of the feed grain acreage base, if the Secretary estimates on October 15, 1982, that the 1982 corn crop will exceed 7.3 billion bushels. The House bill further requires participation in both the acreage limitation program and the land diversion program as a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a feed grain acreage limitation program and paid diversion program on the 1983 crop of feed grains under which the feed grain acreage would be reduced in the same amounts as in the House provision. The Senate amendment, however, does not make the programs contingent on the estimated production of the 1982 crop of corn and requires participation in the acreage limitation program as a condition of eligibility for program benefits, but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation (or set-aside) program under which the acreage planted to feed grains on the farm would be limited to the feed grain acreage base for the farm reduced by 10 percent and a diversion program under which the feed grain acreage would be reduced an additional 5 percent of the feed grain acreage base. Producers would be required to participate in both the acreage limitation (or set-aside) program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the feed grain acreage reduction program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of $1.50 per bushel multiplied by the farm program payment yield by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of not less than $150 per acre—the rate to be adjusted to reflect differences in yield per acre among feed grain producing farms.

The Conference substitute adopts the House provision with an amendment that provides that the corn diversion payment would be a minimum of $1.50 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(5) Acreage base for the farm

(a) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted, to reflect factors the Secretary determines should be considered in determining a fair and equitable base. It further provides that the acreage base for producers following a normal summer fallow crop rotational practice for at least 3 years shall be the previous year's acreage (or the average acreage for the 2 previous years) expanded by adding to it the amount determined by multiplying one-half the announced acreage limitation percentage by the acreage annually idled and devoted to summer fallow.

The Senate amendment provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted for factors, which in the case of wheat include summer fallow.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted to reflect factors the Secretary determines should be considered in determining a fair and equitable base. In making adjustments in the base, the Secretary is expected to consider the special problems of producers that follow a normal summer fallow crop rotational practice.

(b) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of upland cotton and rice shall be the same as the acreage base for the 1982 crop of such commodities with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base.

The Senate bill contains no comparable provisions.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of rice shall be the same as the acreage base for the 1982 crop with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base. The conference substitute deletes the House provision relating to the acreage base for upland cotton.

(6) 1983 upland cotton acreage reduction program

(a) The House bill requires that if the Secretary should establish a reduction program for the 1983 crop of upland cotton, 25 percent of any acreage reduction must be under a paid diversion program and the balance under the acreage limitation program. Upland cotton producers must comply with the combined acreage reduction and paid diversion programs to be eligible for program benefits.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. If the Secretary should establish an acreage reduction program for the 1983 crop upland cotton, the conferees urge the Secretary to implement a paid diversion program in combination therewith.

(b) The House bill provides that the 1983 crop upland cotton producer who meets the combined acreage reduction requirement shall receive a diversion payment determined by multiplying a rate of 25 cents per pound, by the farm program payment yield, and by the additional acreage diverted under the paid diversion program.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) 1983 rice acreage reduction program

(a) The House bill requires that if on November 15, 1982, the Secretary estimates the 1982 crop of rice will exceed 145 million hundredweight (rough rice basis), the Secretary must provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 10 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 10 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits.

The Senate bill contains no comparable provision.

The Conference substitute requires the Secretary to provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 15 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 5 precent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits. This requirement is a minimum. Under the statue, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage of rice. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the rice acreage reduction program.

(b) The House bill provides that the payment for participation in the 1983 crop rice land diversion program would be at a rate of $3.00 per hundredweight, multiplied by the farm program payment yield, by the additional acreage diverted under the paid diversion program.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes the $3.00 per hundredweight a minimum rate and provides that the Secretary is authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

Advance diversion payments

The House bill provides in the case of 1983 crop wheat, feed grains, upland cotton, and rice, that the Secretary is required to advance at least 50 percent of any land diversion payments as soon as practicable after a producer enters into a land diversion contract. If Thereafter a producer fails to comply with the diversion contract, the producer must repay the advance with interest.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision as to wheat, feed grains, and rice, and deletes the House provision as to upland cotton.

SUBTITLE D—AGRICULTURAL EXPORT PROMOTION

The Senate amendment requires the Secretary of Agriculture for each of the fiscal years 1983, 1984, and 1985 to use between $175 million and $190 million of Commodity Credit Corporation funds for agricultural export promotion activities to discourage and neutralize agricultural export subsidy programs by foreign countries. The Secretary would be required to use the funds to (a) buy-down the rate of interest on export credit financing for a term of up to 10 years and guarantee the repayment of loans for which interest reduction payments are made, or (b) initiate export subsidy programs with respect to one or more agricultural commodities that have been or are involved in unfair trade practice cases under section 301 of the Trade Act of 1974, as amended, as the Secretary determines appropriate to neutralize subsidies on the same commodities by foreign countries. The Secretary must safeguard the usual marketings of U.S. agricultural commodities.

The House bill contains no comparable provision.

The Conference substitute provides that effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture would be required to use not less than $175 million nor more than $190 million of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under current provisions of law. This authority would be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities authorized under current provisions of law. These activities include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5(d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential. The Conferees intend that the Secretary, to the greatest extent practicable and where appropriate, use these funds for interest buy-downs, or direct export sales, or export subsidies in order that American farmers and exporters may compete in international trade on an equal basis.

The Conferees are strongly concerned about the use of export subsidies by foreign countries in violation of obligations under trade agreements with the United States that have had the effect of impacting adversely on agricultural exports from the United States, contributing to the depressed farm economy in the United States.

These subsidies result in the displacement of potential exports of U.S. farm products in third-country markets, with a resulting adverse impact on American and world prices. The Conferees express a continued commitment to the General Agreement on Tariffs and Trade (GATT) and its accompanying international obligations incumbent on the United States. At the same time the Conferees believe that the United States cannot tolerate unfair trade practices and should act to counter them in a direct way.

In this regard the Conferees call attention to the many pending cases initiated by the United States involving unfair trade practices under section 301 of the Trade Act of 1974, as amended.

The Conferees have deleted the specific provision in the Senate bill for the use of export subsidies by the Secretary to neutralize subsidies on the same commodities by foreign countries that are the subject of pending section 301 cases. This change was made in part as a result of assurances from the Administration that these cases will be pressed and resolved in a year. The Conferees do not intend that the funds made available by this provision be used, in any way, in contravention of international obligations of the United States, but on the other hand the Conferees do not want the United States to sit idly by while other countries make use of export subsidies to capture markets from the United States.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

(1) Short title

The House bill provides that the food stamp amendments may be cited as the "Food Stamp Act Amendments of 1982."

The Senate amendment contains no coparable provision.

The Conference substitute adopts the House provisions.

(2) Definition of household

(a) The House bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The Senate amendment requires that all related persons who live together be treated as a single household, unless one of the related persons is elderly or disabled.

The Conference substitute adopts the House provision.

(b) The House bill specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disibility recognized by the Social Security disability program or a non-disease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the nonfarm income poverty guidelines.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

While retaining the "purchase food and prepare meal separately" rule in the household definition for some categories of applicants—that is, unrelated persons, elderly and disable persons (except spouse), and nonsibling relatives—the conferees expect that eligibility workers could effectively question claim and that the burden of proof for establishing "separateness" in such cases would be placed on the household, rather than the administering agency.

With regard to household members, the conferees note that both the House bill and the Senate amendment contain provisions adding to the Food Stamp Act of 1977 a definition of the term "elderly or disabled member". The definition includes certain disabled veterans and disabled surviving spouses and children of veterans. The spouses and children covered by this definition are those who are, among other things, entitled to compensation for a service connected death or pension benefits for a non-service connected death under title 38, United States Code. The conferees intend that the word "entitled", as used in this definition, includes only those spouses and children who are receiving such compensation or pension benefits or who have applied for and been adjudged entitled to such benefits.

(3) Thrifty food plan adjustments

The Senate amendment revises the measurement periods used for each October's adjustment of the cost of the thrifty food plan. The adjustment scheduled for October 1, 1982, will be based on food price changes for the 18 months ending March 31, 1982. The October 1983 adjustment will be based on changes in the 13-month period ending April 30, 1983. The October 1984 adjustment will be based on changes in the 13-month period ending May 31, 1984. The October 1985 adjustment will be based on changes in the 13-month period ending June 30, 1985. Each subsequent October 1 adjustment will be based on the 12 months ending the preceding June 30.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

(4) Income standards of eligibility

The Senate amendment revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) Adjustment of deductions

The House bill delays the July 1, 1983, adjustment of the standard deduction until October 1, 1983.

The Senate amendment delays the July 1, 1983, adjustment of the standard deduction until October 1, 1984. The Senate amendment also revises the measurement periods used to adjust the standard deduction to provide that the adjustment for October 1, 1984, will be based on changes in the nonfood elements of the Consumer Price Index (CPI) for the 21-month period ending September 30, 1983; the adjustment for October 1, 1985, will be based on changes in the CPI during the 21-month period ending June 30, 1985; and the adjustments for October 1, 1986, and each October 1 thereafter will be based on changes in the CPI for the 12-month period ending the preceding June 30.

The Conference substitute adopts the House provision.

(6) Averaging income

The House bill provides that, in determining income for purposes of food stamp eligibility, income received on a weekly or biweekly basis from the same source shall be converted to a monthly amount of income.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Migrant farmworkers

The House bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(8) Financial resources

The Senate amendment precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The Senate amendment would also require accessible pension funds and savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the cash value of any accessible pension funds.

The conferees intend that the provision requiring that retirement funds be counted as financial resources would only be applied to savings accounts, individual retirement accounts, and Keogh plans where no contractual relationship with other individuals is involved.

(9) Categorical eligibility

The House bill permits States to consider households in which all members receive aid to families with dependent children benefits, and (i) whose net income does not exceed 100 percent of the nonfarm poverty guideline in the case of households containing an elderly or disabled member, or (ii) whose gross income does not exceed 130 percent of the nonfarm poverty guideline in the case of all other households, as having satisfied the resource limitation requirements under the foods stamp program.

The Senate amendment permits States to consider households in which all members receive aid to families with dependent children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

The Conference substitute adopts the Senate provision.

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(10) Approval of periodic reporting forms

The Senate amendment removes the requirement that the Secretary of Agriculture design or approve the forms by the States for nonperiodic reporting of changes in household circumstances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The House bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals. The House bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

The Senate amendment permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extent necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the aid to families with dependent children program.

The Conference substitute adopts both the House and Senate provisions.

(12) Employment and job search requirements; voluntary quit

(a) The Senate amendment revises work registration and job search requirements to provide that an entire household would be disqualified for failure to comply with whatever reasonable job search requirements are prescribed by the Secretary. Such disqualification will remain in effect until the requirement is satisfied. The Senate amendment will also specifically provide that households will be ineligible to participate in the food stamp program if a member of the household subject to these provisions, without good cause, refuses to report for a job interview, refuses to provide information regarding employment status or availability for work, or refuses to report for a work opportunity.

The House bill contains no comparable provisions.

The conference substitute deletes the Senate provision.

(b) The House bill provides that, at the option of the state, job search requirements could be imposed on applicants, as well as recipients.

The Senate amendment permits the Secretary to impose job search requirements on applicants for food stamps, as well as recipients.

The Conference substitute adopts the House provision.

(c) The Senate amendment permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Parents and caretakers of children

The Senate amendment eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(14) Hours of employment

The Senate amendment revises the work registration requirement to exempt those individuals (i) employed a minimum of 150 hours per month or (ii) receiving monthly earnings equal to the applicable minimum wage rate multiplied by 150 hours, rather than those employed 30 hours per week or receiving earnings equivalent to the minimum wage times 30 hours.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) Joint employment regulations

The Senate amendment removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the work incentive program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(16) College students

The Senate amendment revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that college students who are otherwise eligible to participate in the food stamp program may not be disqualified when the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

(17) Income and assets of ineligible aliens

The Senate amendment requires that all the income and assets of an ineligible alien be attributed to the household of which the alien is a member for purposes of determining food stamp eligibility and benefits due the household.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) Initial allotments

The House bill eliminates any prorated benefits of less than $10.

The Senate amendment requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

The Conference substitute adopts both the House and Senate provisions.

(19) Effect of noncompliance with other programs

The Senate amendment prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(20) House-to-house trade routes

The Senate amendment authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(21) Approval of State agency materials

The Senate amendment prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Bilingual personnel and printed materials

The Senate amendment eliminates the requirement for State agencies to use appropriate bilingual personnel and printed materials in administering the food stamp program in those portions of political subdivisions in the State where a substantial number of low-income persons speak a language other than English. The Senate amendment gives the States the option of using such personnel and materials.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees understand that the Department of Agriculture has solicited comments from the States on the regulations relating to the use of bilingual personnel and material. The conferees support any efforts by the Department to eliminate burdensome requirements in this area.

(23) Points and hours of certification and issuance

The Senate amendment eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(24) Authorized representatives

The Senate amendment permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorized representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees do not intend that households be barred from using authorized representatives on the basis of age, household composition, or employment status unless a determination has been made that such restrictions are a necessary means to control a documented pattern of abuse.

(25) Expedited service

The House bill provides that food stamps shall be provided on an expedited basis in accordance with regulations in effect on July 1, 1982, to destitute migrant or seasonal farmworker households and to any other household in immediate need because of no net income, as defined in sections 5 (d) and (e).

The Senate amendment requires that expedited 5-day service be provided to households (i) having gross incomes lower than $85 per month or headed by a destitute migrant or seasonal farmworker and (ii) having liquid assets of not more than $100. A State agency would not be required to provide this expedited service to a given household more than once in a 6-month period, unless that household is headed by a destitute migrant or seasonal farmworker. The State agency is required, to the extent practicable, to verify the income and resources of the recipient household prior to the issuance of food stamps.

The Conference substitute adopts the Senate provision with an amendment providing that 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farmworker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

(26) Duplicate receipt of food stamps

The Senate amendment requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees understand that the Secretary will require State agencies to proceed promptly to implement this essential control on dual participation. The conferees recognize that not all States currently have the computer capability to begin immediate, comprehensive statewide control. In the interim, all States are expected to implement this control to the extent of their current capability and to proceed systematically toward upgrading their capabilities to achieve total State coverage of participants by the control system.

(27) Certification systems

The Senate amendment permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, an (ii) food stamp applicants must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees emphasize that current procedures under which households terminated from the aid to families with dependent children program are kept on food stamps if still eligible are to be continued. A separate determination of food stamp eligibility must occur if a household is terminated from AFDC.

(28) Assurance of nonduplication with "cashed out" benefits

The House bill requires State agencies to determine at least annually whether households that have been "cashed out" of the food stamp program are also receiving food stamps.

The Senate amendment mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

The Conference substitute adopts the Senate provision.

(29) Issuance procedures

The House bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

The Senate amendment authorizes the Secretary of Agriculture to require a State agency to implement new or modified issuance procedures that the Secretary finds would improve program integrity and be cost effective.

The Conference substitute adopts the House provision.

(30) Disqualification and penalties for food stores

The Senate amendment raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(31) Bonding for food stores

The Senate amendment permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of such bond by regulation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Alternative means for collection of overissuances and States' share of recovered moneys

(a) The Senate amendment permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Fraud claims collection procedure

The Senate amendment allows the household of a disqualified person 30 days after a demand for an election to choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Employment requirement pilot project

The Senate amendment authorizes the Secretary of Agriculture to conduct pilot projects in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing four pilot projects.

(35) Distribution of surplus commodities

The Senate amendment states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

The House bill contains no comparable provision.

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The Conference substitute adopts the Senate provision.

(36) Appropriation authorization

The House bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.648 billion for fiscal year 1983, $12.906 billion for fiscal year 1984, and $13.651 billion for fiscal year 1985.

The Senate amendment extends the authorization of appropriations for the food stamp program, except for the Puerto Rican block grant, as follows: $11.9 billion for fiscal year 1983, $12.3 billion for fiscal year 1984, and $13.2 billion for fiscal year 1985. The Senate amendment also provides a separate authorization of appropriations for a Puerto Rican block grant of $825 million for each of fiscal years 1983 through 1985.

The Conference substitute adopts the House provision with an amendment to establish the authorization levels as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

(37) Puerto Rico block grant

(a) The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact on the nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate agriculture committees no later than 6 months after the effective date of the bill.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(38) Similar workfare programs

The Senate amendment requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the aid to families with dependent children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(39) Exemption of WIN participants from workfare

The Senate amendment deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(40) Hours of workfare

The Senate amendment revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(41) Reimbursement for workfare administrative expenses

The House bill directs the Secretary to reimburse agencies operating workfare projects for administrative expenses not otherwise reimbursable from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30-day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

As stated last year in the Conference report on the Agriculture and Food Act of 1981, the conferees do not intend that federally-shared administrative expenses include the cost of equipment, tools, or materials used in connection with work performed by workfare participants or the costs of supervising workfare participants and, further, do not intend that participants be reimbursed for meals away from home.

(42) State block grant option

The Senate amendment permits a State, at its option, to operate a low-income nutritional assistance block grant to finance expenditures for food assistance for needy persons within the State, in lieu of operating a food stamp program within the State. The State would be allowed to design its own low-income nutritional assistance program. States making such an election would receive, at the start of the fiscal year, a percentage of the annual Federal food stamp appropriation equal to their proportionate share of food stamp benefits (including cash benefits in lieu of food stamps and the Federal share of administrative expenses) during the period April 1, 1981, through March 31, 1982. No State would receive less than 0.25 percent of the appropriation.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees intend that both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry hold early and thorough hearings on the concept of a State block grant option in order to expedite further congressional consideration of this issue.

(43) Technical corrections

The Senate amendment makes various technical corrections in the Food Stamp Act of 1977 to correct two typographical errors and to change references to the Secretary of Health, Education, and Welfare to the Secretary of Health and Human Services.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(44) Effective dates

(a) The House bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The Senate amendment provides that all the food stamp provisions of the bill will be effective October 1, 1982, and implemented no later than January 1, 1984.

The Conference substitute adopts the House provision.

(b) The House bill makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the Agriculture and Food Act of 1981 effective on the date of enacement of the bill unless already effective.

The Senate amendment provides that, except as otherwise specifically provided, the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 shall be effective on August 13, 1981, and shall be implemented no later than June 1, 1983, and the food stamp provisions of the Agriculture and Food Act of 1981 shall be effective on December 22, 1981, and shall be implemented no later than July 1, 1983.

The Conference substitute adopts the House provision.

TITLE II—BANKING

The Senate bill contains provisions excluding lump sum mortgage insurance premiums from the maximum mortgage limits and minimum downpayment requirements on FHA insured loans. The House bill contains these same provisions with i) additional requirements for the FHA program for refunds to those selling a home in the early years of the mortgage and for a determination by the HUD Secretary that the program of advance mortgage insurance premiums is actuarially sound before implementation of the amendments made by the provisions and ii) an authorization of $50,165,000 for fiscal year 1983 for the expenses of the Bureau of the Mint. The conference report contains the House provision with a technical amendment to clarify that refunds are required for any program of advance premium collection even if the Secretary does not find the exclusion of the insurance premium from mortgage and downpayment limits to be actuarially sound.

The Conferees direct the Secretary to use the regulatory process to implement this provision in order to assure that Congress and the public have an opportunity to review and comment on the structure of the program, prior to its actual implementation. The Conferees further expect that at the time the regulation is proposed the specific information that the Secretary used to make the required determination will be provided to the House and Senate Banking Committees. The determination must assess the actuarial soundness of the program including an analysis of the impact of allowing loan to value ratios in excess of 100 percent in the early years of the mortgage and the impact of the program on the ability of moderate income families to afford the resulting monthly payments and downpayments. If the Secretary determines that implementation of the amendments made by this section is not actuarially sound, the conferees expect that the Secretary will propose ways to preserve the current affordability of FHA insured mortgages for home buyers who can only afford minimum downpayments, including retention of the current system for those marginal purchasers. The Conferees further expect that the secretary shall require, in the regulations, that payment of such premiums be made promptly after settlement as is required by Section 530 of the National Housing Act.

TITLE III—CIVIL SERVICE AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

Cost-of-living adjustments (section 301)

Section 601 of the Senate amendment limits civil service retirement cost-of-living adjustments to 4 percent in each of fiscal years 1983, 1984, and 1985.

The House bill contains no comparable provision.

The House recedes to the Senate and concurs in the provisions of the Senate amendment with an amendment.

The conference substitute contains three parts.

First, the conference substitute provides that payment of civil service retirement cost-of-living adjustments which occur under section 8340 of title 5, United States Code, will be delayed one month in each of the next three calendar years. Adjustments currently are payable April 1 of each year. Under the conference substitute, adjustments will be payable May 1, 1983, June 1, 1984, and July 1, 1985.

Second, the conference substitute provides that civil service retirees who are under age 62 at the time of a cost-of-living adjustment under section 8340 shall receive only one-half of such adjustment. For the next three years the full adjustments are projected to be 6.6 percent, 7.2 percent, and 6.6 percent. Thus, under the conference substitute, retirees under age 62 would receive adjustments of at least 3.3 percent, 3.6 percent, and 3.3 percent. The conference substitute further provides that retirees subject to the limitation will receive an additional adjustment if the cost-of-living adjustment which actually occurs under section 8340 exceeds the projected adjustment. If this occurs, the retiree will receive one-half of the projected adjustment plus the entire amount by which the actual adjustment exceeds that projected. For example, if the full cost-of-living adjustment effective in 1983 is 7.6 percent rather than the projected 6.6 percent, retirees subject to the limitation in the conference substitute would receive 4.3 percent (one-half of the projected adjustment plus an additional one percent reflecting the error in the projection). The limitation in the conference substitute does not apply to individuals receiving survivor annuities or individuals retired on disability.

The timing and amount of cost-of-living adjustments under several other government retirement systems (e.g., the military retirement system and the Foreign Service retirement system) are linked, by law, to the civil service retirement system adjustment mechanism. Thus, the changes in timing and amount discussed above also will apply to these other retirement systems, resulting in additional outlay reductions.

The third part of the conference substitute affects the pay of military retirees who are employed in civil service postions. Currently, the vast majority of these individuals receive both a full civil service salary and a fully indexed military pension. Thus, each year these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference substitute provides that when such an individual receives a retirement cost-of-living adjustment, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

Disability retirement (section 302)

Section 602 of the Senate amendment makes five substantive changes with respect to disability retirement under the civil service retirement System. First, it prohibits individuals eligible for immediate retirement from retiring on disability. Second, it reduces from one year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. Third, it changes the current earning capacity test period from two years to one year. Fourth, it authorises the Office of Personnel Management to obtain information from the Departments of Health and Human Services, Labor, and Defense and the Veterans Administration. Finally, National Guard technicians who are separated from employment as technicians on or after December, 1979, due to disabilities that disqualify them from the National Guard or military service, will be eligible for disability retirement. Such service is required for employment as a technician.

The House bill contains no comparable provision.

The conference substitute adopts the provisions of the Senate amendment with minor changes. The provision prohibiting disability retirement for individuals eligible for optional retirement is deleted. The provision for payment of disability annuity benefits to National Guard technicians is made prospective and dependent on the individual concerned making application to Office of Personnel Management not later than twelve months after the date of the enactment of the conference substitute. Finally, the provisions relating to restoration of earning capacity are made effective with respect to income earned after December 31, 1982. The conference substitute includes other stylistic and technical changes.

Interest rates, deposits and redeposits under the civil service retirement system (section 303)

Section 603 of the Senate amendment provides that effective January 1, 1985, the interest rate for any given year on redeposits of refunds and deposits for periods of service for which no deductions were made shall be equal to the overall average yield on all obligations in which the Fund was invested during the fiscal year ending during the preceding calendar year. Currently the interest rate charged is set by statute at three percent. The Senate amendment also provides that no retirement credit will be allowed for periods of service for which retirement deductions were not made unless a deposit for such service is made to the Fund. Finally, the Senate amendment provides that an employee must be separated for at least 31 days before a refund of retirement contributions may be made. Currently, an employee need be separated for only three days.

The House bill contains no comparable provision.

The conference substitute adopts the Senate amendment with minor changes. The conference substitute clarifies the interest rates which will be effective in the future. Under the substitute the rate of interest for any calendar year will be equal to the overall average yield to the civil service retirement fund during the preceding calendar year, as determined by the Secretary of the Treasury, from all obligations purchased by the Secretary during the calendar year under section 8348(c), (d), and (e) of title 5, United States Code. The conference substitute further provides that the new interest rates will apply only with respect to refunds and periods of service which occur after October 1, 1982. Finally, the provisions relating to the required 31 day separation are made effective October 1, 1982, to conform to the general effective date of the conference substitute.

Reduction of annuities for early retirement

Section 604 of the Senate amendment provides that the annuity of a retiring employee shall be reduced four percent for each year the employee is under age 55 at the time of retirement. Under current law the reduction is two percent for each year.

The House bill contains no comparable provision.

The Senate recedes to the House.

Rounding down of civil service retirement annuities (section 304)

Section 301 of the House bill and section 606(a) and (b) of the Senate amendment provide that civil service annuity benefits shall be rounded to the next lowest dollar. Under existing law annuities are rounded to the nearest whole dollar. This change will apply to initial annuities and to annuities adjusted annually to reflect changes in the cost-of-living. The conferees agreed that the new rounding provisions shall apply with respect to annuities commencing on or after October 1, 1982, and with respect to adjustments or redeterminations of annuities made on or after that date.

Later commencement date for certain annuities (section 305)

Section 302 of the House bill and section 606(c) of the Senate amendment provide that the annuities of retiring employees and Members will commence on the first day of the month after separation from the service. Under existing law, such annuities commence on the day following separation. The House provision, however, would not apply to individuals retiring involuntarily (except for cause) or on disability. The House bill provides that the amendment applies to annuities commencing on or after October 1, 1982.

The Senate recedes to the House.

Creditable service based on military service; recomputation at age 62 of credit for military service of current annuitants (section 306, 307)

"Catch-62" is the term used to describe a situation where an individual with military service retiring under the civil service retirement system may credit the years of post-1956 military service for a civil service annuity. These military years are also automatically creditable for social security benefit purposes. In order to prevent coverage under both systems for the same period of service, the civil service retirement annuity, by law, is recomputed at age 62 (when social security eligibility begins) to eliminate the period of military service from the civil service annuity. The additional social security benefit gained for these years of military service often does not match the reduction in the civil service annuity. Sections 607 and 608 of the Senate amendment address this problem in three ways.

The House bill contains no comparable provision.

The House recedes to the Senate with technical amendments. The conference substitute provides the following:

(a) An employee first employed in a position under the civil service retirement system on or after October 1, 1982, will not receive credit for military service toward a civil service annuity unless the employee deposits in the civil service retirement fund an amount equal to 7 percent of his military base pay for each year of military service that he wants credited for civil service retirement purposes. If the employee makes a deposit, he will be entitled to credit under both the civil service and social security systems. An employee has a two-year grace period after employment begins during which no interest will be applied to amounts which are desposited. Amounts deposited after the two-year period are subject to interest at an annual interest rate equal to the yield on new civil service retirement fund investments.

(b) Employees first employed before October 1, 1982, will also be given an opportunity to make a deposit to the civil service retirement fund to cover military service. If they do, they will also be entitled to credit under both the civil service and social security systems and thus will avoid a "Catch 62" reduction. The same grace period and interest provisions as for new employees will apply. If they choose not to make a deposit, they would continue to be subject to the "Catch-62" reduction.

(c) Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service. For an annuitant not yet age 62, military service will not be deducted from an annuity at age 62. Upon recomputation of the civil service annuity (in the case of annuitants 62 or older), and upon reaching age 62 (in the case of annuitants currently under that age) there will be a recomputation of social security benefits removing credit for periods of military service and reducing the civil service annuity by an appropriate that amount. However, in no case will an individual receive less than the amount he would receive or is receiving had he remained subject to the "Catch-62" reduction.

Immediate retirement (section 308)

Section 609 of the Senate amendment amends the early retirement provisions of existing law (5 U.S.C. 8336(d)) in two significant respects. The first change requires the Office of Personnel Management to determine that a significant percentage of the employees serving in an agency will be separated or subject to an immediate reduction in basic pay during a major reorganization, reduction in force, or transfer of function before the Office of Personnel Management may authorize employees of the agency to retire voluntarily under the early retirement provisions of section 8336(d). The second change provides that an employee who is separated from the service involuntarily is not entitled to an annuity if the employee has declined a reasonable offer of another position in the agency.

The House bill contains no comparable provisions.

The conferees agreed to the Senate provision with an amendment to clarify the phrase "reasonable offer of another position." Under the conference substitute, the offered position must be one for which the employee is qualified, be not lower than two grades or pay levels below the employee's grade or pay level, and be within the employee's commuting area.

General limitation on annuity cost-of-living adjustments (section 309)

Section 610 of the Senate amendment provides that no civil service annuity (including survivor annuities) may be increased as the result of a cost-of-living adjustment to an amount which exceeds the greater of (a) the maximum pay payable for GS-15 (currently $57,500), or (b) the final pay (or average pay, if higher) of the employee or Member increased by the overall annual average percentage adjustments in the General Schedule pay rates that have occurred between the date the employee's or Member's annuity commenced and the date of the cost-of-living adjustment. For the purpose of determining the final or average pay of an employee or Member, the term "pay" is defined to mean the rate of salary or basic pay which is payable under any provision of law, including provisions of law which limit the expenditure of appropriated funds. The Senate amendment further provides that the amendment shall not cause any annuity to be reduced below the rate payable on the date of enactment but that such amendment shall apply to any cost-of-living adjustment occuring on or after the date of enactment. Moreover, the amendment applies with respect to any civil service annuity regardless of its commencing date.

The House bill contains no comparable provisions.

The House recedes to the Senate.

Federal employee pay adjustments; executive pay review (section 310).

Section 303 of the House bill provides that if the President, before September 1, 1982, transmits an alternative pay plan to the Congress proposing a pay adjustment of less than 4 percent and that alternative plan is disapproved by either House in accordance with existing law, the pay adjustment for the statutory pay systems shall be 4 percent. Under existing law, Federal employees are entitled to the full pay comparability increase (estimated to be close to 20 percent this October) in the event either House disapproves the President's alternative pay plan.

The Senate amendment contains no comparable provisions.

The Senate recedes to the House and concurs with an amendment.

The conference substitute has three parts. First, it adopts without change the provisions of the House bill relating to the disapproval of an alternative pay plan. Second, it directs the appointment of an ad-hoc Commission on Executive, Legislative, and Judicial Salaries. The Commission is directed to make recommendations and report, in accordance with existing law, except as provided by the conference substitute. Its report must be transmitted to the President not later than November 15 of this year, and the President would then promptly formulate his recommendations and submit them to Congress for review. The President's recommendations would become effective for any pay period beginning more than 30 days after they are transmitted unless the Congress, by concurrent resolution, disapproves the recommendations during the 30-day period. The recommendations will supersede any pay rate or pay cap established by prior provisions of law. Finally, commencing in fiscal year 1984, the conference substitute changes the basis for computing pay for employees under the General Schedule. Currently, General Schedule pay is computed on the basis of 260 work days or 2,080 hours rather than the 261 or 262 work days that usually occur in a calendar year. The conference substitute provides that pay shall be computed on the basis of the average work hours in a calendar year (2087 hours). This change is effective only for fiscal years 1984 and 1985. This provision does not necessarily affect the calculation of retirement benefits. Whether there should be a corresponding change in the basis of calculating such benefits is left to the discretion of the Office of Personnel Management.

SUBTITLE B—LIMITATION ON TRAVEL AND TRANSPORTATION EXPENSES

Travel and transportation expenses for vacation leave

Section 605 of the Senate amendment would terminate certain travel provisions in current law for Federal employees assigned to duty stations in Hawaii and Alaska. Under 5 USC 5728, Federal employees assigned to posts of duty outside the continental United States are allowed, for each tour of duty, payment for travel expenses for one round trip to their actual place of residence at the time of appointment. This benefit is also extended to the employee's immediate family. By adding the words "Alaska and Hawaii" to the term "continental United States", the Senate amendment would terminate these payments with regard to Federal employees assigned to posts of duty in Alaska and Hawaii. The Senate amendment provides that an employee whose post of duty is in Alaska or Hawaii on the date of enactment of this Act shall be entitled to one round-trip travel commenced after the date of enactment of this Act.

The House bill contains no such provision.

The conference agreement would add the words "Alaska and Hawaii" to the term "continental United States", thereby terminating the round-trip travel benefits for Federal employees assigned to those two states. However, the conference agreement contains provisions allowing the head of an agency to provide for such round-trip travel benefits when he determines that such expenditure is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post in Alaska or Hawaii. The intent of this provision is to assure an agency the availability of employees with special qualifications which are not in ready supply in these locations and to assure the availability of personnel to fill positions in remote areas. It is intended that the provision be used sparingly and only when necessary to fulfill the agency's mission. The payment of such expenses is limited to not more than two round-trip commenced within five years after the date the employee first commences any period of consecutive tours of duty in Alaska and Hawaii. The conference agreement further provides that the termination of these travel benefits shall not be applicable to the first round-trip travel commenced after the date of enactment of this Act by an employee whose post of duty on the date of enactment of this Act is in Alaska and Hawaii, but counts such first trip toward the two-trip limit.

TITLE IV: VETERANS' BENEFITS

The House bill and the Senate amendment, according to CBO estimates, would have achieved total cost savings of $169.7 million and $168.1 million, respectively, in budget authority and $169.4 million and $166.9 million, respectively, in outlays in fiscal year 1983.

The conference agreement, according to CBO estimates, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays in fiscal year 1983. The first three years' savings are shown in the following table:

COST SAVINGS

[In millions of dollars]

	Fiscal year 1983		Fiscal year 1984		Fiscal year 1985	
	BA	O	BA	O	BA	O
Section 401—Commencement of payment periods	53.5	53.5	56.3	56.3	59.2	59.2
Section 402—Advance date of reductions	3.2	2.9	3.5	3.2	3.9	3.5
Section 403—Pension rounding	3.6	2.7	10.4	10.4	10.1	10.1
Sections 404 and 405—Compensation rounding	18.8	18.8	18.9	18.9	19.1	19.1
(Subtotal: Entitlements)	(79.1)	(77.9)	(89.1)	(88.8)	(92.3)	(91.9)
Section 406—Home-loan fee	89.6	89.6	99.8	99.8	104.1	104.1
Conference report total	168.7	167.5	188.9	188.6	196.4	196.0
House bill total	169.7	169.4	185.8	185.5	195.0	194.6
Senate amendment total	168.1	166.9	192.1	191.8	202.0	201.6

A description of the provisions of the House bill, Senate amendment, and conference agreement follows.

1. Commencement of certain periods of payment

Both the House bill and the Senate amendment would, effective October 1, 1982, postpone the commencement of the period for which a new award or an increased award of Veterans' Administration compensation, dependency and indemnity compensation (DIC), or pension is paid. The commencement of the period of payment would be delayed until the first day of the calendar month following the effective date of the award or increased award.

The conference agreement includes this provision with a clarifying amendment defining "award or increased award". Under this definition, the term would mean an original award, a reopened award, or an award that is increased because the recipient has acquired a new dependent, the recipient's disability or disability rating has been increased, or the recipient's income has declined.

The conferees emphasize that this provision would not apply to various types of adjustments of awards—as opposed to new awards or increases in awards—such as occur, for example, in the case of an opportionment and in the case of the termination of any withholding, reduction, or suspension of an award by reason of a recoupment, an offset to collect an indebtedness, institutionalization, incompetency, incarceration, or an estate that exceeds the limitation for certain hospitalized incompetent veterans. The conferees also emphasize that this provision does not apply to any increase in benefit payments resulting solely from the enactment of legislation—such as a cost-of-living increase in compensation and DIC rates or a change in the criteria for statutory award designations—or from a cost-of-living adjustment in pension rates pursuant to section 3112 of title 38. The term would also include any new award of "improved" pension pursuant to an election under section 306 of Public Law 95-588 and any increase in the amount of compensation, pursuant to VA regulations (sections 4.29 and 4.30 of title 38, Code of Federal Regulations), by reason of hospitalization of a veteran, under certain circumstances, for a period in excess of 21 days for a service-connected disability, or of a veteran's convalescence following certain surgical or medical procedures for a service-connected disability.

Cost savings associated with this provision, according to CBO estimates, would be $53.5 million in both budget authority and outlays in fiscal year 1983, $56.3 million in both budget authority and outlays in fiscal year 1984, and $59.2 million in both budget authority and outlays in fiscal year 1985.

2. Advancement of effective date of certain reductions of compensation and pension

Both the House bill and the Senate amendment would provide that, effective October 1, 1982, the effective date of a reduction of VA compensation, DIC, or pension by reason of a reduction in the number of the recipient's dependents resulting from the marriage, annulment, divorce, or death of a dependent shall be the last day of the month—rather than the last day of the year—in which the number of dependents decreased.

The conference agreement contains this provision made applicable, in order to avoid creating overpayments, only to changes in dependency occurring after September 30, 1982.

Cost savings associated with this provision, according to CBO estimates, would be $3.2 million in budget authority and $2.9 million in outlays in fiscal year 1983, $3.5 million in budget authority and $3.2 million in outlays in fiscal year 1984, and $3.9 million in budget authority and $3.5 million in outlays in fiscal year 1985.

3. Rounding down of pension to nearest dollar

Both the House bill and the Senate amendment would provide that, in computing amounts of monthly non-service-connected pension payments, amounts of $0.99 or less shall be rounded down to the nearest lower dollar. Under the House bill, this provision would become effective October 1, 1982, and under the Senate amendment it would take effect with respect to payments for periods beginning after May 31, 1983.

The House recedes with a technical amendment clarifying that the amount to be rounded is the monthly (or other periodic) rate of pension. Hence, in the case of an unrounded deduction for an insurance premium payment or for an indebtedness offset, the pensioner may receive payment in an unrounded amount.

The conferences stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95-588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

Cost saving associated with this provision, according to CBO estimates, would be $3.6 million in budget authority and $2.7 million in outlays in fiscal year 1983, $10.4 million in both budget authority and outlays in fiscal year 1984, and $10.1 million in both budget authority and outlays in fiscal year 1985.

4. Rounding down of fiscal year 1983 compensation cost-of-living increase

The House bill would provide, effective October 1, 1982, and "adjusted" 7.4-percent cost-of-living increase in compensation and DIC benefits—that is, an increase of 7.4 percent in the current rates with all amounts from $0.01 to $0.99 rounded down to the next lower dollar. The Senate amendment would reduce, effective January 1, 1983, various current compensation and DIC rates—in anticipation of the enactment prior to that date of a similarly "adjusted" cost-of-living increase, effective October 1, 1982, in the current compensation and DIC rates that would supersede the rounding-down reductions.

The ultimate intended effect both of the House provisions and of the Senate provisions coupled with the subsequent anticipated cost-of-living increase would be a compensation/DIC cost-of-living increase costing less than 7.4-percent increase calculated in accordance with the customary Congressional practice by which, in legislating such increases, amounts of $0.50 or more are rounded up to the next higher dollar and amounts of less than $0.50 are rounded down to the next lower dollar. Such lower cost for the total compensation/DIC increase this year is necessary in order to keep the cost within the pertinent fiscal year 1983 budget allocations to the Veterans' Affairs Committees under section 302(a) of the Congressional Budget Act of 1974.

The rate reductions in the Senate bill were arrived at so as to achieve estimated fiscal year 1983 cost-savings equal to the savings ($29.5 million in both budget authority and outlays) that would be achieved through the enactment of an "adjusted" 7.4-percent compensation/DIC cost-of-living increase—with rates rounded down to the nearest dollar, with the rounded increased rate for those with disabilities rated at 10 percent reduced by $1.00 and with a realignment of dependents' allowances (to provide for rate uniformity)—rather than a 7.4-percent increase enacted in accordance with customary Congressional practice on rounding.

Both the House bill and the Senate amendment would modify the method by which compensation dependent's allowances for veterans with disabilities rated from 30-percent through 90-percent disabling are computed. Under current law, these dependents' allowances are computed as a percent-

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age—equal to the veteran's percentage disability rating—of the dependents' allowances payable to veterans rated totally disabled, with amounts of $0.50 or more rounded up and amounts less than $0.50 rounded down. The House bill and the Senate amendment would require rounding down all amounts.

The House recedes, with adjustments in certain current-rate reductions and a conforming amendment providing for rounding down certain intermediate rates pursuant to section 314(p) of title 38, United States Code. The fiscal year 1983 cost savings of $18.8 million achieved through the conference agreement provisions reflect the House bill's treatment of the 7.4-percent increase for 10-percent disabled veterans. The conferees emphasize that these provisions are based upon an expectation that they will be superseded by the enactment of a compensation bill, prior to January 1, 1983, providing for an "adjusted" 7.4-percent cost-of-living increase with rates rounded down to the nearest dollar and with dependency allowances realigned.

Cost saving associated with these provisions, according to CBO estimates, would be $18.8 million in both budget authority and outlays in fiscal year 1983, $18.9 million in both budget authority and outlays in fiscal year 1984, and $19.1 million in both budget authority and outlays in fiscal year 1985.

5. Fee for home loans

Both the House bill and the Senate amendment would require the payment of a fee of 0.5 percent of the original loan principal of all VA home loans guaranteed, insured, or made to veterans—other than those who are in receipt of VA compensation for a service-connected disability or who, but for the receipt of military retirement pay, would be entitled to receive such compensation—and to certain spouses and surviving spouses. The House bill would also exempt the surviving spouses of those who have died from a service-connected disability. Under both provisions, the fee would be required with respect to loans closed after September 30, 1982.

The House bill, but not the Senate amendment, provides that the requirement for the payment of the fee would not apply with respect to any loan closed after September 30, 1985.

The Senate recedes.

Savings associated with this provision, according to CBO estimates, would be $89.6 million in both budget authority and outlays in fiscal year 1983, $99.8 million in both budget authority and outlays in fiscal year 1984, and $104.1 million in both budget authority and outlays in fiscal year 1985.

6. Termination of pension benefits for certain children

Both the House bill and the Senate amendment would terminate, in the cases of children who reach age 18 after September 30, 1982, VA pension benefits payable under the "improved" pension program, enacted in Public Law 95-588, to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing a post-secondary education.

The Senate bill, but not the House amendment, in the cases of children who reach age 18 after September 30, 1982, would terminate pension benefits payable under section 306(a) of Public Law 95-588 (under which the benefits of certain pensioners who were in receipt of pension as of December 31, 1978, the day before the "improved" program went into effect, were "grandfathered") to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing post-secondary education.

Both the House bill and the Senate amendment would phase-out—through annual 25-percent reductions, beginning with the first reduction on October 1, 1982—the pension benefits payable under both the "improved" program and section 306(a) to veterans' children who reach age 18 prior to October 1, 1982, and are pursuing post-secondary education.

The conferees did not resolve the differences between the House and Senate versions, and the conference agreement does not contain these provisions.

7. Correspondence training

The House bill, but not the Senate amendment, would repeal, effective October 1, 1982, the authority under which GI Bill educational assistance benefits are paid to veterans, dependents, and service personnel for the pursuit of correspondence training.

The House recedes.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Section 501 reduces the size of the Federal Communications Commission (FCC) to 5 from 7 members. The relevant parts of the Communications Act of 1934 specify that the FCC shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate. The Act further specifies that 4 members shall constitute a quorum.

This proposal would result in savings of approximately $100,000 in fiscal year 1983 and $500,000 annually, thereafter.

The proposal provides that the reduction of 2 positions will take place on July 1, 1983, thereby allowing for an abbreviated appointment to the term of office which expired on June 30, 1982. The second term, expiring on June 30, 1983, will not be filled. The terms of the other members are not affected. The number of members constituting a quorum as of July 1, 1983, is reduced to 3 from 4.

The concept of reducing the size of the FCC is not new. A January 1971 study entitled, "A New Regulatory Framework: Report on Selected Independent Regulatory Agencies" (prepared by the President's Advisory Council on Executive Organizations), recommended that "the number of FCC Commissioners be reduced from seven to five to minimize inefficiency caused by the sheer number of Commissioners considering each issue." The study also concluded that a reduced number of Commissioners would result in "improved regulatory effectiveness without raising the prospect of partisian control over the broadcast media, or individual interference with the free exchange of ideas or information (at pp. 118–119).

In 1974, a former FCC General Counsel, Henry Geller, endorsed this concept in "A Modest Proposal to Reform the Federal Communications Commission," The Rand Corporation, Washington, D.C. (April, 1974).

A 1977 Congressional study of regulatory commissions ("Study on Federal Regulation," Vol. IV, "Delay in the Regulatory Process" Committee on Governmental Affairs, U.S. Senate, 95th Congress, 1st Session, p. 115 (July, 1977)), concluded that policymaking bodies of 5 are preferable to larger groups, the primary advantage being the speed of decision making.

Most recently, the Comptroller General of the United States called for FCC reduction in a July 1979 report entitled "Organizing the Federal Communications Commission for Greater Management and Regulatory Effectiveness," at pp. 15–16. As such, the FCC reduction seems long overdue.

INTERSTATE COMMERCE COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment provides that effective January 1, 1983, each office within the Interstate Commerce Commission (ICC) that is provided for by 49 U.S.C. 10301 (other than the office prescribed to expire on December 31, 1985) and that is vacant on July 1, 1982, shall be abolished and, effective January 1, 1983, amends such section to provide that the ICC will be composed of 7 members with no more than 4 members from the same political party.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office after such date shall be appointed for a term of office which ends on Debemrer 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment amends 49 U.S.C. 10301(b), effective January 1, 1986, to provide that the ICC shall be composed of 5 members. It further amends such section to provide that no more than 3 members shall be appointed from the same political party.

The Senate amendment also provides that any member of the ICC whose term of office expires on December 31, 1982, or December 31, 1983, may be reappointed as a member of the Commission, and this provision is consistent with existing law.

Conference substitute

The conference substitute is the same as the Senate amendment except that (1) the vacant office which is retained on the Interstate Commerce Commission is one of the two offices which are prescribed to expire on December 31, 1984, instead of the office which is prescribed to expire on December 31, 1985; (2) one of the persons appointed to fill one of the two offices the terms for which are prescribed to expire on December 31, 1987, shall be appointed for a term of office which ends on December 31, 1991, instead of December 31, 1992; and (3) section 10301(c) of title 49, United States Code, is amended to reduce the terms of office of members of the Interstate Commerce Commission from seven years to five years. The amendment made under clause (3) of the preceding sentence shall take effect on January 1, 1984, and apply to persons appointed, after such date, to fill any office of the Interstate Commerce Commission, except that such amendment does not apply to one of the two persons appointed to fill an office the term for which is prescribed to expire on December 31, 1987.

OTHER PROVISIONS

INDUSTRIAL FUNDING OF SUPPLY OPERATIONS

Section 611 of the Senate bill would amend the Federal Property and Administrative Services Act of 1949 to permit GSA to pass on to other Federal agencies costs incurred for wages, space and other personnel costs relating to the contracting, procurement, inspection, storage, management, distribution, and accountability of supplies and materials provided by GSA to such Federal agencies. The Senate bill would provide that all executive agencies shall requisition from the GSA all needed items of personal property and nonpersonal property which are managed by GSA unless otherwise authorized by GSA. The Senate bill further provides that the Administrator of GSA shall report twice each year to the Senate Committee on Governmental Affairs and the House Committee on Government Operations on the status and operations of the General Supply Fund.

The House bill contains no such provision.

The Senate recedes to the House position.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

Jim Jones,
Leon Panetta,
Richard A. Gephardt,
Delbert Latta,
Bill Frenzel'

Solely for consideration of title I of the House bill and title I of the Senate amendment:

Les Aspin,
Brian Donnelly,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E de la Garza,
Thomas S. Foley,
David R. Bowen,
Bill Wampler,
Paul Findley
(on all matters except as listed below),
Tom Hagedorn
(on all matters except as listed below),
E. Thomas Coleman
(in lieu of Mr. Hagedorn) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment (food stamps),
Wm. Thomas
(in lieu of Mr. Findley) on sections 101–180 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Clement J. Zablocki,
Lee H. Hamilton,
Jonathan D. Bingham,
Wm. Broomfield,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

Fernand J. St Germain,
Henry Gonzalez,
Frank Annunzio,
J. W. Stanton,
Chalmers Wylie,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

John G. Dingell,
Timothy E. Wirth,
J. J. Florio,
James T. Broyhill,
N. F. Lent,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

Glenn M. Anderson,
Nick Rahall,
Bob Edgar,
Don H. Clausen,
Bud Shuster,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601–604 and 606–610 of the Senate amendment:

William D. Ford,
Mo Udall,
W. Clay,
Ed J. Derwinski,
Gene Taylor,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

Jack Brooks,
John L. Burton,
Dave Evans,
Frank Horton,
Bob Walker,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and section 701–706 and 708 of the Senate amendment:

G. V. Montgomery,
Marvin Leath,
John Paul
Hammerschmidt,
Chalmers Wylie,
Managers on the Part of the House.

Committee on the Budget:

Pete V. Domenici,
W. L. Armstrong,
Nancy Landon
Kassebaum,
Rudy Boschwitz,
John Tower,

Committee on Agriculture, Nutrition, and Forestry: For title I:

Jesse Helms,
Bob Dole,
S. I. Hayakawa,
Dick Lugar,
Walter D. Huddleston,

Committee on Banking, Housing, and Urban Affairs: For title III:

Jake Garn,
John Tower,
Dick Lugar,
Don Riegle,

Committee on Commerce, Science, and Transportation: For sections 402 and 403 of title IV:

Bob Packwood,
Barry Goldwater,
Ted Stevens,
Howard Cannon,

Committee on Governmental Affairs: For title VI:

Bill Roth,
Ted Stevens,
Mack Mattingly,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

Al Simpson,
Strom Thurmond,
Robert T. Stafford,
Alan Cranston,
Jennings Randolph,
Managers on the Part of the Senate.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FOLEY, subsequent to the passage of H.R. 6419.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Committee on Interior and Insular Affairs.

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes; to the Committee on the Judiciary; and

S.J. Res. 188. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON TODAY AND BALANCE OF THE WEEK

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit for the purposes of considering legislation during the time that the House is sitting under the 5-minute rule today and for the balance of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, I reserve the right to object.

CALL OF THE HOUSE

Mr. WAXMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 280]

ANSWERED "PRESENT"—135

Akaka
Barnes
Bedell
Bellenson
Benjamin
Bennett

Bereuter
Bethune
Bevill
Biaggi
Boner
Bowen
Brinkley
Burton, Phillip
Carney
Clausen
Coelho
Conable
Corcoran
Coughlin
Craig
Daniel, Dan
Dannemeyer
Daub
de la Garza
Dellums
Dingell
Duncan
Edwards (AL)
Emerson
Fascell
Fazio
Findley
Fish
Foley
Frost
Gibbons
Gingrich
Glickman
Gonzalez
Gore
Gradison
Grisham
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hiler
Holt
Horton
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Johnston
Jones (NC)
Jones (TN)
Kazen
Kildee
Kindness
Leath
Leland
Lent
Lewis
Livingston
Lowry (WA)
Lujan
Madigan
Mazzoli
McClory
McCurdy
McGrath
McHugh
Miller (CA)
Mineta
Mitchell (MD)
Moakley
Moore
Moorhead
Murtha
Myers
Napier
Natcher
Neal
Nichols
Oakar
Ottinger
Panetta
Patman
Patterson
Peyser
Pickle
Price
Pritchard
Rangel
Ratchford
Robinson
Roemer
Rogers
Rose
Schulze
Seiberling
Sensenbrenner
Sharp
Skeen
Smith (IA)
Smith (NE)
Solomon
Spence
Stark
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Thomas
Udall
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
White
Whitehurst
Whittaker
Wilson
Winn
Wirth
Wyden
Yatron

□ 1315

Mr. PHILLIP BURTON. Mr. Speaker, regular order.

Mr. Speaker, regular order.

The SPEAKER pro tempore (Mr. DE LA GARZA). The Chair is observing the regular order.

Mr. PHILLIP BURTON. Mr. Speaker, regular order as to the time to note the presence of Members has expired.

The SPEAKER pro tempore. Are there any Members who have not yet recorded their presence?

The Chair will advise the gentleman from California that 15 minutes is a minimum, not a maximum.

ADJOURNMENT

Mr. DE LA GARZA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 1 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 17, 1982, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 and MAR. 31, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Codel Obey:											
Group expenses	3/7	3/8	Austria								
Local transportation							279.75				279.75
Group expenses	3/8	3/9	Italy								
Local transportation							305.79				305.79
Miscellaneous expenses									439.24		439.24
Committee total							585.54		439.24		1,024.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

James R. Jones, Chairman, July 28, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
DELEGATION TO MIDDLE EAST AND AFRICA, APR. 7-19, 1982											
Holt, Congresswoman Marjorie S.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
HUTTO, Congressman Earl D.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Mollohan, Congressman Robert H.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Montgomery, Congressman G. V.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Transportation, Department of the Air Force							13,409.00				13,409.00
Spence, Congressman Floyd D.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Stump, Congressman Bob	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
White, Congressman Richard C.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00						138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Won Pat, Congressman Antonio B.	4/7	4/7	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Bauser, Edward J.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Kriser, Louis	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Moore, Alma B.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Scrivner, Peter C	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Tsompanas, Paul L.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					806.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Delegation expenses incurred in Egypt							368.83		1,842.21		2,211.04
Delegation expenses incurred in Oman									653.65		653.65
Delegation expenses incurred in Kenya							665.81		26.45		692.26
Delegation expenses incurred in South Africa							1,483.93		310.60		1,794.53
Delegation expenses incurred in Barbados							555.00				555.00
MISCELLANEOUS COMMITTEE TRAVEL, May 27–June 15, 1982											
Byron, Congresswoman Beverly B.	6/27	6/29	United Kingdom	100.58	176.00					100.58	176.00
	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
Transportation, Department of State							1,863.40				1,863.40
Transportation, Norway, Department of State							175.95				175.95
Cofer, Williston B., Jr.	6/29	7/4	Germany	1,045.80	420.00					1,045.80	420.00
	7/4	7/11	Spain	59,270	533.00					59,270	533.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Transportation, Department of State							974.56				974.56
Foglietta, Congressman Thomas M.	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
	7/8	7/15	Italy	732,200	525.00					732,200	525.00
Less total refund											−111.17
Transportation, Department of State							3,926.50				3,926.50
Transportation, Norway, Department of State							175.95				175.95
Ford, John J.	5/27	5/29	Italy	195,610	152.35					195,610	152.35
	5/31	6/2	Switzerland	335.40	170.00					335.40	170.00
Transportation, Department of the Air Force							1,669.00				1,669.00
Klein, Adam J.	6/27	6/29	United Kingdom	100.58	176.00					100.58	176.00
	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
Transportation, Department of State							1,863.40				1,863.40
Transportation, Norway, Department of State							175.95				175.95
Waters, James C.	6/29	7/4	Germany	1,045.80	420.00					1,045.80	420.00
	7/4	7/11	Spain	59,270	533.00					59,270	533.00
Transportation, Department of State							974.56				974.56
White, Justus P.	5/28	6/1	Portugal	28,000	400.00					28,000	400.00
Transportation, Department of the Army							2,889.61				2,889.61
Committee total					18,994.18		192,079.45		2,832.91		213,906.54

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MELVIN PRICE, Chairman, July 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael Telson	6/27	7/4	United Kingdom	344.82	600.00		996.00				1,596.00
Committee total					600.0		996.00				1,596.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES R. JONES, Chairman, July 28, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rahall, Congressman Nick Joe II	5/21	5/22	Spain	7,892	77.00					7,892	77.00
	5/22	5/26	Italy	439,470	432.00					439,470	432.00
Air Transportation			Germany			7,372.40	3,186.00			7,372.40	3,186.00
									837.50		837.50
Military air transportation							500.00				500.00
Committee total					509.00		3,686.00		837.50		5,032.50

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

James J. Howard, Chairman, July 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Greene		5/10	United State				2,198.00				2,198.00
	5/11	5/19	Kenya	6,407.30	615.00					6,407.30	615.00
	5/19		United States								
Hanson		5/10	United States				2,029.00				2,029.00
	5/11	5/19	Kenya	4,844.55	465.00					4,844.55	465.00
	5/19		United States								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Krebs		6/27	United States				1,384.00				1,384.00
	6/28	7/3	England	287.35	548.00					287.35	548.00
	7/3		United States								
Greene		6/11	United States				542.00				542.00
	6/12	6/20	England	448.17	856.00					448.17	856.00
	6/20		United States								
Palmer		6/11	United States				542.00				542.00
	6/12	6/20	England	448.17	856.00					448.17	856.00
	6/20		United States								
Schwer		6/11	United States				3,926.00				3,926.00
	6/12	6/17	England	280.10	535.00					280.10	535.00
	6/17		United States								
Committee total					3,875.00		10,621.00				14,496.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DON FUQUA, Chairman, July 30, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4589. A letter from the Vice President of Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of April, 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4590. A letter from the Secretary of the Interior, transmitting a report on the rental charges for noncompetitive oil and gas leases, pursuant to section 1401(d)(2) of Public Law 97-35; to the Committee on Interior and Insular Affairs.

4591. A letter from the General Counsel of the Department of Defense, a draft of proposed legislation to amend chapter 47 of title 10, United States Code, (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial and for other purposes; jointly, to the Committees on Armed Services and the Judiciary.

4592. A letter from the Assistant Secretary of Defense (Comptroller), transmitting selected acquisition reports and SAR summary tables for the quarter ending June 30, 1982, pursuant to section 811(a) of Public Law 94-106; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee of conference. Conference report on S. 2248 (Rept. No. 97-749). Ordered to be printed.

Mr. JONES of Oklahoma: Committee of conference. Conference report on H.R. 6955. (Rept. No. 97-750). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO:

H.R. 6993. A bill to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation"; to the Committee on the Judiciary.

By Mr. WEAVER:

H.R. 6994. A bill to require the Secretary of Interior to convey, without consideration, certain lands in Lane County, Oreg.; to the Committee on Interior and Insular Affairs.

Mr. KINDESS (for himself and Mr. Brown of Ohio):

H.J. Res. 579. Joint resolution proposing an amendment to the Constitution of the United States to provide that all revenue bills shall originate in the House of Representatives; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. MAZZOLI introduced a resolution (H. Res. 564) opposing the granting of permanent residence in the United States to certain aliens, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3600: Mr. Frenzel.

H.R. 5875: Mr. Frenzel.

H.R. 5876: Mr. Frenzel.

H.R. 5877: Mr. Frenzel.

H.R. 6348: Mr. Nelligan, Mr. Kazen, Mr. Neal, Mr. de la Garza, Mr. Edwards of Oklahoma, Mr. Addabbo, Mr. Mitchell of New York, Mr. LeBoutillier, Mr. Fithian, Mr. Carney, Mr. Richmond, Mr. Skeen, Mr. Hansen of Idaho, Mr. Lott, Mr. Stump, Mr. LaFalce, Mr. Peyser, Mr. Zeferetti, Ms. Oakar, Mr. Applegate, and Mr. Hutto.

H.R. 6760: Mr. Dunn.

H.R. 6768: Mr. Livingston.

H.R. 6781: Mr. Lowery of California, Mr. Alexander, Mr. Parris, Mr. Ireland, Mr. Santini, Mr. Evans of Georgia, Mr. Annunzio, Mr. Lewis, Mr. McKinney, Mr. Nelson, Mr. Brinkley, Mr. Smith of Oregon, Mr. Dowdy, Mr. Loeffler, Mr. Paul, Mr. Grisham, Mr. Rudd, Mr. Fithian, Mr. Stump, Mr. Shannon, Mrs. Byron, and Mr. Stratton.

H.R. 6829: Mr. Livingston and Mr. Tauzin.

H.R. 6901: Mr. Rodino.

H. Res. 532: Mr. Daschle, Mr. Schumer, Mr. Bennett, Mrs. Chisholm, Mr. Beilenson, Mr. Patterson, Mr. Horton, Mr. Foglietta, Mr. Bailey of Pennsylvania, Mr. Ratchford, Mr. DeNardis, Mr. Dellums, Mr. Garcia, Mr. Price, Mr. Hatcher, Mr. Parris, Mr. Porter, Mr. Hoyer, Mr. Bevill, Mr. Dougherty, Mr. Stokes, Mr. Clay, Mr. Shamansky, Mr. Sunia, Mr. Erdahl, Mr. Mineta, Mr. Bedell, Mr. James K. Coyne, Mr. Edwards of California, Mr. Stark, Mr. Rhodes, Mr. Moffett, Mr. Clausen, Mr. Gray, Mr. Gejdenson, Mrs. Heckler, Mr. Crockett, Mrs. Kennelly, Mrs. Collins of Illinois, and Mr. Weaver.

PETITIONS, ETC.

Under clause 1 of rule XXII,

567. The SPEAKER: presented a petition of Charles A. Stallings, Greenwood, Ind., relative to disability retirement; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540,

By M. BETHUNE:

(Amendment in the nature of a substitute.)

Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1987".

—Page 43, after line 10, insert the following:

"(c) No loan, loan guarantee, or commitment for a loan guarantee may be made

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under this section unless the Secretary of the Treasury determines that the person involved cannot otherwise obtain the financing involved.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase borrowing costs for the Federal Government.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Agriculture determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of such credit, to the agricultural sector of the economy.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Housing and Urban Development determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit or increase the cost of credit to the housing industry or otherwise adversely affect the housing industry.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Education determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to students.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Labor determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to have a negative impact on employment in the United States.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Commerce determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to adversely affect depressed sectors of the domestic economy, such as the automotive, steel, and farm equipment manufacturing sectors.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be issued under this section to any person unless the Secretary of the Treasury determines that an imperfection in the financial or credit markets has prevented other sources of financing from being available to such person.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section until the effective date of a Federal law establishing limits on all Federal credit activities.

Redesignate the following subsections accordingly.

—Page 51, after line 9, insert the following:

(g) The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following:

"Sec. 721. Notwithstanding any other provision of law, for fiscal year 1983, new direct loan obligations entered into under this Act shall not exceed $50,000,000 and new loan guarantee commitments shall not exceed $50,000,000.".

By Mr. VENTO:

—Page 41, line 24, strike out ", or the installation of equipment,".

Page 42, beginning on line 15, strike out ", or the installation of equipment,".

H.R. 6956

By Mr. GORE:

—Page 13, line 18, strike out "$544,963,000" and insert in lieu thereof "$555,106,000".

—Page 14, line 3, strike out "$364,575,000" and insert in lieu thereof "$372,970,000".

By Mr. SCHEUER:

—On page 13, line 24, strike out "$121,204,000" and insert in lieu thereof "$146,204,000".

EXTENSIONS OF REMARKS

COMMONSENSE ABOUT TWO GREAT PROBLEMS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. MICHEL. Mr. Speaker, I recently came across two informative and thought-provoking editorials dealing with the questions of our national economy and our national defense. Obviously these two subjects do not lack editorial commentary throughout the Nation. But the editorials I read avoid the usual emotional arguments and bring commonsense to the subjects. I want to share them with you and our colleagues in the hope that commonsense of this kind might prove to be contagious.

At this time I wish to insert in the RECORD "First We Must Survive" and "The Roof Did Fall In," editorials published July 19 and July 17, 1982, in the Peoria Journal Star.

[From the Journal Star, July 19, 1982]

FIRST, WE MUST SURVIVE

We obviously have trouble, today taking seriously the very idea that national survival can be or ever was really at stake.

For many of us, apparently, the concept is simply inconceivable.

We remember the overwhelming victories and dismiss the earlier losses and incapacities as aberrations along the way.

We are conditioned to such a high level of freedom of movement and choice and to such basic national security that anything else is a vague and improbable abstraction that we simply cannot fully grasp.

Many have the inclination, therefore, to dismiss such as nonsense or "paranoia."

It is difficult to conceive the real nature of Soviet society, for example, to start with or to feel the Soviet threat as a real thing unless you have contact with it in some way.

Often, when that happens, the realization comes as a shock and then one may get an exaggerated reaction.

That, however, is closer to reality than shrugging off the question of survival and making all judgments on the basis of the purity of our principles.

In war, "expediency" takes on a very different shape and reality.

If you confront, for example, as a commander, a choice of attacking and losing 150 lives in a day—or staying on the defensive and losing 400 or 500 or 600 over time in a long drawn-out exchange of fire—there is no room for the abstract notion that one killing or 500 is essentially "the same thing."

If you know the men, the survival of 300 or so has to be balanced against the sacrifice you may demand—and a decision has to be made because "no decision" is, in fact, enescapably, a kind of decision in itself that brings its own high price.

So, you either opt out and abandon your people to the injuries of circumstance or you do the best you can.

That goes from a squad leader up to the President of the United States. All have to do it.

Some ideologues have so much passion for "tolerance" and "understanding" that they cannot and will not tolerate or understand that level of pure necessity.

They simply refuse to accept or are incapable of imagining having their backs to the wall or this nation standing with its back to the wall . . . and what would happen to their high abstract notions under such conditions.

One reason England stood alone, against incredible odds, with its back to the wall within the vivid memory of many of us was because the British intelligentsia could not imagine such a threat as being real—until it arrived with the shattered remnants of British units saved at Dunkirk and on the wings of Luftwaffe planes filling the English sky.

Almost too late—and precisely as Winston Churchill had warned—and prophesied—while they sneered at him. (That's why they sent for him when the reality hit them in the face at last.)

This handicap distorts history, old and recent, alike. It is hard for Americans to realize that Mexico and the U.S. at the time of the Mexican war were not greatly different either in physical size or population, that the Mexican army was well-equipped (by European powers) and experienced, and that trained European military observers actually predicted to their governments a Mexican victory. The war was won by brilliant tactics with only 10,000 men operating in very rugged and hostile countryside far from home bases with no trains, no planes and no trucks to bring them aid. It was no "pushover"—no foregone conclusion.

We cannot afford the self-indulgence these days of misreading history, misjudging American motives, misguessing the Soviet mentality and pursuing a "noble", self-congratulatory "cause" born of naivete.

As to the Soviet mentality, the record speaks for itself—and rationalization about them is not a responsible substitute.

National suicide is not the highest form of morality, if that is the reality—no matter what name or claim is made for the policy that produces such a result.

[From the Journal Star, July 17, 1982]

THE ROOF DID FALL IN

When he ran for president, Ronald Reagan told us that we have pushed the tax-spend system ever upward until it has reached the limit—and beyond the limit of economic safety. He warned that we had to have a change in that direction before the roof fell in.

Faced with such major institutional, political and emotional resistance against changing the governmental habits of an entire generation, Reagan proposed a tentative, three-year program that was supposed to dent the trend—lessen the blast of the spending explosion—and then, hopefully, it could be turned around.

He got the first step of the tax side of that program and some budget adjustments (nowhere near enough to actually "cut" spending). In short, he got his foot in the door, but before he could move inside with his program—the roof did fall in.

He was instantly accused of being the Samson who had shoved over the columns holding up the Temple and brought the economy crashing down on us.

Everybody in this country, lobor leader, liberal congressman, business manager, butcher, baker, candlestick maker, knows perfectly well that there has to be a limit to how much of a people's production a government can confiscate for its own manipulations. Every one of us knows that at some point there's a limit to the size of the national debt beyond which it will simply eat us alive.

Everybody knows that expanding the debt and raising taxes could not possibly go on forever.

But those who enjoyed great success (or special benefits) keep wanting to edge it up every year on the theory that you can always do it one more time.

Eventually, we were bound to hit the brick wall.

Well, maybe we have hit it.

But whether we have hit it for sure or not, it would certainly be terribly dangerous and downright irresponsible to persuade ourselves that we can get away with more taxes and more debts for another budget—and another.

There is a break point, and if this isn't it, it's mighty close to it.

We don't know if Reagan's answers are the right answers. We aren't too sure about that. But we feel very sure, indeed, that this country cannot afford to blame the recession on Reagan's sand-bag thrown into the flood and then plunge ahead pretending not only that overspending by government is not what finally strangled the private economy—and there is plenty of room for more of the same.

Yet some tell us eagerly that "morality" demands it and conscience requires it.

There is no morality in poor husbandry of a nation's resources. It is conscienceless to plunge forward on the basis of "good intentions" and a reckless disregard for the ultimate disaster.

Morality is a cheap and superficial fake if it ignores the real threat such a course clearly invites simply because while we all know there has to be a limit, nobody knows for sure just when or where that limit falls.

Nor is it truly "morality" that plunges ahead while passing the buck to God to see to it that no catastrophe follows.

He is not responsible to make any well-meant but otherwise careless folly of ours work.

We try to put that on Him at our peril.

As for the humanists who are unbelievers, but plunge ahead out of sheer arrogance about their own high purposes and glorious ideas—it isn't "morality" to use other people and their property to make you feel good . . . at grave risk to all. To do so with emotional appeals to "morality" is downright immoral in itself.

But it sure doesn't keep the promoters from waving the flag of "morality" as hard as they can . . . hoping nobody sees past it

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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to hold them responsible for actual consequences.●

EFFORTS TO CUT BACK ON SOCIAL SECURITY BENEFITS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. PEYSER. Mr. Speaker, a little over a year ago, the Reagan administration promised senior citizens that a safety net was spread for them and that there would be no reductions in social security, medicare, or any of the social programs that serve the needs of the people. I am deeply disturbed because during this past year, we have seen cutbacks in programs affecting senior citizens centers, senior nutrition and medicare, and on three separate occasions, efforts to cut back on social security benefits. These cutbacks were supported by all of the Republicans in the House of Representatives.

We are today seeing what I believe to be another equally outrageous act being performed at the direct request of the White House. The Internal Revenue Service is being asked to review the tax records of 3½ million SSI recipients—people who are either blind, handicapped or the poorest of our seniors—to see if, in truth, they are reporting all of their dividend and interest earnings to Social Security for eligibility purposes. This review will not only be of tremendous cost, but if it is carried out, will imply that seniors are not to be trusted. If the administration would concentrate its efforts on trying to collect what the IRS indicates is $66 billion in unpaid taxes by corporations and individual earners, the economic situation in the country would be far better off.

Furthermore, Mr. Speaker, all indications are that the Reagan administration's request earlier this year to cut $40 billion from social security benefits will undoubtedly be on the drawing board after November. I hope for the good of all Americans that the senior citizens recognize this threat and let their voices be heard loud and clear.●

SECRETARY OF ENERGY'S NUCLEAR REMARKS ARE SICK

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. LAFALCE. Mr. Speaker, in the midst of the recent debate on the nuclear freeze resolution, the United States exploded a nuclear device in the Nevada desert. The test, part of our continuous weapons testing program, might have gone unnoticed had it not been for the intemperate remarks of Energy Secretary James Edwards.

Commenting on the weapons testing program, the Secretary said that such tests will and must continue if the United States is to come out No. 1 in a nuclear war.

Mr. Speaker, I hope that all of our colleagues, those who voted for the freeze, and those who backed the administration's substitute, recognize the folly of Mr. Edwards' remarks. As was pointed out in an editorial which appeared in the Lockport Union Sun and Journal, no one will win a nuclear war; there will be no victory parties following a nuclear exchange. What will remain is death and the destruction of life as we know it.

Such remarks are particularly troublesome coming from the cabinet member whose department has the responsibility for the Nation's nuclear weapons development program. Added to the call to nuclear arms from the Departments of Defense and State, such pronouncements tend to subject the administration's commitment to nuclear arms reductions to criticism and ridicule.

Mr. Speaker, I believe that there is no greater cause today than a nuclear arms freeze and reduction. Secretary Edwards' remarks lead me to wonder if the administration can understand, let alone share, my concern and the concern of so many Americans for the future of our world.

[The editorial follows:]

[From the Lockport Union Sun and Journal, Aug. 7, 1982]

ENERGY CHIEF'S N-REMARKS SICK

Sick. Sick. Sick. That's all one can say of Energy Secretary James Edwards remarks about the atomic warhead test below the Nevada desert Thursday.

In case you missed it, Edwards says the Reagan administration plans more tests because—and get this quote—"I want to come out No. 1, not No. 2" in a nuclear war.

On top of that, like a school youngster going to his first prom, he found the test "exciting."

If this sort of thinking prevails among our leaders, we have got problems; real problems.

In the first place, Edwards, if he has a grain of intelligence, must realize that no one—repeat: no one—will win a nuclear war. The horror that would occur in an N-war is almost too frightening to contemplate. Who would want to be left to pick up the pieces?

In the second place, this easy, light talk about nuclear war on the part of an official of cabinet rank makes the Russians seem the soul of discretion and restraint.

Edwards believes that further tests are needed because the U.S. has fallen behind in the past few years. The goal, he maintains, is "peace through strength."

One detects a growing "love affair" in Washington over nuclear weaponry. It isn't a healthy attitude; on the contrary it is scary.

It is one thing to have a strong defense posture and the sophisticated weaponry to back it up. It's quite frightening to suspect that it is becoming a national obsession.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. CORCORAN. Mr. Speaker, due to official business relating to the pending tax bill and a meeting with Treasury Secretary Donald Regan, I was unable to be present and cast my vote on rollcall No. 279 last Friday. Had I been present, I would have voted "no" on the motion to order the previous question on the preferential motion to refer House Resolution 560, relating to the State-Commerce-Justice judiciary appropriations bill, to the Committee on Rules.●

LET US DO THE RIGHT THING NOW FOR FAMILY FARMERS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, the U.S. Agriculture Secretary recently predicted, in his 1983 wheat program, that the price of wheat will go no higher than $3.80 a bushel for the next 18 months. If that prediction is accurate, and if this Congress does nothing to help stimulate increased farm prices, then we truly face a disaster in agriculture.

Time is already growing short for family farmers. Their income is down, interest rates are high and many lending institutions are tightening the noose.

The problem is that we produce more than we can sell. Therefore, we must develop programs that give farmers incentives to produce less and to sell more—particularly in the export market.

A LITTLE COMMONSENSE WOULD GO A LONG WAY

If this Congress would pay attention to three basic principles, we could develop a farm program that works and gives family farmers a chance to survive.

We should stop interfering with farm export markets. The last four Presidents imposed embargoes or restrictions on farm export sales. That has to stop. When President Reagan tells the Soviets that we will only agree to a 1-year grain sales contract, it is the same as telling them that if they want a long-term contract they should check around with other suppliers such as Canada, Argentina, or France. In my opinion, that is foolish economic policy. It is unworkable and it is time Democrats and Republicans stop using farmers' markets for foreign policy.

If this country is going to compete in international agricultural trade, we have got to develop marketing incentives such as revolving export credit funds, a buy-down on interest rates, an aggressive barter progam, and others. And, we should find new markets here at home by developing an alcohol fuels industry.

To encourage American farmers to reduce production, incentives such as increased loan rates must be offered. When the cost of production of a bushel of wheat is well over $5.50, a loan rate of $3.50 is not going to encourage farmers to participate in a set-aside program. We must provide higher support prices.

We need some real leadership on these issues and we need it now.

SOME OLD FASHIONED SPIRIT

Maybe it is time to remember the days when we had people who were really willing to step out and speak up for the family farmer. Nearly 50 years ago North Dakota Gov. Bill Langer used the National Guard to stop sheriffs from auctioning off farms so family farmers could catch their breath and survive in a period of economic depression. Forty-five years ago Governor Langer ordered the State-owned mill and elevator to offer nearly twice the price for wheat that grain traders offered. The grain traders then decided to increase their own price to match the State mill's offer.

These daring and imaginative acts by Governor Langer were controversial, but the fact is, he was doing something aggressive to give farm families a chance to survive.

Family farmers—particularly the young farmers who are now balancing on the edge of financial collapse—are again looking to us for some aggressive and imaginative help.

Time is short and promises are cheap, but family farmers are an important part of America's future and we simply have to take action to stop them from being forced off the land.

Farmers do not want a free ride. They just want an even chance to make it, and I plead with the Members of this House to join me in taking action on their behalf before it is too late.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 17, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 18

9:30 a.m.

Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold hearings on S. 1782, eliminating the withholding of retainages by the Federal Government from small business contractors and subcontractors in certain cases.
3302 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to consider proposed amendments revising certain provisions of title IV (plan termination insurance) of the Employee Retirement Income Security Act of 1974.
4232 Dirksen Building

Select on Indian Affairs
Business meeting, to mark up S. 2294, providing for the settlement of certain land claims of the Chitimachea Indian Tribe of Louisiana, S. 2719, providing for the settlement of certain land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and to become a federally recognized tribe, S. 2623, authorizing funds for fiscal years 1985, 1986, and 1987 for the tribally controlled community college program, H.R. 3731, relating to the use of distribution of certain judgment funds awarded by the Indian Claims Commission or the U.S. Court of Claims, and to resume markup of certain pending legislation.
5110 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting, to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.
324 Russell Building

Appropriations
Business meeting, to mark up the substance of H.R. 6956, appropriating funds for fiscal year 1983 for the Department of Housing and Urban Affairs and certain independent agencies—pending on House calendar.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To resume hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

Judiciary
To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
224 Russell Building

10:30 a.m.

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.
3110 Dirksen Building

Finance
To hold oversight hearings to examine the social security disability insurance program.
2221 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

AUGUST 19

9:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States.
457 Russell Building

9:30 a.m.

Labor and Human Resources
To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.
4232 Dirksen Building

Small Business
Export Promotion and Market Development Subcommittee
To hold hearings on certain obstacles faced by small business exporters.
424 Russell Building

10:00 a.m.

Energy and Natural Resources
To hold hearings on acid precipitation and the use of fossil fuels.
3110 Dirksen Building

Governmental Affairs
To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.
3302 Dirksen Building

Joint Economic
Monetary and Fiscal Policy Subcommittee
To resume hearings on the current national tax system, focusing on a flat-rate tax proposal.
5110 Dirksen Building

10:30 a.m.
Veterans' Affairs
Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.
412 Russell Building

1:00 p.m.
Conferees
On S. 2036, providing for State and local employment and training assistance.
S-207, Capitol

2:00 p.m.
Environment and Public Works
To hold hearings on S. 2235, to provide improved protection for the diplomatic community in New York City.
4232 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.
235 Russell Building

SEPTEMBER 16

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the overall effects of coal slurry pipelines on the U.S. transportation system.
235 Russell Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

SEPTEMBER 23

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of Government contractors.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

AUGUST 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 18

10:00 a.m.
Governmental Affairs
To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.
3302 Dirksen Building

AUGUST 24

9:00 a.m.
Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold hearings on S. 2190, providing for the recruitment and training of volunteers in Federal agencies.
3302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, August 17, 1982*

The House met at 10 a.m.

Rabbi N. William Schwartz, Temple Beth El Congregation, Pensacola, Fla., offered the following prayer:

Almighty God: As our House of Representatives gathers, we pray that it will always heed its task of meeting the needs of all Americans.

With a clear vision of what made our beloved country a land of freedom and opportunity, may we always keep in mind that it is from You that this vision became a part of us.

May ours be a land where bigotry and violence shall not be tolerated, where hunger shall be abolished, and where all shall follow the Golden Rule.

Give this body wisdom equal to its strength, and courage equal to its responsibilities, that our Nation may always continue as the leader of the free world.

We pray that You will give strength to all people and we further pray that You will bless all people with peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RABBI N. WILLIAM SCHWARTZ

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, it is my privilege and pleasure this morning to welcome Rabbi N. William Schwartz and to introduce him to my colleagues. Rabbi Schwartz is the spiritual leader of Temple Beth El in Pensacola, Fla.—a pulpit he has held with distinction for the past 20 years.

Rabbi Schwartz received a bachelor of science degree from the College of William and Mary and was ordained at the Hebrew Union College in Cincinnati, Ohio. He also holds a master of arts in Hebrew letters from the Hebrew Union College and, in 1980, was awarded a doctor of divinity from that institution.

I have known Rabbi Schwartz for several years and have been deeply impressed with his social concerns and strong leadership. An active and influential member of the Pensacola religious and secular communities, Rabbi Schwartz serves on the Pensacola Interfaith Council and is a member of the Central Conference of American Rabbis. Rabbi Schwartz has also served as a U.S. Government auxiliary chaplain at the Eglin Air Force Base and at the Eglin Federal Prison Camp. He is presently serving as chaplain at the Pensacola Naval Air Station.

In addition, Rabbi Schwartz has a long history of active and effective involvement with the social and educational concerns of the community. For example, he is a past board member of the Community Mental Health Center and is currently on the Kiwanis board. He is also an adjunct professor at both the University of West Florida and at Pensacola Junior College, where he teaches Hebrew and introduction to Judaism.

As we begin this day's session, I am proud to welcome Rabbi Schwartz, his wife Elaine, and their children, Marty, Debbie, and Danny. I wish him mazel tov in his future endeavors.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

JENNIFER FERRER

The Clerk called the bill (H.R. 1830) for the relief of Jennifer Ferrer.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MOHAMMAD ISMAIL KHAN, HASHMAT ISMAIL KHAN, AND MURAD ISMAIL KHAN

The Clerk called the bill (H.R. 2276) for the relief of Mohammad Ismail Khan, Hashmat Ismail Khan, and Murad Ismail Khan.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SIRAJ YOOSUF PATEL, FARIDA FATIMA SIRAJ PATEL, HUMAIRA SIRAJ PATEL, FAYSAL SIRAJ PATEL, AND FAHD SIRAJ PATEL

The Clerk called the bill (H.R. 2277) for the relief of Siraj Yoosuf Patel, Farida Fatima Siraj Patel, Humaira Siraj Patel, Faysal Siraj Patel, and Fahd Siraj Patel.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EMANUEL F. LENKERSDORF

The Clerk called the bill (H.R. 2520) for the relief of Emanuel F. Lenkersdorf.

There being no objection, the Clerk read the bill as follows:

H.R. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Emanuel F. Lenkersdorf shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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With the following committee amendment:

On page 2, strike lines 4 through 6 and insert in lieu thereof: "which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TESSIE AND ENRIQUE MARFORI

The Clerk called the Senate bill (S. 191) for the relief of Tessie and Enrique Marfori.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that it shall be in order to consider the six private immigration bills, calendar Nos. 54 through 59, notwithstanding the fact that they have not been on the legislative calendar for 7 legislative days.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LOURIE ANN EDER

The Clerk called the Senate bill (S. 215) for the relief of Lourie Ann Eder.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUAN ESTEBAN RAMIREZ

The Clerk called the Senate bill (S. 167) for the relief of Juan Esteban Ramirez.

There being no objection, the Clerk read the Senate bill as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Juan Esteban Ramirez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KANG OK BOON

The Clerk called the bill (H.R. 684) for the relief of Kang Ok Boon.

There being no objection, the Clerk read the bill as follows:

H.R. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kang Ok Boon may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Robert J. Cornyn and Linda L. Cornyn, citizens of the United States, pursuant to section 204 of such Act, except that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

With the following committee amendments:

On page 1, line 5, delete "(F)" and insert in lieu thereof "(E)".

On page 2, line 1, delete ", pursuant to section 204 of such Act".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Ok-Boon Kang."

A motion to reconsider was laid on the table.

GEORGE HERBERT WESTON AND MABEL GREGSON WESTON

The Clerk called the bill (H.R. 1481) for the relief of George Herbert Weston and Mabel Gregson Weston.

There being no objection, the Clerk read the bill as follows:

H.R. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, George Herbert Weston and Mabel Gregson Weston shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendments:

On page 2, line 1, delete "and Mabel Gregson Weston".

On page 2, line 5, delete "aliens" and insert in lieu thereof "alien".

On page 2, line 7, delete "two numbers" and insert in lieu thereof "one number".

On page 2, lines 7 and 8, delete "and conditional entries".

On page 2, line 10, delete "aliens" and insert in lieu thereof "alien's".

On page 2, line 12, delete "and entries".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of George Herbert Weston".

A motion to reconsider was laid on the table.

BERENDINA ANTONIA MARIA VAN KLEEFF

The Clerk called the bill (H.R. 2193) for the relief of Berendina Antonia Maria van Kleeff.

There being no objection, the Clerk read the bill as follows:

H.R. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Berendina Antonia Maria van Kleeff shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendments:

Page 2, line 6, delete the words "and conditional entries".

Page 2, lines 9 and 10, delete the words "and entries".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALEJO WHITE AND SONIA WHITE

The Clerk called the bill (H.R. 6811) for the relief of Alejo White and Sonia White.

There being no objection, the Clerk read the bill as follows:

H.R. 6811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Alejo White and Sonia White may be classified as children within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Peter L. White, citizens of the United States: *Provided,* That the natural parents or other brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 6955

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to waive all points of order against the conference report on the bill, H.R. 6955.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REAGAN TAX BILL SHOULD BE DEFEATED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, it has been said that diversity is one of the great strengths of the Democratic Party, and if that is true, the party has never been stronger than it is today.

Mr. Speaker, a tax bill that once again hits the middle and lower middle income families is not one that I believe Democrats should support. The loss of deductions for health and insurance premiums, the tripling of the telephone tax, the loss of casualty deductions the increasing cost for major medical problems, withholding taxes on savings—this is not a Democratic bill.

Mr. Speaker, why do we not go to the real problem, which is the tax bill the President pushed through the Congress last year? Let us get back the 1983 tax cut. Let us put teeth in the windfall profit tax and go after the safe harbor provisions?

A terrible part of this new tax bill, as you know, Mr. Speaker, is cutting $15 billion from medicare and medicaid.

Let us act like Democrats on this one and vote for the people and defeat this tax bill.

DEFICIT FLOW MUST BE STAUNCHED

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, I often take the well to point out my disagreement with the President.

I think it only fair now that I take the well to commend him on the strong speech he delivered last night. I do not know whether he will be able to convince Republicans to vote for the tax bill on the strength of that appeal to the people, but I do know that our President is facing the cold, economic reality of $600 billion in red ink.

The only way to staunch that flow is to continue to cut spending and to face the bitter medicine of raising revenues.

President Reagan intends to do that. However, he glossed over the reasons why we find ourselves raising revenue at this time. His economic plan of last year is not working. If his theories had worked, we would not have been forced into this desperate situation. As long as he understands that, and the Members of this body understand that, we can embrace this necessary measure and bring deficits down, and with them interest rates.

I hope the Members will heed the President's warning of last night. If we do not pass the tax bill, we are in for very tough economic times.

SHAME. SHAME. SHAME.

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, Shame. Shame. Shame.

Last night television viewers in the free world were sickened by the sight of Polish riot squads firing water cannons and tear gas into crowds of unarmed demonstrators.

Many were elderly men, women and children who kneeled and sang hymns as the powerful jets of water struck them down.

What terrible crime had they committed to warrant these gestapo tactics, Mr. Speaker?

Very simply, they were protesting the 8-month old police state that has crushed liberty in Poland and all but snuffed out the free labor movement, Solidarity.

As it approaches the second anniversary of its creation on August 31, most of Solidarity's leaders—including Lech Walesa—remain prisoners of the state.

And, while this Communist reign of terror continues the puppet premier of Poland is visiting his Soviet masters on the beaches of the Black Sea.

Mr. Speaker, freedom-loving people everywhere can only say:

Shame. Shame. Shame.

RAISING TAXES IN WEAK ECONOMY IS NOT THE WAY TO GET PEOPLE TO WORK

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, last night the President, as usual, made a good speech, but this time he is going against the grain. The people do not want and do not need a tax increase at this time. They intuitively know that you cannot balance the budget without growth, and they intuitively know that raising taxes in a weak economy is hardly the way to get people to work, produce, save, and invest.

The strength of the resistance that is being felt now in this House of Representatives is not coming from this Member of Congress. It is not coming from the gentleman from New York, Congressman KEMP. It is coming from the people. In the face of that, the President's advisers, who have been misleading him lately, are saying that a defeat will hurt the President. It will not hurt the President to defeat this bill. The process will go on in this institution as it has for 200 years. In fact, it will strengthen the President because it will reaffirm the mandate the people gave him in 1980 to control the growth of Federal spending, not raise taxes.

That is what the people want. That is what they are trying to say through their Representatives in this institution—hold down spending, get this economy going, do not raise taxes when the economy is in a weakened state, and let us get America to producing, and we will work our way right out of this crisis.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote on the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

PUERTO RICAN PASSENGER SERVICE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1489), to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available, as amended.

The Clerk read as follows:

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H.R. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, passengers may be transported on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this Act.

(b)(1) Upon a showing to the Secretary of Transportation, by the vessel owner or charterer, that service aboard a United States passenger vessel qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each vessel transporting passengers under authority of this Act that he shall, within two hundred and seventy days after notification, terminate all such service. Coastwise privileges granted to an owner or operator under this Act shall expire on the two hundred and seventieth day following the Secretary's notification.

(2) Upon a showing to the Secretary, by the vessel owner or charterer, that service aboard a United States passenger vessel not qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each foreign-flag vessel transporting passengers under authority of this Act that he shall, within two hundred and seventy days after notification, terminate all such service. Coastwise privileges granted to an owner or operator under this Act shall expire on the two hundred and seventieth day following the Secretary's notification.

(c) If, at the expiration of the two-hundred-and-seventy-day period specified in subparagraphs (b)(1) and (b)(2) of this Act, the vessel that has been offering or advertising service pursuant to a Certificate described in either of those subparagraphs has not entered the coastwise passenger trade between ports in Puerto Rico and other ports in the United States, then the termination of service required by either of those subparagraphs shall not be required until ninety days following the entry into that trade by the United States vessel.

(d) Any coastwise privileges granted in this Act that expire under subparagraph (b)(1) or (b)(2) shall be reinstated upon a determination by the Secretary that the service on which the expiration of the privileges was based is no longer available.

(e) For the purposes of subparagraphs (b)(1) and (b)(2), the Secretary, by regulation, shall define the term "passenger vessel" and shall consider as the basis for the definition the type and volume of service provided in the Caribbean passenger trades, as well as the volume of service required or being provided between ports in Puerto Rico and other ports in the United States.

□ 1015

The SPEAKER pro tempore. (Mr. BROWN of California). Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1489 is a bill which would allow passenger vessels which are not qualified to engage in the coastwise trade to transport passengers between ports in Puerto Rico and other ports in the United States until service is available on coastwise-qualified vessels.

No passenger vessel qualified to engage in the coastwise trade has transported passengers between Puerto Rico and other ports in the United States for three decades. The residents of Puerto Rico, because of their distance from the mainland and the fact Puerto Rico is an island, are restricted in their travel options. Individuals who cannot fly for physical or psychological reasons must use water transportation via the Virgin Islands that is costly and time-consuming. In addition, since tourism is such an important part of the island's economy, these restrictions deny them millions of dollars in tourist trade annually.

Mr. Speaker, the bill before the House today, while permitting a substantial variance from the restrictions placed on foreign flag vessels, provides appropriate protection so that reasonable service offered by qualified U.S.-flag operators will be allowed to enter this trade. The bill contains several safeguards which prevent this limited variance from our cabotage laws becoming a permanent fixture.

I believe that this legislation serves the dual purpose of providing alternate transportation to Puerto Rico, enhancing that island commonwealth's tourist trade while protecting our vital concerns for our Nation's maritime enterprise.

I ask my colleagues to join me in adopting this legislation.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise in support of the bill. The fact that we are considering H.R. 1489 today is a tribute to our colleague from Puerto Rico, BALTASAR CORRADA. He has sponsored similar legislation in previous Congresses and has diligently worked in this session to move the bill through the legislative process.

The bill addresses a problem that affects the people of Puerto Rico—our fellow citizens in the Caribbean. Because of a void in U.S.-flag passenger service over the past three decades, transportation between Puerto Rico and the U.S. mainland has been severely restricted. This bill will be instrumental in changing that. Not only will Puerto Ricans be able to travel more freely to the United States and back home again, but more mainland residents will have the opportunity to take a cruise and vacation in that beautiful resort island. Consequently, more tourist dollars will flow into American businesses in Puerto Rico—thereby helping their economy.

One concern about the bill, however, has been ubiquitous throughout deliberations on this legislation. The concern—voiced by a number of people—is whether passage of this legislation will lead to derogation of the Jones Act philosophy that trade between U.S. ports should be conducted on U.S.-flagged, U.S.-built, and U.S.-manned vessels.

I hasten to reiterate what I have said since the first hearing on H.R. 1489: This legislation addresses a specific and unique problem affecting the people of Puerto Rico. My support for this bill should not be misconstrued to mean that I will support other exemptions from the coastwise trading laws. I believe the integrity of the Jones Act must be protected, because it is important to American labor and the American shipping industry.

As far as I am concerned, the Jones Act philosophy is as vital today as it has ever been.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1489. The bill would, as the chairman has indicated, permit vessels not qualified for the coastwise trade to transport passengers between Puerto Rico and other ports in the United States.

Under current law, only U.S.-flag U.S.-built vessels are permitted to transport cargo or passengers between U.S. ports. While that public policy, known as the Jones Act, has for many years served to promote our U.S.-flag merchant marine, there are occasionally situations in which this policy results in a certain area or trade not being served at all. In such instances, Congress has from time to time granted a limited exemption to the Jones Act. H.R. 1489 is such an exemption.

This bill will permit the transportation of passengers only, between Puerto Rico and other ports in the United States by foreign-built vessels if there are no U.S.-flag passenger vessels available. This bill also directs that a U.S.-flag foreign-built passenger vessel wishing to enter the trade will be given preference over a foreign-flag foreign-built passenger vessel. The administration has no objection to the bill and I am aware of no objection on this side of the aisle.

I urge the House to act favorably on H.R. 1489.

Mr. JONES of North Carolina. Mr. Speaker, I now yield 7 minutes to the gentleman from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Speaker, it is with a great sense of satisfaction that I speak in support of H.R. 1489. Since I first came to the Congress in 1977, I have been trying to get legislation enacted that will allow the transportation of passenger between Puerto Rico and U.S. mainland ports on foreign-flag vessels when coastwise qualified vessels' service is not available. With the approval of this bill, we will be restoring the freedom of movement and the right to travel of thousands of persons in Puerto Rico and the U.S. mainland who cannot travel by air, the only mode of transportation currently available between the mainland and the Island.

In addition, this legislation will allow us to expand our tourism industry by developing incentives to attract cruise lines to offer cruise/fly packages and more efficient service to Puerto Rico.

Tourism is a vital industry to the economy of Puerto Rico and its growth has been impressive in the last 20 years. In 1960 the total number of visitors to Puerto Rico was 388,762, of which 41,337 were cruise ship visitors. They spent $64.1 million in our economy. By 1980 that figure had grown to 2,180,464 visitors of which 501,124 were cruise ship visitors. These visitors spent a total of $635 million which is 5 percent of Puerto Rico's gross domestic product. Tourism provides good entry-level jobs in an island which is currently suffering from a level of unemployment that exceeds 23 percent. For every million dollars spent by tourists in Puerto Rico, 140 jobs are created. The annual rate of growth in visitors to Puerto Rico between 1960-80 has been 12.5 percent. These figures are not only impressive but are evidence of Puerto Rico's success in developing a solid and attractive tourism industry, and show the capacity for growth and expansion that exists in this area.

It is estimated that an additional 81,000 visitors to Puerto Rico during the first year of operation could be anticipated as a result of the enactment of this legislation. These additional tourists, spending the average $355 a mainland visitor spends during a stay in Puerto Rico, would bring an additional $28 million to the total tourist expenditures. This would translate into a $60 million increase to Puerto Rico's economic total output and would create 4,000 new jobs.

The other U.S. domestic area in the Caribbean, the U.S. Virgin Islands, is already exempt from these restrictions. It is only fair and equitable that Puerto Rico be given this opportunity for expansion of its tourism industry.

This bill was the subject of 2 days of hearings in San Juan and in Washington. The testimony received at those hearings provided evidence of the strong support that exists for this bill. The legislation is supported by the Department of Transportation and President Reagan endorsed it as part of measures for Puerto Rico at the time we are trying to assist other areas in the Caribbean Basin.

Mr. Speaker, I would like to stress that the need for this bill stems from the fact that since 1953 there has been no U.S.-flag passenger vessels operating between the mainland United States and Puerto Rico and none is contemplated at this time. There are safeguards to insure that U.S.-flag service will displace foreign-flag service once it becomes available. My interest with this bill is to remedy the present situation in a manner that not only offers relief to those who cannot travel by air, but also preserves our Nation's legitimate interest in promoting and protecting the U.S. maritime industry.

I would also like to stress that this bill only addresses passenger transportation. It is not my intention, at this time or at any time in the future, to request an exemption for Puerto Rico from the provisions of the Jones Act relating to cargo. The hearing record on this legislation is very clear on that point and stems from two important factors. First, Puerto Rico's commitment shared with the rest of the Nation, to the continued viability of a U.S. maritime cargo industry; and, second, because as owners of the Puerto Rico Maritime Shipping Authority, the Government of Puerto Rico has a large economic stake on the future of U.S.-flag carriers.

I want to thank the chairman of the Subcommittee and the Committee on Merchant Marine, my good friends Mr. Biaggi and Mr. Jones, and the ranking members Mr. McCloskey and Mr. Snyder for their support and interest in my bill.

The cooperation extended to me and my staff during consideration of this legislation was extensive, close, and deeply appreciated by me.

In closing, I want to urge my colleagues to vote in favor of H.R. 1489 and I thank them for their support.

Mr. Speaker, I want to discuss with the manager of the bill a couple of transcription errors that were printed on the report.

First, on page 2 of the report, there is a phrase left out of the language on section (e). That section should read:

> (e) for the purposes of subparagraph (b)(1) and (b)(2), the Secretary, by regulation, shall define the term passenger vessel and shall consider as the basis for the definition the type and volume of service provided in the Caribbean passenger trades, as well as the volume of service required or being provided between ports in Puerto Rico and other ports in the United States.

The phrase "service required or being provided between ports in" was inadvertently left out of the report.

Second, on page 8, in the section-by-section analysis of the bill and again dealing with section (e), there is a phrase that was mistakenly left in when transcribing the report. There should be a period after the words "U.S. ports." The balance of that sentence "and should be measured exclusive of traffic related to inter-Caribbean cruise activity" should be stricken from the report.

Does the chairman agree that these items were inadvertently omitted or retained, respectively, and that the record should show the precise intent of the committee?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, the gentleman from Puerto Rico (Mr. Corrada) is correct, and the chairman of the committee agees with what he has said.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield for a question?

Mr. CORRADA. I yield to the distinguished gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Did I understand the gentleman to say at the beginning of his remarks that this was a printer's omission and that it is included in the original report?

Mr. CORRADA. The gentleman is correct.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman. I just wanted to be certain. I was aware of it, and I wanted the Record to show that the committee did provide the proper report and that this was a printer's omission.

Mr. JONES of North Carolina. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Jones) that the House suspend the rules and pass the bill, H.R. 1489, as amended.

The question was taken.

Mr. MOLINARI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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RESERVING CERTAIN SURPLUS NAVY VESSELS FOR HUMANITARIAN PURPOSES

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4828) to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries, as amended.

The Clerk read as follows:

H.R. 4828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that it is in the national interest to make suitable surplus Government vessels available for use by private nonprofit organizations in providing health education, training, care, and technical assistance as well as other humanitarian services to the peoples of developing countries.

Sec. 2. Within ninety days after the enactment of this Act, the Secretary of Transportation shall designate the vessels listed in section 6 as humanitarian service candidates.

Sec. 3. Except as provided in section 4, the vessels listed in section 6 may not be removed from the National Defense Reserve Fleet.

Sec. 4. The vessels listed in section 6 may be removed from the National Defense Reserve Fleet for either of the following reasons:

(a) When the Secretary determines that one or more of the vessels are required for national security purposes, or

(b) Upon the application of Life International, a nonprofit corporation organized under the laws of the District of Columbia, the Secretary may transfer one or more of the vessels to LIFE International upon such terms and conditions as he may prescribe.

Sec. 5. During such time as any one of the vessels is in the possession of LIFE International, it shall be operated as an eleemosynary vessel primarily engaged in providing health education, training, care, technical assistance, and other humanitarian services to the peoples of developing countries. No such vessel may be used for commercial transportation purposes. In the event that LIFE International no longer requires a vessel for the purposes of this Act, that vessel shall be conveyed back to the United States in as good condition as when received, ordinary wear and tear excepted, to the point of original delivery without cost to the United States.

Sec. 6. This Act shall apply to the following vessels currently held in the National Defense Reserve Fleet:

United States Ship *General Nelson M. Walker* P2-SE2-R1
United States Ship *Donner* LSD-20
United States Ship *Colonial* LSD-18

Sec. 7. This Act shall expire by its terms five calendar years after the date of enactment.

□ 1030

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. Jones) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Snyder) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Jones).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume. H.R. 4828 directs the Secretary of Transportation to reserve for a 5-year period three surplus naval vessels—U.S.S. *General Walker,* U.S.S. *Donner,* and U.S.S. *Colonial.* At any time during this period, the vessels could be transferred to LIFE International—a nonprofit corporation organized to provide health training and other humanitarian services to the people of developing countries.

This bill imposes no requirement on any agency of Government relative to these vessels which would impose any costs. The reservation directed in this bill merely prohibits the Secretary of Transportation from scrapping the named vessels during the 5-year period. If, during that 5-year period the Secretary has not transferred control of any of the named vessels to LIFE International, the Secretary may transfer those vessels out of the Reserve Fleet for a use consistent with and required by our national security. Once again, H.R. 4828 does not order the transfer of these vessels to LIFE International—it authorizes their transfer to LIFE International if the Secretary of Transportation is satisfied that that organization can meet the conditions and terms which the Secretary sets for the transfer.

Should these vessels in fact be transferred, I am pleased that we will have had an opportunity to support in a very real way voluntarism in aid of a humanitarian program without any cost to the taxpayers of the United States.

I ask my colleagues to join me in adopting this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, today the House considers H.R. 4828. This legislation will authorize the Secretary of Transportation to reserve, for a 5-year period, three former naval vessels presently in the national defense reserve fleet. During this period, the Secretary is empowered to transfer these vessels to LIFE International, a nonprofit organization dedicated to providing health training and other humanitarian services to the peoples of developing countries.

I would like to emphasize that this is not a giveaway of Government property. LIFE International will pay for these vessels and will meet whatever other conditions and terms are established by the Secretary. This legislation is needed because the Secretary lacks specific authority to transfer these vessels out of the reserve fleet.

I would like to tell you a little more about the program developed by LIFE International. LIFE grew out of the Christian Service Corps—a sort of private sector Peace Corps which has placed over 600 volunteers in 60 countries. These volunteers make a 2-year commitment and render vocational training and other assistance to the peoples of developing nations.

LIFE plans to outfit these surplus naval vessels as floating clinics—which will provide medical training, health care, and other services to the people of the Third World. The staff of these clinics will consist of volunteers recruited from medical schools and other health-related facilities.

The program will be financed through funds received from the private sector, and by services contributed by various medical and maritime groups. LIFE already has $500,000 in commitments for in-kind contributions from groups such as the American Bureau of Shipping, Shipyards, and Harbor Pilots.

LIFE International is tackling a problem that we cannot ignore. Each year, the failure to deliver adequate medical assistance to the people of developing nations results in unnecessary suffering and death. In developing countries, mortality rates for children under age 4 are 10 to 20 times higher than in developed countries.

Nearly half of all deaths occur among children under 5. The major causes of death in those countries can be effectively and cheaply controlled by measures used in developed countries.

I recognize we cannot solve these problems, but, by providing these vessels to LIFE International, we can assist in improving health conditions for the needy of the Third World. These vessels, flying the U.S. flag and staffed with American personnel, will clearly signal our concern for the underprivileged of the world.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in support of H.R. 4828. H.R. 4828 is a bill which sets aside three specifically named surplus vessels from the national defense reserve fleet (NDRF) for the use of LIFE International. LIFE International is a nonprofit charitable organization which plans to use the three vessels in the provision of health and other humanitarian services to developing countries.

The Merchant Marine Subcommittee held a hearing on May 19 on H.R. 4828. At that time, testimony was received by all interested parties and LIFE International detailed their intentions to use the vessels for humanitarian purposes. While some have questioned whether LIFE International will be able to acquire the necessary funds and expertise to operate the vessels, it is important to point out that the bill before the House does provide the Secretary of Transportation with the authority to prescribe such terms and conditions on the transfer to LIFE

International as he deems to be appropriate.

I am not aware of any Member's objection on this side of the aisle.

Mr. Speaker, I want to especially take note of the support and work that our colleague from Michigan, Mr. VANDER JAGT, has given to this legislation.

● Mr MITCHELL of Maryland. Mr. Speaker, I am very proud to rise in support of H.R. 4828 and urge my colleagues to join me in voting favorably for this measure. The bill before you, which Congressman GUY VANDER JAGT joined me in introducing some months ago, calls for the setting aside of three surplus vessels for use in the provision of health and other humanitarian services to developing countries. The leadership of Representative MARIO BIAGGI in guiding H.R. 4828 through the Subcommittee on Merchant Marine and subsequently, the full Committee on Merchant Marine and Fisheries, reaffirmed our belief that H.R. 4828 deserves the full endorsement of this House.

Mr. Speaker, I would remind my colleagues that the objectives so named in H.R. 4828 can be accomplished through the work of a private, nonprofit organization at no cost to the Federal Government. Specifically, the measure calls for the setting aside of three targeted vessels, to be stored at the Maritime Administration for a 5-year period. LIFE International, a nonprofit group, under the well-respected leadership of Rev. Robert Meyers and his wife Janet, has deemed these ships appropriate to house the facilities necessary to provide health education, training and care, technical assistance, and other humanitarian services to the peoples of developing countries. Additionally, LIFE International will arrange subsequently for the voluntary personnel and funding required to carry out these service deliveries.

I want my colleagues to be aware that, during the 5-year set-aside period, LIFE International will be working arduously to raise the necessary funds to purchase or lease the three vessels which have been approved in the bill before you today. By passing H.R. 4828, we are moving a step closer to the realization that this country can continue in its commitment to developing countries, while encouraging a real partnership between the U.S. Government and private, nonprofit organizations such as LIFE.

The bill before you does provide that at the end of the 5-year set-aside period, the targeted vessels will revert to the Maritime Administration's discretionary use if adequate funds have not been raised by LIFE International. However, if adequate moneys are confirmed, and I have no doubt that we will realize the essential financial goal, then negotiations will begin between this group and the Maritime Administration so that leasing or purchasing arrangements may be finalized.

I must also remind my colleagues that, during the 5-year set-aside period, the Maritime Administration will not incur any extra costs; only regular upkeep costs are involved for the three vessels. Such upkeep is in line with general Maritime Administration jurisdiction in any case.

Lastly, it is important to note that H.R. 4828 is equipped with a precautionary recall provision. This clause confirms that the set-aside provisions would not apply during any time when the three vessels are needed for national security purposes. While the vessels in question are noncombatant, both Congressman VANDER JAGT and I concur with the Committee on Merchant Marine and Fisheries and the Maritime Administration that such a provision is warranted.

The passage of the bill before you meets several objectives. First, the bill aids in the reaffirmation of this country's commitment to developing nations by guaranteeing the continued delivery of fundamental services under the American flag. Second, the effort fostered by the passage of this bill, moves us yet another step closer to strengthening the bond between the public and private entities that wish to come forward and, together, insure the provision of certain services on behalf of our country. Lastly, the measure before you provides an alternative to extra Government expenditures at a time when the budget deficit and other national economic ills have placed a severe strain on the provision of foreign aid.

I strongly urge my colleagues to vote favorably for H.R. 4828.●

● Mr. VANDER JAGT. Mr. Speaker, I want to express my strong support for H.R. 4828, and urge that it be adopted today under suspension of the rules.

Passage of H.R. 4828 today caps a long effort to authorize the release of surplus naval vessels to LIFE International for humanitarian service. Special commendation is due to the gentleman from Maryland (Mr. MITCHELL) for his tireless effort on behalf of legislation to permit the use of surplus ships for assistance to Third World countries.

As an original cosponsor of H.R. 4828, I am extremely pleased that we have succeeded in bringing this legislation to the House floor. I want to express my gratitude to the chairman of the Subcommittee on Merchant Marine, Mr. BIAGGI, the ranking minority member of the Committee on Merchant Marine and Fisheries, Mr. SNYDER, and the chairman of the committee, Mr. JONES, for their cooperation during consideration of H.R. 4828.

Mr. Speaker, H.R. 4828 does not represent a major issue as there will be little or no cost to the Government. Passage of the bill will not result in immediate improvement in the conditions facing the less fortunate in Third World countries.

But, passage of H.R. 4828 does provide hope—hope that an organization with a vision of serving others will be able to provide that assistance. LIFE International has ambitious plans to use these surplus vessels to provide health training and education, as well as other technical services to peoples of developing nations. H.R. 4828 provides the hope that LIFE International will be able to go forward with those ambitious plans.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 4828, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SNYDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills, H.R. 1489 and H.R. 4828, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was on objection.

AMENDMENT TO INTERNATIONAL SAFE CONTAINER ACT

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6732) to amend the International Safe Container Act, as amended.

The Clerk read as follows:

H.R. 6732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Safe Container Act (46 U.S.C. 1501–1508) is amended—

(1) by amending section 3(b) to read as follows:

"(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before January 1, 1985, an owner of an approved existing container may have a safety approval plate affixed to it, if that container is found to meet the standards of the Convention."; and

(2) by amending section 5(a)(2) by striking out "September 6, 1982" and inserting in lieu thereof "January 1, 1985".

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Sec. 2. This Act shall take effect on the later of the date of its enactment or September 6, 1982.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. Jones) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. Snyder) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Jones).

Mr. **JONES** of North Carolina. Mr. Speaker, I yield myself such time as I may consume. H.R. 6732 proposes an extension of 3 years for containers to be inspected and plated. The containers involved are only those that were in existence before the 1977 implementation of the International Safe Container Act. The convention sets uniform structural requirements to insure safety in handling, stacking, and transporting of cargo containers in the course of normal operations—and provides for approvals, inspections, and continuation of routine examinations.

The original implementing legislation, Public Law 95-208, required every existing container to be approved, examined, and safety plated by September 6, 1982.

Due to an unexpected increase in the number of containers and a delay in the issuance of regulations, container owners have stated that they will not be able to meet the deadline.

In recognition of this fact, the international maritime organization on April 2, 1981, adopted an amendment to the convention which would still require initial approval of all containers by September 6, 1982, but extends the time limit for examining and plating of the containers in question until January 1, 1985.

Passage of H.R. 6732 will bring U.S. law into conformity with the present convention. This matter was introduced by request of the administration, and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Biaggi).

Mr. **BIAGGI**. Mr. Speaker, I rise in support of H.R. 6732.

Although the distinguished chairman of the Merchant Marine and Fisheries Committee has already discussed the reasons why the legislation is necessary, I would like to add a few of my own thoughts on the bill.

H.R. 6732 is necessary because of the enormous number of containers that have yet to be inspected and plated. There are reasons for this backlog—among which are the recent ratification of the convention by the majority of signatory countries, and the dramatic increase in containers after the International Convention on Safe Containers was written.

A third reason for the backlog can be attributed to the container owners and lessors who apparently were less than diligent in plating their fleets of containers. While this may be true, the problems they faced in inspecting and plating such a large number of containers—always on the move—in a relatively short timeframe—were not inconsequential.

In any event, the basic issue—and my chief concern—is safety. There are some who have alleged that, if the extension is granted, dockworkers will be placed in jeopardy. I explored this allegation with various groups—and, despite my request for documented evidence that unplated containers present a danger to workers, I received none. Two Government agencies—the Coast Guard and the Occupational Safety and Health Administration—support the bill. Both concur that this extension will not present a safety hazard to dockworkers.

The Coast Guard's and OSHA's comments on H.R. 6732 have convinced me that safety is not an issue here; therefore, I support the bill.

Mr. **SNYDER**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6732. This bill represents the administration's request that the deadline for examination and plating of existing containers in accordance with the International Convention for Safe Containers, be extended from September 6, 1982, to January 1, 1985. This extension of the deadline for compliance is necessary because of the substantial increase in the number of containers in use which occurred after the convention protocol was signed in 1972. Between then and 1977, their number increased 2½ fold, thereby making compliance within the original timeframe impossible.

H.R. 6732 was introduced at the request of the administration on July 12, 1982, by the chairman of the Merchant Marine and Fisheries Committee, Walter B. Jones of North Carolina, the chairman of the Merchant Marine Subcommittee, Mario Biaggi, and myself as the ranking minority member. A hearing on the bill was held on July 22 and all interested parties were invited to testify. Although one witness did express a general concern that some containers presently in existence are unsafe, this legislation would not prevent the detention of any container that is judged to be in an unsafe condition. The Coast Guard has testified that this bill will present no safety hazard.

I want to congratulate the chairman for moving this bill out of the full committee in a very expeditious manner. This is an important bill and the chairman's prompt action in reporting out this bill, and scheduling it for floor action today, will practically insure its passage prior to the September 6 deadline.

Mr. **JONES** of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. Jones) that the House suspend the rules and pass the bill, H.R. 6732, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **JONES** of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6732, the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

INDIAN MINERAL DEVELOPMENT ACT OF 1982

Mr. **UDALL**. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1894) to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes, as amended.

The Clerk read as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Mineral Development Act of 1982".

Sec. 2. For the purposes of this Act, the term—

(1) "Indian" means any individual Indian or Alaska Native who owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

(2) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; and

(3) "Secretary" means the Secretary of the Interior.

Sec. 3. (a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into any joint venture, operating, production sharing, service, managerial, lease or other agreement, or any amendment, supplement or other modification of such agreement (hereinafter referred to as "Minerals Agreement") providing for the exploration for, or extraction, processing, or other development of, oil, gas, uranium, coal, geothermal, or other energy or nonenergy mineral resources (hereinafter referred to as "mineral resources") in which such Indian tribe owns a trust or restricted interest, or providing for the sale or other disposition of the production or products of such mineral resources.

(b) Any Indian owning a trust or restricted interest in mineral resources may include such resources in a tribal Minerals Agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian.

Sec. 4. (a) The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other requirement of law, whichever is late. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28, United States Code.

(b) Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(c) The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs to disapprove a Minerals Agreement shall be deemed a final agency action.

Sec. 5. In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe and, in connection therewith, shall consider, among other things—

(1) the economic return provided in the agreement in relation to the economic potential of the mineral resource involved;

(2) the nature of the advice and technical assistance available to the Indian tribe in the negotiation of the agreement;

(3) the potential environmental, socioeconomic, and cultural effects of the implementation of the agreement on the tribe and its members;

(4) any provisions in the agreement for tribal access to management, financial, production and other operating information;

(5) any provisions in the agreement relating to diligent exploration and development or tribal monitoring, review, and amendment; and

(6) any provisions in the agreement for resolving disputes which may arise between the parties over the terms or implementation of the agreement:

Provided, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Sec. 6. (a) Minerals Agreements, which by their terms do not purport to be leases, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to the enactment of this Act, shall be processed as provided in this section.

(b) Where an Indian tribe has required ratification of the Secretary's authority to approve an agreement covered under subsection (a) of this section by notifying the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs after July 27, 1982, but prior to enactment of this Act or by notifying the Secretary within thirty days after enactment of this Act, such authority is hereby ratified: *Provided*, That such ratification shall not constitute a congressional determination of the validity or legality of any particular provision of such agreement.

(c) Where an affected Indian tribe does not provide notice as provided in subsection (b) of this section, the Secretary shall review, within one hundred and twenty days after enactment of this Act, any such prior agreement to determine if it complies with the purposes of this Act and other appropriate provisions of law. Where the Secretary fails to act within the alloted time, the previous approval of the Secretary shall be deemed ratified as provided in subsection (b) of this section.

Sec. 7. Nothing in this Act shall affect, nor shall any Minerals Agreement approved pursuant to this Act be subject to or limited by, the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a et seq.), as amended, or any other law authorizing the development or disposition of the mineral resources of an Indian or Indian tribe.

Sec. 8. Any Indian tribe, subject to the approval of the Secretary, may enter into an agreement to pledge or hypothecate its interest in mineral resources which have been lawfully severed from the land, or their production, products or proceeds, as security for the repayment of funds provided to Indian tribes to finance the cost of development of its mineral resources. The pledge or hypothecation agreement may be enforced only against the specified pledged severed mineral resources, or the pledged production, products or proceeds, and only in accordance with the terms and conditions of the agreement. The United States shall not be deemed a necessary party in any action to enforce such agreement.

Sec. 9. In carrying out the obligations of the United States, the Secretary shall ensure that upon the request of an Indian tribe and to the extent of his available resources, such tribe shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe to secure independent assistance.

Sec. 10. (a) Within one hundred and eighty days of the date of enactment of this Act, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this Act. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 3 of this Act which was submitted prior to the enactment of this Act, the Secretary shall evaluate and approve or disapprove such agreement based upon section 4(b) and section 5 of this Act, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations implementing this Act have not been promulgated.

(b) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for any losses sustained by a tribe or individual Indian as a result of changes in markets for any minerals subject to such Minerals Agreement or as a result of decisions made by the parties to the agreement in the course of doing business pursuant to the terms of such agreement: *Provided*, That the Secretary shall continue to have a trust obligation to ensure that the legal rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement.

(c) Nothing contained in this Act shall absolve the United States from any responsibility to the Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreements between the United States and any Indian tribe.

Sec. 11. Nothing in this Act shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended, to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. Udall) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. Bereuter) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, this is a fairly simple, straightforward bill. It does not authorize any new program or authorization and will not represent any additional cost to the United States. Yet, this bill is very important to many Indian tribes in becoming less dependent on the Federal Government. In addition, this bill may help the Nation meet its rising demand for energy and nonenergy mineral resources.

S. 1894, as reported by the committee, authorizes Indian tribes to enter into various kinds of commercial agreements for the development of their mineral resources. The bill subjects those agreements to the approval of the Secretary of the Interior, as

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trustee, and establishes procedures and criteria for such approval.

In the past, Indian tribes have had to rely upon leasing to derive tribal revenue from their mineral resources. This leasing is done under Federal laws which were enacted at a time when many Indian tribes did not have the ability to effectively manage the development of their own resources.

In recent years, some tribes have sought to abandon the lease method of development, which does not have a great potential for maximizing return. Instead, they have sought to achieve a greater return by assuming a greater risk under joint ventures or like arrangements.

While the Secretary has approved some of these kinds of agreements, the legality of that secretarial approval under existing law has been called into question.

If we do not pass legislation authorizing such agreements, not only will future agreements not be possible, but the existing agreements may be legally endangered.

I can assure you, Mr. Speaker, that this legislation is good for all concerned. We have included language strongly recommended by the administration which would hold the United States harmless from liability for any loss sustained by a tribe due to the approval of such an agreement. Yet, we still maintain the fiduciary obligation of the United States and the Secretary to protect the interests of the Indian tribes.

Mr. Speaker, I urge the Members to support enactment of this bill.

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Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1894. The basic purpose of this bill is to provide greater flexibility to Indian tribes in their efforts of develop their energy and nonenergy mineral resources.

Currently, Indian minerals are developed primarily through leases under a 44-year-old statute. That statute restricts tribal options for benefiting from development and limits their participation in the management of development activities. Moreover, there is confusion as to the authority of the Secretary of the Interior to approve innovative nonlease mineral development agreements that offer tribes greater profits and involvement in development.

S. 1894 authorizes tribes to enter into any of a wide range of possible agreements which are common to the mineral industry. It will thereby expand tribal options to enable tribes to realize greater profits and to become more involved in the management of development activities on their reservations. The bill also makes clear the authority of the Secretary to approve these minerals agreements, provided he finds them to be in the best interest of the tribe involved and consistent with certain guidelines contained in the bill.

One effect of these minerals agreements is that tribes will be able to take more of what can be termed normal business risks. Both the administration and the committee are concerned that the Secretary—and the American taxpayer—will not be liable for any losses which may occur as a result of the normal course of a tribe's doing business within the terms of a minerals agreement. Amendments adopted by the Interior Committee have, I think, struck a fair balance between the interests of the taxpayers and the proper responsibilities of the Secretary of the Interior, as trustee for Indian tribes and Indian lands, to protect the rights of tribes and individual Indians.

Mr. Speaker, this legislation has wide support. The administration, Indian tribes, and energy companies interested in doing business with tribes all support enactment. I am very pleased to note that this bill will not cost the taxpayers any money. In fact, in the long run it will, as it contributes to the development of the Nation's energy and other mineral resources, benefit all of us.

For these reasons, I support this legislation and I urge its adoption.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the Senate bill, S. 1894, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ORGANIC FARMING ACT OF 1982

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and to pass the bill (H.R. 5618) to require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms, as amended.

The Clerk read as follows:

H.R. 5618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Organic Farming Act of 1982".

PURPOSE

SEC. 2. It is the purpose of this Act to facilitate and promote the scientific investigation and understanding of methods of organic farming and to assist family farmers and other producers to use methods of organic farming to complement conventional chemical-intensive methods of farming. The purpose of this Act shall be achieved in a manner consistent with the family farms provisions of section 102 of the Food and Agriculture Act of 1977, as amended by the Agriculture and Food Act of 1981.

VOLUNTEER PROGRAM

SEC. 3. (a) The Secretary shall recruit, select, and train volunteers who have expertise in organic farming to advise family farmers and other producers who wish to make a transition in whole or in part to organic farming methods.

(b) While performing activities authorized by this Act, a volunteer shall not be considered a Federal employee except for the purposes of sections 2671 through 2680 of title 28, United States Code (relating to tort claims), and chapter 81 of title 5, United States Code (relating to compensation for injury).

(c) The Secretary shall make available to volunteers, at local offices of the cooperative extension services, office facilities, supplies, materials, and other related services which the Secretary deems appropriate to assist volunteers in performing activities authorized by this Act.

PILOT PROJECTS

SEC. 4. (a) The Secretary of Agriculture shall establish six pilot projects, taking into consideration the report and recommendations on organic farming, United States Department of Agriculture (July 1980), and giving particular emphasis to implications for the family farm—

(1) to develop and present scientific information on legume-based crop rotation, green manure crops, animal manures, municipal wastes, soil acidity and liming in relation to nutrient release, intercropping, the role of organic matter in soil productivity and erosion control, and non-chemical weed, disease, and insect control; and

(2) to investigate soil, crop, weed, desease, and insect management problems inherent in making the transition from conventional chemical-intensive methods of farming to methods of organic farming.

(b) The pilot projects established under subsection (a) shall be administered through agreements providing special research grants or other agreements with six land grant or other colleges and universities located in and representing different geographical regions of the United States.

(c) The pilot projects estalished under subsection (a) shall be planned and coordinated in conjunction with the Agricultural Research Service, or its successor agency, in the United States Department of Agriculture, and shall take full advantage of the expertise of the scientists of the Agricultural Research Service, or its successor agency, in the United States Department of Agriculture, working at or near the site of the pilot projects.

DUTIES OF SECRETARY WITH RESPECT TO ORGANIC FARMING

Sec. 5. The Secretary, acting through the Assistant Secretary of Agriculture who performs the duties necessary to carry out the National Agricultural Research, Extension, and Teaching Policy Act of 1977, shall—

(1) serve as a coordinator and consultant to land-grant or other colleges and universities in designing all pilot research and education projects adapted to serve specific regional organic farming needs;

(2) by January 1, 1984, make available to the public, through local offices of the cooperative extension services, existing information on organic farming, such as that set forth under subsection (a) of section 4;

(3) make available to the public, through local offices of the cooperative extension services, information developed through implementation of the pilot projects established under section 4;

(4) obtain and maintain demographic information regarding producers engaged in organic farming;

(5) identify problems and needs of family farmers and other producers engaged in whole or in part in organic farming, with respect to information, support, and incentive programs related to organic farming;

(6) identify marketing and distribution problems and needs of producers engaged in whole or in part in organic farming who operate family farms; and

(7) indentify public policy issues which relate to or affect organic farming.

REPORT TO CONGRESS

Sec. 6. Not later than January 31 of the calendar year following the end of a fiscal year, the Secretary shall submit to the Congress—

(1) a report on the volunteer program established under section 3 of this Act, and

(2) a report describing the activities and projects related to organic farming research and education, in which the Department of Agriculture participated in such fiscal year. This report shall include proposals for legislation and funding necessary to address the needs identified in the report.

DEFINITIONS

Sec. 7. For purposes of this Act—

(1) the term "cooperative extension services" shall have the meaning given it in sections 1404(5) and 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(2) the term "extension" shall have the meaning given it in section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(3) the term "land-grant colleges and universities" shall have the meaning given it in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and

(4) the term "Secretary" means the Secretary of Agriculture.

(5) the term "organic farming" means a production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators, and livestock feed additives. To the maximum extent feasible, organic farming systems rely upon crop rotation, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks, and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients, and to control insects, weeds and other pests.

AUTHORIZATION OF APPROPRIATIONS

Sec. 8. Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by inserting "and for the purpose of carrying out the provisions of the Organic Farming Act of 1982," immediately before "$505,000,000".

EFFECTIVE DATE

Sec. 9. This Act shall take effect October 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. SKEEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman for Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced this bill in February to assist farmers who want to reduce their production costs by developing and disseminating information about low energy agricultural systems, many of which include organic farming methods. It has broad-based bipartisan support. It has 24 cosponsors. The act is intended to complement, not replace, the chemical intensive methods utilized by the majority of American farmers today.

The key here is that as oil grows more scarce, as nitrogen fertilizers from fossil fuels grow more scarce, we must begin a transition—a gradual, slow transition—into using those techniques that are profitable today and can be integrated into present practices.

The critical thing here is that these techniques must be developed and disseminated to farmers so that they are aware of them. The bill contains six pilot projects and then a volunteer program, and the volunteers are paid nothing, not even expenses, and the information developed from the pilot projects is disseminated through the regular agricultural extension organization.

In April 1979, the USDA assembled a team of leading scientists to gain a better understanding of organic farming systems, and the result was a 94-page study, report, and recommendations on organic farming, released by the USDA in July 1980. The study outlined the problems facing the farmers, increased costs and uncertain availability of energy and chemical fertilizers, excessive soil erosion, and dangers to human and animal health from widespread use of chemical herbicides and pesticides.

The study recommended implementing a series of organizational changes in research programs. H.R. 5618 implements most of the major recommendations of this report.

I would just like to say that presently there are over 400 employees in the Department of Agriculture involved in research, and only one of these was specifically designated for organic farming. He was recently cut to half-time, and now he has recently received his RIF notice. What we are trying to do is aid American agriculture to reduce their costs by integrating workable profitable methods of such organic farming techniques as can be used. And already farmers all over the world and in this country are using these techniques. The more they use them, the better prepared we are going to be to feed the people at a time of fossil fuel shortages that appear before us, when the world will have 5 or 6 or more billion people come here because of the riches that our fossil fuel industry gave us but without the fossil fuels to feed them. So we must begin today. It is urgent that such a program—and this is a very modest program—be instituted today.

Mr. Speaker, I introduced H.R. 5618, the Organic Farming Act of 1982, in February to expand the Department of Agriculture's efforts in assisting farmers who, in an attempt to reduce their production costs, are seeking information about alternative farming methods. It has now been cosponsored by 24 Members, Republican and Democrat alike.

The Organic Farming Act is intended to complement, not replace, the chemical-intensive methods utilized by the majority of American farmers today. The Act is broadly supported by farmers, soil and agricultural scientists, and conservationists across the country; opposition to the bill has been virtually nonexistent.

The term "organic farming" is defined in H.R. 5618 as:

> A production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators, and livestock feed additives. To the maximum extent feasible, organic farming systems rely upon crop rotation, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks, and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients, and to control insects, weeds and other pests.

The increasingly complex and capital-intensive nature of modern farming has prompted many farmers to consider alternative agricultural methods. The desire to change has been fueled by skyrocketing costs for energy, fertilizer, and pesticides, and by concerns about the dramatic soil erosion and nutrient depletion associated with conventional farming practices.

In April 1979, the USDA assembled a team of leading scientists to gain a better understanding of organic farming systems: Why they are being used; the extent of their use; the economic and ecological impacts of their use;

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and to identify needed research and education programs. The result was a 94-page "Report and Recommendations on Organic Farming" released by the Department in July 1980.

The study outlined significant concerns about the existing U.S. agricultural production system. According to the report, major problems confronting farmers and our agricultural system include: First, increasing costs, and uncertain availability of energy and chemical fertilizers; second, excessive soil erosion, loss of soil organic matter, and resultant decline in soil production and tilth; third, degradation of the environment, including hazards to human and animal health from heavy pesticide use; and fourth, demise of the family farm and localized marketing systems.

In order to counteract the impact of these problems, the USDA recommended implementing the following organizational changes and research programs:

First, appoint a permanent organic resources coordinator and establish a multidisciplinary advisory committee on organic agriculture to develop liaison between organic farmers, producer associations, and the Department.

Second, develop informational materials for county extension offices and agents to assist them in providing services needed by organic farmers and farmers interested in utilizing organic techniques.

Third, investigate organic farming systems using a holisitic approach. Because current research and data are fragmentary and piecemeal, there is a need to examine the complex chemical and microbiological interactions that take place in organic farming systems, as well as their relationship to waste recycling, nutrient availability, soil conservation, crop protection, energy conservation and environmental quality.

Fourth, determine the factors responsible for decreased crop yields during the transition from conventional (chemical) to organic farming systems.

Fifth, determine the long-term effects on soil productivity from the use of chemical fertilizers and pesticides.

Sixth, determine the effectiveness of organic wastes for improving the efficiency of chemical fertilizers.

Seventh, develop new and improved techniques for control of weeds, insects, and plant diseases using biological nonchemical methods.

H.R. 5618 would implement most of the major recommendations of the Department of Agriculture. It would require the compilation and dissemination of existing data on organic agriculture. It would also establish a volunteer program through which experienced organic farmers would maintain office hours, conduct seminars, and otherwise provide practical advice to farmers seeking to utilize more organic techniques. These resources would be made available at local offices of the cooperative extension services.

The act further establishes six pilot research projects at land grant and other universities throughout America. These programs would focus on improving organic farming techniques, and developing economically sound methods to help conventional farmers who want to increase their utilization of organic agricultural practices.

The pilot projects would be planned and coordinated in conjunction with the Agricultural Research Services (ARS) in order to take full advantage of the expertise of ARS scientists. However, the projects would not have to be carried out solely at the colleges and universities. H.R. 5618 gives the Secretary flexibility to structure the research programs through agreements that would permit specific projects to be conducted at farms or facilities not directly associated with the colleges. This would allow the Secretary to insure that the various projects in each region will be carried out by researchers with appropriate technical expertise. The research results would also be made available through local extension offices.

Finally, I would like to address the issues raised by several of my distinguished colleagues during markup by the full Agriculture Committee, and in a dissenting view from the committee report. Two primary areas of concern were cited by the dissenters: First, that H.R. 5618 would divert funds from current appropriated research dollars; and second, that it would be premature to divert funds from ongoing programs prior to conducting a comprehensive search of existing data on organic methods.

First, H.R. 5618 would not divert any money from current appropriated research projects. Rather, any funds needed to carry out its purposes could be appropriated from the existing agricultural research authorization under the National Agricultural Research, Extension and Teaching Policy Act of 1977. There is currently authorized $780 million for agricultural research. However, only $431 million of this money has been appropriated for fiscal year 1982.

The total cost of the programs authorized by this bill is estimated to be approximately $2 million annually—less than one-fourth of 1 percent of the total authorization. Fully funded, the program would equal only one-half of 1 percent of the fiscal year 1982 research appropriation. Existing research projects would not be affected in any way. Instead, USDA would seek funding for these new programs from the existing authorization during the normal budget process.

Second, at hearings on the bill, leading agricultural scientists and researchers spoke of the need to increase the information base both for organic farming methods and about the problems inherent in making a transition from chemical based to organic methods. Although some research having organic applications is currently being conducted by the Department, or by the land-grant schools, none of the studies have focused on the effects of integrating specific organic components into an otherwise conventional farming system.

In particular, every time a new component is integrated into a farming system, we need to examine the systemwide effects: How it affects nutrient flow through the soil profile; how it affects nutrient availability to the crops; and how it affects the ability of nitrogen-fixing plants to fix nitrogen in the soil.

The little research that has been done on organic farming methods in the past has been rendered obsolete by a generation of rapid technological advances. New, different, and better machinery; new, different, and better seed varieties; and new and very different tillage methods have combined to minimize or negate the applicability of prior studies.

Farmers are understandably hesitant to make a transition because any such change entails a certain amount of economic risk. This is especially true today, with the tremendous economic pressures facing most farmers. Thus, there is an urgent need to begin to experiment with, and develop and disseminate information on, appropriate organic techniques that might be used by farmers. Where these methods could lower production costs, and where they could help increase yields while at the same time helping protect and conserve the soils and resources, then they could be broadly used to advance and strengthen our Nation's agriculture.

The rapidly escalating costs of fuel, fertilizer, and pesticides are causing our farmers to turn increasingly to alternative, low-energy, farming systems. Passage of the Organic Farming Act will be a major step toward providing our farmers with information and practical advice on these techniques that is not currently available.

I urge my colleagues to support this modest, but vitally important, proposal.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill not because I oppose the idea of organic agriculture. As a matter of fact, the reverse is the case.

Those who have been involved in agriculture throughout the years and use this as their main means of livelihood understand that without the incorporation of some of the more major tenets of organic agriculture, that agriculture would not be the most efficient and the most productive industry in the world, as it is in the United States today.

I am not arguing about organic versus inorganic. I do not think that you can separate the two. I do, however, oppose the idea of handcuffing the U.S. Department of Agriculture in a time of fiscal constraints and handcuffing $2 million of the research fund for 5 years, for a total of $10 million, a modest sum in the opinion of my colleague, the distinguished chairman, but, in my opinion, I think a very significant one, in mandating through this legislation that the Department of Agriculture devote 4 or 5 years, $10 million, exclusively to the research projects dedicated to so-called organic agriculture. And I think it is unfortunate that we find ourselves on this floor today competing with one another in discussing an industry that is the most productive, the most efficient of any industry in the world. The only country in the world today that can feed itself is the United States because of the efficiency of our agriculture and its productivity, and because it incorporates a lot of tenets of organic agriculture.

So my point, Mr. Speaker, is this: I think it is an ill-advised move to handcuff or to earmark $2 million for 5 years for six pilot projects to study the principles of organic agriculture that have been studied and studied since the beginning of time and incorporated in agriculture today. I think it is just an ill-advised bill, and that is why I oppose it.

Mr. Speaker, I reserve the balance of my time.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in support of this legislation.

I would say to my friend from New Mexico that this is no effort to handcuff the Department of Agriculture. This simply says that, in the one area of our society where we are ahead of all other countries and continue to maintain that lead, we are not going to ignore some of the areas wherein there may be an opportunity for us to continue to keep that lead.

Mr. Speaker, we do not know what the future holds in regard to our supply of petrochemicals. We do not know what is going to happen as far as the cost of fertilizer is concerned. We do know what has been happening, and we do know it has been increasing at a very rapid rate.

I would echo the statement of the chairman of the subcommittee. This is not an effort to supplant what is happening at this time. This is an effort to institute some pilot projects so that we will properly research what well may be the opportunity of the future in order to keep American agriculture the dominant agriculture of our whole planet as it is today.

I would hope that we would not get hung up on $2 million per year on research on anything as important as our total agriculture production, not only for what it does for the food prices here, but what it does for our balance of payments as we compete with other nations of the world.

This not only says that we will conduct the six pilot projects where the land grant colleges will be involved to help us adequately research possible improvements in regard to organic farming, but also that the information will be made available to the public.

I have to tell this House that the gentleman from Iowa was extremely disturbed by what has happened over at the Department of Agriculture. After the Agriculture Committee had passed this bill indicating the support of the committee for this effort, for organic farming, the Department of Agriculture thereafter served a RIF notice to the one person in the Department of Agriculture who at this time was spending one-half of his time trying to let the American farmers know what was being done about organic farming.

So I rise in strong support of this measure. I would hope that we would look to the future. If we do look to the future, I believe we have to properly research and properly disseminate the information on all of the possible improvements that may come about in agriculture. Mr. Speaker, I commend the chairman of the subcommittee for his efforts on behalf of this bill.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take up more time with the refutation of already a voluminous amount of material available on organic agriculture and what it has contributed to the U.S. agricultural efforts. But I do oppose this bill because of the lockup or the earmarking of funds, which I think is extremely bad practice and one that sets a precedent for the future of allowing any Member of Congress to introduce a bill to merely, I think, acquiesce to some request from a constituent, which I think is very valid, but to earmark even further, even more specifically, every bit of research funding that we have in the Department of Agriculture or any other department in the Federal Government, in requesting that funds be earmarked and totally dedicated to one narrow area of any kind of a question that we deal with.

Mr. Speaker, I oppose the bill and I intend to ask for the yeas and nays.

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, I would like to commend and congratulate the Rodale Press, Mr. Robert Rodale and others, for their marvelous work in this field. It may save millions and millions of lives in time to come, when we run out of fossil fuels.

I would like to also say that the bill itself does not earmark anything, it contains no specific sums, and it would be taken out of presently authorized funds for research. It does not appropriate any money.

● Mr. WAMPLER. Mr. Speaker, I rise in opposition to the bill and request to revise and extend my remarks.

My opposition to H.R. 5618 comes not from the good intentions of this legislation, but from the fact that this bill, despite the claims of its sponsors, mandates the Secretary of Agriculture to take away limited research and extension funds from high-priority programs of the Department of Agriculture, the State agricultural experiment stations, and the State cooperative extension services and directs that these funds be placed into the relatively low priority research programs mandated by this legislation. And, Mr. Speaker, I might add, that since we removed the specific authorization sections from the bill in committee, we really do not have any figures to say how much this bill is going to cost and how much damage we are going to do to our high-priority agricultural research and extension programs.

I ask the question: How much is this bill going to cost? Our estimates show that as a minimum the bill is going to cost $2,000,000 in research funds, $1,250,000 in extension costs to establish and administer the six pilot programs mandated in this bill, and much more to recruit, train, and pay the travel for an unspecified number of volunteers to advise family farmers and other producers all over this country on organic farming techniques. My bet is this bill is going to cost upwards to $5,000,000 a year.

Now Mr. Speaker, what programs are we going to cut to implement this bill at USDA or at the State level, because that is how we are going pay for this program?

Are we going to cut it from the agricultural research services which conduct basic agricultural research programs, or the animal health and protection research program, or range and pasture research, or the national plant germ plasm research program, or the tropical and subtropical research program, or the research on acid rain precipation program, or research on soil and water conservation, or human nutrition research. Or are we going to raid the Hatch Act, which funds each State's agricultural research program, or the McIntire-Stennis forestry research program, or the special research programs to States for specific State commodity research grants. Or Mr. Speaker, are we going to take it from the State cooperative extension program.

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I think it is important to note, Mr. Speaker, that the House Committee on Agriculture and the House Appropriations Subcommittee on Agriculture and Related Agencies have for years been fighting to increase appropriations for agricultural research and extension. Only with the passage of title XIV to the 1977 and 1981 Farm Acts were we really able to get the executive branch to consider even a minute increase in the specific aspects of the agricultural research and extension budget. Ironically we have a slight increase in the fiscal year 1983 budget for high-priority agricultural research programs.

I also think it is important to consider this additional fact, Mr. Speaker. The organic farming proposal, espoused in the bill before us today, did not appear one time in the recommendations in the annual reports to the President and the Congress of the National Agricultural Research and Extension USERS Advisory Board, during the last 4 years. For the edification of my colleagues, this board, made up of the users of agricultural research, that is, the producers, processors, consumers, environmentalists, rural representatives, and labor representatives, is charged by law with duty of recommending research and extension project directions to the Secretary of Agriculture. Neither did the Joint Council on Food and Agricultural Sciences, made up of research scientist at the Federal and State level, consider organic farming as a subject of specific concern. This bill then flies in to the face of traditional project programing. It makes a mockery out of our efforts to concentrate our efforts on high-priority research and protect potentially high payoff projects during periods of Government belt tightening that we find ourselves in today.

I think we need to make one point extremely clear here today, Mr. Speaker. Organic farming is not new research. Thomas Jefferson and George Washington practiced organic farming 200 years ago. It served the country well then when most people lived on farms. We could afford to practice this technique when we did not have many mouths to feed. But today we only have a little over 2 million farmers and ranchers and their responsibility has risen from feeding their own family to feeding over 75 people per farm.

Today most farmers use the best aspects of organic farming, such as minimum tillage, animal manures, and integrated pest management systems. We need to advance our research on the best aspects of organic farming and USDA is spending over $50 million this year in this direction in modernized versions of the art practiced by Washington and Jefferson.

The art of organic farming, the knowledge of it, is being passed on today from father to son as it always has been. Additionally clubs and groups are passing on this knowledge, mostly to suburban gardening groups. I practice a form of it myself in my own garden down in Bristol. Recently USDA began gathering information on this ancient technique and will complete its literature search on this project in about 1 year. By that time they will know how best to disseminate what they are able to gather. Until they have completed their literature search they have formerly notified our committee they are opposed to the bill as well intentioned but, premature.

I stand behind the Secretary of Agriculture's position on H.R. 5618 and urge defeat of this proposal.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5618, the Organic Farming Act, that would require the Secretary of Agriculture to establish a network of volunteers with expertise in organic farming to provide technical assistance on methods of organic farming to family farmers and others.

I want to congratulate the sponsor of this important legislation, my distinguished colleague from Oregon, Congressman JAMES WEAVER. The Organic Farming Act will provide an important mechanism for assisting family farmers, the most efficient procuders of food and fiber in our Nation and the world. The timing of his legislation is improtant for it comes at a time in our economic history when family farmers are being victimized by high interest rates and the high costs of chemical-based inputs of production.

Representing an urban area, our Nation's Capital, I have no difficulty in assessing the importance of this legislation for my constituency. Citizens of the District of Columbia have a high stake in protecting and enhancing the family farm system of agriculture as a source of plentiful food at competitive prices. The alternative to the family farm, the corporate farming system, is not efficient and will lead to oligopolistic pricing and manipulated supplies. Urban consumers have a stake in the family farm system of agriculture and this legislation helps to preserve that system.

Urban consumers are also concerned with health and the environment and, therefore, have a stake in this legislation that would offer an alternative to heavy reliance on pesticides and chemical-based agriculture.

H.R. 5618 enhances the ability to develop and provide information and technology to help our family farmers be even more efficient in producing safe, nutritious, and affordable food supplies for all of our citizens.

Specifically, H.R. 5618 would authorize agreements with land grant colleges and universities to develop six pilot projects for the purpose of increasing information on organic farming methods and helping farmers in the transition to organic farming techniques.

I urge its passage.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 5618, as amended.

The question was taken.

Mr. SKEEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1100

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BROWN of California). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1489 and then, H.R. 5618, both by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PUERTO RICAN PASSENGER SERVICE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1489, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 1489, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 47, as follows:

[Roll No. 281]

YEAS—387

Addabbo
Akaka
Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen

Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Philip
Crockett
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—47

Andrews
Bafalis
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Crane, Daniel
D'Amours
Dorgan
Dougherty
Dowdy
Edwards (OK)
Emery
English
Ertel
Evans (GA)
Fountain
Fowler
Gejdenson
Ginn
Goldwater
Hatcher
Hawkins
Heftel
Ireland
Long (LA)
Mattox
Moffett
Neal
Paul
Pursell
Rahall
Richmond
Rosenthal
Roth
Schulze
Simon
Smith (AL)
Vander Jagt
Vento
Washington
Watkins
Whitten
Williams (MT)
Yatron
Young (AK)

□ 1115

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore (Mr. SAM B. HALL, JR.). Pursuant to the provisions of clause 5, rule 1, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings on today.

This is a 5-minute vote.

ORGANIC FARMING ACT OF 1982

The **SPEAKER** pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5618, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 5618, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 198, answered "present" 1, not voting 46, as follows:

[Roll No. 282]

YEAS—189

Addabbo
Albosta
Aspin
AuCoin
Barnes
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clausen
Clay
Coelho
Collins (IL)
Conyers
Coyne, James
Coyne, William
Crockett
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IN)
Fazio
Fenwick
Ferraro
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goodling
Gore
Gray
Green
Guarini
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Harkin
Heckler
Hefner
Hertel
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jones (NC)
Kastenmeier
Kennelly
Kildee
Kogovsek
Lantos
Leach
Lehman
Leland
Long (MD)
Lowry (WA)
Lundine
Markey
Marks
Martinez
Matsui
Mavroules
McCurdy
McDade
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Murphy
Napier
Natcher
Nelligan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Petri
Peyser
Porter
Price
Railsback
Rangel
Reuss
Ritter
Rodino
Roe
Rose
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Solarz
St Germain
Stangeland
Stark
Stokes
Studds
Synar
Tauke
Traxler
Udall
Volkmer
Waxman
Weaver
Weiss
Wilson
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zablocki
Zeferetti

NAYS—198

Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Benedict
Benjamin
Bennett
Bethune
Bevill
Bliley
Boner
Bouquard
Broomfield
Brown (CO)
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clinger
Coats
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derrick
Derwinski
Dickinson
Dornan
Dreier
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Edwards (AL)
Emerson
Erdahl
Erlenborn
Evans (DE)
Fary
Fascell
Fiedler
Fields
Findley
Fish
Forsythe
Frenzel
Frost
Gibbons
Gradison
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Gregg
Grisham
Gunderson
Hall, Ralph
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon

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Hillis
Holt
Hopkins
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Jenkins
Johnston
Jones (OK)
Jones (TN)
Kasen
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leath
LeBoutillier
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Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Luken
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Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
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Miller (OH)
Mollohan
Montgomery
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Perkins
Pickle
Pritchard
Quillen
Ratchford
Regula
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Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
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Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stanton
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Stratton
Stump
Swift
Tauzin
Taylor
Thomas
Trible
Walgren
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wolf
Wortley

ANSWERED "PRESENT"—1

Gonzales

NOT VOTING—46

Andrews
Bafalis
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Crane, Daniel
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Dorgan
Dougherty
Dowdy
Edwards (OK)
Emery
English
Ertel
Evans (GA)
Fowler
Gejdenson
Ginn
Goldwater
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Hawkins
Heftel
Ireland
Long (LA)
Mattox
Moffett
Neal
Paul
Pursell
Rahall
Richmond
Rosenthal
Roth
Simon
Smith (AL)
Vander Jagt
Vento
Washington
Watkins
Whitten
Williams (MT)
Yatron
Young (AK)
Young (FL)

The Clerk announced the following pairs:

On this vote:

Mr. Washington and Mr. Richmond for, with Mr. Broyhill against.

Mr. Hawkins and Mr. Rahall for, with Mr. Daniel B. Crane against.

Mr. John L. Burton and Mr. Emery for, with Mr. Smith of Alabama against.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1130

MAKING IN ORDER ON WEDNESDAY, AUGUST 18, 1982, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. PRICE. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, August 18, 1982, or any day thereafter to consider the conference report on the Senate bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

The **SPEAKER** pro tempore. Is there objections to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTION IN ENGROSSMENT OF H.R. 684, FOR THE RELIEF OF OK-BOON KANG

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make the following correction in the engrossment of H.R. 684, passed earlier today:

On page 1, line 4, strike "Kang Ok Boon" and insert "Ok-Boon Kang".

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from Kentucky (Mr. MAZZOLI) if this change poses any substantive change in the bill.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, it makes no substantive change in the bill adopted today under the unanimous consent agreement relating to the calendar for private immigration bills. It makes the correction so the name of the person provided for in the adoption is spelled and shown correctly.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY AND FOR THE BALANCE OF THE WEEK DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today and for the balance of the week for the purpose of considering legislation during the time that the House is sitting under the 5-minute rule.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, my reservation is for the purpose of inquiring of the gentleman from Michigan whether he plans to take up the Clean Air Act in the Committee on Energy and Commerce?

Mr. DINGELL. Mr. Speaker, it is my intention to move the Clean Air Act bill forward.

Mr. WAXMAN. Mr. Speaker, I must, then, object to the unanimous consent request.

The **SPEAKER** pro tempore. Objection is heard.

(Messrs. STARK, WEISS, YATES, FRANK, PATTERSON, SHANNON, DONNELLY, and DELLUMS, and Mrs. COLLINS of Illinois also objected.)

The **SPEAKER** pro tempore. A sufficient number has objected. Objection is heard.

ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1983

Mr. FUQUA. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6323) to authorize appropriations for environmental research, development and demonstration for the fiscal years 1983 and 1984, and for other purposes.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6323, with Mr. DOWNEY in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from New York (Mr. CARNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us, H.R. 6323, authorizes fiscal years 1983 and 1984 appropriations for the research programs of the Environmental Protection Agency.

I wish to thank Mr. SCHEUER, chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment, for his leadership in bringing this legislation to the floor, and for the many hours that were devoted to the authorization and oversight hearings which developed the legislation. In addition, I wish to thank the ranking minority members of the committee and subcommittee, Mr. WINN and Mr. CARNEY, for their fine efforts.

This authorization provides the needed congressional direction for research in the areas of air and water quality, drinking water, hazardous waste, pesticides, radiation, toxic substances, and energy. From this research, information necessary for implementing the environmental statutes administered by the EPA and for making sound environmental policy decisions will be generated. The bill also authorizes research on environment and problems of growing concern, such as acid rain, indoor air pollution, groundwater contamination, and energy pollution.

Mr. Chairman, the administration's request for EPA research and development activities was $215.9 million. This is $126.7 million—or 37 percent—below the fiscal year 1981 appropriation of $342.6 million. During this period, EPA's responsibilities and the severity of environmental problems have increased. The committee, after extensive oversight hearings, concluded that the administration's request was inadequate to fund a worthwhile and quality research program. H.R. 6323 authorizes an increase of $80.9 million above the President's request, an authorization level the committee feels would represent that amount of funding needed by the Agency to best discharge its statutory responsibility. Specifically, this bill authorizes $296.7 million in fiscal 1983 and $310.9 million in fiscal 1984. In essence, the committee is recommending 2-year level funding at the current fiscal year 1982 appropriations level—$277.9 million—plus 6 percent per year for inflation.

This bill provides additional support for some areas deeply cut either last year or in this year's budget. These include research pertaining to air, water, hazardous waste, and energy pollution. The committee is also recommending a new program on indoor air pollution which is in response to a growing problem created by energy conservation efforts.

Mr. CHAIRMAN, I conclude by saying that H.R. 6323 contains funding and direction which maintains a strong, viable research program administered by the EPA. I strongly urge its favorable consideration by my colleagues in the House.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 6323. As chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment, it has been my privilege to work closely on this bill. I especially want to thank the chairman of the full committee, Mr. FUQUA, for his support and efforts in bringing this legislation to the floor. I also want to express my respect and appreciation for the contributions made by the ranking minority member of the subcommittee, the gentleman from New York (Mr. (BILL) CARNEY).

Mr. Chairman, the administration's commitment to protecting the environment and safeguarding the health of our citizens is in serious question. Nowhere is this neglect more evident than in the administration's proposed funding for environmental research at the Environmental Protection Agency. A mere $215.9 million was requested for EPA research in fiscal 1983. This request, measured in real dollars, represented a 50-percent cut in environmental research since President Reagan took office. These cuts were accompanied by promises of streamlining and increased efficiency, coupled with the claim that more will be produced with less resources.

While I wholeheartedly support this sentiment, I believe the budget request goes far beyond what can be offset by management improvements and cuts into the very heart of EPA's research function. Nor can we expect the States and the private sector to take over environmental research eliminated in this proposal. Available resources and sufficient incentives simply do not exist. This situation is especially evident in the development of pollution control technology where high interest rates combined with regulatory uncertainty have made such ventures too risky to justify private sector investment. Thus, it is essential that EPA conducts research in control technology, otherwise these technologies will not be developed.

Recognizing these facts, the committee moved to recommend an EPA research budget that would preserve a basis for issuing sound environmental regulations, for developing ways to meet regulations, and for making rational environmental policies. To do otherwise would undermine EPA's ability to fulfill its mission. Sound standards would not be promulgated in a timely fashion, and once issued, they would be subject to increasing court challenges. The net result would be more pollution and, consequently, a deterioration in environmental quality and public health. Clearly, the American public does not favor such an outcome. The committee responded to this concern by reporting H.R. 6323 which is now before the House.

As noted by the chairman of the full committee, the gentleman from Florida (Mr. FUQUA), we have increased the President's requested funding level for EPA research and related activities from $215.9 million in fiscal year 1983 to $296.8 million in fiscal year 1983 and $310.9 million in fiscal year 1984. This recommendation provides fiscal year 1983 funding equal to the current fiscal year 1982 appropriation, plus 6 percent for inflation. The fiscal year 1984 authorization essentially maintains the same support and direction with a 6-percent across-the-board increase over fiscal year 1983. The major budget actions were made in the air, water quality, interdisciplinary, and energy research programs.

In the air research program, the committee recommended an overall increase of $10.5 million. This addition is primarily for air pollution monitoring activities and for research supporting the development of National Ambient Air Quality Standards, as required by the Clean Air Act, and control strategies to achieve these standards.

The increases in the water quality research program amounted to $16.5 million. The administration's proposal to reduce this program by almost half ($48 million in 1982 to $27.7 million in 1983) is unwise public policy in the committee's view. The funds restored to this program would support water quality monitoring and research needed to develop and evaluate water quality standards and appropriate control technologies.

An area of particular concern to the committee was long-term environmental research which is essential for an effective EPA. The committee felt that attention to this type of research was inadequate in the administration's proposal and, therefore, recommended an additional $15 million in the interdisciplinary research program. This money would fund long-term research in all environmental problem areas and would greatly enhance the credibility and usefulness of the entire EPA research program.

Finally, I would like to address the committee's budget actions in the energy program. Expanding development and utilization of domestic energy resources, especially coal, appears inevitable. Thus, a high priority was placed on insuring that these activities proceed in an acceptable manner which does not degrade either our environment or our health. Responding to this concern, the committee rejected the administration's proposal to eliminate two-thirds of the energy program and recommended a restoration of $24 million. Part of this increase, $4 million, would support a research effort on indoor air pollution. The remaining $20 million is for control technology development, health and ecological research, and monitor-

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ing activities related to energy pollution.

Although reprograming between research programs authorized in this bill would be permitted, such reprograming in excess of 5 percent of appropriated funds must be proceeded by congressional notification. This requirement is intended to prevent program terminations and maintain program continuity. Funds may also be spent for reductions-in-force under this bill, but only if congressional notification is given prior to such action. This requirement is intended to insure that authorized programs are not jeopardized by personnel actions.

H.R. 6323 also directs research toward establishing a national environmental monitoring network. The committee recommended this action in response to deficiencies in environmental data which have impaired efforts to detect trends in environmental quality and evaluate the performance of our environmental laws and the programs established to implement them.

The bill further provides for a 2-year study on the management and organization of Federal environmental research programs is authorized. The study is intended to enhance cooperation and coordination between environmental research programs. The committee believes this examination is necessary to improve the effectiveness of these programs in the face of reduced budgets.

Finally, the bill makes several changes in the independent Scientific Advisory Board, which advises EPA and the Congress on EPA programs, needs, and scientific goals. The bill requires that members of the board be appointed from a list of nominees recommended by a nominating committee composed of representatives from national science and health organizations. The legislation also stipulates that the board be selected in a manner to insure a balance of ideologies and backgrounds that represent States, industry, labor, academia, and the general public. The bill provides that no more than one-third of the board members' terms end in the same year, and that members serve out full terms. The EPA is directed to promulgate conflict-of-interest regulations concerning board members within 120 days of the bill's passage. These changes are intended to insure the objectivity and effectiveness of EPA Science Advisory Board.

In closing, I would like to say that the Nation is confronted with serious environmental as well as economic problems that demand viable and effective solutions. Part of the answer to these problems lie in a strong environmental research program and this realization should be recognized by all. This bill will provide such strength and I urge its adoption.

□ 1145

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on the outset, I would like to extend my appreciation to Chairman FUQUA and the ranking minority member of the full Committee on Science and Technology, the gentleman from Kansas (Mr. WINN). It is through their strong leadership that this committee has succeeded in bringing to the floor not only the first piece of authorizing legislation, but a total of six this year (FAA, NASA, NSF, NBS, NOAA, and EPA).

Today's piece of legislation, the EPA research and development bill is strategically calandered since the appropriating committee dealing with HUD and independent agencies is also scheduled on the floor this same week. Also significant are the actions that took place last week. Despite the critics of the environmental policies of the Reagan administration, the vast majority of us are proud of the FIFRA bill and the Wilderness Protection Act which passed the House overwhelmingly. It is here on this floor that the will of the American people can be worked, and this same will is present today guiding our decisions on the EPA bill.

The Committee on Science and Technology has worked diligently to shape an authorization that would be both responsive to our environmental research needs and realistic to our economic situation. However, in H.R. 6323 we have failed to address our priorities and therefore I must oppose the bill as currently reported. H.R. 6323 contains an $81 million increase over the administration's request for fiscal year 1983 and a 5-percent increase for fiscal year 1984. This represents the highest funding figures in both Chambers and higher than even the first budget resolution passed by the House. We cannot afford to continue operating as if we had an unlimited cash account by automatically increasing funding.

For 2 years I have been on the Subcommittee on Natural Resources, Agriculture Research and Evnironment deliberating over the quality, role and appropriate budget for the Environmental Protection Agency. Year after year the same criticisms are expressed by Congress regarding the management of the agency and the quality of science. I have witnessed my fellow colleagues criticize the measure of funds and recommend that perhaps the agency should be cut back, tapered, trimmed, and the management improved.

The agency, over the last 15 months, has testified 75 times before the House and the Senate, of which 14 times the testimony was delivered by the administrator herself. Each time, the agency has indicated that they are ready, willing and able to proceed in the direction Congress has been asking for. They can pare down, tighten up and improve quality and efficiency, but they have been met by a stone wall. It appears that Congress, despite historic complaints, is plagued with inertia. This is dangerous and troublesome.

My judgement of the performance of the agency has never depended on what party was in the White House. Each time the budget has come up to Congress and the agency has testified I have evaluated it on its merits and on the agency's accomplishments. At times, I have advocated increased funding. On other occasions I have not ben convinced that the agency needed or could do any better with increased funding.

Members are often faced with the frustration that more money does not automatically equate with better science, nor can it speed up scientific results or necessarily improve management.

I am concerned that this is precisely the trap we are falling into with H.R. 6323. It appears that our own House Appropriations Committee might agree, for in full committee they marked up a bill which would appropriate funds 15 percent of what the Science Committee is advocating. Though I would contend that even $12.5 million is an excess, the point, however, is clear that H.R. 6323 is out of proportion.

At the appropriate time, I will offer an amendment which will reduce the level of funding to $9.6 million above the request. In doing so, I have protected those programs which the Committee on Science and Technology has repeatedly expressed their concerns over. In particular, increase funding have been provided for the following research programs: the Great Lakes, both at Grosse Island Lab and the Chicago regional office; aquatic weeds; ocean and sludge disposal; groundwater contaminants; oxidant, mobile sources and hazardous air pollutants; environmental monitoring; and finally long-term environmental research. I urge the support of all my colleagues.

In addition, my amendment calls for a 1-year authorization of the R. & D. programs as opposed to the committee's request for 2 years. Though Chairmen FUQUA and SCHEUER have stated that a 2-year authorization will promote stability and continuity for a credible research program, I find it premature for use to give up future year oversight at a time when the EPA program is undergoing much change. I question the wisdom in altering the practice of an annual authorization.

At subcommittee and full committee, I also expressed my dismay over the extra "baggage" contained in H.R. 6323 as well as language which bears a restrictive tone. H.R. 6323 is not merely authorizing funds for ongoing research and development at the agency, rather it is also authorizing new programs for which the Science Committee has never held hearings. To top it off, I have heard that others may come forth today with additional amendments to further increase the baggage attached to this bill. I urge my colleagues not to support such actions but rather to keep their attention focused on the real reason we are here today—that is to authorize funds for an R. & D. program that is both environmentally responsible and fiscally realistic.

Mr. Chairman, at this point I yield 5 minutes to the ranking minority member of the full Committee on Science and Technology, the gentleman from Kansas (Mr. Winn).

Mr. WINN. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise in support of an authorization for the Environmental Protection Agency for fiscal year 1983. Unfortunately, this version that the committee has brought to the floor is one that I cannot support in its present form for a number of reasons, most of which are outlined in the minority views accompanying the report. The gentleman from New York (Mr. Carney) the ranking member on the Natural Resources, Agriculture Research and Environment Subcommittee, will offer an amendment at the appropriate time to cure most of the deficiencies in this authorization. I intend to support this amendment and I hope that all members will give it their support.

Mr. Chairman, there is no doubt that environmental research is crucial to this Nation. There is no question that over the past decade a strong national policy for environmental protection has taken hold. I have been and continue to be a strong supporter of the policy. Long-term environmental research such as that provided by the EPA is vital to protecting the health of all of our citizens. One only has to look at the types of research covered by this authorization to realize how crucial it is. This bill covers areas such as risk assessment of hazardous air pollutants, work on pesticides, research on solid hazardous waste, hazardous waste, research on the drinking water program to support the Save Drinking Water Act of 1974, and a research effort on a relatively new concern, acid rain. This list is by no means all inclusive, but it does give some idea of the spread of programs covered by this bill.

Now that I have stressed the importance of this bill overall, let me state some of my concerns about this particular bill, and why I can not support it in its present form. While environmental research has been a proper focus of Federal efforts over the past decade, the fact of the matter has been that the quality of research at the Environmental Protection Agency has not always been the best. Too often over those 10 years, money has been thrown at a problem with the idea that if we spend enough money, then we would find the cure-all for a particular environmental problem. The truth is, that more money does not necessarily mean higher quality research. In my opinion, Administrator Gorsuch has taken some very courageous and needed steps to improve the quality of operations at the agency. The administration's request for fiscal 1983 for EPA's research operations is $215 million. The committee bill is $81 million above that level at approximately $296 million. I frankly feel that such an increase over the request in this year cannot be justified as a wise and efficient expenditure of funds. In addition, the committee has provided an additional outyear authorization for fiscal year 1984 of some $311 million. In the past, our Science Committee has not provided 2-year authorizations for EPA. I feel that this is absolutely the wrong time to begin such a direction. Both the national economy and the needs of environmental research are in a state of flux. A 1-year authorization is far preferable at this time. I know that supporters of a 2-year authorization claim that next year the Congress can provide intensive oversight without having to go through an authorization process. The fact is that this Congress is not very good at conducting oversight and I think it would be much better if we went through the normal authorization process for EPA next year.

Finally, Mr. Chairman, there are some issues in this bill which I feel could be better addressed in separate legislation. An example of this is the section added at full committee on indoor air quality. This is an important issue, but I believe it should be considered separately by the committee at a future date and not tagged on to the EPA annual authorization. If this Congress intends to reduce the size of the deficit, we must keep a watchful eye on Federal spending and attempt to bring these authorization bills down to a workable level. I hope my colleagues will listen carefully to the debate that will take place when amendments are offered. In the meantime, I do want to emphasize my strong support for the work of the Environmental Protection Agency, and my firm belief that we can continue providing for our national policy of environmental protection with a lower level of authorization than contained in this bill.

□ 1200

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. Scheuer) for the purpose of engaging in a colloquy.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, let me ask the gentleman, would the additional research funds given to EPA by this bill be available for research into the proper disposal of used motor oil and lubricants?

Mr. SCHEUER. Mr. Chairman, I am happy to answer my colleague that this legislation provides for an additional $6 million over the administration's request for energy-related research to be conducted by EPA. That amount would allow sufficient funds for research into waste oil disposal, and the committee certainly would like to see EPA expand its efforts in that area.

Mr. BEDELL. I am very glad to hear that. As the gentleman knows, the Small Business Subcommittee on Energy and Environment, which I chair, held hearings in New York City this past February to study the issue of waste oil recovery.

Mr. SCHEUER. Those of us from New York appreciate your continuing oversight of the Federal Government's programs to deal with used motor oil. As you heard at your hearing in Manhattan, New York City has had some significant health and safety problems caused by improper disposal of waste oil, particularly in the congressional district represented by our colleague, the gentlewoman from New York (Ms. Ferraro) of Queens, where we have had a very real problem. The problem I am referring to is the abandoned and bankrupt Quanta Resources refining plant in Long Island City. At that site there is over 500,000 gallons of waste oil in over 90 tanks of varying sizes ranging from barrels to four-story storage tanks. An analysis of the tanks shows that much of the waste oil is contaminated by PCB's, and some of the tanks contain material with dangerously low flash points. Indeed, a fire could start at the Quanta facility by simply bringing a lighted match in contact with the vapors over the contaminated oil. This facility is located less than one-fourth of a mile from a highly populated residential neighborhood. City and borough officials are working very hard to remove this potential time bomb from our midst. Queens Borough president Donald Manes merits particular commendation for his efforts to obtain State superfund cleanup by the fact EPA has not promulgated its regulations on used oil. Our subcommittee is currently firming up plans to conduct an oversight hearing of the problems posed by the Quanta facility, including the failure of EPA to issue these regulations.

Our State and local officials say they cannot solve the problem without

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technical and regulatory help from the Federal Government, and we in New York, along with the gentleman from Iowa, are frustrated by EPA's foot dragging in this regard.

Mr. BEDELL. Those of us who studied the issue can certainly appreciate your frustration.

When we held our hearing in February we asked EPA to tell us what had become of the waste oil regulations they were required by law to have issued by October 1981. They submitted a statement saying that the regs were overdue because the Agency was awaiting the results of testing being done for them by the Department of Energy. EPA said the long-awaited waste oil regulations would be coming out "in a few months."

Mr. SCHEUER. Mr. Chairman, that is absolutely right. I believe that was the research done for EPA by the Energy Department's facility at Bartlesville, Okla.

Mr. BEDELL. That is correct. But when the subcommittee checked with DOE, we found they were in the midst of shutting down the waste oil project in Bartlesville. DOE said they offered to turn the project over to EPA, at whose request the work was being done, but they say EPA told them to let the project die.

The subcommittee was later told by Mrs. Gorsuch that the waste oil regulations that were required to be issued in October 1981 will not be promulgated until mid-1983.

In the meantime, all sectors of the waste oil industry are left in limbo. We have been told by waste oil reprocessors and by lubricant manufacturers that literally tens of millions of dollars in investments are being held up while the industry waits for EPA to issue its regulations.

There are no political issues involved here. Everyone—the used-oil recycling industry, the waste-oil generators, State and local regulators, Congress, even other Federal agencies—everyone wants EPA to issue regulations and clarify what will be the Federal rules for proper handling and disposal of waste oil.

Mr. SCHEUER. The gentleman makes an excellent point. There are many instances where EPA's delays in research or issuing of regulations cause great confusion in the private sector, but the instance that the gentleman has described is certainly one of the more egregious examples.

Mr. BEDELL. Mr. Chairman, I thank the gentleman from New York (Mr. SCHEUER) for his assurance, and I certainly look forward to seeing the proper research being done so we can move forward to solve this problem for everyone involved.

Mr. CARNEY. Mr. Chairman, I yield 6 minutes to my colleague, the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 6323, the authorization provided by the Science Committee for the research programs of the Environmental Protection Agency. H.R. 6323 proposes an EPA research budget at last year's level of funding without a cost-of-living increase, which is within the limits established by the first concurrent budget resolution.

The EPA's Office of Research and Development is responsible for developing the environmental data on which our environmental standards are based. Regardless of how we feel about the Clean Air Act or the Clean Water Act, we ought to be able to agree that whatever standards we do decide on should be based on the best scientific evidence available. The question we then have to ask ourselves is whether the EPA can give us that information if we accept the administration's request and again cut the Agency's budget by 22 percent? As a member of the Science Committee I have spent the last 6 months hearing testimony about the EPA research budget, and I have to conclude that the answer is no.

Let me give you just one example from the testimony we heard. Earlier this year, the National Association of Manufacturers told us that developing data about the health effects of pollution should be a primary responsibility of the EPA. What kind of budget has the EPA proposed to meet this responsiblity? An 18-percent cut in research on the health effects of air pollution, and a 36-percent cut in research on the health effects of water pollution.

The Agency has justified the proposed reductions by claiming that States will pick up the enivornmental responsibilities as fast as the EPA sheds them. That claim just cannot be supported by the evidence. In fact, the National Governors Association has just completed a survey in which most States have indicated most emphatically that they cannot assume new areas of responsibility with respect to the environment. In fact, the States are insisting that EPA's budget cuts would force proportionate reductions in their own programs, which depend on the EPA for information.

My own State of Rhode Island is struggling to cope with the cleanup of three major hazardous waste sites. The Director of our State's Department of Environmental Management has written directly to the EPA to protest proposed reductions in the evaluation of the toxicity of chemicals.

I will quote directly from the State's letter:

> It appears to me that your recent announcement reflects a reduction in your overall commitment to gaining a better understanding of toxic chemicals. Certainly this is not a case where Rhode Island or other States can or should conduct their own research programs. The production and use of toxic chemicals is a national problem and should rightfully receive national attention. I urge you not only to revise your agency's decision to reduce research into toxic effects, but to step up your research and evaluation program in that area.

Shifting program responsibility to States is an excellent long-term goal, but should we not negotiate that shift with the States in the spirit of cooperation and partnership before making wholesale cuts in environmental programs?

Finally, I would ask my colleagues to consider carefully one more question before voting on EPA's research budget today. Can the EPA improve the scientific quality of its research with the kinds of reductions in program support the Agency has proposed? Last year, the distinguished ranking majority member of the Science Committee, the gentleman from California, pointed out in an essay in Science magazine that the quality of scientific research at EPA depended to a large degree on the Agency's capability to conduct long-term, basic environmental research. In other words, if EPA focuses its attention only on short-term research to support the immediate need for standards and regulations, the quality of its science will suffer. That in turn will detract from its ability to develop good research to support our environmental standards.

The EPA has proposed eliminating much of its long-term research capability, choosing instead to focus a greatly reduced R. & D. budget to develop data to support today's regulatory programs. At the same time, the EPA Administrator has, I believe sincerely, pledged to improve the scientific quality of EPA's research, which has been sharply criticized by industry sources and public interest groups. Clearly, we have a contradiction to resolve. We cannot simultaneously cut out long-term research—which attracts the best talent to the Agency and keeps the EPA at the cutting edge of environmental science—and the same time persuade ourselves that we are enhancing the state of scientific inquiry at the Agency.

I would leave my colleagues with this thought—if we turn our backs on environmental research, we are really turning away from the quest for knowledge about how man interacts with the natural world that sustains us. That runs counter to the spirit of scientific inquiry on which we have built our civilization. These words from William Kingdon Clifford, an American scientist from the previous century, should have special meaning for us today:

> Remember, then, that science is the guide of action; that the truth which it arrives at, is not that which we can ideally contemplate without error, but that which we may act upon without fear; and you cannot fail to see that scientific thought is not an ac-

companiment or condition of human progress, but human progress itself.

Mr. Chairman, I urge my colleagues to support the EPA research budget. I think it is imperative that we not be playing games with the EPA research budget but that we unanimously understand that in order to go forward with responsible regulations we have to have the scientific data to back it up, and therefore, it is incumbent upon us to pass H.R. 6323.

Mr. CARNEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McGrath).

Mr. McGRATH. Mr. Chairman, the Environmental Protection Agency has enjoyed bipartisan support in the Congress since its inception under a Republican administration. That same bipartisan concern and support for environmental protection exists in this Congress today.

The primary responsibility of the EPA is the protection of public health and the environment. I have a deep concern for the ability of EPA to fulfill this mandate. I believe the agency must be funded adequately if it is to succeed in doing quality research for the protection of the environment.

I intend to support the amendment of the gentleman from Florida (Mr. Fuqua). This amendment will bring the funding for EPA research and development to $279 million for fiscal year 1983, which is the level of the Senate passed authorization.

I believe this funding level will enable EPA to continue its vital research in clean air, drinking water, hazardous waste, pesticides, and interdisciplinary research.

The amendment also provides for a 1-year authorization. This provision will enable the Committee on Science and Techology to continue its practice of annual authorizations of EPA research programs as a way of insuring that the program is well managed and is supporting the agency's primary role of protecting public health and welfare.

I urge my colleagues to support the amendment of the gentleman from Florida.

Mr. CARNEY. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding me this time, and, first of all, I want to commend the gentleman from New York (Mr. Carney) and my colleague, the gentleman from Florida (Mr. Fuqua) for their earlier consideration of authorizing funds for research with regard to ground water supplies under the Safe Water Act.

As the gentlemen know, my congressional district has about 12 communities which are plagued with the presence of barium in small, minute quantities in their ground water and drinking water supplies. There are some ongoing studies in the State of Mississippi, I believe at the University of Mississippi, with regard to animal research to test whether or not barium salts in drinking water, even in excessive doses, has any adverse effect on health. At the same time I believe there are some ongoing epidemiological studies in my congressional district to determine whether or not the long-range presence of barium in the ground water supplies has any adverse or beneficial effect on the population.

As I have observed on earlier occasions, the people in my congressional district of Illinois enjoy long, healthy lives while consuming the wonderful ground water supplies, but the EPA has imposed an arbitrary standard with regard to barium which has resulted in a closedown of some of the newly dug wells. This, in turn, has prevented development in some of the areas as far as residential and industrial development is concerned because it is contended that some of these water supplies, even though drawn from new wells are unusable.

What I would really like to know is whether or not there is any intention in the bill under consideration or under the substitute that may be offered by the gentleman from New York (Mr. Carney) to limit in any way the ongoing epidemiological studies or other scientific research which, when completed, can result in clarifying this subject as far as the water supplies in my congressional district are concerned.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, I thank the gentleman for yielding.

I think the answer to that question is that the studies pertaining to barium salts in drinking water would come under health effects and ground water research, and both the chairman of the subcommittee and myself, as the ranking minority member, recognize the importance of those ongoing programs. It is an ongoing program now with EPA.

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There has been no indication that they were going to cut that particular program out. However, my amendment would call for an increase of $1 million additional moneys over the EPA request for this specific type of ground water R. & D.

The bill that we are considering calls for an additional $1.5 million over EPA's request in this area.

The EPA, as I said before, has not indicated that they intend to cut out the barium studies and with the substitute you are assured to get at least $1 million more in the ground water research area over what EPA believes they need to continue the studies.

Mr. McCLORY. I thank the gentleman for these assurances. I hope the message will be heard down at the EPA where it seems to me they sometimes make arbitrary decisions.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. I would say we are very sympathetic to the gentleman from Illinois (Mr. McClory); yet, the gap between needed EPA research and the reality of the administration's budget is clearly apparent on this particular matter.

In the budget request, research for drinking water is reduced $1.9 million for health effects in drinking water.

We have restored $1.5 million of that amount, so under our bill the EPA would still be able to do approximately the same level of research that they are given under current funding.

Mr. McCLORY. Will the gentleman yield to me?

Mr. SCHEUER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I really feel that the ongoing studies, including the ongoing epidemiological work, will continue and will not be canceled out. I really feel that it would be unrealistic, it would be most unfortunate to cancel any studies and leave these communities in limbo without reassuring them that they have safe drinking water.

Mr. SCHEUER. Our bill does take that into consideration. But I fear that the Carney proposal which provides for a $1.9 million cut in the health effects of drinking water would not.

Mr. CARNEY. Will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman.

Mr. CARNEY. Obviously with all of the figures we are dealing with, some fall between the cracks.

My amendment clearly calls for a $1 million increase in the ground water research under the Safe Drinking Water Act.

The CHAIRMAN. The time of the gentleman from New York (Mr. Scheuer) has expired.

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

If I could have the attention of the chairman of the subcommittee I would like to simply clarify the figures.

My amendment calls for $1 million over the request of the agency in safe drinking water. That is specifically for ground water research, and that is where the research you refer to falls.

But I do agree with my chairman that EPA's request was $1.9 million less than what is in fiscal year 1982. I recognize that.

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EPA told us that they had no intentions of cutting that program but I recognized that you can just do so much with a limited amount of money and I felt that $1 million more would insure that those programs could continue.

I think the gentleman from New York (Mr. SCHEUER) recognizes how important this is, the gentleman being not only from New York, but he also resides on Long Island and he recognizes the great importance of ground water research and he recognizes how we both diligently worked toward insuring that type of research will go on.

That is precisely the type of research that our colleague from Illinois (Mr. MCCLORY) has been fighting for, for years, because of a very unique situation that he finds wihin his district with the high amounts of barium found in the water of the area he represents.

He has been out in front on this issue for years, as my colleagues remembers. He came before our committee in the 96th Congress and he came before our committee in this Congress, as well, trying to insure that those programs would go on.

The bottom line is that they will.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I am happy to yield to my colleague from New York.

Mr. SCHEUER. Indeed, the gentleman from Illinois (Mr. MCCLORY) has appeared systematically before our committee.

I would like to take this opportunity to say how deeply I regret the gentleman's retirement from this House and how much he will be missed here for his thoughtfulness, for his moderation, for his eschewing of partisan politics at all times, and for the great contribution he has made for many, many years.

Mr. CARNEY. I would like to associate myself with the remarks the chairman just made and echo his sentiments toward our colleague from Illinois (Mr. MCCLORY).

Mr. MCCLORY. If the gentleman will yield, I thank the gentleman and want to express my appreciation for the very generous remarks just made by the gentleman from New York (Mr. SCHEUER) as well as the other gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983".

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $57,685,000 for fiscal year 1983 and $61,146,000 for fiscal year 1984 for activities authorized under the Clean Air Act;

(2) $44,210,000 for fiscal year 1983 and $46,862,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $26,406,000 for fiscal year 1983 and $27,990,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $19,213,000 for fiscal year 1983 and $20,366,000 for fiscal year 1984 for interdisciplinary activities;

(8) $29,149,000 for fiscal year 1983 and $30,898,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $58,531,000 for fiscal year 1983 and $62,042,000 for fiscal year 1984 for energy activities, of which—

(A) $25,129,000 in fiscal year 1983 and $26,636,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $11,212,000 for fiscal year 1983, and $11,825,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $57,112,000 is authorized in fiscal year 1983 and $59,812,000 is authorized in fiscal year 1984 for such long-term environmental research and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

- (2) $29,281,000 for fiscal year 1983 and $30,291,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the peformance of the programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

SEC. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $46,253,000 for fiscal year 1983 and $49,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Academy of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Administrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) Appropriations authorized for energy research under section 2(a)(9) shall be used for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and therafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) to include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sci-

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ences. The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

Sec. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $1,000,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental statutes administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

INDOOR AIR POLLUTION

Sec. 8. (a)(1) The Congress hereby finds that—

(A) the presence of air pollution inside residential, commercial, and other buildings has been recognized for many years, but the significance of the problem—which has been greatly accentuated by the increasing use of new products in construction and by the current emphasis upon energy-efficient buildings—is only now being fully appreciated;

(B) the recent decision of the Consumer Product Safety Commission to ban formaldehyde insulation based on the hazard it poses to human health indicates the need for a thorough, scientific understanding of the indoor air environment;

(C) reports prepared by the General Accounting Office and the National Academy of Sciences find that existing Federal programs involved with indoor air pollution are fragmented, underfunded, and generally limited by an incomplete mandate, and that there exists a need for a comprehensive interagency program of research into the causes, effects of, and solutions to indoor air pollution; and

(D) information made available through such a program should be widely disseminated, and should, where possible, address the need for voluntary standards to be developed by professional societies and related industries to limit pollutants within the indoor environment.

(2) It is therefore the policy of the United States and the purpose of this section to provide for the establishment of an effective and well-coordinated Federal program of research and development with respect to indoor air pollution, to be carried out in cooperation with States, localities, and private industry in a manner which will take full advantage of the roles and expertise of the various participants while avoiding duplication of effort.

(3) As used in this section, the term "indoor air pollution" means the existence of air pollutants in the indoor environment. The term "air pollutants" means airborne contaminants having potential adverse human health effects; and the "indoor environment" includes residences and other non-manufacturing public and private buildings.

(b) In order to carry out the purpose of this section the Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") shall establish and carry out a comprehensive indoor air pollution research and development program, which shall emphasize data gathering and information transfer on all aspects of the indoor air pollution problem and which shall be considered an integral part of the exercise by such Agency of its general responsibility to protect human health and welfare from air pollutants.

(c) The principal objectives of the research and development program under this section shall be—

(1) to contribute to the understanding of indoor air pollution, through the facilities and personnel of the Federal Government, the broad range of health, monitoring, and engineering expertise which is required but which the other participants (individual Federal agencies, State and local governments, the building industry, and professional associations) do not individually possess; and

(2) to coordinate all efforts—Federal, State, local, and private—which involve or promote the conduct of research and development directed at the reduction of indoor air pollution, with particular emphasis upon the development and adoption of professional voluntary standards to prevent or abate air pollution in residential buildings.

(d) To assist the Administrator in the administration of the research and development program under this section, there shall be established—

(1) a Committee on Indoor Air Quality, to be chaired by a representative from the Environmental Protection Agency and co-chaired by a representative from the Consumer Product Safety Commission and a representative from the Department of Energy, and to include as members representatives from the Departments of Housing and Urban Development, Defense, Commerce, Health and Human Services, and Labor, and such other Federal agencies as may be appropriate; and

(2) an advisory group, appointed and supported by the Administrator, which shall be comprised of representatives of industry, the scientific community, and public interest organizations, including the National Institute of Building Standards and the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

In addition, the Administrator shall maintain constant communication with State and local officials having responsibilities related to the purpose of this section, and with all interested parties from the private sector.

(e) The program under this section shall give particular emphasis to—

(1) the characterization and monitoring of indoor air pollution sources and the monitoring of indoor pollutant levels (including the measurement of various pollutant concentrations and their strengths and sources, the identification of high-risk building types, and the development of better instruments for data collection);

(2) a study of the health effects of indoor air pollution in order to determine exposures and associated risks (including epidemiological studies aimed at identifying illness patterns and the identification of high-risk groups);

(3) the development of control technologies to prevent or abate buildups of indoor air pollution (including the development of generic control devices, the evaluation of individual and generic controls and air distribution patterns, and the testing of control systems);

(4) the development of public information outreach to assure the widest possible dissemination of the research findings to the user community (including the establishment of a toll-free hotline information service); and

(5) any other aspects of the battle against indoor air pollution which the Administrator determines to be especially significant.

In addition, the Administrator shall constantly work with industry representatives whose products may affect or contribute to indoor air pollution with the objective of assisting and encouraging the development and adoption of industrywide voluntary standards for residential buildings to aid in preventing or abating such pollution.

(f) In the course of conducting the program under this section, the Administrator shall submit to the Congress—

(1) within twelve months after the date on which funds are first appropriated to carry out the program, a plan to implement an indoor air research program which shall be based on the current state of knowledge in the field, including the National Academy of Sciences Report, the General Accounting Office Report, and recommendations developed by the Committee on Indoor Air Quality, and which shall—

(A) discuss the effectiveness of existing Federal, State, and local powers to deal with indoor air pollution, and

(B) set forth initial conclusions and recommendations;

(2) within thirty-six months after such date, an interim report which shall—

(A) update the initial report in all areas based on the early results of the program,

(B) give particular emphasis to the evaluation of risks and the identification of susceptible population groups, and

(C) assess future research needs; and

(3) within fifty-four months after such date, a further report which shall—

(A) fully discuss the results of the program through its earlier stages, especially the progress which has been made in developing and applying industrywide voluntary standards designed to prevent or abate air pollution in residential buildings,

(B) update the state of knowledge on indoor air pollution with respect to the assessment of risks to human health,

(C) recommend appropriate governmental and private actions, particularly with respect to the need for additional governmental regulations and the relative roles of each level of government and the private sector, and

(D) assess the need for future research.

(g) Nothing in this section or in the program under this section shall be construed as limiting or altering any authority available to the Occupational Safety and Health Administration under existing law.

(h) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 shall be available to carry out the research and development program under this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 19, strike out line 15 and all that follows down through line 15 on page 26 and substitute the following:

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such committees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry and public interest organizations, as may be necessary to assist the Administrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the program, assessing the state of knowledge concerning the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY

Mr. CARNEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

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The Clerk read as follows:

Amendment offered by Mr. CARNEY in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983."

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1983 for the following activities:

(1) $48,185,000 for activities authorized under the Clean Air Act;

(2) $30,800,000 for activities authorized under the Federal Water Pollution Act;

(3) $23,906,000 for activities authorized under the Safe Drinking Water Act;

(4) $30,579,000 for activities authorized under the solid Waste Disposal Act;

(5) $6,469,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $7,213,000 for interdisciplinary activities;

(8) $26,649,000 for activities authorized under the Toxic Substances Control Act;

(9) $35,030,000 for energy activities, of which—

(A) $16,192,000 is for the Energy Control Technology Research Program;

(B) $2,390,000 is for the Energy Health Effects Research Program;

(C) $3,984,000 is for the Energy Ecological Effects Research Program;

(D) $500,000 is for the Energy Monitoring Research Program; and

(E) $12,029,000 is for the Acid Rain Research Program; and

(10) $6,366,000 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $8,721,000 for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section may be transferred (for the same fiscal year) from that category to any other category so listed: except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 10 per centum thereof, or if the total of all amounts transferred to such other category for such fiscal year would exceed 10 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(e) Appropriations made pursuant to the authority provided in this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a). Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long term environmental research and development.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfer of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) organized and managed for maximum benefit to all programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who could benefit therefrom.

SCIENCE ADVISORY BOARD

Sec. 4. Section 8(e)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the statutes and the authority of the Administrator."

Mr. CARNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CARNEY. Mr. Chairman, my amendment calls for a 1-year authorization of the EPA research and development program changing it from the committee bill which is asking for a 2-year authorization.

It also reduces the funding of the EPA bill, changing it from a $8.1 million increase over the administration's request to a $9.6 million increase above that request.

The increases, according to program category, and this is in relation to the administration's request, are as follows:

In air, my amendment would call for an additional $1 million for research in hazardous pollutants, oxidants, and mobile sources.

In water quality, my amendment asks for an additional $1.5 million for the Great Lakes research program; $250,000 for aquatics weeds research program; $625,000 for sludge management research; $725,000 for ocean disposal research.

In the category of safe drinking and the Safe Drinking Water Act, my amendment asks for an additional $1 million for ground water research.

In the category of solid and hazardous waste activities we are asking for an additional $1 million over the request of the budget.

In interdisciplinary activities we are looking for $3 million for the long-term research over the request in the budget.

Finally we are asking for $500,000 in the area of energy activities for energy monitoring systems.

I think one has to realize that it is not often the easiest thing to deal with protecting our environment and at the same time deal with the economic factors of today. We would all like to live in a world where we could have the amounts of money necessary to carry out the programs in Cadillac fashion. But unfortunately realities of today do not dictate that we can go along at that pace and we have to find some common ground to maintain and improve the environment in which we live and at the same time stay within the parameters or restraints that are forced upon us because of budgetary factors.

So I offer this amendment keeping that in mind. I also would like to note that the committee bill we are considering today does not enjoy the support of the Appropriations Committee to the extent that the Science Committee authorization far exceeds the appropriation recommendation. Keeping that in mind, I think it would be appropriate for us to try to authorize funding levels in an area that we can best serve the environment while being consistent with the thoughts of the Appropriations Committee.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY

Mr. FUQUA. Mr. Chairman I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment in the nature of a substitute offered by Mr. CARNEY: Strike out everything after section 1 and insert in lieu thereof the following:

GENERAL AUTHORIZATIONS

SEC. 2.(a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $55,685,000 for fiscal year 1983 and $59,026,000 for fiscal year 1984 for activities authorized under the Clean Air Act;

(2) $40,790,000 for fiscal year 1983 and $43,237,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $25,906,000 for fiscal year 1983 and $27,460,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $13,770,000 for fiscal year 1983 and $14,602,000 for fiscal year 1984 for interdisciplinary activities;

(8) $28,149,000 for fiscal year 1983 and $29,838,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $53,530,000 for fiscal year 1983 and $56,742,000 for fiscal year 1984 for energy activities, of which—

(A) $20,128,000 in fiscal year 1983 and $21,336,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $9,721,000 for fiscal year 1983, and $10,304,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $54,344,000 is authorized in fiscal year 1983 and $56,876,000 is authorized in fiscal year 1984 for such long-term environmental research and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

(2) $26,513,000 for fiscal year 1983 and $27,355,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the performance of the

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programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

SEC. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $43,253,000 for fiscal year 1983 and $46,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Academy of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Admininstrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) Appropriations authorized for energy research under section 2(a)(9) shall be used for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and thereafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) to include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95–155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sciences, The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95–155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

SEC. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $750,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental statutes administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal Agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such commitees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry, and public interest organizations, as may be necessary to assist the Adminstrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high-risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the program, assessing the state of knowledge concerning the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WINN. Mr. Chairman, reserving the right to object, and I shall not object, I just think maybe the gentleman has cut the Reading Clerk off just a little bit early and some of us are not exactly familiar with the gentleman's amendment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Florida.

Mr. FUQUA. I would say to the gentleman the minority side has a copy. This in effect is just about the whole bill.

Mr. WINN. I wonder if the committee chairman would just explain it.

Mr. FUQUA. Yes. I plan to do that.

Mr. WINN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman the amendment I am offering would reduce the total authorization provided in H.R. 6323 from $296.8 million to $277.9 million in fiscal year 1983, and from $310.9 million to $291 million in fiscal year 1984. This revised authorization level represents a cut of $18.9 million and $19.9 million, respectively.

With this action, the authorization level in the bill will equal the current fiscal year 1982 appropriation of $277.9 million and be slightly less than the funding ceiling for these programs as agreed to by the Congress in the first concurrent budget resolution. That ceiling was $281.9 million for fiscal year 1983.

The amendment accomplishes this overall reduction by distributing cuts across the board. In this way, program direction is maintained but at a reduced level of effort. This is the best way to bring the funding in the bill down while still preserving its integrity and direction. Specifically, the amendment would make the following reductions in fiscal year 1983 program authorization—$2 million in air, $3.4 million in water quality, $0.5 million in

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drinking water, $5.4 million in interdisciplinary, $1.1 million in toxic substances, $5 million in energy, and $1.5 million in management and support. Fiscal year 1984 reductions would involve $2.1 million in air, $3.7 million in water quality, $0.5 million in drinking water, $5.8 million in energy, $1.1 million in toxic substances, $5.3 million in energy, and $1.5 million in management and support. No other substantive change would be made to H.R. 6323 by this amendment.

While each of us may not be pleased with reducing the EPA research budget to the level proposed by this amendment, I believe that taken as a whole, H.R. 6323 will still allow the Agency to continue a vigorous and responsible research program. I urge my colleagues to join me in supporting this amendment.

□ 1230

Mr. WINN. Mr. Chairman, I rise in opposition to the Fuqua amendment.

As the chairman has said, his amendment brings this from $296 million down to $277 million. That is still $62 million over the request. I do not care how you color it up or paint the picture, that is still an awful lot of money, and I rise in opposition to the amendment.

I rise in support of the Carney amendment, Mr. Chairman. What the gentleman from New York is trying to do by his balanced substitute is to provide a realistic level of funding for EPA in an era of fiscal restraints. It is very easy to add money to a bill and to arbitrarily establish budget levels which come out at a considerably higher level than the administration has recommended. It is considerably more difficult to take a close, hard look at environmental programs and to fashion an authorization that takes into account both the needs of the agencies and the overall budget realities of the Nation.

There is no doubt that the same bipartisan concern and support for environmental protection that has existed over the past 10 years still exists in Congress today. The question now is: Will the majority take the steps that are necessary to bring about a fiscally responsible budget for EPA while still protecting our Nation's environment?

I want to point out to the Members that, despite our desire to remain within the administration's budget request of $215.9 million, we felt that there were some programs which needed to be protected and were not by the administration's request. Therefore, the alternative EPA budget that the gentleman from New York (Mr. CARNEY), is offering is at the level of $222.9 million.

In addition to this reduced level of funding for EPA, the Carney substitute also makes this a single-year authorization rather than a 2-year authorization. And it deletes from the bill some highly restrictive language that would tie the hands of EPA in trying to administer their own agency.

I ask for defeat of the Fuqua amendment and support for the Carney substitute.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Fuqua amendment. In doing so, I oppose the Carney amendment.

The Fuqua amendment would, in effect, give that hard, tough look that the ranking minority member of the full committee just suggested and reduce our authorization from the $296.8 million that the full committee authorized on May 18 to $277.9 million, or the current level of appropriation.

Now, I have not heard a single Congressman stand up here today and say that the current level of funding is excessive. Yet this proposal by the chairman of the full committee would reduce current funding by the amount of inflation, which is likely to be 8 or 9 or 10 percent, and I think that does reflect that we are in perilous times. I think it does reflect, also, the fact that we cannot destroy R. & D. functions in EPA, otherwise we simply will not have the information base, to make intelligent decisions on environmental regulations.

There has been much complaint out there in industry—and I join in their dissatisfaction—that in the past we have sometimes regulated without factoring into the calculus of our regulations the costs that will be imposed upon industry compliance.

Now, the Fuqua amendment does protect the crucially needed funding for acid rain, indoor aid pollution, energy health effects and hazardsous wastes by maintaining the funding at the current level of funding which, as our distinguished chairman said, is within the first concurrent budget resolution.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I offer my support, as well, for the Fuqua amendment.

The Fuqua amendment preserves full funding for a facility important to the Great Lakes States—the Large Lakes Laboratory funding in Grosse Ile, Mich. That is the only laboratory that looks at the effects of toxics upon human health in the Great Lakes, which are 95 percent of the surface fresh water of America. It is important to enforce and live up to our water quality agreements with the nation of Canada, and continuing the operation of the Grosse Ile facility will allow us to do that.

I am pleased that this amendment, which I think is a reasonable compromise, maintains the Grosse Ile program as well as other programs that the gentleman has cited, and I want to offer my strong support.

Mr. SCHEUER. Mr. Chairman, I wish to thank my colleague for his support of the Fuqua amendment, and I wish to congratulate the gentleman for his vigilance and concern with the water quality of the Great Lakes area and for the hard work and the fine leadership that he has displayed over the years.

The Fuqua amendment does provide adequate funding, even at a somewhat reduced level, and I strongly urge its adoption.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Florida (Mr. FUQUA). I would just like to go down some of those reasons why.

Certainly my amendment recognizes the importance of the Great Lakes project, and we authorized moneys for that project, to keep it going, and I can appreciate the concerns that my colleague, the gentleman from Michigan, a member of the committee, has for the Great Lakes. We have taken care of that.

But let us look at the substitute and let us look at the pitfalls that the substitute offers. One, it is a 2-year authorization, something that the Science and Technology Committee has not done before. I think that certainly we should not relinquish our oversight responsibility on a yearly basis and stretch it out to a 2-year basis. I think the topic at hand is too important, as witnessed by the debates here.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Florida.

Mr. FUQUA. I appreciate the gentleman's yielding.

Mr. Chairman, the gentleman mentioned that we had never had a multiyear authorization before, and I point out that in DOE last year in reconciliation was a 3-year authorization, and we have been looking at the possibility of multiyear authorization so that we would have more time to do oversight work. I thought I would just point that out to the gentleman.

Mr. CARNEY. I am well aware of that, Mr. Chairman, and if I did not make myself clear on that, I apologize. I was referring to the fact that we had never had more than a 1-year authorization on EPA research and development.

Mr. FUQUA. In that statement the gentleman is correct.

Mr. CARNEY. I beg the gentleman's pardon for not making that perfectly clear.

I think that going to a 2-year authorization on EPA, an agency that in its entire history is one that has been criticized by not only the Congress but by the public in general, an agency that is now in the middle of reprograming, would be inappropriate. We should stand there and hold that agency's feet to the fire each year for their authorizations.

Second, I think we must recognize that some of the excess baggage still remains in the gentleman's amendment perfecting my amendment, and that one program I can think of is the indoor air program. Never before in my memory in serving on the Science and Technology Committee have we ever put a program into an authorization bill without having hearings on the program. We never held hearings on this new indoor air program, and I think that this might be premature.

I certainly am not saying that I would not support the program, but I would rather see it done through the legislative process where we would have the proper hearings and we can recognize the benefits of a program and at the same time the pitfalls that might be associated with that program.

Also, to arbitrarily pick a 6-percent increase in the following 1984 authorization bill would, to me, be irresponsible. No one can really predict what the necessary amounts of funding will be in 1984, and no one can predict what the inflation rates will be.

So I have some grave reservations about that.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from New York.

Mr. SCHEUER. I just want to point out that in our authorization hearings last spring we very definitely did have witnesses testify on the problem of indoor air pollution. They recommended a very much enlarged level of indoor air pollution R. & D. The gentleman is quite correct, we did not have a whole day of hearings set aside for indoor air pollution; but we had very impressive testimony on the subject as part of our authorization hearings.

Mr. CARNEY. I appreciate the gentleman's comments and, in response to my subcommittee chairman I can only say that the gentlewoman from Rhode Island has had a bill in the hopper for many months on this subject. And again I would not want to be thought of as being opposed to the indoor air program. What I am opposed to is authorizing this program without having hearings on the bill. I have grave reservations about that. I think it is a practice that, if it were to continue into areas of greater expense and more governmental intervention, it could be very, very harmful.

Mr. CHAIRMAN. The time of the gentleman from New York (Mr. CARNEY) has expired.

(On request of Mr. FUQUA and by unanimous consent, Mr. CARNEY was allowed to proceed for 1 additional minute.)

Mr. FUQUA. If the gentleman will yield, I want to further point out—and the gentleman from New York, chairman of the subcommittee mentioned it—that the program for indoor air quality came from a Member on the gentleman's side of the aisle. I think it is a very worthwhile thing for EPA to study. But it was not something that was an accommodation to Members of this side of the aisle.

Mr. CARNEY. If I may reclaim my time, I think I have made it quite clear that the program was and a bill has been submitted by the gentlewoman from Rhode Island (Mrs. SCHNEIDER), a member of the minority party in this body. I have no reservation about that. But what I am saying is that we did not have hearings on it. And I feel that that would be a grave mistake, to start passing authorizing legislation on new programs that this committee has not held hearings on, this committee that is responsible for that new program. That is all I am saying. It does not sell if it is from this side, and it does not sell if it is from the gentleman's side.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Florida (Mr. FUQUA).

May I first, Mr. Chairman, add my own commendation to those which have been expressed earlier for the work of the distinguished gentleman from New York, who has been speaking so eloquently on this bill. I can testify from my own experience on the committee as to his extreme diligence and contribution to the work of the committee.

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Mr. BROWN of California. Mr. Chairman, I am somewhat reluctant to speak on this legislation for two reasons. First, since I arrived late for the debate, it may be that my remarks will be repetitious. I would like to avoid that if possible.

Second, I have spoken many times in the past on this legislation. I have a very deep concern for the health of the EPA research program and specific aspects of it particularly, such as those involving the Clean Air Act. I am afraid that I may be construed as being highly nonobjective. I do not like to get into that position any more than necessary.

Despite that, I feel constrained to rise and make an appeal, at the very least, for the level of authorized funding proposed in the amendment of the gentleman from Florida (Mr. FUQUA).

I personally would feel that the EPA's program would be much better if it were maintained at the higher level of the committee report. In committee, I actually fought for an even higher level than is contained in the present bill.

I say this because, recognizing the need to weigh the requirements of environmental protection against the economic needs of the country, I still feel that we are not giving sufficient weight to the tremendous job that lies ahead of us in cleaning up the environment of this country.

I know that we cannot do it all in 1 year. I know that it will require time and that under these circumstances, it is necessary to make compromises.

I am willing to make those compromises within reason, and I think the compromise offered by the gentleman from Florida (Mr. FUQUA) is probably the very least that I could support with any degree of enthusiasm on legislation as important as what we have here.

I am also cognizant of some of the other objections raised by the gentleman from New York (Mr. CARNEY), the 2-year authorization, for example, and his statement that we need to keep EPA's feet to the fire. I have been keeping EPA's feet to the fire to the best of my ability, as one member, for quite a few years; and it is my honest opinion—and I have expressed this in report language before—that what EPA needs is a period of relative tranquility to get its act together and to carry out a program without the continued harassment which all too unfortunately seems to be the pattern of congressional intervention.

This is out of no desire to make their life comfortable over there. I want to see them do a better job. I think we can do this with ongoing oversight, without the necessity for the annual authorization process. A 2-year authorization is quite reasonable under these circumstances. We took similar action just last Wednesday, for example, on one phase of the EPA program—the FIFRA Act—which we reauthorized for a 2-year period, just as this act does.

I think this will do much to improve the quality of EPA's pesticide regulations.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(At the request of Mr. FUQUA and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. So I cannot agree with the gentleman's statement that we would improve the quality of EPA's work by the continuation of our existing annual authorization. I think a 2-year authorization is desirable at this point.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

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Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

I would like to elaborate on that point. It does give the committee an opportunity to do more oversight on the ongoing programs EPA has. I do not see in any way the committee is shirking its responsibility. Even with a 2-year bill, if we felt necessary, we could come in the following year in 1984 with an authorization bill, if the committee deemed that that was appropriate in order to change a program or direction.

The second point I wanted to make is that the amendment brings it below what the first concurrent budget resolution passed by this House provided for, and it is the same as the fiscal year 1982 spending level of the agency. So there is no increase.

I think with the many concerns that we have with our environment, this is a very, very bare bones approach and a budget for this. I urge the adoption of the amendment to the amendment in the nature of a substitute that I have offered.

Mr. BROWN of California. Mr. Chairman, I agree completely with the gentleman from Florida (Mr. Fuqua). In that light, I will make a personal offer to the gentleman from New York (Mr. Scheuer), to join with him and his subcommittee for the kind of extensive oversight which we are engaged in right now in the Committee on Agriculture over the operations of EPA in order to make sure that they do improve the quality of their research and make it more useful for the purposes of regulation and improving the overall environment of this country. I know that the gentleman from New York (Mr. Scheuer) will continue to be cooperative in doing this kind of joint oversight.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Chairman, I want to assure the gentleman I welcome the opportunity to conduct joint hearings with him where we have concurrent jurisdiction on oversight. I have long thought we waste too much time in this Congress having separate committees going over the same ground.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Fuqua) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Carney).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 153, not voting 37, as follows:

[Roll No. 283]

AYES—244

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chappell
Chisholm
Clay
Clinger
Coelho
Collins (IL)
Conte
Coughlin
Courter
Coyne, William
Crockett
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Glickman
Gonzalez
Gore
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hall (OH)
Hamilton
Harkin
Heckler
Hefner
Hertel
Hollenbeck
Horton
Howard
Hoyer
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Lehman
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McDade
McGrath
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Mottl
Murphy
Murtha
Natcher
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Savage
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitley
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Yates
Young (MO)
Zablocki
Zeferetti

NOES—153

Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Beard
Benedict
Bethune
Bliley
Broomfield
Brown (CO)
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Coats
Collins (TX)
Conable
Conyers
Corcoran
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dornan
Dreier
Duncan
Dunn
Edwards (AL)
Emerson
Erlenborn
Fiedler
Fields
Forsythe
Frenzel
Goodling
Gradison
Gramm
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hightower
Hiler
Hillis
Hopkins
Hubbard
Huckaby
Hunter
Hyde
Jeffries
Johnston
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
McClory
McCloskey
McCollum
McDonald
McEwen
Michel
Miller (OH)
Montgomery
Moore
Moorhead
Morrison
Myers
Napier
Nichols
O'Brien
Oxley
Pashayan
Patman
Petri
Pritchard
Pursell
Quillen
Railsback
Regula
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Rousselot
Rudd
Sawyer
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith (OR)
Snyder
Spence
Stangeland
Stanton
Staton
Stenholm
Stump
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (OH)
Whitehurst
Whittaker
Williams (OH)
Winn
Wortley
Wylie
Young (FL)

NOT VOTING—37

Addabbo
Bafalis
Bolling
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Coyne, James
D'Amours
Derrick
Edwards (OK)
Emery
Ertel
Evans (GA)
Gilman
Ginn
Goldwater
Hatcher
Hawkins
Heftel
Holland
Holt
Ireland
Marks
McKinney
Moffett
Neal
Paul
Rahall
Rhodes
Rosenthal
Smith (AL)
Whitten
Williams (MT)
Yatron
Young (AK)

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Mrs. BYRON, Mr. RALPH M. HALL, and Mr. LATTA changed their votes from "aye" to "no."

Messrs. SANTINI, LENT, FINDLEY, and BEREUTER changed their votes from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EVANS OF IOWA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY, AS AMENDED

Mr. EVANS of Iowa. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Evans of Iowa to the amendment in the nature of a substitute offered by Mr. Carney, as amended: At the end of the amendment add the following new section:

SENIOR ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 9. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is directed to develop a Senior Environmental Assistance Program, designed to assist Federal, State, and local environmental agencies in carrying out programs authorized under this Act.

(b) In providing assistance under subsection (a), the Administrator shall utilize, to the fullest extent possible, existing older American employment programs, as provided for in section 105(b)(4) of Public Law 95-478.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State, or local environmental agency for funding of any activities under this section unless such agency certifies that such activities will supplement and not supplant any existing jobs.

Mr. EVANS of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. EVANS of Iowa. Mr. Chairman, the amendment that I am offering today formally authorizes the EPA to continue a program which has demonstrated successes in promoting environmental quality and giving meaningful work to older Americans. This amendment authorizes no new money and would be implemented with funding already available under title V of the Older Americans Act and with existing EPA personnel.

My amendment is based on a very successful demonstration project conducted by the EPA in conjunction with the Administration on Aging and the Department of Labor. Pilot programs were conducted in Iowa where nearly 100 senior workers were utilized by the departments of agriculture and environmental quality. The demonstration was then expanded to 10 additional States where another 200 workers were employed. In addition, EPA has utilized these older workers in their 10 regional offices in the community noise program. The primary task of these participants is to assist State and local governments with environmental control programs. Many of these programs are mandated by Federal law, but left to the States to implement. Without sufficient personnel or funding, the States cannot comply. An example of this is the survey of drinking water sources required under the Safe Drinking Water Act of 1974. Iowa utilized older workers from this program to conduct this survey. Without this assistance, the survey would have been done at a significantly greater cost to the State and the public.

Mr. Chairman, this amendment has the support of the Natural Resources Defense Council, the Sierra Club, and the Friends of the Earth. In addition, it is my understanding that Senator CHAFEE will be introducing legislation this week which is similar to this amendment. He has six cosponsors for his bill, including the chairman and ranking minority member of the Senate Environment and Public Works Committee.

The Foundation for Applied Research (FAR) which is an independent contractor to the AA, examined the results of this demonstration senior citizens program. It concluded that:

> With regard to the costs of the program, we could have simply stated that the program was a grandiose success because it helped the environment in ways that cannot be easily measured in dollars and cents, but surely must be substantial. Or we could have said that the program was cost beneficial because it provided employment for a segment of the popluation which is too often presumed to be unproductive. These benefits are real and they are the greatest benefits of the program.

But even against a tough, analytic yardstick, the SEE program was productive. The FAR evaluation revealed that employment of these senior citizens resulted in savings of 16.5 percent on labor costs. The program was so successful that FAR recommended it be expanded to all 50 States, and that existing State programs be increased.

Mr. Chairman, my amendment authorizes expanded use of senior citizens in both EPA's national and regional offices. It would allow for the employment of eligible older Americans to work within the EPA on such activities as air monitoring and emission testing, pesticide inventory and control, water supply sampling and monitoring, technical libraries and public information, carcinogenic surveys and followups, hazardous materials routing surveys, rural health screening, and noise abatement and control.

Why employ the elderly? First, they are a highly motivate, highly skilled, and experienced work force. Approximately 1.4 million older Americans are unemployed and actively seeking work today. Senior citizens already possess the broad range of skills and extensive on-the-job training that the young worker has yet to accumulate. Older workers also have excellent records of hard work, reliability, and low absenteeism. Second, our system actively discriminates against them. The U.S. Commission on Civil Rights concluded that employment discrimination against the elderly was widespread in Federal job programs. The Commission said:

> We are shocked at the cavalier manner in which our society neglects older persons who often desperately need federally supported services and benefits.

In addition to the older Americans who are actively seeking work, there are an estimated 350,000 workers over the age of 55 who are "discouraged workers"—people who have given up looking for a job but would take one if it were offered. Many of these citizens are economically disadvantaged. One in every nine couples with a husband 65 or over had an income of less than $4,000 in 1976. Some 3 million persons aged 65 or older were below the poverty line in 1976.

And yet, these older workers, if given the chance, can be more productive per dollar of Federal cost than younger workers in the same fields of endeavor.

In closing, I reiterate that this amendment will help the EPA stretch its already stretched budget and assist older Americans to obtain productive and meaningful employment by allowing them to give future generations the benefits of a cleaner and safer environment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Iowa. Yes; I am glad to yield to the distinguished chairman of the committee.

Mr. FUQUA. Mr. Chairman, we have had a chance to review the gentleman's amendment. We think it is constructive, well intentioned, and contributes to the bill. We have no objection to it and are willing to accept the amendment.

Mr. EVANS of Iowa. Mr. Chairman, I thank the gentleman.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Iowa. I am happy to yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, the minority has had an opportunity to look at the amendment and certainly we are in full accord with the amendment, as the chairman is.

I would like to commend my colleague, the gentleman from Iowa, for presenting this most important amendment to the bill. It is one that will not cost us any money and it answers a requirement of the EPA and of our senior citizens community.

I would be in total support of the gentleman's amendment.

Mr. EVANS of Iowa. Mr. Chairman, I thank the gentleman.

I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as an original cosponsor of legislation to establish a Senior Environmental Assistance Corps to provide environmental career opportunities for older Americans, I strongly support this amendment. I am aware of the successful demonstration program conducted by the Environmental Protection Agency in cooperation with the Administration on Aging. The program was conducted in 10 States and employed hundreds of older Americans who were assigned to State and local environmental agencies to conduct special projects. Activities included hazardous wastes industrial surveys, local noise control seminars, management information updates, and a pesticides registration assistance program.

This amendment would formalize the senior environmental assistance program within the Environmental Protection Agency and direct EPA to assist in the development of State and local older American environmental projects as determined in cooperation with State and local environmental agencies.

I understand that the enthusiasm and vitality displayed by these senior environmental workers is inspirational. Working on a 20-hour week, on a part-time basis, the accomplishments of these individuals, all 55 years and older, is outstanding. The unique aspect of this program is that it used existing Federal older worker program funds and did not require any new expenditures from the Environmental Protection Agency. Further, there is ample opportunity for EPA to explore a volunteer-oriented program element within the overall program concept.

I urge adoption of this element.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. EVANS) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CARNEY), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

□ 1315

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CARNEY), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 394, noes 7, not voting 33, as follows:

[Roll No. 284]

AYES—394

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOES—7

Bingham
Burton, Phillip
Conyers
Fary
Ottinger
Solarz
Weiss

NOT VOTING—33

Badham
Bafalis
Bolling
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Crockett
D'Amours
Edwards (OK)
Emery
Ertel
Evans (GA)
Ginn
Goldwater
Heftel
Holt
Ireland
Livingston
Marks
Moffett
Neal
Paul
Rahall
Rhodes
Rosenthal
Smith (AL)
Udall
Whitten
Williams (MT)
Yatron
Young (AK)

□ 1330

So the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. DOWNEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6323) to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 535, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill, H.R. 6323, to the Committee on Science and Technology.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 314, nays 92, not voting 28, as follows:

[Roll No. 285]

YEAS—314

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burton, Phillip
Carman
Carney
Chappell
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Conte
Coughlin
Coyne, James
Coyne, William
Crockett
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Sam
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hertel
Hightower
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
LeBoutillier
Lehman
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Morrison
Mottl
Murphy
Murtha
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Simon
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitley
Whittaker
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—92

Applegate
Archer
Ashbrook
Bailey (MO)
Bethune
Bliley
Brown (CO)
Burgener
Butler
Byron
Campbell
Chappie
Cheney
Collins (TX)
Conable
Conyers
Corcoran
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Dreier
Emerson
Fields
Goodling
Gramm
Grisham
Hagedorn
Hall, Ralph
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hiler
Hubbard
Hunter
Jeffries
Jenkins
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
Lee
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
Marlenee
McDonald
Miller (OH)
Montgomery
Moore
Moorhead
Myers
Oxley
Pashayan
Paul
Quillen
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rousselot
Rudd
Sensenbrenner
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (OR)
Snyder
Stenholm
Stump
Tauzin
Taylor
Thomas
Trible
Walker
Weber (OH)
Whitehurst
Winn
Wortley

NOT VOTING—28

Badham
Bafalis
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Courter
D'Amours
Edwards (OK)
Emery
Ertel
Evans (GA)
Ginn
Goldwater
Heftel
Holt
Ireland
McCloskey
Moffett
Neal
Rahall
Rosenthal
Smith (AL)
Whitten
Williams (MT)
Yatron
Young (AK)

☐ 1345

Mr. MARTIN of North Carolina changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I call up from the Speaker's table the Senate bill (S. 2577) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1983, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FUQUA moves to strike out all after the enacting clause of the Senate bill, S. 2577, and to insert in lieu thereof the provisions of the bill, H.R. 6323, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983".

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $55,685,000 for fiscal year 1983 and $59,026,000 for fiscal year 1984 for activities authorized under the Clean Air Act:

(2) $40,790,000 for fiscal year 1983 and $43,237,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $25,906,000 for fiscal year 1983 and $27,460,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $13,770,000 for fiscal year 1983 and $14,602,000 for fiscal year 1984 for interdisciplinary activities;

(8) $28,149,000 for fiscal year 1983 and $29,838,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $53,530,000 for fiscal year 1983 and $56,742,000 for fiscal year 1984 for energy activities, of which—

(A) $20,128,000 in fiscal year 1983 and $21,336,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Com-

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prehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $9,721,000 for fiscal year 1983, and $10,304,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reasons therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

Sec. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $54,344,000 is authorized in fiscal year 1983 and $56,876,000 is authorized in fiscal year 1984 for such long-term environmental research and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

(2) $26,513,000 for fiscal year 1983 and $27,355,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the performance of the programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

Sec. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $43,253,000 for fiscal year 1983 and $46,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Acade-

my of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Administrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) the Appropriations authorized for energy research under section 2(a)(9) shall be use for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and therafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) To include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sciences. The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

SEC. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $750,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental status administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is

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not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such committees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry, and public interest organizations, as may be necessary to assist the Administrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high-risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the programs, assessing the state of knowledge concernng the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

SENIOR ENVIRONMENTAL ASSISTANCE PROGRAM

Sec. 9. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is directed to develop a Senior Environmental Assistance Program, designed to assist Federal, State, and local environmental agencies in carrying out programs authorized under this Act.

(b) In providing assistance under subsection (a), the Administrator shall utilize, to the fullest extent possible, existing older American employment programs, as provided for in Sec. 105(b)(4) of Public Law 95-478.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State, or local environmental agency for funding of any activities under this section unless such agency certifies that such activities will supplement and not supplant any existing jobs.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6323) was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 6323, the bill just passed.

The SPEAKER pro tempore. (Mr. Kildee). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 6324, the bill that we are about to consider in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Fuqua).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6324, with Mr. Evans of Indiana in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. Jones) will be recognized for 15 minutes, the gentleman from Washington (Mr. Pritchard) will be recognized for 15 minutes, the gentleman from Florida (Mr. Fuqua) will be recognized for 15 minutes, and the gentleman from New York (Mr. Carney) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. Fuqua).

Mr. FUQUA. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of H.R. 6324, which would authorize fiscal year 1983 and 1984 funds for the National Oceanic and Atmospheric Administration .

I wish to thank Mr. Scheuer, chairmean of the Subcommittee on Natural Resources, Agriculture Research and Environment, for his leadership in bringing this legislation to the floor, and for the many hours that were devoted to the floor, and for the many hours that were devoted to the authorization and oversight hearings which developed the legislation. In addition, I wish to thank the ranking minority members of the committee and subcommittee, Mr. Winn and Mr. Carney, for their fine efforts.

Our committee has worked very closely with the Committee on Merchant Marine and Fisheries on the oceans-related portions of this legislation. I wish to thank Chairman Jones and his staff for their outstanding cooperation in bringing this bill to the floor. I would also like to acknowledge the efforts of Mr. D'Amours, Mr. Snyder, Mr. Pritchard, and their staffs, who have been most helpful.

Mr. Chairman, H.R. 6324 is the initial step in a process which I hope will culminate, for the first time, in a comprehensive authorization act for the entire agency.

A comprehensive authorization bill for NOAA is very much need. Last year the House passed a NOAA bill reported by the Committee on Science and Technology. Unfortunately, that legislation was not considered by the other body. The committee continues to endorse the view that until a comprehensive organic act is developed for the agency, an annual NOAA authorization bill provides the committee and the Congress with the most effective means of overseeing the agency's programs.

H.R. 6324 authorizes NOAA to conduct essential research and service activities in a wide variety of areas, including weather forecasting, climatic services, atmospheric research, tornado and hurricane warnings, aviation weather, and ocean dumping research. The bill would authorize $542,779,000 for these activities in fiscal year 1983 and $575,346,000 in fiscal year 1984. The fiscal year 1983 total of $44,093,000 or 8 percent greater than the administration's request of $498,686,000. For purposes of comparison, the budget resolution contains approximately $852 million for NOAA's operations account, which is nearly 12 percent above the administration's request. Also included in H.R. 6324 are titles which would:

Amend the National Climate Program Act,

Incorporate the provisions of H.R. 3600, the Great Lakes Protection Act,

Amend title II of the Marine Research, Protection, and Sanctuaries Act, and

Reauthorize the Weather Modification Reporting Act.

The committee provided funds above the administration's request in two major areas—weather satellites and research. An increase of nearly $25 million is targeted for maintenance of two polar-orbiting weather satellites. The administration proposed downgrading this system to a one-satellite system. In its oversight investigation, the committee found that the two-satellite system provides several benefits, including better forecasts, insurance against satellite failure, and positive benefits for developing countries which use the information they generate. In short, it is a cost-effective investment.

Virtually all the other programs for which the committee provided enhanced funding were in the areas of basic research and development. In NOAA's overall budget, the administration proposed to reduce research funding for the Office of Research and Development from $123 million to $68 million—a cut of over 40 percent. The Committee viewed these cuts to be unacceptably large and voted to reinstate programs in ocean dumping and ocean pollution research, Great Lakes research, solar flare research, weather modification research, and climate research.

In summary, we have looked at NOAA's atmospheric, oceanic, and ocean pollution activities in great detail, and we have attempted to balance the needs of the agency and the Nation against the fiscal constraints under which we are attempting to operate. I believe we have struck an appropriate balance in this legislation.

H.R. 6324 contains the rock-bottom figure which will enable NOAA to fulfill the responsibilities which the Congress has mandated for it—weather, agricultural weather, ocean pollution research, and research into acid rain and other forms of atmospheric pollution, I urge my colleagues to support the bill.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, as the gentleman knows, title IV of the tax bill which we will be considering out of conference shortly is an authorization for the airport development aid program. In the conference the conferees agreed to pay out of the airport development aid program trust fund some $26-plus million for fiscal year 1983 and some $28-plus million for fiscal year 1984 to NOAA for weather reporting services.

If the tax bill is adopted and this bill is adopted, that would be a duplicate authorization. If the tax bill is not adopted, there is an understanding that the content of that conference agreement, so far as the authorization for ADAP is concerned, will be substituted for the pending ADAP bill, for which a rule has already been granted by the House, which again means that there would be a duplicate authorization of $26-plus million in fiscal year 1983 and $28-plus million in fiscal year 1984.

My question is, Assuming that there is a duplicate authorization, could we depend upon the gentleman to eliminate that duplication from this authorization when we go to conference?

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Mr. FUQUA. The purpose of our intentions is to abide by that agreement.

As the gentleman knows, we have been a part of the conference on the ADAP portion of the bill. It would be our intention in conference on this bill, should the event occur, that there would be a duplication of legislation, to omit that part of the conference that relates to the subject matter the gentleman just spoke to.

Mr. SNYDER. I thank the gentleman for his assurance.

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Science and Technology and the Committee on Merchant Marine and Fisheries have expended much effort over the past several months in formulating the piece of legislation before us today. As an active member of both committees, I wish to extend my gratitude to Chairmen Fuqua and Jones, and to the ranking minority members of the full committees, the gentleman from Kansas (Mr. Winn) and the gentleman from Kentucky (Mr. Snyder). Their strong leadership has facilitated bringing this piece of legislation to the floor of the House.

It is fortuitous for all Members of this body that the NOAA R. & D. authorization bill be considered and debated on its merits prior to any floor action taken on the respective appropriations bill.

Since mid-February of this year, several hearings have been held by the authorizing Subcommittees on Oceanography, and on Natural Resources, Agriculture Research and Environment, to address the research needs of NOAA. Many of NOAA's programs were discussed at great length, and particular concern was focused on programs dealing with research and monitoring of the ocean's resources and the impact of pollution on our ocean resources.

A second major area of concern was the health of the National Weather Service. Midway through hearings in the Science and Technology Committee, I was pleased to receive word from the Department of Commerce that the 45 weather stations proposed for closing would indeed remain open. This is one service which has continually received support from Congress; therefore, a decision to continue funding was well received by all. However, to address any future decisions on the closing or consolidation of weather stations, the gentlewoman from Nebraska (Mrs. Smith) will come forth at the appropriate time with an amendment. I urge my colleagues to support this amendment which will provide an appropriate mechanism for the Secretary of Commerce to operate under when considering changes.

With regard to the ocean pollution research and National Weather Service, I thank my colleagues, especially the distinguished Member from New York (Mr. Scheuer) for the strong bipartisanship which he has shown, and I rise in support of the actions these two committees have taken to maintain the vitality of these programs. However, I must admit that I am unable to give my wholehearted support for H.R. 6324 because it calls for a 2-year authorization of all NOAA atmospheric, climatic, and ocean pollution research programs and in doing so, prevents both the committee and the House as a whole from participating in a debate next year such as we are today. Though I do not object to a change in the normal practice of this committee, I do consider it both unwise and disadvantageous for this Congress to give up its future year oversight at a time when our Nation is fighting to restore and maintain economic stability.

H.R. 6324 also represents increased funding in areas I felt the Committee on Science and Technology could have supported at the administration's request.

I am also troubled and disappointed by the unwillingness of some in the Congress to make use of existing offices and laboratories for protecting our Great Lakes. Instead, they choose to ignore these available means and opt to create a new one, which to this gentleman is an example of bureaucratic waste and inefficiency.

With previous bills, it has been the position of the minority on Science and Technology to disapprove any increases above the President's request, however, after extensive examination of the programs at NOAA, and the state of marine and climatic research, I will support the authorization levels of H.R. 6324

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the Committee on Science and Technology, Mr. Fuqua, has very ably explained the bill before us, so I will be brief. It is always a pleasure to work with him and his committee, and our joint efforts on H.R. 6324 have been no exception. I compliment and thank him and his staff for their good work on this measure. I would like to highlight the parts of the bill that are of particular interest to the Merchant Marine and Fisheries Committee.

The National Ocean Pollution Planning Act was passed in 1978 in recognition of man's profound, and sometimes adverse, impact on the marine environment, and in acknowledgement of man's dependence on ocean resources. The act seeks to coordinate Federal marine research and monitoring as well as to provide financial assistance to groups engaged in similar endeavors. H.R. 6324 adds a new title to the National Ocean Pollution Planning Act that focuses on the Great Lakes. These lakes, which consititute one of the largest natural resources in the world, have too long been taken for granted. If the abundance of the Great Lakes is to be preserved for futher generations, we must begin to act now. The Great Lakes Protection Act, included as title 4 of the bill, is a good start.

The bill also reauthorizes title 2 of the Marine Protection, Research, and Sanctuaries Act, with a few minor changes. These changes are designed to insure: First, that ocean dumping regulation and ocean pollution research complement each other; second, that serious consideration be given to establishing regional waste management plans; and third, that a report be prepared, including a cost-benefit analysis, on sewage sludge disposal in the New York Bight Apex.

Mr. Chairman, let me add one comment on the form of this bill. This single bill deals with many programs within NOAA. While I believe that this bill is a good bill, deserving the support of every Member, the Merchant Marine and Fisheries Committee reserves judgment of the idea of these so-called omnibus authorizations. We wish to make it clear that this bill does not establish a binding precedent for future authorizations. In certain areas, for example the fish and wildlife programs under our jurisdiction, omnibus authorizations do not necessarily appear to be a good idea.

Mr. Chairman, the joint committee substitute amendment, H.R. 6798, represents the consensus agreement of the Merchant Marine and Fisheries and the Science and Technology Committees. Title 4 of H.R. 6798 is practically identical to H.R. 3600 which was reported out of our committee by unanimous voice vote. Title 5 of H.R. 6798 is essentially the same as H.R. 6112, also reported unanimously by our committee.

The differences between H.R. 6324 and the joint committee substitute, H.R. 6798, are minor. First, the authorization level for marine ecosystems, ocean dumping, and Great Lakes research is raised by $1.2 million. Of that amount, $200,000 goes to the National Ocean Pollution Planning Act, to bring that authorization up to $3 million. This is still $1 million less than the amount passed by our committee and $1 million less than the fiscal 1982 level.

The additional $1 million in section 201(a)(1) of H.R. 6798 is earmarked for the Puget Sound ocean dumping research project. This project was not specifically funded by the Science and Technology Committee but is an important project that both committees now agree should be continued.

A change in title 4 of the bill requires the Administrator of NOAA to consult with the Governors of those States bordering on the Great Lakes before appointing an Executive Director for the Great Lakes Research Office.

Title 5 of H.R. 6798 differs from H.R. 6324 only in that it requires the Environmental Protection Agency, NOAA, and the Army Corps of Engineers, cooperatively to investigate the feasibility of regional waste management plans. Title 5 further requires EPA and NOAA to report by December 31, 1983, on sewage sludge disposal in the New York region, including a cost-benefit comparison to land disposal.

Mr. Chairman, I believe this bill is a good bill. It has been worked out between our two committees and represents a sound compromise. I urge passage of H.R. 6324.

● Mr. D'AMOURS. Mr. Chairman, I rise in support of H.R. 6324, as amended by the substitute, H.R. 6798. As Chairman Fuqua and Chairman Jones have ably stated, H.R. 6798 is the result of negotiations between the Merchant Marine and Fisheries Committee and the Science and Technology Committee. The negotiations were made necessary when the two committees reported out differing versions of H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982.

While the bill before us today authorizes NOAA to conduct essential research and service activities in a wide variety of ocean and atmospheric areas, I would like to use my allotted time to expand upon the two titles of the bill directly pertinent to the jurisdiction of the Oceanography Subcommittee, which I chair.

Title IV of the bill reauthorizes the National Ocean Pollution Planning Act for fiscal years 1983 and 1984. This act was designed to coordinate the various Federal agencies conducting ocean pollution research and monitoring, to identify duplication of effort and to identify areas that are not being adequately addressed. In this way, the act provides needed guidance to the executive branch and to the Congress in assessing our research and monitoring capability and planning for the future.

Additionally, title IV amends the National Ocean Pollution Planning Act by establishing a separate Great Lakes Research Office to provide greater coordination of research efforts between various institutions and agencies involved with Great Lakes Research as a unique environmental, economic and recreational resource. Up until this time, the act has tended to treat the Great Lakes as one integral part of our oceanic environment, thus giving inadequate attention to its very different ecological nature and needs. The Great Lakes office would coordinate approximately 20 institutions, including Federal and State agencies and independent academic efforts, all currently conducting research on Great Lakes pollution.

Title IV contains provisions similar to those in H.R. 3600, the Great Lakes Protection Act of 1982, which was originally introduced by Mr. Blanchard of Michigan. H.R. 3600 was unanimously approved by the Merchant Marine and Fisheries Committee, as was H.R. 6324 after it was amended to incorporate the language of H.R. 3600. Both H.R. 3600 and the Merchant Marine version of H.R. 6324 reauthorized the National Ocean Pollution Planning Act at $4 million as

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year, which is a level authorization from 1982, and provided that no more than $750,000 of that sum be used to fund the Great Lakes Office. In reconciling the Merchant Marine and the Science and Technology bills, the authorization level was dropped to $3 million for each of the 2 years. This will make for a somewhat leaner program, but I expect that the mandate of the program will continue to be carried out.

Title V of H.R. 6324 and H.R. 6798 amends title II of the Marine Protection, Research and Sanctuaries Act (MPRSA). The MPRSA, commonly known as the Ocean Dumping Act, was enacted in 1972 as a result of concern over the effects of unregulated ocean dumping. The act established a policy to prohibit or strictly limit the ocean dumping of material which may be harmful to humans or the marine environment.

The act is divided into three titles. Title I specifies how ocean dumping shall be regulated and directs the Environmental Protection Agency (EPA) and the Crops of Engineers (COE) to establish dumping permit programs. Title II directs NOAA and EPA to conduct comprehensive research on the effects of and alternatives to ocean dumping. Title III provides for the identification and designation of marine sanctuaries.

Title II authorizes comprehensive research programs on ocean dumping. The Secretary of Commerce is directed to conduct continuing programs of monitoring and research on the effects of ocean dumping and the long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. EPA is directed to perform various activities to determine the means of minimizing or ending harmful ocean dumping and finding alternatives to ocean dumping. EPA is also directed to assist New York City in evaluating the technological options available for the removal of heavy metals and toxic organic materials from the city's sewage sludge, and to reduce the amount of such pollutants entering the sewage system.

Due to the combination of several events during the past few years, there has been an increased interest by the municipalities, ports, utilities, Federal agencies, and private industry to utilize the oceans for waste disposal.

The potential for increased ocean disposal of wastes by the aforementioned groups could tax EPA's ability to process the required permit applications, perform the site designation work, evaluate and monitor the effects of increased dumping, and conduct the research programs needed to produce timely information for management decisions.

The administration has requested appropriations of $4.835 million to fund title II activities for fiscal year 1983. This represents a reduction of $7.165 million for the amount appropriated in fiscal year 1982. This reduction would reduce or eliminate all support for ocean dumping regional projects, Northeast monitoring program and the ocean dumping program. Individual programs to be eliminated would include monitoring work, research on effects of trace metals on organisms, and cycling of toxic organics in the Great Lakes. Programs would also be terminated in Seattle, Stony Brook, and Ann Arbor including 71 full-time personnel positions.

The Committee on Merchant Marine and Fisheries is concerned that at a time when ocean dumping activities are increasing and there is a growing need for additional information on the effects of such dumping, the administration has proposed reduced funding for EPA and NOAA monitoring and research activities. The Merchant Marine and Fisheries Committee disagrees with the administration's proposed budget reductions which could provide the scientific information needed to predict the consequences of ocean dumping and thus increase the ability to mimimize adverse impacts on marine ecosystems. NOAA's regional projects are an excellent example of the type of work that provides information for managers of ocean dumping. Since many coastal pollution problems cross State boundaries and involve State and Federal waters, regional projects provide a useful mechanism for studying these problems. Beneficiaries of these projects include coastal managers from all levels of government.

The committee also disagrees with the administration's efforts to eliminate the dumpsite monitoring programs mandated under section 201 of the act. Safe utilization of the oceans for waste disposal, requires the ability to determine when adverse effects are occurring. Dumpsite monitoring serves to identify problems before they become serious. Elimination of this program runs the risk of causing irreparable harm if dumping is not monitored.

In testimony before the committee, the National Advisory Committee on Oceans and Atmosphere (NACOA) stressed that "increased use of the oceans for waste disposal must be accompanied by strong and viable management and assessment programs." These would include carefully designed monitoring programs and a solid basic research effort. NACOA also stressed that "EPA and NOAA funding plans for ocean disposal management and research programs fall short of meeting these needs." NACOA recommended that a fee system be implemented to fund management, monitoring, and research programs. The committee concurs with NACOA's statement.

Title V of H.R. 6324 is similar to the provisions of H.R. 6112, which was introduced by myself and unanimously reported out by the Committee on Merchant Marine and Fisheries on May 17, 1982. This title amends and reauthorizes title II of the Marine Protection, Research, and Sanctuaries Act, dealing with research related to ocean dumping of waste materials. The authorization level of $12 million for each of the next 2 years is equal to the current authorization level. The $12 million will authorize funding for several important programs. Included among these are the study of the long-term effects of ocean dumping—$4.8 million—the monitoring of ocean dumpsites—$2.5 million—continuation of the Hudson-Raritan estuary project—$1.5 million—continued research in Puget Sound—$1 million—and initiation of a special study on sewage sludge disposal in the New York City metropolitan area—$0.5 million.

Additionally, title V gives explicit direction to the Environmental Protection Agency to assess the feasibility of establishing regional waste management plans and to perform a comprehensive, multimedia, cost-benefit analysis of sewage sludge disposal in the New York City area. It also assigns additional research programs to be included in NOAA's long-term effects research programs. The following is a section-by-section analysis of title V of H.R. 6798.

SECTION-BY-SECTION ANALYSIS OF H.R. 6798 (AMENDMENTS TO TITLE II OF THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT)

SECTION 501—ANNUAL REPORT ON EFFECTS OF DUMPING

This section amends section 201 of the Marine Protection, Research and Sanctuaries Act (MPRSA) by deleting the reporting requirement. All reporting requirements for this title have been consolidated into one section. (See additional discussion under Section 505.)

SECTION 502—NOAA RESEARCH

This section amends section 202 of the MPRSA which directs the Secretary of Commerce to initiate research programs on possible long-range effects of pollution, overfishing and man-induced changes on ocean ecosystems.

The first portion of the amendment changes the requirement that the Secretary conduct long-range research in "consultation" with appropriate Federal agencies to that of "close consultation". This change is intended to signal to the Secretary that the research of National Oceanic and Atmospheric Administration (NOAA) on the effects of dumping should be closely coordinated with the needs of the Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers and other appropriate Federal agencies. The increasing interest in utilizing the ocean for waste disposal in the past few years makes it imperative that the latest information on effects of dumping is available to the agencies charged with evaluating ocean dumping permit applications.

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The second portion of the amendment specifies that the long-range research program is to complement, when appropriate, the regulatory activities pertaining to Title I of the MPRSA and specifies four specific activities to be included in the program.

First, NOAA is directed to develop and assess techniques for quantifying and defining degradation of the marine environment. Controversy over utilizing the ocean to dispose of wastes often centers around how to measure degradation and how to apply the results. If the ocean is to be a viable waste disposal option, various techniques for measuring degradation need to be developed and carefully evaluated to insure that unacceptable harm to the marine environment does not occur.

Second, NOAA is directed to assess the ability of the marine environment to assimilate waste materials without degrading the marine environment. If ocean dumping activities increase, or if the capacity of currently used sites is reached, new ocean disposal sites will be required. Potential ocean waste disposal areas, that could assimilate various wastes, exist off the coasts of the United States, but sufficient scientific information is not available to assess the ability of the marine environment to assimilate materials without degradation. Broad-based studies are therefore needed to assess the ability of the marine environment to assimilate wastes. This is especially important if ocean waste disposal areas are to be managed on the basis of their assimilative capacity. The purpose of this amendment is to direct NOAA to assess the assimilative capacity of the different types of ocean waters, based on the relevant characteristics of the waters and wastes, so that forecasts can be made as the maximum acceptable waste loadings on selected ocean areas.

Third, NOAA is directed to continue ongoing monitoring programs to assess the health of the marine environment. The value of programs such as the Northeast Monitoring Program tends to increase with time and it would be unwise to terminate any long-term monitoring program until future research indicates that new directions are appropriate.

Fourth, NOAA is directed to develop methodologies, techniques and equipment to minimize degradation of the marine environment from dumping. Current ocean dumping and disposal technology is limited to direct dumping by barge or disposal by pipe. This amendment charges NOAA with the responsibility to develop scientific and/or engineering alternatives to, or improvements on, existing ocean disposal practices.

SECTION 503—EPA RESEARCH

Section 503 adds two additional activities to EPA's research requirements under section 203 of the MPRSA.

First, the Administrator of EPA, in cooperation with other appropriate Federal, state and local officials, is directed to assess the feasibility of developing regional waste management plans that integrate all waste disposal activities into a comprehensive regional disposal strategy.

Such plans would identify and address applicable Federal, state and local waste disposal actions within a region. They would also identify sources, quantities and types of existing and future waste materials, as well as alternative waste disposal processes. Economic, social, environmental and human health factors affecting the various alternatives would be evaluated and quantified. Finally, the plans would identify improvements in permitting processes, such as regional one-step permitting, that would reduce administrative burdens.

This amendment follows the recommendation of the National Advisory Committee on Oceans and Atmosphere (NACOA). NACOA, in a January 1981 report, urged that the Congress and the Executive Branch adopt an integrated approach to waste management. An integrated approach, to be effective, must consider all alternative means of disposal, in all media, including recycling and improved source control on a region-wide basis. Full knowledge of the various natural and manmade pollutants entering marine waters, air, and land is also necessary. Because an integrated approach would involve many governmental jurisdictions, several disposal alternatives and many pollutant sources, the feasibility of establishing regional waste management plans is unclear. The amendment, therefore, directs EPA to assess the feasibility of such regional waste management plans.

Second, EPA, in cooperation with NOAA, is directed to report to the Congress by December 31, 1983 on a cross-media comparison of sewage sludge disposal in the New York City region. The report will include a cost-benefit comparison of landfilling, incineration and ocean dumping and will include recommendations on regulatory or legislative changes that may be necessary to reduce impacts from sewage sludge disposal.

Public Law 96-572 authorized the Administrator of the Environmental Protection Agency to conduct a study to assist New York City in evaluating the technological options available for removing heavy metals and toxic organics from the sewage sludge of the City and to reduce the amount of such pollutants entering the sewage system. The study, which was to be completed by July 1, 1981, was never initiated. The issues that were the subject of the study mandated by P.L. 96-572 are integrally related to the cross-media comparison required by this subsection. The Committee, therefore, fully expects that these issues will be addressed, as appropriate, in the report required by this subsection.

SECTION 504—AUTHORIZATION OF APPROPRIATIONS

This section amends section 204 of the MPRSA by redesignating the section as section 205 and authorizing appropriations of $12,000,000 for each of fiscal years 1983 and 1984.

SECTION 505—NEW YORK CITY SEWAGE SLUDGE TOXICS AND ANNUAL REPORTS

This section amends section 205 of the MPRSA by: (a) redesignating the section as section 204; (b) deleting the directive to the Administrator to evaluate various options for removing toxic materials from the sewage system and sewage sludge of New York City (see additional discussion under section 503); and (c) consolidating all title II reporting requirements into one section.

Section 204 of the MPRSA, as amended by this amendment, combines various reporting requirements of the Secretary into one report and directs the Administrator to report on ocean dumping research activities. Current law requires the Secretary of Commerce to report separately to the Congress on findings made under section 201 (dumpsite monitoring) and activities taken pursuant to section 202 (long-range effects) including reports required by the Fish and Wildlife Coordination Act (effects of sewage and industrial wastes on wildlife). This amendment consolidates the various reports into one report.

In addition, section 204 would require the Secretary of Commerce to identify the short-term and long-term research requirements that are needed to meet regulatory responsibilities of title I. Title II research activities should not be undertaken independent of title I regulatory actions. In order to meet the objective of the Act to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities, EPA and the Corps of Engineers need information that is as complete and timely as possible. The Committee is concerned that the information needed to evaluate ocean dumping permit applications is at times unavailable, and that the research programs authorized under title II are insufficiently tailored to the information requirements of title I. This amendment is an attempt to correct these shortcomings. The amendment requires the Secretary to cooperate closely with the Administrator and officials of other appropriate Federal agencies in identifying the research needed to administer title I activities and describing how the research pertaining to titles I and II will meet those requirements.

Mr. Chairman, the members of our two committees feel strongly that at a time when ocean dumping activities are increasing, there is a growing need for additional information on the effects of such dumping. Many of the research activities authorized by title V of this legislation are slated for reduction or elimination by the administration. The provisions of this bill are intended to maintain the existing research programs in order to provide the scientific information needed to predict the consequences of ocean dumping, and thus increase our ability to minimize adverse impacts on marine ecosystems.

I strongly urge my colleagues to support this legislation.●

Mr. PRITCHARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the programs that the Merchant Marine and Fisheries Committee has joint jurisdiction over, that will be authorized in the substitute to H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982. I particularly want to focus on title V which authorizes $19.019 million for marine ecosystems, ocean dumping and Great Lakes research for fiscal years 1983 and 1984.

Title V of the substitute amendment contains $12 million to be authorized for ocean pollution research activities carried out under title II of the Marine Protection, Research and Sanctuaries Act (MPRSA). As my colleagues have pointed out, this title will insure the continuation of important regional pollution research projects which were developed to increase understanding of environmental consequences of marine disposal of wastes and to transfer that understanding in useful forms to regulatory and resource managers at all levels of government.

One million dollars would be authorized for the ongoing Puget Sound regional project commonly referred to as the marine ecosystems analysis (MESA) project, which was not scheduled for completion until 1984. The Seattle/Tacoma metropolitan region has undergone rapid economic development. Certain areas of the Sound are already showing signs of ecological stress. The presence and distribution of contaminants and toxic substances have been determined for Puget Sound, especially around the highly industrialized areas. A number of biological abnormalities in fish have been identified which are associated, at least geographically, with the high concentration of contaminants. Also, the physical processes which affect the transport and flushing of contaminants have been characterized for Seattle and the Sound as a whole.

The combined research that has been conducted in Puget Sound has provided useful scientific information to help guide both State and national policy decisions on marine pollution issues. The MESA project has aided the planning and coordinating of marine pollution research, and in synthesizing and disseminating the results of this research. Also, it has supported efforts to prevent or mitigate effects of accidental release of oil and hazardous materials into the marine environment.

In summary, I believe the provisions dealing with the marine pollution program in the substitute amendment will preserve the research programs that have been so useful in providing the scientific data needed to accomplish the tasks that have been set out in Federal law. That is why I would urge my colleagues to support the passage of this amendment. Thank you, Mr. Chairman.

● Mr. **FORSYTHE**. Mr. Chairman, as a member of both the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology, I want to express my strong support for the National Oceanic and Atmospheric Administration's research efforts. Their research relating to our oceans, atmosphere, and climate is vital to the economic as well as the social well-being of our Nation.

As our country's population continues to increase, the demands on our resources becomes even greater and the problems relating to the management and rational use of the environment and natural resources multiply. We must assure the continuation of NOAA's research programs in order to find the necessary solutions to our problems—many of which are created only through our own use and sometimes abuse of the environments around us.

There is nothng I would like better than to authorize full funding for all of NOAA's research programs. However, if we are ever to realize a balanced budget and improvements in the economy, we must make decisions on which research activities are of highest priority and see that they are adequately funded. I cosponsored this legislation because I strongly support NOAA's research activities.

One of the most pressing research needs is to determine the effects from the disposal of various types of materials in our oceans. We have no overall Federal plan for managing our Nation's wastes, whether it be on land, in the atmosphere, or in our oceans. Because of the increasing populations and industries along our coasts and the resultant amount of wastes produced, the social, political, and economic pressures in these municipal areas demand further research to determine the best method and media of disposal. With regard to the ocean dumping of waste materials, further information needed includes that related to the long-term effects of ocean dumping, the chemical behavior of pollutants in the marine environment, and whether contaminants contained in ocean bottom sediments and other wastes pose a risk to aquatic life and the food chain. We also need to know more about the environmental and health risks of land-based waste disposal options.

It is my hope that waste disposal in the various environmental media is only a temporary solution to waste management problems, and that one day we will be able to find the techniques for pretreatment and recycling which will turn all our wastes into useful resources.●

Mr. **PRITCHARD**. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. **WINN**. Mr. Chairman, I find myself on this NOAA authorization in a position I took on the EPA authorization. That is, I support the fine work that NOAA does, and I support an authorization for them, but I cannot support an authorization at the level contained in this bill.

Mr. Chairman, NOAA's work is tremendously important. The broad range of their mandate covers items such as open dumping research, ocean pollution research, the National Hurricane Center, the National Severe Storms Forecast Center, weather satellite services, and activities such as atmospheric research and monitoring. This last activity provides for study of the increased carbon dioxide concentrations in the atmosphere attributable in part to combustion of fossil fuels, and increased worldwide deforestation.

Of course, the issue that Members hear most about with regard to NOAA, is the weather stations. Initially, the administration had planned to close 45 weather service offices around the country. However, I am pleased to note that these closings will in fact not take place. Because of the vital importance of these weather stations to so many people, the administration has decided not to attempt to close them, but rather to find the money to continue to fund them.

It is my understanding that the gentlelady fron Nebraska, Mrs. SMITH, will offer an amendment at the appropriate time, which would establish objective criteria and procedures for closing, consolidating, or opening new weather stations. This attempt at providing a more orderly process for handling weather stations seems to me to be an excellent idea, and I hope all Members will support her efforts.

While there is no doubt about the solid record of accomplishments achieved by NOAA's many programs, I cannot support this authorization at its current level. The administration request for fiscal year 1983 is for $498 million. The Committee on Science and Technology has recommended a total of $542 million, some $44 million over the request. In addition, the committee has also provided for a second year authorization in fiscal year 1984 at a substantial increase, up to $575 million. As with the EPA authorization, a 2-year authorization for these programs is unprecedented by our committee. As our committee report points out, since its establishment, NOAA has obtained most of its funding for its major programs through direct appropriations, with little or no authorization or congressional oversight.

Thus, we have never seen a full NOAA authorization become law since NOAA was established in 1970. I think it is important that NOAA has an authorization, but it seems to me to be very illogical to make that authorization a 2-year one, when we have been crying over the fact that we have lacked authorizations or oversight in the past. If we want to have truly effective oversight, then let us bring NOAA back here next year before the committee and consider an fiscal year 1984 authorization in light of the facts that exists then, rather than on the speculation as to NOAA's needs 2 years in the future.

In addition to my concerns over the dollar amount of this authorization, and the 2-year period of the bill, I am also concerned over the addition of some programs and provisions that would be better left out of the bill completely or at least considered separately in another piece of legislation. For example, the bill provides an au-

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thorization for the Great Lakes research program. This is a new initiative, and on the face of it it sounds like a worthwhile program. A great many States and districts border on the Great Lakes, so, of course, there is a very large natural constituency that would form around such a program. But in fact much is already being done in this area, and the gaps that do exist would not be filled in by this program. The Great Lakes protection program provided by this bill would only add another layer of bureaucracy to the Federal Government, and would only proceed slowly, if at all, to solve the coordination problems that exist in regard to the Great Lakes programs.

In summary, Mr. Chairman, I continue to give my strong support to NOAA's programs. However, I cannot support this authorization as it is now constituted. I intend to support those amendments which will be offered to correct these deficiencies and I hope that it will enable us to proceed from the House with a bill which all Members can support.

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Mr. PRITCHARD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McGRATH).

Mr. McGRATH. Mr. Chairman, I rise in support of H.R. 6324, the authorization for the National Oceanic and Atmospheric Administration for fiscal year 1983.

I am particularly supportive of this bill as reported because it retains full funding for several of NOAA's very important programs. One of these is the U.S. civilian satellite program, which includes NOAA's polar orbiting meteorological satellites. The fiscal year 1983 budget request for NOAA proposed reduction of the program to a one polar orbiter system.

During the Science and Technology Committee's consideration of the NOAA authorization, I supported an amendment to restore the second polar orbiter to the NOAA budget. Reduction to a one orbiter system would seriously degrade this Nation's ability to provide adequate weather forecasting, particularly 3- to 5-day forecasts.

The polar orbiter system is vital to our ability to predict major storms. If one satellite in orbit fails, we will have none, and there will be an extended time gap before a replacement satellite can be launched—possibly as long as 18 months. Thus, we would be without the powerful microwave sounding capability during the winter months or the hurricane season, when it is most urgently needed.

Studies of the impact of improved forecasts for agriculture, aviation, and snow removal, where economic benefits can be quantified, point to benefits that are 10 to 100 times greater than program costs. For example, it has been estimated that improved wind forecasts of only 1 or 2 percent can result in up to $160 million in fuel cost savings to the aviation industry annually.

An additional example of the benefits resulting from the two polar orbiter system is illustrated by the fact that the British Navy made extensive use of the data from NOAA's polar orbiting satellites during the crisis in the Falklands. I am submitting for the RECORD a copy of a letter of commendation from the commander of the U.S. Naval Oceanography Command to the Assistant Administrator for Satellites of NOAA. The U.S. polar satellite sounding data provided to the British Meteorlogical Office allowed then to construct charts which allowed a creditable weather forecasting job to be done in a region of the Earth where conventional weather observations are very, very scarce.

It makes good sense to spend the money for a second polar orbiter. The benefits are quite real, and they accrue to agriculture, the building industry, water management, forestry, public utilities, fishing, and safety of the general public. There is not one of us here whose constitutents could not in some way benefit from the two polar orbiter program.

Another important provision contained in the bill is section 203(b) of title II. This language prohibits the transfer of U.S. meteorlogical satellite assets to the private sector without approval by Congress. I strongly support this provision since I believe U.S. taxpayer investments have allowed development of this national resource and we in Congress must assure recoupment of our citizens' investment through receipt of satellite information.

NOAA is required by law to protect public health and safety through the issuance of weather warnings, and their satellites contribute irreplaceable weather information for these public warnings.

If the private sector is given the civilian satellite system, then the government would be required to pay for satellite data. If the Government transfers the satellites to the private sector, not only would U.S. taxpayer investments have been used to develop our satellite capabilities—they would also be used to fund the purchase of satellite weather information from the private sector. We cannot allow our constituent investments to be carelessly wasted by requiring a Government agency to purchase satellite information that is now provided free.

I urge my colleagues to support H.R. 6324 as reported from the Committee on Science and Technology.

DEPARTMENT OF THE NAVY,
COMMANDER NAVAL OCEANOGRAPHY
COMMAND, NSTL STATION
Bay St. Louis, Miss., August 3, 1982.

From: Commander, Naval Oceanography Command.

To: Assistant Administrator for Satellites, National Oceanic and Atmospheric Administration.

Subject: Letter of Commendation.

1. During the recent Falkland Island crisis in the South Atlantic, elements of the Naval Oceanography Command (NAVOCEANCOM) were tasked to provide enviromental analyses and forecasts. The Naval Eastern Oceanography Center, Naval Polar Oceanography Center and Fleet Numerical Oceanography Center provided direct support to the Chief of Naval Operations and the Commander-in-Chief, Atlantic Fleet. Data from the National Earth Satellite Service (NESS) proved to be invaluable in obtaining accurate and timely environmental information for a data sparse region, thus enabling Navy meteorologists and oceanographers to prepare useful analyses and forecasts.

2. NESS provided several non-routine products in a very efficient and timely manner. The Central Data Distribution Facility (CDDF) and the Satellite Field Service Station (SFSS) Washington, DC produced special South Atlantic geostationary enviromental satellite (GOES) sectors of visual and infrared imagery that were transmitted via the SFSS Washington GOES-Tap circuit once per day. This support was later expanded to twice per day at the Navy's request. The commitment of valuable processing resources and the rapid response by CDDF and SFSS Washington were impressive.

3. Very high resolution imagery from polar-orbiting satellites over the crisis area was also scheduled. This was accomplished through use of a priority scheme instituted by NESS in 1981 to accommodate situations such as the Falkland Island crisis. The one-kilometer resolution local area coverage received was scheduled for the spacecraft recorders in a minimal amount of time and provided the only high quality satellite data available in the region. The schedulers and operators of the Satellite Operations Control Center and the Environmental Products Branch of NESS provided these services in an outstanding manner.

4. Overall, NESS made my Command's job a great deal easier and the ultimate product we provided much more accurate. This recent crisis is just another example in a long history of successful support and cooperation between the NESS and NAVOCEANCOM. Your efforts are greatly appreciated, and on behalf of the Naval Oceanography Command I extend sincere congratulations for a job "Well Done".

R. E. HUGHES.●

Mr. PRITCHARD. Mr. Chairman, I know of no other requests for time, and I yield back the balance of my time.

Mr. CARNEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHEUER), the distinguished chairman of the subcommittee that considered this in the Science and Technology Committee.

Mr. SCHEUER. I thank the chairman, and I want to congratulate the gentleman and express my appreciation for the fine support he has given us at all times in getting this bill to the floor.

I likewise wish to congratulate the ranking minority member of the subcommittee and the ranking minority member of the full committee, the gentleman from New York (Mr. Carney), and the gentleman from Kansas (Mr. Winn) for their fine cooperation throughout the whole process.

Mr. Chairman, I rise in strong support of H.R. 6324, the NOAA authorization.

H.R. 6324 marks the beginning of a new relationship between Congress and the National Oceanic and Atmospheric Administration. NOAA was established by executive reorganization in 1970 with the mission of providing services and research in the sea and in the air. Over the past 11 years, numerous environmental statutes have given NOAA additional duties. The agency is now responsible for a vast array of activities including weather forecasting, acid rain research, fisheries conservation, the national sea grant program, the National Ocean Pollution Office, the National Climate Office, conservation of marine mammals and sensitive marine habitats, and many more programs which the Congress and the American people have regarded as legitimate and important Government services.

Throughout these 11 years, the Congress has voted on numerous occasions to authorize NOAA to carry out various aspects of its environmental responsibilities. However, Congress has never reviewed and evaluated the missions and programs of this important agency as a whole, with the view of understanding how its components ought to relate to each other and to the needs of the people.

H.R. 6324 has provided Members with a good opportunity to review and reorder the agency's priorities. I am confident that this type of oversight will help NOAA to keep its programs in tune with the needs of the public.

Mr. Chairman, as the gentleman from Florida (Mr. Fuqua) indicated, H.R. 6324 authorizes funding for approximately $543 million of the agency's $800 million budget. Let me briefly describe the programs for which the committee voted to provide additional funding above the administration request.

The bill would reinstate nearly $5 million in ocean pollution research. This increase is essential in view of the increasing pressure to open up the oceans for disposal of municipal, industrial, and radioactive wastes. Our subcommittee held extensive hearings on this issue during the spring, and it was clear from the testimony of many expert witnesses that if NOAA abandons its excellent research program in ocean pollution, neither the State governments nor the private sector will be able to pick up the slack. Cuts in these ocean programs will signal a retreat from the goals which the Congress mandated a decade ago in passing the Clean Water Act and the Ocean Dumping Act.

H.R. 6324 contains $500,000 for NOAA to begin, with EPA, a comparative study of the environmental effects of waste disposal in various media—land, sea, and air. Because of the shortsighted approach of Federal agencies in the past, critically needed cross-media comparisons of environmental impacts have never been made. EPA must therefore regulate waste disposal without an adequate understanding of what the relative impact of various disposal options might be, be it ocean dumping, landfill, or incineration. The committees felt strongly that the most appropriate target for a pioneering cross-media study of this sort is the sewage sludge problem in the New York City metropolitan area.

In the area of weather services, the bill would accelerate the procurement of the next generation radar system (Nexrad). This upgrading is essential for future weather services, since the current system is based on 1950's vaccum-tube technology and is rapidly deteriorating. The Nexrad system will incorporate numerous doppler radars, which have the potential to save many lives by early detection of tornados and by detection of unusual meteorological disturbances such as the wind shear conditions which caused the recent airline crash outside of New Orleans. It makes no sense to me to cut back on radar procurement at a time when the technology is available for the first time very greatly to enhance the effectiveness of our systems to protect public safety.

H.R. 6324 would also preserve 63 weather service offices nationwide, an action recently approved for fiscal year 1982 in the emergency supplemental appropriations bill. The bill also funds all of NOAA's agricultural weather services. These activities were scheduled for elimination by the administration. For less than $1.5 million, the National Weather Service provides farmers in over 40 States with information needed to protect crops from frost, to irrigate crops, and to plant, fertilize, spray, and harvest at the optimal time. I doubt that there is a more cost effective $1.5 million expended in the entire Federal budget.

We have provided approximately $5 million to preserve programs in atmospheric and climatic research, programs for which NOAA has a well-deserved international reputation. During times of budgetary restraint, it is tempting to target long-term research programs for reduction. However, it is programs of this sort which provide us with early warning of such important environmental concerns as ozone depletion, acid rain, and the "greenhouse effect." In the case of weather modification research, these basic programs may some day provide us with another tool for solving one of our most important, long-term environmental issues, particularly in the Western States—the provision of adequate quantities of high-quality water.

Finally, let me address the issue of meteorological satellites. The administration is proposing to save $24.7 million by downgrading the polar orbiting weather statellites to a one-satellite system.

This is an issue that we examined long and hard at out authorization hearings. We found that there are two risks associated with downgrading the system.

First, the reliability level of forecasts and services will decline:

Long-range, 3-to-5 day, forecasts will suffer, as will short-range forecasts in tropical areas, in the southern Hemisphere, and in oceanic areas such as Hawaii and Alaska.

Other cooperative programs will suffer, such as Agristars—crop production forecasts—and the world climate program.

Our relations with nations of the Third World will suffer. Currently, over 120 nations receive weather satellite data from the United States. According to NOAA, downgrading the two-polar system would not allow these nations "to do a respectable job under Third World (weather) conditions." Further, many of these nations use satellite information to monitor crop production and to aid in planning for agriculture, fishing, and water management.

The second risk associated with going to a one-polar system is its lack of backup capacity. Thus, in the event of a launch failure or an operational failure, there will be no satellites in orbit for a period of 1 to 18 months. With no polar-orbiting satellites, the art of weather forecasting would be plunged back to the 1940's, and the resultant deterioration in forecasting would lead to losses in many sectors of our economy—from argiculture, to water management, fisheries, construction, forestry, and energy distribution. In sum, the two-satellite system provides better forecasts, insurance against satellite failure, and an inexpensive and much appreciated source of foreign aid; it is a very cost effective investment.

Mr. Chairman, this is a fiscally responsible bill. We estimate that approximately $10 million more would be required to maintain NOAA's programs at current, fiscal year 1982, levels. It is painful to have to propose these cuts in NOAA's budget, but reductions of this sort will be necessary

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in many agencies to reduce our Federal deficit to manageable proportions.

But I, for one, do not concur with the administration's view that NOAA should retreat from a large number of programs which the Congress has mandated for it. And neither, I might add, do many of our Republican colleagues on the Senate Commerce Committee, who voted unanimously in June to increase the administration request for NOAA by over $96 million.

Mr. Chairman, H.R. 6324 provides funding for a large number of efficiently operated, highly useful public services. I urge my colleagues to support the bill, which strikes a fair balance maintaining NOAA's essential research and service programs and the necessity for budgetary restraint.

Mr. FUQUA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. Blanchard).

Mr. BLANCHARD. Mr. Chairman, I want to thank the members of both the Committee on Science and Technology and the Committee on Merchant Marine and Fisheries. I think they have done an excellent job with this bill.

We have one item of particular interest, to those of us from Great Lakes States; it is a bipartisan effort in the bill entitled the Great Lakes Protection Act, included as title IV of H.R. 6324. Many of the people not familiar with the geography of this country are not aware of the fact that the Great Lakes are 95 percent of the surface fresh water of America and 20 percent of the surface fresh water in the world. Protecting the Great Lakes should, indeed, be a matter of national policy. The Great Lakes Protection Act establishes that principle for the first time. Twenty percent of our citizens live along the Great Lakes. Twenty-five percent of our industries are located in the Great Lakes region. Ten million people drink Great Lakes water. The critical importance of the lakes is at long last recognized by this legislation.

The Great Lakes Protection Act recognizes the need to better coordinate Federal research of the Great Lakes. The Great Lakes are too important to be left to the haphazard coordination that presently exists.

The General Accounting Office has recognized this problem, and that is one of the reasons why the GAO endorsed and recommended approval of the Great Lakes Protection Act. Enactment of the Great Lakes Protection Act will also make it easier, as the General Accounting Office has stated, for us to live up to our country's existing water quality agreements with Canada.

The act would not only establish protection of the Great Lakes as a matter of national policy; it sets up a Great Lakes research office within NOAA, to be funded with existing ocean pollution planning funds. It would also establish and would require a new appendix to any environmental impact statement filed as required by law if the EIS is prepared for an action that would significantly affect the Great Lakes.

I strongly urge the adoption of H.R. 6324 for the reasons I have mentioned and for many others. I want to thank my colleagues on both sides of the aisle, not only from Michigan, but from other States as well, for their support of the Great Lakes Protection Act and their support for H.R. 6324 in general. I want to thank again my colleagues on the Committee on Science and Technology and the members of the Committee on Merchant Marine and Fisheries for their fine work.

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. Hertel).

Mr. HERTEL. I thank my chairman of the Committee on Merchant Marine and Fisheries for yielding, and I thank him for the hard work on this bill, as I rise to commend the sponsor of the bill, the gentleman from Michigan (Mr. Blanchard), for all of the work he has done in developing the Great Lakes Protection Act, bringing it to our attention, and having both committees in this case pass this bill with, I believe unanimous support.

The tendency on the part of past and present administrations has been to downplay the importance of the Great Lakes in making funding decisions for programs designed to protect Great Lakes water quality. The previous administration attempted to drastically scale down the Great Lakes Large Lakes Research Station located in Gross Ile, Mich., the only facility equipped to monitor Great Lakes water quality and its impact on human health. The gentleman from Michigan (Mr. Blanchard) fought that at that time and was successful. It appears to be a bipartisan fight, because this time the administration has attempted to close the facility altogether. The administration is also proposing to decrease the Federal Government's overall commitment to the Great Lakes programs by 70 to 80 percent.

The administration has alleged that the Great Lakes receive enough attention already under the National Ocean Pollution Planning Act, that the Great Lakes have been treated equally with America's other three coasts. But the fact is that the level of funding for ocean pollution activities between 1978 and 1982 fell by 13 percent, which, in consideration of the effects of inflation over those 4 years, represents a substantial reduction in research purchasing ability.

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The largest reduction was in the EPA budget where funding for ocean pollution research was cut by 56 percent, more than in half, removing $20 million from the total program budget. The administration position states that the National Ocean Pollution Planning Act 5-year plans must identify Federal, State, and local problems related to the Great Lakes. In reality, leadership and support from Washington's ocean pollution planning headquarters has been neglectful of Great Lakes issues and problems.

For instance in 1978 the EPA opposed international water quality agreements with Canada totally failing to appreciate the seriousness of the contamination of the entire Great Lakes systems by toxic chemicals on which the new agreement focused and thereby causing us problems in the international area.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

Mr. Chairman, I simply offer my thanks to the gentleman for his help on this legislation and to the members of the Committee on Merchant Marine and Fisheries for being so helpful.

As my colleague from Michigan knows, this act will make it much more difficult for anyone to attempt to divert water from the Great Lakes. A critical part of protecting and preserving the Great Lakes is to deter and to prohibit any attempt to divert Great Lakes water. The gentleman's help is deeply appreciated as well as the help of the gentlemen from Michigan (Mr. Traxler, Mr. Dingell, and Mr. Pursell) on these important matters.

Mr. HERTEL. Mr. Chairman, I thank again the sponsor and I am glad to be included as a new member of the delegation to join this fight with him. I agree the most important part of the act is—as the gentleman mentions—to say our Great Lakes water cannot be diverted to other parts of the country without forthright and fair agreements.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Hertel) has expired.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I would hope that no one would oppose it on those grounds because the greatest resources that we have in the Great Lakes region clearly are those lakes. I thank the gentleman for his hard work.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the provision of this legislation that is known otherwise as the Great Lakes Protection Act. The Great Lakes are our largest body of fresh water in this country and certainly unparalleled elsewhere in the world. The Great Lakes represent a national treasure, and we cannot afford to be less than vigilant in protection of the waters of the Great Lakes.

The legislation pending before us is vitally important to the future of that great body of water. I compliment the gentleman from Michigan (Mr. HERTEL) and the gentleman from Michigan (Mr. BLANCHARD) who have done such a splendid job in advocating this legislation.

Mr. HERTEL. Mr. Chairman, I thank the gentleman.

I would make a brief comment. I would point out the Great Lakes Protection Act does not require any increase in spending from the Federal budget. All we are doing is earmarking a modest amount of funding under the National Ocean Pollution Planning Act to meet the needs of the Great Lakes office.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

I would like to bring to the Members' attention a report to the Congress by the Comptroller General of the United States entitled, "A More Comprehensive Approach Is Needed to Clean Up the Great Lakes." The number on the report is CED 82-63, May 21, 1982.

In the report—which is excellent and I commend it to the Members—it is made clear that the U.S. efforts to implement and fulfill its commitments to the Canadian Government under the terms of the agreement that we have entered into with them in the late seventies are being hampered and are falling short essentially for three reasons.

First, there is a lack of effective overall strategies for dealing with Great Lakes water quality problems.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. HERTEL) has expired.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan.

Mr. TRAXLER. If the gentleman will yield further, first, the lack of effective overall strategies for dealing with Great Lakes water quality problems; second, the lack of knowledge about the extent of pollution problems and the impact of control programs; and third, the need for improved management of Great Lakes pollution control activities. This bill is necessary. It is essential. I commend the gentleman from Michigan (Mr. BLANCHARD), and the chairmen of the two committees affected. Those of us in our area are most appreciative of this. We have a tremendous asset here, as the gentleman from Minnesota (Mr. OBERSTAR) pointed out. We cannot allow it to deteriorate to the point where its value has shrunk to less than the great national treasure which it is.

Mr. HERTEL. I agree with the gentleman. In fact, the Great Lakes have consistently provided the early warning system to the world concerning the problems affecting our ecological systems.

As the sponsor pointed out, the Great Lakes do represent 95 percent of our Nation's fresh water. In our region one of the few growing industries we have is tourism. It is most important to the State of Michigan that we continue to protect it. That is why I commend the sponsor.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982. This legislation will consolidate and clarify NOAA's role in a number of important areas ranging from weather information to ocean pollution control.

The importance of NOAA's job in weather forecasting and information cannot be underestimated. It is vital that Federal and State governments, as well as farmers, businessmen, manufacturers, and the general public, among others, have a reliable and comprehensive source of information. In this respect, I want to take particular notice of the committee's action to reinstate funding in the amount of $3,639,000 to maintain open the 45 Weather Service offices and the southern regional headquarters which were proposed for closure by the administration. I urge my colleagues to uphold this action by the committee.

Another section of particular importance to me is title V dealing with Ocean Pollution Research. I share the committee's concern over the possibility of increasing use of the oceans for, among other things, a dumping ground for sewage sludge and industrial and nuclear wastes. The potential long-term impact of ocean dumping and pollution will stay with us for generations to come. As an island, Puerto Rico is particularly sensitive and vulnerable to any change in the waters that surround us.

The funding levels recommended in this legislation are adequate to meet the basic requirements of its different sections and I urge my colleagues to reject any attempt to lower it and to cast their votes in favor of the enactment of H.R. 6324.●

● Mr. HUGHES. Mr. Chairman, I rise in support of the legislation before us today which authorizes appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for fiscal years 1983 and 1984.

Among other things, this legislation provides for the continuation of several important atmospheric and marine environmental research programs as well as providing much needed direction for NOAA's ocean pollution research activities.

TOM EVANS of Delaware and I, along with a number of members of the House Merchant Marine and Fisheries Committee and members of the Science and Technology Committee, are particularly concerned over the fact that the ocean dumping of harmful materials has been allowed to continue despite the Hughes-Evans amendment enacted by Congress in 1977 calling for a halt to such disposal practices by the end of last year. At the same time that the administration has showed an unwillingness to enforce the 1981 ocean dumping deadline, it has also proposed cutting back on several important marine environmental programs.

Title V of the legislation before us provides NOAA with specific guidance in conducting long-term ocean pollution research as required by title II of the Marine Protection, Research and Sanctuaries Act. Among other things, NOAA is directed to develop scientific techniques directed toward improving our understanding of how ocean dumping degrades the marine environment and to develop continuing monitoring programs to assess the health of the marine environment.

In addition to assuring that NOAA's marine research activities focus on many of the environmental considerations surrounding ocean dumping, the legislation also requires an assessment of the feasibility of regional management plans for the disposal of waste material. The legislation also requires the administrators of EPA and NOAA to submit to Congress a report on sewage sludge disposal in the New York region, including a study of the environmental, health and economic factors associated with landfilling, incineration, and ocean dumping.

I urge my colleagues to support this most important legislation.●

Mr. ECKART. Mr. Chairman, the Great Lakes are the largest freshwater resource we have in this country. They, in fact, are one-fifth of all the freshwater in the world. They are a vital resource, to be used wisely. Concern about the future of the Great Lakes must not be taken lightly.

One-fourth of American industry and one-fifth of the Nation's population rely on its waters. The reliance is more than drinking, or boating, or waterway shipping.

Commerce depends upon stable water resources in many ways. Manufacturing, energy, recreation, commercial fishing, shipping, are all totally

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dependent upon the preservation of the lakes.

The steps in this bill are long overdue and must not be put off or watered down.

We are failing already to meet our international commitment under the Great Lakes Water Quality Agreement with Canada. Our funding for the Great Lakes programs have gone down 80 percent since 1981.

We must adopt this Great Lakes Protection Act, to provide assurance that pollution problems we began to surmount just 2 or 3 years ago, do not reappear through the budget cuts made by this Congress. We must coordinate Great Lakes research and Great Lakes water quality protection action so that the lakes will continue their vital, and irreplaceable contribution to the national economy.

This Great Lakes Protection Act will do these things. The West and Southwest know what water means—their water resources are dwindling. The day could come when they will ask for water from the Great Lakes for their own region. The lakes must be preserved.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the text of H.R. 6798 shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the committees on Merchant Marine and Fisheries and Science and Technology now printed in the bill, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 6798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Atmospheric, Climatic, and Ocean Pollution Act of 1982".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—DECLARATION OF FINDINGS AND PURPOSES

SEC. 101. The Congress of the United States finds that:

(1) The oceans and atmosphere surrounding and within the jurisdiction of the United States play a vital role in the Nation's welfare, economy, and security.

(2) The National Oceanic and Atmospheric Administration is the lead agency for oceanic and atmospheric matters in the Nation. It was created on October 3, 1970, by Reorganization Plan Numbered 4 of 1970 to bring together many of the Nation's civil programs related to the oceans and atmosphere. The National Oceanic and Atmospheric Administration's broad goals include the development and operation of national programs to—

(A) manage and conserve selected marine resources for the economic and social good of the Nation;

(B) monitor and predict weather and environmental conditions for the protection of life and property;

(C) archive, analyze, and disseminate data on oceanographic, climatic, geophysical, and solarterrestrial phenomena;

(D) provide basic maps, charts, surveys, and specialized data for safe navigation; and

(E) provide research to advance oceanic and atmospheric science and technology for the better management of the environment and the rational use of our natural resources.

SEC. 102. The purposes of the Congress in this Act are—

(1) to ensure that the National Oceanic and Atmospheric Administration, the lead agency for civil oceanic and atmospheric activities and programs, operates under a clear statutory charter; and

(2) to simplify, streamline, and consolidate the authorization of appropriations for the National Oceanic and Atmospheric Administration, within the Department of Commerce, such that the National Oceanic and Atmospheric Administration's programs can be viewed in a coherent fashion.

The CHAIRMAN. Are there any amendments to title I?

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the authorization granted under H.R. 6798 for the programs of the National Oceanic and Atmospheric Administration. I would point out that the legislation before us, which also includes funding for the Departments of State and Justice, is well within the spending ceiling allowed by the first concurrent budget resolution developed by the House and Senate and accepted by the administration. Today, we will decide whether the House will exercise its own judgment in setting priorities for the programs within the spending limits we have agreed to support.

As a Representative of the Ocean State, I would like to express my support for the NOAA programs that have helped to develop the marine resources of my State, as well as of the New England region. Of particular importance is the sea-grants program—the Merchant Marine Committee wisely rejected the administration's proposal to terminate sea grants, choosing instead to restore $25 million to its budget. The program offers an excellent example of how federalism can work by financing research and extension services that are administered at the local level and specifically tailored to the needs of local communities. The Ocean State is well served by our sea-grant college, the University of Rhode Island, which has used the program's resources to develop improved fishing nets, to increase our scallop harvest, to pioneer in the development of the deep sea red crab fishery along the U.S. east coast, and to provide other vital services to our local community of fishermen. While the individual projects may be small, their value to our fishing economy has been substantial. The annual benefit of the red crab fishery developed through the program, for example, has a value of about $2.8 million, and employs 60 people.

The NOAA budget also supports the Saltonstall-Kennedy Fund, which in turn has supported the New England Fisheries Development Foundation. The Merchant Marine Committee has restored funding for the Saltonstall-Kennedy program, which should enable the New England Fisheries Development Foundation to continue its important work in helping to develop the competitiveness of our fishing industry, by improving the harvesting, processing, and marketing of our local products.

In addition, H.R. 6798 has restored funding for the regional fisheries management councils, which the administration had proposed eliminating. The New England council is responsible for developing management plans for the harvesting of the various species of commercial fish in New England waters. The New England regional commission and the river basin councils both disappeared last year after their Federal funding was cut, and I would expect the same fate to befall the regional fisheries management councils if we do not lend them our support.

If my concerns are beginning to seem exclusively local, let me assure my colleagues that I enthusiastically support the Science Committee's decision, reflected in H.R. 6798, to restore funding to maintain NOAA's two-satellite weather forecasting system. The administration had proposed cutting back to a one-satellite system by stretching out the current launch schedule. As a member of the House Science Subcommittee with jurisdiction over the NOAA budget, I listened to hours of testimony on this issue and had to conclude that the risks we would undertake by moving to a one-satellite system did not justify the short-term budgetary savings.

Having two weather satellites in orbit simultaneously improves our long-range forecasting ability, and short-range forecasts for remote areas such as Alaska and Hawaii. In addition, moving to a one-satellite system poses a more serious risk—in the event of a launch or operational failure, we would not have a backup satellite in place. Thirty years ago, we might have turned to our system of weatherships for support, but that fleet has been disbanded as we have phased into a weather satellite system. With no weather satellites at all in orbit, we would step backwards in time to the weather broadcasting system we relied on in the 1940's. Having to fall back on primitive forceasing technology would lead to losses in many sectors of our economy, from agriculture, to water management, fisheries, construction, forestry, and energy distribution.

In sum, the authorization for NOAA offer a reasonable balance among programs that provide important extension services to local communities—like sea grants—and programs that increase NOAA's scientific capacity to provide benefits to the general public—like the two-satellite weather forecasting system. I urge the adoption of H.R. 6798 by the House.

The CHAIRMAN. Are there any other amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—GENERAL PROGRAM AUTHORIZATIONS AND REPORTING REQUIREMENTS

Sec. 201. (a) There are authorized to be appropriated to the National Oceanic and Atmospheric Administration of the Department of Commerce for atmospheric, climatic, and ocean pollution programs:

(1) $19,019,000 in fiscal year 1983 and $20,160,000 in fiscal year 1984 for Marine Ecosystems Research, Ocean Dumping Research, and Great Lakes Research.

(2) $323,860,000 in fiscal year 1983 and $343,292,000 in fiscal year 1984 for the Weather Services and Supporting Research.

(3) $17,764,000 in fiscal year 1983 and $18,830,000 in fiscal year 1984 for Atmospheric Research.

(4) $1,800,000 in fiscal year 1983 and $1,908,000 in fiscal year 1984 for the National Climate Program Office.

(5) $156,208,000 in fiscal year 1983 and $165,580,000 in fiscal year 1984 for Environmental Satellite Services.

(6) $25,328,000 in fiscal year 1983 and $26,848,000 in fiscal year 1984 for Environmental Data and Information Services.

(b) Funds may be transferred between categories listed in subsection (a), except that no funds may be transferred between any two categories if the amount transferred would exceed 10 per centum of the amount authorized for either category, unless—

(1) a period of thirty legislative days has passed after the Administrator of the National Oceanic and Atmospheric Administration or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that each committee has no objection to the proposed action.

Sec. 202. (a) The Administrator of the National Oceanic and Atmospheric Administration shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed about all aspects of the atmospheric, climatic, and ocean pollution activities for such Administration.

(b) Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing the funds requested and the atmospheric, climatic, and ocean pollution activities to be carried out with these funds.

Sec. 203. (a) The Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress and the President, on the date of submission of the fiscal year 1984 budget request, a report on the importance of meteorological satellites to weather forecasting. Such report shall include—

(1) a quantitative analysis of the impacts of weather satellites on weather forecasting;

(2) a quantitative comparison of weather forecasts generated when two, one, or no polar-orbiting satellites are operating;

(3) the importance of National Oceanic and Atmospheric Administration weather satellite data to weather forecasting in other nations;

(4) a statistical analysis of expected lifetimes for National Oceanic and Atmospheric Administration weather satellites;

(5) an analysis of replacement time for a National Oceanic and Atmospheric Administration weather satellite in the event of a launch or operational failure or of consecutive launch or operational failures; and

(6) an analysis of the present or future appropriateness of transferring civilian meteorological satellites to the private sector.

(b) No moneys authorized by this Act shall be used to tranfer to the private sector the ownership or management of any meteorological satellite system and associated ground system equipment, unless (1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive plan for the proposed transfer, and (2) each such committee has transmitted to the Secretary written notice (within thirty days after receipt of the plan) to the effect that such committee has no objection to the proposed action.

Sec. 204. The Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress and the President, on the date of submission of the fiscal year 1984 budget request, a report on the future organization and technological capabilities of the National Weather Service. Such report shall include—

(1) preliminary cost estimates and a preliminary deployment schedule for the next generation radar system;

(2) a preliminary plan for improvement of mesoscale weather forecasting over the next decade; and

(3) a preliminary ten-year plan for the reorganization and consolidation of the Weather Service Forecast Offices and the Weather Service Offices. The plan shall include a list of the criteria to be used in determining those offices that are to be closed or consolidated during the ten-year period.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Smith of Nebraska: At the end of title II, add the following new section:

Sec. 205. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary"), at least 60 days before making a determination as to the necessity for the closing or consolidation of any Weather Service Office (whether such determination is made pursuant to the plan described in section 204(3) or is made without regard to such plan), shall provide adequate public notice of his intention to make such a determination in order to ensure that all persons served by such Office will have an adequate opportunity to present their views.

(b)(1) The Secretary, in deciding whether or not to close or consolidate a Weather Service Office, shall take fully into account any views expressed by persons served by such Office during the 60-day period described in subsection (a), and shall specifically consider—

(A) the effect of such closing or consolidation on the community served by such Weather Service Office;

(B) the effect of such closing or consolidation on employees of the National Weather Service employed at such Office;

(C) the economic savings to the National Weather Service resulting from such closing or consolidation; and

(D) such other factors as the National Weather Service determines are necessary.

(2) In making a decision under paragraph (1) the Secretary may hold such hearings as he deems necessary.

(3) The Secretary shall compile a written record including or reflecting all views presented and information received or developed in the course of his consideration of the matters involved in making such a decision, whether or not hearings are held with respect thereto as authorized by paragraph (2). The Secretary shall retain all written materials received or developed in the course of such consideration, for possible use by the Federal Committee for Meteorological Services and Supporting Research under subsection (e).

(c) Any decision of the Secretary to close or consolidate a Weather Service Office shall be in writing and shall set forth the findings of the Secretary with respect to the matters set forth in subparagraphs (A) through (D) of subsection (b)(1) along with a statement of the reasons for such findings and of the basis on which the decision was made. The Secretary's decision shall be made available to persons served by such Weather Service Office.

(d) The Secretary shall take no action to close or consolidate a Weather Service Office until 60 days after his written decision is made available to persons served by such Office as required by the last sentence of subsection (c).

(e) A decision of the Secretary to close or consolidate any Weather Service Office may be appealed by any person served by such Office to the Federal Committee for Meteorological Services and Supporting Research within thirty days after such decision is made available under the last sentence of subsection (c). The Committee shall review such decision on the basis of the record compiled by the Secretary under subsection (b)(3) in the making of such decision; and in the course of such review the Committee may obtain and inspect the written materials retained by the Secretary under the last sentence of subsection (b)(3). The Committee shall make a determination based upon such review no later than one hundred and twenty days after receiving any appeal under this subsection. The Com-

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mittee shall set aside any such decision which is found to be—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(2) without observance of procedure required by law; or

(3) unsupported by substantial evidence on the record.

The Committee may affirm the decision of the Secretary or order that the entire matter be returned for further consideration, but the Committee may not modify the decision. The Committee may suspend the effectiveness of the decision until the final disposition of the appeal (within the time prescribed by the third sentence of this subsection) in any case where the closing or consolidation involved might otherwise occur before the Committee's determination under this subsection can be made.

(f) Any determination or decision made by the Administrator of the National Oceanic and Atmospheric Administration with respect to the closing or consolidation of a Weather Service Office shall be considered for purposes of this section to have been made by the Secretary.

Mrs. SMITH of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nebraska?

There was no objection.

Mrs. SMITH of Nebraska. Mr. Chairman, I offer this amendment to H.R. 6324 as amended by H.R. 6798 for myself and for my good friend and colleague, the gentleman from Illinois (Mr. SIMON). Additionally, I offer it also in behalf of a bipartisan group of 44 other cosponsors of a bill, H.R. 6753, from which this amendment is directly taken. Our amendment was printed in the RECORD on August 10, page H5622.

Our amendment would once and for all take the perennial weather-station issue out of the political arena and subject it to an orderly procedural process requiring Washington policymakers to take the views of communities and nongovernment experts into formal consideration before any National Weather Service station could be closed or consolidated.

Our plan for doing this is based directly upon the successful program adopted by the Congress in 1976 for closing post offices.

My colleague, the gentleman from Illinois, who has been so effective in marshaling support for our amendment, was one of the architects of the post office procedural system and has provided much guidance in putting this amendment together.

I would like to share with this body the intent and background of our amendment that would establish objective criteria and orderly procedures for closing or consolidating National Weather Service stations. This amendment has been years in the making, and it is an issue whose time has come.

Those who have been in this body for the last 5 years know that each year, except for fiscal year 1981, the administration in power has come up to Capitol Hill with plans to close weather stations that they feel are no longer important to the Nation's weather-service network. And yet their track record speaks for itself: 72 different stations targeted for closure, and no stations closed.

How could this happen? The answer is easy: Congress has refused to allow even one of the stations to be closed because both the Carter and Reagan administrations failed to consult with the people back home, the people who would be most directly affected.

The amendment that is offered today by myself and the gentleman from Illinois would give the people who would be affected by the closure of a weather station a voice in the reaching of that decision. Here is how the amendment works:

First, the Secretary of Commerce, at least 60 days before making a determination as to the necessity of closing or consolidating a weather station, would have to make public his intention to make such a determination.

Second, the Secretary would have to take into account any views expressed by persons who are served by the station, and specifically consider:

The effect of the closing or consolidation on the communities served by the weather station;

The effect on the employees of the National Weather Service employed at such office;

The economic savings that would result from such closing or consolidation;

Any other factors that the National Weather Service determines are necessary.

Third, the Secretary may hold any hearings he deems necessary.

Fourth, the Secretary will be required to compile a written record that shall include all information received or developed during the course of his consideration of the matter.

Fifth, any decision to close or consolidate a Weather Service office will have to be in writing and be made available to persons who are served by such Weather Service office.

Sixth, the Secretary shall take no action to close or consolidate a Weather Service office until 60 days after his written determination has been made available.

Seventh, the Secretary's decision may be appealed by any person served by such Weather Service office to the Federal Committee for Meteorological Services and Supporting Research within 30 days after such decision has been made available.

Eighth, the Committee may during the course of its review obtain and inspect the written material compiled by the Secretary. The Committee will have no longer than 120 days to reach its decision and that decision will be to either affirm the Secretary's decision or to return the matter for further consideration. In order to return the matter the Committee must find that the decision was: Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; without observance of procedure required by law; or unsupported by substantial evidence on the record.

If the procedure sounds familiar to you, it should. It is the same basic formula that was set up by Congress to deal with the hot potato item of closing post offices. Now after 6 years, you know that the system works because the closure of post offices is no longer a political issue. The closings are now handled on a case-by-case basis. I have here a statement from the Postal Rate Commission that I would like to submit for the RECORD, and it states that in its opinion the system has worked well and at very low cost in the closing, consolidating, or converting of post offices. I also have for the RECORD a statement from the National Weather Service Employee's Union supporting Mr. SIMON's and my bill, H.R. 6269, reintroduced as H.R. 6753, from which this amendment was drafted.

COST OF THE SMITH-SIMON AMENDMENT

In a telephone conversation with staff today, the Chairman of the Postal Rate Commission, Hon. Janet Steiger, reports that two recent routine post office closings cost $1,406.75 and $2,035.54, repectively, in terms of outlays by the Postal Service itself.

Chairman Steiger further stated that no costs of any appeal have been determined by the Postal Rate Commission, but she did say that costs of the appeal were "substantially" below either of the two figures cited as costs to the Postal Service.

While the administration has not come out and formally endorsed our amendment, I have for the RECORD letters from the administrator of NOAA that states their support for the concepts of having objective criteria and procedures for the closing of weather stations.

I will be the first to acknowledge that there probably are stations that could be closed without endangering the lives or property of the citizens of our country. But that has never been a factor in determining which stations should be closed. Instead, the past two administrations have used criteria that are based not on merit; that is, location, service to the community, availability, of alternative source of service, but rather on how badly the stations had been deliberately undermanned and underequipped. They decided that it would be better to close one-person stations—a 100-percent reduction—than to reduce, say, a five-man station by one person—only 20 percent reduction.

I am sure that technology has advanced to the point that some of the weather stations now in operation are no longer needed. But what I hold is that the Washington policymakers and Weather Service professional meteorologists have no procedural way of deciding which of these stations could be safely closed. Even the highest official in the National Weather Service hierarchy has confessed that he dreads learning of the first bloodshed that is certain to occur when the first undetected tornado rips through an area that has been stripped of proper Weather Service data.

I believe that the amendment Mr. SIMON and myself offer is a good one, and I would welcome any questions from my colleagues about this amendment. At this point I include the following:

POSTAL RATE COMMISSION,
Washington, D.C., August 12, 1982.
Hon. VIRGINIA SMITH,
Rayburn Building,
Washington, D.C.

DEAR REPRESENTATIVE SMITH: This responds to your request for information concerning the operation of the statutory provisions regarding the closing or consolidation of post offices. 39 U.S.C. § 404(b).

BACKGROUND

In considering the operation of the statute, we believe that some historical background may be helpful. The 1970 Reorganization Act which made the Postal Service an independent establishment of the federal government permitted the Postal Service to create its own procedures and criteria for closing post offices. The statute, however, did put a limitation on the Postal Service's discretion and directed it to consider more than finances when deciding whether to retain smaller offices. "No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities." 39 U.S.C. § 101(b).

In a report dated June 4, 1975, GAO pointed out that section 101(b) did not specify what other, non-economic conditions had to occur before the Postal Service was authorized to close a small post office. GAO found that the Postal Service had established restrictive policies in response to the statute. GAO Report, pp. 11-12 (June 4, 1975). The district courts had appellate jurisdiction over the Postal Service's decisions to close post offices, and it appeared that the non-economic criteria would evolve from a myriad of appeals in various district courts. See *Rossford v. Klassen*, 359 F. Supp. 1036 (N.D. Ohio 1973).

In 1976 Congress addressed this problem. From the debates it appears that Congress was concerned about a lack of public participation in making decisions whether to close post offices. The purpose of the amendment was to bring affected patrons into the decisionmaking process and establish sound procedures governing any decision which the Postal Service might make in this area. 112 Cong. Rec. (1976) (remarks of Sen. Hathaway). The amendment Congress enacted sought to ensure these goals by requiring the Postal Service to give 60 days' notice of its intention to close an office so that affected patrons would have sufficient opportunity to present their views. Congress listed criteria that the Postal Service was to consider and give affected patrons an opportunity to comment on. These are: effect on the community, effect on postal services, effect on employees, economic savings, and any other factors the Postal Service finds necessary. The Postal Service has to put any determination to close a post office in writing and include findings on the statutory criteria.

CURRENT PRACTICE

From the records the Commission has seen in its review, it appears that the Postal Service has developed techniques to provide for public participation starting at the initial stages of the decisionmaking process. The MSC (Management Sectional Center) manager has the initial responsibility in this decisionmaking process. The MSC manager is the person responsible for the operation of all the post offices within an assigned area. For example, Nebraska has 5 MSC managers responsible for 5 different sections of the state.

The first step the Postal Service takes after concluding that a particular post office might be a candidate for closing is to send a survey to all the patrons receiving delivery from the post office. The service that is proposed to be substituted is explained. The survey requests information on the patrons' current use of the post office and their views on the likely effects if the post office is closed. Questions in the survey concern the criteria that are within the purview of the patrons—the effect on the community and the effect on the level of service provided.

The MSC manager schedules a public meeting in the community. At this meeting the Postal Service presents the proposed change and answers any questions the patrons might have. The patrons are given this opportunity to present their views orally. Sometimes the Postal Service modifies its proposed change because of the views presented at these meetings.

The next step is the writing of the Proposal. The MSC manager presents the Postal Service's proposed action and discusses the statutory criteria. Drawing on the information gathered in the survey, the Postal Service explains how the closing would affect the community and the level of service available. The Postal Service also discusses the two criteria that it can address with information gathered internally—the effect on employees and economic savings.

The Proposal is posted in the affected post offices, and having seen the Postal Service's treatment of the interrelated criteria, the patrons are given an opportunity to comment. The Postal Service addresses these comments in making its Final Determination whether to close the post office. The written Final Determination is posted and the Postal Service may set a date for closing the office if that is the decision made. Patrons may appeal the Postal Service's decision to the Commission within 30 days of the posting of the Final Determination. 39 U.S.C. § 404(b).

In appeals from decisions, the Commission's authority is similar to that of a court of appeals hearing a petition for review of administrative agency action. The standard of review prescribed for the Commission is that used by the court of appeals reviewing the decision of an administrative agency. The Commission cannot reverse the Postal Service merely because it believes a different decision would be better, but must affirm the decision unless it is: "(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence on the record." 39 U.S.C. § 404(b)(5). The Commission may not modify the Postal Service's decision; it must either affirm or return the entire matter to the Postal Service.

In our discussion of the current practice, we concentrated on the public participation in the decisionmaking and did not include the various reviews inside Postal Service management. For the sake of simplicity, we did not discuss consolidation of post offices, which is also covered by 39 U.S.C. § 404(b).

POSSIBLE IMPROVEMENT

From our experience with these cases, we have concluded that the statute could be amended in such a way as to provide for a reduction in the number of full public participation proceedings while at the same time retaining the protections that Congress gave the persons affected by the decision to close a post office.

From the low proportion of appeals to the Commission from decisions to close or consolidate a post office—about 10 percent according to information the Postal Service has supplied—it appears that in many cases the patrons do not oppose the change. Section 404(b) currently requires the Postal Service to make findings on the statutory criteria in every case, regardless of whether the patrons support the change, oppose it, or have no preference.

The statute can be viewed as granting patrons certain substantive and procedural rights, and it might be reasonable to permit the Postal Service to make these decisions internally if the patrons clearly indicate that they do not desire to take advantage of these rights. In particular, the statute could be amended to provide that the Postal Service would initially post a clear, intelligible notice of its intention to close or consolidate a post office and include a statement of the service that would be substituted. The notice would also inform the patrons that, on request, the Postal Service will follow the current statutorily required procedure providing for public participation and consideration of the statutory criteria. If no patron requested the current more formal procedure, the Postal Service could simply close the office as planned.

The GAO has been involved with the issue of the desirability of and the procedure for post office closings for the past 18 years. At present, the GAO is reviewing the situation.

I hope you will find this information helpful. If you have any further questions, please let us know. If you think a meeting would be helpful, please get in touch with my Special Assistant Maureen Drummy.

Sincerely,

JANET D. STEIGER,
Chairman.

NATIONAL WEATHER SERVICE
EMPLOYEES ORGANIZATION,
August 12, 1982.
Hon. VIRGINIA SMITH,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN SMITH: The National Weather Service Employees Organization supports the objectives of H.R. 6269. The last two years have been a very traumatic period for all of the employees of the National Weather Service, especially for the employees at the many stations that were targeted for reduction or closure. Words cannot express the impact on their morale.

The majority of the public regards the National Weather Service as one area of government spending that is useful and valued. Our union has tried to mobilize this public sentiment to retain this essential government service. I believe the message came through very clearly that there are some government services that survive this period of government cutting and budget trimming.

In closing, on behalf of our members, I wish to express our appreciation to you and your many colleagues in the Congress who have felt compassion for the weather employees being affected by the proposed cuts and perhaps more importantly have been sensitive to the public safety and continued need for a good Weather Service.

Sincerely,

Leo R. Harrison, Jr.,
President, NWSEO.

U.S. Department of Commerce,
National Oceanic and Atmospheric Administration,
Washington, D.C., August 10, 1982.

Hon. Virginia Smith,
House of Representatives,
Washington, D.C.

Dear Mrs. Smith: As you discussed with Mr. Vander Myde and Mr. Winchester yesterday, the Department and NOAA agree that the weather station closings could have been handled more smoothly. We agree that formal criteria on which to base future closings are needed. We had planned and hoped that we might be given the opportunity to develop our own criteria based upon programmatic consideratons and contemplated by Section 204(3) of H.R. 6324, now that we have our senior management in place.

I understand that Mr. Winchester has advised you of our opposition to your draft amendment, and in particular to its provisions regarding public hearings and appeals of the Secretary's decisions. Since you are still of the opinion that Congressional action is desirable at this time, I am enclosing, in accordance with your request, a revised version of an amendment. I believe the enclosed version would achieve your goal of formalizing the decision-making process while avoiding the procedural problems which your draft might present.

Sincerely,

John V. Byrne.

U.S. Department of Commerce,
National Oceanic and Atmospheric Administration,
Washington, D.C., August 11, 1982.

Hon. Virginia Smith,
House of Representatives
Washington, D.C.

Dear Mrs. Smith: In my letter of August 10th, I neglected to state that the revised version of the draft amendment to H.R. 6324 that was enclosed had not been reviewed or approved by the Department of Commerce or the Office of Management and Budget. Although Mr. Winchester assures me that he had explained to you that there would be insufficient time to provide a cleared Administration draft, I wish to reiterate that the revised draft amendment provided as a drafting service does not necessarily represent the position of the Administration.

Sincerely,

John V. Byrne.

Mr. SCHEUER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentlewoman for yielding.

Mr. Chairman, let me express my appreciation and admiration to the gentlewoman for the splendid leadership she has shown in developing this amendment. We think it is a very thoughtful approach to a real problem. We think it is a useful step in depoliticizing the process of deciding which weather stations should go and which should stay.

That process of triage is very unpleasant when it is politicized. I think the gentlewoman has rendered a great service by providing the leadership to bring this amendment to the floor. I assure the gentlewoman—all of us assure the gentlewoman—we will do everything we can to save it and to protect it in conference.

Mrs. SMITH of Nebraska. I thank the gentleman very much.

Mr. SIMON. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Illinois.

Mr. SIMON. I thank my colleague, the gentlewoman from Nebraska (Mrs. Smith) for yielding, and for her leadership on this. What she and I are interested in is simply that communities be consulted. We faced precisely the same difficulties in the postal situation and we finally got the law changed so that communities would be consulted.

In the community of Cairo, in my district, the mayor of Cairo, Allen Moss, and the president of the chamber of commerce, John Clarke, had a public hearing attended by a great outpouring of citizens. They sent me a transcript. But under the present law no one pays any attention to that.

The CHAIRMAN. The time of the gentlewoman from Nebraska (Mrs. Smith) has expired.

(At the request of Mr. Simon and by unanimous consent Mrs. Smith of Nebraska was allowed to proceed for 2 additional minutes.)

Mr. SIMON. If the gentlewoman will yield further, the gentlewoman and I are not saying, do not close any weather stations. What we are saying is, someone sitting at a desk in Washington, D.C., should not just arbitrarily do it without consulting the communities involved, without taking a good hard look at what we are doing.

I commend the gentlewoman. I am pleased and proud to be associated with her in this endeavor. This can be a victory not only for the people in our communities but for this Nation.

Mr. Chairman, what my colleague from Nebraska and I are proposing is a simple reform of the process now used to close weather stations.

It is the same kind of good government basic reform which Congress devised 6 years ago to assure some measure of fairness and objectivity in decisions to close or consolidate small post offices.

The inequities of the current procedure were brought home to 38 communities this past year where Weather Service offices were targeted for closure. In carrying out an OMB directive to eliminate 213 positions on the National Weather Service payroll, Department of Commerce policymakers grouped together as many small weather stations as it took to reach that figure of 213 positions, and then they pulled the plug.

One of those stations is in my district in southern Illinois, and I can tell my colleagues from firsthand experience that the department's highhandedness was met with outrage in the four -State area served by the Cairo, Ill., weather station. It is a decision which remains difficult to understand or to justify. For 111 years, the Cairo weather station has supplied communities up and down the Ohio and Mississippi Rivers with vitally important information about river conditions, flood dangers, and growing seasons. In a town meeting—a transcript of which has been sent to several congressional offices, to the Weather Service and to the Secretary of Commerce—and in petitions and hundreds of letters, the people of Illinois, Missouri, Kentucky, and Tennessee have made it clear that the Cairo station is an important community fixture that has more significance than OMB policymakers in Washington apparently realize.

This was my initiation into the hodgepodge process we now use to close a weather station, and I was not favorably impressed with what I saw.

The measure which my colleague from Nebraska and I are offering today does not specify which weather stations should or should not be closed. We have no parochial interest in this other than the desire to permit our communities the chance to make the strong cases for our weather stations which we know they can make. Our aim is to remove those decisions as much as possible from the realm of politics.

The situation closely resembles a similar one 6 years ago when the Postal Service proposed closure of 10,000 small post offices as a cost-saving measure. This was done in the face of a provision in the Postal Service's charter requiring the Postal Service to consider more than just the balance sheet in making decisions to close or consolidate offices. Our battle at that time led to enactment of a new orderly process for making these decisions. It has worked well since that time in protecting the interests of small communities, while also permitting adequate management flexibility.

One group with extensive before-and-after experience in the post office case is the National Association of Postmasters of the United States. Frank Miklozek, the association's able executive director, sees the parallels between the post office and weather station situations and has endorsed the concept represented in our bill in the following letter:

NAPUS,
Arlington, Va., August 11, 1982.

Hon. PAUL SIMON,
House of Representatives,
Washington, D.C.

DEAR PAUL: It has come to my attention that U.S. Weather Stations have been indiscriminately closed during the past few years to the detriment of persons and communities relying on their services and that you have introduced H.R. 6269 in an attempt to establish and formalize objective criteria and procedures for closing and consolidating them.

These closings parallel the wholesale closings of small post offices during 1976 and 1977 and if the program to close and consolidate post offices had not been checked by legislation, many communities would not be served by post offices and the community life in these communities would have suffered greatly.

In 1977, Section 404(b) of Title 39 was amended to provide that the U.S. Postal Service could not close or consolidate a post office unless it observed certain procedures in conformance with this law for the closing and consolidation of post offices.

As a result of this change in law the wholesale closings of post offices was stopped and small communities were protected. The procedures in no way prevented the closing of post offices which in many cases is brought about through a change in circumstances justifying that a post office be closed. The change in law however did prevent small communities and postal patrons in these communities from having their service cut or diminished without having the chance to have hearings and appeal procedures to protect their interests.

As I understand it, the closing and consolidating of U.S. Weather Stations, with the resulting impact upon persons and communities relying on their services, is similar to that which existed in the matter of closing and consolidating of post offices prior to the enactment of the Randolph Amendment into law.

The provisions of HR 6269 establishes criteria and procedures for the closing and consolidating of U.S. Weather Stations similar to those established for the closing of small post offices under Section 404(b) of Title 39 (USCA).

It is felt by us as an organization that this change in law worked well in the matter of closing small post offices. It has allowed those necessary to be closed but has prevented the wholesale closing of post offices. Its effect has been to prevent small communities from having their postal services cut or diminished without hearings or appeal rights. We feel that in order to protect postal patrons in small communities that it is necessary that such criteria and procedures as established be in existence. Without such criteria and procedures postal patrons and communities would have their rights seriously impaired.

We feel that if such criteria and procedures for the closing and consolidating of U.S. Weather Stations were formalized into law such as provided for by HR 6269 that it would have much the same effect in the matter of closing U.S. Weather Stations and we support this bill with the thought that it will give an organized approach to the closing of the weather stations which will provide interested citizens and communities with the means of protecting themselves from adverse effects caused by the closing of these weather stations.

Sincerely yours,

FRANK L. MIKLOZEK,
Executive Director, National Association of Postmasters of the United States.

In summary, Mr. Chairman, I would like to emphasize that this is a good government reform. It forces Federal policymakers to carefully weigh the consequences of their actions whenever they make a decision to terminate weather service operations. It introduces those most directly affected by those decisions into the decisionmaking process.

I urge the adoption of the amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentlewoman for yielding.

I would like to rise and say I support the very commonsense amendment offered by the gentlewoman from Nebraska. I know of no opposition on this side of the aisle.

Mr. DASCHLE. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I rise in very strong support of the amendment offered by the Members from Illinois and Nebraska. This amendment embodies the language of legislation which I am cosponsoring, the effect of which would be to apply the same public input criteria to proposed weather station closings that now applies to post office closings. The necessity for this type of public review is clearly shown by the experience that the residents of Aberdeen, S. Dak., have undergone in the past year.

This experience started when NOAA, in an entirely capricious and unilateral action, decided that the Aberdeen weather station was no longer needed. They did not ask anybody about this—not the congressional delegation, not the local residents, not the appropriate State agencies, not the State weather service personnel. If they had asked, they would have discovered that closing this station would have left a hole in this country's weather warning network which is larger than some States. They would have discovered that the geographical area they were deciding to leave unprotected is one that is prone to lightning—quick shifts in weather patterns. They would have discovered that closing this station created a clear and present danger to the life and property of over 100,000 people in a 13-county area. And in case some of you are not familiar with my area of the country, a county is an awfully big piece of land.

This clear and present danger was amply demonstrated when, in mid-June of this year, two tornados were sighted by citizens directly north of Aberdeen. These were citizen sightings. There was no tornado alert, no weather warning issued by the National Weather Service, because there was no one in the Aberdeen station at the time. The station was still there, of course. The Federal Government was paying rent for office space, and all the equipment was still in place, but there was no personnel there. The reason for this unconscionable situation was that, because of all the scare stories going around about the intention of the administration to close this station, all personnel, in justifiably looking to their own interests had transferred out of the station, and no replacements had been recruited. So while the station was still legally open, was authorized to be open, and was fully funded, no personnel was assigned to it.

We were lucky in Aberdeen on that day in June. Neither of the two twisters sighted touched down. But I would not like to trust to luck again. The occurrences in June clearly indicate that citizens in the Aberdeen coverage area cannot be adequately protected from severe weather conditions if the Aberdeen station is not in operation.

Just yesterday, a skeleton crew reopened the Aberdeen station, and people in that area now have some protection, the first since October of last year when the station was illegally closed through a back-door maneuver. But the regional office of the National Weather Service informs me that it is having a difficult time bringing staff up to full levels, because of the continuing uncertainly about administration future plans. Until staffing is brought up to full levels, the residents of this area are having their lives and properties gambled with as a result of arbitrary and capricious decisionmaking by bureaucrats far removed from the scene.

I have no illusions that every weather station presently operating in this country is, in fact, vitally necessary. But, out of simple commonsense, would it not be more logical to find out which of them are unnecessary, and which of them are vital, before closing decisions are made? This is all this amendment asks—that there be a mechanism whereby local input is considered before any closures are made.

We are not dealing here with some minor redistribution of offices and agencies. We are dealing with people's lives. I would hope that this Congress would give the people affected by the

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decisions NOAA makes at least a chance to present their side of the case before a potentially tragic, and mistaken decision is made. I urge my colleagues to support this amendment, in the interests of the personal safety of their constituents.

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Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentlewoman's yielding.

I would like to say that I would like to join also in commending the gentlewoman for offering this amendment.

Mr. OXLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois and the gentlewoman from Nebraska. The need for such a provision is clear if we are to insure that all of our constituents receive accurate and timely weather information.

Although it may well be the case that some of the 38 weather stations that are perennially slated for closure are no longer needed, the amendment will insure that such closures do not take place solely at the whim of the Secretary of Commerce. Many of these stations are still needed, and their closure would impose a substantial hardship on those they serve.

The weather station in Mansfield, Ohio, is a case in point. The station was established in 1960 as a part-time operation with three employees. It has continued to serve on that basis ever since. Its size and hours of operation, however, are not indicative of the essential function it serves. Indeed, the station is vitally important to the almost half-million people in its coverage area.

The Mansfield weather station is situated on top of a topographic feature known as the northcentral Ohio Highlands, approximately 1,500 feet in elevation. None of the other weather stations in this region have the same topographic location. Toledo, Findlay, and Cleveland are situated essentially on a low, flat lake plain. Columbus, to the south, is situated at approximately 800 to 900 feet in elevation. There is, therefore, a minimum difference of 600 feet in elevation between the Mansfield station and the other weather stations in the region. The net result of this location is an area with more severe and frequent storms than the surrounding areas.

Complete and accurate weather data are essential if the citizens of this area are to take adequate precautions against such severe weather, which has included a number of tornadoes in recent years. In Xenia 35 people were killed by a tornado in 1974, and more recently, in the spring of 1981, a tornado devastated the small community of Cardington, Ohio.

Another weather station simply cannot do the job that is needed to serve this unique area. I am certain that the Mansfield weather station is not alone in this regard.

Mr. Chairman, I support the amendment because it would take into consideration the needs of the surrounding area before a weather station could be closed. It is not controversial by any stretch of the imagination. Its adoption will help to assure the safety of all Americans against the ravages of severe weather. I urge its adoption.

Mr. EMERSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I rise in support of the amendment offered by my colleagues, Representative VIRGINIA SMITH and Representative PAUL SIMON, that establishes objective criteria and orderly procedures for closing or consolidating weather stations.

I am an original cosponsor of H.R. 6753, the bill after which this amendment is modeled. This amendment will hopefully end the community suffering that happens every time the Federal Government announces its desire to close a weather station. Briefly, the amendment requires five things:

First, Advance notice to communities whose weather stations are candidates for closure;

Second, Full consideration of the impact of any closure or consolidation on weather service employees;

Third, Full evaluation of economic savings from the proposed action;

Fourth, Provision for hearings; and

Fifth, Right of appeal.

My farmers rely on a weather service station located in Cairo, Ill., that has been threatened with closure several times. Closing this station, in my view, cannot be justified when viewed from an objective basis. This station provides many benefits that clearly outweigh any savings. For example:

First. Cairo weather station has operated for over 100 years providing vital information for farmers, barge operators, and other groups that depend on accurate weather information.

Second. The meteorologist stationed there is a hard-working and truly professional individual.

Third. The area encompassed by the station is one of the largest artificially drained regions in the world; accurate and timely warnings about the weather are mandatory to insure the safety of the public.

For all these reasons, I urge my colleagues to support this amendment, which will give the Congress a tool to examine, in an orderly way, why the Government believes any weather station should be closed. Moreover, those affected by a proposed closing will have the opportunity to voice their concerns and thereby participate in the decisionmaking process.

The CHAIRMAN. The time of the gentlewoman from Nebraska (Mrs. SMITH) has expired.

(At the request of Mrs. BOUQUARD, and by unanimous consent, Mrs. SMITH of Nebraska was allowed to proceed for 1 additional minute.)

Mrs. BOUQUARD. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, I thank the gentlewoman for yielding. I rise in strong support for the amendment offered by my colleague and I want to thank the gentlewoman from Nebraska for the leadership she has shown in fighting the arbitrary closing of weather stations.

The President's fiscal year 1983 budget request called for the elimination of the Chattanooga Weather Service Office in my district. The office provides public weather forecasts, severe weather and flood warnings for 15 counties, surface weather observations, and programing for National Oceanic Atmospheric weather radio broadcasts. The people of this area would have had to rely on weather information from Atlanta and Knoxville, but Chattanooga is located in a valley between two mountain ridges and is subject to unexpected temperature inversions. The Chattanooga area is dependent upon accurate warnings. The $182,000 cost of operating the office works out to about 26 cents per person served. The amendment offered by my colleague would put an end to the unwarranted closing of weather stations and required instead objective guidelines to be followed in determining which stations are necessary and which can be closed or consolidated. It provides for the consideration of savings gained from possible closings but also the consideration of the impact on lives and property. Certainly we need to make savings where we can but we can do so in an objective way realizing that we have saved nothing in the long run if we create potential safety hazards. We are experiencing heavy flooding in my district today. The situation would certainly be worse if it were not for our weather station alerting the citizens to the adverse weather conditions.

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in support of the Smith-Simon amendment to H.R. 6324, the National Oceanic and Atmospheric Administration (NOAA) Authorization Act.

This amendment incorporates the contents of H.R. 6269, of which I am an original cosponsor. I have worked long with my colleague from Nebraska (Mrs. Smith) on establishing criteria for determining the future status of Weather Service stations under the Department of Commerce and NOAA.

Weather is important in South Dakota. It is life or death, both in the economic sense for an agricultural operation, and in the sense of the violent storms that sweep across the Great Plains with little notice. The National Weather Service, under NOAA has attempted to meet budget restraints by closing 45 weather stations in the past year. This is not cost effective unless you can determine the real need of each station, and the effect it will have on the area by its absence. This is the case in South Dakota, and I am sure that it is true in other parts of the country.

The Smith-Simon amendment will set up objective criteria and procedures that would have to be followed before a Weather Service station could be closed. This is not new to the problem of closing Government facilities, and these criteria could be implemented easily.

I will continue to promote the use of these Weather Service stations, and it must be proven to me that any should be closed. I have witnessed too many destructive storms that did not destroy life, only because of the warnings received from the Weather Service station.

Each station meets local concerns, something that even the finest weather satellite cannot do completely. I urge my colleagues to support the amendment, for protection of life and property from the ravages of nature.●

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nebraska (Mrs. Smith).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—NATIONAL CLIMATE PROGRAM

Sec. 301. This title may be cited as the "National Climate Program Amendments of 1982".

Sec. 302. Section 4 of the National Climate Program Act (15 U.S.C. 2904) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

Sec. 303. (a) Subsection (c) of section 5 of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" before "The Secretary",

(2) by designating the third sentence as paragraph (4), and

(3) by striking out the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program,

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be the spokesman for the program,

"(C) serve as the staff for the Board and its supporting committees and working groups,

"(D) review each agency budget request transmitted under subsection (h)(1) and submit an analysis of the requests to the Board for its review,

"(E) be responsible for coordinating interagency participation in international climate-related activities, and

"(F) work with the National Academy of Sciences, and other private, academic, State, and local groups in preparing and implementing the climate plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grant or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the climate plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(b) Subsection (d) of such section is amended—

(1) by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and the following: "Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy, (B) atmospheric data collection and monitoring on a statewide and regional basis, (C) advice to regional, State, and local government agencies regarding climate-related issues, (D) information to users within the State regarding climate and climatic effects, and (E) information to the Secretary regarding the needs of persons within the State for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;".

(2) by striking out "biennially" in paragraph (9) and inserting in lieu thereof "at a frequency (not more often than biennially or less often than quadrennially) determined by the Board", and

(3) by striking out "the intergovernmental program under section 6" in paragraph (9) and inserting in lieu thereof "the intergovernmental program described in paragraph (7)".

(c) Such action is amended by striking out subsection (e) and inserting in lieu thereof the following new subsection:

"(e) Climate Program Policy Board.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary believes should participate in the program.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program,

"(B) review all agency and department budget requests related to climate transmitted under subsection (h)(1) and submit a report to the Office of Management and Budget concerning such budget requests,

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities, and

"(D) establish and maintain a committee of users and producers of climate data, information, and services to advise the Board, the Director, and the Congress on the conduct of the program.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(d) Subsection (f)(2) of such section is amended by inserting "with the Office" after "shall cooperate".

(e) The first sentence of subsection (g)(1) of such section is amended by inserting before the period at the end of the following: "and shall transmit a copy of such request to the National Climate Program Office".

Sec. 304. Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

Sec. 305. Section 7 of the National Climate Program Act (15 U.S.C. 2906) is amended by striking out "January 30" before paragraph (a) and inserting in lieu thereof "March 31".

Sec. 306. Section 8(a) of the National Climate Program Act (15 U.S.C. 2907(a)) is amended by striking out ", to the extent provided or approved in advance in appropriation Acts,".

Sec. 307. Of the funds authorized for the National Climate Program Office for each of fiscal years 1983 and 1984 pursuant to section 201(a)(4) of this Act, at least 25 per centum shall be made available during each fiscal year for intergovernmental climate-related activities (described in section 5(d)(7) of the National Climate Program Act) and at least 20 per centum shall be made available during each fiscal year for experimental climate forecast centers (described in section 5(d)(8) of the National Climate Program Act).

The CHAIRMAN. Are there any amendments to title III?

AMENDMENTS OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer technical amendments, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Fuqua: On page 10, line 2, after the word "contracts" insert the following: "to the extent provided or approved in advance in appropriation acts";

On page 13, strike lines 3 through 6 and renumber the following section accordingly.

On page 21, line 24, after the word "contract" insert the following: "to the extent

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provided or approved in advance in appropriation acts".

Mr. FUQUA. Mr. Chairman, these are technical amendments which are simply designed to conform titles III and IV of H.R. 6798 to the requirements of section 401(a) of the Budget Act. These amendments would make it clear that NOAA is authorized under this section to enter into contracts only to the extent and during the period for which funds have been appropriated by Congress.

The amendments before us are completely consistent with the original intent of the committees; they are consistent with the policy that we would have expected NOAA to adopt regardless of these amendments. The amendments do provide, however, the technical protection needed for compliance with the Budget Act, and I hope that they will be adopted without controversy.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida (Mr. FUQUA).

The amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—GREAT LAKES PROTECTION

SEC. 401. This title may be cited as the "Great Lakes Protection Act of 1982".

SEC. 402. The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701–1709) is amended—

(1) by redesignating section 2 as section 101;

(2) by striking out "Act" in subsection (b) of section 101 (as redesignated by paragraph (1)) and inserting in lieu thereof "title";

(3) by redesignating sections 4, 5, and 6 as sections 102, 103, and 104, respectively;

(4) by striking out "under section 6" in subsection (b)(3) of section 103 (as redesignated by paragraph (3)) and inserting in lieu thereof "under section 104";

(5) by striking out "pursuant to section 4(b)(1)(B)" in subsection (a) of section 104 (as redesignated by paragraph (3)) and inserting in lieu thereof "pursuant to section 102(b)(1)(B)";

(6) by striking out sections 3, 7, 8, 9, and 10;

(7) by inserting after the first section the following:

"SEC. 2. DEFINITIONS.

"For purposes of this Act (unless the context requires otherwise)—

"(1) the term 'Administration' means the National Oceanic and Atmospheric Administration;

"(2) the term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration;

"(3) the term 'Director' means the Director of the Office of Science and Technology Policy in the Executive Office of the President;

"(4) the term 'Executive Director' means the Executive Director of the Great Lakes Research Office established by section 202 of this Act;

"(5) the term 'Great Lakes' means Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior;

"(6) the term 'marine environment' means the coastal zone (as that term is defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1))), the seabed, subsoil, and waters of the territorial sea of the United States, the waters of any zone over which the United States asserts exclusive fishery management authority, the waters of the high seas, the seabed and subsoil of and beyond the outer Continental Shelf, and the Great Lakes;

"(7) the term 'ocean and coastal resource' means any resource, whether living (including natural or cultured plant life, fish, shellfish, marine mammals, and wildlife), nonliving (including energy sources, minerals, and chemical substances), manmade, tangible, intangible, actual, or potential which is located in, derived from, or traceable to, the marine environment and includes the habitat of any such living resources, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(8) the term 'ocean pollution' means any short-term or long-term change in the marine environment.

"TITLE I—OCEAN POLLUTION RESEARCH";

and

(8) by adding after section 104 (as redesignated by paragraph (3)) the following new titles:

"TITLE II—GREAT LAKES PROTECTION

"SEC. 201. FINDINGS, PURPOSE, AND DECLARATION OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) the Great Lakes (containing 95 percent of the surface fresh water of the United States and 20 percent of the world's fresh water) are among the greatest natural resources in the world, continuously serving the people of the United States and other nations as important sources of food, fresh water, recreation, beauty, and enjoyment;

"(2) the Great Lakes are among the world's major waterways, each year carrying tons of waterborne shipping to and from all parts of the globe;

"(3) the productivity and beauty of the Great Lakes in recent years have been diminished and threatened by water pollution, shoreline erosion, and sedimentation;

"(4) numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes;

"(5) the various research projects relating to the Great Lakes, including those conducted at the college and university level and those conducted at the State and local level, can be more effectively coordinated in order to obtain maximum benefits; and

"(6) a greater awareness of the importance of preserving and protecting the environmental quality of the Great Lakes is in the national interest.

"(b) PURPOSE.—The purposes of this title are—

"(1) to provide for a rational and effective coordination of federally supported research aimed at increasing fundamental knowledge in support of efforts to preserve and protect the environmental quality of the Great Lakes;

"(2) to identify the needs and priorities for such research as will be required in the future to preserve and protect the environmental quality of the Great Lakes;

"(3) to assure a comprehensive and balanced approach to federally supported research on the Great Lakes;

"(4) to encourage the utilization of the results and findings of research relating to the Great Lakes in the decisionmaking processes which affect the environmental quality of the Great Lakes; and

"(5) to foster public understanding, and to assure greater understanding at all levels of government, of the role of the Great Lakes as a unique national resource and the greatest ecological entity of its kind.

"(c) DECLARATION OF POLICY.—The Congress, in recognizing the Great Lakes to be a unique national and international resource, declares that—

"(1) it shall be the continuing policy of the Federal Government, in cooperation with State and local governments and other concerned public and private organizations, to use all practicable means and measures in a manner calculated to enhance, preserve, and protect the environmental quality of the Great Lakes, to create and maintain conditions under which individuals, industry, and the Great Lakes can exist in productive harmony, and to fulfill the social, economic, and other requirements of present and future generations; and

"(2) it shall be the policy of the Federal Government to maximize international cooperation with Canada and other nations in maintaining, enhancing, preserving, and protecting the environmental quality of the Great Lakes consistent with the foreign and domestic policies of the United States.

"SEC. 202. GREAT LAKES RESEARCH OFFICE.

"(a)(1) ESTABLISHMENT.—There is established within the Administration a Great Lakes Research Office. All facilities of the Great Lakes Research Office shall be located geographically either in the State of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, or New York.

"(2) EXECUTIVE DIRECTOR.—The Great Lakes Research Office established by paragraph (1) shall be directed by an Executive Director appointed by the Administrator. Before making any appointment, the Administrator shall seek the recommendation of the Governors of Minnesota, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, and New York with respect to individuals who are qualified to serve as the Executive Director.

"(3) STAFF.—The Executive Director may appoint such staff as the Executive Director determines are necessary to carry out the duties and responsibilities and to fulfill the purposes of this title. The staff appointed pursuant to this paragraph shall be appointed subject to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) INVENTORY.—

"(1) COMPILATION.—Not later than one year after the enactment of this title the Executive Director shall compile an inventory of all major actions taken, or planned to be taken, by Federal, State, or local governments which have, or may have, a significant effect on the environmental quality of the Great Lakes (with the significance of the effect to be determined by the Executive Director in conformance with the policy set forth in section 201). The inventory may be limited by the Executive Director to an inventory of major actions taken after January 1, 1977.

"(2) Review.—The Executive Director shall review and update the inventory compiled pursuant to paragraph (1) every three months. The Executive Director shall consult with Federal, State and local officials in reviewing and updating the inventory.

"(3) Submission.—The inventory compiled pursuant to paragraph (1), and each review and update made pursuant to paragraph (2), shall be submitted to the President and the Congress.

"(c) Functions of Executive Director.—

"(1) Knowledge of programs and projects.—The Executive Director shall be responsible for knowledge of programs and projects conducted or funded by the Federal Government which relate to the Great Lakes, including any program or project assisted under the National Sea Grant College Program Act (33 U.S.C. 1121-1131) and any program or project which carries on research directed toward enhancing, preserving, or protecting the environmental quality of the Great Lakes.

"(2) Direct research.—The Executive Director may direct the staff of the Great Lakes Research Office to conduct direct research in order to carry out the duties and responsibilities of the Office and to fulfill the purposes of this title.

"(3) Contracts.—The Executive Director may enter into any contract which the Executive Director determines is necessary to carry out the duties and responsibilities of the Office.

"(d) Consultation and Advisement by Executive Director.—In carrying out this title, the Executive Director shall—

"(1) consult with Federal, State, and local governmental officials responsible for maintaining, enhancing, preserving, protecting, or monitoring the environmental quality of the Great Lakes, including the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Director of the Office of Science and Technology Policy in the Executive Office of the President, the President of the National Academy of Sciences, the Director of the National Institutes of Health, the Chairman of the United States Section of the International Joint Commission-United States and Canada, the Chairman of the United States Section of the Great Lakes Fishery Commission, the Executive Director of the Great Lakes Commission, and the Chief of Engineers of the United States Army Corps of Engineers; and

"(2) advise such Federal, State, and local governmental officials on the effect of any Federal, State, or local governmental program or project on the environmental quality of the Great Lakes.

"(e) Report.—Not later than one year after the enactment of this title, the Executive Director shall submit to the President and the Congress a report containing—

"(1) information on the current state of research efforts conducted or supported by the Federal Government to improve the environmental quality of the Great Lakes;

"(2) recommendations for the improvement, increased coordination, and use of such research efforts;

"(3) information on the degree of coordination among the States in the vicinity of the Great Lakes in efforts to preserve and protect the environmental quality of the Great Lakes; and

"(4) recommendations for the improvement of such coordination among the States.

"SEC. 203. GREAT LAKES ENVIRONMENTAL IMPACT ANALYSIS.

"(a) Appendix.—The responsible Federal official shall include in every statement included pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) in a recommendation or report on proposals for legislation, and other major Federal actions, which significantly affect the Great Lakes (with the significance of the effect to be determined by the Executive Director in conformance with the policy set forth in section 201) an appendix which makes special reference to the Great Lakes and which contains—

"(1) an index to all material contained in such statement which relates to the Great Lakes; and

"(2) a summary of all material contained in such statement which relates to the Great Lakes.

"(b) Comments.—The Executive Director shall submit to the responsible Federal official comments on each statement described in subsection (a) before the statement is included in a recommendation or report pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(c) Submission of Appendix and Comments.—Copies of any appendix required to be included in a statement pursuant to subsection (a), and any comments submitted by the Executive Director pursuant to subsection (b), shall be submitted to the President and made available to the public pursuant to section 552 of title 5 of the United States Code.

"TITLE III—GENERAL PROVISIONS

"SEC. 301. INTERAGENCY COOPERATION.

"The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, concerned with, or has authority over programs relating to ocean pollution research, development, and monitoring or over research to maintain, enhance, preserve, or protect the environmental quality of the Great Lakes—

"(1) shall cooperate with the administrator in carrying out the purposes of title I and shall cooperate with the Administrator and the Executive Director in carrying out the purposes of title II;

"(2) may, upon written request from the Administrator, Director, or Executive Director, make available to the Administrator, Director, or Executive Director such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator, Director, or Executive Director in achieving the purposes of this Act;

"(3) shall, upon written request from the Administrator, Director, or Executive Director, furnish such data or other information as the Administrator, Director, or Executive Director determines is necessary to fulfill the purposes of this Act.

"SEC. 302. DISSEMINATION OF INFORMATION.

"(a) Ocean Pollution Information.—The Administrator shall insure that the results, findings, and information regarding ocean pollution research, development, and monitoring programs conducted or sponsored by the Federal Government are disseminated in a timely manner and in useful forms to relevant departments, agencies, and instrumentalities of the Federal Government and to other persons having an interest in ocean pollution research, development, and monitoring.

"(b) Great Lakes Information.—The Administrator, Director, or Executive Director shall insure that the results, findings, and information regarding the Great Lakes compiled by the Great Lakes Research Office are disseminated in a timely manner and in useful forms to relevant departments, agencies, and instrumentalities of the Federal Government and to other persons having an interest in the environmental quality of the Great Lakes.

"SEC. 303. EFFECT ON OTHER LAWS.

"Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal department, agency, or instrumentality under any law to undertake research, development, and monitoring relating to ocean pollution, to conduct research relating to the Great Lakes, or to undertake action pursuant to any other Federal law.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

"(a) Authorization.—There are authorized to be appropriated to the Administration for the purposes of carrying out this Act not to exceed $5,000,000 for the fiscal year ending September 30, 1979; not to exceed $4,300,000 for the fiscal year ending September 30, 1980; not to exceed $3,000,000 for the fiscal year ending September 30, 1981; not to exceed $4,000,000 for the fiscal year ending September 30, 1982; and, of the funds authorized pursuant to section 201(a) of the Atmospheric, Climatic, and Ocean Pollution Act of 1982, not to exceed $3,000,000 for the fiscal year ending September 30, 1983, and not to exceed $3,000,000 for the fiscal year ending September 30, 1984.

"(b) Limitation.—Of any amount appropriated for a fiscal year ending after September 30, 1982, under the authorization contained in subsection (a) an amount not more than $750,000 may be expended by the Executive Director during a fiscal year to carry out title II of this Act.".

The CHAIRMAN. Are there any amendments to title IV?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—OCEAN POLLUTION RESEARCH

Sec. 501. Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

Sec. 502. Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary shall ensure that the program under this section complements, when appropriate, the activities undertaken pursuant to title I. Such program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the ability of the marine environment to assimilate materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations,

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contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species; and

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 503. Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibilty of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress and the President, not later than December 31, 1983, a report on sewage sludge disposal in the New York region. The report shall consider the factors listed in subsection (c) as they relate to landfilling, incineration, and ocean dumping; shall include a cost-benefit comparison of these three alternatives; and shall recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 504. (a) Of the funds authorized pursuant to section 201(a)(1) of this Act, $12,000,000 is authorized to be appropriated in each of the fiscal years 1983 and 1984 to carry out the provisions of title II of the Marine Protection, Research, and Sanctuaries Act of 1972. Of these funds, at least $500,000 shall be made available in each of such fiscal years to carry out the studies authorized in section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972.

(b) Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981," and by inserting ", and not to exceed $12,000,000 for each of the fiscal years 1983 and 1984" immediately after "fiscal year 1982".

SEC. 505. Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping involved;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443).".

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—OTHER PROGRAMS

SEC. 601. Of the funds authorized pursuant to section 201(a)(3) of this Act, $100,000 is authorized to be appropriated in each of the fiscal years 1983 and 1984 to carry out the provisions of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", as amended (15 U.S.C. 330)

The CHAIRMAN. Are there any amendments to title VI?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. EVANS of Indiana, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 540, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 65, not voting 29, as follows:

[Roll No. 286]

YEAS—340

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Badham
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Bailey (PA)
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Bedell
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Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burton, Phillip
Butler
Byron
Campbell
Carney
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Conte
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crockett
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gray
Green
Grisham
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Leath
Lehman
Leland
Lent
Levitas
Lewis
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan

Luken
Lundine
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Morrison
Mottl
Murtha
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman

Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Simon
Skelton

Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zablocki
Zeferetti

NAYS—65

Applegate
Archer
Ashbrook
Atkinson
Bethune
Brown (CO)
Burgener
Carman
Cheney
Collins (TX)
Conable
Conyers
Corcoran
Crane, Daniel
Crane, Philip
Dannemeyer
Dornan
Dreier
Edwards (OK)
Frenzel
Goodling
Gramm

Gregg
Hagedorn
Hansen (ID)
Hansen (UT)
Hunter
Jeffries
Johnston
Kemp
Kindness
Kramer
Latta
Lee
Loeffler
Lungren
Marlenee
Martin (NY)
McDonald
McEwen
Michel
Moore
Moorhead
Murphy

Myers
Paul
Roemer
Rousselot
Rudd
Shumway
Shuster
Siljander
Skeen
Smith (OR)
Solomon
Staton
Stump
Tauke
Walker
Weber (MN)
Weber (OH)
Whittaker
Winn
Wortley
Young (FL)

NOT VOTING—29

Bafalis
Boner
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
D'Amours
Emery
Ertel

Evans (GA)
Fenwick
Ginn
Heftel
Holt
Ireland
Lagomarsino
LeBoutillier
Livingston
Marks

Moffett
Neal
Rahall
Rosenthal
Stanton
Whitten
Williams (MT)
Yatron
Young (AK)

☐ 1500

Mr. HILER and Mr. WEAVER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6955, OMNIBUS BUDGET RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), and ask unanimous consent that the statement of managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 16, 1982.)

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma, Mr. JONES, will be recognized for 30 minutes, and the gentleman from Ohio, Mr. LATTA, will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

☐ 1510

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the conference report on the bill, H.R. 6955.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Speaker, this conference report on the Omnibus Budget Reconciliation Act pertains to those spending cuts requested or required of seven different House committees. These committees are the Committee on Agriculture, the Committee on Armed Services, the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, the Committee on Merchant Marine and Fisheries, the Committee on Post Office and Civil Service, and the Committee on Veterans' Affairs.

In the reconciliation instructions, Mr. Speaker, these committees were asked to reduce spending by a total of about $11.1 billion. The actual spending cuts from CBO came to $13.7 billion, an excess of over $2.5 billion more than the committees were asked to achieve. So, I think we can pay a debt of gratitude to the members of these committees and to the committee chairmen who performed so well in carrying out these reconciliation instructions. If we add to this the projected spending cuts of the savings that fall within the jurisdiction of the Committee on Ways and Means and the Committee on Commerce and Energy, the actual reconciliation instructions by the House will have been exceeded or surpassed by about $4 billion.

Mr. Speaker, the success of carrying out these reconciliation instructions is a tribute to allowing the legislative process to work as it should, and it proves emphatically that we do not need and did not need to have last year a Gramm-Latta II substitute at the last minute to undercut the work of the committees and the committee chairmen. Many of the committee chairmen did not support the size of these cuts, but once instructed by the House, they carried out these instructions even more than was required of them.

Let me just repeat, the reconciliation bill before us required of these seven committees to cut spending over the next 3 years in the amount of $11.178 billion. These committees actually cut $13.725 billion, or $2.5 billion more than they were required to do.

Most of the committees did not have any controversy surrounding them. For example, the Committees on Veterans Affairs of the House and Senate both made the cuts of the same nature. The two areas of controversy surrounded the COLA cap, which was primarily in the jurisdiction of the Committee on Post Office and Civil Service, but also had ripple effect in other committees; and second, the Agriculture Committee.

As the Members recall, the other body in the reconciliation instructions required a 4-percent cap on Federal civilian and military pensions beginning in fiscal year 1983. The ripple effect of that 4-percent cap would have created savings of $5.1 billion, roughly, over the next 3 years. The House did not act on a COLA cap even though the Rules Committee made in order such an amendment. In order to reconcile the differences of over $5 billion between the House and the other body, in conference a number of suggestions were made and the conclusion was reached to do two things: One, to put a cap on COLA's for cost-of-living adjustments for all military and civilian retirees under the age of 62. This category of annuitants would receive half

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of the regular cost-of-living adjustment. The other thing that was done was to change by 1 month the effective date of the COLA's, so that in 1983 the effective date would be moved 1 month to April, then to May in 1984, and June in 1985, so that in fiscal year 1985 all pension programs, including social security and the Federal civilian and military programs, would receive their cost-of-living adjustments at the same time; namely, July of that year and thereafter. The combination of those two things create savings over the next 3 years of $4.1 billion. For those who felt strongly that there should be some limitation on the automatic increases in Federal pensions, this compromise clearly achieves that.

In the agriculture area there were basically three points of debate. One was the dairy compromise, and in that connection essentially the House position prevailed. The second was on the crop diversion program, and there I know there are a number of disagreements in this body and in the other. The third was on food stamps, where the House and the other body essentially split the difference. I am going to leave the discussions of the differences in the compromise in the Agriculture Committee jurisdiction to Mr. PANETTA, who is chairman of the reconciliation task force on the Budget Committee, and also a member of the Agriculture Committee; and to Mr. FOLEY, who is a member of the Agriculture Committee.

I would turn the Members' attention to today's CONGRESSIONAL RECORD, because the full explanation of the reconciliation conference appears beginning on page H6006. The Government Printing Office did not complete all of the printing of the conference report, and consequently the full report can be found in today's CONGRESSIONAL RECORD. As I said, I commend the House to pass this reconciliation conference report. It meets in every respect and surpasses the reconciliation targets.

□ 1520

To those of you who were concerned that this body did not have the will to carry out the spending cuts mandated of it, I think you can support this conference report and go back home and explain that not only did you meet the targets, but you actually cut spending even more than you were required to do.

So, Mr. Speaker, again I compliment the committees and particularly the chairmen of the committees involved who carried out the instructions of this reconciliation conference in every respect in the best manner of the legislative process.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the beginning of the reconciliation process this year, I have argued against the House procedures for handling reconciliation bills and have opposed the substance of most of those bills as they are reported out of House committees.

With regard to the procedures employed, the bringing of separate reconciliation bills to the floor violated the text and the spirit of both the Budget Act and the first budget resolution for fiscal year 1983 which call for a single reconciliation bill.

With regard to the substance of the bills as reported out of committee—except for the Veterans' Committee bill—the bills fell woefully short of the targets we had established in the budget resolution.

Now that we have a final product from the reconciliation process, we have a chance to assess once again where we stand on the reconciliation process.

Nothing can be done to change the improper procedure of the reconciliation bills as they came out of committee. However, the House did package all those separate bills into one bill prior to the reconciliation conference. Such a move was a step in the right direction and obviously improved the chances of our obtaining a higher percentage of the budget savings which were adopted by the Congress in the first budget resolution.

With regard to the substance of the reconciliation bills, the conference committee significantly improved nearly all of the bills.

In the agriculture subconference, the House increased the food stamp savings from $1.3 to $1.9 billion. Also, the House removed many of the highly undesirable aspects of the dairy program, particularly the establishment of a dairy producers cartel. In fact, the conference agreement will result in savings of approximately $2.3 billion over current law if one calculates savings from current production levels. CBO estimates savings at $4.5 billion over 3 years because it uses January 1982 data which overstate dairy production levels. With regard to the grain program, the conference agreement is far superior to the House agreement. By reducing the paid set-aside, the conferees reduced the cost to the Government of this program over the next 3 years to $610 million as opposed to the CBO estimate of savings which was based on January 1982 data. The CBO estimates thus show production levels which are below the actual experience to date. Finally, it cannot yet be determined whether the export promotion provision of the bill will cost or save money. It will save money if the administration "buys down" interest rates in an effort to subsidize agricultural exports. The administration has not yet made that decision and presumably it will be the subject of an intense debate inside the administration.

With regard to the Banking Committee bill, the conferees adopted the version which had been brought forward by Mr. STANTON and which we found acceptable.

With regard to the Veterans Committee bill, the conference changed some of the provisions in the bill on the grounds that earlier calculations of savings had been underestimated. The use of more accurate figures, as developed by the Veterans' Administration and adopted by CBO, allowed the Veterans conferees to retain its initial level of savings through the adoption of fewer changes in law than had been earlier expected.

In the Post Office conference, the conferees very significantly improved upon the savings which had been achieved in the House. The Senate came into the conference with reductions of $5.4 billion over 3 years. The House had a savings of $113 million over 3 years. The conference settled upon $4.1 billion in a way which was moving toward the assumptions which had been contained in the first budget resolution.

CONFERENCE AGREEMENT

	Savings assumed in the budget resolution			CBO estimate of savings			Administration estimate		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Agriculture:									
Food stamps:									
Budget authority	949	1,083	1,428	548	635	756	548	635	756
Outlays	949	1,083	1,428	548	635	756	548	635	756
Dairy:									
Budget authority						1,501			1,197
Outlays	900	600	200	1,501	1,540	1,487	1,197	1,070	0
Grains, cotton, rice:									
Budget authority						+116			0
Outlays				+116	389	88	+347	+263	0
Export promotion:									
Budget authority									
Outlays				116	64	8	0	0	0

CONFERENCE AGREEMENT—Continued

	Savings assumed in the budget resolution			CBO estimate of savings			Administration estimate		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Banking:									
FHA up-front premium:									
Budget authority									
Outlays	695	697	687	690	679	647	690	679	647
Post Office and Civil Service:									
Pension reform:									
Budget authority									
Outlays	104	136	160	56	353	350	56	353	350
COLA:									
Budget authority		240	534						
Outlays	270	917	1,633	150	385	500	150	385	500
Armed services:									
Budget authority	213	693	1,231	260	732	1,223	260	732	1,223
Outlays	213	693	1,231	260	732	1,223	260	732	1,223
Foreign affairs:									
Budget authority		2	4	NA	NA	NA	NA	NA	NA
Outlays	2	8	15	NA	NA	NA	NA	NA	NA
Merchant marine and fisheries:									
Budget authority	4	15	27	NA	NA	NA	NA	NA	NA
Outlays	4	15	27	NA	NA	NA	NA	NA	NA
Veterans' Affairs:									
Entitlement savings:									
Budget authority	77	155	155						
Outlays	77	155	155						
Rounding down:									
Budget authority				22	29	29	22	29	29
Outlays				22	29	29	22	29	29
Delay until 1st month:									
Budget authority				54	56	59	54	56	59
Outlays				54	56	59	54	56	59
Other:									
Budget authority				3	2	4	3	2	4
Outlays				3	2	4	3	2	4
VA loan origination fee:									
Budget authority	95	105	110	90	100	104	90	100	104
Outlays	95	105	110	90	100	104	90	100	104
Total outlays	3,309	4,409	5,646	3,374	4,964	5,335	2,723	3,778	3,752
Grand total outlays fiscal year 1983–85		13,400			13,600			10,400	

Note: Figures shown are for reductions from spending under current law, except where (+) indicates a program cost rather than savings. Administration estimates differ from CBO estimates for the following reasons: On dairy: CBO uses estimates of production levels based on January 1982 data. The administration estimates are based on actual June 1982 data. The CBO figures overestimated production levels and consequently the savings associated with the dairy reform proposal. On wheat, feed grains, cotton, and rice: CBO uses crop levels based on January 1982 data. The administration uses actual production levels as of July 1982. The CBO figures underestimated crop levels and thus underestimated the cost of the proposed changes. Also, CBO analysis assumes greater impact on crop reduction as a result of the set-aside program. On export promotion: Savings will accrue only if the administration were to "buy down" interest rates on loans for export sales. CBO assumes such an action will occur. The administration has not decided on such a course however. Therefore, no savings should be assumed.

Overall, the conference adopted a set of savings totaling approximately $13.5 billion if one were to use CBO figures which were based on the assumptions contained in the first budget resolution. However, because some of the CBO estimates of savings in agricultural programs were based on crop levels and production levels which have proven to be out of date in view of the June 1982 and July 1982 figures, the total 3-year savings in this reconciliation bill will actually be closer to $10.4 billion. Because the reconciliation conference agreement represents a significant improvement over the separate bills which passed the House, I believe this bill merits the support of those who cooperated in the passage of the first budget resolution for fiscal year 1983. While the bill did not achieve all of the savings that I would have liked, there is no question that it does represent a real step forward in a very difficult political environment. Therefore, I reluctantly urge the passage of this conference agreement upon Members of the House.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, as one of the managers of the House on this reconciliation, I signed the conference report. I would agree with the distinguished gentleman from Ohio (Mr. Latta) that it is not a perfect report. Indeed, it is far from it, but it does, under CBO scorekeeping, meet the direction of the budget resolution.

I wish we had passed a tougher budget resolution in the first place. I wish our reconciliation instruction had demanded deeper cuts. I am not convinced that we cannot reduce spending more.

Nevertheless, the conferees, the managers on the part of both the House and the Senate, did deliver and did achieve the targets set for them in the budget resolution.

When our budget reconciliation bills left the House, they had less than half of the savings in them that they now have. Some Members, namely, the conferees in these various subconferences, have done a good job. In fact, it is a great job if compared to where the House started.

I am not convinced that any of our scorekeeping services can develop wholly reliable figures for our use. OMB and CBO agree on most of the items within this reconciliation bill, but they are off by about $3 billion in the agricultural section, with about two-thirds of that in the dairy division.

It is a little difficult to sort out who is right, whose assumptions are better, or who is using the better basis for its numbers. But we agreed when we began this whole process to use the CBO numbers, and under the CBO numbers we have met our target.

Mr. Speaker, I urge this body to pass this bill today and the tax bill that will follow this week. Those who vote against either will, I think, be hard pressed to explain how they were willing to add $28 billion to the deficit for the coming fiscal year, and $130 billion over the next 3 years. I do not want the responsibility of adding that deficit amount. Therefore, I shall vote for this bill and for the tax bill that will follow.

There will be many who will grumble that we did not cut spending enough, and those Members will find me in cheerful agreement. But much as I would have liked to have achieved greater cuts there is no excuse at all in my judgment to resist this bill or to resist the following tax bill on the grounds that we did not meet budget targets. The only way we can miss those targets is to fail to pass this bill and to pass the tax bill that follows.

Mr. Speaker, I think the conferees have done an extraordinary job in bringing this bill to the floor and in improving on the very poor job that the House committees did originally. I must congratulate the committee chairmen who entered into the negotiations in an openminded fashion and who tried to produce the best bill they could, knowing how we were directed by the reconciliation instructions. I would also like to compliment all of the Budget Committee conferees.

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Mr. Speaker, I hope that this bill will be promptly passed.

□ 1530

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, the budget-cutting process that we have been going through in the name of fiscal austerity has been a long and painful one. In many instances, I am afraid, we sacrificed social justice as we rushed headlong to embrace an economic experiment that so far has brought us nothing but despair and uncertainty.

Under the process, committees of the House were forced to make arbitrary and unwise decisions affecting the lives and futures of millions upon million of Americans.

Given the recklessness of the budget cutters, I feared for the futures of retired civil servants under the jurisdiction of the House Post Office and Civil Service Committee. Our colleagues in the other Chamber seemed bent on exposing these retired people to the ravages of inflation.

Just last night we concluded our conference with the Senate on the budget issues affecting civil service retirees. Considering the starting point, the outcome was not as tragic as it might have been.

In the face of difficult opposition, we were able to preserve full cost-of-living adjustments (COLA) for annuitants 62 or over—those who have left the work force and must rely, in most cases, on their benefits.

Full COLA was also preserved for survivors and the disabled—those least able to protect themselves from the onslaught of inflation.

Morally and socially it was important to continue this full protection.

Perhaps more important, however, is what this means for the future. By holding firm in the case of retired civil servants, we prevented the setting of a dangerous precedent.

There is absolutely no doubt in my mind that capping COLA's for retired civil servants would have been the first wedge in the stump of social security.

Had we allowed ourselves to break a commitment with those retired from the Federal work force, then, later on, it would have been a simple matter to extend this twisted logic to those attempting to survive on social security.

For my part, I am convinced that the action we took goes a long way to assuring all those frightened people out there that we are not just waiting until after the election to wield the budget cutting ax against social security.

Considering what we were up against, I think we took as much of the sting as possible out of the budget cuts for civil service retirees.

The brunt of the burden falls on those retirees under 62—those who, in most cases, are still at work. They will receive half of the annual inflation adjustment. I would have preferred preserving inflation protection for everyone. But in this insane thirst for somebody's blood, this just was not possible.

In a manner of speaking, the decree from Caesar Augustus had gone out and the spilling of some blood was inevitable.

In a sense, this was like being ordered to line 10 people up before a firing squad and having 3 of them granted reprieve at the last moment.

If you focus on the three who were spared, you will like this conference report. If you are like me, however, and dwell on the seven, you will not like it.

This clearly was a situation where all the alternatives were distasteful.

In the end, however, considering the force of this budget cutting juggernaut, we saved more of our integrity than we lost. And that took some doing. And we insured that all the actions are temporary and do not extend beyond fiscal year 1985.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA), who will explain the provisions in the agricultural portion.

I particularly want to compliment the chairman for an excellent job in carrying out his conference responsibilities.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report on the bill, H.R. 6955.

We are informed that the cuts that we made for the next 3 years are estimated by CBO to total $7 billion, Mr. Speaker. These cuts add up to $3.7 billion more than the $3.29 billion in cuts allocated to the Committee on Agriculture by the first concurrent budget resolution.

The amendments to the commodity programs attack the two principal problems affecting our depressed farm economy, a surplus of dairy products and a surplus of grains.

I want to express my appreciation to all of the members of the conference, the Budget Committee members, the members of my committee, and the subcommittee chairmen who worked with me, the chairman of the Senate conference, Senator HELMS, and his counterpart, the ranking minority member Senator HUDDLESTON. H.R. 6955 passed the House just a week ago and the conference began last Thursday. Because of the assiduous work of the conferees and their willingness to compromise on a number of controversial issues, we were able to complete our work early yesterday.

Mr. Speaker, let me say that in the dairy area we reached a compromise which keeps the parity price concept as was requested by the industry. It keeps the level of price support at 13.10 percent for the first 2 years and then adjusts the level for the third year to a level that represents the percentage of parity represented by $13.10 percent, as of October 1, 1984. Then it has provisions whereby the Government can recoup a portion of the cost of the price support program.

This is not, in my estimation, or in the estimation of any member of our committee, the perfect solution. But it is the one that we could arrive at at this time. We think that it will afford some reduction, hopefully as much as is needed, to bring us to an even keel in the dairy area.

In wheat, in cotton, and rice may I say that a compromise was reached under which incentives are provided to producers to reduce production.

Mr. Speaker, let me say no one is satisfied and probably this is what I would like to emphasize to my colleagues, that no one, including myself, is satisfied with the provisions of the agricultural conference. But yet, dealing with the art of the possible, this is the only thing that we could arrive at that could achieve a consensus and pass the conference.

The important thing is that our directive was to reduce expenditures. Let me remind you that the conference report cuts $2.42 billion more over 3 years than H.R. 6892 as originally reported by the committee.

This is what we did in the conference.

Last year the committee cut $11.624 billion from the deficit, $5 billion for food stamps alone.

The committee has cut a total of $18.640 billion, $18.640 billion in the last two reconciliation bills, more than almost any other committee, I might add. At the same time we revised the structure of the program so that we can give some degree of assistance to dairy, to wheat and feed grains, to cotton and rice, in a period when they are having a very difficult time.

The most important thing, though, is that every time that we speak with any of the producers, interest rates and inflation are what impact them more than anything else, according to what they tell us.

This is our contribution, hopefully, to reduce inflation more and to reduce the deficit, and hopefully reduce interest rates for the benefit of all of society, including the producers.

I say that this is a compromise. As all compromises are, it is not satisfactory to many of us. Some of the things in here could conceivably even be wrong.

But as a package it is balanced.

Let me say to all of my colleagues, especially those from the affected areas, that I more than anyone else want to give the producer everything he asks for. That, however, is not possible.

There are some who would hold out still for 90 percent of parity. That is not in the books at this time.

There are those who still would hold out for higher target prices or higher loan prices. That just is not in the books and I would hope that you would support this compromise because it is the best thing that we can bring you.

With all of the pain and tears and suffering that go into a conference committee it is the best thing that we could bring before the House and the other body.

Your vote would be supportive of those of us who tried to help the producer, to help the general economy under the art of the possible. If there is any secret to legislation it is the art of the possible.

I do not want to be knocking my head into a wall and telling the folks at home that I worked hard for them but I did not get them anything. That is not my way of working.

I think you can vote for this legislation. Then you can tell your constituents how you assisted them, maybe not as much as they needed or wanted, but under the art of the possible this bill was the ultimate that you could do.

I would hope that my colleagues would support the overall reconciliation bill.

At this juncture, I would like to summarize for the Members the provisions relating to food and agriculture contained in the conference report.

DAIRY

The price support level for manufacturing-grade milk, which is used for making cheese, butter, and similar products, would be continued at the current level of $13.10 per hundred pounds for the 1983 and 1984 fiscal years, ending September 30, 1984. For fiscal year 1985, beginning October 1, 1984, the support would be set at the percentage of parity which $13.10 represented on October 1, 1983. In order to further encourage reduction of the dairy surplus, the Secretary of Agriculture would be authorized, beginning October 1, 1982, though September 30, 1985, to provide for a deduction of 50 cents per hundred pounds from the proceeds of all milk sold by farmers, with the funds paid to the USDA to offset the cost of the dairy support program. Authority for the deduction would be suspended, however, when projected annual Government surplus purchases for the fiscal year fall below 5 billion pounds milk equivalent.

Further, the Secretary would be authorized to provide for an additional 50 cent assessment, beginning April 1, 1983, if projected Government surplus purchases are above 7.5 billion pounds (but this second assessment would be suspended whenever projected purchases fall below 7.5 billion pounds). If this second assessment is levied, however, the Secretary must also provide a system under which individual farmers can get refunds—thus escaping part or all of the additional assessment—if they reduce commercial marketings. (In removing either of the assessments, the Secretary could act at any time during a fiscal year that projections of surpluses fall below the trigger levels.) The compromise bill eliminates a House proposal for a referendum among farmers on a checkoff to be used to finance milk promotion, and also eliminates a House-proposed Dairy Board which would have administered price supports and surplus disposal.

WHEAT AND FEED GRAINS

A program is provided for the 1983 wheat crop under which growers who agree to reduce production and put 20 percent of their base acreage into conservation use would receive acreage diversion payments on 5 percent of the base. For example, a farmer with a 100-acre wheat planting base could retire 20 acres and get diversion payments on 5 of the retired acres. Growers participating in the program would become eligible for Federal price support benefits, including price support loans and "target price" income protection. The wheat price support loan rate now $3.55 a bushel, would be raised to $3.65 for the 1983 crop. For corn and other feed grains, producers would be able to elect to reduce feed grain production and put 15 percent of their base acreage into conservation uses, of which 5 percent would be eligible for diversion payments. Participation in the program would be required in order to qualify for price support benefits. The corn support loan rate would be raised from this year's $2.55 a bushel to $2.65 a bushel. Savings in the grain programs would be achieved by reducing surpluses and by cutting potential direct target price support payments which cover the gap between the price support loan rate (or market price, whichever is higher) and a pre-set target price.

RICE

A program comparable to wheat and feed grains is provided for rice. Producers who want to qualify for price support and target price benefits could put 20 percent of their base acreage into conservation use, 5 percent of this retired base would be eligible for diversion payments. The diversion payment rate would be $3 for each 100 pounds normally produced on the acres eligible for payment.

ADVANCE DEFICIENCY PAYMENTS

The conference report also adopts a provision in the Senate bill that provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. This is an important measure to encourage participation in surplus reduction programs at a time when our latest crop reports project a continuation of record production for many of our basic commodities. Under the program in the conference report, the Secretary would be required to make advance payments, as follows: First for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and second, for the 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance payments in amounts up to 50 percent of the projected final payments.

EXPORTS

The bill provides that in each of the 3 fiscal years beginning October 1, 1982, the Secretary of Agriculture would be required to use between $175 million and $190 million in Commodity Credit Corporation funds for export activities authorized by existing law. This authority would be in addition to, not in place of, authorities under any other laws.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities. These include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5 (d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential.

FOOD STAMPS

Under the conference report, projected costs of the food stamp program would be cut by $548 million for fiscal 1983, $635 million for fiscal 1984, and $756 million for fiscal 1985—a total 3-year reduction of $1,939 billion. The savings would be realized by measures including changing temporarily the manner in which benefits are adjusted to reflect changes in food costs; reducing Federal administrative expense payments to States which fail

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to meet error-reduction targets; allowing States to require stamp applicants to make a job search; eliminating benefits of under $10 in the first month of an applicant's eligibility; tightening regulations for granting "expedited service" to some applicants; delaying adjustments in the standard deduction used to reduce gross income to net income for calculating stamp benefits; rounding down certain calculations to the next lowest dollar; allowing States to determine standard utility cost deductions based on actual utility costs; and tightening regulations on the eligibility of students for food stamps.

Additionally, the conference report puts ceilings on food stamp program expenditures of $12.874 billion for fiscal 1983, $13.145 billion for fiscal 1984, and $13.933 billion for fiscal 1985. The figure for each of these years includes a 5-percent "cushion," allowing Congress to appropriate funds, if needed, in case conditions in the general economy bring more than the expected number of people into the program, and $825 million per year for Puerto Rico under the block grant food assistance program which current law provides for the Commonwealth.

There are certain aspects of the provisions of the conference report relating to the food stamp program which merit brief comment.

THRIFTY FOOD PLAN

The conferees adopted a compromise under which, for the next 3 fiscal years, each October's adjustment in food stamp allotments will be based on the cost of the thrifty food plan for the previous June, minus 1 percent. Food stamp allotments will be further affected by provisions of the conference report requiring allotments for each household size to be rounded down to the next lower dollar. As a result, the allotments would be computed by taking the unrounded cost of the thrifty food plan for June, reducing this number by 1 percent, making the appropriate household size adjustments, and then rounding the resulting unrounded figure for each household size down to the nearest lower dollar.

STANDARD AND SHELTER DEDUCTIONS

The conferees adopted the House provision under which the standard and shelter adjustment scheduled for July 1983 will be deferred until October 1983. At that time, a new series of deduction adjustments will begin, using $85 as the base for the standard deduction and $115 as the base for the shelter deduction. In making adjustments in the years after 1983, the unrounded numbers from the previous year's adjustment are to be used as a base.

JOB SEARCH

The conferees also maintained the House position regarding job searches by adding a new State option for job search at application. This is consistent with the action of the conferees from the Senate Finance and House Ways and Means Committees in making job search a State option in AFDC as well. In implementing this provision, the Secretary should strive for consistency with the new AFDC job search procedures.

EXPEDITED SERVICE

The conferees adopted a compromise expedited service provision. Expedited service would be restricted to those who either have less than $150 in gross income for the month of application or are destitute migrant or seasonal farmworker households, and also have liquid resources that do not exceed $100. These households would be issued benefits as soon as possible, but no later than 5 calendar days from the date of application. The provision requires that the rules now in effect governing the eligibility of destitute migrant and seasonal farmworkers for expedited service, and the benefit amounts for which they (as destitute households) would qualify, would remain in effect.

BILINGUAL REQUIREMENTS

The conferees likewise adopted the House position on bilingual requirements, which was to retain the current statutory provision in this area. The Secretary has the authority to determine what the specific regulatory requirements for bilingual services should be, and the conferees noted that burdensome regulatory requirements could be changed. This does not mean that the conferees agreed that the current rules are unnecessarily burdensome or that the conferees directed the Secretary to change them. It means that if, after careful examination, it turns out that some aspects of current rules add unwarranted burdens without providing commensurate benefits to the non-English speaking, then it may be useful to make modifications in those areas. Care should be taken to assure that adequate bilingual services continue to be provided.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of this measure. It is, I believe, a balanced omnibus reconciliation bill. Strictly speaking, I assume one could say that it might not meet all of the spending cut goals or requirements of the first concurrent budget resolution (H. Res. 352). However, I understand the Congressional Budget Office places the Committee on Agriculture $113 million in excess of the targeted budget outlay reductions for the 3 years—fiscal years 1983 through 1985—called for in the first concurrent budget resolution.

Yesterday, after the conference report on H.R. 6955 was included for the agriculture portion, I stated as follows:

> I have mixed feelings about this agriculture portion of the Reconciliation Bill. On the one hand, I believe the conferees have—as I had hoped—put together a better bill with more solid savings than that which passed the House. But I continue to be concerned that the President's computation of savings may be lower, and while he may sign the bill, we will be back addressing many of the same issues and programs in next year's Reconciliation bill because the projected savings estimates did not result in similar "actual" spending cuts.

I believe the food stamp program savings reported by the conferees are basically hard savings. The only thing that might erode those savings, I believe, would be some delay in the implementation of regulations relating to the substantive provisions amending the Food Stamp Act. I trust such delays will be avoided.

We did provide a cushion to the cap placed on the food stamp program authorization; however, I believe it is important to preserve the cap concept in the Food Stamp Act and that is what we have accomplished.

As to the dairy provisions contained in the agriculture portion of this bill, I guess no one is totally happy with the compromise struck by the conferees. The Department of Agriculture representatives expressed apprehensions about its adoption and representatives of the dairy industry expressed various degrees of reservations about the adoption. I am sure dairy industry officials are concerned about discretionary authority given to the Secretary of Agriculture that could see a net price to milk producers of $12.60 per hundredweight for possibly all of fiscal year 1984. However, if we do not get dairy surplus purchases by the Government below 5 billion pounds by fiscal year 1984, the dairy program as we have known it—and that to a large extent has worked well for years until recently—will be endangered in the Congress.

On the other hand, given the Secretary of Agriculture's reluctance to go to a base plan for the dairy program, we may never see the Department adopting the second discretionary portion of the new dairy provisions calling for a possible 50 cents assessment wherein individual milk producers could get refunds for reducing milk production.

The farm program adjustments for the 1983 crops that provide for a diversion payment for wheat, feed grains, and possibly rice appear to be what farmers are requesting. Especially inasmuch as a 50-percent advance payment will be made. Recent crop reports suggest that pure set-aside tools are not affecting production reductions in the basic commodities. These adjustment provisions may go a long way in obtaining farmer participation and certification in the farm programs. Perhaps more importantly, the export promotion for selling surpluses overseas may give the best badly needed stimulus to farm prices.

The farm sector is suffering through a serious economic recession. Farm prices are not merely depressed but are so low as to endanger the future of many marginal as well as some good farm operators. It may be questionable logic to spend money to save money—but what is provided for farm programs in this bill is believed by most to have a good chance of success—helping farmers get over a tough recession period and effect certain savings in the outyears.

Therefore, as I said earlier, while some of the savings may be soft and may not result in dollar-for-dollar actual savings in each future fiscal year as estimated, we must push forward. I urge my colleagues to support the agriculture portion of this measure, and I commend my chairman, Mr. DE LA GARZA, for his excellent work in chairing the agriculture portion of the conference and the hard work he has put in on this measure.

STAFF ANALYSIS OF THE FOOD STAMP ACT AMENDMENTS OF 1982

SECTION 142—HOUSEHOLD DEFINITION

All parents and children or siblings living together will be treated as a single household, unless one of the parents or siblings is elderly or disabled. In addition, an individual who lives with others, but who is 60 years or older and is not physically or mentally able to purchase and prepare meals, will be considered a separate household (with his or her spouse) if the gross income of the others does not exceed 165% of the poverty guidelines.

SECTION 143—ROUNDING DOWN

Calculations of the Thrifty Food Plan, both deductions and the individual case computations will be rounded down to the nearest dollqar, rather than rounded to the nearest dollar.

SECTION 144—THRIFTY FOOD PLAN ADJUSTMENTS

The thrifty food plan will be adjusted as scheduled on October 1st. However the amount of the plan will be reduced by 1% in fiscal years 1983, 1984, and 1985.

SECTION 145—DISABLED VETERANS AND SURVIVORS

The definition of "elderly and disabled member" is expanded, wherever it appears in the Food Stamp Act, to include a veteran, a surviving spouse of a veteran, or a child of a veteran who is disabled or receives veteran's compensation.

SECTION 146—INCOME STANDARDS OF ELIGIBILITY

Households without an elderly or a disabled member must meet both the net and gross food stamp income tests in order to be eligible for food stamps.

SECTION 147—COORDINATION OF COST-OF-LIVING INCREASES

Cost-of-living adjustments provided on each July 1 in Social Security and other federal programs will not be counted against food stamp benefits until October 1, when the cost-of-living adjustment to the Thrifty Food Plan is made.

SECTION 148—ADJUSTMENT OF DEDUCTIONS

The adjustment to the standard and the shelter/dependent care deductions will take place on October 1, 1983 and every October 1 thereafter. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the Thrifty Food Plan will take place on the same dates, reducing the work required by state food stamp administrators.

SECTION 149—STANDARD UTILITY ALLOWANCES

States are given an option of using a standard utility allowance. The use of standard utility allowances is prohibited for households, such as those in public housing, that are not billed for heating or cooling costs and for those households living together and sharing utility expenses, unless the allowance is prorated.

SECTION 150—MIGRANT FARMWORKERS

The Secretary is precluded from waiving calculation of income on a prospective basis for migrant farmworker households.

SECTION 151—FINANCIAL RESOURCES

The Secretary is precluded, with some exceptions, from altering the financial resource requirements in effect on June 1, 1982. Accessible savings or individual requirement accounts will be counted in determining the amount of financial resources available to the households.

SECTION 152—STUDIES

The requirements for the Department of Agriculture to conduct studies of the financial resources requirements of the Food Stamp Program, the effect of the elimination of the purchase requirement; the feasibility of recoupment, and the Consumer Price Index are eliminated. These are studies or reports that have been completed by the Department.

SECTION 153—CATEGORICAL ELIGIBILITY

Categorical eligibility as to resources for AFDC households in which all members of the household are AFDC participants is established at state option.

SECTION 154—MONTHLY REPORTING SYSTEMS

(a) A state may, with the approval of the Secretary, select categories of households which may report at less frequent intervals.

(b) Households without earned income in which all adult members are elderly or disabled are not required to report monthly.

SECTION 155—PERIODIC REPORT FORMS

The requirement that the Secretary must design and approve forms for non-periodic reporting of household charges is deleted.

SECTION 156—REPORTING REQUIREMENTS

The Secretary is allowed, upon the request of a state, to waive food stamp periodic reporting rules to permit rules similar to those of the AFDC program.

SECTION 157—JOB SEARCH

States are allowed to require job search at the time of application for food stamp benefits.

SECTION 158—VOLUNTARILY QUITTING A JOB

(a) The disqualification period for voluntarily quitting a job is extended to 90 days and the Secretary is permitted to fix the starting point of such period.

(b) Voluntary quit provisions are extended to Federal, state and local employees who are dismissed from their jobs because of participation in a strike.

SECTION 159—PARENTS AND CARETAKERS OF CHILDREN

Second parents or caretakers in a household are required to register for work when the youngest child reaches age six.

SECTION 160—JOINT EMPLOYMENT REGULATIONS

The requirement for joint issuance of work registration regulations with the Department of Labor is removed. These regulations will not be required to be patterned after the WIN program.

SECTION 161—COLLEGE STUDENTS

Participation by post secondary students is limited to those with dependents under 6 years, or between the ages of 6 and 12 for whom there is not adequate child care, and those receiving AFDC.

SECTION 162—ALTERNATIVE ISSUANCE SYSTEM

The Secretary is given the authority to require that state agencies develop alternative issuance systems when the Secretary, in consultation with the Inspector General, determines that these systems will protect the integrity of the Food Stamp Program. The Secretary will also be given the authority to use innovative methods of delivering food stamp benefits.

SECTION 163—INITIAL ALLOTMENT

(a) Benefits of less than $10 for the initial month or period of food stamp eligibility are eliminated. Households affected would receive the full amount to which they are entitled for the following months or periods.

(b) Food stamps will be prorated to the day of recertification if the application for recertification occurs after the last day of the month for which benefits were received.

SECTION 164—NONCOMPLIANCE WITH OTHER PROGRAMS

Increases in food stamp benefits are prohibited if there is a decrease in income imposed for intentional failure to comply with a Federal, state or local welfare law.

SECTION 165—HOUSE-TO-HOUSE TRADE ROUTES

The Secretary, in consultation with the Inspector General, is authorized to limit house-to-house trade routes if they damage the integrity of the program.

SECTION 166—APPROVAL OF STATE PLAN OF OPERATIONS

The Secretary may not require states to submit for prior approval, state food stamp instructions, unless the state determines they alter the state plan of operation or conflict with the rights or level of benefits of households

SECTION 167—POINTS AND HOUSE OF CERTIFICATION AND ISSUANCE

The requirement that states comply with Federal standards for points and hours of certification and issuance is eliminated.

SECTION 168—AUTHORIZED REPRESENTATIVE

The Secretary is permitted to limit the number of housholds that can be represented by an authorized representative and to set criteria and standards for authorized representatives to meet.

SECTION 169—DISCLOSURE OF INFORMATION

States are authorized to release information obtained from households to persons administering Federal assistance programs or Federally-assisted state programs.

SECTION 170—EXPEDITED COUPON ISSUANCE

Food stamps must be provided as soon as possible, but not later than 5 days after application to households:

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(1) having gross income below $150 per month or who are destitute migrant and seasonal farmworkers; and.

(2) having liquid assets below $100. States are required to verify, to the extent practicable, income and liquid assets.

SECTION 171—PROMPT REDUCTION OR TERMINATION OF BENEFITS

A state agency is permitted to take immediate action to reduce or terminate benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required.

SECTION 172—DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

Stated are required to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one area in a state.

SECTION 173—CERTIFICATION SYSTEMS

States are permitted to choose whether (a) AFDC and general assistance households must have their food stamp application included in the AFDC or general assistance application and (b) food stamps applicants must be certified based on information in the AFDC or general assistance file.

SECTION 174—CASHED-OUT PROGRAMS

States that have cashed-out the SSI portion of their food stamp caseload or who operate pilot programs in which cashing out the food stamp benefits is tested are required to match their "cash-out" files with those of regular Food Stamp Program to determine if there is any duplication of benefits.

SECTION 175—AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

The civil penalty is increased from $5,000 to $10,000 for each violation of the Act or regulations by retail food stores or wholesale food concerns. The disqualification periods, now in regulation are set in statute.

SECTION 176—BONDS

The Secretary is permitted to require stores previously disqualified or assessed a civil penalty to furnish a bond to cover the value of food stamp redeemed.

SECTION 177—ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCE

States are permitted to use means other than cash repayment and benefit offset to collect fraud and non-fraud claims.

SECTION 178—CLAIMS COLLECTION PROCEDURE

The houshold of a disqualified person is allowed, 30 days after a demand for repayment, to choose between repayment in cash or benefit offset.

SECTION 179—COST-SHARING FOR COLLECTION OF OVERISSUANCES

States may retain 50 percent of fraud overissuances and 25 percent of non-fraud overissuances which are collected. States may retain none of overissuances recovered which are caused by state agency error.

SECTION 180—ERROR RATE REDUCTION SYSTEM

Targets are set for error reduction by states and sanctions are imposed for states failing to meet the targets. All states are required to lower their error rates to 5 percent or less by 1985. During 1983 and 1984, interim error rate targets are set which require steady error rate reduction toward the goal of getting error rates down to 5 percent by 1985. States failing to achieve their error rate target in any year would lose a portion of the Federal share of their state food stamp administrative costs. An incentive feature is retained for States achieving exceptionally low error rates.

SECTION 181—EMPLOYMENT REQUIREMENT PILOT PROJECT

The Secretary is authorized, upon request of a state or political subdivision, the conduct 4 pilot projects to determine to effect of making certain nonexempt individuals ineligible for food stamps if they do not work at least 20 hours per week or participate in Workfare.

SECTION 182—BENEFIT IMPACT STUDY

The Secretary is required to study the effects of food stamp reductions enacted by the 97th Congress. Interim results of the study will be submitted by February 1, 1984 with final results by March 1, 1985.

SECTION 183—AUTHORIZATION FOR APPROPRIATIONS

The food stamp program is reauthorized for three years and spending levels are set at $12.874 billion for 1983; $13.145 billion for 1984; and, $13.933 billion for 1985.

SECTION 184—PUERTO RICO BLOCK GRANT

Food assistance in Puerto Rico cannot be cashed-out after fiscal year 1983. The Secretary is required to study the effects of cash-out on the residents and the economy of Puerto Rico.

SECTION 185—SIMILAR WORKFARE PROGRAMS

Political subdivisions are permitted to operate food stamp Workfare programs in a manner similar to those operated for other programs.

SECTION 186—WIN PARTICIPANTS

States may, at their option, exempt WIN participants working at least 20 hours a week in WIN programs from Workfare.

SECTION 187—HOURS OF WORKFARE

A Workfare participant cannot be required to work more than 30 hours per week or more hours than those equal to the value of their food stamps divided by the minimum wage.

SECTION 188—REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

One half of the money saved from employment of Workfare participants is to be shared with the political subdivisions operating Workfare. Reimbursement cannot exceed their share of administrative costs.

SECTION 189—TECHNICAL CORRECTIONS

Typographical errors and references to the Secretary of Health, Education and Welfare are corrected.

SECTION 190—CONFORMING AMENDMENTS

SECTION 191—DISTRIBUTION OF SURPLUS COMMODITIES

It is the sense of the Congress that steps should be taken to make wholesome food, which is being wasted or discarded, available for distribution.

SECTION 192—EFFECTIVE DATES OF PRIOR FOOD STAMP ACT AMENDMENTS

The amendments in the 1981 Reconciliation Act and the 1981 Farm Act, except for the amendments concerning retrospective accounting and periodic reporting, will take effect upon enactment of this Act.

SECTION 193—EFFECTIVE DATES

Except as otherwise provided the amendments made by this Act will take effect upon enactment.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I rise in support of the conference report dealing with agriculture.

As one of the conferees I think there are some redeeming parts to this. I think we have to note that the critical situation that agriculture is in there just is not enough money in the Federal Treasury to do all that is needed. But I think we have laid the foundation for a mandatory set aside plus paid diversion program.

We have $175 to $190 million for export market promotion, in which the moneys can possibly be used by the Commodity Credit Corporation to provide some export subsidies and compete with those subsidies that are being paid by countries, on the export of their farm commodities, especially in the European Common Market, and other ways which will bring about expanded agricultural exports from this country.

I think the one weak part in the whole legislation is the compromise on the dairy program. While it may save some money there is much more that could have been done if the House position had prevailed and the administration had supported our position and the other body had gotten in line.

I predict today that we will be back here in just a few more months. Dairy production really is not going to decline very much. We will not have dealt with the problem and the massive acquisition of dairy stocks will continue.

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Until we are willing to face the music and adopt a program like we had proposed in the House language, a two-tier method, in which we would have compelled farmers to either seriously reduce their production about 10 percent or else have it taken over by a very low price being paid for it, we are going to continue to see an excessive amount of dairy production continuing.

In light of the recent crop report that came out, and farm prices having already dropped 5 or 6 percent, this 4-percent reduction in the price being paid to dairy producers will not hit too hard, especially on the commercial producers. The multithousand cow herds are better off today than they were a week ago because of the lower feed costs that are going into the production of that milk, and ultimately they are the only real winners under this dairy compromise solution.

● **Mr. HOWARD.** Mr. Speaker, the conference report on H.R. 6955 contains a substitute provision for reducing the number of Commissioners who serve on the Interstate Commerce Commission from 11 to 7 by January 1, 1983, and from 7 to 5 on January 1, 1986. This reduction is recommended as a way to reduce costs while at the same time retaining the Commission's ability to conduct orderly and efficient operations.

The provision does not terminate any sitting Commissioner's term of office nor does it shorten any existing term of office. Two seats becoming vacant on December 31, 1982, and December 31, 1983, could be filled only to December 31, 1985, after which they would be abolished in order to reduce the number of Commissioners to five by January 1, 1986.

Currently, there are two seats that are due to expire on December 31, 1987. They are currently filled by Commissioner Sterrett and Commissioner Andre. After the expiration of these two appointments, one of the seats can be filled for a term of 4 years and the other for a term of 5 years. This was done to make future appointments available in a more timely sequence.

After January 1, 1984, all appointments will be for terms of 5 years, rather than for 7 years as provided by existing law.

Mr. Speaker, I urge the House to adopt the provision as agreed upon by the conferees.●

Mr. JONES of Oklahoma. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi (Mr. Montgomery), the distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference agreement. The reconciliation instructions contained in the first concurrent budget resolution for fiscal year 1983 directerd the Committee on Veterans' Affairs to adopt legislation that would achieve cost savings of $77 million in fiscal year 1983 and $155 million in fiscal year 1984 and $155 million in 1985.

On July 27 the House passed and sent to the Senate H.R. 6782. Title III of the bill contained several cost-saving provisions to assure compliance with the reconciliation instructions. Total cost savings in H.R. 6782 were as follows: Fiscal year 1983, $169.7 million in budget authority and $169.4 million in outlays; fiscal year 1984, $185.8 million in budget authority and $185.5 million in outlays; fiscal year 1985, $195.0 million in budget authority and $194.6 million in outlays.

Mr. Speaker, I am pleased to report that the House and Senate Veterans' Affairs Committees have achieved savings in excess of those mandated by the first concurrent budget resolution. A description of the provisions of the conference agreement is set out in the statement of the managers; therefore, I shall not dwell on the details except to say that the provisions are very similar to those contained in H.R. 6782 which passed the House on July 27. The cost savings we have agreed to will not, in my view, have a major adverse impact on veterans' benefits and services. They are reasonable and generally acceptable to the veterans' organizations who represent 6 million of our Nation's 30 million veterans.

Mr. Speaker, the conference agreement, according to the Congressional Budget Office estimate, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays for fiscal year 1983, $188.9 million in budget authority and $188.6 million in outlays for fiscal year 1984, and $196.4 million in budget authority and $196.0 million in outlays for fiscal year 1985. As I previously stated, these cost savings are very close to the levels contained in H.R. 6782 and exceed the levels mandated by the House. In fact, over the 3-year period, the savings will total $554 million, $4 million more than the 3-year total savings of $550 million contained in the original House-passed bill.

Mr. Speaker, I would like to thank the very able chairman of the Budget Committee, the gentleman from Oklahoma (Mr. Jones) and also the gentleman from California (Mr. Panetta) a member of the Budget Committee who has coordinated the conference report and the staff for working with the Veterans' Affairs Committee. I am most grateful to the gentleman from Arkansas (Mr. Hammerschmidt), the ranking minority member of our committee, who is always cooperative and helpful, and the work of the gentleman from Ohio (Mr. Wyle). I appreciate the cooperation of the very able chairman of the Senate committee, Senator Simpson and its ranking minority member, Senator Cranston, and the other Senate conferees. I believe the agreement we have reached with the other body is a reasonable compromise, and I urge my colleagues to support the conference agreement.

Mr. LATTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. Smith).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise to express my opposition to a provision in this legislation that could result in a pay increase for Members of Congress. The provision, added in the House-Senate conference on H.R. 6955, provides for the establishment of a Commission on Executive, Legislative, and Judicial Salaries, which is required to report back to the President by November 15 of this year.

Its report should contain the Commission's recommendations on salaries for Senators, Representatives, Federal judges, Cabinet officers, and other Federal officials, The President is then required to submit his own recommendations on salaries to Congress based on what is recommended by the Commission.

Unless Congress passes a concurrent resolution within 30 calendar days following the submission to Congress of the President's recommendations, the recommended pay rates will go into effect automatically. That means both the House and the other body will have to agree to veto any pay raise proposal.

Mr. Speaker, I urge my colleagues to vote to send this bill back to conference so that this salary provision can be deleted. We have every reason to believe that the Commission will recommend a pay increase, that the President will recommend a pay increase, and that Congress will be out of session with no opportunity to vote on a pay increase. The American people will see such a procedure for what it really is: An effort to sneak a pay raise for Members of Congress through the back door.

The last time the Commission met, in December 1980, it recommended that Members of Congress be paid $85,000. If the new Commission merely adjusts the old recommendations for the changes in average weekly earnings since that time, the new recommendations would be $96,400 today and more in November. I know that my constituents, who are taking pay cuts, being laid off their jobs, and making other sacrifices during these hard economic times would not think it necessary for Congress to take a $36,000 pay raise.

I urge my colleagues to vote to recommit this bill.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. Bedell).

Mr. BEDELL. Mr. Speaker, I rise in opposition to this legislation. We are not supposed to lose our temper around here. But someone better point out what is happening on this legislation. Last year the House passed a pretty decent farm bill. That went to conference. The conferees accepted the worst provisions they could all through that legislation. We came out with a bad farm bill. Today my farmers are getting less than $2 per bushel for their corn. Rural America is on the verge of disaster.

Now, the Senate and the House both passed a provision calling for a 10 percent paid diversion program. The conferees, in complete violation of the rules, reduced this to 5 percent and again wrecked a farm program that might have had some help for our farmers. Farmers are in trouble today. With this action they are going to be in even deeper trouble this next year.

The chairman says everybody is not happy with this conference report. You bet your boots that is right. Some of us are not happy with it, nor do I believe that the conferees should be permitted to completely disregard the rules of the House as they meet in that conference.

I agree that we must live within the budget targets set out in the first budget resolution. I voted for the fiscal year 1983 budget approved by this House and I believe that the

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budget reductions called for in this reconciliation bill generally are necessary to assure that the Congress maintains the discipline essential to bringing about economic recovery.

However, I am opposing the bill for two reasons. First, I believe that the conferees charged with negotiating the agricultural provisions of the reconciliation bill blatantly violated the rules of the House limiting the actions of the conference committee to the bounds established by the versions of the agriculture reconciliation bill reported by the respective Agriculture Committees. In my opinion, the conferees clearly went outside of the scope of the conference by agreeing to reducing by one-half the size of the paid diversion programs approved by both this House and the other body. I might add that the original paid diversion proposals sent to conference by both Houses were approved by an overwhelming majority in both this and the other body.

Second, Mr. Speaker, not only did the action of the conferees demonstrate a clear disregard for House rules, it also displayed a flagrant lack of concern for the crisis currently facing agriculture—especially farmers in the Corn Belt. Corn Belt farmers did not ask for special treatment. However, they did ask for an effective program—a program that, according to the Congressional Budget Office, would actually have reduced Federal farm program outlays by minimizing the need for price support loans, deficiency payments, and storage outlays.

The action of the conference committee last week was especially inexcusable, Mr. Speaker, coming as it did just 1 day after the U.S. Department of Agriculture announced record crops of both corn and soybeans. The estimated size of this year's crops—which was totally unanticipated by those in agriculture—fell like a bombshell on farmers already wracked by low prices, high interest rates, and deteriorating farm export markets.

I was tempted to stand here this afternoon and charge that Corn Belt farmers were "sold out" by the agriculture conferees. But that charge would imply that the conferees received something in return for forfeiting the chance for an effective farm program next year. However, as far as I can tell, the conferees—and farmers—received nothing as compensation for gutting a responsible farm program. They merely backed down in the face of opposition from an administration that neither knows nor cares about the magnitude of the farm problem today.

I want to restate the fact that the paid diversion program originally sent to conference by both the House and Senate would have saved Federal farm program dollars. Farmers have not asked for special treatment, but they do deserve a responsible program that recognizes the seriousness of the crisis facing agriculture today.

Mr. Speaker, I urge opposition to this conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, one of the Members of the House who is truly concerned about agriculture is the gentleman who just left the well, the gentleman from Iowa (Mr. Bedell), and I respect his concern. But the fact of the matter is that the American farm community will not be worse off for this bill. It will be better off because of this bill.

With all respect, the program announced by the Department was insufficient. The Agriculture Committee did produce a better, more effective and efficient and, in the long run, much more cost-effective program, which is in this bill. The farmers will have a chance to set aside land with some diversion payments, which were not part of the administration's program.

We are going to see in grain agriculture a better program than would otherwise exist. Now, it is not as good as he and I would like to have it be. But it is better. And today, more and more, that is the question we have to ask ourselves, whether we can make a program better, whether we can improve it, not whether we can accomplish everything we would like to accomplish if we had no restrictions on the expenditure levels of Government.

I also respectfully point out that there were some major differences between the House and the Senate bill. We did reach an accord that saves a substantial amount of money in the agriculture budget, and I think it tightens up these programs and makes them more efficient, preserves a great deal for farmers and consumers alike, and I hope that all Members of this body will see fit to support this reconciliation act on this ground. It is a major step forward.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. Hopkins).

Mr. HOPKINS. Mr. Speaker, while I generally support the conference report on H.R. 6955, the Omnibus Budget Reconciliation Act of 1982, I feel compelled to vote for recommital. I do not agree with every provision contained in this package, but I do believe the overall bill is necessary to reduce Government spending to a more acceptable level.

The first title of H.R. 6955 adjusts the dairy price support program to reduce Government costs by reducing excessive purchases of dairy products caused by oversupply. This surplus situation is becoming more serious each day. It is one which must be addressed quickly. Other budget savings in the agricultural section of the bill would provide for paid land diversion for wheat and feed grains and tightened eligibility for food stamp recipients. As a member of the House Agriculture Committee, I have participated in many hearings at which the necessity of these actions was clearly addressed.

This bill is not the optimum solution to the problems facing those military and civilian retirees depending upon cost-of-living adjustments (COLA's) to provide some measure of protection against inflation. However, I do see these provisions as a workable compromise given the current budgetary conditions. I have supported full COLA's in the past, and I would not support this measure if I did not think it a fair compromise addressing the problems of our Federal retirees.

There is, however, a provision contained in H.R. 6955 which greatly concerns me. Until this provision is clarified I will have to vote to recommit this bill. I am concerned over section 310(c), which provides funds for a Commission on Executive, Legislative, and Judicial Salaries, to meet and make recommendations to the President on salaries by November 15 of this year.

The possibility exists that actions taken by this Commission could result in a pay increase for Members of Congress. Such a pay increase is by no means certain; it is simply a possibility, and that is exactly the problem. Something as important as a pay increase needs to be debated openly, discussed thoroughly, and voted on in its own right in full view of the American people. As long as even the possibility of an automatic increase exists without this open debate, I cannot in clear conscience support the conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. Dorgan).

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the chairman for yielding. I want to say that I have tried to support most of the reconciliation bills, and I have a great deal of respect for the person who just spoke in the well. I do want to echo the words of the gentleman from Iowa. The fact is that the bill that I voted for in the full Agriculture Committee has been watered down substantially. While we have conference committees there in Congress, the folks out there on the farms are having auction sales. We have got to do something to give these farmers a chance. The road to economic recovery in this country should not be filled with the carcasses of young farm families who have failed at farming because of low prices and high interest rates. That is not the road to economic recovery.

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That conference committee unfortunately watered down the provisions of this farm bill. I think it is time for the Members to move away from these empty promises and move toward real farm programs that give family farmers a chance to make it. That is not what has been happening around here.

A 15-percent setaside with a 10-cent increase on the loan rate on wheat is not enough.

A 5-percent diversion program is not enough. This program will not give family farmers in this country a chance to survive. Giving them a chance to survive represents the road to economic recovery, I am convinced. That is why I am compelled to vote against this bill.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the conference report. A week ago, I took the floor to warn that the supplemental appropriations bill, H.R. 6863, was being used as a backdoor way to give a large post election pay rise to Members of Congress. Well, no sooner did we try to slam that door that another door was found. Section 310(c) of this bill provides the same pay raise contained in the supplemental appropriations bill.

Let me take a minute to explain this pay raise because it is particularly clever. Section 310(c) reconvenes the Commission on Executive, Legislative, and Judicial Salaries, known as the Quadrennial Commission. Never mind that the Commission is not scheduled to come back into existence until the fall of 1984. The Commission is directed to report recommendations on pay for Cabinet Secretaries, Members of Congress, and other high Government officials, to the President by November 15, just 2 weeks after election day. The President is then instructed to get his recommendation to the Hill "as soon as practicable." Those recommendations go into effect 30 days later unless we pass a concurrent resolution disapproving them. This is true whether we are in session or not. The law we passed in 1977 requiring each House to take a record vote on pay raises is ignored.

Now, some claim that a pay raise is far from a certainty. This is not true. The Quadrennial Commission is instructed to set appropriate levels and relationships of pay. It is not told to look at public acceptance or appropriate timing. In December 1980, the Commission recommended that Cabinet Secretaries get $95,000 and that Members of Congress get $85,000. If you adjust this latter figure to reflect changes in wages of all workers, you find that, as of June 30, Members of Congress would get $96,400. I think this is an accurate projection of what the Commission will recommend. And while the President has the statutory power to recommend a lower figure, he is under enormous pressure from his appointees to grant a pay raise.

While we in Congress could pass a concurrent resolution disapproving the increase, such a move is unlikely considering the shortage of time provided, the difficulty in forcing committee action, and the fact that this occurs directly after the election.

So, simply put, a vote for this conference report is a vote for a $36,000 pay raise.

This pay raise should be put in context of the rest of this bill. The bill cuts off food stamps for households which do not fall below the poverty line. It makes numerous other changes to reduce eligibility and benefits under the food stamp program. So, in a single vote, you can vote to increase your own pay and take food stamps away from some poor people.

The bill restricts the availability of FHA insured loans to home buyers. So, in a single vote, you can make home mortgages even more difficult to get for your constituents and give yourself a pay raise.

The bill also eliminates half the cost-of-living adjustment to retirees, mainly from the military, who are under age 62. It calls for a slight reduction in civil service pay. It greatly reduces the possibility of early retirement and delays the payment of cost-of-living adjustments to all retirees. So, in a single vote, you can inflict pain on those who have given their careers to the Federal Government and are now retired and raise your own pay.

I am committed to reducing the Government expenditures and the deficit. We must bring the budget under control to reduce the burden the Federal Government places on the credit markets. As I pointed out during the debate on the Defense authorization, there are numerous places to cut. Somehow, we never get around to reducing defense expenditures and spend our time cutting muscle out of our domestic programs, like aid to the elderly, housing, and nutrition. Without the pay raise, this bill would be unacceptable to me because it is a perversion of my priorities for cuts. With the pay raise in this bill, I believe it is reprehensible.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the chairman of the Committee on the Budget for yielding me this time.

I would simply like to again take note of what is happening in this bill as it relates to dairy legislation.

For the past 2 years, dairy farmers have been frozen in terms of the amount that they receive on their milk check. This provision in the reconciliation bill today means that as of October 1 of this year, the Secretary of Agriculture will have the authority to effectively reduce by 50 cents per hundredweight the effective income for dairy farmers by the imposition of an assessment against that milk check on first handling.

It also provides that on April 1, 1983, the Secretary will be given additional authority to provide an additional 50 cent reduction per hundredweight at that time.

One of the problems that I have with this proposal is that in addition to what it means to the income of the average dairy farmer in this country, there is no effective—and I underline the word effective—distinction being made in this legislation between farmers who are overproducing and farmers who are not overproducing.

What it means, in essence, is that this legislation will not have any significant incentives to reduce production which many observers see is at the root of the problem.

I am not a lawyer, but my brother-in-law is. He told me last weekend he has over the past years handled about four abstracts per year involving farm bankruptcies. He is now up to about five or six a week, and I would suggest to the Members that with this provision, that number is not going to go down, that number is going to go up.

The cost of production for dairy products right now is higher than this bill will allow under the Secretary's authority. I would suggest any person from a dairy area to take a good look at it before he votes yes on final passage.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, first of all, I would like to express my thanks to the chairman of the Committee on the Budget and the members of the Budget Committee who worked on reconciliation plus the chairmen of the other committees involved in reconciliation and also the staffs of both the Budget Committee and other committees.

There is a great deal of work involved in trying to get a bill like this put together and before the House.

Speaking of that, I think just in passing I should say that when approaching a bill like this that involves some $13 billion in savings, Members ought to be aware of the fact there are no magic answers in trying to achieve these savings. You cannot simply reduce deficits by wishing them away. I know it is easy to go back and complain about the size of deficits, but it is when it comes to votes like this on issues like this that Members truly will express to their constituents whether they are willing to stand up and make the tough vote when it counts.

I recognize that there are Members who sincerely disagree with points that are contained in the reconciliation bill, and yet overall, I can tell the Members that this represents a fair compromise between the House and Senate positions in terms of the issues that were before the committees and, second—and perhaps most importantly—it represents a very important procedural victory in terms of reconciliation, because the committees were able to bring their approaches to the floor separately. They had their separate input. Indeed, the House was able to vote separately on each of these provisions. They were not hidden. We have not closed them up in one vote up or down. Members had the opportunity to express their will with regards to each of the packages. I think that is an important procedural point to keep in mind.

Let me just state generally what we are dealing with here. Basically the House was instructed, as a result of the budget resolution, to come up with $27.1 billion in savings plus the $99 billion in revenues for a total of almost $126 billion in deficit reductions contained in the budget resolution.

That was divided up into two separate packages: The Ways and Means and Finance Committee have a separate package that involves reductions in their jurisdiction of approximately $15 to $17 billion plus the revenue package. That will be voted on later this week before the House and the Congress.

What is contained in this package is the work of approximately seven committees in a separate reconciliation bill.

The instruction was to achieve savings totaling approximately $11 billion; the committees have achieved almost $13 billion in savings.

That package contains essentially these elements: The first is the veterans' portion. The veterans' portion was unanimously adopted by this House.

Based on the substance that is contained in this bill which I think represents a fair compromise and also on the procedural basis that allows committees to have the opportunity to vote separately on these issues and to have had their input, I would urge the Members of the House to support the conference report.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, I am limiting my remarks to that portion of the conference on which I worked and which I oppose in its present form. Frankly, there are other parts of the conference report which I also oppose.

The conference report on Post Office and Civil Service matters provides that cost-of-living adjustments will be delayed 1 month in each of the next 3 calendar years. Adjustments currently are payable April 1. Retirees who are under age 62 will receive one-half of the COLA, and military retirees who are employed in civil service positions will have civil service pay reduced by the dollar amount of the military COLA.

General Schedule pay will be computed on the basis of 2,087 hours a year. Currently General Schedule pay is computed on the basis of 2,080 hours. The change will be effective only in 1984 and 1985. Annuities will be rounded to the next lowest dollar. Under existing law, annuities are rounded to the nearest whole dollar. In addition, annuities will commence on the first day of the month after separation from the service. Under existing law, annuities commence on the day following separation.

No civil service annuity may be increased as the result of a COLA, if the adjustment would cause the annuity to exceed: First, the greater of the maximum pay for GS-15—currently $57,500—or second, the final pay—or average pay if higher—of the employee.

Interest rates on redeposits to the civil service retirement system will be increased to equal the overall average yield on obligations in which the retirement fund was invested. The current interest rate charged is only 3 percent. The change will become effective after October 1, 1982. On disability retirement, it reduces from 1 year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. It also changes the current earning capacity test period from 2 year to 1 year.

On creditable service based on military service, an employee first appointed under the civil service system on or after October 1, 1982, will not receive credit for military service unless the employee deposits in the civil service fund an amount equal to 7 percent of his military base pay for each year of military service he wants credited for retirement purposes. Employees in the civil service system before October 1, 1982, also will be given an option to make a deposit to cover military service. Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service after 1956.

Finally, an Ad Hoc Commission on Executive, Legislative, and Judicial Salaries is created. The Commission must submit its recommendations no later than November 15 of this year. The President then would submit his recommendations to Congress for review. His recommendations would become effective within 30 calendar days unless disapproved by concurrent resolution.

Because of this item, I fully expect my motion will carry.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the conference report we are considering today should be supported by all Members of the House of Representatives. It provides according to CBO a 3-year savings in excess of $7 billion, while providing needed measures to bring surplus agricultural production more into line with demand.

Like other members of the conference committee, I still have some problems with this report. I do not feel that the dairy provisions adopted by the committee go far enough toward solving our problem with surplus production. I am still concerned that loan rate increases for grains may be ill-advised at this time, although the increases are more modest than those in the bill originally approved by the House.

The food stamp provisions contained in this report offer still more savings and greater efficiencies. There are greater incentives for individuals to find work. There are incentives for States to administer the program more efficiently. And, there are greater incentives, as a result of my amendment, for local governments to implement workfare programs.

Some of the savings achieved in the agricultural programs will be used to find overseas markets for our surplus farm products. In fact, at least $175 million is to be used for export promotion activities. This is essential if we are to avoid even larger Federal price support outlays over the longer term.

We are facing a crisis in agriculture today. Last week, the respected weekly financial newspaper, Barron's, reported that Illinois farmland values fell 9 percent in nominal value during the last 14 months. Adjusted for inflation, that is a 17.6-percent decline.

In Iowa, Barron's reported, a combine that sold new last year for $106,000 brought only $42,000 at a farm sale.

Barron's noted what is called ominous similarities between the present period and the period 1915 through 1920.

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Another respected financial publication, Forbes, reported that of the approximately 35 million metric tons of grain that will be added to world stocks this year, no less than 33 million will come from the United States. This bill may not solve all the problems in the farm economy, but it will help us control the growth in grain stocks.

The fact is, gentlemen, that action is needed. This bill is a step in the right direction. It is not perfect. It does not go as far as I would like in some areas, notably dairy. I firmly believe that more legislation will be needed in the near future. However, I firmly believe that this bill is the best that is possible at this time, and I strongly urge my colleagues to support it.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Stangeland).

Mr. STANGELAND. Mr. Speaker, I rise in reluctant support of this conference report. I think in the words of the chairman of the House Agriculture Committee, this was a compromise in the art of the possible.

Certainly the House position as crafted by the chairman, as crafted by the gentleman from Washington (Mr. Foley), is far superior to the economic problems of agriculture today; but this conference committee was not willing to go along with the House position. It came in with a compromise position.

I would predict to the Members that sometime late in November, or early in the next session of Congress, we are going to be back to try to solve the economic ills of agriculture. Until we solve the economic ills of agriculture, we are going to continue to have a slow growth in the economy and a very slow economic recovery.

For those Members who come from urban areas, for those Members who come from industrialized areas, one will find when one improves the health of that agriculture economy, we are going to create jobs, create jobs in steel mills, automobile factories, farm equipment plants.

We say big business takes care of itself and can thrive in this economy and climate that we have. I just point to International Harvester and the extreme financial difficulties they are having. Those difficulties can be directly related to a very ailing agricultural economy. Until we take steps to strengthen that economy what we are going to find will be the total economic ills of this country recover very slowly.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I would like to support heartily all those sections of the bill referring to the health of the agricultural community. It is absolutely essential that we act not just for the sake of the farmers themselves but those who live on the profits of a sound farm economy.

Mr. Speaker, there is something else in this bill that perhaps many people in this House are not aware of. There is a section 310. If we allow that to pass without change, what are we going to find? Another move such as we saw here before, Mr. Speaker. Here we are empowering the Commission to pass on our salaries after November 15 when we will be in recess. We have the right, here in Congress, to veto any raise in 30 days after that.

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The SPEAKER. The time of the gentlewoman from New Jersey has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentlewoman.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for giving me another minute.

This is something we are going to be sorry for. This is not proper. We are giving this Commission the power to decide on our salaries. Any raise has to be vetoed by the House between the 15th of November and the 15th of December and we may not even be here.

I think we should not do this through a section of an agricultural bill.

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding.

What we had hoped to do is to offer a motion to recommit with instructions to strike section 310 out of the bill so that in the reconciliation package we would deal with the important spending cuts and not congressional pay raises.

Now as I understand it, we are going to have a straight motion to recommit. I think those of us who are concerned about the potential of a pay raise in section 310 will want to vote for the straight motion to recommit so that this bill can be sent back to the conference to strike that section.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. Oakar).

Ms. OAKAR. Mr. Speaker, I rise in opposition to the conference report to accompany H.R. 6955, the Omnibus Reconciliation Act of 1982. This legislation makes over $30 billion in domestic program cuts, of which $4 billion is from the pay and benefits of our Federal workers and retirees. The legislation before the House denies a full cost-of-living adjustment for almost 1 million military retirees and almost 200,000 civil service retirees. As I said last month during debate on the 4-percent COLA cap, which the House wisely rejected on three separate occasions, it is not fair to cut the retirement benefits of civilian and military retirees while all other Federal retirement benefits are allowed to receive the full COLA's as mandated by the increase in the Consumer Price Index.

Mr. Speaker, Federal workers and retirees have already sacrificed enough at the altar of reconciliation—they lost over $6 billion in pay to which they were entitled under the principle of pay comparability. In addition, the Tax bill contains a 1.3-percent medicare tax that will cost Federal workers another $700 million in a back door pay cut, and this reconciliation bill will cut benefits by $4 billion more. That is a grand total of $10 million in pay and benefit cuts, and I say enough is enough.

Federal workers and retirees are being asked to bear a disproportionate share of the reconciliation cuts, and I urge its rejection.

It is time we recognize the outstanding service our Federal work force performs on a day-in, day-out basis. Federal employees do not march in the streets to demand higher wages or better working conditions. They report faithfully to their jobs each morning and fulfill their responsibilities in a conscientious and competent manner, hopeful that their employer—the Federal Government—will protect the full value of their pay and benefits. This is the most that they ask for, and certainly the least that they deserve.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. Walgren).

Mr. WALGREN. Mr. Speaker, I simply want to say, I honor perhaps as much as anybody the work that has gone into this reconciliation. It is no easy job to cut billions and billions of dollars, particularly from the truly needy; but I do want to say how inappropriate I believe it is for the House to set in motion any mechanism which has to do with the pay level of Members of Congress without a separate recorded vote on that issue alone.

● Mr. MOFFETT. Mr. Speaker, I strongly object to the reconciliation bill before us today. It epitomizes, unfortunately, precisely the distorted priorities that this Congress has been supporting the past 2 years—namely, cutting programs that are vital to those living in poverty, to retirees and to the average taxpayers, while rewarding special interest groups with excessive subsidies. Equally objectionable, the bill contains a classic back door pay raise that will boost congressional salaries to $85,000 a year, unless the entire package is rejected. That back door pay raise is sufficient reason alone, in my view, to defeat this bill.

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This reconciliation bill, in the guise of cutting spending, is aimed at those who should no longer bear the brunt of the administration's inability to control Pentagon spending and waste in Government. In particular, the bill calls for another $1.9 billion cut in food stamps, a program that has been repeatedly cut over the past 18 months. This $1.9 billion is actually more than was "necessary" under budget guidelines adopted last June—when a cut of "only" $1.3 billion was mandated. Recent reports have revealed that the number of Americans living below the official poverty line increased by 2.2 million in 1981, bringing the total to 14 percent of our citizens. This means that one American in seven now lives in poverty. That is a disgrace to our Nation. But it is even more disgraceful when we punish these people—many of whom have been thrown into poverty because of this Reagan recession and increasing unemployment—by cutting the basic benefits that keep them from going hungry.

Even worse, the same reports reveal that 20 percent of American children—one in every five—now live below the poverty line. It is absolutely essential that children receive sufficient nutrition, which the food stamp program is supposed to provide. But the budget cuts imposed by the Reagan administration, and certified by this Congress, have made adequate coverage nearly impossible. Another $1.9 billion cut, as contained in this legislation, is simply intolerable.

This bill takes aim not only at the poor, but also at retired workers. It does so by changing the timing and amounts of cost-of-living adjustments—COLA's—that retired Federal workers receive. Under the provisions of the bill, the annual COLA for retired Federal employees would be delayed by 1 month in each fiscal year for the next 3 years. Thus, over the course of the next 3 years, the COLA will be moved from April 1 to July 1.

In addition, retired Federal employees under the age of 62 will receive only one-half of their COLA. This is a particular hardship for persons who have retired for health reasons, and who depend on COLA's to keep up with inflation. There simply is no good reason why we should cut inflation adjustments for persons who retire before age 62. All retired citizens are entitled to some protection against the ravages of inflation, and COLA's are essential for such protection.

This bill will also make it more difficult for the average citizen to purchase a home. It does so by increasing the up-front costs to home buyers by changes in FHA mortgage rules. I find it remarkable that we should be asked to increase such costs at a time that the housing industry is in its worst slump in a quarter century. Despite the recent fall in the prime interest rate, long-term mortgage rates remain impossibly high—near 17 percent—for home buyers. The housing market is "dead in the water," to borrow a phrase from the Secretary of the Treasury.

In my own State of Connecticut, only 10,000 new homes were built during all of 1981. Construction of new units is expected to be even lower this year. Yet here we have legislation that will—incredibly—actually increase the cost of buying a new home. With these kinds of priorities, it is hardly surprising that the American people despair of finding leadership among their elected representatives.

Finally, this bill is an insult to the intelligence of both the public and the Congress, with its hidden, back door pay raise provision.

Mr. Speaker, last December the House passed a similar hidden pay raise, through a voice vote on an amendment that was never read or printed before a vote was rammed through the House. After months of vociferous public protest, that pay raise was rescinded by the urgent supplemental appropriation bill we approved this past June. Yet here we have a similar hidden provision, which takes advantage of obscure parliamentary rules. If we pass this bill, congressional salaries will automatically rise 30 percent, to $85,000 a year. At a time when 1 in 10 Americans is jobless; when 1 in 5 American children live in poverty; when we have repeatedly cut vital social services; when we have tax cuts targeted to those earning over $200,000 a year; and when we are asking middle-class parents to foot huge new increases in education and health costs, the Congress shows its indifference by trying to vote itself a $23,000 pay raise.

Mr. Speaker, I think it is clear why this reconciliation bill is unacceptable legislation. Each provision that I have discussed is enough to justify voting against. But it is a package of objectionable provisions, and for that reason I reject it even more strongly.●

● Mr. **ANDERSON.** Mr. Speaker, the results of the reconciliation subconference on the issue of Interstate Commerce Commission membership should facilitate its efficient operation and continue to allow it to fulfill its mandate while saving the taxpayers money.

Present law permits the appointment of 11 Commissioners. This agreement would reduce the number to seven through 1985, and to five thereafter. Based on estimates that each Commission office costs an estimated $500,000 a year to operate, this provision could save as much as $3 million per year.

It should be pointed out, that recent practices have resulted in membership well below 11 members, and that 6 members currently serve on the Commission.

An additional feature of the subconference agreement is the reduction in ICC terms from 7 years to 5. When this provision is fully in place, one Commission seat will expire every year, and so every year the President will have the opportunity to appoint a new Commissioner.

Of course, we have maintained the principle that no more than a bare majority of a full Commission can be from a single political party. This legislation would prohibit there being more than three Commissioners appointed from one party.

Mr. Speaker, I am pleased to say that all five of the House Public Works and Transportation conferees agreed to our subconference provision. This unanimous signoff is indicative of the fair and equitable agreement that was reached.●

● Mr. **PARRIS.** Mr. Speaker, as many of my colleagues know, I worked very hard last year in an effort to win congressional approval of the President's economic program. While I have the same enthusiasm for reducing Federal spending and eliminating the incredible deficit, I am outraged over the recent actions taken by congressional leaders to unfairly penalize our Nation's retirees.

In their haste to reach an agreement on the budget for fiscal year 1983, the conferees on the budget have done a horrible disservice to millions of this Nation's most dedicated citizens. The conference committee has given its approval to delay the cost-of-living adjustment for Federal civilian and military retirees for 1 month, in each of the next 3 years. All those retirees who are under the age of 62 would receive only half of the cost-of-living increase to which all retirees are now entitled in accord with the Consumer Price Index.

The conference committee would have us do this at a time when the Congress has determined that it is inappropriate to tamper with the cost-of-living adjustments of our Nation's social security recipients. I can assure my colleagues that it is just as much an inequity to tamper with the pensions of military and Federal civilian retirees as it is to reduce the benefits of social security beneficiaries. Military and civilian retirees may not be as great in number as those receiving social security, but their Federal Government has the same obligation to protect their rights and benefits.

These retirees are living on fixed incomes and are hard hit by the high cost of living. It would be great if there was no need for a cost-of-living increase but that cannot be guaranteed. We certainly cannot expect to turn this economy around by penalizing Federal civilian and military retirees. They do not object to making their contribution to society but they have already done more than has been required of any other group of citizens. Their well-thought-out plans for retirement will be severely disrupted if the Congress does not honor its commitment. We have a contractual and moral obligation to provide the full COLA in a timely manner. We are only asking for equity and fairness.

Obviously we need to do something about the size of the budget deficit projected for fiscal year 1983. But we can reduce the deficit in a responsible manner without jeopardizing the security of military and Federal civilian retirees. I hope that my colleagues will support our efforts and oppose the conference report on the budget when it comes before the House.●

● Mrs. SCHNEIDER. Mr. Speaker, it is my intention to vote for recommittal of H.R. 6955, the reconciliation conference report, for two reasons. First, I am outraged that the other body would use this bill as a vehicle to set up a commission which may, or may not, have the effect of raising Members' compensation.

Once again, this body is being asked to approve by the back door a proposal on Members' salaries without a direct vote, and I cannot support this bill for that reason. Perhaps the other body finally found a way to deal with the question of Members' compensation fairly—but I doubt it, considering the manner in which it has been sneaked into the bill. I have said before, and I will say again, we must not deal with compensation for ourselves without open hearings and clear, separate votes. I note that the funding for this commission is contained in the Supplemental Appropriations bill which we will consider later today or during the balance of the week. I urge all my colleagues to support the motion to recommit the Reconciliation bill in order to strike the provision and to make the funding provision of the Appropriations bill moot.

Second, I must support the motion to recommit over the question of COLA adjustments. Perhaps this is the best means available to accomplish required savings. But it is complicated at best and at least worthy of further review by the conference committee.●

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I would just like to make a few comments. First of all, this conference report ought to be passed by this body. It has had the strong endorsement of a bipartisan committee for a responsible Federal budget, cochaired by our former colleagues, the chairman of the Budget Committee, Bob Giaimo, and former ranking member of the Senate Budget Committee, Henry Bellmon; directors Brock Adams, Jim McIntyre, Ed Muskie, Bob Strauss, Al Ullman, Del Clausen, Roy Ash, Alan Greenspan, Jim Lynn, Peter Peterson, and several others.

So we ought to pass this conference report.

I would also point out to those who would make a motion to recommit, with or without instructions, that all that will do is to have the effect of sending this conference report back to conference. It will have no effect of necessarily striking out any particular section.

The section 310 which was alluded to by the gentlewoman from New Jersey was put in by the other body. There is some confusion on this, that this may be a congressional pay raise. I recognize we are on television and this is a very hot political issue and always wins votes back home; but let us know what the facts are. The facts are that in this particular provision, that the Quadrennial Commission is asked to report to the President what the pay raise or the pay level for Members of Congress should be. They report to the President.

As I understand it, the President has full discretion as to when he reports that recommendation to the Congress. The Congress at that point has full discretion and veto power to reject what the President submits to the Congress; so I want that point to be very clear.

Mr. Speaker, I yield to the gentleman from California (Mr. FAZIO) for a clarification.

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding.

I have had some connection with this, because it is also, as many Members know, part of the supplemental appropriations measure.

I think the question of any attempt that has been made to pass this through without proper consideration is inappropriate.

I also appreciate the gentleman's most recent comment that this will be back before the Congress. The President does control the submission of whatever commission recommendations come forth. They will probably be brought forth some time during the latter part of the year, but they will sit before the Congress for 30 days. If we wish to by concurrent resolution reduce or cancel them, we have the power to do so.

The President's recommendation to us is at his discretion. I would hope certainly he would prepare his recommendation and make it to us at a time we could consider it. I think that would be the proper way for the President to proceed.

There is no question that this is the best way for the body to consider this issue. We need to have some outside objective source to provide the recommendations to us and let us take those recommendations into consideration and act as we believe appropriate.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman.

Mr. Speaker, there are a lot of reasons why we should not follow through on our requirement to cut spending; but I think we would be making a great mistake if we either voted this down or recommitted this conference report.

We ought to follow through on the reconciliation instructions and cut the spending by the amount which was called for by the various committees.

Mr. Speaker, upon adoption of the conference report, which I hope this body will do, I plan to ask unanimous consent for the House to consider a concurrent resolution to make technical corrections in the conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair, without getting into any debate, wants the House to be aware of the parliamentary situation. It is understood that there will be a motion to recommit. If the motion to recommit prevails, then the bill will have to go back to the conference committee and the Chair struggles to see how we could possibly bring this bill up again before the tax bill. The leadership has scheduled the tax bill for Thursday, but this conference committee would have to go back, it would have to get unanimous consent to have it brought up when filed; so the Chair just wants Members to have in mind the technicality of what is happening.

MOTION TO RECOMMIT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. DERWINSKI. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DERWINSKI moves to recommit the conference report to accompany the bill, H.R. 6955, to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

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Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 145, not voting 23, as follows:

[Roll No. 287]

YEAS—266

Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Benedict
Bennett
Bereuter
Bethune
Bevill
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bouquard
Broomfield
Brown (CO)
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Collins (TX)
Conable
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
DeNardis
Derrick
Derwinski
Dicks
Dorgan
Dornan
Dreier
Duncan
Dunn
Dwyer
Dyson
Eckart
Edgar
Edwards (OK)
Emerson
English
Erdahl
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fenwick
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Frank
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gramm
Gregg
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hatcher
Heckler
Hefner
Hendon
Hightower
Hiler
Hollenbeck
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
LeBoutillier
Lee
Lent
Levitas
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lujan
Luken
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Minish
Mitchell (NY)
Molinari
Moore
Moorhead
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
O'Brien
Oakar
Ottinger
Oxley
Parris
Pashayan
Patman
Paul
Pease
Petri
Pickle
Quillen
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rose
Roth
Roukema
Rudd
Santini
Sawyer
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wirth
Wolpe
Wortley
Wyden
Yates
Young (FL)
Young (MO)

NAYS—145

Addabbo
Akaka
Aspin
Badham
Barnes
Beilenson
Benjamin
Biaggi
Bingham
Bolling
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burgener
Burton, Phillip
Butler
Clay
Coelho
Collins (IL)
Conte
Conyers
Coughlin
Crockett
Daniel, Dan
de la Garza
Dellums
Dickinson
Dingell
Dixon
Donnelly
Dougherty
Dowdy
Downey
Dymally
Early
Edwards (AL)
Edwards (CA)
Erlenborn
Evans (IN)
Fary
Fazio
Ferraro
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frenzel
Frost
Garcia
Gejdenson
Gibbons
Goldwater
Gore
Gray
Green
Grisham
Hall (OH)
Hartnett
Hawkins
Hertel
Hillis
Holland
Horton
Howard
Hoyer
Hyde
Jones (NC)
Jones (OK)
Leath
Lehman
Leland
Lewis
Livingston
Lott
Lowry (WA)
Lundine
Lungren
Madigan
Marks
Martinez
Matsui
Mattox
Mazzoli
McCloskey
McDade
McKinney
Mineta
Mitchell (MD)
Moakley
Mollohan
Montgomery
Morrison
Murtha
Nowak
Oberstar
Obey
Panetta
Patterson
Pepper
Perkins
Peyser
Porter
Price
Pritchard
Pursell
Railsback
Rangel
Rhodes
Richmond
Rodino
Rogers
Rostenkowski
Rousselot
Roybal
Russo
Sabo
Savage
Scheuer
Schumer
Shannon
Shumway
Simon
Smith (PA)
Solarz
Stanton
Stokes
Stratton
Thomas
Udall
Vento
Washington
Waxman
Weiss
White
Wilson
Wolf
Wright
Wylie
Zablocki
Zeferetti

NOT VOTING—23

Bafalis
Breaux
Brown (OH)
Broyhill
Burton, John
Chisholm
Coleman
D'Amours
Emery
Ertel
Ginn
Heftel
Holt
Ireland
Moffett
Neal
Rahall
Rosenthal
Shelby
Whitten
Williams (MT)
Yatron
Young (AK)

□ 1620

Messrs. FRANK, PARRIS, HEFNER, WHITLEY, FINDLEY, WILLIAMS of Ohio, FIELDS, LEE, LONG of Maryland, OXLEY, LOEFFLER, ST GERMAIN, YOUNG of Missouri, BEARD, HUCKABY, Mrs. ASHBROOK, Messrs. CHAPPIE, SKEEN, JENKINS, HAMILTON, PEASE, CHAPPELL, ALEXANDER, TRAXLER, PICKLE, ECKART, SEIBERLING, ANTHONY, CLINGER, BAILEY of Missouri, BARNARD, MAVROULES, ANNUNZIO, KOGOVSEK, FITHIAN, MINISH, GUARINI, DWYER, CHENEY, DAVIS, MARKEY, LUKEN, WIRTH, HATCHER, ALBOSTA, DICKS, ROSE, BONER of Tennessee, MARTIN of North Carolina, LANTOS, OTTINGER, DERRICK, MARRIOTT, KEMP, ANDREWS, BONIOR of Michigan, STARK, NICHOLS, BEVILL, FOGLIETTA, and MILLER of Ohio changed their votes from "nay" to "yea."

Mr. SABO changed his vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

□ 1630

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report, and that this conference report may be taken up tomorrow or any day thereafter, and again that we would waive all points of order.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. For the information of the House, the conferees automatically remain appointed to the same conference.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6156, CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-574) on the resolution (H. Res. 565) providing for the consideration of the bill (H.R. 6156), to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-755) on the resolution (H. Res. 566) providing for the consideration of the bill (H.R. 5447), to extend the Commodity Exchange Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6329, NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-756) on the resolution (H. Res. 567) providing for the consideration of the bill (H.R. 6329) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

☐ 1640

AUTHORIZING ENLARGEMENT OF BUFFALO BILL DAM AND RESERVOIR IN WYOMING

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyo., and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker—and I shall not object—I just want to advise my colleague that the minority has reviewed this, and we have no objection at all to this request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the genetleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservoir shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservoir by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided,* That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 3. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 7 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 4. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this Act to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

SEC. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 6. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided,* That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 7 of this Act.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this Act, together with such sums as may be required for operation and maintenance of the works authorized by section 4(a).

SEC. 7. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Page 1, line 3, strike all after the enacting clause and insert the following:

TITLE I

SEC. 101. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservior shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservior by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided,* That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

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Sec. 102. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

Sec. 103. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 7 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

Sec. 104. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this Act to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

Sec. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

Sec. 106. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided*, That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 7 of this Act.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this Act, together with such sums as may be required for operation and maintenance of the works authorized by section 4(a).

Sec. 107. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

TITLE II

Sec. 201. This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

DEFINITIONS

Sec. 202. As used in this title, the term—

(a) "Secretary" shall mean the Secretary of the Interior;

(b) "Federal reclamation laws" shall mean the Act of June 17, 1902 (43 U.S.C. 371), and all Acts amendatory or supplementary thereto;

(c) "person" shall mean any individual, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152), who is a citizen of the United States or a resident alien thereof, or any partnership or association of such individuals organized under State law, or a domestic corporation which is not a member of an affiliated group and which does not have more than eighteen individual shareholders;

(d) "project" shall mean any reclamation or irrigation project, including incidental features thereof, authorized by the Federal reclamation laws, or constructed by the United States pursuant to such laws, or in connection with which there is a repayment contract executed by the United States pursuant to such laws, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands;

(e) "project water" shall mean water developed or furnished by or through federally financed facilities for a Federal reclamation project as authorized by Congress and which is made available for agricultural purposes pursuant to a contract with the Secretary;

(f) "district" shall mean any conservancy district, irrigation district, or other organization which is established under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws;

(g) "contract" shall mean any contract between the United States and a district providing for the payment of construction charges to the United States and normal operation, maintenance, and replacement costs pursuant to the Federal reclamation laws or any water service contract;

(h) "recordable contract" shall mean a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the acreage limitations of the Federal reclamation laws including this Act; and

(i) "full cost" shall mean an annual rate as determined by the Secretary, that shall amortize the construction costs properly allocable to irrigation facilities in service, less payments, over such periods as may be required under reclamation law or applicable contract provisions, with interest. The interest rates used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all publicly held, interest bearing, marketable issues sold during the fiscal year in which the expenditures by the United States were or are made, but shall not be less than five per centum per annum: *Provided*, That normal operation, maintenance and replacement charges will be collected in addition to the full cost charge.

Subtitle A

NEW AND AMENDED CONTRACTS

Sec. 203. (a) The provisions of this subtitle shall be applicable to any district which:

(1) enters into a contract with the Secretary subsequent to the effective date of this Act;

(2) has an existing contract with the Secretary which is amended to enable the district to receive supplemental or additional benefits not previously authorised by law.

(b) Any district or individual which has an existing contract with the Secretary as of the effective date of this title may, within two years of such date, make a written request to the Secretary for his approval that such contract be amended only to conform with the provisions of the subtitle: *Provided*, That the Secretary shall extend the period in which to file the request if the request cannot be made due to circumstances beyond the control of the district. If the Secretary determines that the proposed amendments would conform with the provisions of this subtitle, he shall consider the contract so amended for purposes of this title. Such an amendment shall be binding upon the district or individual and the Secretary for the duration of such contract.

(c) In the absence of an amendment to a contract approved by a district or a request therefore, as provided in subparagraphs (a) and (b) of this Section, a person may elect to be brought under the provisions of this title by executing an election in a form approved by the Secretary to comply with this title. The district shall thereupon deliver project water to and collect from such persons, for the credit of the United States, the additional charges required by this subtitle and assignable to the person making the election.

LIMITATION ON OWNERSHIP

Sec. 204. No project water shall be delivered by the Secretary pursuant to a contract, or contracts, for the irrigation of lands in private ownership, whether situated in one or more districts, which exceed nine hundred and sixty acres of class I land or its equivalent.

PRICING

Sec. 205. (a) Notwithstanding any other provision of law or contract to the contrary, the Secretary shall not enter into any contract with a district which provides for the delivery of project water, nor shall he deliver project water to lands held by any person whether as the owner thereof or as a tenant, in excess of nine hundred and sixty acres of class I land or its equivalent, in the aggregate, whether situated in one or more districts, at a price which is other than the full cost thereof as defined herein: *Provided*, That any contract entered into pursuant to this subsection shall contain a provision requiring that the full price which shall be charged for project water delivered to lands held by any person in excess of nine hundred and sixty acres, as provided by this title, shall be paid only by that person, and shall not be assigned, either wholly or in part, to any other person.

(b) The Secretary may enter into a contract with a district which provides for the delivery of project water to any person for land held by such person as the owner thereof or as a tenant, not in excess of nine hundred and sixty acres of class I land or its equivalent, in the aggregate, whether situated in one or more districts, at a price to be fixed by him pursuant to the Federal reclamation laws in effect prior to the effective date of this title or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment.

CORPORATIONS

SEC. 206. Notwithstanding any other provision of this Act, the Secretary may enter into a contract which provides for the delivery of project water to any corporation having more than eighteen individual shareholders only at a price which is full cost of all the project water delivered for use on lands in excess of 160 acres owned or leased by it: *Provided, however,* That the Secretary may enter into a contract which provides for the delivery of project water to any such corporation which was not receiving, or had not received, project water on or before October 1, 1981, only at a price which is full cost as herein defined of all the project water delivered for use on lands owned or leased by it: *Provided further,* That any such corporation shall, in any event, be subject to the restrictions contained in section 204.

CERTIFICATION

SEC. 207. As a condition to the receipt of project water for the irrigation of lands in a district which becomes subject to the provisions of this subtitle, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

EQUIVALENCY

SEC. 208. Upon the request of any district, the acreage limitations imposed by this title shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

DISPOSITION OF EXCESS LANDS

SEC. 209. (a) Project water made available in the operation of reclamation project facilities constructed after the enactment of this title may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by the Federal reclamation laws, including this title, unless and until the owners thereof shall have executed a recordable contract with the Secretary requiring the disposal of their interest in such excess lands within a reasonable time. Such reasonable time shall be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with the terms and conditions required by the Federal reclamation laws generally.

(b) Lands held in excess of the ownership limitations imposed by the Federal reclamation laws, including this title, which, on the date of enactment of this title, are receiving delivery of project water made available by the operation of existing reclamation project facilities may continue to receive such deliveries only—

(1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or

(2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(c) All recordable contracts covering excess land sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: *Provided,* That the Secretary shall recover for the owner the fair market value of the land, unrelated to project water deliveries plus the current fair market value of any improvements thereon.

(d) Excess lands which are hereafter disposed of in compliance with any provision of the Federal reclamation laws, or this title may be considered eligible to receive project water made available through the operation of project facilities only—

(1) if they are held by nonexcess owners under this title or any other applicable provision of the Federal reclamation laws; and

(2) if their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation laws or subtitle A of this title, for values exceeding the sum of the value of the newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of project water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitation on subsequent sale values which might otherwise be imposed by the operation of section 423e of title 43, United States Code.

OPERATION AND MAINTENANCE COSTS

SEC. 210. (a) Notwithstanding any other provision of this subtitle, the price of project water delivered by the Secretary pursuant to a contract with a district shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.

(b) Whenever a district enters into a contract or requests that its contract be amended pursuant to this subtitle and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of project water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

(c) This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

WATER CONSERVATION

SEC. 211. (a) Each repayment contract or water service contract entered into or amended subsequent to the date of enactment of this title by the Secretary or his designee pursuant to Federal reclamation laws or the Water Supply Act of 1958, as amended (43 U.S.C. sec. 390b), shall require the non-Federal party entering into such contract to develop and implement a water conservation program. This section shall apply to all such contracts regardless of their duration or any other prior contracts entered into by the Secretary or his designee.

(b) For purposes of this section, a water conservation program shall—

(1) apply to all uses of water which is provided from, or conveyed through, federally constructed or federally financed facilities;

(2) contain definite goals;

(3) include loss reduction measures and demand management practices which ensure that the available water supply is used in an economically efficient and environmentally sensitive manner;

(4) contain time schedules for meeting program goals and delineate actions to be taken by the Secretary or his designee in the event such schedules are not met; and

(5) provide for review and modification of the plan at not-to-exceed five-year intervals.

(c) When a State agricultural or natural resource agency has found and published a report or document determining that a district within that same State is wasting irrigation water, the Secretary is directed to take appropriate actions, which may include a surcharge on water service.

SUBTITLE B

RESIDENCY NOT REQUIRED

SEC. 212. Notwithstanding any other provision of law, the receipt of project water pursuant to a contract with the Secretary under the Federal reclamation laws, including this title, shall not be conditioned on residency on or near the lands to which the project water is delivered.

CORPS OF ENGINEERS PROJECTS

SEC. 213. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation nor the other provisions of the Federal reclamation laws, including this title, shall be applicable to landholdings receiving benefits from Federal water resource projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has by Federal statute explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

APPLICABILITY

SEC. 214. The acreage limitations of section 204 of this title or the acreage limitations provided in any other provision of the Federal reclamation laws shall not apply to lands in a district—

(a) after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on the date of enactment of this title) by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts ex-

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isting on the date of enactment of this title: *Provided*, That the appropriate district with respect to which the contractual repayment obligation shall have been discharged may request, and the Secretary shall provide, a recordable certificate acknowledging that the acreage limitation provisions of the reclamation law no longer apply to such lands;

(b) so long as the lands are held by a trustee, individual or corporate, in a fiduciary capacity for a beneficiary or beneficiaries whose interest in the lands served do not exceed the limits imposed by the Federal reclamation laws or subtitle A of this title: *Provided*, That the provisions of section 205 of subtitle A shall be applicable to each beneficial interest if the lands are subject to the provisions of subtitle A;

(c) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large project water supply not othewise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(d) acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of mortgage, by inheritance, or by devise: *Provided*, That such lands were eligible to receive project water prior to such transfer of title or the mortgaged lands became ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: *Provided further*, That if, after acquisition, such lands are not qualified under the Federal reclamation laws, including this title, they shall be furnished temporarily with a project water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of project water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: *Provided further*, That the provisions of section 205 of subtitle A shall be applicable separately to each acquistion under this subsection if the lands are subject to the provisions of subtitle A;

(e) which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the limitations imposed by the Federal reclamation laws, including this title; and

(f) the provisions of section 205 of subtitle A herein shall be applicable to the lands described in subsection (e) of this section if such lands would otherwise be subject to the provisions of section 205 of subtitle A.

RELIGIOUS OR RELIGIOUS CHARITABLE ORGANIZATIONS

Sec. 215. An individual religious or religious charitable entity (including but not limited to a congregation, parish, school, ward, or chapter) which owns, operates, or leases any lands within a district shall be treated as a person under the provisions of this title, regardless of such entity's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith.

(1) If such individual entity is not the owner of record of any such land, it shall be treated as a person so long as—

(i) said owner of record is a religious or religious charitable organization which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended;

(ii) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(iii) said land is operated by said individual religious or religious charitable entity (including but not limited to a congregation, parish, school, ward, or chapter); and

(iv) not part of the net earning of such religious or religious charitable organization shall inure to the benefit of any private shareholder or individual.

(2) If the lands operated by such religious or religious charitable organization are other wise subject to the provisions of subtitle A of this title, they shall be subject to the provisions of section 205 of this title.

CONTRACT REQUIRED

Sec. 216. Project water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such project water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use is such project water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws: *Provided, however*, That the Secretary shall have the authority to waive such payments for water described in section 214(c)(2).

WAIVER OF SOVEREIGN IMMUNITY

Sec. 217. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation laws. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, shall be subject to judgment, orders and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated.

EXTENSIONS OF TIME UNDER RECORDABLE CONTRACTS

Sec. 218. In the event that the owner of any lands in excess of the acreage limitations of the Federal reclamation laws has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.

EXCESS CROP RESTRICTIONS

Sec. 219. Notwithstanding any other provision of law, no water from any Federal reclamation project authorized after the date of enactment of this title shall be delivered within ten years from the date irrigation water is first made available to construction blocks within such project for the irrigation of any basic agricultural commodity, as defined in section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would be marketed is in excess of the normal supply, as defined, in the case of extra long staple cotton, in section 301(b)(10), as amended, and for such other commodities, as defined in section 1107 of the Agriculture and Food Act of 1981 (7 U.S.C. 1310a), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this title, any restriction prohibiting the delivery of project water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

SMALL RECLAMATION PROJECTS ACT

Sec. 220. Section 5(c) of the Act of August 6, 1956, as amended (43 U.S.C. 422e), is further amended to strike therefrom the words "one hundred and sixty" and insert in lieu thereof the words "nine hundred and sixty".

PENALTIES

Sec. 221. (a)(1) Any person, district, or other entity who violates any provision of this title or the Federal reclamation laws by knowingly accepting project water to which such person is not entitled by reason of the acreage limitation under this Act or the Federal reclamation laws and any other person, district, or other entity who violates any provision of this title relating to the payment of full cost for project water, or who knowingly falsifies any information provided to the Secretary pursuant to this title, shall be liable to the United States for a civil penalty which is not less than an amount equal to twice the fair market value of the project water delivered to the land involved in violation of any such provision. For purposes of assessing the penalty under this paragraph, the fair market value of such project water shall be determined by taking into consideration the cost of private irrigation, ground water pumping costs, and other factors considered relevant by the Secretary.

(2) Any person, district, or other entity who knowingly violates any provision of this title or of the Federal reclamation laws, other than any provision referred to in paragraph (1) of this subsection, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

(b)(1) Any civil penalty for a violation referred to in subsection (a) of this section shall be assessed by the Secretary by an order made after an opportunity for a hearing. Before issuing such an order, the Secretary shall give written notice to the person to be assessed of this intent to issue the order and shall provide him an opportunity to request a hearing on the order, within fifteen days of the date the notice is received.

(2) Any hearing held under paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. In any such hearing, the Secre-

tary may administer oaths and subpenas for the attendance and the production of relevant papers, books, and documents. In the case of refusal to obey any subpena served upon any person or entity pursuant to this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person or entity, shall have jurisdiction to issue an order requiring such person or entity to appear and comply with the requirements of the subpena. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Any person who requested in accordance with subsection (b)(1) of this section a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing such penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia or the court of appeals of the United States for any circuit in which such person resides or transacts business. Such a petition may be filed within the thirty-day period beginning on the date the order making such assessment was issued. The court shall hear any action under this subsection on the record made before the Secretary and shall sustain the Secretary's order if it is supported by substantial evidence on the record considered as a whole.

(d) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order (in the case of a person who does not file a petition for judicial review under subsection (c) of this section); or

(2) after a court in an action brought under subsection (c) of this section has entered a final judgment in favor of the Secretary, the Attorney General may recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the thirty-day period referred to in subsection (c) of this section or the date of such final judgment as the case may be) in any action brought in any appropriate district court of the United States. In any such action, the validity, amount, and the appropriateness of such penalty shall not be subject to review.

ADMINISTRATIVE PROVISIONS

SEC. 222. (a) Nothing in this title shall repeal or amend any existing statutory exemptions from the acreage limitation provisions of the Federal reclamation laws.

(b) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this title and other provisions of the Federal reclamation laws.

(c) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(d) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or other process of law, conveyance in satisfaction of mortgage, inheritance, or devise, may be sold at its fair market value within five years without regard to any other provision of this Act or of section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes." approved May 25, 1926 (43 U.S.C. 423): *Provided*, That if the status of the mortgage land changes from nonexcess to excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value: *Provided further*, That nonexcess lands subject to a covenant under section 209(d)(2) of this title shall be sold for not more than the greater of the current value as determined under section 209(d)(2) of this title or the amount necessary to satisfy the mortgage, other than a purchase money mortgage which shall be satisfied by sale for not more than the value as determined under section 209(d)(2).

(e) The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States.

(f) Effective October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title: *Provided*, That authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

PUBLIC PARTICIPATION

SEC. 223. Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding at the end the following new subsection:

"(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of project water for irrigation purposes (including any contract for the delivery of surplus or interim project water whose duration is longer than one year) the Secretary shall—

"(1) publish notice of the proposed contract or amendment in newspapers of general circulation in each region and otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

"(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.".

COORDINATION OF WATER CONSERVATION PROGRAMS

SEC. 224. The Secretary is authorised and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.

SEC. 225. The first proviso in the third paagraph of section 1 of the Act of April 4, 1910 (36 Stat. 269, 270), as amended by the Act of August 7, 1946 (60 Stat. 866, 867) is hereby repealed.

SEVERABILITY

SEC. 226. If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

Subtitle C

AUDIT COMPLIANCE

SEC. 227. (a)(1) The Inspector General of the Department of the Interior shall undertake a review of all audit reports prepared by the Department of the Interior since January 1977, pertaining to Bureau of Reclamation water resource projects, including, but not limited to—

(A) "Review of the Central Valley Project—Bureau of Reclamation", January 1978;

(B) "Review of Repayment Status of Pick-Sloan Missouri Basin Program and Individually Authorized Projects", July 1978;

(C) "Review of Muinicipal and Industrial Water Activities, Central Valley Project", September 1979;

(D) "Review of Colorado River Storage Project and Related Individual Participating Projects", September 1980;

(E) "Review of Central Arizona Project, Lower Colorado Region", September 1980;

(F) "Review of Selected Economic and Financial Aspects of the Fryingpan—Arkansas Project", August 1980; and

(G) "Review of Balance Sheet and Repayment Status as of September 30, 1980, Southern Nevada Water Project", August 1981.

(2) No later than ninety days after the date of enactment of this title the Inspector General shall prepare, and transmit to the Secretary of the Interior, and to the Congress, a list of recommendations based upon the review of audit reports which he has conducted pursuant to paragraph (1) of this subsection.

(b) No later than two hundred and seventy days after the date of enactment of this title the Secretary of the Interior shall implement all recommendations which have been made by the Inspector General pursuant to paragraph (a)(2) of this section, unless he earlier informs the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, of his detailed reasons for not implementing such recommendations.

TITLE III

CONGRESSIONAL FINDINGS

SEC. 301. The Congress finds that—

(1) water rights claims of the Papago Tribe with respect to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Papago Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attemtped to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Papago Indian

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Tribe, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Papago Indians respecting certain portions of the Papago Reservation; and

(5) the settlement contained in this title will—

(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

(B) insure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Papago Tribe.

DEFINITIONS

Sec. 302. For purposes of this title—

(1) The term "acre-foot" means the amount of water necessary to cover one acre of land to a depth of one foot.

(2) The term "Central Arizona Project" means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(3) The term "Papago Tribe" means the Papago Tribe of Arizona organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "subjugate" means to prepare land for the growing of crops through irrigation.

(6) The term "Tucson Active Management Area" means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(7) The term "December 11, 1980, agreement" means the Central Arizona Project water delivery contract between the United States and the Papago Tribe.

(8) The term "replacement costs" means the costs of acquiring and delivering water from sources within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area. Such costs shall include costs of necessary construction amortized in accordance with standard Bureau of Reclamation Procedures.

(9) The term "value" means the value attributed to the water based on the Tribe's anticipated or actual use of the water, including its fair market value.

WATER DELIVERIES TO TRIBE FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH TRIBE

Sec. 303. (a) As soon as is possible but not later than ten years after the enactment of this title, if the Papago Tribe has agreed to the conditions set forth in section 306, the Secretary, acting through the Bureau of Reclamation, shall—

(1) in the case of the San Xavier Reservation—

(A) deliver annually from the main project works of the Central Arizona Project twenty-seven thousand acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 4(a); and

(B) improve and extend the existing irrigation system on the San Xavier Reservation and design and construct within the reservation such additional canals, lateral, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(2) in the case of the Schuk Toak District of the Sells Papago Reservation—

(A) deliver annually from the main project works of the Central Arizona Project ten thousand eight hundred acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 4(a); and

(B) design and construct an irrigation system in the Eastern Schuk Toak District of the Sells Papago Reservation, including such canals, laterals, farm ditches, and irrigation works, as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(3) establish a water management plan for the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as any management plan developed under Arizona law.

(b)(1) In order to encourage the Papago Tribe to develop sources of water on the Sells Papago Reservation, the Secretary shall, if so requested by the tribe, carry out a study to determine the availability and suitability of water resources within the Sells Papago Reservation but outside the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area.

(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

(A) the availability of energy and the energy requirements which result from the enactment of the provisions of this title, and

(B) the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

(c) The Papago Tribe shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation subject to the limitations of section 6(a).

(d) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Papago Tribe under the December 11, 1980, agreement.

(e) Nothing contained in sections 303(c) and 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies, or does not apply, to ground water.

DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

Sec. 304. (a) The Water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Schuk Toak District of the Sells Papago Reservation as provided in section 303(a), shall be delivered in such amount, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, except as otherwise provided under this section.

(b) Where the Secretary, pursuant to the terms and conditions of the agreement referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(2)(A), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof:

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area in the State of Arizona:

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (2)(A) of section 303(a), he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where the delivery system is completed.

(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

(e)(1) To meet the obligation referred to in paragraphs (1)(A) and (2)(A) of section 303 (a), the Secretary shall, acting through the Bureau of Reclamation, as part of the main project works of the Central Arizona Project—

(A) design, construct and, without cost to the Papago Tribe, operate, maintain, and replace such facilities as are appropriate including any aqueduct and appurtenant pumping facilities, treatment plants, powerplants, and electric power transmission facilities which may be necessary for such purposes; and

(B) deliver the water to the southern boundary of the San Xavier Reservation, and to the boundary of the Schuk Toak District of the Sells Papago Reservation, at points agreed to by the Secretary and the tribe which are suitable for delivery to the reservation distribution systems.

(2) There is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which

the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A) and (B) of paragraph (1). Sums allocable to the construction of such facilities shall be reimbursable as provided by the Act of July 1, 1932 (Public Law 72-240; 25 U.S.C. 386(a)), as long as such water is used for irrigation of Indian lands.

(f) To facilitate the delivery of water to the San Xavier and the Schuk Toak District of the Sells Papago Reservation under this title, the Secretary is authorized—

(1) to enter into contracts or agreements for the exchange of water, or for the use of aqueducts, canals, conduits, and other facilities for water delivery, including pumping plants, with the State of Arizona or any of its subdivisions, with any irrigation district or project, or with any authority, corporation, partnership, individual, or other legal entity; and

(2) to use facilities constructed in whole or in part with Federal funds.

RECLAIMED WATER; ALTERNATIVE WATER SUPPLIES

SEC. 305. (a) As soon as possible, but not later than ten years after the date of enactment of this title, the Secretary shall purchase reclaimed water in accordance with the agreement described in section 1077(a)(1) and deliver annually twenty-three thousand acre-feet of water suitable for agricultural use to the San Xavier Reservation and deliver annually five thousand two hundred acre-feet of water suitable for agricultural use to the Schuk Toak District of the Sells Papago Reservation.

(b)(1) The obligation of the Secretary referred to in subsection (a) to deliver water suitable for agricultural use may be fulfilled by any additional treatment, including land filtration, of the reclaimed water acquired by the Secretary as provided herein, by any other means which renders such reclaimed water suitable for agricultural use, or by voluntary exchange of that reclaimed water for any other water suitable for agricultural use. To make available and deliver such water, the Secretary acting through the Bureau of Reclamation shall design, construct, operate, maintain, and replace such facilities as are appropriate. The costs of design, construction, operation, maintenance, and replacement of on-reservation systems for the distribution of the water referred to in subsection (a) are the responsibility of the Papago Tribe.

(2) The Secretary shall not construct a separate delivery system to deliver reclaimed water referred to in subsection (a) to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation.

(3) To facilitate the delivery of water under this title, the Secretary shall, to the extent possible, utilize unused capacity of the main project works of the Central Arizona Project.

(c) The Secretary may, as an alternative to, and in satisfaction of the obligation to deliver the quantities of water to be delivered under subsection (a), acquire and deliver pursuant to agreements authorized in section 107(b), an equivalent quantity of water from the following sources or any combination thereof—

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(d) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where a delivery system is completed.

(e) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire of disturb the water rights of any Indian tribe, band, group, or community.

LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Papago Tribe agrees to—

(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than ten thousand acre-feet per year;

(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981; and

(3) comply with the management plan established by the Secretary under section 303(a)(3).

Nothing contained in paragraph (1) shall restrict the tribe from drilling wells and withdrawing ground water therefrom on the San Xavier Reservation if such wells have a capacity of less than thirty-five gallons per minute and are used only for domestic and livestock purposes. Nothing contained in paragraph (2) shall restrict the tribe from drilling wells and withdrawing ground water therefrom in the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area if such wells have a capacity of less than thirty-five gallons per minute and which are used only for domestic and livestock purposes.

(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (1)(B) and (2)(B) of section 303 (a) only if the Papago Tribe agrees to—

(1) subjugate, at no cost to the United States, the land for which those distribution systems are to be planned, designed, and constructed by the Secretary; and

(2) assume responsibility, through the tribe or its members or an entity designated by the tribe, as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and replacement of these systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

(c)(1) The Papago Tribe shall have the right to devote all water supplies under this title, whether delivered by the Secretary or pumped by the tribe, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the Papago Reservation so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Crus Basin not within such area.

(2) The Papago Tribe may sell, exchange, or temporarily dispose of water, but the tribe may not permanently alienate any water right. In the event the tribe sells, exchanges, or temporarily disposes of water, such sale, exchange, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Papago Tribal Council and approved and executed by the Secretary as agent and trustee for the tribe. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The proceeds from any sale, exchange, or disposition of water by the Papago Tribe shall be used for social or economic programs or for tribal administrative purposes which benefit the Papago Tribe.

(d) Nothing in section 106(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off of any reservation to which reserved water rights attach.

OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER; DISMISSAL AND WAIVER OR CLAIMS OF PAPAGO TRIBE AND ALLOTTEES

SEC. 307. (a) The Secretary shall be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 105 only if—

(1) within one year of the date of enactment of this Act—

(A) the City of Tucson and the Secretary agree that the city will make available, without payment to the city, such quantity of reclaimed water as is adequate, after evaporative, additional treatment, or land filtration losses, to deliver annually, as contemplated in section 305(a), twenty-eight thousand two hundred acre-feet of water; such agreement may provide terms and conditions under which the Secretary may relinguish to the City of Tucson such quantities of water as are not needed to satisfy the Secretary's obligations under this title;

(B) the Secretary and the City of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining

Company, the Duval Corporation, and the Farmers Investment Company agree that funds will be contributed, in accordance with the paragraphs (1)(B) and (2) of subsection (b) of section 313, to the Cooperative Fund established under subsection (a) of such section;

(C) the Papago Tribe agrees to file with the United States District Court for the District of Arizona a stipulation for voluntary dismissal with prejudice, in which the Attorney General is authorized and directed to join on behalf of the United States, and the allottee class representatives' petition for dismissal of the class action with prejudice in the United States, the Papago Indian Tribe, and others against the city of Tucson, and others, civil numbered 75-39 TUC (JAW); and

(D) the Papago Tribe executes a waiver and release in a manner satisfactory to the Secretary of—

(i) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of the execution by the tribe of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(ii) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of execution of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, under the laws of the United States or the State of Arizona; and

(2) the suit referred to in paragraph (1)(B) is finally dismissed;

(b) After the conditions referred to in subsection (a) have been met the Secretary shall be authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the contract required in subsection (a)(1)(A) it is possible to deliver the quantities of water required in section 305(a).

(c) Nothing in this section shall be construed as a waiver or release by the Papago Tribe of any claim where such claim arises under this title.

(d) The waiver and release referred to in this section shall not take effect until such time as the trust fund referred to in section 309 is in existence, the conditions set forth in subsection (a) have been met, and the full amount authorized to be appropriated to the trust fund under section 309 has been appropriated by the Congress.

(e) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) of all individual members of the Papago Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District of the Sells Reservation located within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, as of the date the waiver and release referred to in this section take effect. Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title.

STUDY OF LANDS WITHIN THE GILA BEND RESERVATION; EXCHANGE OF LANDS AND ADDITION OF LANDS TO THE RESERVATION; AUTHORIZED APPROPRIATIONS

SEC. 308. (a) The Secretary is hereby authorized and directed to carry out such studies and analysis as he deems necessary to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. Such study and analysis shall be completed within one year after the date of the enactment of this title.

(b) If, on the basis of the study and analysis conducted under subsection (a), the Secretary determines that lands have been rendered unsuitable for agriculture for the reasons set forth in subsection (a), and if the Papago Tribe consents, the Secretary is authorized to exchange such lands for an equivalent acreage of land under his jurisdiction which are within the Federal public domain and which, but for their suitability for agriculture, are of like quality.

(c) The lands exchanged under this section shall be held in trust for the Papago Tribe and shall be part of the Gila Bend Reservation for all purposes. Such lands shall be deemed to have been reserved as of the date of the reservation of the lands for which they are exchanged.

(d) Land exchanged under this section which, prior to the exchange, were part of the Gila Bend Reservation, shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(e) The Secretary may require the Papago Tribe to reimburse the United States for moneys paid, if any, by the Federal Government for flood easements on lands which the Secretary replaces by exchange under subsection (b).

ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

SEC. 309. (a) To the extent provided by an appropriation enacted pursuant to the authorization contained in section 314, the Secretary of the Treasury shall pay to the authorized governing body of the Papago Tribe the sum of $15,000,000 to be held in trust for the benefit of such Tribe and invested in interest bearing deposits and securities including deposits and securities of the United States.

(b) The authorized governing body of the Papago Tribe, as trustee for such Tribe, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Papago Tribe for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Papago Reservation which are not the obligation of the United States under this or any other Act of Congress.

APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 310. The functions of the Bureau of Reclamation under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

EXTENSION OF STATUTE OF LIMITATIONS

SEC. 311. Except as otherwise provided in section 107 of this title, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Papago Indian Tribe or any member of such tribe brought by the United States for, or on behalf of, such tribe or member of such tribe, or by such tribe on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

ARID LAND RENEWABLE RESOURCE ASSISTANCE

SEC. 312. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Papago Tribe in providing such assistance. Such entity shall make available to the Papago Tribe—

(1) price guarantees, loan guarantees, or purchase agreements,

(2) loans, and

(3) joint venture projects,

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Papago Tribe.

COOPERATIVE FUND

SEC. 313. (a) There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" consisting of such amounts as may be appropriated or transferred to such Fund as provided in this section.

(b)(1) The Cooperative Fund shall consist of—

(A) amounts appropriated to the Fund under paragraph (3) of this subsection;

(B) $5,250,000 to be contributed as follows:

(i) $2,750,000 (adjusted as provided in paragraph (2)) contributed by the State of Arizona;

(ii) $1,500,000 (adjusted as provided in paragraph (2)) contributed by the City of Tucson; and

(iii) $1,000,000 (adjusted as provided in paragraph (2)) contributed jointly by the Anamax Mining Company, the Cyprus-Pine Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

(2) The amounts referred to in subparagraph (B) of paragraph (1) shall be contributed before the expiration of the 3-year period beginning on the date of the enactment of this title. To the extent that any portion of such amounts is contributed after the 1-year period beginning on the date of the enactment of this title, the contribution shall include an adjustment representing the additional interest which would have been earned by the Cooperative Fund if that portion had been contributed before the end of the 1-year period.

(3) $5,250,000 are hereby authorized to be appropriated to the Cooperative Fund. If the Secretary submits to the Congress before January 1, 1992, notice that the amounts in the Cooperative Fund are insufficient to meet his obligations under this title, there are authorized to be appropri-

ated for fiscal years following submission of the notice, such additional sums as may be necessary for such purposes, but not to exceed $16,000,000 (adjusted as provided in paragraph (2)).

(c)(1) Only interest accruing to the Cooperative Fund may be expended and no such interest may be expended prior to the earlier of—

(A) 10 years after the date of the enactment of this title; or

(B) the date of completion of the main project works of the Central Arizona Project.

(2) Interest accruing to the Fund during the 12 month period before the date determined under paragraph (1) and interest accruing to Fund thereafter shall, without further appropriation, be available for expenditure after the date determined under paragraph (1) for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

(A) operation, maintenance, and repair costs related to the delivery of water under sections 303, 304, and 305;

(B) any costs of acquisition and delivery of water from alternative sources under section 304(b) and 305(c); and

(C) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(e) If, before the date three years after the date of the enactment of this title—

(1) the waiver and release referred to in section 307 does not take effect by reason of section 307(d); or

(2) the suit referred to in Section 307(a)(1)(B) is not finally dismissed

the Cooperative Fund under this section shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of accrued interest) to the respective contributors. Upon such termination, the share contributed by the United States under subsection (b)(3) shall be deposited in the General Fund of the Treasury.

AUTHORIZATION OF APPROPRIATIONS

Sec. 314. (a) Subject to subsection (b), there are authorized to be appropriated for fiscal year 1983, and each fiscal year thereafter, such sums as may be necessary to carry out the purposes of this title.

(b) No more than $3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved, is authorized to be appropriated for those features of the irrigation system described in paragraphs (1)(B) or (2)(B) of section 303(a) which are not authorized to be constructed under any other provision of law.

COMPLIANCE WITH BUDGET ACT

Sec. 315. No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

SHORT TITLE

Sec. 316. This title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I would ask the gentleman to explain what is involved here.

Mr. UDALL. If the gentleman will yield, the bill being considered is an amendment in the nature of a substitute which authorizes the modifications of the Buffalo Bill Dam and Reservoir in the State of Wyoming. The modification will provide increased storage for beneficial uses.

This is not a new project, nor will any new dams be constructed. In fact, this project goes back to 1904.

The authorization level is $106 million. The bill specifically provides for cost sharing by the State of Wyoming, and the Wyoming Legislature has already appropriated $47 million toward the cost.

The bill has the support of the administration, the Governor of Wyoming, the entire Wyoming congressional delegation and, as far as I know, the people of Wyoming.

The amendment incorporates the language of the Reclamation Reform Act which passed the House earlier this year. The language is identical to the bill approved by the House, and only technical changes, section numbers, and so forth, have been made.

The amendment also incorporates the language of a bill to settle certain water rights in southern Arizona approved by the House last March. The language has been modified to meet the objections of the administration.

Mr. LUJAN. Mr. Speaker, I express my appreciation to the gentleman from Arizona (Mr. Udall) for his efforts, and I support the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. Udall).

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1409

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1409, and ask for a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. Udall, Kazen, Phillip Burton, Seiberling, Miller of California, Coelho, Lujan, Clausen, and Pashayan.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 6530, ESTABLISHING MOUNT ST. HELENS VOLCANIC AREA

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 13, 1982.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. Foley) will be recognized for 30 minutes, and the gentleman from California (Mr. Clausen) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on H.R. 6530, a bill to establish the Mount St. Helens National Volcanic Monument and for other purposes, the conferees have agreed on a conference report which establishes a Mount St. Helens National Volcanic Monument of approximately 110,000 acres under the jurisdiction of the Forest

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Service of the U.S. Department of Agriculture. In so doing, the report strikes a fair and equitable balance among the interests of the various parties who have been involved with this legislation. Members may recall that the House bill included about 115,000 acres in the area, while the Senate version encompassed approximately 105,000 acres.

The conference report maintains the essential thrust of the House bill. It emphasizes protection of the scientific and recreational values of the unique features created by the eruption of Mount St. Helens, while insuring public access to the area for research as well as pleasure. On the other hand, it addresses the concerns which have been expressed over the potential fiscal impact of the legislation.

With respect to this particular concern, the boundaries agreed to by the conferees virtually exclude existing mining claims within the Green River/Polar Start area. Further, the conferees have preserved authority for the Secretary of Agriculture to make minor boundary adjustments and have noted, in the statement of managers, that this authority could be used by the Secretary to exclude the remaining mining claims.

In a further effort to address the concerns over potential budget implications of this legislation, the conferees directed the Secretary to use exchange as the primary means of acquiring privately held lands and interests in lands within the monument. Indeed, the conferees agreed to limit acquisition of mineral and geothermal interests to exchange only.

The conference report includes the House bill's provisions regarding specific legislated exchanges for the surface rights held by the largest non-Federal landowners in the area—the Weyerhaeuser Co. and Burlington Northern Inc.

However, the conference report does not include the House provisions legislating specific exchanges for mineral and geothermal interests within the monument held by Weyerhaeuser. The conferees agreed that those interests and similar interests held by Burlington Northern should be subject to the general exchange authority mandated elsewhere in the report. As I indicated earlier, these mineral and geothermal interests may be acquired only by exchange.

The Senate version of this legislation specifically exempted exchanges pursuant to the act from provisions of the National Environmental Policy Act requiring the preparation of an environmental impact statement. The conference report did not adopt this provision. In recognition of the general agreement among the conferees that exchanges should be carried out as expeditiously as possible, the conference report requires that an environmental assessment be prepared for proposed exchanges for mineral and geothermal interests authorized by the act.

After full discussion of this issue and at the request of our colleague from Montana, Mr. WILLIAMS, the conferees agreed to require that, as part of this environmental assessment, at least one public hearing be held by the Secretary in the vicinity of the mineral or geothermal interests to be conveyed by the United States and that the congressional committees of jurisdiction be provided at least 30 days' advance notice of the Secretary's intention to consummate such an exchange.

The conference agreement clearly defines the very narrow circumstances under which timber salvage operations can take place within the monument. I believe that this is very important to achievement of the objective of the act. I would like to cite the specific language of the statement of managers relating to it:

> The conferees agreed to adopt Senate language modified to ensure that commercial harvesting, while permitted in limited circumstances, is to be undertaken only to the minimum extent necessary to control fire, insects, and disease on Federal lands that would endanger irreplaceable features within the monument, cause substantial damage to significant resources adjacent to the monument, or endanger public safety. The respective committees of Congress are to be kept apprised regarding the use of this authority.
>
> The conferees agree that the "control" of fire and/or insect infestations in the area could include preventative or presuppression activities provided they are kept to the minimum level necessary and carried out only to the extent necessary to deal with those emergency situations or those imminent emergency situations identified in subsection 4(g).
>
> The conferees stressed that this authority was very narrowly drawn and should definitely not be considered as general authority to provide for commerical timber harvesting operations within the Monument.
>
> The conferees expect that the Secretary will seek the advice of the Scientific Advisory Board regarding the effects of possible timber removal authorized by subsection 4(g) on areas of special scientific concern within the monument. While the final management decisions regarding the implementation of timber removal activities rest solely with the U.S. Forest Service, the conferees felt that the Board could make a contribution by making its scientific and research expertise available to the Forest Service on a regular basis with regard to this matter.
>
> The conferees further expect that the Secretary will provide the Scientific Advisory Board, as soon as reasonably possible, copies of any notices of timber salvage operations submitted to the committees of Congress pursuant to subsection 4(g).

Mr. Speaker, the Washington delegation has worked long and hard in the development of this legislation. Initial proposals ranged from 40,000 acres—supported by certain timber interests—to a 216,000-acre proposal advanced by environmental interests. At each stage in the development of this measure, we have sought to be responsive to the various interests concerned with the area. In this effort, we have had the invaluable assistance of our colleagues on the Agriculture Committee and the Committee on Interior and Insular Affairs.

We are united in support of the conference report, which was approved without dissent this past Friday by the Senate.

We are particularly grateful to our colleagues who have shown understanding of the position of the State of Washington and have agreed to include provisions in this legislation that address our unique situation and interests.

The legislation in its current form enjoys broad bipartisan support and I urge my colleagues to join with me in approving this conference report.

● Mr. DE LA GARZA. Mr. Speaker, I rise in strong support of the conference report on H.R. 6530, a bill to establish the Mount St. Helens National Volcanic Monument and for other purposes. The report brought to us by the conferees establishes a Mount St. Helens National Volcanic Monument of approximately 110,000 acres. The monument will be administered under the jurisidiction of the Forest Service of the U.S. Department of Agriculture.

As the Members will recall, on May 18, 1980, after a 123-year dormant period, Mount St. Helens violently erupted, devastating over 235 square miles of national forest, State, private timber, and recreational lands in the area. Preceded by an earthquake measuring 5.0 on the Richter scale, the lateral explosion destroyed the top one-third of the mountain, obliterated or blew down over 3 billion board feet of timber, destroyed all other vegetation, and exacted a heavy toll on fish, wildlife, and their habitats.

While the eruption was, in many respects, a disaster, it has created unique opportunities for research as well as recreation. A primary objective of the House bill was to protect and preserve these opportunities, and to insure reasonable access to the area by the public for purposes of study, research, and simple enjoyment. The conference report preserves this objective.

During consideration of this legislation, concerns were expressed regarding mining claims in the vicinity of Mount St. Helens, and other aspects of the measure that might have a fiscal impact. The conference report judiciously resolves these concerns by drawing boundary lines that exclude most of the claims, by making clear that the acquisition of surface rights by the Government is to be accomplished primarily by exchange, and by requiring that mineral and geothermal rights within the monument be acquired by the Government solely by exchange.

I am pleased that the conference report will preserve, for the future enjoyment and benefit of the American people, a natural laboratory not available in any other location in the United States. The report accommodates the interest of the scientific community, environmental and recreational groups, the State of Washington, and those concerned about budgetary results. It is, in my view, a very happy resolution of the matter.

I would add that this legislation is the product of outstanding cooperation by the several committees involved. On the House side, the Committee on Interior and Insular Affairs has worked diligently and cooperatively with our committee at both the Member and staff level. That cooperation has continued during work with the Senate Committee on Energy and Natural Resources. And the Washington delegation has, in a cohesive fashion, done diligent work with all of the diverse parties interested in this legislation. The end product is a conference report worthy of these productive efforts.

I urge all Members to join me in giving the conference report the enthusiastic support it deserves.●

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

□ 1650

Mr. Speaker, I rise in support of the conference report on H.R. 6530, which designates approximately 110,000 acres of the Gifford Pinchot National Forest in the State of Washington as the "Mount St. Helens National Volcanic Monument," and I genuinely want to compliment the distinguished gentleman from Washington (Mr. Foley) who served as the chair of our conference committee as well as all of the conference members who worked on the legislation.

While the House- and Senate-passed bills differed somewhat in both designated acreage and management provisions, the objectives overall were much the same. That similarity contributed a great deal toward resolution of the final measure which is before the Members here today.

This area will continue to be managed by the Forest Service under a special protective prescription provided for by this legislation. Basically, the natural forces will be permitted to continue uninterrupted by man's intervention, except for instances seriously threatening human life and property. The area will continue to display the explosively forceful works of nature of the recent past, as well as the natural healing processes of the future. The area will retain a special quality for continuing scientific research on volcanism and geological processes, as well as ecological succession. A scientific advisory board is established to help assure sensitivity in future management of the area.

The legislation also provides for measures to be instituted to assist visitor access and enjoyment of the area. The Forest Service is to prepare a comprehensive management plan to guide the future administration of the area.

During the consideration of the legislation, a concern was expressed by the Department of Agriculture that if the exchanges are not completed, acquisition might be required of large tracts of privately owned land at very high cost to the Federal Government.

So for that reason, I would like to call to the attention of the Members the statement of the managers in which we state:

> The conferees wish to reaffirm the clear intent of this legislation that acquisition of lands and interests in lands within the Monument should be completed as expeditiously as possible, and acquisition by exchange shall be carried out to the maximum extent feasible.

Throughout the legislative process the two major companies involved, Weyerhauser and Burlington Northern, have worked diligently to bring about the exchange of their lands for lands outside the area. Their cooperation together with the expertise of the Forest Service should bring about a prompt exchange. As a conferee, I certainly would encourage this effort and I do not envison any need for major acquisitions.

Mr. Speaker, this legislation is the product of the concern and effort of a great many people. It was fashioned by three committees of the Congress: The Senate Committee on Energy and Natural Resources and the House Committees on Agriculture as well as Interior and Insular Affairs, drawing from many ideas espoused by numerous interest groups.

To be particularly commended are our colleagues comprising the delegation of the State of Washington who did, in my judgment, a splendid job of pulling all the pieces of this legislation together.

I would also like to express our appreciation to the staff of the House Interior and Insular Affairs Committee, the House Agriculture Committee, and the Senate Energy and Natural Resources. They spent many long hours working on the final legislation and did an excellent and very professional job.

Mr. Speaker, it is also important to note the fine cooperation this legislation has received from both the affected timber companies and the environmental community. They all worked quite cooperatively together to meld this final product.

I believe it is a good piece of legislation, Mr. Speaker, which will bring great benefits and much future enjoyment to the American public out of what was generally recognized throughout the country as a great disaster in the State of Washington during the time of the eruption of the volcano.

I urge my colleagues to vote in favor of its adoption.

Mr. Speaker, I yield such time as he may consume to the very distinguished gentleman from the State of Washington (Mr. Morrison), who played a key role in advising the House conferees on those matters of concern to the particular area which he represents so well.

Mr. MORRISON. Mr. Speaker, I thank the gentleman for yielding and for his leadership on this particular conference.

Mr. Speaker, I do support the conference report on the Mount St. Helens National Volcanic Monument and recommend it to the Members of this body for their support. It is a reasonable compromise. The legislated land exchanges are fair with the dollar for dollar values determined by the U.S. Forest Service.

I would like to read into the Record, Mr. Speaker, a statement to clarify the intent of Burlington Northern Timberlands Inc. as to acquired property under the exchange provision of this act.

First, Mr. Speaker, the logs offered for open bidding will be sold on a delivered basis and will be harvested and delivered by Burlington Northern Timberlands Inc. and its subcontractors. Point No. 2, no restrictions are contemplated as to large business or small business purchasers and their ultimate utilization of the logs.

Mr. Speaker, I would like to extend my thanks not only to the distinguished gentleman from California (Mr. Clausen) on this side of the aisle, but to my colleague, the gentleman from Washington (Mr. Foley), for his chairmanship of the conference and I think an excellent bit of team work on the part of the entire Washington State delegation because this mountain was significant to all of us in its damage and destruction to our State. Now, it is most significant to all of the United States and indeed to the world as it is available for scientific research, evaluation, and certainly for tourism.

My thanks also go to the House Committees on Agriculture and Interior and Insular Affairs and to the subcommittees which handled this matter very expeditiously and I think with tribute to the ability of this Congress to act when we have an opportunity as we have with this particular mountain.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MORRISON. I yield to the gentleman from Washington.

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Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to repay the compliment and tell the Members this is an issue on which the Washington State delegation on both sides of the aisle supported the House bill also support the conference report.

The gentleman from Washington (Mr. MORRISON) was a very key part of that unanimity as was the gentleman from Washington (Mr. PRITCHARD), to say nothing, of course, of the author of the bill, the gentleman from Washington (Mr. BONKER), and other Members.

I think it is a fine bill which reflects the consensus the gentleman spoke of.

Mr. MORRISON. I thank the gentleman for his statement.

Mr. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WEAVER), the chairman of the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture.

Mr. WEAVER. Mr. Speaker, I thank my distinguished colleague, the gentleman from Washington (Mr. FOLEY) who played such an important part in this bill.

This bill commemorates the greatest natural phenomenon of our time, the explosion of the volcano, Mount St. Helens. When it first occurred, I told my friends from the State of Washington that it was their issue to deal with as they felt best, because it was in their State, but I asked them, if they would not mind, to please keep the mountain within their State.

Recently, they have done that. So we have been able to get together and compromise our differences and passed this bill.

Mr. Speaker, I want to commend the fine work of the delegation from Washington. They worked together both in the Senate and in the House very well. They compromised their differences and brought forth what I consider to be an excellent, excellent monument to not only the legislative process but to science and recreation and enjoyment of the public for many years to come.

I also want to thank and commend all those fine people in the scientific community and the environmental community and in the timber industry who also worked so hard and dedicated themselves to bringing this accomplishment about, a bill to preserve the Mount St. Helens areas for science, for recreation, for observation, for this generation and many years to come.

Mr. FOLEY. Mr. Speaker, I would say, of course, in addition to being the reflection of agreement and support from both sides of the aisle in the State of Washington, we had excellent support from the minority in general and also between two committees with jurisdiction over this.

The distinguished gentleman from Oregon (Mr. WEAVER), the chairman of the Subcommittee on Forests, Family Farms, and Energy is a very key person in bringing this legislation to the floor.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BONKER), the author of this legislation and whose strong support for it has been a driving force for its passage.

Mr. BONKER. Mr. Speaker, I thank the gentleman and I would like to commend the chairman of the conference committee, the gentleman from Washington (Mr. FOLEY) and his fellow conferees for an excellent job in bringing this legislation and this conference report to the floor today.

It has already been said countless times this has been a model effort in bringing what appeared to be a very controversial issue at the outset through the process and developing a consensus which was so important to bring about a unanimous consent vote on the floor a few weeks ago on this important bill. The same process has been followed in the other body.

The conferees were able to sort out the differences and come to terms with some of the remaining differences in the legislation. We now have before us an excellent bill.

This legislation is really important for the timber owners who have public lands within the designated area; for if they are not allowed to engage in some kind of transaction—preferably exchanges—within the near future, they would be forced to commence salvage operations which would be detrimental preservation of this important area.

The bill is also important to the scientific and environmental communities, for they have long sought to preserve this area because of its unique geological features; and if we are going to make this a depository of scientific knowledge for years to come, it is very important we take action to preserve the Mount St. Helens volcanic monument.

It is also important for the local area, because the area has been devastated by the current recession and added to that, the economic dislocations which will necessarily occur because of the volcanic eruption of a few years ago, we need desperately to find some kind of economic diversification.

The projected economic growth that will come with increased tourism will greatly enhance the area's economic growth in the future.

For all these reasons, I think this is ideal legislation, and because of the efforts of the chairman of the conference committee, the chairman of the Agriculture Subcommittee, the gentleman from Oregon (Mr. WEAVER), and the gentleman from Ohio (Mr. SEIBERLING), not to mention my colleagues on the other side, the gentleman from California (Mr. CLAUSEN); my colleague, the gentleman from Washington (Mr. MORRISON), without whose cooperation and support this legislation would not be here today, I urge adoption of the conference report.

☐ 1700

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6530.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Tennessee. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 8, not voting 33, as follows:

[Roll No. 288]

YEAS—393

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Brown (CO)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crockett
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)

Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath

Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
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Hall, Sam
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LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—8

Ashbrook
Crane, Philip
Dreier
Edwards (OK)
Lungren
Marlenee
McDonald
Paul

NOT VOTING—33

Atkinson
Bafalis
Bonior
Breaux
Broomfield
Brown (OH)
Broyhill
Burton, John
Coleman
Conyers
D'Amours
Emery
Gilman
Ginn
Goldwater
Hall (OH)
Heftel
Holt
Ireland
Livingston
Marks
Moffett
Neal
Rahall
Rosenthal
Rousselot
Stanton
Whitten
Williams (MT)
Wylie
Yates
Yatron
Young (AK)

☐ 1710

Mrs. ASHBROOK, Mr. DREIER, and Mr. EDWARDS of Oklahoma changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) entitled "An Act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths, for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes."

THE PROPOSED TAX INCREASE—A DISCUSSION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I have taken this special order to allow Members to have a chance to talk some about the proposed tax increase, and to provide an opportunity for Members to look at some of the details in the bill.

It was interesting to note in the New York Times, for example, that the head of the ABA said that every good liberal should vote for this bill; it was the perfect liberal reform bill. I was frankly surprised, not that I found it unusual that a bill which had been endorsed by the Washington Post and the New York Times and the New Republic was described as a liberal bill, but because I know that there are many reform Democrats that will have a difficult time voting for a bill which has in it a section that describes grease payments, or illegal bribes. It is true, though, if you look at pages 164 and 165 of the Committee on Finance of the U.S. Senate. You will find a section of the bill which makes it tax deductible to bribe foreigners and take a tax deduction if you are a multinational corporation and find it useful to bribe foreign governments.

On page 165, I quote:

> There are two principal types of payments that are allowed as a deduction under the bill that are not deductible under present law. The first are facilitating or "grease" payments. These are payments made to government officials to facilitiate routine administrative actions that are non-discretionary on their part; thus, payments to a customs official to expedite goods through customs are allowed as a deductible payment under the bill.

I would suggest, Mr. Speaker, that very few Members, at a time of loophole closing and reform, as the President told us last night, would want to close loopholes on senior citizens who save by withholding interest on their savings and on their stocks, or would want to close the loophole in medical deductions, or would want to close the loophole by raising the long distance telephone bills, but would then want to turn and create a new loophole, a peculiarly unethical loophole.

Now, some of my colleagues will point out that in fact it is a matter of practical business in large parts of the world to provide a small stipend for customs agents and others to permit business to go on. Certainly, as a former history teacher, I am well aware of the degree to which, for example, in the Chinese Empire in the 19th century, providing a small amount of cash was the normal part of doing business.

It is one thing to say, yes, that may happen and we will not prosecute under American law businessmen who engage in local customs even though they may not be customs we would like in America. But it is a radically different thing for the U.S. Government in its Tax Code to say, "We will legally permit our multinational corporations to take a deduction for bribing your custom agents."

I would simply suggest that that Senate provision was never voted on in the Ways and Means Committee of the House, was never debated on the floor of the House, was never voted on by House Members. That provision in and of itself on ethical grounds, on grounds of America's standing in the world community, should entitle this bill to defeat.

I cannot imagine that the President in his speech last night, when he talked strongly about the need to close loopholes, could have known that he was opening a loophole by which multinational corporations could use brib-

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ery as a legitimate means of business and then take tax deductions at the expense of the American taxpayer. In effect, if you are an honest, law-abiding, taxpaying citizen who runs a small business, you will be paying slightly more in taxes to subsidize the multinational corporation who happens to be taking a deduction for grease.

Beyond that, the second major argument for the bill is that it is a good trade because of savings, but let me report on reconciliation savings from the omnibus reconciliation conference report:

> The fiscal year 1983-1985 reconciliation instructions for all committees total $27.2 billion, of which $11.2 billion, or 41 percent, was assigned to the four committees that produced the Omnibus Reconciliation Act. The conference agreement results in reconciliation savings of $11.0 billion, or 98 percent of the instructions.

That is positive. That is encouraging. The problem is, that is not the total story. The fact is, even under reconciliation the savings tend to be made in the areas in which, frankly, liberal Democrats would be most happy, and the difficulties tend to come in the areas, in which, frankly, the administration is least happy.

□ 1730

While we are gradually reconciling those specific savings mentioned in the act, which I would vote for, they are only a small start.

Consider $11 billion in savings in 3 years under reconciliation in the Omnibus Act, 98 percent of the instructions, worth voting for in itself, to be traded against what? To be traded against $228 billion in additional taxes over the next 5 years.

That is not a $3 saving for $1 of taxes trade. That is in fact quite the opposite. It is a $20 of tax for $1 of savings trade.

I would argue that in fact we are walking ourselves into a blind corridor by adopting a 5-year $228 billion tax increase and that is what the Senate Finance Committee report called it on pages 414 and 415.

We are locking the hands of conservatives who wish to shrink the size of government. We are guaranteeing that next year's negotiations will start from a higher plateau, and that in fact we will end up with more spending and with a government that has not reached the President's 24.5 percent of gross national product as he mentioned on television last night. Instead, if you project out at the current pattern, we will be at 23 to 23.5 percent of gross national product or a government which will be $100 billion to $150 billion bigger in 1985 than President Reagan asked for.

That is reality.

The reality is of the $280 billion in savings the President cited last night, only about $60 billion have any reference to the Congress. Most of those savings come from presumed interest rate savings as the interest rates go down.

That leads me to another point: interest rates. We have been told all year you have to do this or you have to do that in the Congress for interest rates to come down.

Now we have seen for the last 6 weeks that when Mr. Volcker wants interest rates to come down interest rates come down.

In fact, there is very little direct relationship between what we do in the Congress on fiscal policy and what happens on monetary policy.

I would argue that should we defeat this tax bill, should we not raise taxes, if interest rates were to go up, the place to look would not be the House of Representatives. It would be in Mr. Volcker's office and the memos for the Congress to subpena would be memos from Mr. Volcker, not memos from the Congress.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I will be delighted to yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. First of all I would like to commend the gentleman from Georgia for taking out this special order and bringing these very important points to the attention of the Members.

I think many of the Members are not as familiar with the legislation, particularly the first point the gentleman brought out in his remarks.

I am interested in the point about interest rates, though, and as long as the gentleman is referring to those points I would like to make some observations about what happened today in the marketplace because we saw a very substantial rally in the stock market today.

It is obvious to me that some analysts of what is going on economically and politically in the country are going to try and draw some conclusions about the timing of the President's speech last night and what happened in the marketplace today and, therefore, strengthen the case the gentleman is now in the process of rebutting about the link between this bill and a reduction in interest rates.

I think it is interesting to look at what happened in the bond market because the bond market is probably a better indicator of impact we are having on interest rates in this country than the stock market itself.

The bond market today, after the President's speech last night, opened absolutely unchanged. In other words, those people who were trading bonds in the market today were not moved one iota by the strength of the President's exhortations last night and were not moved to have a more favorable outlook in terms of interest rates because of any perception that there was an increased likelihood that the tax bill would indeed be passed.

However, within a matter of an hour after Mr. Henry Kaufman issued his new prediction about the future course of interest rates we saw the bond market raise the legal limit on most exchanges today.

I bring that out because I think it is important for Members as they look at again today's financial events to sort out what really happened from what we may be told actually happened.

The strength of the bond market and the strength of the stock market today is, as the gentleman points out, related to what is happening in the Federal Reserve Board and what has been happening in the interest rate market and is absolutely unrelated to the tax bill which is presently working its way through Congress and the President's exhortations on its behalf.

I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think we might want to talk a little about the spending ratio to the tax ratio as well. I think it is important that we talk about a study done by the Federal Reserve Bank of New York because the case being made for the tax bill here is somehow that we are going to match up spending to taxes and the spending comes out to a 3-to-1 margin ahead of the tax increases over a period of 3 years.

In fact, the Federal Reserve Bank of New York did a study and found that the ratio of 3 to 1 of spending cuts to taxes is totally fallacious and by their analysis the real ratio is much closer to a 1-to-1 ratio.

I think it is important to look at that also in terms of what we are talking about in the spending area.

A study by the chamber of commerce reveals that when you take a look at spending you will find that we are spending at rates in the new budget resolution at something similar to what was proposed by the Democratic majority in this House earlier this year.

If you put those two things together, what it says is we are raising taxes by the same amount we are cutting spending and we are continuing the spending at levels that are totally acceptable to the majority party in this body.

By saying that, we can make the case that the spenders are really in control of this body and probably of the Congress.

That is an important thing for the American people to understand because what it tells me is that of the

$228 billion of new revenues that will flow into the Federal Government over the next 5 years we already have plans to spend all of that money.

We are going to find ways to literally spend every dime of that here in Washington. This is not going to be used to bring down the deficit. This is not going to be used for financial strength across the total of the productive economy. It is going to be spent right here.

The studies which are now showing that the relationship between spending cuts and tax cuts is nowhere close to the 3-to-1 margin that is being claimed will also bear out then that what we are going to end up with is feeding the money machine.

The spending machine here in Washington is going to get extra food from this tax bill and that is the reason why there is so much enthusiastic support being built into the country in the liberal media among many liberal politicians. They realize that this is an extra pot of money out of which to spend in the years ahead that they would not otherwise have.

I think the American people who have said on occasion after occasion that they want this Congress to cut spending, they do not want this Congress to raise taxes, the new Gallop poll out shows that conclusively.

We need to reflect on the fact that we are feeding the spending machine, not curtailing it, with this particular tax bill.

Mr. WEBER of Minnesota. If the gentleman will yield, a colleague from Pennsylvania makes an important point. It is particularly important in relation to one of the first points the gentleman in the well brought up which is that this tax bill is being sold to the American people on the basis of fairness and as a loophole-closing bill when, as our colleague just pointed out, the obvious intent of the bill is to raise revenues to feed the Federal Government.

I think it is important for the people to consider that argument, that it would be possible indeed to close loopholes, to reform taxes, but if that was the intent of the writers of the legislation I would suggest that for every dollar of increased revenue that came from the closing of a loophole there would be another dollar of reduced taxes probably in an across-the-board manner.

So instead of simply feeding the Federal revenue machine we would be establishing some greater equity of payment of taxes but not at a higher level.

The fact that these revenues are not being used to offset excessive tax burdens elsewhere in the Tax Code indicates to me clearly that it is a revenue measure, as the gentleman suggests, not a tax reform measure.

Mr. GINGRICH. If I may reclaim my time, it seems to me one of the easiest tests of that would be to have someone offer a motion to recommit, to turn the bill into a genuine revenue balancer that had a tax cut aimed at the individual income rates for every dollar that was picked up by closing loopholes.

I would be interested to see what the administration's position would be if we gave them a chance to have a genuine reform bill that did not raise taxes.

I suspect that we would find a number of people running around talking about closing loopholes and reforming the system who would suddenly go "Oh, no, you can't do that because * * *" and I think both of you are exactly right. It is because they want the money.

Mr. WALKER. If the gentleman would yield further, a few moments ago I referred to the latest Gallop survey that has come out on the whole question of spending versus taxes.

☐ 1740

It was conducted on August 13 to 15, so it is a very, very recent poll. It certainly has been conducted since there has been all of the public discussion about the tax increase bill, and the public was specifically asked this question:

> Given a choice, which of the following do you favor: Raising taxes, reducing spending, both raising taxes and reducing spending, or doing neither and leaving the deficit as it is?

The public was very clear in what they had to say. "Raising taxes" got all of 4 percent of the public saying that they think that is the way we ought to go.

"Reducing spending" got virtually half, got 50 percent of the public saying that that is what they wanted to do.

Both "reducing spending" and "raising taxes" got 22 percent.

So if you put the two of them together, if you put the 50 percent with the 22 percent of the public who want to see spending reduced, you get 72 percent of the American people who are talking about spending cuts as one part of the formula that they think this Congress ought to be addressing. "Doing neither and leaving the deficit as it is" got 15 percent, with "don't know" at 9 percent.

But the conclusive opinion of the American people is that we need to cut spending, and that is specifically what we are unwilling to do in this body. It is specifically what Congress has shown itself unwilling to do. And to now come along with a major tax increase, in order to feed the spending machine that we have created and continue to fuel, is absolutely disastrous for the economy, in my opinion.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, I know that the gentleman has worked hard on this issue, and I compliment him for what he has done on it.

I would like to come back to the question of interest rates, because everything that we have done in the Congress this year seems to be directed to the question of: How do we get interest rates down?

I think that while the attention given to the deficit has been important—certainly it is an important part of the interest rate question—we have developed a slight case of myopia in that that is the only thing that we have considered.

In fact, there are other elements that have to be taken into account when we address the interest rate question. For instance, if we assume that there is a supply of credit available in this country, we should ask ourselves: Is that pool of available credit static, or can it grow? And if it grows, what makes it grow?

Well, obviously, the easy answer, the elementary answer, to the question is that savings make the pool of available credit grow.

And so the interest rate is affected not only by the demand on the credit pool, but on the supply to the credit pool.

If we can stimulate savings in this country, as we have since the tax cuts were passed last year and since the IRA accounts and other things of that nature have come into effect, then we enlarge the pool of available credit. And when you increase the supply of available credit, you relieve the tension on the credit market, just as much or perhaps more so than you do by reducing the demand that the Government has on the credit market.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. Mr. Speaker, I would like to interrupt the gentleman at that point, because I think that is a very interesting point.

I saw a very small article in the New York Times. It did not get a lot of attention, but it pointed out that so far the impact of the IRA legislation this Congress passed last year has been to add a net total of $14 billion to the credit markets of this country, to the credit pool that the gentleman has described. I thought that was an interesting number because it probably comes very close to being the same as the number of additional revenues that the administration hopes to generate in net terms, many of us would argue, after we went through this tax increase. Even accepting the grounds on which the administration is basing its case, we have probably seen an

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equivalent downward pressure on interest rates generated by the expansion of the credit pool through the IRA legislation that this Congress passed last year, without any of the negative downside that we can all identify accompanying the tax increase. This points out to me the correctness of the gentleman's position and the correctness of the position of this Congress last year in embarking on a course of tax rate reduction and incentive for savings and investment, in the first place.

Mr. BETHUNE. If the gentleman will yield further, in addition to increasing the size of the available credit or the credit pool in this country through stimulating savings, we also know that monetary policy, as the gentleman has already indicated, has a lot to do with the supply of available credit in this country.

Recently we have noticed that interest rates are coming down as the Fed seems to be loosening some on the supply of available credit in the country.

So there you are looking at the supply side, if you will, of the credit pool, and that affects the interest rates that will be charged to people, just as much as the factors on the demand side affect the interest rate equation.

Now, on the demand side we frequently spend a lot of time talking about the deficits. I like to refer to the discussions we have here as the raw deficit, the difference between spending and the revenues that we take in in the Government, and we look at that number and we say, "That is the deficit, and that is the preeminent factor in determining what the interest rates are going to be in the country," ignoring the savings rates, ignoring the monetary policy and what it can do to the pool of available credit.

But there is another factor that is really overlooked, and that is the array of credit assistance programs that this Government finances and supports and continues year after year. I call that Federal lending.

So in addition to sopping up credit from the credit market with the raw deficit, this Government also causes to be sopped up a vast amount of credit through loan guarantees, direct loans, and other types of credit assistance programs. An example or two would be the Chrysler bailout, the SBA loans, the Farmers Home loans, all of those loans which, when added up, believe it or not, now constitute outstanding obligations in the sum of $600 billion.

Federal lending programs, such as I have just described, student loans, the whole panoply, are now growing faster than spending. Let me say that again: Federal lending programs are growing faster than Federal spending programs.

So you have several factors, then, that affect the interest rate equation: The savings rate, the monetary policy, the demand on the credit pool caused by the raw deficit, and the demand on the credit pool which is excited and stimulated by these artificially designed credit programs of the Federal Government.

Now, those are the things that we must address if we are serious about getting interest rates down. So we need to increase the savings in the country, we need to rectify the monetary policy which is crimping and cramping the available credit in the country, we need to reduce the demand caused by the raw deficit—and you do that by holding down the spending programs in the country—and you need also to make sense out of those Federal credit assistance programs. And when we get all of that done, then we will have treated a very complex and sophisticated program and the problem.

Mr. WEBER of Minnesota. If the gentleman will yield further, I think the gentleman makes a good point. I would add one additional item, and that is the health of the private sector of the economy and how the health of the private sector of the economy relates to the private sector's borrowing needs.

One of the upward pressures on interest rates lately, of course, has been the tremendous amount of short-term borrowing that many firms in the private sector have been forced to undergo because of their weakened cash flow position. So when we consider legislation such as tax legislation, in addition to just considering in a very static manner how it might increase revenues to the Government, we have to take into account what it might do to the cash flow of some of those marginal firms who may be forced to go into the credit markets for short-term operating cash, because every dollar that they have to borrow to keep financing because they are not operating profitably is a dollar that comes out of that credit pool again.

So to the extent that the tax increase legislation that we are now considering adversely affects those firms, it will have an upward pressure on interest rates rather than a downward pressure.

□ 1750

Mr. BETHUNE. Mr. Speaker, if the gentleman would yield further, if we could come back to this particular tax bill and consider one aspect of this bill in connection with the discussion that we have just been having here about the credit market, one would have to ask, Why would one want to create a disincentive for savings at a time when we need to enlarge the pool of available credit in the country?

That is exactly what the new tax bill would do. The withholding on savings provision is simply going to take a certain amount of money out of the credit pool, which people are not putting in there, in their savings. It is going to take that money out of the credit pool. It is going to bring it around and give it to the Government to reduce the deficit which reduces the demand on the very same credit pool.

Of course, if one assumes the amount taken out of the pool—out of the supply of credit—is brought around and reduces the deficit by a like amount, then one would have a standoff; but that is not what would happen. When one takes the money out of the savings pool and starts on that circuitous route to reduce the deficit with it, first one has to siphon off 30-days float for the banks to compensate them for handling it. One loses that much out of the savings pool.

Next, one has to let the Government siphon off whatever part it is not going to use to reduce the deficit but instead use to fuel and spend on the existing spending programs; and then, one brings the balance around to reduce the drain on the credit market.

To me, it would be a net loss in the fight to reduce interest rates, not a gain. It seems to me we are going at the question of reducing interest rates backwards as we say down home.

I am very concerned that there are other similar disincentives that are being built in through this tax legislation which are going to affect the interest rate question. For all those people who say, " We must get down the deficit by raising taxes," I would remind them that the deficit is not the sole criteria in getting down the interest rates in this question. It is a much more complicated problem, but we will not get to it by raising taxes on the American people, especially when this economy is in a weakened condition.

What we need to do is control spending; we need to control those credit assistance programs; we need to rectify the monetary policy. Then we will have growth. When we have growth, and we have 1-percent reduction in the unemployment rate, we will reduce the deficit by $25 billion. That is much more than all these fellows with their green eye shades who are trying to calculate through the budget process some way to manage this country's economy.

The fact of the matter is the economy in this country drives the budget and the budget numbers; the budget does not drive the economy in the American free enterprise system.

I thank the gentleman for yielding. I hope we will be successful in our fight to defeat what I consider to be an idiotic tax bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. GINGRICH. I would be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I heard the gentleman a bit ago discuss the fact there are horrendous provisions in this bill including—I think the gentleman referred to—the grease payment section of the bill which I think shows conclusively that this is a tax deform bill rather than a tax reform bill, but I think also we need to point out there are several other sections that are just as onerous.

Has the gentleman mentioned, for example, the provision of the bill that requires everyone's tax accountant or tax attorney to spy on them on behalf of the Government?

Mr. GINGRICH. No. I had not had a chance to explain that. I am sure people would be interested in that.

Mr. WALKER. I think the American people ought to know we are asking them to pay a tax attorney or a tax accountant to become a Government spy for them because there is a provision in the bill that now says if one's tax attorney or tax accountant in figuring one's taxes takes a kind of frontier kind of attitude toward one's tax bill and trties something rather unique in terms of tax status—nothing illegal, we are not talking about illegal kinds of things here—but does something which is not established by precedent, they have got to put a check on the front of the tax form to tell the IRS that it should be audited; and they are under penalty of criminal law if they do not mark the tax form.

What we have here is a tremendous invasion of the right of privacy of people and a targeting of those people by the IRS using one's own tax attorney or tax accountant. It seems to me that that kind of provision is also a horrendous example of the fact that we are really deforming the way in which we go about handling tax matters in this country.

I think also the fact that the banks and the big financial institutions are going to be permitted a 30-day float of people's money in order to help them pay the costs of managing this new withholding system, but that float really means that we are going to give big financial institutions the free 30-day use of the money saved by some poor widow who is trying to survive herself.

I just do not understand that kind of logic that is within the bill other than the fact that we have had to address some special interests in order to get this special interest bill passed.

There are numerous other examples within the bill of these little things that are down in there that are going to prove to be horrendous problems for us for the future.

I think one of the basic problems with this bill is the fact that it creates a regulatory overload the likes of which we have not seen in recent years. This is an administration that can be rightfully proud of what it has done to cut down on some of the regulations of Government. Yet here we come along with a bill that many people think in the 300 pages of the bill is going to create massive new volumes of regulations for IRS to begin administering across the country. This bill becomes the antithesis of regulatory reform by creating a new regulatory overload that we will find ourselves buried under for some years to come.

I thank the gentleman for yielding.

Mr. GINGRICH. I thank my colleague.

I think all my colleagues have indicated clearly why this bill needs to be looked at carefully, and in our judgment needs to be defeated.

Let me carry this a step or two beyond. As was mentioned earlier, the Gallup poll came out and said by 66 to 21, the American people are opposed to this tax increase. That is, by about 3 to 1 the American people are opposed to raising taxes. When asked how to balance the budget, 50 percent of the American people said cut spending; only 4 percent said raise taxes; and 22 percent said do some of both.

But imagine, by 12 to 1, the country is biased in favor of cutting spending, not raising taxes.

So those Members who cheerfully vote for this bill can lean on the 4 percent, but they have to explain to the 50 percent why they did it.

Members have discovered today that in fact the country is not excited about this bill even after an eloquent and excellent presentation by President Reagan. The fact is the President's speech was not a success in political terms. The phone calls did not come in, in large numbers. In my own district, which I think was relatively typical of the country at large, yesterday there were 19 phone calls against the bill and 2 in favor. Today there were 18 phone calls against the bill and 23 in favor. That means in the 2 days we had 25 in favor and 37 against.

The shift, while it was significant for 1 day, was not large enough to even provide the normal sort of telephone response President Reagan has gotten in the past. As I talked to colleagues across the country—in Nebraska, in Pennsylvania, in Virginia, in California—I found again and again that the great tidal wave of public support that the President has gotten in the past was not there. I think there is a reason for that.

President Reagan is not so much a great communicator as he is a great articulator. He has articulated brilliantly the values of working Americans, saving Americans, the decent hard-working people who made and make this country great. Because they responded warmly to his articulation of their beliefs, they worked with him on every major issue. Up until now he has been able to go on television and say, "This is where we stand together, please call your Congressman."

He has had an echo effect of people who said, "that's right, that is where we stand." Last night, for the first time in his Presidency, the President went to the country on an issue which, as Gallup said, the country is 3 to 1 opposed to his position. He did not have an echo effect. He had confusion. Most Americans like President Reagan, as I like him. Most Americans want to help him, as I want to help him.

Yet down deep, we are committed as a people to cutting spending, not to raising taxes We have crossed the great watershed by which we would once debate the liberal welfare state. We are now committed to a new era of less government and any tactic which raises taxes more than it cuts spending frankly confuses us.

Some people have said this bill will not hurt anyone. If you never use long distance telephones and do not have any medical expenses and do not fly in an airplane and have no savings and own no stock and you are not a small businessman or businesswoman with a pension and the list could go on and on and on. Obviously a 5 year, $228 billion tax increase, as the Senate Finance Committee report called it, is going to hurt many, many Americans.

Why? The provision that cuts out your tax deduction for your health insurance by itself will hurt 18 million working families. Clearly this bill has many provisions which will hurt many people. Members should recognize that while temporarily some people are buoyed up by a speech and may call in or write in, that every single group affected by this bill will remember it.

□ 1800

One Member told me today of a waitress in his district who had called in and said, "Is my Congressman against the bill?"

When told yes, she said, "Please send me some bumper stickers."

Now, she understood the legitimate, reasonable contract between a voter and her Congressman, the whole purpose of representative government.

She also understood that a bill which had preserved the three-martini lunch for tax lobbyists in Washington by going after waiters and waitresses could hardly be called a fair bill. In fact, in the case of waiters and waitresses, in the case of people who have savings, this bill now creates the precedence that the Government will presume you are guilty and require you to

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prove your innocence in order to gain back your own money; but there is a deeper problem with this bill, as several gentlemen have said. The real difficulty with the deficit is two things: Too much spending and the state of the economy.

We have made a serious effort of bringing spending under control. But we have not really cut it yet. We have cut the rate of increase, but we have not yet really confronted the reality that if we simply had full employment, we would have no deficit. If we had 5 percent unemployment right now, rather than 9.8, we would have a balanced budget this year even with this spending. That is why this fight is so important.

Never in American history have we had an effort to raise taxes on this scale, except by Herbert Hoover in 1931 and 1932. Only then was there an effort made and it threatened to break the backs of American business and the American economy.

Rising taxes in the middle of a recession will increase unemployment, lengthen the recession and make things worse. It will not put people back to work.

It would be a sad thing, indeed, to tack on 10 weeks of unemployment on a bill that provides 5 years of additional taxes. Think of that. For every 2 weeks of unemployment benefits, you get an additional year of taxes. That is a 26-to-1 trade.

Surely, no one in any State in America would want to trade 4 cents for a dollar; yet that is the trade those people who are worried about unemployment are being asked to take.

What we need to do is get the economy moving again, to put people back to work. If we need an additional time period for unemployment compensation, and I believe there are States clearly that are so severely unemployed that areas in them are depressed, not in a recession; then we should have an unemployment bill by itself to provide real help. But it is a travesty to provide unemployment help in a bill which will increase unemployment. That is not the kind of help the American people need.

Beyond the matter of public policy, beyond the matter of public opinion, this fight over this tax bill is critical because it is a direct test of the prerogatives and powers of the House.

In the first place, this tax bill may well be unconstitutional. It clearly did not originate in the House. It clearly violates the provisions that all revenue raising measures shall originate in the House.

In addition to that, though, the process by which this bill has been debated has been so totally derelict of House participation that no House Member—with the exception of the handful in the Ways and Means Committee on the Democratic side who served on the conference committee—should feel constrained to vote for the bill.

Remember the sequence: Written in the Senate, sent over to the House, looked at briefly by the committee and then quickly, with little notice, with a motion to debate tabled, with almost no time to talk, the House was rushed to go to conference on a bill we had never looked at, that we did not understand and we could not possibly have approved in detail.

The conference committee met. The conservative members of the conference committee from the House were defeated again and again in their efforts to change the bill. The liberal Members of the House and the conference committee were successful again and again in their efforts to change the bill.

Now it comes back to us, still being printed, still not here, with no Member outside that handful having looked at it, containing a variety of provisions that are as odious as having your tax accountant or your tax lawyer report to the IRS about you; provisions such as requiring that you sign the equivalent of a pauper's oath in order to avoid withholding if you are a senior citizen; requirements such as allowing a tax deduction for multinational corporations to bribe other governments; all those provisions and more are waiting for us in this massive bill.

Still, we will not have hearings; still, the average Member will not have a chance to look at it. The fact is that the debate will be too short and clearly inadequate.

The very prerogatives of the House require that every Member consider voting against this bill simply to send a message to the executive branch that the House is a coequal body, that constitutionally we do have a status of equality with the Presidency, and that it is not possible to make a deal with a handful of Members in the other body and a handful of Members in this body and then ram it through by persuasion and effort and sheer pressure.

For a year and a half I worked very, very hard with President Reagan. I consider myself part of his team. I hope next week to again be part of that team.

We won great victories together, some of them breathtakingly close, some of them at the last minute. On this bill, I think there shall be no victory for either side.

It is a very sad thing to fight with your own team, to fight with your own leader, and yet if we were playing a football game and the halfback grabbed the ball and was stunned and began to run the wrong way, it would be the obligation of every member of his team to try to tackle him before he scored a touchdown for the other side.

The fact is, on this particular bill, the President is trying to score a touchdown for liberalism, for the liberal welfare state, for big government, for the Internal Revenue Service, for multinational corporations, and for the various forces that consistently voted against this President.

I think it is essential that we tackle him in his own best interests and the Nation's best interests, so that we stop, we look at this bill carefully, so that we go back to cutting spending; that in the end we pass, as the House promised to in the budget, a one year, $21 billion tax increase, that that is the best, the wisest course, and that is the course I hope we take.

CATASTROPHIC HEALTH EXPENSE AND COST CONSTRAINT ACT OF 1982 (CHECC), H.R. 7000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. Martin) is recognized for 30 minutes.

● Mr. MARTIN of North Carolina. Mr. Speaker, I am pleased to join today with House Budget Committee Chairman Jim Jones in introducing H.R.7000, the Catastrophic Health Expense and Cost Constraint Act of 1982 (CHECC). The goals of this legislation are twofold: First, to aid those citizens who are truly without the resources to protect themselves from catastrophic medical expenses; and second, to introduce new cost constraints on the part of hospitals, physicians, and consumers when using our health-care system.

As Members of Congress, we are right now in the painful process of determining specific ways to reduce the mammoth Federal deficit this Nation has accumulated. We know from national opinion polls that a majority of Americans fear that the elderly and poor will suffer inordinately under these budget cuts. Our legislation is designed to deal with these fears by making the present health-care system more equitable for all our citizens.

A recently released study conducted by the Department of Health and Human Services (DHHS) found that there were in 1978 some 34 million citizens unprotected against catastrophic medical expenses. This represents roughly 18 million people who are uninsured throughout the year and an additional 16 million who are uninsured part of the time. While the remaining population—roughly 84 percent of the Nation—does have insurance year round, the fact remains that these 34 million Americans are forced to live with the fear that they can be financially ruined if a major illness strikes their family.

Mr. Speaker, we know that Congress is not likely to spend new funds to provide these families this needed protection while faced with such mammoth

Federal deficit projections. At the same time, we know a major factor contributing to this Federal deficit is the runaway inflation in the health care sector itself. We are all aware of the fact that health care costs are running twice the rate of inflation found in the rest of the economy. In 1981, we spent $59 billion alone on medicare and medicaid; in just 6 years these same two programs will cost us $133 billion. Medicare and medicaid reimbursements to hospitals more than doubled between 1976 and 1981, and, if current policies do not change, these reimbursements will double again by 1986.

Mr. Speaker, it is with this situation in mind that we are introducing legislation designed to address both the problem of constraining health care costs and of improving insurance protection for those who are otherwise caught in the gaps.

For some time now, there has been widespread agreement em has given hospitals and doctors little incentive to save—in fact, when they do reduce their expenditures, they get less money from the Federal Government. It is widely acknowledged that this system is inflationary and has to be replaced; nevertheless, there is little agreement as to the specifics of setting up a prospectively paid system. As the General Accounting Office (GAO) has pointed out, prospective payment is more a concept than a system; a particular set of rules to pay providers could be designed to gain almost any level of program savings desired. Yet, we must begin to encourage prospective payment under medicare. Right now the 29 million benficiaries in the program account for a whopping one-third of the $80 billion spent in community hospitals—1980 figures.

A variety of prospective payment systems are underway in States today—systems that include budget review, formula, and negotiation. The Department of Health and Human Services is currently reevaluating the experiments it has been conducting, whereby medicare has been allowed to participate in prospective payment systems. The Congressional Budget Office (CBO) and others are in the process now of evaluating these diverse efforts.

The latest findings of CBO demonstrate that these State cost constraint efforts are successful. That office cites experience from 1976 to 1980 when community hospital expenditures per capita in the six States with mature prospective payment systems increased at an annual rate of 10 percent per year, compared with a 14 percent rate for the rest of the country. CBO further concludes that prospective payment generally does offer the possibility of long-term budget savings. It also points out that State prospective payment systems, unlike section 223 limits which are now being used to tighten payments for routine hospital costs, will change the incentives for all hospitals, not just those exceeding specified limits. These State systems reward hospitals for reducing costs even further—below the arbitrary limits, thereby offering greater potential long-term savings.

Mr. Speaker, H.R. 7000 does not limit cost constraint efforts to the medicare program only. In the private sector, where 57 percent of our Nation's health-care spending takes place, there also must be changes to make our system more equitable. Right now, we are spending over $25 billion in lost Federal revenues to subsidize the purchasing of private health insurance. Yet this subsidy is both inequitable and regressive. At Ways and Means hearings this year we heard testimony from the Department of Health and Human Services researcher Gail Wilensky, who conducted the 1977 national health-care expenditures study. Her data shows that of the $42 billion in Government outlays spent in 1977 on health care, including lost tax revenues, one-third of these funds went to the poor, while 50 percent went to middle- and high-income people. She pointed out that any attempts to curb Government spending in health must examine tax expenditures as well as the medicare and medicaid programs, since this tax component is significant in determining the distributional effects of total Government expenditures. Her data shows that tax expenditures have been growing at a faster rate than both medicare and medicaid. In just the period 1977-81, the cost to the Government of excluding employer-paid health insurance premiums from taxable income jumped from $8 billion to nearly $20 billion. By 1987, this subsidy will cost the Nation over $45 billion.

Unlike other exclusions from income in the Internal Revenue Code, this health insurance exclusion is unconditional and unlimited. The result has been tremendous growth in what insurance now covers—so much so that insurance policies are covering even the most routine and predictable services, despite the fact that it is oftentimes more economical for the individual to pay for these routine expenses directly. Just as it does not make any sense to insure a car for a routinely needed lube job, likewise, we can save money by purchasing some routine health-care services directly, rather than paying for the additional costs associated with insurance.

Not only has the unlimited nature of this subsidy resulted in an excessive amount of aid going to those purchasing comprehensive policies, but also this subsidy is distributed inequitably. Recent findings by CBO show that 48 percent of all households receive no benefit whatsoever from this provision in the Internal Revenue Code; moreover, those who do benefit tend to be in the upper income levels. For example, under current law the average tax benefit for those in the $10,000 to $15,000 range of income is $83; yet for those in the $50,000 to $100,000 range, the average benefit is $633.

For these reasons, in our bill we place a ceiling on the amount of employer contributions that can be excluded from an employee's income for tax purposes. While this ceiling does not probibit employers from making larger contributions to purchase workers' coverage, it would mean the excess contributions would be treated as wages and therefore taxable to the employee. To make this subsidy more equitable, we redistribute some of these benefits to those who now are getting no Federal aid whatsoever—the 34 million citizens who are without public or private insurance.

Who are these unprotected Americans? We are talking about the working poor and other medically indigent individuals left out of medicaid due to varying eligibility criteria from State to State, the temporarily unemployed, and others who are uninsurable due to specific medical conditions or otherwise unable to obtain private insurance. For these citizens, we provide new incentives—and new financial assistance so that those who are able will purchase private insurance. Finally, those who still remain and are without the means to get private coverage, we provide a last resort fallback program for which eligibility is tied to both income level and amount of medical expenses.

Before discussing this Federal fallback program for the most vulnerable, let me describe the provisions of the bill which are designed to improve insurance protection for those who currently buy private insurance. Our goal, Mr. Speaker, is to improve both the availability of affordable private insurance—for those who previously have been unable to get insurance because of cost—and to guarantee that these policies in fact do cover certain minimum levels of care, particularly expensive illnesses.

Under our bill, employers would be encouraged, but not required, to offer a health plan to their workers which provides a certain minimum level of care. This plan would have to cover all medical expenses that exceed $3,500 in out-of-pocket expenses. Thus, in order for workers to continue to claim their health insurance premiums as an exclusion from taxable income, the employer sponsored policy would have to meet this stipulation. Several other minimum provisions are also contained in our bill, including one which states that there can be no exclusion for preexisting conditions and one that requires the employer to pay 50

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percent of the least expensive plan offered. This will assure workers, particularly low-wage earners, that the plan offered will be an affordable one. An employer does not have to offer this qualified plan in order to continue to deduct his contribution as a business expense; however, if the plan offered does not meet these minimum provisions, then the employer's contributions will be fully taxable to the employee.

Mr. Speaker, one of our main goals in this legislation is to give an affordable health insurance option to more people. Right now only 18 percent of people in work-related groups are given more than one option; nevertheless studies indicate workers would like more choice. A recent DHHS study shows that low-option plans are relatively popular when they are available. In fact, this massive study, involving 14,000 households, determined in the most surprising finding of the study, that of those offered the option of both more and less expensive options, almost as many employees choose the least expensive option offered. The report concluded:

> This apparent demand for low option plans that is widespread in our analysis, suggest that the market may indeed respond to these policies which are designed to install it as the regulator of health care costs.

Our bill also includes provisions to further equalize the current tax subsidy that is given those employees buying health insurance at work as compared to those individuals who must purchase health insurance without the benefit of an employer contribution, group rates, or the ability to exclude these contributions from taxable income. In our bill, those who purchase individual, nongroup plans can deduct up to $500 for 100 percent of the cost of the premium, instead of the current $150 limit allowed for 50 percent of the premium cost.

Despite these new financial incentives to encourage reliance on our private insurance network, we recognize that some families, the very poor for instance, will still be unable to afford private insurance. For these most vulnerable citizens, we will provide a fallback program called the catastrophic automatic protection plan (CAPP) to provide a financial cushion against large medical expenses—expenses that are not reimbursable under any private or public insurance program. This assistance will be based on a family's income, so that taxpayers will not be paying for care for those who really do not need Federal aid. Those qualifying for the program CAPP will receive aid once they have spent a reasonable percent of their income on out-of-pocket medical expenses. Thus, families will be expected to budget and to handle medical bills as they do other living expenses. Yet, once a family has incurred expenses beyond this reasonable amount, the Federal program CAPP will step in and provide assistance. We believe no family should be wiped out of their life's savings before getting any help from the Government.

CAPP will be administered essentially as medicare is today; we use the same forms, administration, and procedures to provide essentially the same benefits as medicare plus several additional services, once a family qualifies for CAPP. One of the advantages of providing care in this way; that is, having the Federal Government assist only that small percentage of families that actually do end up with catastrophic expenses not covered elsewhere, is that the Federal Government does not have to pay for every family to purchase a policy. Since many of these people are in and out of public programs such as medicaid and are frequently on the move, we found that it costs the Government less to have this fallback program built around medicare than to try to track down and enroll these families in private plans via Government-funded premiums. Another advantage of having CAPP in place is that for the first time the elderly and disabled on medicare will have true catastrophic coverage. Medicare presently has limits on the number of hospital days it provides its beneficiaries, leaving many beneficiaries vulnerable.

Mr. Speaker, right now these uncovered individuals constitute the charity cases at many of our Nation's hospitals. Public hospitals particularly are suffering enormous financial burdens. In 1980, over $597 million in nonmedicaid charity care was provided at the Nation's 15 largest hospitals alone. As medicare and medicaid cuts force hospitals to shift their unreimbursed costs to private patients, the costs of a hospital stay to private patients continues to climb astronomically. This cost shifting is unfair to private patients and is making the costs of a hospital stay prohibitably expensive. It is imperative that we subsidize these charity cases more directly and more equitably by spreading the burden among all taxpayers.

Mr. Speaker, opponents of catastrophic care coverage claim that by encouraging cost sharing in private insurance and in the Federal fallback program, CAPP, we will cause families to delay needed treatment when they do get sick, thereby ultimately costing the system more in the long run. Yet, this assertion is not true. Preliminary results of a massive 10-year study sponsored by the DHHS—a study involving over 7,000 people—indicate cost sharing does not increase expenditures over time, provided the cost sharing is income related. Moreover, families that had 25 percent cost sharing up to a specified maximum limit spent 19 percent less on services than those with comprehensive coverage.

Mr. Speaker, we do not claim that this legislation answers all the problems of the health-care system. We do believe, however, that it is an important step, a realistic and feasible step toward reform. We have got to address health care inflation in a comprehensive manner, from the standpoint of both the public programs we are funding and also the tax subsidies we are providing in the private sector. We believe this system of aid can be made more equitable with only modest changes to the system. The legislation as a whole has been structured so that the savings generated by the bill will provide the necessary funds to care for our most vulnerable citizens—with minimal Government involvement and with no additional costs to the Federal budget.

Most of the perennial interest in National Comprehensive Health Insurance cites the misfortune of people whose income, assets, and community standing are consumed and destroyed by heavy medical expenses for which they were underinsured, uninsured, or uninsurable. Our legislation is designed to relieve that burden, in a way that we can afford, and do so without drastic changes for those citizens who now are protected.●

● Mr. JONES of Oklahoma. Mr. Speaker, we have 34 million people without adequate protection against catastrophic medical expenses who risk financial ruin now. As the clock keeps ticking on the time bomb known as rising health care costs, more and more people are threatened by the staggering costs. Both from a humane standpoint and a fiscal standpoint, we must do something soon. Because of my great concern in both of these areas, I have joined with my colleague from the other side of the aisle, Mr. MARTIN, in introducing H.R. 7000, the Catastrophic Health Expense and Cost Constraint Act of 1982.

First and foremost, I strongly believe that we must in some way assure coverage for catastrophic medical expenses. In 1981, the National Center for Health Services Research published the results of a survey stating that about 34 million Americans, nearly one-sixth of the population, lack full time year-round health insurance coverage. Blacks, Hispanics, poor people, young adults, farmers, and residents of the West and South had the worst coverage rates.

We must insure catastrophic protection for two reasons. First, those people without coverage nonetheless become ill or injured and need medical care. This group of people is categorically ineligible for medicare or medicaid, cannot afford to purchase private insurance, or is uninsurable due to their medical condition. For them, an illness can destroy both their health and their life savings. This situation arises when there is a serious illness that is expensive to treat, or where there is a prolonged illness that is costly over time. But for the poor or the near-poor, this can occur just when a brief stay in the hospital is necessary. They simply cannot afford it. The lack of public or private insurance means that some individuals are denied treatment. The recent example of John Lacy poignantly reminds us that some people are turned away from hospital after hospital in State after State, until finally they die. More frequently, however, these individuals are treated by hospitals at advanced stages of illness in emergency room situations. Such treatment is costly and often does not represent the appropriate intervention point. In these charity cases, they inevitably become a bad debt.

This brings me to my second reason for supporting a catastrophic program. Charity cases and bad debts are a hidden cost in the health care delivery system. Providers are forced to game the system somewhat because they know that they must stay in the black. These hidden costs mean higher rates for the third party payors, including medicare and medicaid.

I believe that the American people want a society that cares for people in these dire situations. As I noted earlier, we do that for the most part now, but not in a straightforward manner. I would prefer to see us directly fund a catastrophic program that is the payor of last resort, and would pick up those individuals who fall through the gaps of the other public programs and who are not able to get private insurance. For this reason, our bill establishes a fallback government program known as the catastrophic automatic protection plan (CAPP).

I also want to see strong incentives for people to obtain private insurance that is catastrophic in nature. The bill contains several provisions that will promote this concept.

The private sector and public sector initiatives contained in this proposal would eliminate the single greatest fear that people have regarding health care costs. Everyone would know that their life savings would not be wiped out and that they would not be reduced to bankruptcy by medical bills. Passage of this legislation would eliminate one of the major gaps in health insurance in this country today.

The other major thrust of the bill is included to begin addressing the continual upward spiral in health care costs. The legislation encourages a shift to prospective payments under medicare, replacing the current retrospective accounting system. When the Federal Government is willing to pay for whatever services are rendered and only sees the bill after-the-fact, medicare costs will continue to go up at astronomical rates and threaten the stability of the health insurance trust fund.

The Federal Government must set a good example with the way we pay for medical care. Right now, the retrospective accounting system is inherently inflationary and fuels the increased costs throughout the entire health system. We can reverse this trend by giving providers the financial incentive to provide care at the appropriate level for the lowest cost.

CHECC would allow a State or legal entity to apply to the Secretary of Health and Human Services for a waiver from the medicare reimbursement rules so long as their proposal establishes a prospective payment system and does not cost the Federal Government any more than it would have under the current system. Certain safeguards are included to assure that these plans treat individual patients, and those who pay for hospital care, in an equitable fashion.

Mr. Speaker, Mr. MARTIN and I do not offer this bill as the answer to all the health problems that face this country, nor as the ultimate solution to our current dilemma. We believe, however, that we must begin looking ahead for solutions to the situation before it is too late. Unless we want to see health care heavily regulated and rationed in this country, we recognize that something must be done, and offer our bill as a responsible beginning point.

With your permission, I would like to include a brief summary of the bill for the RECORD which will highlight the major provisions of the bill:

CATASTROPHIC HEALTH EXPENSE AND COST CONSTRAINT ACT—CHECC

The Catastrophic Health Expense and Cost Constraint Act (CHECC) is being introduced because of the prime sponsors' concerns with two important health issues: First, the lack of coverage for catastrophic medical expenses for all individuals in this country; and second, the effect of continued high health care costs on all Americans, whether they are covered by private insurance, Medicare, Medicaid, or have no insurance.

The first section of the bill addresses the major gap in health insurance; that is coverage for catastrophic medical expenses. This goal would primarily be accomplished through the private sector by way of incentives—not mandatory requirements—to improve private insurance protection. In addition, a fall-back government program would care for those who incurred catastrophic expenses and were uncovered by a private plan. This government plan, the Catastrophic Automatic Protection Plan (CAPP), will provide coverage for the individual citizens who are now most vulnerable: the very poor who are categorically ineligible for Medicaid or Medicare, the near poor who cannot afford private insurance, and the uninsurables. Eligibility for CAPP is tied to both the level of income and the amount of medical expenses. CAPP would cover the very group that constitutes the charity cases in our hospitals today. Presently, particularly the urban hospitals are carrying an excessive number of such cases, and as a result, are suffering great financial hardships; CAPP will provide relief from this burden. In addition, the costs of these bad debts from the charity cases would not be shifted to the bills of other paying patients, that is, those with private insurance, Medicare, or Medicaid.

The sponsors of the bill are well aware that this particular budgetary climate poses great problems for creating new programs, regardless of how modest, reasonable, and necessary the program might be. In looking at a way to finance this program for those in the insurance gaps, consideration was given to current federal expenditures for health care. Primarily, the federal government subsidizes health programs through Medicare, Medicaid, and tax expenditures for health care. Both Medicaid and Medicare have been cut under the budget reconciliation process and there is no indication that these programs will be expanded to take care of catastrophic expenses for those currently unprotected.

The second section of the bill is recommended after taking a long, hard look at the other major area of federal expenditures for health care: tax expenditures. In examining the tax expenditures for health care and the substantial subsidy that is afforded to some individuals through the Internal Revenue Code, a basic equity question arises. Can we afford to leave the subsidy for health insurance premiums open ended at the same time that we deny any direct or indirect subsidies to 35–40 million individuals? A recent report by the Congressional Budget Office points out that the tax benefits from this provision in the code, are unevenly distributed and that this is a regressive subsidy.[1] The average tax benefit under current law for all households with incomes between $10,000–$15,000 per year is $83, while the benefit for households with annual incomes between $50,000–$100,000 is $622. On the basis of fairness and equity, CHECC places a cap on this tax expenditure and redistributes the subsidy to those who qualify for CAPP. All tax changes in the bill are specifically designed to make available this last resort catastrophic program to those in the gaps and at the same time to encourage more complete catastrophic coverage in the private sector.

The final section of the bill was added to address the sponsors' pervasive concern with the long-term costs of CAPP, Medicare, Medicaid and health care costs in general. This section of the bill would allow a state or local entity to petition the Secretary of Health and Human Services for a Medicare waiver because of the establishment of a perspective reimbursement system. The petitioners would have to assure the Secretary that their perspective plan will not cost the federal government any more than the cost-based reimbursement system would have, had it been in place. The state and local people can decide how inclusive they would like their prospective system to be, that is, which payors will be covered. Realistically, this is the only way that a prospective system can be put in place, since each locality has a unique set of circumstances regarding what costs need to be constrained.

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[1] Containing Medical Care Costs Through Market Forces, May, 1982, Congressional Budget Office.

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CATASTROPHIC HEALTH INSURANCE

Details of the bill:

Catastrophic Health Insurance (CHI) is a gurantee that direct costs to individuals for their medical expenses will be limited to a modest amount in relation to family resources. For the purposes of this bill, the term "catastrophic" applies to the financial consequences of an illness at various income levels, rather than to the medical diagnosis and its consequences on the individual's health status.

There are existing private and public programs which approximate this essential criterion, while differing substantially in other dimensions. Within the private sector, contracts vary in the type of services covered, the amount of cost sharing and the choice of providers. A major example of private catastrophic coverage is a "stop loss" provision in an insurance contract limiting the annual family cost share to a fixed amount, such as $2,000. However, such a policy may also have a $100,000 maximum benefit and may not cover long-term nursing care. People enrolled in Health Maintenance Organizations (HMOs) generally have comprehensive financial protection for acute care, but their choices of providers and services are restricted. In the public sector, government programs provide CHI coverage to selected populations. There is variation in deductible and copayment sizes and covered services. In the Medicaid program, beneficiaries must meet categorical eligibility criteria involving family structure, disabilities, income and asset levels to qualify. These criteria differ among the states, but often include some "spend down" option so that categorically eligible persons of higher income can use the program after incurring large medical bills.[2] Medicaid generally provides catastrophic coverage for those individuals who are eligible and those services which are allowed. The federal Medicare program is the most significant third party payor of health expenses; however, it does not provide a "stop loss."

Since some people are obviously covered by these public and private insurance programs for their medical expenses, who are the uncovered individuals? In a Profile of Health Care Coverage: The Haves and Have-Nots (March, 1979, Congressional Budget Office Background Paper), this group is identified:

INCOME

People with family incomes below $10,000 are almost twice as likely to lack health care coverage as are people with incomes between $10,000 and $15,000. Compared with those in the $15,000-and-over income group, they are three times more likely to lack coverage by a private or public plan. These lower-income persons make up 55 percent of the uninsured population.

EMPLOYMENT STATUS

Because much health insurance is provided through employers, lack of coverage is to a large extent a function of whether one is employed or unemployed. It also depends upon other factors such as the industry in which one is employed, how long one has been in a particular job, or how long one has been unemployed.

More than one-third of the uncovered are employed. Although there are many more uncovered full-time wage earners than uncovered part-time wage earners or self-employed persons, full-time workers are much less likely to lack coverage than either of the other groups. Only 6.5 percent of full-time wage earners are without coverage, compared with 12 percent of part-time wage earners and 15 percent of the self-employed. Insurance coverage among part-time workers is low because most employers do not provide health insurance or other fringe benefits to part-time workers. Among the self-employed, insurance coverage is lower because, unless they can obtain group coverage through membership in an association, the self-employed must buy individual coverage that is more expensive.

The employed uncovered are principally in the agriculture and forestry, personal services, construction, and retail trade industries. The lower rate of coverage in these industries reflects several factors, such as the intermittent or seasonal nature of employment, the relatively higher proportion of part-time and self-employed workers in these industries, and the relatively lower wages of the workers, which means fewer resources to be devoted to health insurance.

Twenty-seven percent of the unemployed are without health coverage, compared with eight percent of the employed. This relatively low rate of 27 percent is explained by two factors: (1) some unemployed are covered under policies of other family members; and (2) some unemployed are out of work for only short periods and have coverage that is extended during layoffs.

FAMILY STATUS

While more than half of the uncovered persons are not in the labor force, 90 percent of this group are dependents in families. Often, the family members lack coverage although the family head has coverage. The family head may not have been offered, or may have waived, an opportunity to insure the dependents.

The second large group of uncovered persons are employed: they make up one-third of the uncovered. In four out of five cases when an employed family head lacks coverage, the family is without coverage as well. Therefore, lack of insurance coverage among this group has ramifications for a much larger group of people.

Although the unemployed have been a legitimate focus of concern in the past discussions of national health insurance, it appears from the CBO data that lack of health insurance among the employed has even greater ramifications: not only are they a larger proportion of the uncovered, but more of them are family heads. Only 15 percent of the uncovered unemployed are family heads, compared with 32 percent of uncovered full-time wage earners. Moreover, the uncovered employed have eight times as many uncovered dependents as do the uncovered unemployed.

This information from CBO provides the sponsors with the basis for encouraging more catastrophic coverage in the private sector through incentives, and a strong justification for providing some form of public assistance for those individuals in the gaps, primarily the lower-income. The specific details of the provisions of the bill for the private and public sectors follows.

THE CATASTROPHIC PLAN

PRIVATE SECTOR

Employer-paid premiums

Employers will be encouraged, but not required, to offer a health plan that meets the following conditions:

1. Catastrophic coverage: A plan, perhaps the only plan offered by a company, would cover all catastrophic medical expenses that exceed $3,500 in out-of-pocket expenses. One plan must be offered at this level of coverage in order for the company's employees to claim their health insurance premiums as a tax exclusion.

2. Such a plan will be made available to all full-time employees, that is, those who work 30 hours a week for at least 13 weeks.

3. The employer agrees to pay 50 percent of the least expensive premium.

4. Conversion privileges will be offered when there is a change in the policyholder's life situation, that is, death, retirement, divorce.

5. Any contribution by an employer to an employee's plan that exceeds $100/month/family would be treated as taxable wages. The employee would pay taxes on the additional amount, and the employer would pay FICA and FUTA taxes. The employer's contribution in excess of the tax cap would continue to be a business deduction, as it would be if the compensation came directly in the form of wages.

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These conditions are presented as incentives to the employer to offer, at the very least, a catastrophic health insurance plan which all full-time employees can afford. Currently, some employers offer a health insurance plan only to their top executives, and make no such offer to the low-wage earner in the company. If this practice were to continue, under CHECC, those contributions will be fully taxable to the employee. In other words, the bill has strong incentives for an employer to offer some plan to every employee and extend them the benefit of group rates.

The provision that the employer pay for 50 percent of the least expensive premium assures that the same low-wage earner will not have to bear the full cost of the premium on his own. This corresponds to an inducement not to rely on the public plan whereby a stiff penalty is imposed under CAPP for those who have been offered a private plan at work, but refused it. Without this provision, some low-wage earners would have to pay the full cost of their private plan premiums or be subjected to penalties under CAPP. Because the sponsors want people to purchase private insurance and not utilize CAPP unless absolutely necessary, this protection is needed to assure the low-wage earner that an adequate, affordable plan can be purchased.

Similarly, conversion privileges are suggested so that individuals do not go uncovered for their medical expenses during transition times in their lives. If uncovered, they are potentially candidates for CAPP. CAPP will be there for them, if necessary, but preferably they will have private insurance.

As explained earlier, the placement of a limitation on the tax benefit is justified on an equity basis. Because of limited federal resources, this subsidy is restricted and redistributed to those Americans who currently have no form of public or private insurance for their catastrophic medical expenses. This change would in no way prohibit a larger contribution to an individual's health premium by the employer, but would affect the tax treatment of any amount in excess of the tax cap.

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[2] "On the Surprising Low Cost of State Catastrophic Health Insurance Programs," Working Paper No. 64, May, 1982. By Bernard Friedman, Caroline Ross, Glen Misek of the Center for Health Services and Policy Research, Northwestern University, Evanston, Illinois.

If an employer chooses not to adhere to these conditions, this would not affect his business deductions for such contributions. However, all contributions to any employee's health plan will be treated as wages, and the employee will be taxed accordingly.

Insurance purchased by individuals, not at group rates

Currently, any individual who itemizes gets a tax deduction of $150 for 50 percent of their premium payments. However those who purchase individual, non-group plans do not receive employer contributions toward their premiums, an additional tax advantage; neither do they reap the benefit of group rates. To equalize the subsidy to these individuals, and to give them an incentive to either purchase or retain their private insurance rather than relying on CAPP, the maximum premium deduction to qualified individual health plans is raised to 100 percent of $500 annually.

PUBLIC SECTOR PROGRAM

ELIGIBILITY

Catastrophic automatic protecton plan: CAPP

The point at which an individual becomes eligible for assistance under CAPP varies with his income. CAPP establishes a series of income-related deductibles, co-payment requirements, and "stop loss" limits. Initially, an individual would verify that his family had incurred medical expenses which were equal to the deduction for his income level and were not covered by another health plan, including Medicare and Medicaid. After that point, the person would pay for a percentage of his additional expenses and CAPP would cover the substantial remainder. Finally, when a persons' out-of-pocket expenses reached the "stop loss" limit for his income level, CAPP would pay for 100 percent of all covered services. The following table shows the income levels and related obligations under CAPP:

Family income	Deductible	Copayment rate (percent)	Stop loss limit
$5,000 or less	$250	10	$500.
$5,000 to $7,500	$250 plus 20 percent of income over $5,000.	15	$500 plus 25 percent of income over $5,000.
Over $7,500	$750 plus 30 percent of income over $7,500.	20	$1,125 plus 35 percent of income over $7,500.

Note.—Indexed to the average per family income change.

BENEFITS

CAPP simply extends current Medicare benefits to those who become eligible for the program. Expenditures made by the individual for services covered by Medicare will also count toward the deductible and stop loss limits.

There are certain cost-effective, preventive services that will be covered under CAPP that are not now covered under Medicare. They are: pre-natal care, first year well-baby care, immunizations, and certain chronic-treatment drugs.

RESTRICTIONS

An individual who refuses a qualified plan that was offered by his employer with the idea of using CAPP if he gets sick will be severely penalized under the program. That individual's stop loss limit will increase 100 percent, or $1,850, whichever is greater, with corresponding increases in the deductibles.

TAX PROVISIONS

Two of the three tax changes have already been mentioned, and the justifications given. To recapitulate:

1. A tax cap of $100/month/family is placed on the federal subsidy towards a qualified health plan.

2. The premium deduction for individual plans is raised to 100 percent of $500 annually. Current law which allows a deduction for 50 percent of $150 payment toward a premium will remain intact for those who benefit from a group plan offered by their employer.

There is one other tax change:

3. The provision in current law that allows for a medical deduction of any amounts exceeding 3 percent of an individual's Adjusted Gross Income (AGI) is eliminated, with a few exceptions, e.g., this deduction would continue for the taxpayer, his spouse, and dependents while a resident of a long-term care facility.

This provision was included in the code in 1942 when most people did not have basic health insurance. In recent years, its continuation has been justified on the ground that it assists people with extraordinary and involuntary expenses. Under CHECC, these expenses will either be covered under private plans or CAPP, and its continuation is therefore unnecessary.

The exception is allowed because CAPP does not cover long-term care. A CBO study[3] indicates that this provision is used by many lower-income elderly as a way of protecting themselves against the catastrophic expenses of long-term care in nursing homes. In fact, 66 percent of the over-65 year olds that use this provision of the code have an AGI of less than $20,000, while only 2.5 percent of those earning over $100,000 claimed this tax deduction. It is unusual that those making below $20,000 would even bother to itemize, but their medical expenses for long-term care force them to do so. Many of these individuals would otherwise be forced onto the Medicaid program, which already spends 40 percent of its budget for long-term care.

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The sponsors reiterate the point that all changes in the tax code relate to the creation of a catastrophic plan in the public sector, and a desire to see more catastrophic coverage in the private sector. Every effort has been made to make as few changes as possible in the current system, and still accomplish the goals of the legislation.

Please note that there are no provisions in the bill specifying the number of plans an employer should offer. The bill is also silent on the issue of fixed contributions and rebates.

PROSPECTIVE PAYMENT PROPOSAL

The last major provision of the bill provides that a state or legal entity may apply to the Secretary of Health and Human Services to have all affected hospitals reimbursed under a prospective payment system rather than on the bases otherwise provided under Medicare. The Secretary must approve the request if the proposed system meets the following criteria:

(1) The applicant must provide satisfactory assurances that under the new system, Medicare and Medicaid expenditures for hospital services will not be greater than the expenditures which would have been made under the existing system.

(2) The proposal must assure that the operation of the system will not result in any change in hospital admission practices which result in a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is less than the anticipated charges for or costs of such services, the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or the refusal to provide emergency services if the hospital provides such services.

(3) The applicant must treat all public entities and programs that pay hospitals for inpatient hospital services equitably.

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For a state to seek a waiver, the prospective system must be established by statute and be operated directly by the state.

Furthermore, a legal entity's proposal must (a) be approved by the chief executive officer of each state in which a hospital is covered by the system, and (b) not apply to a hospital which is covered under a State alternative system, except as may be provided for by the Secretary through a waiver.

The sponsors recognize that the shift to a new system, including a prospective one, will not be simple or easy. However, the retrospective system is not working and something else must be tried. The merits of a prospective system are: First, the Federal Government, and other health insurers who are included in the proposal, can have predictable outlays, and second, there is an incentive for the provider to use the most cost-effective approach to treating the patient, since any savings from the predetermined amount is a profit to the provider. Otherwise, the provider is at risk for the additional amount.

The move towards a prospective system has wide-spread support from many groups, including some eldierly organizations, insurers, hospital associations, and business groups. On the specifics, however, there is a good deal of disagreement on what type of proposal would actually work best. That is why it would be very difficult to develop a solution that would be applicable nationwide. We can have national standards and criteria, without having identical programs throughout the country.●

GENERAL LEAVE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today of the gentleman from North Carolina (Mr. MARTIN).

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Georgia?

There was no objection.

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[3] Reducing the Federal Deficit: Strategies and Options, February, 1982, Congressional Budget Office.

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SUPER SENIOR SUNDAY IN SAN FRANCISCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Phillip Burton) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, September 26, 1982, will be Super Senior Sunday in the San Francisco Bay area. The Fifth Annual Senior Picnic and Fair will be held at Civic Center Plaza in San Francisco.

This innovative approach to the problem of seniors might well be a role model for the rest of the Nation.

This massive nonprofit event has two primary aims:

Provide information to seniors—from senior agencies and services—that improve the lives of seniors.

Improve the services and cost effectiveness of agencies that serve seniors by bringing them face to face with large crowds of the very seniors they are trying tor reach.

Super Senior Sunday can be best understood by relating to the elements that comprise the entire project:

"Medical Garden," offers free medical testing, information, and referrals, coordinated by Olsten Health Care Services.

"Housing and Preretirement Center," a wide range of housing and preretirement alternatives. Housing information directed by Retirement Inn of Burlingame.

"Young at Heart," live animals from Marine World Africa USA, the San Francisco Zoo, San Mateo County, 4-H program, and a wide range of senior services on pet care. "Young at Heart" information directed by the San Francisco SPCA.

"Creative Elders," arts and crafts made and displayed by seniors. This are under the direction of Pleasure Endeavors Project, Inc.

"Information Bonanza," over 60 educational booths of a diverse nature will provide seniors with assistance and information, directed by the Gray Panthers and Legal Assistance for the Elderly.

"Super Stage," three to four stage shows will take place on the "Super Stage" that will be erected in front of city hall. Additional entertainment will also take place within Civic Center Plaza throughout the day.

Food—senior-oriented nonprofit organizations will sell food at prices lower than retail with any profits going to aid their own senior programs.

The original concept of Super Senior Sunday was created in 1978 by Charles L. Kirk with the help of the late Mayor George Moscone. For the last 4 years, 1978 to 1981, this project was simply called the Annual Senior Picnic and Fair and was held on a Thursday at Sigmund Stern Grove. The need for this type of project and the expertise to make it happen is based on 4 years of proven experience. The worth of this project to seniors has for 4 years been measured by the seniors who attend and reports received from nonprofits that participated.

I am happy to call this unique and most worthwhile event to the attention of my colleagues in the House.●

TRIBUTE TO JONATHAN BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'Neill) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, one of the happier duties of a Speaker of the House of Representatives is the swearing in of House Members of a new Congress every 2 years. And one of the sadder duties is to rise to say farewell to one of them, especially one of the caliber of Jack Bingham.

Journalist, author, soldier, administrator, and diplomat, Jack brought a unique background to this House 18 years ago. He leaves with an even more impressive record, having earned the unofficial title "Ambassador of Peace."

Counselor and confidante to the likes of New York Governor Averell Harriman and United Nations Ambassador Adlai E. Stevenson, Jack learned from these giants of American history to work tirelessly to solve world problems through quiet diplomacy, not war. He practiced that lesson with consumate skill in his years of service in this House. It is only natural that he would become the author of the Nuclear Non-Proliferation Act, coauthor of the Bingham-Nelson Arms Export Control Act, and more recently a leader in the nuclear freeze movement.

This quiet and peaceful man waded into the rough and tumble politics of ther Bronx to upset an entrenched and tough incumbent, Charles Buckley, in 1964. I understand that since then Jack never got less than 70 percent of the vote in his district. He obviously did his homework for his constituents, but he brought the same dedication to the legislative process.

In addition to his deep interest in world affairs, Jack worked equally hard on his other committee assignment, Interior and Insular Affairs, where he joined with Chet Holifield and Frank Horton to create the Energy Research and Development Administration, the forerunner to the present Department of Energy, and distinguished himself as a leading environmentalist.

Jack's long experience in the diplomatic corps trained him well in the art of compromise, without which the political process could not proceed. But another attribute that Jack brought to his congressional service was political courage. He showed it in 1967 in only his second term in the House, joining only 17 other Members to challenge a powerful President of his own party and vote to stop the bombing in North Vietnam. Again as a member of the Steering and Policy Committee, in 1974, he sponsored the move for a closed ballot in recommending committee chairmanships to the Democratic Caucus, a key part of the reform movement.

When the fortunes of reapportionment confronted Jack with running against a Democratic incumbent who practices the same brand of liberalism as he has in his nearly two decades in the House, he stepped aside to Ted Weiss, his junior in service, take the nomination. In this decision, as in his conduct throughout his years in Congress, Jack Bingham demonstrated the graciousness and thoughtfulness for which he is so widely admired by his colleagues and by all who know him.

Mr. Speaker, my wife Millie joins me in wishing Jack and his devoted and talented wife, June, many continued productive and happy years. The House will miss him.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Pepper) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, July 23, 24, 25, and 26 I had the privilege of being one of the congressional delegates to the World Conference on Aging in Vienna, Austria sponsored by the United Nations. Unfortunately that forced me to miss a number of votes. Thus I would like to make my position known by inserting into the Congressional Record how I would have voted if I were present respecting the rollcalls I missed.

Rollcall No. 214: Approval of the Journal for July 26, "yea."

Rollcall No. 215: H.R. 6782, veterans' disability compensation amendments. Motion to suspend the rules and pass the bill, "yea."

Rollcall No. 217: Approval of the Journal for July 27, "yea."

Rollcall No. 218: House Resolution 536, adoption of the rule for H.R. 6862—Civil Service Reconciliation, "yea."

Rollcall No. 219: H.R. 6030, Hance amendment to the Scrhoeder amendment as amended by the Nichols amendment, to allow State courts, in States that treat marital property as community property, to decide whether to include armed service members' military pensions and military benefits in the property to be divided by a divorce settlement, "yea."

Rollcall No. 220: H.R. 6030, Stratton amendment to extend for one year a test policy allowing the Pentagon to pay a premium price in order to purchase certain goods from firms in areas of high unemployment, "yea."

Rollcall No. 221: H.R. 6030, Simon amendment to prohibit Federal education assistance to any young man who did not comply with the law requiring registration with the Selective Service System, "yea."

Rollcall No. 222: H.R. 6030, Solomon amendment, as amended, to prohibit federal education assistance to any young man who did not comply with the law requiring registration with the Selective Service System, "yea."

Rollcall No. 223: H.R. 4961 budget reconciliation tax increases/spending cuts motion to table the Rousselot resolution, House Resolution 541, "yea."

Rollcall No. 224: H.R. 4961 budget reconcilation tax increases/spending cuts—Rostenkowski motion to disagree to the Senate amendments and to agree to a conference, "yea."

Rollcall No. 225: H.R. 4961 Conable motion to instruct the conferees to insist that the conference agreement reach the revenue-raising and spending-reduction targets in the first fiscal year 1983 budget resolution, "nay."

Rollcall No. 226: H.R. 6030 Markey amendment to reduce the authorization for civil defense programs by $108 million, "nay."

Rollcall No. 227: H.R. 6030 Downey amendment to delete $336.7 million for development of the Trident II submarine-launched missile and $26 million to modify Trident submarines to carry the Trident II missiles and add $26 million for development of the Axe nonnuclear missile "nay."

Rollcall No. 228: H.R. 6030 Schroeder amendment to reduce by 50 percent the number of U.S. military personnel stationed overseas over a 4-year period, "nay."

Rollcall No. 229: H.R. 6863 supplemental appropriations fiscal year 1982, "yea."

Rollcall No. 230: H.R. 6030 Glickman substitute to the Schroeder amendment to cut 5 percent across-the-board (Glickman substitute cut 1 percent), "yea."

Rollcall No. 231: H.R. 6030 Schroeder amendment as amended by Glickman, "yea."

Rollcall No. 232: H.R. 6030, Department of Defense fiscal year authorization final passage, "yea."●

CODIFICATION OF SUBTITLE I AND CHAPTER 31 OF TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitle I and chapter 31 of title 49, United States Code. Subtitle I codifies laws related to the general organization, duties, and powers of the Department and Secretary of Transportation and chapter 31 codifies laws related to motor carrier safety. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the Office to prepare and submit to the Judiciary Committee of the House of Represenatives, for enactment into positive law, all titles of the United States Code.

Anyone interested in obtaining a copy of the bill, and a copy of the draft report to accompany the bill, should contact: Mr. Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2-304, House Annex No. 2, Washington, D.C. 20515.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than 5 p.m., September 15, 1982.●

DISAPPROVAL OF DEPARTMENT OF EDUCATION REGULATIONS (H. CON. RES. 388)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, the following remarks concern House Concurrent Resolution 388, the disapproval of Department of Education regulations. I was unable to make these remarks during the debate, but wanted to include them for the RECORD.

Once again the House of Representatives faces the necessity to reject Department of Education regulations which are in conflict with statute. In this case, the Department attempts to exempt the regulations governing the Education Consolidation and Improvement Act from the requirements of the General Education Provisions Act, and specifically from the legislative review provision—section 431.

I strongly support House Concurrent Resolution 388, to disapprove these regulations.

This action by the Department of Education is clearly outside the letter and spirit of the authorizing statue.

It is particularly ironic in light of the history of this Department. When the Department of Education Organization Act was being considered on the floor of the House of Representatives, there was a colloquy between Chairman JACK BROOKS of the Government Operations Subcommittee and myself regarding the applicability of the legislative review provision, section 431 of the General Education Provisions Act, to the new Department of Education (CONGRESSIONAL RECORD, June 7, 1979, pp. H4229-H4230). It was made crystal clear at that time that the applicability of the legislative review section was to be in no way diminished.

> Mr. LEVITAS. . . . Now, Mr. Chairman, if I could get the attention of the chairman of the full committee, my distinguished colleague from Texas (Mr. BROOKS) for the purpose of clarifying and spelling out the legislative history of section 424 of this bill (ed: 414 in final Stat.). I would like to ask the chairman of the Government Operations Committee some questions about the section-by-section discussion of section 424 in the committee report. Is my understanding correct that it is not the intention of the committee to cut back on the previous application of the scope of the rule and regulation review contained in the General Education Provisions Act to any program it now covers?
>
> Mr. BROOKS. That is my understanding, yes.
>
> * * * * *
>
> Mr. BROOKS. My distinguished friend, it was not the intention of the committee to cut-back on the coverage of the GEPA provisions. The language of the bill clearly indicates that the GEPA provisions are to continue to apply to the same extent that they are now applicable and in addition, certain new tranferred functions will additionally be made subject to the GEPA rule and regulatory review and veto provisions as specified in section 424 of this bill.
>
> Mr. LEVITAS. I thank the chairman for qualifying this point so there will be no mistake about the legislative history on this question.

Thus, it is obvious from the legislative history, the General Education Provisions Act is to apply to all statutes unless specifically exempted. Therefore, it should be applied to the Education Consolidation and Improvement Act.

Section 414(b) of the Department of Education Organization Act specifically applies section 431 to rules and regulations promulgated by the Secretary of Education. At the time the original bill H.R. 2444 was reported by the Committee on Government Operations, I made this observation a separate view published in the report:

> My other amendment makes this the first Government agency to be established from the outset with a legislative veto provision on substantially all of its rules and regulations. . . . This congressional veto will have a twofold effect. It makes the Department more responsive to the public and to Congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with impunity. . . . It is axiomatic that we will see more carefully drafted regulations, as well as more attention being paid to the views of citizens during the comment period. Its very existence during the comment period. Its very existence will sensitize the bureaucracy and make it more responsive. (H. Rept. 96-143, p. 45: Separate Views of Hon. Elliott H. Levitas.)

The inclusion of this provision in the law, and indeed the creation of the Department of Education itself, was intended to increase such responsiveness and to curtail uncontrolled bureaucratic activity.

The Department of Education is now attempting to jettison the General Education Provisions Act, with its

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substantial protections: provisions for advance funding of education programs, privacy of student records control of Federal paperwork burdens, prohibition of Federal control of education, and many other important provisions. This clearly contradicts the intent of Congress in enacting the authorizing statute—the Education Consolidation and Improvement Act. In addition, such an action is a giant leap away from the responsiveness purposely built into the Department of Education at its inception.

Most important, the Department's action here interferes with the Congressional duty to review regulations—the "mini-laws" the bureaucracy thrusts upon the American public.●

LEGISLATION TO REVIVE FOREST PRODUCTS INDUSTRY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. **BONKER**. Mr. Speaker, I am today introducing legislation to revive the forest products industry, restore jobs, and boost revenues to Federal and local governments.

Without action by Congress and support from the administration, innumerable small and independent businesses in timber-producing States are doomed to fail.

Production of wood products in the West, accounting for nearly half the nationwide total, was down 15 percent 1 week recently. This, according to the Western Wood Products Association, was the "high" for 1982. Some 10,639 workers were unemployed that week; 21,687 were working curtailed hours; 97 mills were closed; 181 operations were curtailed.

The Federal Government, the major seller of timber in the West, has suffered increasing losses in revenue as businesses continue unable to meet Government contracts. Revenue to local governments, covering such things as school and road construction, also has taken a nosedive.

The cure will produce, not lose, money for the Government. This legislation will enable the administration to terminate or modify overpriced contracts upon a showing of economic hardship, many of which will be defaulted on otherwise.

During the last decade, housing starts reached 2 million a year. Many of these firms, basing their actions on constant predictions of a continued housing boom, invested substantial sums in high-priced contracts to avoid projected timber shortages. Housing starts have fallen in half since then.

These contracts are now coming due. The price is higher than the market will bear any time in the forseeable future.

Termination of some contracts will enable firms to rebid, harvest timber that otherwise would remain uncut, and pass savings onto consumers throughout the Nation. Extension of some contracts will enable mills to hang on. This legislation provides both options, and further, allows modification of contract terms.

While Congress mulls the question of aiding a distressed industry, Canada continues its policy of low-stumpage prices, Canadian lumber exports to the United States has gone from 19 percent in 1975 to over 30 percent in 1981.

While the administration mulls the question, housing starts have fallen to 1 million a year. When the economy picks up, we must have an industry in place to serve the needs of the American public. If many independent and small businesses have succumbed in the interim, competition in the marketplace also will have dwindled. The result will be higher prices to consumers.

Simple extension of contracts will not do. Delaying defaul or severe economic hardship will not serve the needs of industry or the Nation. And it certainly will not put bread on the table of thousands of unemployed loggers, truckers, and other forest products industry workers.

I am pleased to introduce this bipartisan legislation with my colleagues NORM DICKS, AL SWIFT, DON YOUNG, and DON CLAUSEN. Individually, we all differ on the perfect solution to the problem. Together, we offer it as a fast-track discussion vehicle.

It is similar to legislation introduced in the Senate by Senators HATFIELD, JACKSON, GORTON, and others, and in the House by Representatives WEAVER and AUCOIN.

This legislation, however, would create a timber contract relief task force to advise the Secretaries of Agriculture and Interior on contract modification.

It further would require the Secretaries to report back to the President and to Congress on their efforts.

I applaud the quick action in both Houses to conduct hearings on this pressing problem, and urge my colleagues' support.

Congress once before enacted similar legislation. The year was 1935. Let us not wait for the economy to grow any worse before we act this time.

I include at this time a copy of this legislation in the RECORD:

H.R. 6996

A bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that in order to avert widespread bankruptcies, sustain the flow of income from Federal forest lands to the Federal treasury and to units of local government, and assist in restoration of employment, it is in the national interest to provide for the modification of certain contracts for the purchase of timber from Federal lands.

SEC. 2. Upon a showing of economic hardship by the private contractin of a portion of timber sales contracts for the purchase of timber bid prior to January 1, 1982, held by a private contracting party;

(2) extension of the termination dates of such contracts, not to exceed five years beyond original termination dates of such contracts; and

(3) modification of the purchase price of the timber sold, reflecting current market values, for such contracts that are not extended.

SEC. 3. The Secretaries shall publish procedures for the modification of contracts pursuant to this Act in the Federal Register within 60 days after the date of enactment of this Act.

SEC. 4. The authority granted pursuant to this Act shall expire one year after the date of enactment of this Act.

SEC. 5. (a) There is hereby established a Timber Contract Relief Task Force (hereinafter in this section referred to as the "Task Force").

(b) The Secretaries shall appoint jointly the members of the Task Force not later than 15 days after the date of enactment of this Act. Such members shall represent the views of all segments of the forest products industry (including independent forest product manufacturers, mill owners, and labor organizations) and the views of other interested persons.

(c) The Secretaries are required to consider the recommendations of Task Force members concerning modification of contracts under section 3 prior to the publication of procedures for the modification of contracts in the Federal Register.

(d) The Task Force shall furnish, as the Secretaries carry out contract modifications, information and advice to the Secretaries concerning the effectiveness of such modifications in achieving the purposes of this Act.

(e) Members of the Task Force shall serve without compensation as such, but the Secretaries are authorized to pay, upon vouchers presented by the Task Force members, expenses reasonably incurred by the Task Force and its members in carrying out their responsibilities under this Act.

(f) The Task Force shall terminate one year after the date of enactment of this Act.

SEC. 6. Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit a report to the President of the United States, the Speaker of the House of Representatives, and the President of the Senate containing findings and conclusions concerning the effectiveness of the modifications of contracts carried out under section 3 in achieving the purposes of this Act.●

● Mr. **SWIFT**. Mr. Speaker, the Pacific Northwest has been severely hit by the depression. The unemployment figures in the region are double and in some counties triple the national average. These economies have one thing in common—they are based on the forest products industries. The economies of entire towns depend on this vital commodity.

No particular portion of the industry has remained unscathed—from mill closures, to layoffs to shutdowns, each is hurting for some assistance. We must make an effort to help by spurring the wood products industries and putting life back into our communities.

Today, along with my other colleagues from the West, I am introducing a bill that will provide a vehicle for this effort. It may not be the complete answer but it is a start toward that important revitalization this industry—and the economy of the Northwest—so badly needs.

This bill allows the Secretaries of Interior and Agriculture, upon proven economic hardship to modify, extend or cancel timber sale contracts. This bill would also create an industry task force which would provide input into the process and report on the effectiveness of the program.

Mr. Speaker, hearings have already been scheduled on this issue and I would like to thank the chairman of the Subcommittee on Forests for recognizing this problem and for his quick action to seek a solution.●

● Mr. **DICKS**. Mr. Speaker, today I rise to join my good friends and colleagues from the Pacific Northwest in sponsoring legislation which will provide much needed relief to the forest products industry and to those it employs.

Like my colleagues, I am very concerned about the numerous bankruptcies in the region's forest products industry, the high levels of unemployment in this sector of the Pacific Northwest's economy, and the reduced flow of income from Federal forest lands to the U.S. Treasury and to units of local government.

As many in this House know, high interest rates have thrown the housing industry into the worst depression since the thirties, and as a result lumber prices have plummeted to levels half as high as they were in 1979. Sawmills, plywood plants, and shake mills in the Northwest have experienced repeated and lengthy closures. In addition, the economy of the area, where the forest products industry is the largest industrial employer, has been rocked by the highest levels of unemployment since the Great Depression of the thirties.

This situation is cruel to workers and their families; devastating to small, family-owned mills; and bad for Federal fiscal policy—especially since the costs of unemployment in the region increases the Federal deficit.

In 1936, the Congress and the industry faced a similar depression in the forest products industry. Then Congress responded by passing legislation which allowed for termination of certain timber sales contracts on Federal lands. At this time, I believe Congress should again consider this alternative and other timber contract relief measures.

The issue is not whether the Federal Government will receive the prices bid for current timber sales or forgo that revenue for the lower prices the timber would resell for today. The real question is: Should legislation, like the bill we introduce today, be passed to deal with a problem experienced by an industry which employs hundreds of thousands of workers and which has been devastated by high interest rates?

It is a fact that timber at current prices will not be harvested. Without this harvest more mills will shut down; loggers, equipment operators, and suppliers will remain unemployed and the economy of the area will continue to suffer from these revenue losses.

Only if timber is available at a price which allows mills to come close to breaking even will this timber be harvested. Then and only then will workers be rehired and the drain on the Federal Treasury due to unemployment benefits and food stamps be reduced.

To accomplish this, legislation solving these problems must be passed.

I urge those in this House and in the Senate to join us in this effort.●

GENERAL LEAVE

Mr. **WEISS**. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Washington (Mr. Bonker).

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RONALD REAGAN, UNION BUSTING, AND AIR SAFETY

(Mr. **GONZALEZ** asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. **GONZALEZ**. Mr. Speaker, a week before last, I spoke out on the critical issue involving safety in our national air transportation system. I pointed out that lost sight, in the wake of the highly charged, emotional issue of the strike, was the basic issue of deteriorated and dangerous air safety capacity of the system.

I also pointed out the most ominous byproduct and that is that for the first time in our history, the Government kills or blots out a labor union. The meaning and the ultimate ramifications of the impact of this has yet to be realized. I have appealed to the President for months, since the demise of the union, to recall the experienced traffic controllers—but above all in doing so—saving the $1 billion that he is spending in hiring new air route traffic controllers after training in order to do the absolute essential upgrading and modernizing of the air route traffic control system and the technology that is sorely needed.

The two terrible tragedies costing over a couple of hundred lives, in my opinion, needlessly, can be directly attributable to the failure to, first, man at the proper levels the air traffic control roster; and, second, the unpardonable tragedy of not even modernizing the techniques of weather information dissemination.

The President, the Secretary of Transportation, Drew Lewis, particularly, the Director of the Federal Aviation Agency, the Chairman and the Members of the Board of the National Transportation Safety Board, all are individually and collectively just as guilty of these two tragedies—the first in January at National Airport, and the second more recently in New Orleans—as much as anyone and certainly as much as the poor pilots, now dead, who cannot defend themselves, but who are now, in post mortems, being tagged with the culpability and responsibility of these tragedies. I believe this is abominable.

Ronnie Reagan, the chief union buster in the country, and his deputies, cannot escape fate's ultimate judgment and the inexorable confrontation with justice. But at this time, I plead and implore with these leaders to recall the traffic controllers, man the personnel at realistic levels, and above all, modernize our antiquated equipment.

Regrettably, I must continue to press another point and that is that future, equally tragic and perhaps far worse—tragedies though God forbid—are in the making. For example, National Airport continues to be a terrible danger and yet just this last week Federal officials announced they were going to increase the traffic at that airport. I warn that the potential for terrible disaster continues every day and night at National, because of fundamental, structural, inherent dangers in the runway system of an airport that has outgrown its safety. While, on the other hand, Federal officials have allowed the safest airport in the world—Dulles International Airport—to be practically vacated. This is a horrible, perverted sense of priorities.

Mr. Speaker, I offer for the Record, at this point, enclosed reports concerning this matter:

[From the Dallas Morning News, Aug. 1, 1982]

SETBACKS FROM AIR CONTROLLERS' STRIKE LINGER

(By Anne Swardson)

WASHINGTON.—On the face of it, air travel is still suffering from the effects of the walkout last year by air traffic controllers.

One year after 11,400 controllers struck and promptly were fired, delays are longer, flights are fewer and airlines are having trouble getting permission to expand their service.

Airlines, private aviation, passengers and even other government agencies complain about the government agency that made it happen, the Federal Aviation Administration.

But the gripes often are contradictory, and most of the complainers also say that the FAA has done a good job during difficult circumstances. The gripes are coming from all sides, suggesting that the FAA has had some success in balancing competing claims to the newly limited airspace.

"Am I satisfied? No. But I understand what they did and why they did it," said Wesley Kaldahl, senior vice president-planning for American Airlines.

The grievances with the agency's handling of the aftermath of the controllers' walkout tend to reflect the losses each interest group has suffered as a result of the strike rather than a unified view of how the FAA could have performed better.

The agency stands accused of favoring large, established airlines and of favoring small, new airlines. The FAA has been faulted for aiding private planes at the expense of commercial air carriers and vice versa.

Officials at the Dallas/Fort Worth Airport said the FAA has ignored its need for more flights in the growing region while permitting expansion in areas with less travel demand. Meanwhile, smaller communities said the big cities are getting better air service.

"There has been a great deal of pressure from all directions," said Don. L. Adams, vice president-law for Delta Air Lines. "Of course, we'd like to see it resolved in the way that's best for us."

Most of those affected by the controllers' walkout said that during the last year the FAA has done as well as could be expected in coping with averting a shutdown of the entire system.

The FAA method of limiting airport-landing times, or slots, however, has been criticized heavily in the Dallas area. The May 13 bankruptcy of Braniff International exacerbated the unfair way the FAA limited slots at D/FW, officials said.

The agency had passed out most of the slots at the 22 largest airports through a series of lotteries. But when Braniff went under, about 100 of its 411 slots simply were handed to other airlines after closed-door agency meetings. Even after the FAA redistributed them through more lotteries, the agency decided to eliminate 50 slots at D/FW for safety reasons and switch another 16 to Love Field.

Nor did the agency grant the D/FW request for additional slots earlier in the year even though traffic hit records in March.

"It's patently unfair, the way we're being treated in this thing," D/FW spokesman Jim Street said. "It's totally insane to put (slot) increases in passenger demand."

D/FW now has about 1,200 flights in and out every day, down from 1,400 before Braniff went under and 1,600 during July 1981, Street said. The drop is a 25 percent decline from last year. Nationwide the drop in service is only 17 percent, FAA figures show.

FAA administrator Lynn Helms does not give news interviews. But FAA spokesman John Leydon said the agency is creating new slots as fast as the air traffic control system can absorb them.

"We were having some severe delay problems at D/FW," he said. "The number of additional slots reflect what we consider to be the capacity at that airport." Leydon also said understafing at air traffic control centers, which oversee airplanes after they leave the control of the airport tower, act as an additional restraint on capacity.

Airlines in Texas and elsewhere fault the FAA for its slot-allocation methods—but politely. The agency, now overseeing the granting of what effectively amounts to air routes even through the industry ostensibly is deregulated, has more power over air carriers than at any other time.

"The underlying unhappiness with the way the FAA has run the system you'll never hear from the airlines. The FAA has life and death power over them," a Senate aviation staff aide said.

Michael Muse, president of Muse Air Corp., which has been involved in a dispute with the FAA concerning air slots in Midland and Tulsa, echoed the sentiment.

"Our comments have gotten us into a lot of trouble with the FAA. I think I'll withhold comment," he said. The slot controls "are definitely economic regulation, the worst kind," Muse said.

But most airline officials expressed the sentiments of Herbert Kelleher, chairman of Southwest Airlines.

"I'm not saying the system is perfect. But I defy anyone to come up with a system that's more equitable," he said.

Passenger delays throughout the nation are worse than they were before the controller walkout, although not as bad as they were immediately after the strike, the FAA said. According to FAA figures, almost 4 percent of commercial air flights in June were delayed by 15 minutes or more at the 16 largest airports, a 9 percent increase from June 1981.

Experts cannot say whether the controller walkout has affected air safety because of passenger convenience improvements. Three fatal commercial air crashes have occurred during the last year, but the National Transportation Safety Board has not determined the cause of any of them.

A board spokeswoman said the NTSB "has some concerns" about the long hours the 10,300 full-fledged and newly trained controllers are working. But the board has not done a study on controller fatigue since last fall, when the system was determined to be safe.

[From the Washington Post, Aug. 12, 1982]

BOARD ADVISES 11 NEW SAFETY MEASURES FOR 737 JETLINER TAKEOFFS

(By John Burgess)

Boeing 737 jetliner pilots should be required to take new safety precautions when taking off in icy weather, the National Transportation Safety Board recommended yesterday.

The recommendation, one of 11 the board approved yesterday in wrapping up its investigation into why an Air Florida 737 struck the 14th Street bridge during a snowstorm last Jan. 13, is intended to guard against control problems that 737s have experienced in icy weather.

Pilots should apply all or some of the following steps, the board said: Use wing anti-ice devices while the plane is on the ground to melt any deposits before take-off, increase runway speed beyond current standard levels and employ different wing flap settings to provide extra lift.

On Tuesday, the board ruled that pilot error, including a decision to take off despite the presence of lift-reducing ice or snow on the wings, wal amounts of snow or ice" are present on the wings' leading edges.

The board's recommendations, issued under its mandate to prevent accidents, were addressed to the Federal Aviation Administration, which yesterday declined comment pending detailed study. By law, the FAA is required to respond to, but not necessarily adopt, the recommendations.

The board also called on the FAA to:

Meter traffic more carefully to "minimize airport saturation and extensive traffic delays." The board has cited as a factor in the crash the 49-minute delay between the time ground crews deiced Air Florida Flight 90 and the time it took off, which allowed extra snow and ice to build up on the plane.

Emphasize to tower controllers that arriving and departing planes using the same runway must be at least two miles apart. The FAA should also tighten procedures to assure that controllers errors are reported and investigated, the board said.

The board concluded that a National Airport controller violated regulations by allowing an Eastern Airlines jet approaching from the south to touch down on the southern end of Runway 36 before the Air Florida jet lifted off from the northern end.

Provide "essential equipment and increase personnel training" for water rescues around National Airport, which the FAA owns and operates, as well as "necessary funding for surrounding communities" that would send rescue units to respond to a crash.

National Airport spokesman Dave Hess said the airport already is acting to improve rescue capabilities. Since the crash, he said, the airport has received two new rescue boats and is expecting a third, has bought two helicopter nets for lifting survivors form the water, has installed direct telephone lines to D.C. police marine and helicopter units and is training a diving team.

In the past, the FAA has argued that it should not pay for heavy equipment that local jurisdictions may want to buy, such as helicopters and Hovercraft.

Require that airports with flight paths over water have "adequate water rescue capabilities." Current rules do not require any preparation, though large airports or surrounding jurisdictions generally do have plans in place.

Emphasize to airlines the importance of proper maintenance for ground equipment. The board ruled that a replacement nozzle on a deicing-fluid hose created a mixture more diluted than intended.

Ensure that ground-service contractors understand maintenance procedures for planes they are working on and know who is in charge. The report found that American Airlines personnel who deiced the Air Florida jet on contract did a "deficient" job.

The proposed safety precautions for 737s at takeoff matched in part steps that Britain's Civil Aviation Authority had already taken for British-operated 737s. The CAA ordered "overspeed" and different flap settings earlier this year.

Shortly after the Jan. 13 crash, Air Florida also implemented steps for foul-weather takeoffs that effectively required higher speeds for its 737s. The airline has argued that uncontrollable "pitch-up" for the Boeing aircraft was the prime cause of the accident.

At least 23 incidents of 737s pitching up suddenly in icy flying conditions have been reported since 1968. Boeing has repeatedly advised airlines on how to counter it. Yesterday, Boeing spokesman Tom Cole noted that the company's advice has included overspeed.

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In related development yesterday, the Air Line Pilots Association (ALPA) contested the boards's finding of pilot error.

Testifying during a joint hearing into bad-weather aviation accidents by two subcommittees of the House Science and Technology Committee, Jack D. Howell, executive central air safety chairman for ALPA, said he was "baffled by how [the board] could say that pilot error was the cause . . . When you say pilot error, period, full stop, then we don't benefit" from lessons the accident might offer, Howell said.

An ALPA official who took part in the board investigation, Jim McWilliams, added yesterday: "When you come out and say a pilot made an error but don't explain why he made an error, you haven't done one thing to relieve the safety problem."

(Washington Post staff writer Douglas B. Feaver contributed to this article.)

[From the Dallas Morning News, July 15, 1982]

Tower Failed To Detail Danger Before Crash

Washington.—The New Orleans control tower apparently violated federal regulations by not issuing detailed information concerning a wind-shear alert before a Pan American World Airways jetliner crashed in a thunderstorm last week, federal investigators confirmed Wednesday.

The National Transportation Safety Board is investigating whether wind shears—sudden, dangerous shifts in wind speed and direction—might have been a factor in the crash that killed 154 people Friday.

Five wind-shear alerts were issued in the 90 minutes before the crash Friday, an NTSB spokeswoman said.

Control-tower instruments buzz and light up when strong winds are detected in the center of the airfield or at any of its boundaries.

At 4:11 p.m., the local controller, who handles takeoffs, said "all quadrants lighting up from minor wind shear."

The Federal Aviation Administration traffic-control manual states that an advisory must be issued after such a multiple alert to indicate the wind position at each quadrant where the shears were reported.

The only subsequent wind-shear advisory on the tape recordings of conversations in the tower was made 17 seconds later, however, when the local controller issued a general advisory saying, "No wind-shear registering in south quadrant."

"According to the ATC (air traffic controller) handbook, they are required to do so (give specific wind readings)," NTSB spokeswoman Barbara Dixon said in New Orleans. "And preliminary readings from the tapes appear to show they did not.

"It does appear . . . upon reading this (the manual) to require that the boundary measurement be given," Ms. Dixon said after consulting with the technical staff in Washington.

Matthew Finucane of the Aviation Consumer Action Project, a Ralph Nader-backed group based in Washington, said the all-quadrant alert, followed by concellation of the alert for the south quadrant only, "could mean there was wind shear in the direction Pan Am was taking off in."

It is not known exactly when Flight 759 switched to the local controller's radio frequency, but its first transmission on that frequency was about two minutes after the fifth wind-shear advisory.

In Washington, NTSB spokesman Ira Furman said lab experts are making "very slow progress" in isolating voices and other sounds on the cockpits voice tape recovered from the Boeing 727-200.

[From the New York Times, Aug. 1, 1982]

Air Traffic System Looks to Recovery—Year After Strike, It Functions, but Not Without Problems

(By Richard Witkin)

The nation's air traffic control system appears to have weathered the year since 11,400 union members illegally walked out and were then dismissed by the President much better than was generally expected.

But the underlying labor-management struggle is still being played out, and the consensus of aviation experts is that several uncertainties cloud the outlook for the Reagan Administration's plan to rebuild and refine the system.

Traffic volume is 83 percent of the prestrike level, the experts note, with negligible effect on the number of people flying. And there have been no major accidents attributable to a control error. While travelers have had to tolerate considerably more flight delays than before the strike, that problem has not been as bad as initially feared.

BURDENS AND STRESSES

Two-thirds or more of the dismissed strikers are employed, officers of the controllers' defunct union say, though many are in other fields and their average income is much less than the $33,000 they had been receiving. About 200 are working as controllers abroad.

But many are suffering the burdens of unemployment or inadequate income, and the stresses that followed the walkout have led in some cases to broken marriages and even to several suicides. For others, the difficult readjustments have cemented some family ties.

"We're still in the midst of turmoil, going from a high-paying job to starting over," said Charles Holt, who is 35 years old and took a job as an elevator mechanic after joining the walkout in Miami. Mr. Holt, whose wife has gone to work, added, "I think my relationship with my family is better."

William Cousins, who is also 35, recently opened a heating and cooling subcontracting business and expects to net $10,000 this year, as against $42,000 as a controller. His wife has taken a $12,000 job as a dental assistant.

"I'm going to succeed at whatever I do," he said. "It sure doesn't take money to keep my family happy. But I loved my work."

With the dismissal of so many experienced controllers, a heavy workload was imposed on the curtailed work force, and that is one of the big uncertainties in rebuilding the system. Also, a Congressional deadlock over getting those controllers more pay has had a negative effect on morale.

A second uncertainty is the ability of the airlines and other operators to sustain whatever economic penalties are imposed by disrupted conditions. That, in turn, affects the dispute over whether it is time to decide that the punishment, in lost wages and benefits, has already fit the crime and to do some rehiring of those who lost their jobs.

Finally, there is the issue of safety. The consensus of safety experts is that traffic control today is at least as safe, probably safer, than it was, if only because the controller shortage has led the Government to increase the distances by which airborne planes are separated.

There have been no major accidents tied to controller mistakes since the walkout, but, were such a crash to occur, it might alter public opinion and the Administration's position against rehiring.

Though the walkout cut the number of flights, it has evidently had a negligible effect on domestic airline passenger totals. Throughout 1981, both before and after the walkout, passenger volume was down about 5 percent from 1980, according to the Air Transport Association. In the first six months of this year, it was up about 4.8 percent over the comparable period in 1981. The rise is largely attributed to the many offers of deeply discounted air fares.

ADMINISTRATION HAS FEW DOUBTS

At the moment, the Administration entertains few doubts that it has chosen the right course and will meet its target date for having the system virtually back to normal. Its response to the walkout, which began a year ago Tuesday, marked the first time that a union of Federal employees had been put out of existence by the Government.

Transportation Secretary Drew Lewis said in a recent interview, "We did the right thing, and I am positive the traffic-control system is being rebuilt."

The current traffic volume of 83 percent of the prestrike level contrasts with the low point of 75 percent in the first week of the strike. Mr. Lewis suggested at one point that the 100 percent level could be reached by next February, but he and other Government officials soon settled on next spring.

The Administration is now sticking to the prediction. However, air travelers will still have to put up with schedules that are not the most convenient and with more peak-hour delays than before the walkout. It will be December 1983, the officials say, before those inconveniences are eliminated and July 1984 before supervisors and other staff members are all back to normal duties.

In the interview, Mr. Lewis was asked to comment on proposals to speed things along by rehiring some controllers while taking care to screen out strike leaders and known troublemakers. He replied, "There's no way to rehire selectively without being subject to charges of discriminatory hiring." He also reiterated the view that putting strikers to work alongside nonstrikers would create friction that could make the airways unsafe.

CONTROLLERS DISAGREE ON POLL

This is a view that is disputed by a scattering of nonstriking controllers who have been circulating petitions urging selective rehiring. A Government-commissioned Roper Organization poll of 897 nonstriking controllers showed that 31 percent believed some of their former colleagues "should be hired back under certain conditions" while 58 percent opposed rehiring "under any circumstances."

The success of the Administration's policy to date is largely owed to the talents, esprit and stamina of the current work force. It is a force of only about 10,000, consisting mainly of nonstrikers and supervisors, plus a sprinkling of returned retirees and people borrowed from the military. The Administration has no intention of rebuilding to the prestrike strength of 16,000, contending this was at least 3,000 more than needed.

It was commonplace in the first weeks after the walkout for controllers to put in 60-hour weeks in response to the crisis. They did it with an enthusiasm that seemed almost universal, particularly impressing pilots with whom they dealt. And they made a signal contribution to dashing the union's

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calculations that it could cripple air transportation and win key demands.

The public, which largely supported President Reagan's handling of the strikers, was mainly disenchanted by union demands for a $10,000-a-year raise for all controllers. The union officers have insisted that the more basic issues were a shorter workweek, to decrease stress and increase safety, and an improved retirement plan.

It was assumed from the start of the walkout that those who stayed at work could not take 60-hour weeks very long.

The pressure did steadily subside as the Federal Aviation Administration began to master its intricate game plan, which included quotas on traffic bound for the nation's 22 busiest airports. It also provided that flight delays would be taken on the ground before departure rather than in circling patterns where planes had to be watched by controllers on radar.

Figures have been complied by the aviation agency for 16 major airports covering departure delays of 15 minutes or more. They show that the overall average climbed to 36.3 delays per 1,000 operations last May, compared with 26.8 in May 1981. Among the airports hit hardest were Los Angeles, Dallas-Fort Worth and Washington National, where so many planes had to wait to leave because of heavy traffic flowing into such cities as New York and Boston.

At present, according to J. Lynn Helms, head of the agency, 75 percent of the controllers are working 40-hour weeks. "Of course," he said in a written answer to questions, "we still have facilities with critical staffing problems—the N.Y. center is just one of them—where controllers are working six-day weeks. But we are just now beginning to get the newly trained controllers into operational positions in the system so that the situation should start to improve in the coming months."

Whether the improvement will be extensive enough and fast enough for the Administration's rebuilding plan is not yet clear. Indications have been growing that the early flush of controller enthusiasm has given way to some deterioration of morale.

CONDITIONS "WORSE NOW"

Don Mongeon, a former Miami controller who is getting financial help from relatives, says that some nonstrikers at his former job told him that "the overall working conditions are worse now than they have ever been."

Any drop in morale is also generally attributed to the minimum vacation time that has been allowed to date. It evidently comes too from the buildup in on-the-job training of controllers newly graduated from the Government academy in Oklahoma City. But there is another important reason.

The Administration has asked Congress, as it promised from the start, for a raise for controllers who stayed on. It would be similar to the increase in a contract that the union negotiating team had tentatively accepted in June 1981, only to have it rejected by the rank and file.

The Reagan pay bill, which has passed the Senate, is being blocked in the House by the powerful chairman of the Post Office and Civil Service Committee, Representative William D. Ford. Mr. Ford, a Democrat from the heavily unionized Detroit area, has a competing bill that won approval from his committee. It would provide a one-time bonus for those who have been operating the system, would require that the system by rebuilt to its prestrike condition by next year and would authorize selective rehiring of some strikers if necessary.

The dominant view of knowledgeable people watching the situation is that the Congressional deadlock is not likely to be broken this year. The point in determining whether the Administration will have to relax its stand will come, it is felt, only after the plan has had six more months of testing. The results, in turn, will permit aircraft operators to reach firmer conclusions on how the conflicting courses of action would affect their economic health. For the time being, the airlines are bringing no public pressure on the Administration to agree to rehiring.

"The whole problem, right now, is probably at its toughest point," said Lawrence M. Jones, who headed a three-member Government-created team of experts that issued a report in mid-March indicting the aviation agency's handling of employee relations.

"We're in the midst of having to train the people coming out of Oklahoma City," he said. "It will take most of this year and probably longer before there is any relief from the controller workload. The dog days of their effort will be in the next six months."●

CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma submitted the following conference report and statement on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

CONFERENCE REPORT (H. REPT. No. 97-759)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight of milk containing 3.67 per centum milkfat.

"(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1983.

"(C) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

"(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorized by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commercial marketings from such marketings during the base period. For the purpose of this paragraph, the base period shall be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

"(B) Refunds under this paragraph shall be based on reductions in commercial marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

"(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If

at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.

"(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.

"(E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropiate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

"(A) administrators of Federal milk marketing orders;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or

"(C) administrators of State milk marketing programs.".

Subtitle B—Donation of Dairy Products

SEC. 110. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.".

Subtitle C—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

ADVANCE DEFICIENCY PAYMENTS

SEC. 120. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107B (7 U.S.C. 1445b-1) the following new section:

"ADVANCE PAYMENTS

"SEC. 107C. (a)(1) Effective with respect to the 1982 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall make available to producers who participate in an acreage limitation program established for wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, advance deficiency payments in accordance with this section (other than subsection (b)) if the Secretary determines that deficiency payments likely will be made under this Act.

"(2) Advance deficiency payments under paragraph (1) shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made as soon as practicable after October 1, 1982.

"(B) Such payments shall be made in an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 70 per centum of the projected payment rate, as determined by the Secretary. Notwithstanding the preceding sentence, in any case in which a producer has received disaster payments for wheat, feed grains, upland cotton, or rice under section 107B(b)(2), 105B(b)(2), 103(g)(4), or 101(i)(3), respectively, the Secretary may make such adjustment in the advance deficiency payments made under this subsection as the Secretary determines appropriate.

"(b)(1) Effective with respect to the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice, if the Secretary establishes an acreage limitation or acreage set-aside program for a crop of wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(b)(5), respectively, and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

"(A) for the 1983 crop of such commodity, shall make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program; and

"(B) for the 1984 and 1985 crops of such commodities, may make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program.

"(2) Advance deficiency payments under this subsection shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such program, but in no case prior to October 1, 1982.

"(B) Such payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary.

"(c) Advance deficiency payments under this section shall be made to producers under the following terms and conditions:

"(1) In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), 105B(b)(1), 103(g)(3), or

101(i)(2), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency payment for the crop concerned.

"(2) If the Secretary determines under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments.

"(3) Any refund required under paragraph (1) or (2) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

"(4) If a producer fails to comply with the requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

"(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.".

1983 WHEAT LOANS

SEC. 121. Section 107B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(a)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.65 per bushel.".

1983 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 122. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) Notwithstanding any previous announcement to the contrary, for the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.";

(3) in paragraph (2), inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 5 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 123. Section 105B(a)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)(1)) is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.65 per bushel.".

1983 FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 124. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Nothwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) For the 1983 crop of feed grains, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 15 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.";

(3) in paragraph (2), inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of feed grains under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to 5 per centum of the feed grain acreage base in addition to the reduction required under paragraph (2) or (3), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The diversion payment rate shall be established by the Secretary at not less than $1.50 per bushel for corn, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 RICE ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 125. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

(1) striking out in the first sentence of subparagraph (A) "Nothwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of subparagraph (A) the following: "For the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.";

(3) inserting immediately after the ninth sentence of subparagraph (A) (as amended by paragraph (2) of this section) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of subparagraph (B) the following: "Notwithstanding the foregoing provisions of this subparagraph, the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 per centum of the rice acreage base in addition to the reduction required under subparagraph (A), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

Subtitle D—Agricultural Export Promotion

SEC. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than $175,000,000 nor more than $190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture of the Commodity Credit Corporation under any other provision of law.

Subtitle E—Food Stamp Act Amendments of 1982

SHORT TITLE

SEC. 140. This subtitle may be cited as the "Food Stamp Act Amendments of 1982".

REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 141. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

HOUSEHOLD DEFINITION

SEC. 142. Section 3(i) (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence—

(A) inserting ", or siblings," after "children"; and

(B) inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence the following new sentence: "Notwithstanding clause (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.".

ROUNDING DOWN

SEC. 143. (a) The second sentence of section 3(o) (7 U.S.C. 2012(o)) (as amended by section 144 of this Act) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of much diet)" after "adjustments"; and

(2) in clauses (6), (7), and (8), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso of clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

THRIFTY FOOD PLAN ADJUSTMENTS

SEC. 144. The second sentence of section 3(o) (7 U.S.C. 2012(o)) is amended by striking out "(6)" and all that follows through "twelve months ending the preceding June 30" and inserting in lieu thereof the following: "(6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, and (8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest dollar increment".

DISABLED VETERANS AND SURVIVORS

SEC. 145. (a) Section 3 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disablility or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A) has a service-connected disability which is rated as total under title 38, United States Code; or

"(B) is considered in need of regular aid and attendance or permanently housebound under such title;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United Staes Code; or

"(B) is entitled to compensaiton for a service-connected death or pension benefits for a non service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

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(b) The first sentence of section 3(i) (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through the end of the sentence and inserting in lieu thereof "an elderly or disabled member.".

(c) Section 5(c)(2) (as amended by section 146(a) of this Act) is amended by striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) (7 U.S.C. 2014(e)) (as amended by section 146(b) of this Act) is amended by—

(1) in the first sentence, striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member";

(2) in the fourth sentence, striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inerting in lieu thereof "an elderly or disabled member"; and

(3) in the last sentence—

(A) in the matter preceding subclause (A), striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(B) in subclause (A), striking out "household members" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and insering in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

INCOME STANDARDS OF ELIGIBILITY

SEC. 146. (a) Subsection (c) of section 5 (7 U.S.C. 2014(c)) is amended to read as follows:

"(c) The income standards of eligibility shall provide that a household shall be ineligible to participate in the food stamp program if—

"(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

"(2) in the case of a household that does not include a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), the household's income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.".

(b) The first sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "households described in subsection (c)(1)" and inserting in lieu thereof "households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.)".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

Sec. 147. Section 5(d) (7 U.S.C. 2014(d)) is amended by—

(1) striking out "and" at the end of clause (10); and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective".

ADJUSTMENT OF DEDUCTIONS

SEC. 148. Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) of the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subclause (i) of the proviso of clause (2) of the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 149. (a) Section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following new sentences: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.".

(b) Subclause (B) of the last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

MIGRANT FARMWORKERS

SEC. 150. The last sentence of section 5(f)(4) (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A))".

FINANCIAL RESOURCES

SEC. 151. The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "June 1, 1977" and inserting in lieu thereof "June 1, 1982";

(2) striking out "and" after "vacation purposes,"; and

(3) inserting after "$4,500," the following: "and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts),".

STUDIES

SEC. 152. (a) The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "(1)"; and

(2) striking out ", and (2)" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Subsections (d) and (e) of section 17 (7 U.S.C. 2026(d) and (e)) are repealed.

CATEGORICAL ELIGIBILITY

SEC. 153. Section 5 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c)(2) to have satisfied the resource limitations prescribed under subsection (g).".

MONTHLY REPORTING

SEC. 154. The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" after "which all"; and

(2) inserting before the period at the end thereof the following: ", except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

PERIODIC REPORT FORMS

SEC. 155. The last sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out ", on a form designed or approved by the Secretary,".

REPORTING REQUIREMENTS

SEC. 156. Section 6(c) (7 U.S.C. 2015(c)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.".

JOB SEARCH

SEC. 157. Section 6(d)(1)(ii) (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting before the semicolon at the end thereof the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 158. (a) The proviso of section 6(d)(1)(iii) (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days from the time of the voluntary quit" and inserting in lieu thereof "ninety days".

(b) Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: "An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.".

PARENTS AND CARETAKERS OF CHILDREN

SEC. 159. Clause (C) of section 6(d)(2) (7 U.S.C. 2015(d)(2)(C)) is repealed.

JOINT EMPLOYMENT REGULATIONS

SEC. 160. Paragraph (3) of section 6(d) (7 U.S.C. 2015(d)(3)) is repealed.

COLLEGE STUDENTS

SEC. 161. Section 6(e) (7 U.S.C. 2015(e)) is amended by striking out "or (B)" and all that follows through "or (C)" and inserting in lieu thereof "; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E)".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 162. Section 7 (7 U.S.C. 2016) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary may require a State agency—

"(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

"(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program.".

INITIAL ALLOTMENTS

SEC. 163. (a) The first sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

(b) Clause (2) of the last sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days".

NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 164. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty.".

HOUSE-TO-HOUSE TRADE ROUTES

SEC. 165. Section 9 (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.".

APPROVAL OF STATE PLAN OF OPERATION

SEC. 166. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.".

POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 167. (a) The last sentence of section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for".

(b) Paragraph (13) of section 11(e) (7 U.S.C. 2020(e)(13)) is repealed.

AUTHORIZED REPRESENTATIVES

SEC. 168. Section 11(e)(7) (7 U.S.C. 2020(e)(7)) is amended by—

(1) striking out "any" each place it appears and inserting in lieu thereof "an"; and

(2) inserting before the semicolon at the end thereof the following: ", except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph".

DISCLOSURE OF INFORMATION

SEC. 169. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended by striking out "or the regulations issued pursuant to this Act" and inserting in lieu thereof ", regulations issued pursuant ot this Act, Federal assistance programs, or federally assisted State programs".

EXPEDITED COUPON ISSUANCE

SEC. 170. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—

"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than $150 per month; or

"(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed $100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 171. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end thereof the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

SEC. 172. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(22) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State.".

CERTIFICATION SYSTEMS

SEC. 173. Section 11(i) (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following new sentence: "Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.".

CASHED-OUT PROGRAMS

SEC. 174. Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1).".

AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 175. Section 12 (7 U.S.C. 2021) is amended by—

(1) inserting "(a)" after the section designation;

(2) in the first sentence, striking out "$5,000" and inserting in lieu thereof "$10,000";

(3) striking out the second sentence and inserting in lieu thereof the following new subsection:

"(b) Disqualification under subsection (a) shall be—

"(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

"(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification ; and

"(3) permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern."; and

(4) designating the last sentence as subsection (c).

BONDS

SEC. 176. (a) Section 12 (7 U.S.C. 2021) (as amended by section 175 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act. Such store or concern may obtain a hearing on such forfeiture pursuant to section 14.".

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting "or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act," after "section 12 of this Act,".

ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCES

SEC. 177. (a) Section 13(b)(1) (7 U.S.C. 2022(b)(1)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection.".

(b) Section 13(b)(2) (7 U.S.C. 2022(b)(2)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.".

CLAIMS COLLECTION PROCEDURE

SEC. 178. The second sentence of section 13(b)(1)(A) (as amended by section 177(a) of this Act) is amended by inserting "within thirty days of a demand for an election" after "election".

COST-SHARING FOR COLLECTION OF OVERISSUANCES

SEC. 179. The first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended by inserting before the period at the end thereof the following: ", except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency".

ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) the following new subsection:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b)(1) Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by—

(A) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(B) striking out "quality control program" and inserting in lieu thereof "error rate reduction system".

(2) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (c) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

EMPLOYMENT REQUIREMENT PILOT PROJECT

SEC. 181. section 17 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'qualification period' means a period of time immediately preceding—

"(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

"(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

"(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

"(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program established under section 20, during a qualification period of—

"(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

"(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

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"(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

"(A) is under eighteen or over fifty-nine years of age;

"(B) is certified by a physician as physically or mentally unfit for employment;

"(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

"(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

"(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

"(F) is a member of any other group described by the Secretary.

"(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

"(A) has an unemployment rate of over 10 per centum; or

"(E) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.

"(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

"(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

"(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.".

BENEFIT IMPACT STUDY

SEC. 182. Section 17 (7 U.S.C. 2026) (as amended by section 181 of this Act) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 183. The first sentence of section 18(a)(1) (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,874,000,000 for the fiscal year ending September 30, 1983; not in excess of $13,145,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,933,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO BLOCK GRANT

SEC. 184. (a) Section 19(a)(1)(A) (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" after "expenditures for".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include an analysis of the impact on both the nutritional status of residents of the Commonwealth and the economy of the Commonwealth. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

SIMILAR WORKFARE PROGRAMS

SEC. 185. Section 20(a) (7 U.S.C. 2029(a)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

"(B) A political subdivision may comply with the requirements of this section by operating—

"(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.".

WIN PARTICIPANTS

SEC. 186. Clause (4) of section 20(b) (7 U.S.C. 2029(b)) is amended by striking out "subject to and currently involved" and inserting in lieu thereof "at the option of the operating agency, subject to and currently actively and satisfactorily participating".

HOURS OF WORKFARE

SEC. 187. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out "either" and all that follows through the end of the sentence and inserting in lieu thereof: ", when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.".

REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 188. Section 20(g) (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) inserting after paragraph (1) the following new pargraph:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participating is terminated.".

TECHNICAL CORRECTIONS

SEC. 189. (a) Section 5(f)(2)(A) (as amended by section 107(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 360)) is amended by striking out "propsective" and inserting in lieu thereof "prospective".

(b)(1) Clause (2) of section 6(g) (7 U.S.C. 2015(g)) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 11 (7 U.S.C. 2020) is amended by—

(A) in subsection (i), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services", and

(B) in subsection (j), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(3) The second sentence of section 16(e) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(c) Section 16(f) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "; and" and inserting in lieu thereof a period.

CONFORMING AMENDMENTS

SEC. 190 (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as amended by section 159 of this Act) is amended by redesignating clauses (D) through (F) as clauses (C) through (E), respectively.

(b) Section 6(d) (7 U.S.C. 2015(d)) (as amended by section 160 of this Act) is amended by redesignating paragraph (4) as paragraph (3).

(c)(1) Section 11(e) (17 U.S.C. 2020(e)) (as amended by sections 167(b) and 172 of this Act) is amended by redesignating paragraphs (14) through (22) as paragraphs (13) through (21), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out "section 11(e)(21)" and inserting in lieu thereof "section 11(e)(20)".

(d) Section 17 (7 U.S.C. 2026) (as amended by sections 152(c), 181, and 182 of thie Act) is amended by redesignating subsections (f) through (h) as subsections (d) through (f), respectively.

DISTRIBUTION OF SURPLUS COMMODITIES

SEC. 191. (a) The Congress finds that—

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(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

(b) It is the sense of the Congress that—

(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.

EFFECTIVE DATES OF PRIOR AMENDMENTS TO THE FOOD STAMP ACT OF 1977

SEC. 192. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101 through 114 of such Act, other than sections 107(b) and 108(c) of such Act, shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 117 of such Act.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 1338 of such Act.

EFFECTIVE DATES

SEC. 193. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 180 and 188 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: ": Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require)" in paragraph (3)(D) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(g) The amendments made by this section, other than by subsection (b), may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.

BUREAU OF THE MINT

SEC. 202. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed $50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1983, 1984, AND 1985

SEC. 301. (a)(1) Except as provided in paragraph (3), the cost-of-living increase under any Government retirement system in annuity or retired or retainer pay of any early retiree during fiscal years 1983, 1984, and 1985, shall be equal to one-half of the assumed increase in the price index for that year.

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if—

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(C) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(3) If the percentage increase in the price index for fiscal year 1983, 1984, or 1985 (as determined by the Office of Personnel Management) exceeds the assumed increase in the price index for that year, then the increase in the annuity or retired or retainer pay of an early retiree under paragraph (1) for that fiscal year shall be equal to—

(A) one-half of the assumed increase in the price index for that year, plus

(B) the amount by which the percentage increase in the price index exceeds the assumed price index increase.

(4) As used in this subsection—

(A) the term "price index" has the meaning given such term in section 8331(15) of title 5, United States Code; and

(B) the term "assumed increase in the price index" means—

(i) 6.6 percent, in the case of fiscal year 1983,

(ii) 7.2 percent, in the case of fiscal year 1984, and

(iii) 6.6 percent, in the case of fiscal year 1985.

(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if this subsection had not been enacted.

(b)(1) Notwithstanding any other provision of law, any cost-of-living increase under a Government retirement system shall not take effect until—

(A) the first day of the first calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1983;

(B) the first day of the second calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1984; and

(C) the first day of the third calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1985.

(2) Nothing in this subsection shall be construed to affect the eligibility for any increase in annuity or retired or retainer pay or the amount of the first increase in annuity or retired or retainer pay under section 8340 (b) or (c) of title 5, United States Code, or comparable provisions of law.

(c) For purposes of this section, the term "cost-of-living increase under a Government retirement system" means any increase under—

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

(a)(1) In the case of any member or former member of a uniformed service who, during any period in fiscal year 1983, 1984, or 1985, is receiving retired or retainer pay and holds a civilian position, there shall be deducted from the pay for such position an amount equal to the amount of any increase in such individual's retired or retainer pay pursuant to section 1401a(b) of title 10, United States Code, which takes effect during any of such fiscal years in which he holds such a civilian position and which is allocable to the period of actual employment in such civilian position. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States.

(2) For the purpose of this subsection—

(A) the term "uniformed service" has the meaning given that term by section 2101 of title 5, United States Code; and

(B) the term "civilian position" means a position, as defined in section 5531(2) of title 5, United States Code.

(3) This subsection shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(4) The reduction in pay required by this subsection does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

(A) resulting from injury of disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

DISABILITY RETIREMENT

SEC. 302. (a) Section 8337 of title 5, United States Code, is amended—

(1) by striking out "1 year" in the second sentence of subsection (d) and inserting in lieu thereof "180 days";

(2) by striking out "each of 2 succeeding calendar years" in the third sentence of subsection (d) and inserting in lieu thereof "any calendar year"; and

(3) by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection, the term 'technician' means an individual employed under section 709(a) of title 32 who, as a condition of the employment, is required under section 709(b) of such title to be a member of the National Guard and to hold a specified military grade.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, an individual shall be retired under this section if the individual—

"(i) is separated from employment as a technician under section 709(e)(1) of title 32 by reason of a disability that disqualifies the individual from membership in the National Guard or from holding the military grade required for such employment;

"(ii) is not considered to be disabled under the second sentence of subsection (a) of this section;

"(iii) is not appointed to a position in the Government (whether under paragraph (3) of this subsection or otherwise); and

"(iv) has not declined an offer of an appointment to a position in the Government under paragraph (3) of this subsection.

"(B) Payment of any annuity for an individual pursuant to this subsection terminates—

"(i) on the date the individual is appointed to a position in the Government (whether pursuant to paragraph (3) of this subsection or otherwise);

"(ii) on the date the individual declines an offer of appointment to a position in the Government under paragraph (3); or

"(iii) as provided under subsection (d).

"(3) Any individual applying for or receiving any annuity pursuant to this subsection shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

"(A) the position is located within the commuting area of the individual's former position;

"(B) the individual is qualified to serve in such position, as determined by the head of the agency; and

"(C) the position is at the same grade or equivalent level as the position from which the individual was separated under section 709(e)(1) of title 32.".

(b) Section 8347(m) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1) and inserting a semicolon in lieu thereof;

(2) by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(4) the Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of chapter 81 of this title.".

(c)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall take effect October 1, 1982, and shall apply with respect to individuals retiring on or after such date.

(2) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect with respect to income earned after December 31, 1982.

(3) Subsection (h) of section 8337 of title 5, United States Code (as added by subsection (a)) shall apply to any technician (as defined in paragraph (1) of such subsection (h)) who separated from employment as a technician on or after December 31, 1979, and before October 1, 1982, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act. Any annuity resulting from such application shall commence as of the day after the date such application is received by the Office.

INTEREST RATES, DEPOSITS, REFUNDS, AND REDEPOSITS

SEC. 303. (a)(1) Section 8334(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) Interest under subsection (c), (d), or (j) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

"(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d), or (j) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

"(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding calendar year from all obligations purchased by the Secretary of the Treasury during such calendar year under section 8348 (c), (d), and (e) of this title, as determined by the Secretary.".

(2) The second sentence of section 8343(a) of title 5, United States Code, is amended by inserting after "at 3 percent a year" the following: "through December 31, 1984, and thereafter at the rate computed under section 8334(e) of this title,".

(b) Section 8339(i) of title 5, United States Code, is amended to read as follows:

"(i) For the purposes of subsections (a)–(h) and (n) of this section, the total service of any employee or Member shall not include

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any period of civilian service after July 31, 1920, for which retirement deductions or deposits have not been made under section 8334(a) of this title unless—

"(1) the employee or Member makes a deposit for such period as provided in section 8334(c) or (d) of this title; or

"(2) no deposit is required for such service, as provided under section 8334(g) of this title or under any statute.".

(c) Section 8342(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee or Member who—

"(1)(A) is separated from the service for at least thirty-one consecutive days; or

"(B) is transferred to a position in which he is not subject to this subchapter and remains in such position for at least thirty-one consecutive days;

"(2) files an application with the Office of Personnel Management for payment of the lump-sum credit;

"(3) is not reemployed in a position in which he is subject to this subchapter at the time he files the application; and

"(4) will not become eligible to receive an annuity within thirty-one days after filing the application,

is entitled to be paid the lump-sum credit. The receipt of the payment of the lump-sum credit by the employee or Member voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, until the employee or Member is reemployed in the service subject to this subchapter.".

(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to refunds made on or after such date. The provisions of section 8334 and section 8339(i) of title 5, United States Code, as in effect the day before the date of the enactment of this Act, shall continue to apply with respect to periods of service and refunds occurring on or before such date.

(2) The amendment made by subsection (c) shall take effect October 1, 1982.

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 304. (a) The first sentence of section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 305. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.".

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

CREDITABLE SERVICE BASED ON MILITARY SERVICE

SEC. 306. (a) Section 8331(8)(B) of title 5, United States Code, is amended by inserting after "service" a comma and "including any amounts deposited under section 8334(j) of this title".

(b) Section 8332(c) of title 5, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and subsection (d) of this section—

"(A) the service of an individual who first becomes an employee or Member before October 1, 1982, shall include credit for each month of military service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject to section 8332(j) of this title; and

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for each month of military service (performed before the date of the separation on which the entitlement to an annuity under this subchapter is based) only if a deposit with interest, if any, is made with respect to that month, as provided in section 8334(j) of this title.

"(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

"(A) based on a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

"(B) under chapter 67 of title 10.".

(c) Subsection (j) of section 8332 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(j)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection relating to credit for military service shall not apply to—

"(A) any month of military service of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(j) of this title; or

"(B) the service of any employee or Member described in section 8332(c)(1)(B) of this title.".

(d) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue within 90 days after the effective date of this subsection, to the agency by which the employee is employed or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each month of military service after December 1956, as certified to the agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, upon the employee's or Member's request.

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) October 1, 1982; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.".

(e) Section 8334(g)(2) of title 5, United States Code, is amended by inserting after "military service" the following: ", except to the extent provided under section 8332(c) or section 8334(j) of this title".

(f) Section 8348(g) of title 5, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "less an amount determined by the Office to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 8334(j) of this title.".

(g) The amendments made by this section shall take effect October 1, 1982.

RECOMPUTATION AT AGE 62 OF CREDIT FOR MILITARY SERVICE OF CURRENT ANNUITANTS

SEC. 307. (a) The provisions of section 8332(j) of title 5, United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on or before the date of enactment of this Act.

(b) Subject to subsection (b), in any case in which an individual described in subsection (a) is also entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under subchapter III of chapter 83 of title 5, United States Code, (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages and deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1)) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under this subchapter to the individual for the determination month if section 8332(j) of title 5, United States Code, applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) October 1982, in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1982.

(f) The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the preceding provisions of this section.

IMMEDIATE RETIREMENT

SEC. 308. (a) Subsection (d) of section 8336 of title 5, United States Code, is amended to read as follows:

"(d) An employee who—

"(1) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(2) while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

"(A) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(B) a significant percent of the employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity. Notwithstanding the first sentence of this subsection, an employee described in paragraph (1) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, which is not lower than 2 grades (or pay levels) below the employee's grade (or pay level), and which is within the employee's commuting area.".

(b) The amendment made by subsection (a) shall take effect October 1, 1982.

GENERAL LIMITATION ON COST-OF-LIVING ADJUSTMENT FOR ANNUITIES

SEC. 309. (a) Section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee's or Member's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date of the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

FEDERAL EMPLOYEE PAY ADJUSTMENTS

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305 (c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

(b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2.087.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

Subtitle B—Limitation on Travel and Transportation Expenses

TRAVEL AND TRANSPORTATION EXPENSES FOR VACATION LEAVE

SEC. 351. (a) Section 5728 of title 5, United States Code, is amended by inserting a comma and "Alaska, and Hawaii" after "continental United States" each place it occurs in subsections (a) and (b).

(b) Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such regulations as the President may prescribe, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

"(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of apppointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii under a new written agreement made before departing from the post of duty.

"(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.".

(c) Notwithstanding section 5728(c)(3) of title 5, United States Code (as added by subsection (b)(2) of this section), the agency shall pay under section 5728(c)(1) of such title (as added by subsection (b)(2) of this section) the expenses of one round-trip of travel of an employee who has served on consecutive tours of duty at posts of duty in Alaska or Hawaii for a period beginning at least five years before the date of enactment of this Act and including such date and the expenses of transportation of such employee's immediate family on one round-trip.

(d) The amendments made by subsection (a) shall take effect with respect to expenses incurred after the date of enactment of this Act for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of

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duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

(e) For the purposes of subsections (c) and (d), the term "employee" shall have the same meaning as provided in section 5721(2) of title 5, United States Code.

Subtitle C—Cost-of-Living Adjustments Uniformed Services

SEC. 361. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(2), section 2(c)(2), and section 2(c)(4) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

COAST GUARD

SEC. 362. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(4) and section 2(c)(6) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

FOREIGN SERVICE

SEC. 363. For cost savings achieved through a limitation on the amount of the annual adjustment of the annuity payable from the Foreign Service Retirement and Disability Fund, in satisfaction of the reconciliation requirements of section 2(b)(5) and section 2(c)(5) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and sections 826 and 827 of the Foreign Service Act of 1980.

TITLE IV—VETERANS' BENEFITS

COMMENCEMENT OF CERTAIN PERIODS OF PAYMENT

SEC. 401. (a)(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of period of payment

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

"(d) For the purposes of this section, the term 'award or increased award' means—

"(1) an original or reopened award; or

"(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of period of payment.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.

ADVANCEMENT OF EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 402. (a) Section 3012(b)(2) of title 38, United States Code, is amended by striking out "calendar year" and inserting in lieu thereof "month".

(b) The amendment made by subsection (a) shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.

ROUNDING DOWN OF PENSION TO NEAREST DOLLAR

SEC. 403. (a)(1) Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3023. Rounding down of pension rates

"The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the nearest dollar.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding down of pension rates.".

(b) The amendment made by this section shall apply with respect to amounts payable for periods beginning after May 31, 1983.

ROUNDING RULE FOR CERTAIN RATES OF COMPENSATION

SEC. 404. (a) Section 314(p) of title 38, United States Code, is amended by inserting "down" after "rounded".

(b) The second sentence of section 315(2) of such title is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.".

(c) The amendments made by this section shall take effect on October 1, 1982.

ROUNDING DOWN OF FISCAL YEAR 1983 COMPENSATION COST-OF-LIVING INCREASE

SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, ,1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

(b) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$57";

(2) by striking out "$162" in subsection (c) and inserting in lieu thereof "$161";

(3) by striking out "$413" in subsection (f) and inserting in lieu thereof "$412";

(4) by striking out "$604" in subsection (h) and inserting in lieu thereof "$603";

(5) by striking out "$62", "$1,403", "$62", and "$1,966" in subsection (k) and inserting in lieu thereof "$61", "$1,402", "$61", and "$1,965", respectively;

(6) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,402";

(7) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,546";

(8) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,757";

(9) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "$1,965";

(10) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$843" and "$1,256", respectively;

(11) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,263"; and

(12) by striking out "$244" in subsection (t) and inserting in lieu thereof "$243".

(c) Section 315 of such title is amended—

(1) by striking out "$116" in clause (1)(B) and inserting in lieu thereof "$115";

(2) by striking out "$38" in clause (1)(D) and inserting in lieu thereof "$37"; and

(3) by striking out "$38" in clause (1)(G) and inserting in lieu thereof "$37".

(d) Section 362 of such title is amended by striking out "$305" and inserting in lieu thereof "$304".

(e)(1) Subsection (a) of section 411 of such title is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	*Monthly rate*
E-1	*$414*
E-2	*427*
E-3	*438*
E-4	*466*
E-5	*479*
E-6	*490*
E-7	*514*
E-8	*541*
E-9	*[1]566*
W-1	*524*
W-2	*545*
W-3	*561*
W-4	*594*
O-1	*524*
O-2	*541*
O-3	*579*
O-4	*612*
O-5	*675*
O-6	*760*

	Monthly
O-7	*823*
O-8	*902*
O-9	*969*
O-10	*[2]1,060*

[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $609.

[2]If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,137.".

(2) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$47".

(3) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$124".

(4) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$61".

(f) Section 413 of such title is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$209";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$300";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$388"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$388" and "$78", respectively.

(g) Section 414 of such title is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$124";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$209"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$106".

(h) The amendments made by this section shall take effect on January 1, 1983.

FEE FOR HOME LOANS

Sec. 406. (a)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1829. Loan fee

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one-half of one percent of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fee.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Sec. 501. (a) Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

(1) is prescribed by law;

(2) is in effect before the date of the enactment of this Act; and

(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.

(b)(1) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out "seven" and inserting in lieu thereof "five".

(2) The last sentence of section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows: "The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

(3) Section 4(h) of the Communications Act of 1934 (47 U.S.C. 154(h)) is amended by striking out "Four" and inserting in lieu thereof "Three".

(4) The amendments made in paragraphs (1), (2), and (3) of this subsection shall take effect on July 1, 1983.

INTERSTATE COMMERCE COMMISSION

Sec. 502. (a) Effective January 1, 1983, each office within the Interstate Commerce Commission provided in section 10301(b) of title 49, United States Code (except one of the two offices prescribed by law to expire on December 31, 1984), which was vacant on July 1, 1982, is abolished.

(b) Effective January 1, 1983, section 10301(b) of title 49, United States Code, is amended (1) by striking out "11" and inserting in lieu thereof "7", and (2) by striking out "6 members" and inserting in lieu thereof "4 members".

(c) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(d) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(e) Effective January 1, 1986, section 10301(b) of title 49, United States Code, is amended (1) by striking out "7" and inserting in lieu thereof "5", and (2) by striking out "4 members" and inserting in lieu thereof "3 members".

(f) Nothing in subsection (c) or (d) of this section shall be construed as prohibiting the reappointment of any person serving in such office in terms expiring on December 31, 1982, or December 31, 1983, respectively.

(g) The term of office of one of the two persons appointed to fill an office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1987, shall end on December 31, 1991. At the time of the first of such two appointments, the President shall designate which appointment is to fill the term of office which shall end under the preceding sentence on December 31, 1991.

(h)(1) Section 10301(c) of title 49, United States Code, is amended by striking out "7 years" and inserting in lieu thereof "5 years".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1984, and shall apply to any person appointed, after such date, to fill any office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire after such date, except that such amendment shall not apply to the person designated by the President to fill the term of office which is to end under subsection (g) of this section on December 31, 1991.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

J. Jones,
Leon Panetta,
Richard A. Gephardt,
Delbert Latta,
Bill Frenzel,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

Les Aspin,
Brian J. Donnelly,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E de la Garza,
Thomas S. Foley,
David R. Bowen,
Fred Richmond,
Bill Wampler,
Paul Findley
(on all matters except as listed below),
Tom Hagedorn
(on all matters except as listed below),
E. Thomas Coleman
(in lieu of Mr. Hagedorn) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment (food stamps),
Wm. Thomas
(in lieu of Mr. Findley) on sections 101-130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Clement J. Zablocki,
Lee H. Hamilton,

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Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

Fernand J. St Germain,
J. William Stanton,
Chalmers Wylie,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

John D. Dingell,
Timothy E. Wirth,
J. J. Florio,
James T. Broyhill,
Norman F. Lent,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

Glenn M. Anderson,
Nick Rahall,
Bob Edgar,
Don Clausen,
Bud Shuster,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

William D. Ford,
Mo Udall,
Edward J. Derwinski,
Gene Taylor,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

Jack Brooks,
Dave Evans,
Frank Horton,
Bob Walker,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. Montgomery,
Marvin Leath,
John Paul
Hammerschmidt,
Chalmers P. Wylie,

Managers on the Part of the House.

Committee on the Budget:

Pete V. Domenici,
W. L. Armstrong,
Nancy Kassebaum,
Rudy Boschwitz,
John Tower,

Committee on Governmental Affairs: For title VI:

Bill Roth,
Ted Stevens,
Mack Mattingly,
David Pryor,

Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The joint statement of managers which follows was prepared by the Committees of jurisdiction, but is arranged by title of the conference agreement. A brief overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

By approving the First Budget Resolution for Fiscal Year 1983, which included reconciliation instructions, Congress continued and expanded its efforts to maintain control over Federal expenditures. Those reconciliation instructions directed eight Senate and nine House committees to report legislation achieving unprecedented reductions which impact on Federal spending during fiscal years 1983, 1984, and 1985.

The legislative recommendations reported by the Senate Finance Committee and the House Ways and Means and Energy and Commerce Committees were incorporated into H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, which has been approved by a separate Senate-House Conference committee. This bill (H.R. 6955) incorporates the legislative recommendations of the other Senate and House committees.

The provisions of the Omnibus Reconciliation Act of 1982 are the culmination of the work of the committees in complying with the reconciliation directives. The savings which have been achieved compare favorably with the reconciliation bills as passed by the House and Senate.

The managers for the Committees on the Budget wish to acknowledge the extraordinary efforts of the conference participants, particularly the chairmen and ranking Members of the House and Senate committees, in achieving these savings.

The Senate bill contained "Sense of the Senate" language directing the conferees on H.R. 4961 to include in the conference report on that measure a provision for a Federal supplemental unemployment benefits program. The House bill contained no such provision.

In view of the fact that the conferees for H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, have included a provision relating to supplemental unemployment benefits, this language is no longer necessary. The Senate therefore recedes to the House.

The Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations; and the House Committees on Armed Services; Energy and Commerce; Foreign Affairs; and Merchant Marine and Fisheries were instructed in the First Budget Resolution to report recommended changes in direct spending programs (as defined by subsection 401(c)(2)(C) of the Budget Act) within their jurisdiction. Savings under the jurisdiction of these committees will occur automatically under this bill because the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service recommended changes in cost-of-living adjustments (COLAs) for civil service retirees. The uniformed service and foreign service retiree COLAs are tied by law to the civil service retirement COLA. The Senate bill included provisions in title II, IV, and V to clarify how the reconciliation instructions for the Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations were met.

The House recedes to the Senate with an amendment to clarify how the reconciliation instructions for the House Committees on Armed Services, Energy and Commerce, Foreign Affairs, and Merchant Marine and Fisheries were met.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—DAIRY PRICE SUPPORT PROGRAM

The House bill amends the statute governing the dairy price support program to provide that:

(a) A two-tier price support program would be effective for fiscal years 1983, 1984, and 1985.

(b) For that portion of the national milk supply needed to meet domestic commercial market needs, the price support level would be: (1) for fiscal year 1983—$13.10 per cwt. and (2) for fiscal years 1984 and 1985—a level that represents the percentage of parity that $13.10 per cwt. represented as of October 1, 1982.

For that portion of the national milk supply excess to domestic commercial market needs, the support level would be the higher tier level of support reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program that is the responsibility of milk producers.

(c) The funds represented by such reduction would be remitted to CCC by each person making payment to producers for milk purchased from the producer, and in the case of a producer who markets his own milk directly to consumers the funds would be remitted by the producer.

(d) Producers of milk would have responsibility each fiscal year for that portion of the cost of purchases by CCC under the price support program in excess of 5 billion pounds milk equivalent, related costs, the amount of marketing reduction incentive payments due producers for reductions in their milk production, expenses of the National Dairy Board, and any balance remaining from the past year on advances made to the Board by CCC. There would be deducted from such total amount the estimated receipts from the sale or transfer of dairy products in CCC inventories.

(e) If dairy product imports should be increased under section 22 of the Agricultural Adjustment Act, the portion of the cost of the price support program that is the responsibility of producers would be reduced by the milk equivalent of the increased imports.

(f) The price of milk would be supported through the purchase of milk and its products, all such purchases to be made at the higher level of support.

(g) If the lower tier support rate is in effect, nontransferable incentive payments would be made to producers whose marketings of milk during the current period have been reduced from their marketings during the corresponding period of the prior year. The payment would be made on a quantity of milk up to the quantity on which the person was paid at the lower tier support rate and at a rate of payment that could not exceed the difference between the higher and lower tier support levels. If the lower tier support rate is provided for consecutive fiscal years, the Board would recognize actions taken by producers in reducing milk marketings in prior years, except to the extent that such reduction had been offset by increases in subsequent years.

(h) Program decisions would be made by a National Dairy Board consisting of 16 members including the Secretary, 15 members of the Board to be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations representing milk producers and certified by the Secretary. The Board would have authority to dispose of dairy products acquired through price support operations, including those acquired before the date of enactment of the bill. Dispositions would include sales to the domestic commercial trade for unrestricted use at not less than the current market price or 110 percent of the current CCC purchase price based on the higher tier support price, transfers to Federal, State, and local agencies for food assistance programs, sales for commercial export and other sales or donation efforts. The Board could require the operation of the program to be carried out through products other than those purchased by CCC.

The proceeds from inventory disposition operations would be credited to the account of the Board. Dairy products up to 5 billion pounds milk equivalent would be made available for child nutrition and similar programs, including those conducted under the Older Americans Act at the request of the Secretary without cost.

(i) Nominations to the initial Board would be submitted to the Senate not later than January 1, 1983, and as a transition matter the Secretary of Agriculture would exercise the authority of the Board until such time as the Board was functioning but not later than April 1, 1983.

(j) The Secretary's responsibilities would include providing for collection of the funds resulting from payments on marketings by farmers of their excess production, providing the facilities and support required by the Board, and otherwise cooperating with the Board in the performance of its duties.

(k) Provisions for enforcement are included in the bill, including payments of penalties by persons who wilfully fail or refuse to remit amounts due under the program.

The Senate amendment provides that, effective for the period beginning with December 22, 1981, and ending September 30, 1985, the support price for milk shall be set at the level determined appropriate by the Secretary, but not less than $13.10 per hundredweight for milk containing 3.67 percent milk fat.

The Conference substitute amends the statute governing the dairy price support program to provide that:

(a) The price support level for the years beginning October 1, 1982, and October 1, 1983, would be not less than $13.10 per hundredweight; and for the year beginning October 1, 1984 would be not less than the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

(b) The Secretary would be given authority to provide for a deduction of 50 cents per hundredweight for the period beginning October 1, 1982, and ending September 30, 1985, from the proceeds of sale of all milk marketed by producers to be remitted to Commodity Credit Corporation to offset a portion of the cost of the price support program. Authority for this deduction would not apply for any fiscal year for which the projected annual price support purchases are less than 5 billion pounds milk equivalent. If at any time during a fiscal year, the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pound, the authority for making deductions would not apply for the balance of the year.

(c)(1) The Secretary would be given authority to provide for an additional deduction of 50 cents per hundredweight for the period beginning April 1, 1983, and ending September 30, 1985, to be remitted to Commodity Credit Corporation subject to the following conditions.

(2) The provision for this deduction could only be implemented if the Secretary established a program to refund the assessment to farmers that reduce their commercial marketings from a base period. The base period would be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make adjustments in individual bases to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. The refunds would be based on reductions in commercial marketings, as specified by the Secretary, but the Secretary could not require a reduction of marketings in excess of a reduction equivalent to the ratio that the total projected surplus milk for the fiscal year bears to the total milk production estimated for such period.

(3) Authority for the additional deduction would not apply for any fiscal year for which projected annual purchases by Commodity Credit Corporation are less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for making the additional deduction would not apply for the balance of the year.

(d) The Secretary would be responsible for administration of the program described above, and provisions for a Dairy Board as contained in the House bill would be deleted.

SUBTITLE—DAIRY PROMOTION

The House bill provides new authority for a National Dairy Products Promotion program to improve markets and income for United States dairy producers as follows:

(a) The program would be funded by a uniform nonrefundable check-off of 5 cents per hundredweight on all milk marketed.

(b) Initiation of the program would be subject to approval of a proposed promotion order in an industry-wide referendum of dairy producers in which a majority of those voting favor the proposed order. Approval by a milk marketing cooperative of producers would be considered as the approval of member producers, except that the cooperative must provide its members an opportunity to vote if they should so wish.

(c) An additional referendum would be held at the end of a 5-year period to determine whether milk producers favor continuation of the order.

(d) The program would be administered by a Board of Directors of not less than 36 members appointed by the Secretary of Agriculture from nominees submitted by producers and selected on a geographical basis to assure representation of all milk producing regions.

(e) Promotional activities of the Board would be limited to processed dairy products for the first 2 years of the program and must make no reference to any private brand or name.

(f) The government would be reimbursed for its costs (other than salaries paid to government employees incurred in administration of the program from assessments collected from milk producers).

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE B—DONATION OF DAIRY PRODUCTS

The House bill provides additional authority to the Commodity Credit Corporation to dispose of dairy products acquired under the price support program to needy households in the United States and through foreign governments and public and nonprofit private humanitarian organizations for assistance to needy persons outside the United States. The CCC would be authorized to pay reprocessing, packaging, transportation, handling and other charges incurred on the donated commodities.

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations must be coordinated through the mechanism designated by the President to coordinate assistance under Public Law 480 and shall be in addition to the level of assistance programmed under that Act.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make clear that the donations for distribution in the United States would include donations to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.

With respect to the donation of dairy stocks abroad, the Conferees stress that care must be exercised to avoid unintended harmful effects from distribution of dairy products, particularly within developing countries with poor populations. The inability of some needy groups to consume nonfat dried milk without further processing, their particular dietary needs and deficiencies, and the lack of sanitary facilities and potable water are among the factors taken into account in food distributions carried out under Public Law 480, title II aid programs. The Conferees intend that safeguards similar to those exercised under title II, Public Law 480 programs also apply to donations under the new authority.

SUBTITLE C—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, AND RICE

(1) Advance deficiency payments

The Senate amendment provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. For the 1982 and 1983 crops, the Secretary would be required to make advance payments, as follows: (a) for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and (b) for 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance pay-

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ments in amounts up to 50 percent of the projected final payments. Any overpayments are required to be refunded to the Secretary by producers by the end of the marketing year for the crop involved. Any advance payments made to a producer who fails to meet the program requirements must be repaid, with interest, immediately.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Loan rates for wheat and feed grains

(a) The House bill increases the minimum loan level for the 1983 crop of wheat to $3.80 per bushel (a 25-cent per bushel increase over the 1982 loan level).

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of wheat to $3.65 per bushel.

(b) The House bill also increases the minimum loan level for the 1983 crop of corn to $2.71 per bushel (a 16-cent per bushel increase over the 1982 loan level). The loan price support level for the other feed grains would be set under current law at such level as the Secretary determines fair and reasonable in relation to the level set for corn.

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of corn to $2.65 per bushel.

(3) 1983 wheat acreage reduction program

(a) The House bill requires the Secretary to provide for a 1983 wheat acreage limitation program under which the acreage planted to wheat would be limited to the wheat acreage base for the farm reduced by 15 percent and a paid diversion program under which the wheat acreage on the farm would be reduced an additional 10 percent of the wheat acreage base. The House bill further makes participation in both the acreage limitation and land diversion programs a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a wheat acreage limitation program and paid diversion program on the 1983 crop of wheat under which the wheat acreage would be reduced in the same amounts as in the House provision. The Senate amendment requires participation in the acreage limitation program as a condition of eligibility for program benefits but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation program under which the acreage planted to wheat on the farm would be limited to the farm acreage base reduced by 15 percent and a diversion program under which the wheat acreage would be reduced an additional 5 percent of the wheat acreage base. Producers would be required to participate in both the acreage limitation program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage than a total of 20 percent of the wheat acreage base. This could be accomplished by increasing the requirements for diversion in excess of 5 percent of the wheat acreage base or by increasing the reduction required to be made under the acreage limitation program. In the latter event, however, the Secretary must increase the diversion requirement in an amount proportionate to any increased reduction required to be made under the acreage limitation program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate of $3 per bushel multiplied by the farm program payment yield for the crop by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate not less than $120 per acre as determined appropriate by the Secretary. The payment rate would be adjusted by the Secretary for each farm to reflect differences in yield per acre among wheat farms.

The Conference substitute adopts the House provision with an amendment that provides that the diversion payment would be a minimum of $3 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(4) 1983 feed grain acreage reduction program

(a) The House bill requires the Secretary to provide for a feed grain acreage limitation (or set-aside) program for the 1983 crop of feed grains under which the acreage planted to feed grains would be limited to the feed grain acreage base for the farm reduced by 10 percent and a paid diversion program under which the feed grain acreage would be reduced by an additional 10 percent of the feed grain acreage base, if the Secretary estimates on October 15, 1982, that the 1982 corn crop will exceed 7.3 billion bushels. The House bill further requires participation in both the acreage limitation program and the land diversion program as a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a feed grain acreage limitation program and paid diversion program on the 1983 crop of feed grains under which the feed grain acreage would be reduced in the same amounts as in the House provision. The Senate amendment, however, does not make the programs contingent on the estimated production of the 1982 crop of corn and requires participation in the acreage limitation program as a condition of eligibility for program benefits, but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation (or set-aside) program under which the acreage planted to feed grains on the farm would be limited to the feed grain acreage base for the farm reduced by 10 percent and a diversion program under which the feed grain acreage would be reduced an additional 5 percent of the feed grain acreage base. Producers would be required to participate in both the acreage limitation (or set-aside) program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the feed grain acreage reduction program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of $1.50 per bushel multiplied by the farm program payment yield by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of not less than $150 per acre—the rate to be adjusted to reflect differences in yield per acre among feed grain producing farms.

The Conference substitute adopts the House provision with an amendment that provides that the corn diversion payment would be a minimum of $1.50 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(5) Acreage base for the farm

(a) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted, to reflect factors the Secretary determines should be considered in determining a fair and equitable base. It further provides that the acreage base for producers following a normal summer fallow crop rotational practice for at least 3 years shall be the previous year's acreage (or the average acreage for the 2 previous years) expanded by adding to it the amount determined by multiplying one-half the announced acreage limitation percentage by the acreage annually idled and devoted to summer fallow.

The Senate amendment provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted for factors, which in the case of wheat include summer fallow.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted to reflect factors the Secretary determines should be considered in determining a fair and equitable base. In making adjustments in the base, the Secretary is expected to consider the special problems of producers that follow a normal summer fallow crop rotational practice.

(b) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of upland cotton and rice shall be the same as the acreage base for the 1982 crop of such commodities with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base.

The Senate bill contains no comparable provisions.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of rice shall be the same as the acreage base for the 1982 crop with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base. The conference substitute deletes the House provision relating to the acreage base for upland cotton.

(6) 1983 upland cotton acreage reduction program

(a) The House bill requires that if the Secretary should establish a reduction program for the 1983 crop of upland cotton, 25 percent of any acreage reduction must be under a paid diversion program and the balance under the acreage limitation program. Upland cotton producers must comply with the combined acreage reduction and paid diversion programs to be eligible for program benefits.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. If the Secretary should establish an acreage reduction program for the 1983 crop of upland cotton, the conferees urge the Secretary to implement a paid diversion program in combination therewith.

(b) The House bill provides that the 1983 crop upland cotton producer who meets the combined acreage reduction requirement shall receive a diversion payment determined by multiplying a rate of 25 cents per pound, by the farm program payment yield, and by the additional acreage diverted under the paid diversion program.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) 1983 rice acreage reduction program

(a) The House bill requires that if on November 15, 1982, the Secretary estimates the 1982 crop of rice will exceed 145 million hundredweight (rough rice basis), the Secretary must provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 10 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 10 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits.

The Senate bill contains no comparable provision.

The Conference substitute requires the Secretary to provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 15 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 5 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits. This requirement is a minimum. Under the statue, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage of rice. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the rice acreage reduction program.

(b) The House bill provides that the payment for participation in the 1983 crop rice land diversion program would be at a rate of $3.00 per hundredweight, multiplied by the farm program payment yield, by the additional acreage diverted under the paid diversion program.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes the $3.00 per hundredweight a minimum rate and provides that the Secretary is authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

Advance diversion payments

The House bill provides in the case of 1983 crop wheat, feed grains, upland cotton, and rice, that the Secretary is required to advance at least 50 percent of any land diversion payments as soon as practicable after a producer enters into a land diversion contract. If thereafter a producer fails to comply with the diversion contract, the producer must repay the advance with interest.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision as to wheat, feed grains, and rice, and deletes the House provision as to upland cotton.

SUBTITLE D—AGRICULTURAL EXPORT PROMOTION

The Senate amendment requires the Secretary of Agriculture for each of the fiscal years 1983, 1984, and 1985 to use between $175 million and $190 million of Commodity Credit Corporation funds for agricultural export promotion activities to discourage and neutralize agricultural export subsidy programs by foreign countries. The Secretary would be required to use the funds to (a) buy-down the rate of interest on export credit financing for a term of up to 10 years and guarantee the repayment of loans for which interest reduction payments are made, or (b) initiate export subsidy programs with respect to one or more agricultural commodities that have been or are involved in unfair trade practice cases under section 301 of the Trade Act of 1974, as amended, as the Secretary determines appropriate to neutralize subsidies on the same commodities by foreign countries. The Secretary must safeguard the usual marketings of U.S. agricultural commodities.

The House bill contains no comparable provision.

The Conference substitute provides that effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture would be required to use not less than $175 million nor more than $190 million of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under current provisions of law. This authority would be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities authorized under current provisions of law. These activities include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5(d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential. The Conferees intend that the Secretary, to the greatest extent practicable and where appropriate, use these funds for interest buy-downs, or direct export credit sales, or export subsidies in order that American farmers and exporters may compete in international trade on an equal basis.

The Conferees are strongly concerned about the use of export subsidies by foreign countries in violation of obligations under trade agreements with the United States that have had the effect of impacting adversely on agricultural exports from the United States, contributing to the depressed farm economy in the United States.

These subsidies result in the displacement of potential exports of U.S. farm products in third-country markets, with a resulting adverse impact on American and world prices. The Conferees express a continued commitment to the General Agreement on Tariffs and Trade (GATT) and its accompanying international obligations incumbent on the United States. At the same time the Conferees believe that the United States cannot tolerate unfair trade practices and should act to counter them in a direct way.

In this regard the Conferees call attention to the many pending cases initiated by the United States involving unfair trade practices under section 301 of the Trade Act of 1974, as amended.

The Conferees have deleted the specific provision in the Senate bill for the use of export subsidies by the Secretary to neutralize subsidies on the same commodities by foreign countries that are the subject of pending section 301 cases. This change was made in part as a result of assurances from the Administration that these cases will be pressed and resolved in a year. The Conferees do not intend that the funds made available by this provision be used, in any way, in contravention of international obligations of the United States, but on the other hand the Conferees do not want the United States to sit idly by while other countries make use of export subsidies to capture markets from the United States.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

(1) Short title

The House bill provides that the food stamp amendments may be cited as the "Food Stamp Act Amendments of 1982."

The Senate amendment contains no coparable provision.

The Conference substitute adopts the House provisions.

(2) Definition of household

(a) The House bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The Senate amendment requires that all related persons who live together be treated as a single household, unless one of the related persons is elderly or disabled.

The Conference substitute adopts the House provision.

(b) The House bill specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disability recognized by the Social Security disability program or a nondisease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the nonfarm income poverty guidelines.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

While retaining the "purchase food and prepare meal separately" rule in the household definition for some categories of applicants—that is, unrelated persons, elderly and disabled persons (except spouses), and nonsibling relatives—the conferees expect that eligibility workers could effectively question claims and that the burden of proof for establishing "separateness" in such cases would be placed on the household, rather than the administering agency.

With regard to household members, the conferees note that both the House bill and the Senate amendment contain provisions adding to the Food Stamp Act of 1977 a definition of the term "elderly or disabled member". The definition includes certain disabled veterans and disabled surviving spouses and children of veterans. The spouses and children covered by this definition are those who are, among other things, entitled to compensation for a service connected death or pension benefits for a nonservice connected death under title 38, United States Code. The conferees intend that the word "entitled", as used in this definition, includes only those spouses and children who are receiving such compensation or pension benefits or who have applied for and been adjudged entitled to such benefits.

(3) Thrifty food plan adjustments

The Senate amendment revises the measurement periods used for each October's adjustment of the cost of the thrifty food plan. The adjustment scheduled for October 1, 1982, will be based on food price changes for the 18 months ending March 31, 1982. The October 1983 adjustment will be based on changes in the 13-month period ending April 30, 1983. The October 1984 adjustment will be based on changes in the 13-month period ending May 31, 1984. The October 1985 adjustment will be based on changes in the 13-month period ending June 30, 1985. Each subsequent October 1 adjustment will be based on the 12 months ending the preceding June 30.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

(4) Income standards of eligibility

The Senate amendment revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) Adjustment of deductions

The House bill delays the July 1, 1983, adjustment of the standard deduction until October 1, 1983.

The Senate amendment delays the July 1, 1983, adjustment of the standard deduction until October 1, 1984. The Senate amendment also revises the measurement periods used to adjust the standard deduction to provide that the adjustment for October 1, 1984, will be based on changes in the nonfood elements of the Consumer Price Index (CPI) for the 21-month period ending September 30, 1983; the adjustment for October 1, 1985, will be based on changes in the CPI during the 21-month period ending June 30, 1985; and the adjustments for October 1, 1986, and each October 1 thereafter will be based on changes in the CPI for the 12-month period ending the preceding June 30.

The Conference substitute adopts the House provision.

(6) Averaging income

The House bill provides that, in determining income for purposes of food stamp eligibility, income received on a weekly or biweekly basis from the same source shall be converted to a monthly amount of income.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Migrant farmworkers

The House bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(8) Financial resources

The Senate amendment precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The Senate amendment would also require accessible pension funds and savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the cash value of any accessible pension funds.

The conferees intend that the provision requiring that retirement funds be counted as financial resources would only be applied to savings accounts, individual retirement accounts, and Keogh plans where no contractual relationship with other individuals is involved.

(9) Categorical eligibility

The House bill permits States to consider households in which all members receive aid to families with dependent children benefits, and (i) whose net income does not exceed 100 percent of the nonfarm poverty guideline in the case of households containing an elderly or disabled member, or (ii) whose gross income does not exceed 130 percent of the nonfarm poverty guideline in the case of all other households, as having satisfied the resource limitation requirements under the food stamp program.

The Senate amendment permits States to consider households in which all members receive aid to families with dependent children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

The Conference substitute adopts the Senate provision.

(10) Approval of periodic reporting forms

The Senate amendment removes the requirement that the Secretary of Agriculture design or approve the forms used by the States for nonperiodic reporting of changes in household circumstances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The House bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals. The House bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

The Senate amendment permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extent necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the aid to families with dependent children program.

The Conference substitute adopts both the House and Senate provisions.

(12) Employment and job search requirements; voluntary quit

(a) The Senate amendment revises work registration and job search requirements to provide that an entire household would be disqualified for failure to comply with whatever reasonable job search requirements are prescribed by the Secretary. Such disqualification will remain in effect until the requirement is satisfied. The Senate amendment will also specifically provide that households will be ineligible to participate in the food stamp program if a member of the household subject to these provisions, without good cause, refuses to report for a job interview, refuses to provide information regarding employment status or availability for work, or refuses to report for a work opportunity.

The House bill contains no comparable provisions.

The conference substitute deletes the Senate provision.

(b) The House bill provides that, at the option of the state, job search requirements could be imposed on applicants, as well as recipients.

The Senate amendment permits the Secretary to impose job search requirements on applicants for food stamps, as well as recipients.

The Conference substitute adopts the House provision.

(c) The Senate amendment permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job.

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The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Parents and caretakers of children

The Senate amendment eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(14) Hours of employment

The Senate amendment revises the work registration requirement to exempt those individuals (i) employed a minimum of 150 hours per month or (ii) receiving monthly earnings equal to the applicable minimum wage rate multiplied by 150 hours, rather than those employed 30 hours per week or receiving earnings equivalent to the minimum wage times 30 hours.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) Joint employment regulations

The Senate amendment removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the work incentive program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(16) College students

The Senate amendment revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that college students who are otherwise eligible to participate in the food stamp program may not be disqualified when the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

(17) Income and assets of ineligible aliens

The Senate amendment requires that all the income and assets of an ineligible alien be attributed to the household of which the alien is a member for purposes of determining food stamp eligibility and benefits due the household.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) Initial allotments

The House bill eliminates any prorated benefits of less than $10.

The Senate amendment requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

The Conference substitute adopts both the House and Senate provisions.

(19) Effect of noncompliance with other programs

The Senate amendment prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(20) House-to-house trade routes

The Senate amendment authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(21) Approval of State agency materials

The Senate amendment prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Bilingual personnel and printed materials

The Senate amendment eliminates the requirement for State agencies to use appropriate bilingual personnel and printed materials in administering the food stamp program in those portions of political subdivisions in the State where a substantial number of low-income persons speak a language other than English. The Senate amendment gives the States the option of using such personnel and materials.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees understand that the Department of Agriculture has solicited comments from the States on the regulations relating to the use of bilingual personnel and material. The conferees support any efforts by the Department to eliminate burdensome requirements in this area.

(23) Points and hours of certification and issuance

The Senate amendment eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provison.

(24) Authorized representatives

The Senate amendment permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorised representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees do not intend that households be barred from using authorised representatives on the basis of age, household composition, or employment status unless a determination has been made that such restrictions are a necessary means to control a documented pattern of abuse.

(25) Expedited service

The House bill provides that food stamps shall be provided on an expedited basis in accordance with regulations in effect on July 1, 1982, to destitute migrant or seasonal farmworker households and to any other household in immediate need because of no net income, as defined in sections 5 (d) and (e).

The Senate amendment requires that expedited 5-day service be provided to households (i) having gross incomes lower than $85 per month or headed by a destitute migrant or seasonal farmworker and (ii) having liquid assets of not more than $100. A State agency would not be required to provide this expedited service to a given household more than once in a 6-month period, unless that household is headed by a destitute migrant or seasonal farmworker. The State agency is required, to the extent practicable, to verify the income and resources of the recipient household prior to the issuance of food stamps.

The Conference substitute adopts the Senate provision with an amendment providing that 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farmworker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

(26) Duplicate receipt of food stamps

The Senate amendment requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees understand that the Secretary will require State agencies to proceed promptly to implement this essential control on dual participation. The conferees

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recognize that not all States currently have the computer capability to begin immediate, comprehensive statewide control. In the interim, all States are expected to implement this control to the extent of their current capability and to proceed systematically toward upgrading their capabilities to achieve total State coverage of all participants by the control system.

(27) Certification systems

The Senate amendment permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, and (ii) food stamp applicants must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees emphasize that current procedures under which households terminated from the aid to families with dependent children program are kept on food stamps if still eligible are to be continued. A separate determination of food stamp eligibility must occur if a household is terminated from AFDC.

(28) Assurance of nonduplication with "cashed out" benefits

The House bill requires State agencies to determine at least annually whether households that have been "cashed out" of the food stamp program are also receiving food stamps.

The Senate amendment mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

The Conference substitute adopts the Senate provision.

(29) Issuance procedures

The House bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

The Senate amendment authorizes the Secretary of Agriculture to require a State agency to implement new or modified issuance procedures that the Secretary finds would improve program integrity and be cost effective.

The Conference substitute adopts the House provision.

(30) Disqualification and penalties for food stores

The Senate amendment raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(31) Bonding for food stores

The Senate amendment permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of sucl. bond by regulation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Alternative means for collection of overissuances and States' share of recovered moneys

(a) The Senate amendment permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Fraud claims collection procedure

The Senate amendment allows the household of a disqualified person 30 days after a demand for an election to choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Employment requirement pilot project

The Senate amendment authorizes the Secretary of Agriculture to conduct pilot projects in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing four pilot projects.

(35) Distribution of surplus commodities

The Senate amendment states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(36) Appropriation authorization

The House bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.648 billion for fiscal year 1983, $12.908 billion for fiscal year 1984, and $13.651 billion for fiscal year 1985.

The Senate amendment extends the authorization of appropriations for the food stamp program, except for the Puerto Rican block grant, as follows: $11.9 billion for fiscal year 1983, $12.3 billion for fiscal year 1984, and $13.2 billion for fiscal year 1985. The Senate amendment also provides a separate authorization of appropriations for a Puerto Rican block grant of $825 million for each of fiscal years 1983 through 1985.

The Conference substitute adopts the House provision with an amendment to establish the authorization levels as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

(37) Puerto Rico block grant

(a) The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact on the nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate agriculture committees no later than 6 months after the effective date of the bill.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(38) Similar workfare programs

The Senate amendment requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the aid to families with dependent children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(39) Exemption of WIN participants from workfare

The Senate amendment deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(40) Hours of workfare

The Senate amendment revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(41) Reimbursement for workfare administrative expenses

The House bill directs the Secretary to reimburse agencies operating workfare projects for administrative expenses not otherwise reimbursable from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30-day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

As stated last year in the Conference report on the Agriculture and Food Act of 1981, the conferees do not intend that federally-shared administrative expenses include the cost of equipment, tools, or materials used in connection with work performed by workfare participants or the costs of supervising workfare participants and, further, do not intend that participants be reimbursed for meals away from home.

(42) State block grant option

The Senate amendment permits a State, at its option, to operate a low-income nutritional assistance block grant to finance expenditures for food assistance for needy persons within the State, in lieu of operating a food stamp program within the State. The State would be allowed to design its own low-income nutritional assistance program. States making such an election would receive, at the start of the fiscal year, a percentage of the annual Federal food stamp appropriation equal to their proportionate share of food stamp benefits (including cash benefits in lieu of food stamps and the Federal share of State administrative expenses) during the period April 1, 1981, through March 31, 1982. No State would receive less than 0.25 percent of the appropriation.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees intend that both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry hold early and thorough hearings on the concept of a State block grant option in order to expedite further congressional consideration of this issue.

(43) Technical corrections

The Senate amendment makes various technical corrections in the Food Stamp Act of 1977 to correct two typographical errors and to change references to the Secretary of Health, Education, and Welfare to the Secretary of Health and Human Services.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(44) Effective dates

(a) The House bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The Senate amendment provides that all the food stamp provisions of the bill will be effective October 1, 1982, and implemented no later than January 1, 1984.

The Conference substitute adopts the House provision.

(b) The House bill makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the Agriculture and Food Act of 1981 effective on the date of enactment of the bill unless already effective.

The Senate amendment provides that, except as otherwise specifically provided, the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 shall be effective on August 13, 1981, and shall be implemented no later than June 1, 1983, and the food stamp provisions of the Agriculture and Food Act of 1981 shall be effective on December 22, 1981, and shall be implemented no later than July 1, 1983.

The Conference substitute adopts the House provision.

TITLE II—BANKING

The Senate bill contains provisions excluding lump sum mortgage insurance premiums from the maximum mortgage limits and minimum downpayment requirements on FHA insured loans. The House bill contains these same provisions with i) additional requirements for the FHA program for refunds to those selling a home in the early years of the mortgage and for a determination by the HUD Secretary that the program of advance mortgage insurance premiums is actuarially sound before implementation of the amendments made by the provisions and ii) an authorization of $50,165,000 for fiscal year 1983 for the expenses of the Bureau of the Mint. The conference report contains the House provision with a technical amendment to clarify that refunds are required for any program of advance premium collection even if the Secretary does not find the exclusion of the insurance premium from mortgage and downpayment limits to be actuarially sound.

The Conferees direct the Secretary to use the regulatory process to implement this provision in order to assure that Congress and the public have an opportunity to review and comment on the structure of the program, prior to its actual implementation. The Conferees further expect that at the time the regulation is proposed the specific information that the Secretary used to make the required determination will be provided to the House and Senate Banking Committees. The determination must assess the actuarial soundness of the program including an analysis of the impact of allowing loan to value ratios in excess of 100 percent in the early years of the mortgage and the impact of the program on the ability of moderate income families to afford the resulting monthly payments and downpayments. If the Secretary determines that implementation of the amendments made by this section is not actuarially sound, the conferees expect that the Secretary will propose ways to preserve the current affordability of FHA insured mortgages for home buyers who can only afford minimum downpayments, including retention of the current system for those marginal purchasers. The Conferees further expect that the secretary shall require, in the regulations, that payment of such premiums be made promptly after settlement as is required by Section 530 of the National Housing Act.

TITLE III

PART A—CIVIL SERVICE PROGRAMS

Cost-of-living adjustments (section 301)

Section 601 of the Senate amendment limits civil service retirement cost-of-living adjustments to 4 percent in each of fiscal years 1983, 1984, and 1985.

The House bill contains no comparable provision.

The House recedes to the Senate and concurs in the provisions of the Senate amendment with an amendment.

The conference substitute contains three parts.

First, the conference substitute provides that payment of civil service retirement cost-of-living adjustments which occur under section 8340 of title 5, United States Code, will be delayed one month in each of the next three calendar years. Adjustments currently are payable April 1 of each year. Under the conference substitute, adjustments will be payable May 1, 1983, June 1, 1984, and July 1, 1985.

Second, the conference substitute provides that civil service retirees who are under age 62 at the time of a cost-of-living adjustment under section 8340 shall receive only one-half of such adjustment. For the next three years the full adjustments are projected to be 6.6 percent, 7.2 percent, and 6.6 percent. Thus, under the conference substitute, retirees under age 62 would receive adjustments of at least 3.3 percent, 3.6 percent, and 3.3 percent. The conference substitute further provides that retirees subject to the limitation will receive an additional adjustment if the cost-of-living adjustment which actually occurs under section 8340 exceeds the projected adjustment. If this occurs, the retiree will receive one-half of the projected adjustment plus the entire amount by which the actual adjustment exceeds that projected. For example, if the full cost-of-living adjustment effective in 1983 is 7.6 percent rather than the projected 6.6 percent, retirees subject to the limitation in the conference substitute would recieve 4.3 percent (one-half of the projected adjustment plus an additional one percent reflecting the error in the projection). The limitation in the conference substitute does not apply to individuals receiving survivor annuities or individuals retired on disability.

The timing and amount of cost-of-living adjustments under several other government retirement systems (e.g., the military retirement system and the Foreign Service retirement system) are linked, by law, to the civil service retirement system adjustment mechanism. Thus, the changes in timing and amount discussed above also will apply to these other retirement systems, resulting in additional outlay reductions.

The third part of the conference substitute affects the pay of military retirees who are employed in civil service postions. Currently, the vast majority of these individuals receive both a full civil service salary and a fully indexed military pension. Thus, each year these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference substitute provides that when such an individual receives a retirement cost-of-living adjustment, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

Disability retirement (section 302)

Section 602 of the Senate amendment makes five substantive changes with respect to disability retirement under the civil service retirement System. First, it prohibits individuals eligible for immediate retirement from retiring on disability. Second, it reduces from one year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. Third, it changes the current earning capacity test period from two years to one year. Fourth, it authorizes the Office of Personnel Management to obtain certain information from the Departments of Health and Human Services, Labor, and Defense and the Veterans Administration. Finally, National Guard technicians who are separated from employment as technicians on or after December, 1979, due to disabilities that disqualify them from the National Guard or military service, will be eligible for disability retirement. Such service is required for employment as a technician.

The House bill contains no comparable provision.

The conference substitute adopts the provisions of the Senate amendment with minor changes. The provision prohibiting disability retirement for individuals eligible for optional retirement is deleted. The provision for payment of disability annuity benefits to National Guard technicians is made prospective and dependent on the individual concerned making application to Office of Personnel Management not later than twelve months after the date of the enactment of the conference substitute. Finally, the provisions relating to restoration of earning capacity are made effective with respect to income earned after December 31, 1982. The conference substitute includes other stylistic and technical changes.

Interest rates, deposits and redeposits under the civil service retirement system (section 303)

Section 603 of the Senate amendment provides that effective January 1, 1985, the interest rate for any given year on redeposits of refunds and deposits for periods of service for which no deductions were made shall be equal to the overall average yield on all obligations in which the Fund was invested during the fiscal year ending during the preceding calendar year. Currently the interest rate charged is set by statute at three percent. The Senate amendment also provides that no retirement credit will be allowed for periods of service for which retirement deductions were not made unless a deposit for such service is made to the Fund. Finally, the Senate amendment provides that an employee must be separated for at least 31 days before a refund of retirement contributions may be made. Currently, an employee need be separated for only three days.

The House bill contains no comparable provision.

The conference substitute adopts the Senate amendment with minor changes. The conference substitute clarifies the interest rates which will be effective in the future. Under the substitute the rate of interest for any calendar year will be equal to the overall average yield to the civil service retirement fund during the preceding calendar year, as determined by the Secretary of the Treasury, from all obligations purchased by the Secretary during the calendar year under section 8348 (c), (d), and (e) of title 5, United States Code. The conference substitute further provides that the new interest rates will apply only with respect to refunds and periods of service which occur after October 1, 1982. Finally, the provisions relating to the required 31 day separation are made effective October 1, 1982, to conform to the general effective date of the conference substitute.

Reduction of annuities for early retirement

Section 604 of the Senate amendment provides that the annuity of a retiring employee shall be reduced four percent for each year the employee is under age 55 at the time of retirement. Under current law the reduction is two percent for each year.

The House bill contains no comparable provision.

The Senate recedes to the House.

Rounding down of civil service retirement annuities (section 304)

Section 301 of the House bill and section 606 (a) and (b) of the Senate amendment provide that civil service annuity benefits shall be rounded to the next lowest dollar. Under existing law annuities are rounded to the nearest whole dollar. This change will apply to initial annuities and to annuities adjusted annually to reflect changes in the cost-of-living. The conferees agreed that the new rounding provisions shall apply with respect to annuities commencing on or after October 1, 1982, and with respect to adjustments or redeterminations of annuities made on or after that date.

Later commencement date for certain annuities (section 305)

Section 302 of the House bill and section 606(c) of the Senate amendment provide that the annuities of retiring employees and Members will commence on the first day of the month after separation from the service. Under existing law, such annuities commence on the day following separation. The House provision, however, would not apply to individuals retiring involuntarily (except for cause) or on disability. The House bill provides that the amendment applies to annuities commencing on or after October 1, 1982.

The Senate recedes to the House.

Creditable service based on military service; recomputation at age 62 of credit for military service of current annuitants (section 306, 307)

"Catch-62" is the term used to describe a situation where an individual with military service retiring under the civil service retirement system may credit the years of post-1956 military service for a civil service annuity. These military years are also automatically creditable for social security benefit purposes. In order to prevent coverage under both systems for the same period of service, the civil service retirement annuity, by law, is recomputed at age 62 (when social security eligibility begins) to eliminate the period of military service from the civil service annuity. The additional social security benefit gained for these years of military service often does not match the reduction in the civil service annuity. Sections 607 and 608 of the Senate amendment address this problem in three ways.

The House bill contains no comparable provision.

The House recedes to the Senate with technical amendments. The conference substitute provides the following:

(a) An employee first employed in a position under the civil service retirement system on or after October 1, 1982, will not receive credit for military service toward a civil service annuity unless the employee deposits in the civil service retirement fund an amount equal to 7 percent of his military base pay for each year of military service that he wants credited for civil service retirement purposes. If the employee makes a deposit, he will be entitled to credit under both the civil service and social security systems. An employee has a two-year grace period after employment begins during which no interest will be applied to amounts which are desposited. Amounts deposited after the two-year period are subject to interest at an annual interest rate equal to the yield on new civil service retirement fund investments.

(b) Employees first employed before October 1, 1982, will also be given an opportunity to make a deposit to the civil service retirement fund to cover military service. If they do, they will also be entitled to credit under both the civil service and social security systems and thus will avoid a "Catch 62" reduction. The same grace period and interest provisions as for new employees will apply. If they choose not to make a deposit, they would continue to be subject to the "Catch-62" reduction.

(c) Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service. For an annuitant not yet age 62, military service will not be deducted from an annuity at age 62. Upon recomputation of the civil service annuity (in the case of annuitants 62 or older), and upon reaching age 62 (in the case of annuitants currently under that age) there will be a recomputation of social security benefits removing credit for periods of military service and reducing the civil service annuity by an appropriate amount. However, in no case will an individual receive less than the amount he would receive or is receiving had he remained subject to the "Catch-62" reduction.

Immediate retirement (section 308)

Section 609 of the Senate amendment amends the early retirement provisions of existing law (5 U.S.C. 8336(d)) in two significant respects. The first change requires the Office of Personnel Management to determine that a significant percentage of the employees serving in an agency will be separated or subject to an immediate reduction in basic pay during a major reorganization, reduction in force, or transfer of function before the Office of Personnel Management may authorize employees of the agency to retire voluntarily under the early retirement provisions of section 8336(d). The second change provides that an employee who is separated from the service involuntarily is not entitled to an annuity if the employee has declined a reasonable offer of another position in the agency.

The House bill contains no comparable provisions.

The conferees agreed to the Senate provision with an amendment to clarify the phrase "reasonable offer of another position." Under the conference substitute, the offered position must be one for which the employee is qualified, be not lower than two grades or pay levels below the employee's grade or pay level, and be within the employee's commuting area.

General limitation on annuity cost-of-living adjustments (section 309)

Section 610 of the Senate amendment provides that no civil service annuity (including survivor annuities) may be increased as the result of a cost-of-living adjustment to an amount which exceeds the greater of (a) the maximum pay payable for GS-15 (currently $57,500), or (b) the final pay (or average pay, if higher) of the employee or Member increased by the overall annual average percentage adjustments in the General Schedule pay rates that have occurred between the date the employee's or Member's annuity commenced and the date of the cost-of-living adjustment. For the purpose of determining the final or average pay of an employee or Member, the term "pay" is defined to mean the rate of salary or basic pay which is payable under any provision of law, including provisions of law which limit the expenditure of appropriated funds. The Senate amendment further provides that the amendment shall not cause any annuity to be reduced below the rate payable on the date of enactment but that such amendment shall apply to any cost-of-living adjustment occuring on or after the date of enactment. Moreover, the amendment applies with respect to any civil service annuity regardless of its commencing date.

The House bill contains no comparable provisions.

The House recedes to the Senate.

Federal employee pay adjustments (section 310).

Section 303 of the House bill provides that if the President, before September 1, 1982, transmits an alternative pay plan to the Congress proposing a pay adjustment of less than 4 percent and that alternative plan is disapproved by either House in accordance with existing law, the pay adjustment for the statutory pay systems shall be 4 percent. Under existing law, Federal employees are entitled to the full pay comparability increase (estimated to be close to 20 percent this October) in the event either House disapproves the President's alternative pay plan.

The Senate amendment contains no comparable provisions.

The Senate recedes to the House and concurs with an amendment.

The conference substitute has two parts. First, it adopts without change the provisions of the House bill relating to the disapproval of an alternative pay plan. Second commencing in fiscal year 1984, the conference substitute changes the basis for computing pay for employees under the General Schedule. Currently, General Schedule pay is computed on the basis of 260 work days or 2,080 hours rather than the 261 or 262 work days that usually occur in a calendar year. The conference substitute provides that pay shall be computed on the basis of the average work hours in a calendar year (2,087 hours). This change is effective only for fiscal years 1984 and 1985. This provision does not affect the calculation of retirement benefits.

SUBTITLE E—LIMITATION ON TRAVEL AND TRANSPORTATION EXPENSES

Travel and transportation expenses for vacation leave

Section 605 of the Senate amendment would terminate certain travel provisions in current law for Federal employees assigned to duty stations in Hawaii and Alaska. Under 5 USC 5728, Federal employees assigned to posts of duty outside the continental United States are allowed, for each tour of duty, payment for travel expenses for one round trip to their actual place of residence at the time of appointment. This benefit is also extended to the employee's immediate family. By adding the words "Alaska and Hawaii" to the term "continental United States", the Senate amendment would terminate these payments with regard to Federal employees assigned to posts of duty in Alaska and Hawaii. The Senate amendment provides that an employee whose post of duty is in Alaska or Hawaii on the date of enactment of this Act shall be entitled to one round-trip travel commenced after the date of enactment of this Act.

The House bill contains no such provision.

The conference agreement would add the words "Alaska and Hawaii" to the term "continental United States", thereby terminating the round-trip travel benefits for Federal employees assigned to those two states. However, the conference agreement contains provisions allowing the head of an agency to provide for such round-trip travel benefits when he determines that such expenditure is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post in Alaska or Hawaii. The intent of this provision is to assure an agency the availability of employees with special qualifications which are not in ready supply in these locations and to assure the availability of personnel to fill positions in remote areas. It is intended that the provision be used sparingly and only when necessary to fulfill the agency's mission. The payment of such expenses is limited to not more than two round-trips commenced within five years after the date the employee first commences any period of consecutive tours of duty in Alaska and Hawaii. The conference agreement further provides that the termination of these travel benefits shall not be applicable to the first round-trip travel commenced after the date of enactment of this Act by an employee whose post of duty on the date of enactment of this Act is in Alaska or Hawaii, but counts such first trip toward the two-trip limit.

TITLE IV: VETERANS' BENEFITS

The House bill and the Senate amendment, according to CBO estimates, would have achieved total cost savings of $169.7 million and $168.1 million, respectively, in budget authority and $169.4 million and $166.9 million, respectively, in outlays in fiscal year 1983.

The conference agreement, according to CBO estimates, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays in fiscal year 1983. The first three years' savings are shown in the following table:

COST SAVINGS

[In millions of dollars]

	Fiscal year 1983		Fiscal year 1984		Fiscal year 1985	
	BA	O	BA	O	BA	O
Section 401—Commencement of payment periods	53.5	53.5	56.3	56.3	59.2	59.2
Section 402—Advance date of reductions	3.2	2.9	3.5	3.2	3.9	3.5
Section 403—Pension rounding	3.6	2.7	10.4	10.4	10.1	10.1
Sections 404 and 405—Compensation rounding	18.8	18.8	18.9	18.9	19.1	19.1
(Subtotal: Entitlements)	(79.1)	(77.9)	(89.1)	(88.8)	(92.3)	(91.9)
Section 406—Home-loan fee	89.6	89.6	99.8	99.8	104.1	104.1
Conference report total	168.7	167.5	188.9	188.6	196.4	196.0
House bill total	169.7	169.4	185.8	185.5	195.0	194.6
Senate amendment total	168.1	166.9	192.1	191.8	202.0	201.6

A description of the provisions of the House bill, Senate amendment, and conference agreement follows.

1. Commencement of certain periods of payment

Both the House bill and the Senate amendment would, effective October 1, 1982, postpone the commencement of the period for which a new award or an increased award of Veterans' Administration compensation, dependency and indemnity compensation (DIC), or pension is paid. The commencement of the period of payment would be delayed until the first day of the calendar month following the effective date of the award or increased award.

The conference agreement includes this provision with a clarifying amendment defining "award or increased award". Under this definition, the term would mean an original award, a reopened award, or an award that is increased because the recipient has acquired a new dependent, the recipient's disability or disability rating has been increased, or the recipient's income has declined.

The conferees emphasize that this provision would not apply to various types of adjustments of awards—as opposed to new awards or increases in awards—such as occur, for example, in the case of an apportionment and in the case of the termination of any withholding, reduction, or suspension of an award by reason of a recoupment, an offset to collect an indebtedness, institutionalization, incompetency, incarceration, or an

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estate that exceeds the limitation for certain hospitalized incompetent veterans. The conferees also emphasize that this provision does not apply to any increase in benefit payments resulting solely from the enactment of legislation—such as a cost-of-living increase in compensation and DIC rates or a change in the criteria for statutory award designations—or from a cost-of-living adjustment in pension rates pursuant to section 3112 of title 38. The term would also include any new award of "improved" pension pursuant to an election under section 306 of Public Law 95–588 and any increase in the amount of compensation, pursuant to VA regulations (sections 4.29 and 4.30 of title 38, Code of Federal Regulations), by reason of hospitalization of a veteran, under certain circumstances, for a period in excess of 21 days for a service-connected disability, or of a veteran's convalescence following certain surgical or medical procedures for a service-connected disability.

Cost savings associated with this provision, according to CBO estimates, would be $53.5 million in both budget authority and outlays in fiscal year 1983, $56.3 million in both budget authority and outlays in fiscal year 1984, and $59.2 million in both budget authority and outlays in fiscal year 1985.

2. Advancement of effective date of certain reductions of compensation and pension

Both the House bill and the Senate amendment would provide that, effective October 1, 1982, the effective date of a reduction of VA compensation, DIC, or pension by reason of a reduction in the number of the recipient's dependents resulting from the marriage, annulment, divorce, or death of a dependent shall be the last day of the month—rather than the last day of the year—in which the number of dependents decreased.

The conference agreement contains this provision made applicable, in order to avoid creating overpayments, only to changes in dependency occurring after September 30, 1982.

Cost savings associated with this provision, according to CBO estimates, would be $3.2 million in budget authority and $2.9 million in outlays in fiscal year 1983, $3.5 million in budget authority and $3.2 million in outlays in fiscal year 1984, and $3.9 million in budget authority and $3.5 million in outlays in fiscal year 1985.

3. Rounding down of pension to nearest dollar

Both the House bill and the Senate amendment would provide that, in computing amounts of monthly non-service-connected pension payments, amounts of $0.99 or less shall be rounded down to the nearest lower dollar. Under the House bill, this provision would become effective October 1, 1982, and under the Senate amendment it would take effect with respect to payments for periods beginning after May 31, 1983.

The House recedes with a technical amendment clarifying that the amount to be rounded is the monthly (or other periodic) rate of pension. Hence, in the case of an unrounded deduction for an insurance premium payment or for an indebtedness offset, the pensioner may receive payment in an unrounded amount.

The conferees stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95–588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

Cost savings associated with this provision, according to CBO estimates, would be $3.6 million in budget authority and $2.7 million in outlays in fiscal year 1983, $10.4 million in both budget authority and outlays in fiscal year 1984, and $10.1 million in both budget authority and outlays in fiscal year 1985.

4. Rounding down of fiscal year 1983 compensation cost-of-living increase

The House bill would provide, effective October 1, 1982, and "adjusted" 7.4-percent cost-of-living increase in compensation and DIC benefits—that is, an increase of 7.4 percent in the current rates with all amounts from $0.01 to $0.99 rounded down to the next lower dollar. The Senate amendment would reduce, effective January 1, 1983, various current compensation and DIC rates—in anticipation of the enactment prior to that date of a similarly "adjusted" cost-of-living increase, effective October 1, 1982, in the current compensation and DIC rates that would supersede the rounding-down reductions.

The ultimate intended effect both of the House provisions and of the Senate provisions coupled with the subsequent anticipated cost-of-living increase would be a compensation/DIC cost-of-living increase costing less than a 7.4-percent increase calculated in accordance with the customary Congressional practice by which, in legislating such increases, amounts of $0.50 or more are rounded up to the next higher dollar and amounts of less than $0.50 are rounded down to the next lower dollar. Such lower cost for the total compensation/DIC increase this year is necessary in order to keep the cost within the pertinent fiscal year 1983 budget allocations to the Veterans' Affairs Committees under section 302(a) of the Congressional Budget Act of 1974.

The rate reductions in the Senate bill were arrived at so as to achieve estimated fiscal year 1983 cost-savings equal to the savings ($29.5 million in both budget authority and outlays) that would be achieved through the enactment of an "adjusted" 7.4-percent compensation/DIC cost-of-living increase—with rates rounded down to the nearest dollar, with the rounded increased rate for those with disabilities rated at 10 percent reduced by $1.00 and with a realignment of dependents' allowances (to provide for rate uniformity)—rather than a 7.4-percent increase enacted in accordance with customary Congressional practice on rounding.

Both the House bill and the Senate amendment would modify the method by which compensation dependent's allowances for veterans with disabilities rated from 30-percent through 90-percent disabling are computed. Under current law, these dependents' allowances are computed as a percentage—equal to the veteran's percentage disability rating—of the dependents' allowances payable to veterans rated totally disabled, with amounts of $0.50 or more rounded up and amounts less than $0.50 rounded down. The House bill and the Senate amendment would require rounding down all amounts.

The House recedes, with adjustments in certain current-rate reductions and a conforming amendment providing for rounding down certain intermediate rates pursuant to section 314(p) of title 38, United States Code. The fiscal year 1983 cost savings of $18.8 million achieved through the conference agreement provisions reflect the House bill's treatment of the 7.4-percent increase for 10-percent disabled veterans. The conferees emphasize that these provisions are based upon an expectation that they will be superseded by the enactment of a compensation bill, prior to January 1, 1983, providing for an "adjusted" 7.4-percent cost-of-living increase with rates rounded down to the nearest dollar and with dependency allowances realigned.

Cost saving associated with these provisions, according to CBO estimates, would be $18.8 million in both budget authority and outlays in fiscal year 1983, $18.9 million in both budget authority and outlays in fiscal year 1984, and $19.1 million in both budget authority and outlays in fiscal year 1985.

5. Fee for home loans

Both the House bill and the Senate amendment would require the payment of a fee of 0.5 percent of the original loan principal of all VA home loans guaranteed, insured, or made to veterans—other than those who are in receipt of VA compensation for a service-connected disability or who, but for the receipt of military retirement pay, would be entitled to receive such compensation—and to certain spouses and surviving spouses. The House bill would also exempt the surviving spouses of those who have died from a service-connected disability. Under both provisions, the fee would be required with respect to loans closed after September 30, 1982.

The House bill, but not the Senate amendment, provides that the requirement for the payment of the fee would not apply with respect to any loan closed after September 30, 1985.

The Senate recedes.

Savings associated with this provision, according to CBO estimates, would be $89.6 million in both budget authority and outlays in fiscal year 1983, $99.8 million in both budget authority and outlays in fiscal year 1984, and $104.1 million in both budget authority and outlays in fiscal year 1985.

6. Termination of pension benefits for certain children

Both the House bill and the Senate amendment would terminate, in the cases of children who reach age 18 after September 30, 1982, VA pension benefits payable under the "improved" pension program, enacted in Public Law 95–588, to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing a post-secondary education.

The Senate bill, but not the House amendment, in the cases of children who reach age 18 after September 30, 1982, would terminate pension benefits payable under section 306(a) of Public Law 95–588 (under which the benefits of certain pensioners who were in receipt of pension as of December 31, 1978, the day before the "improved" program went into effect, were "grandfathered") to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing post-secondary education.

Both the House bill and the Senate amendment would phase-out—through annual 25-percent reductions, beginning with the first reduction on October 1, 1982—the pension benefits payable under both the "improved" program and section 306(a) to veterans' children who reach age 18 prior to October 1, 1982, and are pursuing post-secondary education.

The conferees did not resolve the differences between the House and Senate versions, and the conference agreement does not contain these provisions.

7. Correspondence training

The House bill, but not the Senate amendment, would repeal, effective October 1, 1982, the authority under which GI Bill educational assistance benefits are paid to veterans, dependents, and service personnel for the pursuit of correspondence training.

The House recedes.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Section 501 reduces the size of the Federal Communications Commission (FCC) to 5 from 7 members. The relevant parts of the Communications Act of 1934 specify that the FCC shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate. The Act further specifies that 4 members shall constitute a quorum.

This proposal would result in savings of approximately $100,000 in fiscal year 1983 and $500,000 annually, thereafter.

The proposal provides that the reduction of 2 positions will take place on July 1, 1983, thereby allowing for an abbreviated appointment to the term of office which expired on June 30, 1982. The second term, expiring on June 30, 1983, will not be filled. The terms of the other members are not affected. The number of members constituting a quorum as of July 1, 1983, is reduced to 3 from 4.

The concept of reducing the size of the FCC is not new. A January 1971 study entitled, "A New Regulatory Framework: Report on Selected Independent Regulatory Agencies" (prepared by the President's Advisory Council on Executive Organizations), recommended that "the number of FCC Commissioners be reduced from seven to five to minimize inefficiency caused by the sheer number of Commissioners considering each issue." The study also concluded that a reduced number of Commissioners would result in "improved regulatory effectiveness without raising the prospect of partisan control over the broadcast media, or individual interference with the free exchange of ideas or information (at pp. 118–119).

In 1974, a former FCC General Counsel, Henry Geller, endorsed this concept in "A Modest Proposal to Reform the Federal Communications Commission," The Rand Corporation, Washington, D.C. (April, 1974).

A 1977 Congressional study of regulatory commissions ("Study on Federal Regulation," Vol. IV, "Delay in the Regulatory Process" Committee on Governmental Affairs, U.S. Senate, 95th Congress, 1st Session, p. 115 (July, 1977)), concluded that policymaking bodies of 5 are preferable to larger groups, the primary advantage being the speed of decision making.

Most recently, the Comptroller General of the United States called for FCC reduction in a July 1979 report entitled "Organizing the Federal Communications Commission for Greater Management and Regulatory Effectiveness," at pp. 15-16. As such, the FCC reduction seems long overdue.

INTERSTATE COMMERCE COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment provides that effective January 1, 1983, each office within the Interstate Commerce Commission (ICC) that is provided for by 49 U.S.C. 10301 (other than the office prescribed to expire on December 31, 1985) and that is vacant on July 1, 1982, shall be abolished and, effective January 1, 1983, amends such section to provide that the ICC will be composed of 7 members with no more than 4 members from the same political party.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment amends 49 U.S.C. 10301(b), effective January 1, 1986, to provide that the ICC shall be composed of 5 members. It further amends such section to provide that no more than 3 members shall be appointed from the same political party.

The Senate amendment also provides that any member of the ICC whose term of office expires on December 31, 1982, or December 31, 1983, may be reappointed as a member of the Commission, and this provision is consistent with existing law.

Conference Substitute

The conference substitute is the same as the Senate amendment except that (1) the vacant office which is retained on the Interstate Commerce Commission is one of the two offices which are prescribed to expire on December 31, 1984, instead of the office which is prescribed to expire on December 31, 1985; (2) one of the persons appointed to fill one of the two offices the terms for which are prescribed to expire on December 31, 1987, shall be appointed for a term of office which ends on December 31, 1991, instead of December 31, 1992; and (3) section 10301(c) of title 49, United States Code, is amended to reduce the terms of office of members of the Interstate Commerce Commission from seven years to five years. The amendment made under clause (3) of the preceding sentence shall take effect on January 1, 1984, and apply to persons appointed, after such date, to fill any office of the Interstate Commerce Commission, except that such amendment does not apply to one of the two persons appointed to fill an office the term for which is prescribed to expire on December 31, 1987.

OTHER PROVISIONS

Industrial Funding of Supply Operations

Section 611 of the Senate bill would amend the Federal Property and Administrative Services Act of 1949 to permit GSA to pass on to other Federal agencies costs incurred for wages, space, and other personnel costs relating to the contracting, procurement, inspection, storage, management, distribution, and accountability of supplies and materials provided by GSA to such Federal agencies. The Senate bill would provide that all executive agencies shall requisition from the GSA all needed items of personal property and nonpersonal property which are managed by GSA unless otherwise authorized by GSA. The Senate bill further provides that the Administrator of GSA shall report twice each year to the Senate Committee on Governmental Affairs and the House Committee on Government Operations on the status and operations of the General Supply Fund.

The House bill contains no such provision.

The Senate recedes to the House position.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

J. Jones,
Leon Panetta,
Richard A. Gephardt,
Delbert Latta,
Bill Frenzel,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

Les Aspin,
Brian J. Donnelly,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E de la Garza,
Thomas S. Foley,
David R. Bowen,
Fred Richmond,
Bill Wampler,
Paul Findley
(on all matters except as listed below),
Tom Hagedorn
(on all matters except as listed below),
E. Thomas Coleman
(in lieu of Mr. Hagedorn) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment (food stamps),
Wm. Thomas
(in lieu of Mr. Findley) on sections 101–130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Clement J. Zablocki,
Lee H. Hamilton,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

Fernand J. St Germain,
J. William Stanton,
Chalmers P. Wylie,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

John D. Dingell,
Timothy E. Wirth,
J. J. Florio,
James T. Broyhill,
Norman F. Lent,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

Glenn M. Anderson,
Nick Rahall,
Bob Edgar,
Don Clausen,
Bud Shuster,

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Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

William D. Ford,
Mo Udall,
Edward J. Derwinski,
Gene Taylor,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

Jack Brooks,
Dave Evans,
Frank Horton,
Bob Walker,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. Montgomery,
Marvin Leath,
John Paul
Hammerschmidt,
Chalmers P. Wylie,
Managers on the Part of the House.

Committee on the Budget:

Pete V. Domenici,
W. L. Armstrong,
Nancy Kassebaum,
Rudy Boschwitz,
John Tower,

Committee on Governmental Affairs: For title VI:

Bill Roth,
Ted Stevens,
Mack Mattingly,
David Pryor,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4961

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-760).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Equity and Fiscal Responsibility Act of 1982".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

Subtitle A—Medicare

PART I—CHANGES IN PAYMENTS FOR SERVICES

Subpart A—Amount of Payment for Institutional Services

Sec. 101. Payment for inpatient hospital services.
Sec. 102. Single reimbursement limit for skilled nursing facilities.
Sec. 103. Elimination of inpatient routine nursing salary cost differential.
Sec. 104. Elimination of duplicate overhead payments for outpatient services.
Sec. 105. Single reimbursement limit for home health agencies.
Sec. 106. Prohibiting payment for Hill-Burton free care.
Sec. 107. Prohibiting payment for anti-unionization activities.
Sec. 108. Reimbursement of provider-based physicians.
Sec. 109. Prohibiting recognition of payments under certain percentage arrangements.
Sec. 110. Elimination of lesser-of-cost-or-charge provision.
Sec. 111. Elimination of private room subsidy.

Subpart B—Payments for Other Services

Sec. 112. Reimbursement for inpatient radiology and pathology services.
Sec. 113. Reimbursement for assistants at surgery.
Sec. 114. Payments to health maintenance organizations and competitive medical plans.
Sec. 115. Prohibition of payment for ineffective drugs.

Subpart C—Other Payment Provisions

Sec. 116. Medicare payments secondary for older workers covered under group health plans.
Sec. 117. Interest charges on overpayments and underpayments.
Sec. 118. Audit and medical claims review.
Sec. 119. Private sector review initiative.
Sec. 120. Temporary delay in periodic interim payments.

PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT

Sec. 121. Medicare coverage of Federal employees.
Sec. 122. Hospice care.
Sec. 123. Coverage of extended care services without regard to three-day prior hospitalization requirement.
Sec. 124. Provision temporarily holding part B premium at constant percentage of cost.
Sec. 125. Special enrollment provisions for merchant seamen.

PART III—MISCELLANEOUS PROVISIONS

Sec. 126. Extending medicare proficiency examination authority.
Sec. 127. Regulations regarding access to books and records.
Sec. 128. Technical corrections to Omnibus Budget Reconciliation Act of 1981.

Subtitle B—Medicaid

Sec. 131. Copayments by medicaid recipients.
Sec. 132. Modifications in lien provisions.
Sec. 133. Limitation on Federal financial participation in erroneous medical assistance expenditures.
Sec. 134. Medicaid coverage of home care for certain disabled children.
Sec. 135. Six-month moratorium on deregulation of skilled nursing and intermediate care facilities.
Sec. 136. Medicaid program in American Samoa.
Sec. 137. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

Subtitle C—Utilization and Quality Control Peer Review

Sec. 141. Short title of subtitle.
Sec. 142. Requirement for Secretary to enter into contracts.
Sec. 143. Establishment of utilization and quality control peer review program.
Sec. 144. Facilitation of private review.
Sec. 145. Waiver of liability provision.
Sec. 146. Medicaid provisions.
Sec. 147. Demonstration projects for competitive bidding and other reimbursement methods.
Sec. 148. Technical amendments.
Sec. 149. Effective date.
Sec. 150. Maintenance of current PSRO agreements.

Subtitle D—Aid to Families With Dependent Children

Sec. 151. Rounding of eligibility and benefit amounts.
Sec. 152. Effective date of application; proration of first month's AFDC benefit.
Sec. 153. Absence from home solely by reason of uniformed service.
Sec. 154. Job search.
Sec. 155. Proration of standard amount for shelter and utilities.
Sec. 156. Limitation of Federal financial participation in erroneous assistance expenditures.
Sec. 157. Exclusion from income of certain State payments
Sec. 158. Extension of time for States to establish a work incentive demonstration program.
Sec. 159. Exclusion from income.
Sec. 160. Technical amendments to social services and foster care provisions in 1981 reconciliation Act.
Sec. 161. Delayed effective date in cases requiring conforming State legislation.

Subtitle E—Child Support Enforcement

Sec. 171. Fee for services to non-AFDC families.
Sec. 172. Allotments from pay for child and spousal support owed by members of the uniformed services on actived duty.
Sec. 173. Reimbursement of State agency in initial month of ineligibility for AFDC.
Sec. 174. Reduction in certain Federal payments to States under child support enforcement program.
Sec. 175. Technical amendments to child support enforcement provisions in 1981 reconcilliation Act.
Sec. 176. Delayed effective date in cases requiring State legislation.

Subtitle F—Supplemental Security Income

Sec. 181. Effective date of application; proration of initial SSI benefit payment.
Sec. 182. Rounding of SSI eligibility and benefit amounts.
Sec. 183. Coordination of SSI and OASDI cost-of-living adjustments.
Sec. 184. Phaseout of hold harmless protection.
Sec. 185. Exclusion from resources of burial plots and certain funds set aside for burial expenses.
Sec. 186. Mandatory passthrough under State supplementation provisions.

Sec. 187. Treatment of unnegotiated checks under the supplemental security income program.

Subtitle G—Unemployment Compensation

Sec. 191. Rounding of benefit amounts.
Sec. 192. Use of certain amounts transferred to State unemployment funds.
Sec. 193. Treatment of certain employees of institutions of higher education.
Sec. 194. Short-time compensation.

TITLE II—REVENUE MEASURES

Subtitle A—Provisions Relating to Individuals

Sec. 201. Alternative minimum tax on taxpayers other than corporations.
Sec. 202. Limitation on medical deduction.
Sec. 203. Limitation on deduction for nonbusiness casualty losses.

Subtitle B—Provisions Primarily Relating to Business

Part I—Reduction in Certain Deductions and Credits

Sec. 204. 15 percent reduction in certain corporate preference items.
Sec. 205. Amendments to investment credit.
Sec. 206. Repeal of 1985 and 1986 increases in accelerated cost recovery deductions.
Sec. 207. Section 189 made applicable to certain corporations for nonresidential real property.

Part II—Leasing

Sec. 208. Limitations and additional requirements on leases under the accelerated cost recovery system.
Sec. 209. Repeal of leasing; special rule for leases with economic substance.
Sec. 210. Motor vehicle operating leases.

Part III—Foreign Tax

Sec. 211. Foreign tax credit for taxes on oil and gas income.
Sec. 212. Current taxation of foreign oil related income of controlled foreign corporations.
Sec. 213. Possession tax credit; income tax liability incurred to the Virgin Islands.

Part IV—Tax-Exempt Obligations

Sec. 214. Modification of exemption for small issues.
Sec. 215. Public approval and information reporting requirements applicable to private activity bonds.
Sec. 216. Cost recovery for certain property financed with tax-exempt bonds.
Sec. 217. Miscellaneous.
Sec. 218. Treatment of certain refunding obligations.
Sec. 219. Limitation on maturity of industrial development bonds.
Sec. 220. Mortgage subsidy bonds.
Sec. 221. Industrial development bonds for certain residential rental property.

Part V—Mergers and Acquisitions

Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

Sec. 222. Partial liquidations.
Sec. 223. Distribution of appreciated property in redemption of stock.

Subpart B—Certain Stock Purchases Treated as Asset Purchases

Sec. 224. Certain stock purchases treated as asset purchases.

Subpart C—Miscellaneous Provisions

Sec. 225. Clarification of section 368(a)(1)(F).
Sec. 226. Amendments relating to bailouts through use of holding companies.
Sec. 227. Application of attribution rules for purposes of sections 306 and 356(a)(2).
Sec. 228. Waiver of family attribution by entities.

Part VI—Methods of Accounting

Sec. 229. Modification of regulations on the completed contract method of accounting.
Sec. 230. Annual accrual method of accounting extended to certain partnerships.

Part VII—Original Issue Discount

Sec. 231. Original issue discount taken into account on basis of constant interest rate.
Sec. 232. Tax treatment of stripped bonds.

Part VIII—Other Business Provisions

Sec. 233. Targeted jobs tax credit.
Sec. 234. Acclerated payment of income tax by corporations.

Subtitle C—Pensions

Part I—Contribution and Loan Limits

Sec. 235. Lower contribution and benefit limits for certain annuities, etc.
Sec. 236. Loans treated as distributions.

Part II—Repeal of Special Limitations on Plans Benefiting Self-Employed Individuals or Owner-Employees

Sec. 237. Repeal of special qualification requirements.
Sec. 238. Repeal of special limitations on deduction for self-employed individuals and subchapter S corporations.
Sec. 239. Allowance of exclusion of death benefit for self-employed individuals.
Sec. 240. Special rules for top heavy plans.
Sec. 241. Effective dates.

Part III—Other Requirements

Sec. 242. Required distributions for qualified plans.
Sec. 243. Required distributions in case of individual retirement plans.
Sec. 244. Limitation on exclusion for group-term life insurance purchased for employees.
Sec. 245. Limitation on estatae tax exclusions under section 2039.
Sec. 246. Organizations performing management functions.
Sec. 247. Existing personal service corporations may liquidate under section 333 during 1983 or 1984.
Sec. 248. Employee leasing.
Sec. 249. Nondiscriminatory coordination of defined contribution plans with OASDI.
Sec. 250. Authority of Secretary to allocate income and deductions in the case of certain corporations.

Part IV—Miscellaneous

Sec. 251. Church plans.
Sec. 252. Deferred compensation plans for State judges.
Sec. 253. Profit-sharing plan contributions on behalf of disabled.
Sec. 254. Exemption for trusts which include governmental plans.

Subtitle D—Taxation of Life Insurance Companies and Annuities

Part I—Coinsurance arrangements

Subpart A—Modified Coinsurance Contracts

Sec. 255. Repeal of optional treatment of policies reinsured under modified coinsurance contracts.
Sec. 256. Specialaccounting rules relating to repeal of section 820.

Subpart B—Other Reinsurance Agreements

Sec. 257. Denial of interest deduction on indebtedness incurred in connection with reinsurance agreements.
Sec. 258. Allocation of income, etc. in the case of other reinsurance agreements.

Part II—2-Year Temporary Provisions Relating to Taxation of Life Insurance Companies

Sec. 259. Increase in amount of dividend deduction allowed; pension plan reserves.
Sec. 260. Computation of amount of life insurance reserves.
Sec. 261. Modification of menge formula.
Sec. 262. Consolidated returns to be computed on a botton line basis.
Sec. 263. Effective dates; special rules applicable to transactions before effective date.

Part III—Excess Interest; Amounts Received Under Annuity Contracts; Computation of Reserves

Sec. 264. Allowance of deduction for excess interest.
Sec. 265. Treatment of amounts received and under annuity contracts before annuity starting date.
Sec. 266. Flexible premium contracts.
Sec. 267. Reduction in approximate revaluation method of computing reserves.

Part IV—Underpayments of Estimated Tax for 1982

Sec. 268. Underpayments of estimated tax for 1982.

Subtitle E—Employment Taxes

Part I—In General

Sec. 269. Treatment of real estate agents and direct sellers.
Sec. 270. Simplified procedure for determining amount of employment taxes.

Part II—Federal Unemployment Tax

Subpart A—Increase in Federal Unemployment Tax

Sec. 271. Increase in Federal unemployment tax wage base and rate.

Subpart B—Other Financing Provisions

Sec. 272. Credit reduction not to apply when State makes certain repayments.
Sec. 273. Limitation of fifth year credit reduction.
Sec. 274. Deferral of interest in case of certain States with high unemployment rates.
Sec. 275. Required repayments from extended unemployment compensation account.
Sec. 276. Treatment of certain services performed by students.
Sec. 277. Treatment of certain alien farm workers.

Part III—Medicare Coverage

Sec. 278. Medicare coverage of, and application of hospital insurance tax to, Federal employment.

Subtitle F—Excise Taxes

Part I—Airport and Airway

Sec. 279. Tax on fuel used in noncommercial aviation.
Sec. 280. Tax on transportation by air.

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Sec. 281. Extension of Airport and Airway Trust Fund.

Part II—Communications Services

Sec. 282. Extension of excise tax on communications services.

Part III—Cigarettes

Sec. 283. Increase in tax on cigarettes.

Part IV—TAPS Adjustment Eliminated

Sec. 284. Elimination of the TAPS adjustment.

Subtitle G—Miscellaneous

Sec. 285. Two-year extension of exclusion from gross income of national research service awards.
Sec. 286. Special rules for certain amateur sports organizations.
Sec. 287. New Jersey general revenue sharing allocation.
Sec. 283. Illegal payments to government officials or employees.
Sec. 289. Debt management provisions.
Sec. 290. Jefferson County mental health center.
Sec. 291. Alaska native corporations.
Sec. 292. Awarding of costs and certain fees.
Sec. 293. Treatment of certain lending of finance businesses for purposes of the tax on personal holding companies.
Sec. 294. Additional refunds relating to repeal of excise tax on buses.

TITLE III—TAXPAYER COMPLIANCE

Subpart A—Withholding on Interest and Dividends

Sec. 301. Withholding on interest and dividends.
Sec. 302. Credit against tax.
Sec. 303. Returns regarding payments of dividends and payments of interest.
Sec. 304. Returns regarding payments of patronage dividends.
Sec. 305. Denial of deduction for certain taxes.
Sec. 306. Penalties.
Sec. 307. Conforming and clerical amendments.
Sec. 308. Effective dates; special rules.

Subtitle B—Improved Information Reporting

Part I—Expanded Reporting

Sec. 309. Reporting of interest.
Sec. 310. Obligations required to be registered.
Sec. 311. Returns of brokers.
Sec. 312. Information reporting requirements for payments of remuneration for services and direct sales.
Sec. 313. State and local income tax refunds.
Sec. 314. Employer reporting with respect to tips.

Part II—Provisions To Improve Reporting Generally

Sec. 315. Increased penalties for failure to file information return or to furnish statement.
Sec. 316. Increased in civil penalty on failure to supply identifying numbers.
Sec. 317. Extension of withholding to certain payments where identifying number not furnished or inaccurate.
Sec. 318. Minimum penalty for extended failure to file.
Sec. 319. Information returns.

Subtitle C—Abusive Tax Shelters, Etc.; Substantial Underpayments; False Documents; Frivolous Returns

Part I—Abusive Tax Shelters, Etc.

Sec. 320. Penalty for promoting abusive tax shelters, etc.
Sec. 321. Action to enjoin promoters of abusive tax shelters, etc.
Sec. 322. Procedural rules applicable to penalties under sections 6700, 6701 and 6702.

Part II—Substantial Underpayment; False Documents; Frivolous Returns; Etc.

Sec. 323. Penalty for substantial understatement.
Sec. 324. Penalties for documents understating tax liability.
Sec. 325. Fraud penalty.
Sec. 326. Penalty for frivolous returns.
Sec. 327. Relief from criminal penalty for failure to file estimated tax where taxpayer falls within statutory exceptions.
Sec. 328. Adjustments to estimated tax provisions.
Sec. 329. Increases in certain criminal fines.
Sec. 330. Special rules with respect to certain cash.

Subtitle D—Administrative Summons

Sec. 331. Special procedures for third-party summons.
Sec. 332. Duty of third-party recordkeeper.
Sec. 333. Limitation on use of administrative summons.

Subtitle E—Withholding on Pensions and Other Retirement Income

Sec. 334. Withholding on pensions annuities, and certain other deferred income.
Sec. 335. Partial rollovers of IRA distributions permitted.

Subtitle F—Transactions Outside the United States or Involving Foreign Persons

Sec. 336. Jurisdiction of court and enforcement of summons in case of persons residing outside the United States.
Sec. 337. Admissibility of evidence maintained in foreign countries.
Sec. 338. Penalty for failure to furnish information with respect to certain foreign corporations.
Sec. 339. Information requirements with respect to certain foreign-owned corporations.
Sec. 340. Returns with respect to foreign personal holding companies.
Sec. 341. Authority to delay date for filing certain returns relating to foreign corporations and foreign trusts.
Sec. 342. Withholding of tax on nonresident aliens and foreign corporations.
Sec. 343. Technical amendment relating to penalty under section 905(c).

Subtitle G—Modification of Interest Provisions

Sec. 344. Interest compounded daily.
Sec. 345. Determination of rate of interest to be made semiannually.
Sec. 346. Restrictions on payment of interest for certain periods.

Subtitle H—Taxpayer Safeguard Amendments

Sec. 347. Increase in certain exemptions from levy.
Sec. 348. Required release of lien.
Sec. 349. Requirement of timely notice of levy.
Sec. 350. Amount of damages in case of wrongful levy.

Subtitle I—Other Provisions

Sec. 351. Disallowance of deductions relating to narcotics trafficking.
Sec. 352. Sense of Congress with respect to providing of additional funds to Internal Revenue Service.
Sec. 353. Report on forms.
Sec. 354. Exemption of veterans' organizations.
Sec. 355. Amendment to Communications Act of 1934.
Sec. 356. Confidentiality and disclosure of returns and return information.
Sec. 357. Civil damages against United States for unauthorised disclosures by an employee.
Sec. 358. Disclosure for use in certain audits by General Accounting Office.

TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

Sec. 401. Short title.
Sec. 402. Tax treatment of partnership items.
Sec. 403. Requirement that statement be furnished to partner.
Sec. 404. Returns required from all partnerships with United States partners.
Sec. 405. Return requirement for United States persons having interest in foreign partnerships.
Sec. 406. Special rule for certain international satellite partnerships.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

Sec. 501. Short title.
Sec. 502. Declaration of policy.
Sec. 503. Definitions.
Sec. 504. National airport and airway system plans.
Sec. 505. Airport improvement program.
Sec. 506. Airway improvement program.
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Sec. 508. Use of apportioned and discretionary funds; miscellaneous conditions.
Sec. 509. Submission and approval of project grant applications.
Sec. 510. United States share of project costs.
Sec. 511. Project sponsorship.
Sec. 512. Grant agreements.
Sec. 513. Project costs.
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Sec. 521. Reports to Congress.
Sec. 522. Report on ability of airports to finance airport development needs.
Sec. 523. Repeals; effective date; saving provisions; and separability.
Sec. 524. Miscellaneous amendments.
Sec. 525. Safety certification of airports.
Sec. 526. Contracting authority.
Sec. 527. Study of airport access.
Sec. 528. Part-time operation of flight service stations.
Sec. 529. Explosive detection K-9 teams.
Sec. 530. Release of certain conditions.
Sec. 531. Continuation of certain certificates.
Sec. 532. State taxation.

TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

Subtitle A—Extension of Benefits

Sec. 601. Short title.
Sec. 602. Federal-State agreements.
Sec. 603. Payments to States having agreements for the payment of Federal supplemental compensation.
Sec. 604. Financing provisions.
Sec. 605. Definitions.
Sec. 606. Fraud and overpayments.

Subtitle B—Taxation of Unemployment Compensation

Sec. 611. Taxation of unemployment compensation.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II, III, and IV an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

Subtitle A—Medicare

PART I—CHANGES IN PAYMENTS FOR SERVICES

Subpart A—Amount of Payment for Institutional Services

PAYMENT FOR INPATIENT HOSPITAL SERVICES

SEC. 101. (a)(1) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO HOSPITALS FOR INPATIENT HOSPITAL SERVICES

"SEC. 1886. (a)(1)(A)(i) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in paragraph (4)) shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital for a cost reporting period to the extent such costs exceed the applicable percentage (as determined under clause (ii)) of the average of such costs for all hospitals in the same grouping as such hospital for comparable time periods.

"(ii) For purposes of clause (i), the applicable percentage for hospital cost reporting periods beginning—

"(I) on or after October 1, 1982, and before October 1, 1983, is 120 percent;

"(II) on or after October 1, 1983, and before October 1, 1984, is 115 percent; and

"(III) on or after October 1, 1984, is 110 percent.

"(B)(i) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all short-term hospitals, and shall set limits for each hospital based upon the general mix of types of medical cases with respect to which such hospital provides services for which payment may be made under this title.

"(ii) The Secretary shall set such limits for a cost reporting period of a hospital—

"(I) by updating available data for a previous period to the immediate preceding cost reporting period by the estimated average rate of change of hospital costs industry-wide, and

"(II) by projecting for the cost reporting period by the applicable percentage increase (as defined in subsection (b)(3)(B)).

"(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower than the allowable operating costs of inpatient hospital services (as defined in paragraph (4)) recognized under this title for such hospital for such hospital's last cost reporting period prior to the hospital's first cost reporting period for which this section is in effect.

"(2) The Secretary shall provide for such exemptions from, and exceptions and adjustments to, the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account—

"(A) the special needs of sole community hospitals, of new hospitals, of risk based health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

"(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disportionate number of patients who have low income or are entitled to benefits under part A of this title, and

"(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(3) The limitation established under paragraph (1)(A) shall not apply with respect to any hospital which—

"(A) is located outside of a standard metropolitan statistical area, and

"(B)(i) has less than 50 beds, and

"(ii) was in operation and had less than 50 beds on the date of the enactment of this section.

"(4) For purposes of this section, the term 'operating costs of inpatient hospital services' includes all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services and such costs are determined on an average per admission or per discharge basis (as determined by the Secretary).

"(b)(1) Notwithstanding sections 1814(b) but subject to the provisions of sections 1813, if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital for a cost reporting period subject to this paragraph—

"(A) are less than or equal to the target amount (as defined in paragraph (3)) for that hospital for that period, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the amount of such operating costs, plus—

"(i) 50 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 5 percent of the target amount,

whichever is less; or

"(B) are greater than the target amount, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to (i) the target amount, plus (ii) in the case of cost reporting periods beginning on or after October 1, 1982, and before October 1, 1984, 25 percent of the amount by which the amount of the operating costs exceeds the target amount;

except that in no case may the amount payable under this title with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).

"(2) Paragraph (1) shall not apply to cost reporting periods of hospitals beginning on or after October 1, 1985.

"(3)(A) For purposes of this subsection, the term 'target amount' means, with respect to a hospital for a particular 12-month cost reporting period—

"(i) in the case of the first such reporting period for which this subsection is in effect, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for such hospital for the preceding 12-month cost reporting period, and

"(ii) in the case a later reporting period, the target amount for the preceding 12-month cost reporting period,

increased by the applicable percentage increase under subparagraph (B) for that particular cost reporting period.

"(B) For purposes of subparagraph (A), the 'applicable percentage increase' for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

"(4)(A) The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under this subsection for determining the amount of payment to a hospital where events beyond the hospital's control or extraordinary circumstances, including changes in the case mix of such hospital, create a distortion in the increase in costs for a cost reporting period (including any distortion in the costs for the base period against which such increase is measured). The Secretary may provide for such other exemptions from, and exceptions and adjustments to, such method as the Secretary deems appropriate, including those which he deems necessary to take into account a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(B) Paragraph (1) shall not apply to payment of hospitals which is otherwise determined under paragraph (3) of section 1814(b).

"(5) In the case of any hospital having any cost reporting period of other than a 12-month period, the Secretary shall determine the 12-month period which shall be used for purposes of this section.

"(6)(A) The Secretary shall provide for an adjustment under this paragraph in the amount of payment otherwise provided a hospital under this subsection in the case of a hospital which, as of August 15, 1982, was subject to the taxes (hereinafter in this paragraph referred to as the 'FICA taxes') imposed by section 3111 of the Internal Revenue Code of 1954 and which is not subject to such taxes for part or all of a cost reporting period beginning on or after October 1, 1982.

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"(B) In making such adjustment for a cost reporting period the Secretary shall estimate the amount of the operating costs of inpatient hospital services that would have resulted if the hospital was subject to the FICA taxes during that period. In making such estimate the Secretary shall reduce the amount of such FICA taxes that would have been paid (but not below zero) by the amount of costs which the hospital demonstrates to the satisfaction of the Secretary were incurred in the period for pensions, health, and other fringe benefits for employees (and former employees and family members) comparable to, and in lieu of, the benefits provided under title II and this title of the Social Security Act.

"(C) If a hospital's operating costs of inpatient hospital services estimated under subparagraph (B) is greater than the hospital's operating costs of inpatient hospital services determined without regard to this paragraph for a cost reporting period, then the Secretary shall reduce the amount otherwise paid the hospital (respecting operating costs of inpatient hospital services) under this subsection for the period by the amount by which—

"(i) the amount that would have been paid the hospital if (I) the amount of the operating costs of inpatient hospital services estimated under subparagraph (B) were the treated as the amount of the operating costs of inpatient hospital services and (II) subsection (a) did not apply to the determination,

exceeds—

"(ii) the amount that would otherwise have been paid the hospital if subsection (a) (and this paragraph) did not apply;

except that, in making such determination for cost reporting periods beginning on or after October 1, 1984, clause (ii) of paragraph (1)(B) shall continue to apply.

"(c)(1) The Secretary may provide, in his discretion, that payment with respect to services provided by a hospital in a State may be made in accordance with a hospital reimbursement control system in a State, rather than in accordance with the other provisions of this title, if the chief executive officer of the State requests such treatment and if—

"(A) the Secretary determines that the system, if approved under this subsection, will apply (i) to substantially all nonfederal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services and of revenues or expenses for inpatient hospital services provided under the State's plan approved under title XIX;

"(B) the Secretary has been provided satisfactory assurances as to the equitable treatment under the system of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients; and

"(C) the Secretary has been provided satisfactory assurances that under the system, over 36-month periods (the first such period beginning with the first month in which this subsection applies to that system in the State), the amount of payments made under this title under such system will not exceed the amount of payments which would otherwise have been made under this title not using such system.

"(2) In determining under paragraph (1)(C) the amount of payment which would otherwise have been made under this title for a State, the Secretary may provide for appropriate adjustment of such amount to take into account previous reductions effected in the amount of payments made under this title in the State due to the operation of the hospital reimbursement control system in the State if the system has resulted in an aggregate rate of increase in operating costs of inpatient hospital services (as defined in subsection (a)(4)) under this title for hospitals in the State which is less than the aggregate rate of increase in such costs under this title for hospitals in the United States.

"(3) The Secretary shall discontinue payments under a system described in paragraph (1) if the Secretary—

"(A) determines that the system no longer meets the requirement of paragraph (1)(A) or

"(B) has reason to believe that the assurances described in subparagraph (B) or (C) of paragraph (1) are not being (or will not be) met.".

(2) Section 1861(v)(1)(L) of such Act is amended by striking out "(i)" and all that follows through "(ii)".

(b)(1) The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1982.

(2)(A) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement such amendments on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than March 31, 1983.

(B) Chapter 35 of title 5, United States Code, shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of Health and Human Services determines to be necessary to carry out the amendments made by this section.

(3) Section 1135 of the Social Security Act is amended by adding at the end the following new subsection:

"(c) The Secretary shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for legislation which would provide that hospitals, skilled nursing facilities, and, to the extent feasible, other providers, would be reimbursed under title XVIII of this Act on a prospective basis. The Secretary shall report such proposals to such committees not later than December 31, 1982.".

(c)(1) Section 1814(b) of the Social Security Act is amended—

(A) by striking out "section 1813" in the matter before paragraph (1) and inserting in lieu thereof "sections 1813 and 1886"; and

(B) by striking out "until the Secretary determines" in the second sentence and inserting in lieu thereof "until the first day of the seventh month beginning after the date the Secretary determines and notifies the Governor of the State".

(2) Section 1833(a)(2)(B) of such Act is amended by inserting "and except as may be provided in section 1886" after "except those described in subparagraph (C) of this paragraph".

(d) Section 1861(v)(7) of such Act is amended by inserting "(A)" after "(7)" and by adding at the end thereof the following new subparagraph:

"(B) For further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services and waivers for certain States, see section 1886.".

SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES

SEC. 102. (a) Section 1861(v)(1) of the Social Security Act is amended—

(1) in subparagraph (E), by striking out "; except that" and all that follows and inserting in lieu thereof a period;

(2) in subparagraph (E), by striking out "(E)" and inserting in lieu thereof "(ii)"; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) Such regulations shall provide that any determination of reasonable cost with respect to services provided by hospital-based skilled nursing facilities shall be made on the basis of a single standard based on the reasonableness of costs incurred by free standing skilled nursing facilities, subject to such adjustments as the Secretary may deem appropriate.".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

ELIMINATION OF INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

SEC. 103. (a) Subparagraph (J) of section 1861(v)(1) of the Social Security Act is amended to read as follows:

"(J) Such regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities.".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

ELIMINATION OF DUPLICATE OVERHEAD PAYMENTS FOR OUTPATIENT SERVICES

SEC. 104. (a) The last sentence of section 1842(b)(3) of the Social Security Act is amended by inserting after "1861(v)(1)(K)" the following: ", and in determining the reasonable charge for such services, the Secretary may limit such reasonable charge to a percentage of the amount of the prevailing charge for similar services furnished in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility".

(b) The amendment made by subsection (a) made by this section shall be effective with respect to services furnished on or after October 1, 1982.

SINGLE REIMBURSEMENT LIMIT FOR HOME HEALTH AGENCIES

SEC. 105. (a) Section 1861(v)(1)(L) of the Social Security Act, as amended by section 101(a)(2) of this subtitle, is amended by inserting "free standing" after "75th percentile of such costs per visit for".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after the date of the enactment of this Act.

PROHIBITING PAYMENT FOR HILL-BURTON FREE CARE

Sec. 106. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(M) Such regulations shall provide that costs respecting care provided by a provider of services, pursuant to an assurance under title VI or XVI of the Public Health Service Act that the provider will make available a reasonable volume of services to persons unable to pay therefor, shall not be allowable as reasonable costs.".

(b) The amendment made by subsection (a) shall be effective with respect to any costs incurred under title XVIII of the Social Security Act, except that it shall not apply to costs which have been allowed prior to the date of the enactment of this Act pursuant to the final court order affirmed by a United States Court of Appeals.

PROHIBITING PAYMENT FOR ANTI-UNIONIZATION ACTIVITIES

Sec. 107. (a) Section 1861(v)(1) of the Social Security Act, as amended by section 106(a) of this subtitle, is further amended by adding after subparagraph (M) the following new subparagraph:

"(N) In determining such reasonable costs, costs incurred for activities directly related to influencing employees respecting unionization may not be included.".

(b) The amendment made by subsection (a) shall be effective with respect to costs incurred after the date of the enactment of this Act.

REIMBURSEMENT OF PROVIDER-BASED PHYSICIANS

Sec. 108. (a) Title XVIII of the Social Security Act is amended by adding after section 1886 of the Social Security Act (as added by section 101(a)(1) of this subtitle) the following new section:

"PAYMENT OF PROVIDER-BASED PHYSICIANS

"Sec. 1887. (a)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities—

"(A) which constitute professional medical services, which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an individual patient, and which may be reimbursed as physicians' services under part B, and

"(B) which constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

"(2)(A) For purposes of cost reimbursement, the Secretary shall recognize as a reasonable cost of a hospital or skilled nursing facility only that portion of the costs attributable to services rendered by a physician in such hospital or facility which are services described in paragraph (1)(B), apportioned on the basis of the amount of time actually spent by such physician rendering such services.

"(B) In determining the amount of the payments which may be made with respect to services described in paragraph (1)(B), after apportioning costs as required by subparagraph (A), the Secretary may not recognize as reasonable (in the efficient delivery of health services) such portion of the provider's costs for such services to the extent that such costs exceed the reasonable compensation equivalent for such services. The reasonable compensation equivalent for any service shall be established by the Secretary in regulations.

"(C) The Secretary may, upon a showing by a hospital or facility that it is unable to recruit or maintain an adequate number of physicians for the hospital or facility on account of the reimbursement limits established under this subsection, grant exceptions to such reimbursement limits as may be necessary to allow such provider to provide a compensation level sufficient to provide adequate physician services in such hospital or facility.".

(2) Section 1861(v)(7) of such Act, as amended by section 101(d) of this subtitle, is further amended by adding at the end the following new subparagraph:

"(C) For provisions restricting payment for provider-based physicians' services, see section 1887.".

(c) The Secretary of Health and Human Services shall first promulgate regulations to carry out section 1887(a) of the Social Security Act not later than October 1, 1982. Such regulations shall become effective on October 1, 1982, and shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from the such regulations shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

PROHIBITING RECOGNITION OF PAYMENTS UNDER CERTAIN PERCENTAGE ARRANGEMENTS

Sec. 109. (a) Section 1887 of the Social Security Act (as added by section 108(a) of this subtitle) is amended—

(1) by inserting "AND PAYMENT UNDER CERTAIN PERCENTAGE ARRANGEMENTS" at the end of its heading, and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), in the case of a provider of services which is paid under this title on a reasonable cost basis, or other basis related to costs that are reasonable, and which has entered into a contract for the purpose of having services furnished for or on behalf of it, the Secretary may not include any cost incurred by the provider under the contract if the amount payable under the contract by the provider for that cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement.

"(2) Paragraph (1) shall not apply—

"(A) to services furnished by a physician and described in subsection (a)(1)(B) and covered by regulations in effect under subsection (a), and

"(B) under regulations established by the Secretary, where the amount involved under the percentage contract is reasonable and the contract—

"(i) is a customary commerical business practice, or

"(ii) provides incentives for the efficient and economical operation of the provider of services.".

(b)(1) Section 1861(v)(1)(H)(iii) of such Act is amended by striking out "(I)" and by striking out ", or (II)" and all that follows through "furnished by the agency".

(2) Section 1861(v)(7)(C) of such Act, as added by section 108(b)(2) of this subtitle, is further amended by inserting "and for payments under certain percentage arrangements" after "services".

(c)(1) The amendments made by this section shall become effective on the date of the enactment of this Act, except that section 1887(b)(1) of the Social Security Act shall not apply before October 1, 1982, to services furnished by a physician and described in section 1887(a)(1)(B) of such Act.

(2) In the case of a contract with a provider of services entered into prior to the date of the enactment of this Act, the amendment made by subsection (a) shall apply to payments under such contract (A) 30 days after the first date (after such date of enactment) the provider of services may unilaterally terminate the contract, or (B) one year after the date of the enactment of this Act, whichever is earlier.

(3) The amendment made by subsection (b)(1) shall not apply to contracts entered into before the date of the enactment of this Act.

ELIMINATION OF LESSER-OF-COST-OR-CHARGE PROVISION

Sec. 110. Section 1886 of the Social Security Act, as added by section 101(a)(1) of this subtitle, is amended by adding at the end the following new subsection:

"(d)(1) The lesser-of-cost-or-charges provisions (described in paragraph (2)) will not apply in the case of services provided by a class of provider of services if the Secretary determines and certifies to Congress that the failure of such provisions to apply to the services provided by that class of providers will not result in any increase in the amount of payments made for those services under this title. Such change will take effect with respect to services furnished, or cost reporting periods of providers, on or after such date as the Secretary shall provide in the certification. Such change for a class of provider shall be discontinued if the Secretary determines and notifies Congress that such change has resulted in an increase in the amount of payments made under this title for services provided by that class of provider.

"(2) The lesser-of-cost-or-charges provisions referred to in paragraph (1) are as follows:

"(A) Clause (B) of paragraph (1) and paragraph (2) of section 1814(b).

"(B) So much of subparagraph (A) of section 1833(a)(2) as provides for payment other than of the reasonable cost of such services, as determined under section 1861(v).

"(C) Subclause (II) of clause (i) and clause (ii) of section 1833(a)(2)(B).".

ELIMINATION OF PRIVATE ROOM SUBSIDY

Sec. 111. (a) The Secretary of Health and Human Services shall, pursuant to section 1861(v)(2) of the Social Security Act, not allow as a reasonable cost the estimated amount by which the costs incurred by a hospital or skilled nursing facility for nonmedically necessary private accommodations for medicare beneficiaries exceeds the costs which would have been incurred by such hospital or facility for semiprivate accommodations.

(b) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) as may be necessary to implement subsection (a) by October 1, 1982. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

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Subpart B—Payments for Other Services

REIMBURSEMENT FOR INPATIENT RADIOLOGY AND PATHOLOGY SERVICES

SEC. 112. (a) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following: "(B) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(2) by inserting "and" at the end of clause (F); and

(3) by striking out "and (H)" and all that follows through "for such items and services,".

(b) Clause (1) of section 1833(b) of such Act is amended to read as follows: "(1) such total amount shall not include expenses incurred for items and services described in section 1861(s)(10),".

(c) The amendments made by this section shall apply with respect to items and services furnished on or after October 1, 1982.

REIMBURSEMENT FOR ASSISTANTS AT SURGERY

SEC. 113. (a) Section 1842(b)(6) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), no payment shall be made under this part for services of assistants at surgery with respect to a surgical procedure if such hospital has a training program relating to the medical specialty required for such surgical procedure and a qualified individual on the staff of the hospital is available to provide such services; except that payment may be made under this part for such services, to the extent that such payment is otherwise allowed under this paragraph, if such services, as determined under regulations of the Secretary—

"(I) are required due to exceptional medical circumstances,

"(II) are performed by team physicians needed to perform complex medical procedures, or

"(III) constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery,

and under such other circumstances as the Secretary determines by regulation to be appropriate.

"(ii) For purposes of this subparagraph, the term 'assistant at surgery' means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"(iii) The Secretary shall determine appropriate methods of reimbursement of assistants at surgery where such services are reimbursable under this part.".

(b)(1) The amendment made by subsection (a) is effective with respect to services performed on or after October 1, 1982.

(2) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement the amendment made by subsection (a) on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 114. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

"SEC. 1876. (a)(1)(A) The Secretary shall annually determine—

"(i) a per capita rate of payment for each class of individuals who are enrolled under this section with a eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(ii) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h).

"(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(C) The annual per capita rate of payment for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in paragraph (4)) for that class.

"(D) In the case of a eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (C) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

"(E) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

"(3) Payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

"(4) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than an eligible organization or, in the case of services covered only under section 1861(s)(2)(H), if the services were to be furnished by a physician or as an incident to a physician's service.

"(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organisation and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(6) If an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(b) For purposes of this section, the term 'eligible organization' means a public or private entity (which may be a health maintenance organization or a competitive medical plan), organized under the laws of any State, which—

"(1) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), or

"(2) meets the following requirements:

"(A) The entity provides to enrolled members at least the following health care services:

"(i) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

"(ii) Inpatient hospital services.

"(iii) Laboratory, X-ray, emergency, and preventive services.

"(iv) Out-of-area coverage.

"(B) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(C) The entity provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(D) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (1), except that such entity may—

"(i) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in subparagraph (A) the aggregate value of which exceeds $5,000 in any year, *"(ii) obtain insurance or make other arrangements for the cost of health care service listed in subparagraph (A) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,*

"(iii) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(iv) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(E) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

Paragraph (2)(A)(ii) shall not apply to an entity which had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

"(c)(1) The Secretary may not enter into a contract under this section with an eligible organization unless it meets the requirements of this subsection and subsection (e) with respect to members enrolled under this section.

"(2) The organization must provide to members enrolled under this section, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) only those services covered under parts A and B of this title, for those members entitled to benefits under part A and enrolled under part B, or

"(B) only those services covered under part B, for those members enrolled only under such part,

which are available to individuals residing in the geographic area served by the organization, except that (i) the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and (ii) in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(3)(A) Each eligible organization must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (f) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the organization.

"(B) An individual may enroll under this section with an eligible organization in such manner as may be prescribed in regulations and may terminate his enrollment with the eligible organization as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations.

"(C) The Secretary may prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(D) The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(4) The organization must—

"(A) make the services described in paragraph (2) (and such other health care services as such individuals have contracted for) (i) available and accessible to each such individual, within the area served by the organization, promptly as appropriate and in a manner which assures continuity, and (ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to services which are described in subparagraph (A) and which are provided to such an individual other than through the organization, if (i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and (ii) it was not reasonable given the circumstances to obtain the services through the organization.

"(5)(A) The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this section.

"(B) A member enrolled with an eligible organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review.

"(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program (A) stresses health outcomes and (B) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(d) Subject to the provisions of subsection (c)(3), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any eligible organization with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides.

"(e)(1) In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B) to individuals who are enrolled under this section with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B) to individuals who are enrolled under this section with the organization and enrolled under part B only

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

"(2) If the eligible organization provides to its members enrolled under this section services in addition to services covered under parts A and B of this title, election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (c)(2)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services.

"(3) For purposes of this section, the term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this section with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this section with the eligible organiza-

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tion, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(4) Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this section for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such member to the extent that the member has been paid under such law, plan, or policy for such services.

"(f)(1) Each eligible organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) only if the Secretary determines that—

"(A) special circumstances warrant such modification or waiver, and

"(B) the eligible organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(g)(1) The Secretary may enter a risk-sharing contract with any eligible organization, as defined in subsection (b)(1), which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urbanized areas.

"(2) Each risk-sharing contract shall provide that—

"(A) if the adjusted community rate, as defined in subsection (e)(3), for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or

"(B) if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part) for members enrolled under this section with the organization and entitled to benefits under part B only is less than the average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of an annual contract period for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced); except that this paragraph shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced). If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this section.

"(3) The additional benefits referred to in paragraph (2) are—

"(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this section, or

"(B) the provision of additional health benefits,

or both.

"(h)(1) If—

"(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this section, or

"(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (g)(1),

the Secretary may, if he is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

"(2) A reasonable cost reimbursement contract under this subsection may, at the option of such organization, provide that the Secretary—

"(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

"(3) Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in subsection (a)(1).

"(4) Any reasonable cost reimbursement contract with an eligible organization under this subsection shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

"(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in subsection (a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

"(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

"(i)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the eligible organization involved as he may provide in regulations), if he finds that the organization—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).

"(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate (I) the quality, appropriateness, and timeliness of services performed under the contract and (II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain (I) to the ability of the organization to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization; and

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members); and

"(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by inserting "and" after the semicolon in subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) services furnished pursuant to a contract under section 1876 to a member of an eligible organization by a physician assistant or by a nurse practitioner (as defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to services furnished on or after the initial effective date (as defined in paragraph (4)), except that such amendment shall not apply—

(A) with respect to services furnished by an eligible organization to any individual who is enrolled with that organization under an existing cost contract (as defined in paragraph (3)(A)) and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the organization first enters into a new risk-sharing contract (as defined in paragraph (3)(D)) unless—

(i) the individual requests at any time that the amendment apply, or

(ii) the Secretary determines at any time that the amendment should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the eligible organization;

(B) with respect to services furnished by an eligible organization during the five-year period beginning on the initial effective date, if—

(i) the organization has an existing risk-sharing contract (as defined in paragraph (3)(B)) on the initial effective date, or

(ii) on the date of the enactment of this Act the organization was furnishing services pursuant to an existing demonstration project (as defined in paragraph (3)(C)), such demonstration project is concluded before the initial effective date, and before such initial effective date the organization enters into an existing risk-sharing contract,

unless the organization requests that the amendment apply earlier; or

(C) with respect to services furnished by an eligible organization during the period of an existing demonstration project if on the initial effective date the organization was furnishing services pursuant to the project and if the project concludes after such date.

(2)(A) In the case of an eligible organization which has in effect an existing cost contract (as defined in paragraph (3)(A)) on the initial effective date, the organization may receive payment under a new risk-sharing contract with respect to a current, nonrisk medicare enrollee (as defined in subparagraph (C)) only to the extent that the organization enrolls, for each such enrollee, two new medicare enrollees (as defined in subparagraph (D)). The selection of those current nonrisk medicare enrollees with respect to whom payment may be so received under a new risk-sharing contract shall be made in a nonbiased manner.

(B) Subparagraph (A) shall not be construed to prevent an eligible organization from providing for enrollment, on a basis described in subsection (a)(6) of section 1876 of the Social Security Act (as amended by this Act, other than under a reasonable cost reimbursement contract), of current, nonrisk medicare enrollees and from providing such enrollees with some or all of the additional benefits described in section 1876(g)(2) of the Social Security Act (as amended by this Act), but (except as provided in subparagraph (A))—

(i) payment to the organization with respect to such enrollees shall only be made in accordance with the terms of a reasonable cost reimbursement contract, and

(ii) no payment may be made under section 1876 of such Act with respect to such enrollees for any such additional benefits.

Individuals enrolled with the organization under this subparagraph shall be considered to be individuals enrolled with the organization for the purpose of meeting the requirement of section 1876(g)(2) of the Social Security Act (as amended by this Act).

(C) For purposes of this paragraph, the term "current, nonrisk medicare enrollee" means, with respect to an organization, an individual who on the initial effective date—

(i) is enrolled with that organization under an existing cost contract, and

(ii) is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act.

(D) For purposes of this paragraph, the term "new medicare enrollee" means, with respect to an organization, an individual who—

(i) is enrolled with the organization after the date the organization first enters into a new risk-sharing contract,

(ii) at the time of such enrollment is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act, and

(iii) was not enrolled with the organization at the time the individual became entitled to benefits under part A, or to enroll in part B, of such title.

(3) For purposes of this subsection:

(A) The term "existing cost contract" means a contract which is entered into under section 1876 of the Social Security Act, as in effect before the initial effective date, or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act, and which is not an existing risk-sharing contract or an existing demonstration project.

(B) The term "existing risk-sharing contract" means a contract entered into under section 1876(i)(2)(A) of the Social Security Act, as in effect before the initial effective date.

(C) The term "existing demonstration project" means a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, relating to the provision of services for which payment may be made under title XVIII of the Social Security Act.

(D) The term "new risk-sharing contract" means a contract entered into under section 1876(g) of the Social Security Act, as amended by this Act.

(E) The term "reasonable cost reimbursement contract" means a contract entered into under section 1833(a)(1) of the Social Security Act or under section 1876(h) of such Act, as amended by this Act.

(4) As used in this section, the term "initial effective date" means—

(A) the first day of the thirteenth month which begins after the date of the enactment of this Act, or

(B) the first day of the first month after the month in which the Secretary of Health and Human Services notifies the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that he is reasonably certain that the methodology to make appropriate adjustments (referred to in section 1876(a)(4) of the Social Security Act, as amended by this Act) has been developed and can be implemented to assure actuarial equivalence in the estimation of adjusted average per capita costs under that section,

whichever is later.

(d) The Secretary of Health and Human Services shall conduct a study of the additional benefits selected by eligible organizations pursuant to section 1876(g)(2) of the Social Security Act, as amended by subsection (a) of this section. The Secretary shall report to the Congress within 24 months of the initial effective date (as defined in subsection (c)(4)) with respect to the findings and conclusions made as a result of such study.

(e) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicare beneficiaries of their memberships in organizations with contracts under section 1876 of the Social Security Act. Such study may be coordinated with the study provided for under section 2178(d) of the Omnibus Budget Reconciliation Act of 1981. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in such organizations and the quality of such care when provided on a fee-for-service basis. The Secretary shall submit an interim report to the Congress, within two years after the initial effective date (as defined in subsection (c)(4)), and a final report within five years after such date containing the respective interim and final findings and conclusions made as a result of such study.

PROHIBITION OF PAYMENT FOR INEFFECTIVE DRUGS

SEC. 115. (a) Effective September 30, 1982, section 131 of Public Law 97–92 is repealed, and the provisions of such section, and of section 210 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982 (H.R. 4560), as passed by the House of Representatives on October 6, 1981, and of section 209 of such Act as reported by the Senate Committee on Appropriations on November 9, 1981, shall not apply to any sums appropriated for fiscal year 1983 or any succeeding fiscal year.

(b) No provision of law limiting the use of funds for purposes of enforcing or implementing section 1862(c) or section 1903(i)(5) of the Social Security Act, section 2103 of the Omnibus Budget Reconciliation Act of 1981, or any rule or regulation issued pursuant to any such section (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations) shall apply to any period after September 30, 1982, unless such provision of law is enacted after the date of the enactment of this Act and specifically states that such provision is to supersede this section.

MEDICARE PAYMENTS SECONDARY FOR OLDER WORKERS COVERED UNDER GROUP HEALTH PLANS

SEC. 116. (a) Section 4 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection:

"(g)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69 shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee under age 65.

"(2) For purposes of paragraph (1), the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.".

(b) Section 1862(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A)(i) Payment under this title may not be made, except as provided in clause (ii), with respect to any item or service furnished during the period described in clause (iii) to an individual who is over 64 but under 70 years of age (or to the spouse of such individual, if the spouse is over 64 but under 70 years of age) who is employed at the time such item or service is furnished to the extent that payment with respect to expenses for such item or service has been made, or can reasonably be expected to be made, under a group health plan (as defined in clause (iv)) under which such individual is covered by reason of such employment.

"(ii) Any payment under this title with respect to any item or service during the period described in clause (iii) shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under a group health plan. The Secretary may waive the provisions of this clause in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"(iii) The provisions of clauses (i) and (ii) shall apply to an individual only for the period beginning with the month in which such individual becomes entitled to benefits under this title under section 226(a) and ending with the month in which such individual attains the age of 70 and shall not include any month for which the individual would, upon application, be entitled to benefits under section 226A.

"(iv) For purposes of this paragraph, the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.

"(B) Where payment for an item or service under a group health plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(i) such payment under this title may not exceed an amount which would be payable under this title for such item or service in the absence of such group health plan; and

"(ii) such payment under this title, when combined with the amount payable under such plan, may not exceed—

"(I) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis; and

"(II) in the case of an item or service for which payment is authorized under this title on another basis, the greater of—

"(a) the amount which would be payable under the group health plan (without regard to deductibles and coinsurance under such plan), or

"(b) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title).".

(c) The amendment made by subsection (a) shall become effective on January 1, 1983, and the amendment made by subsection (b) shall apply with respect to items and services furnished on or after such date.

INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS

SEC. 117. (a)(1) Section 1815 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) Whenever a final determination is made that the amount of payment made under this part to a provider of services was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

(2) Section 1833 of such Act is amended by adding at the end the following new subsection:

"(j) Whenever a final determination is made that the amount of payment made under this part either to a provider of services or to another person pursuant to an assignment under section 1842(b)(3)(B)(ii) was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

(b) The amendments made by subsection (a) apply to final determinations made on or after the date of the enactment of this Act.

AUDIT AND MEDICAL CLAIMS REVIEW

SEC. 118. In addition to any funds otherwise provided for fiscal years 1983, 1984, and 1985 for payments to intermediaries and carriers under agreements entered into under sections 1816 and 1842 of the Social Security Act, there are transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Fund in such proportions as the Secretary of Health and Human Services determines to be appropriate, an additional $45,000,000 for each of such fiscal years for payments to such intermediaries and carriers under such agreements to be used exclusively for the purpose of carrying out provider cost audits and reviews of medical necessity, consistent with the provisions of sections 1816 and 1842 of the Social Security Act.

PRIVATE SECTOR REVIEW INITIATIVE

SEC. 119. (a) The Secretary of Health and Human Services shall undertake an initiative to improve medical review by intermediaries and carriers under title XVIII of Social Security Act and to encourage similar review efforts by private insurers and other private entities. The initiative shall include the development of specific standards for measuring the performance of such intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

(b) Where such review activity results in the denial of payment to providers of services under title XVIII of the Social Security Act, such providers shall be prohibited, in accordance with sections 1866 and 1879 of such title, from collecting any payments from beneficiaries unless otherwise provided under such title.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 120. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that—

(1) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

(2) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985.

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PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT

MEDICARE COVERAGE OF FEDERAL EMPLOYEES

SEC. 121. For provisions providing certain employees of the United States and instrumentalities thereof with entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act, see section 278 of this Act.

HOSPICE CARE

SEC. 122. (a)(1) Section 1811 of the Social Security Act is amended by striking out "and home health services" and inserting in lieu thereof "home health services, and hospice care".

(2) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "hospice care," after "home health services,".

(b)(1) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (d)(1).".

(2) Section 1812 of such Act is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

"(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

"(I) related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made or

"(II) equivalent to (or duplicative of) hospice care;

except that clause (ii) shall not apply to physicians' services furnished by the individual's attending physician (if not an employee of the hospice program) or to other than services provided by (or under arrangements made by) the hospice program.

"(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subsection (a)(4) and subparagraph (A)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(C) An individual may, once in each such period, change the hospice program with respect to which the election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual's revocation or change of election with respect to that election takes effect.".

(c)(1) Section 1814(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by inserting after paragraph (7) the following new paragraph:

"(8) in the case of hospice care provided an individual—

"(A)(i) in the first 90-day period—

"(I) the individual's attending physician (as defined in section 1861(dd)(3)(B)), and

"(II) the medical director (or physician member of the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program providing (or arranging for) the care,

each certify, not later than two days after hospice care is initiated, that the individual is terminally ill (as defined in section 1861(dd)(3)(A)), and

"(ii) in a subsequent 90- or 30-day period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;

"(B) a written plan for providing hospice care with respect to such individual has been established (before such care is provided by, or under arrangements made by, that hospice program) and is periodically reviewed by the individual's attending physician and by the medical director (and the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program; and

"(C) such care is being or was provided pursuant to such plan of care.".

(2)(A) Section 1814(b) of such Act is amended by inserting "(other than a hospice program providing hospice care)" after "The amount paid to any provider of services".

(B) Section 1814 of such Act is further amended by adding at the end the following new subsection:

"Payment for Hospice Care

"(i)(1) Subject to the limitation under paragraph (2) and the provisions of section 1813(a)(4), the amount paid to a hospice program with respect to hospice care for which payment may be made under this part shall be an amount equal to the costs which are reasonable and related to the cost of providing hospice care or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations (including those authorized under section 1861(v)(1)(A)), except that no payment may be for bereavement counseling and no reimbursement may be made for other counseling services (including nutritional and dietary counseling) as separate services.

"(2)(A) The amount of payment made under this part for hospice care provided by (or under arrangements made by) a hospice program located in a region (as defined by the Secretary) for an accounting year may not exceed the 'cap amount' for the region for the year (computed under subparagraph (B)) multiplied by the number of medicare beneficiaries in the hospice program in that year (determined under subparagraph (C)).

"(B) For purposes of subparagraph (A), the 'cap amount' for a region for a year is computed as follows:

"(i) The Secretary, using records of the program under this title, shall identify individuals (or a representative sample of such individuals)—

"(I) who died during the base period (as defined in clause (v)),

"(II) with respect to whom the primary cause of death was cancer, and

"(III) who, during the six-month period preceding death, were provided benefits under this title.

"(ii) The Secretary shall determine a national average medicare per capita expenditure amount by (I) determining (or estimating) the amount of payments made under this title with respect to services provided to individuals identified in clause (i) during the six months before death, and (II) dividing such amount of payments by the number of such individuals.

"(iii) The Secretary, using the best available data, shall then compute a regional average medicare per capita expenditure amount for each region, by adjusting the national average medicare per capita expenditure amount (computed under clause (ii)) to reflect the relative difference between that region's average cost of delivering health care and the national average cost of delivering health care.

"(iv) The 'cap amount' for a region for an accounting year is 40 percent of the regional average determined under clause (iii) for that region, increased or decreased by the same percentage as the percentage increase or decrease, respectively, in the medical care expenditure category of the consumer price index for all urban consumers (U.S. city average), published by the Bureau of Labor Statistics, from the fourth month of the base period to the fifth month of the accounting year.

"(v) For purposes of this subparagraph, the term 'base period' means the most recent period of 12 months (ending before the date proposed regulations are first issued to carry out this paragraph) for which the Secretary determines he has sufficient data to make the determinations required under clauses (i) through (iii).

"(C) For purposes of subparagraph (A), the 'number of medicare beneficiaries' in a hospice program in an accounting year is equal to the number of individuals who have made an election under subsection (d) with respect to the hospice program and have been provided hospice care by (or under arrangements made by) the hospice program under this part in the accounting year, such number reduced to reflect the proportion of hospice care that each such individual was provided in a previous or subsequent accounting year or under a plan of care established by another hospice program.".

(3) Section 1816(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this title, the Secretary shall designate the agency or organization which has entered into an agreement under this section to perform functions under such an agreement with respect to each hospice program, except *that with respect to a hospice program which is a subdivision of a provider of services (and such hospice program and provider of services are under common control) due regard shall be given to the agency or organization which performs the functions under this section for the provider of services.".*

(d)(1) Section 1861(u) of the Social Security Act is amended by inserting "hospice program," after "home health agency,".

(2) Section 1861(w)(1) of such Act is amended by striking out "or home health agency" and by inserting in lieu thereof "home health agency, or hospice program".

(3) Section 1861 of such Act is further amended by adding at the end the following new subsection:

"Hospice Care; Hospice Program

"(dd)(1) The term 'hospice care' means the following items and services provided to a terminally ill individual by, or by others under arrangements made by, a hospice program under a written plan (for providing such care to such individual) established and periodically reviewed by the individual's attending physician and by the medical director (and by the interdisciplinary group described in paragraph (2)(B)) of the program—

"(A) nursing care provided by or under the supervision of a registered professional nurse,

"(B) physical or occupational therapy or speech-language pathology,

"(C) medical social services under the direction of a physician,

"(D)(i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,

"(E) medical supplies (including drugs and biologicals) and the use of medical appliances, while under such a plan,

"(F) physicians' services,

"(G) short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not be provided consecutively over longer than five days, and

"(H) counseling (including dietary counseling) with respect to care of the terminally ill individual and adjustment to his death.

The care and services described in subparagraphs (A) and (D) may be provided on a 24-hour, continuous basis only during periods of crisis (meeting criteria established by the Secretary) and only as necessary to maintain the terminally ill individual at home.

"(2) The term 'hospice program' means a public agency or private organization (or a subdivision thereof) which—

"(A)(i) is primarily engaged in providing the care and services described in paragraph (1) and makes such services available (as needed) on a 24-hour basis and which also provides bereavement counseling for the immediate family of terminally ill individuals,

"(ii) provides for such care and services in individuals' homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the agency or organization, except that—

"(I) the agency or organization must routinely provide directly substantially all of each of the services described in subparagraphs (A), (C), (F), and (H) of paragraph (1), and

"(II) in the case of other services described in paragraph (1) which are not provided directly by the agency or organization, the agency or organization must maintain professional management responsibility for all such services furnished to an individual, regardless of the location or facility in which such services are furnished; and

"(iii) provides assurances satisfactory to the Secretary that the aggregate number of days of inpatient care described in paragraph (1)(G) provided in any 12-month period to individuals who have an election in effect under section 1812(d) with respect to that agency or organization does not exceed 20 percent of the aggregate number of days during that period on which such elections for such individuals are in effect;

"(B) has an interdisciplinary group of personnel which—

"(i) includes at least—

"(I) one physician (as defined in subsection (r)(1)),

"(II) one registered professional nurse, and

"(III) one social worker,

employed by the agency or organization, and also includes at least one pastoral or other counselor,

"(ii) provides (or supervises the provision of) the care and services described in paragraph (1), and

"(iii) establishes the policies governing the provision of such care and services;

"(C) maintains central clinical records on all patients;

"(D) does not discontinue the hospice care it provides with respect to a patient because of the inability of the patient to pay for such care;

"(E)(i) utilizes volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintains records on the use of these volunteers and the cost savings and expansion of care and services achieved through the use of these volunteers;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law; and

"(G) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

"(3)(A) An individual is considered to be 'terminally ill' if the individual has a medical prognosis that the individual's life expectancy is 6 months or less.

"(B) The term 'attending physician' means, with respect to an individual, the physician (as defined in subsection (r)(1)), who may be employed by a hospice program, whom the individual identifies as having the most significant role in the determination and delivery of medical care to the individual at the time the individual makes an election to receive hospice care.

"(4)(A) An entity which is certified as a provider of services other than a hospice program shall be considered, for purposes of certification as a hospice program, to have met any requirements under paragraph (2) which are also the same requirements for certification as such other type of provider. The Secretary shall coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type.

"(B) Any entity which is certified as a hospice program and as a provider of another type shall have separate provider agreements under section 1866 and shall file separate cost reports with respect to costs incurred in providing hospice care and in providing other services and items under this title.".

(e) Section 1813(a) of such Act is amended by adding at the end the following new paragraph:

"(4)(A) The amount payable for hospice care shall be reduced—

"(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to an amount (not to exceed $5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

"(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care;

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term 'hospice coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(d) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

"(B) During the period of an election by an individual under section 1812(d)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.".

(f) Section 1862(a) of the Social Security Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) which, except for items and services described in subparagraph (B) or (C), are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,

"(B) in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness, and

"(C) in the case of hospice care, which are not reasonable and necessary for the palliation or management of terminal illness;";

(2) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (6) after "comfort items";

(3) by striking out "paragraph (1)" in paragraph (7) and inserting in lieu thereof "paragraph (1)(B)"; and

(4) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (9) after "custodial care".

(g)(1) Section 1862(f) of the Social Security Act is amended by striking out "para-

graph (1)" and inserting in lieu thereof "paragraph (1)(A)".

(2) Section 1863 of the Social Security Act is amended by striking out "and (cc)(2)(I)" and inserting in lieu thereof "(cc)(2)(I), and (dd)(2)".

(3) Section 1864(a) of such Act is amended—

(A) by inserting "or whether an agency is a hospice program" in the first sentence after "home health agency,"; and

(B) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or hospice program".

(4) Section 1865(a) of such Act is amended by striking out "or (o)" in the last sentence and inserting in lieu thereof "(o), or (dd)".

(5) Section 1866(b)(2)(A) of such Act is amended by striking out "or (a)(3)" and inserting in lieu thereof "(a)(3), or (a)(4)".

(6) Section 1866(b)(4)(A) of such Act is amended by inserting "or hospice care" after "home health services".

(h)(1)(A) Subject to subparagraph (B), the amendments made by this section apply to hospice care provided on or after November 1, 1983, and before October 1, 1986.

(B) An individual who on October 1, 1986, has an election under section 1812(d)(1) of the Social Security Act in effect for a period, is entitled to hospice care benefits after that date during the remainder of that period and any consecutive period to which the individual would have been entitled before such date.

(2) In order to provide for the timely implementation of the amendments made by this Act, the Secretary of Health and Human Services shall, not later than September 1, 1983, promulgate such final regulations as may be necessary to set forth—

(A) a description of the care included in "hospice care" and the standards for qualification of a "hospice program", under section 1861(dd) of the Social Security Act, and

(B) the standards for payment for hospice care under part A of title XVIII of such Act, pursuant to section 1814(i) of such Act.

(h)(1) Notwithstanding any provision of law which has the effect of restricting the time period of a hospice demonstration project in effect on July 15, 1982, pursuant to section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of the project until November 1, 1983, or, if later, the date on which payments can first be made to any hospice program under the amendments made by this section.

(2) Prior to September 30, 1983, the Secretary shall submit to Congress a report on the effectiveness of demonstration projects referred to in paragraph (1), including an evaluation of the cost-effectiveness of hospice care, the reasonableness of the 40 percent cap amount for hospice care as provided in section 1814(i) of the Social Security Act (as added by this section), proposed methodology for determining such cap amount, proposed standards for requiring and measuring the maintenance of effort for utilizing volunteers as required under section 1861(dd) of such Act, an evaluation of physician reimbursement for services furnished as a part of hospice care and for services furnished to individuals receiving hospice care but which are not reimbursed as a part of the hospice care, and any proposed legislative changes in the hospice care provisions of title XVIII of such Act.

(i)(1) The Secretary of Health and Human Services shall conduct a study and, prior to January 1, 1986, report to the Congress on whether or not the reimbursement method and benefit structure (including copayments) for hospice care under title XVIII of the Social Security Act are fair and equitable and promote the most efficient provision of hospice care. Such report shall include the feasibility and advisability of providing for prospective reimbursement for for hospice care, an evaluation of the inclusion of payment for outpatient drugs, an evaluation of the need to alter the method of reimbursement for nutritional, dietary, and bereavement counseling as hospice care, and any recommendations for legislative changes in the hospice care reimbursement or benefit structure.

(2) The Comptroller General shall monitor and evaluate the study and the preparation of the report under paragraph (1).

(j) The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act (relating to the cap amount), section 1861(dd)(1)(G) of such Act (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iv) of such Act (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate until October 1, 1986, in a viable manner as a hospice program under title XVIII of the Social Security Act.

COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO THREE-DAY PRIOR HOSPITALIZATION REQUIREMENT

Sec. 123. (a) Section 1812(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)" and by inserting before the semicolon at the end the following: ", and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services".

(b) Section 1812 of such Act is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) The Secretary shall provide for coverage, under clause (B) of subsection (a)(2), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described in subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection,

as may be necessary to carry out paragraph (1).".

PROVISION TEMPORARILY HOLDING PART B PREMIUM AT CONSTANT PERCENTAGE OF COST

Sec. 124. (a)(1) Section 1839(c)(2) of the Social Security Act is amended by striking out "except as provided in subsection (d)" and inserting in lieu thereof "except as provided in subsections (d) and (g)".

(2) Section 1839(c)(3) of such Act is amended by inserting "(except as otherwise provided in subsection (g))" after "The monthly premium shall".

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (c), the monthly premium for each individual enrolled under this part for each month after June 1983 and prior to July 1985 shall be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (c)(1) and applicable to such month.

"(2) Any increases in premium amounts taking effect prior to July 1985 by reason of paragraph (1) shall be taken into account for purposes of determining increases thereafter under subsection (c)(3).".

(c) Section 1844(a)(1) of such Act is amended by striking out "section 1839(c)(3)" each place it appears in subparagraphs (A)(i) and (B)(i) and inserting in lieu thereof in each instance "section 1839(c)(3) or 1839(g), as the case may be".

SPECIAL ENROLLMENT PROVISIONS FOR MERCHANT SEAMEN

Sec. 125. (a) Any individual who—

(1) was entitled to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect on September 30, 1981), including such entitlement on the basis of continuing medical care under 42 C.F.R. §32.17, at any time during the period beginning on March 10, 1981, and ending on October 1, 1981, and

(2) as of September 30, 1981, was eligible under section 1818(a) or section 1836 of the Social Security Act to enroll in the insurance program established by part A or part B, respectively, of title XVIII of that Act (hereinafter in this section referred to as the "respective program"),

may enroll (if not otherwise enrolled) in the respective program during the period beginning on the first day of the first month beginning at least 20 days after the date of the enactment of this Act and ending on December 31, 1982.

(b)(1) The coverage period under the respective program of an individual who enrolls under subsection (a) shall begin—

(A) on the first day of the month following the month in which the individual enrolls, or

(B) on October 1, 1981, if the individual files a request for this subparagraph to apply and pays the monthly premiums for the months so covered.

(2) The coverage period under the respective program of an individual described in subsection (a) who enrolled in the respective program before the enrollment period described in that subsection shall be retroactively extended to October 1, 1981, if the individual files a request before January 1, 1983, for such retroactive extension and pays the monthly premiums for the months so covered.

(c)(1) For purposes of section 1839(d) of the Social Security Act with respect to the monthly premium for months after September 1981, if an individual described in subsection (a) has enrolled in the insurance program under part B of title XVIII of the Social Security Act at any time before the end of the enrollment period described in subsection (a), any month (before the end of that enrollment period) in which he was not enrolled in that program shall not be treated as a month in which he could have been enrolled in the program.

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(2) Paragraph (1) shall not apply to an individual—

(A) if the individual has enrolled in the insurance program before March 10, 1981, unless the enrollment was terminated solely because the individual lost eligibility to be so enrolled, or

(B) unless the individual applies for the benefit of such paragraph before January 1, 1983.

(d)(1) The Secretary of Health and Human Services, beginning as soon as possible but not later than 30 days after the date of the enactment of this Act, shall provide for the dissemination of information—

(A) to unions and other associations representing or assisting seamen,

(B) to offices enrolling individuals under the respective programs, and

(C) to such other entities and in such a manner as will effectively inform individuals eligible for benefits under this section, concerning the special benefits provided under this section.

(2) An individual may establish that the individual was entitled at a date to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect before October 1, 1981) by providing—

(A) documentation relating to the status under which the individual was provided care in (or under arrangements with) a Public Health Service facility on that date,

(B) the individual's seamen's papers covering that date, or

(C) such other reasonable documentation as the Secretary may require.

PART III—MISCELLANEOUS PROVISIONS

EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY

SEC. 126. Section 1123(a) of the Social Security Act is amended by striking out "December 31, 1981" and inserting in lieu thereof "September 30, 1983".

REGULATIONS REGARDING ACCESS TO BOOKS AND RECORDS

SEC. 127. Section 952 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2646) is amended—

(1) by inserting "(a)" after "SEC. 952.", and

(2) by adding at the end the following new subsection:

"(b) Unless the Secretary of Health and Human Services first publishes final regulations prescribing the criteria and procedures described in the last sentence of section 1861(v)(1)(I) of the Social Security Act by January 1, 1983, after providing a period of not less than 60 days for public comment on proposed regulations, the amendment made by subsection (a) shall only apply to books, documents, and records relating to services furnished (pursuant to contract or subcontract) on or after the date on which final regulations of the Secretary are first published.".

TECHNICAL CORRECTIONS TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 128. (a)(1) Section 1861(cc)(1) of the Social Security Act is amended, in the matter following subparagraph (H), by striking out "outpatient" and inserting in lieu thereof "inpatient".

(2) The second sentence of section 1862(b)(1) of such Act is amended by striking out "or plan".

(3) Section 1862(b)(2)(A) of such Act is amended by striking out "section 162(h)(2)" and inserting in lieu thereof "section 162(i)(2)".

(4) The first sentence of section 1862(b)(2)(B) of such Act is amended by inserting "furnished" before "to an individual".

(5) Section 1866(b) of such Act is amended by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" in the matter preceding paragraph (1).

(6) The second subsection (c) of section 1884 of such Act is redesignated as subsection (d).

(b) Section 162 of the Internal Revenue Code of 1954 is amended—

(1) by redesignating the subsection (i) (relating to cross reference), as redesignated by the Economic Recovery Tax Act of 1981 (Public Law 95-34), as subsection (j), and

(2) by redesignating the subsection (h) (relating to group health plans), as added by section 2146(b) of the Omnibus Budget Reconciliation Act of 1981, as subsection (i).

(c)(1) Section 2143(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "costs" and inserting in lieu thereof "cost".

(2) Section 2203(f)(3) of such Act is amended by striking out "August 1982" and inserting in lieu thereof "August 1981".

(d)(1) Sections 1842(b)(3)(B)(ii)(II) and 1870(c) of the Social Security Act are each amended by striking out "1862" and inserting in lieu thereof "1862(a)".

(2) The final subparagraph (C) of section 1861(e) of such Act is amended by striking out "may (i)," and inserting in lieu thereof "(i) may".

(3) Section 1865(b) of such Act is amended by striking out "an institution" and "such institution" and inserting in lieu thereof "a hospital" and "the hospital", respectively.

(4) Section 1866(a)(1)(B) of such Act is amended by inserting "of section 1862(a)" after "(1) or (9)".

(e)(1) Any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act or the Internal Revenue Code of 1954 made by this section (other than subsection (d)) shall be effective as if it had been originally included as a part of that provision of the Social Security Act or Internal Revenue Code of 1954 to which it relates, as such provision of such Act or Code was amended by the Omnibus Budget Reconciliation Act of 1981.

(3) The amendments made by subsection (d) shall take effect upon enactment.

SUBTITLE B—MEDICAID

COPAYMENTS BY MEDICAID RECIPIENTS

SEC. 131. (a) Section 1902(a)(14) of the Social Security Act is amended to read as follows:

"(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF ENROLLMENT FEES, PREMIUMS, DEDUCTIONS, COST SHARING, AND SIMILAR CHARGES

"SEC. 1916. (a) The State plan shall provide that in the case of individuals described in section 1902(a)(10)(A) who are eligible under the plan—

"(1) no enrollment fee, premium, or similar charge will be imposed under the plan;

"(2) no deduction, cost sharing or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled;

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(b) The State plan shall provide that in the case of individuals other than those described in section 1902(a)(10)(A) who are eligible under the plan—

"(1) there may be imposed an enrollment fee, premium, or similar charge, which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income,

"(2) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or (at the option of the State) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled;

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(c) The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge. The requirements of this subparagraph shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

"(d) No deduction, cost sharing, or similar charge may be imposed under any waiver authority of the Secretary unless authorized under this section, unless such waiver is for a demonstration project which the Secretary finds after public notice and opportunity for comment—

"(1) will test a unique and previously untested use of copayments,

"(2) is limited to a period of not more than two years,

"(3) will provide benefits to recipients of medical assistance which can reasonably be expected to be equivalent to the risks to the recipients,

"(4) is based on a reasonable hypothesis which the demonstration is designed to test in a methodologically sound manner, including the use of control groups of similar recipients of medical assistance in the area, and

"(5) in which participation is voluntary, or in which provision is made for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.".

(b) Section 1902(a)(10) of such Act is amended in the matter following subparagraph (D)—

(1) by striking out "and" before "(III)"; and

(2) by inserting before the semicolon at the end thereof the following: "and (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1982.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

MODIFICATIONS IN LIEN PROVISIONS

SEC. 132. (a) Section 1902(a)(18) of the Social Security Act is amended to read as follows:

"(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, and transfers of assets;".

(b) Title XIX of such Act is amended by adding after section 1916 (added by section 131 of this Act) the following new section:

"LIENS, ADJUSTMENTS AND RECOVERIES, AND TRANSFERS OF ASSETS

"SEC. 1917. (a)(1) No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the State plan, except—

"(A) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

"(B) in the case of the real property of an individual—

"(i) who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and

"(ii) with respect to whom the State determines, after notice and opportunity for a hearing (in accordance with procedures established by the State), that he cannot reasonably be expected to be discharged from the medical institution and to return home, except as provided in paragraph (2).

"(2) No lien may be imposed under paragraph (1)(B) on such individual's home if—

"(A) the spouse of such individual,

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614, or

"(C) a sibling of such individual (who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution),

is lawfully residing in such home.

"(3) Any lien imposed with respect to an individual pursuant to paragraph (1)(B) shall dissolve upon that individual's discharge from the medical institution and return home.

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except—

"(A) in the case of an individual described in subsection (a)(1)(B), from his estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of such individual, and

"(B) in the case of any other individual who was 65 years of age or older when he received such assistance, from his estate.

"(2) Any adjustment or recovery under paragraph (1) may be made only after the death of the individual's surviving spouse, if any, and only at a time—

"(A) when he has no surviving child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614; and

"(B) in the case of a lien on an individual's home under subsection (a)(1)(B), when—

"(i) no sibling of the individual (who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution), and

"(ii) no son or daughter of the individual (who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution),

is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution.

"(c)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act, and which may provide for a waiver of denial of such assistance in any instance where the State determines that such denial would work an undue hardship.

"(2)(A) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(B)(i) In the case of any individual who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and, who, at any time during or after the 24-month period immediately prior to application for medical assistance under the State plan, disposed of a home for less than fair market value, the State plan (subject to clause (iii)) may provide for a period of in-

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eligibility for medical assistance in accordance with clause (ii).

"(ii) If the State plan provides for a period of ineligibility under clause (i), such plan—

"(I) shall provide that such individual shall be ineligible for all medical assistance for a period of 24 months after the date on which he disposed of such home, except that, in the case where the uncompensated value of the home is less than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, the period of ineligibility shall be such shorter time as bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home, and

"(II) may provide (at the option of the State) that, in the case where the uncompensated value of the home is more than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, such individual shall be ineligible for all medical assistance for a period in excess of 24 months after the date on which he disposed of such home which bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home.

"(iii) An individual shall not be ineligible for medical assistance by reason of clause (ii) if—

"(I) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual cannot reasonably be expected to be discharged from the medical institution and to return to that home,

"(II) title to such home was transferred to the individual's spouse or child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

"(III) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the home either at fair market value, or for other valuable consideration, or

"(IV) if the State determines that denial of eligibility would work an undue hardship.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).".

(c) Section 1902 of such Act is amended by striking out subsection (j) thereof.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, but the provisions of section 1917(c)(2)(B) of the Social Security Act shall not apply with respect to a transfer of assets which took place prior to such date of enactment.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS MEDICAL ASSISTANCE EXPENDITURES

SEC. 133. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

"(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

"(D)(i) For purposes of this subsection, the term 'erroneous excess payments for medical assistance' means the total of—

"(I) payments under the State plan with respect to ineligible individuals and families, and

"(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

"(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the difference between the actual amount of such resources and the allowable resource level established under the State plan.

"(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

"(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

"(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

"(ii) payments made as the result of a technical error.

"(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under title XIX of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 1903 of such Act, shall be effective with respect to payments to States under such section 1903 for quarters beginning on or after October 1, 1982, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 1903 of the Social Security Act.

MEDICAID COVERAGE OF HOME CARE FOR CERTAIN DISABLED CHILDREN

SEC. 134. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) At the option of the State, any individual who—

"(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a);

"(B) with respect to whom there has been a determination by the State that—

"(i) the individual requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility,

"(ii) it is appropriate to provide such care for the individual outside such an institution, and

"(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institu-

tion is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

"(C) if the individual were in a medical institution, would be eligible to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI,

shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

SIX-MONTH MORATORIUM ON DEREGULATION OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 135. The Secretary of Health and Human Services may not promulgate any change in the regulations prescribed under—

(1) subpart K of part 405 of subchapter B (relating to medicare conditions of participation of skilled nursing facilities),

(2) so much of subpart S of part 405 of subchapter B (relating to certification procedure for providers) as relates to certification of skilled nursing facilities, and

(3) subparts C, D, and E of part 442 of subchapter C (relating to medicaid certification and requirements for skilled nursing and intermediate care facilities),

of chapter IV of title 42 of the Code of Federal Regulations until the first day of the seventh calendar month beginning after the date of the enactment of this Act unless ordered to do so by a court of competent jurisdiction.

MEDICAID PROGRAM IN AMERICAN SAMOA

SEC. 136. (a) Section 1101(a)(1) of the Social Security Act is amended by inserting "and American Samoa" after "Such term when used in title XIX also includes the Northern Mariana Islands".

(b) Section 1108(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following:

"(5) American Samoa shall not exceed $750,000.".

(c) Section 1905(b)(2) of such Act is amended by striking out "and the Northern Mariana Islands" and inserting in lieu thereof "the Northern Mariana Islands, and American Samoa".

(d) Section 1902 of such Act (as amended by section 132(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program in American Samoa, other than a waiver of the Federal medical assistance percentage, the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa for care and services described in paragraphs (1) through (18) of section 1905(a).".

(e) The amendments made by this section shall become effective on October 1, 1982.

TECHNICAL CORRECTIONS FROM OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 137. (a)(1) Section 2161(b) of the Ominbus Budget Reconciliation Act of 1981 is amended by striking out "Section 1902" and inserting in lieu thereof "Section 1903".

(2) Paragraphs (1) and (2) of section 2161(c) of such Act are each amended by striking out "section 1902" and inserting in lieu thereof in each instance "section 1903".

(3) Section 2171(a)(3) of such Act is amended by striking out "by striking out paragraph (C)" and inserting in lieu thereof "by striking out '(C) if medical assistance' and all that follows through the semicolon preceding 'except that' ".

(4) Section 2181(b) of such Act is amended by inserting before the period at the end thereof the following: ", except that, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order to incorporate the provisions required to be included by this section into such State plan, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to include the provisions required to be included in such State plan by subsection (a)(2) of this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, but the requirements previously set forth in paragraphs (1) through (3) of section 403(g) of the Social Security Act (prior to its repeal by this section) shall apply under title XIX of such Act to such State on and after October 1, 1981, whether or not the provisions required to be included by this section in the State plan under title XIX have been incorporated into such State plan".

(5) Section 2193(c)(3)(B) of such Act is amended by striking out "or X' " and inserting in lieu thereof "or XIX' ".

(b)(1) Section 501(b)(1)(D) of the Social Security Act is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) Section 501(b)(2) of such Act is amended by striking out "section 624 of the Economic Opportunity Act of 1964" and inserting in lieu thereof "section 673(2) of the Omnibus Budget Reconciliation Act of 1981".

(3) Section 505(2)(B) of such Act is amended by striking out "502(b)(1)" and inserting in lieu thereof "501(b)(1)".

(4) Section 505(2)(D) of such Act is amended by striking out "the State imposes any charges" and inserting in lieu thereof "any charges are imposed".

(5) Section 1134(4) of such Act is amended by striking out "scale" and inserting in lieu thereof "sale".

(6) The heading of title XVI of such Act as such title applies in the case of Puerto Rico, Guam, and the Virgin Islands is amended by striking out ", OR FOR SUCH AID FOR THE AGED".

(7) Section 1902(a)(10)(A) of such Act is amended to read as follows:

"(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to—

"(i) all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI; and

"(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

"(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

"(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,

"(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

"(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

"(V) who are in a medical institution, who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C), or

"(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination that but for the provision of home or community-based services described in section 1915(c) they would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under section 1915(c);".

(8) Section 1902(a)(10)(C)(i) of such Act is amended—

(A) by striking out "and (II)" and inserting in lieu thereof ", (II)"; and

(B) by inserting before the semicolon at the end thereof ", and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be the same methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be the same methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups".

(9) Section 1902(a)(10)(C)(ii)(I) of such Act is amended by striking out "described in section 1905(a)(i)" and inserting in lieu thereof "under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i)".

(10) Section 1902(b) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(11) Section 1903(g)(1) of such Act is amended by inserting "or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public

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Health Service Act)" after "as defined in section 1876".

(12) Section 1903(g)(1)(A) of such Act is amended by striking out "intermediate care facility services described in section 1905(d)" and inserting in lieu thereof "intermediate care facility services provided in an institution for the mentally retarded".

(13) Section 1903(k) of such Act is amended by striking out "section 1876" and inserting in lieu thereof "subsection (m) of this section".

(14) Section 1903(m)(2)(A) of such Act is amended—

(A) by striking out "and" before "(II)" in clause (iv) and inserting in lieu thereof "or"; and

(B) by striking out "unforseen" in clause (vii) and inserting in lieu thereof "unforeseen".

(15) Section 1903(s) of such Act is amended—

(A) in paragraph (1)(A), by striking out "made before fiscal year 1981" and inserting in lieu thereof "made before fiscal year 1982";

(B) in paragraph (1)(A), by striking out "without regard to payments under subsection (t) and" and inserting in lieu thereof "without regard to payments under subsections (a)(6) and (t), without regard to payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service, and";

(C) in paragraph (1)(C), by inserting "a program in operation under" before "a plan approved under this title";

(D) in paragraph (3)(D)—

(i) by striking out "determines that" and inserting in lieu thereof "must determine that";

(ii) by striking out "most recent calendar year" and inserting in lieu thereof "most recent year (which shall consist of a 12-month period determined by the Secretary for this purpose)";

(iii) by striking out "2 or 3 calendar year period" and inserting in lieu thereof "2- or 3-year period"; and

(iv) by striking out "calendar" each place it appears;

(E) in paragraph (4)(B), by inserting "and paragraph (3)(D)" after "subparagraph (A)"; and

(F) in paragraph (5)(A)(i), by inserting "(including amounts saved, to the extent such amounts can be documented to the satisfaction of the Secretary, by reason of the suspension or termination of a provider or other person for fraud or abuse, but only during the period of such suspension or termination or, if shorter, the 1-year period beginning on the date of such termination or suspension)" after "recovered or diverted".

(16) Section 1903(t) of such Act (as added by section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 as amended by subsection (a) of this section) is amended—

(A) in paragraphs (1)(A) and (2)(A), by striking out "other than interest paid under subsection (d)(5)" each place it appears and inserting in lieu thereof in each instance "other than payments under subsection (a)(6), interest paid under subsection (d)(5), and payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service";

(B) in paragraph (1)(B), by striking out "between September 1982 and September 1983" and inserting in lieu thereof "for the 12-month period ending on September 30, 1983";

(C) in paragraph (1)(C), by striking out "between September 1982 and September 1984" and inserting in lieu thereof "for the 24-month period ending on September 30, 1984";

(D) in subparagraphs (B) and (C) of paragraph (1), by striking out "consumer price index for all urban consumers (published by the Bureau of Labor Statistics)" each place it appears and inserting in lieu thereof in each instance "Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics"; and

(E) by amending paragraph (3) to read as follows:

"(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1981, disregarding any change in such percentage after fiscal year 1981.".

(17) Section 1905(a)(i) of such Act is amended by striking out "or any reasonable category of such individuals,".

(18) Section 1905(a) of such Act is amended by striking out "or" at the end of clause (vi), inserting "or" at the end of clause (vii), and inserting after clause (vii) the following:

"(viii) pregnant women,".

(19)(A) Section 1915(b) of such Act is amended by striking out "and section 1903(m)".

(B) The amendment made by subparagraph (A) shall not apply with respect to any waiver if such waiver was granted, and the arrangement covered by the waiver was in place, prior to August 10, 1982.

(20) Section 1915(b)(1) of such Act is amended—

(A) by inserting "primary care" before "case-management system"; and

(B) by striking out "primary care services" and inserting in lieu thereof "medical care services".

(21) Section 1915(c)(1) of such Act is amended by inserting "payment for part or all of the cost of" after "may include as 'medical assistance' under such plan".

(22) Section 1915(c)(2)(B) of such Act is amended to read as follows:

"(B) the State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based care under such waiver,

for an evaluation of the need for such services;".

(23) Section 1915(c)(3) of such Act is amended—

(A) by striking out "subsection (a)(1)" and inserting in lieu thereof "section 1902(a)(1)"; and

(B) by striking out "subsection (a)(10) of section 1902" and inserting in lieu thereof "section 1902(a)(10)".

(24) Section 1915(c)(4) of such Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(25) Section 1915(f) of such Act is amended by inserting "approval of" before "a proposed State plan".

(26) Subsection (a) of section 1128A of such Act is amended by striking out all that precedes "shall be subject" and inserting in lieu thereof the following:

"(a) Any person (including an organization, agency, or other entity) that—

"(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), or 1862(d), or pursuant to a determination by the Secretary under section 1866(b)(2) with respect to which the Secretary has initiated termination proceedings; or

"(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged,".

(27) Section 1903(s)(5)(B) of such Act is amended by inserting "or quarters" after "carried forward to the following quarter".

(c)(1) Section 914(b)(2)(A) of the Omnibus Reconciliation Act of 1980 is amended by striking out "medical assistance" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title XIX of the Social Security Act.".

(2) Section 914(c)(2) of the Omnibus Reconciliation Act of 1980 is amended by striking out "services provided" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title V of the Social Security Act.".

(d)(1) Except as otherwise provided in this section, any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act made by the preceding provisions of this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981.

(e) Section 1902(a) of the Social Security Act is amended in the matter following paragraph (44) by inserting ", (26)" after "(9)(A)".

(f) Section 1905(h)(1)(C) of the Social Security Act is amended by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively, and by redesignating clauses (A) and (B) as clauses (i) and (ii) respectively.

(g) Effective October 1, 1982, section 1903(f)(3) of the Social Security Act is amended by striking out "(without regard to section 408)".

Subtitle C—Utilization and Quality Control Peer Review

SHORT TITLE OF SUBTITLE

Sec. 141. This subtitle may be cited as the "Peer Review Improvement Act of 1982".

REQUIREMENT FOR SECRETARY TO ENTER INTO CONTRACTS

Sec. 142. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, in making the determinations under paragraphs (1) and (9) of subsection (a), and for the purposes of promoting the effective, efficient, and economical delivery of health care services, and of promoting the quality of services of the type for which payment may be made under this title, enter into contracts with utilization and quality control peer review organizations pursuant to part B of title XI of this Act.".

ESTABLISHMENT OF UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

Sec. 143. Part B of title XI of the Social Security Act is amended to read as follows:

"Part B—Peer Review of the Utilization and Quality of Health Care Services

"PURPOSE

"Sec. 1151. The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1862(g) of this Act, including the definition of the utilization and quality control peer review organizations with which the Secretary shall contract, the functions such peer review organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

"DEFINITION OF UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION

"Sec. 1152. The term 'utilization and quality control peer review organization' means an entity which—

"(1)(A) is composed of a substantial number of the licensed doctors of medicine and osteopathy engaged in the practice of medicine or surgery in the area and who are representative of the practicing physicians in the area, designated by the Secretary under section 1153, with respect to which the entity shall perform services under this part, or (B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured; and

"(2) is able, in the judgment of the Secretary, to perform review functions required under section 1154 in a manner consistent with the efficient and effective administration of this part and to perform reviews of the pattern of quality of care in an area of medical practice where actual performance is measured against objective criteria which define acceptable and adequate practice.

"CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS

"Sec. 1153. (a)(1) The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this part will be made. In establishing such areas, the Secretary shall use the same areas as established under section 1152 of this Act as in effect immediately prior to the date of the enactment of the Peer Review Improvement Act of 1982, but subject to the provisions of paragraph (2).

"(2) As soon as practicable after the date of the enactment of the Peer Review Improvement Act of 1982, the Secretary shall consolidate such geographic areas, taking into account the following criteria:

"(A) Each State shall generally be designated as a geographic area for purposes of paragraph (1).

"(B) The Secretary shall establish local or regional areas rather than State areas only where the volume of review activity or other relevant factors (as determined by the Secretary) warrant such an establishment, and the Secretary determines that review activity can be carried out with equal or greater efficiency by establishing such local or regional areas. In applying this subparagraph the Secretary shall take into account the number of hospital admissions within each State for which payment may be made under title XVIII or a State plan approved under title XIX, with any State having fewer than 180,000 such admissions annually being established as a single statewide area, and no local or regional area being established which has fewer than 60,000 total hospital admissions (including public and private pay patients) under review annually, unless the Secretary determines that other relevant factors warrant otherwise.

"(C) No local or regional area shall be designated which is not a self-contained medical service area, having a full spectrum of services, including medical specialists' services.

"(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part. If more than one such qualified organization meets the requirements of the preceding sentence, priority shall be given to any such organization which is described in section 1152(1)(A).

"(2)(A) During the first twelve months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part.

"(B) If, after the expiration of the twelve-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

"(3) The Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), a health care facility, or association of such facilities, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

"(c) Each contract with an organization under this section shall provide that—

"(1) the organization shall perform the functions set forth in section 1154(a), or may subcontract for the performance of all or some of such functions (and for purposes of paragraphs (2) and (3) of subsection (b), a subcontract under this paragraph shall not constitute an affiliation with the subcontractor);

"(2) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

"(3) the contract shall be for an initial term of two years and shall be renewable on a biennial basis thereafter;

"(4) if the Secretary intends not to renew a contract, he shall notify the organization of his decision at least 90 days prior to the expiration of the contract term, and shall provide the organization an opportunity to present data, interpretations of data, and other information pertinent to its performance under the contract, which shall be reviewed in a timely manner by the Secretary;

"(5) the organization may terminate the contract upon 90 days notice to the Secretary;

"(6) the Secretary may terminate the contract prior to the expiration of the contract term upon 90 days notice to the organization if the Secretary determines that—

"(A) the organization does not substantially meet the requirements of section 1152; or

"(B) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under subsection (d);

"(7) the Secretary shall include in the contract negotiated objectives against which the organization's performance will be judged, and negotiated specifications for use of regional norms, or modifications thereof based on national norms, for performing review functions under the contract; and

"(8) reimbursement shall be made to the organization in accordance with the terms of the contract.

"(d)(1) Prior to making any termination under subsection (c)(5)(B), the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

"(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(5)(C) upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

"(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at

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the time that service on the panel is rendered for grade GS-18 under section 5332 of title 5, United States Code. Appointments shall be made without regard to title 5, United States Code.

"(e) Contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

"(f) Any determination by the Secretary to terminate or not to renew a contract under this section shall not be subject to judicial review.

"FUNCTIONS OF PEER REVIEW ORGANIZATIONS

"SEC. 1154. (a) Any utilization and quality control peer review organization entering into a contract with the Secretary under this part must perform the following functions:

"(1) The organization shall review some or all of the professional activities in the area, subject to the terms of the contract, of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under title XVIII for the purpose of determining whether—

"(A) such services and items are or were reasonable and medically necessary or otherwise allowable under section 1862(a)(1);

"(B) the quality of such services meets professionally recognized standards of health care; and

"(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided more economically on an outpatient basis or in an inpatient health care facility of a different type.

"(2) The organization shall determine, on the basis of the review carried out under subparagraphs (A) and (C) of paragraph (1), whether payment shall be made for services under title XVIII. Such determination shall constitute the conclusive determination on those issues for purposes of payment under title XVIII, except that payment may be made if—

"(A) such payment is allowed by reason of section 1879;

"(B) in the case of inpatient hospital services or posthospital extended care services, the peer review organization determines that additional time is required in order to arrange for postdischarge care, but payment may be continued under this subparagraph for not more than two days, but only in the case where the provider of such services did not know and could not reasonably have been expected to know (as determined under section 1879) that payment would not otherwise be made for such services under title XVIII prior to notification by the organization under paragraph (3);

"(C) such determination is changed as the result of any hearing or review of the determination under section 1155; or

"(D) such payment is authorized under section 1861(v)(1)(G).

"(3) Whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such practitioner or provider, such patient, and the agency or organization responsible for the payment of claims under title XVIII of this Act. In the case of practitioners and providers of services, the organization shall provide an opportunity for discussion and review of the determination.

"(4) The organization shall, after consultation with the Secretary, determine the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order to most effectively carry out the purposes of this part, exercise review authority under the contract. The organization shall notify the Secretary periodically with respect to such determinations.

"(5) The organization shall consult with nurses and other professional health care practitioners (other than physicians described in section 1861(r)(1)) and with representatives of institutional and noninstitutional providers of health care services, with respect to the organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.

"(6) The organization shall, consistent with the provisions of its contract under this part, apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include—

"(A) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and

"(B) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

"(7) The organization, to the extent necessary and appropriate to the performance of the contract, shall—

"(A) make arrangements to utilize the services of persons who are practitioners of, or specialists in, the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(B) undertake such professional inquiries either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review which in the judgment of such organization will facilitate its activities;

"(C) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1); and

"(D) inspect the facilities in which care is rendered or services are provided (which are located in such area) of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1).

"(8) The organization shall perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part.

"(9) The organization shall collect such information relevant to its functions, and keep and maintain such records, in such form as the Secretary may require to carry out the purposes of this part, and shall permit access to and use of any such information and records as the Secretary may require for such purposes, subject to the provisions of section 1160.

"(10) The organization shall coordinate activities, including information exchanges, which are consistent with economical and efficient operation of programs among appropriate public and private agencies or organizations including—

"(A) agencies under contract pursuant to sections 1816 and 1842 of this Act;

"(B) other peer review organizations having contracts under this part; and

"(C) other public or private review organizations as may be appropriate.

"(11) The organization shall make available its facilities and resources for contracting with private and public entities paying for health care in its area for review, as feasible and appropriate, of services reimbursed by such entities.

"(b)(1) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly responsible for providing such services; or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

"(2) For purposes of this subsection, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(c) No utilization and quality control peer review organization shall utilize the services of any individual who is not a duly licensed doctor of medicine, osteopathy, or dentistry to make final determinations of denial decisions in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine, osteopathy, or dentistry, or any act performed by any duly licensed doctor of medicine, osteopathy, or dentistry in the exercise of his profession.

"RIGHT TO HEARING AND JUDICIAL REVIEW

"SEC. 1155. Any beneficiary who is entitled to benefits under title XVIII, and any practitioner or provider, who is dissatisfied with a determination made by a contracting peer review organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is $200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as is provided in section 205(b)), and, where the amount in contro-

versy is $2,000 or more, to judicial review of the Secretary's final decision.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

"SEC. 1156. (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under title XVIII, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under such title—

"(1) will be provided economically and only when, and to the extent, medically necessary;

"(2) will be of a quality which meets professionally recognized standards of health care; and

"(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

"(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, any organization having a contract with the Secretary under this part determines that such practitioner or person has—

"(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

"(B) grossly and flagrantly violated any such obligation in one or more instances,

such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under title XVIII, has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide such services on a reimbursable basis. If the Secretary fails to act upon the recommendations submitted to him by such organization within 120 days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

"(2) A determination made by the Secretary under this subsection to exclude a practitioner or person shall be effective at such time and upon such reasonable notice to the public and to the practitioner or person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

"(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"LIMITATION ON LIABILITY

"SEC. 1157. (a) Notwithstanding any other provision of law, no person providing information to any organization having a contract with the Secretary under this part shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless—

"(1) such information is unrelated to the performance of the contract of such organization; or

"(2) such information is false and the person providing it knew, or had reason to believe, that such information was false.

"(b) No person who is employed by, or who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance by him of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

"(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by an organization under contract pursuant to section 1153 operating in the area where such doctor of medicine or osteopathy or provider took such action; but only if—

"(1) he takes such action in the exercise of his profession as a doctor of medicine or osteopathy or in the exercise of his functions as a provider of health care services; and

"(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

"(d) The Secretary shall make payment to an organization under contract with him pursuant to this part, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function under such contract by such organization, member, or employee.

"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

"SEC. 1158. (a) A State plan approved under title XIX of this Act may provide that the functions specified in section 1154 may be performed in an area by contract with a utilization and quality control peer review organization that has entered into a contract with the Secretary in accordance with the provisions of section 1862(g).

"(b) In the event a State enters into a contract in accordance with subsection (a), the Federal share of the expenditures made to the contracting organization for its costs in the performance of its functions under the State plan shall be 75 percent (as provided in section 1903(a)(3)(C)).

"AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

"SEC. 1159. Expenses incurred in the administration of the contracts described in section 1862(g) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund; and

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund,

in such amounts from each of such Trust Funds as the Secretary shall deem to be fair and equitable after taking into consideration the expenses attributable to the administration of this part with respect to each of such programs. The Secretary shall make such transfers of moneys between such Trust Funds as may be appropriate to settle accounts between them in cases where expenses properly payable from one such Trust Fund have been paid from the other such Trust Fund.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1160. (a) An organization, in carrying out its functions under a contract entered into under this part, shall not be a Federal agency for purposes of the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act). Any data or information acquired by any such organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to any person except—

"(1) to the extent that may be necessary to carry out the purposes of this part,

"(2) in such cases and under such circumstances as the Secretary shall by regulations

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provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or

"(3) in accordance with subsection (b).

"(b) An organization having a contract with the Secretary under this part shall provide in accordance with procedures and safeguards established by the Secretary, data and information—

"(1) which may identify specific providers or practitioners as may be necessary—

"(A) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case or pattern;

"(B) to assist appropriate Federal and State agencies recognized by the Secretary as having responsibility for identifying cases or patterns involving risks to the public health, which data and information shall be provided by the peer review organization to any such agency—

"(i) at the discretion of the peer review organization, at the request of such agency relating to a specific case or pattern with respect to which such agency has made a finding, or has a reasonable belief, that there may be a substantial risk to the public health, or

"(ii) upon a finding by, or the reasonable belief of, the peer review organization that there may be a substantial risk to the public health; and

"(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case, but only to the extent that such data and information is required by the agency in carrying out a function which is within the jurisdiction of such agency under State law; and

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such organization, and shall be in the form of aggregate statistical data (without explicitly identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such information) of any such information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the information. An organization may require payment of a reasonable fee for providing information under this subsection in response to a request for such information.

"(c) It shall be unlawful for any person to disclose any such information described in subsection (a) other than for the purposes provided in subsections (a) and (b), and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than 6 months, or both, and shall be required to pay the costs of prosecution.

"(d) No patient record in the possession of an organization having a contract with the Secretary under this part shall be subject to subpena or discovery proceedings in a civil action.

"ANNUAL REPORTS

"Sec. 1161. The Secretary shall submit to the Congress not later than April 1 of each year, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status, and service areas of all utilization and quality control peer review organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by such organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the various methods of reimbursement utilized in contracts under this part, and the relative efficiency of each such method of reimbursement;

"(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(5) the total costs incurred under titles XVIII and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality; and

"(6) descriptions of the criteria upon which decisions are made, and the selection and relative weights of such criteria.

"EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"Sec. 1162. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

"Sec. 1163. For purposes of applying this part to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

FACILITATION OF PRIVATE REVIEW

Sec. 144. Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraphs (A), (B), and (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes.".

WAIVER OF LIABILITY PROVISION

Sec. 145. Section 1879(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any provider or other person furnishing items or services for which payment may not be made by reason of section 1862(a)(1) or (9) shall be deemed to have knowledge that payment cannot be made for such items or services if the claim relating to such items or services involves a case, provider or other person furnishing services, procedure, or test, with respect to which such provider or other person has been notified by the Secretary (including notification by a utilization and quality control peer review organization) that a pattern of inappropriate utilization has occurred in the past, and such provider or other person has been allowed a reasonable time to correct such inappropriate utilization.".

MEDICAID PROVISIONS

Sec. 146. (a) Section 1902(d) of the Social Security Act is amended—

(1) by striking out "a Professional Standards Review Organization designated, conditionally or otherwise," and inserting in lieu thereof "a utilization and quality control peer review organization having a contract with the Secretary"; and

(2) by striking out "such Organization (or Organizations)" each place it appears and inserting in lieu thereof in each instance "such organization (or organizations)".

(b) Section 1903(a)(3)(C) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

DEMONSTRATION PROJECTS FOR COMPETITIVE BIDDING AND OTHER REIMBURSEMENT METHODS

Sec. 147. Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) to determine whether the use of competitive bidding in the awarding of contracts, or the use of other methods of reimbursement, under part B of title XI would be efficient and effective methods of furthering the purposes of that part.".

TECHNICAL AMENDMENTS

Sec. 148. (a) Section 1862(d)(1)(C) of such Act is amended by striking out ", on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title)," and inserting in lieu thereof "on the basis of information acquired by the Secretary in the administration of this title".

(b) Sections 1815(b), 1861(v)(1)(G), and 1861(w)(2) of such Act are each amended by striking out "Professional Standards Review Organization" and inserting in lieu

thereof in each instance "quality control and peer review organization".

(c) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "Professional Standards Review Organization (designated, conditionally or otherwise," and inserting in lieu thereof "quality control and peer review organization (having a contract with the Secretary".

(d) Section 1833(i) of such Act is amended by striking out "the National Professional Standards Review Council and".

(e) Section 1879(e) of such Act is amended by striking out "professional standards review organization" and inserting in lieu thereof "quality control and peer review organization".

EFFECTIVE DATE

Sec. 149. The amendments made by this part shall, subject to section 150, be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

MAINTENANCE OF CURRENT PSRO AGREEMENTS

Sec. 150. (a) The Secretary of Health and Human Services shall not terminate or fail to renew any agreement in effect with a professional standards review organization under part B of title XI of the Social Security Act on the earlier of the date of the enactment of this Act or September 30, 1982 until such time as he enters into a contract with a utilization and quality control peer review organization under such part, as amended by this subtitle, for the area served by such professional standards review organization. In complying with this subsection, the Secretary may renew any such contract with a professional standards review organization for a period of less than 12 months.

(b) The provisions of part B of title XI of the Social Security Act as in effect prior to the amendments made by this subtitle shall remain in effect with respect to contracts with professional standards review organizations in effect on the earlier of the date of the enactment of this Act or September 30, 1982, until such time as such contract is terminated or is not renewed, in accordance with subsection (a). Any matters awaiting a determination by a Statewide Professional Standards Review Council on the date of the enactment of this Act shall be transferred to the Secretary of Health and Human Services for a determination unless such determination is made by such Council within 30 days after the date of the enactment of this Act. No payments shall be made under part B of title XI of the Social Security Act to Statewide Professional Standards Review Councils for services performed under section 1162 of such Act after the end of such 30-day period.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

ROUNDING OF ELIGIBILITY AND BENEFIT AMOUNTS

Sec. 151. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount.".

(b) The amendment made by this section shall become effective on October 1, 1982.

EFFECTIVE DATE OF APPLICATION; PRORATION OF FIRST-MONTH'S AFDC BENEFIT

Sec. 152. (a) Section 402(a)(10) of the Social Security Act is amended—

(1) by striking out "provide, effective July 1, 1951, that all individuals" and inserting in lieu thereof "(A) provide that all individuals";

(2) by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(B) provide that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount which would be payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month;".

(b) The amendments made by this section shall become effective on October 1, 1982.

ABSENCE FROM HOME SOLELY BY REASON OF UNIFORMED SERVICE

Sec. 153. (a) Section 406(a)(1) of the Social Security Act is amehded by inserting "(other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States)" "continued absence from the home".

(b) The amendment made by ths section shall become effective on October 1, 1982.

JOB SEARCH

Sec. 154. (a) Section 402(a) of the Social Security Act (as amended by section 151(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(35) at the option of the State, provide—

"(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to register pursuant to paragrpah (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

"(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a payment to or in behalf of any individual who is otherwise eligible for such aid); and

"(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

"(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in advance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

"(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19)(F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect).".

(b)(1) Section 403(a)(3)(C) of such Act is amended by inserting immediately after "expenditures" the following: "(including as expenditures under this subparagraph the value of any services furnished, and the amount of any payments made (to cover expenses incurred by individuals under a program of employment search), under section 402(a)(35)(B))".

(2) Section 403(a)(3) of such Act is further amended by striking out "other than services" in the matter immediately following subparagraph (C) and inserting in lieu thereof the following: "other than services furnished under section 402(a)(35)(B) (as described in the parenthetical phrase in subparagraph (C)), and other than services".

(c) Section 409(b)(3) of such Act is amended—

(1) in the first sentence—

(A) by inserting ", any program of employment search under section 402(a)(35)," after "pursuant to this section",

(B) by striking out "both such programs" and inserting in lieu thereof "more than one such program", and

(C) by striking out "in the other" and inserting in lieu thereof "in another"; and

(2) in the second sentence, by striking out "both such programs" and inserting in lieu thereof "more than one such program".

(d) The amendments made by this section shall become effective on October 1, 1982.

PRORATION OF STANDARD AMOUNT FOR SHELTER AND UTILITIES

Sec. 155. (a) Section 412 of the Social Security Act is amended to read as follows:

"PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH ANOTHER HOUSEHOLD

"Sec. 412. A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child or relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration used by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.".

(b) The amendment made by this section shall become effective on October 1, 1982.

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LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS ASSISTANCE EXPENDITURES

SEC. 156. (a) Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments (as defined in subparagraph (C)) to its total payments under the State plan, approved under this part exceeds—

"(i) 0.04 for fiscal year 1983, or

"(ii) 0.03 for any fiscal year thereafter,

then the Secretary shall make no payment for such fiscal year with respect to so much of the erroneous excess payments (as so defined) as exceeds the allowable error rate for such fiscal year.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a fiscal year despite a good faith effort by such State.

"(C) For purposes of this subsection, the term 'erroneous excess payments' means that total of (i) payments to ineligible families, and (ii) overpayments to eligible families.

"(2) The State agency administering the plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rate for a fiscal year, the amount that would otherwise be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.".

(b) Section 403(a) of such Act is amended by striking out "In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.".

(c) Section 403(j) of such Act is amended by striking out "If the dollar error rate of aid furnished by a State" and inserting in lieu thereof "In the case of Puerto Rico, Guam, or the Virgin Islands, if the dollar error rate of aid furnished by such State".

(d)(1) The amendments made by subsections (a) and (b) shall become effective on October 1, 1982.

(2) The inapplicability of section 403(j) of the Social Security Act to States other than Puerto Rico, Guam, and the Virgin Islands by reason of the amendment made by subsection (c) shall be effective with respect to six-month periods beginning after April 1983.

(e) The regulations currently in effect for fiscal year 1982 with respect to erroneous payments made by States under a State plan approved under part A of title IV of the Social Security Act (45 CFR 205.42) shall remain in effect with respect to erroneous payments made by States until new regulations reflecting the changes made by subsection (a) are promulgated and placed in effect.

EXCLUSION FROM INCOME OF CERTAIN STATE PAYMENTS

SEC. 157. (a) The last sentence of section 403(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but any such amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning of section 402(a)(13) for the purpose of determining the amount of aid in the succeeding months".

(b) The amendment made by this section shall become effective on October 1, 1982.

EXTENSION OF TIME FOR STATES TO ESTABLISH A WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 158. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "Not later than sixty days following the date of the enactment of this section" and inserting in lieu thereof "Not later than June 30, 1984".

(b) Section 445(b)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: ", but subject to waiver of such criteria as provided under section 1115".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

EXCLUSION FROM INCOME

SEC. 159. Notwithstanding any other provision of law, payments which are made, under a statutorily established State program, to meet certain needs of children receiving aid under the State's plan approved under part A of title IV of the Social Security Act, if—

(1) the payments are made to such children by the State agency administering such plan, but are made without Federal financial participation (under section 403(a) of such Act or otherwise), and

(2) the State program has been continuously in effect since before January 1, 1979, shall be excluded from the income of such children and their families for purposes of section 402(a)(17) of such Act, and for all the other purposes of such part A and of such plan, effective on the date of the enactment of this Act.

TECHNICAL AMENDMENTS TO SOCIAL SERVICES AND FOSTER CARE PROVISIONS IN 1981 RECONCILIATION ACT

SEC. 160. (a) Section 1108(a) of the Social Security Act is amended by adding at the end thereof after and below paragraph (3)(F))

"Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection."

(b) Section 2003(b) of such Act is amended in the matter following clause (2) by inserting "(other than Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands)" after "the population of all States".

(c) The last sentence of section 1101(a)(1) of such Act is amended by striking out "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

(d) Section 2353(r) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(r) Section 471(a)(10) of such Act is amended to read as follows:

" '(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;'."

(e) The amendments made by this section shall be effective as of October 1, 1981.

DELAYED EFFECTIVE DATE IN CASES REQUIRING CONFORMING STATE LEGISLATION

SEC. 161. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part A of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

SUBTITLE E—CHILD SUPPORT ENFORCEMENT

FEE FOR SERVICES TO NON-AFDC FAMILIES

SEC. 171. (a) Section 454(6) of the Social Security Act is amended—

(1) in clause (A), by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State,";

(2) in clause (B), by striking out "services under the State plan (other than collection of support)" and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected—

"(i) from the parent who owes the child or spousal support obligation involved, or

"(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;"

(b)(1) Section 454 of such Act is further amended—

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended".

(3) Section 303(e)(2)(A)(iii)(II) of the Social Security Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)".

(c) The amendments made by this section shall be effective on and after August 13, 1981.

ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

SEC. 172. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

"SEC. 465. (a)(1) In any case in which child support payments or child and spousal support payments are owed by a member of one of the uniformed services (as defined in section 101(3) of title 37, United States Code) on active duty, such member shall be required to make allotments from his pay and allowances (under chapter 13 of title 37, United States Code) as payment of such support, when he has failed to make periodic payments under a support order that meets the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(A)) and the resulting delinquency in such payments is in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person (as defined in subsection (b)) to the designated official in the appropriate uniformed service. Such notice (which shall in turn be given to the affected member) shall also specify the person to whom the allotment is to be payable. The amount of the allotment shall be the amount necessary to comply with the order (which, if the order so provides, may include arrearages as well as amounts for current support), except that the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his pay from the uniformed service, shall not exceed the limits prescribed in sections 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673 (b) and (c)). An allotment under this subsection shall be adjusted or discontinued upon notice from the authorized person.

"(2) Notwithstanding the preceding provisions of this subsection, no action shall be taken to require an allotment from the pay and allowances of any member of one of the uniformed services under such provisions (A) until such member has had a consultation with a judge advocate of the service involved (as defined in section 801(13) of title 10, United States Code), or with a law specialist (as defined in section 801(11) of such title) in the case of the Coast Guard, or with a legal officer designated by the Secretary concerned (as defined in section 101(5) of title 37, United States code) in any other case, in person, to discuss the legal and other factors involved with respect to the member's support obligation and his failure to make payments thereon, or (B) until 30 days have elapsed after the notice described in the second sentence of paragraph (1) is given to the affected member in any case where it has not been possible, despite continuing good faith efforts, to arrange such a consultation.

"(b) For purposes of this section the term 'authorized person' with respect to any member of the uniformed services means—

"(1) any agent or attorney of a State having in effect a plan approved under this part who has the duty or authority under such plan to seek to recover any amounts owed by such member as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and

"(2) the court which has authority to issue an order against such member for the support and maintenance of a child, or any agent of such court.

"(c) The Secretary of Defense, in the case of the Army, Navy, Air Force, and Marine Corps, and the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in the case of each of the other uniformed services, shall each issue regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or notice to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice and specifying any other rules necessary for such Secretary to implement this section.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

REIMBURSEMENT OF STATE AGENCY IN INITIAL MONTH OF INELIGIBILITY FOR AFDC

SEC. 173. (a) Section 454(5) of the Social Security Act is amended by inserting "following the first month" after "for any month".

(b) The amendment made by this section shall become effective on October 1, 1982.

REDUCTION IN CERTAIN FEDERAL PAYMENTS TO STATES UNDER CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 174. (a) Section 455(a)(1) of the Social Security Act is amended by striking out "75 percent" and inserting in lieu thereof "70 percent".

(b) Section 455(c) of such Act is repealed.

(c) Section 458(a) of such Act is amended by striking out "15 per centum" and inserting in lieu thereof "12 percent".

(d) The amendment made by subsection (a) shall apply with respect to quarters beginning on or after October 1, 1982. Subsection (b) shall apply with respect to quarters beginning on or after October 1, 1983; and the amendment made by subsection (c) shall apply with respect to amounts collected on or after October 1, 1983.

TECHNICAL AMENDMENTS TO CHILD SUPPORT ENFORCEMENT PROVISIONS IN RECONCILIATION ACT

SEC. 175. (a)(1) The first sentence of section 452(b) of the Social Security Act is amended by striking out "certify" and all that follows and inserting in lieu thereof "certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6)."

(2) Section 303(e)(2)(A)(i) of such Act is amended by striking out "of this subsection" and inserting in lieu thereof "of paragraph (1)".

(b) The amendments made by this section shall be effective as of October 1, 1981.

DELAYED EFFECTIVE DATE IN CASES REQUIRING STATE LEGISLATION

SEC. 176. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

SUBTITLE F—SUPPLEMENTAL SECURITY INCOME

EFFECTIVE DATE OF APPLICATION; PRORATION OF INITIAL SSI BENEFIT PAYMENT

SEC. 181. (a) Section 1611(c) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Secretary so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Secretary so determines, for such month and the following month) shall—

"(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

"(B) in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.

"(3) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

"(A) the date such application is filed, or

"(B) the date such individual first becomes eligible for such benefits with respect to such application.".

(b) The amendment made by this section shall become effective on October 1, 1982.

ROUNDING OF SSI ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 1821. (a) Section 1617 of the Social Security Act is amended to read as follows:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percent-

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age effective with any month as a result of a determination made under section 215(i)—

"(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the amount (if any) by which—

"(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

"(B) the amount in effect for such month under such subsection; and

"(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of $12, to the next lower multiple of $12), effective with respect to benefits for months after such month.

"(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of the determination involved.".

(b) The amendment made by this section shall become effective on October 1, 1982.

COORDINATION OF SSI AND OASDI COST-OF-LIVING ADJUSTMENTS

SEC. 183. (a) Section 1611(c) of the Social Security Act (as amended by section 181 of this Act) is further amended—

(1) in paragraph (1) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) For purposes of this subsection, an increase in the benefit amount payable under title II (over the amount payable in the preceding month, or, at the election of the Secretary, the second preceding month) to an individual receiving benefits under this title shall be included in the income used to determine the benefit under this title of such individual for any month which is—

"(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1617, or

"(B) at the election of the Secretary, the month immediately following such month.

"(4)(A) Notwithstanding paragraph (3), if the Secretary determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this title for such month may be determined on the basis of such information.

"(B) The Secretary shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this title.".

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

PHASEOUT OF HOLD HARMLESS PROTECTION

SEC. 184. (a) Section 401 of the Social Security Amendments of 1972 (Public Law 92-603) is amended by adding at the end thereof the following new subsection:

"(d) In addition to the amount which a State must pay to the Secretary for the fiscal year 1983 or the fiscal year 1984, as determined under subsection (a), the State shall also pay, for the fiscal year 1983, 60 percent of the further amount that would be payable but for the limit specified in subsection (a), and, for the fiscal year 1984, 80 percent of such further amount. For each fiscal year thereafter, the limit prescribed in subsection (a) shall be inapplicable and a State shall pay to the Secretary the full amount of any supplementary payments he makes on behalf of such State.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS AND CERTAIN FUNDS SET ASIDE FOR BURIAL EXPENSES

SEC. 185. (a) Section 1613(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)", by adding "and' after the semicolon, and by adding at the end thereof the following new subparagraph:

"(B) the value of any burial space (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a place for the burial of the individual, his spouse, or any other member of his immediate family;".

(b) Section 1613 of such Act is further amended by adding at the end thereof the following new subsection:

"FUNDS SET ASIDE FOR BURIAL EXPENSES

"(d)(1) In determining the resources of an individual, there shall be excluded an amount, not in excess of $1,500 each with respect to such individual and his spouse (if any), that is separately identifiable and has been set aside to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

"(2) The amount of $1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life which are owned by him or his spouse and the cash surrender value of which has been excluded in determining the resources of such individual or of such individual and his spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual or his spouse.

"(3) If the Secretary finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, he shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.

"(4) The Secretary may provide by regulations that whenever an amount set aside to meet burial and related expenses is excluded under paragraph (1) in determining the resources of an individual, any interest earned or accrued on such amount (and left to accumulate), and any appreciation in the value of prepaid burial arrangements for which such amount was set aside, shall also be excluded (to such extent and subject to such conditions or limitations as such regulations may prescribe) in determining the resources (and the income) of such individual.".

(c) The amendment made by this section shall take effect on the first day of the second month after the month in which this Act is enacted.

MANDATORY PASSTHROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

SEC. 186. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.".

TREATMENT OF UNNEGOTIATED CHECKS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 187. (a) Section 1631(i)(2) of the Social Security Act (as added by section 2343(a) of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "included in all checks payable to individuals entitled to benefits under this title but" in the first sentence and inserting in lieu thereof "included in all such benefit checks".

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

ROUNDING OF BENEFIT AMOUNTS

SEC. 191. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "or" at the end of clause (B), and by inserting before the period at the end thereof the following: ", or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after October 1, 1983.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to provide for rounding down of unemployment compensation amounts, the amendment made by this section shall apply in the case of compensation paid to individuals during eligibility periods which begin on or after October 1, 1983, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

USE OF CERTAIN AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT FUNDS

SEC. 192. (a) Paragraph (2) of section 903(c) of the Social Security Act is amended—

(1) by striking out "twenty-four" each place it appears and inserting in lieu thereof "thirty-four"; and

(2) by striking out "twenty-fourth" in the second sentence and inserting in lieu thereof "thirty-fourth".

(b) Subsection (c) of section 903 of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) If—

"(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals; and

"(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph, then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

"(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State's account.

"(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under title XII of this Act.

"(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made.".

TREATMENT OF CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

SEC. 193. (A) CLAUSE (II) OF SECTION 3304(A)(6)(A) OF THE INTERNAL REVENUE CODE OF 1954 (RELATING TO REQUIREMENTS FOR APPROVAL OF STATE UNEMPLOYMENT COMPENSATION LAWS) IS AMENDED TO READ AS FOLLOWS:

"(ii) with respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—

"(I) compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

"(II) if compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I),".

(b)(1) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) The amendment made by subsection (a), insofar as it requires retroactive payments of compensation to employees of educational institutions other than institutions of higher education (as defined in section 3304(f) of the Internal Revenue Code of 1954), shall not be a requirement for any State law before January 1, 1984.

SHORT-TIME COMPENSATION

SEC. 194. (a) It is the purpose of this section to assist States which provide partial unemployment benefits to individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of temporary layoffs.

(b)(1) The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs, and shall provide technical assistance to States to assist in developing, enacting, and implementing such short-time compensation program.

(2) The Secretary shall conduct a study or studies for purposes of evaluating the operation, costs, effect on the State insured rate of unemployment, and other effects of State short-time compensation programs developed pursuant to this section.

(3) This section shall be a three-year experimental provision, and the provisions of this section regarding guidelines shall terminate 3 years following the date of the enactment of this Act.

(4) States are encouraged to experiment in carrying out the purpose and intent of this section. However, to assure minimum uniformity, States are encouraged to consider requiring the provisions contained in subsections (c) and (d).

(c) For purposes of this section, the term "short-time compensation program" means a program under which—

(1) individuals whose workweeks have been reduced pursuant to a qualified employer plan by at least 10 per centum will be eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual shall be a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees may be eligible for short-time compensation or regular unemployment compensation, as needed; except that no employee shall be eligible for more than the maximum entitlement during any benefit year to which he or she would have been entitled for total unemployment, and no employee shall be eligible for short-time compensation for more than twenty-six weeks in any twelve-month period; and

(4) eligible employees will not be expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but shall be available for their normal workweek.

(d) For purposes of subsection (c), the term "qualified employer plan" means a plan of an employer or of an employers' association which association is party to a collective bargaining agreement (hereinafter referred to as "employers' association") under which there is a reduction in the number of hours worked by employees rather than temporary layoffs if—

(1) the employer's or employers' association's short-time compensation plan is approved by the State agency;

(2) the employer or employers' association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 per centum of the employees in the unit or units to which the plan would apply and which would have resulted in an equivalent reduction of work hours;

(3) during the previous four months the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 per centum;

(4) the employer continues to provide health benefits, and retirement benefits under defined benefit pension plans (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974, to employees whose workweek is reduced under such plan as though their workweek had not been reduced; and

(5) in the case of employees represented by an exclusive bargaining representative, that representative has consented to the plan.

The State agency shall review at least annually any qualified employer plan put into effect to assure that it continues to meet the requirements of this subsection and of any applicable State law.

(e) Short-time compensation shall be charged in a manner consistent with the State law.

(f) For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(g)(1) The Secretary shall conduct a study or studies of State short-time compensation programs consulting with employee and employer representatives in developing criteria and guidelines to measure the following factors:

(A) the impact of the program upon the unemployment trust fund, and a comparison with the estimated impact on the fund of layoffs which would have occurred but for the existence of the program;

(B) the extent to which the program has protected and preserved the jobs of workers, with special emphasis on newly hired employees, minorities, and women;

(C) the extent to which layoffs occur in the unit subsequent to initiation of the program and the impact of the program upon the entitlement to unemployment compensation of the employees;

(D) where feasible, the effect of varying methods of administration;

(E) the effect of short-time compensation on employers' State unemployment tax rates, including both users and nonusers of short-time compensation, on a State-by-State basis;

(F) the effect of various State laws and practices under those laws on the retirement and health benefits of employees who are on short-time compensation programs;

(G) a comparison of costs and benefits to employees, employers, and communities from use of short-time compensation and layoffs;

(H) the cost of administration of the short-time compensation program; and

(I) such other factors as may be appropriate.

(2) Not later than October 1, 1985, the Secretary shall submit to the Congress and to the President a final report on the implementation of this section. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable, including recommendations as to necessary changes in the statistical practices of the Department of Labor.

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TITLE II—REVENUE MEASURES

Subtitle A—Provisions Relating to Individuals

SEC. 201. ALTERNATIVE MINIMUM TAX ON TAXPAYERS OTHER THAN CORPORATIONS.

(a) In General.—Section 55 (relating to alternative minimum tax for taxpayers other than corporations) is amended to read as follows:

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) Tax Imposed.—In the case of a taxpayer other than a corporation, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) an amount equal to 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount, over

"(2) the regular tax for the taxable year.

"(b) Alternative Minimum Taxable Income.—For purposes of this title, the term 'alternative minimum taxable income' means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

"(1) reduced by the sum of—

"(A) the alternative tax net operating loss deduction, plus

"(B) the alternative tax itemized deductions, plus

"(C) any amount included in income under section 667, and

"(2) increased by the amount of items of tax preference.

"(c) Credits.—

"(1) In general.—For purposes of determining any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed by section 33(a) shall be determined without regard to this section.

"(2) Foreign tax credit allowed against alternative minimum tax.—

"(A) Determination of foreign tax credit.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) Increase in amount of foreign taxes taken into account.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) Section 904(a) limitation.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) Definition of alternative minimum taxable income from sources without the United States.—For purposes of subparagraph (C), the term 'alternative minimum taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) Special rule for applying section 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) Carryover and carryback of certain credits.—

"(A) In general.—In the case of any taxable year in which a tax is imposed by this section, for purposes of determining the amount of any carryback or carryover of any applicable credit to any other taxable year, the amount of the applicable credit limitation for such taxable year shall be deemed to be—

"(i) the amount of the applicable credit allowable for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(ii) the amount of the tax imposed by this section for the taxable year, reduced by—

"(I) the amount of the credit allowable under section 33(a), and

"(II) the amount of such tax taken into account under this clause with respect to any applicable credit having a lower number or letter designation.

"(B) Applicable credits, etc.—For purposes of this paragraph—

"(i) Applicable credit.—The term 'applicable credit' means any credit allowable under section 38, 40, 44B, 44C, 44E, or 44F.

"(ii) Applicable credit limitation.—The term 'applicable credit limitation' means, with respect to any applicable credit, the limitation under section 46(a)(3), 53(a), 44C(b)(5), 44E(e)(1), 44F(g)(1), or 50A(a)(2), whichever is appropriate.

"(d) Alternative Tax Net Operating Loss Deduction Defined.—For purposes of this section—

"(1) In general.—The term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) in the case of taxable years beginning after December 31, 1982, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) Adjustments to net operating loss computation.—

"(A) Post-1982 loss years.—In the case of a loss year beginning after December 31, 1982, the net operating loss for such year under section 172(c) shall—

"(i) be reduced by the amount of the items of tax preference arising in such year which are taken into account in computing the net operating loss, and

"(ii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions for the taxable year and which are otherwise described in section 172(c).

"(B) Pre-1983 years.—In the case of loss years beginning before January 1, 1983, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1982, for purposes of subparagraph (A), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1982.

"(e) Alternative Tax Itemized Deductions.—For purposes of this section—

"(1) In general.—The term 'alternative tax itemized deductions' means an amount equal to the sum of any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) Amounts which may be carried over.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) Qualified interest.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) Qualified housing interest.—

"(A) In general.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) Qualified dwelling.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) Special rule for indebtedness incurred before July 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof),

"(ii) any net capital gain attributable to the disposition of property held for investment, and

"(iii) the amount of items of tax preference described in paragraph (1) of section 57(a).

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME TREATED AS QUALIFIED INVESTMENT INCOME.—Any income derived from a limited business interest shall be treated as qualified investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an electing small business corporation (as defined in section 1371(b)) if the taxpayer does not actively participate in the management of such corporation.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—The term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual (as defined in section 143), and

"(ii) is not a surviving spouse (as so defined), and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate or trust.

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 72(q), 402(e), 408(f), 409(c), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43). For purposes of this paragraph, the amount of the credits allowable under such subpart shall be determined without regard to this section."

(b) ITEMS OF TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXCLUSION OF INTEREST AND DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116 or 128.",

(B) by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the amount allowable as a deduction under section 616(a) or 617, over

"(B) the amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.

"(6) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—An amount equal to the excess of—

"(A) the amount allowable as a deduction under section 173 or 174(a) for the taxable year, over

"(B) the amount which would have been allowable for the taxable year if the circulation expenditures described in section 173 or the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.", and

(C) by striking out paragraph (10) and inserting in lieu thereof the following:

"(10) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price."

(2) CONFORMING AMENDMENTS.—

(A) The next to last sentence of section 57(a) is amended by striking out "(3), (11), and (12)" and inserting in lieu thereof "(1), (3), (5), (6), (11), and (12)(A)".

(B) Section 57(a) is amended by striking out the last sentence.

(c) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES—

(1) Section 58 (relating to rules for application of minimum tax) is amended by adding at the end thereof the following new subsection:

"(i) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, in the case of an individual, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures),

"(D) section 616(a) (relating to development expenditures), or

"(E) section 617 (relating to deduction of certain mining exploration expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS NOT ALLOCABLE TO INTEREST AS LIMITED PARTNER.—

"(A) IN GENERAL.—In the case of any nonlimited partnership intangible drilling costs to which an election under this paragraph applies—

"(i) the applicable percentage of such costs (adjusted as provided in section 48(q)) shall be allowed as a deduction for the taxable year in which paid or incurred and for each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable percentage:
1	15
2	22
3	21
4	21
5	21.

"(C) NONLIMITED PARTNERSHIP INTANGIBLE DRILLING COSTS.—For purposes of this paragraph, the term 'nonlimited partnership intangible drilling costs' means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to such individual's interest as a limited partner in a limited partnership.

"(5) ELECTION.—

"(A) IN GENERAL.—An election may be made under this subsection with respect to any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any qualified expenditure may be revoked only with the consent of the Secretary.

"(C) TIME AND MANNER.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(D) PARTNERS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure.

"(6) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section)—

"(i) any deduction under paragraph (1) or (4)(A) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), and

"(ii) in the case of any credit allowable under section 38 by reason of paragraph (4)(B) which is allocable to such property, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(7) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a)."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23), by striking out the period at the end of paragraph (24) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(25) for amounts allowed as deductions under section 58(i) (relating to optional 10-year writeoff of certain tax preferences)."

(c) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to corporate minimum tax) is amended—

(A) by striking out "person" each place it appears and inserting in lieu thereof "corporation",

(B) by striking out "one-half (or in the case of a corporation, an amount equal to)" in subsection (c),

(C) by striking out "sections 72(m)(5)(B), 402(e), 408(f), 531, and 541" in subsection (c) and inserting in lieu thereof "sections 531 and 541",

(D) by striking out "31, 39, 43, and 44G" in subsection (c) and inserting in lieu thereof "39 and 44G", and

(E) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 56. CORPORATE MINIMUM TAX."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 56. Corporate minimum tax."

(3) Section 58 (relating to rules for application of minimum taxes) is amended—

(A) by striking out subsection (a),

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the items of tax preference for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.", and

(C) in subsection (g)—

(i) by striking out "paragraphs (6) and" in paragraph (1) and inserting in lieu thereof "paragraph", and

(ii) by striking out so much of paragraph (2) as precedes the last two sentences thereof and inserting in lieu thereof the following:

"(2) CAPITAL GAINS.—For purposes of section 56, the items of tax preference set forth in section 57(a)(9) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets)."

(4) Section 5(a)(4) is amended by striking out "sections 55 and 56" and inserting in lieu thereof "section 55".

(5) Section 511(d)(2) is amended by striking out "and section 56 (as the case may be)".

(6) Subparagraph (A) of section 897(a)(2) (relating to 20-percent minimum tax on nonresident alien individuals) is amended to read as follows:

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1) for the taxable year shall not be less than 20 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)) for the taxable year, or

"(ii) the individual's net United States real property gain for the taxable year."

(7) Sections 6015(d)(1), 6362(b)(2)(A), and 6654(g)(1) are each amended by striking out "or 56".

(8)(A) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out "(relating to minimum tax for tax preferences)" and inserting in lieu thereof "(relating to corporate minimum tax)".

(B) Subparagraph (A) of section 936(a)(3) is amended by striking out "(relating to minimum tax)" and inserting in lieu thereof "(relating to corporate minimum tax)".

(9)(A) Section 173 (relating to circulation expenditures) is amended—

(i) by striking out "Notwithstanding section 263" and inserting in lieu thereof

"(a) GENERAL RULE.—Notwithstanding section 263", and

(ii) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

(B) Subsection (e) of section 174 (relating to research and experimental expenditures) is amended—

(i) by striking out "For adjustments" and inserting in lieu thereof

"(1) For adjustments",

(ii) by adding at the end thereof the following new paragraph:

"(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).", and

(iii) by striking out "CROSS REFERENCE" and inserting in lieu thereof "CROSS REFERENCES".

(C) Section 616 (relating to development expenditures) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

(D) Section 617 (relating to deduction of certain mining exploration expenditures) is amended by adding at the end thereof the following new subsection:

"(j) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under this section, see section 58(i)."

(10) Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) JOINT RETURN.—The term 'joint return' means a single return made jointly under section 6013 by a husband and wife."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) SPECIAL RULE FOR PRE-1983 SECTION 56(b) TAX DEFERRALS.—The amendments made by subsection (c)(1) of this section to section 56(b) of the Internal Revenue Code of 1954 shall not apply to any net operating loss carryover from any taxable year beginning before January 1, 1983, which is attributable to any excess described in section 56(b)(1)(B) of such Code for such taxable year.

SEC. 202. LIMITATION ON MEDICAL DEDUCTION.

(a) GENERAL RULE.—Subsection (a) of section 213 (relating to deduction for medical, dental, etc., expenses) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 5 percent of adjusted gross income."

(b) TREATMENT OF MEDICINE AND DRUGS.—

(1) IN GENERAL.—Subsection (b) of section 213 (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin."

(2) DEFINITION OF PRESCRIBED DRUG.—Subsection (e) of section 213 is amended by inserting after paragraph (1) the following new paragraphs:

"(2) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 213 (as in effect before the amendment made by paragraph (2)) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively.

(B) Subsections (d), (e), and (f) of section 213 are redesignated as subsections (c), (d), and (e), respectively.

(C) Subsection (b) of section 105 is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 203. LIMITATION ON DEDUCTION FOR NONBUSINESS CASUALTY LOSSES.

(a) General Rule.—Section 165 (relating to losses) is amended by striking out subsection (h), by redesignating subsection (i) as subsection (j), and by inserting after subsection (g) the following new subsections:

"(h) Casualty and Theft Losses.—

"(1) General rule.—Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

"(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100, and

"(B) the aggregate amount of all such losses sustained by such individual during the taxable year (determined after application of subparagraph (A)) exceeds 10 percent of the adjusted gross income of the individual.

"(2) Special rules.—

"(A) Joint returns.—For purposes of the $100 and 10 percent limitations described in paragraph (1), a husband and wife making a joint return for the taxable year shall be treated as one individual.

"(B) Coordination with estate tax.—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

"(i) Disaster Losses.—

"(1) Election to take deduction for preceding year.—Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

"(2) Year of loss.—If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

"(3) Amount of loss.—The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss."

(b) Conforming Amendment.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(1) by inserting "except as provided in subsection (h)," before "losses" the first place it appears in paragraph (3) thereof, and

(2) by striking out the last three sentences.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. Such amendments shall also apply to the taxpayer's last taxable year beginning before January 1, 1983, solely for purposes of determining the amount allowable as a deduction with respect to any loss taken into account for such year by reason of an election under section 165(i) of the Internal Revenue Code of 1954 (as amended by this section).

Subtitle B—Provisions Primarily Relating to Business

PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

SEC. 204. 15 PERCENT REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS.

(a) In General.—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

"PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

"Sec. 291. Special rules relating to corporate preference items.

"SEC. 291. SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.

"(a) 15-Percent Reduction in Certain Preference Items, Etc.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) Section 1250 capital gain treatment.—In the case of section 1250 property which is disposed of during the taxable year, 15 percent of the excess (if any) of—

"(A) the amount which would be treated as ordinary income if such property was section 1245 property or section 1245 recovery property, over

"(B) the amount treated as ordinary income under section 1250,

shall be treated as gain which is ordinary income and shall be recognized notwithstanding any other provision of this title.

"(2) Reduction in percentage depletion.—In the case of iron ore and coal (including lignite), the amount allowable as a deduction under section 613 with respect to any property (as defined in section 614) shall be reduced by 15 percent of the amount of the excess (if any) of—

"(A) the amount of the deduction allowable under section 613 for the taxable year (determined without regard to this paragraph), over

"(B) the adjusted basis of the property at the close of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(3) Certain financial institution preference items.—The amount allowable as a deduction under this chapter (determined without regard to this section) with respect to any financial institution preference item shall be reduced by 15 percent.

"(4) Certain deferred DISC income.—If an applicable corporation is a shareholder of a DISC, in the case of taxable years beginning after December 31, 1982, section 995(b)(1)(F)(i) shall be applied with respect to such corporation by substituting '57.5 percent' for 'one-half'.

"(5) Amortization of pollution control facilities.—If an election is made under section 169 with respect to any certified pollution control facility, the amortizable basis of such facility for purposes of such section shall be reduced by 15 percent.

"(b) Special Rules for Treatment of Intangible Drilling Costs and Mineral Exploration and Development Costs.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) In general.—The amount allowable as a deduction for any taxable year (determined without regard to this section)—

"(A) under section 263(c) in the case of an integrated oil company, or

"(B) under section 616(a) or 617,

shall be reduced by 15 percent.

"(2) Special rule for amounts not allowable as deductions under paragraph (1).—

"(A) Intangible drilling costs.—The amount not allowable as a deduction under section 263(c) for any taxable year by reason of paragraph (1) shall be allowable as a deduction ratably over the 36-month period beginning with the month in which the costs are paid or incurred.

"(B) Mineral exploration and development costs.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1)—

"(i) the applicable percentage of the amount not so allowable as a deduction shall be allowable as a deduction for the taxable year in which the costs are paid or incurred and in each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(3) Applicable percentage.—For purposes of paragraph (2)(B), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable Percentage:
1	15
2	22
3	21
4	21
5	21.

"(4) Dispositions.—

"(A) Oil, gas, and geothermal property.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (2)(A) with respect to intangible drilling and development costs under section 263(c) which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) Application of section 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this section), any amount allowable as a deduction under paragraph (2)(B) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(C) Recapture of investment credit.—In the case of any disposition of any property to which the credit allowable under section 38 by reason of paragraph (2)(B) is allocable, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(5) Integrated oil company defined.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

"(6) Coordination with cost depletion.—The portion of the adjusted basis of any property which is attributable to intangible drilling and development costs or mining exploration and development costs shall not be taken into account for purposes of determining depletion under section 611.

"(c) Special Rules Relating to Pollution Control Facilities.—For purposes of this subtitle—

"(1) Accelerated cost recovery deduction.—For purposes of subclause (I) of section 168(d)(1)(A)(ii), a taxpayer shall not be treated as electing the amortization deduction under section 169 with respect to that portion of the basis not taken into account under section 169 by reason of subsection (a)(5).

"(2) 1250 recapture.—Subsection (a)(1) shall not apply to any section 1250 property which is part of a certified pollution control facility (within the meaning of section

169(d)(1)) with respect to which an election under section 169 was made.

"(d) Special Rule for Real Estate Investment Trusts.—In the case of a real estate investment trust (as defined in section 856), the difference between the amounts described in subparagraphs (A) and (B) of subsection (a)(1) shall be reduced to the extent that a capital gain dividend (as defined in section 857(b)(3)(C), applied without regard to this section) is treated as paid out of such difference. Any capital gain dividend treated as having been paid out of such difference to a shareholder which is an applicable corporation retains its character in the hands of the shareholder as gain from the disposition of section 1250 property for purposes of applying subsection (a)(1) to such shareholder.

"(e) Definitions.—For purposes of this section—

"(1) Financial institution preference item.—The term 'financial institution preference item' includes the following:

"(A) Excess reserves for losses on bad debts of financial institutions.—In the case of a financial institution to which section 585 or 593 applies, the excess of—

"(i) the amount which would, but for this section, be allowable as a deduction for the taxable year for a reasonable addition to a reserve for bad debts, over

"(ii) the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(B) Interest on debt to carry tax-exempt obligations acquired after December 31, 1982.—

"(i) In general.—In the case of a financial institution to which section 585 or 593 applies, the amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1982, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction would (but for this paragraph) be allowable with respect to such interest for such taxable year.

"(ii) Determination of interest allocable to indebtedness on tax-exempt obligations.—Unless the taxpayer (under regulations prescribed by the Secretary) establishes otherwise, the amount determined under clause (i) shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as—

"(I) the taxpayer's average adjusted basis (within the meaning of section 1016) of obligations described in clause (i), bears to

"(II) such average adjusted basis for all assets of the taxpayer.

"(2) Applicable corporation.—For purposes of this section, the term 'applicable corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(3) Section 1245 and 1250 property.—The terms 'section 1245 property', 'section 1245 recovery property', and 'section 1250 property' have the meanings given such terms by sections 1245(a)(3), 1245(a)(5), and 1250(c), respectively."

(b) Coordination With Minimum Tax.—Section 57(b) (relating to adjusted itemized deductions) is amended to read as follows:

"(b) Application With Section 291.—

"(1) In general.—In the case of any item of tax preference of an applicable corporation described in—

"(A) paragraph (4) or (7) of subsection (a), or

"(B) paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(2) Certain capital gains.—In determining the net capital gain of any applicable corporation for purposes of paragraph (9)(B) of subsection (a), there shall be taken into account only 71.6 percent of any gain from the sale or exchange of section 1250 property which is equal to 85 percent of the excess determined under section 291(a)(1) with respect to such property.

"(3) Applicable corporation defined.—For purposes of this subsection, the term 'applicable corporation' has the meaning given such term by section 291(e)(2)."

(c) Conforming Amendments.—

(1) Subsection (c) of section 263 (relating to intangible drilling and development costs) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply with respect to any costs to which any deduction is allowed under section 58(i) or 291."

(2) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Part XI. Special rules relating to corporate preference items."

(d) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) 1250 gain.—Section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1982, in taxable years ending after such date.

(3) Pollution control facilities.—Section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1982, in taxable years ending after such date.

(4) Drilling and mining costs.—Section 291(b) of such Code shall apply to expenditures after December 31, 1982, in taxable years ending after such date.

(5) Reduction in percentage depletion for coal and iron ore.—Section 291(a)(2) of such Code shall apply to taxable years beginning after December 31, 1983.

(6) Minimum tax.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1982, with respect to items of tax preference described in section 57(b) of such Code to which section 291 of such Code applies; except that in the case of an item described in section 291(a)(2) of such Code, such amendment shall apply to taxable years beginning after December 31, 1983.

SEC. 205. AMENDMENTS TO INVESTMENT CREDIT.

(a) Basis Adjustment to Reflect Investment Tax Credit.—

(1) In general.—Section 48 (relating to definitions and special rules involving section 38 property) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Basis Adjustment to Section 38 Property.—

"(1) In general.—For purposes of this subtitle, if a credit is determined under section 46(a)(2) with respect to section 38 property, the basis of such property shall be reduced by 50 percent of the amount of the credit so determined.

"(2) Certain dispositions.—If during any taxable year there is a recapture amount determined with respect to any section 38 property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to 50 percent of such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47.

"(3) Special rule for qualified rehabilitated buildings.—In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.

"(4) Election of reduced credit in lieu of basis adjustment for regular percentage.—

"(A) In general.—If the taxpayer elects to have this paragraph apply with respect to any recovery property—

"(i) paragraphs (1) and (2) shall not apply to so much of the credit determined under section 46(a)(2) with respect to such property as is attributable to the regular percentage set forth in section 46(a)(2)(B); and

"(ii) the amount of the credit allowable under section 38 with respect to such property shall be determined under subparagraph (B).

"(B) Reduction in credit.—In the case of any recovery property to which an election under subparagraph (A) applies—

"(i) solely for the purposes of applying the regular percentage, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent, and

"(ii) notwithstanding section 46(a)(2)(B), the regular percentage shall be—

"(I) 8 percent in the case of recovery property other than 3-year property, or

"(II) 4 percent in the case of recovery property which is 3-year property.

For purposes of the preceding sentence, RRB replacement property (within the meaning of section 168(f)(3)(B)) shall be treated as property which is not 3-year property.

"(C) Time and manner of making election.—

"(i) In general.—An election under this subsection with respect to any property shall be made on the taxpayer's return of the tax imposed by this chapter for the taxpayer's taxable year in which such property is placed in service (or in the case of property to which an election under section 46(d) applies, for the first taxable year for which qualified progress expenditures were taken into account with respect to such property).

"(ii) Revocable only with consent.—An election under this subsection with respect to any property, once made, may be revoked only with the consent of the Secretary.

"(5) Recapture of reductions.—

"(A) In general.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

"(B) Special rule for section 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section."

(2) Allowance of deduction for certain unused investment credits.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corpora-

tions) is amended by adding at the end thereof the following new section:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.

"(a) ALLOWANCE OF DEDUCTIONS.—If—

"(1) the amount of the credit determined under section 46(a)(2) for any taxable year exceeds the limitation provided by section 46(a)(3) for such taxable year, and

"(2) the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year,

then an amount equal to 50 percent of the amount of such excess (to the extent attributable to property the basis of which is reduced under section 48(q)) not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit.

"(b) TAXPAYERS DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in subsection (a) could under section 46(b) have been allowed as a credit, the amount described in subsection (a), or the proper portion thereof, shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit to which section 48(q)(3) applies, subsection (a) shall be applied without regard to the phrase '50 percent of'."

(3) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF EARNINGS AND PROFITS.—Section 312(k) (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(5) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT.—In computing the earnings and profits of a corporation for any taxable year, the allowance for depreciation (and amortization, if any) shall be computed without regard to any basis adjustment under section 48(q)."

(4) SPECIAL RULES FOR CERTAIN LEASED PROPERTY.—Section 48(d) (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH BASIS ADJUSTMENT.—In the case of any property with respect to which an election is made under this subsection—

"(A) subsection (q) (other than paragraph (4)) shall not apply with respect to such property,

"(B) the lessee of such property shall include ratably in gross income over the shortest recovery period which could be applicable under section 168 with respect to such property an amount equal to 50 percent of the amount of the credit allowable under section 38 to the lessee with respect to such property, and

"(C) in the case of a disposition of such property to which section 47 applies, this paragraph shall be applied in accordance with regulations prescribed by the Secretary."

(5) CONFORMING AMENDMENTS.—

(A) Section 48(g) (relating to special rules for qualified rehabilitated buildings) is amended by striking out paragraph (5).

(B) Paragraph (24) of section 1016(a) (relating to adjustments to basis) is amended by striking out "section 48(g)(5)" and inserting in lieu thereof "section 48(q)".

(C) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 196. Deduction for certain unused investment credits."

(b) INVESTMENT CREDIT LIMITED TO 85 PERCENT OF TAX LIABILITY INSTEAD OF 90 PERCENT.—

(1) IN GENERAL.—Subparagraph (B) of section 46(a)(3) (relating to limitation based on amount of tax) is amended to read as follows:

"(B) 85 percent of so much of the liability for tax for the taxable year as exceeds $25,000."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 46 is amended by striking out paragraphs (7) and (8) and by redesignating paragraph (9) as paragraph (7).

(B) Clause (i) of section 46(a)(7)(B), as redesignated by subparagraph (A), is amended to read as follows:

"(i) paragraph (3)(B) shall be applied by substituting '100 percent' for '85 percent', and".

(C) Subparagraph (B) of section 46(a)(7), as redesignated by subparagraph (A), is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by subsection (a) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(B) EXCEPTION.—The amendments made by subsection (a) shall not apply to any property which—

(i) is constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) is placed in service after December 31, 1982, and before January 1, 1986,

(iii) with respect to which an election under section 168(f)(8)(A) of such Code is not in effect at any time, and

(iv) is not described in section 167(l)(3)(A) of such Code.

(C) SPECIAL RULE FOR INTEGRATED MANUFACTURING FACILITIES.—

(i) IN GENERAL.—In the case of any integrated manufacturing facility, the requirements of clause (i) of subparagraph (B) shall be treated as met if—

(I) the on-site construction of the facility began before July 1, 1982, and

(II) during the period beginning after August 13, 1981, and ending on July 1, 1982, the taxpayer constructed (or entered into binding contracts for the construction of) more than 20 percent of the cost of such facility.

(ii) INTEGRATED MANUFACTURING FACILITY.—For purposes of clause (i), the term 'integrated manufacturing facility' means 1 or more facilities—

(I) located on a single site,

(II) for the manufacture of 1 or more manufactured products from raw materials by the application of 2 or more integrated manufacturing processes.

(D) SPECIAL RULE FOR HISTORIC STRUCTURES.—In the case of any certified historic structure (as defined in section 48(g)(3) of the Internal Revenue Code of 1954), clause (i) of subparagraph (B) shall be applied by substituting "December 31, 1980" for "August 13, 1981."

(E) CERTAIN PROJECTS WITH RESPECT TO HISTORIC STRUCTURES.—In the case of any certified historic structure (as so defined), the requirements of clause (i) of subparagraph (B) shall be treated as met with respect to such property—

(i) if the rehabilitation begins after December 31, 1980, and before July 1, 1982, or

(ii) if—

(I) before July 1, 1982, a public offering with respect to interests in such property was registered with the Securities and Exchange Commission,

(II) before such date an application with respect to such property was filed under section 8 of the United States Housing Act of 1937, and

(III) such property is placed in service before July 1, 1984.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1982.

SEC. 206. REPEAL OF 1985 AND 1986 INCREASES IN ACCELERATED COST RECOVERY DEDUCTIONS.

(a) IN GENERAL.—Paragraph (1) of section 168(b) (relating to amount of accelerated cost recovery deduction) is amended—

(1) by striking out "tables" and inserting in lieu thereof "table";

(2) by striking out:

"(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—"; and

(3) by striking out subparagraphs (B) and (C).

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 168(e) (relating to property excluded from application of section) is amended—

(1) by striking out subparagraph (H); and

(2) by striking out "1986" in the heading thereof and inserting in lieu thereof "1981".

SEC. 207. SECTION 189 MADE APPLICABLE TO CERTAIN CORPORATIONS FOR NONRESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 189 is amended to read as follows:

"(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), no deduction shall be allowed for real property construction period interest and taxes."

(b) EXCLUSION OF CERTAIN PROPERTY.—Subsection (d) of section 189 (relating to certain property excluded) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) residential real property (other than low income housing) acquired, constructed, or carried by a corporation other than an electing small business corporation (within the meaning of section 1371(b)), a personal holding company (within the meaning of section 542), or a foreign personal holding company (within the meaning of section 552), or".

(c) ALLOCATION OF INTEREST.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended by adding at the end thereof the following sentence: "The Secretary shall prescribe regulations which provide for the allocation of interest to real property under construction."

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(d) Conforming Amendment.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended—

(1) by striking out "construction period interest and taxes" and inserting in lieu thereof "real property construction period interest and taxes", and

(2) by striking out the caption thereof and inserting in lieu thereof:

"(1) Real property construction period interest and taxes.—".

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) Certain planned construction.—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(3)(B) of the Internal Revenue Code of 1954 or which is a hospital or nursing home if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982, and as to which approval from a governmental unit has been requested in writing, and

(B) such construction commences before January 1, 1984, and shall not apply to the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities.

PART II—LEASING

SEC. 208. LIMITATIONS AND ADDITIONAL REQUIREMENTS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.

(a) Limitations on Leases Under the Accelerated Cost Recovery System.—

(1) In general.—Section 168 (relating to the accelerated cost recovery system) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Limitations Relating to Leases of Qualified Leased Property.—For purposes of this subtitle, in the case of safe harbor lease property, the following limitations shall apply:

"(1) Lessor may not reduce tax liability by more than 50 percent.—

"(A) In general.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all safe harbor lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to safe harbor lease items) by more than 50 percent of such liability.

"(B) Carryover of amounts not allowable as deductions or credits.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to safe harbor lease property in such subsequent taxable year.

"(C) Allocation among deductions and credits.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to safe harbor lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) Liability for tax and safe harbor lease items defined.—For purposes of this paragraph—

"(i) Liability for tax defined.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) Safe harbor lease items defined.—The term 'safe harbor lease items' means any of the following items which are properly allocable to safe harbor lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) Certain taxes not included.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

"(2) Method of cost recovery.—The deduction allowable under subsection (a) with respect to any safe harbor lease property shall be determined by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction (with a half-year convention in the first recovery year and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.

"(3) Investment credit allowed only over 5-year period.—In the case of any credit which would otherwise be allowable under section 38 with respect to any safe harbor lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(4) No carrybacks of credit or net operating loss allocable to elected qualified leased property.—

"(A) Credit carrybacks.—In determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter which may be carried back to any preceding taxable year—

"(i) the liability for tax for the taxable year from which any such credit is to be carried shall be reduced first by any credit not properly allocable to safe harbor lease property, and

"(ii) no credit which is properly allocable to safe harbor lease property shall be taken into account in determining the amount of any credit which may be carried back.

"(B) Net operating loss carrybacks.—The net operating loss carryback provided in section 172(b) for any taxable year shall be reduced by that portion of the amount of such carryback which is properly allocable to the items described in paragraph (1)(D)(ii) with respect to all safe harbor lease property with respect to which the taxpayer is the lessor.

"(5) Limitation on deduction for interest paid by the lessor to the lessee.—In the case of interest described in paragraph (1)(D)(ii)(III), the amount allowable as a deduction for any taxable year with respect to such interest shall not exceed the amount which would have been computed if the rate of interest under the agreement were equal to the rate of interest in effect under section 6621 at the time the agreement was entered into.

"(6) Computation of taxable income of lessee for purposes of percentage depletion.—

"(A) In general.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any safe harbor lease property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) Coordination with crude oil windfall profit tax.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(7) Transitional rule for application of paragraph (1) to certain transactions.—In the case of any deduction or credit with respect to—

"(A) any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982), or

"(B) any other safe harbor lease property placed in service during 1982 and to which paragraph (1) does not apply,

paragraph (1) shall not operate to disallow any such deduction or credit for the taxable year for which such deduction or credit would otherwise be allowable but deductions and credits with respect to such property shall be taken into account first in determining whether any deduction or credit is allowable under paragraph (1) with respect to any other safe harbor lease property.

"(8) Safe harbor lease property.—For purposes of this section, the term 'safe harbor lease property' means qualified leased property with respect to which an election under section 168(f)(8) is in effect."

(2) Conforming amendment.—

(A) Subparagraph (A) of section 168(f)(8) (relating to special rules for leases) is amended by inserting "except as provided in subsection (i)," before "for purposes of this subtitle".

(B) Subparagraph (D) of section 47(a)(5) (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new sentence: "If, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated (for purposes of this subparagraph) as not having been used to reduce tax liability."

(b) Additional Requirements To Qualify as Lease for Purposes of Accelerated Cost Recovery.—

(1) Related persons may not qualify as lessors.—Subclause (I) of section 168(f)(8)(B)(i) (relating to qualified lessors) is amended by inserting "which is not a related person with respect to the lessee" before the comma at the end thereof.

(2) Maximum lease term reduced.—Clause (iii) of section 168(f)(8)(B) (relating to term of lease) is amended to read as follows:

"(iii) the term of the lease (including any extensions) does not exceed the greater of—

"(I) 120 percent of the present class life of the property, or

"(II) the period equal to the recovery period determined with respect to such property under subsection (i)(2)."

(3) DEFINITION OF QUALIFIED LEASED PROPERTY.—Subparagraph (D) of section 168(f)(8) (defining qualified leased property) is amended to read as follows:

"(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'qualified leased property' means recovery property—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 45 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all safe harbor lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to the 45 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as qualified leased property under clause (ii) shall be allocated to safe harbor lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS QUALIFIED LEASED PROPERTY.—The term 'qualified leased property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

"(IV) with respect to which the lessee of the property (other than property described in clause (v)) under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) QUALIFIED MASS COMMUTING VEHICLES INCLUDED.—The term 'qualified leased property' includes recovery property which is a qualified mass commuting vehicle (as defined in section 103(b)(9)) which is financed in whole or in part by obligations the interest on which is excludable under section 103(a).

"(vi) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is safe harbor lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vii) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period used in subsection (i)(2)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(viii) DEFINITIONS; SPECIAL RULE.—For purposes of this subparagraph—

"(I) NEW SECTION 38 PROPERTY.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i)), any property described in clause (i) to which subparagraph (A) applies shall be deemed originally placed in service not earlier than the date such property is used under the lease."

(4) DEFINITIONS AND SPECIAL RULES.—Paragraph (8) of section 168(f) (relating to special rules for leases) is amended by redesignating subparagraph (H) as subparagraph (K) and by inserting after subparagraph (G) the following new subparagraphs:

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person is related to another person if both persons are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(ii) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

"(I) IN GENERAL.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(II) SPECIAL RULE FOR FARMERS' COOPERATIVES.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization described in section 521 whether or not exempt from taxation under section 521.

"(III) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to tax under section 511.

"(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), clause (ii) of subparagraph (D) shall not apply to any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982).

"(ii) SPECIAL RULES.—For purposes of subparagraph (D)(ii)—

"(I) DETERMINATION OF QUALIFIED BASE PROPERTY.—The cost basis of property described in clause (i) (and other property placed in service during 1982 to which subparagraph (D)(ii) does not apply) shall be taken into account in determining the qualified base property of the taxpayer for the taxable year in which such property was placed in service.

"(II) REDUCTION IN QUALIFIED LEASED PROPERTY.—The cost basis of property which may be treated as qualified leased property under subparagraph (D)(ii) for the taxable year in which such property was placed in service (determined without regard to this subparagraph) shall be reduced by the cost basis of the property taken into account under subclause (I).

"(J) COORDINATION WITH AT RISK RULES.—

"(i) IN GENERAL.—For purposes of section 465, in the case of property placed in service after the date of the enactment of this subparagraph, if—

"(I) an activity involves the leasing of section 1245 property which is safe harbor lease property, and

"(II) the lessee of such property (as determined under this paragraph) would, but for this paragraph, be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under section 465 without regard to this paragraph).

"(ii) SUBPARAGRAPH NOT TO APPLY TO CERTAIN SERVICE CORPORATIONS.—Clause (i) shall not apply to any lessor which is a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

"(iii) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE BEFORE DATE OF ENACTMENT OF THIS SUBPARAGRAPH.—This subparagraph shall apply to property placed in service before the date of enactment of this subparagraph if the provisions of section 465 did not apply to the lessor before such date but become applicable to such lessor after such date."

(c) CERTAIN LEASES BEFORE OCTOBER 20, 1981, TREATED AS QUALIFIED LEASES.—Nothing in paragraph (8) of section 168(f) of the Internal Revenue Code of 1954, or in any regulations prescribed thereunder, shall be treated as making such paragraph inapplicable to any agreement entered into before October 20, 1981, solely because under such agreement 1 party to such agreement is entitled to the credit allowable under section 38 of such Code with respect to property and another party to such agreement is entitled to the deduction allowable under section 168 of such Code with respect to such property. Section 168(f)(8)(B)(ii) of such Code shall not apply to the party entitled to such credit.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsections (a) and (b) of this section shall apply to agreements entered into after July 1, 1982, or to property placed in service after July 1, 1982.

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(2) TRANSITIONAL RULE FOR CERTAIN SAFE HARBOR LEASE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall not apply to transitional safe harbor lease property.

(B) SPECIAL RULE FOR CERTAIN PROVISIONS.—Subparagraph (A) shall not apply with respect to the provisions of paragraph (6) of section 168(i) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)), to the provisions of section 168(f)(8)(J) of such Code (as added by subsection (b)(4)), or to the amendment made by subsection (b)(1).

(3) TRANSITIONAL SAFE HARBOR LEASE PROPERTY.—For purposes of this subsection, the term "transitional safe harbor lease property" means property described in any of the following subparagraphs:

(A) IN GENERAL.—Property is described in this subparagraph if such property is placed in service before January 1, 1983, if—

(i) with respect to such property a binding contract to acquire or to construct such property was entered into by the lessee after December 31, 1980, and before July 2, 1982, or

(ii) such property was acquired by the lessee, or construction of such property was commenced by or for the lessee, after December 31, 1980, and before July 2, 1982.

(B) CERTAIN QUALIFIED LESSEES.—Property is described in this subparagraph if such property is placed in service before July 1, 1982, and with respect to which—

(i) an agreement to which section 168(f)(8)(A) of the Internal Revenue Code of 1954 applies was entered into before August 15, 1982, and

(ii) the lessee under such agreement is a qualified lessee (within the meaning of paragraph (6)).

(C) MANUFACTURERS OF CERTAIN PRODUCTS.—Property is described in this subparagraph if such property—

(i) is used to produce a class of products (within the meaning of paragraph (6)(B)) in an industry described in paragraph (6)(A)(ii)(II) (determined without regard to the phrase "other than the taxpayer"), and

(ii) would be described in subparagraph (A) if "October 1" were substituted for "January 1".

(D) CERTAIN AIRCRAFT.—Property is described in this subparagaph if such property—

(i) is a commercial passenger aircraft (other than a helicopter), and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), subparagraph (A)(ii) shall be applied by substituting "June 25, 1981" for "December 31, 1980" and by substituting "February 20, 1982" for "July 2, 1982" and construction of the aircraft shall be treated as having been begun during the period referred to in subparagraph (A)(ii) if during such period construction or reconstruction of a subassembly was commenced, or the stub wing join occurred.

(E) TURBINES AND BOILERS.—Property is described in this subparagraph if such property—

(i) is a turbine or boiler of a cooperative organization described in section 1381(a), and

(ii) would be property described in subparagraph (A) if "July 1" were substituted for "January 1".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such, property is paid during such period.

(F) PROPERTY USED IN THE PRODUCTION OF STEEL.—Property is described in this subparagraph if such property—

(i) is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture or production of steel, and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

(4) SPECIAL RULE FOR ANTIAVOIDANCE PROVISIONS.—The provisions of paragraph (6) of section 168(i) of such Code (as added by subsection (a)(1)), and the amendment made by subsection (b)(1), shall apply to leases entered into after February 19, 1982, in taxable years ending after such date.

(5) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—The amendments made by this section (other than section 168(i) (1) and (7) of such Code, as added by subsection (a)(1)) and section 209 shall not apply to qualified leased property described in section 168(f)(8)(D)(V) of such Code (as in effect after the amendments made by this section) which—

(A) is placed in service before January 1, 1988, or

(B) is placed in service after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) QUALIFIED LESSEE DEFINED.—

(A) IN GENERAL.—The term "qualified lessee" means a taxpayer which is a lessee of an agreement to which section 168(f)(8)(A) of such Code applies and which—

(i) had net operating losses in each of the three most recent taxable years ending before July 1, 1982, and had an aggregate net operating loss for the five most recent taxable years ending before July 1, 1982, and

(ii) which uses the property subject to the agreement to manufacture and produce within the United States a class of products in an industry with respect to which—

(I) the taxpayer produced less than 5 percent of the total number of units (or value) of such products during the period covering the three most recent taxable years of the taxpayer ending before July 1, 1982, and

(II) four or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured 85 percent or more of the total number of all units (or value) within such class of products manufactured and produced in the United States during such period.

(B) CLASS OF PRODUCTS.—For purposes of subparagraph (A)—

(i) the term "class of products" means any of the categories designated and numbered as a "class of products" in the 1977 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) information—

(I) compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the Census of Manufacturers, regarding the number of units (or value) of a class of products manufactured and produced in the United States during any period, or

(II) if information under subclause (I) is not available, so compiled or published with respect to the number of such units shipped or sold by such manufacturers during any period,

shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such period.

(6) UNDERPAYMENTS OF TAX FOR 1982.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before October 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by chapter 1 of such Code, to the extent that such underpayment was created or increased by any provision of this section.

SEC. 209. REPEAL OF LEASING; SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.

(a) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—Paragraph (8) of section 168(f) (relating to special rules for leasing) is amended to read as follows:

"(8) SPECIAL RULES FOR FINANCE LEASES.—

"(A) IN GENERAL.—For purposes of this title, except as provided in subsection (i), in the case of any agreement with respect to any finance lease property, the fact that—

"(i) a lessee has the right to purchase the property at a fixed price which is not less than 10 percent of the original cost of the property to the lessor, or

"(ii) the property is of a type not readily usable by any person other than the lessee,

shall not be taken into account in determining whether such agreement is a lease.

"(B) FINANCE LEASE PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'finance lease property' means recovery property which is subject to an agreement which meets the requirements of subparagraph (C) and—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 40 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all finance lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year beginning before January 1, 1986, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to 40 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as finance lease property under clause (ii) shall be allocated to finance lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS FINANCE LEASE PROPERTY.—The term 'finance lease property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

"(IV) with respect to which the lessee of the property under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) Qualified base property.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is finance lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect to which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vi) Definition of designated leased property.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period under subsection (a)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(vii) Definition; special rules.—For purposes of this subparagraph—

"(I) New section 38 property defined.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) Lessee limitation not to apply to certain farm property.—Clause (ii) shall not apply to any property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982).

"(III) Property placed in service.—For purposes of this title (other than clause (i), any finance lease property shall be deemed originally placed in service not earlier than the date such property is used under the lease.

"(C) Agreements must meet certain requirements.—The requirements of this subparagraph are met with respect to any agreement if—

"(i) Lessor requirement.—Any lessor under the agreement must be—

"(I) a corporation (other than an electing small business corporation within the meaning of section 1371(b) or a personal holding company within the meaning of section 542(a)),

"(II) a partnership all of the partners of which are corporations described in subclause (I), or

"(III) a grantor trust with respect to which the grantor and all the beneficiaries of the trust are described in subclause (I) or (II).

"(ii) Characterization of agreement.—The parties to the agreement characterize such agreement as a lease.

"(iii) Agreement contains certain provisions.—The agreement contains the provision described in clause (i) or (ii) of subparagraph (A), or both.

"(iv) For purposes of this title (determined without regard to the provisions described in clause (iii)), the agreement would be treated as a lease and the lessor under the agreement would be treated as the owner of the property.

"(D) Paragraph not to apply to agreements between related persons.—This paragraph shall not apply to any agreement if the lessor and lessee are both persons who are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(E) Nonqualified tax-exempt organization.—

"(i) In general.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(ii) Special rule for farmers' cooperatives.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization which is described in section 521 whether or not exempt from taxation under section 521.

"(iii) Special rule for property used in unrelated trade or business.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to taxation under section 511.

"(F) Cross reference.—

"For special recapture in case where lessee acquires financed recovery property, see section 1245."

(b) Special Limitations on Finance Lease Property.—Subsection (i) of section 168 (relating to limitations and additional requirements with respect to leases) is amended to read as follows:

"(i) Limitations Relating to Leases of Finance Lease Property.—For purposes of this subtitle, in the case of finance lease property, the following limitations shall apply:

"(1) Lessor may not reduce tax liability by more than 50 percent.—

"(A) In general.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all finance lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to finance lease items) by more than 50 percent of such liability.

"(B) Carryover of amounts not allowable as deductions or credits.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to finance lease property in such subsequent taxable year.

"(C) Allocation among deductions and credits.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to finance lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) Liability for tax and finance lease items defined.—For purposes of this paragraph—

"(i) Liability for tax defined.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) Finance lease items defined.—The term 'finance lease items' means any of the following items which are properly allocable to finance lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) Certain taxes not included.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

"(E) Certain safe harbor lease property taken into account.—Under regulations prescribed by the Secretary, deductions and credits and safe harbor lease items which are allocable to safe harbor lease property to which this paragraph (as in effect for taxable years beginning in 1983) applies shall be taken into account for purposes of applying this paragraph.

"(2) Investment credit allowed only over 5-year period.—In the case of any credit which would otherwise be allowable under section 38 with respect to any finance lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(3) Computation of taxable income of lessee for purposes of percentage depletion.—

"(A) In general.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any financed recovery property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) Coordination with crude oil windfall profit tax.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

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"(4) Limitations.—

"(A) Termination of certain provisions.—

"(i) Paragraph (1).—Paragraph (1) shall not apply to property placed in service after September 30, 1985, in taxable years beginning after such date.

"(ii) Paragraph (2).—Paragraph (2) shall not apply to property placed in service after September 30, 1985.

"(B) Certain farm property.—This subsection shall not apply to property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose, does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982)."

(c) Definition of New Section 38 Property.—Subsection (b) of section 48 (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether section 38 property subject to a lease is new section 38 property, such property shall be treated as originally placed in service not earlier than the date such property is used under the lease but only if such property is leased within 3 months after such property is placed in service."

(d) Effective Dates.—

(1) Subsection (a).—

(A) In general.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply to agreements entered into after December 31, 1983.

(B) Special rule for farm property aggregating $150,000 or less.—

(i) In general.—The amendments made by subsection (a) shall also apply to any agreement entered into after July 1, 1982, and before January 1, 1984, if the property subject to such agreement is section 38 property which is used for farming purposes (within the meaning of section 2032A(e)(5)).

(ii) $150,000 limitation.—The provisions of clause (i) shall not apply to any agreement if the sum of—

(I) the cost basis of the property subject to the agreement, plus

(II) the cost basis of any property subject to an agreement to which this subparagraph previously applied, which was entered into during the same calendar year, and with respect to which the lessee was the lessee of the agreement described in subclause (I) (or any related person within the meaning of section 168(e)(4)(D)),

exceeds $150,000. For purposes of subclause (II), in the case of an individual, there shall not be taken into account any agreement of any individual who is a related person involving property which is used in a trade or business of farming of such related person which is separate from the trade or business of farming of the lessee described in subclause (II).

(2) Special rule for definition of new section 38 property.—The amendment made by subsection (c) shall apply to property placed in service after December 31, 1983.

SEC. 210. MOTOR VEHICLE OPERATING LEASES.

(a) In General.—In the case of any qualified motor vehicle agreement, the fact that such agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

(b) Definitions.—For purposes of this section—

(1) Qualified motor vehicle agreement.—The term "qualified motor vehicle agreement" means any agreement with respect to a motor vehicle (including a trailer)—

(A) which was entered into before—

(i) the enactment of any law, or

(ii) the publication by the Secretary of the Treasury or his delegate of any regulation,

which provides that any agreement with a terminal rental adjustment clause is not a lease,

(B) with respect to which the lessor under the agreement—

(i) is personally liable for the repayment of, or

(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement, and

(C) with respect to which the lessee under the agreement uses the property subject to the agreement in a trade or business or for the production of income.

(2) Terminal rental adjustment clause.—The term "terminal rental adjustment clause" means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

PART III—FOREIGN TAX

SEC. 211. FOREIGN TAX CREDIT FOR TAXES ON OIL AND GAS INCOME.

(a) Amendment of Section 907(c)(4) to Recapture Foreign Oil and Gas Extraction Losses by Recharacterizing Later Extraction Income.—Paragraph (4) of section 907(c) (relating to certain losses) is amended to read as follows:

"(4) Recapture of foreign oil and gas extraction losses by recharacterizing later extraction income.—

"(A) In general.—That portion of the income of the taxpayer for the taxable year which (but for this paragraph) would be treated as foreign oil and gas extraction income shall be treated as income (from sources without the United States) which is not foreign oil and gas extraction income to the extent of the excess of—

"(i) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, over

"(ii) so much of such aggregate amount as was recharacterized under this subparagraph for preceding taxable years beginning after December 31, 1982.

"(B) Foreign oil extraction loss defined.—

"(i) In general.—For purposes of this paragraph, the term 'foreign oil extraction loss' means the amount by which—

"(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil and gas extraction income for such year, is exceeded by

"(II) the sum of the deductions properly apportioned or allocated thereto.

"(ii) Net operating loss deduction not taken into account.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

"(iii) Expropriation and casualty losses not taken into account.—For purposes of clause (i), there shall not be taken into account—

"(I) any foreign expropriation loss (as defined in section 172(h)) for the taxable year, or

"(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise."

(b) Extraction Income Removed From Foreign Oil Related Income.—Paragraph (2) of section 907(c) (defining foreign oil related income) is amended to read as follows:

"(2) Foreign oil related income.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of any other related service."

(c) Repeal of Separate Application of Section 904 to Foreign Oil Related Income; Amounts Treated as Foreign Taxes on Such Income.—

(1) In general.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) Foreign Taxes on Foreign Oil Related Income.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term 'income, war profits, and excess profits taxes' shall not include any amount paid or accrued after December 31, 1982, to the extent that the Secretary determines that the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither foreign oil related income nor foreign oil and gas extraction income. In computing the amount not treated as tax under this subsection, such amount shall be treated as a deduction under the foreign law."

(2) Repeal of separate treatment of foreign oil related loss.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) Carryback and Carryover of Disallowed Credits; Transitional Rules.—

(1) Transitional rules.—Subsection (e) of section 907 (relating to transitional rules) is amended to read as follows:

"(e) Transitional Rules.—

"(1) Credits arising in taxable years beginning before January 1, 1983.—The amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this paragraph referred to as the 'excess credit year') which under section 904(c) or 907(f) may be deemed paid or accrued in a taxable year beginning after December 31, 1982, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.

"(2) Carryback of credits arising in taxable years beginning after December 31, 1982.—The amount of the taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be deemed paid or accrued under section 904(c) or 907(f) in a taxable year beginning before January 1, 1983, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982."

(2) Repeal of 2-percent limitation on carryback and carryover of disallowed extraction taxes.—

(A) In general.—Paragraph (1) of section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(i) by striking out "so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year" and inserting in lieu thereof "such excess",

(ii) by striking out the last sentence.

(B) Technical amendments.—

(i) Subparagraph (B) of section 907(f)(2) is amended—

(I) by striking out "on taxes paid or accrued with respect to foreign oil related income", and

(II) by striking out "with respect to such income" in clause (i).

(ii) Subparagraph (A) of section 907(f)(3) is amended by striking out "with respect to oil-related income".

(iii) Subparagraph (B) of section 907(f)(3) is amended by striking out "oil-related".

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) Retention of old sections 907(b) and 904(f)(4) where taxpayer had foreign loss from an activity not related to oil and gas.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a foreign loss attributable to activities not taken into account in determining foreign oil related income (as defined in old section 907(c)(2)), such loss shall not be recaptured from foreign oil related income more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982. For purposes of the preceding sentence, an "old" section is such section as in effect on the day before the date of the enactment of this Act.

SEC. 212. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) Foreign Oil Related Income Added to Currently Taxed Amounts.—Subsection (a) of section 954 (defining foreign base company income) is amended by adding at the end thereof the following new paragraph:

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) Special Rules.—

(1) Allowance of deductions against foreign base company oil related income.—Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income".

(2) Preemption of foreign base company oil related income.—Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) Foreign base company oil related income not treated as another kind of base company income.—Income of a corporation which is foreign base company oil related income shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) Definition of Foreign Base Company Oil Related Income.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) Foreign Base Company Oil Related Income.—For purposes of this section—

"(1) In general.—Except as otherwise provided in this subsection, the term 'foreign base company oil related income' means foreign oil related income (within the meaning of section 907(c)(2)) other than income derived from a source within a foreign country in connection with—

"(A) oil or gas which was extracted from an oil or gas well located in such foreign country, or

"(B) oil, gas, or a primary product of oil or gas which is sold by the foreign corporation or a related person for use or consumption within such country or is loaded in such country on a vessel or aircraft as fuel for such vessel or aircraft.

"(2) Paragraph (1) applies only where corporation has produced 1,000 barrels per day or more.—

"(A) In general.—The term 'foreign base company oil related income' shall not include any income of a foreign corporation if such corporation is not a large oil producer for the taxable year.

"(B) Large oil producer.—For purposes of subparagraph (A), the term 'large oil producer' means any corporation if, for the taxable year or for any preceding taxable year, the average daily production of foreign crude oil and natural gas of the related group which includes such corporation equaled or exceeded 1,000 barrels.

"(C) Related group.—The term 'related group' means a group consisting of the foreign corporation and any other person who is a related person with respect to such corporation.

"(D) Average daily production of foreign crude oil and natural gas.—For purposes of this paragraph, the average daily production of foreign crude oil or natural gas of any related group for any taxable year (and the conversion of cubic feet of natural gas into barrels) shall be determined under rules similar to the rules of section 613A except that only crude oil or natural gas from a well located outside the United States shall be taken into account."

(d) Exception From Foreign Base Company Income for Certain Foreign Corporations Not To Apply.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5)."

(e) Conforming Amendments.—Subsection (a) of section 954 is amended by striking out "and" at the end of paragraph (3), and by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and".

(f) Effective Date.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end.

SEC. 213. POSSESSION TAX CREDIT; INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.

(a) Possession Tax Credit.—

(1) Active trade or business requirement.—Paragraph (2) of section 936(a) (relating to conditions which must be satisfied) is amended—

(A) by striking out "50 percent" in subparagraph (B) and inserting in lieu thereof "65 percent", and

(B) by adding at the end thereof the following new subparagraph:

"(C) Transitional rule.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage tax is:
1983	55
1984	60".

(2) Income attributable to certain intangible property.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(h) Tax Treatment of Intangible Property Income.—

"(1) In general.—

"(A) Income attributable to shareholders.—The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) Exclusion from the income of an electing corporation.—Any intangible property income of a corporation electing the application of this section which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) Foreign shareholders; shareholders not subject to tax.—

"(A) In general.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person, or

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

"(B) Treatment of nonallocated intangible property income.—For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account under subsection (a)(2).

"(3) Intangible property income.—For purposes of this subsection—

"(A) In general.—The term 'intangible property income' means the gross income of a corporation attributable to any intangible property other than intangible property which has been licensed to such corporation

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since prior to 1948 and is in use by such corporation on the date of the enactment of this subparagraph.

"(B) INTANGIBLE PROPERTY.—The term 'intangible property' means any—

"(i) patent, invention, formula, process, design, pattern, or know-how;

"(ii) copyright, literary, musical, or artistic composition;

"(iii) trademark, trade name, or brand name;

"(iv) franchise, license, or contract;

"(v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or

"(vi) any similar item,

which has substantial value independent of the services of any individual.

"(C) EXCLUSION OF REASONABLE PROFIT.—The term 'intangible property income' shall not include any portion of the income from the sale, exchange or other disposition of any product, or from the rendering of services, by a corporation electing the application of this section which is determined by the Secretary to be a reasonable profit on the direct and indirect costs incurred by such electing corporation which are attributable to such income.

"(D) RELATED PERSON.—

"(i) IN GENERAL.—A person (hereinafter referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are members of the same controlled group of corporations.

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent', and

"(II) section 267(b)(3) shall be applied without regard to whether a person was a personal holding company or a foreign personal holding company.

"(E) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 10 percent' shall be substituted for 'at least 80 percent' and 'more than 50 percent' each place either appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.

"(4) DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A)—

"(I) which was not derived from sources within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),

"(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(5) ELECTION OUT.—

"(A) IN GENERAL.—The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election pursuant to subparagraph (F) is in effect to use one of the methods specified in subparagraph (C).

"(B) ELIGIBILITY.—

"(i) REQUIREMENT OF SIGNIFICANT BUSINESS PRESENCE.—An election may be made to use one of the methods specified in subparagraph (C) with respect to a product or type of service only if an electing corporation has a significant business presence in a possession with respect to such product or type of service. An election may remain in effect with respect to such product or type of service for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession with respect to such product or type of service in such subsequent taxable year. If an election is not in effect for a taxable year because of the preceding sentence, the electing corporation shall be deemed to have revoked the election on the first day of such taxable year.

"(ii) DEFINITION.—For purposes of this subparagraph, an electing corporation has a 'significant business presence' in a possession for a taxable year with respect to a product or type of service if:

"(I) the total production costs (other than direct material costs and other than interest excluded by regulations prescribed by the Secretary) incurred by the electing corporation in the possession in producing units of that product sold or otherwise disposed of during the taxable year by the affiliated group to persons who are not members of the affiliated group are not less than 25 percent of the difference between (a) the gross receipts from sales or other dispositions during the taxable year by the affiliated group to persons who are not members of the affiliated group of such units of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the direct material costs of the purchase of materials for such units of that product by all members of the affiliated group from persons who are not members of the affiliated group; or

"(II) no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced during the taxable year in whole or in part by the electing corporation or for the type of service rendered by the electing corporation during the taxable year, is incurred by the electing corporation and is compensation for services performed in the possession; or

"(III) with respect to purchases and sales by an electing corporation of all goods not produced in whole or in part by any member of the affiliated group and sold by the electing corporation to persons other than members of the affiliated group, no less than 65 percent of the total direct labor costs of the affiliated group in connection with all purchases and sales of such goods sold during the taxable year by such electing corporation is incurred by such electing corporation and is compensation for services performed in the possession.

Notwithstanding satisfaction of one of the foregoing tests, an electing corporation shall not be treated as having a significant business presence in a possession with respect to a product produced in whole or in part by the electing corporation in the possession, for purposes of an election to use the method specified in subparagraph (C)(ii), unless such product is manufactured or produced in the possession by the electing corporation within the meaning of subsection (d)(1)(A) of section 954.

"(iii) SPECIAL RULES.—

"(I) An electing corporation which produces a product or renders a type of service in a possession on the date of the enactment of this clause is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986.

"(II) For purposes of this subparagraph, the costs incurred by an electing corporation or any other member of the affiliated group in connection with contract manufacturing by a person other than a member of the affiliated group, or in connection with a similar arrangement thereto, shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs incurred by the electing corporation in the possession or as direct material costs or as compensation for services performed in the possession, except to the extent as may be otherwise provided in regulations prescribed by the Secretary.

"(iv) REGULATIONS.—The Secretary may prescribe regulations setting forth:

"(I) an appropriate transitional (but not in excess of three taxable years) significant business presence test for commencement in a possession of operations with respect to products or types of service after the date of the enactment of this clause and not described in subparagraph (B)(iii)(I),

"(II) a significant business presence test for other appropriate cases, consistent with the tests specified in subparagraph (B)(ii),

"(III) rules for the definition of a product or type of service, and

"(IV) rules for treating components produced in whole or in part by a related person as materials, and the costs (including direct labor costs) related thereto as a cost of materials, where there is an independent resale price for such components or where otherwise consistent with the intent of the substantial business presence tests.

"(C) Methods of computation of taxable income.—If an election of one of the following methods is in effect pursuant to subparagraph (F) with respect to a product or type of service, an electing corporation shall compute its income derived from the active conduct of a trade or business in a possession with respect to such product or type of service in accordance with the method which is elected.

"(i) Cost sharing.—

"(I) Payment of cost sharing.—If an election of this method is in effect, the electing corporation must make a payment for its share of the cost (if any) of product area research which is paid or accrued by the affiliated group during that taxable year. Such share shall not be less than the same proportion of the cost of such product area research which the amount of 'possession sales' bears to the amount of 'total sales' of the affiliated group. The cost of product area research paid or accrued solely by the electing corporation in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreements with related persons) will reduce (but not below zero) the amount of the electing corporation's cost sharing payment under this method for that year.

"(a) Product area research.—For purposes of this section, the term 'product area research' includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions—including amounts paid or accrued for the performance of research or similar activities by another person; qualified research expenses within the meaning of section 44F(b); amounts paid or accrued for the use of, or the right to use, research or any of the items specified in subsection (h)(3)(B)(i); and a proper allowance for amounts incurred for the acquisition of any of the items specified in subsection (h)(3)(B)(i)—which are properly apportioned or allocated to the same product area as that in which the electing corporation conducts its activities, and a ratable part of any such costs, losses, expenses and other deductions which cannot definitely be allocated to a particular product area.

"(b) Affiliated group.—For purposes of this subsection, the term 'affiliated group' shall mean the electing corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

"(c) Possession sales.—For purposes of this section, the term 'possession sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered, in whole or in part, in the possession in such product area to persons who are not members of the affiliated group.

"(d) Total sales.—For purposes of this section, the term 'total sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of all products in the same product area as is used for determining the amount of product area research, and of services rendered in such product area to persons who are not members of the affiliated group.

"(e) Product area.—For purposes of this section, the term 'product area' shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

"(II) Effect of election.—For purposes of determining the amount of its gross income derived from the active conduct of a trade or business in a possession with respect to a product produced by, or type of service rendered by, the electing corporation for a taxable year, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property described in subsection (h)(3)(B)(i) which is related to the units of the product produced, or type of service rendered, by the electing corporation. Such electing corporation shall not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) or of any other nonmanufacturing intangible. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of (a) intangible property which was developed solely by such corporation in a possession and is owned by such corporation, (b) intangible property described in subsection (h)(3)(B)(i) acquired by such corporation from a person who was not related to such corporation (or to any person related to such corporation) at the time of, or in connection with, such acquisition, and (c) any intangible property described in subsection (h)(3)(B) (ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) and other nonmanufacturing intangibles which relate to sales of units of products, or services rendered, to unrelated persons for ultimate consumption or use in the possession in which the electing corporation conducts its trade or business.

"(III) Payment provisions.—

"(a) The cost sharing payment determined under subparagraph (C)(i)(I) for any taxable year shall be made to the person or persons specified in subparagraph (C)(i)(IV)(a) not later than the time prescribed by law for filing the electing corporation's return for such taxable year (including any extensions thereof). If all or part of such payment is not timely made, the amount of the cost sharing payment required to be paid shall be increased by the amount of interest that would have been due under section 6601(a) had the portion of the cost sharing payment that is not timely made been an amount of tax imposed by this title and had the last date prescribed for payment been the due date of the electing corporation's return (determined without regard to any extension thereof). The amount by which a cost sharing payment determined under subparagraph (C)(i)(I) is increased by reason of the preceding sentence shall not be treated as a cost sharing payment or as interest. If failure to make timely payment is due in whole or in part to fraud or willful neglect, the electing corporation shall be deemed to have revoked the election made under subparagraph (A) on the first day of the taxable year for which the cost sharing payment was required.

"(b) For purposes of this title, any tax of a foreign country or possession of the United States which is paid or accrued with respect to the payment or receipt of a cost sharing payment determined under subparagraph (C)(i)(I) or of an amount of increase referred to in subparagraph (C)(i)(III)(a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts of such tax so paid or accured.

"(IV) Special rules.—

"(a) The amount of the cost sharing payment determined under subparagraph (C)(i)(I), and any increase in the amount thereof in accordance with subparagraph (C)(i)(III)(a), shall not be treated as income of the recipient, but shall reduce the amount of the deductions (and the amount of reductions in earnings and profits) otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group, or, if there is no such domestic member, to the foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(b) If an election of this method is in effect, the electing corporation shall determine its intercompany pricing under the appropriate section 482 method, provided, however, that an electing corporation shall not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

"(c) The amount of qualified research expenses, within the meaning of section 44F, of any member of the controlled group of corporations (as defined in section 44F(f)) of which the electing corporation is a member shall not be affected by the cost sharing payment required under this method.

"(ii) Profit split.—

"(I) General rule.—If an election of this method is in effect, the electing corporation's taxable income derived from the active conduct of a trade or business in a possession with respect to units of a product produced or type of service rendered, in whole or in part, by the electing corporation shall be equal to 50 percent of the combined taxable income of the affiliated group (other than foreign affiliates) derived from covered sales of units of the product produced or type of service rendered, in whole or in part, by the electing corporation in a possession.

"(II) Computation of combined taxable income.—Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) for each such product or type of service rendered by deducting from the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product or type of service all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income, which are incurred by the affiliated group (other than foreign affiliates). Notwithstanding any other provision to the contrary, in computing the combined taxable income for each such product or type of

service rendered, the research, development, and experimental costs, expenses and related deductions for the taxable year which would otherwise be apportioned or allocated to the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product produced or type of service rendered, in whole or in part, by the electing corporation in a possession, shall not be less than the same proportion of the amount of the share of product area research determined under subparagraph (C)(i)(I) (without regard to the third sentence thereof) in the product area which includes such product or type of service, that such gross income from the product or type of service bears to such gross income from all products produced and types of service rendered, in whole or part, by the electing corporation in a possession.

"(III) DIVISION OF COMBINED TAXABLE INCOME.—50 percent of the combined taxable income computed as provided in subparagraph (C)(ii)(II) shall be allocated to the electing corporation. Combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), less the amount allocated to the electing corporation under the preceding sentence, shall be allocated to the appropriate domestic member or members (other than any electing corporation) of the affiliated group and shall be treated as income from sources within the United States, or, if there is no such domestic member, to a foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(IV) COVERED SALES.—For purposes of this paragraph, the term 'covered sales' means sales by members of the affilated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates.

"(D) UNRELATED PERSON.—For purposes of this paragraph, the term 'unrelated person' means any person other than a person related within the meaning of paragraph (3)(D) to the electing corporation.

"(E) ELECTING CORPORATION.—For purposes of this subsection, the term 'electing corporation' means a domestic corporation for which an election under this section is in effect.

"(F) TIME AND MANNER OF ELECTION; REVOCATION.—

"(i) IN GENERAL.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made only on or before the due date prescribed by law (including extensions) for filing the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such election shall be binding on the electing corporation and such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

"(ii) MANNER OF MAKING ELECTION.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made by filing a statement to such effect with the return referred to in subparagraph (F)(i) or in such other manner as the Secretary may prescribe by regulations.

"(iii) REVOCATION.—

"(I) Except as provided in subparagraph (F)(iii)(II), an election may be revoked for any taxable year only with the consent of the Secretary.

"(II) An election shall be deemed revoked for the year in which the electing corporation is deemed to have revoked such election under subparagraph (B)(i) or (C)(i)(III)(a).

"(iv) AGGREGATION.—

"(I) Where more than one electing corporation in the affiliated group produces any product or renders any services in the same product area, all such electing corporations must elect to compute their taxable income under the same method under subparagraph (C).

"(II) All electing corporations in the same affiliated group that produce any products or render any services in the same product area may elect, subject to such terms and conditions as the Secretary may prescribe by regulations, to compute their taxable income from export sales under a different method from that used for all other sales and services. For this purpose, export sales means all sales by the electing corporation of products to foreign persons for use or consumption outside the United States and its possessions, provided such products are manufactured or produced in the possession within the meaning of subsection (d)(1)(A) of section 954, and further provided (except to the extent otherwise provided by regulations) the income derived by such foreign person on resale of such products (in the same state or in an altered state) is not included in foreign base company income for purposes of section 954(a).

"(III) All members of an affiliated group must consent to an election under this subsection at such time and in such manner as shall be prescribed by the Secretary by regulations.

"(6) TREATMENT OF CERTAIN SALES MADE AFTER JULY 1, 1982.—

"(A) IN GENERAL.—For purposes of this section, in the case of a disposition of intangible property made by a corporation after July 1, 1982, any gain or loss from such disposition shall be treated as gain or loss from sources within the United States to which paragraph (5) does not apply.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any disposition by a corporation of intangible property if such disposition is to a person who is not a related person to such corporation.

"(C) PARAGRAPH DOES NOT AFFECT ELIGIBILITY.—This paragraph shall not apply for purposes of determining whether the corporation meets the requirements of subsection (a)(2).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including rules for the application of this subsection to income from leasing of products to unrelated persons."

(b) INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.—Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended—

(1) by striking out "50 percent" in subsection (b)(2) and inserting in lieu thereof "65 percent", and

(2) by adding at the end thereof the following new subsections:

"(e) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME OF CERTAIN DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDER.—The intangible property income (within the meaning of section 936(h)(3)) for any taxable year of any domestic corporation which is described in subsection (b) and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), shall be included on a pro rata basis in the gross income of all shareholders of such corporation at the close of the taxable year of such corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such corporation ends.

"(B) EXCLUSION FROM THE INCOME OF THE CORPORATION.—Any intangible property income of a corporation described in subparagraph (A) which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX; INHABITANTS OF THE VIRGIN ISLANDS.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person,

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph), or

"(iii) who is an inhabitant of the Virgin Islands.

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation described in paragraph (1)(A) which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account for purposes of determining whether the conditions specified in paragraph (1) or (2) of subsection (b) are satisfied.

"(3) DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in paragraph (1) or (2) of subsection (b) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (b)(1) is not satisfied, that portion of the gross income for the period described in subsection (b)(1)—

"(I) which was not derived from sources within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (b)(1),

"(ii) if the condition of subsection (b)(2) is not satisfied, that portion of the aggregate gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (b)(2), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which

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exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of paragraphs (1) and (2) of subsection (b).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual, an inhabitant of the Virgin Islands, or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (b) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(4) CERTAIN PROVISIONS OF SECTION 936 TO APPLY.—

"(A) IN GENERAL.—The rules contained in paragraphs (5), (6), and (7) of section 936(h) shall apply to a domestic corporation described in paragraph (1)(A) of this subsection.

"(B) CERTAIN MODIFICATIONS.—For purposes of subparagraph (A), section 936(h) shall be applied by substituting wherever appropriate—

"(i) 'Virgin Islands' for 'possession', and

"(ii) qualification under paragraphs (1) and (2) of subsection (b) for qualification under section 936(a)(2).

"(f) TRANSITIONAL RULE.—In applying subsection (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for '65 percent':

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60".

(c) DENIAL OF DIVIDEND RECEIVED DEDUCTION IN CASE OF A DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—Section 246 (relating to rules applying to deduction for dividends received) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN DISTRIBUTIONS TO SATISFY REQUIREMENTS.—No deduction shall be allowed under section 243(a) with respect to a dividend received pursuant to a distribution described in section 936(h)(4) or 934(e)(3)."

(d) TRANSFER OF INTANGIBLES BY POSSESSION CORPORATION TREATED AS TRANSFER TO AVOID TAXES.—Section 367 (relating to foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULE RELATING TO TRANSFER OF INTANGIBLES BY POSSESSION CORPORATIONS.—

"(1) IN GENERAL.—If, after August 14, 1982, any possession corporation transfers, directly or indirectly, any intangible property (within the meaning of section 936(h)(3)(B)) to any foreign corporation, such transfer shall be treated for purposes of subsection (a) as pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes.

"(2) POSSESSION CORPORATION.—

"(A) IN GENERAL.—The term 'possession corporation' means any corporation—

"(i) to which an election under section 936 applies, or

"(ii) which is described in subsection (b) of section 934 and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands).

"(B) FORMER POSSESSION CORPORATION.—A corporation shall be treated as a possession corporation with respect to any transfer if such corporation was a possession corporation (within the meaning of subparagraph (A)) at any time during the 5-year period ending on the date of such transfer.

"(3) TRANSFER BY UNITED STATES AFFILIATES.—A rule similar to the rule of paragraph (1) shall apply in the case of a direct or indirect transfer by a United States affiliate to a foreign person of intangible property which, after August 14, 1982, was being used (or held for use) by a possession corporation under an arrangement with a United States affiliate. For purposes of the preceding sentence, the term "United States affiliate" means any United States person who is a member of an affiliated group (within the meaning of section 936(h)(5)(C)(i)(I)(b)) which includes the possession corporation.

"(4) WAIVER AUTHORITY.—Subject to such terms and conditions as the Secretary may provide, paragraph (1) or (3) shall not apply to any case where the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) CERTAIN SALES MADE AFTER JULY 1, 1982.—Paragraph (6) of section 936(h) of the Internal Revenue Code of 1954, and so much of section 934 to which such paragraph applies by reason of section 934(e)(4) of such Code, shall apply to taxable years ending after July 1, 1982.

(3) CERTAIN TRANSFERS OF INTANGIBLE IS MADE AFTER AUGUST 14, 1982.—Subsection (d) shall apply to taxable years ending after August 14, 1982.

PART IV—TAX-EXEMPT OBLIGATIONS

SEC. 214. MODIFICATION OF EXEMPTION FOR SMALL ISSUES.

(a) COMPOSITE ISSUES.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraphs:

"(K) LIMITATIONS ON TREATMENT OF OBLIGATIONS AS PART OF THE SAME ISSUE.—For purposes of this paragraph, separate lots of obligations which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(L) FRANCHISES.—For purposes of subparagraph (K), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any obligation the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility."

(b) SMALL ISSUE EXEMPTION NOT ALLOWED WHERE OBLIGATIONS ISSUED AS PART OF ISSUE EXEMPT FROM TAX OTHER THAN AS A SMALL ISSUE.—Paragraph (6) of section 103(b), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(M) PARAGRAPH NOT TO APPLY IF OBLIGATIONS ISSUED WITH CERTAIN OTHER TAX-EXEMPT OBLIGATIONS.—This paragraph shall not apply to any obligation which is issued as part of an issue (other than an issue to which subparagraph (D) applies) if the interest on any other obligation which is part of such issue is excluded from gross income under any provision of law other than this paragraph."

(c) TERMINATION OF SMALL ISSUE EXEMPTION AFTER DECEMBER 31, 1986.—Paragraph (6) of section 103(b), as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

"(N) PARAGRAPH NOT TO APPLY TO OBLIGATIONS ISSUED AFTER DECEMBER 31, 1986.—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligation issued to refund an obligation issued on or before such date)."

(d) EXCLUSION OF CERTAIN RESEARCH EXPENDITURES FROM THE LIMITATION ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.—Subparagraph (F) of section 103(b)(6) (relating to exclusion of certain capital expenditures) is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by adding "or" at the end of clause (iii), and

(3) by adding at the end thereof the following new clause:

"(iv) described in clause (i) or (ii) of section 44F(b)(2)(A) for which a deduction was allowed under section 174(a),".

(e) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—Paragraph (6) of section 103(b) is amended by adding at the end thereof the following new subparagraph:

"(O) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—This paragraph shall not apply to an issue if—

"(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

"(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack."

(f) EFFECTIVE DATES.—

(1) COMPOSITE ISSUES; SMALL ISSUE EXEMPTION.—The amendments made by subsections (a) and (b) shall apply to obligations issued after the date of the enactment of this Act.

(2) TERMINATION.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) RESEARCH EXPENDITURES.—The amendment made by subsection (d) shall apply with respect to expenditures made after the date of the enactment of this Act.

(4) CERTAIN FACILITIES.—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1982.

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SEC. 215. PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS APPLICABLE TO PRIVATE ACTIVITY BONDS.

(a) Public Approval.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) Public Approval for Industrial Development Bonds.—

"(1) In general.—Notwithstanding subsection (b), an industrial development bond shall be treated as an obligation not described in subsection (a) unless the requirements of paragraph (2) of this subsection are satisfied.

"(2) Public approval requirement.—

"(A) In general.—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such obligation, or

"(II) on behalf of which such obligation was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

"(B) Approval by a governmental unit.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

"(C) Special rules for approval of facility.—If there has been public approval under subparagraph (A) of the plan of financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued pursuant to such plan within 3 years after the date of the first issue pursuant to the approval, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

"(D) Refunding obligations.—No approval under subparagraph (A) shall be necessary with respect to any obligation which is issued to refund an obligation approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such obligation is later than the maturity date of the obligation to be refunded.

"(E) Applicable elected representative.—For purposes of this paragraph—

"(i) In general.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body of such unit, or

"(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

"(ii) No applicable elected representative.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived."

(b) Information Reporting.—

(1) In general.—Section 103 is amended by redesignating subsection (l) as subsection (m) and by adding at the end thereof the following new subsection:

"(l) Information Reporting Requirements For Certain Bonds.—

"(1) In general.—Notwithstanding subsection (b), any industrial development bond or any other obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

"(A) to finance loans to individuals for educational expenses, or

"(B) by an organization described in section 501(c)(3) which is exempt from taxation by reason of section 501(a),

shall be treated as an obligation not described in paragraph (1) or (2) of subsection (a) unless such bond satisfies the requirements of paragraph (2).

"(2) Information reporting requirement.—An obligation satisfies the requirement of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the obligation is issued, a statement concerning the issue of which the obligation is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facilities provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under subsection (b)(6)(K), any person treated as a principal user under subsection (b)(6)(L), and

"(E) a description of any property to be financed from the proceeds of the issue.

"(3) Extension of time.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion."

(2) Conforming amendment.—Paragraph (2) of section 103(b) (defining industrial development bond) is amended by striking out "For purposes of this subsection" and inserting in lieu thereof "For purposes of this section".

(c) Effective Dates.—

(1) Public approval.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982, other than obligations issued solely to refund any obligation which—

(A) was issued before July 1, 1982, and

(B) has a maturity which does not exceed 3 years.

(2) Information reporting.—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1982 (including any obligation issued to refund an obligation issued before to such date).

SEC. 216. COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

(a) Cost Recovery Method.—Subsection (f) of section 168 (relating to special rules for the accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

"(12) Limitations on property financed with tax-exempt bonds.—

"(A) In general.—Notwithstanding any other provision of this section, to the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest of which is exempt from taxation under section 103(a), the deduction allowed under subsection (a) (and any deduction allowable in lieu of the deduction allowable under subsection (a)) for any taxable year with respect to such property shall be determined under subparagraph (B).

"(B) Recovery method.—

"(i) In general.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	3 years.
5-year property	5 years.
10-year property	10 years.
15-year public utility property	15 years.

"(ii) 15-year real property.—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of 15 years.

"(C) Exceptions.—Subparagraph (A) shall not apply to any recovery property which is placed in service—

"(i) in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A),

"(ii) in connection with a sewage or solid waste disposal facility—

"(I) which provides sewage or solid waste disposal services for the residents of part or all of 1 or more governmental units, and

"(II) with respect to which substantially all of the sewage or solid waste processed is collected from the general public,

"(iii) as an air or water pollution control facility which is—

"(I) installed in connection with an existing facility, or

"(II) installed in connection with the conversion of an existing facility which uses oil or natural gas (or any product of oil or natural gas) as a primary fuel to a facility which uses coal as a primary fuel, or

"(iv) in connection with a facility with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974.

"(D) Existing facility.—For purposes of this paragraph, the term 'existing facility' means a plant or property in operation before July 1, 1982.

"(E) Exception where longer recovery period applicable.—Subparagraph (A) shall not apply to any recovery property if the recovery period which would be applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under subparagraph (B)."

(b) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service after December 31, 1982, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after June 30, 1982.

(2) Exceptions.—

(A) Construction or binding agreement.—The amendments made by this section shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into before July 1, 1982.

(B) Refunding.—

(i) In general.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1982 which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before July 1, 1982, the amendments made by this section shall apply only with respect to the basis in such property which has not been recovered before the date such refunding obligation is issued.

(ii) Significant expenditures.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1983, the amendments made by this section shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before July 1, 1982.

In the case of an inducement resolution adopted by an issuing authority before July 1, 1982, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(3) Certain projects for residential real property.—For purposes of clause (i) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (as added by this section), any obligation issued to finance a project described in the table contained in paragraph (1) of section 1104(n) of the Mortgage Subsidy Bond Tax Act of 1980 shall be treated as an obligation described in section 103(b)(4)(A) of the Internal Revenue Code of 1954.

SEC. 217. MISCELLANEOUS.

(a) Exempt Obligations for Local District Heating and Cooling Facilities.—

(1) In general.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(A) by striking out "or" at the end of subparagraph (H),

(B) by striking out the period at the end of subparagraph (I), and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) local district heating or cooling facilities."

(2) Local district heating or cooling facilities defined.—Subsection (b) of section 103 is amended by redesignating paragraph (10) as paragraph (13) and by inserting after paragraph (9) the following new paragraph:

"(10) Local district heating or cooling facility.—For purposes of this section—

"(A) In general.—The term 'local district heating or cooling facility' means property used as an integral part of a local district heating or cooling system.

"(B) Local district heating or cooling system.—

"(i) In general.—The term 'local district heating or cooling system' means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

"(I) residential, commercial, or industrial heating or cooling, or

"(II) process steam.

"(ii) Local system.—For purposes of this subparagraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and one contiguous county."

(3) Conforming amendment.—Subparagraph (C) of section 103(b)(6) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (13)".

(b) Facilities for the Local Furnishing of Gas.—Paragraph (4) of section 103(b) is amended by striking out "electric energy from" in the last sentence and inserting in lieu thereof "electric energy or gas from".

(c) Qualified Mass Commuting Vehicle.—Subparagraph (A) of section 103(b)(9) (defining qualified mass commuting vehicle) is amended—

(1) by inserting "ferry," after "rail car", and

(2) by inserting after "mass commuting services" in clause (ii) the phrase "(or, in the case of a ferry, mass transportation services)".

(d) Pollution Control Facilities Acquired by Regional Pollution Control Authority.—Subsection (b) of section 103 is amended by inserting after paragraph (10) (as added by subsection (a)) the following new paragraph:

"(11) Pollution control facilities acquired by regional pollution control authorities.—

"(A) In general.—For purposes of subparagraph (F) of paragraph (4), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

"(B) Restrictions.—Subparagraph (A) shall apply only if—

"(i) the amount paid, directly or indirectly, for the facilities does not exceed their fair market value,

"(ii) the fees or charges imposed, directly or indirectly, on the seller for any use of the facilities after the sale are not less than the amounts that would be charged if the facilities were financed with obligations the interest on which is not exempt from tax, and

"(iii) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

"(C) Qualified regional pollution control authority defined.—For purposes of this paragraph, the term 'qualified regional pollution control authority' means an authority which—

"(i) is a political subdivision created by State law to control air or water pollution,

"(ii) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

"(iii) operates air or water pollution control facilities."

(e) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 218. TREATMENT OF CERTAIN REFUNDING OBLIGATIONS.

(a) General Rule.—Paragraph (1) of section 103(b) of the Internal Revenue Code of 1954 shall not apply to any qualified refunding obligation issued by a qualified issuer after the date of the enactment of this Act.

(b) Qualified Refunding Obligation.—For purposes of subsection (a), a qualified refunding obligation is any obligation issued as part of an issue if—

(1) substantially all of the proceeds of such issue are used to defense refunded bonds which were issued under a pooled security arrangement pursuant to a bond resolution which was adopted in 1974 and under which at least 20 facilities have been financed before 1978, and

(2) each refunded bond is to be retired within 6 months after the first date on which there is no premium for early retirement of such bond.

(c) Qualified Issuer.—For purposes of subsection (a), a qualified issuer is a political subdivision created by a State in 1932 which is engaged primarily in promoting economic development.

SEC. 219. LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS.

(a) General Rule.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(14) Maturity may not exceed 120 percent of economic life.—

"(A) General rule.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if—

"(i) the average maturity of the obligations which are part of such issue, exceeds

"(ii) 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue.

"(B) Determination of averages.—For purposes of subparagraph (A)—

"(i) the average maturity of any issue shall be determined by taking into account the respective issue prices of the obligations which are issued as part of such issue, and

"(ii) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

"(C) Special rules.—

"(i) Determination of economic life.—For purposes of this paragraph, the reasonably expected economic life of any facility shall be determined as of the later of—

"(I) the date on which the obligations are issued, or

"(II) the date on which the facility is placed in service (or expected to be placed in service).

"(ii) Treatment of land.—

"(I) Land not taken into account.—Except as provided in subclause (II), land shall not be taken into account under subparagraph (A)(ii).

"(II) ISSUES WHERE 25 PERCENT OR MORE OF PROCEEDS USED TO FINANCE LAND.—If 25 percent or more of the proceeds of any issue is used to finance land, such land shall be taken into account under subparagraph (A)(ii) and shall be treated as having an economic life of 50 years."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982.

SEC. 220. MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 103A(i)(2) (relating to effective rate of mortgage interest) is amended by striking out "1 percentage point" and inserting in lieu thereof "1.125 percentage points".

(2) CLARIFICATION OF PREPAYMENT ASSUMPTIONS.—Clause (iv) of section 103A(i)(2)(B) (relating to prepayment assumptions) is amended to read as follows:

"(iv) PREPAYMENT ASSUMPTIONS.—In determining the effective rate of interest—

"(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located, and

"(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments."

(3) CONFORMING AMENDMENTS.—

(A) The paragraph heading of paragraph (2) of section 103A(i) is amended by striking out "1 PERCENTAGE POINT" and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

(B) Subparagraph (C) of section 103A(i)(4) is amended—

(i) by striking out "1 percentage point" in clause (ii) and inserting in lieu thereof "1.125 percentage points", and

(ii) by striking out "1 PERCENTAGE POINT" in the caption and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

(b) DISPOSITION OF NONMORTGAGE INVESTMENT IN CASE OF LOSS.—Paragraph (3) of section 103A(i) (relating to nonmortgage investment requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) NO DISPOSITION IN CASE OF LOSS.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid or credited to the mortgagors under paragraph (4)(A) (but for such sale or disposition) at the time of such sale or disposition."

(c) REQUIREMENT THAT MORTGAGORS BE FIRST TIME HOMEBUYERS.—Subsection (e) of section 103A (relating to 3-year requirement) is amended to read as follows:

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if 90 percent or more of the lendable proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

"(2) EXCEPTIONS.—For purposes of paragraph (1), the proceeds of an issue which are used—

"(A) to provide financing with respect to targeted area residences,

"(B) to provide qualified home improvement loans, and

"(C) to provide qualified rehabilitation loans,

shall not be taken into account.

"(3) MORTGAGOR'S INTEREST IN RESIDENCE BEING FINANCED.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account."

(d) INCREASE IN MAXIMUM PURCHASE PRICE.—Subsection (f) of section 103A (relating to purchase price requirement) is amended—

(1) by striking out "90 percent" each place it appears and inserting in lieu thereof "110 percent" and

(2) by striking out "110 percent" in paragraph (5) and inserting in lieu thereof "120 percent".

(e) TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.—Subsection (l) of section 103A (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(10) COOPERATIVE HOUSING CORPORATIONS.—

"(A) IN GENERAL.—In the case of any cooperative housing corporation—

"(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

"(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

"(B) ADJUSTMENT TO TARGETED AREA REQUIREMENT.—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

"(C) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning give to such term by section 216(b)(1)."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) FIRST TIME HOMEBUYER REQUIREMENT.—The amendments made by subsection (c) shall also apply to obligations issued after April 24, 1979, and before the date of the enactment of this Act but only to the extent that the proceeds of such obligations are not committed as of the date of the enactment of this Act.

SEC. 221. INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN RESIDENTIAL RENTAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended to read as follows:

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if at all times during the qualified project period—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income,".

(b) DEFINITIONS.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by inserting after paragraph (11) the following new paragraph:

"(12) PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—For purposes of paragraph (4)(A)—

"(A) TARGETED AREA PROJECT.—The term 'targeted area project' means—

"(i) a project located in a qualified census tract (within the meaning of section 103A(k)(2)), or

"(ii) an area of chronic economic distress (within the meaning of section 103A(k)(3)).

"(B) QUALIFIED PROJECT PERIOD.—The term 'qualified project period' means the period beginning on the first day on which 10 percent of the units in the project are occupied and ending on the later of—

"(i) the date which is 10 years after the date on which 50 percent of the units in the project are occupied,

"(ii) the date which is a qualified number of days after the date on which any of the units in the project are occupied, or

"(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of clause (ii), the term 'qualified number' means, with respect to an obligation described in paragraph (4)(A), 50 percent of the number of days which comprise the term of the obligation with the longest maturity.

"(C) INDIVIDUALS OF LOW AND MODERATE INCOME.—Individuals of low and moderate income shall be determined by the Secretary in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937 (or if such program is terminated, under such program as in effect immediately before such termination), except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 103(b) is amended by striking out the second sentence thereof.

(2) Subsection (k) of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any obligation to which the amendments made by section 1103 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply by reason of section 1104 of such Act.

PART V—MERGERS AND ACQUISITIONS

Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

SEC. 222. PARTIAL LIQUIDATIONS.

(a) SECTION 331 (WHICH PROVIDES CAPITAL GAIN OR LOSS TREATMENT FOR SHAREHOLDERS IN LIQUIDATIONS) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended to read as follows:

"(a) DISTRIBUTIONS IN COMPLETE LIQUIDATION TREATED AS EXCHANGES.—Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock."

(b) SECTION 336 (WHICH PROVIDES NONRECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS BY LIQUIDATING CORPORATION) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 336 (relating to distributions of property in liquidation) is amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

(c) Distributions to Noncorporate Shareholders Which Qualify as Partial Liquidations Under Existing Law Treated as Redemptions.—

(1) Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) Redemption from noncorporate shareholder in partial liquidation.—Subsection (a) shall apply to a distribution if such distribution is—

"(A) in redemption of stock held by a shareholder who is not a corporation, and

"(B) in partial liquidation of the distributing corporation."

(2) Section 302 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Partial Liquidation Defined.—

"(1) In general.—For purposes of subsection (b)(4), a distribution shall be treated as in partial liuidation of a corporation if—

"(A) the distribution is not essentially equivalent to a dividend (determined at the corporate level rather than at the shareholder level), and

"(B) the distribution is pursuant to a plan and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

"(2) Termination of business.—The distributions which meet the requirements of paragraph (1)(A) shall include (but shall not be limited to) a distribution which meets the requirements of subparagraphs (A) and (B) of this paragraph:

"(A) The distribution is attributable to the distributing corporation's ceasing to conduct, or consists of the assets of, a qualified trade or business.

"(B) Immediately after the distribution, the distributing corporation is actively engaged in the conduct of a qualified trade or business.

"(3) Qualified trade or business.—For purposes of paragraph (2), the term 'qualified trade or business' means any trade or business which—

"(A) was actively conducted throughout the 5-year period ending on the date of the redemption, and

"(B) was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

"(4) Redemption may be pro rata.—Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (2) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.

"(5) Treatment of certain pass-thru entities.—For purposes of determining under subsection (b)(4) whether any stock is held by a shareholder who is not a corporation, any stock held by a partnership, estate, or trust shall be treated as if it were actually held proportionately by its partners or beneficiaries."

(3) Subsection (a) of section 302 is amended by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1), (2), (3), or (4)".

(4) Paragraph (5) of section 302(b) (as redesignated by paragraph (1)) is amended—

(A) by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)", and

(B) by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (4)".

(d) Definition and Special Rule.—Section 346 (defining partial liquidation) is amended to read as follows:

"SEC. 346. DEFINITION AND SPECIAL RULE.

"(a) Complete Liquidation.—For purposes of this subchapter, a distribution shall be treated as in complete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

"(b) Transactions Which Might Reach Same Result as Partial Liquidations.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of subsections (a) and (b) of section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of section 355, 351, 337, or any other provision of law or regulations (including the consolidated return regulations)."

(e) Technical and Conforming Amendments.—

(1) The following provisions are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation":

(A) Paragraph (2) of section 306(b) (relating to exceptions).

(B) Subsection (b) of section 331 (relating to nonapplication of section 301).

(C) Subsection (a) of section 334 (relating to basis of property received in liquidations).

(D) Paragraph (1) of section 336(b) (relating to distributions of LIFO inventory).

(2) Subparagraph (B) of section 306(b)(1) (relating to exception for redemptions) is amended by striking out "section 302(b)(3)" and inserting in lieu thereof "paragraph (3) or (4) of section 302(b)".

(3) Subsection (e) of section 312 (relating to special rule for partial liquidation and certain redemptions) is amended—

(A) by striking out "in partial liquidation (whether before, on, or after June 22, 1954) or"; and

(B) by striking out "Partial Liquidations and" in the heading thereof.

(4) Section 338 (as in effect on the day before the date of the enactment of this Act) is hereby repealed.

(5) Paragraph (2) of section 341(a) (relating to collapsible corporations) is amended to read as follows:

"(2) a distribution—

"(A) in complete liquidation of a collapsible corporation if such distribution is treated under this part as in part or full payment in exchange for stock, or

"(B) in partial liquidation (within the meaning of section 302(e)) of a collapsible corporation if such distribution is treated under section 302(b)(4) as in part or full payment in exchange for the stock, and".

(6) Paragraph (1) of section 543(a) (relating to personal holding company income) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) dividends to which section 302(b)(4) would apply if the corporation were an individual."

(7) Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies."

(8)(A) The heading and table of sections for subpart D of part II of subchapter C of chapter 1 are amended to read as follows:

"Subpart D—Definition and Special Rule

"Sec. 346. Definition and special rule."

(B) The item relating to subpart D in table of subparts for such part II is amended to read as follows:

"Subpart D—Definition and special rule."

(f) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to distributions after August 31, 1982.

(2) Exceptions.—

(A) Ruling requests.—The amendments made by this section shall not apply to distributions made by any corporation if—

(i)(I) on July 22, 1982, there was a ruling request by such corporation pending with the Internal Revenue Service as to whether such distributions would qualify as a partial liquidation, or

(II) within the period beginning on July 12, 1981, and ending on July 22, 1982, the Internal Revenue Service granted a ruling to such corporation that the distributions would qualify as a partial liquidation, and

(ii) such distributions are pursuant to a plan of partial liquidation adopted before October 1, 1982 (or, if later, 90 days after the date on which the Internal Revenue Service granted a ruling pursuant to the request described in clause (i)(I)).

(B) Plans adopted before July 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before July 23, 1982.

(C) Control acquired after 1981 and before July 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before October 1, 1982, where control of the corporation making the distributions was acquired after December 31, 1981, and before July 23, 1982.

(D) Tender offer of binding contract outstanding on July 22, 1982.—

(i) In general.—The amendments made by this section shall not apply to distributions made by a corporation if—

(I) such distributions are pursuant to a plan of liquidation adopted before October 1, 1982, and

(II) control of such corporation was acquired after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date.

(ii) Extension of time for adopting plan where acquisition subject to Federal regulatory approval.—If the acquisition described in clause (i)(II) is subject to approval by a Federal regulatory agency, clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on which approval by the Federal regulatory agency of such acquisition becomes final.

"(iii) Special rule where offer subject to approval by foreign regulatory body.—In any case where an offer to acquire stock in a corporation was subject to intervention by a foreign regulatory body and a public announcement of such an offer resulted in the intervention by such foreign regulatory body before July 23, 1982—

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(I) such public announcement shall be treated as a tender offer, and

(II) clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on which such regulatory body approves a public offer to acquire stock in such corporation.

(iv) SPECIAL RULE WHERE ONE-THIRD OF SHARES ACQUIRED DURING MARCH AND APRIL 1982.—If—

(I) one-third or more of the shares of a corporation were acquired by another corporation during March and April 1982, and

(II) during March or April 1982, the acquiring corporation filed with the Federal Trade Commission notification of its intent to acquire control of the acquired corporation,

subclause (I) of clause (i) shall not apply with respect to distributions made by the acquired corporation.

(E) INSURANCE COMPANIES.—The amendments made by this section shall not apply to distributions made by an insurance company pursuant to a plan of partial liquidation adopted before October 1, 1982, where control was acquired by the distributee or its parent after December 31, 1980, and before July 23, 1982, and the conduct of the insurance business by the distributee is conditioned on approval by a State regulatory authority.

For purposes of this paragraph, the term "control" has the meaning given to such term by section 368(c) of the Internal Revenue Code of 1954.

(3) APPROVAL OF PLAN BY BOARD OF DIRECTORS.—For purposes of—

(A) paragraph (2), and

(B) applying section 346(a)(2) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) to distributions to which (but for paragraph (2)) the amendments made by this section would apply,

a plan of liquidation shall be treated as adopted when approved by the corporation's board of directors.

(4) COORDINATION WITH AMENDMENTS MADE BY SECTION 229.—For purposes of section 338(e)(2)(C) of the Internal Revenue Code of 1954 (as added by section 229), any property acquired in a distribution to which the amendments made by this section do not apply by reason of paragraph (2) shall be treated as acquired before September 1, 1982.

SEC. 223. DISTRIBUTION OF APPRECIATED PROPERTY IN REDEMPTION OF STOCK.

(a) AMENDMENTS TO CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—

(1) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 311(d)(2) (relating to appreciated property used to redeem stock) are amended to read as follows:

"(A) a distribution to a corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution to which section 302(b)(4) applies and which is made with respect to qualified stock;

"(C) a distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subsection (e) are met with respect to the distribution;".

(2) DEFINITIONS AND SPECIAL RULES.—Section 311 is amended by adding at the end thereof the following new subsection:

"(e) DEFINITIONS AND SPECIAL RULES FOR SUBSECTION (d)(2).—For purposes of subsection (d)(2) and this subsection—

"(1) QUALIFIED STOCK.—

"(A) IN GENERAL.—The term 'qualified stock' means stock held by a person (other than a corporation) who at all times during the lesser of—

"(i) the 5-year period ending on the date of distribution, or

"(ii) the period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) DETERMINATION OF STOCK HELD.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual.

"(2) DISTRIBUTIONS OF STOCK OR OBLIGATIONS OF CONTROLLED CORPORATIONS.—

"(A) REQUIREMENTS.—A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the 'controlled corporation') meets the requirements of this paragraph if—

"(i) such distribution is made with respect to qualified stock,

"(ii) substantially all of the assets of the controlled corporation consists of the assets of 1 or more qualified businesses,

"(iii) no substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

"(iv) more than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business which—

"(I) was actively conducted throughout the 5-year period ending on the date of the distribution, and

"(II) was not acquired by any person within such period in a transaction in which gain or loss was recognized in whole or in part.

"(ii) NONBUSINESS ASSET.—The term 'nonbusiness asset' means any asset not used in the active conduct of a trade or business."

(3) CONFORMING AMENDMENT.—Section 311(d)(2) is amended—

(A) by inserting "and " at the end of subparagraph (E),

(B) by striking out the semicolon and "and" at the end of subparagraph (F) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (G).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after August 31, 1982.

(2) DISTRIBUTIONS PURSUANT TO RULING REQUESTS BEFORE JULY 23, 1982.—In the case of a ruling request under section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) made before July 23, 1982, the amendments made by this section shall not apply to distributions made—

(A) pursuant to a ruling granted pursuant to such request, and

(B) within 90 days after the date of such ruling.

(3) DISTRIBUTIONS PURSUANT TO FINAL JUDGMENTS OF COURT.—In the case of a final judgment described in section 311(d)(2)(C) of such Code (as in effect before the amendments made by this section) rendered before July 23, 1982, the amendments made by this section shall not apply to distributions made before January 1, 1986, pursuant to such judgment.

(4) CERTAIN DISTRIBUTIONS WITH RESPECT TO STOCK ACQUIRED BEFORE MAY 1982.—The amendments made by this section shall not apply to distributions—

(A) which meet the requirements of section 311(d)(2)(A) of such Code (as in effect on the day before the date of the enactment of this Act),

(B) which are made on or before August 31, 1983, and

(C) which are made with respect to stock acquired after 1980 and before May 1982.

(5) Distributions of timberland with respect to stock of forest products company.—If—

(A) a forest products company distributes timberland to a shareholder in redemption of the common and preferred stock in such corporation held by such shareholder,

(B) section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) would have applied to such distributions, and

(C) such distributions are made pursuant to 1 of 2 options contained in a contract between such company and such shareholder which is binding on August 31, 1982, and at all times thereafter,

then such distributions of timberland having an aggregate fair market value on August 31, 1982, not in excess of $10,000,000 shall be treated as distributions to which section 311(d)(2)(A) of such Code (as in effect before the date of the enactment of this Act) applies.

Subpart B—Certain Stock Purchases Treated as Asset Purchases

SEC. 224. CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES.

(a) GENERAL RULE.—Subpart B of part II of subchapter C of chapter 1 (relating to effects on corporation) is amended by adding at the end thereof the following new section:

"SEC. 338. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS.

"(a) GENERAL RULE.—For purposes of this subtitle, if a purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

"(1) shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which section 337 applies, and

"(2) shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

"(b) PRICE AT WHICH DEEMED SALE MADE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

"(A) the grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date,

"(B) properly adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

"(2) GROSSED-UP BASIS.—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

"(A) the numerator of which is 100 percent, and

"(B) the denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date.

"(3) ALLOCATION AMONG ASSETS.—The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

"(c) SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 337 WHERE PURCHASING CORPORATION HOLDS LESS THAN 100 PERCENT OF STOCK.—If during the 1-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying section 337 for purposes of subsection (a)(1), the nonrecognition of gain or loss shall be limited to an amount determined by applying such maximum percentage to such gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during such 1-year period.

"(2) CERTAIN REDEMPTIONS WHERE ELECTION MADE.—If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under section 302(b)(3) (determined without regard to the application of section 302(c)(2)((A)(ii)), section 336 shall apply to such distribution as if it were a distribution in complete liquidation.

"(d) PURCHASING CORPORATION; TARGET CORPORATION; QUALIFIED STOCK PURCHASE.—For purposes of this section—

"(1) PURCHASING CORPORATION.—The term 'purchasing corporation' means any corporation which makes a qualified stock purchase of stock of another corporation.

"(2) TARGET CORPORATION.—The term 'target corporation' means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock of 1 corporation possessing—

"(A) at least 80 percent of total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends),

is acquired by another corporation by purchase during the 12-month acquisition period.

"(e) DEEMED ELECTION WHERE PURCHASING CORPORATION ACQUIRES ASSET OF TARGET CORPORATION.—

"(1) IN GENERAL.—A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

"(A) such acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

"(B) the basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of such property in the hands of the person from whom acquired,

"(C) such acquisition was before September 1, 1982,

"(D) to the extent provided in regulations, the property acquired is located outside the United States, or

"(E) such acquisition is described in regulations prescribed by the Secretary.

"(3) ANTI-AVOIDANCE RULE.—Whenever necessary to carry out the purpose of this subsection and subsection (f), the Secretary may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3) as qualified stock purchases.

"(f) CONSISTENCY REQUIRED FOR ALL STOCK ACQUISITIONS FROM SAME AFFILIATED GROUP.—If a purchasing corporation makes qualified stock purchases with respect to the target corporation and 1 or more target affiliates during any consistency period, then (except as otherwise provided in subsection (e))—

"(1) any election under this section with respect to the first such purchase shall apply to each other such purchase, and

"(2) no election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

"(g) ELECTION.—

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

"(2) MANNER.—An election by the purchasing corporation under this section shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) ELECTION IRREVOCABLE.—An election by a purchasing corporation under this section, once made, shall be irrevocable.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) 12-MONTH ACQUISITION PERIOD.—The term '12-month acquisition period' means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

"(2) ACQUISITION DATE.—The term 'acquisition date' means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of such corporation.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition of stock, but only if—

"(i) the basis of the stock in the hands of the purchasing corporation is not determined (I) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or (II) under section 1014(a) (relating to property acquired from a decedent),

"(ii) the stock is not acquired in an exchange to which section 351 applies, and

"(iii) the stock is not acquired from a person the ownership of whose stock would, under section 318(a) (other than paragaraph (4) thereof), be attributed to the person acquiring such stock.

"(B) DEEMED PURCHASE OF STOCK OF SUBSIDIARIES.—If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of such acquisition, the corporation making such purchase is treated (by reason of section 318(a)) as owning stock in a 3rd corporation, the corporation making such purchase shall be treated as having purchased such stock in such 3rd corporation. The corporation making such purchase shall be treated as purchasing stock in the 3rd corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under section 318(a) as owning such stock.

"(4) CONSISTENCY PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'consistency period' means the period consisting of—

"(i) the 1-year period before the beginning of the 12-month acquisition period for the target corporation,

"(ii) such acquisition period (up to and including the acquisition date), and

"(iii) the 1-year period beginning on the day after the acquisition date.

"(B) EXTENSION WHERE THERE IS PLAN.—The period referred to in subparagraph (A) shall also include any period during which the Secretary determines that there was in effect a plan to make a qualified stock purchase plus 1 or more other qualified stock purchases (or asset acquisitions described in subsection (e)) with respect to the target corporation or any target affiliate.

"(5) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by section 1504(a) (determined without regard to the exceptions contained in section 1504(b)).

"(6) TARGET AFFILIATE.—

"(A) IN GENERAL.—A corporation shall be treated as a target affiliate of the target corporation if each of such corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

"(B) CERTAIN FOREIGN CORPORATIONS, ETC.—Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

"(i) the term 'target affiliate' does not include a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which an election under section 936 applies, and

"(ii) stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or described in section 1248(e) shall be excluded from the operation of this section.

"(7) ACQUISITIONS BY PURCHASING CORPORATION INCLUDE ACQUISITIONS BY CORPORATIONS AFFILIATED WITH PURCHASING CORPORATION.—Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations)."

(b) REPEAL OF SECTION 334(b)(2).—Subsection (b) of section 334 (relating to limitation of subsidiary) is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) DISTRIBUTION IN COMPLETE LIQUIDATION.—If property is received by a corporation in a distribution in a complete liquidation to which section 332(a) applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

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"(2) Transfers to which section 332(c) applies.—If property is received by a corporation in a transfer to which section 332(c) applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

"(3) Distributee defined.—For purposes of this subsection, the term 'distributee' means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b)."

(c) Technical Amendments.—

(1) Subparagraph (E) of section 168(e)(4) (relating to liquidation of subsidiary, etc.) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a deemed liquidation under section 338."

(2) Clause (i) of section 168(f)(10)(B) is amended by striking out "(other than a transaction with respect to which the basis is determined under section 334(b)(2))".

(3) Paragraph (4) of section 318(b) is amended to read as follows:

"(4) section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.);".

(4) Paragraph (2) of section 336(b) is amended by striking out "334(b)(1)" each place it appears and inserting in lieu thereof "334(b)".

(5) Paragraph (2) of section 337(c) (relating to liquidations to which section 332 applies) is amended to read as follows:

"(2) Liquidations to which section 332 applies.—In the case of any sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation, this section shall not apply."

(6) Subsection (d) of section 337 is amended by striking out "subsection (c)(2)(A)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(7) Paragraph (1) of section 381(a) is amended by striking out ", except in a case in which the basis of the assets distributed is determined under section 334(b)(2)".

(8) Subparagraph (B) of section 617(h)(3) is amended by inserting "338," after "334(b),".

(9) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 338 and inserting in lieu thereof the following:

"Sec. 338. Certain stock purchases treated as asset acquisitions."

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to any target corporation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

(2) Certain acquisitions before September 1, 1982.—

(A) an acquisition date under paragraph (1) occurred after August 31, 1980, and before September 1, 1982,

(B) the target corporation (within the meaning of section 338 of such Code) is not liquidated before september 1, 1982, and

(C) the purchasing corporation (within the meaning of section 338 of such Code) makes, not later than November 15, 1982, and election under section 338 of such Code, then the amendments made by this section shall apply to the acquisition of such target corporation.

(3) Certain acquisitions of financial institutions.—In any case in which—

(A) there is, on July 22, 1982, a binding contract to acquire control (within the meaning of section 368(c) of such Code) of any financial institution,

(B) the approval of one or more regulatory authorities is required in order to complete such acquisition, and

(C) within 90 days after the date of the final approval of the last such regulatory authority granting final approval, a plan of complete liquidation of such financial institution is adopted,

then the purchasing corporation may elect not to have the amendments made by this section apply to the acquisition pursuant to such contract.

Subpart C—Miscellaneous Provisions

SEC. 225. CLARIFICATION OF SECTION 368(a)(1)(F).

(a) General Rule.—Subparagraph (F) of section 368(a)(1) (defining reorganization) is amended by inserting "of one corporation" after "place of organization".

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions occurring after August 31, 1982.

(2) Plans adopted on or before August 31, 1982.—The amendment made by subsection (a) shall not apply with respect to plans of reorganization adopted on or before August 31, 1982, but only if the transaction occurs before January 1, 1983.

SEC. 226. AMENDMENTS RELATING TO BAILOUTS THROUGH USE OF HOLDING COMPANIES.

(a) Amendments to Section 304.—

(1) Coordination of sections 304 and 351.—

(A) Subsection (b) of section 304 (relating to special rules for application of subsection (a)) is amended by adding at the end thereof the following new paragaph:

"(3) Coordination with section 351.—

"(A) Property treated as received in redemption.—Except as otherwise provided in this paragraph, subsection (a) (and not part III) shall apply to any property received in a distribution described in subsection (a).

"(B) Certain assumptions of liability, etc.—

"(i) In general.—Subsection (a) shall not apply to any liability—

"(I) assumed by the acquiring corporation, or

"(II) to which the stock is subject,

if such liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term 'stock' means stock referred to in paragraph (1)(B) or (2)(A) of subsection (a).

"(ii) Extension of obligations, etc.—For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting such requirements.

"(C) Distributions incident to formation of bank holding companies.—If—

"(i) pursuant to a plan, control of a bank is acquired and within 2 years after the date on which such control is acquired, stock constituting control of such bank is transferred to a BHC in connection with its formation,

"(ii) incident to the formation of the BHC there is a distribution of property described in subsection (a), and

"(iii) the shareholders of the BHC who receive distributions of such property do not have control of such BHC,

then, subsection (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of such BHC.

"(D) Definitions and special rule.—For purposes of subparagraph (C) and this subparagraph—

"(i) Qualified minority shareholder.—The term 'qualified minority shareholder' means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subsection (c) shall apply.

"(ii) BHC.—The term 'BHC' means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

"(iii) Special rule in case of BHC's formed before 1985.—In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply."

(B) Subsection (f) of section 351 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(5) For coordination of this section with section 304, see section 304(b)(3)."

(2) Application of section 304 where stock is acquired in the transaction.—

(A) Subsection (c) of section 304 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Stock acquired in the transaction.—For purposes of subsection (a)(1)—

"*(A)* General rule.—Where 1 or more persons in control of the issuing corporation transfer stock of such corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether such person or persons are in control of the acquiring corporation.

"*(B)* Definition of control group.—Where 2 or more persons in control of the issuing corporation transfer stock of such corporation to the acquiring corporation and, after the transfer, the transferors are in control of the acquiring corporation, the person or persons in control of each corporation shall include each of the persons who so transfer stock."

(B) Paragraph (3) of section 304(c) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "this section".

(3) Determination of earnings and profits.—*Subparagraph (A) of section 304(b)(2) (relating to amount constituting dividend) is amended to read as follows:*

"(A) Where subsection *(a)(1) applies.—In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subsection (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation."*

(b) Application of Section 306 to Certain Stock Acquired in Section 351 Exchanges.—*Subsection (c) of section 306 (defining section 306 stock) is amended by adding at the end thereof the following new paragraph:*

"*(3)* Certain stock acquired in section 351 exchange.—*The term 'section 306 stock' also includes any stock which is not common stock acquired in an exchange to which section 351 applied if receipt of money (in lieu of the stock) would have been treated as a dividend to any extent. In the case of such stock, rules similar to the rules of section 304(b)(2) shall apply for purposes of this section."*

(c) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers occur-

ring after August 31, 1982, in taxable years ending after such date.

(2) APPROVAL BY FEDERAL RESERVE BOARD.—The amendments made by this section shall not apply to transfers pursuant to an application to form a BHC filed with the Federal Reserve Board before August 16, 1982, if the BHC was formed not later than the later of—

(A) the 90th day after the date of the last required approval of any regulatory authority to form such BHC, or

(B) January 1, 1983.

For purposes of this paragraph, the term "BHC" means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

SEC. 227. APPLICATION OF ATTRIBUTION RULES FOR PURPOSES OF SECTIONS 306 AND 356(a)(2).

(a) APPLICATION FOR PURPOSES OF SECTION 306.—Subsection (c) of section 306 is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF ATTRIBUTION RULES FOR CERTAIN PURPOSES.—For purposes of paragraphs (1)(B)(ii) and (3), section 318(a) shall apply. For purposes of applying the preceding sentence to paragraph (3), sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein."

(b) APPLICATION FOR PURPOSES OF SECTION 356(a)(2).—Paragraph (2) of section 356(a) (relating to treatment as dividend) is amended by inserting "(determined with the application of section 318(a))" after "distribution of a dividend".

(c) EFFECTIVE DATES.—

(1) SECTION 306.—The amendment made by subsection (a) shall apply to stock received after August 31, 1982, in taxable years ending after such date.

(2) SECTION 356.—The amendment made by subsection (b) shall apply to distributions after August 31, 1982, in taxable years ending after such date.

SEC.228 WAIVER OF FAMILY ATTRIBUTION BY ENTITIES.

(a) GENERAL RULE.—Paragraph (2) of section 302(c) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR WAIVERS BY ENTITIES.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to a distribution to any entity unless—

"(I) such entity and each related person meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

"(II) each related person agrees to be jointly and severally liable for any deficiency (including interest and additions to tax) resulting from an acquisition described in clause (ii) of subparagraph (A).

In any case to which the preceding sentence applies, the second sentence of subparagraph (A) and subparagraph (B)(ii) shall be applied by substituting 'distributee or any related person' for 'distributee' each place it appears.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) the term 'entity' means a partnership, estate, trust, or corporation; and

"(II) the term 'related person' means any person to whom ownership of stock in the corporation is (at the time of the distribution) attributable under section 318(a)(1) if such stock is further attributable to the entity under section 318(a)(3)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to distributions after August 31, 1982, in taxable years ending after such date.

PART VI—METHODS OF ACCOUNTING

SEC. 229. MODIFICATION OF REGULATIONS ON THE COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the income tax regulations relating to accounting for long-term contracts to—

(1) clarify the time at which a contract is to be considered completed,

(2) clarify when—

(A) one agreement will be treated as more than one contract, and

(B) two or more agreements will be treated as one contract, and

(3) properly allocate all costs which directly benefit, or are incurred by reason of, the extended period long-term contract activities of the taxpayer.

(b) EXTENDED PERIOD LONG-TERM CONTRACTS DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "extended period long-term contract" means any long-term contract which the taxpayer estimates (at the time such contract is entered into) will not be completed within the 2-year period beginning on the contract commencement date of such contract.

(2) CERTAIN CONSTRUCTION CONTRACTS.—

(A) IN GENERAL.—The term "extended period long-term contract" does not include any construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(ii) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $25 million.

(B) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

(i) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

(ii) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in subparagraph (A) is entered into shall be included in the gross receipts of the taxpayer for the period described in subparagraph (A). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(C) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(3) CONSTRUCTION CONTRACT.—The term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, improvements to real property.

(4) CONTRACT COMMENCEMENT DATE.—The term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

(b) EFFECTIVE DATES; SPECIAL RULES.—

(1) IN GENERAL.—The modifications to regulations which are required to be made under paragraphs (1) and (2) of subsection (a) shall apply with respect to taxable years ending after December 31, 1982.

(2) COST ALLOCATION.—

(A) IN GENERAL.—Any modification to Income Tax Regulation 1.451-3 made under subsection (a)(3) which requires additional costs to be allocated to a contract shall apply only to the applicable percentage of such additional costs incurred in taxable years beginning after December 31, 1982, with respect to contracts entered into after such date.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in calendar year:	The applicable percentage is:
1983	33⅓
1984	66⅔
1985 or thereafter	100.".

"(3) SPECIAL RULES.—

"(A) TIME OF COMPLETION.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, solely by reason of any modification to regulations made under subsection (a)(1), shall be treated as having been completed on the first day of such taxable year.

"(B) AGGREGATION AND SEVERANCE.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982—

"(i) solely by reason of any modification to regulations made under subsection (a)(2), or

"(ii) solely by reason of any modifications to regulations made under both paragraphs (1) and (2) of subsection (a), shall be treated as having been completed in the first day after December 31, 1982, on which any contract which was severed from such contract (by reason of the modifications made by subsection (a)(2)) is completed (determined after the application of any modifications to regulations made under subsection (a)(1)).

SEC. 230. ANNUAL ACCRUAL METHOD OF ACCOUNTING EXTENDED CERTAIN PARTNERSHIPS.

(a) IN GENERAL.—Section 447(g) (relating to certain annual accrual accounting methods) is amended—

(1) by inserting "or qualified partnership" after "corporation" each place it appears in paragraph (1),

(2) by amendment paragraph (3) to read as follows:

"(3) CERTAIN NONRECOGNITION TRANSFERS.—For purposes of this subsection, if—

"(A) a corporation acquired substantially all the assets of a qualified farming trade or business from another corporation in a transaction in which no gain or loss was

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recognized to the transferor or transferee corporation, or

"(B) a qualified partnership acquired substantially all the assets of a qualified farming trade or business from one of its partners in a transaction to which section 721 applies,

the transferee corporation or qualified partnership shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation or partnership computed its taxable income from such trade or business on an annual accrual method.", and

(3) by adding at the end thereof the following new paragraph:

"(4) Qualified partnership defined.—For purposes of this subsection—

"(A) Qualified partnership.—The term 'qualified partnership' means a partnership which is engaged in a qualified farming trade or business and each of the partners of which is a corporation other than—

"(i) an electing small business corporation (within the meaning of section 1371(b)), or

"(ii) a personal holding company (within the meaning of section 542(a)).

"(B) Qualified farming trade or business.—The term 'qualified farming trade or business' means the trade or business of farming sugar cane.".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

PART VII—ORIGINAL ISSUE DISCOUNT

SEC. 231. ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE.

(a) In General.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232 the following new section:

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT.

"(a) Original Issue Discount on Bonds Issued After July 1, 1982, Included in Income on Basis of Constant Interest Rate.—

"(1) General rule.—For purposes of this subtitle, there shall be included in the gross income of the holder of any bond having an original issue discount issued after July 1, 1982 (and which is a capital asset in the hands of the holder) an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such bond.

"(2) Exceptions.—Paragraph (1) shall not apply to—

"(A) Natural persons.—Any obligation issued by a natural person.

"(B) Tax-exempt obligations.—Any obligation if—

"(i) the interest on such obligation is not includible in gross income under section 103, or

"(ii) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(C) Short-term government obligations.—Any short-term Government obligation (within the meaning of section 1232(a)(3)).

"(D) United states savings bonds.—Any United States savings bond.

"(3) Determination of daily portions.—For purposes of paragraph (1), the daily portion of the original issue discount on any bond shall be determined by allocating to each day in any bond period its ratable portion of the increase during such bond period in the adjusted issue price of the bond. For purposes of the preceding sentence, the increase in the adjusted issue price for any bond period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the bond at the beginning of such bond period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each bond period), over

"(B) the sum of the amounts payable as interest on such bond during such bond period.

"(4) Adjusted issue price.—For purposes of this subsection, the adjusted issue price of any bond at the beginning of any bond period is the sum of—

"(A) the issue price of such bond, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such bond period.

"(5) Bond period.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'bond period' means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the bond.

"(6) Reduction in case of certain subsequent holders.—For purposes of this subsection, in the case of any purchase of a bond to which this subsection applies after its original issue, the daily portion shall not include an amount (determined at the time of purchase) equal to the excess (if any) of—

"(A) the cost of such bond incurred by the purchaser, over

"(B) the issue price of such bond, increased by the sum of the daily portions for such bond for all days before the date of purchase (computed without regard to this paragraph),

divided by the number of days beginning on the date of such purchase and ending on the day before the stated maturity date.

"(7) Regulation authority.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the inclusion under paragraph (1) for the taxable year does not accurately reflect the income of the holder, the proper amount of income shall be included for such taxable year (and appropriate adjustments shall be made in the amounts included for subsequent taxable years).

"(b) Ratable Inclusion Retained for Corporate Bonds Issued Before July 2, 1982.—

"(1) General rule.—There shall be included in the gross income of the holder of any bond issued by corporation after May 27, 1969, and before July 2, 1982 (and which is a capital asset in the hands of the holder)—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such bond during the taxable year.

"(2) Determination of ratable monthly portion.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the bond.

"(3) Month defined.—For purposes of this subsection, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day). In any case where a bond is acquired on any day other than a day determined under the preceding sentence, the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the bond.

"(4) Reduction in case of certain subsequent holders.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of the bond, equal to the excess of—

"(A) the cost of such bond incurred by the holder, over

"(B) the issue price of such bond, increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such bond.

"(c) Definitions and Special Rules.—

"(1) Bond includes other evidences of indebtedness.—For purposes of this section, the term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) Purchase defined.—For purposes of this section, the term 'purchase' means any acquisition of a bond, but only if the basis of the bond is not determined in whole or in part by reference to the adjusted basis of such bond in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

"(3) Original issue discount, etc.—For purposes of this section, the terms 'original issue discount', 'issue price', and 'date of original issue' shall have the respective meanings given to such terms by section 1232(b).

"(4) Exceptions.—This section shall not apply to any holder—

"(A) who has purchased the bond at a premium, or

"(B) which is a life insurance company to which section 818(b) applies.

"(5) Basis adjustments.—The basis of any bond in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section."

(b) Deduction Determined on Basis of Constant Interest Rate.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Original Issue Discount.—

"(1) In general.—In the case of any bond issued after July 1, 1982, by an issuer (other than a natural person), the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) Definitions and special rules.—For purposes of this section—

"(A) Bond.—The term 'bond' has the meaning given to such term by section 1232A(c)(1).

"(B) Daily portions.—The daily portion of the original issue discount for any day shall be determined under section 1232A(a) (without regard to paragraphs (2)(B) and (6) thereof and without regard to the second sentence of section 1232(b)(1))."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 1232(a)(2) is amended—

(A) by striking out "by a corporation after May 27, 1969" and inserting in lieu thereof "by a corporation after May 27, 1969, or by a government or political subdivision thereof after July 1, 1982",

(B) by striking out "as provided in paragraph (3)(B)" and inserting in lieu thereof "without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)", and

(C) by striking out the subparagraph heading and inserting in lieu thereof the following:

"(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969, AND GOVERNMENT BONDS ISSUED AFTER JULY 1, 1982.—".

(2) Subparagraph (B) of section 1232(a)(2) is amended—

(A) by striking out "by a government or political subdivision thereof after December 31, 1954" and inserting in lieu thereof "by a government or political subdivision thereof after December 31, 1954, and on or before July 1, 1982,", and

(B) by striking out "GOVERNMENT BONDS" in the subparagraph heading and inserting in lieu thereof "GOVERNMENT BONDS ISSUED ON OR BEFORE JULY 1, 1982".

(3) Subparagraph (D) of section 1232(a)(2) is amended by striking out "This section" and inserting in lieu thereof "This section and sections 1232A and 1232B".

(4) Subsection (a) of section 1232 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232 the following:

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT."

(e) TRANSITIONAL RULE.—For purposes of the amendments made by this section, any evidence of indebtedness issued pursuant to a written commitment which was binding on July 1, 1982, and at all times thereafter shall be treated as issued on July 1, 1982.

SEC. 232. TAX TREATMENT OF STRIPPED BONDS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232A the following new section:

"SEC. 1232B. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1232A(a) as a bond originally issued by a corporation on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of a coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1232(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1232(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any obligation the interest on which is not includible in gross income under section 103 or is exempt from tax (without regard to the identity of the holder) under any other provision of law—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by the third sentence of section 1232(b)(1).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, extendable maturities, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period."

(b) CONFORMING AMENDMENT.—Section 1232 is amended by striking out subsections (c) and (d).

(c) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232A the following:

"Sec. 1232B. Tax treatment of stripped bonds."

PART VIII—OTHER BUSINESS PROVISIONS

SEC. 233. TARGETED JOBS TAX CREDIT.

(a) TWO YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination of credit for employment of certain new employees) is amended by striking out "1982" and inserting in lieu thereof "1984".

(b) QUALIFIED SUMMER YOUTH EMPLOYEE.—Subsection (d) of section 51 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", or",

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) a qualified summer youth employee.",

(4) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (13), (14), (15), and (16), respectively, and

(5) by inserting after paragraph (11) the following new paragraph:

"(12) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means an individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (as defined in paragraph (14)),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(iii), and

"(iv) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

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"(i) subsection (a)(1) shall be applied by substituting '85 percent' for '50 percent',

"(ii) subsections (a)(2) and (b)(3) shall not apply,

"(iii) subsection(b)(2) shall be applied by substituting 'any 90-day period between May 1 and september 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(iv) subsection (b)(4) shall be applied by substituting '$3,000' for '$6,000'.

"(C) SPECIAL RULE FOR CONTINUED EMPLOYMENT FOR SAME EMPLOYER.—In the case of an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee, paragraph (14) shall be applied by substituting 'certified' for 'hired by the employer'."

(c) TERMINATION REPEAL OF INVOLUNTARILY TERMINATED CETA EMPLOYEE AS MEMBER OF TARGETED GROUP.—Paragraph (10) of section 51(d) (relating to involuntarily terminated CETA employee) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any individual who begins work for the employer after December 31, 1982."

(d) VOUCHER OR SCRIP PAYMENTS TO GENERAL RECIPIENTS IN QUALIFIED GENERAL ASSISTANCE PROGRAMS.—Subclause (II) of section 51(d)(6)(B)(i) (defining qualified general assistance programs) is amended by inserting before the comma the following: "or voucher or scrip".

(e) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS; REPORTS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended—

(1) by inserting after "for fiscal year 1982 the sum of $30,000,000" the following: ", and for fiscal years 1983 and 1984 such sums as may be necessary,"; and

(2) by inserting at the end thereof the following new sentence:

"The Secretary of Labor shall each calendar year beginning with calendar year 1983 report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to the results of the testing conducted under subparagraph (A) during the preceding calendar year."

(f) CERTIFICATIONS.—Effective only with respect to individuals who begin work for the taxpayer after May 11, 1982, subparagraph (A) of section 51(d)(15) (relating to special rules for certifications), as in effect before the amendments made by this Act, is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

(g) EFFECTIVE DATES.—

(1) SUBSECTION (b).—The amendments made by subsection (b) shall apply to amounts paid or incurred after April 30, 1983, to individuals beginning work for the employer after such date.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date.

SEC. 234. ACCELERATED PAYMENT OF INCOME TAX BY CORPORATIONS.

(a) INCREASE IN AMOUNT OF ESTIMATED TAX REQUIRED TO BE PAID.—

(1) IN GENERAL.—Paragraph (1) of section 6655(b) (relating to amount of underpayment) is amended by striking out "80" each place it appears and inserting in lieu thereof "90."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 6655(d) (relating to exception to imposition of additional tax) is amended by striking out "80" and inserting in lieu thereof "90".

(b) ELIMINATION OF ELECTION WITH RESPECT TO PAYMENT OF UNPAID TAXES.—

(1) IN GENERAL.—Section 6152 (relating to installment payments of tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) PRIVILEGE TO ELECT TO MAKE FOUR INSTALLMENT PAYMENTS BY DECEDENT'S ESTATE.—A decedent's estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

"(b) DATES PRESCRIBED FOR PAYMENT OF FOUR INSTALLMENTS.—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 832(e) is amended by striking out ", as if no election to make installment payments under section 6152 is made".

(B) Subsection (b) of section 6081 is amended by striking our "or the first installment thereof required under section 6152".

(C) Section 6164 is amended—

(i) by striking out the last sentence of subsection (c) and inserting in lieu thereof the following new sentence: "If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax."; and

(ii) by striking out paragraph (2) of subsection (g) and inserting in lieu thereof the following new paragraph:

"(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.".

(c) AMOUNT OF ADDITION TO TAX.—Subsection (a) of section 6655 (relating to addition to tax) is amended to read as follows:

"(a) ADDITION TO TAX.—Except as provided in subsections (d) and (e), in the case of any underpayment of tax by a corporation—

"(1) IN GENERAL.—There shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate established under section 6621 on the amount of the underpayment for the period of the underpayment.

"(2) SPECIAL RULE WHERE CORPORATION PAID 80 PERCENT OR MORE OF TAX.—In any case in which there would be no underpayment if subsection (b) were applied by substituting '80 percent' for '90 percent' each place it appears, the addition to tax under paragraph (1) shall be equal to 75 percent of the amount otherwise determined under paragraph (1)."

(d) ADDITIONAL EXCEPTION FROM PENALTY FOR UNDERPAYMENTS OF ESTIMATED INCOME TAX WHERE A CORPORATION HAS A RECURRING PATTERN OF SEASONAL INCOME.—

(1) IN GENERAL.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively, and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL EXCEPTION FOR RECURRING SEASONAL INCOME.—

"(1) IN GENERAL.—Notwithstanding the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds 90 percent of the amount determined under paragraph (2).

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any installment shall be determined in the following manner—

"(A) take the taxable income for all months during the taxable year preceding the filing month,

"(B) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(C) determine the tax on the amount determined under subparagraph (B), and

"(D) multiply the tax computed under subparagraph (C) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(3) DEFINITIONS AND SPECIAL RULES. —For purposes of this subsection—

"(A) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(B) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

"(C) LIMITATION ON APPLICATION OF SUBSECTION.—This subsection shall only apply if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(D) REORGANIZATIONS, ETC.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances."

(2) TECHNICAL AMENDMENT.—Subsection (f) of section 6655 (as redesignated by paragraph (1)) is amended by striking out "(d), and (h)" and inserting in lieu thereof "(d), (e), and (i)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SUBTITLE C—PENSIONS

PART I—CONTRIBUTION AND LOAN LIMITS

SEC. 235. LOWER CONTRIBUTION AND BENEFIT LIMITS FOR CERTAIN ANNUITIES, ETC.

(a) LIMIT ON ANNUAL DEFINED BENEFIT LOWERED FROM $136,425 TO $90,000; LIMIT ON ANNUAL DEFINED CONTRIBUTION LOWERED FROM $45,475 TO $30,000.—

(1) DEFINED BENEFIT PLANS.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plan) is amended by striking out "$75,000" and inserting in lieu thereof "$90,000".

(2) DEFINED CONTRIBUTION PLANS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plan) is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 415(b)(2) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$90,000".

(B) The last sentence of paragraph (7) of section 415(b) is amended by striking out "by substituting '37,500' for '75,000'" and inserting in lieu thereof "by substituting the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' ".

(b) Cost-of-Living Adjustments.—

(1) ADJUSTMENT TO REFLECT ADJUSTMENTS MADE IN SOCIAL SECURITY BENEFIT PAYMENTS RATHER THAN PRIMARY INSURANCE AMOUNTS.—Paragraph (1) of section 415(d) (relating to cost-of-living adjustments) is amended by striking out "primary insurance amounts" and inserting in lieu thereof "benefit amounts".

(2) FREEZE ON COST-OF-LIVING ADJUSTMENTS BEFORE JANUARY 1, 1986.—

(A) In general.—Subsection (d) of section 415 is amended by adding at the end thereof the following new paragraph:

"(3) Freeze on adjustment to defined contribution and benefit limits.—The Secretary shall not make any adjustment under subparagraph (A) or (B) of paragraph (1) with respect to any year beginning after December 31, 1982, and before January 1, 1986."

(B) Change in base period to reflect change in limits and freeze.—Paragraph (2) of section 415(d) (relating to base periods) is amended by striking out "1974" and inserting in lieu thereof "1984".

(3) Conforming amendments to decrease in limits.—Paragraph (1) of section 415(d) is amended—

(A) by striking out "$75,000" in subparagraph (A) and inserting in lieu thereof "$90,000", and

(B) by striking out "$25,000" in subparagraph (B) and inserting in lieu thereof "$30,000".

(c) Lower Limits Where Individual Is Covered by Both Defined Benefit Plan and Defined Contribution Plan.—

(1) SUM OF DEFINED BENEFIT PLAN FRACTION AND DEFINED CONTRIBUTION PLAN FRACTION CANNOT EXCEED 1.25 FOR DOLLAR LIMITS AND 1.4 FOR PERCENTAGE LIMITS.—Paragraph (1) of section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "1.4" and inserting in lieu thereof "1.0".

(2) Defined benefit and contribution plan fractions.—

(A) Defined benefit plan fraction.—Subparagraph (B) of section 415(e)(2) (defining defined benefit plan fraction) is amended to read as follows:

"(B) the denominator of which is the lesser of—

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (b)(1)(A) for such year, or

"(ii) the product of—

"(I) 1.4, multiplied by

"(II) the amount which may be taken into account under subsection (b)(1)(B) with respect to such individual under the plan for such year."

(B) Defined contribution plan fraction.—Subparagraph (B) of section 415(e)(3) (defining defined contribution plan fraction) is amended to read as follows:

"(B) the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior year of service with the employer:

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (c)(1)(A) for such year (determined without regard to subsection (c)(6)), or

"(ii) the product of—

"(I) 1.4, multiplied by—

"(II) the amount which may be taken into account under subsection (c)(1)(B) (or subsection (c) (7) or (8), if applicable) with respect to such individual under such plan for such year."

(d) Transition Rules for Defined Contribution Fraction.—Section 415(e) is amended by adding at the end thereof the following new paragraph:

"(6) Special transition rule for defined contribution fraction for years ending after December 31, 1982.—

"(A) In general.—At the election of the plan administrator, in applying paragraph (3) with respect to any year ending after December 31, 1982, the amount taken into account under paragraph (3)(B) with respect to each participant for all years ending before January 1, 1983, shall be an amount equal to the product of—

"(i) the amount determined under paragraph (3)(B) (as in effect for the year ending in 1982) for the year ending in 1982, multiplied by

"(ii) the transition fraction.

"(B) Transition fraction.—The term 'transition fraction' means a fraction—

"(i) the numerator of which is the lesser of—

"(I) $51,875, or

"(II) 1.4, multiplied by 25 percent of the compensation of the participant for the year ending in 1981, and

"(ii) the denominator of which is the lesser of—

"(I) $41,500, or

"(II) 25 percent of the compensation of the participant for the year ending in 1981."

(e) Actuarial Adjustments.—

(1) ACTUARIAL ADJUSTMENTS FOR EARLY RETIREMENT MADE BY REFERENCE TO AGE 62 (INSTEAD OF 55).—Subparagraph (C) of section 415(b)(2) (relating to adjustments where benefit begins before age 55) is amended by striking out "55" each place it appears and inserting in lieu thereof "62".

(2) $75,000 FLOOR ON ACTUARIAL ADJUSTMENT WHERE BENEFIT BEGINS BEFORE 62.—Subparagraph (C) of section 415(b)(2) is amended by adding at the end thereof the following new sentence: "The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below—

"(i) if the benefit begins at or after age 55, $75,000, or

"(ii) if the benefit begins before age 55, the amount which is the equivalent of the $75,000 limitation for age 55."

(3) ACTUARIAL ADJUSTMENTS WHERE BENEFIT BEGINS AFTER AGE 65.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(D) Adjustment to $90,000 limitation where benefit begins after age 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 65."

(4) LIMITATIONS ON ACTUARIAL ADJUSTMENTS UNDER SECTION 415(b)(2).—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(E) Limitation on certain assumptions.—

"(i) For purposes of adjusting any benefit under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

"(ii) For purposes of adjusting any benefit under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan.

"(iii) For purposes of adjusting any benefit under subparagraph (B), (C), or (D), no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect."

(f) Limitations on Deductibility of Contributions.—Section 404 (relating to contributions of an employer to an employee's trust, etc.) is amended by adding at the end thereof the following new subsection:

"(j) Special Rules Relating to Application With Section 415.—

"(1) No deduction in excess of section 415 limitation.—In computing the amount of any deduction allowable under paragraph (1), (2), (3), (4), (7), or (10) of subsection (a) for any year—

"(A) in the case of a defined benefit plan, there shall not be taken into account any benefits for any year in excess of any limitation on such benefits under section 415 for such year, or

"(B) in the case of a defined contribution plan, the amount of any contributions otherwise taken into account shall be reduced by any annual additions in excess of the limitation under section 415 for such year.

"(2) No advance funding of cost-of-living adjustments.—For purposes of clause (i), (ii) or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, there shall not be taken into account any adjustments under section 415(d)(1) for any year before the year for which such adjustment first takes effect."

(g) Effective Dates.—

(1) In general.—

(A) New plans.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section shall apply to years ending after July 1, 1982.

(B) Existing plans.—

(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section shall apply to years beginning after December 31, 1982.

(ii) Plan requirements.—A plan shall not be treated as failing to meet the requirements of section 401(a)(16) of the Internal Revenue Code of 1954 for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

(2) Amendments related to cost-of-living adjustments.—

(A) In general.—Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to adjustments for years beginning after December 31, 1982.

(B) Adjustment procedures.—The amendment made by subsection (b)(1) and (b)(2)(B) shall apply to adjustments for years beginning after December 31, 1985.

(3) Transition rule where the sum of defined contribution and defined benefit plan fractions exceeds 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1954 for the last year beginning before January 1, 1983, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of the Internal Revenue Code of 1954 (as amended by the Tax Equity and Fiscal Responsibility

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Act of 1982) does not exceed 1.0 for such year.

(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.— For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act).

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after July 1, 1982, and

(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account.

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section and section 253 (relating to age 70½) shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1986.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section and section 253 shall not be treated as a termination of such collective bargaining agreement.

SEC. 236. LOANS TREATED AS DISTRIBUTIONS.

(a) GENERAL RULE.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) LOANS TREATED AS DISTRIBUTIONS.—For purposes of this section—

"(1) TREATMENT AS DISTRIBUTIONS.—

"(A) LOANS.—If during any taxable year a participant or beneficiary receives (directly or indirectly) any amount as a loan from a qualified employer plan, such amount shall be treated as having been received by such individual as a distribution under such plan.

"(B) ASSIGNMENTS OR PLEDGES.—If during any taxable year a participant or beneficiary assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified employer plan, such portion shall be treated as having been received by such individual as a loan from such plan.

"(2) EXCEPTION FOR CERTAIN LOANS.—

"(A) GENERAL RULE.—Paragraph (1) shall not apply to any loan to the extent that such loan (when added to the outstanding balance of all other loans from such plan whether made on, before, or after August 13, 1982), does not exceed the lesser of—

"(i) $50,000, or

"(ii) ½ of the present value of the nonforfeitable accrued benefit of the employee under the plan (but not less than $10,000).

"(B) REQUIREMENT THAT LOAN BE REPAYABLE WITHIN 5 YEARS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any loan unless such loan, by its terms, is required to be repaid within 5 years.

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire, construct, reconstruct, or substantially rehabilitate any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the participant or a member of the family (within the meaning of section 267(c)(4)) of the participant.

"(C) RELATED EMPLOYERS AND RELATED PLANS.—For purposes of this paragraph—

"(i) the rules of subsections (b), (c), and (m) of section 414 shall apply, and

"(ii) all plans of an employer (determined after the application of such subsections) shall be treated as one plan.

"(3) QUALIFIED EMPLOYER PLAN, ETC.—For purposes of this subsection, the term 'qualified employer plan' means any plan which was (or was determined to be) a qualified employer plan (as defined in section 219(e)(3) without regard to subparagraph (D) thereof). For purposes of this subsection, such term includes any government plan (as defined in section 219(e)(4)).

"(4) SPECIAL RULES FOR LOANS, ETC., FROM CERTAIN CONTRACTS.—For purposes of this subsection, any amount received as a loan under a contract purchased under a qualified employer plan (and any assignment or pledge with respect to such a contract) shall be treated as a loan under such employer plan."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (m) of section 72 is amended by striking out paragraphs (4) and (8).

(2) Subparagraph (A) of section 72(o)(3) is amended by striking out "subsection (m)(4) and (8)" and inserting in lieu thereof "subsection (p)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans, assignments, and pledges made after August 13, 1982. For purposes of the preceding sentence, the outstanding balance of any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as an amount received as a loan on the date of such renegotiation, extension, renewal, or revision.

(2) EXCEPTION FOR CERTAIN LOANS USED TO REPAY OUTSTANDING OBLIGATIONS.—

(A) IN GENERAL.—Any qualified refunding loan shall not be treated as a distribution by reason of the amendments made by this section to the extent such loan is repaid before August 14, 1983.

(B) QUALIFIED REFUNDING LOAN.—For purposes of subparagraph (A), the term "qualified refunding loan" means any loan made after August 13, 1982, and before August 14, 1983, to the extent such loan is used to make a required principal payment.

(C) REQUIRED PRINCIPAL PAYMENT.—For purposes of subparagraph (B), the term "required principal payment" means any principal repayment on a loan made under the plan which was outstanding on August 13, 1982, if such repayment is required to be made after August 13, 1982, and before August 14, 1983.

PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES

SEC. 237. REPEAL OF SPECIAL QUALIFICATION REQUIREMENTS.

(a) GENERAL RULE.—Subsection (d) of section 401 (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended—

(1) by striking out paragraphs (1) through (7), and

(2) by redesignating paragraphs (9), (10), and (11) as paragraphs (1), (2), and (3), respectively.

(b) REPEAL OF LIMITATIONS ON AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT AND ON CERTAIN DEFINED BENEFIT PLANS.—Paragraphs (17) and (18) of section 401(a) are hereby repealed.

(c) REPEAL OF EXCISE TAX ON EXCESS CONTRIBUTIONS FOR SELF-EMPLOYED INDIVIDUALS.—

(1) Section 4972 (relating to tax on excess contributions for self-employed individuals) is hereby repealed.

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4972.

(d) PENALTY FOR PREMATURE WITHDRAWALS LIMITED TO KEY EMPLOYEES IN TOP-HEAVY PLANS.—

(1) Subparagraph (A) of section 72(m)(5) is amended—

(A) by striking out "an owner-employee" the first place it appears and inserting in lieu thereof "a key employee",

(B) by striking out "while he was an owner-employee" and inserting in lieu thereof "while he was a key employee in a top-heavy plan", and

(C) by striking out "an owner-employee" in clause (ii) and inserting in lieu thereof "a key employee".

(2) Paragraph (5) of section 72(m) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, the terms 'key employee' and 'top-heavy plan' have the same meaning as when used in section 416."

"(3) Paragraph (6) of section 72(m) is amdend by striking out "except in applying paragraph (5),".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (10) of section 401(a) is amended to read as follows:

"(10) OTHER REQUIREMENTS.—

"(A) PLANS BENEFITING OWNER-EMPLOYEES.—In the case of any plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in subsection (c)(3)), a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of subsection (d) are also met."

(2) Paragraph (2) of section 404(a) is amended—

(A) by striking out "(8), (11)" and inserting in lieu thereof "(8), (9), (11)", and

(B) by striking out "section 401(a)(9), (10), (17), and (18), and of section 401(d) (other than paragraph (1))" and inserting in lieu thereof "section 401(a)(10) and of section 401(d)".

(3)(A) Paragraph (2) of section 408(a) (defining individual retirement account) is amended by striking out "as defined in section 401(d) (1)" and inserting in lieu thereof "as defined in subsection (n)".

(B) Section 408 is amended by redesignating the subsection relating to cross references as subsection (o) and by inserting immediately before such subsection the following new subsection:

"(n) Bank.—For purposes of subsection (a)(2), the term 'bank' means—

"(1) any bank (as defined in section 581),

"(2) an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), and

"(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.

SEC. 238. REPEAL OF SPECIAL LIMITATIONS ON DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS AND SUBCHAPTER S CORPORATIONS.

(a) Repeal of Limit of Lower of $15,000 or 15 Percent of Earned Income.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended to read as follows:

"(e) Contributions Allocable to Life Insurance Protection for Self-Employed Individuals.—In the case of a self-employed individual described in section 401(c)(1), contributions which are allocable (determined under regulations prescribed by the Secretary) to the purchase of life, accident, health, or other insurance shall not be taken into account under this section."

(b) Repeal of Limitations on Defined Benefit Plans.—Subsection (j) of section 401 (relating to defined benefit plans providing benefits for self-employed individuals and shareholder-employees) is hereby repealed.

(c) Repeal of Limitations Applicable to Subchapter S Corporations.—Section 1379 is amended—

(1) by striking out subsections (a) and (b), and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(d) Technical Amendments.—

(1) Paragraph (1) of section 401(c)(1) (defining employee) is amended to read as follows:

"(1) Self-employed individual treated as employee.—

"(A) In general.—The term 'employee' includes, for any taxable year, an individual who is a self-employed individual for such taxable year.

"(B) Self-employed individual.—The term 'self-employed individual' means, with respect to any taxable year, an individual who has earned income (as defined in paragraph (2)) for such taxable year. To the extent provided in regulations prescribed by the Secretary, such term also includes, for any taxable year—

"(i) an individual who would be a self-employed individual within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

"(ii) an individual who has been a self-employed individual within the meaning of the preceding sentence for any prior taxable year."

(2) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "and" at the end of clause (iii), by striking out the period at end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) with regard to the deductions allowed by sections 404 and 405(c) to the taxpayer."

(3) Subsection (j) of section 408 is amended to read as follows:

"(j) Increase in Maximum Limitations for Simplified Employee Pensions.—In the case of any simplified employee pension, subsections (a)(1) and (b)(2) of this section shall be applied by increasing the $2,000 amounts contained therein by the amount of the limitation in effect under section 415(c)(1)(A)."

(4)(A) Paragraph (6) of section 408(k) is hereby repealed.

(B) Paragraph (1) of section 408(k) is amended by striking out "(5), and (6)" and inserting in lieu thereof "and (5)".

(C) Subparagraph (C) of section 408(k)(3) is amended to read as follows:

"(C) Contributions must bear uniform relationship to total compensation.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $200,000) of each employee maintaining a simplified employee pension."

(5) Paragraph (5) of section 415(c) (relating to application with section 404(e)) is hereby repealed.

SEC. 239. ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.

Paragraph (3) of section 101(b) (relating to self-employed individual not considered as employee) is amended to read as follows:

"(3) Treatment of self-employed individuals.—For purposes of this subsection—

"(A) Self-employed individual not considered employee.—Except as provided in subparagraph (B), the term 'employee' does not include a self-employed individual described in section 401(c)(1).

"(B) Special rule for certain lump sum distributions.—In the case of any lump sum distribution described in the second sentence of paragraph (2)(B), the term 'employee' includes a self-employed individual described in section 401(c)(1)."

SEC. 240. SPECIAL RULES FOR TOP HEAVY PLANS.

(a) General Rule.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

"SEC. 416. SPECIAL RULES FOR TOP-HEAVY PLANS.

"(a) General Rule.—A trust shall not constitute a qualified trust under section 401(a) for any plan year if the plan of which it is a part is a top-heavy plan for such plan year unless such plan meets—

"(1) the vesting requirements of subsection (b),

"(2) the minimum benefit requirements of subsection (c), and

"(3) the limitation on compensation requirement of subsection (d).

"(b) Vesting Requirements.—

"(1) In general.—A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

"(A) 3-year vesting.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(B) 6-year graded vesting.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100

"(2) Certain rules made applicable.—Except to the extent inconsistent with the provisions of this subsection, the rules of section 411 shall apply for purposes of this subsection.

"(c) Plan Must Provide Minimum Benefits.—

"(1) Defined benefit plans.—

"(A) In general.—A defined benefit plan meets the requirements of this subsection if the accrued benefit derived from employer contributions of each participant who is a non-key employee, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's average compensation for years in the testing period.

"(B) Applicable percentage.—For purposes of subparagraph (A), the term 'applicable percentage' means the lesser of—

"(i) 2 percent multiplied by the number of years of service with the employer, or

"(ii) 20 percent.

"(C) Years of service.—For purposes of this paragraph—

"(i) In general.—Except as provided in clause (ii), years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a).

"(ii) Exception for years during which plan was not top-heavy.—A year of service with the employer shall not be taken into account under this paragraph if—

"(I) the plan was not a top-heavy plan for any plan year ending during such year of service, or

"(II) such year of service was completed in a plan year beginning before January 1, 1984.

"(D) Average compensation for high 5 years.—For purposes of this paragraph—

"(i) In general.—A participant's testing period shall be the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) Year must be included in year of service.—The years taken into account under clause (i) shall be properly adjusted for years not included in a year of service.

"(iii) Certain years not taken into account.—Except to the extent provided in the plan, a year shall not be taken into account under clause (i) if—

"(I) such year ends in a plan year beginning before January 1, 1984, or

"(II) such year begins after the close of the last year in which the plan was a top-heavy plan.

"(E) Annual retirement benefit.—For purposes of this paragraph, the term 'annual retirement benefit' means a benefit payable annually in the form of a single life annuity (with no ancillary benefits) beginning at the normal retirement age under the plan.

"(2) Defined contribution plans.—

"(A) In general.—A defined contribution plan meets the requirements of the subsection if the employer contribution for the year for each participant who is a non-key employee is not less than 3 percent of such participant's compensation (within the meaning of section 415).

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"(B) SPECIAL RULE WHERE MAXIMUM CONTRIBUTION LESS THAN 3 PERCENT.—

"(i) IN GENERAL.—The percentage referred to in subparagraph (A) for any year shall not exceed the percentage at which contributions are made (or required to be made) under the plan for the year for the key employee for whom such percentage is the highest for the year.

"(ii) DETERMINATION OF PERCENTAGE.—The determination referred to in clause (i) shall be determined for each key employee by dividing the contributions for such employee by so much of his total compensation for the year as does not exceed $200,000.

"(iii) TREATMENT OF AGGREGATION GROUPS.—

"(I) For purposes of this subparagraph, all defined contribution plans required to be included in an aggregation group under subsection (g)(2)(A)(i) shall be treated as one plan.

"(II) This subparagraph shall not apply to any plan required to be included in an aggregation group if such plan enables a defined benefit plan required to be included in such group to meet the requirements of section 401(a)(4) or 410.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, any employer contribution attributable to a salary reduction or similar arrangement shall not be taken into account.

"(d) NOT MORE THAN $200,000 IN ANNUAL COMPENSATION TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the annual compensation of each employee taken into account under the plan does not exceed the first $200,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—The Secretary shall annually adjust the $200,000 amount contained in paragraph (1) of this subsection and in clause (ii) of subsection (c)(2)(B) in the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A).

"(e) PLAN MUST MEET REQUIREMENTS WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS.—A top-heavy plan shall not be treated as meeting the requirement of subsection (b) or (c) unless such plan meets such requirement without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

"(f) COORDINATION WHERE EMPLOYER HAS 2 OR MORE PLANS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section where the employer has 2 or more plans including (but not limited to) regulations to prevent inappropriate omissions or require duplication of minimum benefits or contributions.

"(g) TOP-HEAVY PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—

"(A) PLANS NOT REQUIRED TO BE AGGREGATED.—Except as provided in subparagraph (B), the term 'top-heavy plan' means, with respect to any plan year—

"(i) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60 percent of the present value of the cumulative accrued benefits under the plan for all employees, and

"(ii) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key employees under the plan exceeds 60 percent of the aggregate of the accounts of all employees under such plan.

"(B) AGGREGATED PLANS.—Each plan of an employer required to be included in an aggregation group shall be treated as a top-heavy plan if such group is a top-heavy group.

"(2) AGGREGATION.—For purposes of this subsection—

"(A) AGGREGATION GROUP.—

"(i) REQUIRED AGGREGATION.—The term 'aggregation group' means—

"(I) each plan of the employer in which a key employee is a participant, and

"(II) each other plan of the employer which enables any plan described in subclause (I) to meet the requirements of section 401(a)(4) or 410.

"(ii) PERMISSIVE AGGREGATION.—The employer may treat any plan not required to be included in an aggregation group under clause (i) as being part of such group if such group would continue to meet the requirements of sections 401(a)(4) and 410 with such plan being taken into account.

"(B) TOP-HEAVY GROUP.—The term 'top-heavy group' means any aggregation group if—

"(i) the sum (as of the determination date) of—

"(I) the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group, and

"(II) the aggregate of the accounts of key employees under all defined contribution plans included in such group,

"(ii) exceeds 60 percent of a similar sum determined for all employees.

"(3) DISTRIBUTIONS DURING LAST 5 YEARS TAKEN INTO ACCOUNT.—For purposes of determining—

"(A) the present value of the cumulative accrued benefit for any employee, or

"(B) the amount of the account of any employee,

such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 5-year period ending on the determination date.

"(4) OTHER SPECIAL RULES.—For purposes of this subsection—

"(A) ROLLOVER CONTRIBUTIONS TO PLAN NOT TAKEN INTO ACCOUNT.—Except to the extent provided in regulations, any rollover contribution (or similar transfer) initiated by the employee and made after December 31, 1983, to a plan shall not be taken into account with respect to the transferee plan for purposes of determining whether such plan is a top-heavy plan (or whether any aggregation group which includes such plan is a top-heavy group).

"(B) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE CEASES TO BE KEY EMPLOYEE.—If any individual is a non-key employee with respect to any plan for any plan year, but such individual was a key employee with respect to such plan for any prior plan year, any accrued benefit for such employee (and the account of such employee) shall not be taken into account.

"(C) DETERMINATION DATE.—The term 'determination date' means, with respect to any plan year—

"(i) the last day of the preceding plan year, or

"(ii) in the case of the first plan year of any plan, the last day of such plan year.

"(D) YEARS.—To the extent provided in regulations, this section shall be applied on the basis of any year specified in such regulations in lieu of plan years.

"(h) ADJUSTMENTS IN SECTION 415 LIMITS FOR TOP-HEAVY PLANS.—

"(1) IN GENERAL.—In the case of any top-heavy plan, paragraphs (2)(B) and (3)(B) of section 415(e) shall be applied by substituting '1.0' for '1.25'.

"(2) EXCEPTION WHERE BENEFITS FOR KEY EMPLOYEES DO NOT EXCEED 90 PERCENT OF TOTAL BENEFITS AND ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraphs (A) and (B) of this paragraph are met with respect to such plan.

"(A) MINIMUM BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

"(ii) MODIFICATIONS.—For purposes of clause (i)—

"(I) paragraph (1)(B) of subsection (c) shall be applied by substituting '3 percent' for '2 percent', and by increasing (but not by more than 10 percentage points) 20 percent by 1 percentage point for each year for which such plan was taken into account under this subsection, and

"(II) paragraph (2)(A) shall be applied by substituting '4 percent' for '3 percent'.

"(B) BENEFITS FOR KEY EMPLOYEES CANNOT EXCEED 90 PERCENT OF TOTAL BENEFITS.—A plan meets the requirements of this subparagraph if such plan would not be a top-heavy plan if '90 percent' were substituted for '60 percent' each place it appears in paragraphs (1)(A) and (2)(B) of subsection (g).

"(3) TRANSITION RULE.—If, but for this paragraph, paragraph (1) would begin to apply with respect to any top-heavy plan, the application of paragraph (1) shall be suspended with respect to any individual so long as there are no—

"(A) employer contributions, forfeitures, or voluntary nondeductible contributions allocated to such individual, or

"(B) accruals for such individual under the defined benefit plan.

"(4) COORDINATION WITH TRANSITIONAL RULE UNDER SECTION 415.—In the case of any top heavy plan to which paragraph (1) applies, section 415(e)(6)(B)(i) shall be applied by substituting '$41,500' for '$51,875'.

"(i) DEFINITIONS.—For purposes of this section—

"(1) KEY EMPLOYEE.—

"(A) IN GENERAL.—The term 'key employee' means any participant in an employer plan who, at any time during the plan year or any of the 4 preceding plan years, is—

"(i) an officer of the employer,

"(ii) 1 of the 10 employees owning (or considered as owning within the meaning of section 318) the largest interests in the employer,

"(iii) a 5-percent owner of the employer, or

"(iv) a 1-percent owner of the employer having an annual compensation from the employer of more than $150,000.

For purposes of clause (i), no more than 50 employees (or, if lesser, the greater of 3 or 10 percent of the employees) shall be treated as officers.

"(B) PERCENTAGE OWNERS.—

"(i) 5-PERCENT OWNER.—For purposes of this paragraph, the term '5-percent owner' means—

"(I) if the employer is a corporation, any person who owns (or is considered as owning within the meaning of section 318) more than 5 percent of the outstanding stock of the corporation or stock possessing more than 5 percent of the total combined voting power of all stock of the corporation, or

"(II) if the employer is not a corporation, any person who owns more than 5 percent of the capital or profits interest in the employer.

"(ii) 1-percent owner.—For purposes of this paragraph, the term '1-percent owner' means any person who would be described in clause (i) if '1 percent' were substituted for '5 percent' each place it appears in clause (i).

"(iii) Constructive ownership rules.—For purposes of this subparagraph and subparagraph (A)(ii)(II)—

"(I) subparagraph (C) of section 318(a)(2) shall be applied by substituting '5 percent' for '50 percent', and

"(II) in the case of any employer which is not a corporation, ownership in such employer shall be determined in accordance with regulations prescribed by the Secretary which shall be based on principles similar to the principles of section 318 (as modified by subclause (I)).

"(C) Aggregation rules do not apply for purposes of determining 5-percent or 1-percent owners.—The rules of subsections (b), (c), and (m) of section 414 shall not apply for purposes of determining ownership in the employer.

"(2) Non-key employee.—The term 'non-key employee' means any employee who is not a key employee.

"(3) Self-employed individuals.—In the case of a self-employed individual described in section 401(c)(1)—

"(A) such individual shall be treated as an employee, and

"(B) such individual's earned income (within the meaning of section 401(c)(2)) shall be treated as compensation.

"(4) Treatment of employees covered by collective bargaining agreements.—The requirements of subsections (b), (c), and (d) shall not apply with respect to any employee included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(5) Treatment of beneficiaries.—The terms 'employee' and 'key employee' include their beneficiaries.

"(6) Treatment of simplified employee pensions.—

"(A) Treatment as defined contribution plans.—A simplified employee pension shall be treated as a defined contribution plan.

"(B) Election to have determinations based on employer contributions.—In the case of a simplified employee pension, at the election of the employer, paragraphs (1)(A)(ii) and (2)(B) of subsection (g) shall be applied by taking into account aggregate employer contributions in lieu of the aggregate of the accounts of employees."

(b) Qualification Requirements.—Paragraph (10) of section 401(a) (relating to other requirements) is amended by adding at the end thereof the following new subparagraph:

"(B) Top-heavy plans.—

"(i) In general.—In the case of any top-heavy plan, a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of section 416 are met.

"(ii) Plans which may become top-heavy.—Except to the extent provided in regulations, a trust forming part of a plan (whether or not a top-heavy plan) shall constitute a qualified trust under this section only if such plan contains provisions—

"(I) which will take effect if such plan becomes a top-heavy plan, and

"(II) which meet the requirements of section 416."

(c) Technical Amendments.—

(1) Subsections (b) and (c) of section 414 (relating to employees of controlled groups) are each amended by striking out "and 415" and inserting in lieu thereof "415, and 416".

(2) Paragraph (4) of section 414(m) (relating to employees of an affiliated service group) is amended by striking out "and 415" in subparagraph (B), and inserting in lieu there of "415, and 416".

(d) Clerical Amendment.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end there of the following new item:

"Sec. 416. Special rules for top-heavy plans."

SEC. 241. EFFECTIVE DATES.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this part shall apply to years beginning after December 31, 1983.

(b) Allowance of Exclusion of Death Benefit for Self-Employed Individuals.—The amendment made by section 239 shall apply with respect to decedents dying after December 31, 1983.

PART III—OTHER REQUIREMENTS

SEC. 242. REQUIRED DISTRIBUTIONS FOR QUALIFIED PLANS.

(a) General Rule.—Paragraph (9) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

"(9) Required distributions.—

"(A) Before death.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee—

"(i) either will be distributed to him not later than his taxable year in which he attains age 70½ or, in the case of an employee other than a key employee who is a participant in a top-heavy plan, in which he retires, whichever is the later, or

"(ii) will be distributed, commencing not later than such taxable year—

"(I) in accordance with regulations prescribed by the Secretary, over the life of such employee or over the lives of such employee and his spouse, or

"(II) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

"(B) After death.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that if—

"(i) an employee dies before his entire interest has been distributed to him, or

"(ii) distribution has been commenced in accordance with subparagraph (A)(ii) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse;

his entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if the distribution of the interest of the employee has commenced and such distribution is for a term certain over a period permitted under subparagraph (A)(ii)(II)."

(b) Effective Date.—

(1) In general.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1983.

(2) Transition rule.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a), by reason of distributions under a designation (before January 1, 1984) by any employee of a method of distribution—

(A) which does not meet the requirements of such paragraph (9), but

(B) which would not have disqualified such trust under paragraph (9) of section 401(a) of such Code as in effect before the amendment made by subsection (a).

SEC. 243. REQUIRED DISTRIBUTIONS IN CASE OF INDIVIDUAL RETIREMENT PLANS.

(a) Required Distributions After Death.—

(1) Individual retirement accounts.—Paragraph (7) of section 408(a) (defining individual retirement account) is amended to read as follows:

"(7) If—

"(A) an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of the surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6)."

(2) Individual retirement annuities.—Paragraph (4) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(4) If—

"(A) the owner dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3)."

(b) Treatment of Inherited Individual Retirement Plans.—

(1) Denial of rollover treatment.—

(A) Paragraph (3) of section 408(d) (defining rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(C) Denial of rollover treatment for inherited accounts, etc.—

"(i) In general.—In the case of an inherited individual retirement account or individual retirement annuity—

"(I) this paragraph shall not apply to any amount received by an individual from such an account or annuity (and no amount transferred from such account or annuity to another individual retirement account or

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annuity shall be excluded from gross income by reason of such transfer), and

"(II) such inherited account or annuity shall not be treated as an individual retirement account or annuity for purposes of determining whether any other amount is a rollover contribution.

"(ii) INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—An individual retirement account or individual retirement annuity shall be treated as inherited if—

"(I) the individual for whose benefit the account or annuity is maintained acquired such account by reason of the death of another individual, and

"(II) such individual was not the surviving spouse of such other individual."

(B) Subparagraph (C) of section 409(b)(3) (relating to rollover into an individual retirement account or annuity or a qualified plan) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any retirement bond if such bond is acquired by the owner by reason of the death of another individual and the owner was not the surviving spouse of such other individual."

(2) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(4) DENIAL OF DEDUCTION FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii))."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply in the case of individuals dying after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 244. LIMITATION ON EXCLUSION FOR GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) GENERAL RULE.—Section 79 (relating to group-term life insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(d) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan, paragraph (1) of subsection (a) shall not apply with respect to any key employee.

"(2) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—For purposes of this subsection, the term 'discriminatory group-term life insurance plan' means any plan of an employer for providing group-term life insurance unless—

"(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

"(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

"(A) IN GENERAL.—A plan does not meet requirements of subparagraph (A) of paragraph (2) unless—

"(i) such plan benefits 70 percent or more of all employees of the employer,

"(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

"(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

"(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) part-time or seasonal employees;

"(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(4) NONDISCRIMINATORY BENEFITS.—A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

"(5) SPECIAL RULE.—A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

"(6) KEY EMPLOYEE DEFINED.—For purposes of this subsection, the term 'key employee' has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (3)(B) who are not participants in the plan.

"(7) CERTAIN CONTROLLED GROUPS, ETC.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 245. LIMITATION ON ESTATE TAX EXCLUSIONS UNDER SECTION 2039.

(a) GENERAL RULE.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(g) $100,000 LIMITATION ON EXCLUSIONS UNDER SUBSECTIONS (c) AND (e).—The aggregate amount excluded from the gross estate of any decedent under subsections (c) and (e) of this section shall not exceed $100,000."

(b) TECHNICAL AMENDMENTS.—Subsections (c) and (e) of section 2039 are each amended by striking out "Notwithstanding the provisions of this section" and inserting in lieu thereof "Subject to the limitation of subsection (g), notwithstanding any other provision of this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1982.

SEC. 246. ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.

(a) GENERAL RULE.—Subsection (m) of section 414 (relating to employees of an affiliated service group) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.—For purposes of this subsection, the term 'affiliated service group' also includes a group consisting of—

"(A) an organization the principal business of which is performing, on a regular and continuing basis, management functions for 1 organization (or for 1 organization and other organizations related to such 1 organization), and

"(B) the organization (and related organizations) for which such functions are so performed by the organization described in subparagraph (A).

For purposes of this paragraph, the term 'related organizations' has the same meaning as the term 'related persons' when used in section 103(b)(6)(C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 247. EXISTING PERSONAL SERVICE CORPORATIONS MAY LIQUIDATE UNDER SECTION 333 DURING 1983 OR 1984.

(a) IN GENERAL.—In the case of a complete liquidation of a personal service corporation (within the meaning of section 535(c)(2)(B) of the Internal Revenue Code of 1954) during 1983 or 1984, the following rules shall apply with respect to any shareholder other than a corporation:

(1) The determination of whether section 333 of such Code applies shall be made without regard to whether the corporation is a collapsible corporation to which section 341(a) of such Code applies.

(2) No gain or loss shall be recognized by the liquidating corporation on the distribution of any unrealized receivable in such liquidation.

(3)(A) Except as provided in subparagraph (C), any disposition by a shareholder of any unrealized receivable received in the liquidation shall be treated as a sale at fair market value of such receivable and any gain or loss shall be treated as ordinary gain or loss.

(B) For purposes of subparagraph (A), the term "disposition" includes—

"(i) failing to hold the property in the trade or business which generated the receivables, and

"(ii) failing to hold a continuing interest in such trade or business.

(C) For purposes of subparagraph (A), the term "disposition" does not include transmission at death to the estate of the decedent or transfer to a person pursuant to the right of such person to receive such property by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(4) Unrealized receivables distributed in the liquidation shall be treated as having a zero basis.

(5) For purposes of computing earnings and profits, the liquidating corporation shall not treat unrealized receivables distributed in the liquidation as an item of income.

(b) UNREALIZED RECEIVABLES DEFINED.—For purposes of this section, the term "unrealized receivables" has the meaning given such term by the first sentence of section 751(c) of such Code.

SEC. 248 EMPLOYEE LEASING.

(a) General Rule.—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(n) Employee Leasing.—

"(1) In general.—For purposes of the pension requirements listed in paragraph (3), except to the extent otherwise provided in regulations, with respect to any person (hereinafter in this subsection referred to as the 'recipient') for whom a leased employee performs services—

"(A) the leased employee shall be treated as an employee of the recipient, but

"(B) contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient.

"(2) Leased employee.—For purposes of paragraph (1), the term 'leased employee' means any person who provides services to the recipient if—

"(A) such services are provided pursuant to an agreement between the recipient and any other person (in this subsection referred to as the 'leasing organization'),

"(B) such person has performed such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of a least 1 year, and

"(C) such services are of a type historically performed, in the business field of the recipient, by employees.

"(3) Pension requirements.—For purposes of this subsection, the pension requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a), and

"(B) sections 408(k), 410, 411, 415, and 416.

"(4) Time when leased employee is first considered as employee.—In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the pension requirements listed in paragraph (3) are met for periods after the close of the 1-year period referred to in paragraph (2); except that years of service for the recipient shall be determined by taking into account the entire period for which the leased employee performed services for the recipient (or related persons).

"(5) Safe harbor.—This subsection shall not apply to any leased employee if such employee is covered by a plan which is maintained by the leasing organization if, with respect to such employee, such plan—

"(A) is a money purchase pension plan with a nonintegrated employer contribution rate of at least 7½ percent, and

"(B) provides for immediate participation and for full and immediate vesting.

"(6) Related persons.—For purposes of this subsection, the term 'related persons' has the same meaning as when used in section 103(b)(6)(C)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 249. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.

(a) In General.—Section 401 (relating to qualified pension, profit-sharing, stock bonus plans, etc.) is amended by redesignating subsection (l) as subsection (o), and by inserting after subsection (k) the following new subsection:

"(l) Nondiscriminatory Coordination of Defined Contribution Plans With OASDI.—

"(1) In general.—Notwithstanding subsection (a)(5), the coordination of a defined contribution plan with OASDI meets the requirements of subsection (a)(4) only if the total contributions with respect to each participant, when increased by the OASDI contributions, bear a uniform relationship—

"(A) to the total compensation of such employee, or

"(B) to the basic or regular rate of compensation of such employee.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) OASDI contributions.—The term 'OASDI contributions' means the product of—

"(i) so much of the remuneration paid by the employer to the employee during the plan year as—

"(I) constitutes wages (within the meaning of section 3121(a) without regard to paragraph (1) thereof), and

"(II) does not exceed the contribution and benefit base applicable under OASDI at the beginning of the plan year, multiplied by

"(ii) the rate of tax applicable under section 3111(a) (relating to employer's OASDI tax) at the beginning of the plan year.

In the case of an individual who is an employee within the meaning of subsection (c)(1), the preceding sentence shall be applied by taking into account his earned income (as defined in subsection (c)(2)).

"(B) OASDI.—The term 'OASDI' means the system of old-age, survivors, and disability insurance established under title II of the Social Security Act and the Federal Insurance Contributions Act.

"(C) Remuneration.—The term 'remuneration' means—

"(i) total compensation, or

"(ii) basic or regular rate of compensation,

whichever is used in determining contributions or benefits under the plan.

"(3) Determination of compensation, etc., of self-employed individuals.—For purposes of this subsection, in the case of an individual who is an employee within the meaning of subsection (c)(1)—

"(A) his total compensation shall include his earned income (as defined in subsection (c)(2)), and

"(B) his basic or regular rate of compensation shall be determined (under regulations prescribed by the Secretary) with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan (other than employees within the meaning of subsection (c)(1)) bears to the total compensation of such employees."

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1983.

SEC. 250. AUTHORITY OF SECRETARY TO ALLOCATE INCOME AND DEDUCTIONS IN THE CASE OF CERTAIN CORPORATIONS.

(a) In General.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 269 the following new section:

"SEC. 269A. PERSONAL SERVICE CORPORATIONS FORMED OR AVAILED OF TO AVOID OR EVA DE INCOME TAX.

"(a) General Rule.—If—

"(1) substantially all of the services of a personal service corporation are performed for (or on behalf of) 1 other corporation, partnership, or other entity, and

"(2) the principal purpose for forming, or availing of, such personal service corporation is the avoidance or evasion of Federal income tax by reducing the income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available,

then the Secretary may allocate all income, deductions, credits, exclusions, and other allowances between such personal service corporation and its employee-owners, if such allocation is necessary to prevent avoidance or evasion of Federal income tax or clearly to reflect the income of the personal service corporation or any of its employee-owners.

"(b) Definitions.—For purposes of this section—

"(1) Personal service corporation.—The term 'personal service corporation' means a corporation the principal activity of which is the performance of personal services and such services are substantially performed by employee-owners.

"(2) Employee-owner.—The term 'employee-owner' means any employee who owns, on any day during the taxable year, more than 10 percent of the outstanding stock of the personal service corporation. For purposes of the preceding sentence, section 318 shall apply, except that '5 percent' shall be substituted for '50 percent' in section 318(a)(2)(C).

"(3) Related persons.—All related persons (within the meaning of section 103(b)(6)(C)) shall be treated as 1 entity."

(b) Clerical Amendment.—The table of sections for part IX of subchapter 1 is amended by inserting after the item relating to section 269 the following new item:

"Sec. 269A. Personal service corporations formed or availed of to avoid or evade income tax."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

PART IV—MISCELLANEOUS

SEC. 251. CHURCH PLANS.

(a) Exclusion Allowance.—

(1) Election to have section 415 rules apply.—Subparagraph (B) of section 403(b)(2) (relating to exclusion allowance) is amended by striking out "(under section 415)" and inserting in lieu thereof "(under section 415 without regard to section 415(c)(8))".

(2) Years of service.—Section 403(b)(2) is amended by adding at the end thereof the following new subparagraphs:

"(C) Number of years of service for duly ordained, commissioned, or licensed ministers or lay employees.—For purposes of this subsection and section 415(c)(4)(A)—

"(i) all years of service by—

"(I) a duly ordained, commissioned, or licensed minister of a church, or

"(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

"(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

For purposes of the preceding sentence, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).

"(D) Alternative exclusion allowance.—

"(i) In general.—In the case of any individual described in subparagraph (C), the

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amount determined under subparagraph (A) shall not be less than the lesser of—

"(I) $3,000, or

"(II) the includible compensation of such individual.

"(ii) Subparagraph not to apply to individuals with adjusted gross income over $17,000.—This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to any community property laws) exceeds $17,000.

"(iii) Special rule for foreign missionaries.—In the case of an individual described in subparagraph (C)(i) performing services outside the United States, there shall be included as includible compensation for any year under clause (i)(II) any amount contributed during such year by a church (or convention or association of churches) for an annuity contract with respect to such individual."

(b) Retirement Income Accounts Provided by Churches, Etc.—Section 403(b) is amended by adding at the end thereof the following new paragraph:

"(9) Retirement income accounts provided by churches, etc.—

"(A) Amounts paid treated as contributions.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) Retirement income account.—For purposes of this paragraph, the term 'retirement income account' means a defined contribution program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under section 403(b) for an employee described in paragraph (1) or his beneficiaries."

(c) Contribution Limitations.—

(1) Application of section 415(c)(4) to church plans.—Paragraph (4) of section 415(c) (relating to special election for section 403(b) contracts) is amended—

(A) by striking out "or a home health service agency" each place it appears and inserting in lieu thereof "a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)",

(B) by inserting "(as determined for purposes of section 403(b)(2))" after "service for the employer" in subparagraph (A),

(C) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).", and

(D) by striking out "AND HOME HEALTH SERVICE AGENCIES" in the heading and inserting in lieu thereof ", HOME HEALTH SERVICE AGENCIES, AND CERTAIN CHURCHES, ETC.".

(2) Total annual additions.—Section 415(c) (relating to limitation on defined contribution plan) is amended by adding at the end thereof the following paragraph:

"(8) Certain contributions by church plans not treated as exceeding limits.—

"(A) Alternative exclusion allowance.—Any contribution or addition with respect to any participant, when expressed as an annual addition, which is allocable to the application of section 403(b)(2)(D) to such participant for such year, shall be treated as not exceeding the limitations of paragraph (1).

"(B) Contributions not in excess of $40,000 ($10,000 per year).—

"(i) In general.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(ii) $40,000 aggregate limitation.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(iii) No election if paragraph (4)(A) election made.—No election may be made under this subparagraph for any year if an election is made under paragraph (4)(A) for such year.

"(C) Annual addition.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2)."

(3) Conforming amendment.—Section 403(b)(2)(B) (relating to exclusion allowance) is amended by striking out "and home health service agencies" and inserting in lieu thereof "home health service agencies, and certain churches, etc."

(d) Correction Period for Church Plans.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1954) shall not be treated as not meeting the requirements of section 401 or 403 of such Code if—

(1) by reason of any change in any law, regulation, ruling, or otherwise such plan is required to be amended to meet such requirements, and

(2) such plan is so amended at the next earliest church convention or such other time as the Secretary of the Treasury or his delegate may prescribe.

(e) Effective Dates.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) Retirement income accounts.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1974.

(3) Section 415 amendments.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1981.

(4) Correction period.—The amendment made by subsection (d) shall take effect on July 1, 1982.

(5) Special rule for existing defined benefit arrangements.—Any defined benefit arrangement which is established by a church or a convention or association of churches (including an organization described in section 414(e)(3)(B)(ii) of the Internal Revenue Code of 1954) and which is in effect on the date of the enactment of this Act shall not be treated as failing to meet the requirements of section 403(b)(2) of such Code merely because it is a defined benefit arrangement.

SEC. 252. DEFERRED COMPENSATION PLANS FOR STATE JUDGES.

Subsection (c) of section 131 of the Revenue Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) Deferred compensation plans for State judges.—

"(A) In general.—The amendments made by this section shall not apply to any qualified State judicial plan.

"(B) Qualified State judicial plan.—For purposes of subparagraph (A), the term 'qualified State judicial plan' means any retirement plan of a State for the exclusive benefit of judges or their beneficiaries if—

"(i) such plan has been continuously in existence since December 31, 1978,

"(ii) under such plan, all judges eligible to benefit under the plan—

"(I) are required to participate, and

"(II) are required to contribute the same fixed percentage of their basic or regular rate of compensation as judge,

"(iii) under such plan, no judge has an option as to contributions or benefits the exercise of which would affect the amount of includible compensation,

"(iv) the retirement payments of a judge under the plan are a percentage of the compensation of judges of that State holding similar positions, and

"(v) the plan during any year does not pay benefits with respect to any participant which exceed the limitations of section 415(b) of the Internal Revenue Code of 1954."

SEC. 253. PROFIT-SHARING PLAN CONTRIBUTIONS ON BEHALF OF DISABLED.

(a) In General.—Paragraph (3) of section 415(c) (defining participant's compensation) is amended to read as follows:

"(3) Participant's compensation.—For purposes of paragraph (1)—

"(A) In general.—The term 'participant's compensation' means the compensation of the participant from the employer for the year.

"(B) Special rule for self-employed individuals.—In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting 'the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)' for 'compensation of the participant from the employer'.

"(C) Special rules for permanent and total disability.—In the case of a participant—

"(i) who is permanently and totally disabled (as defined in section 105(d)(4)),

"(ii) who is not an officer, owner, or highly compensated, and

"(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term 'participant's compensation' means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made."

(b) Deductibility.—Subparagraph (B) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended by adding at the end thereof the following: "The term 'compensation otherwise paid or accrued during the taxable year to all employees' shall include any amount with respect to which an election under section 415(c)(3)(C) is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 254. EXEMPTION FOR TRUSTS WHICH INCLUDE GOVERNMENTAL PLANS.

(a) IN GENERAL.—Section 401(a) (relating to requirements of qualification for qualified pension, profit-sharing, and stock bonus plans) is amended by inserting immediately after paragraph (23) the following new paragraph:

"(24) Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of the moneys of any plan or governmental unit described in section 805(d)(6)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1981.

SUBTITLE D—TAXATION OF LIFE INSURANCE COMPANIES AND ANNUITIES

PART I—COINSURANCE ARRANGEMENTS

Subpart A—Modified Coinsurance Contracts

SEC. 255. REPEAL OF OPTIONAL TREATMENT OF POLICIES REINSURED UNDER MODIFIED COINSURANCE CONTRACTS.

(a) REPEAL OF SECTION 820.—Section 820 (relating to optional treatment of policies reinsured under modified coinsurance contracts) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 811 (relating to dividends to policyholders) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR DIVIDENDS TO POLICYHOLDERS UNDER REINSURANCE CONTRACTS.—If, under the terms of a conventional coinsurance contract, a life insurance company (hereinafter referred to as 'the reinsurer') is obligated to reimburse another life insurance company (hereinafter referred to as 'the reinsured') for dividends to policyholders on the policies reinsured, the amount of the deduction for dividends reimbursed shall, for purposes of section 809(d)(12), be equal to the amount of dividends to policyholders—

"(1) which were paid by the reinsured, and

"(2) with respect to which the reinsurer reimbursed the reinsured under the terms of such contract.

The amount determined under the preceding sentence shall be properly adjusted to reflect the adjustments under subsection (b)(1)."

(2) The first sentence of section 809(c)(1) (relating to premiums) is amended to read as follows: "The gross amount of premiums and other consideration, including—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded."

(3) Section 809(d)(3) (relating to dividends to policyholders) is amended by inserting ", other than the deduction provided under paragraph (12)" before the period at the end thereof.

(4) Section 809(d) (relating to deductions in computing gain and loss from operations) is amended by adding after paragraph (11) thereof the following new paragraph:

"(12) DIVIDENDS REIMBURSED.—The deduction for the amount of dividends to policyholders reimbursed by the taxpayer to another insurance company in respect of policies the taxpayer has reinsured (determined under section 811(c))."

(5) The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by striking out the item relating to section 820.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RULES APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982—

(i) any determination as to whether any contract met the requirements of subsection (b) of section 820 of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) shall be made solely by reference to the terms of the contract, and

(ii) the treatment of such contract under subsection (c) of such section 820 shall be made in accordance with the regulations under such section which were in effect on December 31, 1981.

(B) PARAGRAPH NOT TO APPLY IF FRAUD INVOLVED.—The provisions of subparagraph (A) shall not apply with respect to any deficiency which the Secretary of the Treasury or his delegate establishes was due to fraud with intent to evade tax.

SEC. 256. SPECIAL ACCOUNTING RULES RELATING TO REPEAL OF SECTION 820.

(a) IN GENERAL.—For purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the provisions of this section shall apply to any contract—

(1) which was in effect on December 31, 1981, and

(2) to which section 820(a)(1) of such Code (as in effect before its repeal by section 255(a)) applied.

(b) TREATMENT OF RESERVES AND ASSETS.—Except as provided in subsections (c) and (d), the reserves on the contract described in subsection (a) and the assets in relation to such reserves shall—

(1) as of the beginning of taxable year 1982, be treated as the reserves and assets of the reinsurer (and not the reinsured), and

(2) as of the end of taxable year 1982, be treated as the reserves and assets of the reinsured (and not the reinsurer).

(c) ALLOCATION OF CERTAIN SECTION 820(c) ITEMS.—Any amount described in paragraphs (1), (2), (4), and (5) of section 820(c) of such Code (as so in effect) with respect to any contract described in subsection (a) shall, beginning with taxable year 1982, be taken into account by the reinsured and the reinsurer in the same manner as such amounts would be taken into account under a modified coinsurance contract to which section 820(a)(1) of such Code (as so in effect) does not apply.

(d) AMOUNTS TREATED AS RETURNED UNDER THE CONTRACT.—

(1) IN GENERAL.—For taxable year 1982—

(A) in the case of the reinsurer, there shall be allowed as a deduction for ordinary and necessary business expenses under section 809(d)(11) of such Code an amount equal to the termination amount (and such amount shall not otherwise be taken into account in determining gain or loss from operations under section 809 of such Code), and

(B) in the case of the reinsured, the gross amount under section 809(c)(3) of such Code shall be increased by the termination amount.

(2) ADJUSTMENT FOR RESERVES OF REINSURED.—For purposes of subsections (a) and (b) of section 810 of such Code, the amount taken into account as of the close of taxable year 1982 by the reinsured shall be reduced for such taxable year (but not for purposes of determining such amount at the beginning of the next succeeding taxable year) by the excess (if any) of—

(A) the reserves on the contract as of January 1, 1982 (determined under the reinsured's method of computing reserves for tax purposes), over

(B) the termination amount.

This paragraph shall not apply to any portion of any policies with respect to which the taxpayer is both the reinsured and the reinsurer under contracts to which this section applies.

(3) TERMINATION AMOUNT.—For purposes of this subsection, the term "termination amount" means the amount under the contract, the reinsurer would have returned to the reinsured upon termination of the contract if the contract had been terminated as of January 1, 1982.

(4) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT UNDER SECTION 809(d)(5).—Any amount treated as the reserves of the reinsured by reason of subsection (b)(2) shall not be taken into account under section 809(d)(5) of the Internal Revenue Code of 1954.

(e) 3-YEAR INSTALLMENT PAYMENT OF TAXES OWED BY REINSURER RESULTING FROM REPEAL OF SECTION 820.—

(1) IN GENERAL.—That portion of any tax imposed under chapter 1 of such Code (reduced by the sum of the credits allowable under subpart A of part IV of such chapter) on a reinsurer for taxable year 1982 which is attributable to the excess (if any) of—

(A) any decrease in reserves for such taxable year by reason of subsection (b), over

(B) the amount allowable as a deduction for such taxable year by reason of subsection (d)(1)(A),

may, at the election of the reinsurer, be paid in 3 equal annual installments.

(2) TIME FOR PAYMENTS.—

(A) IN GENERAL.—The 3 installments under paragraph (1) shall be paid on March 15 of 1983, 1984, and 1985.

(B) FIRST INSTALLMENT MAY BE MADE IN 2 PAYMENTS.—The reinsurer may elect to pay one-half of the installment due March 15, 1983, on June 15, 1983.

(3) ACCELERATION OF PAYMENTS.—If—

(A) an election is made under paragraph (1), and

(B) before the tax attributable to such excess is paid in full any installment under this section is not paid on or before the date fixed by this section for its payment,

then the extension of time for payment of tax provided in this subsection shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary of the Treasury or his delegate.

(4) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under paragraph (1) and a deficiency attributable to the excess has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which

has arrived shall be paid on notice and demand from the Secretary of the Treasury or his delegate. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(5) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 of the Internal Revenue Code of 1954 shall apply as though the Secretary of the Treasury or his delegate were extending the time for payment of the tax.

(6) EXTENSION OF PERIOD OF LIMITATIONS.—The running of any period of limitations for the collection of the tax with respect to which an election is made under paragraph (1) shall be suspended for the period during which there are any unpaid installments of such tax.

(7) INTEREST ON INSTALLMENTS.—Rules similar to the rules of section 6601(b)(2) of such Code (without regard to the last sentence thereof) shall apply with respect to any tax for which an election is made under paragraph (1).

(f) SPECIAL RULE ALLOWING REINSURED TO REVOKE AN ELECTION UNDER SECTION 820.—

(1) IN GENERAL.—In any case in which—

(A) a taxpayer is the reinsured under any contract—

(i) which took effect in 1980 or 1981, and

(ii) with respect to which an election under section 820 of the Internal Revenue Code of 1954 was made,

(B) the taxpayer has a loss from operations or its gain from operations (determined without regard to any deduction under paragraphs (3), (5), and (6) of section 809(d) of such Code) for the taxable year in which such contract took effect does not exceed the taxpayer's taxable investment income for such taxable year,

(C) such contract was not a contract with a person who, during the taxable year in which such contract took effect, was a member of the same affiliated group (determined under section 1504 of such Code without regard to subsection (b)) of which the taxpayer is a member, and

(D) the taxpayer makes an election under this subsection within 6 months after the date of the enactment of this Act,

then the provisions of paragraph (2) shall apply.

(2) RULES WHICH APPLY IF THIS SUBSECTION APPLIES.—In any case described in paragraph (1)—

(A) the taxpayer shall, for all taxable years, be treated as not having made an election under section 820 of such Code with respect to the contract described in paragraph (1), but

(B) all other parties to the contract shall be treated as having made such election with respect to such contract for all taxable years.

(g) TAXABLE YEAR 1982.—For purposes of this section, the term "taxable year 1982" means, with respect to any taxpayer, the first taxable year of the taxpayer beginning after December 31, 1981.

(h) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

Subpart B—Other Reinsurance Agreements

SEC. 257. DENIAL OF INTEREST DEDUCTION ON INDEBTEDNESS INCURRED IN CONNECTION WITH REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Section 805(e) (relating to interest paid) is amended by adding at the end thereof the following new sentence: "For purposes of this subpart, the interest paid for any taxable year shall not include any interest paid or accrued after December 31, 1981, by a ceding company (or its affiliates) to any person in connection with a reinsurance agreement (other than interest on account of delay in making periodic settlements of income and expense items under the terms of the agreement)."

(b) SPECIAL TRANSITIONAL RULE WHERE AT LEAST 20 PERCENT OF THE LIABILITIES REINSURED ARE PAID IN CASH, ETC.—The amendment made by subsection (a) shall not apply with respect to any interest paid or incurred by a ceding company to a person who is a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) on indebtedness evidenced by a note—

(1) which was entered into after December 31, 1981, with respect to a reinsurance contract under the terms of which an amount not less than 20 percent of the amounts reinsured was paid in cash to the reinsurer on the effective date of such contract,

(2) at least 40 percent of the principal of which had been paid by the ceding company in cash as of July 1, 1982, and

(3) the remaining balance of which is paid in cash before January 1, 1983.

SEC. 258. ALLOCATION OF INCOME, ETC. IN THE CASE OF OTHER REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Section 818 (relating to accounting provisions) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 1239(b)) who are parties to a reinsurance agreement, the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to agreements entered into after the date of the enactment of this Act.

PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

SEC. 259. INCREASE IN AMOUNT OF DIVIDEND DEDUCTION ALLOWED; PENSION PLAN RESERVES.

(a) INCREASE IN LIMITATION.—Section 809(f) (relating to limitation on certain deductions) is amended to read as follows:

"(f) LIMITATION ON CERTAIN DEDUCTIONS.—

"(1) IN GENERAL.—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed the greater of—

"(A) $1,000,000, plus the amount (if any) by which—

"(i) the gain from operations for the taxable year (computed without regard to such deductions), exceeds

"(ii) the taxable investment income for the taxable year, or

"(B) if the taxpayer elects for any taxable year, the amount determined under paragraph (2).

"(2) ALTERNATIVE LIMITATION.—The amount determined under this paragraph for any taxable year shall be equal to the sum of—

"(A) that portion of the deduction under subsection (d)(3) which is allocable to any contract described in section 805(d), and

"(B) an amount equal to the sum of—

"(i) so much of the base amount as does not exceed $1,000,000, plus

"(ii) in the case of—

"(I) a mutual life insurance company, 77.5 percent of the base amount, or

"(II) a stock life insurance company, 85 percent of the base amount.

"(3) REDUCTION IN $1,000,000 AMOUNT FOR LARGE INSURERS.—If the sum of the deductions under paragraphs (3), (5), and (6) of subsection (d) exceeds $4,000,000, then each of the $1,000,000 amounts in paragraphs (1) and (2) shall be reduced (but not below zero) by the amount which bears the same ratio to $1,000,000 as—

"(A) the amount of such excess bears to,

"(B) $4,000,000.

"(4) BASE AMOUNT.—For purposes of paragraph (2)(B), the term 'base amount' means the excess of—

"(A) the amount of the deductions under paragraphs (3) and (5) of subsection (d) for the taxable year, over

"(B) the amount determined under paragraph (2)(A) for such taxable year.

"(5) APPLICATION OF LIMITATION.—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(6)."

(b) $1,000,000 LIMITATION TO BE APPORTIONED AMONG MEMBERS OF SAME CONTROLLED GROUP.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) one $1,000,000 amount (adjusted as provided in section 809(f)(3)) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).", and

(4) by striking out "(2) and (3)" and inserting in lieu thereof "(2), (3), and (4)".

(c) CONFORMING AMENDMENTS.—Section 1561(b) (relating to certain short taxable years) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the amount (adjusted as provided in section 809(f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f),", and

(4) by striking out "(2), or (3)" and inserting in lieu thereof "(2), (3), or (4)".

SEC. 260. COMPUTATION OF AMOUNT OF LIFE INSURANCE RESERVES.

(a) RESERVES ON CONTRACTS ON WHICH CERTAIN INTEREST IS GUARANTEED BEYOND THE END OF THE TAXABLE YEAR.—Section 818 (relating to accounting provisions), as amended by section 259(a), is amended by adding at the end thereof the following new subsection:

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"(h) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 801), interest payable under any contract which is computed at a rate which—

"(1) is in excess of the lowest rates which are assumed under such contract for any period in calculating the reserves under section 810(c) for the contract under which such interest is payable, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year."

(b) PROHIBITION AGAINST DEDUCTION OF INTEREST IN EXCESS OF AMOUNT CREDITED TO GROUP PENSION POLICYHOLDERS.—Section 805 (relating to the determination of policy and other contract liability requirements) is amended by adding at the end thereof the following:

"(g) SPECIAL LIMITATION FOR GROUP PENSION CONTRACTS.—The amount determined under paragraphs (2) and (3) of subsection (a) for policy and other contract liability requirements for group pension contracts shall not exceed the amount actually credited to the policyholders whether such crediting is through premium rate computations, reserve increases, excess interest, experience rate credits, policyholder dividends or otherwise. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(c) PROHIBITION AGAINST CHANGING THE QUALIFICATION STATUS OF LIFE INSURANCE COMPANIES.—For any taxable year ending before January 1, 1984, a taxpayer shall not be treated as other than a life insurance company (as defined in section 801(a) of such Code) because of the effect of amounts held under contracts which would be described in section 805(d) of the Internal Revenue Code of 1954, except for the fact that such contracts do not contain permanent annuity purchase rate guarantees.

SEC. 261. MODIFICATION OF MENGE FORMULA.

Subparagraph (B) of section 805(c)(1) (defining adjusted life insurance reserves rate) is amended to read as follows:

"(B) 0.9 raised to the power of n where n is the number (positive or negative) determined by subtracting—

"(i) 100 times the average rate of interest assumed by the taxpayer in calculating such reserves, from

"(ii) 100 times the adjusted reserves rate."

SEC. 262. CONSOLIDATED RETURNS TO BE COMPUTED ON A BOTTOM LINE BASIS.

Subsection (f) of section 818 (relating to computation on consolidated returns of policyholders' share of investment yield) is amended to read as follows:

"(f) SPECIAL RULES FOR CONSOLIDATED RETURN COMPUTATIONS.—For purposes of this part, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the following rules shall apply:

"(1) POLICYHOLDERS' SHARE OF INVESTMENT YIELD.—The computation of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

"(2) LIFE INSURANCE COMPANY TAXABLE INCOME.—

"(A) IN GENERAL.—The amount of the consolidated life insurance company taxable income under paragraphs (1) and (2) of section 802(b) shall be determined by taking into account the life insurance company taxable income (including any case where deductions exceed income) of each life insurance company which is a member of the group (as computed separately under such paragraphs).

"(B) CERTAIN AMOUNTS COMPUTED SEPARATELY.—For purposes of subparagraph (A), the determination of a life insurance company's taxable investment income and gain or loss from operations (after applying the limitation provided by section 809(f)) shall be made without regard to the taxable investment income or gain or loss from operations of any other such company.

"(3) CONSOLIDATED NET CAPITAL GAIN.—If there is a consolidated net capital gain, then the partial tax referred to in section 802(a)(2)(A) shall be computed on—

"(A) the consolidated life insurance company taxable income, reduced (but not below the sum of the amounts determined under section 802(b)(3)) by

"(B) the amount of such consolidated net capital gain."

SEC. 263. EFFECTIVE DATES; SPECIAL RULES APPLICABLE TO TRANSACTIONS BEFORE EFFECTIVE DATE.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this part shall apply to taxable years beginning after December 31, 1981, and before January 1, 1984.

(2) GROUP PENSION CONTRACTS.—The amendments made by section 260(b) shall apply to taxable years beginning after December 31, 1982, and before January 1, 1984.

(3) RESERVES ON CONTRACTS WHERE INTEREST GUARANTEED FOR EXTENDED PERIODS.—

(A) IN GENERAL.—The amendment made by section 260(a) shall apply to reserves computed for taxable years beginning after December 31, 1981, and before January 1 1984, with respect to guarantees made after July 1, 1982, and before January 1, 1984.

(B) SPECIAL RULE RELATING TO RESERVES.—If, for any taxable year beginning before January 1, 1982—

(i) a taxpayer increased reserves pursuant to section 810(c)(4) of the Internal Revenue Code of 1954 to reflect interest guaranteed beyond the end of such taxable year, and

(ii) the Federal income tax liability of such taxpayer for all taxable years would be the same if such liability was computed with or without regard to such reserves,

then such reserves shall, as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1981, be recomputed as if section 818(h) of such Code (as added by this Act) applied to such reserves. If this subparagraph applies to any taxpayer, subparagraph (A) shall be applied with respect to such taxpayer by striking out "after July 1, 1982, and".

(b) SPECIAL RULES FOR CERTAIN TRANSACTIONS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(1) CERTAIN INTEREST AND PREMIUMS.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982, if a taxpayer, on his return of tax for such taxable year, treated—

(i) any amount described in subparagraph (B) as an amount which was not a dividend to policyholders (within the meaning of section 811 of the Internal Revenue Code of 1954), or

(ii) any amount described in subparagraph (C) as not described in section 809(c)(1),

then such amounts shall be so treated for purposes of the Internal Revenue Code of 1954.

(B) CERTAIN INTEREST.—An amount is described in this subparagraph if such amount is in the nature of interest accrued for the taxable year on an insurance or annuity contract pursuant to—

(i) an interest rate guaranteed or fixed before the period of payment of such amount begins, or

(ii) any other method (fixed before such period begins) the terms of which during the period are beyond the control and are independent of the experience of the company, whether or not the interest rate or other method was guaranteed or fixed for any specified period of time.

(C) AMOUNTS NOT TREATED AS PREMIUMS.—An amount is described in this subparagraph if such amount represents the difference between—

(i) the amount of premiums received or mortality charges made under rates fixed in advance of the premium or mortality charge due date, and

(ii) the maximum premium or mortality charge which could be charged under the terms of the insurance or annuity contract.

(D) NO INFERENCE.—The provisions of this paragraph shall constitute no inference with respect to the treatment of any item in taxable years beginning after December 31, 1981.

(2) CONSOLIDATED RETURNS.—The provisions of section 818(f) of such Code, as amended by section 262, shall apply to any taxable year beginning before January 1, 1982, if the taxpayer filed a consolidated return before July 1, 1982 for such taxable year under section 1501 of such Code which, on such date (determined without regard to any amended return filed after June 30, 1982), was consistent with the provisions of section 818(f) of such Code, as so amended. In the case of a taxable year beginning in 1981, the preceding sentence shall be applied by substituting "September 16" for "July 1" and "September 15" for "June 30".

(3) TAXABLE YEARS WHERE PERIOD OF LIMITATION HAS RUN.—This subsection shall not apply to any taxable year with respect to which the statute of limitations for filing a claim for credit or refund has expired under any provision of law or by operation of law.

PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS; COMPUTATION OF RESERVES

SEC. 264. ALLOWANCE OF DEDUCTION FOR EXCESS INTEREST.

(a) IN GENERAL.—Subsection (e) of section 805 (defining interest paid) is amended by adding at the end thereof the following new paragraph:

"(5) QUALIFIED GUARANTEED INTEREST.—Qualified guaranteed interest (within the meaning of subsection (f))".

(b) QUALIFIED GUARANTEED INTEREST DEFINED.—Section 805 (relating to policy and other contract liability requirements) is amended by adding at the end thereof the following new subsection:

"(f) QUALIFIED GUARANTEED INTEREST AND QUALIFIED CONTRACTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified guaranteed interest' means any amount in the nature of interest for the taxable year on

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qualified contracts, but only if such amount is determined pursuant to—

"(A) a stated rate of interest which is guaranteed—

"(i) before the beginning of the period for which the interest accrues, and

"(ii) for a period of not less than 12 months (or for a period ending not earlier than the close of the taxable year in which the contract was issued), or

"(B) a rate or rates of interest which—

"(i) meet the requirements of clause (i) of subparagraph (A), and

"(ii) is determined under a formula or other method the terms of which—

"(I) during the period referred to in subparagraph (A)(ii) may not be changed by the taxpayer, and

"(II) are independent of the experience of the taxpayer.

"(2) QUALIFIED CONTRACT.—The term 'qualified contract' means any annuity contract (other than any contract described in subsection (d)) which—

"(A) involves (at the time the qualified interest is credited under the contract) life contingencies,

"(B) provides no right under State law for the policyholder to participate in the divisible surplus of the taxpayer, and

"(C) provides that the taxpayer may from time to time credit amounts in the nature of interest in excess of amounts computed on the basis of any rate or rates guaranteed in the contract at the time it was entered into.

"(3) SPECIAL RULE FOR PARTICIPATING CONTRACTS.—

"(A) IN GENERAL.—In the case of an annuity contract which is not a qualified contract solely because it fails to satisfy the requirements of subparagraph (B) of paragraph (2), such contract shall be treated as a qualified contract and the amount taken into account as qualified guaranteed interest with respect to such contract shall be equal to the sum of—

"(i) the amount of interest which would be assumed in calculating reserves with respect to such contract under section 810(c) if such interest were not taken into account under subsection (e), plus

"(ii) 92.5 percent of the excess of—

"(I) the amount of qualified guaranteed interest (determined without regard to this paragraph and as if such contract were a qualified contract), over

"(II) the amount determined under clause (i).

"(B) INTEREST NOT OTHERWISE TAKEN INTO ACCOUNT.—No deduction shall be allowed under any other provision of this part for the 7.5 percent of the excess described in subparagraph (A)(ii) which is not treated as qualified guaranteed interest."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 805(c)(1) (defining adjusted life insurance reserves) is amended by inserting "or reserves on any qualified contract" after "pension plan reserves".

(2) Paragraph (2) of section 809(a) (defining required interest) is amended—

(A) by inserting "the amount of qualified guaranteed interest (within the meaning of section 805(f)(1)) and" after "the sum of"; and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraphs (A) and (B), reserves on qualified contracts (within the meaning of section 805(f)(2)) shall not be taken into account."

(3) Paragraph (1) of section 809(e) (relating to modification of interest deduction) is amended by inserting "qualified guaranteed interest (within the meaning of section 805(f)(1) or" after "allowed for".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) GUARANTEES FOR LESS THAN 12 MONTHS.—

(A) MONEYS HELD BEFORE AUGUST 14, 1982.—The requirements of subparagraph (A)(ii) or (B)(ii)(I) of section 805(f)(1) of the Internal Revenue Code of 1954 (as added by subsection (b)) shall not apply to any moneys held under any contract on August 13, 1982 (and any interest on such moneys after such date).

(B) CONTRACTS ENTERED INTO AFTER AUGUST 13, 1982, AND BEFORE JANUARY 1, 1983.—A contract entered into after August 13, 1982, and before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A)(ii) or (B)(ii)(I) of such Code if it meets such requirements on the first contract anniversary date.

SEC. 265. TREATMENT OF AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS BEFORE ANNUITY STARTING DATE.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended to read as follows:

"(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any amount which—

"(i) is received under an annuity, endowment, or life insurance contract, and

"(ii) is not received as an annuity,

if no provision of this subtitle (other than this subsection) applies with respect to such amount.

"(B) DIVIDENDS.—For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

"(2) GENERAL RULE.—Any amount to which this subsection applies—

"(A) if received on or after the annuity starting date, shall be included in gross income, or

"(B) if received before the annuity starting date—

"(i) shall be included in gross income to the extent allocable to income on the contract, and

"(ii) shall not be included in gross income to the extent allocable to the investment in the contract.

"(3) ALLOCATION OF AMOUNTS TO INCOME AND INVESTMENT.—For purposes of paragraph (2)(B)—

"(A) ALLOCATION TO INCOME.—Any amount to which this subsection applies shall be treated as allocable to income on the contract to the extent that such amount does not exceed the excess (if any) of—

"(i) the cash value of the contract (determined without regard to any surrender charge) immediately before the amount is received, over

"(ii) the investment in the contract at such time.

"(B) ALLOCATION TO INVESTMENT.—Any amount to which this subsection applies shall be treated as allocable to investment in the contract to the extent that such amount is not allocated to income under subparagraph (A).

"(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

"(A) LOANS TREATED AS DISTRIBUTIONS.—If, during any taxable year, an individual—

"(i) receives (directly or indirectly) any amount as a loan under any contract to which this subsection applies, or

"(ii) assigns or pledges (or agrees to assign or pledge) any portion of the value of any such contract,

such amount or portion shall be treated as received under the contract as an amount not received as an annuity.

"(B) TREATMENT OF POLICYHOLDER DIVIDENDS.—Any amount described in paragraph (1)(B) shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract.

"(5) RETENTION OF EXISTING RULES IN CERTAIN CASES.—

"(A) IN GENERAL.—In any case to which this paragraph applies—

"(i) paragraphs (2)(B) and (4)(A) shall not apply, and

"(ii) if paragraph (2)(A) does not apply,

the amount shall be included in gross income, but only to the extent it exceeds the investment in the contract.

"(B) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before August 14, 1982. Any amount allocable to investment in the contract after August 13, 1982, shall be treated as from a contract entered into after such date.

"(C) CERTAIN LIFE INSURANCE AND ENDOWMENT CONTRACTS.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract.

"(D) CONTRACTS UNDER QUALIFIED PLANS.—This paragraph shall apply to any amount received—

"(i) from a trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) from a contract—

"(I) purchased by a trust described in clause (i),

"(II) purchased as part of a plan described in section 403(a),

"(III) described in section 403(b), or

"(IV) provided for employees of a life insurance company under a plan described in section 805(d)(3), or

"(iii) from an individual retirement account or an individual retirement annuity.

"(E) FULL REFUNDS, SURRENDERS, REDEMPTIONS, AND MATURITIES.—This paragraph shall apply to—

"(i) any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract, and

"(ii) any amount received under a contract on its complete surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (2)(A) shall not apply.

"(6) INVESTMENT IN THE CONTRACT.—For purposes of this subsection, the investment in the contract as of any date is—

"(A) the aggregate amount of premiums or other consideration paid for the contract before such date, minus

"(B) the aggregate amount received under the contract before such date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws."

(b) 5-PERCENT PENALTY FOR CERTAIN PREMATURE DISTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (q) as subsection (r) and by adding after subsection (p) the following new subsection:

"(q) 5-PERCENT PENALTY FOR PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

"(1) IMPOSITION OF PENALTY.—

"(A) IN GENERAL.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount includible in gross income which is properly allocable to any investment in the annuity contract made during the 10-year period ending on the date such amount was received by the taxpayer.

"(B) ALLOCATION ON FIRST-IN, FIRST-OUT BASIS.—For purposes of subparagraph (A), the amount includible in gross income shall be allocated to the earliest investment in the contract with respect to which amounts have not been previously fully allocated under this paragraph.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) made to a beneficiary (or to the estate of an annuitant) on or after the death of an annuitant,

"(C) attributable to the taxpayer's becoming disabled within the meaning of subsection (m)(7),

"(D) which is one of a series of substantially equal periodic payments made for the life of a taxpayer or over a period extending for at least 60 months after the annuity starting date,

"(E) from a plan, contract, account, trust, or annuity described in subsection (e)(5)(D), or

"(F) allocable to investment in the contract before August 14, 1982."

(2) CONFORMING AMENDMENTS.—

(A) Each of the following provisions are amended by inserting "section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)," after "owner-employees)":

(i) Section 46(a)(4),

(ii) Section 50A(a)(3),

(iii) Section 53(a),

(iv) Section 901(a).

(B) Subparagraph (A) of section 1302(a)(2) is amended by inserting "or (q)(1)" after "section 72(m)(5)".

(C) Paragraph (1) of section 1304(e) is amended—

(i) by inserting "or section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)" after "owner-employees)", and

(ii) by inserting "or (q)(1)" after "Section 72(m)(5)" in the heading thereof.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on August 13, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to distributions after December 31, 1982.

SEC. 266. FLEXIBLE PREMIUM CONTRACTS.

(a) IN GENERAL.—Section 101 (relating to exclusion from gross income for certain death benefits) is amended by adding at the end thereof the following new subsection:

"(f) PROCEEDS OF FLEXIBLE PREMIUM CONTRACTS PAYABLE BY REASON OF DEATH.—

"(1) IN GENERAL.—Any amount paid by reason of the death of the insured under a flexible premium life insurance contract shall be excluded from gross income only if—

"(A) under such contract—

"(i) the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time, and

"(ii) any amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) is not at any time less than the applicable percentage of the cash value of such contract at such time, or

"(B) by the terms of such contract, the cash value of such contract may not at any time exceed the net single premium with respect to the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at such time.

"(2) GUIDELINE PREMIUM LIMITATION.—For purposes of this subsection—

"(A) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(i) the guideline single premium, or

"(ii) the sum of the guideline level premiums to such date.

"(B) GUIDELINE SINGLE PREMIUM.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract (without regard to any qualified additional benefit), and with respect to any charges for qualified additional benefits, at the time of a determination under subparagraph (A) or (E) and which is based on—

"(i) the mortality and other charges guaranteed under the contract, and

"(ii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed upon issue of the contract.

"(C) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over the longest period permitted under the contract (but ending not less than 20 years from date of issue or not later than age 95, if earlier), computed on the same basis as the guideline single premium, except that subparagraph (B)(ii) shall be applied by substituting '4 percent' for '6 percent'.

"(D) COMPUTATIONAL RULES.—In computing the guideline single premium or guideline level premium under subparagraph (B) or (C)—

"(i) the excess of the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) over the cash value of the contract shall be deemed to be not greater than such excess at the time the contract was issued,

"(ii) the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95, and

"(iii) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at any time under the contract.

"(E) ADJUSTMENTS.—The guideline single premium and guideline level premium shall be adjusted in the event of a change in the future benefits or any qualified additional benefit under the contract which was not reflected in any guideline single premiums or guideline level premium previously determined.

"(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FLEXIBLE PREMIUM LIFE INSURANCE CONTRACT.—The terms 'flexible premium life insurance contract' and 'contract' mean a life insurance contract (including any qualified additional benefits) which provides for the payment of one or more premiums which are not fixed by the insurer as to both timing and amount. Such terms do not include that portion of any contract which is treated under State law as providing any annuity benefits other than as a settlement option.

"(B) PREMIUMS PAID.—The term 'premiums paid' means the premiums paid under the contract less any amounts (other than amounts includible in gross income) to which section 72(e) applies. If, in order to comply with the requirements of paragraph (1)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year—

"(i) the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year, and

"(ii) notwithstanding the provisions of section 72(e), the amount of any interest so returned shall be includible in the gross income of the recipient.

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(i) 140 percent in the case of an insured with an attained age at the beginning of the contract year of 40 or less, and

"(ii) in the case of an insured with an attained age of more than 40 as of the beginning of the contract year, 140 percent reduced (but not below 105 percent) by one percent for each year in excess of 40.

"(D) CASH VALUE.—The cash value of any contract shall be determined without regard to any deduction for any surrender charge or policy loan.

"(E) QUALIFIED ADDITIONAL BENEFITS.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death benefit,

"(iii) family term coverage, or

"(iv) waiver of premium.

"(F) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of paragraph (1)(A)(i) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract without cash value on or before the end of the contract year.

"(G) NET SINGLE PREMIUM.—In computing the net single premium under paragraph (1)(B)—

"(i) the mortality basis shall be that guaranteed under the contract (determined by reference to the most recent mortality table allowed under all State laws on the date of issuance),

"(ii) interest shall be based on the greater of—

"(I) an annual effective rate of 4 percent (3 percent for contracts issued before July 1, 1983), or

"(II) the minimum rate or rates guaranteed upon issue of the contract, and

"(iii) the computational rules of paragraph (2)(D) shall apply, except that the maturity date referred to in clause (ii) thereof shall not be earlier than age 95.

"(H) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

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"(i) the requirements described in paragraph (1) for any contract year was not satisfied due to reasonable error, and

"(ii) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements."

"(I) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) Conforming amendment.—Paragraph (1) of section 101(a) (relating to proceeds of life insurance contracts payable by reason of death) is amended by striking out "and in subsection (d)" and inserting in lieu thereof ", subsection (d), and subsection (f)".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to contracts entered into before January 1, 1984.

(2) Special rule for contracts entered into before January 1, 1983.—Any contract entered into before January 1, 1983, which meets the requirements of section 101(f) of the Internal Revenue Code of 1954 on the date which is 1 year after the date of the enactment of this Act shall be treated as meeting the requirements of such section for any period before the date on which such contract meets such requirements. Any death benefits paid under a flexible premium life insurance contract (within the meaning of section 101(f)(3)(A) of such Code) before the date which is 1 year after such date of enactment shall be excluded from gross income.

(3) Special rule for certain contracts.—Any contract entered into before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A) of section 101(f)(1) of such Code if such contract would meet such requirements if section 103(f)(2)(C) of such Code were applied by substituting "3 percent" for "4 percent".

SEC. 267. REDUCTION IN APPROXIMATE REVALUATION METHOD OF COMPUTING RESERVES.

(a) Reduction From $21 per $1,000 to $19 per $1,000 in Determining Approximate Revaluation of Certain Reserves Computed on Preliminary Term Basis.—

(1) In general.—Subparagraph (A) of section 818(c)(2) (relating to approximate revaluation of reserves computed on preliminary term basis) is amended—

(A) by striking out "$21" and inserting in lieu thereof "$19", and

(B) by striking out "2.1 percent" and inserting in lieu thereof "1.9 percent".

(2) Taxpayer allowed to elect out of approximate revaluation.—The last sentence of section 818(c) (relating to life insurance reserves computed on preliminary term basis) is amended—

(A) by inserting "or in effect for a taxable year beginning in 1981" after "1958" the first place it appears, and

(B) by inserting "or 1981, whichever is applicable" after "1958" the second place it appears.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981, but only with respect to reserves established under contracts entered into after March 31, 1982.

PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1983

SEC. 268. UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before December 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by section 802(a), to the extent that such underpayment was created or increased by any provisions of this subtitle.

Subtitle E—Employment Taxes

PART I—IN GENERAL

SEC. 269. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

(a) General Rule.—Chapter 25 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 3508. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

"(a) General Rule.—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

"(1) the individual performing such services shall not be treated as an employee, and

"(2) the person for whom such services are performed shall not be treated as an employer.

"(b) Definitions.—For purposes of this section—

"(1) Qualified real estate agent.—The term 'qualified real estate agent' means any individual who is a sales person if—

"(A) such individual is a licensed real estate agent,

"(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for Federal tax purposes.

"(2) Direct seller.—The term 'direct seller' means any person if—

"(A) such person—

"(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or

"(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment,

"(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

"(3) Coordination with retirement plans for self-employed.—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals)."

(b) Amendment of Social Security Act.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Treatment of Real Estate Agents and Direct Sellers

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply for purposes of this title."

(c) Indefinite Extension of Provisions Relating to Employment Status for Employment Taxes.—

(1) Termination of certain employment tax liability.—

(A) Subparagraph (A) of section 530(a)(1) of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended by striking out "ending before July 1, 1982".

(B) Paragraph (3) of section 530(a) of such Act is amended by striking out "and before July 1, 1982,".

(C) The subsection heading of subsection (a) of section 530 of such Act is amended by striking out "for Periods Before July 1, 1982".

(2) Prohibition against regulations and rulings on employment status.—Subsection (b) of section 530 of such Act is amended—

(A) by striking out "July 1, 1982 (or, if earlier,", and

(B) by striking out "taxes)" and inserting in lieu thereof "taxes".

(3) Certain regulations, etc., permitted.—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the implementation of the amendments made by this section.

(d) Clerical Amendment.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3508. Treatment of real estate agents and direct sellers."

(e) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to services performed after December 31, 1982.

(2) Subsection (c).—The amendments made by subsection (c) shall take effect on July 1, 1982.

SEC. 270. SIMPLIFIED PROCEDURE FOR DETERMINING AMOUNT OF EMPLOYMENT TAXES.

(a) In General.—Chapter 25 (relating to general provisions relating to employment taxes), as amended by section 271, is amended by adding at the end thereof the following new section:

"SEC. 3509. DETERMINATION OF EMPLOYER'S LIABILITY FOR CERTAIN EMPLOYMENT TAXES.

"(a) In General.—If any employer fails to deduct and withhold any tax under chapter 24 or subchapter A of chapter 21 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer's liability for—

"(1) Withholding taxes.—Tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (as defined in section 3401) paid to such employee.

"(2) Employee social security tax.—Taxes under subchapter A of chapter 21 with respect to such employee shall be determined as if the taxes imposed under such subchap-

ter were 20 percent of the amount imposed under such subchapter without regard to this subparagraph.

"(b) Employer's Liability Increased Where Employer Disregards Reporting Requirements.—

"(1) In general.—In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause and not willful neglect, subsection (a) shall be applied with respect to such employee—

"(A) by substituting '3 percent' for '1.5 percent' in paragraph (1); and

"(B) by substituting '40 percent' for '20 percent' in paragraph (2).

"(2) Applicable requirements.—For purposes of paragraph (1), the term 'applicable requirements' means the requirements described in paragraph (1) which would be applicable consistent with the employer's treatment of the employee as not being an employee for purposes of chapter 24 or subchapter A of chapter 21.

"(c) Section Not To Apply in Cases of Intentional Disregard.—This section shall not apply to determination of the employer's liability for tax under chapter 24 or subchapter A of chapter 21 if such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax.

"(d) Special Rules.—For purposes of this section—

"(1) Determination of liability.—If the amount of any liability for tax is determined under this section—

"(A) the employee's liability for tax shall not be affected by the assessment or collection of the tax so determined,

"(B) the employer shall not be entitled to recover from the employee any tax so determined, and

"(C) sections 3402(d) and section 6521 shall not apply.

"(2) Section not to apply where employer deducts wage but not social security taxes.—This section shall not apply to any employer with respect to any wages if—

"(A) the employer deducted and withheld any amount of the tax imposed by chapter 24 on such wages, but

"(B) failed to deduct and withhold the amount of the tax imposed by subchapter A of chapter 21 with respect to such wages.

"(3) Section not to apply to certain statutory employees.—This section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in subsection (d)(3) of section 3121 (without regard to whether such individual is described in paragraph (1) or (2) of such subsection).".

(b) Conforming Amendment.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3509. Determination of employer's liability for certain employment taxes.".

(c) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply to any assessment made before January 1, 1983.

PART II—FEDERAL UNEMPLOYMENT TAX

Subpart A—Increase in Federal Unemployment Tax

SEC. 271. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

(a) Increase in Wage Base.—Paragraph (1) of section 3306(b) (defining wages) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof "$7,000".

(b) Increase in Rate.—

(1) In general.—Paragraph (1) of section 3301 (relating to rate of unemployment tax) is amended by striking out "3.4 percent" and inserting in lieu thereof "3.5 percent".

(2) Technical amendments.—

(A) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 3.5 percent."

(B) Paragraph (1) of section 905(b) of such Act is amended by amending the last sentence to read as follows: "In the case of any month after March 1983 and before April 1 of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting '40 percent' for 'one-tenth'."

(C) Subsection (b) of section 6157 is amended by striking out "0.7 percent" and inserting in lieu thereof "0.8 percent".

(c) Increase in Rate for 1985 and Thereafter.—

(1) In general.—Section 3301 (as amended by subsection (b)) is amended—

(A) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent", and

(B) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent".

(2) Increase in amount of state credit.—

(A) Subsection (b) of section 3302 (relating to additional credit) is amended by striking out "2.7%" and inserting in lieu thereof "5.4%".

(B) Paragraph (1) of section 3302(d) (relating to rate of tax deemed to be 3 percent) is amended by striking out "3 percent" each place it appears and inserting in lieu thereof "6 percent".

(3) Technical amendments.—

(A) Paragraph (2) of section 3302(c) is amended by striking out "10 percent" each place it appears in subparagraph (A) and inserting in lieu thereof "5 percent".

(B) Paragraph (3) of section 3302(c) is amended by striking out "15 percent" and inserting in lieu thereof "7½ percent".

(C) Subsection (b) of section 6157 is amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof "0.6 percent".

(D) Subparagraph (C) of section 901(c)(3) of the Social Security Act (as amended by subsection (b)) is amended—

(i) by striking out "0.5 percent" and inserting in lieu thereof "0.6 percent";

(ii) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent"; and

(iii) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent".

(b) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1982.

(2) Subsection (c).—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

(3) Transitional rule for certain employees.—

(A) In general.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified specific industry provision if the requirements of subparagraph (B) are met with respect to such employee.

(B) Requirements.—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a specific industry provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multiplied by the wages paid by the employer during the taxable year.

(C) Required rate.—For purposes of subparagraph (B), the required rate for any taxable year is the sum of—

(i) the rate at which contributions were required to be made under the specific industry provision as in effect on August 10, 1982, and

(ii) the applicable percentage of the excess of 5.4 percent over the rate described in clause (i).

(D) Applicable percentage.—For purposes of subparagraph (C), the term "applicable percentage" means—

(i) 20 percent in the case of taxable year 1985,

(ii) 40 percent in the case of taxable year 1986,

(iii) 60 percent in the case of taxable year 1987, and

(iv) 80 percent in the case of taxable year 1988.

(E) Qualified specific industry provision.—For purposes of this paragraph, the term, "qualified specific industry provision" means a provision contained in a State unemployment compensation law (as in effect on August 10, 1982)—

(i) which applies to employees in a specific industry or to an otherwise defined type of employees, and

(ii) under which employers may elect to make contributions at a specified rate (without experience rating) which exceeds 2.7 percent.

Subpart B—Other Financing Provisions

SEC. 272. CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.

(a) General Rule.—Section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

"(g) Credit Reduction Not To Apply When State Makes Certain Repayments.—

"(1) In general.—In the case of any State which meets requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year, except that such taxable year (and January 1 of such taxble year) shall (except as provided in subsection (f)(3)) be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) Requirements.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

"(A) the repayments during the 1-year period ending on November 9 of such taxable year made by such State of advances under title XII of the Social Security Act are not less than the sum of—

"(i) the potential additional taxes for such taxable year, and

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(ii) any advances made to such State during such 1-year period under such title XII,

"(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 3-month period beginning on November 1 of such taxable year without receiving any advance under title XII of the Social Security Act, and

"(C) there is a net increase in the solvency of the State unemployment compensation system for the taxable year attributable to changes made in the State law after the date on which the first advance taken into account in determining the amount of the potential additional taxes was made (or, if later, after the date of the enactment of this subsection) and such net increase equals or exceeds the potential additional taxes for such taxable year.

"(3) Definitions.—For purposes of paragraph (2)—

"(A) Potential additional taxes.—The term 'potential additional taxes' means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection but with regard to subsection (f).

"(B) Treatment of certain reductions.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State.

"(4) Reports.—The Secretary of Labor may require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 273. LIMITATION ON FIFTH YEAR CREDIT REDUCTION.

(a) General Rule.—Paragraph (2) of section 3302(c) (relating to limit on total credits) is amended by adding at the end thereof the following new sentence: "Subparagraph (C) shall not apply with respect to any taxable year to which it would otherwise apply (but subparagraph (B) shall apply to such taxable year) if the Secretary of Labor determines (on or before November 10 of such taxable year) that the State meets the requirements of subsection (f)(2)(B) for such taxable year."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 274. DEFERRAL OF INTEREST IN CASE OF CERTAIN STATES WITH HIGH UNEMPLOYMENT RATES.

(a) General Rule.—Paragraph (3) of section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) In the case of any State which meets the requirements of clause (ii) for any calendar year, any interest otherwise required to be paid under this subsection during such calendar year shall be paid as follows—

"(I) 25 percent of the amount otherwise required to be paid on or before any day during such calendar year shall be paid on or before such day; and

"(II) 25 percent of the amount otherwise required to be paid on or before such day shall be paid on or before the corresponding day in each of the 3 succeeding calendar years.

Any interest the time for payment of which is deferred under this subparagraph shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

"(ii) A State meets the requirements of this clause for any calendar year if the rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) under the State law of the period consisting of the first 6 months of the preceding calendar year equaled or exceeded 7.5 percent."

(b) Effective Date.—The amendment made by subsection (a) shall apply to interest required to be paid after December 31, 1982.

SEC. 275. REQUIRED REPAYMENTS FROM EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

Subsection (d) of section 905 of the Social Security Act is amended by inserting after the second sentence the following new sentence: "Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount then in the account exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months."

SEC. 276. TREATMENT OF CERTAIN SERVICES PERFORMED BY STUDENTS.

(a) Student Interns.—

(1) In general.—Subparagraph (C) of section 3306(c)(10) (defining employment) is amended by striking out "under the age of 22".

(2) Effective date.—The amendment made by paragraph (1) shall apply with respect to services performed after the date of the enactment of this Act.

(b) Full Time Students Employed by Summer Camps.—

(1) Service by full time students.—Subsection (c) of section 3306 (defining employment) is amended—

(A) by striking out "or" at the end of paragraph (18),

(B) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new paragraph:

"(20) service performed by a full time student (as defined in subsection (q)) in the employ of an organized camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(2) Full time student defined.—Section 3306 is amended by adding at the end thereof the following new subsection:

"(q) Full Time Student.—For purposes of subsection (c)(20), an individual shall be treated as a full time student for any period—

"(1) during which the individual is enrolled as a full time student at an educational institution, or

"(2) which is between academic years or terms if—

"(A) the individual was enrolled as a full time student at an educational institution for the immediately preceding academic year or term, and

"(B) there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (A)."

(3) Effective date.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1982, and before January 1, 1984.

SEC. 277. TREATMENT OF CERTAIN ALIEN FARM WORKERS.

Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1984".

PART III—MEDICARE COVERAGE

SEC. 278. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, FEDERAL EMPLOYMENT.

(a) Application of Hospital Insurance Tax to Federal Employment.—

(1) In general.—Section 3121 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(u) Application of Hospital Insurance Tax to Federal Employment.—

"(1) In general.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) paragraph (6) of subsection (b) shall be applied without regard to subparagraphs (A), (B), and (C)(i), (ii), and (vi) thereof, and

"(B) paragraph (5) of subsection (b) (and the provisions of law referred to therein) shall not apply.

"(2) Medicare qualified Federal employment.—For purposes of this chapter, the term 'medicare qualified Federal employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraph (1), but

"(B) would not be employment (as so defined) without the application of paragraph (1)."

(2) Conforming amendment to self-employment tax.—Section 1402(b) (relating to self-employment income) is amended in the second sentence by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) includes, but only with respect to the tax imposed by section 1401(b), remuneration paid for medicare qualified Federal employment (as defined in section 3121(u)(2)) which is subject to the taxes imposed by sections 3101(b) and 3111(b)".

(3) Conforming amendment to Federal service.—Section 3122 (relating to federal service) is amended in the first sentence by inserting "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))," after "wholly owned by the United States,".

(b) Entitlement to Hospital Insurance Benefits.—

(1) Definition of medicare qualified Federal employment.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Medicare Qualified Federal Employment

"(p) For purposes of sections 226 and 226A, the term 'medicare qualified Federal employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(1) subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6), or

"(2) subsection (a)(5).".

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER.—Section 226(a)(2) of the the Social Security Act is amended—

(i) by inserting "(A)" after "(2)";

(ii) by striking out "or is a qualified railroad retirement beneficiary," at the end of subparagraph (A); and

(iii) by inserting after subparagraph (A) the following new subparagraphs:

"(B) is a qualified railroad retirement beneficiary, or

"(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII,".

(B) ENTITLEMENT FOR DISABLED INDIVIDUALS.—

(i) IN GENERAL.—Section 226(b)(2) of the Social Security Act is amended by striking out "(B)" and all that follows through "1974," and adding at the end the following:

"(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or

"(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII pursuant to this subparagraph, and

"(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this title), including the requirement that he have been entitled to the specified benefits for 24 months, if—

"(I) medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and

"(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),".

(ii) CLARIFICATION OF PERIOD OF ENTITLEMENT.—Section 226(b) of such Act is further amended by adding after the first sentence the following new sentence: "In applying the previous sentence in the case of an an individual described in paragraph (2)(C), the 'twenty-fifth month of his entitlement' refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and 'notice of termination of such entitlement' refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph.".

(C) ENTITLEMENT FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Paragraph (1) of section 226A(a) of the Social Security Act is amended to read as follows:

"(1)(A) is fully or currently insured (as such terms are defined in section 214), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included within the meaning of the term 'employment' for purposes of this title, and (ii) his medicare qualified Federal employment (as defined in section 210(p)) were included within the meaning of the term 'employment' for purposes of this title;

"(B)(i) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) would be entitled to a monthly insurance benefit under this title if medicare qualified Federal employment (as defined in 210(p)) after December 31, 1982, were included within the meaning of the term 'employment' for purposes of this title; or

"(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or (B);".

(3) CONFORMING AMENDMENT.—Section 1811 of the Social Security Act is amended—

(A) by inserting "(or would be eligible for such benefits if certain Federal employment were overed employment under such title)" after "title II of this Act" in clause (1), and

(B) by inserting "(or would have been so entitled to such benefits if certain Federal employment were covered employment under such title)" after "title II of this Act" in clause (2).

(4) NOTICE TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON FEDERAL EMPLOYMENT.—Section 226 of such Act is amended by redesignating subsection (g) as subsection (h) and by inerting after subsection (f) the following new subsection:

"(g) The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified Federal employment are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (2) the requirements for and conditions of such eligibility, and (3) the necessity of timely application as a condition of entitlement under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity under chapter 83 of title 5, United States Code, or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.".

(c) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1982.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) are effective on and after January 1, 1983, and the amendments made by paragraph (3) of that subsection apply to remuneration (for medicare qualified Federal employment) paid after December 31, 1982.

(B) TREATMENT OF CURRENT DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b) or the provisions of subsection (d), no individual may be considered to be under a disability for any period before January 1, 1983.

(d) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual—

(A) who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act) and

(B) who would be entitled, under section 226(a)(2)(C), 226(b)(2)(C), 226A(a)(1)(A)(ii), or 226A(a)(1)(B)(iii) of such Act, to hospital insurance benefits under part A of title XVIII of such Act but for the failure to include medicare qualified Federal employment (as so defined) within the meaning of the term "employment" for purposes of title II of such Act for remuneration paid before January 1, 1983, the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be "employment" (as so defined), but only for the purpose of providing such entitlement.

(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person's eligibility for hospital insurance benefits.

(3) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1) or (2) of this subsection,

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

SUBTITLE F—EXCISE TAXES

PART I—AIRPORT AND AIRWAY

SEC. 279. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) IMPOSITION OF TAX.—

(1) GASOLINE FUELS.—Paragraph (3) of subsection 4041(c) (relating to rate of tax) is amended by striking out "3 cents a gallon" and inserting in lieu thereof "8 cents a gallon (10½ cents a gallon in the case of any gasoline with respect to which a tax is imposed under section 4081 at the rate set forth in subsection (b) thereof)".

(2) NONGASOLINE FUELS.—Paragraph (1) of subsection 4041(c) (relating to tax on fuel used in non-commercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "14 cents".

(3) TERMINATION.—Paragraph (5) of section 4041(c) is amended to read as follows:

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"(5) Termination.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1987."

(b) Certain Helicopters.—

(1) Exemption.—Section 4041 (relating to tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(l) Exemption For Certain Helicopter Uses.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operation),

but only if the helicopter does not take off from, or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway System Development Act of 1982 during such use."

(2) Refund of tax.—Subsection (d) of section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by inserting "or is used in a helicopter for a purpose described in section 4041(l)," after "section 4041(h)(2)(C),"; and

(B) by inserting "or in Certain Helicopters" after "Museums" in the caption thereof.

(c) Effective Date.—The amendments made by this section shall take effect on September 1, 1982.

SEC. 280. TAX ON TRANSPORTATION BY AIR

(a) Transportation of Persons.—Section 4261 (relating to imposition of tax) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) Exemption for Certain Helicopter Uses.—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway System Development Act of 1982 during such use.

"(f) Termination.—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

(b) Transportation of Property.—Subsection (d) of section 4271 is amended to read as follows:

"(d) Termination.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

(c) Repeal of Certain Terminated Taxes.—

(1) In general.—Subchapter E of chapter 36 is hereby repealed.

(2) Conforming amendments.—

(A) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

(B) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(i) by striking out "(as defined in section 4492(b))", and

(ii) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate."

(C) Subsection (a) of section 6156 is amended by striking out "or 4491".

(D) Paragraph (2) of section 6156(e) is amended by striking out "in the case of the tax imposed by section 4481".

(E) The section heading for section 6156 is amended by striking out "AND CIVIL AIRCRAFT".

(F) The table of sections for subchapter A of chapter 62 is amended by striking out "and civil aircraft" in the item relating to section 6156.

(G) Section 6426 is hereby repealed.

(H) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(d) Effective Date.—The amendments made by this section shall apply with respect to transportation beginning after August 31, 1982; except that such amendments shall not apply to any amount paid on or before such date.

SEC. 281. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) General Rule.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund', consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

"(b) Transfer to Airport and Airway Trust Fund of Amounts Equivalent to Certain Taxes.—There is hereby appropriated to the Airport and Airway Trust Fund—

"(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

"(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988, under section 4081, with respect to gasoline used in aircraft; and

"(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988 under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

"(c) Appropriation of Additional Sums.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

"(d) Expenditures From Airport and Airway Trust Fund.—

"(1) Airport and airway program.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1987, to meet those obligations of the United States—

"(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway System Development Act of 1982;

"(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

"(i) air traffic control,

"(ii) air navigation,

"(iii) communications, or

"(iv) supporting services,

for the airway system; or

"(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

"(2) Transfers from airport and airway trust fund on account of certain refunds.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

"(3) Transfers from the airport and airway trust fund on account of certain section 39 credits.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.".

(b) Repeal of Section 208 of the Airport and Airway Revenue Act of 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

(c) Conforming Amendments.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

"Sec. 9501. Black Lung Disability Trust Fund.

"Sec. 9502. Airport and Airway Trust Fund.".

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

"SEC. 9501. BLACK LUNG DISABILITY TRUST FUND.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on September 1, 1982.

(2) Savings provisions.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund

established by the amendments made by this section.

PART II—COMMUNICATIONS SERVICES

SEC. 284. EXTENSION OF EXCISE TAX ON COMMUNICATIONS SERVICES.

(a) In General.—Section 4251 (relating to imposition of tax on communications services) is amended by striking out subsections (a) and (b) and inserting the following new subsections:

"(a) Tax Imposed.—

"(1) In general.—There is hereby imposed on amounts paid for communications services a tax equal to the applicable percentage of amounts so paid.

"(2) Payment of tax.—The tax imposed by this section shall be paid by the person paying for such services.

"(b) Definitions.—"For purposes of subsection (a)—

"(1) Communications services.—"The term 'communications services' means—

"(A) local telephone service;

"(B) toll telephone service; and

"(C) teletypewriter exchange service.

"(2) Applicable percentage.—The term 'applicable percentage' means—

"With respect to amounts paid pursuant to bills first rendered—	*The percentage is—*
During 1983, 1984, or 1985	*3*
During 1986 or thereafter.	*0."*

(b) Effective Date.—"The amendment made by subsection (a) shall apply with respect to amounts paid for communications services pursuant to bills first rendered after December 31, 1982.

PART III—CIGARETTES

SEC. 283. INCREASE IN TAX ON CIGARETTES.

(a) Rate of Tax.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(1) by striking out "$4" in paragraph (1) and inserting in lieu thereof "$8; and

(2) by striking out "8.40" in paragraph (2) and inserting in lieu thereof $16.80".

(b) Floor Stocks.—

(1) Imposition of tax.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) Small cigarettes.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand;

(B) Large cigarettes.—On cigarettes, weighing more than 3 pounds per thousand $8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) Liability for Tax and Method of Payment.—

(A) Liability for tax.—A person holding cigarettes on January 1, 1983, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) Method of payment.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 and shall be due and payable on January 18, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on after January 1, 1983.

((3) Cigarette.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) Exception for retailers.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on January 1, 1983, at the place where intended to be sold at retail.

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to cigarettes removed after December 31, 1982 and before October 1, 1985.

PART IV—TAPS ADJUSTMENT ELIMINATED

SEC. 284. ELIMINATION OF THE TAPS ADJUSTMENT.

(a) In General.—Subsection (d) of section 4996 (relating to Alaskan oil from Sadlerochit reservior) is amended to read as follows:

"(d) Alaskan Oil From Sadlerochit Reservoir.—For purposes of this chapter—

"(1) Removal price determined on monthly basis.—The removal price of Sadlerochit oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) Sadlerochit oil defined.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.".

(b) Effective Date.—The amendment made by this section shall apply with respect to oil removed after December 31, 1982.

Subtitle G—Miscellaneous

SEC. 285. TWO-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME OF NATIONAL RESEARCH SERVICE AWARDS.

Paragraph (2) of section 161(b) of the Revenue Act of 1978 relating to exclusion from gross income for national research service awards) is amended by striking out "1981" and inserting in lieu thereof "1983".

SEC. 286. SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.

(a) Special Rules.—Section 501 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Special Rules for Certain Amateur Sports Organizations.—

"(1) In general.—In the case of a qualified amateur sports organization—

"(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

"(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

"(2) Qualified amateur sports organization defined.—For purposes of this subsection, the term 'qualified amateur sports organization' means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports."

(b) Definition of Charitable Contribution.—(1) Subsection (c) of section 170 (defining charitable contribution) is amended by adding at the end of paragraph (2) the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph".

(2) Subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(3) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(c) Effective Date.—The amendments made by this section shall take effect on October 5, 1976.

SEC. 287. NEW JERSEY GENERAL REVENUE SHARING ALLOCATION.

(a) In General.—Subsection (e) of section 109 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228) (defining general tax effort factor) is amended by inserting at the end thereof the following new paragraph:

"(3) New jersey franchise and gross receipts taxes.—

"(A) The New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A-18.1) transferred to a unit of local government within the State in the years beginning January 1 of 1980, 1981, and 1982 shall be deemed to be an adjusted tax of such units for purposes of paragraph (2)(A)(i).

"(B) The provisions of subparagraph (A) shall be given effect for quarterly payments made for quarters beginning after December 31, 1982, only if the Governor of the State of New Jersey notifies the Secretary that, prior to January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for collection and retention of such taxes by units of local government for years beginning as of January 1, 1983.

"(C) Notwithstanding the limitation in subparagraph (B), the provisions of subparagraph (A) shall be given effect with respect to the quarterly payment to be made for the quarter beginning October 1, 1982.".

(b) Effective Date.—The amendment made by this section shall be effective after September 30, 1982.

SEC. 288. ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.

(a) In General.—Paragraph (1) of section 162(c) (relating to illegal payments to Government officials or employees) is amended—

(1) by striking out "would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee" and inserting in lieu thereof "is unlawful under the Foreign Corrupt Practices Act of 1977", and

(2) by striking out "(or would be unlawful under the laws of the United States)" and inserting in lieu thereof "(or is unlawful under the Foreign Corrupt Practices Act of 1977)".

(b) Coordination With Subpart F—

(1) Subsection (a) of section 952 is amended by adding at the end thereof the following new sentence:

"The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person."

(2) Subsection (a) of section 964 is amended by adding at the end thereof the following new sentence: "The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person."

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

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SEC. 289. DEPT. MANAGEMENT PROVISIONS.

(a) DETERMINATION BY SECRETARY OF INVESTMENT YIELD ON UNITED STATES SAVINGS BOND.—

(1) Subsection (b) of section 22 of the Second Liberty Bond Act (31 U.S.C. 757c) is amended—

(A) by amending paragraph (3) to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond. The Secretary of the Treasury, with the approval of the President, may provide for increases and decreases in the investment yield on any outstanding United States savings bond; except that the investment yield on any bond for the period held may not be decreased below the minimum yield for such period guaranteed at the time of its issuance.";

(B) by striking out "the Secretary of the Treasury may prescribe: Provided" and all that follows down through the end of the second sentence of paragraph (1) of such subsection and inserting in lieu thereof "the Secretary of the Treasury may prescribe.";

(C) by striking out "and shall be expressed in terms of their maturity value" in the third sentence of paragraph (1) of such subsection; and

(D) by striking out "higher rates which are consistent" and inserting in lieu thereof "rates which are consistent" in subparagraph (B) of paragraph (2) of such subsection.

(2) The second sentence of section 22A(b)(1) of such Act is amended by striking out "the Secretary of the Treasury may prescribe" and all that follows down through the end thereof and inserting in lieu thereof "the Secretary of the Treasury may prescribe.".

(b) TRANSITIONAL RULE.—In the case of any savings bond issued before the 30th day after the date of the enactment of this Act, for purposes of sections 22 and 22A of such Act, the minimum yield guaranteed for the period held shall be the scheduled investment yield for such period as in effect on such 30th day.

(c) LIMIT ON OUTSTANDING BONDS.—Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$70,000,000,000" and inserting in lieu thereof "$110,000,000,000".

SEC. 290. JEFFERSON COUNTY MENTAL HEALTH CENTER.

(a) IN GENERAL.—The Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Jefferson County Mental Health Center, Incorporated, of Lakewood, Colorado, the sum of $50,000 in full settlement of all claims of the center against the United States for repayment of amounts the center erroneously refunded to its employees for social security contributions in the period after December 31, 1971, and prior to May 14, 1975, pursuant to instructions by the Internal Revenue Service.

(b) LIMITATION.—No part of the amount appropriated in subsection (a) in excess of 10 per centum shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof be fined any sum not exceeding $1,000.

SEC. 291. ALASKA NATIVE CORPORATIONS.

Paragraph (2) of subsection (d) of section 4994 of subpart B of chapter 45 (relating to windfall profit tax on domestic crude oil; categories of oil) is amended by striking "under" the first time it appears and inserting in lieu thereof "pursuant to".

SEC. 292. AWARDING OF COSTS AND CERTAIN FEES.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as section 7431 and by inserting after section 7429 the following new section:

"SEC. 7430. AWARDING OF COURT COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In the case of any civil proceeding which is—

"(1) brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, and

"(2) brought in a court of the United States (including the Tax Court),

the prevailing party may be awarded a judgment for reasonable litigation costs incurred in such proceeding.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed $25,000.

"(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(3) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation costs which are allocable to the United States and not to any other party to the action or proceeding.

"(4) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(C)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(c) DEFINITIONS.—For purposes of this section—

"(1) REASONABLE LITIGATION COSTS.—

"(A) IN GENERAL.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs,

"(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

"(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

"(B) ATTORNEY'S FEES.—In the case of any proceeding in the Tax Court, fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court shall be treated as fees for the services of an attorney.

"(2) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved) which—

"(i) establishes that the position of the United States in the civil proceeding was unreasonable, and

"(ii)(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented.

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

"(i) by the court, or

"(ii) by agreement of the parties.

"(3) CIVIL ACTIONS.—The term 'civil proceeding' includes a civil action.

"(d) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court,

such actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

"(e) RIGHT OF APPEAL.—An order granting or denying an award for reasonable litigation costs under subsection (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

"(f) TERMINATION.—This section shall not apply to any proceeding commenced after December 31, 1985."

(b) PENALTY FOR USING TAX COURT PROCEEDINGS FOR DELAY: PENALTY FOR FRIVOLOUS OR GROUNDLESS PROCEEDING.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: "Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of $5,000 shall be awarded to the United States by the Tax Court in its decision.".

(c) APPLICATION WITH TITLE 28.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f)). Nothing in the preceding sentence shall prevent the awarding under subsection (a) of section 2412 of title 28, United States Code, of costs enumerated in section 1920 of such title (as in effect on October 1, 1981).".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

"Sec. 7430. Awarding of court costs and certain fees.

"Sec. 7431. Cross references.".

(2)(A) The section heading of section 6673 is amended by striking out "MERELY FOR DELAY." and inserting in lieu thereof "PRIMARILY FOR DELAY, ETC.".

(B) The table of sections for subchapter B of chapter 68 is amended by striking out "merely for delay." in the item relating to section 6673 and inserting in lieu thereof "primarily for delay, etc.".

(e) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to civil actions or proceedings commenced after February 28, 1983.

(2) Penalty.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1982,

SEC. 293. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) Removal of Limitation on Amount of Ordinary Gross Income From Lending or Finance Business Taken Into Account.—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000".

(b) Changes in Definition of Lending or Finance Business.—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or".

(c) Indefinite Maturity Credit Transactions.—Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) Indefinite maturity credit transactions.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) Subsections (b) and (c). The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 294. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.

(a) Time for Filing Claim.—Subparagraph (C) of section 231(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out "the first day of such 10th calendar month" and inserting in lieu thereof "December 31, 1982".

(b) Procedure for Passing Through Refund.—Subparagraph (A) of section 231(c)(2) of such Act is amended by inserting before the semicolon ", or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement".

TITLE III—TAXPAYER COMPLIANCE

Subtitle A—Withholding on Interest and Dividends

SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Withholding From Interest and Dividends

"Sec. 3451. Income tax collected at source on interest, dividends, and patronage dividends.
"Sec. 3452. Exemptions from withholding.
"Sec. 3453. Payor defined.
"Sec. 3454. Definitions of interest, dividend, and patronage dividend.
"Sec. 3455. Other definitions and special rules.
"Sec. 3456. Administrative provisions.

"SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) Requirement of Withholding.—Except as otherwise provided in this subchapter, the payor of any interest, dividend, or patronage dividend shall withhold a tax equal to 10 percent of the amount of the payment.

"(b) Special Rules.—

"(1) Time of withholding.—Except as otherwise provided in this subchapter, for purposes of this subchapter—

"(A) any payment of interest, dividend, or patronage dividend shall be treated as made, and

"(B) the tax imposed by this section shall be withheld,

at the time such interest, dividend, or patronage dividend is paid or credited.

"(2) Payee unknown.—If a payor is unable to determine the person to whom any interest, dividend, or patronage dividend is payable or creditable, the tax under this section shall be withheld at the time withholding would be required under paragraph (1) if the payee were known and were an individual.

"(3) Amount of dividend, etc., unknown.—

"(A) In general.—If the payor is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution. To the extent provided in regulations, a similar rule shall apply in the case of interest and patronage dividends.

"(B) Distributions which are not dividends.—To the extent provided in regulations, this section shall not apply to the extent that the portion of a distribution which is not a dividend may reasonably be estimated.

"(4) Withholding from alternative source.—The Secretary shall prescribe regulations setting forth the circumstances under which the tax imposed by this section may be paid from an account or source other than the payment which gives rise to the liability for tax.

"(c) Liability for Payment.—

"(1) Payor liable.—Except as otherwise provided in this subchapter, the payor—

"(A) shall be liable for the payment of the tax imposed by this section which such payor is required to withhold under this section, and

"(B) shall not be liable to any person (other than the United States) for the amount of any such payment.

"(2) Reliance on exemption certificates.—The payor shall not be liable for the payment of tax imposed by this section which such payor is required to withhold under this section if—

"(A) such payor fails to withhold such tax, and

"(B) such failure is due to reasonable reliance on an exemption certificate delivered to such payor under section 3452(f) which is in effect with respect to the payee at the time such tax is required to be withheld under this section.

"SEC. 3452. EXEMPTIONS FROM WITHHOLDING.

"(a) In General.—Section 3451 shall not apply with respect to—

"(1) any payment to an exempt individual,

"(2) any payment to an exempt recipient,

"(3) any minimal interest payment, or

"(4) any qualified consumer cooperative payment.

"(b) Exempt Individuals.—

"(1) In general.—For purposes of this section, the term 'exempt individual' means any individual—

"(A) who is described in paragraph (2), and

"(B) with respect to whom an exemption certificate is in effect.

"(2) Individuals described in this paragraph.—An individual is described in this paragraph if—

"(A) such individual's income tax liability for the preceding taxable year did not exceed $600 ($1,000 in the case of a joint return under section 6013), or

"(B)(i) such individual is 65 or older, and

"(ii) such individual's income tax liability for the preceding taxable year did not exceed $1,500 ($2,500 in the case of a joint return under section 6013).

"(3) Special rule for married persons.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

"(A) either spouse is 65 or older, and

"(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

"(4) Special rule for certain trusts distributing currently.—Under regulations, a trust—

"(A) the terms of which provide that all of its income is required to be distributed currently, and

"(B) all the beneficiaries of which are individuals described in paragraph (2) or organizations described in subsection (c)(2)(B),

shall be treated as an individual described in paragraph (2).

"(5) Income tax liability.—For purposes of this subsection, the term 'income tax liability' means the amount of the tax imposed by subtitle A for the taxable year, reduced by the sum of the credits allowable against such tax (other than credits allowable by sections 31, 39, and 43).

"(c) Exempt Recipients.—

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"(1) In general.—For purposes of this section, the term 'exempt recipient' means any person described in paragraph (2)—

"(A) with respect to whom an exemption certificate is in effect, or

"(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without cerification.

"(2) Persons described in this paragraph.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

"(C) the United States or a State,

"(D) a foreign government or international organization,

"(E) a foreign central bank of issue,

"(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

"(G) a real estate investment trust (as defined in section 856),

"(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

"(I) a common trust fund (as defined in section 584(a)),

"(J) a nominee or custodian (except as otherwise provided in regulations),

"(K) to the extent provided in regulations—

"(i) a financial institution,

"(ii) a broker, or

"(iii) any other person specified in such regulations, who collects any interest, dividend, or patronage dividend for the payee or otherwise acts as a middleman between the payor and payee, or

"(L) any trust which—

"(i) is exempt from tax under section 664(c), or

"(ii) is described in section 4947(a)(1).

"(3) Payor may require certification.—A person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if—

"(A) an exemption certificate is not in effect with respect to such person, and

"(B) the payor does not treat such person as an exempt recipient.

"(d) Minimal Interest Payments.—

"(1) In general.—For purposes of this section, the term 'minimal interest payment' means any payment of interest—

"(A) with respect to which an election by the payor made under paragraph (3) is in effect, and

"(B) which—

"(i) does not exceed $150, and

"(ii) if determined for a 1-year period would not exceed $150.

"(2) Aggregation of payments to same payee.—To the extent provided in regulations prescribed by the Secretary, payments of interest by a payor to the same payee shall be aggregated for purposes of applying paragraph (1)(B).

"(3) Election.—

"(A) In general.—Any payor may make an election under this paragraph with respect to any type of interest payments.

"(B) Effective until revoked.—Except as provided in regulations prescribed by the Secretary, an election made by any person under this paragraph shall remain in effect until revoked by such person.

"(C) Time and manner.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

"(e) Qualified Consumer Cooperative Payment.—For purposes of this section, the term 'qualified consumer cooperative payment' means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

"(f) Exemption Certificates.—

"(1) In general.—

"(A) Delivery.—An exempt individual or exempt recipient may deliver an exemption certificate to a payor at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

"(B) Change of status.—Any person who ceases to be an exempt individual or exempt recipient shall, not later than the close of the 10th day after the date of such cessation, notify each payor with whom such person has an exemption certificate of such change in status. No notice shall be required under the preceding sentence with respect to any payor if it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from such payor.

"(2) Effectiveness of certificates.—

"(A) General rule.—Except as otherwise provided in regulations prescribed by the Secretary, an exemption certificate shall be effective until—

"(i) revoked, or

"(ii) notice of change in status is provided pursuant to paragraph (1)(B).

"(B) When certificate takes effect.—The Secretary shall prescribe regulations setting forth—

"(i) the day on which a filed exemption certificate shall be considered effective, and

"(ii) the circumstances under which a payor shall treat an exemption certificate as having ceased to be effective where the Secretary has determined that the person described therein is not an exempt individual or exempt recipient.

"SEC. 3453. PAYOR DEFINED.

"(a) General Rule.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'payor' means the person paying or crediting the interest, dividend, or patronage dividend.

"(b) Certain Middlemen Treated as Payors.—For purposes of this subchapter—

"(1) In general.—To the extent provided in regulations—

"(A) any custodian for, or nominee of, the payee,

"(B) any corporate trustee of a trust which is the payee, or

"(C) any person which collects the payment for the payee or otherwise acts as a middleman between the payor and the payee,

shall be treated as a payor with respect to the payment.

"(2) Receipt treated as payment.—To the extent provided in regulations, any person treated as a payor under paragraph (1) shall be treated as having paid the interest, dividend, or patronage dividend when such person received such amount.

"(c) Agents, Etc.—In the case of—

"(1) a fiduciary or agent with respect to the payment or crediting of any interest, dividend, or patronage dividend, or

"(2) any other person who has the control, receipt, custody, or disposal of, or pays or credits any interest, dividend, or patronage dividend for any payor,

the Secretary, under regulations prescribed by him, may designate such fiduciary, agent, or other person as a payor with respect to such payment or crediting for purposes of this subchapter.

"(d) Treatment of Persons to Whom Subsection (b) or (c) Applies.—Any person treated as a payor under subsection (b) or (c)—

"(1) shall perform such acts as are required of a payor (within the meaning of subsection (a)) and as may be specified by the Secretary, and

"(2) shall be treated as a payor for all provisions of law (including penalties) applicable in respect to a payor (within the meaning of subsection (a)).

"(e) Relief From Double Withholding.—The Secretary may by regulations provide that where any person is treated as a payor under subsection (b) or (c) with respect to any payment, any other person who (but for this subsection) would be treated as a payor with respect to such payment shall be relieved from the requirements of this subchapter to the extent provided in such regulations.

"(f) Liability of Third Parties Paying or Providing Interest, Dividends, or Patronage Dividends.—To the extent provided in regulations prescribed by the Secretary, rules similar to the rules of section 3505 (relating to liability of third parties paying or providing for wages) shall apply for purposes of this subchapter. For purposes of the preceding sentence, the last sentence of subsection (b) of section 3505 shall be applied by substituting '10 percent' for '25 percent'.

"SEC. 3454. DEFINITIONS OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND.

"(a) Interest Defined.—For purposes of this subchapter—

"(1) General rule.—The term 'interest' means—

"(A) interest on any obligation in registered form or of a type offered to the public,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045(c)), and

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts.

"(2) Exceptions.—The term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from taxation under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for taxable years beginning before January 1, 1985)),

"(D) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount,

"(E) any amount which would be subject to withholding under subchapter A of chap-

ter 3 by the person paying such amount but for the fact that—

"(i) such amount is income from sources outside the United States,

"(ii) the payor thereof is excepted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)),

"(F) any amount which is exempt from tax under—

"(i) section 892 (relating to income of foreign governments and of international organizations), or

"(ii) section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States or from bank deposits),

"(G) except to the extent otherwise provided in regulations, any amount paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident aliens, individuals and persons described in clause (i), (ii), or (iii),

"(H) any amount on which the person making payment is required to withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions), and

"(I) except to the extent otherwise provided in regulations, any amount not described in the foregoing provisions of this paragraph which is paid outside the United States and is income from sources outside the United States.

"(3) ADJUSTMENT FOR PENALTY BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—To the extent provided in regulations, the amount of any interest on a time savings account, certificate of deposit, or similar class of deposits shall be appropriately reduced for purposes of this suchapter by the amount of any penalty imposed for the premature withdrawal of funds.

"(b) DIVIDEND DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'dividend' means—

"(A) any distribution by a corporation which is a dividend (as defined in section 316), and

"(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

"(2) SUBCHAPTER S DISTRIBUTIONS AFTER CLOSE OF YEAR.—The term 'dividend' includes any distribution described in section 1375(f) (relating to distributions by electing small business corporations after the close of the taxable year).

"(3) EXCEPTIONS.—The term 'dividend' shall not include—

"(A) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities),

"(B) any amount which is treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), 306 (relating to disposition of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

"(C) any amount described in subparagraph (D), (E), or (F) of subsection (a)(2),

"(D) to the extent provided in regulations, any amount paid by a foreign corporation not engaged in a trade or business in the United States,

"(E) any amount which is a capital gain dividend distributed by—

"(i) a regulated investment company (as defined in section 852(b)(3)(C)), or

"(ii) a real estate investment trust (as defined in section 857(b)(3)(C)),

"(F) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

"(G) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) will be exempt-interest dividends, and

"(H) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

"(c) PATRONAGE DIVIDEND.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'patronage dividend' means—

"(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except a nonqualified written notice of allocation),

"(B) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

"(C) any amount paid in money or other property (except written notice of allocation) in redemption of a nonqualified written notice of allocation attributable to any source described in subparagraph (A) or (B).

"(2) EXCEPTIONS.—The term 'patronage dividend' shall not include any amount described in subparagraph (D), (E), or (F) of subsection (a)(2).

"(3) SPECIAL RULES.—In determining the amount of any patronage dividend—

"(A) property (other than a written notice of allocation) shall be taken into account at its fair market value,

"(B) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

"(C) a patronage dividend part of which is a qualified written notice of allocation described in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such dividend is paid in money or by a qualified check, and any such qualified written notice of allocation which is taken into account after the application of this subparagraph shall be taken into account at its stated dollar amount.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'qualified written notice of allocation' has the meaning given to such term by section 1388(c).

"(B) NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'nonqualified written notice of allocaton' has the meaning given to such term by section 1388(d).

"(C) QUALIFIED CHECK.—The term 'qualified check' has the meaning given to such term by section 1388(c)(4).

"SEC. 3455. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization.

"(2) STATE.—The term 'State' means a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(3) UNITED STATES.—The term 'United States' means the United States and any wholly owned agency or instrumentality thereof.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(5) INTERNATIONAL ORGANIZATION.—The term 'international organization' means an international organization and any wholly owned agency or instrumentality thereof.

"(6) NONRESIDENT ALIEN.—The term 'nonresident alien individual' includes an alien resident of Puerto Rico.

"(7) WITHHOLD, ETC., INCLUDE DEDUCT.—The terms 'withhold', 'withholding', and 'withheld' include deduct, deducting, and deducted.

"(b) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) the tax imposed by section 3451 shall apply to the amount of original issue discount on any obligation which is includible in the gross income of the holder during the calendar year. Any such amount shall be treated as a paymend for purposes of this subchapter.

"(2) TRANSFERRED OBLIGATIONS.—

"(A) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by section 3451 shall apply to such original issue discount as if the subsequent holder were the original holder.

"(B) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—In the case of any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder, if any subsequent purchaser establishes the date on which, and the purchase price at which, he acquired such obligation, the amount of original issue discount on such obligation shall be determined (subject to such regulations as the Secretary may prescribe) as if it were issued on the date such subsequent purchaser acquired such obligation for an issue price equal to the purchase price at which such subsequent purchaser acquired such obligation.

"(3) LIMITATION ON AMOUNT WITHHELD.—

"(A) IN GENERAL.—The amount of tax imposed by section 3451 on the original issue discount on any obligation which is required to be withheld under section 3451(a) in any calendar year shall not exceed the

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amount of cash paid with respect to such obligation during such calendar year.

"(B) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid the purposes of this subchapter, subparagraph (A) shall not apply with respect to original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

"(C) PAYMENTS FROM WHICH WITHHOLDING IS TO BE MADE.—Except to the extent otherwise provided in regulations, the tax imposed by section 3451 with respect to original issue discount for any calendar year shall be withheld from each cash payment made with respect to such obligation during such calendar year in the proportion which the amount of such payment bears to the aggregate of such payments.

"(4) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this subsection, the term 'original issue discount' has the meaning given such term by section 1232(b)(1).

"SEC. 3456. ADMINISTRATIVE PROVISIONS.

"(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the payor of any payment subject to withholding under section 3451 is the United States or a State, or an agency or instrumentality thereof, the return of the tax withheld under this subchapter shall be made by the officer or employee having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

"(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 3454(a)(1) may elect to defer withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date which is not later than the last day of such year.

"(2) CONDITION FOR ELECTION.—The regulations prescribed under paragraph (1) shall provide that an election under such paragraph is conditional on agreement by the person making the election—

"(A) that the balance in any account subject to such election shall at no time be less than an amount equal to the tax under section 3451 which would have been withheld as of such time if such election were not in effect, and

"(B) that if an account subject to such election is closed before the date on which the tax under section 3451 would (but for this subparagraph) be withheld as a result of such an election, the tax shall be withheld before the time of closing such account.

"(c) TAX PAID BY RECIPIENT.—If a payor, in violation of the provisions of this subchapter, fails to withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be withheld shall not be collected from the payor; but this subsection shall in no case relieve the payor from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter."

SEC. 302. CREDIT AGAINST TAX.

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended to read as follows:

"SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) WAGE WITHHOLDING.—The amount withheld under section 3402 as tax on the wages of any individual shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(b) WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—The amount withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(c) CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.—The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as otherwise provided in paragraph (2), any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.—The amount withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(b)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends."

(b) TREATMENT OF ESTATES AND TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to estates and trusts) is amended by adding at the end thereof the following new subsection:

"(d) COORDINATION WITH WITHHOLDING ON INTEREST AND DIVIDENDS.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under subchapter B of chapter 24—

"(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b) (on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under this subchapter),

"(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit had been paid to him by the estate or trust, and

"(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 661 (relating to deduction for estates and trusts accumulating income or distributing corpus) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), the amount of distributable net income shall be computed without the deduction allowed by section 642(c)."

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 6413(c) is amended by striking out "section 31(b)" and inserting in lieu thereof "section 31(c)".

SEC. 303. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND PAYMENTS OF INTEREST.

(a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B),

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) who is required to withhold tax under section 3451 on any payment of dividends,",

(D) by striking out the period at the end thereof, and

(E) by inserting the following at the end thereof ", and, in the case of a payment upon which tax is withheld, the amount of tax withheld."

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and",

(C) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(D) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (C) of subsection (a)(1), no statement".

(3) DUPLICATE FILED WITH SECRETARY.—Section 6042 is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies which—

"(A) makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, or

"(B) is required to withhold any tax under section 3451,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, the name and address of the person to whom paid, and the amount of tax withheld."

(b) Amounts Subject to Reporting.—Paragraph (1) of section 6044(b) (relating to amounts subject to reporting) is amended by striking out "under subsection (a)", and by inserting "under paragraph (1)(A) or (2) of subsection (a)".

(c) Statements.—Section 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting ", and" in lieu thereof,

(3) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(4) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (B) of subsection (a)(1), no statement".

(d) Duplicate Filed With Secretary.—Section 6044 is amended by adding at the end threof the following new subsection:

"(f) Duplicate of Subsection (e) Statement May be Required To Be Filed With Secretary.—A duplicate of any statement made pursuant to subsection (e) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 305. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

(a) No Deduction for Tax Withheld at Source on Interest, Dividends, and Patronage Dividends.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451."

(b) No Deduction of Taxes Withheld on Interest and Dividends in Determining Taxable Income.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended—

(1) by striking out "under chapter 24" and inserting in lieu thereof "under subchapter A of chapter 24", and

(2) by adding at the end thereof the following new subsection:

"(c) The tax withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person withholding the tax or to the recipient of the amounts subject to withholding."

SEC. 306. PENALTIES.

(a) Civil Penalty.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting "or section 3452(f)(1)(A)" after "section 3402".

(b) Criminal Penalty.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

(1) by striking out "Any individual" and inserting in lieu thereof "(a) Withholding on Wages.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) Withholding of Interest and Dividends.—Any person who—

"(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or

"(2) is required to furnish notice under section 3452(f)(1(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both."

SEC. 307. CONFORMING AND CLERICAL AMENDMENTS.

(a) Conforming Amendments.—

(1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24".

(2) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter".

(3) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24".

(4) Subchapter (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(5) Paragraph (1) of section 6013(h) is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(6) Paragraph (1) of section 6015(j) (relating to declaration of estimated income tax by individuals) is amended by striking out ", as defined in section 3401(a)," and inserting in lieu thereof "(as defined in section 3401(a)) , or to the interest, dividends, and patronage dividends (as defined in section 3454),".

(7) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24".

(8) Paragraph (2) of section 6365(c) (relating to definitions and special rules for purposes of the collection of State individual income taxes) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date".

(9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages".

(10) Paragraph (1) of section 6413(a) (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,".

(11) Subsection (b) of section 6413 is amended—

(A) by striking from the heading of such subsection the words "of Certain Employment Taxes", and

(B) by striking out "or 3402 is paid or deducted with respect to any payment of remuneration" and inserting in lieu thereof "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount".

(12) The heading for section 6413 is amended to read as follows:

"SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C."

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

"Sec. 6413. Special rules applicable to certain taxes under subtitle C."

(14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld at source on wages".

(15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: "For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person."

(16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting "subchapter A of" before "chapter 24".

(17) Section 7701(a)(16) (defining the term "withholding agent") is amended by striking out "hr 1461" and inserting in lieu thereof "1461 or 3451".

(b) Clerical Amendments.—

(1) The heading of subtitle C is amended to read as follows:

"Subtitle C—Employment Taxes and Collection of Income Tax at Source".

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

"Subtitle C. Employment taxes and collection of income tax at source."

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends."

(4) Chapter 24 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE

"Subchapter A. Withholding from wages.

"Subchapter B. Withholding from interest and dividends.

"Subchapter A—Withholding From Wages".

(5) the heading for chapter 25 is amended to read as follows:

"CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE".

(6) The table of chapters for subtitle C is amended by striking out the items relating to chapters 24 and 25 and inserting in lieu thereof the following:

"Chapter 24. Collection of income tax at source.

"Chapter 25. General provisions relating to employment taxes and collection of income taxes at source."

SEC. 308. EFFECTIVE DATES; SPECIAL RULES.

(a) In General.—Except as otherwise provided in this section, the amendments made by this part shall apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983.

(b) Delay in Application to Certain Payors.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond December 31, 1983) the application of some or all of the provisions of subchapter B of chapter 24 of the Internal Revenue Code of 1954 to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(c) Temporary Rule for Certain Withholding Exemptions.—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient.

(d) Delay in Making Deposits.—The time for making deposits under section 6302 of the Internal Revenue Code of 1954 of the tax imposed by section 3451 of such Code which is withheld by any person shall, to the extent provided in regulations, take into account the cost to such person of instituting a withholding system in order to comply with subchapter B of chapter 24 of such Code.

Subtitle B—Improved Information Reporting

PART I—EXPANDED REPORTING

SEC. 309. REPORTING OF INTEREST.

(a) General Rule.—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) Requirement of Reporting.—Every person—

"(1) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year,

"(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received, or

"(3) who is required under subchapter B of chapter 24 to withhold tax on the payment of any interest,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld.

"(b) Interest Defined.—

"(1) General rule.—For purposes of subsection (a), the term 'interest' means—

"(A) interest on any obligation—

"(i) issued in registered form, or

"(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045 (c)),

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and

"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

"(2) Exceptions.—For purposes of subsection (a), the term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) except to the extent otherwise provided in regulations—

"(i) any amount paid to any person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or

"(ii) any amount described in section 3454(a)(2)(D) or (E),

"(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in a trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii), and

"(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

"(3) Payments by United States nominees etc., of United States person.—If, within the United States, a United States person—

"(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

"(B) makes payments of such interest to such second United States person,

notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

"(c) Statements To Be Furnished to Persons With Respect to Whom Information Is Furnished.—

"(1) In general.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(A) the name and address of the person making such return,

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

"(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

"(2) Statement must be furnished on or before January 31.—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(3) No statement required where interest is less than $10.—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than $10.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Person.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

"(2) Obligation.—The term 'obligation' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

"(3) Payments by governmental units.—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

"(4) Financial institutions, brokers, etc., collecting interest may be substituted for payor.—To the extent and in the manner provided by regulations, in the case of any obligation—

"(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

"(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

"(5) Interest on certain obligations may be treated on a transactional basis.—

"(A) In general.—To the extent and in the manner provided in regulations, this section shall apply with respect to—

"(i) any person described in paragraph (4)(A), and

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"(ii) in the case of any United States savings bonds, any Federal agency making payments thereon,

on any transactional basis rather than on an annual aggregation basis.

"(B) SEPARATE RETURNS AND STATEMENTS.—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

"(C) STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING $10 OR MORE.—In the case of any transaction to which this paragraph applies which involves the payment of $10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

"(6) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

"(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

"(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

"(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term 'original issue discount' has the meaning given to such term by section 1232(b)(1).".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6041 (relating to information at source) is amended—

(A) by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)", and

(B) by striking out "6045, 6049(a)(2), or 6049(a)(3)" and inserting in lieu thereof "or 6045".

(2) Subsection (b) of section 6652 (relating to failure to file certain information returns) is amended by adding "or" at the end of paragraph (1) and by striking out paragraphs (3) and (4).

(3) Paragraph (1) of section 6678 is amended by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid (or treated as paid) after December 31, 1982.

SEC. 310. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form.

"(b) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public, or

"(B) has a maturity (at issue) of not more than 1 year.

"(2) The term 'registration-required obligation' shall not include any obligation if—

"(A) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(B) in the case of an obligation not in registered form—

"(i) interest on such obligation is payable only outside the United States and its possessions, and

"(ii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

"(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.".

(b) OTHER OBLIGATIONS.—

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(f)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees."

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

"(A) IN GENERAL.—The term 'registration-required obligation' means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

"(i) is issued by a natural person,

"(ii) is not of a type offered to the public,

"(iii) has a maturity (at issue) of not more than 1 year, or

"(iv) is described in subparagraph (B).

"(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

"(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(ii) in the case of an obligation not in registered form—

"(I) interest on such obligation is payable only outside the United States and its possessions, and

"(II) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A), and subparagraph (B), shall not apply to any obligation if—

"(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and

"(ii) such obligation is issued after the date on which the regulations referred to in clause (i) take effect.

"(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply."

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

"(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not or would not be allowable by reason of section 163(f), unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(f) or this subsection".

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

"CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

"Sec. 4701. Tax on issuer of registration-required obligation not in registered form.

"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.

"(a) IMPOSITION OF TAX.—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

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"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) Definitions.—For purposes of this section—

"(1) Registration-required obligation.—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) Registered form.—The term 'registered form' has the same meaning as when used in section 163(f)."

(B) Conforming amendment.—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"Chapter 39. Registration-required obligations."

(5) Denial of deduction for losses on certain obligations not in registered form.—Section 165 (as amended by this Act) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Denial of Deduction for Losses on Certain Obligations Not in Registered Form.—

"(1) In general.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

"(2) Definitions.—For purposes of this subsection—

"(A) Registration-required obligation.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) Registered form.—The term 'registered form' has the same meaning as when used in section 163(f).

"(3) Exceptions.—The Secretary may, by regulations, provide that this subsection and subsection (d) of section 1232 shall not apply with respect to obligations held by any person if—

"(A) such person holds such obligations in connection with a trade or business outside the United States,

"(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

"(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

"(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C)."

(6) Denial of capital gain treatment for gains on certain obligations not in registered form.—Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Denial of Capital Gain Treatment for Gains on Certain Obligations Not in Registered Form.—

"(1) In general.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(2) Definitions.—For purposes of this subsection—

"(A) Registration-required obligation.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) Registered form.—The term 'registered form' has the same meaning as when used in section 163(f)."

(c) Technical Amendments.—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and".

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "Must Be in Registered Form and Not" and inserting in lieu thereof "Must Not Be".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 1982.

(2) Long-term U.S. obligations.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act under the first section of the Second Liberty Bond Act.

(3) Exception for certain warrants, etc.—The amendments made by subsection (b) shall not apply to any obligations issued after December 31, 1982, on the exercise of a warrant for the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. A rule similar to the rule of the preceding sentence shall also apply in the case of any regulations issued under section 163(f)(2)(C) of the Internal Revenue Code of 1954 (as added by this section) except that the date on which such regulations take effect shall be substituted for "August 10, 1982".

SEC. 311. RETURNS OF BROKERS.

(a) General Rule.—

(1) Returns.—Section 6045 (relating to returns of brokers) is amended to read as follows:

"SEC. 6045. RETURNS OF BROKERS.

"(a) General Rule.—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

"(b) Statements To Be Furnished to Customers.—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) Definitions.—For purposes of this section—

"(1) Broker.—The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

"(2) Customer.—The term 'customer' means any person for whom the broker has transacted any business.

"(3) Barter exchange.—The term 'barter exchange' means any organization of members providing property or services who jointly contract to trade or barter such property or services."

(2) Penalty.—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

(A) by inserting "6045(b)," after "6044(e),", and

(B) by inserting "6045(a)," after "6044(a)(1),".

(b) Barter Exchange Treated as Third-Party Recordkeeper.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(G) any barter exchange (as defined in section 6045(c)(3))."

(c) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to summonses served after December 31, 1982.

SEC. 312. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

(a) General Rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

"(a) Returns Regarding Remuneration for Services.—If—

"(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

"(2) the aggregate of such remuneration paid to such person during such calendar year is $600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term 'service-recipient' means the person for whom the service is performed.

"(b) Direct Sales of $5,000 or More.—

"(1) In general.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

"(B) the aggregate amount of the sales to such buyer during such calendar year is $5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Buy-sell basis.—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

"(B) Deposit-commission basis.—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

"(c) Certain Services Not Included.—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

"(d) Applications to Governmental Units.—

"(1) Treated as persons.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) Special rules.—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) Statements To Be Furnished to Persons With Respect to Whom Information Is Required To Be Furnished.—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) Recipient To Furnish Name, Address, and Identification Number; Inclusion on Return.—

"(1) Furnishing of information.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) Inclusion on return.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates."

(b) Penalty for Failure To File Statement.—Section 6678(1) (relating to failure to file statement) is amended—

(1) by inserting "6041A(e)," after "6041(d),", and

(2) by inserting "6041A(a) or (b)," after "6041(a),".

(c) Effective Date.—The amendments made by this section shall apply to payments and sales made after December 31, 1982.

SEC. 313. STATE AND LOCAL INCOME TAX REFUNDS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.

"(a) Requirement of Reporting.—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

"(b) Statements To Be Furnished to Individuals With Respect to Whom Information Is Furnished.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(c) Person Defined.—For purposes of this section, the term 'person' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section."

(b) Conforming Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds."

(c) Effective Date.—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 314. EMPLOYER REPORTING WITH RESPECT TO TIPS.

(a) In General.—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection:

"(c) Reporting Requirements Relating to Certain Large Food or Beverage Establishments.—

"(1) Report to secretary.—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

"(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

"(B) The aggregate amount of charge receipts (other than nonallocable receipts).

"(C) The aggregate amount of charged tips shown on such charge receipts.

"(D) The sum of—

"(i) the aggregate amount reported by employees to the employer under subsection (a), plus

"(ii) the amount the employer is required to report under section 6041 with respect to service charges of less than 10 percent.

"(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

"(2) Furnishing of statement to employees.—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

"(A) The name and address of such employer.

"(B) The name of the employee.

"(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

"(3) Employer allocation of 8 percent of gross receipts.—

"(A) In general.—For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

"(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

"(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

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"(B) METHOD OF ALLOCATION.—The employer shall allocate the amount under subparagraph (A)—

"(i) on the basis of a good faith agreement by the employer and the employees, or

"(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

"(C) THE SECRETARY MAY LOWER THE PERCENTAGE REQUIRED TO BE ALLOCATED.—The Secretary may reduce (but not below 5 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

"(4) LARGE FOOD OR BEVERAGE ESTABLISHMENT.—For purposes of this subsection, the term 'large food or beverage establishment' means any trade or business (or portion thereof)—

"(A) which provides food or beverages,

"(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

"(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

"(5) EMPLOYER NOT TO BE LIABLE FOR WRONG ALLOCATIONS.—The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(A)(ii) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(A)(ii).

"(6) NONALLOCABLE RECEIPTS DEFINED.—For purposes of this subsection, the term 'nonallocable receipts' means receipts which are allocable to—

"(A) carryout sales, or

"(B) services with respect to which a service charge of 10 percent or more is added.

"(7) APPLICATION TO NEW BUSINESSES.—The Secretary shall prescribe regulations for the application of this subsection to new businesses."

(b) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Subparagraph (D) of section 6678(3) is amended by striking out "section 6053(b)" and inserting in lieu thereof "subsection (b) or (c) of section 6053(c)."

(c) STUDY OF TIP COMPLIANCE.—The Secretary of the Treasury or his delegate shall submit before January 1, 1987, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report with respect to tip compliance in the food and beverage service industry. Such study shall include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

(d) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting ", records necessary to comply with section 6053(c)," after "charge receipts".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

(2) SPECIAL RULE FOR 1983.—For purposes of section 60543(c) of the Internal Revenue Code of 1954, in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

SEC. 315. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURN OR TO FURNISH STATEMENT.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows:

"(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to file a statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6042(e), 6044(f), 6049(e), or 6051(d) (relating to information returns with respect to income tax withheld), or

"(B) to make a return required by—

"(i) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

"(ii) section 6045 (relating to returns of brokers),

"(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), $50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

"(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

"(i) in the case of a return not described in clauses (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

"(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

"(iii) in the case of a return required to be filed by section 6041A(b), $100 for each such failure, and

"(B) the $50,000 limitation under paragraph (1) shall not apply."

(b) INCREASE IN ADDITION TO TAX FOR FAILURE TO FILE CERTAIN RETURNS OR STATEMENTS IN CONNECTION WITH PLANS OF DEFERRED COMPENSATION.—Subsection (f) of section 6652 (relating to information required in connection with certain plans of deferred compensation) is amended—

(1) by striking out "$10" and inserting in lieu thereof "$25", and

(2) by striking out "$5,000" and inserting in lieu thereof "$15,000".

(c) INCREASE IN CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended—

(1) by striking out "$10" and inserting in lieu thereof "$50", and

(2) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 316. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(A) to include his taxpayer identification number in any return, statement, or other document,

"(B) to furnish his taxpayer identification number to another person, or

"(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $5 for each such failure described in subparagraph (A) and $50 for each such failure described in subparagraph (B) or (C), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(2) TAXPAYER IDENTIFICATION NUMBER DEFINED.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 317. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.

(a) IN GENERAL.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

"(s) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.—

"(1) IN GENERAL.—If, in the case of any backup withholding payment—

"(A) the payee fails to furnish his taxpayer identification number to the payor, or

"(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

"(2) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

"(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which the taxpayer identification number has not been furnished.

"(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

"(i) after the close of the 15th day after the day on which the payor was so notified, and

"(ii) before the payee furnishes another taxpayer identification number.

"(C) 15-DAY GRACE PERIODS.—

"(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 16th day after the close of such period.

"(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 15-day period described in clause (i) of subparagraph (B).

"(3) BACKUP WITHHOLDING PAYMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'backup withholding payment' means any payment of a kind, and to a payee, required to be shown on a return required under—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

"(iii) section 6042(a) (relating to payments of dividends),

"(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

"(v) section 6045 (relating to returns of brokers),

"(vi) section 6049(a) (relating to payments of interest), or

"(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

"(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

"(4) PAYMENTS MUST AGGREGATE $600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041(a) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

"(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds $600,

"(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

"(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished does not contain the proper number of digits.

"(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

"(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

"(i) the United States (as defined in section 3455(a)(3)),

"(ii) any State (as defined in section 3455(a)(2)),

"(iii) an organization which is exempt from taxation under section 501(a),

"(iv) any foreign government (as defined in section 3455(a)(4)) or international organization (as defined in section 3455(a)(5)), or

"(v) any other person specified in regulations.

"(D) TAXPAYER IDENTIFICATION NUMBER.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.

"(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

"(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

"(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

"(J) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

SEC. 318. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence:

"In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return."

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by adding at the end of subparagraph (A) the following new sentence: "In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.", and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 319. INFORMATION RETURNS.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account (among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement."

SUBTITLE C—ABUSIVE TAX SHELTERS, ETC.; SUBSTANTIAL UNDERPAYMENTS; FALSE DOCUMENTS; FRIVOLOUS RETURNS

PART I—ABUSIVE TAX SHELTERS, ETC.

SEC. 320. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC.

"(a) IMPOSITION OF PENALTY.—Any person who—

"(1)(A) organizes (or assists in the organization of)—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, or

"(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

"(2) makes or furnishes (in connection with such organization or sale)—

"(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

"(B) a gross valuation overstatement as to any material matter,

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shall pay a penalty equal to the greater of $1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

"(b) RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.—

"(1) GROSS VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, the term 'gross valuation overstatement' means any statement as to the value of any property or services if—

"(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

"(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

"(2) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6700. Promoting abusive tax shelters, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 321. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

"(c) CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.—If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.

"Sec. 7409. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 322. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

"(a) BURDEN OF PROOF.—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.

SEC. 323. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section:

"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) DEFINITION AND SPECIAL RULE.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'.

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return.

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement, if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(3) Coordination with penalty imposed by section 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under section 6659 (relating to addition to tax in the case of valuation overstatements).

"(c) Authority to Waive.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith."

(b) Conforming Amendment.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6661. Substantial understatement of liability.

"Sec. 6662. Applicable rules."

(c) Effective Date.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982.

SEC. 324. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) General Rule.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

"SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

"(a) Imposition of Penalty.—Any person—

"(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

"(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

"(3) who knows that such portion (if so used) will result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(b) Amount of Penalty.—

"(1) In general.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be $1,000.

"(2) Corporations.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be $10,000.

"(3) Only 1 penalty per person per period.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

"(c) Activities of Subordinates.—

"(1) In general.—For purposes of subsection (a), the term 'procures' includes—

"(A) ordering (or otherwise causing) a subordinate to do an act, and

"(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.

"(2) Subordinate.—For purposes of paragraph (1), the term 'subordinate' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

"(d) Taxpayer Not Required To Have Knowledge.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) Certain Actions Not Treated as Aid or Assistance.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

"(f) Penalty in Addition to Other Penalties.—

"(1) In general.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.

"(2) Coordination with return preparer penalties.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability."

(c) Effective Date.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) Cross Reference.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 325. FRAUD PENALTY.

(a) General Rule.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

"(b) Fraud.—

"(1) In general.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

"(2) Additional amount for portion attributable to fraud.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—

"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and

"(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(3) No negligence addition when there is addition for fraud.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).

"(4) Special rule for joint returns.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act.

SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) General Rule.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

"(a) Civil Penalty.—If—

"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1) is due to—

"(A) a position which is frivolous, or

"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,

then such individual shall pay a penalty of $500.

"(b) Penalty in Addition to Other Penalties.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return."

(c) Effective Date.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

(d) Cross Reference.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure."

SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

(a) Waiver of Penalty Where Individual Did Not Have Tax Liabilities for Preceding Taxable Year.—

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Exception Where No Tax Liability for Preceding Taxable Year.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(1) the individual did not have any liability for tax for the preceding taxable year,

"(2) the preceding taxable year was a taxable year of 12 months, and

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"(3) the individual was a citizen or resident of the United States throughout the preceding taxable year."

(2) Subsection (g) of section 6654 is amended by striking out "and (f)" and inserting in lieu thereof "(f), and (h)".

(b) Elimination of Requirements To File Declarations of Estimated Tax.—

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(k) Termination.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982."

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(f) Termination.—This section shall not apply to any taxable year beginning after December 31, 1982."

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) Special Rules for Taxable Years Beginning After 1982.—In the case of taxable years beginning after 1982—

"(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

"(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

(a) Attempt To Evade or Defeat Tax.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out "$10,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

(b) Willful Failure To File Return, Supply Information, or Pay Tax.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000 ($100,000 in the case of a corporation)".

(c) Fraud and False Statements.—Section 7206 (relating to fraud and false statements) is amended by striking out "$5,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

(d) Fraudulent Returns, Statements, or Other Documents.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$10,000 ($50,000 in the case of a corporation)".

(e) Effective Date.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) In General.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

"Sec. 6867. Presumptions where owner of large amount of cash is not identified.

"SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.

"(a) General Rule.—If the individual who is in physical possession of cash in excess of $10,000 does not claim such cash—

"(1) as his, or

"(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

"(b) Rules for Assessing.—In the case of any assessment resulting from the application of subsection (a)—

"(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

"(2) such income shall be treated as taxable at a 50-percent rate, and

"(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

"(c) Effect of Later Substitution of True Owner.—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

"(d) Definitions.—For purposes of this section—

"(1) Cash.—The term 'cash' includes any cash equivalent.

"(2) Cash equivalent.—The term 'cash equivalent' means—

"(A) foreign currency,

"(B) any bearer obligation, and

"(C) any medium of exchange which—

"(i) is of a type which has been frequently used in illegal activities, and

"(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

"(3) Value of cash equivalent.—Any cash equivalent shall be taken into account—

"(A) in the case of a bearer obligation, at its face amount, and

"(B) in the case of any other cash equivalent, at its fair market value."

(b) Clerical Amendment.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part III. Special rules with respect to certain cash."

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

Subtitle D—Administrative Summons

SEC. 331. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) Proceeding To Quash.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) Proceeding to quash.—

"(A) In general.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) Requirement of notice to person summoned and to Secretary.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) Intervention; etc.—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding)."

(b) Restriction on Examination.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) Restriction on Examination of Records.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash."

(c) Jurisdiction.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows:

"(h) Jurisdiction of District Court; Etc.—

"(1) Jurisdiction.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) Special rule for proceedings under subsections (f) and (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) Priority.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date."

(d) Conforming Amendments.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons."

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) Right To Intervene; Right To Proceeding To Quash.—".

(e) Effective Date.—The amendments made by this section shall apply to summonses served after December 31, 1982.

SEC. 332. DUTY OF THIRD-PARTY RECORDKEEPER.

(a) General Rule.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection:

"(i) Duty of Third-Party Recordkeeper.—

"(1) Recordkeeper must assemble records and be prepared to produce records.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(2) Secretary may give recordkeeper certificate.—The Secretary may issue a certificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

"(3) Protection for recordkeeper who discloses.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure."

(b) Effective Date.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 333. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

(a) In General.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) Authority To Summon, Etc.—For the purpose" and by adding at the end thereof the following new subsections:

"(b) Purpose May Include Inquiry Into Offense.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) No Administrative Summons When There Is Justice Department Referral.—

"(1) Limitation of authority.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) Justice department referral in effect.—For purposes of this subsection—

"(A) In general.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) Termination.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) Taxable years, etc., treated separately.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately."

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

Subtitle E—Withholding on Pensions and Other Retirement Income

SEC. 334. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) In General.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

"(a) Pensions, Annuities, Etc.—

"(1) Withholding as if payment were wages.—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

"(2) Election of no withholding.—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

"(3) When election takes effect.—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

"(4) Amount withheld where no withholding exemption certificate in effect.—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

"(b) Nonperiodic Distribution.—

"(1) Withholding.—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) Amount of withholding.—

"(A) Distributions which are not qualified total distributions.—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

"(B) Qualified total distributions.—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

"(C) Special rule for distributions by reasons of death.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) Election of no withholding.—

"(A) In general.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

"(B) Scope of election.—An election under subparagraph (A)—

"(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

"(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

"(c) Liability for Withholding.—

"(1) In general.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) Plan administrator liable in certain cases.—

"(A) In general.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

"(i) directs the payor to withhold such tax, and

"(ii) provides the payor with such information as the Secretary may require by regulations.

"(B) Plans to which paragraph applies.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

"(i) section 401(a),

"(ii) section 403(a), or

"(iii) section 301(d) of the Tax Reduction Act of 1975.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Designated distribution.—

"(A) In general.—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

"(i) an employer deferred compensation plan,

"(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

"(iii) a commercial annuity.

"(B) Exceptions.—The term 'designated distribution' shall not include—

"(i) any amount which is wages without regard to this section, and

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"(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

"(2) Periodic payment.—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

"(3) Nonperiodic distribution.—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

"(4) Qualified total distribution.—

"(A) In general.—The term 'qualified total distribution' means any distribution which—

"(i) is a designated distribution,

"(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

"(iii) is made under a plan described in section 401(a), or 403(a), and

"(iv) consists of the balance to the credit of the employee under such plan.

"(B) Special rule for accumulated deductible employee contributions.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

"(5) Employer deferred compensation plan.—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

"(6) Commercial annuity.—The term 'commercial annuity' means an annuity, endowment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

"(7) Plan administrator.—The term 'plan administrator' has the meaning given such term by section 414(g).

"(8) Maximum amount withheld.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

"(9) Separate arrangements to be treated separately.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) Time and manner of election.—

"(A) In general.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) Payor required to notify payee of rights to elect.—

"(i) Periodic payments.—The payor of any periodic payment—

"(I) shall transmit to the payee notice of the right to make an election under subsection (a) not earlier than 6 months before the first of such payments and not later than when making the first of such payments,

"(II) if such a notice is not transmitted under subclause (I) when making such first payment, shall transmit such a notice when making such first payment, and

"(III) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

"(ii) Nonperiodic distributions.—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

"(iii) Notice.—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

"(11) Withholding includes deduction.—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

"(e) Withholding To Be Treated as Wage Withholding Under Section 3402 for Other Purposes.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

"(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero."

(b) Filing of Reports.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Reports by Employers, Plan Administrators, Etc.—

"(1) In general.—The Secretary shall by forms or regulations require that—

"(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) Form, etc., of reports.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations."

(c) Penalty for Failure To Keep Records Necessary To Comply With Reporting Requirements of Section 6047(e).—

(1) In general.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e).

"(a) Liability for Penalty.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) Amount of Penalty.—

"(1) In general.—The penalty of any person for any calendar year shall be $50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) Maximum amount.—The penalty under this section of any person for any calendar year shall not exceed $50,000.

"(c) Exceptions.—

"(1) Reasonable cause.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) Inability to correct previous failure.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) Pre-1983 failures.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

(2) Clerical amendment.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) Coordination With Voluntary Withholding on Certain Payments Other Than Wages.—Subsection (o) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph:

"(6) Coordination with withholding on designated distributions under section 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) Effective Dates.—

(1) Amendment made by subsections (a) and (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) Amendments made by subsection (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

(3) Amendments made by subsection (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) Periodic payments beginning before January 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

(5) Delay in application.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(6) Waiver of penalty.—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) General Rule.—

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) IN GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

SUBTITLE F—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or

"(B) enforcement of summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart I—Admissibility of Documentation Maintained in Foreign Countries

"Sec. 982. Admissibility of documentation maintained in foreign countries.

"SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES.

"(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the 'examined item') before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

"(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

"(1) FORMAL DOCUMENT REQUEST.—The term 'formal document request' means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth—

"(A) the time and place for the production of the documentation,

"(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

"(C) a description of the documentation being sought, and

"(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be deemed a final order which may be appealed.

"(C) SUSPENSION OF 90-DAY PERIOD.—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN-BASED DOCUMENTATION.—The term 'foreign-based documentation' means any documentation which is outside the United States and which may be relevend or material to the tax treatment of the examined item.

"(2) DOCUMENTATION.—The term 'documentation' includes books and records.

"(3) FOREIGN-CONNECTED.—An item shall be treated as foreign-connected if—

"(A) such item is directly or indirectly from a source outside the United States, or

"(B) such item (in whole or in part)—

"(i) purports to arise outside the United States, or

"(ii) is otherwise dependent on transactions occurring outside the United States.

"(4) AUTHORITY TO EXTEND 90-DAY PERIOD.—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection,. and appeals therein, are pending."

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart I. Admissibility of documentation maintained in foreign countries."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of $1,000 for each annual accounting period with respect to which such failure exists.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000."

(b) COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting "and subsection (b)" after "subsection" in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (b).—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period."

(c) TECHNICAL AMENDMENTS.—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

"(c) PENALTY OF REDUCING FOREIGN TAX CREDIT.—".

(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in

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lieu thereof "within the meaning of subsection (e)(1)".

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

(d) Effective Date.—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) General Rule.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

"SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) Requirement.—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

"(b) Required Information.—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

"(c) Definitions.—For purposes of this section—

"(1) Control.—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent' shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) Controlled group.—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(i) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) Foreign person.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(d) Penalty for Failure To Furnish Information.—

"(1) In general.—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of $1,000 for each taxable year with respect to which such failure occurs.

"(2) Increase in penalty where failure continues after notification.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000.

"(3) Reasonable cause.—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

"(e) Cross Reference.—

"For provisions relating to criminal penalties for violation of this section, see section 7203."

(b) Clerical Amendment.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

"Sec. 6038A. Information with respect to certain foreign-owned corporations."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) General Rule.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

"SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.

"(a) General Rule.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

"(1) the shareholder information required by subsection (b),

"(2) the income information required by subsection (c), and

"(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

"(b) Shareholder Information.—The shareholder information required by this subsection with respect to any taxable year shall be—

"(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

"(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

"(3) the number of shares of each class held by each person, and

"(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term 'share' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

"(c) Income Information.—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

"(d) Time and Manner for Furnishing Information.—The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

"(e) Definition and Special Rules.—

"(1) 10-percent shareholder.—For purposes of this section, the term '10-percent shareholder' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

"(2) Time for making determinations.—

"(A) In general.—Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

"(B) Special rule.—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

"(3) Two or more persons required to furnish information with respect to same foreign corporation.—If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person."

(b) Application of Penalty.—

(1) Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or 6046".

(2) The section heading for section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046."

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046."

(c) Effective Date.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

SEC. 341. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.

(a) Foreign Corporations.—Subsection (d) of section 6046 (relating to time for *filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: "(or on or before such later day as the Secretary may by forms or regulations prescribe)".*

(b) Foreign Trusts.—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting "(or on or before such later day as the Secretary may by regulations prescribe)" after "the 90th day".

(c) Effective Date.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.

SEC. 343. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 905(c).

(a) General Rule.—Subsection (c) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence.

(b) Effective Date.—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted.

Subtitle G—Modification of Interest Provisions

SEC. 344. INTEREST COMPOUNDED DAILY.

(a) In General.—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED DAILY.

"(a) General Rule.—In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

"(b) Exception for Penalty for Failure To File Estimated Tax.—Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655."

(b) Conforming Amendments.—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded daily."

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "; Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "; compounding of interest" after "rate".

(c) Effective Date.—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 345. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMIANNUALLY.

(a) In General.—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) Adjustment of Interest Rate.—

"(1) Establishment of adjusted rate.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 6-month period ending on September 30 of any calendar year, or

"(B) during the 6-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) Effective date of adjustment.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph(1)(B)."

(b) Effective Date.—The amendment made by this section shall apply to adjustments taking effect on January 1, 1983.

SEC. 346. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

(a) Interest With Respect to Delinquent Returns.—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) Late returns.—Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed."

(b) No Interest if Return Not in Processible Form.—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) No Interest Until Return in Processible Form.—

"(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

"(2) For purposes of paragraph (1), a return is in a processible form if—

"(A) such return is filed on a permitted form, and

"(B) such return contains—

"(i) the taxpayer's name, address, and identifying number and the required signature, and

"(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return."

(c) Modification of Interest in the Case of Carrybacks.—

(1) Overpayments.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for unused deductions) is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6611(f)(2) is amended by striking out "the close of" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (f) of section 6611 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Special rules for paragraphs (1) and (2).—

"(A) Filing date.—For purposes of this subsection, the term 'filing date' means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

"(B) Coordination with subsection (e).—

"(i) In general.—For purposes of subsection (E)—

"(I) any overpayment described in paragraph (1) or (2) shall be treated as an overpayment for the loss year, and

"(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

"(ii) Loss year.—For purposes of this subparagraph, the term 'loss year' means—

"(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises, and

"(II) in the case of a credit carryback, the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year)."

(D) Subsection (g) of section 6611 is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date (as defined in subsection (f)(3)) for the taxable year".

(2) Underpayments.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out "the last day of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out "the last day of the" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

"(4) Filing date.—For purposes of this subsection, the term 'filing date' has the meaning given to such term by section 6611(f)(3)(A)."

(d) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) Subsection (c).—The amendments made by subsection (c) shall apply to interest accruing after the 30th day after the date of the enactment of this Act.

Subtitle H—Taxpayer Safeguard Amendments

SEC. 347. INCREASE IN CERTAIN EXEMPTIONS FROM LEVY.

(a) General Rule.—

(1) Fuel, provisions, furniture, and personal effects.—Paragraph (2) of section 6334(a) (relating to property exempt from levy) is amended by striking out "$500" and inserting in lieu thereof "$1,500".

(2) Books and tools of a trade, business, or profession.—Paragraph (3) of section 6334(a) is amended by striking out "$250" and inserting in lieu thereof "$1,000".

(3) Wages, salary, or other income.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended—

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(A) by striking out "$50" and inserting in lieu thereof "$75", and

(B) by striking out "$15" and inserting in lieu thereof "$25".

(b) Effective Date.—The amendments made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 348. REQUIRED RELEASE OF LIEN.

(a) General Rule.—So much of subsection (a) of section 6325 (relating to release of lien) as precedes paragraph (1) thereof is amended to read as follows:

"(a) Release of Lien.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to liens—

(1) which are filed after December 31, 1982,

(2) which are satisfied after December 31, 1982, or

(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

SEC. 349. REQUIREMENT OF TIMELY NOTICE OF LEVY.

(a) General Rule.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Requirement of Notice Before Levy.—

"(1) In general.—Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

"(2) 10-day requirement.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

no less than 10 days before the day of the levy.

"(3) Jeopardy.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

"(e) Continuing Levy on Salary and Wages.—

"(1) Effect of levy.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(2) Release and notice of release.—With respect to a levy described in paragraph (1), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(b) Effective Date.—The amendment made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 349A. EXTENSION OF PERIOD FOR REDEMPTION OF REAL PROPERTY.

(a) General Rule.—Paragraph (1) of section 6337(b) (relating to period for redemption of real estate after sale) is amended by striking out "120 days" and inserting in lieu thereof "180 days".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to property sold after the date of the enactment of this Act.

SEC. 350. AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY.

(a) General Rule.—Subparagraph (C) of section 7426(b)(2) (relating to amount of damages) is amended to read as follows:

"(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

"(i) the amount received by the United States from the sale of such property, or

"(ii) the fair market value of such property immediately before the levy."

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to levies made after December 31, 1982.

Subtitle I—Other Provisions

SEC. 351. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.

(a) In General.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted."

(b) Conforming Amendment.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs."

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 352. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) such amounts in excess of the amount requested for such purpose in the President's proposed budgets as may be necessary to provide sufficient improved enforcement to increase revenues by $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

SEC. 353. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1 of the Internal Revenue Code of 1954.

SEC. 354. EXEMPTION OF VETERANS' ORGANIZATIONS.

(a) In General.—Paragraph (19) of section 501(c) (relating to exemption of veterans' organizations) is amended—

(1) by striking out "war veterans" the first place it appears and inserting in lieu thereof "past or present members of the Armed Forces of the United States", and

(2) by amending subparagraph (B) to read as follows:

"(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and".

(b) Association Organized Before 1880.—Subsection (c) of section 501 (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) any association organized before 1880 more than 25 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents."

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 355. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

"VERY HIGH FREQUENCY STATIONS

"Sec. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934.".

SEC. 356. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) In General.— Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(1) Disclosure of returns and return information for use in criminal investigations.—

"(A) In general.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only

to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

"(ii) any investigation which may result in such a proceeding, or

"(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

"(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

"(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

"(ii) any investigation which may result in such a proceeding, or

"(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

"(i) the name and address of the taxpayer with respect to whom the requested return information relates;

"(ii) the taxable period or periods to which such return information relates;

"(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

"(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

"(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

"(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

"(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

"(B) EMERGENCY CIRCUMSTANCES.—

"(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

"(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

"(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

"(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (c), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

"(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

"(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 the Federal Rules of Criminal Procedure.

"(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

"(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

"(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

"(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

"(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

"(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

"(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

"(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

"(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.".

(b) CONFORMING AMENDMENTS.—

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(1) Subsection (p) of section 6103 (relating to procedure and recordkeeping) is amended—

(A) by striking out "(6)(A)(ii)" in paragraph (3)(A) and inserting in lieu thereof "(7)(A)(ii)",

(B) by striking out "(d)" in paragraph (3)(C)(i) and inserting in lieu thereof "(d), (i)(3)(B)(i),",

(C) by striking out "such requests" in paragraph (3)(C)(i)(II) and inserting in lieu thereof "such requests or otherwise",

(D) by striking out "(i)(1), (2), or (5)" each place it appears in paragraph (4) and inserting in lieu thereof "(i)(1), (2), (3), or (5)",

(E) by striking out "(d)" each place it appears in paragraph (4) and inserting in lieu thereof "(d), (i)(3)(B)(i),", and

(F) by striking out "subsection (i)(6)(A)(ii)" in paragraph (6)(B)(i) and inserting in lieu thereof "subsection (i)(7)(A)(ii)".

(2) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "(d)" and inserting in lieu thereof "(d), (i)(3)(B)(i),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 357. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7431 as section 7432 and inserting after section 7430 the following new section:

"SEC. 7430. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) IN GENERAL.—

"(1) DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(2) DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

"(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) $1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

"(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

"(2) the costs of the action.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

"(e) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b)."

(b) CONFORMING AMENDMENTS.—

(1) Section 7217 (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7431 and inserting in lieu thereof the following:

"Sec. 7431. Civil damages for unauthorized disclosure of returns and return information.

"Sec. 7432. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to disclosures made after the date of enactment of this Act.

SEC. 358. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—Paragraph (7) of section 6103(i) (relating to disclosure to Comptroller General), as redesignated by section 396(a), is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) AUDITS OF OTHER AGENCIES.—

"(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

"(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

"(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

"(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

"(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

"(I) a description of the use of the returns and return information by the Federal agency involved,

"(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

"(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

"(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (C)".

(2) Subparagraph (C) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) or (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Tax Treatment of Partnership Items Act of 1982".

SEC. 402. TAX TREATMENT OF PARTNERSHIP ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Tax Treatment of Partnership Items

"Sec. 6221. Tax treatment determined at partnership level.

"Sec. 6222. Partner's return must be consistent with partnership return or Secretary notified of inconsistency.

"Sec. 6223. Notice to partners of proceedings.

"Sec. 6224. Participation in administrative proceedings; waivers; agreements.

"Sec. 6225. Assessments made only after partnership level proceedings are completed.

"Sec. 6226. Judicial review of final partnership administrative adjustments.

"Sec. 6227. Administrative adjustment requests.

"Sec. 6228. Judicial review where administrative adjustment request is not allowed in full.

"Sec. 6229. Period of limitations for making assessments.

"Sec. 6230. Additional administrative provisions.

"Sec. 6231. Definitions and special rules.

"Sec. 6232. Extension of subchapter to windfall profit tax.

"SEC. 6221. TAX TREATMENT DETERMINED AT PARTNERSHIP LEVEL.

"Except as otherwise provided in this subchapter, the tax treatment of any partnership item shall be determined at the partnership level.

"SEC. 6222. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

"(a) IN GENERAL.—A partner shall, on the partner's return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(1) IN GENERAL.—In the case of any partnership item, if—

"(A)(i) the partnership has filed a return but the partner's treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

"(ii) the partnership has not filed a return, and

"(B) the partner files with the Secretary a statement identifying the inconsistency, subsection (a) shall not apply to such item.

"(2) PARTNER RECEIVING INCORRECT INFORMATION.—A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

"(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner's return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

"(B) elects to have this paragraph apply with respect to that item.

"(c) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(1) described in paragraph (1)(A)(i) of subsection (b), and

"(2) in which the partner does not comply with paragraph (1)(B) of subsection (b),

section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a partner's intentional or negligent disregard of requirements of this section, see section 6653(a).

"SEC. 6223. NOTICE TO PARTNERS OF PROCEEDINGS.

"(a) SECRETARY MUST GIVE PARTNERS NOTICE OF BEGINNING AND COMPLETION OF ADMINISTRATIVE PROCEEDINGS.—The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

"(1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and

"(2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

"(b) SPECIAL RULES FOR PARTNERSHIP WITH MORE THAN 100 PARTNERS.—

"(1) PARTNER WITH LESS THAN 1 PERCENT INTEREST.—Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

"(A) the partnership has more than 100 partners, and

"(B) the partner has a less than 1 percent interest in the profits of the partnership.

"(2) SECRETARY MUST GIVE NOTICE TO NOTICE GROUP.—If a group of partners in the aggregate having a 5 percent or more interest in the profits of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

"(c) INFORMATION BASE FOR SECRETARY'S NOTICES, ETC.—For purposes of this subchapter—

"(1) INFORMATION ON PARTNERSHIP RETURN.—Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

"(2) USE OF ADDITIONAL INFORMATION.—The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

"(3) SPECIAL RULE WITH RESPECT TO INDIRECT PARTNERS.—If any information furnished to the Secretary under paragraph (1) or (2)—

"(A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and

"(B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

"(d) PERIOD FOR MAILING NOTICE.—

"(1) NOTICE OF BEGINNING OF PROCEEDINGS.—The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

"(2) NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

"(e) EFFECT OF SECRETARY'S FAILURE TO PROVIDE NOTICE.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

"(B) SPECIAL RULES FOR PARTNERSHIPS WITH MORE THAN 100 PARTNERS.—For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

"(i) except as provided in clause (ii), by mailing notice to the tax matters partner, or

"(ii) in the case of a member of a notice group which qualifies under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

"(2) PROCEEDINGS FINISHED.—In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

"(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

"(B) the decision of a court in an action begun by such a petition has become final,

the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

"(3) PROCEEDINGS STILL GOING ON.—In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

"(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

"(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

"(f) ONLY ONE NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) TAX MATTERS PARTNER MUST KEEP PARTNERS INFORMED OF PROCEEDINGS.—To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

"(h) PASS-THRU PARTNER REQUIRED TO FORWARD NOTICE.—

"(1) IN GENERAL.—If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

"(2) PARTNERSHIP AS PASS-THRU PARTNER.—In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

"SEC. 6224. PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS; WAIVERS; AGREEMENTS.

"(a) PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS.—Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

"(b) PARTNER MAY WAIVE RIGHTS.—

"(1) IN GENERAL.—A partner may at any time waive—

"(A) any right such partner has under this subchapter, and

"(B) any restriction under this subchapter on action by the Secretary.

"(2) FORM.—Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

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"(c) SETTLEMENT AGREEMENT.—In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

"(1) BINDS ALL PARTIES.—A settlement agreement between the Secretary and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

"(2) OTHER PARTNERS HAVE RIGHT TO ENTER INTO CONSISTENT AGREEMENTS.—If the Secretary enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

"(3) TAX MATTERS PARTNER MAY BIND CERTAIN OTHER PARTNERS.—

"(A) IN GENERAL.—A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

"(i) which is entered into by the tax matters partner, and

"(ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

"SEC. 6225. ASSESSMENTS MADE ONLY AFTER PARTNERSHIP LEVEL PROCEEDINGS ARE COMPLETED.

"(a) RESTRICTION ON ASSESSMENT AND COLLECTION.—Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

"(1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and

"(2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court.

"(c) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

"SEC. 6226. JUDICIAL REVIEW OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENTS.

"(a) PETITION BY TAX MATTERS PARTNER.—Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) PETITION BY PARTNER OTHER THAN TAX MATTERS PARTNER.—

"(1) IN GENERAL.—If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

"(2) PRIORITY OF THE TAX COURT ACTION.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

"(3) PRIORITY OUTSIDE THE TAX COURT.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.

"(4) DISMISSAL OF OTHER ACTIONS.—If an action is brought under paragraph (1) in addition to the action which goes forward under paragraph (2) or (3), such action shall be dismissed.

"(5) TAX MATTERS PARTNER MAY INTERVENE.—The tax matters partner may intervene in any action brought under this subsection.

"(c) PARTNERS TREATED AS PARTIES.—If an action is brought under subsection (a) or (b) with respect to a partnership for any partnership taxable year—

"(1) each person who was a partner in such partnership at any time during such year shall be treated as a party to such action, and

"(2) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(d) PARTNER MUST HAVE INTEREST IN OUTCOME.—

"(1) IN ORDER TO BE PARTY TO ACTION.—Subsection (c) shall not apply to a partner after the day on which—

"(A) the partnership items of such partner for the partnership taxable year became nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, or

"(B) the period within which any tax attributable to such partnership items may be assessed against that partner expired.

"(2) TO FILE PETITION.—No partner may file a readjustment petition under subsection (b) unless such partner would (after the application of paragraph (1) of this subsection) be treated as a party to the proceeding.

"(e) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partner filing the petition deposits with the Secretary, on or before the day the petition is filed, the amount by which the tax liability of the partner would be increased if the treatment of partnership items on the partner's return were made consistent with the treatment of partnership items on the partnership return, as adjusted by the final partnership administrative adjustment. In the case of a petition filed by a 5-percent group, the requirement of the preceding sentence shall apply to each member of the group. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirements and any shortfall in the amount required to be deposited is timely corrected.

"(2) REFUND ON REQUEST.—If an action brought in a district court of the United States or in the Claims Court is dismissed by reason of the priority of a Tax Court action under paragraph (2) of subsection (b), the Secretary shall, at the request of the partner who made the deposit, refund the amount deposited under paragraph (1).

"(3) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(f) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of final partnership administrative adjustment relates and the proper allocation of such items among the partners.

"(g) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this section.

"(h) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed (other than under paragraph (4) of subsection (b)), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership administrative adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6227. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partner may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the tax matters partner of a notice of final partnership administrative adjustment with respect to such taxable year.

"(b) REQUESTS BY TAX MATTERS PARTNER ON BEHALF OF PARTNERSHIP.—

"(1) SUBSTITUTED RETURN.—If the tax matters partner—

"(A) files a request for an administrative adjustment, and

"(B) asks that the treatment shown on the request be substituted for the treatment of partnership items on the partnership return to which the request relates,

the Secretary may treat the changes shown on such request as corrections of mathematical or clerical errors appearing on the partnership return.

"(2) REQUESTS NOT TREATED AS SUBSTITUTED RETURNS.—

"(A) IN GENERAL.—If the tax matters partner files an administrative adjustment request on behalf of the partnership which is not treated as a substituted return under paragraph (1), the Secretary may, with respect to all or any part of the requested adjustments—

"(i) without conducting any proceeding, allow or make to all partners the credits or refunds arising from the requested adjustments,

"(ii) conduct a partnership proceeding under this subchapter, or

"(iii) take no action on the request.

"(B) EXCEPTIONS.—Clause (i) of subparagraph (A) shall not apply with respect to a partner after the day on which the partnership items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231.

"(3) REQUEST MUST SHOW EFFECT ON DISTRIBUTIVE SHARES.—The tax matters partner shall furnish with any administrative adjustment request on behalf of the partnership revised schedules showing the effect of such request on the distributive shares of the partners and such other information as may be required under regulations.

"(c) OTHER REQUESTS.—If any partner files a request for an administrative adjustment (other than a request described in subsection (b)), the Secretary may—

"(1) process the request in the same manner as a claim for credit or refund with respect to items which are not partnership items,

"(2) assess any additional tax that would result from the requested adjustments,

"(3) mail to the partner, under subparagraph (A) of section 6231(b)(1) (relating to items becoming nonpartnership items), a notice that all partnership items of the partner for the partnership taxable year to which such request relates shall be treated as nonpartnership items, or

"(4) conduct a partnership proceeding.

"SEC. 6228. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) REQUEST ON BEHALF OF PARTNERSHIP.—

"(1) IN GENERAL.—If any part of an administrative adjustment request filed by the tax matters partner under subsection (b) of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(A) the Tax Court,

"(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(C) the Claims Court.

"(2) PERIOD FOR FILING PETITION.—

"(A) IN GENERAL.—A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

"(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(ii) before the date which is 2 years after the date of such request.

"(B) NO PETITION AFTER NOTICE OF BEGINNING OF ADMINISTRATIVE PROCEEDING.—No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

"(C) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (B) shall cease to apply with respect to such request, and the 2-year period referred to in clause (ii) of subparagraph (A) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"(D) EXTENSION OF TIME.—The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

"(3) COORDINATION WITH ADMINISTRATIVE ADJUSTMENT.—

"(A) ADMINISTRATIVE ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this subsection after the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under subsection (b) of section 6227 relates.

"(B) ADMINISTRATIVE ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjustment, except that subsection (e) of section 6226 shall not apply.

"(C) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

"(4) PARTNERS TREATED AS PARTY TO ACTION.—

"(A) IN GENERAL.—If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

"(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

"(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(B) PARTNERS MUST HAVE INTEREST IN OUTCOME.—For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

"(5) SCOPE OF JUDICIAL REVIEW.—Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

"(6) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

"(b) OTHER REQUESTS.—

"(1) NOTICE PROVIDING THAT ITEMS BECOME NONPARTNERSHIP ITEMS.—If the Secretary mails to a partner, under subparagraph (A) of section 6231 (b) (1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (c) of section 6227 relates shall be treated as nonpartnership items—

"(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

"(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

"(2) OTHER CASES.—

"(A) IN GENERAL.—If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (c) of section 6227 by a partner and paragraph (1) does not apply—

"(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

"(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

"(B) PERIOD FOR FILING PETITION.—

"(i) IN GENERAL.—An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

"(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(II) before the date which is 2 years after the date of filing of such request.

"(ii) EXTENSION OF TIME.—The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

"(C) ACTION BARRED AFTER PARTNERSHIP PROCEEDING HAS BEGUN.—No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

"(D) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-

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year period referred to in clause (i) (II) of subparagraph (B), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i) (II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"SEC. 6229. PERIOD OF LIMITATIONS FOR MAKING ASSESSMENTS.

"(a) General Rule.—Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) Extension by Agreement.—

"(1) In general.—The period described in subsection (a) (including an extension period under this subsection) may be extended—

"(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

"(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

"(2) Coordination with section 6501(c)(4).—Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

"(c) Special Rule in Case of Fraud, Etc.—

"(1) False return.—If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

"(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

"(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting '6 years' for '3 years.'

"(2) Substantial omission of income.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) No return.—In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

"(4) Return filed by secretary.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) Suspension When Secretary Makes Administrative Adjustment.—If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters partner, the running of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6226 (and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and

"(2) for 1 year thereafter.

"(e) Unidentified Partner.—If—

"(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

"(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

"(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year,

the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

"(f) Items Becoming Nonpartnership Items.—If, before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items.

"SEC. 6230. ADDITIONAL ADMINISTRATIVE PROVISIONS.

"(a) Normal Deficiency Proceedings Do Not Apply to Computational Adjustments.—Subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

"(b) Mathematical and Clerical Errors Appearing on Partnership Return.—

"(1) In general.—Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

"(2) Exception.—Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

"(c) Claims Arising Out of Erroneous Computations, Etc.—

"(1) In general.—A partner may file a claim for refund on the grounds that—

"(A) the Secretary erroneously computed any computational adjustment necessary—

"(i) to make the partnership items on the partner's return consistent with the treatment of the partnership items on the partnership return, or

"(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a), or

"(B) the Secretary failed to allow a credit or to make a refund to the partner in the amount of the overpayment attributable to the application to the partner of a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a) (or erroneously computed the amount of any such credit or refund).

"(2) Time for filing claim.—

"(A) Under paragraph (1)(A).—Any claim under paragraph (1)(A) shall be filed within 6 months after the day on which the Secretary mails the notice of computational adjustment to the partner.

"(B) Under paragraph (1)(B).—Any claim under paragraph (1)(B) shall be filed within 2 years after whichever of the following days is appropriate:

"(i) the day on which the settlement is entered into,

"(ii) the day on which the period during which an action may be brought under section 6226 with respect to the final partnership administrative adjustment expires, or

"(iii) the day on which the decision of the court becomes final.

"(3) Suit if claim not allowed.—If any portion of a claim under paragraph (1) is not allowed, the partner may bring suit with respect to such portion within the period specified in subsection (a) of section 6532 (relating to periods of limitations on refund suits).

"(4) No review of substantive issues.—For purposes of any claim or suit under this subsection, the treatment of partnership items on the partnership return, under the settlement, under the final partnership administrative adjustment, or under the decision of the court (whichever is appropriate) shall be conclusive.

"(d) Special Rules With Respect to Credits or Refunds Attributable to Partnership Items.—

"(1) In general.—Except as otherwise provided in this subsection, no credit or refund of an overpayment attributable to a partnership item (or an affected item) for a partnership taxable year shall be allowed or made to any partner after the expiration of the period of limitation prescribed in section 6229 with respect to such partner for assessment of any tax attributable to such item.

"(2) Administrative adjustment request.—If a request for an administrative adjustment under section 6227 with respect to a partnership item is timely filed, credit or refund of any overpayment attributable to such partnership item (or an affected item) may be allowed or made at any time before the expiration of the period prescribed in section 6228 for bringing suit with respect to such request.

"(3) Claim under subsection (c).—If a timely claim is filed under subsection (c) for a credit or refund of an overpayment attributable to a partnership item (or affected item), credit or refund of such overpayment may be allowed or made at any time before the expiration of the period specified in section 6532 (relating to periods of limitations on suits) for bringing suit with respect to such claim.

"(4) Timely suit.—Paragraph (1) shall not apply to any credit or refund of any overpayment attributable to a partnership item (or an item affected by such partnership item) if a partner brings a timely suit with respect to a timely administrative adjustment request under section 6228 or a timely claim under subsection (c) relating to such overpayment.

"(5) Overpayments refunded without requirement that partner file claim.—In the case of any overpayment by a partner which is attributable to a partnership item (or an affected item) and which may be refunded under this subchapter, to the extent practicable credit or refund of such overpayment shall be allowed or made without any requirement that the partner file a claim therefor.

"(6) Subchapter B of chapter 66 not applicable.—Subchapter B of chapter 66 (relating to limitations on credit or refund) shall not apply to any credit or refund of an overpayment attributable to a partnership item (or an affected item).

"(e) Tax Matters Partner Required To Furnish Names of Partners to Secretary.—If the Secretary mails to any partnership the notice specified in paragraph (1) of section 6223(a) with respect to any partnership taxable year, the tax matters partner shall furnish to the Secretary the name, address, profits interest, and taxpayer identification number of each person who was a partner in such partnership at any time during such taxable year. If the tax matters partner later discovers that the information furnished to the Secretary was incorrect or incomplete, the tax matters partner shall furnish such revised or additional information as may be necessary.

"(f) Failure of Tax Matters Partner, Etc., To Fulfill Responsibility Does Not Affect Applicability of Proceeding.—The failure of the tax matters partner, a pass-thru partner, the representative of a notice group, or any other representative of a partner to provide any notice or perform any act required under this subchapter or under regulations prescribed under this subchapter on behalf of such partner does not affect the applicability of any proceeding or adjustment under this subchapter to such partner.

"(g) Date Decision of Court Becomes Final.—For purposes of section 6229(d)(1) and section 6230(c)(2)(B), the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(h) Examination Authority Not Limited.—Nothing in this subchapter shall be construed as limiting the authority granted to the Secretary under section 7602.

"(i) Time and Manner of Filing Statements, Making Elections, Etc.—Except as otherwise provided in this subchapter, each—

"(1) statement,

"(2) election,

"(3) request, and

"(4) furnishing of information,

shall be filed or made at such time, in such manner, and at such place as may be prescribed in regulations.

"(j) Partnerships Having Principal Place of Business Outside the United States.—For purposes of sections 6226 and 6228, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(k) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter. Any reference in this subchapter to regulations is a reference to regulations prescribed by the Secretary.

"(l) Court Rules.—Any action brought under any provision of this subchapter shall be conducted in accordance with such rules of practice and procedure as may be prescribed by the Court in which the action is brought.

"SEC. 6231. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this subchapter—

"(1) Partnership.—

"(A) In general.—Except as provided in subparagraph (B), the term 'partnership' means any partnership required to file a return under section 6031(a).

"(B) Exception for small partnerships.—

"(i) In general.—The term 'partnership' shall not include any partnership if—

"(I) such partnership has 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, and

"(II) each partner's share of each partnership item is the same as his share of every other item.

For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.

"(ii) Election to have subchapter apply.—A partnership (within the meaning of subparagraph (A)) may for any taxable year elect to have clause (i) not apply. Such election shall apply for such taxable year and all subsequent taxable years unless revoked with the consent of the Secretary.

"(2) Partner.—The term 'partner' means—

"(A) a partner in the partnership, and

"(B) any other person whose income tax liability under subtitle A is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

"(3) Partnership item.—The term 'partnership item' means, with respect to a partnership, any item required to be taken into account for the partnership's taxable year under any provision of subtitle A to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(4) Nonpartnership item.—The term 'nonpartnership item' means an item which is (or is treated as) not a partnership item.

"(5) Affected item.—The term 'affected item' means any item to the extent such item is affected by a partnership item.

"(6) Computational adjustment.—The term 'computational adjustment' means the change in the tax liability of a partner which properly reflects the treatment under this subchapter of a partnership item. All adjustments required to apply the results of a proceeding with respect to a partnership under this subchapter to an indirect partner shall be treated as computational adjustments.

"(7) Tax matters partner.—The tax matters partner of any partnership is—

"(A) the general partner designated as the tax matters partner as provided in regulations, or

"(B) if there is no general partner who has been so designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (or, where there is more than 1 such partner, the 1 of such partners whose name would appear first in an alphabetical listing).

If there is no general partner designated under subparagraph (A) and the Secretary determines that it is impracticable to apply subparagraph (B), the partner selected by the Secretary shall be treated as the tax matters partner.

"(8) Notice partner.—The term 'notice partner' means a partner who, at the time in question, would be entitled to notice under subsection (a) of section 6223 (determined without regard to subsections (b)(2) and (e)(1)(B) thereof).

"(9) Pass-thru partner.—The term 'pass-thru partner' means a partnership, estate, trust, electing small business corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which proceedings under this subchapter are conducted.

"(10) Indirect partner.—The term 'indirect partner' means a person holding an interest in a partnership through 1 or more pass-thru partners.

"(11) 5-percent group.—A 5-percent group is a group of partners who for the partnership taxable year involved had profits interests which aggregated 5 percent or more.

"(12) Husband and wife.—Except to the extent otherwise provided in regulations, a husband and wife who have a joint interest in a partnership shall be treated as 1 person.

"(b) Items Cease To Be Partnership Items in Certain Cases.—

"(1) In general.—For purposes of this subchapter, the partnership items of a partner for a partnership taxable year shall become nonpartnership items as of the date—

"(A) the Secretary mails to such partner a notice that such items shall be treated as nonpartnership items,

"(B) the partner files suit under section 6228(b) after the Secretary fails to allow an administrative adjustment request with respect to any of such items,

"(C) the Secretary enters into a settlement agreement with the partner with respect to such items, or

"(D) such change occurs under subsection (e) of section 6223 (relating to effect of Secretary's failure to provide notice) or under subsection (c) of this section.

"(2) Circumstances in which notice is permitted.—The Secretary may mail the notice referred to in subparagraph (A) of paragraph (1) to a partner with respect to partnership items for a partnership taxable year only if—

"(A) such partner—

"(i) has complied with subparagraph (B) of section 6222(b)(1) (relating to notification of inconsistent treatment) with respect to one or more of such items, and

"(ii) has not, as of the date on which the Secretary mails the notice, filed a request for administrative adjustments which would make the partner's treatment of the item or items with respect to which the partner complied with subparagraph (B) of section 6222(b)(1) consistent with the treatment of such item or items on the partnership return, or

"(B)(i) such partner has filed a request under section 6227(b) for administrative adjustment of one or more of such items, and

"(ii) the adjustments requested would not make such partner's treatment of such items consistent with the treatment of such items on the partnership return.

"(3) Notice must be mailed before beginning of partnership proceeding.—Any notice to a partner under subparagraph (A) of paragraph (1) with respect to partnership items for a partnership taxable year shall be mailed before the day on which the Secretary mails to the tax matters partner a notice of the beginning of an administrative proceeding at the partnership level with respect to such items.

"(c) Regulations With Respect to Certain Special Enforcement Areas.—

"(1) Applicability of subsection.—This subsection applies in the case of—

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"(A) assessments under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes),

"(B) criminal investigations,

"(C) indirect methods of proof of income,

"(D) foreign partnerships, and

"(E) other areas that the Secretary determines by regulation to present special enforcement considerations.

"(2) ITEMS MAY BE TREATED AS NONPARTNERSHIP ITEMS.—To the extent that the Secretary determines and provides by regulations that to treat items as partnership items will interfere with the effective and efficient enforcement of this title in any case described in paragraph (1), such items shall be treated as nonpartnership items for purposes of this subchapter.

"(3) SPECIAL RULES.—The Secretary may prescribe by regulation such special rules as the Secretary determines to be necessary to achieve the purposes of this subchapter in any case described in paragraph (1).

"(d) TIME FOR DETERMINING PARTNER'S PROFITS INTEREST IN PARTNERSHIP.—

"(1) IN GENERAL.—For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and paragraph (11) of subsection (a) (relating to 5-percent group), the interest of a partner in the profits of a partnership for a partnership taxable year shall be determined—

"(A) in the case of a partner whose entire interest in the partnership is liquidated, sold, or exchanged during such partnership taxable year, as of the moment immediately before such liquidation, sale, or exchange, or

"(B) in the case of any other partner, as of the close of the partnership taxable year.

"(2) INDIRECT PARTNERS.—The Secretary shall prescribe regulations consistent with the principles of paragraph (1) to be applied in the case of indirect partners.

"(e) EFFECT OF JUDICIAL DECISIONS IN CERTAIN PROCEEDINGS.—

"(1) DETERMINATIONS AT PARTNER LEVEL.—No judicial determination with respect to the income tax liability of any partner not conducted under this subchapter shall be a bar to any adjustment in such partner's income tax liability resulting from—

(A) a proceeding with respect to partnership items under this subchapter, or

(B) a proceeding with respect to items which become nonpartnership items—

(i) by reason of 1 or more of the events described in subsection (b), and

(ii) after the appropriate time for including such items in any other proceeding with respect to nonpartnership items.

"(2) PROCEEDINGS UNDER SECTION 6228(a).—No judicial determination in any proceeding under subsection (a) of section 6228 with respect to any partnership item shall be a bar to any adjustment in any other partnership item.

"(f) SPECIAL RULE FOR LOSSES AND CREDITS OF FOREIGN PARTNERSHIPS.—Except to the extent otherwise provided in regulations, in the case of any partnership the tax matters partner of which resides outside the United States or the books of which are maintained outside the United States, no loss or credit shall be allowable to any partner unless section 6031 is complied with for the partnership's taxable year in which such deduction or credit arose at such time as the Secretary prescribes by regulations.

"SEC. 6232. EXTENSION OF SUBCHAPTER TO WINDFALL PROFIT TAX.

"(a) INCLUSION AS PARTNERSHIP ITEM.—For purposes of applying this subchapter to the tax imposed by chapter 45 (relating to the windfall profit tax), the term 'partnership item' means any item relating to the determination of the tax imposed by chapter 45 to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(b) SEPARATE APPLICATION.—This subchapter shall be applied separately with respect to—

"(1) partnership items described in subsection (a), and

"(2) partnership items described in section 6231(a)(3).

"(c) PARTNERSHIP AUTHORIZED TO ACT FOR PARTNERS.—

"(1) IN GENERAL.—For purposes of chapter 45 and so much of this subtitle as relates to chapter 45, to the extent and in the manner provided in regulations, a partnership shall be treated as authorized to act for each partner with respect to the determination, assessment, or collection of the tax imposed by chapter 45.

"(2) PARTNERS ENTITLED TO 5 PERCENT OR MORE OF INCOME MAY ELECT OUT OF SUBSECTION.—Paragraph (1) shall not apply to any partnership if partners entitled to 5 percent or more of the income of the partnership elect (at the time and in the manner provided in regulations) not to have paragraph (1) apply to the partnership.

"(3) PARTNER'S RIGHTS PRESERVED.—Nothing in paragraph (1) shall be construed to take away from any person any right granted to such person by the foregoing sections of this subchapter."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following:

"Subchapter C. Tax
treatment of
partnership items."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 (relating to income and credits of partner) is amended by inserting at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following)."

(2) Subsection (h) of section 6213 (relating to certain cross references with respect to restrictions on assessment) is amended by inserting at the end thereof the following new paragraph:

"(4) For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a)."

(3) Section 6216 (relating to certain cross references with respect to assessments) is amended by inserting at the end thereof the following new paragraph:

"(4) For procedures relating to partnership items, see subchapter C."

(4) Section 6422 (relating to certain cross references with respect to credits and refunds) is amended by inserting at the end thereof the following new paragraph:

"(15) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

(5) Subsection (o) of section 6501 (relating to limitations on assessment and collection) is amended to read as follows:

"(o) Special Rules for Partnership Items.—For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229."

(6) Section 6504 (relating to certain cross references with respect to limitations on assessments) is amended by inserting at the end thereof the following new paragraph:

"(12) Assessments of tax attributable to partnership items, see section 6229."

(7) Subsection (g) of section 6511 (relating to limitations on credit or refund) is amended to read as follows:

"(g) SPECIAL RULE FOR CLAIMS WITH RESPECT TO PARTNERSHIP ITEMS.—In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter."

(8) Subsection (a) of section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by inserting at the end thereof the following new paragraph:

"(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63."

(9) Paragraph (2) of section 6512(b) (relating to limit on amount of credit or refund) is amended by striking out "(c), (d), or (g)" each place it appears and inserting in lieu thereof "(c), or (d)".

(10) Section 6515 (relating to certain cross references with respect to limitations on credit or refund) is amended by inserting at the end thereof the following new paragraph:

"(7) Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

(11) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (h) thereof as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR ACTIONS WITH RESPECT TO PARTNERSHIP ITEMS.—No action may be brought for a refund attributable to partnership items (as defined in section 6131(a)(3)) except as provided in section 6228(b) or section 6230(c)."

(12) Section 7451 (relating to fee for filing petition) is amended by adding "or for judicial review under section 6226 or section 6228(a)" at the end thereof.

(13) Subsection (c) of section 7456 (relating to Tax Court Commissioners) is amended by inserting "6226, 6228(a)," before "7428".

(14) Subsection (c) of section 7459 (relating to date of decision) is amended by inserting "or in the case of an action brought under section 6226 or section 6228(a)" after "or under section 7428".

(15) Paragraph (1) of section 7482(b) (relating to venue for review of Tax Court decisions) is amended—

(A) by striking out "or" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or",

(C) by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6226 or 6228(a), the principal place of business of the partnership,", and

(D) by inserting ", or the petition under section 6226 or 6228(a)," after "or 7477".

(16) Section 7485 (relating to bond to stay assessment and collection) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) Bond in Case of Appeal of Decision Under Section 6226 or Section 6228(a).—The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226 or 6228(a) and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate of such deficiencies."

(17) Subsection (e) of section 1346 of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by striking out "section 7426 or section" and inserting in lieu thereof "section 6226, 6228(a), 7426, or".

(18)(A) Chapter 91 of title 28, United States Code (relating to Claims Court), is amended by adding at the end thereof the following new section:

"§ 1508. Jurisdiction for certain partnership proceedings.

"The Claims Court shall have jurisdiction to hear and to render judgment upon any petition under section 6226 or 6228(a) of the Internal Revenue Code of 1954."

(B) The section analysis of chapter 91 of title 28, United States Code (relating to Claims Court) is amended by adding at the end thereof the following new item:

"1508. Jurisdiction for certain partnership proceedings."

SEC. 403. REQUIREMENT THAT STATEMENT BE FURNISHED TO PARTNER.

(a) General Rule.—Section 6031 (relating to return of partnership income) is amended by adding at the end thereof the following new subsection:

"(b) Copies to Partners.—Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a partner at any time during such taxable year a copy of such information shown on such return as may be required by regulations."

(b) Conforming Amendment.—Section 6031 is amended by striking out "Every partnership" and inserting in lieu thereof the following:

"(a) General Rule.—Every partnership".

SEC. 404. RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS.

Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1954 shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year.

SEC. 405. RETURN REQUIREMENT FOR UNITED STATES PERSONS HAVING INTEREST IN FOREIGN PARTNERSHIPS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6046 the following new section:

"SEC. 6046A. RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS.

"(a) Requirement of Return.—Any United States person, except to the extent otherwise provided by regulations—

"(1) who acquires any interest in a foreign partnership,

"(2) who disposes of any portion of his interest in a foreign partnership, or

"(3) whose proportional interest in a foreign partnership changes substantially,

shall file a return.

"(b) Form and Contents of Return.—Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

"(c) Time for Filing Return.—Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

"(d) Cross Reference.—

"For provisions relating to penalties for violations of this section, see sections 6679 and 7203."

(b) Penalty.—

Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisitions of their stock) is amended by striking out "section 6046" and inserting in lieu thereof "section 6046 or 6046A".

(c) Clerical Amendments.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6046 the following new item:

"Sec. 6046A. Returns as to interests in foreign partnerships."

(2) The section heading of section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

"Sec. 6679. Failure to file returns with respect to foreign corporations or foreign partnerships."

SEC. 406. SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS.

Subchapter C of chapter 63 of the Internal Revenue Code of 1954 (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.

SEC. 407. EFFECTIVE DATES.

(a)(1) Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) Section 6232 of the Internal Revenue Code of 1954 shall apply to periods after December 31, 1982.

(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application.

(b) The amendments made by section 405 shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

SECTION 501. SHORT TITLE.

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY.

(a) In General.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

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(8) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(9) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety.

(b) TRANSPORTATION PLANNING.—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

SEC. 503. DEFINITIONS.

(a) IN GENERAL.—As used in this title—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment; or

(v) equipment to measure runway surface friction; and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(11) "Primary airport" means a commercial service airport which is determined by the Secretary to have .01 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(12) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(13) "Project costs" means any costs involved in accomplishing a project.

(14) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(15) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(16) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(17) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft,

which is used or to be used for public purposes.

(18) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(19) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(20) "Secretary" means the Secretary of Transportation.

(21) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(22) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(23) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

(24) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title.

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) FORMULATION OF AIRPORT PLAN.—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(b) FORMULATION OF AIRWAY PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this title, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $450,000,000 for fiscal year 1982; $1,050,000,000 for the fiscal years ending before October 1, 1983; $1,843,500,000 for the fiscal years ending before October 1, 1984; $2,755,500,000 for the fiscal years ending before October 1, 1985; $3,772,500,000 for the fiscal years ending before October 1, 1986; and $4,789,700,000 for the fiscal years ending before October 1, 1987.

(b) OBLIGATIONAL AUTHORITY.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

(a) AIRWAY FACILITIES AND EQUIPMENT.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years ending before October 1, 1983; $2,379,000,000 for the fiscal years ending before October 1, 1984; $3,786,000,000 for the fiscal years ending before October 1, 1985; $5,163,000,000 for the fiscal years ending before October 1, 1986; and $6,327,000,000 for the fiscal years ending before October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(2) The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection. Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312, there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983 (of which not more than $16,800,000 is authorized to be appropriated for facilities, engineering and development); $286,000,000 for fiscal year 1984 (of which not more than $24,700,000 is authorized to be appropriated for facilities, engineering and development); $269,000,000 for fiscal year 1985 (of which not more than $23,100,000 is authorized to be appropriated for facilities, engineering and development); $215,000,000 for fiscal year 1986 (of which not more than $22,700,000 is authorized to be appropriated for facilities, engineering and development); and $193,000,000 for fiscal year 1987 (of which not more than $22,000,000 is authorized to be appropriated for facilities, engineering and development). Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—(1) The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed $800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 2.44 in the case of fiscal year 1983; 1.57 in the case of fiscal year 1984; 1.39 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984; $30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; and $34,998,000 for fiscal year 1987.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), and (d) and the third sentence of section (c) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SEC. 507. APPORTIONMENT OF FUNDS.

(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) $6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) $4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) $2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) $0.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary shall not apportion less than $200,000 nor more than $12,500,000 under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(2) APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before October 1, 1987, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(3) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (4) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(4) Notwithstanding any other provision of this subsection, for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such

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airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in paragraph (3) of this subsection.

(b) Passengers Enplaned.—For purposes of determining apportionments for any fiscal year under paragraph (1) of subsection (a) of this section, the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.

(a) Duration of Availability of Apportioned Amounts.—Each amount apportioned under paragraph (1), (2), or (4) of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(a)(3) of this title.

(b) Transfer of Certain Apportionments of Primary Airports.—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) States.—Funds apportioned to a State under section 507(a)(2) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(2) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) General Limitations.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 8 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year (A) for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title.

(3) Not less than 5.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under paragraph (4) of section 507(a) shall be counted as part of the 5.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than one percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) Submission.—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507(a), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(b) Approval.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secre-

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tary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) STATE STANDARDS.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) ACCEPTANCE OF CERTIFICATION.—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(e) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section 507(a)(1) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

(a) GENERAL PROVISION.—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) PROJECTS IN PUBLIC LAND STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970.

SEC. 511. PROJECT SPONSORSHIP.

(a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of

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an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: Provided, however, That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(13) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost of acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe.

(b) Compliance.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

(c) Consultation.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

SEC. 512. GRANT AGREEMENTS.

(a) Offer and Acceptance.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) Maximum Obligation of the United States.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

(c) Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

SEC. 513. PROJECT COSTS.

(a) Allowable Project Costs.—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) Terminal Development.—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) Not more than the greater of (A) $200,000, or (B) 60 percent of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than $200,000 of the sums to be distributed at the discretion of the Secretary under section 507(a)(3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

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(3) Not more than $25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

(4) Sums apportioned under section 507(a) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

(a) REGULATIONS.—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

SEC. 517. FALSE STATEMENTS.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both.

SEC. 518. ACCESS TO RECORDS.

(a) Recordkeeping Requirements.—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

(b) Audit and Examination.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) Audit Reports.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) Withholding Information.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

SEC. 519. GENERAL POWERS.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) Submission to Congress.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) Considerations.—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) Consultation.—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) Repeal.—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701-1730) are repealed on the date of enactment of this title.

(b) Effective Date.—This title and the amendments made by this title shall take effect on the date of enactment of this title.

(c) Saving Provisions.—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

(d) Separability.—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby.

SEC. 524. MISCELLANEOUS AMENDMENTS.

(a)(1) Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.".

(2) Section 313(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(c)) is amended by inserting "the Airport and Airway Improvement Act of 1982," after "this Act," the first place it appears.

(3) Section 1109(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(e)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(b) The Aviation Safety and Noise Abatement Act of 1979 is amended as follows:

(1) Section 101(1) is amended to read as follows:

"(1) the term 'airport' means any public-use airport (as defined by section 503(17) of the Airport and Airway Improvement Act of 1982);".

(2) Section 101(2) is amended to read as follows:

"(2) the term 'airport operator' means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and".

(3) Section 103(b) is amended to read as follows:

"(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

"(2) For purposes of this Act, the term 'airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act.".

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(4) Section 104(c)(1) is amended by striking out "subsection (e) of this section" in the first sentence and inserting in lieu thereof "section 505 of the Airport and Airway Improvement Act of 1982". The last sentence of section 104(c)(1) is amended to read as follows: "All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.".

(5) Section 108 is amended by striking out "(1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2)" and inserting in lieu thereof "airport noise compatibility planning and".

(c) Section 13(g)(1) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)(1)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(d) Section 24 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) There is authorized to be appropriated out of the Airport and Airway Trust Fund for amounts expended before the date specified in paragraph (2) of this subsection not to exceed $15,000,000. No such amounts shall be appropriated prior to September 30, 1981.

"(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.".

(e) Section 31 of the Airport and Airway Development Act of 1970 is amended by striking out "this title" and inserting in lieu thereof "the Airport and Airway Improvement Act of 1982", by inserting "under such Act" after "airport development project", and by inserting "(as defined by section 11(8) of the Airport and Airway Development Act of 1970, as in effect on the date of enactment of this section)" after "general aviation airport".

(f) The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof: "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

(a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)) is amended to read as follows:

"POWER TO ISSUE

"SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.".

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c)) is amended by striking out "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carriers airports" and inserting in lieu thereof "airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1)".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility.

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

(1) the Department of Transportation;

(2) the Department of Justice;

(3) States;

(4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;

(5) trunk air carriers;

(6) regional air carriers (other than commuter air carriers);

(7) charter air carriers;

(8) commuter air carriers;

(9) all-cargo air carriers;

(10) general aviation;

(11) financial institutions with an interest in the aviation industry; and

(12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section.

SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

(a) Beginning on the date of enactment of this title, the Secretary shall not close or operate on a part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this title and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than sixty existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such serviba shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than $150,000 nor less than $130,000 for each fiscal year beginning after September 30, 1981, and ending before October 1, 1987.

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(b) BROWNWOOD, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) GRAND JUNCTION, COLORADO.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

SEC. 532. STATE TAXATION.

(a) Section 1113(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1513(b)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in subsection (d) of this section, nothing".

(b) Section 1113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(2) In this subsection—

"(A) 'assessment' means valuation for a property tax levied by a taxing district;

"(B) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(C) 'air carrier transportation property' means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

"(D) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

"(E) 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

"(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.".

TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

SUBTITLE A—EXTENSION OF BENEFITS

SHORT TITLE

SEC. 601. This subtitle may be cited as the "Federal Supplemental Compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 602. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") under this subtitle. Any State which is a party to an agreement under this subtitle may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individiuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual's period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to

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any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

(e)(1) Any agreement under this subtitle with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent; except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning after March 31, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 603. (a) There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this subtitle or chapter 85 of title 5 of the United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this subtitle in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 604. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorised to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this Act. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this subtitle.

DEFINITIONS

SEC. 605. For purposes of this title—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "period of eligibility" means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

FRAUD AND OVERPAYMENTS

SEC. 606. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this subtitle to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this subtitle to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State un-

employment compensation law, and only in that manner and to that extent.

Subtitle B—Taxation of Unemployment Compensation

SEC. 611. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) LOWERING BASE AMOUNT FROM $20,000 TO $12,000 (FROM $25,000 TO $18,000 IN CASE OF JOINT RETURN).—Subsection (b) of section 85 (defining base amount) is amended—

(1) by striking out "$20,000" and inserting in lieu thereof "$12,000", and

(2) by striking out "$25,000" and inserting in lieu thereof "$18,000".

(b) EFFECTIVE DATES.—

(1) COMPENSATION PAID AFTER 1981.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1981, in taxable years ending after such date.

(2) NO ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX ATTRIBUTABLE TO APPLICATION OF AMENDMENTS TO COMPENSATION PAID IN 1982.—No addition to tax shall be made under section 6654 of the Internal Revenue Code of 1954 with respect to any underpayment to the extent such underpayment is attributable to unemployment compensation which is received during 1982 and which (but for the amendments made by subsection (a)) would not be includable in gross income.

(3) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxable year (other than a calendar year) which includes January 1, 1982—

(A) the amendments made by this section shall be applied by taking into account the entire amount of unemployment compensation received during such taxable year, but

(B) the increase in gross income for such taxable year as a result of such amendments shall not exceed the amount of unemployment compensation paid after December 31, 1981.

(4) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this subsection, the term "unemployment compensation" has the meaning given to such term by section 85(c) of the Internal Revenue Code of 1954.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

Committee on Ways and Means for the entire bill and the Senate amendment and modifications committed to conference, with the exception of subtitle B (Medicaid) of title I and title IV (Airport and Airway System Development) except for section 406(e) of that title and with the exception of section 395 of the Senate amendment and modifications committed to conference.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
BARBER B. CONABLE, Jr.,

Committee on Energy and Commerce solely for the consideration of subtitle B of title I (Medicaid), of the Senate amendment and modifications committed to conference and subtitle C of title I (Utilization and Quality Control Peer Review) of the Senate amendment and the modifications committed to conference and such parts of subtitle A (Medicare) of title I of the Senate amendment and modifications committed to conference that relate to amendments to the supplementary medical insurance program authorized under title XVIII of the Social Security Act:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JIM BROYHILL,
ED MADIGAN,

Committee on Energy and Commerce solely for consideration of section 395 of the Senate amendment and modifications committed to conference:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,

Committee on Public Works and Transportation solely for the consideration of title IV of the Senate amendment and modifications committed to conference with the exception of sections 406(e) and 407(b) of that title:

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SYNDER,
JOHN PAUL
HAMMERSCHMIDT,

Solely for the consideration of section 407(b) title IV of the Senate amendment and modifications committed to conference:

DON FUQUA,
DAN GLICKMAN,
LARRY WINN, Jr.,
Managers on the Part of the House.

For the entire bill with the exception of title IV (airport and airway system development) except for section 406(e):

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL B. LONG,
LLOYD BENTSEN,

Solely for consideration of title IV (excluding section 406(e)):

BOB PACKWOOD,
NANCY LANDON
KASSEBAUM,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

SUBTITLE A—MEDICARE

1. One month delay in entitlement to medicare benefits

Senate amendment

The Senate amendment defers eligibility for parts A and B of medicare until the first day of the month following the month in which an individual attains age 65.

The provision would be effective with respect to individuals reaching age 65 after August 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

2. Medicare payments secondary for older workers choosing to remain covered under group health plans

Senate amendment

The Senate provision amends the Federal Age Discrimination in Employment Act (ADEA) to require employers to offer their employees age 65 through 69 and their dependents the same health benefits as are offered to their younger employees. The provision makes medicare the secondary payor for such employees (and their spouses) age 65 through 69. The provision would not apply to employers with less than 20 employees.

Medicare's payment for any item or service furnished to an employee (or his or her spouse) would be reduced where the combined payment under medicare and the employer's health benefits plan would otherwise exceed an amount equal to: (1) for items or services reimbursed on a cost or cost-related basis, their reasonable cost; or, (2) for items reimbursed on a charge basis, the higher of the reasonable charge (or other amount payable under medicare, without regard to the program deductibles or coinsurance) or the amount payable under the employer group plan (without regard to deductibles or coinsurance imposed under that plan). In no case would medicare pay more than medicare would have paid in the absence of any employer plan coverage. This provision would be effective January 1, 1983.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that an employee will have the option of rejecting the plan offered by the employer, thereby, retaining medicare as primary coverage. It is the understanding of the conferees that the Secretary of Labor will promulgate regulations to prevent employers from offering a group health insurance plan or option which is designed to circumvent this provision in an attempt to induce employees to reject the employer general health benefit plan offered to other employees under the age of 65.

3. Five percent copayments for home health services

Senate amendment

The Senate amendment imposes copayments on home health services equal to 5 percent of the average reasonable cost per visit, beginning with the twentieth visit made with respect to an individual in a cal-

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endar year. The provision would be effective with respect to services furnished on or after January 1, 1983.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

4. Reimbursement for inpatient radiology and pathology services

Senate amendment

The Senate amendment eliminates the 100 percent reimbursement rate currently applicable to services provided to hospital inpatients that are furnished by radiologists and pathologists who accept assignment in all cases for these services. Thus, medicare will pay for such services on the same basis as for other physicians' services, i.e. 80 percent of the reasonable charge after the part B deductible has been met. The provision is effective with respect to services furnished on or after October 1, 1982.

House committee provision

Same provision.

Conference agreement

The conference agreement includes the Senate amendment.

5. Increase in part B deductible

Senate amendment

The Senate amendment increases the Part B deductible for calendar year 1984 to $78 and for 1985 and subsequent calendar years to $80.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

6. Limitation on physician fee economic index

Senate amendment

The Senate amendment provides that (1) the increase in the physician economic index effective July 1, 1982 would not be in effect for charges for services rendered on or after October 1, 1982; (2) the increase allowed for the 12-month period beginning July 1, 1983 could not exceed five percent; and (3) the Secretary of the Department of Health and Human Services would be required to report to the Congress changes in the rate of assignment and in costs paid by beneficiaries as a result of changes made in physician reimbursement.

House committee provision

Under the House committee provision (1) the increase in the economic index for prevailing fees effective July 1, 1982 would be reduced to 4 percent effective October 1, 1982; (2) physicians who agree to accept assignment on all their bills would not be subject to this reduction; and (3) the date of the annual update in the customary and prevailing charge screens would be delayed from July 1, until October 1 of each year, starting in 1983.

Conference agreement

The conference agreement does not include either provision.

7. Elimination of inpatient routine nursing salary cost differential

Senate amendment

The Senate amendment eliminates the routine nursing salary cost differential paid to hospitals and skilled nursing facilities. The provision would be effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment.

8. Reimbursement of provider-based physicians

Senate amendment

The Senate amendment directs the Secretary to prescribe regulations, effective no later than October 1, 1982, which will distinguish between (1) professional medical services which require performance of the physician in person; which are personally rendered to individual patients; which contribute to the patients' diagnosis and treatment; and are reimbursable only under part B on a charge basis, and (2) the professional medical services of practitioners which are of benefit to patients generally and other services not discussed in (1) above which can be reimbursed only on a reasonable cost basis. The amendment provides that reasonable cost reimbursement for provider-based services cannot exceed a reasonable compensation equivalent which shall be established by the Secretary in regulations and shall be based on reasonable annual compensation levels for a full-time equivalent practice in the specialty involved, or on such other basis as the Secretary may approve.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment with minor modifications. The agreement directs the Secretary to prescribe regulations which will distinguish between (1) professional medical services which are personally rendered to an individual patient, which contribute to the patient's diagnosis or treatment, and are reimbursable only under part B on a charge basis; and (2) professional services which are of benefit to patients generally and which can be reimbursed only on a reasonable cost basis. Reasonable cost reimbursement for provider-based services could not exceed a reasonable compensation equivalent established by the Secretary in regulations. The conference agreement directs that regulations implementing this provision be published and effective by October 1, 1982. The conferees understand that such regulations are already under preparation by HHS. The publication and timely implementation of these regulations would reflect the intent of the conferees.

9. Part B premium as a constant percentage of costs

Senate amendment

The Senate amendment would suspend the current limitation on annual increases in the part B premium and instead increase the premium on October 1, 1982, on July 1, 1983, and on July 1, 1984 to a level which will result in monthly premiums which are in the aggregate equal to 25 percent of program costs for aged beneficiaries. During this period, premium increases would not be limited to the lower of the percentage by which cash social security benefits most recently increased, or the increase in the costs of the program as is required by present law. The present law limitation and method of calculating premiums would resume on July 1, 1985.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification allowing no premium increase before July 1, 1983.

10. Medicare reimbursement to hospitals

(A) EXPANSION OF SECTION 223 LIMITS TO INCLUDE ANCILLARY COSTS

Senate amendment

The Senate amendment extends the so-called Section 223 limitation of present law to ancillary service operating costs, effective with hospital cost reporting periods beginning on or after October 1, 1982. The new limitation would be applied on an average cost-per-case basis and each hospital's limit would be modified by a case-mix adjustment. In no case would payment on a cost-per-case basis be reduced below the allowable cost-per-case reimbursement for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable. The limitation would be set at 110 percent of the mean for hospitals of the same type. The Secretary would be required to provide appropriate exemptions, exceptions and adjustments including an adjustment for the special needs of hospitals that incur additional costs in treating low-income patients. Rural hospitals with less than 50 beds would be exempted from the limitations.

House committee provision

The House committee provision is similar to the Senate amendment except that the limitation would be set at 120 percent of the mean in fiscal year 1983, and the Secretary would be authorized to reduce the limitation to 115 percent in fiscal year 1984 and to 110 percent in fiscal year 1985. Provisions similar to those in the Senate amendment are included regarding exemptions, exceptions and adjustments, except that the House provision specifically requires appropriate adjustments for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Hospitals in operation with less than 50 beds, on the date of enactment, would be exempted from the limitation without regard to location.

Conference agreement

The conference agreement follows the Senate amendment, under which the current Section 223 limitation would be extended to include ancillary service operating costs, applied on an average cost-per-case basis, and adjusted for case-mix, effective with cost reporting periods beginning on or after October 1, 1982. In no case would reimbursement on a cost-per-case basis be reduced below the allowable cost-per-case reimbursement for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable. Under the conference agreement, for the first reporting period it becomes effective, the new limitation would be set at 120 percent of the mean for hospitals of the same type; for the second year, the limitation would be 115 percent of the mean; and for the third and subsequent years, the limitation would be 110 percent of the mean.

Appropriate adjustments would be required for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Non-SMSA hospitals with less than 50 beds would be excluded. Other appropriate exemptions, exceptions, and adjustments would be required as in the Senate provision including an adjustment to assure that the proposed limits would not be significantly compromised if a hospital reduces its costs by cutting back on the kinds of services it provides directly to its patients (e.g., leasing its clinical laboratory).

The Secretary is expected to recalculate case-mix adjustments periodically. It is understood that initially the Secretary will need to rely on a currently available indicator of case-mix complexity such as the system developed at Yale University. It is expected that the Secretary will continue to evaluate possible methods for adjusting for case-mix and will adopt an improved method when it becomes available.

It is recognized that case-mix adjusted hospital cost data will not be available on a fully current basis, and must be updated to the hospital cost reporting period for which it will be used in establishing limits. It is expected that the Secretary will use estimated actual industry-wide cost increase data to update available data on hospital costs to the cost reporting period to which the limit will be applied; a further adjustment for anticipated cost increases during the year subject to limits will be based on a hospital wage and price index plus one percentage point.

(B) THREE-YEAR HOSPITAL RATE OF INCREASE PROVISION

Senate amendment

The Senate amendment places an overall limit on annual increases in a hospital's medicare reimbursement on a per case basis, effective for three hospital reporting periods beginning with hospital cost reporting periods beginning on or after October 1, 1982. For the first 2 cost reporting periods, hospitals would be paid 25 percent of their costs in excess of their limits, but none of the excess would be reimbursed in the third year.

The maximum allowable increase is the previous year's allowable costs (or, after the first year, the previous year's limitation ceiling amount) increased by the percentage increase in the hospital wage and price index plus 2 percentage points.

The Secretary is required to provide for exemptions, exceptions, and adjustments from the limits in cases where events beyond the hospital's control or extraordinary circumstances, including changes in the case mix of such hospital, distort the hospital's increase in costs.

House committee provision

The House committee provision establishes a target reimbursement system under which hospitals with operating costs (per case) below the target rate would be paid their costs plus a bonus of 50 percent of the savings (but not to exceed 5 percent of the target rate), and hospitals with costs above the target rate would be paid 50 percent of excess costs (up to 105 percent of target), 25 percent of excess costs (between 105 and 110 percent of target) and none of costs above 110 percent of target. These payments are subject to Section 223 limitations.

The target rate is the previous year's allowable costs (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus 1 percentage point.

The Secretary is authorized to provide appropriate exceptions and adjustments to the target rate, specifically including an adjustment for psychiatric hospitals.

The target system applies to reimbursement in the Federal fiscal years 1983, 1984, and 1985, regardless of the period covered by the individual hospital's fiscal year, but ceases upon implementation of a prospective payment system.

Conference agreement

Under the conference agreement, a target rate reimbursement system would be established applicable to a hospital's first three cost reporting periods beginning on or after October 1, 1982. Under the provision, the target rate would be the previous year's allowable operating costs per case (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus one percentage point. A hospital with operating costs below the target rate would be paid its costs plus a bonus of 50 percent of the savings (but not to exceed 5 percent of the target rate); a hospital with costs above the target rate would be allowed 25 percent of its cost in excess of the target for the first 2 years; none of the excess would be reimbursed in the third year. Provider payments under the target reimbursement system could not exceed the amount payable under the new section 223 limitations.

The Secretary of HHS would be required to provide for appropriate exemptions, exceptions, and adjustments as in the Senate provision. The conferees note that adjustments could have the effect of either increasing or decreasing the target payment amount. The principal intention in authorizing such adjustments is to take into account factors that would distort either a hospital's base period or rate of cost increase in any of the three years to which the provisions are applicable. Examples of such factors include significant changes in a hospital's case-mix in a particular year when compared to the base year, extraordinary circumstances beyond the hospital's control, and a reduction in a hospital's costs resulting from cutting back on the kinds of services directly provided to patients—e.g., as the result of leasing out its clinical laboratory.

Because the proposed target rates of increase and the new section 223 limits would be determined on a per case basis, an incentive would be created to increase admissions or discharges. It is anticipated that the Secretary will give consideration to making an adjustment where a hospital manipulates admissions or discharges in order to maximize reimbursement.

Because both the new limitation on total inpatient operating costs (the expanded section 223 limitations) and the target reimbursement provisions begin as early as October 1, 1982 for hospitals with cost reporting periods beginning on that date, it is recognized that the Secretary will have limited time to prepare for implementation of these new reimbursement provisions. Accordingly, the conference agreement authorizes the Secretary to proceed to implementation on the basis of final regulations issued without the customary prior comment period. However, it is expected that comments on the final regulations will be solicited and that appropriate revisions will be made based on the comments received.

Similarly, time may not permit the normal process of approval of forms to take place under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511). Accordingly, all revisions to the medicare cost reporting forms necessary to implement these new reimbursement provisions would be exempt from the Act until the end of calendar year 1983, after which it is expected that the Paperwork Reduction Act will be complied with in the normal manner.

In the case of hospitals currently under the OASDHI program which withdraw after August 15, 1982, the Secretary of HHS is required to compute a reduction in the amount of payments otherwise made to reflect the savings in costs achieved through withdrawals. This reduction can be offset by demonstrated expenditures for pension, health, and insurance benefits which are comparable to, and substituted for, the Social Security benefits.

(C) PROSPECTIVE PAYMENTS FOR HOSPITALS AND SKILLED NURSING FACILITIES

Senate amendment

The Senate amendment requires the Secretary to develop, in consultation with Senate Finance Committee and House Ways and Means Committee, medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and to the extent feasible other providers, and to report to the committees on the proposals within 5 months.

House committee provision

The House committee provision requires the Secretary to develop and to submit to Congress by December 31, 1982, a medicare prospective payment plan for hospital inpatient services and extended care services designed to take effect October 1, 1983, and which, if implemented would not result in any increase in program costs. If submitted on a timely basis, the plan would take effect and replace reimbursement policy under existing law unless disapproved by concurrent resolution of Congress adopted by July 1, 1983.

Conference agreement

The conferees agreed to the Senate provision. Because of the desire of the conferees to proceed as soon as possible with a prospective payment system, it is expected that the administration recommendations, when presented to the Finance Committee and Committee on Ways and Means, will be sufficiently detailed as to be able to serve as a basis for legislation.

(D) RECOGNITION OF STATE HOSPITAL COST CONTROL SYSTEMS

Senate amendment

No provision.

House committee provision

Under the House committee provision, the Secretary would be authorized, at his discretion, to permit payment under an alternative reimbursement system if, upon application by the State, the Secretary determined that (1) the system would apply to substantially all non-Federal acute care hospitals in the State and would apply to the review of at least 75 percent of all revenues or expenses for inpatient hospital services including medicare and medicaid; (2) the Secretary has been provided satisfactory assurances regarding the equitable treatment of all entities that pay hospitals for inpatient services (including medicare and medicaid), together with assurances regarding the equitable treatment of hospital employees and patients; and (3) the Secretary has been provided satisfactory assurances that under the system, over a 36-month period, the amount of payments made under the proposed alternative reimbursement system would not be greater than the amount of payments which would otherwise have been made under medicare. In determining whether an alternative system would result in reimbursement which is less than otherwise would have been paid in a State, the Secretary would be permitted to take into account previous reductions in medicare reimbursement due to the operation of a hospital reimbusement control system if such system has resulted in an aggregate rate of increase in operating costs of inpatient services under medicare which was less than the national aggregate rate of increase in such costs.

Conference agreement

The conference agreement included the House committee provision with a modification with respect to the termination of current medicare waivers. The conferees included the House committee provision to allow the Secretary to take advantage of effective alternative reimbursement systems which have already been implemented or those which may be implemented in the future. Although the provision provides discretion to the Secretary in approving alternative state systems, the conferees expect the Secretary to approve such systems if they meet the criteria set forth in the provision and other criteria as established by the Secretary.

The provision also permits the Secretary to take into account previous reductions in medicare rates of increase due to the operation of a state hospital reimbursement control system. The conferees included this provision because of their concern that State programs which control substantially all revenues other than medicare may have already achieved savings for the medicare program through reducing their overall rate of growth in hospital expenditures.

With respect to the authority provided to the Secretary under current law to establish and continue medicare demonstration projects, the Secretary would be prohibited from terminating a project until six months after he notifies the State of his decision to terminate.

11. Elimination of private room subsidy

Senate amendment

The Senate amendment requires the Secretary to publish regulations which would eliminate the subsidy of private hospital rooms. Medicare currently determines its payments to hospitals on the basis of the average costs of all of a hospital's rooms, including its private accommodations, even though medicare generally is intended to cover only the costs of semi-private room accommodations.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. The provision is intended to direct the Secretary to implement the provisions of current law. The conferees note that elimination of this subsidy does not alter medicare's policy of covering private rooms when medically necessary, and does not alter the options currently available to States to cover such private rooms under medicaid.

12–13. Single reimbursement limits for skilled nursing facilities and home health agencies

Senate amendment

The Senate amendment requires the Secretary to modify existing regulations which would establish single payment limits for skilled nursing facilities and home health agencies on the basis of the cost experience of free-standing facilities. Separate limits are currently established for such facilities depending on whether they are hospital-based or free-standing facilities.

The amendment would be effective with respect to home health agency cost reporting periods beginning on or after the date of enactment and for skilled nursing facility cost reporting periods beginning on or after October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. The conferees intend that in establishing the payment limits the Secretary shall make adjustments, as appropriate, based on legitimate cost differences in hospital-based facilities resulting from such factors as a more complex case-mix or the effects of medicare cost allocation requirements.

14. Elimination of duplicate payments for outpatient services

Senate amendment

The Senate amendment requires the Secretary to issue regulations that would eliminate the duplicate payment of overhead expenses from the recognized charges of a physician who performs services in a hospital's outpatient department. The amendment would be effective with respect to charges for services rendered on or after the date of enactment.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment.

15. Audit and medical claims review

Senate amendment

The Senate amendment requires that the medicare contractor budgets for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent specifically for provider cost audits and medical review activities.

House committee provision

Similar provision.

Conference agreement

The conference agreement includes the House committee provision.

16. Temporary delay in periodic interim payments

Senate amendment

The Senate amendment modifies the existing periodic interim payment (PIP) procedure for hospitals by providing for a 3 week delay in the flow of PIP payments during September 1983; a similar deferral is authorized during September 1984.

House committee provision

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment.

17. Reimbursement of assistants at surgery

Senate amendment

The Senate amendment prohibits reasonable charge reimbursement for an assistant at surgery in hospitals where an approved training program exists in the specialty, except under the following exceptional circumstances: (1) the service is complex and requires performance by a team of physicians; (2) the patient has multiple conditions which require the presence of, and active care by, a physician of another specialty during an operation, or (3) in the case of exceptional medical circumstances where qualified house staff are not available to assist at surgery. The Senate provision would be effective with respect to services performed on or after October 1, 1982.

House committee provision

Same provision.

Conference agreement

The conference agreement follows the Senate amendment with a modification under which payment may be made on a reasonable charge basis if the services, as determined by the Secretary: (1) are required due to exceptional medical circumstances; (2) are performed by team physicians needed to perform complex medical procedures; (3) constitute concurrent medical care which requires the presence of, and active care by, a physician of another specialty during surgery; or (4) are required in other circumstances as determined by the Secretary.

18. Judicial review of decision by provider reimbursement review board

Senate amendment

The Senate amendment modifies existing requirements pertaining to judicial review of decisions made by the Provider Reimbursement Review Board (PRRB). Under existing law, judicial actions brought jointly by several providers of services in connection with adverse decisions of the PRRB may be taken only in the U.S. District Court for the District of Columbia. The Senate provision permits Federal judicial review of adverse decisions of the PRRB involving actions brought jointly by several providers of medicare services to be conducted by the U.S. District Court for the district where the "principal party" for the group is located. The provision would be effective on enactment.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

19. Prohibition of payment for ineffective drugs

Senate amendment

The Senate amendment provides for implementation of Section 2103 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) effective October 1, 1982. Section 2103 prohibited the use of Federal funds under medicare part B and under medicaid to pay for certain less than effective drugs. Subsequent legislation has led to delays in the implementation of this provision.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment, with a modification to make the provision effective September 30, 1982.

20. Medicare payments to health maintenance organizations (HMO's)

Senate amendment

The Senate amendment modifies current law requirements for contracting with health maintenance organizations (HMO's) by authorizing prospective reimbursement under risk sharing contracts with competitive medical plans at a rate equal to 95 percent of the average cost of providing services to a medicare beneficiary in the fee-for-service sector (the adjusted average per capita cost—AAPCC).

The Senate amendment includes the current law definition of eligible beneficiaries except that persons medically determined to have end-stage renal disease are excluded. It defines a competitive medical plan as either a Federally-qualified HMO, a State-licensed HMO, or an organization which meets certain service requirements, receives fixed and periodic payments on behalf of enrollees, provides physician services through staff MDs or MDs under contract, assumes financial risk on a prospective basis and meets financial viability standards.

The Senate amendment changes existing enrollment/disenrollment policies by: (a) requiring an annual open enrollment period of at least 30 days; (b) requiring acceptance of beneficiaries in order of application up to capacity with the same exception as under existing law; (c) specifying that a beneficiary may disenroll on a monthly basis with one month's notice; and (d) providing that a plan may not disenroll or refuse to reenroll a beneficiary because of health status or services required.

The Senate amendment would specify that 50 percent of enrollees must be other than medicare or medicaid beneficiaries, however, the Secretary could waive this requirement. In no case could more than 50 percent of enrollees be medicare beneficiaries. The Secretary would be required to establish minimum standards for consumer information to be supplied to eligible beneficiaries.

The Senate amendment would specify that reasonable cost reimbursement be available indefinitely. Under the risk reimbursement contract, the calculation of the Government's contribution would be based on 95 percent of the AAPCC (including certain administrative costs), reflecting such factors as age, sex, institutional status, disability and health status, and place of residence. Plans with at least 1,000 members would be eligible for risk contracts.

The Senate provision would require three new medicare members to enroll in a plan for every current medicare enrollee allowed to convert to the new reimbursement system and that current HMO enrollees turning age 65 would be included in the formula.

The Senate provision would provide that if the adjusted community rate (ACR) for a plan is less than the AAPCC, the plan must spend the difference to provide additional benefits or services; reduction in premiums, deductibles, or copayments; or to provide rebates and dividends to the enrollees. Further, a committee of medicare enrollees must approve the additional benefits.

House committee provision

The House committee provision would authorize a medicare payment option for health maintenance organizations (HMO's). The provision is similar to the Senate amendment except: State licensed HMO's are not included in the definition of an eligible HMO; the length of the annual open enrollment period is to be of "reasonable duration"; services must be accessible to enrollees within the HMO service area; rebates and dividends would not be permitted; two new medicare members must enroll in a plan for every current medicare enrollee allowed to convert under the risk contract; and additional non-optional services would have to be approved by the Secretary.

Conference agreement

The conference agreement follows the Senate amendment with modifications. The agreement authorizes both prospective reimbursement under risk-sharing contracts and cost-based reimbursement under reasonable cost reimbursement contracts for health maintenance organizations (HMO's) and other medical plans. It contains compromise language permitting the Secretary to enter into risk-sharing contracts with eligible organizations which have at least 5,000 members, although this limitation may be waived for plans in non-urbanized areas. The Secretary may enter into reasonable cost reimbursement contracts with eligible organizations which he or she determines do not have the capacity to bear the risk of potential losses under a risk-sharing contract or which so elect or which do not meet the membership size limitation.

The conference agreement defines organizations eligible to enter into contracts under section 1876 as federally qualified HMO's, or HMO's or other plans meeting a generic definition of comprehensive health plans. The Senate amendment regarding State licensed HMO's was not included. The additional requirements with respect to the provision of services to medicare members combine the similar Senate and House committee requirements and include the Senate requirement that the annual open enrollment period must be of at least 30 days duration. As provided in the Senate amendment, an HMO's or plans combined medicare and medicaid enrollment cannot exceed 50 percent except under certain circumstances where a waiver is available.

The conference agreement includes language similar to the Senate amendment describing the actuarial factors to be used in setting the amount of the prospective medicare payment under a risk-sharing contract. In making the adjustment for disability status the Secretary can use his or her discretion as to whether to take into account eligibility for cash payments under the disability insurance program or under SSI.

The conference agreement provides that, as in the House committee provisions, to the extent that the medicare payment exceeds the eligible organization's adjusted community rate under a risk-sharing contract, the organization must use the savings to provide its medicare members with additional health benefits or reduced cost sharing. The Senate amendment permitting rebates and dividends was not included. The Senate amendment requiring that a group of the organization's medicare members must select any additional benefits was also not included, and the House committee language permitting the organization to decide upon the use of the savings was included.

The conference agreement contains the House committee language requiring two new medicare enrollees to enroll for every one current medicare member who converts to the new system under a risk-sharing contract.

The conference agreement retains the identical Senate amendment and House committee language regarding the effective date.

The conferees have agreed upon this delay in implementing this new reimbursement system because of their concern that the adjustments made under the current AAPCC do not adequately reflect the relative health care needs (i.e., disability status and other characteristics) of medicare beneficiaries who enroll in the HMO as compared to beneficiaries in the fee-for-service system. The Secretary must develop additional adjustment factors to account for the resulting cost differentials before implementing the program.

Conference agreement

The conference agreement includes the Senate amendment.

22. Hospice care

Senate amendment

The Senate amendment authorizes coverage under medicare part A for hospice care for terminally ill beneficiaries with a life expectancy of six months or less. A medicare beneficiary could elect to receive hospice care in lieu of other medicare benefits except those of the attending physician. Benefits covered include nursing care, therapies, medical social services, homemaker-home health aide services, short-term inpatient care, outpatient drugs for pain relief and respite care. The provision requires that hospices be classified as a separate provider category in the medicare program. Reimbursement would be based on reasonable costs or such other test of reasonableness as the Secretary shall determine, subject to an area adjusted limit or cap set at 40 percent of the average medicare per capita expenditure during the last six months of life for medicare beneficiaries dying of cancer. The provision requires the Secretary to continue the existing Health Care Financing Administration's hospice demonstration projects until the effective date of the hospice benefit. Special exceptions are provided for certain well established hospices.

House committee provision

The House committee provision includes a similar provision.

Conference agreement

The conference agreement follows the Senate amendment with modifications: The benefit period would consist of two periods of 90 days and one period of 30 days; the reference to "speech therapy" would be changed to "speech-language pathology"; copayments would be limited to approximately (i) 5 percent of a hospices cost (as determined by the Secretary) for respite care services, but such coinsurance amount could not exceed the inpatient hospital deductible during a hospice election (as long as the hospice election is not broken by more than 14 days); (ii) in addition, copayments equal to the lesser of, approximately 5 percent of charges or $5 per prescription, for covered drugs; no reimbursement would be permitted under part B of medicare for an individual's attending physician if the attending physician is employed by the hospice; a hospice program would have to provide directly substantially all of the following core services; nursing care provided by or under the supervision of a registered professional nurse, medical social services under the direction of a physician, physicians services and counseling services; the amendment would be clarified to provide that non-core services, including physical and occupational therapy, speech-language pathology, home health aide services and homemaker services, medical supplies and inpatient services could be provided "under arrangements" with others; the written plan of care could be reviewed by the attending physician as well as the hospice physician.

The Senate amendment would be clarified to authorize the Secretary to eliminate duplication where any provider requirements under this provision are the same as requirements already met by the provider under other agreements with the Secretary. In addition the Secretary is required to coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type. Hospice would be required to file separate cost reports.

It is the intent of the conferees that hospices provide a basic and coordinated range of services while giving hospices the flexibility to provide, under arrangements, for

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some services. Hospices would not be required to provide inpatient services directly. However, it is the intention of the conferees that the hospice would be directly responsible for: providing professional supervision over care provided in the inpatient unit; for ensuring that the care provided in the inpatient unit be consistent with the hospice concept of care through the delivery of care or supervision of such care by an interdisciplinary group; and, that the treatment provided be reasonable and necessary for the palliation and management of terminal illness.

Counseling services would be required as a core service under the hospice benefit. The conferees understand that counseling services are an integral part of hospice care however, concern has been expressed regarding the potential cost impact of allowing separate billing for such services. The conferees intention is to permit reimbursement for the salaries of counselors but not to provide reimbursement for services billed as a separate service.

The conferees provided an exception for hospices which commenced operation before January 1, 1975 from; (i) the reimbursement cap; (ii) the limitation on inpatient days; and (iii) the limitation on respite care days. In allowing the above exceptions for these earliest of the Nation's hospices, the conferees intend to give them an opportunity to conform to the prevailing patterns of hospice care and to meet the requirements in the law. The conferees anticipate that no extension of the exemption would be allowed after November 1, 1986, should the basic hospice provision be extended beyond that date.

The provision would be effective for hospice care provided on or after November 1, 1983. The provision would sunset on October 1, 1986, however, an individual who has an election in effect for a period on October 1, 1986, is entitled to hospice care benefits after that date for the remainder of that period and for any subsequent consecutive period to which the individual would have been entitled before such date.

23. Coverage of extended care services without regard to 3-day prior hospitalization requirement

Senate amendment

No provision.

House committee provision

The House committee provision directs the Secretary to provide skilled nursing facility coverage without regard to the 3-day prior hospital stay requirement at such time as, through reimbursement changes or other adjustments, the Secretary determines that this will not lead to an increase in cost and will not alter the acute care nature of the benefit. For persons covered without a prior hospital stay, limitations may be provided on scope or extent of services and on categories of individuals eligible.

Conference agreement

The conference agreement includes the House committee provision.

24. Prohibiting recognition of payments under certain percentage arrangements

Senate amendment

No provision.

House committee provision

Under the House committee provision, no cost which a provider incurs under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement or claim for reimbursement for services. The provision would not apply to a percentage contract that is reasonable and where such contract is a customary commercial business practice (e.g. commissions paid to salesmen) or provides incentives for the efficient and economical operation of the provider of services.

The provision would generally apply upon enactment. However, for arrangements entered into before enactment, the provision applies one year after enactment, except where provider can unilaterally terminate the arrangement, in which case the provision applies 30 days after the first date that the provider can terminate the arrangement.

Conference agreement

The conference agreement includes the House committee provision with modifications. The prohibition would apply to contracts where the cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement. The provision would be effective upon enactment with certain exceptions as in the House committee provision. The provision would not apply prior to October 1, 1982 to costs incurred under a percentage arrangement where such costs were attributable to the services of a provider-based physician (described in Item 8 of the conference agreement). Beginning October 1, 1982, the provision would not apply to such a provider-based physician where the limitation on reimbursement for the cost of such a physician's services had been implemented.

25. Interest charges on overpayments and underpayments

Senate amendment

No provision.

House committee provision

The House committee provision requires that once a final determination is made that a provider or supplier has received an overpayment or underpayment from medicare, and payment of the excess or deficit is not made within 30 days of the date of determination, interest charges would be applied to the balance due.

The rate of interest charged would equal the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the 3-month period ending with the month before the month in which the final determination is made. The provision would be effective with respect to final determinations made on or after the date of enactment.

Conference agreement

The conference agreement follows the House committee provision with a modification providing that interest would be determined in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments which are periodically published pursuant to Section 8020.20 of the Treasury Fiscal Requirements Manual.

26. Prohibiting payment for Hill-Burton free care

Senate amendment

No provision.

House committee provision

The House committee provision requires the Secretary to provide, by regulation, that the costs incurred by a hospital or skilled nursing facility in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable costs for purposes of medicare reimbursement. The provision is effective for costs incurred on or after date of enactment.

Conference agreement

The conference agreement includes the House committee provision. The provision is intended to clarify that Hill-Burton free care costs have never been, and are not, allowable for medicare reimbursement purposes. The provision, therefore, applies to all such costs that have been, or will be incurred except those recognized by the final judgment of a U.S. Court of Appeals entered into prior to enactment.

27. Prohibiting payment for anti-unionization activities

Senate provision

No provision.

House committee provision

The House committee provision prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees with respect to unionization. The provision would apply to costs incurred on or after date of enactment.

Conference agreement

The conference agreement includes the House committee provision.

28. Eliminating "lesser of cost or charges" provision

Senate amendment

No provision.

House committee provision

The House committee provision specifies that the lesser of cost or charges provision would not apply to a class of providers if the Secretary determines and certifies to the Congress that its elimination will not increase medicare payments to that class of provider. It is intent of the conferees that such a determination would take account of both past experience under the provision and possible changes in the cost accounting and charging practices of providers in the absence of the provision.

The provision would be effective on the date the Secretary specifies in his certification to Congress.

Conference agreement

The conference agreement includes the House committee provision. It is the intent of the conferees that the lesser of cost or charges provision be reestablished at such time as the Secretary determines that the non-application of the provision has increased program costs.

29. Extending medicare proficiency examination authority

Senate amendment

No provision.

House committee provision

The House committee provision extends to September 30, 1983, the period during which the Secretary shall conduct a program to determine the proficiency of health care personnel, including clinical laboratory personnel, who do not meet formal education requirements. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the House committee provision.

30. Prohibiting retroactivity of regulations regarding access to books and records

Senate amendment

No provision.

House committee provision

The House committee provision would prohibit regulations yet to be issued under the authority of section 952 of Public Law 96-499, the Omnibus Budget Reconciliation Act of 1980, from being applied retroactively.

Section 952 of Public Law 95-499 requires the Secretary of HHS or the Comptroller General to have access to the books and records of subcontractors who supply providers with goods and services valued at $10,000 or more over a 12-month period. The law directs the Secretary to prescribe in regulations the procedures and criteria to be used in obtaining access to such books and records.

The provision would become effective upon enactment.

Conference agreement.

The conference agreement includes the House committee provision, with a modification which would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1983, preceded by a comment period of no less than 60 days.

31. Health Care Financing Administration/private sector utilization review initiative

Senate amendment

No provision.

House bill

No provision.

Conference agreement

Under the conference agreement, the Secretary of HHS would be required by statute to undertake an initiative to improve medical review by intermediaries and carriers under Title XVIII of the Social Security Act and to encourage similar review efforts and utilization control activities by private insurers and other private entities. The medicare initiatives shall include the development of fiscal targets and evaluation of the performance of intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

It is the intent of the conferees that, where such review activity results in denial of payment to institutional and other providers under medicare, such providers shall be prohibited from collecting any payments from beneficiaries (in excess of those otherwise provided for under current medicare law.)

32. Special part B enrollment without penalty (Merchant Seamen)

Senate amendment

No provision.

House committee provision

The House committee provision establishes a special enrollment period for medicare part B beginning on the first day of the first month beginning at least 20 days following enactment, and ending on December 31, 1982. During that period, otherwise eligible merchant seamen and other individuals would have a one-time opportunity to enroll in part B without incurring the current law penalty of higher premium payments for delayed enrollment.

Conference agreement

The conference agreement includes the House committee provision, modified to provide the special open enrollment period for merchant seamen only.

SUBTITLE B—MEDICAID PROVISIONS

1. Copayments by medicaid recipients

Senate amendment

The Senate amendment permits States to impose nominal copayments on all beneficiaries for all services with certain exceptions. The Senate provision provides for the following limitations on copayments:

(a) Precludes States from imposing such charges with respect to inpatient hospital services and mandatory ambulatory services for categorically needy children under 18 and services related to the pregnancy of categorically needy women, and permits States similarly to exclude medically needy children and pregnant women from copayments.

(b) Precludes States from imposing copayments with respect to all services provided to categorically needy SNF/ICF patients; permits States to exempt medically needy SNF/ICF patients from copayments.

(c) Precludes States from imposing copayments on emergency services for categorically needy persons.

(d) Permits States to exempt all HMO enrollees from copayments.

The provision would be effective on enactment.

House committee provision

The House Committee provision permits States to impose nominal copayments on all beneficiaries for all services with certain exceptions. The provision specifies a $1 maximum allowable copayment amount for hospital, physician, outpatient, and clinic services for the categorically needy; copayments of up to $4 would be allowed for non-emergency services in emergency rooms.

The provision also provides for the following limitations on copayments:

(a) Precludes States from imposing charges with respect to all services for categorically needy and medically needy pregnant women and children under 21.

(b) Precludes States from imposing copayments with respect to all services provided to categorically needy SNF/ICF patients.

(c) Precludes States from imposing copayments on emergency services for categorically needy and medically needy persons.

(d) Precludes States from imposing copayments on categorically needy recipients enrolled in an HMO.

(e) Precludes States from imposing copayments on family planning services.

The House provision would be effective October 1, 1982.

Conference agreement

The conference agreement is similar to the Senate provision with modifications. The conference agreement specifies, with one exception, that all copayments must be nominal in amount. The conferees intend that the existing regulations defining "nominal" will continue to serve as the basis for determining whether proposed copayment charges meet the statutory requirements. If the Secretary determines in the future that adjustments to the current regulations are to be made, it is the intention of the conferees that the levels of cash assistance in the States should be considered. The conferees recognize that persons depending on cash assistance have little available income to make copayments, and the standards for nominality should be such that the copayments do not serve as a barrier to receipt of necesssary medical services. The conferees intend that the Secretary, in promulgating regulations implementing this provision, adhere to the requirements for notice and opportunity for comment under the Administrative Procedures Act, 5 U.S.C. 553(a)(2), including the issuance of a notice of proposed rulemaking. The Secretary may not redelegate the definition of "nominality" to the States.

The "nominal" requirement cannot be waived except for demonstration under tightly limited circumstances, with one exception. The Secretary could waive the requirement limiting copayments to nominal amounts in the case of nonemergency services in emergency rooms where the State has established to the satisfaction of the Secretary that alternative sources of nonemergency outpatient services are actually available and accessible. Where the Secretary is satisfied that such conditions have been met, and a waiver has been granted, the State may impose a charge up to twice the amount defined as nominal by the Secretary in regulations.

The conference agreement precludes States from imposing copayments on children under age 18; States may provide that no copayments would be imposed for children aged 18 to 21. The agreement also precludes States from imposing copayments on services related to pregnancy (including prenatal, delivery, and post partum services). States may at their option provide that no copayments would be imposed for any service provided to pregnant women. These limitations would apply to both categorically needy and medically needy persons.

The conference agreement bars States from imposing copayments on all services provided to inpatients in SNF's and ICF's who are required to spend all their income for medical expenses except for the amount exempted under the State standard for personal needs (which cannot be less than the SSI payment for persons in medical institutions, and which may be more). This prohibition on copayments also extends both to the categorically needy and medically needy population groups.

The conference agreement bars States from imposing copayments on categorically needy HMO enrollees. States may also exempt medically needy HMO enrollees from such charges.

With these exceptions, the conference agreement makes no changes in the comparability requirements of current law.

Additionally, the agreement provides that copayments may not be imposed on family planning services or emergency services for either categorically needy or medically needy individuals.

The conference agreement is designed to allow States to deter unnecessary utilization while not imposing an unreasonable hardship on beneficiaries. The conference agreement therefore includes a provision which specifies that no provider participating under medicaid may deny care or services to an individual because of his or her inability to pay the required cost-sharing charges. This does not excuse the beneficiary from liability for paying such charges.

2. Elimination of Federal matching for medicare part B buy-in

Senate amendment

The Senate amendment eliminates Federal matching for all medicare part B premium payments. Most State medicaid plans currently make the monthly medicare part B premium payment for their dual eligible beneficiaries under a "buy-in" agreement. Federal matching for premium payments is only available for the cash assistance groups.

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The provision is effective with respect to premiums due for months after September 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate provision.

3. Modifications in Lien Provision

(A) LIENS

Senate amendment

The Senate amendment allows States to impose liens on the real property, including the home, of institutionalized medicaid recipients who fail to make a showing that they reasonably expect to be discharged from a nursing home or other long-term medical institution and return home.

The Senate amendment specifies that the lien could not be foreclosed (and States could not recover the cost of medical assistance provided) until the recipient voluntarily chooses to sell the property, or, until after the recipient's death, and the death of the surviving spouse and/or any children who are under 21, blind or disabled.

House committee provision

The House Committee provision allows States to impose liens on real property, including the home, of institutionalized medicaid recipients who the State establishes are reasonably likely to remain in a nursing home for the remainder of their lives.

The House Committee provision is similar to the Senate provision with respect to allowable foreclosure actions. However, it specifies that the State could also not execute a lien while a recipient's sibling, son, or daughter is lawfully residing in the home and was living in the home for at least one year immediately prior to the recipient's admission to the nursing home. Further, if the home is sold before the lien is executed, the proceeds would be put in trust and used to meet the support needs of the spouse and minor or disabled child.

Conference agreement

The conference agreement follows the Senate amendment with modifications. States are allowed to impose liens on real property, including the home, of institutionalized medicaid beneficiaries who the State determines, after notice and opportunity for a hearing, are reasonably likely to remain in a nursing home for the remainder of their lives. The burden of proof in this determination, which is to be conducted in accordance with procedures established by the State, is on the State. States are not authorized to impose liens on the homes of beneficiaries if the spouse, or blind, disabled or dependent child is residing in the home, or if a beneficiary's sibling is residing in the home who has equity in the home and who has lived there continuously since at least one year prior to the beneficiary's admission to the nursing home.

The agreement further specifies that while a State may impose a lien, it may not foreclose upon the property while a beneficiary's adult son or daughter is residing in the home if he or she (1) has lived in the home continuously for at least two years prior to the beneficiary's admission to the nursing home; and (2) has provided care to the beneficiary that permitted the individual to delay institutionalization; or if a sibling, even though without equity in the home, has lived there continuously since at least one year prior to the beneficiary's institutionalization.

(B) TRANSFER OF ASSETS

Senate amendment

The Senate amendment allows States to deny medicaid eligibility for 24 months and (at State option) for a longer period to persons who dispose of their homes for less than fair market value, within 24 months prior to admission to an institution even though such disposal would not make them ineligible for SSI.

States could either deny eligibility to all such individuals for periods reasonably related to the uncompensated value, or they could deny eligibility in all cases for a minimum of 24 months, with the option to provide for longer periods of ineligibility in the case of individuals who disposed of homes worth substantial amounts. The provision would not apply in the case of individuals who reasonably expected to be discharged from the medical institution and return home; individuals who demonstrated that they had intended to obtain fair market value or other valuable consideration in exchange for their homes; or individuals who transferred title to their homes to a spouse or a minor or handicapped child. The State could also make an exception in other cases where undue hardship would otherwise result.

House committee provision

The House Committee provision is similar to the Senate amendment. However, the provision applies to transfers for less than fair market value within 24 months prior to application for benefits. In addition, the provision allows States to deny medicaid coverage for a period computed in a manner such that the cost of the services that would otherwise be provided to the individual during this period bears a reasonable relationship to the amount of the uncompensated value of the home. The period of ineligibility would begin with the month in which the home was disposed of.

Conference agreement

The conference agreement follows the Senate amendment with modifications to specify that the period of ineligibility is 24 months from the date of transfer, except that States: (a) are allowed to deny eligibility for a longer period if the uncompensated value of the home is greater than the cost of 24 months of medicaid benefits; and (b) are required to set a shorter time period if the uncompensated value of the home is less than 24 months of medicaid benefits. Under either circumstance, the period of eligibility delay must be related to the uncompensated value of the home, based on the beneficiary's equity, and the cost of medicaid benefits. The provision applies to transfers for less than fair market value occurring up to 24 months prior to application for medicaid benefits.

The conference agreement also amends existing law transfer of assets policy by allowing a State to waive the delay of medicaid eligibility in cases of undue hardship. The conferees also note that the change in SSI policy which exempts burial spaces and certain policies from an individual's resources (see item No. 6 of Subtitle F) has the effect of also exempting such items from an individual's resources for purposes of determining medicaid eligibility in most States.

(C) EFFECTIVE DATE

Senate amendment

The Senate amendment is effective on enactment.

House committee provision

The House Committee provision applies to applications for assistance filed on or after October 1, 1982.

Conference agreement

The conference agreement specifies enactment as the effective date for the lien provisions and specifies that the provision applies with respect to transfers of assets occurring after the date of enactment.

4. Limitation on Federal financial participation in erroneous medical assistance expenditures

Senate amendment

The Senate amendment deletes the Medicaid error rate provisions and penalties incorporated in the 1980 Appropriations Act and substitutes language establishing a 3 percent target error rate for quarters beginning after March 30, 1983. The provision provides that prospective fiscal sanctions are to be applied beginning in the second half of FY83 for States which have error rates exceeding 3 percent. The Secretary is provided discretion in applying the fiscal penalties, in whole or in part, for a State which has made good faith efforts to meet the target. The provision is effective on enactment.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate provision with modifications. Technical errors, i.e., errors which if corrected would not have made a difference in the amount of medical assistance paid, would be excluded from the calculation. The agreement specifies that where errors are made relating to amounts of medical expenses that must be incurred to establish Medicaid eligibility (the "spend-down" requirement), only the smaller of the amount of medical assistance provided or the amount of the spend-down that was miscalculated shall be determined to be an erroneous payment. Further, errors in determination of resources are treated in a similar manner: only the smaller of the amount of medical assistance provided or the amount of miscalculation of the resource which exceeded the allowable resource level will be counted as an erroneous payment.

5. Optional medicaid coverage for individuals who would have qualified for AFDC but for amendments to the earned income disregard and related provisions

Senate amendment

The Senate amendment allows States to continue medicaid coverage for working families who are made ineligible for AFDC as a result of certain changes made by the Omnibus Budget Reconciliation Act of 1981. (Public Law 97-35). These changes, relating to the earned income disregard and work expense deductions, resulted in the loss of AFDC eligibility, and therefore automatic medicaid coverage, for certain individuals. The amendment would be effective for calendar quarters beginning after the date of enactment.

House committee provision

Similar provision.

Conference agreement

The conference agreement does not contain the Senate amendment or the House Committee provision.

6. Medicaid coverage of home care of certain disabled children

Senate amendment

No provision.

House committee provision

The House committee provision provides States with the option of covering under Medicaid certain disabled children age 18 or under who are living at home. A State could extend such protection to an individual who would be eligible for SSI, and therefore Medicaid, if he was in a medical institution. Further, the State must determine that: (a) the child requires the level of care provided in an institution; (b) it is appropriate to provide such care outside of the institution; and (c) the estimated cost of care at home is no more expensive than the estimated cost of institutional care.

Conference agreement

The conference agreement includes the House committee provision.

7. Technical corrections relating to medicaid

Senate amendment

The Senate amendment makes technical changes in Public Law 97-35.

House committee provision

The House committee provision includes identical technical changes with one additional provision specifying that the Secretary is not authorized to waive the requirements for State contracting on a risk basis with HMO's and other prepaid entities found in section 1903(m) of the Social Security Act.

Conference agreement

The conference agreement follows the Senate provision with a modification to delete the Secretary's authority to waive the section 1903(m) requirements. However, the conferees recognize that some waivers of section 1903(m) have already been granted. In order to minimize the disruption of arrangements which have already been implemented under these waivers, the conference agreement specifies that the limitation on the Secretary's waiver authority shall not apply where a waiver was granted by the Secretary and the waivered arrangements were in effect prior to August 10, 1982. This exemption extends only for the period for which the waiver was initially approved.

It is understanding of the conferees that the types of entities subject to the requirements of section 1903(m) would not include contractual arrangements between the State and an individual physician, or a group of physicians, under which (1) case management is the primary purpose; (2) hospital services are not provided directly by, or under contract for payment to, such physician or physician group; (3) the physician or physician group receives at least 25% of its gross revenues from non-Medicaid and non-Medicare patients (through fee-for-service or other reimbursement methods); (4) the Medicaid revenues that the physician or physician group would otherwise receive from the arrangement will not increase more than 20% as a result of a decrease in the use by beneficiaries under management of hospital and other covered services; and (5) primary care services are available on a 24-hour basis.

The conference agreement makes explicit current law related to coverage of the optional categorically needy, as reflected in current regulations at 42 CFR § 435.210 *et seq.* The conferees do not intend any change in current law through this recodification.

8. Medicaid funding in American Samoa

Senate amendment

No provision.

House bill

No provision.

Conference agreement

The conferees agreed to a provision providing medicaid funding to the territory of American Samoa. Federal matching of 50 percent of expenditures would be authorized, up to a maximum Federal contribution of $750,000 per year. Due to the unique circumstances in the health system in American Samoa, the Secretary is authorized to waive any provisions of title XIX except the requirements (1) of State matching, (2) of the maximum amount of Federal funds that can be spent, and (3) that expenditures be for health services covered under the title.

9. Nursing home deregulation moratorium

Senate amendment

No provision.

House committee provision

No provision.

Conference agreement

The conferees agreed to a provision which would preclude the Department of Health and Human Services from implementing certain proposed changes regarding survey and certification requirements for nursing homes for 6 months from the date of enactment of this provision. The intent of the conferees in establishing this moratorium is to provide opportunity for the further review, revision or withdrawal of the proposed regulations, published in the Federal Register on May 27, 1982. The conferees anticipate that the Secretary would consult with the Congress, the General Accounting Office, groups representing nursing home residents, state survey and certification agencies and nursing home operators prior to resubmitting the regulations. The conferees do not intend to preclude courts with proper jurisdiction from ordering changes in the current regulations prior to the end of the moratorium.

SUBTITLE C—UTILIZATION AND QUALITY CONTROL PEER REVIEW

1. Establishment of utilization and quality control peer review program

Senate amendment

The Senate amendment repeals the existing Professional Standards Review Organization (PSRO) program and requires the Secretary to enter into contracts for utilization and quality control peer review. The Secretary would also be required to consolidate geographic areas previously established for PSRO's.

The provision requires the Secretary to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannially. The organizations must be composed of, or have available to them, a substantial number of licensed doctors of medicine or osteopathy actually practicing in the area. Priority consideration must be given to physician-sponsored organizations who are representative of the physicians in the area. Payor and provider organizations would be excluded from consideration during the first 12 months that contract applications are considered.

Review organizations, which can be proprietary or nonprofit, may review the professional activities of physicians, other practitioners and institutional and noninstitutional providers in providing services to medicare beneficiaries subject to the provisions of these contracts. The review will focus on (1) the necessity and reasonableness of care, (2) quality of care, and (3) the appropriateness of the setting.

House bill

No provision.

Conference agreement

The conference agreement follows, with modifications, the Senate provision repealing the existing Professional Standards Review Organization (PSRO) program and requiring the Secretary of HHS to enter into performance contracts for utilization and quality control peer review.

The conference agreement follows the Senate amendment requiring the Secretary to consolidate existing PSRO review areas. The conferees intend that the Secretary, in consolidating review areas, shall maximize administrative and review efficiency. The conferees intend that the Secretary will not teminate small PSRO's that are operating effectively and efficiently but will instead permit such PSRO's to contract with the new review organization for that area without duplication of administrative costs.

The conference agreement follows the Senate amendment regarding the conclusiveness of determinations respecting payment. It is the understanding of the conferees that, where such review activity results in denial of payment to institutional or other providers under medicare, such providers will be, as under current law, prohibited from collecting any payments from beneficiaries in excess of those otherwise provided for under current medicare law.

The conference agreement follows the Senate amendment requiring 2-year contracts with peer review organizations composed of, or having available, a substantial number of licensed physicians with a modification which would:

(a) prohibit contracts with provider or provider-affiliated organizations (although subcontracts for delegated review purposes with such organizations would be permitted) and

(b) provide that contract termination procedures would not apply to contract nonrenewals.

The conferees intend that review organizations avoid financial conflicts of interest with providers subject to review. The conference agreement prohibits the Secretary from entering into a contract with an entity which is, or is affiliated through management, ownership, or common control with, a health care facility or association of such facilities whose services they would be responsible for reviewing. The conference agreement does not, however, bar a review organization from delegating the review function to a provider by subcontract, if the organization finds that the provider will effectively and efficiently review itself.

The conference agreement follows the Senate provision exempting review organizations from the Freedom of Information Act and establishing disclosure rules for such organizations that apply uniformly to both public and private review activities undertaken by the organizations, with a modification which would:

(a) require the review organization to disclose to the appropriate State agency information identifying a particular practitioner or provider when, in the organization's judgment, there is a reason to believe that a risk to the public health exists, and

(b) require the review organization to disclose information to a State or Federal fraud or abuse agency or an authorized

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State licensure or certification agency, but only at the request of such agency on a case-by-case basis. This information could include institution or practitioner-specific data.

The conference agreement follows the Senate provision relating to the transition from the existing PSRO program with a modification which would prohibit the Secretary from terminating a PSRO in effect on the earlier of September 30, 1982 or enactment, until such time as the Secretary has entered into a contract with a review organization in that area under this provision.

The conference agreement follows the Senate provision requiring the Secretary to report to the Congress annually with a modification requiring the Secretary to provide information on the efficiency of payment methodologies used by the Secretary in contracting with review organizations.

Subtitle D—Aid to Families with Dependent Children

1. Rounding of eligibility and benefit amounts

Senate amendment

The Senate amendment requires States to round both their AFDC need standard and actual monthly benefit amounts to the next lower whole dollar. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Effective date of application; proration of first month's benefit

Senate amendment

The Senate amendment prohibits States from making benefits payable for any period prior to the date an application is filed. Any payment for the first month of eligibility would be prorated based on the date of the application. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

3. Absence from home solely by reason of uniformed service

Senate amendment

Under the Senate amendment, AFDC would no longer be payable to families if the parent is absent solely because of active duty in the uniformed service. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Sanction for termination or reduction of employment.

Senate amendment

The Senate amendment provides the Secretary of Health and Human Services authority to prescribe sanctions for individuals who are exempt from registration for the work incentive (WIN) program because they are employed 30 or more hours a week, or who live in an area so remote from a WIN program that their participation is precluded if they refuse a bona fide offer of employment, terminate employment, or reduce their hours of employment, without good cause.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

5. Job search

Senate amendment

The Senate amendment requires State welfare agencies to establish mandatory employment search programs for both applicants and recipients of AFDC. An individual who is required to register for WIN (or who would be required to register except for remoteness from a WIN site) would be required to participate beginning at the time of application. The individual would also be required annually to participate in a program of employment search after his application becomes effective whenever the State prescribes, but not more than a total of 8 weeks in each year. An individual who fails to comply with the employment search requirement, would be subject to sanctions in the same manner as under the WIN program. (The WIN sanctions provide that in the case of the principal earner in an unemployed parent family, the sanction is denial of benefits for the entire family. In other cases, the individual who refuses is removed from the grant and the family's benefit is reduced. The sanction period is 3 months in the case of a first refusal and 6 months in the case of any subsequent refusals.)

House committee provision

The committee provision differs from the Senate amendment as follows:

(1) It is optional with the States.

(2) It allows States to limit participation to certain groups or classes of individuals who are required to register for WIN.

(3) It allows the State to shorten the duration of the sanction period.

(4) It includes a provision which specifically requires payment to the individual of transportation and other costs necessarily incurred.

(5) It provides 50 percent Federal matching for costs of transportation and other necessary services.

(6) It prohibits States from using the job search requirement as a reason for any delay in making a determination of an individual's eligibility or in issuing a payment to an individual who is otherwise eligible.

(7) It allows an initial 8-week search period, and an additional 8-week period each year (which could add up to 16 weeks in the first year).

Conference agreement

The conference agreement follows the House committee provision, but with the Senate effective date of October 1, 1982.

6. Inclusion and exclusion of specified individuals' needs and income

(A) ELIGIBILITY OF A PARENT

Senate amendment

In determining the AFDC benefit, States are currently permitted to include the needs of a parent or caretaker relative so long as the youngest child is under age 18 (or, at State option, under 19 if the child is in school and is expected to complete his course of study before reaching his 19th birthday). The Senate amendment requires States to include the needs of a parent or caretaker relative, but only until the youngest child reaches age 16. The income and resources of the ineligible parent would be counted in determining the benefit for the child. The State would continue to include the need of a parent of an older eligible child if the parent is unemployable.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(B) INCLUDE ALL SIBLINGS IN THE AFDC UNIT

Senate amendment

Currently, an AFDC family may choose to exclude a child from the assistance unit if that child has income which would reduce the amount of the family's benefit. The Senate amendment requires States to include all children in the family unit (except disabled children receiving SSI benefits, and certain stepbrothers and stepsisters) in determining the amount of AFDC for which the family is eligible.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(C) COUNTING INCOME OF GRANDPARENTS

Senate amendment

Currently, the income of parents of a minor child, who is herself the parent of a child, is not counted in determining the eligibility and benefit of the grandchild. The Senate amendment requires States, when the AFDC parent is a minor, to count the income of the grandparents who are living in the same household as available to the grandchild, after setting aside certain amounts to cover their own needs. The AFDC payment would be made to the grandparent.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(D) COUNTING INCOME OF UNRELATED INDIVIDUALS

Senate amendment

Under current law, the income of an unrelated adult in an AFDC household may not be presumed to be available to the household, and the welfare agency may count only actual contributions which it knows have been made by the individual to the AFDC family. The Senate amendment requires States to count the income of any person living with the child who is not related to the child or parent or to any other individual living in the household. The income of the unrelated individual would be considered available to the AFDC family, after setting aside certain amounts to cover the needs of the unrelated person and any dependents.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

7. Repeal of emergency assistance program

Senate amendment

The emergency assistance program provides 50 percent matching for emergency assistance (in the form of cash, medical care, or services) to families with children, including both AFDC and non-AFDC families. Assistance may be provided for no more than

30 days in any 12 month period. The program is optional with the States. Under the Senate amendment, this program would be repealed, effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

8. Proration of standard amount for shelter and utilities

Senate amendment

AFDC regulations generally prohibit the States from prorating or otherwise reducing the AFDC benefit solely because of the presence in the household of an individual who is not legally responsible to support the family. This general prohibition was modified in Public Law 96-272 to allow States to prorate the shelter and utilities portion of the AFDC benefit in the case of "child only" family units, i.e., when the caretaker is not eligible for assistance.

The Senate amendment allows States to prorate the portion of the AFDC grant for shelter and utilities whenever the assistance unit shares the household with other individuals. The amendment gives States flexibility in determining how the proration provision would be applied. It requires that proration be accomplished "on a reasonable basis," and in a manner and under circumstances prescribed by the State. States could not prorate in the case of a recipient of Supplemental Security Income benefits to whom the one-third reduction applies. (The one-third reduction in the SSI benefit occurs when individuals are determined to be living in the household of another and receiving in-kind income in the form of food and shelter.) The effective date is October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

9. Limitation on Federal financial participation in erroneous assistance expenditures

Senate amendment

Under current law, the "Michel amendment" requires States to reduce their AFDC payment error rate to 4 percent by September 30, 1982. Regulations require the States to achieve one-third progress toward the 4-percent payment error rate (measured from their error rate for the base period April-September 1978) by September 30, 1980, and two-thirds progress by September 30, 1981. The 4-percent goal is the standard for all assessment periods after September 30, 1982. States may be sanctioned by being required to repay the Federal Government the Federal cost of improperly paid benefits, as determined by quality control surveys. The Secretary may waive sanctions where he determines, in certain limited cases, that a State is unable to reach the required reduction in a given year despite a good faith effort.

The amendment continues the 4-percent error rate tolerance level for fiscal year 1983 and reduces it to 3 percent for fiscal year 1984 and years thereafter. Until April 1, 1983, any sanctions would continue to be applied under the existing authority of the Michel amendment. Starting on that date a new sanction authority would be established, under which Federal payments to the States for AFDC matching will be reduced each quarter on a current basis to reflect the Secretary's estimates as to the error rate prevailing in the State program during that quarter. If the Secretary's estimates are incorrect appropriate adjustments would be made in subsequent grants. The present authority of the Secretary to waive the sanctions in limited cases where he finds that States have failed to meet the target error rates despite a good faith effort to do so would be continued.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate provision which continues the 4-percent error rate tolerance level for fiscal year 1983 and reduces it to 3 percent for 1984 and years thereafter. However, the conference agreement does not include the provisions which would give the Secretary of HHS the authority to reduce Federal matching each quarter on a prospective basis to reflect his estimates as to the error rate estimated in the State program during that quarter.

10. Households headed by minor parents

Senate amendment

The Senate amendment provides that, in order to qualify for AFDC benefits, a minor parent and her child would have to reside in the home of the minor parent's own parent or guardian. This requirement would not apply where: the minor parent was married at the time of (or any time prior to) application for benefits; the minor parent has no parent or legal guardian who is living and whose whereabouts are known; the State agency determines that the health and safety of the minor parent or child would be seriously jeopardized if they lived in the same residence with the parent or legal guardian; or, the minor parent lived apart from the parent or legal guardian for a period of at least one year prior to the birth of the child.

House bill

No provision.

Conference agreement

The Senate recedes.

11. Exclusion from income of certain State payments

Senate amendment

A provision in the 1981 Reconciliation Act (P.L. 97-35) required States to determine AFDC benefits on the basis of the family's income in the preceding month. Under certain circumstances, payment may be determined on the basis of income in the second preceding month. This may be necessary, for example, when the payment date is in the first week of the month and the State needs time to process the monthly report of income which must be submitted by the recipient. In either case, States may wish to supplement the AFDC payment with a non-Federally matched State payment in certain situations—for example, when a family loses employment and suffers an immediate loss of income. Under present law, however, if the State decides to assist a family during a payment adjustment lag, any supplement which it pays to the family is counted as income for the purpose of computing the following month's AFDC check.

The Senate amendment allows States to compensate for payment adjustment lags by excluding from the calculation of AFDC benefit amounts any payments which are determined to have been paid by the State in recognition of the difference between the current or anticipated needs of the family for a month based upon actual income for the month, and the needs of the family as determined under the retrospective accounting procedure. The effective date is October 1, 1982.

House committee provision

The provision is the same (with technical differences).

Conference agreement

The conference agreement follows the Senate amendment.

12. Extension of time for States to establish a work incentive demonstration program

Senate amendment

The 1981 Reconciliation Act (P.L. 97-35) included a provision authorizing States to operate 3-year demonstration programs as alternatives to the current WIN program. The demonstration is aimed at testing single-agency administration and must be operated under the direction of the State welfare agency. The legislation required States to submit an application to the Secretary of HHS specifying intent to operate a WIN demonstration program. This application had to be submitted within 60 days after enactment.

The Senate amendment allows States a period of two additional years in which to exercise their option to operate a WIN demonstration program. This would give the States until June 30, 1984 to make this decision. The authority which the Secretary now has to waive requirements for participation in WIN would be extended to the demonstration programs. The provision is effective upon enactment.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

13. Exclusion from income

Senate amendment

No provision.

House committee provision

Under current law, income received by an AFDC household is generally counted as income in determining eligibility for and amount of assistance, unless specifically excluded. The Department of Health and Human Services has not in the past required that certain State payments be considered income for purposes of determining AFDC eligibility or amount of benefits. These are payments that are financed wholly from State funds to meet the needs of children receiving AFDC which are not met by the regular payment.

The committee provision allows States to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by a State to AFDC households. To qualify for such an exclusion, the payments must have been originally authorized by State statute prior to January 1, 1979; be paid entirely from State funds by the State agency administering the AFDC program; and be provided to meet the needs of AFDC children. The effective date is October 1, 1982.

Conference agreement

The conference agreement follows the House committee provision, effective upon enactment.

14. Technical amendments to social services and foster care

Senate amendment

No provision.

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House bill

(1) The 1981 Reconciliation Act (P.L. 97-35) unintentionally repealed the authority for Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to finance social services from funds received under the cash assistance titles, and provided that these territories are eligible for funds for social services only under the title XX social services block grant.

(2) The formula for allocating funds to the States and territories under the title XX social services block grant program could be interpreted in such a way that a portion of the funds are not available for allocation to any jurisdiction.

(3) There are inconsistencies between titles XI and XX of the Social Security Act as to jurisdictions eligible for title XX funds.

(4) Public Law 97-35 incorrectly referenced child day care instead of foster care standards in the requirements that States have standards for foster family home or child care institutions under their title IV-E foster care program.

The House bill makes the following technical corrections:

(1) Restores the option to Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to use funds available under the cash assistance titles for social services.

(2) Insures that all the title XX funds under the ceiling are available for allotment to the States and other jurisdictions.

(3) Makes the title XI definition of the term "State," as it pertains to title XX funding, consistent with the list of jurisdictions cited in title XX as eligible for funds under the allotment formula.

(4) Incorporates into the title IV-E foster care law the same standards for foster care as were previously required. (Under prior law these standards were incorporated by reference to the standards in title XX which were in effect prior to Public Law 97-35.) The effective date is October 1, 1981.

Conference agreement

The conference agreement follows the House bill.

SUBTITLE E—CHILD SUPPORT ENFORCEMENT

1. Fee for services to non-AFDC families

Senate amendment

Prior law allowed States to provide child support enforcement services to non-AFDC families without charge or to recover costs of serving such familes by charging the custodial parent an application fee of up to $20, and by retaining a portion of any child support payments which were collected.

An amendment to the 1981 Reconciliation Act replaced this optional provision with a requirement that States impose a fee equal to 10 percent of the support owed, to be charged against the absent parent and added to the amount of the collection.

The Senate amendment repeals the Reconciliation Act amendment and restores the fee provisions of prior law under which States had an option as to whether or not to charge for the costs of non-AFDC child support. It gives States the additional option of allowing them to recover costs either from the absent parent or from the custodial parent.

If a State elects to collect from the custodial parent (by deducting the costs from the amount of child support which is collected) the State must have in effect a procedure under which the court or other entity which determines the amount of the support obligation will be notified of the amount by which any support collection will be reduced to reimburse the costs of collection. The effective date is August 13, 1981.

House bill

The House bill includes the same provision but without the requirement of notification to the court.

Conference agreement

The conference agreement follows the Senate amendment.

2. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty

Senate amendment

The Senate amendment adds a new section to title IV-D of the Social Security Act to require allotments from the pay and allowances of any member of the uniformed service (on active duty) when he fails to make child (or child and spousal) support payments. The requirement would arise when the servicemember failed to make support payments in an amount at least equal to the value of 2 months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the member's pay which could be subject to allotment would be limited. The amount of the allotment would be the amount of the support payment, as established under a legally enforceable administrative or judicial order. The provision is effective October 1, 1982.

House committee provision

The same provision is included. In addition, there is a requirement that the servicemember be given an opportunity (within a 30-day limit) to consult a judge advocate or other law specialist.

Conference agreement

The conference agreement includes the provision in both bills, modified to reflect the House committee provision.

3. Reimbursement of State agency in initial month of ineligibility for AFDC

Senate amendment

Under present law, amounts of child support collected which are sufficient to make the family ineligible for AFDC must be paid to the family beginning with the first month of ineligibility.

The Senate amendment requires that amounts collected which are sufficient to make the family ineligible will be paid to the family in months *after* the first month of ineligibility. This would allow the State to reimburse itself for AFDC that would have already been paid for that month, before the support was collected and known to have made the family ineligible. Thus, the family would not receive double payment for the same month, once in the form of AFDC, and once as a result of the child support collection. The provision is effective October 1, 1982.

House committee provision

The same provision is included, effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. Reduction in certain Federal payments to States under the child support enforcement program

Senate amendment

No provision.

House committee provision

The provision reduces the Federal matching rate for State administrative costs from 75 percent to 65 percent, and reduces the child support incentive payments from 15 to 12 percent. In addition, there would no longer be matching for the costs of court personnel who perform child support enforcement functions. The provision is effective October 1, 1982.

Conference agreement

Under the conference agreement, Federal matching for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Child support incentive payments would be reduced from 15 to 12 percent, effective October 1, 1983. Federal matching for the costs of court personnel would be repealed, effective October 1, 1983.

5. Technical amendments to child support enforcement provisions in Reconciliation Act

Senate amendment

No provision.

House bill

The House bill makes several technical corrections in the child support enforcement provisions contained in Public Law 97-35, including inaccurate references. The effective date is October 1, 1981.

Conference agreement

The conference agreement includes the technical corrections.

SUBTITLE F—SUPPLEMENTAL SECURITY INCOME

1. Effective date of application; Proration of initial SSI benefit payment

Senate amendment

SSI benefits in the month of application would be prorated from the date of application or the date of eligibility, whichever is later, instead of the requirement in present law whereby benefits begin the first of the month in which the recipient applies and meets the eligibility requirements. This amendment would also apply to the month in which an individual reapplies after a period of ineligibility. The provision is effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Rounding of SSI eligibility and benefit amounts

Senate amendment

The amendment provides for rounding SSI monthly benefit and income eligibility amounts to the next lower dollar instead of rounding to the next higher ten cents as provided in present law. Rounding would occur after the cost-of-living adjustment had been made. Cost-of-living adjustments in subsequent years would be based on the unrounded benefit and income eligibility amounts so that the provision would have no cumulative effect from year to year. The provision is effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

3. Coordination of SSI and OASDI cost-of-living adjustments

Senate amendment

The Senate amendment continues the provisions in present law whereby SSI benefits are determined on a 2 month retrospective basis, but modifies present law to coordinate SSI and OASDI benefit increases. The amendment provides that at the time the cost-of-living adjustment is made, the recipient's SSI benefit is based on the OASDI benefit received in the same month. Also, whenever the Secretary determines that there is reliable information concerning a recipient's income in a given month, the SSI benefit would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information could be used to determine the monthly SSI benefit. The provision is effective October 1, 1982.

House bill

The House bill repeals retrospective accounting and requires that SSI benefits be determined on the basis of the income anticipated by the recipient in the current month (prospectively). Thus, a social security or other benefit increase expected to be received in a month would be taken into account in determining that month's SSI benefit.

Conference agreement

The conference agreement follows the Senate amendment.

4. Phaseout of hold harmless protection

Senate amendment

The legislation enacting the SSI program included "hold harmless" protection for the States which allowed them to supplement the Federal payment to assure that recipients would receive cash benefits equal to their January 1972 benefit levels, with no cost to the State beyond what was spent for benefits on behalf of aged, blind, and disabled persons in 1972.

Because of Federal benefit increases since that time, all except two States—Hawaii and Wisconsin—have lost their hold harmless status. These two States still receive a Federal contribution to their State supplements because of a special provision added to the law in 1976. Under this provision their hold harmless payments are no longer reduced by Federal benefit increases.

The 1982 Continuing Resolution provided a reduction in hold harmless payments for Wisconsin and Hawaii. The Senate amendment continues phasing out the hold harmless payments. Payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years. The provision is effective on enactment.

House committee provision

The House committee provision is the same as the Senate amendment but with technical differences.

Conference agreement

The conference agreement follows the House committee provision.

5. Recovery of SSI overpayments

Senate amendment

The Senate amendment would allow the recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (black lung and OASDI benefits.)

House bill.

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

6. Exclusion from resources of burial plots and certain funds set aside for burial expenses

Senate amendment

The current SSI statute specifies certain assets which an individual may retain without affecting his eligibility for benefits. Excluded are the home, household goods, personal effects, and an automobile of limited value; and liquid assets up to $1,500 in the case of an individual, or $2,250 for a couple.

Also excluded under present law are life insurance policies with cash value, but only if the face value of the policy totals less than $1,500; and burial insurance, irrevocable burial contracts and term life insurance.

The Senate amendment provides that burial spaces for the individual and his immediate family would be excluded as a resource (subject to such limits as to size or value as the Secretary prescribes).

Burial funds for the individual and spouse would also be excluded if they are specifically set aside for this purpose (subject to limits set by the Secretary). Funds set aside that are used for other purposes would reduce future SSI benefits by a like amount. The provision is effective on enactment.

House committee provision

The House committee provision would also exclude burial spaces as a resource as in the Senate amendment but with technical differences. The House committee provision regarding burial funds is the same as the Senate amendment except that it establishes a limit on the amount of funds that can be excluded equal to $1,500 each for the individual and spouse. In addition, funds set aside would reduce on a dollar-for-dollar basis the value of life insurance policies (with cash value) which may be owned by the individual before the cash value is counted. In addition, the $1,500 limit would be reduced by the total of any amounts held by the individual in an irrevocable burial contract or other arrangement made to meet the burial expenses of the individual and spouse. The provision is effective on the first day of the second month after the month of enactment.

Conference agreement

The conference agreement follows the House committee provision but with the following modification:

The Secretary is authorized to exclude as income and resources increases in the value of amounts set aside for burial expenses because of interest earned, and exclude as income and resources any appreciation in the value of specified pre-paid burial arrangements.

7. Mandatory pass-through under State supplementation provisions

Senate amendment

No provision.

House committee provision

The House committee provision modifies present law related to the requirement that States pass through Federal SSI cost-of-living increases. Under present law, a State may meet this requirement by either (1) maintaining the December 1976 level of State supplementation payment for recipients, or (2) providing no less than the total aggregate amount of State supplementation paid by the State in the previous 12-month period. The House committee provision would allow a State to meet the pass-through requirement if the State did not decrease the State supplementation payment below the level in the previous December instead of the December 1976 level required under present law. The provision would be effective for 12-month periods ending after June 1982.

Conference agreement

The conference agreement follows the House committee provision.

8. Treatment of unnegotiated checks under the supplemental security income program

Senate amendment

No provision.

House bill

Under present law, States are credited with their share (included as State supplementation) of benefit checks remaining unnegotiated for more than 180 days. The House bill clarifies the authority for the Federal Government to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks. The provision is effective October 1, 1982.

Conference agreement

The conference agreement follows the House bill.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

1. Rounding of unemployment benefits to next lowest dollar

Under present law, States may determine rounding procedures to apply in the calculation of an individual's weekly unemployment benefit. Regular benefits are financed solely by State trust funds. Extended benefits are financed 50 percent from State trust funds and 50 percent from Federal unemployment insurance trust funds.

Senate amendment

The Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar. This provision is effective for benefits payable on or after October 1, 1983. States in which there is no legislative session prior to that date would, however, be given additional time before the provision would become effective.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Use of amounts transferred to State unemployment funds pursuant to the Reed Act

Section 903 of the Social Security Act, commonly referred to as the Reed Act, provides for the transfer of any excess Federal Unemployment Tax Act (FUTA) receipts to the individual State accounts in the unemployment Trust Fund. Each State's share is proportionate to its share of wages subject to FUTA taxes. Excess funds have occurred only three times since the passage of the Reed Act—in 1956, 1957, and 1958. Current unobligated balances in the State Reed Act accounts total $25 million.

Reed Act funds may be used by the States either to pay unemployment benefits or for administrative purposes. However, under present law, authority to use funds credited in 1956 and 1957 for administrative purposes has expired; and authority to use funds credited in 1958 for administrative purposes will expire on July 1, 1983.

Senate amendment

No provision.

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House bill

The House provision extends for 10 years the authority for States to use Reed Act funds for administrative purposes. Also, the provision permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account based on the amount of funds previously distributed to those States under the Reed Act. The provision is effective the date of enactment.

Conference agreement

The conference agreement follows the House bill.

3. Unemployment benefits paid to ex-servicemembers

Under the program for unemployment compensation payments to ex-servicemembers (UCX), benefits are limited to individuals who (1) have 365 or more days of military service; (2) were discharged or released under honorable conditions; (3) did not resign or voluntarily leave the service (i.e., they could not have been able to reenlist); and (4) were not released or discharged "for cause" as defined by the Department of Defense. These requirements apply to individuals who left Federal military service on or after July 1, 1981, but only for weeks of unemployment that began on or after August 19, 1981.

Senate amendment

No provision.

House bill

The House provision substitutes new unemployment compensation eligibility requirements for individuals separated from the military. The provision (1) limits unemployment benefits to ex-servicemembers who have served 730 or more continuous days in the military and who have been discharged under other than dishonorable conditions; (2) requires a 4-week waiting period between the week in which the individual separated and the week in which he or she first becomes entitled to compensation; and (3) limits an eligible ex-servicemember's benefit to 13 weeks. The provision is effective for those separated from the service on or after July 1, 1981, but only for benefits payable after the date of enactment.

Conference agreement

The conference agreement does not include the House provision.

4. Additional weeks of unemployment compensation benefits: Federal supplemental benefits (Title 6 of Conference Report)

Most States provide up to a maximum of 26 weeks of State unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. Many claimants qualify for less than the maximum 26 weeks of State benefits. State benefits are financed out of State unemployment trust funds.

Under the permanent Federal-State extended benefits program, additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. No one may receive more than 13 weeks of extended benefits, or more than 39 weeks of State plus extended benefits. Extended benefits are financed one-half out of State unemployment trust funds and one-half out of Federal unemployment trust funds.

Until September 25, 1982, extended benefits are payable in a State when, for the most recent 13-week period, the State insured unemployment rate (IUR)[1] averages at least 5 percent and, in addition, is 20 percent higher than it was during the same 13-week period in the 2 previous years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR averages 5 percent. (Thirty-nine States have incorporated the optional 5-percent trigger into their State law.)

Effective September 25, 1982, the IUR at which extended benefits will be payable in any State will be raised from 4 percent (plus the 20-percent factor) to 5 percent (plus the 20-percent factor). The optional trigger rate will be increased from 5 percent to 6 percent.

(This change was made by the 1981 Budget Reconciliation Act.)

Senate amendment

No provision.

House committee provision

An individual who exhausts State and extended benefits could receive additional weeks of benefits, Federal supplemental benefits (FSB), equal to one-half of the duration of the claimant's State benefit entitlement. No one could receive more than 13 additional weeks or a combined maximum of more than 52 weeks of State benefits plus extended benefits plus the additional weeks provided by this provision. Benefit and administrative costs of the additional weeks would be financed out of general revenue.

The additional weeks of benefits (FSB) would be payable under the same triggers used to trigger on the extended benefits program. In other words, FSB would be payable wherever extended benefits were payable. FSB would be payable from date of enactment through September 30, 1983.

Conference agreement

The conference agreement provides, effective September 12, 1982 through March 31, 1983, up to 10 additional weeks of unemployment compensation benefits for unemployed workers in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate equals or exceeds 3.5 percent. Up to 6 additional weeks of unemployment benefits would be provided in all other States.

If at any time 10 additional weeks of benefits are or become payable in a State, qualified unemployed workers in the State will be able to receive up to 10 weeks of benefits throughout the duration of the program, regardless of changes in the extended benefit trigger rates in the State.

The additional weeks of benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and

(a) who have no rights to regular or other State benefits or Federal/State extended benefits;

(b) who have worked 20 or more weeks or have the equivalent in wages (i.e., 40 times the weekly benefit amount or one and one-half times high quarter wages, as specified in the extended benefits program) during the State defined base-period (generally a 12 month period prior to the time the person filed for State unemployment compensation); and,

(c) who continue to meet all other State and extended benefit requirements.

Except in States in which 10 additional weeks are or became payable, an individual's eligibility would be determined on a week by week basis according to the situation prevailing in the State. For example, an individual who initially qualifies for 6 weeks of benefits under this program (because the State extended benefit trigger rate is under 3.5 percent) may receive an additional 2 or 4 weeks of benefits if the rate subsequently increases (even if this occurs some weeks after he exhausts his 6-week entitlement). Similarly an individual who draws his first week of benefits under this program at a time when the State meets the 8-week criteria will not be eligible for a seventh or eighth week of benefits if the State extended benefit trigger rate drops below 3.5 percent before he receives the seventh and eighth week of benefits.

The determination of whether a State has a rate of 3.5 percent or more will be determined in the same manner as the extended benefit triggers: that is, on the basis of the average of the rates prevailing during a 13-week period ending 3 weeks previously. The determination for the week of September 12, 1982, the first week this program is in effect, will be based on the 13-week period ending August 28, 1982.

5. Taxation of unemployment compensation (Title 6 of Conference Report)

Under present law, the amount of State and Federal unemployment insurance benefits included in adjusted gross income for income tax purposes is equal to the lower of:

(a) the amount of unemployment benefits paid, or

(b) one-half of the excess of adjusted gross income, unemployment benefits, and excludable disability income over $20,000 for single taxpayers, $25,000 for married taxpayers filing jointly, or zero for married taxpayers filing separately.

Senate amendment

No provision.

House committee provision

The income thresholds limiting inclusion of unemployment benefits in adjusted gross income would be reduced to $12,000 for single taxpayers and $18,000 for married taxpayers filing jointly. Penalties for underpayment of estimated tax for 1982 attributed to this change would be waived. The provision is effective for benefits paid on or after January 1, 1982.

Conference agreement

The conference agreement follows the House committee provision.

6. Interest on State unemployment loans transferred to Extended Unemployment Compensation Account (EUCA).

Under current law, States must pay interest on unemployment loans (as described in item 12). The interest payments are credited to the General Fund of the U.S. Treasury.

Senate amendment

No provision.

House committee provision

The House committee provision provides that interest paid by the States on Federal unemployment loans after December 31, 1982, would be credited to the Extended Unemployment Compensation Account (EUCA), one of three accounts in the Federal Unemployment Trust fund. EUCA finances the 50 percent Federal share of the Federal-State extended benefits program.

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[1] The insured unemployment rate (IUR) is the percentage of workers covered by the State unemployment compensation program who are claiming State benefits.

Conference agreement

The conference agreement does not include the House provision.

7. Treatment of certain employees of institutions of higher education

Under present law, employees of institutions of higher education and employees of elementary and secondary schools are covered by the unemployment insurance system. However, Federal law requires States to deny benefits during school recess periods to those individuals employed in an instructional, research, or principal administrative capacity under certain conditions. Benefits are denied for any week commencing during the period between two successive academic years or terms if an employee worked during the first term and has a contract or reasonable assurance of reemployment in the second year or term. This between-term denial may also be extended, at State option, to nonteaching, nonresearch, and nonprincipal administrative employees of elementary and secondary schools, but not to similar employees of colleges and universities.

Senate amendment

No provision.

House committee provision

Upon enactment, the House committee provision would allow States to deny unemployment compensation benefits to nonteaching, nonresearch, and nonadministrative employees of colleges and universities during periods between academic years or terms, if there is reasonable assurance the individual will be employed by the institution at the beginning of the forthcoming academic year or term. This would make Federal law consistent in its policy toward such employees of all educational institutions. The House committee provision also provides that retroactive benefits may be received by certain nonteaching, nonresearch, and nonadministrative educational employees who were reasonably assured of employment in the second term or in the fall, but were subsequently not offered that employment. Such retroactive benefits could be provided only for weeks during the between-term or recess period for which the person filed a timely claim for benefits and, except for the denial authority provided under this section, would have been eligible to receive benefits.

Conference agreement

The conference agreement follows the House committee provision.

8. Short-time compensation

Under current law, all States provide partial unemployment benefits for claimants who work less than regular full-time hours (as defined by State law). However, most State unemployment insurance laws do not allow partial benefits in a way that encourages "worksharing" and short-time compensation (partial, prorated unemployment benefits to workers whose work-week is reduced in lieu of total layoff of some of a firm's employees). This is because partial benefits under present law generally end when a worker earns slightly more than one-half of full-time wages.

Senate amendment

No provision.

House committee provision

The House committee provision directs the Department of Labor (DOL), upon enactment, to develop model legislation that can be used by States wishing to establish short-time compensation (or "worksharing") programs. DOL is directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Conference agreement

The conference agreement follows the House committee provision.

TABLE 1.—RECONCILIATION INSTRUCTION

[In millions of dollars]

	Fiscal Year—			Total
	1983	1984	1985	
Senate Finance	4,429	5,564	5,976	15,969
Ways and Means	3,755	4,827	5,168	13,750
Medicare[1]	3,162	4,122	4,240	11,524
Medicaid[1]	674	737	808	2,219
Public Assistance[1]	593	705	928	2,226

[1] The committees are reconciled only to the total outlay savings. The figures shown for each program represent assumptions used in arriving at the total reconciliation instructions, and are not binding.

TABLE 2.—CONFERENCE AGREEMENT[1] (PRELIMINARY ESTIMATES)

[In millions of dollars]

	Fiscal Year—			Total
	1983	1984	1985	
Total savings	3,695	5,896	7,865	17,456
Medicare	2,879	4,430	5,998	13,307
Medicaid	275	364	502	1,141
Aid to families with dependent children (AFDC)	85	95	163	343
Child support enforcement (CSE)	92	141	151	384
Supplemental security income (SSI)	116	126	144	386
Unemployment compensation (UC)	−81	49	49	17
Debt management	329	691	858	1,878

[1] This table does not reflect the additional food stamp outlays of $184 million, and additional medicaid outlays of $111 million resulting from two medicare provisions over the three-year period. Thus the total net outlays savings are $17,161 million. The table reflects the savings in each of the programs identified. The minus sign (−) for 1983 in unemployment compensation represents additional outlays.

TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT

[− means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
MEDICARE				
2. Medicare secondary for older workers	$350	$530	$600	$1,480
4. 80 percent radiologist/pathologist (medicaid cost of $50 million)	160	210	250	620
7. Elimination of nursing differential	95	110	125	330
8. Hospital-based physicians	63	73	84	220
9. Part B premium as a constant percentage of costs (medicaid cost of $61 million)	45	240	480	765
10. Compromise—hospital reimbursement (medicaid savings of $280 million)	480	1,770	3,770	6,020
11. Elimination of private room subsidy	54	75	80	200
12–13. Single reimbursement limit for skilled nursing facilities and home health agencies	18	46	46	110
14. Elimination of duplicate payments for outpatient services	160	225	270	655
15. Audit and medical claims review	130	300	300	730
16. Temporary delay in periodic interim payments	750	100	−870	−20
17. Reimbursement of assistants at surgery	55	130	150	335
19. Prohibition of payments for ineffective drugs	0	0	0	0
20. Medicare payments to HMO's	0	0	0	0

TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT—Continued

[− means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
21. Technical corrections	0	0	0	0
22. Hospice care	−3	−1	17	13
23. Coverage of extended care services	0	0	0	0
24. Percentage arrangements (not for hospital-based physicians)	15	17	20	52
25. Interest on overpayments	25	25	20	70
26. Prohibit payment for Hill-Burton care	15	17	20	52
27. Prohibiting payment for antiunionization activities	0	0	0	0
28. Lesser of cost or charges	90	[illegible]	90	[illegible]
29. Extend medicare proficiency exam	0	0	0	0
30. Access to books and records	0	0	0	0
31. Private sector utilization review	330	385	440	1,155
32. Part B enrollment	(3)	(3)	(3)	(3)
Subtitle C—Utilization and quality control peer review	15	15	20	50
HI tax for Federal employees (outlay savings)	122	163	176	461
Total medicare provisions	2,879	4,430	5,998	13,307
MEDICAID				
1. Copayments by medicaid recipients	45	50	56	151
3. Modification in lien provisions	165	180	200	545
4. Error rate sanctions	30	65	72	167
6. Coverage of disabled children at home	(3)	(3)	(3)	(3)
7. Technical corrections	0	0	0	0
8. American Samoa	−1	−1	−1	−3
9. Nursing home moratorium	0	0	0	0
Hospital reimbursement	20	80	100	200
AFDC impact on medicaid	16	20	25	61
Offset to last year's penalty	0	−30	−30	−60
Total medicaid provisions	275	364	502	1,141
Impact on medicaid of:				
80 percent radiologist/pathologist[1]	−15	−15	−20	−50
Part B premium[1]	−4	−19	−38	−61
AFDC				
1. Round AFDC benefits	9	10	10	29
2. Prorate AFDC benefits	13	14	14	41
3. Military service/AFDC	15	17	17	49
5. Optional job search	5	10	15	30
8. Prorate shelter and utilities	43	44	45	132
9. Error rate sanctions	0	0	62	62
11. Exclusion from AFDC income of certain state payments	0	0	0	0
12. Extend WIN demonstration	0	0	0	0
13. Exclude State payments to children	0	0	0	0
14. Technical amendments	0	0	0	0
Total AFDC provisions	85	95	163	343
Food stamp impact of AFDC provisions[2]	−39	−44	−46	−129
CSE				
1. Non-AFDC fees	12	16	11	39
2. Military allotments	7	9	10	26
3. Initial month of ineligibility	3	4	4	11
4. Reduce Federal CSE incentive funds and administrative costs	70	112	126	308
5. Technical amendments	0	0	0	0
Total CSE provisions	92	141	151	384
SSI				
1. Prorate SSI benefits	26	28	32	86
2. Round SSI benefits	20	25	30	75
3. SSI accounting period	45	41	43	129
4. Phase out hold harmless	30	37	45	112
6. Exclude burial plots and contracts	−5	−5	−5	−15
7. Mandatory passthrough under SSI	0	0	0	0
8. Unnegotiated SSI checks	0	0	−1	−1
Total SSI provisions	116	126	144	386
Food stamp impact of SSI provisions[2]	−17	−18	−20	−55
UC				
1. Rounding UC benefits	0	10	19	29
2. Extend Reed Act	0	0	0	0
7. Treatment of school employees	7	8	9	24
8. Short time compensation	−1	−1	0	−2

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TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT—Continued

[– means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
Deferral of interest payment on UC loans	–87	32	21	–34
Total UC provisions	–81	49	49	17
DEBT MANAGEMENT				
1. Savings bonds	329	691	858	1,878

[1] Increased medicaid outlays due to changes in medicare are scored against total savings for the House, but not the Senate.

[2] Increased food stamp outlays are scored against total savings for the House, but not the Senate.

[3] Negligible cost.

Note: The estimates for each provision of outlay savings within each program (e.g. Medicare) reflect the savings to that program and not necessarily the total budget impact. If a provision has an impact upon two programs, it is listed twice.

In addition, there is a loss in revenue from item 2 under Medicare (Medicare secondary for older workers) of $85,130 million and $150 million for fiscal years 1983 to 1985 respectively.

TABLE 4.—BUDGET IMPACT OF THE PROVISIONS TO LOWER UNEMPLOYMENT COMPENSATION TAX THRESHOLDS AND TO PROVIDE FEDERAL SUPPLEMENTAL BENEFITS

(– indicates an expenditure reduction or revenue increase; + indicates an expenditure increase; figures in millions)

	Fiscal year—				Total
	1982	1983	1984	1985	
Lower unemployment compensation tax thresholds (additional revenues)	0	–763	–734	–611	–2,108
Federal supplemental benefits (additional outlays)	175	1,919	0	0	2,094
Administrative cost (additional outlays)	0	20	0	0	20
Impact on food stamps and AFDC (reduced outlays)	0	–209	0	0	–209
Total impact on budget deficit [1]	+175	+967	–734	–611	–203

[1] + means an increase in the deficit; – means a decrease in the deficit.

TITLES II, III AND IV—REVENUE PROVISIONS

A. Individual Income Tax Provisions

1. Individual minimum tax

Present law

A 15-percent add-on minimum tax is imposed on the sum of six tax preferences in excess of the greater of one-half the regular income tax paid or $10,000. The tax preference items included in the minimum tax base are:

(1) Accelerated depreciation on real property in excess of straight-line depreciation over the useful life or recovery period;

(2) Accelerated depreciation on personal property subject to a lease;

(3) Amortization of certified pollution control facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(4) Percentage depletion in excess of the adjusted basis of the property;

(5) Amortization of child care facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(6) Intangible drilling costs on oil, gas and geothermal wells in excess of the amount amortizable with respect to these costs, and in excess of net income from production.

Individuals are also subject to an alternative minimum tax, payable to the extent it exceeds regular tax. The base of this tax is taxable income increased by:

(1) the deduction for long-term capital gains, and

(2) itemized deductions (other than for medical expenses, casualty losses and taxes) to the extent that the total amount exceeds 60 percent of adjusted gross income reduced by these 3 excluded deductions.

The alternative minimum tax base is subject to the following rates:

	Percent
$0 to $20,000	0
$20,000 to $60,000	10
Over $60,000	20

For estates, trusts, and married individuals filing separate returns the dollar amounts defining the tax brackets are one-half the above amounts. The foreign tax credit is allowed, and credits attributable to an active trade or business are allowed to the extent that tax is not attributable to net capital gains or to itemized deductions included in the minimum tax base.

For purposes of both the regular and minimum taxes, individuals may elect to expense all intangible drilling costs for oil, gas and geothermal properties. The amount expensed in excess of the amount which would be allowed if these costs were amortized, and in excess of net income from production, is an item of tax preference (item (6), above).

House bill

No provision.

Senate amendment

The add-on minimum tax is repealed for individuals.

The base of the alternative minimum tax is changed to be equal to adjusted gross income plus specified preferences, minus specified itemized deducations.

The specified preferences include:

(1) the 6 preferences presently included under the add-on minimum tax;

(2) the deduction for long-term capital gains;

(3) interest and dividend income excluded under the $100 dividend exclusion, the All-Savers exclusion, and the 15-percent net interest exclusion (which takes effect after 1984); and

(4) the excess of expensing over 120-month amortization for mining exploration and development costs, research and development costs, and magazine circulation expenditures.

Deductions are allowed for the following to the extent not deductible in arriving at adjusted gross income:

(1) charitable contributions;

(2) medical expenses (in excess of 10 percent of adjusted gross income);

(3) casualty losses (in excess of 10 percent of adjusted gross income);

(4) personal housing interest;

(5) other interest to the extent of net investment income; and

(6) estate taxes.

The net operating loss deduction is generally reduced by items of tax preference.

The rates of the alternative minimum tax are changed as follows:

Unmarried individuals	Percent
$0 to $30,000	0
$30,000 to $50,000	10
Over $50,000	20

Married couples filing joint returns and surviving spouses	Percent
$0 to $40,000	0
$40,000 to $60,000	10
Over $60,000	20

For estates, trusts, and married individuals filing separate returns, the dollar amounts defining the tax brackets are one-half the amounts applicable to married couples filing joint returns. The foreign tax credit is allowed. Other non-refundable credits are not allowed.

Individuals may elect to capitalize a portion of their intangible drilling costs, except with respect to interests in which they are limited partners. These capitalized costs are treated as 5-year ACRS property, and allowed a 10-percent investment credit. Taxpayers must reduce the ACRS deductions to take account of the half-basis adjustment. These costs are not eligible for safe-harbor leasing. The ACRS deductions are not treated as an item of tax preference.

The Senate amendment generally applies to taxable years beginning after December 31, 1982. Pre-1983 net operating loss preferences continue to be subject to the add-on tax when used, as under present law.

Conference agreement

The conference agreement generally follows the Senate amendment. The tax rate is revised so that the entire minimum taxable income in excess of the exemption amount is taxed at a 20-percent rate. In addition, the minimum tax preference for amortization of child care facilities is deleted, and a preference is added for the excess of the fair market value of stock received upon the exercise of an incentive stock option over the exercise price. It is intended that the incentive stock option preference not apply where there is an early disposition of the stock acquired through the exercise of the option. Wagering losses allowable under section 165 will be allowable as a deduction in computing the minimum tax base.

An election is provided for individuals to amortize the mining exploration and development costs, circulation expenditures, and research and experimental expenditures, for purposes of the regular tax and minimum tax, over a 10-year period beginning with the year the expenditure occurs. The preference item with respect to these costs is revised to equal the excess of expensing over 10-year, rather than 120-month amortization. Individuals thus will not have a preference from these costs to the extent that they elect 10-year amortization. With respect to intangible drilling costs, limited partners may elect 10-year amortization. For other individuals with intangible drilling costs, the conference agreement provides the same election to use ACRS treatment and the investment tax credit that is provided by the Senate amendment.

Finally, the agreement provides that net income taken into account, directly or indirectly, from a limited partnership interest or an interest in a subchapter S corporation (in the case of a person who does not participate in the management of the corporation) will be investment income for the purposes of the net investment income limitation on the interest deduction. Further, interest on indebtedness incurred to acquire or carry such an interest will be "below the line" interest for purposes of the minimum tax and therefore subject to the net investment income limitation on the interest deduction. No inference is intended as to the proper treatment under the regular tax.

2. Deduction for medical expenses

Present law

Individuals who itemize deductions may deduct two categories of medical expenses:

(1) up to $150 for one-half of health insurance premiums.

(2) all other unreimbursed medical expenditures, including health insurance premiums not allowed in the first category, to the extent that these expenses exceed 3 percent of adjusted gross income. Drug expenditures may be included only to the extent the total of drug expenditures exceeds 1 percent of adjusted gross income.

House bill

No provision.

Senate amendment

The medical expense deduction is modified as follows:

(1) the $150 ceiling on the deduction for one-half of health insurance premiums is reduced to $100.

(2) the floor for deductible medical expenses is raised from 3 percent to 7 percent of adjusted gross income.

The provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment, with several modifications. First, the separate $150 deduction for one-half of health insurance premiums is eliminated. Second, the floor for deductible medical expenses is raised from 3 percent to 5 percent of adjusted gross income. These first two provisions are effective for taxable years beginning after December 31, 1982. Third, effective for taxable years beginning after December 31, 1983, the one-percent floor under drug expenditures is eliminated, and the only drug expenditures which will be deductible will be expenditures for drugs which legally require a prescription or for insulin.

3. Deduction for casualty losses

Present law

Individuals who itemize deductions may deduct unreimbursed losses of nonbusiness property resulting from fire, storm, shipwreck, or other casualty, or from theft. The amount of the loss is the lower of (1) the fair market value of the property immediately before the casualty, reduced by the fair market value of the property immediately after the casualty (zero in the case of a theft) or (2) the property's adjusted basis. For any one casualty, the deduction is allowed only to the extent that the amount of the loss exceeds $100.

House bill

No provision.

Senate amendment

Effective for taxable years beginning after December 31, 1982, nonbusiness casualty losses are deductible only to the extent total losses sustained during the year exceed 10 percent of adjusted gross income. As under present law, each casualty loss will be deductible only to the extent it exceeds $100.

Conference agreement

The conference agreement follows the Senate amendment, with a technical amendment. The amendment makes clear that individuals who elect to take into account a nonbusiness disaster loss for the taxable year prior to the taxable year in which the disaster occurred must use the adjusted gross income of the prior taxable year in determining the extent to which the loss is deductible.

Although the amendments made by the conference agreement generally apply to taxable years beginning after December 31, 1982, the amendments also apply to the taxpayer's last taxable year beginning before January 1, 1983, for a taxpayer who elects to take into account a disaster loss in such a taxable year. For example, if a calendar year taxpayer experiences a disaster loss in 1983 and elects to claim the loss for calendar year 1982, the loss will be deductible only to the extent it exceeds 10 percent of the taxpayer's 1982 adjusted gross income.

4. Capital gains holding period

Present law

Gains or losses on certain assets held more than 12 months are considered long-term capital gains.

For noncorporate taxpayers, 40 percent of net long-term capital gains are included in income, while 100 percent of net short-term gains are included. However, 100 percent of net short-term losses (up to $3,000) are deductible, while only 50 percent of net long-term losses (up to $3,000) are deductible.

For corporate taxpayers, net long-term gains are subject to an alternate tax rate of 28 percent, while net short-term gains are taxed at ordinary corporate rates.

House bill

No provision.

Senate amendment

The holding period distinguishing long-term from short-term capital gains and losses is reduced to 6 months, effective for assets sold or exchanged after June 30, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

5. Capital gains indexing

Present law

The adjusted basis for determining the gain or loss from the sale or other disposition of property is established in fixed dollar amounts and, thus, does not take into account changes in the value of the dollar resulting from inflation.

House bill

No provision.

Senate amendment

The basis of certain assets is adjusted for inflation in order to determine the gain or loss upon the sale or other disposition of the assets.

Assets eligible for the indexing adjustments are corporate stock and real property that are capital assets or assets used in a trade or business and are held for more than one year.

The inflation adjustment is based on the level of the GNP deflator for the quarter the asset is purchased compared with the deflator for the quarter of sale. However, if the asset was purchased before 1985, the base is the GNP deflator in the fourth quarter of 1984.

Special rules are provided for certain conduit entities to ensure that an appropriate portion of the inflation adjustments flow through to shareholders or partners.

The provision applies to sales and exchanges after December 31, 1984.

Conference agreement

The conference agreement does not include the Senate amendment.

B. Business Income Tax Provisions

1. Corporate minimum tax

Present law

Corporations must pay a minimum tax on certain tax preferences. The tax is in addition to the corporation's regular tax. The amount of the minimum tax is 15 percent of the corporation's tax preferences in excess of the greater of the regular income tax paid or $10,000.

The tax preference items included in this base of the minimum tax for corporations are:

(1) Accelerated depreciation on real property in excess of straight-line depreciation over the useful life or recovery period;

(2) Amortization of certified pollution control facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(3) In the case of certain financial institutions, the excess of the bad debt deductions over the amount of that deduction computed on the basis of actual experience;

(4) Percentage depletion in excess of the adjusted basis of the property;

(5) $^{18}/_{46}$ of the corporation's net capital gain; and

(6) Amortization of child care facilities (the excess of 60-month amortization over depreciation otherwise allowable).

House bill

No provision.

Senate amendment

The Senate amendment provides for a 15-percent cutback in certain corporate tax preferences. The changes apply to all corporations other than subchapter S corporations.

In the case of corporations, the statutory percentage depletion rates for iron ore and coal (including lignite) are reduced by 15 percent.

The bad debt reserve deduction is reduced by 15 percent of the amount by which the otherwise allowable deduction exceeds the amount which would have been allowable on the basis of actual experience.

In the case of a financial institution, 15 percent of the otherwise allowable interest deduction for debt incurred or continued to purchase tax-exempt obligations acquired after 1982 is disallowed.

The deemed dividend distribution by a domestic international sales corporation (DISC) to a corporate shareholder is increased by 15 percent, to 57½ percent of certain taxable income.

The amount treated as ordinary income on the sale of section 1250 property (real estate) by a corporation is increased by 15 precent of the additional amount which would be ordinary income if the property were subject to recapture under section 1245.

Fifteen percent of the basis of pollution control facilities to which an election under section 169 applies is treated as if the election did not apply.

In the case of an integrated oil company, 15 percent of the amount otherwise allowable as a deduction for intangible drilling costs under section 263(c) is capitalized to the oil, gas or geothermal property and treated as if it were recovery property assigned to the 5-year class. ACRS deductions and the investment tax credit are made available. The deductions and the credit are subject to recapture in accordance with the usual recapture rules. The deductions are also reduced to take account of the half-basis adjustment. Integrated oil companies

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may elect on an annual basis to capitalize up to 100 percent of otherwise allowable IDCs under these new rules.

Fifteen percent of the deductions for mining exploration and development costs otherwise allowable under section 616(a) and 617 to a corporation are capitalized and treated in generally the same manner as the capitalized IDC's described above.

Only 71.6 percent of the items subject to a cutdown will be treated as items of tax preference under the add-on minimum tax for corporations.

The provisions generally apply to taxable years beginning after December 31, 1982. However, the provision relating to deductions under secs. 263(c), 616 and 617 applies to expenditures made after that date; the provision relating to pollution control facilities applies to property placed in service after that date; the provision relating to section 1250 property applies to dispositions after that date; and the provision relating to depletion applies to taxable years beginning after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment with several modifications: First, the preference for percentage depletion for coal and iron ore that is subject to the 15-percent cutback is defined as excess of percentage depletion otherwise allowable over the adjusted basis of the property. This replaces the Senate provision reducing the percentage depletion rates by 15 percent. Second, the treatment of the 15 percent of intangible drilling costs of integrated oil companies that is made ineligible for expensing is that these costs are written off over 36 months with no investment tax credit. Third, the Senate provision allowing corporations to elect not to expense more than 15 percent of intangible drilling and mining exploration and development costs is deleted. The present law election to capitalize intangible drilling costs is not changed. Fourth, the conference agreement removes rapid amortization for child care facilities as a minimum tax preference for corporations.

The conference agreement also makes a technical amendment relating to real estate investment trusts (REITs). Under present law, REITs are generally treated as conduit entities to the extent that their income (including capital gain) is distributed to its shareholders. However, a REIT is taxed like an ordinary corporation on income (including capital gain) it retains.

In order to continue this treatment with respect to the preference for section 1250 capital gain treatment, the conference agreement provides that the amount subject to the 15-percent ordinary income treatment is reduced by the amount of section 1250 capital gain which is distributed to shareholders and is designated as a capital gain dividend. For this purpose, capital gain dividends are deemed to be paid first from section 1250 capital gain. Thus, no section 1250 capital gain is treated as ordinary income where capital gain dividends for the year are more than the section 1250 capital gain. Any gain treated as ordinary income is considered as real estate investment trust taxable income.

Individual shareholders of a REIT continue to treat capital gain dividends as capital gains for purposes of the individual minimum tax. Corporate shareholders of a REIT treat the portion of the capital gain dividend attributable to gain from the sale or exchange of section 1250 property as subject to the 15-percent ordinary income rule. It is expected that the Internal Revenue Service will modify its regulations to require REITs to designate which portion of their capital gain dividends are paid from section 1250 capital gain and the amount of such gain that would be ordinary income if the property were subject to section 1245 recapture so that their corporate shareholders will know the amount of their preference for section 1250 capital gain treatment.

2. Basis adjustment for investment tax credits

Present law

Cost recovery deductions are allowed for 100 percent of the cost of a depreciable asset, including property for which the regular, energy, or historic structure rehabilitation investment tax credits are allowed. Basis is reduced by the full amount of rehabilitation credits except that no basis reduction is required for the credit for qualified rehabilitation of historic structures.

Lessors may elect to pass through investment credits to lessees, in which case lessees are treated as having purchased the asset for fair market value for purposes of computing the credit.

House bill

No provision.

Senate amendment

The Senate amendment requires a taxpayer to reduce the basis of assets by 50 percent of the amount of regular, energy and certified historic structure investment tax credits. This applies to credits claimed on qualified progress expenditures as well as on ordinary credits. A deduction also is allowed for one-half of unused credits in the year in which they expire. When a lessor elects to pass through the investment credit to a lessee, the lessor takes the basis adjustment. The basis adjustment is not taken into account in determining earnings and profits.

The amendment applies to property placed in service after December 31, 1982, other than property (which is not public utility property, property subject to a safe-harbor lease or a rehabilitated building) placed in service before July 1, 1984, for which a contract was entered into after August 13, 1981, and was binding on July 1, 1982, and at all times thereafter. For property placed in service after 1982 which is not covered by the transition rule, qualified progress expenditures and expenditures for property constructed by the taxpayer incurred before 1983 are not subject to the new rules.

Conference agreement

The conference agreement follows the Senate amendment with several modifications.

First, taxpayers are given an election with respect to the regular investment credit on recovery property to elect a 2-percentage point reduction in the credit. The election is made property by property. A taxpayer who makes this election does not have to make a basis adjustment. In the case of partnerships, the election is made at the partnership level. The election is intended to deal with the case in which a taxpayer cannot claim all the regular investment credits he earns because of the 85-percent-of-tax-liability limitation. In these cases, taxpayers could be forced to make a basis adjustment, and suffer a deferral of deductions for which they would have received a tax benefit, because they earn credits they will be able to use only after carrying them forward for several years. Under the conference agreement, these taxpayers are able to avoid this problem by electing the reduced credit.

Second, when lessors elect to pass through the investment credit to lessees under section 48(d), the lessor does not have to make a basis adjustment. Instead, the lessee includes in income ratably over the ACRS recovery period for the property an amount equal to one-half of the credit allowable. Lessees are eligible to elect the 2-percentage point reduction for the regular investment credit in which case they are not required to include this income. If the credit is recaptured, the income inclusions will be adjusted, in accordance with regulations, to take account of the amount of the credit recaptured.

Third, the conference agreement liberalizes the transition rules in the Senate amendment. The date by which property eligible for the transition rule must be placed in service in order to be exempt from the basis adjustment is extended from July 1, 1984, to January 1, 1986. Also, in the case of an integrated manufacturing facility where there were binding contracts, or where construction by the taxpayer was carried out with respect to more than 20 percent of the cost of the facility, between August 13, 1981, and July 2, 1982, and where the on-site construction began before July 1, 1982, property eligible for the credit in the facility will qualify for the transition rule if the property is placed in service before January 1, 1986.

An integrated manufacturing facility is one or more facilities located on a single site for the manufacture of one or more manufactured products from raw materials by the application of two or more integrated manufacturing processes. For example, an integrated facility for the manufacture of steel or steel products from raw materials would qualify as an integrated manufacturing facility.

Fourth, a transition rule is adopted for rehabilitation of certified historic structures. These are exempt from the basis adjustment if there is a contract to rehabilitate the property which was entered into after December 31, 1980, and was binding on July 1, 1982, and at all times thereafter or if rehabilitation began between December 31, 1980, and July 1, 1982, as long as the building is placed in service before January 1, 1986. Also, rehabilitations of certified historic structures placed in service before July 1, 1984, are exempt if Securities and Exchange Commission filings and HUD Section 8 applications with respect to those structures were made before July 1, 1982.

3. Limitation on investment tax credit

Present law

The investment tax credit earned by a taxpayer can be used to reduce tax liability up to certain limits. The limit for taxable years ending after 1981 is $25,000 plus 90 percent of the tax liability in excess of $25,000 (increased from 80 percent in 1981). Unused credits for a taxable year may be carried back to each of the 3 taxable years preceding the unused credit year and then carried forward to each of the 15 following taxable years.

House bill

No provision.

Senate amendment

The limitation on the amount of income tax liability (in excess of $25,000) that may be offset by the investment tax credit is reduced from 90 percent to 85 percent.

The lower limitation is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

4. Accelerated depreciation (ACRS)—1985 and 1986

Present law

Cost recovery schedules for equipment reflect the 150-percent declining balance method with a switch to the straight-line method, for the years 1981-84. In 1985, the schedules accelerate to reflect the 175-percent declining balance method with a switch to the sum-of-the-years-digits method. In 1986, they accelerate further to reflect the 200-percent declining balance method with a switch to the sum-of-the-years-digits method.

House bill

No provision.

Senate amendment

The Senate amendment repeals 1985 and 1986 accelerations of depreciation.

Conference agreement

The conference agreement follows the Senate amendment.

5. Construction period interest and taxes

Present law

Under section 189, individuals, personal holding companies, and subchapter S corporations are required to capitalize interest and real property taxes attributable to the construction period of real property (other than low-income housing) to be used in a trade or business or held for investment. The capitalized interest and taxes are amortized (i.e., deducted in equal portions) over certain periods, generally 10 years. The interest that must be capitalized is interest which is attributable to the construction period on any debt incurred or continued for the purpose of acquiring, constructing, or carrying real property other than low income housing. The construction period is defined as the period beginning on the date construction of the building or improvement begins and ending on the date the property is ready to be placed in service or is ready to be held for sale.

The amortization of capitalized interest and taxes begins in the year the interest or taxes was paid or accrued. However, the amortization of capitalized interest and taxes is then suspended until the year the building or improvement is ready to be placed in service or to be sold, and amortization resumes at that time.

Corporations, other than personal holding companies and subchapter S corporations, are not subject to the capitalization requirement of section 189. For these corporations, amounts paid or accrued for interest and real property taxes are allowed as deductions for the year in which paid or accrued. Certain prepaid interest, however, must be capitalized and deducted in the years to which properly applicable. In addition, under section 266, taxpayers may elect to capitalize certain taxes and interest attributable to both real and personal property and include the capitalized items in the basis of the property.

Section 189 does not apply to interest and taxes capitalized under section 266.

House bill

No provision.

Senate amendment

Section 189 generally would be extended to apply to all corporations. However, for corporations other than personal holding companies and subchapter S corporations, section 189 would not apply to construction period interest and taxes for residential real property. In addition, the Treasury Department would be required to issue regulations providing for the allocation of interest to the construction of real property, and it would be expected that these regulations would adopt rules similar to those contained in Financial Accounting Standards Board Statement Number 34, as amended. Under those rules, the amount of interest to be capitalized is the portion of the total interest expense incurred during the construction period that could have been avoided if funds had not been expended for construction. Interest expense that could have been avoided includes interest costs incurred by reason of additional borrowings to finance construction and interest costs incurred by reason of borrowings that otherwise could have been repaid with funds expended for construction.

The Senate amendment generally would apply to interest and taxes paid or incurred in taxable years beginning after December 31, 1982, for the construction of nonresidential real property begun after December 31, 1982. The Senate amendment would not apply, however, to the construction of the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities (e.g., compressor stations and conditioning plants). In addition, the Senate amendment would not apply to the construction of hotels or motels described in section 48(a)(3)(B) begun before January 1, 1984, if the construction is done under a written plan of the taxpayer in existence on July 1, 1982, and if the taxpayer has requested in writing approval from a governmental unit for such hotel or motel.

Conference agreement

The conference agreement follows the Senate amendment with one amendment to the effective date. Under the amendment, the special transitional rule of the Senate bill for hotel and motel construction is extended to apply also to the construction of hospitals and nursing homes.

The conferees understand that the construction period commences with the date on which the construction of a building or other improvement begins and ends on the date that the building or improvement is ready to be placed in service or is ready to be held for sale. For this purpose, the construction period is not to be considered to have commenced solely because drilling is performed to determine soil conditions, architect's sketches or plans are prepared, or a building permit is obtained. Generally the construction period will be considered to have commenced when land preparations and improvements, such as clearing, grading, excavation, and filling, are undertaken. However, the construction period will not be considered to have commenced solely because clearing or grading work is undertaken, or drainage ditches are dug, if such work is undertaken primarily for the maintenance or preservation of raw land and existing structures and is not an integral part of a plan for the construction of new or substantially renovated buildings and improvements. In the case of the demolition of existing structures where the construction period has not otherwise commenced, the construction period is considered to commence when demolition begins if the demolition is undertaken to prepare the site for construction. The construction period will not be considered to commence solely because of the demolition of existing structures if the demolition is not undertaken as part of a plan for the construction of new or substantially renovated buildings or improvements.

The conferees also intend to clarify that the construction of property is considered to have begun before January 1, 1983, if the property is an integral part of an integrated facility and construction of part of that facility began before January 1, 1983. An integrated facility is a multi-property facility constructed as a single project on a single site and operated as a single, unitary facility as described in a written plan (evidenced by internal documents of the taxpayer such as purchasing and financing documents) existing on July 1, 1982. Property is an integral part of an integrated facility if:

(1) the property is described as part of the same project in written plans of the taxpayer in existence on July 1, 1982;

(2) the property is an integral part the planned operation of the project when the project will first be placed in service; and

(3) the property will be constructed during the same construction period as the rest of the project.

Thus, for example, three nuclear reactors are not part of one integrated facility for the production of electricity if it is planned that only one reactor will be placed in service initially. On the other hand, if a taxpayer plans to construct a facility to produce sheet steel from iron ore, then both a blast furnace and rolling mill to be constructed during the same construction period on a single site are part of the same integrated facility because both properties are necessary to produce sheet steel from iron ore as contemplated in the taxpayer's plan. However, if the blast furnace is planned to be ready to be placed in service in 1985 and construction of the rolling mill is not planned to begin until 1986, then those properties are not part of one integrated facility.

Although improvements such as parking lots, access roads, and utility hook-ups may be part of an integrated facility, the start of construction of such property (which can be used in connection with any type of facility) is not considered the start of construction of other property in the facility for purposes of the effective date of the provision.

6. Leasing Rules

a. Non-safe harbor leasing rules

Present law

General concept

Prior to the enactment of ERTA, the law contained rules to determine who owns an item of property for tax purposes when the property is subject to an agreement which the parties characterize as a lease. These rules, which evolved over the years through a series of court cases and revenue rulings and revenue procedures issued by the Internal Revenue Service, still apply to transactions that are not governed by the safe-harbor rules. Essentially outside the safe harbor provided by ERTA, the law is that the economic substance of a transaction, not its form, determines who is the owner of the property for tax purposes. Lease transactions cannot be used solely for the purpose of transferring tax benefits. In general, that means that the lessor has to have a profit or income-producing motive for the transaction independent of tax benefits. Other business motives are taken into account in determining the substance of the transaction. The fact that the lessor in a lease financing transaction can show a profit or business purpose does not automatically

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result in lease treatment because a profit motive also can exist in a financing arrangement. In addition, the lessor has to bear meaningful benefits and burdens of ownership. The transaction has to be in substance a lease and not a financing arrangement or a conditional sale.

Objective guidelines (Revenue Procedure 75-21)

Revenue Procedure 75-21 and subsequent revenue procedures provide the following objective guidelines for determining non-safe harbor lease treatment of leveraged leases of equipment. These guidelines may be viewed as a type of safe harbor because if all requirements are met, a ruling generally will be issued treating the transaction as a lease.

1. *Lessor's minimum investment.*—The lessor must have a minimum 20 percent unconditional at-risk investment in the property.

2. *Lessee's investment.*—Neither the lessee nor a party related to the lessee may furnish any part of the cost of the property.

3. *Lessee loans or guarantees.*—The lessee may not lend to the lessor any of the funds necessary to purchase the property or guarantee any lessor loan.

4. *Purchase options.*—The lessee may not have an option to purchase the property at the end of the lease term unless the option can be exercised only at fair market value (determined at the time of exercise). In addition, the lessor cannot have a contractual right to require the lessee or any other party to purchase the property, even at fair market value (i.e., a put).

5. *Lessor profit and cash flow.*—The lessor must expect to receive a profit and positive cash flow from the transaction independent of tax benefits.

6. *Limited use property.*—Under Revenue Procedure 76-30, property that can be used only by the lessee (limited use property) is not eligible for lease treatment.

Motor vehicle leases

One court (*Swift Dodge* v. *Commissioner*, 76 T.C. 546 (1981)) has held that, in an operating lease of motor vehicles, lease treatment may result even though the lease contains a terminal rental adjustment clause requiring or permitting an adjustment of rent to make up any difference between the projected value of the property at the end of the lease and the actual value of the property upon lease termination. The I.R.S. has not acquiesced in this case.

House bill

No provision.

Senate amendment

Fixed price purchase options

For leases entered into after December 31, 1984, fixed price purchase options are not to be taken into account in determining whether a transaction is a lease under the non-safe harbor rules. To qualify, the option must be at least 10 percent of the original cost of the property. As under present law, the fact the lessor has a contractual right requiring the lessee to purchase the property (i.e., a put option) in a lease must be taken into account in determining whether a transaction is a lease under non-safe harbor rules.

This change permitting a fixed price purchase option applies to certain leases of farm property entered into after July 1, 1982. To be eligible, the property must be new property eligible for the investment credit and used for farming purposes as defined in section 2032A(e)(5). A lease does not qualify if the cost basis of the leased property when added to the cost basis of all other property subject to a lease that was entered into by the lessee (or a related person) during the same calendar year and that was covered by this rule exceeds $150,000. For this purpose, a related person is defined in section 168(e)(4)(D), except that an individual is not considered related to the lessee individual if the property is used in a trade or business of farming that is separate from the trade or business of farming of the lessee.

Motor vehicle leases

The Senate amendment prevents the IRS from retroactively denying lease treatment for certain motor vehicle leases, including leases of trailers, by reason of the fact that those leases contain terminal rental adjustment clauses. The provision does not address the legal effect of these clauses and does not prevent the Treasury from issuing regulations on a prospective basis addressing the legal effect of these clauses.

The Senate provision regarding terminal rental adjustment clauses applies only to leases in which the lessee uses the property for business purposes. Also, the provision does not apply to leveraged leases financed with nonrecourse debt.

Other rules unchanged

The Senate amendment does not otherwise alter Revenue Procedure 75-21 or the general principles for determining lease treatment of transactions other than safe-harbor lease transactions.

Effective date

Fixed price purchase options.—In general, the change for fixed price purchase options applies to leases entered into after December 31, 1984. However, the provision for up to $150,000 of a lessee's farm property applies to leases entered into after July 1, 1982 and before January 1, 1985.

Motor vehicle leases.—The provision governing motor vehicle leases applies to any open taxable year.

Conference agreement

Overview

The conference agreement modifies the Senate amendment in several respects. Under the conference agreement, leases that qualify under the non-safe harbor rules are allowed the same 90-day window presently allowed for safe harbor leases. Thus, property subject to a non-safe harbor lease will be considered new property if it is leased within 90 days after the property is placed in service. In addition, the conference agreement establishes a new category of leases referred to as finance leases.

These rules generally apply to leases entered into after December 31, 1983. A special rule applies for finance leases entered into after July 1, 1982 of up to $150,000 of a lessee's farm property.

The conference agreement adopts without change the provision preventing the IRS from retroactively denying lease treatment to motor vehicle leases that contain terminal rental adjustment clauses. As under the Senate amendment, that change applies only to property that is used for business purposes and that is not financed with nonrecourse debt.

Finance leases

Overview.—Under the conference agreement, lease treatment is allowed for finance leases. A finance lease is an agreement characterized by the parties as a lease with respect to eligible property that would meet the requirements of a lease under the non-safe harbor rules if the fact that the agreement contained a 10-percent fixed price purchase option or that the property was limited use property were not taken into account in determining lease treatment. To be a finance lease, the lessor must be a corporation (other than a subchapter S corporation or a personal holding company), a partnership all partners of which are those corporations, or a grantor trust with respect to which the grantor and all beneficiaries are those corporations. Finance leases (other than finance leases of up to $150,000 of a lessee's farm property per calendar year) are subject to a lessee cap, a lessor cap, and an ITC spread. Limitations on related party transactions and percentage depletion deductions of lessees apply to all finance leases.

Eligible property.—Under the conference agreement, property eligible for finance lease treatment includes only recovery property that is new section 38 property. However, eligible property does not include public utility property (as defined in section 167(1)(3)(A)) or rehabilitated buildings. The conference agreement excludes property used by former tax-exempt organizations excluded from the safe-harbor provisions under the Senate amendment, except that the exclusion does not apply to property used by farmer's cooperatives described in section 521 (whether or not they are exempt from tax) or to property used in an unrelated trade or business, the income from which is subject to tax under section 511. In addition, property does not qualify if it is used by a person other than a U.S. person and that foreign user is not subject to U.S. tax on the income generated from the property. Mass commuting vehicles are not eligible.

10-percent fixed price purchase option.—A 10-percent fixed price purchase option means an option of the lessee (i.e., a call option) to purchase the property at the end of the lease term for a price that is fixed at the beginning of the lease term at an amount that is 10 percent or more of the original cost of the property.

Limited use property.—Limited use property is property that is not readily usable by any person other than the lessee.

Other non-safe harbor lease rules apply.—Finance leases must meet the requirements for lease treatment under non-safe harbor rules, disregarding the fact that the lease contains a 10-percent fixed price option or that the property is limited use property. Thus, the transaction must have economic substance independent of tax benefits and not merely be cast in the form of a lease for purposes of utilizing the lessor's tax base. The lessor must reasonably expect to derive a profit from the transaction independent of tax benefits. In addition to a profit, the transaction must not (without regard to the fact the agreement contains a fixed price option or that the property is limited use property) in substance be a financing arrangement or conditional sale in which the lessee has an investment in the property.

Investment tax credit.—Under the conference agreement, 20 percent of any investment credit earned for finance lease property is allowable in the first taxable year and 20 percent of the credit is allowable in each of the 4 succeeding taxable years. In computing cost recovery allowances for finance lease property, the regular ACRS periods and methods apply. The basis adjustment for half of the full investment credit occurs in the first taxable year.

This spreading of an investment credit does not apply to property placed in service after September 30, 1985.

Lessor limitations.—In taxable years ending after December 31, 1983, a lessor is not allowed deductions or credits allocable to finance lease property to the extent those deductions or credits reduce its income tax liability (including any liability under the add-on minimum tax) by more than 50 percent.

Deductions or credits not allowed by operation of this limitation may be carried forward, under regulations to be prescribed by the Secretary. This lessor limitation does not apply to property placed in service after September 30, 1985, in taxable years beginning after that date.

A lessor cannot use tax benefits from property in a finance lease to generate a net operating loss carryback or investment tax credit carryback to a prior taxable year. This rule operates in the same way as the rule prohibiting carrybacks (and allowing carryforwards) of tax benefits obtained under the safe-harbor lease provisions.

Lessee limitations.—The conference agreement places a 40-percent limit on the amount of a lessee's qualified base property that may be leased during any calendar year under a finance lease. Qualified base property includes new section 38 property of the lessee, financed lease property (other than new section 38 property of the lessee), and designated leased property. Designated leased property has the same meaning as in the lessee cap of the safe harbor provisions. Property leased last during the calendar year is considered to be the first property denied lease treatment under this rule. The lessee cap does not apply after calendar year 1985.

The conference agreement requires a lessee to compute its percentage depletion deduction for property subject to a finance lease as if it owned the property. In general, rules similar to the rules for the percentage depletion computation under the safe-harbor provisions of the Senate amendment apply in making this computation. However, the lessee must use the regular ACRS deductions allowed under the law in effect at the time of the lease agreement in making this determination rather than the modified ACRS deductions required for safe-harbor leases.

Related party transactions.—The finance lease rules do not apply to transactions between related persons. For this purpose, persons are related if they are part of an affiliated group as defined in section 1504 even if the persons are not an "includible corporation" (as defined in section 1504(b)) and even though the group does not file a consolidated return.

Farm finance leases.—Leases of new section 38 property used for farming purposes entered into after July 1, 1982, may qualify for finance lease treatment if the cost basis of the leased property when added to the cost basis of all other farm property subject to a finance lease that was entered into by the lessee (or a related person) during the calendar year does not exceed $150,000. A related person has the same meaning as under the Senate amendment. These leases of farm property are not subject to the lessor cap, the lessee cap, or the spread of the investment credit. However, those limitations apply for leases entered into after December 31, 1983, of property exceeding the $150,000 amount. The limitations on related party transactions and percentage depletion of a lessee apply to farm finance leases for all years.

Other non-safe harbor leases unaffected

The conference agreement does not alter the present law treatment of leases other than finance leases or safe harbor leases.

Effective dates

The provision permitting a 90-day window applies to leases entered into after December 31, 1983. The finance lease provisions also generally apply to property placed in service after December 31, 1983. However, the rules relating to finance leases of up to $150,000 of a lessee's farm property apply to leases entered into after July 1, 1982. The motor vehicle provisions apply to any open taxable years.

b. Safe-harbor leasing rules

Present law

General concept

The safe-harbor leasing provisions of ERTA are intended to permit owners of property to transfer the tax benefits of ownership (depreciation and the investment credit) to other persons without having to meet the prior law requirements for characterizing the transaction as a lease. The safe-harbor leasing provisions operate by guaranteeing that for Federal tax purposes qualifying transactions will be treated as leases, and that the nominal lessor will be treated as the owner of the property, even though the lessee is in substance the owner of the property and the transaction otherwise would not be considered a lease.

Eligibility requirements

Maximum lease term.—The lease term may not exceed the greater of 90 percent of the useful life of the property or 150 percent of the ADR midpoint of the property.

Maximum interest rate on lessee obligations.—Under Treasury regulations, the rate may not exceed by more than 3 percentage points the rate on tax overpayments and underpayments, the prime rate, or an arms-length rate determined under section 482.

Eligible property

General rule.—Property must be "qualified leased property," which, in general, means that the property must be new equipment eligible for both ACRS and the investment credit.

90-day window.—The equipment may be leased within 3 months after the property is placed in service without violating the requirement that the equipment be new equipment (called the 90-day window).

Property used by tax-exempt organizations.—Property (other than mass commuting vehicles) used by a tax-exempt organization or a U.S. Federal, State, or local government unit generally is ineligible.

Mass commuting vehicles.—Qualified lease property includes mass commuting vehicles (which means any bus, subway car, rail car or similar equipment that is leased to a governmentally owned mass transit system and used in providing mass commuting services) that are financed in whole or in part by tax-exempt bonds.

Public utility property.—Public utility property is eligible for the safe-harbors rules.

ACRS deductions

Recovery period.—The taxpayer may elect the regular ACRS recovery period of 3 years for 3-year property, 5 years for 5-year property and 10 years for 10-year property.

Recovery method.—The taxpayer may elect accelerated percentages approximating use of the 150-percent declining balance method in early recovery years and the straight-line method in subsequent recovery years.

Investment tax credit.—100 percent of any investment tax credit is allowable when property is placed in service.

Related party transactions

The Treasury regulations governing the safe harbor rules reserved on whether transactions between related parties qualify for safe-harbor treatment.

ITC strip

The Treasury regulations reserved on whether safe-harbor lease treatment is allowed for transactions referred to as lease-leasebacks or ITC strips intended to permit the lessee to transfer only the investment credit.

Closely-held lessors

The at-risk limitations on losses (sec. 465) and credits (sec. 46(c)(8)) may apply where a closely-held corporation is either a lessor or lessee. In general, to be at-risk, the taxpayer must use cash or recourse debt to finance the property.

House bill

No provision.

Senate amendment

Eligibility requirements

Maximum lease term.—The lease term cannot exceed 100 percent of the present class life (ADR midpoint as of January 1, 1981) of the property (generally 9 years for property without an ADR life).

Interest rate.—The interest rate may not exceed the rate of overpayments and underpayments of tax reduced by 5 percentage points, but not below 8 percent.

Eligible property

General rule.—The definition of qualified leased property eligible for the safe-harbor is generally the same as under present law. However, public utility property is not qualified leased property under the Senate amendment.

Property used by tax-exempt organizations.—Qualified leased property will not include property (other than mass commuting vehicles) leased to a person that was a tax-exempt organization at any time within the 5-year period preceding the date of the lease agreement. This rule also applies where a predecessor of the lessee, within the 5-year period prior to the date the lease is entered into, was a tax-exempt organization and was engaged in activities substantially similar to the activities in which the lessee is engaged.

Mass commuting vehicles.—In general, the definition of mass commuting vehicles eligible for the safe harbor is the same as under present law. However, ferries are specifically designated as mass commuting vehicles.

ACRS deductions

Recovery period.—Recovery periods are 5 years for 3-year property, 8 years for 5-year property and 15 years for 10-year property.

Recovery method.—The recovery method is the straight-line method (with a half-year convention).

Investment tax credit.—Any investment tax credit earned on leased property is allowable over 3 years—50 percent the first year and 25 percent in each of the next 2 years. However, the half-basis adjustment takes effect the first year.

Lessee limitations

Cap on eligible property.—The lessee may apply the safe-harbor rules with respect to no more than the following percentages of the lessee's qualified base property placed in service during any calendar year:

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Year	*Percent*
1982	*45*
1983	*45*
1984	*40*
1985	*40*

Qualified leased property not subject to this provision by virtue of the general effective date or transitional rules counts toward the lessee cap in 1982, but the rule does not operate to deny safe-harbor lease treatment for that property.

For this purpose, the lessee's qualified base property includes (1) the cost basis of all qualified leased property leased by the lessee under a lease for which a safe-harbor election has been made, (2) all other new section 38 property of the lessee that is placed in service during the taxable year, and (3) designated lease property, which is new property eligible for the investment credit that is used by the lessee under a long-term (more than 50 percent of the ADR midpoint of the property) agreement qualifying as a lease under non-safe harbor rules.

Property leased last during the calendar year is considered to be the first property denied lease treatment under this rule.

Percentage depletion.—The lessee must compute its 50-percent and 65-percent taxable income limitations on percentage depletion deductions as if it were the owner of the leased property. For this purpose, the lessee must take into account ACRS deductions for the property and must disregard lease rentals and interest on lessee financing. In computing the imputed ACRS deductions for the property, the lessee must use the recovery period and method applicable to the lessor under the new safe-harbor rules.

Foreign tax credit.—The lessee must compute its foreign tax credit as if the lessee were the owner of the property. Thus, it must take into account ACRS deductions (and disregard rentals and interest on lessee financing) computed using the periods and methods applicable to the lessor.

Lessor limitations

Current tax liability.—In taxable years ending after July 1, 1982, a lessor is not allowed deductions or credits allocable to qualified leased property to the extent those deductions or credits reduce its income tax liability (including any liability under the add-on minimum tax) by more than 50 percent. Thus, the lessor's tax liability is the greater of (1) tax computed by taking into account ACRS deductions, investment credits, rentals, and interest or lessee financing allocable to qualified leased property or (2) 50 percent of the tax computed without taking into account those items. Deductions or credits from safe-harbor leases not allowable by operation of this rule may be carried forward under regulations to be prescribed by the Secretary. No deferral of tax benefits is required with respect to deductions or credits arising from safe-harbor leases not covered by the Senate provisions, but such deductions or credits count first in determining whether the 50-percent limitation applies to safe-harbor leases covered by the Senate provisions.

Carrybacks.—A lessor cannot use tax benefits obtained as a safe-harbor lessor to generate a net operating loss carryback or investment tax credit carryback to a prior taxable year. In determining the amount of any carryback, taxable income or tax liability must be reduced first by tax benefits that are not attributable to safe-harbor leases. The Senate amendment does not prohibit a carryover of these amounts.

Related party transactions

The Senate amendment prevents the lessee from entering into a safe-harbor lease with a related person. For this purpose, persons are related if they are part of an affiliated group as defined in section 1504, even if the persons are not "includible corporations" (as defined in section 1504(b)) and even though the group does not file a consolidated return.

ITC strip

The Senate amendment allows safe-harbor lease treatment for transactions referred to as lease-leasebacks or ITC strips entered into before October 20, 1981, which is the date Treasury issued its temporary regulations dealing with the safe-harbor provisions.

Closely-held lessors

Under the Senate amendment, the at-risk limitations on losses and credits generally do not apply to lessors that are closely-held corporations with respect to qualified leased property for which a safe-harbor election has been made. If the lessee would be treated as the owner without regard to the safe-harbor rules, the at-risk rules will apply to closely-held lessors to the extent those rules would apply to the lessee. Also, the at-risk rules will continue to apply to closely-held corporations the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

Effective dates

General rule.—The Senate amendment generally applies to leases entered into or property placed in service after July 1, 1982, except the limitation on lessees relating to percentage depletion and the limitation on related party transactions apply to leases entered into after February 19, 1982.

Transition rule.—In general, the Senate provision does not apply if (1) the property is placed in service before July 1, 1983, and (2) after June 25, 1981 (the date H.J. Res. 266, which contained the safe-harbor leasing provisions, was ordered to be reported by the Senate Finance Committee) and before February 20, 1982, (a) the property was acquired by the lessee or construction of the property was commenced by or for the lessee or (b) the lessee entered into a binding contract for the purchase or construction of the property. For this purpose, a contract is not binding unless the lessee's failure to perform would subject him to liability for damages in an amount equal to or greater than 5 percent of the cost of the property.

Aircraft qualify under the transitional rule if the property is placed in service before January 1, 1984, and construction of a subassembly commenced or the stub wing join occurred between June 25, 1981, and February 20, 1982.

The June 25, 1981, date in the transitional rule is moved back to March 31, 1981, for paper production plants. Certain automobile manufacturing property qualifies under the transitional rule if placed in service before July 1, 1982 and leased before August 15, 1982.

Mass commuting vehicles.—The Senate provisions which modify the safe-harbor rules generally do not apply to mass commuting vehicles placed in service before January 1, 1988, pursuant to a binding contract or commitment entered into before April 1, 1983.

Repeal of safe-harbor leasing.—Safe-harbor leasing is repealed for property (other than mass commuting vehicles eligible under the special rule above) placed in service after September 30, 1985.

Conference agreement

Eligibility requirements

Maximum lease term.—The maximum lease term is the recovery period (described below) applicable to property in a safe-harbor lease or, if greater, 120 percent of the present class life of the property.

Interest rate.—Under the conference agreement, the interest rate on lessee obligations under a safe-harbor lease may not exceed the rate on overpayments and underpayments of tax.

Eligible property

General rule.—The general definition of qualified leased property is the same as under the Senate amendment.

Property used by tax-exempt organizations.—In general, the conference agreement adopts the provision in the Senate amendment excluding certain former tax-exempt organizations from qualified leased property. However, the conference agreement does not exclude from eligible property any property used by a tax-exempt organization in an unrelated trade or business the income from which is subject to tax under section 511. Also, farmers cooperatives described in section 521 are eligible for safe-harbor leasing whether or not they are exempt from tax.

Property used by certain foreign persons.—Under the conference agreement, qualified lease property does not include property used by a person other than a U.S. person if the income from use of the asset by that person is not subject to U.S. tax.

Mass commuting vehicles.—The conference agreement clarifies the Senate amendment regarding ferries to insure that property other than ferries does not qualify unless it is used to provide mass commuting services. For example, mass commuting vehicles do not include school buses.

ACRS deductions

Recovery period.—The conference agreement follows the Senate amendment.

Recovery method.—Cost recovery allowances are determined by applying prescribed percentages to the unadjusted basis of the property. These percentages are based on the 150-percent declining balance method, changing to the straight-line method, and using a half-year convention in the first recovery year. The percentages are set forth in the following table:

If the recovery year is:	The applicable percentage for the class of property is: 3-year	5-year	10-year
1	15	9	5
2	25	17	10
3	20	14	9
4	20	12	8
5	20	12	7
6		12	7
7		12	6
8		12	6
9			6
10			6
11			6
12			6
13			6
14			6
15			6

Investment tax credit.—The conference agreement generally follows the Senate amendment, except only 20 percent of an investment tax credit is allowable in each of the first five taxable years.

Lessee limitations

Eligible property.—In general, the conference agreement follows the Senate amendment. However, because the safe-harbor provisions do not apply after 1983, the lessee cap imposed by the Senate amendment in 1984 and 1985 does not apply. In addition, the conference agreement makes clear that property not subject to the modifications of the safe-harbor rules by virtue of the general effective date or transition rules counts towards computation of the lessee cap in 1983 as well as 1982.

Percentage depletion.—The conference agreement follows the Senate amendment.

Foreign tax credit.—The conference agreement deletes the limitation on the foreign tax credit for safe-harbor lessees.

Lessor limitations

The conference agreement follows the Senate amendment.

Related party transactions

The conference agreement follows the Senate amendment.

ITC strip

The conference agreement generally follows the Senate amendment.

Closely held lessors

The conference agreement generally follows the Senate amendment excluding closely-held lessors (other than personal service companies) from the at-risk rules for qualified leased property for which a safe-harbor election is in effect. However, the conference agreement extends the application of the rule to safe harbor leased property placed in service before the effective date where the lessor first becomes a closely held corporation after the general effective date. The conference agreement makes clear that the at-risk limitations also will not apply to closely held lessors with respect to safe harbor leased property that is not covered by the modifications to the safe-harbor provisions by virtue of the general effective date or transitional rules. The rules permitting closely held lessors to avoid application of the at-risk rules do not apply with respect to finance leases or other non-safe harbor leases.

Effective dates

General rule

The modifications to the safe-harbor leasing rules generally apply to leases entered into or property placed in service after July 1, 1982, except that the limitation on lessees relating to percentage depletion and the limitation on related party transactions apply to leases entered into after February 19, 1982.

Transitional rules

General rule.—Under the conference agreement, the modifications to the safe-harbor leasing provisions do not apply for property placed in the service before January 1, 1983 if after December 31, 1980 and before July 2, 1982 either (1) the property was acquired by the lessee or construction of the property was commenced by or for the lessee, or (2) a binding contract to acquire or construct the property was entered into by the lessee. For this purpose, a contract is not binding unless the lessee's failure to perform would subject him to liability for damages in an amount equal to or greater than 5 percent of the cost of the property.

Mass commuting vehicles.—The modifications to the safe-harbor leasing provisions do not apply to a mass commuting vehicle placed in service before January 1, 1988. In addition, these modifications do not apply to a mass commuting vehicle placed in service after December 31, 1987, if (1) the property was not placed in service before January 1, 1988, solely because of conditions that are not within the control of the lessor or lessee, and (2) the property was placed in service pursuant to a binding contract or commitment entered into before April 1, 1983. The definition of a binding contract or commitment for mass commuting vehicles is the same as under the Senate amendment.

Aircraft.—Under the conference agreement, the modifications to safe-harbor leases do not apply to commercial passenger aircraft (other than helicopters) placed in service before January 1, 1984, if after June 25, 1981, and before February 20, 1982, either (1) the property was acquired by the lessee or construction or reconstruction was commenced by or for the lessee, or (2) a binding contract to acquire or construct the property was entered into by the lessee. For this purpose, construction is considered to have commerced if construction of a subassembly was commenced or the stub wing join occurred. Construction of a subassembly means the joining of two or more separate parts to form an assembly by welding, riveting, bolting, or by other standard fastening methods in airframe or engine manufacturing procedures, including, but not limited to, bonding of fiberglass or graphite composites. Subassemblies may be built singly or in lot increments. The stub wing join occurs when the center wing section of the aircraft is joined with the right- and left-hand wings.

Auto manufacturing property.—The conference agreement adopts the Senate amendments that excludes certain automobile manufacturing property placed in service before July 1, 1982 and leased before August 15, 1982 from the modifications to safe-harbor leasing. In addition, the conference agreement excludes from the modifications to safe-harbor leasing automobile manufacturing property that would meet the requirements of the general transitional rule above if October 1, 1983 were substituted for January 1, 1983.

Steel.—The modifications to the safe harbor leasing provisions do not apply to proprty used by the taxpyer directly in connection with the trade or business of the manufacture or production of steel and placed in service before January 1, 1984, if after December 31, 1980, and before July 2, 1982, (1) the proprty was acquired by the taxpayer or construction of the property was commenced by or for the taxpayer, or (a) a binding contract was entered into for the property.

Boilers and turbines of certain cooperatives.—Under the conference agreement, the modifications to the safe-harbor leasing provisions do not apply for turbines and boilers placed in service by a cooperative organization described in section 1381(a) before July 1, 1983, if after December 31, 1980 and before July 2, 1982, at least 20 percent of the cost of the turbines or boilers was paid by the taxpayer.

The conferees understand that some lessees may have acquired various components before July 2, 1982, pursuant to contracts entered into before January 1, 1981. If those components are installed by the employees of the taxpayer after July 1, 1982, the property will qualify if the property is placed in service before January 1, 1983.

Definition of construction.—For purposes of the transitional rules, construction is considered to have commenced when physical work on construction of the property commences. Physical work does not include planning, research, design, engineering studies, securing financing, test drilling, or any other activity that does not involve physical work. Clearing land constitutes commencement of physical work on construction.

Property-by-property determination.—The transitional rules are applied for each separate item of property. For example, commencement of construction of a machine that will be placed in service in a plant commences when physical work on that machine begins. Commencement of construction of the machine is not considered to be commencement of construction of any other property in the plant. Similarly, the transitional rules regarding acquisitions and binding contracts apply for each separate item of property.

Repeal

The conference agreement repeals the safe-harbor lease provisions for leases entered into after December 31, 1983.

7. Foreign Tax Provisions

a. Limitation on amount of foreign oil and gas extraction taxes allowed as foreign tax credits

Present law

The amount of foreign oil and gas extraction taxes that may be credited is limited to an amount based on the U.S. corporate tax rate. However, to determine the credit, extraction losses from one country do not offset extraction income from other countries. Carryovers and carrybacks for excess extraction taxes paid are limited to 2 percent of foreign oil extraction income. The foreign tax credit limitation is computed separately for oil related income and all other foreign income.

If a taxpayer sustains an overall foreign loss in any taxable year, the taxpayer in succeeding taxable years must treat foreign source taxable income as U.S. source income in an amount which is equal to the lesser of (1) the remaining balance of the overall foreign loss, or (2) 50% of the taxpayer's taxable income from foreign sources for the succeeding taxable year in question. (Section 904(f), added to the Code in 1976.) The overall foreign loss must be determined separately for foreign oil and non-oil related income.

House bill

No provision.

Senate amendment

The Senate amendment changes the extraction loss rule so that a net extraction loss from one country offsets extraction income from other countries for the purpose of computing the amount of creditable oil and gas extraction taxes. The 2-percent limit on carryovers and carrybacks and the separate oil related income limitation are repealed. Credits are disallowed to the extent that foreign countries impose abnormally higher taxes on oil than on other activities. Also, the Senate amendment provides transitional rules dealing with carrybacks and carryforwards of credits. Under these transitional rules, pre-1983 overall foreign non-oil

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losses would cause the taxpayer to treat post-1982 overall foreign oil related income as U.S. source income. The Senate amendment applies to taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment, but adds a special rule to prevent the immediate recapture of non-oil related overall foreign losses. For this purpose, this special rule maintains the distinction between non-oil related and oil related overall foreign losses incurred in taxable years beginning before January 1, 1983, and subject to recapture in taxable years beginning after December 31, 1982. However, in order to assure that this special rule does not have an indefinite life, a provision to phase-in the recapture of any pre-1983 overall foreign non-oil related losses over a period of 8 years (generally, at a rate of 12½% a year) has been included in the Act. This special rule provides that in computing the recapture of an overall foreign non-oil related loss incurred in a taxable year beginning before 1983, the separate foreign tax credit limitation for non-oil related income as in effect under present law will generally apply. However, for purposes of applying the foreign tax credit foreign loss recapture rules with respect to taxes paid or accrued in a taxable year beginning after December 31, 1982, an additional amount of pre-1983 non-oil related income will be recaptured. This additional amount shall at least be equal to the lesser of: (1) an amount equal to 12½% of such pre-1983 overall foreign non-oil related loss multiplied by the number of taxable years that have elapsed since January 1, 1983, but less the amounts (if any) previously recaptured under the 12½% rule; or (2) the taxpayer's taxable income from sources without the United States that is not recaptured under the separate limitation rule above.

The conference agreement also changes the Senate amendment transitional rule for carryforwards of foreign tax credits from pre-enactment years.

It is the understanding of the conferees that the Department of the Treasury is to review the impact and effect of the foreign oil and gas tax credit provisions of the conference agreement on multinational oil companies and report its conclusions to the Congress by December 1, 1983.

b. Current taxation of foreign oil and gas non-extraction income

Present law

Income of a foreign corporation from foreign sources generally is not subject to U.S. taxation when earned. U.S. shareholders of a foreign corporation may be taxed on the income of a foreign corporation from certain tax haven or tax avoidance transactions under the anti-avoidance provisions of the Code (such as subpart F).

House bill

No provision.

Senate amendment

Under the Senate amendment, a new category of subpart F income would be added with respect to foreign oil and gas related income. Under this provision, U.S. shareholders of a controlled foreign corporation would be subject to tax currently on the foreign oil related income of the controlled foreign corporation from countries other than those in which the oil and gas is extracted or consumed. Foreign oil related income includes income from processing, transportation, distribution and sales, and services. Services are covered only if the provider is engaged in extraction. The other items are subject to tax currently even though neither the earner of the income nor a related party has extraction income. This provision would apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

Conference agreement

The conference agreement generally follows the Senate amendment, but clarifies one point and modifies another. The conference agreement makes it clear that fuel transferred into the fuel tank of a vessel or an aircraft (e.g., bunkers with respect to a vessel) for consumption by such vessel or aircraft is considered to be consumed in the country in which that transfer occurs.

In addition, the conference agreement exempts the U.S. shareholder of a controlled foreign corporation from current tax if neither the controlled foreign corporation nor any related person (as defined in Subpart F) has foreign oil or gas extraction income. The exemption will apply if the aggregate average daily production of foreign crude oil and natural gas by the foreign corporation and related persons for any taxable year is less than 1000 barrels per day (or its equivalent in gas).

c. Possession and Virgin Islands corporations

Present law

To qualify for effective tax exemption, a U.S. corporation must derive at least 50% of its gross income from the active conduct of a trade or business within a U.S. possession. Also, 80% of its gross income must be from possessions sources.

Possessions corporations (sec. 936) and certain U.S. corporations that are inhabitants of the Virgin Islands are, in general, effectively tax exempt. This exemption applies to income from intangibles created by such a corporation or acquired from an unrelated party. Taxpayers allege that an intangible asset (a patent, trademark, etc.) created by a related party and transferred to a possessions corporation generates tax-free income of the possessions corporation. The Internal Revenue Service allocates income from such an intangible to the related party. The issue is currently being litigated in the United States Tax Court.*

House bill

No provision.

Senate amendment

The required percentage of active business income for qualification for effective tax exemption is phased up to 90% for taxable years beginning in 1985 and thereafter. The percentage for 1983 is 65%; for 1984, 80%. Failure of the qualification tests because of IRS reallocation of intangibles income to other persons may be cured by distributions of disqualifying income. These distributions do not qualify for the dividends received deduction. Income from intangibles created by related parties is generally allocated to U.S. shareholders pro rata as U.S. source income. If a shareholder is a foreign person or a tax-exempt U.S. person, the possessions corporation (or V.I. corporation) is taxable on that shareholder's pro rata amount of the income from those intangibles as U.S. source income. Income from intangibles does not include a reasonable profit (as determined by the Secretary) on direct and indirect costs.

The provisions generally apply to taxable years beginning on or after January 1, 1983. They apply to a disposition on or after July 1, 1982 to a related party of an intangible asset that had been acquired from a related party.

Conference agreement

The conference agreement follows the Senate amendment with significant modification.

The provision as modified is intended to lessen the abuse caused by taxpayers claiming tax-free income generated by intangibles developed outside of Puerto Rico. The conferees also intend that the provision be administered in a fashion so as to encourage increased Puerto Rican employment and investment in depreciable property at as low a cost to the Treasury as possible.

The conferees are concerned about Puerto Rican job creation, and there is continuing concern that the provision may not be adequately targeted towards that goal. The conferees intend that the Treasury annual reports on section 936 address this question in detail. The conferees intend that the Treasury also consider in its annual reports whether a return attributable to intangible property might better encourage additional jobs and investment in Puerto Rico if it were measured by reference to costs of labor and capital located in Puerto Rico.

The conferees understand that there is concern that certain taxpayers who have been permitted by the Internal Revenue Service to use the cost-plus method of pricing without reflecting a return from intangibles but including the cost of materials in the cost basis would be precluded from doing so under the Senate bill. (Sec. 3.02(3) Rev. Proc. 63-10, 1963-1 C.B. 490.) The conferees do not intend any change in current treatment with respect to those taxpayers appropriately applying the cost-plus method. Accordingly, the Internal Revenue Service may continue in appropriate cases to permit such taxpayers to report their income as they have been under existing procedures.

Passive income

The percentage of a corporation's gross income that must be derived from the active conduct of a trade or business in a possession is increased from 50 percent to 65 percent. This increase will be phased in over three years. For taxable years beginning after December 31, 1982, the percentage limitation will be 55 percent, for taxable years beginning after December 31, 1983, the percentage limitation will be 60 percent, and thereafter the percentage limitation will be 65 percent.

Intangible income

An election may be made to treat income attributable to certain intangible property as income of the section 936 corporation eligible for the credit (and certain domestic corporations operating in the Virgin Islands) under two options—(1) a cost sharing rule and (2) a 50/50 profit split. The two exceptions with respect to certain types of intangible property found in the Senate amendment are deleted. In addition, an exception to the Senate bill is made for intangible property which has been licensed since prior to 1948 to a U.S. corporation operating in a possession and is in use by such corporation on the date of enactment.

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*No inference should be drawn from this report or from the actions taken in the conference agreement that the conferees agree or disagraee with either the taxpayer involved or the Internal Revenue Service about this issue.

Cost sharing

In general

A U.S. parent or other U.S. affiliate (collectively, "mainland affiliate") will be permitted to transfer certain manufacturing intangibles to its U.S. subsidiary or affiliate operating in a U.S. possession ("island affiliate"), provided the island affiliate (1) shares, through a cost sharing payment, in the annual product area research expenditures of the mainland affiliates and other affiliates controlled within the meaning of section 482 (collectively, "affiliates"), and (2) has a significant business presence in the possession. If these conditions are satisfied, the island affiliate will be deemed to own such manufacturing intangibles and will be entitled to the full return thereon with respect to the products produced or type of services rendered by the island affiliate. The applicable pricing methods provided in the section 482 regulations will be utilized for this purpose. An island affiliate which makes the election will not be classified as a contract manufacturer with respect to the manufacturing intangibles. All other intangibles, such as marketing intangibles (including trademarks, trade names, and brand names) cannot be transferred to the island affiliate under this election, with the result that, for purposes of this election, the island affiliate cannot claim a return on such intangibles.

Manufacturing intangibles

The manufacturing intangibles covered by this election and with respect to which the island affiliate may claim a return must be related to the products produced or services rendered by the island affiliate.

Manufacturing intangibles will include patents, inventions, formulas, processes, designs, patterns, and know how. Even when marketing intangibles are closely associated with a specific manufacturing intangible, the return on the marketing intangible cannot be claimed by the island affiliate.

Cost sharing payment

The cost sharing payment will be equal in amount to a fraction of the current year's worldwide direct and indirect product area research expenditures. The fraction would generally equal the ratio of third party sales of products produced or services rendered, in whole or in part, in the possession to third party sales of all products produced or services rendered by the island affiliate and its affiliates (U.S. and foreign) in the same product area. The product area will be defined by reference to the three-digit classification of the Standard Industrial Classification ("SIC") code, or such other classification system as may be specified by the Secretary. The Secretary may provide rules for the aggregation of two or more three-digit categories in appropriate circumstances. An election of the cost sharing method is available even if no cost sharing payment is required (e.g., because of the absence of product area research expenditures).

(1) Multiplicand: product area research expenditures

Product area research expenditures, which will be defined on a three-digit SIC Code basis (or other classification system specified by the Secretary), are broadly defined and include both direct and indirect expenses (including expenses described in section 174) and a proper allowance of amounts expended for the acquisition or use of manufacturing intangibles and for the performance of research and development by another person, including qualified research expenses within the meaning of section 44F(b). They also include the costs of developing and purchasing research and development-related computer software.

Product area research expenditures will be determined on the basis of the product area for each activity in which the island affiliate conducts operations. The multiplicand will be computed on an annual basis and will include product area research expenditures in that product area which are incurred by the island affiliate and all affiliates (U.S. and foreign). Product area research expenditures incurred solely by the island affiliate in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreement with related persons) will be offset against the amount of the cost sharing payment required to be made by the island affiliate for that year.

(2) Limiting Fraction: third party sales

(i) Numerator: possession sales.—The numerator of the fraction will be computed with reference to the products produced, and services rendered, in whole or in part, in the possession that are in the same product area used in the multiplicand. Sales in the numerator consist of sales of products produced in whole or in part (and services rendered) and sold by the island affiliate to third parties, and sales of products produced, and services rendered, by the island affiliate and sold by any U.S. or foreign affiliate to third parties. Thus, inter-affiliate sales are eliminated for this purpose.

(ii) Denominator: total sales.—The denominator of the fraction will also be computed with reference to the same product area used in the multiplicand. Sales in the denominator consist of all sales in the same product area to third parties by the island affiliate and all U.S. and foreign affiliates. For this purpose, inter-affiliate sales are eliminated.

Significant business presence

For an island affiliate to be eligible to elect cost sharing for a product or type of service, it must have and maintain a significant business presence in the possession with respect to that product or type of service. This test is intended to require real and significant business activity in the possessions.

The island affiliate satisfies this requirement with respect to a product or type of service if (1) more than 25 percent of the value added by the affiliated group to the product is added by the island affiliate in a possession or (2) at least 65 percent of the direct labor costs of the affiliated group for the product or service (or in connection with the purchase and sale of goods not produced by the affiliated group) are incurred by the island affiliate and are compensation for services rendered in the possession. In general, the figures to be used for these calculations will be those used by the island affiliate and its affiliates in their required inventory calculations. The Secretary may prescribe regulations providing significant business presence tests for other appropriate cases (including a value added test for services), which are consistent with the statutory tests.

The significant business presence test is not required to be satisfied for taxable years beginning before January 1, 1986 for any product produced or type of service rendered in a possession by the island affiliate on the date of enactment. The Secretary may prescribe regulations to provide a transitional (up to 3-year) significant business presence test for future start-up operations of new electing corporations and future possession products and possession services of an existing island affiliate. Regulations will provide definitions of a product or type of service and rules for dealing with components in the context of the foregoing requirements. If the significant business presence test is not satisfied for a product or type of service within the product area covered by the election, the cost sharing payment will not be reduced, and the provisions of the Senate amendment will apply to that product or type of service.

It is intended that the regulations will define the term "product" narrowly. In this manner the significant business threshold test will be more readily satisfied than if a broader definition applied, with the consequence that the income attributable to a product that satisfied the test will be computed with respect to that narrowly defined product.

Similarly, it is intended that components purchased by an island affiliate from an affiliate will be treated as materials (and the costs thereof as a cost of materials) where there is an independent resale price for such components or other factors are present such that the proper arm's length price of the components can be readily determined and such treatment is consistent with the intent of the significant business presence tests.

The Secretary will prescribe regulations providing for appropriate treatment in cases where the island affiliate purchases a component produced by an affiliate or produces a component which it sells to an affiliate for incorporation into a product sold to third parties.

Effect of cost sharing

For U.S. tax purposes, the cost sharing payment will not result in additional gross income to the mainland affiliate or affiliates, but will instead reduce the mainland affiliates' deductions for product area research expenditures and, to the extent necessary, other tax deductions. The credit for increasing research activities under section 44F will not be reduced by reason of the cost sharing.

Effect of electing to make cost sharing payments

If an election is made to use the cost sharing option, manufacturing intangibles covered by the election which are connected with the goods produced, or services rendered, in whole or in part, in the possession will, for purposes of the pricing rules discussed below, be deemed to be owned by the island affiliate, and the island affiliate will be entitled to the full return thereon.

Manufacturing intangibles developed solely by the island affiliate in a possession and owned by it, or acquired by the island affiliate from an unrelated party, will also be treated as owned by it for purposes of the pricing rules. For the purpose of determining when the island affiliate will be considered to have developed an intangible, rules (the "developer rules") similar to certain of the rules of the section 482 regulations will be provided, but an intangible developed under a cost-sharing agreement shall not qualify as developed solely by the island affiliate.

Nonmanufacturing intangibles

If the cost sharing rule is elected, all other intangibles (including those purported to have been transferred to the island affili-

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ate) will not be treated as owned by the island affiliate for purposes of the intercompany pricing rules; and the island affiliate will not be entitled to any return thereon unless such intangibles are developed solely (within the meaning of the developer rules) by the island affiliate in a possession and owned by it. A further exception will apply in the case of sales made directly by the island affiliate to unrelated third parties for ultimate use or consumption in the possession, in which case the island affiliate will be entitled to the return on marketing intangibles developed by, or transferred by an affiliate to, the island affiliate.

Manufacturing intangibles and nonmanufacturing intangibles are defined according to lists of types of assets. Where an intangible is of a type which fits into two categories, e.g., a system, program, procedure or technical data (all defined as nonmanufacturing intangibles) which is also an invention, formula, process, design, pattern or know-how, it should be classified as a manufacturing or a nonmanufacturing intangible (or partly each) according to the use of the asset. For example a program (e.g. softwear) used in manufacturing which constitutes a formula, process or know-how (all manufacturing intangibles) and also is a program (a nonmanufacturing intangible) would be treated as a manufacturing intangible; but a program for a marketing campaign, even if also classified as know-how, would be treated as a program and hence as a nonmanufacturing intangible. So too, copyrights may be treated either as manufacturing intangibles or nonmanufacturing intangibles (or as partly each) depending upon the function or the use of the copyright.

Pricing

If the cost sharing payment is made, the island affiliate will be treated as the owner of, and entitled to the full return on, the manufacturing intangibles covered by this election and connected with the product produced, or type of service rendered, in whole or in part, by the island affiliate in the possession. The island affiliate will compute its intercompany price under any of the applicable pricing rules set forth in the section 482 regulations. Use of the resale price method will not be denied merely because the reseller (e.g., the mainland affiliate) added more than an insubstantial amount to the value of the property by the use of intangibles. In such a case, the value of the nonmanufacturing (e.g. marketing) intangibles and any other functions that add value (such as distribution) will be reflected in the resale margin. The use of the resale price method could be denied for other reasons, such as where the return on manufacturing intangibles is minor and no comparables can be found for determining an appropriate mark-up percentage under the resale price method. Thus, a cost plus method may be applied in appropriate cases, after applying the priority-of-application rules of the section 482 regulations, as long as an additional profit amount, representing the return on manufacturing intangibles covered by this election, is permitted the island affiliate. The Internal Revenue Service will not be precluded from applying section 482 with respect to other aspects of the intercompany relationship. The regulations under section 482 and Internal Revenue Service revenue procedures (Revenue Procedure 63-10, as amplified by Revenue Procedure 68-22) will continue to apply except to the extent modified by the election.

Timing of cost sharing payment

If the cost sharing election is made, payment of the required amount must be made by the island affiliate no later than the due date of its tax return for the year (including extensions). To the extent payment is not timely made (e.g., if a greater payment is determined on audit to have been required), the required payment is increased by an amount computed by reference to the interest rate applicable to income tax deficiences. If the failure to make timely payment is due in whole or part to fraud or willful neglect, the island affiliate's election of the cost sharing method is deemed revoked as of the year to which the payment relates.

If a foreign country or possession imposes a tax on the cost sharing payment (or the late payment amount), no foreign tax credit or deduction will be allowed for that tax.

50/50 split of combined taxable income

In general

This election will provide for a split between the island affiliate and its U.S. affiliates of the combined taxable income of the island affiliate and its U.S. affiliates with respect to products produced, in whole or in part, in the possession. 50% of such profit will be allocated to the island affiliate; 50% will be allocated to its U.S. affiliates.

Significant business presence

For an island affiliate to be eligible to apply the profit split, it must satisfy one of the significant business presence tests required for the cost sharing election for the product or type of service covered by the election. In addition, for products produced in whole or part by the island affiliate in the possession, the profit split method is available only if the island affiliate manufactures or produces the product in the possession within the meaning of the controlled foreign corporation provisions of the Code (section 954). If the significant business presence test (including the controlled foreign corporation manufacturing or production rule) is not satisfied for a product or type of service within the product area covered by the election, no intangibles income attributable to that product or type of service will be eligible for the credit.

Combined taxable income

The determination of combined taxable income will be on a product by product basis.

The combined taxable income of the island affiliate and its mainland affiliates from the sale of the product produced in whole or in part in the possession is the excess of the gross receipts from the sale of such product to third parties or foreign affiliates over the total costs relating to such product incurred by the island affiliate and its mainland affiliates. Costs which are treated as relating to a product produced in whole or in part in the possession are all direct and indirect expenses, losses, and other deductions (including marketing expenses) with respect to sales of such product, i.e., the expenses will be "fully-loaded". In this regard, the amount of product area research expenditures properly allocable or apportionable to income from sales of such product may not be less than the amount determined under the cost sharing formula described above. However, if the island affiliate would not be required to cost share under the cost sharing election (e.g. because of the absence of product area research expenditures), the profit split option may still be elected.

Effect of electing 50/50 split

If an election is made, the island affiliate will be entitled to 50 percent of the combined taxable income from the sale of products produced or services rendered in a possession by the island affiliate and sold to third parties or foreign affiliates by the island affiliate or a mainland affiliate. The remainder of the combined taxable income for a product will be allocated to the mainland affiliates. This latter amount may exceed the island affiliate's share of the income from the product if the amount of proportionate product area research expenditures, determined under cost sharing, is in excess of the amount allocable to the combined taxable income absent application of the cost sharing formula. For example, if combined taxable income is $100 without taking into account research and development expenses allocable or apportionable thereto, the amount of such expenses are $10, and the amount computed under cost-sharing (without offsets for island affiliate expenses) is $12, the island affiliate's share of combined taxable income ($100 less $12) is $44 (one-half of $88), and the mainland affiliate's share of combined taxable income is $46 ($100 less $10 of allocable and apportionable expenses and less the island affiliate's $44 share). Thus, the use of this formula is not intended to allow a deduction to any mainland affiliate which would not otherwise be allowable.

Election

An election must be made on or before the due date (including extensions) of the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. An election may be revoked only with the consent of the Secretary. Once revoked, a new election may not be made without the consent of the Secretary. All section 936 affiliates, controlled within the meaning of section 482, producing products or rendering types of services in the same product area will be required to elect the same option for that product area, except that a different method may be used for bona fide export sales from that applicable to other sales.

Transfers of intangibles

Under present law, certain transfers by a U.S. person to a foreign corporation that would otherwise obtain tax-free treatment are taxable unless the Internal Revenue Service issues a ruling that they do not have as one of their principal purposes the avoidance of Federal income tax (sec. 367). The Internal Revenue Service has published guidelines stating when the Service will and will not issue rulings that transactions do not have a tax avoidance purpose. Under the guidelines certain transfers of property for the active conduct of a trade or business abroad are ordinarily not taxable (Rev. Proc. 68-23, 1968-1 C.B. 821 and other releases). However, transfers to foreign corporations of patents, trademarks, and similar intangibles for use in connection with a U.S. trade or business or with manufacturing for sale or consumption in the United States generally are subject to a toll charge under these guidelines.

By negative implication, transfers of intangibles for use purely in connection with a foreign trade or business or manufacturing for sale or consumption outside the United States generally may not be taxable. The conferees recognize that the Internal Revenue Service has authority, under the present law, to find a tax avoidance purpose when an intangible asset is transferred to a foreign corporation. Whether or not the guideline is appropriate as a general rule, the conferees are aware that, as a result of this legislation, some taxpayers have stated that they would remove investment from Puerto Rico and transfer possession-related intangibles to foreign jurisdictions. The conferees believe that such transfers would ordinarily have as one of their principal purposes the avoidance of Federal income tax.

The conference agreement amends the provision of the Code dealing with tax-free transfers to foreign corporations to treat a transfer of a possession-related intangible to a foreign corporation as a transfer pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes. The provision applies to a transfer by a possession corporation or used as a transfer by an affiliated U.S. corporation where the intangible property was being used (or held for use) by an affiliated possessions corporation. The Secretary may, subject to such terms and conditions as he may impose, allow nonrecognition treatment with respect to such transfers, if the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes.

The conference agreement also subjects to tax post-July 1, 1982, sales of intangible property to related persons. The income from such sales is U.S. source income, and the cost-sharing and 50/50 profit-split elections do not apply with respect to that income. The income from such sales will not affect the corporation's qualification (under the possessions source and active income tests) as possessions corporation.

Revocation of section 936 election

Under present law, an election of the application of section 936 may be revoked before ten years only with the consent of the Secretary. The conferees anticipate that because of the basic change in the taxation of possessions corporations the Secretary will consent to the revocation of an election by a section 936 corporation provided the election is in effect for the corporation's last taxable year beginning before January 1, 1983. The conferees intend that this liberal consent policy apply only if the consent is requested on or before December 31, 1983, and that the Secretary be permitted to impose conditions on such revocation, such as requiring that the taxpayer obtain the Secretary's consent before reelecting the application of section 936.

8. Tax-Exempt Obligations

a. Restrictions on tax-exempt bonds for private activities

Present law

General rule

Interest on State and local government obligations generally is exempt from Federal income tax; however, industrial development bonds (IDBs) are taxable except when issued for certain specified purposes.

Interest on IDBs is tax-exempt if the bonds are issued to finance the following activities: (1) projects for low-income residential rental property; (2) sports facilities; (3) convention or trade show facilities; (4) airports, docks, wharves, mass commuting facilities, and parking facilities; (5) sewage and solid waste disposal facilities, and facilities for the local furnishing of electricity or gas; (6) air or water pollution control facilities; (7) certain facilities for the furnishing of water; (8) qualified hydroelectric generating facilities; and (9) qualified mass commuting vehicles. In addition, the interest on certain IDBs issued for the purpose of acquiring or developing land as a site for an industrial park is exempt from taxation.

Present law also permits unlimited tax-exempt financing for student loans and organizations that qualify for tax-exemption under section 501(c)(3), such as private, nonprofit hospitals and private, nonprofit educational institutions.

Small-issue exception for IDBs

Present law also permits tax exemption for certain "small issue" IDBs if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property. Unlike the bonds for exempt activities, discussed above, there are no restrictions on the business activities in which land and depreciable property financed with "small issue" IDBs can be used.

This exception applies to issues of $1 million or less without regard to the total capital expenditures for the facility (i.e., the $1 million "clean limit" exception).[1] At the election of the issuer, the limitation may be increased to $10 million where certain capital expenditures are taken into account. In the case of facilities with respect to which an urban development action grant ("UDAG grant") under the Housing and Community Development Act of 1974 has been made, capital expenditures of up to $20 million are allowed.

Both the $1 million and $10 million limitations are determined by aggregating the face amount of all outstanding small issues for all facilities used by the same or related principal users which are located within the same county or same incorporated municipality. In addition, the $10 million limitation is reduced to the extent that the principal users of the facilities incur certain capital expenditures in the same county or same incorporated municipality during the six-year period beginning 3 years before, and ending 3 years after, the issuance of the bonds.

Other rules

Under present law, facilities financed with tax-exempt IDBs may be depreciated under the Accelerated Cost Recovery System (ACRS) or other available accelerated methods of cost recovery provided under the Code. IDB-financed property also may qualify for the investment tax credit.

Present law is unclear on the length of time that bonds may be outstanding in relation to the economic life of the property financed with tax-exempt financing.

Present law imposes no reporting requirements on issuers of tax-exempt bonds for private activities. Additionally, there are no Federal procedural requirements governing the manner in which such bonds are issued.

House bill

No provision.

Senate amendment

Restrictions on tax-exempt bonds for private activities

Information reporting requirement for all tax-exempt bonds for private activities

The Senate amendment provides that bonds are not tax exempt unless the issuers of all bonds used to finance private activities report certain information (including the amount of the lendable proceeds, the interest rate, term of the issue, and principal users) to the IRS on such bonds issued by them during the preceding calendar quarter. The reporting requirement applies to all IDBs, student loan bonds,[2] and tax-exempt bonds a major portion of the proceeds of which are used by charitable, etc. organizations (described in sec. 501(c)(3)). The required reporting also applies to refunding issues even if the original bonds were issued before 1983, if the refunding occurs after 1982.

This provision is effective for bonds, including refunding issues, issued after December 31, 1982.

Public approval requirements for all IDBs

The Senate amendment establishes new approval requirements for issuers of IDBs.[3] Failure to comply with these requirements will result in loss of tax exemption for the interest on the bonds. The new requirements are twofold: (1) reasonable notice must be given and a public hearing held and (2) issuance of the bonds must be approved after the hearing by an elected public official or elected legislative body. Alternatively, a voter referendum on a particular project or bond issue, held at such time and in such manner as referenda on other issues affecting government spending under applicable State and local law, may be used in place of the public hearing and elected representative approval requirements.

The public approval requirements are effective for obligations, including refunding issues, issued after December 31, 1982. The public approval requirements do not apply, however, to (1) issues solely to refund a prior issue, which was issued in compliance with the requirements, where the maturity of the bonds is not extended and (2) certain issues of a governmental unit for a facility issued within a 7-year period pursuant to a plan of financing where the proceeds from all obligations issued under that plan are used to finance the facilities of the principal users described in that plan.

Restriction on cost recovery deductions for certain property financed with IDBs

The Senate amendment provides that property that is placed in service after December 31, 1982, generally is allowed cost recovery deductions at a slower rate than those allowed under ACRS or other accelerated cost recovery provisions of the Code, to the extent that the facilities are financed by an IDB. In lieu of deductions under ACRS, the cost of property financed with IDBs must be recovered using the straight-line method over the ACRS life for the property involved. This limitation applies to both the first owner of the property and to any subsequent owners who acquire the property while the IDBs (including any refunding issues) are outstanding.

The amendment includes several exceptions permitting the cost of certain types of facilities financed in whole or in part with IDBs to continue to be recovered under ACRS: low income rental housing, municipal sewage and solid waste disposal facilities, air or water pollution control facilities

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[1] Before promulgation of Rev. Rul. 81-216, 1981-36 I.R.B. 6 (September 8, 1981), discussed below, small issue IDBs could be marketed as a separate IDB issue in combination with exempt activity IDBs for a single business project.

[2] Student loan bonds include State or local government bonds used to finance, directly or indirectly, loans for educational or related expenses regardless of whether the bonds or educational loans are guaranteed by the Federal or State governments.

[3] This restriction applies only to IDBs; therefore, it generally does not apply to student loan bonds or bonds for tax-exempt organizations described in section 501(c)(3) (other than bond proceeds used in an unrelated trade or business of the organization).

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used in connection with a plant or other property in operation before July 1, 1982, and facilities for which a UDAG grant equalling or exceeding 5 percent of the total capital expenditures on the facility is made.

The amendment also includes transition rules permitting the cost of certain property placed in service after 1982 to be recovered under ACRS if (1) a binding contract existed on July 1, 1982, and at all times thereafter, committing the purchaser to incur significant expenditures; (2) construction began before July 1, 1982; or (3) the bonds with which the property is financed were issued before July 1, 1982.

Restrictions on "small issue" IDBs

Sunset of small issue exception.—The Senate amendment repeals the small issue exception with respect to obligations (including refunding issues) issued after September 30, 1987.

Restriction on "clean limit" small issue exception.—The Senate amendment provides that, effective after the date of enactment, the $1 million "clean limit" small issue exception (sec. 103(b)(6)(A)) is not available for any IDBs issued as part of a single issue with any other obligations, the interest on which is tax-exempt under any provision other than the small issue exception.

Elimination of small issue exception to finance certain facilities.—The Senate amendment eliminates the small issue exception for bonds issued after December 31, 1982, if—

(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is automobile sales or service or the provision of recreation or entertainment; or

(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including handball and racquetball courts), hot tub facility, suntan facility, or racetrack.

Conference agreement

The conference agreement follows the Senate amendment with several modifications.

Public hearing and approval requirements for all IDBs

The conferees intend to clarify the application of the rule requiring a public hearing and approval by an elected official or legislative body in order to issue IDBs. Under the conference agreement, public hearings and approval by an elected official or legislative body are required by both the issuing jurisdiction and the jurisdiction where the facilities are located.

Where the facilities are located entirely within the geographic jurisdiction of the issuing governmental unit, only one public hearing and approval are required even though the facilities may be located in several different subdivisions of the issuing governmental unit.

Where facilities are not located within the geographic jurisdiction of the issuing governmental unit at least one governmental unit having geographic jurisdiction over each facility must hold a hearing and approve the bond issue. This may be either a single governmental unit or a series of smaller governmental units that may be subdivisions of the single governmental unit. For example, where a governor of a state is to approve the issuance of bonds for facilities located in that state (even though located in several counties), only the state is required to have a public hearing on that bond issue. Where, however, a facility is located in several counties and each county's elected executive officer is to approve the issuance of the bonds for facilities located in that county, each county is required to have a public hearing on that bond issue.

Where the facility is located in more than one state, then the hearing and approval requirements are applied as if there were separate facilities in each state. Thus, for example, in the case of electric transmission lines that cross state lines, the transmission lines located in each state are treated as separate facilities and each state or its counties where the separate facilities are located is required to meet the public hearing and approval requirements.

The conferees intend that the hearing may be held directly by the governmental unit or its agencies or by a person who issues bonds on behalf of that governmental unit. Generally, the conferees intend that the hearing be held at times and in places that would be convenient for persons affected by the facilities financed by the IDBs. However, where an IDB will finance more than one facility at different locations, it is not necessary that separate hearings be held for each facility. For example, where a state agency proposes to issue an IDB to finance projects throughout the state, only one hearing need be held somewhere within the state for all the facilities financed with the IDB provided adequate public notice of the hearing is given in all areas where facilities are to be located.

In addition, the conferees intend to clarify that the special rule which permits approval of a plan of financing for up to 3 years also applies to refunding obligations issued within that 3-year period. For example, the rule covering plans of financing would cover situations where IDBs are issued and then refunded one or more times within the 3-year period. The 3-year period commences on the date that obligations are first issued pursuant to the approval of the plan.

Restrictions on cost recovery deductions for certain property financed with IDBs

Under the conference agreement, the effective date for the restrictions on cost recovery deductions is clarified to provide that certain multi-family rental projects are exempt from the cost recovery provisions of the bill when the project was exempt from restrictions on the use of IDBs for multi-family housing under the Mortgage Subsidy Bond Tax Act of 1980.

With regard to the exemption from the restrictions of the bill for sewage and solid waste disposal facilities, the conferees wish to clarify that facilities will qualify for this exception regardless of whether the solid waste or sewage is collected from an area within part or all of a government unit or an area larger than one governmental unit; regardless of whether the facilities are operated by a governmental unit or a private company; and regardless of whether the facilities accept for processing all types of waste (as long as the waste accepted is collected from the general public). Solid waste need not include source separated or recyclable materials.

For this purpose, the general public includes commercial and other businesses but only if the solid waste collected from businesses is collected from them in their capacities as members of the general public and not as members of a limited group (such as groups that have special types of waste not processable by normal waste facilities serving the general public).

The effective date for the cost recovery rule provides that the new limitations do not apply to property where construction on the property began before July 1, 1982, as long as the original use of the property began with the taxpayer. The conferees intend that all property which is a part of the facilities described in the inducement resolution adopted before July 1, 1982, pursuant to which the bonds are issued, is treated as under construction where any part of those facilities is under construction before July 1, 1982. Moreover, the conferees intend that all such property is under the transitional rule even though part of the facilities are transferred by the taxpayer prior to their being placed in service and even though properties which are part of the facilities are placed in service before the completion of construction of other properties which are part of those facilities.

Sunset of small issue exception

The conference agreement modifies the Senate amendment by providing that the small issue exemption will not apply with respect to obligations issued after December 31, 1986.

Elimination of small issue exception to finance certain facilities

The conference agreement modifies the rule of the Senate amendment which restricts the use of small issue IDBs where 25 percent of the bond proceeds are used for certain purposes to include in the list of prohibited purposes the providing of retail food and beverage services. For this purpose, retail food and beverage services includes eating and drinking places, but does not include grocery stores.

Relationship of bond maturity to life of assets

The conference agreement provides a rule that limits the average length of the maturity of all industrial development bonds (IDBs). Under the rule, the weighted average maturity [4] of all obligations of an issue cannot exceed the weighted average estimated economic life [5] of the assets financed with the proceeds of the issue [6] by more than 20 percent. The economic life of an asset is to be measured from the later of the date the bonds are issued or the date the assets are reasonably expected to be placed in service. For example, if the proceeds of the bond are used to purchase assets with an average estimated economic life of 10 years, the maximum average maturity for the bonds may not exceed 12 years from the date the assets are expected to be placed in service where the bonds are issued after that date.

In general, the economic life of assets is to be determined on a case-by-case basis. However, in order to provide guidance and certainty, the conferees intend that the administrative guidelines established for the useful lives used for depreciation prior to the ACRS system (i.e., the midpoint lives under the ADR system where applicable and the guideline lives under Rev. Proc. 62-21, 1962-2 C.B. 418, in the case of structures) may be used to establish the economic lives of assets. However, the taxpayer can issue bonds with maturities longer than these administrative guidelines would allow where the taxpayer can show, on the basis of the facts and circumstances, that the economic life to the principal user or users of the assets for whom the bonds are issued is longer than the lives established by the administrative guidelines.

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[4] The weighted average maturity of obligations of an issue is determined by taking into account the issue price (as defined in sec. 1232) of each obligation.

[5] The weighted average estimated useful life of assets financed with the proceeds of an issue is determined by taking into account the cost of each asset financed with the proceeds of the issue.

[6] Where the amount of the bond is less than the cost of the facilities, the assets financed with the bond shall include an allocable portion of the facilities which may be purchased by the bond proceeds under the bond indenture.

The conference agreement provides special rules for the treatment of land in determining the weighted economic life of the assets financed by the bonds. Where less than 25 percent of the bond proceeds are used to acquire land, the economic life of the assets financed by the bonds is determined without regard to the land (i.e., the maximum maturity of the bonds is based on the economic life of the assets financed by the bonds other than land). Where 25 percent or more of the bond proceeds are used to acquire land, then the economic life of the assets acquired by the bonds will be determined by assuming that the land has a life of 50 years.

b. Other amendments affecting industrial development bonds

Present law

General rule

Interest on State and local government obligations generally is exempt from Federal income tax; however, industrial development bonds (IDBs) are taxable except when issued for certain specified purposes.

Interest on IDBs is tax-exempt if the bonds are issued to finance the following activities: (1) projects for low-income residential rental property;[1] (2) sports facilities; (3) convention or trade show facilities; (4) airports, docks, wharves, mass commuting facilities, and parking facilities; (5) sewage and solid waste disposal facilities, and facilities for the local furnishing of electricity or gas;[2] (6) air or water pollution control facilities;[3] (7) certain facilities for the furnishing of water; (8) qualified hydroelectric generating facilities; and (9) qualified mass commuting vehicles. In addition, the interest on certain IDBs issued for the purpose of acquiring or developing land as a site for an industrial park is exempt from taxation.

Small-issue exception for IDBs

Present law also permits tax exemption for certain "small issue" IDBs if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property. Unlike the bonds for exempt activities, discussed above, there are no restrictions on the business activities in which land and depreciable property financed with "small issue" IDBs can be used.

This exception applies to issues of $1 million or less without regard to the total capital expenditures for the facility (i.e., the $1 million "clean limit" exception).[4] At the election of the issuer, the limitation may be increased to $10 million, where certain capital expenditures are taken into account. In the case of facilities with respect to which an urban development action grant ("UDAG grant") under the Housing and Community Development Act of 1974 has been made, capital expenditures of up to $20 million are allowed.

Both the $1 million and $10 million limitations are determined by aggregating the face amount of all outstanding small issues for all facilities used by the same or related principal users which are located within the same county or same incorporated municipality. In addition, the $10 million limitation is reduced to the extent that the principal users of the facilities incur certain capital expenditures in the same county or same incorporated municipality during the six-year period beginning 3 years before, and ending 3 years after, the issuance of the bonds.[5]

Other rules on IDBs

In Rev. Rul. 81-216,[6] the Internal Revenue Service held that lots of bonds are a single issue if the bonds are sold (1) at substantially the same time, (2) pursuant to a common plan of marketing, (3) at substantially the same interest rate, and (4) with a common or pooled security. On October 8, 1981, the IRS proposed regulations that provided essentially the same rules as Rev. Rul. 81-216 and proposed to revoke that revenue ruling.[7]

Under present law, advance refundings of industrial development bonds (IDBs) generally are prohibited. However, advance refunding is permitted for IDBs for certain convention and trade show facilities, airports, docks, wharves, and mass commuting facilities (Code sec. 103(b)(7)).

House bill

No provision.

Senate amendment

Exclusion of research and development expenditures from capital expenditure limitation

The Senate amendment excludes research wages and supplies (of a type for which a credit may be available under section 44F) from the capital expenditures that are to be taken into account under the $10 million limitation for small issue bonds. This provision is effective for research expenditures made after the date of enactment.

Local furnishing of gas

The Senate amendment provides that local furnishing of gas from a facility includes the furnishing solely within an area comprised of a city and one contiguous county. Thus, under the amendment, tax-exempt financing is made available in the case of a facility for the furnishing of gas (which otherwise meets the requirements of sec. 103) provided that the service area of the facility comprises no more than two contiguous counties or a city and one contiguous county. This provision is effective for bonds issued after the date of enactment.

Local district heating and cooling facilities

The Senate amendment exempts from tax interest on IDBs issued after the date of enactment to finance local district heating or cooling facilities. A local district heating or cooling facility includes equipment and other property used as an integral part of a local heating or cooling system, but does not include facilities which produce the hot water, chilled water, or steam, or facilities that are owned for tax purposes by the consumer. A heating or cooling system is considered local if it has a service area comprised of no more than two contiguous counties or a city and one contiguous county.

Multiple lot IDBs

The Senate amendment provides that, for bonds issued after the date of enactment, separate lots of obligations will be treated as part of the same issue only if the proceeds of the obligations are to be used to finance facilities which are located in more than one State or have the same person or related persons as its principal user or principal users. For this purpose, a principal user includes a person (other than a governmental unit) that guarantees directly or indirectly the repayment of the obligations or that aids in arranging issuance of the obligations, and that person provides property[8] or a franchise or trademark to be used in connection with the facilities financed with the obligations.

Regional pollution control authorities

The Senate amendment permits tax-exempt IDBs to be issued for use by a regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate under certain conditions. This provision applies to expenditures made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with three modifications.

Advance refunding of certain IDBs of the Port Authority of St. Paul

The conference agreement provides that certain IDBs of the Port Authority of St. Paul, Minnesota may be advance refunded as long as the refunded obligations are retired within six months after any call premium on the refunded bonds lapses.

Multiple lot IDBs

The conferees wish to clarify that lots of obligations which are not treated as a single issue pursuant to the transitional rules adopted by the Internal Revenue Service for the rule provided in Rev. Rul. 81-216 are not considered as a single issue and thus are not subject to the rules of the conference agreement on multiple lot IDBs.

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[1] IDBs used to finance low-income residential rental property are tax-exempt only if the obligations are issued in registered form and if 20 percent or more (15 percent or more in the case of targeted area projects) of the units in each project are occupied by individuals of low or moderate income. The term low or moderate income is defined by reference to the meaning of that term under section 8 of the United States Housing Act of 1937. The 20 percent requirement (15 percent in targeted areas) must be met for 20 years with respect to any obligations issued before January 1, 1984.

[2] Under present law, a facility for the local furnishing of electricity is defined as a facility whose service area does not exceed two counties or a city and one contiguous county. A facility for the local furnishing of gas is defined as a facility whose service area does not exceed two counties. Present law does not permit issuance of IDBs to finance facilities for local district heating or cooling.

[3] Present law generally prohibits the issuance of IDBs to acquire existing facilities if a substantial user of the facilities prior to the acquisition will be a substantial user after the acquisition.

[4] Before promulgation of Rev. Rul. 81-216, 1981-36 I.R.B. 6 (September 8, 1981), discussed below, small issue IDBs could be marketed as a separate IDB issue in combination with exempt activity IDBs for a single business project.

[5] Certain research and development expenditures are treated as capital expenditures for purposes of the $10 million limitation whether or not the taxpayer elects to deduct currently such expenditures under Code section 174.

[6] 1981-36 I.R.B. 6 (September 8, 1981).

[7] 46 Fed. Reg. 50014 (October 8, 1981).

[8] For this purpose, property does not include a letter of credit.

IDBs for multi-family residential rental projects

The conference agreement makes two changes in the rules for IDBs used to finance residential rental property for low and moderate income families. First, the conference agreement provides a separate definition of individuals of low and moderate income by adopting the definition of that term under the section 8 program except that the applicable percentage will be 80 percent of the area median income (regardless of the percentage used under the section 8 program).

Second, the duration of the requirement that 20 percent of the housing units in a project be occupied by individuals of low or moderate income (15 percent in targeted areas) is also changed. Under the conference agreement, that rule applies from the date the project is first occupied and continues until the later of (1) 10 years after over one-half of the project is first occupied, (2) a date ending when 50 percent of the maturity of the bonds having the longest maturity has expired, or (3) the date on which any section 8 (or comparable) assistance terminates. As under present law, all of the units of the project financed with tax-exempt IDBs must remain as rental units for the length of the targeting requirement.

The changes to the requirements for IDBs for low and moderate income residential rental property apply to obligations issued after the date of enactment other than obligations which are exempt from the restrictions of the Mortgage Subsidy Bond Tax Act of 1980.

c. Amendments to Mortgage Subsidy Bond Tax Act

Present law

The Mortgage Subsidy Bond Tax Act of 1980 established rules directing the subsidy from the use of tax-exempt bonds for housing. Under the Act, all of the mortgages financed from tax-exempt bond proceeds must be provided to mortgagors, each of whom did not have a present ownership interest in a principal residence at any time during the three prior years (i.e., the first-time home purchaser limitation). All of the mortgages (or other financing) provided from the bond proceeds, except qualified home improvement loans, must be used to purchase residences whose purchase price does not exceed 90 percent (110 percent in targeted areas) of the average area purchase price.

In order to be a qualified mortgage issue, the issue must meet certain requirements regarding arbitrage as to both mortgage loans and nonmortgage investments. First, the effective rate of interest on mortgages provided under the issue cannot exceed the yield on the issue by more than one (1.0) percentage point. Second, the reserve for future debt service established in connection with thebonds must be reduced as future annual debt service is reduced. The maximum amount that can be invested as unrestricted yield in nonmortgage investments is 150 percent of the debt service on the issue for the bond year, and arbitrage earned by the issuer on nonmortgage investments must be paid or credited to the mortgagors or paid to the Federal Government.

There are no provisions that relate specifically to the treatment of cooperative housing corporations under these rules.

House bill

No provision

Senate amendment

The Senate amendment changes four of the requirements for qualified mortgage bonds:

First-time home purchaser limitation.—The Senate amendment provides that 80 percent of the lendable proceeds of a mortgage subsidy bond must be made available to first-time home purchasers.

Purchase price limitations.—The Senate amendment increases the purchase price limitation to 110 percent (120 percent in a targeted area) of the average area purchase price.

Arbitrage limitations.—The 1.0-percentage points limit is replaced by a limit which varies with the size of the issue, beginning at 1⅛ percentage points for smaller issues and decreasing to 1 1/16 percentage points for issues of $100 million or larger.

Reserve liquidations.—The rule requiring reserve liquidations does not apply to the extent it requires disposition of any nonmortgage investment resulting in a loss in excess of the amount of undistributed arbitrage profits on such investments.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications:

First-time home purchaser limitation

The first-time home purchaser rules will require that 90 percent of the lendable proceeds of a mortgage subsidy bond go to first-time home purchasers.

Arbitrage

The effective rate of interest on mortgages financed with tax-exempt bonds may not exceed the yield on the issue by more than 1⅛ (1.125) percentage points. The conference agreement clarifies that, in determining the effect of prepayments of mortgage principal on the computation of the effective rate of mortgage interest, prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

Cooperative housing

In the case of any cooperative housing corporation (as defined in Code sec. 216), each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy that unit by reason of his or her ownership in the cooperative housing corporation. In addition, any indebtedness of the corporation that is allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder who is entitled to occupy the dwelling unit.

The conference agreement provides that any issue that provides financing to a cooperative housing corporation that is not located in a targeted area may be combined with one or more other issues which in sum satisfy the present law requirement that at least 20 percent of the proceeds of the issues will be devoted to owner-financing of residences in targeted areas for a period of at least one year.

The conferees also intend that, in applying the rules of section 103A to cooperative housing corporations, the acquisition cost for a cooperative unit is to be defined to include a proportionate share of the underlying blanket mortgage plus the purchase price of the shares.

In addition, loans to cooperative housing corporations for rehabilitation may qualify for tax-exempt financing under section 103A(1)(7) to the same extent as if each shareholder receives a proportionate share of the loan. In the case of tax-exempt financing used for the construction of a residential building owned by a cooperative housing corporation, unlimited arbitrage otherwise allowed during a 3-year temporary period would be permitted for only one year.

Finally, the conferees intend to clarify that tax-exempt financing may be allowable under section 103(b)(4)(A) where a cooperative leases property from another person and the shareholders of the cooperative meet the targeting provisions of that section.

9. Mergers and Acquisitions

a. Partial liquidations

Present law

A distribution in redemption of a corporation's stock pursuant to a plan is a partial liquidation if it is one of a series of distributions in redemption of all the stock or it is not essentially equivalent to a dividend and occurs within the taxable year in which the plan is adopted or the succeeding year (sec. 346(a)).

In determining that a distribution is not essentially equivalent to a dividend in applying the tests for a partial liquidation, generally a contraction of the corporation's business is required. A distribution may constitute a partial liquidation even though it is made pro rata among the corporation's shareholders.

If the distribution consists of the assets of, or is attributable to the corporation's ceasing to conduct, a trade or business conducted for 5 years or more before the distribution and was not, within the 5-year period, acquired by the corporation in a taxable transaction and the corporation, after the distribution, continues to conduct another trade or business with a similar history, the distribution is treated as a partial liquidation (sec. 346(b)).

No gain or loss to the distributing corporation is recognized on a distribution in a partial liquidation (sec. 336(a)). Exceptions are provided for disposition of installment obligations and distributions of LIFO inventory. In addition, the various recapture rules of present law override sec. 336. If, however, the corporation, rather than distributing assets, sells the assets and distributes the proceeds to its shareholders in a partial liquidation, gain or loss is recognized to the corporation on the sale.

Shareholders receiving a distribution in partial liquidation are treated as receiving the amount distributed in exchange for their stock and, if the stock redeemed in the transaction is a capital asset to the shareholder, capital gain or loss results from the transaction. The basis of any assets received in a partial liquidation is their fair market value at the time of the distribution.

House bill

No provision.

Senate amendment

The Senate amendment modifies the treatment of partial liquidations. Only noncorporate shareholders are treated as receiving the amount distributed in exchange for their stock. Distributions to corporate shareholders are governed by the provisions of present law other than those relating to partial liquidations.

Under the Senate amendment, gain to the distributing corporation is recognized, with an exception, when appreciated property is distributed in partial liquidation to noncorporate shareholders. The exception applies to distributions made with respect to quali-

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fied stock. Qualified stock is stock that has been held by certain noncorporate shareholders for the 5-year period ending on the date of distribution or (if less) for the period the corporation has been in existence. The shareholder must have held at least 10 percent in value of the distributing corporation's stock throughout such period. The constructive ownership rules of section 318 apply in determining ownership. In applying the attribution rules of section 318(a)(1), the group of persons among whom ownership is attributed is expanded to include individuals described in section 267(c)(4) and the spouses of such individuals.

Under this rule, it is not required that the stock redeemed be held by the shareholder for five-years. It is sufficient that the shareholder hold (or be treated as holding) 10 percent of the stock throughout the five year period.

The Senate amendment authorizes the Secretary of the Treasury to prescribe regulations, where necessary, to ensure that revision of the treatment of partial liquidations will not be circumvented through the use of other provisions of present law or regulations, including the consolidated return regulations. The Senate amendments apply generally to distributions after August 31, 1982. However, present law continues to apply to distributions with respect to which, on July 22, 1982, there was a ruling request pending with the Internal Revenue Service as to whether such distributions qualify as a partial liquidation (or a ruling was granted within one year prior to July 12, 1982 that the distributions qualified as a partial liquidation) and the distributions are pursuant to a plan of partial liquidation adopted by the Board of Directors before September 1, 1982 (or, if later, within 90 days after the ruling was granted). Present law applies as well to distributions pursuant to a plan of partial liquidation adopted before July 1, 1982; distributions pursuant to a plan of partial liquidation adopted before October 1, 1982, where control (as defined in sec. 368(c)) is acquired between December 31, 1980, and July 1, 1982, and conduct of the business is conditioned on approval by a State regulatory agency; distributions pursuant to a plan of partial liquidation adopted within 90 days after the acquisition is approved by a Federal regulatory agency where control is acquired after July 1, 1982, pursuant to a binding contract outstanding on December 31, 1980; and distributions pursuant to a plan of liquidation adopted by October 1, 1982, where control was acquired between December 31, 1981, and July 1, 1982.

Conference agreement

General rules

The conference agreement follows the Senate amendments with technical modifications. The conference agreement adds a new section 302(b)(4) under which distributions in redemption of a noncorporate shareholder's stock are treated as payments in exchange for the stock under section 302(a) if such distributions are in partial liquidation of the distributing corporation. For this purpose, a partial liquidation is defined in new section 302(e) which continues the definition of a partial liquidation in present law section 346(a)(2) and section 346(b) which are repealed by the bill. As under present law section 346(a)(2), the determination that a distribution is not essentially equivalent to a dividend for purposes of satisfying the partial liquidation definition is to be made with reference to the effect of the transaction on the distributing corporation and not with reference to its effect at the shareholder level. This is made an explicit statutory test under the conference agreement.

Under present law, a distribution in partial liquidation may take place without an actual surrender of stock by the shareholders (*Fowler Hosiery Co.* v. *Commissioner),* 301 F.2d 394 (7th Cir. 1962). A constructive redemption of stock is deemed to occur in such transactions (Rev. Rul. 81-3, 1981-1 C.B. 125). The conferees intend that the treatment of partial liquidations under present law section 346(a)(2) and (b) is to continue for such transactions under new section 302(e). Recognition of gain to the distributing corporation under section 311(d) as amended by the bill will not require an actual surrender of stock by the shareholders, if the distribution qualifies as a partial liquidation under new section 302(e) without an actual surrender of stock.

Whether or not a redemption is treated as a distribution in partial liquidation is determined without regard to whether or not the redemption is pro rata with respect to all the shareholders of the corporation. A distribution in partial liquidation, pursuant to section 302(b)(4), will be treated as a distribution in exchange for stock under section 302(a) without regard to whether the redemption satisfies the requirements of paragraphs (1), (2), or (3) of section 302(b). A distribution in partial liquidation that also terminates a shareholder's interest in the corporation will be treated as a distribution in exchange for stock under section 302(a) without regard to section 302(c)(2).

The conference agreement modifies the definition of qualified stock by providing that the period a distributing corporation has been in existence includes the period of existence of a predecessor corporation and the 10-percent stock ownership requirement must be satisfied with respect to the period of existence of both the distributing and predecessor corporations.

For purposes of determining whether stock is held by a shareholder who is not a corporation in applying new section 302(b)(4), stock held by a partnership, estate, or trust will be treated as if it were actually held proportionately by its partners or beneficiaries.

As under present law, distributions in partial liquidation that are treated under section 302(a) as distributions in exchange for stock pursuant to new section 302(b)(4) will be subject to the collapsible corporation rules of section 341.

Distributions in partial liquidation after August 31, 1982, are subject to the new rules for such distributions provided by the conference amendment.

Effective dates

Distributions in partial liquidation after August 31, 1982, except as otherwise provided, are subject to the new rules for such distributions provided by the conference agreement. The conference agreement makes several modifications to the exceptions provided in the Senate amendment.

The exception for rulings granted by the Internal Revenue Service as to partial liquidation treatment is modified to include rulings granted within the period beginning on July 12, 1981, and ending on July 22, 1982, and the date before which the plan of partial liquidation must be adopted, for both ruling requests pending on July 22, 1982, or rulings granted, is October 1, 1982 (or 90 days after the ruling was granted, if later). A request will be treated as pending on July 23, 1982, and thereafter notwithstanding that, pursuant to negotiations with the Internal Revenue Service, a revision or modification of the request is filed or additional information is submitted.

The exception for plans of partial liquidation adopted before July 1, 1982, is extended to include plans adopted before July 23, 1982.

The exception for acquisitions of control during 1982 and before July 1, 1982, is expanded to include acquisitions of control before July 23, 1982. Control is acquired after July 22, 1982, for purposes of this rule even if an amount of stock constituting less than control was held on such date. In addition, an exception applies if, during March and April 1982, one-third or more of the shares of a corporation were acquired and the intention to acquire control is evidenced by documents filed with the Federal Trade Commission and if control is thereafter acquired. For either exception to apply, a plan of partial liquidation must be adopted by October 1, 1982.

Under the conference agreement, an exception is provided for acquisitions of control after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date. The plan of partial liquidation must be adopted before the later of October 1, 1982, or, if the acquisition is subject to approval by a Federal regulatory agency, the date which is 90 days after the date on which such approval becomes final in accordance with law. A public announcement of an intention to acquire control pursuant to a tender offer will be treated as a tender offer for purposes of this exception if the proposal is subject to intervention by a foreign regulatory body before which the proposal is pending on July 22, 1982, and the plan of partial liquidation is adopted within 90 days after the date on which the foreign regulatory body approves of the offer.

The exception applicable under the Senate amendment where control was acquired after December 31, 1980, is limited to acquisitions of insurance companies where the conduct of the insurance business by the distributee corporation is conditioned on approval by one or more State regulatory authorities. This exception applies if control was acquired either by the distributee corporation or its parent. The period within which control must be acquired is extended to cover acquisitions before July 23, 1982, and, as under the Senate amendment, a plan of partial liquidation must be adopted before October 1, 1982.

For purposes of these exceptions, a plan of partial liquidation is treated as adopted on the date on which it is approved by the corporation's Board of Directors. Such date is also to be treated as the date of adoption of a plan for purposes of determining the period within which distributions under the plan must be made in applying section 346(a)(2) (as in effect before its repeal by the amendments made by the bill).

A contract will be treated as a binding contract for purposes of applying the exceptions if it is binding on the acquiring corporation and even though it is subject to approval by a vote of the shareholders, the obtaining of financing to consummate the acquisition and other similar conditions.

Property acquired in distributions to which these exceptions apply will be treated as property acquired before September 1, 1982, in applying the rules of new section 338 requiring consistency of treatment for acquisitions of stock and assets in certain cases.

b. Certain distributions of appreciated property

Present law

When a corporation in a nonliquidating distribution distributes property, the value of which exceeds its basis, in redemption of a portion of the corporation's stock, gain is recognized as though the property were sold (sec. 311(d)(1)). Present law excepts several types of transactions from this requirement.

Exceptions are provided for (1) distributions that terminate the interest of a shareholder who has held at least 10 percent of the corporation's stock for a 12-month period; (2) distributions that consist of stock or obligations in a subsidiary conducting a trade or business that was at least 50 percent owned by the distributing corporation at any time within the preceding 9 years; (3) distributions that consist of stock or securities distributed pursuant to certain antitrust decrees; (4) distributions to which section 303(a) (relating to distributions in redemptions of stock to pay death taxes) applies; (5) certain distributions to private foundations; (6) certain distributions by regulated investment companies; and (7) certain distributions pursuant to the Bank Holding Company Act.

Notwithstanding these exceptions, present law may permit a transaction that is in form a stock redemption to be treated as a direct sale of assets where the stock ownership is transitory (see Rev. Rul. 80-221, 1980-2 C.B. p. 107).

House bill

No provision.

Senate amendment

The Senate amendment repeals the exceptions in section 311(d)(2) for distributions terminating the interest of a shareholder who has held 10 percent or more of the corporation's stock for one year, for distributions pursuant to antitrust decrees, for distributions pursuant to the Bank Holding Company Act, and modifies the exception for distributions of stock or obligations of a subsidiary.

The bill is not intended to affect the treatment under present law of distributions that are in substance the purchase of assets.

The Senate amendment revises subparagraphs (A), (B), and (C) of section 311(d)(2) to conform the treatment of the distributing corporation to the new rules applicable to partial liquidations and to provide for nonrecognition of gain when stock or obligations of a subsidiary are distributed in redemption of stock in certain transactions analogous to a partial liquidation.

New section 311(d)(2)(A) provides that gain will not be recognized to a corporation distributing property to a corporate shareholder unless section 302(a) applies to the distribution. Distributions in partial liquidation to a corporate shareholder under the Senate amendment generally will be treated similarly to distributions which are not in redemption of stock unless they are non-pro rata distributions to which section 302(b)(1), (2), or (3) applies. Such distributions generally will be treated as dividends or other distributions to which section 301 applies. Gain is not recognized to a distributing corporation on section 301 distributions that are not in redemption of stock and the revised section 311(d)(2)(A) conforms the treatment of the distributing corporation to the treatment of a corporate shareholder on partial liquidation distributions whether or not there is an actual surrender of stock in the transaction.

New section 311(d)(2)(B), relating to distributions of stock or obligations of a corporation, continues the provisions of present law section 311(d)(2)(B) with an amendment requiring at least 50 percent in value of the outstanding stock of the corporation to be distributed with respect to qualified stock (in lieu of the present law requirement that the distributing corporation must have owned at least 50 percent of the corporation's stock within the 9-year period prior to the year of distribution). The Senate amendment further limits the exception to distributions with respect to qualified stock and adds an additional limitation pursuant to which the exception applies only if the distribution would qualify as a partial liquidation under new section 302(e) if the assets, rather than stock or obligations of the corporation, were distributed in the transaction. For purposes of the latter test, such assets will be treated as having been held directly by the distributing corporation throughout the period during which the distributing corporation held at least 50 percent in value of the stock of the corporation whose stock is distributed in the transaction.

New section 311(d)(2)(C) provides the exception pursuant to which gain is not recognized to the distributing corporation on partial liquidation distributions under new section 302(e) that are made with respect to qualified stock.

The amendments relating to distributions of appreciated property in redemption of stock apply to distributions made after August 31, 1982. Of course, the present law provisions of section 336 providing for nonrecognition of gain or loss to the distributing corporation on distributions in partial liquidation will apply to distributions after August 31, 1982, to which, under the effective date provisions in section 226(f) of the bill, the present law partial liquidation provisions apply.

Conference agreement

General rules

The conference agreement generally follows the Senate amendment, with certain technical modifications.

New section 311(d)(2)(A) is redrafted to provide for nonrecognition of gain to the distributing corporation in any case where the basis of property distributed to a corporate shareholder is determined under section 301(d)(2). This rule provides substantially the same nonrecognition rule for property distributions as would the Senate amendment.

Section 311(d)(2)(B) is conformed by the conference agreement to provide for nonrecognition of gain to the distributing corporation on distributions in partial liquidation to which new section 302(b)(4) applies which are made with respect to qualified stock.

Section 311(d)(2)(C) as revised by the conference agreement provides the exception to gain recognition for distributions of stock or obligations of a corporation (hereinafter called the controlled corporation).

For the exception with respect to distributions of stock or obligations of a controlled corporation to apply, as under the Senate amendment, the distribution must be made with respect to qualified stock and more than 50 percent in value of the controlled corporation's stock must be distributed with respect to qualified stock. The conference agreement further requires that substantially all the assets of the controlled corporation consist of the assets of one or more qualified businesses and that no substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation in a transaction to which section 351 applied or as a contribution to capital within the 5 years ending on the date of distribution.

A qualified business is one that was actively conducted throughout the 5-year period ending on the date of distribution and was not acquired within such period by any person in a transaction in which gain or loss was recognized in whole or in part. Section 355, relating to distributions of stock or securities of a controlled corporation, contains a similar active business requirement.

Nonbusiness assets are defined to include any asset not used in the active conduct of a trade or business. For this purpose, cash and other items that provide working capital needs of an active business will be treated as assets used in the active conduct of the business.

Effective dates

Under the Senate amendment, the repeal of present law section 311(d)(2) exceptions is effective for distributions made after August 31, 1982. The conference agreement retains this general effective date but retains the exceptions in sections 311(d)(2)(A) and 311(d)(2)(C) of present law for certain distributions made on or after September 1, 1982. Under the conference agreement, section 311(d)(2)(A) of present law will continue to be applicable to distributions made within 90 days after a ruling is granted under a request pending before the Internal Revenue Service on July 22, 1982, with respect to the application of section 311(d)(2)(A) to a proposed distribution. Also, present law section 31(d)(2)(A) continues to apply to distributions, otherwise qualifying for such treatment, which are made on or before August 31, 1983, with respect to stock acquired after 1980 and before May 1982.

Finally, the redemption of preferred and common stock by a forest products company pursuant to a binding contract in effect on August 31, 1982, and at all times thereafter, where all distributions must be pursuant to one of the two options set forth in the contract will continue to be subject to present section 311(d)(2)(A) to the extent timberland is distributed to the shareholder (with a value of not more than $10 million on August 31, 1982).

The conference agreement makes section 311(d)(2)(C) of present law applicable to distributions before January 1, 1986, of stock or securities pursuant to a judgment entered before July 23, 1982.

c. Stock purchases treated as asset purchases

Present law

Upon the complete liquidation of a subsidiary corporation, 80 percent of the voting power and 80 percent of the total number of shares of all other classes of stock (other than nonvoting preferred stock) of which is owned by the parent corporation, generally gain or loss is not recognized and the basis of the subsidiary's assets and the other tax attributes are carried over (secs. 332, 334(b)(1), and 381(a)).

If the controlling stock interest was acquired by purchase within a 12-month period and the subsidiary is liquidated pursuant to a plan of liquidation adopted within 2 years after the qualifying stock purchase is completed, the transaction is treated as in substance a purchase of the subsidiary's assets (sec. 334(b)(2)). The acquiring corporation's basis in the "purchased" assets is the cost of the stock purchased as adjusted for items such as liabilities assumed, certain cash or dividend distributions to the acquiring corporation, and postacquisition earnings and profits of the subsidiary. The liquidating distributions can be made over a 3-year period beginning with the close of the taxable year during which the first of a series of distributions occurs (sec. 332(b)(3)). Thus, this treatment applies even though the liquidation can extend over a 5-year period after control has been acquired.

In these cases, when the assets are treated as purchased by the acquiring corporation, recapture income is taxed to the liquidating corporation, the investment tax credit recapture provisions are applicable, and tax attributes, including carryovers, of the liquidated corporation are terminated.

Cases interpreting the law applicable before the rules in section 334(b)(2) were adopted treated the purchase of stock and prompt liquidation in some cases as a purchase of assets (*Kimbell-Diamond Milling Co.* v. *Commissioner* 14 T.C. 74, aff'd per curiam, 187 F.2d 718 (5th Cir.), cert. denied, 342 US 827 (1951)). It is not clear whether such treatment may still apply in some cases where the requirements of section 334(b)(2) are not met.

A stock purchase and liquidation is treated as a purchase of all the assets of the acquired corporation under present law if section 334(b)(2) applies. Revision of the special treatment of partial liquidations under the bill restricts the options of a corporate purchaser seeking to treat a purchase of a corporation as a purchase of assets in part combined with a continuation of the tax attributes of the acquired entity. Present law does not restrict a corporate purchaser from achieving such selectivity by purchasing assets directly from a corporation while concurrently purchasing the corporation's stock. Selectivity can also be achieved if an acquired corporation, prior to the acquisition, disperses its assets in tax-free transactions among several corporations which can be separately purchased. The corporate purchaser then through selective qualifying liquidations can obtain asset purchase treatment for one or more acquired corporations while preserving the tax attributes of one or more other corporations.

House bill

No provision.

Senate amendment

In general

The Senate amendment repeals the provision of present law (sec. 334(b)(2)) that treats a purchase and liquidation of a subsidiary as an asset purchase. The bill is also intended to replace any nonstatutory treatment of a stock purchase as an asset purchase under the *Kimbell-Diamond* doctrine. Instead, an acquiring corporation, within 75 days after a qualified stock purchase, except as regulations may provide for a later election, may elect to treat an acquired subsidiary (target corporation) as if it sold all its assets in a complete liquidation on the stock acquisition date. The target corporation will be treated as a new corporation that purchased the assets on such date. Gain or loss will not be recognized to the same extent gain or loss is not recognized under present law (sec. 337) when a corporation sells all its assets in the course of a complete liquidation. This provision is intended to provide nonrecognition of gain or loss to the same extent that gain or loss would not be recognized under section 336 if there were an actual liquidation of the target corporation on the acquisition date to which present law section 334(b)(2) applied.[1]

A qualified stock purchase occurs if 80 percent or more of the voting power and 80 percent of the total number of shares of other classes of stock (except nonvoting, preferred stock) is acquired by purchase during a 12-month period (the acquisition period). The acquisition date is the date within such acquisition period on which the 80-percent purchase requirement (the qualified stock purchase) is satisfied.

The election is to be made in the manner prescribed by regulations and, once made, will be irrevocable.

Treatment of target corporation as new corporation

The assets of the target corporation will be treated as sold (and purchased) for an amount equal to the basis of the acquiring corporation in the stock of the target corporation on the acquisition date or, if the basis is greater on such date, on the last day of the 12-month acquisition period. The amount is to be adjusted under regulations for liabilities of the target corporation and other relevant items. It is anticipated that recapture tax liability of the target corporation attributable to the deemed sale of its assets is an item which may result in an adjustment under the regulations.

The target corporation is treated as a 'new' corporation after the acquisition date for all purposes relating to its tax liability either as the selling or purchasing corporation. Its taxable year as the selling corporation ends on the date of acquisition and it does not become a member of the affiliated group including the acquiring corporation until the day following the date of acquisition. However, it is not intended that any minority shareholders in the target corporation shall be treated as having exchanged stock in the selling corporation for stock in the purchasing corporation. Further, additional purchases of the target corporation's stock by the acquiring corporation after the acquisition date are to be treated as purchases of the stock of the selling corporation if made on or before the close of the acquisition period.

Treatment of recapture items

Under the elective treatment provided by the bill, any recapture income of the target corporation attributable to the deemed sale of its assets is not to be included in any consolidated return of the acquiring corporation. The target corporation will not become a member of the acquiring corporation's affiliated group until the day following the date of acquisition. Recapture items of the target corporation will normally be associated with the final return of the target corporation (as the selling corporation) ending on the date of acquisition.

In some cases, recapture items may be includible in income for a period during which the target corporation is included in a consolidated return of the acquiring corporation. Where, for example, there is an adjustment to the purchase price for its stock based on post-acquisition date earnings of the target corporation, there may be additional amounts of recapture income. Such additional income is to be separately accounted for and may not be absorbed by losses or deductions of other members of the acquiring corporation's affiliated group.

Definition of purchase

The term "purchase" is defined as it is under present law (sec. 334(b)(3)) to exclude acquisitions of stock with a carryover basis or from a decedent, acquisitions in an exchange to which section 351 applies, and acquisitions from a person whose ownership is attributed to the acquiring person under section 318(a). Attribution under section 318(a)(4) relating to options will be disregarded for this purpose. However, if, as a result of a stock purchase, the purchasing corporation is treated under section 318(a) as owning stock in a third corporation, the purchasing corporation will be treated as having purchased stock in such third corporation but not until the first day on which ownership of such stock is considered as owned by the purchasing corporation under section 318(a).

A purchase of over 80 percent but less than 100 percent of the stock of a target corporation which in turn owns 80 percent of the stock of a third corporation is not a qualified stock purchase with respect to the third corporation because the purchasing corporation has not acquired by purchase the requisite 80 percent of the third corporation's stock. This is so, even though the purchasing corporation, the target corporation, and the third corporation constitute an affiliated group as defined in section 1504(a).

Consistency requirement

The rules require consistency where the purchasing corporation makes qualified stock purchases of two or more corporations that are members of the same affiliated group. For this purpose, purchases by a member of the purchasing corporation's affiliated group, except as regulations provide otherwise, are treated as purchases by the purchasing corporation.[2] The consistency requirement applies as well to a combination of a direct asset acquisition and qualified stock purchase.

The consistency requirement applies with respect to purchases over a defined "consistency period" determined by reference to the acquisition date applicable to the target corporation. The "consistency period" is the one-year period preceding the target corporation acquisition period plus the portion of the acquisition period up to and including the acquisition date, and the one-year period following the acquisition date. Thus, if all the target corporation's stock is purchased on the same day by the purchasing corporation, the one-year period immediately preceding and the one-year period immediately following such day are included in the consistency period. If, within such period, there is a direct purchase of assets from the target corporation or a target affiliate by the purchasing corporation, the rules require that the acquisition of the target corporation be treated as an asset purchase.

The consistency period may be expanded in appropriate cases by the Secretary where there is in effect a plan to make several qualified stock purchases or any such pur-

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[1] To the extent that Internal Revenue Service rulings providing that gain or income is not recognised by a liquidating insurance company with respect to its insurance reserves in a section 334(b)(2) liquidation constitute a proper interpretation of present law, gain or income is not recognized to the same extent upon an election to which new section 338 applies if the target corporation is an insurance company (see letter rulings 8112052 and 8150040).

[2] This rule will prevent transfers of target corporation stock within the purchasing corporation's affiliated group from disqualifying a section 338 election (*Chrome Plate, Inc.* v. *U.S.*, 614 F.2d 990 (5th Cir. 1980).

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chase and asset acquisition with respect to a target corporation and its target affiliates.

The consistency requirement is applied to an affiliated group with reference to a target corporation and any "target affiliate." A corporation is defined as a "target affiliate" of the target corporation if each was, at any time during that portion of the consistency period ending on the acquisition date of the target corporation, a member of an affiliated group that had the same common parent. An affiliated group has the same meaning given to such term by section 1504(a) (without regard to the exceptions in sec. 1504(b)). This definition also applies in determining whether a purchase is made by a member of the same affiliated group as the purchasing corporation.

An acquisition of assets from a target affiliate during the consistency period applicable to the target corporation will require the qualified stock purchase of the target corporation to be treated as a purchase of assets. In applying these rules, stock in a target affiliate is not to be treated as an asset of any other target affiliate or of the target corporation.

In applying these rules, acquisitions of assets pursuant to sales by the target corporation or a target affiliate in the ordinary course of its trade or business and acquisitions in which the basis of assets is carried over will not cause the consistency requirement to apply. The sale by a target corporation will be considered as a sale in the ordinary course of business for this purpose even though it is not customary in the course of the selling corporation's business provided it is a transaction that is a normal incident to the conduct of a trade or business, such as a sale of used machinery that was employed in the seller's trade or business.

Where there are, within a consistency period, only qualified stock purchases of the target corporation and one or more target affiliates by the purchasing corporation, an election with respect to the first purchase will apply to the later purchases. A failure to make the election for the first purchase will preclude any election for later purchases.

To prevent avoidance of the consistency requirements, the bill authorizes the Secretary to treat stock acquisitions pursuant to a plan and satisfying the 80-percent requirement to be treated as qualified stock purchases even though they are not otherwise so defined. For example, an acquiring corporation may acquire 79 percent of the stock of a target corporation and, within a year, purchase assets from such corporation or a target affiliate planning to purchase the remaining target corporation stock more than one year after the original stock purchase. The Secretary may under these circumstances treat the purchase of the target corporation's stock as a deemed sale of its assets by the target corporation. The bill also authorizes such regulations as may be necessary to ensure that the requirements of consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates are not circumvented through the use of other provisions of the law or regulations, including the consolidated return regulations.

The Senate amendment applies to qualified stock purchases of a target corporation where the acquisition date occurs after August 31, 1982. However, in any case where the acquisition date occurs after December 31, 1981, and before September 1, 1982, the purchasing corporation may elect on or before November 15, 1982, to have section 338 apply.

Conference agreement

The conference agreement follows the Senate amendment with technical modifications. The conference agreement expressly provides that the target corporation will be treated as having sold all its assets at the close of the acquisition date in a single transaction to which section 337 applies and, as the 'new' corporation, will be treated as having purchased all the assets at the beginning of the day following the acquisition date. This amendment provides an explicit statutory rule clarifying the intent of the Senate amendment that the deemed sale is reported on the return of the 'old' corporation and that it is only the 'new' corporation that becomes a member of the purchasing corporation's affiliated group.

The conference agreement modifies the provisions of the Senate amendment which treat the amount for which the target corporation's assets are deemed to be sold (and purchased) by reference to the acquiring corporation's basis in the stock of the target corporation. Under the conference agreement, if the acquiring corporation owns less than 100 percent by value of the target corporation's stock on the acquisition date, the deemed purchase price is grossed up to equate 100-percent ownership by the acquiring corporation and the nonrecognition of gain or loss to the target corporation is limited, unless the target corporation is liquidated within one year after the acquisition date, to the highest actual percentage by value of target corporation stock held during the one-year period beginning on the acquisition date.

The conference agreement provides that if, in connection with a qualified stock purchase with respect to which an election is made, the target corporation makes a distribution in complete redemption of all the stock of a shareholder (other than the acquiring corporation), section 336 of the Code will apply to the distribution as if it were made in a complete liquidation. This will preclude gain from being recognized to the target corporation under the provisions relating to stock redemptions by a continuing corporation.

Under the conference agreement, if the acquisition date with respect to a target corporation was after August 31, 1980, and before September 1, 1982, and the target corporation was not liquidated before September 1, 1982, the purchasing corporation may make an election under new section 338(a).

At the election of the purchasing corporation, section 338 as added by the bill will not apply to any acquisition made pursuant to a contract binding on July 23, 1982, to acquire control (within the meaning of sec. 368(c)) of any financial institution where completion of the acquisition is subject to approval by one or more regulatory authorities and a plan of complete liquidation of one or more corporations acquired pursuant to such contract is adopted within 90 days after the date of final approval of the last such regulatory authority granting final approval.

Under the conference agreement, except as provided in regulations and subject to such conditions as may be provided in regulations, the term 'target affiliate' does not include a foreign corporation or a DISC ORGA corporation to which section 934(b) or section 936 applies, and the consistency rules do not apply to stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or which is described in section 1248(e).

Under the conference agreement, the acquisition of assets before September 1, 1982, and, to the extent provided under regulations, foreign held assets will not result in a deemed section 338 election with respect to a target corporation.

The conference agreement provides regulatory authority pursuant to which the Secretary may determine that the deemed election will not apply as the result of a *de minimis* acquisition of assets and may also preclude the application of the deemed election rule if it is determined that the taxpayer has acquired assets in order to avoid the 75-day limit on the period after the acquisition date within which the election must be made.

d. Reorganizations constituting changes in form

Present law.

A reorganization includes "a mere change in identity, form, or place of organization" (an F reorganization). Generally, present law requires a transferor corporation's taxable year to be closed on the date of a reorganization transfer and precludes a post-reorganization loss from being carried back to a taxable year of the transferor. However, F reorganizations are excluded from these limitations in recognition of the intended scope of such reorganizations as embracing only formal changes in a single operating corporation.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement limits the F reorganization definition to a change in identity, form, or place of organization of a single operating corporation.

This limitation does not preclude the use of more than one entity to consummate the transaction provided only one operating company is involved. The reincorporation of an operating company in a different State, for example, is an F reorganization that requires that more than one corporation be involved.

The amendment applies to transactions occurring after August 31, 1982. Present law continues to apply to plans of reorganization adopted before August 31, 1982, provided the transaction is completed by December 31, 1982.

e. Use of holding companies to bail out earnings

Present law

Shareholders who have their stock redeemed in a corporate distribution not in partial or complete liquidation are entitled to sale or exchange treatment rather than dividend treatment generally only if the transaction results in a termination or substantial reduction in the proportionate interests of the redeeming shareholders. Where the same shareholder or a group commonly controls two or more corporations, they may attempt to avoid the dividend consequences that would result from a pro rata redemption of stock by selling the stock in one controlled corporation to another. Present law (sec. 304) deals with this effort to avoid dividend treatment by testing the tax consequences of the transaction as if the shareholders had their stock redeemed by the corporation whose stock is sold.

Shareholders have attempted to avoid the present law rules by borrowing funds secured by the stock of a corporation with earnings and profits and contributing the stock to a newly formed holding company in exchange for the holding company's stock plus its assumption of the liability for the borrowed funds. Taxpayers argue that the transaction complies with present law rules governing tax-free incorporation of property. These rules overlap with those requiring stock sales to a commonly controlled corporation to be tested as stock redemptions. The courts are divided as to which provision controls. It is also unclear whether section 304 applies where the holding company is a newly formed corporation. Even if the redemption rule applies and dividend treatment results, dividend consequences would be determined by reference to the earnings of the purchasing corporation. If it is a newly formed holding company, it would have no earnings (a pre-existing corporation without earnings could also be used).

Another device to bail out earnings is to cause a corporation to issue preferred stock as a nontaxable stock dividend to its shareholders. A sale of the preferred stock at capital gain rates would not dilute the interests of the selling shareholders in future corporate growth while they would receive an amount representing corporate earnings. Preferred stock issue under these circumstances (described as section 306 stock) is tainted under present law so that its subsequent sale or redemption results in ordinary income to the shareholder. This provision does not taint stock of a newly formed corporation issued in a tax-free transaction in exchange for stock in a corporation with earnings and profits. Thus, creation of a holding company issuing both common and preferred stock offers the same bail-out opportunity as a preferred stock dividend but does not result in tainted section 306 stock.

House bill

No provision.

Senate amendment

No provision.

The conference agreement extends the anti-bailout rules of sections 304 and 306 of present law to the use of corporations, including holding companies, formed or availed of to avoid such rules. Such rules are made applicable to a transaction that, under present law, otherwise qualifies as a tax-free incorporation under section 351.

Section 351 generally will not apply to transactions described in section 304. Thus, section 351, if otherwise applicable, will generally apply only to the extent such transaction consists of an exchange of stock for stock in the acquiring corporation. However, section 304 will not apply to debt incurred to acquire the stock of an operating company and assumed by a controlled corporation acquiring the stock since assumption of such debt is an alternative to a debt-financed direct acquisition by the acquiring company. This exception for acquisition indebtedness applies to an extension, renewal, or refinancing of such indebtedness. The provisions of section 357 (other than sec. 357(b)) and section 358 apply to such acquisition indebtedness provided they would be applicable to such transaction without regard to section 304. In applying these rules, indebtedness includes debt to which the stock is subject as well as debt assumed by the acquiring company.

Under the conference agreement, section 306 is made applicable to preferred stock acquired in a section 351 exchange if, had money in lieu of stock been received, its receipt would have been a dividend to any extent. This, if the receipt of cash by the shareholder rather than stock would have caused section 304 as amended by the bill, rather than section 351, to apply to such receipt, some or all of the amount received might have been treated as a dividend. In such a case, the preferred stock acquired in the exchange will be section 306 stock.

To the extent of any amount distributed (including any liability assumed or to which the stock is subject) in an exchange for stock to which section 304(a)(1) applies, the earnings and profits of the issuing corporation, to the extent thereof, will be deemed to be distributed to the acquiring company. This rule also applies in determining whether preferred stock acquired in a section 351 exchange is section 306 stock. For this purpose, the property is deemed distributed by the issuing to the aoquiring corporation and thereafter distributed to the exchanging shareholders. The deemed distribution is solely for the purpose of determining the extent to which the amount distributed is treated as a dividend to such shareholders and does not, for example, constitute a distribution of personal holding company income to the acquiring corporation.

In determining whether corporations are commonly controlled for purposes of section 304, all shareholders transferring stock to a holding company would be counted even though some of them do not receive property other than stock.

An exception would apply to the receipt of securities in a bank holding company by certain minority shareholders. Under this rule, the transfer of stock constituting control of a bank to a bank holding company in connection with the formation of such company (unless such company is formed before 1985) must be made within 2 years after control of such bank was acquired. Both acquisition of control of the bank and the transfer of its stock constituting control to the bank holding company must be pursuant to a plan. Further, distributions of property (as described in sec. 304(a)) incident to the formation of such bank holding company may be made only to shareholders who, in the aggregate, do not have stock constituting control of such company.

If the above conditions are satisfied, section 304(a) will not apply to securities received, incident to the formation of the bank holding company, by any shareholder who owns less than 10 percent in value of the stock of such company.

Control, for purposes of applying this exception, means control as defined in section 304(c)(1) and ownership is to be determined under the rules in section 304(c)(3). A bank holding company is a bank holding company within the meaning of the Bank Holding Company Act.

The amendments made by the conference agreement apply to transfers occurring after August 31, 1982, in taxable years ending after such date. However, if an application was filed with the Federal Reserve Board before August 16, 1982, to form a bank holding company, the amendments will not apply to transfers by a bank holding company formed pursuant to approval of such application if such transfers are made before January 1, 1983, or (if later) within 90 days after the last final required regulatory approval of such formation.

f. Application of attribution rules

Present law

To determine whether a shareholder is entitled to sale or exchange treatment on a stock redemption, stock held by related parties is attributed to the shareholder in determining whether the shareholder's interest in the corporation was terminated or significantly reduced. The attribution rules do not apply to some transactions that are economically equivalent to straight stock redemptions and that offer an equivalent opportunity to bail out earnings. For example, a shareholder may exchange all of his common stock in a corporation for preferred stock. Such an exchange results in tainted, section 306 stock only if, had cash been distributed in lieu of preferred stock, there would have been a dividend. Unless stock held by another family member or controlled entity is attributed to the shareholder, cash in lieu of preferred stock would have terminated the shareholder's interest and not result in a dividend. Also, a shareholder exchanging stock in a reorganization for property other than stock or securities may have dividend consequences if the transaction has the effect of the distribution of a dividend. For this purpose, attribution rules do not apply.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement extends the ownership attribution rules to a determination of whether, for section 306, the effect of the receipt of preferred stock pursuant to a reorganization or a transaction described in section 355 or section 351 is substantially the same as a dividend and in determining whether the receipt of property in a reorganization has the effect of a dividend. Attribution between shareholders and corporations shall be applied without regard to the 50-percent limit in section 318(a)(2)(C) and 318(a)(3)(C) in applying such rules to the receipt of preferred stock in a section 351 exchange.

The application of constructive ownership rules to section 306 determinations applies to stock received after August 31, 1982, in taxable years ending after such date. Application of such rules to the determination of whether the receipt of property pursuant to a reorganization has the effect of a dividend applies to distributions after August 31, 1982, in taxable years ending after such date.

g. Waiver of family attribution rules

Present law

In determining whether a shareholder has completely terminated his interest in a corporation on a stock redemption so as to achieve sale or exchange treatment, present law allows the shareholder to waive attribution of ownership from other family members. The waiving shareholder in general may hold no interest in the corporation (except as a creditor), may not acquire any interest for a 10-year period, and must agree to notify the Internal Revenue Service of any such acquisition. The statute of limitations for the year of redemption remains open in the event of such an acquisition.

Stock may be attributed from one member of a family to another by family attribution and reattributed to an entity such as an estate or trust in which the constructive owner has a beneficial interest. The Internal Revenue Service takes the position that only an individual may waive family attribution. Several decided cases have held that a trust or an estate terminating its interest by a stock redemption can waive family attribution from a family member to the benefi-

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ciary. These cases do not preclude the beneficiary from acquiring an interest in the corporation, do not require an agreement from the beneficiary, and do not reopen the statute of limitations in the event of an acquisition by the beneficiary. One case has also held that an entity may waive attribution from a beneficiary to the entity.

House bill

No provision.

Senate amendment

No provision

Conference agreement

The conference agreement permits an entity to waive the family attribution rules if those through whom ownership is attributed to the entity join in the waiver. Thus, a trust and its beneficiaries may waive family attribution to the beneficiaries if, after the redemption, neither the trust nor the beneficiaries hold an interest in the corporation, do not acquire such an interest within the 10-year period, and join in the agreement to notify the IRS of any acquisition. The entity and beneficiaries would be jointly and severally liable in the event of an acquisition by any of them within the 10-year period and the statute of limitations would be open to assess any deficiency. The tax increase would be a deficiency in the entity's tax but would be asserted as a deficiency against any beneficiary liable under the rules. The conferees intend that the tax will be collected from a beneficiary only when it cannot be assessed against or collected from the entity, such as when the entity no longer exists or has insufficient funds. Further, it is intended that the tax will be assessed and collected from the beneficiary whose acquisition causes the deficiency before it is asserted against any other beneficiary.

Under the bill, only family attribution under section 318(a)(1) may be waived by an entity and its beneficiaries. The waiver rules would not be extended to waivers of attribution to and from entities and their beneficiaries (secs. 318(a)(2) and 318(a)(3)). The bill thus is intended to overrule *Rickey* v. *United States* 592 F.2d 1251 (5th Cir. 1979). The conferees intend that the bill should not be construed to provide any inference as to whether the *Rickey* decision adopts a proper construction of present law. Nor is any inference intended as to whether the other cases extending the waiver rules for family attribution to entities adopt a proper construction of present law.

Certain anti-avoidance rules of present law applicable where a related party at the time of the redemption owns stock acquired from the distributee would be extended to the entity and affected beneficiaries.

These amendments apply with respect to distributions after August 31, 1982, in taxable years ending after such date.

10. Accounting for completed contracts

Present law

Overview

A taxpayer who enters into long-term contracts may elect to use one of four accounting methods to account for the income and expenses attributable to such contracts. Long-term contracts generally are building, installation, construction, or manufacturing contracts that are not completed by the end of the taxable year in which they were entered into. A manufacturing contract is not a long-term contract unless it involves the manufacture of either (1) unique items of a type not normally carried in the finished goods inventory of the taxpayer or (2) items that normally require more than 12 months to complete.

The four methods used to account for long-term contracts are the cash method, the accrual method, the percentage of completion method and the completed contract method. The cash and accrual methods are methods applicable to all types of income of all taxpayers generally. The percentage of completion method and the completed contract method apply only to long-term contracts.

Cash method

Under the cash method, income is reported for the year in which it is actually or constructively received. Deductions generally are taken for the year in which actually paid.

Accrual method

Under the accrual method, income is generally reported when all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy, regardless of when it is received. Taxpayers are not required, however, to report income at the time advance payments are received under long-term contracts, but generally may report such income when the subject matter of the contract is shipped, delivered, or accepted.

Deductions generally are allowed for the year in which all events have occurred which determine the fact of liability and the amount thereof can be determined with reasonable accuracy. However, any expenditure which results in the creation of an asset having a useful life which extends substantially beyond the close of the taxable year may not be deductible, or may be deductible only in part, for the taxable year in which incurred. If the taxpayer uses inventories, costs allocable to inventory are accumulated until the inventory is shipped, delivered, or accepted.

Percentage of completion method

Under the percentage of completion method (which is used only for long-term contracts), income is recognized according to the percentage of the contract that is completed during each taxable year. Deductions generally are allowed in the year in which they are incurred.

Completed contract method

Recognition of income and deductions.—Under the completed contract method (which is used only for long-term contracts), income and costs from the contract generally are reported for the year in which the contract is completed.

Completion of contract.—Present Treasury regulations (sec. 1.451-3) provide that a contract will not be considered completed until final completion and acceptance have occurred. Nevertheless, a taxpayer may not delay completion of a contract for the principal purpose of deferring Federal income tax.

Severance and aggregation of contracts.—Present Treasury regulations also provide that it may be necessary to treat one agreement as several contracts or several agreements as one contract in order to clearly reflect the income of the taxpayer. Whether one agreement is severed or several agreements are aggregated depends on all the facts and circumstances.

Allocation of costs.—Under the completed contract method, costs allocable to the contract (commonly referred to as "contract costs") are deductible for the year in which the contract is completed. Expenses that are not allocated to the contract (commonly referred to as "period costs") are deductible for the year in which they are paid or incurred.

Under existing regulations, contract costs include all direct expenses and indirect expenses that are incident and necessary to the performance of the contract, with the following exceptions (which are currently deductible as period costs):

(a) Marketing and selling expenses, including bidding expenses;

(b) Advertising expenses;

(c) Other distribution expenses;

(d) General and administrative expenses which benefit the taxpayer's business as a whole;

(e) Interest;

(f) Research and development expenses;

(g) Losses, under section 165 and the regulations thereunder;

(h) Percentage depletion in excess of cost depletion;

(i) Depreciation on idle equipment and, for other equipment, tax depreciation in excess of book depreciation;

(j) Income taxes;

(k) Pension and profit-sharing contributions and other employee benefits;

(l) Costs attributable to strikes, rework, scrap, and spoilage; and

(m) Officer compensation which benefits the taxpayer's activities as a whole.

House bill

No provision.

Senate amendment

Completion of contract

The Treasury Department would amend its regulations to prevent unreasonable deferral of recognition of income by reason of contract provisions that are merely incidental to contract obligations for construction, installation, or manufacturing.

The revised rules apply to taxable years ending after December 31, 1982. Contracts that would be treated as completed in an earlier taxable year solely by reason of the revised termination rule would be treated as completed in the first taxable year ending after December 31, 1982.

Severing and aggregating contracts

The Treasury Department would amend its regulations to prevent the unreasonable deferral of recognition of income by reason of the taxpayer's treating several contracts as a single contract (for example, where the items to be constructed, installed, or manufactured under the contracts are independently priced and will be separately delivered or accepted).

The revised severance and aggregation rules apply to taxable years ending after December 31, 1982. A contract that would have been completed in an earlier taxable year if it had been severed from a group of contracts under the revised rules will be considered completed when the first contract of the same group is completed after December 31, 1982.

Allocation of costs

For long-term contracts expected to be completed within 2 years and certain other construction contracts, present law cost allocation rules will continue to apply. Construction contracts eligible for continued use of present law costing rules are contracts for the construction of real property improvements (or installation of integral components thereof) if either—

(1) the contract is expected to be completed within 3 years, or

(3) the taxpayer has average annual gross receipts of $25 million or less for the prior 3 years.

In the case of a contract for the manufacture and installation of an improvement to real property, the special cost allocation rules for construction contracts apply to only the costs related to the installation of the real property improvements. For purposes of determining whether such a contract is expected to be completed within 3 years, the time expected to complete both the manufacture and installation of the property will be taken into account.

For all other contracts (extended period long-term contracts), costs that arise from or directly benefit such contract activities of the taxpayer are to be treated as contract costs. For extended period long-term contracts, the following costs will *no longer* be period costs:

(1) Bidding expenses on contracts awarded to the taxpayer;

(2) Distribution expenses, such as shipping costs;

(3) General and administrative expenses properly allocable to long-term contracts under regulations to be prescribed by the Secretary;

(4) Research and development expenses that either are directly attributable to particular long-term contracts existing when the expenses are incurred or are incurred under an agreement to perform research and development;

(5) Depreciation, capital cost recovery, and amortization for equipment and facilities currently being used, to the extent it exceeds depreciation reported by the taxpayer for financial accounting purposes;

(6) Pension and profit-sharing contributions representing current service costs and other employee benefits;

(7) Rework labor, scrap, and spoilage; and

(8) Percentage depletion in excess of cost depletion.

The revised cost allocation rules apply to contracts entered into after December 31, 1982, for taxable years beginning after December 31, 1982, with a phase-in.

Under the phase-in, a percentage of the additional costs allocable to the contract under the revised rules would be currently deductible. The percentages are:

For taxable year beginning in—	*The currently deductible percentage is*
1983	66⅔
1984	33⅓
1985 and thereafter	0

Conference agreement

The conference agreement follows the Senate amendment.

11. Accelerated corporate tax payments

Present law

Corporations generally must pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year.

A penalty for underpayment of estimated taxes is imposed unless the corporation meets certain exceptions based on prior year's tax liability, prior year's income or annualized income. At each installment date, annualized income is projected from the actual taxable income earned by the end of the previous month (or quarter). Under present annualization rules, corporations with seasonal income earned primarily at the beginning of the year may upon occasion overpay estimated taxes due when they rely on the annualized income exception.

Generally, a corporation must pay its final tax payment 2½ months after the end of the taxable year, but it may elect to pay only half of the unpaid tax on this date and the remaining half three months later.

House bill

No provision.

Senate amendment

The amount of estimated tax payments required for all corporations is increased from 80 percent to 90 percent of current year's tax liability. A corresponding change will be made in the exception based on annualized income.

The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due is imposed at one-half the full rate for underpayments.

The full amount of the unpaid tax is due 2½ months after the end of a taxable year.

Conference agreement

The conference agreement generally follows the Senate amendment, with three changes.

First, the penalty for underpayment of estimated taxes is imposed at three quarters of the full rate on underpayments between 80 and 90 percent of the tax due, but only if the taxpayer makes estimated tax payments of at least 80 percent of the tax due.

Second, a new rule for annualizing income is provided for corporations with seasonal income. Taxpayers could rely on the new rule if, in the preceding three taxable years, taxable income for any period of 6 successive months averaged 70 percent or more of total income for the taxable year. Income would be annualized by assuming that the income is earned, in the current year, in the same pattern as in the three preceding taxable years. This rule would require that the tax be paid on the annualized income in the same seasonal pattern in which it is earned.

Third, for the annualized income exceptions, the Treasury is directed to amend its regulations regarding the computation of taxable income for the period before the installment due date. Taxpayers could rely on these regulations in computing taxable income for a period of less than a full taxable year under the annualization and seasonal pattern of income exceptions to the underpayment penalty. Many items which substantially impact taxable income cannot be determined accurately by the installment due date. Examples of these items include (but are not limited to) the LIFO index for taxpayers using the dollar-value LIFO inventory method, the deferred gross profit for taxpayers with revolving charge accounts, intercompany adjustments for taxpayers who file consolidated returns, and a temporary liquidation of a LIFO layer at the installment date.

To alleviate these problems for taxpayers who rely on the annualized income exception, the conferees expect the Secretary to issue regulations which provide that estimates of certain items could be used where reasonable estimates could be made from existing data. For example, taxpayers using the dollar-value LIFO method of accounting might be allowed to interpolate from an available inflation index for a previous period in calculating the cost of goods sold in a period of less than a full taxable year if no reliable inflation index is available for the period for which taxable income must be calculated. The conferees also understand that the Secretary will issue regulations clarifying the meaning of taxable income in regard to net operating loss carrybacks and carryforwards for purposes of defining a large corporation (under sec. 6655 (h) (2)).

12. Amortization of original issue discount on bonds

Present law

Original issue discount on corporate bonds is included in income by holders in whose hands such bonds are capital assets, and is allowed as a deduction to the issuer, on a linear basis over the life of the bond. The discount is treated as accruing in equal monthly installments over the life of the bond. The OID provisions of the Internal Revenue Code do not provide for ratable inclusion of discount income by holders of noncorporate bonds. A portion of gain from the sale or disposition of government bonds is treated as ordinary income to the extent of accrued original issue discount.

House bill

No provision.

Senate amendment

The Senate amendment provides new rules under which the inclusion and deduction of original issue discount correspond to the actual economic accrual of interest. These rules are extended to bonds issued by noncorporate issuers other than natural persons.

The Senate amendment applies to corporate obligations issued after May 3, 1982 (other than obligations issued pursuant to a written commitment which was binding on such date). The extension of the rules to obligations of noncorporate issuers applies to obligations issued after June 9, 1982 (other than obligations issued pursuant to a written commitment which was binding on such date).

Conference agreement

Under the conference agreement, the new rules applicable under the Senate amendment to original issue discount on corporate obligations and the extension of such rules to noncorporate obligations are effective for obligations issued after July 1, 1982, unless issued pursuant to a written commitment binding on July 1, 1982, and at all times thereafter. Such a commitment would have to involve a commitment by the issuer to issue the bonds at a particular price. Thus, for example, the new rules would not apply in cases where bonds are issued pursuant to the exercise of warrants which were outstanding on July 1, 1982.

A technical amendment makes explicit that tax-exempt obligations are excepted from the rules even if the exemption is provided by a provision of law other than section 103.

Certain tax-exempt industrial development bonds generate interest deductions for a taxable issuer. An amendment makes clear that the deduction of original issue discount on such obligations will be subject to the new rules.

13. Tax treatment of stripped bonds

Present law

If a taxpayer disposes of a bond and retains the unmatured interest coupons or disposes of the bond and the coupons in separate transactions, it is arguable that the taxpayer's basis is entirely allocable to the corpus (bond principal). Any loss from disposing of the corpus, if allowable, is an ordinary loss to a dealer in such obligations, or to a bank, and a capital loss to other taxpayers.

Gain to the purchaser of a stripped bond is deferred until the bond is sold or redeemed and is ordinary income to the extent of the difference between the value of the bond with and without the coupons attached at the time of purchase. The purchaser of stripped coupons allocates his cost to the coupons in accordance with their relative values at the time of purchase. Capital gain may result if coupons are sold rather than redeemed.

House bill

No provision.

Senate amendment

Stripped bonds and stripped coupons in the hands of a purchaser are treated as bonds issued at a discount. The discount is the excess of the redemption price of the bond, or amount payable on maturity of the coupon, over the purchase price allocable to the bond or coupon. The purchaser must include the discount in income under the original issue discount rules.

The seller of a stripped bond or stripped coupons must, immediately before the disposition, allocate the basis of the bond (with coupons) among the bond and coupons in accordance with their values. This will prevent artificial losses from the sale of stripped bonds. The same original issue discount treatment applicable to a buyer of a stripped bond or stripped coupons applies to the retained portions after a seller strips and disposes of either the corpus or coupons.

The treatment of stripped bonds applies with respect to the purchase and sale of a stripped bond or stripped coupons after June 9, 1982.

Conference agreement

The conference agreement follows the Senate amendment with a different effective date. Under the conference agreement, the new treatment applicable to coupon stripping under the Senate amendment applies only where there is a sale after July 1, 1982, of either a stripped bond or stripped coupons.

The conference agreement provides that accrued interest required by the new rules to be included in income upon the disposition of a stripped bond or stripped coupons does not include any interest theretofore included in income by the taxpayer (e.g., by an accrual basis taxpayer).

The rule of present law that requires ordinary income treatment on the sale or other disposition of a stripped bond to the extent of the difference in fair market value of the bond with and without coupons attached at the time of purchase is continued for bonds purchased at any time before July 2, 1982. As under the Senate amendment, this rule is applicable to tax-exempt obligations without regard to the date of purchase. In applying this rule, a technical amendment clarifies that a person who retains a tax-exempt bond after disposition of the coupons will be treated as a purchaser of a stripped tax-exempt bond.

Another technical amendment provides that the definition of 'coupon' as any right to receive interest on a bond whether or not evidenced by a coupon will apply only where a purchase occurs after July 1, 1982. This amendment is not intended to provide any inference as to the interpretation of the term 'coupon' in present law section 1232(c).

The conference agreement also provides the Secretary of the Treasury with the authority to issue regulations to provide the appropriate basis allocation and income inclusion rules in cases where the general rules in the statute do not provide a proper determination of income by reason of call provisions, extendable maturities, etc. For example, in the case of callable bonds with coupons redeemable after the call date, these regulations could provide that no basis need be allocated to post-call coupons as long as they remain attached to the corpus and that there be no periodic inclusion of discount income with respect to post-call coupons where this is appropriate.

14. Treatment of business meal expenses and tip income

Present law

Business meals

In general, expenditures for business meals are deductible to the extent that they are ordinary and necessary, not extravagant or lavish, and are paid or incurred in connection with the taxpayer's trade or business or income-producing activities.

Tip income

Tipped employees must generally report all tips received in the course of their employment to their employer.

In general, withholding for purposes of the Federal Insurance Contributions Act (FICA) tax and the income tax is required only to the extent tips are reported to the employer and only to the extent collection of the tax can be made by the employer from wages paid to the employee (excluding tips, but including funds turned over by the employee to the employer or under the control of the employer).

In general, employees whether or not they receive tips, are required to keep records to establish the amount of gross income and deductions. Because tips are includible in income, employees must keep records of all tips received and of all deductible tips paid to other employees. Employers are expressly required to retain only charge tip receipts and statements of tips received by employees furnished by such employees. Failure to maintain such records may subject employees or employers to penalties (sec. 6653).

House bill

No provision.

Senate amendment

Any deduction otherwise allowable for business meals and beverages (unless connected with business-related travel away from home) is limited to 50 percent of expenses. This provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment relating to business meals expense deduction.

Under the conference agreement, the rules of present law relating to reporting of tips to employers by their employees and to the resulting withholding of FICA and income taxes is retained. However, to assist the Internal Revenue Service in its examinations of returns filed by tipped employees, the bill provides a new set of information reporting requirements for large food and beverage establishments and, under certain circumstances, a tip allocation requirement.

Each large food and beverage establishment will be required to report annually to the Internal Revenue Service (1) the gross receipts of the establishment from food and beverage sales (other than receipts from carryout sales and mandatory 10-percent or more service charge sales), (2) the amount of aggregate charge receipts (other than receipts from carryout sales and 10-percent service charge sales), (3) the aggregate amount of tips shown on such charge receipts and (4) reported tip income and mandatory service charges of less than 10 percent. Tips on meals charged for house charges of restaurants will be reported. Tips on meals charged to a room in a hotel, however, will be reported as gross receipts only.

If the employees voluntarily report tips aggregating 8 percent or more of gross receipts (defined as gross receipts less carry-out sales, less 10-percent service charge sales), then no tip allocations, will need to be made. However, if this 8-percent reporting threshold is not met, then the employer must allocate an amount equal to the difference between 8 percent of gross receipts and the amounts reported by employees for the year to all tipped employees pursuant to either an agreement between the employer and employees or in the absence of such an agreement according to regulations issued by the Secretary. The conferees intend that the regulations under this provision will provide procedures under which a particiular establishment, or type of establishment, can show that its tipped employee's average tip rate is less than 8 percent (but not less than 5 percent) and, therefore, allocate based on that lower amount in the future. The employer will have no liability in connection with any dispute regarding tip allocations.

The allocation of the 8-percent amount to employees for reporting purposes will have no effect on the FICA or income tax withholding responsibilities of the employer or on his FUTA obligations. Thus, employers will continue to withhold only on amounts reported to them by their tipped employees. Of course, the allocation also has no effect on the actual entitlement of the employer or employee to gross receipts or tip income. Similarly, this purely informational report to the Internal Revenue Service will not affect the requirements of the Fair Labor Standards Act or any collective bargaining agreement.

The 8-percent figure reflects the conferees' judgment that the tip rate in establishments subject to this reporting requirement will rarely be below the 8-percent level. Thus, an employee who reports less than his allocated amount of tips must be able to substantiate his reporting position with adequate books and records (as he must under present law). The Internal Revenue Service could prove that tipped employees received a larger amount of tip income. For example, as under present law, the Internal Revenue Service could show from charge tip rates that a particular establishment had a higher tip rate than 8 percent.

A large food or beverage establishment is any establishment (public or private) the activity of which is the provision of food or beverages for consumption on the premises, other than of a "carry-out" nature such as "fast food restaurants," with respect to which tipping is customary, and which normally employed more than 10 employees on a typical business day during the preceding calendar year. The Secretary will prescribe regulations for the application of this 10-employee rule in the case of new businesses. Thus "fast-food" restaurants would not generally be subject to the new reporting requirement. Restaurants that provide table or counter service for seated customers, and cocktail lounges with similar service, are large food or beverage establishments if they employ 10 or more persons. An establishment may be part of a larger operation such as a hotel.

It is anticipated that the information statement concerning allocated tips could be integrated into Form W-2 now supplied by employers with respect to wages. If the employer furnishes an employee with a W-2 within 30 days after the employee leaves, the employer must furnish the employee and the IRS in January with an amended Form W-2 that includes tip allocations.

The conference agreement requires the Secretary of the Treasury to submit, prior to January 1, 1987, to the tax writing committees of the Congress a report together with the background study on the operation of the present reporting system as applied to tips received as wages or compensation. This report should be based upon a study conducted by the IRS designed to statistical accuracy with an error of plus or minus of 15 percent. The study should be representative of the foodservice industry in terms of sales size and types of establishments. This study should also specifically describe the following: (1) the amount of tips actually received; (2) the amount of tips voluntarily reported to the employer by the employee; (3) the amount of tips reported to the IRS on the individual's federal tax return; and (4) a computation of the minimum wage payments to these individuals and what portion of those wages constituted tip income.

This study should further describe tipped individuals by job category, and should distingush between part-time and full-time employment. The study should also describe the extent of arrangements for tip sharing and tip pooling that exist among tip earners. Recommendations made by the Internal Revenue Service as a result of this study should contain a cost-benefit analysis of any recommendations. This analysis should include a comparison of the cost of the existing system of enforcement of tip earner compliance through examination and any cost increase or decrease to the government if any recommendation is adopted.

The amendments made by this section apply to calendar years beginning after December 31, 1982, but the allocation rules will first apply to payroll periods ending after March 31, 1983. For the first quarter of calendar year 1983 only, large food and beverage establishments for which aggregate tip income reported by employees is less than 8 percent of such gross food and beverage sales, will be required to file information returns for that quarter for Internal Revenue Service audit purposes. These returns shall include a list of all tipped employees including their taxpayer identification numbers, wages paid and reported tip income during the period. Employees would be put on notice that their returns would be identified for audit unless this 8 percent tip reporting is satisfied.

15. Investment credit for soil or water conservation expenditures

Present law

Soil or water conservation expenditures equal to up to 25 percent of gross income from farming may be deducted during the year incurred instead of being charged to capital account, at the election of the taxpayer. A taxpayer may not elect to treat as deductible expenditures those items for which depreciation deductions may be claimed.

Present law includes no special investment credit for soil and water conservation expenditures.

House bill

No provision.

Senate amendment

The Senate amendment permits farmers to elect a 10-percent investment credit for those soil and water conservation expenditures that are not expensed. The provision applies to periods after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

16. Public utility dividend reinvestment plans

Present law

Under present law, public utility corporations may set up dividend reinvestment plans under which shareholders electing to receive distributions in the form of common stock, rather than money or other property, may exclude up to $750 per year ($1,500 in the case of a joint return) of the stock distribution from income. These amounts generally are taxed as capital gains when the stock is sold, if the stock has been held for at least 12 months.

The provision applies to distributions made after 1981 and before 1986.

House bill

No provision.

Senate amendment

Under the Senate amendment, the provision is repealed for distributions made after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

C. Compliance Provisions

1. Withholding on interest and dividends

Present law

Under present law, no income tax withholding is required on payments of interest, dividends, or patronage dividends to U.S. persons.

Senate amendment

The Senate amendment provides for withholding on payments of dividends, interest, and certain patronage dividends paid to individuals (and certain others) at a rate of 10 percent. Exceptions are provided for:

(1) individuals with prior year income tax of $600 or less ($1,000 on a joint return);

(2) elderly individuals with prior year income tax of $1,500 or less ($2,500 on a joint return);

(3) interest payments by electing payors of $100 or less on an annualized basis;

(4) small savings bond payments;

(5) payments by consumer cooperatives; and

(6) payments to corporations, governments, securities dealers, money market funds, exempt organizations, nominees, and certain other recipients.

Interest subject to withholding generally includes interest (including original issue discount), other than (1) interest paid by individuals, or State and local governments on tax-exempt obligations, and, (2) interest paid to nonresident alien individuals, foreign corporations and certain other foreign entities.

Dividends subject to withholding generally are distributions out of earnings and profits other than payments to nonresident alien individuals and foreign corporations.

Patronage dividends subject to withholding do not include per-unit retain allocations or patronage dividends which include consent-type qualified written notices of allocations unless 50 percent or more of such patronage dividend is paid in money or by qualified check.

In general, these provisions apply to interest and dividends paid or credited after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment with clarifying and technical changes except that the effective date is July 1, 1983, instead of January 1, 1983. The conference agreement permits the Secretary to exempt certain payors from the withholding obligations for up to a 6-month period. This authority may be exercised on a case-by-case basis when the payor has attempted in good faith to comply with the withholding obligations but cannot do so without undue hardship. Under the conference agreement, this waiver of compliance with withholding obligations may apply to payments by any payor of interest, dividends, or patronage dividends.

The conferees realize that, although many elderly and low-income persons will qualify for exemption, they will need to file exemption certificates to enjoy the benefit of their exemptions. In addition, the withholding rules will affect the financial planning of many nonexempt individuals. Therefore, the Conferees anticipates that the Secretary will endeavor to inform the public about the operation of the withholding rules and the requirement that exempt individuals file exemption certificates. In this regard, the Internal Revenue Service should notify and counsel affected individuals through new or existing taxpayer-assistance mechanisms and should create forms that are as simple to understand as possible.

The conferees wish to make clear that the exemption from withholding with respect to tax-exempt obligations generally will be available if the obligation is regular on its face (e.g., in registered form if issued after December 31, 1982) and indicates that it is an obligation of a State or local government. Thus, financial institutions acting as trustee with respect to industrial development bonds would not be required to inquire whether any event has occurred that would cause the interest on the obligation to be taxable.

The exception for minimal interest payments of $100 or less on an annualized basis is modified to provide that interest payments which would not exceed $150 on an annualized basis may be exempt from withholding at the election of the payor. The conference agreement permits the Secretary to require the aggregation of payments from the same payor to the same payee.

The definition of interest is clarified, consistent with the information reporting requirements, to provide that payments by certain foreign entities and payments outside the United States by U.S. corporations whose interest payments are foreign source are not subject to withholding, except to the extent otherwise provided by regulations.

The list of exempt recipients is expanded to include simple trusts all the income beneficiaries of which are otherwise exempt individuals. Finally, the withholding credit allocation in the trust and estate context is clarified.

The conferees anticipate that the Secretary will provide for rules on the time for making deposits of withheld taxes that take into account the costs of implementing this withholding system. Specifically, the conferees anticipate that all payors of interest, dividends and patronage dividends will be permitted up to 30 calender days in which to deposit withheld amounts. This extended deposit period should apply for payments withheld during the period of July 1, 1983 to June 30, 1984. A similar extended period could apply through June 1985 for small and medium financial institutions with respect to amounts withheld on interest paid on deposits with those institutions and through June 1986 for small institutions.

2. Other compliance provisions

a. Reporting of interest

Present law

Present law contains an information reporting requirement with respect to payments of interest aggregating $10 or more to any other person during the calendar year. Any corporation that has an obligation outstanding in registered form with respect to which $10 or more of original issue discount is includable in the gross income of any holder during any calendar year must also file an information return with the Secretary. Payors of interest and persons who are required to file information returns with respect to original issue discount must also furnish information statements to recipients.

For reporting purposes, present law defines interest as including, for example, interest on any evidence of indebtedness issued by a corporation in registered form, and interest on bank deposits. In addition, the Secretary has regulatory authority to provide that interest includes interest on evidences of indebtedness issued in other than registered form by a corporation of a type offered by corporations to the public. The existing regulations do not require withholding on such obligations.

House bill

No provision.

Senate amendment

Under the Senate amendment, as under present law, every person who makes payments of interest aggregating $10 or more to any other person during the calendar year, must file an information return. In addition, any person who withholds tax from a payment of interest must file an information return with the Secretary. Under the Senate amendment, original issue discount is generally treated as paid at the time includible in income. In the case of original issue discount on a bearer obligation issued before January 1, 1983, and original issue discount which is not includible in the income of a holder periodically (including discount on short-term government obligations), the original issue discount is treated as paid on the earlier of redemption or maturity of the obligation.

Under the Senate amendment, interest subject to the information reporting requirement is defined to include interest on any obligation which is issued in registered form, or which is of a type offered to the public (other than any obligation with a maturity, at issue, of not more than 1 year which is held by a corporation); interest on bank deposits, and to the extent provided in regulations prescribed by the Secretary, any other interest (which is not specifically excluded from the definition of interest). These are generally the same categories of interest that are subject to reporting under present law except interest on all obligations in registered form or of a type offered to the public is subject to reporting rather than only interest on corporate obligations as under present law.

This provision is effective for amounts paid after December 31, 1982.

Conference agreement

The conference agreement clarifies the Senate amendment in several respects. First, the definition of interest for information reporting purposes is conformed with, and integrated into, the definition of interest for interest withholding purposes. This will simplify and conform the information reporting and withholding rules. Second, the Senate amendment is clarified by specifically providing that interest on U.S. savings obligations may (to the extent provided in regulations) be required to be reported by middlemen. Third, the definition of interest is amended to provide that interest on an obligation which is exempt from tax is not "interest" within the meaning of this provision regardless of when issued. In this connection, the conferees note that in determining whether an obligation is exempt from tax, middlemen such as financial institutions have no duty to inquire beyond the face of the obligation. Fourth, industrial loan associations are added to the list of exempt recipients for both interest reporting and withholding purposes.

As under existing law, interest on bearer obligations that is paid outside the United States by a United States person (e.g., a foreign branch of a U.S. bank) acting as a paying agent for a foreign corporate issuer (or for a U.S. corporate issuer whose interest payments are foreign-source) is exempt from the information reporting requirements, except to the extent otherwise provided by regulations. The conferees do not intend that the Secretary change his existing regulations to require reporting on such payments; however, as under present law applicable to information reporting, the Secretary continues to be empowered to require information reporting on such payments.

In contrast to present law, interest paid on bearer obligations to a United States person by a person acting as a nominee, paying agent, or other middleman is subject to the information reporting requirements if the payment is made within the United States, even if the issuer is a foreign corporation.

Finally, various technical and conforming changes are made.

b. Obligations required to be registered

Present law

Under present law, except for certain housing or energy bonds, the tax status of debt obligations is generally the same regardless of whether the obligation is issued in registered form or in bearer form.

House bill

No provision.

Senate amendment

Under the Senate amendment, the issuance of most bearer obligations by the U.S. or its agencies or instrumentalities is prohibited and certain tax benefits are denied to issuers and holders of other bearer obligations. In additon, an excise tax is imposed on bearer obligations that were required to be issued in registered form. Certain exceptions to the registration requirements are provided.

If a registration-required obligation is not issued in registered form, no interest deduction is allowable to the issuer with respect to interest (including original issue discount) paid or accrued on the obligation. In addition, the earnings and profits of a corporation issuing a registration-required obligation in bearer form will not be reduced by the amount of any interest paid or accrued on the obligation. Moreover, interest on an unregistered registration-required obligation is not exempt from tax. The Senate amendment imposes an excise tax on the issuer of a "registration-required obligation" that is not issued in registered form, equal to one percent of the principal amount of the obligation multiplied by the number of years in the term of the obligation. An exception is provided from the issuer sanctions for certain issues of bonds not intended for distribution (or redistribution in connection with the original issue) to U.S. persons.

These new registration requirements, and the associated sanctions for issuance of registration-required obligations in bearer form, will apply to obligations issued after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment except that holder sanctions are imposed on U.S. persons who own bonds issued after 1982, and that were not subject to the excise tax, that should have been issued in registered form but were instead issued in bearer form. Specifically, these sanctions are the loss of capital gains treatment and the denial of loss deductions when such obligations are sold, exchanged or become worthless. The holder sanctions apply to bonds intended to be distributed outside the United States and which are excepted from the issuer sanctions, except to the extent such bonds are owned in registered form. Exceptions from the holder sanctions are provided for persons who promptly surrender bearer obligations for reissuance in registered form, for persons who hold certain bearer obligations in connection with their active conduct of a trade or business outside the United States, for securities dealers holding bearer bonds in inventory, and for persons complying with reporting requirements that may be promulgated by the Secretary, if certain conditions are satisfied in order to ensure that the bearer bonds will not be delivered to U.S. persons other than those qualifying under the exceptions.

The conference agreement also provides that the holder and issuer sanctions applicable to registration-required obligations issued in bearer form after 1982 do not apply to obligations issued in bearer form pursuant to warrants or convertible bonds issued before August 10, 1982, provided the obligations are issued under arrangements reasonably designed to ensure that they will be sold or resold only to foreign persons.

c. Returns of brokers

Present law

Under present law, every person doing business as a broker must make returns reporting on profits and losses of its customers when required under regulations issued by the Secretary. There are, currently, no regulations under this section.

House bill

No provision.

Senate amendment

The Senate amendment (1) permits the Secretary to require gross proceeds reporting, (2) requires brokers to furnish statements to their customers, and (3) clarifies the definition of broker to explicitly include persons such as dealers, barter exchanges, and other middlemen.

The bill also extends the definition of third-party recordkeepers (for administrative summons purposes) to include barter exchanges which are subject to the information reporting requirements imposed on brokers.

Generally, this provision will take effect on the day of enactment. Further, regulations must be issued under this provision within 6 months after the date of enactment; however, any such regulations may not apply to transactions occurring before January 1, 1983. The provision defining barter exchanges as third-party recordkeepers is effective for summonses served after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

d. Information reporting requirements for payments of remuneration for services and direct sales

Present law

Payments of remuneration

Generally, a person engaged in a trade or business must file an information return with respect to payments to another person aggregating $600 or more in the calendar year. This obligation applies to payments of wages, salaries, commissions, fees, other forms of compensation for services, and other fixed or determinable gains, profits, or income.

Direct sales

There is no reporting requirement under present law with respect to sales of consumer products for resale.

Penalties

For most types of information returns, the penalty for failure to file, or to provide statements to recipients, is $10 per failure, with a maximum aggregate penalty for each type of failure of $25,000 for any one calendar year.

House bill

No provision.

Senate amendment

Payments of remuneration

The Senate amendment adds a Code provision specifically dealing with payments of remuneration for services, effective for payments made after 1982.

Under this provision, a service-recipient (a person for whom services are performed) engaged in a trade or business who makes payments of remuneration for services performed must file an information return reporting such payments (and the name, address, and identification number of the recipient) if the remuneration paid to the person during the calendar year is $600 or more. Also, the service-recipient must furnish to the payee a statement setting forth the name, address, and identification number of the service-recipient, and the aggregate amount of payments made to the payee during the year.

Direct sales

General rule.—Unless electing the reporting rule described below, a direct seller is required to report gross purchases of consumer products for resale by any buyer purchasing $5,000 or more of such products in a calendar year (in addition to reporting commissions, etc., under the remuneration reporting requirements).

Elective requirement.—Instead of reporting gross purchases of products for resale, a direct seller may elect to report commissions and otOr remuneration aggregating $50 or more in the calendar year. If this election is made, the direct seller also must file a return identifying all buyers to whom aggregate sales of $600 or more are made during the calendar year.

Effective date.—The reporting requirements for direct sales apply to sales after December 31, 1983.

Penalties

Basic penalty.—A new penalty is imposed on a person who (1) fails to file a required return regarding payments for services or regarding direct sales, (2) fails to furnish a statement to the person named on the return, or (3) fails to include the entire amount required to be included on any return or statement.

The penalty is one percent for each month while the failure continues (but not to exceed five percent) of the amount required to be included on the return or statement but not so included. For failures with respect to direct sales reporting, the penalty is one-fifth of one percent per month, but not to exceed one percent of the amount not included.

Double penalty.—The penalty is doubled if failure to comply with the reporting requirements is due to intentional or reckless disregard of the law.

Minimum penalty.—The minimum penalty is $50 per failure.

Statute of limitations exception.—The Internal Revenue Service generally is prohibited from assessing this new penalty unless it is assessed, or a proceeding to collect it has begun, within six years after the last date for filing the return or statement.

Effective date.—The penalty generally applies to payments after December 31, 1982. Penalties imposed on direct sellers apply to sales made after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment, except for deletion of the new penalty provisions and modification of the direct sales reporting requirements. Direct sellers will be required only to file information returns identifying all buyers to whom aggregate sales of $5,000 or more are made during the calendar year. No elective reporting rules are provided. The reporting requirements for direct sales will apply to sales after December 31, 1982. Penalties for failure to report remuneration paid to independent contractors or information concerning direct sales are subject to the general penalties for failure to report information. Until new regulations are issued under section 6041A, the existing regulatory exceptions under section 6041 will continue to apply. Moreover, the conferees believe that businesses should be given an adequate period of time to comply with any new requirements in such regulations.

e. Reporting of State and local income tax refunds

Present law

Under present law, the refund, credit or offset of State or local income taxes that were deducted (with a resulting tax benefit) in a prior year is includable in a taxpayer's gross income. There is no requirement that information returns with respect to such refunds be filed with the United States or that a statement regarding the refund be furnished to the recipient.

House bill

No provision.

Senate amendment

The amendment provides that an information return must be filed with the Secretary with respect to any State or local income tax refunds, credits, or offsets aggregating $10 or more paid or credited to an individual during the calendar year. In addition, a statement must be furnished to the recipient before the close of January of the calendar year following the year of refund, credit or offset.

This new requirement will apply to refunds paid, and credits or offsets allowed, after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that the information statements must be furnished to the individual recipients during January of the year following the year of refund, credit or offset (instead of at any time before the close of January).

f. Increased penalties for failure to file information returns and statements

Present law

Present law imposes a penalty on any person who fails to file timely information returns relating to various forms of compensation, interest, and dividends. The penalty is $10 for each such failure, but the total amount of the penalties imposed for all such failures during a calendar year cannot exceed $25,000. Persons with respect to whom information returns are filed generally are entitled to a statement of the information shown on the return. The penalty for failure to provide these statements is also $10 per failure up to $25,000 per year. Employers and plan administrators must file information returns with respect to certain deferred compensation plans. The penalty for failure to provide these returns is $10 for each day the failure continues up to $5,000. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

The category of information returns subject to the general penalty for failure to timely file information returns is expanded to include broker returns and direct seller returns. The bill also increases the penalty for failure to file most information returns to $50 per failure, not to exceed $50,000 in any calendar year. When the failure to file information returns is due to intentional desregard of the filing requirements, the penalty will not be less than 10 percent of the aggregate amount of the amounts not properly reported (5 percent in the case of returns to be filed by brokers and $100 in the case of direct sellers) and the $50,000 limitation will not apply.

The provision applies to returns the due date of which (without extensions) is after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that (1) the penalty for failure to file information returns or statements with respect to certain deferred compensation plans (sec. 6058), and certain term, annuity and bond purchase plans (sec. 6047) is increased to $25 per day during which the failure continues, but not more than $15,000, and (2) the penalty for failure to provide information statements to taxpayers (sec. 6678) is increased from $10 per statement to $50 per statement up to $50,000 per calendar year (from $25,000). These amendments are effective for returns and statements, the due date of which (without regard to extensions) after December 31, 1982.

The conference agreement also makes certain technical and conforming amendments.

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g. Increase in civil penalty on failure to supply identifying numbers

Present law

Present law imposes a penalty of $5 per failure on any person who is required by regulations (1) to include his taxpayer identification number (TIN) in any return, statement or document, (2) to furnish his TIN to another person, or (3) to include in any return or statement made with respect to another person the TIN of such other person, and who fails to comply with such requirement at the time prescribed. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

The penalty for failure to supply identifying numbers is increased from $5 per failure to $50 per failure, but not to exceed $50,000 for all such failures in any calendar year. In addition, the bill provides that if any failure to include the TIN of another person in any return or statement made with respect to that other person is due to the intentional disregard of the requirements to include such other person's TIN in the return, the penalty will be $100 per failure and the $50,000 limitation will not apply.

The provision will be effective for returns the due date of which (without extensions) is after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that (1) the penalty for failure to include the taxpayer's own TIN in any return, statement, or document is not increased, but is kept at $5 for each such failure (instead of $50) and (2) there is no additional penalty for intentional disregard of the requirement to include another person's TIN in a return.

h. Extension of withholding to certain payments where identifying number not furnished or inaccurate

Present law

Present law imposes a penalty of $5 per failure on any person who is required by regulations (1) to include his taxpayer identification number (TIN) in any return, statement, or document, (2) to furnish his TIN to another person, or (3) to include in any return or statement made with respect to another person the TIN of such other person, and who fails to comply with such requirement at the time prescribed. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

Withholding at source at a tax rate of 15 percent would be required if a taxpayer fails to supply a TIN or supplies an incorrect TIN to another person who must file certain types of information returns with respect to payments to the taxpayer. If a taxpayer fails to supply a TIN to the payor of a backup withholding payment or supplies an obviously incorrect number, then the withholding obligation rules would apply immediately. Otherwise, a 7-day grace period would apply during which the payor would not be liable if it failed to withhold, or withholds where he had an obligation to do so. The types of payments subject to this withholding requirement (back-up withholding payments) generally would include the types of payments subject to the information reporting requirements. This withholding generally would not apply to payments made to the United States or any agency or instrumentality thereof, to any State or political subdivision thereof, to any tax-exempt organization, or to any foreign government or international organization.

Except in the case of payments of compensation, etc. for which information reporting is required under section 6041 (relating to information at the source generally) or section 6041A (relating to payments to independent contractors), this requirement for withholding would apply without regard to the reporting thresholds provided for the information returns.

Generally, payment of amounts subject to this new withholding provision would be treated as wages paid by an employer to an employee and subject to the various provisions applying to collection of income tax at the source on wages.

This provision would apply to payments made after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment except for four modifications. First, the 7-day grace period is expanded to 15 days. Second, the definition of "backup withholding payment" is clarified by defining such payment as any payment of a kind "and, to a payee" subject to information reporting. This change will assure that amounts paid to persons exempt from the information reporting requirements (and who are, therefore, also persons generally not liable to supply a TIN) are not subject to the backup withholding requirement. Third, the definition of "obviously incorrect number" is amended to apply only to numbers that contain an incorrect number of digits. Finally, the list of persons to whom backup withholding cannot apply is clarified. Thus, no backup withholding is required as to any organization exempt from taxation under section 501(a); an individual retirement plan; the United States or a State; a foreign government or international organization; a foreign central bank of issue; or to any other persons described in regulations issued by the Secretary.

i. Minimum penalty for extended failure to file

Present law

Under present law, if a taxpayer fails to file a tax return on the date prescribed therefor (including extensions) and if there is an underpayment of the tax required to be shown on such return, then he is subject to a penalty of 5 percent of the underpayment per month (or fraction thereof) while the failure continues, but not more than 25 percent. Thus, no civil penalty is imposed on the taxpayer if there is no underpayment for the year or if a refund is due. In addition, no penalty is imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

A new minimum penalty for the extended failure to file an income tax return would be imposed. If an income tax return were not filed within 60 days of the date prescribed therefor (with extensions), the penalty for failure to file would be not less than $100 even if no tax were owed. This minimum penalty would not be imposed if the failure to file the return were due to reasonable cause.

The penalty would apply to returns due after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment with the modification that the minimum penalty could not be imposed unless there was an underpayment of tax, and could not exceed the lesser of the underpayment or $100.

j. Forms of returns

Present law

In general, returns required by the tax law must be made according to the forms and regulations prescribed by the Secretary. There is no statutory or regulatory requirement that returns be filed on magnetic tape or in other machine-readable form.

House bill

No provision.

Senate amendment

The Secretary would be required to prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. In providing these standards, the Secretary would be directed to take into account, among all other relevant factors, the ability to the taxpayer to comply, at a reasonable cost, with such a filing requirement. In no event could the Secretary require returns of the tax imposed under subtitle A (i.e., the income tax) by individuals, estates, and trusts, to be other than on paper forms.

Conference agreement

The conference agreement follows the Senate amendment.

k. Penalty for promoting abusive tax shelters, etc.

Present law

Present law contains no penalty provision specifically directed toward promoters of abusive tax shelters and other abusive tax avoidance schemes.

House bill

No provision.

Senate amendment

A new civil penalty would be imposed on persons who organize or sell any interest in a partnership or other entity or investment, when, in connection with such organization or sale, the person makes or furnishes either (1) a statement, which the person knows is false or fraudulent as to any material matter with respect to the availability of any tax benefit said to be available by reason of participating in the investment, or (2) a gross valuation overstatement as to a matter material to the entity which is more than 400 percent of the correct value.

The penalty for promoting an abusive tax shelter is an assessable penalty equal to the greater of $1,000 or 10 percent of the gross income derived, or to be derived, from the activity.

The Secretary is given authority to waive all or part of any penalty resulting from a gross valuation overstatement upon a showing that there was a reasonable basis for the valuation and the valuation was made in good faith. This penalty is in addition to all other penalties provided for by law.

This section will take effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment except that, (1) when a person makes or furnishes, in connection with the organization or sale of an interest in any entity or investment, a statement with respect to the availability of a tax benefit with respect to the investment, he will be liable for the penalty if he knew or had reason to know the statement was false or fraudulent as to any material matter. The addition of "has reason to know," clarifies that the Secretary may rely on objective evidence of the knowledge of a promoter or salesperson (for example) to prove that he deliberately furnished a false or fraudulent statement. For example, a salesman would ordinarily be deemed to have knowledge of the facts revealed in the sales materials which are furnished to him by the promoter. The "reason to know standard" is not, however, intended by the conferees to be used to impute knowledge to a person beyond the level of comprehension requird by his role in the transaction. Thus, this standard does not carry with it a duty of inquiry concerning the transaction.

Secondly, the term "gross valuation overstatement" is redefined to be a statement of the value of property or services which exceeds 200 percent of the correct value (instead of 400 percent).

l. Action to enjoin promoters of abusive tax shelters, etc.

Present law

Present law provides that a civil action may be brought by the United States to enjoin any person who is an income tax return preparer who engages in certain proscribed acts. Venue for such an action lies in the district in which the income tax return preparer resides or has his principal place or residence, or the taxpayer with respect to whose income tax return the action is brought resides.

House bill

No provision.

Senate amendment

The Senate amendment would permit the United States to seek injunctive relief against any person engaging in conduct subject to the penalty for organizing or selling abusive tax shelters (sec. 331 of the bill and new Code sec. 6700). Venue for these actions generally would be the district in which the promoter resides, has his principal place of business, or has engaged in the conduct subject to penalty under section 6700.

The amendment would take effect on the day after the day of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

m. Procedural rules applicable to penalties under sections 6700, 6701, and 6702

Present law

Under present law, the burden of proood is on the Secretary in any proceeding in which the issue is whether an income tax return preparer has willfully attempted to understate the liability for tax of any person. Similarly, the burden of proof is generally on the Secretary to prove fraud. Under present law, the deficiency procedures generally apply to the collection of additions to tax, additional amounts, and nonassessable penalties.

House bill

No provision.

Senate amendment

The Senate amendment would provide for district court review of the Secretary's assessment and notice and demand of (1) the abusive tax shelters promoter penalty, (2) the civil aiding and abetting penalty, and (3) the frivolous return penalty, before the full amount of such penalties could be collected if certain procedural requirements are met.

In any proceeding involving the issue of whether any taxpayer is liable for such penalties, the burden would be on the Secretary.

The provision would take effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

n. Penalty for substantial understatement

Present law

Under present law, penalties may be imposed on the failure to pay certain taxes shown on a return or required to be shown on a return, unless such failure is due to reasonable cause and not willful neglect. If the failure is due to negligence or fraud, additional penalties may apply.

Under present law, if a taxpayer makes a substantial property valuation overstatement which results in an underpayment of tax, then a penalty measured as a percentage of the underpayment resulting from the valuation overstatement generally is imposed without regard to fault.

House bill

No provision.

Senate amendment

A penalty of 10 percent would be imposed on any substantial understatement of income tax. For this purpose, an understatement would be the excess of the amount of income tax imposed on the taxpayer for the taxable year, over the amount of tax shown on the return. A substantial understatement of income tax would exist if the understatement for the taxable year exceeded the greater of 10 percent of the tax required to be shown on the return for the taxable year, and $5,000 ($10,000 for corporations other than subchapter S corporations and personal holding companies).

The amount of the understatement would be reduced by the portion of the understatement that is attributable to (1) the treatment of any item for which the taxpayer believed there was substantial authority, or (2) any item for which there was adequate disclosure of the relevant facts on the return. In the case of a tax shelter, the reduction would apply to the portion which the taxpayer believed was more likely than not to be the correct treatment.

A tax shelter would be defined as a transaction for which evasion or avoidance of income tax is the principal purpose.

The Secretary could waive all or a part of the penalty on a showing by the taxpayer that there was a reasonable basis for the understatement and the taxpayer acted in good faith.

The penalty would be effective with respect to returns which have a due date after 1982.

Conference agreement

The conference agreement generally follows the Senate amendment except that the application of the exceptions to the substantial understatement penalty is clarified. Under the bill, there are exceptions to the penalty based on (1) the merits of the taxpayer's filing, (2) disclosure by the taxpayer of relevant facts, or (3) waiver by the Secretary.

In a case of an item other than a tax shelter item, a taxpayer may avoid application of the substantial understatement penalty with respect to any item if (1) the treatment of the item on the return is or was supported by substantial authority or (2) all of the facts relevant to the tax treatment of the item were disclosed on the return or a statement attached to the return. Whether the taxpayer's filing position is or was supported by substantial authority will depend on the circumstances of the particular case. It will be necessary to weigh court opinions, Treasury regulations and official administrative pronouncements (such as revenue rulings and revenue procedures) that involve the same or similar circumstances and are otherwise pertinent, as well as the Congressional intent reflected in the committee reports, to determine whether the position is supported by present law and may be taken with the good faith expectation that it reflects the proper treatment of the item. The conferees did not adopt an absolute standard that a taxpayer may take a position on a return only if, in fact, the position reflects the correct treatment of the item because, in some circumstances, tax advisors may be unable to reach so definitive a conclusion. Rather, the conferees adopted a more flexible standard under which the courts may assure that taxpayers who take highly aggressive filing positions are penalized while those who endeavor in good faith to fairly self-assess are not penalized.

The standard of substantial authority was adopted, in part, because it is a new standard. The conferees are unaware of any judicial or administrative decision interpreting the phrase "substantial authority." Thus, the courts will be free to look at the purpose of this new provision in determining whether substantial authority existed for a position taken in any particular case. The conferees believe such a standard should be less stringent than a "more likely than not" standard and more stringent than a "reasonable basis" standard. Thus, it is anticipated that this new standard will require that a taxpayer have stronger support for a position than a mere "reasonable basis" (a "reasonable basis" being one that is arguable, but fairly unlikely to prevail in court upon a complete review of the relevant facts and authorities). Rather, when the relevant facts and authorities are analyzed with respect to the taxpayer's case, the weight of the authorities that support the taxpayer's position should be substantial when compared with those supporting other positions. In determining whether a position is supported by substantial authority, the courts will not be bound by the conclusions reached in law review articles, opinion letters, or private ruling on determination letters and technical advice memoranda of the Internal Revenue Service issued to or concerning a third party, but will instead examine the authorities that underlie such expressions of opinion.

The substantial understatement penalty in non-tax shelter cases also may be avoided with respect to any item if the relevent facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. Under generally applicable regulatory authority, the Commissioner may prescribe the form of such disclosure.

With respect to tax shelter items, the penalty may be avoided only if the taxpayer establishes that, in addition to having substantial authority for his position, he reasonably believed that the treatment claimed was more likely than not the proper treatment of the item. For this purpose, a tax shelter item is one that arises from a partnership or other entity, plan or arrangement the principal purpose of which is the avoidance or evasion of Federal income tax. The conferees believe that if the principal purpose of a transaction is the reduction of tax, it is not unreasonable to hold partici-

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pants to a higher standard than ordinary taxpayers.

The conference agreement follows the Senate amendment in permitting the Secretary to waive the penalty with respect to any item if the taxpayer establishes reasonable cause for his treatment of the item and that he acted in good faith.

Finally, the coordination with the substantial property overvaluation penalty provision is modified so that this penalty applies only to that portion of the substantial understatement attributable to items on which the overvaluation penalty under section 6659 is not imposed.

o. Penalty for aiding and abetting the understatement of tax liability

Present law

Present law provides a criminal penalty for willfully aiding in the preparation or presentation of a false or fraudulent return, or other document under the internal revenue laws. The penalty is a fine of up to $5,000 or 3 years imprisonment, or both, together with costs. There is no comparable civil penalty on persons who aid in the preparation of false or fraudulent documents. Income tax return preparers who willfully attempt to understate the liability for tax of any person are subject to a penalty of $500 per return.

House bill

No provision.

Senate amendment

The Senate amendment would provide for a new civil penalty on any person who aids in the preparation or presentation of any portion of a return or other document under the internal revenue laws which the person knows will be used in connection with any material matter arising under the tax laws, and which the person knows will (if used) result in any understatement of the tax liability of another person.

This penalty would be $1,000 for each return or other document ($5,000 in the case of returns and documents relating to the tax of a corporation).

In general, under the Senate amendment, this penalty would be in addition to all other penalties provided by law. However, if the return preparer penalties for negligence or intentional disregard of rules or regulations, or for willful attempt to understate the tax liability of any person, could apply with respect to any document, this new penalty would not apply with respect to such document.

This provision would be effective on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with two modifications. First, the amount of the penalty with respect to documents relating to corporate tax liability is increased to $10,000 (from $5,000). Second the coordination between this penalty and the return preparer penalty is altered by allowing the Internal Revenue Service to choose which penalty it will assert if both may apply to a particular set of facts. Thus, this penalty will not apply if a return preparer penalty is actually assessed with respect to a document otherwise subject to this penalty.

p. Fraud penalty

Present law

Under present law, if any portion of an underpayment of tax is due to fraud, a civil penalty is imposed (as an addition to tax) equal to 50 percent of the entire underpayment. If part of an underpayment is attributable to negligence or intentional disregard of rules and regulations, the penalty under present law is equal to 5 percent of the entire underpayment plus 50 percent of interest payable on the portion of the underpayment attributable to negligence or disregard of rules and regulations for the period beginning on the last date prescribed for payment of the tax and ending on the date of assessment of the tax.

In the case of the windfall profit tax, both the negligence and the fraud penalty may apply to the same underpayment.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement conforms the civil fraud penalty to the negligence penalty by providing that in addition to the 50 percent fraud penalty on the entire underpayment, there is a penalty equal to 50 percent of the interest payable on the portion of the underpayment attributable to fraud for the period beginning on the last date prescribed for payment of the tax (without regard to any extension), and ending on the earlier of the date of assessment or the date of payment of the tax. Under the conference agreement, the negligence penalty does not apply in any case in which the fraud penalty has been assessed.

Finally, the conference agreement provides that when a joint return is filed, the interest addition does not apply with respect to the spouse's tax unless some part of the underpayment was due to the spouse's fraud.

The amendment applies to taxes the last day for payment of which (without regard to any extension) is after the date of enactment.

q. Frivolous returns

Present law

Under present law, a taxpayer who files a protest return, is subject to a penalty only if he or she also underpays his or her tax. Thus, if a taxpayer has paid at least the correct amount of tax through estimated tax or wage withholding, there is no penalty for filing a protest return.

House bill

No provision.

Senate amendment

The amendment would provide for an immediately assessable penalty of $500 on any individual who files a frivolous return. The penalty would apply only on documents purporting to be returns that are patently improper and not in cases involving valid disputes with the Secretary, or in cases involving purely inadvertent mathematical or clerical errors.

The deficiency procedures, under which the taxpayer would receive advance notice before the assessment, would not apply to this penalty. There would be, however, a provision allowing district court review of the assessment on payment of 15 percent of the amount assessed and the filing of a claim for refund of the amount paid.

This penalty would apply to documents filed after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, except that the exclusion for inadvertent mathematical or clerical errors is deleted as unnecessary.

r. Criminal fines

Present law

(1) Under present law, any person and willfully attempts to evade or defeat any tax or the payment thereof is guilty of a felony and, if convicted, may be fined not more than $10,000 or imprisoned for not less than 5 years, or both.

(2) Any person who is required to pay any tax or estimated tax or keep records or report information and willfully fails to do so is guilty of a misdemeanor and is punishable by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both.

(3) Any person who willfully files a false declaration under penalty of perjury, aids or assists in the preparation of a false or fraudulent document; falsely executes any document under the internal revenue laws; conceals goods, etc., to evade or defeat any tax; or does certain other acts, is guilty of a felony and upon conviction may be fined not more than $5,000 or imprisoned for not more than 3 years, or both.

(4) Any person who willfully delivers any false or fraudulent document to the Secretary, or does certain other acts, is guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned for one year, or both.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference adopted certain increases in the maximum amount of fines under the above provisions as recommended by the Department of Justice. In many cases, the maximum fine amounts had not been increased for many years and, due to inflation, no longer represented the same deterrent as was originally intended. Thus, in (1) above, the maximum penalty is increased from $10,000 to $100,000 ($500,000 for corporations); the maximum penalty amount in (2) above is increased from $10,000 to $25,000 ($100,000 for corporations); the maximum fine in (3) above is increased from $5,000 to $100,000 ($500,000 for corporations); and the maximum fines in (4) above are increased from $1,000 to $10,000 ($50,000 for corporations). The Conferees intend that, as under present law, these increased fines should continue to be treated as supplements to, and not substitutes for, imprisonment.

These increases are effective with respect to offenses committed after the date of enactment.

s. Adjustments to estimated tax provision

Present law

Under present law, an individual required to pay estimated taxes is subject to a penalty for underpayment of such taxes if he fails to pay at least 80 percent of the total amount of each installment when due. The penalty does not apply, however, if the taxpayer pays at least, (1) the tax shown on the preceding year's return (if such return was for a taxable year of 12 months); (2) pays 80 percent of the tax due by placing his income on an annualized basis; (3) pays an amount equal to 90 percent of the tax due using current year's tax rates applied to the actual income prior to the month in which the installment is paid; or (4) pays an amount equal to the tax computed using current year's rates applied to the facts and law applicable to the preceding year's return. A criminal penalty may also apply. There are no expressed exceptions to the criminal penalty.

In addition to paying estimated taxes when required, individuals are required to file declarations of estimated taxes. There is, however, no penalty for failure to file a declaration.

House bill

No provision.

Senate amendment

Under the Senate amendment, any individual or corporation that fails to make any estimated tax payment would not be subject to the criminal penalty for such failure if the civil penalty for such failure is not applicable because an exception to the civil penalty applies.

The provision would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. In addition, the conference agreement provides that no civil estimated tax penalty may be imposed on an individual if the individual had no tax liability for the preceding taxable year, such taxable year was a taxable year of 12 months, and the individual was a U.S. citizen or resident for the entire year.

The requirement for filing a declaration of estimated tax is terminated after 1982. Other provisions of law will, however, continue to function as if such declaration were filed. In addition, the requirement of present law that a taxpayer must pay 100 percent of each installment when due is modified to require payment only of an amount computed by taking into account the penalty provisions.

These provisions are effective for taxable years beginning after 1982.

t. Special rules with respect to certain cash

Present law

Overview

In the usual case, the Secretary may not assess and may not make notice and demand for payment of any tax unless he follows certain procedures designed to allow the taxpayer to first contest the existence and amount of the alleged deficiency. These procedures include written notice of deficiency followed by a 90-day period (150 days in the case of notices to persons outside the United States) during which the taxpayer may petition the Tax Court for review of the Secretary's determination. No assessment may be made until after this 90-day period has expired or until after a decision of the Tax Court is final. This deficiency procedure need not be followed when the Secretary reasonably believes that collection of an alleged deficiency will be jeopardized by delay. In such a case, the Secretary may declare jeopardy and immediately assess the tax, or may (in an appropriate case) terminate the taxpayer's taxable year and assess the tax due for that taxable period. The jeopardy and termination assessment procedures permit immediate assessment of an alleged tax deficiency without a preassessment notice of deficiency.

Both the jeopardy and termination assessment procedures require the Secretary to determine that there is a deficiency in tax and that the collection of this deficiency is in jeopardy. These procedures are not, therefore, well suited to cases in which the Secretary has reason to believe that a tax is owing with respect to an amount of property (for example, cash), but cannot determine the proper owner of such property.

Jeopardy assessment

If the district director believes that the assessment and collection of a deficiency in income, estate, gift or certain excise taxes will be jeopardized by delay, he may assess such deficiency and demand its immediate payment together with any interest, additional amounts and additions to tax provided for by law. The Secretary may reasonably believe that a collection of a tax is in jeopardy where, for example, the taxpayer designs to quickly depart from the United States or to conceal himself, to quickly place his property beyond the reach of the United States, or the taxpayer's financial solvency is imperiled. If after assessment, notice, and demand the taxpayer fails to pay the assessed amount, the Secretary may immediately enforce collection, subject to the right (described below) of the taxpayer to stay the enforcement proceedings by posting a bond.

Collection of the amount assessed, or any portion thereof, may be stayed by the taxpayer by filing a bond with the Secretary equal to the amount with respect to which the stay is desired. In such a case the bond must be conditioned upon the payment of the amount finally determined to be owing when due. Generally, if assessment is made and property seized for collection of the assessed amount, the property may not be sold until after the taxpayer has an opportunity for District Court review of the reasonableness of the assessment and the amount thereof, and (if applicable) the date on which a Tax Court decision is final.

Termination assessment

When the Secretary finds that the collection of income tax for the current or immediately preceding taxable year is in jeopardy because the taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property, or to do any other act tending to prejudice proceedings to collect such tax, he may immediately terminate such taxable year, and assess and demand any deficiency he reasonably believes owing with respect to the taxable period terminated. A termination assessment is appropriate with respect to the income tax for the current taxable year or the preceding taxable year, but not after the due date (with extensions) of the return for the preceding taxable year. In all other situations, the jeopardy assessment provisions apply and the termination provision does not.

In the case of the current taxable year, which is terminated under the termination provision, the portion of the current taxable year starting on the first day of the current taxable year and ending on the determination date, is treated as a separate taxable year. The taxpayer's tax for the period (less any prior termination assessments) is then computed and assessed and notice and demand therefore made. Any tax collected is treated as a payment of tax for the applicable taxable year.

Judicial review of assessment

In both the jeopardy and termination assessment cases, the taxpayer is entitled to an expedited review by the Secretary, through the district director, of whether the determination of jeopardy was reasonable under the circumstances and whether the amount assessed and demanded was appropriate under the circumstances.

After review by the district director the taxpayer is also entitled to a review by the appropriate United States District Court. In the District Court, the Secretary has the burden of proving that the determination of jeopardy was reasonable under the circumstances, while the taxpayer has the burden of proof with respect to the amount assessed. This review procedure is directed only at the reasonableness of the jeopardy assessment and the amount assessed. The District Court's opinion is nonappealable, and is not a determination of the actual existence or amount of any deficiency due from the taxpayer.

In making their respective determinations, the district director and District Court may both refer to information which became available after the assessment is made.

The taxpayer is also entitled to a separate review by the District Court or Tax Court of the actual existence of any tax deficiency on which the jeopardy assessment was based.

To facilitate this review, the Commissioner must mail a notice of deficiency to the taxpayer within 60 days of the later of the due date of the taxpayer's return for the taxable year in which or for which the termination assessment was made (with extensions), or the date the taxpayer files such return. While the Secretary may terminate a taxable year more than once, he need not send out the notice of deficiency until after the close of the taxable year.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement adds a new provision designed to expedite jeopardy or termination assessments in cases when there is no known owner of large amounts of cash.

The current termination and jeopardy procedures are designed to address the case in which the Secretary reasonably believes, from all the circumstances, that a deficiency in tax is owing from a particular taxpayer and that the collection of such deficiency is in jeopardy. It is unclear under present law whether the jeopardy and termination procedures are available to the Secretary when cash or its equivalent cannot be associated with any particular person and the Secretary cannot, therefore, determine a deficiency in tax or its amount for an identifiable person.

The bill provides that the Secretary can presume that the collection of an amount of income tax is in jeopardy, where an individual in physical possession of more than $10,000 of cash or its equivalent denies ownership of the cash and does not claim that such cash belongs to another person the identity of whom is readily ascertainable by the Secretary (and who acknowledges ownership). In such a case, the Secretary may presume, for purposes of the jeopardy or termination assessment provisions (1) that such cash represents gross income to a single individual for the taxable year of possession taxable at 50 percent rate, and (2) that the collection of the tax on such cash would be jeopardized by delay. The Internal Revenue Service cannot assess on the same cash twice.

Notice with respect to the assessment is given to, and the right to contest the assessment is vested in, the person found in possession of the cash. However, the true owner can come forward and challenge the assessment and will be retroactively substituted for the possessor for all purposes (including

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establishing lien priorities) as of the date of the original assessment. In addition, the true owner will continue to have the same rights as exist under present law to recover his cash.

The terms "cash" and "cash equivalent" include cash, foreign currency, any bearer obligation and any other medium of exchange which is a type used frequently in illegal activities and specified as a cash equivalent by the Secretary in regulations. In the usual case, a cash equivalent will be valued at its fair market value, except that a bearer obligation will be deemed to have a value equal to its face amount.

This provision is effective the day after the date of enactment.

u. Special procedures for third-party summonses and third-party recordkeepers

Present law

Under present law, if an administrative summons is served on a third-party recordkeeper, then notice of the summons must also be given to the person whose records have been summoned (i.e., the taxpayer). The taxpayer can stay compliance with a third-party summons by notifying the recordkeeper in writing not to comply with the summons. To enforce the summons, the Secretary must then seek an order of a United States District Court compelling compliance.

House bill

No provision.

Senate amendment

Under the amendment, a taxpayer whose records are summoned and who wishes to prevent compliance with the summons by the recordkeeper, would be required to begin a civil action in court to quash the summons not later than the 20th day after the day notice of the summons is given. No examination of the summoned records would be allowed before the close of the 23rd day after notice were given, or, if the proceeding to quash were begun, until the court so orders. As under current law, the ultimate burden of persuasion with respect to his right to enforce the summons would remain on the Secretary.

The bill would require third-party recordkeepers to proceed to assemble summoned records upon receipt of the summons and to be prepared to produce the records on the date specified for their examination. Such recordkeepers would be entitled to reimbursement for their costs under section 7610 regardless of whether the summons is enforced.

The provisions would apply with respect to summonses initially served after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment with the clarification that when a proceeding to quash the summons is begun, the Secretary may also examine the summoned records if the taxpayer whose records are summoned consents.

v. Limitation on use of administrative summonses

Present law

Under present law, the Secretary may issue summonses for the purpose of determining liability for taxes due under the internal revenue laws unless the Internal Revenue Service has institutionally abandoned its civil tax case.

House bill

No provision.

Senate amendment

Under the amendment, the Secretary could not issue any summons or commence any action to enforce a summons if a Justice Department referral were in effect with respect to the person whose tax liability is in issue. The amendment would provide that the purposes for which an administrative summons may be issued include the right to inquire into any offense connected with the administration or enforcement of the Internal Revenue laws.

This provision would be effective the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

w. Withholding on pensions, annuities, and certain deferred income

Present law

Under present law, income tax generally is not required to be withheld on pension or annuity payments. However, a recipient may elect to have tax withheld on annuity payments.

House bill

No provision.

Senate amendment

The Senate amendment provides that payors generally will be required to withhold tax from all designated distributions (the taxable part of payments made from or under a pension, profit-sharing, stock bonus, or annuity plan, a deferred compensation plan where the payments are not otherwise considered wages, an IRA, or a commercial annuity contract (whether or not the contract was purchased under an employer's plan for employees)). A partial surrender of an annuity contract and certain loans from employee plans and IRAs will also be considered a distribution subject to withholding. The withholding rate is determined by the nature of the distribution. Tax will be withheld on periodic payments in excess of $5,400, under the wage withholding tables. Tax on certain total distributions will be withheld under a schedule designed to reflect the special tax treatment accorded to lump sum distributions, and tax on other non-periodic distributions will be withheld at a flat 10-percent rate. Withholding will be required with respect to payments made after December 31, 1982, unless the recipient elects not to have tax withheld.

In general, a recipient may elect (for any reason) not to have tax withheld, except that a recipient of a total distribution may elect out only to the extent that the distribution is rolled over to another eligible retirement plan. An election is generally effective for the distribution for which the election is made, except that an election with respect to periodic payments is generally effective for a calendar year. Thus, an election not to have tax withheld from periodic payments must be renewed annually.

In addition, the amendment generally requires that payors notify recipients of the withholding rules and their rights to elect out. With respect to periodic payments, notice must be provided (1) no earlier than 6 months and not later than 2 months before making the first payment, and (2) annually, within the third quarter of the calendar year. With respect to other payments, notice must be provided no later than the time of distribution.

Conference agreement

The conference agreement generally follows the Senate amendment except that (1) a recipient may elect (for any reason) not to have tax withheld from any distribution (including total distributions which are not rolled over to another eligible retirement plan); (2) an election with respect to a periodic payment is effective until revoked, although a payor would still be required to provide annual notice of a participant's right to make, renew, or revoke an election, and (3) a payor of a periodic payment is required to provide initial notice of a recipient's right to make, renew, or revoke an election no earlier than six months before and no later than the date of the first payment. It is expected that the notice will also advise recipients that penalties may be incurred under the estimated tax payment rules if the payments of estimated tax are not adequate and sufficient tax is not withheld from any designated distributions.

As under the Senate amendment, tax would generally be withheld on periodic payments pursuant to the recipient's withholding certificate. For example, a married recipient whose spouse is not a wage earner would not be subject to tax on periodic distributions payable at an annual rate of up to $7,400 if both the wage earner and his spouse were at least age 65 and a withholding certificate were filed. If no certificate is filed, the amount withheld will be determined by treating the payee as a married individual claiming three withholding exemptions. Thus, in effect, there would be no withholding on pensions payable at an annual rate of $5,400 or less.

Annuity payments and other distributions under the Civil Service Retirement System are subject to the income tax withholding rules. The conferees intend that the cost of administering the withholding rules will be borne by the Civil Service Retirement System.

The conferees recognize the difficulty some payors may have in immediately complying with the new withholding requirements for annuity payments. Accordingly, the civil and criminal penalties for failure to withhold tax will not apply to any failure before July 1, 1983, if the payor made a good faith effort to withhold, and actually withholds from any subsequent 1983 payments sufficient amounts to satisfy the pre-July 1983 requirements. No relief is provided for any failure to timely pay over any amounts that are in fact withheld. Also, the Secretary is authorized, on a case-by-case basis, to exempt payors from any obligation to withhold with respect to pre-July 1983 payments if the payor has attempted to comply in good faith, has a plan to assure its ability to comply by July 1, 1983, and cannot comply on January 1, 1983, without undue hardship. If such a waiver of the withholding obligations is granted, the payor will not be required to make up the withholding obligation out of post-June 1983 payments.

x. Pension reporting requirements

Present law

Under present law, distributions under a tax-qualified plan or annuity contract are required to be reported only if the amount includable in income totals $600 or more for the calendar year. Distributions from an IRA are required to be reported without regard to the amount of the distributions. Penalties generally apply to any person failing to file a required report.

House bill

No provision.

Senate amendment

The Senate amendment provides for reporting of necessary information by employers and plan administrators of plans from which designated distributions can be made and issuers of insurance or annuity contracts from which designated distributions can be made. The form and manner of reporting will be determined under forms or regulations prescribed by the Secretary of the Treasury. These reports are to be made to the Secretary, to the participants and beneficiaries, and to such other persons as the Secretary may prescribe. As under present law, penalties apply to any person failing to file any required report.

The provision is effective for calendar years beginning after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment. In addition, the conference agreement makes it clear that an exchange of insurance contracts under which any designated distribution may be made (including a section 1035 tax-free exchange) is intended to be a reportable event even though no designated distribution occurs in the particular transaction. Thus, to insure proper reporting of any designated distributions under the new contract, it is anticipated that, under regulations to be issued by the Secretary, the issuer of the contract to be exchanged will be required to provide information to the policyholder, the issuer of the new contract, and such other persons as the Secretary may require.

y. Pension recordkeeping requirements

Present law

Under present law, no separate penalty is imposed for failure to maintain a data base sufficient to provide required reports.

House bill

No provision.

Senate amendment

The Senate amendment imposes a new penalty if the data base needed for reports is not maintained whether or not reports are due for the period during which the recordkeeping failure occurs. No penalty is imposed for a failure to meet the recordkeeping rules when the failure is due to reasonable cause and not willful neglect. Also, no penalty is imposed for a recordkeeping failure that is due to a prior failure with respect to which the penalty has already been imposed, or which occurred before 1983, if all reasonable efforts have been made to correct the prior failure. The recordkeeping penalties are effective on January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

z. Partial rollovers of IRAs

Present law

Under present law, distributions from qualified pension, etc., plans and IRAs are eligible for tax-free rollover treatment. However, inconsistent rules apply. For example, distributions from an IRA are eligible for tax-free rollover treatment only if the entire amount of the distribution is rolled over to another eligible retirement plan, while distributions from qualified plans are eligible for tax-free rollover treatment to the extent of any amount so transferred.

House bill

No provision.

Senate amendment

Under the Senate amendment, distributions from IRAs are eligible for tax-free rollover treatment to the extent that the distribution is rolled over to another eligible retirement plan. The provision applies to IRA distributions made after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

aa. Foreign investment in U.S. real property

Present law

Under legislation enacted in December of 1980, foreign investors in certain U.S. real property interests are taxable by the U.S. on the gain realized when they dispose of the interest. The provisions are enforced through complex information reporting. The legislation overrides certain nonrecognition provisions of the Code to insure U.S. taxation of the gain.

House bill

No provision.

Senate amendment

Taxation of foreign investors on disposition of U.S. real property interests would be enforced through withholding. Purchasers of U.S. real property interests from foreign owners, and certain of their agents, would be required to withhold a portion of the purchase price. Protections against liability are provided so that withholding would apply only if the purchaser or his agent had actual knowledge or had received formal notice that the seller was foreign. Agents for the transferor would have to withhold if they had knowledge, reason to believe, or notice, and failed to notify the transferee. Withholding would not apply to a purchaser buying a principal residence for $200,000 or less, or to sale of stock on an established U.S. market. The Secretary could reduce or eliminate withholding on request in certain other cases. The Secretary is authorized to remove current reporting obligations that are not needed because of withholding.

The provision would impose withholding for amounts paid on or after 30 days after enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

bb. Returns with respect to foreign personal holding companies

Present law

Certain information returns are required of officers, directors, and 50-percent U.S. shareholders of companies that are FPHC's at year's end. Some return requirements overlap. Moreover, staggered filing dates may cause repetitive paperwork. There is no civil penalty for failure to file.

House bill

No provision.

Senate amendment

The Commissioner would be given flexibility in setting due dates and waiving duplicate filings for foreign personal holding company reports and returns. The amendment also makes changes in reporting requirements.

A $1,000 civil penalty for failure to file a proper return would be imposed.

The provision would apply to taxable years of foreign corporations beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

cc. Penalty for failure to furnish information returns with respect to certain foreign corporations; reporting requirement for corporations controlled by foreign persons

Present law

When a taxpayer fails to furnish adequate information about a foreign corporation he controls, he is subject to a penalty reducing the relevant foreign tax credit by 10 percent. Additional penalties of five percent of the credit accrue quarterly on continuing failure. There is no specific statutory reporting requirement for a U.S. corporation (or a foreign corporation operating in the United States) that is controlled by a foreign person and that enters into transactions with related parties.

House bill

No provision.

Senate amendment

The Senate amendment supplements the existing penalty by adding an alternative flat penalty of $1,000 per tax year for which failure exists. Ninety days after notification of failure, additional $1,000 penalties accrue every 30 days, up to a $24,000 maximum. Amounts paid under the flat $1,000 penalty reduce amounts due under the existing penalty reducing the foreign tax credit. This provision applies to annual accounting periods ending after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, but adds a new reporting requirement for certain foreign-controlled corporations. In general, these requirements apply both to U.S. corporations and to foreign corporations engaged in trade or business in the United States ("reporting corporations"), but only if they are controlled by a foreign person (defined to include certain possessions residents). This control test requires reporting if at any time during a taxable year a foreign person owns 50 percent or more of the stock of the reporting corporation (either by value or by voting power).

The reporting corporation must furnish certain information about any corporation that (1) is a member of the same "controlled group" as the reporting corporation (a group that generally includes brother-sister corporations as well as the reporting corporation's parent and subsidiaries), and that (2) has any transaction with the reporting corporation during the taxable year. The information that the reporting company is to report is such information as the Secretary may require that relates to the related company's name, its principal place of business, the nature of its business, the country in which it is organized and in which it is resident, its relationship with the reporting corporation, and its transactions with the reporting corporation during the year.

The conference agreement imposes penalties for violation of this new reporting requirement that are similar to the Senate amendment's new supplemental penalties for failure to supply information under the existing reporting requirement (relating to controlled foreign corporations). Reasonable cause, as shown to the satisfaction of the Secretary, precludes imposition of this penalty.

This new reporting requirement applies to taxable years beginning after December 31, 1982.

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dd. Access to records and persons not found in the United States

Present law

Documents held abroad.—The Code specifically confers jurisdiction to enforce an administrative summons only when a U.S. citizen or resident resides or is found in a U.S. judicial district. There is generally no procedure to require timely production of documents held abroad. The Commissioner may issue summonses to examine any books, papers, records, or other data that may be relevant or material to a tax inquiry. To enforce an administrative summons, the Commissioner must show that (1) the investigation will be conducted pursuant to a legitimate purpose, (2) the inquiry may be relevant to that purpose, (3) the information sought is not already within his possession, and (4) the administrative steps required by the Code have been followed. To the extent that a summons is overbroad it is invalid, because to that extent, the inquiry is irrelevant to a legitimate purpose. In addition, the Secretary must at all times use the summons authority in good faith.

Treaty benefits.—The Internal Revenue Code generally imposes a 30 percent tax on the gross amount of certain passive income which arises from U.S. sources and is paid to foreign persons. The 30 percent tax on such gross amounts is collected by withholding at the source. The person required to withhold the tax (the "withholding agent") may be the actual payor of the income or certain agents of the payor, such as banks or other financial intermediaries, which have control over, or custody of, such income.

Tax treaties between the United States and other countries commonly provide, on a reciprocal basis, for reduced rates or elimination of U.S. tax on various categories of passive income paid to residents of such other countries. Generally, under current regulations, a foreign recipient of U.S. source passive income may obtain a reduction or elimination of U.S. tax on such income under an applicable treaty if the recipient provides the payor or other person having control of such income with a completed Internal Revenue Service Form 1001. The Form 1001 identifies the owner of the income, states the character of the income, and contains a statement that the recipient qualifies for the relevant treaty benefits. Regulations prescribe a different method, the "address method," for obtaining reduced rates of withholding tax for U.S. source dividends paid to foreign persons which is different from the Form 1001 procedure that applies to other types of passive income. Under the address method, a recipient of U.S. source dividends who has an address in a country with which the United States has a tax treaty will, with limited exceptions, be presumed to be a resident of such country for purposes of obtaining reduced rates of tax on dividends under the treaty. The pertinent regulations provide that the withholding agent may withhold on dividends at the reduced treaty rates in reliance upon the foreign address of the recipient unless the agent has knowledge that the recipient is not a resident of the country under whose treaty the reduced rates are claimed.

House bill

No provision.

Senate amendment

The Senate amendment extends the jurisdiction and the summons power of the United States District Court of the District of Columbia to reach U.S. citizens and residents not present in the United States.

Conference agreement

Documents held abroad.—The Conference agreement generally follows the Senate amendment, but adds certain provisions. The agreement adds a formal document request procedure that is intended to discourage taxpayers from delaying or refusing disclosure of certain foreign based information to the Internal Revenue Service.

The Conference agreement provides that if a taxpayer fails to "substantially comply" with a "formal document request" arising out of the tax treatment of any item, upon motion of the Secretary, any court having jurisdiction over a civil proceeding in which the tax treatment of the examined item is at issue shall prohibit the introduction into evidence by the taxpayer of any "foreign-based documentation" covered by such request, unless such documentation was provided to the Secretary within 90 days, or a later date to be set by the Secretary, of the mailing of the request.

Whether a taxpayer has substantially complied with a formal document request will depend on all the facts and circumstances. For instance, if the Internal Revenue Service presents a taxpayer with a formal document request for 10 items and the taxpayer produces 9 of them but fails (without reasonable cause) to produce the one requested document that appears to a court to be the most significant item, a court may decide that there has not been substantial compliance and exclude all of the items. However, when the Service issues multiple requests in the course of an audit, and when, for example, the taxpayer fails to comply with one particular request for only one document, the taxpayer's timely satisfaction of other requests is one factor (but not the only factor) to be considered in determining whether his overall compliance has been substantial. If overall compliance in such a situation has been substantial, the document requested but not supplied could be admissible.

The term "foreign-based documentation" means any documentation which is outside the United States and which may be relevant or material to the tax treatment of an examined item. It includes documents held by a foreign entity whether or not controlled by the taxpayer. The term "documentation" includes, but is not limited to, books and records.

The term "formal document request" means any request (made in the course of an audit and after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth the time and place for the production of the documentation, a statement of the reason the documentation previously produced (if any) is not sufficient, a description of the documentation being sought, and the consequences to the taxpayer of the failure to produce the documentation. The normal request procedures that a formal document request must follow include an information document request. The conferees do not intend that the formal document request procedure will be used as the routine beginning of an examination. The conferees intend that the Commissioner establish procedures for administrative review of proposed formal document requests before issuance. The Service can require in its request that foreign documents be translated into English.

The sanction of nonadmissibility does not arise if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause. In determining whether there was reasonable cause for failure to produce, a court may take into account whether the request is reasonable in scope, whether the requested documents or copies thereof are available within the United States, and the reasonableness of the requested place of production within the United States.

The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause. Frequently, taxpayers choose to operate through a particular country because of its restrictive nondisclosure laws. Even so, the amendment's preclusion of the use of foreign nondisclosure law as a defense is narrow in scope. The only effect of the preclusion is that the taxpayer cannot introduce at trial records that he allegedly could not earlier produce on audit.

The conferees recognize that minority status can prevent a taxpayer from being able to produce certain records held by a foreign entity. However, the conferees also recognize that taxpayers may seek to hide behind minority status to avoid production of records. Accordingly, a determination of whether minority status is reasonable cause will be determined by the facts and circumstances of the case.

Reasonable cause may excuse delay in production. For example, a requirement of translation of documents into English may not be reasonably possible in 90 days.

The conference agreement provides for judicial review of a formal document request at the time served. Any person to whom a formal document request is mailed has the right to begin a proceeding to quash that request not later than the 90th day after the day such request was mailed. In this proceeding, the taxpayer may contend, for example, that all or part of the documentation requested is not relevant to the tax issue, that the place of requested production within the United States is unreasonable, that the requested documents or copies thereof are available within the United States, or that there is reasonable cause for failure to produce or delay in production.

The reasonableness of a demand for the production of the originals of foreign documents rather than copies may be resolved in judicial proceedings to quash the request. If the foreign country makes it impossible to remove the original documents requested, not because of secrecy laws but, for example, because of foreign tax laws or laws as to the rights of creditors, true copies may be sufficient.

In any proceeding to quash, the Secretary may seek to compel compliance with the request. Jurisdiction over a proceeding to quash is retained in the United States District Court for the district in which the person to whom the formal document request is mailed resides or is found. If that person resides and is found outside the United States, the United States District Court for the District of Columbia has jurisdiction.

In a proceeding to quash, as under the current rules for administrative summonses, the Commissioner has the burden of showing relevance and materiality of the requested records. In addition, the Commissioner must show that the investigation will be conducted pursuant to a legitimate purpose, that the information sought is not already within his possession, and that the administrative steps required by the Code have been followed. During the proceeding, the running of the 90-day period for compliance with a formal document request is suspended. If the district court rules against the taxpayer, the taxpayer may appeal the court's order immediately.

The taxpayer generally has 90 days from the day of mailing to comply with a formal document request. However, the Secretary or a court having jurisdiction over a motion to quash the request may extend the period. The court may extend the period in response to a motion to quash or in response to a motion to extend the period that is not part of a motion to quash. For example, a court could find that a taxpayer had reasonable cause for failure to produce an item within 90 days and set a later date for production.

Treaty benefits.—In addition, the conference agreement would require the Secretary to establish procedures to limit treaty benefits to those persons who are justifiably entitled to such benefits. The problem is particularly acute because of the large number of income tax treaties with low tax bank secrecy jurisdictions. Congress has repeatedly shown its concern about the vulnerability of the treaty system to manipulation. In June of this year, the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Government Operations Committee held a hearing on the use of foreign addresses by U.S. individuals to evade tax by posing as non-resident aliens. The Subcommittee on Oversight of the House Committee on Ways and Means held hearings in April 1980 about abuses of income tax treaties and in April 1979 about the abuse of offshore tax havens. These hearings have demonstrated that substantial amounts of passive income, which would be tax-free in the hands of foreigners, finds its way into the hands of U.S. persons and residents of nontreaty countries who should be paying tax on it. They have also shown concern about the use of treaties by those not justifiably entitled to their benefits (so-called "treaty shopping").

The Internal Revenue Service and Treasury believe that the current procedures are insufficient for insuring that U.S. persons do not pose as foreigners entitled to tax treaty benefits and that foreigners do not take advantage of treaties of countries of which they are not resident. The conferees share the concerns regarding the improper obtaining of treaty benefits and agree that the current procedures are insufficient. The address system of withholding of tax on U.S. source dividends is particularly vulnerable to abuse. The Form 1001 filing procedure which applies to income other than dividends is similarly subject to abuse in that it requires a person claiming treaty benefits only to submit an unverified, self-serving statement to a withholding agent, who is entitled to rely on such statement for purposes of reducing the amount of tax withheld.

A number of alternatives to the present enforcement system exist, including the adoption of a refund system of withholding tax on passive income. A refund system would require withholding agents to withhold U.S. tax at the statutory 30 percent rate on all U.S. source passive income paid to foreign persons, regardless of the potential application of a treaty provision reducing the 30 percent rate or eliminating the tax altogether. The foreign recipient who claims treaty benefits would then be required to file a claim for a refund on an annual tax return. Supportive documentation would be required.

Another approach, the "certification system," would require the foreign recipient to file a certificate of residence from the competent authority of the country whose treaty benefits are being sought.

The conference agreement requires the Secretary to consider the refund system and the certification system as methods of limiting treaty benefits to those persons entitled to them. The Secretary is not limited to consideration of these methods; he should consider other methods as well. In developing such procedures to prevent abuse the Secretary should consider the extent to which any procedures would prevent abuse, the administrability of such procedures (including the ability of U.S. treaty partners to provide cooperation), any negative effect on investment in the U.S. by foreign persons which could be caused by increased costs of complying with the procedures, and the effect on U.S. investment abroad should U.S. treaty partners apply a similar method to that utilized by the United States.

The provisions would require the Secretary to establish procedures, as described above, within two years of the date of enactment.

ee. Authority to delay date for filing certain returns relating to foreign corporations and trusts

Present Law

Acquisition of a 5-percent interest (or an additional 5-percent interest) in a foreign corporation or the creation of or transfer of property to a foreign trust causes a U.S. person to have to file an information return. Beginning service as an officer or director of a foreign corporation creates a similar requirement. The returns are due 90 days after the triggering events.

House bill

No provision.

Senate amendment

The Commissioner would be given flexibility to delay the date for reporting of certain transactions relating to foreign corporations and foreign trusts beyond the current due date.

The provision would apply to returns filed after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

ff. Technical amendment to section 905(c)

Present law

The last sentence of section 905(c) appears to provide that interest on a U.S. tax underpayment triggered by a refund of foreign taxes begins to run before receipt of the refund. Other Code provisions begin the running of interest on receipt of the refund and provide a penalty for failure to report a refund.

House bill

No provision.

Senate amendment

The last sentence of section 905(c) would be eliminated. This provision would be effective for all years.

Conference agreement

The conference agreement follows the Senate amendment.

gg. Daily compounding of interest

Present law

Under present law, interest payable to or by the United States under the internal revenue laws is not compounded.

House bill

No provision.

Senate amendment

All interest payable under the internal revenue laws would be compounded daily. The change would also affect any other amounts computed by reference to the interest rate provided for in the Code.

This compounding requirement would apply to interest accruing after December 31, 1982, on amounts (including interest) remaining unpaid after that date.

Conference agreement

The Conference agreement follows the Senate amendment except that daily compounding is not required for purposes of the penalties on failure to pay estimated taxes. In a case in which the principal portion of an obligation is satisfied, and interest remains outstanding, such interest will, of course, be compounded.

hh. Semi-annual determination of rate of interest

Present law

Under present law, the rate of interest paid on underpayments, overpayments, and for certain other purposes under the internal revenue laws is determined once a year based on September's average predominant prime rate.

House bill

No provision.

Senate amendment

Under the amendment, interest rates would be redetermined twice a year on the basis of the average adjusted prime rate charged by commercial banks during the six-month period ending September 30 (effective January 1 of the succeeding calendar year), and March 31 (effective July 1 of the same calendar year).

The amendment would be effective for adjustments taking effect after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

ii. Restrictions on payment of interest for certain periods

Present law

In general, under present law, interest on refunds, credits, and offsets runs from the date of overpayment or (in the case of a credit) to the due date of the amount against which the credit is taken. An overpayment resulting from a net operating loss carryback, net capital loss carryback, or credit carryback is treated as having occurred at the close of the year in which the carryback arose.

In the case of an underpayment of tax, interest runs from the last date prescribed for payment of the tax without regard to extensions, to the date the tax is paid. If there is an underpayment of tax for any taxable year, and the amount of the underpayment is reduced by reason of the carryback of a net operating loss, net capital loss, or because of the increase in any credit for the taxable year because of a credit carryback from another taxable year, such reduction is not effective for any period prior to the last day of the taxable year in which the net operating loss, the net capital loss, or credit carryback arises.

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House bill

No provision.

Senate amendment

Under the Senate amendment, the general rule with respect to the payment of interest on overpayments is unchanged when the credit or refund is claimed in a timely filed returd. However, when the return is late because it is filed after the due date (determined with regard to extensions) no interest is payable on the overpayment for any period prior to the date on which the return is filed. For this purpose, and for purposes of determining whether a refund has been made within 45 days after the return is filed, no return is treated as filed until filed in processible form.

Under the Senate amendment, an overpayment due to a net operating loss or a net capital loss carryback, or a credit carryback is deemed not to arise before the application for tentative carryback adjustment is made, or the claim for credit or refund is filed with respect to such overpayment.

Conference agreement

Due to considerations relating to the treatment of offsets (for example, in audit situations) the conferees decided to revise the provisions of the Senate amendment dealing with restrictions on payments of interest on certain refunds. Under the agreement an overpayment resulting from a net operating loss carryback, a net capital loss carryback, or credit carryback would be treated as having occurred on the due date (without extensions) of the return for the year in which the carryback arose. In the case of a refund, the return for the loss year would be treated as not filed prior to the time the claim for refund therefor is filed. Under the conference agreement, no interest would be paid on a refund claimed on a late return if the refund is made within 90 days after the return is filed.

Conforming amendments would be made in the rules relating to interest on underpayments.

Under the bill, for purposes of the payment of interest on overpayments, a return would not be treated as filed until it is filed in processible form.

The provisions regarding late returns and processible returns would be effective for returns filed after the 30th day after the date of enactment. The provision regarding interest overpayments due to carrybacks would be applicable to interest accruing 30 days after enactment.

jj. Disallowing deductions for drug dealing

Present law

Ordinary and necessary trade or business expenses are generally deductible in computing taxable income. The Code makes certain otherwise ordinary and necessary expenses incurred in a trade or business nondeductible in computing taxable income. These nondeductible expenses include fines, illegal bribes and kickbacks, and certain other illegal payments.

House bill

No provision.

Senate amendment

All deductions and credits for amounts paid or incurred in the illegal trafficking in drugs listed in the Controlled Substances Act would be disallowed.

This provision would be effective for amounts paid or incurred after the date of enactment in taxable years ending after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

kk. Internal Revenue Service staff increases

Present law

Public Law 97-92 enables the Internal Revenue Service to maintain an average of 85,363 positions during fiscal year 1982. The Administration's budget request for fiscal year 1983 includes a net increase in Internal Revenue Service manpower of 3,310 average positions.

House bill

No provision.

Senate amendment

The Senate amendment contains a sense of the Congress resolution that additional funds be appropriated to the Internal Revenue Service pursuant to the Administration's request for fiscal year 1983 and that additional funds be provided in future years for the Internal Revenue Service sufficient to collect additional tax revenues of at least $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

Conference agreement

The conference agreement follows the Senate amendment.

ll. Reports on forms

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary is required to study and report to Congress, no later than June 30, 1983, on methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the actual income tax returns.

Conference agreement

The conference agreement follows the Senate amendment.

3. Tax treatment of partnership items

Present law

For income tax purposes, partnerships are not taxable entities. Instead, a partnership is a conduit, in which the items of partnership income, deduction, and credit are allocated among the partners for inclusion in their respective income tax returns.

Partnerships are required to file an annual information return setting forth the partnership income, deductions, and credits, names and addresses of the partners, each partner's distributive share of these items, and certain other information required by the regulations. A penalty is imposed on the partnership for each month (not to exceed 5 months), that a partnership return is late or incomplete. The amount of penalty for each month is $50 multiplied by the total number of partners in the partnership during the partnership's taxable year.

Since a partnership is a conduit rather than a taxable entity, adjustments in tax liability may not be made at the partnership level. Rather, adjustments are made to each partner's income tax return at the time that return is audited. A settlement agreed to by one partner with the Internal Revenue Service is not binding on any other partner or on the Service in dealing with other partners. Similarly, a judicial determination of an issue relating to a partnership item generally is conclusive only as to those partners who are parties to the proceeding.

The Code provides a period of limitations during which the IRS can assess a tax or a taxpayer may file a claim for refund. Generally, the period is 3 years from the date the tax return is filed (if filed before the due date, the due date is treated as the date filed). If more than 25 percent of the gross income is omitted from a return, the statutory period for assessment is 6 years. In the case of a partnership, the income tax return of each of the partners begins that individual partner's period of limitations. Except in the case of Federally registered partnerships, the date of filing of the partnership return does not affect the individual partner's period of limitations. In order to extend the period of limitations with respect to partnership items, the IRS is required to obtain a consent for extension of the statute of limitations from each of the partners—not the partnership. Generally, an agreement to extend the period of limitations relates to all items on the return of the partner who consented to the extension.

The application of the partnership return filing requirement to certain foreign based partnerships with U.S. partners is unclear. There is no express requirement that a U.S. person report the acquisition or disposition of an interest in a foreign partnership.

Windfall profit tax.—Under present law, taxable crude oil which would otherwise be treated as produced by a partnership, is allocated among the partners of the partnership according to their income interest. Each partner to whom crude oil is allocated under this rule is treated as the producer of such crude oil. Since each partner is treated as the producer of an allocable share of the partnership's production of crude oil, the partnership must report sufficient details to permit their partners to compute their allocable share of the windfall profit tax on partnership's crude oil production. In addition, each partner generally will certify his status to the partnership when such status is relevant to any special tax treatment, such as lower rates for independent producers or an exemption based upon the identity of the producer, so that first purchasers can compute the proper withholding of windfall profit taxes.

House bill

No provision.

Senate amendment

The Senate amendment contains a number of provisions designed to promote increased compliance and more efficient administration of the tax laws.

Conference agreement

a. In general

Under the conference agreement, the tax treatment of items of partnership income, loss, deductions, and credits will be determined at the partnership level in a unified partnership proceeding rather than in separate proceedings with the partners.

Except as otherwise provided in subchapter C of Chapter 63 as added by the conference agreement, the tax treatment of any partnership item is to be determined at the partnership level. New rules are adopted which govern the determination of the treatment of partnership items and resulting adjustments, both at the administrative and judicial levels.

b. Administrative proceedings

Consistency requirement

Under the conference agreement, each partner is required to treat partnership items on his return consistently with the treatment on the partnership return. Where treatment is, or may be, inconsistent (or no partnership return is filed), the consistency requirement is waived if a statement is filed by the partner identifying the inconsistency. Similarly, the consistency requirement may be waived at the partner's election if the partner establishes to the satisfaction of the Secretary that the return treatment of an item was consistent with an incorrect schedule furnished the partner by the partnership.

Failure to satisfy the consistency requirement, if not waived, will result in an adjustment to conform the treatment of the item by the partner with its treatment on the partnership return. Any additional tax resulting from such computational adjustment will be assessed without either the commencement of a partnership proceeding or notification to the partner that the inconsistent item will be treated as a nonpartnership item.

Notice requirements

Each partner whose name and address is furnished to the Secretary will receive notice of the commencement of a partnership level audit as well as notice of the final partnership administrative adjustment (FPAA), provided sufficient information is furnished to the Secretary (at least 30 days before any such notice is mailed to the tax matters partner) to enable the Secretary to determine that the partner is entitled to the notice. An exception to the notice requirement is made for anyone with a less than one-percent interest in the profits of a partnership with more than 100 partners. However, a group having an interest in the aggregate of 5 percent or more in partnership profits may designate a member of the group as a notice partner to receive notice on behalf of the group. Otherwise, the notice furnished the tax matters partner (TMP) is treated as notice to these small partners.

In providing notices, the Secretary may use the names, addresses, and profits interests shown on the partnership return or may use other information furnished by the TMP or other person pursuant to regulations.

The TMP is the general partner so designated pursuant to regulations or, in the absence of such designation, the partner with the largest profits interest in the partnership at the end of the year involved (in the event there are several partners so qualifying, the one whose name would appear first in an alphabetical listing is selected). Otherwise, the TMP will be selected by the Secretary. Since the identity of the TMP may not be known to the Secretary, mailing of any notice in care of the tax matters partner at the address where the partnership business is carried on will constitute mailing of the notice for purposes of determining whether other requirements imposed on the Secretary are complied with or whether any action, such as mailing notices to other partners, is timely taken.

If the information furnished the Secretary is sufficient, the names, addresses, and profits interests of persons with profits interests in the partnership through one or more pass-through partners will be used with respect to such profits interests in lieu of the names, addresses, and profits interests of the pass-through partners.

Notice partners are entitled to have notice of the partnership proceeding mailed to them at least 120 days before the notice of the FPAA is mailed to the TMP and to have the notice of the FPAA mailed to them not later than 60 days after such notice is mailed to the TMP. Notice partners for this purpose include partners with a less than one-percent interest in profits (in partnerships with over 100 partners), and the notice requirement as to such partners is satisfied by notice to the TMP, or if such partner is a member of a 5-percent or greater group, by notice to the designated member of such group.

Late notification

If, when notice of the proceeding is mailed to any partner, the period within which to commence a judicial proceeding to redetermine the FPAA has expired without commencement of such a proceeding, or if any court decision has became final, the partner may elect to have such determination, such court decision, or a settlement agreement entered into with another partner with respect to the same partnership year apply. If the partner does not so elect, all partnership items will be treated as nonpartnership items in determining his liability. If administrative or judicial proceedings have not terminated but the notice of the proceeding is untimely, the partner will be a party to the proceedings unless he elects to have the terms of a settlement with any other partner applied to him or to have all partnership items treated as nonpartnership items.

Other notice requirements

Only one notice of FPAA may be mailed to a partner for any one year of a partnership in the absence of fraud, malfeasance, or a misrepresentation of a material fact.

To the extent provided in regulations, the TMP will be required to keep partners informed of all administrative and judicial proceedings. Notices received by pass-through partners must be forwarded within 30 days to persons holding an interest in partnership profits or losses through the pass-through partner. The responsibility for forwarding such notices is on the TMP of any pass-through partner which is itself a partnership. It is intended that no obligation will be imposed on the TMP with respect to partners wishing to be informed about routine or minor events.

All partners have a right to participate in the partnership proceeding but may waive such rights and any restrictions, such as a restriction on assessment, on the Secretary. The place and time of meetings and other events involving the Internal Revenue Service will be determined by Service representatives and the TMP.

Settlements

Settlement agreements in the absence of fraud, are binding on the Secretary and partners participating in the settlement, except as the settlement may otherwise provide. Indirect partners, unless properly identified as required by the statute, will be bound by settlements entered into by the pass-through partner. The Secretary must offer to any partner who so requests settlement terms that are consistent with the settlement with any other partner. Except where notice to a partner of the proceeding was not timely, a request for such settlement terms must be made, with respect to any settlement entered into before mailing a notice of FPAA to the TMP, before the expiration of 150 days after such mailing.

The TMP may enter into a settlement on behalf of, and binding upon, less than one-percent profits partners, in partnerships with over 100 partners, who are not members of a notice group. However, any such partner may file a statement within the time prescribed by the Secretary providing that the TMP does not have authority to settle on behalf of such partner. No partner other than the TMP (and other than a pass-through partner with respect to indirect partners) may bind any other partner with respect to a settlement agreement.

Assessment of tax

Any deficiency resulting from an administrative determination generally may not be assessed until 150 days after mailing the notice of FPAA to the TMP, or if within the 150-day period a Tax Court proceeding is commenced, until the decision in such proceeding has become final. Any action to assess or collect the tax in violation of this restriction may be enjoined in the proper court.

If a timely court proceeding is not commenced, the deficiency assessed against any partner with respect to partnership items affected by a FPAA may not exceed the amount determined in accordance with such adjustment.

c. Judicial review of FPAA

Commencement of action

The TMP, within 90 days after the mailing of the notice of FPAA, may file a petition for readjustment of partnership items in the Tax Court, the district court of the United States for the district in which the partnership's principal place of business is located, or the Claims Court. During such 90-day period, no other partner may file a petition for judicial review.

If the TMP does not file a petition, any notice partner or 5-percent group with an interest in the outcome may within 60 days following such 90-day period, file a petition with any of the courts in which the TMP may file a petition. Only one proceeding may go forward. The first action filed in the Tax Courts will establish jurisdiction or, if no petition is filed with the Tax Court, the first action filed in either of the other courts will go forward. Other actions will be dismissed. The TMP may intervene in an action brought by another partner.

Right to participate

Each partner with an interest in the outcome shall be treated as a party to the action and will be allowed by the court to participate in the action. A partner does not have an interest in the outcome after partnership items as to such partner become nonpartnership items (under sec. 6231(b)), or the period for assessment with respect to partnership items of such partner has expired.

Deposit requirement where action in district court or Claims Court

As a condition to filing a petition in either the appropriate district court or the Claims Court, the partner filing the petition (including each member of a 5-percent group which files a petition) must deposit with the Secretary the amount by which such partner's tax liability would be increased if treatment of partnership items on the partner's return were made consistent with the partnership return as adjusted by the FPAA. The court may by order determine that this jurisdictional requirement is satisfied if a good faith effort to comply was made and any shortfall in the amount required to be deposited is timely corrected.

The amount required to be deposited will be refunded upon request of the depositing partner if jurisdiction to proceed is established in the Tax Court. "However, if, upon expiration of the 150 day filing period, no Tax Court petition is filed, the Secretary may assess any deficiency of the depositing partner resulting from the FPAA and apply such deficiency against the deposited amount. Likewise, the Secretary may assess and collect any deficiencies of other partners resulting for the FPAA if jurisdiction is established in the District Court or Claims Court pending a decision on the merits."

Any amount required to be deposited shall, while deposited, be treated as a payment of tax only for purposes of Chapter 67, relating to interest.

Scope of judicial review

The court acquiring jurisdiction of a partnership proceeding shall have jurisdiction to determine all partnership items of the partnership taxable year to which the FPAA relates and the proper allocation of such items among the partners. The court's decision has the effect of a final decision of the Tax Court or a final judgment or decree and will be reviewable if review is sought by the TMP, a notice partner, or a 5-percent group.

Dismissal of an action other than a dismissal for lack of jurisdiction, shall be considered a decision that the FPAA is correct.

d. Request for administrative adjustment

General rule

A partner may file a request for administrative adjustment (RAA) of partnership items for a partnership taxable year within 3 years after the partnership return was filed (or, if later, the last day for filing such return, determined without extension) and before the mailing of a notice of FPAA to the TMP for such taxable year.

Request by TMP on behalf of the partnership

An RAA, filed by the TMP, may serve as an amended return correcting the treatment of items on the original partnership return, in which case the Secretary may treat the changes made as corrections of clerical or mathematical errors on the original return.

In other cases, an RAA generally serves as a claim for refund. In such cases, when the RAA is filed by the TMP, the Secretary may (i) make all refunds and credits to all partners resulting from the requested adjustments provided the adjusted items continue to be partnership items with respect to any partner, or (ii) commence a partnership proceeding.

The RAA filed by the TMP must show the effect of the requested adjustments on the distributive shares of the partners and other information as required by regulations.

Other requests

Each partner may file an RAA on his own behalf. In such case, the Secretary may (i) process the request in the same manner as a claim for refund relating to nonpartnership items, (ii) assess any tax resulting from the requested adjustments, (iii) notify the partner that all items to which the request relates will be treated as nonpartnership items, or (iv) commence a partnership proceeding.

Judicial review by TMP on behalf of the partnership

The TMP may file a petition for review in the Tax Court, the appropriate district court, or the Claims Court after the expiration of 6 months from the date of filing the RAA and within 2 years of such filing, with respect to any part of the requested adjustment not allowed. Such a petition may not be filed after a notice of the commencement of a partnership proceeding is mailed to the partnership. If, when such notice is mailed, the 2-year period within which a petition could have been filed has not expired and the Secretary fails to mail timely notice of a FPAA, the TMP shall have 6 months after the expiration of the period in section 6229(a) within which to file a petition. The TMP and the Secretary may agree to extend the 2-year period for filing a petition.

In any event, no petition for review with respect to an RAA may be filed after a timely notice of FPAA has been mailed by the Secretary. If the petition has been filed when a timely notice of FPAA is mailed, the proceeding will be treated as a proceeding with respect to the FPAA, except that no deposit will be required to establish jurisdiction in the appropriate district court or the Claims Court.

Other partners are to be treated as parties to any action brought by the TMP with respect to unallowed adjustments requested in an RAA under rules similar to those applicable when a petition is filed to review a FPAA.

Judicial review of an RAA filed by the TMP is limited to unallowed items to which the request relates and items with respect to which the Secretary asserts an offset to requested adjustments. The court's decision has the same effect as, and is reviewable in the same manner as, a court decision reviewing a FPAA.

Suits by individual partners

With respect to other RAAs filed by partners, if the Secretary notifies a partner that the items to which a timely request relates are to be treated as nonpartnership items, the request will be considered as a claim for refund and the partner may bring an action under section 7422 within 2 years after mailing of such notice.

Otherwise, if any part of the RAA is not allowed, the partner may, after 6 months and before 2 years from the date the request was filed, commence a suit for refund under section 7422 and the disallowed items to which the request related will be treated as nonpartnership items.

The 2-year period for filing suit may be extended by agreement between the partner and the Secretary.

An action based on unallowed items in an RAA may not be commenced after the Secretary mails notice of the commencement of a partnership proceeding to the partnership. If the 2-year period for filing suit has not expired when such notice is mailed, the rules applicable to a suit by the TMP are also applicable to other partners in the event there is no timely FPAA.

e. Statute of limitations on assessments

General rules

The period for assessment with respect to partnership items (or affected items) for any partnership taxable year shall not expire before 3 years from the date of filing the partnership return or, if later, the last date prescribed for filing such return determined without extensions. The period may be extended by agreement with any partner or, for all partners, by agreement with the TMP (or other person authorized in writing by the partnership). The agreement must be entered into before the expiration of the period to be extended. An agreement under section 6501(c)(4) (relating to agreements to extend the period for assessment) will apply to partnership items only if it expressly so provides.

Assessments may be made at any time against partners signing or actively participating in a fraudulent return. Against other partners affected by such return, the period for assessment is extended from 3 to 6 years.

The period of assessment is 6 rather than 3 years in any case where there is an omission from gross income of an amount properly includible which exceeds 25 percent of the amount of the gross income stated in the return.

Assessments may be made at any time where no partnership return is filed. For this purpose, a return filed by the Secretary on behalf of the partnership under section 6020(b) shall not be treated as a return filed by the partnership.

Suspension of limitations

The period for assessment is suspended upon mailing of a notice of FPAA until the expiration of the period during which a petition for judicial review may be filed by any partner (or, if an action is brought during such period, until the decision of the court has become final) and for one year thereafter.

Unidentified partners, inconsistency

Where a partner was not properly identified on the partnership return and a timely notice of FPAA was mailed to the TMP, or a partner's treatment of partnership items on his return did not comply with the consistency requirement in section 6222 and the inconsistency was not identified as required by that section, the assessment period will not expire until one year after the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

Items becoming nonpartnership items

Where, before the expiration of the period for assessment, an item becomes a nonpartnership item by reason of an event described in section 6231(b), the period of assessment of any tax attributable to such item (or an affected item) shall not expire until one year after the date on which the item becomes a nonpartnership item.

f. Computational adjustments

Computational adjustments, generally

The procedure applicable to assessment of a deficiency will not apply to computational adjustments. Computational adjustments are changes in tax liability of a partner properly reflecting the treatment, under the rules adopted in the bill, of partnership items. The term includes all adjustments necessary to apply the results of a partnership proceeding to an indirect partner.

Adjustments necessary to correct mathematical or clerical errors (as defined in sec. 6213(g)(2)) appearing on the partnership return may be made without a partnership proceeding and opportunity for judicial review, except as to any partner who requests that such correction not be made within 60 days after notice of the correction is mailed to such partner.

Claim by partner

A claim may be filed on the ground that there was an erroneous computation of the adjustment necessary (i) to make the partnership items on the partner's return consistent with the treatment of such items on the partnership return, or (ii) to apply to the partner a settlement, a FPAA, or a final court decision relating to the treatment of partnership items. A claim may also be based on a failure to allow a refund or credit in the proper amount. A claim based on an alleged erroneous computation must be filed within 6 months after the date of mailing the notice of computational adjustment to the partner. A claim based on a failure to allow a credit or make a refund in the proper amount must be filed within 2 years after, as appropriate, (i) the date the settlement was entered into, (ii) the date on which the period for bringing an action to review a FPAA expires, or (iii) the date a court decision becomes final.

Right to file suit

To the extent a claim based on failure to properly apply computational adjustments to the partner is not allowed, suit may be filed within the period prescribed in section 6532(a). In any claim or suit involving the application of computational adjustments to the partner, the treatment of partnership items on the partnership return, under the settlement, under the FPAA, or under the court decision (as appropriate) shall be conclusive.

g. Limitations applicable to credits and refunds

Generally, the period of limitations prescribed for assessment with respect to partnership items will also apply to allowance of any credit or refund with respect to partnership items.

Credit or refund based on a timely filed RAA may be made at any time before the expiration of the period for filing suit with respect to such request.

Credit or refund based on a claim with respect to the application to the partner of a computational adjustment may be made before the expiration of the period specified in section 6532 for bringing suit on such claim.

The limitation on the period for making a credit or refund to a partner will not apply if a timely suit is brought by the partner based on an RAA or an unallowed claim with respect to a computational adjustment.

Credits or refunds attributable to partnership items, to the extent practicable, will be made without requiring that the partner file a claim.

The limitations generally applicable to the allowance of credits or refunds (subchapter B of Chapter 66) will not apply to credits or refunds of overpayments attributable to partnership items.

h. Certain other rules

When a notice of the commencement of a partnership proceeding is mailed to the TMP with respect to a partnership taxable year, the TMP is to furnish to the Secretary the names, addresses, and taxpayer identification numbers of each person who was a partner at any time during such taxable year. Revised or additional information is to be furnished at a later date by the TMP when the TMP discovers the information furnished was inaccurate or incomplete. Failure by the TMP, a pass-through partner, the representative of a 5-percent notice group, or other representative of a partner to provide any notice or take any action required under the rules or under regulations on behalf of any partner will not affect the applicability of any partnership proceeding or adjustment under the rules to such partner.

The principles of section 7481(a) shall govern in determining the date on which a court decision becomes final.

The authority granted to the Secretary by section 7602 (relating to the examination of books and witnesses) is not limited by the rules adopted by the conference agreement.

All statements, elections, requests, and furnishing of information are to be made or filed in such manner, and at such time and place, as prescribed by regulations.

The principal place of business of a partnership, if outside the United States, shall be treated as located in the District of Columbia for purposes of filing a petition in the appropriate district court under section 6226 or section 6228.

The statute grants explicit authority to adopt regulations as necessary to carry out the purpose of the statutory rules.

Judicial actions brought under the rules are to be conducted in accordance with such rules of practice and procedure as the court may prescribe.

i. Small partnerships

Generally, partnerships covered by the rules include any partnership required to file a return under section 6031(a).

However, the rules do not apply to partnerships consisting of 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, provided that each partner's share of any partnership item is the same as his distributive share of every other partnership item. A husband and wife (and their estates) shall be treated as one partner for purposes of this exception. A partnership eligible to be excluded under this provision may elect to be covered by the rules. The election is binding for the year for which it is made and subsequent years unless revoked with the Secretary's consent.

j. Certain definitional and other rules

Certain definitions

The term partner, for purposes of the rules, is a direct partner in the partnership and any other person whose income tax liability is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

The term 'partnership item' means any item required to be taken into account for the partnership's taxable year to the extent regulations provide that such item is more appropriately determined at the partnership level than the partner level. The term 'affected item' means any item to the extent it is affected by a partnership item.

A 'pass-through partner' means a partnership, estate, trust, subchapter S corporation, nominee, or other similar person through whom other persons hold an interest in a partnership with respect to which there is a partnership proceeding. The term 'indirect partner' is any person holding an interest through one or more pass-through partners.

Except as regulations may provide otherwise, a husband and wife with a joint interest in a partnership shall be treated as one person, e.g., for determining whether a partnership has more than 100 partners.

Nonpartnership items

Partnership items will become nonpartnership items as of the date that (i) the Secretary mails a notice to the partner that such items will be treated as nonpartnership items, (ii) the partner files suit under section 6228(b) after failure to allow an RAA with respect to such items, (iii) the Secretary enters into a settlement agreement with the partner with respect to such items, (iv) the items become nonpartnership items under section 6223(e) (relating to failure by the Secretary to provide timely notice to the partner of a partnership proceeding) or (v) under the Secretary's regulatory authority to treat items as nonpartnership items, such items become nonpartnership items.

The Secretary may notify a partner that a partnership item will be treated as a nonpartnership item where either (i) the partner has treated the item inconsistently with its treatment on the partnership return and properly identified the inconsistency under section 6222(b)(1)(B) (and has not subsequently field an RAA which would eliminate the inconsistency) or (ii) the partner has filed an RAA and requested adjustments would make the partner's treatment of adjusted items inconsistent with their treatment on the partnership return. Any such notification based on inconsistency on the partner's return must be mailed before the Secretary mails a notice to the TMP of the commencement of a partnership proceeding with respect to the inconsistently treated items.

Special enforcement provisions

The bill provides regulatory authority to treat items as nonpartnership items to the extent the Secretary determines their treatment as partnership items will interfere with the effective and efficient enforcement of the Internal Revenue laws. This authority extends to (i) termination assessments under section 6851 and jeopardy assessments under section 6861, (ii) criminal investigations, (iii) indirect methods of proof of income (iv) foreign partnerships, and (v) other areas to the extent determined by regulations to present special enforcement considerations.

Authority is granted to prescribe special rules by regulation determined by the Secretary to be necessary to achieve the purpose of the bill for the tax treatment of partnership items, in these cases presenting special enforcement considerations.

Determination of profits interest

The profits interest of any partner shall be determined as of the close of the partnership taxable year, except that it shall be determined immediately before the liquidation, sale, or exchange of the entire interest of a person who is not a partner at the end of such year. This determination is significant in determining whether a partner's interest is one percent or more (in partnerships with over 100 partners) and in determining whether a notice group qualifies under the 5-percent requirement applicable to such groups. This determination shall be made pursuant to regulations in the case of indirect partners.

Appeal bond to stay assessment

Section 7485, relating to bond to stay assessment and collection on the appeal of a Tax Court decision, is amended to provide for such a bond on filing a notice of appeal of a decision under section 6226 or section 6228(a). The amount of such bond fixed by the Tax Court, in the absence of a stipulation by the parties, will be based on the Tax Court's estimate of the aggregate amount of deficiencies involved.

k. Nonpartnership litigation

Other tax litigation not a bar to adjustment

A judicial determination of a partner's income tax liability not resulting from a partnership proceeding will not bar any adjustment to such liability attributable to the treatment of partnership items pursuant to a proceeding under these rules. Further, such a determination will not bar an adjustment resulting from a proceeding with respect to items that become nonpartnership items under the rules if, when they become nonpartnership items, it is no longer appropriate to include them in a separate proceeding involving other nonpartnership items. A judicial determination in a suit filed under section 6228(a) with respect to items not allowed in an RAA filed by the

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TMP will not bar adjustments with respect to other partnership items.

Continuation of existing rules for nonpartnership items

Existing rules relating to administrative and judicial proceedings, statutes of limitations, settlements, etc., will continue to govern the determination of a partner's tax liability attributable to nonpartnership income, loss, deductions, and credits. Neither the Secretary nor the taxpayer will be permitted to raise nonpartnership items in the course of a partnership proceeding nor may partnership items, except to the extent they become nonpartnership items under the rules, be raised in proceedings relating to nonpartnership items of a partner.

The separate statute of limitations applicable to nonpartnership items of a partner may have expired when the computational adjustment of a partner's tax liability attributable to a FPAA or final court decision is made. In such case neither the Secretary (to reduce a refund) nor a partner (to reduce an assessment) may raise nonpartnership items in determining the partner's tax liability resulting from such computational adjustment. However, if the partner has in-fact overpaid his income tax liability for the taxable year with respect to which the computational adjustment was made, he may obtain credit or refund of such overpayment by filing a claim within 2 years following such overpayment, as prescribed by sections 6511 (a) and (b)(2)(B). If such claim is not allowed, suit may be filed pursuant to section 7422(a). Any overpayment which may be refunded pursuant to such a claim or suit for refund would be attributable only to nonpartnership items.

l. Foreign-based partnerships

The bill explicitly applies the partnership return filing requirement under section 6031 to any partnership which has U.S. partners (direct or indirect). Where the TMP resides outside the United States or the partnership books and records are kept outside the United States, failure to comply with the partnership return requirement or provide the return information upon request will result in disallowance of partnership losses and credits to the partners. The Secretary may by regulation waive the reporting requirement in appropriate cases. The bill also requires a return by a U.S. person who acquires or disposes of an interest in a foreign partnership except to the extent regulations provide otherwise. This requirement extends to substantial changes in the proportionate interest of a U.S. person in a foreign partnership. The return is to be in such form and provide such information as regulations require and must be filed within 90 days after the date the U.S. person becomes liable to file such return unless the Secretary, by regulation, prescribes a later date.

The tax treatment for partnership items under subchapter C of chapter 63, as added by the bill, the partnership return filing requirement under section 6031, and the return requirement relating to changes in interest in a foreign partnership are all expressly inapplicable, under the bill, to the International Telecommunications Satellite Organization and the International Maritime Satellite Organization, and any organization which is a successor to either of such organizations. Both such organizations are public international organizations established by international agreements to which the United States is a party.

m. Partnership must provide information to partners

Section 6031 is amended by the bill to require expressly that every partnership required to file a return shall furnish to every person who was a partner at any time during the partnership's taxable year a copy of such information shown on the return as may be required by regulation. The fact that the bill expressly imposes this requirement is not intended to imply that the Internal Revenue Service is without authority to impose a similar requirement under present law.

n. Effective date

The amendments relating to acquisitions, dispositions, and substantial changes in the interest of a U.S. person in foreign partnerships apply in the case of such changes after the date of enactment. All other amendments apply to partnership taxable years beginning after the date of enactment. However, pursuant to regulations, a partnership with the consent of all partners may elect to have such amendments apply to the first partnership taxable year ending after the date of enactment if the Secretary also consents.

o. Windfall profit tax audits

Under the conference agreement, windfall profit tax items are included as partnership audit items under regulations to be issued by the Treasury. Thus, the tax treatment of any partnership windfall profit tax item will be determined at the partnership level rather than the partner level. A partnership windfall profit tax item is any item relating to the computation of the windfall profit tax on crude oil produced by the partnership which the Treasury determines by regulation to be more appropriately determined at the partnership rather than the partner level. Examples of such items are (1) the removal price of crude oil, (2) the adjusted base price of the crude oil, (3) the category of the crude oil, (4) the appropriate severance tax adjustments, and (5) the net income limitation. Under regulations, the partnership will be authorized to act on behalf of its partners for purposes of the determination, examination, and collection of windfall profit tax. Thus, the partnership can be made responsible for certifying necessary withholding tax information to first purchasers and for filing quarterly and annual returns with respect to the partnership's production of domestic crude oil. When necessary, the partnership will be able to rely on certifications by its partners of their status under the windfall profit tax. On the election of one or more partners owning an interest in at least 5 percent of partnership income, this authorization will cease to apply for the entire partnership.

Under the conference agreement, each partner will remain primarily liable for the windfall profit tax on his allocable share of taxable crude oil produced by the partnership. The partner's liability will be abated to the extent of any payment of windfall profit tax by the partnership. In determining the liability of any partner for windfall profit tax purposes, each partner would be required to treat any partnership windfall profit tax item in a manner consistent with the treatment of that item on the partnership return unless the partner notifies the Secretary of an inconsistent position. Each partner will be required to certify to the partnership that partner's correct treatment under the exemption of independent stripper wells, the special rates on independent producers, the royalty owners exemption and other producer-related provisions. The partnership will compute and pay the windfall profit tax on the assumption that the certifications given by the partners are correct.

The examination and collection of tax relating to independent producer or exempt status, etc., will be conducted at the partner level. All other items are determined at the partnership level. Thus, a partner's treatment of partnership windfall profit tax items will, under regulations, be determined by reference to the treatment of such items in the hands of the partnership. Thus, for example, a partner can sue for a refund on the basis of that partner's claim of the independent producer lower rates, but can not seek a refund on the theory that oil classified as tier 2 oil by the partnership should have instead been classified as tier 3 oil.

Present law provides the Secretary with broad authority to require the keeping of records, the making of returns, and the furnishing of information relating to the windfall profit tax. It is anticipated that the Secretary will use this authority to reduce the amount of information which must be delivered to partners by the partnership in the normal course of business and to provide for a consolidated partnership return reflecting the taxes of the individual partners. In addition, the Secretary should require under this authority that partners be given access to any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or to the determination of their entitlement to independent producer lower rates or royalty owner exemptions.

The bill would apply to determination, examination, and collection of windfall profit tax with respect to oil removed in taxable periods beginning after December 31, 1982, unless the partnership, each partner, each indirect partner and the Secretary consent to earlier application of the provisions.

4. Taxpayer safeguard provisions

Present law

Property exempt from levy

Present law exempts certain property from levy. Among other items, this exemption covers (1) fuel, provisions, furniture, and personal effects; (2) books and tools of a trade, business or profession; and (3) wages, salary, or other income.

For a taxpayer who is the head of a family, there is a $500 exemption for fuel, provisons, furniture, and personal effects in his household, and for arms for personal use, livestock, and poultry.

Books and tools necessary for the trade, business, or profession of the taxpayer are exempt from levy to the extent that they do not exceed $250 in aggregate value.

The exemption for wages, salary, and other income is $50 per week plus $15 per week with respect to each individual over half of whose support is received from the taxpayer, who is the spouse of the taxpayer, who is a dependent of the taxpayer, and who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy pursuant to a support judgment entered prior to the date of levy.

Release of lien

Under present law, a lien may be released if the tax liability has been fully satisfied or has become legally unenforceable; or upon acceptance of a bond that is conditioned upon the payment of the amount assessed, together with all interest. There is no statutory time limit for the release of a lien.

Notice before levy

Levy upon property may be made if the taxpayer neglects or refuses to pay tax within 10 days after notice and demand. In the case of a levy upon property, other than salary or wages, there is no statutory provision that requires additional notice before levy.

Levy may be made upon the salary or wages of a taxpayer only after the Secretary has notified the taxpayer in writing of his intention to make such levy, unless there has been a finding that the collection of tax is in jeopardy. This notice must be given in person, left at the taxpayer's dwelling or usual place of business, or sent by mail to the taxpayer's last known address, no less than 10 days before the day of levy.

A levy on salary or wages is continuous from the date it is made until the taxpayer's liability is satisfied or becomes unenforceable due to lapse of time. Once the tax liability is satisfied or becomes unenforceable, the Secretary is required to promptly release the levy and notify the taxpayer of such action.

Redemption of property

The owners of real property that is sold after a seizure, their heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in their behalf, may redeem the property at any time within 120 days after the sale.

Amount of damages in case of wrongful levy

In the case of an alleged wrongful levy, a person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in, or lien on, the property levied upon may bring a civil action against the United States in a U.S. district court. If the court determines there was a wrongful levy, then the court may (1) order the return of the property if the United States is in possession thereof; (2) grant a judgment for the amount of money levied upon; or (3) grant a judgment for an amount not exceeding the amount received by the United States from the sale of property.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

a. Property exempt from levy

The conference agreement increases the exemption from levy for (1) fuel, provisions, furniture, and personal effects, etc.; (2) books and tools of a trade, business, or profession; and (3) wages, salary, or other income.

The exemption for fuel, provisions, furniture, and personal effects, etc., is increased from $500 to $1,500.

The exemption for books and tools of a trade, business, or profession is increased from $250 to $1,000.

The exemption for wages, salary, and other income is increased to $75 per week plus $25 per week for the taxpayer's spouse and each dependent.

This provision applies to levies made after December 31, 1982.

b. Release of lien

The conference agreement requires a lien to be released no later than 30 days after the day on which: (1) the tax liability has been fully satisfied or has become legally unenforceable, or (2) a bond has been accepted.

This provision is effective with respect to liens (1) which are filed after December 31, 1982, (2) which are satisfied after December 31, 1982, or (3) with respect to which the taxpayer after December 31, 1982, requests the Secretary to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

c. Notice before levy

The conference agreement provides that levy may by made upon the salary, wages, or other property of any person with respect to any unpaid tax only after the Secretary has notified the person in writing of his intention to make such levy. This notice must be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail to such person's last known address, no less than 10 days before the day of levy. As under present law, a single notice wil be sufficient to cover all property of the taxpayer subject to levy.

As under present law, the notice requirement will not apply to a levy if the Secretary has made a finding that the collection of tax is in jeopardy. Moreover, the conference agreement makes no change with respect to the continuous nature of a levy upon salary or wages, or the requirements with respect to release of the levy and notice of release.

This provision applies to levies made after December 31, 1982.

d. Redemption of property

The conference agreement extends the period of time during which property that has been sold after a seizure may be redeemed from 120 days to 180 days.

This provision applies to property sold after the date of enactment.

e. Amount of damages in case of wrongful levy

The conference agreement provides that if there has been a wrongful levy and sale of property (belonging to a person other than the person against whom the tax was assessed), then the court may grant a judgment for an amount not exceeding the greater of (1) the amount received by the United States from the sale of such property, or (2) the fair market value of the property immediately before the levy.

This provision applies to levies made after December 31, 1982.

f. Notice of procedural safeguards

The conferees are concerned that in certain cases taxpayers may not be aware of the existing statutory or administrative rights and procedural safeguards that are available to them. The conferees believe that distribution of information concerning taxpayer rights at the time of the I.R.S. initial contact with the taxpayer regarding an audit and at appropriate stages during examination and collection proceedings will assure that more taxpayers are adequately apprised of their rights and the procedures available to them. Thus, the conferees request that the Internal Revenue Service consider the sufficiency and timeliness of information sent to taxpayers regarding their rights during examination, appeals, and collection. The results of this study are to be reported to the House Committee on Ways and Means and the Senate Committee on Finance.

D. Pension Provisions

1. Overall limits on contributions, benefits, and exclusions

Present law

Present law limits 1982 contributions on behalf of an employee to a qualified profit-sharing or other defined contribution plan to the lesser of 25 percent of compensation or $45,475. Annual benefits payable under a qualified defined benefit pension plan are limited to the lesser of 100 percent of compensation or $136,425 for life, beginning at age 55. The limits (set at $25,000 and $75,000 in 1974) are automatically adjusted for cost-of-living increases.

If an employee participates in a defined contribution plan and a defined benefit plan maintained by the same employer, the fraction of the separate limits used by each plan is computed and the sum of the fractions is subject to an overall limit of 1.4 (i.e., 140 percent of the otherwise applicable separate limits).

House bill

No provision.

Senate amendment

The Senate amendment makes several changes to the overall limits on contributions and benefits for an employee under a tax-qualified pension, etc., plan. The amendment (1) reduces the dollar limit for annual additions to profit-sharing plans and other defined contribution plans from $45,475 to $30,000; (2) reduces the dollar limit for annual benefits under defined benefit pension plans from $136,425 to $90,000, and requires that an interest rate assumption of at least 5 percent be used to determine whether alternative benefit forms (e.g., lump sum distributions) are within the annual benefit limit; (3) suspends cost-of-living adjustments to the dollar limits until 1986, at which time the limits will be adjusted for post-1984 cost-of-living increases (as measured by the social security benefit index), and provides that employers cannot deduct contributions to fund anticipated cost-of-living increases, (4) requires that the dollar limit ($90,000 for 1983) be actuarially reduced (using an interest rate assumption of at least 5 percent) if benefits commence before age 62 (increased from age 55); and (5) reduces the aggregate limit for an individual who participates in a defined contribution plan and a defined benefit plan of the same employer from 1.4 (140 percent of the otherwise applicable separate dollar or percentage limit) to the lesser of 1.25, as applied only to the dollar limits, or 1.4, as applied under present law.

In general, these provisions will apply to plan years beginning after December 31, 1982, except that plan amendments are required with respect to plan years beginning after December 31, 1983.

Conference agreement

The conference agreement generally follows the Senate amendment except that the dollar limit for benefits under a defined benefit plan commencing before age 62 is to be actuarially reduced (using an interest rate of not less than the greater of 5 percent or the rate specified in the plan)[1] to the equivalent of the dollar limit for benefits commencing at age 62 (age 55 where the $75,000 minimum applies). Thus, the dollar limit is not less than $75,000 at age 55 or later. For ages below 55 the limit is not less than the actual equivalent of a $75,000 annual benefit commencing at age 55. Also, for benefits commencing after age 65 the dollar limit is increased (using an interest rate not exceeding the lesser of 5 percent or the rate specified in the plan) to the equivalent of the benefit limit as applied to benefits commencing at age 65. In no event, however, could future cost-of-living increases in the dollar limit be assumed in determining actuarial equivalence.

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[1] Rev. Rul. 79-90 1979-1CB 156, requires that a plan specify the actuarial assumptions used by the plan to determine benefit equivalence.

The conference agreement revises the transition rule relating to cases where the sum of the defined benefit plan and defined contribution plan fractions exceeds 1.25 (as applied to the dollar limits). Under the provision, the Secretary of the Treasury is to prescribe regulations under which the defined contribution plan fraction (as determined for the last year ending before January 1, 1983) is reduced, so that the sum of the fractions does not exceed the aggregate limit under the conference agreement.

The conference agreement clarifies present law by providing that the employer's deduction limit for the year under a defined benefit plan may not be based on benefits in excess of the dollar limit applicable for the year (without regard to anticipated cost-of-living increases). Deductions may be based on benefits which take into account anticipated salary increases, subject to limitation described in the preceding sentence.

The conference agreement also places a $100,000 aggregate limit on the estate tax exclusion for certain retirement benefits under qualified pension, etc., plan, tax-sheltered annuities, individual retirement accounts (IRA's) and certain military retirement plans. The limit applies with respect to decedents dying after December 31, 1982.

2. Loans from retirement plans

Present law

A qualified pension, etc., plan or a tax-sheltered annuity program generally is permitted to make reasonable loans to participants other than owner-employees under an H.R. 10 plan or shareholder-employees under a subchapter S corporation plan. If a self-employed individual borrows from an H.R. 10 plan or if an individual borrows from an IRA, the loan is treated as a distribution, subject to the usual income tax rules.

House bill

No provision.

Senate amendment

The Senate amendment generally provides that a loan received by a participant under a qualified plan or a tax-sheltered annuity program is treated as a distribution to the extent that the participant's outstanding loan balance under all plans in which the participant participates exceeds $10,000. A higher limit (not to exceed $50,000) is permitted if the loan proceeds are applied towards the purchase, reconstruction, etc., of a personal residence. Loan amounts treated as distributions generally are subject to the usual income tax and withholding rules for plan distributions.

The amendment applies to loans made after July 1, 1982. Loans made before that date are not affected except to the extent that the loan is renegotiated, revised, or extended. A loan is treated as received if the proceeds are paid to or on behalf of a participant or beneficiary or if the loan is extended, etc. The amendment changes the tax treatment of loans but does not change the rules of the Employee Retirement Income Security Act of 1974 limiting the availability of loans.

Conference agreement

In general

The conference agreement follows the Senate amendment except that a loan from a tax-qualified plan, or, government plan, or tax sheltered annuity which is to be repaid within 5 years is treated as a distribution only to the extent that the amount of the loan, when added to the outstanding loan balance with respect to the employee under all plans of the employer, exceeds the lesser of (1) $50,000, or (2) one-half of the present value of the employee's nonforfeitable accrued benefit under such plans, but not less than $10,000. For this purpose, plans of separate employers which generally are treated as a single employer under the pension, etc., plan rules (sec. 414) are treated as plans of a single employer.

A loan made with respect to an employee under a qualified plan, etc., which is not required to be repaid within 5 years, is treated as a distribution. For this purpose, the period within which a loan is required to be repaid is determined at the time the loan is made. If a repayment period of less than 5 years is subsequently extended beyond 5 years, it is intended that the balance payable under the loan at the time of the extension is to be treated as distributed at the time of the extension. In addition, if payments under a loan with a repayment period of less than 5 years are not in fact made, so that an amount remains payable at the end of 5 years, the amount remaining payable is treated as if distributed at the end of the 5-year period. A loan which is treated as a distribution on account of a repayment period of more than 5 years will not be treated as other than a distribution merely because it is repaid within 5 years (whether by reason of a renegotiation of the payment period or otherwise). Of course, a loan to a beneficiary which is treated as a distribution is included in the income of the participant, if the participant is alive at the time the loan is treated as a distribution.

The conference agreement provides an exception to the 5-year repayment rule to the extent that a loan made with respect to a plan participant is applied toward acquiring, constructing, or substantially rehabilitating any house, apartment, condominium, or mobile home (not used on a transient basis) which is used or is to be used within a reasonable time as the principal residence of the participant or a member of the participant's family. The determination as to whether a dwelling is to be used as a principal residence of the participant or dependent is to be determined at the time the loan is entered into.

Certain mortgage loans

Under the conference agreement, investments (including investments in residential mortgages) which are made in the ordinary course of an investment program will not be considered as loans, if the amount of the mortgage loan does not exceed the fair market value of the property purchased with the loan proceeds. An investment program exists, for example, when trustees determine that a specific percentage or amount of plan assets will be invested in residential mortgages under specified conditions. However, mortgage loans made as a result of the direction of investments of an individual account will not be considered as made under an investment program and no loan which benefits an officer, director, or owner or his beneficiaries will be treated as an investment. In addition, the agreement makes no changes to the present-law prohibited transaction rules and fiduciary standards for qualified pension, etc., plans and does not restrict the rules of present law under which certain loans are treated as distributions.

Effective dates

The conference agreement applies to loans made after August 13, 1982.

Amounts outstanding on August 13, 1982, under a loan which is renegotiated, extended, revised, or renewed after such date will not be treated as made on the date of the renegotiation, etc., to the extent such amounts are required to be, and are repaid on or before August 13, 1983. Thus, such amounts will continue to be treated as amounts outstanding with respect to the participant on August 13, 1982.

The conferees intend that a scheduled change in the interest rate charged on a loan balance (e.g., a variable rate contract) will not be treated as a revision or renegotiation of the loan.

3. Parity under the qualified plan rules for corporate and noncorporate employers; group-term life insurance

Present law

Under present law, plans which benefit self-employed individuals, owner-employees, or shareholder-employees of subchapter S corporations are subject to additional, more restrictive, qualification requirements designed to limit benefits for such individuals and provide additional protections for rank-and-file employees.

House bill

No provision.

Senate amendment

The Senate amendment increases the dollar limits applicable to defined contribution H.R. 10 plans, plans of subchapter S corporations, and SEPs, from $15,000 in 1982 to $20,000 in 1983, $25,000 in 1984, and $30,000 in 1985. The 15-percent of earned income limit is not changed. To provide a similar increase in the level of benefits permitted under a defined benefit H.R. 10 plan or subchapter S corporation plan, the compensation taken into account in determining permitted annual benefit accruals is increased from $100,000 to $133,000 in 1983, $167,000 in 1984 and $200,000 in 1985.

Beginning in 1986, the bill adjusts the limits for post-1984 cost-of-living increases.

Conference agreement

In general

The conference agreement generally eliminates distinctions in the tax law between qualified pension, etc., plans of corporations and those of self-employed individuals (H.R. 10 plans). The agreement (1) repeals certain of the special rules, for H.R. 10 plans, (2) extends other of the special rules to all qualified plans, including those maintained by corporate employers, and (3) generally applies the remainder of the special rules, with appropriate modifications, only to those plans (whether maintained by a corporate or noncorporate employer) which primarily benefit the employer's key employees (top-heavy plans). The top-heavy plan rules are provided in addition to the usual rules for plan qualification.

The special rules for H.R. 10 plans which are repealed include those which (1) set lower limits on contributions and benefits for self-employed individuals, (2) prevent certain H.R. 10 plans from limiting coverage to a fair cross section of employees, and (3) prohibit integration with social security.

The special rules for H.R. 10 plans which are extended to all qualified plans are certain of those rules relating to (1) distributions made to the employee or to the employee's beneficiaries after the employee's death, and (2) integration of a defined contribution plan with social security.

The special rules for H.R. 10 plans which generally are extended (with modifications) to plans of corporate and noncorporate employers which primarily benefit key employees (top-heavy plans) include those rules relating to (1) includible compensation, (2) vesting (alternative schedules are provided) and (3) distributions. The rules for a top-heavy plan also require that such a plan provide a non-key employee a nonintegrated minimum benefit or a nonintegrated minimum contribution, and in some cases reduce the aggregate limit on contributions and benefits for a key employee who is covered by more than one plan of an employer.

These provisions apply for years beginning after December 31, 1983.

Repeal of rules for H.R. 10 plans

Deductible contributions and permitted benefit accruals

The conference agreement generally repeals the special deduction limits (sec. 404(e) (1), (2), and (4)) for contributions on behalf of a self-employed individual under an H.R. 10 plan. Conforming amendments are made with respect to simplified employee pensions and plans of subchapter S corporations.

In addition, the conference agreement repeals the special qualification rules for a defined benefit plan which covers a self-employed individual or a shareholder-employee of a subchapter S corporation (sec. 401(j)). Thus, defined benefit plans which cover a self-employed individual or a shareholder-employee of a subchapter S corporation will be subject to the rules applicable to other defined benefit plans.

Earned income

For purposes of the pension rules, the conference agreement revises the definition of earned income of a self-employed individual so that the amount of earned income corresponds to the amount of compensation of a common-law employee. Under the agreement, earned income is computed after taking into account amounts contributed by the employer to a qualified plan to the extent a deduction is allowed for the contributions. Also, in this regard, no change is made to the present-law rule (sec. 401(d)(11)) for owner-employees which has the effect of limiting the earned income which may be taken into account under the pension rules to that derived from the trade or business with respect to which the plan is established.

In addition, no change is made to the present-law rules under which no deduction is allowed for contributions to an H.R. 10 plan on behalf of a self-employed individual to the extent that the contributions are allocable to the purchase of incidental life, health, or accident insurance (sec. 404(e)(3)), and under which a self-employed individual generally is denied a basis in amounts applied under an H.R. 10 plan to purchase life insurance protection for the individual (sec. 72(m)(2)).

Coverage

The agreement repeals the additional qualification requirement under which an H.R. 10 plan benefiting an owner-employee generally is required to benefit all employees who have completed at least three years of service with the employer (sec. 401(d)(3)(A)).

The agreement retains the special rules for H.R. 10 plans under which all employees of all unincorporated trades or businesses controlled by an owner-employee (or owner-employees) are treated as if employed by a single trade or business for purposes of the nondiscrimination rules (sec. 401(a)(9) and (10)).

Employee contributions

The agreement repeals the special rules precluding employer contributions on behalf of an owner-employee under an H.R. 10 plan in excess of the deduction limit (sec. 401(d)(5)), and those rules limiting or precluding mandatory or voluntary employee contributions by an owner-employee (sec. 4972). The agreement also repeals the six-percent excise tax on excess contributions made on behalf of an owner-employee.

Miscellaneous restrictions

The following special H.R. 10 plan rules are also repealed:

(1) the requirement that a profit-sharing plan provide a definite contribution formula for employees who are not owner-employees (sec. 401(d)(2)(B));

(2) the requirement that an owner-employee must consent to participate (sec. 401(d)(4)(A));

(3) the requirement that the plan trustee be a bank or other approved financial institution (sec. 401(d)(1));

(4) the prohibition against contributions on behalf of an owner-employee for the five taxable years following an early withdrawal by the owner-employee (sec. 401(d)(5)(C)): and

(5) the denial of the $5,000 income exclusion for death benefits paid with respect to a self-employed individual under the plan (sec. 101(b)).

Nothing in the agreement requires that an H.R. 10 plan delete these provisions. For example, an employer may prefer that an H.R. 10 plan continue to provide that an owner-employee must consent to participate, thereby permitting an owner-employee to elect against plan participation.

Extension of certain H.R. 10 rules to all plans

Required distributions

The agreement extends to all qualified plans the requirement that payment of a participant's benefits must commence not later than (1) the taxable year in which the participant attains age 70½, or (2) if later, the year in which the participant retires (sec. 401(a)(9)).

In addition, if a participant dies before the entire interest is distributed, the entire remaining interest generally must be distributed to the participant's beneficiary or beneficiaries within 5 years. However, this rule does not apply if the distribution has commenced to the participant and is payable over a period which does not exceed the joint life expectancy of the participant and the participant's spouse. A conforming change is made to the IRA distribution rules.

Integration with social security

The bill extends to all qualified defined contribution plans a rule under which the tax rate applicable to employers for old age, survivors, and disability insurance (OASDI) under social security is the maximum rate at which employer contributions can be reduced under plans that are integrated with social security. This provision is designed to decrease the extent of integration in defined contribution plans without increasing the extent of integration in any plan.

For 1982, the employer's tax rate with respect to OASDI benefits under social security is 5.4 percent, and the taxable wage base is the first $32,400 of an employee's pay. Thus, if the provisions were applicable for 1982, a profit-sharing plan could provide contributions of 5.4 percent of 1982 pay in excess of $32,400 and no contributions for 1982 with respect to the first $32,400 of pay. Similarly, if a plan provided for 1982 contributions of 10 percent of pay in excess of $32,400, it would integrate only if it provided for 1982 contributions of at least 4.6 percent (10% minus 5.4%) with respect to the first $32,400 of pay. The same rules apply to a self-employed individual.

The wage base and tax rates which apply for any plan year are the wage base and tax rates in effect on the first day of the plan year.

The remaining present-law rules which restrict integration with social security under an H.R. 10 defined contribution which benefits an owner-employer are repealed.

Additional qualification requirements for top-heavy plans

In general

Under the agreement, additional qualification requirements are provided for plans which primarily benefit an employer's key employees (top-heavy plans). These additional requirements (1) limit the amount of a participant's compensation which may be taken into account, (2) provide greater portability of benefits for plan participants who are non-key employees, (3) provide minimum nonintegrated contributions or benefits for plan participants who are non-key employees, and (4) reduce the aggregate limit on contributions and benefits for certain key employees. Further, additional restrictions are placed on distributions to key employees.

Top-heavy plans

Under the agreement, a defined benefit plan is a top-heavy plan for a plan year if, as of the determination date, (1) the present value of the accumulated accrued benefits for participants who are key employees for the plan year exceeds sixty percent of the present value of the accumulated accrued benefits for all employees under the plan, or (2) the plan is part of a top-heavy group. A defined contribution plan is a top-heavy plan for a plan year if, as of the determination date, (1) the sum of the account balances of participants who are key employees for the plan year exceeds sixty percent of the sum of the account balances of all employees under the plan, or (2) the plan is a part of a top-heavy group. Under these rules, a simplified employee pension is considered a defined contribution plan, and at the election of the employer, the account balance of any employee covered by a simplified employee pension is deemed to be the sum of the employer contributions made on the employee's behalf.

The determination date for any plan year generally is the last day of the preceding plan year. However, in the case of the first plan year, the determination date is the last day of that year. Further, to the extent provided in regulations, the determination date may be determined on the basis of a year other than a plan year.

Top-heavy groups

The agreement also provides rules under which two or more plans of a single employer are aggregated to determine whether the plans, as a group, are top-heavy. The aggregation group must include (1) any plan which covers a key employee, and (2) any plan upon which a plan covering a key employee depends for qualification under the Code's coverage or antidiscrimination rules

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(secs. 401(a)(4) and 410). In addition, in testing for top-heaviness, an employer may elect to expand the aggregation group to take into account any other plan maintained by the employer, if such expanded aggregation group continues to satisfy the coverage and antidiscrimination rules.

An aggregation group is a top-heavy group if, as of the determination date, the sum of (1) the present values of the accumulated accrued benefits for key employees under any defined benefit plans included in the group, and (2) the sum of the account balances of key employees under any defined contribution plans included in the group, exceeds 60 percent of the same amount determined for all participants under all plans included in the group. If an aggregation group is a top-heavy group, each plan required to be included in the group is a top-heavy plan. Of course, no plan included in the aggregation group at the election of the employer is subject to the top-heavy plan rules on account of such election.

The top-heavy group rules apply to all plans of related employers which are treated as a single employer (sec. 414).

Additional rules

For purposes of determining the present value of accumulated accrued benefits under a defined benefit plan and the sum of the account balances under a defined contribution plan, benefits derived from both employer contributions and employee contributions generally are taken into account. However, accumulated deductible employee contributions under a plan are to be disregarded. In addition, to insure relative stability and to preclude distortions under the top-heavy plan computation, the present value of the accrued benefit of a participant in a defined benefit plan or the account balance of a participant in a defined contribution plan generally includes any amount distributed with respect to the participant under the plan within the five-year period ending on the determination date.

A rollover contribution (or similar transfer) made after December 31, 1983, generally is not taken into account under the transferee plan for purposes of the top-heavy plan computation. The conferees intend that this rule will not apply if the contribution (or transfer) is made incident to a merger or consolidation of two or more plans or the division of a single plan into two or more plans. In addition, the conferees intend that this rule will not apply to rollover contributions (or transfers) between plans of the same employer, including plans of related employers which are treated as a single employer (sec. 414). Of course, in any case in which a rollover contribution (or transfer) is required to be taken into account under the transferee plan, the amount distributed by the transferor plan is not also taken into account under the transferor plan.

If an employee ceases to be treated as a key employee, the employee's accrued benefit under a defined benefit plan or the employee's account balance under a defined contribution plan is disregarded under the top-heavy plan computation for any plan year following the last plan year for which the employee was treated as a key employee.

Key employees

Key employees generally include employees who (1) are officers (but in no event will officers of any employer include more than 50 employees or, if lesser, the greater of 3 employees or 10 percent of all employees),[1] (2) are one of the 10 employees owning the largest interests in the employer (there are not 10 employees owning greater interests than the employee), (3) own more than a five-percent interest in the employer, or (4) own more than a one-percent interest in the employer and have annual compensation from the employer in excess of $150,000. An employee is considered an officer, or as owning an interest in the employer, if the employee was an officer, or owned such an interest, at any time during the plan year or the four preceding plan years. In the case of an employer which has more officers than are required to be counted as key employees, the officers to be taken into account are the officers with the highest compensation.

Under the agreement, an employee is considered as owning more than a five-percent interest in a corporate employer if the employee owns more than five percent of the employer's outstanding stock or stock possessing five percent of the total combined voting power of all stock of the employer. An employee is also treated as owning stock owned by certain members of the employee's family or, in certain cases, by partnerships, estates, trusts, or corporations in which the employee has an interest (sec. 318). The same rules apply to determine whether an individual owner is a one-percent owner.

In the case of an employer which is not a corporation, ownership will be determined in accordance with regulations prescribed by the Secretary. The conferees intend that these regulations be based on principles similar to the principles of section 318. In addition, to determine whether a self-employed individual who is a one-percent owner, is a key employee, compensation means earned income from the trade or business with respect to which the plan is maintained.

Qualification rules

These additional rules for top-heavy plans are tax-qualification requirements. Thus, a top-heavy plan is a qualified plan, and a trust forming part of a top-heavy plan is a qualified trust only if the additional requirements are met. Except as the Secretary of the Treasury may provide by regulations, a plan (whether or not top-heavy in fact) will constitute a qualified plan only if the plan includes provisions which will automatically take effect if the plan becomes a top-heavy plan and which meet the additional qualification requirements for top-heavy plans.

Includible compensation

For any plan year for which a plan is a top-heavy plan, only the first $200,000 of an employee's compensation may be taken into account in determining contributions or benefits under the plan. Beginning in 1986, this $200,000 limit will be adjusted under the same rules used to adjust the overall limits on contributions and benefits. For a self-employed individual, compensation means earned income as redefined by the conference agreement.

Vesting

For any plan year for which a plan is a top-heavy plan, an employee's right to the accrued benefit derived from employer contributions must become nonforfeitable (sec. 411(a)) under a vesting schedule which satisfies one of two alternative schedules provided by the agreement. These vesting schedules apply to all accrued benefits, whether or not the accrued benefits are required by the top-heavy plan rules.

A plan will satisfy the first alternative vesting schedule (three-year full vesting) if an employee who has at least three years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions. As under present law, a plan which provides three-year, 100 percent vesting will satisfy the participation requirements if the plan provides that an employee who is at least 25 years old, with three years of service, is eligible to participate.

A plan will satisfy the second alternative vesting schedule (six-year graded vesting) if an employee has a nonforfeitable right to at least 20 percent of the accrued benefit derived from employer contributions at the end of two years of service, 40 percent at the end of three years of service, 60 percent at the end of four years of service, 80 percent at the end of five years of service with the employer, and 100 percent at the end of six years of service with the employer.

For purposes of determining service under these vesting schedules, the present-law rules (sec. 411) relating to years of service, breaks in service, and certain permitted forfeitures etc., apply. Accordingly, all years of service with the employer generally are to be taken into account, including years of service completed prior to enactment and service during periods for which a plan is not a top-heavy plan.

Minimum nonintegrated benefit for non-key employees

In addition, a qualified pension, etc., plan which is a top-heavy plan must provide a minimum benefit or contribution for each non-key employee who is a participant in the plan.

Under the conference agreement, any individual excluded from coverage under a defined benefit or defined contribution plan because of compensation below a specified amount, or any individual considered to be a participant for purposes of the coverage requirements (sec. 410) must be provided the applicable minimum contribution or benefit.

For a plan year for which a defined benefit plan is a top-heavy plan, each plan participant who is not a key employee for the year generally must accrue a benefit which, when expressed as an annual retirement benefit, is not less than two percent of the employee's average annual compensation from the employer during the employee's testing period, multiplied by the employee's years of service with the employer. However, an employee's minimum benefit is not required to exceed 20 percent of such average annual compensation. All years of an employee's service otherwise required to be taken into account under the plan generally are required to be taken into account under the minimum benefit rules, except a year of service (1) ending before the date of enactment, or (2) within which ends a plan year for which the plan is not a top-heavy plan.

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[1] As under present law, the determination as to whether an employee is an officer is to be determined upon the basis of all the facts and circumstances, including, for example, the source of the employee's authority, the term for which elected or appointed, and the nature and extent of the employee's duties. As generally accepted in connection with corporations, the term "officer" means an administrative executive who is in regular and continued service. It implies continuity of service and excludes those employed for a special and single transaction, or those with only nominal administrative duties. Thus, for example, all the employees of a bank who have the title of vice president or assistant vice president would not automatically be considered to be officers. See, for example, Rev. Rul. 80-314, 1980-2 C.B. 152.

For purposes of the minimum benefit rules, only benefits derived from employer contributions (other than amounts employees have elected to defer (e.g. under a salary reduction cash or deferred arrangement)) to the plan are taken into account, and an employee's social security benefits are disregarded. Thus, the required minimum benefit for an employee may not be eliminated or reduced on account of the employee's social security benefits attributable to contributions by the employer (i.e., the minimum benefit is a "nonintegrated" benefit).

The term annual retirement benefit is defined as a benefit payable annually in the form of a life annuity (with no ancillary benefits) beginning at the normal retirement age. An employee's testing period is the period of the employee's consecutive years of service (not exceeding five) during which the employee had the greatest aggregate compensation from the employer. However, a year of service (and compensation paid to the employee during such year) need not be included in the employee's testing period if it ends before the date of enactment or begins within or after the last plan year for which the plan is a top-heavy plan.

Minimum nonintegrated contribution for non-key employees

For a plan year for which a defined contribution plan is a top-heavy plan, the employer generally must contribute on behalf of each plan participant who is not a key employee for the year an amount not less than three percent of the participant's compensation. However, if the employer's contribution rate for each participant who is a key employee for the plan year is less than three percent, the required minimum contribution rate for each non-key employee generally is limited to not more than the highest contribution rate for any key employee. For example, if, under a profit-sharing plan, no amount is contributed by the employer for any key employee, then under this limitation no contribution is required under the minimum contribution rules for any non-key employee. Under the minimum contribution rules, reallocated forfeitures are taken into account as employer contributions.

However, the limitation to the rate of contributions for key employees does not apply with respect to a defined contribution plan upon which a defined benefit plan depends for qualification under the Code's coverage or antidiscrimination rules, if the defined benefit plan benefits a key employee (or if a plan which benefits a key employee also depends upon the defined benefit plan). Under such circumstances, the required minimum contribution rate for a non-key employee is in every case three percent even if the contribution rate on behalf of a key employee is less than 3 percent. For purposes of the limitation, as well as for purposes of the minimum contribution rules generally, all defined contribution plans of the employer are considered a single plan.

To determine the contribution rate for an employee (including a key employee), the employer contributions and reallocated forfeitures on behalf of the employee for the year are divided by the employee's total compensation (or, with respect to a self-employed individual, the individual's earned income) from the employer for the year, not to exceed $200,000. Amounts paid by the employer for the year to provide social security benefits for the employer are disregarded. Thus, the required minimum contribution for a non-key employee may not be eliminated or reduced on account of benefits attributable to taxes paid by the employer under social security (i.e., the minimum contribution is a "nonintegrated" contribution). Similarly, the employer contribution rate for a key employee is determined without regard to employer contributions under social security. For example, if a plan is integrated with social security by providing key employees with employer contributions equal to 5 percent of compensation in excess of $32,400, the contribution rate for an employee whose total compensation is $50,000 is 1.76 percent ((0.5×$17,600)÷$50,000).

No duplication of minimum benefits for non-key employees under a top-heavy group

If a non-key employee participates in both a defined benefit plan and a defined contribution plan maintained by an employer, the employer is not required by this section to provide the non-key employee with both the minimum benefit and the minimum contribution.

Rules are also provided to preclude inappropriate omissions or required duplication of minimum benefits or contributions. It is anticipated that these rules would preclude an employee who is covered under more than one plan from receiving lower benefits or contributions than that employee would receive if covered under one plan. Similarly, larger total benefits should not be required merely because an employee is covered under more than one plan (except as required where the limit of 1.0 is exceeded by a top-heavy plan). For example, if an employee participates in a top-heavy money purchase pension plan that provides an annual nonintegrated contribution rate of 5 percent of compensation and a defined benefit plan that provides an annual benefit of 1 percent of pay, the employer would not be required to provide an additional 1-percent benefit for non-key employees participating in the defined benefit plan.

Of course, contributions to either plan on behalf of the non-key employee may otherwise be required (for example, by reason of the nondiscrimination rules). In any case in which separate plans are required to be considered together for purposes of the coverage or nondiscrimination rules, the required minimum benefit or minimum contribution may of course be taken into account. However, two plans are not necessarily comparable merely because one plan provides the required minimum benefit while the other provides the required minimum contribution. Similarly, the fact that two plans both provide the required minimum benefit, or that two plans both provide the required minimum contribution, does not insure that the two plans, as a whole, are comparable.

Aggregate limit on contributions and benefits for key employees

The agreement includes additional rules with respect to the aggregate limit on benefits and contributions (sec. 415(e)) for a key employee who participates in both a defined benefit plan and a defined contribution plan which are included in a top-heavy group. Unless certain requirements are met, for any year for which the plans are included in the top-heavy group, the aggregate limit for the key employee is the lesser of 1.0 (as applied only to the dollar limits) or 1.4 (as determined under present law). However, the aggregate limit is increased to the lesser of 1.25 (as applied only to the dollar limits) or 1.4 (as under present law) if the plans of the employer in which the key employee participates (1) meet the requirements of the concentration test, and (2) provide either an extra minimum benefit (in the case of the defined benefit plan) or an extra minimum contribution (in the case of the defined contribution plan) for non-key employees participating in the plans. The extra contribution or benefit is in addition to the minimum contribution or benefit required for all top-heavy plans.

The concentration test is generally satisfied with respect to a key employee for a year if, as of the last determination date before the first day of such year, the sum of (1) the present value of the accumulated accrued benefits for key employees under the defined benefit plans of the employer in which the key employee participates, and (2) the sum of the account balances of key employees under the defined contribution plans of the employer in which the key employee participates is not greater than 90 percent of the same amount determined for all participants under the plans. For purposes of this computation, the rules for determining whether two or more plans constitute a top-heavy group apply.

The requirement for an extra minimum benefit for non-key employees is satisfied for a year if, for the plan year ending with or within such year, each non-key employee who is a participant in a defined benefit plan of the employer in which the key employee is a participant accrues an extra benefit which, when expressed as an annual retirement benefit, is not less than the lesser of (1) one percent of the employee's average annual compensation, multiplied by the employee's years of service with the employer, or (2) 10 percent of such average annual compensation. This extra minimum benefit generally is determined in the same manner as the minimum benefit required under the rules for a top-heavy defined benefit plan. However, for purposes of the extra minimum benefit, a year of service is required to be taken into account only if (1) such year of service includes the last day of a plan year for which the plan is a top-heavy plan (or included in a top-heavy group), and (2) such plan year ends with or within a year for which the aggregate limit of the key employee exceeds 1.0 (as applied to the dollar limits).

The requirement for an extra minimum contribution is satisfied with respect to a key employee for a year if, for the plan year ending with or within such year, the employer contributes on behalf of each non-key employee who is a participant in a defined contribution plan in which the key employee is a participant an extra amount not less than the amount equal to one percent of the employee's compensation for the year. Accordingly, the extra minimum contribution generally is determined under the rules for top-heavy defined contribution plans.

In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate

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limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

Distributions to key employees

The agreement also provides new rules for distributions from top-heavy plans to key employees. If a distribution is made to a key employee before he attains age 59½, an additional income tax is imposed equal to 10 percent of the amount includible in income, unless the distribution is made on account of death or disability.

In addition, a top-heavy plan must provide that distributions to a key employee will commence no later than the taxable year in which the key employee attains age 70½, whether or not he separates from service in that year. As under present law, the required distributions must be made in such a manner that more than 50 percent of the total benefits for the employee are payable to the employee over the employee's life expectancy (or the joint life expectancy of the employee and the employee's spouse).

Organizations performing management functions

The conference agreement expands the class of employers which, under the present-law rules for affiliated service groups (sec. 414(m)), are to be treated as a single employer for purposes of certain of the tax-law rules for qualified pension, etc., plans (including the rules for top-heavy plans), cafeteria or medical reimbursement plans, or simplified employer pensions (SEPs). Under the provision, if an organization's principal business is performing, on a regular and continuing basis, management functions for another organization, the person performing the functions and the organization for whom the functions are performed are treated as a single employer.

Under the provision, any person related to the organization performing the management functions is also included in the group which is treated as a single employer. An organization related to the organization for whom the functions are performed is included in the group under the management function rules, if the management functions are also performed, on a regular and continuing basis, for such related organization. However, the provision does not change present law under which aggregation of employers is otherwise required.

For purposes of the provision, the term "organization" includes an individual, corporation, partnership, etc. Whether organizations are related is determined under present law (sec. 103(b)(6)(C)).

The conferees intend that the provision is to apply only where the management functions performed by one person for another are functions historically performed by employees, including partners or sole proprietors in the case of an unincorporated trades and businesses. For this purpose, the present-law rules relating to affiliated service organizations and to services historically performed by employees in the case of an affiliated service organization are to apply.

Employee leasing

The conference agreement also provides that, for purposes of certain of the tax-law rules for qualified pension, etc., plans (including the rules for top-heavy plans) and SEPs, an individual (a leased employee) who performs services for another person (the recipient) may be treated as the recipient's employee where the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer. Under the provision, the individual is to be treated as the recipient's employee only if the individual has performed services for the recipient (or for the recipient and persons related to the recipient) on a substantially full-time basis for a period of at least 12 months, and the services are of a type historically performed by employees in the recipient's business field. For this purpose, the present-law rules relating to services historically performed by employees in the case of an affiliated service organization are to apply.

The employee leasing rules do not apply where services in a particular business field historically have been performed by one person for another. For example, some prepaid health care service programs organized on a group practice basis involve two or three components: the health plan, a separate medical group that provides or arranges physicians' services to the health plan members, and often a related hospital. The hospital and the medical group each may employ its own staff (nurses, technicians, etc.), but both sets of employees may be jointly managed. Alternatively, the staff that supports the medical group may be employed by the health plan. These forms of operation are well established in the group practice prepaid health care field. The conferees intend that the "historically performed" exception is to apply in these cases (whether the form of operation is currently in effect or put into effect for existing components of an established group practice prepaid health care service program or for the components of a new program) if the health plan, the hospital, and the medical group provide substantially similar, though not necessarily exactly equivilent retirement benefits through tax qualifed plans to salaried non-union employees and partners.

For purposes of determining whether a pension, etc., plan or a SEP maintained by the recipient satisfies the applicable tax-law requirements, the leased employee is treated as the recipient's employee for periods after the close of the 12-month period described in the preceding paragraph. However, the leased employee's years of service for the recipient are determined by taking into account the entire period for which the leased employee performed services for the recipient (or for a related person).

Under the provision, contributions or benefits for the leased employee which are provided by the leasing organization under a qualified plan or a SEP maintained by the leasing organization are to be treated as if provided by the recipient to the extent such contributions or benefits are attributable to services performed by the leased employee for the recipient.

Under the provision, an individual who otherwise would be treated as a recipient's employee will not be treated as such an employee, if certain requirements are met with respect to contributions and benefits provided for the individual under a qualified money purchase pension plan maintained by the leasing organization. Such a plan qualifies if it provides that (1) an individual is a plan participant on the first day on which the individual becomes an employee of an employer maintaining the plan, (2) each employee's rights to or derived from employer contributions under the plan are nonforfeitable (sec. 411(a)) at the time the contributions are made, and (3) amounts are to be contributed by the employer on behalf of an employee at a rate not less than 7½ percent of the employee's compensation for the year (the 7½ percent contribution is not to be reduced by integration with social security).

For purposes of the provision, the term person includes individuals and organizations (corporations, partnerships, etc.). Whether persons are related persons is determined under present law (sec. 103(b)(6)(C)).

The provision authorizes the Secretary of the Treasury to prescribe regulations under which a leased employee will not be treated as the recipient's employee, notwithstanding that the provision may otherwise apply. Under the conference agreement, the Secretary is to prescribe such regulations where it is determined that to treat a leased employee as the recipient's employee is not appropriate, taking into account the purposes underlying those qualified plan rules with respect to which the provision applies.

Certain corporations performing personal services

Under the conference agreement, if a corporation, the principal activity of which is the performance of personal services substantially all of which are performed by employee-owners for or on behalf of another corporation, partnership, or entity (including related parties), is availed of for the principal purpose of evasion or avoidance of Federal income tax by securing for any employee-owner significant tax benefits which would not otherwise be available, then the Secretary may allocate all income, as well as such deductions, credits, exclusions, etc., as may be allowable, between or among the corporation and employee-owners involved. For this purpose, an employee-owner is defined as any employee who owns (after application of the attribution rules under section 318) more than 10 percent of the outstanding stock of the corporation. The conferees intend that the provisions overturn the results reached in cases like *Keller* v. *Commissioner*, 77 TC 1014 (1981), where the corporation served no meaningful business purpose other than to secure tax benefits which would not otherwise be available.

The provision applies to taxable years beginning after December 31, 1982.

Disincorporation relief

The conferees understand that a number of personal service corporations may wish to liquidate when the parity provisions of the conference agreement take effect. Therefore, a transitional rule is provided under which personal service corporations may, during 1983 or 1984, complete a one-month liquidation under section 333 of the Code without the risk that the corporation would incur tax on its unrealized receivables. Of course, the income represented by unrealized receivables will retain its character as ordinary income and will be fully recognized by the distributee shareholder upon subsequent collection or other disposition.

Group-term life insurance

The conference agreement also provides that the income exclusion for employer-provided group term life insurance (sec. 79) will apply with respect to a key employee only if the life insurance is provided under a program of the employer which does not discriminate in favor of key employees as to (1) eligibility to participate, or (2) the life insurance benefits provided under the plan.

A program of an employer providing group-term life insurance for employees generally will not be considered to discriminate in favor of key employees as to eligibility to participate if (1) the program benefits at least 70 percent of all employees, (2) at least 85 percent of all participating employees are not key employees, or (3) the program benefits employees who qualify under a classification set up by the employer and found by the Secretary of the Treasury not to discriminate in favor or key employees. Alternatively, a program of an employer providing group-term life insurance which is provided under a cafeteria plan (sec. 125) will not be considered to discriminate in favor of key employee as to eligibility to participate if the eligibility rules for cafeteria plans are satisfied. For purposes of the provision's rules relating to eligibility to participate, employees of certain related employers would generally be treated as if employed by a single employer. However, the following employees could be excluded from consideration: (1) those who have not completed 3 years of service with the employer, (2) part-time and seasonal employees, and (3) nonresident aliens who receive no U.S. source income from the employer. For this purpose, part-time employees are those whose customary employment is for not more than 20 hours in any one week, and seasonal employees are those whose customary employment is for not more than 5 months in any calendar year. In addition, employees not covered by the program but covered by a collective bargaining agreement need not be taken into account if group-term life insurance was the subject of good faith bargaining between the employer and employee representatives.

A program of an employer providing group-term life insurance for employees will not be considered to discriminate in favor of key employees as to the benefits provided, if the program does not discriminate in favor of such employees with regard to the type and amount of the benefits. For this purpose, group-term life insurance benefits will not be considered to discriminate merely because the amount of life insurance provided employees bears a uniform relationship to compensation. Of course, the requirement that group-term life insurance benefits be nondiscriminatory can be satisfied where, under the facts and circumstances, no discrimination in favor of key employees occurs. For example, the requirement would be satisfied when the life insurance benefits are a level dollar amount which is the same for all covered employees.

The conferees intend that the Secretary of the Treasury is to revise the tables for computing the amount includible in an employee's gross income on account of employer-provided group-term life insurance. The conferees further intend that the tables be periodically revised to reflect current group-term life insurance costs.

Effective dates

The agreement's provisions relating to parity between corporate and noncorporate employers, top-heavy plans, organizations performing management functions, employee leasing, and group-term life insurance apply to years beginning after December 31, 1983.

The provisions relating to certain corporations performing personal services applies to taxable years beginning after December 31, 1982.

4. Retirement savings for church employees

Present law

Under present law, public schools and certain tax-exempt organizations (including churches) may contribute to a tax-sheltered annuity contract for an employee. Annual contributions excluded from an employee's income are limited to 20 percent of the employee's compensation multiplied by the number of the employee's years of service with the employer, reduced by amounts already contributed by the employer. Employer contributions to a tax-sheltered annuity are also subject to the overall limit on annual additions to tax-favored retirement savings arrangements. Special one-time elections increase the overall limit for a year to allow contributions in that year that are permitted under the exclusion allowance on account of prior years of service. The elections are not available to most church employees.

House bill

No provision.

Senate amendment

The Senate amendment revises the present-law tax-sheltered annuity rules as they apply to church employees by (1) providing a minimum exclusion allowance equal to the lesser of $3,000 or 100 percent of compensation for employees with adjusted gross income of $17,000 or less; (2) providing that all years of service with organizations that are part of a particular church are treated as years with one employer; (3) extending to all church employees the special catchup elections to increase the annual contribution limit; (4) providing an additional election for church employees which increases the contribution limit by up to $10,000 for any year, subject to a $40,000 lifetime cap; (5) permitting churches to maintain segregated defined contribution retirement savings programs pursuant to the tax-sheltered annuity rules; and (6) providing a special retroactive correction period for church plans.

These changes apply to taxable years beginning after December 31, 1981, except that the provision permitting retroactive amendments applies after July 1, 1982.

Conference agreement

The conference agreement follows the Senate amendment with regard to permitted contributions for church employees under the exclusion allowance and annual contribution limit for tax-sheltered annuities.

The conference agreement also follows the Senate amendment by allowing a church which maintains a tax-sheltered annuity, retirement income account, or pension plan, a retroactive amendment period if the annuity, account or plan, is required to be amended by reason of any law, or any regulation, ruling or other action under the tax laws. During the correction period, the annuity, account, or plan would be treated as satisfying the applicable tax-law requirement. To qualify for this treatment, the required amendment or other modification generally must be made not later than at the next earliest church convention. However, the Secretary of the Treasury may prescribe an alternative time period within which the required amendment is to be made. In this regard, the Secretary is to take into account that church governing bodies typically meet at lengthy intervals. Of course, in no event is the permitted correction period for a church to be less than that allowed under present law (sec. 401(b)).

The conference agreement also follows the Senate amendment by providing that the tax rules for tax-sheltered annuities are to apply to church-maintained retirement income accounts that are defined contribution plans (sec. 414(i)). However, the conference agreement further provides that a church-maintained retirement income program in existence on August 13, 1982 will not be considered as failing to satisfy the requirements for a tax-sheltered annuity (sec. 403(b)) merely because the program is a defined benefit plan (sec. 414(j)). For this purpose, a church-maintained retirement income program is considered to be in existence on August 13, 1982, notwithstanding that after that date the program is amended, otherwise modified, or extended to benefit other employees. In addition, if a church-maintained retirement income program which is otherwise a defined benefit plan provides a benefit which is based, in part, on the balance of a separate account of an employee, the conferees intend that the separate account can qualify as a defined contribution plan for purposes of the rules relating to retirement income accounts.

The conferees intend that the assets of a retirement income account for the benefit of an employee or his beneficiaries may be commingled in a common fund made up of such accounts. However, that part of the common fund which equitably belongs to any account must be separately accounted for (i.e., it must be possible at all times to determine the account's interest in the fund), and cannot be used for, or diverted to, any purposes other than the exclusive benefit of such employee and beneficiaries. Provided those requirements are met, the assets of a retirement income account also may be commingled with the assets of a tax-qualified plan without adversely affecting the status of the account or the qualification of the plan.

The conferees also intend that the assets of a church plan (sec. 414(e)) may be commingled in a common fund with other amounts devoted exclusively to church purposes (for example, a fund maintained by a church pension board) if that part of the fund which equitably belongs to the plan is separately accounted for and cannot be used for or diverted to purposes other than for the exclusive benefit of employees and their beneficiaries. Of course, the reasonable costs of administering a retirement income account (including an account which is a part of a common fund) may be charged against the account. Such costs include the reasonable costs of administering a retirement income program of which the account is a part, including costs associated with informing employees and employers of the availability of the program.

5. State judicial retirement plans

Present law

Under present law, State or local government employees may defer compensation under an eligible State deferred compensation plan, subject to prescribed annual limits. If a plan of a State or local government is not an eligible plan, amounts under the plan are includible in an employee's income when there is no substantial risk of forfeiture.

House bill

No provision.

Senate amendment

The Senate amendment provides that participants in a qualified State judicial plan are not required to include benefits in gross

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income merely because there is no substantial risk that the benefits will be forfeited. The plan must be a mandatory retirement plan for State judges under which each contributes the same percentage of income and receives a retirement benefit based upon compensation paid to judges holding similar positions. The plan must have been continuously in existence since December 31, 1978, and must meet certain additional requirements. The provision applies to taxable years beginning after December 31, 1978.

Conference agreement

The conference agreement follows the Senate amendment.

6. Contribution for disabled employees

Present law

Under present law, contributions to a tax-qualified profit-sharing or other defined contributions to a tax-qualified profit-sharing or other defined contribution plan generally may not be made for an employee after the employee separates from the service of the employer.

House bill

No provision.

Senate amendment

The Senate amendment permits an employer to continue deductible contributions to a profit-sharing or other defined contribution plan for an employee (other than an officer, owner, or highly compensated individual) who is permanently and totally disabled provided that the contributions are nonforfeitable when made. For this purpose, a disabled employee's compensation is deemed equal to his annualized compensation prior to his becoming disabled. The provision applies to years beginning after December 31, 1981.

Conference agreement

The conference agreement follows the Senate amendment.

7. Participation in group trusts by governmental plans

Present law

Under present law, a group trust is exempt from tax only if each of the participating trusts is a qualified trust forming a part of a qualified pension, etc., plan or an IRA.

House bill

No provision.

Senate amendment

The Senate amendment provides that the tax-exempt status of a group trust will not be adversely affected merely because a participating trust is part of a governmental plan without regard to whether the governmental trust is a qualified trust or the governmental plan is a qualified plan. The provision applies to taxable years beginning after December 31, 1981.

Conference agreement

The conference agreement modifies the Senate amendment generally to permit all governmental retirement plans to participate in a tax-exempt group trust. Under the conference agreement, the tax-exempt status of a group trust will not be adversely affected merely because the trust accepts monies from (a) a retirement plan of a State or local government, whether or not the plan is a qualified plan and whether or not the assets are held in trust, or (b) any State or local governmental monies intended for use in satisfying an obligation of such State or local government to provide a retirement benefit under a governmental plan. Of course, any group trust in which a plan of a private employer participates will remain subject to the present-law rules relating to unrelated business taxable income (sec. 511 et seq.), notwithstanding that the trust includes a governmental plan.

E. Insurance Provisions

1. Reinsurance arrangements

Present law

Under present law, a ceding company and the reinsurer may elect to report a modified coinsurance transaction for tax purposes as if the assets relating to the risks reinsured were transferred to the reinsurer, as if the premium income for the reinsured policies and the investment income on the assets were received directly by the reinsurer, and also as if reserves to reflect liability for future claims were maintained by the reinsurer. However, no transfer of assets actually occurs. Through the use of modified coinsurance agreements and the payment of experience refunds by the reinsurer, some life insurance companies have used modified coinsurance to avoid or substantially reduce income taxes.

Under present law, a reinsurer (under either a modified coinsurance or a conventional coinsurance agreement between life insurance companies) is treated as having paid policyholder dividends to the extent it reimburses the ceding company for payment of such dividends.

House bill

No provision.

Senate amendment

The Senate amendment repeals the special elective provisions for modified coinsurance arrangements. Existing arrangements will be treated as terminated on January 1, 1982, and reinsurers will be permitted to pay any tax attributable to termination treatment in installments over a 3-year period. With respect to the reimbursement of policyholder dividends, the present law rule will continue for conventional coinsurance arrangements. With respect to other reinsurance arrangements, the Senate amendment denies any deduction (in computing taxable investment income) for interest paid on debt obligations issued by a ceding company in connection with such arrangements.[1] Also, the Secretary is granted authority to recharacterize items in connection with a reinsurance arrangement between related taxpayers in order to reflect the proper source and character of taxable income. Finally, pre-1982 modified coinsurance transactions are grandfathered except in the event of fraud.

These provisions are effective as of January 1, 1982, except the special allocation authority for related party reinsurance contracts applies to contracts entered into after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with certain modifications. One change makes it clear that increases in reserves attributable to the restoration of reserves to a ceding company under the modified coinsurance termination accounting rules do not qualify for the special deduction for 10 percent of the increases in reserves for nonparticipating contracts. A special election is provided under which certain ceding companies may revoke a section 820 election for modified coinsurance contracts entered into during 1980 or 1981 with an unrelated reinsurer. Only a company that had a loss from operations or was a "phase II negative" company for the year of the transaction is eligible to revoke the section 820 election. If revoked, the contract is treated as a modified coinsurance contract to which a section 820 election did not apply with respect to the reinsured company for all taxable years for which the contract is in force. A special transition rule is also provided to except interest paid in connection with a corporate restructuring transaction from the limitation imposed on interest incurred on debt issued for a coinsurance arrangement entered into early in 1982. The exception applies only if substantial cash principal payments were made prior to July 1, 1982, and the note is fully paid in cash before January 1, 1983.

The provisions relating to reimbursements are also revised so that policyholder dividends paid in connection with reinsured policies are treated as paid by the reinsured company rather than the reinsurer.

2. Policyholder dividends

Present law

Under present law, the deduction for policyholder dividends (and certain other special deductions) is limited to $250,000 plus the amount by which gain from operations (computed without regard to these deductions) exceeds taxable investment income.

House bill

No provision.

Senate amendment

The Senate amendment increases the $250,000 limit to $1 million. The limit must be allocated among members of an affiliated group of corporations. The limit is also phased out for larger companies (between $4 million and $8 million in dividends paid). Alternatively, at the annual election of the taxpayer, the amount of special deductions is limited to the sum of 100 percent of the policyholder dividends credited to qualified pension plans, the statutory amount of $1 million (subject to the affiliated group and phaseout rules), and 77½ percent of the policyholder dividends paid by mutual companies on other than pension business or 85 percent of policyholder dividends and the special deduction for nonparticipating contracts for stock companies.

These provisions apply for a 3-year period beginning with 1982 and ending with 1984.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

3. Life insurance reserves and contract liabilities

Present law

Present law permits taxpayers to revalue life insurance reserves computed on a preliminary term basis to a net level premium basis. Under an approximate revaluation method, reserves for other than term insurance are generally increased by $21 per $1,000 insurance in force, less 2.1 percent of reserves under such contracts. Also, in computing reserves for certain contracts, taxpayers may reflect the future liability for interest (which may be guaranteed for more than one year) in excess of the assumed rate for such contracts.

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[1] It is the intention of the conferees that no inference is to be drawn from the inclusion of the limited specific rules (and exceptions) for debt-financed conventional coinsurance arrangements but not for other arrangements. In appropriate circumstances, the Internal Revenue Service may challenge other conventional coinsurance contracts on other grounds, e.g., the lack of economic substance of a transaction, the lack of a bona fide business purpose, or the fact that the principal purpose of the transaction is evasion of Federal income tax.

Under present law, life insurance companies are deemed to allocate investment yield to pension contracts on the basis of the current earnings rate whether or not that rate exceeds the rate guaranteed under the contract. However, if the guaranteed rate of interest exceeds the current earnings rate, a taxpayer can allocate investment yield at the actual rate rather than the current earnings rate by removing life contingencies from the contracts.

For purposes of qualifying as a life insurance company for tax purposes, present law requires that more than 50 percent of a company's total reserves must consist of life insurance reserves. The Internal Revenue Service has several pending ruling requests concerning the reserve treatment of funds held under certain pension contracts that do not involve life contingencies (i.e., that do not contain permanent annuity purchase rate guarantees).

House bill

No provision.

Senate amendment

The Senate amendment revises the approximate revaluation formula for preliminary term reserves by reducing the revaluation from $21 to $19 per $1,000 of other than term insurance in force, for business written after March 31, 1982. In addition, no reserve deductions will be allowed for excess interest guaranteed beyond the close of a taxable year.

The Senate amendment provides that, beginning July 1, 1983, the policy or contract liability for group pension contracts, for purposes of determining the excludable policyholder share of investment yield, is limited to the amount of interest actually credited to the contracts. The intention is to eliminate the so-called "double-dip" available under present law with respect to these contracts.

Finally, the Senate amendment provides that, for any taxable year ending before January 1, 1985, life insurance company status for a company will not be changed by treating reserves for group pension contracts without permanent annuity purchase rate guarantees as not being insurance reserves.

The reduction for revaluing preliminary term reserves is effective for taxable years beginning after 1981 and before January 1, 1985, but only for business written after March 31, 1982. The limitation on computing reserves for guaranteed interest is effective for guarantees made after July 1, 1982, and before January 1, 1985. The limitation on interest credited to group pension contracts applies to periods beginning after July 1, 1983 and before January 1, 1985. The provision dealing with the status of a company as a life insurance company applies to taxable years ending before January 1, 1985.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the reduction in the approximate revaluation formula for preliminary term reserves is made permanent rather than applying only for the 2-year period.

A transitional rule is provided for the rules disallowing excess interest guaranteed beyond the close of a taxable year for certain situations when the establishment of such reserves for taxable years beginning before January 1, 1982, did not result in any Federal income tax benefits. In these cases, the amount of such reserves may be recomputed by a taxpayer as of the beginning of the first taxable year beginning after December 31, 1981, to reflect the amount that would have been determined as of the close of the previous taxable year if the new limitation had been in effect. This recomputation would be taken into account for purposes of determining any increase or decrease in reserves for taxable years beginning after December 31, 1981. However, taxpayers taking advantage of this transition rule must compute such reserves in accordance with the new rule notwithstanding the fact that the interest rate guarantees were made prior to July 1, 1982.

Except for the permanent change relating to the revaluation of preliminary term reserves, the other provisions relating to life insurance reserves and contract liabilities will apply only during a period (1982-1983) rather than a 3-year period. The provisions relating to the allocation of investment yield to group pension contracts will apply as of January 1, 1983 (rather than July 1, 1983) during the 2-year period.

4. Menge formula

Present law

Under present law, a formula, commonly called the "Menge" formula, is used to compute the amount of adjusted life insurance reserves. Simply stated, the formula is a mechanical arithmetic adjustment used to compute adjusted life insurance reserves. The amount computed is then used in determining the policyholders' share of investment yield and accordingly affects the computation of a life insurance company's taxable investment income.

House bill

No provision.

Senate amendment

The Senate amendment provides a "geometric" Menge formula to compute adjusted life insurance reserves for purposes of allocating investment yield to policyholders. The provision applies to taxable years beginning after December 31, 1981, and before January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

5. Consolidated returns

Present law

Under present law, two or more affiliated domestic life insurance companies may elect to file a consolidated return. For reporting purposes, some taxpayers have taken the position that taxable income first is determined for each component member of the affiliated group and then consolidated by adding those separate company taxable incomes. This approach is sometimes referred to as the "bottom-line" method of consolidation. The ruling position of the Internal Revenue Service is that the taxable investment bases and the gain from operations bases first must be aggregated to arrive at consolidated group amounts and then these aggregate tax bases apply for the consolidated group. This approach is sometimes referred to as a "phase-by-phase" method of consolidation.

House bill

No provision.

Senate amendment

The Senate amendment provides that a "bottom-line" method of consolidation is allowed for determining consolidated life insurance company taxable income. Further, the Internal Revenue Service cannot disturb a bottom-line reporting position taken in a consolidated return filed for taxable years ending before 1982.

The provision applies to taxable years beginning after December 31, 1981, and before January 1, 1985. The grandfather protection applies to taxable years beginning before 1981 for returns (including amended returns) filed before July 1, 1982, and to taxable years beginning in 1981 for returns filed before September 16, 1982.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

6. Allowance of deduction for excess interest

Present law

The Internal Revenue Service has ruled that excess interest credited by an insurance company with respect to certain deferred annuity contracts is a policyholder dividend subject to the statutory deduction limitation. Taxpayers have taken the position that excess interest is fully deductible as an increase in reserves for guaranteed contractual benefits.

House bill

No provision.

Senate amendment

The Senate amendment allows a deduction for 100 percent of the interest credited to qualified annuities if it is guaranteed in advance, at a fixed rate or in accordance with a formula, for a period of not less than 12 months. For purposes of this deduction an annuity contract is "qualified" if it is not a pension plan contract, involves life contingencies, is nonparticipating under State law, and provides for the payment of excess interest. A participating contract, meeting all other requirements, may also be treated as a qualified contract at the election of the taxpayer, but the interest deduction is limited to 92½ percent of total interest credited (i.e., assumed interest plus excess interest).

These provisions apply to taxable years beginning after December 31, 1981. Contracts with interest guarantees for less than 12 months and issued before January 1, 1983, are grandfathered if they are in compliance with the new provisions on January 1, 1983.

Conference agreement

The conference agreement generally follows the Senate amendment with certain technical and clarifying amendments. First, the interest guaranteed from a contract's original date of issue until the end of the taxable year qualifies for the 100 percent deduction even though it is guaranteed for less than 12 months. Second, with respect to participating contracts, 100 percent deduction is allowed for the permanently guaranteed rate of interest and 92½ percent for any interest credited in excess of the guaranteed rate. Third, contracts with interest guarantees for less than 12 months will be grandfathered with respect to moneys held on August 13, 1982, and any interest earned thereafter; contracts issued after August 13, 1982, and before January 1, 1983, must conform to the new provisions by the first contract anniversary date after January 1, 1983.

7. Amounts received under annuity contracts

Present law

Under present law, taxation of interest or other current earnings on a policyholder's

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investment in an annuity contract generally is deferred until annuity payments are received or amounts characterised as income are withdrawn. Amounts paid out before the annuity starting date are first a return of capital and are taxable (as ordinary income) only after investment in the contract is recovered. There is no tax penalty for withdrawals or surrenders before the annuity starting date or before a certain age.

House bill

No provision.

Senate amendment

The Senate amendment provides that amounts received before the annuity starting date will be treated first as withdrawals of income earned on investments to the extent of such income, the remainder being treated as a return of capital. Likewise, loans under the contract, or amounts received upon assignment or pledging of the contract, will be treated as amounts received under the contract. These provisions apply as of July 1, 1982, but do not apply to income amounts allocable to investments made before July 2, 1982, to endowment or life insurance contracts (except to the extent prescribed in regulations), or to contracts purchased under qualified pension plans.

In addition, the Senate amendment imposes a penalty on certain distributions from an annuity contract. The penalty will be equal to 10 percent of the amount includible in income, to the extent the amount is allocable to an investment made within 10 years of the receipt. However, the penalty will not apply to a distribution that is (1) made on or after the policyholder reaches age 59½; (2) made to a beneficiary on or after death of the policyholder; (3) attributable to the policyholder becoming disabled; (4) a payment under an annuity for life or at least 5 years; (5) from a qualified pension plan; or (6) allocable to an investment before July 2, 1982.

The penalty only applies to distributions made after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment, but reduces the amount of the penalty to 5 percent and changes the effective date for the provisions to August 13, 1982 (except that the penalty still applies to distributions made after December 31, 1982).

Also, under the conference agreement, a replacement contract obtained in a tax-free exchange of contracts succeeds to the status of the surrendered contract for purposes of the new provisions. Such exchanges are subject to the new provisions in this Act for information reporting on pension plans and commercial annuity contracts.

8. Flexible premium contracts

Present law

Under present law, gross income does not include proceeds of a life insurance contract paid by reason of the death of the insured. In a private letter ruling, the Internal Revenue Service concluded that the entire amount paid upon death under a universal life insurance contract is excluded from gross income even though the death benefit may reflect a large cash fund and a relatively small amount of pure insurance protection. However, the Service is reconsidering this position.

House bill

No provision.

Senate amendment

The Senate amendment provides mandatory guidelines for determining whether a death benefit paid under a life insurance contract that provides for payment of one or more premiums not fixed by the insurer as to both timing and amount (a flexible premium life insurance contract) should be excluded from gross income. In addition to providing a life insurance benefit, such contracts can also provide benefits for guaranteed insurability, accidental death, family term coverage, or waiver of premium; they cannot provide any annuity benefits other than as settlement options.

The guidelines contain two tests which the contract must meet at all times in order to be considered life insurance thereunder. First, under a premium test, the sum of the premiums paid cannot exceed the single premium at issue (or sum of the level premiums) necessary to fund the death benefit of the contract and the charges for any qualified additional benefits. Second, under a death benefit test, the death benefit (without regard to any additional benefits) must never be less than specified percentages of the cash value of the contract. The amendment gives the Secretary discretion to allow corrections of excessive premium payments. It also allows 30 days after the close of the contract year to return excessive premium payments with interest to the policyholder and allows otherwise disqualifying premium payments if necessary to prevent terminations of the contract.

The amendment provisions apply to contracts issued before January 1, 1985. However, any contract issued before October 1, 1982, that complies with the new guidelines within one year after enactment shall be treated as being in compliance for all prior periods.

Conference agreement

The conference agreement generally follows the Senate amendment, but adds an alternative cash value test for purposes of meeting the flexible premium life insurance guidelines. Under this test, a flexible premium contract will provide life insurance for purposes of Code section 101 if, by the terms of the contract, the cash value will not at any time exceed the net single premium for the death benefit (without regard to any additional benefits) at such time. For purposes of this alternative test, the net single premium must be computed using the most recent mortality table, an assumed interest rate that is the greater of 4 percent or the minimum rate or rates guaranteed in the contract, and a maturity date of not earlier than age 95.

Because of difficulties in conforming certain existing contracts to the guidelines, the conference agreement modifies the transition rules concerning the assumed interest rates used in the guideline premium computations. In computing the net single premium for the alternative cash value test, the required assumed interest rate will be the greater of 3 percent or the minimum rate or rates guaranteed in the contract for contracts issued before July 1, 1983; a similar transition rule is adopted for purposes of the premium test and computing the guideline level premium, for contracts issued before January 1, 1983. Also, the conference agreement modifies the general transition rule to the Senate amendment and allows compliance within one year after enactment for any flexible premium contracts issued before January 1, 1983 (rather than October 1, 1982).

Also, the conference agreement clarifies that any flexible premium contract that is treated under State law as a single integrated life insurance contract and that satisfies these guidelines will be treated for Federal tax purposes as a single contract of life insurance and not as a contract that provides separable life insurance and annuity benefits.

Finally, the conferees agree to allow 60 days (rather than 30 days) to return excessive premium payments.

9. Indeterminate premium policies

Present law

In a private letter ruling, issued in June, 1982, the Internal Revenue Service held, among other things, that the excess of the maximum premium chargeable over the premium actually collected should be treated as a distribution of policyholder dividends which is paid back as a premium to the company.

House bill

No provision.

Senate amendment

The Senate amendment provides that, for taxable years beginning before 1982, amounts that could have been charged as a premium or mortality charge, but were not, will not be included in premium income.

Conference agreement

The conference agreement follows the Senate amendment.

10. Underpayments of 1982 estimated taxes

Present law

Under present law, a nondeductible penalty is imposed on underpayments of estimated taxes.

House bill

No provision.

Senate amendment

The Senate amendment provides that the underpayment penalty will not apply to underpayment periods ending before December 15, 1982, to the extent an underpayment is created or increased by the provisons of the bill affecting life insurance companies.

Conference agreement

The conference agreement follows the Senate amendment.

F. Employment Tax Provisions

1. Independent Cotractors

a. Alternative standards for determining classification of workers for employment tax purposes and extension of certain interim provisions

Present law

In general

Common law (i.e., nonstatutory) rules generally apply in determining whether particular workers are treated as employees or as independent contractors (self-employed persons) for Federal employment tax purposes. However, certain individuals are classified by the tax statute as employees for FICA (social security) tax purposes. These statutory FICA employees are certain agent-drivers or commission-drivers, full-time life insurance sales persons, home workers performing services on goods or materials, and full-time traveling or city sales persons.

Interim provisions relating to classification controversies

Section 530 of the Revenue Act of 1978 provided that taxpayers who had a reasonable basis for not treating workers as employees in the past could continue such treatment without incurring employment tax liabilities. This relief was available only if the taxpayer filed all Federal tax returns (including information returns) that are required to be filed with respect to workers whose status is at issue on a basis consistent with the taxpayer's treatment of the workers as independent contractors. Also, the 1978 Act prohibited the Treasury Department from issuing any regulation or revenue ruling that classifies individuals for purposes of employment taxes under interpretations of the common law.

The interim provisions of Section 530 of the Revenue Act of 1978 were extended, by subsequent legislation, through June 30, 1982.

Senate amendment

In general

The satisfaction of a safe-harbor test results in classification of a worker as an independent contractor for Federal employment tax purposes other than under the Railroad Retirement Tax Act. (A statutory FICA tax employee could be classified under the safe-harbor for income tax purposes.) The safe-harbor requirements, generally applicable to post-1982 services, relate to (1) control of hours worked, (2) place of business, (3) investment or income fluctuation, (4) written contract and notice of tax responsibilities, and (5) the filing of required returns. A special rule applies with respect to certain home-health care workers.

Interim provisions relating to classification controversies

The interim provisions (Section 530 of the Revenue Act of 1978) are extended through December 31, 1982.

Conference agreement

Statutory nonemployees.—The conference agreement does not include any safe-harbor test (or any special rule with respect to home-health care workers). The conference agreement establishes two categories of statutory nonemployees. Under this provision, sales persons who are licensed real estate agents, and individuals who are direct sellers, are treated for Federal income and employment tax purposes as self-employed persons where substantially all the remuneration paid for their services as real estate agents or direct sellers is directly related to sales or other output and where such services are performed pursuant to a written contract providing that they will not be treated as employees for Federal tax purposes. In defining direct sellers, the bill's reference to individuals engaged in the trade or business of selling or soliciting the sale of consumer products includes the activities of individuals who attempt to increase direct sales activities of their direct sellers and who realize remuneration dependent on the productivity of those direct sellers. These activities include providing motivation or encouragement, imparting skills, knowledge, or experience, or recruiting activities. Also, in defining qualified real estate agents, the bill's reference to sales persons who are licensed real estate agents includes the appraisal activities of licensed real estate agents in connection with real estate sales activities if such individuals realize remuneration dependent on sales or other output. This provision applies to services performed after 1982.

Interim provisions.—The conference agreement indefinitely extends the interim provisions (section 530 of the Revenue Act of 1978) from July 1, 1982, until such time as the Congress enacts legislation as to the classification of workers as independent contractors or employees. This provision does not prohibit implementation (e.g., through issuance of regulations or rulings) of the provision in the conference agreement relating to statutory nonemployees.

b. Reduction of certain employment tax liabilities where workers are reclassified as employees

Present law

If a worker reclassification occurs, the employer generally is responsible for all employment tax liabilities (income tax withholding, both the employer's and the employee's share of FICA taxes, and FUTA taxes) with respect to the reclassified workers. Federal income tax withholding assessments may be adjusted if the reclassified worker pays (or has paid) the proper amount of income tax. A FICA-SECA offset is authorized only if the reclassified worker is prevented from filing for a refund of the SECA tax paid in error.

House bill

No provision.

Senate amendment

The Senate amendment provides for reduced employment tax liability in certain reclassification cases.

Generally, an employer will be liable for 1.5 percent of wages (3.0 percent if no information returns were filed) if the employer erroneously treated the worker as a nonemployee for income tax purposes. If the employer erroneously treated the worker as a nonemployee for social security tax purposes, the employer will be liable for 20 percent of the worker's share of FICA tax that should have been withheld (40 percent if no information returns were filed). These reduced liabilities do not apply if the employer treats a worker as a nonemployee with intentional disregard of the law.

The Senate amendment is effective on enactment, but does not apply to assessments made before January 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

c. Tax Court jurisdiction over certain employment tax issues

Present law

The U.S. Tax Court does not have jurisdiction over disputes involving Federal employment taxes.

House bill

No provision.

Senate amendment

The jurisdiction of the U.S. Tax Court is extended to include employment tax reclassification liabilities arising out of services performed after 1982.

Conference agreement

The conference agreement does not include the Senate amendment. The conferees understand that a taxpayer generally may challenge an employment tax assessment merely by paying the tax for one worker for one quarter, and then suing for a refund of that tax. Furthermore, the conferees understand that the Internal Revenue Service generally will forbear from active collection efforts while refund litigation is pending, if the government's interests are not jeopardized thereby.

2. Federal Unemployment Tax (FUTA) Provisions

a. FUTA tax rate

Present law

The Federal-State unemployment compensation system is financed by separate Federal and State payroll taxes on employers. Administrative funds are derived from the Federal payroll tax and benefits are paid mainly from State payroll taxes.

Under the Federal Unemployment Tax Act (FUTA), a payroll tax of 3.4 percent on the first $6,000 of wages is levied on employers who, in the current or last year, employed at least one person for 20 different weeks or had a quarterly payroll of at least $1,500. If a State's unemployment compensation program meets the requirements of Federal law, employers in the State receive a 2.7 percent credit against the 3.4 percent Federal tax. Thus, under current law, the standard net Federal tax rate in all States is 0.7 percent. (The tax rate is higher in certain States that have outstanding Federal unemployment loans.)

States also levy unemployment taxes on all covered employers in the State. These taxes finance regular State benefits and one-half the costs of extended benefits. The method and level of taxation varies considerably among the States. All States (except Puerto Rico) provide a system of experience rating under which State tax rates vary among employers according to the total amount of unemployment benefits that have recently been paid to former employees of each employer. In 1981, the estimated average State tax rate was 2.4 percent of taxable wages, ranging from 0.5 percent in Texas to 4.0 percent in Michigan. All States have a wage base of at least $6,000. Twenty-five States have a higher wage base, ranging from $6,600 to $14,000. In Puerto Rico, taxes are paid on total wages.

Sixty-five percent of the revenue raised by the Federal unemployment tax is allocated to the Employment Security Administration Account (ESAA) and 35 percent is allocated to the Extended Benefits Account (EUCA). Upon repayment of the Federal general revenue advances to EUCA, the 0.2 percent temporary tax will be eliminated and the allocation to EUCA will be reduced to 10 percent of the revenue raised by the Federal unemployment tax.

A State that has depleted its own unemployment funds may receive Federal loans as necessary to pay regular State benefits. States that borrow funds have 2 to 3 years to repay the loan, depending on the month the loan is received. If a State does not fully repay all loans within the 2 to 3 year period, employers in the State become subject to an annual reduction in the offset credit against the gross Federal unemployment tax rate of at least 0.3 percent. This means the net Federal tax rate, currently 0.7 percent, becomes subject to annual increases of at least 0.3 percent, up to a maximum of 3.4 percent, until sufficient revenue has been raised through such increases to repay the State's entire outstanding loan balance.

There are two potential credit reductions that are in addition to the annual 0.3 percent reduction. In the fourth year, in addition to another 0.3 percent reduction, employers in the State face a reduction equal to the amount that 2.7 percent exceeds the State's average tax rate on taxable wages in the calendar year to which the reduction applies. In the fifth year and thereafter, employers face a reduction, in addition to another 0.3 percent, equal to the higher of the amount of the additional fourth year reduction or the amount that the State's 5-year benefit cost rate exceeds the State's average tax rate on taxable wages in the calendar year to which the reduction applies. (The benefit-cost rate is benefits divided by taxable wages.)

Effective April 1, 1982, through December 31, 1987, States must pay interest on new Federal unemployment loans that are not repaid by the end of the fiscal year in which they are obtained. The interest rate is the same rate paid by the Federal Government on State reserves in the unemployment trust fund for the quarter ending December 31 of the preceding year, but not higher than 10 percent per annum. Interest payments are credited to the General Fund of the U.S. Treasury.

House bill

No provision.

Senate amendment

Effective January 1, 1983, the Senate amendment would increase the Federal unemployment tax wage base from $6,000 to $7,000. (This will require States, in order for employers to qualify for the 2.7 credit against the gross Federal tax rate, to have a State unemployment tax wage base of at least $7,000.)

The gross Federal unemployment tax rate would be increased from 3.4 to 3.5. Employers in States with approved State programs will continue to receive the 2.7 offset credit, so the standard net Federal tax would be 0.8 percent. This provision also is effective January 1, 1983.

Effective January 1, 1985, the Senate amendment would increase the gross Federal tax rate to 6.2 percent. This includes a permanent tax of 6.0 percent plus a temporary 0.2 percent that would remain in effect until all outstanding general revenue loans to the Federal Extended Unemployment Compensation Account (EUCA) have been repaid. The offset credit would increase to 5.4, so the net Federal tax rate would remain at 0.8 percent until the EUCA account has paid off all general revenue loans, when it would drop to 0.6 percent. The wage base remains at $7,000.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications. States that, under State law in effect as of August 10, 1982, allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent could provide for such industries to reach gradually the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the rate paid by an employer as of August 10, 1982 and 5.4 percent.

The allocation of Federal unemployment tax revenues among accounts in the Federal trust fund is modified to provide that 60 percent of the revenue raised by the 0.8 tax rate (or 0.48 percentage points) will be allocated to the Employment Security Administration Account (ESAA) and 40 percent (or 0.32 percentage points) to the Extended Benefits Account (EUCA). The Secretary will be required to make repayments to the General Fund of the Treasury from the EUCA account whenever he determines that the amount in the account exceeds the amount required to meet Federal extended benefit costs for the next 3 months. The conference agreement also provides, upon repayment of the Federal general revenue advances to EUCA (and elimination of the 0.2 percent tax), 90 percent of FUTA revenues will be allocated to ESSA and 10 percent of EUCA, as under current law.

The conference agreement allows States to make Federal unemployment loan repayments from State trust fund accounts in lieu of further reductions in the credit against the gross Federal unemployment tax rate, provided several requirements are met. First, the State account must have sufficient funds or sufficient income to enable it to repay an amount equal to at least the sum that the credit reduction would have generated plus any advances made to the State during the year. Second, after making this repayment, the State must retain enough funds in its account to pay all State benefits for the next 3 months (from November 1). Finally, the State must have made a change in its law, after the date of enactment of this bill, and after receiving the first advance, that has resulted in an increase in the solvency of its unemployment compensation system.

The conference agreement drops the additional credit reduction based on the State's previous 5-year benefit cost rate that begins in the fifth year a State is subject to annual reductions in the credit against the gross FUTA because of outstanding Federal unemployment loans. This amendment applies to a debtor State in any tax year, beginning after December 31, 1982, in which the State has taken no action during the 12-month period ending on September 30 which has reduced the solvency of the State unemployment trust fund.

Effective for interest due after December 31, 1982, the conference agreement permits States with high unemployment to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a 4-year period. (Interest would be charged on any deferred amount.) A State would be able to extend payment of interest due in any calendar year in which the State insured unemployment rate equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year.

b. Exclusion from FUTA of wages paid to certain students

Present law

Under current law, wages paid to a student under age 22 who is enrolled full-time in a work study or internship program are exempted from the Federal unemployment tax (FUTA) if the work performed is an integral part of the student's academic program.

House bill

The House provision exempts from FUTA tax any wages paid to a student enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program, effective for services performed after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision. In addition, for tax year 1983 only, the conferees agreed to exempt from FUTA, wages paid by certain summer camps to employees who are full-time students.

c. Extension of exclusion from FUTA of wages paid to certain alien farmworkers

Present law

Under the Immigration and Nationality Act, residents of foreign countries who do not intend to abandon such residency may be admitted to the United States to work for a temporary period of time during the peak agricultural crop seasons. Prior to 1982, wages paid to such alien farmworkers were excluded from Federal unemployment (FUTA) taxes.

House bill

The House provision extends for 2 years—from January 1, 1982, to January 1, 1984—the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes. The provision is effective upon date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision.

3. Extension of Social Security hospital insurance taxes and Medicare coverage to Federal employees

Present law

Federal employees generally are not subject to social security hospital insurance taxes nor does their employment qualify them for Medicare coverage.

House bill

No provision.

Senate amendment

Federal employment would become subject to the hospital insurance portion of the FICA tax, effective January 1, 1983, and the newly covered Federal employment would be used in determining eligibility for protection under medicare part A (hospital insurance). A transitional provision would provide credit for additional hospital insurance quarters of coverage for certain Federal employees who have attained age 57 by 1983, and who otherwise would not qualify for medicare protection even though they have made hospital insurance tax contributions based on their Federal employment.

Conference agreement

The conference agreement follows the Senate amendment, with several clarifying and other changes, as follows: All Federal employment currently excluded from FICA taxes would be covered, except for certain services performed by penal inmates, medical interns and student nurses, and temporary emergency employment; hospital insurance quarters of coverage would be earned and credited in the same way as for other covered employment (i.e., specified amounts of covered earnings in a year would result in specified numbers of quarters of coverage); and the transitional provision, which would apply to Federal employees who perform service during and before January 1983, would give such employees credit toward medicare eligibility (up to the minimum amount required) for past Federal employment. Employees of States and localities, including the District of Columbia, would continue to be exempt from FICA taxes.

The conference agreement permits individuals who have worked for the Federal Government to obtain medicare benefits if they file and meet the insured status and other disability eligibility requirements of the social security disability cash benefits program, even though no such cash benefits would otherwise be payable. The medicare application would be treated as an application for disability benefits (for purposes of determining eligibility to medicare).

The Secretary of Health and Human Services and the Director of the Office of Personnel Management are required fully to inform Federal employees (particularly those who might be or become eligible for medicare benefits because of a disability) of the terms and conditions of medicare eligibility.

G. Excise Tax Provisions

1. Airport and airway taxes

Present law

There is a 5-percent tax on domestic air passenger tickets, the revenues from which go into the general fund. In addition, there is a 4-cents-per-gallon tax on gasoline used by noncommercial aviation and there are taxes on aircraft tires and tubes; the revenues from these taxes currently go into the Highway Trust Fund.

House bill

No provision.

However, H.R. 4800 as reported by the Committee on Ways and Means would have provided the following aviation excise tax rates for the period July 1, 1982–December 31, 1983: (1) 5-percent air passenger ticket tax; (2) 5-percent air freight waybill tax; (3) $5 per person international departure tax; (4) 12-cents-per-gallon tax on gasoline and nongasoline fuels used by noncommercial aviation; and (5) extension of the present taxes on aircraft tires and tubes. Revenues from these aviation excise taxes would have been transferred to the Airport and Airway Trust Fund for the period July 1, 1982–December 31, 1983, and the Airport and Airway Trust Fund statute would have been transferred to the Internal Revenue Code, effective July 1, 1982.

H.R. 4800 also would have made three other modifications to the application of the air passenger ticket tax:

(1) Effective July 1, 1982, the 6-hour layover rule would have been increased to 12 hours for purposes of determining whether the flight is treated as uninterrupted international travel subject only to the departure tax (i.e., not subject to the domestic ticket tax).

(2) The Secretary of the Treasury would have been granted the authority to waive the 225-mile zone rule if Canada or Mexico entered into a "qualified agreement" regarding the tax to be applied to persons traveling by air between the United States and that country with the objective of eliminating double taxation of travel between the countries or within the 225-mile zone.

(3) The requirement that the ticket fare and tax be shown by trip segments would have been repealed, effective from the date of enactment of the bill. The requirement for separately showing the total airfare and total ticket tax was retained.

In addition, H.R. 4800 would have repealed the present prohibition against charging aviation users for overtime costs associated with services provided by the U.S. Customs Service personnel during regularly scheduled hours on Sundays and holidays.

Senate amendment

Tax provisions

The Senate amendment makes the following permanent changes in aviation excise taxes: (1) increases the domestic air passenger ticket tax to 8 percent; (2) reimposes the prior 5-percent tax on air freight waybills; (3) reimposes the prior $3 per person international departure tax; (4) increases the tax on noncommercial aviation gasoline to 12 cents per gallon; (5) imposes a 14-cents-per-gallon tax on other noncommercial aviation fuels; (6) continues the tax on aircraft tires and tubes at present rates; and (7) provides an exemption from the fuels and air passenger ticket taxes for helicopters not utilizing Federal-aid airports or Federal airway facilities where used in (a) timber operations or (b) natural resource exploration or development. The tax changes are effective for tickets, waybills, and fuels purchased after August 31, 1982.

Trust fund provisions

Revenues from these aviation excise taxes are appropriated to the Airport and Airway Trust Fund, effective September 1, 1982. The Senate amendment also transfers the Airport and Airway Trust Fund statute to the Internal Revenue Code, effective September 1, 1982, and extends the trust fund expenditure authority on a permanent basis. The trust fund expenditure purposes are updated to include the Airport and Airway System Development Act of 1982 (as added by title IV of the Senate amendment).[1]

Tax termination provision

Title IV (sec. 406(e)) of the Senate amendment contains a provision which would terminate the aviation excise taxes going into the Trust Fund and the authority to make trust fund expenditures for airway improvement program costs (under sec. 407—airway facilities and equipment, research, engineering and development, and operations and maintenance expenses), if amounts obligated in any fiscal year for airport development are less than 85 percent of the amounts authorized. The termination of tax and trust fund spending provisions could be overridden by a joint resolution of the Congress.

Conference agreement

The conference agreement follows the Senate amendment with certain changes. The exemptions for helicopters from the fuels and air passenger ticket taxes are retained but only for those helicopters involved in timber operations and in hard mineral resource exploration and development.

The conference agreement does not include the provision of the Senate amendment for the automatic termination of the excise taxes that go into the trust fund and of the authorizations for the airway improvement program. Instead, the authority to make expenditures from the trust fund will expire after September 30, 1987, and the aviation excise taxes (and the transfer of tax revenues to the Airport and Airway Trust Fund) will terminate after December 31, 1987.

In addition, the conference agreement includes the three modifications from H.R. 4800 relating to the air passenger ticket tax, these modifications also being effective September 1, 1982.

2. Increase in cigarette excise taxes

Present law

A manufacturers excise tax equal to $4 per thousand (8 cents per pack) is imposed on small cigarettes (i.e., cigarettes weighing no more than three pounds per thousand). Generally, a tax equal to $8.40 per thousand is imposed on large cigarettes, except that higher rates apply to large cigarettes that exceed 6.5 inches in length.

House bill

No provision.

Senate amendment

The manufacturers excise taxes on small and large cigarettes are doubled effective for cigarettes removed after December 31, 1982, and before October 1, 1985. A floor stocks tax equal to the excess of the new tax rates over the pre-1983 rates is imposed on cigarettes held for sale on January 1, 1983, by any person other than a retailer. The floor stocks tax must be paid on or before January 18, 1983.

Conference agreement

The conference agreement follows the Senate amendment; however, the conferees desire to clarify their intent regarding the interpretation of two rules of the floor stocks tax applicable to cigarettes removed before January 1, 1983, and held for sale on that date.

The conferees intend that the exemption from the floor stocks tax for cigarettes held for sale by retailers apply only to cigarettes held at the location where they are normally sold to consumers. For example, cigarettes held for sale on the shelves of a retail store will be exempt as held by a retailer, but cigarettes held in warehouses or other similar facilities where retail consumers do not have regular access to them are not to be treated as held by a retailer.

The conferees further understand that financial hardship could result in some circumstances if payment of the entire floor stocks tax were required on or before January 18, 1983. It is the intent of the conferees that the Treasury Department exercise its present authority over establishment of the time and method for paying cigarette excise taxes to permit extensions of time of up to 30 days for payment of the floor stocks tax in circumstances where the taxpayer demonstrates that financial hardship would result from payment of the tax on the date otherwise prescribed.

3. Increase in telephone excise tax

Present law

The excise tax on local and long-distance telephone services and teletypewriter exchange service is 1 percent in calendar years 1982, 1983, and 1984. The tax is scheduled to terminate for bills rendered on or after January 1, 1985.

House bill

No provision.

Senate amendment

Under the Senate amendment, the tax rate is increased to 2 percent in calendar year 1983, 3 percent in 1984 and 1985, and 2 percent in years after 1985.

Conference agreement

The conference agreement increases the telephone excise tax to 3 percent for calendar years 1983–1985, and terminates the tax after 1985.

4. Windfall profit tax provisions

a. Windfall profit tax TAPS adjustment repeal

Present law

The windfall profit tax base price of Sadlerochit oil is adjusted upward by the amount by which the Trans-Alaska Pipeline System (TAPS) tariff falls below $6.26.

House bill

No provision.

Senate amendment

The TAPS adjustment is repealed effective for oil removed after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

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[1] Title IV of the Senate amendment and title V of the conference agreement provides trust fund authorizations for fiscal years 1982–1987.

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4. Windfall profit tax on Alaska Native Corporations

Present law

Under present law, certain domestic crude oil the producer of which is a native corporation "organized under" the Alaska Native Claims Settlement Act (as in effect on January 21, 1980) is exempt from the windfall profit tax.

House bill

No provision.

Senate amendment

The Senate amendment clarifies this exemption by providing that certain domestic crude oil, the producer of which is a corporation "organized pursuant to" the Alaska Native Claims Settlement Act (including a wholly owned subsidiary) is exempt Indian oil within the meaning of the windfall profit tax.

Conference agreement

The conference agreement follows the Senate amendment.

5. Expansion of Dingell-Johnson Fund taxes

Present law

A 10-percent manufacturers excise tax is imposed on the sale of fishing rods, creels and reels, and on artificial lures, baits, and flies by a manufacturer, producer, or importer. Revenues from the tax are appropriated for the Dingell-Johnson Fund program for transfer to the States to support fish restoration and management projects.

House bill

No provision.

Senate amendment

The Senate amendment expands the items of fishing equipment subject to the 10-percent tax and imposes a new 3-percent tax on certain recreational boats and boating accessories. Revenues from these taxes are appropriated to the Dingell-Johnson Fund.

The amendment also changes the time for paying the manufacturers excise taxes on fishing equipment and boats and boating equipment from monthly or semi-monthly to quarterly. Further, an amount equal to revenues from the tariffs on fishing equipment and on yachts and pleasure craft is appropriated for the Dingell-Johnson Fund program.

The Senate amendment is generally effective on October 1, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

H. Other Provisions

1. Exclusion from income of National Research Service Awards

Present law

National Research Service Awards made through 1981 are treated as excludable scholarships or fellowship grants.

House bill

No provision.

Senate amendment

The Senate amendment extends the Federal income tax exclusion for National Research Service Awards for two additional years. Thus, the exclusion applies to awards made in 1982 and in 1983.

Conference agreement

The conference agreement follows the Senate amendment.

2. Annual accrual accounting method for certain joint ventures

Present law

The taxable income from farming of a corporation (or a partnership of which a corporation is a partner) generally must be computed using the accrual method of accounting with the capitalization of preproductive period expenses (sec.447(a)). Preproductive period expenses are expenses (other than interest, taxes, or losses from casualty, drought, or disease) attributable to property having a crop of a yield that are incurred during the preproductive period of such property. The preproductive period for property is generally the period before the disposition of the property or the disposition of the first marketable crop or yield from the property.

This requirement, however, does not apply to subchapter S corporations, certain family corporations, or small corporations that meet a gross receipts test. Such corporations, and partnerships which have no other type of corporation as a partner, may use the cash method of accounting and may deduct preproductive period expenses when they are paid. The requirement to use the accrual method with the capitalization of preproductive period expenses also does not apply to the business of operating a nursery or a sod farm or the business of forestry or the growing of timber.

A special rule provides that certain corporations may use the "annual" accrual method of accounting (sec. 447(g)). Under the annual accrual method of accounting, preproductive period expenses are not capitalized, but are deducted currently. Corporations that qualify for this special rule are corporations that raise crops (such as sugar cane) which are harvested at least 12 months after planting. In addition, the corporation must have used the annual accrual method for the 10-year period ending with its first taxable year beginning after 1975, and must have continued to use such method for each taxable year after its first taxable year begininning after 1975.

In the case of a corporation that acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which neither corporation recognized any gain or loss, the acquiring corporation is treated as having used the annual accural method for the period such method was used by the predecessor corporation to compute the taxable income from the acquired farming business.

House bill

No provision.

Senate amendment

A "qualified partnership" generally is treated the same as a corporation for purposes of the annual accrual accounting rules of secton 447(g). A qualified partnership is a partnership engaged in the trade or business of growing sugarcane, each of the partners of which is a corporation other than a subchapter S corporation or a personal holding company. The Senate amendment applies to taxable years beginning after December 31, 1981.

Conference agreement

The conference agreement generally follows the Senate amendment with certain clarifications. Under the conference agreement, a qualified partnership must be engaged in the trade or business of growing sugarcane and substantially all of the partnership activities must involve the growing of sugarcane. Growing sugarcane, however, does not have to be the principal activity of each of the partners.

3. Extension and revision of targeted jobs credit

Present law

The targeted jobs credit is available, on an elective basis, for hiring individuals from one or more of nine target groups. The credit is equal to 50 percent of the first $6,000 of wages paid for the first year of employment and 25 percent of the first $6,000 of wages paid for the second year of employment to a target group individual.

The credit is available for wages paid to eligible individuals who begin work for the employer before January 1, 1983.

An authorization of $30 million of appropriations is provided for fiscal year 1982 for the expenses of administering the certification system (including the performance of quality control reviews) and of providing publicity to employers.

An individual is a member of a targeted group if the individual is:

(1) an economically disadvantaged youth aged 16 through 19 participating in a cooperative education program,

(2) a recipient of money payments under a State or local general assistance program,

(3) an economically disadvantaged youth aged 18 through 24,

(4) a handicapped individual undergoing vocational rehabilitation,

(5) an economically disadvantaged Vietnam-era vetern,

(6) an SSI recipient,

(7) an economically disadvantaged ex-convict,

(8) an AFDC recipient or work incentive employee; or

(9) an involuntarily terminated CETA employee.

An individual may not be treated as a member of a targeted group unless the employer requests or receives a certification from the designated local agency before the day on which the individual begins work for the employer.

House bill

No provision.

Senate amendment

Extension of credit and authorization.—The credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1985.

The $30 million authorization is extended to each of fiscal years 1983, 1984, and 1985.

Cooperative education students.—The requirement that cooperative education students must be economically disadvantged to be members of a targeted group is eliminated. The credit for cooperative education students is 30 percent of the first $3,000 of wages paid for the first year of employment and 15 percent of the first $3,000 of wages paid for the second year of employment.

General assistance recipients.—Recipents of non-cash, as well as cash, general assistance payments are members of a targeted group.

Summer youth.—A new targeted group is added, consisting of economically disadvantaged youths who are 16 or 17 years of age on the hiring date and who have not worked for the employer before the period for which the employer claims the credit. The credit for this group is 85 percent of up to $3,000 of wages paid for services attributable to any 90-day period between May 1 and September 15, effective for individuals beginning work for the employer after July 1, 1982.

Conference agreement

The conference agreement follows the Senate provision, with several modifications.

First, the credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1984.

Second, the conference agreement does not contain the changes relating to cooperative education students. Under present law, for cooperative education students, the certification that an individual is a member of a targeted group is issued by the participating school. The determination of whether the student is a member of an economically disadvantaged family is made by the State employment security agency (SESA). However, the conferees intend that, whenever feasible, the SESA's exercise the authority they have under present law to contract with the schools to perform the initial eligibility determination as to whether the cooperative education students are economically disadvantaged. (The SESA's would continue to be responsible for the final determination of economically disadvantaged status, however.)

Third, the addition of summer youth group is made effective for individuals who begin work for the employer after April 30, 1983. A technical amendment is added to make clear that if an individual continues to work for an employer after having been a qualified summer youth employee, the certification of the individual as a member of another targeted group is to be determined on the basis of facts on the date on which the individual is certified as a member of the second targeted group rather than on the basis of the facts on the day the individual is hired by the employer.

Fourth, the target group consisting of individuals involuntarily terminated from CETA jobs will be terminated for individuals who begin work for the employer after December 31, 1982.

Fifth, the $30 million ceiling on the authorization of administrative funds will be eliminated, so that appropriations will be authorized for such sums as may be necessary in fiscal years 1983 and 1984. The conferees intend that some of these funds should be used to evaluate the effectiveness of the credit in improving the employment situation of the target groups.

Sixth, the Secretary of Labor will be required to submit annual quality control reports to the Congress reviewing the accuracy of the process by which the eligibility of individuals as members of targeted groups is determined.

Seventh, certifications will be valid if requested or received on or before the day the individual begins work for the employer.

4. Certain payments to foreign government officials or employees

Present law

Taxpayers cannot deduct payments to foreign government officials or employees if those payments would be illegal under U.S. law (if U.S. law applied).

House bill

No provision.

Senate amendment

Payments to foreign government officials or employees which are otherwise deductible would not be disallowed on grounds of illegality under U.S. law except payments made illegal by the Foreign Corrupt Practices Act. The provision would apply to payments made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment but adds a technical amendment.

5. Debt management provisions

Present law

a. Rate of interest on U.S. savings bonds

The Secretary of the Treasury, with the approval of the President, may increase the investment yield on any U.S. savings bond above the current rate in any 6-month period by no more than 1 percentage point (annual rate, compounded semiannually).

b. Long-term U.S. bonds

Bonds are defined as obligations of the United States which have a maturity when issued that is longer than 10 years. The rate of interest that may be paid on a bond may not exceed 4¼ percent, except that up to $70 billion in outstanding bonds with rates of interest above 4¼ percent may be held by the public.

House bill

No provision.

Senate amendment

a. Rate of interest on U.S. savings bonds

The Secretary of the Treasury, with the approval of the President, is allowed to fix the investment yield on any U.S. savings bond. The Secretary also is authorized to provide for increases and decreases in the yield on any outstanding U.S. savings bond. With this authority, however, the Secretary may not decrease the yield on any bond below the minimum yield guaranteed at the time of its issuance for the period the bond is held.

This provision is effective on enactment.

b. Long-term U.S. bonds

The Senate amendment provides an additional $40 billion increase in the exception from the interest rate ceiling. This action raises the exception to $110 billion.

This provision is effective on enactment.

Conference agreement

a. Rate of interest on U.S. savings bonds

The conference agreement follows the Senate amendment.

b. Long-term U.S. bonds

The conference agreement follows the Senate amendment, with a modification requiring that all bonds issued under the additional exception must be issued in registered form.

6. Disclosure of Tax Returns

a. Disclosure of tax return information for nontax criminal investigation purposes

Present law

Overview

Tax returns and taxpayer return information (i.e., return information submitted to the Internal Revenue Service (IRS) by the taxpayer or his representative) may be disclosed for Federal nontax criminal investigation purposes only on the grant of an ex parte order by a Federal district court judge. Return information that is submitted to the IRS by someone other than the taxpayer or his representative may be secured on written request by certain officers and employees of the Federal government. The IRS, in certain circumstances, may disclose return information on its own initiative.

Disclosure pursuant to court order

Returns and taxpayer return information may be disclosed by the IRS to personnel of other Federal agencies for nontax criminal investigation purposes only on the grant of an ex parte order by a Federal district court judge.

Personnel to whom tax information may be disclosed

Tax information may be disclosed only to officers and employees of a Federal agency who are personally and directly engaged in the preparation for any administrative or judicial proceeding (or any investigation that may result in such a proceeding) pertaining to the enforcement of a Federal nontax criminal statute.

Individuals who may authorize an application for court-ordered disclosure

The following individuals may authorize the application for a court order: the head of a Federal agency, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General.

Court order standards

A Federal district court judge may grant an order for disclosure if the judge determines that:

(1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

(2) There is reason to believe that the return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

(3) The information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

Application for disclosure of return information other than taxpayer return information

The head of any Federal agency, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may obtain return information (other than taxpayer return information) by written request to the IRS. (This category of information is tax information that the IRS has received from someone other than the taxpayer under investigation or his representative.)

Contents of application

A request for return information (other than taxpayer return information) must set forth, among other information, the specific reason or reasons why the disclosure is or may be material to the proceeding or investigation.

Taxpayer identifying information

The name and address of a taxpayer may be disclosed, pursuant to written request, for use in a nontax criminal investigation.

Disclosure of return information (other than taxpayer return information) to apprise appropriate officials of possible criminal activities

Return information (other than taxpayer return information) that may constitute evidence of a violation of Federal criminal laws may be disclosed by the IRS to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcement of such laws.

Under this provision, the taxpayer's identity may be disclosed if there is return information (other than taxpayer return information) that may constitute evidence of a violation of Federal criminal laws.

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Use of tax information in administrative or judicial proceedings

In general, returns or return information disclosed by the IRS to a Federal agency may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a nontax Federal criminal statute. A return or return information that was disclosed pursuant to a court order may be entered into evidence only if the court finds that it is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) is identical to the Senate amendment.

Senate amendment

Overview

The primary changes made by the Senate amendment include: (1) the modification of the standards for the granting of an ex parte order for the disclosure of tax returns and return information and allowing Federal district court magistrates to issue those orders; (2) an expansion in the number of personnel who would be permitted to request disclosure; (3) new authority allowing court-ordered disclosure of return information for purposes of locating Federal fugitives from justice; and (4) new authority for the IRS to disclose return information, on its own initiative, in emergency circumstances.

The provisions take effect on the day after the date of enactment.

Disclosure pursuant to court order

The Senate amendment allows a Federal district court magistrate, as well as a Federal district court judge, to grant an ex parte order for the disclosure of returns or return information.

Personnel to whom tax information may be disclosed

The Senate amendment expands the category of personnel to whom disclosure can be made to include officers and employees of a Federal agency who are personally and directly engaged in any Federal grand jury proceeding pertaining to enforcement of a Federal nontax criminal statute.

Individuals who may authorize an application for court-ordered disclosure

The Senate amendment eliminates the authority of Federal agency heads (other than the Attorney General) to authorize disclosure applications. However, the number of individuals within the Department of Justice who can authorize applications is expanded to include: the Associate Attorney General, any United States Attorney, any special prosecutor, and any attorney in charge of a criminal division organized crime strike force.

Court order standards

Under the Senate amendment, a Federal district court judge or magistrate may grant an order for disclosure of tax returns or return information if the judge or magistrate determines that:

(1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

(2) There is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act; and

(3) The return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

With respect to the third standard, it would not be reasonable to obtain tax information from another source if, for example, the information cannot be obtained in an expeditious manner in a case where time is an essential factor, or if an attempt to obtain the information elsewhere would seriously impair a criminal investigation or proceeding.

Disclosure to locate Federal fugitives from justice

Persons who may authorize an application for court-ordered disclosure will be permitted also to authorize an application for the disclosure of returns and return information solely for the purpose of locating fugitives.

A Federal district court judge or magistrate may authorize a disclosure order if the judge or magistrate determines that:

(1) A Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice;

(2) The return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual; and

(3) There is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

It is intended that this provision will be used to locate fugitives who are considered to be violent or dangerous or who pose a substantial threat to society.

Application for disclosure of return information other than taxpayer return information

The Senate amendment expands the number of individuals who can authorize a written request for disclosure to include the Inspector General of any Federal agency, the Associate Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States Attorney, any special prosecutor, and any attorney in charge of a criminal division organized crime strike force.

Contents of application

A request for return information (other than taxpayer return information) must set forth, among other information, a showing of the specific reason or reasons why the disclosure is or may be relevant to (rather than material to) the proceeding or investigation.

Taxpayer identifying information

A taxpayer's social security number, as well as the taxpayer's name and address, may be disclosed, pursuant to written request, for use in a nontax criminal investigation.

It is intended that taxpayer identity information be treated as taxpayer return information unless return information (other than taxpayer identity information) is requested and disclosed pursuant to such written request.

Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances

The IRS is provided with additional authority to disclose return information (including taxpayer return information) in certain emergency circumstances.

Specifically, under circumstances involving an imminent danger of death or physical injury to any individual, the IRS is permitted to disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances. Furthermore, under circumstances involving the imminent flight of any individual from Federal prosecution, the IRS may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

Such disclosures will be subject to the safeguard and annual reporting requirements of section 6103(p). Moreover, it is intended the the IRS utilize its disclosure authority in an efficient and effective manner. The provision relating to imminent flight from Federal prosecution is intended to cover individuals who could be prosecuted for flight from prosecution, as a separate Federal offense, and circumstances where an individual has attempted to change identity or intends to flee from the country.

Use of tax information in judicial or administrative proceedings

The use of returns and return information in judicial or administrative proceedings not involving tax administration is expanded.

Specifically, this information may also be disclosed in any judicial or administrative proceeding pertaining to the enforcement of a civil forfeiture that is related to a nontax Federal criminal statute or to the extent required by court order pursuant to 18 U.S.C. sec. 3500 or rule 16 of the Federal Rules of Criminal Procedure.

Conference agreement

The conference agreement follows the Senate amendment. The purpose of these modifications to the disclosure law is to facilitate the disclosure of tax information for legitimate law enforcement needs while, at the same time, preserving the basic principle that a taxpayer's return should generally be treated as confidential and should be disclosed, in only a limited number of circumstances, where those law enforcement needs outweigh the need to preserve taxpayer confidentiality. In agreeing to these provisions, the conferees have fulfilled a commitment made by the conferees on the Economic Recovery Tax Act of 1981 to take appropriate legislative action in this area.

b. Civil damages for unauthorized disclosure of returns and return information

Present law

A person who knowingly or negligently discloses a return or return information with respect to a taxpayer, in violation of the disclosure restrictions, may be sued in a civil action for damages in a district court of the United States.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) contains a provision that is identical to the Senate amendment.

Senate amendment

If a U.S. officer or employee knowingly or negligently discloses return information in violation of the disclosure restrictions, the wronged party will be permitted to bring a civil action for damages against the U.S. (rather than against the officer or employee). Of course, an officer or employee who makes a wrongful disclosure still will be subject to all administrative disciplinary actions as well as potential criminal sanctions.

The provision applies to disclosures made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

c. Disclosure of returns and return information for use in certain audits by the General Accounting Office

Present law

The General Accounting Office currently has access to tax returns and return information for the purpose of conducting an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms, and for the purpose of auditing the safeguards used by other agencies to safeguard returns and return information. However, before the GAO receives tax returns or return information in connection with an audit, it must notify the Joint Committee on Taxation of the audit. The Joint Committee may disapprove an audit by a vote of at least two-thirds of its members within 30 days of receipt of notice of the proposed audit.

In addition, the GAO is permitted access to returns and return information when it is acting as an agent for the Committee on Ways and Means, Committee on Finance, or Joint Committee on Taxation.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) contains a provision that is identical to the Senate amendment.

Senate amendment

GAO access to tax returns and return information is expanded to include any returns or return information obtained by a Federal agency for use in any agency program or activity. This information will be open (upon written request) to officers and employees of the GAO, and only to the extent necessary in, auditing such program or activity. Furthermore, the GAO is permitted access to returns and return information that have not been obtained by a Federal agency in certain circumstances, provided that the agency is authorized to obtain the information for use in the program or activity that is the subject of the GAO audit. This "second-tier" access is limited to return information that may be disclosed under Code secs. 6103(l) or (m). The Internal Revenue Service may refuse to disclose tax information to the GAO if such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

The pre-audit notification procedures and Joint Committee veto authority of present law are retained. This notification should include (1) a description of the audit to be undertaken, including its scope and purpose; (2) an explanation of the use that will be made of tax information; and (3) assurance that in using tax information, and in formulating its recommendations which will result from the audit of programs that involve the use of tax information, the GAO will consider any potential impact on tax administration and taxpayer confidentiality.

In addition, within 90 days after the completion of any audit with respect to which the GAO had access to tax returns or return information, the GAO is required to notify the Joint Committee on Taxation of the completion. Such written notification will include (1) a description of the use of the returns and return information by the Federal agency involved; (2) such recommendations with respect to the use of returns and return information by the Federal agency as the Comptroller General deems appropriate; and (3) a statement of the impact of any such recommendations on the confidentiality of returns and return information and on tax administration. The GAO also is expected to notify the Joint Committee of any recommendations that will affect tax administration, directly or indirectly.

The present law authority for the GAO to gain access to tax information when it is acting as an agent for the Committee on Ways and Means, the Committee on Finance, or the Joint Committee on Taxation is retained. Moreover, the GAO may continue audit activity, which involves access to tax information, pursuant to any current agency designation, which is in process as of the date of enactment.

The provision takes effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees expect that before the GAO requests "second-tier" access (that is, access to return information that may be disclosed under Code secs. 6103 (l) or (m) but which has not been so disclosed), it will take into account the burdens that such access might impose upon the Internal Revenue Service.

7. Veterans organizations

Present law

A domestic post or organization of war veterans (or an auxiliary unit or society of, or a trust or foundation for such post or organization) is tax exempt if at least 75 percent of its members are "war veterans" and substantially all the other members are veterans or cadets, or are spouses, widows, or widowers of such individuals, and if no part of its net earnings inures to the benefit of any private individual.

House bill

No provision.

Senate amendment

The Senate amendment modifies the membership requirement to allow tax exemption for a veterans organization (which satisfies the other requirements of present law), if 75 percent of its members are past or present members of the U.S. Armed Forces (whether or not war veterans) and its remaining membership consists substantially of cadets or spouses, widows, or widowers of past or present members of the U.S. Armed Forces or of cadets.

The provision is effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment, but with an additional amendment which also allows exemption for any veterans association founded before 1880, 75 percent of the members of which are past or present members of the U.S. Armed Forces, and the primary purpose of which is to provide insurance and other benefits to veterans and their dependents.

8. Amateur athletic organizations

Present law

Athletic organizations that teach youth or are affiliated with charitable organizations may qualify for tax exemption and eligibility to receive tax-deductible contributions if they meet the general requirements for charitable or educational organizations. Also, present law expressly provides that certain other athletic organizations may qualify for tax exemption and tax-deductible contributions if organized and operated exclusively to foster national or international amateur sports competition, but only if no part of the organization's activities involve the provision of athletic facilities or equipment and only if no part of the net earnings of the organization inure to the benefit of any private individual.

House bill

No provision.

Senate amendment

The Senate amendment allows tax-exempt status to amateur athletic organizations that conduct national or international competition in Olympic sports, or support and develop amateur athletes for such competition, whether or not the organization provides facilities or equipment to its members. The provision is effective as of October 5, 1976.

Conference agreement

The conference agreement generally follows the Senate amendment, with a modification to delete the restriction of the Senate bill that limits its application to sports listed on the program of the Olympic games or Pan-American games. Also, the conferees are concerned that some taxpayers may claim deductions for transfers to or for the use of amateur athletic organizations in cases where there is a direct benefit from the transfer to the taxpayer or other persons. The conferees intend that this provision does not modify the rules of existing tax law that a deduction is not allowed when there is a substantial, direct, personal benefit to the taxpayer or to any other person other than the amateur athletic organization.

9. Applicability of private foundation rules

Present law

Restrictions on business holdings

The Tax Reform Act of 1969 provided that private foundations generally may not own more than 20 percent of a business. Under transitional rules in the 1969 Act, foundations which, alone or in combination with related persons, owned more than 75 percent or alone owned more than 95 percent of businesses on May 26, 1969 have 15 or 20 years, respectively, to reduce their ownership interests to specified levels.

Charitable trusts

Under provisions enacted in the 1969 Act, trusts with solely charitable interests are generally subject to the private foundation rules, including the business holdings restrictions and the charitable distribution requirements.

House bill

No provision.

Senate amendment

Restrictions on business holdings

The Senate amendment provides that the Otto Bremer Foundation, the El Pamor Foundation, the Houston Endowment, the Public Welfare Foundation, and the Sand Springs Home may indefinitely retain certain business interests held on May 26, 1969, if the foundation meets certain conditions. Also, the Senate amendment provides that the Ahmanson Foundation will have an additional five years to meet the divestiture requirements with respect to certain stock held on May 26, 1969.

Charitable trusts

The Senate amendment provides that the New London Day Trust is not subject to the private foundation rules applicable to charitable trusts, effective for taxable years beginning after November 20, 1978.

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Conference agreement

The conference agreement does not include the Senate amendment.

10. Clarification of tax status of certain members of religious orders

Present law

Present law exempts from the term "employment", for FICA tax purposes, service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of the ministry or by a member of a religious order in the exercise of duties required by such order. Likewise, "wages", for purposes of income tax withholding, does not include remuneration paid for similar services.

The Internal Revenue Service generally takes the position that a member of a religious order who is instructed by the order's superiors to obtain employment with a third party is an employee of the third party, not of the religious order, and must include the remuneration remitted to the order in gross income whether or not the member has taken a vow of poverty. Under this position, the remuneration is subject to FICA and income tax withholding.

House bill

No provision.

Senate amendment

Income derived from services of certain members of religious orders from salaries from the Public Health Service in a leprosarium is income of the religious organization, rather than income of the members. The provision, which benefits the Daughters of Charity, applies to services performed after September 30, 1977.

Conference agreement

The conference agreement does not include the Senate amendment.

11. Study of alternative tax systems

Present law

No specific provision.

House bill

No provision.

Senate amendment

The Secretary of the Treasury is instructed to conduct a study, to be submitted to the tax-writing committees within 6 months after the date of enactment, of the advisability of replacing only the Federal individual income tax, or both the Federal individual income tax and the Federal corporate income tax, with an alternative tax system, such as a simplified tax based on gross income, a consumption tax, and the current income tax system with a broadened base and lower rates.

Conference agreement

The conference agreement does not include the Senate amendment.

12. Study of monetary policy

Present law

No specific provision.

House bill

No provision.

Senate amendment

The Secretary of the Treasury is instructed to submit to the tax-writing committees, no later than 6 months after the date of enactment, a study of the effects on capital markets of using the growth of debt as the long-term target of monetary policy, and using total liquid assets as the interim target of monetary policy.

Conference agreement

The conference agreement does not include the Senate amendment.

13. New Jersey general revenue sharing allocation

Present law

Only taxes assessed and collected by a qualifying unit of government are counted toward the jurisdiction's tax effort under the general revenue sharing allocation.

House bill

No provision.

Senate amendment

The New Jersey Franchise and Gross Receipts Taxes shall be deemed an adjusted tax of units of local government for the purpose of allocating revenue sharing funds for the quarterly period beginning on October 1, 1982. This change will remain in effect for future quarterly payment periods only if New Jersey amends its Franchise and Gross Receipts Taxes statute to provide for local retention and collection.

This provision is effective for revenue sharing payments made with respect to the quarterly payment period in the quarter beginning October 1, 1982, and ending December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

14. Relief for the Jefferson County Mental Health Center, Lakewood, Colorado

Present law

Employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from taxation.

House bill

No provision. However, H.R. 1635, as reported by the House Committee on the Judiciary on September 22, 1981, and passed by the House on October 6, 1981, is identical to the Senate amendment.

Senate amendment

The Senate amendment authorizes the payment of $50,000 to the Jefferson County Mental Health Center, Lakewood, Colorado, in full settlement of its claims against the United States for repayment of the $74,128 the Center refunded to its employees for individual social security contributions after the Internal Revenue Service erroneously advised the Center that the contributions had been incorrectly withheld. The provision is effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment.

15. Award of reasonable litigation costs where taxpayer prevails and government position was unreasonable

Present law

a. Attorneys fees

A taxpayer who prevails in civil tax litigation in the Federal courts (other than the U.S. Tax Court) may be awarded reasonable attorneys fees and other litigation costs, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

b. Damages for delay in Tax Court

If a Tax Court proceeding has been instituted by the taxpayer merely for delay, the Court may award damages to the United States in an amount not to exceed $500.

House bill

a. Attorneys fees

General rule.—A taxpayer who prevails in cifil tax litigation in the Federal courts, including the U.S Tax Court, may be awarded reasonable attorney fees and other litigation costs. The taxpayer may recover litigation costs only if the position of the United States in the case was unreasonable.

Dollar limitation on awards.—The maximum award is $50,000.

Third-party costs.—In litigation where the deductibility of contributions by a taxpayer to a charitable organization is the most significant issue, the organization (as well as the taxpayer) may recover costs incurred by it in the litigation if the taxpayer prevails, even though the charity is not a party to the action.

Effective date.—The attorneys fees provision applies to U.S. Tax Court cases begun after 1982, and to other Federal tax cases pending on, or begun after, October 1, 1981. The provision does not apply to cases begun after September 30, 1984.

b. Damages for delay in Tax Court

If U.S. Tax Court proceedings have been brought by a taxpayer primarily for delay, or if the taxpayer's position in a case is frivolous or groundless, the Court may award damages to the United States of up to $5,000, effective for Tax Court cases begun after 1981.

Senate amendment

No provision. However, a similar provision is included in H.R. 4717 as passed by the Senate.

a. Attorneys fees

General rule.—Generally the same as the House bill, except that the Senate provision provides explicitly that the taxpayer has the burden of establishing that the government's position was unreasonable.

Dollar limitation on awards.—The maximum award is $25,000. There is a special rule generally requiring the joinder or consolidation of multiple actions or actions involving the same taxpayer for the purpose of awarding attorney fees.

Third-party costs.—A taxpayer may recover costs for a third party incurred by that party on behalf of the taxpayer.

Effective date.—The attorneys fees provision applies to civil tax litigation, including U.S. Tax Court cases, begun after May 31, 1982. The provision does not apply to cases begun after May 31, 1987.

b. Damages for delay in Tax Court

Similar to the House bill, except that the maximum damages that may be awarded to the United States are $2,500 and the provision is effective for Tax Court cases begun after May 31, 1982.

Conference agreement

a. Attorneys fees

The conference agreement follows the Senate provision, except for effective dates. The provision applies to civil tax litigation, including U.S. Tax Court cases, begun on or after March 1, 1983. The provision does not apply to cases begun after December 31, 1985.

b. Damages for delay in Tax Court

The conference agreement follows the House bill (maximum $5,000 award), except for the effective date. The provision applies to Tax Court cases begun on or after January 1, 1983.

16. Personal holding companies

Present law

A corporation actively engaged in a lending or finance business is excluded from the personal holding company tax provisions if the corporation has qualifying business expenses equal to at least 15 percent of the first $500,000 of ordinary gross income from its lending or finance business, plus 5 percent of such ordinary gross income from $500,000 to $1 million.

The term "lending or finance business" is defined to include the business of making loans with maturities of not more than 60 months.

House bill

Effective for taxable years beginning after December 31, 1981, the House bill modifies the business expense test to require a lending or finance company to have qualifying business expenses equal to at least 15 percent of the first $500,000 of ordinary income from the lending or finance business, plus 5 percent of such ordinary gross income in excess of $500,000. Thus, 5 percent of ordinary gross income in excess of $1 million will be added to the qualifying business expense test of present law.

In addition, effective for taxable years beginning after December 31, 1980, the House bill increases the 60-month loan maturity limitation to 144 months, and the definition of a lending or finance business is amended to include the business of making loans in indefinite maturity credit transactions.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

17. Additional refunds relating to repeal of the excise tax on buses

Present law

The Energy Tax Act of 1978 repealed the prior law 10-percent manufacturers excise tax on buses effective after November 9, 1978. The Act also contained provisions effectively repealing the tax for buses sold after April 19, 1977 and before November 10, 1978, if a claim for refund was filed with the IRS and if the tax collected from ultimate purchasers was reimbursed before September 5, 1979.

House bill

The House bill extends the last date for reimbursing ultimate purchasers of buses to December 31, 1982, and permits the reimbursement to occur at the same time a refund from IRS is received. The provision applies only to taxpayers that filed a claim for refund before September 5, 1979.

Senate amendment

No provision. However, an identical provision is included in H.R. 4717 as passed by the Senate.

Conference agreement

The conference agreement follows the House bill.

18. Modification of rules as to acceleration of accrual of taxes

Present law

Under the accrual method of accounting, an expense generally is deductible for the taxable year in which all the events which determine the fact of the liability have occurred and the amount of the deduction can be determined with reasonable accuracy.

However, present law also provides that, if a taxing jurisdiction changes the date for imposing a deductible tax so that the tax would be deductible for an earlier period under the general rule, an accrual-basis taxpayer may not deduct the tax in the earlier period. Instead, the taxpayer may deduct the tax for the period that the tax otherwise would have been deductible as if the taxing jurisdiction had not accelerated the date for imposing the tax.

House bill

Under the House bill, an accrual-basis taxpayer may accrue a deduction for taxes on the liability date of the tax, even if that date has been accelerated by the taxing jurisdiction. However, the taxpayer is not allowed to take two deductions for taxes for a taxable year, and must account for the disallowed deduction by establishing a suspense account (which preserves the deduction until the level of tax is reduced or the taxpayer terminates its existence).

The provision applies to changes in tax liability dates that occur after the date of enactment. However, in the case of a State franchise tax based on income the assessment date of which has been changed, a taxpayer which first accrued such tax after the date of the change and which has consistently accrued the deduction for the tax on the new liability date could continue to accrue the deduction on the date used, without complying with the suspense account requirements under the provision.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

19. Reassigning VHF television licenses

Present law

Present law does not contain any provisions on reassigning VHF licenses.

House bill

No provision.

Senate amendment

The Senate amendment adds a new section 331 to Title III of the Communications Act of 1934. New Jersey and Delaware are the only two States that do not have a commercial VHF television station. The amendment affirms the congressional intent that it is in the public interest for every State to have at least one VHF television station. In order to implement that intent, the amendment provides that, upon notice by any licensee in another State that it agrees to the reallocation of its channel to a community in a State in which there is no such channel, the Federal Communications Commission shall order the reallocation and issue a license to the licensee for such purpose.

This provision will remove impediments which currently discourage a licensee in a State which has more than one VHF television station from voluntarily moving to a State which has none. It is the intention of Congress that any current licensee which exercises the option of seeking the transfer of its license to an unserved State under the terms of this section will move its studio and offices, to and operate for the public benefit of the unserved State.

Conference agreement

The conference agreement follows the Senate amendment.

REVENUE EFFECTS OF TAX PROVISIONS OF H.R. 4961 AS AGREED TO BY THE CONFERENCE COMMITTEE

Table 1.—Summary of Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Individual income tax provisions	272	3,113	3,106	3,336	3,556
Business tax provisions	5,422	13,292	16,497	28,042	40,116
Compliance provisions	3,365	8,869	8,660	10,174	11,217
Pension provisions	194	780	870	970	1,058
Life insurance and annuities	1,942	2,155	2,920	3,138	3,370
Employment tax provisions	1,904	3,083	3,577	2,853	2,572
Excise tax provisions	2,798	4,009	4,702	2,054	1,472
Miscellaneous provisions	−38	−37	−34	−32	−30
Total, tax provisions	15,859	35,264	40,298	50,535	63,331
Revenue gain resulting from additional IRS enforcement personnel	2,100	2,400	2,400	1,300	600
Grand total, all provisions	17,959	37,664	42,698	51,835	63,931

Table 2.—Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Individual Income Tax provisions:					
Alternative minimum tax	(1)	659	701	741	729
Medical deduction	272	1,788	1,671	1,795	1,947
Ten percent casualty deduction floor		666	734	800	880
Total, individual tax provisions	272	3,113	3,106	3,336	3,556

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Table 2.—Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987—Continued

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Business Tax Provisions:					
Reduction in corporate preference items	515	936	948	918	995
Investment tax credit basis adjustment	362	1,374	2,658	4,109	5,579
Limit ITC to 85 percent of tax liability	152	259	213	178	164
1985–1986 ACRS changes			1,541	9,907	18,442
Construction period interest and taxes	555	1,179	1,206	1,084	819
Modifications to pre-ERTA and safe harbor leasing rules	1,036	2,649	4,252	5,496	7,000
Changes in taxation of foreign oil extraction income	200	438	508	569	621
Limit on possessions credit	201	428	473	516	559
Private purpose tax-exempt bonds	63	261	539	748	1,076
Mergers and acquisitions	427	749	959	1,014	1,064
Accounting for completed contracts	882	2,235	2,535	2,390	2,559
Original issue discount and coupon stripping provisions	163	310	465	629	808
Targeted jobs credit	−182	−551	−591	−271	−54
Accelerate corporate tax payments	1,048	3,025	791	755	484
Total, business tax provisions	5,422	13,292	16,497	28,042	40,116
Compliance Provisions:					
Withholding on interest and dividends	1,344	5,246	3,975	4,605	5,181
Other compliance provisions, including partnership audits and taxpayer safeguards[3]	2,021	3,623	4,685	5,569	6,036
Total, compliance provisions	3,365	8,869	8,660	10,174	11,217
Pension Provisions	194	780	870	970	1,058
Life Insurance and Annuities	1,942	2,156	2,920	3,138	3,370
Employment Tax Provisions:					
Independent contractors	−117	−107	−79	−85	−92
FUTA tax	1,404	2,353	2,729	1,872	1,501
Federal employees medicare tax	617	837	927	1,066	1,163
Total, employment tax provisions	1,904	3,083	3,577	2,853	2,572
Excise Tax Provisions:					
Airport and airway taxes[4]	817	962	1,089	1,216	1,357
Telephone tax[5]	616	1,073	1,600	730	
Cigarette tax[6]	1,275	1,829	1,859	−34	−13
Repeal of Trans Alaska Pipeline System adjustment[7]	90	145	154	142	128
Alaska Native Claims Settlement Corp.					
Total, excise tax provisions	2,798	4,009	4,702	2,054	1,472
Miscellaneous Provisions:					
National Research Service Awards	−8	−7	−4	−2	(1)
Annual accounting for certain joint ventures					
Foreign Corrupt Practices Act provisions	−30	−30	−30	−30	−30
Disclosure of tax returns					
Veterans organizations	(2)	(2)	(2)	(2)	(2)
Amateur athletic organizations	(2)	(2)	(2)	(2)	(2)
Relief for the Jefferson County Mental Health Center	(8)				
Award of certain litigation costs	(8)	(8)	(8)	(8)	(8)
Treatment of certain lending or finance businesses for purposes of the tax on personal holding companies	(2)	(2)	(2)	(2)	(2)
Additional refunds relating to repeal of the excise tax on buses	(1)	(1)	(1)	(1)	(1)
Total, miscellaneous provisions	−38	−37	−34	−32	−30
Total, tax provisions	15,859	35,264	40,298	50,535	63,331
Revenue gain resulting from additional IRS enforcement personnel	2,100	2,400	2,400	1,300	600
Grand total, all tax provisions	17,959	37,664	42,698	51,835	63,931

[1] Negligible.

[2] Loss of less than $5 million.

[3] Additional gains in budget receipts are expected from the Administration's proposal to increase IRS personnel in taxpayer compliance enforcement activities: $2.1 billion in fiscal year 1983, $2.4 billion in 1984, $2.4 billion in 1985, $1.3 billion in 1986, and $0.6 billion in 1987.

[4] The figures represent net increases, after accounting for lower income tax receipts. Additional revenues from aviation excise taxes, resulting from this bill before taking account of the income tax offset are estimated at $1,089 million in 1983, $1,283 million in 1984, $1,452 million in 1985, $1,621 million in 1986, and $1,809 million in 1987.

[5] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $821 million in fiscal year 1983, $1,431 million in 1984, $2,133 million in 1985, and $973 million in 1986.

[6] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $1,700 million in fiscal year 1983, $2,439 million in 1984, $2,479 million in 1985.

[7] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $139 million in fiscal year 1983, $260 million in 1984, $285 million in 1985, $267 million in 1986, and $241 million in 1987.

[8] Increases outlays by $50,000.

AIRPORT AND AIRWAY IMPROVEMENT

Title IV of the Senate amendment to H.R. 4961 consisted of the Airport and Airway System Development Act of 1982. The House bill contained no comparable provisions. The joint explanatory statement that follows contains a description of the Senate provisions and the conference substitute for each provision.

1. SHORT TITLE

Senate amendment:

Provides that the act may be cited as the "Airport and Airway System Development Act of 1982".

Conference substitute:

Provides that the Act may be cited as the "Airport and Airway Improvement Act of 1982".

2. DECLARATION OF POLICY

Senate amendment:

Sets forth as policies and findings: that the safe operation of the airport and airway system will continue to be the highest aviation priority; that the continuation of airport and airway improvement programs, including both development and planning activities, and more effective management and utilization of the Nation's airport and airway system are required to meet current and projected growth in aviation; that this Act should be administered so as to provide adequate navigation aids and airport facilities, including special emphasis on the development of reliever airports, for points where scheduled commercial air service is provided; that aviation facilities should be built and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities; that airports which have the ability to finance their capital and operating needs without Federal assistance should be encouraged to voluntarily withdraw from eligibility for such assistance; and that the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of single project applications to cover all airport improvement projects.

Conference substitute:

Same as the Senate except for deletion of the provision encouraging airports to finance their needs without Federal assistance and the addition of the following: a statement regarding the providing of reliever heliports; a qualification of the goal of installing precision approach systems by reference to available funds and other safety needs; and a statement that it is in the national interest to develop in metropolitan areas an integrated system of airports. In addition, the conference substitute includes a more detailed statement to encourage and promote multimodal transportation planning.

3. DEFINITIONS

Senate amendment:

The Senate amendment contains many of the definitions contained in the Airport and Airway Development Act of 1970 with some technical changes to conform to the present bill. The following are new or modified definitions:

(1) "airport development": in addition to items covered in the existing law, this definition would make the preparation of plans and specifications, including field investigations incidental thereto, eligible; broaden the definition of airport development for environmental, safety or security reasons; make newly eligible the acquisition or installation of safety or security equipment which the Secretary approves for use, even if the use of such equipment is not required by the Secretary; make the acquisition or installation of aviation-related weather reporting equipment eligible; and set forth items eligible as airport development which are related to improving noise compatibility at public-use airports (these items are eligible under the present act; however, this provision would newly provide that the elements of airport noise compatibility programs approved by the Secretary are eligible as airport development).

(2) "airport noise compatibility planning" and "airport noise compatibility program": these terms are taken from the Aviation Safety and Noise Abatement Act of 1979 and are defined here for inclusion in the definition of a)pport development in this bill.

(3) "airport planning" would be defined as such planning as the Secretary may prescribe by regulation, and specifically includes airport system planning and airport noise compatibility planning.

(4) "airport system planning" in the present Act would be modified to make explicit several concepts inherent in the present definition. The words "initial as well as continuing" have been inserted to clarify that airport system planning is a continuous process. The definition would also make eligible for funding as airport system planning a State's development of certain airport construction and development standards.

(5) "block grant", "block grant supplement", "applicant State", "participating State", and "State development report" are defined for purposes of the block grant program in the Senate amendment.

(6) "commercial service airport": any airport which the Secretary determines to either: (A) enplane 2,500 or more passengers annually and receive scheduled passenger service of aircraft; or (B) enplane 10,000 or more passengers annually, is a commercial service airport.

(7) "eligible airport" is defined with reference to the provision of the Senate amendment relating to voluntary withdrawal from the program.

(8) "passengers enplaned" means revenue passengers enplaned in the United States who are flying between domestic, territorial, or international points via aircraft, whether scheduled or nonscheduled.

(9) "primary airport" is a new term meaning any "commercial service airport" determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually, both scheduled and nonscheduled, at all commercial service airports.

(10) "project" means a project or separate projects submitted together for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(11) "public-use" airport is a new term meaning any public airport or any reliever airport whether publicly or privately owned, which is or is to be available for use by the public. This bill would provide that airport development and planning funds may be distributed for use at public-use airports.

(12) "reliever airport" is defined as an airport designated by the Secretary as having the function of relieving congestion at a "primary airport".

(13) "sponsor" is any public agency which individually or jointly with other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance for a public airport. A "sponsor" can also be any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for a public-use reliever airport. A sponsor can also be a participating State.

(14) "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Conference substitute

Same as the Senate amendments, except as follows:

(1) Airport Development: The conference substitute includes within this definition the acquisition of equipment to measure runway surface friction.

(2) Definitions and references relating to noise abatement are deleted, as the noise compatibility programs are to be eligible for fiscal year 1983 and thereafter only under the Aviation Safety and Noise Abatement Act of 1979 (although the funding will continue to be provided under the airport improvement program in this bill). For fiscal year 1982, a special provision is added to include the noise related programs from the Senate amendment within the definitions of airport development, so that applicants can apply for noise projects under this bill as well as under ASNA for fiscal year 1982.

(3) The definitions relating to block grants and eligible airports are deleted because of the deletion of the substantive provisions to which these terms refer.

(4) "commercial service airport" is modified to delete the alternative test of 10,000 enplanements.

(5) "public-use airport" is modified to add privately-owned airports whih annually enplane 2,500 passengers and receive scheduled service.

(6) "reliever airport" is modified to add the condition that to be a reliever an airport must provide more general aviation access.

(7) "State" is modified to include all the insular areas.

4. NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS

Senate amendment:

Provides that the Secretary shall review and revise as necessary the existing national airport system plan.

Provides that in revising the National Airport System Plan, the Secretary shall consult to the extent feasible with other Federal and public agencies and with the aviation community.

Provides that the Department of Defense shall make domestic military airports available for civil use to the maximum extent feasible. The Comptroller General is to report to Congress within 180 days on the feasibility of joint civil and military use of military airports, including cost estimates. Within one year the Secretaries of Defense and Transportation are to submit a plan for joint civil and military use.

Conference substitute:

Same as the Senate amendment with respect to the issue of joint use of military airports.

The Conference substitute continues the requirement of a system plan for the national air transportation system. The plan shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient and integrated system of public use airports to meet the needs of civil aeronautics, the national defense, and the postal service. Airport development identified by the plan shall not be limited to the requirements of any classes or categories of public use airports and in reviewing and revising the plan the Secretary shall consider the needs of and consult with all segments of civil aviation.

The Conference substitute also clarifies that the plan should provide for the development of an integrated system of public use airports. To emphasize the importance of this concept, the plan is designated as the National Plan of Integrated Airport Systems.

The concept of Integrated Airport Systems has special application to the metropolitan areas of the country. The basic objective of the Integrated Airport System is to develop a master plan for airport site selection based on the airspace capacity of a given area.

The cornerstone of the Integrated Airport System concept is its emphasis on the development and improvement of reliever airports. These airports not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide badly needed access to these areas for general aviation. Implementation of a viable reliever system is therefore critically needed to increase the safety and capacity of our national airport system while giving full recognition to the importance of general aviation for the economic development of these areas.

Because the conferees recognize the importance of improving our reliever system without further delay, the Conference Report sets aside a substantial portion of ADAP funds to accomplish these objectives. Accordingly, the Conference Report would fund reliever airports at a minimum of 10 percent of the total funds made available under the ADAP program—an amount which could result in reliever funding at an average of approximately $80 million per year over the 6-year period covered by the legislation.

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It is critical that we implement the Integrated Airport System in metropolitan areas at the earliest possible date. The same concepts can be applied to rural areas throughout the U.S. where a number of communities in need of air transportation and airport services could establish an airport authority or by joint powers agreement adopt and implement the integrated airports concept.

The Conference Report includes a number of provisions to ensure that high priority is given to the integrated airport concept. As has been discussed, the National Airport System Plan will now focus on the integrated airport concept, and there will be guaranteed minimum funding for integrated airport system planning. In addition, the policy statements of the Act have been amended to emphasize the importance of this concept and to provide that in establishing priorities for the distribution of funds, the Secretary may give priority to projects that are consistent with integrated airport system plans.[1]

5. NAVIGATION AIDS

Senate amendment:

Under the bill, the Secretary may require a sponsor, as a condition to receiving the grant, to perform certain site preparation work associated with the acquisition, establishment, or improvement of air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)). This section clarifies that the cost of any such work is to be paid for from appropriated funds made available to the Secretary for airway facilities and equipment.

Conference substitute:

Same as Senate amendment.

6. AIRPORT IMPROVEMENT PROGRAM

Senate amendment:

Authorizes the Secretary to make grants for airport development and planning in aggregate amounts of $450 million for fiscal year 1982; $1,050 million for fiscal years prior to October 1, 1983; $1,843.5 million for the fiscal years prior to October 1, 1984; $2,755.5 million for the fiscal years prior to October 1, 1985; $3,772.5 million for the fiscal years prior to October 1, 1986; and $4,789.7 million for the fiscal years prior to October 1, 1987. This insures that authorizations which are not appropriated from the Trust Fund in any given fiscal year are carried forward.

The Secretary is precluded from incurring obligations for airport development after September 30, 1987, except for apportioned funds which remain available after such date.

The amendment precludes obligation for airport development at any airport that has elected not to receive such Federal assistance under the bill. It also spells out the guidelines for obligations incurred by the Secretary for airport development at privately owned reliever airports.

Finally, the Senate amendment provides for a termination of aviation taxes and the authority of the Secretary to carry out certain programs if the amount made available for airport development grants is less than 85 percent of authorized levels.

Conference substitute:

Same as the Senate except that there is no provision for airports electing not to receive Federal assistance. Also the provision that the Secretary receive assurances that a privately owned reliever or commercial service airport receiving funds continue to function as a public-use airport during the economic life of the project is modified to require a minimum of ten years for that assurance. The provision relating to termination of taxes was referred to the conferees on the tax portion of the bill.

7. AIRWAY IMPROVEMENT PROGRAM

Senate amendment:

Authorizes appropriations from the Trust Fund for the procurement of air navigational facilities; research, engineering and development activities; payment of a portion of the operation and maintenance costs of the national airspace system; and other activities related to airway improvement.

The authorization for each fiscal year for the acquisition, establishment, and improvement of air navigation facilities remain available in future fiscal years to the extent that appropriations for that fiscal year are less than the authorization. The amounts authorized are $261,000,000 for fiscal year 1982; $725,000,000 for fiscal year 1983 (an aggregate amount of $986,000,000 for fiscal years 1982 and 1983); $1,393,000,000 for fiscal year 1984 (an aggregate amount of $2,379,000,000 for fiscal years 1982 through 1984); $1,407,000,000 for fiscal year 1985 (an aggregate amount of $3,786,000,000 for fiscal years 1982 through 1985); $1,377,000,000 for fiscal year 1986 (an aggregate amount of $5,163,000,000 for fiscal years 1982 through 1986); and $1,164,000,000 for fiscal year 1987 (an aggregate amount of $6,327,000,000 for fiscal years 1982 through 1987).

For research, engineering and development, and demonstration projects the authorizations are $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983; $286,000,000 for fiscal year 1984; $269,000,000 for fiscal year 1985; $215,000,000 for fiscal year 1986; and $193,000,000 for fiscal year 1987. The amounts appropriated are to remain available until expended.

The Senate amendment provides that all FAA operating expenses may be funded from the Trust Fund, and the authorizations from the Trust Fund for operations and maintenance are as follows: $800,000,000 for fiscal year 1982; $1,559,000,000 for fiscal year 1983; $1,355,000,000 for fiscal year 1984; $1,363,000,000 for fiscal year 1985; $1,388,000,000 for fiscal year 1986; and $1,444,000,000 for fiscal year 1987. These funds are mandatorily reduced by a like amount in the succeeding fiscal year to any reductions made in the minimum authorized levels for ADAP or F&E in any fiscal year covered by the bill. From these funds, the Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration for the cost of providing the FAA with weather reporting services. These amounts are limited to the following: $26,700,000 for fiscal year 1983, $28,569,000 for fiscal year 1984, $30,569,000 for fiscal year 1985, $32,709,000 for fiscal year 1986, and $34,998,000 for fiscal year 1987.

In addition the Senate amendment contains provisions similar to those in existing law establishing the priority of the Trust Fund for airport and airway programs, preserving sufficient amounts in the Trust Fund for such programs, and prohibiting the use of the Trust Fund for administrative expenses, except as otherwise provided in the bill.

Finally the Senate amendment places a cap on the total amount of Trust Fund moneys which may be expended in a fiscal year of 75 percent of the FAA's total expenditures for that year.

Conference substitute:

Same as Senate, with the following exceptions:

Of the amounts authorized for research, engineering and development, and demonstration projects, a specified maximum amount is authorized for facilities, engineering and development.

Only direct costs to flight check, operate, and maintain air navigation facilities are included as eligible operating expenses. The amount authorized from the Trust Fund for operations and maintenance is $800,000,000 for fiscal year 1982 and for later years is a multiple of the amount actually made available for airport development, airport planning, and noise abatement. The multiple is 2.44 for fiscal year 1983, 1.57 for fiscal year 1984, 1.39 for fiscal year 1985, 1.28 for fiscal year 1986, and 1.34 for fiscal year 1987.

The amount authorized from the Trust Fund for operations and maintenance for any fiscal year is reduced by twice the amount that authorizations exceed the appropriations for facilities and equipment for that fiscal year.

The 75 percent overall cap in the Senate amendment is not included in the bill.

The Conference Substitute's authorization levels for Facilities and Equipment reflect the funding levels requested by the Administration for funding the first five years of the National Airspace System Plan for modernization of the airways system. Committees in both the House and the Senate have held extensive hearings on the National Airspace System Plan, and the conferees are generally supportive of the Plan. However, many aspects of the Plan cannot be developed or analyzed in detail until implementation begins, and in view of the magnitude and complexity of the Plan it is likely that there will have to be adjustments as the Plan is carried out. Clearly, there will be a need for vigorous oversight and monitoring during the implementation of the Plan.

The conferees believe that the requirements imposed by section 504(b) of the Conference Substitute for the formulation and an annual updating of a National Airways System Plan will be especially useful in facilitating Congressional oversight. Section 504(b) requires an annual review, revision, and republication of the Plan at the beginning of each fiscal year. Each Plan must set forth, for a 10-year period, the research, engineering, and development and the facilities and equipment necessary for an airspace system that provides the highest degree of safety in air commerce.

In implementing the National Airspace System Plan, the Conferees expect that the Secretary will ensure that the rules and regulations issued pursuant to Public Law 89-306 (Brooks Act) are strictly adhered to. This Act is founded upon two basic objectives: (1) ADP resources should be procured as economically and efficiently as possible, using full and open competition; and (2) only those resources should be procured which are needed and which can improve the operation of government programs and activities. The Conferees believe these principles to be sound and if followed will greatly increase the likelihood of success of the plan.

The first two years of each Plan will contain detailed annual estimates of the number, type, location, and costs of required facilities and services, costs of R.E.&D. and manpower levels required. The third, fourth, and fifth years of each Plan will contain the estimates of the total cost of each major program for the three-year period and any additional major research program, acquisitions, and manpower changes required to meet the long-range objectives. Finally, each Plan will contain 10-year investment Plan which addressed the long-range objectives for the airway system.

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[1] For a further discussion of these important concepts, see the remarks of Cong. Don Clausen as printed in the August 9, 1967 Congressional Record, beginning on p. 10234.

Beyond this comprehensive annual Plan, the Secretary is required to provide the Congress a detailed annual report on the operation of the national airway system during the previous fiscal year and a review of the year's programs intended to improve safety and efficiency of the system. The annual report must include discussions of any significant problems encountered in the program, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs. The conferees expect these annual reports to address the problems raised by the General Accounting Office in its report, AFMD-82-66, "Examination of the Federal Aviation Administration's Plan for the National Airspace System."

With active and continued oversight by the House and Senate Committees with jurisdiction in this area, supported by the requirements imposed by section 504(b) modernization of the airway system can proceed with a full understanding and justification of the choices and decisions made.

Funds authorized for research, engineering, and development shall be distributed in accordance with:

FAA—5-YEAR FUNDING PROFILE

[In millions of dollars]

	Fiscal year—				
	1983	1984	1985	1986	1987
RE&D/FE&D	133.5	286.0	269.0	215.0	193.0
RE&D	116.7	261.3	245.9	192.3	171.0
ATC	55.1	77.5	79.3	72.5	94.0
Adv Computer	47.0	156.6	134.5	86.0	46.2
Navigation	5.3	10.5	11.3	10.8	6.4
Weather	8.1	15.4	19.9	22.2	23.6
Medicine	1.2	1.3	.9	.8	.8
FE&D	16.8	24.7	23.1	22.7	22.0
Aircraft safety	13.0	18.4	17.2	17.4	16.5
Medicine	1.8	3.9	3.3	2.7	2.8
Environment	2.0	2.4	2.6	2.6	2.7

Those line items under Facilities Engineering and Development (FE&D) were previously funded from general revenues and are to remain separately identified from Research Engineering and Development (RE&D) which is primarily aimed at accomplishing the National Airspace System (NAS) Plan to modernize the ATC System.

Notwithstanding the purposes for which funds are authorized in the above table, these funds may be used for any other research, development, and demonstration program or project including related or supporting facilities and equipment under section 312(c) of the Federal Aviation Act of 1958 if notice of such program or project has been given to the Speaker of the U.S. House of Representatives; the Committees on Science and Technology, and Appropriations of the U.S. House of Representatives; the President of the Senate; and the Committees on Commerce, Science and Transportation, and Appropriations of the Senate, in a manner containing a full and complete statement of the proposed program or project and the facts and circumstances relied on in support of such program or project, and (1) a period of thirty days has passed after the date such notice was received, or (2) each such Committee has transmitted to the Secretary of Transportation before the expiration of such period written notice that such Committee has no objection to the proposed action.

The Conferees support the intent of the FAA to modernize the Air Traffic Control System through the implementation of the National Airspace System Plan which was produced as directed by the Committee on Science and Technology in H. Res. 202 approved by the House October 19, 1981. Because of the significant technological complexities and costs involved, the Conferees believe it is extremely important that continued oversight be sustained.

In this regard, the Administrator of the Federal Aviation Administration is requested to submit to the House Committee on Science and Technology and the Senate Committee on Commerce, Science and Transportation, not later than April 1, 1983, and annually thereafter, a report that summarizes activities under the NAS program. This should include, but not be limited to, historical data that compares achievements versus plans in terms of productivity, safety, costs, schedules, and milestones. Modifications of the Plan for subsequent year should also be identified.

8. APPORTIONMENT OF FUNDS

Senate amendment:

Provides an apportionment to primary airports based on an enplanement formula that is the same as in existing law. The amount of ADAP funds made available to primary airports is 55 percent in fiscal year 1982 and 50 percent thereafter. The amount apportioned to each primary airport will be increased by 10 percent in fiscal 1984, 20 percent in fiscal 1985, 25 percent in fiscal 1986, and 30 percent in fiscal 1987. The maximum apportionment to a primary airport is $12,500,000. Passenger enplanements are determined for the preceding calendar year.

The second apportionment is to States for airports other than reliever airports, primary airports, and airports that withdraw from the program. Ten percent of ADAP funds are apportioned to States, with one-half of one percent going to insular areas and the remaining 99.5 percent going to the States (including Puerto Rico) according to a population and area formula. Each State is apportioned an additional amount for each of fiscal years 1984 through 1987, increasing from $150,000 to $240,000 per fiscal year.

Amounts remaining in the Trust Fund shall constitute a discretionary fund.

In addition, the Secretary may apportion amounts to airports in the State of Alaska in the same manner as amounts were apportioned for fiscal year 1980.

Conference substitute:

Same as the Senate, except:

(1) There is a cap on apportionments to primary airports of 50 percent.

(2) In addition to the maximum apportionment to a primary airport, there is a minimum apportionment of $200,000 per fiscal year.

(3) The apportionment to States is 12 percent of ADAP funds and is for general aviation and reliever airports. One percent is set aside for insular areas, which may also use the money for nonprimary commercial service airports, and 99 percent for States (including Puerto Rico). The additional apportionment to States under the Senate amendment is not included in the conference substitute.

(4) The provision allowing apportionments to airports in Alaska under the 1970 Act is qualified so that not more than 110 percent of the amount so apportioned to a commercial service airport in Alaska is obligated at that airport during the fiscal year from these apportioned funds. In no event shall any primary airport be apportioned less under this paragraph than it would be apportioned under the section governing primary airport apportionments.

The Conferees are concerned about the effect on the discretionary fund of the naming of specific ADAP or Facilities and Equipment projects in legislation or report language. The ADAP program contemplates that a large proportion of funding be available on a discretionary basis. This is the only way that we will be able to build and implement an integrated system of public use airports while addressing project needs which are too large to fit annual enplanement funds or which are urgently needed for safety. It is also the only way that new airports can normally be funded. Similarly, the F&E program must be administered so that funds will go where the safety needs are greatest.

In recent years, the tendency to name specific projects in committee reports has grown more widespread. These named projects threaten to use up discretionary funds so that there will be no real discretion left. For example, in fiscal year 1981, a total of 38 specific ADAP projects were named in DOT Appropriations legislation. Grants to these airports totaled $43.5 million in fiscal year 1981. This practice has the potential of using up a significant portion of the discretionary fund.

The problem becomes particularly acute with the limited availability of funds for the ADAP and F&E programs. It will not be possible to fund all projects seeking ADAP and F&E grants and it will be necessary for the Secretary to establish priorities to determine which projects should be funded. The Conferees expect the Secretary to establish these priorities solely on the basis of the criteria set forth in the authorizing legislation. Projects which qualify for funding and have a high priority under the statutory criteria should not be denied funding in favor of projects which have a lower priority under the statutory criteria but are mentioned in legislative history. The criteria established by the authorizing legislation should not be construed as being overruled or amended during the life of that authorization by other subsequently enacted legislation or legislative history, unless such legislation specifically and expressly amends the authorizing law to establish new criteria or priorities.

9. MINIMUM FUNDING

Senate amendment:

Establishes minimum levels of funding for the following categories of airports:

(1) reliever airports: 10 percent of ADAP funds during the 6-year period of the bill;

(2) each nonprimary commercial service airport that received Federal assistance for fiscal year 1980, for high priority projects: the amount the airport would have been apportioned under the primary apportionment formula for fiscal years 1983–1987, or five

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times the airport's 1980 apportionment, whichever is greater; and

(3) airports other than relievers or commercial service airports: $300,000,000 for the 6-year period of the bill.

Conference substitute:

Provides the following minimum levels of funding for each fiscal year of the bill:

(1) reliever airports: 10 percent of ADAP funds made available for obligation;

(2) for noise compatibility planning and carrying out noise compatibility programs: 8 percent of ADAP funds made available for obligation;

(3) nonprimary commercial service airports and certain noncommercial service airports that received Federal assistance during fiscal year 1981: 5.5 percent of ADAP funds made available for obligation, an amount which does not include apportionments to airports in Alaska; and

(4) for integrated airport system planning: one percent of ADAP funds made available for obligation.

The Secretary is not required to meet these requirements if there are not enough applications to enable the Secretary to obligate the minimum amount required.

With regard to noise compatibility grants, the Conferees recognize the value of public building soundproofing especially where this type of grant aids in the efficiency of certain essential functions such as education.

Of major concern to the conferees is the financial threat to privately-owned relievers in major metropolitan areas. Large hub areas in particular need such aviation facilities to separate commercial and general aviation traffic, but the land is often more valuable if converted to other commercial uses. In such instances it is important that the Federal Government assist local governments in preserving these essential reliever airports. As a result, for the first time, this bill proposes to fund projects at privately-owned public use airports, which may prove sufficient in some instances. In other instances, these reliever funds could be used to assist in the outright purchase of privately owned relievers. For example, such purchase plans have been discussed for airports in the Chicago area, North Las Vegas, Southern California, and other major metropolitan areas. The conferees expect the Administrator to make every effort to accommodate such needs where they are essential to the maintenance of reliever airports.

10. USE OF APPORTIONED FUNDS

Senate amendment:

Provides the "form of obligation" which the Secretary shall use to obligate apportioned funds, either by project grant or block grant.

Amounts apportioned are available for obligation by grant agreement during the fiscal year for which they were first authorized to be obligated and the 2 fiscal years immediately following.

A sponsor of a primary airport is permitted to use funds apportioned to it at any public airport of the sponsor which is in the NASP. A sponsor of a primary airport may also waive receipt of all or a portion of its funds on condition that the funds be used at another public-use airport in the State or geographical area.

Conference substitute:

Same as Senate, except for deletion of references to block grants. Funds apportioned to a State are made available to general aviation and reliever airports in that State.

11. PROJECT GRANTS: APPLICATION; APPROVAL

Senate amendment:

This section provides some of the requirements which must be set forth in an application for a project grant for airport development or airport planning and requirements which must be met by the Secretary of Transportation before approving such project grant applications.

The provision sets forth who is eligible to apply to the Secretary for a project grant for airport development or airport planning with the proviso that no public agency may submit an application if such submission is prohibited by State law.

This section also provides that within 180 days of enactment a sponsor may submit a project-grant application for any project for which either an application had been filed before September 30, 1980, or if the project was carried out after September 30, 1980, and before enactment of this Act.

Each primary airport is to notify the Secretary of the fiscal year in which it intends to apply for apportioned funds.

The section provides conditions which must be met by the Secretary before project applications for airport planning or development may be approved.

Conference substitute:

Essentially the same as the Senate amendment, except that a condition in the Senate amendment that the Secretary not approve a project unless he is satisfied that the project is consistent with the purposes of the title is not included, and two additional provisions are added: (1) a provision that no environmental impact statement is required for a project if it would allow nonstage 2 aircraft to be replaced with stage 3 aircraft at the airport; and (2) a provision that priority may be given to projects that are consistent with integrated airport system plans.

12. U.S. SHARE OF PROJECT COSTS

Senate amendment:

Provides that, generally, the U.S. share of allowable project costs payable on account of any project funded under this Act shall not exceed 90 percent of allowable project costs.

For primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the U.S. share of allowable cost payable shall not exceed 75 percent of allowable project costs. As in existing law, an increased Federal share is provided for projects in those States in which certain public land acreage exceeds 5 percent of the States total area.

Conference substitute:

Same as the Senate amendment, except that instead of stating that the U.S. share shall not exceed a certain percentage, the substitute states that the U.S. share shall be that percentage.

13. SPONSORSHIP REQUIREMENTS FOR PROJECT GRANTS

Senate amendment:

Sets forth requirements which must be met by sponsors before project grant applications may be approved. These continue many of the requirements and provisions of section 16 of existing law for certain nondiscrimination, safety and other reporting requirements for airport sponsors which accept Federal funds. Two new provisions were added. One is that airports receiving assistance under this program must dedicate all revenues generated by the airport for the capital operating costs of that airport, the local airport system, or other local facilities which are owned by the owner or operator of the airport and used for the transportation of passengers or property. This provision is designed to ensure that airport systems which are receiving Federal assistance are utilizing all locally generated revenue for the systems which they operate. Airports that are part of a unified ports authority are exempt from this requirement if covenants or assurances in previously issued debt obligations or controlling statutes require that these funds are available for use at other port facilities.

However, airports users should not be burdened with "hidden taxation" for unrelated municipal services.

This provision is not intended to apply to revenue generated by facilities which are located on airport property but are unrelated to air operations or services which support or facilitate air transportation. It would accordingly not apply to revenue generated by such facilities as a water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose. It would apply to such facilities as terminal concessions and parking lots serving the terminal or other air transportation purposes.

The language regarding "local facilities which are owned or operated by the owner or operator of the airport and used for the transportation of passengers or property" was included to make clear the intent that the requirement would not prohibit the use of revenues for the purpose of retiring indebtedness on consolidated bonds which have been used in some jurisdictions to finance multimodal transportation facilities which are owned or operated by the owner or operator of an airport and used for transportation of passengers or property but which are not themselves airport facilities.

The second new provision relates to land acquired for noise compatability purposes. It requires that when such land is acquired, the sponsor must, at the earliest possible time, and subject to the retention or reservation of the interest or right necessary to ensure that the land is used only for purposes which are compatible with noise levels of the operation of the airport, use it best efforts to dispose of such land. When such land is disposed of the provision requires that the proceeds of the disposition shall be refunded to the United States for the Trust Fund on a basis proportionate to the U.S. share of the cost of acquisition of the land.

The Senate amendment continues existing provisions of law relating to compliance with sponsorship requirements.

Conference substitute:

Same as the Senate with the following additions:

(1) an assurance that each air carrier using an airport will have the right to service itself or use a fixed-based operator;

(2) an assurance that there will be no exclusive right for the use of an airport by providers of aeronautical services; use of an airport by a single FBO is not to be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one FBO to provide the service, and if allowing more than one FBO would require reduction of the existing FBO's leased space;

This provision shall not be construed to allow an airport operator to enter into a lease agreement with a fixed base operator (FBO) which guarantees such FBO an exclusive right to provide aeronautical services on the airport. In addition, it shall not preclude a new FBO from leasing airport property which is not then subject to an existing lease between an airport operator and another FBO.

(3) proceeds from the disposition of land previously acquired for noise compatibility may be reinvested in an approved project.

14. BLOCK GRANTS TO STATES

Senate amendment:

Permits States to apply to the Secretary to distribute the funds apportioned to that State for airport development.

Conference substitute:

No comparable provision.

15. ACCEPTANCE OF CERTIFICATION; CONSULTATION

Senate amendment:

Requires that the Secretary put a maximum reliance on sponsor certification as a means of administering grants, under the bill.

This section also continues the requirement in existing law that airport operators receiving funds consult with parties using the airport prior to undertaking an airport development project.

Conference substitute:

The substitute continues the requirement that in making a decision to undertake airport development under the Act, a sponsor shall undertake reasonable consultations with affected parties using the airport at which the project is proposed. The FAA has implemented this requirement by publishing in the Airport Development Aid Program Handbook an extensive description of such matters as the time at which consultations should take place, and the scope of consultation required to be meaningful. The FAA's description establishes the type of consultation contemplated by the reported bill and should be continued.

With respect to certification, the Secretary is authorized to require a certification from a sponsor that the sponsor will comply with all requirements imposed by the Act. The substitute provides that nothing in the certification provision affects the Secretary's responsibilities under specified Federal laws.

16. GRANT AGREEMENTS

Senate amendment:

This section outlines the duties of the Secretary and the sponsor of a project when grants are approved. The section provides that unless and until an agreement has been executed, the United States may not pay, or be obligated to pay any portion of the costs which have been or may be incurred in connection with a project. Further, the provision requires that the total obligation of the Federal Government may not exceed the amount specified as the maximum Federal obligation in the grant agreement, except in the case of airport development in which case such amount may be increased by 10 percent and by an additional amount equal to 50 percent of any increase in project cost attributable to land acquisition.

Also provides that increases in the maximum obligation of the United States in the case of grants under the 1970 Act may be paid only from funds recovered by the United States under that Act.

Conference substitute:

Same as the Senate with the clarification that in the case of increased costs attributable to land acquisition, the increase allowed shall be based upon current credible appraisals.

17. PROJECT COSTS

Senate amendment:

Eligible project costs are those associated with carrying out the project, and which are directly connected to the costs of the project. Indirect costs, such as administrative and salary costs, are not permitted to be paid for as a part of the project costs. Costs are eligible if they were incurred after the contract grant agreement was signed and are consistent with the terms of the contract. The act permits funding for the cost of field surveys, preparation of plans and specifications, acquisition of land and other direct costs associated with an airport development or planning project. The Secretary may agree to pay for only those reasonable costs associated with the project. However, the Secretary cannot pay for costs which are in excess of the amount previously agreed to in the contract as the Secretary's share. In the event the Secretary wishes to audit project costs, he is permitted to establish whatever regulations considered necessary to that task.

Terminal development costs are eligible, up to 50 percent of project costs. In the case of a primary airport, not more than 60 percent of the airports apportionment may be used for this purpose, and in the case of a non-primary commercial service airport not more than $200,000 may be used in a fiscal year. These funds can only be approved after all necessary safety, security, passenger enplaning/deplaning facilities, and equipment have been provided at the airport.

Conference substitute:

Same as the Senate except that a primary airport can use the greater of $200,000 or 60 percent of its apportionment for terminal development. In addition a $25,000,000 cap is placed upon terminal development at commercial service airports which were not eligible for terminal development assistance in fiscal year 1980. Third, the prohibition on funding indirect costs is not included. Finally, the substitute includes a provision continuing the eligibility of costs incurred for the retirement of the principal of bonds issued for terminal development work performed between 1970 and 1976.

18. PAYMENTS UNDER GRANT AGREEMENTS

Senate amendment:

Defines the terms under which advance payments may be made to airport sponsors by the Secretary. This closely follows existing law. The time and amount are to be determined by the Secretary with the total amount committed not to exceed 90 percent of the project cost. The sponsor must certify that advance payments will not exceed allowable project costs. If they do, the sponsor must return the excess to the Secretary. If work for the project is not completed within a reasonable time, the Secretary is entitled to reclaim any part of the advance payment.

Conference substitute:

Same as the Senate amendment.

19. PERFORMANCE OF CONSTRUCTION WORK

Senate amendment:

Entitles the Secretary to inspect and approve any construction work accomplished with funds obligated under project grants.

The amendment provides that contracts in excess of $2,000 for work under project grants for airport development approved under the bill which involve labor shall comply with the Davis-Bacon Act. The section further provides that Vietnam era and disabled veterans are to be given preference in hiring (with the exception of executive, administrative and supervisory positions). These priority hiring requirements are only enforceable when such individuals are available and qualified to perform the work to which the employment relates.

Conference substitute:

Same as the Senate amendment.

20. USE OF GOVERNMENT-OWNED LANDS

Senate amendment:

This section closely follows current law. The Secretary is empowered to seek authority from the head of a department or agency having control over certain nonexempted public lands, to turn over to an airport sponsor for the purpose of meeting future airport development needs. The Secretary can reach agreement to transfer the title to, interest in, or an easement of such property or airspace to the airport sponsor. The head of the department or agency must respond to the Secretary's request within 4 months with a decision. If a determination is made that the title to or use of the land by the airport is not inconsistent with the needs of the department or agency, the land can be turned over, with the approval of the U.S. Attorney General, and without cost to the United States.

As in the existing Act, these lands may not include any U.S. owned or controlled national park, forest, monument, recreation area, or other area administered by the National Park Service, the National Wildlife Refuge System, or the Bureau of Sport Fisheries and Wildlife. This exemption also includes Indian reservations.

Conference substitute:

Same as the Senate amendment.

21. FALSE STATEMENTS

Senate amendment:

This section duplicates section 25 of the present law. It allows for the imprisonment of up to 5 years, or a fine of up to $10,000, or both, for any person who attempts to willfully defraud the United States, by making false statements or representations with respect to the cost, quality, or quantity of material provided in connection with an airport project constructed with Federal funds.

Conference substitute:

Same as the Senate.

22. ACCESS TO RECORDS

Senate amendment:

This section imposes the same requirements as section 26 of the existing law. Grant recipients are required to keep detailed and complete accounts of all costs and work performed in connection with an airport project in order to facilitate an effective audit.

The Secretary may establish recordkeeping requirements which are considered necessary to ensure an effective audit, and these requirements must be reviewed annually. The Secretary and the Comptroller General of the United States are given authority to examine and audit any records or papers pertinent to grants under the bill.

In the case where an independent audit is performed in association with a Federal project, a certified copy of the audit must be filed with the Comptroller General of the United States within 6 months after the close of the fiscal year in which the audit was made. The Comptroller must make annual reports to Congress on or before April 15 each year with the results of these audits.

Congress is to have access to all information made available to the Secretary and the Comptroller General.

Conference substitute:

Same as the Senate amendment.

23. GENERAL POWERS

Senate amendment:

This section gives the Secretary General authority to conduct public hearings, investigations and institute those regulations and procedures which he considers necessary to perform his duties under the bill. This duplicates section 27 of existing law.

Conference substitute:

Same as the Senate amendment.

24. CIVIL RIGHTS

Senate amendment:

This section gives the Secretary authority to promulgate regulations to ensure that no person is discriminated against on the basis of race, creed, color, national origin, or sex in connection with the work on a project supported by Federal funds released pursuant to the bill. This language tracks that of section 30 in the present law and is a responsibility in addition to those obligations set out in title VI of the Civil Rights Act of 1964.

Conference substitute:

Same as Senate amendment.

25. JUDICIAL ENFORCEMENT

Senate amendment:

This section is new and would make clear that the Secretary, acting through the Attorney General, has the right to obtain judicial enforcement against persons who violate the provisions of the bill or the rules, regulations, requirements, or orders issued pursuant thereto.

Conference substitute:

No comparable provision.

This action in no way affects any rights which the Department of Transportation may have to judicial enforcement.

26. VOLUNTARY WITHDRAWAL FROM PROGRAM

Senate amendment:

This section permits any airport to elect not to receive airport development funds. If an airport chooses to defederalize, it remains eligible for Federal assistance for land acquisition and noise abatement.

The provision requires the Secretary of Transportation to conduct a study on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should remain eligible for airport development funds. The report must be submitted to Congress no later than one year from enactment of this bill. The study must review how a defederalization program might work and how a passenger facility charge might be imposed.

Conference substitute:

The conference substitute retains only the study and report requirements.

27. WAIVER OF OBLIGATIONS

Senate amendment:

This section directs the Secretary to issue procedures pursuant to which airports which no longer receive airport development funds may exercise the airport's option to terminate existing assurances, requirements or contractual obligations that are tied to the acceptance of these funds.

Conference substitute:

No comparable provision.

28. REPEALS; EFFECTIVE DATE; SAVINGS PROVISIONS; SEPARABILITY

Senate amendment:

This section specifies that the effective date of the bill is its date of enactment and that on that date sections 1 through 31 of the Airport and Airway Development Act of 1970 are repealed. It also includes a savings provision to permit certain sections of the 1970 Act to continue in effect under the new bill, including one directed to keeping amounts apportioned before October 1, 1980, available for obligation.

Conference substitute:

Same as the Senate amendment, except that sections 1 through 30 of the 1970 Act are repealed.

29. REPORT TO CONGRESS ON TRUST FUND

Senate amendment:

This section modifies a provision in the existing law which requires an annual report to Congress on operations under the Airport and Airway Development Act of 1970 to require only a simple financial statement itemizing the income, obligations, expenditures, and uncommitted balance in the Airport and Airway Trust Fund.

Conference substitute:

Continues the existing annual report.

30. STANDARDS FOR RUNWAY FRICTION

Senate amendment:

This section amends section 612 of the Federal Aviation Act of 1958 regarding airport operating certificates. In section 612 the Administrator of the Federal Aviation Administration is directed to impose on certificated airports such conditions and limitations as are determined to be necessary to insure safety in air transportation. This amendment would add grooving and other friction treatment of primary and secondary runways as an item to be considered by the Secretary in making this determination.

Conference substitute:

Same as the Senate amendment.

31. EQUAL AERONAUTICAL ACCESS

Senate amendment:

This section of the bill amends section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349) to continue the same standard of access at any federally assisted airport that exists in current law. The language of the provision is modeled after that which is contained in existing sponsorship agreements now used by Secretary of Transportation in awarding grants-in-aid to federally assisted airports.

Conference substitute:

Deletes Senate provision but adds another provision relating to the exclusive right of use issue, to say that the providing of services at an airport by a single fixed-based operator (FBO) shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one FBO to provide the services and if it would require a reduction in the existing FBO's leased space.

32. CONFORMING AMENDMENTS

Senate amendment:

This section provides clarification of definitions for the Aviation Safety and Noise Abatement Act of 1979.

Conference substitute:

Contains additional conforming amendments to the Aviation Safety and Noise Abatement Act of 1979 and technical amendments to other laws.

33. SECURITY SCREENING IN FOREIGN AIR COMMERCE

Senate amendment:

This section extends through fiscal year 1982 existing law that authorizes an appropriation for unreimbursed security costs in international air transportation. Any appropriation made under this section is limited to not more than $9.75 million. The Secretary of Transportation is required to submit a recommendation to the Congress on amounts due specific air carriers under this section.

Conference substitute:

The conference substitute authorizes appropriations of $15 million for reimbursement of security costs. Compensation is to be provided only with respect to amounts expended on or before the 180th day after the date of enactment of the International Air Transportation Competition Act of 1979.

34. SAFETY CERTIFICATION OF AIRPORTS

Senate amendment:

Under current law, the authority of the Administrator of the Federal Aviation Administration to issue airport operating certificates is limited to airports that are served by air carriers certificated by the Civil Aeronautics Board (CAB). This section substitutes a new standard for airport certification based upon the number of revenue passengers enplaned (2,500 per year) or the size of air carrier aircraft using the facility (more than 30 passenger seats).

Conference substitute:

Same as the Senate amendment except that the only standard for airport certification is the one based on size of aircraft (more than 30 passenger seats).

35. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS

Senate amendment:

The purpose of this provision is to limit the number of Flight Service Stations which may be part-timed or closed from the date of enactment until September 30, 1983, and to provide certain standards for their closure or part-timing thereafter.

Conference substitute:

Essentially the same as the Senate amendment.

36. CONGRESSIONAL COMMITTEES

Senate amendment:

This section provides that nothing in the Act shall be construed as altering the jurisdiction of the Senate Commerce Committee or the House Public Works Committee over the Airport and Airway Development Program.

Conference substitute:

No comparable provision.

37. CONTRACTING AUTHORITY

Senate amendment:

No provision

Conference substitute:

This section provides that in contracting out for the operation of any airport facility by any State or political subdivision thereof, the Secretary of Transportation is to assure that any contract, lease, or other agreement by which the State or political subdivision would undertake the responsibility for operating an airport facility must contain a provision holding the United States Government harmless from liability for acts or omissions of an employee or agent of the State or subdivision. Thus, for example, the U.S. Government could not be held liable for the action of an employee or agent of a State or political subdivision who has negligently provided air traffic control services which result in an aircraft accident or incident. On the other hand, to the extent an employee or agent of such State or political subdivision was strictly following F.A.A. procedures and the procedures were determined to be at fault rather than their application, the provisions of established tort law applicable to liability of the United States would be undisturbed by this section.

The Farmington, New Mexico, control tower is illustrative of the application of this provision. The control tower is now staffed and operated by private air traffic controllers at approximately half the costs associated with F.A.A. personnel. On October 1, 1982, the F.A.A. plans to staff the tower with F.A.A. controllers for 16 hours a day, 7 days a week, which are the hours of operation under existing contracted services. This provision provides the authority for the City of Farmington to continue the operations of the control tower by private controllers and maintain overall continuity. With the use of F.A.A. funds to pay the costs associated with contracted air traffic control services, the heavy burden of financially supporting the control tower is removed from the City of Farmington.

The Conferees expect that before contracting out for the operation of airport facilities by any State or political subdivision, the F.A.A. will assure that such locality will fully comply with all applicable safety regulations in their operation of such facilities.

38. STUDY OF AIRPORT ACCESS

Senate amendment:

No provision.

Conference substitute:

Provides that the Secretary shall appoint a Task Force of specified government agencies and aviation groups to study the problem of allocating the use of airport facilities and airspace. The Chairman of the Task Force shall be the Chairman of the Civil Aeronautics Board. The Task Force shall begin meeting not later than 90 days after enactment and shall complete its study not later than 120 days after the Task Force first meets.

39. K-9 TEAMS

Senate amendment:

No provision.

Conference substitute:

Authorizes the Secretary of Transportation to continue the Explosive Detection K-9 Team Training Program for fiscal years 1981-1987 at an authorized level from the Trust Fund of $130,000 to $150,000 per fiscal year.

40. RELEASE OF CERTAIN DEED RESTRICTIONS

Senate amendment:

No provision.

Conference substitute:

Contains standard provisions giving the Secretary of Transportation authority to grant releases from deed restrictions to four airports: Crystal City, Texas; Brownwood, Texas; Grand Junction, Colorado; and Newport, Arkansas.

41. CONTINUATION OF CERTAIN CERTIFICATES

Senate amendment:

No provision.

Conference substitute:

Extends for 2 years beyond the date of expiration any certificate issued under section 401(d)(8) of the Federal Aviation Act of 1958, pursuant to the Trans-Atlantic Route Proceeding, or in the California/Southwest-Mexico Route Proceeding.

42. STATE TAXATION

Senate amendment:

No provision.

Conference substitute:

This section provides that States may not tax at a level which unreasonably burdens or discriminates against interstate commerce. The provision makes current law which prohibits the assessment, levying, or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property, applicable to air carriers.

Committee on Ways and Means for the entire bill and the Senate amendment and modifications committed to conference, with the exception of subtitle B (Medicaid) of title I and title IV (Airport and Airway System Development) except for section 406(e) of that title and with the exception of section 395 of the Senate amendment and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J. J. Pickle,
Charles B. Rangel,
Pete Stark,
Barber B. Conable, Jr.,

Committee on Energy and Commerce solely for the consideration of subtitle B of title I (Medicaid), of the Senate amendment and modifications committed to conference and subtitle C of title I (Utilization and Quality Control Peer Review) of the Senate amendment and the modifications committed to conference and such parts of subtitle A (Medicare) of title I of the Senate Amendment and modifications committed to conference that relate to amendments to the supplementary medical insurance program authorized under title XVIII of the Social Security Act:

John D. Dingell,
Henry A. Waxman,
James H. Scheuer,
Jim Broyhill,
Ed Madigan,

Committee on Energy and Commerce solely for consideration of section 395 of the Senate amendment and modifications committed to conference:

John D. Dingell,
Timothy E. Wirth,
James T. Broyhill,

Committee on Public Works and Transportation solely for the consideration of title IV of the Senate amendment and modifications committed to conference with the exception of sections 406(e) and 407(b) of that title:

Norman Y. Mineta,
Glenn M. Anderson,
Elliott H. Levitas,
James L. Oberstar,
Don Clausen,
Gene Snyder,
John Paul
Hammerschmidt,

Solely for the consideration of section 407(b) of title IV of the Senate amendment and modifications committed to conference:

Don Fuqua,
Dan Glickman,
Larry Winn, Jr.,
Managers on the Part of the House.

For the entire bill with the exception of title IV (airport and airway system development) except for section 406(e)):

Bob Dole,
Bob Packwood,
Bill Roth,
John C. Danforth,
Russell B. Long,
Lloyd Bentsen,

Solely for consideration of title IV (excluding section 406(e)):

Bob Packwood,
Nancy Landon
Kassebaum,
Howard W. Cannon,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. **Yates** (at the request of Mr. **Foley**), on account of illness in the family.

Mr. **Broyhill** (at the request of Mr. **Michel**), for today, on account of a death in the family.

Mr. **D'Amours** (at the request of Mr. **Wright**), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. **Gingrich**) to revise and extend their remarks and include extraneous material:)

Mr. **Bethune**, for 60 minutes, today.

Mr. **Martin** of North Carolina, for 30 minutes, today.

Mr. **DeNardis**, for 30 minutes, today.

Mr. **Collins** of Texas, for 30 minutes, today.

Mr. **Bethune**, for 60 minutes, on August 18.

Mr. **Walker**, for 60 minutes, on August 18.

Mr. **Edwards** of Oklahoma, for 60 minutes, on August 18.

(The following Members (at the request of Mr. **Weiss**) to revise and extend their remarks and include extraneous material:)

Mr. **Phillip Burton**, for 5 minutes, today.

Mr. **O'Neill**, for 5 minutes, today.

Mr. **Pepper**, for 5 minutes, today.

Mr. **Annunzio**, for 5 minutes, today.

Mr. **Coelho**, for 5 minutes, today.

Mr. **Rodino**, for 5 minutes, today.

Mr. **Ford** of Michigan, for 5 minutes, today.

Mr. **Crockett**, for 5 minutes, today.

Ms. **Oakar**, for 15 minutes, today.

Mr. **Levitas**, for 5 minutes, today.

Mr. **Bonker**, for 5 minutes, today.

Mr. **Rahall**, for 60 minutes, on August 18.

Mr. **Peyser**, for 60 minutes, on August 18.

Mr. Pickle, for 15 minutes, on August 18.

Mr. Gonzalez, for 60 minutes, on August 19.

Mr. Perkins, for 60 minutes, on August 19.

Mr. Pickle, for 15 minutes, on August 19.

Mr. Gonzalez, for 60 minutes, on August 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Eckart, to revise and extend his remarks on H.R. 6324 at the conclusion of general debate.

(The following Members (at the request of Mr. Gingrich) and to include extraneous matter:)

Mr. Michel.
Mr. Madigan in two instances.
Mr. Coughlin.
Mr. Courter.
Mr. Coats in two instances.
Mr. Findley in two instances.
Mr. LeBoutillier in two instances.
Mr. Collins of Texas in three instances.
Mr. Wolf.
Mr. Fields in three instances.
Mr. McKinney.
Mr. Hartnett.
Mr. Gunderson.
Mr. Dornan of California.
Mr. Ritter.

(The following Members (at the request of Mr. Weiss) and to include extraneous matter:)

Mr. Dorgan of North Dakota.
Mr. LaFalce.
Mr. Anderson in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Mr. Jones of Tennessee in 10 instances.
Mr. Boner of Tennessee in five instances.
Mr. Montgomery.
Mr. Peyser.
Mr. Howard.
Mr. Foley.
Mr. Bowen.
Mr. Mazzoli in two instances.
Mr. Edwards of California.
Mr. Hoyer in four instances.
Mr. Bonker in two instances.
Mr. Santini in two instances.
Mr. Murtha.
Mr. Bailey of Pennsylvania.
Mr. Frank.
Mr. McDonald.
Mr. Rosenthal.
Mr. Hamilton.
Mr. Dellums.
Mr. Stark.
Mr. Beilenson in two instances.
Mr. Crockett.
Mr. Traxler.
Mr. Ottinger.
Mr. Moffett.
Mr. Sam B. Hall.
Mr. Swift.
Mr. Kogovsek.
Mr. AuCoin.
Ms. Mikulski.
Mr. Perkins.
Mr. Dyson.
Mr. Roe.
Mr. Dwyer.
Mr. Richmond.
Mr. Gore in two instances.
Mr. Obey.
Ms. Oakar.
Mr. Shannon.
Mr. Corrada.

SENATE BILL REFERRED

A bill of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S. 2625. An act to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes; to the Committee on Government Operations and the Committee on Armed Services.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2160. An act to amend the Potato Research and Promotion Act;

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States;

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

ADJOURNMENT

Mr. ANDREWS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 18, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4593. A communication from the President of the United States, transmitting proposed requests for transfer authority and appropriation language for fiscal year 1982, amended appropriation requests, and amended appropriation language for fiscal year 1983 (H. Doc. No. 97-228); to the Committee on Appropriations and ordered to be printed.

4594. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of $4.8 million in the Navy stock fund for war reserve stocks, pursuant to section 734, Public Law 97-114; to the Committee on Appropriations.

4595. A letter from the Director for Facility Requirements and Resources, Department of Defense, transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4596. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the administrative telephone services function at the Naval Coastal Systems Center, Panama City, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4597. A letter from the President and Chairman of the Export-Import Bank of the United States, transmitting, a report on loan, guarantee, and insurance transactions supported by Eximbank during June 1982 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

4598. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting a report on targeting of multilateral assistance programs to needy people, pursuant to section 1103 of Public Law 95-118; to the Committee on Banking, Finance and Urban Affairs.

4599. A letter from the District of Columbia Auditor, transmitting the annual report on the District's projected obligations as of June 1982, pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

4600. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1981 of the Department's administration of health services research, health statistics, and health care technology, pursuant to section 308(a)(1) of the Public Health Service Act; to the Committee on Energy and Commerce.

4601. A letter from the Secretary of the Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in Docket No. 38805, *Railroad Cost Recovery Increase on Recyclables (other than iron and steel)* within the initially specified 5-month period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Energy and Commerce.

4602. A letter from the Chairman, National Arthritis Advisory Board, transmitting the annual report of the Board's activities, pursuant to section 437(j) of the Public Health Service Act; to the Committee on Energy and Commerce.

4603. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, en-

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tered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4604. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $41,342.81 to the Koch Exploration Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4605. A letter from the Executive Director, National Advisory Committee on Oceans and Atmosphere, transmitting a special report, "The Future of the Nation's Weather Services," pursuant to Public Law 95-63; to the Committee on Merchant Marines and Fisheries.

4606. A letter from the Deputy Administrator, General Services Administration, transmitting numerous lease prospectus amendments, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4607. A letter from the Chairman of the Board of Trustees, John F. Kennedy Center for the Performing Arts, transmitting the annual report for fiscal year 1981, pursuant to section 6(c) of Public Law 85-874; to the Committee on Public Works and Transportation.

4608. A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to authorize the transfer of certain naval vessels; jointly, to the Committees on Armed Services and Foreign Affairs.

4609. A letter from the Secretary of Health and Human Services, transmitting the annual report for calendar year 1981 on the activities of the Maternal and Child Health Services Research Grants Review Committee, pursuant to section 1114(f) of the Social Security Act; jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5008. A bill to amend the Communications Act of 1934 to make certain technical revisions regarding the administration of such act, and for other purposes; with an amendment (Rept. No. 97-751). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. S. 2582. A bill to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes. (Rept. No. 97-752). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. Senate Joint Resolution 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 97-753). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 565. Resolution providing for the consideration of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes (Rept. No. 97-754). Referred to the House Calendar.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 566. Resolution providing for the consideration of H.R. 5447, a bill to extend the Commodity Exchange Act, and for other purposes (Rept. No. 97-755). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 567. Resolution providing for the consideration of H.R. 6329, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes (Rept. No. 97-756). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6877. A bill to amend title XIX and part B of title XVIII of the Social Security Act to provide for budget reconciliation for fiscal years 1983, 1984, and 1985; with amendments (Rept. No. 97-757, Pt. I). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. House Resolution 514. Resolution commemorating July 1, 1982, which is the 25th anniversary of the beginning of the International Geophysical Year and reaffirming the commitment of the House of Representatives to international cooperation in the sciences (Rept. No. 97-758, Pt. I). Ordered to be printed.

Mr. JONES of Oklahoma: Committee of conference. Conference report on H.R. 6955 (Rept. No. 97-759). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 4961 (Rept. No. 97-760). Order to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLORIO (for himself, Mr. Dingell, Mr. Broyhill, and Mr. Lent):

H.R. 6995. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes; jointly, to the Committees on Energy and Commerce and Rules.

By Mr. BONKER (for himself, Mr. Dicks, Mr. Swift, Mr. Young of Alaska, and Mr. Clausen):

H.R. 6996. A bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. MONTGOMERY:

H.R. 6997. A bill to transfer control of Pershing Hall to the Pershing Hall Memorial Building Foundation; to the Committee on Veterans' Affairs.

By Mr. PEYSER:

H.R. 6998. A bill to require the Nuclear Regulatory Commission to suspend the operating licenses of units 2 and 3 of the Indian Point Nuclear Station, and to establish an Indian Point Nuclear Power Safety Review Panel to evaluate and make recommendations with respect to the safety of such units; to the Committee on Interior and Insular Affairs.

By Mr. SEIBERLING:

H.R. 6999. A bill to prohibit the furnishing of cluster bomb to any foreign country; to the Committee on Foreign Affairs.

By Mr. MARTIN of North Carolina (for himself and Mr. Jones of Oklahoma):

H.R. 7000. A bill to provide for the protection of individuals against catastrophic medical expenses by providing for a catastrophic automatic protection plan and certification of qualified health plans offered by employers, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. BREAUX (for himself and Mr. Forsythe):

H.J. Res. 580. Joint resolution to disapprove the governing international fishery agreement between the United States and Spain; to the Committee on Merchant Marine and Fisheries.

By Mr. TAUZIN (for himself, Mr. Breaux, Mrs. Boggs, Mr. Livingston, Mr. Roemer, Mr. Huckaby, Mr. Moore, Mr. Long of Louisiana, Mr. Sunia, Mr. Murphy, Mr. Barnes, Mr. Fazio, and Mr. Hughes):

H.J. Res. 581. Joint resolution to authorize and request the President to designate the week beginning October 11, 1982, as "National Get High on Life Week"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.J. Res. 582. Joint resolution to authorize and request the President to designate August 15, 1982 as "Will Rogers and Wiley Post Day"; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 395. Concurrent resolution expressing the sense of the Congress that the States should enact statutes encouraging the courts to consider joint custody of minor children in marital divorce settlements before all other possible alternatives; to the Committee on the Judiciary.

By Mr. STOKES:

H. Res. 568. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. Martin of North Carolina.

H.R. 2936: Mr. Fowler.

H.R. 4147: Ms. Ferraro and Mr. Howard.

H.R. 4657: Mr. McHugh.

H.R. 4784: Mr. Mineta.

H.R. 4882: Mr. Mitchell of Maryland, Mr. Vento, Mr. Pepper, Mr. Crockett, Mr. Bingham, Mr. Hamilton, Mr. Jeffords, Mr. Oberstar, Mr. Lundine, Mr. Shamansky, Mr. Gore, and Mr. Harkin.

H.R. 5214: Mr. Lee.

H.R. 5362: Mr. Leach of Iowa.

H.R. 5918: Mr. Martin of New York.

H.R. 6003: Mr. Dingell and Mr. McGrath.

H.R. 6092: Mr. Mineta.

H.R. 6129: Mr. Pease.

H.R. 6262: Mr. Fazio, Mr. LaFalce, Mr. McClory, Mr. Rangel, Mr. Rosenthal, and Mr. Seiberling.

H.R. 6318: Mr. Beilenson, Mr. John L. Burton, Mr. Dellums, Mr. Edgar, Mr. Seiberling, Mr. Edwards of California, Mr. Fauntroy, Mr. Markey, Mr. Mineta, Mr. Moakley, Mr. Oberstar, Mr. Richmond, Mr. Simon, Mr. Vento, Mr. Waxman, Mr. Weiss,

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Mr. Gray, Ms. Ferraro, Mr. Jeffords, Mr. Courter, and Mr. Washington.

H.R. 6433: Mr. Frenzel.

H.R. 6593: Mr. Schumer, Mr. Bonior of Michigan, Mr. Kastenmeier, Mr. Jeffords, Mr. Roe, Mr. Courter, Mrs. Chisholm, Mr. Barnes, Mr. Fauntroy, Mr. Rahall, Mr. Dellums, Mr. Vento, Mr. Stokes, Mr. Albosta, Ms. Ferraro, Mr. Sunia, Mr. Won Pat, Mr. Smith of Pennsylvania, Mr. Conyers, Mr. Fish, Mr. Frost, Mr. Mineta, Mr. Fary, Mr. Frank, Mr. Ottinger, Mrs. Bouquard, Mr. Bingham, Mr. Dixon, Mr. Yatron, Mr. Panetta, Mr. Pepper, Mr. Chappell, Mr. Zeferetti, Mr. Washington, Mr. Neal, Mr. Ratchford, Mr. Walgren, Mr. Fazio, and Mr. McHugh.

H.R. 6594: Mr. Oberstar, Mr. Schumer, Mr. Bonior of Michigan, Mr. Kastenmeier, Mr. Jeffords, Mr. Roe, Mr. Courter, Mrs. Chisholm, Mr. Barnes, Mr. Rahall, Mr. Fauntroy, Mr. Dellums, Mr. Vento, Mr. Stokes, Mr. Albosta, Ms. Ferraro, Mr. Sunia, Mr. Smith of Pennsylvania, Mr. Conyers, Mr. Fish, Mr. Frost, Mr. Weaver, Mr. Mineta, Mr. Frank, Mr. Ottinger, Mrs. Bouquard, Mr. Dwyer, Mr. Zeferetti, Mr. Bingham, Mr. Dixon, Mr. Pepper, Mr. Washington, Mr. Neal, Mr. Ratchford, Mr. Walgren, Mr. Yatron, and Mr. Fazio.

H.R. 6654: Mr. James K. Coyne.

H.R. 6919: Mr. Gunderson, Mr. Mavroules, Mr. Hamilton, Mr. Ottinger, and Mr. Hughes.

H.R. 6944: Mr. Coelho.

H.J. Res. 469: Mr. Rangel, Mr. Fish, Mr. Richmond, Mr. Downey, Mr. Moakley, Mr. Foglietta, Mr. Fauntroy, Mr. Rosenthal, Mr. Patterson, Mr. Albosta, Mrs. Schroeder, Mr. Edgar, Mr. Bedell, Mr. Edwards of California, Mr. Weaver, Mr. Weiss, Mr. Markey, Mr. Waxman, Mr. John L. Burton, Mr. Dellums, Mr. Oberstar, Mr. Gray, and Mr. Washington.

H.J. Res. 487: Mr. Forsythe, Mr. Mineta, Mr. McCloskey, Mr. Miller of California, Mr. Hawkins, Mr. Bafalis, Mr. Robert W. Daniel, Jr., Mr. Pepper, Mrs. Ashbrook, Mr. Nichols, Mr. Daub, Mr. Livingston, Mr. Carney, Mr. Edwards of Oklahoma, Mr. McCollum, Mr. Dickinson, Mr. Brown of Colorado, Mr. Hutto, Mr. Dyson, Mr. Breaux, Mr. Stump, Mr. Lee, Mr. Chappie, Mr. Matsui, Mr. Pashayan, Mr. Thomas, Mr. Rousselot, Mr. Grisham, Mr. Lungren, Mr. Lewis, Mr. Evans of Delaware, Mr. Hansen of Idaho, Mr. Daniel B. Crane, Mr. Philip M. Crane, Mr. O'Brien, Mr. Corcoran, Mr. Myers, Mr. Natcher, Mr. Lott, Mr. Kemp, Mr. Broyhill, Mr. Shuster, Mr. Walker, Mr. Goodling, Mr. Spence, Mr. Sam B. Hall, Jr., Mr. Collins of Texas, Mr. Ralph M. Hall, Mr. Trible, Mr. Whitehurst, Mr. Robinson, Mr. Parris, Mr. Rudd, Mr. Flippo, Mr. Shelby, Mr. Rhodes, Mr. Alexander, Mr. Bethune, Mr. Hammerschmidt, Ms. Fiedler, Mr. Roybal, Mr. Anderson, Mr. Dreier, Mr. Hunter, Mr. Fuqua, Mr. Porter, Mr. Madigan, Mr. Simon, Mr. Hillis, Mr. Leach of Iowa, Mr. Tauke, Mr. Mazzoli, Mr. Snyder, Mr. Rogers, Mr. Moore, Mrs. Snowe, Mr. Long of Maryland, Mr. Broomfield, Mr. Hagedorn, Mr. Taylor, Mrs. Smith of Nebraska, Mr. D'Amours, Mr. Hughes, Mr. Smith of New Jersey, Mr. Lujan, Mr. Skeen, Mr. Lent, Mr. Conable, Mr. Hefner, Mr. Martin of North Carolina, Mr. Latta, Mr. McEwen, Mr. Kindness, Mr. Miller of Ohio, Mr. Wylie, Mr. Synar, Mr. Ritter, Mrs. Schneider, Mr. Roberts of South Dakota, Mr. Beard, Mr. Gramm, Mr. Wright, Mr. Leland, Mr. Gonzalez, Mr. Loeffler, Mr. Paul, Mr. Bliley, Mr. Zablocki, Mr. Wampler, Mr. McDade, Mr. Wilson, Mr. Michel, and Mr. Udall.

H.J. Res. 492: Mr. Robinson, Mr. Broomfield, Mr. Hance, Mr. Shumway, and Mr. Annunzio.

H.J. Res. 496: Mr. Kemp, Mr. Hefner, Mr. Ottinger, Mr. Molinari, Mr. de la Garza, Mr. Chappie, Mr. Clausen, Mr. Thomas, Mr. Pickle, Mr. Smith of Iowa, Mr. Richmond, Mr. Clay, Mr. Wyden, Mr. Boner of Tennessee, Mr. Lewis, Mr. Udall, Mr. Evans of Iowa, Mr. Wolpe, Mr. Horton, Mr. Beilenson, Mr. Yates, Mr. Edwards of California, Mr. Emery, Mr. Markey, Mr. St Germain, Mr. Fauntroy, Mr. Hammerschmidt, Mr. LaFalce, Mr. Shelby, Mr. Brown of Ohio, Mr. Lundine, Mr. Williams of Ohio, Mr. McGrath, Mr. Frank, Mr. Santini, Mr. Oberstar, Mr. Matsui, Mr. John L. Burton, Mr. Zeferetti, Mr. Daschle, Mr. McDade, Mr. Beard, Mr. Shannon, Mr. Shumway, Mr. Schumer, Mr. Wylie, Mr. Fazio, Mr. McKinney, Mr. Pritchard, Mr. Wolf, Mr. Broomfield, Mr. Gregg, Mr. D'Amours, Ms. Ferraro, Mr. Weber of Ohio, Mr. Downey, Mr. Sawyer, Mr. Gejdenson, Mr. Frost, Mr. Vander Jagt, Mr. Dingell, Mr. DeNardis, Mr. Chappell, Mr. Hughes, Mr. Shamansky, and Mr. Fascell.

H.J. Res. 545: Mr. Miller of California, Mr. Crockett, Mr. Harkin, Mr. Dymally, Mr. Bonker, Mr. Lowry of Washington, Mr. Conyers, Mr. Matsui, Mr. Barnes, Mr. Roe, Mr. Bonior of Michigan, Mr. Oberstar, Mr. Gejdenson, Mr. Dwyer, Mr. Weiss, and Mrs. Heckler.

H.J. Res. 549: Mr. Whitley.

H.J. Res. 571: Mr. Phillip Burton, Mr. Miller of California, Mr. Fazio, Mr. Synar, Mr. Zeferetti, and Mr. Downey.

H. Con. Res. 356: Mr. Smith of Pennsylvania and Mr. James K. Coyne.

H. Con. Res. 369: Mr. Wampler.

H. Res. 234: Mr. Fish and Mr. Rogers.

H. Res. 421: Mr. Aspin, Mr. Early, Mr. Harkin, Mr. Peyser, and Mr. Udall.

H. Res. 505: Mr. Rosenthal.

H. Res. 554: Mr. Patman.

H. Res. 558: Mr. Hughes and Mr. Mineta.

PETITIONS, ETC.

Under clause 1 of rule XXII,

568. The SPEAKER presented a petition of the board of aldermen, New Haven, Conn., relative to Secretary of the Interior James G. Watt; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

By Mr. EDGAR:

—Page 13, strike out line 3 and all that follows through line 10 on page 22, and insert in lieu thereof the following:

"§ 10953. Common carrier obligation

"(a) Transportation of coal by coal pipeline for which a certificate is issued under section 10952 shall be subject to the jurisdiction of the Commission under subchapter I of chapter 105 of subtitle IV of title 49, United States Code, as a pipleline carrier and the coal pipeline shall be constructed, operated, maintained, and extended as a common carrier, in fact, fully subject to rate and charge regulation by the Commission under such subtitle.

"(b) Any person holding a certificate issued under this section must provide service, on reasonable request, to persons who—

"(1) seek service during the planning phase of such coal pipeline; or

"(2) seek unutilized capacity of such coal pipeline whenever such capacity is available.

The person holding such certificate must provide reasonable public notice of the availability of unutilized capacity.".

Redesignate the subsequent sections accordingly and conform the analysis for subchapter III of chapter 109 of title 49, United States Code, beginning on page 24, after line 23, accordingly.

—Page 22, after line 10, insert the following new section:

"§ 10956. Prohibition of transportation of certain coal

"(a) A person holding a certificate under section 10952 of this title may not transport in the coal pipeline, or extension of a coal pipeline, for which the certificate is issued any coal which is to be used—

"(1) by the holder of such certificate, or

"(2) by a person which controls, is controlled by, or under common control with, the holder of such certificate.

"(b) A person holding a certificate under section 10952 of this title may not transport in the coal pipeline, or extension of a coal pipeline, for which the certificate is issued any coal which is owned, mined, or supplied by the holder of such certificate or by a person which controls, is controlled by, or under common control with, the holder of such certificate.".

Renumber subsequent sections accordingly and conform the analysis for subchapter III of chapter 109 of title 49, United States Code, beginning on page 24, after line 23, accordingly.

—Page 30, line 25, after "use," insert "export,".

Page 31, line 5, after "use," insert "export,".

—Page 31, after line 9, insert the following:

(d) It is the express intent and policy of Congress that, to the extent any State law is applicable to the use of groundwater in such State for transporting coal by pipeline, such law shall not be held to violate the commerce clause in article I, section 8, of the United States Constitution.

—Page 48, after line 20, insert the following:

"(d) No State or person shall sell or otherwise transfer outside of any state water for use in a coal pipeline which is taken from any river or other body of surface water which is located in or which passes through or which borders more than one state or any aquifer or other body of ground water which underlies more than one state unless the Secretary of the Interior determines that there is in effect an interstate compact—

"(1) between the states in the drainage basin of such river or other body of surface water, or

"(2) between the affected states, in the case of such an aquifer or other body of ground water, which governs the sale or transfer of water for coal pipeline use.".

H.R. 5540,

By Mr. FRENZEL:

—Page 51, after line 9, insert the following:

(g) The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following:

"Sec. 721. Notwithstanding any other provision of law, for fiscal year 1983, new direct loan obligations entered into under this Act shall not exceed $50,000,000 and new loan guarantee commitments shall not exceed $50,000,000.".

By Mr. McCOLLUM:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Redesignate the following subsections accordingly.

By Mr. REGULA:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Education determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to students.

Redesignate the following subsections accordingly.

By Mr. SKELTON:

—At the end of the bill add the following new section:

NATIONAL COMMISSION ON SCIENCE, ENGINEERING, AND TECHNOLOGY EDUCATION

SEC. 4. (a) The Congress makes the following findings:

(1) The United States must meet the continuing need for technological advances in science and engineering if it is to maintain economic security and a strong national defense.

(2) Approximately 1,400,000 scientists and engineers will be needed to fill anticipated growth and replacement demands by 1990, but projections estimate personnel shortfalls in these areas over the next ten years.

(3) Shortages of trained technical personnel will have particularly serious implications for the national defense posture of the United States since modern military operations and equipment have become increasingly more sophisticated and reliant on high technology.

(4) Science, engineering, and technology education in the United States is threatened by a shortage of academic personnel and by inadequate and aging laboratory facilities.

(5) The Soviet Union graduates more than twice as many scientists and engineers as the United States and almost five times as many engineering students. The United States ranks third behind the Soviet Union and Japan in a comparison of the total number of engineering graduates and in the number of engineering graduates relative to the size of the total population. A continuation of this situation threatens to compromise the technological edge which ensures the economic well-being and national security of the United States.

(6) While the educational community, the private sector, and the Government have demonstrated interest in the emerging crisis in science and engineering education, there has been no coordinated national effort to study the status of such education in the United States and the impact of anticipated deficiencies on national defense needs and the economy and to recommend remedial actions.

(7) The scope and complexity of the problem of meeting the demand for qualified technically-trained personnel in the private sector, government, the Armed Forces, and academia require that a national commission be formed to combine the efforts and resources of these groups in seeking a solution to the problem.

(b) The President, in conjunction with the Majority Leader of the Senate and the Speaker of the House of Representatives, shall within 120 days after the effective date of this section establish a National Commission on Science, Engineering, and Technology Education (hereinafter in this section referred to as the "Commission").

(c) The Commission shall—

(1) bring together representatives of the private sector, the Government, and the educational community for the purpose of taking testimony and receiving evidence about the problems confronting science, engineering, and technology education in the United States;

(2) define the scope of science, engineering, and technology education problems in the United States;

(3) evaluate the impact of these problems on national defense, industry, research, and academia;

(4) formulate remedial actions which can be taken by or among the private sector, the Government, and the educational community to resolve those problems; and

(5) evaluate the impact of those problems on military manpower needs in the areas of science and engineering.

(d)(1) The Commission shall be composed of nine members appointed as follows:

(A) Three members appointed by the Secretary of Commerce from among individuals who are qualified to serve on such a commission by virtue of their education, experience, or training.

(B) Three members appointed by the Secretary of Defense from among individuals who are qualified to serve on such a commission by virtue of their training, education, or experience.

(C) Three members appointed by the Secretary of Education from among individuals who are qualified to serve on such a commission by virtue of their training, education, or experience.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) Members shall be appointed for the life of the Commission.

(3) Members of the Commission shall serve without pay, but shall receive per diem and travel expenses (subject to the provisions of chapter 57 of title 5, United States Code) for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(4) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Chairman of the Commission shall be elected by the members of the Commission.

(6)(A) The Commission shall meet at the call of the Chairman or a majority of its members.

(B) Meetings of the Commission shall be conducted according to Roberts Rules of Order.

(e)(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(2) Subject to such rules as may be prescribed by the Commission, without regard to section 5311(b) of title 5, United States Code, the Director may appoint and fix the pay of such personnel as the Commission considers appropriate.

(3) The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(f)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(4) The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) The Commission may transmit to the President and to each House of Congress such interim reports as it considers appropriate and shall transmit to the President and to each House of Congress a final report not later than 30 months after the date the Commission is duly organized. The final report shall contain a detailed statement of the findings and conclusions of the Commission and its recommendations for such legislation and such administrative actions as it considers appropriate.

(h) The Commission shall cease to exist six months after the submission of its final report.

(i) This section shall take effect on October 1, 1982.

By Mr. Veto:

—Page 47, after line 6, insert the following:

(b) Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended by adding at the end thereof the following:

"(d)(1) The Secretary of Defense may not enter into any contract of more than $1,000,000 for any item of defense production from any manufacturer located outside of the United States unless—

"(A) the Secretary of Defense has determined in writing that such contract will not result in the United States' becoming primarily dependent on manufacturers located outside of the United States for the supply of such item of defense production; or

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"(B) the President has certified in writing to the Congress that entering into such contract is essential to the national defense.

"(2) The requirements of paragraph (1) shall not apply—

"(A) during any period in which there is in effect—

"(i) a declaration of national emergency which is issued by the President; or

"(ii) a declaration of war which is adopted by the Congress; and

"(B) with respect to contracts which are entered into under the terms of any treaty which is ratified by the Senate.

"(3) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

And redesignate the following subsection accordingly.

H.R. 6755

By Mr. PEYSER:

—Page 4, after line 12, insert the following new subsection:

(g) None of the funds appropriated under this Act may be used for El Salvador unless the President reports to the Congress—

(1) that he has determined that the Government of El Salvador has conducted a complete and thorough investigation into the murders in El Salvador of the four United States missionaries and two United States agrarian reform workers in December 1980 and January 1981, and into the disappearance in El Salvador of the United States journalist in January 1981; and

(2) that he is satisfied that the responsible parties were or will be prosecuted to the fullest extent of Salvadoran law.

H.R. 6956

By Mr. WALGREN:

—Page 42, immediately after line 18, insert the following new section:

SEC. 416. None of the funds appropriated by this Act may be obligated or expended to promulgate, issue, prescribe, implement, administer, or enforce any rule, order, or sanction under the Clean Air Act on any State or political subdivision thereof for failure to adopt, implement, conduct, or enforce a vehicle emission control inspection and maintenance program. Nothing in this section shall be construed to preclude the use of funds for the purpose of providing technical assistance under such Act to any State or political subdivision thereof.

SENATE—*Tuesday, August 17, 1982*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Sovereign Lord of history and the nations, this promises to be a rough season in the Senate. I pray for the leadership a special measure of Godly grace, wisdom, energy, and patience. Help the Senators that emotion will not conquer reason. Protect them against hot heads and cold hearts. Enable them to possess cool heads and warm hearts.

Gracious Heavenly Father, as they struggle with issues which do not and cannot yield to simplistic resolution, help them to hear one another, to respect each other's convictions, and to seek together what is true and just. Help them to take seriously Thy gracious offer of divine wisdom to any who ask; and may Your name be hallowed, Your kingdom come, and Your will be done in the Senate as in Heaven. For the sake of Thy kingdom and Thy righteousness. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, under the order entered on last evening, the Senate stood in adjournment until this morning. Hence, today is a new legislative day. According to the order entered on yesterday, the reading of the Journal was dispensed with, provision was made that no resolutions should come over under the rule, and the call of the calendar was dispensed with.

Mr. President, after the recognition of the two leaders under the standing order, two Senators will be recognized on special orders of not to exceed 15 minutes each, Senator CHILES of Florida, and Senator TOWER of Texas.

After the execution of the special orders, Mr. President, there will be a period for the transaction of routine morning business in any time remaining but not past the hour of 10 a.m., in which Senators may speak for not more than 2 minutes each.

At 10 a.m., Mr. President, according to the order entered on Friday last, a series of votes will occur on S. 2222, the so-called immigration bill, as follows:

Hayakawa amendment No. 1907; Hayakawa amendment No. 1908; Hayakawa amendment No. 2019; a Simpson motion to table a Helms amendment No. 2024. If the tabling motion fails, then a vote will occur on the Helms amendment No. 2024.

Another Hayakawa amendment No. 2025; a Tower amendment No. 2026; a Tower amendment No. 2027, and a Boschwitz amendment No. 2028.

Each of those are rollcall votes, as previously ordered. The first vote will be 15 minutes in length. The other votes occurring back-to-back will be 10 minutes in length each. Senators, therefore, are urged to consider that the time between 10 o'clock and 12 o'clock, approximately, will be virtually constant rollcall voting. I would strongly suggest that Members remain on the floor so that we can confine the time for the rollcall votes to that prescribed by the precedents and orders of the Senate.

After the disposition of these amendments, and no other amendments will be in order under the order previously entered, the Senate will proceed immediately to third reading and final passage of the immigration bill.

Following the disposition of the immigration bill, S. 2222, the Senate will resume consideration of House Joint Resolution 520, which is the debt limit, on which the Helms amendment No. 2031 is pending. Under the order previously entered, when we resume consideration of that matter, the Senator from Oregon (Mr. PACKWOOD) will be recognized.

At 2 p.m., Mr. President, according to the order entered on last evening, the Senate will vote on or in relation to a Baker amendment No. 2029 to House Joint Resolution 520 dealing with gymnasiums.

Mr. President, at 12 noon today it is anticipated the Senate will recess so that Members on both sides of the aisle can attend party caucuses as is our custom on Tuesdays. The recess is expected to extend from approximately 12 noon until 2 p.m., when a vote will occur on the Baker amendment, as previously announced.

Mr. President, after the disposition of the Baker amendment, it is anticipated the Senate will be asked to proceed to the consideration of a privileged matter, the Department of Defense authorizations conference report, on which there is a time limitation agreement in process. Over the weekend we tried to obtain an agreement to limit debate on that conference report to 1 hour.

After the disposition of the Department of Defense authorizations conference report, the Senate will resume consideration of House Joint Resolution 520.

Mr. President, it is anticipated that the Senate may remain in somewhat later than the usual adjournment hour tonight, but not excessively late. I do not expect, absent extraordinary circumstances, to ask us to stay through the dinner hour. Senators should be reminded, however, that we are coming down the home stretch, so to speak, and that if we have any hope at all of finishing the must list, including those privileged matters such as the two reconciliation conference reports, by the 20th of August in order to make our recess conform to that of the House of Representatives, it may be necessary on any evening this week to remain late, perhaps even very late.

What I am about to say next, Mr. President, I do not welcome, but I owe it to Members to point out that our adjournment date is still August 27. I am thinking of the possibility of asking the Senate to remain in, if necessary, over the weekend in order to avoid encroaching on next week, if that would permit us to finish our schedule. That decision has not yet been made. I will consult with the minority leader and other Senators during the course of the day, evaluate the situation as best I can, and try to have a further announcement on the schedule of the Senate as I see it later today or at this hour tomorrow.

JOINT UNITED STATES-CHINA COMMUNIQUE

Mr. BAKER. Mr. President, in June of this year I traveled to the People's Republic of China and engaged in a series of meetings with the leadership there on the state of United States-Chinese relations. It was a sensitive time in the relationship and it was clear that significant problems remained in the development of a strong and enduring relationship. I returned from China, however, convinced that the Chinese share our desire to strengthen the relationship and that it is for them, as it is for us, a vitally important element of national policy.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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With that in mind, I was pleased with today's announcement by President Reagan on the United States-China joint communique concerning the question of arms sales to Taiwan. The negotiations on this communique were in progress while I was in Peking and I know first hand how deeply and strongly the Chinese leadership feels on this issue.

I also know how deeply and strongly the President feels about our historic relationship with the people in Taiwan. I know that he believes that the commitments of the United States must be kept, in this case in the full implementation of the Taiwan Relations Act, and I advised the Chinese leadership that they should harbor no illusions on that subject. I also expressed my belief that the requirements of the act were consistent with the expectations of the parties at the time of normalization.

I believe the communique issued today is fully consistent with the act and obviously consistent with our determination that the Taiwan question be resolved peacefully and without coersion. The communique, moreover, is a demonstration of Chinese intent, not only to strengthen the relationship with the United States, but to seek a solution to the question of Taiwan in a peaceful manner.

Mr. President, we should not believe that this communique will remove the issue of Taiwan as an issue of contention between Peking and Washington. It is, however, a clear indication of the ability of our two great countries to resolve differences on even the most intractable of problems in a way consistent with the interests of both parties and without compromising the principles of either. In my view, that is a good omen for the future of our relationship with China and I commend the President for achieving it.

Mr. President, I ask unanimous consent that President Reagan's statement and the joint communique be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Presidential Statement on Issuance of Communique

The U.S.-China Joint Communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides, and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My long-standing personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper, and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waver from this fundamental position.

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past three decades, and of the American contribution to that process. I have full faith in the continuation of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well being of the people of Taiwan.

United States-China Joint Communique of August 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognised the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972 and reaffirmed in the Joint Communique on the Establishment of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point Proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.

ORDER OF PROCEDURE

Mr. **BAKER**. Mr. President, I have no need for the remainder of my time under the standing order.

I ask unanimous consent that any time I have remaining, together with any time the minority leader has under the standing order, may be reserved to my use or to his use during the remainder of this day.

The **PRESIDING OFFICER** (Mr. HAYAKAWA). Without objection, it is so ordered.

Mr. **PROXMIRE**. Will the leader yield me 1 minute?

Mr. **BAKER**. I yield to the Senator from Wisconsin.

RECALLING A LESSON OF THE BIAFRAN CIVIL WAR

Mr. **PROXMIRE**. Mr. President, on February 13, Pope Paul II recited Mass for throngs of Ibo Catholics in Onitsha, Nigeria. The crowd chanted, danced, and waved papal flags upon the pontiff's arrival. When he spoke they listened attentively without fear of government reprisal.

The Ibo tribesmen are once again able to practice their religion freely. But just over one decade ago this was not the case. During the late 1960's and early 1970's the Ibo, due to differences along national, religious, and ethnic grounds with other Nigerians, were victims of relentless indiscriminate attacks.

In 1967, the inhabitants of the eastern portion of the country, primarily Ibos, attempted to secede and reconstitute their region Biafra. They met fierce opposition from the forces of General Gowan who ruled Nigeria at that time. Gowan successfully rebuffed the Biafran independence efforts but refused to limit his troops' sallies to reunification goals. Under his direction the army continued on, wiping out substantial segments of the easterners.

In 1971, the Department of State admitted that American leverage in the situation was seriously hindered because the United States had not ratified the Genocide Convention.

Although the problem of persecution no longer exists in eastern Nigeria, the United States is still paralyzed in similar situations. Not until we join some 85 countries and ratify the Genocide Convention will our hands finally be untied so that we may exert ample American influence. It is time that we give this Nation the additional clout in international matters.

WHY THE FEDERAL GOVERNMENT WASTES ITS TIME AND MONEY IN PLANNING FOR A LONG NUCLEAR WAR

Mr. **PROXMIRE**. Mr. President, a long nuclear war might very well end the existence of mankind on this planet. It would almost certainly destroy the heart of the American system of democratic government, our broad and deep guarantees of freedom for all our citizens. In the view of many, it would end the ability of the United States to continue as an organized society. Forget about delivering the mail. Consider the black and white fact that in a long nuclear war, as the months and years of nuclear destruction continue, increasing millions of Americans would die. Millions more would suffer hideous, agonizing burns that would drag out a living death, and millions more would slowly lose their strength and will to live under the ravages of radioactive-induced cancer.

Most of our doctors and nurses, being urban dwellers, would perish quickly. Most of our hospitals would crumble in rubble. We would even lack painkilling drugs—let alone the prospect of healing and recovery.

Faced with this appalling prospect, can we find anything instructive in the Federal Government's plan for a long nuclear war? Yes, indeed. The Government is absolutely right in facing the fact that a nuclear war probably would not end in a few hours or a few days. In fact, it could and probably would go on and on and on. It would not start and end in a blinding flash, as the nuclear attack on Japan ended World War II. In World War II, we alone—the United States—had the power to wage nuclear war. The Japanese had no ability to strike back. They had no alternative to surrender.

Now consider a nuclear war between the United States and the U.S.S.R. today. Both countries have almost endless nuclear power. Between the United States and the U.S.S.R., we have more than 1.6 million times the nuclear power that was dropped on Hiroshima. We now have the equivalent of 4 tons of TNT for every man, woman, and child on Earth.

Both nuclear superpowers have virtually invulnerable nuclear weapons. Both have thousands of land-based missile launchers. No attack could wipe out every one of these launchers. Both also have even less vulnerable nuclear-equipped airborne bomber fleets, some of which are always in the air, and both have the clearly invulnerable submarine fleets, constantly moving beneath the surface of the ocean—fast, quiet, and so deadly that each U.S. sub could wipe out every major city in the U.S.S.R. And we have 41 of them. Both superpowers steadily increase and perfect these fleets.

So, how would we end a nuclear war? With this kind of massive, invulnerable nuclear power, militant elements on each side could continue the hideous nightmare of devastating destruction literally for years, to inflict devastation literally beyond imagination on the other, until every last vestige of civilization disappeared from the surface of the Earth in both countries.

Meanwhile, this kind of global nuclear war would probably catch up the other nuclear powers—as allies or enemies. The thousand nuclear weapons the French possess and the 1,500 the British have would eventually respond as the holocaust pulled in allies and foes, as world wars have done in the past.

At this moment, 6 countries have a nuclear warmaking capacity, and within a few years, unless we act decisively to stop it, that will double to 12. By the year 2000, it will double again, to 25 or more. Then we will have a far bigger, more massive, and far less stable worldwide nuclear capacity, with far more countries able to start and even join in the terrible holocaust.

Yes, indeed, we should expect that a nuclear war, once started, would go on and on and on. Can anyone suggest how we could turn it off?

Consider a country, any country, that has suffered agonizing, devastating, destruction, with its dead outnumbering the living, but still possessing hundreds of thousands of nuclear weapons. Would they passively accept their terrible fate, or would they continue to use the destructive power they all possess to avenge their dead by killing millions of the hated enemy? On the basis of the past conduct of wounded nations that still possessed the power to destroy, they could find a way to continue producing these weapons of infinite death and then continue using them as long as they had any hope of destroying the enemy.

One way or another, the result would almost certainly destroy both superpowers and possibly all life on Earth.

Mr. **BAKER**. Mr. President, before we proceed further, I reclaim one more moment of my time and yield the floor so the distinguished President pro tempore may call the attention of the Senate to the pendency of a matter.

The **PRESIDING OFFICER**. The Senator from South Carolina.

CRIMINAL JUDGMENTS IMPROVEMENTS ACT

Mr. **THURMOND**. Mr. President, I have a bill at the desk that has been

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read one time. I ask that it be called up and given second reading.

The **PRESIDING OFFICER**. The bill will be read the second time.

The legislative clerk read as follows:

> A bill (S. 2838) to reform procedures for collateral review of criminal judgments, and for other purposes.

Mr. BAKER. Mr. President, on behalf of the Senator from South Carolina, I object to further proceeding under the bill.

The **PRESIDING OFFICER**. Under rule XIV, the bill will be placed on the calendar.

Mr. THURMOND. Mr. President, I understand now that the bill goes on the calendar.

The **PRESIDING OFFICER**. The Senator is correct.

Mr. BAKER. Mr. President, I see the distinguished Senator from Florida is here. I yield the floor so he may claim his time under the special order.

RECOGNITION OF SENATOR CHILES

The **PRESIDING OFFICER**. Under the previous order, the Senator from Florida (Mr. Chiles) is recognized for not to exceed 15 minutes.

CRIMINAL JUSTICE REFORM

Mr. CHILES. Mr. President, this Thursday marks the beginning of the fourth month that Senator Nunn and I have been coming to the floor of the Senate to speak out on the need for Congress to move quickly to pass crime-fighting legislation. We have cited examples of specific cases which might have turned out differently had the reforms we have proposed been passed into law. We have brought to the attention of our colleagues the calls for reform of our criminal justice system, calls that have come from a broad range of groups involved in law enforcement and from concerned citizens groups. By doing this, by coming here to speak out on crime every day, we hope to reemphasize our strongly held belief that action to reform our criminal justice system and to fight crime is a priority second to none in the days remaining in this session of Congress.

There are presently two bills pending on the Senate Calendar that would help fight crime. All that we need to do is call either one of them from the calendar, debate it, and send it to the House. The first bill, S. 2543, was introduced by Senator Nunn and myself. Some 18 other Senators have joined us in cosponsoring it. The second bill, S. 2572, was introduced by Senators Thurmond and Biden, and Senator Nunn and I were original cosponsors of that bill. Presently, over 50 Senators have signed on as cosponsors of S. 2572, and the Senate has entered into a time agreement for the consideration of S. 2572.

One essential part of any fight against crime must be a reform of our criminal justice system, to assure that those criminals who are arrested are unable to rely on legal loopholes to escape justice. And a key component of any criminal court reform has to be doing something to cut down on the seemingly endless number of appeals which convicted prisoners are able to file.

Today, prisoners who were convicted in full and fair State court trials are able to challenge their convictions time and time again, for years or even decades after their original trial took place. They rely on the Federal habeas corpus statute to file these appeals. We have an opportunity to cut down on these abuses in our criminal justice system, and to restore the writ of habeas corpus to its original purpose, by acting on the habeas corpus reforms proposals now before the Congress. Title 4 of S. 2543 contains a habeas reform proposal which is patterned after a bill, S. 653, that Senator Thurmond and I introduced last year. Another habeas corpus reform proposal, S. 2216, was introduced by the administration this year, and it has my full support. Either proposal, if passed, would do much to eliminate the problems in today's system, and I believe that Congress must act promptly on either or both of these two proposals.

As I mentioned earlier, the shortcomings of today's habeas system with its almost unlimited availability to anyone in prison, have been pointed out by many of those involved in the criminal justice system. One of the first persons to point out the shortcomings in the current habeas corpus statutes was U.S. circuit court of appeals Judge Henry Friendly, one of the most prominent and well-respected judges in the United States.

Back in 1970, Judge Friendly published an article in the University of Chicago Law Review. The article focused on how the habeas corpus was working, and contained suggestions for reform. Judge Friendly's main point was set forth in the title of the article. It was called "Is Innocence Irrelevant?" It is that issue—the notion that in collateral appeals of State court criminal convictions, guilt or innocence is the last thing to be considered—which is at the root of the calls for reforms in the current habeas laws. Trying to focus more on guilt or innocence, as well as timeliness, is the central feature of the habeas reform bills now before the Congress.

Mr. President, I would like to share some of the points Judge Friendly made about the habeas system with my colleagues. The opening passage of his article sets out the basic problem with today's system, and identifies what should be the basic roadmap for reform. He said:

> Legal history has many instances where a remedy initially serving a felt need has expanded, bit by bit, without much thought being given to any single step, until it has assumed an aspect so different from its origin as to demand reapprisal—agonizing or not. That, in my view, is what has happened with respect to collateral attack on criminal convictions. After trial, conviction, sentence, appeal, affirmance, and denial of certiorari by the Supreme Court, in proceedings where the defendant had the assistance of counsel at every step. The criminal process, in Winston Churchill's phrase, has not reached the end, or even the beginnings of the end, but only the end of the beginning. My thesis is that, with a few important exceptions, convictions should be subject to collateral attack only when the prisoner supplements his constitutional plea with a colorable claim of innocence.

I share Justice Friendly's feeling that, over the years, we have strayed away from the original purpose of the writ of habeas corpus. I also agree with his belief that, with a few important exceptions, such as serious abuse by the prosecution, convictions should be subject to collateral attack only when the prisoner supplements his constitutional plea with a colorable claim of innocence.

Mr. President, I call the attention of my colleagues to this important article by Judge Friendly. It sets forth some of the most compelling reasons for reform. It is something which I hope to discuss further in the days ahead. Hopefully, in days ahead, we in the Senate will have an opportunity to respond to some of the concerns raised by Judge Friendly, by other judges and scholars, by those involved in the criminal justice system, and by the public. We can respond if we act promptly to pass habeas corpus reform legislation. We can do that, but only if we act soon. As few as 24 legislative days remain in this session of Congress, and time is running out. We can act to put more finality into our system, and to restore the writ of habeas corpus to its original purpose, but only if we act promptly.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

RECOGNITION OF SENATOR TOWER

The **PRESIDING OFFICER**. Under the previous order, the Senator from Texas (Mr. Tower) is recognized for not to exceed 15 minutes.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

EMPLOYER SANCTIONS—AMENDMENT NO. 2027

Mr. TOWER. Mr. President, I should like to address myself to an amendment that I have pending to S. 2222 which will be voted on later in the morning. It is the employer sanctions amendment numbered 2027.

Mr. President, this amendment is compliance oriented. No one disputes the fact that the majority of American businessmen are honest and will comply with an employer sanctions provision, and it is for this very reason that the demands of time and expense which S. 2222 inflicts on our employers and taxpayers are so unreasonable. I do not want to see unscrupulous organizations simply factor in the costs of noncompliance with a verification procedure or of a system of fines payments, as a matter of doing business. I would much rather see real compliance with the provisions of the law.

This amendment does not gut employer sanctions, as some contend. It merely insures that those individuals who have full knowledge that they are breaking the law will be forced to comply with the law.

This amendment helps to accomplish our overall goal in the most efficient and equitable fashion without the imposition of the bureaucratic quagmire which I could easily foresee occurring were the Federal Government to start trying to monitor successfully the 70 million job transactions occurring in this country every year.

I know that this amendment is not the perfect solution to all our immigration and discrimination problems. As I have repeatedly stated, I am opposed to the concept of employer sanctions generally, on the premise that they cause unreasonable burdens on our employers while discriminating against American citizens of alien heritage. I believe this amendment is the most workable solution, however, and can make substantial inroads into stopping illegal immigration.

My very real fear with the current provisions in S. 2222 is the devastating effect I feel enactment of these provisions would have upon the future ability of Hispanics in my State and other border States to obtain employment. It would indeed be a tragedy if the upward-bound mobility of this sector of the population was suddenly set back several decades because employers would simply refuse to hire anyone with an alien surname or a foreign appearance. What employer would want to bear the burden of proof that he reasonably believed an applicant's documents were genuine? What employer feels qualified to reach this type of judgment as to the legal validity of papers presented? Finally, what about an employer who does not want to hire minorities for reasons of bigotry or prejudice, and accomplishes his goal through legal means by asserting that he did not believe the potential employee's papers were authentic? I firmly believe that the net result of this type of employer sanctions bill may be that Hispanics will never even get a foot in the door.

There have been various comments received from individuals who share my concern about the current employer sanctions provision.

I quote Willie Bonilla, past national president of LULAC:

> As a past National President of LULAC, and as a person interested in the rights of all human beings, I am of the opinion that this amendment is the best route to take and I wholeheartedly support the amendment which is being offered by Senator Tower to the employer sanctions portion of this bill.

I should also like to quote Henry Cisneros, mayor of San Antonio, Tex.:

> I think that this is a positive step—a step in the right direction—and is preferable to the provisions currently in the bill. I understand the legislative process, and I know that such improvements must be done step by step.

In addition, I have received enthusiastic endorsements from Oscar Moran, Texas State president of LULAC, and Jose Cano, president of National American GI Forum.

I am aware, Mr. President, there has been some confusion about the position of the national leadership of LULAC. I think that there was some concern that the willful standard might be used by an employer to defend himself against the charge of discrimination. That is not my intent, and let me make the intent very, very clear.

The willful standard applies only to the offense of hiring an individual unauthorized to work in the United States. This standard in no way—and let me repeat—in no way can be construed to apply to a standard for determining discrimination in hiring an individual, nor does it affect in any manner EEOC guidelines or statutory law of discrimination on the basis of national origin.

It is the intent of this Senator in offering the amendment to do everything he can to prevent discrimination and not to make it easier for any employer to defend himself against a charge of discrimination.

Now, having made that bit of legislative history, having expressed now the full intent of the offered amendment, I have discussed this matter with Mr. Tony Bonilla, who is the national president of LULAC, and he informs me that with this legislative history and with this clear intent expressed, he is prepared to support my amendment in preference to the provision now in the bill.

Let me make it clear that LULAC continues to oppose any employer sanctions legislation, but if indeed such legislation must pass, the national president of LULAC feels that the position that I advocate here is preferable to the one currently in the bill.

I urge my colleagues who believe in justice for our Hispanic Americans, who believe in fair play, to support this amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I merely rise to congratulate the Senator from Texas who represents, as I represent, a State on the Mexican border that finds, as we find in my State, that many, many wonderful people come across our border every year from Mexico, some authorized, some not. I think the Senator's amendment will be an added blessing to this bill because I do not think the bill took the right step in helping us to accommodate and helping us to do away with the abuses that occur. While the Senator's amendment does all of those things, I am very happy to support him in this effort.

Mr. TOWER. I thank my distinguished colleague from Arizona.

EDUCATION ASSISTANCE FOR ALIEN CHILDREN—AMENDMENT NO. 2026

Mr. TOWER. Mr. President, in the matter of another amendment, my amendment No. 2026, to provide education assistance for alien children, a rollcall vote has been ordered on that amendment, but I have had a discussion with Mr. Hatch, the distinguished chairman of the Labor and Human Resources Committee. He has promised me that his committee will hold hearings, and Mr. Stafford, the chairman of the appropriate subcommittee, has joined in that assurance that hearings will be held on this issue.

I think it is felt by some members of that committee, although they might be in fundamental sympathy with the objective of this amendment, it should be a matter considered by that committee and hearings should be held on it and that it is inappropriate to include it on this bill.

I did include it because I thought this was an appropriate vehicle. However, it is my understanding that if it could go through the hearing process there would be much better prospect of support, that some Senators are reluctant to vote for it on this bill to which it is not absolutely germane without first having had some hearings.

YEAS AND NAYS VITIATED ON AMENDMENT NO. 2026

Therefore, given the assurances of Senators Hatch and Stafford, I ask unanimous consent that the yeas and nays on my amendment No. 2026 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

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Mr. TOWER. Mr. President, I withdraw my amendment No. 2026.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. TOWER. Mr. President, I shall enter in the RECORD at some point today, to be included in the RECORD at the appropriate place, a colloquy between Senator HATCH and/or Senator STAFFORD and myself.

Mr. President, I am prepared to yield back the remainder of my time and I do yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 2 minutes each.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. KENNEDY at this point are printed later in today's RECORD prior to passage of S. 2222.)

AN APPEAL FOR ACTION: THE U.S. ECONOMY NEEDS FINANCIAL SECTOR DEREGULATION

Mr. ABDNOR. Mr. President, we legislators have a nightmare on our hands. The finance industry has outgrown the rules and regulations that govern it and little has been done to rectify this despairing situation. Instead of providing this industry with a legal foundation that fosters growth, innovation, and efficiency, the rulemakers have produced a lackluster list of accomplishments. Failing to address major changes in banking rules has resulted in public dissatisfaction, prolonged ill effects of a distorted market setting and a bitter rivalry among the various financial institutions that are fighting for survival.

True to the American spirit, the decisionmakers in banks, thrifts, and other establishments are not going to sit back idly and watch the chaos deteriorate their operations further. After suffering years of dashed hopes of accomplishing regulatory reform, their patience has worn thin. No longer will they tolerate inaction that has cost them dearly. The unresponsive leaders in government are going to face strong protest until this unjust setting is resolved.

A classic and courageous standoff is now taking place in the State of South Dakota. To many of my colleagues, South Dakota may appear to be an illogical and unseemly location for a challenge to the status quo of banking regulation. However, in South Dakota the bankers are close to the people and are eager to provide the best services available to small businesses and individuals. The banks and thrifts want a healthy and competitive environment. They unfortunately have been no match for money market mutual funds (MMMF's), which have a market advantage created by escaping Federal regulation.

Dissatisfied with the lack of action by the Congress and the Depository Institutions Deregulation Committee (DIDC), the South Dakota Banking Commission authorized the use of a financial instrument that could compete effectively with MMMF's. To be issued, such an instrument also must receive the approval of the DIDC. Instead of giving public hearing and consideration of this innovative approach to making our financial system more competitive, the DIDC flatly refused any open discussion of the proposal and denied its use in the market. It is contrary to the principle of public participation in government affairs to have such disregard for a reasonable request.

In defense of their denial, the DIDC pointed to the problems of permitting an instrument available in only a specified region, even though the South Dakota Bankers' position acknowleged that this instrument should be issued nationwide.

Two South Dakota banks offered an instrument known as a super NOW account, which featured checkwriting services and paid market rates of interest. Since those super NOW's violated regulation Q, the Federal Reserve quickly stepped in to enforce the law. The rule-abiding banks relented and dissolved the use of super NOW's. Their fight has not ended, however.

The South Dakota attorney general has filed suit against the DIDC for having neglected its congressionally assigned duty. This committee has failed to execute its task of deregulating and reregulating the financial sector. This failure has caused the American public to suffer the costs and problems of dealing with a less-than-optimal banking structure. Stifled competition, imposed by artificial requirements affecting different institutions unequally, has limited the choices available to consumers.

I commend the action taken by my fellow South Dakotans. They are crusaders fighting for a cause they feel is just. They certainly will get their day in court, but they also deserve the attention of legislators and regulators.

Money market funds have enjoyed their competitive edge by escaping Federal banking regulation. Clearly their very existence points to the inadequacy of our current banking law. Five years ago MMMF's were unknown; today they are a household word. Over $200 billion has been funneled away from the smaller banks and thrifts which are bound by regulatory restriction. Money that otherwise would stay in the neighborhood and city has become far removed from its source.

It must be recognized that our complex and technical economy needs the free flow of resources into the most productive uses. Our whole Nation depends on a money network that services both large, multinational corporations and small enterprises. To facilitate the needs of all individuals and businesses, all financial institutions should be allowed to compete for the savings held by the public. The super NOW account would be an effective alternative for everyone and offers deregulators the opportunity for a smooth transition.

I call on the DIDC to implement new rules governing the financial sector. Our economy can ill afford the distortions created by the current regulatory environment. Decades-old rules must be replaced by new ones that promote innovation and productivity increases.

A cloud of dissatisfaction hangs over the Congress and the DIDC. This cloud could be dispelled if the shackles of unfair competition were removed. I urge the DIDC to give swift consideration for allowing an instrument such as the super NOW account. Public hearings would reveal the merits of this innovation and would serve the public interest. The eyes of millions of Americans are watching with extreme concern and hopeful expectations. Let us not disappoint them.

JACK McFARLAND: A QUIET CHAMPION WHO MADE THINGS HAPPEN

Mr. SASSER. Mr. President, it was Ralph Waldo Emerson who once said:

> Every institution is but the lengthened shadow of some man. A movement is but the projection of a monumental personality. Service more than any other activity of man is the reason for grateful remembrance which ripens into fame.

When I read those words, I think of Jack McFarland of Murfreesboro, Tenn., publisher, business leader, civic leader, builder of education, promoter of industrial development, and jobs for his community.

Jack died last April 8 at the age of 70. He had been a resident of Murfreesboro for more than two score years. During that time he left his mark on that fine city in a remarkable way.

He was an unselfish, caring person who shunned publicity and who went his way quietly, seeing to it that funds were available for expansion of Middle Tennessee State University, working successfully to expand the industrial base in Murfreesboro and Rutherford County and generally becoming involved in important activities when success was critical to the future growth and progress of the area.

When the undefeated football team at Middle Tennessee State wanted an invitation to appear in a post season bowl, Jack McFarland paved the way.

When an important community objective had to be reached, you could rest assured that Jack would be involved in his modest, unpretentious way, effectively making things happen.

Jack McFarland's personality reflected his wholesome outlook on life. He was easy to talk to and always had a wry comment and a chuckle about some current event. He was pleasant, personable, and accommodating. He loved life as he saw it and enjoyed life as he lived it.

On September 7, ceremonies will be held in Murfreesboro to pay tribute to the memory of this fine man. It can be said with certainty—and in truth—that the world is a better place because Jack McFarland lived. There can be no greater tribute.

ON THE PRESIDENT'S TAX BILL

Mr. KENNEDY. Mr President, I have decided to vote for President Reagan's tax proposal.

The bill has been improved somewhat in the conference committee by eliminating some medicare cuts and by providing more help for the unemployed. The improvements do not go nearly as far as I would like. But the national interest matters more than our specific preferences about every detail of this tax legislation. And it is time for all of us in the Congress to put our country ahead of any other consideration. We have only one economy—and we face a deepening danger of economic collapse. The failure of this bill could almost certainly compound the disaster we are now enduring. The President's economic policy of 1981 was wrong; at long last, he has sought to reverse a part of that policy.

The tax reforms in this legislation include many that I have favored and fought for over a long period and reverses some of the most serious mistakes of the 1981 Reagan program. These reforms represent an essential measure to reduce Federal deficits now near the incredible level of $200 billion. But we must recognize that the tax bill by itself is not the solution; its passage offers only the hope that a bad situation will not become even worse. We dare not throw that hope away. And we must move beyond this bill to establish a new Federal Reserve policy and to bring down the staggering interest rates which have ravaged our economy for many months. We must mount a new effort to invest in America, to reindustrialize our economy, and to make it more competitive in the world. Only in this way can we respond to the appalling tragedy of unemployment.

We have moved far in the wrong direction in economic policy. This tax bill is only a small step back. But failure to pass it could be a large mistake, which might do major damage to the financial markets, to our economy, and to the hope that we all share as Americans for a restoration of prosperity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

AMENDMENT NO. 2025 WITHDRAWN

Mr. GOLDWATER. Mr. President, I ask unanimous consent, on behalf of Senator HAYAKAWA, of California, that his amendment No. 2025 be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2222, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate resumed the consideration of the bill.

VOTE ON AMENDMENT NO 1907

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Hayakawa amendment No. 1907. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. D'AMATO). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 16, nays 83, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—16

Armstrong
Boren
Boschwitz
East
Garn
Goldwater
Hatch
Hatfield
Hayakawa
Helms
Laxalt
McClure
Pressler
Schmitt
Symms
Tower

NAYS—83

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Bradley
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Exon
Glenn
Gorton
Grassley
Hart
Hawkins
Heflin
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—1

Ford

So the amendment (No. 1907) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1908

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Hayakawa amendment (No. 1908).

This will be a 10-minute vote. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator, Thruston B. Morton of Kentucky.

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The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—46

Armstrong
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Cranston
D'Amato
DeConcini
Dixon
Dodd
Domenici
Exon
Garn
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Helms
Hollings
Jackson
Jepsen
Kennedy
Laxalt
McClure
Metzenbaum
Nickles
Pressler
Pryor
Riegle
Roth
Sarbanes
Schmitt
Stennis
Symms
Tower
Tsongas
Wallop
Warner
Zorinsky

NAYS—53

Abdnor
Andrews
Baker
Baucus
Brady
Burdick
Byrd, Robert C.
Cochran
Cohen
Danforth
Denton
Dole
Durenberger
Eagleton
East
Glenn
Goldwater
Gorton
Grassley
Heflin
Heinz
Huddleston
Humphrey
Inouye
Johnston
Kassebaum
Kasten
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Percy
Proxmire
Quayle
Randolph
Rudman
Sasser
Simpson
Specter
Stafford
Stevens
Thurmond
Weicker

NOT VOTING—1

Ford

So Mr. Hayakawa's amendment (No. 1908) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2019

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, amendment No. 2019. This will be a 10-minute vote. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—78

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Eagleton
East
Exon
Garn
Glenn
Gorton
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Stafford
Stennis
Symms
Thurmond
Wallop
Warner
Zorinsky

NAYS—21

Baker
Brady
Chafee
Cochran
Cranston
Domenici
Durenberger
Goldwater
Grassley
Hart
Kennedy
Mathias
Murkowski
Percy
Schmitt
Simpson
Specter
Stevens
Tower
Tsongas
Weicker

NOT VOTING—1

Ford

So Mr. Hayakawa's amendment (No. 2019) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2024

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming (Mr. Simpson) to table the amendment of the Senator from North Carolina (Mr. Helms). This is a 10-minute vote. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. Mattingly). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—64

Abdnor
Andrews
Baucus
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Chafee
Cranston
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Garn
Glenn
Gorton
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Riegle
Roth
Sarbanes
Schmitt
Simpson
Specter
Stafford
Stevens
Tower
Tsongas
Weicker

NAYS—35

Armstrong
Baker
Bentsen
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
DeConcini
Denton
East
Exon
Goldwater
Grassley
Hawkins
Helms
Humphrey
Jepsen
Johnston
Kasten
Long
McClure
Nickles
Nunn
Pressler
Randolph
Rudman
Sasser
Stennis
Symms
Thurmond
Wallop
Warner
Zorinsky

NOT VOTING—1

Ford

So the motion to lay on the table amendment No. 2024 was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the motion was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 2025 AND 2026 WITHDRAWN

The PRESIDING OFFICER. The amendment by the Senator from California (Mr. Hayakawa), No. 2025, was withdrawn earlier this morning by unanimous consent. The amendment of the Senator from Texas (Mr. Tower), No. 2026 was also withdrawn by unanimous consent earlier today.

VOTE ON AMENDMENT NO. 2027

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Texas (Mr. Tower), No. 2027.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 14, nays 85, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—14

Byrd, Harry F., Jr.
Dole
Domenici
Goldwater
Hayakawa
Heflin
Helms
Jepsen
McClure
Schmitt
Stevens
Symms
Thurmond
Tower

NAYS—85

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Durenberger
Eagleton
East
Exon
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn

Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—1

Ford

So Mr. Tower's amendment (No. 2027) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2028

The PRESIDING OFFICER. The question is on agreeing to the Boschwitz amendment (No. 2028). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) was absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—38

Abdnor
Armstrong
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Cohen
D'Amato
Denton
East
Goldwater
Gorton
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Jackson
Johnston
Kasten
Long
Metzenbaum
Moynihan
Nickles
Pressler
Pryor
Rudman
Sasser
Specter
Stennis
Thurmond
Weicker
Zorinsky

NAYS—61

Andrews
Baker
Baucus
Bentsen
Biden
Boren
Brady
Chafee
Chiles
Cranston
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Exon
Garn
Glenn
Grassley
Hart
Hatch
Hatfield
Hawkins
Heinz
Inouye
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Murkowski
Nunn
Packwood
Pell
Percy
Proxmire
Quayle
Randolph
Riegle
Roth
Sarbanes
Schmitt
Simpson
Stafford
Stevens
Symms
Tower
Tsongas
Wallop
Warner

NOT VOTING—1

Ford

So Mr. Boschwitz' amendment (No. 2028) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN UP AMENDMENT NO. 1245

Mr. SIMPSON. Mr. President, it has come to my attention that several errors and omissions are contained in unprinted amendment No. 1245 as adopted last Friday. This amendment concerns the first independent preference category and the adjustment of status of certain high-technology foreign students.

I have checked with my colleague for the minority, and I ask unanimous consent that the corrections be made.

The PRESIDING OFFICER. Will the Senator send the corrections to the desk? Without objection, so ordered.

Mr. SIMPSON. Yes; the corrections are being forwarded to the desk.

The corrections are as follows:

UP AMENDMENT NO. 1245

(Proposed by Mr. Kennedy (for himself), Mr. Tsongas, Mr. Bradley, and Mr. Brady.)

On page 127 beginning with the quotation marks on line 11, strike out all through "United States" on line 24 and insert in lieu thereof the following:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

Page 147, after line 6, insert the following new paragraph:

(4) by inserting before the period at the end the following:

"; *And provided further*, That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States, who is applying for a visa as an immigrant described in section 202(b)(1), and (i) who has been offered a position on the faculty of such an institution teaching in the field in which he obtained such degree, up to a limit of 1,500 such waivers per year, or (ii) who has been offered a research or technical position by a U.S. employer in the field in which he obtained such degree, up to a limit of 4,500 such waivers per year, or

(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and who will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or least residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof."

Page 147, line 3, strike out "and".

Page 147, line 6, strike out the period and insert in lieu thereof, ", and".

Page 147, line 10, "section 201(b)" insert:

"or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him.".

Page 166, after line 10, add the following new subsection to Section 401:

(f) Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs (1) and (2) of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States. Another such report shall be submitted in five years.

Mr. BUMPERS. I have just a few brief questions for the distinguished manager of the bill about the preference for investors in section 202(a)(1) of the bill. It is my understanding that the bill amends section 203(b)(3) of the Immigration Act to provide a statutory preference for immigrants who invest at least $250,000 in this country in an enterprise that will provide at least four full-time jobs. The immigrants must also be a principal manager of the enterprise. What are the policy reasons behind this kind of a preference? Do you think that it is sound policy to provide a preference for which only wealthy individuals can qualify?

Mr. SIMPSON. The investor preference is intended to enable the admission of aliens who would benefit the U.S. economy by bringing into this country substantial capital and managerial expertise which would create employment for Americans.

This preference is below the preference for aliens with exceptional ability and the preference for aliens with needed skills. Surely, the admission of someone who will create jobs for unemployed Americans should be preferred to someone who not only will not create jobs but does not have skills needed in this country. In other words, such a preference is in the national interest.

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Mr. BUMPERS. I noticed that the Mazzoli bill in the House also contains such a preference, but it requires that the enterprise create at least 10 full-time jobs in an area of high unemployment. These conditions would make it less likely, in my view, that this preference would be abused. Did your subcommittee consider such additional conditions? Why did you settle on the conditions in S. 2222?

Mr. SIMPSON. We believe it to be unlikely that many foreign investors would satisfy the House criteria. In any case, if an investor can create four jobs anywhere in the United States, we believe this would be in the national interest.

Mr. BUMPERS. Is the Senator from Wyoming confident that this preference will accomplish its desired goal and will not be abused? Will the Senator give me his assurance that his subcommittee will monitor this preference carefully should it become law?

Mr. SIMPSON. As long as I am a member of the Immigration Subcommittee, I will do my best to insure that no provision of S. 2222 is abused, including the investor preference.

Mr. BUMPERS. I thank the distinguished floor manager.

Mr. SPECTER. Mr. President, I rise to clarify what seems to me to be an ambiguous provision of the Immigration Reform and Control Act of 1982. The part I am unsure of is contained in title 1, section 101(d) (1) and (2). These sections make it a crime for a person to engage in a pattern or practice of hiring persons not eligible to work in the United States. As introduced, the bill provided that criminal penalties may be assessed against a person who had illegally hired an unqualified worker three or more times.

I understand the reasons for making this change but I am concerned that restricting prosecutions to persons engaged in a "pattern or practice" of illegal conduct does not provide specific enough guidance to the Attorney General.

Criminal statutes should clearly describe the conduct which is outlawed. Persons should have sufficient notice as to what constitutes illegal conduct so that they may conform their actions to the requirements of law.

The language of the bill's earlier version did serve these functions. I am concerned about how the current version of S. 2222 will be interpreted. A prosecutor, of course, has considerable discretion in selecting cases for prosecution.

I would strongly urge that the Department of Justice not wait to bring a case against a person until he has committed many violations.

The "pattern or practice" definition of criminal activity falls short of the more exact language contained in the original version of the Immigration Reform and Control Act of 1982. It is our responsibility to add meaning to the phrase "pattern and practice."

In my view, a pattern or practice could be established after three offenses. Much will depend on factors such as: the percentage of illegal workers employed by a particular company; the time span in which the multiple violations occurred; the geographical proximity of the multiple violations; the extent a particular business or industry has relied on illegal workers in the past; and the historic use of illegal workers in the particular region of the United States in which the violation occurred. Certainly, in my view, by the time of a third offense, absent distinguishing circumstances, any employer should expect to feel the full impact of the law, including its criminal penalties.

Prosecutorial discretion should not be exercised in an arbitrary or discriminatory manner. The Attorney General should develop internal guidelines that will be followed when making a determination whether to bring a criminal action against an employer. It is important that our laws are strictly and fairly enforced.

Mr. SIMPSON. I thank Senator SPECTER for his remarks.

I too think it important that the criminal provisions in this bill be enforced fairly and not arbitrarily. It is sound advice that the Attorney General develop guidelines for the prosecution of persons illegally hiring unqualified persons. The considerations and circumstances outlined by Senator SPECTER are illustrative of the different factors the Attorney General could consider in determining whether to prosecute.

Mr. SIMPSON. Mr. President, before the final votes on S. 2222 I would like to make a few very brief concluding remarks.

First, I want to say to my colleagues that I am very proud of this bill. This bill does indeed impress upon me that a subject which is so difficult in its moral implications and so complex in the interaction of its numerous aspects can be dealt with fairly and openly—allowing all points of view full access to the public forum of the hearing process as well as public consultations and private contact with principals and staff—and also be dealt with in a way which balances the very real needs of many interest groups in this country—business, labor, heavily impacted State and local governments, persons with relatives abroad, and many others—keeping paramount the fundamental obligation of all Members of Congress, to serve the best interests of the American people as a whole and their descendants, and taking due account of the desire of the American people to be charitable to the less fortunate in other lands. So I am proud and I believe all Senators and staff who have participated in drafting and improving this bill should also be proud.

Let me now briefly review the goals of this legislation—without repeating any of the details of its provisions.

The bill has as its singular intent the function of increasing control over both illegal and legal immigration.

Most importantly, S. 2222 contains provisions intended to reduce the problem of illegal immigration. I say "most importantly" since the potential benefits and protections of even the most carefully designed statutory standards for determining who may enter the United States, as well as for how long and under what conditions they may remain, will not be available in practice if those statutory standards cannot be enforced.

In order to reduce the primary incentive for illegal immigration, the availability of U.S. employment, the bill, first, makes unlawful the knowing employment, or the recruitment or referral for a fee, of illegal aliens, second, provides for a system to verify work eligibility, and third, establishes reasonable civil and criminal penalties for violations.

In addition, the bill creates new crimes for certain activities involving fraudulent documents and for bringing illegal aliens to the United States; states the sense of Congress that resources for conventional enforcement techniques should be increased; and requires the imposition of fees for use of INS border and other facilities.

In order to further deter the violation of U.S. immigration law and to reduce the harmful impact of such violations when they do occur, through reducing the time illegal aliens are able to remain in the country after apprehension, S. 2222 provides for improvements in exclusion, deportation, and asylum procedures—improvements which will make those procedures more efficient while preserving fundamental fairness.

Mr. President, the bill is intended not only to reduce illegal immigration, but also to reform legal immigration so that it will better serve the national interest. The current system of numerical limitations is revised in order to reduce the growth in the number of immigrants to the United States, to reserve limited family reunification visas for the closest of family members—those with the greatest need to live together, to increase the immigration opportunity of aliens who have no close relatives in the United States but who do have needed skills, and to preserve diversity in immigration flows.

The labor certification requirement for certain preference categories is modified to permit certification based on general labor market information, rather than only on an analysis of the impact of specific aliens in specific jobs, and to require a reasonable training effort by employers.

The bill also amends certain provisions of the law relating to nonimmigrants. The H-2 temporary worker program is revised in order to assist agricultural employers in adjusting to the reduced availability of illegal foreign workers. Except for those in certain high-technology fields, foreign students are prohibited from adjusting their status to permanent resident until they have returned home for 2 years.

In order to help reduce a serious practical problem the bill provides a generous but reasonable legalization or amnesty program—for the sake only of reducing a serious problem for this country, not in order to reward lawbreakers.

Mr. President, I will conclude by reminding my colleagues that the American people want reform. Poll after poll discloses that the American people overwhelmingly wish to see both illegal and legal immigration brought under control. In these past several years I have wanted to discover the significance of this fact and I have learned that their concern is well founded. In my supplemental statement to the final report of the Select Commission on Immigration and Refugee Policy, in my statements to this body when the bill was introduced on March 17 and when debate began last week, I have attempted to discuss the problems which must be solved. S. 2222 is the proposed solution. It is the product of so many, many persons over the past 3 years.

Mr. President, I wish to say to my colleagues that S. 2222 deserves their support—not just because of the work expended to reach this point. I ask them to support this bill if they agree with me that it is a very balanced, finely tuned, proposal which, if enacted into law, will substantially promote the best interests of the United States of America. In this connection I submit that no other basis for the decision can be legitimate. America is "its people." A bill which will play such a large role in determining who will become a part of that "people" should be judged on whether it will advance the interest of the American people as they are and their descendants—in short the constituency of all of us in Congress. It should not be based on the particular special interest of any smaller group. I am proud to present it for your support.

Mr. PERCY. Mr. President, I will vote for final passage of S. 2222, the Immigration Reform and Control Act of 1982. This bill represents a compassionate and reasonable approach to the serious problems of illegal immigration and the need to set some limit on legal immigration. S. 2222 is the product of a bipartisan effect with a solid foundation laid by the findings of the Select Commission on Immigration and Refugee Policy, weeks of congressional hearings and the efforts of the administration's task force.

Most important, S. 2222 takes the first major step in providing a solution to the problem of illegal immigration. The number of illegal immigrants residing in the United States is estimated at 3.5 to 6 million. Some experts have estimated a net growth of 500,000 new undocumented aliens per year. Existing law has not been adequate to deal with this flow. The major reason aliens come to this country illegally is the prospect of employment. It is not now against the law for an employer to hire knowingly an alien who is here illegally. S. 2222 puts this prohibition into the law and requires employers to verify the identify and eligibility of all potential employees.

S. 2222 requires the President to develop a secure worker verification system that cannot be easily counterfeited. The system is necessary to make the prohibitions against employing illegal aliens enforceable. It will protect employers from inadvertently hiring an illegal alien. At the same time, it will provide a method for identifying an employer who intentionally violates the law.

The verification system will also protect American workers from discriminatory hiring practices by placing the same documentary requirements on everyone. Prohibitions against hiring illegal aliens, together with an effective worker verification system, will go to the source of our illegal immigration problem and for the first time give us a method for controlling it.

I opposed two amendments which, in my judgment, would have rendered ineffective the key reform measure of this bill: employer penalties for those who knowingly hire undocumented aliens. All independent, comprehensive studies of the problem of illegal immigration, including those by the previous two administrations, the present administration and the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of our immigration laws cannot be achieved by direct enforcement alone. S. 2222 takes the very necessary step of prohibiting the knowing employment of undocumented aliens and imposes penalties for violation of the law. I am convinced that this provision is key to the solution of stemming illegal immigration.

For this reason, I could not support an amendment to sunset employer sanctions after 3 years nor can I support an amendment to remove the verification system requirement from the bill, a measure which would gut the enforcement of the law.

At the same time, we must do everything in our power to insure that this measure does not create employment discrimination. The bill contains provisions to prevent such discrimination. An amendment was also adopted on the floor of the Senate to provide for an employment discrimination report every 18 months.

It also authorizes the Equal Employment Opportunity Commission to investigate allegations of discrimination if they develop during the implementation of the employer sanctions program.

Another important component of S. 2222 is the legalization of many undocumented aliens. S. 2222, as amended on the Senate floor, will give permanent resident status to aliens who arrived here before January 1, 1977, and temporary resident status to those who arrived after that date, but before January 1, 1980. Temporary residents may adjust status to permanent residency after 3 years. Temporary residents are ineligible for all Federal assistance programs, such as Aid to Families with Dependent Children, food stamps and medicaid. Permanent residents are ineligible for food stamps for the first 3 years of their permanent residence.

I support the legalization provisions of S. 2222 as part of this reform measure. Legalization has three major goals. The first is to avoid the wasteful use of the Immigration and Naturalization Service's (INS) limited enforcement resources by attempting to locate and deport those who have come to this country illegally. The second is to allow currently economically dependent employers to continue lawfully hiring from this pool of labor. And the third, and most important, is to eliminate the illegal "subclass" of persons now present in our society. The costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. And mass deportations are not reasonable or realistic both for legal and humanitarian reasons.

I opposed an amendment to strike the legalization program from the bill for these reasons. I did, however, after careful study vote for the Grassley amendment to amend the program, both to minimize its costs and to give legal status to those undocumented aliens with the greatest attachment and investment in this country. The Grassley amendment also authorized a program of block grants to impacted States who will most likely have to bear some excess costs attributable to this population.

The third major component of the bill addresses reform of our legal immigration system by setting an overall ceiling, including immediate relatives of U.S. citizens, of 425,000 per year, although immediate relatives continue to be exempt from numerical limitations. The number available for other family reunification preference categories would be determined by sub-

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tracting the number of immediate relatives admitted in the prior year from the cap of 350,000, the total for family reunification. A cap of 75,000 is placed on independent preference categories, for a total of 425,000.

S. 2222 also makes several changes in the current criteria for allocating numerically limited immigrant visas. Some of those changes I did not support and voted for amendments to retain current law. Unfortunately, both of these amendments—one to reinstate the fifth-preference category for unmarried brothers and sisters of adult citizens and another to retain second-preference status for adult unmarried sons and daughters of permanent residents—were defeated.

I also opposed an amendment that would have put under a single numerical ceiling both refugee and immigration admissions. I support the separate refugee admissions system authorized by the Refugee Act of 1980 for several reasons.

Present law provides for a "normal flow" of 50,000 refugees a year. It allows the President to increase this number after appropriate consultation with the Congress if it is justified by humanitarian concern or is otherwise in the national interest. This system recognizes that immigration and refugee admissions serve different purposes. Immigration policy in large part reflects family reunification. Refugee admission levels are generally set in response to critical humanitarian situations or foreign policy considerations. The Huddleston amendment, to place refugees under the single numerical ceiling, did not take this difference into account and would have considerably reduced the ability of the United States to respond to refugee emergencies. The loss of this flexibility could have the unfortunate effect of undermining various foreign policy objectives.

On balance, Mr. President, this S. 2222 is a major accomplishment in reform of our immigration laws. It attempts to address very difficult and complex problems, problems that will not be solved just by its passage. But it is a very giant step in the right direction and I urge my colleagues to support it.

Mr. THURMOND. Mr. President, the Senate, in approving S. 2222, is taking a needed and positive step toward gaining control over U.S. immigration policy. This legislation, although far from perfect in the view of many, does address the central problem of illegal immigration which has become a major social, economic, and political burden in many areas of our Nation.

Mr. President, the various provisions of this measure, including employer sanctions, legalization, increased border enforcement, and limitations on legal immigration, will provide, in my judgment, the tools for the Immigration and Naturalization Service to crack down on illegal immigration to this country.

This legislation is the product of several years of consideration by the Select Commission on Immigration and Refugee Policy, the Attorney General's Task Force on Immigration and Refugee Laws, and the Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary. In the forefront of this effort has been the Senator from Wyoming, Mr. SIMPSON, who has devoted countless hours to this subject. He has been in the middle on every issue, trying to balance the interests of every special-interest group affected by this legislation. It has not been easy, but Senator SIMPSON has survived and has now emerged victorious. I applaud his victory.

Mr. President, other Senators who serve with me on the Subcommittee on Immigration and Refugee Policy, Senator KENNEDY, Senator GRASSLEY, and Senator DECONCINI, deserve special recognition for their dedicated work in bringing S. 2222 to its successful adoption by the Senate. As chairman of the full Committee on the Judiciary, I want to extend my personal appreciation to these members of the committee for their diligence and action on S. 2222.

Particular recognition should also be paid to the excellent staff of the Subcommittee on Immigration and Refugee Policy. Dick Day, the able and competent chief counsel of the subcommittee, has been instrumental in keeping this legislation on track and moving through subcommittee and full committee. He has been assisted in this effort by Donna Alvarado, Charles Wood, and Arnold Leibowitz, counsels to the subcommittee. They have done a tremendous job on this bill.

Other staff members who deserve the appreciation of the Senate are Jerry Tinker, minority counsel to the subcommittee; Ally Milder, counsel to Senator GRASSLEY; Ed Baxter, counsel to Senator DECONCINI; and Eric Hultman, general counsel of the full Committee on the Judiciary and my adviser on immigration matters.

Mr. President, we should not overlook the support and efforts of the Reagan administration on S. 2222. Attorney General Smith took a personal interest in this subject in the early days of the administration. He formed a task force to study the present immigration and refugee laws which has made a number of recommendations that are included in this legislation. The Attorney General, and all members of the administration who have been involved in this legislation, should be given credit for their contribution to the passage of S. 2222.

Mr. President, all Senators and their staff members who have been involved in the debate on the floor should also be acknowledged for their fine work.

Mr. President, with the passage of this legislation, we look to the House Judiciary Committee, which I understand may consider a companion measure in the House this week, and especially to the leadership of Congressman MAZZOLI, chairman of the Subcommittee on Immigration, Refugees, and International Law and its ranking Republican, HAMILTON FISH. They have worked hard to perfect and fashion similar legislation to S. 2222 in the House. Their efforts have not gone unnoticed in the Senate. I hope the House Judiciary Committee will act promptly and report legislation to the House floor so we can gain enactment of immigration reform and control legislation in this Congress.

Mr. KENNEDY. Mr. President, I oppose Senate passage of the Immigration Reform and Control Act.

What started out to be immigration reform has become, in too many provisions, immigration restriction—restrictions that are unnecessary and that will inevitably be harmful to our country's historic commitment to a fair and reasonable immigration policy.

Instead of promoting family reunification as one of the basic goals of our immigration laws, this bill has eroded that principle; for many persons seeking only to be reunited with their families in the United States, the dream has ended forever.

Instead of launching an effective immigration enforcement program, we have created a dubious system of employer sanctions which is seriously flawed and which is likely to result in additional discrimination against Hispanic Americans and other minorities in our society.

In the name of controlling the flow of illegal migrants into our country, we have cut back on legal immigration. In response to false fears created by the Cuban refugees and other recent migration problems, we are closing our doors to many who should be welcomed.

Regrettably, this bill has strayed too far from the goals of immigration reform upon which it was launched following the landmark recommendations of the Select Commission on Immigration and Refugee Policy. It sets a course that needlessly divides some families and that threatens new discrimination against those who have already suffered too much discrimination.

Mr. President, America's immigrant tradition is a precious national asset and one of the greatest strengths of the American character. The Senate must not turn its back on that heritage and history.

Mr. DOMENICI. Mr. President, for some time now it has been clear that the American people want immigration reform. According to a recent Roper Poll, 91 percent of all Americans want an all-out effort to stop illegal immigration and 80 percent want legal immigration reduced. We all agree that something needs to be done. T. H. White aptly described America's immigration situation:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our nation, its culture, and its ethnic heritage could become one of the central debates of the politics of the 1980's.

While there is a consensus that the 1952 immigration law needs reform, history and emotion add a complicating dimension. We are all descendents of immigrants. Americans have always been of two minds about immigration, the desire to close the golden door or at least hire a doorkeeper contradicts the Statute of Liberty's proud exhortation, "give me your tired, your poor. . . ." The immigration problem is a dilemma because it involves a number of very complex social, economic, and practical issues. There are competing interests, all of them worthy. I want to compliment the Senator from Wyoming. His assignment was tough. He has been extremely conscientious in discharging that responsibility. The bill before us is the product of extensive study by the President's Select Commission on Immigration and Refugee Policy, the Immigration Subcommittee, and the Judiciary Committee. The bill is also the product of substantial compromise.

I recognize that the legislative process is an exercise in compromise. The more competing interests involved regarding a piece of legislation the more compromises result. Language is changed, provisions are deleted. In the case of the immigration bill, the compromises have left us with a bill that I do not think can work.

The bill calls for choking off further illegal immigration. It depends on employer sanctions and a "secure system of worker eligibility." I honestly do not see how the understaffed and beleaguered INS can enforce employer sanctions in addition to its other duties. S. 2222 is another mandate without providing the necessary enforcing manpower.

I do not know whether we can devise a satisfactory worker eligibility system that does not result in discrimination against Hispanics and other minorities. The existing identification documents are not adequate. The stories about "immigration kits" consisting of forged identification documents are true. You can buy a social security card for less than $5. The present system is not secure. The bill relies on a secure system of worker identification but does not set forth the particulars. I do not feel comfortable voting for an unknown system to be devised later. I am very concerned that this bill not result in discrimination. I want to make that very clear.

I do not think INS can properly screen millions of applicants for amnesty. From a practical administrative standpoint I think this bill is unworkable.

I am not sure the H-2 program, even as streamlined in the bill, will work for the short harvest seasons in my State and throughout the West. Our employment patterns and farming practices are different from the East. Perhaps the streamlined H-2 program is an adequate, temporary labor program on the east coast, but it will not work for the New Mexico farmers. The system they have now works well for their needs yet the bill ignores this existing underground stream of migrant workers. It is hard to change employment habits; therefore, I feel we must propose a temporary worker program that acknowledges and meets the farmer's needs.

Properly drafted and implemented, the guest worker program has the potential to be a valuable foreign policy tool as well as necessary immigration policy. I do not feel that any unilateral guest worker program is sufficient. Both Mexico and the United States must work in tandem to make the program mutually beneficial to both countries. I believe that for such a program to be effective it must be more than a tacit understanding with Mexico. I could support a guest worker program that includes a formal agreement with the Republic of Mexico. That agreement must recognize the U.S. guest worker program as making a significant contribution to Mexico's economy. The agreement would also formalize Mexico's commitment and obligation to help control the flow of illegal aliens into the United States. Both countries would be receiving a valuable benefit. I think that such a guest worker program would be good foreign policy as well as good immigration policy.

Another matter that we must face with realism is that we are not going to keep the illegal aliens from coming. The issue is economic. As long as we have poverty in high proportions in the world the illegal aliens are going to come. They will come in spite of employer sanctions. They will come regardless of employee identification systems. A job in the United States means surviving or not surviving economically. To put the problem in perspective, consider these facts. The population of the world will pass the 6 billion mark by the year 2000, 90 percent of the babies will be born in poor, underdeveloped countries.

The issue is geographic. The United States has a 200-mile United States-Mexico border with only 350 border patrol officers on duty at any one time. Our neighbor, Mexico, has one of the highest birth rates in the world. Today, Mexico has 70 million people and based on the U.N.'s 1980 medium variant projection, its population will grow to 116 million by the year 2000 and 174 million by 2025. Its unemployment rate fluctuates around 50 percent. The incentive to come to the United States is obvious. The tide of job-seeking Mexicans is estimated at 1 million annually and shows no sign of ebbing. Illegal immigration is not going to disappear because of this bill. Clearly, the problem promises to get worse in the future. Any control of the Mexican border will depend on some kind of cooperation with Mexico. This is missing element in S. 2222, but I feel it is an essential element in our immigration policy.

Hardly anything tugs at the conscience more severely than the relentless problem of illegal immigrants. The dilemma is whether this country can protect the resources of its own citizens while exercising humanity toward such a crowd of less fortunate neighbors. It is a very serious problem; however, I am highly skeptical that this bill offers an acceptable answer. For the above reasons I am voting against the bill.

Mr. HAYAKAWA. Mr. President, this bill, S. 2222, is so completely insensitive to the needs of California and southwestern agriculture that I am not able to vote for it in its present form.

The more than 200 crops in California alone, with different harvest seasons, the labor-intensive nature of the work involved in caring for these crops and gathering them, the need for workers to work in large numbers over short periods of time and then move on—all these unique characteristics of California agriculture make the H-2 program contained in S. 2222 totally unsuitable for most of our labor needs.

On top of this there is the inhumane and ruthless treatment by INS officers of agricultural workers of Mexican descent, whether American citizens, aliens, or illegal aliens, who are swept up with total disregard for their civil liberties and total disregard of the property rights of farmers and orchardists.

All of these abuses of our citizens and aliens alike are deeply abhorrent to me. I predict that our immigration problems will be aggravated, not alleviated, by the present legislation.

I earnestly hope, Mr. President, that I am wrong, because I know that Senator SIMPSON has worked long and hard and conscientiously on these problems. But I cannot vote for final passage

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without recording my very serious misgivings about the bill as a whole.

H-2 PROVISIONS OF S. 2222

Mr. MITCHELL. I would like to take this opportunity to clarify the committee's intent with respect to section 211 of S. 2222.

Section 211(b)(1) of S. 2222 states that an alien may not be admitted to the United States for more than 8 months in any calendar year. My understanding of the rationale for this provision is to maintain the temporary nature of the H-2 program.

Mr. SIMPSON. That is correct.

Mr. MITCHELL. An exception is made, however, for those "agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period." I understand from the Department of Labor that the sheep-raising industry and the logging industry are two such industries which the Secretary of Labor has recognized, in testimony presented to the Immigration Subcommittee by Malcolm Lovell, Under Secretary of Labor, require a longer period. Is it the committee's intent that the logging industry be granted an exemption from the 8-month requirement?

Mr. SIMPSON. Yes, that is the committee's intent.

Mr. MITCHELL. One final question. Section 211(b)(1) further states that in the case of those agricultural labor or services which the Secretary of Labor has recognized require a longer period, such period may exceed 1 year. My understanding from the committee's report (Report No. 97-485) is that this exception is to accommodate the sheep-raising industry in which alien workers have been allowed to remain in the country for up to 3 years.

With respect to other H-2 workers, including those in the logging industry, however, temporary certifications have been for limited durations and do not exceed 11 months. Is it the committee's intent that temporary labor certifications for H-2 workers within the logging industry not exceed 11 months in any calendar year as is consistent with historic practice?

Mr. SIMPSON. The Senator is again correct. That is the committee's intent.

Mr. MITCHELL. I thank the Senator from Wyoming.

Mr. MOYNIHAN. Mr. President, I will vote for S. 2222, "The Immigration Reform and Control Act of 1982." But I do so with certain reservations.

Immigration reform is long overdue. The 3 to 6 million illegal aliens in the country today demonstrate that our immigration laws are clearly inadequate. However, there can be no denying the contributions that immigrants have made to our Nation, and as a Senator from New York I can particularly appreciate these contributions.

Nathan Glazer and I wrote in "Beyond the Melting Pot" that New York, after all, is a merchant metropolis with an extraordinarily heterogeneous population, composed of immigrants and their descendants. The first shipload of settlers sent out by the Dutch was made up largely of French-speaking Protestants. British, Germans, Finns, Jews, Swedes, Africans, Italians, and Irish among others followed, beginning a stream that has never yet stopped. These immigrant groups have made, and continue to make, New York a cultural and financial center. So, too, with America as a whole.

Surely, we must never back down from our commitment to legal immigration. Our goal should be immigration reform, not immigration curtailment.

After an extensive study, the Select Commission on Immigration and Refugee Policy identified two elements that are essential to immigration reform. The Commission found that, given their extraordinary numbers, it would be impossible to find and prosecute those illegal aliens who are already here. As a result, the Commission proposed to legalize these aliens. Since the promise of a job is the primary motivation for most illegal immigration, the Commission also proposed to deter future illegal immigration by making it a crime to hire an undocumented alien.

Today I will vote for S. 2222 because it goes a long way toward implementing these two proposals and contains several other provisions that I support as well. The bill maintains the crucial distinction between refugees and immigrants.

Moreover, I support the provision calling for the creation of a State block grant program to help reimburse State and local governments for the costs associated with legalization. Matters dealing with immigration and naturalization are a Federal responsibility under the Constitution, and States and locales should not be required to pay for what is clearly a Federal responsibility.

Unfortunately, the bill also contains several provisions that, I believe, are contrary to the goal of immigration reform. By failing to legalize those aliens who have continuously resided here since January 1, 1980, we have acted to maintain a large number of persons—perhaps numbering as high as 1 million—who will continue to reside in this country, but who shall still be illegal aliens. I trust that it is clear that the chances that these persons will be identified and deported are slim. And the existence of such a large subclass of persons will make the employer sanctions provisions even harder to enforce.

I am disturbed as well by the provisions of S. 2222 that deny newly legalized persons the benefit of various Federal programs, including but not limited to medicaid under title XIX of the Social Security Act.

Equal protection under law is a basic principle embodied in both the 5th and 14th amendments to our Constitution. Yet, by denying such benefits, we endorse here the principles of disparate treatment. I have no quarrel with denying certain benefits when it is necessary to deter persons from entering this country illegally. But it seems to me that we violate the spirit of equal protection when we act to legalize a large number of persons—in effect welcoming them to the country—and at the same time deny them the benefits afforded others who reside here. Newly legalized aliens will, like other residents, pay taxes—taxes that help finance the very programs to which we would bar them access.

Finally, I fear that the temporary worker provisions of S. 2222 will, in effect, make it easier for certain employers to bypass American workers and hire foreign laborers. I believe that such a loosening of the H-2 temporary worker requirements is especially unwise given the current rate of unemployment, and would have preferred that we simply keep the current laws and regulations, which appear to be working well.

In all, I shall vote for S. 2222 as it is a step, although a flawed one, in the direction of much-needed immigration reform. And I include these comments in the hope that they will prompt my colleagues to join with me to amend the objectionable portions of the bill in the House or in conference. A nation of immigrants deserves an immigration policy that is both just and effective.

Mr. BENTSEN. Mr. President, for centuries the promise of employment and the opportunity to live in freedom have drawn immigrants by the millions to our shores. Much of the vitality and energy that characterize the American experience is attributable to the fact that we are a nation rich in diversity but united by a commitment to freedom and opportunity for all.

Any consideration of the complex issue of immigration policy is hindered by a lack of specific information and a heavy reliance on myths and stereotypes. There is a tendency, for example, to regard Hispanics as an alien influence in this country despite the fact that Hispanic Americans were living in my State—in large numbers—long before the Pilgrims landed at Plymouth Rock. Their influence is evident in the architecture, the music, the food, the art, and the customs of the Southwest.

If we are going to break through the stereotypes and go beyond the tired cliches I think it is important to understand that the United States is unique in at least two respects that apply directly to immigration.

We share a border—for all intents an open border—of almost 2,000 miles with Mexico, a nation where the growth in unemployment is matched only by the growth in population.

Mr. President, there is no other place on the globe where an advanced, developed, industrialized democracy comes face to face with a member of the developing world.

The other point I would make is that America is also unique in that we are the only nation that has virtually abdicated control of our borders and is unable to account for millions of aliens—legal and illegal—living, studying, and working in this country. There are millions of aliens in this country today who are unaccounted for and accountable to no one. That is a shocking and potentially dangerous statistic. It is a situation that would not be tolerated anywhere else in the world.

Mr. President, when we really have no idea of how many aliens are living and working illegally in this country, when we appear to lack the will and the resources to police our borders, when the problem of influx has simply become too large and complex to handle, there is a tendency to look for shortcuts to a bona fide immigration policy.

The logic of the situation suggests that aliens enter this country in the time-honored search for work and opportunity. If we cannot control the borders, perhaps we can at least control the employment office. If we can deny work to people here in violation of our laws, perhaps there will no longer be an incentive for their coming.

I have long been an opponent of dumping the burden of immigration policy into the lap of the American business community. The potential for honest mistakes in hiring practices is enormous, and the additional cost in complying with various regulations and procedures could be substantial.

That is why I concluded several years ago, Mr. President, that a counterfeitproof national identifier is a prerequisite for any effective program of employer sanctions. I am also well aware that many people will have honest civil liberties problems with a national identifier. I also appreciate that it could cost billions of dollars to design, distribute, and maintain an effective instrument able to resist tampering and fraud. Finally, I believe that if we are going to go to a foolproof, counterfeitproof social security card, then all Americans must be included in the program. Otherwise it would be discriminatory and unfair.

Without a national identifier it is simply unfair and unreasonable to ask the employer to determine who is entitled to work in America. In attempting to dampen the economic incentives for illegal immigration we must also avoid casual harassment of the employer who accidentally hires an illegal alien. I think a pattern of practice and willful violation of the law should be prerequisites for prosecution.

Finally, Mr. President, we come to the question of what to do about the millions of aliens who are currently in this country illegally. Everyone seems to have a program of legalization or amnesty with various cutoff dates for various categories. It has been claimed that four out of every five illegals will come forward to take advantage of this program.

There is much more smoke than substance to this debate. No one knows the answer to any of the questions. In fact, the whole issue of amnesty raises more questions than it answers. For example, what happens to the illegals who do not come forward? Under even the most optimistic projections there could be 1 million people in this category. Do we hunt them down, house to house, factory to factory, round them up and ship them out? I doubt it.

Can you imagine the new cottage industries that will spring up in urban areas like Los Angeles and San Antonio producing rent receipts, paycheck stubs, and tax receipts to establish a presence before the magic cutoff date?

What happens to the worker who accepts legalization and then brings his family in illegally?

Finally and most important, Mr. President, what is there in the process of legalization or amnesty that would prevent or even inhibit millions of additional aliens from entering this country illegally? What reason is there to believe that the whole process will not start over again, the only difference being that employers hiring illegals would be accepting real risks?

Obviously, Mr. President, I have some very substantial reservations about this legislation.

However, I also believe that the time is long past when the United States of America can accept every refugee and every immigrant who wants to come here. There are 12 million Americans unemployed. There is full-scale depression in vital sectors of our economy like automobiles, small business, and farming. We are confronting record budget dificits and sharp reductions in Government spending.

This country can no longer afford de facto open borders with Mexico and the Caribbean and the rest of the world. We have no choice but to begin the very difficult and contentious process of regaining control of our borders. We have to determine who is and who is not eligible to work in America. This legislation—for all its flaws and shortcomings—is the place to make a beginning and I intend to support it.

IMMIGRATION REFORM CONTROL ACT OF 1982

Mr. DODD. Mr. President, the Immigration Reform and Control Act of 1982 is far from being a perfect piece of legislation. No instrument so constructed ever was. In addition, this legislation seeks to reconcile two fundamental national values—a fidelity to our heritage of generously welcoming those from other lands who wish to seek a better life here and the need to impose some rational, orderly control over our own national borders—which are vitally important, but which are often in tension, if not outright conflict. The balance struck by S. 2222 is not the one which I would have drawn myself. But I believe it makes far better sense than the current, chaotic situation. I intend to vote for the bill and I hope a majority of the Senate will do so as well.

One essential underlying premise of the Immigration Reform and Control Act is its reaffirmation of America's willingness to share her opportunities and resources with newcomers from around the globe. We are, it is a historian's commonplace, "A Nation of Immigrants." Nonetheless, there have been periods in our national past when the national attitude toward immigrants turned, temporarily, to one of ugly exclusionism. Frankly, pressures to do the same today are very much in evidence.

This bill, however, does not succumb to those pressures. Under its terms, the United States will welcome more legal immigrants—425,000 annually—to its shores than the rest of the world combined. In addition, we will continue to provide new hope for political refugees fleeing repression in their former homelands.

The bill wisely recognises that "immigrant" and "refugee" are two very different concepts. To have forced a competition between those escaping repression and those hoping to unite with their families would have been a tragic error. That is why I opposed the amendment offered by the Senator from Kentucky (Mr. HUDDLESTON); I am pleased that the Senate rejected it.

One of the hallmarks of immigration policy in the past has been the priority we have accorded reuniting families in making individual visa determinations. This legislation maintains that tradition although not to the degree that I believe it should. I voted for the amendments introduced by the Senator from Massachusetts (Mr. KENNEDY) to strengthen that feature of the bill, by reestablishing the so-called fifth preference for unmarried brothers and sisters of U.S. citizens, and for freeing immediate family members from the numerical ceilings in the legislation. I regret that these proposed modifications were not accepted.

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Obviously the most difficult section of S. 2222 was that dealing with control of illegal immigration. I am concerned by charges that the approach envisioned by the legislation—making employers who hire illegal aliens subject to monetary penalties—may be burdensome for business operators and may mean discrimination against citizens or legal aliens whose appearance or accent seems foreign to prospective employers. I think it is crucial that Congress attend closely to the actual carrying out of the law in this respect. Close and careful oversight is essential in this regard.

Nonetheless, it is my strong feeling that we simply had no alternative but to pass these provisions in the bill.

Illegal immigration is simply too extensive and too serious a problem to ignore. Anywhere from 3 to 6 million illegal aliens already live within our borders. Each year, according to some experts, more immigrants enter the United States by flouting or evading the law than by acting according to its requirements. No matter how you look at it, that is unfair. It is unfair to American workers who must compete for jobs in an economy scarred by unemployment inching toward 10 percent. It is unfair to taxpayers who must bear the costs of providing public services. It is unfair to the citizens of other lands who, too, wish to share in the American dream but who wait patiently to pursue that goal through legal channels.

Whatever shortcomings may flaw the employer sanctions approach, it remained the only serious option for stemming the hemorrhaging of the system in a workable manner. Nevertheless, we must insure via thorough congressional oversight that such sanctions do not result in discrimination against legal aliens.

At the same time, I believe that it makes sense to treat illegal aliens already in the United States with understanding and generosity. The amnesty and legalization provisions in S. 2222 as reported by the Judiciary Committee met that test. By providing permanent legal resident status to those who have resided here since January 1978 and temporary resident status for those in residence as of January 1982, the bill offered an incentive to aliens to operate within the system. The Senate wisely rejected amendments proposed by the Senator from North Carolina (Mr. HELMS) to delete the amnesty provisions altogether and to allow States to deny welfare benefits or public services to aliens as they saw fit. Such measures are to my mind, harsh and vindictive. In addition, they create the risk of institutionalizing a new American underclass, with no stake in society, and whose survival itself would ultimately depend on a life of successful circumvention of the law. From purely a practical point of view, with the cost of a single apprehension and deportation averaging several thousand dollars, such a policy would be prohibitively expensive and largely unenforceable. Though less draconian in degree, the amendment of the Senator from Iowa, which I opposed but the Senate adopted, runs those same risks by moving the effective dates for permanent and temporary resident status back, respectively, to January 1, 1977 and January 1, 1980. I hope that the original S. 2222 provisions will ultimately be enacted into law.

In conclusion, Mr. President, this legislation, may not find the optimal balance that the competing national interests call for. But on the whole it is a sensible and fair measure, one whose virtues exceed its flaws, and one worthy of receiving the support of the majority of Senators.

Mr. President, I would like to express my genuine admiration for our two colleagues who have managed this legislation.

All of us in the Senate who listened to or participated in the debate have learned how complex and difficult a subject immigration and refugee law can be. But we saw only the tip of the iceberg. The months of hearings, study, analysis, negotiation, and drafting that went into this legislation have required incredible dedication and energy. I want to commend the Senator from Wyoming (Mr. SIMPSON) who led what must have often seemed a thankless and numbing task.

And I want to pay particular tribute to my colleague from Massachusetts (Mr. KENNEDY). As has so often been the case, he has fought effectively for those who are least able to defend themselves. He has been the force for the vital principle that, while it may be necessary to more rationally control immigration to this Nation, it is equally essential that we act in a spirit of generosity, fairness, and humanity. I know that he is not satisfied with the final version of the bill. I hope he also knows that his colleagues believe that this is a far more decent and equitable product because of his efforts.

● Mr. TOWER. On August 13, I introduced an amendment to the Immigration Reform and Control Act of 1982 to provide Federal educational assistance to those school districts most affected by large concentrations of alien and refugee students. The impact of the recent Supreme Court decision mandating free public education for all children, regardless of those individual's legal status in the United States is a matter which concerns me greatly, I believe that this ruling will place severe financial burdens on many of our Nation's school districts and may well limit the overall educational opportunities which a district can provide to its students.

For these reasons, I intend to continue my efforts to ameliorate this impact through every appropriate legislative channel.

However, my discussions of this matter with my esteemed colleagues, Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, and Senator ROBERT STAFFORD, chairman of that committee's Subcommittee on Education, have led me to the conclusion that this critical issue should not be hastily considered.

Therefore, in order that this matter, which is of such great concern to many in Texas and across the country, may not be foreclosed from more careful review by this body, I have agreed to withdraw my amendment from consideration, upon the assurance that this matter will be considered as expeditiously as possible by the Labor and Human Resources Committee.

In addition, I would like to offer whatever resources I have available in order to expedite the Senate's focus on this issue.

Mr. HATCH. I share the concerns expressed by the Senator from Texas over the financial burden educating alien students may cause in many school districts. Accordingly, I am pleased to offer my firm commitment that full and complete hearings on this matter will be conducted by the Labor and Human Resources Committee in the near future, in order that this important issues may be afforded the attention which it clearly merits.

Mr. TOWER. I would like to take this opportunity to thank my distinguished colleague for his leadership in agreeing to work for a fair and thorough inquiry into this situation.

I would further like to commend my colleague, chairman of the Labor and Human Resources Committee, on the diligence with which he has pursued those matters before the committee and to say that I look forward to his advice on the matter before us. In addition, let me extend my thanks to my distinguished colleague, Mr. STAFFORD, before whom these hearings will be conducted. I know that his attention to the dilemma facing the States most affected under the Plyler decision will result in an equitable resolution of this question.●

Mr. MITCHELL. Mr. President, I rise in opposition to S. 2222, the Immigration Reform and Control Act of 1982. Although I believe that immigration is a serious problem, I cannot support this bill.

Before I state why I am opposed to this bill, I would like to express my sincere admiration for the Senator from Wyoming, Senator SIMPSON, for his hard work and dedication. I want it to be clear that my opposition to this bill should not be viewed as a reflection on his efforts.

I am opposed to S. 2222 primarily for two reasons.

First, I am opposed to the changes S. 2222 would make in the H-2 program. As introduced, S. 2222 would have codified existing regulations governing the H-2 program. Unfortunately, the bill which emerged from committee goes well beyond mere codification and makes wholesale changes in the law. I am concerned that these changes will make it easier for employers to bring foreign workers into the country. And this at a time when nearly 11 million Americans are out of work.

The H-2 program is designed to allow employers to bring workers into the country on a temporary basis if: First, American workers are not available to do the job; and second, hiring the foreign worker will not have an adverse affect on prevailing wage rates. I am afraid that the changes in the law governing the H-2 program will result in the program more closely resembling a guest worker program than the temporary source of foreign labor, which was the original congressional intent.

We hear a lot of talk these days about protecting U.S. interests from unfair competition overseas. I believe we should be equally concerned about protecting U.S. workers from unfair foreign competition.

In Maine, H-2 workers from Canada work in the logging industry. In recent years, Maine woodsmen have found themselves competing more and more with these Canadian woodsmen for scarce jobs. This competition is made even more intense today due to the current recession which has reduced the demand for all types of wood products.

During debate on the bill, I strongly supported an amendment to strike the H-2 provisions of this bill. Unfortunately, that amendment failed.

I am concerned that the changes made in the H-2 program will make it easier for Canadian woodworkers to obtain jobs in the United States at the expense of Maine woodworkers. Because of this possibility, I intend to vote against S. 2222.

Second, I am not confident enough that this bill will do what its proponents claim it will—to control and reform immigration.

I have heard the arguments in support of legalizing the status of the estimated 4 to 6 million illegal aliens already in the United States. But I am concerned that legalization will encourage others to attempt to enter the United States illegally with the hope that someday, perhaps 5 or 10 years down the road, the U.S. Government will once again grant amnesty for illegal aliens. There is no persuasive argument that legislation will not act as an incentive for people to come to the United States either.

For these reasons, I must vote against S. 2222. While I appreciate and share the need to get U.S. immigration under control, I cannot support this legislation.

Mr. SIMPSON. Third reading.

The PRESIDING OFFICER. Under the previous order, no further amendments are in order, and the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 19, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—80

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
D'Amato
Danforth
Denton
Dixon
Dodd
Dole
Durenberger
Eagleton
Exon
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Heinz
Hollings
Huddleston
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tsongas
Wallop
Warner
Weicker

NAYS—19

Armstrong
Cohen
Cranston
DeConcini
Domenici
East
Hart
Hayakawa
Heflin
Helms
Humphrey
Kennedy
McClure
Mitchell
Riegle
Schmitt
Symms
Tower
Zorinsky

NOT VOTING—1

Ford

So the bill (S. 2222), as amended, was passed, as follows:

S. 2222

An act to revise and reform the Immigration and Nationality Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1982".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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Sec. 212. Students.
Sec. 213. Visa waiver for certain visitors.

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Sec. 302. State legalization impact-assistance block grants.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

Sec. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

"(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an un-

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authorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (b) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or United States birth certificate, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identify of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the latter of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine.

"(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

"(2) Such system shall be designated in a manner so that——

"(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eligible to work, and that the employee or prospective employee is not claiming the identity of another individual;

"(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering;

"(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

"(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

"(E) a verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld for any reason other than that the employee or prospective employee is an unauthorized alien;

"(F) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code); and

"(G) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person.

"(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

"(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.

In counting the number of previous determinations of violations for purposes of determining whether clause (i) or (iii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

"(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty or $500 for each individual with respect to which such violation occurred.

"(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General.

"(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

"(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status. For the purpose of conducting such monitoring and beginning development of the system described in subsection (c), there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B)(i) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(ii) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of sucy a violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(C) During the year beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated $10,000,000 for fiscal year 1983.

(b) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(c) The Farm Labor Contractor Registration Act of 1963 is amended—

(1) by amending paragraph (6) of section 5(b) (7 U.S.C. 2044(b)) to read as follows:

"(6) has been found to have violated paragraph (1)(A) or (2) of section 274A(a) of the Immigration and Nationality Act;";

(2) by striking out paragraph (f) of section 6 (7 U.S.C. 2045); and

(3) by striking out subsection (c) of section 9 (7 U.S.C. 2048).

(d) Nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 2000e-5 of title 42 of the United States Code, or any other authority provided therein.

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

Sec. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by striking "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsection:

"(b) Whoever without authority of the issuing agency and with unlawful intent—

"(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

"(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

"(B) any document presented to obtain a required document described in subparagraph (A);

"(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) or (B) of paragraph (1);

"(3) alters any document described in subparagraph (A) or (B) of paragraph (1) relating to another person; or

"(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) or (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed $5,000 or imprisoned not more than five years, or both.".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

Part B—Enforcement and Fees

IMMIGRATION AND NATURALIZATION SERVICE ENFORCEMENT ACTIVITIES

Sec. 111. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

Sec. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": *Provided, however*" and all that follows up to the period at the end of subsection (a), and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined an amount equal to $2,500, the imposition of which may not be suspended by the court, plus, in the court's descretion, an additional amount not to exceed $2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed one year, or both, or

"(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both.".

FEES

Sec. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the title to read as follows:

"NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES";

(2) by inserting "(a)" after "Sec. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of border facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

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"Sec. 281. Nonimmigrant visa fees and border facility fees.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Section 235(b) (8 U.S.C. 1225(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing.

"(2) If an examining immigration officer at the port of arrival determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of alien to be held before an immigration judge.",

(2) by designating the sentence beginning "The decision" as paragraph (3), and

(3) by adding at the end the following new paragraphs:

"(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States.

"(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF IMMIGRATION JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF IMMIGRATION JUDGES

"SEC. 107. (a)(1) There is established in the Department of Justice a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and eight other members appointed by the Attorney General in accordance with regulations respecting appointments in the competitive service.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until his successor has taken office.

"(3) Members of the Board (other than the Chairman) are entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled to receive compensation at the rate now or hereafter provided for grade GS-18 of the General Schedule, under section 5332 of title, 5, United States Code.

"(4) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board and shall promulgate rules of practice and procedure for the Board and immigration judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of immigration judges under this Act, other than a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (1) or (2) of section 203(b) or petitions on behalf of a child described in section 101(b)(1)(F), and (ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4) The Board shall review the decision of an immigration judge based solely upon the administrative record upon which the decision is based and the findings of fact in the judge's order, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(5)(A) A final decision of the Board shall be binding on all immigration judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by the Attorney General under subparagraph (B) or by a court of the United States.

"(B) If the Attorney General determines that it is necessary for the national interest of the United States, the Attorney General may, within thirty days after the date of a final decision of the Board on a case, provide that the case be certified to him for his review, and the Attorney General shall render a decision on the case within thirty days. The determination of the Attorney General on such case shall be considered for other purposes of this Act to be the final decision of the Board on that case. If the Attorney General shall not have rendered a decision within thirty days, the final decision of the Board shall be considered final and not subject to further review by the Attorney General.".

"(c)(1) The Attorney General shall, in accordance with procedures and regulations governing appointment and, except as provided in this paragraph, compensation in the competitive service—

"(A) appoint immigration judges, except that not more than seventy judges may be appointed and hold office under this section at any time;

"(B) set the rate of compensation for such judges at a rate not to exceed the rate now or hereafter prescribed for grade GS-16 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) designate one such judge to serve as chief immigration judge, who shall be entitled to compensation at the rate now or hereafter prescribed for grade GS-17 of such General Schedule.

"(2) In accordance with the rules established by the Board, the chief immigration judge—

"(A) shall have responsibility for the administrative activities affecting immigration judges, and

"(B) may designate any immigration judge in active service to hear and decide any cases described in paragraph (3).

"(3) Immigration judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208, and

"(E) such other cases as the Attorney General may provide by regulation.

An immigration judge may not hear or decide the case of an alien excluded from entry under section 235(b)(1).

"(4) In considering and deciding cases coming before them, immigration judges may administer oaths and receive evidence, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(2) The table of contents in amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of immigration judges.".

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'immigration judge' means such a judge appointed under section 107.".

(4) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 236(b) (8 U.S.C. 1226(b)) is amended by striking out "From a decision" and all that follows through "Attorney General" and inserting in lieu thereof the following: "Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board".

(c) Section 242(b)(4) (8 U.S.C. 1252(b)(4)) is amended by striking out "reasonable, substantial, and probative" and inserting in lieu thereof "substantial".

(d) Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

(i) Except as otherwise provided in section 291, in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.".

JUDICIAL REVIEW

Sec. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) by striking out "six months" in paragraph (1) and inserting in lieu thereof "forty-five days."

(3) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order",

(4) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in",

(5) by striking out "reasonable, substantial, and probative" in paragraph (4) and inserting in lieu thereof "substantial",

(6) by adding at the end of paragraph (4) the following new subparagraph:

"(B) the court shall not review the order to the extent that the order relates to an application for asylum;",

(7) by adding "and" at the end of paragraph (7),

(8) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period, and

(9) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law (except as provided under subparagraph (B)), there shall be no judicial review of a final order of exclusion or a final order respecting an application for asylum.

"(B) Where the Attorney General has reviewed and either reversed or modified a determination of the United States Immigration Board under section 107(b)(5)(B), judicial review of such determination shall be available in the same manner, and to the same extend, as a final order of deportation may be reviewed under subsection (a).

"(2) Nothing in this section shall be construed as limiting the right of habeas corpus under the Constitution.

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of immigration judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or the exclusion of an alien from the United States under section 235(b)(1).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an immigration judge."

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts."

(e) In the case of a final order of deportation entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) thirty days after the date of the enactment of this Act, or (2) of the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

(f) Section 279 (8 U.S.C. 1329) is amended by inserting "(a)" after "Sec. 279.", and by adding at the end the following new subsection:

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the date of the final administrative action or from the effective date of this section, whichever is later.".

ASYLUM

Sec. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows;

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United states or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) An alien against whom exclusion or deportation proceedings have been instituted may not file a notice of intention to apply for asylum more than fourteen days, nor perfect such application for asylum more than thirty-five days, after the date of the service of the notice instituting such proceedings unless the alien can make a clear showing, to the satisfaction of the immigration judge conducting the proceeding, that changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), between the date of notice instituting the proceeding and the date of application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances in the country of the alien's nationality (or, in the case of the alien having no nationality, the country of the alien's last habitual residence), between the date of the previous denial of asylum and the date of the subsequent application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(2) Applications for asylum shall be considered before immigration judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1982 may not be designated to hear applications under this section.

"(3)(A) A hearing on the asylum application shall be closed to the public, unless the applicant requests that it be open to the public. To the extent practicable, the hearing shall be conducted in a nonadversarial, informal manner, except that the application is entitled to be assisted by counsel (in accordance with section 292), to present evidence, and to examine and cross-examine witnesses. A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B)(i) The Secretary of State shall on a continuing basis make available to the Attorney General and to immigration judges who hear applications under the section information on human rights in all countries. The immigration judges shall use such information, if available without delay to the proceedings, as general guidelines in making the asylum determination.

"(ii) The Attorney General shall provide notice to the Secretary of State whenever an application for asylum is filed under this section. The Secretary of State may submit comments to the immigration judge on such application, but the immigration judge shall not delay the proceeding in order to receive such comments.

"(4) The Attorney General may, in his discretion, grant an alien asylum only if the immigration judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) After making a determination shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an immigration judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence) have resulted in a change in the alien's eligibility for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is redesignated as "Sec. 222. (f)(1)."

(d) Section 222(f) (8 U.S.C. 1202(f)) is amended by adding a new subsection (f)(2) to read as follows:

"(2) The records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality and other laws of the United States. In the discretion of the Attorney General, or the Secretary of State as the case may be, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interests of the ends of justice in a case pending before the court.".

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EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121(a), 123(a)(2), 123(a)(5), 123(a)(9), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or adminstrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that immigration judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as immigration judges.

(B) Paragraphs (1)(B), (3), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than fourteen days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in the last sentence of paragraph (3) and in paragraph (6) of such section to an immigration judge shall be deemed (before the asylum transition date) to be a reference to a special inquiry officer conducting the asylum hearing.

(3) The amendments made by section 121(b) shall apply to deportation proceedings pending on or commenced after the date of the enactment of this Act.

(b)(1) The Attorney General shall appoint the Chairman and other members of the United States Immigration board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date to the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Chairman shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and immigration judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Attorney General shall appoint at least ten immigration judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these immigration judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the immigration judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of immigration judges under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an immigration judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) assume the duties of an acting immigration judge after such transition date during the period ending two years after the date of the enactment of this Act. If such individuals remain in such capacity through the end of such period and have not been appointed to the United States Immigration Board or as immigration judges, then they shall be deemed, for purposes of continuing employment in the Department of Justice, to have been employed by the Department as special inquiry officers during such period.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the Chairman of the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and immigration judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) The Attorney General shall provide that in the case of members of the Board of Immigration Appeals who—

(1) have served for a period of at least three years,

(2) are not appointed as members of the United States Immigration Board or as immigration judges, and

(3) continue to be employed by the Attorney General after the date the functions of the Board of Immigration Appeals are assumed by the United States Immigration Board,

there shall be no reduction in grade or compensation for one year after the date of termination of the individual's membership on the Board of Immigration Appeals.

(g) In order to implement the amendments made by this part, there are authorized to be appropriated $20,000,000 for fiscal year 1983.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(b)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "immigration judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any immigration judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and immigration judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "immigration judge".

(2) Subsection (b) of such section is amended by striking out "a special inquiry officer for further inquiry" in the second sentence and inserting in lieu thereof "an immigration judge for an exclusion hearing".

(3) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an immigration judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an immigration judge".

(c)(1) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(d)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "immigration judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An immigration judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the Chairman of the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board" and by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(e) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, fifth, sixth, and seventh sentences and inserting in lieu thereof "immigration judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "Chairman of the United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the Chairman of the United States Immigration Board",

(7) by striking out "Such regulations" in the eight sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "immigration judge shall be final unless reversed on appeal".

(f) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(g) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an immigration judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(h) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after the word "proceedings", and

(2) by striking out the second sentence.

(i) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an immigration judge under section 101(a)(43) of such Act.

Part D—Adjustment of Status

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY VISA ABUSERS

Sec. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking out "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" and inserting in lieu thereof "has failed to maintain continuously a legal status since entry into the United States".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

TITLE II—REFORM OF LEGAL IMMIGRATION

Part A—Immigrants

NUMERICAL LIMITATIONS

Sec. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) three hundred and fifty thousand, minus (B) the sum of (i) the number of immediate relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, (ii) the number of immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, (iii) the number of immigrants born to permanent resident aliens during a temporary visit abroad, and (iv) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) seventy-five thousand, minus (B) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during the prior fiscal year and the number of visas issued under that paragrpah during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the total number of natives of any single foreign state who are issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted for permanent residence under subsections (a) and (b) of section 203 or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under subsection (a) or (b) of section 203 shall not exceed in any fiscal year—

"(i) twenty thousand, in the case of any foreign state other than a foreign state contiguous to the United States, or

"(ii) forty thousand (or the number determined under subparagraph (C)), in the case of any foreign state contiguous to the United States.

"(B) If in a fiscal year the total number of immediate relatives specified in section 201(b), immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens provided records of permanent residence under section 214(d), and special immigrants defined in section 101(a)(27) (other than those described in subparagraph (a) thereof) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence who are natives of a particular foreign state exceeded twenty thousand, then the numerical limitation applicable to that state in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess.

"(C) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence is less than forty thousand, then in the following fiscal year the number to be used in clause (ii) of subparagraph (A) for the other contiguous foreign state shall be forty thousand plus the amount of the difference.".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

Sec. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Preference Allocation for Family Reunification Immigrants.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

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"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who (A) as of May 27, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) PREVIOUS FIFTH PREFERENCE.—Qualified immigrants who (A) as of May 27, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (a)(5) as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE AND NONPREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a licence to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated any visas not required for the classes specified in paragraph (1).

"(3) INVESTORS.—Qualified immigrants who have invested, or established to the Attorney General their intention to invest, substantial capital (in an amount set by the Attorney General and not less than $250,000) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, shall be allocated any visas nor required for the classes specified in paragraph (1) and (2), but in a number not to exceed 10 per centum of such numerical limitation.

"(4) NONPREFERENCE ALIENS.—Visas authorized in any fiscal year under section 201(a)(2), less those required for issuance to the classes specified in paragraphs (1) through (3), shall be made available to other qualified immigrants in the chronological order in which they qualify. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of section 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immediate relatives specified in section 201(b), immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, is equal to 4.65 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(a)",

(ii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by inserting ", or" after "such status", and

(3) by adding before the semicolon the following new subparagraph:

"(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such an investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later".

LABOR CERTIFICATION

Sec. 203. (a) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers available in the United States in the occupations in which the aliens will be employed; (B) sufficient workers in the United States could not within a reasonable period of time be trained for such occupations by (or through funds provided by) potential employers; and (C) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b) (1) and (2) and to nonpreference immigrants described in section 203(b)(4). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;".

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) the requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest.".

G-4 SPECIAL IMMIGRANTS

Sec. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of any such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least twenty years prior to the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph (i) on or before December 31, 1992 and (ii) no later than six months after the date of such retirement or six months after date this subparagraph is enacted, whichever is later, or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv).".

EFFECTIVE DATES AND TRANSITION

Sec. 205. (a) The amendments made by sections 201, 202, and 203 shall apply to the admission of aliens to the United States on and after October 1, 1983. The amendments made by section 204 shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in both paragraphs (1) and (2) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(4), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on September 30, 1983), the preference statuses described in both paragraphs (3) and (4) of section 203(b) of such Act (as in effect after such date) in the case of investors or the nonpreference described in section 203(b)(4) of such Act (as in effect after such date) in the case of noninvestors.

(c) When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

Part B—Nonimmigrants

H-2 WORKERS

Sec. 211. (a) Paragraph (15)(H) of section 101(a)(8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year. An alien who was admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii) during the last five-year period may not be admitted under that provision if the alien violated the terms of any such previous admission. The Attorney General shall provide for such procedures for the entry and exit of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section.",

(2) by inserting "(1)" and "(c)" in subsection (c),

(3) by adding at the end of subsection (c) the following new paragraphs:

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"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, qualified, and who will be available at the time and at the place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States who are similarly employed.

The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A) if—

"(i) there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification; or

"(ii) the employer, during the previous two years, employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer during that period substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or has not paid a penalty (or penalties) for such violations which may be assessed by the Secretary of Labor: *Provided further*, That no employer may be denied certification for more than one year for any such violation.

"(3)(A) In the case of an application for a labor certification under section 101(a)(15)(H)(ii)(a)—

"(i) The Secretary of Labor may not require that such an application for labor certification be filed more than eighty days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall make, not less than twenty days before the date such labor or services are first required to be performed, the certification described in paragraphs (2)(A) (i) and (ii) if an employer has complied with the criteria for certification, including the recruitment of eligible individuals as prescribed by the Secretary; and the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available: Provided, That the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

"(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

"(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

"(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and The Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate junctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.", and

(4) by adding at the end the following new subsection:

"(e) The provisions of subsections (a) and (c) of this section preempt any State and local law regulating admissibility of nonimmigrant workers.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(d) The Attorney General in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall be issued, on an interim or other basis not later than the first day of the sixth month beginning after the date of the enactment of this Act.

STUDENTS

SEC. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting "(1)" after "No person",

(2) by inserting after "training," the following: "or (2) admitted under section 101(a)(15) (F) or (M) or acquiring such status after admission,", and

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (1)(iii) or clause (2)", and

(4) by inserting before the period at the end the following: ": *And provided further*, That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

"(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States, who is applying for a visa as an immigrant described in section 202(b)(1), and (i) who has been offered a position on the faculty of such an institution teaching in the field in which he obtained such degree, up to a limit of one thousand five hundred such waivers per year, or (ii) who has been offered a research or technical position by a United States employer in the field in which he obtained such degree, up to a limit of four thousand five hundred such waivers per year, or

"(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and who will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l)".

(c)(1) The amendments made by subsection (a) apply to aliens admitted to the United States after the date of the enactment of this Act.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsection:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced; except that in no event may the program be put into operation later than October 1, 1983.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless the sum of the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country—

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such fiscal year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2.0 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless the sum of—

"(I) the total number of refusals during the previous fiscal year of nonimmigrant visitor visas for nationals of that country, and

"(II) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such previous fiscal year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 212(l) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l).".

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1980, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien applies for such adjustment during the eighteen-month period beginning on the date of the enactment of this section,

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status since January 1, 1977, or

"(B) The alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1977, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status since January 1, 1977, and

(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien applies for such adjustment during the eighteen-month period beginning on the date of the enactment of this section;

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuous-

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ly in the United States in an unlawful status since January 1, 1980; or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status since January 1, 1980; and

"(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

"(ii) the alien is—

"(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

"(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

"(III) a national of Haiti who was paroled into the United States under section 212(b)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

"(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service; and

"(C) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3), and

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the thirty-seventh month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(B) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

"(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies which have been designated for such purpose by the Attorney General, as well as to the Attorney General.

"(2) The provisions of paragraph (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such pragraph as relates to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified voluntary agencies designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(d)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantees, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and

"(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B)(ii) (relating to certain Cuban and Haitian entrants).

"(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(f) In order to carry out this section (including the making of arrangements with qualified voluntary agencies under subsection (c)(1) and the dissemination of information under subsection (c)(13)) there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1980, to that of person admitted for temporary or permanent resident.".

(c)(1) Public Law 89-732 (approved November 2, 1966) is repealed.

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

Sec. 302. (a) there are authorized to be appropriated for grants (and related Federal administrative costs) to carry out this section such sums as may be necessary for fiscal year 1983 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for federal administrative costs), the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (g)(1)) meeting the requirements of subsection (d) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (g)(2)) residing in the State in that fiscal year and

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year, and

(iii) the amount of net expenditures the State is likely to incur in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (g)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and

remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsection (e).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted the State under this section. Such report (for fiscal years after fiscal year 1983), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e) The provisions of sections 506, 507 (other than subsection (b) thereof), 508 of the Social Security Act (relating to reports and audits, criminal penalties, and nondiscrimination, respectively, under the maternal and child health service block grant) shall apply to activities, funds made available, and allotments under this section in the same manner as those provisions apply to activities, funds made available, and allotments under title V of such Act; and for this purpose—

(1) any reference to that title in any of those sections shall be deemed a reference to this section, and

(2) a reference to section 502(a) or 502(b) or to section 505 in any of those sections shall be deemed to be a reference to subsection (b) or to subsection (d), respectively, of this section.

(f) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(g) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(2) of such Act, until the end of the three-year period beginning on the date such permanent resident status was granted,

whichever is later.

(3) The term "program of public assistance" means State or local programs which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

TITLE IV—GENERAL PROVISIONS

REPORTS TO CONGRESS

Sec. 401. The President shall submit the following reports to the Committees on the Judiciary of the Senate and of the House of Representatives:

(a) Reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens), which shall include—

(1) an analysis of the adequacy of the verification procedure set forth in subsection (b) of that section;

(2) the status of the development and implementation of a more secure verification system as provided in subsection (c) of that section; and

(3) the impact of that section on—

(A) the employment, wages, and working conditions of United States workers,

(B) the number of aliens entering the United States illegally,

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors,

(D) discrimination against citizen and permanent resident alien members of minority groups, and

(E) the paperwork and recordkeeping burden on United States employers.

Reports concerning the matters described in paragraphs (1), (2), and subparagraphs (A), (B), and (C) of paragraph (3) shall be submitted every six months from the date of the enactment of this Act. Reports concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted three times: the first not later than eighteen months after the date of enactment of this Act, the second not later than thirty-six months after the date of enactment of this Act, and the third not later than fifty-four months after the date of enactment of this Act.

(b) A report on the general legal admissions under the Immigration and Nationality Act, which shall include—

(1) the number of aliens admitted during the forty-two months after the date of the enactment of this Act as immediate relatives and other permanent residents, refugees, asylees, and parolees, and

(2) the impact of the admission or parole of such aliens on the economy of the United States and the employment of citizens and aliens in the United States.

This report shall be submitted not later than four years after the date of the enactment of this Act.

(c) A report on the implementation of the temporary worker program (popularly known as the "H-2" program), which shall include—

(1) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers,

(2) the development of regulations with respect to the program,

(3) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested, and

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(d) A report on the pilot program established under section 212(l) of the Immigration and Nationality Act, added by section 213(a) of this Act, (popularly known as the "visa waiver program"), which shall include—

(1) an evaluation of the program including its impact on the control of alien visitors to the United States, consular operations in the countries designated under section 212(l)(3)(A) of the Immigration and Nationality Act, and the impact of the program on the United States tourism industry, and

(2) recommendations on the extension of the program and the expansion of the number of countries which may be designated under such section.

The report shall be submitted not later than two years after the commencement of the program.

(e) A report of the population whose status is legalized under the legalization program established under section 301 of this Act, which shall include—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics,

(3) their patterns of employment,

(4) their participation in social service programs, and

(5) a general profile and characteristics of the population legalized under the program.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(f) Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs (1) and (2) of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States. Another such report shall be submitted in five years.

ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

Sec. 402. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

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(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

REPORT BY THE COMPTROLLER GENERAL

SEC. 403. (a) Eighteen months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding eighteen month period, for the purpose of determing if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of unlawful discrimination has resulted against United States citizens or aliens, other than unauthorized aliens as defined in section 274A(a)(4), seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

Two more such reports shall be prepared and transmitted, one thirty-six months after the date of the enactment of this Act and one fifty-four months after the date of the enactment of this Act.

TITLE V—SENSE OF THE CONGRESS

OFFICIAL LANGUAGE

SEC. 501. It is the sense of the Congress that—

(1) the English language is the official language of the United States, and

(2) no language other than the English language is recognized as the official language of the United States.

Passed the Senate August 17, 1982.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF POSITION ON VOTE

(Later the following occurred:)

Mr. ZORINSKY. Mr. President, I ask unanimous consent that I be permitted to change my vote from yea to nay on the Immigration Reform and Control Act, S. 2222, inasmuch as it will not change the final outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, the Senator spoke to me about that. As I indicated previously, I had thought that the precedent was that there must be two requirements to support the request to change a vote; first, that it would not change the result and, second, the Member alleges that his vote was recorded in error. I have since been advised that that is not the precedent of the Senate. Perhaps it should be, but it is not now. I shall therefore not object to the request of the distinguished Senator. I hope other Members will not.

I might say, while I am reserving at this point, I indicated previously I would submit to our conference the question of whether we ought to change that procedure in the future. Our conference has appointed a committee of three Senators to consider that. No report will be forthcoming for 3 days. Therefore, I urge Senators not to object at this point until we have an opportunity to examine this fully on both sides of the aisle.

Mr. ZORINSKY. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing vote has been changed to reflect the above order.)

Mr. BAKER. Mr. President, may I have the attention of the Senate for a moment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. I will be brief, Mr. President, I want to do two things.

First, I commend the distinguished Senator from Wyoming (Mr. SIMPSON) and the distinguished Senator from Massachusetts for the extraordinary job of managing this bill. Senator SIMPSON and Senator KENNEDY worked well and long and brought us a completed result on a piece of legislation that I did not think we could finish this session—certainly not before this recess. But it was done, and it was done after 20 hours of debate, according to the notation given me by the journal clerk. We had 17 rollcall votes. We had 31 amendments considered—14 agreed to, 13 rejected, 3 withdrawn, and 1 tabled.

Mr. President, this is a major piece of legislation. Were it not for the persistence of the Senator from Wyoming on last Friday evening in staying here and working through to the point where we could get a unanimous-consent agreement that no other amendment would be in order and that we would proceed immediately to third reading and final passage, I think my earlier concern about this bill would have proved true—that we could not finish it. But we did finish, and it is a tribute to the Senator from Wyoming and the Senator from Massachusetts for their good work; and I must say that they have produced a remarkable legislative product.

In a moment, I intend to recess the Senate until 2 p.m.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. KENNEDY. Mr. President, I thank the majority leader for his kind comments.

I think all of us in this body want to underscore what the majority leader has said about the act of statesmanship which has been exhibited by the Senator from Wyoming (Mr. SIMPSON). I had differences with him on this piece of legislation. I have had them since very early in the consideration of the legislation in the subcommittee and full committee. I regret that I was unable to convince my good friend and colleague and able legislator from Wyoming. But in the consideration of one of the most complex and difficult public policy questions that is going to have profound implications on the type of society we are, and on our relations with countries around the world, I think the Senator from Wyoming has acted in conscience and has been absolutely open and willing to consider every point of view on this issue.

It is my hope that the action which has been taken here will be followed by action in the House of Representatives. We will have an opportunity to continue to review these subject matters. As my good friend, the Senator from Wyoming, knows, I will continue to try to persuade him, and he will attempt to persuade me. However, as the majority leader has stated, it is essential and necessary that some action be taken in this field.

I also want to acknowledge the work of the subcommittee staff; Dick Day, who has been of great help to Senator SIMPSON, and Jerry Tinker, who has been on my staff for a number of years and whose assistance has been invaluable.

Mr. BAKER. Mr. President, I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, my remarks will be very brief.

I am very proud to be part of the legislation. It has been a great privilege to work with TED KENNEDY. We do scrap a little, obviously, but I have great regard for him and what he has done on this issue for the past 17 years in this body.

Certainly, we would never have been able to process the bill without the dogged help of the majority leader. I extend to HOWARD BAKER my deep personal appreciation and sincere thanks for having faith in the ragged admonition of, "Just give me 2 days; that's all I need," never dreaming that I would miss nearly all of Friday in the process.

I thank Senator THURMOND, who could not have been a more supportive chairman. He gave me every assistance and support.

I also thank the fine minority staff, including Jerry Tinker, and, of course my own staff: Dick Day, Chip Wood, Donna Alvarado, Arnold Liebowitz, Frankie DeGooyer, Tina Jones, Avelina Sabangan, and Ellen Hughes, marvelous people. I appreciate their work.

I hope that my colleague in the House, Representative RON MAZZOLI, is ready as the ball comes down that end of the court. He is prepared to receive it. Representative RODINO has been one of the most extraordinary persons involved in immigration reform for many years.

I have every confidence that Congressman RODINO in the House will process this measure and we will go to conference and deal with some of the things which have caused people concern. Mr. President, I assure you of that.

I feel very humble about the fine vote. We will keep scrapping. I have learned one thing in legislative activities: everything hangs by a thread.

Mr. President, it has been a great privilege to have been associated with my colleagues on this legislation.

Mr. BAKER. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the two Senators who have managed this bill, the distinguished Senator from Wyoming and the distinguished Senator from Massachusetts, for their very skillful handling of this legislation, and for their success in keeping the debate focused throughout on the issues and at a very high level, defusing what might have been a highly emotionally charged consideration of a very important issue.

Both Senators have dealt with this matter with great skill and great sensitivity. I believe it to be a tribute to Senators SIMPSON and KENNEDY that the debate in the Senate has been reasoned and thoughtful over the last few days.

As the distinguished chairman of the subcommittee knows, I differed with him on some of the amendments which were proposed. I remain concerned about some of those features of the bill that particularly concern the question of family reunification.

I am hopeful that in the end these will be worked out in a way that will be responsive to some of the concerns expressed by me and others in the course of the debate on those amendments.

Again, I do want to join with others in recognizing the enormous skill, sensitivity, and depth of concern and understanding reflected by the two Senators who managed this legislation so well over the course of these last few days.

Mr. SCHMITT. Mr. President, I may have ended up on the opposite side of this issue from the distinguished managers of the bill. I do want to join with those who are complimenting them for their extraordinary effort. They at least have brought out into public debate and addressed some fundamental issues related to the historical traditions of this country, one which is a melting pot of minorities who traversed the oceans in order to find freedom and a better opportunity in this land.

I hope that we will never roll back those traditions, even though some limitations obviously are necessary.

Mr. President, my basic concern about the legislation is that it will not solve the basic problems of migrant labor from Mexico, principally, and from Latin America in general. That is a problem that will continue to be with us. Some of us would think of it as an opportunity instead of a problem. We have not addressed that in a significant way or in an adequate way in this measure.

Aside from that fundamental disagreement, I think there are severe restrictions on the business community and the workers who would come into that business community, unnecessary restrictions, that indeed are unfortunate.

Mr. President, I do want to compliment the managers of the bill for the work they did to expand and streamline the H-2 program. That will be a significant benefit.

In addition, there are those provisions which would make counterfeiting or altering documents a felony; extremely important provisions.

On balance, I am afraid that we will revisit this issue within a few years, if not sooner, because we have not solved the basic problem or opportunity that lies between us and Mexico.

Mr. HART. Mr. President, I join in the commendation of our colleagues from Massachusetts and Wyoming. The way in which this difficult legislation has been handled is, in my judgment, a model on how the Senate should operate on the difficult issues of the 1980's in trying to work out the complicated issues underlying legislation.

I think the way the Senator from Wyoming and the Senator from Massachusetts have approached these problems is the way we should go about it. Despite the fact that some of us could not support the bill in its final form, the model which they have offered to us would be a wise one to follow in the future.

Mr. President, it has become almost routine during the past few days of debate to commend the distinguished Senator from Wyoming on the outstanding work he and his colleagues have done to develop a responsible and positive approach to our Nation's immigration problems. I hope that those who hear and read our remarks as this debate has progressed will not assume that the gratitude which has been expressed to Senator SIMPSON has been perfunctory. On the contrary, our praise for his efforts reflects the respect and gratitude we all feel, regardless of the side of the aisle on which we sit, for the highly responsible way in which he has approached the issues involved, and for the way in which he has conducted this debate.

We owe no less respect and gratitude to the distinguished senior Senator from Massachusetts for his efforts to address basic issues of human rights and civil liberties, issues with which he has so long and so proudly been associated—and to the staff members of the Immigration Subcommittee who are, as Senator GRASSLEY rightly pointed out last Thursday, among the most knowledgeable and hard-working staffs in the Senate, and who have helped those of us who do not sit on the Judiciary Committee to follow and better understand many of the complicated aspects of the issues involved in immigration reform.

Mr. President, there are a number of controversial proposals in this bill: Employer sanctions, worker verification procedures, and a guest-worker program that could bring 300,000 temporary workers to the United States.

There are a number of positive reforms in this bill as well. The legalization program does not go as far as some of us would have preferred, and has emerged from this body as a less comprehensive and less efficient program than it had emerged from committee—but it is at least a step in the right direction, and will enable millions of people who have been contributing to our economy without benefits, but with daily fears and uncertainties, to step out from the shadows. Visa waivers for foreign tourists from selected countries will not only cut overseas visa operating costs, but will boost tourism and reduce redtape for visitors from countries which have long since eliminated visa redtape for Americans. Finally, the immigration ceilings in this bill not only reflect geographic realities but traditional American generosity.

I wish I could say the same for the employer sanctions provisions which are the key to this bill, Mr. President, but I cannot. I wanted very much to vote for this bill, but I cannot—because, in the end, I cannot support a measure which does not provide adequate safeguards against the infringement of the rights of American citizens. This body had an opportunity to close the civil liberties gap in the employer sanctions provisions—to guard against discrimination in hiring, discrimination which could adversely affect the employment prospects of Hispanic and other minority group citizens—but our efforts to codify that opportunity were defeated. Senator KENNEDY rightly asked how we could insist on certification reports to insure progress in securing human rights for the citizens of El Salvador, and refuse to certify to our own citizens that their civil rights gains would not become losses.

Finally, Mr. President, the immigration debate has focused almost entirely on domestic issues. But immigration

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is as much a foreign policy problem as a domestic one. So even the strictest enforcement of the various provisions contained in this bill may have little long-term positive effect. Quite simply, these proposals do nothing to address the root causes of migration and refugee flow—population growth, economic underdevelopment, social injustice, and human rights violations. Until our immigration debate addresses these serious international issues, we will never develop an adequate immigration policy.

The Haitian refugees detained in U.S. camps, which are little more than prisons, illustrate this point vividly. These refugees cannot possibly think they have entered the "golden door" of economic and social opportunity. Yet they continue to come—causing great suffering to themselves, and draining the financial resources of the States which must care for them. Still, life in the camps, with all its hardships, seems preferable to a life where social and economic opportunity are systematically denied.

The dismal economic picture in Haiti is compounded by a long history of human rights violations. Repression has been a fact of life in Haiti since 1957, when Francois "Papa Doc" Duvalier began his brutal regime. "Papa Doc" attacked the upper and middle classes—who made up the first wave of Haitian immigrants in the 1960's and 1970's. His successor and son, "Baby Doc" Duvalier, has shifted the focus of repression from cities to countryside, and from the upper classes to the poor. The result has been a flood of poor, uneducated "boat people" to the United States.

Haiti may be unique in its combination and degree of economic underdevelopment, repressive government, and proximity to the United States. But it is by no means alone in contributing immigrants. From March 1979 to March 1981, the number of Central or South Americans in the United States increased from roughly 840,000 to 1,022,000. In the last 18 months alone, 200,000 Salvadorans have fled to the United States.

It is unrealistic to pretend that these trends will not continue. Unprecedented population growth has contributed to tension, not only in Mexico, the Caribbean Basin and Central America, but the Mideast and Far East as well. Migration from rural areas to already overburdened cities is on the increase. Add continuing civil and regional wars, famine and repression—and migration flow will become migration flood.

Limiting our immigration policy changes to domestic measures will thus have little impact on migration pressures from troubled areas of the world. Ultimately, our immigration problems must be managed with the cooperation—and participation—of other governments. For example, we need to recognize that our tacit support of the repressive Duvalier regime will be paid for in an influx of "boat people" to this country. In Central America, we must reject policies which favor confrontation and military solutions, since they add to emigration pressures. Trade and investment incentives for Mexico and the Caribbean Basin should take into account their impact on job creation and other domographic movements. As I mentioned earlier in this debate, proposals to provide incentives to United States and Mexican firms willing to locate in northern Mexico, if the Mexican Government is willing to assist in blocking illegal immigration, warrant serious consideration.

Some of us have spent many months, and all of us have spent the past few days, discussing good-faith legislative efforts to reform domestic immigration procedures. But the problems represented by immigration in the 1980's and 1990's will not be solved without a more democratic, imaginative and farsighted foreign policy.

Mr. President, at this point I would like to introduce into the RECORD a letter written to me by Mr. Arnoldo Torres, national executive director of the League of United Latin American Citizens. I have had the pleasure of working with this fine organization, which is this country's oldest and largest Hispanic organization, on S. 2222. I believe their letter effectively represents the opinions of the Hispanic community regarding their disappointment and concern with S. 2222 and its impact on the fastest growing population group in this country.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LEAGUE OF UNITED
LATIN AMERICAN CITIZENS,
August 17, 1982.

HON. GARY HART,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: On behalf of the League of United Latin American Citizens (LULAC), this country's oldest and largest Hispanic organization, we would like to express our gratitude for your tireless efforts to raise the concerns of the Hispanic community and others. To the problems and shortcomings of S. 2222, Immigration Control and Reform Act of 1982. We would like to take this opportunity to convey to you our extreme disappointment with the direction and tone of the debate on S. 2222.

One of the major issues which the League has emphasized and attempted to have incorporated in the debate on immigration has been the international factors which contribute to refugee and undocumented flows to the U.S. The economic and political instabilities of underdeveloped and developing countries have become "push factors" which often times force people from these countries to flee for survival. Throughout the debate in the Senate, various members alluded to this reality however there was no effort to address these factors in the legislation. If these instabilities continue it is inconceivable that any provisions contained in S. 2222 can or will deal with them. This legislation attempts to deal with legal immigration and refugees once they are at our borders or shores, or after they have entered the country. A much more logical and effective approach is to deal with the origin of the problem which is in the sending countries. Surely employer sanctions and other provisions of the bill will not stop the flows of people fleeing for their lives from El Salvador. However, a foreign policy by this country which is aimed at decreasing the level of conflict as opposed to escalating it, would go much further in having Salvadorans remain in their country. The same is true for the conditions which confront the people of Haiti fleeing to this country. We must work through our foreign policy to alleviate the problems in the sending countries for there is no other way to rationally address this complex issue of population movements.

With regards to employer sanctions, we have always maintained that this idea really never left the conceptual stage and should be opposed. Throughout the Congressional hearings and even during the Select Commission on Immigration and Refugee Policy deliberations, there was never one piece of substantive analysis presented indicating that sanctions, as contained in S. 2222, would effectively control the flow of the undocumented. However, there was analysis presented that such approach could result in employment discrimination by unscrupulous employers of Hispanics and other minority groups. Efforts were made to address this problem on the floor of the Senate and defeated. Surely, if the proponents of employer sanctions contended that discrimination would not take place then there should have been no problem in having approved legislative language guarding against any possibilities. Unfortunately, this was not the case and the bill was approved with no protections against employment discrimination but save for language recommending reports on this subject. This was done at a time when employment discrimination is on the increase against Hispanics, as evidenced by the number of discrimination charges received by the Equal Employment Opportunity Commisson (EEOC), and this Administration's systematic dismantling of the civil rights apparatus of the Federal Government.

Support for employer sanctions came from many quarters of American society for they were led to believe that employment was the key element underlying the flows of the undocumented. However, the public was provided an extremely narrow explanation for people coming to this country to flee the problems in their sending countries as well as to be re-united with their family residing in the U.S. Sanctions will not address these major stimulants nor will they effectively decrease the employment of undocumented workers, but they will present major problem to Hispanics and other minorities. It appears that our community is being sacrificed to suffer these additional problems for a program concept that has been unproven and does not effectively address the issue.

Another issue of concern to us was the legalization program which under Senator Grassley's amendment was altered not for the purposes of improving the program but for political expediency. While we would agree that there is a need to provide assistance to state and local governments we maintain that this need could have been addressed without the changes the Grassley amendment makes. The provision which disallows individuals to receive any federal benefits amount to taxation without representation and perhaps even unconstitutional. What should be done in view of this action is to grant those individuals a tax rebate for the three years they have paid federal taxes and received no benefits.

The Bureau of the Census in its 1977 report to the Select Commission on Immigration and Refugee Policy, estimated that approximately three to six million persons live and work in this country without the benefit of documents which would identify them as "legally admitted aliens." Their presence and continued entry are due to several factors, not the least of which has been an immigration policy that has conveniently fluctuated to satisfy the needs of industrial and agricultural development in this country. During times of economic prosperity when the demand for minimally skilled and unskilled labor has been significant, that need has been reflected by the absence of any reference to the so called negative impact of illegal immigration. Conversely, during times of economic hardship, as now, and a restrictionist immigration policy has prompted both the rounding up of "perceived illegals" and mass deportations. These perceived illegals may in fact be legal residents. At minimum, they are persons entitled to share the benefits of a national development they have contributed to by coming here when needed and working where needed.

Political expediencies serve the supporters of restrictionist views, but they seldom address the real problems of disgruntled and unemployed constituencies. Restrictionist arguments are as convenient as political expediencies. Currently, restrictionists argue that each undocumented worker displaces an American in need of work. The Washington Post in its August 11th editorial "Law and the Illegal" reiterates that restrictionist view and cites as well an estimate that 4 to 9 million undocumented workers are in this country. Assuming these contentions were acted on and apprehension and deportation of all illegals were possible, 9 million of this country's unemployed would then have job opportunities.

Curiously, the Administration in its version of the restrictionist view, argues that to legalize the undocumented workers, will give the very people whom other restrictionists and government agencies identify as taking jobs from unemployed Americans, the signal that they can now quit their jobs and go on welfare. It is absurd to argue that people who are working full time on one hand, are also robbing the nation's welfare coffers on the other.

Conveniently forgotten are the numerous contributions made by these persons towards the national interest. Their contribution stimulates employment as well as tax revenues. To date, the Administration Congressional Budget Office and restrictionist supporters have been silent on the issue of revenue impact to the federal budget. This silence too is convenient.

This revenue assessment does not support to assess the total impact but rather supplies one aspect which heretofore has been absent.

The following tax contribution and/or payment profile per income dollar is based on an undocumented worker. We assume the following:

That there is a total of 6 million undocumented persons within this country's borders.

That of those 6 million, 80 percent are earning $4.81 per hour and 20 percent are earning $9.00 per hour.

That these persons are working.

That these persons are single and claim only one exemption.

That their employers are making the required deductions.

That these persons, who file yearly income taxes, do not itemize.

That FICA deduction is 6.7 percent of their salary.

That withholding (Federal) is based on 1982 tax schedules.

Based on an hourly wage of $4.81, 250 work days per year, and FICA contributions at the rate of 6.7 percent an undocumented worker pays a total of $644.54 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $1,130.00 per year in withholding taxes. Eighty percent of the undocumented worker pool contributes by working a total of $8,517,792,000.00 in FICA and withholding taxes.

Based on an hourly wage of $9.00, 250 work days per year, and FICA contributions at the rate of 6.7 percent an undocumented worker pays a total of $1,206.00 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $3,105.00 per year in withholding taxes.

Twenty percent of the undocumented worker pool contributes by working a total of $5,173,000,000.00 in FICA and withholding taxes.

The above tax contributions and/or payments do not include the money that is paid for goods and services in the forms of excise taxes which include but are not limited to tobacco, services, gasoline, transportation fares, etc. In addition, state and local taxes are not included.

Perhaps more upsetting than any other aspect of this debate was the tenor in which discussion on the H-2 program and its association to the legalization program took place. Various Senators rose to state their interest and concern that whatever be done on this bill must allow for foreign workers to continue to enter and work in the U.S. While many Senators were discussing the need to keep these immigrants and foreigners out they were fairly adamant in their concern and comments to let them in if they were going to work. In most cases they would be working for cheap wages and substandard working conditions. It was here in the debate where several Senators perhaps reflected their major interest with regard to immigration, and demonstrated to our community their insensitivity. It is difficult to understand that throughout the debate on S. 2222, the Senators' major interest was to control and stop the flow of people to this country, however, when the issue of cheap labor was raised there was every effort made to ensure that foreign workers were allowed to enter but not remain as citizens.

In addition, we were extremely perturbed by the continued allegations that refugees and the undocumented were to blame for this country's economic ills. Various Senators rose to emphatically emphasize that their states and this country was suffering due to the significant flows of refugees and undocumented. While we must agree that some of this criticism has merit we would present it in the manner done so. For it appeared that the refugee and undocumented person was to blame for every economic and social ill suffered by this country today. Recognizing that unemployment has increased to over 10 million people should not and cannot be blamed on immigration and refugee flows but must be put in the proper perspective. It has been this Administration's economic policies with Congressional support which has led to make economic hard times not the undocumented and refugees. The Senate by taking the action it has, is trying to make the public forget that their pockets are empty, that they have no job and that their cupboards are bare and that jobs will become plentiful and the economy will flourish when the Hispanic immigrants are eliminated from our midst. In closing, we are extremely concerned with the far reaching implications of the Senators action on S. 2222. The Senate has in effect ignored the Hispanic community's concerns on immigration reform and has done a disservice to the American public. A disservice for it has presented S. 2222 as effectively dealing with immigration and refugee policy when in fact the problems will persist and most probably worsen. We are hopeful that with your leadership and that of Senator Edward Kennedy and others, we will be able to alter the direction and attitude the Senate has established.

Respectfully submitted,

ARNOLDO S. TORRES,

LULAC National Executive Director.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I simply add my applause to that applause given to the distinguished floor managers of the bill who have demonstrated dedication and determination in resolving what has been a real mishmash for all of us.

I will also say that there is one provision in the bill which I think must be monitored in the future. I did not offer an amendment to strike that provision in the interest of time, but I was very much concerned about it.

The Senator from Wyoming and I have entered a colloquy into the RECORD, but I want to say further that about 1 year from now I hope the committee will have GAO or some similar agency to study what is called the investor preferred status under the bill under which anybody who offers to invest $250,000 in the United States and create four jobs or more gets preferred status.

That is not new. That has been a part of the old law, where it was only required that you put up $40,000 in investments in this country.

But there is something repugnant—frankly, there is just something repugnant—to me about a provision in an immigration bill that says if you have $250,000, you can get into the United States.

In my opinion, wealthy people may be able to bring their whole family over simply because of that provision whereas other people who are equally deserving might not be able to come to this country.

As I say, I resisted the temptation to offer an amendment to strike that, not

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only in the interest of time but also out of deference to the two floor managers who have worked so hard on the bill. I do want to make the record clear now that I, and I hope the committee, will continue to monitor that provision to make sure it is not abused.

● Mr. LEVIN. Mr. President, I voted for final passage of S. 2222, a bill reforming the Immigration and Nationality Act. I would like to briefly describe why I decided to support final passage despite several reservations I have about this bill.

The present immigration system of the United States does not work adequately. Hundreds of thousands of people enter the United States illegally; because there are no legal restrictions against hiring such entrants, some employers take advantage of the illegal aliens they hire, knowing that such workers cannot complain about unsafe working conditions for fear of being deported. Many employers would prefer to hire only those legally in this country, but find it difficult to do so because of the rampant availability of counterfeit documents. Maintaining the present system serves those who want to exploit alien workers and lessens respect for our legal system.

I have great admiration for the chairman of the Immigration Committee, ALAN SIMPSON, and for the ranking member, EDWARD KENNEDY. They have both worked long and hard to try to resolve the many issues surrounding immigration law reform. I believe the level of debate on this bill—as well as the outpouring of praise for these two men—is an appropriate reflection of the diligence they showed while analyzing all the conflicting factors they considered before presenting S. 2222 to the Senate.

It is important to have employer sanctions to assure that employers only hire those legally in this country. This protects citizens and residents of the United States who want jobs; it protects workers from abuse from unscrupulous employers; and it protects employers who want to hire those legally in this country but who are now thwarted by the availability of fraudulent identification papers.

I also believe that any reform of the immigration laws should include provisions to legalize those who have resided in the United States for several years. Although we refer to such people as "illegal aliens," it might be more precise to refer to them as "nonlegal." Given that their only crime is that they wanted to come to the United States to better themselves and to provide for their families, they certainly should not be considered criminals. Most of us are here today because we or our parents or grandparents were able to come to the United States.

I am concerned, however, that the Senate decided to move the date of legalization back from 1982 to 1980. Under the bill as passed by the Senate, those who have lived here since 1980 would have no legal right to stay and we will, therefore, still have a large population living under the shadow of law. I hope that when the House of Representatives considers immigration law reforms that they settle on a later date.

Before I voted for this bill I received assurances by Congressman MAZZOLI that the House of Representatives will protest several of the preference categories—particularly the second and fifth preferences—which are vital to protecting one of the major goals of immigration law, reunification of families and will provide more adequate judicial review provisions on rejected applications for political asylum.●

● Mr. GRASSLEY. Mr. President, today the Senate has taken what I consider a courageous step in passing this comprehensive immigration reform package.

Being closely involved in this process, I am well aware that most of the issues addressed by the bill do not directly translate into favorable votes back home. In fact, the opposite is more likely the case.

Many of the revisions contained in the bill displease one group or another. I congratulate the Senate on following this necessary step and allowing the overall interest of the American people to override special interest group pressure which I know has been extensive.

I am especially pleased that attempts to weaken the bill were waylaid and the result has been a fair product which will go far in eliminating our immigration related problems including contributing to slashing the ever-growing unemployment rate.

I again extend my congratulations to Senator SIMPSON. Without his tireless leadership I seriously doubt that we would have seen the result we did today. He has every right to be proud of this legislation. It involves some of the most complex issues I have ever been concerned with and he has done a masterful job of addressing those issues. Employer sanctions, legalization, and increased enforcement will truly provide the necessary solutions to problems caused by the uncontrolled flood of people into our country. This bill is essential for the well-being of America and I hope the House acts quickly so that we may see this legislation signed into law prior to the end of the Congress.●

● Mr. HATFIELD. Mr. President, I would be terribly remiss if this opportunity were not seized to express my admiration for the role my distinguished colleague from Wyoming (Mr. SIMPSON) and the whole Immigration Subcommittee, has played in bringing S. 2222 to the point of final passage. In light of the competing interests and emotions involved, I had serious reservations as to whether the Senate would ever be able to dispose of this needed immigration reform legislation. But those fears of mine were quickly allayed by the sensible leadership of my good friend, AL SIMPSON. He was able to avoid the high drama that so often accompanies highly controversial bills and, in the process, allowed the consideration of S. 2222 to be on the merits and not on the emotions.

I am pleased with the result. The Immigration Reform and Control Act of 1982 is a well-balanced approach to dealing with the serious inadequacies characterizing this country's policies on legal and illegal immigration. This bill is long overdue and it will fill a void created by the conflicting foreign and domestic policies on immigration of past years. The key to the bill, the employer sanctions section, is a tough initiative that none of us in the Senate embraced without reservation. The added paperwork and the added presence of the Federal Government in the private sector is an anathema to most of the Members of this body.

However, the overwhelming consensus reached by the various committees and commissions that have studied the problems associated with illegal immigration was that the United States could no longer overlook the option of making it unlawful for an employer to hire an illegal alien. There is no such prohibition under current law, and I am persuaded that the time has come for such a provision.

No one questions why America has a problem with illegal immigrants. We are the most prosperous and promising Nation in the world—the golden land of opportunity. But while throughout our history we have been able to assimilate an unregulated flow of immigrants to this country, we have reached a point in history where our resources and infrastructures are no longer capabile of bearing the weight of such an unrestrained flow of admissions.

America must still lead the free world and must still adhere to its commitment to the principles beautifully represented on the Statue of Liberty. The permitted admission of 425,000 persons per year for family reunification and for special immigration purposes, as well as our country's current refugee policy which permits this country to accept with open arms those fleeing from political or religious persecution, will allow this country to continue to honor this commitment to freedom and human rights. I was especially pleased to see the Senate reject the two amendments which would have jeopardized our country's ability to respond to international crises involving refugee issues.

Our immigration and refugee policies must be coordinated, and in a short time, this body will have the opportunity to assess the direction in which our country's refugee policy should head when it takes up the reauthorization of the Refugee Act of 1980.

While I voted in favor of final passage of S. 2222, I have grave concerns over some of the provisions agreed to in the bill. First, this bill does not address the real needs of agricultural businesses who, historically, have relied on foreign labor during their harvesting season. It has been proven over and over again that there is not a willing American labor pool available to go into the fields and gather the harvest. The H-2 program has not worked for these farmers, and I am not convinced that the changes made in the H-2 program will be of significant help to the farmers. Senator Hayakawa offered an amendment which expanded the guest worker program to cover the needs of agriculture, but that amendment was not successful.

Another amendment offered by my distinguished colleague from California which I supported and which was defeated provided that INS officers would have to have a search warrant before they could search fields and farms for aliens. This amendment would have remedied the situation that frequently occurs when INS officers descend on a farm and round up both legal and illegal residents. The protection of a warrant seems in order to avoid the intrusion into the legitimate rights of the legal residents who must suffer the ignominy of random searches and detentions.

Despite those aforementioned shortcomings, S. 2222 is a good bill. Any controversial bill will contain language that is vigorously debated, and this bill was no exception. Senator Simpson and the members of the Immigration Subcommittee saw that a spirit of compromise was absolutely essential to getting this bill to the point it is at today. The best example of this spirit of understanding can be found in the legalization or amnesty provisions agreed to by the Senate. There was considerable disagreement as to how to treat the 4.5 to 7 million illegal aliens presently residing in this country. The compromise struck between Senators Simpson, Grassley, and others grants permanent resident status to aliens living here since 1977, and temporary resident status for those here since 1980.

Further, no public assistance benefits are available to either class granted amnesty, with the exception of emergency assistance which would be funded by Federal block grants. It must be understood that without this compromise on amnesty, our immigration laws would have continued to allow an underground residency of illegal aliens.

Mr. President, before S. 2222 came to the Senate Calendar for action, I heard the bill termed a "delicately balanced house of cards." In the past week, the Senate has carefully dismantled this "house," piece by piece, so that each part of the bill could be thoroughly examined. Today, by final passage, we have put this house back together, and I am confident that it can and will stand. I heartily commend Senator Simpson for preventing the winds of division from leveling the Immigration Reform and Control Act of 1982. There were 31 amendments and almost 20 rollcall votes on this bill over the 3 full days S. 2222 was before the Senate, which puts the efforts of Senator Simpson as floor manager, and Senator Kennedy as the ranking minority member of the Immigration Subcommittee, as perhaps the finest this session. I am hopeful the House will recognize the urgent need to act on this legislation, and in the process, to bring under control the raging immigration problems confronting our society and economy.●

● Mr. RIEGLE. I voted against Senate passage of the Immigration Reform and Control Act (S. 2222) because I do not believe this bill offers an acceptable response to our Nation's immigration problems.

This legislation fails to adequately deal with the increasing number of illegally employed aliens. Also, since we have inaccurate and highly speculative estimates regarding the number of undocumented aliens already in the United States, the conflicting policies in this bill with respect to various immigration preference categories are difficult to assess for reasonableness.

As the bill stands, the immediate relatives of U.S. citizens are included under the annual numerical ceilings, but the families of permanent resident aliens are weakened by the disqualification for relative preference of adult unmarried sons and daughters, and no provision is made for brothers and sisters of U.S. citizens.

S. 2222 in its present form does not adequately address the very difficult questions of how to control the flow of immigrants—both legal and illegal—into this country in a manner which is both fair and effective, and which protects the principle of family reunification in our immigration law.●

RECESS UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, as I indicated earlier today, as is our custom on Tuesdays, I now ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:09 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Lugar).

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will state the unfinished business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed the consideration of the joint resolution.

(The names of the following Senators were added as cosponsors of amendment No. 2029: Mr. Warner, Mr. DeConcini, Mr. Symms, Mr. Schmitt, Mr. Jepsen, Mr. Nickles, Mr. Hatfield.)

Mr. HEINZ. Mr. President, one gymnasium for the exclusive use of 100 Senators is a luxury. Two gymnasiums for the exclusive use of 100 Senators is a self-indulging extravagance. Three gymnasiums for the exclusive use of 100 Senators is, Mr. President, as anyone with any commonsense can see, an inexcusable slap in the face of the American public.

When the Russell and Dirksen Senate Office Buildings were constructed, I was not privileged to serve in the Senate. I shall not pass judgment upon the decisions of those Members serving at that time in the construction of the first two gymnasiums. However, today I am compelled to speak against this Senate, of which I am a Member, condoning yet a third gymnasium.

I have consistently opposed the contruction of the Hart Building. Now, at a time when we ask sacrifices of the American people—those we serve—we simply cannot ignore the extravagance of the Hart Building.

At a time of sacrifice, it is our most serious responsibility to save every possible dollar of the taxpayers' money. I cannot support the building of yet a third gymnasium, and I urge the support of the amendment of my good friend from Tennessee, the honorable majority leader, Senator Baker.

(By request of Mr. Robert C. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. FORD. Mr. President, I am pleased to cosponsor the amendment of the Senate majority leader, Senator Baker, and the minority leader, Senator Byrd to prohibit the construction of the proposed physical fitness facility in the Hart Senate Office Building.

Last week, I wrote Senator Stafford, chairman of the Senate Office Building Commission, to second the majority leader's call for a halt to construction of this facility.

As I told Senator Stafford, the idea of spending $736,400 for this purpose is not only ill-advised, but unjustified in these times of fiscal restraint.

I might add that the only reason I voted last week to sustain the ruling of

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the chairman that Senator Proxmire's amendment to the supplemental appropriations bill was nongermane is because I have consistently opposed the idea of legislating through appropriations.

I hope that the Senate will approve the Baker-Byrd amendment and I submit my letter to Senator Stafford for the Record.

The letter follows:

U.S. Senate,
Washington, D.C., August 13, 1982.

Hon. Robert T. Stafford,
Chairman, Senate Office Building Commission, Dirksen Building, Washington, D.C.

Dear Mr. Chairman: The purpose of this letter is to second Majority Leader Baker's call of yesterday to stop construction of the proposed new physical fitness facility in the Hart Senate Office Building.

The idea of spending $736,400 for this purpose is not only ill-advised, but totally unjustified. It flies directly in the face of the major budget cuts in federal programs that we are asking the public to accept in the interest of reducing government spending. This is certainly one means by which the Senate can exercise restraint and good judgment. It would also send a signal to the American public that this body is willing to practice what it preaches.

Like many other Senators on Tuesday, I voted for tabling the Proxmire Amendment to eliminate funds of the new facility solely to sustain the proper ruling of the chair that this particular amendment was not germane to the pending supplemental appropriations bill. I have consistently opposed the idea of legislating through appropriations. I believe this practice can only create a dangerous and troublesome precedent for the Senate.

In no way did this vote reflect my true sentiments about the need for another physical fitness facility for Members of the Senate. I hope that a meeting of the Senate Office Building Commission can be arranged at the earliest possible opportunity for the express purpose of delaying any expenditure of funds for this facility.

Sincerely,

Wendell.●

VOTE ON AMENDMENT NO. 2029

The PRESIDING OFFICER. The question is on agreeing to the pending amendment offered by the Senator from Tennessee and the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. Simpson) is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) is absent to attend the funeral of former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—98

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—2

Ford
Simpson

So the amendment (No. 2029) was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Let us have order in the Senate.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I announced earlier that it was our hope that this afternoon we could do the Department of Defense authorizations conference report. I would like to proceed to that item now but with all expectation that we will come back to the debt limit later in the afternoon today. There will be further debate on the debt limit and on the pending amendment today.

DEPARTMENT OF DEFENSE AUTHORIZATION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the Defense authorizations conference report on S. 2248.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Is it the majority leader's intention to hopefully finish today, if we can?

Mr. BAKER. Yes, Mr. President, it is my intention to do that, and I think that we can do it.

Mr. PACKWOOD. May I ask for the yeas and nays?

Mr. BAKER. On?

Mr. PACKWOOD. On the conference report.

Mr. BAKER. Mr. President, after the Chair grants the request, there will be a request for the yeas and nays.

The PRESIDING OFFICER. The report will be stated.

Mr. STENNIS. Mr. President, may we have order? There is no reason why we should not have order so we can at least hear.

The PRESIDING OFFICER. The point of the Senator from Mississippi is well taken.

Will Senators clear the aisles so that Senators may hear?

The clerk will now report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian personnel of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 16, 1982, page H5953.)

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my military aide, Mr. Dennis Sharon, may be with me on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, on behalf of the Senate conferees, I am pleased to report the results of a joint conference on S. 2248, the Defense authorization bill for fiscal year 1983.

The conferees have agreed to authorizations in titles I, II, III, and VIII for procurement, research, development, test, and evaluation, operation, and maintenance, and civil defense that total $177.9 billion. This figure is $5.6 billion below the President's budget request, comparable to the figures recommended in the Senate bill, and $0.8 billion above the comparable figures in the House amendment. Both the Senate bill and House amendment contained general provisions—the Jackson amendment in the Senate and the Glickman amendment in the House—that would have had the effect of altering the above figures, but these provisions were not agreed to by the conferees.

Because the first budget resolution provides for target levels of budget authority and outlays, there is not a direct relation between the Defense authorization bill and budget resolution. Nevertheless, the conferees were mindful that the Congress has adopted a budget resolution that targets a $9.8 billion reduction in budget authority to the President's budget for national defense. The conference agreement would make a reduction of $5.6 billion.

This reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Between the DOD authorization bill, MILCON, and DOE, the authorizing committees have responsibility for 93.5 percent of the 050 function.

Reductions in civilian pay and COLA's from the level assumed in the President's budget will result in reductions of approximately $2 billion.

Further adjustments in Department of Defense programs are usually made during the appropriation process. If the appropriations committees reduce their bills by $635 million—which is their fair share (6.5 percent), then this conference bill will remain consistent with our continuing efforts to meet the requirements of the first concurrent resolution for BA reductions of $9.8 billion.

I should point out to my colleagues that when we entered conference there were some 400 items of disagreement between the Senate and the House, involving several billion dollars. Yet, the difference between our two bills was only $300 million. The Senate actually faced a potential conference outcome that could have been over $1.5 billion above the Senate bill. We worked very hard to reduce this increase to only $500 million above the Senate bill, an amount equal to the $177.9 billion bill reported by the Armed Services Committee.

Even while the conference bill includes additions above the Senate for the MX, AH-64, and C-5B, the record will show that most of the savings generated in this bill came from procurement ($3.2 B), R. & D. ($1.2 B), and O. & M. ($1.1 B) in that order.

To the extent possible, the conferees protected the strategic and conventional force modernization programs so essential to rebuilding our defense capability.

The conferees also tried to protect the near term readiness of our forces. Over 70 percent of the operation and maintenance reductions were related to pricing changes in fuel and currency, and accounting transfers. The requests for flying hours and steaming days were approved intact.

I will reiterate my enormous displeasure and discomfort at being compelled to make reductions in many programs for which there are validated military requirements; and I must caution my colleagues who might think that reductions of $5.6 billion can be made easily. I can assure them the budget reduction process in the area of national defense is just as difficult as that experienced in domestic programs.

I am generally pleased with the outcome of conference, and I thank the Senate and House conferees for their hard work and their commitment to finish this bill before the recess.

Mr. President, the Armed Services Committees have made a solid contribution toward helping the appropriation committees meet the requirements of the first concurrent budget resolution. On this basis, I urge the Senate to adopt the conference report now before us.

Mr. STENNIS. Mr. President, I shall not take more than a few minutes of the Senate's time now, but I will be prepared to comment later on some of the items in this bill.

Mr. President, no bill before the Senate, for a long time, has had any more thorough consideration of most of its items than this, and few have had as many important items and decisions to be made on major weaponry.

The President is entering into arrangements for negotiation on limitation talks, as we all know; and I have said to him that there is nothing more important to deal with during his 4 years in office than the problem of some kind of acceptable, effective arms limitation agreement with the Soviets that, to a practical extent, can be given surveillance with something in the realm of scientific ability for us to tell whether or not it is being lived up to.

The MX missile was one of the things at issue, and it is important, and I wish it did not cost so much and did not take so long. The President of the United States going off to attend negotiations, to take leave—not physically going now—but to take leave in such negotiations without a firm, positive, definite committal by Congress as to the availability of the MX missile, which is the third leg of our famed Triad, which I think makes all the difference in our favor—without that in its modern form, looking to completion—it puts him at an extreme disadvantage, which I do not want him to have, and I do not believe anyone else does who realizes what the disadvantage would be.

I am ready for this debate to proceed, and I am not going to take a great deal of time. I will be present during the entire debate and expect to seek the floor in future exchanges.

For the time being, I yield the floor.

Mr. EXON. Mr. President, as my record shows, I have always been and remain thoroughly dedicated to the proposition that the national security of the United States must be further strengthened. However, it is also my belief that such a conviction does not lock me into essentially giving a "blank check" for the purchase of almost anything that "pops."

It is not customary for a member of the Armed Services Committee to speak in anything but glowing terms of military authorizations. Notwithstanding what is commonplace, I regretfully urge my colleagues to study carefully the conference report before "rubber-stamping" it and, instead, send the authorization back to conference for additional reworking in at least three critical areas—namely the MX missile and related antiballistic missile development; the Titan missile; and the Trident submarine. There are undoubtedly others that require more critical review. However, Senate judgments in these three areas mentioned were overturned in conference and, in my opinion, if permitted to stand, will result in a serious and possibly long-range detriment—not only to our deterrence and strength but to the chances of peace through negotiations.

It is time, Mr. President, that we pause for at least a moment to see who is driving our military machine and to where.

It is this Senator's view that the people of America are more deeply divided today on the ways and means of best assuring peace than any of the other serious challenges facing us.

This Senator from Nebraska has not endorsed the present "nuclear freeze" concept because, while I enthusiastically endorse its worthy goals, it appears to me—and I avidly hope I am wrong—that it appeals to the idealistic panacea concept and not the hard reality of the situation that confronts us. I am sufficiently exposed to and impressed by the continued Soviet adventurism and expansionism around the world. I am very much concerned, but not mesmerized by, their past activities as well as their present and future plans.

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My faultfinding with this conference report is that it perpetuates and reinforces the highly questionable presumption that throwing gobs of taxpayers' money at almost anything for sale or on the drawing board that transports explosives, or explodes, is sound defense policy.

The House Armed Services Committee conferees were reminded of the House of Representatives' only two-vote majority against the nuclear freeze amendment and that they were needlessly flying in the face of "freeze" supporters by their determination to procure or begin procurement of almost everything imaginable.

Mr. President, there are many well considered and necessary decisions in the conference report which I enthusiastically support. yet, Mr. President, there are others being pursued seemingly for the sake of pursuit itself. There appears ample evidence that we have not sufficiently addressed needed priorities. It is almost as if we can disregard priorities in military spending because there are none.

I take this action reluctantly and would not do so unless I felt it to be absolutely necessary. Before explaining further the reasons behind my opposition, I tell my colleagues that the Armed Services Committee has just finished a long, tortuous conference with our House counterparts. Many positions on highly important national security issues were in diametrical opposition and the negotiating was very tough. I am certain that every conference participant will agree with what I have just stated. Our chairman and ranking minority member were placed in a most difficult position and we knew from the beginning that some undesirable compromises would have to be made.

Nevertheless, I shall review the results of this conference in comparison to the positions which the Senate took on the three key issues previously mentioned.

First is the issue of the MX missile. The Senate Armed Services Committee decided unanimously against the administration's plans to begin production of the MX without knowing what the basing mode would be for the missile. We did provide additional research and development funds to accelerate the basing mode determination and mandated a basing decision by December 1 of this year. The Senate also prohibited the interim basing of MX missiles in existing Minuteman missile silos. We simply concluded that it made no sense to place a new, 10-warhead missile in vulnerable silos.

The fact that the Armed Services Committee took this position and brought it to the Senate floor contributed in large part to the overwhelming approval this bill received last May.

The House of Representatives, on the other hand, voted to go ahead with production of the first nine MX missiles, as requested by the administration, although a considerable portion of the funds could not be expended until after a Presidential decision on MX basing was made.

The conference agreement provided for in the report on which we are being asked to vote today allows procurement of the first five MX missiles along with provisions to encourage an accelerated basing mode decision. At this point, I ask, "How many of my colleagues have read or even heard of the Air Force's report of 'July 20, 1982, on MX Closely Spaced Basing'?" This is a most important point for several reasons.

Closely spaced basing, formerly known as dense pack, is described as the most promising candidate for MX basing. The President is supposed to make a decision on whether or not this will be the MX basing mode this fall. However, it is important to note that closely spaced basing is the only long-term basing mode which can be ready by 1986; 1986 also represents the earliest initial operational capability for the MX missile itself. If closely spaced basing is not approved, but if we begin producing MX missiles in 1983, the only other alternative is to place these missiles in existing silos or in a warehouse. The first option has already been rejected by the Senate and the second option makes even less sense.

So here we stand, Mr. President. This conference agreement calls for production of the MX missile so that it will be ready by 1986—the year it was always expected to be available for development. However, because of the many false starts on MX basing, the only long-term basing mode which can be ready when the missile is ready is closely spaced basing.

Unfortunately, having reviewed the available information on closely spaced basing gives this Senator no comfort. In the Air Force study, the key to MX survivability in closely spaced basing is that an enemy attack against the missiles in superhardened capsules, one-third of a mile apart, would fail because of the fratricide effect. Fratricide includes the radiation, air blast, fireball, and debris which would be caused by a large-scale Soviet attack on our 100 MX missiles based in a small area of 15 square miles. This fratricide effect would supposedly cause the attacking Soviet warheads to destruct each other because an unprotected Soviet warhead cannot presently stand up to these effects.

The study goes on to say that one countermeasure to a Soviet effort to defeat this system would be to "extra-superharden" these MX capsules to as much as 50,000 to 100,000 pounds per square inch of overpressure. I am quite puzzled by this claim—especially in light of the Air Force's inability to prove to the Senate only months ago that they could harden Minuteman silos to a mere 5,000 pounds per square inch.

Without taking the time of the Senate to summarize the entire Air Force study—which comprises the only information we have on closely spaced basing—let me simply say that it lists a number of potential Soviet countermeasures which could be taken to defeat this system. It also lists a number of potential U.S. counter-countermeasures which we could devise to block their moves. Much evidence is available to suggest that it is probably within Soviet technical capability to defeat closely spaced basing as soon as, or shortly after, it becomes operational—that is, unless the United States deploys an antiballistic missile system to defend the MX.

Therefore, we are being asked to approve MX production money for fiscal year 1983 when we are fairly certain that the "most promising" basing candidate will require an ABM system to defend it right at the start. One never hears about this basing mode without hearing the letters ABM in the very next breath. Closely spaced basing could lead directly to the abrogation of the ABM Treaty by the United States—not the Soviet Union. It may violate SALT II as well, which the President has said he will not violate if the Soviets do not, until we get a new arms-reduction agreement. There is considerable concern that these MX capsules could be considered the equivalent of new land-based silos which the treaty prohibits.

Make no mistake about it—closely spaced basing, with all of its potential drawbacks, is the only permanent basing scheme which could be in place by 1986. And 1986 is the only reason to authorize MX missile production money in this bill. We have had no hearings and very little information on this deployment mode except for the July 20 Air Force paper I have referred to.

How can we possibly give the green light and rush headlong into this proposition at this stage? Mr. President, I am not against the MX missile. But I am against deploying a $20 to $30 billion weapon system without an acceptable basing mode.

The proposed retirement of our existing 52 Titan missiles is the next subject area where I take issue with the conference agreement. Last October, the President proposed that we begin dismantling our Titan missiles at the average rate of one per month beginning in October of this year. On March 31 of this year, the President stated that, "The truth of the matter is that on balance, the Soviet Union does have a definite margin of superiority, enough so that there is risk and there is what I have called, as you all know, several times a window of vulnerability."

What sense does it make, Mr. President, to unilaterally disarm the Titan missiles—which constitute approximately one-third of our overall land-based ICBM megatonnage—if we are inferior and face a window of vulnerability? It is nonsense. Why should we take this step at the same time we are beginning START negotiations with the Soviet Union and in the absence of a corresponding nuclear arms reduction on their part? I keep hearing the story about how the United States "gave up" the B-1 bomber in 1977 and that the decision at that time represented a form of "philanthropy" which the Soviet Union does not respect or reciprocate. It is certainly the height of philanthropy to give up the Titan missiles in this situation.

Mr. President, each Titan missile has a single warhead of approximately 9 megatons. Everyone understands that these are not accurate missiles and therefore cannot put at risk hardened Soviet missile silos and command posts. However, I need not remind my colleagues to the kind of devastation which 9 megatons can cause. The only rationale offered for dismantling these missiles is the need to save about $100 million per year. So, at an equivalent cost of about four Navy F-14 fighters or six new Army attack helicopters per year, we could have retained one-third of our total land-based ICBM megatonnage until the MX becomes operational in an acceptable basing mode. And I remind my colleagues that the Titans were always supposed to remain in our inventory until a replacement came on line unless an arms-reduction agreement allowed their early decommissioning.

The Armed Services Committee held a special hearing on this subject at my request. The result was that we funded retention of the Titans for at least 1 more year. The Senate even voted down an attempt to delete Titan funding on the floor just 3 months ago. Unfortunately, this conference agreement does not provide enough money to retain all of the Titans and instead approves the beginning of their decommissioning.

The third issue I wish to address is the subject of Trident submarines. Mr. President, if there is one area of stability in the entire strategic modernization program, it is the Trident submarine and missile system. Last year, because of fiscal constraints and shipyard problems, Congress did not fund the 1982 Trident submarine. However, at the same time, we agreed that two submarines would be funded in 1983. The Senate kept its end of the bargain; however, the House of Representatives did not. The conference agreement before the Senate today only funds one Trident submarine. With all of the uncertainty surrounding the future of the land-based portion of our strategic Triad and with the potential of the Trident II missile, why should the United States "shortchange" the most promising part of any future nuclear deterrent?

Mr. President, I understand the need to compromise in any House-Senate conference and the well-intentioned differing views of each side. However, on these three issues of great importance—the MX, Titan, and Trident—the Senate position was not upheld and the decisions reached in this conference agreement have far-reaching, adverse implications for our defense policy.

For whatever reason, we are being forced to give up Titan missiles to fund tactical aircraft which were not even requested in the President's budget. Because of our desire to send a signal to the Soviet Union, we are being asked to actually procure MX missiles when we do not have an approved basing mode. We are funding two aircraft carriers and a refurbished World War II battleship but only one Trident submarine.

In my view, this is an example of misplaced priorities and the triumph once again of parochial interests over that of the Nation as a whole. Is this the way to take maximum advantage of the renewed national consensus to enhance our defense posture? I think not.

Mr. President, I am not opposed to this conference report because I do not favor taking the steps necessary to improve our defense—exactly the opposite is the case. I oppose this legislation precisely because I am greatly concerned over the threat posed by the Soviet Union and over the need to take prudent steps to protect our national security. Throwing money at the problem—which is what we are being asked to do today—is not the answer. I believe that we can do a much better job for our defense for the same number of dollars spent.

Mr. President, it is time that we began tackling the problems of our national defense and nuclear deterrent in a rational manner. I fear the consequences if we do not and the Nation demands no less an effort.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I rise in support of the conference report on the fiscal year 1983 DOD authorization bill. The Senate and House conferees worked diligently to achieve a proper allocation of the moneys available within the budget constraints with which even the defense budget must conform. The members of the conference were faced with hard choices based upon substantial differences between the Senate and House positions but, all things considered, I believe a proper balance was struck.

I am pleased to report that the conferees did not ignore the vote of the Senate with regard to procurement of commercial widebody aircraft for our military airlift requirements. The conferees decided on a number of elements of a program to enhance our airlift capabilities. In addition to approving the administration's proposed restart of production for the C-5 and the purchase of KC-10 tanker/cargo aircraft, the conferees recognized other important elements of our airlift program. In particular, we authorized the purchase of three surplus commercial widebody freighters for military airlift purposes.

There are a number of these commercial freighters for sale from companies which currently do not have sufficient business to justify retaining these aircraft. These freighters have both a nose door and a side door for loading of oversized and bulk cargo and are available for nominally $36 million per aircraft. The planes have to undergo some minor changes to make them optimal for military airlift purposes with an estimated cost of $3.5 million per aircraft for this conversion. For example, military avionics systems need to be installed and aerial refueling capability might be installed to further increase the already enormous range of the 747 freighters. With an initial spares requirement of approximately $3.5 million per aircraft, the cost for these surplus 747 freighters is approximately $43 million in fiscal year 1982 dollars which compares to a price of about $145 million per copy for the new C-5's in fiscal year 1982 dollars. Obviously, these surplus planes represent a real bargain to augment our airlift capabilities and the opportunity should not be lost to purchase them before they are sold abroad to nations which could use them for their own military purposes.

I believe that these 747 freighters can be used by the Military Airlift Command for training purposes to teach Air Force personnel in the active duty units, Reserve units and Air National Guard how to load oversized equipment onto a 747 so that in the event of an activation of the CRAF, the military personnel will be totally familiar with the loading methods and load composition for maximum efficient use of the CRAF in an RDF mission. Moreover, if the Air Force gains experience with the 747 in a "hands-on" way, I believe that it is quite likely they will overcome whatever reluctance they currently have toward this superb aircraft and will consider buying additional 747 freighters in future years to further augment our airlift capabilities.

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The conferees also maintained the C-17 as a longer range option for meeting our airlift requirements and encouraged the Air Force to explore new contracting procedures to make the CRAF enhancement program, which has been totally unsuccessful to date, more likely to succeed in the future.

I am also exceedingly pleased that the conferees agreed to provide for a settlement of a military personnel claim for Col. Thomas E. Schaefer who suffered a loss of property in excess of the statutory limits during the period of the Iranian takeover of the American Embassy. Colonel Schaefer served his country nobly during his time in Iran, including nearly 2 years of captivity as a hostage in the American Embassy, and it is only fair that his personal loss be compensated in keeping with his service to us. I hope that others who have been similarly affected by this statutory limit can be properly compensated in some future legislation.

There are many important actions that the conferees took. Some of them are more notable than others because of their international impact, especially with regard to our ability to successfully negotiate treaties with the Soviet Union. The conferees approved initial production of the MX missile whereas the Senate had specifically denied funding for this purpose. The Senate Armed Services Committee's objective in part was to force the President to come to grips with a survivable basing mode for the MX missile. The administration is now actively working on a new proposal for a basing scheme which will be submitted to the Congress for its review in December. The conferees recommend the fencing of production funds statutorily until that report has been submitted to the Congress and thoroughly analyzed. Our actions in the conference leave the door ajar for going forward with MX deployment and thus send an important signal to the Soviet Union that we will deploy new strategic systems unless meaningful negotiations on arms reductions are forthcoming. At the same time, we have taken a step to reduce some of our strategic arms by not providing funds for the continued operation of our Titan missiles. These missiles will be phased out over the next few years. I believe this partially answers the critics' concerns that we are building weapons without bound because we are trying instead to achieve safer and more credible deterrence for our national defense.

With regard to the ballistic missile defense program, the conferees cut the level of activities to about 50 percent of the President's proposed budget. Whether or not the ballistic missile defense concept will be deployed is yet to be determined and is currently under a high-level review in the administration because of the existing treaty with the Soviet Union. Because the Soviets are working actively on a ballistic missile defense program, we must maintain a technology base not only for our own considerations but in order to understand what the Soviet's program may be able to achieve. Whether or not ballistic missile deployment will occur in conjunction with the MX is an open question at this time.

The conferees also decided to support the House position of not initiating production of binary shells at the present time. The Soviet efforts in chemical agents are intense and present a serious concern for our forces in places such as the NATO countries. A question which has yet to be answered is whether we can achieve a verifiable treaty on chemical weapons with the Soviet Union without the specter of production of our own weapons. Multilateral discussions on chemical weapons are taking place under the auspices of the United Nations and perhaps the outcome of those talks will give us clear guidance on this question in time for next year's authorization bill.

I am pleased that the conferees decided to approve funding to move forward with the ECX program for strategic communications for the Navy. I believe that the existing capabilities are not compatible with the efforts to improve the C^3I capabilities in conjunction with our Poseidon and Trident submarines. While I concur with the conferees' statement that we must not limit production of tactical aircraft so that the costs of such aircraft do not become unacceptably high, I believe that it is also important to terminate production lines when a sufficient inventory of a tactical aircraft is in hand or when a new generation plan supersedes an existing production model. The ECX in not in fact a tactical aircraft, and it is likely to be derived from an existing production line and should not have in fact been included in the litany of new tactical aircraft discussed in the statement of managers.

I urge my colleagues to support adoption of this conference report.

Mr. GORTON. Mr. President, I second the thoughts expressed by my senior colleague from the State of Washington, Senator Jackson, who is supporting this proposal. I congratulate the chairman of the Senate Armed Services Committee for this bill and for his thoughtfulness in working out appropriate compromises with the House. I express my support for the bill and for the position taken by my senior colleague.

Mr. PROXMIRE. Will the Senator from Colorado yield 30 seconds?

Mr. HART. I yield.

Mr. PROXMIRE. Mr. President, I shall cast my vote against the conference report on the fiscal year 1983 Department of Defense authorization bill for several reasons, but the primary one is budgetary. This bill is about $2.6 billion over the amount allocated for national defense in the first budget resolution.

While it is technically accurate to argue that this is an authorization and thus not subject to the strict limitation—there being an appropriations bill to follow—clearly the budgetary pressures created by this overspending are inappropriate and unacceptable.

What we are seeing is a double standard applied to legislation before the Senate. Some bills, some issues, do not receive the same budgetary scrutiny as others. The two classic items are foreign aid, where we have been subjected to huge increases in requests from the administration, and in defense where similar trends are evident.

We are reducing funding for school lunch programs, for handicapped Americans, for the elderly, the sick, and impaired, for students, for retirees. And Mr. President, most of these reductions are necessary to get our economy back on a healthy track, to reduce inflation and interest rates and restore confidence. But while we are making these painful reductions, touching the lives of millions of Americans, we are applying a double standard for defense spending and foreign aid. Here the pressures are all upward, the spending higher, the quest for efficiency less energetic.

No one who has served in any capacity in the military would argue that the solution to our defense problems rests automatically with tens of billions in increased expenditures. Some increase is inevitable if we want the All-Volunteer Force to work; if we are to pay our military personnel a fair compensation; and if we are to produce the quantity of weapon systems necessary to meet the threat.

But there are limits to the powers of dollars to cure. More spending, at the rates recommended in this bill, do not address the issues of competition, of reliability, of oversophistication, and vulnerability.

This bill could have been reduced without any significant negative effect on our national security.

The MX should have been postponed until a basing decision is reached. The two aircraft carriers are an extravagance we cannot afford. The B-1B production should have been eliminated in favor of the Stealth bomber.

There are some positive elements in this bill. It prohibits the opening of the binary munitions production facility. There are certain provisions in the bill that benefit the National Guard and Reserves.

But by and large this bill is of unacceptable size given our economic situation. The growth rate in defense spending should have been trimmed to about a 3-percent real growth level.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, there is no subject or set of subjects as complex as the defense authorization bill, with the possible exception of tax and revenue measures.

I want to begin my remarks by saying that the distinguished floor manager of the bill, the Senator from Texas, deserves the special appreciation of all of us on the respective committees and the conference for his judicious handling of this extremely complicated and difficult conference.

He has, in his management of the Senate Armed Services Committee, and I think in his handling of this extremely long and complicated conference, distinguished himself for his fairness and judicious nature and his genuine effort to accommodate the views of all of those who agreed to disagree with him. I think he deserves the appreciation of the entire Senate.

Second, Mr. President, I cannot think of a bill that calls into question the priorities in our society more than this bill. It represents increased spending at a time when almost all other priorities of this country are being cut, when reductions are being made in almost all other areas of Federal spending.

The President of the United States, on television last night, I think for the first time pointed out to the American people that when he talks about Government spending, he is not including defense spending. Up to this time, one would have thought that all Government spending was evil and it all ought to be cut back. Last night, he pointed out that there was a major area of Government spending that he in fact advocated increases for, and that was defense.

Defense spending is Government spending. It is Government spending just like all other Government spending. It represents a quarter, perhaps as much as a third of all Federal spending, and it may be even more than that by the end of this administration. It cannot, when we are discussing the issue of spending and cost of running the Government, be exempted from that discussion.

About 2 weeks ago this body went on record by a vote of 65 to 31 in favor of an amendment to the Constitution of the United States to balance the Federal budget. I voted against that measure. I think it is incumbent on all those who voted for it to point out to their constituents that one of the effects of that amendment, if it ever does go into effect, is probably to cap—very, very severely—spending for defense. It can, in the short term, accommodate decreases in domestic spending and increases in defense, but in the long term I think all of us who are honest with ourselves and with the citizens we represent have to understand that a constitutional amendment to balance the Federal budget is going to cause serious and severe cutbacks in defense spending.

Third, Mr. President, an issue that did not come up at this conference, but which I think sooner or later we are going to have to face as a Congress, is the issue of opening this conference up. Periodically in the past efforts have been made to have the bulk of this conference open to the American people and to the press. The issue was not raised by the Senator from Colorado this year, but I do intend, in next year's bill and in years thereafter, so long as I am in the Senate, to make an issue of the openness of this conference.

In the past we have deferred that issue or beaten it back on the grounds that these are matters of national security. There may be and there are matters of national security taken up in the defense authorization conference. But all of us who participated in that conference, if we are honest with ourselves, would admit that the areas of national security are a small fraction of all the issues on which we deliberate, and there is no justifiable constitutional reason or national security reason for having the bulk of this conference behind closed doors.

It facilitates our deliberations, it facilitates the horse trading that goes on, but I do not think it is fair to the American people. I think the American people ought to understand the tradeoffs involved in accommodating the House and Senate. I think it would make our deliberations better, and in the long term it would help educate the American people as to what the real defense issues are.

Mr. President, at a time when every other part of the Federal budget is being forced to cut back, the administration has yet to reconcile defense spending with austerity in other domestic programs. Rather than compromise between the levels of funding adopted by both Houses, the conference did each House one better and adopted a higher figure than either bill. This kind of excess is unnecessary and appalling in the face of a stagnated economy, soaring deficits, and an unraveling safety net.

Mr. President, I must oppose this conference report for those reasons and, further, because it reverses a very serious Senate decision to delay procurement for the MX missile until an acceptable basing mode has been proposed.

The House proposed spending a billion or so dollars for nine MX missiles. The conference adopted a so-called compromise proposal to purchase five MX missiles at a cost almost of what the House authorized for nine, a discrepancy which the Senator from Colorado is still at a loss to understand.

The argument in favor of that compromise for procuring missiles is that they offer a bargaining chip to our negotiators in Geneva, who are supposedly negotiating an arms control agreement. Mr President, I do not think the Soviet Union is going to be very impressed, let alone intimidated, by missiles that cannot be launched, whether there are 5, 9, or 100.

Missiles in a warehouse represent no threat to the Soviet Union or anyone else. The billion dollars that they cost does represent a threat to a balanced budget in this country and to economic survival.

Going ahead with the procurement of these five missiles, or any number of missiles, before we know how or where or even if the administration has a plan to base them is simply and flatly a waste of money. It is my intention to continue to oppose further procurement of this missile until this administration or some future administration identifies and endorses a survivable MX basing plan. To date, the only proposal that, apparently, through rumors, is being considered for interim basing is either existing silos or the so-called dense pack plan, both of which are clearly inadequate and unacceptable.

My opposition to this report on the MX missile extends to its probable counterpart, the so-called BMD, ballistic missile defense, program. The conference reduced the Senate figure in this account, but added $100 million for the revival of the Spartan exo-atmospheric interceptor missile. This action, designed to provide for a quick option to defend the dense pack basing mode for MX, is premature to say the least, until we know what that basing mode is.

Mr. President, this Senator strongly opposes scrapping or modifying the ABM Treaty. The treaty has served U.S. interests well during the past decade, and it can continue to do so if we and the Soviets are prudent in the development of BMD technologies. Our pursuit of a basing mode that is questionable at best should not preempt our understanding of the value of this treaty.

The root of my opposition to this bill goes even deeper. Quite simply, I am opposed to the conference report, as I earlier opposed the bill, because, in my judgment, it will make us weaker militarily, not stronger. It contains too little funding for ships, planes, or weapons that will work in combat. It contains a great deal of funds for ships, planes, and weapons that probably will not work. In short, it is almost purely a traditionalist defense bill, and as a military reformer, I believe military traditionalism is more likely to result in defeat than defense.

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I must, at this point, commend the distinguished chairman of the committee (Mr. TOWER), and the distinguished minority leader of the committee (Mr. STENNIS), for their hard work in the conference and for their support for some of the small number of items in this bill which may actually strengthen us militarily. I refer, in particular, to the AV-8B, the AV-8B+, the Arapaho program, Seamod, and the Military Reform Caucus amendments, which have been incorporated into the conference report as reporting requirements.

Some of the other spending authorized here, especially that for operations and maintenance, may also help strengthen our defenses.

On the whole, however, this conference bill funds a conceptually flawed defense policy, a policy that puts weapons before people, strategy and tactics; that defines "quality" in those weapons in terms of fragile, overly complex technology; and that pays for that quality, not only with a tremendous outpouring of tax money, but also by buying so few weapons that our forces will fight heavily outnumbered.

The Navy provides perhaps the most painfully clear example. This bill authorizes two more nuclear aircraft carriers, at a cost of almost $7 billion for the two ships, plus an implied commitment of at least another $20 billion for aircraft, escorts, and support ships. What difference will this massive expenditure make in the United States-Soviet naval balance? Very little, if any.

The bill authorises just two attack submarines. The Soviet Union is launching seven each year. Why do we build so few? In part, because we have let our submarines become so complex and expensive we cannot afford very many. And, in part, neglect of the submarine force is a price of our fixation with the big aircraft carrier. Yet few independent naval experts would be surprised if, in the next naval war, submarines turn out to be far more important than carriers.

The bill continues the Aegis cruiser program, a program for carrier escorts that cost $1 billion each, provide a powerful radar beacon on which the Soviets can home to attack our carriers, and can neither see nor shoot down sea-skimming antiship missiles like the Exocet that sank H.M.S. *Sheffield* in the Falkland Islands naval conflict.

The story with the other services is largely the same: The Air Force's love affair with the F-15 is allowed to go forward, even though the F-16 has repeatedly been shown in mock air combat to be the better fighter at half the cost. The Army's fragile M-1 tank and disastrous Bradley fighting vehicle programs get their funds.

In its totality, this bill rewards the Pentagon for precisely the wrong kind of behavior. It provides the reward valued most—money—for tremendous overemphasis on procurement and R. & D., at the expense of actually preparing to fight if necessary, and to win. It rewards addiction to fragile equipment more suited the laboratory than the battlefield. It rewards bureaucratic behavior, which always prefers what is familiar—even it if does not work—to innovation and imagination.

In its effects, this bill represents defense business as usual. As one who supports a truly strong, modern defense, I cannot support it.

I know some traditionalists here and in the Pentagon are congratulating themselves on how "pure" a bill this is, on how little reform it contains and how greatly it rewards business as usual. I will only say, as I have said for years, that military reform will come. If we are fortunate, it will come before the policies funded here are tested in combat. If not, it will most surely come afterward.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Michigan.

Mr. LEVIN. First, Mr. President, let me add my commendation to those of others for the Senator from Texas (Mr. TOWER), who did such a superb job in chairing this conference. I have been in many conferences and I know of none that moved so strongly and so quickly to resolve many, many difficult issues. I commend our chairman for the masterful way in which he chaired the conference. I am a member of that committee. I am constrained to oppose the conference report for many reasons, which I shall enumerate in a moment, but even those of us who oppose it all are very much supportive of the way in which our chairman fairly and strongly manages these conferences.

I hope the Senate rejects the conference report, Mr. President. I do so for many, many reasons, which I shall enumerate in a moment. This conference report embodies one of the largest military budgets, if not the largest, since the height of the Korean war, in real spending. That war took place 30 years ago. This conference report distorts the defense spending priorities of this Nation and it fails to address adequately our true defense needs.

No doubt, the completion of this conference report and its passage by Congress will be hailed by the executive branch and its proponents on Capitol Hill as a significant milestone in the effort to rearm America. Instead, the final version of the 1983 Defense Authorization Act represents for national security policy what supply-side economics has meant for fiscal policy—an ineffective solution to the real problem of maintaining and improving our military capabilities.

Rather than promoting the rearming of America, Mr. President, this conference report represents bad economic and bad defense policy. This conference report is a serious reversal for those who truly want to maintain and improve America's deterrent and defense capabilities. Furthermore, it does violence to the congressional budget process intended to restrain overall Federal spending and thereby reduce the crushing deficits now throttling national economic recovery.

This conference report is a deeply flawed product for which we are being asked to pay an exorbitant price in scarce Federal tax dollars. There are many reasons for the Senate to reject it and to return the conference report to conference for substantial revision.

First and foremost, this bill is a budget buster. Based on staff calculations and CBO calculations, the conference report is about half a billion dollars in budget authority and about $3 billion in outlays above the defense spending targets set in the first concurrent budget resolution.

This calculation is based on assessments of this bill and a recognition that it is extremely unlikely that the remaining spending measures which comprise the national defense budget function—military construction, nuclear weapons and pay—can be reduced sufficiently and without danger to our security to meet those targets. I shall insert into the RECORD at the conclusion of my remarks a detailed analyisis of these budget calculations.

By breaching these targets, this conference report violates the spirit of the congressional budget process and threatens to add $3 billion to the Federal deficit.

If this excess is countenanced, the spending limits imposed on other congressional committees—limits so far being met—will be threatened. The fragile budget compromises between domestic and defense spending in the budget resolution are likely to come apart amidst charges of a double standard for the defense budget.

As the deficit grows even larger and recriminations mount about this double standard, even further erosion is assured in the public consensus for needed defense spending increases.

So, first, this conference report is a budget-busting conference report, a half a billion dollars in budget authority, $3 billion approximately in outlays.

Second, this conference report sets the wrong defense spending priorities for the present and the future. It sacrifices needed conventional and strategic capabilities to fund unjustifiable weapons systems whose contributions to our overall strength will be illusory or marginal.

Here are but a few of the more disturbing examples of this in the conference report:

This conference report spends $989 million to buy and base five MX intercontinental ballistic missiles, yet we do not even know how and where to base them. To help fund the MX, the conferees eliminated funding for one highly survivable Trident missile submarine and agreed to phase out the Titan II missiles which contain one-third of our existing land-based megatonnage.

It makes no fiscal and military sense to procure any MX missiles until we know whether we will be able to deploy them in a reasonably survivable basing mode. It makes no sense to engage in unilateral disarmament and give up Titan missiles which both the past and present Commanders of the Air Force's Strategic Air Command have testified are useful weapons which have a role in our overall nuclear war plans.

It makes no sense to delay by 1 year the deployment of 24 advanced Trident II missiles carrying more than 200, prompt, hard-target-kill warheads aboard our most survivable deterrent—our quiet and advanced Trident submarines.

Yet that is what this conference report does.

Five MX missiles in a deployment never-never land will scare the Soviets—either at the START bargaining table or in deterrence terms—a lot less than a fully armed Trident II missile submarine and even our older, blockbuster Titan missiles.

There has been much discussion lately about the increasing prospects that the currently popular basing mode—dense pack or closely spaced basing—will be selected in December as the answer to all our concerns and questions about what to do with MX.

Mr. President, if that decision is made in December, our questions will begin. Despite Air Force optimism and glossy propaganda pamphlets about dense pack, all the answers needed to make a responsible production decision about MX and a survivable basing mode will not be available to Congress by the end of the year.

Even if the Air Force and the President think they will have sufficient information in December to justify dense pack, Congress will have had no opportunity to properly review this recommendation until the fiscal 1984 defense budget hearings in February and March of next year.

No hearings have been held on the many complex issues and contentions surrounding dense pack. Congress cannot justify to our constitutents in this tight budget year spending almost $1 billion for five MX missiles which nobody knows how to base or which are to be deployed in a basing mode about which we never held hearings.

After 15 years and more than 30 discredited basing modes, the Air Force and three administrations have failed to develop a basing mode which is militarily, politically, and financially acceptable. If we approve this conference report, we are approving production of missiles based on some optimistic and unproven assumptions about a basing mode that was developed less than a year ago after some miraculous study results about hardening and fratricide first surfaced in mid-1981.

We also have failed to examine the arms control implications of this new basing mode, which, at the very least, the American public and our European allies would expect us to do before we rush headlong into building missiles for it.

Serious questions have been raised about whether dense pack would violate SALT prohibitions by which even the present administration has said it would abide, assuming equal Soviet compliance. In today's Washington Post, we can read that the distinguished chairman of the Armed Services Committee has decided, even before the administration has, that MX in dense pack will require an antiballistic missile (ABM) defense system for survivability.

The prospects of violating, abrogating, or amending the ABM Treaty must not be taken lightly, especially since our citizens and our allies would not do so. Yet we have not held any hearings about either the SALT or ABM implications of this basing mode.

Congress own credibility is at stake in the MX missile production decision—to say nothing about the credibility of the Air Force and the administration. There are so many unanswered questions about dense pack and its underlying principles that we simply should not authorize $1 billion to produce MX missiles until we have examined dense pack much more thoroughly.

In the conventional forces area, this conference report authorizes $1.24 billion for 39 F-15 interceptors, 18 of which are intended to support the low-priority air defense mission. To help fund these aircraft, the conference report could lead to dismantlement of one of our existing, tactical fighter wings and its almost 72 combat aircraft.

Not only does this action further delay Air Force plans to expand to 40 tactical wings by fiscal 1986, it degrades our capabilities to fight a conventional war in Europe or the Far East now and in the future while diverting precious resources for procurement even the Air Force considers low on its priority list.

If we want to make a meaningful improvement to our air defense capabilities, we should upgrade our homeland early warning capabilities first instead of buying fancy new aircraft, Mr. President. Yet this conference report eliminates funding for one component of this program—the distant early warning (DEW) line upgrade, instead.

Funding 18 F-15's for air defense while we give up 72 combat capable aircraft and the DEW line upgrade—thus hobbling our conventional war-fighting capabilities and blinding ourselves to attacking Soviet bombers—is a trade-off which makes little military or fiscal sense.

Our Navy's present capabilities also are sacrificed in this conference report on the altar of future, questionable additions to the force structure. This bill authorizes $6.8 billion for two nuclear aircraft carriers, whose survivability has been questioned by many naval experts. These carriers will not be ready for sea until about 1990, if then.

To help fund these carriers, the conferees agreed to prematurely retire 17 still useful surface ships well before the end of their service lives. The Navy informs me that these ships are being retired an average of 4 years ahead of schedule, and that some of them are being mothballed as much as 7 years ahead of schedule.

We hear a lot of rhetoric about the need to build a 600-ship navy, Mr. President. This administration has been banging that gong since before it was elected.

This conference report action reduces our deployable battle fleet today to below the 500-ship level.

The third major flaw in this conference report is that it makes down payments on so many big-ticket procurement items—the MX, the B-1 bomber, the nuclear carriers, the F-15's—that it thus obligates much larger sums for these items in the future and insures that budget flexibility to meet inevitable funding constraints will be limited or nonexistent.

When the budget crunch we all know will come in the outyears actually arrives, the only accounts from which we will be able to make outlay reductions to reduce the deficits will be the operational readiness and combat sustainability funds.

Talk about "robbing Peter to pay Paul". This conference report insures that all we will have for our soldiers and sailors and pilots will be the shiny new weapons that can be displayed on Armed Forces Day before the shooting begins. But, down the road, because of obligated expenditures on these big-ticket items, we will be denying our soldiers and sailors and pilots the bullets, the spare parts, the fuel, and the training necessary to actually fight any war.

The fourth flaw in this conference report is rejection of some symbolically important, but practically unconstraining language which would have underscored congressional support for the President's policy not to take any

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actions to contravene existing arms control agreements—regardless of ratification—if the Soviets do the same.

This language would not have interfered with ongoing weapons production programs in this conference report. But it would have demonstrated to a questioning and skeptical world that the United States is serious about arms control. It also would have denied the Soviet Union the current propaganda victories from its campaign to discredit America's arms control intentions.

A final flaw in this conference report is its undermining of the congressional authorization process. By failing to meet budget targets, the conferees have left the hard defense policy and resource allocation choices to the Appropriations Committees.

This challenges the relevance of any authorizing committee—especially the House and Senate Armed Services Committees—to the budgetmaking process. If the ultimate defense spending levels—and the policy decisions they subsume—will be set by the Appropriations Committees, why bother having authorizing committees at all?

I think we need authorizing committees, Mr. President, because they have the expertise and the time to fully consider policy and program directions contained in any budget proposal. Congress established these committees to obtain the benefits of this type of two-tiered budget examination. We should do nothing to undermine this system, yet this conference report does so in a major way.

Under all these circumstances, and for all these reasons, Mr. President, the proper course of action for the Senate today would be to reject this conference report. Such a move is hardly unprecedented, since the Senate did so 6 years ago because a defense conference report exceeded budget targets in both authority and outlays.

If the Senate does not reject this conference report, the end result of this fiscal 1983 Defense Authorization Act will be an America which is weaker, not stronger, and a nation which is less capable, not more, to successfully deter or defeat the military and foreign policy challenges we can expect now and in the years ahead.

The conference report contends:

> The conference agreement would make a reduction of $5.6 billion. The conferees believe that this reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Included are reductions in military pay, both active and retired, military construction and Department of Energy Military Application programs. Reductions in civilian pay from the levels assumed in the President's budget will result in further reductions.

However, upon closer examination we found that:

The President's request for the national defense function was $263.3 billion in BA and $221.3 billion in outlays.

The first concurrent resolution for national defense provided $253.6 billion in BA and $214.0 billion in outlays.

This means we have to cut $9.8 billion in BA and $7.4 billion in outlays from the President's budget to meet the resolution target.

If we assume that $1.9 billion in BA and outlays will be saved by the 4-percent pay raise cap and the cap on military retired pay COLA, then we have left to cut $7.9 billion in BA and $5.5 billion in outlays.

The three major bills that make up the defense function are the Defense authorization bill, the military construction authorization bill and the Department of Energy authorization bill.

MILCON and DOE only make up 5 percent of the national defense function in BA so that leaves the defense authorization bill as the primary place where we have to achieve the reductions other than the pay raise savings mandated by the first concurrent resolution.

Yet the MILCON bills passed by both Houses fail to make sufficient savings. The Senate version cuts only $178 million in outlays; the House version only $35 million.

The DOE nuclear weapons bill reported out by SASC cuts only $55 million; HASC reported bill cuts only $1 million in outlays.

We all know we would have to gut both the MILCON and DOE bills to make sufficient savings. We cannot do that without harming our security.

The DOD conference report before us cuts only $2.6 billion in outlays—far less than that needed, combined with these other bills, to meet the budget targets. It cuts only $5.7 billion in authority. Thus, it is $501 million in authority and at least $2.6 billion in outlays over targets.

There is also another reduction in the budget resolution which is going to end up as a reduction to defense programs if it is carried out: this is the assumption in the resolution that DOD would absorb 50 percent—$1.2 billion—of the fiscal year 1983 pay raise. DOD has not achieved anything like 50 percent absorption of its military pay raise for the last 10 years. When asking us to make this savings in DOD, the inevitable result is going to be cuts in programs to achieve these savings.

To say we will meet the BA target in the resolution and ignore the fact that we are $2.6–$4.3 billion shy of the target in outlays is to abdicate our responsibility as an authorizing committee and leave to the Appropriations Committee the task of reordering defense priorities to live within the budget resolution.

I ask unanimous consent to have printed in the RECORD, a table relating to this matter.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1983 NATIONAL DEFENSE FUNCTION

[Dollars in millions]

	Senate		House	
	BA	O	BA	O
President's budget request	263,340	221,324	263,340	221,324
First concurrent resolution (FCR)	253,566	213,966	253,566	213,966
Difference	−9,774	−7,358	−9,774	−7,358
Reductions to date:				
4 percent pay and COLA cap	−1,972	−1,921	−1,972	−1,921
Fiscal year 1983 DOD authorization bill (Conference agreement)	−5,743	−2,602	−5,743	−2,602
Fiscal year 1983 MilCon authorization bill—passed Senate and House	−1,376	−178	−303	−35
Fiscal year 1983 DOE authorization bill—reported out by SASC/HASC	−182	−55	−8	−1
Total	−9,273	−4,756	−8,026	−4,559
Subtotal, further reductions needed	−501	−2,602	−1,748	−2,799
Potential future reductions:				
Offset assumed fiscal year 1983 pay raise absorption—FCR assumes 50 percent pay raise absorption in DOD	−1,200	−1,200	−1,200	−1,200
Offset assumed savings for retired pay legis and stockpile sales that may not be achieved	−491	−491	−491	−491
Subtotal, potential future reductions	−1,691	−1,691	−1,691	−1,691
Total additional reductions required to comply with FCR	−2,192	−4,293	−3,439	−4,490

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the conference report for the defense authorization bill. I would like to commend my distinguished colleague from Texas, Senator JOHN TOWER, for his outstanding management of the House-Senate conference.

In my 28 years as a U.S. Senator, I have rarely seen such skill and leadership as he displayed. Through his diligent efforts, we have reported to the Senate a conference report that is fair, equitable, and serves the interests of our national security.

In the area of strategic weapons, the conferees agreed to the purchase of five MX missiles at a cost of $989 million. Although the Senate had authorized funds for two Trident ballistic missile submarines, the conferees agreed to fund one in fiscal year 1983. This submarine will be equipped with the advanced Trident II missiles and will greatly strengthen our sea-based nuclear deterrent.

The Senate authorized funding for the production of binary weapons, but because of sharp divisions over this issue, the conferees deferred the request for funds without prejudice.

Mr. President, the conferees also took some significant actions in the area of tactical programs. Funding was agreed to in order to increase the procurement of various tactical aircraft. This measure allows the Government to procure aircraft at more economical rates. Such action will have several very positive effects. It will save money, allow for rapid modernization of the Active Air Force consistent to the capabilities of our enemies and it will allow for modern aircraft to enter service with our Guard and Reserve Forces.

To enhance our readiness and sustainability, the conferees agreed to increased funding for operations and maintenance accounts, including an add-on of $89 million for Guard and Reserve O. & M. accounts. This add-on for the Guard and Reserve will reduce shortages in individual equipment items such as cold weather gear and chemical protective clothing.

The conferees took some other important steps to enhance the readiness of the Guard and Reserve. Eight C-130's will go to the Guard and Reserve, $200 million for unit equipment and $49 million to equip one Guard A-7 Squadron with a forward looking infrared radar. This system will enhance the squadron's night attack capability since this squadron has been assigned a night attack role as a part of the Rapid Deployment Force.

Mr. President, these measures will help to provide us with a strong national defense and sustain us on our return to a position of military strength. I urge all of my colleagues to support this conference report.

I yield the floor.

Mr. GOLDWATER. Mr. President, will the Senator from Texas yield me 2 minutes?

Mr. TOWER. We are not under controlled time. So the Senator may seek time on his own.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, a lot has been said about this conference report. I only wish to add to the congratulations received by the distinguished Senator from Texas my own. He did an outstanding job.

I personally thank every member of the staff who performed diligently and really deserve more of the credit than we usually give them for the solution to these problems we run into in conference.

I see my old friend, the Senator from Mississippi, under whom I served for many, many years, without whose guidance we would not get any place, and also my longtime friend and tactical warfare colleague, the Senator from Nevada (Mr. CANNON) who also contributed great work to the armed services.

Mr. President, we have done a wonderful job. I heard the same old abuses and exceptions to this that I have been listening to for nearly 30 years, and I think of old Mark Twain. He used to swear a lot, and his wife decided one day to get even with him. So as he was shaving himself sure enough he cut himself, and she proceeded to use all the profanity that he always used. He turned around and said: "Honey, you've got the words but you don't have the music."

And that is about the way it goes with all of those who oppose this conference report.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, the Senator from Arizona has said he has been listening to the same music around here for 30 years. I have the greatest respect for him, and I understand how tiresome it must get to listen to all the same songs.

I have only been here 7½ years, and I have been listening to some songs that grow tiresome to me also.

So far as this conference report is concerned, I suppose that there will not be a motion to recommit. If there were one I would vote for it. It would not get very many votes, but it would get mine. I am not going to vote for the conference report on final passage anyway.

We have one more opportunity to affect the defense budget, and that is during the appropriations process. Of course, among other things that have broken down here in the Congress is the appropriations process. We no longer have 13 separate appropriations bills. Rather, we have a continuing resolution. This will be the third consecutive year in which the Senate has not faced its responsibility to appropriate money under committee authorizations as the rules of the Senate dictate.

What we will do about 5 days before we adjourn is to come in here with a monumental continuing resolution bill, and everyone will put everything under the shining sun on it trying to add or take away money from it—in one last gasp effort to cut or to expand the programs they are interested in.

I have only been in the Senate 7 years, but I have been listening for just about as long as the Senator from Arizona about how militarily superior the Soviet Union is. I have a good healthy respect for the military might of the Soviet Union. I also have a very healthy respect for the ability of the United States and the Soviet Union to end life in this civilization and blow this planet out of orbit.

The prospect of nuclear war matters not so much to me as it does to the light of my life; namely, my three children. I suppose if all of us were honest, at least those of us here who are parents, we would say in one of our more noble moments that what we do here, insofar as it affects us, is really not all that relevant. However, what our decisions do to our children and our yet unborn grandchildren are highly relevant.

We have had 10 days debate on an amendment to the Constitution of the United States to balance the budget, and 69 Senators voted for that amendment.

I heard all the moaning and wailing, much of it legitimate, about how we were out of control and the only thing that would control us would be to chisel into the organic laws of this country a prohibition against an unbalanced budget.

I said at the time and I say again that any time we want a balanced budget we can have one. Certainly any time 69 Senators in this body want to balance the budget they can have one. They do not even have to have 69. Fifty-one will do quite well.

Here we have a defense budget being submitted to us today which CBO says is between $2 billion and $3 billion in outlays over the budget resolution, and no one will bat an eye at that.

I dare say if this were student loans, or immunization of the children of this country, or medicare benefits, we would hear a hue and cry right off the dome of this Capital. There would be a motion to recommit this thing with all the wailing and the gnashing of teeth that we heard here so many times here in the last 18 months.

But because everyone here, particularly those who are up for reelection, is scared to death that when he or she goes back this fall to run someone is going to say that he is soft on communism, we will pass this report overwhelmingly.

Voting against this conference report is not being antidefense. That plays no role in this. The issue is now and has always been, How much is enough and how do you get the biggest bang for the buck?

The Senator from Nebraska said, and I thought it was a pretty good comment, that we have gotten to the point where we will let the Pentagon buy anything it wants as long as it makes a noise; just as long as it pops.

The defense budget in fiscal year 1984, if the President has his way, will be bigger than the total U.S. budget was when I came to the Senate 7½ years ago. That is not exactly what I call shrinking away from the Soviet threat.

But look at what is in the budget, and ask what are we trying to accomplish? I will say one thing, there are what I consider some very destabilizing items in the budget, and the Soviet Union has a right to be frightened,

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and the American people have a right to be frightened.

I have told the story here before, but it is always worth repeating, about the little commanding officer who went up to Wellington as he reviewed his little old rag-tag band of troops, and he asked Wellington, "Do you think they will scare the enemy?" And Wellington said, "I don't know about the enemy, but they scare hell out of me."

There are some things in the budget that do that to me. Why? Why do we insist on putting $988 million, for easy figuring $1 billion, in here to buy five MX missiles, a very powerful missile? And why do we then put an additional amount of money in here, to determine how we are going to base it when nobody has the foggiest notion of how to proceed?

You will recall, when President Reagan was running for office, all the names that he called the MX basing system out West, the so-called shelter system. He thought is was crazy, and the first thing he did after he became President was to scrap that system for basing the MX.

Then somebody said, "Well, let us drop them out of an airplane," and somebody else said, "No"—I believe it was the chairman of the Armed Services Committee who said that was a cockamany idea.

Then somebody said, "We will put them in the old Minuteman silos," and somebody else said, "That is terribly destabilizing and you do not solve the problem of the window of vulnerability by putting them in Minuteman silos."

So somebody else said, "Well, why don't we put them in a dense pack, put them all within a 10-square-mile area, so that when the Soviet missiles are coming in they will commit fratricide and we will have enough missiles left to destroy the Soviet Union."

Most people think that is a crazy idea so what are we going to do? We are spending $1 billion to buy five missiles and we still have no idea of where or how we are going to deploy them.

Then you have $4 billion in here for the B-1 bomber, $4 billion. That buys seven B-1 bombers. As I have said before, and everybody here knows, there is only one problem with the B-1 program, and that is that the penetrating bomber will not penetrate. So we are building seven B-1 bombers on our way to procuring 100, at what will almost certainly be a cost of $400 million each, and the Secretary of Defense testified before the Senate Armed Services Committee that he would not send any mother's son into the Soviet Union in a B-1 after 1990 because to do so would be suicidal.

You will recall that when he got back to the Pentagon that afternoon some of the generals said, "Mr. Secretary, we hate to tell you this, but you just killed the B-1 bomber." So he quickly issued a press release and said, "I didn't really mean it." But whether he meant it or not it is the truth.

The B-1 bomber will start coming off the assembly line in 1986 and in 1987 and will be obsolete by 1990. The last ones will come off the assembly line I believe in 1989, and they will only have a 1-year life. But we are proceeding apace on the biggest weapons procurement system in the history of the world; $40 billion for an airplane that will not do what it is designed to do or what it is reputed to be able to do.

Then you have got two *Nimitz* class aircraft carriers in here for the paltry sum of $6.8 billion. That is $3.5 billion each. Bear in mind that is just for the ship. That does not include the complement of planes. That is for the two carriers.

I remember in 1977 when the argument was made that if we could just have one more nuclear *Nimitz* class carrier, it would be all we would ever need. Some of you will recall that during this year's debate the Senator from Colorado and I stood here and talked until our tongues hung out, and particularly in light of the Falklands war, to make a point over and over again that what happened to the British in the Falklands ought to be conclusive, irrevocable, unequivocal proof that to spend that much money on one platform was the height of military folly. But they are in here.

I assume we will make that same argument when the appropriations bill comes through. But you will remember the *Hermes* and the *Invincible*, two little old outdated, obsolete aircraft carriers that the British had which carried 12 planes each. You could procure two aircraft carriers for the cost of one *Nimitz*, and each one would still carry twice as many planes as both the *Invincible* and the *Hermes* carried in the Falklands war.

The lesson to be learned is very simple: If the British had to go to the Falklands with one aircraft carrier—I do not care how big, but just assume it was as big as the *Nimitz*—and that aircraft carrier had been knocked out of commission, that operation would have ended at least for the time being, and if we were down there with one *Nimitz* class carrier which carried eight times as many planes as the *Hermes* or the *Invincible* carried, and it got knocked out, that operation would have been over until we brought that ship back to Newport News and had it repaired.

What have we learned from the next to the most recent military conflagration in the world? Nothing, absolutely nothing. Both aircraft carriers are still ensconced in this bill.

Finally I come to my favorite subject, the 40-year-old battleship. Not only do we have the *New Jersey*, now almost completed, but we have the final $323 million in here for the *Iowa*. I will tell you the most significant thing you can say about the battleship *Iowa* is that that is the ship Franklin Roosevelt sailed to Tehran in 1943.

I went over to Philadelphia to look at it one day, and the most important part of my tour was to see the bathtub that had been installed on that ship so Roosevelt could take a bath. If they had wanted to spend this money to make a shrine out of it, it would have more sense to me.

But what had happened to the battleship program? What happened to all of the questions that were raised here 2 and 3 years ago about the folly of bringing 40-year-old battleships out of mothballs and refurbishing them? The Navy had an answer for everything. The Navy had an answer for every single question raised.

But now what do we have? We have the proposition that there may be a little problem with those gigantic 16-inch guns which will shoot a shell 26 miles. The little problem is that those guns vibrate the ship to such an extent that the whole command and control system, which is a highly complex computerized system, goes out of kilter.

And now they are trying to figure out some way to cushion the command and control center to absorb the blast of the 16-inch guns.

So, No. 1, either harden the command and control system or do not shoot the 16-inch guns.

No. 2, each one is going to carry a minimum of two helicopters for antisubmarine purposes. The Navy now has a little problem with the helicopters. If you are going to shoot the 16-inch guns you have to get the helicopters to take off first because the avionic system on the helicopters is also thrown out of kilter from the blast of the 16-inch guns. So you have to tell the helicopters to take off for a few minutes while you fire the 16-inch guns and then they can come back.

These are just some of the problems we are running into in trying to remodel 40-year-old ships to adapt to the kind of sophisticated electronics systems that you have to have in the Navy in the 1980's.

Then they said, "We are going to use the Sea Sparrow, which is an antimissile missile. Nobody can shoot at us or we will fire our Sea Sparrow back at them and we will destroy their missiles with the Sea Sparrow."

Well, that now presents a little bit of a problem. The Navy is feverishly looking for another missile because the Sea Sparrow is a very, very complicated missile and it, too, gets all shaken up and rattled when the 16-inch guns are fired. So they cannot use it.

The greatest thing about the battleship is that great 16 inches of armored steel on the sides, which everybody says is impenetrable. It may be; I do not know. But did you know that that French Exocet missile which destroyed the British *Sheffield* in the Falklands was not designed, as our Harpoon missile is not designed, to penetrate the side of a ship. The Harpoon missile and the Exocet missile both go along the top of the water, just a few feet above the water, until just before it gets to its target, at which point it goes up, comes down, and homes in on the command and control system of the ship.

So you can put 36 inches of armor on that battleship, if you want to, and it still will not save it. More World War II mentality.

I think the biggest claim that anybody made for the battleship was that we were not only going to put 16 Harpoon missiles on the deck of that ship, but also 32 Tomahawk cruise missiles, 16 on one end of the ship, 16 on the other, all brightly colored and displayed and open to the world.

Well, we now find out that one well-placed handgrenade could knock out each 16-missile Tomahawk battery.

Now, these are my final points on the battleships. They have a 15-year life expectancy, not a 35-year life expectancy as all of our new ships have, and the battleship requires between 1,500 and 1,550 men, about three times as much as any ship in our Navy, with the exception of the aircraft carrier.

Do you know what I would like to do? I would like to debate the battleship issue before a jury of 12 of my peers. I would like for any Senator to pick out 12 people at random and put them on a jury and debate whether or not it is wise to spend this much money on 40-year-old technology. I would like to debate each one of the issues I have raised here before a jury of my peers to judge whether or not what we are doing is in the best interest of curbing the arms race and trying to keep this planet from being blown out of orbit.

I would like to debate the issue of whether or not this is the best way to spend this much money?

I will accept the verdict. I practiced law for 18 years. I have accepted a lot of verdicts.

Mr. President, the nuclear freeze resolution which has been presented here by Senators HATFIELD and KENNEDY may not be, in the strictest military terms, the best thing that has ever been offered here, but I will tell you what that freeze is, more than anything else: It is a manifestation of the frustration of the American people. Every poll I have seen shows overwhelming support for a reduction of the nuclear arms race because people are frightened. No, indeed, people are terrified. The nuclear freeze proposal is, in a sense, being presented as a reflection of the American people's frustration with our callousness, with our indifference to their concerns, and our business as usual attitude that we are going to continue to spend as much as we can possibly dream up, for every weapons system we can dream up, with no thought as to whether we are going to make it to the year 2000 or not.

I will close out, Mr. President, by repeating the views of George Kiastiakowsky—certainly no dove—one of the finest, sensible gentlemen I have ever known in my life, who was Dwight Eisenhower's science adviser. I have been with him on a number of occasions since I have been in the Senate. George Kiastiakowsky is a man who believes very firmly that not only is the genie out of the bottle but that it probably is already too late. A year and a half ago he said, "If we do not have a nuclear explosion in anger between now and the turn of the century, it will be the miracle of the century." He went on to say, "An even greater miracle will be if it does not set off a nuclear holocaust."

A great man, George Kiastiakowsky. That is not DALE BUMPERS speaking. He is one of the great scientists this country has produced. Who fears these things the most? The people who produced them. Who seems to be the least concerned about the concerns of the American people, about whether we are going to survive as a planet, as a civilization, or not? The U.S. Senate.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I intend to vote in favor of the Department of Defense authorization conference report, but I would like to express the reservations that I have about some of the expenditures in light of what has been reported in the last few days in the press.

There is in today's edition of the Philadelphia Inquirer an article by Robert Scheer, Los Angeles Times service, which starts off as follows:

> On the orders of the Reagan Administration, the Pentagon completed a strategic master plan last week to give the United States the capability of winning a protracted nuclear war with the Soviet Union, the Los Angeles Times has learned.

I have taken steps to determine whether this news account is correct. If it is, and it joins a number of other news accounts in the course of the past several weeks, then I am very much concerned that any such plan to win a nuclear war will, in itself, sow the seeds for such a war.

Last Friday's New York Times, page A26, contained a story, headlined "Postal Service Plan Covers Snow, Sleet and Atom War," with the story following that headline specifying the plans of the Postal Service to deliver the mail in the event of a nuclear war. My own sense is that a nuclear war is not winnable, and therefore that the purpose of the very substantial expenditures which are in the Department of Defense Authorization Act is to serve as a deterrent for nuclear war.

I believe it is essential that our Government proceed on two tracks simultaneously. One is the furtherance of the strategic arms reduction talks and a summit meeting between President Reagan and President Brezhnev. It is my judgment that if we are to be successful at arms reduction, we must demonstrate to the Soviets that we are determined to be strong. It is for that reason that I have supported the President's request in the Department of Defense authorization bill in 1981, voted in favor of the bill earlier in 1982, and intend, as I say, to support this conference report.

In gaining information about the specific expenditures, I have taken the time to visit quite a number of our installations: Grand Forks, N. Dak., where we have a Minuteman missile installation; Omaha, Nebr., the headquarters of the Strategic Air Command; Charleston, S.C., where we have our nuclear missile submarines; Edwards Air Force Base, where we are developing the B-1 bomber; and West Germany, to observe our forces to defend NATO. In visiting these installations, I was most struck by the comments of the commanding officer at Grand Forks, N. Dak. He said, in essence, during the course of my visit there last February, that their mission was deterrence and if they do not deter but had to fire their missiles, then they have failed.

I believe that establishes the guiding principle for the strength that we are building up. It is to deter the Soviet Union, because if we have to use strategic nuclear forces, then we are all losers. Simply stated, there is no way to "win" a nuclear war.

In making plans to win a nuclear war, it is my view that we are setting the stage to make it acceptable to have such a nuclear war and we are developing the psychology, both at home and abroad, that such a nuclear war is inevitable. Once such a psychology has been developed, then nuclear war may well be inevitable.

I had the opportunity to visit the Soviet Union during July 1982, just last month. As I said in my report on that trip, my view is that the Soviets are now ready to talk realistically about arms reduction and feel enormous concern about the potential deployment of the Pershing II missiles and other missiles. After I returned from my trip to the Soviet Union on July 13, I noted a report the following week by the Soviet Minister of Defense announcing a possible change of

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Soviet policy to "launch on warning" instead of "launching on attack." That change in policy is an indication of the Soviet concern about the Pershing II and other U.S. missiles. So the Soviets were of the view that if they were to defend themselves, they could no longer await an attack but would have to launch on warning.

It seems to me inevitable that, in the face of mounting reports about U.S. planning assumptions on what will occur in the nuclear war and the thought of winning a nuclear war, the Soviets must respond to this kind of psychology. That necessarily moves us closer to the possibility of such a nuclear war.

Mr. President, in the course of the next several weeks, I intend to develop my thinking on this subject further and perhaps offer a sense-of-the-Senate resolution and to confer with the appropriate officials in the executive branch. As to casting my vote later today, if a vote is called later today, in favor of this Department of Defense authorization conference report, I did not want to do so without expressing, albeit briefly, my concern about these reported incipient plans about how to win a nuclear war.

At this time, Mr. President, I ask unanimous consent that the relatively brief article referred to in today's edition of the Philadelphia Inquirer and in last Friday's edition of the New York Times be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Aug. 17, 1982]

The Plan Is Complete: U.S. Goal Is To Win a Prolonged Nuclear War

(By Robert Scheer)

Washington.—On the orders of the Reagan administration, the Pentagon completed a strategic master plan last week to give the United States the capability of winning a protracted nuclear war with the Soviet Union, the Los Angeles Times has learned.

The document was delivered to the National Security Council and is awaiting final presidential approval.

The directive is part of a top-secret national security document that was drawn up in the fall of 1981 to supersede Presidential Directive 59, which was approved in the last six months of President Jimmy Carter's administration.

Sources familiar with both highly classified documents report that President Reagan's strategic doctrine goes further toward putting the United States in a fighting stance than Carter's in that it specifically states the goal of winning a "protracted" nuclear war.

According to one member of the Reagan administration, the plan would contemplate nuclear warfare that went on for as long as six months. One consequence of this planning has been a commitment of $18 billion to provide a communications system that could endure a drawn-out nuclear war.

The idea that nuclear war between the superpowers can be kept limited or stretched out over several months—let alone won—is controversial in both military and political circles.

Air Force Gen. David C. Jones, who was chairman of the Joint Chiefs of Staff under both Carter and Reagan, has warned that preparations for fighting a limited or protracted nuclear war would be throwing money into a "bottomless pit."

In his parting statement upon retiring in June, Jones said, "I don't see much of a chance of nuclear war being limited or protracted."

Carter's secretary of defense, Harold Brown, said Presidential Directive 59 was intended to deter any expectations that the Soviets might have of winning a nuclear war, but he did not endorse the idea that nuclear war could be kept limited or that a real victory was possible.

Carter's directive also did not contain any specific means of implementation. But Reagan's directive, the sources said, specifically requires the Pentagon to draw up a plan for turning the policy declaration into military reality.

The Pentagon's strategic master plan was to have been sent to the National Security Council for approval in June. However, it was delayed because of public disclosure of another secret Defense Department document, the annual defense guidance statement.

Parts of that statement, which the Pentagon draws up each year projecting its needs for the next five years, were leaked to the New York Times and caused considerable embarrassment for the administration.

The newspaper reported that the annual guidance plan assumed that "protracted nuclear war is possible" and that "American nuclear forces must prevail and be able to force the Soviet Union to seek earliest determination of hostilities on terms favorable to the United States."

Administration insiders report that the new strategic master plan is more detailed and more controversial in its advocacy of nuclear warfare than the annual Defense Department guideline. More significantly, it would carry the imprimatur of the President and his National Security Council, while the annual guidance plan is an internal Pentagon document.

The new strategic master plan concentrates exclusively on the possibilities of strategic nuclear war and reportedly aims at providing more of a "how-to" treatment of the subject. For example, the new plan devotes considerable space to the matter of destroying enemy political centers and command centers while preserving similar U.S. centers.

The Reagan administration has budgeted $18 billion for the purpose of securing U.S. military command, control and communication, or C-3 as it is known to planners. C-3 refers to the ability of a nation's leaders to maintain communications with the troops in control of the nuclear arsenal.

Critics of nuclear-war strategies remain skeptical that C-3 can be protected because antennas, telephone lines, satellites and other links in the communication system between a nation's leaders and the nuclear arsenal remain far more vulnerable than any other components of the military system.

One observer on the Reagan staff observed sarcastically: "We've been working on this C-3 problem for five years now and can report that the system might survive 15 minutes of nuclear war."

But the Pentagon's master plan aims at finding means for hardening U.S. communications to the point that they could survive for a longer time—as much as six months, one administration member noted.

The notion that nuclear war can be fought on a limited and survivable basis has had growing support in the last decade. Increasingly accurate missile technology has produced the confidence in some quarters that nuclear war need not be fought as one cataclysmic episode with little but radioactive rubble to show for the effort.

The result has been a push for rejecting a nuclear strategy based on the idea of a nuclear war as one spasmodic event, requiring as a deterrent only enough power on each side to ensure the destruction of the other. The emerging strategy calls for even more advanced nuclear arsenals and systems of defense ranging from anti-missile systems to civil defense.

In the nuclear war-fighters' view, which Reagan's National Security Council appears to accept, a nuclear war might be fought over a period of several months with selective strikes at primarily military targets. At the end, they believe, one side could emerge victorious, with enough of its resources and population intact to begin over.

One leading advocate of this viewpoint, Colin Gray, recently has been appointed by Reagan to the advisory board for the Arms Control and Disarmament Agency and as an adviser to the State Department.

In a 1980 article in the magazine Foreign Affairs, Gray and co-author Keith Payne complained that "many commentators and senior U.S. government officials consider it [nuclear war] a non-survivable event."

Instead, Gray and Payne argued, "the United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values."

They specified that 20 million U.S. fatalities would represent a compatible level.

[From the New York Times, Aug. 13, 1982]

Postal Service Plan Covers Snow, Sleet and Atom War

(By Judith Miller)

Washington, August 12.—Neither snow nor rain nor heat nor gloom of night used to prevent the postal couriers from delivering the mail, and now the Postal Service says it will not be deterred on its appointed rounds by a nuclear war either.

But a 300-page plan for continued mail deliveries after an atomic war or other national emergency was ridiculed today by members of a House Subcommittee on Postal Personnel and Modernization and by others who called the plans "idiotic," "deceitful" and "futile."

Under skeptical questioning from committee members, Ralph H. Jusell, civil defense coordinator for the Postal Service, conceded that the plans would not work in the event of an "all-out, preemptive" nuclear exchange between the United States and the Soviet Union. But he said the plans would probably be effective in a limited nuclear conflict.

According to Mr. Jusell and James K. Jones, general manager of the Postal Service's Prevention and Planning Division, the goals of the contingency plans are to deliver mail in an emergency "to the extent possible under the circumstances" and to protect postal employees as much as possible.

HEADQUARTERS TRANSFER PLANNED

The officials described an elaborate chain of command under which one of the five regional postmasters general would assume control if Washington was destroyed. The headquarters would shift first to Memphis and then, if Memphis was devastated, to San Bruno, Calif.

The official said that they did not know how much money the Postal Service had spent on the plans. Mr. Jusell said about $18,000 to $20,000 worth of food and medical supplies had been purchased for the five centers where emergency postal personnel would stay.

The officials also said about 2,000 emergency change-of-address forms had been stocked in each post office except very small ones.

"What good will that do?" said Representative Edward J. Markey, Democrat of Massachusetts. "There will be no addresses, no streets, no blocks, no houses."

Mr. Markey, who called the postal plans "long on wishful thinking and short on reality," said a nuclear war would probably destroy all road, rail and air transportation. "How in the world would you deliver the mail?"

"I don't know sir," Mr. Jones replied. "Our plans have to assume there would be something available for us. If there is not, there is nothing we can do."

Gene LaRoucque, a retired Navy rear admiral and director of the Center for Defense Information, which is critical of many military policies, testified that plans to deliver mail after a nuclear war were "fraudulent and deceitful," a waste of money and likely to make such a war more possible.

"Planning for life after a nuclear war is like planning to live in hell," Mr. LaRocque said. "No one has the foggiest notion of what it will be like."

Mr. Markey also questioned the plan's goal of continuing to deliver first-class letters. "There won't be a lot of people left to read and write those letters," he said.

"But those that are will get their mail," Mr. Jusell replied.

Mr. SPECTER. Mr. President, I yield the floor.

THE MX MISSILE: PRESCRIPTION FOR VULNERABILITY

Mr. GLENN. Mr. President, I plan to vote for the conference report, but with some hesitancy in certain areas. I want to address just one of those today and restate the battle I lost on the Senate floor not too long ago. I want to bring this up again before we vote on this bill.

Mr. President, I will take second place to no one in supporting a strong national defense program. I did not hesitate to urge President Carter to strengthen our military forces, and I generally supported President Reagan's increased funding for certain defense programs. But I stand today on the Senate floor to warn about a mistake we are making in deciding to produce the MX missile.

Because of the growing accuracy of Soviet missiles, many believe that our fixed-point ICBM silos—which shelter 23 percent of out total strategic nuclear forces—are becoming dangerously vulnerable. This vulnerability, the argument runs, could tempt the Kremlin to launch a first strike in the hope of destroying our land-based missiles or to intimidate the United States in some future eyeball-to-eyeball confrontation to think that if they made a first strike, we would be so hesitant about the number of missiles they have left for a second strike, we would not dare reply. That is a situation I cannot imagine a U.S. President deciding upon. But so goes the theory.

To offset this potentially destabilizing Soviet move, we have searched for a way to regain some measure of the assurances of strategic weapons survival that our Minuteman system provided for so many years. All of us are aware of the results of this search for strategic stability. We have had a parade of "experts" come up to the Hill, each touting their solutions. We have been told that the answers lie in deep holes—and I mean deep holes, down many hundreds of feet, not just the silos we have now. Or perhaps small submarines out off the Continental Shelf, ones that could even sit on the bottom until launch time. Or shelters across Utah and Nevada, which were objected to very, very strongly. Now we are told that the latest solution lies in something maladroitly called dense pack.

I can guarantee there are a number of puns we could make on that particular title today. But dense pack is the latest one, we are told, where fratricidal missiles coming in would be the ones we would have to depend upon for our secure-force missiles to reply to the Soviet Union.

I support the search for a new ICBM with a basing mode that would stabilize and offset the dangerous Soviet developments in missile accuracies. They are getting better; we know that. But by deciding to produce the MX, we are handicapping ourselves and we will thereby run the very real risk of perpetuating and extending the perceptions of vulnerability rather than diminishing those perceptions.

We are not going to fool the Soviet Union by putting the MX into the same old Titan holes that they have had targeted for 12- or 16-figure coordinate figures for the last 20 years, put the same brand new, expensive MX in those holes and think we have suddenly gained a new measure of security in this country when they already have them targeted. Mr. President, perceptions are the stuff of which deterrence is made.

The key elements of a survivable ICBM system include, one, the missile itself, of course, but, two, it has to include the basing mode for that missile, and that is where we went awry on the MX, not planning what the basing mode was going to be right along with the design of the missile.

We face vulnerability today because we are fixing one variable in that equation and not the other. We are attempting to find a basing mode now for a large 192,000-pound MX missile, a leftover from the failed Multiple Protective Shelter scheme. We would be better off by funding a research program wherein the size of the missile is not set beforehand and thus will not limit the basing modes we can use.

Why do we not learn something from Soviet percentions as they look at what is going on in Europe? Why are we so concerned about the SS–20 in the Soviet Union? We are concerned about it because it is mobile. We do not know for sure where it is going to be when war starts and so we cannot possibly target everywhere that it may be.

One of the unfortunate aspects of it is that it has the capability to become the SS–16, which cannot only be fired to Europe, it can be fired to our shores as an ICBM, and so we watch that very closely and monitor it very closely because it gives us concern. It is mobile. It is not in a fixed target point when war starts.

Say you are in the Kremlin today. Why are you concerned about the Pershing II in Europe? Because it, too, is mobile, and because it can be taken out. They do not know where it is going to be when war starts, and so they cannot possibly target all the places where that Pershing may be.

Mr. President, we could be building in this country today something like a 60,000 or 75,000 pound missile, one about one-third the size of the one that we are embarked upon building now, with three to four warheads, much more reliable as a deterrent to the Soviet Union toward letting them know that they cannot possibly target us and expect to have a "no response" from this country; that they cannot possibly target everywhere that a mobile missile would be. I would back that kind of missile.

I have talked about this for the last 3 or 3½ years with the experts in the Pentagon, and never, in the last administration or this administration, have I had anyone tell me that this idea of a smaller and a more mobile missile is not better and cheaper and gives greater deterrence. The only thing against it always has been the social interface; that Americans somehow could not possibly stand the sight of a missile or a truck that they knew had a missile on it out on the road, the very thing that we asked our European allies to accept and which they do accept and do on a regular basis, and the same think that the Soviets do on a regular basis.

But somehow, even though we in America can sell each other everything from underarm deodorant to Lincoln Continental automobiles on TV, we cannot have the President go on TV and explain that this would give us better deterrence at a cheaper

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cost, and so we proceed with this 192,000 pound monster that is undoubtedly going to have to go into the same old silo holes the Soviets have had targeted for so many years.

What the legislation before us today does is to firmly establish America's next generation ICBM as a large missile. It is a missile so large that hiding or moving it is a near impossible task, and deception and mobility are the basic requirements for a survivable basing mode.

If we continue on the path as defined by the legislation on the floor today, we will be closing the door on a full range of options for a truly survivable ICBM system.

We are not fooling the Soviets. They will know where the ICBM's are. They have the accuracy with which they will probably be able to knock them out, which is what caused the development of the MX to begin with.

We have a perceived vulnerability to a first-strike because our present ICBM's are at readily targetable, fixed geographic points. It makes little sense to me to perpetuate this kind of thinking by building huge missiles that will require that we put them into vulnerable silos, whether hardened or densely packed.

I have looked at all of the proposed basing systems that are being considered in the Pentagon at the moment. I suggested to my colleagues across the river in the Pentagon that if they want to save some money, perhaps they could convince some contractor with one of these new basing schemes to give us the missiles for free. That way they would not cost us anything, and they would be able to live off the money they are going to make from these basing modes because they are so exotic and so far-fetched that we have not even begun to see the cost of these missiles. The money that we are talking about right now for the development of the MX is going to be very small potatoes compared to the basing mode we are going to get into once they settle on it late this year. We are not fooling anyone except ourselves with this.

The basing mode of the new ICBM, as I see it, should and must create the uncertainty that Soviet missiles can successfully destroy our land-based strategic missiles. This kind of deterrence can only be achieved by deception and by mobility or by some combination of both. The MX offers none of these. It offers us the same old problem we started out trying to correct—fixed-point vulnerability.

In spite of all this, Mr. President, I will vote in favor of the conference report because it does contain the programs that are so necessary for our future security. Our defense programs would be dangerously delayed should the Senate vote this report down. But I do not believe we should delude ourselves that this measure takes any positive step toward coming to grips with the problems of basing for our ICBM's.

I want to compliment my colleagues on the Senate Armed Services Committee who cut out the funding for production and kept research money—that is fine; let us work out the problems—but did not go along with production money which was put in by the House. The Senate conference participants, unfortunately, felt it was necessary to accede to the House. I am sorry that occurred. I can only trust that this body will work harder next year to come up with alternatives to this modernized version of the maginot line—the MX missile.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I rise to support the fiscal year 1983 Department of Defense authorization bill as reported by the Senate-House Conference Committee. I also wish to commend the distinguished chairman of the Armed Services Committee (Mr. Tower) for his leadership and guidance in shepherding this critical legislation through conference. There were substantial differences between the Senate and House authorizations, and Senator Tower is in large part responsible for forging a bill that reflects a commitment to funding levels necessary to effect a start toward offsetting, over a period of years, the defense imbalance that resulted from the fiscal neglect of our security requirements over the past decade.

The conference has authorized $178 billion in Defense spending for fiscal year 1983. This amount is $5.4 billion below the administration's request. The authorization levels contained in this measure are necessary to our security, based on both near and long-term analyses. We must, however, be cognizant of the fact that neither this Defense budget, not the 5-year Defense plan of which it is part, will provide the United States with military superiority to which my friend from Pennsylvania referred, nor will it provide the level of security this Nation has enjoyed for the last century. What the fiscal year 1983 defense authorization bill provides for, and what this body must insure, at the minimum, is a level of security that has been tenuously termed an "acceptable risk."

We must recognize clearly that efforts to reduce the defense budget below the levels authorized by the Senate-House conference will affect directly and adversely even this level of security of our Nation. Those are the hard facts, Mr. President.

I would say in response to the junior Senator from Pennsylvania that winning a nuclear war is not the aim of our President or of our military, contrary to accounts he has read. Our aim is the preservation of our freedoms, the survival of this Nation, which has contributed so much to the welfare of not only its own citizens, but, the citizens of the world. That is our aim.

Mr. President, I urge my colleagues on both sides of the aisle to join with me, with the chairman of the Armed Services Committee, and with others who have spent so much time analyzing the data and testimony provided by our professional military experts, in supporting this fiscal year 1983 conference action on defense authorization.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, I understand that the Senator from Nevada wishes to speak,

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I join my colleagues in the accolades to the distinguished chairman of the committee, Senator Tower, and the ranking minority member, Senator Stennis, and to Senator Goldwater for handling the matter of tactical air power so well in the course of this conference and during the past few years.

I am going to support the conference report. While it did not do everything I had hoped it would, I am generally pleased with it.

I am pleased that the AH-64 was reinstated, because I think it is a fine helicopter program to add to our tactical air power force structure. I believe the action that Senator Goldwater took last year and earlier this year insured that the prices were negotiated downward and that we would be able to get more for our money, under his watchful guidance.

I am delighted that the A-6E's were added back into the program. The Navy representative testified that this is one of the key aircraft on the carrier decks, and it is very important for our force structure there.

I am disappointed that the A-10 was not approved. The A-10 was an airplane designed specifically for a precise mission. It has done that mission very well, and now we talk about it not having as much speed as was desired. It was specifically designed to remain close to the battlefield, and I think it has performed its mission very well. I had an opportunity to see it in operation at the Red Flag exercises in Nevada, and it acquitted itself very well under those conditions.

I am also pleased that the conferees were able to agree to a reduction in the overall request of the administration of about $5.6 billion. I have said, since the request for the military budget came up earlier from the White House, that I felt that we could reduce that budget from $12 billion to $14 billion without it being disadvantageous to the military force structure. It would still permit growth in real terms on the order of 5 percent. While the $5.6 billion reduction is not as much as I had hoped for, it is still a substantial reduction under the President's request, and it does permit us to go ahead very strongly to beef up our Military Establishment, which we have neglected over a number of years.

I am also very pleased that the House conferees agreed to recede to the Senate on a program I consider to be very important, and that is the lithium battery funding for the Minuteman program, which will upgrade the batteries in the Minuteman and will provide the battery sources for the MX when the MX is produced. It so happens that that is an ongoing program, but the House neglected to include it in the House bill this year, even though the Senate included it. I am delighted that the House did accede to our request and that the funding is included, and that program should be able to go ahead as planned.

I am also very pleased that the agreement with the House was achieved within the very limited time which was available to consider these most important programs. The distinguished chairman of the conference, the chairman of our committee, Senator Tower, kept our feet to the fire, so to speak, and kept everybody working almost around the clock, in some instances. The conference was concluded in what I consider record time, compared to some of the past conferences we have had which went on for weeks and weeks, in trying to resolve the issues.

Although I say that I am not completely satisfied with everything as it came out of this conference, conferences result in some give and take, and it is the means of accomplishing the best solution possible. I will support the conference report.

Mrs. **KASSEBAUM**. Mr. President, will the Senator from Texas yield?

Mr. **TOWER**. I yield.

Mrs. **KASSEBAUM**. Mr. President, I should like to explain briefly why I will vote against the conference report.

I admire the work that the Armed Services Committee has done in conference, under the determined leadership of the Senator from Texas and the Senator from Mississippi, to bring back a strong conference report. But as a member of the Budget Committee, I am still concerned about the spending priorities of defense as it relates to the rest of the budget.

While it is assumed that the defense authorization can be brought into compliance with the budget resolution through the appropriations process, I believe that the conference report for the defense appropriation is about $600 million in budget authority above our budget resolution. I am an advocate of strong, sound defense spending, but my concern is that if we are to maintain a consensus of support for the needed authorizations and appropriations for a sound defense system, we must keep it under the same control and the same scrutiny that we are bringing to the rest of the budget.

Just last night, the President spoke strongly and forcefully of the need for the tax increases. We have seen every effort made to address a budget resolution that would reduce our spending in other areas in order to reduce our deficit; and I believe that, for the sake of our defense program, we need to regard it with the same scrutiny.

Therefore, it is with some reluctance, and with a determination to support a strong and sound defense system, that I will be voting against this conference report.

Mr. **STENNIS**. Mr. President, I understand that the leadership wants to move along with this bill, and I will take only 3 or 4 minutes. I believe a few points should be brought to the attention of the Senate.

Not only is this the largest bill that has ever been before the Senate for the military program, but also, it includes a number of items that are so essential and so new that I am glad to see them emphasized again in debate.

I want to call special attention now to the very thorough work that a great number of our committee members have done. We have quite a bit of talent in this field, as does the House of Representatives.

The people of this Nation may be assured that these billions of dollars are not tossed around carelessly. This bill is the result of more than a year of hearings and study and investigation by highly competent staff members and a great deal of work by highly competent members of our committees, in the Senate and in the House of Representatives.

The leadership of the Senator from Texas has been splendid and thorough and exhaustive, and there has been a fine response from the Members.

I wish to mention rather hurriedly the innovation in this bill of an Inspector General which is not entirely under the direct control of the Secretary of Defense. These many billions of dollars, which grow larger and larger every year, have brought on this requirement, and I sincerely hope that it works out well. It must be made to work out well. If it calls for amendment to the law in this field next year it should be done because the need is there.

Mr. **BENTSEN**. Mr. President, will the Senator yield at that point?

Mr. **STENNIS**. I yield gladly to the Senator from Texas.

Mr. **BENTSEN**. Mr. President, I had such an amendment on the floor which lost by a very small vote. I understand now that the conference has adopted something that in effect gives us an independent Inspector General except in those instances which involve questions of secrecy and national security.

I congratulate the conference. I think it made a step forward.

Mr. **STENNIS**. Mr. President, we give the Senator a word of special thanks. He started the ball rolling in this bill in such an effective way that it could not be stopped. There turned out, I think, to be a very fine sentiment for it.

It was a close vote here in the Chamber, and I commend the Senator highly for his persistence and his sagacity. In fact, the bill coming out of conference includes the essential principle embodied in the Bentsen amendment which was the subject of that close vote.

Mr. President, this bill has had more interest this year I believe than it has had since the war in Vietnam was waged, which I think is a wholesome sign indeed not only for our military security but for the care in which these dollars are spent.

So again I commend the Senator from Texas and the membership. The Senator from Arizona (Mr. Goldwater) I know was outstanding in his contribution at the conference as he always is. The chairmen of these subcommittees and the members also deserve a great deal of credit. I emphasize that so that the Senate will know how much they do.

Mr. President, I yield the floor.

Mr. **BENTSEN**. Mr. President, I commend members of the conference committee on the Defense authorization bill for 1983 for their diligent efforts to balance the imperatives of strengthening our national defense against the realities of our economy and record budget deficits. The committee has recommended authorizing $178 billion in defense spending for weapons procurement, research and development, operations and maintenance, and civil defense. This amount is nearly $5.5 billion below the administration's request of $183.4 billion for defense spending, and will enable us to continue the process of steady, controlled growth in defense spending without destroying the fundamental strength of our economy.

Notwithstanding the committee's efforts, I believe we must also redouble our efforts to eliminate wasteful and unnecessary spending in all Federal programs, including defense, which is

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the one area we can least afford waste or inefficiency.

The demand for economy and efficiency in Government is an indispensable element in our search for an appropriate response to the difficult economic challenges that face America. At a time of emerging differences as to how this country should invest its resources and manage its economy, America cannot tolerate waste, fraud, or mismanagement in an area so vital to our national security.

To this end, I offered an amendment to the Defense authorization bill during consideration by the Senate, to establish within the Department of Defense an independent, objective Inspector General, with authority to conduct audits and investigations in defense spending and programs. However, recognizing the need for the Secretary of Defense to maintain control over activities related to intelligence matters and sensitive to our national security, my amendment included language giving the Secretary authority, direction and control over the I.G. in these areas. My amendment was rejected by the Senate in favor of language giving the Secretary control over all activities of the Inspector General. The House adopted language favoring a completely independent Inspector General for the Department of Defense, with no exceptions for intelligence or security matters.

Therefore, I am especially pleased that the conference committee has recommended language creating an Inspector General for the Department of Defense equivalent to that proposed in my amendment. Under the compromise provision, the Defense Inspector General will have independent authority to conduct audits and investigation in programs and operations, but will be subject to the authority and control of the Secretary in matters related to intelligence, counterintelligence, sensitive to national security, and ongoing criminal investigations.

This provides a proper balance of the needs for Congress and the American taxpayer to have a credible, independent means of monitoring the hundreds of billions of dollars we appropriate for our national defense, and the need for the Secretary to have control over activities vital to our national security.

Mr. President, there is absolutely no doubt in my mind that the establishment of a tough-independent Inspector General for the Defense Department is one of the most responsible and cost efficient steps Congress can take to eliminate wasteful and unnecessary spending in defense programs without jeopardizing those vital to our national security.

I commend my fellow Texans, the distinguished chairman of the Senate Armed Services Committee (Mr. TOWER) and chairman of the House Committee on Governmental Operations (Mr. BROOKS) for their work in reaching this compromise. I also want to commend and thank for his support of this important legislation the Senator from Missouri (Mr. EAGLETON), who authored the Inspector Generals Act of 1978, which is now recognized as one of the most significant pieces of legislation passed with respect to eliminating waste, fraud, and abuse in Federal programs and spending.

Mr. President, I believe every Member of the Senate has an obligation to use every means available to combat waste, fraud, and abuse in Government. The committee's recommendation for the establishment of an Inspector General for the Department of Defense is a good place to start and I respectfully urge my colleagues' support of this significant legislation.

Mr. EAGLETON. Mr. President, while independence has been an issue of understandable importance to many Members, I have also been especially concerned about the question of resources for the Defense Inspector General.

I have always recognized that it would not be appropriate to centralize all the audit, investigative, and inspection resources of DOD under the Inspector General, although Congress did take that approach in the domestic agencies. Given the current autonomy of each of the several services in our system, it is probably necessary for each to have its own audit and investigative resources. Moreover, the military inspector general system is a time-honored tradition, not to be confused with its more recent civilian counterpart. The military inspectors general constitute the eyes and ears of the commander at every level in the services: they are vital to the functioning of the services. The service audit and investigative units and the service inspectors general make up a large part of the 18,000 people performing audit, investigation, and inspection tasks in the Defense Department, and I am comfortable with our decision not to bring them into the new Inspector General's Office. But at the same time, in an enterprise as massive as the Defense Department, the new Inspector General's Office must have the resources and the expertise to discharge its responsibilities effectively. Could I ask Senator ROTH, who chairs the Governmental Affairs Committee and was instrumental in producing the compromise which came out of conference, to comment on this resources question?

Mr. ROTH. As my colleague knows, based on my comments in conference, I share his view that the question of resources is absolutely crucial. In my view, the relationship of the Inspector General to the Secretary is important, but no more important than whether the Inspector General has the troops to do the job. We can set up the most independent Inspector General in the world, but if we fail to give him the necessary resources, his operation will never make a dent in the fraud, waste, and mismanagement at DOD.

For that reason, my amendment to the authorization bill, which was adopted by the Senate, mandated the transfer of about half the auditors in the Defense Contract Audit Agency (DCAA)—those engaged in "postaward" work—not less than 1,400 bodies. I believed—and I continue to believe—that the transfer of part or all of DCAA would greatly enhance the Inspector General's effectiveness, and I regret that our House colleagues did not agree.

Mr. EAGLETON. I completely concur with the Senator's view. Although the full House voted overwhelmingly to transfer all of DCAA to the new Inspector General, and the Senate mandated the transfer of about 1,400, when the House again considered the Inspector General issue on this authorization, the amendment adopted did not transfer any part of DCAA, and that position prevailed in conference. Does the Senator regard the decision of the conference as a final resolution of the DCAA question?

Mr. ROTH. Not at all. I believe the conference agreement reflected a desire to have the Inspector General's Office begin operations without DCAA, but the conference certainly did not foreclose the issue of whether DCAA would be transferred in the future. I note that when representatives of the Defense Department first testified before our committee on this issue on June 18, 1981, DOD General Counsel Taft described the thinking which went into creation of Mr. Sherick's office, the administrative precursor to this statutory Inspector General. Mr. Taft commented:

> The thought was that possibly later on, if we would find that the resources we had allocated . . . were not what he required, we would give additional resources, and the DCAA would be a logical place for those resources to come from . . .
>
> It seemed to us there was a risk in splitting DCAA up, and . . . that it would be best to start with 500 people, and see how that worked . . .
>
> If it didn't work, we would look at it again . . . I think Congress could legislate on the same basis.

Given the votes in both Houses in favor of transferring some or all of DCAA, it is certainly an issue warranting further consideration after the Inspector General's operation gets into gear.

At the same time, an Inspector General without the resources and technical expertise for contracting auditing would be rendered ineffective on some of the most vital—and costly—issues and problems facing DOD. Consequently, when the conference decided against transferring DCAA, it recognized the needs to give the new Inspector General an independent contract audit capability. The conference report requires that, in addition to the other units making up the Inspector General Office, the Secretary must transfer not less than 100 additional audit positions, to be filled by the Inspector General, with people trained to perform contract audits.

Mr. EAGLETON. In my view, this is an important provision which will insure the Inspector General's effectiveness and credibility. As the managers' statement notes, it is essential for the new Inspector General's Office to have a significant capability in the critical area of contract audit. With these resources, the Inspector General can carry out, among other things, his statutory responsibility to oversee and review DCAA's performance. Without these resources, that oversight would simply not be meaningful. Moreover, I think that an Inspector General who is vigorous and imaginative could have great impact by teaming contract auditors and internal auditors to look at entire procurements, the performance of the defense contractors as well as the performance of DOD officials. At present, DOD approaches these problems in fragmented fashion, with DCAA handling the contract audit area, while the Defense Audit Service provides the internal audit coverage. The results in the past have not always been impressive, because the two agencies have been reluctant to share information. The Inspector General's willingness to experiment with a team effort would point the way to a new, effective approach.

Let me ask one question. GAO reports have suggested in the past that the Defense Audit Service (DAS) has had difficulty obtaining access to needed information, particularly contractor records. Would the new Inspector General, in your view, find himself in a similar position?

Mr. ROTH. Not under the law as I read it. Section 6(a)(1) of the Inspector General Act of 1978 is crystal clear:

> The Inspector General is authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act.

"The programs and operations" for which Inspector General has responsibility clearly include audits and investigations to assess the effectiveness of, and to combat fraud and waste in, defense contracting and the overall procurement process—as the managers' statement notes—"the performance of defense contracting as well as the performance of defense personnel." The Inspector General's responsibilities also include: One, investigating fraud, waste and abuse uncovered as a result of other contract and internal audits; two, monitoring and evaluating the adherence of Department auditors to internal audit, contract audit and internal review principles, policies and procedures; and to serve generally as "the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste and abuse in the programs and operations of the Department. Therefore, in all these areas, the Inspector General would have access to any information which the Secretary or the DCAA had access, including contractor's records, under applicable statutes or DOD regulations or directives.

Mr. EAGLETON. I agree with the Senator's analysis, and I believe that this access to information is critical to the Inspector General's success.

Mr. ROTH. Mr. President, I am very pleased that we are today considering the conference report on S. 2248, the Department of Defense Authorization Act for 1983. The legislation contains a very important amendment to the bill which I offered to authorize the creation of an Inspector General for the Department of Defense. I strongly support the creation of such an office in the Department of Defense because it will provide the focus necessary to insure that the taxpayer's defense dollars are not frittered away through wasteful or fraudulent spending and bad management practices.

I would like to commend the chairman of the Armed Services Committee, Senator Tower, for his support in the conference as this issue was being considered and I would also like to express my appreciation to Senator Eagleton who worked in the conference to make the new Inspector General's Office as strong and effective as possible. I would also like to commend my House counterparts on the Government Operations Committee, Jack Brooks, L. H. Fountain, and Frank Horton, for their diligence and cooperation in resolving the differences between our Houses on this issue as effectively as we have.

Mr. President, current projections are that over the next 5 years our Nation will spend $1.65 trillion on defense programs. In the coming fiscal year, our defense budget will be larger, in constant dollar terms, than in any year since 1952, the height of the Korean war. Nearly one-half of this year's budget for the Defense Department would be used to purchase new weapons systems, up almost 40 percent from last year's level.

Clearly, we are embarking on a major effort to rebuild the defense capabilities of this Nation. A strong national defense is crucial to our security in these uncertain times and few would argue with the fact that resources devoted to defense programs have declined in real terms during the last decade. The American people have been supportive of the effort to improve our Nation's defense and most would agree that our military programs have suffered from neglect in recent years.

Yet, the unfortunate fact is that many of the dollars meant to improve our defensive capability never reach their intended goal. For example, the most recent figures available indicate that major weapons programs in the Defense Department experience an average cost overrun of nearly 132 percent per program. Some 70 percent of all Department of Defense contracts are awarded without competition despite the fact that some studies show effective competition saves up to 25 percent of the cost of a weapon. If these trends continue, our defense dollars will not be buying more and better defense. More will mean less as greater and greater chunks of the defense budget go to pay for cost overruns and ineffective management.

We need to create a strong advocate for efficient spending in the Defense Department to counter the ponderous, wasteful, and overlapping Pentagon bureaucracy which often seems more intent on pushing programs and winning the budget game than on improving our Nation's defense readiness. The House-Senate conference committee approved the amendment I offered to create just such an advocate, the Office of Inspector General. The new Inspector General, I believe, will prove to be a major step in the effort to insure greater efficiency and reduce fraud and waste in defense programs while preserving the integrity of defense programs sensitive to our national security.

The Inspector General approved by the conference will have full authority to audit and investigate all defense programs, everywhere in the Defense Department. Unlike the 18,000 auditors and investigators already in the Department, the new Inspector General will be independent of the Secretary of Defense except in certain areas affecting national security matters. Even in those areas, the Secretary of Defense could only stop an investigation by informing Congresss and the public of his reasons for doing so and the Inspector General himself would have similar authority to express his views to Congress.

The potential of the new Inspector General to stimulate efficient spending and reduced levels of fraud in the Pentagon is promising. He will have complete authority to set audit policy for all of the 18,000 auditors and investigators now in the Defense Department and he will coordinate, for the first time, all of the thousands of audits done on defense programs each year. He will have the necessary au-

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thority to examine programs even in the three services and he could be removed from office only by the President. Aside from the increased savings which result from improved audit and investigation programs, the existence of an Inspector General with substantial independence and authority in the Defense Department will provide a strong deterrent in the future to wasteful or fraudulent spending.

Mr. Predsident, there are two matters concerning the Inspector General we are authorizing under this bill which I believe require particular attention on the part of the Defense Department, as they implement the new Office of Inspector General.

First, the compromise Inspector General amendment explicitly authorizes the Inspector General to set all audit policy for the Department with respect to "audits and investigations relating to waste, fraud, and abuse and program effectiveness." This provision is contained in subsection (c)(3) of the amendment and is intended to clearly designate the Inspector General as the only official responsible for establishing policy for all audits and investigations relating to waste, fraud, and abuse in defense programs. His authority to establish policy extends to the services as well as to the Defense Contract Audit Agency. I would also note that subsection (c)(5) represents the other half of the equation with respect to audit policy because it authorizes the Inspector General to "monitor and evaluate" the adherence of all Department of Defense auditors to the audit policies developed by the Inspector General with respect to the prevention of waste, fraud, and abuse. In this regard, internal audit and contract audit functions directed toward the fulfillment of the Inspector General-established audit policies as provided under subsection (c)(3) would be covered.

The second point I wish to address concerns the role of the Defense Contract Audit Agency with respect to the new Inspector General. DCAA has over 3,400 employees most of whom are located in contractor's plants across the country. These auditors perform two basic audit functions by first, validating contractor cost estimates and related documentation submitted in support of a potential contract and second, assessing contractor claims and calculations submitted for payment as the contract proceeds.

These two basic functions are known by the shorthand names of preaward and postaward audits. Generally, DCAA has operated in an advisory capacity to program managers who use their advice in dealing with their contractors. However, DCAA does audit and monitor contractor operations and last year referred over 50 allegations of fraud to other Department of Defense agencies for review.

Mr. President, the Senate version of the Inspector General amendment would have transferred some 1,400 DCAA personnel to the new Inspector General's Office. In part, this was done to enhance the resources available to the Inspector General. It also was done, however, to express our belief that the DCAA's functions are an important part of the fraud and waste prevention efforts of the Inspector General.

These transfer provisions are not in the compromise version of the Inspector General provision. It is important to reiterate, however, that the DCAA will be required to comply with audit policies established by the Inspector General and that the agency is required under the compromise to work cooperatively with the Inspector General in his efforts to fulfill responsibilities assigned to him.

Mr. President, I strongly support this compromise Inspector General provision and recommend its approval to my colleagues.

Mr. EAGLETON. Mr. President, I want to express my enthusiastic support for that part of the conference report establishing a statutory Inspector General in the Department of Defense, comparable to the 16 IG's now serving in other major departments and agencies. In my view, Congress and the public can take satisfaction from knowing that a significant step has been taken to insure that vigilant oversight will accompany the spending of defense dollars in the future.

As the chief Senate sponsor of the 1978 Inspector General Act, I have long supported creating a statutory Inspector General at the Defense Department. The enormous projected increase in the defense budget which the Reagan administration seeks intensifies the need for such an Inspector General. The consensus which has emerged in favor of such a statutory office reflects the awareness that we need to deal seriously with waste, fraud, and mismanagement at the Pentagon, as well as in the civilian departments. Indeed, the need is greater at the Defense Department, not only because of the size of the Department and the amounts of money involved, but because we are talking about more than money lost in cases of fraud, waste, and mismanagement. We are talking about our preparedness—whether our weapons work or not—and whether a national consensus behind increased defense spending can possibly be continued. In my view, public support for even needed defense spending may well evaporate unless the Congress and the Defense Department make a visible, concerted effort to maximize the chances that the $1.65 trillion sought by the Reagan administration for defense in the next 5 years will be well managed and well spent.

Congress owes it to the people to take our "best shot" at minimizing fraud, waste, and mismanagement in the Defense Department. In other departments of Government, Congress best effort to combat fraud, waste, and mismanagement has involved the creation of statutory Inspectors General. Since 1976, we have created statutory IG's in 16 major executive departments after finding in department after department that audit and investigative units lacked the independence to provide a meaningful check on departmental waste and fraud; that audit and investigative unit were scattered haphazardly throughout the department without coordination, leadership, or focus; and that inadequate cooperation existed between the departments and the Justice Department in investigating and prosecuting criminal fraud.

In response to those findings, the Inspector General legislation consolidated audit and investigative responsibilities in a single high-level official reporting to the head of the department, not to program officials whose programs were being audited. Moreover, in order to assure that independent, hard-nosed auditing and investigating will take place, the legislation guaranteed the independence of the Inspectors General, insuring that even the agency heads could not interfere with the Inspectors General's audit and investigative activities or their reports to Congress. The success of the IG concept to date has earned the enthusiastic support of Congress and the Reagan administration.

Unlike many of the departments covered by the 1978 Inspector General legislation, DOD has always committed substantial resources to audit, investigative, and inspection work. DOD and the Armed Services currently employ more than 18,000 auditors, investigators, and inspectors. But they are scattered throughout numerous units, and there has been no single individual in the Department of Defense with clear, statutory responsibility for coordinating these efforts. Few, if any, serious observers would argue that the Defense Department has derived the maximum possible return from this huge contingent of auditors, investigators, and inspectors.

Since 1978, I have been working to apply the Inspector General concept to the Defense Department. At that time, at my urging, the Governmental Affairs Committee included DOD in the original IG legislation which they reported. In response to concerns voiced by the Defense Department and the Armed Services Committee, DOD was dropped from the legislation which eventually became the 1978 Inspector General Act. Congress accepted the argument that because the Defense Department was different—in terms of structure, mission, chain of command, and resources devoted to audit, inspection, and investigation—careful study should be done before extending the legislation to the Defense Department.

In the intervening 4 years, we had the opportunity for experience with the Inspector General legislation and the chance to carefully assess the Defense Department's approach to audit, investigation, and inspection, aided by a 1-year study of the task force appointed by Defense Secretary Harold Brown pursuant to section 8 of the Inspector General Act. That experience, coupled with rising concern about the toll taken by waste and fraud at DOD, made it clear that the time had come to legislate a statutory office of Inspector General at the Defense Department. Momentum in favor of such legislation was aided by the willingness of the Reagan administration, unlike its predecessor, to endorse the concept of a statutory Inspector General, although with some reservations.

In recent months, the question has not been whether a statutory Inspector General would be created at Defense; rather, the question has been: Would Congress act to create an Office of Inspector General with enough independence and resources to do the job properly?

For reasons which I would like to detail, I believe the conference agreement gives this new Inspector General the requisite independence to do the job credibly and effectively, while at the same time accommodating the legitimate concerns of the Department of Defense about national security. I also believe that the new office will have enough resources to begin its important work athough I am hopeful that as time goes on, Congress or the Secretary of Defense will see fit to strengthen those resources further.

On the independence question: The House, by an overwhelming vote of 344-65 in May 1981, endorsed creating a statutory Inspector General at the Defense Department virtually indentical, in terms of independence and powers, to all the other inspectors general in the civilian departments. That independence derives from the fact that the Inspector General is under the "general supervision" of the departmental secretary, but even the head of the department could not prevent or prohibit the Inspector General from carrying out whatever audits or investigations he deemed appropriate or from initiating such subpoenas as he sees fit. Moreover, independence is strengthened by establishing the Inspector General's special reporting relationship to the Congress by which the Secretary could comment on his semiannual reports or other required reports, but could not change them or prevent them from going to Congress in a timely fashion.

A year later, on this Defense authorization bill, the Senate voted to establish an Inspector General with a far different relationship to the Secretary of Defense. Like other officials in the Department of Defense, the new Inspector General, in the Senate version, would be under the authority, direction, and control of Secretary. The language of the Inspector General Act which stops the Secretary from preventing the IG from going forward with audits and investigations as he deems appropriate would not have applied under the Senate version. Before endorsing the concept of Inspector General under the Secretary's authority, direction, and control, the Senate narrowly rejected an amendment by Senator BENTSEN which would have given the Inspector General far greater independence and latitude.

Mr. President, independence is the hallmark of the Inspector General concept. To the extent that the Secretary of a department can prevent or prohibit the Inspector General from conducting an audit or investigation which the Inspector General deems appropriate, the effectiveness of the whole concept is seriously eroded. By definition, an Inspector General operating under the authority, direction, and control of the Secretary of Defense has no independence. The Secretary of Defense could call him up and tell him to discontinue an audit or investigation because it was embarrassing the Department or it was getting too close to pay dirt, and the Inspector General would have no recourse. The Secretary of Defense would call him up and tell him that he could not hire 10 good auditors that he planned to bring on board because the Secretary had other candidates in mind, and he would have no recourse. Under such circumstances, an Inspector General could never have the confidence of the public and the Congress.

However, while I believe in the concept of an independent Inspector General, I do not believe that it is appropriate to treat the Defense Department as absolutely identical to the 16 other departments of government which have IG's. The Defense Department has the unique national security mission which must be accommodated. When Deputy Secretary Carlucci testified before our committee in March 1982, he outlined situations in which it was vital for the Secretary of Defense to be able to prohibit the Inspector General from carrying out audits and investigations.

As one example, he mentioned planning for the Iranian rescue mission: Certainly a case in which the Secretary should have the authority to "turn off" an audit or investigation by the IG which could undermine or compromise the mission.

In my view, the conference has struck the appropriate balance between the need for independence and the demands of national security. Under the conference report, the Inspector General would be under the "general supervision" of the Secretary of Defense. The normal standard by which the Secretary would not prohibit or prevent the IG from going ahead with audits or investigations would apply. However, in narrow, specified categories—intelligence, counterintelligence, sensitive operations planning, on-going criminal investigations conducted by other units, or other situations where disclosure of information could jeopardize the national security—the IG would be under the "authority, direction and control" of the Secretary. To insure that the exceptions would remain narrow and tied to legitimate national security situations, the conference version would require the Inspector General, and then the Secretary, to notify the appropriate committees of Congress, including the Armed Services Committees and the Governmental Affairs Committees of any situation when he has exercised his authority, direction, and control over the Inspector General. The need to report to Congress any use of the veto should act to limit the instances in which the veto is used, as well as to expose any misuse of authority. The compromise which the conference produced serves all interests admirably.

I began addressing the question of resources in colloquy with Senator ROTH, but I want to elaborate on that important issue now. I have long maintained that a statutory Inspector General whose resources were limited essentially to the Defense Audit Service and the Defense Investigative Service—roughly 3 percent of the audit, investigation, and inspection resources in DOD—could be a step in the right direction, but a very modest one. To me, the issue has been whether we would take this opportunity to set up an Inspector General with the resources to effectively do the job or settle for a very small step, ignoring evidence at hand that more is needed.

In that regard, whether to transfer the Defense Contract Audit Agency, which numbers 3,400 strong, became a critical issue for the Congress and the conference. DCAA, as it is known, has responsibility for contract auditing in the Defense Department. It is the entity which goes into contractors' books, gauges the validity of their estimated costs and later reviews their incurred costs. In the Defense Department, contract auditing is where the big dollars are. If we talk about cost overruns or a weapon system that has encountered problems, we are talking for the most part about a contract audit question. My concern has been that if we created a Defense Inspector General without the capability to do contract auditing, it would occur to

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the public—quite rightfully—that we were creating an Inspector General who was looking at only a part of the problems at the Department of Defense.

When the House passed the Inspector General bill in May 1981, by an overwhelming vote, they opted to transfer the entire DCAA to the new IG. When the Senate amended the DOD authorization bill by a 94-0 vote, we voted to transfer roughly half of DCAA, not less than 1,400 people, those involved in what is called post-award auditing.

Despite the consensus reflected by these votes, the transfer of DCAA has remained a controversial issue. It has been controversial in part because transferring DCAA would represent a major change in "business as usual." It has also been controversial, however, because of the nature of DCAA's function. As the General Accounting Office stated in a report entitled, "Who Is Watching the Defense Dollars," dated February 5, 1982, "DCAA is a unique audit agency because contract auditing in Defense is an advisory function with contract auditors regularly participating in procurement management decisions. DCAA does not have the internal oversight responsibilities like those of Defense internal audit agencies. Its auditors are regarded as one of a group of advisers, including engineers and price analysts who assist the contracting officer, the principal decision maker for managing a Government contract." For this reason, Defense officials have argued that it would not be appropriate to transfer DCAA. DCAA auditors are not supposed to be independent outside auditors of the kind used by the Inspector General's office, and to transfer them would deprive the contracting officers of the advice which they need and rely upon in negotiating defense contracts.

These arguments were apparently persuasive enough that when the House reconsidered the Inspector General in the context of the Defense authorization bill, it decided not to transfer any of DCAA, choosing instead to require that the new Inspector General make a recommendation within 1 year, to the Secretary and the Congress, as to whether DCAA should be moved to his office.

I do not quarrel with the fact that giving audit advice to the contracting officers is a vital function, but occasionally does raise some serious questions. If the DCAA is essentially a contract adviser and not an independent auditor, who exactly does provide independent auditing of the performance of DOD contracts? Who gets to look at the entire procurement process, which consists of two basic parts—the performance of the Defense contractor and the performance of the Defense Department's contracting officers?

DCAA acknowledges that it does not attempt to review the performance of contracting officers. That is an internal audit function. But can a unit that works so closely and continuously with contractors while helping the Defense Department reach a good contract, then turn around and effectively and independently audit the contractor's performance?

In my view, the answers to these questions and others have not been encouraging. The evidence shows to my satisfaction that there is no serious, independent, capable contract audit capacity in the Defense Department. For example, GAO reports have made it unmistakably clear that the Defense Contract Audit Agency does not regularly share information with the Defense Audit Service if it discovers that a contractor is pursuing a course of action which amounts to fraud against the Department of Defense. For that reason, I have been concerned that if we simply transformed the Defense Audit Service into the new Inspector General's office, we might be perpetuating the same problem of no effective linkage between internal auditing and contract auditing. Beyond that, GAO has found that from time to time DCAA has entered into agreements which restricted the Government and its own access to contractor books and records. Such agreements are not consistent with good auditing procedures and with the role of the agency as the accounting and financial adviser to the Department of Defense on procurement matters.

Because of the unique nature of DCAA's work, the importance of contract auditing in the Department of Defense, and the record of weaknesses in DCAA's performance, I have been worried that an Office of Inspector General, without adequate resources and without a substantial mandate in the area of defense contract and procurement oversight, would be an ineffectual office.

The conference chose not to transfer any of the resources of the DCAA. However, the conference accepted a proposal endorsed by myself, Congressman BROOKS and Senator ROTH, giving the new IG 100 additional positions to be filled with persons trained to perform contract audits. Senator ROTH and I have already discussed the benefits of such a provision, so I will not belabor the point. I do believe, however, that such a provision became essential once the conference decided to leave DCAA's resources and expertise intact. With contract audit capability, the new IG should be able to combine contract auditors and internal auditors in teams that can look at defense contracts and the whole procurement process in a searching, independent way. When we encounter future cost overruns in a Trident, or an Apache, or an M-1 tank, the IG will have the flexibility and resources to attack the problem in its totality to give the Congress and the public reasonable assurances that a hardnosed assessment is being done. Without contract audit capability, the new office would have been seriously flawed at its creation. With such capability, we are creating something which could be very valuable.

Mr. President, I have continued at some length, both because the issues are important and to fill in some necessary background, since the Senate originally acted without the benefit of a committee report by adding an IG amendment to the authorization bill. However, the concerns I raise should in no way detract from the accomplishment of establishing a statutory Inspector General for the Defense Department. While it is impossible to rid the Defense Department, or any other Government agency, of fraud, waste and mismanagement overnight, I am reminded of the Chinese proverb which says that "a journey of a thousand miles begins with a single step." With the creation of the statutory IG for the Pentagon, today we have taken a major step.

Mr. SASSER. Mr. President, today the Senate is considering the conference report on S. 2248, the fiscal year 1983 Department of Defense authorization bill. I want to extend my congratulations to the conferees for reporting legislation which will assist our Nation in meeting the challenge of an adequate defense system.

I am especially pleased by the conference decision to support an outsize strategic airlift capability centered around the C-5B aircraft. The total recommended authorization of $847.5 million for C-5B aircraft procurement in fiscal year 1983 will make a significant contribution in making the U.S. airlift capability second to none.

Earlier this year, I commented on the relative benefits of the C-5B aircraft. The C-5 was designed, from the outset, as a military airlifter. It is uniquely suited to bringing the greatest and most effective payloads to the world's trouble spots. It is the equipment we need to insure that the RDF—the rapid deployment force—can fulfill its mission.

There is still work to be done to insure our airlift capability is sufficient in any situation. The conference report points out that the C-5B is "the cornerstone of a comprehensive and balanced airlift program that includes the KC-10A aircraft, the Civil Reserve air fleet (CRAF) enhancement program or another program to improve the military utility of commercial aircraft, and C-17 type technology development." Therefore, Mr. President, we must undertake to build the C-5B now.

Let us look at what the C-5B can do, Mr. President. The C-5 has the ability to carry heavy equipment—the M-1 tank, the M-60 tank, the artillery pieces, the new CH-47 attack helicopters, 12-ton supply trucks, and other rolling stock. It has an accessible off-ramp capability—the alternative, I note, would require the development of new loading equipment to get the hardware to the flight deck, some 16 to 20 feet above ground. It is flexible enough to transport the material we need to respond to a conventional crisis.

Most importantly, the C-5 provides our Armed Forces with combat-ready material delivery. Forty-one percent of the Army's mechanized equipment is outsized. Only the C-5 can load, deliver and unload the tonnage necessary to reinforce our military forces. For example, over 1.5 million pounds of military equipment were off-loaded in 1972 at Da Nang Air Base in Vietnam in 10 mission with an average ground time of 32 minutes. And in addition to its outsize capability, the C-5 can refuel during flight and airdrop needed material. Simply, it is a unique plane suited to our unique defense challenges.

Avco Industries, located in Nashville, Tenn., will be building the wings for the C-5B. Avco built the original C-5 wings, as well as the wings for the Lockheed C-130 and the Rockwell B-1. Avco has participated in the Space Shuttle project, and expects to employ an additional 1,000 Tennesseans on the C-5B alone over the next 4 years. Tennessee's continuing contributions to our National defense are evident in the work Avco, and its dedicated employees, are doing.

I want to reiterate my support for the conference report on S. 2248, Mr. President. It is legislation which will insure that our Armed Forces have the manpower, the equipment, and the training necessary to protect ourselves. It is legislation which will help us deter foreign aggression through a strong national defense. And it is legislation which will help the United States preserve world peace.

I urge my colleagues to support the conference report on S. 2248, it is vitally important that we begin work on our critical defense problems. S. 2248 will help us accomplish our goal.

● Mr. **WEICKER**. Mr. President, I wish to congratulate the distinguished chairman of the Senate Armed Services Committee and indeed all the conferees for their thoroughly professional accomplishment of a most difficult and complex task in regard to our Nation's defense.

It is my intention to support passage of this bill. There is, however, at least one provision of this bill that concerns me. This is the deletion of one of the Trident submarines which had been authorized by S. 2248 and was subsequently deleted in conference. I believe it to be essential that full funding is restored for the 10th and 11th Trident submarines and that long-lead funding be maintained for the 12th and 13th Tridents. Nowhere is the justification for this action stated more clearly than in the reports of the Armed Services Committees of the both the Senate and the House. I quote from each. The Senate Armed Services Committee said:

> The OHIO-Class Trident Submarine has begun to enter the fleet as a replacement for the older Polaris and Poseidon SSBNs which have comprised the Nation's sea-based strategic deterrent force for much of the past two decades.
>
> The committee is pleased to note that the initial results of the sea trials and shakedown cruise of U.S.S. *Ohio* (SSBN 726) have met or exceeded expectations. The problems that prompted the committee to defer without prejudice funding requested for the tenth Trident submarine in its action on the fiscal year 1982 Defense authorizing act appear to have abated somewhat as a result of concerted management efforts on the part of the contractor and the Navy.
>
> While the committee believes that the authorization of two Trident submarines in fiscal year 1982 is necessary and advisable in light of our strategic requirements, the committee believes that continued improvement in ship delivery schedules and cost and quality control management is essential to maintaining the necessary congressional support for the *Ohio*-Class construction program.
>
> The committee also believes options for further enhancing the sea-based leg of the U.S. strategic deterrent should be developed so that they would be available should such augmentation be deemed desirable or necessary in the future. Toward this end, the committee requests the Secretary of Defense to undertake a comprehensive study of options available to expand the capabilities, survivability and, deterrent effectiveness of the U.S. seabased nuclear force. This study should include consideration of accelerating existing programs, such as the Trident II as well as an analysis of other methods of obtaining additional capabilities at sea.

The House report was in general agreement saying:

> During consideration of the fiscal year 1982 Defense authorization bill, the committee deleted most of the authorization request for the procurement of the tenth Trident submarine. The committee took that action because of delays in the Trident submarine construction program and the uncertain state of negotiations for the ninth Trident for which authorization and appropriations were provided in fiscal year 1981. In recommending that the tenth Trident not be funded last year, the committee emphasized its continuing support of the Trident program and its desire to see the tenth Trident authorized and funded when the Navy was able to give the Congress assurance that the program was in a position to use the funding.
>
> Since committee action last year, substantial progress has been made in the Trident submarine program and the related construction of SSN-688 Los Angeles class submarines at Electric Boat Division of the General Dynamics Corporation. During 1981 six SSN-288's and one Trident were delivered. Pending contractual matters, including potential insurance reimbursement requests and unadjudicated change orders, were resolved. On January 7, 1982 the contract for the ninth Trident submarine was awarded. The Navy testified that contract delivery dates for the second and third Trident submarine can be met.

Mr. President, I urge my colleagues seriously to consider the need for sustaining and accelerating production of the most survivable arm of our strategic triad.

I intend to pursue this issue throughout the appropriations process to insure that this essential system is maintained on time and on track.●

● Mr. **QUAYLE**. Mr. President, on May 6, 1982, the Senate voted 59 to 38 to adopt my amendment to the DOD authorization bill preventing the transfer of the Department of Defense overseas dependent schools to the Department of Education. As the law now stands, the transfer is scheduled to take place on June 1, 1983.

The House-passed version of the DOD authorization bill did not contain any provision dealing with this issue. Thus, it was a matter which the House-Senate conference committee considered during its meeting last week. What is in the version of S. 2248, as approved by the conferees, is not my amendment which was adopted last May but a compromise 1-year extension of the date of the transfer from June 1983 to June 1984. I think some explanation of how that compromise was arrived at should be made a matter of record.

When this issue was discussed during the conference, there was near unanimity among the conferees in wanting to keep my amendment intact in the conference version of the bill. Discussion of this issue on its merits reflected strong support for keeping the DOD overseas schools under DOD's jurisdiction permanently. Factual information regarding the excellence of the schools, high test scores of students, and satisfaction of the parents was uncontradicted. Why, then, only a 1-year extension?

The House conferees were concerned that if a point of order were raised regarding the germaneness of my amendment, the House Parliamentarian would rule it to be nongermane. This was an analysis made not on substance, but solely on procedural, tactical grounds. Although I argued hard for keeping my amendment in the bill and settling the issue of this transfer once and for all, it was the sense of the conferees that a 1-year extension would be accepted by the House, even in the face of a challenge on germaneness, while my permanent language might fail and force the whole bill back to conference.

While I accept that judgment on tactics, I want to make very clear that

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this will not be the end of this issue. It is very interesting that all the arguments against my amendment are always on grounds other than the merits of the issue. No one can look at this issue and look at the facts and come to any conclusion other than that these schools are operating as well as any in our country and ought to be kept under the same supervision and administration as they have been for years. I certainly will not stand by and watch these schools be transferred just so the Department of Education can conjure up a reason for its existence.

I will soon ask Senator JEPSEN to schedule hearings on this issue for the Armed Services Subcommittee on Manpower and Personnel. Once we have brought up to date the facts regarding the operation of these schools, the Senate will be in a position to again consider legislation to permanently stop the transfer of these schools to DOE.●

● Mr. KENNEDY. Mr. President, I voted for the fiscal year 1983 defense authorization bill, S. 2248, when it passed the Senate on May 14. On the recommendation of the Senate Armed Services Committee, the earlier version contained no funding for the production and deployment of MX missiles. The Reagan administration has yet to propose a permanent basing system for the MX missile, which was the reason the Armed Services Committee deleted the funding for fiscal year 1983. Inexplicably, the Senate-House conferees added $1.696 billion for the MX program. For this reason, I oppose the conference report on this bill.●

● Mr. SCHMITT. Mr. President, it is with great reluctance that I vote against the defense authorization conference report. The administration proposed a well-balanced bill that addressed both the short- and long-term national security needs of this Nation. The Senate Armed Services Committee and the Senate retained that balance in its deliberations and amendments to the administration's request. That balance was not, however, retained in the House-Senate conference.

The result is that the bill before us fails to effectively provide for the short- and long-term defense needs of this Nation in an economic and reasonable fashion. Instead, this bill funds programs which are costly and do not provide substantial benefits to national security at the price of programs, many relatively cheap in comparison, which do offer opportunities for great improvements in our defense capabilities. The conference report is still $6 billion over budget.

In the area of procurement, the conference provided for $847 million for 1 C-5B aircraft while denying $15 million for deployment of 50 Minuteman III ICBM's as replacements for Minuteman II's. Not only would this program which the Senate has strongly supported over the years increased our ICBM capability but it is vital for a continued test program of Minuteman II's.

The area of the bill which is most disturbing is Title II: Research, Development, Test, and Evaluation. Not only was the request reduced, but it was reduced in the wrong programs. Basic research in all the services was reduced by $34 million. It is this research which provides us with the answers to problems of the future; it provides us with the technological lead that has kept the peace for almost 40 years.

Two programs of major importance are the high-energy laser program and the ballistic missile defense program. In the high energy laser program, Army funds for a proof of concept test were deleted as well as Air Force funds necessary to determine the answers to integration, battle management, and vulnerabilities of a space-based laser weapon system. This administration has proposed a well-organized program for high energy lasers but the conference has seriously damaged that program. It also deleted the Senate language directing that an on-orbit laser weapon system be developed as quickly as technology permits. This is being done in the face of a major Soviet effort in this truly revolutionary technology.

The Senate, unfortunately, deleted $200 million from the BMD program and the conference deleted another $150 million. This reduction of almost 50 percent from the administration's request will seriously hamper efforts to develop a BMD capability at the same time that the Soviets have pursued this technology to the limits, and possibly beyond the limits, of the ABM Treaty. It is this technology that may, someday, be able to protect our civilian population from nuclear attack.

Civil defense, intended solely to protect our civilian population, was reduced by $100 million or 40 percent of the administration's request. It sometimes appears that we lose sight of the purpose of national defense; that is, defense of our people and our interests.

Last, Mr. President, this conference report, if enacted into law, will codify an inequity and a budgetary dishonesty. Over the next 6 years, NASA, with an annual budget of about $6.6 billion, will subsidize DOD by about $3 billion or almost one-half of NASA's annual budget. Efforts are underway to rectify this situation. The conference, however, is attempting to legislate this budgetary dishonesty into law. The result will be a decline in the very technology that DOD will need in the future to provide for a solid national defense.

Mr. President, this Senator has always supported the national security needs of this Nation. I supported this bill when it was before the Senate because it was a balanced bill, even though I did not agree with everything in it. The conference report before us now, however, does not provide for the national security needs of this Nation in a balanced and economical manner and I am forced to vote against it.●

● Mr. GRASSLEY. Mr. President, I intend to vote for the conference report for the Department of Defense authorizations for fiscal year 1983. The top priority of Congress is to put the national economy back on the road to recovery by establishing appropriate balances in expenditures, creating more stringent controls for the Federal budget. While I do not believe that the defense portions of the budget should be immune from critical budgetary analysis, I think defense must be viewed with a clear sense of history.

For more than two decades the Soviet Union has pursued the steady expansion and modernization of its military forces. Prior to 1970, U.S. defense expenditures exceeded those of the Soviets. During the period 1971-81, the cumulative dollar cost of Soviet defense activities has exceeded that of the United States by 40 percent. Responding to the sentiment for stronger defense in the midseventies, the Ford administration succeeded in increasing the defense budget from a low of $134 billion, 1981 dollars, in 1975 to $147 billion in 1977. The advances, thought to be necessary in strengthening our defense posture, were then reversed under the administration of President Carter with reductions exceeding $38 billion. In order to reach those reduction levels, development of several significant defense systems was either undermined completely or delayed excessively, I am convinced that those actions by the previous administration have driven us into a budget trap which could have been avoided by careful, well founded, steady increases in the defense budget. Instead, the defense budget process has been erratic at best. The lack of budget cohesion results in an adverse affect on coordinated, long-range planning while also creating inefficiency and waste.

The defense authorizations for fiscal year 1983 should help to reverse the decline in our military posture vis-a-vis the Soviet Union by: Securing maritime superiority required for deployment of U.S. Forces to vital regions overseas, for the support of our allies, and for assuring continued access to vital resources; modernizing all components of U.S. strategic forces; and improving the endurance and combat readiness of conventional forces with new equipment. Military power is an integral part of international politics. If the United States expects to play even an effective peace-keeping role in the international arena, it must maintain a credible military force. This level of funding should certainly afford the Defense Department an opportunity to redress the failures of the previous administration's defense planning.

As a member of the Budget Committee and chairman of the Agency Administration Subcommittee of the Judiciary Committee, I am intricately involved in attempting to bring the Federal budget under control. Thus, I would strongly urge the Congress and the administration to conduct in the year to come a thorough and exhaustive review of all service programs and, only then, make specific, selective, and carefully targeted reductions. Such a complete overview would undoubtedly involve detailed examination of the following: Degree of integration and coordination of new programs, both inter- and intra-service; elimination of marginally beneficial programs; identification of operations and support costs for new equipment to determine if resources will be available in the outyears; the problems involved with buy-ins, cost overruns, and misestimates involved in the procurement process. Thus, the Department of Defense should now be able to assist the United States in stabilizing its leadership role, keeping clearly in mind that economic discipline is more essential than ever.●

● Mr. PELL. Mr. President, I have decided to oppose the conference report on S. 2248, the defense authorization bill. This conference report contains essentially the same level of new defense procurement as the Senate-passed bill, and is $2.6 billion larger than the House-passed bill. Coming on the heels of this year's mammoth $200 billion defense appropriations bill, this very substantial increase in military spending cannot, in my judgment, be justified in terms of our real military needs or the requirements of a sound national economic policy.

Militarily, the bill commits our Nation to several multibillion, long-term weapons programs, such as the MX missile project and the B-1 bomber. These programs are of highly questionable military value, especially in light of their staggering price tags. The $7 billion contained in this bill for B-1 and MX is just the beginning of what will be required over a number of years if these programs are fully implemented. The heavy emphasis on new weapons programs comes at the expense of urgently needed improvements in the readiness capability of our conventional forces.

Similarly, the bill commits the Navy to the construction of two additional *Nimitz*-class nuclear aircraft carriers, expensive multibillion-dollar additions to the fleet that will come at the expense of smaller and more easily defended surface ships.

In terms of economic policy, we cannot move toward a balanced budget without restraining the huge proposed increase in the defense budget. The Federal deficit will never be brought under control as long as the Congress commits our Nation to the kind of costly, long-term weapons programs such as those contained in this bill. At a time when every American is dedicated to lowering the Federal deficit, the weapons procurement figure contained in this bill is unacceptable and should be rejected by the Congress.●

Mr. DOMENICI. Mr. President, I rise to support Senate passage of the conference report on S. 2248, the Department of Defense Authorization Act for fiscal year 1983.

Chairman TOWER has returned a conference report that cuts about $5.5 billion from the authorization request of the administration in this area. In addition, savings of more than $1.5 billion are expected in the Department of Energy national security authorization and in the Military Construction Authorization Act. If all of these savings materialize, and I have strong reasons to believe they will, then the Armed Services Committee will have made about seven-eighths of the savings in budget authority mandated by the first budget resolution for programs authorized by these three bills.

Frankly, I wish that all of the savings could have been achieved. However, as I have discovered on many occasions in recent months, conferences between the Senate and the House are difficult, and in the bargaining that occurs, it is simply impossible sometimes to satisfy all points of view. This bill, especially, faced two opposite forces. First, it is clear and unequivocal that this Nation's national defense structure needs improvement.

Chairman TOWER has been one of the foremost voices in the effort to improve our national security posture. Second, extraordinary deficits and historically high interest rates have made economic recovery slow in coming. Chairman TOWER, as a member of the Senate Budget Committee, has been one of the staunchest supporters of slowing the rate of Federal growth.

I know that this bill authorizes less than Chairman TOWER would like, in an ideal world. It may even authorize less than I would like in such an ideal world. But, in this real world of ours, it is the best product that could be forged.

Finally, I remind the Senate that the final word on the size of Defense budget authority and outlays will be made by the Appropriations Committees of the House and Senate. I believe they will review these programs closely and, if additional economies can be found, they will not hesitate to institute them. Ultimately, the appropriators will have to come in within their budget mark.

When all is said and done this year, I have every reason to believe that Congress will impose on defense growth the same restraint, consistent with prudence, that we have tried to impose in other areas of Federal spending.

Mr. President, I wish to just engage in a couple minutes of discussion about the history of the treatment of authorization bills under the Budget Act.

Actually, other than restrictions on the timeliness of the filing of authorizing bills out of committee, the Budget Act makes little or no reference to authorization bills. The May 15 on deadline is an effort to expedite authorizing bills, obviously for the purpose of conforming and regularizing the appropriations process.

So we have a law that says we have to have bills reported to the Senate by May 15th or a committee has to get a Budget Act waiver. That waiver is a timeliness waiver. It has nothing to do with substance.

Mr. President, what the Armed Services Committee has done last year and this year under the leadership of Senator TOWER as chairman and JOHN STENNIS as the ranking minority member is something that should add to their reputation here in the Chamber.

Let me see if I can explain that. Literally for years, in this Senator's opinion, many authorizing committees of the Senate have basically abdicated policy-making to the appropriators where funding levels are involved. Why do I say that? Because one can look historically at major legislation, whether it is in the field of education, labor training, or water projects, and conclude that most authorizers never really looked at budget targets. There is little evidence that the authorizers decided, "We want to be significantly a part of the ultimate policy, that is, How do we allocate the limited amount of money?

In fact, until the last few years many authorizing bills did not even set a dollar amount. Many bills authorized whatever was needed in fancy legal language that made it valid to appropriate as much as was needed to carry out the purposes of the bill.

Other programs, including many in this conference report, were not even subject to authorization when Senators THURMOND and STENNIS came to the Senate.

An authorization bill may approve programs under 20 subtitles, and then we find that the appropriators fund 10 subtitles and not the other 10. In order to meet budget targets, the appropriators must pick and choose, ba-

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sically because they pay the bills, that is determine the policy, as to what do we build, what do we buy? Some authorizing committees have authorized far more than we could fund.

Now what did the Armed Services Committee do last year? Let me provide some background. They attempted to reverse a trend. For years many authorizing committees were not really determining policy. As a matter of fact, I think some Federal agencies were without authorizing legislation in other areas for some period of time. In fact, for several years the Department of Energy operated its civilian programs without authorizing legislation in effect, which meant that the appropriators made their decisions without direction.

So this committee, starting with the chairmanship of Senator Tower and Senator Stennis, attempted to fit the authorizing bill as neatly and closely as possible to the budget target. And let us do not forget the national defense budget is a target under a first concurrent resolution. It is not a reconciled item. It is not mandatory. It is not an entitlement, except for retired pay. It is mostly discretionary appropriators programs. In the final analysis, the appropriations then have to meet their target for all of those programs under their jurisdiction.

At least from this Senator's standpoint every authorizing committee should attempt to determine the policy by drawing its bills tightly and relating them as closely as possible to the budget targets.

The Armed Services Committee did that. They did that last year. Therefore, the appropriators, more or less, are left with attempting to carry out our military preparedness as directed by the authorizing legislation. The appropriators still have some latitude, but for the most part Chairman Tower and Senator Stennis have attempted to do what I have described with this committee. I laud them for it.

I wonder why we have authorizing committees if they are not going to remain an important factor in funding and policy decisions. I wonder why we expect authorizing committee members to be sincerely interested in hard work and hearings necessary to determine this, that, and the other detail of policy if they are not going to draw a piece of legislation that they believe can be funded.

If that is the test, then, point No. 1. We will know whether we meet the budget allocation for national defense when the defense appropriation bill hits this floor. This Senate is committed to the budget resolution targets for functions 050 national defense for 1983. The President is committed to those targets for 1983. This Armed Services Committee is committed to them, and the appropriators are committed to the same numbers.

In light of this history that I have just discussed about authorizing legislation, the Armed Services Committee has come as close as they could at this time in an authorizing bill to the budget target that is ultimately going to be reached. If the appropriators were to fund everything here and everthing, item by item, that is contemplated in the two other military authorization bills, as chairman Tower indicated, seven-eights of the budget authority savings comtemplated in programs authorized by the Armed Services Committee will be achieved without the appropriators doing a thing.

Point No. 2. There will be a lot less discretion for the appropriators to exercise on the Defense bill than on some other bills. They will be able to fund 100 percent of many of the items authorized by this conference and still make the savings required for function 050 in 1983. I think that is the test.

Those who want to vote against this conference obviously have various reasons. Some may not like some of the programs that are authorized. That is everyone's prerogative. Certainly if Senators do not like programs that are authorized and feel compelled to vote against it, after all the work that has gone into it, that is their privilege, and I would expect them to do that.

On the other hand, to make it sound like this type of authorization bill must come precisely within budget targets really is assuming more than the system expects and demanding more of this authorizing committee than is really necessary. This authorizing bill—this year—does not force the appropriators to fully fund it. Meeting budget targets is not the sole responsibility of this authorizing bill. The final choice and responsibility for funding this type of discretionary program is exercised by the appropriators.

After all that has gone into this conference, I urge that we pass it, and we hold the appropriators and the President to the fiscal 1983 budget resolution levels.

Mr. TOWER. Mr. President, I want to thank the Senator from New Mexico for his statement and his supporting words. They are a great reassurance to me, and I want to reassure him that I will continue to cooperate with him in trying to meet our budget responsibilities.

Mr. President, I believe all has been said that is going to be said this afternoon on this matter, and I think we should take it to a vote.

If I might proceed for about another 30 seconds, I want to thank all of those who have made those kind remarks about me this afternoon. I appreciate that very much.

I might note that the expeditious manner of disposing of this bill in conference could not have been done were it not for the subcommittee chairmen and the ranking members of the subcommittee and, indeed, all of the members of the committee but, most especially, my distinguished friend, the Senator from Mississippi (Mr. Stennis) who has served so well and so long in this body and has been extremely cooperative, wise, and helpful in guiding this bill through the conference.

Mr. DOMENICI. Mr. President, will the Senator yield to me for a moment?

Mr. TOWER. Yes.

Mr. DOMENICI. Mr. President, in my summary of efforts by the defense authorization committee to remain as close to budget targets as possible. My remarks reflect the fact that I worked closely with this problem only since I have been chairman. I correctly praised the distinguished Senator from Texas. I understand the distinguished former chairman of the Armed Services Committee, who is now the ranking minority member, the Senator from Mississippi (Mr. Stennis) started the process I have described at least 2 years before I became chairman of the budget committee. I thank him for those efforts.

Mr. TOWER. That is true. He certainly did, and has been very cooperative in trying to help us meet our budget requirements.

Mr. DOMENICI. I thank the Senator.

Mr. BAKER. Mr. President, are the yeas and nays ordered?

The PRESIDING OFFICER. They have been ordered. The question is on agreeing to the conference report. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. Simpson) is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. Simpson) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. Ford) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. Abdnor). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—77

Abdnor
Andrews
Armstrong
Baker
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Eagleton
East
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz

Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kasten
Laxalt
Leahy
Long
Lugar
Mattingly
McClure
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Percy
Quayle
Randolph
Roth
Rudman
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker
Zorinsky

NAYS—21

Baucus
Bumpers
Cranston
Durenberger
Exon
Hart
Hatfield
Inouye
Kassebaum
Kennedy
Levin
Mathias
Matsunaga
Melcher
Pell
Pressler
Proxmire
Pryor
Riegle
Schmitt
Tsongas

NOT VOTING—2

Ford
Simpson

So the conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUSTICE GOLDBERG'S ARTICLE ON LEBANON

Mr. KENNEDY. Mr. President, recently my very good friend and a great American, Justice Arthur J. Goldberg, wrote an important and insightful article on the problems we face in Lebanon and the Middle East, which appeared in leading newspapers in the United States and Israel.

Arthur Goldberg has occupied important posts in the service of our Nation—as Justice of the Supreme Court, Ambassador to the United Nations, Ambassador at Large, and Secretary of Labor, among many others. He has been dauntless and tireless in the cause of international order and of social justice.

Justice Goldberg's past experience, and his continuing commitment to a just and lasting peace in the Middle East, make his commentary particularly noteworthy and important. He reminds us of the great damage inflicted by the PLO and Syrian military occupation of Lebanon—and by the PLO's continued terrorism against Israeli settlements.

Tragically, the innocent people of Lebanon—like the innocent people of Israel before them—have been caught in the crossfire of the current conflict. For this we mourn. As Justice Goldberg states: "Every life is precious and all killing is fratricide because we are all members of the human family." Already too much blood has been shed, and we must all hope for the successful conclusion of Ambassador Habib's negotiations, the withdrawal of the PLO and all foreign forces from Lebanon, and the restoration of the freedom, security, and sovereignty of Lebanon.

Finally, I join with Justice Goldberg in calling on the Reagan administration to put its full influence behind the Camp David accords by appointing a high level special negotiator.

Mr. President, I ask unanimous consent that Justice Goldberg's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Lebanon Crisis

(By Arthur J. Goldberg [1])

Israeli troops encircle Beirut. The PLO and the media, by and large, characterize this as an invasion. Many Lebanese, Christian and Moslem alike, hail Israel's actions as liberation.

This Lebanese reaction is understandable. For more than a decade, Lebanon has been an occupied country. The PLO and Syria took over the country in 1970 at the cost of thousands of civilian casualties.

The resultant displacement of the legitimate Lebanese Government contributed to the bloody internecine conflicts between Moslems and Christians, also with staggering casualties. And armed bands, Palestinians, and others without ideological convictions, contributed to this anarchy by indiscriminate killing of Lebanese civilians, looting and other depredations of life and property.

The PLO has used Lebanon, by nature a peaceful country and people, as a base for their operations against Israel. These operations included terrorist infiltration of Israel directed against civilians and periodic bombing and shelling of Israel's northern settlements. The PLO further, acting as an occupying power, requisitioned Lebanese homes and businesses, exacted monetary tribute, converted Palestinian refugee camps and even ordinary dwellings and office buildings into military installations, and stockpiled an inordinate amount of Soviet heavy weapons, ammunition and other sophisticated hardware throughout Lebanon.

The Syrians, under the guise of the leading member of a "so-called" Arab peace keeping force, followed a similar course. After first attacking PLO militants and installation, without sparing Palestinian or Lebanese civilians, the Syrians later joined forces with the PLO. This unholy alliance would seem to have only one purpose—attacks against Israel. The installation of Soviet supplied Sam 6 missile systems in the Bekaa valley (part of Lebanon occupied by Syria) seemed designed to give both Syrian and PLO concentrations sophisticated weapons against Israel.

All of this, although obviously threatening to Israel's security, in all probability, did not trigger Israel's response. It was the heavy shelling and rocketing of Israeli northern settlements on June 4 which undoubtedly caused Israeli troop movements into Lebanon.

At the outset "Operation Peace for Galilee" (Israel's name for this operation) was to create a 25 mile terrorist free corridor in the north freeing Israel's settlements from the danger of PLO shelling and bombardment.

By design or by sheer momentum of a successful army on the march, Israel's movement into Lebanon was enlarged into an operation to destroy the PLO's military viability and eliminate the missiles in the Bekaa valley. Parenthetically, Beirut is only 33 miles from Israel's northern frontier. The media have never made this clear, in discussing the enlargement of the war.

In their objectives, the Israelis have been largely successful.

The PLO has been driven out of artillery and rocket range of Israel's northern settlements. Soviet supplied missiles in the Bekaa valley have been wiped out and Syria accepted a cease fire long before the PLO did.

There are about 6000, more or less, PLO militants holed up in West Beirut. No one doubts that the Israeli army has the capability to wipe them out.

The PLO is lacking in the means successfully to resist such an onslaught. Their only bargaining chips are: the civilians in West Beirut (estimates vary from 200,000 to 600,000) whom the PLO are using virtually as hostages to deter Israel from a ground assault; Israeli concern about their own casualties now numbering 281—seemingly a small but a proportionately large number in a country as small as Israel, and most importantly unremitting pressure by the United States which, for some inexplicable reason, seems determined to preserve the illusion that the shattered PLO must be dealt with to resolve the Palestinian issue.

The Arab countries are more realistic than we are. They recognize that the PLO has proved to be a paper tiger. They not only have refrained from giving the PLO military support; they, including Syria, have refused to grant sanctuary to PLO forces, now surrounded in West Beirut. And, for good reason. The Arab states realistically fear that a substantial PLO military force, including as it does, mercenary terrorists from all parts of the world, may well destabilize their regimes. Also, it would seem that whatever the rhetoric, they seem relieved to be free of PLO threats and blackmail.

But with all PLO stonewalling, it seems evident that the PLO will have to depart Lebanon, better sooner than later. And with their ignominious exit, the concept that the PLO will have to be dealt with seems a sheer fantasy.

The PLO is finished, unless by inept diplomacy, the United States and other Western powers revive it from certain oblivion. This is not to say that the Palestinian question will go away, as some Israelis hope.

Instead of welcoming the demise of the PLO as a military and diplomatic force, our media seems determined to give the PLO false hopes of both a military and political resuscitation, thereby prolonging the war, without any conceptual analysis of the realities of the situation.

The media is doing this by exaggerating (from several hundred to 10,000) civilian casualties as a result of Israeli military action. Understandable revulsion by the American public against the loss of life of innocent men, women, and children, by a perverse logic of the media, is converted into advocacy of dealing with a PLO which is for all purposes virtually eliminated.

And the wayward press and television reporting, never too friendly to Israel, suddenly have become concerned about Israel's alleged immorality in their movement into Lebanon. This concern is linked to the number of undetermined civilian casualties resulting from the fighting, with almost total disregard of their source, and the history of the recent past where civilian casualties of much greater numbers were caused by Jordan, the PLO and Syrian forces, let alone the civil war in Lebanon.

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[1] Former Justice of the Supreme Court, former Ambassador at Large and U.S. Ambassador to the United Nations.

The media has been focusing, as I have said, particularly television, on civilian casualties caused by the fighting, without discrimination as to those responsible for the killing and destruction. There is substantial evidence that the Israeli army, at great risk, has sought, as best it could, to minimize such casualties.

But be that as it may, the death and wounding of civilians, as well as military personnel, is sad, beyond words. Every life is precious and all killing is fratricide because we are all members of the human family.

"War is hell." And Winston Churchill added, "It is sordid."

Churchill, nevertheless, ordered in World War II, the bombing of Dresden, a non-military target and countless civilians were killed and wounded. Why? Sir Winston was a valiant warrior, but no one has accused him of being a sadist. He bombed Dresden because the Nazis bombed London, Manchester, Liverpool, Coventry and other non-military targets, causing a great loss of human lives. But Churchill, a consummate politician, knew that it would be impossible to sustain British morale had he not struck back in kind. And when allied forces sought to liberate France, even friendly French civilians paid a terrible price, as a result of our bombing and shelling, in our effort to liberate France from Nazi occupation.

Is not the government of Israel faced with the same terrible dilemma in view of repeated PLO acts of terrorism against Israeli civilians and the bombing of its northern settlements?

All democratic governments, like our own, must provide, as our Constitution says, "for the common defense." And as our Declaration of Independence states, governments must exercise their powers in such a way, "as to them shall seem most likely to effect their safety . . ."

Is Israel to be held to a higher standard than these great documents of liberty?

Did we and our allies act immorally, in the most just of wars against the demented barbarian who sought to enslave the world, despite the civilian casualties of enormous dimensions which—with great heartbreak—occurred? I think not.

The considerations which led Israel to move into Lebanon, despite herculean efforts in the fighting to spare civilians, can scarcely be termed immoral, when we and our allies in World War II, on a much larger scale, caused, in the interest of freedom, suffering on innocent people.

When I was on the Supreme Court of the United States, I wrote an opinion saying that our Constitution is not a suicide pact.

Israel almost committed suicide in 1973, when it refrained from a preemptive strike and full mobilization of its largely civilian army, under pressure from our government and other Western powers, even when it became known that Egypt was about to launch a full scale attack.

It is a simple fact that when King Hussein and the Arab Legion made war on the PLO in 1970 and drove them out of Jordan, there were far greater casualties, military and civilian, than the casualties in Lebanon. No charge of immorality was levelled by the media against Hussein for this action to prevent the take over of his kingdom. And when Syria and the PLO invaded and occupied Lebanon later that year, the killing, maiming and destruction was so wanton and the occupation so pervasive that Lebanon virtually ceased to exist as an independent country. Again, this was not labeled immoral by our press which continues to describe the Syrian occupiers as a "peace keeping force."

It is also strange that there was no action then from Western governments, including our own, even though a majority of the victims were Christians.

It is said Israel should have been content to clear PLO terrorists out of an area 25 miles north of the Lebanese border where PLO guns could reach Israeli settlements.

Perhaps they should have, although, in hot pursuit, it is seeking to rid its country and people and indeed the world of a conglomerate of discrete guerrilla groups, providing training and arms to international terrorists, and without a common program, other than to drive Israelis into the sea. But with a long history of terrorism and deception by the PLO, the Israelis cannot be overly criticized for pressing on to eliminate the PLO once and for all as a menace to their security, their people and the world community.

Both the PLO and Syria assert that they are at war with Israel and seek its destruction. Is it immoral to strike at your enemies who dishonorably emplace their heavy guns and rockets in civilian camps and neighborhoods? This is the primary cause of the civilian casualties which sadly have occurred. The hijacking of West Beirut inhabitants is a most horrendous immorality committed not by Israel but by the PLO.

What of the West Bank and Gaza?

It seems to me the answer is self evident and must be addressed when Lebanese sovereignty is restored and all foreign troops depart from Lebanon. The Camp David Accords and the Egypt-Israel Treaty of Peace should be implemented. The Camp David agreements acknowledge that Palestinians (not the PLO) have legitimate rights and provide a trial period of five years of appropriate autonomy for Palestinian inhabitants of the area.

Free from the illusion, now demonstrated to be without foundation, that the PLO has the coherence, strength and support to act as the "sole representative of the Palestinian people" and liberated from its terroristic acts and blackmail against Palestinian leaders, inhabitants of the West Bank, and other Arab countries, it should be possible to conclude an autonomy agreement with all deliberate speed.

The inordinate delay in the autonomy talks relating to the West Bank is primarily due to the PLO which has villified the Camp David Accords. It is also as much our fault as it is the Israelis and Egyptians. We have downgraded these talks by dispatching representatives to the deliberations not of the highest rank and authority.

An autonomy agreement commands for resolution the personal involvement of President Reagan and Secretary Shultz.

Egypt, Israel and Palestinians need the American presidential umbrella for the autonomy talks to succeed, if only to satisfy their domestic constituencies.

There are, of course, risks in personal presidential mediation efforts. But Camp David succeeded, despite the misgivings of many in and out of our government and other powers of the West and Middle East.

In international affairs, as in life in general, nothing ventured, nothing gained.

Sadat and Begin, to their great credit, understood this. President Carter came to the same realization and, as a result, Camp David and the Egyptian-Israeli Peace Treaty is rightly recognized to be the outstanding achievement of his presidency.

The same can be true of President Reagan's presidency. It would be a great mistake to crack down on Israel for its justified invasion of Lebanon by imposition of American sanctions (the suspension of cluster bombs is unfortunately the wrong signal).

Jews, the Bible tells us, are a stiff necked people. Israel predictably will react to sanctions with a spirit of defiance rather than compromise. And, it must always be remembered that Israel is an ally and not a vassal state.

If it is treated as an ally, I have every confidence that Israel will display the same flexibility it manifested in yielding the Sinai, in the interest of an enduring peace between Egypt and Israel.

Autonomy of the West Bank and Gaza is of lesser dimension than withdrawal from the Sinai. But the overriding principle is the same.

THE FEDERAL RETIREMENT SYSTEM

Mr. STEVENS. Mr. President, the Federal retirement system continues to come under attack. Federal workers must begin to realize that their system is in great jeopardy. Next month I will be introducing a reform of the Federal retirement program which establishes a new system for new employees. If something like this is not adopted, the current system will likely be emasculated beyond recognition. I strongly urge my friends in the Federal service to seriously consider my proposal because I believe it can be a very acceptable alternative to what is likely to happen to the current system.

Mr. President, I ask unanimous consent that an issue brief written by the Employee Benefit Research Institute be inserted in the Record after my remarks. I do not necessarily agree with every point made in the paper, but it is an indication of the current thinking on the Federal retirement systems.

There being no objection, the material was ordered to be printed in the Record, as follows:

Federal Pensions: An Island of Privilege in a Sea of Budget Austerity

The battle of the budget has become more focused in recent weeks. It is virtually certain that there will be some scaling back of the tax perquisites private pensions now have. This is a move to enhance revenues, i.e., raise taxes. Congress is also scrutinizing federal pension programs in an effort to reduce expenditures.

The recent budget resolution for fiscal 1983 anticipated that federal pension beneficiaries would have their cost-of-living allowances (COLA's) capped at 4 percent per year over the next three years. The Senate Governmental Affairs Committee approved the COLA cap on July 20. The measure would save an estimated $5 billion by the end of fiscal 1985.

The House Post Office and Civil Service Committee, however, has rejected the COLA ceiling for recipients of federal civilian annuities. (They do not have jurisdiction over the military retirement program.)

Instead they approved two measures that would reduce federal pension costs by $113 million over the next three years. The first measure would round down monthly pension benefits to the next lowest dollar instead of the current rounding to the nearest whole dollar. The second measure would start payments at the beginning of the first month after retirement. Now benefits start the day after retirement.

The budget reconciliation process requires the various Congressional committees to provide $27.2 billion in savings to comply with three-year budget targets. Some feel that taking $5 billion of this out of the hide of federal annuitants is too extreme. The reason capping the COLA would provide such significant savings lies in the basic structure of federal retirement programs.

THE MAJOR PROGRAMS

There are two retirement systems that account for most of federal retirement costs. These are the Civil Service Retirement System (CSRS) and the Military Retirement System (MRS). These two programs account for more than 90 percent of all active participants in federal retirement programs and a comparable percentage of annuitants. For example, in 1980, CSRS had 2.7 million active participants and MRS had 2.9 million, including reservists. In comparison, all of the remaining federal retirement programs has less than one-quarter million active participants at that time. In 1980, there were 1.8 million CSRS annuitants and survivors while the MRS had 1.3 million beneficiaries.

The CSRS bases benefits on the highest three consecutive years of average salary. The benefit formula replaces 7.5 percent of the high three years salary for the first five years of credited service, 8.75 percent for the next five years and 2 percent replacement for each year of service beyond ten years. The program provides normal retirement benefits for individuals at age fifty-five with thirty years of service, at age sixty with twenty years and at age sixty-two or above with five years of service. An annuitant retiring after thirty years receives 56.25 percent of his or her high three years of average salary. The program's maximum earnings replacement is 80 percent; this is accrued after slightly less than forty-two years of service.

The MRS bases benefits on final pay. The benefit formula replaces 2.5 percent of pay for each year of service. The program provides normal retirement after twenty years of service, replacing 50 percent of final pay under those circumstances. The maximum replacement rate is 75 percent; this is achieved after thirty years of service.

CSRS, MRS and most federal retirement programs provide full benefit adjustment based on the CPI. One notable exception is the Tennessee Valley Authority (TVA) retirement program. This program is integrated with Social Security and limits its COLA increases.

THE COST OF FEDERAL RETIREMENT PROGRAMS

The cost of federal retirement programs can be considered from different perspectives. One common way to estimate the cost of a retirement program is to use what actuaries call the "entry age normal cost method." This method estimates the percentage of a worker's salary that would have to be set aside each year to fully fund benefit entitlements before retirement. Aggregating the normal cost of all workers provides an estimate of the employer's total normal cost. Public Law 95–595, passed in 1978, requires that all federal pension plans submit an annual report to Congress on their actuarial status. These reports provide normal cost estimates based on a consistent set of economic assumptions.

Table 1 shows what the estimated costs of the two largest federal retirement programs would have been in 1980, if these programs had been funded on the normal cost basis. Neither program is actually funded in this manner, however. The CSRS is partially funded, while the MRS is strictly pay-as-you-go. At the end of fiscal 1980, the accrued unfunded liabilities were $469.5 billion for CSRS and $431.1 billion for MRS.

TABLE 1.—ENTRY AGE NORMAL COST OF CSRS AND MRS AS PERCENT OF PAYROLL

Program	Employee contribution	Employer cost	Total normal cost
Civil service	7.0	29.7	36.7
Military retirement	0	49.3	49.3

Source: Public Law 95–595 reports filed with the U.S. Congress for fiscal 1980.

Private, tax-qualified, defined benefit pension plans are required to amortize their unfunded liabilities in compliance with the 1974 Employee Retirement Income Security Act (ERISA). Table 2 shows the cost that taxpayers would bear if CSRS and MRS were required to comply with the federal standards that are imposed on private plans. Such requirements would have raised the cost of CSRS to United States taxpayers to 87.1 percent of payroll in 1981; while the MRS cost would have been raised to 171.2 percent of military payroll. Under both programs, actual contributions were significantly less than half the level that was legally required of private plans. In fiscal 1980, CSRS and MRS paid out $26.7 billion in benefits. Employee contributions to CSRS were $3.6 billion; MRS is noncontributory. The direct budget outlay was $23.1 billion.

TABLE 2.—TAXPAYER LIABILITIES AS PERCENT OF PAYROLL FOR CSRS AND MRS COMPLIANCE WITH ERISA IN 1980

Program	Taxpayers liabilities			
	Employer normal cost	Amortization of unfunded liabilities	Total cost	Actual contributions
Civil service	29.7	57.4	87.1	37.7
Military retirement	49.3	121.9	171.2	61.2

Source: Public Law 95–595 reports filed with the U.S. Congress for fiscal 1980.

While this cost is significant, it does not adequately represent the implications of these programs from a taxpayer's perspective.

The underfunding of federal pensions will have poignant ramifications for future taxpayers. Unfunded federal pension promises are obligations that taxpayers will ultimately have to pay. While they are not reflected in the federal debt, they are claims on future government revenues which are defined by federal pension statutes. Table 3 shows that by the end of fiscal 1980, the unfunded benefit promises in these two programs were more than $900 billion. Even more spectacular was the growth in unfunded liabilities—over $141 billion in a single year. While the financial markets and Congress now fuss over the prospect of a $100-billion deficit, there is ample evidence to suggest that the real deficits accumulating in federal retirement programs have exceeded that amount for some time.

TABLE 3.—UNFUNDED LIABILITIES OF CSRS AND MRS FOR 1979 AND 1980

Programs	Unfunded liabilities		Growth in unfunded liabilities for fiscal 1980	
	1979 (billions)	1980 (billions)	(Billions)	(Percent)
Civil Service	$403.1	$469.5	$66.4	16.5
Military retirement	355.8	431.1	75.3	21.2
Total	758.9	900.6	141.7	18.7

Sources: Public Law 95–595 reports filed with the U.S. Congress for fiscal years 1979 and 1980.

WHY FEDERAL PENSIONS ARE EXPENSIVE

Comparison of federal pension costs with private sector retirement costs gives some perspective on the relative cost of these programs. The average cost of retirement programs in Fortune 500 firms ranges from 7 to 10 percent of payroll. In addition, the employer contributes to Social Security on the basis of employees' salaries. A generous private sector retirement program including Social Security contributions would cost the employer less than 20 percent of payroll. While CSRS participants are not covered by Social Security, the federal government—i.e., the taxpayers—would have to contribute nearly 30 percent of payroll throughout a worker's lifetime to fund his or her benefit. In the military, the cost would be nearly 50 percent; additionally, the government provides Social Security coverage. There are three basic reasons that federal pensions are relatively expensive. First, federal programs provide early retirement with unreduced benefits. Second, they provide high initial benefits. Third, they provide a fully indexed benefit.

The median retirement age under CSRS is below fifty-eight. Under the MRS, the median retirement age is thirty-nine. For most private retirement programs, the normal retirement age is sixty-five.

The second reason is actually related to the first. Private pensions often aim to provide income replacement rates which, when combined with Social Security for full career workers, are comparable to the maximum rates attainable under CSRS or MRS. However, the later normal retirement ages under private plans generally result in shorter benefit payment periods. While most private plans allow early retirement, benefits are often actuarially reduced, especially for workers retiring before age sixty. Such actuarial reductions are rare in federal retirement programs.

Finally, private plans rarely maintain full CPI indexation of benefits. Most private pension beneficiaries do receive periodic benefit increases, but virtually none receive the kinds of protection afforded federal annuitants. A military retiree who retired at age forty-five with twenty-five years of service in 1965 will receive a 1982 pension that is more than three times his final military pay. He will be age, sixty-two this year and eligible for Social Security.

RELATIVE BENEFIT LEVELS

During 1979, federal retirement programs paid more in benefits than all private pension programs combined. Median federal pension benefit levels are about three times the benefit levels of private beneficiaries. Considering that active and retired federal pension participants make up less than 5 percent of the total United States population, there are basic equity questions that should be considered. These questions arise because of the nature of taxpayer support and the relative generosity of federal pensions.

TABLE 4.—PENSION RECEIPT AND BENEFITS—1979

Type of pension	Number of families receiving benefits (thousands)	Total benefits (billions)	Median benefit
Private	5,773.4	$18.77	$2,199
State or local	1,898.8	8.14	3,171
Federal civilian	1,210.2	10.08	6,728
Military	1,221.5	9.57	6,496

Source: EBRI tabulations of March 1980 Current Population Survey.

CONGRESSIONAL CONSIDERATIONS

Congress is now faced with the unpleasant choice of deciding whether to cap federal pension COLA's at 4 percent per year for the next three years. Some might argue that this measure does not go far enough. Tabulations of the March 1980 Current Population Survey show that 71.4 percent of military pension recipients are under age sixty-two and that more than two-thirds of this group continue to work. While only 34.5 percent of federal civilian pensioners are under age sixty-two, more than half of them continue to work.

Private sector workers, including the overwhelming majority of taxpayers, are not eligible for indexed Social Security benefits until age sixty-two. Is it fair that they pay for the indexation of annuities for federal program beneficiaries who are below sixty-two and who are able to work? Freezing federal annuities for those who are below age sixty-two and able to work and providing a full catch up at age sixty-two would, in the long run, save far more than the proposed three-year cap. Such a policy may be consistent with other budget cuts that have reduced welfare, food stamps, Medicaid, school lunch and other benefits for the needy.

At some point, the Administration and Congress should step back and broadly assess their own retirement programs and goals. Indeed, Senator Ted Stevens of Alaska, Chairman of the Senate Government Operations Committee has begun this process for the CSRS. Given the rethinking of federal priorities, military pension policy may also deserve serious review.

During this period of budget austerity, a basic policy issue facing the Congress is whether federal pensioners should be granted an island of privilege against the cuts affecting most other segments of society.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 2144) the "Appalachian Regional Development Act Amendments of 1982", with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. OBERSTAR, Mr. ROE, Mr. EDGAR, Mr. RAHALL, Mrs. BOUQUARD, Mr. CLAUSEN, Mr. CLINGER, Mr. HAMMERSCHMIDT, and Mr. MCEWEN as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. PRICE, Mr. BRINKLEY, Mr. MONTGOMERY, Mr. KAZEN, Mr. WON PAT, Mr. DICKINSON, Mr. TRIBLE, Mr. WHITEHURST, and Mr. MITCHELL of New York as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2457. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6308. An act to ensure rail safety, provide for the preservation of rail service, ensure the completion of the Northeast corridor improvement project, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 167. An act for the relief of Juan Esteban Ramirez.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1489. An act to permit the transportation of passengers between Puerto Rico and other United States ports on foreign-flag vessels when United States-flag service for such transportation is not available;

H.R. 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste;

H.R. 5536. An act to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.;

H.R. 5627. An act to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes;

H.R. 6029. An act to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana;

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Street Service, and for other purposes;

H.R. 6188. An act to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes;

H.R. 6204. An act to provide for appointment and authority of the Supereme Court Police, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6732. An act to amend the International Safe Container Act; and

H.R. 6954. An act to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense.

ENROLLED BILLS SIGNED

At 5:14 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills:

H.R. 2160. An act to amend the Potato Research and Promotion Act;

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States; and

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1489. An act to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign flag vessels when U.S. flag service for such transportation is not available; to the Committee on Commerce, Science, and Transportation.

H.R. 5627. An act to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 6029. An act to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana; to the Committee on Energy and Natural Resources.

H.R. 6188. An act to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning land conveyed by the United States to Eastern Washington University; to the committee on Energy and Natural Resources.

H.R. 6954. An act to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense; to the Committee on Armed Services.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5536. An act to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4082. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, notice of intent to obligate $4.8 million in the Navy stock fund for war reserve stocks; to the Committee on Appropriations.

EC-4083. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Review of Use of Appropriated Funds for Defense Commissary Operations"; to the Committee on Appropriations.

EC-4084. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a secret report on 39 selected aquisition reports on increased costs; to the Committee on Armed Services.

EC-4085. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the administrative telephone services function at the Naval Coastal Systems Center, Panama City to performance under contract; to the Committee on Armed Services.

EC-4086. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to improve the quality and efficiency of the military judicial system; to the Committee on Armed Services.

EC-4087. A communication from the Director, Facility Requirements and Resources, Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, notice of intent to proceed with three military construction projects for the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC-4088. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the maintenance and repair of canvas, tents, tarps, furniture, upholstery, and other equipment at Fort Ord, California to performance under contract; to the Committee on Armed Services.

EC-4089. A communication from the Assistant Secretary of the Army for Installation, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the bus service and motor vehicle operation activity at Fort Ord, Calif. to performance under contract; to the Committee on Armed Services.

EC-4090. A communication from the Acting Secretary of the Navy transmitting a draft of proposed legislation to authorize the transfer of certain U.S. Naval vessels to foreign governments; to the Committee on Armed Services.

EC-4091. A communication from the President and Chairman of the Export-Import Bank transmitting, pursuant to law, a report on a transaction involving U.S. exports to Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-4092. A communication from the President and Chairman of the Export-Import Bank transmitting, pursuant to law, a report on transactions with Communist countries for June 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-4093. A communication from the Vice President of Amtrak (for Governmental Affairs) transmitting, pursuant to law, a report for April 1982 on itemized revenues and expenses; to the Committee on Commerce, Science, and Transportation.

EC-4094. A communication from the Executive Director of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report entitled "Fisheries for the Future"; to the Committee on Commerce, Science, and Transportation.

EC-4095. A communication from the Executive Director of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report entitled "The Future of the Nation's Weather Services"; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1114. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Agriculture, Nutrition, and Forestry:

"RESOLUTION

"Whereas, The Dixon Springs Agricultural Center (DSAC) was established in Pope County, Illinois, through the cooperation of the United States Department of Agriculture and the University of Illinois in 1934; and

"Whereas, Work at the Center during the early years focused on the control of erosion and improvement of soil fertility; and to that end, research was conducted on grasses, legumes, fertilizers and ruminant livestock; and

"Whereas, The present emphasis at DSAC continues to be on soil erosion control, studying grass and legume covercrops and no-till methods for row crops and production of meat animals; and horticulture, veterinary medicine and forestry research have also been included; and

"Whereas, The Center's focus in the future will continue to be on soil erosion, but will also emphasize the possible uses of technology in aiding the economic development of the region; and this added emphasis will concentrate on marketing, new enterprise development and the influence of governmental policies on economic change; and

"Whereas, The Dixon Springs Agricultural Center has been and will continue to be a very important site for the University of Illinois College of Agriculture's research in Southern Illinois; and

"Whereas, Unfortunately, the University of Illinois owns only an extremely small portion of the land being used by DSAC—only .6 acres; and the future of the research program at DSAC depends heavily on the University's acquisition and ownership of the federally-owned land currently used by DSAC; and

"Whereas, University ownership of the land being used by DSAC will place the University of Illinois in a much stronger position to assist in the growth and expansion of the economy of Southern Illinois; therefore, be it

"Resolved, by the House of Representatives of the eighty-second general assembly of the State of Illinois, That we request that the United States Congress provide for the acquisition by the University of Illinois of the federally-owned land currently being used by the Dixon Springs Agricultural Center so as to further the growth and development of the economy of the region; and, be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the United States, the Vice-President of the United States, the Speaker of the House of Representatives, the Secretary of Agriculture and to each member of the Illinois Congressional delegation."

POM-1115. A resolution adopted by the National Society of the Sons of the American Revolution supporting the strategy of peace through strength and the efforts of President Reagan and the Congress to increase our military effectiveness; to the Committee on Armed Services.

POM-1116. A resolution adopted by the Board of Administration of the State of California Public Employees' Retirement System urging Congress to enact legislation requiring bank holding companies to be subject to cumulative voting requirements as are their federally chartered subsidary

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banks; to the Committee on Banking, Housing, and Urban Affairs.

POM-1117. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to authorize the Treasury Department to mint and distribute a gold coin bearing the likeness of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

POM-1118. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"ASSEMBLY JOINT RESOLUTION No. 100

"Whereas, California has a greater number of savings and loan associations than any other state, including savings and loan associations which are owned or controlled by ethnic minorities; and

"Whereas, Such minority owned or controlled savings and loan associations were formed to meet the financial needs of their communities and have made significant contributions to the economic health and development of the communities they serve by promoting thrift and homeownership by minority persons; and

"Whereas, Minority owned or controlled savings and loan associations historically have often been the sole financial resource for minority communities and have served as important role models which boost the morale of members of the minority business community; and

"Whereas, Persistently high interest rates and inflation have eroded the net worth of the savings and loan industry and have resulted in an increasing number of mergers and acquisitions of savings and loan associations; and

"Whereas, The current state of the economy and the effect on the savings and loan industry have resulted in the merger of minority owned or controlled savings and loan associations with larger nonminority institutions at a loss to the ethnic identity of these associations; and

"Whereas, The preservation of the ethnic identity of minority owned or controlled savings and loan associations serves a significant social and economic purpose, and is essential in order to inspire the confidence of the members of the communities they serve; and

"Whereas, The federal National Housing Act provides for special assistance where a financial institution is deemed to be necessary to its community; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States to enact legislation which would require the Federal Home Loan Bank Board to devise and adopt measures to assure the survival and viability of minority owned or controlled savings and loan associations through merger or special financial assistance under the National Housing Act; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Federal Home Loan Bank Board, and to each Senator and Representative from California in the Congress of the United States."

POM-1119. A resolution adopted by the House of Representatives of the Third Northern Marianas Commonwealth Legislature; to the Committee on Energy and Natural Resources:

"H. RES. No. 83"

"Whereas, the Commonwealth of the Northern Mariana Islands has been administered by the United States of America pursuant to Chapter XII of the Charter of the United Nations and the Trusteeship Agreement for the Former Japanese Mandated Islands since July 18, 1947; and

"Whereas, Article 73(b) of the Charter of the United Nations imposes upon the administering authority as a sacred trust the obligation to take due account of the political aspirations of the people of the Northern Mariana Islands and assist them in the progressive development of their free political institutions; and

"Whereas, Article 76(b) of the Charter of the United Nations provides that the basic objective of a Trusteeship Agreement is to promote the political, economic, social and educational advancement of the subject people respecting their freely expressed wishes of progressive development towards self-government; and

"Whereas, Article 87(b) of the Charter of the United Nations authorizes the General Assembly and the Trusteeship Council to accept petitions and examine them in consultation with the administering authority; and

"Whereas, the freely expressed wishes of the people of the Northern Mariana Islands regarding self-government was evidenced by a seventy-eight percent affirmative vote in a plebiscite held on June 17, 1975, which ratified the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and

"Whereas, the Trusteeship Agreement for the Former Japanese Mandated Islands is the longest and the last remaining United Nations Trusteeship, and President Jimmy Carter had proposed a termination date of 1981; and

"Whereas, it is the sense of the House of Representatives of the Third Northern Marianas Commonwealth Legislature that the political, economic, social and educational advancement of the people of the Northern Mariana Islands requires the prompt termination of the Trusteeship Agreement for the Former Japanese Mandated Islands, by the United Nations Security Council, either wholly or partially, as it relates to the Commonwealth of the Northern Mariana Islands; now, therefore,

"Be it resolved that the Petition of the House of Representatives to obtain a prompt termination of the Trusteeship Agreement for the Former Japanese Mandated Islands be presented to the visiting mission of the Trusteeship Council of the United Nations and duly transmitted to the United Nations Security Council; and

"Be it further resolved that the Trusteeship Council is hereby requested to report favorably on such Petition in its report and take all appropriate actions to assist the people of the Northern Mariana Islands in obtaining a prompt termination of such Trusteeship Agreement, no later than December 31, 1983, by the Administering Authority and the Security Council of the United Nations; and

"Be it further resolved that the Speaker of the House of Representatives shall certify and the House Clerk attest to the adoption of this resolution and thereafter transmit certified copies to the visiting mission of the United Nations Trusteeship Council for transmittal to the Security Council; to the President of the United States of America; to the President of the Senate of the United States Congress; to the Speaker of the House of the United States Congress; to the Secretary of State of the United States; to the Secretary of the Department of Interior of the United States; to the Governor of the Commonwealth of the Northern Mariana Islands; to the President of the Senate of the Northern Marianas Commonwealth Legislature; and to the Representative to the United States for the Commonwealth of the Northern Mariana Islands."

POM-1120. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to conduct hearings to review all environmental legislation for the purpose of transferring the responsibility for enacting and enforcing environmental legislation to state and local governments; to the Committee on Environment and Public Works.

POM-1121. A resolution adopted by the City Council of the City of Houston, Texas opposing section 121 of H.R. 6211, the Federal "Surface Transportation Assistance Act of 1982"; to the Committee on Environment and Public Works.

POM-1122. A resolution adopted by the Houston Municipal Art Commission opposing section 121 of proposed HR. 6211, the Federal "Surface Transportation Assistance Act of 1982; to the Committee on Environment and Public Works.

POM-1123. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to authorize the establishment of a "User's Fee" equal to the cost of furnishing census microfilms to local libraries and genealogical societies; to the Committee on Finance.

POM-1124. A resolution adopted by the City Council of East Chicago, Indiana urging Congress to impose steel import limitations under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-1125. A resolution adopted by the Southern Governors' Association opposing Federal preemption of state revenue sources; to the Committee on Finance.

POM-1126. A resolution adopted by the State Board of Education of the State of Michigan urging Congress to safeguard recipients of and applicants for Social Security benefits; to the Committee on Finance.

POM-1127. A resolution adopted by the Board of Commissioners of the City of Dothan, Alabama opposing H.R. 4928 and H.R. 4929, the "Public Employee Pension Plan Reporting and Accountability Act"; to the Committee on Finance.

POM-1128. A resolution adopted by the City Council of the City of Grand Terrace, California urging the California Congressional Delegation to persist in an effort to obtain approval for locating U.S. Customs and Immigraton at Ontario International Airport; to the Committee on Finance.

POM-1129. A resolution adopted by the University of Wisconsin-Stout Faculty Senate urging Congress to enter into a mutual nuclear weapons moratorium with the Soviet Union and other nations; to the Committee on Foreign Relations.

POM-1130. A resolution adopted by the Islamic Center of Connecticut recognizing the inalienable and legitimate right of self-determination of the Palestinian people, supporting their just and lawful cause, and condemning the Israeli acts of aggression and inhumanity; to the Committee on Foreign Relations.

POM-1131. A resolution adopted by the County Council of Baltimore County, Maryland urging Congress to enter into agreement with the Union of Soviet Socialist Republics in order to immediately halt the nuclear arms race; to the Committee on Foreign Relations.

POM-1132. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to reform severely our immigration laws; to the Committee on the Judiciary.

POM-1133. A resolution adopted by the National Society of the Sons of the American Revolution supporting the amendment to the Constitution proposed by Senator Hayakawa of California to make English the official language of the United States; to the Committee on the Judiciary.

POM-1134. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to adopt an amendment to the Constitution permitting individual and/or group prayer in public schools and other public places and institutions; to the Committee on the Judiciary.

POM-1135. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary:

"Whereas, The House acknowledges the controversy surrounding the insanity defense in criminal prosecutions; and

"Whereas, This defense has been utilized by criminal defendants to the detriment of the victims of crime and the general public; and

"Whereas, As a result of this controversy the members and committees of the Illinois General Assembly have undertaken a study of the insanity defense; and

"Whereas, This study has led to the enactment in Illinois of a guilty but mentally ill verdict; and

"Whereas, Public outrage at the not guilty by reason of insanity verdict in the John Hinckley, Jr. case suggests the need for review of the insanity defense in federal criminal prosecutions; and

"Whereas, Congress should follow the lead of Illinois in enacting a guilty but mentally ill verdict for federal offenses; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Second General Assembly of the State of Illinois, That we urge the Congress of the United States to enact a guilty but mentally ill verdict for federal offenses; and, be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Honorable George Bush, President of the United States Senate, the Honorable Thomas P. O'Neill, Speaker of the United States House of Representatives and to the members of the Illinois Congressional Delegation."

POM-1136. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 999

"Whereas, The House of Representatives of the State of Illinois wishes to express its distress at the sorry plight of the Haitian refugees who are seeking asylum in the United States from the persecution and poverty of life in Haiti under the authorization government of Jean Claude Duvalier, President for life; and

"Whereas, The mass emigrations from Haiti, one of the poorest countries in the world were spurred not only by the extreme poverty there, but also by President Duvalier's use of torture and arbitrary incarceration for a variety of political and non-political offenses; and

"Whereas, When the Bahamas limited the number of Haitians allowed to legally reside in their country in 1980 by deporting some Haitians and encouraging others to leave, many Haitians, believing in the goodness and compassion of Americans, fled in small boats to the nearby coast of Florida which, coupled with the recent influx of Cuban boat people, led the residents of South Florida communities to demand strong federal restrictions on the steady stream of undocumented aliens; and

"Whereas, In response to these pleas, President Reagan issued an Executive Order calling for the interception of vessels transporting Haitian refugees; Coast Guard cutters now intercept any vessel within United States territorial limits thought to be carrying Haitian refugees; and

"Whereas, Article 14(1) of the Universal Declaration of Human Rights, unanimously adopted by the United Nations General Assembly of 1948 states, "Everyone has the right to seek and to enjoy in other countries asylum from persecution", although each country retains the right to refuse to grant asylum to an individual; and

"Whereas, United States refugee admissions and asylum policy is governed by the Immigration and Nationality Act of 1952 under which an alien is eligible for asylum if he or she is a "refugee" under the Act; however, even a "refugee" may be denied asylum if the President forbids entry of the class of aliens to which he or she belongs because that class is determined to be detrimental to United States interests; and

"Whereas, Alternatively, the United States may deport the aliens to another country which will not persecute them, or it may allow the aliens to remain on United States territory until the situation in their country improves; however, in the case of the Haitians, no other country will grant them asylum, and once they are permitted to stay here, they often disappear into the Haitian community thereby permanently avoiding deportation; and

"Whereas, There are presently 1,974 Haitians interned in camps in Florida; and the Immigration and Nationalization Service, which administers the internee program and has jurisdiction over all asylum hearings, is currently enjoined from proceeding with asylum hearings until the Haitians are represented by legal counsel; therefore, the Immigration and Naturalization Service is pursuing pro bono representation agreements with the local bar associations; and

"Whereas, The United States, with its long-standing reputation in the world as a haven for those seeking freedom, economic opportunity and refuge from persecution, must adhere strictly to spirit of the law in according Haitian refugees their rights despite their alien status and must unmistakably convey to the world its support of and compassion for these sorry people in search of political and economic freedom; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Second General Assembly of the State of Illinois, That in light of the United States tradition of readily offering refuge from persecution, of standing as a beacon to the world and as an example of justice and fairness to all, especially the politically oppressed, and of having and displaying faith in the integrity and dignity of all people, we express our fervent hope and desire that the President and the Congress treat the Haitian refugees fairly and impartially and give them all due consideration in accord with the 1952 Immigration and Nationality Act, as amended, especially those provisions regarding due process; and that we express our view that the American government and business community should reconsider their activities in Haiti and withdraw their support from that country until such time as the conditions which have caused the mass exodus from that country are rectified; and, be it further

"Resolved, That a suitable copy of this preamble and resolution be forwarded to the President of the United States, to the Commissioner of the Immigration and Naturalization Service, to the presiding officers of the Senate and House of Representatives of Congress and to the members of the Congressional Delegation from the State of Illinois."

POM-1137. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to recognize the services of Haym Salomon by a Congressional Medal struck and a Resolution by Congress recognizing his services; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with amendments:

S. 2675. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia (Rept. No. 97-526).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2297. A bill to amend title 11, United States Code, to improve the protections for shopping centers and their tenants under the Bankruptcy Code (Rept. No. 97-527).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 450. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1844; referred to the Committee on the Budget.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1844. A bill to facilitate the national distribution and utilization of coal (with additional and minority views) (Rept. No. 97-528).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Tom H. Carothers, of Texas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988;

Leonard R. Fouts, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988; and

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry, with the

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recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development;

James Malone Rentschler, of Pennsylvania, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Malta:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, James Malone Rentschler; Post, Valletta, Malta.

Contributions, amount, date, donee.

1. Self, James M. Rentschler, none.
2. Spouse, Mary B. Rentschler, none.
3. Children and spouses, James Felix Rentschler; Jeffrey William Rentschler, none.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, Larry M. Rentschler, none.
7. Sisters and spouses names, not applicable.

Theodore George Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. Nominee Theodore G. Kronmiller, Post Ambassador of the United States for Oceans and Fisheries Affairs.

Contributions, amount, date, donee.

1. Self, $20, October 1980, American Security Council.
2. Spouse, None.
3. Children and spouses names, none.
4. Parents, names, George H. Kronmiller, $500/per year 1978–82, United Technologies PAC; local Republican fund-raisers.
5. Grandparents names, Mr. and Mrs. Theodore F. Freed.

Political contributions:

1977—$285—Republican National Committee.

1978—$840—Jessie Helms, Governor Thornburg, Bill Goodling.

1979—$415—George Bloom for Republic Party of Pennsylvania; Republican National Committee; Republican Party of Pennsylvania; American Security Council; Republican Association National Club.

1980—$405—American Security Council; Zimmerman, Attorney General for Pennsylvania; Republican State Committee; Republican Leadership in 1980; Republican National Committee; GOP Victory Fund.

1981—$215—Senatorial Leadership Committee, John Hines; John T. Miller, local judge; GOP Victory Fund; Republican National Committee.

1982—$675—19th Congressional District, James Baker; Governor Thornburg; Senatorial Leadership Committee, John Hines; Guy Vanderjack; Republican Campaign Committee; Republicans of Pennsylvania; William Scranton, Lieutenant Governor; Drew Lewis, Republican Party of Pennsylvania; GOP Victory Fund.

6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs; and

Robert John Hughes, of Massachusetts, to be an Assistance Secretary of State.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

William M. Acker, Jr., of Alabama, to be U.S. District Judge for the Northern District of Alabama;

Bruce M. Selya, of Rhode Island, to be U.S. District Judge for the District of Rhode Island; and

Charles L. Dunahue, of Colorado, to be U.S. Marshal for the District of Colorado for the term of 4 years; and

Clinton T. Peoples, of Texas, to be U.S. Marshal for the Northern District of Texas for the term of 4 years.

BILL S. 2838 READ THE SECOND TIME AND PLACED ON THE CALENDAR

The following bill; which was introduced and read the first time on yesterday, was read the second time and placed on the calendar:

S. 2838. A bill to reform procedures for collateral review of criminal judgements, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2845. A bill to amend Section 202(7)(c) of Title III, United States Code; to the Committee on Environment and Public Works.

By Mr. WEICKER:

S. 2846. A bill directing the President to prepare and submit an annual report on the state of the insular areas to Congress, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself, Mr. DOMENICI, Mr. ANDREWS, and Mr. NICKLES):

S. 2847. A bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. COCHRAN:

S. 2848. A bill to amend the Congressional Budget and Impoundment Control Act of 1974, to provide for budgetary planning every two years; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

By Mr. BOSCHWITZ (for himself and Mr. RANDOLPH):

S. 2849. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; to the Committee on Labor and Human Resources.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2850. A bill to authorize the transfer of the St. Louis Airport Storage Site from the City of St. Louis, Missouri to the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself and Mr. LONG):

S.J. Res. 231. A joint resolution to authorize and request the President to designate the week of October 11, 1982, through October 17, 1982, as "National Get High on Life Week."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ARMSTRONG:

S. Res. 449. A resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline; to the Committee on Foreign Relations.

By Mr. McCLURE:

S. Res. 450. An original resolution waiving section 402(a) of the Congressional budget Act of 1974 with respect to the consideration of S. 1844; from the Committee on Energy and Natural Resources; to the Committee on the Budget.

By Mr. RANDOLPH:

S. Con. Res. 116. A concurrent resolution expressing the sense of Congress that a national coal export policy is necessary to coordinate federal activities with respect to increasing coal exports, to provide for a statement of intent regarding coal port improvements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2846. A bill directing the President to prepare and submit an annual report on the state of the insular areas to Congress, and for other purposes; to the Committee on Environment and Public Works.

STATE OF THE INSULAR AREAS REPORT ACT

Mr. WEICKER. Mr. President, I am sending to the desk for appropriate reference legislation covering several issues affecting the territories and insular areas of the United States. These issues have been or are under active consideration by the House Committee on Interior and Insular Affairs and I am introducing them today so that the Senate Committee on Energy and Natural Resources will have the opportunity to receive testimony on them at the same time as hearings are held on other measures affecting the territories later this session. I am not at this time endorsing any of the specific provisions of this legislation, although I would note that, especially with respect to the authorizations for water and power and juvenile detention facilities in the Virgin Islands, the measure does address areas which demand immediate attention by the Congress.

Mr. President, I ask unanimous consent that the text of the measure be printed in full in the RECORD at the close of my remarks.

There being no objections, the bill was ordered to be printed in the RECORD, as follows:

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "State of the Insular Areas Report Act".

SEC. 102. The President is authorized and directed to prepare and transmit a state of the insular areas report to the Speaker of the United States House of Representatives and the President of the United States Senate on the first day of each session of the Congress. The report shall indicate the social, economic, and political conditions of the insular areas of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands through the preceding fiscal year. It shall detail changes in those conditions which occurred during the fiscal year as well as foreseeable future developments and recommended actions.

SEC. 103. Matters on which the report shall provide information for each insular area shall include, but not be limited to, improvements in the insular area's relationship with the United States; progress toward full self-government; the applicability or inapplicability of Federal statutory and administrative actions and their impacts; the effectiveness and delivery of Federal programs; discrimination in the treatment of the insular area or its residents under any Federal policy or program relative to the treatment of the States or their citizens; the activities and accomplishments of agencies pertaining to the insular area; the adequacy of essential public infrastructure; general economic conditions; private sector activities and development and investment potential; existing employment and job opportunities and training; the fiscal position of the insular area; amounts and uses of Federal direct and indirect assistance; international obligations regarding the insular area; and compliance with legislative mandates.

SEC. 104. The report shall clearly state the program of the President with regard to the matterrs specified in section 3, together with specific proposals to accomplish said program.

SEC. 105. Funds appropriated for the expenses of the Office of the President and the Office of Territorial and International Affairs of the Department of the Interior are authorized to be used for the purposes of this Act.

TITLE II

SEC. 201. Section 205 of Public Law 95-134 (91 Stat. 1159, 1162), as amended by subsection 1(d) of Public Law 95-348 (92 Stat. 487, 488), is further amended by deleting "Medical Center of the Marianas:" and inserting in lieu thereof "Medical Center of the Marianas, to renovate, maintain, and operate the Guam Memorial Hospital, and to construct, maintain, and operate a health care facility in the northern part of Guam:".

SEC. 202. There are hereby authorized to be appropriated to the Secretary of the Interior not to exceed $40,000,000 for grants to the government of the Virgin Islands for improvements in the generation and distribution of water and power.

SEC. 203. There are hereby authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for grants to the government of the Virgin Islands for construction of two juvenile pretrial detention facilities, one on the island of St. Thomas, and one on the island of St. Croix.

SEC. 204. Section 202 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this Act, the amount of any grant for treatment works in Puerto Rico made under this Act shall be 95 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1983, and 75 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1985.".

By Mr. COCHRAN (for himself, Mr. DOMENICI, Mr. ANDREWS, and Mr. NICKLES):

S. 2847. A bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN HOUSING ACT OF 1982

● Mr. COCHRAN. Mr. President, I am pleased that Senators DOMENICI, ANDREWS, and NICKLES are joining me today in introducing a bill to establish a comprehensive Indian housing program in the Bureau of Indian Affairs. This program will assist Indians in obtaining decent, safe, and sanitary housing by providing necessary grants, financing, and loan guarantees.

Despite past efforts by the Federal Government to provide housing on Indian reservations, American Indians suffer from the worst housing conditions of any U.S. citizens. While approximately 12 percent of all Americans live in substandard houses, over 43 percent of all Indians live under these conditions. Many of these houses are not safe and do not have electricity or sanitation facilities. Twenty-seven percent of Indian houses are overcrowded, and the latest figures from the Bureau of Indian Affairs show that 28,600 families on reservations have no housing at all. Many live in cars and tents. Water is not always available and has to be brought in from miles away. Health statistics are grim.

Chief Phillip Martin and the other leaders of the Choctaw Indian Tribe in my State of Mississippi are very concerned about the housing needs of their people. Private market funds are not available for reservation housing and it is very difficult to find any rental property off the reservation.

At least one third of the existing housing on the Choctaw Reservation is substandard and an equal number has been listed by the Indian Health Service as being overcrowded. There has never been enough housing to meet the needs of the population or keep up with the deterioration. Five hundred and fifty units are needed this year. Choctaw officials had expected 200 units from the HUD program, but they have been advised that they will receive an allocation of only 75 units. Since the administration has proposed termination of the HUD Indian housing program, it is uncertain if any additional units will be planned for fiscal year 1983.

The United States has a special responsibility for Indian tribes and their members and should establish a flexible housing program that can meet the unique needs of our various Native American communities.

The bill my colleagues and I are introducing is very similar to legislation recently reported by the House Committee on Interior and Insular Affairs and has three basic elements.

Title I would provide a statutory basis for the existing Indian housing improvement program administered by the Bureau of Indian Affairs. This program provides grants to Indian families who are at the very lowest income levels or in the most isolated or other extreme circumstances.

Title II would provide Federal financing for low- and moderate-income Indian families who would be required to make some payment for their housing assistance based upon their ability to pay. This program is an Indian housing program which would provide needed flexibility which is lacking in the existing HUD program and would provide sanctions for nonpayment. The program does not lock the United States into a long-term, extremely large monetary commitment like the existing HUD program. For instance, the fiscal year 1982 HUD appropriation for 4,000 units of Indian housing will lock the United States into a $703 million obligation over a 30-year period. Title II of this bill would require a larger up-front appropriation, but would not lock the Federal Government into long term, exorbitant obligations.

Title III of the bill authorizes a mortgage loan guarantee for Indian families who can afford housing, but who cannot obtain housing credit because of the trust nature of their land.

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The need for decent Indian housing is immediate, and if we do not make the effort now to establish a program to meet this need, conditions for American Indians will continue to decline. This bill provides authority for appropriating the necessary funds for the Bureau of Indian Affairs to develop the program in fiscal year 1983, and authorizes the funds to undertake the full program in fiscal year 1984. Until such time as this new program is in place to provide proper housing, I hope that the Congress will fund the existing program in the Department of Housing and Urban Deveopment in an amount commensurate with the magnitude of the problem.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Housing Act of 1982."

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds, based upon the Federal Government's historical and special legal relationship with, and resulting responsibility to, American Indian people that—

(1) the goal of decent, safe, and sanitary housing has not been realized for many Indian families and elderly residing on Indian reservations and in Indian communities;

(2) nearly 40 per centum of all Indian housing is in substandard condition as compared with a national figure of 12 per centum;

(3) this situation is of grave concern; and

(4) special efforts are needed to mobilize public and private resources for the realization of this goal.

(b) It is declared to be the policy of the United States to provide grants, financing, and loan guarantees to assist Indians in obtaining decent, safe, and sanitary housing.

DEFINITION

SEC. 3. For the purpose of this Act, the term—

(1) "adjusted family income" means gross family income less $1,000 for each member of the household, plus a further deduction of $3,400 or the amount of itemized deductions from the family's most recent Federal income tax return, whichever is higher;

(2) "amortization payment" means that payment which would be the equivalent of the level monthly amount needed to amortize the capital cost of a house over the term of a housing assistance contract for twenty-five years at the Federal Housing Administration mortgage rate in effect on the date of the execution of a project agreement;

(3) "family" means one or more persons maintaining a household. The tribal housing agency shall determine which adult members of a family will be required to execute a housing assistance contract;

(4) "housing assistance contract" means the executed agreement between the tribal housing agency and an eligible family which specifies the terms, conditions, rights, and responsibilities of the parties;

(5) "Indian" means a person who is a member of an Indian tribe or who is an Indian as defined is section 19 of the act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479);

(6) "mortgage" means a mortgage, deed of trust, or any other instrument establishing a lien on real property;

(7) "project" means the entire undertaking to provide housing under a project agreement, including the minimum number of housing units to be developed or rehabilitated with funds allocated under such agreement;

(8) "Secretary" means the Secretary of the Interior: and

(9) "standard housing" means a dwelling in a condition which is decent, safe, and sanitary so that it at least meets the following minimums—

(i) general construction conforms to applicable standards for the region;

(ii) the heating system has the capacity to maintain a minimum temperature of sixty degrees Fahrenheit in the dwelling during the coldest weather in the region. It must be safe to operate and maintain and deliver a uniform distribution of heat. Applicable local heating codes are to be followed or, if there are no applicable local codes, county and State codes are to be used as a guide;

(iii) the plumbing system includes a properly installed system of piping. Fixtures consist of a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower. The water supply, plumbing, and sewage disposal systems meet minimum standards of the Indian Health Service, tribe, county, or State, whichever is applicable;

(iv) the electrical system includes wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances. The tribal, county, or State electrical code, whichever is applicable, must be used as an alternative standard. If no codes exist, a minimum of two circuits per dwelling must be installed with provision for at least one additional circuit for future use; and

(v) family size per dwelling is not less than—

(I) five hundred and seventy square feet for a family of up to four members;

(II) eight hundred and fifty square feet for a family of five to seven members; and

(III) one thousand and twenty square feet for a family of eight or more members;

except that the Secretary, upon the request of a tribe or tribal housing agency, may, in appropriate circumstances, waive the minimum size standards established by this subparagraph;

(10) "tribal housing agency" means that entity or administrative unit of the tribal government which has been designated or established by the tribe to administer housing programs under this Act;

(11) "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act (86 Stat. 688) which is recognized as eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

(12) "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian or Indian tribe subject to a restriction against alienation imposed by the United States.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

BASIC AUTHORITY

SEC. 101. (a) There is hereby established an Indian housing improvement program for the purpose of making grants or providing assistance to preserve existing housing, make repairs, and construct or acquire standard housing for Indians.

(b) The Secretary is authorized, upon application of an Indian tribe or individual, to make grants or provide assistance to assist Indian families who are not eligible for housing assistance under titles II and III of this Act because of low income or extremely isolated circumstances.

(c) The Secretary shall assure that grants or assistance provided under this title shall be consistent with plans and priorities established by tribes and shall, upon the request of the appropriate tribe or tribal housing agency, make such grants or assistance available through agreements with the tribe or tribal housing agency. In the absence of such an agreement, the Secretary may—

(1) make, with appropriate safeguards, direct grants to individual Indians;

(2) contract with private construction firms pursuant to standard Federal contracting procedures, except that the Act of April 30, 1908 (35 Stat. 71; 25 U.S.C. 47), as amended, shall apply unless the concerned tribe requests, through formal action, that the applicability of the Act be waived on a specific procurement action; or

(3) have repairs or new construction performed directly by the Bureau of Indian Affairs.

(d) With respect to assistance provided under agreements entered into pursuant to subsection (c) of this section, a tribe or tribal housing agency, in its discretion, may require an assisted family to make a monthly payment not to exceed the administrative charge established for such tribe or tribal housing agency pursuant to section 210 of this Act or, if no such amount has been approved, an amount satisfactory to the Secretary. Receipts from such payments shall be used solely for housing-related activities of such tribe.

ELIGIBLE ACTIVITIES

SEC. 102. (a) Grants or assistance may be provided under this title to—

(1) finance minor repairs and additions to existing substandard housing to improve safety and sanitary conditions until such time as standard housing assistance can be made available to such family;

(2) finance major repair, renovations, or enlargement of existing dwellings that are structurally sound, but deteriorated, and which can be economically placed in standard condition; and

(3) finance the construction or acquisition of new standard housing where severe need is demonstrated and it is established that there is no reasonable prospect that standard housing can be financed from other sources.

(b) Appropriate insurance shall be required on housing constructed, acquired, or improved under subsection (a) (2) or (3) of this section, unless waived by the Secretary.

RESERVATION OF INTEREST

SEC. 103. (a) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on trust land, the Secretary shall not approve the sale or lease of such land, unless the provisions of section 104 of this title have been met.

(b) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on fee land, the Secretary shall insure that a lien upon such land is recorded under appropriate State law, noting the encumbrance imposed by section 104 of this title.

SALE OF PROPERTY

SEC. 104. Any house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title may be sold, except that the sale price shall not be less than the value of the assistance provided pursuant to section 102 reduced five per centum per year for twenty years. The amount of the minimum sale price shall be reimbursed to the United States and shall be credited to the appropriation authorized by section 105 of this title. Any amount in excess of such minimum sale price shall be the property of the assisted Indian family. Where such house is located on tribal trust land, the tribe shall have the right of first refusal on the sale of such house.

AUTHORIZATION

SEC. 105. There are authorized to be appropriated for the purpose of this title, such sums as may be necessary in fiscal year 1983, not to exceed $30,000,000 in fiscal year 1984, not to exceed $40,000,000 in fiscal years 1985 and 1986, and not to exceed $50,000,000 in fiscal year 1987.

TITLE II—INDIAN HOUSING FINANCE FUND

ESTABLISHMENT

SEC. 201. There is established an Indian housing finance fund (hereinafter referred to as the "fund") for the purpose of providing financing to Indian tribes for the construction, acquisition, or rehabilitation of standard housing for Indian families who are unable to obtain financing from other sources on reasonable terms and conditions and who are not eligible for assistance under title III of this Act, but who can meet the minimum monthly payment required by this title.

TRIBAL HOUSING PLAN

SEC. 202. As a prerequisite for eligibility for financing from the fund, a tribe must prepare and submit to the Secretary for approval a tribal housing plan. Such plan, at a minimum, shall include an inventory of existing housing; an assessment of housing needs; a proposed tribal administrative structure to implement a housing program; an assessment of the tribe's capacity to administer such program; and a projection of how the tribe intends to meet its housing needs over a multiyear period.

APPLICATIONS

SEC. 203. (a) Applications for financing from the fund shall be submitted to the Secretary and shall specify the number of housing units to be developed and methods of production and development; shall include preliminary drawings and specifications; and shall otherwise be consistent with the approved tribal housing plan.

(b) Applications for funding shall be evaluated and approved, subject to the availability of appropriations, based upon, but not limited to, the following criteria—

(1) a priority for those tribes which have not received financing from the fund in prior fiscal years;

(2) a determination of the administrative, management, and accounting capability of the tribe to implement the proposed housing project;

(3) a determination of the percentage of tribal housing units in a substandard condition;

(4) the housing needs of such tribes as contained in the biannual housing inventory required by section 405 of this Act; and

(5) a determination by the Secretary that there is a reasonable prospect of repayment.

(c) The application shall include a tribal ordinance or other evidence of action of the governing body of the tribe designating or establishing a tribal housing agency (hereinafter referred to as the "agency") which shall be responsible for implementing the project agreement.

(d) Nothing herein shall preclude the submission and approval of multitribal applications and the Secretary shall encourage, but shall not require, multitribal applications to achieve economy of scale in housing projects.

PROJECT AGREEMENT

SEC. 204. Upon approval of an application, the Secretary and the agency shall enter into a project agreement which shall specify the amount of funds to be made available, the minimum number of housing units to be developed with such funds, the production method, and such other terms and conditions as may be reasonable and consistent with the provisions of this title.

ADMINISTRATIVE AND FUNDING PROVISIONS

SEC. 205. (a) The project agreement shall set forth the administrative and judicial authorities, forums, procedures, remedies, and sanctions that the tribe or tribal housing agency will employ to insure collections of monthly payments and the deposit of residual receipts as required by section 211 of this title. It shall also contain a provision that the tribe specifically agree that—

(1) it shall require any Indian family executing a housing assistance contract to authorise the Secretary, on his own motion or at the request of the agency, to attach unobligated trust funds of the adult members of such family for a failure to meet the obligations incurred in such contract; and

(2) its unobligated tribal trust funds may be subject to attachment for failure to meet the requirements of section 211 only as provided in subsection (b) of this section.

Notwithstanding any other provision of law, Indian trust funds shall be subject to attachment as provided in this section. Funds attached under this section shall be paid into the fund as residual receipts.

(b) Tribal trust funds shall be subject to attachment only when (1) its tribal housing agency has failed to meet the financial obligations imposed under section 211 of this title; (2) the Secretary has reasonably exhausted all other available remedies to satisfy the default; and (3) the Secretary has made a specific finding that the tribe has not acted in good faith in carrying out the undertaking as required in subsection (a) of this section.

(c) Prior to the attachment of any trust funds as provided in this section, the Secretary shall provide the tribe or Indian family, as the case may be, with written notice of his intent. Within sixty days of such notice, the tribe or Indian family shall be entitled to (1) pay the amount in default; (2) negotiate a repayment schedule satisfactory to the Secretary; or (3) institute such administrative appeals or judicial actions as may otherwise be authorized.

(d) The Secretary may not refuse assistance under this title on the basis that a tribe or Indian family has no trust funds to their credit.

DISBURSEMENTS

SEC. 206. (a) An initial disbursement may be made from the fund, under a project agreement, to cover costs incurred by the agency for preliminary planning and administration. The initial disbursement shall not exceed $50,000 or 3 per centum of the total funding of the project, which ever is greater. Further disbursements under the project agreement shall be made based upon the percentage of completion of the project as specified in the project agreement and as determined pursuant to the plans and specifications approved under section 207 of this title. Percentage of completion of a project shall be certified jointly by the agency and a person designated by the Secretary who shall have no financial or tribal interest in the project.

(b) A jointly conducted final inspection and certification of completion of the project shall be made be the designee of the Secretary, the agency, the contractor, or developer, and, where appropriate, the Indian Health Service.

(c) All moneys disbursed from the fund shall be maintained by the agency in an account separate from all other funds of the tribe or the agency and shall be accounted for as provided in the project agreement.

(d) All housing units provided for in the project agreement shall be placed under construction or acquistion contracts within one year of the execution of the project agreement, except that, where the Secretary determines that the inability of the agency to place units under contract is due to circumstances beyond the control of the agency, he may extend the period for an additional ninety days. Funds for units not placed under contract within such time shall be returned to the fund or such amount shall be deducted from approved allocations from the fund for such tribe in subsequent years.

SUBMISSION OF FINAL PLANS AND SPECIFICATIONS

SEC. 207. Within one hundred and twenty days of the initial disbursement of funds as provided in section 206, the agency shall submit to the Secretary the final plans and specifications for housing units to be developed under the project agreement. Such plans and specifications shall include a phased construction schedule necessary to facilitate periodic disbursements from the fund as provided in section 206. The Secretary shall approve such plans and specifications if they meet the standard housing criteria as defined in section 3(9) of this Act and are otherwise consistent with the project agreement. The Secretary shall encourage the development of plans and specifications that reasonably promote the conservation and efficient use of energy in housing constructed under the project agreement.

SITE ACQUISITION

SEC. 208. (a) Prior to the construction of acquisition of any housing units under a project agreement, the agency shall secure either a fee title to, or a lease of, such lands as may be necessary for the construction or acquisition of such units.

(b) Where the housing site is upon tribal or individual trust land, the agency shall secure, without cost to itself, a twenty-five year lease with option to renew for not to exceed an additional twenty-five years. Where the housing site is on fee land, the agency shall require, without cost to itself, the transfer of the fee title to such lands.

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(c) Where the Secretary determines that no suitable lands are available to the tribe for construction of housing, he may authorize the use of project funds for land purchase. Such land purchase cost shall be a part of the total project cost.

HOUSING ASSISTANCE CONTRACT PROVISIONS

SEC. 209. (a) An eligible Indian family shall make application for housing assistance to the agency. Upon approval of the application by the agency, the family and the agency shall enter into a housing assistance contract (hereinafter referred to as the "contract") in which the agency shall agree to construct or acquire a standard housing unit or rehabilitate an existing house to standard condition for such family upon lands to be provided by the family or the tribe.

(b) The family shall agree in such contract that it shall—

(1) at no cost to the agency, lease or transfer its trust or fee lands on which such housing is to be built, if required by the agency;

(2) make monthly payments to the agency in the amount of 20 per centum of the adjusted family income, except that (A) the adjusted family income shall be reviewed annually during the twenty-five year period of the contract and the monthly payment shall be adjusted upward or downward as indicated, and (B) such monthly payment shall be not more than the amortization payment and not less than the minimum payment established in section 210 of this title;

(3) accept responsibility for all utilities and maintenance; and

(4) subject the trust funds of its adult members to attachment as provided in section 205 of this title.

(c) Where the housing site is located on the trust or fee lands of the family which has fully met its obligations under the housing assistance contract, at the end of twenty-five years, the land will revert to its former status and the agency will transfer full ownership of the house to the family. Where the housing site is located on tribal lands and the family has fully met its obligations under the housing assistance contract, the lands will revert to their former status and the agency will transfer ownership of the house to the family, except that the tribe may not deny the family the continued use of the land site unless the Secretary, the tribe, and the family negotiate for the tribal purchase of the house for an amount not less than the fair market value of such house.

MINIMUM PAYMENT

SEC. 210. The project agreement shall provide for a minimum monthly payment to be made by families receiving assistance under this title. Such minimum monthly payment shall be composed of—

(1) an administrative charge which shall be in an amount deemed sufficient by the Secretary to enable the agency to perform the administrative functions required by this Act;

(2) a premium for insurance; and

(3) an amount deemed reasonable by the Secretary as a contingency reserve for maintenance. Such amounts shall be deposited by the agency into an interest-bearing account as a reserve for maintenance which may be used, principal and interest, as provided in section 214 of this title.

The minimum payment shall be reviewed annually and may, subject to the approval of the Secretary, be adjusted upward or downward as warranted.

RESIDUAL RECEIPTS

SEC. 211. (a) The project agreement shall require the agency to establish an account for residual receipts. Residual receipts shall be the amount of the monthly payments collected by the agency less the minimum payment to be retained by the agency as provided in section 209.

(b) Residual receipts shall be deposited by the agency in the fund quarterly on a fiscal year basis. The agency shall, on a quarterly basis, certify to the Secretary the collection and deposit of the required monthly payments in the agency's residual receipt account. Initial residual receipts due the fund are those that are the result of monthly payments established by the agency and which have been certified by an independent audit or agreed to by the Secretary in the project agreement. Thereafter, residual receipts due to the fund shall be in accordance with amounts established by an annual independent audit of the adjusted family incomes of the participating families.

(c) Residual receipts due the fund from an agency shall not fall below 90 per centum of the amount due based upon an amount established by the annual independent audit as required by subsection (b). Within ten days after a determination of a default by an agency in its quarterly payment of residual receipts to the fund, the Secretary shall notify the tribe and the agency in writing of such determination. The tribe or the agency shall have thirty days within which to satisfy the default. Upon a failure of the tribe or agency to do so, the Secretary may—

(1) declare such tribe to be ineligible for further housing assistance from the fund;

(2) take any other action to satisfy the default as may be otherwise authorized by law; or

(3) attach tribal or appropriate individual trust funds as provided and authorized in section 205 of this title, except that the Secretary may exercise this authority only after all other reasonable action has been exhausted.

MONITORING AND INSPECTION

SEC. 212. (a) The agency shall be responsible for the implementation of monitoring and construction inspection procedures necessary to assure the Secretary of satisfactory quality control and fund utilization, including compliance with the minimum housing standards and the approved drawings and specifications of a project. When the Secretary determines that the monitoring and inspection procedures are not adequate, he shall initiate action to assure implementation of such procedures by the agency as a requirement for continuation of the project.

(b) The technical staff of the Indian Health Service within the Department of Health and Human Services shall, in the course of fulfilling its existing responsibilities in providing sanitation facilities to Indian housing, be responsible for the surveillance of the construction, inspection, and monitoring procedures of the agency. The Indian Health Service shall provide recommendations to the agency and the Secretary as to the adequacy of the construction inspection procedures of the agency to assure compliance with the minimum housing standards and the approved plans and specifications.

BONDING REQUIREMENTS

SEC. 213. (a) Tribal and agency officials and employees who are responsible for the receipt and disbursement of funds under this title shall be bonded in amounts satisfactory to the Secretary. No such disbursement shall be made until a bond satisfactory to the Secretary is obtained.

(b) The agency shall require performance bonds from its contractors except for those projects where settlement is on the basis of turnkey construction.

(c) The agency shall also require irrevocable letters of credit, machanics' and workmen's lien bonds and warranty maintenance bonds or cash equivalents from its contractors in amounts satisfactory to the Secretary.

MAINTENANCE AND UTILITIES

SEC. 214. Maintenance and cost of utilities for the house shall be the responsibility of the participating family. Upon the failure of a family to perform adequate maintenance to the extent necessary to prevent health hazards or preserve the capital value of the unit, the agency shall use the reserve for maintenance established by section 210 of this title to correct any deficiencies. At the end of the contract period; the amount remaining in the maintenance reserve account to the credit of the family, excluding any accrued interest, shall become the property of the family.

AWARD OF CONTRACTS

SEC. 215. All contracts under this title shall be awarded in accordance with procedures satisfactory tc the Secretary and shall result in the judicious use of Federal funds. Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) shall apply to all contracts, subcontracts, and employment opportunities supported by funding under this title, except that a tribe may, by formal action of its governing body, waive the applicability of section 7(b) in specific cases.

SALE OF HOUSING

SEC. 216. A family may, subject to the approval of the Secretary and the agency, sell or purchase a house constructed, acquired, or rehabilitated with funds under a project agreement. The minimum sale or purchase price of the house shall be the amount of the principal remaining on the amortization schedule for such house, except that, where a family has a deficit in its reserve for maintenance account, such minimum sale or purchase price shall be increased by that amount. The minimum sale or purchase price shall be reimbursed to the fund and any amount in excess of the minimum sale price shall be the property of the family.

ASSIGNMENTS

SEC. 217. (a) The contractual interest of a family in housing constructed, acquired, or rehabilitated with moneys provided from the fund may be inherited or assigned if the heirs, devisees, or assignees agree to assume the responsibilities and obligations under the original contract, and if any assignee of such interest is otherwise eligible for assistance under this title.

(b) Abandoned houses shall revert to the agency and shall be available to another eligible family under a new housing assistance contract.

(c) No Indian may be part to more than one housing assistance contract providing for a new standard house under titles I and II of this Act, except that the Secretary may waive this limitation in appropriate circumstances.

DOWNPAYMENT ASSISTANCE

SEC. 218. Tribal housing agencies may use funds made available under a project agreement, if the agreement so provides, to assist Indian families in making a downpayment, including closing costs, on standard housing to be financed through other sources of credit. The family shall be obligated to repay such amount, with or without interest, over a period of not to exceed ten years. Exclusive of closing costs, assistance provided under this section shall not be in excess of 10 per centum of the purchase price of the house.

CREDIT ELSEWHERE

SEC. 219. If an agency, in establishing the adjusted family income of an applicant family, determines that the income of such family is sufficient to support the payment of a reasonable economic rent, the agency shall acquire such family to provide evidence that at least two lending institutions in the area making home mortgage loans have rejected loan applications submitted by such family before the family is eligible for housing assistance under this title.

RENTAL HOUSING

SEC. 220. Funds made available under this title may, as provided in a project agreement, be used to construct rental housing, except that—

(1) the tribe shall require monthly rental payments from eligible Indian families as determined by section 209 except that the maximum monthy payment shall be an amount agreed upon by the Secretary and the agency;

(2) a minimum monthly rental payment shall be established as provided in section 210 and the tribe shall be responsible for the payment of residual receipts as provided in section 211;

(3) the tribe shall be responsible for the payment of utilities and maintenance costs; and

(4) all other appropriate provisions of this title shall be applicable to such rental housing projects.

AUTHORIZATION

SEC. 221. There are authorized to be appropriated for the purpose of carrying out the provisions of this title, such sums as may be necessary in fiscal year 1983; $100,000,000 in fiscal year 1984; $200,000,000 in fiscal year 1985; and such sums as may be necessary for fiscal years 1986 and 1987, which, when added to the total residual receipts and other deposits paid into the fund during the preceding fiscal year, will restore the balance in the fund to $250,000,000 at the beginning of each fiscal year.

TITLE III—INDIAN HOUSING LOAN GUARANTEE FUND

ESTABLISHMENT OF FUND

SEC. 301. In order to provide access to sources of private financing for Indian families who otherwise would not be eligible for housing credit because of Federal laws restricting mortgage or other encumbrance of trust land, there is established an Indian housing loan guarantee fund (hereinafter referred to as the "guarantee fund") which shall be available as provided in section 311 of this title.

GUARANTEE AUTHORITY

SEC. 302. The Secretary is authorized to guarantee not to exceed 100 per centum of the unpaid principal and interest due on any loan made to an Indian for the acquisition or construction of a standard house on trust land which may be secured by any appropriate means.

INTEREST RATE

SEC. 303. Loans guaranteed pursuant to this title shall bear interest (exclusive of premium charges for guarantee and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but which is not more than that being charged in the area by lenders for home mortgage loans without a guarantee or insurance by a Federal agency or instrumentality.

PREMIUM CHARGES

SEC. 304. The Secretary shall fix such premium charges for the guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and shall deposit receipts for such charges in the guarantee fund.

APPLICATION

SEC. 305. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guarantee. Such certificate shall be issued only when the Secretary determines there is a reasonable prospect of repayment.

SALE OR ASSIGNMENT OF LOANS

SEC. 306. Any loan guaranteed hereunder, including the security given therefore, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

LIMITATIONS ON LOANS

SEC. 307. Any loans guaranteed hereunder shall be made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia and shall meet the following requirements:

(1) the maturity of any loan guaranteed hereunder shall not exceed thirty-three years"

(2) loans guaranteed hereunder may be made by any lender satisfactory to the Secretary except loans insured or guaranteed by an agency or instrumentality of the Federal Government or made by an organization of Indians from funds borrowed from the United States shall not be eligible for guarantee hereunder;

(3) the liability under the guarantee shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation pursuant to the provisions of the loan agreement; and

(4) any loan made by any national bank or Federal savings and loan association, or by an bank, trust company, building and loan association or insurance company, authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (A) ratio of amount of loan to value of property, (B) requirement of mortgage or other security, (C) maturity of loans; (D) priority of lien; or (E) percentage of assets which may be invested in real estate loans.

REGULATORY AUTHORITY

SEC. 308. Whenever the Secretary finds that any lender or holder of a guarantee certificate fails to maintain adequate accounting records or to demonstrate proper ability to service adequately loans guaranteed or to excercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or the United States, the Secretary may refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed hereunder, The Secretary shall not refuse to pay a valid guarantee on loans previously made in good faith.

DEFAULT PROCEEDINGS

SEC. 309. (a) In the event of a default on a loan guaranteed hereunder, the lender holding the guarantee certificate must notify the Secretary of the default in writing and may thereupon proceed under either of the following methods of obtaining payment under the guarantee—

(1) the lender may initiate foreclosure proceedings in a court of competent jurisdiction after providing prior written notice of such action to the Secretary and upon a final order authorizing foreclosure by such a court and upon submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to such holder the full pro rata portion of the amount guaranteed plus reasonable fees and expenses as approved by the Secretary and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security; or

(2) without seeking a judicial foreclosure or in the event that a foreclosure proceeding initiated by or on behalf of the lender as authorized under paragraph (1) above continues for a period in excess of one year, the lender may submit a claim for payment under the guarantee, except that the Secretary shall only pay to such holder for a loss on any one loan an amount equal to 95 per centum of the pro rata portion of the amount guaranteed, and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(b) Upon receipt from the lender of a notice of default, the Secretary may, in his sole discretion, accept assignment of such loan if such action is determined by the Secretary to be in the best interest of the United States and shall thereupon pay to the holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(c) Before any reimbursement is made under subsection (a), all reasonable collection efforts shall have been exhausted by the lender. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection actions as may be warranted.

CONCLUSIVENESS

SEC. 310. Any evidence of guarantee issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this title and the amount of such guarantee. Such evidence shall be in contestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing by regulations in force on the date of such issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

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USE OF GUARANTEE FUND

SEC. 311. (a) The guarantee fund established by section 301 shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title. The guaranteed loan program under this title shall be operated separately from the Indian housing finance fund established under title II of this Act and no funds designated for one program may be transferred to the other program. There are authorized to be appropriated such sums as may be necessary in fiscal year 1983; $2,500,000 in fiscal year 1984; $3,000,000 in fiscal year 1985, and $3,500,000 in fiscal years 1986 and 1987.

(b) The Secretary may use the guarantee fund for the purpose of fulfilling the obligations with respect to loans guaranteed under this title, but the aggregate outstanding principal amount guaranteed by the Secretary shall be limited to $400,000,000 or such lesser amount as may be provided in appropriations Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the guarantee fund. All liabilities and obligations of such assets shall be liabilities and obligations of the guarantee fund. The Secretary is authorized to make agreements with respect to servicing loans acquired or guaranteed under this title and to purchase such guaranteed loans on such terms and conditions as the Secretary may prescribe.

(d) The Secretary may utilize the guarantee fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this title or held by the Secretary, to acquire such security property at foreclosure sales or otherwise, and to pay administrative expenses.

TITLE IV—MISCELLANEOUS PROVISIONS

OFFICE OF INDIAN HOUSING PROGRAMS

SEC. 401. (a) The Secretary shall establish in the Bureau of Indian Affairs an Office of Indian Housing Programs which shall be vested with the primary responsibility for administering the programs established by this Act. The Office of Indian Housing Programs shall be under the supervision of a Director of Indian Housing Programs who shall be under the immediate supervision of the Assistant Secretary of the Interior for Indian Affairs.

(b) The authority to approve applications as provided in section 203, execute project agreements as provided in section 204, approve loan guarantees under title III, and to allocate and assign personnel of the Office of Indian Housing Programs within the administrative structure of the Bureau of Indian Affairs shall not be delegated below the Office of the Director of Indian Housing Programs.

(c) Funds appropriated under authorization of this Act shall include employee costs and other administrative expenses of the Office of Indian Housing Programs. Annual appropriation requests for the Office of Indian Housing shall specify the number of employees by location, employee costs, and related administrative expenses. Funds made available for such purposes shall not be available for any other purposes.

TECHNICAL ASSISTANCE

SEC. 402. (a) The Secretary is authorized to provide technical assistance to Indian tribes to assist them in developing tribal housing plans, preparing and submitting applications for financing, and implementing housing programs funded under this Act.

(b) The Secretary shall provide for the establishment of a training program to develop an understanding by the participating families of the respective roles and responsibilities of the tribal housing agency, the Federal Government, and the participants under titles I and II. Such program shall include basic home maintenance training for participating families.

(c) Not to exceed 1 per centum of the funds appropriated under the authority of titles I and II may be used to provide the technical assistance and training authorized by this section.

INDIAN HEALTH SERVICE

SEC. 403. The Indian Health Service in the Department of Health and Human Services shall be responsible for the provision of water and sanitation facilities for houses constructed, acquired, or rehabilitated with assistance provided under this Act. The Secretary shall coordinate with the Secretary of Health and Human services with respect to such responsibilities and activities and shall ensure that planning and budgeting for necessary roads and sanitation facilities shall be done in conjunction with planning and budgeting for new housing to be constructed with funds appropriated pursuant to this Act.

SITE IMPROVEMENTS

SEC. 404. (a) Funds appropriated under titles I and II may be used to provide site improvements, streets and driveways within multiunit housing projects. Such streets shall be built to the usual standards of the Bureau of Indian Affairs and, where appropriate, shall thereafter be maintained by the Bureau of Indian Affairs under existing road programs and authorities.

(b) All-weather access roads to multiunit projects constructed under this act shall continue to be provided by the Secretary through existing road programs and authorizations.

HOUSING INVENTORY

SEC. 405. The Secretary shall conduct a biennial housing inventory of current Indian housing needs and conditions to be used as a basis for determining housing assistance needs for the purposes of sections 202 and 203 of this Act. The Secretary shall submit a copy of such inventory to the Congress.

STUDY

SEC. 406. The Secretary of the Interior shall, within two years after enactment of this Act, conduct and submit to the Congress a study of the potential uses of trust funds of Indian tribes and individuals to support, directly or indirectly, the provision of housing for Indians and Alaska Natives. Any recommendations of the Secretary must provide that the use of such funds shall be subject to the consent of the beneficial owner and that the United States will continue to ensure the integrity of such funds.

RULEMAKING

SEC. 407. The Secretary shall promulgate such rules and regulations as are necessary to carry out the provisions of this Act. The Chairman of the Committee on Interior and Insular Affairs of the House of Representatives and the Chairman of the Select Committee on Indian Affairs of the United States Senate, in consultation with the respective ranking minority members, shall each select two persons of Indian descent knowledgeable in the field of Indian affairs and housing assistance programs. The Secretary shall assure that these persons are actively involved in the initial drafting and formulation of regulations developed to implement the provisions of this Act. While engaged in such activity, such persons shall be entitled to travel expenses, per diem, and a reasonable consultation fee. Funds for such expenses and fees shall be provided by the Secretary from any available funds. The responsibility of such persons shall cease with the promulgation of final rules and regulations by the Secretary.

RELATION TO OTHER PROGRAMS

SEC. 408. Housing assistance provided under this Act shall not exclude Indians from being eligible for other federally assisted housing programs.●

By Mr. COCHRAN:

S. 2848. A bill to amend the Congressional Budget and Impoundment Control Act of 1974, to provide for budgetary planning every 2 years; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

TWO-YEAR BUDGETARY PLANNING ACT OF 1982

● Mr. COCHRAN. Mr. President, the budget process through which we now plod each year was devised in 1974. There was much hope when the Budget Act of 1974 was approved—hope that the Congress would effectively and efficiently set budget priorities and control runaway spending. After 7 years of operating under that law, we now have experience enough to make needed reform in the budget process. It is time to discard those sections of the 1974 act that are not working.

Therefore, today I am introducing a bill to amend the Budget Act. I propose the Congress establish a streamlined 2-year budget process with planning at the beginning of a Congress and execution of that plan through the annual appropriations measures. Under my bill, there would be only one budget resolution, adopted at the beginning of the odd numbered years, using the timetable now used for the first concurrent budget resolution. The resolution would have totals for each year of the 2-year fiscal period, starting in October of that odd-numbered year. The bill would permit, but not require, a revision of that budget resolution during the 2-year fiscal period, but only after approval by a three-fifths vote of each House. Thus, for any 2-year period, we would have only one budget resolution adopted at the start of the process.

Mr. President, both major features of this bill, the 2-year cycle and having just one budget resolution at the start of the process have been endorsed by the Director of the Congressional Budget Office, Dr. Alice Rivlin. Dr.

Rivlin said, "The major budgetary issues facing the Congress each year must be hammered out in the first resolution. By the time the second concurrent resolution is considered, the Congress is much too close to—if indeed not past—the start of the fiscal year to decide any important questions. Thus reconciliation must be part of the first resolution."

In additional remarks supporting changes in the current budget process, Dr. Rivlin maintains that by making reconciliations a permanent part of a binding first resolution, the Congress could eliminate the requirement for a second concurrent resolution each year. Later this week Dr. Rivlin will testify in detail in support of a 2-year budget cycle, as a procedure that will help hold down Federal spending.

Mr. President, I urge my colleagues to consider this legislation as a way to go about adopting the Federal budget. I believe it is a worthy alternative to the time-consuming and confusing process we have now. I believe a 2-year budget cycle, with one budget resolution is a workable procedure which should be adopted. I ask unanimous consent that the bill and a copy of the budget act as it would be amended if my bill were adopted be printed in the CONGRESSIONAL RECORD, immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Two Year Budgetary Planning Act of 1982".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to provide for one concurrent resolution on the budget for a two year period;

(2) to streamline the budget process so that the process will be an effective mechanism for the planning of major budget priorities; and

(3) to improve the legislative and budgetary processes by providing additional time for congressional oversight and other vital legislative activities.

AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SEC. 3. (a) (1) Secton 2(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "each year" and inserting in lieu thereof "every two years".

(b) Section 3(4) of such Act is amended to read as follows:

"(4) The term 'concurrent resolution on the budget' means—

"(A) a concurrent resolution setting forth the congressional budget for the United States Government for a two-fiscal-year period as provided in section 301; or

"(B) a concurrent resolution on the budget revising the congressional budget for the United States Government pursuant to section 304.".

(2) Section 3 of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) The term 'two-fiscal-year period' means a period of two consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "odd numbered" before "year" the first place it appears in the first sentence;

(2) by striking out "the fiscal year" in such sentence and inserting in lieu thereof "each fiscal year in the two-fiscal-year period";

(3) by striking out "such fiscal year" in such sentence and inserting in lieu thereof "such two-fiscal-year period"; and

(4) by striking out "such fiscal year" in the second sentence and inserting in lieu thereof "each fiscal year in such two-fiscal-year period".

(d) Section 300 of such Act is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

"First Session

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 15..........	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report concurrent resolution on the budget to their Houses.
May 15..............	Committees report bills and resolutions authorizing new budget authority for the first fiscal year of the two-fiscal-year period.
May 15..............	Congress completes action on concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority for the first fiscal year of the two-fiscal-year period.
October 1	Two-fiscal-year period begins.

"Second Session

On or before:	Action to be completed:
15th day after Congress meets.	President submits proposed revisions in the Budget for the two-fiscal-year period in progress.
May 15..............	Committees report bills and resolutions authorizing new budget authority for the second fiscal year of the two-fiscal-year period.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority for the second fiscal year of the two-fiscal-year period.".

(e)(1) Section 301(a) of such Act is amended—

(A) by inserting "Of Each Odd-Numbered Year" after "May 15th" in the subsection heading; and

(B) by inserting "odd-numbered" before "year" the first place it appears in the first sentence of the matter preceding paragraph (1);

(C) by striking out "the fiscal year" in such sentence and inserting in lieu thereof "the two-fiscal-year-period"; and

(D) by inserting a comma and "for each fiscal year in such period" after "set forth" in the second sentence of such matter.

(2) Section 301(b) of such Act is amended—

(A) by striking out "first" in the matter preceding paragraph (1);

(B) by inserting "referred to in subsection (a)" before "may also" in such matter;

(C) by striking out "require" in such matter;

(D) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) contain the specifications and directions described in section 310(a); and";

(E) by inserting "require" before "any other procedure" in paragraph (2); and

(F) by striking out the last sentence.

(3) Section 301(c) of such Act is amended—

(A) by inserting "odd-numbered" before "year" in the matter preceding paragraph (1);

(B) by striking out "the" second place it appears and inserting in lieu thereof "an"; and

(C) by striking out "the fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the two-fiscal-year period".

(4) Section 301(d) of such Act is amended—

(A) by striking out "first" before "concurrent resolution" in the first sentence;

(B) by striking out "fiscal year" in such sentence and inserting in lieu thereof "two-fiscal-year period";

(C) by inserting "odd-numbered" before "year" the first place it appears in the third sentence;

(D) by striking out "first" before "concurrent resolution" in such sentence;

(E) by striking out "fiscal year" in such sentence and inserting in lieu thereof "two-fiscal-year period";

(F) by inserting "for each fiscal year in such two-fiscal-year period" after "the committee" in paragraph (1);

(G) by inserting "for each fiscal year" after "those estimated" in such paragraph;

(H) by inserting "for each fiscal year in such two-fiscal-year period" after "total new budget authority" the first place it appears in paragraph (2);

(I) by inserting "for each such fiscal year" after "total new budget authority requested" in such paragraph;

(J) by inserting "for each fiscal year in such two-fiscal-year period," after "new budget authority" in paragraph (3);

(K) by inserting "for each fiscal year in such two-fiscal-year period" after "concurrent resolution" in paragraph (4);

(L) by striking out "five" in paragraph (6) and inserting in lieu thereof "six";

(M) by striking out "such fiscal year" in such paragraph and inserting in lieu thereof "the first fiscal year of such two-fiscal-year period,";

(N) by striking out "such period" in such paragraph and inserting in lieu thereof "such six-fiscal-year period"; and

(O) by inserting "for each fiscal year in such two-fiscal-year period" before the semicolon in paragraph (7).

(5) Section 301(e) of such Act is amended—

(A) by striking out "set for" in paragraph (1) and inserting in lieu thereof "set forth";

(B) by striking out "first" each place it appears before "concurrent resolution on the budget";

(C) by inserting "referred to in subsection (a)" after "concurrent resolution on the budget" in paragraph (1); and

(D) by striking out "for the fiscal year" after "concurrent resolution of the budget" in such paragraph and inserting in lieu thereof "referred to in subsection (a) for the two-fiscal-year period".

(6)(A) The section heading for section 301 of such Act is amended by striking out "FIRST".

(B) The item relating to section 301 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "first".

(f)(1) Section 302(a) of the Congressional Budget Act of 1974 is amended—

(A) by inserting "for a two-fiscal-year period" after "concurrent resolution on the budget"; and

(B) by inserting "for each fiscal year in such period" after "estimated allocation".

(2) Section 302(c) of such Act is amended by striking out "or 310".

(g)(1) Section 303(a) of such Act is amended—

(A) by striking out "first";

(B) by striking out "for such year" and inserting in lieu thereof "referred to in section 301(a) for the two-fiscal-year period in which such fiscal year occurs"; and

(C) by striking out "pursuant to section 301".

(2) Section 303(b) of such Act is amended by striking out "fiscal year" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "two-fiscal-year period".

(3)(A) The section heading for section 303 of such Act is amended by striking out "FIRST".

(B) The item relating to section 303 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "First concurrent" and inserting in lieu thereof "concurrent".

(h)(1) Section 304 of the Congressional Budget Act of 1974 is amended—

(A) by striking out "first" before "concurrent resolution on the budget";

(B) by striking out "for a fiscal year" before "has been agreed to" and inserting in lieu thereof "referred to in section 301(a) for two-fiscal-year period";

(C) by striking out "pursuant to section 301";

(D) by striking out "such fiscal year" the first place it appears and inserting in lieu therof "such two-fiscal-year period";

(E) by striking out "for such fiscal year" the second place it appears; and

(F) by inserting before the period "for such two-fiscal-year period if the concurrent resolution on the budget making such revisions and any conference report thereon, is agreed to by a roll call vote of three-fifths of the Members of each House of Congress, duly chosen and sworn.

(2) The section heading for section 304 of such Act is amended by striking out "OF" the second place it appears and inserting in lieu thereof "ON".

(i)(1) Section 305(a)(3) of such Act is amended—

(A) by striking out "first" before "concurrent resolution on the budget"; and

(B) by striking out "for a fiscal year" and inserting in lieu thereof "referred to in section 301(a) for a two-fiscal-year period".

(2) Section 305(b) of such Act is amended—

(A) by striking out ", except that, with respect to the second required concurrent resolution referred to in section 310 (a), all such debate shall be limited to not more than 15 hours" in paragraph (1);

(B) by striking out "first" before "concurrent resolution on the budget" in paragraph (3); and

(C) by striking out "for a fiscal year" in such paragraph and inserting in lieu thereof "referred to in section 301 (a) for a two-fiscal-year period".

(j) Section 307 of such Act is amended—

(1) by striking out "as" before "set forth";

(2) by inserting "for such fiscal year" before "in the most recently agreed"; and

(3) by striking out "that year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(k) (1) Section 308 (a) of such Act is amended—

(A) by striking out "such fiscal year" in paragraph (1) (A) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(B) by inserting "for such fiscal year" after "new budget authority" in such paragraph;

(C) by inserting a comma after "a projection" in paragraph (1) (B);

(D) by striking out "5" in such paragraph and inserting in lieu thereof "6";

(E) by inserting a comma after "such fiscal year" in such paragraph;

(F) by striking out "as" after "existing law" in paragraph (2) (A);

(G) by striking out "for such fiscal year" in such paragraph and inserting in lieu thereof "referred to in section 301 (a) for the two-fiscal-year period in which such fiscal year occurs";

(H) by inserting "for such fiscal year" after "set forth" in such paragraph;

(I) by striking out "year" the last place it appears in such paragraph and inserting in lieu thereof "two-fiscal-year period";

(J) by inserting a comma after "a projection" in paragraph (2)(B);

(K) by striking out "5" in such paragraph and inserting in lieu thereof "6"; and

(L) by inserting a comma after "such fiscal year" in such paragraph.

(2) Section 308 (b) of such Act is amended—

(A) by inserting a comma after "during such fiscal year" in paragraph (1);

(B) by striking out "such fiscal year" in such paragraph and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(C) by inserting "for such fiscal year" after "estimated outlays" the second place it appears in such paragraph;

(D) by striking out "such fiscal year" in paragraph (3) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(E) by inserting "for such fiscal year" after "revenues" the first place it appears in such paragraph;

(F) by inserting "fiscal" before "year" the last two places it appears in such paragraph;

(G) by striking out "such fiscal year" in paragraph (4) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(H) by inserting "for such fiscal year" after "the public debt" in such paragraph.

(3) Section 308 (c) of such Act is amended—

(A) by striking out "Five" in the subsection heading and inserting in lieu thereof "Six"; and

(B) by striking out "5" and inserting in lieu thereof "6".

(l) Section 309(1) of such Act is amended—

(1) by striking out "such year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(2) by striking out "section 310(c)" and inserting in lieu thereof "section 310(b)".

(m)(1) Section 310(a) of such Act is amended—

(A) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"Sec. 310. (a) Specifications and Directions.—A concurrent resolution on the budget for a two-fiscal-year period shall, to the extent necessary—";

(B) by striking out "such fiscal year" each place it appears in subparagraphs (A) and (C) of paragraph (1) and inserting in lieu thereof "each fiscal year in such two-fiscal-year period";

(C) by inserting "for each fiscal year in such two-fiscal-year period" after "revenues" in paragraph (2);

(D) by striking out "that" before "the committees" in such paragraph;

(E) by inserting "for each fiscal year in such two-fiscal-year period" after "public debt" in paragraph (3); and

(F) by striking out the last sentence.

(2) Section 310 of such Act is amended by striking out subsection (b) and by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(3) section 310 (b) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "is agreed to in accordance with subsection (a)" and inserting in lieu thereof "on the budget is agreed to".

(4) Section 310(c) of such Act (as redesignated by paragraph (2) of this subsection) is amended—

(A) by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)"; and

(B) by striking out "September 25 of each year" and inserting in lieu thereof "sixty days after the date on which the concurrent resolution on the budget containing the specifications and directions for such reconciliation bill or reconciliation resolution is agreed to".

(5) Section 310(d) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "subsection (c)" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "subsection (b)".

(6) Section 310(e) of such Act (as redesignated by paragraph (2) of this subsection) is amended—

(A) by striking out "the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and if a" and inserting in lieu thereof "any";

(B) by striking out "is" before "required to be reported"; and

(C) by striking out "subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both" and inserting in lieu thereof "subsection (b) for a two-fiscal-year period".

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(7)(A) The section heading for section 310 of such Act is amended by striking out "SECOND REQUIRED CONCURRENT RESOLUTION AND".

(B) The item relating to section 310 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "Second required concurrent resolution and reconciliation" and inserting in lieu thereof "Reconciliation".

(n) Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "section 310(a) for fiscal year" after "reported under" in the matter preceding paragraph (1) and inserting in lieu thereof "section 301(a) for a two-fiscal-year period";

(2) by striking out "such fiscal year" the first place it appears in such matter and inserting in lieu thereof "such two-fiscal-year period";

(3) by striking out "section 310(c)" in such matter and inserting in lieu thereof "section 312(b)";

(4) by striking out "such fiscal year" the second, third, and fourth places it appears in such matter and inserting in lieu thereof "any fiscal year in such two-fiscal-year period";

(5) by inserting "for such fiscal year" after "total budget outlays" in the matter following paragraph (3);

(6) by striking out "such fiscal year" after "concurrent resolution on the budget for" in such matter and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(7) by inserting "for any such fiscal year" after "revenues" the first place it appears in such matter and

(8) by inserting "for such fiscal year" after "revenues" the second place it appears in such matter.

(o) Section 401(b)(2) of such Act is amended by striking out "such fiscal year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(p) Section 403(a) of such Act is amended—

(1) by striking out "4" in paragraph (1) and inserting in lieu thereof "five"; and

(2) by striking out "four" in paragraph (2) and inserting in lieu thereof "five".

(q) (1) Section 605(a) of such Act is amended—

(A) by striking out "each year (beginning with 1975)" and inserting in lieu thereof "each even-numbered year (beginning with 1982)";

(B) by striking out "the ensuing fiscal year" and inserting in lieu thereof "each fiscal year in the two-fiscal-year period beginning in the following odd-numbered year"; and

(C) by striking out "such ensuing fiscal year" and inserting in lieu thereof "each such fiscal year".

(2) Section 605(b) of such Act is amended by inserting "even-numbered" before "year".

(r) Section 904(b) of such Act is amended by striking out "title III or IV" and inserting in lieu thereof "title III (except section 304) or title IV".

AMENDMENTS TO RULES OF THE HOUSE OF REPRESENTATIVES

SEC. 4. (a)(1) Clause 1(b)(4) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(b) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(c) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking out "such fiscal year" and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(d) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended—

(1) by striking out "first"; and

(2) by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by inserting "odd-numbered" after "each";

(2) by striking out "fiscal year" the first place it appears and inserting in lieu thereof "two-year fiscal period"; and

(3) by striking out "that fiscal year" and inserting in lieu thereof "each fiscal year of such two-fiscal-year period".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(g) Clause 2(1)(1)(C) of rules XI of the Rules of the House of Representatives is amended—

(1) by striking out "as" before "set forth";

(2) by inserting "for such fiscal year" before "in the most recently agreed"; and

(3) by striking out "that year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(h) Clause 1 of rule XLIX of the Rules of the House of Representatives is amended—

(1) by striking out the comma after "301" and inserting in lieu thereof "or"; and

(2) by striking out ", or 310".

AMENDMENTS TO THE BUDGET AND ACCOUNTING ACT, 1921

SEC. 5. (a) Section 2 of the Budget and Accounting Act, 1921 is amended by adding at the end thereof the following new item:

"The term 'two-fiscal-year period' shall have the same meaning as in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974.".

(b)(1) The matter preceding paragraph (1) of section 201(a) of the Budget and Accounting Act, 1921, is amended to read as follows:

"SEC. 201. (a) The President shall transmit to Congress during the first fifteen days of the first regular session of each Congress the Budget for the two-fiscal-year period beginning on October 1 of the year in which such session occurs. The Budget shall set forth the President's Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—".

(2) Section 201(a) of such Act is further amended—

(A) by striking out "the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year" in paragraph (5) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year and the ensuing two-fiscal-year period";

(B) by inserting "even-numbered" before "year" the last place it appears in such paragraph;

(C) by striking out "the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year" in paragraph (6) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period";

(D) by striking out "the ensuing fiscal year" in paragraph (9) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(E) by striking out "the ensuing fiscal year" in paragraph (12) (A) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(F) by striking out "each of the four fiscal years, immediately following that ensuing fiscal year" in paragraph (12)(B) and inserting in lieu thereof "each of the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period";

(G) by striking out "the ensuing fiscal year" each place it appears in paragraph (13) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period"; and

(H) by adding at the end thereof the following new sentence:

"During the first fifteen days of the second regular session of each Congress, the President shall transmit to the Congress any revisions the President considers appropriate in the Budget transmitted in the first regular session of that Congress.".

(c) Section 201(b) of such Act is amended—

(1) by inserting "odd-numbered" before "year" the first place it appears in the matter preceding paragraph (1);

(2) by striking out "fiscal year" in such matter and inserting in lieu thereof "two-fiscal-year period"; and

(3) by striking out "that ensuing fiscal year" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "each fiscal year in that ensuing two-fiscal-year period".

(d) Section 201(c) of such Act is amended—

(1) by striking out "the first four fiscal years following the ensuing fiscal year" in paragraph (1) and inserting in lieu thereof "each fiscal year in the first two of the two-fiscal-year periods following the ensuing two-fiscal-year period";

(2) by striking out "fiscal years following such ensuing fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the first two of the two-fiscal-year periods following such ensuing two-fiscal-year period"; and

(3) by striking out "ensuing fiscal year" and inserting in lieu thereof "ensuing two-fiscal-year period".

(e) Section 201(d) of such Act is amended—

(1) by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period"; and

(2) by inserting a comma and "for each fiscal year in such two-fiscal-year period," after "separately".

(f) Section 201(e) of such Act is amended—

(1) by striking out "each fiscal year" and inserting in lieu thereof "each two-fiscal-year period"; and

(2) by striking out "such fiscal year" and inserting in lieu thereof "each fiscal year in such two-fiscal-year period".

(g) Section 201(f) of such Act is amended—

(1) by striking out "fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "two-fiscal-year period";

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(2) by striking out "completed fiscal year" in paragraph (1) and inserting in lieu thereof "two completed fiscal years";

(3) by inserting "each" before "such fiscal year;" in such paragraph;

(4) by striking out "completed fiscal year" in paragraph (2) and inserting in lieu thereof "two completed fiscal years";

(5) by inserting "each" before "such year" each place it appears in such paragraph; and

(6) by inserting "each" before "such fiscal year" each place it appears in paragraph (3).

(h) Section 201(g) of such Act is amended—

(1) by inserting "odd-numbered" before "year" the first place it appears in the first sentence;

(2) by striking out "the ensuing fiscal year" in such sentence and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(3) by inserting "odd-numbered" before "year" the first place it appears in the third sentence; and

(4) by striking out "fiscal year" each place it appears in the last sentence and inserting in lieu thereof "two-fiscal-year period".

(i) Section 201(h) of such Act is amended—

(1) by striking out "fiscal year" the first and second places it appears and inserting in lieu thereof "two-fiscal-year period";

(2) by inserting "each fiscal year in" after "appropriations for"; and

(3) by striking out "such succeeding" and inserting in lieu thereof "each such".

(j) Section 201(i) of such Act is amended—

(1) by striking out "each fiscal year, beginning with the fiscal year ending September 30, 1979" and inserting in lieu thereof "each two-fiscal-year period, beginning with the two-fiscal-year period beginning October 1, 1983"; and

(2) by inserting a comma and "for each fiscal year in such two-fiscal-year period," after "a presentation".

(k) Section 202 of such Act (31 U.S.C. 13) is amended—

(1) by striking out "ensuing fiscal year" each place it appears and inserting in lieu thereof "ensuing two-fiscal-year period"; and

(2) by inserting "or the two-fiscal-year period in progress, as the case may be," after "progress,".

(l) Section 304 of the Department of Commerce Appropriation Act, 1963 (31 U.S.C. 25) is amended by striking out "fiscal year 1964 and each succeeding year" and inserting in lieu thereof "the two-fiscal-year period beginning on October 1, 1983, and each succeeding two-fiscal-year period".

(m) Section 3670 of the Revised Statutes (31 U.S.C. 624) is amended—

(1) by striking out "annual";

(2) by inserting "for a two-fiscal-year period" after "service" the first place it appears; and

(3) by striking out "year" and inserting in lieu thereof "period".

EFFECTIVE DATE

Sec. 6. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1982.

FISCAL YEAR 1983

Sec. 7. Notwithstanding the provisions of sections 3, 4, 5, and 6 of this Act and the amendments made by such sections—

(1) the provisions of the Congressional Budget and Impoundment Control Act of 1974 (as such provisions were in effect on the day before the effective date of this Act) shall apply with respect to concurrent resolutions on the budget for such fiscal year, bills and resolutions providing new budget authority or new spending authority for such fiscal year, bills and resolutions authorizing the enactment of new budget authority for such fiscal year, the rescission and deferral of budget authority for such fiscal year, and the responsibilities of the Director of the Congressional Budget Office for such fiscal year; and

(2) the provisions of the Budget and Accounting Act, 1921, shall apply with respect to any amendments or revisions made by the President in the Budget submitted for such fiscal year pursuant to section 201 of such Act.

Budget Act as Amended By Cochran—2-Year Budget Cycle Legislation

(New material in italic, stricken matter enclosed in brackets.)

SHORT TITLES; TABLE OF CONTENTS

Section 1. (a) Short Titles.—This Act may be cited as the "Congressional Budget and Impoundment Control Act of 1974". Titles I through IX may be cited as the "Congressional Budget Act of 1974", and title X may be cited as the "Impoundment Control Act of 1974".

(b) Table of Contents.—

Sec. 1. Short titles; table of contents.
Sec. 2. Declaration of purposes.
Sec. 3. Definitions.

TITLE I—ESTABLISHMENT OF HOUSE AND SENATE BUDGET COMMITTEES

Sec. 101. Budget Committee of the House of Representatives.
Sec. 102. Budget Committee of the Senate.

TITLE II—CONGRESSIONAL BUDGET OFFICE

Sec. 201. Establishment of Office.
Sec. 202. Duties and functions.
Sec. 203. Public access to budget data.

TITLE III—CONGRESSIONAL BUDGET PROCESS

Sec. 300. Timetable.
Sec. 301. Adoption of [first] concurrent resolution.
Sec. 302. Matters to be included in joint statement of managers; reports by committees.
Sec. 303. [First concurrent] *Concurrent* resolution on the budget must be adopted before legislation providing new budget authority, new spending authority, or changes in revenues or public debt limit is considered.
Sec. 304. Permissible revisions of concurrent resolutions on the budget.
Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
Sec. 307. House committee action on all appropriation bills to be completed before first appropriation bill is reported.
Sec. 308. Reports, summaries, and projections of congressional budget actions.
Sec. 309. Completion of action on bills providing new budget authority and certain new spending authority.
Sec. 310. [Second required concurrent resolution and reconciliation] *Reconciliation* process.
Sec. 311. New budget authority, new spending authority, and revenue legislation must be within appropriate levels.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

Sec. 401. Bills providing new spending authority.
Sec. 402. Reporting of authorizing legislation.
Sec. 403. Analysis by Congressional Budget Office.
Sec. 404. Jurisdiction of Appropriations Committees.

TITLE V—CHANGE OF FISCAL YEAR

Sec. 501. Fiscal year to begin October 1.
Sec. 502. Transition to new fiscal year.
Sec. 503. Accounting procedures.
Sec. 504. Conversion of authorizations of appropriations.
Sec. 505. Repeals.
Sec. 506. Technical amendment.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921

Sec. 601. Matters to be included in President's budget.
Sec. 602. Midyear review.
Sec. 603. Five-year budget projections.
Sec. 604. Allowances for supplemental budget authority and uncontrollable outlays.
Sec. 605. Budget data based on continuation of existing level of services.
Sec. 606. Study of off-budget agencies.
Sec. 607. Year-ahead requests for authorization of new budget authority.

TITLE VII—PROGRAM REVIEW AND EVALUATION

Sec. 701. Review and evaluation by standing committees.
Sec. 702. Review and evaluation by the Comptroller General.
Sec. 703. Continuing study of additional budget reform proposals.

TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

Sec. 801. Amendment to Legislative Reorganization Act of 1970.
Sec. 802. Changes in functional categories.

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Sec. 901. Amendments to rules of the House.
Sec. 902. Conforming amendments to standing rules of the Senate.
Sec. 903. Amendments to Legislative Reorganization Act of 1946.
Sec. 904. Exercise of rulemaking powers.
Sec. 905. Effective dates.
Sec. 906. Application of congressional budget process to fiscal year 1976.

TITLE X—IMPOUNDMENT CONTROL

Part A—General Provisions

Sec. 1001. Disclaimer.
Sec. 1002. Amendment to Antideficiency Act.

Sec. 1003. Repeal of existing impoundment reporting provision.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

Sec. 1011. Definitions.
Sec. 1012. Rescission of budget authority.
Sec. 1013. Disapproval of proposed deferrals of budget authority.
Sec. 1014. Transmission of messages; publication.
Sec. 1015. Reports by Comptroller General.
Sec. 1016. Suits by Comptroller General.
Sec. 1017. Procedure in House and Senate.

DECLARATION OF PURPOSES

SEC. 2. The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination [each year] *every two years* of the appropriate level of Federal revenues and expenditures;

(3) to provide a system of impoundment control;

(4) to establish national budget priorities; and

(5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

[(4) The term "concurrent resolution on the budget" means—

[(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301;

[(B) a concurrent resolution reaffirming or revising the congressional budget for the United States Government for a fiscal year as provided in section 310; and

[(C) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.]

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a two-fiscal-year period as provided in section 301; or

(B) a concurrent resolution on the budget revising the congressional budget for the United States Government pursuant to section 304.

(5) The term "Appropriation Act" means an Act referred to in section 105 of title 1, United States Code.

(6) The term "two-fiscal-year period" means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.

DUTIES AND FUNCTIONS

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committees may request.

(f) REPORTS TO BUDGET COMMITTEES.—

(1) On or before April 1 of each *odd-numbered* year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for [the fiscal year] *each fiscal year in the two-fiscal-year period* commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for [such fiscal year] *such two-fiscal-year period*. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating budget authority and budget outlays for [such fiscal year] *each fiscal year in such two-fiscal-year period* among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

TITLE III—CONGRESSIONAL BUDGET PROCESS

TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

First Session

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 15..........	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report [first] concurrent resolution on the budget to their Houses.
May 15..............	Committees report bills and resolutions authorizing new budget authority *for the first fiscal year of the two-fiscal-year period.*
May 15..............	Congress completes action on [first] concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority *for the first fiscal year of the two-fiscal-year period.*
[September 15.	Congress completes action on second required concurrent resolution on the budget.
[September 25.	Congress action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.]
October 1	[Fiscal year begins.] *Two-fiscal-year period begins.*

Second Session

On or before:	Action to be completed:
15th day after Congress meets.	*President submits proposed revisions in the Budget for the two-fiscal-year period in progress.*
May 15..............	*Committees report bills and resolutions authorizing new budget authority for the second fiscal year of the two-fiscal-year period.*
7th day after Labor Day.	*Congress completes action on bills and resolutions providing new budget authority and new spending authority for the second fiscal year of the two-fiscal-year period.*

ADOPTION OF [FIRST] CONCURRENT RESOLUTION

SEC. 301. (a) ACTION TO BE COMPLETED BY MAY 15 *OF EACH ODD-NUMBERED YEAR.*—On or before May 15 of each *odd-numbered* year, the Congress shall complete action on the [first] concurrent resolution on the budget for [the fiscal year] *the two-fiscal year period* beginning on October 1 of such year. The concurrent resolution shall set forth, *for each fiscal year in such period*—

(1) the appropriate level of total budget outlays and of total new budget authority;

(2) an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, for contingencies, and for undistributed intragovernmental transactions, based on allocations of the appropriate level of total budget outlays and of total new budget authority;

(3) the amount, if any, of the surplus or the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors;

(4) the recommended level of Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(5) the appropriate level of the public debt, and the amount, if any, by which the

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statutory limit on the public debt should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(6) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and

(7) such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

(b) Additional Matters in Concurrent Resolution.—The [first] concurrent resolution on the budget *referred to in subsection (a)* may also [require]—

[(1) a procedure under which all or certain bills and resolutions providing new budget authority or providing new spending authority described in section 401(c)(2)(C) for such fiscal year shall not be enrolled until the concurrent resolution required to be reported under section 310(a) has been agreed to, and, if a reconciliation bill or reconciliation resolution, or both, are required to be reported under section 310(c), until Congress has completed action on that bill or resolution, or both; and]

(1) contain the specifications and directions described in section 310(a); and

(2) *require* any other procedure which is considered appropriate to carry out the purposes of this Act.

[Not later than the close of the Ninety-fifth Congress, the Committee on the Budget of each House shall report to its House on the implementation of procedures described in this subsection.]

(c) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—On or before March 15 of each *odd-numbered year*, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of such joint committee, [the] *an* estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during [the fiscal year] *each fiscal year in the two-fiscal-year period* beginning on October 1 of such year.

The Joint Economic Committee shall also submit to the Committees on the Budget of both Houses, its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House or Senate may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

(d) HEARINGS AND REPORT.—In developing the [first] concurrent resolution on the budget referred to in subsection (a) for each [fiscal-year] *two-fiscal-year period*, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending. On or before April 15 of each *odd-numbered* year, the Committee on the Budget of each House shall report to its House the [first] concurrent resolution on the budget referred to in subsection (a) for the [fiscal year] *two-fiscal-year period* beginning on October 1 of such year. The report accompanying such concurrent resolution shall also include, but not be limited to—

(1) a comparison of revenues estimated by the committee *for each fiscal year in such two-fiscal-year period* with those estimated *for each such fiscal year* in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority *for each fiscal year in such two-fiscal-year period*, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested *for each such fiscal year* in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority *for each fiscal year in such two-fiscal-year period*, for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution *for each fiscal year in such two-fiscal-year period* among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered;

(6) projections, not limited to the following, for the period of [five] *six* fiscal years beginning with [such fiscal year] *the first fiscal year of such two-fiscal-year period*, of the estimated levels of total budget outlays, total new budget outlays, total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in [such period] *such six-fiscal-year period*, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments *for each fiscal year in such two-fiscal-year period*; and

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution, and the relationship of such matters to other budget categories.

(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment [set for] *set forth* in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the [first] concurrent resolution on the budget *referred to in subsection (3)* for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or its most recent action pursuant to this paragraph, the [first] concurrent resolution on the budget [for the fiscal year] *referred to in subsection (a) for the two-fiscal-year period* beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

MATTERS TO BE INCLUDED IN JOINT STATEMENT OF MANAGERS; REPORTS BY COMMITTEES

SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget *for a two-fiscal-year period* shall include an estimated allocation *for each fiscal* year in such period, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORT BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocation to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

(2) every other committee of the House and Senate to which an allocation was made

in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) **Subsequent Concurrent Resolutions.**—In the case of a concurrent resolution on the budget referred to in section 304 [or 310,] the allocation under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

[FIRST] CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR PUBLIC DEBT LIMIT IS CONSIDERED

Sec. 303. (a) **In General.**—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year; or

(4) new spending authority described in section 401

(c) (2) (C) to become effective during a fiscal year; until the [first] concurrent resolution on the budget [for such year] *referred to in section 301 (a) for the two-fiscal-year period in which such fiscal year occurs* has been agreed to [pursuant to section 301].

(b) **Exceptions.**—Subsection (a) does not apply to any bill or resolution—

(1) providing new budget authority which first becomes available in a [fiscal year] *two-fiscal-year period* following the [fiscal year] *two-fiscal-year period* to which the concurrent resolution applies; or

(2) increasing or decreasing revenues which first become effective in a [fiscal year] *two-fiscal-year period* following the [fiscal year] *two-fiscal-year period* to which the concurrent resolution applies.

(c) **Waiver in the Senate.**—

(1) The committee of the Senate which reports any bill or resolution to which subsection (a) applies may at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to the bill or resolution to which the resolution so agreed to applies.

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS [OF] *ON* THE BUDGET

Sec. 304. At any time after the first concurrent resolution on the budget [for a fiscal year] *referred to in section 301 (a) for a two fiscal-year period* has been agreed to [pursuant to section 301], and before the end of [such fiscal year] *such two fiscal year period*, the two Houses may adopt a concurrent resolution on the budget which revises the concurrent resolution on the budget [for such fiscal year] most recently agreed to *for such two-fiscal-year period if the concurrent resolution on the budget making such revisions, and any conference report thereon, is agreed to by a rollcall vote of three-fifths of the Members of each House of Congress, duly chosen and sworn.*

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

Sec. 305. (a) **Procedure in House of Representatives After Report of Committee; Debate.**—

(1) When the Committee on the Budget of the House has reported any concurrent resolution on the budget, it is in order at any time after the tenth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the [first] concurrent resolution on the budget [for a fiscal year] *referred to in section 301 (a) for a two-fiscal-year period* by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Commitee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(7) Debate in the House of Representatives on the conference report or any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(8) Motions to postpone, made with respect to the consideration of any concurrent resolution on the budget, and motions to proceed to the consideration of other business, shall be decided without debate.

(9) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) **Procedure in Senate After Report of Committee; Debate; Amendments.**—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that, with respect to the second required concurrent resolution referred to in section 310(a), all such debate shall be limited to not more than 15 hours]. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by,

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the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the [first] concurrent resolution on the budget [for a fiscal year] *referred to in section 301(a) for a two-fiscal-year period* by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(7) Notwithstanding any other rule, an amendment, or series of amendments, to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If, at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

(e) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BEFORE FIRST APPROPRIATION BILL IS REPORTED

SEC. 307. Prior to reporting the first regular appropriation bill for each fiscal year, the Committee on Appropriations of the House of Representatives shall, to the extent practicable, complete subcommittee markup and full committee action on all regular appropriation bills for that year and submit to the House a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority as set forth *for such fiscal year* in the most recently agreed to concurrent resolution on the budget for [that year] *the two-fiscal-year period in which such fiscal year occurs.*

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES. Whenever a committee of either House reports a bill or resolution to its House providing new budget authority (other than continuing appropriations) or new or increased tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director of the Congressional Budget Office, detailing—

(1) in the case of a bill or resolution providing new budget authority—

(A) how the new budget authority provided in that bill or resolution compares with the new budget authority *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* and the reports submitted under section 302;

(B) *a projection*, for the period of [5] *6* fiscal years beginning with such fiscal year, of budget outlays, associated with the budget authority provided in that bill or resolution, in each fiscal year in such period; and

(C) the new budget authority, and budget outlays resulting therefrom, provided by that bill or resolution for financial assistance to State and local governments; and

(2) in the case of a bill or resolution providing new or increased tax expenditures—

(A) how the new or increased tax expenditures provided in that bill or resolution will affect the levels of tax expenditures under existing law as set forth *for such fiscal year* in the report accompanying the concurrent resolution on the budget [for such fiscal year] *referred to in section 301(a) for the two-fiscal-year period in which such fiscal year occurs*, or, if a report accompanying a subsequently agreed to concurrent resolution for such [year] *two-fiscal-year period* sets forth such levels, then as set forth in that report; and

(B) a projection, for the period of [5] *6* fiscal years beginning with such fiscal year, of the tax expenditures which will result from that bill or resolution in each fiscal year in such period.

No projection shall be required for a fiscal year under paragraph (1)(B) or (2)(B) if the committee determines that a projection for that fiscal year is impracticable and states in its report the reason for such impracticability.

(b) UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTIONS.—The Director of the Congressional Budget Office shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority and changing revenues and the public debt limit for a fiscal year. Such reports shall include, but are not limited to—

(1) an up-to-date tabulation comparing the new budget authority for such fiscal year in bills and resolutions on which Con-

gress has completed action and estimated outlays, associated with such new budget authority during such fiscal yea[r,] to the new budget authority and estimated outlays *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* and the reports submitted under section 302;

(2) an up-to-date status report on all bills and resolutions providing new budget authority and changing revenues and the public debt limit for such fiscal year in both Houses;

(3) an up-to-date comparison of the appropriate level of revenues *for such fiscal year* contained in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* with the latest estimate of revenues for such *fiscal* year (including new revenues anticipated during such *fiscal* year under bills and resolutions on which the Congress has completed action); and

(4) an up-to-date comparison of the appropriate level of the public debt *for such fiscal year* contained in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* with the latest estimate of the public debt during such fiscal year.

(c) [Five] *Six*-Year Projection of Congressional Budget Action.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of [5] *6* fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period; and

(3) tax expenditures for each fiscal year in such period.

COMPLETION OF ACTION ON BILLS PROVIDING NEW BUDGET AUTHORITY AND CERTAIN NEW SPENDING AUTHORITY

Sec. 309. Except as otherwise provided pursuant to this title, not later than the seventh day after Labor Day of each year, the Congress shall complete action on all bills and resolutions—

(1) providing new budget authority for the fiscal year beginning on October 1 of such year, other than supplemental, deficiency, and continuing appropriation bills and resolutions, and other than the reconciliation bill for [such year] *the two-fiscal-year period in which such fiscal year occurs*, if required to be reported under [section 310(c)] *section 310(b)*; and

(2) providing new spending authority described in section 401(c)(2)(C) which is to become effective during such fiscal year.

Paragraph (1) shall not apply to any bill or resoluton if legislation authorizing the enactment of new budget authority to be provided in such bill or resolution has not been timely enacted.

[SECOND REQUIRED CONCURRENT RESOLUTION AND] RECONCILIATION PROCESS

[Sec. 310. (a) Reporting of Concurrent Resolution.—The Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which reaffirms or revises the concurrent resolution on the budget most recently agreed to with respect to the fiscal year beginning on October 1 of such year. Any such concurrent resolution on the budget shall also, to the extent necessary—]

Sec. 310. (a) Specifications and Directions.—A concurrent resolution on the budget for a two-fiscal-year period shall, to the extent necessary—

(1) specify the total amount by which—

(A) new budget authority for [such fiscal year] *each fiscal year in such two-fiscal-year period*;

(B) budget authority initially provided for prior fiscal years; and

(C) new spending authority described in section 401(c)(2)(C) which is to become effective during [such fiscal year] *each fiscal year in such two-fiscal-year period*,

contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues *for each fiscal year in such two-fiscal-year period* are to be changed and direct [that] the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amount by which the statutory limit on the public debt *for each fiscal year in such two fiscal-year period* is to be changed and direct the committees having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3).

[Any such concurrent resolution may be reported, and the report accompanying it may be filed, in either House notwithstanding that that House is not in session on the day on which such concurrent resolution is reported.

[(b) Completion of Action on Concurrent Resolution. Not later than September 15 of each year, the Congress shall complete action on the concurrent resolution on the budget referred to in subsection (a).]

[(c)] *(b)* Reconciliation Process.—If a concurrent resolution [is agreed to in accordance with subsection (a)] *on the budget is agreed to* containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a reconciliation bill or reconciliation resolution, and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations shall report to its House a reconciliation bill or reconciliation resolution, or both, carryhing out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specific changes in bills and resolutions which have not been enrolled.

[(d)] *(c)* Completion of Reconciliation Process.—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under [subsection (c)] *subsection b* not later than [September 25 of each year] *60 days after the date on which concurrent resolution on the budget containing the specifications and directions for such reconciliation bill or reconciliation resolution is agreed to.*

[(e)] *(d)* Procedure in the Senate.—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills and reconciliation resolutions reported under [subsection (c)] *subsection (b)* and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill or resolution reported under [subsection (c)] *subsection (b)*, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

[(f)] *(e)* Congress May Not Adjourn Until Action Is Completed.—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless action has been completed on [the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and, if a] *any* reconciliation bill or resolution, or both, [is] required to be reported under [subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both] *subsection (b) for a two-fiscal-year period.*

NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

Sec. 311. (a) Legislation Subject to Point of Order.—After the Congress has completed action on the concurrent resolution on the budget required to be reported under [section 310(a) for a fiscal year] *section 301(a) for a two-fiscal-year period*, and, if a reconciliation bill, or resolution, or both, for [such fiscal year] *such two-fiscal-year period* are required to be reported under [section 310(c)] *section 310(b)*, after that bill has been enacted into law or that resolution has been agreed to, it shall not be in order in either the House of Representatives of the Senate to consider any bill, resolution, or amendment providing additional new budget authority for [such fiscal year] *any fiscal year in such two-fiscal-year period*, providing new spending authority described in section 401(c)(2)(C) to become effective during [such fiscal year] *any fiscal year in such two-fiscal-year period*, or reducing revenues for [such fiscal year] *any fiscal year in such two-fiscal-year period*, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal*

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year occurs to be exceeded, or would cause revenues *for any such fiscal year* to be less than the appropriate level of revenues *for such fiscal year* set forth in such concurrent resolution.

(b) Determination of Outlays and Revenues.—For purposes of subsection (a), the budget outlays to be made during a fiscal year and revenues to be received during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

BILLS PROVIDING NEW SPENDING AUTHORITY

Sec. 401. (a) Legislation Providing Contract or Borrowing Authority.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2) (A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) Legislation Providing Entitlement Authority.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs*, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) Definitions.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this section, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under the Second Liberty Bond Act) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; and

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) Exceptions.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

REPORTING OF AUTHORIZING LEGISLATION

Sec. 402. (a) Required Reporting Date.—Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

(b) Emergency Waiver in the House.—If the Committee on Rules of the House of Representatives determines that emergency conditions require a waiver of subsection (a) with respect to any bill or resolution, such committee may report, and the House may consider and adopt, a resolution waiving the application of subsection (a) in the case of such bill or resolution.

(c) Waiver in the Senate.—

(1) The Committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. the resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader of their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

(d) Certain Bills and Resolutions Received From Other House.—Notwithstanding the provisions of subsection (a), if under that subsection it is in order in the House of Representatives to consider a bill or resolution of the House, then it shall be in order to consider a companion or similar bill or resolution to the Senate; and if under that subsection it is in order in the Senate to consider a bill or resolution of the Senate, then it shall be in order to consider a companion or similar bill of the House of Representatives.

(e) Exceptions.—

(1) Subsection (a) shall not apply with respect to new spending authority described in section 401(c)(2)(C).

(2) Subsection (a) shall not apply with respect to new budget authority authorized in a bill or resolution for any provision of the Social Security Act if such bill or resolution also provides new spending authority described in section 401(c)(2)(C) which, under section 401(d)(2)(A), is excluded from the application of section 401(b).

(f) Study of Existing Spending Authority and Permanent Appropriations.—The Committees on Appropriations of the House of Representatives and the Senate shall study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

Sec. 403. (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the [4] *five* fiscal years following such fiscal year, together with the basis for each such estimate;

(2) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the [four] *five* fiscal years following such fiscal year, together with the basis for each such estimate; and

(3) a comparison of the estimate of costs described in paragraph (1) and (2) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

(b) For purposes of subsection (a)(2), the term "local government" has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

(c) For purposes of subsection (a)(2), the term "significant bill or resolution" is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

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BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES

Sec. 605. (a) On or before November 10 of [each year (beginning with 1975)] *each even-numbered year (beginning with 1982)*, the President shall submit to the Senate and the House of Representatives the estimated outlays and proposed budget authority which would be included in the Budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for [the ensuing fiscal year] *each fiscal year in the two-fiscal-year period beginning in the following odd-numbered year* if all programs and activities were carried on during [such ensuing fiscal year] *each such fiscal year* at the same level as the fiscal year in progress and without policy changes in such programs and activities. The estimated outlays and proposed budget authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency"), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying the estimated outlays and proposed budget authority, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated outlays and proposed budget authority so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each *even-numbered* year.

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YEAR-AHEAD REQUESTS FOR AUTHORIZATION OF NEW BUDGET AUTHORITY

Sec. 607. Notwithstanding any other provision of law, any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins. In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be submitted for at least the first 2 fiscal years.

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EXERCISE OF RULEMAKING POWERS

Sec. 904. (a) The Provisons of this title (except section 905) and of titles I, III, and IV and the provisions of sections 606, 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extend as in the case of any other rule of such House.

(b) Any provision [title III or IV] *title III (except section 304) or title IV* may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconcilliation bill, or rescission bill, as the case may be.

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BUDGET AND ACCOUNTING ACT, 1921

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PRESIDENT TO TRANSMIT BUDGET TO CONGRESS

[Sec. 201. (a) The President shall transmit to Congress during the first fifteen days of each regular session, the Budget, which shall set forth his Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—]

Sec. *201. (a) The President shall transmit to Congress during the first fifteen days of the first regular session of each Congress the Budget for the two-fiscal-year period beginning on October 1 of the year in which such session occurs. The Budget shall set forth the President's Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—*

(1) functions and activities of the Government;

(2) at such times as may be practicable, information on program costs and accomplishments;

(3) Any other desirable classifications of data;

(4) a reconciliation of the summary data on expenditures with proposed appropriations;

(5) estimated expenditures and proposed appropriatons necessary in his judgment for the support of the Government for [the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period,* except that estimated expenditures and proposed appropriations for such years for the legislative branch of the Government and the Supreme Court of the United States shall be transmitted to the President on before October 15 of each *even-numbered* year, and shall be included by him in the Budget without revision;

(6) estimated receipts of the Government during [the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period,* under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

(7) actual appropriations, expenditures, and receipts of the Government during the last completed fiscal year;

(8) estimated expenditures and receipts, and actual or proposed appropriations of the Government during the fiscal year in progress;

(9) balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condition of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* if the financial proposals contained in the Budget are adopted;

(10) all essential facts regarding the bonded and other indebtedness of the Government;

(11) such other financial statements and data as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government;

(12) with respect to each proposal in the Budget for new or additional legislation which would create or expand any function, activity, or authority, in addition to those functions, activities, and authorities then existing or as then being administered and operated, a tabulation showing—

(A) the amount proposed in the Budget for appropriation and for expenditure in [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* on account of such proposal; and

(B) the estimated appropriation required on account of such proposal in [each of the

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four fiscal years, immediately following that ensuing fiscal year] *each of the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period*, during which such proposal is to be in effect; and

(13) an allowance for additional estimated expenditures and proposed appropriations for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period*, and an allowance for unanticipated uncontrollable expenditures for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period.*

During the first fifteen days of the second regular session of each Congress, the President shall transmit to the Congress any revisions the President considers appropriate in the Budget transmitted in the first regular session of that Congress.

(b) The President shall transmit to the Congress, on or before July 15 of each *odd-numbered* year, a supplemental summary of the Budget for the ensuing [fiscal year] *two-fiscal-year period* transmitted to the Congress by the President under subsection (a) of this section. Such supplemental summary—

(1) shall reflect with respect to [that ensuing fiscal year] *each fiscal year in that ensuing two-fiscal-year period*—

(A) all substantial alterations in or reappraisals of estimates of expenditures and receipts, and

(B) all substantial obligations imposed on that budget after its transmission to the Congress;

(2) shall contain current information with respect to those matters covered by subparagraph (8) and clauses (2) and (3) of subparagraph (9) of subsection (a) of this section; and

(3) shall contain such additional information, in summary form, as the President considers necessary or advisable to provide the Congress with a complete and current summary of information with respect to that Budget and the then currently estimated functions, obligations, requirements, and financial condition of the Government for [that ensuing fiscal year] *each fiscal year in that ensuing two-fiscal-year period.*

(c) The President shall transmit to the Congress, on or before July 15 of each year, in such form and detail as he may determine—

(1) summaries of estimated expenditures, for [the first four fiscal years following the ensuing fiscal year] *each fiscal year in the first two of the two-fiscal-year periods following the ensuing two-fiscal-year period* for which the Budget was transmitted to the Congress by the President under subsection (a) of this section, which will be required under continuing programs which have a legal commitment for future years or are considered mandatory under existing law; and

(2) summaries of estimated expenditures, in [fiscal years following such ensuing fiscal year] *each fiscal year in the first two of the two-fiscal-year periods following such ensuing two-fiscal-year period*, of balances carried over from such [ensuing-fiscal-year] *ensuing two-fiscal-year period.*

(d) The Budget transmitted pursuant to subsection (a) of this section for [fiscal-year] *two-fiscal-year period* shall set forth separately, *for each fiscal year in such two-fiscal-year period*, the items enumerated in section 301(a)(1)–(5) of the Congressional Budget and Impoundment Control Act of 1974.

(e) The Budget transmitted pursuant to subsection (a) of this section for [each-fiscal-year] *each two-fiscal-year period* shall set forth the levels of tax expenditures under existing law for [such-fiscal-year] *each fiscal year in such two-fiscal-year period* (the tax expenditure budget), taking into account projected economic factors, and any changes in such existing levels based on proposals contained in such Budget. For purposes of this subsection, the terms "tax expenditures" and "tax expenditures budget" have the meanings given to them by section 3(3) of the Congressional Budget and Impoundment Control Act of 1974.

(f) The Budget transmitted pursuant to subsection (a) of this section for each [fiscal-year] *two-fiscal-year period* shall contain—

(1) a comparison, for the last [completed-fiscal-year] *two completed fiscal years*, of the total amount of outlays estimated in the Budget transmitted pursuant to subsection (a) of this section for each major program involving uncontrollable or relatively uncontrollable outlays and the total amount of outlays made under each such major program during *each* such fiscal year;

(2) a comparison, for the last [completed fiscal year] *two completed fiscal years*, of the total amount of revenues estimated in the Budget transmitted pursuant to subsection (a) of this section and the total amount of revenues received during *each* such year, and, with respect to each major revenue source, the amount of revenues estimated in the Budget transmitted pursuant to subsection (a) of this section and the amount of revenues received during *each* such year; and

(3) an analysis and explanation of the difference between each amount set forth pursuant to paragraphs (1) and (2) as the amount of outlays or revenues estimated in the Budget submitted under subsection (a) of this section for *each* such fiscal year and the corresponding amount set forth as the amount of outlays made or revenues received during *each* such fiscal year.

(g) The President shall transmit to the Congress, on or before April 10 and July 15 of each *odd-numbered* year, a statement of all amendments to or revisions in the budget authority requested, the estimated outlays, and the estimated receipts for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* set forth in the Budget transmitted pursuant to subsection (a) of this section (including any previous amendments or revisions proposed on behalf of the executive branch) that he deems necessary and appropriate based on the most current information available. Such statement shall contain the effect of such amendments and revisions on the summary data submitted under subsection (a) of this section and shall include such supporting detail as is practicable. the statement transmitted on or before July 15 of any *odd-numbered* year may be included in the supplemental summary required to be transmitted under subsection (b) of this section during such year. The Budget transmitted to the Congress pursuant to subsection (a) of this section for any [fiscal year] *two-fiscal-year period*, or the supporting detail transmitted in connection therewith, shall include a statement of all such amendments and revisions with respect to the [fiscal-year] *two-fiscal-year period* in process made before the date of transmission of such budget.

(h) The Budget transmitted pursuant to subsection (a) of this section for each [fiscal year] *two-fiscal-year period* shall include information with respect to estimates of appropriations for *each fiscal year in* the next succeeding [fiscal year] *two-fiscal-year period* for grants, contracts, or other payments under any program for which there is an authorization of appropriations for [such succeeding] *each such* fiscal year and such appropriations are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

(i) The Budget transmitted pursuant to subsection (a) of this section for [each fiscal year, beginning with the fiscal year ending September 30, 1979] *each two-fiscal-year period, beginning with the two-fiscal-year period beginning October 1, 1983*, shall contain a presentation, *for each fiscal year in such two-fiscal-year period*, of budget authority, proposed budget authority, outlays, proposed outlays, and descriptive information in terms of—

(1) a detailed structure of national needs which shall be used to reference all agency missions and programs;

(2) agency missions; and

(3) basic programs.

To the extent practicable, each agency shall furnish information in support of its budget requests in accordance with its assigned missions in terms of Federal functions and subfunctions, including mission responsibilities of component organizations, and shall relate its programs to agency missions.

(j) Whenever the Interstate Commerce Commission submits any budget estimate or request, other budget information (including manpower needs), legislative recommendations, prepared testimony for congressional hearings, or comments on legislation, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No officer or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by such Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.●

By Mr. BOSCHWITZ (for himself and Mr. RANDOLPH):

S. 2849. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; to the Committee on Labor and Human Resources.

HANDICAPPED INDIVIDUALS SERVICES AND TRAINING ACT

● Mr. BOSCHWITZ. Mr. President, I am introducing legislation designed to provide independent statutory authority for four programs that serve handicapped people. The Handicapped Individuals Services and Training Act has four titles.

TITLE I

Establishing independent permanent authorization for the Helen Keller National Center for Deaf Blind Youth and Adults. The center was founded in 1969 in Sands Point, N.Y., to provide intensive, specialized rehabilitative services and training to people who are both deaf and blind. This bill authorizes $3.5 million to be appropriated in fiscal year 1984 for the center. The Federal Government has already invested $10 million in capital, equipment, and operating funds.

TITLE II

Establishes a 5-year authorization for the Vinland National Center for Physical Fitness and Healthsports for Handicapped Individuals. The Kingdom of Norway gave the U.S. Government $200,000 as a bicentennial gift for the purpose of establishing the Vinland National Center in Minnesota. The Minnesota State Legislature matched the Norwegian gift in 1977. Vinland Center has also received Federal grants from the Department of Health and Human Services and the Department of Education.

The Vinland National Center is dedicated to the concept that healthsports and physical fitness can enhance the lifestyle of most disabled people and offer the opportunity to improve health and job productivity. This bill authorizes $2.65 million in appropriations for Vinland in fiscal year 1984, $2 million of this is to be used for construction.

TITLE III

Establishes a 5-year authorization for the regional postsecondary education programs for the deaf operated at St. Paul Technical Vocational Institute in St. Paul, Minn., California State University at Northridge, the Central Community College of Seattle, Wash., and the Delgado College in New Orleans, La. These programs have been providing postsecondary education for deaf students since the late 1960's. This program allows deaf students to participate in existing postsecondary programs with the help of support services provided with funding from the regional education program.

St. Paul TVI will be serving 150 deaf students this fall, and they have served over 1,400 deaf students since the late 1960's. Students have come to St. Paul TVI from 39 States, the District of Columbia, and Canada. They provide interpreting, counseling, notetaking, and tutoring as support services for their deaf students. In addition, the deaf students may attend a 6-week "prep" course designed to teach them independent living skills and to help them choose the course of study they want to pursue.

This bill authorizes appropriations of $4 million for the regional postsecondary education programs. This is the same as the current authorization although it is appropriated at $2.95 million.

TITLE IV

Establishes independent authorization for the captioned film services for the deaf. These services have been funded by Congress since 1959. The authorized appropriations for this are $17.5 million.

This legislation seeks to insure that three programs that serve handicapped people that have been classified as "discretionary programs" are preserved. In these times of fiscal restraint the funding for many of the discretionary programs has been greatly reduced without carefully studying the impact on individual programs. I am a supporter of the President's efforts to get Federal spending under control. However, I feel it is incumbent on those of us who do support controlling Federal spending and the reconciliation process to find ways to insure that programs that are particularly effective are preserved.

This will insure four different programs that provide effective services for the handicapped continue to receive Federal support.●

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2850. A bill to authorize the transfer of the St. Louis Airport storage site from the city of St. Louis, Mo., to the Department of Energy; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN PROPERTY

Mr. EAGLETON. Mr. President, today I am introducing a bill to transfer the title of a 21-acre tract of land, commonly referred to as the St. Louis Airport storage site, from the city of St. Louis to the Department of Energy's radioactive remedial program.

It is the first step in resolving the complex issue of St. Louis, Mo.'s, remedial waste problem. I have been concerned for years over the potential hazards to public health and safety posed by the various radioactive waste sites scattered around St. Louis. These areas contain residue left from the development and use of atomic energy under the Manhattan project of World War II. Unfortunately, the Government's emphasis at that time was on development of technology and production of nuclear materials for the Nation's defense and security. Little, if any, though was given to the long-term problem of the waste the project left behind. When the project was over, the Government cleaned up the sites according to the few health and safety guidelines around, and moved on.

Since then, the guidelines have become more restrictive in regard to radioactive waste. The Department of Energy in 1972 began a new program to identify and clean up these old sites. For St. Louis, it meant the beginning of endless negotiations and efforts to consolidate the six sites for temporary storage, and the quest for an answer to the question of what to do permanently with the material.

Of course, no one wants the waste to be stored in their community. No one wants it laying in open ditches and mounds in their community, either. Two years ago, the Department of Energy suggested consolidating two of the more open sites onto the 21-acre site, formerly owned by the Atomic Energy Commission, at the St. Louis Airport. The city of St. Louis had taken ownership of the site in March 1972, hoping to use the acreage for expansion of the airport. The airport authority has now decided that the land is unnecessary for its expansion plans, and is willing to return the site to the Department of Energy. The Department has been interested in the site, but under its current authority cannot accept the land without congressional authority.

So, the Department of Energy went back to the drawing board, and a few months ago announced that it had a new plan of action. Rather than wait for Congress to pass legislation to transfer the title, DOE would ship the material from the two sites out to another radioactive waste site in Weldon Springs, about 30 miles from St. Louis. DOE thought there would be little opposition to this plan. Weldon Springs had a raffinate pit nearly empty. The plan seemed so good that the Department began to think bigger and bigger. By the time Department of Energy officials met with Missouri congressional offices, DOE had plans not only to move Missouri's waste to Weldon Springs, but waste from other Midwest States as well.

To make a long story short, 2,000 residents of St. Charles County turned out last Tuesday night to protest the Department of Energy's plan to make Weldon Springs a radioactive dump site. There are many problems associated with the Department of Energy plan, including new geological data questioning the soundness of pit No. 4 at Weldon Springs to hold radioactive waste. In a two-page letter to the Department of Energy's Director of Technical Services Division at Oak Ridge, the Missouri State geologist noted that the raffinate pits are "in a geological setting that would allow contamination to ground water recharge if leakage were to take place."

Clearly, Weldon Springs is not the answer to St. Louis radioactive waste problem. Much more study must be done at the site to determine its viability. It appears that St. Louis is back to square 1 in its attempt to consolidate its waste.

My bill is an attempt to give the Department of Energy the opportunity to explore every feasible alternative,

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and to make its decision based on the best possible site, not the most expedient plan.

My bill in no way advocates that the St. Louis Airport storage site become the dump site for all Midwest States. I would fight against any effort of the Department of Energy to move other States' waste into Missouri, either at Weldon Springs or at the airport. I also am not saying that the airport site is the best place to move the Latty Avenue, West Lake, or Mallinckrodt waste. There are not enough studies available at this time to make such a decision. As the Missouri Department of Natural Resources Director, Fred Lasfer, points out in his letter to DOE:

> This site (SLAPSS) may have potential for development as extended temporary storage of on-site material and possibly material from other sites. This alternative should be thoroughly explored and evaluated as part of the overall remedial action program for Missouri sites. We do not believe this has been done yet.

This bill will open up new choices for St. Louis radioactive waste. It may be the solution to one of the problems of the six sites: Providing for temporary storage of the St. Louis Airport ditch material, which now lays in open ditches along one of St. Louis most heavily traveled commuter roads. It may or may not be the solution for other Missouri local sites. Study and time will give us those answers.

Facing up to radioactive waste is difficult. It is an emotional subject. It is a scary one. It would be easy to say, let us gather it up and ship it to another State, but that is not a realistic answer. I am asking Congress to give Missouri one more option in its efforts to face up to this complex 20th-century problem.

Mr. President, I ask that the text of my bill be printed in full, along with the Missouri State letter to Mr. E. L. Keller of the Department of Energy.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Energy is authorized to accept the transfer of lands comprising the St. Louis Airport Storage Site, comprising 21.7 acres north of the St. Louis Airport in St. Louis, Missouri, from the City of St. Louis, Missouri to be utilized by the Department of Energy under its Remedial Action Program.

Missouri Department of
Natural Resources,
Jefferson City, Mo., August 2, 1982.

Mr. E. L. Keller,
Director, Technical Services Division, Department of Energy, Oak Ridge Operations, Oak Ridge, Tenn.

Dear Lea: The State of Missouri has long been concerned about the potential hazards to public health and the environment posed by the various sites containing radioactive wastes in St. Louis City and County and St. Charles County. We are encouraged that the Department of Energy appears to be moving forward with its remedial action program in Missouri. However, we must emphasize the following points regarding possible remedial actions.

1. We recognize the merits of consolidating the radio active waste material now located at six different sites in St. Louis City, St. Louis County and St. Charles County. This must be accomplished with acceptably low environmental risk, both during the transfer operation and in the long-term.

2. I have conferred with the Missouri State Geologist and his staff on the geologic suitability of the Weldon Spring property owned by the U.S. Government. It has been brought out that the Weldon Spring property probably has certain inherent geological limitations for solid waste facility siting and would require extensive examination before its suitability for that purpose could be determined. We believe that radioactive waste management would necessarily require close attention to geologic factors along with engineering procedures in the construction, operation, and maintenance of such a facility.

3. The contaminated quarry adjoining the Missouri River floodplain has been shown to be the source of radioactive contaminants in alluvial groundwater. This condition has not been remedied to date.

4. The raffinate pits, including the largest (No. 4) are in a geologic setting that would allow contamination to groundwater recharge if leakage were to take place. Soil materials at the pit site (as determined from existing drilling records) are such that leakage problems could be anticipated. Observation of pit No. 4 suggests that leakage may already be occurring, because the drainage ratio is approximately 2:1, yet the water level in the pit seems to remain stable.

5. If the Department of Energy wishes to develop a more permanent storage facility at the Weldon Spring property for the radioactive wastes there or at other locations, the State requests the following:

(a) A site investigation and evaluation thoroughly exploring both geologic limitations and engineering feasibility carried out in the general manner and detail specified in Missouri Hazardous Waste Regulations (10 CSR 25) so as to provide both DOE and its consultants and the Department of Natural Resources with a common reference document. We believe this to be a reasonable and fair request notwithstanding the questions that may exist as to the legal applicability of Missouri statutes and regulations.

(b) A thorough exploration and evaluation of all reasonable alternatives to such action.

6. We feel that a combination of natural materials at the Weldon Spring site plus proper engineering may provide for adequate stabilization of the radioactive wastes at the site and waste material that may be added.

7. The SLAPSS (St. Louis Airport Storage Site) location has been investigated by consultants (Weston–1981) and by Oak Ridge National Laboratory (1979) for DOE. This site may have potential for development as extended temporary storage of on-site material and possibly material from other sites. This alternative should be thoroughly explored and evaluated as part of the overall remedial action program for Missouri sites. We do not believe this has been done yet.

8. We are extremely reluctant to add to Missouri's radioactive waste problems with the importation of wastes from Texas, Iowa, Illinois and Ohio no matter how small the quantities or activity levels may be. We will vigorously oppose any importation of wastes unless site characterization studies and engineering planning for the solution to Missouri's existing problems proceed in a manner consistent with a high level of public health protection.

Sincerely,

Fred A. Lafser,
Director.

Mr. DANFORTH. Mr. President, work done at the Mallinckrodt plant in St. Louis, Mo., was critical to the development of the atomic bomb in World War II and to this Nation's nuclear energy program generally. Radioactive materials were processed there from 1942 to 1957.

Some of the contaminated scrap and radioactive residues were taken to a 22-acre site at the St. Louis Airport for disposal. The airport property subsequently was turned over to the city of St. Louis.

A radiological survey in 1978 found surface radiation levels above Federal guidelines at 10 locations on the airport site, and 2 spots away from the site where contaminated soil had eroded into ditches.

The Department of Energy wants to clean up those ditches, but it lacks the authority to use the airport site, the most logical repository, because the site belongs to the city of St. Louis. Instead, DOE has proposed to use a site at Weldon Spring in nearby St. Charles County. The suitability of the Weldon Spring site for this purpose has been called into question by State officials, however, and it seems clear that additional geological work is needed there.

In the meantime, there is the problem of the airport site. DOE and State officials agree that it is the best place to put the contaminated soil from the adjacent ditches, as long as the legal barriers can be surmounted.

Mr. President, this bill would do just that. I would convey the property back to the Department of Energy, and the Department then would be able to go forward under its remedial action program and consolidate the radioactive materials at the airport. Such an approach is a commonsense solution that will be more efficient and effective, and will save the taxpayers money. My colleague from Missouri and I hope to achieve quick enactment of this modest and straightforward legislation, and clear away this impediment to cleanup of the airport site.

By Mr. JOHNSTON (for himself and Mr. Long):

S.J. Res. 231. Joint resolution to authorize and request the President to designate the week of October 11, 1982, through October 17, 1982, as "National Get High on Life Week"; to the Committee on the Judiciary.

NATIONAL GET HIGH ON LIFE WEEK

● Mr. JOHNSTON. Mr. President, Justice Oliver Wendell Holmes once said that life is action: "The joy of life is to put out one's power in some natural and useful or harmless way. There is no other. And the real misery is not to do this." What he was saying is what we are saying here today to our young people: Live your life, don't drug it away. Your Nation, your family, your friends, and neighbors cannot afford to waste your joy, your strength, and your conscious participation in society.

Drug and alcohol abuse damages both individuals and society as a whole. Even if we are aware of the statistics, that, for instance in 1980, there were 650,000 alcohol-related traffic injuries and 25,000 deaths, what may escape us is the cost in human terms.

Each of those 675,000 people suffered fear, pain, and economic loss. Their friends, families, and fellow workers were frightened and inconvenienced. Their insurance companies paid the bills for vehicle damage, personal injury, and medical expenses. Society—the taxpayers—was forced to assume the burden of caring for those left disabled, handicapped, or jobless as a result of an alcohol-related accident, an avoidable, unnecessary accident.

The human and economic costs of drug abuse are even more appalling. Drug use, particularly by adolescents and young adults, increased 10- to 30-fold during the 1960's and 1970's. One study indicates that an individual using narcotics 3 days a week or more is involved in criminal activity 246 out of 365 days a year. A gigantic criminal empire is built on untaxed profits from the traffic in illegal drugs. These criminals have every incentive to recruit new and even younger users. The crime, fear, and violence generaged by illegal drugs has grayed the fabric of urban life.

Prevention of these abuses must be a national priority and we must address this problem on all levels, Federal, State, and local. Medical science is making progress in the areas of alcohol and drug research, and the treatment and prevention of alcoholism and addiction. A "National Get High on Life Week" will focus attention on the magnitude of the problem, and inspire our citizens to work in concert toward solutions.

For the United States, 1982 is a year of economic awakening. We have lived beyond our means, and massive budget deficits threaten to swamp us unless we relearn frugality. No society can afford the senseless, wasteful squandering of its resources. The citizens of America, particularly its young men and women, are our principal resource. We must encourage them to get high on life and use their powers joyfully as Justice Holmes urged, "to use them to their height . . . it is the one end that justifies itself." Otherwise, uncontrolled drug and alcohol abuse could rob the Nation of its future.●

ADDITIONAL COSPONSORS

S. 1698

At the request of Mr. Denton, the name of the Senator from Delaware (Mr. Biden) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

S. 1939

At the request of Mr. Goldwater, the name of the Senator from Illinois (Mr. Dixon) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2149

At the request of Mr. DeConcini, the name of the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2300

At the request of Mr. Burdick, his name was withdrawn as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2784

At the request of Mr. DeConcini, the names of the Senator from Mississippi (Mr. Cochran), the Senator from South Dakota (Mr. Pressler), and the Senator from Indiana (Mr. Quayle) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2788

At the request of Mr. Grassley, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 2788, a bill to restrict the distribution of material involving the sexual exploitation of minors.

S. 2837

At the request of Mr. Garn, the names of the Senator from Nevada (Mr. Laxalt) and the Senator from Georgia (Mr. Mattingly) were added as cosponsors of S. 2837, a bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. Hatch, the name of the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 200

At the request of Mr. Glenn, the name of the Senator from Maine (Mr. Mitchell) was added as a cosponsor of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. East, the names of the Senator from Alabama (Mr. Denton), the Senator from Washington (Mr. Gorton), and the Senator from Georgia (Mr. Nunn) were added as cosponsors of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 209

At the request of Mr. Levin, the names of the Senator from Washington (Mr. Gorton), the Senator from Utah (Mr. Hatch), the Senator from Hawaii (Mr. Matsunaga), and the Senator from Illinois (Mr. Dixon) were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 226

At the request of Mr. Cochran, the names of the Senator from Georgia (Mr. Nunn), the Senator from Kentucky (Mr. Ford), the Senator from Minnesota (Mr. Durenberger), the Senator from Georgia (Mr. Mattingly), the Senator from Colorado (Mr. Armstrong), the Senator from Montana (Mr. Baucus), the Senator from Alaska (Mr. Stevens), the Senator from New York (Mr. D'Amato), and the Senator from Virginia (Mr. Harry F. Byrd, Jr.) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'Amato, the names of the Senator from New Mexico (Mr. Domenici), the Senator from Ohio (Mr. Glenn), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 411

At the request of Mr. Pryor, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of Senate Resolution 411, a resolu-

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tion expressing the sense of the Senate that the Secretary of Health and Human Services should not adopt as final rules proposed rules issued on May 24, 1982, relating to survey and certification procedures for nursing homes and other health care facilities and suppliers participating in medicare and medicaid programs.

AMENDMENT NO. 2006

At the request of Mr. Grassley, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of amendment No. 2006 intended to be proposed to S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

AMENDMENT NO. 2029

At the request of Mr. Baker, the names of the Senator from Virginia (Mr. Warner), the Senator from Arizona (Mr. DeConcini), the Senator from Idaho (Mr. Symms), the Senator from New Mexico (Mr. Schmitt), the Senator from Iowa (Mr. Jepsen), the Senator from Oklahoma (Mr. Nickles), and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of amendment No. 2029 proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

At the request of Mr. Quayle, his name was added as a cosponsor of amendment No. 2029 proposed to House Joint Resolution 520, supra.

AMENDMENT NO. 2032

At the request of Mr. Grassley, the name of the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of amendment No. 2032 intended to be proposed to H.R. 5427, a bill to authorize support to Radio Broadcasting to Cuba, Incorporated.

SENATE CONCURRENT RESOLUTION 116—CONCURRENT RESOLUTION RELATING TO A NATIONAL COAL EXPORT POLICY

Mr. RANDOLPH submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Con. Res. 116

Whereas the International Energy Agency concluded that an expanded coal trade is in part dependent on Government policies to facilitate coal development and usage;

Whereas the Heads of State of France, Italy, Japan, the Federal Republic of Germany, the United Kingdom, Canada, and the United States concluded at the 1979 economic summit meeting in Tokyo that their nations intend to double coal production and utilization by 1990, encourage long-term commitments by coal producers and consumers and improve infrastructures in both exporting and importing nations, and that these policies were reinforced during the 1980 economic summit meeting in Venice;

Whereas the Reagan Administration has followed the initiative taken by the previous Administration's interagency coal export task force by creating a coal interagency working group comprised of policy level representatives from twelve departments and agencies within the Federal Government concerned with the production, transportation, and exportation of coal and that the Administration has issued a coal export policy based on the belief that America's coal reserves can provide economic benefit to this Nation while providing coal consuming nations with a reliable and affordable source of energy;

Whereas the Department of Commerce has begun to engage in coal export promotion activities through information and counseling services, formulation of a United States coal contact list, publication of a foreign buyers worldwide trade list, and notification to foreign buyers worldwide trade list, and notification to foreign commercial service officers to assist in coal export promotion; Now therefore, be it *Resolved*, It is the sense of Congress that increased coal exports make an important contribution to this Nation's balance of trade, employment, and provide other coal consuming Nations with energy security, and that labor, industry, Government, and coal importers cooperate to increase world coal trade through precise efforts such as the recent Coal Trade Mission for the purpose of promoting United States coal exports, and that Congress must move forthwith in considering legislative measures to enhance the coal capability of ports and determines that such legislation should not reduce the competitiveness of coal exports through the imposition of user charges to recover 100 per centum of Federal expenditures at such ports, and that such legislation shall seek to expedite authorizations for port improvements, and assert that United States coal exports should not be subject to embargoes, and so requests the President to further strengthen and define a national coal export policy and to take only action which shall increase the markets for United States coal exports and to initiate bilateral conferences with potential coal trading partners to further the spirit of this resolution.

● Mr. RANDOLPH. Mr. President today I am submitting a concurrent resolution which expresses the sense of Congress that a national coal export policy is necessary to coordinate Federal activities with respect to increasing coal exports and to provide for a statement of intent regarding legislation seeking to stimulate coal port improvements.

One of the most ignored items in the area of international economic policy and trade involves the export of U.S. coal. Coal ranks 10th among all commodities exported by this Nation, and last year contributed $5.5 billion toward a favorable balance of trade. Strong international markets for coal will also have positive impact in terms of employment and economic rejuvenation.

I cannot stress enough the importance of U.S. coal exports in alleviating unemployment in the Appalachian mining industry, in improving our balance of trade, and in strengthening our ties with the world coal consuming community by providing nations with a source of potential energy security.

In 1981, the United States exported 110 million tons of coal, 28 percent of which was steam coal used for electrical generation. Approximately 50 percent of this tonnage was exported to Europe. West Virginia contributed half this tonnage, worth some $2.2 billion and creating 20,000 jobs in the mining industry.

Yet, there are underlying problems which must be addressed before this Nation realizes its full coal export potential. Our ports, cannot accommodate the large coal carrying vessels which are now being used. These "super colliers" of over 100,000 deadweight tons provide an alternative which competitors of U.S. coal trade are beginning to offer European customers. For this Nation to remain a viable force in the world coal market, our ports must be dredged to depths of at least 55 feet. If this is accomplished, the United States can retain its present market share, and continue to increase its export levels.

Legislation to accomplish this task must be expeditiously reported by the Congress. There is national benefit to increasing coal exports. I urge the administration to refrain from any actions which would jeopardize this potential, including the requirement of 100 percent recovery of Federal expenditures, for port improvements, operation, and maintenance.

Mr. President, in May a coal export mission under the direction of the Department of Commerce undertook a 9-day tour of Spain, Italy, France, and Belgium. The purpose of this mission was to demonstrate the U.S. commitment to European buyers of coal. I commend this along with other coal export promotional activities in the Department of Commerce. Hopefully, other such missions can stimulate additional interest in other regions of the world for U.S. coal. Because of a leveling off of domestic coal demand, increased exports are our best bet to put idle coal miners back on the job.

While this mission was an excellent beginning, I believe we should continue to counsel in bilateral conferences with potential coal trading partners and encourage the President to give further attention to national coal export policy.●

SENATE RESOLUTION 449—RESOLUTION RELATING TO HUMAN RIGHTS VIOLATIONS IN CONNECTION WITH THE TRANS-SIBERIAN PIPELINE

Mr. ARMSTRONG submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 449

Whereas the Soviet Union is proceeding with its plan to build the trans-Siberian pipeline, known as the Yamal Pipeline;

Whereas there is Senate testimony that massive use of forced labor may be used by the Soviet Union to complete its construction;

Whereas there are first-hand dissident reports that there are four to seventeen million Soviet citizens now being held in some 2,000 work camps in the Soviet Union and that there are persistent published reports of agreements to deport forcibly up to a half-million laborers from Vietnam to Soviet Union concentration camps in direct violation of international agreements;

Whereas the Vietnamese Government under the 1973 Paris Peace Agreements which were signed by former Secretary of State Rogers and North Vietnamese Foreign Minister Nguyen Duy Trinh guaranteed freedom of residence and freedom of work;

Whereas there is concern that political prisoners from Poland and other Soviet satellite countries may also be forced to work on the Yamal Pipeline;

Whereas there have been estimates by Soviet dissidents of enormous loss of lives of workers forced to do the heavy, dirty, dangerous work in Soviet labor camps under sub-human conditions;

Whereas if allegations of forced labor prove to be true, the participation of the West in furnishing either technology or financing to make the construction of the pipeline possible is tantamount to unwitting collaboration by the West in one of the most massive abuses of human rights in history;

Whereas the United States stands, as it has always stood, in the forefront of the struggle for freedom and dignity of every human being: Now, therefore, be it

Resolved, it is the sense of the Senate that—

(1) the Secretary of State should—

(A) investigate the extent to which forced labor will be employed and human rights violated in the construction of the trans-Siberian pipeline and to cooperate with other Western nations which also seek to investigate such violations; and

(B) report back to the Congress within 30 days with his preliminary findings and with a final report by January 1, 1983;

(2) the heads of the appropriate Federal agencies should take the steps necessary to assure that the United States is abiding by existing treaties respecting the importation of goods produced with slave labor.

Mr. ARMSTRONG. Mr. President, today I am submitting a resolution calling upon the State Department to investigate charges that forced laborers and many political prisoners are being kept in some 2,000 camps across the Soviet Union to work on the trans-Siberian Yamal gas pipeline, and similar projects. The resolution also calls for investigation of charges that 500,000 Vietnamese workers are being forced to relocate, over the next 5 years, to the Soviet Union

This Senate resolution and the profound questions it raises is an appeal to the conscience of America.

Reports have persisted over the past year that workers living in subzero temperatures and under unclean, inhumane conditions are and will be providing much of the unskilled labor—land clearing, equipment moving, et cetera—needed to build projects similar to the 3,600-mile, $10-$14 billion Siberia-to-West Germany pipeline.

Any Western nation considering, or willing to, participate in such a Soviet trade venture should favor a thorough investigation of these unnerving charges. If true, they turn short-term economic benefit from such a deal into complicity with a pipeline holocaust, and make such nations coconspirators in a massive human rights abuse.

On June 18 the Senate Banking Committee's Subcommittee on International Finance held special oversight hearings on the proposed trans-Siberian natural gas pipeline.

The hearings were the first official response by any government body within the Western alliance to the grave charges that the pipeline is being built with what can only be described as slave labor.

The subcommittee heard testimony from four witnesses:

Mikhail Makarenko, who served more than 11 years in Soviet labor camps, mostly between 1970 and 1978, and who testified on conditions in the camps today. He presented oral, written, and documentary film testimony that 4 to 17 million men, women, and children—arrested mostly for political offenses—are now engaged in forced labor in the Soviet Union. Mr. Makarenko testified that between 500,000-600,000 prisoners die every year in projects like the Yamal pipeline from starvation, severe cold, disease, and hazardous working conditions. Mr. Makarenko said the nutrition provided for these hard labor prisoners is often lower than half the amount received by prisoners in the Nazi death camps of Auschwitz and Buchenwald.

Ms. Le Thi Ahn of the Vietnamese Information Bureau and Mr. Doan Van Toai, author of the "Vietnamese Gulag," told the subcommittee that an estimated 500,000 Vietnamese are being sent from so-called reeducation camps in Vietnam to do forced labor in the Soviet Union under agreements between the Soviet and Vietnamese regimes. Mr. Toai, a former official of the National Liberation Front, was imprisoned by the North Vietnamese when he refused to go along with their Stalinist policies after the fall of South Vietnam. Following his release from prison, he wrote his book outlining the result of an arrangement of sending forced labor to the Soviet Union in payment for Vietnam's war debt to the Soviets. Ms. Ahn presented letters from relatives of Vietnamese now held in Soviet labor camps. She brings with her today an actual letter from one of the internees, which she obtained through Vietnamese sources in a third country. According to Ms. Ahn and Mr. Toai, many of these prisoners are political refugees—the tragic "boat people" of Vietnam who were picked up at sea by Soviet naval and merchant ships and routinely interned in the Soviet Union. We will have more to say on this subject later this morning.

Mr. Zdislaw Rurarz, the former Polish Ambassador to Japan. He is an internationally known economist—holder of a Ph. D. and two post doctoral degrees from the Central School for Planning and Statistics in Warsaw. Prior to assuming his ambassadorial post, he served as economic advisor to the chief of the Polish Communist Party, as Poland's permanent representative to the general agreement on tariff and trade negotiations, and as the economic attaché to the Polish Embassy here in Washington.

Dr. Rurarz testified as an economist and as a former high Communist official that the Yamal pipeline must—like all major construction projects undertaken in the Soviet Union—necessarily be built with conscript labor. Dr. Rurarz cited economic evidence strongly suggesting that without the additional billions of dollars in hard currency which the Soviets expect to earn from the pipeline deal, the entire Soviet system—including its network of concentration camps—could be paralyzed.

Since the June 18 hearings a number of significant developments have occurred: Just a few hours after the Senate hearings President Reagan announced imposition of his long-considered sanctions against the Yamal pipeline project. In the weeks following that announcement, a number of European leaders criticized the Reagan sanctions and announced their intention to go forward regardless with the pipeline construction and the 7½ percent low interest credits designed to insure its completion. And 2 weeks ago, the International Sakharov Committee appealed to French and German leaders—according to a UPI wire report—to investigate the use of forced labor on the Yamal pipeline. The committee stated that a number of well-known Soviet dissidents have been arrested and sent to Siberia for forced labor on the pipeline.

I note with consternation the response of members of the European Common Market. It is ironic that the very countries so persecuted and enslaved in World Wars I and II look the other way from similar human rights abuse aspects of an otherwise lucrative business deal. Surely the atrocities of the 1930's and 1940's will not be forgotten in a moment of financial temptation.

It is to this mounting evidence of continuing and widespread disregard for the Helsinki human rights accords by the Soviet authorities that we address ourselves today, and I fervently hope that finally, overdue attention and support will come also from officials of Western European governments.

I have obtained, through the assistance of the Vietnamese Information Bureau, a letter written by a Vietnam-

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ese prisoner now working in the Soviet Union. To protect the author of this account of a day in the life of modern Soviet political prisoners from certain reprisal or execution, the name of the individual and the location of the forced labor battalion has been withheld.

I would, however, like to read an excerpt of the letter which I believe will give an accurate picture of what a project like this pipeline will cost in human terms in the Soviet Union:

> "* * * It is already two months since I last heard from my family in Vietnam—I do not know what the future has in store for me in this place * * *. Here I speak a "pidgin" Russian, because I learn it in the workplace, moreover, I am being tightly controlled, all around me are the bo dor, the North Vietnamese soldiers. The unit is composed mostly of northerners, there are not much contacts. Everything has to go through the cadres. That's the rule * * *. I am resigned to this fate for a few years (three to five years) * * *. The pay is very low, and living conditions in this infamous area are very cruel, very harsh. I can summarize it in one sentence: my life here is several times poorer and harsher than in Vietnam. Add to this, homesickness, cut off from friends * * *. I take it for granted that my life is finished * * *. The life of exiles like you and me, what does the future have in store for us, and for our country? The more I think about it, the more I see it clouded in uncertainty and difficulties * * *. I sure think about some way to get out of here * * *. I have considered a lot of routes, running from one place to another * * *. I feel even more that our life is like that of wandering animals, drifting in sadness, despair and worries * * *. I am extremely disillusioned by the word socialism! * * * Can you spare some money? Can you send me a few clothes? I tell you truly, I have just two sets of clothes and two pairs of shoes and one woolen sweater and one nylon coat and one fur hat. Just that to get me through winter * * *."

Given the evidence thus far presented and the charges of mass terror and forced labor, it is the feeling of many here in the Senate that the Soviets should be prepared to cooperate in a full and complete investigation by the Red Cross or some other independent international commission. Western nations, too, should be willing—in fact, anxious—to have these grave allegations thoroughly aired.

That is why I am asking the Senate to direct the State Department to investigate the extent to which forced labor is or will be employed in construction of the Yamal pipline, and report back to the Senate within 30 days on preliminary findings, with a final report due January 1, 1983. My resolution will also remind Federal agencies to abide by existing U.S. law and treaties respecting importations of goods produced with slave labor. I also note that the Governments of the U.S.S.R., the United Kingdom, France, Germany, and Italy are parties to the treaties to which I refer.

I also have written to President Reagan this morning advising him of this proposal to be considered by the Senate.

Some months ago we began looking into this question of Soviet forced labor camps involved in the Yamal pipeline, which has been called the largest East-West trade measure in history. Evidence we have encountered clearly points to a modern-day slave trade which rivals in scale, scope, and suffering the Nazi concentration camps of 40 years ago.

There are many today—both in Europe and in our own country—who would rather not discuss or even think about the character of the regime with which they so earnestly wish to trade.

But I for one feel—and I'm sure that the representatives of the Polish, Vietnamese, and Russian people, with us in this room right now would agree—that we, the free peoples of the West, must consider the moral consequences of our own actions.

In pressing the claims of these silent millions before the court of world opinion, I believe we can find a worthy model in the great American abolitionist William Loyd Garrison who—in answer to critics of his outspoken campaign against human enslavement said: "I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch; and I will be heard."

SENATE RESOLUTION 450—BUDGET WAIVER WITH RESPECT TO CONSIDERATION OF S. 1844

Mr. McCLURE, from the Committee on Energy and Natural Resources, updated the following original resolution, which was referred to the Committee on the Budget:

S. Res. 450

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1844. Such waiver is necessary because S. 1844, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit Congressional consideration of S. 1844, a bill to facilitate the development of interstate coal pipeline distribution systems. The likelihood that the Committee on Energy and Natural Resources would report such a legislative initiative was reflected in its March 8, 1982, report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization; enactment of S. 1844 is not expected to interfere with or delay the appropriations process.

Any costs to the Federal Government, which are not expected to be significant, could be offset by payments to the Federal Government for (a) the fair market value of coal precluded from being recovered or (b) any reduction of the fair market value of Federal coal which would be more costly to recover because of the pipeline system.

AMENDMENTS SUBMITTED FOR PRINTING

DEBT LIMIT EXTENSION

AMENDMENTS NOS. 2033 AND 2034

(Ordered to be printed and lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2035

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. DIXON, Mr. HEINZ, Mr. LEVIN, Mr. RIEGLE, and Mr. EAGLETON) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 520, supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, there will be a full committee field hearing on rural crime on Monday, August 23, 1982, at 9:30 a.m. in Contois Auditorium in City Hall in Burlington, Vt. Senator LEAHY will preside.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on S. 2629, Budget Reform Act of 1982 on Thursday, August 19, 1982, at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Mary Lewis at 224-4751.

ADDITIONAL STATEMENTS

STONE WALLS AND STONE WALLS

● Mr. SYMMS. Mr. President, for some time there has been a controversy raging over the modern-day news feature known as the documentary. These are the network specials, usually at least an hour in length, where the TV newsmen take an indepth look at some particular controversy or program.

This type of feature has not been without its critics. There are those who have charged from the beginning that these documentaries document nothing as much as their producers' prejudices and biases. Thus there was terrific controversy over such major productions as "Hunger in America," "The Selling of the Pentagon," and

"Hearts and Minds," which was not, I believe a network production, but done independently by a former network producer.

The most recent controversy has surrounded a CBS documentary broadcast last January. Entitled "The Uncounted Enemy: A Vietnam Deception," the central thesis of this broadcast was that military officials in Vietnam understated to President Johnson the strength of the Vietcong and the North Vietnamese enemy, thus leading him to continue a war that would otherwise have been given up as unwinnable.

My own judgment is that, however reluctant the military, primarily Gen. William Westmoreland, might have been to make intelligence figures public, Lyndon Johnson certainly knew what was going on, since he read raw intelligence figures being reported from the field. Furthermore, although the public might not have been prepared for the Tet offensive, the military was prepared, and won the battle of Tet. It is the failure of the news media to report that story accurately that led to the failure of support for the war on the homefront. The events in the field proved that the war was indeed winnable.

But whatever the truth of that argument, the interesting thing going on right now is the reaction to the documentary, the charges and countercharges surrounding it, and CBS' reaction to all this.

As soon as "The Uncounted Enemy" was broadcast, there were criticisms voiced that facts and figures were distorted, the story was simplified to a point that it was fatally distorted, and that important rebuttal points were ignored. Much of this criticism came from "Accuracy in Media," the best of the media watchdog groups.

In terms of public impact, however, a highly critical article in TV Guide was probably more important. TV Guide has enormous circulation, among precisely the people who would have seen the original broadcast. So when TV Guide charged that the documentary was biased and unfair, CBS had to listen. It did so by undertaking its own investigation of the program.

The results of the CBS investigation are now in—though not made public—and it is the reaction to this investigation which is what primarily interests me today. CBS found that the documentary was basically accurate, but admitted that it should not have used the word "conspiracy" to describe the coverup in troop strength figures, and that the documentary violated five of CBS' principles of news coverage.

Fair enough. It would be too much to hope for that CBS might say, "yes, it was a hatchet job on Westmoreland, and we are firing all those responsible." An admission of some culpability is about the most that can reasonably be expected in a world where backsides must always be firmly covered.

But even this limited admission is too much for some. There are those who apparently feel that the media should be responsible to no one, and that it is a mistake ever to admit any possibility of error.

One such is the television critic of the Washington Post, Mr. Tom Shales, who produced a really incredible story on the CBS announcement of the results of its investigation. I am going to ask unanimous consent that this entire article be placed in the RECORD following my remarks, but before I do, I would like to call the attention of my colleagues to some of the statements made by Mr. Shales, and the attitudes they illuminate.

Mr. Shales likens this report to the messenger of bad news "bopping himself over the head," and complains that "instead of dispelling the cloud that had formed over the program, CBS News all but seeded it for rain." The possibility that that cloud contained some legitimate precipitation apparently does not occur to Mr. Shales.

"In terms of journalistic authority and reputation, CBS News is a giant and TV Guide a ridiculously tiny gnat. Why, then, should CBS News have bent over so far backward to entertain the accusations—in public yet—and risk imperiling the morale and reputation of its own staff in the process?" In other words, why not just stonewall the whole thing. After all, General Motors prestige and reputation are much greater than Ralph Nader's. Why should GM deign to answer Nader's charges? Is that what Mr. Shales is saying? It seems to be. Is there a possibility that the story really contained some inaccuracies, or slighted some important aspects of the story? Of course not. After all, CBS has enormous prestige and reputation.

Mr. Shales goes on to say, "If they're going to be this sheepish and equivocating about investigative reporting, maybe CBS News should also start apologizing for 'Harvest of Shame,' 'The Selling of the Pentagon,' 'The CIA's Secret Army * * *,' 'The Defense of the United States' and other landmark documentaries that have made CBS News unquestionably the most respected organization in broadcast journalism."

Well, maybe they should. After all, there have been many criticisms of these programs, some of them very well taken. In my view it is commendable that CBS is now, after several years of intense pressure, willing to entertain the thought that its news reporting might occasionally slight the truth. Those earlier documentaries were not subject to this kind of scrutiny, but I am confident that, if they were, they would reveal the same kind of errors that were made in "The Uncounted Enemy." Perhaps if the scrutiny had occurred on these earlier programs, "The Uncounted Enemy" would have been a better, more accurate program.

Most incredible of all, to me, is Mr. Shales attack on those who leaked to TV Guide internal CBS memos prepared at the time of the production of the documentary. He said, "One has to wonder about the attitude of whoever thought they were blowing a whistle * * * by leaking internal CBS memos, and gossip, to TV Guide."

This incredible sentence comes right after Shales bemoans the fate of the whistle-blower in our society. "He often gets the whistle shoved down his throat." Apparently he is unaware that that is exactly what he is trying to do to the CBS whistle-blower. The irony, the self-centered blindness of it all is too delicious.

The bottom line, for Shales, is "jeopardizing, in the public's mind, the reputation of an entire news organization." In other words, nothing should be allowed to raise questions for the public about the nature of the news business. This is unaccountability carried to extremes. I wonder if Mr. Shales is as critical of that "whistle-blower," Deep Throat, whose actions raised questions in the mind of the public about the reputation of the office of the Presidency.

Are not there cases where reputations ought to fall? Is it not true that sometimes the emperor is naked as a new-born? Might, just might, it be possible that CBS News is not infallible? Not for Shales. It just could not happen. After all, this is the organization of the great Edward R. Murrow, of Fred Friendly, both quoted approvingly in the Shales article. This is the organization of the legendary Bill Leonard and Frank Stanton, who would never have apologized. Shales recalls those days with longing.

The fact is, Mr. President, that the news media wield enormous power in our society. They are not elected, they are not accountable. The feeble attempts that have been made to impose some minimal restraints on the broadcast media have been ineffectual. In the case at hand, it is hard to escape the conclusion that General Westmoreland was, as Reed Irvine of "Accuracy in Media" said, tried in the press, without benefit of counsel. He was brought up for trial, interrogated, cross-examined, calumniated, and those who carried out the trial decided what part of his defense, if any, would be provided to the jury.

General Westmoreland has no means of communicating with the public except through the media of those who tried him in such a kangaroo fashion. That CBS has admitted some flaws in its performance is commendable, but it does not settle the

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problem, does not dispose of the generic difficulty. It is seriously distressing to read such a defense of an irresponsible media as that written by Mr. Shales.

At this point I would like to ask that the entire article be printed in the RECORD, so that my colleagues can see the lengths to which some people will go to defend the indefensible.

The article follows:

[From the Washington Post, July 19, 1982]

CBS' LAVISH APOLOGIA AND THE CHILL AFTER THE VIETNAM INQUEST

(By Tom Shales)

CBS has done more apologizing for an outstanding documentary on Vietnam than Richard Nixon ever did for Watergate.

Something is rotten in the state of Paleyville.

CBS News insiders and interested parties at other networks are privately expressing alarm and disbelief about the way CBS News handled an attack by TV Guide on a Jan. 23 documentary called "The Uncounted Enemy: A Vietnam Deception," which documented the manipulation of enemy troop strength by U.S. military intelligence during the Vietnam war. On Thursday, CBS News president Van Gordon Sauter issued an eight-page memo, the result of a six-week investigation, that stood by the documentary but found it guilty of five violations of CBS News "standards" and had other quibbles over such details as use of the word "conspiracy" in describing the scandal being exposed.

Killing, or at least impugning, the messenger who arrives with bad news is an old tradition, but you don't often find the messenger bopping himself over the head. Instead of dispelling the cloud that had formed over the program, CBS News all but seeded it for rain.

And this despite the facts that the central thesis of the program has never been disproven (it wasn't even seriously called into question by the TV Guide article): that those who made accusations of deliberate deception by military intelligence under Gen. William C. Westmoreland included military intelligence officers from Westmoreland's own command; and that none of these witnesses has since recanted his story, disavowed the documentary or been proved incorrect.

Indeed, some of those who appeared on the program—and others familiar with the research that led to the broadcast—wrote Sauter during the investigation to express their overhelming endorsement of the documentary and faith in its conclusions. George Allen, a former senior CIA officer who still does training work on contract with the agency, told Sauter in his letter that "a videotape of the show has been used in a professional development course for senior officers as a case study in ethics and intelligence, illustrating as it does the difficulty of maintaining the independence and objectivity—not to say integrity—of intelligence in a highly politicized situation."

In terms of journalistic authority and reputation, CBS News is a giant and TV Guide a ridiculously tiny gnat. Why, then, should CBS News have bent over so far backward to entertain the accusations—in public yet—and risk imperiling the morale and reputation of its own staff in the process? Because, extremely knowledgeable insiders say, Black Rock—CBS corporate headquarters in New York—applied immense pressure on Sauter to do so, for reasons that remain dark and mysterious and, to some within CBS, frightening.

Sauter has denied there was such pressure, but a key source says "It is a matter of fact" that there was; that Black Rock wanted someone—probably the documentary's producer, George Crile—fired over the controversy and that Sauter spent day upon day hammering out the compromise memo that was released last week. Among those with whom Sauter negotiated are Thomas Wyman, president of CBS Inc., Gene F. Jankowski, president of the CBS Broadcast Group, and, insiders believe, "The Chairman," William S. Paley himself, even though Paley was vacationing in Europe while the investigation went on.

No one knows at this point how wide the ramifications of this unsavory incident will be. One insider has noted that there is "a sea of piranha who would love to find a wound in broadcast journalism at the moment and rip it open," largely because network news is *perceived* to be anti-administration and any disparagement of the military-industrial establishment right now is deemed hostile.

The implications for investigative journalism in television—the most difficult kind to do—are not healthy. The CBS statement says the producers of "Uncounted Enemy" should have "sought out and interviewed more persons who disagreed with the broadcast premise" even though the statement affirms that the broadcast proved its premise correct. If they're going to be this sheepish and equivocating about investigative reporting, maybe CBS News should also start apologizing for "Harvest of Shame," "The Selling of the Pentagon," "The CIA's Secret Army" (produced by Crile), "The Defense of the United States" and the other landmark documentaries that have made CBS News unquestionably the most respected organization in broadcast journalism.

Maybe Ed Murrow should have found a few more folks who didn't think it was so tragic that migrant workers were being abused and exploited and hanging onto life by their fingernails.

Fred W. Friendly, the former CBS News president who now functions as a kind of guru and conscience for broadcast journalism, said Friday, "What worries me, and what I hope is addressed soon, is that the kind of tough, hard-hitting, fire-in-the-belly journalism that built CBS News will be chilled by this . . . The other two networks have never really done work in a class with CBS. CBS has done the tough ones. I'm not talking about my day, I mean in the last 10 years or so. This kind of thing could send a chill through there."

The fate of the documentary is another illustration of the sad lot of the whistleblower in our society; he often gets the whistle shoved down his throat. On the other hand, one has to wonder about the attitude of whoever thought they were blowing a whistle on Crile by leaking internal CBS memos, and gossip, to TV Guide. This source (or sources, as the authors of the TV Guide piece keep insisting) had to have observed the alleged offenses during the production of the documentary. Why didn't they bring them to the attention of CBS News executives then? Why wait until later and leak them to TV Guide, thus jeopardizing, in the public's mind, the reputation of an entire news organization?

Says Friendly, from his home in New York: "Something is wrong in the esprit de corps of a news organization where this kind of thing is happening."

Friendly also said that although he is "sad" to think about what could cause such disloyalty among the personnel of CBS Reports, "A news organization, like an athletic organization, is measured by its character when things aren't going so well. You judge news organizations by the way they act in adversity, and I'm very proud of the way CBS News has acted."

CBS News officials were pressured not only by the money-men at Black Rock but also by the CBS affiliates, and the story of "Uncounted Enemy" is also a case study in the changing relationship between a television network and its stations. Ten or 15 years ago, one broadcasting expert says, affiliates earned 30 to 40 percent of their revenues from their relationship with the network, but today that figure has plummeted to only 5, 6 or 7 percent. The networks must cower before affiliates they once could dictate to. This new affiliate clout—partly a result of the ongoing revolution in telecommunications technologies—is the principal reason no network has dared to mount a one-hour nightly news show, despite the news divisions' lust to do so, and probably won't attempt it for at least the next five years.

Everything changes, of course—even CBS News. The "Uncounted Enemy" mess is a baptism by fire for news president Sauter, who took over earlier this year. Naturally, there is in-house speculation about the way the matter would have been handled by the former news president, the distinguished William Leonard, who is vacationing in Europe and could not be reached for comment. Unlike Leonard and other predecessors, Sauter does not come from a strict news background. His other jobs at CBS have included chief censor and president of CBS Sports.

Another hallowed name that pops up in relation to this affair is that of Frank Stanton, the former CBS Inc. president who stood up to Congress and refused to turn over unused film from "Selling of the Pentagon" in 1971. There are no Frank Stantons at CBS any more. "Neither we nor anybody else is going to have a Frank Stanton again," one insider glumly notes. But there is a less attractive side even to this tale of seeming heroics. According to one veteran of that skirmish, despite the outward sign of solidarity, Peter Davis, producer of "Pentagon," was out of CBS about six months later (Davis is also in Europe, and also unreachable). He went on to produce, on his own, such documentaries as "Hearts and Minds" and, earlier this year, the "Middletown" series on public TV.

There are those within CBS who think that, after a few months of cooling off, Crile will quietly disappear from CBS as well. Another name mentioned as a possible sacrifice is Roger D. Colloff, the news vice president who was chiefly responsible for signing off on "Uncounted Enemy." Colloff, questioned late last week, said, "There are lots of rumors floating around" but did not want to comment on any of them. "Roger is nervous," one source said.

Reed Irvine, chairman of Accuracy in Media (AIM)—a big fish in that "sea of piranha"—said Friday, contentedly, "If I were Mr. Crile, I wouldn't make any long-term plans to be there for a long time." Irvine said he was "disappointed" in the CBS statement, thinks the network should be "pressured" to release the entire 68-page report on the investigation, and called the network's announcement of a new vice president to serve as an ombudsman "a vindication of what we have been urging for a long time."

By coincidence, Irvine said, he visited CBS the day the statement was released, meeting with Wyman, Jankowski and Sauter. The visit was arranged at an April CBS shareholder's meeting at which Irvine reportedly referred to Walter Cronkite as a "Communist dupe." Irvine said Friday that he did not call Cronkite a Communist "in so many words" but had charged that the former anchorman "has consistently, over the years, done a number of peculiar things, After the Tet offensive he came on the air and said it was a defeat for our side even though he'd been over there and knew that not to be true."

Irvine also recalled having said of Cronkite that "anyone who'd served in Moscow as a correspondent and not come back making anti-communist statements had to be under some suspicion."

This is the kind of mentality to which CBS News is catering with its lavish apologia.

All the brouhaha over "Uncounted Enemy," and all the arguing about whether the Vietnam deceptions constitute in the strictest literal sense a "conspiracy," obscure the deeper and more profound implications of the documentary and the reason it was made in the first place. Retired Col. George Hampshire said in his letter to Sauter that although it was painful for him to do so, he appeared on the documentary "in the hope that, for once, history won't be repeated."

Retired Lt. Richard G. McArthur, a principal analyst for Westmoreland's intelligence operation, said in his letter to Sauter, "My motive for appearing was to help inform the American people of how they were lied to during the war, with the sincere hope that such actions could be prevented in the future."

As principal investigator for the House Intelligence Committee in 1975, Greg Rushford looked into charges of intelligence manipulation in Vietnam brought by Sam Adams, who was a consultant to Crile for the documentary. In his letter to Sauter, Rushford wrote, "What a tragedy it will be for journalism is your internal investigation—like the shallow ones the CIA ran against Sam Adams—forces the George Criles out of the business. From my point of view, journalism needs more George Criles just as our government agencies need more Sam Adams."

A CBS correspondent responding to Sauter's statement last week tried to look on the bright side. He said something even worse had been expected and added, "At least it's not another bad day at Black Rock." But it was. It may have been a bad day for all of broadcast journalism.

NICHOLAS BERTRAM CELEBRATES 100TH BIRTHDAY

● Mr. LEVIN. Mr. President, I rise to pay tribute today to one of my constituents, Mr. Nicholas Bertram of Dearborn, Mich. This September 25, Nick will celebrate his 100th birthday.

Often such events are marked with a sense of awe and a sense of sadness: awe that one has enjoyed such a long life and sadness that this milestone is celebrated—all too often—alone. In the case of Nick Bertram, we can certainly feel the awe, but the sadness is replaced by envy. Nick will not be celebrating alone: his friends and fellow members of the Knights of St. John will be celebrating this event with a birthday celebration. A mass in Nick's honor will be conducted at St. Luke's Catholic Church after which there will be a reception hosted by the commanderies of the Detroit Regiment of the Knights of St. John, the Ladies Auxiliary and the Ladies Drill Team of the First District of Michigan.

Nick has had the pleasure of living almost all of his life on Bertram Street in Dearborn—a street named after his family. And given Nick's achievements in his 100 years, it is easy to understand why people would like to honor his family name. In addition to his employment history—at Michigan Central Railroad, Leland Falconer Motor Co., and the Cadillac Co. of General Motors—Nick has been an active member of his community. As well as being a member of the Knights of St. John, he is a loyal supporter of the union movement and he is always willing to help others no matter what their needs may be.

Mr. President, I join with all of Nick's friends in wishing him a happy birthday.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Laura Hudson of the staff of Senator J. Bennett Johnston, to participate in a program sponsored by a foreign educational organization, Soochow University in Taipei, Taiwan, from August 25 to September 3, 1982.

The committee has determined that participation by Ms. Hudson in the program in Taiwan, at the expense of Soochow University, to discuss trade and policy issues at the university, is in the interest of the Senate and the United States.●

SUPPLY-SIDE REBUTTAL

● Mr. GRASSLEY. Mr. President, most critics of supply-side economics have a poor understanding of its origin, its history, and its operation. Many have called it trickle-down economics, claiming that it helps the rich at the expense of the poor.

In most cases, those who would challenge the credibility of supply-side economics either refuse to admit to empirical evidence or simply lack a broad understanding of the history of economics. Most especially, those who claim that supply-side economics has been tried and has failed deal in the worst form of political demagoguery, be they politicans, commentators, or economists.

Mr. President, I would like, at this point, to have reprinted in the Record an article by Dr. Paul Craig Roberts from a recent issue of the New York Times. In the article, Dr. Roberts rebuts an onslaught against supply-side economics by conservative political analyst Kevin Phillips. Phillips, in his book "Post-Conservative America," says that supply-side economics is an attempt by Republicans to look back nostalgically, rather than forward, for answers to economic problems.

This rebuttal by Roberts gives a good, general insight into supply-side economics and its recent history. I ask that the article be printed in the Record for the benefit of my colleagues, lest they be tempted to abandon our policy of the sound dollar and lower taxes.

I also offer this in a continuing series of articles on tax history and tax reform. This on-going series is being offered in conjunction with a bill I have introduced, S. 2376, to study the feasibility of broad-based, low-rate alternative tax systems. This fall, the Senate Finance Committee will hold hearings on the subject of alternative tax systems.

The article follows:

[From the New York Times, July 4, 1982]

A Theory Untried

(By Paul Craig Roberts)

Kevin P. Phillips has some interesting things to say about Watergate and Vietnam in "Post-Conservative America." The true story of Watergate, he suggests, is the destruction of President Nixon—an American Dreyfus—by a threatened Washington establishment that pulled off a coup d'état. As for Vietnam, the sellout of the troops by the media, the universities and the liberal politicians has the makings of "a post World War I German-style recrimination."

I predict that these provocative themes will receive less attention than his denunciation of supply-side economics as a combination of "inadequacy, confusion and revolutionary restorationism-archaism." Supply-side economics, he says, is a "Rube Goldberg machine" that "went beyond conservatism to adventurism" in a "dubious political attempt to restore golden yesterday."

Kevin Phillips is reacting to the picture of supply-side economics painted by Jude Wanniskv, an early populariser of the doctrine. But Mr. Phillips' problem is that he takes Mr. Wannisky too seriously. Mr. Wannisky did sensationalize the case for supply-side economics, but that is no excuse for Mr. Phillips to sensationalize against it.

Kevin Phillips, a conservative, is so upset by Mr. Wannisky that, employing gratuitous rhetoric and quoting a host of liberals, he launches a Marxist attack on supply-side economics. He charges that supply-side eco-

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nomics not only "favors the rich," but caused the Great Depression, when Andrew Mellon applied it to the economy 60 years ago. Mellon "carried matters from the proper to the extreme." As a result, "too few of the people had too much of the money," and the economy collapsed from a lack of buying power.

The lag between cutting taxes and the onset of a depression must be getting longer. President Kennedy cut taxes 20 years ago—a fact not mentioned by Mr. Phillips—and so far no depression has resulted. Then again, perhaps Mr. Phillips thinks that depressions only occur when Republicans cut taxes. That, at least, would explain why depressions are so rare.

Actually, Mellon carried matters from the extreme to the proper. There was not any income tax at all until a few years before Mellon came into office. When he became Treasury Secretary in 1921, the top tax rate was 73 percent, having risen from zero in eigth years. Over the next eight years Mellon got it down to 24 percent. A return to normalcy would have required abolishing the income tax. Mr. Phillips overlooks that there was not income tax for most of our history, and that it was a history of growth and development, no depression.

Like many people who are not economists (and some who are), Mr. Phillips views taxation as a zero-sum game: if a rich man's taxes are cut, he is handed back money, and the poor lose. Supply-side economists have a different view of the process: he is handed back incentives, and the poor gain from higher investment in productivity and better job opportunity.

When the top rates are cut the rich are not handed back any money, because they are not using their capital to earn taxable income. Instead it is in tax shelters where it produces tax savings. High tax rates mean that the rich can do better by using their capital in ways that minimize their taxes instead of in ways that maximize their incomes. Lower tax rates cause capital to be redeployed from tax shelters to productive investments.

As a result the taxable incomes of the rich rise, and they pay more in taxes. Internal Revenue Service statistics show that upper-income tax payers paid a larger percentage of the tax revenues after the Mellon and Kennedy tax cuts than before.

Mr. Phillips also discounts supply-side economics on political grounds. He mistakenly believes that its political base is narrow, consisting of a President captured by a few zealots. He obviously knows nothing of the movement's history.

In the House of Representatives, supply-side economics has been Republican Party policy since February 1977. At the end of 1978, Senate Democrats passed their own version of the Kemp-Roth Bill. In 1979 and 1980, the Joint Economic Committee of Congress endorsed supply-side economics in its annual reports. By the summer of 1981 supply-side economics was everyone's policy—so much so that the Democrats started a "bidding war" with the Reagan Administration in a fight over who would get credit for the tax cuts.

Mr. Phillips believes that supply-side economics is a failure. But we have not yet had any in practice. The Reagan Administration put the tax cuts on the back burner, and then proposed tax increases before the tax cuts ever went into effect. It is hard to say for certain that the Administration has a supply-side policy. If the policy does unravel as a result of policy flip-flops, then it is the political process that has failed and not the policy. Mr. Phillips is so anti-supply-side that he won't be able to tell the difference.●

OVERDUE HELP FOR CONGRESSIONAL CEMETERY

● Mr. EAGLETON. Mr. President, I am very gratified that the Senate took action last Friday to respond to the plight of Congressional Cemetery, one of Washington's and the Nation's most historic sites. The Senate's expeditious passage of H.R. 6033 recognizes both the tremendous toll which years of neglect and vandalism have taken on the historic cemetery and the particular congressional interest in seeing that this national treasure is restored to its previous luster.

Senate passage of H.R. 6033 culminates long and persistent efforts by many persons both within and without the Congress. Congresswoman Lindy Boggs was instrumental in securing an attentive and approving reception for H.R. 6033 in the House Interior and Insular Affairs Committee and in the full House of Representatives. Here in the Senate, my efforts on behalf of remedial legislation were helped immeasurably by Senator Mathias, the chairman of the Rules Committee and a participant in previous efforts to assist the cemetery, and Senator Ford, the committee's ranking minority member. The concerned and cooperative attitude of the Senators and their staffs permitted H.R. 6033 to be presented to the full Senate without undue delay. Senate passage of H.R. 6033 was secured by the able majority and minority leaders with the personal involvement of the majority whip, Mr. Stevens, whose characterization of H.R. 6033 as "a very worthwhile bill" I very much share.

My interest in the cemetery began in the fall of 1981, after I saw a television report on WDVM-TV, Channel 9 in Washington. The television report focused on random vandalism that had destroyed an estimated $30,000 of the Congressional Cemetery's statuary and grounds. More than 120 tombstones and monuments in the 33-acre cemetery had been toppled and smashed, including benches on the path leading to John Philip Sousa's grave. The life-sized marble replica of 10-year-old Marion Kahlert, Washington's first traffic fatality in 1904, was completely ruined.

Following the television report, I investigated the history of the cemetery and documented congressional interest in and congressional responsibility for the cemetery.

Both go back a long way. From 1807, when it was established, until the Civil War, Congressional Cemetery served as the first national cemetery. At one time, the cemetery held the remains of William Henry Harrison, Zachary Taylor, John Quincy Adams, Dolly Madison, and a total of 56 Senators and 75 Congressmen, many of whom were later moved to home States when modern burial methods allowed. Today, 14 former Senators, 43 former Representatives, Elbridge Gerry (signer of the Declaration of Independence), two Vice Presidents of the United States, photographer Matthew Brady, John Philip Sousa, and J. Edgar Hoover are among the 75,000 persons buried on the grounds.

Throughout the 19th century, Congress provided funds to improve and enlarge the cemetery, and while the last major congressional funds for improvement were appropriated in the late 1800's, even today there are minimal funds appropriated annually to the Veterans' Administration for care of veterans buried at the site.

Despite this illustrious history, a visit to the cemetery showed decades of neglect. While last fall's vandalism was the most notable, it was obvious that the cemetery over the years has neither been protected, maintained, nor restored. I felt strongly that it was time that Congress, as an institution, rectify this situation.

Happily, I also found during my research that I was not alone in advocating a congressional obligation to the cemetery. In fact, I was coming late to the cause. In 1972, for example, Congressman Saylor of Pennsylvania and Senator Hartke of Indiana proposed legislation which would have had the Department of Interior acquire the cemetery and incorporate it as part of the park system of the National Capital. Although introduced, there was no legislative action on that proposal.

Then, in 1976, as part of the bicentennial celebration, Congresswoman Lindy Boggs of Louisiana spearheaded a drive to appropriate funds to the Architect of the Capitol for maintenance and restoration of the Cemetery. Senators Hugh Scott of Pennsylvania and Mike Mansfield of Montana introduced companion legislation in the Senate. The Senate and House authorization committees approved this legislation, but funds were not appropriated. Finally, in 1979, Congress appropriated funds to the Veterans' Administration for maintenance of the cemetery, but the Comptroller General of the United States ruled that such funds could be used only to maintain the government-owned portions of the cemetery. The Comptroller ruled that without express legislative authority, which the Veterans' appropriation did not have, the funds could not be used for general cemetery improvements.

Meanwhile, during the time all this legislation was pending in Congress, private citizens interested in the cemetery organized the Association for the Preservation of Historic Congressional Cemetery in June, 1976. The tax-exempt organization commenced an active fund-raising campaign, and to date the 500-member organization has raised about $350,000 through donations, bequests and proceeds from its annual fall gala, held on Halloween in the cemetery. The organization also established two trust funds, which together with the fund-raising events, provide an annual income to the association of between $35,000 and $40,000. Unfortunately, since it costs about $4,000 simply to cut the grass in the cemetery, a job which must be done four or five times a year, the association's funds are not adequate for major restorations and renovations.

Thus, last fall I attempted to follow-up the efforts of Mrs. BOGGS and others on behalf of the cemetery and again seek Federal funding for this most worthy cause. At the same time, Mayor Marion Barry of the District of Columbia increased the security around the cemetery so that vandalism could be better controlled. My colleagues generously supported me, and in late October, the Senate by voice vote approved an amendment to the Interior appropriations bill which directed the Architect of the Capitol to spend $250,000 on maintenance and restoration of the cemetery. The amendment, however, stalled in conference for lack of a clear authorization.

H.R. 6033 seeks that clear authorization. Specifically, the bill authorizes the Architect of the Capitol to enter into a cooperative agreement with the Association for the Preservation of Historic Congressional Cemetery for the protection and restoration of the cemetery. The authorization is a one-time allocation of $300,000, to be used for major renovation and improvement projects. By approving this one-time authorization, Congress has authorized the Architect of the Capitol to fulfill congressional obligations to the cemetery without involving the redtape of a Government organization.

Of course, before the sad story of Congressional Cemetery can have a happy ending, the Congress must appropriate the funds that will be authorized when H.R. 6033 is signed into law. The House Appropriations Committee is already at work on this and the Senate Appropriations Committee will be soon. I know that Congresswoman BOGGS and others will be monitoring closely the appropriations process in the House.

I will be joining other Senate colleagues in seeing to it that the overdue restoration of Congressional Cemetery can begin in earnest.●

ANALYSIS OF S. 2837—THE OFFICE OF STRATEGIC TRADE ACT OF 1982

● Mr. GARN. Mr. President, on Friday, August 13, eight of my colleagues and I introduced S. 2837, the Office of Strategic Trade Act of 1982. In order to assist in the consideration of this legislation I ask that a section-by-section analysis of the bill, along with a brief outline of the bill's highlights, be included in the RECORD at this point.

The material follows:

SECTION-BY-SECTION ANALYSIS

TITLE

Section 1 of the bill would provide that the bill may be cited as the "Office of Strategic Trade Act of 1982."

FINDINGS

Section 2(1) would state a finding by Congress that the ability of U.S. citizens to engage in international commerce is a fundamental concern of U.S. policy.

Section 2(2) would state a finding by Congress that it is important for the U.S. national interest that both the private sector and the Federal Government place a high priority on exports, which emphasis would strengthen the U.S. economy.

Section 2(3) would state a finding by Congress that uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the U.S. trade balance.

Section 2(4) would state a finding by Congress that the failure to restrict the transfer of national security-sensitive technology and goods to the Soviet Union and other unfriendly nations has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, it allies and other friendly nations, and increasing the U.S. defense budget.

Section 2(5) would state a finding by Congress that the failure to restrict the export of national security-sensitive technology is attributable in large part to the diffusion of decisionmaking responsibilities regarding strategic trade matters among several Federal agencies, and the lack of adequately trained and disciplined personnel.

Section 2(6) would state a finding by Congress that because of the overlapping and frequently confusing responsibilities of the many Federal agencies that administer controls over strategic trade, the U.S. export control system has not served national security, foreign policy, or export interests effectively.

Section 2(7) would state a finding by Congress that it is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology (and goods which contribute significantly to the transfer of such technology) that could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to U.S. national security interests.

Section 2(8) would state a finding by Congress that the availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of U.S. foreign policy.

Section 2(9) would state a finding by Congress that minimization of restrictions for reasons of national security and/or foreign policy on exports of agricultural commodities and products is of critical importance to the maintenance of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to U.S. cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

Section 3(1) would declare U.S. policy to be to minimize uncertainties in export control policy and encourage trade except with countries with which the President has determined trade to be against the national interest.

Section 3(2) would declare U.S. policy to be to restrict exports only after full consideration of the impact on the U.S. economy and only to the extent necessary: (A) to prevent the export or re-export of goods and technology which would make a significant contribution to the military potential of foreign nations which would prove detrimental to U.S. national security; (B) to further significantly U.S. foreign policy or fulfill its declared international obligations; and (C) to protect the domestic economy from the excessive drain of scarce materials.

Section 3(3) would declare U.S. policy to be (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the U.S. has defense treaties or common strategic objectives.

Section 3(4) would declare U.S. policy to be to use its economic resources and trade potential to further sound growth and economic stability as well as its national security and foreign policy objectives.

Section 3(5) would declare U.S. policy to be to (A) oppose boycotts against countries friendly to the U.S.: (B) encourage and require U.S. exporters to refuse to take actions, including furnishing information, which further or support such boycotts; and (C) foster international cooperation, rules and institutions to ensure reasonable access to world supplies.

Section 3(6) would declare U.S. policy to be that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to U.S. export controls should be subjected to review by and consultation with representatives of appropriate U.S. government agencies.

Section 3(7) would declare U.S. policy to be to use export controls, including license fees, to secure removal of foreign restrictions on access to supplies under certain circumstances, and require the President to make reasonable prompt efforts to secure access through international cooperation before imposing controls; and exempt medicine or medical supplies from controls.

Section 3(8) would declare U.S. policy to be to use export controls to counter international terrorism and require the President to make reasonable and prompt efforts to counter terrorism through international cooperation before imposing controls.

Section 3(9) would declare U.S. policy to be to cooperate with nations with which the U.S. has defense treaties or common strategic objectives to restrict exports which would make a significant contribution to the military potential of any country which would prove detrimental to U.S. security and the security of countries with which the U.S. has defense treaties or common strategic objectives.

Section 3(10) would declare U.S. policy to be to minimise restrictions on the export of agricultural commodities and products.

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Section 3(11) would declare U.S. policy to be to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

DEFINITIONS

Section 4(1) would define "person", as currently provided for in the Export Administration Act, so as to include singular and plural, and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

Section 4(2) would define "United States person" as currently provided for in the Export Administration Act of 1979.

Section 4(3) would modify the definition of "good", as provided for in the Export Administration Act of 1979, so as to include specifically both natural and manmade substances.

Section 4(4) would provide an expanded definition of the term "technology", so as to include every aspect of technology and information, including its use, and information and knowhow that is important to that use, whether that technology were transmitted in a tangible form (such as published material) or an intangible form (such as training and instruction). "Technology" is so defined as to also apply to such goods, regardless of the end-use classification of the goods.

Section 4(5) would define "export of goods" so as to include actual transmission or shipment of goods out of the United States, including diversion or reshipment of goods to a destination other than that indicated to the appropriate United States authority.

Section 4(6) would define "export of technology" as an actual shipment or transmission of technology out of the United States or any release of technology of U.S. origin in a foreign country.

Section 4(7) would define "Director" as the Director of the Office of Strategic Trade.

Section 4(8) would define "Office" as the Office of Strategic Trade.

Section 4(9) would define "United States" as to include the States of the Union, its commonwealths, territories (whether leased or owned), its dependencies, and the District of Columbia.

ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND STRUCTURE OF OFFICE OF STRATEGIC TRADE

Section 5(a)(1) would establish as an independent executive agency an Office of Strategic Trade (OST), to be headed by a Director of Strategic Trade, who would be appointed by the President with the advice and consent of the Senate, and who would serve for a term of four years, and who would be assisted by Deputy Director of Strategic Trade. The Office would be administered under the supervision and direction of the Director, who would exercise all of the executive and administrative functions and authorities conferred in the Office by the Act. The Director or his designee would act as Chairman of the Inter-agency Advisory Committee for Export Policy (ACEP), which would consist of representatives from the Department of Commerce, the Department of State, the Department of Defense, the Department of Energy, the Department of the Treasury, the CIA, and NASA.

Section 5(a)(2) would establish in the Office of the Director of the OST an Exporter Services Facility to act as liaison to the business community and to the public.

Section 5(b)(1) would establish in the Office an Operations Division headed by an Assistant Director for Operations. The Assistant Director for Operations would be responsible for the processing of export licenses, monitoring conformity of export licenses to applicable terms and conditions, and such other functions as the Director may determine to be appropriate.

Section 5(b)(2) would establish in the Office a Compliance Division, headed by an Assistant Director for Compliance, which would carry out functions performed prior to the effective date of the Act by the Deputy Assistant Secretary of Commerce for Export Enforcement. The Compliance Division would also have power to conduct physical inspection of controlled items, although the intention is that enforcement arrangements with the U.S. Customs Service with regard to enforcement of export controls would be continued, and expanded as needed.

Section 5(b)(3) would establish in the Office a CoCom Division headed by an Assistant Director for CoCom Affairs which would carry out functions relating to the representation of technical positions (including those of military and strategic significance) in connection with the coordinating committee for Multilateral Export Controls (CoCom) and provide representatives to the Department of State to assist in CoCom negotiations.

Section 5(b)(4) would establish in the Office a Licensing Division, headed by an Assistant Director for Licensing, which would be responsible for the evaluation of criteria and establishment of policy relating to the commodity control list, munitions control list, foreign policy controls, and short supply controls. The Licensing Division would prepare draft documents and license criteria for license applications and submit such documents to the ACEP for review. Also within the Licensing Division would be: (A) an Office of the Operating Committee which would conduct and monitor the interagency flow of license documents; (B) an Office of Computer Licensing, which would prepare draft documents analyzing criteria for licensing with respect to computers; (C) an Office of Capital Goods Licensing which would prepare draft documents analyzing criteria for licensing with respect to capital goods; (D) an Office of Electronics, which would prepare draft documents analyzing criteria for licensing with respect to electronics; (E) an Office of Short Supply Licensing which would prepare draft documents analyzing criteria for licensing with respect to the field of short supplies; (F) an Office of Munitions Control which would carry out the functions formerly carried out by the Department of State's Office of Munitions Control in maintaining the munitions control list; (G) an Office of Technological Data which would monitor and review the transfer of unembodied technology and knowledge through cultural exchange, educational, or other programs or means; (H) an Office of Evaluation which would evaluate commodity control lists, make recommendations for additions or deletions thereto, and assess foreign availability; (I) an Office of Foreign Policy Controls which would formulate and maintain the list of foreign policy controls, in consultation with the Export Administration Review Board.

Section 5(b)(5) would establish in the Office a General Counsel.

GENERAL PROVISIONS

Section 6(a) would enable the Director to require any of the following types of export licenses: (1) a validated license, authorizing a specific export issued pursuant to an application by the exporter; (2) a qualified general license, authorizing multiple exports issued pursuant to an application by the exporter; (3) a general license, authorizing exports without application by the exporter; and (4) such other licenses as may assist in the effective and efficient implementation of the Act.

Section 6(b) would instruct the Director to establish and maintain a "commodity control list" consisting of any goods or technology subject to export controls under the Act.

Section 6(c) would prevent the imposition of export controls for foreign policy or national security reasons when the President determines adequate evidence has been presented that the goods or technology are available without restriction from sources outside of the U.S. in comparable quantities and comparable in quality to those produced in the U.S., and that adequate evidence has been presented demonstrating that the absence of such controls would not prove detrimental to U.S. foreign policy or national security.

Section 6(d) would provide that no authority or permission to export may be required under the Act except to carry out the policies set forth in Section 3.

Section 6(e) would authorize the President to delegate his authority under the Act to such Government departments, agencies or officials as he chooses, but not to any official of any department or agency the head of which is not appointed by the President with the advice and consent of the Senate. He would also not be allowed to delegate his authority to overrule or modify any recommendation or decision made by the Director, Secretary of Defense, or the Secretary of State pursuant to the Act.

Section 6(f) would require the Director to keep the public fully apprised of any changes in export control policy and procedure under the Act and to establish procedures for consultation with business, labor, and private citizens.

NATIONAL SECURITY CONTROLS

Section 7(a) would authorize the President to control exports under U.S. jurisdiction for national security purposes. The authorities and duties contained in this subsection would be exercised by the Director, in consultation with the Secretary of Defense, and other departments or agencies the Director considers appropriate, implemented by means of licenses as described in section 6(a). In accordance with section 12, the Secretary of Defense would have the right to review any export application under this section.

Section 7(a)(2)(A) would require that the Director publish in the Federal Register any revision in export controls.

Section 7(a)(2)(B) would require the Director to notify an applicant in the event a license is denied under this section, and include in such notice what, if any, modifications in the goods or technology would make such export possible or give the names of officials who could advise the applicant about such modifications.

Section 7(a)(3) would require the Director, in issuing regulations to carry out this section, to give particular attention to the devising of effective safeguards to prevent a country that poses a threat to U.S. security from diverting covered goods and technologies to military use and to the need to take effective measures to prevent the reexport of such items from other countries to countries that pose a threat to U.S. security.

Section 7(b) would require U.S. export policy toward individual countries not to be based exclusively on whether or not a country is communist, but to take into account whether its politics are adverse to U.S. national security interests, the country's present and potential relationship to the U.S. and to countries friendly or hostile to the U.S., its ability and willingness to control retransfers of U.S. exports, and such other factors as the President considers appropriate. Such policy would be required to be reviewed every three years in the case of multilateral controls and annually in the case of all other controls.

Section 7(c)(1) would require the Director to establish and maintain, as a part of the commodity control list, a national security control list containing all items subject to control under this section.

Section 7(c)(2) would require the Secretary of Defense and other appropriate departments and agencies to identify items for inclusion on the national security control portion of the commodity control list. Those items that the Director and the Secretary of Defense concur on would comprise the list. Disagreements would be referred by the Director to the President for resolution.

Section 7(c)(3) would require the Director to issue regulations providing for review of the national security control list, every 3 years in the case of multilateral controls and annually in the case of all other controls. Such a review would be conducted with input from concerned government and private entities and take into account foreign availability. The Director and any agency rendering advice would be required to keep a record of decisions made with regard to list revision, and factors affecting such decision making.

Section 7(d)(1) would require the Secretary of Defense, in consultation with the Director, to review the national security control list to insure that controls are limited to military critical items and the mechanisms through which these may be transferred.

Section 7(d)(2) would give the Secretary of Defense primary responsibility for the inclusion in the national security control list of militarily critical technologies, giving primary emphasis to: (A) arrays of design and manufacturing, know-how, (B) keystone manufacturing, inspection, and test equipment, (C) goods accompanied by sophisticated operation, application, or maintenance know-how, and (D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would give insight into a U.S. military system and would thereby facilitate either the duplication of that system or the development of counter measures against it, which, according to the Secretary of Defense are not available to countries to which exports are controlled and which, if exported, would permit a significant advance in a military system of any such country.

Section 7(d)(3) would require that the description of military critical technologies referred to in paragraph (2) be sufficiently specific to guide licensing officials.

Section 7(e) would create, within the Office of the Under Secretary for Defense Policy, a National Security Control Agency to assist the Secretary of Defense in carrying out his responsibilities under the Act. The intention is to formalize current export control operations at the Department of Defense and thereby task certain individuals specifically with those responsibilities. No additional funding, beyond that provided in other statutes, would be authorized by this provision. It is intended that this office would be provided with sufficient resources to enable the Secretary of Defense to fulfill adequately and expeditiously his responsibilities under the Act.

Section 7(f) would require the Secretary of Defense to report annually to the Congress on actions taken to carry out this section.

Section 7(g)(1) would state a finding by Congress that licensing efficiency is hampered by large volume of validated export license applications. Accordingly, the Congress would encourage in this subsection the use of a qualified general license.

Section 7(g)(2) would advise the Director, to require a qualified general license in lieu of a validated license for the export of goods or technology to the maximum extent practicable, consistent with U.S. national security, except where (A) the U.S. is party to multilateral controls requiring specific approval for export; or (B) the U.S. is seeking to apply multilateral controls and, in the judgement of the Director, U.S. controls through the use of the validated license are necessary prior to the conclusion of such an agreement.

Section 7(g)(3) would authorize the Director to require a qualified general license in lieu of a validated license in the case of multilateral controls not requiring specific approval for export.

Section 7(h) would require the Director, in consultation with the Secretary of Defense and other appropriate government agencies as well as with appropriate technical advisory committees established pursuant to subsection (i), to review, on a continuing basis, the foreign availability of items requiring a validated license. In any case in which the Director determines that any such items are available in comparable quantity and of comparable quality so that the requirement of a validated license would have no effect in achieving national security control puposes, the Director would not be permitted to require a validated license for such exports, unless the President determines that the absence of such controls would prove detrimental to U.S. national security, in which case the Director would be required to publish the President's determination, a statement of its basis, and an estimation of its economic impact.

Section 7(h)(2) would require the Director to approve, subject to paragraph (4), any application for a validated license when foreign availability of the items involved, in comparable quantity and of comparable quality, has been determined.

Section 7(h)(3) would require that any determination of foreign availability which is the basis of a decision to grant a license for, or remove a control on, the export of an item, be made in writing and supported by reliable evidence.

Section 7(h)(4) would declare a finding of foreign availability to be applicable only after the Secretary of State verifies that negotiations with the appropriate foreign governments have been undertaken. Assessment of comparable quantity or quality would include the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technological data packages, back-up packages, long-term durability, scale of production, ease with which machinery will be integrated in the mode of production, and spoilages and tolerance factors for end products produced by the machinery. When controls are imposed despite foreign availability the President would be required to initiate negotiations to eliminate such availability. Whenever the President believes that controlled items may become available from foreign sources to controlled countries and that such availability can be prevented or eliminated by negotiations, the President would be required to initiate such negotiations.

Section 7(h)(5) would require the Director to establish within the Office a capability to monitor and gather information concerning foreign availability of items subject to export controls.

Section 7(h)(6) would require each department or agency with export control responsibilities to furnish information to the Office concerning foreign availability of goods and technology subject to export controls, and require the Office to furnish the information it gathers on foreign availability to such departments and agencies upon request.

Section 7(i)(1) would require the Director, upon written request from a substantial segment of any industry involved, to appoint a technical advisory committee for any item subject to export controls or being considered for export controls which the Director determines are difficult to evaluate because of questions, concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee would consist of representatives of U.S. Industry and Government, including the Departments of Defense, State, and Commerce, the intelligence community, and, at the discretion of the Director, other government departments or agencies. No industry representative would serve for more than four years consecutively.

Section 7(i)(2) would give the responsibility to the Technical Advisory Committees to advise and assist the Director, the Secretary of Defense and other relevant officials with respect to export controls for national security purposes. Nothing in this subsection would prevent the Director or the Secretary of Defense from consulting with persons outside of such committees. Members of the public would be given reasonable opportunity to present relevant material to such committees.

Section 7(i)(3)(4)(5) would state provisions covering reimbursement of committee members for expenses, committee procedures, and the termination or extension of such committees.

Section 7(i)(6) would require the Director, in the case of a finding of foreign availability of export items by a technical advisory committee, to remove the requirement for a validated license for such items—after investigating and verifying the committee's finding—unless the President determines that the absence of export controls would prove detrimental to U.S. national security. In the case of such an action by the President, the Director would be required to publish the determination together with a statement of its basis and its estimated economic impact.

Section 7(j) would require the President to negotiate with the Governments participating in the Coordinating Committee (CoCom) for the purpose of reaching agreements to: (1) publish a CoCom list of controlled exports; (2) hold periodic high-level meetings; and (3) establish more effective

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procedures for enforcing CoCom export controls.

Section 7(k)(1) would require any U.S. firm that enters into an arrangement with a country to which exports are restricted for national security purposes to report the agreement to the Director if it calls for the encouragement of technical cooperation and is intended to result in the export of unpublished technical data.

Section 7(k)(2) would exempt colleges, universities and other educational institutions from the requirement of paragraph (1), except where the unpublished data involve a technology identified by the Secretary of Defense as a militarily critical technology.

Section 7(l) would give the Secretary of State, in consultation with the Secretary of Defense, the Director, and the heads of other appropriate departments and agencies, the responsibility for conducting negotiations to obtain international cooperation on national security controls.

Section 7(m)(1) would provide that, whenever exports subject to national security controls have been diverted to an unauthorized use or consignee in violation of the export license, the Director, for as long as that diversion continues, (A) deny all further exports to or by the party responsible for that diversion of exports, regardless of foreign availability; and (B) may take such additional steps with respect to the party referred to as he determines are appropriate in the circumstances to deter the further unauthorized diversion of exports.

Section 7(m)(2) would define "diversion to an unauthorized use or consignee" to means the use of U.S. goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the U.S. Munitions List, or the transfer of U.S. goods or technology to any consignee or end user engaged in or contributing to such design, production, or maintenance.

Section 7(n) would require the Director, Secretary of Defense, and other departments or agencies consulted in connection with a license application or a revision of a list of controlled items to keep records of their advice, recommendations, or decisions.

FOREIGN POLICY CONTROLS

Section 8(a)(1) would authorize the President to control the export of any items subject to U.S. jurisdiction or exported by any person subject to U.S. jurisdiction to the extent necessary to significantly further U.S. foreign policy. This authority would be exercised by the Director, in consultation with the Secretary of State and such other departments or agencies as the Director considers appropriate, and would be implemented by means of export licenses.

Section 8(a)(2) would provide for the expiration of foreign policy controls after one year unless such controls are extended by the President.

Section 8(a)(3) would require the Director, whenever he denies any export license for foreign policy reasons, to specify in the notice to the applicant the reason for denial and any modifications in or restrictions on the item for which the license was sought that would make it compatible with controls

Section 8(a)(4) would authorize the Secretary of State to review any export license application under this section at his request.

Section 8(b) would require the President to consider, when imposing, expanding, or extending export controls: (1) the probability that such controls will achieve the intended purpose; (2) the compatibility of the proposed controls with U.S. foreign policy objectives, including the effort to combat international terrorism; (3) the reaction of other countries to the imposition or expansion of controls; (4) the likely effects of controls on U.S. export performance, on the competitive position of the U.S., on the reputation of the U.S. as a supplier of goods and technology, and on individual U.S. companies; (5) the enforceability of the proposed controls; and (6) the foreign policy consequences of not imposing controls.

Section 8(c) would require the Director, before imposing export controls for foreign policy reasons, to consult with affected U.S. industries with respect to the effectiveness of proposed controls, their effects on U.S. industry, and such other matters as the Director deems appropriate.

Section 8(d) would require the President, before resorting to foreign policy controls, to determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or alternative means.

Section 8(e) would require the President to consult with Congress before imposing foreign policy controls and to notify Congress immediately whenever such controls are imposed, expanded, or extended. The report submitted with that notification would include: (1) the President's conclusions with respect to each of the criteria set forth in subsection (b); and (2) the nature and results of any alternative means attempted, or the reasons for imposing controls without attempting any such alternative means. The report would also indicate how controls would further significantly U.S. foreign policy.

Section 8(f) would prohibit the imposition of foreign policy controls on medicine or medical supplies, and in the case of controls on food exports, would require the Director to notify the Secretary of State, when developed countries are affected, and the Director of the U.S. International Development Cooperation Agency (IDCA), when developing countries are affected, before such controls are imposed. Those two officials would be required to determine whether the proposed controls would cause malnutrition and to inform the Director of that determination. If the Director is informed that malnutrition would result, the imposition of controls would be prohibited, unless the President determines that those controls are necessary for U.S. national security, or unless the President determines that arrangements are insufficient to ensure that the food will reach those most in need. Each such determination by the Secretary of State or the Director of the IDCA, and any such determination by the President, would be reported to the Congress, together with a statement of the reasons for that determination. The intent of Congress would be declared to be that the President not impose foreign policy controls on any item if he determines that the principal effect of the export of such item would be to help meet basic human needs. The power of the President to impose restrictions on medical supplies or food under the International Emergency Economic Powers Act woud not be affected.

Section 8(g) would require the President to negotiate with appropriate foreign governments to restrict foreign availability of items controlled under this section.

Section 8(h) would stipulate that the provisions of subsections (b), (c) (d), (f), and (g) would not apply in any case in which the President imposes foreign policy controls in fulfillment of U.S. obligations under treaties or other international agreements.

Section 8(i) would require the Director and the Secretary of State to notify the House Foreign Affairs Committee and the Senate Banking, Housing, and Urban Affairs Committee before any license is approved for the export of any items valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations: (1) such country has repeatedly provided support for international terrorism; (2) such exports would make a significant contribution to the military potential of such country or would enhance the ability of such country to support acts of international terrorism.

Section 8(j)(1) would require that crime control and detection instruments be approved for export by the Director only pursuant to a validated export license.

Section 8(j)(2) would exempt members of NATO, Japan, Australia, New Zealand and other countries designated by the President from the provisions of this subsection.

Section 8(k) would require the Director to maintain, as a part of the commodity control list, a list of goods subject to export controls for foreign policy reasons. The list would be compiled by the Secretary of State with the concurrence of the Director, with disagreements being referred to the President. The list would be reviewed every three years in the case of multilateral controls and annually in the case of all others, for the purpose of making necessary revisions. An assessment of foreign availability would be included in any such review.

SHORT SUPPLY CONTROLS

Section 9(a)(1) would authorize the President to control exports subject to U.S. jurisdiction or by any person subject to U.S. jurisdiction, and the financing, transporting, and services thereof, to the extent necessary to carry out the policies set forth in Section 3. When controlling exports for short supply reasons the President is authorized to allocate some licenses on the basis of factors other than prior exporting history.

Section 9(a)(2) would require the Director to publish a notice in the Federal Register inviting all interested parties to submit written comments concerning export restrictions.

Section 9(a)(3) would authorize the President to impose export license fees when imposing controls pursuant to section 9(a)(1) of the act.

Section 9(b)(1) would require the Secretary of Commerce to monitor exports and export contracts of any non-agricultural goods when the volume in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious impact on the economy, any sector thereof, or any industry or substantial segment thereof. Monitoring would be required to commence early enough to provide sufficient data for the purposes of the Act.

Section 9(b)(2) Weekly monitoring reports would be required unless the Secretary of Commerce determines information is only sufficient for monthly reports.

Section 9(b)(3) would require the Director in consultation with the Secretary of Energy to determine whether monitoring or export controls are warranted with respect to non-nuclear energy-related goods.

Section 9(c)(1)(A) would enable any entity, representing an industry which processes metallic materials capable of being recycled with respect to which increased exports (and the attendant increase in domestic prices or a domestic shortage) have or may have a significant adverse effect on the national economy or any sector thereof, to petition the Director requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(c) of this Act.

Section 9(c)(1)(B) would require that each petition be in a form as prescribed by the Director and contain information in support of the action requested. The petition would include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

Section 9(c)(2) would require that within 15 days after receipt of any petition described in paragraph (1), the Director shall publish a notice in the Federal Register. The notice would (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Director written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Director shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended for 45 days.

Section 9(c)(3) would require that within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Director, in consultation with the Secretary of Commerce, shall: (A) determine to impose monitoring or controls, or both, on the export of such material; and (B) publish in the Federal Register a detailed statement of the reasons for such determination.

Section 9(c)(4) would require that within 15 days after making a determination to impose monitoring or controls on the export of a material, the Director shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Director would publish and implement final regulations with respect to such monitoring or controls.

Section 9(c)(5) would enable the Director, for purposes of publishing notices in the Federal Register and scheduling public hearings, to consolidate petitions and responses which involve the same or related materials.

Section 9(c)(6) would provide that if a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Director may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after consideration of the prior petition has been completed does not merit complete consideration.

Section 9(c)(7) would provide that the procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Director with respect to the same subject as that of the petition.

Section 9(c)(8) would allow the Director to impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Director makes a determination under paragraph (3) if the Director considers such action to be necessary to carry out the policy set forth in section 3(2)(C).

Section 9(c)(9) would provide that the authority under this subsection shall not be construed to affect the authority of the Director under any other provision of the Act.

Section 9(c)(10) would stipulate that nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Director of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Director in reaching decisions required under this subsection. The provisions of this paragraph would not be construed to affect the applicability of section 552(b) or title 5, United States Code.

Section 9(d)(1) would provide that notwithstanding any other provision of the Act and notwithstanding subsection (u) of Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the time quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

Section 9(d)(2) would allow the crude oil subject to the prohibition contained in paragraph (1) to be exported only if (A) the President makes and publishes an express finding that such exports: (i) will not diminish U.S. refined petroleum supplies; (ii) will result within 3 months in lower acquisition costs to refiners for imported crude and reduced wholesale and retail prices of products refined from such imported crude; (iii) will be made only pursuant to contracts which may be terminated if U.S. crude supplies are interrupted, threatened, or diminished; (iv) are clearly necessary to protect the national interst; and (v) are in accordance with the provisions of the Act. (B) The President reports such findings to the Congress and the Congress, within 50 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

Section 9(d)(3) would require that notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the international Emergency Oil Sharing Plan of the International Energy Agency.

Section 9(e)(1) would provide that no refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than 5 days after an application for a license to export any refined petroleum product or residual fuel oil is received, the director shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the House Committee on Foreign Affairs and the chairman fo the Senate Committee on Banking, Housing, and Urban Affairs.

Section 9(e)(2) would prohibit the Director from granting such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

Section 9(e)(3) would not apply to (A) any export license application for exports to a country with respect to which historical export quotas established on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

Section 9(e)(4) would define "refined petroleum product" for the purposes of this subsection.

Section 9(e)(5) would allow the Director to extend any time period prescribed in section 12 to the extent necessary to take into account delays in action by the Director on a license application on account of the provisions of this subsection.

Section 9(f) would exclude petroleum products refined in U.S. Foreign Trade Zones or Guam from export controls imposed pursuant to this section, unless the Director finds a product to be in short supply.

Section 9(g)(1) would prohibit export controls pursuant to this Act on any agricultural commodity, including fats, oils, animal hides and skins, unless the Secretary of Agriculture approves such controls. The Secretary of Agriculture would not be authorized to approve such controls during any period in which he determined the supply of such commodity to be in excess of the requirements of the domestic economy, unless the President determines controls are needed for national security or foreign policy reasons. The Secretary would also collect data with respect to export sales of animal hides and skins.

Section 9(g)(2) would, upon approval of the Director in consultation with the Secretary of Agriculture, require that agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export. The Director may not grant such approval unless the Director receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (d) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Director would issue such regulations as may be necessary to implement this paragraph.

Section 9(g)(3) would, if the authority conferred by this section or section 8 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of the Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefore in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution.

Section 9(h)(1) would provide that the exportation pursuant to a barter agreement of any goods which may lawfully be exported for any goods which may lawfully be imported may be exempted from quantitative limitations (other than reporting requirements).

Section 9(h)(2) would require the Director to grant an exemption under paragraph (1) if he finds, after consultation with the appropriate department or agency, that: (A) for the period during which the barter agreement is to be performed—(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and (ii) the average annual quantity of goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and (B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

Section 9(i) would instruct the Director to require a validated license for the export of unprocessed red cedar harvested from State or Federal lands. It would also contain the quantitative limits imposed on such export under the Export Administration Act of 1979 for the three years beginning on the effective date of that Act, and would instruct the Director to allocate export licenses on the basis of appropriate factors to minimize any hardship to producers of western red cedar and to further U.S. foreign policy.

Section 9(j) would prohibit the export of horses by sea for slaughter unless the Director, in consultation with the Secretary of Agriculture, determined that no horse in a particular consignment was being exported for purposes of slaughter.

FOREIGN BOYCOTTS

Sections 10(a) and 10(b) contain anti-boycott provisions adopted in the Export Administration Amendment of 1977, P.L. 95-52, and which appear as sections 4A (a) and (b) of the Export Administration Act of 1969, as amended, and as sections 5(a) and 5(b) of the Export Administration Act of 1979, as amended.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Section 11 would enable persons suffering unique hardship due to export controls to petition the Director for relief from such controls. The Director would be required to grant or deny relief within 30 days, having considered a list of factors set forth in the Act.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

Section 12(a)(1) would provide that all export license applications be submitted to, and determinations of them made by, the Director.

Section 12(a)(2) would provide that determinations with respect to any export license application be made to the maximum extent possible solely by the Director.

Section 12(a)(3) would provide that the Director solicit any information and recommendations deemed necessary from other concerned departments or agencies.

Section 12(b) would prescribe a ten day period after the submission of an application within which the Director would be required to:

(1) return to the applicant an acknowledgement of receipt of the application;

(2) submit to the applicant a description of the application procession procedures and his rights thereunder;

(3) return the application if it is incomplete;

(4) determine if it will be necessary to submit the application to other departments or agencies and, if so, inform the applicant of such;

(5) determine if it will be necessary to submit the application to a multilateral review process and, if so, inform the applicant of such.

Section 12(c) would prescribe a ninety day period after the submission of a proper application within which the Director would be required to either issue or deny the license, unless the application is to be referred to another department or agency.

Section 12(d) would prescribe a thirty day period after the submission of a proper application within which the Director, if necessary, would be required to:

(1) refer the application to all concerned departments or agencies, and

(2) provide the applicant with an opportunity to review for accuracy any documentation accompanying the application in the event of such a referral.

Section 12(e)(1) would prescribe a thirty day period after the referral of a proper application to another department or agency within which the department or agency would be required to provide information and recommendations requested.

Section 12(e)(2) would provide a second thirty day period upon request of the department or agency for an extension within the first thirty days. Failure to respond within these periods would be deemed to be assent by the department or agency to approval of the application.

Section 12(f)(1) would prescribe a ninety day period after the receipt of all information and recommendations from other departments or agencies within which the Director would be required to make a final determination on an export license application.

Section 12(f)(2) would provide that the Director should inform the applicant of questions or negative responses received from these departments and agencies, and should accord the applicant an opportunity to respond to these before a final determination is made.

Section 12(f)(3) would prescribe a five day period within which the Director would be required to notify an applicant after a license has been denied, or after a determination has been deferred inconsistent with the provisions of this section.

Section 12(f)(4) would provide the Director with the authority to extend any deadline of this section in conjunction with notification of Congress and the applicant of such an extension.

Section 12(g)(1) would provide that the Secretary of Defense may review any proposed export to controlled countries to determine the effects of such exports on U.S. national security.

Section 12(g)(2) would provide that the Secretary of Defense, in consultation with the Director, be required to determine the types of transactions to be reviewed by the Secretary of Defense pursuant to paragraph 1 above; that the Director be required to notify the Secretary to Defense of all applications of that nature and should not make a determination before the end of the period within which the President may disapprove the license; that within thirty days after receiving notification, the Secretary of Defense be required to either recommend to the President disapproval of the license, or recommend to the Director approval of the license, or conditions for approval of the license; and that the President, should he choose to disapprove the license, be required to notify the Director within thirty days of the receipt of a recommendation from the Secretary of Defense.

Section 12(g)(3) would require the Director to issue or deny licenses in accordance with this subsection, and within the time periods and procedures of this section.

Section 12(g)(4) would require the President to transmit to Congress both his decision and the recommendation of the Secretary of Defense in any instance in which the President has altered or overruled that recommendation.

Section 12(h) would provide that should an application be finally approved but still require multilateral review, that the applicant be notified of the approval pending review, and that the license be issued upon approval under such review, or sixty days after submission to review should no action have been taken and should the Director determine that no detriment to U.S. national security would occur.

Section 12(i) would require the Director to keep accurate records of all applications and recommendations considered by the Director.

Section 12(j)(1) would require the Director to establish procedures of an applicant to appeal the denial of an application to the Director.

Section 12(j)(2) would, in the event of any delay in consideration of an application beyond time periods established under this section, permit an applicant to file a petition with the Director requesting compliance with the requirements of this section, and require the Director to comply with such requests and notify the applicant of such compliance.

Section 12(j)(3) would, in the event that the Director fails to comply completely with a petition in regard to delays, permit an applicant to bring an action in an appropriate U.S. district court requiring compliance with the provisions of this section.

VIOLATIONS

Section 13 of the Act would provide maximum fines of five times the value of the exports involved or $50,000, whichever is greater, or imprisonment of up to five years, or both for any individual knowingly violating any provision of this Act or regulation issued thereunder. Willful exports contrary to the Act or regulations, with knowledge such exports will benefit a country to which exports are restricted for national security or foreign policy purposes, in the case of an individual, are punishable by fines up to $250,000, or up to ten years imprisonment, or both, or in all other cases punishable by fine not more than five times the value of exports involved or $1,000,000, whichever is greater. Failure by a licensed exporter to report use of licensed exports by such controlled countries for military or intelligence gathering purposes contrary to the conditions under which the license was issued is punishable, except in the case of an individual, by fine not more than five times the value of the exports involved or $1,000,000, whichever is greater. In the case of an individual such failure to report diversion of exports is punishable by fine not more than $250,000, or not more than five years imprisonment, or both. Civil penalties up to $10,000 for each violation of this Act would be authorized, except that civil penalties for each violation of national security controls or controls on the export of defense articles and services pursuant to section 38 of the Arms Export Control Act may be up to but not exceeding $100,000. Suspension or revocation of authority to export is authorized for violations of anti-boycott provisions of the Act. Procedures would be established for imposing administrative sanctions, collecting fines, and bringing civil actions for payment of fines.

ENFORCEMENT

Section 14(a) would authorize investigations, inspections and subpoenas of records as necessary to enforce this Act.

Section 14(b) would provide that no person be excused from complying with any requirements of section 14 because of his privilege against self-incrimination, however the immunity provisions of the Compulsory Testimony Act (49 U.S.C. 46) would apply if specifically claimed.

Section 14(c)(1) would provide that information obtained on or before enactment of this Act would be exempt from disclosure under section 552 of Title 5 U.S. Code and would not be published unless the Director at his sole discretion determines withholding it to be contrary to the national interest. Information obtained under the Act or the Export Administration Act of 1979 after June 30, 1980, may be withheld only to the extent allowed by the law unless the Director at his sole discretion considers the release of this information to be in the national interest. Enacting of the Act would not affect certain judicial proceedings.

Section 14(c)(2) would stipulate that nothing in the Act would authorize withholding of information obtained under the Act or previous export control Acts from the Congress or from the General Accounting Office (GAO). It would be forbidden for the Congress to disclose confidential information obtained under the Act unless the appropriate Congressional committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information obtained under the Act or previous export control Acts would, consistent with intelligence and law enforcement considerations as determined by the agency that originally obtained the information, and with section 313 of the Budget and Accounting Act, 1921, be made available only, upon request, to the U.S. Comptroller General or to any employee of the GAO authorized by the Comptroller General to have access to such information. No GAO employee would be permitted to disclose such confidential information, except to the Congress in accordance with this paragraph.

Section 14(c)(3) would require departments or agencies which obtain information which is relevant to the enforcement of the Act to furnish such information to the department or agency with enforcement responsibilities under the Act to the extent consistent with intelligence and law enforcement considerations, except that: (A) the provisions of this paragraph would not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and (B) return information, as defined in subsection (b) of section 6103 or the Internal Revenue Code of 1954, may be disclosed only as authorized by such section.

Section 14(d) would require that reporting requirements under the bill be designed so as to minimize cost and inconvenience, and be periodically reviewed and revised, to the extent feasible, consistent with effective enforcement and compilation of useful trade statistics.

Section 14(e) would provide that the Director be required to review the regulations issued under the Act and the commodity control list to determine how they might be simplified or clarified in order to facilitate compliance with the provisions of the Act.

EXEMPTIONS

Section 15(a) would exempt functions exercised under this Act, except administrative proceedings under section 13(c)(2) concerning administrative sanctions, from the operation of the Administrative Procedure Act, sections 551, 553 through 559, and 701 through 706 of Title 5, U.S.C.

Section 15(b) would express the intent of Congress that regulations be issued in proposed form for public comment whenever practicable, and that where regulations are issued with immediate effect, a public comment period be provided and the regulations re-issued thereafter in final form.

ANNUAL REPORT

Section 16 would require the Director to make annual reports to Congress, would specify the content of such reports, and would require other departments and agencies to cooperate fully with the preparation of such reports.

REGULATORY AUTHORITY

Section 17 would enable the President and the Director to issue regulations necessary to carry out the provisions of the Act.

TRANSFER OF FUNCTIONS

Section 18(a) would transfer to the Office of Strategic Trade (1) the functions and authorities over the munitions list now handled by the Office of East-West Trade and the Office of Munitions Control of the Department of State; and (2), other functions and authorities deemed appropriate in consultation with the Director of the Office of Management and Budget (OMB).

Section 18(b) would direct the Director of the OMB, in consultation with the Director, to determine the resources necessary to accomplish the purposes of the Act.

EFFECT ON OTHER ACTS

Section 19(a) would prohibit anything in this Act from affecting the provisions of any other laws concerning commodity export controls.

Section 19(b) would provide that the authority granted to the President under this Act would be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

Section 19(c) would provide that any product which is standard equipment in civil aircraft shall be subject to export controls exclusively under this Act, and not under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Section 19(d)(1) would provide that nothing in sections 7 or 8 of this Act should supersede the procedures pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

Section 19(d)(2) would provide that section 12 of this Act should apply with respect to export license applications only to the extent that they are consistent with the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978. However, if these applications are delayed more than 180 days, the applicant would have the right of appeal and court action as provided in section 12(j) of this Act.

Section 19(e) would provide that the Mutual Defense Assistance Control Act of 1951 (US U.S.C. 1611-1613d) be superseded as of October 1, 1979.

AUTHORIZATION OF APPROPRIATIONS

Section 20(a) would prohibit any appropriation to the Commerce department for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

Section 20(b) would authorize appropriations to the Commerce Department of (1) $9,659,000 for fiscal years 1982 and 1983; and (2), necessary additional amounts for increases in salary, pay, retirement, other benefits authorized by law, and other nondiscretionary costs for each such fiscal year.

EFFECTIVE DATE

Section 21 would provide that this Act take effect upon the expiration of the Export Administration Act of 1979.

TERMINATION DATE

Section 23(a) would provide that all administrative actions effective under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, should continue in effect to their terms until affected by this Act.

Section 23(b) the Act would not apply to any administrative proceedings or license applications under the Export Administration Act of 1979, which is pending at the time the Act takes effect.

TECHNICAL AMENDMENTS

Section 24 would amend the following acts to conform: (a) the Arms Export Control

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Act (22 U.S.C. 2778(e)), (b) the Energy Policy and Conservation Act (42 U.S.C. 6212 (c)), and (c) the International Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)).

AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947

Section 25 would amend the National Security Act of 1947 (50 U.S.C. 402 (a)) to make the Director a member of the National Security Council.

HIGHLIGHTS

1. In general, the bill amends the Export Administration Act of 1979, replacing the functions in the Act given to the Commerce Department with similar functions given to an independent Federal Agency named the Office of Strategic Trade. The 1979 Act is also affected in the following ways.

2. There would be transferred to the OST the functions of the Offices of East-West Trade and Munitions Control of the State Department with respect to the munitions list pursuant to the Arms Export Control Act.

3. The findings strike a better balance between the concern for U.S. trade and the need to control exports, than does the language found in the 1979 Act.

4. The statement of purpose for export controls remains essentially unchanged, eliminating one redundant paragraph that reiterates the need to improve controls only when necessary.

5. The 1980 OST bill (S. 2606) has been modified in two significant points:

a. The position of a Deputy Director is added, who reports directly to and assists the Director in the fulfilling of his responsibilities. Correspondingly, the "Deputy Directors" originally provided for are retitled "Assistant Directors."

b. The 1980 draft of the OST would transfer the responsibility for the physical inspection of exports from the Customs Service to the OST. This has been deleted in the current draft, beefing up the current Customs Service activities being considered preferable to establishing a whole new operation.

6. The Director of Strategic Trade is made a member of the National Security Council.

7. The OST Director, or his designee, is made Chairman of an "Interagency Advisory Committee for Export Policy" (ACEP), which consists of representatives from the Departments of Commerce, State, Defense, Energy, and Treasury, as well as from the CIA and NASA.

8. The bill gives *primary* responsibility to the *Secretary of Defense*, in consultation with the Director of OST, for review and revision of the list of Militarily Critical Technologies. The 1979 Act gives *primary* responsibility to the *Commerce Secretary*, in consultation with the Defense Secretary.

9. A National Security Control Agency, within the Office of the Under Secretary of Defense for Policy, is established to assist the Secretary of Defense in carrying out his responsibilities under the Act.

10. The bill also expands the considerations to be weighed in compiling a critical technologies list to include goods that complete process lines, fill in gaps in production, technology, and other factors which would give insight into U.S. military systems and assist the development of countermeasures thereto.

11. Consideration of foreign availability in the National Security Controls section would be amended by providing that there can be no finding of foreign availability made until the Secretary of State verifies that negotiations to end such foreign availability have been undertaken. Standards for measuring "comparable quantity and quality" are also given.

12. The paragraph providing for indexing of items controlled for national security purposes, included in the 1979 Act, is deleted.

13. The exemption in the 1979 Act from national security controls, given to colleges and universities, is continued unless the unpublished technological data involves a technology identified by the Secretary of Defense as a military critical technology.

14. A paragraph requiring record keeping of advice, decisions made, processing of applications, etc. under the national security provisions is added.

15. Foreign Policy Controls language is left basically unaltered.

16. Short Supply Controls language is left basically unaltered.

17. The Foreign Boycotts provisions are left unaltered.

18. The applications processing procedure is left unaltered, with the exception that the primary agency would be the OST rather than the Commerce Department.

19. Provisions governing violations and enforcement of the Act would be left unchanged.

20. The definition of "technology" is expanded to include forms of computer software particularly. A new definition of "export of technology" is added so as to be able to control a broader range of technology transfer.

21. A definition of "export of goods" is added so as to cover reshipment/resale of controlled items to controlled countries.●

DRUG ABUSE IN EUROPE

● **Mrs. HAWKINS.** Mr. President, the United States must make executive level efforts to enlist increased involvement in combating world drug abuse. It is vital that our major European allies and Japan join us in coordinated efforts to address drug trafficking, abuse, and production.

The frightening rise in the drug-related death rate of young Europeans and Japanese makes clear that drug abuse is not only an American problem. The United States must not continue to be the only Nation actively working for drug control. Contributions to the United Nations Fund for Drug Abuse (UNFAC) illustrate the lonely efforts of the United States to address world drug abuse. Contributions to UNFAC total $9,527,025. Of this amount, the United States contributed $2,150,000 (22.57 percent), West Germany $2,197,674 (23.07 percent), Britain $92,750 (0.97 percent), Belgium $24,988 (0.26 percent), France $188,496 (1.98 percent), Italy $248,250 (2.52 percent), Austria $123,563 (1.38 percent), and Belgium $24,988 (0.26 percent).

Other nations, particularly our European allies, which have been victimized by drug abuse must join the United States in coordinated efforts and contributions to address international drug production, trafficking, and abuse. As chairman of the Senate Drug Enforcement Caucus, I am convinced that we must persuade our allies to join us in vigorously attacking the problem at its source.

I ask that the following article from the August 17, 1982, Washington Times be printed in the RECORD.

The article follows:

[From the Washington Times, Aug. 17, 1982]

DRUG ABUSE IN EUROPE

(By Thomas Land)

STRASBOURG.—Drug abuse is now evident in every layer of Western society. The Council of Europe has decided to treat it as a symptom of wider problems exacerbated by the recession and the second industrial revolution sweeping the globe.

"Unemployment, particularly that affecting young people and women, will be the paramount problem of Europe and North America in the 1980s," concludes a study placed before a group of distinguished educationalists from Canada and the United States as well as the 21 member countries of the council. Frans Karasek, the council's secretary-general, earlier declared: "Let's give work to our young people . . . and drugs will lose their attraction."

The council decided in 1971 to seek a common remedy to the growing waves of drink and drug abuse eroding the social stability of the region. Its members have observed a dismal deterioration of their defenses during the past decade.

Their agreement, recently announced by the council's health ministers, to recognize the confusion of European youth in the turmoil of destructive social change as a potent cause of drug abuse, is an important new departure.

European specialists once dismissed drug addiction as a sad but peculiarly North American phenomenon irrelevant to this continent. A frightening rise in the drug-related death rate of young Europeans—many of them women and representing the entire social spectrum, particularly in Britain, France, Holland, West Germany and Italy—has proved them wrong.

In the long term, the council's changing emphasis could lead to greater investment in medical, social and education services as well as youth employment programs. In the short term, the council advocates restrictions in the production, distribution and sale of alcoholic drinks and advises parents, doctors, teachers and employers to seek out and treat drug addiction as a manifestation of society under stress rather than as an individual deviation from the norm. It cautions against "treatment which medicates the problem without solving it."

The new approach is due in part to a penetrating study prepared for the council, whose conclusions appear to have been confirmed by a series of riots of angry young people in many European cities during the last year or so. The study explores a wide range of social evolution shaping the pattern of acceptable behavior. Following are some of the trends identified by the study has having particular relevance to drug abuse.

Medication: The emergence of the "pill-popping" society in which a sense of well-being and health appears to be dependent on pharmaceuticals and drinks to help people to adjust to their environment by suppressing anxiety and depression and to which, therefore, "magical" powers are attributed. As a result, children are presented with forceful parental models of evasion and abdication of responsibility.

Conflict: The contradictory messages generated by a civilization in crisis. Traditional values previously safeguarded by the family, church and schools are in decline, while increased and undue importance is attributed to material prosperity.

Frustration: The failure of the inappropriate and impersonal education systems to impart knowledge relevant to the changing world, while denying individual's scope to develop their personalities and a valid choice of life style. The rapid growth of youth unemployment tends to discredit the education system in its role of preparing young people for the world of work.

In their study intended to shape government policy, the authors emphasized that drug abuse was merely one manifestation of deep-rooted problems which also find expression in other destructive phenomena, such as suicide and street violence.

NATIONAL HOSIERY WEEK

● Mr. **HELMS**. Mr. President, the week of August 15–21 marks the 12th annual observance of National Hosiery Week. In a nation in which the free enterprise system has played such a vital role in our progress, it is well that we take note of the significant contribution of this important industry.

The more than 300 companies in the Nation operate more than 425 plants across America. In keeping with the best American traditions, the bulk of these concerns are family-owned, independent businesses.

And yet, while the industry consists primarily of small- to medium-size enterprises, it provides jobs for over 63,000 Americans, pumping in nearly $6 billion not the national economy each year in retail sales.

Mr. President, because we are accustomed to hearing such large figures in Congress, but rarely in such a positive setting, allow me to repeat that statistic. The national hosiery industry's annual retail sales is a little below $6 billion. In addition to the benefits provided consumers, the hosiery industry has made significant contributions to the productivity and efficiency of the U.S. businesses as well.

National Hosiery Week has a special significance the State of North Carolina, which leads the Nation in the textile industry. Mr. President, I am proud to report that the nearly 2 billion pairs of hosiery manufactured in North Carolina in a single year constitute 51.8 percent of the hosiery produced in America.

North Carolina is the home of over 150 companies, operating more than 220 plants across the State. The more than 41,000 jobs provided by the North Carolina hosiery industry constitute a vital aspect of textile employment, which in turn comprises 29 percent of North Carolina manufacturing jobs and contributes an annual payroll approaching the $2 billion mark.

North Carolina is proud indeed of its distinctive leadership in the national hosiery industry and of the many positive contributions that this industry has rendered the Nation and the State. On behalf of all North Carolinians, I salute the hosiery industry on this auspicious occasion.●

THE JUSTICE ASSISTANCE ACT OF 1982

● Mr. **MATHIAS**. Mr. President, I am pleased to join as a cosponsor of S. 2411, the Justice Assistance Act of 1982. This legislation, which was introduced by Senator SPECTER on April 21, 1982, and which is pending in the Judiciary Committee, is an essential part of our effort to assist States and local communities in the fight against crime.

There has been a great deal of discussion recently about what we in the Senate can do to fight crime. All of us know that the problem is serious and real. Violent crime is in the forefront of national consciousness. Statistics tell the tale. Violent crime climbed 59 percent in the last 10 years. In 1980 alone violent crime increased by 13 percent, the biggest jump in more than a decade. We live in a society where a murder is committed every 24 minutes, where a burglary occurs every 10 seconds, and where a woman is raped every 7 minutes.

We must all recognize the frustrating reality that, under our federal system, the ability of the Federal Government to attack the crime problem is somewhat limited. This is particularly true with respect to the violent street crime which haunts the inhabitants of our inner cities and which forces our elderly to withdraw into isolation rather than risk assault on the streets. Such crimes must be combated primarily at the local level by local law enforcement agencies, State courts and correctional systems, and, most of all, by concerned private citizens.

The Federal Government cannot solve the crime problem by itself, but it has an important role to play in assisting States and local communities in their anticrime efforts. Our responsibility as Members of the U.S. Senate is to define the appropriate Federal role in fighting crime, and then to fashion concrete and constructive means for translating into action our commitment to help combat violent crime.

To its credit, the Judiciary Committee has taken up these tasks and is considering a variety of significant anticrime legislation. We are examining measures which will permit more effective prosecution of armed career criminals, and which will aid the victims of crime. Perhaps most important of all, we have before us a bill which authorizes the Federal Government to give essential crime-fighting assistance to the States and localities in a way that is efficient, fair, and appropriate to the task of mobilizing our citizenry to help stop the growth of violent crime. That bill is the Justice Assistance Act.

S. 2411 would establish the Office of Justice Assistance (OJA) in the Department of Justice, to administer a modest program of grants to State and local law enforcement and community agencies. Some of these grants would be specifically targeted for the replication of programs which have been proven effective in other communities around the country. Other grants would underwrite educational and training programs for criminal and juvenile justice personnel. The Justice Assistance Act also provides for small grants for the implementation of innovative crime-fighting programs which are likely to prove successful. Finally, S. 2411 authorizes grants to help States and localities deal with specific criminal justice emergencies. Through all of these programs, the Federal Government would assume a proper role in the fight against violent crime: To provide assistance, coordination, and expertise to the people in communities across the country who are in the best position to decide how to tackle the crime problem.

In previous legislation, the Congress has considered how this assistance can best be provided. The administrative provisions of the Justice Assistance Act build upon our past experience with federally-funded crime-fighting efforts. The result is a structure within the Department of Justice which can efficiently and economically run this important program. S. 2411 provides safeguards to protect the independence and impartiality of the new Office of Justice Assistance. The bill creates a Presidentially appointed advisory board to help set OJA policy, while at the same time coordination is insured through interlocking boards with the Bureau of Justice Statistics, the National Institute of Justice, and the Office of Juvenile Justice and Delinquency Prevention. S. 2411 dispenses with some of the cumbersome grant application and review procedures which at times have ensnarled anticrime efforts in redtape. And throughout the bill, the OJA is directed to set priorities in the fight against crime and to encourage participation by nonprofit organizations and neighborhood and community groups. I believe that these provisions go far toward insuring that the programs created by this bill will deliver assistance which our communities need and can really use.

Senator SPECTER is to be commended for his sponsorship of S. 2411, the Justice Assistance Act of 1982. I urge my colleagues on the Judiciary Committee and in the Senate as a whole, to lend their support to this most important initiative. In the brief time remaining in this session, let us enact a measure

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which will authorize the Federal Government to provide our cities, towns, and rural areas with resources—not just with rhetoric—in the fight against crime which engages us all.●

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution (H.J. Res. 520).

Mr. BAKER. Mr. President, may I have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, if I may have the attention of the Senate, it is my hope that we can now go back to the debt limit bill, which I believe will occur automatically, and that, at that time, we can take up the Dole-Byrd amendment dealing with a holding period on capital gains. I am trying to clear a unanimous-consent agreement to a time limitation of 30 minutes for the opponents and 10 minutes for the proponents of that amendment, which is certainly not a measure of the relative merit of the amendment. Nevertheless, I hope that we might be able to do that.

I am prepared to clear that request on this side. I do not mean to press the issue, but I wonder if it would be possible to enter into an agreement of that sort at this time?

Mr. BUMPERS. Mr. President, in light of the deprecations of the majority leader, maybe I ought to take 3 minutes, if time is supposed to determine the merit of the position.

Mr. BAKER. Then I put that request.

Mr. BUMPERS. Mr. President, let me say to the majority leader that I shall be prepared in 3 or 4 minutes to go with that amendment. Unaccustomed as I am to long-winded speeches, I can cut it, probably, to 10 minutes, but let us make it 30 minutes equally divided.

Mr. BAKER. Mr. President, I shall not now put that request in view of the statement just made by the Senator from Arkansas. In a few moments, I shall put the request for 30 minutes equally divided.

Mr. President, I now ask unanimous consent that if we proceed next to the consideration of the Dole amendment, after the disposition of the Dole amendment, the Senator from Oregon (Mr. PACKWOOD) will once again be recognized in the same manner as provided for in the order of last evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I would like to put a unanimous-consent request now in regard to the Dole-Harry F. Byrd, Jr., amendment.

I ask unanimous consent, Mr. President, that on the Dole-Harry F. Byrd, Jr., amendment to the debt limit there be a time limitation of 30 minutes equally divided to be under the control of the distinguished Senator from Kansas, the chairman of the committee, and the Senator from Arkansas to control the time in opposition.

I further ask unanimous consent, Mr. President, that no amendment to the Dole amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, why is it that no amendment will be allowed?

Mr. BAKER. It seemed like a good idea at the time. [Laughter.]

Mr. JOHNSTON. That was not in the original request.

Mr. BAKER. The original request was that no nongermane amendment would be in order. Would the Senator prefer that formulation?

Mr. JOHNSTON. No. I thought there was no statement in there with regard to amendments at all. Did the Parliamentarian tell the Senator this?

Mr. BAKER. No. Mr. President, I had requested that the clearance be attempted on the basis of no nongermane amendment would be in order. I had been encouraged to think that perhaps I might improve on that by one step.

Mr. JOHNSTON. May I ask, still reserving the right to object, why are we giving special treatment to this particular amendment?

Mr. BAKER. I think, Mr. President, that it would be perhaps better if I yielded to the distinguished chairman of the Finance Committee to speak on that subject.

I will say to my friend from Louisiana that the Senator from Virginia and the Senator from Kansas came to me and suggested, as I remember, that as a result of certain conversations held during the tax conference the suggestion was made that they would offer this amendment at the first opportunity on the debt limit.

Now, with that may I yield to the Senator from Kansas for any further explanation he wishes to make.

Mr. DOLE. I have no quarrel with a time limit on the amendment because I may have a second-degree amendment myself. There is one technical thing we could handle in conference, but I am prepared to offer a second-degree amendment to take care of that. But it was passed last year by the House to reduce the holding period from 12 months to 6 months. It was passed this year by the Senate. Very honestly, we had a problem in the weekend conference, but I was informed by the chairman of the House Ways and Means Committee if it came back to the House on a different vehicle it would be seriously considered. I think it should be seriously considered. Therefore, I am offering it on the debt ceiling along with any other amendments that may be offered to the debt ceiling, and it may be so heavy it will not be able to leave this Chamber.

Mr. JOHNSTON. Mr. President, my opposition is not so much to the 6-month holding period, although I am willing to listen to that, but I have some amendments which I think are of very high priority and which I would like to have considered. We have had a special place carved out for the debt limit bill, and I wonder if we could get a special place for some of my amendments.

For example, there is the coal slurry pipeline matter, which has been passed by the committee overwhelmingly, and busing, which has passed the Senate overwhelmingly. If we are going to have consideration of any amendments, it seems to me that those should be considered.

Can we put those items in the request?

Mr. BAKER. Mr. President, I withdraw the request.

I must say that I had hoped we could do this in a minimum of time. My first commitment is to have a week of debate on the social issues—abortion, particularly.

I was reluctant to do this, in any event, because we will have to keep the Senate here until 8 o'clock in order to get in any meaningful and significant debate on the Helms amendment, as it is.

I would do this only if we could get a reasonably short time limitation. I will not try to call up the Dole amendment at this time.

Mr. JOHNSTON. Mr. President, I will not object to the Dole amendment. I do not object to the substance of it, subject to hearing the debate, but I think we should be told what our purpose is.

Will there be other special orders in effect where we try to carve out time for other amendments? I should like to get on that list.

Mr. BAKER. I would expect that. I do not have a list, though. What I intend to do is to try to get the abortion debate out of the way, up front. That may be a vain hope. We may not do that until our next incarnation. [Laughter.]

I will certainly cooperate with the Senator from Louisiana. I have no desire whatever to keep him from offering an amendment to this bill on the coal slurry pipeline. Indeed, I will help him try to offer such an amendment on this measure.

Mr. JOHNSTON. I do not object.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BUMPERS. Mr. President, inasmuch as we are engaging in a little colloquy about where we are going, has a cloture motion been filed on the abortion amendment?

Mr. BAKER. No, it has not. I indicated yesterday when we began this matter that I am not inclined to offer a cloture motion at this time. The only reason—I suppose the reason—is that for a year and a half now, we have been talking about setting aside a period of time to devote to the debate of these issues—that is, abortion and other issues. After a fairly complicated process, it was decided that the debt limit would be the vehicle to carry that.

I am reluctant to file a cloture motion the first, second, or third day and give the impression that I set up a period for debate and then try to shut it down in a short period of time.

Mr. BUMPERS. We have about 18 legislative days remaining for the scheduled adjournment, and we really have a plateful that we are going to have to dispose of before we can consider going out, unless we are willing to come back after the election.

It occurs to me that the abortion amendment might go on if we do not get cloture on it. How long would the majority leader want to continue trying to obtain cloture?

Mr. BAKER. That depends on a lot of things—for example, how much progress we make on privileged matters, such as conference reports, that may be submitted to the Senate from time to time. I certainly would plan to file a cloture motion at some point, but I do not plan to do so at this moment.

Mr. BUMPERS. Is it the majority leader's thought that we will still be on the debt limit bill when we return?

Mr. BAKER. We may be. I hope we can finish the debt limit, including the abortion debate, before we go out on Friday. If the parties will make one more try for a unanimous-consent agreement on the abortion amendment, we can do that easily and even have time to take up another bill. My hope is not totally forlorn. I think there is some movement in that direction, and there may be some reason to think that progress is being made toward a unanimous-consent agreement to limit time on that debate.

All we can do now is bow our heads and see how we get along.

Mr. President, I ask the distinguished Senator from Louisiana if I may renew my request for 30 minutes, equally divided, and I modify my request so that no nongermane amendments to the Dole amendment would be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2030

(Purpose: To decrease the holding period required for long-term capital gain or less treatment)

Mr. BAKER. Mr. President, pursuant to the unanimous-consent order previously entered, which provided, that on the suggestion of the majority leader, after consulting with the minority leader, we might resume consideration of the Dole amendment, I report to the Senate that I have consulted with the minority leader, and I believe he feels that that consultation is sufficient for me to proceed at this point.

Therefore, I ask the Chair to lay before the Senate the Dole amendment to the debt limit bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. HARRY F. BYRD, JR., proposed an amendment numbered 2030.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234(b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income curently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d)(1) Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of propety held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Mr. President, before I proceed, I want to note what probably everybody has noted. We had a rather sharp reaction in the stock market today, the greatest rise in the history of the stock market, and indications are that maybe things are getting better.

I had an opportunity to visit with at least one person from Wall Street who is fairly knowledgeable; and he believes that, in part, it is because Congress is on the verge of doing the right thing in passing the spending reduction and revenue increase proposal

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that will be before the Senate later this week, if it passes the House.

Mr. President, there is every indication that interest rates are on a fairly steady decline, and with the stock market jumping 39 points today, the largest jump in history, we could be on the verge of at least some good news in the economy, if we continue to act responsibly on spending reductions and revenue increases where necessary, which are included in the bill to come before the Senate later this week.

Mr. President, this Senator is encouraged by what happened today. Maybe it will change tomorrow, but at least for the time being, it is an indication that the financial markets are listening, that they are convinced that what is happening in the budget process and in the revenue side are steps in the right direction.

Mr. President, I send to the desk an amendment in the second degree, and I will explain precisely what it does. It is a technical change in the original amendment.

The PRESIDING OFFICER. Until the time is yielded back, the amendment is not in order.

Mr. DOLE. Mr. President, yesterday I offered an amendment to House Joint Resolution 520 to deal with an important tax change included in the Senate version of H.R. 4961. I offered that amendment for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and I will be offering an amendment in the second degree, when the time expires, which merely makes one technical change, which I will explain.

I ask unanimous consent that the names of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from Texas (Mr. BENTSEN), and the name of the Senator from Iowa (Mr. JEPSEN) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am offering an amendment in the form of a substitute to amendment No. 2030, an amendment I have offered to the debt limit bill dealing with the 6-month holding period for long term capital gains. My revised version of the amendment makes a relatively minor but important change regarding stock options that are part of a straddle.

Everything else stays the same. There is no other change. I am not trying to change the substance of the amendment offered yesterday.

This revised version of my amendment on the 6-month holding period is identical to amendment No. 2030, which I have already offered, with the exception of the addition of an additional section dealing with the tax straddle question. When I first introduced my 6-month holding period amendment, I indicated that the amendment as then drafted did not deal with the possible impact of the change in holding period on the treatment of certain stock options under the tax straddle rules enacted in the Economic Recovery Tax Act. I also indicated my belief that, where there is no possibility of the conversion of ordinary income or short term capital gain into long term capital gain through offsetting stock option positions, the complex tax straddle rules should not apply. The substitute amendment I will offer deals with this problem with an amendment to section 1092(d)(2)(B)(ii). This change, I believe, will serve to cover this issue, and I hope my amendment will be considered and adopted in this form.

Mr. President, this revised amendment concerning the 6-month holding period is designed to make clear three matters concerning stock options that are part of a straddle.

First, any stock option that is part of a straddle of any position of which could give rise to long-term capital gain or loss is a "position" and, therefore, the straddle is subject to the rules of section 1092;

Second, any stock option that is part of a straddle all of the positions of which could give rise only to short-term capital gain or loss is not a position and, therefore, the straddle is not subject to the rules of section 1092; and

Third, any stock option that is part of a straddle held by a taxpayer other than a syndicate, all of the positions of which could give rise only to ordinary income or loss, is not a "position" and, therefore, the straddle is not subject to the rules of section 1092.

Mr. President, I would be the first to confess this is a technical amendment. I am not certain the Senator from Kansas totally understands the implication, but I am advised by those who do that this technical amendment is necessary to avoid possible problems later on. It is also my understanding it could be handled properly in conference, but it appeared to me that this might be the place to raise that question.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. I do object to this. I just wish we all understand this.

The perfecting amendment of the Senator from Kansas is not yet in order. Is that correct?

The PRESIDING OFFICER. It is not in order.

Mr. BUMPERS. I shall not object if the Senator offers it as soon as we finish the debate and go ahead and vote.

Mr. DOLE. I thank my colleague.

Mr. BUMPERS. Mr. President, I seriously considered raising this issue at the time we were debating the tax bill in the Senate. I was shocked and surprised when we debated the measure here to find that the Finance Committee had again liberalized the rules for capital gains, this time liberalizing them to this extent.

Since 1978 an investor had to hold an asset for 1 year before he got the capital gains rate, and the Finance Committee shortened that to 6 months. As I say, I started to raise that at the time because I objected to that, but I got so carried away in resisting the efforts of the Senator from Colorado in trying to index capital gains, which I thought was even more debilitating to the tax code, and in the interest of time did not raise the objection.

I had been agonizing about how I am going to vote on this tax bill because I had felt that the Senator from Kansas has correctly received the plaudits of a lot of people in this country for his leadership on that and in the conference and in really taking some fairly unpopular stands, probably but hopefully not to his political detriment, but the things we normally perceive to be politically damaging. The Senator from Kansas has bit the bullet on some of those things, and I applaud him for that.

But when they took the Senate bill over to the conference, the House of Representatives refused to recede to the Senate position on both of those things, both indexing and capital gains and the shortening of the period for which an asset had to be held before one could get the capital gains treatment.

Mr. President, let me just catalog for anyone who might be listening the history of capital gains during the 7½ years I have been in the Senate. I think capital gains started back in the 1930's, but I am just talking about since 1975 when yours truly came to the Senate what has happened. When I came to the Senate the maximum rate on capital gains was 49 percent. If an investor sold a piece of property or if he sold stock or whatever he sold and he made a gain and he had held that piece of property for 6 months, he got preferential treatment and the tax was 49 percent. It was in about 1978 that the Senator from Wyoming, Mr. Cliff Hansen, whom all of us remember favorably, got an amendment through here over my objection, I might say, to reduce the capital gains rate to 28 percent.

We have to bear in mind that at that time the top rate on ordinary income was as high as 70 percent, particularly for earned income. So the difference between 70 percent on unearned income and 28 percent on capital gains seemed to me like a very good incentive for people to invest.

In order to get the Senate to go along with that, Senator Hansen said, "I am willing to increase the holding period from 6 months to a year," and so we did that. Twelve months. We said since we are going to reduce the rate from 49 percent to 28 percent, the least we can do is to try to make the capital gains accomplish what it is supposed to; namely, caused people to make true investments as opposed to speculate investments, and so that was the law in 1978.

Then last year, under the Economic Recovery Act—that is a little euphemism for a tax cut—last year under the Economic Tax Recovery Act we went further and when we reduced the top income from 70 percent to 50 percent that had the effect, and I am not going to belabor the formula, of reducing capital gains rate from 28 percent to 20 percent.

So bear in mind in the first 6 years I am in the Senate we have now reduced the capital gains rate from 49 percent to 20 percent, but we still had a provision that one had to hold an asset for at least a year in order to get that treatment.

So what do we have now pending before us? We have another effort to shorten the period for holding an asset from 12 months to 6 months and at the rate we have been going we can probably anticipate next year we will cut it down to 3 months.

I wish to ask, and I ask this rhetorically—I am not even asking for the attention of the Senator from Kansas on this—what sense does it make for the conference to come back here with a tax bill which the Senator from Kansas says has caused the stock market to jump 39 points today because of that bill and because the business people of this country know that we have to do something about the revenue? We cannot have the kind of deficits we are looking at and as deplorable as taxes are even to the business community they know it has to be done.

Within 36 hours of the time of the conference report, the report on the conference bill, the Senator from Kansas introduced this amendment on this floor to dilute what the conference had just gotten through doing.

I see in the papers this only will cost $100 million the first year, $250 million the next year, $500 million the next year, and so on. I do not believe that, incidentally; I think it is a much more costly provision than that. But why in the name of heaven are we telling the American people, with the President taking 30 minutes of prime time television last night to tell the American people how Congress has got to bite the bullet, we have got to have this tax bill, in order to reduce the deficit, and then within 36 hours come back and say, "We are only kidding. We are going to start whittling away at it again and we are going to continue to give the favors to the people who need it the least."

Well, we are back to square one. We are back to where we were with that economic tax recovery bill last year under which about 45 percent of the tax cuts went to the richest 4 percent of the people in the country.

Why are we liberalizing capital gains? Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 30 seconds.

Mr. BUMPERS. Mr. President, what is the genesis of capital gains? Why do we have it? Why do we separate it from just ordinary income? The poor guy standing out here assembling an automobile does not get a capital gains rate. He is lucky to pay his utility bills. He is not down at the stockbrokers trying to buy stock and speculating and trying to get the capital gains. He bellies up and pays up to 58 percent of his income because that is all he has got.

Well, the idea of capital gains was to say to people, "If you are willing to make an investment and you make it for a period of a year in order to try to stimulate the economy of this country we will give you favorable tax treatment. We would say you have earned your money over a long period of time, and you should not have to pay the same rate because it came over a long period of time. In addition to that there is some inflation mixed in with this and we are going to give you a tax break because in all probability inflation has gone up."

When you shorten the time to 6 months, who knows what the inflation rate is for 6 months? I see no reason at all to have favorable tax treatment for capital gains if you are going to reduce the time period to 6 months. It will help me. I buy and sell a little stock. I have got a farm, I have had it well over a year, so it will not make any difference. I have been thinking about selling it, and I will get that 20-percent rate.

Whom are we trying to help with this amendment? Here are the statistics of whom we are trying to help. Five percent of the people in this country make over $50,000 a year, 5 percent. They get 42.60 percent of the benefit of capital gains.

Some of us stood here and wailed and talked and gnashed our teeth for 2 weeks last summer during the debate on the Economic Tax Recovery Act, and said, "Let us cut taxes for 1 year and see what the economy does," and we could not get that done. So we said, "Let us cut taxes for 2 years and see what the economy does," and nobody wanted to do that. We went ahead and passed it for 3 years, and I never understood why we chose to do that, and I still do not understand.

But the thing we were gnashing our teeth about was who was going to get the major benefit of it. A fellow makes $100,000 a year, and he got a $7,000 tax break. People in my State making $16,000 a year got $242, and they are the ones who cannot keep their cars running because they cannot afford gasoline, cannot keep their homes cooled because they cannot afford air-conditioning and heating.

The fairness issue is the one thing the President is vulnerable on. Most of the people of this country, even those who like him very much, feel he is not sensitive to the plight of the working people of this country, and that the tax recovery act last year really was beneficial to the wealthiest people in the country who needed it the least.

So not only are we flying right in the face of the tax bill we are going to debate here Friday, 3 days from today when we are going to vote on the tax bill that the conference has reported out, which says, "You must hold an asset for a year before you can get this 20-percent rate," but here we are 3 days before that getting ready to start diluting the benefit of that, and we are saying to the American people and to the businessman, whose confidence has been raised just ever so slightly, "Don't take it too seriously because we are going to start chipping away at it right now."

So, Mr. President, I hope my colleagues would at least wait for a while, wait until we get a chance to vote on the conference report which absolutely refused this provision. I do not understand why the chairman of the Ways and Means Committee would tell the chairman of the Finance Committee that "I cannot accept it in conference. If you can get it passed again over here I will take it." I do not understand the mechanics, the politics of that, but I am sure the Senator from Kansas speaks truthfully about that. I hope the Senate will at least show the discretion to wait until after we pass the bill Friday before we start trying to chip away at it, and not do it 3 days before we even have a chance to pass that bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mr. DOLE. Mr. President, I certainly appreciate the comments of the Senator from Arkansas. I would just say at the outset we believe that the bill the conferees concluded Sunday morning, which will be voted on by the House, I understand, on Thursday and perhaps here Friday or Saturday, is not a perfect bill, but we think in many cases it is a step in the right direction. That bill contained two provisions, as correctly noted by the Senator from Ar-

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kansas. One was indexing capital gains, and the other was reducing the holding period.

I guess if we reduce it to zero we would be in step with Belgium, Canada, France, Italy, Japan, the Netherlands, and the United Kingdom, but we do not go that far. We go down to 6 months, and I know there are arguments to be made, as were made by the Senator from Arkansas.

As far as why are we back after it being rejected by the conference to attach it to the debt ceiling, I think it is fair to say that the chairman of the Ways and Means Committee—it was in the tax bill last year, and without going into all the politics of that, not partisan politics but all the politics of that, in the conference last year the chairman of the Ways and Means committee—told me that even though it was in the House bill, this provision, that we would stay in conference forever if the Senate insisted on keeping that provision, not because of the merits of the provision but because of the author of the provision. It was a "bollweevil," as the Senator from Kansas recalls—I am not certain which "bollweevil" it was—and it became a matter of very great, well, personal concern to the chairman of the Ways and Means Committee, who was chairman of the conference.

This year it was included in the Senate Finance Committee bill and in the bill passed by the Senate. Maybe not for the same reason, but still not totally divorced from that reason, the chairman of the Ways and Means Committee persuaded the Senator from Kansas that he would very much like not to have this provision in the conference report, again not because of its merits or demerits, but for other reasons that the Senator from Kansas is not totally certain he can explain.

So the Senate conferees, even though we had, I think, solid support on the Senate side, backed away from the provision, and we were, I will not say, assured, but we were led to believe if it came back to the House on another vehicle it would be seriously considered.

I cannot stand here and say the chairman of the Ways and Means Committee is on board or supports the proposal this minute, but I am prepared to say that I think it will be carefully considered and, hopefully, favorably considered.

It is supported by, and has been for a long time by, Members on both sides of the aisle, and it would be my hope that we could try one more time.

I know the Senator from Arkansas felt strongly about the Senator from Colorado's provision, and I would like to yield—I might say the Senator from Colorado, when I was told they could not take this provision in conference, this reducing of the holding period, I said, "Well, I have got a better idea or compromise. What about taking indexing capital gains?"

That met with even less receptivity, I guess, so the Senator from Colorado is here, and I would be happy to yield the time to the Senator from Colorado, whatever time I have remaining.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator's yielding. I understand that the amendment which he brings to us today reduces the holding period of 6 months. I am very much in support of that idea. I supported it in committee and I supported it when considered as part of the tax bill, and I support it now.

I think it is an important provision and, in fact, it may have a significance that even goes beyond its literal dollar impact on the economy because of what it says to investors and people who are subject to the capital gains tax.

I also want to express my appreciation to the chairman of the Finance Committee for his efforts to get the House to agree to the indexing provision. I know that a number of the Senate conferees did so. I spoke to the Senator from Virginia about it, the Senator from Louisiana, the Senator from Missouri, and the Senator from Kansas and I know that in one way or another each of them tried to prevail on the Members of the House in this matter.

I must say that I am very much disappointed that Members of the House were intransigent in their unwillingness to consider the indexing amendment. I just wanted to express my hope and belief that on another occasion if the Senate sends them the indexing provision that the House conferees will be disposed to accept it. I believe that if they have a chance to study it at greater length, that they will do so.

In fact, the full House, you will recall, did adopt the indexing provision a couple of years ago. Perhaps the gentleman from Texas, Mr. Archer, who sponsored that amendment initially in the House, will be disposed to offer it on an appropriate vehicle over there. At the right time, I will probably offer it here again in the Senate.

In the meantime, I do want to express my appreciation to the Senate conferees for their interest in the indexing issue and add my own words of support for the amendment of the Senator from Kansas, because reducing the withholding period is a very constructive and worthwhile idea for which investors of the Nation will thank him and, more important, which will have, I think, a very significant and worthwhile effect on capital formation in this country.

Mr. DOLE. Mr. President, I thank my colleague from Colorado. I certainly support his indexing provision and believe that is a step in the right direction also. I think at the appropriate time we can persuade our House colleagues and I appreciate his comments.

I ask unanimous consent that an article written by Steven A. Seiden which appeared in Barron's on March 23, 1981, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Better Shot at Profits: House Bill Would Wipe Out Capital Gains Holding Period

(By Steven A. Seiden)

If the Administration's tax program is enacted in anything like its proposed form, investors can look forward to sharp reduction in the levy on long-term capital gains. Uncle Sam last lowered the capital-gains tax rate in 1978, and the action has been widely heralded as a boon to venture financing, new issues and the stock market generally. Whether the current plan—which calls for the maximum effective rate to drop over three years to 20 percent from 28 percent—would exert a comparable impact remains to be seen. But what it would not do is improve the opportunities for investors to turn a long-term profit so that they can benefit from a lower capital-gains rate.

A shorter holding period—preferably none at all—is what is needed, for 12 months is an unreasonably long time to make someone wait to cash in on an investment: By the time a year has rolled by, it's not uncommon for a potential profit, or at least a good chunk of it, to have disappeared. Meanwhile, in the hopes of picking up a long-term gain, investors frequently will avoid taking short-term profits on which they pay tax at high, ordinary rates.

Rep. L. A. "Skip" Bafalis (R., Fla.), a member of the House Ways and Means Committee, recently introduced H.R. 2083, which would eliminate completely the present 12-month holding period required to qualify investment profits for long-term gains treatment. Were his proposal to be adopted, the U.S. would join Belgium, Canada, France, Italy, Japan, the Netherlands and the United Kingdom among countries that do not mandate a holding period for capital gains.

There are several reasons the idea merits serious consideration; not the least is that a reduced long-term capital-gains holding period would put more money in the pockets of both individuals and the government. It would boost capital-gains tax revenues because profit-taking would not be artificially delayed. It also would enhance stock market liquidity, thereby aiding the capital formation process. And it would provide investors with a better shot at realizing profits.

The last is not unimportant, since, as a study of the market in the two years since 1979 suggests, there have been relatively few opportunities for individuals to realize long-term gains in stocks of large-capitalization companies. During this stretch, of course, there've been chances aplenty for long-term gains in growth stocks. But among more mature concerns, which still account for a vast slice of the shareholder population, the opposite has been true.

To underscore the point, we examined the recent stock price history of several such companies. Take American Telephone & Telegraph, with nearly three million shareholders. Since January 1979, there has not been opportunity for an investor to realize a long-term profit until recently.

SAME STORY

AT&T sold down in a nearly steady trend from that date, when it traded at around 60, until March 1980, when it dipped to 45. Then, the stock rose a bit, hitting 56 by mid-1980, before retreating to 45 by year-end. It recently has moved into the low 50s. Had an investor been astute enough to purchase AT&T at its previous March 1980 low, he would have enjoyed a possible 11-point profit between March and September only to see it vanish before year's end.

The story is petty much the same with General Motors. There were several opportunities for short-term profit swings, but none for a long-term capital gain. Thus, the stock ran up 13 points between January 1979 (when the shares sold at 53) and September of that year (when they hit 66). Had an investor held for the 12-month capital-gains period he would have lost money. In the mean-time, if an investor had been savvy enough to buy GM at the two-year low of 39½ set in April 1980, he would have seen a 25 percent move in the stock come and go while waiting out the long-term holding period.

There's another point to consider. With a shorter holding period, an investor could have taken his profit and switched into another stock. Conceivably, he might also have been able to turn an additional gain on his new purchase. Moreover, even if an investor loses money, the IRS, because of the $3,000 limitation on short-term loss deductions against ordinary income, won't wind up footing anywhere near the entire bill.

The point that long-term capital-gains profits aren't so easy to come by is demonstrated by IBM, the third most widely held stock and the largest in terms of market value. Again, IBM's two-year price pattern reveals not a single opportunity for chalking up long-term gains.

Exxon is an interesting example of a company that enjoyed a general price upswing over the past two years but also one where patience and superb timing were required to reap meaningful long-term profits. Through 1979, the shares traded in a narrow range in the 50s. The relative lack of price action could easily have prompted an impatient investor to sell out. Of course, had he waited, the stock in March 1980 hit 69. But he had to act quickly, for barely a month later, Exxon was back in the mid-50s.

TIME IS RUNNING OUT

Turning a 12-month profit was obviously difficult in the stocks of such companies as General Telephone, Ford, Sears Roebuck and Pan Am, all of which have been in a general downtrend. But among those on the rise—Texaco, Kodak, RCA, DuPont, Union Carbide, Occidental Petroleum and Bethlehem Steel—there has been scant opportunity for long-term gains over the past two years. Several big oil concerns have run counter to this general trend—issues like Gulf, Atlantic Richfield, Mobil and Standard Oil of Indiana—but their recent price action suggests that here, too, time for taking profits may be growing short.

When a capital-gains tax was first instituted, in 1921, the holding period was set at two years. There were some changes over the years, and then, in 1942 the period was sliced dramatically to six months (it was stretched to the present 12 months in the so-called Tax Reform Act of 1969). At the time, the Senate Finance Committee, as an article in the National Tax Journal points out, "stated that the realization of capital gain is entirely a matter within the discretion of the taxpayer, and shortening of the holding periods would have the effect of encouraging the realization of capital gains and thereby result in added revenue to the Treasury."

Congressman Bafalis, in introducing his proposed measure, observed that "the 12-month holding period is but another disincentive to capital formation. It's difficult enough for companies to raise equity capital without placing hurdles like that in the way of potential investors pursuing a profit."

Mr. DOLE. It does explain why we should reduce the holding period if not to zero to at least 6 months.

I yield back the remainder of my time.

Mr. BUMPERS addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask that the Senator from Kansas reserve his time and not yield it back because he may want to respond to what I am about to say.

Mr. DOLE. I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, No. 1, we are being asked to vote here on an amendment, bearing in mind that the conference rejected it and the chairman of the Ways and Means Committee said that he could not accept it but if we passed it and sent it back to him, they would accept it, but for reasons which the Senator from Kansas said he did not understand.

Mr. DOLE. He said he would consider it. He did not say he would accept it.

Mr. BUMPERS. OK, that he would consider it. I do not think this is a very good reason to pass bills because the chairman of the Finance Committee says if we send it back to him one more time, even though he will not take it on the tax bill, he would consider it if we put it on something else. There are 99 Senators, and I think the Senator from Kansas would like to be included, who would like to know whatever the rationale was by the chairman of the Ways and Means Committee in saying he would accept it on something else but he would not on this.

I think you ought to bear in mind that the question is, what do we get out of this? What does the United States get out of it? What do the people get out of it? There has not been one single thing said here today on what we get out of it.

What we get out of it is a $250 million annual revenue loss. The first year is a little over $100 million, then it goes up to where it is around $250 to $265 million a year that we lose. And for what? To encourage more people to speculate, not make true investments, which was the real original purpose for giving people about 40 percent of the regular tax rate. You only pay 40 percent of the top tax rate if you have a capital gains and you happen to be a wealthy person.

We gave them that incentive so they would invest and make true investments and hold it for some period of time. Now what we are saying is we are going to take another $250 million and add to the deficit. We are trying to get the deficit down. That is the whole purpose that we are being asked to vote for the tax bill. That is what the President went on prime time television and told 220 million Americans last night.

And here we are, less than 24 hours after the President spoke, saying we may vote for the tax bill but we are going to start raising the deficit again already. Not one single substantive, meritorious argument has been made on why we ought to do this.

Mr. President, finally let me say that the effective rate that people pay on capital gains is not even 20 percent. If you happen to be a wealthy wage earner and you are in the 50-percent category, then you do pay 20 percent. But if you do not, just to give you an example, in 1976, the average capital gains rate paid in this country was 15.9 percent. In 1980, it was 11 percent.

But bear in mind that in 1980, when we reduced it to 11 percent effective rate, that was before last summer's big tax cut in which we reduced the rate from 28 percent to 20 percent. When the statistics are in for 1981 and 1982, I promise you that figure will be well below 10 percent.

So what we are saying is that for the 5 percent of the people in this country who make over $50,000 a year and who are getting 42.6 percent of the benefit of the capital gains in this country, the very wealthiest of the wealthy, here we are lining their pockets again and they do not even pay the 20 percent effective rate.

I strongly urge my colleagues to show a sense of responsibility and reject this amendment.

Mr. President, I ask unanimous consent that appendix I of a study done by Ingalls and Snyder be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX I.—TOTAL CAPITAL GAIN AND THE EFFECTIVE TAX RATE ON CAPITAL GAINS FOR RETURNS WITH NEW CAPTIAL GAINS ONLY: INDIVIDUAL ONLY: 1955–80

[Dollars in billions]

Year	Total gains[1]	Taxes paid on capital gain income	Effective tax rate (percent)
1955	$9.9	$1.2	12.0
1956	9.7	1.1	11.8
1957	8.1	0.9	11.1
1958	9.4	1.1	11.1
1959	13.1	1.6	11.8
1960	11.7	1.4	11.6
1961	16.3	2.0	12.4
1962	13.5	1.6	11.8
1963	14.6	1.7	11.9
1964	17.4	2.2	12.7
1965	21.5	2.8	13.1

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APPENDIX I.—TOTAL CAPITAL GAIN AND THE EFFECTIVE TAX RATE ON CAPITAL GAINS FOR RETURNS WITH NET CAPITAL GAINS ONLY: INDIVIDUAL ONLY: 1955-80—Continued

[Dollars in billions]

Year	Total gains[1]	Taxes paid on capital gain income	Effective tax rate (percent)
1966	21.3	2.7	12.5
1967	27.5	3.9	14.0
1968	35.6	5.2	14.5
1969	31.4	4.4	14.1
1970	20.8	3.3	15.6
1971	28.3	4.3	15.2
1972	35.9	5.6	15.7
1973	35.8	5.3	14.9
1974	30.2	4.3	14.3
1975	31.9	4.5	14.4
1976	39.0	6.2	15.9
1977	46.9	7.3	15.6
1978[2]	48.0	7.4	15.4
1979[2]	53.3	6.4	11.8
1980[2]	68.3	7.8	11.0

[1] Net long-term gain in excess of short-term loss plus short-term capital gain.

[2] Estimate.

The PRESIDING OFFICER (Mr. QUAYLE). All of the Senator's time has expired. The Senator from Kansas has 4 minutes and 45 seconds remaining.

Mr. DOLE. Mr. President, I would like to say a word or two and yield back my time and then offer the amendment that I mentioned.

I guess it depends on one's point of view. It seems to me if we are trying to encourage investment, create jobs—and there are indications that this would help in that way—then, in my view, it is something that should be done. It has merit.

I do not want to get into all the conference politics, but the Senator from Arkansas has been in conference and he knows things happen from time to time in conferences and personalities get involved.

But it just seems to me that, since this matter has passed the House on one occasion and passed the Senate on one occasion, maybe we ought to properly see if it will pass the Senate one more time and then go to conference. We will find out whether or not it might be acceptable on this measure or some other measure.

I might say that if this fails for some reason, the Senator from Kansas is going to offer it again and hopefully it will pass.

Mr. HARRY F. BYRD, JR. Will the Senator from Kansas yield?

Mr. DOLE. I yield the remainder of my time to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I will just take a moment. I just wanted to say that I think the Senator from Kansas has made a case for the amendment. I want to join with him in support of the amendment.

I might point out that the 6 months holding period had been the required holding period for many, many years, for decades, I suppose, until it was changed in 1976. So this is nothing new. It is really what had been done over the years and it was just recently that it was changed.

Mr. BUMPERS. If the Senator will yield on that point, I would like to say at the time the limit was 6 months the rate was 49 percent.

Mr. HARRY F. BYRD, JR. During most of that period, the rate was not 49 percent. The rate was 25 percent. The 49-percent rate came into being as a result of so-called reform legislation in 1969. The Congress overwhelmingly reached a conclusion that 49 percent was just a ridiculous rate for capital gains and the Finance Committee, as I recall, was virtually unanimous—I think it was unanimous—in changing that 49-percent rate. Prior to that time, it had been a 25-percent rate and a 6-month holding period. So the 49-percent rate was only in existence for a very short time.

UP AMENDMENT NO. 1269

(Purpose: To decrease the holding period required for long-term capital gain or loss treatment)

Mr. DOLE. Mr. President, I yield back the remainder of my time and submit the amendment in the nature of a substitute which does contain that one technical change. I might say to my friend from Arkansas.

The PRESIDING OFFICER. The clerk will report.

The Assistant Legislative Clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. HARRY F. BYRD, Jr., Mr. BENTSEN, Mr. D'AMATO, Mr. JEPSEN, and Mr. ARMSTRONG, proposes an unprinted amendment numbered 1269 in the nature of a substitute to amendment No. 2080.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of Section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partners).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7), of section 857(b) (relating to taxation of shareholders of real estate investment trusts).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234(b) (relating to special rule for gain or loss of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (b) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(24) Subsection (b), and subparagraph (C) of subsection (e)(2), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) Sections 1092(c)(4)(B)(ii) of such Code (defining position with respect to stock options for purposes of recognition of loss in case of straddles) is amended to read as follows:

"(ii) is part of a straddle consisting of offsetting positions none of which would (without regard to the short-sale rules of subsection (b) of this section) result in the recognition of long-term capital gain or loss (or ordinary income or loss, if held by a syndicate, as defined in Section 1256(e)(3)(B)) if sold by the taxpayer on the last day on which such option could be exercised."

(e)(1) Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of property held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Mr. President, I ask unanimous consent to add Senator D'Amato and Senator JEPSEN as cosponsors to this amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that Senator ARMSTRONG be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The question is on agreeing to the second-degree amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The question is on agreeing to the second-degree amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) the Senator from Delaware (Mr. ROTH) and the Senator from Wyoming (Mr. SIMPSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea".

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), and the Senator from Tennessee (Mr. SASSER), are necessarily absent.

I also announce that the Senator from Kentucky (Mr. FORD), is absent attending the funeral of former Senator Thruston B. Morton of Kentucky.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER), would vote "yea".

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 77, nays 17, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—77

Abdnor
Andrews
Armstrong
Baker
Bentsen
Boren
Boschwitz
Bradley
Brady
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cranston
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
Durenberger
Eagleton
East
Exon
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Long
Lugar
Mathias
Mattingly
Melcher
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Schmitt
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—17

Baucus
Biden
Bumpers
Cohen
Dodd
Glenn
Hart
Hollings
Huddleston
Inouye
Jackson
Kennedy
Levin
Matsunaga
McClure
Metzenbaum
Mitchell

NOT VOTING—6

Dixon
Ford
Hayakawa
Roth
Sasser
Simpson

So the amendment (UP No. 1269) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The question is on agreeing to the first-degree amendment, as amended.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated on this amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The question now recurs on agreeing to the first-degree amendment.

The amendment (No. 2030) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, parliamentary inquiry. What is the pending question?

The **PRESIDING OFFICER.** The pending question is an amendment by the Senator from North Carolina (Mr. HELMS).

Mr. BAKER. Mr. President, is there an agreement for the recognition of the Senator from Oregon at this point?

The **PRESIDING OFFICER.** There is such an agreement.

Mr. BAKER. I yield the floor, Mr. President.

Mr. BUMPERS. Before the majority leader yields the floor, could he tell us about how long he plans to go on this amendment this evening?

Mr. BAKER. Yes. I thank the Senator from Arkansas. I should have done that.

Mr. President, I expect that the debate on this amendment will perhaps take not less than an hour and a half. I think we can finish the business of the Senate tonight and at about 8 o'clock this evening go over until tomorrow.

Mr. BUMPERS. I thank the Senator.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M. WEDNESDAY, AUGUST 18, 1982

Mr. BAKER. Mr. President, while I have the floor, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

THE **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR NUNN

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the distinguished Senator from Georgia (Mr. NUNN) be recognized on special order of not to exceed 15 minutes.

THE **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS, FOLLOWED BY CONSIDERATION OF TEMPORARY DEBT LIMIT INCREASE

Mr. BAKER. Mr. President, I ask unanimous consent that any time after the execution of the special order be devoted to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each and the period for such will extend not past 10:45 a.m., and that at 10:45 a.m. the Senate resume consideration of the pending business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I yield the floor.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution (H.J. Res. 520).

AMENDMENT NO. 2031

(Previously numbered UP. Amendment No. 1268)

Mr. PACKWOOD addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the majority leader has worked very hard trying to get a unanimous-consent agreement on an abortion amendment, or on the subject of abortion, including the Hatch constitutional amendment that we could all vote on. As he is well aware, we thought we had the agreement last Thursday night, we came within a hair of this Chamber agreeing to it, and then the agreement fell apart because one of the parties involved among the five of us that had been discussing it thought that what we had agreed to was not

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what he had agreed to. It was an honest mistake.

I make no criticism of that. At the time, the distinguished Senator from North Carolina (Mr. HELMS) then said that he wanted to amend his amendment which was at the desk, which we thought we were going to vote on, and remove the issue of personhood.

I am not going to dwell on the question of personhood. It is a technical issue we would debate at length. It was in the amendment when it was proposed. It goes to the 14th amendment of the Constitution on whether or not a fetus is a person. But if it is going to be removed from the bill, that is another matter.

Then, during the weekend, I did not have an opportunity to see what amendment the Senator from North Carolina might propose. Late yesterday afternoon I asked if he had a copy of the amendment he was going to put in and, if he did have, if I could see a copy. He gave me a copy.

Some of the findings are similar, and in some cases identical, to the findings in his human life bill, which was at the desk. The issue of personhood had been taken out; but in lieu of that, two new findings or sections had been added to the bill, one of which reads:

> The Supreme Court of the United States in the case of *Roe* v. *Wade* erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth.

The second finding reads:

> The Supreme Court of the United States in the case of *Roe* v. *Wade* erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

Mr. President, those are new findings. I am not quite sure what they mean. If they are going to be in the amendment when it is offered, I want to discuss them at length, because I think they are an oblique way to attempt to do what the findings in the human life bill do, and that is to reverse the Supreme Court's decision with a statute. I think that is what they mean.

There are some other changes in the bill that I will want to discuss at some length, if they happen to be in the bill when it is introduced.

Then, to my surprise, when I went to the press gallery, the press had a copy of the amendment that the Senator from North Carolina was going to offer, and there was added to it a provision about prayer and taking the jurisdiction of the courts away in total—in Federal courts, in the U.S. Supreme Court, involving prayer. It was part of the abortion amendment.

So I asked the Senator from North Carolina this noon, at our policy meeting, if he planned to offer an amendment that had prayer in it, in addition to abortion, and he indicated at that moment that that was his present intention.

If that is the case, I am not in a position to agree to any unanimous-consent request, because I know there are many other people who have an interest in the prayer amendment who will object. They would object if it were just the prayer amendment.

So, at this stage, I am kind of in a position of shooting at a moving target, and I do not know what the target is. I do not as yet know exactly what the amendment will have that I can focus on, although perhaps before we are done this evening, I may know. Clearly, in all the different forms of the amendment I have seen to date, it has some form of direct or at least oblique reference to the erroneous Supreme Court decisions and some findings, which would lead you to believe that we would try by statute to overturn them. I say that if those are in the amendment when it is offered, we can debate them at some length.

Mr. HELMS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. PACKWOOD. I yield.

Mr. HELMS. Let me respond to an observation about the unanimous-consent agreement, which I should like to be a part of the RECORD.

As the Senator knows, for the past year, the distinguished majority leader has been giving assurances that there would be a free standing debate on the abortion question, on busing, and on prayer in the schools. I have done the utmost to cooperate with the majority leader because we do have an economic problem in this country, and from time to time we have moved back the schedule that the majority leader had in mind for discussion of these issues.

The specific unanimous-consent agreement to which my friend from Oregon referred was drafted by a member of Senator BAKER's staff. In good faith, that staff member assumed that the Helms abortion bill, then on the calendar—and now on the calendar, for that matter—would be the amendment. He made that assumption but did not check with me. At no time have I implied, let alone stated, that this was the case.

Every Senator reserves the right to modify any piece of legislation he intends to offer, as in the case of the distinguished colleague of the Senator from Oregon.

Mr. PACKWOOD. Unless he gives up that right by unanimous consent.

Mr. HELMS. That is correct; of course.

Mr. HATFIELD has modified his twice in the last couple of weeks, for reasons good and sufficient to him.

The Senator from Oregon understands what the Senator from North Carolina is trying to do, and the Senator from North Carolina understands what the Senator from Oregon wants to do. We are looking at the arithmetic of votes in the Senate. I know that the Senator from Oregon (Mr. PACKWOOD) was elated when he got approximately the same head count I did on the matter of personhood. That is the reason why I made the judgment, in concert with those who have worked in the trenches across this country on behalf of pro-life, that we should drop personhood.

The delay in offering the precise amendment on yesterday involved Senator PACKWOOD's colleague. Senator HATFIELD has a version which is very similar to the modified version I propose. Frankly, I want the two together, and the Senator from Oregon will understand that. But at no time was there any effort to mislead, let alone deceive, the Senator from Oregon or anybody else.

The Senator referred to members of the press having a copy of the amendment. We did, upon their request, give them copies of what we had at that time, and we have made them available to any Senator who has asked for them. But at no time, even to this moment, have I said that there will not be further modification, because I am trying to reach Senator HATFIELD by telephone right now to discuss this very matter.

So this is a very sensitive issue on both sides. It is a polarizing issue on both sides. I say to my friend from Oregon that inasmuch as this is the only shot we will have at it—both the Senator from Oregon and the Senator from North Carolina—we had better take our best shot at it. That is precisely what I am doing.

I am counting heads and I am counting votes, just as the Senator from Oregon is, and that is all there is to it. I am not trying to engage in any subterfuge. I will discuss with him now, in the cloakroom, at any time, in any place, what we have in mind; because I do not want him to be left in the dark about it, and I do not intend to try to keep him in the dark.

As to tying in the prayer amendment, I did that in the hope that we might save a little time, inasmuch as the prayer question is coming up on this same piece of legislation. Senator HATFIELD expressed the hope that I would not persist in that, and I readily agreed to peel that off and let that stand on its own footing.

So that is all there is to it, about the confusion on the unanimous-consent agreement. I say again that the able assistant to the distinguished majority leader assumed in good faith that we intended to call up the abortion legislation on the calendar, when at no time have I implied, let alone stated, that that would be it. Certainly, I was not going to be locked into that version without knowing what I was doing.

Mr. PACKWOOD. I understand there was a genuine misunderstanding among the five of us who were negotiating.

Mr. HELMS. Yes.

Mr. PACKWOOD. That is water over the dam. But let us put down the issues that separate us. One is clearly the issue of choice of an abortion. Should a woman have the right herself to make a choice whether she wants an abortion or not? That is one issue in this debate.

The second issue in this debate is regardless of how one feels about that issue should we try to overturn constitutional decisions of the Supreme Court with a statute. That is an issue separate from whether or not a woman should have a right to make a choice.

There are a good many people who might vote for a constitutional amendment to reverese the Supreme Court that will not vote for a bill to reverse the Supreme Court.

Mr. HELMS. Or vice versa.

Mr. PACKWOOD. Or vice versa.

But I find that there is genuine deep serious objection even from people who do not agree with Roe against Wade about attempting to reverse it by other than a constitutional amendment.

That is an institutional objection, not that they favor or oppose the notion, just an institutional objection.

As the Senator from North Carolina knows, we have had illustrious testimony from Professor Von Olstein, Professor Tripp, former Professor Boark, extraordinary testimony from the six former Attorneys General, Herbert Brownell, Jr., Nicholas Katzenbach, Ramsey Clark, Elliot L. Richardson, William B. Saxbe, and Benjamin R. Civiletti all saying do not reverse the Supreme Court with a statute.

The 12 well-known constitutional scholars, many of whom do not agree with Roe against Wade in terms of its decision, all say "Do not try to reverse it by statute." They are Laurence H. Tribe, professor of law, Harvard Law School; Paul Brest, professor of law, Stanford Law School; Paul A. Freund, Carl M. Loeb University professor emeritus, Harvard Law School; Erwin N. Griswold, former Solicitor General of the United States, dean emeritus, Harvard Law School; John Hart Ely, professor of law, Harvard Law School; Telfor Taylor, professor of law, Benjamin N. Cardozo School of Yeshiva University, professor of law emeritus, Columbia University School of Law, former U.S Chief Prosecutor, Nuremberg war crimes trials; William Van Alstyne, William R. Perkins Professor of Law, Duke University School of Law; Louis Henkin, professor of law, Columbia University School of Law; Philip B. Kurland, William R. Kenan Distinguished Service Professor, University of Chicago Law School; Louis B. Schwartz, Benjamin Franklin Professor of Law, University of Pennsylvania Law School; Harry H. Wellington, dean and Edward J. Phelps Professor of Law, Yale Law School; and Charles Alan Wright, William B. Bates Professor of Law, University of Texas Law School.

Mr. HELMS. Mr. President, if the Senator will yield, again retaining his right to the floor, I also can present a long list of constitutional scholars who say exactly the opposite, that Congress not only has the right but has the duty to limit the jurisdiction of the courts.

Mr. PACKWOOD. Limiting the jurisdiction is a different issue than trying to reverse a court decision by statute.

Mr. HELMS. Humpty-Dumpty said, "When I use a word it means just what I intend it to mean, nothing more nor less."

But I will say to the Senator that he stated, and he is still yielding with the understanding he does not lose the floor, the usual catechism about a woman's right to choice. How about the unborn child's right to be born, to live? How about the 1½ million children whose lives are being deliberately terminated each year in this country? Is there no one to speak for them?

Mr. PACKWOOD. That is very clearly, when one gets down to the basics, the bottom line in this debate, and the Supreme Court has made a decision that between the two, the right of the woman to make a choice is superior. That is Roe against Wade. That decision has not yet been reversed.

Mr. HELMS. Let me ask the Senator this: Suppose 5 minutes after the baby is born the Supreme Court holds that that woman had the right of choice to terminate or to have someone terminate the life of the child. Would the Senator not try to overturn the court?

Mr. PACKWOOD. I wonder if I might do this: I wish to finish the comments I have. We are going to get into that debate at length before we are done with this.

Mr. HELMS. I agree with that, and I will not interrupt the Senator, and I thank him most respectfully and sincerely for yielding to me, but I do hope that we can get to the bottom line, and I am willing to do that, and I will say to the Senator that I am willing to enter into any kind of time agreement on my amendment, and I will take 30 seconds and then we can go to a vote.

But I thank the Senator for yielding.

Mr. PACKWOOD. I may or may not be willing to, but I do want to see the amendment and have some time to digest it before I will make that kind of an agreement.

The conference of chief justices of the States have come out in opposition to any effort to overturn the Supreme Court, a constitutional decision by statute. There is no way, Mr. President, to justify statutory repeal of Supreme Court constitutional decisions.

With all of the testimony that we had, I thought it was best stated by Robert Bourke, the former Solicitor General, a renown legal scholar and teacher, now a judge on the Court of Appeals of the United States, when he said in his testimony on this issue before the Supreme Court that reversal of Supreme Court decisions by statute is wrong. I thought his testimony most interesting because he does not agree with the Supreme Court decision legalizing abortion. This is his statement:

> This places me in a somewhat uncomfortable position. I am convinced as I think almost all constitutional scholars are, that *Roe* v. *Wade* is an unconstitutional decision, a serious and wholly unjustifiable judicial usurpation of State legislative authority. I also think that *Roe* v. *Wade* is by no means the only example of such unconstitutional behavior by the Supreme Court.
>
> The fact is that S. 158 proposes a change in our constitutional arrangements no more drastic than that which the judiciary has accomplished over twenty-five years. Without any warrant in the Constitution, the courts have required so many basic and unsettling changes in American life and government that a political response was inevitable. Though I do not think it desirable that the political response should succeed in the form this bill takes, the fact of expressed political outrage at such judicial usurpation is in many ways a healthy development in our constitutional democracy.
>
> The judiciary have a right, indeed a duty, to require basic and unsettling changes, and to do so, despite any political clamor, when the Constitution fairly interpreted demands it. The trouble is that nobody believes the Constitution allows, much less demands, the decision in *Roe* v. *Wade* or in dozens of other cases of recent years. Not even those most in sympathy with the results believe that as demonstrated by a growing body of literature attempting to justify the courts' performance on grounds of moral philosophy rather than of legal interpretation. Such jutifications will not wash. The judiciary's legitimate power to set aside the decisions and actions of elected representatives and politically responsible officials comes from the Constitution alone and is limited to a fair interpretation of the Constitution.

Mr. President, that is Judge Bourk's view about Roe against Wade. He does not like it. He thinks it is unconstitutional. He thinks it is a wrongheaded decision.

What does he say, however, about attempting to reverse it in the manner that all of the amendments that have been offered so far deal with which is to reverse it by statute? This is what he said:

> The question to be answered is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformations. Only if we are prepared to say that the Court has

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> become intolerable in a fundamentally democratic society and that there is no prospect whatever for getting it to behave properly, should we adopt a principle which contains within it the seeds of the destruction of the Court's entire constitutional role. I do not think we are at that stage. But if others think we are, then we should be debating not the technicalities of S. 158 and cases such as *Katzenbach* v. *Morgan*, but the question of whether we should retain, abandon, or modify the constitutional function of the courts as we have known it since *Marbury* v. *Madison*, 1 Cranch 137 (1803). That is a legitimate subject for inquiry, but we ought not arrive at the answer without fully realizing what we are really discussing.

Mr. President, there are only two legitimate ways to reverse the Supreme Court on a constitutional decision. One is the Court reverses itself, and it has done that from time to time. It overruled its old Plessy against Fergusen doctrine that separate but equal was equal.

The other way to reverse the Supreme Court is a constitutional amendment, and we have done that from time to time in our history.

We passed the 11th amendment, and that amendment prohibited a citizen from one State suing another—from suing a State, and that decision, that constitutional amendment, was to overturn the case of Chisholm against Georgia in which the Supreme Court had said a citizen of one State could sue another State.

We overturned it in the 14th amendment which was to reverse the Supreme Court's decision in the Dred Scott case. We did it in the 16th amendment when the Supreme Court had said that we could not levy a progressive income tax in Pollaock against the Farmers Loan & Trust, and we passed the 16th amendment to say we could, and just recently we have done it in the 26th amendment in which we overruled the Supreme Court's decision which said that Congress did not have the power to lower the voting age in States, State elections as opposed to Federal elections.

Now, the majority leader, Senator BAKER, promised that we will have a vote on a constitutional amendment in September as to whether or not we want to reverse the Supreme Court and its decision on abortion in Roe against Wade. But it will be a constitutional amendment. I do not want to mislead anybody. I do not support that amendment, I will fight against it, but at least it is the proper way to address a subject on the proper way the Supreme Court should be reversed on a constitutional issue if it is going to be reversed.

Mr. President, I think it is important to understand why we are so wary of making the basic liberties in this country subject to the passions of a passing majority. We take most of our legal history from Great Britain, and in the latter part of the 18th century, as we were fighting our War of Independence, winning it and creating our Government, men came to believe that there are fundamental human rights that should be beyond the reach of any government, not just a royal government in London, but any government, and not beyond the reach of just the King or President, but certain liberties that are beyond the reach of any government, parliamentary, congressional, or otherwise.

Initially we were at a loss to figure how to protect those liberties that we thought were so dear. Finally we reached it. First we let the fundamental human rights to be put beyond the reach of any government, be written in a constitution.

Second, we treat the Constitution as law to be interpreted and applied by courts in the same fashion as any other law, but also make it supreme so that in the case of a conflict between the Constitution and any other law the Constitution shall prevail.

Third, we make the judiciary independent and impartial. James Madison put it as well as anybody when he said:

> Independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights. They will be an inpenetrable bulwark against every assumption of power in the legislative or the executive branches of government.

Mr. President, what experience did we draw from Great Britain? They, of course, do not have a written constitution in our sense. Most of their liberties that we have taken and written into our constitution are nothing but either decisions of courts or act of Parliament. They can be overruled by a majority at any time.

England has an extraordinary history of protecting those liberties, but it is tradition not a written constitution that protects them.

Many, many of the rights that we put in our Constitution we put in because England, roughly from their Magna Carta in 1215 to their Bill of Rights in 1689, labored through long periods of repression and unhappy experience with overzealous kings or in the case of Crommwell, an overzealous Republican ruler, where they passed statutes. Example: The English Petition of Rights, 1628, as far as it related to the quartering of soliders and sailors:

> * * * and that your majesty will be pleased to remove the said soldiers and marines, and that your people may not be so burdened in time to come. * * *

Translated, that is changed just slightly, and put in our Bill of Rights:

> No solider shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Due process: the Magna Carta says:

> "No free man shall be seized or imprisoned or stripped of his rights of possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land."

What did we say in article or amendment V of the Bill of Rights:

> "No person shall * * * be deprived of life, liberty or property, without due process of law * * *"

Bail: the English Magna Carta says:

> Excessive bail ought not to be required nor excessive fines imposed nor cruel or unusual punishments inflicted.

Bail in America, in our Bill of Rights:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Trials, the Magna Carta:

> "To no one will we * * *
> Delay right or justice."

Our Bill of Rights:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

Double jeopardy. This was a common law decision, imagine that, a decision of the courts creating law:

> The pleas of autrefois acquit and autrefois convict
>
> A man shall not be brought into danger * * * for one and the same offense more than once.

What did we say in the fifth amendment?

> No person shall * * * be subject for the same offense to be twice put in jeopardy of life or limb; * * *

Self-incrimination, Magna Carta—

> In future, no official shall place a man on trial upon his own unsupported statement.

Our Bill of Rights, 600 years later:

> No person shall be compelled in any criminal case to be a witness against himself.

And then we did one additional thing that England did not do and to this day has not done to the extent that we have. We passed one amendment because we had labored under a foreign king who had attempted to establish a religion in this country, who had attempted to muzzle our speech and our press and our right to assemble, so we passed the first amendment to the Bill of Rights that says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Probably the most important single sentence in the history of human liberty and, Mr. President, we wrote them all into a constitution that could not be easily changed, only with a vote of two-thirds of the House and the Senate and ratification by three-quarters of the States. Our founders knew exactly what they were doing and why they were doing it, because they did not want popular passing prejudice to overcome fundamental liberties.

At the time of the adoption of our Constitution the liberties guaranteed by that document were, by and large, limited to white adult males who owned real property. As a matter of fact, a relatively limited class they were, and with a few exceptions, the expansion of liberty in this country has not been by the adoption of new amendments but by the judicial expansion of the liberties guaranteed by the Constitution to ever-widening classes of people. I emphasize that again, by judicial expansion of those liberties to ever-widening classes of people.

Let us look at the last 30 years alone. Take the case of Brown against the Board of Education in which the Supreme Court said:

> You can no longer segregate your races black and white, send the blacks to one school and the whites to another.

As a matter of fact, that was the Supreme Court reversing itself on its separate but equal doctrine in Plessy against Ferguson. There was Miranda and Gideon, two landmark cases in the rights of criminal defendants, new rights extended to criminal defendants that did not previously exist for indigent criminal defendants.

In Baker against Carr, the Supreme Court in the mid-1960's finally reversed its decisions and said henceforth we are not going to allow State legislatures and congressional seats to be determined on a basis of other than one man, one vote, and extended thereby equally the franchise in this country to everyone.

And then Roe against Wade, a decision in 1973 extending to all women in this country the right to make a decision whether they wanted to have an abortion—not forced to have one, not required to have one. The Supreme Court simply said that we could not prohibit women from having one if they wanted it.

And people attacked that decision as a Court gone mad. It is not a Court gone mad. People attack the decision because they do not like the decision. They like decisions of the Supreme Court when they come down on their side and they do not like them when they come down on the other side. That is basically what it amounts to.

The fundamental thing to be remembered is that whether you like the Supreme Court decisions or not, the way to change them is not to pass a statute attempting to overturn the protection of a constitutional liberty. If we are going to do it, let us face it up and out. Let us have a constitutional amendment on this floor. Let us debate it. Let us see if the proponents have two-thirds to pass it. If they do, let us send it over to the House and see if they have two-thirds to pass it and send it to the States. To make it clear, I would fight that amendment. I think a woman should have that choice. But let us not do it in a backhanded method that can so easily start to wean away liberty after liberty after liberty.

Mr. President, I ask for the yeas and the nays on the pending amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there a sufficient second? There is not a sufficient second.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PACKWOOD. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object, Mr. President.

The PRESIDING OFFICER. The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow morning.

The motion was agreed to; and at 7:50 p.m. the Senate recessed until tomorrow, Wednesday, August 18, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 17, 1982:

DEPARTMENT OF STATE

Richard R. Burt, of the District of Columbia, to be as Assistant Secretary of State, vice Lawrence S. Eagleburger, resigned.

NATIONAL COUNCIL ON THE HANDICAPPED

The following-named persons to be Members of the National Council on the Handicapped for the terms indicated:

For the remainder of the term expiring September 17, 1982:

Robert V. Bush, of New Mexico, vice Elisabeth Monroe Boggs.

Joseph Dusenbury, of South Carolina, vice Mary P. Chambers.

Hunt Hamill, of Illinois, vice Jack Genair Duncan.

Henry Viscardi, Jr., of New York, vice Thomas Joe.

For the remainder of the term expiring September 17, 1983:

H. Latham Breunig, of Virginia, vice J. David Webb.

Michael Marge, of New York, vice Howard A. Rusk.

Sandra Swift Parrino, of New York, vice Judith E. Heumann.

Alvis Kent Waldrep, Jr., of Texas, vice Donald E. Galvin.

For a term expiring September 23, 1984:

Marian North Koonce, of California, vice Odessa Komer, resigned.

For a term expiring September 17, 1984:

Justin W. Dart, Jr., of Texas, vice Edwin O. Opheim.

John S. Erthein, of California, vice Nelba R. Chaves.

Roxanne S. Vierra, of Colorado, vice John P. Hourihan.

For a term expiring September 17, 1985:

Robert V. Bush, of New Mexico (reappointment).

Joseph Dusenbury, of South Carolina (reappointment).

Hunt Hamill, of Illinois (reappointment).

Henry Viscardi, Jr., of New York (reappointment).

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Hillman Dickinson, 495-20-6943, age 56, U.S. Army.

IN THE NAVY

The following-named temporary commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of commander in the line and various staff corps, as indicated, subject to qualifications therefor as provided by law:

LINE

Dyer, Bruce P.
Lutz, Larry G.
McNeely, Larry

MEDICAL CORPS

Binard, Joseph E.
Carolla, Anthony F.
Gillette, Shelby L., Jr.
Lark, Michael A.
Maneclang, L. Winnie
Moriarty, Richard A.
Tartalia, Clifford L.
Tuason, Olivia, A.

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DENTAL CORPS

Rippert, Eric T.

The following-named temporary lieutenant commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of lieutenant commander in the line and various staff corps, as indicated, subject to qualifications therefor as provided by law:

LINE

Howard, John L.

MEDICAL CORPS

Hahn, George A., Jr. McMahon, Merri M.
Malick, Jewell E.

DENTAL CORPS

Lewis, Eric

The following-named officer of the line of the U.S. Navy, for appointment in the Supply Corps, as permanent lieutenant (junior grade), subject to qualifications therefor as provided by law:

Defillipo, Richard T.

The following-named officer of the line of the U.S. Navy, for appointment in the Civil Engineer Corps, as permanent ensign, subject to qualifications therefor as provided by law:

Wiley, Joseph C.

EXTENSIONS OF REMARKS

THE CONGRESS AND FOREIGN POLICY

HON. DAVID R. BOWEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BOWEN. Mr. Speaker, last month, at the invitation of the State Department, I attended a seminar of American foreign policy in Santiago, Chile, jointly sponsored by the U.S. Department of State and the Chilean National Security Academy. The latter is approximately their equivalent of our War College and Senior Seminar combined. The conference was organized for several hundred civilian and military leaders of Chile in government, business, journalism, and other walks of life.

The seminar, July 19 through 22, included presentations by the State Department and the National Security Council, in addition to my own, on behalf of the Congress. The following is my paper:

THE CONGRESS AND FOREIGN POLICY

(By Hon. David R. Bowen)

Throughout American history, Congress and the President have shared a joint responsibility for the crafting and implementation of United States foreign policy. Our Constitution, the statutory evolution of our government, changing congressional institutions and practices, political pressures, and party politics have all determined that there would be recurring changes in the balance of power between the executive and legislative branches.

The struggle for dominance in formulating policy has significantly altered the course of America's international relations. One often hears of "the traditional balance between Congress and the President," referring to the executive dominance which is presumed to be the standard. More years of our history have, however, been characterized by congressional assertiveness than by the presidential dominance which strong-willed Presidents and major crises, both domestic and international, have produced.

The more aggressive congressional role which we have seen during the last decade is only the latest period of an historic cycle in which a resurgent Congress has in reponse to executive ascendancy demanded a stronger voice in the conduct of foreign affairs. I believe we now see a leveling off of this congressional response, but I foresee no retreat into a passive and quiescent role in foreign policy for the U.S. Congress.

The historical antecedents of our Constitution—the Continental Congress and the Articles of Confederation—established a legislative state without an effective executive, and our Constitution, a response in part to the executive weakness experienced under the Articles, sought to assign sufficient powers to the chief executive to conduct effectively a designated range of foreign and domestic policy responsibilities while preserving a strong legislative role. As one of our famous Supreme Court Justices stated on the relationship among the branches of our government: "The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of governmental powers among the three Departments, to save people from autocracy" (Justice Brandeis in the 1926 *Myers* case).

Accordingly, the Constitution expressly divides the responsibility for foreign policy, thereby creating the tension between the two branches that has marked our dealings with foreign governments. This constitutional framework has, in turn, produced the statutory and institutional arrangements which now shape the role of Congress in the conduct of American foreign policy.

Article II, Section 2, for instance, proclaims that the President is the commander in chief of the nation's military forces, while Article 1, Section 8 grants to Congress the sole power to "declare war," "raise and support armies," and "provide and maintain a navy." Congress and the President thus bear a joint obligation for ensuring American security. This constitutional division of authority forms the basis for recent congressional restrictions, preeminently the War Powers Resolution of 1973, on the President's ability to commit American military forces into combat situations.

A second division of responsibility for foreign policy in Article II, Section 2 empowers the President to make treaties "by and with the advice and consent of the Senate . . ., provided two-thirds of the senators present concur." Although it is highly unusual for the Senate to fail to approve a treaty submitted by the President, the President may be forced to make major concessions in order to win Senate approval. Occasionally the Senate does indeed reject the product of the executive's extensive negotiations. At the conclusion of World War I, the Senate, reflecting general American dissatisfaction with the internationalism of President Woodrow Wilson, rejected the treaty making the United States a party to the League of Nations. More recently, President Jimmy Carter encountered vigorous opposition to the Strategic Arms Limitation Treaty (SALT II), and the Treaty was ultimately withdrawn. He met objections to the Panama Canal Treaties of 1978 by making substantial modifications in order to win ratification by one vote.

A third constitutional constraint on the President's ability to conduct foreign policy lies in the mandate that executive appointments receive Senate confirmation (by simple majority). Although most appointments are routinely confirmed, there are enough rejections to keep any President from assuming a completely free hand in the selection of people to carry out his foreign policy. Since 1970, for example, the nominations of sixty-six State Department personnel have encountered sufficient Senate opposition to result in their withdrawal or outright rejection. More frequently, the Senate's careful focus upon the nominee becomes the vehicle for a full-scale examination of the particular foreign policy the nominee is expected to carry out. Just last week the Senate Foreign Relations Committee held extensive hearings on the nomination of George Shultz to be Secretary of State. Through two days of vigorous questioning by Committee members, the Senate explored in detail the kind of foreign policy Shultz would implement, while offering their own suggestions as to what the nature of that policy should be.

Another source of congressional power over foreign affairs lies in the constitutional grant of authority to Congress to "regulate commerce with foreign nations." As international trade has increased in importance, so has the role of Congress in shaping the terms and conditions of America's participation in international commerce. The House Ways and Means Committee and Senate Finance Committee, for example, must act on all measures involving tariffs and duties. Accordingly, President Reagan's Caribbean Basin Initiative, which relies heavily upon changes in tariffs, duties, and import restrictions, must win the approval of six committees: the foreign affairs, tax, and appropriations committees of both Houses of Congress—not an easy task.

While the Constitution grants Congress sole power over international commerce, the Congress has nevertheless sought an active partnership with the President in this area. In 1962 Congress insisted in the Trade Expansion Act that the President establish a "special representative for trade negotiations" in the Executive Office. The Trade Act of 1974 strengthened the mandate of what is now the U.S. Trade Representative, and USTR, with congressional acquiescence, has moved increasingly into the role of overall U.S. trade policy broker. In addition, Congress gave the President extensive authority in this Act for retaliatory action against nations which discriminate against our products.

Perhaps the most important constitutional power granted to Congress is its control over money, the power of the purse. Article I, Section 9 provides that "no money shall be drawn from the treasury, but in consequence of appropriations made by law." CoNsequently, neither the President nor any department of the government can obligate funds unless the Congress has appropriated the money, and it is customary that all appropriations measures originate in the House (as, under the Constitution, revenue measures do). The Congress thus holds a commanding position in funding those programs which carry out American foreign policy, ranging from the administration of the State Department to military and economic assistance. In 1982, America will spend $6.1 billion in all forms of foreign assistance, the largest amount spent by any nation, apart from the Soviet role, which is difficult to assess. Because of its control over spending, therefore, Congress has the authority, if it wishes to exercise it, to determine the purposes, manner, and countries for which this money will be spent.

It is against this apportionment of power that Congress has moved to reassert its voice in shaping American foreign policy. Much of this new assertiveness resulted

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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from popular dissatisfaction with the Vietnam War and institutional concern over the growth of an "Imperial Presidency," a development begun under Franklin D. Roosevelt but accelerated appreciably under Presidents Johnson and Nixon.

As President Nixon's conduct of the Vietnam War became more unpopular, Congress took steps to reshape the war effort and bring it to a prompt conclusion, on its own terms. The Cooper-Church amendment to the Foreign Military Sales Act of 1971 prohibited the use of funds to finance U.S. ground combat troops in Cambodia and established the precedent for Congress to use its money power to restrict the President's authority to conduct military operations and provide security assistance. Congress followed this in 1973 with the passage, over the President's veto, of the War Powers Resolution. Premised upon the belief that the "collective judgment of both the Congress and the President" should apply to the introduction of U.S. forces into hostilities, or situations where hostilities seem imminent, the Resolution prevents the President from committing U.S. forces unless both Houses of Congress either expressly authorize combat in advance or ratify it within sixty days after combat begins (with notification of Congress no later than forty-eight hours after entering combat). The Resolution likewise calls for close consultation with Congress whenever the President is considering the introduction of armed forces into hostilities.

In 1974 Congress passed the Nelson-Bingham amendment to what is now the Arms Export Control Act, which established a legislative veto by concurrent resolution of both Houses. This is still one of the most significant features of legislative power in foreign policy, even though no weapons sale has yet been rejected.

These exercises of congressional muscle in the early 1970s focused upon our military involvement in Southeast Asia and sought to reaffirm the war-making powers of Congress. They laid the foundation, however, for a congressional resurgence in foreign policy that went beyond the question of the use of American forces and far more extensively into the general conduct of foreign policy. In 1975 Congress rebuffed President Ford and cut off aid to Turkey. This was followed in 1976 by the Clark amendment to the Arms Export Control Act, which prohibited covert aid for military action in Angola.

The 1974 and 1976 limitations on assistance to Chile demonstrate this broader thrust of foreign policy intervention by Congress. Military assistance was terminated and restrictions were placed on economic assistance because of Chilean domestic policies. The International Security and Development Cooperation Act of 1981 repealed the flat prohibition of military aid to Chile but added requirements for certification by the President regarding Chilean respect for "internationally recognized human rights" and action on the Letelier-Moffit case, which has so far blocked further assistance to Chile.

Congressional restrictions, however, have not been Chile's only problem. The Carter Administration reduced our embassy staff, cut off delivery of arms purchased prior to 1976, eliminated the military section of the embassy, and cut off new export-import bank loans and OPIC (Overseas Private Investment Corporation) programs to Chile. The Reagan Administration has lifted all but two of the restrictions: arms shipments and the embassy's military section.

Although most restrictions in the last decade, such as the Clark amendment and prohibitions on aid to Chile and other countries based on human rights issues, are usually seen as efforts by liberals in Congress to temper a conservative foreign policy, not all of the congressional activity has been in pursuit of liberal goals. Congressional assertiveness, in short, is more an affirmation of institutional prerogatives than an expression of ideological philosophy alone. In the 1979 and 1980 foreign aid appropriations bills, for example, Congress prohibited aid to Vietnam, Cambodia, Laos, Mozambique, and Ethiopia because of the nature of their internal and external policies.

Because of the new strength that Congress now has in determining foreign policy, it is important to look at the institution itself for a better understanding of how the Congress makes decisions on foreign policy. The rise of single-issue politics, the breakdown of party discipline and House and Senate leadership (or followership), the deterioration of the seniority system, the multiplication of subcommittees, staff, and hearings, and the inevitably fragmented constitutencies of 435 House and 100 Senate members, have all made the development of a coherent, unified body of foreign policy initiatives by Congress more difficult at the time the Congress has been asserting its role more vigorously.

The difficulties presented by these and other factors can be seen in the recent history of foreign assistance legislation, the basic vehicle for congressional action. Over the past two decades Congress has approved a foreign assistance appropriations bill prior to the beginning of the fiscal year only once. Six times in the past twenty years the program has operated under a continuing appropriations resolution (a temporary funding measure enacted in the absence of normal appropriations legislation) for over half of the year and on three occasions for the entire year. Congress has also consistently slashed the amount of foreign aid money requested by the administration, reducing the recommended levels by an average of 18.8 percent annually over this twenty-year period. Other legislative areas have had these problems too, but foreign aid has been the most difficult of all.

The lack of any effective national constituency for foreign policy makes the passage of foreign assistance legislation quite difficult. Americans have historically been more concerned with domestic matters than with international affairs. Most Members of Congress, whose efforts at re-election focus very heavily upon what we have done for the immediate needs of our constitutents, see little justification for spending the time and effort necessary to master the intricate and often remote issues of foreign policy, and our constitutents seldom appreciate it when we do (especially if we have to travel abroad to do so).

In times such as the present, when economic conditions are difficult, there is more than an absence of a foreign assistance constituency; there is, in fact, a general hostility toward the use of American tax dollars to aid foreign governments. The United States is currently facing a budget deficit of over $100 billion. and this deficit is helping to produce high interest rates, which, in turn, have been a major factor in our nation's economic recession. To many Americans, the simplest solution to lowering the deficit is to eliminate any foreign assistance whatsoever, even though it constitutes less than one percent of our federal budget.

Single-issue and narrow policy groups have moved actively and effectively to fill the power vacuum in the Congress. Unfortunately, such narrow-focus politics—whether human rights, aid to specific nations, or opposition to specific nations—make the creation of a comprehensive congressional foreign policy scheme next to impossible.

Recent congressional action in the human rights field, for example, shows the power of small but vigorously active religious and secular organizations to shape congressional action. Responding to the pressure these groups can marshal, Congress has imposed restrictions on U.S. aid to countries such as Chile, Argentina, Nicaragua, and El Salvador because of their human rights policies.

Crucial to the success of the human rights lobby is the active interest of the U.S. press in human rights violations. The nation's major newspapers and television networks have run frequent and lurid accounts of alleged (and often real) violations in these countries. Repression is, as they see it, worse under right-wing governments than those of the left. Indeed, the media has converted the interest in the human rights issue into an important strand of contemporary American culture. It is the only foreign policy perspective which many Americans have. Commendable as that may be as a moral impulse, it does not meet most standards for a comprehensive foreign policy, which must include as a major consideration our own national interest.

Because of the influence of these relatively small, "policy-oriented" groups, particularly when their efforts are reinforced by the media, Congress is not likely to make changes easily in the programs they have achieved. A change in Presidents, even a change in party control of Congress, may not be enough to offset the strength of these organizations, most of whose efforts transcend the lines of political parties.

The rise in single-issue and slightly broader "policy-oriented" politics has accompanied the breakdown in party discipline of our two major political parties. Even in the days when party discipline was stronger than it now is, American policy has never enjoyed the coherence of that produced under a parliamentary system. Party members have always been able to abandon the party's position whenever it was in their own political best interest to do so. This lack of party unity and discipline, combined with the decline of official House and Senate leadership, means that there is considerable difficulty in ensuring congressional support for the initiatives of the President, even though he may be a member of the same political party as the majority of the House and/or the Senate.

Institutional factors within the Congress also work to fragment policy formulation. Throughout the 1950s and 1960s, Congress was tightly controlled by its committee chairmen, whose positions were secured by their seniority. In the early 1970s, under public pressure, this stable system encountered major challenges from newer, younger members who forced upon the older members a substantial dispersion of power and responsibility. As a result of this insurgency, the number of committees with jurisdiction over a given subject has proliferated, replacing a system where committees had limited, well-defined jurisdiction, and major pieces of legislation were referred to only one committee. Subcommittee chairmen now hold hearings on subjects for which they have only minor responsibility. The result has been to increase greatly the number of members who handle any piece of legislation and to limit the ability of full committee chairmen to shape the outcome of the final bill.

The dispersion of legislative responsibility can be seen clearly in the foreign affairs area, where sixteen of the twenty-two standing House Committees have jurisdiction over significant portions of our foreign policy operations. The Foreign Affairs Committee, of course, has the primary jurisdiction for developing the basic foreign assistance bill each year, but other committees also play an important role in foreign affairs legislation. The Agriculture Committee, for instance, also considers those sections that involve the Food for Peace (P.L. 480) program, the Judiciary Committee handles provisions affecting immigration and refugee assistance, and the Merchant Marine and Fisheries Committee also has jurisdiction over Law of the Sea and Panama Canal matters. No less than six committees share responsibility for devising our foreign economic policy while three committees have jurisdiction over war powers, collective security, and related matters. Such a fragmentation of responsibility inevitably impedes the efforts of any administration—or committee chairman—to secure enactment of a foreign policy package.

Not closely tied to House and Senate leadership or formal party positions and armed with legislative vetoes, Members of Congress find it much easier to embrace the positions of outside issue groups which can promise publicity, votes, and money for increasingly costly re-election campaigns. The ultimate victim is a cohesive, comprehensive foreign policy.

I might note at this point, in the interest of balance, that the esteemed foreign policy virtues of a "unified national foreign policy strategy," "speaking with one voice in negotiations with foreign powers," and "formulating strategy with necessary confidentiality" have not in recent years been achieved by the Presidents of either party any more than they have by the Congress, though the job of unifying a foreign policy team is usually easier in the executive branch.

As the congressional role in foreign policy has grown, the problems plaguing the congressional process have become more evident, even inside Congress. Partly as a result of these difficulties, Congress is now trying to refine its existing authority, rather than seeking to extend it. This effort is not likely to produce a passive Congress, but it is likely to result in a congressional attitude more willing to negotiate and compromise with the executive branch.

Two examples illustrate this tendency. In 1974 Congress adopted the Hughes-Ryan Amendment as a means of securing congressional oversight over America's foreign intelligence activities. Hughes-Ryan prohibited Central Intelligence Agency activities abroad that were not directly related to intelligence gathering "unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operations to the appropriate committees of Congress." Before long this reporting requirement extended to eight congressional committees and over 200 Members of Congress.

In 1980 Congress brought some balance to the situation through an amendment to the National Security Act, which substantially reduced the extent of reporting necessary. Now the President must submit information on covert operations to only two congressional committees, the House and Senate Select Committees on Intelligence. This legislation thus preserved the legitimate interest of Congress in overseeing our intelligence program while substantially reducing the national security dangers of Hughes-Ryan.

The creation of a "special requirements fund" over which the President would have unfettered control also represents growing congressional willingness to achieve a new accommodation with the executive in the struggle over control of foreign assistance. We now have a $25 million "contingency fund" for economic development, less than requested by the President but welcome nonetheless. This fund is designed to give the President a modest reservoir of discretionary money to meet a variety of unanticipated international developments without having to go to Congress with a time-consuming special request for an appropriation.

The revision of Hughes-Ryan and the creation of a special contingency fund cannot be regarded as a major retreat from congressional assertiveness. Congress is neither going to give up the power it has recently acquired nor abdicate the responsibility it has assumed. Inevitably, because of the predominant role that economic and military assistance now play in foreign policy, Congress will be integrally involved in shaping U.S. foreign policy. It is difficult for Congress to give positive instructions either to the executive branch or to foreign governments in the conduct of international relations, so our role will continue to be one of imposing restrictions and limitations on actions of the executive.

It is my hope that Congress in working to refine and perfect the existing balance of power with the executive branch will compromise with the President and establish stable avenues for the joint determination of foreign policy. It is also my hope that a part of this process of refinement will be a rejection of unnecessarily narrow and rigid statutory restrictions, such as "country-specific" legislation, and greater reliance upon the articulation of broad policy objectives, with the detailed implementation of those objectives left to the President. I believe it is this effort to fine-tune the existing executive-legislative balance of power that will characterise the congressional role in foreign affairs over the next several years.

For those nations who want a more effective voice in determining the outcome of U.S. foreign policy legislation, it is necessary to communicate, to influence, to persuade in the same way that all the battles of Congress are waged. This is the nature of the system, and diplomatic deference to the executive branch will not change it. Neither now nor at any time in the foreseeable future will we turn the clock back to the kind of executive dominance we once knew.

Good communications, however, though essential, are not enough. A reasonable response to congressional concerns, coupled with more effective communications with Congress, will pay substantial dividends in terms of enhanced mutual security and prosperity.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, I am placing in the Record an article by Mr. D. R. Denman which was printed by AIMS OF INDUSTRY, a free enterprise organization located in London, England. This article gives the views of Mr. Denman on the subject of the Law of the Sea Treaty. I commend it to my colleagues, and also to those who persist in pressing for U.S. signature to the treaty.

The material follows:

The Law of the Sea Convention—Need to Think Again Before We Sign

1. Member nations of the UN Third Law of the Sea Conference were last year about to sign the text of a world Convention when the USA Government called a halt and asked for time to review the draft text. That review has now taken place and the Law of the Sea Conference is due to meet again next month. The American caution stands on solid grounds. Constructive proposals have been made to amend the draft Convention in the light of the review. Britain's attitude is of the utmost importance to America, ourselves and our allies. The case to support the Americans is a strong one and carries with it the need for a better informed public opinion.

2. There are two main aspects of the proposed Law of the Sea Convention—one covers the navigation of the seas and the other the exploitation of the resources of the sea and the seabed. Both are of equal importance in the long run to the United States and to Britain. Concentration on the navigation aspects of the Convention had in the past overshadowed the strategic importance to the industrial nations of access to the deep sea minerals. Hence the urgent case to review the current proposals and the draft Convention that embodies them.

3. The proposed policy for exploiting the vast minerals resources of the deep oceans also has two broad divisions. One recognises the sovereign right of coastal states over the resources of contiguous coastal waters and their sea bed (i.e. territorial seas, exclusive economic zones, continental shelves and so forth) and the other covers the vast wealth of mineral resources of the deep oceans which lie beyond the national jurisdictions. America's concern, which should also be Britain's, arises from what is proposed in the latter aspect of the draft Convention and for the following more specific reasons.

4. (a) There is to be set up the International Seabed Authority governed by an Assembly and an executive organ called the Council and assisted by a number of ad hoc Commissions.

(b) The Authority shall have absolute and exclusive control over the resources of the seabed of the deep oceans (to be called the Area) and shall be engaged in mining and other activities itself through an operative organ—the Enterprise.

(c) Access to the deep sea resources will therefore be barred to industrialists of the world and to all national institutions, except through the portals of the Authority. Its administration will be entirely bureaucratic and, inevitably, politicised; a policy which

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could not possibly be in accord with sound economic development and private enterprise.

(d) The draft Convention gives sanction to the Authority in the most ambiguous terms; to act, for example, "on behalf of mankind as a whole"; for "the benefit of the international community"; for "the healthy development of the world economy"; and to administer the area as the "common heritance of mankind".

(e) The draft Convention is inherently contradictory. It requires the Authority to avoid discrimination and yet, time and time again for various reasons, the Authority is given a mandate to discriminate in favour of developing countries, the land-locked and the geographically disadvantaged. To take one example, compensation must be paid to developing countries which suffer adversity from activities in the Area; but no provision is made for similar compensation to other countries which are likewise affected.

(f) The terms on which mining contracts can be granted would not be tolerable in any free market and fair economy. For every potential mining area found contractors will be expected to offer a second area to the Enterprise or to a developing country and to private data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights. Moreover by such disclosure international security could be threatened.

(g) A contractor is faced not only with the uncertainty of what those onerous demands might lead to, but should he prolong negotiations beyond what the Authority judges to be a reasonable time, he is likely to face an arbitration procedure and have terms dictated to him or suffer heavy penalties if he refuses to comply.

(h) The Enterprise would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world and with the privileges accorded to it would hold a most unjust advantage over all other operators, especially private concerns.

(i) The construction and voting arrangements for the Assembly, the Council and the other organs of the Authority would put those nations whose technical knowledge, economies and industrial structures have the most to give to development of the deep seabed resources of the world at a most serious disadvantage. The voting powers of America in the Assembly for example would be the same as that of the Gambia or of Malta. Voting for the 36 members of the Council is deliberately pre-conditioned in favour of the developing countries and the Eastern (Socialist) European Region. The voting formula refers to "an equitable geographical distribution of seats" and defines this as meaning that each region shall have at least one member and that the regions shall be by name, Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe. Where is the USA, Australia, Canada and Britain? Other facets of the formula require, for example, four members from major importers of minerals, one of which must be from the Eastern (Socialist) European Region.

(j) After 20 years, the Assembly shall call a review conference. The review conference will have power to amend the articles of the Convention by a voting system, similar to that used at the Third United Nations Conference of the Law of the Sea—that is upon a two thirds vote of the members of the Conference. The decision would be binding upon the dissenting members who would already be committed as members of the Assembly. Thus the future could be taken wholly out of the hands of one-third of all participating nations.

(k) Pending the signing of the Convention, leading industrial nations including Britain have taken steps to regulate by law the lifting of mineral resources from the deep seas. Parliament, in Britain, for example has recently passed the Deep Sea Mining (Temporary Provisions) Act 1981. The present draft Convention fails to secure to private and national interests who will have committed vast sums and effort to the deep sea floor as sanctioned by these recent laws, a proprietary right to the workings so established.

(l) There is a movement to include among the voting members of the world Convention liberation groups and other such bodies devoid of proper national status and this movement should be countered.

5. There should be no question of either America or Britain quitting the Law of the Sea Conference and its negotiations for a world Convention. But a just stand supported, it is hoped, by the other industrial nations should ensure a better balanced outome by providing a revised text that:

(i) will facilitate rather than deter the development of deep seabed mineral resources to meet both specific national needs and world demand;

(ii) avoid the monopolisation of the deep sea resources by the Enterprise or such other organ of an international authority;

(iii) will ensure a decision-making process over the deep sea bed that is balanced and fair and reflects and protects the political and economic interests and financial commitments of all participating states;

(iv) will preclude all amendments to an established Convention without the approval of all participating states;

(v) prevent the mandatory transfer of patents, scientific knowledge and technology possessed by private firms and institutions to others likely to compete against them;

(vi) duly recognise and secure the proprietary rights of operators over installations for mining the deep sea floor prior to the signing of the Convention.●

THE TRADITION OF THE AMERICAN FAMILY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MURTHA. Mr. Speaker, we hear a great deal these days about the need for strong families in our society. I am fortunate to represent an area where family strength is a tradition. Please let me share one such story with you.

On September 24, 1895, Rose Patchen was born in Hazelton. She would marry Joseph Moraca and they would settle in Johnstown. Together, they began a family and became its mainstays. In the years since, Rose Moraca has enjoyed the family companionship of 13 children, 40 grandchildren, 50 great-grandchildren, and 2 great-great-grandchildren.

The members of that family under the leadership of my good friend, Virgil Moraca, will be gathering on August 21, to celebrate Rose's upcoming 87th birthday.

These types of gathering are reminders to us all of the strength of the American family, and that the best way to secure the family's role in the United States is by following the example of families such as that headed by Rose Moraca.●

BUKOVSKY ON SOVIET BEHAVIOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. McDONALD. Mr. Speaker, in the concluding section of Vladimir Bukovsky's article on "The Peace Movement and the Soviet Union," which appeared in Commentary magazine for May 1982, he continues his discussion of the realities of Soviet behavior versus the illusions of the peace movement's ideologists. His poignant presentation ends with a warning not to fall into the trap of making broad alliances "just for the sake of power," especially if this involves identification with the ruling elites of Eastern Europe. "This mistake," concludes Mr. Bukovsky, "must be corrected if we are to live in peace and freedom. We should know who are our friends and who are our enemies. The fate of Solidarity should open our eyes."

Mr. Bukovsky's conclusion follows:

[From the Commentary Magazine, May 1982]

"THE PEACE MOVEMENT AND THE SOVIET UNION," CONCLUDING ARTICLE BY VLADIMIR BUKOVSKY

Are we then to assume that the Soviet leadership consists of fanatics aiming at global control? Even such a model, crazy as it might sound, still imputes too much "normality" to the Soviet leaders. Or, more precisely, it is too big a simplification. This theory, too—fortunately for us—does not fit a number of the facts. Paradoxically, none of the present Communist leaders believes any longer in Communist doctrine. Fortunately, because no real fanatic would ever tolerate the destruction of the object of his obsession. He would rather witness the destruction of the entire world.

The Soviet rulers are a totally cynical lot, much more preoccupied with their own privileges and pleasures than with Marxist ideas. They probably hate Communist dogma more than any Western capitalist. Moreover, the majority of the Soviet people are as cynical as their leaders. There are many more sincere Communists to be found in the West than in the USSR.

But this fact has also created false hopes among Western politicians and the public. The same false hopes encouraged by the theory of encirclement—that it will be possible to treat the Soviets as normal partners at last, that it will be possible to negotiate, to cooperate, and to relax. Both theories lead equally to the same mistaken policy.

So what is the truth about the damned soviet system?

Certainly, there was a period when the Soviet leaders were Communist fanatics, ready to sacrifice the whole world to their faith. There was a period, too, when at least some part of the population was prepared to grant this new idea with considerable enthusiasm. The people of my country, I suppose, could be excused for their delusion, because Communism was indeed a new idea and one that might be thought by the inexperienced to appeal to the best qualities in human nature. Is it after all not a worthy purpose, to secure unalloyed happiness for all future generations, to liberate and unite the whole of mankind? Naturally, such a thing will not be easy, but it is worth a great deal of sacrifice to achieve. Just as naturally there will be many selfish people to oppose it and we should learn to be ruthless with them. Only millions of individual wills fused into a single invincible "we," united by the iron fist of a Leader, can achieve so difficult an end.

This period of ecstasy, however, was very short-lived. One by one, the various elements of the Soviet population cooled down, sobered up, and then could not believe in their own former enthusiasm. The besieged minority reacted to this desertion of the public by becoming even more ruthless and single-minded: "We will make them happy against their will; their children will be grateful to us." I will not describe the mass slaughter that resulted from this great determination. It has been described many times. A terrorized majority obeyed with sham enthusiasm, because it was a crime to look gloomy. But underneath there was a silent, passive resistance. The minority of "believers" over time became simply a ruling clique which had lost its ideals in the constant fight for survival, in corruption, and in its abuses of power and its privileges. The ensuing political situation can best be described as a latent civil war in which a kind of balance has been maintained by political terror.

In this way the Soviet Union reached a condition in which absolute power was exercised by absolutely cynical people over absolutely cynical people, each side vociferously assuring the other that they were all still sincerely building an ideal future society. But the ideology exists now almost as in a work of science fiction: It has separated itself from its substratum and has petrified in the structure of the society. It has become an institution in which nobody (not even the top executive) is allowed verbally to deviate from the dead dogma. The will of millions is still being taken from them and welded into the iron fist of abstraction.

There is practically no free human being inside the entire country. The state—the only employer—will not allow anyone to be financially independent—as indeed no independence of any kind will be tolerated. Everybody must be carrying out a useful task, performing a needed function. Several nationwide networks of security and secret police spy first on each other and then together on everybody else. Such a system has created a new type of a man, who thinks one thing, publicly expresses another, and does a third.

The enormous inertia of this system is not surprising. There is no internal "class enemy" any more; there is no need to terrorize so many millions. Still, there are huge concentration camps, because they have become an integral part of the country's economic, political, and spiritual life. Nobody believes now in the ultimate victory of Communism in the world, but the policy of external subversion and the promotion of "socialist forces" everywhere has become an integral part of the state machinery. The system rules the people.

Beyond inertia, there is something else, something even more decisive: the instinct of self-preservation of the ruling clique. Once you are riding a tiger, it is difficult to jump off. Any attempt at internal liberalization might prove fatal. If the central power were to weaken, the sheer amount of hatred accumulated within the population for these sixty-five years of the socialist experiment would be so dangerous, the results of any reform so unpredictable—and, above all, the power, the fabulous privileges, the very physical survival of the ruling clique would become so tenuous—that one would be mad to expect the Soviet leaders to play with liberal ideas. Only the imminent threat of total collapse might force them to introduce internal reforms.

The two sides of the Soviet regime—internal oppression and external aggression—are inseparably interlocked, creating a sort of vicious circle. The more the regime becomes rotten inside, the more pains are taken by its leaders to present a formidable facade to the outside world. They need international tension as a thief needs the darkness of the night. In the political climate of latent civil war, given the enormous and senseless sacrifices of the last fifty years, the constant economic difficulties, and the lack of basic rights—not to mention, again, the extraordinary privileges enjoyed by the ruling clique—the only hope for stability lies in the need to cope with an external threat: "hostile encirclement" and the subversive activity of "world imperialism." In this artificially created state of war, the worker's demand for a better deal, or a captive nation's demand for its independence, can then be treated as an act of subversion, "playing into the hands of the enemy."

Nor is it enough to create a devil in order to maintain one's religious zeal. This imaginary enemy must be defeated over and over again or there will be the risk that he will seduce you. American "imperialism" must be defeated at any cost, and the liberation of proletarians in the capitalist countries must be promoted by all means. The failure to support a "friendly government," to establish Communist rule in a new country, will immediately be perceived as a weakening of Soviet power, and therefore an encouragement to the sullen and embittered population at home. Any failure of the Soviet international adventure may thus trigger a chain reaction leading to the ultimate collapse of the Soviet rulers. This is why they cannot allow a popular uprising in Hungary, a "Prague Spring" in Czechoslovakia, an anti-Communist "Holy War" in Afghanistan, or an independent alternative center of power in Poland. Immediate repercussions would be felt in all the other countries of the Socialist camp as well as in the Ukraine, the Baltic states, Central Asia, and other occupied territories. The scenario of aggression is depressingly uniform. First, the Soviets undermine a democratic state, helping the friendly "progressive forces" come to power. Next, they have to save their bankrupt "progressive" friends, when the resistance of the population threatens to overthrow them.

Are they frightened to the point of aggressiveness? Yes, but not by your piles of hardware, not by your clumsy attempts at defense. They are frightened by their own people, because they know the end is inevitable. That is why they must score victory after victory over the "hostile encirclement." Behind every victory is a very simple message addressed to their own enslaved population: "Look, we are still very strong and nobody dares to challenge our might."

If they are afraid of you, it is because they are afraid of your freedom and your prosperity. They cannot tolerate a democratic state close to their borders (and then, close to the borders of their buffer-states), because a bad example of thriving democracy so close at hand might prove to be too provocative.

Knowing all this, let us ask ourselves a question: what would happen if the West were to disarm unilaterally? Could the Soviets follow suit? Certainly not. It would mean the rapid disintegration of their empire and a general collapse of their power. Does this mean they will simply roll over the now defenseless Western countries? Again, the answer is: no. They don't need your territory, which would be difficult to hold anyway. Above all, where would they acquire goods, technology, credits, grain, etc., if they were to impose on you their inefficient economic system? They need you in the way China needs Hong Kong. But from that very moment you will gradually begin to lose your freedom, being exposed to constant and unrestrained Soviet blackmail.

You may like or dislike your trade unions, but would you like them to have to consider a possibility of foreign invasion every time they wanted to declare a strike—as Solidarity had to do in Poland for eighteen months? You may like or dislike your mass media, but would you like to see the self-censorship of your press in order to avoid an angry reaction by a powerful neighbor—as in Finland? You may like or dislike your system of representation, but at least you are free to elect those whom you choose without considering the desires of a foreign power. Nobody threatens to come into your country and impose a government of its choosing—as in Afghanistan. The nature of the Soviet system is such that it can never be satisfied until you are similar to them and are totally under their control.

So, we come to a very important conclusion: the issue now is not "peace versus war," but rather "freedom versus slavery." Peace and freedom appear to be inseparable, and the old formula "Better red than dead" is simply fatuous. Those who live by it will be both red and dead. Whether we like it or not, there will be no peace in our world, no relaxation of international tension, no fruitful cooperation between East and West, until the Soviet internal system changes drastically.

Has this simple and self-evident truth ever been understood by Western decision-makers? I doubt it. In a way, I can share some of the concern of the peace movement. Because for the West to react stereotypically by increasing military spending and stockpiling new hardware every time the Soviet instability-aggression complex manifests itself is simply to miss the target. At any rate, it is not enough. It is not going to change the Soviet system. It is not going to prevent Soviet expansion, especially in the Third World. Soviet ideological warfare is far shrewder than a big nuclear bludgeon. Would we, for instance, consider a nuclear bombardment if tomorrow there were to be a revolt of various tribes in Pakistan, instigated by Moscow? Or a Communist takeover in Iran?

There are plenty of "natural" troubles in the world, brought on by local conditions. But the influence of Moscow immediately turns them into major strategic problems. It would be senseless to try to solve all such problems by military means all over the globe. Simple logic suggests that we must deal first of all with the *source* of the world's major trouble—i.e., the Soviet system. We must find an effective way to help the Soviet population in its struggle for change. After all, they are our biggest ally.

Unfortunately, this has so far been appreciated by the West, which has instead been continuously strengthening the Soviet system by credits, trade, technology. Why should the Soviets bother to introduce any internal reforms if their inefficient economy is periodically saved by the West? The West is still rich enough to help them out, and Siberia is also rich enough in turn to sell natural gas, gold, diamonds.

We may shake with indignation whenever we hear about the Soviet invasion of yet another country. We hate these little obedient soldiers, ever ready to do whatever they are told. Are they robots? But what do we propose that they should do? Do we honestly expect them to rebel and face a firing squad, while the entire world continues to provide their executioners with goods, credits, and modern technology? Don't we demand of them much more than we demand of ourselves? Somewhere, somehow, this vicious circle must be broken, if we are to survive as human beings. Why not start where it is easier?

There are 90,000 of these "robots" trapped in Afghanistan at this very moment. They cannot rebel because they will be shot down. Even so, there are occasional rebellions (and executions). They cannot desert, because they will either be killed in the process or, if they are lucky and manage to reach Pakistan, the Pakistani authorities will return them to the Soviet command (that is, again, to the firing squad). Does any government try to help them? No. Instead several European governments have decided to buy Soviet natural gas, perhaps the very same gas that is being pumped out of Afghanistan by the Soviet occupation authorities as compensation for "liberating" Afghanistan.

There is a lot of noise about Poland right now. A lot of noise, and a lot of smoke screens. But does any government sacrifice anything? After issuing thunderous condemnations, the European governments decided not to apply economic sanctions against the Eastern bloc, because sanctions would "harm us, probably, more than them." Why should you establish the kind of relations that only make you more vulnerable than the enemy? Why do you continue to sign new agreements of the same type (natural gas, for example)? The American banks recently decided to cover the huge Polish deficit because the "bankruptcy of Poland would undermine the world financial system." What would happen, I wonder, if tomorrow the Soviet-bloc countries were to refuse to pay their debts and to suspend all trade?

This is what the struggle for peace and freedom boils down to: the people in the East should sacrifice their lives, but you should not sacrifice your profits. Small wonder that the Polish army does not rebel.

In fact, the imposition of economic sanctions on the Polish military junta and on their Soviet masters is not just a possible step; it is the actual *obligation* of the Western countries under the terms of the Helsinki agreement. A direct link among security, economic cooperation, and the observance of human rights is the very essence of this agreement. If that is forgotten now, of what point is all the noise lately heard from Madrid?

To tell the truth, I do not believe that any of it has been forgotten. Neither do I believe that the Western banks, industrialists, and governments are so "stupid" as to tie themselves to the Eastern chariot wheels by mistake. It is their deliberate policy, overtly articulated in the time of détente, and covertly now. Moreover, it is their philosophy. They love stablity, these bankers and businessmen. And they are much against any resistance movement in the Communist countries, very much against any prospect of liberation for the enslaved nations of the East. They are the greatest peace-lovers of all, far more powerful than all those crowds on the streets of the European capitals. Thanks to them, we descend slowly into the Age of Darkness.

This article is not addressed to the bankers, or to the governments. I do not expect any help from them. In spite of all the harsh words used in it, I wish it to be read by sincere people who are seriously concerned with the problems of peace and freedom. They will probably dislike many of the things I have said here. I hope, however, that they will understand its main point: that peace has never been preserved by a hysterical desire to survive at any price. Nor has it ever been promoted by catchy phrases and cheap slogans. There are 400 million people in the East whose freedom was stolen from them and whose existence is miserable. It so happens that peace is impossible while they remain enslaved, and only with them (not with their executioners) should you work to secure real peace in our world.

Your recent mass demonstrations were disastrous, because in them you identified yourselves, willingly or unwillingly, with the rulers of the Eastern countries. To make broad alliances with any public (or governmental) forces just for the sake of power is a tremendous mistake. This mistake must be corrected if we are to live in peace and freedom. We should know who are our friends and who are our enemies. The fate of Solidarity should open our eyes.●

T. C. LINDSEY & CO., GENERAL STORE AND POST OFFICE

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SAM B. HALL, JR. Mr. Speaker, there is a nostalgia fad sweeping the country these days. People, as never before, are saving and buying everything from baseball trading cards to old medicine bottles.

However, there is an old country store located in my congressional district that is truly the authentic grandfather of all this nostalgia and antique collecting. It is called T. C. Lindsey & Co., and if you cannot indulge your fondness for America's past at the Lindsey store, then you better find another hobby.

As anyone familiar with America's rural development knows, the country store is something of the past. From Maine to Florida, from Virginia to California, few of the authentic country stores have survived urban sprawl, interstate highways and massive shipping centers.

But, T. C. Lindsey's has survived. In fact, it has been in continuous operation since 1847 in Jonesville, Tex., and from all indications it is going strong as ever.

Two of the most energetic, finest businessmen you would ever meet—Sam and Tom Vaughan, who are personal friends of mine, run the store, and more than likely you will be waited on by one of these gentlemen; that is, unless one of them is busy acting in some Hollywood production. You see, the store has figured prominently in four motion pictures, including the incredibly popular, "Secret of the Pond," a Walt Disney film seen all over the world.

In addition, the television series "60 Minutes," has done a segment on the Jonesville Post Office, which is located in the store. The Jonesville postmistress is Miss Emma—Sam Vaughan's wife—and she is known far and wide for maintaining total efficiency in this postal operation. In fact, Harry Reasoner described the post office as "the kind of post office everybody wishes they had."

The Lindsey store is the kind you want to visit again and again. There is no parking problem, conversation is friendly and informative, and the service, courtesy, and manners are the product of a bygone era when people thrived on being good neighbors and just plain being nice to each other. That is why if you were ever waited on at the store by Syble Elliott, you would never go to another shopping center. Syble has been helping folks in the store for the past 25 years.

It would take an extensive bibliography to list the magazines and newspaper stories about T. C. Lindsey & Co. Just last month the store was featured in Texas Monthly magazine. I will include a representative sample of these articles at the conclusion of my remarks.

Mr. Speaker, the country store is part of America's heritage, an important aspect of our historical development. American free enterprise was born and nurtured in these privately owned establishments that kept commerce and people moving. Some of America's greatest heroes started their careers clerking in a country store.

It lives on, this wonderful tradition, this bringing of people together, at T. C. Lindsey & Co. If my colleagues ever happen to be traveling east on Interstate 20 just outside of Shreveport, La., I hope they will exit at Waskom, Tex., and take Farm to Market Road 134 to the store. I wish every schoolchild in America could spend some time there. They would learn about the goodness and decency of America. They would meet the finest people to be found anywhere on this Earth, and while doing so, they might enjoy some old-fashioned peppermint stick candy.

Mr. Speaker, as part of my remarks I commend the following articles about T. C. Lindsey & Co. General Store and Post Office to the attention of my colleagues and the Nation as follows:

[From the Longview Morning Journal, Aug. 15, 1982]

It's Been 135 Years, But Store in Jonesville's Changed Little

(By Roy Linson)

Jonesville.—After 135 years of selling everything from overalls to plows to cow feed, the T.C. Lindsey Country Store is still going strong.

So strong, in fact, that Texas Monthly magazine recently called it the "grandaddy of Texas country stores and currently the best in the state."

Not a lot has changed since the store opened in 1847 as the William Jones Trading Post to supply groceries, feed and dry goods to nearby cotton farmers and their families.

T. C. Lindsey then took over the business and in 1922 hired a contractor by the name of G. E. Cargill, the father of Longview's Robert Cargill, to build the present white frame building beside FM 134.

A few years later, in February 1928, Lindsey's nephew Sam Vaughan, tired of the daily trip to his Shreveport job over icy roads, hired out as a clerk.

"I knew I was not gonna work but a week or ten days until I found another job," Sam said.

Now, 54 years later, he's still there behind the same counter reaching up to the same shelves for a plug of chewing tobacco, a can of tomatoes or a stick of striped candy.

Customers who've been trading at the store for years have noticed more major differences as the years passed.

First the name was changed to T. C. Lindsey and Co., Sam represented the "and Co."

Then Sam's brother, Tom Vaughan, joined the staff to handle the books and buying.

In 1965 the store began taking on a whole new look when Sam took up collecting. He's been collecting for years, but was running out of space and began filling the store with his treasures. According to Marshall Office of Tourist and Convention Development Director LaVerta Lovell, his collection "would put many museums to shame."

Among the items is a copy of Sam's grandfather's personal pocket map—an 1853 edition which shows the Comanche Indian trails.

There's also a 1930 Texas license plate with three numbers, a 1920 boll weevil duster, a Thomas Edison cylinder and light bulbs, three styles of side saddles, old glass bottles, tools and thousands of other items.

Visitors can spend hours browsing among the display cases, looking at items covering the walls and peering into corners. But even after numerous visits, most discover some treasure they missed before.

When customers ask about prices, Sam is quick to tell them, "I don't sell my pretties." But if it's not a busy day, he'll take the time to tell them the item's history or spin one of his yarns of days gone by.

Although the antiques aren't for sale, replicas of some old items—such as churn jars and tea jars made by Marshall Potteries, sunbonnets and cans of ribbon cane syrup—can be purchased.

Tourists come from all over the world—more than 10,000 signed the visitor's book last year—to view this forerunner of one-stop shopping.

The store's not hard to find if you know where it is, although "many people tell us 'we just like to have never found you, you're so far back,'" said Syble Elliott, who's been clerking in the store for 25 years.

From I-20, going east, take the first Waskom exit and turn left onto FM 134. Go north on FM 134 for about two miles. The I-20 exit is about two miles west of the Louisiana state line. The store is open from 8 a.m. to 5 p.m. Monday through Saturday.

Two Walt Disney productions and two Charles Pierce movies have been shot on location at the Jonesville store. Sam appeared as the store proprietor in "The Secret of the Pond" in 1974.

Television shows such as "Eyes of Texas," "Four Country" and "PM Magazine" also have brought their cameras to record the treasures lining the walls of the store.

"60 Minutes" crews have even been to the store to interview Miss Emma, Sam's wife, who served as the Jonesville postmistress for more than 30 years. The coverage has drawn thousands of tourists to what Harry Reasoner described as "the kind of post office everybody wishes they had."

Miss Emma says she still can't believe that a town of about 180 inhabitants draws visitors from around the world.

But it does, and most of them take home what Sam calls the "best Yankee souvenir there ever was"—a Texas bull scraper.

[From the Marshall News Messenger, Apr. 8, 1981]

Old South Style Continues With Jonesville Store

(By Jana Meyers)

Nostalgia literally clings to the walls. Remnants of history are packed on shelves and pushed onto tables, barely leaving room for aisles. At T.C. Lindsey and Co., except for a few boxes of Tide and bottles of Heinz ketchup, time has stood still.

Welcome to the era when cotton was king and the country store was a way of life.

T. C. Lindsey and Co., better known as the Jonesville Country Store, has been a part of the now almost non-existent Jonesville community since 1847 when Sam Jones established it as a trading post.

It is the only original store in the town to survive the heyday of cotton and possibly the only thing nearby to withstand the demise of the Old South.

It is surrounded by a broken cotton gin and warehouses of rusting, antique farm equipment, symbols of a broken civilization.

Tom Vaughan, one of the two brothers who own and run the store, will tell you that although cotton went out of business in 1873 and the town of Jonesville went with it, T. C. Lindsey and Co. is here to stay.

Actually, the day cotton lost its prestige as a chief crop and moneymaker was the day the store began its trek to fame.

Through the skillful handling of early owners and T. C. Lindsey, the Vaughan's uncle, the store held together as a showplace of the past decade. Later, it became the showplace of a bygone century.

After Sam Vaughan began work in 1928, business soon slacked off because of the depression. To counteract sliding business trends, Sam brought in a new gadget every day for more than a year as a promotion.

The gimmick apparently worked. Sam said the more relics he brought, the more people came to see—and the tradition lives on.

Although the store, located on FM 134, two miles west of Louisiana, is isolated from any large towns, Tom Vaughan said that "On Saturday, we have so many people, we can hardly tend to our business—visitors, you know."

And a glance at the great register discloses that T. C. Lindsey is more than a mere local trade name. Addresses from Oklahoma City, Pasadena, Calif., Carson City, Colo., and Taylorville, Ill., represent four of the fifty states Tom said have visited the store.

The attention does not stop with your run-of-the-mill visitor either. Walt Disney and Charles Pierce Productions have paid their respects to the store as well.

The Jonesville Post Office, adjacent to the store, was the setting for Bayou Boy, a 1970 motion picture, and Secret of the Pond, a 1971 TV movie, both by Walt Disney.

Disney found the general store in Jonesville ideally suited to the movie themes of another epoch, Sam said. The set makers rearranged and added a bit here and there for authenticity, he said, but for the most part, "most everything was already perfect."

"In 1970, they (Disney) wanted to buy everything," Tom added. "But no—if we sold them (the antiques), there wouldn't be anything here for you to come and see."

As if that were a problem. From Toledo Scales to the antique dentistry equipment, to collections of family branding irons and Coca-Cola bottles, to family portraits dating back to tintypes, to a 100 year old cheese cutter—the heritage in the store is almost as thick as the pride that accompanies it.

Part of that heritage and pride is in the cheese cutter, filled with Wisconsin "rat" cheese.

It's the kind of cheese that beckons one to partake and partake until an immense pair of "Tuf Nut" overalls, covering the width of the stairway from which they hang from ceiling to floor, would probably fit.

The overalls, Sam said, were once a part of a gimmick selling "Tuf Nut" jeans. Not as perennial as Sam's antiques, but nevertheless, unique in its own time.

Overalls, cheese—T. C. Lindsey and Co. has anything you care to buy. It even carries whiskey kegs as a reminder of the time when it was the last place in the county to sell whiskey legally.

"It's the Jonesville Mall. We sell everything," Tom said. "If you don't see it ask for it."

And if the Vaughan brothers don't by chance have it, you probably don't need it anyway.

[From the Texas Highways Magazine, Jan. 1976]

Country Store

(By Bob Parvin)

Backwoods merchants Sam and Tom Vaughan don't figure there's much need in advertising their place. Folks around eastern Harrison County have been trading there for better than a hundred years. That's plenty of time to establish a business.

So competition isn't something that causes the proprietors to fret, at least where

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the reputation of their enterprise is concerned. The old T. C. Lindsey & Company general store is pretty well known. It's also getting sort of famous lately.

Seems it's about the only honest-to-goodness country store left in the piney woods country. Before folks drifted off to the cities and bad times settled on the farmer, crossroads stores like this old clapboard barn of a place were about as common as cotton patches across Texas. Now there're just a few left around the state and they say the Vaughan brothers are holding on to one of the best.

Why, you can walk in there and find just about anything—knee pads for cotton pickers to pork 'n beans. What they don't have you probably don't need, anyway.

Shell out two bits for a slice of aged Wisconsin cheese and a handful of saltines, pull a soda pop out of the cooler and settle back by the counter to breathe in some of that mellow atmosphere. Farmers drop by around noontime to cool off and jaw about the weather. The milkman stacks his delivery in the icebox and mixes company with an overalled chicken rancher come in to pay on his grocery bill. Country women drift in to pick up the mail and check up on the gossip. The squeaky front door opens and in saunter a couple of strangers, city folks out traveling the back roads and stumbling on a prize they thought had vanished from the countryside.

"Oh, man, just look at this place!"

The Vaughans' throwback store squats beside a crink in Farm Road 134 about five miles north of Interstate 20 which runs through nearby Waskom and to the Texas-Louisiana border. The curve effectively slows down traffic through the remnants of Jonesville, a once-booming cotton ginning town and railroad stop of which only the store; the locked-up building of its defunct competitor across the road, a few houses and a broken-down cotton gin remain.

In other buildings now long gone, Jonesville has had its country store for almost 130 years. The pioneer-times forerunner to the present structure was a cabin store owned by partners named Jones and Estes. Dr. Samuel Floyd Vaughan, Sam and Tom's granddad, purchased a half interest in the Jones-Estes Store in 1870. Around the turn of the century T. C. Lindsey took over. In 1922 the present store was constructed.

Sam hired on as a $50-a-month bookkeeper in 1928, buying in 10 years later, and his brother dropped out of the oil business in 1947 to become the third partner. When Lindsey died in 1948, the brothers divided the ownership.

"Back in those days I couldn't find another job so I took this one thinking I'd not stay with it too long," says Sam. "Well, guess the old place sorta grew on me. Longest I've ever been away is 23 days and I wouldn't have been off that long if it weren't 'cause I was visitin' relatives.

"Never seen a place I like any better than here," he asserts. "Gonna keep on runnin' this ole place' til I die. If I had to quit, I'd just go nuts, or something."

When cotton was king around Jonesville back in the 1930s and 40s, business at T. C. Lindsey Store was as diversified and prosperous as it is on Houston's Main Street today. Aside from serving as a place to buy staples and wares, the store was a home-style bank and loan agency for farmers, the main office and weigh station for the cotton gin, a polling place, a meeting hall and a hangout for everybody with time on his hands. In 1937 a record 2,976 bales of cotton were ginned in Jonesville.

"Back then this was a growin' goin' town," remembers Tom. "Used to be bodies in this store so thick you couldn't hardly move. When the gin'd break down, there'd be crap games in the back room and people milling around thick as flies.

"When we'd pay'em off for cotton, they'd plumb buy us out," he adds.

In 1973 the gin processed four bales of cotton and closed down for good.

In the meantime, Sam, a packrat at heart, had begun to assemble his lifetime's worth of collected bits of nostalgia in a backroom of the store. A huge collection of rusty old things crowds the room and now spills out into every available space left in the already jampacked store. Everything imaginable that served the labors, pleasures, pains and pursuits of our forebears has been gathered by Sam to show amazed visitors.

"It's helping our trade," he admits. "This place is full of thousands of things you just can't find anymore. Used to be just people from 'round these parts were trading here. Now we're gettin' folks from all over the country."

This notoriety was abetted by the publicity generated by two Walt Disney movies which were partly filmed inside the store. "Bayou Boy" and "Mystery of the Pond" (recently aired on television), in which the plots unfold mostly around the swampy environs of nearby Caddo Lake, include the store and its owners in bit parts.

"Yessir, can't find many old stores like that'n anymore," claimed a longtime customer. "Hear tell those Disney people didn't even have to change things around much to take movie pictures. The old place hasn't changed a bit o'er the years."●

NEW URBAN PARKS FACE A FIGHT TO SURVIVE

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BEILENSON. Mr. Speaker, the Christian Science Monitor's series "Islands in a Storm: Our National Parks" received deserved acclaim when it appeared in June. The author, Robert Cahn, spoke knowledgeably about the successes and problems of the entire national park system and of how important the system is to almost every American.

Mr. Cahn dedicated one article in his series to urban parks, the newest concept under the national park system—and also the most controversial. One of these parks, the Santa Monica Mountains National Recreation Area, located partially in the 23d Congressional District I represent in Los Angeles County, is discussed at some length by Mr. Cahn. I authored the legislation that created this national recreation area, and I strongly advocate the preservation of natural areas in urban settings. As this article notes, however, urban parks have been the subject of a great deal of criticism recently and are under direct attack by the Department of the Interior.

If my colleagues read this article, I know they will understand the national significance of the Santa Monica Mountains and of other urban parks. As Mr. Cahn wrote:

> Each of the national recreation areas I visited * * * is protecting valuable pieces of natural landscape and important historic sites, while providing recreation for people unable to travel to the larger, more famous national parks.

I commend the article to my colleagues' attention.

NEW URBAN PARKS FACE A FIGHT TO SURVIVE

(By Robert Cahn)

(A decade ago, the Park Service embraced a new idea: national recreation areas in urban settings. Despite sharp criticism, these parks, like Santa Monica Mountains near Los Angeles, have endured.)

A year ago things were looking bleak for superintendent Bob Chandler. The 150,000 acres of beaches, mountains, hills, and canyons he was trying to preserve for the recreation of 10 million nearby Americans were in jeopardy.

In 1978 Congress had directed that this natural area, not yet swallowed up by southern California's urban sprawl, somehow be welded into the national park system. A combination of land purchases and protection agreements would be the means. The hoped-for result: a new park, the Santa Monica Mountains National Recreation Area, embracing both publicly and privately owned lands.

But in 1981 the effort was suddenly cast into limbo. The newly appointed secretary of the interior, James G. Watt, clamped a freeze on all National Park Service land acquisition funds. The new secretary also stated publicly: "I do not believe the national park system should run urban parks."

For superintendent Chandler, the freezing of acquisition funds put a roadblock in the way of purchasing several key parcels of land needed to hold the new park together. His public defense of the park and criticism of Watt's action as short-sighted brought a verbal reprimand from Washington. Meanwhile, morale at the park reached rock bottom. Staffers felt they had little communication from regional and national offices. "It's like we don't exist," said one.

Today the gloom has lifted. Chandler is optimistic that Santa Monica Mountains will not only survive but will come to be regarded as one of the outstanding units of the national park system. Santa Monica received $6 million when Congress overruled Watt's total moratorium on land acquisition and restored part of the 1981 appropriation Watt had cut off. By spring of 1982, Santa Monica Mountains National Recreation Area was a viable, though far from complete part of the national park system. It had an expert staff working to protect its resources, and rangers helping to provide recreational opportunities for increasing numbers of visitors. The small portion of the area now owned by the Park Service recorded more than 395,000 visits last year, not counting the 7 million people who pass through the area or the 29 million who use the state beaches and other public areas of the new park. Even Secretary Watt appeared to have changed his tune. When asked by a reporter if he supported funding to complete the acquisition of lands for the Santa Monica area, Watt replied, "Yes, but not now."

Over the past 20 years, developers and real estate interests have relentlessly promoted unlimited urbanization of this area. But conservation groups and public-spirited citizens have worked to protect, within the national park system, what was left of the Santa Monica Mountains' natural value. The result is a tenuous, albeit effective, series of working arrangements between the Park Service and the other public and private owners of the land. These give a measure of protection to the nation's largest, relatively undisturbed example of a coastal Mediterranean ecosystem.

On a map, the Santa Monica Mountains National Recreation Area looks like a heavily gerrymandered political district. Its borders abound with bulges and narrow strips that exclude populated areas. From Point Mugu State Park on the west, running east along the entire mountain range for 47 miles, to the Hollywood Freeway, the park includes rugged 3,000-foot ridgetops, steep hillsides swathed in chaparral, manzanita, sage, and wildflowers, 44 miles of beaches, canyons of dry, golden grasses dotted with 400-year-old California live oaks and valley oaks, and streams lined with willows and sycamores. Bobcats, deer, coyotes, and a few mountain lions are among the 60 species of mammals in the area. Some 240 kinds of birds populate the park, and one area, Cheeseboro Canyon, is reported to have the largest number of nesting sites for birds of prey, per acre, in the country.

MANY LOCAL RESIDENTS FAVOR PRESERVATION

The existence of so much natural land in the midst of 10.5 million people is due partly to action taken by local voters. Over a number of years they set aside many state, county, and city parks and water district lands. Other key factors in preserving the natural quality of the land: the large numbers of private camps and recreational facilities in the area; an ownership pattern in western Los Angeles County dominated by large private ranches; the topography, with its steep, slide-prone slopes and extreme fire danger in some areas. And, fortunately, most of the people who have purchased tracts in the area have maintained the land's natural features, and have become advocates of preservation.

Establishing the new park has required all the negotiating and planning skills that Chandler, a 23-year Park Service veteran, could muster. Starting from scratch 3½ years ago, he first had to acquire enough land to form a nucleus of Park Service ownership. At the same time, he had to work out cooperative arrangements for managing private lands in ways compatible with the purposes of the national recreation area. Natural resources had to be protected from the threats within and adjacent to the park. Recreation opportunities had to be developed. And all of this in a period of budget austerity throughout the National Park Service.

Chandler has been able to purchase only 6,000 acres of the 43,000 sought in the original plan. The land cost $37 million, and the figure would have been even higher had not several tracts been donated. In one case, the nonprofit Trust for Public Land saved the park more than $2 million by taking an option on 1,800 acres in Cheeseboro Canyon and holding it until the park had the money to buy it at a bargain price.

With land prices escalating, the Park Service estimates it may now cost four times the orginally authorized $155 million to make all of the planned acquisitions. "When some people question whether we can have a viable recreation area for $155 million, my response is that we can, by relying more heavily on less-than-fee acquisition, and by depending on donations and good land-use planning by local agencies to preserve a lot of what we have," says Chandler. "But we still need to acquire some of the most sensitive resource areas and some sites needed for recreation activities. The principal thing is to preserve the character of the mountains without acquiring everything," he adds.

REPORT SPECIFIED OVER 50 THREATS TO THE PARK

No matter how much land can ultimately be purchased, Chandler faces an ongoing challenge: how to protect the park's natural values. With Greater Los Angeles pressing in and 40,000 people living within park borders, it is little wonder that the staff identified 53 distinct threats in the Park Service's 1980 State of the Parks Report. That was the fifth highest total among the 333 Park Service units. Air and water pollution, toxic chemicals, noise, threats to wildlife, destruction of habitat, livestock grazing, wildland fires, land development, roads, vandalism, and erosion lead the list. Projected oil leasing could also harm the park.

With an eye to these threats, Chandler has put more permanent resource managers on his staff than rangers. He recruited Dave Ochsner, formerly chief resource manager of Grand Canyon, to head the staff. Paul Rose, an expert hydrologist from Everglades National Park, directs the monitoring and gathering of basic data about the park's natural resources. Bob Plantrich, a forester and controlled-burning expert from Sequoia, and Kheryn Klubniken, a marine biologist specializing in environmental pollution compliance, are also on the staff.

In its first three years the park has already developed a more complete inventory of plants and wildlife, including data on their condition, than Yellowstone has gathered in its 110 years. This information is being computerized to make it easier for park officials to detect dangers to resources. With the help of the U.S. Geological Survey, the park has launched a program to monitor water quality and quantity in the 10 watersheds of the Santa Monica range.

Brush fires are a recurrent threat. So Chandler and his resource managers have had to sell local citizens on the need for controlled burning of hillside chaparral. Two such burns have been completed successfully and more are planned.

Building an appreciation of the park's recreational potential is another task Chandler had tackled. Last year, the park staff helped schools and community groups conduct environmental education field trips in the recreation area. Some 40,000 children participated, most of them from inner-city neighborhoods. A recent "Springtime in the Santa Monicas" program brought 26,000 visitors to the area to take part in cross-country runs, wildflower walks, bird watching, and astronomy programs.

THE PARK SERVICE'S NEW INVOLVEMENT IN URBAN AMERICA

The Santa Monica Mountains park is part of a recent phenomenon that has been a subject of controversy both within the National Park Service and outside of it. Over the space of six years (1972–78), the service was pushed to extend itself to cover a whole new involvement in urban America.

The Nixon administration's "Parks for the People" campaign—turning surplus federal properties into local parks—provided the basic concept. And with help from New York and San Francisco-area members of Congress, the Gateway and Golden Gate National Recreation Areas were authorized in 1972. In both cases, a number of federally owned natural and cultural sites, not significant enough by themselves to be in the national park system, were lumped together. The Park Service, which had formed a National Capital and Urban Park Affairs Division in 1970, liberalised its interpretation of "national significance" to include providing recreation for city residents unable to get to distant national parks.

NEW YORK CITY HAPPY TO DONATE RIIS BEACH

New York Mayor John V. Lindsay donated the popular city-owned Jacob Riis Beach, a financial albatross the city was only too pleased to unload. Environmental leaders in California, who had long sought national park status for the Marin County headlands and other areas near San Francisco, advocated the Golden Gate park. Some national park purists objected to what they considered a compromise of standards. But the conservation movement as a whole was interested in meeting some of the needs of inner-city dwellers and joined in support for Gateway and Golden Gate.

Many congressmen and senators soon wanted national recreation areas in their bailiwicks, and at one point the Park Service had some 40 areas under consideration because of congressional requests. Only four more were approved by Congress, however: Cuyahoga National Recreation Area (between Cleveland and Akron, Ohio) in 1974, Chattahoochee River National Recreation Area (Atlanta), Jean LaFitte National Historical Park and Preserve (New Orleans), and Santa Monica in 1978. The National Park System Advisory Board, which advises the secretary of the interior, opposed all four.

After Gateway and Golden Gate, the Park Service, which had never really wanted the urban areas, opposed Cuyahoga, Chattahoochee River, Jean LaFitte, and Santa Monica Mountains. These and some of the other units added to the system in the last 10 years were anathema to some Park Service veterans loyal to the Yosemite-Yellowstone-Grand Canyon tradition of great scenic national parks. They felt the new units were not of national significance and compromised the high standards of the service. And they saw staffs being plucked from the old-line units and sent off to the new areas. Many rangers, eager to work in wilderness surroundings, chafed at being sent to an urban park.

Congress, quick to authorize the new parks, was not so quick to appropriate adequate funds for operating them. Nor did cost-conscious interior secretaries, beset by other priorities, press for the needed appropriations. Since staffing levels are determined for the most part by number of visitors rather than size of the park, the urban parks put a new strain on Park Service manpower. For example, Gateway, with only 26,000 acres, now has 53 percent more permanent employees than Yellowstone with its 2.2 million acres, since Gateway records four times as many visits.

Each of the national recreation areas I visited, however, is protecting valuable pieces of natural landscape and important historic sites, while providing recreation for people unable to travel to the larger, more famous national parks. And for many of the visitors—the experience may serve as an introduction to the national park system, whetting their interest in someday getting to the large, distant national parks such as Yellowstone or Grand Canyon.

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BIRD WATCHING, FISHING, HISTORICAL LANDMARKS

Gateway National Recreation Area, for instance, is far more than a tangled mass of humanity on Riis Beach, as critics sometimes portray it. The Sandy Hook unit in New Jersey is a small national park in itself, with rugged beaches, havens for many species of birds, the unique 200-acre Holly Forest, historic Fort Hancock, and well-used fishing beaches. The Breezy Point unit, which includes Jacob Riis Beach and Park, also has Fort Tilden, another historical landmark, plus a popular fishing area at that point. The Jamaica Bay unit is highlighted by the 9,100-acre wildlife refuge with seven miles of trails, two large ponds, and marshlands and bay for sighting some of the 318 species of birds known to use the area.

And other features of the park serve great numbers of people: Canarsie Pier, for example, where senior citizens gather daily, and Floyd Bennett Field with its Ecology Village set amid a grove of young pine trees. For many inner-city teachers and schoolchildren, an overnight camping experience here provides a first encounter with the outdoors. A major failure of Gateway is the lack of easy public transportation to any of the units, and, particularly, the absence of the ferry system contemplated in original plans for the park.

Across the continent, the other "gateway," Golden Gate National Recreation Area, is also a collection of distinct natural and historic sites. It claims to be "the largest urban park in the world," with 68 square miles of land and water and 28 miles of coastline. Golden Gate has the highest visitation—19 million in 1981—of all 333 national park system units. Some visits, however, man only last long enough to take in the view at such popular spots as Lands End or Cliff House.

No place in the park is more than an hour's drive from downtown San Francisco or Oakland. The area offers breathtaking scenery and a variety or recreation—hiking in redwood groves, boating, fishing, swimming, camping, or visiting historic areas such as Alcatraz Island.

Without the national recreation area, much of the land would by now probably be lost to housing and commercial development. More than 17,000 acres have been purchased since 1972 through the Land and Water Conservation Fund at a cost of $52 million.

The Cuyahoga Valley National Recreation Area in Ohio, like Santa Monica Mountains, protects a large, still undeveloped chunk of land. It is parklike, pastoral land squeezed between the urban centers of Cleveland and Akron. The strip following the Cuyahoga River for 20 miles offers many kinds of recreation. It has ecological significance, too, as an outstanding example of a merger of eastern and northern forest plant species with those of the western plains.

THERE ARE 6,000 ACRES STILL NEEDED TO COMPLETE PLAN FOR PARK

Cuyahoga's historical and archaeological treasures include some 250 historic buildings and 45 prehistoric mounds of the Adena and Hopewell cultures (300 B.C. to A.D. 600) waiting to be excavated. And the old Ohio and Erie Canal, with hiking and cycling along the towpath trail, has historic, scenic, and recreational values. The 32,000 acres of the national recreation area take in seven already established local parks; the National Park Service has purchased, or has protective easements for, 12,000 acres. But 6,000 more acres still need protection.

Until Cuyahoga was established in 1974, a regional federation of 87 groups had been trying in vain to save the area from urban encroachment.

As successful as these urban parks may be, at least in the minds of people living in surrounding metropolitan areas, critics still hold that they lack national significance, drain off Park Service staff and funding, and should be managed by states or municipalities. When the latter idea was floated during the early days of the Reagan administration, the governors of Ohio and California and New York members of Congress expressed anger at even the suggestion.

Watt told a reporter last year that deauthorization of some national recreation areas "needs to be done." But he added: "I don't know if we have the political leadership to do it, the courage to do it now." However, leaked confidential memos from Watt's assistant secretary for fish and wildlife and parks, G. Ray Arnett, to National Park Service director Russell Dickenson showed that this move was being seriously considered. One memo asked for research on areas created by Congress over the objection of the Park Service, with first attention given to Santa Monica. The other asked Dickenson for research "on the procedure for divestiture of the Santa Monica Mountains NRA" and for similar research on Cuyahoga.

Ohio Rep. John Seiberling, who led the 1974 legislative campaign to pass the Cuyahoga bill, argues that protecting only the great natural parks is elitist.

"We need to take care of the people who can't afford to go the long distances and give them a high-quality park experience," he says. "Also, having parks near the people saves energy. No other part of government except the National Park Service has the capability of providing this high type of recreation on the needed scale, and of doing it well."

Most Americans have accepted the concept of an evolving national park system that allows for parks in urban areas—as well as historic sites, lakeshores, seashores, wild rivers, trails, military parks, and cultural parks—as a people's need expands.

Freeman Tilden, author of many books on national parks and a consultant to four Park Service directors, believed that every one of the areas could justly be called a national park. "The naming is several," he wrote, "but the purpose and effect is that of a full representation of the American story—of the earth we live upon, of the races who lived here before the white man came, of the great struggle for possession of the continent, of the winning of the Republic, and finally of our own political and social life."●

JONATHAN BINGHAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. UDALL. Mr. Speaker, I have had the privilege of working in this House with perhaps 2,000 men and women. Few of them have impressed me more than JONATHAN BINGHAM of New York.

All the old adjectives somehow do not do the job.

JONATHAN BINGHAM is decent, blessed with commonsense and personal integrity. and he is immensely effective. His quiet arguments are always based on careful study of the facts, and that made him one member of the Interior Committee who was always listened to. He could usually find a way out of a deadlock, and get on with the work at hand.

I always looked forward to being with JONATHAN and his wife, June, who is an exceptional and distinguished individual in her own right.

When JONATHAN retires at the end of this year, he will leave a huge gap in our membership. I wish him and June the happiness of their family, and the time for a less hectic life. He has richly earned the gratitude of his colleagues and his country.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, the October 1981 issue of IPO News, published by the Intellectual Property Owners, Inc., carried a special report on the UNCLOS Treaty by our friend and colleague, JOHN BREAUX. I enter that report into the RECORD for the benefit of those interested in this subject.

[From the IPO News, October 1981]

THE LAW OF THE SEA TREATY IS DANGEROUS TO FUTURE OF WESTERN TECHNOLOGY

(By Congressman John Breaux (D.-La.))

(The United States Government's "review of the Draft Convention has revealed that Part XI of the text would, in its present form, be a stumbling block to treaty ratification . . . The questions and doubts that have emerged during this review relate to issues of principle. These principles follow from widely-shared American attitudes toward the creation of global regulatory institutions, the availability of resources for an industrial economy, the financial and economic burdens of an unbalanced budget, and the role which the United States should play in decisions affecting its vital interests.")

It is with a great sense of relief that we in the Congress who have been so vitally concerned with the past U.S. position at the Third U.N. Conference on Law of the Sea (UNCLOS III), heard these words spoken by Ambassador James L. Malone, head of the United States Delegation, before an Informal Plenary of the Conference on August 5, 1981. I, for one, have been speaking out for a number of years about the dangerous precedents that were being set at UNCLOS III and the damage we are doing to our national security, foreign policy and domestic economic interests.

My concerns over the shape of the emerging UNCLOS treaty text have been far ranging: from ambiguities in various navigation and pollution control provisions, to the lessening of existing legal protections for important U.S. fishery resources, to the fundamentaly unacceptable international regime which will enable States Parties, on the basis of "the sovereign equality of all," to "organize and control activities in the Area." I say fundamentally unacceptable to underscore the point made by Ambassador Malone. While a good UNCLOS treaty remains, in my view, preferable to no treaty, the United States cannot, must not and will not accept a treaty containing the number of defective provisions that now exist in the "Draft Convention/Informal Text". If the existing treaty text cannot be substantially improved, the United States should not be afraid to abandon the effort and pursue alternative courses of action necessary to protect our interests. Among the more onerous features in the existing text are:

A series of articles that place general policy making powers in a one-nation, one-vote "supreme" assembly. The lack of a clear delineation between the powers held by this Assembly and those granted the nominally "executive" Council will lead to a governmental system that is paralyzed at best and dedicated to actions adverse to U.S. and other developed nations' interests at worst. Council election provisions do not even guarantee the United States a seat on the Council, although eastern European socialist regimes are guaranteed three seat. Even if represented on the Council, however, no effective decision-making mechanism exists to force positive action deemed in our national interest;

An array of seabed production restrictions. These restrictions take the form of both general production policy objectives and specific limitations on not only the overall level of seabed mineral output, but on the production level of individual operators. These restrictions on private enterprise production, and provisions enabling the International Seabed Authority to participate in international commodity agreements on behalf of all seabed mineral production, would tent ot artificially inflate prices, distort markets and encourage inefficient production;

Provisions that create a highly privileged, supra-national mining enterprise. The Enterprise is granted a series of financial and other benefits, including an almost absolute priority for mine sites when the production ceiling is in effect;

A built-in system for the review and amendment of the treaty seabed minerals regime after only 20 years of commercial production. This review system contains standards against which the existing regime is to be measured that prejudice the outcome of the review. What is worse is the ability of only two-thirds of the State Parties to agree to, and ratify, amendments to the finally negotiated treaty regime that would become binding on all States Parties, whether or not they had consented to such changes. The legal right of denunciation offers a dubious political response as well as draw into question other U.S. treaty interests and the continued viability of a domestic seabed mining industry; and

Provisions that would obligate private citizen ocean miners to transfer their technology to their competitors, the enterprise and developing countries, on an essentially forced sale basis. The primary mining contractor would be unable to use technology developed by a third party unless the contractor obtained written assurances from such third party owner that the technology would also be made available to the Enterprise. In addition, States Parties having access to mining and processing technologies would, under certain circumstances, be required to make such available to the Enterprise. It cannot be over-emphasized that these obligations extend to certain defense-related technologies that would form an integral part of seabed mining operations.

It should not be inferred from this rather short, but extraordinary list of treaty deficiencies that the Congress has no other concerns with the developing UNCLOS package. Some of our other concerns were noted in earlier exchanges. A more complete explanation of the pitfalls we see in the current treaty text were set forth in a letter I sponsored on December 10, 1980 to then President-elect Reagan, and which was endorsed by a bi-partisan group of thirteen House colleagues. The concerns are now being fully explored by an interagency policy review.

Given the interest and perspective of IPO, it would seem useful to more fully explore the ramifications of technology transfer as set forth by the latest UNCLOS III text. I have become convinced that the continued development and growth of the technology that is necessary to move our domestic seabed mining industry from its current stage of infancy into maturity will not occur under the existing treaty provisions. That the United States would put itself in danger of losing its current technological lead in yet another industry is, to me, intolerable. The long-range implications, for our technological growth, of acquiescence, to Third World demands in this negotiation are the real cause of my concern.

Indeed, in my judgment, in no other international fora has the political caucus of the developing nations, known as the Group of 77 (G-77), been able to advance so far the concept that the transfer of technology from the developed nations of the North to the developing nations of the South is an international legal obligation.

This is not to say that technology transfer has not, for quite some time, been a central tenet of the South's drive for a New International Economic Order (NIEO). The role of technology transfer in the NIEO arises from three documents adopted by the United Nations General Assembly at its Sixth Special Session in 1974: The "Declaration on the Establishment of the New International Economic Order" (Declaration), the "Program of Action on the Establishment of the New International Economic Order" (Program of Action), and the "Charter of Economic Rights and Duties of States" (Charter). One of the principles enunciated in the Declaration is the need for:

"Giving to the developing countries access to the achievements of modern science and technology, and promoting the transfer of technology and the creation of indigenous technology for the benefit of the developing countries in forums and in accordance with procedures which are suited to their economies."

The Program of Action, which purports to set forth the specific measures that need to be pursued to ensure the establishment of the NIEO, states in relevant part:

All efforts should be made:

(a) To formulate an international code of conduct for the transfer of technology corresponding to needs and conditions prevalent in developing countries;

(b) To give access on improved terms to modern technology and to adapt that technology, as appropriate, to specific economic, social and ecological conditions and varying stages of development in developing countries;

(c) To expand significantly the assistance from developed to developing countries in research and development programs and in the creation of suitable indigenous technology;

(d) To adapt commercial practices governing transfer of technology to the requirements of the developing countries and to prevent abuse of the rights of sellers;

(e) To promote international cooperation in research and development in exploration and exploitation, conservation and the legitimate utilisation of natural resources and all sources of energy.

Finally, the Charter sets forth specific detailed rights and duties of all States relative to the establishment of the NIEO. Again, the central role of technology transfer surfaces. In relevant part, the Charter states:

"Every state has the right to benefit from the advances and developments in science and technology for the acceleration of its economic and social development . . . all states should facilitate the access of developing countries to the achievements of modern science and technology, the transfer of technology and the creation of indigenous technology for the benefit of developing countries in forums and in accordance with procedures which are suited to their economies and needs."

The point of this recitation is to demonstrate the clear importance which the South places on technology transfer. It has become the *sine qua non* in every major international economic conference for access to those natural resources over which the developing nations individually claim "permanent sovereignty" and which, in global commons, is viewed as the "common heritage of mankind."

The success of the G-77 in using the UNCLOS negotiations to implement this trade of access to the "common heritage" resource for the "universal heritage" of technology is evidenced by the textual provisions outlined earlier. That the developing nations are after concrete gains, rather than hortatory language, is reflected by the broad definition of technology contained in the UNCLOS text, to wit:

". . . the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a nonexclusive basis."

The breadth of this technology "grab" and its legal implications as to warranties should be of utmost concern to all.

As previously noted, UNCLOS III has represented the one international conference where the G-77 have been able to dominate the negotiating process and achieve solid advances in their drive to turn NIEO political rhetoric into legal reality. This is not to imply that other international fora, such as the renegotiation of the Paris Convention and negotiations under the U.S. Conference on Trade and Development (UNCTAD) for an international code of conduct on the transfer of technology or within the United Nations Conference on Science and Technology for Development (UNCSTD), have produced texts that fully protect U.S. interests. However, the U.S. and its industrialized allies have always held firm in these other fora; never were we in the clear danger of agreeing to a text so fundamentally inimical

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to the free enterprise principles upon which our economic and social wealth rest.

Fortunately, the momentum towards an extremely damaging result has been broken. We have finally alerted the developing nations at UNCLOS that we will not, even in this forum, capitulate to their unilateral demands. In large part, the credit for this "fresh start" can be laid to professional organizations, such as IPO, and their membership. It took the concerted efforts of all of us to alert the Administration to the dangers of the existing LOS treaty text. It is now up to us to continue to support the domestic review process and keep our policymakers and negotiators advised as to the type of treaty we need in order to continue the development of the new technology necessary for a fully operational U.S. ocean mining industry. I urge you in IPO to make your views known to the President, the State Department and the Congress.●

A FRESH APPROACH TO CRIME PREVENTION

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BEILENSON. Mr. Speaker, the New York Times recently published two columns by Tom Wicker which focus on an alternative approach to the traditional responses—both liberal and conservative—to increases in crime.

The growing fear of crime among all Americans is a problem we are trying to confront constructively—though, admittedly, the Federal Government's role is limited. Mr. Wicker summarizes the views of criminologist Elliott Currie who points out the inadequacy of only relying on either the Reagan administration's "get tough" crime control policy or the conventional liberal crime prevention effort based on social programs.

Everyone agrees that we must apprehend and punish those who commit crimes; but, according to Mr. Currie, proposals for mandatory sentences, increased prisons, and changes in constitutional rulings on bail, parole, and evidence may not, in fact, reduce crime. Instead, he suggests that we fully fund the criminal justice system—the police, judges, and prosecutors—so it can fulfill its function and, at the same time, provide support systems—such as employment opportunities and limited transitional stipends—to increase the benefits of "keeping straight" and avoiding crime.

I recommend Mr. Wicker's columns to my colleagues for their consideration in confronting the complex and important issue of crime prevention.

[From the New York Times, July 19, 1982]

Making Things Worse

(By Tom Wicker)

"I don't care whose poll you look at," Representative William J. Hughes of New Jersey recently told Steve Roberts of The New York Times. "Some of them show that crime is more important than national defense."

To support that view, here are some findings culled from various studies and recently presented by the ABC Social Research Group to a conference of the network's programming executives:

While 37 percent of Americans have a "formless" fear of crime in general, 41 percent have a specific fear of being mugged, raped, robbed, etc.

Thirty-one percent keep guns for protection and 65 percent favor encouraging people to carry weapons such as Mace.

Forty-eight percent would allow the police to "stop and search" anyone they suspect, 56 percent favor changing the rule excluding illegally obtained evidence from the courtroom, and 70 percent approve of the death penalty.

That's a picture of a nation in fear—understandably so. But a climate of fear is not one in which to make sensible policy; it tends to produce demagoguery, such irrelevant actions as restoring the death penalty and programs that actually make things worse.

Californians, for example, have just approved a referendum proposition for a "victim's bill of rights" that not only appears largely unconstitutional but would clog courts and overcrowd prisons more than they already are—while running up tax bills for both—without significantly reducing crime.

In two enlightening articles in the May-June and July-August issues of the magazine Working Papers, the criminologist Elliott Currie takes a critical look at such "get-tough" crime-fighting proposals and particularly at what he calls the "stock themes" of neo-conservatives and the Reagan right—"that social programs can't help reduce crime; that 'nothing works' in dealing with offenders except locking them up in traditional prisons; that the causes of crime are obscure or unapproachable through public action."

President Reagan, for example, repeated last year the neo-conservative view that the "nature of man" is at the root of crime: "Some men are prone to evil, and society has a right to be protected from them." But, Mr. Currie points out, this pessimistic view of man can't explain why the United States has so much more crime and violence than others—why, for example, in 1977 10 American men died by violence for every Japanese, Austrian, West German or Swedish male.

Are Americans just more wicked? If so, the "nature of man" varies by national boundaries.

As for the usefulness of imprisonment, Mr. Currie cites a study of one year's murder, robbery, rape and aggravated assault in Columbus, Ohio. It showed that had the law required a five-year mandatory prison sentence for any and every felony, such a major increase in imprisonment would have prevented only 4 percent of all such crimes during the study year.

The same study also cast doubt on the fashionable view that a few repeat offenders commit most crimes; over two-thirds of those convicted of serious violent crimes were first offenders and only 11 percent had a previous conviction for a violent felony.

But the really significant finding was that only 40 to 50 percent of Columbus's serious violent crimes were "cleared" by an arrest—much less a conviction. What good does incarceration do when the cops can't catch the crooks?

A separate National Academy of Sciences study concluded that to achieve a 10 percent reduction in serious crimes by imprisoning people, California would have to increase its prison population by 157 percent, New York by 263 percent and Massachusetts by 310 percent, at appalling cost to taxpayers.

Mr. Currie postulates the possibility of a 20 percent reduction in serious crime by tripling the state and Federal prison population. By the cost estimates of President Reagan's Task Force on Crime, such a program would cost $40 billion for construction of new prisons and add $8 billion annually to state and Federal operating costs—and still leave us with 80 percent of the crime we have now.

Besides, if prison is the answer, why did crime keep rising from 1975 to 1981, while the rate at which people were being locked up rose by over a third? Why do we have the highest rates of serious, violent crime in the industrialized world—while imprisoning more people for longer periods than any industrialized society save the Soviet Union and South Africa?

Nevertheless, the central thesis of many neo-conservative thinkers on crime is that the "cost" to the criminal—the prison term—has to be increased. Mr. Currie counters with the question: Why not raise, instead, the benefits of going straight? His answer is well worth another article.

[From the New York Times, July 13, 1982]

Making Things Better

(By Tom Wicker)

Among its other postwar "miracles," Japan manages to have a strikingly lower crime rate than the United States. In 1977, for example, 10 American men died by violence for every Japanese male who did.

This achievement is often explained by the strong controls of family, neighborhood, workplace and tradition that are accepted in Japan. But the criminologist Elliott Currie points out that Japan has not only a controlling but—equally or more important for the crime rate—a supportive society.

Its supports include a calculated and effective full-employment policy (the current 2.2 percent unemployment rate is considered high), conscious efforts to improve life in the workplace, and a narrow spread of income inequality. Mostly as a result, Japan has nothing like the urban "underclass" in America that has little to do but rip people off on the streets.

In two illuminating articles in the magazine Working Papers, Mr. Currie first disputed the neo-conservative thesis that crime can be controlled only by raising its "cost" to the criminal through more and longer prison terms; then advanced the opposing view that the better approach—if not a complete answer—would be to raise the benefits of going straight.

At the heart of this thesis is employment. As Mr. Currie observes, "it's hardly accidental that every advanced society with a lower level of violent crime than ours has also historically had a much more effective and humane employment policy"—cushioning people against callous market forces either through public programs, as in Scandinavia, or private planning, as in Japan.

Mr. Currie concedes that "full employment" is not in itself the answer, particularly for people working in low-wage, menial jobs, many of whom may be moonlighting in crime. What matters most, several studies suggest, is "good jobs with decent wages." A Rand survey of repeat offenders in California showed, for example, that the "better employed" (defined modestly as working three-fourths of the time for at least $100 a week) had committed only a fourth as many crimes, and less serious ones, than those not employed so well or at all.

At least three important suggestions are implicit. One is that a general economic expansion will not have much effect on crime unless it includes "well-targeted employment and training programs for the kinds of people typically left behind." Another is that job-training programs will have little effect if the trainee finds upon completion of the course that no job, or only a dead-end job, awaits him in the same social and economic backwater he or she came from.

The third, and most important, is that therefore some degree of public planning, training and employment is necessary. "It's hard to do much about youth unemployment," says Mr. Currie in an understatement, "as long as youth's chances for serious work are determined almost wholly by the private market."

Is this impractical liberal dreamstuff, compared to hardheaded, immediate steps like building more prisions? The fact is that it takes years to plan and build a prison, at enormous cost, for little reduction in crime; but "a public employment program can be put in place in a few months" with far more cost-effectiveness and impact on street life.

Mr. Currie, formerly on the faculty at Yale and the University of California and now with the California Task Force on Civil Rights, also advocates more forms of support for people who need help—particularly assistance for early child development in poor and dependent homes.

He also sees useful possibilities in some programs already successfully tested. They include "supported work," which encourages self-support for young offenders and ex-addicts by gradually increasing rewards and responsibilities in an intensive work program. A Labor Department test program of small stipends to support ex-inmates through the difficult period of readjustment to the community and the job markets reduced re-arrests by up to 30 percent.

If such programs only kept the prisons free of many who would otherwise be property-crime offenders, that would make much prison space available, without new construction, for the incarceration of more dangerous violent criminals.

But Mr. Currie keeps coming back to employment as the central problem: "if there is a way to cope with violent inner-city youth crime while the official jobless rate for black youth hovers around 40 percent, we have yet to hear what it is." Why? Because "as long as we continue to trap many young people in a low wage, unstable and generally unrewarding sector of the economy, increasing their stake in 'straight' life" will be impossible.

That's the only ground on which to make a realistic fight for greatly reduced crime in America; and those who merely want to 'get tough' instead are the impractical dreamers with their heads in the sand.●

A TRIBUTE TO ROSEANNE TRAVAGLIA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COURTER. Mr. Speaker, it is a special pleasure to rise in recognition of the contribution Mrs. RoseAnne Travaglia has made to the Morris County Board of Elections. Since 1969, when RoseAnne first became involved in this area of government service, she has worked tirelessly to help maintain and improve the orderly operation and supervision of countywide elections.

Thus, it is especially fitting that New Jersey's Gov. Thomas Kean has chosen RoseAnne to be the first Morris County Superintendent of Elections.

I cannot think of anyone better able to assume this important post.

As a result of her work for the past 13 years, RoseAnne Travaglia brings to the job a demonstrated commitment to public service and experience in the administration of election procedures.

The Morris County area and the entire State of New Jersey is indeed fortunate to continue to enjoy her service and benefit from her leadership.

I join with RoseAnne's family and a great many friends who will be celebrating the high point of her career when she is sworn in on August 18, 1982, as the Morris County Superintendent of Elections.●

ALL-OUT CAMPAIGN TO CUT ENTITLEMENTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. AuCOIN. Mr. Speaker, a front page news story in the Washington Post shows the administration admitting that it intends to cut entitlement programs to support its runaway defense buildup and irresponsible tax cuts. According to the news story, a senior administration official promises "an all-out campaign to cut entitlement," next year.

The President is faced with a budget deficit the likes of which has never been seen before in this country. Yet, a 3-year tax cut is on the schedule, as are massive weapons expenditures. With all this money pouring out of the Treasury, new money has to be brought in. The administration is saying social security cuts are the way to do it.

But, Mr. Speaker, our Government has a longstanding commitment to workers who paid and are paying social security taxes. The Government promised them they would receive certain benefits, and now the administration's budget experts want to break that promise—a promise that was made by Mr. Reagan in his campaign for the Presidency.

There are other entitlement programs which have been cut—food stamps, housing assistance, medicare, and medicaid. But even this has not done the job of balancing our troubled budget. The Congressional Budget Office projects a $160 billion deficit in 1983.

Social security cuts to both current and future recipients have been proposed by administration officials, not just this year, but even before they took office in 1981. And the White House has reaffirmed its determination to build up the defense budget, so there really is only one way to go for those now holding the purse strings of this Nation.

Well, Mr. Speaker, I want to say that I think this is wrong. There are ways to shore up the social security system without affecting current beneficiaries or those almost set for retirement. I intend to fight to see that the social security system is saved in a way that keeps our promises to the senior citizens of this Nation, to whom we owe so much.

All this from the man who promised to cut taxes, who promised to balance the budget, who promised not to touch the incomes of social security beneficiaries. According to candidate Reagan, all this was possible and there would still be enough left over to double defense spending.

Well, as so many of us feared, the President's economic package has hurt our country. Our Nation is more than $100 billion deeper in debt, our people are out of work, and our families cannot afford housing. Now, instead of trimming the fat on defense spending, the administration chooses to assault our senior citizens, our disabled workers, our "truly needy."

This is not how America wants to balance the budget. It is in everyone's interest to preserve social security. It is in everyone's interest to be able to look forward to secure senior years. The social security system needs help, no one can deny it. But, it is unfair to punish those who depend on social security. We should not break the promise made by our Government to all those who contributed a portion of each paycheck to the social security system with the notion that if they

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were disabled or retired, they would receive the insurance they paid for.●

SINAI SUPPORT MISSION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HAMILTON. Mr. Speaker, Ambassador Frank E. Maestrone, Director of the U.S. Sinai Support Mission, recently sent his semiannual report to the President on the activities of the Support and Field Missions. It will be one of the final reports submitted in the work of the mission.

In his letter to the President, Ambassador Maestrone spoke of the fine efforts of the men and women who worked on the 6-year peacekeeping role—a job that ended officially on April 25, 1982, when the new multinational force and observers took up their positions pursuant to an agreement and the full implementation of the Egyptian-Israeli Peace Treaty of 1979. Ambassador Maestrone writes:

> Those at the Field Mission endured both sandstorms and tedium in the remote reaches of the Sinai to carry out their mission in a professional and impartial manner that earned the respect of both Treaty Parties.

President Reagan also lauded the work of the men and women of the mission. Both in a letter to the Congress and in a separate letter of July 14, 1982, the President mentioned the professionalism of the mission personnel. His letter of July commends the mission staff for their expertise and impartiality and writes:

> You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

Mr. Speaker, I would like to add my words of thanks and commendation for a job well done. The assignment to the companies with which the Government contracted to provide material, staff, and technical advice for the Sinia Mission's work could not have been met without special attention to the delicate nature of the job and to the critical role this peacekeeping venture played in building the forces for peace in the Middle East.

The American contractor responsible for setting up and operating an early warning system and later for managing the verification role called for in the peace treaty was E-Systems of Dallas, Tex. Ambassador Maestron's 13th report mentioned the E-Systems contract and the fact that the contract was brought in under the projected budget and several weeks before the deadline.

We can all be grateful to the American companies, men, and women who have earned the praise of President Reagan and of the Director of the Sinai Support Mission. They have indeed made an important contribution on behalf of their country to bringing peace to the Middle East. It would be the hope of all of us that the new peacekeeping force in the Sinai, the MFO, will perform its vastly expanded mandate with the same dedication and success as the Sinai Mission did.

The President's July 14, 1982, letter to the Sinai Support and Field Mission's personnel follows:

> THE WHITE HOUSE,
> *Washington, July 14, 1982.*
>
> A unique American peacekeeping operation in the harsh and isolated desert environment of the Sinai Peninsula ended on April 25, 1982, when Israel completed its withdrawal from the Sinai in accordance with the terms of the 1979 Egyptian-Israeli Peace Treaty. On that day, the Sinai Support Mission and its overseas arm, the Sinai Field Mission, concluded six years of keeping the peace between Egypt and Israel. As the Sinai Support Mission closes out this operation, I want to pay tribute to the many dedicated men and women who, during this critical period, served with distinction either with SSM here in Washington or with SFM in the Sinai.
>
> "The orange men and women," as the Sinai Field Mission staff were called because of the international orange color of their clothing and their helicopters, played a crucial role in maintaining the peace in that area, first under the Second Sinai Disengagement Agreement of 1975 and then under the 1979 Peace Treaty. Initially, they operated an electronic early warning system guarding the approaches to the strategic Giddi and Mitla Passes. When the Israeli troops withdrew further east of these passes under the terms of the Peace Treaty, SFM was assigned a new role, the verification of Egyptian and Israeli compliance with the force and armament limitations specified in the Treaty for controlled areas in the western Sinai. The verifications involved onsite inspections of units and facilities scattered over a 15,000 square mile area of the Sinai. During this period, SFM personnel earned the respect and confidence of both the Egyptians and the Israelis because of their expertise, professionalism, and impartiality.
>
> In addition to these most important contributions to keeping the peace, the Sinai Support Mission rendered noteworthy assistance in the creation of its successor organization, the Multinational Force and Observers, which assumed Sinai peacekeeping responsibilities on April 25, 1982. The speed with which the MFO was created and made operational would have been hard to achieve without the expertise and cooperation of the Sinai Support Mission.
>
> To all those who served in the Sinai Support and Field Missions, let me say, congratulations for a job well done. You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.
>
> RONALD REAGAN.[1]

POSTHUMOUS PROMOTION FOR COL. CHARLES A. YOUNG, VICTIM OF WORLD WAR I DISCRIMINATION

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DELLUMS. Mr. Speaker, I have introduced H.R. 6770, special legislation which is designed to correct, posthumously, a gross injustice against a man of honor and integrity—a man who was denied promotion to brigadier general in the U.S. Army during World War I, not because of any lack of merit or defect of character, but solely because of the color of his skin.

Charles A. Young was born in 1864, the son of slave parents. His father, upon being freed, enlisted in the Union Army in 1865, so that his children might have more opportunities in later life than he had had during his early years.

Because of his father's industry and encouragement, Charles Young was able, against great odds, to secure an appointment to the U.S. Military Academy at West Point, from which he was graduated a second lieutenant in the Class of 1889, the third black man in American history to achieve that honor.

He was initially assigned to the Ninth Cavalry Regiment at Fort Robinson, Nebr. Then followed a succession of assignments to other units at regular intervals, coupled with a series of promotions based on merit and outstanding service. During the Spanish-American War, he was awarded a temporary commission of major in the Ohio National Guard, for the purpose of recruiting and training troops for the unholy war.

In 1901, he was promoted to captain in the Regular Army, and subsequently posted to diplomatic assignments in Haiti and Liberia. By 1916, during the undeclared invasion of Mexico, he was promoted to lieutenant colonel, the highest rank ever achieved by a black officer at that time.

After the United States officially declared war against Germany on April 6, 1917, many field grade officers were promoted to brigadier rank, as the U.S. Army expanded its ranks to join the Allies on the Western Front. However, it soon came to the attention of the Secretary of War, Newton D. Baker, and ultimately the President, Woodrow Wilson, that a number of junior white officers were more than reluctant to serve under a senior black commander, even if he were in command of an all-black fighting unit.

The historical record clearly demonstrates that both the President and the Secretary of War were more than anxious to appease these racist sentiments. It must be remembered that it was Woodrow Wilson who had written a laudatory preface to the despicable racist novel, "The Klansman," by Thomas Dixon. It was this same Woodrow Wilson who, as President, had publicly praised its movie version, "The Birth of a Nation," and even had it previewed in a special White House screening.

Thus, it was no accident that, on May 23, 1917, shortly after the declaration of war, Lieutenant Colonel Young was ordered to Letterman General Hospital in California for "observation and treatment," even though a recent physical examination had declared him to be in excellent physical condition. It was no mere coincidence that in July 1917, he was retired from active duty "for physical disability." Colonel Young challenged this finding of physical disability by riding his horse from his home in Ohio to the War Department (a distance of 497 miles) to personally protest the executive edict. It was even less of a coincidence that, with the war's end in sight, he was mysteriously returned to the active duty roster in late 1918.

Of course, by that time, the senior promotions had already been handed out to his white contemporaries, many of whom were his junior, in rank, age, and experience. Colonel Young did return to active duty, and served his country faithfully until his death from nephritis in Lagos, Nigeria, on January 8, 1922.

Mr. Speaker, the legislation which I have introduced and which has been referred to the House Armed Services Committee for consideration, is a belated attempt to provide posthumous justice for a man of courage, character, and integrity—a man who served his country with dedication and distinction in both war and peace. Let us honor him in memory as he should have been honored in his life—as the first black American to have merited, and been promoted to, the rank of brigadier general in the U.S. Army.●

LAW OF THE SEA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, for the benefit of my colleagues, I wish to place in the Record a letter recently received from a fellow Houstonian. This letfer lends some historical perspective to the current rush by some to force the United States into the Law of the Sea Treaty. I use the word "force" advisedly. Even now, after the President's decision not to sign the treaty, there are those hard at work in the NSC and the State Department to undermine the President. Their game is to go behind the President's back and undermine any change for bringing our allies into an alternative seabed mining regime. By so doing, they design that these allies will then have no choice but to sign the treaty later this year, effectively isolating the United States, and thereby opening the door for a future, more sympathetic administration to sign the treaty.

Mr. Speaker, the letter of Mr. Hale follows.

Hon. Jack Fields,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Fields: I would like to express my support for your skepticism regarding the Law of the Sea Treaty. I was able to view, on cable TV, the exchange between you and Mr. Leigh Ratiner at the recent subcommittee hearings. I would like to share with you my experience on this subject.

During the early 1970's, I worked in the Executive Office of the President on the now-defunct Council on International Economic Policy. In my capacity there, I spent a good deal of time on inter-agency committees reviewing our law of the sea negotiating strategy. Mr. Ratiner, among others, had been present at the creation of this interntional negotiation (about 1969 or so).

A number of us, at that time, believed the Law of the Sea Treaty to be a foreign policy mistake. Even then, it was apparent that underdeveloped nations—knowing the United States wanted international recognition of a 12-mile territorial sea—were out to extract as many concessions as possible in return for their recognition of the principle of free oceanic navigation. The Department of Defense was willing to compromise most other U.S. interests—commercial, scientific, technological, fishing—to get agreement on a limited territorial sea. The State Department was willing to do the same, but in its case in order to avoid offending underdeveloped nations. I, among others, did not understand the urgency in getting official international sanction for oceanic freedoms that we could readily exercise, nor did I understand why all other U.S. interest should be subordinated to this one goal.

I was struck, at the time, with the makeup of our negotiating/strategy group. Predominate in the group were international lawyers, and men who had become emotionally and professionally committed to achieving a Law of the Sea Treaty. I did not believe that these individuals were capable of a dispassionate analysis of our need for a treaty; nor were they capable of jeopardizing the treaty to preserve other U.S. interests.

Mr. Ratiner was and remains one of those individuals. His (paraphrased) comments made to you in 1982—"an acceptable agreement is just around the corner"—are in substance no different than those he made in 1972. No acceptable agreement was obtainable then, nor, in my view, now. Moreover, I believe that much of the advice proferred by Mr. Ratiner is, understandably, colored by an emotional need to validate the work of his adult life.

In summary, your apparent skepticism of the Law of the Sea Treaty is, in my view, warranted. A treaty fifteen years in the making, proselytized by jealots, and contrary to important U.S. interests, should not be adopted by the United States.

I should add, by way of anti-climax, that I am in no way associated with any company or group which has a direct interest in the treaty.

Very truly yours,

William E. Hale.

H.R. 3300

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. KOGOVSEK. Mr. Speaker, I rise today in support of H.R. 3300, the Firearms Owners Protection Act of 1982, and ask that my colleagues join me in working to see this legislation enacted without amendment.

I am a cosponsor of this legislation because its provisions are important to the people of the Third Congressional District in Colorado. It is important because it provides assurance that the rights of poeple will not be infringed upon by the Federal Government. Yet, more important, its enactment by Congress will be a declaration that the mere ownership of a firearm will not be viewed as a "criminal offense" and a "disgrace" to the country. There is not a Member of Congress here today that can truthfully say the mere ownership of firearms in this country is an "epidemic" that needs to be controlled.

If I may, I would like to quote section 1 of the bill, Congressional Findings:

> The Congress finds that the rights of citizens to keep and bear arms under the second amendment of the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; have been infringed under, and in enforcement of, existing firearms statutes.
>
> The Congress finds that the agencies charged with enforcement of these laws have divulged information concerning private citizens to local administrators, and to the public, for the purpose of causing harassment and embarrassment of these citizens, in violation of the rights of those citizens under the Privacy Act, as enacted by Congress.
>
> The Congress further finds that its intent, as expressed in the preamble to the Gun Control Act, that it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms. . . .' has been thwarted by these enforcement practices which are aimed at harrassing, burdening, and harming those law-abiding citizens who choose to own and use firearms for legitimate purposes.

Mr. Speaker, this clearly states the need for enactment of this bill. It is the whole basis for our argument, as well as congressional recognition of

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the activities that have been occurring across the Nation, in violation of the U.S. Constitution. We simply cannot allow these instances of consitutional violation to continue.

As an elected Representative of the people of Colorado, I have sworn to uphold the U.S. Constitution in its entirely, not just those provisions I feel most comfortable with, but the entire Constitution. More important, I am not the only Member of Congress that agreed to take this oath of office—we all did. Yet now that we are being asked to uphold the Constitution, some of us are saying, "Wait a minute. Someone else can do it." To continue in this manner is clearly a failure in our responsibilities as elected officials.

More than 200 years ago, our forefathers fought against the British because the people were being taxed without representation. A similar situation occurs today, in which the people's plea for relief from unconstitutional practices is being ignored by Congress. If other Members of this body have received as many constituent letters as I have on this legislation, then the message is clear—the people want action. But for Congress to sit back and do nothing is a blatant failure in its responsibility to represent the people. That failure is no different than "taxation without representation." In fact, it is "regulation without representation."

Mr. Speaker, I strongly urge my colleagues to join me and the other 178 cosponsors in working to see that this legislation is enacted. I ask that the legislation be brought to the floor of the House and acted upon. It is unacceptable that any constituent should have to beg for relief from undue hardship caused by the Federal Government, but it is appalling that anyone should have to beg for relief from unconstitutional practices of that same Government.

Thank you.●

PACIFIC NORTHWEST HIT BY DEPRESSION

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SWIFT. Mr. Speaker, the Pacific Northwest has been severely hit by the depression. The unemployment figures in the region are double and in some counties triple the national average. These economies have one thing in common—they are passed on the forest products industries. The economies of entire towns depend on this vital commodity.

No particular portion of the industry has remained unscathed—from mill closures, to layoffs, to shutdowns, each is hurting for some assistance. We must make an effort to help by spurring the wood products industries and putting life back into our communities.

Today, along with my other colleagues from the West, I am introducing a bill that will provide a vehicle for this effort. It may not be the complete answer but it is a start toward that important revitalization this industry—and the economy of the Northwest—so badly needs.

This bill allows the Secretaries of Interior and Agriculture, upon proven economic hardship to modify, extend, or cancel timber sale contracts. This bill would also create an industry task force which would provide input into the process and report on the effectiveness of the program.

Mr. Speaker, hearings have already been scheduled on this issue and I would like to thank the chairman of the Subcommittee on Forests for recognizing this problem and for his quick action to seek a solution.●

HARDSHIPS FACING SOVIET JEWS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. ROSENTHAL. Mr. Speaker, on July 29, the House Subcommittee on Human Rights and International Organizations, of which I am a member, heard testimony on the crisis facing Soviet Jewry.

While "crisis" has become synonymous with the condition of Soviet Jewry, the term was given new meaning by the testimony of concerned human rights groups and by the first-hand account of former refusenik Aleksandr Goldfarb.

The current situation is the worst its been in the last decade. Emigration has been choked off and the conditions under which Jews are forced to remain in the Soviet Union are deplorable.

Not only is it fitting that the Human Rights Subcommittee be made aware of these violations of religious freedoms, but that all Members of Congress and the American people should be informed.

I would like to include in the RECORD a brief statement which I presented at the subcommittee hearing addressing the hardships facing Soviet Jews today:

STATEMENT BY THE HONORABLE BENJAMIN S. ROSENTHAL BEFORE THE SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

Mr. Chairman, we are here today to review the state of Soviet Jewry; to hear first-hand witnesses and dedicated human rights activists testify to the persecution being perpetrated in that country.

From all reports, this situation in the Soviet Union has reached new lows. Emigration has dried up beyond any points in the last decade and conditions for those Jews still trapped in Russia continue to deteriorate.

In the first six months of this year, 1,537 Soviet Jews were allowed to emigrate; in the first half of this month only 111 have been let go. These numbers become more disturbing when compared with the 52,000 who were allowed to leave in 1979 or as compared with the 500,000 Jews still in the Soviet Union who have already begun the long emigration application process.

Of these 500,000—15,000 are already "refuseniks"—they have been denied permission to leave—and some have waited 5, 10 or even 14 years for a reprieve.

These numbers represent real people; such as Ida Nudel, the 51-year-old refusenik who has just been released from a four-year exile in Siberia. Dubbed the "Guardian Angel of the Soviet Prisoners of Conscience" for her humanitarian efforts, her only crime was hanging a banner outside her Moscow flat that read "KGB, give me my visa."

It has been 11 years since she began petitioning for a visa, and even now, after four years in exile, it still eludes her. The Soviets are denying her an emigration application in Moscow because, they say, it is only available to residents and she is now considered a "non-resident". So she has now left Moscow and is reported to be wandering from city to city in search of "residence".

As many Soviet Jews have already discovered, the very act of applying for a visa opens them to persecution: they lose their jobs, their professional status, their academic credentials, even their social contacts. As I'm sure we will hear from our distinguished witness, Aleksandr Goldfarb, himself a refusenik, they become pariahs. They are arrested on trumped up charges of malicious hooliganism (for holding up protest signs), of parasitism (after being forced from jobs), of illegal religious gatherings (when participating in Hebrew study groups). When they refuse to be drafted so they won't be privy to any "state secrets" they are accused of draft evasion.

And religious persecution does not just begin for Jews when they apply to leave. In this country with the third largest Jewish community in the world (there are 2.5 million Jews in the Soviet Union), there are no Jewish schools; what few synagogues there are, are made inaccessible by geography or intimidation; Jews are forbidden to study or teach Hebrew or to communally celebrate holidays.

When I first began working for the cause of Soviet Jewry 20 years ago, the outlook was bleak; since then more than a quarter of a million Soviet Jews have been given their freedom. Congressional and executive pressure can and has made a difference. The 1975 Jackson-Vanik amendment preceded the record number of emigrees in the late 1970s. And I personally have seen my involvement in the cases of Prisoners of Conscience such as Boris Penson, Israil Zalmanson and Iosif Mendelevich contribute to their early release. Furthermore, public pressure does make an impression on the Soviets as I witnessed in August 1976, when Congressman Drinan and I personally presented a petition to Soviet embassy personnel.

The Administration holds an important trump card. Were it to link trade, technology and exchange agreements with Russia to the human rights of Soviet Jews, the stranglehold on emigration would undoubtedly ease.

It is incumbent upon the human rights groups who are here to bear witness today, the National Conference and the Greater New York Conference on Soviet Jewry, the B'nai B'rith and the Union Council of Soviet Jews, to continue their vigilence and their actions on behalf of Soviet Jewry. Their work in this area to date does not go unnoticed and we are privileged to have them here today.●

UNITED HELLENIC AMERICAN CONGRESS CONDEMNS REPRESSION OF HUMAN RIGHTS

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, in light of the recent observance of Captive Nations Week, I would like to insert into the CONGRESSIONAL RECORD a dramatic resolution adopted by the steering committee of the United Hellenic American Congress recognizing the basic human rights of the captive peoples, and condemning the violations of their liberties and subjugation of individual rights by military, oppressive, and totalitarian governments.

This resolution is as follows:

RESOLUTION

Whereas, The Orthodox Church teaches that humanity possesses a grant of divine love that derives from the supreme sacrifice of Our Lord Jesus Christ and also believes that the right and love that God has granted unto us, we cannot deny unto our fellow man and woman; and

Whereas, The United States of America has achieved its preeminent position among nations of the world through its respect for certain fundamental and divinely inherent human rights as exemplified by the Declaration of Independence and the Bill of Rights of our Constitution; and

Whereas, The United Nations Charter, the United Nations Declaration of Human Rights, the European Commission on Human Rights, the Helsinki Accord and other internationally accepted documents recognize the basic human rights of all people; and

Whereas, It is a shame and a stigma for 20th century civilization that there are today certain governments which, whether through hypocritically subtle means or overt systematic acts violate basic human rights; and

Whereas, Amnesty International, the World Council of Churches, the Council of Europe, the United Nations, the Helsinki Accord monitoring committees and other respected world bodies have documented violations of human rights in Albania, Afghanistan, Lebanon, The Holy Land, Africa, Poland, and the other captive nations of Eastern Europe, Turkish occupied Cyprus, the Soviet Union, nations in Southeast Asia, Turkey, and Iran, and by totalitarian regimes in Central and South America and throughout the world; now, therefore, be it

Resolved by the Steering Committee of the United Hellenic American Congress, That the denial of human rights, liberties, and the subjugation of individual dignity by military, oppressive, and totalitarian governments is condemned, and all governments are called upon to comply with the principles enunciated in the Charter of the United Nations and the Helsinki Agreements, both within their own territorial limits and with respect to other nations; and, be it further

Resolved, That a suitable copy of the resolution be presented to the Secretary General of the United Nations, to the President and Secretary of State of the United States of America, to the Chairmen of the appropriate committees of the United States Congress, to Amnesty International, the Helsinki Monitoring Committees, the National Council of Churches, and to the World Council of Churches.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

PRESERVING SOCIAL SECURITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LANTOS. Mr. Speaker, social security is one of our Nation's great success stories. For 47 years it has provided much-needed supplemental income to millions of Americans. Social security is, and should remain, an irrevocable commitment by the Federal Government to the lives and security of its people.

The administration wielded its budgetary ax and attempted to hack away at social security's most vital aspects. It sought to delay cost-of-living adjustments and had the audacity recently to take credit for protecting them. It sought to eliminate the minimum benefit and backed off only due to strong pressure from the Congress. It has sought to slash programs upon which millions depend, and it did so without compassion, during a period of high unemployment and inflation.

In the face of these actions, I question whether the administration is truly dedicated to the preservation of the social security system. I question whether the administration is interested in the well-being of the American people, or whether it is merely interested in pursing its own political fortune and ideology. It is in the long-term interest of no one to pursue a course of action at the expense of the trust of the people. If the government's word lasts only as long as the dictates of convenience, then that government has no right to call itself a government of the people.

As a member of the House Select Committee on Aging, I have consistently supported legislation which strengthens the social security system. The system is not without its problems, yet legislation now before the Congress, introduced by Congressman CLAUDE PEPPER and by myself, would go a long way toward solving some of the immediate financing difficulties in the system. The bill (H.R. 3393) provides a more flexible financing base for the costly but important medicare program, and vastly improves the fiscal integrity of the social security system. This legislation is designed to keep our commitment sound, and to insure that commitment in the future.●

OUR COMMITMENT TO ISRAEL

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. MIKULSKI. Mr. Speaker, as we work toward a negotiated peace in the Middle East, we must reaffirm our commitment to Israel. While any use of military force is a tragic and regrettable occurence, I believe that Israeli actions in Lebanon are understandable, given the circumstances. The Israeli neutralization of PLO strong holds in Lebanon is an act of self-defense designed to insure the continued, secure existence of the State of Israel from terrorist incursions of the PLO.

We all want the war to end for there can be no such thing as a humane war. But the United States must not retreat from what I believe must be the basic principles behind our actions. First, Israel has a right to exist and the United States has a responsibility to insure that existence. Second, there must be a secure Middle East. To accomplish that goal, the PLO must be removed from Israel's borders; the United States must stop selling arms to Israel's enemies; and, the United States must do everything we can to work to meet the goals of the Camp David accords.

In terms of specific peace proposals which may emerge in the next few days, and the extent to which U.S. involvement is required, I believe that we must look at the specific peace plan and assess whether the principles I have outlined underly the actions of that plan. If our involvement will truly further the safe and secure existence of the State of Israel, then we must move forward.

I make this statement today because I know that many of those in Israel and many of Israel's friends in America are worried that once again Israel will be abandoned. Finalizing an evacuation plan is an important step, but it is only one step. It is not a substitute for a peace policy.

I urge my colleagues to state their support for Israel and whatever their differences regarding any specific actions, to unequivocally maintain Israel's right to exist in a safe and secure Middle East, and our responsibility to

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help insure that existence through a lasting peace.●

FINANCIAL STATEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial statements in May of each year, I continue to file this more detailed family financial report. In this way, my constitutents are kept fully informed concerning my financial status.

The statement follows:

Romano L. and Helen D. Mazzoli Statement of financial worth as of Dec. 31, 1981

Cash on Deposit:	
Liberty National Bank & Trust Co., account No. 09013390	$562.81
Lincoln Federal Savings & Loan, account No. 10373390	4,223.47
Northern Virginia Savings & Loan, account No. 05-23-00192	1,141.40
Northern Virginia Savings & Loan, account No. 80507	1,645.37
Northern Virginia Savings & Loan, account No. 00241	596.64
Government Services Saving & Loan, account No. 01-112091-0	4,331.31
First Federal of Arlington account No. 05–018470–4	56.11
Securities, stocks and bonds:	
U.S. Government Bonds, Series E	1,330.12
All Savers Certificate (Lincoln Federal Savings & Loan) account No. 1013010840	10,000.00
U.S. Treasury Bill, account No. AX2-2-2400-40-3938-01	10,000.00
Real property (residential):	
939 Ardmore Drive, Louisville, Ky., assessed value	42,000.00
Less: Mortgage, Portland Federal Savings & Loan	8,887.01
Net value	33,112.99
1030 Anderson Street, Alexandria, Va., assessed value	93,000.00
Less: Mortgage, Cowger & Miller	48,011.05
Net value	44,988.95
Household and miscellaneous personal property (estimate.)	7,500.00
Cash surrender value of life insurance policy: American United Life Insurance Co., Policy No. 1011729	4,472.99
Federal employees retirement system: Contribution to fund	43,583.93
Automobiles:	
1965 Rambler: Fair market value	100.00
1973 Chevrolet: Fair market value	1,292.00
Net assets	168,938.15

Romano L. and Helen D. Mazzoli, recapitulation of income and expenses for calendar year 1981

INCOME

Interest and dividends:	
American United Life Insurance Co., policy No. 1116312	$12.88
American United Life Insurance Co., policy No. 1011729	27.50
Liberty National Bank and Trust Co., account No. 09013390	21.82
Lincoln Federal Savings & Loan, account No. 37339-5	1,547.36
Northern Virginia Savings & Loan, account No. 5–99–76	38.16
Northern Virginia Savings & Loan, account No. L–6084	13.45
Northern Virginia Savings & Loan, account No. 5–18–241	61.58
Northern Virginia Savings & Loan, account No. 80507	104.92
Northern Virginia Savings & Loan, account No. 80688	66.79
Government Services Savings & Loan, account No. 01-112091–0	265.20
First Federal Savings Associatetion of Arlington account No. 05–018470–4	21.48
Honorariums:	
Brookings Institution	500.00
Pfizer Co.	750.00
Distilled Spirits Council of U.S.	1,000.00
Newman Catholic Students Center	600.00
Northern Kentucky Chamber of Commerce	228.00
DuPont Co.	200.00
St. Mary's Academy	100.00
Catholic school office	10.00
Salary:	
U.S. House of Representatives (R. L. Mazzoli)	60,662.50
Slender Lady Figure Salon (Helen Mazzoli)	214.32
V.V.K.R., INC. Architects (Helen Mazzoli)	10,681.91
Slender Lady Figure Salon (Helen Mazzoli)	945.25
Gross income	78,073.12
Expenses, deductions, exemptions, Federal and Kentucky taxes:	
Gross income	79,544.00
Adjustments to income	19,650.00
Adjusted gross income	59,894.00
Deductions and exemptions	9,825.00
Taxable income	50,069.00
Federal income tax:	
Tax withheld	19,453.00
Tax due	14,942.00
Refund	4,511.00
Kentucky income tax:	
Tax withheld	2,334.00
Tax due	1,777.00
Refund	557.00

●

A TRIBUTE TO RUTH W. LOVE ON HER 79TH BIRTHDAY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, it has been my great pleasure to know and work with a special lady—Ruth W. Love, an exceptional journalist with my hometown newspaper the Greensburg Tribune-Review. August 23 marks the 79th birthday of this outstanding woman and good friend, and I take this opportunity to wish Ruth the happiest of birthdays, with, I am sure, many more to come.

Mrs. Love is, today, the oldest working news reporter in all of Pennsylvania. Her work is characterized by a level of fairness and objectivity which more of our print and electronic news media personnel would do well to emulate. In addition, Ruth has utilized her fine writing and journalistic skills to promote love of country and love of community. We, in the 21st Congressional District of Pennsylvania, are indebted to Mrs. Love for her tireless efforts on behalf of the public's "right to know."

Journalism has been Ruth Love's life. As they say in the newspaper business, she was "born with printers ink in her veins." Her journalistic career began at the incredible age of 12 when she began writing for the old Morning Review as a correspondent. She then went to the Greensburg Daily Record as a court reporter and, then, to the newly merged Greensburg Tribune-Review. In subsequent years Mrs. Love worked for several other prominent Pennsylvania newspapers too numerous to mention here. I might add that Ruth was one of the first all-news female reporters in Pennsylvania and was the only woman to cover the bituminous coal strikes of the 1930's and 1940's. She covered the coal strikes for the Associated Press, United Press, International News Service, Philadelphia Record, Boston Globe, and Chicago Tribune. In addition, Mrs. Love also covered the strikes for early radio news programs of that era. Over the years she was also a columnist for the National Fraternal Order of Police Journal and the Pennsylvania Railroad News. Her two current columns "Love Lines" and "Courthouse Chronicle" appear regularly in the Greensburg Tribune-Review. Mrs. Love has also authored several crime stories which have appeared in various magazines and journals.

Despite her amazing career in journalism, Ruth Love took time to serve in the public sector. She was the first woman hired by the State of Pennsylvania as an auditor. Ruth served under Pennsylvania Auditor-General Charles Smith auditing State grants to scool districts. She also served as an investigator and probation officer with the Westmoreland County Juvenile Court. She is currently the only woman in Pennsylvania serving on a sewage authority, having been appointed in 1963 to the Greater Greensburg Sewage Authority.

In 1924, Ruth married James T. Love, now deceased. Their son James, now living in Cincinnati, is a retired special agent of the FBI who served with the Bureau for 35 years.

All of us who know Ruth Love and admire her work are keenly aware of the contributions she has made during her long and fruitful career. She rose from humble origins as the daughter of a railroad roundhouse gang foreman to become one of the most respected journalists in Pennsylvania. She is a remarkable woman and we look forward to celebrating many more birthdays with her.●

NUCLEAR FREEZE DEBATE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. EDWARDS of California. Mr. Speaker, I was saddened last week when this body did not vote favorably for the Zablocki nuclear freeze bill and instead accepted the Broomfield substitute. I have included the August 8 editorial from the Sunday Mercury News. This editorial clearly and eloquently discusses the major points of that debate.

Freeze: An Idea That Won't Die

A nuclear freeze is not a radical idea. It is an idea that Washington is beginning to take seriously, as demonstrated by Thursday's narrow two-vote defeat of a freeze resolution in the House of Representatives.

Technically, the vote came on a substitute resolution strongly supported by the Reagan White House. The substitute, which passed 204-202, contained nothing anyone could disagree with. It expressed support for the arms talks under way in Geneva, and urged the Soviet Union to join in an agreement ultimately to reduce strategic nuclear forces.

The difference was that the freeze would go further. That resolution expressed the sentiment that the United States and the Soviet Union should immediately begin talks "deciding when and how to achieve a mutual, verifiable freeze on the testing, production and further deployment of nuclear warheads, missiles, and other nuclear weapons," and "pursuing reductions . . . through verifiable means."

The vote thus represented a victory, although a very narrow one, for the Reagan philosophy on arms control agreements. That philosophy maintains that we can somehow conclude an agreement with the Soviets that will allow this nation to keep on expanding our own nuclear arsenal, while constraining the Soviet Union from doing the same. And that just isn't very realistic.

The Reagan view also holds that the Soviets are ahead, and that this country can be secure only by catching up. There is a strong and informed body of scientific opinion which disagrees. Like the freeze advocates, many American scientists, and some military men, maintain that the two sides are roughly equal—and that more than enough nuclear weapons already exist.

And so the argument really comes down to a disagreement about security. Are we safer by building more weapons? Or by striving to stop the proliferation of missiles and warheads by both sides? The latter makes more sense to us, and to the wide and growing grass-roots movement backing a nuclear freeze.

Certainly a freeze would have to be negotiated, rather than just declared. Probably any agreement would have to be arrived at in stages, covering certain kinds of weapons first, and others later. Advocates of a freeze have been careful to include the point that to mean anything, a freeze would have to be verifiable.

The president is right when he says a freeze by itself doesn't go far enough, and that we ought to seek actual reductions in numbers of nuclear weapons. That's not really a reason to oppose a freeze, however. The resolution before Congress last week included a goal of seeking reductions.

Apparently more than a few congressmen voted for Reagan's $175 billion military spending bill, which passed July 29 by a vote of 290-73, and then voted for the freeze resolution. That's hardly consistent, since the spending bill included such new strategic weapons programs as the B-1 bomber and the MX. But apparently these representatives wanted to be able to tell voters this fall that they voted for a nuclear freeze.

Our guess is that the voters will be smart enough to sort out those politicians who genuinely support a freeze from those who don't, and that those who don't may not be around the next time Congress votes on the idea.

The notion of a nuclear freeze has attracted wide support among the public because it is a simple idea. Sometimes, simple ideas can be profoundly valid. And when that's the case, as we think it is here, they don't just go away.●

PERSONAL EXPLANATION

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COATS. Mr. Speaker, on Friday, August 13, 1982, I was necessarily absent from the floor of the House for rollcall vote No. 279, a motion to order the previous question on the motion to refer House Resolution 560 to the Committee on Rules.

Had I been present, I would have voted "nay."●

UNDERUTILIZATION OF BLACK SENIOR FOREIGN SERVICE OFFICERS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DYMALLY. Mr. Speaker, I invite the Members' attention to the Department of State's Senior Foreign Service. These 700 career diplomats are the most direct links between the United States of America and the governments of our sister nations all over the world. These links consist of 46 black nations and 420 million black people around the globe.

Those embassies, and that population, represent excellent opportunities for American blacks to serve this nation and to relate to other blacks in highly influential positions throughout the company of nations. Yet only 10 of the 700 U.S. Senior Foreign Service officers are black. Moreover, only three of those have been appointed by this administration to the position of Ambassador. Four other blacks who have previously served as Ambassadors are not now so assigned, and three have no permanent or regular assignment at all.

I believe that this underrepresentation of America's population, and this underutilization of the State Department's trained and experienced talent provide the Secretary of State an excellent opportunity to improve our posture and appearance in the world. The Department's record in the very recent past regarding an increase of blacks and other minorities, and women, in the junior ranks of the Foreign Service is commendable, and an important step in the right direction. However, while we can see some promise for the distant future, it is vital right now that we make the best use of the black Senior Foreign Service officers who are qualified and ready for assignment.

I have written to the Secretary of State twice in the past 2 months, and to both inquiries I have received courteous and informative replies. That correspondence will be inserted into the Record for the Members to review. And I urge them to study those letters and to join with me in calling this issue to the Secretary's attention again. We absolutely must assign these black Ambassadors to Embassies, and we must show the Secretary that we completely agree with his efforts to bring more minorities and women into the Foreign Service ranks.

Thank you, Mr. Speaker.

May 24, 1982.

Hon. Alexander Haig,
Secretary of State,
Department of State,
Washington, D.C.

Dear Mr. Secretary: It has come to my attention that, of seven-hundred career Senior Foreign Service Officers, only ten are Black, a mere 1.4 percent. Such a small representation of Blacks among those very senior officers appears to me to be a serious problem in itself. However, what is even more distressing is that, of those ten highly skilled and experienced individuals, only three have been appointed as Ambassadors. Of the four Black officers who have previously served as Ambassador, and therefore carry that title, (but are not now assigned as Ambassadors) three have no State Department assignment at all.

I will appreciate your early response and explanation of both the underrepresentation of Blacks in the Senior Foreign Service Officer ranks, and the even more serious

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failure to fully utilize those Blacks who currently carry the title of Ambassador.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

Enclosure.

Hon. MERVYN M. DYMALLY,
House of Representatives.

DEAR MR. DYMALLY: The Secretary has asked me to reply to your letter of May 24 concerning the Senior Foreign Service.

We share your concern about the small percentage of Blacks in the Senior Foreign Service. It was partly with this in mind that in 1975 Secretary Kissinger authorized an affirmative action hiring program for the mid-levels of the Foreign Service. This program, together with the larger numbers of women and minorities moving up the career ladder from the junior levels, has resulted in an increase since 1975 of 80 percent in the number of women and an increase of 82 percent in the number of minorities at the mid-levels. We expect that in time a significant proportion of these mid-level officers will move into the senior ranks and so increase the number of women and minorities who are Senior Foreign Service Officers. This will also provide adequate time for the training and experience required to develop competent senior officers.

The second point you raised, that of utilization of talented senior officers, is not unique to Black officers. At the present time there are about 35 senior officers who are "overcomplement," which means that they have completed their regular assignments and are awaiting new assignments. However, even though these officers have no current permanent assignment, they have been gainfully employed with a wide variety of short-term projects which the Department's bureaus have been unable to accomplish with their regular personnel. In some cases they have undertaken tasks arising out of urgent needs for which permanent positions have not been established. Our expectation has been that these senior officers will work on these short-term projects for an interim period, and then move on to regular assignments. We are well aware of the valuable skills which every senior officer can contribute, and we believe it is imperative that all are fully utilized.

You may be assured that neither Black officers nor any other group of senior officers have been singled out for disparate treatment. It is a problem faced by our personnel system and it is one we expect to work through in the coming months.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 13, 1982.

Hon. GEORGE P. SHULTZ,
Secretary of State (Designate), U.S. Department of State, Washington, D.C.

DEAR MR. SHULTZ: I want to commend you on your assignment as our new Secretary of State and wish you the greatest success.

As you are just entering duty, I want to take the liberty of calling to your attention what some Members believe is the serious under-utilization of Black Senior Career Foreign Service Officers. I have previously written to your predecessor and received a response, which I felt was inadequate.

There are only ten Blacks in the Senior Foreign Service out of some 700 officers (1.4 percent). Six are at the two highest levels. Career Minister Counselor; and all six have served with great distinction as Ambassadors. However, of the top six Black career officers, only three have real assignments. Fifty percent are not being utilized. This contrast to only 5 percent of the overall total of senior career officers according to the response I received to my previous letter.

Only two Black career officers have been named to new posts as Ambassadors under this administration. There are fewer Black Ambassadors now serving than at anytime in the last twenty years and most of these are in small, unimportant posts. There have been two Black political Ambassadors, making a ratio of fifty percent political versus 50 percent career for Black Ambassadors named by this administration. This is considerably below the overall career, non career percentage. Since so many career Black Ambassadors are either unassigned or underassigned it cannot be that trained, experienced persons are not available.

Also, there is only one Black career officer in the two top levels presently serving in a post in the Department of State. There are no Blacks serving as Deputy Assistant Secretary or above in any of the policy making bureaus—Africa, Europe, Latin America, Asia, Near East, International Organizations, Economics, Science and Oceans or Intelligence and Research; even though 50% of the top Black career officers are either without assignment or underassigned outside of the Department to academic post.

Finally, under the provisions of the new Foreign Service Act five of the six top Black career Ambassadors at Career Minister and Minister Counselor level will come up for mandatory retirement in 1983 because of their long service at the most senior level. This clearly attest to their many years of experience. Hence, the ranks of Blacks in the Senior Foreign Service will be decimated, even below the 1.4%. It will take eight to ten years for present mid-level career officers to be promoted up to the two top grades.

As the previous reply from the State Department was so inadequate, I would very much appreciate your views on the utilization of experienced Black Senior Foreign Service Officers, particularly those who have served as Ambassadors.

Again, let me wish you the greatest success in your new, most difficult and sensitive post, which so directly affects the lives of all Americans.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., July 26, 1982.

Hon. MERVYN M. DYMALLY,
House of Representatives.

DEAR MR. DYMALLY: Thank you for your letter of July 13 to Secretary Shultz concerning assignments of the Black officers in the Senior Foreign Service (a copy of which you handed the Secretary at breakfast on July 20). The Secretary is out of town, however, he has asked that I forward to you the following information.

The fact that all six of the Black officers at the ranks of Career Minister and Minister Counselor have served with distinction in Ambassadorial positions testifies to the contribution which Blacks at the senior ranks have been able to make. Most of these officers have served two or more times at the Ambassadorial level, two of the six are currently serving as Ambassadors, as well as another Black officer at the Counselor level. In addition, there is a Black officer from ICA, who is serving as Ambassador and another senior State Department domestic service officer who is an Ambassador, for a total of five Black Ambassadors from the ranks of the State Department and ICA. As you noted, there are also two Black non-career Ambassadors. Since the total number of Ambassadorial posts is relatively small, consecutive Embassies for career officers are the exception rather than the rule. An intervening period in a Departmental assignment, or as a Diplomat-in-Residence, a Political Advisor with a military command, or a Faculty Advisor position with a military school, is a common occurrence.

Turning from the question of Ambassadorial assignments for senior Black officers, to the broader issue of minority representation in the Foreign Service as a whole, I think you will find interesting the following excerpt from the statement Under Secretary for Management Richard T. Kennedy made to the Subcommittee on International Operations of the House Committee on Foreign Affairs on June 3:

"Today, minorities represent 10.7 percent of the Foreign Service officer and officer candidate corps. A breakdown by rank reveals that 3.6 percent of Foreign Service Officers at the senior levels are women and 3.7 percent are minorities; at the mid-levels, 14.7 percent are women and 9.1 percent are minorities; while at the junior officer levels, 26.8 percent are women and 19.3 percent are minorities. Compared with similar statistics some 10 years ago, these figures represent significant increases in the numbers of minorities and women. The junior officer figures are particularly impressive, and reflect the determination of our strong recruiting efforts and a firm commitment to affirmative action goals. As minority group members and women move upward with their peers, we expect similar improvements at senior levels of the Service. I hope you will agree with me that, today, the Foreign Service is beginning to achieve the representation levels for minorities that make it truly reflective of American society."

These words reflect the commitment of the Department on this issue.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.●

THE HOUSING CRISIS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LANTOS. Mr. Speaker, with housing starts cut almost in half from last year, and with mortgage loan activity down 65 percent, it is clearly time to take convincing and effective action. Far too many families in America—from the peninsula to every other part of the Nation—are being forced to give up their dream of homeownership. The ripple effect of this slump has been disastrous. Housing and related industries are at a standstill. Unemployment in the housing industry is at near depression levels. Something must be done, and done quickly.

Unfortunately, President Reagan vetoed our bill that would have made homeownership more affordable to qualified homebuyers by reducing mortgage interest rates by up to 6 percent below the market rate. This bill, which I cosponsored, the Single Family Housing Production Act of 1982, would have provided a tremendous boost to the housing industry and to the overall economy in terms of employment and income. The lack of wisdom and foresight in President Reagan's veto is as clear as the need to solve the problem.

What, then, can be done? To help families afford to buy a house, I have authored a bill (H.R. 3221) that would permit prospective homebuyers to take a sizable tax credit or tax deduction for amounts contributed to a special "nest egg" account. Passage of my Homeownership Opportunity Act would go a long way toward lifting the Nation out of the current slump, and would bring the American dream of homeownership a step closer to reality once again.

We need to take this first step to assist in rebuilding the housing industry. As a member of the congressional housing caucus, I call upon the President and my colleagues in the Congress to pass this important legislation.●

PROPOSED CHANGES FOR PUBLIC LAW 94-142 TROUBLE ME

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BONKER. Mr. Speaker, the recently proposed changes in regulations for Public Law 94-142, Education for All Handicapped Children Act, and section 504 of the Rehabilitation Act of 1973, have me deeply troubled. My concern is aroused because these changes promise nothing but devastation to the existing regulations and their successes over the past 5 years. These changes, if they are allowed to go into effect, would serve to wipe out the recent gains in basic civil rights for the handicapped, particularly in the area of education. Throughout its tenure, the Regan administration has said one thing and done another. The issue of basic education for the handicapped is one such inconsistency.

In the most high and lofty terms, indicating his support for the rights of the handicapped individual, President Reagan opened the International Year of Disabled Persons with the following declaration:

> Today there are 35 million disabled Americans who represent one of our most underutilized national resources. Their will, their spirit, and their hearts are not impaired, despite their limitations. All of us stand to gain when those who are disabled share in America's opportunities.

I agree with this statement wholeheartedly. However, I must ask how the disabled stand to gain when their funds, and the regulations protecting their basic rights, are being curtailed at every opportunity by this administration.

The list of protections being curtailed is quite extensive, negatively affecting virtually all of the key tenets of the law. A key clause, providing for parental participation in their child's evaluation, has been eliminated in the proposed regulations. In addition, the burden of proof—to justify an independent evaluation of their child at public expense—has been shifted to the parent's shoulders. At a time when they most need Government support and encouragement, in their efforts to right past negligence in our educational system, the administration is asking that the parent's load be increased.

Proposed changes in the Individualized Education Program (IEP) create loopholes which would deny a student's opportunity for a full evaluation. For a financially strapped local school jurisdiction which is not receiving the necessary Federal funding for its handicapped education program, these loopholes in the regulations would be too tempting to pass up. The regulations would also be weakened by changes that would permit limitations in necessary health services for handicapped children, the removal of the school district's obligation to provide a "least restrictive environment," and the deletion of the rights of parents to be involved with the decisions that are made about their child's educational program. In short, these proposed changes in the regulations do not coincide with the administration's statements.

As I see it, the implementation of these proposed regulations would serve to break the will and hearts of many disabled Americans. Those of us who have worked long and hard for the workable and equitable regulations that we have now will not sit by and let this happen. The administration's substitute of a set of watered-down and inequitable guidelines is simply unacceptable.

I should also note that the President's own Committee on Employment of the Handicapped has recognized and applauded the positive effects of these regulations, in their present form. Not only is previous success noted, but the commission also points out that the administration proposals may be "regulatory changes which threaten to halt the progress that has been made through legislation." This same group reached the conclusion that the proposed changes will have an irreparably harmful effect on potentially productive Americans, should they be allowed to go into effect.●

OAKLAND RED CROSS HONORS INDIVIDUALS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. STARK. Mr. Speaker, on August 26, 1982, the Oakland Branch of the American Red Cross will honor individuals who have volunteered their services to the community through the American Red Cross. These citizens have given freely of their time and effort to help wherever and whenever needed. Without the volunteer services of these individuals, the American Red Cross could not have provided the public service and the general benefits to the communities the American Red Cross serves.

I salute the following volunteers who are being honored:

LIST OF VOLUNTEERS

Gregory Adams, Gary Anderson, Phyllis Anderson, Weveline Aragon, Pete Bostwick, Jr., Janet Daniels, Benjamin Frager, Kenny Fung, Jeffrey Gile, Charles Croce, William Hassenzahl, Nelson Holmes, Benny Lo, Oscar V. Lopp.

Adeline Adams, Lee Allegretti, Elbert S. Alston, Honorable Gordon Baranco, Ann Baxter, Des Blackman, Nancy Blackman, Frankie Bonner, James Bottler, Roland Buchanan, Deborah Campbell, Jennie Chan, Dolly Chung, Eric DeReynier.

Robert E. Hunnicutt, Beatrice Hutson, Betty Lippincott, Edwin Meese, Jr., Georgia Megue, Peter McDonough, Nina Mahler, Agnes Miller, Marta Millsap, Ethel Murray, Darryl Newton, Gordon Parsons, Martha Rindler, Bertha Sharp.●

A TRIBUTE TO MAJ. GEN. ALLEN HERBERT LIGHT

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COURTER. Mr. Speaker, I would like to rise on this occasion to say a few words of appreciation for a highly respected and greatly admired individual, Maj. Gen. Allen Herbert Light, Jr.

On August 20, General Light's family, friends, and colleagues will honor him with a dinner dance celebrating his 26 years of distinguished work in the military services.

General Light's long and outstanding career in the armed services began when he was commissioned upon graduation from Officer's Candidate School in 1952. Following company assignments and tours of duty in Korea and Germany, Major General Light attended the Command and General Staff College, Ft. Leavenworth, Kans., in 1964. After graduation, he served with the U.S. Military Assistance Com-

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mand in Vietnam, and upon return in 1966, served consecutive tours as Commander of the 1st Chemical Battalion, the 2d Chemical Battalion, and the 548th Supply and Service Battalion at Ft. McClellan, Ala.

Among his principal staff assignments, General Light has served in the Organization of the Joint Chiefs of Staff and on the Army Staff as a Division chief. Senior command assignments include command of Seneca Army Depot in New York, command of the 60th Ordinance Group and command of the 3d Support Command with headquarters in Frankfort, Germany.

As a member of the Armed Services Committee and as Representative for the Morris County area, I have had the pleasure of working with General Light on some key projects during his current position as Commander of the U.S. Army Armament Research and Development Command (ARRADCOM) at Picatinny Arsenal in Dover, N.J. During those years since July 1979 when General Light assumed the post at ARRADCOM, I have come to recognize and appreciate the quality of leadership and polished professionalism that has marked his distinguished career in the armed services.

Furthermore, I would also like to mention the notable decorations and awards granted to General Light which include the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal, and the Army Commendation Medal with two oak leaf clusters.

And so, Mr. Speaker, on behalf of his family and friends, and all those who have served along side him, I would like to congratulate Maj. Gen. Allen Light on his 26 years of remarkable service to the U.S. Armed Forces and to his country. I wish him the best of health and happiness in the years ahead.●

WORKFARE: BREAKING THE POVERTY CYCLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FINDLEY. Mr. Speaker, the Heritage Foundation gives the following view on Workfare:

> Expenditures on welfare programs have been rising at an alarming rate over the last two decades. A principal cause of this enormous expansion is the work disincentive created by continual benefit liberalizations. Rather than paving the way for a higher standard of living, however, many of these government programs have tended to foster permanent dependency on welfare by providing benefits of greater value than the income an individual could earn by working. In effect, the American welfare system allows an able-bodied individual to ask himself: "Will I be better off if I work or if I allow myself and my family to become dependent upon the work of other individuals?" A system permitting this question to be posed is a system desperately in need of review and reform.
>
> Encouraging welfare recipients to become self-supporting is supposed to be a major objective of many government programs. Most of these programs provide recipients cash incentives to work their way off the dole. In many cases, however, the result has been that individuals with relatively high incomes continue to receive welfare benefits. Office of Management and Budget Director David Stockman has voiced skepticism concerning such a system: "I just don't accept the assumption that the federal government has a responsibility to supplement the income of the working poor through a whole series of transfer payments. We believe that the guy who takes two jobs and makes $26,000 a year shouldn't be obligated to transfer part of his income and taxes to the guy who's making $10,000." Moreover, although these programs may be designed to aid the poor, in the long run they actually may lower their living standard by discouraging them from entering the labor market where they could acquire the job skills that eventually could lift many from poverty's depths.
>
> There is an alternative to the self-defeating, degrading system of the dole which long has characterized the U.S. welfare system. This alternative is widely known as Community Work Experience Programs (CWEP), or more commonly as "workfare," in which employable recipients of public assistance—primarily able-bodied males and mothers of school age children—must perform some public service without pay in return for their welfare benefits. Robert Carleson, who was Governor Reagan's welfare director in California, and who as Special Assistant to the President for Policy Development helped draft the Administration's current workfare proposals, maintains: "Anyone who is capable of working should expect to earn their own welfare benefit." As such, workfare reflects the American work ethic. Its objective is to promote financial independence by giving people greater incentives to seek out unsubsidized employment. This work requirement is crucial for successful welfare reform because it is the most effective way to offset the work disincentives now created by the welfare system.
>
> As part of an overall welfare reform package, the Reagan Administration is proposing "workfare" for beneficiaries of the Aid to Families with Dependent Children program (AFDC). This would replace the Work Incentive Program (WIN), which was established in 1967 to provide eligible recipients with training and job placement services. While the Omnibus Reconciliation Act of 1981 gave states the option of requiring AFDC recipients to work in exchange for their benefits, the Administration's new proposals would make this mandatory.●

BAN THE EXPORT OF CLUSTER BOMBS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SEIBERLING. Mr. Speaker, I am today introducing legislation to prohibit the sale, credit sale, or grant transfer cluster bombs and cluster artillery shells to any country by the United States.

Cluster bombs are basically large canisters filled with submunitions, known as BLU's (for Bomb, Live Unit). When a fuse in the nose of the canister detonates, the canister opens, spewing the "bomblets" over a wide area. Each of the bomblets, slightly larger than a golf ball, explodes on contact with the ground. Some may hit the ground and bounce into the air before exploding. Others may have delayed action fuses, making the area where they lie extremely hazardous to anyone who passes through it.

While most cluster bombs are designed to be used against hardened military positions, or against lightly armored vehicles, there is notning to prevent the bombs from being used against personnel or, accidentally, against civilians in the battle area. It does not take much imagination to figure out what happens to a human body that gets in the way of weapon detonating with sufficient force to penetrate light armor.

It appears difficult to use cluster weapons in a precise fashion. As a recent publication by the Stockholm International Peace Research Institute (SIPRI) notes, "A cluster bomb . . . can be used only as an area weapon—and even in areas far to the rear of the battle zone where civilians are more likely to be affected. Added to this is the fact that the bomblets of a cluster bomb are in many cases fitted with unreliable delayed-action fuses and may thus remain a long-term hazard."

For some time, I have been deeply concerned by the emphasis on weapons sales as a means of promoting U.S. national security interests. I am not sure what benefits U.S. weapons bring to a subsistence farmer in Africa or Latin America. Nor can the massive export of U.S. weapons perpetuate repressive regimes that have lost the support of a majority of their people. It is ironic that Khomeini's Iran has been using U.S.-made tanks and F-4's and F-14's to attack Iraq. These weapons did not keep the Shah in power, and are now being used, in part, to help export the Ayatollah's revolution.

I am not at this time suggesting a wholesale cutoff of U.S. military sales. However, I think the time has come for the United States to stop exporting weapons like cluster bombs, which have such devastating effect on innocent civilians who have the misfortune of being in a battle area. This has been forcefully brought to our attention by the current tragic events in Lebanon. While the elimination of cluster bombs would not have prevented the majority of civilian casualties, it would have resulted in a significantly fewer number. Accordingly, my bill would expressly prohibit the United States from selling, or guaranteeing the sale of, cluster bombs and cluster artillery shells. The bill would also suspend the delivery of any such weapons which may be "in the pipeline," and would also prohibit the export of any data or information relating to the design or manufacture of cluster bombs or any components of cluster bombs. The sole exception to the prohibition is for components, such as fuses, which are not designed primarily for use in cluster bombs. However, the power of the President to waive the restrictions in specific cases, as provided in existing law, will not be impaired by this bill.

The Washington Post asked, in its July 21 editorial, "if a particular weapon is so liable to misuse, why ship it in the first place?" The cluster bomb invites serious abuses and accidental deployments. Thus, I am convinced that it is time for the United States to stand up and say that we will no longer provide these weapons to the armies of the world.●

EDUCATIONAL BENEFITS FOR VETERANS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SANTINI. Mr. Speaker, in June, I had the privilege of appearing before the Subcommittee on Education, Training, and Employment to speak about job training and small business loan programs for our veterans. What came out of that hearing was this: That veterans, today more than ever, need education, job training, and the chance to succeed. With the expiration of the GI bill and its educational benefits, many veterans, especially Vietnam veterans, will not have that chance.

Our colleague, HAROLD FORD, has a bill that would give our veterans the boost they need to travel the road to a secure life and future. His bill, H.R. 5762, would extend educational benefits under the GI bill. Under this legislation, Vietnam-era veterans would have 20 years to use their educational benefits rather than the more limiting 10 years.

In support of this legislation, I would like to share with the Members a letter I received from the Las Vegas chapter of Vietnam Veterans of America on this subject. The letter will impart to you, better than I ever could, what extension of educational benefits could easily mean to some very deserving people.

VIETNAM VETERANS OF AMERICA,
Las Vegas, Nev., July 21, 1982.

Congressman JAMES SANTINI,
300 Las Vegas Boulevard South,
Las Vegas, Nev.

DEAR CONGRESSMAN SANTINI: The Southern Nevada Chapter of Vietnam Veterans of America strongly supports the Harold Ford Bill (HR 5762) to extend GI educational benefits. With this bill the time period that Vietnam era veterans have to use their educational benefits would change from 10 years to 20 years. We feel the change is justified for the following reasons:

1. Rather than a new program to help veterans, with the accompanying bureaucratic growth, the proposed bill simply changes the existing law to read 20 years instead of 10 years. The already existing program has proven its worth over the past 20 years. The mechanism and regulations are already in place and operating.

2. Veterans are not being given any more educational benefits than they have already earned. They would simply be given a longer time period in which to use these educational benefits.

As requested by Congressman Santini the following are scenarios of various veterans who could benefit from the Ford bill:

a. Veteran "A" returned home from Vietnam in 1969. He started attending a Junior College hoping to become an architect. Anti-war activity on campus made him uncomfortable. He had a hard time concentrating on studies. He found himself thinking a great deal about his friends who were still in Vietnam. He dropped out of school and went to work, in construction, got married and forgot about school.

He continued to dream and dwell on Vietnam in ensuring years. It was not until recently did he identify that he suffered from symptoms of post-traumatic stress disorder. The guilt that he felt about his Vietnam experience had fostered self-destructive behaviors. He had been through two marriages and numerous jobs. After over a year of counseling at the local Vet Center he feels ready to make a new start. He knows he has the ability to become an architect. He has almost all of his educational benefits left-but time has run out and the door is closed due to the delimiting date.

b. Veteran "B" returned from Vietnam in 1971. He went to school under the GI bill while working part-time to support his family.

He completed two years of college in 1975. In that same year he began working full-time in a manufacturing plant due to financial need. He gave up his dream of an electrical engineering degree.

In the fall of 1981, he was laid off due to economic conditions, and a lack of seniority. Other employees who had worked there when he was in Vietnam retained their position.

He is presently working in an auto parts store. He has approximately 2½ years of educational benefits left but again the ten year time limit was in 1981.

An extension would give him the opportunity to return to school on a part-time basis to pursue his educational goal.

c. Veteran "C" is a 33 year old black combat veteran. He has had many readjustment difficulties. He has an erratic job history, two failed marriages including three children, and difficulties with substance abuse. He has much anger regarding his place in American society.

After many months of intensive counseling and hard work on his part, he has begun to set some realistic goals for his life. One of these include becoming a draftsman. He has shown talent in this area since childhood.

Although he has never used any of his educational benefits, he is ineligible due to the ten year delimiting date.

d. Veteran "D" is a 35 year old Marine combat veteran who came to Las Vegas from Detroit about two years ago. He was a victim of the auto manufacturing layoffs and came to Nevada to seek a new career in gaming. He presently works as a waiter and due to family commitments has been unable to afford the cost of tuition to a local gaming school. Although he has used but one semester of his GI bill he again is ineligible due to the ten year delimiting date.

e. Veteran "E" is a 34 year old Vietnam in-country veteran with a mild service-connected disability. He has had difficulties since Vietnam. These difficulties have manifested themselves in chronic unemployment, social isolation and corresponding family difficulties. In the past two years, he has become an integral of Vietnam Veterans of America. This has facilitated his feelings of worth and strengthened his pride in being a Vietnam veteran. He has received counseling at the local Vet Center. He finally feels ready to begin a career and has interests in refrigeration and air conditioning repair. If he were eligible, he would like to use his GI bill to go to this school.

We hope these short histories will give you a better picture of the many thousands of Vietnam veterans who could benefit from a change in this law. We feel that HR 5762, if passed, will have major impact on the readjustment efforts of Vietnam veterans.

We appreciate your interest in this bill and would be happy to assist you in any way in promoting its passage.

Sincerely,

CHESTER NEVILLE,
President, Southern Nevada Chapter,
Vietnam Veterans of America.●

IN MEMORY OF GEORGE STROUBE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. WOLF. Mr. Speaker, on May 10, 1982, Thomas W. Pauken, Director of ACTION, addressed a general meeting of my 11 citizen advisory councils. During the course of the question and answer period following Mr. Pauken's address, Mr. George Stroube shared with us his personal story of his recovery from a stroke and his stumbling blocks which became stepping stones to helping others. His story touched the hearts of all who heard him that evening.

Tom Pauken was so impressed by George's message that he included his remarks in ACTION's Good News Report No. 24. I include his report at this point in the RECORD.

We were saddened to learn of George Stroube's death this past Wednesday. We will miss him. His wife, Ruth, said it best, "He was not just an example, but an inspiration."

The report follows:

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TRIBUTE TO GEORGE STROUBE

(By Thomas W. Pauken)

Congressman Frank Wolf of Virginia has a Voluntary Advisory Council of 130 members, organized to keep him informed on all aspects of social and economic activity in his district. Recently, in reporting to him and the Council on ACTION's endeavors in the area of voluntarism, I concluded my remarks with a story about a woman I had met in Fredericksburg, Va., who organised a stroke victims club for wives and husbands who had either suffered a stroke or were the spouses of a husband or wife who had. I explained how these clubs were organized without officers, dues, or business meetings and were based on the concept of mutual help and encouragement, all voluntary, offering therapy of a kind not usually found in the medical books.

Mrs. Gloria Land, along with Mrs. Natalie Elder and Mrs. Eleanor Pettit, had been responsible for the formation of the Fredericksburg club, which has received national recognition for its volunteer work in a program sponsored jointly by the General Federation of Women's Clubs and Sears Roebuck. Gloria told us how, after her husband had suffered a stroke, the doctor believed the patient was going to be a vegetable, and that she should put him away in a nursing home. Gloria was not impressed. "That was my roommate he was talking about," she said, and so she moved in with her roommate and began working with him toward the day they would leave the hospital together. In time and with therapy, they did so. And now Gloria helps others.

It was then that one of the members of Congressman Wolf's Advisory Council rose and asked if he could come forward and add a thing or two because he had been laid low by a stroke several years ago. His name is George Stroube, and before January 1979 he had enjoyed a busy career in the field of Virginia politics and was very active in voluntarism with the accent on young people. His stroke left him paralysed on his right side, and he had lost the power of speech. Worse, he had lost the will to live. Physically helpless, he believed his life had become meaningless.

Stroube told the Council that after hospitalization in Virginia, it was necessary for his wife, Ruth, to travel long distances several times a week to visit him while he received therapy at Baltimore's Johns Hopkins Hospital. And how, suddenly, through her faith and love and his desire to go home, he decided not to quit but to fight back, to somehow get on his feet again. In doing so, he planned his own therapy which he admitted was often opposite of what the hospital prescribed. In time he learned to speak again, making a remarkable recovery that surprised his doctors. For a considerable period he needed a cane to support his walking; he needs it no longer.

It was while he was at his local health club continuing therapy that he and Ruth became charter members of a stroke club. What he had in mind, he said, was to find a way to help others who were going through the trauma of paralysis and slow recovery; to encourage them and pull them up from the pit of dispair; to share with them the adjustments of a new kind of life and to act as a example of one who made it.

"Not just an example," says Ruth, "but an inspiration." Between them the Stroubes offer their own kind of therapy to the club's nine members, getting together once a week, traveling to various places of interest, keeping spirits up, sharing experiences. And, oh yes, George also bowls and plays golf. He's about to celebrate his 60th birthday and, as he told Congressman Wolf and the Council, he's looking forward to his sixties . . . which all goes to prove you can't keep a good man down.●

SOVIET REPRESSION CONTINUES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. **FRANK.** Mr. Speaker, many of us in the House have taken this floor on a number of occasions to deplore the outrageous persecution of Jews which is now taking place in the Soviet Union. Recently, an article in the Boston Globe put this matter in historical perspective. Lewis H. Weinstein, one of the leaders of the American Jewish community and one of Greater Bostons' most distinguished citizens, published an article in which he points out that the persecution which Jews are now facing in the Soviet Union has unfortunately deep roots in the history of the Soviet-Communist regime. Mr. Weinstein published his article on the 30th anniversary of the murder of 24 leading Jewish cultural figures as the climax of Stalin's campaign to eradicate a Jewish culture in the Soviet Union.

Tragically, the current leaders of the Soviet Union who have so often proclaimed their desire to turn away from the terrible practices of the Stalin regime, have continued Stalin's mistreatment of the large Soviet Jewish population.

Few people in the United States have better credentials to speak out on the question of the survival of Jewish culture in the Soviet Union that Lewis Weinstein who has devoted so much of his time, selflessly, to protecting Jews in the Soviet Union, in Israel, and elsewhere against persecution and oppression.

I am pleased to be able to share with my colleagues, Mr. Weinstein's eloquent statement.

THIRTY YEARS LATER, THE REPRESSION GOES ON

(By Lewis H. Weinstein)

In the dark cellars of Moscow's notorious Lubyianka Prison, 30 years ago, on Aug. 12, 1952, after months of torture and interrogation, 24 leading Jewish poets, writers, artists and poets were murdered. This was the climax of Stalin's campaign to destroy Jewish culture in the Soviet Union.

Soviet repressive measures against Jewish expression have continued.

The Soviet Union, with the third largest Jewish community in the world, is the only country with a large Jewish population without a single Jewish school for children. Even private teaching of Hebrew is a violation of KGB "rules". Recently, Jewish activists teaching Hebrew in their homes, in small groups of three to six people, have come under severe pressure. For these people, the dream of a Jewish Life in the USSR or elsewhere is still alive, but under daily fire.

The newest tactic is that of stripping academic degrees earned by Jewish scientists who request permission to go to Israel. How can one erase acquired knowledge? In the USSR, the answer seems to be, "If you want to go to Israel, we take it away: your knowledge ceases to exist".

Other "refuseniks," as Ida Nudel, who recently completed a four-year term for hanging a banner outside her apartment, saying, "KGB, give me my visa," are being pushed to the very brink. After returning from Siberian exile, she was not permitted to live in Moscow and was denied residence in Riga. Now she is in an isolated town, without family and with her sister waiting in Israel. Her first application to lease was made in 1971.

After several years of a partial opening of the doors, emigration is down to a virtual trickle. In August of 1979, 4000 Soviet Jews were allowed to leave. If the trend of the past year continues, no more than 180 will leave in August 1982. Jews are not free to learn about their past and are unable to carve out a future. Is it any wonder so many want to leave?

The reverberations of that infamous August night of 1952 are still being felt among Jews everywhere. Many still remember the last words of David Bergelson, the last of the poets murdered: "Earth, oh earth, do not cover my blood!"

In his moving "Elegy For the Soviet Yiddish Writers," Chaim Grade, the greatest Yiddish poet and novelist (who died six weeks ago), began and concluded with these lines, translated by Cynthia Ozick:

"I weep for you with all the letters of the alphabet that made your hopeful songs. I saw how reason spent itself in vain for hope, how you strove against regret—and all the while your hearts were rent to bits, like ragged prayer books . . .

". . . But your darkly murdered tongue, silenced by the hangman's noose, is no longer heard, though the muse again sings in the land. You left me your language, lifted with joy. But, oh, I am bereft—I wear your Yiddish like a drowned man's shirt, wearing out the hurt".●

WINNING THE NUCLEAR WAR—MORE ON REAGAN'S PLANS

HON. GEORGE E BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. **BROWN** of California. Mr. Speaker, in recent months we have all been forced to consider the increased threat of nuclear war. Rather than move us away from the brink of nuclear holocaust, the Reagan administration has been preparing to "win the big one." Fortunately, there have been statements about the unwinnable nature of nuclear wars, but, as was said in a previous Republican administration, it is more important to watch what they do than watch what they say.

The Reagan administration is preparing for a nuclear war. They are preparing evacuation plans for our major cities. They are planning for a long-term nuclear war. And they are scuttling nuclear arms control treaties already negotiated and signed.

Some Members of Congress do not believe this. I confess, it is hard to believe that those who control our nuclear weapons see nuclear war as inevitable. But it is true.

The following article from last Sunday's Los Angeles Times describes a recommendation on nuclear war fighting which is now pending before the National Security Council. I commend this article, with its alarming contents, to my colleagues.

[From the Los Angeles Times, Aug. 15, 1982]

PENTAGON PLAN AIMS AT VICTORY IN NUCLEAR WAR

(By Robert Scheer)

WASHINGTON.—On the orders of the Reagan Administration, the Pentagon last week completed a strategic master plan to give the United States the capability of winning a protracted nuclear war with the Soviet Union, The Times has learned.

The document was delivered to the National Security Council and is awaiting final presidential approval.

The Pentagon plan was drawn up in response to a presidential directive, which represents the first reported time the U.S. government has declared that nuclear war with the Soviets can be won.

The directive is part of a top secret national security decision document that was drawn up in the fall of 1981 to supersede Presidential Directive 59, which was approved in the last six months of the Carter Administration.

IDEA IS CONTROVERSIAL

Sources familiar with both highly classified documents report that President Reagan's strategic doctrine goes further toward a nuclear war fighting stance than former President Jimmy Carter's in that it specifically states the goal of winning a protracted nuclear war.

According to one member of the Reagan Administration, the plan would contemplate nuclear warfare that went on for as long as six months. One consequence of this planning has been a commitment of $18 billion to provide a communications systems that could endure such protracted nuclear warfare.

The idea that nuclear war between the superpowers can be kept limited or stretched out over several months—let alone won—is controversial in both military and political circles.

Air Force Gen. David C. Jones, who was chairman of the Joint Chiefs of Staff under both Carter and Reagan, has warned that preparations for fighting a limited or protracted nuclear war would be throwing money into a "bottomless pit." In his parting statement on retiring in June, Jones said, "I don't see much of a chance of nuclear war being limited or protracted." He added, "I see great difficulty in keeping any kind of nuclear exchange between the Soviet Union and the U.S. from escalating."

During the 1980 presidential primary campaign, Carter's Presidential Directive 59 was criticized by Sen. Edward M. Kennedy (D-Mass.) and others for assuming that nuclear wars can be fought and survived in a manner akin to conventional wars of the past.

Carter's secretary of defense, Harold Brown, asserted that Presidential Directive 59 was intended to deter any expectations that the Soviets might have of winning a nuclear war but did not endorse the idea that nuclear war could be kept limited or that meaningful victory was possible.

Carter's directive did not contain any specific means of implementation. But Reagan's directive, the sources said, specifically requires the Pentagon to draw up a plan for turning the policy declaration into military reality.

The Pentagon's strategic master plan was to have been sent to the National Security Council for approval in June. However, it was delayed because of the public disclosure of another secret Defense Department document, the annual defense guidance statement.

Parts of that statement, which the Pentagon draws up each year to project its needs for the next five years, were leaked to the New York Times and caused considerable embarrassment for the Administration.

The newspaper reported that the annual guidance plan assumed that "protracted nuclear war is possible" and that "American nuclear forces must prevail and be able to force the Soviet Union to seek earliest determination of hostilities on terms favorable to the United States."

The annual guidance statement contained a general policy of confrontation with the Soviets ranging from conventional wars to battles in space, with the nuclear component being only one part.

CONTAINS MORE DETAILS

Administration insiders report that the new strategic master plan is more detailed and more controversial in its advocacy of nuclear warfare than the annual Defense Department guideline. More significantly, it would carry the imprimatur of the President and his National Security Council, while the annual guidance plan is an internal Pentagon document.

The new strategic master plan concentrates exclusively on the possibilities of strategic nuclear war and reportedly aims at providing more of a "how-to" treatment of the subject. For example, the new plan devotes considerable space to the matter of destroying enemy political centers and command centers while preserving similar U.S. centers.

The Reagan Administration has budgeted $18 billion for the purpose of securing U.S. military command, control and communication, or C3, as it is known to planners. C3 refers to the abililty of a nation's leaders to maintain communication with the troops in control of the nuclear arsenal.

The implications of the shift in strategic thinking about nuclear war were spelled out by Gen. James W. Stansberry, commander of the Air Force Electronics Systems Division, who told an Air Force conference:

"In previous years the concept for C3 was that it only had to be able to get off a launch of U.S. strategic weapons in response to a first strike before damage was unacceptable. The idea that there was no way to win a nuclear war exchange sort of invalidated the need for any anything survivable. There is a shift now in nuclear weapons planning, and a proper element in nuclear deterrence is that we be able to keep on fighting."

LINKS ARE VULNERABLE

But critics of nuclear war-fighting strategies remain skeptical that C3 can be protected, because the antennas, telephone lines, satellites and other links in the communication system between a nation's leaders and the nuclear arsenal remain far more vulnerable than any other components of the defense system.

One observer on the Reagan staff said sarcastically, "We've been working on this C3 problem for five years now and can report that the system might survive 15 minutes of nuclear war."

But the Pentagon's master plan aims at finding means of hardening U.S. communications to the point that they could survive longer—"as much as six months," one Administration member noted.

The notion that nuclear wars can be fought on a limited and survivable basis toward other than cataclysmic ends has had growing support in the last decade. Increasingly accurate missile technology and sophisticated means of communications have produced the confidence in some quarters that nuclear war need not be fought as one spasmodic episode with little but radioactive rubble to show for the effort.

The result has been a push for rejecting a nuclear strategy based on the idea of a nuclear war as one spasmodic event, requiring as a deterrent only enough power on each side to assure the destruction of the other. This past policy has been challenged by strategies that require even more plentiful and advanced nuclear arsenals and systems of defense ranging from anti-missile systems to civil defense.

In the nuclear war-fighters' view, which Reagan's National Security Council appears to accept, a nuclear war might be fought over a period of several months with selective strikes at primarily military targets. At the end, they believe, one side could emerge victorious, with enough of its resources and population intact to begin over.

One leading advocate of this viewpoint, Colin Gray, has recently been appointed by Reagan to the advisory board for the Arms Control and Disarmament Agency and as an adviser to the State Department.

In a 1980 article in the magazine Foreign Affairs, Gray and co-author Keith Payne complained that "many commentators and senior U.S. government officials consider it (nuclear war) a non-survivable event."

Instead, Gray and Payne argued, "the United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values."

They specified that 20 million U.S. fatalities would represent an acceptable cost.

Others may have a less optimistic view of the likely casualties but still believe it is possible to emerge on top in an all-out nuclear war. Last week, Energy Secretary James B. Edwards defended the Reagan Administration's commitment to testing and building more and better nuclear weapons. He said:

"I hope we never have to get into another war; if we do, I want to come out No. 1, not No. 2."

On the other hand, there is former Secretary of State Cyrus R. Vance, who left the Carter Administration before it formulated Presidential Directive 59. Vance, in an interview with The Times, stated:

"I happen to be one of those who believe it is madness to talk about trying to fight a continuing nuclear war as though it were like fighting a conventional war situation,

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and that one could control the outcome with the kinds of precision that is sometimes possible in a conventional war situation.

"It is a totally different world, a world that is hard for any of us to conceive, because none of us knows what a nuclear war is like. But, by extrapolation, we can have some idea of the incredible devastation that would come from it and the almost unimaginable consequences that would flow from it."●

GRUMMAN HAWKEYE E-2C AIRCRAFT STEMS FLOW OF ILLEGAL DRUGS INTO THE UNITED STATES

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, last October, the U.S. Customs Service began using the Navy E-2C Hawkeye aircraft to help stop the flow of illegal drugs brought into this country.

This effort was, and continues to be, highly successful.

During the first 72 days of this effort, two Hawkeye aircraft were responsible for the arrest of 62 individuals involved in drug smuggling and the seizure of 25 aircraft, 26,000 pounds of marijuana, 1,000 pounds of cocaine, and 250 pounds of hashish oil.

I am proud to say that these highly capable planes are built by Grumman Corp. of Long Island and that many of their employees reside in my congressional district.

On June 28, 1982, the Assembly of the State of New York, recognizing the invaluable service provided by these planes, passed a resolution calling upon the President and Members of Congress to authorize the continued use of these aircraft as part of a national effort to curtail the drug smuggling operation.

I call to the attention of my colleagues this resolution, which is printed below, and urge them to support all efforts to continue use of the Hawkeye E-2C.

State of New York Legislative Resolution

Whereas, The illegal sale of marijuana, cocaine, and hashish has reached staggering proportions throughout the United States; and

Whereas, The vast majority of these drugs are smuggled by air and by sea into the United States by way of the waters south of Florida; and

Whereas, The Grumman Corporation, headquartered in Bethpage, New York, manufactures the E-2C Hawkeye early warning aircraft; and

Whereas, The Hawkeye can automatically detect, identify, and track aircraft over both land and water at ranges in excess of two hundred fifty miles and, with its sophisticated electronic equipment, the Hawkeye can monitor three million cubic miles of airspace; and

Whereas, During a seventy-two day trial period, two Hawkeye aircraft proved to be extremely effective anti-drug-smuggling weapons for the Customs Service and the Treasury Department when these two aircraft, manned by Navy personnel working with Customs Service officials, were directly instrumental in the arrest of sixty-two individuals involved in drug smuggling, and responsible for the seizure of twenty-five aircraft, twenty-six thousand pounds of marijuana, one thousand pounds of cocaine and two hundred fifty pounds of hashish oil; and

Whereas, A proposal for the regular use of Hawkeyes in anti-drug-smuggling missions is now being studied by Congress; now, therefore, be it

Resolved, That this Legislative Body memorialize the Honorable Ronald W. Reagan, President of the United States, and each member of the House Select Committee on Narcotics Control, in order to stem the flow of drugs illegally brought into this country, to authorize the regular use of Grumman/Navy E-2C Hawkeye aircraft by the Customs Service; and be it further

Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the Honorable Ronald W. Reagan, President of the United States, and to each Member of the Congress of these United States from the State of New York.

ECONOMY—HIGH INTEREST RATES, EMPLOYMENT—AND CRIME GREATEST CONCERN OF THE PEOPLE OF THE EIGHTH CONGRESSIONAL DISTRICT OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. ROE. Mr. Speaker, our Nation's current troubled economic situation is a matter of great concern to all Americans. The highest unemployment statistics since the Great Depression, increasing food and energy costs and lingering high interest rates have had a devastating effect on us all.

The residents of the Eighth Congressional District of New Jersey are no exception. Some 57 percent of the respondents to my congressional questionnaire said they had postponed buying a house, car, or other major purchase in the past year because of high interest rates.

The questionnaire, also shows that the administration's economic policies have the eighth district in a quandary. While 51 percent feel the President is moving in the right direction with his economic policies, and 53 percent support his New Federalism proposal to transfer many existing Federal programs to the States, an overwhelming 66 percent of the respondents are firmly opposed to the White House's $757 billion 1983 Federal budget which included a deficit of well over $100 billion.

Mr. Speaker, I have been a long-time proponent of strengthening the military defense of the United States. At the same time though I, like 56 percent of the questionnaire respondents believe there should be reductions in the administration's request for $263 billion in defense spending during fiscal 1983. I have voted for legislation on the House floor to accomplish that reduction.

There is also very deep concern in the eighth congressional district of New Jersey over the future of the social security system. The administration's social security proposals would cut promised benefits by $82 billion over the next 5 years. While it must be conceded that those reductions would help to lower the Federal budget deficit, I do not believe that reducing earned social security benefits is the proper method of achieving that goal. No benefit cuts would be needed to make the system sound over the next 75 years if 12 percent of the program were funded through the use of general Treasury funds. I have introduced legislation to accomplish that goal and I am pleased to note that 56 percent of those answering my questionnaire support the use of general Treasury funds to bolster the social security system.

Mr. Speaker, the issue of crime continues to be of major importance. Recent statistics show that crime in our Nation's is reaching record levels. One step to reduce crime, supported by an overwhelming 71 percent of my questionnaire's respondents, would be legislation, to restrict the sale and manufacture of handguns.

In the area of foreign affairs, the residents of my congressional district believe it is time for the United States to take a hard stand against Soviet aggression in Europe and a limited role in the El Salvador conflict.

Soviet interference in Poland prompted 51 percent of the respondents to my questionnaire to favor economic sanctions against the present Polish Government. Concerning El Salvador, 69 percent were opposed to supplying military aid to that troubled nation, and only 45 percent supported continued economic aid there.

Mr. Speaker, the eighth district of New Jersey are deeply concerned that not enough is being accomplished to once again make America an energy independent nation. In spite of administration efforts to curtail Federal involvement in new energy programs, 88 percent of the respondents, the largest majority of any question on my questionnaire, gave their support to the United States making a major commitment to developing domestic energy supplies.

It is my belief that the congressional legislative questionnaire is a key tool in determining the beliefs, attitudes, and desires of the people of our great Nation. I would like to offer my deepest thanks to the people of our Eighth

Congressional District of New Jersey for their excellent response to my questionnaire. A tabulation of the response I received to my questionnaire follows:

EIGHTH DISTRICT OF NEW JERSEY LEGISLATIVE QUESTIONNAIRE VOTING RESULTS

[In percent]

	Yes	No
1. Is the President moving in the right direction with his economic policies?	51	43
2. Do you support the President's "Federalism" proposal to transfer many existing federal programs to the states?	53	42
3. The President has proposed a $757 billion federal budget for fiscal year 1983 with an estimated $91.5 billion deficit. From what you have read and heard, do you support the President's budget proposal?	27	66
4. If you do not support the President's budget, which of the following options would you prefer:		
a. Reduce the $44.2 billion increase in defense funding?	56	11
b. Curtail spending for federal social programs?	34	29
c. Reduce cost-of-living increases under the various federal entitlement programs such as Social Security, veterans' benefits and the federal employee retirement system?	22	41
d. Repeal the 10 percent tax rate deduction for individuals scheduled for July 1?	32	31
5. Should the U.S. Department of Education be abolished?	45	46
6. Should the U.S. Department of Energy be dismantled?	42	48
7. Have you postponed buying a house, car or other major purchase in the past year because of high interest rates?	57	36
8. Should we use General Treasury funds to bolster the Social Security system?	56	36
9. Should the U.S. restrict imports from nations which impose trade barriers on our agricultural products?	83	10
10. Because of the military dictatorship imposed by the Soviet Union on Poland, should the United States respond with sanctions against the present Polish Government?	51	38
11. Should the U.S. provide economic aid to El Salvador?	45	47
12. Should the U.S. supply military aid to El Salvador?	23	[illegible]
13. Do you favor an increase in nuclear power development as a major source of energy?	50	46
14. Should the United States make a major commitment to developing such new sources of energy as solar, wind and fusion as well as conservation?	88	8
15. Would you favor legislation to further restrict the sale and manufacture of handguns?	71	27
16. Do you support a Constitutional amendment to ban abortion?	27	[illegible]

Important note.—Many district voters did not vote on all items in the questionnaire and also those who voted "undecided" are not included in the percentiles of the above answer.●

TAX BILL NOT IN BEST INTEREST OF WORKING PEOPLE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BONKER. Mr. Speaker, despite the President's speech on behalf of his $99 billion tax increase package, I cannot in good conscience support a tax bill that continues to shift the tax burden onto the backs of the middle-class and working men and women.

I would feel duty-bound to support this bill if I had voted for the ill-advised Kemp-Roth tax plan last year. For we are in this deficit mess largely because of last year's tax package, which is costing the Government $93 billion in fiscal year 1983 alone.

About half the current deficit is attributable to the Kemp-Roth plan, which was so heavily supported by the President.

If there had been no tax reduction program in 1981, the budget would show a surplus in 1985—because in addition to higher revenues, interest costs on the debt would drop as deficits and interest rates declined.

Second, this legislation represents a major step backward from the gains Congress has made in increasing the incentives to save. The United States has had the lowest savings rate of any of the industrialized nations. As a result, I have consistently supported and sponsored legislation to increase the tax deduction for interest and dividends. Now, however, the President wants to backtrack on the progress we have made.

Some $12 billion over the next 3 years is expected to be raised from a proposal in the President's tax package calling for 10 percent withholding on interest and dividends beginning July 1, 1982. The loss to savers alone under such a scheme would be between $1.2 and $2 billion a year, according to an analysis by New York's Citibank, because interest withheld early in the year would not be available for compounding.

This scheme is an intolerable burden on the financial institutions in our country, many of which are already experiencing severe difficulties. It will force more than 50,000 financial institutions to spend $1 billion or more to implement the system and $1 billion or more annually to maintain it. The costs and inconvenience of extra paperwork and new regulations under the plan would more than offset the advantages of increased tax collections.

Finally, despite all the talk about closing loopholes in this bill, there is much in it that falls squarely on the back of the average American. This is not surprising, given the fact that Kemp-Roth was a monument to trickle-down economics. It reserved the lion's share of the tax cuts for the wealthy. The nonpartisan Congressional Budget Office has confirmed that the less wealthy have suffered from the overall administration program, including the budget cuts, while the wealthy have benefited.

Taxes in 1983 were lowered by only $120 for a family earning less than $10,000 but by $15,250 for a family earning over $80,000. While the incomes differ by a factor of 10, the tax reductions differ by a factor of 100. If we include spending cuts, the differences become even greater.

The fact is that direct aid cuts, combined with tax cuts, have reduced the income of America's poorest families by 1.7 percent and have raised the richest families' incomes by 6.7 percent on the average. This simply is not fair.

Now in this proposal, we see taxes on smoking, an increase in the threshold for medical expense deductions, a requirement that Federal workers pay medicare taxes, increased taxes on airline fuel, which will increase the cost of transportation. All these will increase the burden on average Americans.

Mr. Speaker, I am enclosing two articles which have run recently in Washington State newspapers. One is an editorial in the Seattle Times urging Congress to "keep its hands off our interest, dividends." The other is a letter to the editor in the Longview Daily News from a constituent, Vince Penta who also objects to the tax bill. I urge my colleagues to read these articles:

[From the Seattle Times]

KEEP HANDS OFF OUR INTEREST, DIVIDENDS

Darning socks is a dying art, but Congress and the Reagan administration ought to take it up. First they encourage us to help the economy by socking our money away in savings accounts and other investments, then they start cutting holes in our socks.

We're talking about the 10 percent withholding plan for interest and dividend income that a Senate-House conference committee approved with White house blessings.

Starting next Jan. 1, almost every financial institution and corporation in the country would be required to withhold one-tenth of the income taxes on interest and dividends before investors ever saw their earnings. Part of the $99 billion tax-increase plan written mainly by Senate Republicans and backed by President Reagan, the withholding plan would raise an estimated $11.7 billion over the next three years.

(It would exempt any account earning $100 or less annually, people with a tax liability of $600 or less, and those over 65 who paid $1,500 or less in taxes last year—or $2,500 for an elderly couple.)

Banks, savings and loans, credit unions, and many corporations are irate about the withholding scheme. Every American saver and investor should be, too.

The loss to savers alone would be between $1.5 billion and $2 billion a year, according to an analysis by New York's Citibank, the nation's second-largest bank, because interest withheld early in the year would not be available for compounding.

The costs and inconvenience of extra paperwork and new regulations under the plan would more than offset the advantages of increased tax collections. The U.S. League of Savings Associations has estimated that start-up and administrative costs would be more than double the additional tax revenues.

"Why should honest taxpayers have to pay withholding and give the government what is in effect an interest-free loan?" Asked Alan Wade, spokesman for the savings league. Why indeed?

Congress and the administration have stubbed their—and our—toes on this plan and should step back and start off on a new foot. Otherwise, voters may want to do some withholding of their own at the ballot box.

[From the Longview Daily News]

ABSURD TAX GRAB

To the Editor:

How can our administration possibly condone the withholding of income tax on interest income? Has not President Reagan himself indicated that an important element of our economic recovery is the encouragement of Americans to save? To save instead of spend; to save so that there is money to lend for people to build homes; to save so that there is money to lend to industries for capital growth. How ever could the president support this absurd tax grab pro-

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posed in the Senate of the United States whereby income tax would be withheld on a regular basis from interest income?

Under the guise of saving the government money and avoiding underpayment of tax, the administration is going to remind nearly every American every month just how greedy Big Government is. Every month people will be reminded of the foolishness of saving. It's bad enough now that we must report interest income at the end of the year. It is outrageous to contemplate that every month we're going to have less money accrued to us because of our thrift.

Many people supported Mr. Reagan's candidacy because of his interest in dismantling big government. What does he think this new withholding does for government? It helps it grow! He is now condoning an increase in federal regulation of our lives—an increase in the federal bureaucracy, with absolutely no incentive to cut back.

Congress should not be misled by treasury officials who insist this is the way to get at tax cheats or who insist that the only adversaries of this legislaiton are banks. The effect of this tax bill will be to discourage Americans from saving money. Americans who have earned enough money to save are going to be penalized for interest income on that savings. That tax is wrong to begin with, and to institute a withholding process which is going to affect that meager income on a per capita basis is simply outrageous.

All Americans should immediately contact their congressional delegation and insist that they resist approving such a measure.

Vince Penta, *Longview.*●

CURRENT RAILROAD INDUSTRY PROBLEMS

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HARTNETT. Mr. Speaker, I would like to share with my colleagues a recent commentary entitled "Bringing Back The Railroads" by Edward J. Walsh. The article appeared in "Point of View" of the USIC Writers Group. It sheds some light on the current problems of the railroad industry which I believe will be of interest to my colleagues.

President Reagan moved to avert a nationwide rail strike on July 8, two days before it was to begin. His executive order declared a 60-day cooling off period, and appointed a special panel to look into the dispute between the Brotherhood of Locomotive Engineers and the rail management negotiating arm.

If the strike had occurred, it would have affected 90 percent of U.S. railroad trackage, according to the White House. It would have added some 620,000 people to the nation's unemployment rolls in two weeks, and 1.1 million after a month. Such is the power of the Brotherhood of Locomotive Engineers.

Although the dictatorship of organized labor in the rail industry has not gotten the same public attention as labor clout in the auto or steel industries, it is even more serious. America's railroads have been on a productivity slide for years, thanks to incomprehensible union work rules and overgenerous wages and benefits. The current recession has caused a sharp downturn in rail traffic, exacerbating further the crisis the industy is facing. According to *Railway Age*, orders for new rail cars in May dropped to 487 from 539 in April, and from 2,291 in May 1981—a decline of 79 percent for the year.

Historically, collective bargaining in the rail industry has been on a nationwide basis. The two major rail unions, the Locomotive Engineers and the United Transport Union, have bargained with the single management group, the National Carriers Committee of the National Railway Labor Conference. As in other heavy industires, the system has created a monster of nationwide monopoly union power.

The principal drag on railroad productivity is archaic work rules. For example, the "hundred mile" rule requires trainmen be paid a full day's wage for traveling 100 miles—a trip that today takes only a few hours. Professor John F. Due of the University of Illinois, in a study of railroad productivity analyzed in the Spring issue of *Transportation Journal*, declared that "The rail industry could earn a reasonable rate of return with drastic revisions in labor union contracts to increase labor productivity." Among the changes he urges are: reductions in crew size; payment for an 8-hour day regardless of distance traveled, and flexibility in the kinds of work individuals are allowed to do. He adds further that "Much of the blame rests with the federal government, which has consistently supported labor's position."

The idiocies of rail union work rules are highlighted by the exceptions to them. The vast majority of U.S. trains are forced to operate with a four-man crew: an engineer, conductor, and two brakemen. For years, however, European trains have been run with only one or even no brakemen. Only one American rail line, Florida East Coast Railways, has broken the union stranglehold on crew size. Throughout a thirteen year strike which ended in 1976, it operated with two-man crews, and continues to do so.

There is, thus, some light at the end of this tunnel. Amtrak, the government-owned passenger rail line, recently forced six of its non-operating unions to scale back their wage demands from a 30 percent pay hike over 30 months to 18.7 percent. Amtrak also won concessions on work rules, and will now be able to require employees to perform work formerly done by those in different job classifications.

Another salutary development is the intention of Pullman Standard, long America's premier rail car manufacturer, to get back into the business it left several years ago. Pullman president Jack Kruizerga says he expects to be producing cars at the company's Bessemer, Ala., plant by early 1983—"if Pullman can reach agreement with a productivity-minded union." Pullman had shut down its Butler, Pa., plant due to a nightmarish relationship with the United Steelworkers.

At Butler, Pullman paid USW members $11 per hour plus $7 per hour in benefits. There were 160 job classifications at the Butler plant. Incredibly, the USW classification system was less rigid than the rail unions'.

Labor costs and work rules are at the heart of the railroad industry's decline in the United States. This must change. Rail executives must stand up to the unions' demands, and the federal government must curtail the privileges of monopoly union power. Otherwise, the next rail strike could well be the last.●

KEEPING ARMS TALKS HONEST

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GORE. Mr. Speaker, the vote 2 weeks ago on the nuclear freeze resolution was a powerful statement of the widespread concern about the President's position on nuclear arms control. The defeat was narrow, but the message was clear—the President must move decisively and quickly to end the arms race and to reach a meaningful arms control agreement with the Soviet Union. The American people will settle for no less.

The Boston Globe editorial on Wednesday, August 11, entitled, "Keeping Arms Talks Honest," was an eloquent and unusually incisive description of this close vote. I urge my colleagues to read it carefully.

The editorial follows:

[From the Boston Globe, Aug. 11, 1982]

KEEPING ARMS TALKS HONEST

Only in the narrowest sense could last week's rejection of the nuclear freeze petition by the US House of Representatives be seen as defeat for the arms control movement.

In the larger context, the preceding debate and the razor-thin margin show what remarkable progress has been made by freeze organizers in the past six months.

The House voted 204–202 for a substitute resolution, backing the Reagan Administration's START approach to strategic-arms talks in Geneva with the Soviet Union. But the central message is that three months before Election Day 1982 there is enormous nationwide interest in arms control—and widespread skepticism about the Administration's sincerity and effectiveness in pursuing that aim through START.

It would be a mistake to view support for the freeze as an endorsement of any particular tactical strategy in the arms talks. What it is, in the view of many freeze proponents, is a vehicle to keep the Administration honest on arms control.

At a New Hampshire town meeting last winter, one supporter summed the freeze mesage in simple terms that still apply: "I support our government and I hate communism as much as anyone," he said. "I just want the government to work on this. I'm not able to sit down with the Russian leaders. All this vote is, is to ask our leaders to sit down with them and talk hard."

The freeze campaign began in a limited way two years ago, but as late as this past February its organizers were counting on a slow-and-steady effort that might take several years to reach national political prominence. Then suddenly the idea caught on.

Under normal circumstances, the fact that Geneva talks are under way could have been expected to deflate the movement, but that has not happened. Instead it is gaining force.

The Republicans paid a great compliment to the freeze movement last week. They sliced their victory as thin as they could, mustering an accordion-like majority so as to expose the minimum number of Republicans to the possibility of voter retribution in the fall.

The only New England legislator to vote against the freeze was David Emery (R-Maine), who will challenge Sen. George Mitchell for his seat this fall.

By placing arms control on the election agenda, the freeze is sending a message from the grass roots to two audiences.

It is telling the Administration it had better be serious in its pursuit of an arms control agreement. And it is telling legislators they had better do their homework on national security or else face a grilling on the campaign trail by an aroused electorate.

As, Harry Truman once explained about mules, before they'll do what you want, you first have to get their attention.

However Congress voted last week, the freeze is doing that.●

THE FRENCH VISION OF THE ROLE OF SCIENCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BROWN of California. Mr. Speaker, it has become commonplace to hear U.S. political and industrial leaders talk in defeatist or injured tones about the technological advances of our economic competitors, most particularly Japan. In many ways, Japan is doing what Avis claimed to be doing in its car rental advertising, "We Try Harder." In other important ways, the Governments of Japan and West Germany and France decided, in concert with their leading industries, to win certain markets. This they have done.

Last Sunday's New York Times carried a fascinating article which, while described by others elsewhere, in a nutshell shows how a government can influence social and industrial progress. Ironically, the current policies of Socialist President Francois Mitterrand in support of science and technology are most similar to the policies of former President Charles de Gaulle, who was a political rival of President Mitterrand. This irony only underlines the foolishness of political labels when it comes to commonsense policies that affect the national security, including the economic security of a nation.

Mr. Speaker, if the Government of France pursues the policy of large-scale financial increases in selected areas of research and development, I have no doubt that they will achieve their goal of becoming second to only the United States and Japan in developing new technologies. If they do, it should go without saying that France will be the world leader in certain areas, and the United States will continue to fall behind.

I urge my colleagues to read the following article, and reflect on why the Government of the United States does not have a similar vision and policy.

The article follows:

[From the New York Times, Aug. 15, 1982]

SEEKING TECHNOLOGICAL GAINS, THE FRENCH SOCIALIZE SCIENCE

(By Walter Sullivan)

PARIS.—In a bid to make France Europe's technological leader and cope with a deep crisis that the country's socialist leaders believe must inevitably affect all industrialized nations, the Government has mapped an ambitious program of reform and large-scale increases in research funding. It has recently announced that it will be spending the equivalent of hundreds of millions of dollars annually by mid-decade to develop biotechnologies and electronics. Other areas slated for special attention include robotics, renewable energy sources, energy conservation, improved employment and working conditions. Supporters and skeptics alike believe the goals can be achieved only by radical changes in research practices and the educational system.

The plan, according to Jean-Pierre Chevènement, the man responsible for its execution, is to raise France during the next decade "to the rank of third scientific power in the world"—outranked only by the United States and Japan. Mr. Chevènement is the Minister of Science, Technology and Industry. His already extensive lordship was recently expanded to include France's industrial establishment.

A law spelling out the goals was passed by the National Assembly on June 30. Funding of non-military research and development over the next five years is to increase annually at 17.8 percent in constant francs (taking inflation into account). Recruitment is to enlarge the research work force by 4.5 percent yearly. In the United States, Federal support of non-military R & D is currently decreasing in constant dollars.

Support for basic research would rise 13 percent annually, avoiding sudden fluctuations in funding such as those that have left some research projects in the United States high and dry. By 1985 total public and private support for all research and development would increase from 1.8 to 2.5 percent of the gross national product. Such a leap would bring France up from behind. In recent years comparable percentages in other countries have been 2.4 for the United States, 2.2 for Britain and West Germany, 2.0 for Japan and 0.8 for Italy. The American percentage has dropped considerably from 3.1 in 1964.

ROLE FOR SOCIAL SCIENCES

In contrast to the United States, where Government support for the social and behavioral sciences is shrinking, the French program produces new emphasis. The Assembly called for the humanities and social sciences to play a role "in restoring the dialogue between science and society." In the view of Jacques Attali, special adviser to President Francois Mitterrand, industrial countries such as Japan and the United States will face intense economic and sociological problems as new technologies, such as those based on computers, robots and satellite communications, come into general use. Urban life, he says, will have to be reorganized.

According to Jacques Robin, who heads the Center for Studies of Systems and Advanced Technologies set up by the Government this year to conduct technologies forecasting, the use of robots and other forms of automation will lead to unemployment far greater than that of today, resulting in deep social unrest. He hopes France can devise the technological, educational and socio-political means to minimize the impact of such a crisis.

All agree that fulfillment of the Socialist program will be difficult. The plan calls for 10 percent annual rises in funding of research and development by nationalized industry as well as 8 percent rises in the private sector. The Government, however, can only promote the latter with ecomomic incentives.

As pointed out by Pierre Aigrain, minister of science under the previous Government, a number of large, Government-controlled industries are already making big investments in research. He is director of research at Thomson CSF, a conglomerate that controls enterprises as diverse as those of the Hughes Aircraft Company in the United States. The Government owns a small percentage of Thomson stock and many more shares are held by banks that have now been nationalized. Thomson, he says, yearly invests more than 4.5 billion francs in research and development. That is close to a billion dollars and almost double the figure for American Telephone and Telegraph.

A striking feature of the new government policy is its resemblance to that of Charles de Gaulle, whose political viewpoint was near the opposite end of the spectrum. In his wish to restore the "glory" of France, de Gaulle was relatively generous toward science—particularly regarding "show" projects such as the world's most powerful electron microscope in Toulouse and a giant solar furnace at Odeille. Between 1958 and his resignation in 1969, allocations for research and development leaped from 2.5 to 6.2 percent of the national budget.

After Georges Pompidou succeeded de Gaulle the research budget sagged. When Valéry Giscard d'Estaing became president in 1974, it rose slightly. Finally, in the 1980's, Mr. Aigrain persuaded the Government that France's future economic development depended on high technology. That, in turn, required intensive research.

DEMOCRATIZATION OF SCIENCE

Of Mr. Chevènement's extension of this policy, Mr. Aigrain says: "To some extent he was my student." But he concedes—as do others—that Mr. Chevènement has a better chance of success: "He carries much more political weight than I do. I belong to no political party." Mr. Chevènement leads the left wing of the Socialist Party and, before his present assignment, was rapporteur of the parliamentary committee concerned with science and technology. Aged 43, he is considered a potential prime minister or president. His domain includes virtually all agencies dealing with science and technology, such as atomic energy, medicine, space and oceanography.

Despite resemblances of his program to that of de Gaulle there are basic differences. For example, it emphasizes "democratization" of scientific enterprises, with representatives of various elements of society, including labor, to be added to their administrative councils. It seeks "regionalization"—dispersal of research efforts now heavily concentrated in the Paris area.

At present, research in France tends to be compartmentalised in specialised institutes. An effort is being made to move closer to American practice, where researchers shuttle more freely between academic, industrial and government laboratories and innovative enterprises spring up more readily.

Another feature of the program is its demand that scientists return to the use of

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French. This led, in part, to the resignation of Charles Thiebault as director of the National Center for Scientific Research. The center, with a staff of 23,000, conducts 80 percent of France's basic research. A century ago French and German were largely the languages of science, but they have been replaced by English. Mr. Chevènement believes that in France this creates a barrier between science and the populace whereas Mr. Thiebault fears that a return to French would increase isolation from the mainstream of science.

France's educational system is a major impediment, it is widely agreed. At about the age of 14 students begin training for one of the baccalaureate exams that will determine their academic careers. Those admitted to the mathematics-science curriculum may try for admission to one of the "grandes écoles" that produce France's scientific and technological elite. Others may enter universities, where emphasis is on the humanities. Since the output of better-trained specialists from the grandes écoles is meager, the result is a sever shortage of high quality researchers.

The oft-stated goal of President Mitterrand is "To put science at the heart of democracy, to use change to invent the future." Before his Government's goals can be achieved, a number of deeply entrenched ways of doing things will have to be altered.●

AMERICAN HOLOCAUST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DORNAN of California. Mr. Speaker, the distinguished Senator from North Carolina, Mr. Helms, today (August 16) brought before the Senate a bill which would protect human life from the moment of conception. This is the first serious attempt on the part of the 97th Congress to come to terms with the stark and brutal reality of "the American Holocaust"—the annual destruction of 1.5 million innocent unborn babies in their mothers' womb—over 10 million since the infamous Supreme Court decision in 1973.

Mr. Speaker, the index of the level of any civilization is the solicitude it shows for those who are its most helpless and defenseless citizens. And who is more helpless or defenseless than the innocent baby in the womb? Let us not forget that it was not so very long ago that mothers who were pregnant were said to be "with child." The Sacred Scriptures underscore this when it describes the Virgin Mary's visit to her cousin Elizabeth. At the sound of Mary's greeting, the baby in Elizabeth's womb "leapt for joy." That infant of course was St. John, the Baptist.

Mr. Speaker, this modern Herodian slaughter of the innocents, this unprecedented bloodletting in peacetime, must come to an immediate halt. Senator Helms' bill is deserving of the utmost support as a first constructive step to achieve this noble goal. If the Helms' bill is not favorably acted upon, I can only echo with trepidation the haunting words of Thomas Jefferson: "Indeed, I tremble for my country when I reflect that God is just."

I would at this time like to submit for the Record a timely letter by the California Pro-Life Medical Association.

CALIFORNIA PRO LIFE
MEDICAL ASSOCIATION,
Palm Springs, Calif.

To United States Congress, Washington, D.C.

Until the late 1960's the medical profession in America still upheld the Hippocratic Oath, and our collective attitude regarding abortion was proffered by eminent physicians such as Nicholas J. Eastman, professor emeritus of obstetrics in Johns Hopkins University:

"Unless the mother's health is at stake, no reputable member of the profession would undertake such a procedure (abortion), for it would constitute murder." Expectant Motherhood, 1963.

The truth has not changed. Individual human life still begins at fertilization. A pregnant woman is still an expectant mother who carries another individual within her body. Erase the euphemistic language of the abortion perpetrators and abortion is still the brutal killing of an innocent individual human being. Once again for the second time in the course of modern history, the physician has become the doctor of death, an agency of the state who decides death selection and death control among the "unwanted."

Physicians, legislators, and judges have perpetuated a lie, a devastating lie which has endorsed the slaughter of more than 9 million human lives in America and untold tens of millions of lives in the Third World where we have spread the malignant message of abortion as population control and "planned parenthood."

We will all be held accountable for this heinous crime against humanity. Whether you accept or reject the truth, you, as a representative of a nation once dedicated to justice for all, will be held responsible.

We, as physicians committed to the life-protective ethics of medicine, demand that you restore constitutional protection of the right to life for all human beings including the most innocent, most defenseless member of the human family—the human being in the womb.

There can be nothing, nothing more urgent that the cessation of these millions of legalized murders.

Directors: Nancy T. Mullan, M.D., Albert Lorincz, M.D., Sheila Beirne, M.D., Frank Hyatt, M.D., Philip B. Dreisbach, M.D.

Sincerely,

NANCY T. MULLAN, M.D.
(In behalf of our membership).●

EDWIN B. "PAT" PATTERSON

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MONTGOMERY. Mr. Speaker, I am saddened today to call to the attention of my colleagues the death of Edwin B. "Pat" Patterson, former chief counsel of the Committee on Veterans' Affairs. Pat was laid to rest yesterday at Arlington National Cemetery.

Pat served our committee for 23 years, retiring from his position as chief counsel in 1971.

Born in Lexington, Ky., on December 19, 1912, Pat was educated in the public schools of that city and graduated from the University of Kentucky with an A.B. degree in 1934. He received his LL.B. degree from Catholic University in 1938; and was a member of the bar of the District of Columbia, the Supreme Court of the United States, and the Supreme Court of Korea.

Following his discharge from military service in World War II, he was appointed to the professional staff of the House Committee on Veterans' Affairs by the late Edith Nourse Rogers on January 1, 1948.

Pat served as chief counsel under three chairmen, the Honorable Edith Nourse Rogers, the Honorable John E. Rankin, and the Honorable Olin E. Teague.

His service spanned the period from World War II to Vietnam. During his 23 years of service on the committee staff, he participated in the formulation of most of the veterans' programs as they exist today.

During his long period of service as counsel to the committee, he had the responsibility for codification of veterans' laws into what is now known as title 38, United States Code; and he participated in the legislative drafting and planning of most of the major pieces of veterans' legislation.

In the early years of Pat's service, committee staffs were small, and staff members were required to develop expertise in many fields. Pat had an effective working knowledge of all the major veterans programs, such as compensation, pension, education, housing, insurance, and medical benefits.

His special interest was hospital and medical benefits, and in this area he made many special contributions. He played a key role in the development of the program for the care of elderly veterans. He developed a concept of extra pension payments for housebound and aid and attendance cases. He worked to strengthen the State soldiers home program. He helped develop the legislative basis for the nursing care program in VA hospitals and worked to add thousands of nursing beds to the VA system. He developed the home drug program that now benefits thousands of chronically ill veterans.

The physicians and nurses of the Veterans' Administration will remember Pat's service to them because he played a major part in the development of incentive pay for physicians and special pay benefits for nurses working extra hours, weekends, nights, and holidays.

Few are aware of it, but Pat personally reviewed all the malpractice cases in the VA medical system. He checked these cases in an effort to provide added protection for VA patients. Pat's service had a profound impact on the VA medical system. He worked consistently for its improvement and was one of its major defenders.

Pat made two major contributions in the field of insurance. He guided the development of the servicemen's group life insurance program which insures every member of the U.S. Armed Forces and is the largest group insurance program in the world. This program has been remarkably proficient and effective. He led the investigation that increased the yield of the VA insurance trust fund that has benefited millions of veteran policyholders.

Long before congressional committee staffs became large and committees began the publication of information sheets on their activities, Pat developed an information system for Members of Congress on the activities of the Veterans' Affairs Committee and the purposes of its legislation. His "blue sheets" became the model for other committees and these publications are common practice in the Congress today.

Mr. Speaker, Pat really never retired. The members of the committee would not let him. After officially leaving the committee as a permanent employee, he continued to serve as a consultant until he was disabled approximately 3½ years ago.

In addition, Mr. Speaker, few people realize that Pat served numerous charities and was especially active in the Meals on Wheels Program. He was an active member of Trinity Lutheran Church in Rockville, Md.

Pat had the satisfaction of a long, productive career of service to his fellow veteran. His family, his friends and those fortunate enough to serve with him in the Congress can take pride in his impeccable career and accomplishments. Mr. Patterson was a kind and gentle person, loyal to his friends and a devoted family man.

Mr. Speaker, I know all of my colleagues join me in extending our deepest sympathy to his lovely wife, Fritzi, to his beautiful daughter Anna, his three delightful grandchildren and other members of the family.●

"PEOPLE LIKE US" REBUTTAL

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MADIGAN. Mr. Speaker, recently the Kankakee Daily Journal published an editoral about a rebuttal prepared by the Department of Health and Human Services to the CBS documentary "People Like Us," aired in April, 1982.

The editorial, prepared by the Enterprise News Service, deserves broad attention. Its text follows:

ANSWERING BILL MOYERS

In late April, CBS television broadcast a Bill Moyers' documentary, "People Like Us," which sought to show that budget cutbacks by the Reagan administration were inflicting hardship on the needy.

The documentary consisted of three case studies of people who had supposedly fallen through the "safety net" of social welfare spending:

(1) Larry Ham, a man in Ohio who had been receiving medical disability payments that had been terminated;

(2) Carrie Dixon, a 13-year-old girl in Wisconsin who had previously been cared for at home under Medicaid but who had been transferred to an institution; and

(3) Mrs. Frances Dorta, a woman in New Jersey who lost her AFDC and Medicaid eligibility by taking a job at $600 a month.

The point of the show was that the Reagan administration, through its budget cutbacks was responsible for hardships to these people. A rebuttal prepared by the Department of Health and Human Services—which has received relatively little publicity—suggests a different picture. Here are some of the facts as presented by the HHS:

(1) In the Ohio case, the individual in question had his disability status reviewed by the state government in response to a law passed in Congress in 1980—before the Reagan administration ever took office. On the basis of this review, it was determined that his disability had ended, and that payments should be stopped.

The HHS backgrounder on the subject observes that "no Reagan administration policy changes caused Mr. Ham's disability review. In addition, Mr. Ham still has four levels of appeal left to him."

(2) In the Wisconsin case, the change in care for Carrie Dixon apparently occurred because her mother feared future aid cutbacks by the state. The only policy change that might have been operative in this case was a state limit on non-prescription drugs—not mandated by the federal government.

The budget act of 1981, notes HHS, "provides waiver authority to the Secretary of Health and Human Services under Medicaid for home and community-based services in lieu of more costly institutional care . . . There is no Reagan administration policy or requirement preventing Carrie Dixon from being cared for at home."

(3) In the New Jersey case, Mrs. Dorta ran afoul of a 1981 requirement in federal law that a family making more than 150 percent of the state established standard of need ($590 for a family of four in New Jersey) is not eligible for AFDC assistance. This amendment was adopted to correct a situation in which people making up to $15,000 a year were eligible for such aid.

In this instance, the individual in question was affected by a formula voted in Congress (the 150 percent limit) and an eligibility level established by the state (the New Jersey standard of need), not an administrative crackdown by the Reagan administration.

That background puts a rather different light on the cases recited by CBS. In presenting this information, Dr. Robert Rubin of HHS provided these additional data:

"Safety net spending under President Reagan is not going down, but is going up—both in actual dollars and as a percentage of the federal budget. Spending on safety net programs was 37 percent of the total budget in 1981 and will climb to 39 percent in 1984.

"At the Department of Health and Human Services alone, our proposed fiscal year 1983 budget contains an increase of $20 billion, or eight percent—from $253.9 billion to $274.2 billion.

"The proposed 1983 Reagan budget for Health and Human Services is $56 billion higher than the Defense Department budget."

Bill Moyers didn't tell you that.●

IN SUPPORT OF THE SMITH AMENDMENT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GUNDERSON. Mr. Speaker, as a cosponsor of the gentlelady from Nebraska's original bill, H.R. 6753, I rise in strong support of her amendment to the National Oceanic and Atmospheric Administration authorizations bill today.

This very important amendment would require the Secretary of Commerce to provide adequate public notice of any administrative intention to close or consolidate a Weather Service Office at least 60 days before the scheduled action.

In addition, the Secretary would be instructed to consider any views expressed with the following factors in mind: First, effect of such closing on the community served; second, effect of closing on employees of the National Weather Service; third, economic savings to the National Weather Service; and fourth, other factors deemed necessary by the National Weather Service.

The Secretary may hold hearings on such a proposal and the decision to close or consoldiate may be appealed by any person served to the Federal Committee for Meteorological Services and Supporting Research within 30 days of the final decision.

This amendment would have a profound impact on western Wisconsin since many local farmers depend on weather reports from our part-time Weather Service Office located in La Crosse.

The administration has slated this and 37 other part-time weather stations for closure in its fiscal year 1982 and 1983 budgets. Through several congressional appeals, under the fine leadership of the gentlelady from Nebraska, we have been able to prevent such action.

But conflicting reports of threatened closure or consolidation have plagued my district and left the fate of

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the La Crosse Weather Station in constant question.

Since January 1964, the La Crosse Weather Station has faced possible closure on six separate occasions, without adequate prior notification or any request for local input. Fortunately, service has continued uninterrupted, but our local communities should not be regularly subject to such capricious, inconsistent treatment.

I believe this amendment will promote adequate, systematic procedures for weather station closings which allow for proper notification and public comment period. In addition, such decisions would be subject to further consideration under an appeals process.

I submit, for the record, a copy of a letter forwarded to me by Mr. Bill Hoel, of WLCX La Crosse Radio, Inc. This correspondence, written by Mr. John F. Borgia of the La Crosse Weather Service Office, describes the vital information the station continues to provide communities in western Wisconsin. I sincerely hope that our support for this amendment will help maintain this invaluable service.

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION,
NATIONAL WEATHER SERVICE,
La Crosse, Wis.

DEAR BILL: In regard to your request, I went back over the program accomplishment reports for the past year, since I have been OIC at the La Crosse Weather Service Office. The following is a break down of some of our services.

The total number of Tornado/Severe thunderstorm/Flash Flood warnings issued by this office during the past year, thirty six (36). These included warnings for Flash Flooding in June 1980 for the Counties of Dunn, Eau Claire, and Chippewa. The warning for the severe thunderstorm that struck the La Crosse area. The massive storm that went through Dunn, Eau Claire, Chippewa and Clark counties although I should mention that the initial warnings were issued by WSFO MKE, for that one storm. Our office has not missed one Severe Weather Watch during the past year. Warnings also were for the flooding that took place in September of 80. Our office was fortunate in that almost all warnings were issued before the storms struck.

In addition our office issued 16 Hydrological statements to keep the people informed as storms were occuring or as a wrap up, because information to the people and communities during and after a storm is almost as important as the initial warning. Also a total of 129 Severe weather statements were issued for the same reason, be it Severe Thunderstorm, Tornado, Flash Flooding, Flooding, Fog, Snow or whatever unusual weather might affect the local community.

This year we started up a rainfall reporting network not just of the Kickapoo River but throughout the 14 counties we are responsible for. Reports from these people are relayed on to the River Office at MSP and WSFO MKE. Initial reports such as these enable myself and my staff to make good judgement decisions on the need for Flash Flooding, or enable the River Office at MSP to decide on river stages for the Mississippi. We also established a workable Flash Flood warning system for the Kickapoo River using Presidents or town clerks to not only relay information to these villages but also to receive vital information back such as initial river stages so that we may be able to forecast a flood stage for those people along the river.

Our office received 1557 phone calls last year, based on the number of contacts on the fifth, fifteenth and twenty fifth, when they are logged. This averages 43 phone calls per day. Our office does not maintain a Ring Through, all calls are answered in person by the Specialist on duty. In this light it must be remembered our office was only operating for 8 hours a day for about 6 months.

I speak at a large number of schools and some hospitals, usually prior to the storm seasons, so that they may refresh their local operations and plans in the event of Severe weather. I also keep contact with the Emergency Government personnel throughout the 14 counties and aid is establishing storm spotters "the eyes of the weather service."

This is in no way a cry from myself, as I feel the job I and my staff did during the past year will enable us to find positions within the National Weather Service, however for the sake of the communities we serve in providing warnings to aid in their safety, and deep weather related deaths to an absolute minimum, I write this letter.

Respectfully,

JOHN F. BORGIA.
Officer in Charge. ●

PRICE FIXING

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GORE. Mr. Speaker, outrage is perhaps an overused word in this town, but I can think of no more appropriate term to describe my reaction to the article in the Washington Post on Friday, August 13 entitled "Antitrust Chief Sees No Evil—Justice Allows Illegal Pricing." The article, an interview with Assistant Attorney General William F. Baxter, explained that the chief of the Justice Department's Antitrust Division does not intend to enforce the law against price fixing when it involves vertical agreements between manufacturers and retailers. Mr. Baxter comments that price fixing between different firms in the chain of sale is fundamentally different than horizontal price fixing between competitors. Although both the Congress and the Supreme Court have said repeatedly that this type of price fixing is illegal, Mr. Baxter had made a unilateral decision not to enforce the Nation's antitrust laws. Such defiance is not new to Mr. Baxter. He has expressed such arrogance on this subject before, but this is his strongest statement to date, and leaves no room for compromise. Not only is he wrong on the substance, but he is dangerously wrong in attempting to run roughshod over two branches of Government. I believe it is time for Mr. Baxter to step down.

VERTICAL PRICE FIXING

At issue is whether it should be legal to allow manufacturers to dictate the price at which retailers must sell a manufacturer's product. The law in this area has been clear since 1911, and was reinforced by the Supreme Court again in 1977. An agreement between a seller and its buyer fixing the price at which the buyer may resell the product is a per se violation of the Sherman Antitrust Act. The courts have said that a seller has no interest sufficient to warrant such a restraint. Vertical price fixing forecloses price competition, it is an unreasonable restraint on a retailer's business, and it unnecessarily harms consumer interests. In 1975, Congress reaffirmed the view enunciated by the Supreme Court by repealing the Miller-Tydings and McGuire acts, thus making it illegal for manufacturers to dictate prices that stores can charge to customers.

The Supreme Court's view is settled law, the congressional intent is clear. Yet, Mr. Baxter has invoked an overriding view, one that annoints him to disregard the policy of the judicial and legislative branches of Government.

THE BAXTER PHILOSOPHY

Mr. Baxter claims that vertical price fixing, like other types of vertical restraints, are beneficial to consumers. He states that manufacturers will not engage in such a practice to restrict the output of this product—a result no one wants—but only to create efficiency—which we should all want. The efficiency he expects is the enhanced effort by the dealer in sales, service, or promotion. Mr. Baxter justifies his position with concern about the free rider problem—that is, where a consumer can learn about a product from a full-service dealer and then can go out and actually buy the product from a discount dealer. The consumer uses the information from the full-service dealer, but does not pay for it—thus, he is a free rider. Mr. Baxter argues that the result is to make it unprofitable for the full service dealer to offer extra services, thus hurting the manufacturer and, ultimately, the consumer. Mr. Baxter appears especially concerned with technologically complex products where he contends the free rider problem is especially pernicious.

WHY BAXTER IS WRONG ON SUBSTANCE

I believe Mr. Baxter is wrong not only from the viewpoint of the consumer and the retailer, but also from the manufacturer's position.

The free rider phenomenon is a market imperfection, but not one that should permit illegal price fixing. Once information is disseminated on a product, a consumer can use this information without having to pay for it. That is, once a consumer is subjected to a sophisticated promotion for a particular product, he can use this knowledge to buy the product from a dealer offering the lowest cost. Unless the manufacturer can force the retailer to offer such services by keeping the price uniform, Mr. Baxter claims that the manufacturer will suffer. But manufacturers have tools to counteract the free rider problem without resorting to price fixing.

Mr. Baxter has chosen to ignore consumer benefits, as well. As Sanford Litvack, Baxter's predecessor at Justice, said, "The cure will result in higher prices and it is worse than the problem."

Baxter, himself, admits that his policy will force consumers to pay higher prices for products. He appears to assume that consumers are ignorant, and he wants to force them to pay additional, possibly unwanted services, such as high-powered promotion campaigns. Consumers can, and should, take care of themselves—if they want a low price from a discounter, they know full well they are not getting such extras from the purchase except a low price. Some consumers want the extra protection the service dealers offer, and they are willing to pay for it.

Despite Mr. Baxter's claim of enhanced manufacturer efficiency from vertical price fixing, I believe this practice is inefficient from a broader view of the economy. Retailers are in a much better position to make decisions about prices. They interact daily with consumers, they know what promotion works, and what does not, and they know the right level of sales training to make a profit. Manufacturers, one step removed, cannot be expected to know changing customer preferences. Any single price dictated by manufacturers will distort market variations between dealers. It also ignores the fact that dealers have different costs and, therefore, must charge different prices. The consumer and the retailer should make choices between price and service based on their experiences and their preferences.

The justifications for the per se rule are ample. The disputed loss to manufacturers is minimal when compared to the consumer benefits. There are much less restrictive ways for manufacturers to successfully market their products without having to set prices. We ought to stimulate dealer competition, not suppress it. We ought to encourage consumers to make choices on the types of products and the prices they want. It is ironic to note that conservative economic policy is founded on the presumption that prices respond immediately to market changes. Yet, in this case, Mr. Baxter wants to prevent markets from working by allowing price-fixing by manufacturers.

MR. BAXTER IS DANGEROUSLY WRONG IN PRINCIPLE

Even if one were to agree with Mr. Baxter's view of economics, he is absolutely wrong to disregard the law. His first mistake is to ignore the fundamental goals of antitrust policy.

Mr. Baxter contends that the goal of our antitrust laws is strictly economic. Or, in the words of Mr. Baxter's colleague, Robert Bork, the goal is "productive efficiency." Yet, while economics may be marvelously efficient, it is not always fair. This is why Senator Sherman, the father of antitrust, said, in 1890:

> If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of necessaries of life. If we would not submit to an emperor, we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of any commodity.

The goal of antitrust law is more than simply economic efficiency. It has a strong political component. The antitrust laws were enacted because there was a fear of excessive concentration of economic power and a desire to enhance individual business freedom. Even granting that some of the antitrust rules do not make perfect economic sense, to ignore them is to ignore the will of the people who wanted these protections enacted into law.

Mr. Baxter evidently believes, as Mr. Bork does, that "Congress . . . is institutionally incapable of the sustained, rigorous, and consistent thought that the fashioning of a rational antitrust policy requires." Mr. Baxter appears equally unsatisfied with the performance of the Supreme Court. His solution is as radical as it is arrogant—he will decide which laws he should enforce and which ones he should not. This is much more than prosecutorial discretion.

The notion that a bureaucrat should make our laws in contravention to the policy of Congress and the Supreme Court offends anyone who cares deeply about the Constitution. Mr. Baxter's approach stands the Constitution on its head—worse, still, it makes a mockery of it. If he does not like the law, he ought to come before Congress and suggest changes. If he does not like what the Supreme Court has done, he can file amicus briefs and/or appeal to the bar through legal journals. But he is sworn to enforce the law of the land.

When President Reagan assumed office, he made an oath to faithfully execute the laws of the United States. Mr. Baxter's actions constitute a failure to fulfill that pledge. This defiance is similar to the unwillingness to prosecute violations of the oil pricing regulations and EPA's recalcitrance in enforcing our environmental laws are two other glaring examples of the failure of President Reagan's promise to the American people to uphold the Constitution.

That Mr. Baxter is a top official in the Department of Justice makes his actions particularly troublesome. We cannot allow our delegated officials to flaunt the laws of this land. If our Constitution is to mean anything, it must mean that the executive branch cannot unilaterally impose its will on the American people. Mr. Baxter, with his strident rhetoric, has breached his promise to the American people and the oath of the President. Mr. Baxter should either faithfully execute the law or resign immediately.●

NATION'S FIRST BALLOON ASCENT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, the Prince Georges' Jaycees is an active business-oriented group in my own Fifth Congressional District in Maryland. Recently, the Jaycees launched a campaign to recognize, through the issuance of a postal stamp, the first balloon flight in this country. The flight took place almost 200 years ago in Bladensburg, an historical Maryland city located just northeast of the District of Columbia.

At the time, Bladensburg was a thriving tobacco port and a man named Peter Carnes was the innkeeper of the Indian Queen Tavern, located beside the Anacostia River. Mr. Carnes was an inventor, aside from many other endeavors, and it was his experiments with hot air ballooning that led to the first flight on June 17, 1784. He sent aloft a multicolored balloon that was 35 feet in diameter and 30 feet high, made of silk with a cylindrical stove of iron suspended at the bottom. The first ascent was unmanned; a few days later, in Baltimore, a 13-year-old volunteer ascended in the basket.

These first balloon ascents were significant achievements in the ultimate evolution of manned space flight. Yet the event has been overlooked by most historians. The Prince Georges' Jaycees want to make sure that Peter Carnes and the balloon flights become known by all Americans.

Bill Aleshire, chairman of the Jaycees committee, and Alice Plaster of the Prince Georges' County Library Art Department, have already designed artwork appropriate for a commemorative stamp. The Jaycees have asked the Citizens' Stamp Advisory Committee to consider their suggestion and the accompanying design. Although the committee has thousands of proposals to consider, I feel the 200th commemorative stamp would be most appropriate and provide, not only information about the historical aspects of ballooning in this country, but inspiration to all the would-be

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Peter Carneses, who have enabled the United States of America to be the leaders in the aerospace industry today.●

THE PLIGHT OF PROF. MARKO VESELICA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. OAKAR. Mr. Speaker, Americans have traditionally defended the cause of human rights. It is important that people of goodwill speak out when they become aware of the plight of an individual who is being persecuted for his beliefs. I would like to bring to the attention of my colleagues and the American people the plight of Prof. Marko Veselica. His wife, Prof. Bozena Veselica and his two daughters, Snjezana and Ives, recently wrote an appeal to the people of conscience throughout the world to help Prof. Marko Veselica in his struggle for truth. The number of people in Yugoslavia prosecuted and sentenced for political reasons have, according to the Amnesty International report on that country, dramatically increased over the past 3 years.

These include a high proportion of Croatian prisoners of conscience, some of whom have been previously sentenced during the purge of 1972, and brought to trial again in 1981. Among these is the ex-Communist and Christian convert Dr. Marko Veselica, whose crime was in permitting himself to be interviewed by the West German publication "Der Spiegel", in which he explained the circumstances of his previous imprisonment, the unresolved national problems and inequities still existing in that multinational country, and the disadvantaged political and economic position of his native Croatia within the Yugoslav federation.

For this Dr. Veselica was sentenced to 11 years' imprisonment and a 4-year ban on public expression of any kind. According to Amnesty International, the majority of Yugoslavia prison buildings are antiquated, and complaints of "filth, desolation, hunger" in addition to "severe overcrowding and inadequate sanitary installations" are frequently heard from prisoners.

Dr. Veselica's health has already been seriously affected by his previous imprisonment under such harsh, subhuman conditions. Because he is a seeker of justice for all elements of Yugoslavia's society, and has committed no crime, his wife and family have addressed the following letter in the form of an "appeal" to the people of the free world with conscience.

This letter previously appeared in the March 1982 issue of Hrvatski Glas—Croatian Voice, published in Canada, and also in the June 1982 issue of "That's Yugoslavia"; information and facts, published by Ost-Dienst in West Germany.

A reprint copy together with this background introduction have been provided to me by the executive officers of the American Croatian Academic Society of Cleveland, who have asked me to lay this information before the Congress, so that its Members professing a sincere commitment to human rights may have a chance to speak out in behalf of Dr. Veselica and the many others like him that have been unjustly tried and are suffering in Yugoslavia's prisons.

I urge my colleagues to read the appeal printed below and to take appropriate action in behalf of this imprisoned Croatian intellectual.

Mrs. BOZENA VESELICA,
Professor, Zagreb, llica 117la

As the wife of Dr. Marko Veselica, the State prisoner in Yugoslavia. I have decided to address myself to you and ask for help. On September 9th, 1981, my husband was sentenced to 11 years imprisonment, although his only sin was that he declared his opinion. this is his second punishment, because he had been sentenced for the first time in 1972, to seven years of severe imprisonment and he had served six years of his sentence in the prison Stara Gradiska. (This prison has been on the list for abolishment for years because it doesn't meet the minimal living conditions).

After he had completed his studies at the Faculty Economics in Zagreb (Croatia) in 1960, my husband became an assistant lecturer at the Department of Political economy. In 1967, he obtained the degree of Doctor of Economics (Ph D) and was elected at the university until 1972, when he was arrested.

My husband was not only engaged in scientific research but he was also prominent in social and political life of the country. He became the member of the League of Communists when he was eighteen and at the Faculty of Economics he was a prominent leader of the Student Union and the member of the Central Committee of the Socialist Youth League in Croatia. In 1968, he became the secretary of the Faculty League of Communists, and in 1969 was elected delegate to Social and Political Chamber of the Federal Assembly of SFRY in Belgrade. He was concerned with the problems of economic and social development in SFRY and participated in conferences and discussions on the basic social and economic problems.

In 1964, he became a member of the Confederation of Trade Unions Commission for education and culture, and after a period of time he was elected president of the Commission fór social and economic relations.

As the result of his work in the Trade Union he was elected delegate to II Congress of the self-managing workers.

In 1971, he was excluded from the highest body of the Trade Unions and it was done without any democratic dialogue, suspended at the Faculty and in spite of his immunity as a people's deputy he was arrested on January, 11th 1972, because all the work that my husband has been legally performing in various political bodies was said to be nationalism and contrarevolutionary activity.

After he had served his sentence under horrible conditions in prison Stara Gradiška, my husband was employed in a small firm GOI in Zagreb, and worked as a traveler with a minimal salary. Although he has never been speaking in public for the three years, some politicians kept talking about him as if he were a people's enemy No. 1. Because of that we have been living under the constant pressure. In September 1980, my husband was interviewed by a journalist from Der Spiegel, in order to say the truth about himself, and to testify about prosecution and events of 1971. This interview caused many troubles and on April, 24th 1981, my husband has been arrested again. Because of horrible conditions in the prison and inadequate medical help he had to undergo an operation.

He was tried from August 31–September, 9th 1981. My husband is a prisoner of conscious because he is charged with declaring his belief and opinion which in no way can be any form of violence. He has been fighting all his life for development, democracy and equality of all the nations as well as against violence and injustice but how he is himself their victim.

The sentence which has been past on him is absurd, unbelievable and is equal to killing of my husband, because he has already served the sentence of six years. This horrible punishment has made me write to you because I still believe that something can be done to help my husband.

I appeal to all the people of good will and ask them for help to influence the Government in Yugoslavia and to make them to reexamine and to quash or at least, to mitigate radically the sentence which is a violation of the rights that the same Government guarantees to all their citizens. I think that the best thing will be if individuals, groups and institutions address themselves to the Government of Yugoslavia and to Government of SR Croatia and if the full truth about the whole case will be presented openly.

Originally my intention was not to appeal across the borders of my country, but I was forced to do so because in my country nobody has will and strength to help. I have addressed myself to all the leading politicians in Yugoslavia (there are 30 of them) while my husband was seriously ill in a hospital, but only answer was the eleven years imprisonment.

Our belief is that you will support us in our efforts.

Sincerely yours
TNES VESELICA, *(daughter).*
PROF. BOSEUS VESELICA,
(wife).
SYERANA VESELICA,
(daughter).●

BALANCED BUDGET FLIMFLAM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. OBEY. Mr. Speaker, recently we have witnessed the spectacle of an administration which has asked the Congress to pass the largest deficit in history engaging in a diversionary operation to take peoples' attention away from the ludicrous nature of these deficits by posing as the champions of a constitutional amendment to balance the budget.

The budget should be balanced in years of full employment in order to pay back Treasury borrowing that occurs at other times. But the constitutional amendment sham being enticingly dangled in front of the American public today is a prescription for making recessions deeper and longer and more painful and it is a prescription for minority rule—the very antithesis of the constitutional principle of majority rule built into our system by our Founding Fathers.

I am inserting in the Record at this time two newspaper editorials from my home State—one from a traditionally Republican newspaper, and the other from a usually Democratic newspaper. I am also inserting three excellent articles by Tom Wicker, David Broder, and James Kilpatrick which put into perspective the sham game being played by this administration and many people in this Congress as well.

I also invite Members who are interested in a balanced budget to quit posing about actions they will take 6 years from now to balance the budget and start addressing the need to get today's budget deficits under control now.

The articles follow:

[From the Milwaukee Sentinel, July 14, 1982]

Upstream Pollution Boosts City's Costs

All the talk these days about Milwaukee's massive sewer modernization project can leave a person numb.

But amid all that rhetoric, two legitimate points were raised last week and both bear more looking into by all the officials concerned. Since both have a direct effect on taxpayers, they also should be of concern to the public.

One of the points was made by Mayor Maier and it's a good one. What sense will it make, Maier says, to have the Milwaukee Metropolitan Sewerage District spend $1.6 billion to clean up the pollution in the district if outlying communities continue to pollute the rivers that flow through the district?

That pollution, called runoff or non-point pollution, much of it from farmlands outside the district, has the potential, Maier said, "to negate much of the improvement" in water quality which the district will achieve at such great cost.

It is obvious that the district must proceed with plans to abate the pollution it generates—and those who live in the district must be prepared to share in the cost—but, as Maier noted, what will be accomplished if the non-point pollution is allowed to continue uncurbed?

Maier has asked a task force he appointed to further study pollution from outside the district and review the district's construction schedule. Carroll Besadny, secretary of the State Department of Natural Resources, responded in a letter to Maier that control of upstream pollution depended "on the voluntary participation of landowners and the interest and cooperation of local units of government."

The problem of non-point pollution is just one more reason why the state should not force the district to proceed too rapidly with its construction schedule.

On another front, a New York investment banker recommended last week that the district should finance the huge cleanup through a combination of borrowing and "pay-as-you-go." The idea, he said, would be to maintain a level tax rate, without significant fluctuation, over the years it takes to finance the project.

While the idea obviously requires more study, it appears to be sound. If he has a better idea of what the annual cost will be, it certainly should make it easier for the taxpayer to shoulder the burden of paying for the cleanup.

[From the Milwaukee Journal, Aug. 7, 1982]

Deceptive "Apple Pie" Amendment

"It's quite hard to explain why you are not for motherhood, or low interest rates or a balanced budget."—Senator John Chafee of Rhode Island.

Chafee's wry comment probably explains why many senators voted for the "budget balancing" constitutional amendment in spite of the serious damage that it could do to the orderly processes of government.

Commendably, Chafee chose not to join the stampede. We regret that Wisconsin's Sens. William Proxmire and Robert Kasten didn't show comparable courage.

On the surface, a vote for the amendment was like a vote for apple pie and the Fourth of July; while a vote against it—even for the soundest of reasons—might look too much like a vote for big spending.

Actually, the amendment has no bearing whatever on the mind-numbing deficits that loom over the next few years. If the House quickly follows the Senate's lead and adopts the measure, it still will have to go through a long ratification and implementation process before being put into effect.

Even for the long run, the measure's impact on deficits is somewhat debatable. The amendment apparently would make it harder for Congress to adopt an unbalanced budget and harder to raise the federal debt ceiling. Three-fifths of the membership of both houses would have to approve, except in wartime. But the measure would not prevent economic recessions, which are one of the main causes of deficits. On the contrary, by limiting the government's policy options, the amendment might make recessions more likely.

Some advocates of the amendment argue that it is a necessary goad to the lawmakers. "We don't have the appetite to limit ourselves," says Sen. John East (R-N.C.). That problem can be remedied at the ballot box. Tying the hands of future Congresses isn't the answer.

Although today's record deficits are cause for genuine concern and appropriate action, deficits are not always bad. Economic depressions or other emergencies can make it temporarily necessary to spend money more than taxpayers can afford to.

The constitutional amendment presents two other serious problems. First, it would clutter the Constitution with what is at best a legislative rule. That's like drawing whiskers on the Mona Lisa. The Constitution is an elegantly simple document that should not be altered except for compelling reasons. Second, the amendment would install minority rule, allowing 41 of the 100 senators or 175 of the 435 representatives to dictate the terms of the federal budget. That is intolerable in a country committed to democratic government.

The Biggest Hoax

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes," The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year $750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from $140 billion to $160 billion, even after approval of the proposed $90 billion tax increase for the same years. Without a shred of evidence other than voodoo throbbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of $214 billion for 1983, $243 billion for 1984 and $279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.

[From the Milwaukee Journal, Aug. 10, 1982]

COWARDS IN CONGRESS

(By David S. Broder)

After summarizing the copious arguments for the ratification of the Constitution in the last of the Federalist papers, Alexander Hamilton gave vent, briefly, to the emotions he felt as he contemplated the choice before the infant republic:

"The establishment of a Constitution, in a time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."

Last week, the Senate of the United States voted for an amendment to the Constitution to require a balanced budget, except in time of war or by vote of 60 percent of both houses of Congress.

This is what a U.S. Sen. John G. Tower of Texas offered as a rationale for his vote:

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States. We are unable to discipline ourselves to do what we should do and, therefore, we feel constrained to try to institutionalize that discipline in the Constitution.

"This is a matter that should not really be in the fundamental law of this land. * * * Because I think it should be submitted to * * * a referendum and because I think there should be a great national debate on this issue, I intend to vote to report the amendment. However * * * I would be deeply delighted to testify against its ratification."

What a commentary on the condition of public life and leadership in this republic.

When but recently liberated from colonial status, men of influence were prepared to risk "their lives, their fortunes and their sacred honor" for the ratification of the charter of this nation's being.

Today, this rich and powerful nation is governed by people who are prepared—against their better judgment—to forward, for inclusion in that charter any kind of simpleminded scheme they think commands a popular majority.

The point is not to condemn Tower. His own words do that. The rationalization he offered was, in fact, adopted by the leaders of the Senate. Majority Leader Howard H. Baker, Jr., of Tennessee used it to solicit votes. Minority Leader Robert C. Byrd of West Virginia employed it in explanation of his own tortured vote.

Not to worry, they said. It's just a harmless little old constitutional amendment, which happens to shackle the national government and prevents it from conducting a national economic policy, which transfers to a minority of 40 percent the power to set fiscal policy, meaning, among other things, the capacity of this country to defend itself and to secure the general welfare—the fundamental purposes of creating the national government.

But, they said, the House may not pass it. Legislatures may not ratify it.

Don't you believe it. Cowardice is contagious. Already, one hears House leaders saying it might be smart to let the members vote for the amendment, in a slightly different form, to "protect themselves" for election purposes, and then hope that it dies in a House-Senate conference committee.

But the conferees will not withstand the heat—nor will state legislators—unless someone decides to stop the buck-passing and vote on conviction. In the Federalist papers Hamilton explained that the procedure for amending the Constitution was made difficult so that "the judgments of many must unite in the work (and) experience must guide their labor."

Hamilton did not reckon with the kind of leaders we have today, who are all too eager to suspend judgment, ignore experience and avoid responsibility.

It is a different kind of "trembling anxiety" one feels when the Constitution falls into the hands of such people.

[From the St. Paul Pioneer Press, Aug. 16, 1982]

WRONG WAY TO BALANCE FEDERAL BUDGET

(By James Kilpatrick)

WASHINGTON.—The proposed constitutional amendment to compel a balanced federal budget offers a regrettable but familiar combination often seen on Capitol Hill. The resolution is a mishmash of good intentions and bad law.

Since the days of John Randolph of Roanoke, who defined pay-as-you-go as "the philosopher's stone" of wise government, almost everyone has proclaimed the virtues of a balanced budget. This is the ideal. There is nothing wrong with the ideal. The problem lies only with members of Congress who have despoiled it and with the people who have voted these members into office. Barring periods of true national emergency, of course our government should spend no more than it takes in.

There is much to be said, also, for the argument that the only way to restrain our irresponsible lawmakers, who have spent us into a trillion-dollar debt, is to deny them the money in the first place. The theory is that they can't spend what they don't have. It is supposed that the constitutional amendment would provide precisely such a restraint. At the very least, the amendment would raise a symbol that honorable men could repair to.

But for the past 10 years, we have heard some of these same arguments about the ill-fated ERA amendment. It would have provided that "equality of rights under the law" shall not be abridged on account of sex. The ERA never would have accomplished what its proponents believed it would have accomplished; and the notion that constitutional amendments are "symbols" is a notion that ought to be abandoned.

The resolution adopted by the Senate on Aug. 4 is flawed in a dozen ways. It undertakes to write statutory law into the Constitution, and this always is a bad business. In Section 2 of the amendment, it is proposed to limit the rate of increase in annual receipts, but the formula by which this would be fixed is a formula composed of algebra and moonbeams.

The Congress and the president, says this amendment, shall ensure that actual outlays do not exceed a statement of proposed outlays, but there is no way under moon or sun that this provision could be enforced. It is generally forgotten, but we already have a law to this identical effect. Under Section 7 of Public Law 95-435, adopted in October 1978, it is specifically provided that, "Beginning with Fiscal Year 1981, the total budget outlays of the federal government shall not exceed its receipts." This already is part of the supreme law of the land, and no one has paid a particle of attention to it.

Extended analysis would be a profitless exercise. The political and parliamentary situation in the House suggests that the amendment is dead for this session. Like T. S. Eliot's famous patient, the Senate's amendment now lies etherized upon a table. It is sleeping in the House subcommittee on monopolies and commercial law. This is Chairman Peter Rodino's personal operating room, and Dr. Rodino is a skilled operator.

It is conceivable, though barley conceivable, that the chairman could set aside his own opposition to the amendment and in the name of democracy let the resolution move toward floor consideration. The alternative is for the resolution to be bombed out of its unlikely abode by a petition for discharge. Such a petition requires 218 signatures, and these will be hard to come by.

Suppose the 218 signatures were obtained. Seven legislative days must then elapse. A resolution thus press-ganged then may be called up on the floor, but only on the second or fourth Mondays of each month. Aug. 16 is out; the House will be in recess on Aug. 30; Sept. 13 is a possibility, but only if the seven-day requirement has been met; Sept. 27 is Yom Kippur, when nobody's home; the Congress is expected to adjourn well before Oct. 11, which happens also to be Columbus Day.

If we want balanced budgets, the answer lies not in the straw fetters of this amendment, but in the election of responsible representatives. The whole House and a third of the Senate will be up for election in November. If the deficits get worse, let us blame them—but let us blame ourselves too.●

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THE 97TH CONGRESSIONAL CLASS FOR SOVIET JEWRY

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COATS. Mr. Speaker, I rise today to bring to the attention of my colleagues the dilemma of Mikhail and Luibov Gart, Soviet refuseniks who are seeking exit visas permitting emigration to Israel.

Mr. Gart was a surgeon at a local hospital, and his wife was employed as a teacher of Russian, when Mr. Gart applied for an exit visa in October 1979. After making their application, they were dismissed from their respective jobs. One month later, they were informed that they and their two young children were being denied permission to emigrate to Israel, where they wished to join an aunt. The Soviet authorities based their refusal on insufficient kinship.

The Garts reapplied for an exit visa in March 1980. This request was also denied.

The Gart case is only one of many similarly flagrant violations of the human rights of Soviet Jews. The 9,447 exit visas granted in 1981 represent the lowest number granted in a decade. It represents an 82 percent drop from the total of 51,320 exit visas granted in 1979. This reduction seems to indicate a deliberate policy on the part of Soviet authorities, and has caused great concern among Soviet Jews, who had come to believe that emigration, at least that based on repatriation to Israel to reunite families, would continue at some respectable level.

Additionally, the drastic decrease in the number of visas granted coincided with a wave of harassments and imprisonments among refuseniks. Arrests of Soviet Jews and sentencing them to extremely harsh prison terms continued at an unprecedented rate. The KGB issued threats of exile to Hebrew teachers, confiscated Jewish books, and harassed those assembled at Jewish meetings. Refusenik scientists were denied the rights to employment, to publish, and to lecture. In some cases, their educational certificates were rescinded. Soviet authorities have propagated a deluge of anti-Semitic propaganda via the state-controlled press and media. All of these blatantly anti-Jewish actions have made life for Soviet Jews increasingly oppressive and bleak.

Mr. Speaker, I commend those of my colleagues who exercise continuing efforts in behalf of Soviet Jewry. However, much remains to be done before these individuals can enjoy the level of freedom and respect which they rightly deserve.

Mr. Speaker, I hope we will continue to work actively to end this abhorrent oppression of Soviet Jews. Only after all people are accorded the proper degree of human rights and dignity can any of us fully enjoy the great blessings of liberty.●

YOUNG PEOPLE AT WORK: AN EXEMPLARY PROGRAM

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DWYER. Mr. Speaker, I had the great honor to visit a very special project in my district earlier this month that truly exemplifies what can be done when Federal and local resources are combined effectively for the betterment of our communities.

One hundred and twenty young people spent the past month rehabilitating the Lord Stirling School in New Brunswick, N.J., which first opened in 1910.

The average age of these youths is 14, and thanks to their dedication, talents, and energy, the school's 37 classrooms have a new look. They had not been painted in 16 years.

The project was organized under a special comprehensive employment training Act summer program, where youths are afforded their first job experience. This is the eighth school finished by students under the program in our area.

Former program participants serve as counselors for the youths, who work from 8:30 to 2 and are paid the minimum wage. Under a private contractor, the job would have cost approximately $60,000.

After visiting with the youths and seeing their fine work, I left with a deep feeling of respect for them and pride in the fact that a partnership with the Federal Government helped make it possible.

These young people are the hope for our future, and worthwhile programs like this one help them prepare for that future. This program saves money and helps people. Its success—buoyed by enthusiastic participants and a dedicated staff—signals the great promise of our youth when positive growth opportunities are made available to them.●

THE NUCLEAR FREEZE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. RITTER. Mr. Speaker, the nuclear freeze debate promises to remain on the public agenda for some time. Recently, a group of Scandinavian freeze advocates tried to take the debate into the Soviet Union; they met with little success. As recounted in the following articles from the New York Times, their efforts did not reach the Soviet people; instead, they were exploited by the KGB, serving the cause of Soviet propaganda. These articles should give some of my colleagues insight into the cynicism of the Kremlin, and make them think twice about the practicalities of negotiating a freeze with the Russians. The following account from the Wall Street Journal of the incarceration and torture in a Soviet mental "hospital" of Sergei Batovrin, the leader of the independent Soviet peace movement, should give further pause to the freeze proponents, who should ask themselves whether, like the Scandinavian peace marchers, their noble aspirations are also being exploited by the Kremlin in the cause, not of peace, but of Soviet propaganda.

[From the New York Times, July 22, 1982]

"PEACE MARCH" MEETS SOVIET BARRIERS

Moscow, July 21.—A group of 200 Scandinavians arrived here today at the midpoint of a series of carefully regulated rallies that have generated strains between the group and its hosts, the Soviet Committee for the Defense of Peace.

The venture has been presented in the Soviet press as the counterpart of marches staged by antiwar groups in the West. But from the moment the Scandinavians crossed the border from Finland last week, their undertaking, labeled "Peace March 82," took on an unmistakably Soviet character.

It is highly unusual for Westerners to be allowed to mount any kind of demonstration in the Soviet Union. An unauthorized group of Western Europeans learned this when they tried to unfold a peace banner in Red Square in May. They were promptly seized and interrogated and left the Soviet Union the next day.

ORGANIZATION OF MARCH IS COMPLEX

In allowing the present march, the Soviet Union apparently had purposes of its own to serve. It has backed antiwar sentiment in the West in the hope of forestalling the introduction of new American nuclear missiles into Western Europe and the buildup of the United States' strategic arsenal.

Since much of the Western protest has been directed at the United States, with little attention to Soviet weaponry, the stance has been relatively riskless.

Holding Western-style rallies in the Soviet Union, however, has not been so simple. When the Scandinavians proposed the undertaking last year, they became embroiled in detailed negotiations with the Soviet Peace Committee. Meetings here and in Denmark produced an agreement that the march would be dedicated to nuclear disarmament in general and would not become a forum for political contention.

The wording on banners was worked out in advance, with agreement on three formulations: "No to nuclear arms in Europe, East or West," "No to nuclear weapons everywhere" and "Yes to disarmament and peace." A six-city itinerary was drawn up, including Leningrad and Moscow and ending in Minsk. The number of Scandinavian participants was limited to 300.

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Tensions began to build at the first stop, the town of Vyborg near the Finnish border. The Scandinavians were upset to find Soviet participants in a rally hoisting placards denouncing the plan to place new American missiles in Western Europe. One placard depicted President Reagan astride a *neutron* bomb.

Protests were made to Grigory M. Lokshin, a Soviet Peace Committee secretary, but similar placards appeared in Leningrad. Soviet officials said they were unable to prevent people they called spontaneous demonstrators from introducing their own themes.

Later, when the marchers walked to a World War II memorial in Leningrad, members of the Young Communist League followed at a discreet distance with anti-American placards. Officials said this was a separate undertaking.

STREET CLEARED FOR MOSCOW MARCH

Marching has been cut to a minimum, with officials saying that the long distances involved do not permit parades. Where marches have been permitted, they have been tightly constrained. On arrival here, the marchers walked a mile along Prospekt Mira, a major thoroughfare, which had been closed to traffic. Sidewalks were dotted with plainclothesmen of the security police carrying umbrellas for identification on this clear summer's evening.

Soviet speakers have ignored the agreement to avoid political themes, advocating acceptance of Soviet proposals for disarmament. Scandinavian speakers have been more restrained, but a Swedish woman showed her impatience at one Leningrad gathering by asking why the Soviet Union did not move beyond speech-making and begin disarming while challenging the United States to do likewise.

The visitors have dealt with one potentially difficult issue by ignoring it. An independent peace group sprang up here last month, and its members have been harassed by the security police. A few days ago two members were sentenced to 15 days' detention in what relatives said was a move to keep them away from the Scandinavians.

The Scandinavians have said that they have no intention of meeting with the group, and a Danish reporter who discussed the matter with them was later told by a Soviet official that he was engaging in provocative activities.

One of the marchers, Janne Houman, who is chairman of Women for Peace in Denmark, said "it would not be fair" to Soviet officials to meet with people who were in official disfavor.

[From the New York Times, July 26, 1982]

300 Nordic Protesters March in Soviet

(By John F. Burns)

Moscow, July 25.—A group of 300 antinuclear demonstrators from four Nordic countries left Moscow today for rallies in Smolensk and Minsk, some convinced that their tightly organized meetings and marches had advanced their cause and others exasperated with what they regard as manipulation by their Soviet hosts.

A high point of the two-week tour, called "Peace March '82," was reached yesterday with a parade along Gorky Street in the heart of Moscow. It was the first time in memory that Westerners had been allowed to stage such a demonstration in the Soviet capital, but the results were disappointing for the visitors.

The parade, half a mile along a thoroughfare that was closed for traffic, began nearly two hours late. There was a steady drizzle and the thin line of people watching from the sidewalks offered almost no response. Many appeared baffled and uncertain how to react when participants approached them with embraces and cries of "Mir!" meaning peace in Russian.

The event summed up the difficulties confronting the Swedes, Finns, Danes, and Norwegians particpating in the tour. Mainly women, they hoped to mount a counterpart of the marches that have drawn widespread support in Western Europe in the past year. But they have been trammelled by agreements reached beforehand to remain within official channels and by Soviet officials' insistence on treating them, as one disaffected participant put it,"like peace tourists." In the parade on Gorky Street, the visitors held to their pledge to remain politically neutral. They were led by a group of women in flowing pink caftans, carrying a banner mounted with a styrofoam dove. They sang protest songs, some of them borrowed from the American struggles for civil rights and against the Vietnam war, and their placards were restricted to prearranged slogans, such as "no to nuclear weapons in the whole world."

When an unidentified interloper, speaking fluent Russian, attempted to prompt the visitors into a chant against President Reagan, those at the head of the line vigorously waved him away.

But there were many who felt that Soviet officials had broken their side of the pact. The parade was rescheduled for late morning without notice, perhaps to foil potential demonstrations by Soviet dissidents. The route ran from below Red Square and moved away from the city center, not towards the Kremlin as the visitors had previously been told.

There were more serious objections which culminated in an inconclusive meeting at which the visitors' leaders sought explanations from the Soviet Committee for the Defense of Peace, the official body that was host for the tour. A major criticism was that Soviet speakers throughout the visit here, and previously in Leningrad, made polemical speeches calling for acceptance of Leonid I. Brezhnev's recent series of disarmament proposals, in breach of a mutual pledge to keep the meetings broadly for disarmament and not politically edged.

The issue was broached early in the visit, when Soviet demonstrators bused in for rallies hoisted placards lampooning President Reagan and accusing the West of fomenting an arms race. These disappeared, but Soviet speakers lost no occasion subsequently to demand a response from the United States to Mr. Brezhnev's pledge that the Soviet Union would not be the first to use nuclear weapons, and to other Soviet initiatives.

Another frustration was the Soviet effort to keep the visitors away from spontaneous contacts with ordinary Russians. A phalanx of K.G.B. security policeman were in evidence wherever the marchers went and access to most of the meetings and parades was by permit only. Much time was spent on tourist visits, and Soviet press reports reworded several of the visitors' speeches to make it seem that they were directing their appeals only at Western governments, not at Soviet and Western authorities equally.

The visitors agreed from the outset that it would be inappropriate for them to have contacts with an independent group that has been harassed by the K.G.B. since it was established last month. In any event, officials saw to it that contacts were inhibited by cutting off the telephones of the group's leaders just before the marchers arrived, and by placing two of the leaders under 15-day detention orders.

[From the Wall Street Journal, Aug. 13, 1982]

The Soviets Freeze a Peace Worker

(By David Satter)

The news that Sergei Batovrin, the 25-year-old leader of the independent Soviet peace movement, was seized last week in Moscow and put in a mental hospital should be of particular concern to people in the nuclear freeze movement.

Mr. Batovrin's goals were much the same as theirs. He wanted meaningful disarmament based on mutual trust. And he understood that this was possible only if both governments involved displayed at least a minimum of honesty.

I knew Mr. Batovrin well in Moscow and I was struck by how much he resembled an American, the effect, no doubt, of growing up as the son of a high-ranking Soviet diplomat in Washington and at the United Nations in New York.

In a country where suspicion is all pervasive, he was notable for his openness and lack of suspicion. Facing an almost intolerable conflict of values within his family and with his government, he had an endless capacity for optimism. His life in the Soviet Union has taught him the nature of political evil—a lesson which Americans, with our favored history, seem unable to learn. Otherwise, Mr. Batovrin, with his decency and sincerity, is the type of person who might easily have grown up in New York or Washington to become a leader of the U.S. peace movement.

I learned the details of Mr. Batovrin's life story in Moscow long before the independent Soviet peace movement existed, even as a possibility. They are worth retelling now that he has been put in a mental hospital, because his experience illustrates the nature of the Soviet state.

Mr. Batovrin is the son of Yuri Batovrin, who was attached to the Soviet U.N. mission from 1965 to 1970. The younger Batovrin grew up in New York believing that his distant Soviet homeland was the freest country in the world.

Sergei's youthful view of the world was uncomplicated by doubt except for one incident in 1968. He remembers, as a child of 11, looking out the windows of the Soviet U.N. mission at a demonstration against the invasion of Czechoslovakia and being troubled by the sign-waving demonstrators.

It occurred to him: What if everything that he had been told about the Soviet Union was a lie? He tried to drive the question out of his mind but could not free himself of the nagging thought.

HE TOOK FREEDOM FOR GRANTED

When Sergei returned in 1970 to the Soviet Union, it was to a country that he hardly knew. Like anyone who has grown up in the U.S., he had taken freedom for granted. So when he found himself suddenly deprived of it and forced to participate in collective Communist rituals, which were described to him as examples of "genuine" freedom instead of the "merely formal" freedom he had had in the U.S., he concluded that not only was his elite Soviet school based exclusively on lies but so was the entire country.

Sergei Batovrin found himself adrift in a world without signposts where the only rule seemed to the necessity to lie and where the lies had their own weird consistency. The Soviet Union had a parliament but it always voted "yes." There were newspapers but they contained no information. There was a party that expressed the will of the people yet shunned all contact with the people. Amid the constant talk of "peace" were disturbing signs everywhere of a country preparing for war.

In school, young Batovrin became adamant on the subject of Czechoslovakia. He asked, in his history class, what right the Soviet Union had to invade a neighboring country in peacetime to determine its internal policies. Typically, the teacher would begin to scream, "How dare you speak about Czechoslovakia when 200,000 Soviet soldiers died there?" As the result of these dialogues, the boy was expelled from high school.

In the early 1970s, alienated and with time on his hands, Mr. Batovrin became a hippie. There were 3,000 to 4,000 hippies in the Soviet Union at the time, almost all of them children of successful figures in society. The hippies wore their hair long, painted their clothes and hitchhiked all over the country. They didn't want to reform Soviet society. They wanted to avoid it.

The authorities took the hippies seriously as a threat to youth. They were arrested on sight and beaten with brass knuckles or placed in mental hospitals where they were given injections of insulin which caused convulsions, excruciating pain and wild variations in body temperature. At one time there were believed to have been 1,500 hippies in Moscow who had been forcibly treated in mental hospitals. Most were teenagers.

Mr. Batovrin grew disillusioned with the hippies though he hadn't been beaten or put in a mental hospital. He had begun to paint and, living in Soviet society, he sought a positive alternative.

He wanted to know whether it was possible to create channels of truthfulness in Soviet society that could be the basis of a subculture in which it would be possible to live honestly. His subsequent experiences convinced him it wasn't possible.

He was discouraged first in the aftermath of an attempt by his father to rehabilitate him as a Soviet citizen. Young Batovrin had graduated from high school by taking courses at night and his father had succeeded in getting him a place at the Institute of International Relations and the World Economy (IMEMO). In a compromise with his father, Sergei agreed to enter.

IMEMO is the most privileged training ground for the Soviet political elite. Yet what struck Mr. Batovrin about his fellow students was their total lack of interest in politics, much less in communism. In fact, the institute proved a hub of commercial activity. Almost all of the students were children of Soviet officials posted abroad and as packages were received from New York, London and Paris, each student weighed deals and contacted potential buyers. It began to seem to Sergei that IMEMO was less an institution of higher learning than an extension of the black market.

After leaving IMEMO in 1975, Mr. Batovrin took a step which anticipated the formation of the independent Soviet peace group seven years later. With other young artists, he tried to organize an independent exhibition of their work. The KGB learned of their plans and warned Mr. Batovrin not to hold the exhibit. He persisted and was put in a mental hospital for two-and-a-half months where he was treated with Aminazin and other debilitating drugs.

PREVENTED FROM EMIGRATING

In the aftermath of his forcible hospitalization, he gave up hope of creating a degree of freedom for himself within Soviet society or of reconciling his Western outlook with the dictates of a totalitarian regime. He applied to emigrate with his wife but for five years was prevented from leaving by the resistance of his father. By the time Yuri Batovrin relented, in 1981, emigration was no longer a realistic possibility. Only a handful were being allowed to leave.

When he organized the "Group to Establish Trust Between the U.S.A. and the U.S.S.R.," Batovrin faced the prospect of remaining in the Soviet Union for the rest of his life, and he responded by mounting a direct challenge to the Soviet authorities on the issue that had alienated him from them in the first place, the issue of truthfulness.

All military information, no matter how insignificant, is tightly guarded in the Soviet Union. The authorities need not have feared that the independent peace group would have revealed the scope of the Soviet military buildup, which can only be guessed at by ordinary citizens in Moscow.

The danger presented by people like Mr. Batovrin was that they could give Western peace compaigners some idea about the nature of Soviet society and the extent to which anyone who takes Soviet statements at face value is doing so at his own risk.

The current incarceration of Sergei Batovrin in a mental hospital, where he may be given drugs that have severe side-effects, reflects Soviet confidence that the American peace movement won't understand that it has lost its one channel for learning from brave people on the inside what it needs to know about the nature of the Soviet Union's global intentions.

The Soviet authorities can be counted on to continue to encourage the American peace movement publicly but there is no better indication than the seizure of Mr. Batovrin of their underlying lack of respect.●

A TRIBUTE TO HENRY FONDA

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. RICHMOND. Mr. Speaker, the American stage and screen will sorely miss the remarkable talents of a man whose contributions touched millions of people across the world. Through his skillful characterizations, America's history was brought to life. He has shown us joy, sorrow, tragedy, and hope.

Mr. Speaker, I join with my colleagues in honoring Henry Jaynes Fonda, one of America's most distinguished actors, who passed away August 12. Henry Fonda will be missed, but we will still feel his strength and sensitivity in such classic American films as "Young Mr. Lincoln," "The Grapes of Wrath," and "My Darling Clementine." This strength and sensitivity were combined in his Academy Award-winning role of Norman Thayer in the film "On Golden Pond," which portrayed the fear and anguish of old age with the expectations and vitality of youth. My good friend Henry Fonda exemplified this youthful enthusiasm for life as he continued to bring vitality to his work as a lifelong artist.

Henry Fonda directly experienced the significance of the arts and supported their continued growth. He pursued this belief passionately by actively working with local theater groups from his home State of Nebraska. I experienced this driving conviction through my close association with Mr. Fonda when he assisted me with Federal legislative efforts which would enable individuals to contribute a portion of their tax refunds for the arts. As chairman of the National Council for Arts and Education, a nonprofit organization formed to educate the public regarding these legislative proposals, he served as an eloquent spokesman in support of the arts. His dedication and untiring efforts will be missed by persons across America.

Mr. Speaker, it is with great honor and respect that we mark the passing of Henry Fonda. Certainly he will not be forgotten—his many films serve as a tribute to the man whose life in many ways paralleled the great Americans he portrayed.●

SCHOLARSHIP FUND SPONSORED BY BUSINESS GROUP

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the recent initiation of a scholarship fund sponsored by the Prince Georges County Chamber of Commerce Foundation. This fund will undoubtedly benefit the young people of Prince Georges County, Md., and serve as a model for other business organizations.

The Prince Georges Chamber of Commerce has long been a leader in providing outstanding community service. The group annually sponsors an awards ceremony for our police and firefighters, and promotes a trade fair to bring new industry to the county. Their support has been invaluable to the continued economic growth of our area.

The scholarship fund will enable eight young Prince Georges residents to receive $1,250 each toward their education at Bowie State College. The fund was endowed by the sale of land owned by the Chamber of Commerce Foundation, and it is anticipated that in the future the scholarship program will include other institutions of higher learning.

An exciting feature of the scholarship fund is one that ties grants to a student work/study program. Wherev-

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er possible the recipients will work in part-time jobs in fields related to their career interest. I find this aspect of the program most intriguing, for it permits a student to familiarize himself or herself with a career choice while adding even more to the total scholarship award.

The awards will be made based on criteria developed by chamber representatives in conjunction with Bowie State College President Dr. Rufus Barfield. Residents of the county are eligible if they are willing to live offcampus and work during the school year for up to 20 hours a week. Nominees must be enrolled full time in the school of economics, the school of communications and media or the school of performing arts.

During the past year, the Government has reduced funding for both student loan programs and for job training programs. Because of this cutback, it becomes even more crucial for the business community to support programs such as that initiated by the Chamber of Commerce Foundation.

Mr. Speaker, I hope that more businesses and organizations follow the lead of the Prince Georges County Chamber of Commerce Foundation. Their investment in the education of our youth will certainly translate directly into an investment in the economic future of our country.●

PRAISE FOR DR. E. T. YORK

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FINDLEY. Mr. Speaker, recognition is extended all too seldom to Americans who quietly serve their country, but whose contributions are nonetheless of far-reaching importance. It is therefore with particular pleasure that I provide for the CONGRESSIONAL RECORD a letter sent to President Reagan by the American Ambassador to Egypt, Alfred L. Atherton, Jr., on the Presidential mission to Egypt led by Dr. E. T. York.

Dr. York, chancellor emeritus of the University of Florida and vice chairman of the board for International Agricultural Development (BIFAD), and his distinguished team have completed an important study on strategies for accelerating agricultural development in Egypt. If the mission's recommendations are carried out, the benefits will be substantial not only for the farmers and the people of Egypt, but also for the area generally and for U.S. interests there. The outlook for the mission's recommendations is especially promising because of Dr. York's ability to communicate with the Egyptian leadership as well as applying his expertise to agricultural problems in that country.

The Subcommittee on Europe and the Middle East, of which I have the honor to be the ranking member, has scheduled a hearing for Tuesday, August 17 at 2 p.m. in room 2255 of the Rayburn Building at which Dr. York is to give us a report on his mission. All interested persons are invited to attend.

Following is the letter to the President from Ambassador Atherton:

EMBASSY OF THE
UNITED STATES OF AMERICA,
Cairo, Egypt, June 22, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your recently-delegated Mission to Egypt to assess prospects in the important agricultural sector has completed its work and presented its draft report to the Government of Egypt. By any standard, it was an important contribution to our policy objectives in Egypt.

Commissioned by AID Administrator Peter McPherson, and led by Dr. E. T. York, retired Chancellor of the University of Florida system, the Mission outlined the promising potential of modernizing agriculture in the development of this nation and suggested the main lines of development to be followed. The quality of the team was outstanding, and its analysis comes at a time when Egypt is looking for new ways to address its development problems.

Based on the work of the Mission, and of the Agency for International Development, I believe we may have an important opportunity to be responsive to Egyptian development concerns in the agricultural and other sectors in a way that can enhance the country's future and serve our interests in the region.

I have written because of your recognition of the importance of our development activities here and because of the success which the Presidential Mission has had. Thank you for your personal and continuing interest in this important aspect of our work.

Sincerely,

ALFRED L. ATHERTON, Jr.,
American Ambassador.●

THE ALLIANCE OF POLES OF AMERICA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. OAKAR. Mr. Speaker, I would like to acknowledge the Alliance of Poles of America for their continued services to the State of Ohio. With its headquarters in Cleveland, this group has promoted community involvement for the past 87 years. Helping to keep the Polish culture alive, the alliance sponsors projects from folk dances to scholarships.

To celebrate their remarkable accomplishments and develop new plans for the future, a convention will be held September 6 to 8 in Cleveland.

I am proud of this alliance, for they are a credit to the community and have set standards for others to follow.

The "Alliance of Poles in the State of Ohio" was founded on September 22, 1895 by a group of Polish people in Cleveland. Using the philosphy "Strength through Progress," this organization has expanded its services to an area which now encompasses the States of Ohio, Michigan, and Pennsylvania. The society assumed its present name of "The Alliance of Poles of America" in 1914.

Realizing the necessity to communicate with its members, the founders began to print a weekly newspaper, "The Alliancer" or "Zwiazkowiec." Today, this publication under the direction of the editor, Roman Trepczyk, is now mailed directly to the homes of the members biweekly.

The primary function of this organization is providing life insurance for its members at minimum rates. The different types of insurance policies available are: Juvenile 16-year endowment, 20-year endowment, 20-year pay life, paid up at age 65, and paid up at age 85. As a conscientious organization striving to further help their members, the maximum amount of coverage has recently been increased to $25,000. As an added service, mortgage loans are granted at low rates of interest.

The present headquarters, located at 6966 Broadway Avenue in Cleveland, Ohio, were built in 1925. This facility houses the executive offices, the Federal Credit Union, the editor's office, and a library containing books in both Polish and English languages. It also contains a beautiful ballroom, several meeting rooms, and a private clubroom.

The governing body of this organization consists of the following: President, Bernard Michalski; vice president, William Tanski; lady vice president, Genevieve Sandej; secretary, Marie Kroll; treasurer, Stella Reklinski; and directors, George Jankowski, Henry Banaszak, John Wetula, Michael Jankowski, Ray Fronczak, Estelle Kar, Edward Oszust, Stella Czarnecki, Walter Tucholski, Anthony Karpinski, and C. A. Bentley. Other officials include: Joseph Malkowski, chief organizer; Dr. Kenneth Klak, chief medical examiner; Raymond Grabow, chief legal conselor; Charles Jarvis, public relations; Roman Trepczyk, editor; and attorneys Ferdinand Peters, Gerald Trepinski, Thomas Kovalchik.

The Preconvention Committee has been making arrangements for the upcoming 35th quadrennial convention in Cleveland. Joseph Lecznar, president of group 9, is serving as chairman and Gail Yurasko, auditor of group 35, is serving as vice chairman. While Andrea Stolarczyk, auditor of group 8, is serving as secretary and Joseph Lecznar, Jr., of group 9 is serving as treasurer. Other committee members include: Klemens Bylicki, Leo Bojko, Emily Czech, Chester Helinski, Elaine Jankowski, Michael Jankowski, Mildred Rybacki, Genevieve Sandej, Beatrice Sucharski, and Tadeusz Szczesniak.

The committee is making preparations for a convention banquet which will be held Sunday, September 5, in the Alliance of Poles Ballroom. The convention will open on Monday morning, September 6, with a parade to and from the solemn Mass to be held at St. Stanislaus Church. During this 3-day convention the delegates will acknowledge past accomplishments, elect new officers and begin to develop plans for the future.●

SUPPORT FOR THE AGRICULTURE RECONCILIATION BILL

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. TRAXLER. Mr. Speaker, I was unable to be present for the vote on the final passage of H.R. 6892, Food and Agriculture Reconciliation Act for fiscal 1983.

Had I been present, I would like the Record to show that I would have voted "yes" on final passage of this legislation.

The Agriculture Committee is to be commended for its responsible legislative initiative with this bill, and is to be complimented in particular for its excellent work on reaching a reasonable agreement with respect to the dairy provisions of H.R. 6892, which are significantly similar to the provisions of H.R. 6313, the Dairy Stabilization Act of 1982. I am a cosponsor of H.R. 6313, and I am very pleased to see that the legislation has been given consideration within the provisions of this reconciliation bill.

Our current budget constraints require us to make efforts to hold down the cost of Government whenever we can. Concern for the plight of the millions of unemployed Americans and farmers who are unable to obtain a fair price for their products require us to try to make budget reductions in as humane a fashion as might be possible. I believe the Agriculture Committee has met this test with H.R. 6892, and it is for these reasons that I would have voted in support of the legislation.●

SMALL BUSINESS SUPPORTS H.R. 5540

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. McKINNEY. Mr. Speaker, as the many small businessmen in Connecticut who have come to me for support in the past can attest, their interests are my interests because small business makes this country go.

Recently, information was circulated which charged incorrectly that H.R. 5540 which I co-authored was against the interests of small businessmen. The factual errors in that material not withstanding, the conclusion is wrong.

For the information of my colleagues, I would like to insert in the Record a letter sent to me by Mr. Herbert Liebenson, president of the National Association of Small Business, which cites the importance of this legislation to the small business community.

Also, the Members may enjoy reading an article from the August issue of The Voice of Small Business, entitled "Defense Industrial Bill Will Build Small Business." I am sure that these two pieces will give a better perspective on the small business position.

Mr. Speaker, I insert these pieces at this point:

Washington, D.C., July 16, 1982.

Re H.R. 5540—Defense Industrial Base Revitalization Act.

Dear Congressman: A bill of great importance to the national security and to small business in the U.S. is scheduled for a floor vote in the House in the next several days. The national Small Business Association, a multi-industry trade association representing 50,000 small business nationwide, urges your support of this bill which will bring up to date our lagging defense capabilities.

The bill is H.R. 5540, which is known as the Defense Industrial Base Revitalization Act. The bill has some 70 cosponsors from both sides of the aisle, and was reported by an affirmative vote of the vast majority of both the House Banking Committee and the House Committee on Education and Labor.

The bill is designed to alleviate the threat to national security caused by the country's increasing reliance on foreign producers of strategic and other defense-related materials.

The key provisions of the bill are the investment incentive it provides for small and medium-sized businesses which make up the heart and muscle of the defense industrial base. The incentive used would be those contained in Title III of the Defense Production Act of 1950—loan guarantees, direct loans and purchase commitments.

The programs of the Defense Production Act have been proved cost effective, generating $10 in economic activity for every $1 provided through the DPA.

H.R. 5540 is not a "bail-out" bill. The question for the Congress is whether the U.S. defense industrial base can respond to our national security needs. Clearly, there is a critical problem in our defense capabilities. We, and virtually every congressional witness who has testified on the subject in the last three years, believe that we must face our obligations now if our national security is to be preserved.

For these reasons, we urgently request your support of H.R. 5540.

Sincerely,

Herbert Liebenson.

[From The Voice of Small Business, August 1982]

Defense Industrial Bill Will Build Small Business

NSB is supporting a legislative effort to improve the quality and productivity of domestic defense subcontractors and suppliers, which is moving through Congress with prospects of a major impact on small business.

The Defense Industrial Base Revitalization Act, H.R. 5540, addresses the key areas of industrial modernization, skills training, and strategic and critical materials from the perspective of small and medium-sized businesses. The bill will provide incentives and assistance to American firms to insure that defense preparedness will not be compromised by the trend toward subcontracting and buying supplies from foreign firms.

The report on the bill from the House Committee on Banking, Finance and Urban Affairs states: "We are dangerously dependent on foreign imports for vital materials to fuel our industries. Skilled workers are aging while qualified replacements are not emerging in sufficient numbers. There is a shortage of manpower, in both the trades and the professions, with the necessary skills to design, build, operate and maintain modern machinery.

"That this state of affairs exists at a time when unemployment is at its highest level since World War II, and when bankruptcies of businesses are occurring at an alarming rate, is both a challenge and an opportunity."

MODERNIZATION

The Committee report also notes: "H.R. 5540 clearly recognizes that the defense industrial base is made up not only of those companies currently holding defense contracts but it also includes specifically those industrial firms which would likely be called upon to manufacture or supply defense materials in time of emergency or war.

"Estimates of the number of these companies vary but the figure 50,000 is most commonly cited. And for the most part, these are small and medium-sized businesses making essential "nuts-and-bolts" components without which our warplanes, tanks, missiles, warships and other weapons systems would not work. This bill directs much of its concern to this vital group of subcontractors and suppliers of goods and services."

The Committee recognized that the Economic Recovery Tax Act of 1981, designed to revitalize industrial sectors, has done little to strengthen the small businesses among the defense industrial base. Thus, H.R. 5540 would make it possible for smaller firms to modernize through the purchase and installation of new plant and equipment, using loan guarantees, direct loans, price guarantees and purchase agreements including advance payments.

The association costs could be considered an investment, the Committee report notes. Over 30 years, the Defense Production Act has generated $9 billion in economic activity, at a cost of some $900 million. However, this cost does not include federal, state and

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local taxes on that business, nor does it include revenues generated from income taxes collected from the many thousands of new jobs created.

Under the proposed legislation a list of industries requiring priority assistance would be drawn up by the Administration, and a review of priority needs, both in terms of industrial supplies and assistance, would take place every six months.

As a result of the modernization program, the Committee expects to reduce the overall cost of defense procurement through improved productivity and superior quality. The effort would bring the "nuts-and-bolts" business back to domestic firms, which would benefit the nation in terms of employment, revenues, balance of payments, and a stronger, healthier small business community in this country.

SKILLS TRAINING

The legislation also provides a five-year program to match improved quality and quantity of skilled labor with the enhanced productive capacity. Even today, skilled machinists, tool and die makers, computer specialists and other highly skilled workers are in short supply, and more are leaving the labor force than are entering it each year.

H.R. 5540 would provide $250 million in grants annually over the next five years for job training, on a cost-sharing basis with the states, with state agencies administering the training programs. Money will be allocated to states depending on the concentration of priority industries and the skills shortages.

CRUCIAL LEGISLATION

The Defense Industrial Revitalization Act will certainly benefit a great many small businesses, providing the opportunity to improve plant and equipment, and fund new growth. Equally important, the bill provides for renewed strength in national defense, employment, trade balances and fiscal strength. Every NSB member should support this important initiative.●

OUR AGING AND DECAYING INFRASTRUCTURE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, recently a major news magazine spotlighted the problems of our aging and decaying infrastucture. Our highways, sewage systems, dams, and Government buildings, built in the 1950's and early 1960's to last 20 to 30 years, have reached their points of no return, and major rehabilitation efforts must begin or our towns and cities will face major hazards.

As we begin to rebuild our structures, it becomes extremely importance to recognize how they can be better engineered. To this end, I am pleased to announce that what is believed to be the world's first repository for data on collapsed or damaged structures is being established at the University of Maryland at College Park, with the help of a $73,839 grant from the National Science Foundation (NSF).

By 1984, architects and engineers will be able to find information on collapsed or damaged buildings, bridges, roads, and dams at the new facility, named the Architecture and Engineering Performance Information Center (AEPIC).

A joint project of the College of Engineering and the School of Architecture, the center will be codirected by Dr. Donald W. Vannoy, associate professor of civil engineering, and Prof. John Loss, associate dean of the School of Architecture.

Previous attempts to document and analyze structural deficiencies have been tied to isolated incidents or handicapped by poor recordkeeping. The chief advantage of the new center is that soon architects and engineers can benefit from a comprehensive collection of data on many types of failures—from the collapse of the Teton Dam in June 1976 to the collapse of Kansas City's Memorial Arena 3 years later.

All structural failures—from something as catastrophic as the collapse of the balconies in the Kansas City Hyatt Regency to something as relatively minor as the premature wear and tear of a rural bridge—have at least one very important point in common from which valuable information can be gathered, analyzed, and reported, according to Dr. Vannoy. The objective at AEPIC is to learn from these common points so that structural design can be improved to prevent future disasters.

Too often it is only the dramatic cases of total building collapse which receive attention. One of the primary goals of the AEPIC Center will be to investigate secondary design flaws—flaws found in exterior walls, for example, and in roof decks. This is critical, as these are the flaws responsible for a majority of building failures.

More than 2,000 examples of reported building failures are already stored in the center's data bases, and many more thousands of citations should be available to researchers and Government agencies by 1984.

In addition to establishing its own data bank and reference library, the center will serve as a prototype for repositories in universities and institutions, worldwide. Dr. Vannoy and Professor Loss already have corresponded with interested representatives from more than 14 American, British, Canadian, Swiss, and Italian professional organizations.

Initial support of AEPIC has been expressed by the American Institute of Architects, the American Society of Civil Engineers, the Federal Highway Administration, and Victor O. Schinnerer and Co. of Washington, D.C.

Mr. Speaker, I think that the center will prove to be a valuable tool in constructing the America of tomorrow. It will undoubtedly be an asset to our community and to our county.●

AMENDMENT OFFERED BY MR. EVANS OF IOWA TO H.R. 6323, ENVIRONMENTAL PROTECTION AGENCY RESEARCH AUTHORIZATIONS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. OTTINGER. Mr. Speaker, it was my pleasure today to vote in support of the amendment offered by my colleague, Cooper Evans of Iowa, to the Environmental Protection Agency Research Authorization bill—H.R. 6323. I am glad that the amendment passed, and that the final authorization passed the House.

Mr. Evans' amendment directs the Environmental Protection Agency to formally establish a senior environmental assistance program. Such a program has been successfully demonstrated for the last 5 years and that is why I was an original cosponsor of H.R. 5760 introduced by the gentleman from Iowa. This amendment substantially supports the purposes stated in that bill and is an efficient means to accomplish the formalization of this valuable program.

The senior environmental assistance program has employed hundreds of older Americans in special environmentally-related projects supervised through State and local environmental agencies. In this time of high unemployment and tight budgets, this program offers two major benefits to the American people. First, it provides meaningful employment to older Americans while not supplanting existing environmental jobs. Second, it gets talented members of our society involved in protecting the Nation's environment.

This amendment was supported by the Natural Resources Defense Council, the Sierra Club, and Friends of the Earth. It will be a reasonable approach to establishing a proven program resulting in multiple benefit to the Nation, and I am glad in its success today.●

STATEHOOD FOR PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. CORRADA. Mr. Speaker, last week my distinguished colleague from Illinois, Mr. Simon, sent a letter to his constituents entitled "Statehood for Puerto Rico."

In his column, Mr. Simon noted how important and necessary it is for Puerto Rico to become the 51st State of our Nation in order to overcome the natural consequences of being a territory without the necessary political power especially at times like this in which Congress has faced the need to make substantial budget reductions.

I want to commend Mr. SIMON for his very perceptive and accurate views on this important issue and for his continued interest in the well-being of Puerto Ricans whether they reside on the island, in his own State of Illinois, or anywhere in the United States.

Since this column correctly portrays the actual Puerto Rican dilemma under the current political status I would like to have it included in the RECORD.

The column follows:

STATEHOOD FOR PUERTO RICO

A bill which the Senate recently approved proposes to increase taxes in a number of ways, but Puerto Rico was hit harder in that outcome than the 50 states. And a few months ago, when food stamps were cut, Puerto Rico was cut more than the 50 states.

Why?

The answer is fairly simple: American citizens who live in Puerto Rico do not cast a vote for the presidency, and in the U.S. Senate and in the U.S. House there are no votes cast by representatives of Puerto Rico. That island has one non-voting member in Congress, a fine public servant, Baltasar Corrada, who gets a vote in committee, but nothing more. And no one speaks for the island's citizens in the Senate.

Puerto Rico is a commonwealth, and commonwealth status for Puerto Rico means second-class citizenship, just as it did some years ago for citizens of Hawaii and Alaska.

Eventually second-class citizenship will go.

The day will come when Puerto Rico will either be the 51st state or an independent nation.

Faced with that choice, public opinion polls show that the residents of Puerto Rico overwhelmingly prefer statehood.

President Reagan has declared that if that is their choice, he supports statehood. I join him in that.

Creating an independent nation would make Puerto Rico a tempting target for the less stable elements of the Caribbean, Cuba particularly. That would not be good for Puerto Rico, nor for the United States.

If one of these years Puerto Rico voted to become a state and she was accepted as a state, the net result would be good for the economy of both Puerto Rico as an island unit and for the United States as a whole; it would provide a door to Latin America for the United States, both politically and economically; and it would result in an enriched culture for the other 50 states.

But when Congress and the Administration take actions which penalize the people of Puerto Rico more than the people of the 50 states, the result has to be resentment and ill will. That is precisely what we do not need.

On Independence Day, Governor Carlos Romero-Barcelo said: "While we can sincerely rejoice in what the Fourth of July means to us . . . there nevertheless remains a void, a hollowness, in terms of what true equality and civic dignity symbolize to a people as profoundly democratic as are the people of Puerto Rico."

I hope that within the next 10 years Puerto Rico will be fully participating in our democracy as a state within our Union. That makes sense all the way around.

In the meantime we should be treating our Puerto Rican citizens as the good friends and neighbors and the loyal Americans they are, not second-class citizens whom we can kick around because they have no meaningful voice under the present political arrangement.●

BALANCED BUDGET AMENDMENT

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SHANNON. Mr. Speaker, there has been a lot of talk lately about the balanced budget amendment. We have been told that Congress will never be able to resist the urge to spend more money than we take in unless we impose fiscal discipline through a constitutional amendment requiring a balanced budget. Many of us, however, question the wisdom of writing one particular economic theory into the Constitution and worry about the possible harsh effects of such an inflexible mandate. We share our constituents' concern over the need for greater fiscal responsibility but wonder whether this is the way to attain it.

When we voted on the budget resolution back in June, Congressman GEORGE MILLER of California introduced a proposal that would have provided an alternative to the artificial constraints of a balanced budget amendment: The "pay as you go" budget process. Although 80 percent of the Democrats in the House voted for this proposal, it was ultimately defeated by the large numbers of Republicans who preferred the Reagan budget. In an article in the Contra Costa Independent, Congressman MILLER describes the "pay as you go" budget process and how it could provide a workable alternative to the proposed constitutional amendment. I urge my colleagues to give this article their careful consideration.

The article follows:

THERE IS NO QUICK FIX

(By GEORGE MILLER, Jr.)

The constitutional amendment proposed by the Reagan administration to require a balanced federal budget will have no serious effect on our current march to a fiscal Armageddon. The proposed amendment is a politically motivated and deceptive response to a legitimate public demand for constraint in government spending and an end to the crushing deficit.

But we are in need of far more than a symbolic quick fix. The proposed amendment tells us where we want to go, but provides no instruction on how to reach that destination. Indeed, by severely limiting the taxing power of the federal government, the amendment makes attainment of a balanced budget practically impossible without further slashing current spending at more than four times the rate proposed by the most zealous budget cutters in the Congress.

Woeful as the public's confidence in our ability to reduce the deficit is at present, it will become significantly worse if Congress and the administration attempt to trick the American people into believing that mandating a balanced budget is the same as achieving one. What the public really wants is not so much a balanced budget amendment as a balanced budget, a goal which is attainable without taking the dubious step of including economic proposals in the Constitution of the United States which challenges the wisdom of the Founding Fathers.

There is a practical and equitable way to achieve a balanced budget in three years without the complexity and delays associated with a constitutional amendment. The alternative is my "pay as you go" budget process, which NBC's John Chancellor praises as "ingenious and practical" and which columnist Mark Shields describes as "something the Democrats have been frantically in search of . . . a new idea." In truth, my "pay as you go" proposal is not only "practical" and "new", but non-partisan and easily understood by the public.

According to the Congressional Budget Office, "pay as you go" would rapidly reduce the deficit, save $110 billion in interest payments on the debts, and result in a $27.5 billion surplus—yes, surplus—by 1985. When I introduced this plan to the House in May, 80 percent of the Democrats voted for it. Unfortunately, more than 98 percent of the Republicans voted against "pay as you go," choosing instead the Reagan budget which will add as much as $500 billion to the national debt in just three years and still result in a $60 billion deficit in 1985.

"Pay as you go" is similar to the budgeting process required by 39 states. Any new spending over the 1982 ceiling for any program would have to be offset simultaneously either by raising new revenues or by finding savings. in some other area. There would be no exceptions to this procedure, not education, public works, food stamps, defense or Social Security. Supporters of any spending increase would have to find the courage to vote to pay for that additional outlay: no more adding the increase to the deficit. Failure to enact the offset by the beginning of the fiscal year would mandate that the level of spending remain at the prior year's level.

Under "pay as you go," if Congress decided to provide a full cost-of-living adjustment to Social Security beneficiaries, we would have to find the money to pay for that additional spending at the same time. By the same token, Congress would be precluded from adding nearly $20 billion to the debt to finance new military spending. If the expenditure is that crucial to the national interest, the Congress must have the courage to vote to pay for it.

Absent this sound and comprehensible process, the budget amendment is a joke, and a dangerous one at that. It would be irresponsible of Congress to hold out the promise of a balanced budget to the public through passage of a constitutional amendment when we all know full well that an amendment without a process for fulfilling its intent is a hollow promise. Of course, were Congress to adopt the "pay as you go" balanced budget process, there would be no need whatsoever to tinker with the Constitution.

Supporters of the constitutional amendment would have the public believe that balancing the budget requires merely a single action of the Congress. In fact, balancing the budget requires the will of the Congress to subject every new spending decision to the scrutiny mandated by the "pay as you go" process.

As Majority Leader Jim Wright, D-Texas, noted during the budget debate this spring, "Either now or at some future time the Congress needs to adopt" the "pay as you go" budget process. The National Democratic Party, at its mid-term conference, unanimously adopted a proposal offered by Sen. Christopher Dodd and me endorsing a "pay as you go" balanced budget plan.

When the House takes up the proposed constitutional amendment, I will offer the "pay as you go" balanced budget procedure as a statutory alternative. The choice for the Congress will then be between a symbolic, cynical and unenforceable political amendment, and a manageable and understandable process.

If we are really serious about cutting the deficit and balancing the budget—and any responsible legislator must be—"pay as you go" is surely the more rational way to go.●

SENATE—*Wednesday, August 18, 1982*

(Legislative day of Tuesday, August 17, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The opening prayer today will be offered by the Reverend Father George A. Paulin, Church of the Assumption of the Blessed Mother Mary, Canaan, Vt. He is sponsored by Senator ROBERT T. STAFFORD, the senior Senator from Vermont.

PRAYER

The Reverend Father George A. Paulin offered the following prayer:

Holy God, we pause to praise You at the beginning of this day filled with challenge for the Senate of this free Nation. Bind their hearts, minds, spirits and emotions to You. Bless the conscience of this body, and its ability to know, understand and respond to the people whom they serve. Bless the people of every State and let them grow in knowledge, cooperation, collaboration, interests, and support so that their citizenship may be an admirable expression of the intent of our Founding Fathers.

May we be an inspiration to the poor, forever expressing a thirst for justice and peace. May we effect in law the expression of Your mercy. May our capacity for sorrow show abundantly filled hearts creative with joy, and may we be blessed in our ability to sustain affliction for the cause of justice as we continue to create one nation with liberty and impartiality for all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order the Senator from Georgia (Mr. NUNN) will be recognized on special order for not to exceed 5 minutes.

After the execution of the special order, there will be a period for the transaction of routine morning business in which Senators may speak for not more than 2 minutes each, said period to extend not past 10:45 a.m., at which time the Chair will lay before the Senate the pending business, which is the debt limit on which the pending question will be a Helms amendment.

Mr. President, it is hoped that today, tomorrow, and Friday we can finish the supplemental and the two reconciliation conference reports. There are other matters that we may be able to deal with. I hope to be able to finish the abortion debate and the debt limit before we go out on Friday. But it is urgently necessary that we finish those three items, the two reconciliation conference reports, and the supplemental.

Mr. President, I ask unanimous consent to reserve the remainder of my time under the standing order for use at any time.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BAKER. Madam President, I have no further need for my time under the standing order and I yield so that the minority leader may seek recognition.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, I thank the majority leader.

SENATOR BOREN'S RESPONSE TO PRESIDENT REAGAN'S SPEECH

Mr. ROBERT C. BYRD. Madam President, Senator DAVID BOREN did an excellent job of representing Senate Democrats on Monday evening in responding to the President's speech on his tax increase bill. Senator BOREN was articulate and persuasive about the need to change our country's current economic policies.

On behalf of all my Democratic colleagues, I personally commend Senator BOREN and ask unanimous consent to have printed in the RECORD his statement.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESPONSE DELIVERED ON BEHALF OF SENATE DEMOCRATS TO PRESIDENT REAGAN'S TELEVISED SPEECH THIS EVENING, GIVEN BY U.S. SENATOR DAVID BOREN

Thank you, Congressman Foley. We have all just heard the President discuss the serious economic problems facing us as Americans. He has outlined his support for a $99 billion package of tax increases which he feels are necessary.

It is not my purpose tonight to spend our time together trying to cast blame on the President or the other party for our economic trouble.

This weekend, I was visiting in Duncan, Oklahoma, with a group of my constituents. Their message to me was "We want you people in Washington to quit wasting your time blaming each other and start working together to solve our problems."

I agree with their advice 100 percent. Blaming each other will not put 10 million people back to work or save countless farmers and small businessmen from bankruptcy.

The late Sam Rayburn used to say, "To be a good Democrat, you must first be a good American." The Democratic response tonight is offered in that spirit.

Let's be frank with each other. We all know that our economy is in trouble. Many Democrats in the Congress, including myself, voted to give the President's program a chance. For the sake of America, I wish that it had been a resounding success.

But we must live in the real world and the fact is that the Administration's program is not working. As this chart indicates, unemployment has soared since the program became law. Three million more Americans are out of work than when it was passed. Unemployment is the highest since the depression of the 1930's. Small business failures and home and farm foreclosures are at the highest level in 50 years.

The problem is real. It is serious. Many people in our nation are truly suffering.

That doesn't mean we should give up. We Americans have faced far greater problems in the past; for example, in the 1930's with the depression and after our fleet was destroyed at Pearl Harbor. Each time we have met the challenge. We will again.

What should we do?

First, let's look at the tax increase program outlined by the President tonight.

It is absolutely true that deficits must be reduced. But it is estimated that even with the Reagan tax increase proposal, deficits may still run as high as $450 billion over this three-year period, more than triple the rate of increase in any other three-year period in our nation's history.

It is true that the tax bill now before Congress has some good features. It does close some tax loopholes that need closing. The average working American certainly pays his or her share of taxes. Everyone else should, too.

Democrats in the Senate worked hard to make it a fairer bill. We tried to take out the provision raising telephone taxes. We offered an amendment to retain the present

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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level of medical expense deductions. We attempted to take out the section of the bill which imposes withholding taxes on savings accounts. Senate Democrats also tried to knock out the $6.6 billion increase in unemployment taxes.

Unfortunately, the Democratic amendments lost. Now we are faced with a tax bill that has both good and bad provisions. Regrettably, at this point, members of Congress cannot vote for some provisions and against others. They have to vote for or against it as one package.

One thing is clear. Whatever the outcome on this tax package, it certainly is not going to end the recession and put people back to work. We can't simply keep saying prosperity is just around the corner. To ask the millions of unemployed to wait for some distant recovery is like a fireman telling the people in a burning building not to worry, it may rain next week.

In this time of economic crisis, all of us in Congress have a responsibility to work for positive solutions.

We Democrats are offering a positive plan to help end the recession.

It is aimed at bringing down the unfair, unworkable interest rates which are strangling our economy.

Let's look at what high interest rates are doing to all of us.

Five years ago, the average monthly payment on a $65,000 house was $500. Today, the payment on that same house would be $875 per month, just because of higher interest rates. Eighty-six percent of the people in the country can't even qualify to buy that house. Is it any wonder that there are hundreds of thousands of carpenters, electricians and brick layers out of work?

Is it any wonder that farmers are going broke when they cannot afford to borrow the money to plant their crops?

High interest rates are a major cause of the big government deficits. Everytime the interest rate goes up 1 per cent, the cost of government borrowing goes up $7 billion.

High interest rates also increase unemployment. If the 3 million people who lost their jobs in the last year could be put back to work, it would reduce the deficit by $90 billion.

For many years interest rates were rather stable. Usually interest rates ranged between one and three percentage points above inflation.

People who wanted to expand their farms and businesses and put people to work could get stable and reliable credit at reasonable rates.

In the last three years all of that changed. Interest rates have skyrocketed. Instead of being 2 or 3 points above inflation, they jumped to about 10 points above inflation.

Interest rates have not only been too high, they have been unstable and erratic. No one knew where they would go next. Investment decisions became impossible to make.

It is important for every American to understand why this has happened. In October of 1979, the Federal Reserve Board decided to embark on a controversial experiment with tight money and high interest rates. They decided to no longer use their powers to maintain reasonable and stable interest rates.

This dangerous experiment has obviously had tragic results—lost jobs, lost farms, lost homes.

Faced with this economic emergency, we have hoped that the Administration would act, but instead, they have continued to support this dangerous experiment with high interest rates and tight money. As Mr. Stockman said recently, "We endorsed it; we urged it; we have supported it."

The time has come to reverse this policy. Senate Democratic leader Robert Byrd and House Majority Leader Jim Wright, with a large number of Democrats from both Houses, have introduced a bill to require the Federal Reserve Board to bring down interest rates and maintain them at stable levels.

If interest rates today were at their historic level, in relation to inflation, they would range between 7 and 10 percent, instead of the 14 to 21 percent range of the past two years.

This proposal is a sound and reasonable one based on solid experience under both Democratic and Republican administrations.

I hope that the President will join us in this effort.

Interest rates should not be a partisan issue. We're all Americans. We are all in the same boat. Let's pull together to put people back to work.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, will the minority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Madam President, last evening when we had what appeared to be an impasse for the moment on a parlimentary subject, I recessed the Senate over until 10 a.m. this morning. There were a number of routine matters that would have been dealt with last evening.

I wonder if the minority leader will be prepared to deal with those now or shortly after the recognition of some Senator seeking recognition.

Mr. ROBERT C. BYRD. Yes. I will be prepared to do that, and I will be glad to do that.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. How much time does the Senator from Wisconsin require?

Mr. PROXMIRE. One minute.

Mr. ROBERT C. BYRD. Madam President, I yield 1 minute to the Senator from Wisconsin, and I yield the remaining time to Mr. Boren and ask unanimous consent that it be reserved for him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I understand he is on his way to the floor shortly.

Mr. BAKER. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The majority leader has 8 minutes remaining.

Mr. BAKER. Madam President, will the minority leader be willing to utilize my 5 minutes after the Senator from Wisconsin speaks to do the wrap-up or does he prefer to do that later?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. All right.

PHYSICIANS SPEAK OUT ON NUCLEAR WAR

Mr. PROXMIRE. Madam President, perhaps no other group of individuals in our society can speak with as much authority on the effects of nuclear war as America's physicians. They are not theoreticians who calmly calculate millions of deaths on a chart and make assumptions as to how many years it will take before economic recovery can take place. They do not deal with the complex nuclear strategies of how many warheads of what types should be laid over how many targets.

Instead they deal with the most immediate and practical consequences of the aftermath of a nuclear war—treating the casualties.

They have recognized that there is absolutely no way for the American medical profession to provide the needed care to tens of millions of casualties in a nuclear war. The nature of medical assistance following a nuclear exchange would change fundamentally from that which is known today. Postattack conditions involving radiation, burying of the dead, sanitation, food supply, and the risk of epidemics are only a few of the critical medical situations that will face a devastated nation.

Many physicians conclude that nuclear war would be the final epidemic. It would be useful if those who have spent their lives planning for nuclear attacks in both the United States and the U.S.S.R. would spend some time with the physicians of their countries so that they would have an understanding of the consequences of the failure of arms control. The planning table is often too far from reality.

Madam President, I ask unanimous consent that an article from the New York Times on the role of physicians in a nuclear war be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 11, 1982]

Doctors: No Rx's In A-War

(By Arnold S. Relman and Alexander Leaf)

Boston—Physicians are as diverse in their political and social views as any other large group of citizens and rarely speak in unison on matter of public policy. But today they are virtually united in their effort to convey a simple, urgent message about nuclear war to the American public and the Administration.

The message is this: Nuclear war—any kind of nuclear war—would cause death and suffering on a scale never seen before in all of history, and modern medicine with all its skills could do little or nothing to help.

The public is by now accustomed to hearing dry statistics about the immense destructiveness of nuclear war, but many people probably assume that afterward the uninjured survivors would pick up the pieces, and the wounded would be tended as they have been after every other war.

What the physicians are saying is that such an assumption is simply not consonent with the medical facts and what we know about the effects of nuclear explosions.

By any reasonable estimate, American casualties in a nuclear war would number at least in the tens of millions regardless of any civil defense efforts. Those killed instantly would be the luckiest of the casualties, because most of the wounded would lie untended, and those with serious blast, burn or radiation injuries would die sooner or later, their agony unrelieved by medication or any medical attention.

To understand why such an apocalyptic vision is no figment of the imagination, one need only consider a few basic facts about just one form of major injury: burns. Immediately after a thermonuclear attack on our cities, the number of survivors with serious burns would be at least several hundred thousand, perhaps several million. To have a chance for recovery, such victims would need prompt, sustained medical attention and an array of resources that would be in short supply: surgical and nursing specialists, complex hospital facilities, intravenous fluids and nutrients, and much more.

In the entire country, our hospitals are equipped to provide this kind of care for fewer than 2,000 patients at any one time. Even if all our medical resources remained miraculously intact after a nuclear attack, we could not begin to take care of the huge number of serious burns that would have been instantaneously produced. But of course hospitals, medical personnel, supplies, transportation and electrical power would not remain intact; they would be largely destroyed, and medical care would be almost nonexistent. Similarly, the medical response to all the other millions of victims with serious blast injuries and radiation sickness would also be totally inadequate.

There can be no comparison with the successful medical responses to previous modern wars in which the United States had participated. In World War II, in Korea and in Vietnam, most of the seriously injured survived because casualties occurred at a manageable rate, the wounded could be rapidly evacuated and medical services were largely intact. But after a nuclear attack, most of the millions of injured would die, without medical care, of hemorrhage and shock, radiation sickness, infection, thirst, starvation or exposure—because none of the conditions necessary for an adequate medical response would exist.

The physicians' warning does not end there. People who survived the initial attack without injury would still be at major risk. In the fallout shelters and in the ruined countryside and burned-out cities, the delayed effects of radiation would take a terrible toll, as would infection, dehydration and malnutrition.

One recent medical study suggests that after a large-scale nuclear attack, as many as one-third of those who survived the first few months might succumb to epidemic diseases caused by overcrowding, poor sanitation, malnutrition, proliferation of insects and vermin and the long-term effects of radiation. To this horror would be added the incalculable damage wrought by the psychological stresses and social trauma that such a terrible experience would cause.

Most physicians are convinced that nuclear war is the greatest threat to health and survival that society has has ever faced. It would indeed be the "final epidemic," for which medicine has no treatment. When there exists no cure for a disease, the only course is to take preventive measures. That is why physicians believe it is their professional responsibility to urge their fellow citizens and their Government to make certain that nuclear weapons are never used. Unlike natural catastrophes, over which man has no control, nuclear war would be a disaster of man's making. It should be preventable.

SAVE THE ENDANGERED PEOPLES

Mr. PROXMIRE. Madam President, the International Whaling Commission recently voted to impose a ban on all commercial hunting of whales starting in 1986. This firm action was taken to save a family of great and beautiful animals. The extinction of these species would be a tragic and irrevocable loss to the Earth and to countless generations of our descendants. It would be sad indeed if our children had to live in a world so scarred by mankind's thoughtless slaughter of peaceful creatures, if they could only view whales as works of taxidermy on display next to dinosaurs and other zoological relics.

The international regulation of the destruction of endangered species is a noble and necessary action. The United States has ratified treaties dealing with seals in 1957 and with polar bears in 1976, as well as with whales in 1935. And yet we do not see fit to extend similar protection to the species most dear to us: humanity itself. Why have we not ratified the Genocide Convention, which aims to ban the extinction of national, ethnical, racial, or religious groups? Are not endangered peoples entitled to the same vigorous exertions devoted to endangered animals? Is not diversity in nationality, ethnicity, race, and religion just as precious as the diversity of the animal kingdom? Would not it be tragic if some existing cultures would be recalled only in museums or by silent gravesites, at least as tragic as the loss of a magnificent life form?

Of course the world's peoples deserve our utmost efforts, for the murder of a person is far more atrocious than the killing of a wild beast. But some of my colleagues insist that murder is already handled by domestic legislation, that genocide is not a fit topic for treatymaking. Yet the conservationist treaties I have cited prove that many problems that would otherwise fall under national jurisdiction must be dealt with in the international arena.

The elimination of one human life is indeed a crime; the elimination of a whole group, however, is a crime of an entirely different order. The malicious and hateful purpose behind genocide makes for a crime so monstrous, so vile, that it surely warrants far more condemnation than we have been willing to support. If the annihilation of peoples is so ghastly, why cannot we outlaw this despicable offense just as we outlaw the annihilation of endangered species, or as we may outlaw the murder of a single human being?

Madam President, genocide is an outrage of international proportions; it calls for international censure. Let us affirm our commitment to life in all its forms everywhere, and let those of my colleagues who disagree with me end their senseless opposition to the Genocide Convention.

I thank the minority leader and yield the floor.

MARKET REACTION TO TAX REFORM AND SPENDING CUT BILLS

Mr. DOMENICI. Madam President, the financial markets have given dramatic evidence in recent days of the importance of passage of the tax reform and spending cut bills now awaiting congressional action. And, for those who contend that these bills will not do what we claim, this market reaction is the best refutation.

Yesterday, the stock market rocketed almost 39 points. Three-month Treasury bills are trading lower than at any time since July of 1980. Six-month Treasury bills are trading lower now than at any time since August of 1980. Not surprisingly, housing starts jumped more than 30 percent last month. And, short-term T-bill rates peaked at 16 percent in May of 1981 and have declined by 7 points—almost a 50-percent drop. In addition, long-term treasuries exceeded 15 percent last month, as well as early last year, and this very day, I have learned from my staff, are trading at a little over 12 percent—a 20-percent drop in a month.

The market's message is clear. If Congress will act, if we pass the two critical bills now pending before the House, we have a chance to get and keep interest rates down and to get and keep the economy going. I say to all of my colleagues that the next 3 days may be as critical to the health of our economy, and to the jobs we must have for the 10 million Americans now out of work, as any days in the past 20 months.

As a point of important information, I must point out the enormous impact of lower interest rates on the deficit we may face in the years ahead. For each point of lower interest that the Government must pay on its debt, we save about $3.7 billion in gross terms.

Madam President, I repeat that: For each point of lower interest rate that the Government must pay on its debt, we save about $3.7 billion in gross terms. So the more than 6-point drop we have seen in both 3-month and 6-month Treasury instruments means a

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savings to the Government, and to the taxpayer, of about $25 billion. And, if these rates continue to decline below our projections—which, incidentally, in the budget resolution are projected at 10.7 percent for the 1983 fiscal year, we will save additional billions from the deficit.

So, the choices are stark, Madam President. We can vote for tax reform and spending cuts and for lower interest rates. Or, we can vote against tax reform, against spending cuts, and for higher interest rates and continuing misery for tens of millions of American workers and businesses.

In short, I believe we have no choice. We must act with courage and with dispatch and pass both H.R. 6955 and H.R. 4961.

THE NEED FOR A PERMANENT CHANGE IN FEDERAL RESERVE POLICY

Mr. BOREN. Madam President, the remarks just made by the Senator from New Mexico bear directly on what I am getting ready to say. As he has pointed out, the recent declines in interest rates have been the fundamental factor spurring the recovery of the stock market yesterday. They also have a very positive impact on reducing the size of the deficits because, as interest rates decline, Government borrowing costs decline, unemployment tends to decline, people are put back to work, and revenue collections increase with the growth of the economy.

I could not agree more with that part of this remarks dealing with the positive impact of declining interest rates. What happened yesterday is indeed good news. I am very pleased that Mr. Kaufman has made a prediction of declining interest rates, but we should not fool ourselves into thinking that the problems are over or that all necessary action has been taken or that tax increases, standing by themselves, are going to solve our economic problems.

I quote from the same article in the New York Times of today, which began by being so optimistic about the stock market rally. One paragraph of that article says:

> The slowdown in the growth of the money supply, which precipitated an easing of the Federal Reserve's monetary policy, will probably reverse and begin to increase as the economy begins to recover, the economists said.

In other words, if we are still stuck with the same policy of the Federal Reserve that we have now, it is very likely that if we have an economic recovery, the Federal Reserve will react by again returning to high interest rates, choking off that recovery. It is for that reason there is a need for a permanent policy change and a return to the tried and true policy methods of the Federal Reserve of the past.

The Senator from Michigan, DON RIEGLE, ranking member of the Economic Policy Subcommittee and the chairman of the Democratic Task Force on High Interest Rates, and I have written a letter to the President of the United States this morning. I want to read the text of our letter to the President so that it may appear in the RECORD. I think that the subject of our letter to the President is the issue of paramount concern facing us in our economy today. I now read that letter from Senator RIEGLE and myself to the President:

> U.S. SENATE,
> *Washington, D.C., August 18, 1982.*
>
> The PRESIDENT,
> *The White House*
> *Washington, D.C.*
>
> DEAR MR. PRESIDENT: The stock market rally yesterday is certainly good news. The reason for it is clear, there are signs that interest rates may be coming down.
>
> The Washington Post report said today, "Much of Wall Street's excitement yesterday was generated by the continued signs of falling interest rates with the optimistic forecast by Wall Street analyst Henry Kaufman leading the way."
>
> If a prediction of lower interest rates by a Wall Street analyst could spur the largest one day jump in history in the stock market, just think what it would do for the economy if the Chairman of the Federal Reserve Board, Mr. Volcker, would announce that the Board was going back to its tried and true pre-1979 policy of maintaining the stability of interest rates at reasonable levels.
>
> Mr. Kaufman's prediction that interest rates are likely in the near term to keep falling should not lead us into a false sense of euphoria. First, he thinks they are falling largely because the economy is slowing down. Second, we not only need reduced rates now, we need to have a policy change to assure that they remain stable at more reasonable levels so that people can make investment decisions.
>
> When interest rates are unstable and erratic and no one knows where they will go next, it is impossible to make investment decisions. We need the announcement of a long term policy by the Federal Reserve Board so that we can have long term credit once again and long term investments. Investors need to know that if the economy begins to recover, the Federal Reserve will not allow that recovery to be choked off by high and wildly fluctuating interest rates.
>
> Mr. President, the plea made to you Monday evening to join Senator Byrd, Congressman Wright and many other Democrats who have introduced a bill aimed at getting the Federal Reserve Board to abandon its dangerous experiment with free floating interest rates was completely sincere. The high interest rates more than anything else have frustrated your own economic goals.
>
> If you as President could prevail upon Mr. Volcker and the Federal Reserve Board to abandon this experiment and return to methods which have worked in the past, further legislative action would not be necessary. If the Board failed to respond to your plea, many of us in the Congress would back you up in taking action to require them to change.
>
> For the sake of a true economic recovery, join us in our efforts. Please pick up the phone and call Mr. Volcker.
>
> Sincerely,
> DONALD W. RIEGLE, JR.,
> *U.S. Senator.*
> DAVID L. BOREN,
> *U.S. Senator.*

The letter is signed by myself and by the Senator from Michigan (Mr. RIEGLE).

Madam President, I only hope that the President of the United States will urgently respond to the letter which Senator RIEGLE and I have sent to him today so that the good news of yesterday in the stock market can be just the beginning of a prolonged, sustained recovery in our economy.

Mr. ROBERT C. BYRD. Madam President, will the Senator yield?

Mr. BOREN. I am happy to yield to the minority leader.

Mr. ROBERT C. BYRD. Madam President, as I understand Mr. Kaufman, he has indicated that one of the reasons the rates have fallen is that the economic recovery is not materializing as expected and that there is not the demand for loans that there would otherwise be. So the very slack demand for loans was cited as a major cause for the fall in the interest rate.

I join the Senator in hoping that recovery will come, but if that recovery comes, then I think the legislation we have joined in introducing would be very necessary in order to keep those interest rates from soaring again into outer space. They would be kept within the historic range of inflation, the historic range being 2 to 4 points for prime, 1 to 3 points for the Federal fund rate.

I think it is very necessary that that legislation be supported and be enacted. I join the distinguished Senator in hoping the President will join the Senate Democrats and the House Democrats—and, hopefully, Senate and House Republicans whom we hope to enlist in support of this legislation—in expressing his support for the legislation so that we may prevent another stratospheric rise in interest rates in the event recovery comes, which we are hopeful will be the case.

I congratulate the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the statements issued yesterday by Henry Kaufman and Albert M. Wojnilower.

There being no objection, the excepts were ordered to be printed in the RECORD, as follows:

KAUFMAN, WOJNILOWER STATEMENT EXCERPTS

Following are excerpts from the statements on interest rates issued yesterday by Henry Kaufman, chief enconomist at Salamon Brothers, and on Monday by Albert M. Wojnilower, chief economist of the First Boston Corporation:

KAUFMAN

Recent events in the economy and financial markets necessitate a fresh look at the prospects for U.S. interest rates. These events suggest that the present decline in interest rates will continue, although irregularly, with perhaps some dramatic interruptions.

The decline in interest rates and the length of time such a decline will take will largely be determined by both the extent to which the U.S. credit market has been impaired and the level of interest rates that will rejuvenate sustained economic activity. In this context, conventional cyclical benchmarks are no guide. On balance, however, such benchmarks may be the following: long-term U.S. Government bonds now yielding 12¾ percent falling into the 9 percent to 10 percent range within the next 12 months; the Federal funds rate now at 10 percent declining to a low of 6 percent to 7 percent.

A smart recovery in economic activity in the second half of this year is not likely to materialize. This removes the immediate threat to long-term interest rates. Consumer spending, although holding at a high plateau, has failed to respond to tax initiatives, while the rest of the economy is straitjacketed by financial blockages and fear of international competition. Generally poor economic prospects also make businessmen less confident that the economy is able to support substantially higher prices. Thus, [while] inflation expectations are generally eroding, significant economic expansion will require further declines in interest rates and considerable time to unwind major financial impediments.

WOJNILOWER

The business outlook has deteriorated. The risks of a flareup in interest rates have therefore diminished, and the prospect of later and lasting declines has been enhanced. Industry sources report, and substantially adverse revisions in June statistical data confirm, that the economic climate turned gloomier toward mid-year after having improved during the spring. Capital spending plans were slashed again, and consumption fell, with the result that inventories, particularly of autos but also of materials, resumed piling up at wholesale and retail.

Thus the July 1 tax cut—its immediate cash aspect reduced substantially by niggardly adjustments in withholding schedules—has been more like a life preserver thrown to a struggling swimmer than additional stimulus to an economy already at the point of lift-off.

July performance was little better than June, and gentle improvement will probably be sustained and become more visible in subsequent months. Nevertheless, both the immediate and longer-range outlooks have sobered, and this appears to be recognized by the public as well as governmental authorities.

All this reinforces the view that both short- and long-term interest rates on top-quality obligations will be noticeably lower next year.

Mr. BOREN. I thank the distinguished minority leader for his remarks. He is absolutely right. Mr. Kaufman has said that the current downturn in interest rates is due to the downturn in the economy, due to the slack demand. We must have a fundamental policy change that is called for in this Democratic policy, one we have urged the President to get behind, so that we do not have those interest rates going right back up again the minute there is a hint of a recovery, choking it all off again and putting us back on a downhill slide.

I thank the distinguished leader for his remarks.

I yield to the Senator from Michigan who has joined with me in sending this letter to the President today.

Mr. RIEGLE. Madam President, I thank the Senator. I think this is an important initiative, both the effort to reach the President on this issue and to persuade the President, but as well to see if we cannot move this legislative initiative forward in one form or another.

I want to say, too, with respect to the interest rates, when Paul Volcker was before the Banking Committee recently to give their midyear assessment as to monetary policy in the future, it was obvious that while interest rates would likely drop down through the period of the election, as we go into next year the Fed's own plan calls for the money supply to actually give us higher interest rates. So these interest rates now are on a spring, and the spring is being pulled down, but the great concern is that very shortly somebody is likely to let that spring go and again these rates will go right back up.

I commend the Senator and I thank him for yielding.

Mr. BOREN. I thank the Senator. He is absolutely right. I think the interest rates, as he has said, are unlikely to stay down after the election, unlikely to stay down after the hint of any recovery, but also we have such instability in the rates. I just checked. We have had 78 changes in the prime interest rate since the Fed embarked on this wild experiment with monetary policy less than 3 years ago—78 changes. How could anyone make policy like that?

SUPPORT FOR CONFERENCE REPORT ON H.R. 4961

Mr. DODD. Madam President, I commend the Senator from Oklahoma and the Senator from Michigan for initiating that letter this morning. I could not agree more with them.

In fact, it is in light of the comments of the Senator from Oklahoma as well as the letter that is being sent to the President, which highlights the overall economic condition we find ourselves in, that I have decided to support the adoption of the conference report on H.R. 4961, the tax package.

I have disagreed strongly and forthrightly with many of the economic measures advocated by the current administration over the past 1½ years.

But, quite candidly, the President's position on this particular issue makes sense. We certainly cannot tolerate the budget deficits which will total almost a half trillion dollars over the next 3 years. It is imperative that we raise revenues to reduce that incredible prospect.

I regret to see the debate on this issue degenerate into definitional sparring. Whether you call the provisions of H.R. 4961 tax hikes, tax reform, or better collection of taxes already owed, the bottom line is that the bill raises $99 billion in revenues.

The old cliche is if it walks like a duck and talks like a duck and looks like a duck, there is a good chance it is a duck. That is what we have with this particular tax package.

American taxpayers will be paying $99 billion that they would not pay in the absence of this legislation.

The important point I think is that the necessity for raising revenue has been a matter of elementary arithmetic for some time. If a lopsided across-the-board tax cut of $282 billion over 3 years is accompanied by massive increases in the defense budget, the deficit is going to soar, and that is just what has happened.

In other words, Mr. President, it is right I think to pass this tax increase because we were wrong to cut taxes as deeply as we did last year. The economic program lacks balance. This action that we will decide on in the next several days is a belated acknowledgment that last year's policy was at the very least excessive. In a very real sense the conference report on H.R. 4961 represents the counterattack of commonsense economics to voodoo economics.

Obviously, the sensible thing to do would be to repeal the third year of the tax cut as well. It would have made more sense not to have adopted the lengths of the cuts in the first place.

But it is a fact of life that the deep cuts are in place. It is a political reality that they will not be altered, and the deficit that those realities breed is something we will have to deal with.

The tax provisions of H.R. 4961 are not the final answer. But they represent a reasonable start, a signal to the business operators, workers and citizens of this country that we will not allow ballooning deficits to choke off credit, inflate interest rates and preclude any hopes for economic recovery.

Finally, Madam President, I should note that the snide and inaccurate comments of OMB Director Stockman reported in today's Washington Post serve neither the President nor the national interest well.

For the good of the economy and those who are suffering from high interest rates, it is important that we move toward a consensus on how to deal effectively with deficits. The

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President's televised appeal the other evening was a tacit acknowledgment that his economic program must be moderated. Mr. Stockman's attempt to shift the blame hinders that effort and diminishes even further his own eroding personal credibility.

EXECUTIVE CALENDAR

Mr. BAKER. Madam President, I believe we are prepared now to go forward with routine matters that have been cleared, I trust, on both sides.

Madam President, the Executive Calendar on this side indicates that certain items are cleared for action by unanimous consent. I refer specifically to the nominations appearing on page 3, beginning under Legal Services Corporation, Calendar Order No. 845, and continuing through page 4 to Department of Energy and then beginning on page 5 with the U.S. International Development Cooperation Agency, with the exception of item No. 906, and page 6, all the remaining items.

I wonder if the minority leader is prepared to consider all or any part of those nominations?

Mr. ROBERT C. BYRD. Madam President, the following nominations to which the distinguished majority leader has referred have been cleared on this side of the aisle. Beginning with the Department of Energy on page 4, going through page 5, and going through all of the nominations on page 6.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Madam President, before the Chair lays before the Senate the nomination under the U.S. International Development Cooperation Agency, I may say to the distinguished minority leader that the item under Department of Energy is also cleared on this side. However, I have a request from another Senator for a rollcall vote, and I postpone that for the time being.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

The assistant legislative clerk read the nomination of Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.

The **PRESIDING OFFICER.** Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of James Malone Rentschler, of Pennsylvania, to be Ambassador to the Republic of Malta.

The **PRESIDING OFFICER.** Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Theodore George Kronmiller, of Virginia, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs.

The **PRESIDING OFFICER.** Without objection, the nomination is considered and confirmed.

Mr. BAKER. Madam President, I now ask unanimous consent that beginning with Calendar Order No. 907, Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, and continuing for the remainder of those nominations on page 5 and all the nominations on page 6 that those nominations be considered en bloc.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Without objection, the nominations so identified are considered and confirmed en bloc.

The nominations considered and confirmed en bloc follow:

DEPARTMENT OF STATE

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, vice Dean E. Fischer, resigned.

FARM CREDIT ADMINISTRATION

Tom H. Carothers, of Texas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice William Dale Nix, Sr., term expired.

Leonard R. Fouts, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice M. R. Bradley, term expired.

DEPARTMENT OF AGRICULTURE

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture, vice James C. Webster, resigned.

THE JUDICIARY

William M. Acker, Jr., of Alabama, to be U.S. district judge for the Northern District of Alabama, vice Frank H. McFadden, resigned.

Bruce M. Selya, of Rhode Island, to be U.S. district judge for the District of Rhode Island, vice Raymond J. Pettie, retired.

DEPARTMENT OF JUSTICE

Charles L. Dunahue, of Colorado, to be U.S. marshal for the District of Colorado for the term of four years, vice Rafael E. Juarez, resigned.

Clinton T. Peoples, of Texas, to be U.S. marshal for the Northern District of Texas for the term of four years. (Reappointment)

Mr. BAKER. Madam President, I ask unanimous consent that it may be in order to move to reconsider the vote by which all the nominations were just approved by the Senate en bloc.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BAKER. Madam President, I move to reconsider the votes by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

NOMINATION OF WILLIAM ACKER TO BE U.S. DISTRICT COURT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

Mr. HEFLIN. Madam President, it is my distinct honor and pleasure to recommend to the U.S. Senate William M. Acker of Birmingham, Ala., for the position of U.S. district court judge for the northern district of Alabama.

As a former judge, I believe that one of the most crucial functions of those of us who serve on the Senate Judiciary Committee is the examination of fitness of judicial nominees for service on the Federal bench. Fitness to serve as a U.S. district judge should be carefully examined.

It is this entry level trial court of the Federal judiciary to which aggrieved parties look for equity and justice. The vast majority of the numerous cases filed in Federal court never reach the Supreme Court, not because they are not meritorious, but because they have been disposed of, and the parties have been given redress, at the district court level. Recognizing the importance of the district court in our system of jurisprudence, it is apparent that the nomination with which we are now dealing is certainly not insignificant.

I commend Senator DENTON and President Reagan on this nomination. Mr. Acker has had a long and distinguished career as an outstanding attorney, and I am fully confident that he will serve with distinction upon confirmation.

No less should be expected from an alumnus of Birmingham-Southern College, even if Mr. Acker did graduate from that fine institution a few years after I did.

After graduating from Birmingham-Southern with memberships in Phi Beta Kappa and Omicron Delta Kappa, Bill Acker went on to study with distinction at Yale Law School. He was graduated from that internationally esteemed law school in 1952.

Since graduation from law school, Mr. Acker has practiced continuously in Birmingham. Since 1972, he has been a senior partner in the distinguished firm of Dominick, Fletcher, Yelding, Acker, Wood & Lloyd. Earlier in his career he practiced with a firm of which the Honorable Shuford Smyer was the senior partner. Mr. Smyer was Alabama's finest real estate lawyer. Mr. Smyer's tutorship continues as one of Mr. Acker's finest assets. His present senior partner Frank Dominick is likewise one of Alabama's finest attorneys. Mr. Acker is admitted to practice in all of the courts of the State of Alabama, the U.S. District Court for the Northern District of Alabama, the U.S. Circuit Court of appeals for the 5th and 11th Circuits, and the U.S. Supreme Court. He is a member of the Birmingham, Ala., and American Bar Associations. He has practiced across a broad spectrum of the law, and has gained a reputation as being an excellent advocate.

In addition to all his other qualifications, Bill Acker is also painstakingly precise in his attention to detail, to such a degree that he personally folds and stuffs into the envelope every piece of mail he sends out. It seems that, early in his legal career, in the course of handling a particularly difficult case, Bill dictated a letter to his client. In this letter, he detailed all the weaknesses in his case and explained how it would be quite difficult for them to win.

At the same time, Bill dictated another letter to his adversary in the case, setting out all the various copelling legal arguments as to why it would be wise for the adversary to settle while he had a chance. Unfortunately, for Bill and his client, his secretary stuffed the letters into the wrong envelopes. Nobody knows, or will say, how Bill straightened the mess out—but ever since, he has personally stuffed every piece of mail that leaves his office. I am confident that his regard for detail will be an asset in performing his judicial responsibilities.

Madam President, it is my belief that justice is the guardian of all liberty. I believe that we best insure justice when we insure a quality judiciary, composed of individuals of the highest integrity.

Madam President, William Acker is an example of what is known as a lawyer's lawyer. I have known him for many years. While I served on the Supreme Court of Alabama, he appeared before the court, and I had the opportunity to witness his ability on a firsthand basis. Mr. Acker wrote excellent and scholarly briefs, and made well-organized, cogent, and articulate oral arguments. From my personal observations, I can say he is exceptionally well qualified.

Based upon these observations, together with the nominee's eminent reputation within the legal community of Alabama, I am confident that he will serve with great distinction on the Federal bench, and with each case he tries, provide proof of the wisdom of this nomination. It is with a great deal of pleasure that I recommend and wholeheartedly support, the nomination of William Acker for this most important position.

NOMINATION OF THEODORE GEORGE KRONMILLER TO BE AMBASSADOR

Mr. STEVENS. Mr. President, yesterday, the Senate Foreign Relations Committee met to consider the nomination of Mr. Theodore Kronmiller to have ambassador status at the Department of State.

For the last 18 months, Ted has been Deputy Assistant Secretary for Oceans and Fishery Affairs at the Department of State. During his brief tenure he has shown exemplary leadership and ability in dealing with a number of very complex international fishery matters. Many of those issues have directly affected the fishing industry in my home State. I know this from personal experience for my office has been directly involved in working with Mr. Kronmiller in solving a number of problems.

Ted has shown great responsiveness to the concerns voiced by Members of Congress and industry. To his credit he has been remarkably successful in gaining cooperation from our trading and fishing partners in areas of development and fishery trade matters. Ted has successfully negotiated the European reference price on Pacific salmon. Currently, he is completing new negotiations on governing international fishery agreements with our most important fishing partners. Recently he has concluded work on an Atlantic Salmon Treaty, and has been a great leader in resolving disputes affecting U.S. tuna fleets worldwide.

Ted's leadership has been especially demonstrated by the work he completed on the reference price that was suggested by the European Economic Community last year, which would have effectively barred our access to a $100 million European food market. He came in at a time after EEC had announced that it would impose such a price floor, and he successfully turned around the European Economic Community just prior to their vote on the matter.

He is exceptionally qualified to fill this job as the top U.S. negotiator in the matters of fishery and trade policy. The background he has makes him particularly qualified for this position. Ted worked for several years as a valuable assistant to my good friend Congressman JOHN BREAUX on the staff of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment. Time and time again he has demonstrated a strong understanding of the concerns and intent of Congress in these matters.

My interests in assuring that Mr. Kronmiller be given this ambassadorial status is based upon the extraordinary interest that my State of Alaska has in U.S. domestic and international fishery policies. Many of you are aware that Alaska has over one-half of the exploitable fishery resource in the U.S. fishery conservation zone. In addition, over 95 percent of all foreign directed fishing in U.S. waters occurs in the waters off of Alaska. We face a major challenge in the next few years in the Pacific to an exploited food resource that can provide a major contribution to food supplies around the world. Ted Kronmiller understands the vast complexity of this task, and he has been instrumental during the last year to enforce that the U.S. fishing industry has the opportunity to develop jointly with our foreign fishing partners, a strategy that will insure that this food resource be exploited to its maximum potential. I ask unanimous consent to include following my statement, comments of the Honorable DON YOUNG of Alaska.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 16, 1982.

Hon. CHARLES PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that your Committee will shortly be meeting to consider the nomination of Mr. Theodore Kronmiller to the rank of Ambassador. Because I will be unable to testify at the Committee hearing, I am writing to express my strong support for Mr. Kronmiller's appointment.

As you know, Mr. Kronmiller currently serves as Deputy Assistant Secretary of State for Oceans and Fisheries Affairs. Incumbents in that position have traditionally held the rank of Ambassador due to the nature of their duties. The Deputy Assistant Secretary is responsible for representing the United States in a variety of areas dealing with fisheries and other oceans matters. Frequently, his foreign counterparts hold ambassadorial rank or its equivalent. At the very least, to demonstrate the importance which our nation places on oceans and fisheries matters, the U.S. official in the Department of State who is responsible for these matters should hold an appropriate rank.

Of greater importance is the commitment and professionalism which Mr. Kronmiller has shown while performing his duties as Deputy Assistant Secretary. To provide but a few examples, Mr. Kronmiller has successfully negotiated a number of Governing International Fishery Agreements with European and Asian nations. He has upheld the U.S. position on a number of discussions involving tuna fisheries. He has actively supported the development of the U.S. fishing industry through his decisions involving foreign fishing allocations in our 200 mile zone. He has worked successfully to lower tariff barriers affecting the importation of U.S. fisheries products. In sum, Mr. Kronmiller has consistently demonstrated his strong and active support for U.S. fisheries and oceans policies.

As the only Representative from the State of Alaska, a State with 35 percent of the nation's coastline, 75 percent of the nation's outer continental shelf, and a State adjacent to U.S.-controlled waters containing 14 percent of the world's marine protein

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supply, I have always been reluctant to support any individual in the Department of State because of that Department's bad habit of trading away fishing privileges for insignificant benefits in other foreign policy areas. I am therefore pleased finally to be able to support an individual who recognizes the importance of maintaining a strong domestic fishing industry. Further, this support of Mr. Kronmiller is reflected in comments I have received from representatives of the U.S. fishing industry in Alaska and in other areas of the country.

Mr. Chairman, I urge you and the Committee to vote quickly and favorably on Mr. Kronmiller's nomination.

Sincerely,

DON YOUNG,
Ranking Republican, House Subcommittee on Coast Guard and Navigation.

LEGISLATIVE SESSION

Mr. **BAKER**. Madam President, I move that the Senate now turn to legislative session.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

THE CALENDAR

Mr. **BAKER**. Madam President, there are certain items on the calendar of business of a legislative nature that are cleared for action on this side, and I will inquire of the minority leader if he might be in position to consider Calendar Order 755, House Concurrent Resolution 385, a concurrent resolution expressing the sense of Congress in respect to the Government of the Soviet Union to allow Yuri Balovlenkov to emigrate.

Mr. **ROBERT C. BYRD**. Madam President, I am ready to proceed.

EMIGRATION OF YURI BALOVLENKO

The **PRESIDING OFFICER**. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 385) expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

The Senate proceeded to consider the concurrent resolution.

Mr. **MATHIAS**. Madam President, it was in November 1978 that Elena Kuzmenko first visited my Baltimore office. She had fallen in love with a Soviet citizen, and she sought my help to clear the impediments to their marriage. Happily, the Soviet authorities cooperated. Elena and Yuri Balovlenkov were married in Moscow in December 1978. Permission for the wedding was the first and last flicker of cooperation the couple had seen from the Soviet authorities.

Elena Balovlenkov returned home to the United States, and subsequently, their daughter was born. Since the Balovlenkovs' marriage, 4 years have passed, years filled with false hope, frustration, and heartache for this young family. Repeatedly denied permission to leave the Soviet Union and desperate to join his family in Baltimore, Yuri Balovlenkov began a hunger strike on May 10, 1982, and though he is now being force-fed, still lies near death in Moscow.

Elena Balovlenkov has been unable to persuade the Soviet officials to let her husband leave the country. It rests with the U.S. Government and the American people to persuade the Soviet authorities that the case of Yuri Balovlenkov is important to them—that they care about the fate of a single human being.

In numerous letters and meetings with Soviet and American officials spanning several years, I have pointed to the provisions of the Helsinki accords as they relate to this case. The provisions state that governments will "deal in a positive and humanitarian spirit" toward family reunification. There has been little positive about the way Yuri Balovlenkov has been treated. While other members of the "divided families group" have been allowed to reunite, the decision on Balovlenkov's case has been endlessly delayed. Denying a family the right to live together violates not only the spirit of the Helsinki accords and the United Nations Declaration on Human Rights, but our sense of decency as well. In these critical days, our efforts to see the Balovlenkovs reunited must intensify. Time is running out.

I ask that my colleagues join me in supporting this concurrent resolution, so that we may present a unanimous Senate voice in this matter to the Soviet Government.

Mr. **SARBANES**. Madam President, the purpose of this resolution is simple and direct: to express to the Soviet Government the sense of the Congress that Yuri Balovlenkov be allowed to emigrate.

Yuri Balovlenkov is a Soviet citizen married to an American citizen, the former Elena Kuzmenko of Baltimore. Although they were married in 1978, they have lived most of their married life apart. Unitl last month, when Elena Balovlenkov made an emergency trip to see her husband, he had never seen his daughter, Katya, who is now 2 years old.

Since his marriage 4 years ago, Mr. Balovlenkov has sought to persuade the Soviet Government to issue the exit permit that would permit him to be reunited with his family. All his efforts have been unavailing, although the Soviet argument that his access 8 years ago to computer technology information is unconvincing. Faced with the refusal of Soviet authorities to heed reasonable requests or to honor its commitment, as a signatory to the Helsinki Final Act, to the principle of family reunification, Mr. Balovlenkov undertook the first of a series of hunger strikes earlier this year. On June 21, after 43 days without food, he was informed that the exit visa requisite for his departure would be issued within 3 days. Contrary to that pledge the visa was not forthcoming, and on July 6 Mr. Balovlenkov resumed his fast. There was no official response when Mrs. Balovlenkov traveled to the Soviet Union to be with her husband and talk once more with Soviet authorities. Mr. Balovlenkov is now very ill and his wife is once again at his side.

Mr. Balovlenkov asks only to be permitted to live with his wife and daughter outside the U.S.S.R. Important human rights principles are at stake here and, in view of the grave deterioration in Mr. Balovlenkov's health, it is no exaggeration to say that his life may now hang in the balance. The House of Representatives has approved House Concurrent Resolution 385, and the Senate should also take prompt positive action. I urge passage of the resolution to impress upon the Soviet Government the importance and the urgency which the House of Congress attach to the Balovlenkov case. Mrs. Balovlenkov is with her husband in Moscow. Let us hope that our action will convince the Soviet Government, to permit Yuri Balovlenkov's departure at the earliest practicable date.

The **PRESIDING OFFICER**. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 385) was agreed to.

The preamble was agreed to.

Mr. **BAKER**. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 6308 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. **BAKER**. Madam President, I ask unanimous consent that H.R. 6308 be held at the desk pending further disposition.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

H.R. 6204 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. **BAKER**. Madam President, I ask unanimous consent that H.R. 6204 be held at the desk pending further disposition.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

PRETRIAL SERVICES ACT OF 1982

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 923.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 923) entitled "An Act to amend chapter 207 of title 18, United States Code, relating to pretrial services", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rodino, Mr. Hughes, Mr. Conyers, Mr. Kastenmeier, Mr. Glickman, Mr. McClory, Mr. Sawyer, and Mr. Fish be the managers of the conference on the part of the House.

Mr. BAKER. Madam President, I move that the Senate disagree to the amendment of the House and agree to the conference requested by the House and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mrs. Kassebaum) appointed Mr. Thurmond, Mr. Mathias, Mr. Laxalt, Mr. Biden, and Mr. Leahy conferees on the part of the Senate.

MILITARY CONSTRUCTION AUTHORIZATION, 1983

Mr. BAKER. Madam President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2586.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

(The amendment of the House is printed in the Record of August 11, 1982, beginning at page 20596.)

Mr. BAKER. Madam President, I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mrs. Kassebaum) appointed Mr. Tower, Mr. Thurmond, Mr. Warner, Mr. Humphrey, Mr. Denton, Mr. Brady, Mr. Stennis, Mr. Hart, Mr. Jackson, Mr. Cannon, and Mr. Exon conferees on the part of the Senate.

ACCESS TO TELEPHONE SERVICE FOR THE HEARING IMPAIRED

The Senate proceeded to consider the bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause, and insert the following:

That the Congress hereby finds that—

(1) all persons subscribing to or otherwise receiving telephone service in the Nation should receive the best service which is technologically and economically feasible;

(2) currently available technology is capable of providing telephone service to some of those individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best service which is technologically and economically feasible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

Sec. 2. Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

"Sec. 225. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

"(b) In ensuring such access, the Commission shall require that coin-operated public telephones be designed, manufactured, and operated so as to provide internal means for coupling with hearing aids. The Commission may also require that other telephones frequently used by the public or provided for emergency use by similarly designed, manufactured, and operated.

"(c) The Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids.

"(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of new technology.

"(f) The Commission shall complete rulemaking actions required by this section and issue such rules and regulations resulting therefrom within one year after the date of enactment of this section of the Act. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated public telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section."

Mr. GOLDWATER. Madam President, I am pleased to be a cosponsor of S. 2355, a bill designed to insure that the hearing-impaired have reasonable access to telephone service. This bill will accomplish its worthwhile goals with minimal fiscal and regulatory impact.

The Senate Committee on Commerce, Science and Transportation report which accompanies this bill estimates that the legislation will cost the Federal Communications Commission $200,000 for staff time and overhead. The committee intends that this sum is to be paid out of the FCC's already available funds. Furthermore, while the regulations that this bill will require will include the monitoring of manufacturers and telephone companies, we expect that this monitoring will not place significant paperwork burdens on these parties.

Mr. MATHIAS. Madam President, we are a nation with an advanced case of telephonitis. We Americans use 180 million telephones to go about our daily work, arrange our family lives and cope with unexpected events. Most of us could not carry on in our homes, at our jobs or anywhere else for as much as 1 day without using a telephone.

For Americans with hearing aids, however, one out of five of those telephone does not work. And every day more telephones are installed in homes, businesses, hospitals and public accommodations with receivers that are useless to hearing aid users.

The problem is serious because using the telephone has become an essential part of modern life. It is essential to find a job and keep a job; it is essential to maintain normal contact with other people; it is essential for emergency protection; and it is essential for mobility.

The bill before us does not offer much hope for correcting this problem.

The prospect of establishing telephone compatibility through the Federal Communications Commission and through the courts points to years of unnecessary confusion, delay, frustration and expense—both for telephone users and for the industry. Issues of compatibility between telephones and hearing aids have been on the docket before the Federal Communications Commission for several years, but the Commission has been moving at a snail's pace.

The bill before us calls for "reasonable" access to telephones for people with hearing aids. But this issue would not be before the Senate tonight if people could agree on what is reasonable. Universal access is what hearing impaired people want.

This bill directs the Federal Communications Commission to require compatibility for coin-operated public telephones only. Thus this measure would assure compatibility only where indus-

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try has already provided compatibility and insists that it has no plans to change that compatibility. The bill does nothing about compatibility for the telephones most frequently used by everyone, the telephones at home and at work.

It is well known that the telephone is a byproduct of Alexander Graham Bell's search for a device to help the hearing-impaired. It is long past time to bring full and assured access to telephones into the lives of people who rely on hearing aids.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CANNON. Madam President, I am very pleased that the Senate has approved S. 2355, which I introduced along with Senators GOLDWATER and RIEGLE. It addresses problems in using telephones experienced by persons with hearing impairments while avoiding the possibility that the legislation will impair the development of new technology. Most importantly, this legislation directs the FCC to insure reasonable access to telephone service by persons with hearing impairments. This legislation is the first specific congressional guidance for the FCC to concern itself with the needs of the hearing impaired. Further, the bill:

First, directs the FCC to require the use of magnetic field/induction coils (or similar internal coupling systems) on coin-operated public phones;

Second, permits the FCC to impose similar requirements on phones frequently used by members of the public or provided for emergency use;

Third, permits the FCC to establish technical standards to insure compatibility between hearing aids and telephones;

Fourth, permits the FCC to require consumer information on the compatibility between hearing aids and telephones; and

Fifth, directs the FCC to consider the cost and benefits to both hearing impaired persons and nonhearing impaired persons in any rulemaking, to insure that their rules do not block the development of new technology, and to complete their initial rulemaking within 1 year.

This is excellent proconsumer legislation which addresses serious concerns of the hearing impaired and does so in a manner that does not impose unnecessary burdens on the industries affected. I appreciate the help of all concerned in making possible the unanimous approval of this legislation. I hope that our colleagues in the House of Representatives will act rapidly on this legislation.

FEDERAL COMMUNICATIONS ACT AMENDMENTS

Mr. BAKER. Madam President, I ask the Chair to lay before the Senate H.R. 3239, Calendar Order No. 166.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

Mr. ROBERT C. BYRD. Madam President, there is no objection on this side to proceeding to the consideration of this measure.

The Senate proceeded to consider the bill.

Mr. PACKWOOD. Madam President, I ask unanimous consent to have printed in the RECORD a statement that sets forth what is contained in H.R. 3239.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHAT H.R. 3239 CONTAINS

A. S. 929/H.R. 5008

1. S. 929—Senator Goldwater's Amateur Radio and Land Mobile bill—a bill that passed the Senate in September, 1981.

2. H.R. 5008—A bill to amend the 1934 Communications Act to make technical, non-controversial changes. It also contains amateur radio and land mobile provisions which are virtually the same as those in S. 929. H.R. 5008 is awaiting House floor action. There is no disagreement between the two Houses on passing this legislation.

B. S. 2181/H.R. 6162

1. S. 2181 authorizes the National Telecommunications and Information Administration (NTIA) for 1 year (FY 1983) at a level of $12.4 million. S. 2181 passed the Senate on June 9, 1982.

2. H.R. 6162 authorizes NTIA for 2 years (FY 1983 and FY 1984) at $13.4 million and $12.3 million, respectively. H.R. 6162 awaits floor action in the House.

3. The House has proposed that the conference authorize NTIA for 2 years (FY 1983 and FY 1984) at $12.9 million and $11.8 million, respectively.

UP AMENDMENT NO. 1250

Mr. BAKER. Madam President, I send an amendment to the desk in the nature of a substitute on behalf of the distinguished Senator from Oregon (Mr. PACKWOOD).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. PACKWOOD, proposes an unprinted amendment numbered 1250.

Mr. BAKER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $12,917,000 for fiscal year 1983, and $11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

(b)(1) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range telecommunications and information goals of the United States, the specific telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(2) In any study or review conducted pursuant to this subsection, the Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which affect such policies.

TITLE I—COMMUNICATIONS ACT AMENDMENTS

SHORT TITLE

SECTION 101. This Act may be cited as the "Communications Technical Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SECTION 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

“(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

“(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

“(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

“(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

“(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

“(D) the perceptions held by the public regarding the business activities of such company or other entity.

“(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

“(5) Not more than three members of the Commission may be members of the same political party.”.

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out “The”;

(2) by striking out “first appointed” and all that follows through “but their successors”; and

(3) by striking out “qualified” and inserting in lieu thereof “been confirmed and taken the oath of office”.

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

“(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.”.

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out “a legal assistant, an engineering assistant,” and inserting in lieu thereof “three professional assistants”.

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting “(1)” after the subsection designation, and by adding at the end thereof the following new paragraph:

“(2)(A) If—

“(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling Commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

“(ii) such attendance and participation are in furtherance of the functions of the Commission; and

“(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

“(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

“(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

“(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985.”.

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out “: *Provided*, That the” and all that follows through “by such reports”.

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out “Bureau of the Budget” and inserting in lieu thereof “Office of Management and Budget”.

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

“(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

“(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this paragraph.

“(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

“(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

“(II) accept and employ the voluntary and uncompensated services of such individual.

“(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

“(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

“(I) the detection of improper amateur radio transmissions;

“(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

“(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

“(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

“(I) recruit and train any citizens band radio operator; and

“(II) accept and employ the voluntary and uncompensated services of such operator.

“(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

“(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

“(I) the detection of improper citizens band radio transmissions;

“(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

“(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed

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by the Commission under this Act) relating to the citizens band radio service. Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.".

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "thereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

JURISDICTION OF COMMISSION

SEC. 106. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out "interstate and foreign";

(2) by inserting "State," after "any" the third place it appears therein;

(3) by inserting a comma after "Territory" the first place it appears therein; and

(4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 107. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices,".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(5) The heading for section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended to read as follows:

"INTERFERENCE WITH RADIO COMMUNICATIONS AND ELECTRONIC EQUIPMENT"

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

SEC. 108. Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;".

GROUNDS FOR SUSPENSION OF LICENSES

SEC. 109. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or caused, aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

SEC. 110. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(t) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.".

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(t))" after "United States".

REVISION OF LICENSE TERMS

SEC. 111. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station.".

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

SEC. 112. (a) Section 307 of the Communications Act of 1934, as amended in section 11(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule.".

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorised to operate without a license under section 307(e)(1),".

AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 113. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

(1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";

(2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and

(3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

SEC. 114. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).".

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out ", groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.".

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.".

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 115. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.".

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station,".

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 116. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.".

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 117. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect,".

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 118. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

PRIVATE LAND MOBILE SERVICES

SEC. 119. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES

"SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.".

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.".

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services.".

NOTICES OF APPEAL

Sec. 120. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

Sec. 121. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of.".

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

Sec. 122. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order.".

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

Sec. 123. The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting ", or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

Sec. 124. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES

"Sec. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States.".

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

Sec. 125. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting ", aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: ", or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

Sec. 126. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code.".

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it appears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

Sec. 127. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,".

Sec. 128. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsections (d) and (e).

Amend the title so as to read: "An Act to amend the Communications Act of 1934, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1250) was agreed to.

The PRESIDING OFFICER. There being no further amendments, the question is on engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, that completes the routine matters that are cleared on this side and I am prepared to yield the floor.

Mr. ROBERT C. BYRD. I yield the floor.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

HABEAS CORPUS REFORM

Mr. NUNN. Madam President, today marks the beginning of the fourth month during which Senator CHILES and I have been daily speaking on the Senate floor in support of strong anticrime legislation. Many of our comments have been directed to the urgent need for habeas corpus reform. This morning I am particularly pleased to rise as cosponsor and in strong support of legislation, introduced by Senator THURMOND and placed on the Senate Calendar yesterday morning, addressing that same area of criminal law reform, one which is, by all reports, essential to the continued viability of our judicial system. Both Senator CHILES and I know only too well the extent to which our career criminals have learned to manipulate current habeas corpus procedure to their benefit.

In introducing S. 2543, the Crime Control Act of 1982, on May 19, 1982, Senator CHILES and I took care to include proposals for habeas corpus reform similar to those which Senator THURMOND has now offered. In speaking in support of S. 2543, we have, over the past 3 months, cited numerous specific examples of the dire need for reform of habeas corpus procedures. The cases which we have described in great detail to the Senate clearly establish that the writ of habeas corpus has been, and continues to be, gravely distorted by serious abuse in the hands of our criminal offenders. I am encouraged that the bill which Senator THURMOND has now introduced speaks to precisely the same problems which have caused us such great concern for some time now.

The writ of habeas corpus, as originally conceived in medieval English law, provided a means of reviewing the detention of an individual held under executive, and not judicial, authority. It was never intended to be used to review in any manner, detention as a result of a judicial decision. It was executive, and not judicial, abuse of power that the Founding Fathers had in mind when they specifically prohibited the "suspension" of the writ of habeas corpus in article 1, section 9 of the Constitution. In fact, State prisoners were not specifically granted any right to Federal habeas corpus relief until the enactment of the Habeas Corpus Act of 1867 by Congress, despite the earlier constitutional provision.

Since 1867, experience has shown that the use of the writ now bears little resemblance to the purpose for which it was originally intended. Rather than act as a bulwark of freedom for out citizens, it has been misused as a seemingly endless "appeal" device by convicted felons. Frequently, prisoners wait many years and, after witnesses have died, file a habeas corpus action seeking to set aside the original judgment and sentence. In such cases, the issue raised was often not raised and answered in the original record, and the Government is simply incapable of refuting the prisoner's testimony.

In other cases, prisoners file a series of seemingly endless petitions, wasting precious judicial resources on the needless relitigation of issues clearly and fairly decided years before. In the absence of clear legislative directives, the Federal courts often rehear and reconsider questions properly answered in the State court systems.

A system which encourages these types of abuse can hardly be said to contribute to public confidence in our criminal laws. Most of us agree with those criminal justice experts who tell us that the greatest single deterrent to crime is swift and sure punishment for the guilty. Yet our system too often fails to deliver.

One reason, as Chief Justice Burger pointed out in his recent speech to the American Bar Association, is our inability to reach—at some point—finality of judgment. Judge Coleman of the Fifth Circuit Court of Appeals has stated:

> The (court) decisions say that the writ may not be used as a second appeal, but from experience the outlaws know better. Instead of being a bulwark of freedom for the citizen, it has been allowed to become a last, and too often a sure, refuge for those who have respected neither the law nor the Constitution.

It is a sad comment, indeed, on our criminal justice system that blatant abuse of the writ of habeas corpus has resulted in two of the most serious shortcomings within that system: Needless delay and a lack of certainty and finality in punishment. We have come to the point where the writ, rather than serving to protect innocent individuals from baseless or unknown charges, is being routinely manipulated to insulate the guilty from their just and deserving punishment.

The proposal which Senator THURMOND has offered makes several important and needed revisions to those statutes governing current habeas corpus procedure. It provides for a 1-year statute of limitations for Federal habeas corpus proceedings filed by State prisoners. This 1-year period would not, however, begin until the final exhaustion of all State remedies by the State prisoner. The 1-year period is clearly a reasonable and fair requirement for the filing of such petitions. This is particularly true when one considers the great length of time which is often consumed within the State process via both direct and collateral proceedings.

Similarly, the bill provides for a 2-year statute of limitations in habeas corpus proceedings brought by Federal prisoners. That period will begin to run from the latest of specifically listed events: First, final conviction; second, removal of some Government obstacle to filing; third, creation of a newly recognized right; or fourth, discovery of necessary facts by reasonable diligence. Such limitations are clearly valid given the Supreme Court's decision unholding similar timeliness requirements for the exercise of rights, including those of constitutional origin, within both our criminal and civil judicial system. These periods of limitations are no more than a needed and reasonable requirement that habeas corpus proceedings, as other proceedings, be brought in a timely manner.

The proposal also speaks to the problem of the needless adjudication and readjudication of facts and issues which have already been fairly decided elsewhere in the legal system. We would require Federal courts to defer to State courts findings on factual and legal matters where those findings were the result of a "full and fair determination" by the State court. The Supreme Court has already made clear that there is no need for the Federal courts to rehash and rehash again issues which have already been fully and fairly determined in a State court.

This provision will prevent the needless overburdening of the Federal courts with facts and legal issues already clearly and justly decided. In doing so, it will continue to protect petitioners from unjust State court determinations, leaving Federal courts free to review issues which do not meet the specific statutory standard. This was explicitly recognized by the Justic Department in their support of this provision before the Senate Judiciary Committee on April 1, 1982:

> In order to be full and fair in the intended sense the state adjudication must reflect a reasonable determination of the facts based on the evidence presented to the state courts, a reasonable view of federal law, and a reasonable application of the law to the facts. It must also be conducted in a manner consistent with the procedural requirements of federal law, including the requirement of due process.

In that context, it is obvious that, under these provisions, Federal courts will still be free to fully employ the writ of habeas corpus in cases where State courts have failed to accord a petitioner a full hearing or where they have failed to act in accord with his Federal rights. It is also clear, however, that Federal courts will no longer be required to burden their already overcrowded dockets with the needless relitigation of issues already clearly, fully and fairly decided by State courts. In these days of scarce judicial resources and mounting criminal caseloads, this type of approach is essential if we are to maintain any semblance of judicial efficiency.

In sum, all of these provisions are designed to restore some measure of credibility to the writ of habeas corpus as it has evolved in our criminal justice system. They speak to those career criminals who routinely file habeas corpus petitions mostly frivolous and most seeking review of issues already decided time and time again. Those kinds of petitions have, for all practical purposes, transformed our courts into a system of overburdened and overcrowded judicial lotteries.

We must act now if we are to ever generate any sense of certainly and finality within our criminal justice system. I urge the Senate to act responsibly and fairly on habeas corpus reform by the adoption of these proposals. Neither our judicial system nor the American public can afford further congressional delay on this most critical issue.

ROUTINE MORNING BUSINESS

The **PRESIDENT** pro tempore. There will now be a period for the transaction of routine morning business.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 11 a.m. and that the time for the Senate to resume consideration of the pending business be extended to 11 a.m. without any change in the status of the parties with respect thereto.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

IN MEMORY OF CAREY CRONIN

Mr. **DODD**. Mr. President, recently Connecticut lost one of its foremost columnists and political journalists. His name and reputation is undoubtedly familiar to many of you here: Carey Cronin, who passed away last weekend, had served as the Washing-

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ton correspondent for the Bridgeport Post & Telegram for more than 30 years.

Those of us lucky enough to know Carey will remember him with respect and affection. During the past several decades he had become a familiar presence in the Capitol halls, the press galleries, and the National Press Club. Life on Capitol Hill will not be the same without Carey and his ambling gait, his broad grin, his ready story.

In losing Carey Cronin, we have lost more than a talented man committed to journalistic excellence. We have also lost a part of history. How rare it is to find someone whose career has touched upon so many significant events. During his 35 years in Washington, Carey's coverage spanned Watergate and the landing on the moon; McCarthy and Vietnam. He had seen more administrations come and go than any of us. As a result, he helped give those he knew in Washington a historical sense of why we were here—and our role in American politics.

It was Carey's talent at making the history he witnessed come alive that made him much more than reporter. He was a bard, a narrator, a chronicler. His reflections on history and politics have helped shape the perspectives of all of us in the Connecticut delegation. There was nothing he loved more than reflecting upon and sharing his memories: His time spent as a correspondent during World War II, his memories of his school years at Georgetown Prep and at Holy Cross College in Worcester. His political anecdotes were instructive, humorous, and frequent.

I had the rare opportunity of growing up with Carey. He was a part of my childhood, my youth, and my adult life. As a child I can remember his frequent conversations with another Senator Dodd—my father. When I returned to Washington as Congressman, Carey was on hand as an adviser and as a friend. When I became a Senator he was there too—carefully jotting down details in his reporter's notebook. He has been a part of my life, serving as a friend, critic, mentor, adviser and observer.

But Carey's ability to act as friend and story-swapper never stood in the way of his being an outstanding journalist. The Washington press corps will remember his continuing, outstanding, coverage of Connecticut politicians since he opened his news bureau here in 1947. Carey's coverage was hard but fair: he criticized us when we seemed to stray from the State's interests, applauded us when we stayed with them. His strength was his accurate and fast reporting—tempered with a sense of humor. His columns, editorials, and articles have helped shape a generation of Connnecticut readers' visions of Washington politics.

I hope that all of you will join me in mourning the loss of Carey Cronin, and in sharing the grief of his wife and family. I know I will feel his absence deeply. But we should not grieve for too long; Carey would want it otherwise. He would want to become part of that rich fabric of historical anecdotes of which he himself was so proud. He would want me to turn to you and say: "Did I tell you about the time in 1978 when Carey * * *."

THE SITUATION IN LEBANON

Mr. HATFIELD. Mr. President, there is hope today that the long summer of suffering in West Beirut is ending. The parties who chose an international capital for their battleground have reached an agreement in principle that, at long last, may silence the guns. Those Palestine Liberation Organization fighters encircled in West Beirut have agreed to leave Lebanon for an uncertain, fragmented future. The Israeli Government tentatively has approved a PLO exodus, but the PLO must depart in the shadow of Israel's guns and subject to Israel's judgment. Both the Syrian and the Israeli Governments have said their forces will withdraw from Lebanon. Syria's regular and irregular forces, trapped with the PLO in West Beirut, will leave with the PLO, a commitment made without alternative. But neither the Syrian nor the Israeli Government has pledged a date on which they will leave Lebanon to the Lebanese, and the Syrian and Israeli armies remain poised and anxious.

The people of West Beirut have said nothing. No one has asked for their agreement. The PLO did not ask their permission to bring its politics and its weapons into their neighborhoods. The Syrian Government failed to consult them about their need for an Arab deterrent force. The Israeli defense force never stopped bombing and shelling long enough to ask them why they did not flee. Their own Government spoke about them and for them but never really to them. Yet their faces—caught in fear, bewilderment, suffering, death and, sometimes, an inexplicable hopefulness—have spoken eloquently to the world of the tragedy of Lebanon.

Today's Lebanese tragedy grew, most immediately, out of the PLO leadership's refusal to foreswear their traditional paramilitary, terrorist role and out of the Israeli Government's stubborn adherence to a policy of meeting force with overwhelming force. Both sides clearly were willing to sacrifice the civilian population and, possibly, even the sovereignty of Lebanon to their own interests. Both the leaders of the PLO and of Israel were locked into a common selfishness of hate that had bred death and destruction in sharp, staccato bursts for decades, until, on June 6, that hatred unleashed a fiery wave of suffering that swept north from Isreal and converged on Beirut.

In the long weeks since, the peoples of the world have sat, unwilling witnesses to the agony of West Beirut. They have stared into the anguished faces of men and women whose families have disappeared forever beneath the rubble of their homes. They have looked into the bewildered faces of children whose childhood has become the stuff of nightmares. They have peered into the mute, fly-tracked faces of the victims, young and old alike, made armless, legless, mindless, by this little, vicious war. And as they have watched this drama of destruction unfold, the peoples of the world have become outraged. Whatever their original predisposition—pro-Israel, pro-Palestinian, apolitical—they see no logic strong enough on either side to justify what has happened to the people of West Beirut. And so, from throughout the community of nations there have come growing expressions of outrage. I am certain that every one of my colleagues has received numerous letters, telephone calls, and visits, as I have, from people throughout the United States who want the fighting in Beirut stopped. These people who write and who telephone and who even make first trips here to the halls of the Congress are outraged by what is happening in Lebanon—and they are afraid.

They are afraid because the nations supporting both sides in this conflict, including the two superpowers, stood powerless to stop the suffering of the civilians of West Beirut or the virtual destruction of the western city—powerless, for more than 2 months, to stop a conventionally fought conflict without themselves resorting to the so-called military option. True, there were ongoing negotiations which, hopefully, at last may have brought the fighting to an end, but each broken cease-fire seriously hindered those negotiations. Even now, the margin for success is dangerously narrow, and that success, if it comes, will apply only to West Beirut. It will not apply to the 7,000 Palestinians imprisoned by the Israelis since June 6. It will not apply to the 14,000 PLO fighters thought to be in the Bekaa Valley. It will not apply to the approximately 2,000 PLO members guarding a Palestinian refugee camp near Tripoli, Lebanon. It will not apply to the armies of Syria and Israel or to Lebanon's own free lance militias should their leaders' perceived interests dictate that the Bekaa or Tripoli become the next Beirut. And it will not apply to those shadowy individuals who carry the pestilence of violence in the bombs and machineguns already being heard in Paris.

I pray, as we all do, for an end to the fighting in Beirut. But, at the same time, I say that we must look beyond Beirut. We must look beyond Special Envoy Habib's hard won agreement. We must look beyond the evacuation of the PLO from West Beirut. We must look at the realities of this conflict. We must look squarely and without flinching, at the Palestinian issue, at the congenital weaknesses of the Lebanese state, and at the relationship which has evolved between Israel and the United States. We must look at our own Nation and its policy and its interests. And then, Mr. President, we must make the hard decisions that we were elected to make and which we have deferred too long.

Ariel Sharon, in the first bluster and swell of success after Israel invaded Lebanon, said that Israel had handed the United States a unique opportunity in the Middle East, if we would but seize that opportunity. While I disagree vehemently with General Sharon's goals and methods—and I suspect also with the twisted logic that led him to make that statement—I am convinced that what he said is true.

I have said before, and I say again, we stand at a unique moment in history—one precious golden moment in which we can utilize the strength and ideals of our people and the power and prestige of our Nation to lead the world away from war into a peaceful, productive future. But we must act. Neither we, nor the community of nations, can allow America's leaders the continued luxury of reacting to events.

The Palestinian issue will not go away. We cannot continue to sweep it under the rug to be resurrected for the testing of each new generation of American and Soviet weaponry. And we cannot afford to address this complex and potentially catastrophic problem through third parties. The United States must begin a dialog with the Palestinians—and, at least initially, that dialog must be open to all Palestinians, including the PLO.

I am aware that the PLO charter calls for Israel's destruction and I will be very clear in stating that, if at least some of the PLO leadership cannot admit, even now, the necessity for coexistence with a Jewish state and the futility of terrorism in place of negotiation, they can play no role in the dialog I have in mind. At the same time, it seems very clear to me that Israel's tragically misnamed "Peace for Galilee" operation was an equally rigid statement of Israel's intention to destroy the PLO. It remains to be seen what Israel's intentions are toward those Palestinians who have lived as refugees in Lebanon since the creation of the State of Israel in 1948. Whatever those intentions, it is not for Israel's Government to decide the fate of those people. Israel has every right to exercise sovereignty over the people who choose to live within Israel's borders, but those borders do not legitimately include Gaza, the West Bank, or Southern Lebanon.

It is because Gaza and the West Bank have proved so divisive for Israel and its Arab neighbors, and even for some of Israel's own citizens, that it is in Israel's interest and in the interest of all of the states of the region that Syria and Israel withdraw their armies as soon as possible after the end of the siege of West Beirut. The Israeli Government has rightfully pointed out that both the PLO and Syria have long been unwelcome guests in Lebanon. It would be a tragic mistake for Israel to apply a different yardstick to the presence of its own troops. Already the Lebanese of the south are looking at the smooth-running Israeli administrative apparatus in southern Lebanon, at the road signs printed in Hebrew, and at the $4 million Israel received in a single month from exports to Lebanon and those Lebanese see cause to mistrust Israel's avowed willingness to leave. The Lebanese hiding in the cellars of West Beirut see yet another, more tangible cause to suspect the Israelis. The Lebanese know that theirs is a seductive land that has charmed centuries of conquerors into occupation, and they know, also, that their Government is too weak to resist occupation.

Philip Geyelin of the Washington Post has correctly observed that "even with all the outsiders gone, what will remain behind [in Lebanon] is a congenitally unstable society." It is a society whose government is structured along sectarian lines, based on a French census taken in 1932. It is a society which, lacking a functional military or security apparatus, has spawned a deadly array of armed militias and sectarian, blood feuds. It is a society that has ignored some 400,000 Palestinian refugees in its midst. It is a society with little tradition of stability that must be stabilized.

Part of the answer lies in addressing the humanitarian needs of the people in Lebanon who have suffered a bitter civil war and two invasions in less than a decade. The United States, many other nations, international and private relief organizations already have committed money and supplies to this end, although these efforts have been hindered seriously by the continued fighting and by Israel's unwillingness to allow free access to certain areas. The same governments and organizations stand ready to assist with the rebuilding of Lebanon's economy and its infrastructure. But disaster relief, economic assistance and even self-help are insufficient to cure Lebanon's near fatal weakness unless Lebanon's people—all of them—can devise a government that can accept, support and secure the cooperation of the various factions that exist today within Lebanese society. For the United States, Israel or any other outside power to impose a solution on the people of Lebanon would be to encourage future factionalization and foreign adventurism. It would be equally counterproductive for the United States to seek to insure a strong, stable Lebanon by helping to create yet another modern arsenal of U.S. weaponry within the region.

The United States has for too long sought to promote stability in the various regions of the world through arms sales and military loans and credits. I contend, Mr. President, that the overemphasis on military assistance in our foreign aid program has had just the opposite effect. It has promoted instability, encouraged military action at the expense of diplomacy, and won this country more enemies than friends. This is perhaps nowhere more evident than in the so-called special relationship that exists between the United States and Israel.

The State of Israel was created by force of arms in the midst of the openly hostile climate that was Palestine. In those early days perhaps there was no choice but to maintain Israel's fragile existence by continued resort to force of arms. But, Mr. President, since 1948, the United States has given Israel $14.9 billion in military aid—more than we have allowed any other country. The United States consistently has provided Israel with the most modern, and the most lethal, of conventional weapons systems—often equipping the Israeli forces before fully equipping our own troops. We have done so for Israel's defense, with the agreement of consecutive Israeli Governments that the new, modern generation of weaponry will be used only if Israel is attacked.

Mr. President, we have been careless in our relationship with Israel and in our entire Middle East policy. The people of Nabatiyah and Sidon and West Beirut know just how careless we have been. The heads of the moderate Arab States, whose friendship we have sought, know. The nonalined nations know. Indeed, all of the member states of the United Nations have made very plain that they believe the United States has misjudged the needs and the realities of the Middle East as it exists today. The ruin of West Beirut and the suffering of its civilian population beg for a reassessment of the relationship between the United States and Israel.

The military realities are that today the Israeli defense force is indisputably overwhelmingly superior to any other military force in the region. Further, the IDF is so well equipped that it is capable of mounting prolonged military operations, on a single front, without resupply. Finally, all of the prohibitions in the world are ineffec-

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tive once a weapons system has passed from a U.S. assembly line into Israel's arsenal. Once delivered, we cannot call back the cluster bombs, the F-16's, and the M-60 tanks, but make no mistake, the people of Lebanon know that the Israeli bombs that rained down on them were made in the United States.

The United States, in the aftermath of the siege of West Beirut, must face some disquieting political realities too. Israel and the United States have certain national interests which conflict. Those areas of conflict are likely to increase as the United States shifts to a more evenhanded policy in the Middle East. Such a shift is, in my view, vital to out Nation's interests and, ultimately, to the interests of the region. Unfortunately, many of Israel's present leaders do not share that view.

The United States and Israel disagree also about the best way to achieve peace in the region. Israel's leaders say that they will accept peace when it is offered but that they will meet force with force. I would point out two problems with this approach. First, Israel's pursuit of an overall settlement based on the Camp David accords has failed to exhibit the same forcefulness evident in Israel's policy of retaliation. Second, Israel's leadership, so far, appears unwilling to make any first moves toward peace. The Israeli people accepted Anwar Sadat's dramatic offer of peace with thanksgiving and welcomed their old enemy to Jerusalem in a spirit of hope for the future. If that hope lies tarnished today, it is because Israel's own leaders have not shown themselves capable of the same vision and courage.

Anwar Sadat's vision of peace is obscured by the smoke hanging over Beirut. It is threatened by Israel's rigid adherence to a policy of security through force of arms and by a U.S. aid program that reenforces that policy. U.S. military aid to Israel for fiscal year 1982 will total $1.4 billion. Economic aid for the same period will total $785 million, much of which will be used by Israel to repay the United States for previous military loans. For fiscal year 1983, the administration is asking that we continue economic aid at $785 million and increase military aid to $1.7 billion.

Mr. President, this simply is not acceptable. It is not acceptable to me, it is not acceptable to the American people, and it should not be acceptable to a single Member of this body. We have seen the proof of Israel's military strength. Can anyone here possibly believe that Israel is in need of $1.7 billion of military assistance? Can anyone possibly tell me that in a time of severe economic hardship here at home, we should consider sending $1.7 billion in weapons and military grants and loans to Israel? Can the administration expect us to look at the destruction our aid dollars have brought to Lebanon and then ask us to authorize only $65 million in disaster relief for Lebanon, while sending Israel $1.7 billion—$1.7 billion to further enhance Israel's arsenal or, perhaps, to fund the occupation of southern Lebanon? I hope not, Mr. President. I hope that President Reagan will reconsider his request for fiscal year 1983. I urge him to do so and pledge him my support in the belief that he will act with courage and with vision and reduce that request. I pray that he will seize this opportunity for leadership. The world is waiting, but only for one precious, golden moment.

INTENTION TO VOTE AGAINST TAX INCREASE

Mr. GOLDWATER. Mr. President, the President of the United States has been traveling across the broad reaches of our West and saying on TV that we need a vast increase in taxes. In Washington, his lieutenants, captains, and generals are pleading, begging, and now, downright threatening, members of the Republican Party that unless they vote for this tax increase, they will no longer receive favors from the President. In fact, one can read into the words that those who oppose the tax increase could even be voted out of the party or considered no longer to be Republicans.

I have been a Republican all of my adult life; much longer, in fact, than the President of the United States has been a Republican. But I do not hold that against him or against anyone who changes from Democrat to Republican or the other way.

I have a set of values that were instilled in me even before I became a Republican and it consists of a conservative approach to most of our problems. I have never believed in unbalanced budgets. I have been speaking out against unbalanced budgets as long as I can remember. I voted for the constitutional amendment to require balanced budgets with the full knowledge that, just because the Senate passed that resolution, it meant nothing. It is now up to the House and the people living in our country, not up to the columnists, economists, and others who feel differently about this, to determine if it becomes part of our Constitution.

I am a Republican who firmly believes that, until the Congress shows the courage to attack the exorbitantly expanded part of our budget, namely, the welfare state, we are never going to balance the budget.

I have just mentioned the welfare state. I think it is high time that this country realize that we are a welfare state. I think we should further realize that no country has ever entered into the welfare state and made it back out of it. Now, this might imply that I am opposed to helping anyone who needs help. That is not true, but I think we have to recognize that this Government is now dedicated, not only to helping those unable to help themselves, but many millions of people who can do without that help. So, let me insert a suggestion here relative to this tax increase and to the job problem.

If we are to enable more people to obtain jobs—and we now have over 100 million working—we have to greatly expand the industrial capacity of our Nation, and this is not going to be done by higher taxes; it is going to be done by lower taxes with incentives to invest this money into the expansion of our economy.

Mr. President, as I say, I live with Republican principles, not instilled into me, but drilled into me, living in me, and one of those principles is fiscal soundness. I do not believe we are ever going to put people back to work, to get the interest rates down, and decrease the deficit until we vastly expand the productive capability and capacity of our country. We cannot do this on borrowed money. We have tried it for 40 years and we have failed dismally. If we continue it for a few more years, only the Lord knows what will happen to this country.

It is time—no, it is past time—that we, as Members of Congress, that the President, as the leader of the country and, more importantly, the people of the country realize that we are going to reduce expenditures in only one way and that is when the Congress, as I have said many times before, demonstrates the courage to vote against expenditures that are not needed. It is my purpose only to remind my colleagues that our main purpose in being here is to protect and defend our Constitution, and our freedom.

I intend to vote against the tax increase proposed by the Finance Committee of the Senate. I intend to vote against it because I have been living under a concept of fiscal stability for a long, long time, and I am not going to change at this late date.

I once had the great honor of running for President of this country on the Republican ticket. Just because I was defeated did not mean that I dumped all of my principles down the drain. My principles remain with me whether defeated or not. So, when I cast my vote against the proposed increase, it is merely to reiterate my longstanding belief in one of the basic principles of the Republican Party: This country cannot maintain or even acquire an economic period of growth with high taxes. That is my position. It is not a new one and it is not a bad one.

TIME LIMITATION AGREEMENT—BUDGET RECONCILIATION CONFERENCE REPORT (H.R. 6955)

(The following proceedings occurred later in the day and are printed at this point by unanimous consent:)

Mr. BAKER. Mr. President, I wish to state a unanimous-consent agreement that I believe has been cleared all around. I will put it now for the consideration of the minority leader and all Senators.

Mr. President, I ask unanimous consent that during the consideration of the budget reconciliation conference report on H.R. 6955, it be considered under the following time agreement: 2 hours on the conference report to be equally divided between the chairman of the Budget Committee and the ranking minority member or their designees.

I further ask unanimous consent that at 3:30 p.m. the Senate temporarily lay aside the pending business and turn to the consideration of the conference report.

I ask unanimous consent, Mr. President, that when the Senate has disposed of the conference report, the Senator that had the floor at the time the Senate turned to the consideration of the conference report be re-recognized.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, may I ask the distinguished majority leader, does this division of time assure any opponents of the conference report that they may have equal time?

Mr. BAKER. I assume so, Mr. President. Our arrangement was——

Mr. ROBERT C. BYRD. I understand. Senator HOLLINGS is opposed. That satisfies me. I have no objection.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the minority leader, and I thank all Senators.

(Conclusion of earlier proceedings.)

ORDER TO PRINT CONFERENCE REPORT AS SENATE REPORT—H.R. 4961

Mr. BAKER. Mr. President, I ask unanimous consent that the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, be printed as a Senate report.

Mr. LONG. Reserving the right to object, Mr. President, and I shall not object I would appreciate it if the Senator would let me know when he gets ready to make these requests. I have no objection.

Mr. BAKER. I had understood this had been cleared on both sides. I apologize to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, in a moment I am going to ask the Chair to state whether or not there is further morning business. That will be followed by a request from me for the Chair to state the pending business. At that point I will yield the floor. The principals are here and on deck, and I will sit down and observe the proceedings with some interest.

Now, Mr. President, I inquire of the Chair if there is further morning business.

The PRESIDENT pro tempore. Before closing morning business, the Chair's attention has been called to page 883 of the Senate Procedure. It reads this way:

> Under the traditions and practices of the Senate, the leadership is given preferential recognition when they seek the floor simultaneously with other Senators. Leaders and managers of a bill are given preferential recognition as compared to other Senators generally.

That is simultaneous, of course. Otherwise, if a Senator applies for the floor first, he will be recognized. But if it is simultaneous, then the majority leader has to be recognized or the manager of the bill has to be recognized.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, will the Chair please state to the Senate the pending business?

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed the consideration of the joint resolution.

Mr. BAKER. Mr. President, I yield the floor.

Mr. HELMS and Mr. PACKWOOD addressed the Chair.

AMENDMENT NO. 2031

The PRESIDENT pro tempore. The clerk will report the pending amendment.

The legislative clerk read as follows:

> Amendment No. 2031, by the Senator from North Carolina (Mr. HELMS).

Mr. HELMS and Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

AMENDMENT NO. 2031, AS MODIFIED

Mr. HELMS. I send a modification to the desk, and I ask for the yeas and nays.

The PRESIDENT pro tempore. The amendment is so modified.

The modified amendment is as follows:

> Strike "October 1, 1982" and insert the following: "October 1, 1982."
>
> SEC. . This section may be cited as the "Voluntary School Prayer Act of 1982" and
>
> Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:
>
> "§ 1259. Appellate jurisdiction; limitations
>
> "Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings."; *Provided further,* That the section analysis at the beginning of Chapter 81 of such title 28 is amended by adding at the end thereof the following new item:
>
> "1259. Appellate jurisdiction; limitations."
>
> ; *Provided further,* That Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:
>
> "§ 1364. Limitations on jurisdiction
>
> "Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."; *Provided further,* That the section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:
>
> "1364. Limitations on jurisdiction."
>
> ; *And provided further,* That the amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There does not appear to be a sufficient second.

The yeas and nays were not ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Is there objection?

Mr. WEICKER. I object.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk continued the call of the roll.

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Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WEICKER. I object.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Baker
Baucus
Boren
Byrd, Robert C.
Chafee
Denton
Dodd
Gorton
Hart
Helms
Humphrey
Kassebaum
Kasten
Kennedy
Metzenbaum
Packwood
Riegle
Thurmond
Tsongas
Weicker
Zorinsky

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—88

Abdnor
Andrews
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Rudman
Sarbanes
Schmitt
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Zorinsky

NAYS—7

Goldwater
Johnston
Long
Proxmire
Quayle
Roth
Weicker

NOT VOTING—5

Armstrong
Dixon
Matsunaga
Sasser
Simpson

So the motion was agreed to.

Several Senators addressed the Chair.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President.

Mr. WEICKER. Mr. President.

Mr. HELMS. Mr. President, I sought recognition first.

Mr. PACKWOOD. Mr. President, whom do you recognize?

Mr. WEICKER. Mr. President.

The PRESIDENT pro tempore. The Senator from North Carolina.

UP AMENDMENT NO. 1251

(Purpose: To protect unborn human beings.)

Mr. HELMS. Mr. President, I send to the desk an amendment in the second degree and ask for it to be stated.

The PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina proposes an unprinted amendment numbered 1251.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. CANNON. I object.

The PRESIDENT pro tempore. The clerk will read the amendment.

The bill clerk read as follows:

At the end of the modified Helms amendment strike out the last two words in the last line, to wit: "United States" and insert in lieu thereof the following:

"United States of America".

Title II

Sec. 201. The Congress finds that—

(a) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

(b) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth;

(c) at the Nuremburg International Military tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity.

(d) the Federal Constitutional Court of the Federal Republic of Germany in 1975 ruled that the life which is developing itself in the womb of the mother is an independent legal value which enjoys the protection of the constitution and the state's duty to protect human life before birth forbids not only direct state attacks, but also requires the state to protect this life from other persons;

(e) the Declaration of Independence affirmed that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life;

(f) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

(g) before 1973, each of the serveral States had enacted laws to restrict the performance of abortion;

(h) agencies of the United States continue to protect human life before birth from workingplace hazards, the effects of dangerous pharmaceuticals, and other hazardous substances;

(i) it is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life;

(j) scientific evidence demonstrates the life of each human being begins at conception;

(k) the Supreme Court of the United States in the case of *Roe* v. *Wade* erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth; and

(l) the Supreme Court of the United States in the case of *Roe* v. *Wade* erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

Sec. 202. No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

Sec. 203. No funds appropriated by Congress shall be used directly or indirectly to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

Sec. 204. No funds appropriated by Congress shall be used to give training in the techniques for performing abortions, to finance research related to abortion, or to finance experimentation on aborted children.

Sec. 205. The United States shall not enter into any contract for insurance that provides, directly or indirectly, for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

Sec. 206. No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

Sec. 207. Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, decree, or order of any court of the United States regarding the enforcement of this Title, or of any State law or municipal ordinance based on this Title, or any judgment, decree, or order which adjudicates the constitutionality of this Title, or of any such law or ordinance. Any party to such case shall have a right of direct appeal to the Supreme Court of the United States on the same terms as govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this Title.

SEC. 208. If any provision of this Title or the application thereof to any person or circumstance is judicially determined to be invalid, the validity of the reminder of this Title and the application of such provision to other persons and circumstances shall not be affected by such determination.".

Mr. **HELMS.** Mr. President, the purpose of the amendment I have sent to the desk is to bring some of the Federal Government's legislative power to bear on the abortion problem. We, in Congress, have extensive constitutional authority to provide legal protection for unborn human beings, and this bill takes advantage of part of that authority.

The first section contains findings involving treaties, international bodies, foreign tribunals, American history, Senate hearings, and Supreme Court decisions relating to unborn human beings and the right to life. These findings will put Congress on record as clearly recognizing and affirming the right to life and rejecting the tragedy of abortion on demand.

The next four sections restrict the use of Federal funds for abortion. The traditional Hyde amendment formulation is employed, which last passed the Senate on May 21, 1981, by a vote of 52 to 43. Further funding limitations are included with the objective of getting the Federal Government totally out of the business of supporting abortion with tax money.

The sixth section is a freedom-of-conscience provision for medical personnel who work in institutions receiving Federal financial assistance and who object to taking part in providing abortions. Discrimination against such medical personnel on account of their prolife convictions is prohibited.

The seventh section provides for expedited Supreme Court review of cases arising out of State antiabortion statutes. This provision will insure that the Supreme Court gets an early opportunity to review its decision in Roe versus Wade. In addition, award of attorneys' fees is specifically prohibited in cases involving this bill in order to carry out the purpose of the bill in ending Federal financial support for abortion. The last section is a severability clause.

TRADITION AGAINST ABORTION

Mr. President, there has been a longstanding tradition in Anglo-American jurisprudence and in Western civilization generally that the protection of innocent human life is a preeminent value. On January 22, 1973, the Supreme Court made a radical break with that tradition. It decided the case of *Roe* v. *Wade*, 410 U.S. 113 (1973), and in the process, announced a newly discovered rule that the Constitution sanctions abortion on demand. The effects of Roe converted abortion from a felony into a constitutional right—overnight.

Swift was the change in centuries of law, and swift were the results in American culture. Since January 22, 1973, there have been more than 10 million abortions. A handful of babies survived the procedures and are alive today. The rest perished. Whatever the fate of the dead in the economy of God's merciful providence, we, on Earth, are without 10 million American children. Let us pause for a moment and think about that fact.

TRUE NATURE OF ABORTION

Mr. President, the United States has been given many great gifts. We have land rich in beauty and natural resources. We have a climate conducive to the most productive agriculture in the world. We have a heritage which includes the best of European and other cultures. We have a tradition of political freedom and economic opportunity which draws immigrants year after year. We have religious liberty and strong families. We have all this and much more.

But beyond these many things, I believe that we all would admit that our most precious gift in America is something else. We see it all around us, especially in the Capitol at this time of year. This gift carries us away from the daily grind into a world of hope and wonder. It is the gift—and mystery—of children. Can we ever overestimate the immense value of American children?

I say no, Mr. President, and everything in our heritage and culture says no, as well. The English poet, John Masefield, has stated the great truth about children in these lines:

And he who gives a child a treat
Makes joy-bells ring in Heaven's street,
And he who gives a child a home
Builds palaces in Kingdom come,
And she who gives a baby brith
Brings Saviour Christ again to Earth.
—The Everlasting Mercy.

Abortion is, tragically, not really about freedom of choice or reproductive rights. I wish it were. It is, instead, about children. It is about which children will live and which will not.

TRAGEDY OF LEGALIZED ABORTION

Mr. President, the fact of 10 million abortions since 1973 has created an unmistakable void in our land. We are missing our own children. Where there would have been laughter, there is silence. Where there would have been tears, there are no eyes to cry. Where there would have been love for the now living, there is nothing.

The plague of legalized abortion has inflicted, I am afraid, a mortal wound to the American ceremony of innocence. The most common surgical operation in the United States used to be tonsilectomy. A sort of all-American rite of youth, it ended with the patient's enjoying mounds of ice cream as therapy. Today, the most common operation is abortion. It ends with a dead baby, a childless mother, and a legacy of guilt.

Abortion, whether we, in Congress, like it or not, has become a national nightmare. Nearly one out of every three pregnancies is now deliberately ended through abortion. In some of our leading cities, there are more abortions than births. A huge amount of medical resources is devoted, not to preserving human life, but to destroying it at its earliest stages. No one can persuasively argue to me that these facts are evidence of health in a society enjoying "freedom of choice." On the contrary, they reflect a society whose very foundation is being torn up.

The destructiveness of legalized abortion is evident in the serious damage which it has inflicted on the American family. Fathers are now rendered powerless to protect the lives of their own offspring. Mothers are lured into abortion by a seductive doublespeak that ignores the reality of the unborn child and proclaims a false liberation. Siblings are denied the advantage of brothers and sisters. Teenagers are counseled, often by Government proxies, to have abortions without the knowledge of their parents. As a result of these and other factors, the family has been atomized, and the bulwark of a well-ordered society has thus been undermined.

NATURAL REVULSION TO ABORTION

Those who advance the cause of legalized abortion often say, "I am personally opposed to abortion, and I would never have one myself." Then they go on to make certain arguments in favor of abortion. I think it is profitable to consider the first part of their argument in which they say they have a personal feeling against abortion. If abortion is some sort of legitimate "reproductive right," why should there be, even among proponents, a repugnance toward the act of abortion itself? Why do the proponents abhor it "personally" and yet encourage others to have abortions?

The answer to this contradiction lies, I think, in the human heart. None of us—not even the proabortionists—can understand the facts of prenatal development, understand motherhood and the value of children, understand abortion techniques, and understand our own humanity and say, at the same time, that abortion is a good thing. Abortion makes us all a little weak-kneed. Even when it is called "termination of pregnancy," we naturally recoil from the thought of a mother and an abortionist destroying an unborn child.

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In her book, "In Necessity and Sorrow" (Basic Books 1976), Magna Denes described the staff at an abortion hospital as "dedicated and full of doubt, committed but uneasy." (p. 17.) Where does this doubt come from? What makes health professionals uneasy about their work? It is, I am convinced, the inescapable truth engraved on every heart that human life is a special gift deserving our utmost respect. Beyond all the arguments on both sides of the abortion issue, it is ultimately true, as Pascal put it, that "the heart has its reasons which reason does not know." The human heart simply cannot conform to abortion.

BELIEVERS AND NONBELIEVERS IN AGREEMENT

Believers know this rule of the heart as God's law. They have it confirmed by revealed truth, reason, and tradition and articulated by the ancient command, "Thou shalt not kill." Nonbelievers reach the same conclusion by studying closely the facts of prenatal development and conceding that abortion is simply wrong.

Dr. Bernard N. Nathanson is a former abortionist who now argues against legalized abortion. He is a self-professed nonbeliever. In his book, "Aborting America," Dr. Nathanson discusses the Golden Rule in connection with abortion. He asserts that even apart from religion, the Golden Rule is "simply a statement of innate human wisdom." He says,

> Unless this principle is cherished by a society and widely honored by its individual members, the end result is anarchy and the violent dissolution of the society. This is why life is always an overriding value in the great ethical systems of world history. If we do not protect innocent, nonaggressive elements in the human community, the alternative is too horrible to contemplate. Looked at this way, the sanctity of life is not a theological but a secular concept, which should be perfectly acceptable to my fellow atheists." (p. 227.)

As a Christian, I have a different approach from Dr. Nathanson, although on the abortion issue, we reach a similar result. To my mind, every single abortion is an incalculable blow to the moral order ordained by Almighty God. It is God who creates individual human beings in His image and likeness, and we humans take part only as procreators. For this reason, human life, in the deepest sense, belongs to God.

GOD'S AUTHORITY AS BASIS FOR LAW VERSUS LEGAL POSITIVISM

Although many in public life may shrink from mentioning God, I do not fear to invoke His name and His authority as the ultimate basis for human law. As a body, we, in the Senate, invoke God's authority before beginning each session. This practice of an opening prayer goes back to the early days of the Republic and has its genesis in the traditional notion that man's law is subject to God's. We thus daily affirm in our institutional practice here in the Senate that our work as lawmakers is under the authority of a higher law.

The traditional invocation of God as a substantive basis for legislation does not, however, go down easily with most contemporary legal scholars. They have become caught up in the spirit of an intellectual age whose first article of faith is that man, not God, is the measure of all things. The wisdom of the "Laws of Nature and of Nature's God," as Thomas Jefferson put it, is lost on these legal scholars and their disciples in government. In the world of jurisprudence, this modern theory of law is generally known as legal positivism. Much to the detriment of our country, it has become ascendant in Congress, the executive departments, and most clearly in the Supreme Court. Legal positivism holds that the validity of a law derives from its being promulgated through regular procedures and rules, irrespective of its substantive content. In other words, no matter what the law says, it is valid as long as it complies with ordinary lawmaking procedures. Legal positivism admits of no higher law or check on manmade law. Hence, the concept of justice has no place in the positivist legal system.

According to Hans Kelsen, a leading positivist of the 20th century, law cannot be criticized as unjust. For Kelsen, justice "is not ascertainable of rational knowledge at all." He says, "Rather, from the standpoint of rational knowledge there are only interests and conflicts of interests . . . Justice is an irrational ideal." Hans Kelsen, "The Pure Theory of Law," 50 Law Quart. Rev. 474 (1934). At bottom, legal positivism denies outright traditional notions of a higher law given by God. The ideal of justice based on immutable principles of right and wrong is dispensed with.

Consistant with legal positivism, the idea has become accepted in certain circles in the United States that God has nothing to do with law and public policy. In debating issues in Congress, we, in 1982, are not, supposedly, to mention God or have recourse to religious authority. God is something exclusively for private life and is irrelevant to human law.

Mr. President, I stand here today to reject legal positivism root and branch. Justice is the legitimate object of all law, and God's guidance in attaining that end is indispensable. In failing to recognize these ancient understandings, human societies subject themselves to the destructive ways of men unimpeded by God's law. Men thus cut off from God have only themselves for authority, a fearful prospect which has always produced fearful consequences.

A CROSSROAD FOR AMERICA AND THE WEST

Legal positivism and its rejection of God's authority are alien to traditional Anglo-American jurisprudence, and they are destructive of American society. I say that it is time to return to our heritage and return to God and His law as the basis for our own.

According to Malcolm Muggeridge, the well-known British journalist, Western civilization is at a critical point, and the abortion controversy, he asserts, is syptomatic of the decision that confronts us. He says:

> Our Western way of life has come to a parting of the ways; time's takeover bid for eternity has reached the point at which irrevocable decisions have to be taken. Either we go on with the process of shaping our own destiny without reference to any higher being than Man, deciding ourselves how many children shall be born, when and in what varieties, which lives are worth continuing and which should be put out, from whom spare-parts—kidneys, hearts, genitals, brainboxes even—shall be taken and to whom allotted.
>
> Or we draw back, seeking to understand and fall within our Creator's purpose for us rather than to pursue our own; in true humility praying, as the founder of our religion and our civilization taught us: Thy will be done.—Muggeridge, "What the Abortion Argument is About," 1 Human Life Review 4, 5 (1975).

NATURAL LAW BASIS OF THE CONSTITUTION

Let me hasten to add at this point, Mr. President, before the positivists denounce me as destroying the Constitution, that what I am advocating today, although rarely heard in recent times, is solidly based in American tradition and does no violence whatsoever to the Constitution. In fact, the establishment of the United States grew out of the colonists' rejection of a British parliamentary positivism which claimed absolute prerogatives over colonial life. Let us not forget those powerful words of the Declaration of Independence, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." The founding document of our country acknowledges God as the source of legal rights and as the authority for human law.

Some critics undoubtedly will argue that resort to God's authority as a guide to legislation violates the establishment clause of the first amendment. The purpose of the establishment clause was not, however, to outlaw religious principles as a basis for law, but it was to prohibit congressional establishment of a national church. It is no violation of the first amendment to base our laws on religious principles. To do otherwise—to ignore God's revelation in human history—would be to reject the only sure foundation we have on Earth.

Writing in the March 19, 1982 issue of Christianity Today, Richard John Neuhaus, editor of Lutheran Forum, said, quite accurately,

> Today, talk of a "Christian America" is portrayed as rightwing extremism. But that America was as Christian as it was a republic was self-evident throughout most of our history. If we wonder why some people react so aggressively to the course of American society, we need to be reminded that some of the fundamental changes in our national life are very recent. . . [T]alk about our being a secular society and state began to gain currency only in the 1940's. From the Mayflower Compact in the 17th century through the social-gospel movement that ended in this century, it was assumed that in some significant sense this is a Christian nation. Opponents of that notion have failed in recent decades to eradicate that belief from American life.

American history is full of examples substantiating what Mr. Neuhaus says. In the context of the debate over court-imposed abortion on demand, it will suffice to note two assertions by the Supreme Court itself. In 1892, the Court agreed, "[W]e are a Christian people, and the morality of the country is deeply ingrafted upon Christianity . . . "*Church of the Holy Trinity* v. *United States,* 143 U.S. 457, 471 (1892). In 1931, the Court said, "We are a Christian people, according to one another the equal right of religious freedom, and acknowledging with reverence the duty of obedience to the will of God." *United States* v. *MacIntosh,* 283 U.S. 605, 625 (1931).

To protect innocent human life is the first purpose of any government which claims to be just. In this regard, we, in the United States, have failed over the past 9 years. The travesty of 10 million deaths from abortion is abundant evidence that Congress needs to act for the protection of unborn human beings.

THE CANCER OF ROE VERSUS WADE

In *Roe* v. *Wade,* 410 U.S. 113 (1973), the Supreme Court purported to interpret the Constitution to strip the States of virtually any power to protect unborn human beings. Beyond the fact that such a construction of the Constitution was clearly erroneous, having support in neither text nor history, the Supreme Court rendered its decision in a moral vacuum. In keeping with the theory and practice of legal positivism, the Court tried to develop the Constitution as something sui generis. The Court was without vision—the moral vision—that the Constitution can only be properly construed as informed by the subtle but unmistakable light of natural law.

Such natural law has as a fundamental tenet that human beings are created by God and that accordingly they all have the right to life. They have the right to be free from the aggression of others. To the extent that any manmade rule violates this principle, it cannot properly be called law but is instead a corruption of law. Although clothed with the power of law by virtue of the position of seven of the nine men on the Supreme Court in January 1973, Roe against Wade is nonetheless not law in an ultimate sense. It is a corruption of law, a corruption of the Constitution, and a corruption of American society.

Let us turn away from the corruption of Roe against Wade, but let us do so in a spirit of forgiveness and reconciliation. The abortion matter in the United States has caused much acrimony and hard feelings over these last 9 years. It is indeed an emotional subject. Many fine people with the best of intentions have been deceived by the rhetoric of "freedom of choice." But let us all, both as individuals and as Americans, make a resolute commitment to forgive each other for the errors which have been made. "To err is human, to forgive divine," according to the familiar counsel of Alexander Pope. The Divine in this case will lead us out of the abortion tragedy, and He will surely provide the means for national healing as well.

A CONGRESSIONAL REMEDY

Mr. President, Congress has the moral duty and the constitutional authority to ameliorate the continuing effects of Roe. The bill I am sponsoring today goes part of the way toward providing the appropriate legislative remedy. In essence, it does three things:

First, employing the unquestioned congressional power of the purse, the bill seeks to stop all Federal financial support for abortion. Even the Supreme Court did not venture so far from American tradition and the Constitution as to deny Congress its appropriation power. Although a determined positivist minority dissented, the majority of the Court held that the Hyde amendment, cutting off abortion funding, was constitutional in *Harris* v. *McRae,* 448 U.S. 297 (1980). The current bill seeks a permanent defunding of abortion insofar as that can be done by any one Congress.

Second, the bill contains a freedom-of-conscience provision for medical personnel who object to participation in performing abortion. This provision prohibits discrimination against pro-life medical personnel in any institution receiving Federal financial assistance.

Third, the bill establishes an expedited Supreme Court review for cases arising from enforcement of traditional State antiabortion laws which may occur in light of the bill's findings on the beginning of human life and the errors of Roe against Wade. These findings constitute, at a minimum, a congressional repudiation of the construction of the Constitution put forth by the majority in Roe against Wade. After the loss of 10 million unborn American children through legalized abortion, the time is overdue for such a repudiation.

SEPARATION OF POWERS

Some have engaged in the sophistry that Congress may not overturn a Supreme Court decision by enactment of a statute. In a strict sense, this statement is true: Congress may not reverse the binding decision between litigants of the highest Federal appellate court. But Congress may indeed interpret the Constitution differently from the Supreme Court and exercise its powers consistent with such interpretation. In so doing, Congress does not overturn a case. The order entered by the Court affecting the litigants in Roe stands. The litigants are bound. What does not stand—what cannot stand under the moral law and the Constitution itself—is a general political rule that the American Constitution renders unborn human beings mere things to be disposed of at will and that Congress is powerless to act.

In this connection, it should be recalled that the primary function of courts in our system of government is to decide cases at law and suits in equity. For appellate courts, including the Supreme Court, their job is to correct errors of law made in the courts below. In doing this, they must sometimes interpret the Constitution and declare a statute invalid. Their interpretation of the Constitution, however, is for the purpose of deciding the particular case before them. It is not for the purpose, nor have the courts been given the power, of acting as the exclusive arbiter of the meaning of the Constitution. Within Congress jurisdiction—that is, legislative power granted under the Constitution—Congress itself must interpret the Constitution pursuant to the oath of office of its Members.

This analysis of constitutional separation of powers is not new. It is supported by many precedents in American history. See, for example, Thomas Jefferson, Letter to Abigail Adams, September 11, 1804 (VIII The Writings of Thomas Jefferson 310 (Ford ed. 1897)); Thomas Jefferson, Letter to William C. Jarvis, September 28, 1820 (X The Writings of Thomas Jefferson 160 (Ford ed. 1899)); Andrew Jackson, Veto Message on Bill to Recharter the Bank of the United States, July 10, 1832 (II Messages and Papers of the President 576, 581-83 (Richardson ed. 1896)); and Abraham Lincoln, Speeches during the Lincoln-Douglas Senatorial Campaign, July, October 1858 (II The Collected Works of Abraham Lincoln 494, 516 (Basler ed. 1953); III id, 255). What would be new is to accept the argument that the Supreme Court is not only the supreme judicial organ but occupies a position of political supremacy over the whole Federal Government.

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Let us briefly review statements of three Presidents on this point. First, Thomas Jefferson wrote:

> [T]he opinion which gives to the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, *but for the Legislature and Executive also, in their spheres, would make the judiciary a despotic branch.*" Letter to Abagail Adams, supra (emphasis added).

Second, President Andrew Jackson said, in his message of 1832 vetoing the act to recharter the Bank of the United States:

> The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve." II Messages and Papers of the Presidents, supra.

A third notable antecedent in American history, relevant to separation of powers in abortion and Roe against Wade, involves slavery and the Dred Scott decision. President Lincoln, in his first inaugural address, March 4, 1861, articulated the proper role of the Supreme court:

> I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding, in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to a very high respect and consideration in all parallel cases by all other departments of the government. And, while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be overruled and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time, the candid citizen must confess that if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal. *The Writings of Abraham Lincoln* 262 (A. Lapsley ed. 1906).

President Lincoln's statement is as appropriate today as it was in 1861 and should be recalled whenever the argument is made that the Supreme Court is somehow the supreme branch of the entire Federal Government.

The doctrine of separation of powers under our Constitution is not always simple in its application, and I do not intend to lay down today a single rule of thumb that applies under all circumstances. In the abortion matter, however, it is clear that the Supreme Court misconstrued the Constitution and that Congress has certain power to ameliorate the continuing effects of that error. Let us proceed with dispatch to recognize the right to life under American law.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. A parliamentary inquiry is not in order after the request for the yeas and nays until there is a determination of whether there is a sufficient number. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator from Arkansas will state it.

Mr. BUMPERS. Is the amendment of the Senator from North Carolina divisible?

The PRESIDENT pro tempore. The amendment of the Senator from North Carolina is an amendment to strike and insert and, under the rules, an amendment to strike and insert is not divisible.

Mr. WEICKER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Connecticut.

UP AMENDMENT NO. 1252

Mr. WEICKER. Mr. President, I send to the desk a perfecting amendment of the bill proposed to be stricken out and ask it be read.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

> The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1252 as a perfecting amendment to unprinted amendment No. 1251.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HELMS. I think it should be read.

The PRESIDENT pro tempore. Is there objection?

Mr. HELMS. I object.

The PRESIDENT pro tempore. Objection is heard.

The legislative clerk read as follows:

> At the end of the language proposed to be stricken by the committee substitute add the following:
>
> SEC. . Nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

SEVERAL SENATORS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana.

UP AMENDMENT NO. 1253

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

> The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 1253.
>
> At the end of the pending amendment, add the following: It is the sense of the Congress that the federal courts must remain open to litigants whose claims arise out of the federal Constitution. Furthermore, it is emphatically the province and duty of the judicial department to say what the law is and Article 5 of the Constitution specifically provides a mechanism to respond to the Constitutional decisions of the Supreme Court.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I move to table the underlying amendment and I ask for the yeas and nays.

The PRESIDENT pro tempore. Which amendment is the Senator moving to table?

Mr. HELMS. The Weicker amendment in the first degree, the underlying amendment.

The PRESIDENT pro tempore. The yeas and nays have been called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Carolina (Mr. HELMS) to table the amendment of the Senator from Connecticut (Mr. WEICKER).

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. SIMPSON) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—38

Abdnor
Armstrong
Byrd,
  Harry F., Jr.
D'Amato
DeConcini
Denton
Dole
Domenici
East
Exon
Ford
Garn
Grassley
Hatch
Hawkins
Helms
Humphrey
Jepsen
Johnston
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Percy
Pressler
Proxmire
Quayle
Randolph
Roth
Stennis
Symms
Thurmond
Warner
Zorinsky

NAYS—59

Andrews
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Dixon
Dodd
Durenberger
Eagleton
Glenn
Goldwater
Gorton
Hart
Hatfield
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Kassebaum
Kennedy
Leahy
Levin
Mathias
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Rudman
Sarbanes
Schmitt
Specter
Stafford
Stevens
Tower
Tsongas
Wallop
Weicker

NOT VOTING—3

Matsunaga
Sasser
Simpson

So the motion to lay on the table Mr. Weicker's amendment (UP No. 1252) was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I first want to thank my colleagues for the courtesy that they have extended to me to speak on matters before this Chamber. I thought that the tabling motion, although in order, was a little premature, considering that I had not had an opportunity to address myself to the subject matter which has occupied the Chamber for the last several days, or the new matter introduced by the distinguished Senator from North Carolina, or the amendment of the Senator from Connecticut, or the amendment of the Senator from Montana.

Now, Mr. President, in essence, what we have before us is another court-stripping amendment by the distinguished Senator from North Carolina. Maybe the distinguished Senator from North Carolina would be pleased to present a constitutional amendment that eliminated the third separate-but-equal branch of Government and just have the President and Congress. Then we would not have to go through this great series of events whereupon every time we disagree with something in this country we make certain that there shall be no judicial review.

I find it ironic that anyone claiming to be of a conservative bent would try to decimate the Constitution of the United States and, de facto, eliminate the protection which all of us as Americans are provided through the judicial system.

Mr. HELMS. Will the Senator yield for a question?

Mr. WEICKER. I wonder if my good friend from North Carolina, who tried to foreclose me from saying anything, would now allow me to say a few words.

Mr. HELMS. Delighted. I just wanted to ask one question of the Senator.

Mr. WEICKER. On that subject I reiterate that no one is confronting here the substance of prayer in school—that will be discussed—or the substance of abortion. Rather, we are confronted very baldly with the issue of whether or not the Congress of the United States by statute can overrule the courts of this Nation—the issue of court stripping. I pointed out to my colleagues, when we were on the subject of busing, that the problem there happened to be a problem that related to the opportunities of black schoolchildren. I said then that if you pursue this principle then nothing is safe, none of us; the next thing you know it will be Senators of the United States who are not afforded the protection of the Constitution, and then maybe businessmen and right on down the list. And now we are seeing this come to pass. I think the time has come to say no, to vigorously pursue that which is entrusted to our branch of the Government, to try to devise positive solutions to problems that do exist in this Nation, but not to try to eliminate one of the other separate-but-equal branches of Government.

That certainly is not a conservative's approach toward our Constitution; rather, it is the most radical approach that anyone could think of.

I have in my hand a letter of August 5, 1982, from the American Bar Association. I should like to read it to my colleagues because I think that it very well articulates the problem that confronts us here this afternoon. It is from the American Bar Association, office of the president, David Brink:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., August 4, 1982.

DEAR SENATOR: On behalf of the American Bar Association, I am writing in opposition to S. 1742, the Voluntary School Prayer Act, S. 158 and S. 1741, the Human Life bills, and S. 2148, to protect unborn human beings. Senator Jesse Helms, the chief sponsor of these measures, has obtained a commitment from the Majority Leader to bring these issues up for Senate consideration either as free standing issues, or as amendments to some other piece of legislation, perhaps the debt ceiling bill. The ABA strongly urges that these proposals be rejected by the Senate.

The ABA takes no position on the issues of school prayer and abortion addressed by these bills. We are emphatically opposed to these bills, not because of their subject matter, but because of the means by which they seek to change constitutional law. If enacted, any one of these measures would constitute an unprecedented attack on the constitutional function of the federal courts and establish unwise policy.

Although different in subject matter and approach, all four measures share a common impermissible goal. They all pose a dangerous threat to the independence of the federal judiciary and undermine the fundamental principle of judicial review. S. 1742 would remove the jurisdiction over all school prayer cases from the Supreme Court as well as the lower federal courts. S. 158 and S. 1741 would withdraw the jurisdiction to hear abortion cases from the lower federal courts. And S. 2148 redefines the constitutional term "person" in Section 5 of the Fourteenth Amendment.

I appreciate the fact that Senator Helms has very strongly-held views on abortion and prayer in schools. I respect his right to hold those views and do not question the sincerity which prompts his actions. However, we of the ABA believe that his proposals go far beyond the sensitive moral and social issues which are the subject matter of these bills. As a matter of both law and policy, our Association believes that efforts to change constitutional law by means other than the amendment of the Constitution should not be attempted. In this we share the views of the preponderance of legal scholars, former Attorneys General, Solicitors General, jurists, and leaders of other national legal organizations. All of us believe that these proposals to limit the jurisdiction of federal courts to hear or grant remedies represent dangerous policy and are unconstitutional. We are deeply concerned that the basic tripartite structure of our government, with its delicate system of checks and balances, be preserved.

The constitutional issues raised by these proposals are complex and require thorough consideration. The fact is that the Senate Judiciary Committee has been actively reviewing these issues throughout this session, and has yet to complete action on them. This clearly demonstrates that there are no simple answers to the substantial constitutional and policy questions they raise. These bills are currently at various stages in the legislative process: S. 158 was reported to the full Judiciary Committee on July 9, 1981 and as amended is now identical to S. 1741; and although S. 1742 was not referred to the Committee, it is identical to S. 481 which has been pending in the Separation of Powers Subcommittee since February 27, 1981. The issue of prayer in public schools is currently the subject of full Judiciary Committee hearings on S.J. Res. 199, a proposed constitutional amendment providing for voluntary prayer in public schools. These hearings will no doubt deal with many of the procedural, constitutional and policy questions raised by S. 1742.

I would also point out that the current Attorney General's letter opinion of May 6 on S. 1742 raises fundamental and difficult questions concerning congressional power over Supreme Court jurisdiction. He cautions Congress to consider S. 1742 in light of the principles articulated in his letter and to avoid testing the limits of its authority. Both as a matter of constitutional law and as a matter of national policy, his analysis clearly leads to the conclusion tnat the withdrawal of jurisdiction from the Supreme Court proposed in S. 1742 is unconstitutional, despite his final statement that he will be willing to argue for its constitutionality. In our view, a correct analysis of basic constitutional principles would make any bill which similarly removes jurisdiction in constitutional cases unconstitutional as applied to any and all levels of the federal judiciary.

S. 2148, like S. 158, S. 1741, and S. 1742, is constitutionally objectionable because it also attempts to change settled constitutional law by ordinary legislation. This bill de-

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serves a great deal more scrutiny than it has been given. It was immediately placed on the Senate calendar after introduction, and no comparable legislation has ever been referred to Committee. Very serious constitutional questions have been raised about its approach, questions which in all fairness are too complex to be considered on first impression during the heat of what is likely to be another highly emotionally-charged debate on abortion. We therefore respectfully urge that S. 2148, or any similar proposal, not be acted upon by the Senate at this time.

The Association believes that the effort to add any of these measures as amendments to essential legislation, or to circumvent the ongoing committee consideration of the constitutional and policy issues involved, would be wholly inappropriate and should be strenuously resisted. We urge that the legislative process be permitted to work as intended.

Sincerely,

David R. Brink.

He has an enclosure, a very brief statement, signed by the following: Benjamin R. Civiletti, Attorney General 1979-81; Elliot L. Richardson, Attorney General 1973; Ramsey Clark, Attorney General 1967-69; Nicholas Katzenbach, Attorney General 1965-66; Wade McCree, Solicitor General 1977-81; Erwin N. Griswold, Solicitor General 1967-73; Archibald Cox, Solicitor General 1961-64; J. Lee Rankin, Solicitor General 1956-61; David R. Brink, president, American Bar Association; Arnette R. Hubbard, president, National Bar Association; W. Edwin Youngblood, president, Federal Bar Association; E. N. Carpenter, president, American Judicature Society; Alston Jennings, president, American College of Trial Lawyers; Justice Arthur J. Goldberg; Judge Shirley Hufstedler.

The statement, which is the enclosure, reads as follows:

Message to Congress

JUDICIAL INDEPENDENCE AND COURT STRIPPING LEGISLATION

We are opposed to the pending legislative restrictions on the jurisdiction of federal courts to hear or grant remedies in constitutional cases involving such controversial issues as school desegregation and busing, prayers in public schools and abortion. We urge that Congress, in resolving these issues, not respond to dissatisfaction with particular court decisions by attempting statutorily to rewrite constitutional law. Although the pending bills deal with different subject matters, and present varying constitutional and policy questions, they share a common impermissible purpose. All are attempts by Congress to do legislatively what should be done by constitutional amendment. We believe that such efforts pose a dangerous threat to the integrity and independence of the federal judiciary in our constitutional system of government.

As individuals, we hold varying views on the substantive policy issues which are the subjects of these proposals, and as a group we take no position on them. But we are united in the belief that these proposals threaten our fundamental constitutional principles: the independence and supremacy in constitutional questions of the federal judiciary, the separation of powers, and the system of checks and balances. The enactment of any one of these proposals curbing the authority of the courts to hear cases or grant remedies for constitutional violations would establish an unworthy precedent.

Because the policy considerations are so substantial, and because the constitutional propriety of these bills is open to serious reservations, we urge the Congress to reject all efforts to remove federal court jurisdiction over constitutional rights and remedies, in whatever form they are presented.

Mr. President, that is exactly what we have before this Chamber at the present time.

I know that most of my colleagues probably feel a certain uneasiness about my good friend, the Senator from North Carolina, and I sharing the floor, that maybe matters might slow down a bit. Such is going to be the case. But I also point out that it was just recently that the Senate of the United States passed upon a constitutional amendment, and I believe this Senator spoke for, at most, 5 to 7 minutes on that matter.

That was the way to handle it. I was very much against the balance-the-budget amendment to the Constitution, and I so stated, and I so voted. But that was the way to do it. That is the proper procedure.

If we follow the procedures—never mind the substance—advocated by the distinguished Senator from North Carolina, then, believe me, the Constitution becomes a worthless document.

This generation has used up the capital that has been acquired by generations throughout hundreds of years. The last thing that is left out there untouched, at least in terms of what it stands for, is the Constitution of the United States.

Are we going to turn that into a scrap of paper, also, so as to give vent to our particular feelings at this moment in history, or are we going to at least leave that unsullied and untouched, both as to substance and procedure, for our children?

Mr. President, I do not intend to talk at length at this particular moment, because I think other Senators wish to make comments on this matter. Indeed, I am quite prepared to respond to any question, and I am prepared to get into a lengthy discussion on school prayer before we are through.

I think the majority leader was quite correct in giving a period of time for an airing of these matters, but I assure Senators that so long as they take the form they are presently in, which is to circumvent the amendment process of the Constitution of the United States, we are going to do very little business on the floor of the U.S. Senate insofar as this week is concerned, or whatever weeks we are required to be here.

I am willing to take my licks and accept my defeats—and I did on the balanced budget amendment—when they are done according to the constitutional procedures of this country. But when in passion, however well meaning that passion, we try to circumvent those constitutional procedures, then I assure my good friend from North Carolina that recesses and holidays and all the rest of it will mean very little. I am prepared to stay here just as long as he would like to stay here. Maybe we should grant a vacation to all our colleagues and the two of us could hold the floor together and enjoy each other's company in the next couple of weeks.

In any event, it is for that reason, principally, without getting into the substance of these other matters, which I am sure will come later, that I present myself as I do in terms of this amendment.

(Mr. GOLDWATER assumed the Chair.)

Mr. HELMS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. WEICKER. I yield. I do not intend to hold the floor.

Mr. HELMS. I say to my friend, as I have said on many occasions, that we happen to differ on this issue and we differ on the approach.

I suppose there may be as many as 10 Senators who understood the significance of the last vote. If they had, many more no doubt would have voted the other way. But that is beside the point.

Let me ask the Senator this: Did he vote for the voting rights extension?

Mr. WEICKER. Yes; indeed, I did.

Mr. HELMS. Did the voting rights extension limit the jurisdiction of the court?

Mr. WEICKER. I say again that there they carefully crafted a way to give additional rights—additional rights. What we cannot do is to restrict the rights guaranteed by the Constitution. We always try to expand rights legislatively. But to eliminate one of the branches of Government, I say that moves into the realm—if it is going to be done—of a constitutional amendment.

We cannot legislatively reduce the rights of our fellow Americans. That, in essence, is what the Senator from North Carolina is trying to do.

Mr. HELMS. That, in essence, is what the Senator did when he voted for the voting rights extension. You cannot have one set of standards on one occasion and a different set of standards on another.

Also, there is article III of the Constitution, which pretty clearly defines the right—and I think the duty—of Congress to limit the jurisdiction of the Court when Congress decides that the Court is intruding into matters too far, in which they should not be involved.

I thank the Senator.

Mr. BAUCUS. Mr. President, will the Senator from Connecticut yield for a question?

Mr. WEICKER. I yield the floor.

Mr. BAUCUS. Mr. President, I applaud the Senator from Connecticut and others here who are correctly pointing out to the Senate and to the country that the issue before us is not a school prayer bill. It is not an abortion bill. Rather, the issue before us is whether or not this Congress is going to limit the jurisdiction of the U.S. Supreme Court.

These are court-stripping bills. It is not a school prayer bill. It is not an abortion bill.

When the school prayer issue came before this body not too long ago, I daresay that at that time most Members—indeed, 80 or 90 percent of the Members—of this body saw that issue as a school prayer issue and not a court-stripping issue because of the way that issue was framed.

I think it is very important and it is critical that we today, before deciding how to vote on the underlying amendment of the Senator from North Carolina, that is, the school prayer amendment, and the second-degree amendment offered by the Senator from North Carolina as an abortion amendment, realize what we are doing if we vote for those amendments.

There are various ways to accomplish goals. We all know that when we disagree with the decision of the U.S. Supreme Court the way our Founding Fathers set out for us to change those decisions we disagree with is to offer and pass amendments to the Constitution. That in the wisdom of our Founding Fathers is the course that they saw as the primary way to overturn decisions of the U.S. Supreme Court.

In these days sometimes we are a little impatient. Sometimes we disagree with the decisions of the Supreme Court. In my judgment it is that impatience which has led to the efforts here today by statute to either overturn the Supreme Court decision or limit the jurisdiction of the Supreme Court, that is, preclude the Supreme Court from hearing any cases, any litigation on that particular issue.

I suggest that it is a double-edge sword that those who today do not like certain "liberal" decisions of the U.S. Supreme Court and who by statute are trying to either overturn those decisions or by limiting jurisdiction of the Supreme Court trying to preclude the Supreme Court from making those decisions, are going to not too many days from today, maybe a few days, maybe a few weeks, a few months, a few years, find that that very same vehicle is going to come back and haunt them; that is, a more liberal Congress might limit the Supreme Court review over right to bear arms or other provisions of the Constitution which are so near and dear to the hearts of some more conservative elements of American society.

We do have a pluralistic society. There is a divergence, a variety in American society we have to maintain and respect, and we should not so easily try to amend or overturn the Supreme Court decisions by statute by simple majority. That is a whimsical way to approach fundamental questions.

Rather I think we should respect the more thoughtful way to overturn decisions of the Court and that is by constitutional amendment.

Mr. President, I also do not intend to unnecessarily prolong this discussion. I think it important for this body to vote on these amendments. But I also think it is absolutely critical and essential for us, this body, and the country to realize what is happening here with these amendments; that is, they are court-stripping amendments.

Certainly the school prayer amendment is a court-stripping amendment. The abortion amendment is not really a court-stripping amendment. It is in the nature of an effort by statute to overturn the court's decision. So it is in the same kind of problem.

It is important, I think, to realize that is what is happening here today and realize that if we want to overturn the U.S. Supreme Court we should overturn it by constitutional amendment, get new Justices on the court, whatever the standard traditional institutional way that our Founding Fathers had in mind.

Mr. President, I wish now in slightly more detail explain to the Senate again why I very much believe that it is important to get this view up before this body.

PROCEDURAL CONCERNS

In the 96th Congress, as I stated earlier, the Senate voted favorably on an amendment offered by the Senator from North Carolina as an amendment to S. 450, a bill affecting the mandatory jurisdiction of the Supreme Court.

It is important to note that when the full Senate voted on the Helms amendment in April 1979, the vote was perceived as a vote for school prayer. There was little awareness of the implications of the removal of Supreme Court jurisdiction over a constitutional issue that was in that bill. The votes on the issue took place without serious discussion and consideration of the role of the Federal courts in the American system of government. The offering of the amendment came as a surprise to most Members of the Senate and took place without committee hearings, without any committee consideration, and without any input from constitutional scholars, the legal community, or interested organizations.

The amendment being offered by Senator HELMS today is identical to the language of the Helms amendment and is similar to S. 481, which was introduced at the beginning of this Congress by Senator HELMS. That bill is currently pending before the Separation of Powers Subcommittee, of which I am the ranking minority member.

Hearings on the bill were scheduled for last September and October but were canceled. They have never been rescheduled.

There have never been Senate hearings on the Helms proposal, and no subcommittee or committee of the Senate has ever considered the underlying legislation.

I think it is important for the record to show that the Helms legislation is being brought directly to the Senate floor as an amendment to the debt limit bill—without committee consideration. What is more, it is the proponents of the proposal who have failed to schedule hearings or request committee consideration.

THE REAL SUBSTANTIVE ISSUE

Apart form these procedural concerns, there are serious constitutional and public policy questions raised by the Helms amendment.

In the final analysis, the issue presented by his amendment is not the controversy surrounding the Supreme Court's school prayer decisions, Engel against Vitale or Abbington against Schempp. Rather, the issue is how should American citizens and Congress respond to controversial decisions of the Supreme Court.

Until recently, the constituencies opposed to socially controversial Supreme Court decisions have sought the adoption of constitutional amendments to overturn them. This alternative set out in article V of the Constitution requires a resolution adopted by a two-thirds majority of Congress or a simple majority of two-thirds of the State legislatures followed in either case by ratification of three-fourths of the States.

In the face of these rigorous requirements, these constituencies have failed to mobilize sufficient support for enacting constitutional amendments. Therefore, their focus has shifted to a set of bills which, although requiring only a majority of Congress and a Presidential signature, may conceivably accomplish the same end as a constitutional amendment.

Specifically, they seek the enactment of legislation which would remove Federal court jurisdiction over particular controversial issues. If these bills are enacted, the Federal courts will no longer be able to hear cases or enforce previous decisions in subject areas where a majority of Congress believed the courts should be precluded from functioning.

The Helms amendment before us today is one of these attempts. It

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would strip the Supreme Court and the lower Federal courts of their authority to hear school prayer cases.

Before we cast our votes on his amendment, I believe we should focus our attention on how his amendment would really impact on the Constitution, the courts, and on Congress itself.

Mr. President, I have, frankly, a bit more to say on this subject. I see the Senator from Colorado is on the floor and he wishes to address this issue as well.

Before yielding to the Senator from Colorado, I wish to make it crystal clear that I have my own views on school prayer. I have some questions about the Supreme Court decision, but my point in speaking here today has nothing to do with the merits of that decision. Rather it is the process by which we attempt to change the Supreme Court decisions. I think that process is so fundamentally important that it does not make much difference to me what the merits of the Supreme Court decisions are so long as we do not try to overturn those decisions by statute, and so long as we do not try to limit and preclude Supreme Court jurisdiction by statute because I think that is fundamentally a wrong and improper way of going about changing our Government.

Mr. HART. Mr. President, I wonder if the Senator from Montana will yield?

Mr. BAUCUS. I yield to the Senator from Colorado without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HART. Mr. President, I thank the Senator from Montana. I wish to very much support the thrust of and the direction of his remarks because he and I and, the Senator from Connecticut and others, share absolutely the fundamental premise of this argument before the Senate today, and that is that this latest attempt to divest the Supreme Court and inferior Federal courts of their jurisdiction to hear cases arising out of the school prayer laws should be seen for what it is, a brazen attempt to overturn the court decisions in those school prayer areas by damaging the integrity of the Federal courts as well as the historic independence of the judicial branch of our Government.

The amendment, particularly the school prayer amendment before the Senate today, is not only ill-considered and unwise, it is unconstitutional according to some of the most preeminent constitutional scholars in our country. If it and similar pieces of legislation are passed, our system of constitutional government will be shaken to its very foundation.

We all hold different views on these extremely controversial matters. Our differences on the right of abortion or the best way to achieve high-quality education should not blind us from clearly discerning that this amendment represents an unconstitutional infringement on the authority of the judicial branch and, as such, could well impair the ability of the Federal courts to protect the rights of all Americans.

Concern about passage of the so-called court-stripping bills is found among both Democrats and Republicans, Liberals, and Conservatives, and it is not a partisan issue nor is it an ideological issue. It is at its very essence and at its foundation a constitutional issue. For the Constitution—our national charter—is at stake, and the Constitution belongs to all of us.

From the earliest of days of the Republic, numerous efforts have been undertaken to curb the integrity and independence of the courts. In the early years of this century, at a time when the courts were striking down social welfare legislation, legislation was introduced to strip the Supreme Court of its power to judge the constitutionality of statutes. In 1937, President Roosevelt, stymied by the actions of what he viewed as a reactionary Court, tried to create a majority on the Court by packing its membership. And again in the 1950's—efforts were made to deprive Federal courts of their jurisdiction over cases arising from antisubversive laws. These measures failed, and with good reason. Attempts to obstruct the independence and integrity of the judicial branch were not wise then, and, they are not wise today. The Attorney General, William French Smith, has written: "History counsels against depriving the Court of its general appellate jurisdiction over Federal questions."

Proponents of the court-stripping measure we are considering today argue that constitutional authorization for such action exists in the exceptions clause of article III of our Constitution. But neither a close examination of the events at the Constitutional Convention nor a serious study of the theories of government which undergird our system provide support for such an expansive interpretation of the exceptions clause. In fact, earlier this year Attorney General Smith wrote Chairman THURMOND regarding the meaning of the exceptions clause:

> (The) constitution of the exceptions clause that is most consistent both with the plain language of the clause and with other evidence of its meaning is that Congress can limit the Court's appellate jurisdiction only up to the point where it impairs the Court's core functions in our constitutional scheme.

It should not take a legal scholar to see that, by impairing the ability of our courts to rule on school prayer cases arising under the religious freedom standards of the first amendment, it affects the Court's core function.

This amendment is unconstitutional because it fundamentally obstructs the principles at the heart of our constitutional scheme.

The framers of our Constitution, deeply steeped in the shortcomings of human nature and endowed with a superb knowledge of politics and government, designed a governmental structure based on separation of powers. The three branches of Government—executive, legislative, and judicial—would be largely independent of each other, and this separation would be enforced through the mechanism of checks and balances. If no one branch could dominate the other, they reasoned, this would lessen the opportunity for one group or individual to dominate the Government. As any school child knows, the system was designed to check tyranny.

Not only were the framers concerned about a general concentration of power, but they were especially on guard against domination of the other branches by the legislation. Popular majorities, working through their elected representatives in the legislature, could pass laws harmful to individual rights and liberties. In the Notes on Virginia, Jefferson writes:

> An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of a majesty, as that no one could transcend the legal limits without being effectively checked and restrained by the others.

Echoing Jefferson, Madison wrote in the Federalist:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of a one, a few, or a many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny.

In Federalist No. 78, Alexander Hamilton stated that it is the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void." Without this, he said, "all reservations of particular rights or privileges would amount to nothing." This idea received classic articulation in 1803 in the preeminent case of Marbury against Madison when Chief Justice Marshall declared that "it is the province and the duty of the judicial department to say what the law is." Since that time, the role of the Supreme Court as constitutional arbiter has not been seriously questioned.

Since the Judiciary was given the power of neither the pen nor the sword, it was immediately viewed by the framers as the weakest of the three branches. The power of judicial review by an independent judiciary, not beholden to the people or their elected representatives for either continued maintenance in office or compensation, was viewed as the secret to preventing the executive or legislative branches from invading fundamental rights and liberties. That justification is still relevant. In recent years, it has been Federal judges who have been most active in protecting individual rights and filling in basic constitutional guarantees. And yet this Chamber is seriously considering taking away their powers to do just that.

If this amendment is passed by the Congress, the legislature would be free to amend the agenda of the Court at will. If Congress has the power to determine what rights may be reviewed, it can determine what rights exist. This amendment would delete a crucial aspect of our constitutional scheme of checks and balances—for the Judiciary would act at the whim of Congress. The Federal courts would be free to enforce constitutional guarantees only if 51 percent of both houses of Congress agreed with their interpretation. That is not the way our Constitution is supposed to work. Moreover, passage of this amendment will create a dangerous precedent. The pressure to respond in a similar manner will increase in the years ahead. Future areas of controversy could be removed from the jurisdiction of the Court. Today, we are considering school prayer. In the future it could be due process or trial by jury or freedom of the press.

This amendment is unconstitutional because it represents a wholesale assault on the historic role of the Judiciary in our constitutional framework. Congress does not possess unlimited power over the jurisdiction of the Federal courts. As Attorney General Smith has said:

> Congress may not, however, consistent with the Constitution, make exceptions to the Supreme Court's jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

A free society—to remain free—must depend on a judiciary strong enough to protect the rights of all of its people.

Not only is this amendment unconstitutional, it is also unwise, ill-considered, and will lead to more problems in the years ahead than it could possibly solve.

Passage of court-stripping legislation could shift the battle ground on constitutional issues from Federal to State courts. This would introduce a hazardous experiment with the vulnerable fabric of our judicial system. The integrity of our Federal Judicial system requires a court of last resort having the last word on controversial cases. But without a Supreme Court to resolve the differences, what would prevent the different State courts from arriving at a multitude of desperate conclusions on controversial issues? Equal protection might mean one thing in Colorado and another in New York or North Carolina. Federal law would vary in its impact among the inferior courts. In addition, no guarantee is provided by the sponsors of court-stripping legislation that the State courts would continue to observe the supremacy of Federal law should it conflict with State statutes.

The danger inherent in all this was well expressed by Alexander Hamilton when he said:

> Thirteen independent courts of final jurisdiction over the same causes arising upon the same laws is a Hydra in government, from which nothing but contradiction and confusion can proceed.

The essence of the Constitution as a national document—uniting all Americans in a national charter of equal rights and responsibilities—would be undone.

Of course, it is also possible, contrary to the expectations of the sponsors of the amendment, that State courts would give full force and effect to the controlling precedents in constitutional law; the very precedents which have given rise to today's debate. In fact, in a resolution passed by the Conference of State Court Chief Justices at their annual conference earlier this year, the State jurists argued that it is condescending to imagine that they would not follow the precedents in these controversial areas. Thus, the sponsors of this amendment have left us a cruel choice: If this court-stripping works as intended we will be risking the gravest constitutional crisis in our history; if not—we will have sacrificed and risked a great deal for very little.

This amendment is also unwise because it bypasses the timetested method for amending the Constitution. A procedure already exists in our Constitution for, overturning unpopular Supreme Court decisions—that is, the amendment process. The framers precisely made the amendment process difficult in order that only the most carefully considered proposals, with the broadest public support, would become part of the law of the land. The amendment process is designed to insure that transient majorities can not easily change the Constitution. The amendment we are debating would circumvent that detailed procedure by allowing a simple majority of Congress to change our national charter. This is a radical notion.

Mr. President, throughout this debate it should become very clear to the people of this country that without access to the Federal courts, citizens will be without the protections necessary to secure and insure their freedoms. This is certainly true of the freedoms mandated by the first amendment. The subject of school prayer—at issue today—illustrates the importance of a Supreme Court, and inferior Federal courts, constitutionally powerful enough to protect liberty. And as the Supreme Court held in its school prayer cases in the early 1960's—organized school prayer undermines the religious liberty of all Americans.

For nearly 200 years, our Nation's heritage of diversity in religion has grown under a constitutional scheme which recognizes that religion is essentially a private matter, not a public matter. The founders of our Nation recognized that the right of all people to believe as they wish is best protected when the Government avoids interference in religion.

Almost 20 years ago, the Supreme Court stated that a "union of government and religion tends to destroy government and degrade religion." Any organized prayer in school demeans prayer by foisting upon it the mantle of governmental interference. Officially sanctioned prayer sessions, officiated at by school authorities, mock that voluntary initiative which is the essence of religion.

Having a teacher choose a prayer from among the many beliefs and denominations represented in the public schools destroys the neutrality between government and religion. This practice would undercut our tradition of religious freedom and diversity. It is highly ironic that those who frequently argue that government is incapable of touching something without ruining it should want government to play such a big part in the most private and personal of human activity.

One wonders how we would go about selecting the government officials to write the prayer. One wonders what government officials elected or appointed are more holy than others, or what would qualify some government officials, at whatever level, to design a prayer appropriate to all schoolchildern, let alone all Americans.

What criterie would we use to select the public officials to write our official prayers to be used in public schools? What standards would we use for selecting the most holy public officials to designate the prayers which our schoolchildren should recite? What committee would set itself up to select the official to write the prayer, or what committee itself would go about writing prayers?

Is that the appropriate function of school officials or public officials or county boards of supervisors or school boards or school superintendents or teachers or sheriffs or any other public official? Who decides who will write the prayer? And then, once decided upon, what standards will that public official use for deciding what prayer is best for our schoolchildren?

One has only to ask and pose these questions to understand the implica-

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tions of what this amendment would do.

No prayer conducted in the classroom can be said to be truly voluntary. There is nothing voluntary about a 7-year-old deciding to recite a prayer with his teacher standing over him. Students who opt out will be subjected to peer pressure, stigma, and scorn. Whenever the Government supports a particular religious belief, to use justice Black's words: "the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." It is precisely to prevent a minority from being coerced into a belief that the first amendment is a fundamental part of our Constitution.

Allowing official prayer in the public schools would undermine the role of the parents and family in religious education. It is fundamental in our tradition that every family has the right to reach each new generation its own distinctive traditions and beliefs free from Government interference. Official school prayer, by forcing students to be inculcated with the religion of their peers, or some abitrary beliefs of some yet unidentified set of public officials or individual public official, could well interfere with the right of parents to affect the religious education of their children. Why should the Government promote familial tension in this regard?

Finally, official school prayer would undercut the special place of our public schools in American life. From the earliest days of our Republic, public schools have taught children the importance of religious tolerance and the need to respect people with different backgrounds. As Justice Brennan has written, the public schools serve a uniquely public function: "The training of American citizens in an atmosphere free of parochial, divisive, or separatist influences of any sort—an atmosphere in which children may assimilate a heritage common to all American groups and religions."

Official school prayer would interfere with the teaching of tolerance by expressing the Government's commitment to particular religious tradition and one that might be arbitrary or even whimsically arrived at by an individual or collective set of unknown public officials.

I therefore strongly oppose both this amendment—divesting the Supreme Court, and the lower Federal courts, of their jurisdiction to hear school prayer cases—and the rationale behind it—the reintroduction of organized school prayer—as serious threats to not only our tradition of religions diversity and pluralism, but also our entire constitutional scheme based on separation of powers, checks and balances, and the independence of the judicial branch sufficient to protect individual rights. The Founders' concerns about tyranny are no less relevant in 1982 than they were in 1787. I strongly urge my colleagues to refrain from damaging the Constitution—"the most wonderful work ever struck off at a given time by the brain and purpose of man."

Mr. President, I think the testimony before various committees of Congress is particularly important for us to consider, given the qualifications, the backgrounds, the experience, and expertise of those who have testified on this issue. I cite, for example, particularly, the statements of Prof. Telford Taylor on behalf of the American Civil Liberties Union before the Subcommittee on the Constitution of the Judiciary Committee of the U.S. Senate on S. 158. That testimony was delivered a year ago, on May 20, 1981, but it is no less relevant today.

In considering that testimony, we should take into consideration the background of the individual who delivered it.

Professor Taylor is a lawyer admitted to practice in the District of Columbia and before the New York State Bar and various Federal courts, including the Supreme Court. He has been a practitioner at the bar of this country for 47 years, first as a Federal Government attorney and since 1952 as a private practitioner. He has been principally occupied with law school instruction and has conducted classes and seminars at Yale, Columbia, Harvard, the University of Colorado, and the Benjamin Cardozo Law School. He is presently Nash professor emeritus at Columbia Law School and Kaiser professor of constitutional law at the Cardozo Law School.

Throughout the years of his expertise in teaching and practice he has been primarily concerned with Federal law including Federal constitutional law, and he has conducted classes in constitutional law at all of the above named institutions, and in every year since 1963.

That record includes, I am proud to say, having taught a course which it was my privilege to take in 1964 at the Yale Law School.

Professor Taylor testifies, and I think cogently so, in the following manner:

> My opposition to the jurisdictional provisions of "the court stripping proposal" is not based upon a narrow view of congressioanl power in this field. The Supreme Court has explicitly recognized that Congress has plenary control over the jurisdiction of the Federal courts.

Mr. President, I would like to include the testimony of Professor Taylor at this point in its entirety in the RECORD because I think it is an excellent statement of the constitutional law underlying the principle at issue in this amendment. I ask unanimous consent to do so.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF TELFORD TAYLOR ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION

My name is Telford Taylor. I am a lawyer, admitted to practice in the District of Columbia, New York State, and various federal courts including the Supreme Court of the United States. I have been at the bar for 47 years, first as a federal government attorney (1933–42), and since 1952 as a private practitioner. In recent years I have been principally occupied with law school instruction, and have conducted classes and seminars at the Yale, Columbia, Harvard, University of Colorado, and Benjamin Cardozo Law Schools. I am presently Nash Professor Emeritus at the Columbia Law School and Kaiser Professor of Constitutional Law at the Cardozo Law School.

Throughout these years I have been primarily concerned with federal, including federal constitutional, law, and I have conducted classes in constitutional law at all of the above-named institutions, and in every year since 1963.

I am appearing here on behalf of the American Civil Liberties Union, in order to discuss the extent of congressional power over federal court jurisdiction. I am aware that there are a number of pending bills which withdraw court jurisdiction in a variety of ways. But I believe it would be most helpful if I focus my testimony on one of the most narrowly drawn bills, since what I have to say about it will apply a fortiori to bills which will withdraw even more jurisdiction. So I will direct my remarks to S. 158, introduced by Senator Helms, which undertakes to withdraw from the lower federal courts jurisdiction to issue injunctions and declaratory judgments in cases involving state laws which prohibit or limit the performance of abortions. I share with the ACLU the view that this provision, if enacted into law, would be unconstitutional. But I am not a member of or bound by the views of the ACLU, and the particular contents of this statement do not necessarily reflect their opinions.

1. Congress and the Inferior Federal Courts:

My opposition to the jurisdictional provisions of S. 158 is not based upon a narrow view of Congressional power in this field. The Supreme Court has explicitly recognized that Congress has "plenary control over the jurisdiction of the federal courts." *Bro. of R. Trainmen* v. *Toledo, P. & W. R. Co.*, 321 U.S. 50, 63–64 (1944). This is in accord with the history and language of Article III of the Constitution, Section 1 of which vests the judicial power in the Supreme Court "and in such inferior Courts as the Congress may from time to time ordain and establish." It is generally understood that this wording embodied a compromise between those among the framers who favored and those who opposed establishment of a federal court system. Thus the decision between the two alternatives was not mandated by the Constitution itself, and it was left up to Congress to handle by statute.

It thus appears that it would have been entirely constitutional for Congress to establish no "inferior" federal courts at all. And although the First Congress did in fact establish the district and circuit courts, the First Judiciary Act gave them a range of jurisdiction which, by today's standards, was very narrow.

Accordingly, if we were to look to the intentions of the framers, Congress could constitutionally conclude and legislate extensive curtailment, or even abolition, of inferior federal court jurisdiction. Of course, from a practical standpoint, a decision not to make inferior federal courts in 1791 would have been quite different from a decision to abolish them in 1981, after we have had federal courts for nearly two centuries, and after more than a century during which they have become a major part of the nation's judicial machinery. These practical consideration have led one commentator to conclude that: "Abolition of the lower federal courts is no longer constitutionally permissible . . . the jurisdiction of these courts is not a matter solely within the discretion of Congress." Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale L.J. 498 (1974).

While I think all would agree that today the abolition of the lower federal courts, or deep inroads into their jurisdiction, would be extremely unwise, and indeed destructively revolutionary, of course S. 158 is, quantitatively, a very limited withdrawal. My opposition to it, and my conclusion that it is unconstitutional, does not rest upon the proposition that there are quantitative constitutional limits on Congressional power over inferior federal court jurisdiction. That power is, as stated by the Supreme Court, "plenary," like, for example, Congressional power to regulate interstate commerce.

2. Constitutional Limitations on Congressional Power:

But to say that Congressional power over lower federal court jurisdiction is "plenary" does not mean that it is immune from the general limitations on Congressional power found elsewhere in the Constitution, including the several amendments. Congress specifies the jurisdiction by enacting statutes, and those statutes are no more immune from constitutional scrutiny than any others.

The Congressional power over interstate commerce is so ample that, despite the enormous proliferation of federal legislation, not since 1936 has a federal regulation of commerce been held unconstitutional. Yet nothing is better settled than that this power is subject to constitutional limitations such as the First Amendment and the due process clause of the Fifth Amendment. Were Congress to enact statutes forbidding interstate carriers to transport literature reflectig a particular political persuasion, or goods owned by members of a particular race or adherents of a religion, these statutes would undeniably be regulations of interstate commerce, but they would be constitutionally invalid under the First or Fifth Amendments.

The same principle applies to the exercise of Congressional power under Article III. A statute withdrawing from the federal courts jurisdiction to issue injunctions at the suit of individuals identified with particular political, racial, or religious groups would be manifestly unconstitutional under those same amendments.

These conclusions, I believe, follow inevitably from the language and structure of the Constitution. See *Louisville Joint Stock Land Bank* v. *Radford*, 295 U.S. 555, 589 (1935): "the bankruptcy power, like the other great substantive powers, is subject to the Fifth Amendment." That there are few precedents in the jurisdictional field is, therefore, hardly surprising. But sufficient precedent is not lacking, for the foregoing conclusions are amply and explicitly supported by the decision and opinion in *United States* v. *Klein*, 13 Wall. 128 (1872). In that case, the Court of Claims has been given jurisdiction to determine, subject to Supreme Court review, claims to recover property taken by military action during the War Between the States. Some such claimants had been adherents of the Confederacy, but had subsequently taken amnesty oaths pursuant to President Lincoln's pardon proclamation. With the purpose of barring such claimants from recovery, Congress in 1870 passed a statute which provided that, if in any such case the claimant relied upon a presidential pardon as proof of eligibility, the Court of Claims or the Supreme Court (as the case might be) should have no further jurisdiction, and should dismiss the claim for want of jurisdiction.

In the *Klein* case, involving such a claim, the Supreme Court held the 1870 statute unconstitutional, saying that it was not "an exercise of the acknowledged power of Congress" over the Supreme Court's appellate jurisdiction. Two reasons were given of which one, directly relevant here, was that the statute impaired the effect of a pardon, and thus infringed the President's constitutional power under Article II, Section 2 to "grant Reprieves and Pardons for Offenses against the United States." The fact that the 1870 statute was phrased in jurisdictional terms made no difference, since its effect was beyond the power of Congress and violated Section 2 of Article II.

Accordingly, the requirement that statutes enacted by Congress under its Article III powers conform to general constitutional limitations is clearly established, both under the language and structure of the Constitution, and as a matter of decisional precedent. The immediate question is whether Section 2 of S. 158 can survive constitutional scrutiny under those principles. For the reasons given hereinafter, I believe that question must be answered in the negative.

3. The purpose of Section 2 of S. 158 is constitutionally impermissible:

Section 2 of S. 158, like the statute of 1870 involved in the *Klein* case, is a limitation on federal court jurisdiction. But just as the purpose and effect of the 1870 statute was substantive—i.e., to nullify the effect of a presidential pardon on war property claims—so the purpose and effect of Section 2 of S. 158 is substantive—i.e., to make it more difficult than theretofore for individuals to secure their constitutional rights recognized in *Roe* v. *Wade*. In neither case is the purpose constitutionally permissible.

Now, of course, I am aware of the many cases in which the Supreme Court has declared and applied the rule that the constitutionality of a statute must be determined on its face, and without inquiry into motives or purposes that underlie the enactment. See, e.g., *McCray* v. *United States*, 195 U.S. 27, 56 (1904); *Arizona* v. *California*, 283 U.S. 423, 455 (1931); *United States* v. *Darby*, 312 U.S. 100, 113–14 (1941); *Flemming* v. *Nestor*, 363 U.S. 603, 617 (1960); *United States* v. *O'Brien*, 391 U.S. 362, 382–86 (1968). For example, a law prohibiting anyone other than a lawyer from engaging in debt-adjusting will be upheld if a rational and legitimate purpose can be conceived, without going behind the face of the statute to determine whether or not the actual legislative motive was to confer financial benefits on lawyers—a motive by which legislators, many of whom are lawyers, might be governed. *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

But there are well-recognized exceptions to that principle. *United States* v. *O'Brien*, *supra* at 383 note 30; Ely, *Legislative and Administrative Motivation in Constitutional Law*, 79 Yale L.J. 1205 (1970). Perhaps the most important one involves the equal protection clause of the Fourteenth Amendment. For many years the Supreme Court has declared the rule that the unequal impact of a statute is not enough to establish a violation of the equal protection clause; there must be a governmental purpose to discriminate. *Snowden* v. *Hughes*, 321 U.S. 1 (1944); *Keyes* v. *School District*, 413 U.S. 189 (1973); *Washington* v. *Davis*, 426 U.S. 229 (1976); *Arlington Heights* v. *Metropolitan Housing Corp.*, 429 U.S. 252 (1977); *Mobile* v. *Bolden*, 446 U.S. 55 (1980). And it is equally well settled that, in equal protection cases, the courts are not limited to an examination of the statute on its face. *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Green* v. *County School Board*, 398 U.S. 430 (1968); *Columbus Board of Education* v. *Penick*, 443 U.S. 229 (1979). Indeed, the inequality of impact may be so great that a purpose to discriminate may be inferred from that circumstance alone. *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886); *Washington* v. *Davis*, *supra* at 253–54 (Justice Stevens, concurring).

Finally, and perhaps most important for present purposes, the Court has held that a statute which does not on its face articulate an unlawful purpose, may, because of its language and the context in which it is enacted, disclose on its face an unlawful purpose and an inevitable unlawful effect. *Grosjean* v. *American Press Co.*, 297 U.S. 233 (1936); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960).

The *Gomillion* case involved an Alabama statute enacted in 1957 which changed the boundaries of the City of Tuskegee from a square to what the Supreme Court described as "a strangely irregular twenty-eight-sided figure" (364 U.S. at 341). The complainants, black citizens resident within the square boundaries, sought in the federal courts a declaratory judgment that the statute was unconstitutional, alleging that its "essential inevitable effect" would be "to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident."

The lower federal courts dismissed the action on the ground that they had no power to review the Alabama legislature's action. The Supreme Court unanimously reversed the judgment below, holding that, upon the facts alleged, the statute violated the Fifteenth Amendment, since upon those facts ". . . the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is soley concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote."

I believe that the relevance of the *Gomillion* case to the issue at hand here is obvious. The power of the Alabama legislature over municipal districting was recognized by the Supreme Court as having "breadth and importance" (364 U.S. at 342), just as Congressional power under Section 1 of Article III should be so recognized. The Alabama statute did not explicitly disfavor black residents of Tuskegee, but the boundaries drawn made clear its unconstitutional purpose and effect. Section 2 of S. 158 does not explicitly avow an unconstitutional purpose, but such a purpose is nonetheless manifest, from both its text and its context.

To be sure, the constitutional rights involved are not the same. The *Gomillion* case involved the voting rights protected by

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the Fifteenth Amendment or, as Justice Whittaker thought (356 U.S. at 349), the equal protection clause of the Fourteenth Amendment. That clause is not irrelevant to the scrutiny of S. 158, but the constitutional rights recognized in *Roe* v. *Wade* are, under the Court's opinion, based on the concept of personal liberty embodied in the due process clause. These rights, the Court declared to be "fundamental," and "broad enough to encompass a woman's decision whether or not to terminate her pregnancy" (410 U.S. at 153). Certainly they are constitutionally entitled to as much protection as those involved in the *Gomillion* and *Grosjean* cases.

Plainly S. 158, including Section 2, is intended to prevent if possible, and at least to obstruct, fulfillment of the rights recognized in *Roe* v. *Wade*. Indeed, the sponsors of this and similar bills have been commendably frank in acknowledging that purpose, and have no effort to mask it. I am taking the liberty of attaching to my statement the letter to me from the ranking minority member of this Subcommittee, requesting my views on the constitutionality of Section 1 of S. 158, together with my reply. The Senator's letter states that the purpose of S. 158 "is to overturn the effect of the Supreme Court decision in *Roe* v. *Wade*." That, of course, is not a jurisdictional but a substantive purpose, and indicates that Section 2 is not, despite its form, intended as a jurisdictional enactment.

But it is quite unnecessary to rely on such statements by the bill's sponsors, and my conclusion that Section 2 is unconstitutional is based squarely on the text of the bill itself. For it is impossible to conceive of any jurisdictional considerations to which the bill is relevant. There are, to be sure, a number of litigations involving the performance of abortions pending in the federal courts, but they constitute but an infinitesmal part of the total volume of federal court litigation. Thus the bill cannot reasonably be regarded as intended to reduce the burdens on the federal courts.

Cases involving the federal constitutionality of state laws are, to be sure, very numerous in both state and federal courts. A view could be advanced that since state laws are involved, their validity should be first passed upon in the state courts. Of course, that would throw on the Supreme Court the entire burden of ensuring uniformity among the states of the standards of constitutional validity, and I do not think such a course would commend itself as a matter of policy. But recognizing that such a decision is within the ambit of Congressional power, S. 158 accomplishes this only with respect to injunction and declaratory judgment actions involving the particular rights recognized in *Roe* v. *Wade*. It cannot reasonably be contended that so singular a change is reasonably related to a general jurisdictional purpose. Nor do abortion litigations present any features that explain singling them out from other rights similarly derived from the Fifth or Fourteenth Amendments, for exclusion from the federal courts.

The conclusion is inescapable, on the face of the bill, that its only purpose and its inevitable effect are to obstruct the judicial protection of the constitutional rights recognized in *Roe* v. *Wade*. Such purpose and effect, in the absence of a compelling state interest, are unconstitutional: "It is well settled that, quite apart from the guarantee of equal protection, if a law 'impinges upon a fundamental right secured by the Constitution [it] is presumptively unconstitutional.'" *Harris* v. *McRae*, 480 U.S. —, 65 L.Ed. 2d 784, 801 (1980); *Mobile* v. *Bolden*, 446 U.S. 55, 76 (1980); *San Antonio School District* v. *Rodriguez*, 411 U.S. 1, 17, 31 (1973); *Shapiro* v. *Thompson* 394 U.S. 618, 634 (1969).

I should add, though it may be unnecessary, that Section 2 of S. 158 also violates the principle of equal protection of the laws, which has been held to be embodied in the due process clause of the Fifth Amendment, and is therefore binding on the federal government as well as the states. *Bolling* v. *Sharpe*, 347 U.S. 492 (1954). For the jurisdictional withdrawal in Section 2 singles out pregnant women, whose rights are protected by *Roe* v. *Wade*, as a group subjected to a denial of access to the federal courts. There is no conceivable state interest which warrants subjecting them to this deprivation of access to the federal courts equal to that enjoyed by those seeking to protect comparable constitutional rights.

4. There is no valid precedent for the jurisdictional withdrawal attempted in Section 2 of S. 158:

There remains to be considered the question whether there are precedents, legislative or judicial, which might be effectively invoked to justify the jurisdictional withdrawal attempted by Section 2 of S. 158. Its acknowledged purpose is not novel. The Supreme Court must, in the nature of things, deal with issues which arouse strong political, social, and religious feelings. Some of its decisions are bound to antagonize individuals and even large groups of people who believe with deep sincerity that what the Court has done is very wrong, but who also realize that the prospect of undoing its work by the method prescribed in the Constitution—i.e., by amendment pursuant to Article V—is remote. The device of accomplishing a nullification, complete or partial, of a Court decision by withdrawing from the courts jurisdiction to enforce it, has been used in many bills introduced in Congress on many previous occasions.

Constitutional scholars tell us that between 1953 and 1968 over sixty bills were introduced in Congress to eliminate the jurisdiction of the federal courts over a variety of particular subjects. Hart and Wechsler, The Federal Courts and the Federal System (2nd edit. 1973) 360. That is not surprising, since those years witnessed a number of Supreme Court decisions which were sharply denounced, both within and without Congress. What is perhaps surprising, in view of the heat generated, is that not one of those bills was enacted into law. Congress as a whole has exhibited a most commendable restraint in this regard, realizing no doubt that this is a dangerous game which can be played at both ends of the spectrum, and that if such devices begin to take hold as statutes, the ultimate result will not be to ensure the dominance of a particular point of view, but to alter radically the long-established relation and balance among the legislative, executive, and judicial departments.

In consequence of this enduring Congressional restraint, the statutory and judicial examples which are somewhat comparable to S. 158 are very few, and there are only three which I think warrant comment.

The Norris-LaGuardia Act (1932):

I deal with this statute (now 29 U.S.C. Secs. 101–115) first, not only because it is the earliest chronologically, but also because some of the language of Section 2 of S. 158 appears to be derived from it.

The Norris-LaGuardia Act arose out of the belief, shared by leaders of both the Republican and Democratic parties, that there had been abuses in the issuance of injunctions in labor disputes. S. Rep. No. 163, H.R. Rep. No. 669, 72d Cong., 1st Sess.; Frankfurter and Greene, *The Labor Injunction* (1930) *passim*. Section 1 of the Act provides:

"No court of the United States . . . shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in strict conformity with the provisions of this chapter; nor shall any such restraining order or temporary injunction be issued contrary to the public policy declared in this chapter."

It will be noted that, unlike Section 2 of S. 158, the Norris-LaGuardia Act does not wholly withdraw the jurisdiction to issue the specified injunctions. Section 2 declares a public policy of freedom for workers to associate and organize for collective bargining and other labor ends; Sections 4 and 5 specify certain conduct which is excluded from injunctive jurisdiction; Sections 7 and 9 specify certain findings which the courts must make and procedures they must follow before issuing injunctions.

None of these provisions involved infringement of constitutional rights, and Congress' power to regulate and limit the remedies (including injunctions) available to litigants in the lower federal courts (in the absence of such infringements) had never been seriously questioned. When a case arose wherein a lower federal court had issued an injunction on the basis that the case did not involve a "labor dispute" as defined in the Act, the Supreme Court, in reversing that decision, gave general approval to the Act's jurisdictional limitations: "There can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior court of the United States." *Lauf* v. *E.G. Shinner & Co.*, 303 U.S. 323, 330 (1938).

But the *Lauf* case did not concern other provisions of the Norris-LaGuardia Act which (Section 3) declare "yellow dog contracts" (i.e. employment agreements conditioned on the employee's undertaking not to join a union) to be "contrary to the public policy of the United States" and "not . . . enforceable in any court of the United States," and (Section 4(b)) withdraw from the federal courts jurisdiction to enforce such contracts. Many years earlier the Supreme Court had invalidated, as violations of due process, both federal and state statutes outlawing "yellow dog" contracts. *Adiar* v. *United States*, 208 U.S. 161 (1908); *Coppage* v. *Kansas*, 236 U.S. 1 (1915). Thereafter the Supreme Court also held state legislation, limiting employers' rights to state court injunctions against striking employees, to be invalid under the due process and equal protection clauses. *Truax* v. *Corrigan*, 257 U.S. 312 (1921).

None of these decisions had been formally overruled at the time the Norris-LaGuardia Act was adopted, and it was certainly arguable that Sections 3 and 4(b) were unconstitutional, insofar as they rendered "yellow dog" contracts unenforceable in, and outside the jurisdiction of, the federal courts. In all probability it was such doubts that led Congress to provide for the withdrawal of injunctive jurisdiction, guided by a memorandum from (then) Professor Felix Frankfurter stressing the scope of Congressional power over federal court jurisdiction (H. Rep. No. 669, *supra* pp. 12–16); see also Frankfurter and Greene, *supra* pp. 210–20.

The constitutional validity of Sections 3 and 4(b) of the Norris-LaGuardia Act was never judicially tested, no doubt because the Act's importance was greatly diminished by passage of the National Labor Relations Act in 1936. The *Adair* and *Coppage* cases were not explicitly over-ruled until 1941. *Phelps Dodge Corporation* v. *Labor Board*, 313 U.S. 177, 187 (1941). But they were in poor constitutional health as early as 1930, when the Court unanimously upheld the Railway Labor Act of 1926, in an opinion by Chief Justice Hughes (who had dissented in the *Coppage* case) which distinguished the *Adair* and *Coppage* cases in casual and unconvincing fashion. *Texas & N.O.R. Co.* v. *Ry. Clerks*, 281 U.S. 548, 570 (1930). And of course, if those cases were no longer governing in 1932, the constitutional rights they declared had likewise withered, and the jurisdictional withdrawal in Section 4(b) of the Norris-La Guardia Act impaired no such rights.

For all these reasons, I do not believe that the Norris-La Guardia example offers any substantial support to the constitutionality of Section 2 of S. 158.

The Emergency Price Control Act of 1942: This statute, enacted under the pressures of wartime, contained provisions narrowly channeling federal court jurisdiction to review orders and regulations of the Price Administrator, in order to secure rapid and uniform enforcement of wartime price controls. An "Emergency Court of Appeals," composed of three federal district or circuit judges, was established to hear and determine such cases, subject to review by certiorari in the Supreme Court. All other courts, both federal and state, were denied jurisdiction to pass on the validity of the Administrator's acts, with certain specified exceptions.

Whether the prohibitions running to the state courts were ever judicially reviewed, I do not know; state court obligation to entertain damage suits for violation of price ceilings was confirmed in *Testa* v. *Katt*, 330 U.S. 386 (1947). The withdrawals of jurisdiction from the federal district and circuit courts were sustained. *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *Yakus* v. *United States*, 321 U.S. 414 (1944).

The statutory feature most susceptible to constitutional challenge was the denial of the Emergency Court of any power to grant interim relief, by temporary restraining order or injunction. This provision was upheld in the *Yakus* case not as a general proposition but only "in the circumstances of this case," meaning the war emergency (321 U.S. at 437, 439): "If the alternatives, as Congress concluded, were wartime inflation of the imposition on individuals of the burden of complying with a price regulation while its validity is being determined, Congress could constitutionally make the choice in favor of the protection of the public interest from the dangers of inflation."

There is no such emergent and compelling public interest to be invoked in support of the denial of federal injunctive relief in abortion litigation. Abortion cases, on the contrary, are of a nature that especially requires the availability of interim protection; the pregnant woman can hardly be required to comply with an anti-abortion statute while its constitutional validity is being determined.

The price control statutes and decisions, born as they were of the urgent necessities of wartime, thus offer no support to the jurisdictional withdrawal attempted by S. 158.

The Portal-to-Portal Act of 1947: In decisions rendered between 1944 and 1946, the Supreme Court construed the "work week" clause of the Fair Labor Standards Act of 1938 as including underground travel time in mines. Time so spent had not theretofore been generally treated as compensable, and these decisions precipitated a flood of litigation embracing claims for back pay totalling over 5 billion dollars, including claims against the United States totalling over 1½ billion dollars. Congress then enacted the Portal-to-Portal Act of 1947 (29 U.S.C. 251–62), in which Congress found that such unexpected retroactive liabilities threatened financial ruin to many employers and serious consequences to the federal Treasury. To avoid these hazards, the Act not only wiped out the liabilities, but also withdrew jurisdiction to adjudicate such claims from all federal and state courts without exception.

In the numerous litigations which ensued, it was contended that Congressional nullification of these claims destroyed vested rights in violation of the Fifth Amendment. The courts uniformly rejected this contention, but most of them took jurisdiction and decided the cases on the substantive merits, despite the attempted withdrawal of jurisdiction. Thus a distinguished panel of judges in the Court of Appeals for the Second Circuit wrote in *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (C.C.A.2d, 1948):

"A few of the district court decisions sustaining . . . the Portal-to-Portal Act have done so on the ground that since jurisdiction of federal courts other than the Supreme Court is conferred by Congress, it may at the will of Congress be taken away in whole or in part . . . We think however, that the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is to say, while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of courts other than the Supreme Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law, or to take private property without just compensation [citing cases] . . ."

That decision and the passage quoted squarely support the position I am taking here today. Just as in the Portal-to-Portal Act, Section 2 has been included in S. 158 for the sole purpose of blocking judicial review of Section 1 thereof. And since Section 1 seeks to achieve ends which are unconstitutional under the Fifth Amendment, as was established in *Roe* v. *Wade*, Section 2 is itself in violation of the Fifth Amendment.

I should deal with one further matter. The Portal-to-Portal Act sought to close off access to all courts, state and federal alike, while both the Norris-LaGuardia Act and Section 2 of S. 158 leave access to the state courts untouched. Although the *Battaglia* court did not rest its decision on that circumstance, it is the view of some constitutional scholars that this difference is crucial, and that would-be litigants barred by Congress from access to the federal courts have no basis for complaint if the state courts remain open to them.

It is hard for me to take this argument seriously. The fact that a statutory withdrawal of jurisdiction is limited to the federal courts certainly does not immunize that statute from constitutional scrutiny. It cannot be seriously contended that a statute limiting federal court access to white litigants could be sustained on the ground that the suits of black litigants could be determined in the state courts.

This does not mean that continued access to the state courts may not in some circumstances be a relevant constitutional factor. If a substantial state interest is asserted as the basis for denying federal jurisdiction, and that interest must be weighed against the disadvantage to litigants, the fact that the state courts remain available may well tip the scales in favor of the withdrawal. In all three of the instances of withdrawal discussed above, such interests were credibly asserted. But no such interests are or can be credibly invoked in support of Section 2 of S. 158, which shows on its face that its only purpose is to chill and obstruct the vindication of constitutional rights.

In theory, if not in practice, Congress has power to repeal the 1875 legislation which gave the federal courts general jurisdiction in cases arising under the Constitution and laws of the United States. But having conferred such general jurisdiction, Congress must have a constitutional basis for making exceptions to it, and the fact that the state courts may be available is but one factor for consideration. With regard to Section 2 of S. 158, I believe it is of no weight, since no valid purpose of the withdrawal is invoked.

CONCLUSION

For all the reasons given, it is my opinion that Section 2 of S. 158, or any comparable bills that would selectively withdraw federal court jurisdiction over particular constitutional claims, if enacted, would be unconstitutional. I thank the Subcommittee for affording me this opportunity to present my views.

U.S. Senate,
Washington. D.C., April 29, 1981.

Prof. Telford Taylor,
Department Law, Columbia University, New York, N.Y.

Dear Professor Taylor: I am currently serving as the ranking minority member of the United States Senate Judiciary Committee, Subcommittee on Separation of Powers. On April 23 and 24, the Subcommittee is beginning a series of hearings on S. 158. This legislation is designed to define human personhood as beginning at conception. The purpose of the legislation is to overturn the effect of the Supreme Court decision in *Roe* v. *Wade*. I am enclosing a copy of the bill for your review.

I am writing to you in your capacity as a leading expert on American constitutional law. I am interested in your assessment of whether or not the Congress has the authority under the Constitution and particularly under Section 5 of the 14th Amendment to enact Section 1 of S. 158. Does the Congress have the authority to define legal/constitutional personhood in the face of the Supreme Court decisions on abortion? For legal analysis by the sponsor of the bill, see Volume 127 *Con. Rec.* S.288–S.294 (Daily Ed. January 19, 1981).

The Subcommittee will be considering these matters in the near future and so a timely response would be most helpful.

I appreciate your assistance in this matter and look forward to hearing from you as soon as possible.

With best personal regards, I am
Sincerely,
Max Baucus.

Enclosure.

May 7, 1981.

Hon. Max Baucus,
U.S. Senate,
Washington, D.C.

Dear Senator Baucus: This will acknowledge your letter of April 29, 1981, requesting my opinion on the constitutionality of bills

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such as S. 158 and H.R. 900, which undertake to define "person" as used in the Fourteenth Amendment to the Constitution as including the human fetus from the moment of conception. It is understood that the purpose of these bills is to override the Supreme Court's rulings in *Roe v. Wade*, 410 U.S. 113 (1973) and subsequent decisions based on the principles of that case. Since those decisions are based on the Constitution itself, it appears that the purpose of these bills is to bring about a change in the scope and effect of the relevant Constitutional provisions by statutory means, rather than by amendment of the Constitution in accordance with the procedures prescribed in Article V.

The bills in question rely explicitly on the power of Congress under Section 5 of the Fourteenth Amendment as the constitutional basis of their provisions. The scope of this power, during the last fifteen years, has been the subject of at least four significant Supreme Court decisions. *South Carolina v. Katzenbach*, 383 U.S. 301 (1966); *Katzenbach v. Morgan*, 384 U.S. 641 (1966); *Oregon v. Mitchell*, 400 U.S. 112 (1970); *Rome v. United States*, 446 U.S. 156 (1980); see also *Fullilove v. Klutznick*, 448 U.S. (1980). In all these cases except the first, the Court was divided in opinion on the governing principles, and professional comment on the problem has reflected its controversial nature.

Despite this division of opinion, I believe it to be clear that the bills in question are unconstitutional. The majority opinion in the *Morgan* case goes further than any other in giving scope to Congressional power under Section 5 of the Fourteenth Amendment, but in that opinion it was categorically stated that Section 5 gives Congress no power "to restrict, abrogate, or dilute" constitutional guarantees. *Katzenbach v. Morgan*, 384 U.S. at 651 n. 10. There can be no doubt that the purpose and purport of the bills in question is to "restrict, abrogate, or dilute" the constitutional rights of pregnant women as established in *Roe v. Wade.*

As for the members of the Court who do not share the expansive views of Congressional power under Section 5 articulated by the majority in the *Morgan* case, it is my belief that, regardless of their agreement or disagreement with *Roe v. Wade*, they would conclude that the constitutional principles it established cannot be nullified by statutory action.

For the foregoing reasons, stated above in summary form, it is my opinion that the bills you have called to my attention are unconstitutional.

Sincerely yours,

TELFORD TAYLOR,
Nash Professor of Law, Emer.

Mr. HART. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. I thank the Senator from Colorado.

Mr. President, those of my colleagues whose children are still young, or whose children are older, will remember Alice in Wonderland and the ironic situation in that tale where everything is topsy turvy, where what is said is the opposite of what is meant, and what is meant is the opposite of what is said.

I find it ironic to sit here and watch someone who has an American flag in his lapel engaged in an activity that would eviscerate the Constitution.

It seems to me that, if you wear a flag on your lapel, it suggests a reverence for the Nation, a reverence for the Constitution.

The Founding Fathers were limited in their capacity. They did not have Gallup polls. They did not have PAC committees. They did not have media consultants.

They were naive enough to believe that you could have Government by balance of powers. In our very sophisticated world of today, some would replace this precept with Government by direct mail operations.

What difference does it make if you hurt the Constitution, as long as you generate direct mail contributions?

If there is no reverence for the Constitution, if it is simply an inconvenient document, why not just say so? Maybe coming from Massachusetts, I have been overly sensitized to the works of the Founding Fathers. Many of my predecessors, if not ethnically at least geographically, were involved in that process. It seems to me that what they had to say was true not only for their time but for our time as well.

Although I have been in politics for 13 years, I have never managed to develop the capacity to tolerate those who make a great display of their patriotism and yet involve themselves in an effort to denigrate the process that has made this country as great as it is.

What I would like to do now is to read from a document that I suspect most Members do not read at night, the Federalist Papers, Federalist No. 78 and Federalist No. 81.

They refer to the judiciary. I will not read all of both papers, but I will read the most relevant parts.

The issue that we are dealing with here today of court stripping is not dissimilar to the issues that were argued some 200-plus years ago by our Founding Fathers. The difference between then and now is: they were less skittish. Can you imagine Alexander Hamilton or Thomas Jefferson arguing with his colleagues what his mail count was?

Can you imagine an Adams going to his staff and arguing that a poll should be done on how the people felt about a particular issue?

If that is all they were capable of, which is what most of us are apparently capable of, they would have come up with a document that would have gotten them past the next election but would have long since been destroyed.

Rather, they came up with the Constitution. They thought that if they did it right, the people of this country would elect Senators and Congressmen who would have the same reverence for the document. If one is prepared to undermine or eviscerate the Constitution, then what is likely to be the point at which one stops? Today, the Constitution; tomorrow, whatever.

Mr. President, however one feels about the issue of school prayer or whatever, and we may differ, I hope that we, as the Senate of the United States, would, at a minimum, consider the Constitution to be inviolate. When we got sworn in, if you remember that, we were sworn to uphold and protect the Constitution of the United States. I assume we took that seriously. We did not swear that we would uphold the direct mail operations or we would uphold the wishes of special interests or we would uphold the concerns of our PAC committees or we would uphold what the Gallup poll is telling us. We said we would uphold the Constitution.

So, 200 years-plus later, we have gone from the Federalist Papers and the Founding Fathers to this Alice in Wonderland scenario. I am going to read from Federalist No. 78 by Alexander Hamilton, May 28, 1788:

> Whoever attentively considers the different departments of power must perceive, that in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.
>
> This simple view of the matter suggests several important consequences. It proves incontestibly that the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks.

(Mr. HUMPHREY assumed the chair.)

Mr. TSONGAS. That was in 1788. One would think we would have learned by now. Let me read that again:

> . . . and that all possible care is requisite to enable it to defend itself against their attacks.

To continue:

> It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter: I mean, so long as the judiciary remains truly distinct from both the legislative and executive. For I agree that "there is no liberty, if the power of judging be not separated from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to

> fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments; that as all the effects of such an union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its coordinate branches; and that as nothing can contribute so much to its firmness and independence, as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution; and in a great measure as the citadel of the public justice and the public security.
>
> The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority; such for instance as that it shall pass no bills of attainder, no *ex post facto* laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.
>
> Some perplexity respecting the right of the courts to pronounce legislative acts void, because contrary to the constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged that the authority which can declare the acts of another void, must necessarily be superior to the one whose acts may be declared void. As this doctrine is of great importance in all the American constitutions, a brief discussion of the grounds on which it rests cannot be unacceptable.
>
> There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act therefore contrary to the constitution can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.
>
> If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the constitution. It is not otherwise to be supposed that the constitution could intend to enable the representatives of the people to substitute their *will* to that of their constituents.

Mr. President, for those who just tuned in and are wondering where the sentiments are coming from that I am reading, they are from the Federalist Papers No. 78, Alexander Hamilton, May 28, 1788.

Since this is the foundation of our society, constitutionally and politically, I urge anyone who finds what I am saying to be contrary to their own views, it is time to do some soul-searching.

Continuing:

> It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority.

That is us, the latter.

> The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcileable variance between the two, that which has the superior obligation and validity ought of course to be preferred; or in other words, the constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.
>
> Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature declared in its statutes, stands in opposition to that of the people declared in the constitution, the judges ought to be governed by the latter, rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental.
>
> This exercise of judicial discretion in determining between two contradictory laws, is exemplified in a familiar instance. It not uncommonly happens, that there are two statutes existing at one time, clashing in whole or in part with each other, and neither of them containing any repealing clause or expression. In such case, it is the province of the courts to liquidate and fix their meaning and operation: So far as they can by any fair construction be reconciled to each other; reason and law conspire to dictate that this should be done. Where this is impracticable, it becomes a matter of necessity to give effect to one, in exclusion of the other. The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law, but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision, but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable, that between the interfering acts of an equal authority, that which was the last indication of its will, should have the preference.
>
> But in regard to the interfering acts of a superior and subordinate authority, of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that, accordingly, whenever a particular statute contravenes the constitution, it will be the duty of the judicial tribunals to adhere to the latter, and disregard the former.
>
> It can be of no weight to say, that the courts on the pretense of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes; or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it proved any thing, would prove that there ought to be no judges distinct from that body.
>
> If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument——

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. Will the Senator suspend?

The Sergeant at Arms will restore order in the gallery, please.

The Senator will resume.

Mr. TSONGAS. Mr. President, I am sometimes accused by my supporters of not giving flag-waving speeches, and I think the incident just now will set that straight once and for all.

Back to the Constitution (continuing):

> for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.
>
> This independence of the judges is equally requisite to guard the constitution and the rights of individuals from the effects of those ill humours which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information and more deliberate reflection, have a tendency in the mean time to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed constitution will never concur with its enemies in questioning that fundamental principle of republican government, which admits the right of the people to alter or abolish the established constitution whenever they find it inconsistent with their happiness; yet it is not to be inferred from this principle, that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constitutents incompatible with the provisions in the existing constitution, would on that account be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape, than when they had proceeded wholly from the cabals of the representative body.

To put it in modern terminology, what Alexander Hamilton is saying is that there is a Constitution which is paramount and that the Constitution is there to protect the country from those in legislative bodies such as our own who bend to a sentiment that may be politically popular but happens to violate the Constitution.

Mr. DENTON. Mr. President, will the distinguished Senator from Massachusetts yield?

Mr. TSONGAS. I do not yield. If the Senator will simply have the staff——

Mr. DENTON. It is not for a question. I was simply inquiring, in connection with the goodwill policy which the Senator from Connecticut outlined, if some time be afforded equitably to both sides. I thought perhaps the Senator had finished for the moment.

Mr. TSONGAS. I just have a few more sentences from Federalist 78, and then I indicated that I would yield to the Senator from Montana.

I will attempt to work out the interests of the Senator from Alabama.

The PRESIDING OFFICER. The Chair advises the Senator that he cannot yield the floor to the Senator from Alabama.

Mr. TSONGAS. I take it that the only one who could yield would be the Senator from Connecticut. Is that correct?

The PRESIDING OFFICER. The time is not under control. Under the Senate rules, no Senator can yield the floor to another Senator.

Mr. TSONGAS. I thank the Chair.

I continue to read:

> Until the people have by some solemn and authoritative act annulled or changed the established form, it is binding upon themselves colectively, as well as individually; and no presumption, or even knowledge of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.
>
> But it is not with a view to infractions of the constitution only that the independence of the judges may be an essential safeguard against the effects of occasional ill humours in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity, and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed, but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of an iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled by the very motives of the injustice they mediate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments, than but few may be aware of. The benefits of the integrity and moderation of the judiciary have already been felt in more states than one; and though they may have displeased those whose sinister expectations they may have disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today. And every man must now feel that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead, universal distrust and distress.
>
> That inflexibile and uniform adherence to the rights of the constitution and of individuals, which we perceive to be indispensable in the courts of justice, can certainly not be expected from judges who hold their offices by a temporary commission. Periodical appointments, however regulated, or by whomsoever made, would in some way or other be fatal to their necessary independence. If the power of making them was committed either to the executive or legislature, there would be danger of an improper complaisance to the branch which possessed it; if to both, there would be an unwillingness to hazard the displeasure of either; if to the people, or to persons chosen by them for the special purpose, there would be too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the constitution and the laws.
>
> There is yet a further and a weighty reason for the permanency of the judicial offices; which is deducible from the nature of the qualifications they require. It has been frequently remarked with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidaby swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society, who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge. These considerations apprise us, that the government can have no great option between fit characters; and that a temporary duration in office, which would naturally discourage such characters from quitting a lucrative line of practice to accept a seat on the bench, would have a tendency to throw the administration of justice into hands less able, and less well qualified to conduct it with utility and dignity. In the present circumstances of this country, and in those in which it is likey to be for a long time to come, the disadvantages on this score would be greater than they may at first sight appear; but it must be confessed that they are far inferior to those which present themselves under the other aspects of the subject.
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> Upon the whole there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established good behaviour as the tenure of their judicial offices in point of duration; and that so far from being blameable on this account, their plan would have been inexcuseably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.

Mr. President, I ask unanimous consent to have printed in the Record a summary and an analysis of Federalist 78 by Benjamin Fletcher Wright of the University of Texas, Harvard University Press.

There being no objection, the material was ordered to be printed in the Record, as follows:

> *Federalist* 78 is important, then, not for its discussion of judicial tenure during good behavior, but for the conception of judicial supremacy expressed by the man whose constitutional and economic philosophy was followed in case after case by the greatest of American judges. Madison's Notes on the debates in the Federal Convention were not published until 1840, five years after Marshall's death. Nor could the Chief Justice have found there the doctrine of the judicial power that he was to state for the Court in 1803. For in Number 78 Hamilton declares that the Constitution is not only fundamental law, it is the will of the people, and the courts are its only true guardians. The Constitution is the highest man-made law; any legislative act contrary to it must be held void by the courts, since "the interpretation of the laws is the proper and peculiar province of the courts." The law "which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents." Moreover, the courts of justice are obligated not merely to hold void acts in clear conflict with the Constitution. They are also "to declare all acts contrary to the manifest tenor of the Constitution void." He denies that this makes the courts superior to the legislature. In fact it "only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former."
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> In this philosophy of constitutional law as it was developed by Hamilton, presumably during the spring of 1788, the judges emerge as the only branch of government that can give a final interpretation to the meaning of the Constitution, the only branch that can express the will of the people as it is embodied in that document. He goes so far as to say that the independence of the judges is equally necessary to guard the people against "the effects of those ill humors which the arts of designing men or the influence of particular conjunctures sometimes disseminate among the people themselves. . . ." Where Madison saw in bicameralism, and especially in the stabilizing influence of the Senate, a means of checking momentary violations of the true will of the people of rights of minorities, Hamilton finally arrives at a conception of the judiciary as the branch of government that can be trusted to maintain constitutional order and thus preserve the will of the people.

Mr. TSONGAS. Mr. President, there are a number of Federalist Papers that deal with the issue of the judiciary, and No. 78 deals with the independence of the judiciary in order to maintain a capacity to withstand the onslaught of the legislative branch.

Now I deal with Federalist No. 81, also by Alexander Hamilton, on May 21, 1788.

> Let us now return to the partition of the judiciary authority between different courts, and their relations to each other.

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"The judicial power of the United States is" (by the plan of the convention) "to be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish."[1]

That there ought to be one court of supreme and final jurisdiction, is a proposition which is not likely to be contested. The reasons for it have been assigned in another place, and are too obvious to need repetition. The only question that seems to have been raised concerning it, is, whether it ought to be a distinct body or a branch of the legislature. The same contradiction is observable in regard to this matter which has been remarked in several other cases. The very men who object to the Senate as a court of impeachments, on the ground of an improper intermixture of powers, advocate, by implication at least, the propriety of vesting the ultimate decision of all causes, in the whole or in a part of the legislative body.

The arguments, or rather suggestions, upon which this charge is founded, are to this effect: "The authority of the proposed Supreme Court of the United States, which is to be a separate and independent body, will be superior to that of the legislature. The power of construing the laws according to the spirit of the Constitution, will enable that court to mold them into whatever shape it may think proper; especially as its decisions will not be in any manner subject to the revision or correction of the legislative body. This is as unprecedented as it is dangerous. In Britain, the judicial power, in the last resort, resides in the House of Lords, which is a branch of the legislature; and this part of the British government has been imitated in the State constitutions in general. The Parliament of Great Britain, and the legislatures of the several States, can at any time rectify, by law, the exceptionable decisions of their respective courts. But the errors and unsurpations of the Supreme Court of the United States will be uncontrollable and remediless." This, upon examination, will be found to be made up altogether of false reasoning upon misconceived fact.

In the first place, there is not a syllable in the plan under consideration which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution. But this doctrine is not deducible from any circumstance peculiar to the plan of the convention, but from the general theory of a limited Constitution; and as far as it is true, is equally applicable to most, if not to all the State governments. There can be no objection, therefore, on this account, to the federal judicature which will not lie against the local judicatures in general, and which will not serve to condemn every constitution that attempts to set bounds to legislative discretion.

But perhaps the force of the objection may be thought to consist in the particular organization of the Supreme Court; in its being composed of a distinct body of magistrates, instead of being one of the branches of the legislature, as in the government of Great Britain and that of this State. To insist upon this point, the authors of the objection must renounce the meaning they have labored to annex to the celebrated maxim, requiring a separation of the departments of power. It shall, nevertheless, be conceded to them, agreeably to the interpretation given to that maxim in the course of these papers, that it is not violated by vesting the ultimate power of judging in a part of the legislative body. But though this be not an absolute violation of that excellent rule, yet it verges so nearly upon it, as on this account alone to be less eligible than the mode prefered by the convention. From a body which had even a partial agency in passing bad laws, we could rarely expect a disposition to temper and moderate them in the application. The same spirit which had operated in making them, would be too apt in interpreting them; still less could it be expected that men who had infringed the Constitution in the character of legislators, would be disposed to repair the breach in the character of judges. Nor is this all. Every reason which recommends the tenure of good behavior for judicial offices, militates against placing the judiciary power, in the last resort, in a body composed of men chosen for a limited period. There is an absurdity in referring the determination of causes, in the first instance, to judges of permanent standing; in the last, to those of a temporary and mutable constitution. And there is a still greater absurdity in subjecting the decisions of men, selected for their knowledge of the laws, acquired by long and laborious study, to the revision and control of men who, for want of the same advantage, cannot but be deficient in that knowledge. The members of the legislature will rarely be chosen with a view to those qualifications which fit men for the stations of judges; and as, on this account, there will be great reason to apprehend all the ill consequences of defective information, so, on account of the natural propensity of such bodies to party divisions, there will be no less reason to fear that the pestilential breath of faction may poison the fountains of justice. The habit of being continually marshalled on opposite sides will be too apt to stifle the voice both of law and of equity.

These consideration teach us to applaud the wisdom of those States who have committed the judicial power, in the last resort, not to a part of the legislature, but to distinct and independent bodies of men. Contrary to the supposition of those who have represented the plan of the convention, in this respect, as novel and unprecedented, it is but a copy of the constitutions of New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and the preference which has been given to those models is highly to be commended.

Mr. DENTON. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. I yield.

Mr. DENTON. The Senator from Massachusetts said he was going to read a few more lines. Can he interpret the timeframe he has in mind, please?

Mr. TSONGAS. It is my intent to speak until 1:45. I am not exactly clear where we are in terms of parliamentary procedure. Perhaps the Senator from Oregon will be in a position to speak about that.

Mr. PACKWOOD. Mr. President, I believe I can answer the question of the Senator from Alabama. He does not have to worry in this case about time disproportionately used by one side or the other. We are not under a time agreement. Nobody has control of the time, as a matter of fact. So long as a Senator has the floor, he can speak, but he cannot pass control of the floor from person to person, and there is no time limit.

Mr. DENTON. I understand that. In accordance with the courteous policy which the Senator from Connecticut mentioned, I was simply trying to inquire, for the purpose of my own convenience, when it might be possible to speak. I have been waiting for about an hour-and-a-half.

Mr. PACKWOOD. So far as I am concerned—and I think I speak for the Senator from Connecticut—when the Senator from Massachusetts is done, I will be perfectly happy to have the Senator from Alabama recognized to speak.

Mr. TSONGAS. If it would accommodate the Senator from Alabama, I would be pleased to yield at this point.

Does the Senator have any idea how long he will be?

Mr. DENTON. Perhaps 15 or 20 minutes would be my guess.

I thank the Senator from Oregon and the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I just want to enter some points on the other side of this question. I shall endeavor to remain impersonal and polite.

Many facets of this issue can be presented and have been presented. Many more will be. Many arguments will be offered. I do want to reduce smokescreens which have been laid to obscure visibility in this Chamber. Proponents of the school prayer and abortion amendments are not really arguing for some unspeakable effort to vitiate the Constitution. I am not wearing an American flag. I would not criticize those who do and, whoever was being referred to might not be here at the moment.

There is no effort by anyone who favors voluntary school prayer in our public schools to vitiate the Constitution. Nor do I think that anyone who wants to end Federal support for abortion and abortion-related activities is interested in vitiating the Constitution.

I am amused by the reference to Alice in Wonderland. I think a good point was made that we are in an Alice in Wonderland condition.

However, I would not characterize it in the same way as my friend from Massachusetts who suggested that we are departing from our Founding Fathers' ideals and vision, and that not enough of us have read the Federalist Papers or Alice in Wonderland.

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[1] Art. 3, sec. 1.—Publius.

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The Alice in Wonderland which I see and which I believe would have the Founding Fathers spinning in their graves is that we have arrived at a point in the history of this "One Nation Under God" at which no prayer is permitted in our public schools. In one lower court action, a few kindergarten children who tried to say grace together were ordered to desist. I think that this sort of holding is the real Alice in Wonderland story.

Moreover, I believe another "wrong" is "right" world is that created by the Supreme Court with regard to abortion. For hundreds of years, civilized society was appalled by the practice of abortion; it was relegated to a crime. Now, however, we have no restrictions on the practice and indeed Federal money is spent to support and encourage it.

I do not believe that those who favor school prayer and oppose abortion, which are indeed the issues before us, are using improper means or methods.

We are interpreting and trying to apply article III, section 2, of the Constitution. We are not outside the Constitution. We are within it. While that effort is debatable, it is no more objectionable than reversing a Supreme Court ruling as was done during consideration of the Voting Rights Act.

I believe that congressional reversal of the Supreme Court in that instance was misguided and that is why I voted against the voting rights bill, not because I am opposed to equal rights for all. I think it was constitutionally suspect. Incidentally, I believe it also weakens the motivation of those States which are in good faith trying to improve their record regarding voting rights, and eliminates any hope that they would escape from the act's discriminatory restrictions.

The exception provision, like the commerce clause, is a plenary power to be exercised at the discretion of the Congress. To construe language of the Constitution to reach another conclusion is a tortured effort. I and others are working in good faith.

I do not want to be personal, and I do not relish the thought that others will be personal, as we work into the night tonight or tomorrow night on these measures. I hope we can debate as gentlemen this extremely important set of issues.

The method which we who oppose abortion on demand are utilizing is simply a flat prohibition against the use of Federal taxpayer dollars to either support or encourage abortion of unborn children.

I do not think these are "Mad Hatter" methods. I do not think the aim of permitting prayer in our public school is a meaningless gesture or that stopping Federal Government support for the abortion of unborn childern is a meaningless gesture.

In harkening back to the words of our Founding Fathers, it might be worthwhile to remember the words of William Penn who said that "nations which do not choose to be governed by God condemn themselves to be ruled by tyrants."

We have heard talk about embarrassing children, persecuting children, being uncompassionate, imposing faiths, and official prayers. There is no such intent on the part of this Senator. I chaired a hearing on this subject, in what I believe was an impartial manner, and I learned much. I simply believe that it is better not to prohibit prayer in schools than to prohibit it. I do not wish to come to any conclusions about what the wording of any prayer might be. There is no suggestion in the motion before us by the Senator from North Carolina that we draft official prayers. The issue is whether we are going to continue to prohibit prayer in our public schools.

I do not think our fellow-citizens are going to be distracted by the arguments of those who contend otherwise, although I agree with the Senator from North Carolina that not many Senators understood the significance of the vote they took on whether to table the motion by the Senator from Connecticut.

As a Christian, I believe the Jewish faith, the Moslem faith, and a multitude of others together produce a commonality of understanding that draws this Nation and many of our allies together.

I lived in a society which is the opposite of ours, which denies the existence of God and which does not claim to be one nation under God. That society does not recognize the family as the essential social unit because it says officially that the commune is the social unit. We, on the other hand, say the family remains the central social unit and, I believe every responsible historian will have to admit that no society has ever succeeded without recognizing that the family is indeed the basic social unit of society.

Our concepts of both the family and the free enterprise system are derived from the belief in God. The compassion which would prevent us from being unfair to children in devising school prayers comes from that belief in God. Moreover, our national foreign policy is relatively benign and compassionate compared to that of totalitarian atheistic communistic nations because of that enduring belief in God and in the human rights he bestows upon each of us.

Our citizens' rights vis-a-vis the State and the State's perception of its rights vis-a-vis the citizenry is derived from that belief in God and in the God-derived principles which we share as Christians, those of us who are, with Jews, Moslems, and others who possess a concept of God. One such principle is "love thy neighbor as thyself." That precept is the source of human compassion. Such compassion must be the twin to free enterprise. We must apply compassion to one of another color as evidenced by the Biblical story, which demonstrates what is meant by the word neighbor and love thy neighbor as thyself, of the Good Samaritan. The man aided by the Samaritan was a man of another country, a man of another color, a man of another religion and he is like our neighbor whom we must love as we love ourselves.

I believe that is the germ of greatness of this country. I believe it is the germ of greatness which permits us to enjoy the heritage passed on to us by those who have practiced as well as they can, and as we ourselves try to do in our private lives, some behavior which permits one to live in accordance with the dictates of conscience. St. Paul mentioned the proof of our faith. I think this can apply to any faith which believes in the existence of the Diety, and I believe that the societies which have faith have prospered much more than those which have not, proving that a good tree bringeth forth good fruit.

I believe we must continue to emphasize our national belief in God. St. Paul said, "The proof of our faith"—he did not say a good reason to believe that your faith is true, he said, "The proof of our faith is the voice within us which cries out 'Abba'" meaning "father."

I believe most Members of this body and most members of the citizenry of this country have been through experiences in which pain, some kind of extremity in life's experience, have caused them to feel that voice "Abba," "father," and they have cried out either silently or vocally to that father.

Not to remind ourselves, at least occasionally, in school of that while we learn reading and writing and arithmetic would be something which the man who was the father of the public school system would consider unthinkable. Horace Mann would not have believed that we would come to the point of forbidding nonsectarian prayer in schools.

To provide a personal opinion to those who oppose the idea of prayer in schools for what I consider to be in all cases sincere reservations, let me say that I believe that we could trust the children themselves. Each child might care to offer a prayer, reflecting the religious diversity in that classroom. Others who may choose to leave voluntarily or to stay would show respect for that person's faith. I think that such an exchange inculcates something that is not altogether bad. That is but one way to approach this subject.

I do not want any person's feelings to be hurt. I do not want any particular religious faith to be imposed upon the schools because that would truly be the establishment of a religion.

The question, however, is did the Supreme Court, fallible as it is, rule correctly when it said, "It is the establishment of religion to permit voluntary prayer in schools?"

I think that a referendum in this Nation would show that the overwhelming majority wish to stop the prohibition against prayer in schools and that few wish the Government to support through tax dollars unrestricted abortion.

I believe the bill which the Senator from North Carolina presented is relatively moderate, quite moderate. It, in fact, does not meet my own personal standards, but that is no problem as far as I am concerned.

I hope we can be kind to one another in the way in which we debate this because I love each Member of this body. I do not feel self-justified. I do not feel that I have any more patriotism than anyone else in this body, and I do not intend to attack their goodness or their patriotism, and I hope we do not stoop to that.

I know the Senator from Massachusetts did not strike heavily when he made that remark concerning the American flag in the lapel of a Senator. I just hope if I start talking that way someone will warn me because I, too, am pretty committed to the twin measures proposed by the Senator from North Carolina.

I thank the Chair.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I rise to speak on the issue of limiting the jurisdiction of the Supreme Court of the United States.

The procedural posture of the matters pending before the Senate is very complex indeed. There was substantial discussion before this week on an effort to arrange a time limitation so that the issue of abortion could be fully debated by this body as a part of the debt limit bill.

Last week there had been concerted efforts, by the majority leader and others, to have a time agreement with 8 hours devoted to the proposal expected by Senator Helms, and 8 hours devoted to the constitutional amendment expected to be submitted by Senator Hatch.

That time agreement never came to fruition because, as I understand it, Senator Helms modified the proposal that he was about to make. Senator Helms did introduce a so-called amendment whose entire text was "title II." After "title II" was introduced, Senator Packwood began what has been widely described as a filibuster.

I personally did not see the wisdom of speaking at length on a pending matter denominated solely "title II," and declined to commit myself to participate in a discussion of any sort, whether extended or not, whether labeled a filibuster or not, if it related only to "title II."

There is much media speculation about the way that lines are drawn in this body on these issues. Again, speaking only for myself, I have made no prejudgments on many of the matters which are being discussed. I have inclinations and have stated positions on a variety of issues. But I resist being categorized. I resist making commitments in a vacuum. And I resist joining any side until the issues have been defined and we know what it is we are debating.

When my name has appeared in newspapers saying that I am committed to one position or another, I have contacted those responsible for the statement and reminded them that they have no such authorization. I have consistently said that I will examine the issue pending and speak out at an appropriate time and in a constructive manner.

In my judgment, a protracted debate on the proposition "title II" advances no cause. Once we have a fully stated proposition it will be appropriate for Members of this body to express themselves as they see fit.

The majority leader has taken the position in his leadership role that he will honor his commitment to allow free-standing debate on the abortion issue. Therefore this body is going to consider these issues, and I, for one, am prepared to debate, consider, and ultimately vote on the propositions to be submitted by Senator Helms. and the constitutional amendment to be submitted by Senator Hatch.

As the issue have actually evolved, however, the proposition submitted by Senator Helms is significantly different from what had been expected. Senator Helms now submits an amendment which provides, in part, that "the Supreme Court shall not have jurisdiction to review by appeal, writ of certiorari, or otherwise any case arising out of any State statute, ordinance, rule, or regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings." So that the issue that had been expected to be introduced by Senator Helms on the proposition that life begins at conception has taken a decidedly different turn.

There are two distinct aspects embodied in Senator Helms' proposal on school prayer. One aspect relates to the substance of school prayer itself, another to the jurisdiction of the Supreme Court of the United States.

Regarding the substance of school prayer, I said earlier today at a hearing before the Committee on the Judiciary that I have an open mind on the constitutional amendment that has been proposed. Deputy Attorney General Edward Schmults testified at length this morning before the committee. I raised a number of questions with Mr. Schmults concerning the current status of the law which allows meditation, according to the concurring opinion by Mr. Justice Brennan in the 1962 decision and according to a holding by a three-judge court sitting in Massachusetts. I raised the question of whether the subject of voluntary school prayer might not better be decided by an adjudication of the Supreme Court of the United States or whether the law in its current posture does not, in fact, allow voluntary school prayer.

That issue is proceeding through hearings in the Committee on the Judiciary and it will ultimately be decided by that committee. If submitted to the floor it will be voted upon by each Member of this body in the form of a constitutional amendment.

It is a complex subject, one that requires substantial analysis and thought before a judgment is reached. And, to repeat, my mind is open on that subject and I will address it in due course as the matter moves through the Judiciary Committee and to the floor of the U.S. Senate.

However, when the issue is raised in terms of the jurisdiction of the Supreme Court of the United States and any effort to limit its jurisdiction, I have a fixed opinion that has evolved from substantial experience both in the law and in dealing with decisions of the Supreme Court of the United States on constitutional issues.

In my judgment it is unconstitutional to limit the jurisdiction of the Supreme Court of the United States because, as our constitutional doctrine has developed, the Supreme Court is, as stated, supreme. And given a form of government with three coordinate branches, one unit must have the power to break the tie and decide what is the law of the land.

Since Marbury against Madison, our Government has functioned with the Supreme Court of the United States having that ultimate power. I suggest that our national Government has functioned very well indeed; that we have evolved into a powerful Nation that cherishes worthy values and guarantees maximum freedom and maximum opportunity for every citizen. It is not a perfect system but it is the best one yet devised.

When I have disagreed with the Supreme Court of the United States on matters affecting my professional responsibilities, and I have done so vehemently, I have nonetheless accepted

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its judgments. My acceptance of its judgments has led me to oppose seeking amendments to the U.S. Constitution to overrule the Court's decisions.

The case of Miranda against Arizona is a case in point. Decided on June 13, 1966, its judgment tied the hands of law enforcement officials by prescribing a series of warnings and waivers that all law enforcement officers had to obtain before a defendant's statements could be used in a criminal case.

The Miranda decision was especially difficult for law enforcement officials because it was held to apply retroactively. Any incriminating statement produced by an investigation conducted prior to June 13, 1966, could not be introduced into evidence if the trial started after June 13, 1966.

A simple case is illustrative, one which occurred in the Philadelphia district attorney's office while I served as district attorney.

In mid-May, a man named Hickey was charged with a robbery of a taxicab. He was arrested as a suspect and questioned in what was then a constitutionally permissible manner. He was not subjected to physical abuse. He was not subjected to psychological coercion. He confessed. He told the police the location of the weapon and of the proceeds of the robbery. The police found the money and the weapon and Hickey was indicted for first-degree murder, felony murder.

It was, of course, impossible to bring Hickey to trial between the middle of May and June 13, the day the Miranda decision was issued. When the U.S. Supreme Court said that the Miranda case applied to any matter which had not been tried before the date of the decision, it was required, as a matter of constitutional law, that Hickey's confession be suppressed and that the prosecutor not be permitted to use the weapon or robbery proceeds as evidence. Hickey walked out of court a free man. It was, I thought, an outrageous result.

But once the Supreme Court of the United States had decided Miranda, I disagreed with any efforts to reverse the decision by amending the U.S. Constitution. Instead, I participated in efforts to reargue the Miranda case and, in fact, found such a case in Commonwealth against Ware, where the Supreme Court of the United States granted certiorari to hear the issues raised in the Miranda decision.

Ware had been charged with four robbery-murders involving pushing elderly people down staircases. In 1963, when so charged, he was committed to a mental institution and was not released until 1968.

In the meantime, Miranda had been decided. When Ware's trial came up we were again confronted with a situation where we could not use the confession. But it was obviously impossible to have tried Ware before the Miranda decision because he was not competent to stand trial. So an appeal was taken from the lower court judge's suppression of Ware's confession. The Supreme Court of Pennsylvania upheld that decision saying we could not use Ware's confession, and application was made to the U.S. Supreme Court for certiorari, which was granted. It is a rare occurrence when the Supreme Court grants certiorari in any case.

When that occurred, the Supreme Court of Pennsylvania took the case back and decided that Ware's confession could not be used consistently with the Pennsylvania constitution, which rendered the controversy before the Supreme Court of the United States moot and certiorari was rescinded. Miranda stood as good law.

I refer at some length to that decision to illustrate my personal conviction on the ultimate desirability of vesting in the U.S. Supreme Court the authority to make these final judicial decisions. In the long history of this country, the pronouncements of the Supreme Court of the United States have served us well and the jurisdiction of the Supreme Court of the United States ought to be retained.

I see enormous peril in the course which is being pursued in recent efforts to limit the jurisdiction of the U.S. Supreme Court.

When this body earlier this year, by a 57-to-37 vote, limited the jurisdiction of the Supreme Court of the United States on the busing issue, I predicted serious problems down the road.

Most would agree that busing has been a colossal failure. Neither blacks nor whites like the result of busing. But the substantive issue, the quality of busing, is not the real question. The real question is whether this country continues the jursidiction of the U.S. Supreme Court.

The effort in this amendment by Senator HELMS to limit the jurisdiction of the Supreme Court on voluntary prayer in school again raises that very serious problem.

What I anticipate as the ultimate problem will be an enactment by the Congress that the Supreme Court does not have jurisdiction on a given subject. Congress will then declare that the Supreme Court does not have jurisdiction to decide whether its earlier enactment is constitutional. To amplify, the Congress would say that the Supreme Court does not have jurisdiction on subject A. Then in a second bill, the Congress will say the Supreme Court does not have jurisdiction to decide whether it has jurisdiction over subject A.

The Court will take these two congressional enactments and almost, certainly, rule that both are unconstitutional; that it was a nullity for Congress to declare that the Court did not have jurisdiction over subject A and it was a nullity for the Congress to say that the Court did not have jurisdiction over the subject matter of A.

Congress will then respond by declaring the action of the Court a nullity in deciding that both acts were unconstitutional because the Court did not have jurisdiction. That would create a constitutional deadlock, with the Congress saying the Court's action is a nullity and the Court saying the congressional action is a nullity.

If that unhappy situation occurred, the marshal would have to decide what order to enforce because under our system of government the Court's orders can only be enforced by the executive branch, through the marshal. If it were necessary to enforce court orders in this country, our entire judicial system would break down.

The reason we are able to function under our judicial system is that no one challenges a court order. When a litigant has exhausted his judicial remedies, no matter how disappointed he may be, he abides by the ruling of the Court.

But on the course that we are headed, with a congressional effort to limit the jurisdiction of the Supreme Court, we face a constitutional deadlock and, I submit, anarchy.

So when this discussion reaches the point where the jurisdiction of the Supreme Court of the United States is at issue, then I certainly want to join with the voices of opposition as loudly or perhaps as cogently or as persuasively as possible in order to stop any such stripping of the jurisdiction of the Supreme Court of the United States.

Mr. President, I now yield the floor without this being construed as the end of my speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORE GOOD NEWS FROM WALL STREET

Mr. BAKER. Mr. President, I might say I have just been handed a note that at 2 p.m. today, the Dow Jones was up 17 points on a volume of 100 million shares, which is the highest turnover in the history of the New York Stock Exchange.

I yield the floor.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution.

Mr. BAUCUS. Mr. President, I yield to the Senator from Alabama without losing my right to the floor.

Mr. HEFLIN. Mr. President, this amendment, which says it may be recited as the Voluntary School Prayer Act of 1982 has been called a court stripping bill, meaning that it strips the Supreme Court and the Federal courts of jurisdiction dealing with prayer in public schools and public buildings. I have read very carefully every word in this amendment. This amendment in no way strips the Supreme Court and other Federal courts of jurisdiction relating to involuntary prayers in public schools and public buildings.

The language of the amendment is directed toward voluntary prayers in public schools and public buildings. In my judgment, there will be few court cases or court actions dealing with voluntary prayer. The use of the courts will be related to involuntary prayer.

This amendment my bring about the decision at the entry stage of whether or not the case, statute, ordinance, rule, or regulation involves involuntary prayer. I doubt seriously that if prayer in voluntary, there will be many court cases. The court cases that will arise will involve involuntary prayer. In reviewing this, it seems to me that the language of the amendment accomplishes very little but is, rather, an exercise in symbolism.

I support prayer in public schools if the prayers are voluntary. The key issue is voluntariness.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. Symms). The Senator from Montana.

Mr. BAUCUS. Mr. President, the issue here today is very simple. Some would call this a school prayer amendment, the amendment offered by the Senator from North Carolina as the school prayer amendment, and someone else would say that the second amendment offered by the Senator from North Carolina is an abortion amendment. Mr. President, those who look at those two amendments closely will find that is not the case. These are court-stripping amendments. These are amendments which would limit the Supreme Court's jurisdiction over Federal constitutional issues. That certainly is the school prayer amendment. That amendment boldly, expressly, in black and white, definitely states the Supreme Court shall not have jurisdiction over school prayer, and, similarly, the Federal courts will not have jurisdiction.

The abortion amendment is not strictly a court-stripping amendment at all, but, rather, an attempt by statute to overturn Supreme Court decisions. But, nevertheless, the effect is the same.

Mr. President, let me say a few words about the arguments in behalf of the proponents of the amendment; that is, their arguments why the Congress does have the authority to, by statute, limit Supreme Court review.

In my view, the Congress does not have that authority. It would be a travesty of Congress to try to exercise that authority. If the Congress can limit Supreme Court jurisdiction over this issue here today, we could preclude Supreme Court jurisdiction over any other constitutional provision, regardless of what it is, which includes free speech, freedom of religion. It includes the right to bear arms. It includes the right against self-incrimination. Any particular constitutional provision could be rendered useless if we adopt this today, by statute overturning the Supreme Court decisions.

Proponents of this amendment rely both on specific provisions in the Constitution and on language in Supreme Court decisions.

With regard to Supreme Court jurisdiction, they cite article III, section 2—the exceptions clause—which gives the Supreme Court appellate jurisdiction "with such exceptions and under such regulations as the Congress shall make." It is argued that the exceptions clause gives Congress power to withdraw specific categories of cases from the Court's review.

Furthermore, the argument is buttressed by the Supreme Court's holding in ex parte McCardle which recognized that the exceptions clause gives Congress some meaningful power to control the Supreme Court's jurisdiction. In McCardle, the Court upheld the constitutionality of a congressional statute which withdrew the Supreme Court's jurisdiction to hear cases arising under an 1867 habeas corpus statute.

Congressional power to remove the jurisdiction of lower Federal courts presents less complications. Article III, section 2 gave Congress the power to create the lower Federal courts. Arguably, this power to create these courts carries with it the lesser power to reduce or eliminate lower court jurisdiction.

These arguments ignore the fact that these bills represent legislative encroachment on the judicial function and therefore violate the doctrine of separation of powers and the principle of judicial independence as articulated in Marbury against Madison.

Additionally, the Court's holding in McCardle is limited by its holding in United States against Klein. In Klein, the Court overturned a Federal statute stating that congressional authority to control jurisdiction did not include the power to tell the court how to determine cases within its jurisdiction.

However, I would concede that reliance on Supreme Court precedence alone is not satisfactory because the cases are over 100 years old and none of them directly address the legal issues presented by this amendment. Although McCardle and Klein have some relevance, they are clearly not dispositive.

In order really to understand whether the exceptions clause was intended to be utilized in the manner contemplated by this amendment, it is helpful to focus on the circumstances surrounding the inclusion of the clause in the Constitution.

Article VI, clause 2 of the Constitution, the supremacy clause, established the Constitution and Federal laws as the "supreme law of the land." However, the supremacy clause standing alone would have little, if any, meaning if there were no enforcement mechanism for its provisions.

The Articles of Confederation also contained a supremacy clause similar to the one contained in the Constitution. However, the articles provided no enforcement mechanism.

Recognizing this deficiency of the articles, the Framers of the Constitution intended that the Supreme Court enforce the supremacy clause.

Alexander Hamilton wrote in the Federalist Papers:

> A circumstance which shows the defects of the confederation remains to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. * * * If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. * * * To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicature, all nations have found it necessary to establish one tribunal paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last report a uniform rule of civil justice.

The proceedings of the constitutional convention give additional support to the premise that the Framers intended to design a judicial branch with one Supreme Court capable of enforcing the supremacy clause. Prof. Lawrence Sager has recently written an important article on Congress power to restrict Federal court jurisdiction which includes an analysis of the convention's proceedings.

Professor Sager notes that the convention adopted the supremacy clause in close to its final form on August 23, 1787.

Then, on August 27, the convention spent the day addressing article III. In discussing the purpose of the clause, Professor Sager writes:

> The exceptions and regulations language was also approved on August 27th, under circumstances that favor a limited view of its scope. . . . It was adopted by the convention on August 27th without a ripple of recorded debate, concern or explication. In light of this quiesence, it is hard to imagine that the framers were consciously adopting a provision that could completely unravel one of the most basic aspects of the constitutional scheme to which they had committed themselves.
>
> Thus, as the delegates to the Constitutional Convention made their peace on issue after issue, the Supreme Court's superintendence of state compliance with national law emerged as the fulcrum of the nation's government.

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In a recent letter to Strom Thurmond, chairman of the Senate Judiciary Committee, Attorney General William French Smith expanded on Professor Sager's analysis of the historical purpose of the exceptions clause. Like Sager, the Attorney General finds the absence of debate surrounding the constitutional convention's adoption of the clause proof that the framers did not intend for the clause to give Congress the power to interfere with core functions of the Court.

The Attorney General presents three arguments for this interpretation of the exceptions clause.

Mr. President, let me call special attention to those three arguments that the Attorney General presented in his conclusion that the Founding Fathers did not intend to give Congress such power and scope under the exemptions clause as is argued by the proponents of the underlying amendments.

Argument No. 1: The framers agreed without dissent on the necessity of a Supreme Court to secure national rights and national uniformity of judgments. Yet, there was no debate whatsoever concerning the meaning of the exception clause. The Attorney General argues that if the framers intended Congress to have plenary power under the clause, the obvious inconsistency between the presumed inviolate functions of the Supreme Court and plenary congressional power to control the Court, would have aroused debate.

Second, the creation and function of the lower Federal courts were vigorously debated at the Convention. Ultimately, it was resolved that lower Federal courts would not be created by the Constitution but that Congress would have the power to create such courts, should Congress deem them necessary.

Given the intensity of the debate regarding the lower Federal courts, and the unanimity of the Convention with regard to the role of the Supreme Court, it is unlikely that the Convention would have adopted without comment the exceptions clause, which for practical purposes would place the Supreme Court and the lower Federal courts in the same position vis-a-vis Congress.

Third, the framers were extremely concerned with the concentration of power in one branch of the Government. One of the basic principles of the Constitution was that each branch of Government must be given the means of defense against encroachments by the other branches of Government.

Congressional power under the exception clause would render the Supreme Court virtually defenseless. In view of the carefully structured doctrine of separation of powers, the Attorney General argues that it is inconceivable that the framers would have contemplated an expansive interpretation of the clause.

In addition to these historical views, one must consider how Congress power under the exceptions clause serves as a check on the judicial branch. The framers did not intend to give the legislative branch a direct means of responding to court decisions. If they had, they would have clearly included such a provision in the Constitution.

Instead, the framers authorized the appellate jurisdiction of the Supreme Court "with such Exceptions, and under such Regulations as the Congress shall make." Alexander Hamilton explained in "The Federalist Papers" that the language was intended "to obviate and remove" the "inconveniences" likely to arise within the judicial system.

A clause designed to address "inconveniences" is a far cry from a clause intended to keep the Court from engaging in "unconstitutional" conduct.

More importantly, the exceptions clause does not provide Congress with a direct check on the judicial branch. A direct check would permit Congress to directly veto or directly amend the substantive result of the Court's decision.

By withdrawing the jurisdiction of the Supreme Court over particular issues through congressional legislation, the issue remains unaddressed by Congress.

The result of the divestiture of Federal court jurisdiction is that 50 State supreme courts are free to decide the issue without ultimate resolution by the Supreme Court. However, it is important to note that Congress would be powerless to affect the outcome of the issue in the State courts.

Thus, the exceptions clause would be an odd creation—a legislative check on the judicial branch that does not return power to Congress. Rather, it would be a check on the Federal judiciary that would merely give power to another set of courts. Not only would they be Federal courts but they would be State courts.

In addition, because State courts would become the ultimate decisionmakers, there could not be a monolithic response to fundamental constitutional questions, and there are many such questions which require a monolithic response. The framers would not have designed a check on the judicial branch which would be difficult for Congress to control and inappropriate in many critical situations.

These points were recently made most cogently by now Circuit Judge Robert Bork of the District of Columbia Court of Appeals. Mr. Bork is a distinguished conservative constitutional scholar. He commented on these aspects of the jurisdiction bills at this confirmation hearings before the Senate Judiciary Committee just a short while ago. Part of the dialog went as follows:

> Senator Baucus. Could you also indicate to this committee why, in your view, it would be unconstitutional for Congress to pass a statute that would limit Supreme Court jurisdiction say, in a Federal constitutional question?
>
> Mr. Bork. Well, the attempt to eliminate Supreme Court jurisdiction as opposed to lower court jurisdiction would have to rest upon the exceptions clause of Article III of the Constitution, which allows Congress to make such exceptions and regulations of the Supreme Court's appellate jurisdiction as it desires. Literally, that language would seem to allow this result. However, I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should not. The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the exceptions clause would provide no remedy. For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business, as indeed I agree it is not, to use the exceptions clause to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which 50 states were deciding through their own judges the constitutionality of a war.
>
> Senator Baucus. Well, as I hear you, I hear you address the question more on a policy ground. Apart from the policy ground——
>
> Mr. Bork. No, I do not think that is a policy ground, Senator. I think that is a constitutional argument. One of the ways of construing the Constitution, as Chief Justice Marshall showed us so well in *McCulloch* v. *Maryland*, is to argue from its structure: What is the necessity of government? Would the framers have done something that led to results like this? I think the answer is that the framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the state judiciary systems, from which it probably cannot be removed. When one perceives that that is the result, then I think one has to say the framers did not intend this as that kind of a check upon the Court. I do not know any way to apply the Constitution that I regard as legitimate other than in terms of the intent of the framer, as best as that can be determined.

This perspective on the exceptions clause is most instructive. The glaring deficiencies of the exceptions clause are an effective retort to the argument that it was intended to be used as a significant check on the judicial branch.

In the final analysis, the deficiencies of the exceptions clause as a check on the judicial branch are much less troubling that its potential to undo the protections of the Constitution. While the Framers of the Constitution designed a judicial branch which could protect the supremacy of the Federal Government, they also designed the judiciary to assure that individual liberties would not be abridged.

Alexander Hamilton stated in the 78th "Federalist" that the courts have a duty "to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

If Congress authority to remove subject matter jurisdiction over school prayer were upheld as constitutional, there is no "right" or "privilege" in the Constitution that could not be removed from Supreme Court review. Proponents of this amendment have argued that this is an alarmist view. The exceptions clause would still be subject to other constraints contained in the Constitution, they argue.

Yet, under the analysis offered by the proponents of these bills, Congress authority under the exceptions clause is virtually without limits.

Theoretically, Congress could dismantle any constitutional provision it wished, and paralyze the courts from reviewing such an act. It is this theoretical opening which makes the premise underlying the court-stripping bills most distressing.

Under this analysis, the Supreme Court is only free to enforce a constitional guarantee if 51 percent of Congress does not preclude it from doing so.

IMPACT ON THE COURTS

Notwithstanding these legitimate and seemingly overwhelming constitutional concerns, this amendment is still being offered. Why?

In large part this is because some Members of Congress believe something drastic must be done to rein in an "activist Court."

Therefore, their objective is to overturn or minimize the impact of previous "activist" decisions.

However, it is clear that this amendment does not have the effect of overturning previous Court decisons.

In fact, these bills could have precisely the opposite effect they are intended to have.

Withdrawing court jurisdiction over school prayer would not return prayer to the schools.

Instead of promoting school prayer, these bills could elevate the last Supreme Court decision on the subject to a "permanent" status of the law. Engle against Vitale and Abbington School District against Schempp would still be the controlling Supreme Court decisions on the school prayer issue.

Any assessment of whether the bills would minimize the effect of previous decisions would amount to speculation. No one really knows precisely what impact they would have on a specific body of law.

The proponents of this amendment say they are attempting to restore more traditional and stable judicial decisionmaking to the courts.

However, it is difficult to imagine any set of proposals more inconsistent with the goals of certainty or stability than the court-stripping bills.

The simple fact is that the court-stripping proposals remove Federal court jurisdiction while offering State court judges no real indication of what judicial standard they should follow.

It is ironic that those who are complaining about judicial usurpation of the legislative function are promoting legislative solutions devoid of any substantive direction and inviting further and potentially more disparate pronouncements. Such a vacuum of substantive standards is an open invitation to judicial activism in its purest form. The more helpful solutions would be ones that actually set a new substantive standard for the courts to follow.

Not only do the court-stripping bills fail to provide a substantive legal standard, but they preclude the Supreme Court from enforcing its previous decisions.

The sponsors of these bills realize that they cannot directly reverse a constitutional decision of the Supreme Court. Instead, the sponsors are actually promoting an open invitation to State court judges to alter or reverse the controlling Supreme Court decisions.

They want to withdraw the Supreme Court's jurisdiction and give the State courts a knowing wink and say, "Go-ahead—they can't touch us now." This congressional wink is not responsible legislation.

It is an open invitation to the State courts to overrule decisions of the Supreme Court. Likewise, it is an open invitation for the general disrespect of the rule of law.

In fact, the jurisdiction bills are more than an invitation to such disrespect—their success depends on it. The court-stripping bills would have no substantive impact unless State court judges were willing to seize advantage of this opportunity.

This aspect of the court-stripping bills has been criticized by the Conference of State Court Chief Justices. By a resolution adopted at their midyear meeting in Williamsburg, Va., the chief justices raised serious concerns about the impact of these bills on State courts.

Their resolution observed in part:

> These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents.

It is difficult to see how such proposals restore more traditional and stable decisionmaking to our judicial system. A court-stripping bill would throw a given body of law into total disarray. In the name of restoring "constitutional" decisionmaking to the courts, the proposals in fact leave open the possibility of 50 unconstitutional decisions being pronounced by the State courts.

Should Congress engage in continued court-stripping, we would be left with a crazy quilt of rights and recourses. In the real world of litigation, it is also likely that an individual will not be pursuing a single constitutional issue at a time.

Would it make sense to tell a citizen that the "due process" portion of his case can be brought in Federal court but the "equal protection" part can only be brought in State court?

Further, would it make sense to tell that same individual that the "due process" portion of the case can be appealed to the U.S. Supreme Court, but the "equal protection" portion cannot?

This amendment is being offered without sufficient consideration of the ultimate impact on our judicial system. The proponents have failed to adequately explain why we should abandon the current constitutional scheme for vindicating rights. It is a burden which they must be forced to assume before we begin to dismantle a carefully constructed judicial system.

IMPACT ON CONGRESS

The impact of these jurisdiction-limiting bills on the judicial system has been underestimated. The same is true of the impact of these bills on the Congress itself.

If Congress decided to enter this arena, the pressure to respond to a wider range of constitutional issues will increase. Every constituency that feels victimized by an adverse constitutional ruling will come running to Congress for a jurisdiction-removal bill.

Proponents of this amendment suggest that fears of congressional abuse of the jurisdiction removal power are exaggerated. They argue that this amendment represents a narrow "surgical" removal of a limited area of jurisdiction.

However, a review of the proposals being considered by the 97th Congress is illuminating as to how the Congress might actually utilize this power to remove court jurisdiction.

One bill, H.R. 114, underscores the unlikelihood of a narrow and "surgical" approach. It would remove court jurisdiction over "any order of a State if such order is, or was, subject to review by the highest court of such State."

This bill hardly represents a carefully circumscribed removal of Federal jurisdiction. It would preclude any lower Federal court challenge to any State court decision. For example, it would totally preclude Federal court review of any habeas corpus case.

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Another bill, the Women's Draft Exemption Act, H.R. 2791, is equally instructive. It would remove Supreme Court and lower Federal court jurisdiction over cases involving equal protection and the draft. The sponsor of the bill was attempting to maintain an all-male draft. However, the solution being offered is to leave the decision as to the composition of the armed services up to 50 separate State courts.

The result is that women from Pennsylvania might be constitutionally required to be drafted while women from Arizona might be immune from induction.

In fact, if the proposed statute had been enacted, the all-male draft would have been in more disarray and more discriminatory than if the Supreme Court had determined that an all-male draft violated the equal protection clause.

It is also interesting to note that the bill was introduced on March 24, 1981. At that time, the question of the constitutionality of the all-male draft was pending before the Supreme Court. The Court announced its decision in the case on June 25, 1981.

Although the proponents of this amendment argue that Congress will only use its power to correct flagrant cases of judicial excesses, in the case of H.R. 2791, the jurisdiction removal was being proposed before the Supreme Court had rendered its decision. It is difficult to see what constitutional authority the court had abused.

The author of H.R. 2791 feared the Court's ruling on an all-male draft and the bill was written in anticipation of an adverse decision. His worst fears were not realized as the Court upheld the constitutionality of the all-male draft.

One assumes that after June 25, 1981, the bill became moot and that the subject matter suddenly became appropriate for on-going Supreme Court review. Thus, once the Court made the "correct" decision on the issue—that is, what one Congressman saw as "correct"—there was no need to remove the subject from the Court's jurisdiction.

This highly questionable use of the power to remove Court jurisdiction is only one step removed from the most cynical use of that power.

After reviewing all the bills introduced in this Congress, the prediction that jurisdictional removal language will become a boiler-plate provision of much legislation is not wholly implausible. Any time a Member of Congress is unsure whether the Supreme Court would uphold legislation, he or she could tack on a section denying the Court jurisdiction over that issue.

This could apply to taxation and personal property as well as to social issues.

Let us keep in mind that jurisdiction-limiting legislation is a politically two-edged sword. Although associated with conservatives in the 97th Congress, such legislation could very well be used in ways which would be anathema to traditional conservative values.

If Congress can remove Supreme Court jurisdiction over the issue of school prayer, why can it not pass stringent gun-control legislation and include a provision to prevent Supreme Court review of any case involving the "right to bear arms?"

Why could Congress not impose onerous and discriminatory taxes and include a provision to prevent Supreme Court review of the constitutionality of all Federal taxation cases?

Why could Congress not attempt to totally preempt the States from engaging in conduct traditionally within their power and remove Supreme Court jurisdiction over cases arising under the 10th amendment?

These hypotheticals are the reasonable extension of the strategy being put forward in this amendment. If one supports removal of Supreme Court jurisdiction over school prayer, one necessarily supports the possibility of Congress precluding review of any legislation that might run afoul of any constitutional principle, including those held most dear by the proponents of this amendment.

After reviewing the jurisdictional proposals pending in the 97th Congress, the potential for abuse is apparent. While the simple introduction of a bill is not evidence of what 51 percent of the Congress would agree upon, it is instructive as to the possibilities should Congress continue in its attempt to respond to individual Supreme Court decisions by utilizing the jurisdiction removal device.

Mr. President, I see the Senator from New York in the Chamber. He has very deeply held views on this matter, and I now yield the floor, without it being construed as the end of the speech, for the purpose of the two-speech rule.

Mr. MOYNIHAN. Mr. President, I thank my distinguished and learned friend from Montana for yielding me this time to speak to a matter which he and I and others in this body consider the single most serious constitutional challenge the U.S. Congress has faced in this generation.

In 1981, not long after the 97th Congress convened, representatives of the American Bar Association testified before the Judiciary Committees of Congress that legislation then beginning to be introduced which would strip Federal courts, including the Supreme Court, of jurisdiction over various subject matters, was both unwise as to policy and profoundly questionable as to constitutional validity.

The then-president of the American Bar Association, Mr. David R. Brink, wrote the committees and I quote:

> We confront at this very moment the greatest constitutional crisis since the Civil War.

Mr. President, this is not a casual utterance by one of the many members of the bar or merely a concerned citizen. On behalf of the American Bar Association its president wrote the Judiciary Committees of the Congress and said:

> We confront at this very moment the greatest constitutional crisis since the Civil War.

And we are going to decide on the floor of this Chamber in this session of Congress whether that crisis will be surmounted or whether we will succumb to it and fail in the most fundamental of all commitments we have made to American society, the commitment we made in our oath of office to uphold and protect the Constitution of the United States.

More than 1 year has gone by since the ABA testified and in that year this body has passed a measure to strip lower Federal courts of part of their jurisdiction. It has happened. And we now find ourselves confronted with an amendment that would strike at the heart of the jurisdiction of the Supreme Court.

Mr. President, the Attorney General of the United States has addressed himself to this matter in a letter of May 6, 1982, addressed to the Honorable STROM THURMOND, the chairman of the Senate Committee on the Judiciary.

I ask leave of the Senate to read an extensive passage from the Attorney General's letter to see if there can be any doubt in this body as to its import and its consequence.

The Attorney General wrote to the chairman of the Committee on the Judiciary:

> There is no doubt that Congress possesses some power to regulate jurisdiction of the Supreme Court.

And, Mr. President, no one doubts that. The Constitution is clear in its language on that point; the question is the extent of that power.

To resume my quote:

> There is no doubt that Congress possesses some power to regulate the appellate jurisdiction of the Supreme Court. The language of the Constitution authorizes Supreme Court appellate jurisdiction over enumerated types of cases "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court has upheld the congressional exercise of power under this clause, even beyond widely accepted "housekeeping" matters such as time limits on the filing of appeals and minimum jurisdictional amounts in controversy. See Ex parte *McCardle*, 74 U.S. (7 Wall.) 506 (1869).

I will devote some attention to this case later in my remarks, Mr. President, but I should say at this point while the cases holding is clear, its present meaning is clouded. To continue!

> Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

Mr. President, it appears to me that this paragraph, this single sentence should be reread and pondered.

Attorney General Smith states, and I quote:

> Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

The Attorney General continues:

> In determining whether a given exception would intrude upon the core functions of the Supreme Court, it is necessary to consider a number of factors, such as whether the exception covers constitutional or nonconstitutional questions, the extent to which the subject is one which by its nature requires uniformity or permits diversity among the different states and different parts of the country, the extent to which Supreme Court review is necessary to ensure the supremacy of federal law, and whether other forums or remedies have been left in place so that the intrusion can properly be characterized as an exception.
>
> Concluding that Congress may not intrude upon the core functions of the Supreme Court is not to suggest that the Supreme Court and the inferior federal courts have not occasionally exceeded the properly restrained judicial role envisaged by the Framers of our Constitution. Nor does such a conclusion imply an endorsement of the soundness of some of the judicial decisions which have given rise to various of the legislative proposals now before Congress. The Department of Justice will continue, through its litigating efforts, to urge the courts not to intrude into areas that properly belong to the State legislatures and to Congress. The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of government. This remedy would in many ways create problems equally or more severe than those which the measure seeks to rectify.

May I suggest, Mr. President, that the latter is an understatement of some considerable degree.

Scholars of the court have recorded a long sequence of decisions in which the court has overruled itself, has stated that an earlier reading of the Constitution was wrong and it no longer was sustained.

One of the more notorious of these cases was Lochner against New York, a decision by the Supreme Court in 1905, in which the Court held that the 14th amendment made invalid an act of the New York State Legislature which regulated the hours of work in bakeries.

Mr. Justice Holmes, in that wonderfully caustic observation of the kind he was capable of at such moments, said:

> The 14th amendment does not enact Mr. Herbert Spencer's social statics.

Yet it was a full generation before the Court accepted that fact and gradually acknowledged that legislatures did indeed have the right to regulate hours and working conditions, and openly acknowledged that what was once held simply was no longer held.

That is a vital process, part of the living Constitution whose meaning changes from generation to generation.

The fidelity of the American people to the Court's decisions has only been equaled by its fidelity to the Constitution. The judiciary "the least dangerous branch" as James Madison had it in his well-known comment in the Federalist Papers.

> Is silent in its obedience to custom and its constitutional role.

It asks only that its integrity be preserved by the other two branches of the Government on which it must in this regard depend.

The Congress until now has been faithful to this arrangement.

We know of no more assertive statement of the necessary dependence of the Court on the other two branches than the famous observation of President Andrew Jackson, who, to paraphrase, said with respect to a ruling of the Court having to do with an Indian treaty:

> John Marshall made the decision. Let him enforce it.

One can hope that was a mere deviation from President Jackson's normal constitutional faithfulness and, indeed, in the end the Court rulings were observed. The executive branch did, in effect, enforce them, and we have never in point of fact, until this time, come to the situation where one of the other branches of the Government proposed directly to assault the independence of the judiciary.

President Jackson made his remarks, he did nothing about it. Any President is entitled to a certain amount of frustration from time to time, but when it came down to the decision of whether he would abide by the Court or not, he abided by the Court, and every President has, and until now every Congress has. We are the first Congress to break that faith. In the long history of the Republic we alone have failed in the constitutional duty we inherit from the founders to preserve the integrity of the Court.

We have endured under our Constitution, we have prevailed under our Constitution, and only now, as we approach two centuries of incomparable stability, marred only by one great falling out of the States, only now do we assault the balance of powers built into the Constitution and the integrity of the least dangerous branch.

Do not suppose we shall be forgotten by history if we fail in the effort now underway to stop this. Do not think that history will not record the names of those who rose and defended the fidality of our oath and the integrity of law. And equally record the names of those who failed in their duty, broke their oath—a strong term but not too strong, Mr. President, for a situation in which the president of the American Bar Association has called the greatest constitutional crisis since the Civil War.

I speak, if you will, as someone who has been much interested in the history of the Court's reversing itself and very much involved in some of the issues at the present age in which it seems to me the Court ought to do and which I dare to think it will do.

Put plain, the Supreme Court is often wrong. Not in the sense that one of us might think it wrong, but in the specific sense that the Court, having decided an issue, subsequently declares that its decision was incorrect and either modifies or, in some cases, quite reverses its earlier decision.

As I noted earlier, in the largest matters, these changes occur over a generation; more often over two generations. If we use the somewhat dim convention that a generation is to be measured as 30 years, it was one generation before the Court reversed itself in Lochner, two generations before it reversed itself in Plessy.

On the other hand, as I have said earlier, the Court can reverse itself within a space of a year as it did this past June 1 in United States against Ross.

In the fall of 1979, I published an article in The Public Interest, entitled "What Do You Do When the Supreme Court is Wrong?" I argued that at various points in American history, and sometimes for extended periods, the Court had been wrong about one of another of the principal constitutional issues of that day, and that the Court had subsequently reversed itself, saying, in effect, that it had been in error.

My purpose in that paper was to examine the process by which earlier Court reversals had come about and could do so from the controversies of this time. I described a simple hierarchy of responses to the question, "What do you do when the Supreme Court is wrong?"—responses that in one combination or another had led the Court to change its position. My argument, deriving as much from Finley Peter Dunne as from any more contemporary political scientist was that the Court does respond to positions reasonably propounded. I suggested a hierarchy, if you will, of advocacy. One was to Debate, to Legislate, to Litigate.

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Briefly, issues upon which the Court had ruled would remain vital in public forums. Debate would continue on the same question. Variations of the originally contested law would be enacted by legislators who thought the Court had been wrong. The laws would be challenged in the lower Courts and indeed in the Supreme Court, which might already have changed its position. If it was not already convinced, if it ruled again that legislators had written an unconstitutional law, I wrote, the solution was to draft yet another law to the same effect. Changed social circumstances, a differently, or better, argued case, or a new justice might lead to a favorable ruling.

I hoped that those who disagreed with one or another of the Court's decisions, as I had done with respect to opinions on aid to nonpublic schools and public access to pretrial judicial proceedings, would remember that the Court can change its mind and that there is a legitimate and time-tested way to get it to do so.

But I fear that something else has happened; has intervened. In the 3 years since I wrote that paper some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to debate, legislate, litigate.

They have embarked upon an altogether new, and I believe quite dangerous, course of action. A new triumvirate hierarchy has emerged. Convene, meaning the calling of a constitutional convention, overrule, the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution and restrict, to restrict the jurisdiction of certain courts to decide particular kinds of cases.

Surely the most pernicious of these is the attempt to restrict the Court's jurisdiction. For it is both colorably constitutional, at least in the case of the inferior courts, as the Attorney General acknowledged in his letter to the chairman of the Committee on the Judiciary, and yet profoundly at odds with our Nation's customs and political philosophy.

It is commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President, while the courts protect the rights of the minority.

And there is no more solemn truth than that our democracy or any democracy's quality is measured by the degree to which the rights of the minority are protected. It is no great feat in Government to see that the majority rules. The feat is to see that the majority does not misrule. That the minority is protected.

While the legislature makes the laws, and the Executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution. A court that tells us that, when the meaning of a law is disputed by citizens.

This notion of judicial review has been part of our heritage for nearly 200 years. There is not a more famous case in American jurisprudence than Marbury against Madison and few more famous dicta than that of Chief Justice Marshall who said:

> (i)t is emphatically the province and the duty of the judicial department to say what the law is.

The law to which he had the primary reference was, of course, the fundamental law—the Constitution itself.

It is not for the Congress of the United States to say that the Court shall not say what the law is. And in order for the Court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights and the rights are accordingly abridged. The rights, for practical purposes, are extinguished, a nation characterized by majority rule and minority rights disappears and the ancient tyrannies reappear.

As cases produce winners and losers, so the ideas and principles on which the cases rely produce supporters and enemies. So I suppose it is only natural that those who see the courts ruling against them should seek to prevent these rulings by denying certain kinds of relief.

The Senate, on February 4 of this year, by a vote of 58 to 38, substantially limited the authority of lower Federal courts to require busing as a remedy for unconstitutional segregation of schoolchildren.

One, could hold the widest range of views on busing or no views on busing or no views whatever and still see our act as an abomination, still see that we blotted the Constitution with that decision. A decision which we seem bent upon escalating in the measure before us.

Mr. President, as the Attorney General has written, the exceptions clause of the Constitution cannot extend to the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers. If the Court is to be but a subordinate branch of the U.S. Congress, then we are no longer the Republic founded at Philadelphia in 1787. We shall have changed, we shall be a different body politic. The claim which those of us who have served our Nation abroad have been able to make around the world, that unique among the peoples of the Earth the Americans have lived two centuries under a written Constitution, a Constitution of majority rule and minority right, that claim will no longer be possible. It will no longer silently be understood and and acknowledged even by those who would wish this Republic worse.

The apparent meaning of the exceptions clause, as the Attorney General referred to it, is that the Congress may, by statute, set boundaries for the Supreme Court's appellate jurisdiction. In McCardle, the Court seemingly bowed. But although McCardle is frequently cited as the leading case in the area by those who would have the Congress restrict the jurisdiction of the Court few seem to have read the case.

The Court said:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution and the power to make exceptions to the appellate jurisdiction of this Court as given by express words. What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the Court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

But McCardle is, not the end of the matter, for the Constitution has other sections, including article VI, which states, in part:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the contrary notwithstanding.

Must we not presume from this, the "supremacy clause," that the Constitution's framers intended that there should be but a single arbiter of this supreme law, rather than the anarchy of a separate interpretation by each State? Why write a "supremacy clause" if there were not to be a single supreme tribunal authorized to interpret and pronounce the meaning of the Constitution? Indeed, in the case of Martin against Hunter's Lessee a case decided in 1816, Mr. Justice Story said as much:

> A motive of another kind, perfectly compatible with the most sincere respect for state tribunals, might induce the grant of appellate power over their decisions. That motive is the importance, and even necessity, of uniformity of decisions throughout the whole United States, upon all subjects within the purview of the constitution. Judges of equal learning and integrity, in different states, might differently interpret a statute, or a treaty of the United States, or even the constitution itself: If there were no revising authority to control these jarring and discordant judgments, and harmonize them into uniformity, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed that they could have escaped the enlightened convention which formed the

> constitution . . . (T)he appellate jurisdiction must continue to be the only adequate remedy for such evils.

This from Mr. Justice Story, a mere 28 years from the time of the adoption of the Constitution, the time when the meaning and intent of the people involved were still very much alive, very much a part of American contemporary life.

Mr. President, I rush to the elemental fact. We have before us the greatest constitutional crisis since the Civil War. It is a crisis which has already forced the Senate into extended debate, and none should doubt that this debate will continue until New Year's Eve and the expiration of this Congress, if it must be. I repeat, history will not fail to record which of us, at its moment of greatest peril, stood to defend the Constitution and the Court, and those who chose to attack it.

As it says on the pediment of the Court opposite "Equal justice under law."

Equal justice under law, for whomsoever appeals and whatsoever the issue. Not merely such matters as we who make the laws deem it agreeable to allow the Court to interpret.

The very fact that Congress makes the laws is the fact that requires an independent body to judge whether those laws transgress the basic tenets of the Constitution.

A government of majority rule and minority right. That right of the minority is protected by the Court. When we take that right away, we take away that power of the Court to protect the rights of the minority. We have changed America. We have failed in our oath. The oath we take in this Chamber to protect and preserve the Constitution of the United States.

Mr. President, liberty has not always prevailed. Indeed, liberty has not often prevailed. We count its epochs in years, months, days even, generations rarely. The American Republic, has for two centuries lived under law—under institutions established by a Constitution—and proved durable and stable and productive beyond the experience of mankind. And here we are, Mr. President, assaulting these very institutions in the very center of these institutions' life the Senate of the United States.

It would have been beyond my comprehension that such a moment should come to us. Historians will write of this period and ask, how did it come about? And they will record who prevailed against the mood.

I point with my right hand, meaning to neither one side of the aisle nor the other, because the abhorrence of this measure is felt with intensity on both sides, with the greatest intensity, perhaps, of all by our distinguished manager of this legislation, the Senator from Oregon (Mr. PACKWOOD) who is on the floor.

Mr. President, I now ask unanimous consent to yield the floor, without this being construed as the end of a speech for purposes of the two-speech rule. I observe that the Senator from Oregon (Mr. PACKWOOD) has risen. I now turn my attention to his word.

The PRESIDING OFFICER (Mr. TOWER). Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, may I ask what the order is when we reach 3:30 p.m.?

The PRESIDING OFFICER. At the hour of 3:30, the Senate, under a previous order, will proceed to the consideration of the conference report on H.R. 6955. There is a time limit of 2 hours equally divided between the Senator from New Mexico (Mr. DOMENICI) and the Senator from South Carolina (Mr. HOLLINGS).

Mr. PACKWOOD. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. PACKWOOD. Is my understanding correct that in the order, when we dispose of that business, whoever had the floor at 3:30 will have the floor when we again take up this matter?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I thank the Chair.

Mr. President, let me compliment my colleague from New York on one of the most eloquent addresses we have heard in this Chamber, not just on this subject, but on any subject we have considered in my memory in the 13 years I have been here, on perhaps the most important topic that has been addressed since I have been here.

My friend and colleague from New York and I have been involved in many, many battles together—tuition tax credits, aid to urban areas, a whole panoply. But those issues pale by comparison in relation to the issue of who will be the final determinant of the fundamental constitutional liberties of this country.

My distinguished colleague was absolutely right when he said that it is imperative that those rights be determined by a body as insulated from the passions of the moment as possible. Even supreme courts are not totally insulated, but they are surely more insulated than Presidents; surely more insulated than the Congress; and surely more insulated than State legislatures, to whom many would like to turn over the fundamental liberties of this country and prohibit any appeal except to State judges, who have to suffer the buffets of elections.

Mr. MOYNIHAN. I thank my friend from Oregon for his more than generous words. I just point out once again that the point he just made was made by Mr. Justice Story in 1816.

Mr. PACKWOOD. The battle we are facing here is not—I suppose to outsiders in every generation, they think they are facing the battles of the liberties of Americans. Indeed, it is not the liberties of Americans whose battles we face. Great Britain has faced them for years; in the entire history of Jewish tradition, these are battles they have faced.

These battles that they have faced—

The PRESIDING OFFICER. The Senator will suspend.

OMNIBUS BUDGET RECONCILIATION ACT OF 1982—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 3:30 p.m. having arrived, under the previous order the Senate will now proceed to the consideration of the conference report on H.R. 6955. The clerk will report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong. having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Aug. 17, 1982, p. H6137.)

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and that it be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADY). Without objection, it is so ordered.

Mr. DOMENICI. I yield myself 10 minutes.

Mr. President, as we begin our consideration of the conference report on the Omnibus Reconciliation Act of 1982 (H.R. 6955), I thank the conferees and, in particular, the subconferees for their hard work.

The provisions of this act are the culmination of the work of seven Senate committees in complying with their reconciliation instructions. I

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think their efforts have produced an important and workable piece of legislation that is a substantial step in reestablishing congressional control over Federal expenditures.

This act contains savings that are more than $2 billion above those mandated in the reconciliation instructions included in the first budget resolution for fiscal year 1983. In fiscal year 1983, the savings amount to $3.3 billion. In fiscal year 1984, the savings are $4.8 billion, and in fiscal year 1985, they are $5.2 billion. The total 3-year savings are $13.3 billion.

These savings by themselves will make a substantial dent in our deficits, but—more than that—they are a crucial step in implementing the budget plan agreed to in Congress earlier this year. This reconciliation bill complements the Tax Equity and Fiscal Responsibility Act (H.R. 4961), the other reconciliation bill. Together, these two bills provide a very substantial downpayment on the $280 billion in spending restraint provided for in the budget resolution. These actions will reduce our National Government's need to borrow and that will lower interest rates and help put our Nation's unemployed back to work.

There have been some very encouraging signs recently that the economic outlook may at long last be changing. The improvements this week in the stock market and interest rates are undoubtedly the result of many influences. It is not unreasonable to conclude, however, that the movement of the two reconciliation bills toward final passage had an impact. Congressional approval of these bills in an election year will be a clear demonstration of congressional willingness to bite the bullet on spending restraint and deficit reductions.

Spending restraint is necessary for a more efficient Government. It is good for the economy, not in any abstract sense but in the very real sense that the economy touches all our lives—through our jobs, our earnings, our taxes, the prices of things we want to buy.

I have some tables that show the savings provided in this bill and some brief explanations of the bill's main provisions. I ask unanimous consent that they be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, now let me move from my broad overview of this bill to a more detailed look at its provisions. Because a title-by-title breakdown of the savings in this bill is included in the tables I have submitted, I will cover only a few highlights of the bill at this time.

TITLE I—AGRICULTURE

I might say at this point that the House and Senate, by mutual understanding handle the conference negotiations on a reconciliation bill through a series of subconferences. The members of the substantive authorizing committees are the ones who do the work, the ones who arrive at the conclusions. The Budget Committees are charged with assembling the bill, presenting it to the two Houses, and costing it out. As general conferees, members of the Senate Budget Committee are available, if needed, to go to the meetings and lend our assistance, and as a last resort to vote if that is necessary in order to achieve agreement.

I can report that the Budget Committee conferees did not have to vote in the subconferences on this bill. The authorizing committees did the work; they made the decisions.

In title I of the bill, the conference substitute makes major changes in agricultural programs and reauthorizes and reforms the food stamp program.

It achieves substantial savings in the dairy price support program. It limits the milk price support level to $13.10 per hundredweight for the 2-year period beginning October 1, 1982. Dependent on the levels of Government milk purchases under the price support program, the bill provides for the Secretary of Agriculture to collect either 50 cents or $1 per hundredweight from the proceeds of milk sales. These collections will be used by the Commodity Credit Corporation to offset part of the cost of the price support program. These and other changes in the milk price support program will produce savings estimated at $4.2 billion during the fiscal year 1983-85 period.

Title I also provides for a program of "advanced deficiency payments" for the next 3 years for wheat, feed grains, upland cotton, and rice, whenever an acreage limitation or set-aside policy is implemented by the Secretary of Agriculture. The Congressional Budget Office projects that this program would save money over the 3-year period because it would encourage more farmers to participate in the acreage limitation programs and reduce further price support payments.

The conference agreement also provides for revised loan rate for wheat and feed grains and authorizes the Secretary of Agriculture to use up to $190 million in Commodity Credit Corporation funds to promote export of American agriculture products.

Subtitle E of title I deals with the food stamp program. It reauthorizes the program for 3 years. The bill also revises aspects of the program such as eligibility rules, the manner in which benefit levels are calculated, inflation adjustments, and work requirements, and it tightens administration to reduce fraud and abuse. The CBO estimates that the food stamp provisions will save $1.9 billion over the next 3 years.

Mr. President, I think the Senate should take special note of the fact that the Senate Agriculture Committee and its counterparts in the House produced budget savings which substantially exceeded the reconciliation instructions. The Agriculture Committee was instructed to achieve savings of $3.290 billion during the next 3 years. The conference agreement will save $6.555 billion during this period.

The Senate should understand that these savings are derived by using a uniform estimating practice, which is the practice that the Congressional Budget Office uses, and that is what we used on all of the estimates. I am not here saying that they are in every respect absolutely and totally right, but for consistency, they are the best we have; and certainly in the past, on these kinds of pricing issues, the CBO estimates have been closer and more consistent than most.

TITLE II—FHA INSURANCE PREMIUMS

Title II of the bill changes the way in which the FHA mortgage insurance premium is collected from home purchasers. Up to now, the insurance premium has been collected through fees collected throughout the life of mortgage. The new law will provide for "up-front" collection of the fees at the time of settlement. CBO estimates that the offsetting receipts collected because of this law will amount to $2 billion during the next 3 years.

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

Title III of the reconciliation bill recognizes that an essential element in controlling growth of Government spending is controlling automatically indexed programs. This is a historic change. In the past, automatic cost-of-living adjustments (COLA's) have led to spending growth of as much as $26 billion in a single year. Increases in a single year not the whole story, of course, because increases in 1 year are compounded by increases in subsequent years.

This bill restrains COLA's in Federal military and civil service retirement programs in what I believe is a fair and responsible way when we consider that the Senate bill would have limited COLA's for all military and civilian retirees to 4 percent a year for 3 years and the House of Representatives had voted not to put any COLA's restraint in its bill at all. So we went to conference, Mr. President, with our 4-percent cap and literally zero limitations on the House side. Let me repeat: Despite that wide difference between the two Houses, the conference agreement restrains COLA's in Federal military and civil service retirement in a fair and responsible way.

All retirees aged 62 and over, disabled retirees, and survivors of retirees will receive a full cost-of-living adjustment. There will be a 1-month delay each year. Those 62 and over are still to receive the full COLA but there will be 13 months instead of 12 between increases in their pension checks.

COLA's will be restrained, however, for relatively young retirees—those 61 years old or younger. Many of these people are still working, even though they receive Federal retirement benefits. Under this bill, these younger retirees will receive a cost-of-living adjustment equal to at least one-half of the increase in the Consumer Price Index. However, if inflation exceeds the rate assumed in the budget resolution for any of the 3 years, this group will receive a full percentage point cost-of-living increase for every percentage point the CPI exceeds the assumptions. They are, in other words, protected if inflation turns out to be significantly higher than predicted.

Despite this restraint, benefits for the retirees who are affected would continue to grow over the fiscal 1982-85 period. For instance, civil service retirees now on the rolls receive an average of $12,441 per year. Under this bill, their benefits would grow to at least $13,876 per year by 1985. Likewise, military retirees, on average, would see their benefits increase from $11,596 to at least $12,819 during the same period.

This new arrangement for COLA's is, so to speak, a diet-COLA plan. It is appropriate for a Government that is trying to get rid of some of its excesses but it is not a starvation diet. Even with this restraint on COLA's for young retirees, the Federal civilian and military retirement system will still require $107 billion of taxpayers' money in fiscal years 1983 through 1985.

TITLE IV—VETERANS' PROGRAMS

The bill makes a variety of changes in veterans' pension, compensation, and housing loan programs. The net effect will be to reduce Federal costs by $552 million during the next 3 years. These savings are achieved through minor adjustments in the compensation and pension programs and through enactment of a housing loan origination fee.

I think the Senate is totally familiar with those. We had them before the Senate in nearly the same form when we passed the original Senate version of this reconciliation bill.

TITLE V—REGULATORY AGENCIES

Title V of the bill reduces the size of the Federal Communications Commission from seven to five members and reduces the Interstate Commerce Commission from 11 to 5 members. This is estimated to save approximately $1 million during the next 3 years.

CONCLUSION

The Omnibus Reconciliation Act, as I see it, less than 90 days before a general election in this country, having passed the House of Representatives today by a vote of 243 ayes, 176 nays, if passed here in the Senate, as I hope it will be within an hour or so, is an indication to me that we are willing to tackle some very hard issues and move steadily toward strengthening fiscal control. I believe it deserves the Senate's endorsement.

Also I think it is fair to say that, with the passage of this bill, and hopefully the passage of the tax reform and equity bill tomorrow, implementation of the budget resolution is well on its way.

Many in the country did not think Congress would do what is necessary to implement that resolution. If we do what I have just described there will remain only three things that have to happen before we leave for elections this year. The total appropriation package will have to shave about $6 billion off current policy for discretionary, nondefense programs—something akin to a freeze. And then the military budget appropriated accounts will have to be reduced by about $8 billion below what the President originally requested. Finally, Congress will have to support the President in holding Federal pay raises to 4 percent. Just three additional actions and we will have made for this year all of the spending reductions and tax reform, revenue increases that the budget resolution contemplates.

I think when we are finished it will be a testimonial to the desire, the willpower, the courage of Congress, especially when you consider the difficulty of many of the issues and the fact that this is an election year.

CONFERENCE AGREEMENT: H.R. 6955—OMNIBUS BUDGET RECONCILIATION ACT OF 1982

The following tables summarize the savings in H.R. 6955, the Omnibus Budget Reconciliation Act of 1982, as agreed to by the Conference Committee on August 16, 1982. These tables have been prepared by the staff of the Senate Budget Committee and are based on Senate scorekeeping methodology.

All of the dollar amounts in the tables have been estimated by the Congressional Budget Office based on the materials provided by the Conference Committee.

SUMMARY OF SAVINGS

[In millions of dollars]

	Fiscal years—			Total fiscal year 1983-85
	1983	1984	1985	
Savings in bill:				
Reduction in budget authority	-2,405	-3,575	-3,910	-9,888
Reduction in outlays	-3,274	-4,671	-5,170	-13,113
Increase in revenues		+94	+55	+149
Reduction in deficit	-3,274	-4,765	-5,225	-13,262
Reconciliation instructions to committees:				
Reduction in budget authority	-1,073	-2,188	-3,379	-6,640
Reduction in outlays	-2,144	-3,704	-5,336	-11,184
Increase in revenues				
Reduction in deficit	-2,144	-3,704	-5,336	-11,184

Note: Details may not add to totals due to rounding.

SUMMARY BY TITLE

[In millions of dollars]

	Fiscal years—			Total fiscal years 1983-85
	1983	1984	1985	
Title I: Agriculture, forestry and related programs:				
Budget authority	-1,954	-2,427	-2,174	-6,555
Outlays	-1,954	-2,427	-2,174	-6,555
Title II: Banking:				
Budget authority				
Outlays	-690	-679	-649	-2,018
Title III: Civil service programs and government operations:				
Budget authority	-282	-957	-1,539	-2,778
Outlays	-462	-1,375	-2,150	-3,987
Revised		+94	+55	+149
Title IV: Veterans' benefits:				
Budget authority	-169	-190	-196	-554
Outlays	-168	-189	-196	-552
Title V: Commerce, science, and transportation:				
Budget authority	-(1)	-1	-1	-1
Outlays	-(1)	-1	-1	-1
Total bill:				
Budget authority	-2,405	-3,575	-3,910	-9,888
Outlays	-3,274	-4,671	-5,170	-13,113
Revised		+94	+55	+149

[1] Less than $500,000.

Note: Details may not add to totals due to rounding.

TITLE I.—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

[In millions of dollars]

	Fiscal years—			Total fiscal year 1983-85
	1983	1984	1985	
Dairy price supports:				
Budget authority	-1,482	-1,361	-1,311	-4,154
Outlays	-1,482	-1,361	-1,311	-4,154
Crop adjustment programs:				
Budget authority	+192	-367	-99	-274
Outlays	+192	-367	-99	-274
Export promotion:				
Budget authority	-116	-64	-8	-188
Outlays	-116	-64	-8	-188
Food stamps:				
Budget authority	-548	-635	-756	-1,939
Outlays	-548	-635	-756	-1,939
Total, title I:				
Budget authority	-1,954	-2,427	-2,174	-6,555
Outlays	-1,954	-2,427	-2,174	-6,555

TITLE II.—BANKING

[In millions of dollars]

	Fiscal years—			Total fiscal year 1983-85
	1983	1984	1985	
FHA mortgage insurance premiums (total, title II):				
Budget authority				
Outlays	-690	-679	-649	-2,018

TITLE III.—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983-85
Spending reduction:					
Cost-of-living adjustments in retirement programs:					
Civil Service	BA		-34	-76	-110
	O	-150	-385	-580	-1,115

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TITLE III.—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS—Continued

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Military	BA	−260	−732	−1,223	−2,215
	O	−260	−732	−1,223	−2,215
Public Health Service commissioned officers.	BA	....	−1	−3	−4
	O	....	−1	−3	−4
Foreign service	BA	....	−1	−2	−3
	O	−1	−3	−6	−10
Coast Guard	BA	−5	−14	−24	−43
	O	−5	−14	−24	−43
Subtotal, cost-of-living adjustments.	BA	−265	−782	−1,320	−2,375
	O	−416	−1,135	−1,836	−3,387
Other civil service retirement changes.	BA	(¹)	(¹)	(¹)	(¹)
	O	−30	−65	−98	−193
Federal pay and travel changes.	BA	−17	−175	−211	−403
	O	−16	−175	−216	−407
Total spending reduction, title III.	BA	−282	−957	−1,530	−2,770
	O	−462	−1,375	−2,150	−3,987
Revenue increase: Civil service retirement (total revenue increase title III).		....	+94	+55	− +149
Total deficit reduction in title III.		−462	−1,469	−2,205	−4,136

¹ Excludes budget authority effect of proposed revenue increase.

TITLE IV.—VETERANS' BENEFITS

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Compensation	BA	−42	−44	−45	−130
	O	−42	−44	−45	−130
Pensions	BA	−38	−46	−47	−130
	O	−36	−45	−47	−128
Home loan user fee	BA	−90	−100	−104	−294
	O	−90	−100	−104	−294
Total, title IV	BA	−169	−190	−196	−554
	O	−168	−189	−196	−552

Note.—Details may not add to totals due to rounding.

TITLE V.—COMMERCE, SCIENCE AND TRANSPORTATION

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Reductions in size of FCC and ICC (total title V) ¹.	BA	(²)	−1	−1	−1
	O	(²)	−1	−1	−1

¹ Reduction in authorizations.
² Less than $500 thousands.

Note.—Details may not add to totals due to rounding.

Title I: Agriculture and Food Assistance

The Reconciliation bill saves $6.6 billion over the next three years in Title I.

FOOD STAMPS

Reauthorizes the program for three years, with a total of $40 billion in spending authority (the 1982 level is $11.3 billion; the 1985 authorization cap is $13.9 billion).

Saves almost $2 billion over the next three years.

Allows a $1.8 billion "cushion" of standby spending authority for use in the event program costs should exceed current estimates.

Attacks fraud and abuse by vendors and recipients with stronger fines and penalties.

Requires stricter accounting of available client income and assets.

Sets forth incentives and penalties for states to reduce error rates to 5 percent. They now run 12–14 percent according to GAO.

Increases the maximum monthly benefit for a family of four by $20 to $253 on October 1, 1982, and by $60 to $293 by 1985. Yet the bill saves $510 million by restraining projected indexation of the Thrifty Food Plan formula.

Cuts red tape to let states simplify and coordinate program procedures.

Strengthens employment and workfare provisions to spur recipient efforts to become more self-sufficient.

Increases benefits for disabled senior citizens, veterans and veterans' dependents by creating special income eligibility standards.

DAIRY PRICE SUPPORTS

Trims this subsidy by $4.2 billion during the next three years.

Maintains the current $13.10 per hundredweight formula for the next two years, but: assesses dairy producers a 50 cent per hundredweight penalty if federal purchases for price support purposes exceed 5 billion pounds, and a possible additional 50 cents per hundredweight penalty if these purchases exceed 7.5 billion pounds.

Provides for special payments to reimburse dairy farmers who reduce production.

THE 1983 ADJUSTMENT PROGRAM FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Authorizes advance deficiency payments for these crops at 70 percent of the projected 1982 final payment and 50 percent for 1983–85.

Sets the loan rate for 1983 wheat at $3.65 per bushel; for corn, at $2.65 per bushel.

Requires wheat and rice acreage limits of 15 percent of base and a diversion program for 5 percent of base acreage. The Secretary can increase these limits in tandem; provides a $3 per bushel diversion payment.

Sets feed grain acreage limitations at 10 percent and a diversion of 5 percent of base. Corn diversion payments are $1.50 per bushel.

Contains no reduction program for upland cotton.

EXPORT PROMOTION

Provides $175–$190 million in annual spending authority (from the Commodity Credit Corporation) for the Secretary to engage in promotion and export aid programs designed to improve the competitive position of American agriculture.

Title II: Banking

HIGHLIGHTS

Excludes Federal Housing Administration (FHA) mortgage insurance premiums from the maximum mortgage and down payment requirements imposed on single-family homebuyers whose mortgages are insured by FHA. This enables the Department of Housing and Urban Development (HUD), by regulation, to increase FHA mortgage insurance premium collections by requiring the FHA-insured homebuyer to pay the value in current dollars of 13.5 years of FHA mortgage insurance premiums when the mortgage loan is closed rather than over the 30-year life of the loan. The exclusions provided in this title will be effective only if HUD determines that the proposed new premium structure is actuarially sound.

Requires HUD to rebate to each homebuyer who pays off his mortgage before 13.5 years the "unearned" portion of the premium paid when the loan is closed.

Title III

The 1982 Reconciliation Bill saves $4.1 billion over the next three years in Title III. It:

Allows full cost-of-living adjustments (COLAs) for federal civilian and military retirees who are age 62 or older, disabled, or survivors of retirees. Retirees who have not yet reached age 62 will receive one-half of the COLA increase. Retirees under age 62 will also receive the full amount of actual inflation adjustments which exceed the levels assumed in the First Concurrent Resolution on the Budget:

All adjustments would be delayed by one month each year.

The provisions are effective for FY 1983–85.

Provides that individuals with military service subsequent to 1956 who retire under the civil service system receive retirement credit for years in the military only if they make payments to the civilian retirement system for those years. These retirees may then receive both civil service retirement and social security benefits.

Closes a loophole in current law that allows disability recipients to adjust their earnings levels to stay on the disability rolls.

Sets forth additional civil service retirement and pay reforms that:

Alter the basis for computing general schedule pay to reflect the actual number of hours worked per year;

Reduce federal civilian pay by the amount of military retirement COLA increases;

Round annuities to the next lowest dollar; and

Provide that annuities commence on the first day of the month following separation from employment.

Terminate certain travel benefits that now exist for Federal employees assigned to duty stations in Hawaii and Alaska.

Title IV: Veterans' Benefits

The Senate and House Veterans' Affairs conferees have achieved savings of $554.0 million in budget authority and $552.1 million in outlays for the period FY 1983 through FY 1985 and exceed their reconciliation instructions under the First Budget Resolution.

The conference report provides FY 1983 reconciliation savings of $77 million in budget authority and outlays entirely in the veterans compensation and pension programs as assumed in the budget resolution. These proposals will also achieve significant reconciliation savings in FY 1984 and FY 1985. The conference agreement would:

Delay the payment of compensation and pension benefits, and certain increases in those benefits, until the first day of the first full month of entitlement;

Institute changes in dependency status under the compensation and pension programs at the end of the month in which the change occurs instead of at the end of the calendar year as is current practice.

Round the amount of compensation and pension benefit checks to the nearest lower dollar as is done for social security; and realign the dependent children's allowance under the compensation program.

Provide for enactment of the President's proposed one-half of one percent VA housing loan origination fee with an exemption for service-connected disabled veterans and surviving spouses.

Maintain current student benefits under the veterans pension program.

This title reduces the size of two regulatory agencies, the Federal Communications Commission (FCC) and the Interstate Commerce Commission (ICC) to five members each, resulting in savings of approximately $1 million over the three year period FY 1983-85. Currently, the FCC has a statutory limit of seven members and all seven commissioners have been appointed. At present, the ICC has a statutory limit of eleven members, but only six commissioners have been appointed.

Many other Federal regulatory agencies, such as the Securities and Exchange Commission (SEC), the Federal Maritime Commission (FMC), the Nuclear Regulatory Commission (NRC) and the Civil Aeronautics Board (CAB), function efficiently with five members or less.

Mr. **DOMENICI**. Mr. President, I have significant additional time, but at this point I yield to the distinguished minority leader of the Budget Committee.

Mr. **HOLLINGS**. Mr. President, before I yield to my distinguished colleague from Wisconsin I shall take but a moment.

Mr. President, on August 5, the Senate passed the omnibus budget reconciliation bill. I supported the bill then because it contained many spending reductions that must occur if we are ever to restore the fiscal credibility of our Government and give the American people confidence that their Government cares and can act responsibly.

It is no secret where I stand on the issue of the mangled economy caused by the Reagan-Kemp-Roth tax hemorrhage policies. We must lower the deficits, and we must lower them now. Each day we wait—we lose. There is but one realistic way of reducing the deficits, lowering the interest rates, and creating more jobs.

I have presented that plan time and again to move us on a path to recovery. So far, the Senate has yet to approve it. I intend to give the Senate another chance and will soon offer my proposal again. The plan consists of three major elements: First, a freeze and cap on the growth in Federal pay and all retirement programs; second, a cap at 3 percent real growth in defense spending; and third, a delay in the July 1983, 10 percent tax cut passed last year by Congress.

This approach is fair. It means that Government as well as the private sector and all elements of society would share in the sacrifice necessary to turn the economy around. The essential ingredient in the matter must be fairness. If we abandon that principle, we will not be able to prevail. And that brings us to where we are today on this reconciliation conference report. Mr. President, when we started out an honest attempt was made to bring spending down and to create discipline in the process—in an even-handed manner—but now that has been renounced. Fairness no longer matters. Discipline is not important.

The reconciliation conference agreement before us tells some of our citizens that the job of fixing the economy is not their responsibility. And it tells a small group that they have to bear the full burden.

The reconciliation instructions required a 4-percent cap on Federal pension COLA's. That was the reconciliation instruction that we had in the Senate and in the House. But this particular instruction has been frittered away. If you are a Federal retiree and 62 years of age or over there is no need to sacrifice. That is what the agreement says. But if you are 61, or 60, or under you must pay.

Let me give you a simple fact: Over 80 percent of the Federal retirees under 62 years of age are military retirees, so instead of making all Federal retirees share in this task we are pointing to one group. We are telling the military retiree that he, and virtually he alone among Federal retirees, must sacrifice again for his country.

I voted to change Federal COLA's from twice to once a year because that was fair in comparison to the once-a-year COLA for social security and other retirement programs. I have proposed comprehensive retirement reform proposals that provide similar and equitable treatment to all retirees because that is fair.

The solution found, however, in the conference agreement simply closes its eyes to equity.

To compound the unfairness of this approach, less than 70 percent of the savings assumed by the COLA cap is provided in the reconciliation agreement. It gives us only $3.4 billion of the $5 billion assumed in the original Senate provision. How can we stand here and act as if we are heroes and that we have accomplished something good, when all we have done is miss the mark on savings by over 30 percent and have at the same time surrendered the principle of fairness?

The distinguished chairman of the Budget Committee has said the COLA provision in the agreement is an excellent compromise.

I would like to quote from yesterday's New York Times:

> "Considering where we started," said Senator Pete V. Domenici, the New Mexico Republican who heads the Budget Committee. "I think it's an excellent compromise."

Reading further though:

> The resolution was also something of a victory for House Democrats. "There will be no cap, and that was the one principle we had," said Representative William D. Ford, the Michigan Democrat who heads the House Post Office and Civil Service Committee. "Once you give into that, you're sending a signal: If you do it for these retirees, then why not for Social Security? People are edgy about all this talk."

Well, now, Mr. President, I am edgy about the economy; I am edgy about the deficit; I am edgy about the interest rates; and, Mr. President, I am edgy about the highest unemployment figure that we have in history since the Depression. So that is what this is all about.

We need to send a signal about the cost-of-living adjustments. We need that discipline, and this so-called compromise gives in on that score and loses the particular discipline necessary in this process.

I emphasize that I am particularly keen about our military retirees. I carried that ball in an election year, in August of 1982, for candidates, which is no more pleasant than the August 1980 atmosphere. At that particular time, trying to save money, the Congress was eliminating the doubled COLA provision which applied to military and civilian retirees. Since some 35,000 military retirees live in the First Congressional District in my hometown, my campaign was a constant confrontational situation.

Well, one of the candidates for Congress on one side equated retirees with welfare recipients, constantly caterwauling that, after all, the military had given their lives, had sacrificed, they were the ones who had built the country, and the welfare people were getting a lot of welfare.

It seems as if you can always provide for welfare but you cannot provide for retirees.

Well, I had to try to calm the atmosphere and to explain that no retirement plan other than the Government's contemplated a double cost-of-living adjustment, and only 9 percent of the private plans even had a cost of living adjustment. I emphasized that in order to produce a balanced budget, we had to cut somewhere. But in so doing we were doing it in an equitable fashion.

Now this particular compromise in the conference report abandons that principle of fairness and, in essence, off-loads the burden totally on the military retirees with the rationale that they are younger. I can give an equally balancing rationale that those who are 62 or older have it made. Their expenses are not nearly as big, their children are grown and they can get help. But, those who have not reached it are now dependent on a good retirement.

I can also give you the labor argument that as long as you give a good cost-of-living adjustment to the military retirees there is less of an inducement for them to enter the labor force and take away much-needed jobs.

So there are good, equal rationales to be given to not disparaging and discriminating against the military retirees.

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So we have failed the Senate, in my opinion, and I am sorry that I cannot support the conference report. I understand and know that our distinguished chairman, Senator Domenici, has done once again an outstanding job. He carried on the liaison work necessary between the regular authorizing committees. He tried to hold their feet to the fire as much as he possibly could. This has always been a sore point over on the House side politically. But for the military, who are not in the conference, who performed military duty, they are quickly forgotten by this particular agreement. I think it is improper and, therefore, I cannot vote for the passage or the adoption of the conference report.

I now yield such time as is necessary to my distinguished colleague from Wisconsin.

The PRESIDING OFFICER (Mr. Danforth). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from South Carolina.

Mr. President, I shall vote against the conference report on H.R. 6955, the budget reconciliation bill, because its dairy provisions amount to an absolute, total, unmitigated disaster for dairy farmers in Wisconsin and throughout the Nation.

I shall cast this "no" vote reluctantly because I favor budget cuts, and this budget reconciliation conference report provides for some important and necessary cuts.

Chairman Domenici and ranking member Hollings did some tough, hard, unpopular work. But by any standard of fairness and equity, this conference report is unacceptable when it comes to dairy farmers.

Why do I say that? Mr. President, the dairy price support level has been frozen at $13.10 per hundredweight since October 1, 1980. What that means, of course, is the price the farmer receives was frozen for nearly 2 years. Meanwhile the cost of everything they buy has gone up because they suffer from inflation. Now the conferees have come forward with a dairy provision that calls for continuing this freeze at $13.10 per hundredweight for another 2 years and then—for the year beginning October 1, 1984—the support level would be set at the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

That may be bad enough on its face. But it gets much worse. In fact, dairy farmers will be getting only $12.60, not $13.10, per hundredweight because of a 50-cent-hundredweight production adjustment assessment. So we know the prices dairy farmers will pay will go up, and what this says is the price they receive will go down, and down sharply. That 50-cent-per-hundredweight assessment would be lifted when projected Commodity Credit purchases fall below 5 billion pounds milk equivalent in any fiscal year. But that is not going to happen, in all likelihood, in all reality, probably for years to come.

There is worse to come. Just listen to this:

But if projected surpluses for a fiscal year should exceed 7.5 billion pounds milk equivalent, the Secretary of Agriculture could impose yet another assessment of 50 cents per hundredweight, thereby cutting the price support level to $12.10 per hundredweight. We voted in this body on this very issue about 2 weeks ago and overwhelmingly, two to one, rejected that position.

The Secretary could not levy this second fee until April 1, 1983. And dairy farmers who cut their production to levels specified in the conference report would receive a rebate of this second assessment.

Mr. President, the effects of these provisions will be devastating on dairy farmers in Wisconsin and the rest of the Nation.

A recent study indicates that the cost of production for the average dairy farmer in Wisconsin—and we think we have the lowest cost anywhere in the country—the cost in Wisconsin is $12.97 per hundredweight. That means the dairy farmers get nothing—get nothing—at $12.60 and certainly nothing at $12.10.

But now, under the terms of the conference report, dairy farmers face the prospect of a price support level that falls below the cost of their production—well below their cost of production. And, of course, their cost of production will continue to increase every day. The result will be cruel and absolute and sure.

This can lead to only one result: Many more dairy farmers in Wisconsin and elsewhere will be driven out of business. Because of the harsh dairy provisions agreed to by the conferees, we will be seeing depression-level dairy farm foreclosure sales across this country. Farms that have been in the same family for years will be auctioned off and yet another series of cruel blows will be inflicted on the family farm structure in America.

The land will not disappear. The herds will not disappear. The equipment will not disappear. They will be auctioned off, and that production will be done by larger units, some corporations that have the capital to suffer for a few years and then survive, and the family farm structure will have gone.

Mr. President, I must say, finally, there were other ways to solve this problem. The self-help program that the dairy co-ops suggested that would reduce production, reduce the cost of the Federal Government and permit the dairy farmer to survive, was reasonable.

For these reasons, I must vote against the conference report on H.R. 6955. I urge my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 5 minutes, then I am going to yield to my good friend, the distinguished chairman of the Finance Committee, the Senator from Kansas. From what I understand on our side, the only other Senator who desires to be heard is the distinguished Senator from Washington, Senator Gorton. I say that so Senators who are listening will know that if we can, the distinguished minority manager and myself want to complete this measure without using the full 2 hours and vote as close to 5 as possible. We only need about another 10 or 15 minutes on the majority side, as far as I know.

Mr. HOLLINGS. We will put that out on our hotline.

Mr. DOMENICI. Mr. President, I am sorry the distinguished Senator from Wisconsin left the floor. But I really cannot believe what I heard. I just cannot believe that the distinguished Senator from Wisconsin, who is always willing to cut somebody else's program, when he comes to this floor talking about fiscal responsibility, that he would have the tunnel vision to vote against a $13.3 billion deficit reduction on the basis that the milk pricing subsidy in this bill is devastatingly low.

I am convinced that the American people will not think this bill is devastating when they consider what it is costing the American taxpayer for the overproduction of milk that is occurring so that we can buy it and store it, have some of it spoiled and give away some more of it. We have continued to do this year after year after year.

So while I have the greatest respect for anyone that opposes this bill I really think to oppose it on the ground that a program that is so costly to the American taxpayer, that has grown like Topsy, that has become an incredible program from the standpoint of its results, would be here used as the basis to vote against significant deficit reductions.

Mr. HART. Will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. HART. The Senator from Colorado does not recall accurately, but I believe the Senator from Wisconsin was one of those who voted to amend the Constitution of the United States to balance the Federal budget, was he not?

Mr. DOMENICI. I do not think there is any doubt. You can check the record.

Mr. HART. I thank the Senator from New Mexico.

Mr. DOLE. He also voted to close the gym.

Mr. DOMENICI. The distinguished Senator from Kansas says he also voted to close the gym.

Mr. HOLLINGS. He has gone to the gym. [Laughter.]

Mr. DOMENICI. Mr. President, I yield myself 5 additional minutes, and then I will yield as stated.

Today I wrote a letter to the Chairman of the Federal Reserve System, Chairman of the Board of Governors, Paul Volcker. I asked him in my letter for his views about the expenditure and revenue legislation before the Congress.

Mr. President, I ask unanimous consent that the letter I wrote to Chairman Volcker asking him for his views be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on the Budget,
Washington, D.C. August 18, 1982.

Hon. Paul A. Volcker,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

Dear Chairman Volcker: As you know, Congress is considering what many people regard as historic legislation, the Tax Equity and Fiscal Responsibility Act of 1982 and the Omnibus Reconciliation Act of 1982, which implement the fiscal decisions in the first Concurrent Budget Resolution for FY 1983. Taken together, this legislation reduces the federal deficit by about $130 billion over the next three years.

Since you are a leading figure in the implementation of economic policy, I would appreciate your views on the effect of this legislation on financial markets and the long term growth potential of our country.

Sincerely,

Pete V. Domenici,
Chairman.

Mr. DOMENICI. Mr. President, I would like to read his response.

Dear Senator Domenici: I have your letter of today inquiring of my views about the expenditure and revenue legislation before the Congress, which, as I understand it, essentially implements major portions of the First Budget Resolution adopted earlier.

As you know, I do not feel it appropriate to comment on the specific spending and revenue actions contained in the bills before you. But I would emphasize the larger questions at stake.

I testified before your Committee recently that, while the particular actions proposed may not represent "perfection," I strongly welcomed the effort of the Congress to achieve greater fiscal restraint, and that indeed I—and the markets—would be looking toward "converting the intentions expressed in the First Budget Resolution into concrete legislative action."

Our prospective deficits are simply too large. We must recognize that monetary policy is only one instrument of economic policy, and our common objective of a strong and prosperous economy depends on appropriate and complementary fiscal policy. If we are to achieve and sustain lower interest rates

And I would note that the word "sustain" is underlined—

and avoid preempting funds needed for housing, business investment, agriculture, and small businesses in the years ahead—greater fiscal discipline is needed. The bills before you represent important steps in that direction. Controversy about particular provisions should not obscure that fact.

My earlier testimony suggested failure to carry through now on the overall intentions of the Budget Resolution would, in my judgment, carry the implication to a skeptical audience in the markets and elsewhere that Congress will be unable to deal effectively with the large budget deficits looming ahead. Those effects on expectations would, in turn, have an adverse impact on credit markets and the prospects for sustaining declines in interest rates. I continue to believe that it is of critical importance to the budgetary outlook and confidence in the markets that the conclusion of Congressional deliberations be the realization of the improvement in the fiscal position contemplated by the Budget Resolution,

Sincerely,

Paul A. Volcker.

Mr. DOMENICI. Mr. President, I note again that the House agreed to this conference report by a vote of 243 to 176 just a few months before an election in which all House seats are up for reelection.

The distinguished minority manager has been a leader in trying to restrain indexation. But this bill is a major break with the practice of automatic indexation. There is a 1-month delay in COLA's for all Federal retirees. And there is a half rather than a full COLA for all Federal retirees under 62 years of age. There are also some other reforms in the Federal retirement system. The sum total of the savings is about $4.1 billion in reduced expenditures. When you start with zero restraint, I think the compromise is a good one.

When you start with zero, with the Senate at a full 4-percent cap, I think the compromise is a good one. We should make this start this year in the very vital area of automatic indexation.

How much time does the distinguished Senator wish?

Mr. DOLE. Five minutes.

Mr. DOMENICI. I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I wish to commend the distinguished Senator from New Mexico. It appears that through his efforts and the efforts of the other members of the Budget Committee, we are about to help preserve the budget process, which I think we really need in this Congress. I know we have differences on specific spending reductions. But it would seem to me that passage of this measure will indicate to the American people and to the financial markets—which are going in the right direction for a change—that we mean business. To some extent, this is because of the leadership of the Senator from New Mexico. This is not business as usual. Things are changing. We are going to continue to put pressure on Federal spending. We are going to do what is necessary tomorrow and Friday, hopefully, on the revenue side through tax reform, closing loopholes, and having more tax compliance.

I am pleased to note the the distinguished minority whip, Senator Cranston, has indicated he will support the tax bill. I understand my colleague from Montana on the Finance Committee, Senator Baucus, will support the tax bill. There is no doubt in my mind it is going to be a good bipartisan package. I am still hopeful the good Senator from South Carolina will come on board. Last year, the tax cut was too big, and this year the increase is too small. Somewhere down the line they may get together.

Before I make a comment on the reconciliation, I want to put into the Record a list of the deficit reduction action group coalition members. I think it would be helpful to the Members if they will look over this list. It goes from the American Business Conference, the Business Round Table, the National Association of Manufacturers, Westinghouse, General Electric, National Beer Wholesalers, and on, and on, page after page, of people who understand the importance of bringing down deficits and bringing down interests rates. The list also includes the Federation of American Hospitals, American Express, Associated Builders and Contractors, Federation of American Hospitals, and the Potato Chip and Snack Food Association.

Everyone is climbing on board. I hope that message is not lost on my Republican colleagues in the House as they prepare to make a tough vote tomorrow.

In addition, Mr. Robert Georgine, president of the AFL building and construction trades department, and a number of unions are supporting the bill. The American Association of Retired People sent a mailgram to every Member of the House today supporting the revenue and spending reduction bill because they know how necessary it is to bring down spending and keep interest rates going in the right direction.

It would seem to me that this growing support is an indication that we can work together and that we are on the right track. I hope this list might be helpful to Members tomorrow.

I ask unanimous consent that the list and other attached documents be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Deficit Reduction Action Group
Coalition Members

American Business Conference—Chairman.

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American Automobile Association.
American Council of Life Insurance.
American Electronics Association.
American Retail Federation.
Owen Corning.
Direct Selling Association.
General Aviation Manufacturers Association.
General Mills.
General Motors.
B. F. Goodrich.
Goodyear.
Independent Business Association of Wisconsin.
Johnson & Johnson.
Latin American Manufacturers Association.
3 M.
Motorola.
National Apartment Association.
National Association of Brick Distributors.
National Association of Furniture Manufacturers.
National Association of Home Builders.
National Association of Life Underwriters.
National Association of Manufacturers.
National Association of Small Business Investment Company.
National Association of Realtors.
National Association of Retail Druggists.
National Association of Women Business Owners.
National Lumber and Building Material Dealers Association.
National Oil Jobbers Council.
National Retail Merchants Association.
National Small Business Association.
National Tire Dealers & Retreaders Association.
National Tooling & Machining Association.
Prudential Insurance.
Semiconductor Industry Association.
Small Business Association of New England.
Southern Furniture Manufacturers Association.
Specialty Advertising Association.
Sun Companies.
Uniroyal.
Westinghouse.
General Electric.
National Beer Wholesalers Association.
National Leased Housing Association.
Computer Sciences Corporation.
National Mass Retailing Institute.
Massachusetts High Tech Council.
Independent Bakers Association.
FMC.
International Association of Trade Exchanges.
Trans America Occidental Life Insurance.
New England Council, Inc.
Council for Rural Housing & Development.
Distilled Spirits Council.
Business Roundtable.
National Corn Growers Association.
Edison Electric Institute.
Chrysler Corporation.
Dresser Industries, Incorporated.
Manufacturers Agents National Association.
Small Business Legislative Council.
Dravo Corporation.
Detroit Edison.
American Trucking Association, Inc.
American Hospital Supply Corporation.
National Forest Products Association.
Texaco.
Independent Business Association of Furniture Manufacturers.
Sears Roebuck.
Miller-Schroeder Municipals.
American Pulpwood Association.
Aetna.
New York Life Insurance Company.
Independent Insurance Agents of America.
American Gas Association.
Committee for Responsible Federal Budget.
Charter Company.
Federation of American Hospitals.
American Express.
Burlington Industries.
Celeron Corporation.
Anheuser Busch Company, Inc.
American Association of Equipment Lessors.
Corning Glass.
Hanna Mining.
Kaiser Aluminum.
Bristol-Myers.
Associated Builders and Contractors.
American Retail Druggists Association.
Securities Industry Association.
Rockwell.
Federation of American Hospitals.
U.S. Steel.
Potato Chip & Snack Food Association.
John Deere & Company.
Exxon.
Bendix.
Iron & Steel Institute.

TEXT OF TELEGRAM SENT BY 20 LABOR LEADERS, AUGUST 17, 1982

DEAR MR. PRESIDENT: We, the undersigned, believe, as you do, that the tax bill reported by the Congressional Conference Committee must pass both houses of Congress in order to reduce federal deficits, continue the reduction of interest rates, and stimulate business activity which will provide more jobs for our members.

We also strongly believe that the extension of unemployment compensation benefits for approximately 2 million workers is an important component of this bill.

We further believe that failure to pass this tax measure will significantly weaken the Congressional budget process.

As responsible representatives of organized labor, we are joining with you in urging the Congress to pass the Tax Equity and Fiscal Responsibility Act of 1982.

Respectfully,

Mr. Robert Georgine, President, AFL-CIO Building & Construction Trades Department; Mr. Teddy Gleason, President, International Longshoremen's Association; Mr. John F. Sytsma, President, Brotherhood of Locomotive Engineers; Mr. Henry Schickling, President, International Union of Tool, Die & Mold Makers; Mr. Shannon Wall, President, National Maritime Union; Mr. Jesse Calhoon, President, Marine Engineers Beneficial Association; Mrs. Linda Puchala, President, Association of Flight Attendants; Mr. Frank Chiappardi, President, National Federation of Independent Unions.

Mr. Victor Herbert, President, Air Line Employees Association; Mr. Tom Martines, Secretary-Treasurer, National Maritime Union; Mr. Joe Maloney, Secretary-Treasurer, AFL-CIO Building & Construction Trades Department; Mrs. Mary Acker, President, National Federation of Licensed Practical Nurses; Mr. Duane Millar, Vice President, International Union of Tool, Die & Mold Makers; Mr. Fred Tittle, Secretary-Treasurer, National Federation of Independent Unions; Mr. Truman Davis, President, Congress of Independent Unions; Mr. W. S. Wanke, Vice President, Brotherhood of Locomotive Engineers; Mr. Clark Libhart, Vice President, Congress of Independent Unions; Mrs. Iveas Pruitt, Secretary, National Federation of Licensed Practical Nurses; Mr. William A. Schneider, Vice President, Air Line Employees Association; Mr. Gene DeFries, Secretary-Treasurer, Marine Engineers Beneficial Association.

CHAUFFEURS, WAREHOUSEMEN &
HELPERS OF AMERICA,
Washington, D.C., August 17, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the over two million members of the International Brotherhood of Teamsters, I share the same beliefs as you that the Tax Equity and Fiscal Responsibility Act of 1982 must pass both houses of Congress. This legislation will serve to reduce federal deficits, continue the reduction of interest rates, and stimulate business activity which will provide more jobs for members of our Union.

The Teamster's Union also strongly believes that the provisions to extend compensation benefits for approximately 2 million workers is a vital component of this legislation.

The Tax Equity and Fiscal Responsibility Act is a piece of legislation that is unprecedented in nature and represents the serious economic dilemma that our nation is currently facing. The Congress is faced with a bill that can provide the real foundation to rebuild our great nation. If Congress fails to pass H.R. 4961, is will not only significantly weaken the Congressional budget process but serve to show all of America that there is no solution to our nation's economic plight.

As a representative of organized labor, I join with you in urging Congress to pass the Tax Equity and Fiscal Responsibility Act of 1982.

Respectfully,

ROY L. WILLIAMS,
General President.

OPERATION INDUSTRY COOPERATION,
NATIONAL GOVERNMENT RELATIONS SERVICE,
Washington, D.C., August 16, 1982.

DEAR FRIEND: I am writing you to urge your cooperation in securing the passage of the Dole Tax Bill currently awaiting final congressional action. As you know Senator Dole has shaped legislation which tries to balance and reform the current tax laws so that there is more fairness taxing the truly greedy and helping the truly needy.

This bill as a result of the cooperation of the ranking Democrat on the Finance Committee Senator Russel Long has passed the Senate with bi-partisan support. With the help of Barber Conable and Dan Rostenkowski on the House side a bi-partisan combination is pushing to get the bill accepted. Those of us who know Senator Dole are aware of his sensitivity to the issues and concerns of the Black community as well as to those of the white community.

Thus, the equity and fairness in this tax bill is better than most and certainly the best that is possible in the 97th Congress.

As you know politics is the art of the possible and I urge you to support the President and the leaders of both parties who are supporting this bill.

Please write your Congressman when you receive this and tell him to use his influence and his vote to get this bill passed.

I am sincerely yours,

Dr. Maurice A. Dawkins.

Mailgram to All Members of House and Senate

Hon.——————
U.S. Senate/U.S. House of Representatives,
Washington, D.C.

Dear——————: On behalf of the more than 18 million members of the American Association of Retired Persons, I want to express our support for the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

Needless to say, the bill does include provisions with which we take exception. However, we believe that the package agreed to by the conferees is a balanced one under the circumstances. Failure to pass the conference report will add substantially to the deficit, further aggravate our economic problems, and undermine the well-being of all Americans, including the elderly.

Thank you for your attention.

Sincerely,

Cyril F. Brickfield,
Executive Director.

National Council of La Raza,
Washington, D.C. August 18, 1982.

Hon. Ronald Reagan,
President of the United States, The White House, Washington, D.C.

Dear Mr. President: After careful consideration of the merits of the new tax legislation (H.R. 4961) passed by the Senate/House conferees and supported by you on national television, the National Council of La Raza believes that it is in the best interests of the nation and the Hispanic community to pass this legislation.

The aforementioned legislation brings a measure of equity and fairness to our tax system and provides much needed additional revenue which will reduce Federal deficits and hopefully bring down interests rates. As with any legislation, the proposed bill has elements that some of us would have wanted otherwise. But overall it represents a compromise that we can enthusiastically support.

Sincerely,

Raul Yzaguirre,
President.

[Telegram]

August 17, 1982.

The President,
The White House
Washington, D.C.

Dear Mr. President: We the undersigned, businessmen and directors of the Chamber of Commerce of the United States—and as a body making up a majority of the Chamber's Board—wish to reaffirm our support of your economic recovery program and the tax bill just reported out of conference. We feel the tax bill is necessary to help reduce the deficit, bring interest rates down and to insure further spending cuts.

Respectfully yours,

Paul Thayer, Chairman, Chamber of Commerce of the United States, and Chairman and Chief Executive Officer, the LTV Corporation; V. J. Adduci, President & Chief Executive Officer, Motor Vehicle Manufacturers Association, Washington, D.C.; Roy L. Ash, Los Angeles, California; F. Caleb Blodgett, Vice Chairman of the Board, General Mills, Inc., Minneapolis, Minnesota; Andrew F. Brimmer, President, Brimmer & Company, Inc., Washington, D.C.; Theodore D. Brown, Chairman of the Board, First National Bancorporation, Inc., Denver, Colorado; John F. Burlingame, Vice Chairman of the Board & Executive Officer, General Electric Company, Fairfield, Connecticut; August A. Busch III, Chairman of the Board and President, Anheuser-Busch Companies, Inc., St. Louis, Missouri; Louis W. Cabot, Chairman of the Board, Cabot Corporation, Boston, Massachusetts; James B. Campbell, President, Mississippi School Supply Company, Jackson, Mississippi; Robert T. Campion, Chairman and President, Lear Siegler, Inc., Santa Monica, California; Frank W. Considine, President & Chief Executive Officer, National Can Corporation, Chicago, Illinois; William C. Douce, Chairman of the Board & Chief Executive Officer, Bartlesville, Oklahoma; Charles W. Durham, Chairman of the Board and Chief Executive Offices, Henningson, Durham & Richardson, Inc., Omaha, Nebraska; Virgil R. Eihusen, Chairman of the Board and Chief Executive Officer, Chief Industries, Inc., Grand Island, Nebraska; Robert F. Erburu, President and Chief Executive Officer, The Times Mirror Company, Los Angeles, California; William H. Genge, Chairman and President, Ketchum Communications, Inc., Pittsburgh, Pennsylvania; Howard H. Kehrl, Vice Chairman, General Motors Corporation, Detroit, Michigan; Breene M. Kerr, Chairman and President, Kerr Consolidated, Inc., Oklahoma City, Oklahoma; Robert D. Kilpatrick, President, CIGNA Corporation, New York, New York; Lewis W. Lehr, Chairman and Chief Executive Officer, 3M Company, St. Paul, Minnesota; Donald S. MacNaughton, Chairman of the Board and Chief Executive Officer, Hospital Corporation of America, Nashville, Tennessee; Peter A. Magowan, Chairman and Chief Executive Officer, Safeway Stores, Inc., Oakland, California; Richard J. Mahoney, President & Chief Operating Officer, Monsanto Company, St. Louis, Missouri; Robert H. Malott, Chairman of the Board and Chief Executive Officer, FMC Corporation, Chicago, Illinois; Donald C. Miller, Vice Chairman and Director, Continental Illinois Corporation, Chicago, Illinois; William G. Phillips, Chairman of the Board and Chief Executive Officer, International Multifoods Corporation, Minneapolis, Minnesota; Dean P. Phypers, Senior Vice President, IBM Corporation, Armonk, New York; Robert H. Quenon, President & Chief Executive Officer, Peabody Coal Company, St. Louis, Missouri; Gerald H. Trautman, Chairman of the Board, The Greyhound Corporation, Phoenix, Arizona; C. William Verity, Jr., Chairman of the Board, Armco Inc., Middletown, Ohio.

Mr. DOLE. Earlier, the Senator from New Mexico mentioned the dairy program. We do reduce the cost of the dairy program. We should reduce the cost of the dairy program. We have a dairy industry in the State of Kansas and in other States represented here. But I think most people in the dairy industry are saying, "If we want to stay in the program, we had better take a look at it." We will save about $1.5 billion in fiscal 1983, $1.4 billion in fiscal 1984, and about $1.3 billion in fiscal 1985.

I did not hear the distinguished Senator from Wisconsin, but I am certain he made a glowing statement on why we should not cut spending in this area. I assume Wisconsin is a fairly substantial dairy-producing State. It was, has been, and will continue to be. It is a great industry. But we cannot exempt people in our own States and just attack our own colleagues and balance the budget. Some make a career out of that. The rest of us fortunately, do not.

I suggest that we are moving in the right direction and that we are making the necessary sacrifices. I would like to join my colleagues in supporting approval of the conference report.

I have a statement as it affects paid acreage diversion and advance deficiency payments, the export financing programs, and the reduction in the cost of the dairy program. Again, I want to indicate that the National Milk Producers Federation has indicated its support for this program.

CONFERENCE REPORT ON RECONCILIATION

Mr. President, I would like to join my colleagues on both sides of the aisle in strongly supporting approval of the conference report on the omnibus reconciliation bill.

I have prepared separate remarks on the major changes in the food stamp program that accomplished $1.9 billion in savings over the 3-year reauthorization. I would like at this time to comment on the other reforms in the agriculture budget that have resulted in improved, more cost-effective programs for American farmers, taxpayers, and consumers.

PAID DIVERSION AND ADVANCE DEFICIENCY PAYMENTS

Mr. President, the conference report includes a mandatory 5-percent paid acreage diversion for wheat, feedgrain, and rice producers who participate in acreage reduction programs for 1983 crops. The conferees also agreed that one-half of this payment will be made at the time farmers sign up for the total program, a requirement that will provide up-front financing in advance of planting expenditures for many producers.

While both original House and Senate bills contained a mandate for a 10-percent paid diversion program, it was agreed that many farmers would not be able to participate if the base acreage reduction were set at 15 percent. We did specify, however, that any increase in the unpaid program would be matched by proportionate increases in the paid diversion in order to maintain the attractiveness of the plan while providing the Secretary of

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Agriculture sufficient discretion to modify the percentages later this year or next.

Finally, Mr. President, I would congratulate the distinguished chairman of the Senate Committee on Agriculture, Nutrition, and Forestry for his leadership in providing for advance payments of both the 1982 and 1983 crops of all grains and cotton in case deficiency payments are indicated. This measure will provide participating farmers with additional cash to finance planting operations at moderate interest rates.

According to CBO, I understand that the paid acreage diversion program is expected to save $274 million over the next 3 fiscal years. The initial cost of $192 million in payments in fiscal year 1983 will be more than compensated for by reduced deficiency payments and other outlays of $367 million in fiscal year 1984 and $99 million in fiscal year 1985.

EXPORT FINANCING PROGRAMS

A second initiative proposed by the distinguished Senator from North Carolina and approved in conference was the establishment of a fund for facilitating the increased export of U.S. agricultural commodities.

The size of the fund—$175 to $190 million for each of the next 3 years—is small compared to the financing used by other exporting countries to move their farm production into world trade.

At the same time, any expenditure of funds must be carefully weighed against the equally important needs of other sectors of the economy which are also suffering from the lingering effects of the recession.

According to CBO, the enhancement of our agricultural export program through judicious use of this fund would contribute to an increase in commodity prices sufficient to actually reduce Federal expenditures by $188 million over the next 3 years.

While not usually sanguine about cost-benefit projections, Mr. President, the particularly gloomy outlook for farm prices at this time gives me some hope that, even if this program does not actually save money, it will offset the initial expenditure.

I was gratified that differences between the Senate bill and the Office of the U.S. Trade Representative were resolved in a mutually satisfactory way by allowing the fund to be expended in any or all programs available to the Secretary of Agriculture.

This provision will provide sufficient flexibility for the administration to conduct foreign trade policy over the next several months without recourse to programs that might be interpreted as subsidies by our trading partners and competitors. I would assume, however, that the administration may be prepared to adopt any trade practices that may be accorded formal approval under the general agreement on tariffs and trade.

REDUCTION IN THE COST OF THE DAIRY PROGRAM

Of particular importance from the taxpayer's perspective, Mr. President, is the significant reduction in the cost of the dairy program approved by House and Senate conferees.

After 2 years at over $2 billion, controversy over the alarming expense of milk production and storage of dairy products was beginning to become a rallying point for critics of farm programs in general, threatening the longstanding benefit and supply assurance which they provide.

It is to the credit of the dairy industry that a sincere effort was made to correct the growing cost of the program. The plan advanced by the Milk Producers Federation, while difficult to administer, would have brought down Government outlays significantly while giving industry a greater degree of control over the program.

The compromise worked out in conference is closer to the Senate bill in its relative simplicity, and closer to the House bill in terms of savings. The Secretary of Agriculture is given the authority to reduce the effective support level from the current $13.10 per hundredweight to $12.60 on October 1, 1982, and to $12.10 per hundredweight on April 1, 1983. These reductions are projected by CBO to save a total of over $4.1 billion during the next 3 years.

At the same time, provisions are included for returning the support price to $13.10 per hundredweight when net purchases of dairy products by the CCC fall below the equivalent of 5 billion pounds. While some additional rungs could have been put in the ladder to allow a more gradual recovery to the present support level, this approach will enable the dairy industry to make the needed transition back to comparative equilibrium in supply and demand.

The compromise dairy plan would require the Secretary to administer an incentive to reduce the production program if the second 50-cent reduction is required. While some details of such a program are mandated, there is sufficient flexibility for the USDA to design an effective program without needless complexity in its administration.

The only feature of the dairy reform that has raised the possibility of yet another effort to redesign the program is the requirement that the support price in fiscal year 1985 be fixed at a specific level of parity.

The USDA has indicated that this element may result in the decision by milk producers to remain in the industry at the same level of production rather that scaling back their herds as the support price is reduced.

We must now wait to see how the individual farmer will respond to the reform. Hopefully, we can help dairy producers by getting feedgrain and livestock prices back up so that an economic incentive to cut production can be fostered.

CONCLUSION

In closing, Mr. President, I believe that the conferees on agriculture have done a fine job in bringing together the different elements of the two bills into a sensible, coherent package.

Considering the months that have been expended on the budget process this year, the equanimity and reasonableness of both the House and Senate conferees was commendable.

I fully endorse the conference report under deliberation today, and urge my colleagues to give it their support.

Mr. President, I want to address our reductions in the food stamp program. It is a program that I know is of interest to the distinguished Senator from South Carolina. He was one of the pioneers in the efforts on the original nutrition committee. We had a number of hearings in his State. He has been a great help in that area.

We did not cut the food stamp program as much as the administration wanted. I do not think there was any way we could have or should have. But we did end up in the next 3 years with cuts totaling about $1.9 billion. Hopefully, they were carefully crafted.

What we are trying to do is to lower the error rates in States where the error rates go as high as 10 percent or more. We believe by an error rate reduction program we can save a lot of money in the program without impacting on low-income people.

We also adopt some work requirements. Nobody on the committee, Republican or Democrat, believes that we ought to spend taxpayers' money if, in fact, people are able to work and provide for themselves. So we have strengthened the work requirements. I want to thank all my colleagues in the conference committee, particularly the chairman of the conference, and the chairman of our committee, Senator Helms, and also Congressman Tom Foley, who provided a great deal of support to our chairman and Congressman de la Garza in their efforts to bring the Agriculture Committee's responsibilities to a successful conclusion.

FOOD STAMP PROVISIONS OF RECONCILIATION CONFERENCE REPORT

Mr. President, last week, the Senator from Kansas was privileged to participate in two budget conferences—one deliberating on the Finance Committee package on taxes and spending reductions and the agriculture reconciliation conference, which included food stamp program reauthorization and reconciliation. Although one was a marathon event, the other resolved itself with relative ease and to the satisfaction of most members of the House and Senate Committees.

The product which has emerged from the conference largely reflects the approach to food stamp program reauthorization and reconciliation that was represented by the Food Stamp Reform Act of 1982. Most of the provisions of this legislation, S. 2493, were retained in the Senate bill. I thank Senators Cochran, Andrews, Jepsen, Boschwitz, and Danforth for their cosponsorship and initial support of my efforts; we were later joined by Senators Cohen, Wallop, and Boren.

BUDGET REDUCTIONS

Although substantial savings had been achieved in the food stamp program during the 1981 reconciliation process, the state of the national economy demanded that further savings be made in the Federal budget. The Senator from Kansas thinks this legislation represents a reasonable and responsible approach to further limiting food stamp program expenditures. Over the 3-year life of the authorization, this conference report contains about $1.9 billion in spending reductions: $548 million for fiscal year 1983, $635 million for fiscal year 1984, and $756 million for fiscal year 1985. Throughout this process, members of both the Senate and House Committees were careful to avoid the implementation of provisions that would have reduced benefits across the board or actually eliminated people from the program.

Most of the savings come from a provision to require better State performance in administration of the program. This mandate for States to reduce their error rates, in overissuances of benefits and issuances to ineligible participants, was carefully designed in consultation with State administrators and Governors, as well as the Department of Agriculture and the Congressional Budget Office. The provision that emerged from the conference was retained from the original food stamp legislation which I introduced.

Mr. President, I believe the enactment of sanctions based on tough, but realistic error rate goals will bring about better State performance and achieve significant savings without necessitating any benefit reductions in order to slow the growth of program expenditures. The error rate proposal incorporated in the conference report sets the sanctions at a level sufficient to generate State activity in the direction of improving program administration without depleting the resources needed to adequately perform the job. The major savings anticipated from this provision would come from lower error rates—not sanctions. Under this provision, program expenditures are expected to decrease by $90 million in fiscal year 1983, $200 million in fiscal year 1984, and $325 million in fiscal year 1985.

The other primary method of achieving savings is based on a modification of the Senate thrifty food plan provision, adopted by the conference committee. Instead of moving the base period in the thrifty food plan from its current month of June, October 1 increases in benefits would be based on the thrifty food plan in June minus 1 percent in each year, resulting in savings of $180 million for fiscal year 1983, $170 million for fiscal year 1984, and $160 million for fiscal year 1985.

WORK REQUIREMENTS

Mr. President, while the Congress avoided endorsing proposals that would create work disincentives in this vital social program, members of the conference committee reasserted their firm view that no able-bodied person should receive food stamp benefits unless he or she is willing to work.

While recognizing that, in times of high unemployment, increasing numbers of people become unemployed through no fault of their own and turn to the program for interim assistance, the conference report fulfills a responsibility to unemployed persons, as well as to the American taxpayer by emphasizing the importance of having strict measures enforced to limit participation in the food stamp program to those who have no alternative source of income.

PROGRAM EXTENSION AND CAP

Mr. President, perhaps the most constructive thing the Congress has done for this much-maligned food stamp program is to extend the program authorization for 3 years—to reestablish its traditional coordination with the farm bill authorization. The layer upon layer of change enacted in the laws affecting this program since 1977 require that we now give the program a period of relative stability.

As a counterpart to this effort, the conference committee adopted realistic spending ceilings, which hopefully will permit full program funding without necessitating new legislation each year. The caps endorsed by the conference include a 5-percent built-in cushion in order to accommodate unpredictable economic factors that may arise. This is particularly important in the outyears, when estimates this far in advance cannot be projected with any great amount of certainty. The caps adopted by the conference, which include funding for Puerto Rico, are as follows: $12.874 billion for fiscal year 1983, $13.145 for fiscal year 1984, and $13.933 for fiscal year 1985.

STATE BLOCK GRANT

Although a Senate provision to allow a State block grant option for this program was dropped in conference, there was an understanding that hearings in both the Senate and House committees will be in order next year to explore the merits of this block grant approach, which was contained in the chairman's bill.

CONCLUDING REMARKS

Mr. President, as chairman of the Subcommittee on Nutrition, the Senator from Kansas would like to thank my colleagues for their support of the basic approach to food stamp program reauthorization and reconciliation which was represented by S. 2493. I commend the distinguished chairmen of the House and Senate committees for their leadership during this conference, and especially thank the distinguished gentleman from the State of Washington (Mr. Foley) for his skillful negotiating during the conference. Although this Senator was not able to be present for all of the discussion in conference, due to tax conference responsibilities, I am pleased with the outcome of the negotiations and congratulate all those who participated in this process for their constructive efforts in addressing the food stamp program once again.

This year's legislative changes in the program seek to build upon the foundation laid during the last 5 years to strengthen the program and target benefits more effectively to needy low-income Americans. Perhaps more than any other Federal social program, this one suffers from a negative public image. We owe it to those who truly depend upon these benefits for survival to restore this program to a level of dignity. The Senator from Kansas believes that the most important changes needed to combat the many problems of the food stamp program were enacted last year in both the reconciliation and the farm bill. Just about every complaint that has been brought to our attention by witnesses during extensive hearings, as well as others familiar with program administration and enforcement, has been addressed through legislation.

Whatever changes we now make in this program should be directed toward simplifying administration and providing greater flexibility at the State and local level. At a time when we are demanding that States reduce their error rates, we should assist them in their efforts by avoiding the addition of complex, new program requirements, if at all possible.

Mr. President, the food stamp program is a very worthwhile and effective nutrition program, serving the needs of low-income Americans and significantly reducing the incidence of domestic hunger and malnutrition. We should continue to monitor the funding needs of the food stamp program from year to year in order to make certain that benefits are being targeted effectively. At the same time, we should continue to evaluate the impact of the changes we make which affect the daily lives of over 20 million

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low-income Americans who participate in the program.

Finally, to return to a discussion of the economy, with reference to the letter from Mr. Volcker, I think that is good news in itself. It is an indication that we may be on the right track. I would guess that interest rates are falling in part because the economy is very weak. I would guess they are going to fall some more for that reason. But we may be on the verge of recovery. There is some hope.

I think passage of this reconciliation package, followed by passage tomorrow, or Friday, of the revenue package and the spending reduction package from the Finance and Ways and Means Conference will indicate once and for all to everyone who wants to listen that, while we may disagree on specifics, as a Congress we have demonstrated we are on the right track. For his part, we are grateful to the distinguished Senator from New Mexico, the distinguished Senator from South Carolina, and the other members of the Budget Committee.

Mr. DOMENICI. Mr. President, before the distinguished Senator from Kansas leaves the floor, I would like to indicate to him my great esteem and appreciation for what he has been able to do as chairman of a very, very important committee of the Senate, the Finance Committee.

When you are chairman of the Budget Committee and you get enough votes to report out a budget resolution, and then you have reconciliation achieving some spending reductions, you feel pretty good. But this year we had a major reconciliation instruction on taxes. We even did ourselves one better. We had revenue instructions for 3 years instead of just 1, on the Senate side.

When you have that type of reconciliation instruction, developed in consultation with the distinguished chairman of the Finance Committee, you can go home feeling comfortable that he is going to do his job, that his committee is going to work with him and they will bring back something that is fair and equitable to the American people and that accomplishes the mandated deficit reductions.

Whether it is cutting uncontrollable expenditures or reforming the tax code or raising revenue, as this instruction required of the distinguished chairman from Kansas and his committee, he can be counted on to deliver results. I want the distinguished chairman to know it has been my privilege to work with him. I believe tomorrow we will have a great victory on the tax bill. I think the country is going to respond with a continuation of lower interest rates and unemployment. I think we will have made an enormous start when we finish the two bills. I commend the chairman for his work.

Mr. HELMS. Will the Senator yield 1 minute?

Mr. DOMENICI. I yield.

Mr. HELMS. I want to thank the Senator from Kansas for his kind remarks. I want to say he has done such a masterful job under the most incredible pressures. I do not think we would have completed our section in the reconciliation had it not been for the fine efforts of the Senator from New Mexico and the Senator from Kansas. I express my appreciation to them.

AGRICULTURE COMMITTEE'S CONTRIBUTION TO RECONCILIATION

Mr. President, if the Senator will yield further I commend to the Senate the reconciliation section of the bill for which the Committee on Agriculture, Nutrition, and Forestry has responsibility. The House and Senate conferees made some progress in arriving at a reasonable compromise in the areas of disagreement—not as much as I would have liked, but some progress was made in terms of saving the taxpayer's money.

The level of savings recommended in our committee's jurisdiction exceeds the level of savings required by the first concurrent budget resolution by $3.3 billion over the 3 fiscal years covered by the bill.

The committee recommendations achieve savings of $1.95 billion in fiscal year 1983, $2.43 billion in fiscal year 1984 and $2.17 billion in fiscal year 1985, for a 3-year total of $6.55 billion as noted in the accompanying table.

These savings are achieved in four major areas—the dairy program, $4.15 billion; the food stamp program, $1.939 billion; through an export promotion proposal, $188 million; and through various changes in farm commodity programs, $274 million.

Indeed, I point out that the programs under the Agriculture Committee's jurisdiction account for almost 50 percent of the total savings contained in this bill.

While expression support for these measures, a word of caution is in order. Congressional failure to achieve larger reductions in the food stamp program will contribute to the need for the administration to propose further savings next year. A word of clarification is in order. The cost of the food stamp program has not been reduced. Rather, the rate of increase has merely been slowed. The program, as authorized in this legislation, will reach unprecedented costs of $12.874 billion in fiscal year 1983, $13.145 billion in fiscal year 1984, and $13.933 billion in fiscal year 1985. The savings represented in this legislation represent less than 5 percent of the total cost of the program. The final savings represent only 21.8 percent of the administration's recommended reductions. Clearly, more could have been done, as the administration recommended, and more will have to be done in the future.

Additionally, the dairy program recommendations, while appearing to make significant savings, will have to be monitored closely to insure that the enormous cost of this program will, in fact, be brought under control. We have been forced to deal with the dairy program on several occasions because of greater than expected costs to the Commodity Credit Corporation. If this legislation fails to redirect this program, the administration will again be forced to offer recommendations that will reduce the cost of this program.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I assure Members that we are greatly concerned about certain trade practices of the European Community which have adversely affected our commodities. We have authorized increased programs to deal effectively with these problems. Again, further action may prove necessary.

The conference actions represent a balanced approach to the problems in the farm economy. We are dealing with oversupplies of grain on both the demand side and the supply side.

As mentioned earlier, agricultural exports should be enhanced by the increased funding for export activities which the conferees adopted. I am pleased that the dollar amount for exports which I proposed in committee and which the conferees adopted will ultimately produce substantial savings to the taxpayer.

On the supply side, overproduction should be restrained by the paid diversion which the conferees approved. We agreed to a 5 percent paid diversion, which was the amendment I offered on the Senate floor.

The conferees also agreed in total to the advance deficiency payment provision which I proposed in committee. This provision will provide needed cashflow assistance to economically pressed farmers. It will not create new costs to the taxpayer, but in a case where the Government is going to make payments anyway, it will allow farmers to put the capital to more productive use.

In addition to achieving the reconciliation savings mentioned above, the conference bill reauthorizes the food stamp program for 3 fiscal years, and includes a number of provisions to reduce the food stamp program's susceptibility to fraud and abuse.

Also included in the bill are provisions to simplify the administration of the program and to provide more State flexibility in the administration of the program.

I call special attention to two items which are included in the conference report language. Both Agriculture Committees of the House and Senate have pledged to have early and thorough hearings on the State option bloc grant concept which I introduced and which was included in the earlier, Senate-passed bill. I believe this proposal for a voluntary bloc grant holds great promise to provide States with needed flexibility in the administration of nutritional assistance to low income citizens.

Also, while retaining the Federal requirement that bilingual personnel and material be required of States, the conferees adopted language to grant the Secretary the flexibility to eliminate burdensome bilingual regulations about which many States have complained.

The provisions and their justification are more thoroughly described in the Senate report which accompanied the earlier, Senate-passed reconciliation bill and in the conference report accompanying this final version of the bill.

Mr. President, I ask unanimous consent that a summary of all provisions recommended by the conference relating to matters under the jurisdiction of the Committee on Agriculture, Nutrition, and Forestry and the related budget impact as estimated by the Congressional Budget Office, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CBO ESTIMATE OF AGRICULTURAL RECONCILIATION SAVINGS

[In million dollars]

Commodity savings	Fiscal year—			
	1983	1984	1985	3 years
Dairy assessment	−428	−707	−665	−1,800
Incentive fee	−1,073	−667	−659	−2,399
(On-farm-use)	+19	+13	+13	(+45)
Wheat	+4	−191	−33	−220
Feed grains	+178	−142	−66	−30
Rice	+10	−34		−24
Export savings	−116	−64	−8	−188
Food stamps	−548	−635	−756	−1,939
Total	−1,954	−2,427	−2,174	−6,555
Reconciliation target	779	1,083	1,428	3,290
Savings in excess of target	1,175	1,344	746	3,265

DAIRY

The price support level for milk containing 3.67 percent milkfat would be continued at the current level of $13.10 per hundred pounds for the 1983 and 1984 fiscal years. For fiscal year 1985, beginning October 1, 1984, the support would be set at the percentage of parity which $13.10 represented on October 1, 1983.

In order to further encourage reduction of the dairy surplus for the period from October 1, 1982, through September 30, 1985, the Secretary of Agriculture would be authorized to provide for a deduction of 50 cents per hundred pounds from the proceeds of all milk marketed commercially by farmers, with the funds paid to the Commodity Credit Corporation to offset the cost of the milk price support program. Authority for the deduction would not apply, however, for any fiscal year for which projected annual Government price support purchases for the fiscal year fall below 5 billion pounds milk equivalent.

Further the Secretary would be authorized to provide for an additional 50 cent deduction for the period from April 1, 1983, through September 30, 1985, if the projected Government price support purchases are above 7.5 billion pounds. This second deduction would end whenever projected purchases fall below 7.5 billion pounds. If this second deduction is implemented, however, the Secretary must also provide a system under which individual farmers may obtain refunds if they reduce their milk production. In removing either of the deductions, the Secretary could act at any time during a fiscal year that projections of purchases fall below the trigger levels.

SAVINGS BY FISCAL YEARS

[In millions of dollars]

	1983	1984	1985
Dairy assessment	−428	−707	−665
Incentive fee	−1,073	−667	−659
(On-farm use)	+19	+13	+13
Net savings	−1,482	−1,361	−1,311

ADJUSTMENT PROGRAMS FOR WHEAT, FEED GRAINS, AND RICE

Advance deficiency payments

The Secretary would be required to provide an advance portion of any estimated deficiency payments for the 1982 and 1983 crops of wheat, feed grains, upland cotton and rice. Those farmers who are participating in USDA's voluntary acreage reduction program would be eligible. These farmers would receive 70 percent of estimated 1982 deficiency payments as soon as possible after October 1, 1982. Farmers would be able to receive up to 50 percent of the estimated 1983 deficiency payments at the time they sign up for an acreage reduction and paid land diversion program. The Secretary of Agriculture would be authorized to provide such advance payments for the 1984 and 1985 crops of these commodities.

Loans for wheat and feed grains

The minimum loan level for the 1983 crop of wheat would be raised to $3.65 from $3.55 per bushel, and the minimum loan for the 1983 crop corn would be raised from $2.55 to $2.65 per bushel.

Acreage reduction and paid diversion programs

For 1983, the Secretary would be required to provide for a wheat acreage reduction of 15 percent from the acreage base and a paid land diversion program of an additional 5 percent. Producers must reduce acreage by the total 20 percent to be eligible for program benefits (loan rates, target prices, and the farmer-owned reserve).

For the 1983 crop of corn and other feed grains, the Secretary would provide for an acreage reduction of 10 percent and a paid land diversion program of an additional 5 percent. Growers must reduce acreage by the total 15 percent to be eligible for program benefits.

On the 1983 crop of rice, the Secretary would be required to provide for a rice acreage reduction of 15 percent and a paid land diversion program of 5 percent, with a total 20 percent reduction as a condition of eligibility for program benefits.

For the 1983 crop of cotton, there would be no change in existing law. However, the conferees encourage the Secretary to consider a paid diversion in connection with any acreage reduction that he may implement using current authority.

Payments to producers who participate in the diversion program would be based on the farm program payment yields for the crops on the reduced acreage which is eligible for these payments. The minimum diversion payment rates would be $3.00 per bushel for wheat, $1.50 per bushel for corn, and $3.00 per hundredweight of rice, except that the rates may be reduced by as much as 10 percent if the Secretary determines that the lower rates would achieve the same program goals. All farmers eligible for wheat, feed grain, and rice acreage diversion payments would get half of these payments at the time they enroll in the program.

Acreage bases

For purposes of making an acreage reduction, the acreage base on a farm for the 1983 crop of wheat, feed grains, and rice would be the same as the acreage base for the 1982 crop, as may be adjusted by the Secretary. The conferees, however, expect the Secretary to consider the special problems of farmers who normally "summer fallow" part of their land each year.

SAVINGS OR COST

[By fiscal years, in millions of dollars]

	1983	1984	1985
Wheat	+4	−191	−33
Feed grains	+178	−142	−66
Rice	+10	−34	

AGRICULTURAL EXPORTS

In each of the three fiscal years beginning October 1, 1982, the Secretary of Agriculture would be required to use between $175 million and $190 million in Community Credit Corporation funds for export activities authorized by existing law. This authority would be in addition to, not in place of, authorities under any other laws. These authorities, under current law, could be used for such devices as export credit "buydown" plans to reduce interest rates on export credit, export subsidies, and direct export credit.

Savings: Fiscal year:	*Millions*
1983	−$116
1984	−64
1985	−8

FOOD STAMP ACT AMENDMENTS OF 1982

Definition of household

The bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The bill also specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disability recognized by the Social Security disability program or a nondisease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the nonfarm income poverty guidelines.

Savings: Fiscal year:	*Millions*
1983	−$38
1984	−40
1985	−42

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Rounding of computations for the thrifty food plan and deductions

The bill revises the rounding rules for annual adjustments to the cost of the thrifty food plan to provide that rounding would occur only after the thrifty food plan amounts had been calculated for all household sizes and the amounts would then be rounded down to the nearest whole dollar.

Also, after adjustment for inflation, the result in both the standard deduction and the excess shelter/dependent care deduction would be rounded down to the nearest whole dollar increment.

Savings: Fiscal year:	Millions
1983	−$68
1984	−93
1985	−93

Thrifty food plan adjustments

The bill provides that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30, 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

Savings: Fiscal year:	Millions
1983	−$180
1984	−170
1985	−160

Disabled veterans

The bill treats disabled veterans and disabled survivors of veterans in the same manner as disabled persons who receive supplemental security income benefits or who receive disability or blindness benefits under the Social Security Act.

Cost: Fiscal year:	Millions
1983	+$5
1984	+5
1985	+5

Income standards of eligibility

The bill revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

Savings: Fiscal year:	Millions
1983	−$5
1984	−5
1985	−5

Cost-of-living adjustments to Federal benefits

The bill requires that the July cost-of-living increases in Social Security, SSI, Veterans, and Railroad Retirement benefits not be counted as income for food stamp purposes until October of the same year, when the indexing of food stamp allotment, levels occur.

Cost: Fiscal year:	Millions
1983	+$19
1984	+21
1985	+23

Adjustment of deductions

The bill delays the July 1, 1983, adjustment of the standard deduction and the excess shelter/dependent care deduction until October 1, 1983.

Savings: Fiscal year:	Millions
1983	−$42
1984	....
1985	....

Standard utility allowance

The bill specifically permits a State agency to use a standard utility allowance in computing a household's excess shelter expense deduction. An allowance that does not fluctuate within a year to reflect seasonal variations would be permitted but an allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense and for households in public housing units with central utility meters. Prorating of the allowance would be required in the case of households sharing a residential unit.

Savings: Fiscal year:	Millions
1983	−$90
1984	−93
1985	−97

Migrant farmworkers

The bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

Financial resources

The bill precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The bill also requires accessible savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

Studies

The bill deletes three studies that have been completed and deletes a requirement for an annual report to Congress on the effect of elimination of the purchase requirement.

Categorical eligibility

The bill permits States to consider households in which all members receive Aid to Families with Dependent Children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals.

The bill permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extend necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the Aid to Families with Dependent Children program.

The bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

Approval of periodic reporting forms

The bill removes the requirement that the Secretary of Agriculture design or approve the forms used by the States for non-periodic reporting of changes in household circumstances.

Employment and job search requirements; voluntary quit

The bill provides that, at the option of the State, job search requirements could be imposed on applicants, as well as recipients.

Savings by fiscal year, in millions of dollars

1983	−5
1984	−6
1985	−7

The bill permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job, and increases the disqualification period for voluntarily quitting a job from 60 to 90 days.

The bill also extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

Parents and caretakers of children

The bill eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

Joint employment regulations

The bill removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the Work Incentive program.

College students

The bill revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children unless the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

Savings by fiscal years, in millions of dollars

1983	−10
1984	−10
1985	−11

Issuance procedures

The bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

Initial allotments

The bill eliminates any prorated benefits of less than $10.

Savings by fiscal years, in millions of dollars

1983	−15
1984	−15
1985	−15

The bill also requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

Savings by fiscal years, in millions of dollars

1983	−2
1984	−2
1985	−2

Effect of noncompliance with other programs

The bill prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

Savings by fiscal years, in millions of dollars

1983	−2
1984	−2
1985	−2

House-to-house trade routes

The bill authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

Approval of State agency materials

The bill prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

Points and hours of certification and issuance

The bill eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

Authorized representatives

The bill permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorized representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

Disclosure of information

The Committee recommendations allow the disclosure of information obtained from food stamp households to persons connected with the administration or enforcement of other Federal assistance programs and federally assisted State programs.

Expedited service

The bill requires that expedited 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farm worker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

Savings by fiscal years, in millions of dollars

1983	−15
1984	−15
1985	−15

Notice of benefit reduction or termination

The Committee recommendations would permit the States to immediately reduce benefits or terminate a household from the food stamp program when a written notice is received from the household that clearly requires such a reduction or termination.

Savings by fiscal years, in millions of dollars

1983	−10
1984	−10
1985	−10

Duplicate receipt of food stamps

The bill requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

Certification systems

The bill permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, and (ii) food stamp applications must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

Assurance of nonduplication with "cashed out" benefits

The bill mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

Disqualification and penalties for food stores

The bill raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

Bonding for food stores

The bill permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of such bond by regulation.

Alternative means for collection of overissuances and States' share of recovered moneys

The bill permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The bill specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

Fraud claims collection procedure

The bill allows the household of a disqualified person 30 days after a demand for an election ot choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

State liability for errors

The Committee recommendations would revise the provisions of the Food Stamp Act governing State liability for errors. The Federal share of a State's administrative costs would be reduced for States with payment error rates exceeding nine percent in fiscal year 1983, seven percent in fiscal year 1984, and five percent in fiscal year 1985. States would not be sanctioned for fiscal year 1983 if their payment error rates were reduced by a third of the difference between a base period rate and five percent and would not be sanctioned for fiscal year 1984 if their payment error rates were reduced by two thirds of the difference between the base rate and five percent. Each State would lose five percent of the Federal portion of its program administrative costs for each percentage point (or portion thereof) by which the State fell short of its error reduction goal. States would also continue to be liable to the Secretary for certification losses due to negligence or fraud.

Savings by fiscal years, in millions of dollars

1983	−90
1984	−200
1985	−325

Employment requirement pilot project

The bill authorizes the Secretary to conduct 4 pilot projects to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

Benefit impact study

The bill requires the Secretary to study and report to the House and Senate agriculture committees by February 1, 1984, on the effect of reductions in food stamp benefits provided under the Omnibus Budget Reconciliation Act of 1981, the Agriculture and Food Act of 1981, and any other laws enacted by the 97th Congress that affect the food stamp program.

Appropriation authorization

The bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

Puerto Rico block grant

The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The bill also requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact of the program on the

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nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate Agriculture Committees no later than six months after the effective date of the bill.

Similar workfare programs

The bill requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the Aid to Families with Dependent Children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

Exemption of WIN participants from workfare

The bill deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

Hours of workfare

The bill revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

Reimbursement for workfare administrative expenses

The bill directs the Secretary to reimburse agencies operating workfare projects, for administrative expenses not otherwise reimbursable, from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30 day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

Distribution of surplus commodities

The bill states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

Effective dates

The bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The bill also makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the provisions of the 1981 Farm Bill effective on the date of enactment of the bill unless already effective.

[Total food stamp savings, by fiscal years, in millions of dollars]

Fiscal year 1983	−548
Fiscal year 1984	−635
Fiscal year 1985	−756

Mr. DOMENICI. Mr. President, I yield 8 minutes to the distinguished Senator from Washington.

Mr. GORTON. Mr. President, last October, the thoughtful and farseeing Senator from New Mexico, the chairman of the Senate Committee on the Budget (Mr. DOMENICI), recognized that, in order to restore a time and a period of economic growth, it would be necessary to make difficult and courageous budget decisions during the course of 1982. He proposed a combination of budget cuts and revenue increases which were balanced, which included reforms in entitlement programs and military programs as well as in discretionary spending, and set possible revenue increases which would lower deficits and encourage economic recovery. We are now on the verge of voting on two just such proposals at a time at which we have encouraging news on the economic front.

Our goals are all the same, Mr. President. Every Member of this body, with the House of Representatives, recognizes the overriding necessity for deficits far lower than those programed simply from a continuation of spending and taxing policies without change. All of us recognize that the secret to lower interest rates is a reduction in those deficit figures and all of us recognize that economic recovery and a strong and sustained growth will depend upon predictability, upon a responsible congressional fiscal policy, and on lower interest rates. Nevertheless, the road to the position in which we find ourselves today has been very long and has been very difficult. We have constantly been faced with the proposition that, while overall spending restraint was important, it could not touch specific programs, whatever the specific favored program of an individual speaker happened to be at any specific time.

Those who have consistently voted for spending restraint have been criticized for indifference to all kinds of constituencies in the United States. We have constantly been faced with the proposition that we should reach this goal but in some other, usually mythical, and less painful fashion. We have been subject constantly to the request that we do it to someone else's constituents and not to the constituents of an individual who found something unpleasant in a specific proposal before us.

Yet, as all of us know deep within out own hearts, it is not possible to reach the very real and very significant goals of lower deficits, lower interest rates, and stronger economic growth without causing changes in programs which relate to a large number of the constituents of every single Member of this body. Yet not to take such a course of action would be entirely wrong.

The very distinguished Senator from Kansas, the chairman of the Committee on Finance, has faced this problem to an even greater degree. Almost everyone has recognized the necessity for additional revenues, but again, always it should be revenues raised at the expense of someone else's constituents.

Led by the foresighted policies of the Senate Committee on the Budget, a committee proposal on reconciliation was brought to this floor some 2 months ago. A majority of the Members of both parties eventually reached the point at which they were willing to take courageous votes to anger a number of strong interest groups in this country to develop a rational and more effective fiscal policy. Now that we have a report of the conference committee before us on reconciliation and another to come before us within the next 48 hours on a tax and spending cut bill, we are very, very close to our goal.

What do we see in the economy of the country as a whole? We have, for the first time in many months, good news, a strong recovery in the stock market, a consistently lower set of interest rates, and responsible predictions from outside the Congress of the United States that shows interest rates will become even lower—the very bases for strong economic recovery which all of us have sought over so many months. There is no question in my mind, Mr. President, that a major contributing factor to this good news is the likelihood that the Congress of the United States will, indeed, pass these two bills.

There has been other good news as well, Mr. President. For the first time, we now see a strong bipartisan majority in both Houses of Congress for the kind of steps which are necessary to cause this economic recovery. This spending bill is by no means perfect, Mr. President. The Senator from South Carolina, most specifically, has illustrated to us and will propose again during the course of the debate over the debt limit, proposals for the next 2 or 3 years which will not simply begin to reduce deficits but will see to it that, in fact, we have a balanced budget within the foreseeable future. That will require even more courage than has been shown in this body to this point, because we will no longer be able to defer the necessity to deal across the board with a great degree of fairness with a multitude of entitlement programs and, no doubt, expenditures for military and the national defense as well.

Nevertheless, it seem to me vital that we get a strong vote of approval for this bill here today, not because it is perfect, not because it is not subject to criticism, but simply because it is a necessary first step toward economic sanity and toward a balanced budget. I regret that my good friend, the Senator from South Carolina, feels constrained to vote against this proposal because it does not deal fairly or appropriately with cost-of-living adjustments. In fact, the proposals which he made, which I had made, and which the chairman of the Senate Budget Committee made in this respect, were much better than what we have before us here, at this time. This was simply the best that could be gotten out of the Senate and out of the conference committee with the House to this point.

Mr. President the fact that there are one or two or three things wrong with this proposal is not a sufficient ground on which to vote no. I plead with my friend from South Carolina and with others of his persuasion not to burn down the forest because there is a handful of defective trees in that forest at this point. It is necessary that we work to the final goal.

I found particularly discouraging the position of the senior Senator from Wisconsin, who is quite willing to cut almost any expenditure by the United States of America which falls as a burden on the constituents of other Members of the U.S. Senate, but not those that fall on dairy. I, too, represent a State which has an extremely strong dairy industry. I find myself saddened to have to vote for a bill which may place considerable burdens on dairy farmers in my State. Yet I could not possibly justify voting against the bill which is in the overall best interests of the people of the United States and which is a step toward economic sanity and economic recovery because of its impact on one group of constituents.

It is not proper to look at this bill on an individual basis and to say it is wrong in this respect or wrong in that respect and, therefore, I shall vote against it, when this bill—and the promise that it and the tax bill coming up in the next couple of days will be passed—has been in part responsible for at least the beginning of good news on the economic front, the be beginning of changes on the economic front which will benefit not just one group of Americans or a dozen groups of Americans, but all Americans.

The chairman of the Senate Budget Committee deserves not only congratulations for a job well done, for a job much more successful than many of us even hoped for a few months ago, he deserves our support for the job which he has done in the passage of this proposal for the good of all Americans.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, may I have 2 minutes to ask a question?

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I have a question directed to the front page of the conference report near the bottom. Will the Senator from South Carolina let me ask him this question? Item No. 2 near the bottom of the first page says:

> Civil service retirees under age 62 would receive one-half of the projected COLA adjustment over the next 3-year period and retirees subject to this limitation would receive an additional adjustment if the COLA exceeds the current projections (the full adjustments are projected at 6.6 percent, 7.2 percent, and 6.6 percent for FY 1983-85, respectively.)

Will the Senator explain just what that means? I really do not know how to calculate the total meaning of it.

Mr. HOLLINGS. The total meaning—and I would allow the distinguished chairman to give perhaps a more general answer to it—is that under the age of 62, as concerns the Senator from Mississippi and this distinguished Senator, 80 percent of those under that age are military retirees. I pointed out that what you have really done there is provided the cost-of-living adjustment for the civilian civil service retirees but for the military retirees in general you have not, and that is how they arrive at that particular mathematical formula to save the moneys that they have projected. The reconciliation instruction was for $5 billion, but mathematically this projects out to save some $3.4 billion. We are about $1½ billion shy.

That is how that formula works. They receive one-half of it over the next 3-year period, subject to that particular additional COLA ajustment limitation. If the COLA exceeds the current CPI projections, that is, the full adjustment of 6.6 percent for 1983, 7.2 percent for 1984, and 6.6 percent for 1985, then they would receive one-half of that. And knowing what the limitation is for each of the particular years involved, the 6.6, 7.2, and 6.6 percent, then mathematically they have saved $3.5 billion. But the thrust of it is that the civil service retirees, which encompass the major group over 62 years of age, will get their full COLA adjustment. Those under 62 will not. Eighty percent of those under 62 are military retirees.

Mr. DOMENICI. Will the Senator yield?

Mr. HOLLINGS. They would only get half. I yield for further explanation by the chairman.

Mr. DOMENICI. Let me say to my good friend from Mississippi retirees of the Federal Government, military and civilian, under 62, for the years 1983, 1984, and 1985 will receive a cost-of-living adjustment of 50 percent of the CPI as assumed in the budget resolution.

In 1983 we estimate it at 6.6 percent. Retirees will get 50 percent of that. But if inflation as measured by the CPI turns out to be more than 6.6, they will get an addition to their COLA of any amount which exceeds 6.6. The same for 1984. The CPI estimate for that year is 7.2 percent. Retirees get half of that. But if inflation turns out to be 9.2 percent, they get half of the 7.2 and an additional 2 percentage points because the inflation exceeded the amount stated.

Mr. STENNIS. So they pick up an additional amount if inflation brought it up that high?

Mr. DOMENICI. That is correct.

Mr. STENNIS. I thank the Senator. I do not want to ask for more time now. I might want one further explanation. I thank each of the Senators very much.

Mr. HOLLINGS. Mr. President, before I yield to my distinguished colleague from Nebraska, I think it only appropriate to clear the air somewhat. I do not want to detract from anything that is happening on the stock exchange and the wonderful news that the people are hearing. And I certainly would not want to detract from the outstanding jobs that are being done by the chairman of our Budget Committee and the chairman of the Finance Committee. But our distinguished colleague from Kansas, the chairman of the Finance Committee, commented that "last year we had a tax cut that was too big and this year the tax increase is too small and somewhere we will come out in between maybe to satisfy the Senator from South Carolina."

Inferentially, of course, you have the Senator from South Carolina as a sorehead—tax cuts too big one year, not big enough the next year. If somehow we can satisfy the political nuances of this sorehead, then we can move on and get a majority of the Senate and do these magnificent jobs of courage in changing tax policy.

Mr. President, the distinguished Senator from Kansas is one-half right. Last year the tax cut was too large. This year the tax is unnecessary. That was my position before we enacted the tax cut of last year, and since then I have made proposal after proposal to forego its second-year and third-year installments. You must understand that we are not really cutting taxes. We do not have the tax revenues to

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cut. Somehow I cannot get that thought through the minds of the best of my colleagues here in the Senate and my friends in the Chamber of Commerce. They are constantly assaulting you and saying, "You act like you have got the money in the Government and are only giving back the money that you want us to have."

The fact is that this July we did not have that money in the Government to give a tax cut. We did not have that money. We are going out and borrowing $50 billion this quarter and we are going out and borrowing another $50 billion next quarter. Those borrowings are the high deficit borrowings which bring about the high interest rates which bring about the high unemployment. That is the most difficult thing to get through to my colleagues.

Now, if we had quit fooling people, next year we could pick up $74 billion. If we forestall the third year installment next July—that has not even taken place—we would save $74 billion. People are now worried about economic survival, now how their taxes are going to look in 1984 when they make their 1983 returns.

Since the distinguished Presiding Officer is on the Finance Committee and an outstanding leader in that group and others on the Finance Committee are now getting the good Government award, I would have given them even another good Government award if they had faced up to the fundamental problem of social security.

We have never asked anybody to cut social security. But if they wanted to show the courage, they could have just not given the increases that they coupled with other COLA's. We are all talking about how wonderful we are doing and all these other nice goodies for retired Senators and retired civil service workers over the land. But we freeze military retired pay.

The United Auto Workers, the airline workers, the rubber workers, and the municipal employees in the city of Detroit all worked out pay freezes. I talked to Mayor Coleman Young of Detroit. The municipal workers there will forestall their agreed to benefit increases because the city is in economic trouble, and it is trying to balance its budget. Many cities across the land are trying to balance their budgets. They are holding up and freezing. Many State legislatures are increasing taxes. They are freezing spending. But the entire discourse and dialog on the floor of the Senate—I guess we should have been talking about it more often, because somehow it seems to be slipping by. The entire dialog and everything else to raise taxes—to do what? To pay for increases. They do not even come near the deficit.

Why do they not get that letter from the Federal Reserve? I know what is happening now, I say to my friends.

I asked a certain distinguished Senator, whose name I shall not include in the RECORD at this point. He was talking to the Chairman of the Federal Reserve, in his distinguished, high, elevated position at one time on the Finance Committee, and the Chairman of the Federal Reserve said, "How long can I hold out?"

The answer was, "As long as the President of the United States allows you to hold out."

The President of the United States is not allowing the Chairman of the Federal Reserve to hold out any further, and yesterday you had a wonderful rally in the stock market. I wish it could continue. Of course, today—it starts to unwind. I hope I am dead wrong. I hope we refurbish America's industrial plant. I hope we get unemployment down. But I am very fearful, Mr. President, that what we are seeing is the same, typical political shenanigans that go on, and that is why there is no confidence in this Government.

We are coming to the end of August. Labor Day is coming. The speakers have lined up their political rhetoric. We have to save—not the Republic, not the economy. We have to save the party.

The interest rates go down, they have a big rally, and now we have a letter from the Federal Reserve.

We can hardly get that fellow to commit to anything, and he does not commit. He says, "We testified very strongly that we have to get these high deficits down," that the budget resolution was aimed in that direction, and he hoped it would be implemented. But you are being told, really, with the use of this particular letter at this time, that this bill has the stamp of approval of the Federal Reserve System. That is what you are being told. Fine business. Let him put his approval on. I am glad we woke him up and got him into the activity, whereby now he is approving budgets and bills before Congress, and we might have a clearer eye about where we are heading.

The truth of the matter is, Mr. President, that we have not faced up to social security. I think that is what we are obscuring, the entitlements. We have been obscuring it all along. The Federal Reserve stated that even with this great courage award of a tax bill that we are going to pass tomorrow—the Fed is predicting a $163 billion deficit for next year, $184 billion for 1984, and $187 billion for 1985, and the deficits go up, up and away.

On that basis, I do not find any basis in economic fact for the great rally we are supposed to be having in the stock market. I hope it continues and that President Reagan is right and that his program is taking effect. I hope that those who oppose the program are all wrong, that, as he stated, he only needed time, and that the time has now arrived. We can all get rich. But I warn you, my friends, that you are going to be facing the facts that are in another letter from the Federal Reserve, to the point that the deficits are increasing, even with passage of this conference report, and that there is no basis in economic fact for this particular rally, and it cannot be sustained.

If you read correctly the statement of Henry Kaufman, you know that his projection of further declines in interest rates is based on the deepest pessimism. In essence, he is saying that the economy has become so weak that only the Government will be borrowing. Some of my colleagues can get a letter from the Federal Reserve, but most of us cannot really find out what is going on. But temporary rallies and temporary profits are being made. Let us hope they are not temporary. Let us hope they continue and that America gets going again. That is the bottom-line.

As for the tax increase equity bill, if I went down the elements of that bill, I could cite many provisions which will seriously hurt the savings incentive.

The distinguished Presiding Officer (Mr. DANFORTH) worked to help the country increase its savings rates. But the tax bill is going to paralyze savings.

Here was an administration that was going to come to town and do away with regulations. But there are $500 million worth of additional regulations and bureaucracy in that bill—$500 million.

On the other hand, if they had faced up to social security, the cost-of-living adjustments in particular—not cut anybody, but had done exactly as the rest of America has done all year long, and held up on those increases—if the Finance Committee had only done that, it could have saved us so much.

If the administration had only said, "Look, last year we put $37 billion more in defense. We increased this year's defense budget another $37 billion." That is a $74 billion increase. Rather than another $35 billion increase, we can just taper it off a little, provide 3 percent real growth and add another $21 billion. And we can do that for another 2 years, and still save $45 billion off the deficits. We could have increased defense, not cut it, and still have saved $45 billion.

So as for all this courage and wonderful feeling about how we are now getting the country moving again, I hope they are right. Unfortunately, however, we have not really addressed the cancer in the fiscal policy of this Government, and we are not doing it in this bill, but we just keep dancing around and praising each other, and telling each other what a wonderful thing we have done.

I have had an opportunity to visit many places in the country this year.

It is a sobering influence to come back to this elegant blue rug and mahogany desk, and hear how great we are, how much courage we have. Well, the people cannot print money. They are freezing their spending. They are holding themselves together. But where they can print money, they are printing it faster than ever. They are increasing it faster than ever.

This Government—the Senator from New Jersey was listening a minute ago—this Government is bigger today, on August 18, or whatever it is, than it was on August 18 last year or August 18, 2 years ago.

When Jimmy Carter left, spending was 23.1 percent of the GNP. It is now up to 24.1 percent. The Government is bigger. We are increasing the spending. We are increasing it unmercifully, in my opinion. We are talking about all the cuts and where we are going to cut the dairy farmer and where we are going to cut the schoolchild and what we had to do about food stamps. But we are not denying the retired Senators. We are not denying the retired civil service workers. But we are denying the people back home in America, who wonder what in the world is happening here. Can they not understand and follow what they are saying, themselves?

I appreciate the kindness of the Senator from Washington. He is right; he has described my position on the bill. I am speaking in general of the charade involved here in this bill. You are going to get this bill; tomorrow you get the other one. So you can go back home and make your Labor Day talk about all the great work you have done. But I can tell you right now, you have fouled your nest. You have not done your job—none of us. Do not burn the forest to get rid of a few rotten trees.

I will yield now to the distinguished Senator from Nebraska such time as is necessary.

Mr. EXON. I thank my friend from South Carolina, and I recognize the hard work that the chairman of the Budget Committee, on which I serve, has always done.

Mr. President, I am trying to bring myself to vote for the reconciliation report. But I wish to make come comments that I think are appropriate in addition to the ones that have already been made and maybe ask a question or two of the distinguished chairman of the Budget Committee on some things that I am particularly interested in. I am talking about things that I am particularly interested in.

I have been very much impressed with what I have heard on the floor today and I think for the record I should first correct what has been said on numerous occasions on the floor today with regard to the stock market.

The stock market did not go up today. It went down. It was up 18 and went down over 2 points. I suspect that the President of the United States will take credit for that as he did for the rise of yesterday. I suspect also that the Federal Reserve Chairman will take credit for that.

We are going through so many aberrations in our economy today with the crazy quilt pattern of everything going fine according to some people and yet other people are in a desperate depression. Every time there is a rise in the stock market that is good news supposedly.

Yet when we have the largest daily increase in the Dow in history and yesterday was the second largest volume in history, today we exceeded that with the largest number of transactions in the history of the New York Stock Exchange but at the end it is down 2 points after being up 18.

Mr. LONG. Mr. President, will the Senator yield for a question at this point?

Mr. EXON. I am happy to yield.

Mr. LONG. Let me see if I understand it. Did the Senator say the stock market is down 2 points? Does he mean it lost 2 points out of the 18 that it gained or it lost the 18 back and then 2?

Mr. EXON. It dropped 2 points for the day after being ahead 18 for the day.

Mr. LONG. Then, in other words, is it fair to say it went up 18 points and then went back down 20?

Mr. EXON. The Senator is correct.

Mr. LONG. For a 2-point net loss.

Mr. EXON No. For a 2-point net loss for the day.

Mr. HOLLINGS. I will call my broker and sell.

Mr. LONG. I am dismayed to hear that. We had one of our outstanding Senators take the floor to give us the good news announcement that it had gone up 17 points at that point and then traded 100 million shares. I am dismayed to hear it is back down to where it is now a net loss.

Mr. EXON. Has the Senator from Louisiana ever heard the old phrase that what goes up must come down?

Mr. LONG. It proves that it is a mistake to assume you have won the ball game just because you are ahead at halftime.

Mr. EXON. I appreciate the timely comments by my friend and colleague from Louisiana.

Mr. President, I have been listening to some of the other rhetoric here today about special interest groups and how we are standing up to them with this $13 billion reconciliation cut in expenditures that is over a 3-year period.

I am trying to bring myself to vote for this because I recognize and realize that we have to begin to reduce the level of Government expenditures.

There has been a great deal of patting on the back here today about the eminent success of cutting $13 billion over a 3-year period and we have done just a bang-up, bully good job.

So I thought it very interesting, Mr. President, that this Senator stood at this desk yesterday and lost after advising the Senate that they were going too far in the military expenditures. And how far did we go? In round figures, Mr. President, yesterday on a vote of I believe 78 to 21 the Members of this body rejected the caution that this Senator and others brought forth with regard to the fact that we authorized $178 billion for 1 year as opposed to about $138 billion for the same category of military expenditures for this fiscal year, a $48 billion increase in 1 year.

My, we are doing a splendid job, just a splendid job patting ourselves on the back for the sacrifices that we are making. I will be interested to compare the vote after it is cast on this reconciliation measure with those who were equally as concerned about reducing some unnecessary expenditures in that vote of yesterday.

Mr. President, I am concerned about many things in this reconciliation package, but I emphasize once again that it seems consistent to me, and I think consistency is important once in awhile even in the Senate, that if I were here yesterday trying to bring what I thought was some reason into the military expenditure appropriations because I thought that deficits, the national debt, and everything else was going too far, I guess it would be a little bit inconsistent, Mr. President, for this Senator to vote the other way on this bill even though I have some serious reservations on many parts of it.

I have some reservations, Mr. President, on a whole series of matters. I will just mention a few. The dairy price support programs. The set-aside program for farmers who today are reaching into the depression level era because of the failure of this Congress and this administration to recognize the need for our family-sized grain producers.

When we talk about the percentage of the national budget, I will say again as I have said before that the percentage of the total Federal budget in the support of agricultural programs is going dramatically down and not up compared with what it was even a few years ago. Myself and others introduced legislation that was designed to save some money, to save taxpayers money, if you will, by making adjustments in the grain program that would have encouraged less production, therefore, strengthening prices.

Basically,-that program was gutted in the conference report even after both the Senate and the House of Representatives voted for basically the crisis farm legislation set-aside amend-

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ment that was strongly supported in both Houses. We get together in rooms and we do things that we do not do on the floor of the House of Representatives and in the Senate.

I am also concerned, Mr. President, about what appears to be on the face of it unfair treatment, as has been brought out by my friend from South Carolina, with regard to military retirees in particular.

But I shall wind up my portion of this by asking one or two questions to the chairman of the committee. To my understanding one of the things that was done and agreed to in conference between the conferees on the Senate Agriculture Committee and the House Agriculture Committee, they agreed to increase the loan program for both corn and wheat by 10 cents a bushel for next year; is that accurate?

Mr. DOMENICI. The Senator is correct.

Mr. EXON. I thank my friend.

It is rather interesting, Mr. President, that this Senator stood at this desk in December of last year when we passed the 1981 Farm Act and told my colleagues and pleaded with them at that time to raise corn and wheat by 10 cents a bushel because they were too low, that those were basically the figures that had been agreed to in the deliberations of the Senate Agriculture Committee.

One last question: I also understand that while drastic changes were made in the set-aside program for corn and wheat, I also understand the conferees agreed that the Secretary of Agriculture would have the option, if he saw fit, to raise the set-aside program by whatever he thought was appropriate; is that correct?

Mr. DOMENICI. The Senator is correct. The bill sets mandatory limits, but the Secretary has discretion to go beyond those.

Mr. EXON. At his discretion.

Mr. DOMENICI. At his discretion, that is correct, Senator.

Mr. EXON. I thank my friend.

As I am about to yield the floor, I say with hesitation and reservation and in an attempt to be consistent, I will reluctantly cast my vote for the reconciliation report.

I yield the floor.

The VICE PRESIDENT. Who yields time?

Mr. DOMENICI. I just want to thank the distinguished Senator from Nebraska for his comments. I am most appreciative of his support, and for the support he gives me in our committee, in our efforts to reduce the deficits. I think he clearly understands we have a long way to go, and this is the best we can do at this time.

I started working on these issues last year and I did propose we do much more, but I think when we consider, Senator, where we are this year, it is a pretty start, coupled with some other good things we have done. I think the budget process, with not the strongest tools in the world, has come a long way and I thank the Senator for his help.

The VICE PRESIDENT. Does the Senator from Oklahoma seek recognition?

Mr. BOREN. I ask unanimous consent to speak on the time of the Senator from South Carolina. May I ask how much time remains?

The VICE PRESIDENT. Ten minutes and thirteen seconds remain on Senator HOLLINGS' time.

Mr. BOREN. I ask unanimous consent to speak on the time of the Senator from South Carolina.

Mr. DOMENICI. Mr. President, can we first get the yeas and nays? I ask for the yeas and nays on final passage.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The Senator from Oklahoma has the floor.

Mr. BOREN. Mr. President, I share in many ways the feelings just voiced by my colleague from Nebraska. I have mixed feelings about this final conference report we are asked to vote for.

I have been struggling today about how to vote on this report, and I have come to the same conclusion as the Senator from Nebraska that I should vote for it. With the deficits we are facing in this country, I think we have no other choice than to vote at every opportunity to try to bring spending into line and to try to bring the deficits down.

But I will say, Mr. President, that this is far from a perfect conference report, and there are many elements in it that I simply cannot support if I could have the opportunity to vote on them individually.

I have to agree with the comments made earlier by the Senator from South Carolina. There are those in this body who have tried, and tried hard, to do more to bring the deficits down, and we have not had the kind of support we should have had either out of the White House or from some of those in the other House of Congress in order to get the job done.

No one has worked harder than the Senator from New Mexico, the chairman of the Budget Committee. He made proposal after proposal and could not get the support himself from the administration necessary to bring the deficits down as they should have been brought down.

The Senator from South Carolina in a very courageous proposal earlier this year proposed a general freeze across the board, a freeze in revenue changes, a freeze in cost-of-living increases, a freeze in discretionary spending across the board. Did he get the kind of help he should have had from an administration that has been telling the public that it is dedicated to bringing the budget into balance? No; the Secretary of the Treasury ridiculed the Senator from South Carolina for his very courageous and responsible suggestion.

Here we are now faced with much less than we should have done, faced with a package that does far less than we should be doing on the spending side to get the deficit under control.

But it is, as has been said by the Senator from Nebraska, perhaps the only opportunity we have and, therefore, I feel obliged to support it.

I want to call the attention of my colleagues in the Senate to one particular aspect of this conference report—we can talk about several, there are areas affecting the veterans of the country, and others that I would not support on an individual basis—but I particularly want to call my colleagues' attention to the provision dealing with the paid diversion program in agriculture.

The Senate went on record by an overwhelming vote that we wanted to do something about the crisis facing the farmers in this country. By a 2-to-1 margin we passed a bill to establish an additional 10 percent paid diversion program for corn, wheat, and feed grains. That modest proposal would have helped at least to some degree some of our farmers in this country to stay afloat who otherwise are going to go under this year.

The very same proposal was passed in the House of Representatives, a 10-percent set-aside.

In spite of the fact that the Secretary of Agriculture himself came and sat in the Vice President's office here in the lobby and twisted the arms of Members of this body, we passed that program 2 to 1—I might mention with the vote of the chairman of the Budget Committee and the ranking minority member, and others.

What was the compromise in the conference committee between a 10-percent diversion passed by the House and a 10-percent diversion passed by the Senate? The compromise was 5 percent.

How do you average 10 and 10 and strike the difference between the two Houses and come up with a 5-percent paid diversion program? It may not be a violation of the letter of the rules—I am sorry to say it is not, because I checked that—but it is a violation of the spirit of the rules. It is a violation of the democratic process in both Houses to allow people behind closed doors to betray agriculture at a time when it is on the ropes.

If there were another opportunity to get total spending down, and if there were a way to get a separate vote on that particular issue, you can be sure, Mr. President, I would be trying to force that vote. Why was it done? It certainly could not be said to be done in the name of economy. Every time we can do something to raise the market price we cut the Government costs of the program. The conference committee did not adopt a proposal that is going to save the taxpayers money. In fact, under current market prices—and that is really what we ought to deal with rather than some false figure—the proposal passed by the Senate and the House would have saved almost $1 billion as compared with the proposal that came out of the conference committee which is estimated to save only about $374 million.

Not only does it have the merit of providing savings, it is going to provide less savings to the taxpayers than the proposal passed by both Houses.

Mr. President, mark my words, we are going to regret the day we missed the opportunity to do what we could to save the farmers of this country. I hope every Member of this Senate will listen to me for 1 minute because I want to recite a figure for you that perhaps you have not heard.

In 1932, the worst year in the history of American agriculture, net farm income in real-dollar terms was $5.1 billion, $5,154,000,000. Do you know what it is this year? $5,060 million in real dollars, almost $100 million lower than the worst year in the history of this country.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. BOREN. Yes.

Mr. HOLLINGS. I have 3 minutes left, and I would like to yield to the distinguished Senator from Montana.

Mr. BOREN. I will be happy to yield to him. I just want to complete one thought.

We are at a point now where we have record numbers of farm foreclosures. We have, perhaps, a third of the Farmers Home Administration loans in this country in arrears because of this tragic situation.

Land values have begun to decline. We have farmers heavily in debt, and now they have shrinking equity. The handwriting is on the wall. Anybody who cannot see what is going to happen in agriculture, anyone who cannot see the impending collapse must have failed or refused to have opened his eyes to the facts. Why, I ask, Mr. President, in that circumstance, why, why were the farmers sold out behind closed doors? I would only say we are going to regret the day that we allowed it to happen.

I would be happy at this time to yield to the Senator from Montana who wishes to address this same point.

Mr. HOLLINGS Mr. President, I thank my distinguished colleague for his complimentary remarks. I yield the remaining time to Senator from Montana

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. I thank my distinguished colleague. I wish to say a few words on my objections to the conference report.

I do understand that the distinguished chairman and members of the Budget Committee have worked diligently and sincerely on this package to cut the total amount of spending for the coming year. But I have to compare two points. There are many points to look at, but I would like to look at just two of them.

The first is the sacred cow of foreign aid expenditures. We continue to go down that path of sending money abroad in huge amounts—$12 billion this year and another $12 billion the next year and another $12 billion that would be contemplated the year after that, if we follow the guidelines that have been set in place, money that we have to borrow currently, money that costs us very dearly. And yet, at the same time, we ignore the plight of agriculture.

American agriculture is the very basic, the most relevant part of our entire economy. When we talk about the little 10-cent increase in loan rate for American grain and a top on diversion payments, it relegates to the dustbin, to the trash barrel, the plight of American agriculture.

What agriculture producers want in this country is to get a fair price at the marketplace. They are not necessarily asking to be in the trough of the U.S. Treasury. The fair market price in the marketplace is available in this country to our agriculture producers if we will just have some enlightened policy in this country, led by a Congress that understands how important and how basic to our entire economy American agriculture is.

We have grain embargoes, we have timid foreign sales of American agriculture products. This country sells its grain and other agricultural products very cheaply while, at the same time, allowing our markets, our U.S. markets, to be open to any country and any manufactured goods. We do not need to do this. At the same time, we seem, to be bent and seem to be in love with sending American tax dollars abroad for foreign aid. I am against the conference report.

The VICE PRESIDENT. The time of the minority has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the conferees on the Committee on Agriculture from both sides made significant compromises.

A 5-percent paid diversion, as adopted by the conference committee, is clearly a reasonable compromise.

The House and Senate conferees were faced with resolving significant differences on the grain programs. The House proposed a sizable increase in loan rates, while the Agriculture Committee in the Senate rejected any such increase. In conference, however, the Senate agreed to a 10-cent increase in wheat and corn loan rates as part of a package which established a minimum paid diversion of 5 percent.

In other words, the final compromise involved concessions by both Houses from positions previously taken.

In addition, the House bill required a total 25-percent acreage reduction to qualify from program benefits. The Senate bill would have allowed farmers to qualify for program benefits with a 15-percent acreage reduction. The final compromise of 20 percent, including the 5-percent paid diversion, split the difference right down the middle.

A 5-percent paid diversion is a fair compromise, especially in light of other concessions in the package. It is not as costly as 10 percent in 1983 and is more appropriate in terms of trade policy.

Admittedly, it is a product of give-and-take by the conferees yet it is a fair compromise which the Senate should strongly support.

Mr. President, this conference concluded its business late in the day. Due to the lateness of the hour and the need to file the report as quickly as possible, we were unable to get the signature of one Senator. I ask unanimous consent that the permanent Record reflect the fact that the distinguished Senator from Mississippi, Mr. Cochran, would have signed the conference report as a conferee for the Agriculture portions of the bill if he had been given the opportunity to do so.

Indeed, he was there and did much of the negotiating. He would have signed that portion of the omnibus bill within the jurisdiction of the Agriculture Committee.

The VICE PRESIDENT. Without objection, it is so ordered.

● Mr. PACKWOOD. Mr. President, it gives me great pleasure to advise you and my colleagues that the members of the budget reconciliation conference committee were able to agree on a provision reducing the size of the membership of the Interstate Commerce Commission (ICC) to five members. I believe this provision will clearly further Congress goals of reducing Government spending, decreasing regulation, and increasing the efficiency with which the ICC operates. Further, the provision, as drafted, will insure that a political balance is maintained at the ICC and that no Commissioner's term of office is terminated or abbreviated.

The provision provides that effective January 1, 1983, the ICC is reduced from 11 members to 7 members. This is accomplished by eliminating 4 of the 5 existing vacant terms of office. Further, the provision provides that

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upon the expiration of Commissioner Gilliam's term of office and Chairman Taylor's term of office on December 31, 1982, and December 31, 1983, respectively, anyone appointed to fill these terms, including the Commissioners themselves, will be appointed to terms of office expiring on December 31, 1985. Effective January 1, 1986, the ICC is reduced from seven members to five members. This is accomplished by eliminating the terms of offices now held by Gilliam and Taylor when they expire on December 31, 1985. The provision also provides, with one exception noted below, that effective January 1, 1984, all appointments to terms of offices expiring after that date will be for terms of 5 years. The current law provides for 7-year terms. Finally, the provision provides that upon the expiration of Commissioners Sterrett's and Andre's terms of office on December 31, 1987, anyone appointed to fill one of these terms of office after that date, including the Commissioners themselves, will be appointed to a term of office expiring on December 31, 1991. The purpose for providing in this single instance for one 4-year term of office commencing after December 31, 1987, is to bring all of the Commissioners' terms into sequence so that thereafter one term of office expires each year.●

● Mr. LEVIN. Mr. President, I support the Omnibus Reconciliation Act of 1982, which will reduce the deficit for fiscal year 1983 through fiscal year 1985 by $13.3 billion. The conference agreement on this bill represents a sustantial improvement from the version which passed the Senate earlier this month and which I opposed.

At that time, I took issue with the arbitrary 4 percent cap on the pensions for Federal retirees for fiscal year 1983 through fiscal year 1985. I stated that such a cap did not afford adequate protection to retirees who were on fixed incomes and who would be particularly vulnerable to inflation if the actual inflation rates exceeded those which are now being projected for the next 3 years. I agreed that the budgetary situation dictated that some entitlement savings were necessary, but thought that a more equitable approach would have been to limit cost-of-living adjustments to 2 percentage points below the Consumer Price Index.

The conferees have arrived at an alternate formula which, although different from my recommendation, meets my overall concerns, and which I can support. According to the conference report, Federal retirees age 62 and over would be eligible for the full COLA. Therefore, those retirees who are potentially the most vulnerable to a new burst of inflation would have their purchasing power fully protected. For Federal retirees under age 62, the conferees call for granting them 50 percent of the COLA and the full amount of the difference between the projected inflation adjustment for individuals age 62 and over and the actual inflation adjustment. For example, if the full COLA in 1983 for individuals age 62 and over is 7.6 percent rather than the currently projected 6.6 percent, retirees under age 62 would receive a COLA of 4.3 percent, which represents one-half of the projected COLA plus an additional 1 percent reflecting the difference between the actual COLA of 7.6 percent and the projected COLA of 6.6 percent. This is a reasonable formulation which instills flexibility for retirees under age 62 into the arbitrary limit of one-half of the COLA, which I would otherwise find unacceptable.

I also note the conference agreement's steps relative to double dipping by military retirees who are employed in civil service positions. Currently, these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference agreement strikes a more appropriate balance in a time of fiscal austerity by providing that when such an individual receives a retirement COLA, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

I do regret the conference decision, however, that all Federal retirees will have the initial payment of their COLA increase delayed by 1 month in each of the next 3 years. Adjustments currently are payable on April 1 of each year. Under the conference agreement, adjustments will be initially payable on May 1, 1983, June 1, 1984, and July 1, 1985. However, the importance of passing this overall deficit reduction package outweighs my objection to this individual provision.

When the Senate passed its version of this omnibus reconciliation bill, I also objected to some of the cuts in the food stamp program. I was particularly concerned that the Senate version once again delayed the adjustment for inflation in the amount of a household's income which is disregarded for the purposes of determining eligibility for food stamps. Last year's reconciliation bill delayed the adjustment for 2½ years, and the Senate version would have delayed it for an additional 15 months, until October 1, 1984. The conference agreement delays the adjustment only until October 1, 1983, thereby speeding up by a full year the inflation adjustment. Overall, I was pleased to see that the conferees restored $600 million in the total amount cut from the food stamp program over the 3-year period in the Senate version.

Mr. President, the conference agreement we have before us today is the product of good faith compromise and is an important element in bringing the deficit in this year and in future years under control. On balance it deserves the support of the Senate.●

● Mr. GRASSLEY. Mr. President, the House of Representatives acted responsibly today by passing a spend-slashing measure amounting to over $13 billion. Now it is the Senate's turn to pass the measure, and I trust that it will.

I wish to emphasize, Mr. President, the need to lower spending as a precondition for economic recovery. This is no new remedy. We have known this all along, but have failed to really take the tiger by the tail.

In this time of recession, we have seen businesses, family households, and even government bureaucracies cut back on nonessentials to a remarkable degree. It is a matter of survival for them.

But Congress, in many ways, seems unphased by these difficult times. We go on in spite of hard times as if there were no crisis. Oh, the rhetoric has been appropriate—we all have pointed out the need to be "fiscally responsible" and reduce deficits.

But rhetoric without action yields nothing.

There is a crisis, Mr. President. There is an economic crisis marked by a Federal budget crisis. Although we are in bad need of tax reform, we cannot depend on higher taxes to correct a problem that is budgetary in nature.

We have many built-in structural problems which have caused the current problems and have prevented a reversal toward recovery. the Tax Code is biased against savings and productivity, in favor of debt and overconsumption. Budget increases are based on built-in mechanisms which distort the rise in real wealth. Budget increases are not based on our ability to pay for them. They are based on the rise in inflation. Similarly, wages are not based on the increase in real wealth through increased productivity, but rather on the rise in inflation. These structural problems and attitude problems must be addressed and reversed if we are to ever get a handle on what is currently a real live crisis.

We have, here, Mr. President, in H.R. 6955, only the first of many necessary spending reduction measures. It is only a start. Later this week we will vote on another spending reduction measure as part of the tax reform package. That is another small step. It is small simply because this Congress has still not reversed its propensity toward spending and taxing. It has not gotten a handle on the uncontrollability of the Federal budget. In short, it has yet to tackle the real problems of the budget: the structural biases and the perverse spend-tax attitude.

Mr. President, I intend to support this bill. But I must warn against any complacency that might set in among my colleagues that the job is finished. This is just the first step of a 1,000-mile-long journey toward spending reform. Unless this point is realized, then what we have accomplished here in this bill becomes meaningless. Let us look toward making the real adjustments necessary for meaningful reform.●

● Mr. LEAHY. Mr. President, as ranking minority member of the Nutrition Subcommittee, I would like to comment on the food stamp portions of the 1982 budget reconciliation bill.

As I stated when this bill originally came to the floor of the Senate, I do not believe that any additional food stamp benefit cutbacks are warranted this year. The massive benefit reductions enacted last year in food stamps and other low-income programs have had a severe effect. Reports are rampant that hunger is again on the rise in the United States and that churches and other private charities are being pushed beyond capacity to meet the swelling demand. I ask that articles on this subject in the August 12, 1982 Washington Post and the August 16, 1982 U.S. News & World Report be included in the Record at the close of my remarks.

There is no question in my mind about the direct relationship between cutbacks in programs like food stamps and the increase in suffering across the country. This is not the time to be reducing the level of assistance provided to needy Americans. With an unemployment rate of nearly 10 percent, even the most hardened critics of public assistance should recognize that the myth that these programs serve only loafers and malingerers surely does not apply today.

Mr. President, I strongly favor reducing food stamp costs through better program management and accountability. I am pleased that nearly one-third of the $2 billion in food stamp savings that this bill will achieve in the next 3 years will come from reducing errors in program administration. This is clearly a step in the right direction that I have supported from the outset. I am concerned, however, about the additional $1.3 billion in benefit reductions.

Several of the changes mandated in the conference report involve very technical changes in benefit calculations. I would like to spell out my understanding of how these changes would be implemented since any change in methodology could involve millions of dollars in benefits for needy people. I understand that the Congressional Budget Office developed its savings estimates using these assumptions.

THRIFTY FOOD PLAN AND ROUNDING

A large portion of these savings would come from scaling back scheduled cost-of-living increases and rounding benefit allotments down to the next lower dollar. In the next 3 years, the October adjustment of the thrifty food plan would be based on the cost of that plan through the preceding June, minus 1 percent. Allotments would be computed by taking the unrounded cost of the thrifty food plan for June, reducing this number by 1 percent, making the appropriate household size adjustments, and then rounding the resulting unrounded figure for each household size down to the nearest lower dollar.

STANDARD AND SHELTER DEDUCTION

The conference adopted the House provision to delay the next update of the standard and shelter deductions from July 1, 1983, to October 1, 1983. At that time, adjustments of these deductions will begin again, using $85 as the base for the standard deduction and $115 as the base for the shelter deduction. Adjustments after 1983 would be based on the unrounded numbers from the previous year's adjustment.

FOOD STAMP CAP

The conferees agreed upon new spending ceilings for the next 3 years. While these ceilings include a theoretical cushion of 5 percent beyond CBO's current estimate of program costs, the adequacy of these ceilings will depend upon the performance of the economy. CBO's estimates assume a significant decline in the unemployment rate. If unemployment stays at current levels, the cushion would be pretty much used up.

If the "caps" in this bill prove to be too low, it will be because the economy is performing far worse than anyone expected. Under these circumstances, I do not believe Congress would expect the Secretary to cut benefits across the board in order to keep expenditures within the ceilings. If there is a prolonged recession or depression, the Secretary should actively consult with Congress about program funding and consider requesting additional funding to maintain program benefits.

CONCLUSION

Despite my concern about food stamp benefit reductions, this conference report does require far less savings than the President and others in Congress recommended. It also deletes a Senate-passed provision for voluntary block grants that, in my view, represented the single most serious threat to the continued effectiveness of the food stamp program. considering the political realities facing this program, the final result from this year's deliberations was far better than I expected.

The material follows:

[From the Washington Post, Aug. 12, 1982]

Agencies Water the "Charity Soup"

(By Marjorie Hyer)

At Sacred Heart Parish, 16th and Park Road NW, the number of families receiving church emergency food packages jumped from 70 last July to 230 in May of this year, according to the Rev. Joaquin Bazan, pastor.

SOME (So Others May Eat), a church-operated soup kitchen half a mile north of the Capitol, has watched its daily line grow from 200 persons a few years ago to 600 today.

In affluent Montgomery County, $30 emergency aid grants given by the interdenominational Community Ministry jumped from 16 a month three years ago to over 100 in June of this year.

"I don't know where it's going to end." says Marita Dean of Catholic Charities' crisis intervention service. "Last summer we were seeing 40 people a month. Now, it's close to 100. And this is summer, when it should be down. God knows what it will be in November and December."

"The churches I know are overwhelmed by the tide of need," says the Rev. Jack Woodard of St. Stephen and the Incarnation, a Northwest Washington parish where he reports the number coming for emergency groceries has tripled since last year.

Nearly a score of other Washington area agencies, the heart and soul of President Reagan's hopes for voluntarism, report they are being strained beyond their capacity to cope.

They have watered the charity soup, giving less help to more people, to stretch their resources. They have redoubled efforts to raise additional funds and supplies, in some cases scavenging food from supermarket dumpsters—but they say the same problems of inflation and unemployment that multiply the appeals for help are cutting deeply into contributions and operating revenues.

And so, increasingly, they have had to steel themselves to sending people away empty-handed.

"We tend to run out," says Noreen Buckley who runs the food pantry at St. Stephen's.

"We help what we can and after that we have to say, 'Sorry.' We have to turn people away."

At the same time, they are also turning to political pressure in their effort to cope, taking every opportunity—through testimony at legislative hearings, through pronouncements, through lobbying—to demand a reversal of cuts in government welfare programs.

"We do not need to be reminded of our responsibilities to the poor," said Roman Catholic Archbishop James A. Hickey earlier this year, responding to Reagan's suggestion that the churches take over more of the welfare burden from government. ". . . Our efforts cannot and should not substitute for a national commitment to build a just society . . ."

The Rev. Tom Nees, Church of the Nazarene minister, who heads a congregation along the 14th Street corridor, says, ". . . The first responsibility of the churches is to create that moral climate in which it is politically unthinkable to do what is going on in this town. . . ."

Officials say church involvement in charity work is already so extensive that it is impossible to estimate the total amount of aid provided by area religious groups.

In Washington alone, religious institutions operate nearly 60 food pantries or soup kitchens and 14 shelters for the homeless, where some food also is available.

SOME by itself estimates that its food and volunteer labor are worth more than $1 million annually.

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In addition, religious institutions provide some free or limited-cost care at affiliated hospitals, aid for utility and mortgage or rental payments, counseling—the list of their services touches all the needs of man.

Church aid programs traditionally have been an emergency backup system for government-funded assistance programs. In recent months, the federal welfare cutoacks plus the effects of inflation and rising unemployment have produced more emergencies than the churches can deal with.

"Anybody who is single and who does not have family support is just one RIF away from disaster," says the Rev. Jennie Bull, minister of outreach for the Metropolitan Community Church.

The result is that church charities now are getting pleas for the kind of help that is far beyond their resources.

There are, for instance, what Tina Sturdevant of Catholic Charities of Prince George's County calls "a new class of poor." They are the couples with young children, a house and a mortgage based on two incomes. They are proud of their achievements. Then one of them loses a job. The family still has an income, but it's not sufficient to pay the high mortgage payments and utilities.

"These people put every cent into the mortgage—money that should have gone into medicine for children, into shoes for the children. So these people are losing their home when they come to us."

She recalls the anguish of the young mother who had to give away her children's dog because they could no longer feed it, and she adds softly, "I have seen men cry in my office because they lost their job and can't pay the mortgage."

There is little Catholic Charities can do to help. Sometimes, she says, "we help them" with a food package or used clothing "so every cent can go toward that mortgage, so maybe the one who lost the job can find another. But if the amount is way too large, there's not much we can do."

Others come with huge, long-overdue utility and rent bills. "We've had families who have had to make a choice," says Catholic Charities' Dean.

"They can't pay the oil bill" during the cold weather, "so they use electricity to heat. Then comes spring and their electricity is turned off" for non-payment.

"We negotiate with the utilities . . . Maybe they owe $200-$300. We call and send in whatever they'll accept to keep the service continued. For some . . . once it's cut off they'll never be able to get it re-installed" because of the backlog of unpaid bills.

Unpaid rent is a similar problem. "Somebody who is back in the rent two months—you're talking about $800-$900," Dean says. "There's no way we can pay that amount."

In such situations, says Delores Farrow of the Righteous Branch Commandment Church of God, church charities "bag around," searching out other religious groups, local churches, possible government sources and family or friends who might chip in so that together the total amount is raised.

This tends to be a one-time-only solution, Dean says. "If there isn't any money coming in, what are they going to do next month?"

In such cases, she says in a troubled voice, the appeal has to be turned down. "It's a hard thing to do, 'cause what is there but the shelters? It's not an easy thing to. . . ." She does not finish the sentence.

In the inner city, where the need is most acute and the resources most limited, religious groups rely on a variety of devices. Most have developed support systems linked to churches and synagogues in the suburbs or more affluent sections of the city for contributions of foodstuffs, volunteers, and cash.

SOME, for example, has a network of 70 churches and synagogues that take turns providing and serving 600 breakfasts and lunches, from the exotic spiced and fruited oatmeal of the Sikh Dharmas to the monthly soul food lunch from Shiloh Baptist.

Most food pantries and soup kitchens get some food from the Capital Area Community Food Bank, where commercial food processers and handlers can recieve tax benefits for donating food that is still edible but outdated damaged or otherwise unsalable.

The problem with the Food Bank, charity workers agree, is that by its very nature, its inventory sometimes tends toward the exotic and lacks the essentials.

"It's not the choice [of foods] you can keep a family going on, even for a day or two, and that's all we're trying to do," says Sister Julia McMurrough of Assumption Church in Anacostia.

Like most emergency food program operators, she must buy supplementary food supplies, especially protein items, to supplement the Food Bank's stale English muffins and packets of holiday colored M&Ms.

Conversations with church social service workers reflect a scrabbling for resources, wherever they can be found.

Some groups scavenge still-edible food from dumpsters outside shipping terminals and supermarkets and make regular rounds of restaurants and hotels to pick up leftovers.

"We get buckets of beautiful food—not off people's plates but food that hasn't been served—from dinners at the Organization of American States," says the Rev. Dr. John Steinbruck of Luther Place Church in the District of Columbia.

Church welfare workers, trying to raise funds, spend a lot of evenings telling church and community groups about the problems they wrestle with during the day, in an effort to raise funds. "The personal touch helps," says Sturdevant.

While excess succhini from summer gardens in Potomac often nourishes soup kitchen patrons in Columbia Heights, contributions of cold cash are harder to raise.

The Community Ministry of Montgomery County, which has watched its Grant Assistance Program expenditures rise from $6,872 in 1979 to $15,115 last year, is pressing the more than a score of church groups that support it for $20,000 to meet this year's needs.

Given the current economic situation, fundraising is not an easy task. "We're just about holding our head above water," says the Rev. T. J. Baltimore of the People's Community Bapist Church in Wheaton. His congregation of black middleclass professionals and government workers falls in the $25,000-a-year class, he said.

"My counseling load has doubled," he says. "I get 20, 30 calls a day . . . all hours of the day and night," as both members and people from the community turn to him for help.

"Poor folks are looking to us" for help, he says, "but I'm having real trouble finding the money, finding clothes" and other items they need.

In Alexandria, Rabbi Sheldon Elster of Agudas Achim Congregation, reports similar problems.

"There are a lot of people" within the relatively comfortable congregation "who really need assistance," he says, adding that the treasurer of Agudas Achim has had "a constant load of people who need adjustments" in their membership fees as family incomes fluctuate.

Throughout the area, charity workers say they are fearful for what the future holds. At St. Stephen's, as at other soup kitchens in the area, the tensions among people waiting to be fed "are much higher," says pastor Woodard.

Recently the church's security guard, a burly ex-Marine, took three knives from men waiting to get into the dining room, Woodard says, adding, "It's getting real hairy, let me tell you."

[From U.S. News & World Report, Aug. 16, 1982]

POVERTY TRAP: NO WAY OUT?

(The words "hopeless" and "frustrated" are being heard more often now, as thousands of laid-off workers join families who have been poor for many generations.)

The U.S., after gaining steady ground in a nearly two-decades-old war on poverty, now appears headed down the path of retreat.

Sharp budget cuts, set in motion by a White House alarmed by enormous deficits, have produced the first significant decline in social spending in 30 years. Meanwhile, a crippling recession—the third since 1970—has caused the numbers of poor to swell to nearly 32 million, or 14 percent of the population, the highest percentage since 1967.

Included in these ranks are many who never before tasted real want—the so-called new poor—such as auto workers and lumbermill employes who have lost jobs and benefits as a result of an epidemic of plant closings.

Poverty agencies, both government and private, are deluged with requests for help. Makeshift soup kitchens and shelters that once catered to "bag ladies" and other drifters serve more families and displaced workers.

Yet, in the face of this misery, there is a curious quiet. Gone are the riots of the late 1960s, which came, ironically, during a time when many antipoverty programs were started. Nor is there any great groundswell of support among the more fortunate for new programs. Most citizens, experts say, believe that the basic needs of the poor are being met and that the country cannot afford to do more.

Says Princeton University economist Alan Blinder: "The war has dragged on longer than most people had expected and cost far more than had been imagined. Progress has come grudgingly, and there is a feeling that we have sacrificed too much economic efficiency at the altar of poverty fighting." Reflecting that thinking, the Reagan administration has scaled down President Johnson's Great Society programs, which caused social spending to shoot up from 118 billion dollars in 1960 to more than 430 billion today. Instead, the White House is counting on an economic rebound and a resurgence of voluntarism and self-help programs to take the place of government spending.

But those developments have yet to materialize. The result, some experts say, is that the country is without a workable policy to help the needy. Poor people, who may be better off than their counterparts of 20 years ago because of government housing, food and health programs, may face a more hopeless future because of an economy that demands greater skills to insure success.

SWELLING RANKS OF THE POOR

The last four years, riddled by two economic slumps and budget cuts, have stalled antipoverty efforts. From 1960, when 22 percent of the population was officially classified as poor, the percentage of needy people dropped steadily to a low of 11.4 in 1978. But the percentage of those living below the poverty line—$9,287 for a nonfarm family of four—rose to 14 percent in 1981. Many authorities expect it to climb higher.

Reports from around the nation give evidence of the spreading misery—

In Washington, D.C., authorities estimate that more than 660 families will have sought emergency housing at its temporary shelter in the 12 months ending in September, compared with 406 for the same period the year before.

The Garden Valley Neighborhood House in Cleveland, one of countless "hunger centers" sprouting up around the country, is serving more than 300 families—about double last year's figure. "I've got regulars now—people who come back every other month for food because they can't make it without the extra help," says Jennette Raum, food-program supervisor at the center. "Also, we're starting to get a lot of fathers whose unemployment has run out, and they haven't started getting public assistance yet. Some of these men have been working 25 to 30 years, and it seems very demeaning to them to have to do this."

In Pittsburgh, the problem for many of the poor is soaring utility bills. The number applying for hardship applications to get breaks on bills is up about 30 percent, reports Stephen Hutter of the Stephen Foster Community Center, who adds: "People are getting more termination notices because their bills are getting out of hand."

Oregon's 77 general hospitals absorbed 151 million dollars in "uncollectable" care in 1981, an increase of 40 million dollars from the year before.

Even in booming Houston, the signs of spreading poverty are obvious. Officials of the Christian Community Service Center, which represents 12 churches, say they can't help everybody who calls. Among the needy: "Immigrants" from other regions who came to Houston seeking jobs.

WIELDING THE BUDGET AX

Meanwhile, as the demand for help soars, local-government agencies complain that they have to reduce services because of budget cuts. Researchers at the Urban Institute in Washington estimate that about 10 billion dollars of the 35 billion trimmed this year from Federal spending are in programs affecting the poor. Among the major cutbacks:

Some 400,000 families have been lopped off foodstamp rolls as a result of a decision to limit eligibility to families of four earning no more than about $11,000.

The federal share of spending for medicaid, the health program for the poor, has been reduced with further cuts expected in 1983. Some states have been forced to end benefits for eyeglasses, drugs and dental checkups.

Some 340,000 public-service jobs have been eliminated, causing many people to resort to the dole.

In reducing spending for the Aid to Families With Dependent Children program by 1.2 billion dollars, children over the age of 18 are excluded, as are families of strikers. The income of a child's stepparent is being counted, and limits are being placed on work-related expenses.

Still other trims have come in school lunches, nutrition programs for needy women and infants, housing subsidies, energy assistance, legal services and college grants for disadvantaged students.

The list of local programs affected by this retrenching is endless. Denver has eliminated a homemaker's program to help the low-income elderly with housekeeping chores. North Carolina has had to cut about 9,000 families from the AFDC rolls and reduce benefits for 4,700 more. In Louisville, health services for the disadvantaged will be cut by nearly 40 percent in some parts of the city. Boston's program for feeding needy mothers and infants has been slashed in half. A St. Louis program to train unemployed women has been terminated, putting many back on welfare.

In the face of these and countless other reports, the Reagan administration insists that the budget cuts do not affect the "truly needy" and that trimming federal deficits is an essential step toward curbing inflation and spurring economic growth that will create jobs for all Americans, the poor included.

Noting that there are as many poor people now as there were before all the massive social programs, Budget Director David Stockman says that the White House's antipoverty program is to increase income, jobs and capital spending. Presidential Counselor Edwin Meese III adds that President Johnson's Great Society programs primarily helped middle-class bureaucrats. "It was really a program designed by middle and upper-class technocrats, which resulted in more government and more taxes," contends Meese. Reagan's critics see it another way. Says Senator Edward M. Kennedy (D-Mass.):

"The administration claims to have a social-safety net, but the only social-safety net now in place is the one that protects the special privileges of the very wealthy."

THE VICTIM LIST

While the debate rages over whether the "truly needy" are receiving enough protection, most authorities agree that the working poor are worse off under the budget cuts. These are the families with incomes in the upper range of poor families or perhaps slightly above the poverty line.

"The lower-level people didn't get hurt that badly," says Lawrence Ingram, secretary of the New Mexico Department of Human Services. "But the guy just above the poverty level is really suffering, because he got squeezed out of government programs."

Typical is Mary Jane Hatch of North Jay, Me., who recently lost $151 in monthly AFDC benefits because of new rules imposed by the administration. She must now support her three children on the $3.46 an hour she makes as a secretary for an antipoverty agency. "A lot of people right there on the poverty level like me feel they might as well stay at home instead of working," she says. "I could probably make a few dollars a week more sitting at home, but I'm not like that."

Beyond the federal budget cuts, however, is the fallout from an economy that has been locked in a deep slump for months. Here, the victims are not longtime welfare recipients but laid-off factory workers. "The stereotype of the poor person is changing in this country," says Marjorie Hall Ellis, director of the Cuyahoga County, Ohio, Welfare Department. "We're finding now that the poor person is no longer just from the inner city and no longer asset-free."

In Stevenson, Wash., Rick Fabian, a laid off truck driver whose unemployment benefits ran out in February, has had to sell some of his possessions, move into low-income housing and borrow money from parents to keep afloat. "All these years we paid into taxes; we paid into welfare," says his wife Judy. "We are middle-class working people, but when we're down and out, there's no place to turn."

Similarly, in Washington, D.C., a 42-year-old public-affairs specialist with two master's degrees is a victim of the widespread reductions in the federal work force. His unemployment check doesn't even pay for the rent on his apartment, and he and his wife are dipping into savings.

Such stories, repeated thousands of times by displaced factory workers and government employes whose jobless benefits have expired, are creating a whole class of needy people popularly referred to as the "new poor." Most are shocked at suddenly finding themselves in the same predicament as those who have been on welfare for years.

HOW MUCH REAL SUFFERING?

The plight of the new poor reflects an often overlooked fact about poverty: It is very changeable. James Morgan, professor of economic behavior at the University of Michigan, estimates that only one tenth of those in need are persistently poor. "They are people who are disabled, uneducated or very old." The remainder tend to be in want only temporarily because of divorce, family illness or job loss. Many bounce in and out of poverty.

Statistics show that about 29 percent of the poor are black and 12 percent of Spanish origin. About one half of all families below the poverty level are headed by women with no husband present, and more than a third of the poor are children below the age of 16.

Life for these people, while often exceedingly bleak, does not carry with it the material deprivation it did before the Great Society programs came on line, according to many experts. "Those who are poor today are not as poor as the poor used to be," says economist Sar Levitan of George Washington University, "but some of their basic needs are still not being met despite the benefits."

The Census Bureau, looking at the year 1979, estimates that if various "in kind" benefits—food stamps, housing subsidies, medicaid and the like—were counted as income, only about 6.4 percent of the population, instead of 11.6, would have been in poverty that year. However, about 40 percent of the poor receive none of this noncash aid.

Others point out that portions of the population commonly described as struggling are faring quite well. Stanford University economist Alvin Rabushka notes that more than 70 percent of senior citizens own their homes—often free and clear. Not only could that asset be converted to cash, if need be, but, says Rabushka: "The elderly have had a rate of improvement greater than the under-65 population due in part to Social Security payments." Only 15.3 percent of the elderly were poor last year, compared with 35.2 percent in 1959.

All this is not to minimize the suffering that does exist for many of the poor. Allan Steinberg, an alderman in Louisville, speaks for many around the country when he says: "We have people who don't know how they're going to make the choice in the coming winter between paying their utility bills and buying food."

QUIET IN THE FACE OF WANT

Despite such instances of suffering, the nation has been remarkably free of protests. In June, members of the Southern Christian Leadership Conference, the civil-rights organization, came to Washington to demonstrate the needs of the poor, but drew only a small crowd—nothing to rival the huge throng that gathered in 1968 at Resurrection City.

A group called ACORN—the Association of Community Organizations for Reform Now—has sought to obtain housing for the needy in a dozen cities, sometimes encouraging families to squat in vacant properties owned by communities or the federal government. Some black leaders also have called for the use of economic boycotts against firms that fail to offer enough jobs to minorities.

But beyond these steps, the reaction to the swelling ranks of the disadvantaged has been a strange quiet. There have been no riots, such as those that racked the country in the 1960s. Economist Michael Borus of Ohio State University's Center for Human Resources attributes part of the calm to the "cushion" provided by unemployment compensation and the fact that there are so many two-income households.

Even so, a forecast by BERI S.A., a Swiss group that advises firms on business risks, assigned a "high probability" for riots in the U.S. in 1983. "The unemployable will be frustrated by their exclusion from the economy and by the cutbacks in social programs, reinforcing their sense of hopelessness," the report said.

For now, the fallout from poverty seems to be limited to such developments as spreading illiteracy, higher crime rates, rising child abuse and a jump in illegitimate births—all influenced by people's failure to find opportunity in the America of the 1980s. That is particularly true when it comes to one major group—young black males. "So many of our youth are unemployed, no longer have training programs, are not in school and have so much hopelessness," observed a Chicago delegate to a recent convention of the National Association for the Advancement of Colored People. "The only thing left to them, they think, is crime. Any little spark could set them off and create a nightmare for the rest of us."

THE SEARCH FOR SOLUTIONS

In the face of such threats, Washington has no special program to tackle the sources of poverty. Rather, most proposals involve cutting welfare costs. The administration, for example, is urging states to start "workfare," a program in which able-bodied welfare recipients are required to work at some job. But presently, the federal government provides no financial incentive to states that adopt workfare—some 25 have either started such programs or plan to do so. What's more, studies show that workfare rarely provides the training needed to get decent jobs in the private sector.

Similarly, to control costs, the administration is proposing a swap in which the federal government would take over the entire funding of medicaid, while states assume the full costs for Aid to Families With Dependent Children. Many experts believe the scheme would lead to an even greater variation in welfare benefits throughout the nation, with some states spending the bare minimum for the needy.

In Congress, there is strong support for continuing tax credits for employers who hire the poor, the handicapped and other disadvantaged workers. But few lawmakers see any chance for a major overhaul of the welfare system, such as doing away with food stamps, housing subsidies and other benefits in favor of a system of cash grants that could cut administrative costs and give the poor more leeway in the way they spend their money. Charles Murray, a Washington consultant who favors such a plan, argues that the present system of benefits encourages dependency.

Instead of vast new programs or revolutionary approaches, the President and his supporters in Congress are depending on the generosity of Americans and an improvement in the economy. On the first count, there are signs of progress. Giving to United Way campaigns nationwide rose 10.3 percent in 1981 to nearly 1.7 billion dollars. Businesses last year contributed 3 billion dollars to various charities—an 11 percent jump from the 1980 total—and surveys show that the increase in corporate giving this year could be as much as 15 percent. Still, the business community freely admits that it cannot—and in many cases should not—make up for the funding cuts in social programs voted by Congress.

The essential ingredient for improving the lot of the poor, most authorities agree, is a healthy economy. Tracing the progress in curbing poverty, political scientist Murry of Washington notes that increases in the country's gross national product—not special antipoverty programs—have accounted for most of the gains made in reducing want.

Yet an improved economy may not be enough. Because of the changes in the country's industrial mix, the number of jobs suitable for unskilled labor has shrunk. Thus, for the poor to have any hope of getting out of poverty, many experts argue the new education and training programs are needed. "We desperately need not only training, but retraining," says economist Vernon Briggs of Cornell University. "Many workers in the steel and auto industries are never going back even if the economy turns around. Many of their jobs will be taken over by machines."

Both the Senate and House have passed job-training bills, considered to be only modest when compared with the Comprehensive Employment and Training Act, which in 1978 saw 9.4 billion dollars spent on jobs and training.

Clearly, the momentum seems to be in favor of further cuts in poverty programs. The government recently put in new rules requiring residents of public housing to pay more rent, and new cuts are being considered for medicare. Observers also say that key proposals to help the needy won't go anywhere this year, including the President's plan to set up enterprise zones in depressed areas, where firms could get tax breaks and other advantages for hiring the poor.

Barring a quick and vibrant upturn in the economy—a development considered unlikely—the upshot of all this is that the poor face perhaps their bleakest outlook in years. The only question is whether they will bear their burden quietly—or lash out in protest.

● **Mr. MATHIAS.** Mr. President, I oppose the report of the conference committee on H.R. 6955, the Omnibus Reconciliation Act of 1982. I simply cannot support the manner in which Federal employees and retirees have been singled out in this reconciliation legislation to shoulder an unreasonable amount of the contemplated cutbacks.

Federal workers, and former Federal workers, are willing to take their fair share of budget cuts. Last year, Congress eliminated one of the two annual cost-of-living adjustments that Federal retirees had been promised. Before that, the Congress eliminated the retiree's 1 percent kicker that was automatically added to their cost-of-living adjustments. Last year, the Congress put a cap of 5 percent on the comparability increase for Federal employees. And the budget saving from these moves was substantial; the loss in real income to Federal employees and retirees was substantial as well.

Now, again this year, the Congress tells Federal retirees and military retirees that, once again, they must bear substantial cuts. The Senate instructed the Governmental Affairs Committee to make such substantial cuts in the Federal retirement program that the committee had no recourse but to approve a 4 percent cap on the cost-of-living adjustments for fiscal years 1983, 1984 and 1985. This 4 percent was to remain constant, despite what happened to the economy—and thus to the purchasing power of retirees. I did not like this approach, but it is far better than what the Senate has before it today.

What has emerged from the conference committee would produce comparable savings, but only by drawing arbitrary distinctions among Federal and military retirees based only on age.

Take my constituent John Abrahams, for example. He is from Rockville, and he called my office just this afternoon to explain how the conference proposal would affect him.

Early retirement is not always a boon to the Federal employee. Last week, Mr. Abrahams was involuntarily retired—forced out of the Federal Government in a RIF, as a result of Federal spending cutbacks. He is 59 years old, and his age works against him in two ways. It is difficult enough to find a job when unemployment is approaching 10 percent, and many employers are reluctant to hire older workers like Mr. Abrahams. At the same time, Mr. Abrahams' COLA will be reduced because he is not old enough.

If this conference report passes, for the next 3 years Mr. Abrahams will receive only one-half of the cost-of-living adjustment that retirees over the age of 62 will receive. Mr. Abrahams' cost of living certainly is not lower just because he is under 62. He has already lost his job because of Federal spending cuts, and I do not think the Congress should take away half of his cost-of-living adjustment on top of that.

The Senate will make a very shortsighted budget cut today if it votes to approve the conference report to accompany the Omnibus Reconciliation Act of 1982. Admittedly it will save some money. But in the long run, the ultimate result could be disastrous. This action will send a message across this country that the civil service and the armed services are no longer viable places in which to make a career. It says that the Federal Government does not keep faith with its employees and its former employees.

And, in the long run, that will cost us much more than any small savings we might make today. It will cost us in terms of the Government of the future—a Government that will not be able to attract the best and the brightest minds that this country has to offer. It will be a sad day when the young people of this country are no longer willing to enter Government service. But that day is coming.

I urge my colleagues to think about the ultimate effect that this vote today will have. We cannot afford to make these cuts. I hope my colleagues will join with me in voting against them.

Mr. ZORINSKY. Mr. President, going into conference on this Reconciliation Act with the House Agriculture Committee conferees, the paid provisions in both the Senate and the House agricultural provisions were virtually identical. Both the Senate and the House had approved a 15-percent voluntary set-aside for wheat with an additional 10 percent to be diverted with a payment made for this additional diversion for participating producers. Both the Senate and the House had approved a 10-percent voluntary set-aside for corn with an additional 10-percent diversion for pay. Thus producers of wheat could divert 25 percent of their base acres and producers of corn could divert 20 percent of their corn and feed grains base. The House provision increased price support loan rates for both wheat and feed grains in addition to the paid diversion provision, a provision which had my support.

The Senate acted August 5 to defeat an amendment to lower the paid diversion to 5 percent after Senator BOREN offered, with my strong endorsement, an amendment to give producers of wheat and feed grains an additional paid diversion of 10 percent. The weakening amendment was defeated 60 to 38, with subsequent action of the Senate approval of the 10 percent paid diversion of a voice vote.

Mr. President, without prior consultation with Democratic conferees, a move was led by the majority conference leadership to reduce the paid diversion program back to 5 percent. I do not believe such a decision was justified under the circumstances. I presume that, as in the past conferences of agricultural matters last year, the administration again voiced its objection, and the threat of another veto effected the change.

I do not think I need to go into a great amount of detail about the dire straits our wheat and corn farmers are in today. Record crop levels, low prices, and high interest rates have combined to produce the worst conditions in our agricultural economy since the early 1930's.

The day before the action in the Senate, the Crop Production Report of USDA projected a second consecutive record corn crop which the Wall Street Journal said would "yield a harvest of political problems for the administration."

The price of corn in several western Nebraska locations dropped to $1.75 per bushel this week, 35 percent of parity.

What is really needed to turn this situation around is enactment of one of the so-called farm crisis bills like that introduced earlier this year by Senators ANDREWS, BOREN and myself. Unfortunately, that does not seem likely in the current political climate in the Congress.

If the Senate so-called wheat 15-10 provision and the corn 10-10 provision had prevailed in conference, several beneficial effects would have resulted. First the paid diversion would provide an infusion of dollars into the pockets of our cash-starved farmers. More importantly, that paid diversion will cause much greater participation in the Government acreage reduction program that will reduce crop yields and drive up prices.

Let us look for a moment at the expected wheat and corn production this year. For wheat, 2.77 billion bushels are expected to be produced in 1982, down only sightly from last year. Year-end stocks are expected to be a tremendous 1,314 million bushels.

For corn, the projected yield for 1982 is 8.32 billion bushels, with year-end stocks at 1,976 million bushels. These carryovers are estimated to be the highest in two decades. They not only tend to depress prices, they are also expensive to store. As a result, the Congressional Budget Office estimates a combination paid/diversion acreage reduction program would cut Govenment outlays $400 million more than the wheat program announced by the Agriculture Department last month.

Mr. President, it is difficult to understand why the administration will not act to put an effective acreage diversion program into effect. As a matter of fact, they already have such authority. I do not intend to be a part of the action of this body which ignores the economic problems inflicted on grain producers by failure to provide an effective means to strengthen market prices through reducing surpluses.

With farm exports falling for the first time in over a decade on top of mounting carryovers and with net farm income near an all-time low, the means to strengthening market prices is not just desirable, it is absolutely essential. I therefore intend to vote to table the Reconciliation Act as a means of expressing my concern over the inadequacy of the grain provisions.

Mr. President, I have written today to President Reagan expressing my dismay over the deteriorating farm economy. I ask unanimous consent to include this letter at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: There's a depression in agricultural mid-America. And it's getting worse. According to estimates from your own Agricultural Department, net farm income this year could equal the worst years of the 1930s. Farm debt is expected to be up 43 percent in 1981 compared to 1979. And, for the first time in more than 25 years, the value of a farmer's land is lower today than it was a year ago. Exports from America's farms are declining for the first time in more than 10 years.

Mr. President, the causes of this depression are many. But they all have the same effect: critically low farm prices. In my own state of Nebraska, wheat prices this week were down to 42 percent of the July 15 national parity price. Corn in some cases was as low as 35 percent of the national parity price.

The outlook for the future is even more bleak. Record corn crops are forecast this year, leading to record (and costly) carryovers and even lower prices. Wheat and feed grain crops also will be up this year over last, according to forecasts. The results will be bankruptcies of farmers throughout the United States. The farm sale already has returned to America's countryside with jarring force. Unless something is done, farm sales, too, will soon be setting records.

Mr. President, you can stop this slide and you can do it today. You have it within your power to administratively boost price support loan rates for wheat, corn and other feed grains. That would immediately increase farm income, since loan rates tend to provide a price floor. The increases would quickly put cash in hard-pressed farmers' pockets and could mean the difference between bankruptcy and solvency for many.

Please consider seriously the consequences of failing to act in the current crisis. Consider both the human consequences and the implications for our entire national economy. It's no secret that the growing lines of unemployment in Detroit started in the corn and wheat fields of the Midwest. Don't let today's agricultural depression precipitate a "farm led and farm fed" depression throughout the rest of the American economy.

Respectfully,
EDWARD ZORINSKY,
U.S. Senator.

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CHANGES IN THE PAID DIVERSION PROGRAM

Mr. BAUCUS. Mr. President, I am very disturbed over one particular change that the conferees made in the reconciliation bill. I believe there was a substantial change in the paid diversion program provided for wheat and feed grains by an amendment I cosponsored with Senator Boren.

The amendment passed by the Senate, provided for a 10 percent, voluntary paid diversion program for wheat in addition to the 15 percent acreage reduction program required for producers to qualify for Federal assistance. The Senate specifically voted on an alternative paid diversion program offered by the Senator from North Carolina (Mr. Helms). Senator Helms' amendment which was defeated, would have lowered the paid diversion program to 5 percent in addition to the 15 percent acreage reduction program.

Yet, when the conferees met on the reconciliation bill, the Senate offered a compromise program that instituted the 5 percent paid diverson specifically voted against in the Senate.

In other words, Mr. President, we now have a wheat and feed grain program that is essentially the same as the one originally proposed by the Department of Agriculture. There is a total of 20 percent of acreage that must be diverted from production in order to qualify for Federal farm programs. There is a 10 cent increase in the loan rate, which I heartly support—although it is far too little to address the critical fate of our farm economy.

Mr. President, we argued the merits of a 10-percent paid diversion program a few weeks ago. The significant budget savings and the additional incentive this program would have provided for producers to participate is why I supported the program. The changes made by the conference—reducing the paid diversion to 5 percent and making it mandatory—once again bring into question the amount of budget savings and the attractiveness of the program for producers. The original Boren amendment—a 10-percent voluntary paid diversion—was supported by the American Farm Bureau Federation, the National Farmers Union, the National Grange, the National Association of Wheat Growers, the National Corn Growers Association, the Independent Bankers of America, the National Farmers Organization, the American Agriculture Movement, the National Milk Producers Federation and the Grain Sorghum Producers Association.

Mr. President, I can appreciate and I support the budget savings represented by this reconciliation bill. However, I cannot understand or support a substitute change in this provision of the bill that goes directly against the expressed wishes of the Senate. I think everyone knows that the administration opposed the 10-percent paid diversion program. However, to have the Senator from Kansas (Mr. Dole) offer their program in conference against the wishes of the Senate of the body goes too far.

I hope that U.S. wheat and feed grain producers realize that the weakening of the paid diversion program that they supported was done by the administration and not by the Members of the House and Senate that realize how critical the situation is in our farm economy. Low farm prices will not go away without meaningful action by Congress. It is unfortunate that we could not retain the paid diversion program adopted by the Senate—or for that matter by the House—and still reduce Federal spending by over $25 billion.

Mr. President, I associate myself with the comments made by the Senator from Nebraska (Mr. Exon) and the Senator from Oklahoma (Mr. Boren). Their leadership in looking for remedies for the crisis in agriculture have not gone unnoticed by this Senator.

Mr. THURMOND. Mr. President, I am pleased to lend my support to this important spending reduction legislation.

This bill is one of several key legislative measures which will put into practice the specific changes necessary to reduce Federal budget deficits by almost $380 billion over the next 3 years. While the bill does not restrain the growth rate in entitlement programs as much as some of us would like, the $13.5 billion in savings through fiscal year 1985—as calculated by the Congressional Budget Office—which is contained in this bill is definitely a step in the right direction.

Mr. President, with the record surge in the stock markets recorded yesterday and other positive signs, especially the recent decline in interest rates, the prospects for a strong, sustained economic recovery are good. However, in order to insure a return to prosperity, with lower interest rates, lower inflation, and sufficient employment opportunities, we must steadily whittle down Federal spending.

We have not done the entire job in this bill; indeed, we have not done as well as we should. Moreover, we will not completely meet the desired objective in the other revenue-raising and outlay-reduction bills slated to come before Congress prior to adjournment. Much will remain to be done next year and in future years if we are to achieve the ultimate goal of enduring fiscal responsibility and a balanced Federal budget. Nevertheless, this bill moves us closer toward a healthy economy and fiscal stability, and I hope the Senate will approve it for the President's signature.

Mr. HUDDLESTON. Mr. President, the agriculture and food stamp program provisions of the conference report will cut Federal spending by about $7 billion over the next 3 years and help to slow the growth in the size of Federal deficits. I am hopeful that, by acting to limit the size of these deficits, which lead to higher interest rates, we will overcome one of the most serious obstacles to achieving economic recovery.

The agriculture and food stamp program provisions have been structured to insure that Federal outlays are made in a cost effective manner. As a result, we will be able to achieve significant spending cuts in the programs beyond the $3.29 billion required under the congressional budget resolution.

The farm and food stamp program provisions of the conference report represent a compromise between Senate and House positions on where spending reductions should occur. The conference report will authorize the Secretary of Agriculture to use a production adjustment assessment to encourage reduction of the milk surpluses while maintaining the current level of price support. It includes revisions in the food stamp program—to tighten work requirements, enhance program management, and reduce the Federal cost of the program—from both bills. It includes a paid land diversion for grain and rice producers to reduce the price-depressing buildup of inventories. It requires the Secretary of Agriculture to use between $175 million and $190 million of Commodity Credit Corporation funds for export promotion activities.

These actions will give the taxpayers the maximum return for every dollar spent and achieve solid savings without hardship to farmers or excessive harm to the food stamp program.

MILK PRICE SUPPORT PROGRAM

Overproduction of milk is a serious budget problem, and the milk program must be more effective in dealing with this problem. The changes made to the dairy program by the conference report should improve its operation.

The approach adopted by the conference report will maintain the minimum level at which the price of milk is to be supported at the current level of $13.10 per hundredweight during the 1983 and 1984 fiscal years.

The support price in fiscal year 1985 will be set at not less than whatever percentage of parity that $13.10 represents as of October 1, 1983.

A production adjustment assessment will be used to offset a portion of the cost of the price support program to the Government. The Secretary of Agriculture will have the authority to require a deduction of 50 cents per hundredweight beginning October 1, 1982, from the proceeds of sales of all milk marketed. This deducted amount will be remitted to the Commodity Credit Corporation.

An additional deduction could be required by the Secretary beginning April 1, 1983, if projected annual purchases by the Commodity Credit Corporation exceed 7.5 billion pounds—milk equivalent. The provision for a second deduction could only be implemented if the Secretary establishes a program to refund the assessment to farmers who reduce their production from a base period. The base period would be fiscal year 1982—the current year—or, at the option of the Secretary, the average of fiscal years 1981 and 1982.

This approach differs from the provision passed by the Senate that would have maintained, for another 3 years, the milk support price at the same level it has been since October 1980.

For dairy farmers, this program will provide a strong incentive to bring production back into line with demand. I am hopeful that no further dairy program modifications will be required. This program should be allowed to operate for a sufficient time to judge its influence on milk marketings and Government outlays.

PAID LAND DIVERSION

The conference report includes a provision to require the Secretary of Agriculture to offer a paid land diversion program for the 1983 crops of wheat, feed grains, and rice. Mr. President, I supported Senator Boren's efforts to add this provision during consideration of the reconciliation bill by the Senate; I cosponsored the amendment. As long ago as last winter, several of my colleagues and I urged the Secretary to implement a paid land diversion for the 1982 crops. Had a paid land diversion program been in place this year, more farmers would have reduced grain production.

The most recent crop report by the Department of Agriculture removes any doubt that crop supplies are excessive today and that the provisions of the announced acreage limitation programs for the 1982 crops were not sufficiently attractive to encourage sufficient numbers of farmers to participate. Financially hard-pressed farmers could not afford to comply with the Secretary's announced acreage reduction programs.

The 1982 corn crop is estimated to be in excess of 8.3 billion bushels—up from last year's record of 8.2 billion bushels—and the wheat crop is estimated to be nearly as large as last year's 2.8 billion bushel crop.

Mr. President, none of us likes the idea of having to restrict the planting of commodities. But, at this time, decisive and effective action must be taken by the Secretary to reduce the stocks of grain to a level more consistent with demand. The paid land diversion provisions in 1983 will help achieve this needed reduction.

With a paid land diversion program in effect, more farmers will reduce plantings and we should get the needed adjustment to production of our major commodities. Prices would be enhanced and farmers would be assured of greater income.

Also, with a paid land diversion program, farmers will be able to obtain sufficient credit to continue production. Many farmers cannot, today, show their bankers that a profit is possible. I think this is a very grave situation.

For wheat farmers who participate, the program will consist of a 15-percent acreage limitation program and a 5-percent paid land diversion program. For participating producers of corn and other feed grains, the program will consist of a 10-percent acreage limitation program and a 5-percent paid land diversion. For rice farmers who participate, the program will consist of a 15-percent acreage limitation program and a 5-percent paid land diversion program.

A paid land diversion program will reduce Federal spending by over $360 million according to Congressional Budget Office estimates, lessen farmers' dependence on the Government, and decrease the largest carryover of wheat and corn in over 20 years.

With a paid land diversion program, I believe that farmers, farm lenders, and merchants who sell to farmers will have more confidence in the future. We must restore that confidence before we can expect much improvement in the rural economy.

EXPORT PROMOTION

The bill contains a provision designed to promote agricultural exports. This provision requires the Secretary of Agriculture to use at least $175 million, but not more than $190 million, in each of the fiscal years 1983 through 1985, to stimulate sales of U.S. agricultural products in foreign markets.

However, these new expenditures will result in net savings to the Government. This result will occur because, with improved prices, farmers will receive more from the market for their production and less from the Government under the agricultural price stabilization and related programs.

This provision is patterned after a bill—S. 2661—that Senator Cochran and I introduced in June of this year.

Upgrading the export development program can do more to strengthen the agricultural economy than simply cutting the budget for this program. Increasing export volume is an essential part of any program to lead American agriculture out of its current depression.

ADVANCE DEFICIENCY PAYMENTS

The conference report requires that the Secretary of Agriculture make advance deficiency payments, covering 70 percent of projected payments, under the programs for the 1982 crops of wheat, feed grains upland cotton, and rice. The payments will be made as soon as practicable after October 1, 1982.

For the 1983 crops, if there are acreage limitation or set-aside programs, the Secretary will be required to make not more than 50 percent of any projected deficiency payment in advance, as soon as practicable after producers sign up for the program involved.

I strongly support the adoption of the provisions for advance deficiency payments to farmers. This provision is also patterned after S. 2661.

These provisions will enable hard-pressed farmers to receive hundreds of millions of dollars this October and, again early in the 1983 crop year—in time to help with payment of production and harvesting costs. These payments are not additional outlays—they are partial payment of funds which farmers would otherwise receive later in the crop year. Such early payment will likely provide an additional incentive for farmers to participate in the acreage reduction programs for these commodities.

FOOD STAMPS

The conference report makes revisions that will reduce the cost of the food stamp program, tighten work requirements, and enhance program management. This is the fifth time in 5 years that Congress has acted on legislation making major changes to the food stamp program.

Food stamp program costs will be reduced by nearly $2 billion over the next 3 years, with nearly one-third of the savings coming from a reduction in errors in administration.

CONCLUSION

Mr. President, budget-cutting is extremely difficult at a time when farmers and other citizens are suffering from the effects of the economic recession. However, we must act responsibly to reduce the huge Federal deficits. I believe the provisions in the conference report are a step in the right direction. Many of these provisions will be beneficial to farmers and, because there is a strong relationship between the state of the agricultural economy and the national economy, they can help to eliminate many barriers to economic recovery.

All of the conferees are to be commended for their efforts in reaching an agreement on the farm and food stamp provisions. Three of the conferees are deserving of particular praise for their leadership and hard work. I refer, of course, to Chairman de la Garza, Chairman Helms, and Representative Wampler.

Mr. ROBERT C. BYRD. Mr. President, I must cast my vote against the conference report because I believe it practices unwise, unfair, and false

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economy in several areas, particularly the cutbacks and delays in cost-of-living adjustments to several groups of our citizens.

Under this report, all civil service and military retirees, regardless of age, will face a 1-month delay in receiving their COLA's. In addition, those same two groups of citizens if age 62 or under, will receive only one-half the cost-of-living adjustments that others will receive in fiscal 1983-85.

I am told that the average civil service retiree would lose about $66 a year because of the 1-month delays in COLA's, and that the retiree under age 62 would lose an additional $230, for a total loss of about $300 a year. The loss for military retirees would be similar but slightly less.

Mr. President, the loss of $300 a year is a very serious blow to many older Americans. We are asked, in the name of economy, to make arbitrary cutbacks that will harm the standard of living of a great many older Americans who are already hard pressed by the inflation and recession that grip our Nation.

I believe that this singling out of older Americans to bear the burden of our Nation's economic troubles sets a dangerous precedent. I fear there are those who will soon come to us with proposals, based on the same sort of reasoning, to make drastic cuts in social security, medicare, and other programs for older Americans.

I believe the Senate can and should find better, more equitable ways to practice the economy that we all agree is necessary. For that reason, I must cast my vote against this conference report.

Also Mr. President, this conference report still has the origination fee on Veterans' home loans. A provision which I opposed in the Senate version of this bill. With the housing market as depressed as it is, this provision along with the "upfront" collection of the FHA mortgage insurance premium can only aid in making a deplorable situation in the housing industry even worse.

Mr. DOMENICI. Mr. President, I want to conclude by just saying, having heard the speeches this afternoon, that one thing I hope we will all retain and that is a good sense of humor. To some extent, it was a rather hilarious afternoon.

In addition, I would just like to say to my wonderful friend who gave the speech today of a mixture of optimism and gloom that I hope the stock market, if it went down, went down before he made his speech.

Mr. HOLLINGS. I do, too.

Mr. DOMENICI. And I would think he would want that, too. I hope that occurred.

I yield back the remainder of my time.

Mr. BAKER. Have the yeas and nays been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES) is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 32, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—67

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Brady
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
East
Exon
Garn
Glenn
Gorton
Grassley
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Levin
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Quayle
Roth
Rudman
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner

NAYS—32

Bumpers
Burdick
Byrd, Robert C.
Cannon
Cranston
Dodd
Durenberger
Eagleton
Ford
Goldwater
Hart
Hawkins
Hollings
Inouye
Jackson
Jepsen
Kennedy
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Tsongas
Weicker
Zorinsky

NOT VOTING—1

Chiles

So the conference report on H.R. 6955 was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, the Senate's vote which was just concluded sends this bill to the President. I am confident he will sign it into law. Today's vote is the culmination of almost 2 months of intensive work by the members and staffs of the seven Senate committees which received reconciliation instructions. I would remind the Senate that the first budget resolution for fiscal year 1983 was approved by both Houses on June 22, the committees which received reconciliation instructions have produced legislation complying fully with those instructions. Those committees then helped sell the legislation to the full Senate, and successfully concluded the very delicate negotiations with the House which produced the conference agreement just approved by the Senate.

I also want to take note of similar work in the other body. Despite a lot of misgivings on the part of many of the House Members, and despite substantive differences between the House and Senate bills, the House Members nevertheless demonstrated repeatedly their responsibility and their concern about the fiscal conditions of the National Government. Both sides of the conference engaged in the kind of give and take that is essential when a bill of this importance is approved.

As I said before, it is noteworthy that the House Members, most of whom are facing the voters this fall, were willing to approve this bill by a substantial margin earlier today.

Finally, Mr. President, I want to take note of the fine work of the members and staffs of the Senate and House Budget Committees. It is truly a privilege to work with the type of people who serve on the Senate Budget Committee and with the staff members who work very hard in support of the committee members. Chairman JONES and the other members of the House Budget Committee are also supported by a fine staff.

Mr. President, I ask unanimous consent that the Senate express its appreciation for the effective work done by the members and staffs of the various Senate committees in developing S. 2774, the original Senate omnibus reconciliation bill, and in negotiating the agreements with the House which produced the final version of H.R. 6955.

The VICE PRESIDING. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is my understanding that the distinguished manager of the bill for the majority will shortly ask the Senate to proceed to the consideration of House Concurrent Resolution 396, making technical and clerical corrections. A parliamentary inquiry: Does that fall within the scope of the previous order providing that this matter would be dealt with and the Senate would then return to the consideration of the debt limit?

Further, does that action in no way jeopardize the right of the party who had the floor to be recognized under the previous order?

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator is correct.

Mr. BAKER. I thank the Chair.

I yield the floor.

TECHNICAL AND CLERICAL CORRECTIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the House Concurrent Resolution 396, which makes technical and clerical corrections to the Omnibus Reconciliation Act of 1982.

The **PRESIDING OFFICER.** The clerk will state the resolution.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 396) to correct technical errors in the enrollment of the bill H.R. 6955.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 396) was considered and agreed to.

Mr. **DOMENICI.** I move to reconsider the vote by which the resolution was agreed to.

Mr. **HOLLINGS.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. **BAKER.** Mr. President, at this point, we return to the consideration of the debt limit.

I inquire of the Chair, what is the pending question?

The **PRESIDING OFFICER.** The clerk will state the unfinished business by title.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate continued with consideration of the joint resolution.

UP AMENDMENT NO. 1253

The **PRESIDING OFFICER.** The pending question is the amendment of the Senator from Montana (Mr. BAUCUS).

Mr. **BAKER.** Mr. President, could I inquire, under the order——

Mr. **BUMPERS.** Mr. President, may we have order so we can hear the majority leader, please.

The **PRESIDING OFFICER.** The Senate will please be in order. Senators will please conduct their conversations in the cloakroom.

The majority leader is recognized.

Mr. **BAKER.** Mr. President, under the order, who will the Chair recognize pursuant to the previous arrangement?

The **PRESIDING OFFICER.** The Senator from Oregon (Mr. PACKWOOD).

Mr. **BAKER.** I yield the floor, Mr. President.

The **PRESIDING OFFICER.** The Senator from Oregon is recognized.

Mr. **BAKER.** Mr. President, will the Senator from Oregon yield to me without losing his right?

Mr. **PACKWOOD.** Without losing my right.

Mr. **BAKER.** Mr. President, I meant to say this earlier. We will continue on this debate for as long as it appears productive to do so. I do not anticipate asking the Senate to remain past approximately 8 p.m. this evening.

Now, Mr. President, I yield the floor.

Mr. **BUMPERS.** Mr. President, will the majority leader yield for a question?

Mr. **BAKER.** Yes, I yield.

Mr. **BUMPERS.** Does the majority leader want to assure the Senate that we will or will not have votes?

Mr. **BAKER.** Mr. President, I would like to do that, but I cannot, I am afraid. I do not anticipate votes, but I must say that there is always the possibility of a vote in a situation such as this. There are a number of things that might be done as a matter of right of the Senators which will require a vote. I cannot assure that there will not be. I hope that there are not, and I do not anticipate any.

Mr. **PACKWOOD.** I might add to the majority leader's statement that it would be my intention to talk at some length tonight, and I do not expect votes. I do not intend to ask for any votes, and I would expect to talk to close to the time the majority leader is ready to go out.

Mr. **BUMPERS.** Maybe the Senator from North Carolina would like to say the same thing the Senator from Oregon just said.

Mr. **HELMS.** Gladly.

Mr. **BAKER.** Now, Mr. President, under the same conditions and terms will the Senator yield to me one more time?

Mr. **PACKWOOD.** I yield.

Mr. **BAKER.** Mr. President, I make that a unanimous-consent request.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BAKER.** Mr. President, I do not know, it may be a forlorn——

Mr. **PELL.** Order, Mr. President.

Mr. **BAKER.** Order, Mr. President, for one more moment.

Mr. **STENNIS.** Mr. President, I ask for order. We like to hear what the majority leader says. We cannot hear.

Mr. **BAKER.** Mr. President, it may be a forlorn hope, but I still hope that we can arrive at a unanimous-consent agreement on a vote on one of these amendments. I hope that we could get one of the significant and basic amendments such as the Helms amendment as now modified, and I will not now make a request, but I urge my friend from Oregon and my friend from North Carolina to once again explore that possibility and see if we cannot get a time limitation on one of these principal amendments to this bill.

Mr. **HELMS.** Will the Senator yield?

Mr. **BAKER.** Yes, I yield.

Mr. **HELMS.** I will agree with anything the majority leader recommends.

Mr. **PACKWOOD.** Could I ask the majority leader this, and the Senator from North Carolina. Is the Senator talking about a vote on his amendment, one vote including both prayer and the abortion segments of the amendment?

Mr. **BAKER.** Mr. President, I can hardly wait.

Mr. **HELMS.** If the Senator will yield, I think that the order is established by Senate Rules. The first vote will be on the Baucus amendment, the second on the Wiecker amendment.

Mr. **PACKWOOD.** I think the majority leader is asking on the Senator's amendment. I do not think he was referring to the Baucus or the Weicker amendment in that request that the Senator and I try to work something out.

Mr. **HELMS.** Why do we not ask the Chair what is the order of votes?

Mr. **BAKER.** Mr. President, a parliamentary inquiry. What is the sequence of voting in the series of amendments that have been offered to this point?

The **PRESIDING OFFICER.** If no further amendments are offered, the first vote will be on the amendment offered by the Senator from Montana (Mr. BAUCUS), unprinted amendment No. 1253, followed by a vote on the amendment offered by the Senator from Connecticut (Mr. WEICKER), unprinted amendment No. 1252, followed by a vote on the amendment offered by the Senator from North Carolina (Mr. HELMS), unprinted amendment No. 1251, followed by a vote on the amendment offered by the Senator from North Carolina (Mr. HELMS), No. 2031, as modified, followed by a vote on the committee substitute and final passage.

Mr. **PACKWOOD.** Could I inquire further of the Chair, obviously anything that we can work out on a vote would be dependent on unanimous consent because there would have to be some time constraints put on it. I realized what the order of the vote was, but I am trying to find out from the Senator from North Carolina, when we get to his amendment, what it is he wants a vote on. Is it on just the abortion part, the prayer part or a vote on—because a motion to table would be in order on the overhanging amendment. What is it the Senator wants to vote on?

Mr. **HELMS.** Of course, I would follow the rules of the Senate and go to the Baucus and Weicker and two Helms amendments in the order stipulated by the Chair.

Mr. **PACKWOOD.** Do I understand that the Senator from North Carolina would or would not agree to a unanimous-consent to vote on his amendment as amended so that we would be voting on both prayer and abortion in one vote?

Mr. **BAKER.** As modified.

Mr. **PACKWOOD.** As modified, yes, but it would be one vote on the whole amendment.

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Mr. HELMS. I will have to think about that, in all seriousness.

Mr. BAKER. Will the Senator from Oregon, who has the floor, yield without losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor.

Mr. BAKER. Mr. President, let me plant another seed in the minds of the principals. I think we are not yet ready to consummate a unanimous-consent agreement on this subject, but I think we are making headway. I hope that tomorrow, shortly after we get back on this bill, the Senate would be in a position to consider a unanimous-consent request by me or by any other Senator, but the one that I would propose would be perhaps to vote on the Helms amendment in some formulation, perhaps including both prayer and abortion or some other formulation, and the remaining part of the original request, that is, if we get a time limitation on something we can agree to, that is, the vote on abortion, that no other bill or amendment dealing with abortion would be in order this session of the Senate, with the exception of the Hatch amendment to the Constitution, which I have pledged to bring up.

That is what I hope we can arrange. As I say, that is a pretty big pill to swallow for some people in one sitting, so I will not make the request at this time. I hope Members will think about that and see if we can arrange a time certain to vote on an abortion amendment, and provided then that we will also vote on a Hatch constitutional amendment, and that no other bills or amendments dealing with abortion would be in order for the remainder of this session. That is what I hope for, Mr. President.

Mr. President, I thank all Senators for yielding to me and listening to my prayer for an early Christmas.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I reiterate what I said earlier that as far as I am concerned I plan to ask for no votes tonight, and I think the Senator from North Carolina probably has the same feeling. I cannot assure Senators that they are safe in going home, but I have no intention of asking for any votes and will be talking for several hours.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Will the majority leader please restate what he just said?

Mr. BAKER. Yes. I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the Senator from Oregon.

Mr. PACKWOOD. Mr President, as we move into the discussion of the issue of denying to the Federal courts jurisdiction over certain cases, the argument is going to be raised on both sides as to whether or not we have the constitutional right to do so. Those who want to alter the Federal court's decision will cite a variety of cases, including that of ex parte McCardle, to indicate that this Congress has the right to deny to the district court or the court of appeals, or on occasion, for that matter, the U.S. Supreme Court, jurisdiction over issues we want to take away from them.

Others will cite the contrary. They will distinguish the McCardle case as an unusual case that does not hold what its proponents say it holds.

It is fair to say, however, that whatever we pass in Congress, if anything, limiting the jurisdiction of courts will be tested in the courts, as to whether or not it is constitutional. I think, therefore, we should ask not whether what we are attempting to pass is constitutional. That begs the question, and that is going to be tested, in any case, in court.

I think we would be wiser to ask, Is what we are attempting to pass good policy? Should this Congress be involved in taking away the jurisdiction of the Federal courts in general and the Supreme Court specifically, jurisdiction over issues, because we do not like the decisions that the courts have made? That is what the nub of this controversy is.

I should like to think that, at bottom, this Congress, as a matter of policy, before we ever got to the issue of constitutionality, would say, for the sake of all our liberties, that if we do not like Supreme Court decisions, we will try to change them in a way that our founders intended, which was a constitutional amendment, rather than attempting to take away the jurisdiction by statute, which requires only a majority vote.

I know the arguments that are made. Busing was never an issue at the time of the Constitution. School prayer was never an issue at the time of the Constitution. Abortion was never an issue at the time of the Constitution. Therefore, as our founders had no thoughts about these issues, or at least a thought that rose to the dignity of being mentioned in the Constitutional Convention and written into the Constitution, we are privileged, at a later time, to decide what they might have thought and attempt to interpret what they might have thought for us; or, we are entitled, because they said nothing about it, to attempt to overturn Supreme Court decisions interpreting the Constitution they wrote.

They will also say that the public, for example, is overwhelmingly opposed to busing, and therefore take the jurisdiction of the Federal courts over the issue of busing away from them; the public does not support busing. Or, they will come to the issue of prayer and will cite polls to show that, by a margin of 2 to 1, the public wants to reinstitute prayer in the public schools.

So those who were opposed to the court jurisdiction would say, "Take away the jurisdiction of the Supreme Court; the public supports school prayer." But then when we come to the issue of abortion, the same polls that show a majority for reinstituting school prayer show a majority who say that a woman should have a right to make a choice as to whether or not she wants an abortion, and we should not take that away from the courts. Those who will cite polls in their favor or busing or on prayer will then dismiss the polls on abortion.

Mr. President, you cannot have it both ways. You cannot say, "We will vote to take away from the court all those rights that the public, by a majority vote, decide they do not like the court's decision on, unless we do not agree with the majority of the public, in which case we will try to take away their rights, no matter what the public thinks about them."

Regardless of what public opinion may be, Mr. President, I should like to think that when it comes to the fundamental liberties of this country, we will not be passionately slipped off our feet, whether or not what we do is constitutional, that we will not be passionately swept off our feet because the popular majority under a certain circumstance happens to like or not like something.

Our founders, Mr. President, when they created the Constitution understood full well that on occasion passion and prejudice can obscure judgment. They understood very well that Presidents, legislators, and Members of Congress can easily be swept off their feet by popular movements, can bend to transitory pressures. Therefore, they created a Supreme Court and very clearly indicated, as you read the Federalist Papers and the debates of the Constitutional Convention, that they intended that Supreme Court to be the final arbitrator of what the Constitution meant and said. It is very clear that they thought if there be a conflict between laws and the Constitution, that the Constitution would govern.

Mr. President, I know the argument will be made that the Constitution says that Congress creates the inferior courts, the courts of appeals and the

Federal district courts, and determines their jurisdiction, and as we have the right to create the court as we want and to determine their jurisdiction we can if we want decide to take away part of their jurisdiction.

The statute most often cited for that proposition is the Norris-LaGuardia Act where Congress said that Federal courts could no longer issue injunctions in labor disputes.

Whether or not we have the right to do that went to the courts. The Supreme Court held that we had the right to do it. But it is important to understand that that related to just one remedy, injunctions in labor disputes.

It is important to remember that never, never in the history of this country save with the possible exception of that McCurdle case, have we ever in Congress tried to take away the fundamental liberties set forth in the Constitution and the Bill of Rights principally in the 13th, 14th, and 15th amendments that guarantee the liberties of all of our citizens.

We have never even seriously thought we had the right to do it. But thank God wisdom has been such that we have not tried to do it, whether or not we have the right to do it, because picture the situation if we can do that: We have the right to create the Federal district courts. We have the right to determine their jurisdiction. Do we have the right, therefore, to demean certain constitutional rights because we have the right to determine their jurisdiction? I will put you a situation, a particularly heinous kidnaping and murder case, Lindbergh situation, a Patty Hearst situation. Assume a suspect is caught and in the process of being taken to the police station and interrogated makes several statements to the police officers, perhaps even signs a confession that may or may not have been extorted out of him, and goes to trial. The defendant's attorneys decide not to put the defendant on the stand, as they have the right to do. Despite that the trial judge allows the admission of the quasi-confession or the statements that the defendant made to the police officers, and the jury convicts the defendant. The case is appealed through the courts and gets to the U.S. Supreme Court, and the U.S. Supreme Court reverses the conviction and sets the man free, saying that the statements made to the police officers should not have been admitted, that it violated the defendant's right against self-incrimination and because of double jeopardy the defendant cannot be tried again.

Imagine the outcry you would have in this country if the defendant were involved in a Lindbergh or a Patty Hearst kind of case. What you would have, Mr. President, is some people in Congress urging legislation to take away from the Federal courts the right to pass on cases involving self-incrimination.

Or I will put you another case, and I will wager in this Congress today there are people who wish they could do it: The press—no, let us take a better one—speech, the inflammatory statements, the barn burners of the country make and they are often not made by people who we choose to socially associate with. On occasion they defame elected officials. On occasion they say worse. On occasion they frighten us, they make statements about our forms of government. We regard them as dangerous, we say, to our liberties and so we introduce legislation to say that in certain types of cases involving speech the Federal courts shall have no jurisdiction to hear the cases.

Mr. President, I think it is unconstitutional to do that. I do not think we have the power to say that certain kinds of cases involving fundamental constitutional liberties may be taken away from the courts, but if we have the power, and again I will emphasize if any legislation like this is passed it is clearly going to court. But if we have the power it is not wise policy because the only ultimate protector any of us have, you, Mr. President, or me, or any other citizen in this country, is a court that is willing, because of its long tenure of lifetime appointment and a long tradition of reverence for the Constitution and the Bill of Rights, to stand up for the unpopular person and the unpopular opinion.

Mr. President, it is said that if the court makes wrong decisions, we should right them.

Mr. President, the history of Congress and the Presidency has had some glorious moments, moments of great tradition, great excitement, and great leadership.

But we have also had some moments of disrepute and sham, both Congress and the President.

The Alien and Sedition Acts passed in the late 1700's ironically shortly after this country was founded, prohibiting publication of material bringing the Government or the President into disrepute—clearly were unconstitutional. Fortunately, the acts had a sunset provision and they ran out before they were declared unconstitutional but they clearly would have been declared unconstitutional and Congress was so ridiculed that they did not have the gall to repass them.

Andrew Jackson in the early 1830's trying to hold together what was already starting to be a divided Nation on the issue of slavery, by Executive fiat issuing an order barring abolitionist materials from the mails so that information unsympathetic to the slave owners in the South would not be sent through the mails—clearly unconstitutional but undertaken by a great President, Andrew Jackson, in an effort he thought to prevent the Nation from rendering itself asunder and if that required a slight violation of the Constitution, so be it.

In our era, the McCarthy era of the 1950's, we were swept off our feet by the fear of communism, at a time when Congress came close to violating the constitutional rights of many citizens in this country, and did violate the constitutional rights of a few; the Watergate era, clearly an effort by the Presidency to violate the constitutional rights of our citizens with acts of search and seizure that certainly bordered on unconstitutionality, taken by an administration because, of course, they knew they were right, and when you know you are right, when God speaks to you and says, "I know you are right, I am going to tell you what to do," then, of course, it is clear that those who disagree must be wrong, and if the Constitution stands in the way of correcting the actions or the thoughts of those who are wrong, forget the Constitution a little bit.

Perhaps the worst violation, however, at least in our era, was the internment of the native-born Americans of Japanese ancestry during World War II. Interestingly, these were not immigrants. These were not aliens. There were native-born American citizens of Japanese ancestry.

Many in this body will remember the passion following Pearl Harbor, the fear of the Japanese invasion of the coast of California, Oregon, and Washington, the absolute paranoia which seized us after Pearl Harbor. Our Navy had been destroyed, although fortunately not our planes, but it was a few months after Pearl Harbor, before the battle of Midway and, indeed, we turned the tide of the war in the Pacific, but that fear, following Pearl Harbor, led us to put into camps located hundreds of miles from the Pacific coast, native-born Americans were we kept them for the duration of the war.

Interestingly, we did not put into camps native-born Americans of German or Italian ancestry on the Atlantic coast, only native-born Americans of Japanese ancestry on the Pacific coast.

Apart from the ignominius act of interning any native-born Americans, I thought it was an interesting distinction that we selected only those of Japanese ancestry, with whom we were at war, as a danger to this country.

Interestingly, because of their physical characteristics, we were worried about the terrorism or about the saboteurs, people who were clearly more physically identifiable to the police and the citizenry, if they attempted to engage in acts of sabotage, clearly

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more identifiable than were those of Italian or Germany ancestry.

Mr. President, the case involving the internment of those Americans of Japanese ancestry went to the Supreme Court. Even to prove that the Supreme Court in moments of extraordinary fear can be swept off its feet, a divided Court in a close vote upheld the constitutionality of the internment. The internment was based upon the executive order of an American President celebrated by most people for his feelings toward the underdog, for this feelings toward human liberties and civil rights. The President was Franklin Roosevelt who issued the order to imprison our citizens.

Equally interesting, although it was not a case in which he was directly involved, the district attorney of Alameda County, Calif., at that time spoke in favor of the internment, and his office argued in favor of the internment, and he clearly was on record in favor of the internment. That district attorney in Alameda County, Calif., in the Oakland area, at that time was Earl Warren, the man later to become the Chief Justice of the Supreme Court of the United States, and to this day a person revered for his defense of civil liberties.

In Justice Warren's defense it can be said that in his memoirs he looks back upon the internment as a terrible mistake, one of which he was ashamed in his participation and in his views, and he recanted as best as was possible.

But he attempted to explain, not to excuse, the passions of the times, and how even he could be swept off his feet in a moment of fear at a time when, in retrospect, it was very clear that the Japanese Empire was in no position to invade the Continental United States.

So, Mr. President, we want to be wary about reactions to Supreme Court decisions. As I have indicated, once we start down the road of saying the Court may not hear cases involving, and then put in dot, dot, dot, prayer, abortion, busing, what else, whatever 51 of us in the Senate can think up and get the votes to pass, because we are mad at something or somebody or afraid of something we do not know or put out because a dissident minority does not march to the same drummer we do, let us be wary about starting in that direction.

Mr. President, the history of liberty in this country is not furthered by a compelled conformity to a particular view. Liberty is best protected by diversity, by 100 voices arguing 100 viewpoints, all with a mutual tolerance for each other's differences of opinion.

Nowhere is it more important than in the area of religion, because when the matter involves religion it somehow in all of our minds occupies a higher priority.

We can disagree whether or not radio stations ought to have 5- or 7-year licenses, and whichever way you come down on that issue does not rise to the level of a moral issue. We can disagree in good conscience about wage and price controls. We can disagree on whether or not block grants for education are good or bad things. But when it comes to the issue of religion, when we believe that God speaks to us, then we somehow feel compelled to enforce our views on others because not to do so would be immoral for us because we would be crossing our God.

We had that era in America once, very strict religious colonies, most heavily emphasized by the Puritans, who came from England to escape religious persecution in that country, because their views were different from the then established religion, the Church of England.

They were harrassed, their properties taken, the right to attend the church of their choice limited. They came to this country and imposed, in the areas where they settled, the very same doctrinaire, intolerant religion that they had left—not the same religion, different religion, but the same intolerance.

Unfortunately for them, they left England only about 20 years too soon, because at this time in the early 1600's, there was a growing dispute in England between the Catholic dynasty, the Stuarts, and the Church of England and the so-called independents or dissenters. They had a variety of different names—Presbyterians in Scotland, dissenters in England. But they are all what we would regard now to be significant religions in many areas. They were regarded then by the establishment much in the same way we might regard many of the cults, or minor, or newer religions in our country today.

The irony was that the Puritan faction gradually began to gain a certain control in Parliament. And the King, King Charles I, was having more difficulty with Parliament. And Parliament by that time had gained a quasi-control of the purse, not a full control of paying for the cost of government, but a quasi-control of the purse.

Roughly, you had this situation: The King, if there was no war and if he was frugal, could probably pay for the bulk of the civil costs of government from the crown revenues. He did not have to levy taxes to do it. The King had great land, the incomes from them would pay for the civil cost of government. The problem was the King could not levy war because his lands would not produce enough revenue.

In 1628, Parliament adjourned and it was not called again for 12 years. King Charles I attempted to govern in those 12 years without calling Parliament. And he did not want to call Parliament because it was fractious and disputing and did not like him and was being controlled more and more by the dissidents and the independents rather than the Church of England. Especially was this true in the House of Commons.

But finally, in 1640, the King had no choice, becaue the Scots were at war with the English and were beating them badly. And this, of course, was before the union that joined together the countries of Scotland and England. Beating them badly, they moved into significant positions in northern England. They were allied with the Welsh. The French, of course, forever making trouble with the English, were encouraging them, partially arming them, and England was in a desperate situation.

So the King called Parliament. Parliament, of course, while not liking the King was not enthusiastic about the Scots coming down into their country. But before they would appropriate money for the war, they wrung from the King certain concessions about the rights of Parliament and the rights of the English citizenry. The King set forth a petition saying he would grant those. The money was appropriated and the war was not won by England but a temporary armistice was arranged.

Whereupon, the King reneged on his promises. But at this stage, it was too late. The Parliament had a heavy taste of independence.

Oliver Cromwell, surely one of the most extraordinary natural leaders in history—I do not say that in the sense of a naturally good leader. The man had extraordinary elements of evil in him. But natural leader, nonetheless.

A man of middle income, certainly not born to the gentry in the sense of the lords but not born to poverty, a man who had had some slight training as a youth in the riding of horses, but no military training—none—and certainly not the kind of military training and the training in the handling of arms that the gentry and nobles had in that day.

Cromwell became the parliamentary leader in the Parliament in the early 1640's. It became very clear that there was going to be a division at last and perhaps war between the Parliament on the one hand, allied with the city of London, allied with some of the merchants against the King and the landed gentry and the nobles.

And there was a standoff for a while. As the war went on, it became clear that Cromwell, if it was going to be successfully prosecuted, could not only continue to be the leader of the Parliament but he was going to have to be the leader of the army, the Army of the Round Heads, as his group was called, because they shaved their heads. He had to be their leader because it was a fanatic religious army. Anyone could not join. Officers were elected. They prayed daily. They would pray in the middle of battle. They had that incredible zeal that comes to you when you know that God is on your side and God is against your enemies.

The King retreated to the country, set up his standards of forces a good distance from London. Cromwell became the very effective leader of the Parliament now deserted of the King forces. Only the difficulty was he was now having some difficulty with other religious groups in the Parliament who were not the Independents, not the Puritans, not the Church of England. And he was having difficulty getting the Parliament to appropriate money for his army which was called the New Model Army. Indeed, an extraordinary army it was. They used horses half the size of the great warrior horses the nobles used. They learned to charge in formation and reform and charge again and reform and charge again, which was at that time new in cavalry warfare.

So, at the same time that Cromwell was trying to train and retrain his army, he was also trying to keep his hands on the Parliament. Finally, it became clear that Parliament was simply too fractious to control.

So one day, Colonel Pride, one of Cromwell's aides, simply stood at the door of Parliament in what has become known in history as "Pride's Purge." He simply turned away all who disagreed with Cromwell and the Puritans. And, of a Parliament that at that time numbered in excess of 500 people, only 57 were left.

Cromwell finally could not entreat with the 57, and on one famous day in history he went in the Parliament and, in essence, said to them, "Be gone. You are a disgrace to God and the country." And he dismissed the Parliament and attempted to rule alone, with only the army at his side and as his strength, in a country that did not have a history of a standing army, in a country that has, as we do, a tradition of civilian control of the military. And at this stage Cromwell found himself alone. All of his former allies left him.

(Mr. MURKOWSKI assumed the chair.)

Mr. PACKWOOD. The King, who was never to be at the peak of his strength, was at the peak of his strength, and there then ensued what is known as the second civil war, the first one having been basically the fight between Parliament and the King, the second one now being the fight between Cromwell and everyone.

Winston Churchill describes it as well as it can be described in his "History of the English Speaking Peoples" when he said as follows:

> The story of the second civil war is short and simple. The King, the Lords and Commons, landlords and merchants, the city and the countryside, the church, the Scottish army, the Welsh people, and the English fleet all now turned against the new model army. The army beat the lot. And at their head was Cromwell. It was the triumph of some 20,000 resolute, ruthless, disciplined, military fanatics over all that England ever wished or ever willed.

Twenty thousand in a country of 3 million. Twenty thousand zealous Puritans, a country of 3 million in which the Puritans probably never numbered over 75,000 to 100,000, imposing their will on a country with a tradition of a love of liberty as great as ours, because of their absolute conviction and willing to act on it, and they did.

Mr. President, as I have just indicated, both from the acts of this country, the Alien and Sedition Acts through Watergate, and the history of the Cromwell period, it is very clear that under certain circumstances a country can be swept off its feet. It is perfectly natural, it is perfectly understandable, and for any one of us in or out of elective office to say, "I have never lost my better judgment of the past"—if we can say this I think we are fooling ourselves or fooling others.

It is imperative that we realize that the carrying out of the will of the majority does not take great courage. It is the protection of the rights of the minority against the wishes of the majority that takes great courage.

Unfortunately for those in the vanguard of the defense of civil liberties, it is often not a defense of some properly suited, short-haired, attractive defendant. It is often the defense of a wild-eyed, woolly haired, radical-looking defendant who runs against the grain of America and we defend his rights because if his rights can be taken away procedurally, ours can, too.

I well remember speech after speech of the Senator who was my immediate predecessor in the Senate, Wayne Morse, who was dean at the University of Oregon Law School prior to this election to the Senate, and a teacher and well-known constitutional law scholar. If I heard him say once I heard him say 10 times:

> Give me control of the procedures of democracy, and I will control the substance of democracy.

It is interesting to note that the effort to take away court jurisdiction in terms of whole great classes of jurisdiction over entire subjects is relatively new to this Republic.

I want to quote a memorandum from the Library of Congress by Leland Beck, one of their staffers who has done excellent work in this subject.

The memorandum is entitled: "Historical Proposals To Except Particular Cases From the Appellate Jurisdiction of the Supreme Court of the United States."

> This report reviews the major historical proposals to except particular cases from the Supreme Court's appellate jurisdiction. The Constitutional premise for these bills is the Exceptions and Regulations Clause of Article III, § 2, of the Constitution. After enumerating the types of jurisdiction contemplated in the Constitution and specifying when that jurisdiction is to be trial in nature, the Constitution provides: "In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."
>
> Prior to 1956 there do not appear to have been any substantial proposals to except particular classes of cases from the Court's jurisdiction. The authority exercised by Congress was limited to the regulation of processes of review by the Court. Numerous calls were made in the early days of the Republic for the abolition of the Court's jurisdiction to review decisions of the State courts of last resort, but none of these proposals succeeded; on the contrary, there was a steady increase in the scope of both the Supreme and inferior federal courts' jurisdiction.
>
> Beginning in 1956, numerous proposals have been introduced to except a particular specie of cases from the Court's jurisdiction. The purpose of these proposals has been to stop the Court from further elaborating particular areas of constitutional law. The proposals have included both generic rights and particular types of prospective legislative review, including: due process in subversive activities regulation, contempt of Congress, desegregation of schools, reapportionment of State legislative bodies, regulation of obscenity, prayer in public schools, abortion, gender discrimination in military conscription, and others. We will here review the proposals which have received serious Congressional attention.
>
> The first bill to receive formidable consideration was introduced by Senator Jenner in 1957. S. 2646 proposed to except from the Court's jurisdiction "any case where there is drawn into question the validity of" five different areas of governmental regulation or activity. At the time of hearings, the bill provided:
>
> Notwithstanding the provisions of sections 1253, 1254, 1257 of this chapter, the Supreme Court shall have no jurisdiction to review, either by appeal, writ of certiorari, or otherwise, any case where there is drawn into question the validity of—
>
> (1) any function or practice of, or the jurisdiction of, any committee or subcommittee of the United States Congress, or any action or proceeding against a witness charged with contempt of Congress;
>
> (2) any action, function, or practice of, or the jurisdiction of, any officer or agency of the executive branch of the Federal Government in the Administration of any program established pursuant to an Act of Congress or otherwise for the elimination from service as employees in the executive branch of individuals whose retention may impair the security of the United States Government;
>
> (3) any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State;
>
> (4) any rule, bylaw, or regulation adopted by a school board, board of education, board of trustees, or similar body, concerning subversive activities in its teaching body; and
>
> (5) any law, regulations of any State, or of any board of bar examiners or similar body, of any action or proceeding taken pursuant

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> to any such law, rule, or regulation pertaining to the admission of persons to the practice of law within such State.

Mr. President, it is very clear what fear was expressed by Senator Jenner: Communist infiltration, people working in our Government whose loyalty was suspect; funny-looking people in school who, because they did not dress the way the other teachers did or perhaps belonged to the Socialist Party instead of the Democratic or Republican Party, were suspect.

Let me reread just one of these things that Senator Jenner wanted to remove from the Court's jurisdiction.

> Any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State.

Subversive activities defined by whom? The State. You cannot appeal it if you are thrown out of a job, or denied your veterans benefits, because you are subversive according to the State.

Let me emphasize again, according to the State, any statute or executive regulation.

Mr. President, I hope I do not have to call to the attention of the Senate not just the kind of mischief that kind of limitation can cause or call to the attention of the Senate the kind of fundamental rights and liberties guaranteed by the Constitution that can abrogate because you will not be allowed to go to Court to test what the State wants to do.

To go on with the memorandum:

> By way of correlation, the first exception was founded on the authority of a Congressional Committee regarding witnesses and the power of contempt of Congress, and was in response to the Court's decision in *Watkins* v. *United States.* Second, the bill would have removed jurisdiction to review any program to assure the loyalty of government employees, in response to the Court's decisions in *Service* v. *Dulles* and *Cole* v. *Young.* The third excision of jurisdiction centered on state "subversive activities" controls in response to, among other cases, *Pennsylvania* v. *Nelson.* A still more particular jurisdictional removal centered on rules or regulations of Boards of Education and like bodies concerning "subversive activities" by members of their teaching staff in response to the Court's decision in *Slochower* v. *Board of Higher Education.* Finally, the Jenner bill would have removed jurisdiction to review bar admissions practices and policies, a response to *Schware* v. *Board of Bar Examiners* and *Konigsberg* v. *State Bar of California.* All of these decisions were handed down during 1956 and 1957 and limited the Cold War loyalty and security programs. The bill was thus a major political response tuned to the perceived crisis of its time. The style of the bill, however, appears to be the first attempt to utilize in the strict linguistic sense the power of Congress to make "exceptions" to the Court's appellate jurisdiction.
>
> Hearings were held on the bill and a substantially revised and more limited version was reported to the floor of the Senate. After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the federal courts. Both the new parent bill and the amendment, however, were laid on the table and were extinguished at adjournment sine die. Less problematic responses to another court decision were more successful.

It is interesting to see the procedure. After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the Federal courts. At least the Jenner bill was on the calendar. It had gotten out of committee. The amendments that we are dealing with here now are amendments that have never gotten out of committee. They have been in the Judiciary Committee. The Judiciary Committee will not send out a bill limiting—or has not—the jurisdiction of the courts to review school prayer. To date, they have found it unwise. To date, the Judiciary Committee has not sent out a bill on abortion limiting the right of courts to review that question.

The Judiciary Committee has sent out a constitutional amendment on the subject of abortion and it is on this calendar. And the majority leader (Mr. BAKER) had indicated we will have a debate on that. That, at least, is the fair way to go about amending the Constitution.

I do not want to give anybody any misimpressions. I am not going to support that constitutional amendment. But we will debate it.

(Mr. MATTINGLY assumed the chair.)

If we are going to reverse a constitutional decision of the Supreme Court, that is the way to reverse it. It is the way to reverse it as we did with the 11th amendment because prior to that amendment the Supreme Court had held that a citizen of one State could sue another State. The States did not like that. So an amendment was passed through the proper procedures, two-thirds of the House and Senate, ratified by the States, that a citizen of one State cannot sue another State.

Then we did it again with the Civil War amendments, to reverse the Dred Scott decision in the mid-1850's which said that blacks were not citizens. We did not try to overturn that by a statute. Even at the height of the passion of the Civil War, still the greatest, most devisive war that this Nation has ever been involved in, a war that left a scar on this country that is still visible today, we did not try to reverse the Dred Scott decision by legislative action in a Congress that at that time was barren of southerners.

You could have passed a bill through that Congress easily. People in that Congress realized that you do not tamper with the Constitution in moments of passion by passing a bill to overturn a Supreme Court decision, and so they did it by constitutional amendment.

We did it with the 16th amendment. The Supreme Court said we could not levy an income tax, and over the years there was some thought in Congress of trying to reverse the Supreme Court on that decision by statute, but we did not. We passed the 16th amendment which said that Congress has a right to levy an income tax.

We did it just a few years ago with the 26th amendment. Congress had passed a law lowering the voting age to 18 for Federal and State elections. The Supreme Court said that we did not have the right to lower the voting age to 18 for State elections. We could do it for Federal elections. So an amendment was proposed granting 18-year-olds the right to vote in State elections. It passed by two-thirds of the House and Senate, went to the States and was ratified by the States.

That is the constitutional way that we change decisions of the Supreme Court that we do not like.

Our founders intended very deliberately that those rights written into the Constitution would not be easily abrogated. Before we changed them, they wanted to make sure we thought about it for a long time. We debated it extensively, and we finally sent it out to the States in the form of a constitutional amendment because the rights in that Constitution were so precious that they were not to be abrogated quickly and passionately.

Let me return to the Jenner bill.

> A second major attempt to remove a particular subject matter from the court's appellate jurisdiction was in response to the reapportionment decisions: Baker v. Carr and Reynolds v. Simms. H.R. 11926 was introduced in 1964 by Congressman Tuck to remove the court's appellate jurisdiction and to deprive the inferior Federal courts of trial jurisdiction in all cases relating to the apportionment of representation in State legislative bodies.

My fellow Senators, this is within the last 20 years, and it is no wonder the Court finally got into it. Earlier today I was talking to the majority leader because this case of Baker against Carr comes out of his State of Tennessee. He told me that there were two districts—Tennessee has a historic division depending upon whether you are in east or west Tennessee as to whether it has Republican or Democratic tendencies that date back to the history of the Civil War—having a population of about 1½ million people. One of the districts in the other end of the State had 57,000 people.

The Republican Party thought it was being treated unfairly in Tennessee and brought the case to court. The case went up to the Supreme Court, and the Supreme Court for the first time said, "You are right; no more are we going to have people disproportionately represented. Henceforth, it is going to be one-man, one-vote"—a principle today so accepted on its fairness that we would not think of trying to overturn it, but in the heat of the moment at that time there was an effort.

> Congressman Tuck's bill was referred to the House Committee on the Judiciary, but the committee gave no evidence of intention to act on the bill.

Very similar to the prayer and abortion bills we face today.

> Therefore, proponents of the measure introduced a procedural resolution, which was referred to the Rules Committee and reported out, to discharge the Judiciary Committee from consideration of the bill and calendar the bill for immediate action by the full House. After an acrimonious debate, the resolution was passed and the bill was called for consideration.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor and without giving up my right to continue any speeches.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor and without the interruption counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am prepared now to put us in morning business briefly and to resume consideration of this matter tomorrow.

(The following statements were made or submitted earlier today and are printed at this point for purposes of germaneness:)

Mr. PERCY. Mr. President, the amendments offered by the Senator from North Carolina not only address the sensitive and controversial issues of prayer in our public schools and abortion but seek through restriction of court jurisdiction to overturn decisions of the Supreme Court. These amendments raise a very serious question: Should the Congress attempt to accomplish a change in constitutional law by altering the jurisdiction of our Federal courts? I have grave reservations about such a step being within the constitutionally established powers of the Congress, and I am convinced that taking such a step would be poor public policy indeed.

In the first place, under our system of separation of powers, governmental functions are carefully allocated among the three branches. Article III states specifically that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." It is the judiciary which the founders entrusted with the responsibility to interpret the Constitution and laws passed by the Congress and to hear the cases and controversies arising under them. The Federal courts have long been a vital instrument for the vindication of constitutional rights. At times, they have provided the only bulwark of protection available from the intrusive demands of the Federal Government itself. I believe for several reasons that the attempt to strip Federal courts of jurisdiction over a class of cases offends the underlying structure of the Constitution.

First, this move is an effort by the legislative branch to remove from the judiciary a portion of that "judicial power" vested in it by article III of the Constitution. It is a direct attack on the independence of the courts, and threatens the balance and stability of the separation of powers ordained in the Constitution. Second, I believe it is an attempt to overcome the orderly amendment process set forth in article V by the founders. Third, I believe that any measure which attempts to deny prospective claimants a forum for the vindication of certain constitutional rights must be set against the portion of the Constitution which confers those rights. The provisions of the Constitution are, clearly, far more basic and fundamental than a statute which attempts, however indirectly, to deny enforcement of the rights they provide.

Advocates who have a strong desire to overturn constitutional decisions of the Supreme Court should think long and hard before adopting this approach. While there may be some temporary advantage in passing such an amendment, it would be gained at a deep cost to our system of government. The checks and balances system on which we have relied for almost two centuries would be deeply disturbed. If the Congress began to pass statutes and remove cases arising under them from Federal court jurisdiction, the existing forces of cohesion and unity in our legal system would be sorely tested; fragmentation and disintegration would surely result.

I am not the only Senator who views these court-stripping proposals with alarm. Many able and informed scholars have voiced similar warnings. I would commend to my colleagues some language from a resolution of the Board of Governors of the Illinois State Bar Association, adopted earlier this year. It quotes Mr. Robert Landis, President of the Pennsylvania Bar Association, on the same point:

> Tampering with this fundamental responsibility (of the federal courts) as a political expedient to satisfy popular opposition to Supreme Court decisions is a treacherous legislative experiment. It challenges the spirit of the Constitution. Its legitimacy is suspect. Its invitation to vagrant, disparate constitutional interpretations among the high courts of the fifty states could fragment the integrity of the Constitution that has bound this nation for nearly two hundred years into a coherent legal establishment.

For these reasons, I intend to support the amendment offered by Senators Baucus and Weicker to reaffirm the independence of our Nation's courts.

POSITION ON VOTE

Mr. PERCY. Mr. President, on the motion to table the Weicker amendment, I intended to vote in the negative but inadvertently voted in the affirmative not realizing it was a motion to table.

I support the Weicker amendment. My record in opposition to legislation stripping courts of their review of certain issues is clear and longstanding.

The PRESIDING OFFICER. Is the Senator from Illinois attempting to change his vote?

Mr. PERCY. No, I have not sought to change my vote.

Mr. GARN. Mr. President, I would like to take the opportunity to comment on some of the hysteria that invariably accompanies any discussion in this or the other Chamber on the subject of abortion.

To hear the proponents of abortion tell it, by voting for this amendment or for any others like it, we will be putting women in jail for having miscarriages, requiring the decision to have a baby to be between you, your husband, and your Senator, forcing somebody's religion on everyone, subverting a woman's right to control her own body; we even hear extreme references to coerced maternity. I think it's important to reassure people on these points.

The American Center for Bioethics recently completed a study of case law under the abortion statutes which were in effect for 150 years or so until 1973 to see if claims that prohibitions on abortion would result in murder charges or prison sentences had any basis in fact. It was felt that past experience would be a reliable guide, given the dependence of our legal system on precedent. This was the center's conclusion:

> No evidence was found to support the proposition that women were prosecuted for undergoing or soliciting abortions. The charge that spontaneous miscarriages could result in criminal prosecutions is similarly unsupportable. *There are no documented instances of prosecution of such women for murder or any other species of homicide;* nor is there evidence that states that had provisions enabling them to prosecute women for procuring abortions ever applied those laws. . . . *In short, women were not prosecuted for abortion. Abortionists were.* . . . It is unlikely that enforcement of future criminal sanctions on abortion would deviate substantially from past performance patterns. (emphasis added).

The enactment of a statute such as the one before us would no more coerce maternity than current laws against murdering one's mother-in-law coerce son-in-lawhood. None of the measures now pending in Congress

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presume to force a woman to become pregnant, to prohibit the use of contraceptives, or to otherwise regulate the kind of behavior which results in pregnancy. We all agree that these are areas in which husbands and wives should properly be in control. The fact that is so conveniently overlooked, though, is that once a woman becomes pregnant, another separate living human being is then involved which ought to have some sort of protection.

The Supreme Court entirely disregarded this fact, but that does not justify our doing so. Medical and biological science teaches unequivocally that a new life begins at conception, not at birth. After all, the remarkable thing about Louise Brown was not the circumstances of her birth, so much as the circumstances of her conception. Her beginning was most definitely not at birth, and the same is true of all of us. By no stretch of the imagination is it possible to say that the nonviable fetus at 7 or 8 months' gestation—who is eligible for abortion under Roe against Wade—is not human or alive by comparison with the newborn at 9 months' gestation.

As for the claim in the newspaper ad this week that "the decision to have a baby could be between you, your husband and your Senator"—I can see how that might apply to my wife and her Senator, but I am hard pressed to see its relevance anywhere else, especially given the strange nature of privacy as defined by the Supreme Court in the abortion situation. Privacy, according to the Court, exists between a woman and her doctor—not to mention the additional medical, administrative, and welfare personnel who may be involved. The husband or natural father is excluded from that privacy; he is, in the words of a later decision, Planned Parenthood against Danforth, 1976, only a third party. Apparently the recently discovered abortion right has become so precious that all other values must be sacrificed to preserve it, including the marital relationship, a father's right to have children and to protect them, and a parent's right to be informed about the acts of his minor children, for which he is held legally responsible anyway.

There is also the argument that any law prohibiting abortion would amount to an unconstitutional establishment of religion. Many appear to believe that the only possible reasons for opposing abortion on demand are religious, and thus invalid. It is obviously misguided to assert that the Government establishes a religion simply because it holds to a particular value which is endorsed by a religion. For example, both the right of individuals to own private property and the right of governments to collect taxes are explicitly affirmed in scriptural texts of some churches, but no one contends that for this reason laws protecting private property or providing for the collection of taxes represent an establishment of those churches. There are secular reasons, of course, for governments to do these things, and there are also definite secular arguments in favor of protecting developing human life, provided one assumes that any human life has value.

Even in Harris against McRae, in which the Court upheld the right of Congress to make decisions on public funding for abortions, the Court refused to overturn a duly enacted statute simply because it might be in or out of harmony with a particular school of thought, even when that statute represents a value judgment the Court had earlier rejected in Roe against Wade. Also relevant to the amendment at hand is the fact that the Court in that case acknowledged that the legislature is the only branch of Government able to respond to taxpayers' objections on how their tax dollars are used. "* * * (W)hen an issue involves policy choices as sensitive as those implicated (here)," the Court said, "* * * the proper forum for their resolution in a democracy is the legislature." (*Harris* v. *McRae,* 100 S.Ct. 2693 (1980)).

There are those among us who insist that the right to choose is paramount, even over a right to life. Aside from the obvious fact that the right to choose is meaningless until the right to life has been guaranteed, there must be some sort of limit on the type of behavior that can be justified by some all-encompassing right to choose. Those same prochoice advocates do not defend the right to choose the killing of seals, whales, rabbits, or puppy dogs, nor do I. Laws against this sort of behavior are not based on JAKE GARN's whims, but upon what our civilization has generally understood to be humane, civilized bulwarks against barbarism. Certainly human beings, at whatever stage of their biological development, deserve at least the same kind of protection.

One vigorous proabortionist, a Leo Pfeffer, has been quite frank about sizing up the Court's action in Roe against Wade and other cases. He said:

> The nine judges on the Supreme Court, being immune to political reprisal, since they serve for life, may be performing a significant though quite controversial function; they may be compelling the people to accept what the judges think is good for them but which they would not accept from elected legislators.

Certainly our responsibility to uphold the Constitution is no less than that of the Supreme Court. As Professor John Hart Ely has said, Roe against Wade was not constitutional law, "and gives almost no sense of an obligation to try to be." In my readings of the Constitution I have never found an all-encompassing right to abortion, nor any reference to what may or may not be done during each trimester of a pregnancy. I have always understood that it was the function of the Constitution to protect what Jefferson called those inalienable rights, first and foremost of which is life. I do not see how it can at the same time be construed to sanction the wholesale destruction of human life that is taking place in our society today at the rate of about 1.5 million lives per year. I believe it is our responsibility in Congress to respond. Abraham Lincoln said once that "If I were in Congress, and a vote should come up on a question of whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision, I would vote that it should." Our response to the similar denial of basic human rights which we are now facing should be no less, and I urge the support of my colleagues for this amendment.

PERSONAL EXPLANATION OF A VOTE

Mr. SASSER. Mr. President, I was necessarily absent earlier this morning and was unable to vote on rollcall vote No. 334. Had I been present and voting, I would have voted yes on the Helms motion to table the amendment of the Senator from Connecticut (Mr. WEICKER).

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent there now be a brief period for the transaction of routine morning business.

I further ask unanimous consent that when we resume consideration of the pending measure, the present holder of the floor, the Senator from Oregon, be recognized without charging it as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past 7:15 in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOSEPH MATLUK CELEBRATES 87TH BIRTHDAY

Mr. SPECTER. Mr. President, I am pleased to rise today to congratulate Joseph Matluk, a resident of Pennsylvania, who will be celebrating his 87th birthday on August 22. This occasion will be used to honor Mr. Matluk as the oldest veteran member of the Ukrainian American Veterans.

Mr. Matluk was born on August 22, 1895, in western Ukraine and emigrated to the United States at the age of 18. He enlisted in the U.S. Army in 1917 and was assigned to Company B, 306th Sanitary Unit Ambulance Field Hospital in Columbia, S.C. He served until 1918 and received an honorable discharge.

Mr. Matluk is distinguished not only as the oldest member of the UAV, but also as one of the founders of the organization the Ukrainian American Veterans was founded in Philadelphia in 1948. The group is composed of men and women of Ukrainian descent who have served in the Armed Forces of the United States. Although the UAV was not organized until after World War II, its membership includes veterans from World War I, World War II, the Korean conflict, and the Vietnam era. Mr. Matluk continues to be active in the UAV at Post No. 4 in Philadelphia.

The United States owes a great debt to all our veterans, but it is particularly heartening to learn of immigrants who, having spent only a few short years in this country, willingly enlisted in our Armed Forces when we needed them. My father was one of these people who after arriving from Russia in 1911, fought in World War I as a member of the U.S. Army. I have always been proud of my father's act of patriotism and Mr. Matluk and his family can be justifiably proud of his role in World War I and in the founding of the Ukrainian American Veterans.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED MONETARY POLICY ACT

Mr. MITCHELL. Mr. President, our economic problem has two parts: One is the size of current and predicted Federal deficits. The other is the recession, which keeps deficits high.

Unemployment has risen 2.7 percent since July 1981. Every percentage point increase in unemployment costs the Federal Government an estimated $30 billion in lower tax revenues and higher unemployment compensation payments. That 2.7 percent unemployment increase, alone, would account for $81 billion of the 1983 deficit if it remains unchanged for a year.

The administration is pursing an expansionary fiscal policy of higher defense spending and lowered tax revenues. But the expansion is colliding with the tight money policy the Federal Reserve is using to stifle demand and control inflation. The clash between monetary and fiscal policy has helped create the incredible rates of real, after-inflation interest which are now strangling our economy.

A more moderate fiscal policy might have accommodated a tight monetary policy without forcing interest rates to damaging levels. But the counsels of prudence did not prevail on the fiscal side.

I proposed an alternative budget which would have frozen Federal spending and delayed the third year of the tax cut as a more prudent approach to economic recovery. It would have placed us on the road to a balanced budget by 1986, with lower deficits in the meantime. Other Members of Congress offered alternatives that would also have taken a less radical, less experimental approach to the economy. No alternatives were seriously considered.

The current debate over spending and taxes focuses on half the economic picture. The half it ignores is the monetary policy underlying out spending and taxing decisions. But unless we focus on that half as well, we will continue to have an unbalanced economy.

Whether we use the Congressional Budget Office prediction of a $140 billion budget deficit in 1983, the White House prediction of $115 billion, or the New York Federal Reserve's prediction of $163 billion, all economists agree that we cannot have a strong, sustained recovery at current interest rates. And unless the economy recovers, the deficits will remain largely unaffected, no matter what we do on spending programs or tax law.

The 1981 Nobel Prize winner for economics, James Tobin, declares, "The monetary policy is the main barrier to sustained recovery." He is right.

The policy the Federal Reserve abruptly adopted in October 1979 is a major factor keeping real interest rates astronomically high. From 1946 until October 1979, the Federal Reserve moderated interest rates to allow for economic growth. Its focus on money supply targets, in effect since October 1979, allows the market to set interest rates; it has sent after-inflation interest rates soaring, gravely damaging our economy.

Real, after-inflation interest rates have averaged 6.5 percent since October 1979. In the first quarter of this year, the after-inflation, real rate of interest was running at 12 percent. In that same first quarter, businesses were going bankrupt at the rate of 35 in every working hour. We had 13,000 business failures in the first 7 months of this year.

The business community cannot stand several more years of such interest rates.

The alternative to tight money and ruinous interest rates is not a retreat from a stable, predictable monetary policy, as the administration implies. The sensible alternative is a middle ground between a policy that disregards money targets and a policy that disregards interest costs.

Such a middle ground exists in the Balanced Monetary Policy Act. This bill would direct the Federal Reserve to broaden its policy to target both interest rates and money supply. Its components are straightforward:

It would instruct the Fed to target both money supply and interest rates and to keep rates within historic norms. Historically, real, after-inflation rates have been between 1 and 4 percentage points higher than inflation.

The Fed would maintain positive real rates. If inflationary pressures resumed, the Fed would allow interest rates to rise. That would protect savers against negative interest rates—interest lower than the rate of inflation—and dampen inflationary demand.

The Fed would emphasize annual targets for both interest and money aggregates. An emphasis on annual targets woud give the Fed flexibility to respond to changing economic conditions without triggering panic when a given weekly target is not reached. Businesses and economies do not function week to week—they operate on a longer calendar, and there is no rational reason why the credit on which business is dependent should be held hostage to exaggerated reliance on the weekly ups and downs of the Fed's targets.

The Fed would be required to make progress reports twice a year to Congress on its success in reaching both money-supply and interest-rate targets.

To protect its ability to respond to rapid changes in the economy, the Fed would be required only to report to Congress in 10 days if economic conditions demanded a drastic change in policy. That would let the Fed act without restraints on its independent judgment, while retaining the important component of public notification, so those affected by a changed policy would have timely notice of the change.

The Fed's recent cuts in the Federal Funds rate it charges banks, and its efforts to increase bank reserves and make more credit available have helped ease the prime rate downward. But the real, after-inflation rate remains high.

"Real" interest is the interest earned after discounting for the effects of inflation. Real interest rates have shown much more stability over the years than actual rates or inflation rates.

High real interest rates are a restrictive factor in the economy. If inflation is running at 10 percent and interest rates are 12 percent, the cost of credit is substantially less than when inflation is running at 6 percent and interest is running at 12 percent.

We have seen the unusual phenomenon of rising real interest rates over the last 18 months. That is why, despite declines in some rates in recent weeks, the economy has not responded. Both the prime rate and the Treasury bill rate have declined since 1981, but real rates have risen, and are more of a drag on the economy now than they were at the beginning of 1981.

The basis for controlling the money supply is to restrain demand. The theory is that tight money is reflected in lower prices. But tight money does not discriminate between reducing inflationary demand and reducing output. In its practical application to our economy, it has reduced output.

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And lowered output means jobs lost and businesses bankrupt.

The advocates of tight money claim that business bankruptcies today represent a weeding-out process, whereby badly managed firms and those which were overextended are failing because they deserve to, and the end result will be a so-called lean, healthy business sector. That is pernicious nonsense.

Today 50 cents of every dollar in corporate cash flow is going for debt obligations. No company can plan for future growth or make long-term capital investments in such conditions.

And as long as interest rates price houses, autos, and other major purchases out of the reach of most consumers, there will not be the demand to create a rational investment incentive either.

The 1981 tax cuts to encourage capital investment affect only half the incentives for investment. Business investments are not made just to take advantage of tax cuts. They are made to take advantage of customer demand. Our manufacturing facilities today are operating at 70 percent of capacity because of a lack of demand. Supply-side economic theory focuses on one-half of the equation without looking at the other half. Supply responds to demand, and in today's weak economy, there is little sustained demand.

When well-managed firms such as Caterpillar and Boeing face serious financial difficulties, it is evident that their problems stem from sources beyond their managements' control. A recent New York Times article examined this entire question of the "survival of the fittest," and I ask unanimous consent that the text of that article be reproduced following my remarks.

It is foolish to continue to peg our economy to a money measure which is neither fixed nor determinable. The president of the Reserve Bank of Boston, Frank Morris, recently admitted, "I have * * * concluded, most reluctantly, that we can no longer measure the money supply with any kind of precision."

A broadened focus on both money-supply targets and the cost of credit would be more in line with the realities of our economy, which uses credit interchangeably with money.

Just as supply-side theory focuses too narrowly on one economic policy factor, an obsession with fiscal policy to the exclusion of monetary policy focuses on just one-half of the national economic picture.

Tight money and high interest rates alone might, ultimately, bring down the underlying inflation rate. But tight money is a blunt policy instrument. It can correct inflation only by dealing a knockout blow to our economy.

The current rate of business bankruptcies and the numbers of unemployed workers are both evidence that these interest rates are destroying the basis for economic growth and prosperity.

Our entire economic system depends on a growing economy. Without growth, the money earned on any investment can only come at the expense of someone else in the economy. That is the fixed-size pie model of the economy. It is a model and a conception which I reject. Yet, because of the interest rates to which our economy has been subjected, for the past year and more our economy has virtually been a fixed-size pie. The larger slices that some earn in higher interest rates are coming at the expense of others whose jobs in the housing industry, the auto industry, and our other manufacturing sectors have disappeared.

We have tried the experiment of supply-side theory. It has not worked. It is time we stopped experimenting with a monetarist theory whose own most ardent advocates cannot agree on what it should be controlling.

The most responsible way to cope with the uncertainties in our economy today is to deal with those factors whose effects we can predict with some certainty. It is not difficult to predict what another 2 years of 14-percent and 15-percent interest rates will mean to our economy. We should move to moderate those rates now, rather than waiting for another untried, unproven economic theory to work its will on our only economy.

[From the New York Times, Aug. 14, 1982]

THE EROSION OF AMERICAN INDUSTRY

By Karen W. Arenson

American industry has spent the past year in a crucible, and in the process it has been purged of many wasteful practices. In fact, some management experts predict that the economy will emerge from this recession leaner, tougher and more ready to take on foreign competition.

"The whole system was getting fat and lazy and not paying attention to detail," said Chester Devenow, chairman and chief executive the Sheller-Globe Corporation, a Toledo, Ohio, auto parts manufacturer. "Recession has been a great catharsis."

Though there is some truth in this optimistic view of the country's economic problems, it is far from the whole story. For every Chrysler that is forced to restructure its operations, becoming more efficient as a result, there are many other companies that simply will not survive at all, or will survive but in greatly weakened condition.

"All this talk of catharsis is really just twaddle," said A. J. Steigmann, an economist at the Ford Motor Company. "It's the old story of cod liver oil being good for you, when all it really does is to give you a stomach ache. All we are doing is putting a permanent crimp in the economy."

Indeed, while most economists agree that there may be some improvement in the economic efficiency of certain industries, they warn that the recession has had an insidious effect that is likely to overwhelm any potential improvement. In fact, many believe that the economic downturn, which has already driven Braniff, AM International and other big companies into bankruptcy and pushed the unemployment rate up to a staggering 9.8 percent last month, could ultimately lead to a shrunken economy and a severely strained business sector.

Recessions have certainly battered the economy before, but this one is expected to leave deeper scars because it has been both sharper and longer-lasting than most; many industries—automobiles, steel, housing and countless others—have been depressed for three years now. Moreover, the recession has come at the end of a troublesome decade that has forced business to cope with spiraling inflation, sharply higher energy prices, sky-high interest rates and devastating competition from abroad. No recession has ended with the economy facing such tough adjustment problems as the ones that now exist.

Perhaps the most worrisome consequence of the current recession is that business is scaling back spending on capital investment and research and development, both of which are the underpinnings of tomorrow's growth. Metals companies, auto makers, railroads, airlines, utilities and electrical machinery concerns have all been reining in plant and equipment outlays for some time and are expected to continue to do so. A survey by McGraw-Hill shows that business will spend only 3.9 percent more on investment projects in 1982 than last year. Adjusting for inflation, that represents a 4.5 percent decline.

Similarly, the annual percentage increase in spending on research and development has shriveled from 7.2 percent in 1980 to an estimated 3.8 percent this year, a disturbing figure for a nation that has prided itself on innovation.

"By cutting into capital investment now, we are bending our country's long-term growth trend down," said Albert T. Sommers, chief executive at the Conference Board. "A very prolonged deferral of investment will cost the country hundreds of billions of dollars in lost output, compared to what we would have had under conditions of reasonably normal growth. It will take a long time to make this up."

Corporate America is also trying to cut costs in the area of worker training, a development that Lester C. Thurow, a professor at the Massachusetts Institute of Technology, says will further hamper the economy when it emerges from recession.

"The problem with a financial crunch is that you do make cuts, but you make them wherever you can," Mr. Thurow said. "All new training stops, so we are building a very unskilled labor force, which will tend to make the economy less efficient. And it is not only technical skills that atrophy, it is also work behavior.

While an endless number of companies are cutting back on investment, others are closing their doors altogether. Dun & Bradstreet, which tracks business failures, says that bankruptcies are now at a 50-year high, with an average of 452 businesses filing for protection from their creditors each week. And the weeding-out process does not always strike at the companies that would be deemed the most marginal, an indication that the shakeout will continue for some time.

"Some fairly healthy enterprises are going bankrupt, largely because of punitive interest rates," said Robert Lekachman, a professor of economics at the Herbert H. Lehman College and Graduate Center of the City

University of New York. "The economy is not just getting lean, it is suffering from pernicious anemia."

"I'm really very amazed at the staying power of some of the more inefficient companies," said Daniel Carroll, a management consultant with offices in Chicago and Ann Arbor, Mich. Citing such examples as Allis Chalmers, International Harvester, Pullman and American Motors, he added. "So I wouldn't place too much reliance on the recession's having shaken out all the inefficiencies. Some of the less effective companies did fade away, some of those that have remained are here because they are sheltered in some way or other."

Other companies may find, through no fault of their own, that the recession has made their customers less well off, and that they therefore are buying fewer goods.

"A lot of good firms, like Boeing and Caterpillar, are taking a pounding, and will be worse off competitively after the recession than before," Mr. Thurow said, noting that these are not examples of sloppy management, but of companies that have simply watched orders dry up. Just last week, the Boeing Company reported a 49.3 percent drop in second-quarter earnings because of sharply lower deliveries to the struggling commercial airlines.

And Peter Solomon, a partner at Lehman Brothers Kuhn Loeb, is concerned that the companies that do survive the recession may find their production capabilities reduced because other companies have failed. "The fact that all the small suppliers are going out of business is the greatest threat to American business," he said. "Who are the big companies going to subcontract to when business comes back?"

How each company copes with recession, and whether the changes it makes put it in a stronger position for the future, depends in large part on the industry it is in, its financial shape, and the creativity of its management.

But even if individual companies are strengthened by cutting "fat" and "waste," the implications for the overall economy of such shrinkage—in employment, in production; in operating capacity—could be devastating. Even if the plants and people who do remain employed are more efficient, there will be vast unused resources, both plant and equipment and skilled people. Previously, they were producing something. Now they will be idle and wasted, a drag on the economy.

"If the recession comes to an end, it is not clear that there will be much recovery in terms of overall employment in the United States," warns Barry Bluestone, an economics professor at Boston College. "Companies will have moved more of their production out of this country, and will have begun to automate more rapidly. And those who do find jobs will move disproportionately into lower wage industries, leading to a lower average standard of living and a significant loss in productivity."

"All we are doing is reducing the amount of capital, when what we need is more capital and more equipment," adds Mr. Steigmann of Ford. "If the recession caused the consumer to cut spending, liberating vast amounts of saving which were used for investment, then maybe there would be a case for suggesting that the process would create something useful. But the tendency is for the volume of savings to decline," he said.

Of course, this is not the first time that the economy has experienced cutbacks in the face of a downturn. Business typically lays off workers, closes plants and reduces production to offset plunging sales and profits. And each time, when a recession ends, companies show at least a temporary surge in productivity, because sales tend to pick up faster than the number of workers.

But the productivity gains often tend to be temporary, eroding as production picks up and workers are rehired. The seriousness of this recession has led some executives, like Mr. Devenow, to vow that fat will never again be allowed to creep into their operations. But others, like Richard DeVos, a co-owner of the Amway Corporation, predict that the improvements "will last until good times come again, and then business will get fat and sloppy again."

In the past, companies could look forward to an upsurge in business when recession ended, to a period of good times. But in this cycle there will be no let-up in the pressure on many businesses. For when recovery begins, American companies will still be up against tough foreign competition, companies that, in many cases, are more efficient and more technologically up-to-date than the American companies.

It is thus more critical than ever that companies be in good shape when the recession ends. But many experts are pessimistic about the prospects for American steel, automobiles and other basic industries in the next few years, despite their present efforts to cut back and become more efficient. They say the changes the recession is inducing simply have not gone deep enough, or been extensive enough, to make up for the competive disadvantages the companies already suffered before the recession started.

"It is easy enough to say that companies are sweating out all their excesses and getting down to good hard muscle," said Bela Gold, director of the research program in industrial economics at Case Western Reserve University in Cleveland. "But it catches our industry at a time when it has neglected international competition. And in a number of cases, such as automobiles and steel, the recession has not provided them with the capital input necessary to modernize."

Mr. Gold acknowledges, for example, that the auto companies have received some labor concessions, and that they have taken some steps to reduce their overhead and to improve operations. But, he says, "I'm not convinced that the industry is over the hump, because technologically their costs are still not competitive with the Japanese. Whether you compare costs per car or output per man-hour, there is still a big gap.

"There is a lot of talk of robotizing the American auto industry, but when you get the numbers, they are not very impressive," Mr. Gold contends. And he calls talk of quality improvement "a lot of chatter." "The auto industry is a very complex production machine, and there is no way you can turn that machine over inside a year," he concludes.

Mr. Gold is even more negative about the prospects for the steel industry, where capacity utilization has been running below 50 percent. "Most of our plants are not technologically competitive," he said. "And to replace those plants takes incredible amounts of money—$4 billion to $5 billion just to rebuild a mill. That takes a lot of capital these companies don't have and can't get because of their low profitability."

"The recession has emphasized the need for more far-reaching and fast adjustment," Mr. Gold said. "But it has also created an environment that makes it very difficult to move constructively."

In other industries, experts are also unwilling to predict any great improvement following the recession. Firoze Katrak, director of the natural resources group at Charles River Associates, an economic consulting firm, says the mineral industries in general, including not only steel, but also copper, aluminum, mining and refining, need more investment. But, he said, "You cannot really improve capital productivity during a recession, because you have equipment and capacity lying idle." What makes him most optimistic, he said, is labor concessions, which he believes should help productivity.

Even if recession has pushed companies to become leaner and tougher, helping individual companies, there may be negative effects for the economy as a whole.

"As a nation, we will be getting out of some businesses," said John M. Stewart, a director at McKinsey & Company, the consulting firm. "That will be particularly difficult for some individuals and for certain cities, such as Pittsburgh, Detroit, Cleveland."

It is likely that such a shift in economic activity would have occurred anyway. But speeding up the transition makes it more painful, in many ways, than if it had occurred more gradually.

"If 2,500 auto workers were to be laid off, the effect of laying off 100 a year over 25 years is very different from laying off all 2,500 at once," Mr. Stewart said. "Over 25 years," he said, "perhaps half of them would retire, leaving only 1,200 to be laid off. And if they are laid off in smaller numbers each year, there is a better chance that they will be absorbed more quickly into other industries. New industries tend to grow very slowly."

On the other hand, companies that have laid off many employees could find themselves with problems as the economy grows. "If maintaining a skilled labor force is critical to a firm's long-term performance, then wide swings in employment are likely to involve penalties," observed John Dutton, a professor of management at New York University.

There is also the issue of whether companies, whatever shape they emerge in, will have the incentive, or the imagination, to grow.

"I'm sure that Chrysler and General Motors and Ford will all come out of this period with far lower break-even points," said Mr. Carroll, the Mid-Western management consultant. "But that may not mean they will be in a better position to make money and to sustain market share and grow. They may have pared expenses, but they may not be capable of creativity and innovation, of bringing out new designs that people want."

"Another element," Mr. Carroll added, "is that some companies that have really been through the mill probably will become more risk averse, and that may mean they won't take any gambles. Growing a business does require taking some risk."

With all these negatives, economists and management experts generally are fairly pessimistic about the shape of the economy when the recession is over.

"So many people take the Dale Carnegie approach of think positive and things will be positive," said Donald Ratajczak, director of the economic forecasting project at Georgia State University. "But for Heaven's sake, they should see reality first. We will get a better-managed corporate structure, and we will see productivity improve. But

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the costs are very high. It would be much better to get better management without bloodletting."

NATIONAL DEFENSE

Mr. THURMOND. Mr. President, for many years I have spoken here on the Senate floor and in many other forums in favor of our country adopting a strong defense posture so that we may deter any potential aggressor. Also, for many years I have seen the Soviet Union move toward a position of superiority in some areas of the defense arena. Unfortunately, the Soviets have been unwittingly helped, by some of our policymakers and others who adopted the philosophy of mutual assured destruction, popularly known as MAD.

Simply stated, this philosophy means that although we continue to deploy our nuclear weapons, we deliberately leave ourselves with no defense against a potential enemy nuclear attack except hitting back after being hit first. Supposedly, by remaining without defense against incoming missiles, we assure the Russians that we are not bent on a warpath. This presumably will lead the Russians to emulate us. The sheer fear of nuclear destruction on both sides, the theory implies, would prevent either side from striking first. This philosophy was the official strategy of several administrations for some time. I have spoken against it on numerous occasions, and I will continue to do so in the future.

Furthermore, this strategy has failed miserably; for although we dramatically slowed our arms and defense buildup for more than a decade, the Soviet Union has never stopped. In the early 1960's, following the Cuban missile crisis, the Russians began the biggest arms buildup known to man, and they are continuing on that course to this very day. Their attitude never softened as the proponents of MAD would have us believe will happen. Instead, the Russians proceeded to improve the accuracy of their missiles to approach a first-strike capability. Additionally, they are also moving ahead with their missile defense, air defense, and civil defense systems.

Mr. President, I am delighted to see that the current administration, under the leadership of President Reagan, is moving on a steady course to redress the dangerous imbalance with the Soviet Union. I support the President in his efforts, and I commend him. Furthermore, I urge the administration to move diligently to rebuild our strategic air defense systems, to revamp our civil defense system, and to accelerate the research and development effort of the ballistic missile defense. Defense remains an essential part of any credible deterrence not only against the Soviets, but also against any other potential aggressor.

Mr. President, a recent article on this subject by Mr. Stanton Evans in the Washington Times of August 3, 1982, briefly addressed this subject. In order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD following my remarks.

[From the Washington Times, Aug. 3, 1982]

PURLOINED DEFENSES

(By M. Stanton Evans)

A familiar item in the annals of the obvious is Edgar Allan Poe's short story about the "Purloined Letter"—which no one noticed because it was in plain sight.

A true-life adaptation of that fable might be called "Purloined Defenses." For upward of a decade, in full view of everyone, the strategic arsenal of the United States has been progressively dismantled. This demolition has been accomplished by our own deep-thinking planners in obedience to a bizarre, incomprehensible doctrine called "mutual assured destruction"—MAD, for short.

The basic idea behind MAD is that it is a good thing not to have any strategic defenses against nuclear attack. The best way to assure the Russians that we aren't plotting a war against them, supposedly, is to leave our civilian population wide open to obliteration. This will so ease the Communists' anxieties that they will follow suit. With both sides naked to destruction, a "balance of terror" will prevail, and war will be impossible.

Although this theory has guided U.S. military policy since the 1960s, most Americans don't have any idea of its existence, or else can't bring themselves to accept its reality. As I well know from long hammering on the subject, reasonably intelligent people can't believe that something so inherently nutty could possibly be the official strategy of the United States, although it is staring them in the face.

It has been official strategy, however, and it has played a crucial role in the enfeeblement of the nation. And even though the Reagan administration has been sidestepping away from it, we are still de facto wedded to its precepts. Thanks to MAD, for instance, we have no anti-missile defenses, have phased down our air interceptor defenses and early warning system, and have no effective program of civil defense. We are devoid of protection on all these fronts because our planners have wanted to keep our cities vulnerable to enemy attack.

Unfortunately, while we have been following this masochistic policy, the Soviet Union has not done the same. It has shown no interest in MAD theory, and even took a while to catch on enough to encourage our obsession with it. There is plenty of evidence that the Russians have pushed ahead with anti-missile defenses, built up their air interceptor strength and deployed a massive array of SAM missiles, while we have been assiduously cutting back our defenses.

All of this has apparently dawned on Reagan's strategic planners, who would like to redress the huge imbalance of forces resulting from it. To date, however, repudiation of MAD had been mostly verbal, with no clear move afoot to restore our pitifully inadequate defenses. Whether such moves will actually be taken is the issue currently before the House of Representatives.

By far the most encouraging development on this front was a recent statement by Secretary of Defense Caspar Weinberger, indicating official interest in a space-based anti-missile system. Weinberger told a group of reporters the administration is actively considering the notion of deploying space defenses that could knock out Soviet ICBM's before they re-enter the earth's atmosphere and start descending toward their targets.

Weinberger's comments and other administration statements on the subject sound a great deal like the "high frontier" concept spelled out by Lt. Gen. Daniel O. Graham, former chief of the Defense Intelligence Agency. Graham has laid out a program for a multi-tiered defensive system, including non-nuclear space-based anti-missile weapons and ground-based ABM defenses of our deterrents, among other elements.

Any movement of administration policy toward Graham's position is devoutly to be wished. He has been among the most active and articulate opponents of MAD in our public debate, and his book—"Shall America Be Defended"—should be required reading for anyone remotely interested in national survival.

MESSAGES FROM THE HOUSE

At 1:09 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 396. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 6955.

At 6:54 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WIRTH, and Mr. BROYHILL as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 684. An act for the relief of Ok-Boon Kang;

H.R. 1481. An act for the relief of George Herbert Weston;

H.R. 4828. An act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; and

H.R. 6732. An act to amend the International Safe Container Act.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 684. An act for the relief of Ok-Boon Kang; to the Committee on the Judiciary.

H.R. 1481. An act for the relief of George Herbert Weston; to the Committee on the Judiciary.

H.R. 4828. An act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; to the Committee on Commerce, Science, and Transportation.

H.R. 6732. An act to amend the International Safe Container Act; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment.

H.R. 3517. An act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes. (Rept. No. 97-529.)

By Mr. DOLE, from the Committee of Conference:

Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes. (Rept. No. 97-530.)

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 2569. A bill to declare certain lands in the Cumberland Island National Seashore, as wilderness, and for other purposes (with additional views). (Rept. No. 97-531.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. Max B. Bralliar, U.S. Air Force, to be Surgeon General of the Air Force; Maj. Gen. John L. Piotrowski, U.S. Air Force, to be lieutenant general; Maj. Gen. Emmett H. Walker, U.S. Army National Guard, to be Chief of the National Guard Bureau and lieutenant general; Brig. Gen. Herbert R. Temple, Jr., U.S. Army National Guard, to be major general; Lt. Gen. Roscoe Robinson, Jr., U.S. Army, to be general; Lt. Gen. Philip C. Gast, U.S. Air Force, to be reassigned in the grade of lieutenant general; Maj. Gen. Alexander M. Weyand, U.S. Army, to be reassigned to the grade of lieutenant general; Lt. Gen. LaVern E. Weber, U.S. Army, to be reassigned to the grade of lieutenant general; Vice Adm. Wesley L. McDonald, U.S. Navy, to be reassigned to the grade of admiral; and Lt. Gen. Hillman Dickinson, U.S. Army (age 56), for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, in addition, in the Navy and Naval Reserve there are 44 permanent appointments to the grade of captain and below (list begins with Michael L. Arture), in the Air National Guard there are 29 promotions to the grade of lieutenant colonel in the Reserves (list begins with Clayton B. Anderson), in the Army there are 8 appointments to the grade of colonel and below (list begins with Robert O. Porter), in the Naval Reserve there are 465 permanent promotions to the grade of captain and below (list begins with Javier A. Arzola); Capt. Truman W. Crawford, U.S. Marine Corps, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps; in the Air Force there are 579 promotions to the grade of lieutenant colonel (list begins with John S. Adams, Jr.), in the Air Force Reserve and National Guard there are 114 appointments to the grade of colonel and below (list begins with Enrique Del Campo), in the Marine Corps and Marine Corps Reserve there are 630 permanent appointments to the grade of colonel and below (list begins with Robert L. Peterson), and in the Navy and Naval Reserve there are 19 permanent promotions/appointments to the grade of commander and below (list begins with Bruce P. Dyer). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of August 4, August 10, August 12, and August 17, 1982, at the end of the Senate proceedings.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

James C. Treadway, Jr., of the District of Columbia, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1987.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON (for himself, Mr. Boschwitz, and Mr. Rudman):

S. 2851. A bill relating to compelling governmental interests; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. Stafford, Mr. Pell, and Mr. Randolph):

S. 2852. A bill to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PERCY:

S. 2853. A bill to provide for the temporary duty-free treatment of imported hatters' fur, and for other purposes; to the Committee on Finance.

S. 2854. A bill for the relief of the Centralia Carillon Committee; to the Committee on Finance.

By Mr. HAYAKAWA:

S. 2855. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. Abdnor, Mr. Baucus, Mr. Burdick, Mr. Cochran, Mr. Cranston, Mr. Danforth, Mr. Dole, Mr. Ford, Mr. Hatch, Mr. Hayakawa, Mr. Heinz, Mr. Hollings, Mr. Jackson, Mrs. Kassebaum, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Mathias, Mr. McClure, Mr. Metzenbaum, Mr. Murkowski, Mr. Packwood, Mr. Quayle, Mr. Sarbanes, Mr. Weicker, and Mr. Zorinsky):

S.J. Res. 232. A joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAYAKAWA (for himself and Mr. Moynihan):

S. Res. 451. A resolution regarding asylum for Hu Na; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON (for himself, Mr. Boschwitz and Mr. Rudman):

S. 2851. A bill relating to compelling governmental interests; to the Committee on the Judiciary.

COMPELLING GOVERNMENTAL INTERESTS IN RELATION TO SEXUAL DISCRIMINATION

Mr. GORTON. Madam President, like many of my colleagues and a majority of Americans, I am disappointed that the equal rights amendment is not now a part of the Constitution of

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the United States; and I pledge my full support to a renewed ERA effort.

The notion that equality of rights under law, regardless of sex, however, is not merely a fundamental principle which ought to be in the Constitution, it is a matter of grave economic and social consequence for millions of Americans. I am not prepared, therefore, to forego consideration of other means by which to achieve the substance of the equal rights amendment simply because we have not yet succeeded in reaching our final goal of guaranteeing that substance through a constitutional amendment. To forego such alternatives during our quest for that goal would seem to me to admit that the attainment of the substance of the equal rights amendment was something less than imperative. That is a proposition which I cannot accept.

The statutory proposal which I am introducing today, therefore, requires that classifications based on sex, both de jure and de facto, created by the United States or by any State, be subjected to the same level of judicial scrutiny as classifications based on race. At the present time, the Supreme Court will uphold a racial classification only if it is necessary to achieve a compelling governmental interest. A classification based on sex, however, will be upheld if it serves an important governmental interest and is substantially related to the achievement of that interest, a less difficult standard to meet.

I must stress that this proposal does not involve any question of court jurisdiction nor does it seek to substitute Congress view of what the equal protection clause requires for that of the Court. It is intended to be remedial only, making certain actions of the States and the Federal Government illegal, even though they are not unconstitutional. Congress can prohibit such actions by the States if it determines that such actions, while not unconstitutional, nonetheless tend to perpetuate the effects of past sex discrimination. I am convinced that the facts will support such a finding.

I have heard much discussion among my colleagues of possible statutory approaches toward providing greater rights for all persons regardless of sex. Such proposals, as far as I can determine, have all dealt with specific subjects, such as insurance and pension reform. The bill I am introducing today paints with a broader brush than these other measures in that it can be the basis for invalidating existing discriminatory statutes and preventing legislatures from enacting additional discriminatory statutes in the future. It may well be, however, that it will still be necessary for Congress to consider subject-specific legislation to complement this bill.

Due to the limited time remaining in this session, it is obvious that I am not introducing this bill with the intention of actively pursuing its passage in this Congress. Moreover, because of the somewhat unique approach taken in the bill, I cannot and do not expect an immediate response to it from those groups which have worked so diligently for the ratification of the equal rights amendment. I appreciate the fact that in the next several months these groups, as well as the Congress, must give due consideration to a variety of approaches and remedies. I hope, however, that by introducing the bill at this time it will be included in any such discussion and that I will receive sufficient feedback on it in the coming months to be able to urge its consideration by the Senate early in the 98th Congress.

I trust that those reviewing this proposal will do so with open minds and give serious thought to the utility of such a measure as a method of dealing promptly with the current denial of economic and social rights to so many Americans.

Madam President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND FINDINGS

SEC. 1. (a) Congress finds and declares that—

(1) classifications based on sex have often resulted in individuals being relegated to an inferior legal status without regard to individual capability, worth or need; and,

(2) classifications based on sex which are not necessary to achieve a compelling governmental interest tend to perpetuate the effects of past sex discrimination; and,

(3) classifications based on sex are inherently invidious and suspect.

(b) In light of the findings contained in this section and in order to secure the equal protection of the laws for all persons regardless of sex, Congress, pursuant to the necessary and proper clause of article I of the Constitution of the United States, and pursuant to section 5 of the fourteenth amendment to the Constitution of the United States, enacts this Act.

CLASSIFICATIONS BASED ON SEX

SEC. 2. (a) Each person has the right to be free from any classification based on sex and made by the United States unless such classification is necessary to achieve a compelling interest of the United States.

(b) No State shall make a classification based on sex unless such classification is necessary to achieve a compelling interest of the State.

(c) Every person who, under color of any Federal or State law, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to a classification based on sex which is not necessary to achieve a compelling governmental interest shall be liable to the person injured in an action at law, suit in equity, or other proper proceedings for redress.

RELIEF

SEC. 3. (a) Any person aggrieved by a violation of this Act may bring a civil action in the appropriate district court of the United States for such legal and equitable relief as may be appropriate: *Provided*, That, no cause of action for damagers may arise under this Act until one year after the date of enactment of this Act.

(b) The Attorney General may bring an action for declaratory or injunctive relief in any appropriate case in which the Attorney General determines that the rights of persons aggrieved under this Act will be served by bringing such action.

DEFINITIONS

SEC. 4. (a) The term "State" as used in this Act includes each of the several States, any Commonwealth or territory of the United States, and any political subdivision thereof.

(b) The term "law" as used in this Act includes any statute, ordinance, rule, regulation or the administration thereof, or any custom or usage.

(c) The term "classification based on sex" as used in this Act includes any de jure, gender-based classification and any law of the United States or of any State which has a disparate impact on individuals of different gender who are otherwise similarly situated

APPLICATION

SEC. 5. (a) If any provisions of this Act or the application of this Act to any person or circumstance is judicially determined to be invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

(b) This Act shall supersede any inconsistent provision of Federal law.

By Mr. HATCH (for himself, Mr. STAFFORD, Mr. PELL, and Mr. RANDOLPH):

S. 2852. A bill to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes; to the Committee on Labor and Human Resources.

SALLIE MAE TECHNICAL AMENDMENTS ACT OF 1982

Mr. HATCH. Mr. President, I am pleased today to introduce a set of amendments designed to fine-tune the delivery of our Federal student grants and loans to the millions of students who benefit from them. These amendments to the Higher Education Act of 1965 have been developed through consultation with interested members of the Committee on Labor and Human Resources from both sides of the aisle, and the bill enjoys bipartisan support, as well as the cosponsorship of my distinguished colleagues, Senators STAFFORD, PELL, and RANDOLPH, whose expertise has been of great benefit in its development.

Among the most pressing issues dealt with by the bill, whose short title is the Sallie Mae Technical Amendments Act of 1982, are those involving the Student Loan Marketing Association (Sallie Mae). Last year Sallie Mae, which provides essential secondary market functions in the purchase and warehousing of guaranteed student loans, was faced with the prospect of shifting its source of funding from the Federal financing bank to the private bond market, under an agreement negotiated with the administration. In order for Sallie Mae to sell its bonds at feasible rates, it was required to obtain a clarification of the application of Federal bankruptcy law. Specifically, it was necessary for Congress to clearly give the Federal Government the status of a normal creditor, waiving any Federal priority in the event of a Sallie Mae bankruptcy or reorganization. Sallie Mae requested this measure from Congress and an appropriate provision was enacted last year as part of the Older Americans Act Amendments of 1981. This action was limited to 1 year in duration and will expire September 30, 1982.

This past January, Sallie Mae terminated its borrowings from the Federal financing bank, and it has since proceeded to raise several hundred million dollars in the private market by selling its bonds. However, unless the bankruptcy provision is extended, Sallie Mae's access to private capital which it can then plow into the student loan market will also expire at the end of September, disrupting the secondary market for student loans. This bill grants the extension for an additional 2 years.

Further, this legislation would empower the State guaranty agencies and lenders to consolidate loans on the same terms as Sallie Mae. Sallie Mae at present, under the 1980 higher education amendments, has exclusive authority for loan consolidations, but State agencies have become much more active in the interim, and there is no good reason why they should be kept out of the market in favor of a monopoly by Sallie Mae.

This bill also writes into the authorizing law, for the academic years 1983-84 and 1984-85, several provisions which have in the past been addressed on an annual basis as attachments to continuing resolutions or Supplemental Appropriations Acts. These are: The new State allocation reduction formula for campus-based aid programs sponsored by Senator RUDMAN and enacted as part of the urgent supplemental this spring; the maintenance of the maximum Pell grant award at $1,800; the decoupling of the campus-based and State student incentive grant programs from the Pell grant needs analysis; and the carryover into the current year of the preceding year's Pell grant family contribution schedule, the latter three provisions having been attached to the fiscal year 1982 continuing resolution. The Pell grant carryover provision would be extended for the 1984-85 academic year as follows: If the administration has not sent up to Congress for its approval a Pell grant family contribution schedule by April 1 of a given year to take effect for the following year as now required by law, then the current family contribution schedule, adjusted for inflation, would automatically carryover and apply during that following year as well.

This last provision would furnish a measure of stability and continuity to a process more often characterized by confusion and uncertainty. During every administration since the Pell grant program was established, the adherence to the deadline has been a problem. Often the family contribution schedule would not be issued until late summer (as this year), would prove unsatisfactory to Congress, and the resulting maneuvering and the statutory elapsing of time before the regulations took effect would cloud the picture into midwinter. Not long thereafter the administration would then propose program changes or rescissions in program funding which would again cast a pall of uncertainty over the status of the grants and would unduly hinder student aid officers from advising students about aid availability. Passage of this bill would provide automatically for the carryover of already established and agreed-upon schedules unless the administration and Congress arrive at a replacement for them. Further, under my proposal the current schedule for the guaranteed student loan program would also be carried forward for the 1983-84 academic year.

This bill contains a section replacing the current ratable reduction formula for Pell grant awards with a linear reduction. At present, if insufficient funds are appropriated to fully fund Pell grants for those who are eligible, a ratable reduction procedure completely extinguishes aid for those at the lower end of the need scale, though in the context of all college students their needs may be great. The new linear reduction procedure would replace this skewed, discontinuous formula with a more equitable one in which all students would share part of the burden, but those with larger entitlements and thus greater need, would have a smaller percentage cut than those with smaller entitlements and thus relatively lesser need, on a clear, inversely proportional basis.

Also included in these amendments is a section providing for a simplified, clear, concise disclosure to borrowers of the costs and terms of their educational loans. When applied in the unusual context of student loans (mandating the treatment of the new 5 percent guaranteed student loan origination fee as interest, for example) the Federal truth-in-lending laws greatly complicate the issuance of student loans—making them less attractive to many lenders—while providing the student with complex disclosures difficult to digest. Also, we understand that Senator HEINZ is pressing forward with a bill to exempt the student loan programs from the truth-in-lending laws. In the event he is successful, the disclosure provisions of the bill at hand will operate as a clear, useful substitute protection for borrowers.

Mr. President, it is not often that we have the opportunity to do a great good with a few brief strokes, but this is such an occasion. We commend these amendments to the Senate for its most expeditious consideration.

I ask unanimous consent that a section-by-section analysis of the bill, as well as the text of the bill itself, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sallie Mae Technical Amendments Act of 1982".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 2. The last sentence of section 439(1) of the Higher Education Act of 1965 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

MAXIMUM PELL GRANT

SEC. 3. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 and for academic year 1984-1985 under such Act shall not exceed $1,800 or 50 percent of the cost of attendance (as defined under section 482(d) for academic year 1982-1983) at the institution at which the student is in attendance.

DECOUPLING PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education may establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and Part E of title IV of the Higher Education Act of 1965.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-1984

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such Grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for aca-

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demic year 1982-1983 by 7.3 percent, and rounding the result to the nearest $100.

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be submitted not later than 15 days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-1985

SEC. 6. (a)(1) The family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by April 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives not later than the time such schedule is so published.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than May 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before July 1, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983-1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index is the change, expressed as a percent, between the arithmetic mean of the Consumer Price Index for April, May, and June of 1982 and the arithmetic mean of such Index for April, May, and June of 1983.

(d) For purposes of subsection (b), the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under this section shall be submitted not later than July 15, 1983, and shall otherwise be subject to the provisions of section 482 (a) of the Higher Education Act of 1965.

COST OF ATTENDANCE

SEC. 7. Notwithstanding any other provision of law, the cost of attendance criteria used for calcuating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

INFORMATION CONCERNING FAMILY SIZE OFFSET

SEC. 8. The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of section 6 (c) of this Act immediately after publication by the Secretary of Labor of the Consumer Price Index for June 1983.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983 THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c) the family contribution schedule for the period of instruction from July 1, 1983 through June 30, 1984 for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982 through June 30, 1983.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982 through June 30, 1983 shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983 through June 30, 1984 to reflect the most recent and relevent data.

(c) The modified family contribution schedule under this section shall be submitted not later than March 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 10. (a) Notwithstanding section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(b) The Secretary shall allocate sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 to institutions in each State without regard to section 413D(b)(1)(B)(ii)(I) of that Act.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 11. Notwithstanding section 462 of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

SEC. 12. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

(b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2)(A) The first sentence of such section is amended by striking out "section 463(a)(7)" and inserting in lieu thereof "section 463(a)(8)".

(B) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

CONSOLIDATION OF LOANS BY STATE GUARANTY AGENCIES

SEC. 13. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(j) (1) Each—

"(A) State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, and

"(B) eligible lender in a State described in section 435 (g) (1) (D) or (F) of this Act.

or its designated agent may, upon the request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest in the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable by the State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). The terms of loans made under this subsection shall be such terms as may be agreed upon by the borrower and the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g) (1) (D) or (F), and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427 (a) (2) (B) may be extended to no more than twenty years, and (B) clause (ii) of section 427 (a) (2) (B) shall not be applicable.

"(3)(A) Notwithstanding any other provision of this part, the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g) (1) (D) or (F), with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

"(4) The State agency and nonprofit private institution or organization, and eligible lender in a State described in section 435(g)(1)(D) or (F), shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.".

LINEAR REDUCTION OF PELL GRANTS

SEC. 14. Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

HIGHER EDUCATION SURVEY DATA

SEC. 15. The National Center for Education Statistics shall collect and publish for academic years 1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section.

SECTION-BY-SECTION ANALYSIS OF S. 2852

Sec. 2. Extends the existing federal priority in bankruptcy waiver for Sallie Mae for another two years;

Sec. 3. Maintains the Pell Grant award ceiling at $1800, for the 1983–84 and 1984–85 school years;

Sec. 4. Continues for an additional two years the decoupling of the campus based aid programs from the Pell Grant needs analysis;

Sec. 5. Carries over the 1982–83 Pell Grant family contribution schedule, adjusted for inflation, into 1983–84;

Sec. 6. Provides that the 1983–84 Pell Grant family contribution schedule (adjusted for inflation) shall also apply for 1984–85 unless the Department of Education by the existing April 1 deadline submits a new schedule which passes a prescribed review process;

Sec. 7. Carries over for academic years 1983–84 and 1984–85 the Pell Grant cost-of-attendance criteria in effect for 1982–83;

Sec. 8. Provides for the updating of Pell Grant needs analysis information immediately after the publication of the Consumer Price Index figure for June 1983;

Sec. 9. Carries over for the July 1, 1983-June 30, 1984 year the Guaranteed Student Loan family contribution schedule for the preceding year;

Sec. 10. Extends the current proportional reduction formula for Supplemental Education Opportunity Grant allocations to fiscal years 1983 and 1984;

Sec. 11. Extends the current proportional reduction formula for National Direct Student Loan allocations to fiscal years 1983 and 1984;

-Sec. 12. Provides for simplified, clarified disclosure to borrowers of the cost and terms of their educational loans;

Sec. 13. Empowers state guaranty agencies and eligible lenders to consolidate federally insured student loans on the same basis as Sallie Mae;

Sec. 14. Substitutes for the old ratable reduction formula for Pell Grant awards a new linearly proportional reduction;

Sec. 15. Directs the National Center for Education Statistics to continue the collection and publication of certain data on higher education tuition and expenses for academic years 1982 through 1985.

Mr. STAFFORD. Mr. President, I am introducing today, with my colleagues Senators HATCH, PELL, and RANDOLPH, emergency legislation which will remove a serious impediment to the availability of student loans.

This legislation would extend, for 2 years, a provision of law enacted last year which would give all creditors an equal claim on the assets of the Student Loan Marketing Association (Sallie Mae) if Sallie Mae were to enter into an involuntary liquidation or reorganization under the Bankruptcy Act. Prior to the adoption of this provision, which expires on September 30 of this year, the Federal Government had first priority access to Sallie Mae's assets in the event of an involuntary liquidation or reorganization. This provision establishes that the Federal Government would have equal access as a creditor to Sallie Mae's assets in this event.

In 1974 to 1981, Sallie Mae, which is a federally established private warehouse facility and secondary market for guaranteed student loans and which holds approximately $6 billion in student loan assets, was able to finance its operations through borrowing from the Federal Financing Bank (FFB), an arm of the U.S. Treasury. In 1981, as part of a general policy to limit off-budget borrowing by Government-sponsored private corporations such as Sallie Mae, the Treasury and Sallie Mae reached an agreement that Sallie Mae's draw on the FFB would end on September 30, 1982, or after Sallie Mae has borrowed $5 billion, whichever came first. Sallie Mae reached the $5 billion limit in January of this year, and must now borrow on the open market to finance its operations and provide liquidity to lenders in the GSL program.

If the equal priority provision, which expires on September 30, is not extended, it is highly doubtful that Sallie Mae will be able to market its bond issues, as prospective bond holders would stand behind the Federal Government in the unlikely event of a Sallie Mae bankruptcy, and would thus not buy Sallie Mae issues. The inability of Sallie Mae to finance its activities in the public capital markets would have serious repercussions for the student loan programs. The legislation which we are introducing today would allow Sallie Mae to enter these markets for the next 2 years while the Congress continues to provide oversight of its activities.

Mr. President, this bill will also provide certain technical corrections in the higher education programs, consistent with policies adopted in the

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continuing resolution of appropriations for fiscal year 1982. Principally, it would provide that if the Secretary of Education does not comply with the procedures in the Higher Education Act requiring him to submit a family contribution schedule for Pell grants to Congress by April 1, the previous year's schedule would remain in place. This year, the administration failed to conform with the law in submitting on time to Congress a family contribution schedule for the 1983–84 academic year, and this has resulted in extreme disruption and uncertainty for families trying to plan the financing of higher education for their children. It is therefore necessary to fix the terms and content of the family contribution schedule for the 1983–84 academic year, and if the Department of Education again fails to prescribe a schedule in a timely and lawful manner, for academic year 1984–85.

Mr. President, I hope that we can act on this legislation at the earliest possible moment, so that the student aid programs can proceed smoothly, and so that students and their families—and those who provide student aid—can plan their financing for the coming academic years.

Mr. PELL. Mr. President, I am pleased to join the chairman of the Subcommittee on Education, Arts, and Humanities and Senators HATCH and RANDOLPH in cosponsoring this important piece of legislation. Passage of this bill would result in significant improvements in two areas involving Federal student aid.

First, passage of the bill would give the Student Loan Marketing Association (Sallie Mae) a 2-year extension of its exemption under the Bankruptcy Act. This extension is vitally important if Sallie Mae is to continue to be able to market its bonds in the private sector.

In addition, we seek, in this legislation, to give State loan guarantee agencies the ability to consolidate different types of student loans. At present, this authority extends only to Sallie Mae. We believe it important that the State agencies also have this authority, which we hope they will use to assist individuals who may have several Federal loans, as well as several different types of Federal loans. Those people may currently be making several loan payments, which we believe might best be consolidated into a single loan and a single loan payment.

Second, this legislation would also put an end to the delays, uncertainty, and confusion that has marked the issuing of a family contribution schedule for the Pell grant program in both this and the past administration.

This year the administration was more than 4 months late in submitting a proposed family contribution schedule to the Congress. When one was finally proposed, it was based on an appropriation of only $1.4 billion for Pell grants. That figure assumes a 40-percent reduction in Pell grant funds, and the removal of more than 700,000 students from participation in this important program.

Even worse, however, is the fact that the proposed schedule was based on an appropriation figure that the Congress had rejected when it passed the fiscal 1983 budget resolution. That resolution actually contained a $110 million increase in Pell grants, from $2.279 billion for fiscal 1982 to $2.4 billion for fiscal 1983.

In essence, the legislation we are submitting today would negate the family contribution schedule submitted by the administration and lock in the one that is currently in effect for the 1982–83 academic year, updated.

For the 1984–85 academic year, the Secretary of Education would be required to submit a proposed family contribution schedule by April 1 of next year. If the Secretary failed to do so, then the 1983–84 schedule, updated, would become the 1984–85 schedule.

If the Secretary submits a proposed schedule by the April 1 deadline and it is disapproved by either House of Congress, the Secretary would have 15 days in which to submit a revised schedule. If that schedule is disapproved, then the schedule in effect for 1983–84, updated, would become the schedule for 1984–85.

Mr. President, these changes make a great deal of sense and would immeasurably improve the smooth and timely functioning of important Federal student aid programs. I ask my colleagues to give this legislation very serious consideration, and urge them to join us in supporting this bill.

By Mr. PERCY:

S. 2853. A bill to provide for the temporary duty-free treatment of imported hatters' fur, and for other purposes; to the Committee on Finance.

HATTERS' FUR TARIFF ACT OF 1982

Mr. PERCY. Mr. President, I am today introducing legislation that would relieve an inequity in our tariff laws.

The legislation I am introducing would temporarily suspend—through 1985—the 15-percent rate of duty on imported hatters' fur. Hatters' fur is imported under tariff item 186.20. The anomaly in this case is that there are virtually no domestic sources of this material and our American hatters must pay a high tariff on their raw material, thereby making the final product more expensive.

On the other side of the ledger, however, are imported hats, which use the same raw materials but do not have to pay the additional 15-percent duty charge. More finished products using the same furs come into the country at a duty not exceeding 5.3 percent ad valorem. Other hat shells come into the country duty-free, in cases where they are manufactured in GSP/designated countries.

Mr. President, this is a classic case of how our tariff laws can lead to the export of jobs. The 15-percent tariff on raw material discriminates against manufacture of hatters' fur in this country. At a time when there is a great deal of support in Congress for stimulating value-added manufacturing, this tariff runs just in the opposite direction, counter to our goals.

An identical bill has been introduced in the House by my good friend from Illinois, Representative ED DERWINSKI. This unfair tariff was brought to our attention by Stratton Hats, Inc. of Bellwood, Ill. The company is one of the few hat manufacturers left in the United States, with a major manufacturing facility also located in Winchester, Tenn.

I commend this legislation to the Finance Committee and hope they will act expeditiously on it. The administration has already recorded their views on the House legislation—H.R. 5386—and have no objection to passage of the proposal.

By Mr. PERCY:

S. 2854. A bill for the relief of the Centralia Carillon Committee; to the Committee on Finance.

RELIEF OF THE CENTRALIA CARILLON COMMITTEE

Mr. PERCY. Mr. President, I am today introducing legislation that would allow for the duty-free entry of carillon bells from France.

No U.S. foundries make these particular carillon bells and I understand that nonprofit groups that purchase these beautiful musical instruments are traditionally relieved of the duty through legislation such as I am introducing today.

Mr. President, suspension of duty on these carillon bells would be a tremendous help to the nonprofit Centralia Carillon Committee of Centralia, Ill. I would like to ask unanimous consent that excerpts from the letter sent me by Karel Keldermans, carillonneur for the Centralia carillon, be included in the RECORD at the close of my remarks. Mr. Keldermans' letter amply describes the community's wishes in this regard. I urge my colleagues on the Finance Committee to act quickly on this legislation so that the bells can enter the United States as planned this fall.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

June 29, 1982.

HON. CHARLES H. PERCY,
East Monroe,
Springfield, Ill.

DEAR SENATOR PERCY: As the carillon consultant for the Centralia Carillon Committee of Centralia, Illinois I have been requested to write to you, on behalf of this

> non-profit committee, because we have recently purchased a carillon in France. This carillon will be imported to this country sometime in the autumn of 1982. Because this is a large four-octave instrument, the import duties could be quite expensive. The total weight involved—including all support beams and mechanism—might be as high as 100,000 pounds. The value of this instrument is at least 1¾ million dollars.
>
> The reason for this correspondence is to request that you sponsor a resolution to waive the import duties for this musical instrument. There are two reasons for waiving the import duties:
>
> (1) The carillon is a musical instrument capable of being played with as much expression as a piano; Therefore, it should not be imported as metal;
>
> (2) There are no large bellfounders in the United States capable of producing a carillon. Hence, no U.S. jobs are lost due to importation. The United States imports at least two carillons a year from either England, The Netherlands, or France.
>
> It is customary for states which are to receive carillons to have their senators sponsor a resolution and arrange with the Department of the Treasury to have import duties waived. For example, St. Thomas Church at Whitemarsh, Pennsylvania purchased a carillon in 1974; through its Congressional representative, import duties were waived. Covington, Kentucky did the same in 1978. Over the past 10 years, every carillon imported to this country has had import duties waived. The Centralia Carillon Committee would be most appreciative if you were able to assist us in doing the same.
>
> I have been in contact with the French bellfoundry of Pierre Paccard (Paccard Fonderie de Cloches in Annecy) and have been informed that they will ship from Le Harve to Chicago via St. Lawrence Seaway. Because this will be a large undertaking, coordination of all aspects of this project is crucial.

By Mr. HAYAKAWA:

S. 2855. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MODERNIZING THE FEDERAL SEED ACT

Mr. HAYAKAWA. Mr. President, the bill I am introducing today has two purposes. First, it will assist the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, in carrying out its new responsibilities in administering title III of the Federal Seed Act (FSA). Second, it repeals certain sections of the Federal Seed Act having to do with the labeling of lawn seed which has become obsolete because of advances in seed technology and marketing.

Mr. President, the proposed budget of the U.S. Department of Agriculture for fiscal year 1983 calls for closing four regional seed laboratories which are now under the supervision of the Agricultural Marketing Service (AMS). One of the primary functions of these laboratories is to provide technical backup in regulating the import of seed. Seed imported into the United States is governed by title III of the Federal Seed Act.

The regional labs interact with the Federal Seed Standardization Laboratory, located at Beltsville, Md., to provide technical support for the Federal regulation of the sale of seed in interstate commerce. These activities will be consolidated at Beltsville. It is anticipated that cooperative agreements or other arrangements will be made with a number of State seed laboratories to assist in carrying out the activities formerly provided by the regional laboratories in administering these provisions of the Federal Seed Act.

Concurrent with the closing of the laboratories, the responsibility for administration of title III of the act will be transferred to the USDA Animal and Plant Health Inspection Service (APHIS). This is a logical move, because APHIS is now responsible, under separate legislation, for administration of the Federal Noxious Weed Act and the phytosanitary regulations governing imported seed. In order to carry out its new responsibilities, APHIS will use the facilities of the regional seed laboratory at North Brunswick, N.J.

In light of the transfer of responsibilities to a different agency and a reduction in personnel and facilities, it would be appropriate to review requirements of the act to see if the new workload placed on APHIS could be reduced. This should be done without sacrificing the necessary safeguards to agriculture as a whole, the seed industry, and the consumer of seed.

The requirements to inspect imported seed for noxious weed seeds and the staining of alfalfa and red clover seed would continue. That section of the act which pertains to the pure live seed and weed seeds would be repealed. The pure live seed requirement places the heaviest load on the laboratories and there is currently no demonstrated need for carrying out the work. The purity and germination qualities of the seed are established prior to the shipment and the problem of seed falling below mutually agreed standards can be settled between the parties. Once the seed enters interstate commerce, it must meet all standards required for the sale of domestic seeds established under the Federal Seed Act and appropriate State seed laws.

The requirement to determine if the seed contains more than 2 per centum by weight of weed seed is no longer valid. These seeds, as opposed to noxious weeds, are common in most parts of the world. In many cases, they are used as agriculture or vegetable seeds or are recognized as seeds of ornamentals. During fiscal year 1980, 61 million pounds of agricultural and vegetable seeds, valued at $40 million, were imported—about 1 percent of the seed used in the United States. Of 9,000 lots offered for importation, 257 were refused admission based on preliminary tests and 195 of these were subsequently admitted after being brought into compliance with the act. Only two of these were refused because they failed to meet the weed seed requirements.

Mr. President, the second purpose in amending the Federal Seed Act will eliminate conflicts between Federal and State seed laws and will provide flexibility to the Secretary of Agriculture in administering the act.

The act specifies that certain grasses be classified as "fine textured" or "coarse kinds" and a list of the two categories is provided in the regulations. The development of new improved varieties of grass seed has blurred the distinction between the two lists. It has come to a point where it is impossible, from a legal standpoint, to differentiate between the two kinds. It is a very slow and difficult process to change the lists in the regulations as new varieties are developed and even more difficult to classify a new variety of grass into one of the categories.

The Association of American Seed Control Officials, made up of State representatives, has recommended elimination of the requirement to label according to these distinctions and has made the change in the "Recommended Uniform State Seed Laws." Several States have adopted this labeling change in their seed laws; others are only waiting for the Federal Seed Act to be changed in order to change their laws.

In an attempt to conform to two different sets of laws, a seedsman selling seeds in one of these States could be in violation of either the State or Federal law or both. A member of the seed industry selling seeds on a national level finds it difficult, if not impossible, as well as expensive to attempt to label his seeds in a different manner in the 50 States.

The second immediate need for changes in the FSA pertaining to lawn seed mixtures is to correct the labeling requirement to allow that only the month and year of the oldest germination test be required. Since the test must be completed within a 5-month period of the date of sale, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on a small package of seed and, since this is a control measure and does not afford the consumer additional protection, it would save time and money in printing the label and make it easier for the consumer to understand the information that is helpful.

There is also a need to provide the Secretary of Agriculture with authority to extend the 5-month period between the test date and date of sale when he finds that, under ordinary conditions of handling, that certain kinds of seed will maintain its germination qualities over a longer period of time.

Therefore, I hope the Senate will adopt this bill, which, while maintaining the high standards of excellence of seeds planted in the United States, makes needed changes to respond to budget reductions and removes the conflict between State and Federal seed laws.

By Mr. DURENBERGER (for himself, Mr. Abdnor, Mr. Baucus, Mr. Burdick, Mr. Cochran, Mr. Cranston, Mr. Danforth, Mr. Dole, Mr. Ford, Mr. Hatch, Mr. Hayakawa, Mr. Heinz, Mr. Hollings, Mr. Jackson, Mrs. Kassebaum, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Mathias, Mr. McClure, Mr. Metzenbaum, Mr. Murkowski, Mr. Packwood, Mr. Quayle, Mr. Sarbanes, Mr. Weicker, and Mr. Zorinsky):

S.J. Res. 232. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL SUDDEN INFANT DEATH SYNDROME AWARENESS WEEK

● Mr. DURENBERGER. Mr. President, each day, some 20 infants in the United States succumb while asleep to the sudden infant death syndrome (SIDS), which is commonly known as "crib death." There is no warning, and no reason to expect that any particular baby will die. But 7,000 of them do die each year in this country—7,000 apparently normal and healthy infants between the ages of 1 week and 1 year.

Little is known about this mysterious syndrome. It appears to be as old as recorded history, and it strikes every ethnic group, every social class, every economic stratum, every region of the world.

The death of any child is a senseless tragedy which can totally disrupt the lives of parents and siblings. But a SIDS death often results in unique and particularly traumatic problems for the families of victims. Because SIDS is not well understood, and because it is not well known among the general public, the families of SIDS victims can often find themselves suspected of child abuse or neglect. Even when an autopsy results in a formal finding of SIDS as the cause of death, friends, neighbors, and relatives often remain confused and parents often suffer from feelings of guilt. This added anguish can be helped with counseling where needed, but it can be avoided if more people are aware of SIDS in the first place. It was for this reason that Congress passed legislation in 1974 to provide for counseling projects and medical protocols in SIDS cases.

But SIDS cuts a wider swath. Because it is not well understood, it can cause panic among parents of any young children. Recently, for example, a brief news item concerning a possible link between SIDS and certain innoculations—a link which was disproved—caused many parents to insist that their children not be innoculated. More horrifying, a number of unscrupulous people have been known to capitalize on the ignorance about SIDS to peddle quackery.

Substantial progress has been made in the investigation of SIDS in the past few years. It is possible that we may soon be able to identify infants who appear particularly susceptible to this pernicious killer. Once identified, they can be closely monitored so that resuscitation is undertaken as soon as needed. But diagnosis and prevention remain only distant goals, and research must be supported with contributions.

In other words, there is a clear need for more awareness of the sudden infant death syndrome. A greater awareness by the public can help the parents of victims to avoid added anguish. Just as important, it can prevent panic among other parents. Finally, it can stimulate the contributions needed for further research.

That is why I have introduced this resolution designating the first week of October as "National SIDS Awareness Week." It is why so many other Senators have cosponsored this resolution. And it is why I hope for its speedy passage and its implementation.●

● Mr. QUAYLE. Mr. President, I rise to join my colleague, Mr. Durenberger, as he introduces this joint resolution to declare the week of October 1, 1982, as "National Sudden Infant Death Awareness Week."

Twenty times a day in this country a lifeless infant is found. These babies are normal, healthy infants that are found dead in their cribs by their families. One cannot imagine the grief and heartache these crib deaths bring into a family, nor the guilt or the prosecution.

Because these crib deaths are not well known, many families of sudden infant death victims are suspected of child abuse. In one case, three siblings were removed from the grieving parents by child protection authorities within hours of the death of the new baby. With more public awareness, these needless tragedies can be avoided.

I support this joint resolution because it will bring public attention not only to the problem, but to the progress that is being made, particularly in the development of monitoring for susceptible children. Infants who have had near-misses can be monitored through their first year of life, when the danger of another episode appears to subside.

I commend the Senator from Minnesota for his interest in this problem, and join him in support of this joint resolution.●

ADDITIONAL COSPONSORS

S. 1650

At the request of Mr. Helms, the name of the Senator from Delaware (Mr. Roth) was added as a cosponsor of S. 1650, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend coverage under provisions of that act relating to benefits to survivors of certain public safety officers who died in the performance of duty.

S. 1969

At the request of Mr. Pryor, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of S. 1969, a bill to prohibit the use of appropriations for the payment of certain lobbying costs.

S. 2247

At the request of Mr. Riegle, his name was added as a cosponsor of S. 2247, a bill to amend the tariff schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2300

At the request of Mr. Ford, the name of the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2419

At the request of Mr. DeConcini, the name of the Senator from North Dakota (Mr. Andrews) was added as a cosponsor of S. 2419, a bill to amend title 28, United States Code, regarding venue, and for other purposes.

S. 2617

At the request of Mr. Heinz, the name of the Senator from West Virginia (Mr. Randolph) was added as a cosponsor of S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate mandatory retirement and other forms of age discrimination in employment.

S. 2619

At the request of Mr. Tsongas, the names of the Senator from Hawaii (Mr. Inouye), the Senator from Connecticut (Mr. Weicker), the Senator from Pennsylvania (Mr. Heinz), and the Senator from California (Mr.

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CRANSTON) were added as cosponsors of S. 2619, a bill to amend the Energy Security Act to extend the financing authority of the Synthetic Fuels Corporation to include projects for district heating and cooling and for municipal waste energy recovery, and for other purposes.

S. 2776

At the request of Mr. RIEGLE, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2776, a bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative judge.

S. 2784

At the request of Mr. DECONCINI, the names of the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. LUGAR), and the Senator from Wisconsin (Mr. KASTEN) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. PRYOR, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Texas (Mr. TOWER), the Senator from Idaho (Mr. SYMMS), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. BUMPERS), the Senator from South Dakota (Mr. ABDNOR), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. MATTINGLY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Resources to conduct a study on steps which might be taken to correct the social security benefit disparity known as the notch problems.

SENATE RESOLUTION 367

At the request of Mrs. HAWKINS, the names of the Senator from Illinois (Mr. PERCY), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 367, a resolution expressing the sense of the Senate with respect to recognition of the Red Shield of David of the Magen David Adom by the International Committee on the Red Cross.

SENATE RESOLUTION 451—RESOLUTION RELATING TO ASYLUM FOR HU NA

Mr. HAYAKAWA submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 451

Resolved, The Senate reaffirms its commitment to the historical role of the United States as a place of sanctuary, and

The Senate urges the Administration to carefully consider this historical role as it deliberates the case of Hu Na, a citizen of the People's Republic of China who has requested asylum in the United States.

ASYLUM FOR HU NA

Mr. HAYAKAWA. Mr. President, I am sending to the desk a resolution urging the administration to consider carefully the historical role of the United States as it deliberates the case of Hu Na, a citizen of the Peoples' Republic of China who has requested asylum in the United States.

Miss Hu, one of the Republic of China's most gifted tennis players, defected last month during an international tennis tournament in California. Her country has asked that she be returned and suggested that cultural exchange programs will suffer if the United States does not accede.

While I recognize the importance of preserving and improving our relations with the Peoples' Republic of China, I am deeply concerned that the United States not succumb to political pressure by compromising one of its most cherished practices, that of granting sanctuary to the deserving.

Whether Miss Hu is deserving is a question to be answered by the Immigration and Naturalization Service in consultation with the Department of State. The resolution that Senator MOYNIHAN and I offer today will not inerfere with that decisionmaking process, but it will emphasize that it should be made free of outside pressures. Miss Hu should be granted the same concern that was given Martina Navratilova, Wimbledon champion and native of Czechoslovakia, who was granted asylum in 1975.

I urge my colleagues to express their support for the historical role of the United States a place of sanctuary to the deserving by cosponsoring this resolution.

Thank you, Mr. President.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

AMENDMENT NO. 2036

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

SENSE OF THE SENATE RELATIVE TO TREATIES

Mr. GOLDWATER. Mr. President, the amendment is noncontroversial. It reaffirms the constitutional role of the Senate in making formal treaties or statutes and in changing or repealing those laws.

It states the sense of the Senate only and does not require House or Presidential action.

The provision does not enter into the controversy over whether two-thirds of the Senate or a simple majority is required to terminate a treaty. It does not address the issue of whether the House has any role in treaty termination. It avoids any argument about executive agreements and only applies to formal treaties. The above questions are left open for interpretation by each individual Senator as he or she sees fit.

An immediate reason for the provision is to remind Peking and the State Department that a joint communique does not amend or replace the Taiwan Relations Act. President Reagan cannot object to this purpose since he publicly insists he has not changed the Taiwan Relations Act in any way and will faithfully comply with it.

Passage of the amendment will be a needed boost for morale in Taiwan.

AMENDMENT NO. 2037

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

EXTENDING UNEMPLOYMENT BENEFITS

● Mr. SCHMITT. Mr. President, I intend to offer an amendment to the debt limit bill which would extend unemployment compensation for up to 10 weeks for workers who have exhausted regular benefits.

This amendment is identical to the provisions contained in the conference report on the tax bill recently agreed

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to by the House and Senate conferees. The amendment offers Members an opportunity to extend needed unemployment benefits independent of the tax bill conference report that will soon come before this body.

The reasons for extending unemployment benefits for an additional 10 weeks are well known; the issue has already been debated and agreed to by the Senate. Unemployment is at 9.8 percent, a postwar high. Pockets of unemployment exist in various areas of the country where the number of workers seeking jobs is as much as 30 to 40 percent of the work force. Many of these workers are close to exhausting their unemployment benefits. While it now appears that the economy is "turning around," the extension of these benefits will give unemployed workers and their families additional time as new jobs are created.

There is no certainty that the tax bill agreed to by the House-Senate conferees will be enacted into law. The debt limit bill on the other hand will be signed by the President in the very near future. There is no reason why we should hold hostage the extension of unemployment benefits to the passage of the tax bill. This amendment will insure that these extended benefits become available to unemployed workers at the earliest opportunity.

I ask unanimous consent that the text of the amendment be reprinted in full in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the Joint Resolution add the following new title:

TITLE II—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Supplemental compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 202. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") under this title. Any State which is a party to an agreement under this title may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(c) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual's period of eligibility.

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhaused his rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(2) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this title—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployement shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this title or with the regulations of the Secretary promulgated to carry out this title.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

(e)(1) Any agreement under this title with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individuals's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent;

except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) (1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this title for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this title for any week beginning after March 31, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 203. (a) There shall be paid to each State which has entered into an agreement under this title an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by [illegible] State pursuant to such agreement.

(b) No payment shall be mad[illegible] any State under this section in respec[illegible] compensation to the extent the State i[illegible]ntitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 204. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this title.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such state in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this title. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorised to be appropriated from the general fund of the Treasury, without fiscal year limitation, to the employment security administration account in the Unemployment Trust Fund such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this title.

DEFINITIONS

Sec. 205. For purposes of this title—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "period of eligibility" means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

FRAUD AND OVERPAYMENTS

Sec. 206. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this title to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this title to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(c) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.●

AMENDMENT NO. 2038

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AMENDMENT NO. 2039

(Ordered to be printed.)

Mr. WEICKER proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AMENDMENT NO. 2040

(Ordered to be printed.)

Mr. BAUCUS proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON LABOR

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Labor, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Wednesday, August 18, at 9:30 a.m., to hold a hearing on S. 2617, Prohibition of Mandatory Retirement and Employment Rights Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to consider the nominations of Wilmer Mizell to be Assistant Secretary of Government Affairs for the USDA, and Leonard Fouts and Tom Carothers to be members of the Farm Credit Board of the Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to mark up S. 2245, S. 2620, and S. 2621, bills relating to the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 17, at 2 p.m., to hold an oversight hearing on the United States policy toward China and Taiwan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Federal Expenditures, Research, and Rules, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, August 18, at 9:30 a.m., to consider S. 1782, the Small Business Contract Payment and Procedures Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, August 17, 1982, in order to consider and act on the following committee business:

United States Circuit Court Judge

Judge Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the Sixth Circuit Court of Appeals.

United States District Court Judges

Mr. William M. Acker, Jr., of Alabama, to be U.S. district judge for the northern district of Alabama.

Mr. Bruce Selya, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

Commission on Civil Rights

Prof. Robert A. Destro, of Wisconsin, to be a member of the Commission on Civil Rights.

Rev. Constantine N. Dombalis, of Virginia, to be a member of the Commission on Civil Rights.

Dr. Guadalupe Quintanilla, of Texas, to be a member of the Commission on Civil Rights.

United States Marshals

Mr. Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas.

Mr. Charles L. Dunahue, of Colorado, to be U.S. marshal for the district of Colorado.

BILLS

An amendment in the nature of a substitute for S. 2420—the Omnibus Victims Protection Act of 1983.

H.R. 4476—The reauthorization for the Administrative Conference of the United States.

(Note. Any of the above nominations or bills which are successfully processed as a result of the poll being presently circulated, will be stricken from the agenda.)

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Wednesday, August 18, to hold a hearing on Social Security Disability Insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 18, 1982, in order to receive testimony concerning Senate Joint Resolution 199, a proposed constitutional amendment relating to voluntary school prayer and to consider the following nominations:

WITNESS LIST

Congressman Stephen L. Neal,
5th District,
State of North Carolina.
Hon. Edward C. Schmults,
Deputy Attorney General,
U.S. Department of Justice,
Washington, D.C.
Dr. M. G. Robertson,
President,
Christian Broadcast Network, Inc.,
Virginia Beach, Va.
Mr. Willard H. McGuire,
President,
National Education Association,
Washington, D.C.

PANELISTS

Hon. James Corman,
Representing Americans United for Separation of Church and State,
Silver Spring, Md.
George Bushnell, Esq.,
Representing the General Assembly of the United Presbyterian Church,
New York, N.Y.
Hon. John Buchanan,
Representing People for the American Way,
Washington, D.C.
Mr. George Ogle,
Program Director,
General Board of Church and Society of the United Methodist Church,
Washington, D.C.

U.S. DISTRICT COURT JUDGES

Mr. Thomas F. Hogan, of Maryland, to be U.S. District Judge for the District of Columbia.

Mr. Ross T. Roberts, of Missouri, to be U.S. District Judge for the western district of Missouri.

U.S. COURT OF CLAIMS

Alex Kozinski, of the District of Columbia, to be a Judge of the U.S. Court of Claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, August 19, at 10 a.m. to hold a hearing to consider S. 2629, Budget Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Transportation of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to hold a hearing on highway cost allocation and revenue issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, August 18, at 2 p.m., to consider S. 2118, a bill to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IMMIGRATION REFORM

● Mr. KENNEDY. Mr. President, following yesterday's vote by the Senate on S. 2222, "The Immigration Reform and Control Act," the U.S. Catholic Conference issued a statement expressing its deep reservations over the bill and opposition to key provisions in it.

As Senators know, I share many of those concerns—which I stated when I voted in opposition to the bill.

Had the Senate accepted my amendments to restore the existing second preference immigration category, the fifth preference for unmarried brothers and sisters of U.S. citizens, and taken immediate relatives out of the annual ceiling—we would not be hearing widespread concerns over the erosion of the family reunification goals of our Nation's immigration laws contained in the bill.

The U.S. Catholic Conference states the issue well: "We view with utter dismay the erosion of the family reunification foundation of our system of selecting immigrants."

I also commend the Conference for pointing out that the limitations on the legalization program contained in the bill are simply "putting off to another day the time when the problem will ultimately be resolved even for those who may now qualify" for amnesty. As the Conference statement concludes, "Surely the head and heart of America can do more."

Mr. President, I ask that the text of the statement issued by the U.S. Catholic Conference be printed in the RECORD.

The statement follows:

STATEMENT ISSUED BY THE U.S. CATHOLIC CONFERENCE

The United States Catholic Conference has been following closely the debate in the Senate on the Immigration Reform and Control Bill, S. 2222. We are heartened by the Senate's action in defeating by a substantial margin Senator Huddleston's amendment designed to subtract the number of refugees admitted to the U.S. from the total authorized number of regular immigrants admitted the following year. This would result in every refugee and asylee admitted blocking the admission of a regular immigrant the following year.

However, we view other Senate changes in the bill with grave concern. We deplore adoption of the Grassley amendment on undocumented aliens which sets the residency date for acquisition of permanent resident status back to 1977 and the date for temporary resident status back to 1980. Congress has a unique opportunity to act forthrightly and effectively in putting the issue of undocumented aliens behind us. By prolonging the periods of adjustment and permanent residence we are only putting off to another day the time when the problem will ultimately be resolved even for those who may qualify. As for those disqualified simply by date of residence—and their number may indeed be large—the government is still saddled with the insurmountable burden of apprehending and expelling them, while the undocumented themselves face continued exploitation by unscrupulous employers. Surely the head and heart of America can do more.

We view with utter dismay the erosion of the family reunification foundation of our system of selecting immigrants. As the bill stands, the immediate relatives of U.S. citizens are included under the annual numerical ceilings; the families of permanent resident aliens are weakened by the disqualification for relative preference of audit unmarried sons and daughters; no provision is made for brothers and sisters of U.S. citizens; and many family units are divided by the imposition of the 1980 cutoff date for temporary residence. It is essential that the principle of family reunification be retained in our immigration laws.

We now look forward to the deliberations in the House of Representatives. We encourage Congress to continue to give conscientious consideration to these very complex issues. It is our continued hope that they will be resolved in a manner which reflects justice, compassion, and humanitarian concern.—Msgr. Daniel C. Hoye, General Secretary, United States Catholic Conference.●

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ARMS CONTROL

● Mr. HART. Mr. President, on April 18, Congressman MORRIS UDALL spoke to the people of Tuscon, Ariz., on an issue of transcendent importance; war and peace in the nuclear age. He did so from a highly personal perspective, as the grandson of a Mormon pioneer who settled in the Arizona wilderness of the 1870's. He underscored for his audience the dramatic nature of the changes that have taken place in American society and throughout the world in the 100 years since his grandfather's migration. He reviews, with special insight, the scope of the scientific and technological revolution that has touched us all and brought both unparalled material well-being and the capacity to destroy ourselves through nuclear annihilation.

In the second half of his address, Congressman UDALL outlines a straightforward and achievable program to arrest the ruinious nuclear arms competition between the United States and the Soviet Union. With clarity, conviction, and precision, he first describes the dimensions of the task confronting us and then offers a number of practical steps that would enable us to reassert control over our own destinies. It is a powerful and moving address. I highly commend it to my Senate colleagues.

I submit for the RECORD Congressman UDALL's April 18 address to the citizens of Tuscon, "The View From Ground Zero."

The address follows:

ADDRESS OF CONGRESSMAN MORRIS K. UDALL

In the 1870s, more than a hundred years ago, my grandfather, a Mormon pioneer, came south from Utah to build a small town where I was born. I was in high school before he died and got to know him. In those simpler times, the U.S. government or people in other countries had little impact on how Americans lived. Government delivered the mail, gave you a patent to your farm, maybe got into a war now and then, but didn't touch you or your family. And families in Northern Arizona those days didn't really have to worry about any kind of attack or death at the hands of outside forces. The biggest guns ever built were mounted on ships and had a range of maybe 12 miles.

Protected by two oceans and some mountain ranges, my grandfather's generation, and mine, were safe. But times have drastically changed and mankind now faces threats to its very existence that were unthinkable even 40 years ago.

It took us 150 years in this country to go from an agrarian society with 90 percent of our people on farms, to the world's first and greatest technological power. We have worshiped technology and science in our country and we have developed, over those decades, a basic reliance on technology and science and at least one basic attitude: if the scientists can do something, we are wise to build it and adopt it. There might be flaws or side effects here, or some errors there, but they would be worked out.

Basically, we were well off to deploy whatever technology the scientists could build. This was, then, a good policy which enabled us to build the railroads, the steam engines, the automobile, the electric light, the chemicals that made life better and our farms more productive and our manufactured goods the standard of excellence.

But in the last 40 years, all that has changed. Chemicals cause cancer and nuclear tests produce deadly waste, toxic chemical wastes brought birth defects at Love Canal and other places. In Virginia, the James River was poisoned for years from discharging Kepone, an exceedingly dangerous chemical, into its waters. Fish died and lakes are rendered lifeless by acid rain. We hear talk from our scientists about the ozone layer and other problems about which not enough is known.

So we are beginning to learn that sometimes we ought to go a little bit slow, take another look at a new technology or process. Things we can technically do, we maybe won't do for awhile until we're a little more sure. Cancer is an epidemic in this country. We need more testing of new chemicals used in our food. We decided, wisely, not to build a supersonic transport.

About 35 years ago, we suddenly saw the great promise of nuclear fission and fusion, the power of the sun. This great gift would not only give us weapons of immense destructiveness that could bring an American peace to the world, but it promised "power for the people," cheap electricity for the whole world, and progress and economic growth and technology for all the nations of the world.

And now the bright promise of nuclear is in trouble on both fronts. Serious questions now are posed whether nuclear electricity is cheap, safe or whether we can dispose of the wastes that last for thousands of years.

The other arm if the dilemma—the nuclear arms race, which for the first time in the history of this planet seriously threatens the capacity to eliminate, not just some "enemies," but the entire human race.

And so the issue here is life itself. If we have arrived at the point where we can conceive of destroying our species, can we break out and talk about the human race and conceive a plan to save it?

We must.

If we do not, most surely we could see the day in our lifetime when the living shall envy the dead.

As Albert Einstein once said, "The unleashed power of the atom has changed everything save our modes of thinking. And we thus drift toward unparalleled catastrophe . . . a new type of thinking is essential if mankind is to survive. . . ."

In the last year or so, there has burst out a wave of concern here in America. Our people know the way we are heading. They recognize the dangers threatening this country and the whole planet. They know that by the end of this century, unless we act, six nations having nuclear weapons will be replaced with maybe 20 nations. I'm not going to sleep very comfortably knowing that nuclear war is a telephone call away from people like Idi Amin, the Ayatollah, Qadhafi, or another Hitler. We must begin to talk seriously and immediately about proliferation and join with the Soviets and other major powers to slow it down and stop it in its tracks. Unstable rulers and terrorist groups simply must not get their hands on nuclear bombs.

Today, unlike my grandfather's time, someone you never heard of, sitting in a building 8,000 miles away, can set in motion events that could destroy this city and all the hopes and dreams for all civilization. And it could be over in less than a couple of hours.

The world has changed drastically. As Albert Einstein said the week he died, we must "appeal, as human beings, to human beings." He was right. We got ourselves into this dilemma and maybe we can get ourselves out. But there is no perfect choice, for all the options have dangers. There is no foolproof course. We run risks if we go for a mutual freeze and risks if we do not. But let us be willing to be strong and forceful and to find the road where the risks are least. I propose that we proceed now on several levels, all at once.

First, we should get our President and our leaders back to the bargaining table with the Soviets. This Administration shot down SALT II, negotiated earlier by President Ford and Henry Kissinger, and later by President Carter, meeting with Secretary Breshnev. We are still observing, and the Soviets are still observing, the warhead and launcher limits in the SALT II agreement.

It makes no sense to talk about putting off negotiations with the Soviets until we have built more weapons and produced more systems, and raced ahead with the nuclear arms buildup which will give us even more of a lead in categories than we have now. The old idea of bargaining chips for strategic arms limitation talks has never worked and it won't work today. No country will build a multi-billion dollar missile for the purpose of dismantling it.

I propose we stop kidding ourselves and our allies and the world with this careless talk about "limited nuclear war." There can be no limits. It simply won't happen that the Soviets will take our Omaha, and at 9 o'clock, we'll strike back and destroy Leningrad, and at 10, they'll drop a couple on Detroit, and then we'll all go to lunch at the Doubletree and talk about what we'll do next. We will not find the answer in another year, or just the right moment, or just the right buildup, or just the right deployment of some new weapon, or even just one more bargaining chip. The time to negotiate is now, and the Administration has let us all down.

Secondly, we must move at once to limit the risks of an accidental war. We've come too close too many times these last 30 years. On one famous occasion, our radar mistook the rising moon for missiles coming in from the Soviet Union. We must improve the Hot Line and immediate communications systems. And we should adopt right now the plan first advanced by Senator Henry Jackson, calling for the establishment of a joint U.S.-Soviet military command post. Two such posts ought to be set up, one in Moscow and one in Washington, with Soviet and American military personnel operating from both. The Presidential Hot Line is just not reliable enough anymore. Instant communication between military leaders could avert a nuclear mistake.

And I would call right now for an end to this dangerous nonsense of our government specifically refusing to rule out a first strike. It may have made sense in the early days of NATO. But not now. Yes, there are risks, and yes, the Soviets cannot always be trusted.

But we ought to call their bluff on this offer and join them now in a mutual pledge that neither side will use nuclear weapons first. We don't fool anybody with this—not our own people, not our NATO allies, and certainly not the Soviets. This ancient doctrine may have been right when first adopted, on the theory that the Soviets had

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NATO badly outmatched in conventional arms, and that the only way the U.S. could protect our European allies would be to promise, in the event of a conventional Soviet attack, to use our nuclear weapons against invading Soviet forces. But what we now are saying to the Soviets is, we want you to believe that we will rain down American nuclear missiles on the Soviet cities in order to protect the West Germans and the other NATO countries from a conventional Russian attack. But we're saying to the American people at the same time, "Look, we don't really mean it, and you shouldn't worry about it because it won't happen." It's just cheap deterrence, we say. This is a tremendously destabilizing posture to take and I join with the four leaders from various recent Administrations who said the other day, that this is a dangerous and outmoded policy.

A recent poll showed that 72% of the American people want a freeze on more nuclear weapons, and they want it right now. Not the unilateral freeze or unilateral disarmament, but a negotiated, verifiable freeze with the Soviets against deploying or building any new intercontinental missile systems. I agree.

In the meantime, I would call for and support the strongest emphasis on an armed forces equipped with the very best conventional arms, and my voting record reflects that support.

I think the American people are coming to an understanding that times really have changed and that we must change.

And perhaps it is coming to pass, as President Eisenhower once put it, that someday the American people will stand up and demand peace.

If this is coming to pass, I suspect that American women are showing us the way. We had no Gold Star Fathers during World War II, but Gold Star Mothers. Women bear a special pain in wartime. Women have always been the special custodians of the family values, the children, of peace and the gentler aspects of civilization, and the bank of genes that keeps us going. If it were left to mothers in the world, I suspect we would have no wars.

Women and men rarely have different levels of support for politicians. Ronald Reagan ought to be worried about a 12-point gap between the support he gets from men and the support he gets from women. I think the difference relates to war, to nuclear questions, and to doubts and concerns about his Administration.

Yes, I'm concerned about the Russian buildup. I do not condone it. It is real, dangerous, alarming and I'm critical of it. We must not ignore it and we must be concerned by it.

But I also believe it has been exaggerated. The Joint Chiefs of Staff were asked last year, one by one, if they would trade across the board for what the Russians have. Would the Chief of Staff of the Air Force trade ours for theirs? His answer was no. Would the Chief of Staff of our army trade for theirs? His answer was no. Would the Chief of Naval Operations trade our navy for theirs? His answer was no.

We must remember that when we see the estimates of Soviet strength, that a good bit of their buildup is deployed along the 3,500 mile border with China.

In 1945, we had two nuclear bombs.

Today, we have 12,000 nuclear warheads.

How much is enough?

The recent Israeli assault on the Iraqi nuclear facility reminds me of a conversation I had not long ago. The Chinese, if you talk to their leaders, are paranoid in their fear of the Soviets, and vice-versa. This mutual fear dominates any dialogue. After the big breakup between China and the Russians, the Soviets began to worry about eventual nuclear capacity on the part of the Chinese. The Chinese were building a huge new complex in a remote part of Western China. As the Soviet skyplanes and intelligence operators told the Soviets, the Chinese were beginning to get enriched uranium and plutonium and soon, they would be ready to make nuclear weapons. An old CIA agent who isn't around anymore told me that we had echoes of a great debate that took place in the Kremlin over several years. He said the Russians came close—very close—to an attack on the Chinese nuclear facilities, to take them out early, like Israel and Iraq. My informant told me that by the end of three or four years the Russian intelligence service showed that the Chinese had, or were about to build, something in the range of 300 to 400 nuclear weapons. Not very sophisticated, but nuclear weapons all the same. And the Chinese had the planes and the rockets, also of a primitive design, probably capable of hitting Soviet targets, including Moscow.

At that point, and after more debate, the Soviets decided against an attack.

I read into that story, a lesson: you don't need 9,000 or 40,000 or 68,000 nuclear warheads to deter a country, even a superpower. A credible arsenal of a few hundred will deter and beyond that, you're not getting much additional security and you may even be getting less.

The Russians already have enough of a stockpile to put 140 nuclear warheads each in every one of our 50 states. In Arizona, we can portion it out even more. Consider that every county could have 14 nuclear bombs arriving. Fourteen Hiroshimas in Pima County alone—only these devices are several hundred times the power of the bombs dropped on Japan.

And so I think the American people have to ask this Administration why we're not talking to the Soviets now. I'm not a fan of Richard Nixon, as some might suspect, nor do I think Henry Kissinger is one of the world's most humble people, but I say to both of these men that at least you knew you had to go to the Russians and start talking about nuclear arms. And they did, and on that matter, I think history will treat them kindly.

Candidate Ronald Reagan said that he would begin to negotiate soon. Shortly before his election, Reagan said in a televised address, "As President, I will make immediate preparation for negotiations on a SALT III treaty." Despite that pledge, those preparations continue to drag on and nothing significant has been done.

Today, we ought to ask our President: how long does it take? When will we go to the bargaining table? And when will our government not be so busy with the arms race that we can talk about ending it?

Last November, as this amazing outpouring of concern arose in our land, the President made a good start on missile talks when he proposed so-called "Zero Option" in which the Soviet Union would remove their land-based intermediate range missiles from Europe in exchange for cancellation of NATO's planned deployment of Pershing II missiles. The President's November speech was a good speech and a good start, but it was only a beginning, and a single speech will not even begin to do this job.

Let me make one other serious and important suggestion. We ought to stop treating the citizens of the Soviet Union as some kind of subhuman species, that is, people who don't care about wiping out 100 million of their people if they can get 105 million of ours. If, in your view, a particular group of people are really subhuman, then you would really needn't treat them in human terms. And I find too often that people involved in this nuclear debate talk about the Soviets in those stereotyped and dangerous terms—the mad Russian general who can't wait to blow up San Francisco, even though he and his family and his country may be vaporized in the next exchange.

I've had the interesting experience of knowing one of the best Russian diplomats over the years. His wife is a lovely, remarkable woman. I was swapping political stories with some guests one night and started to tell a mother-in-law joke. And I said, to the lady, "Are there mother-in-law jokes in the Soviet Union?"

She replied with a smile, "It is universal."

And so it is all universal.

Lyndon Johnson found the way to get through to Kosygin at the Glassboro summit—it was talking about his children. And Kosygin talked about his children, and his grandchildren. Jimmy Carter's efforts to Camp David with Begin and Sadat kept flying apart on crucial points. But President Carter kept talking about the children and the grandchildren and about their families. Somehow, the talks kept going.

We're all sharing this planet together and we have to work together. And we have to treat each other as people. Neither side can give ultimatums to the other. We have American leaders who talk as though we could say to the Soviets, "We're going to be number one, and you are going to be inferior in all of this arms race, and if you don't accept this, we'll simply build nuclear warheads until you do accept it." We wouldn't accept that kind of ultimatum and I don't think we can ask our adversaries to accept it.

Nixon and Kissinger used to talk of the importance of a "web of relationships," and they were right. We need all kinds of commercial and cultural relationships between the Soviet Union and the United States. We ought to explore proposals on all levels and on people-to-people basis, where we can. On the commercial front, surely we can sell grain and non-sensitive technology that they'll get from other countries anyway. I don't oppose grain sales. And I'd love to see the Soviets begin to get accustomed to good old American steaks and Colonel Sanders fried chicken. A Pepsi Generation is better than no generation at all.

Until the Afghanistan invasion, we cooperated with the Soviets in athletics. We've had joint space missions, exchanges of ballet and drama companies and a whole lot of other things. We need to build more bridges of understanding. And I want to propose one more such step today. It is a small step, but an important one that might harness the idealism and enthusiasm of the young people in the Soviet Union and in the United States.

In my time, I think one of the most exciting programs was the Peace Corps, launched by President Kennedy. The idea that people, largely young people, could break through the barriers of culture and poverty and really help people in other parts of this planet was, and still is, a noble idea.

I propose a Sense of Congress Resolution, which I intend to draft and introduce, launching a new U.S.-Soviet Youth Exchange for Peace program. It could be patterned partly on the very successful Friends Program that brings hundreds of young people, potential future leaders of high school age, from foreign countries here for a year to live with American families and attend our schools. I propose that our government be authorized to establish an exchange of 2,000 young Russian and American citizens between the ages of 15 and 19, each year, who would visit each other's country to study, work and live and get to know each other as people. I would require that each country attempt to have at least half of these students be relatives of the political, cultural, commercial and civic leadership of each nation.

Would this program prevent World War III? It might at least be a factor that could lead to a better understanding of each other.

Eventually, I think we'd build up in a generation from now, leaders on both sides of the Iron Curtain who would understand each other as people.

We would have Russians and Americans who literally could speak the other's language, who might de-escalate the crazy rhetoric and dangerous situation that exists today.

In President Kennedy's time, a young Peace Corps volunteer named David Crosier, who died overseas, had written a note to his parents. By the time they received it, he was killed in an airplane crash. But he wrote, "Should it come to it, I had rather give my life trying to help someone than to have to give my life looking down a gun barrel at them."

Finally, I want to offer some advice to our President Reagan.

Mr. President, you stand before history with an opportunity that few human beings have had. You can really go down in history as the peacemaker of your time. It takes courage. It took an Anwar Sadat breaking through decades of hostility and terrorism to go to Jerusalem and talk peace. It took Prime Minister Begin and President Carter to make a breakthrough at Camp David.

You will pay a price. You will be criticized. But you have the credentials of a veteran conservative and a Cold Warrior. But you can do for your country what perhaps another leader might not. I urge you to make this your number one order of business. I think the American people are ready to tell the Soviets, we want to talk now. Not next year or a year from now, but right now in the year 1982. I think they're saying that we're going to find ways to stop this mad stockpiling of numbers of new inhumane weapons which helps bring on talk of chemical and bacteriological warfare.

Take the lead, Mr. President. I think the American people will support you.

John Kennedy, in his campaign of 1960, said something worth remembering on this day. "Mankind," he said, "now holds in its hands the power to eliminate all forms of human poverty or to eliminate all forms of human life."●

FIFTY YEARS OF SERVING NEW MEXICO'S VETERANS

● Mr. **SCHMITT**. Mr. President, I rise today to pay tribute to the 50th anniversary of the Albuquerque Veterans' Administration Medical Center.

The doors of the new VA hospital opened August 22, 1932, with 262 beds and 250 employees, including 8 physicians. Built to harmonize with the New Mexico scene, the facility followed the native American design of Taos Pueblo, with tile-paved patios and walks, deep porches, and huge vigas—logs—protruding from exterior walls. Because of the dry, sunny climate, the hospital was planned primarily for care of tuberculosis patients, many of whom had moved to New Mexico for treatment.

Support for a veterans' facility in Albuquerque came from the American Legion auxiliary, the Veterans of Foreign Wars, other veterans' groups, and especially from the War Memorial Mothers Association, which donated the land. The facility was built and equipped on 515 acres of mesa at a cost of $1,250,000. The surgical suits and its equipment were comparable with the best in any big-city general hospital in the Nation.

In World War II over 400 acres of grounds were leased to the War Department. Later this land was donated to the Air Force, the highway department, and the city. Rattlesnakes were a problem during construction of a 267-bed TB wing in 1949, and in the harvesting of one cucumber crop planted by resident nurses. From 1948 to 1966 the hospital was affiliated with the University of Colorado Medical School.

By the late 1950's the use of chemotherapeutic agents to treat TB allowed these patients to recover faster and become outpatients. By 1970, only one TB ward of 12 beds remained.

Since 1966, a mutually beneficial affiliation of the medical center with the University of New Mexico School of Medicine, now under the direction of Dean Leonard M. Napolitano, has resulted in expanded specialty services to veterans and the attraction to the VA staff of physicians of national stature.

A new ambulatory care building was added in 1976. In 1980 the education building was dedicated, coinciding with the celebration of the 50th anniversary of the Veterans' Administration.

Today the Albuquerque VA Medical Center serves the entire State of New Mexico with a veteran population of 214,000 and six counties in southwest Texas, with referrals for hospitalization from Arizona and Texas. The center provides care for almost 9,000 inpatients and over 111,000 outpatients annually. The average length of stay has been reduced from 35 days in 1965 to 14 days at present. Employees now number 1,131, including 74 physicians—one-half of whom are part time, and 330 members of nursing service. The annual operating cost has grown from $850,000 in 1932 to $40 million in 1982. Hospital beds number 404, with an additional 47 in the nursing home care unit.

Specialized services now offered include the following:

Cardiology, geriatrics, hematology, oncology, pulmonary diseases, hemodialysis, rheumatology, neurology, neurophthalmology, nuclear medicine, audiology, speech pathology, thoracic, and cardiovascular surgery, urology, orthopedic surgery, neurosurgery, ophthalmology and plastic surgery; 24-hour, 365-day X-ray services; every possible form of prosthetics assistance for disabled veterans, and rehabilitation medicine under a physiatrist's direction; laboratory using automated testing systems and computers; hospital based home care; critical care units; a 40-bed inpatient psychiatry program, a 25-bed inpatient alcoholism program, a mental hygiene clinic, and a psychiatric day treatment center; a behavioral medicine program, neuropsychological assessment and counseling, consultation services by psychologists, family therapy; a sophisticated medical equipment repair section.

Over 550 regularly scheduled volunteers contribute significant time and services to patient care.

The medical research program, begun in 1956, coordinates about 100 separate research projects totaling $1 million. Research results have been published in thousands of articles in leading scientific journals. Some discoveries made at the Albuquerque center have been widely adopted in other VA medical centers and elsewhere.

The Cooperative Studies Program Central Research Pharmacy Coordinating Center, an extension of the VA Central Office in Washington, coordinates pharmaceutical research studies involving many VA medical centers.

The combination of research of national and international recognition, continuing improvement of the facilities and equipment necessary for sophisticated primary through tertiary care, and the ability of the educational program to attract outstanding physicians in training have all combined to attract a group of physicians to the Albuquerque VA Medical Center who are able to provide the highest quality of care.

The center is identified as one of the 10 VA medical centers in greatest need of replacement or major modernization. A new clinical services/bed building, now being planned for completion by 1986, will correct most of the critical deficiencies. The spacious grounds on a raise overlooking the 10,000-foot Sandia Mountains, with landscaped lawns, pine groves, and rose gardens beside covered walkways, continue to create a peaceful healing setting enjoyed by patients and their families.

The center's professional competence and high quality of care are well known throughout the VA system. The services provided have established

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the center as a major health resource in New Mexico. The 50th anniversary of the Albuquerque VA Medical Center is therefore a commemoration of a half-century of steadfast and devoted care given by qualified, concerned, forward-looking staff whose primary interest is the highest level of patient care achievable; of service rendered by volunteers and service organizations; and of productive affiliations with the schools of medicine and the surrounding health care organizations.

Special recognition should be given to the past directors, R. R. Gibson, D. K. Dalager, Paul Eisele, C. M. Kurtz, and P. N. Schmoll; and to the present director, Joseph E. Birmingham, who has served in various VA medical centers during the past 36 years, and as director of the Albuquerque VA Medical Center since 1975.

In the words of Mr. Birmingham, "This is also a time to renew our commitment to provide the best possible care and treatment to those who have given so much of themselves to insure the freedom we enjoy today."

Mr. President, New Mexico is proud of its veterans and their service to the country's defense. We are equally proud of the institution which provides primary medical care to New Mexico's veterans.●

RALPH L. MATTHEWS

● Mr. PRYOR. Mr. President, recently a distinguished Arkansan named Ralph Matthews died in his hometown, Jonesboro. Ark. All of us who grew up during the distinguished leadership of Senator John L. McClellan knew Ralph Matthews as a dedicated, responsible, and sensible administrative assistant. He served Senator McClellan for many years. In fact, he was a model of the kind of administrative assistant any office on Capitol Hill would be fortunate to have—as both an administrator and a friend to all. I personally remember many occasions when I called upon Senator McClellan and Ralph Matthews, and I was always greeted as a friend.

Ralph Matthews served as president of the Association of Administrative Assistants in the Senate. He was a leader in his own right. And when I describe him as sensible, I mean that he knew how to get things done in a bewildering Federal Government. He could get them done efficiently and well. And he never took himself so seriously that a sense of self-importance would get in his way.

Mr. President, I want the many friends and colleagues of Ralph Matthews to read a eulogy delivered by the Reverend Emil Williams, pastor of First Baptist Church in Jonesboro. I ask that it be printed in the RECORD at this point.

RALPH L. MATTHEWS

(A Eulogy delivered by Emil Williams, Pastor, First Baptist Church Jonesboro, Ark.)

Your loved one, my friend, and a part of this community, a part of our lives, a part of our experience together in so many ways: Ralph Matthews. We have come to this time to mark his passing and to share with you in the experience of loss, as well as the experience of worship-and claim together that God is for us in this hour.

"Bless the Lord, O my soul; and with all my being, Praise his holy name. Praise the Lord, O my soul, and do not forget how kind he is. He forgives all my sins; and heals all my diseases. He saves me from destruction; he blesses me with love and mercy; he fills my life with good things; so that my youth is renewed like the eagles.

"The Lord is merciful and loving, slow to become angry and full of constant love. He does not keep on rebuking; he is not angry forever; he does not punish us as we deserve or repay us for our sins and wrongs. As high the sky is above the earth, so great is his love for those who have reverence for him.

"As far as the east is from the west, so far does he remove our sins from us. As kind as a father is to his children, so kind is the Lord to those who honor him. He knows what we are made of, he remembers that we are dust. As for us, our life is like grass, we grow and flourish like a wild flower, then the wind blows on it and it is gone and no one sees it again, but for those who honor the Lord, his love lasts forever, and his goodness endures for all generations. And so, bless the Lord, O my soul; and all that is within me, bless his holy name."

Join us as we pray: Our Father, we are met together today to join hands and hearts, for we have all lost one who is dear to us in friendship, love, and family. We know that he has been taken unto thyself. We know that he belonged and belongs to thee, and we thank thee for the God who loves him and loves him now. Bless our time together here in reflection and memory and affirmation and praise—that a man's memory might be honored and that God himself might be lifted up and blessed and praised. In the name of Jesus our Lord, we pray. Amen.

To be sure, no man's life can be summed up in a few brief moments, and that is not our purpose to try to sum up a man's life. Nor can we in any sense do justice to the feeling that you have, for as varied numbers of persons as this congregation is, just as surely are there your own unique and deeply personal feelings at this time. I would only try to reflect with you about memories and about affirmation of faith.

Share memories with me for a moment. Some of them I cannot share with you because, quite honestly, they go back beyond my time and understanding and knowing of Ralph Matthews. But in a real sense, I can share even those, too, because I know you—and I know his family, and I know his friends. And I have known them for a number of years. Out of that experience, I believe I can share even those memories where I was not personally involved.

Memories of service, yes, even to country. Service to Country—Ralph knew his job and worked at it. He did it well. He was an expert at what he did. He often joked about that. He often joked that he never enjoyed work of any kind, but that was his way of laughing at himself.

I believe he enjoyed it very much, for it was his service, and he did it well. He rendered service through an important time and life of our country. His public service should be marked—we should remember it.

Memory of Friendship. There are some of you here today, who for a number of years had almost daily conversation with him. So I do not need to tell you of friendship. You know that. He cherished his friends as you cherished his friendship. There had been many years spent away from this place he loved so much, but homefolk were dear to him and I shared that friendship with him, too, as you did.

I think there was no more interesting and stimulating conversation I ever enjoyed with anyone, never any more than with Ralph Matthews. I found him to be a person of deep concern. It was not just shallow friendship, but friendship moved at a deep level with him.

We will remember his gentle humor. And I say both terms because both of them are important. There are many who are gentle who lack his particular insight to life that gave it a note of humor, even in the midst of somber occasions. It is very difficult even now for us not to remember the twinkling in his eye and the hearty laughter at the foibles of mankind. But it was always gentle humor. He had learned to laugh at almost every experience of life, but what I remember most is this: his humor was always gentle. It was never cruel and was just as often directed at himself as it was at others. He learned to laugh, even about the disabilities of his sickness over these last years, and particularly through these last few months. The ability not to take oneself too serious is one of the great gifts of life. It's a transforming experience in the midst of those things that can overwhelm us. Ralph had that gift, and we will remember that with fondness; and I share that memory with you, because there is a sense of confidence that must be in the life of a person who is able to do this. The confident person can laugh at himself, laugh at others, laugh at the weaknesses of mankind.

A memory of these last years. He told me a little more than a week ago that he loved these sixteen years, here in this community, the time of his retirement more than any period in his life. Members of his family and you who are his dear friends should remember that, with some gratitude, with some fondness: the fact that you were part of a very, very important and cherished period of a man's life, that he loved this more than any other time. That you are part of that should be something very special to you. That meant time to be with you, time to be at home, time to be with friends and again in the community that he cherished.

I believe that we could write the summary of his life in terms of great loves. Love for his family—everyone of you. Your own welfare and well being were his constant concern. Love for his family and for the church. In many ways, because of his years away, it was the church here of his childhood. Not many days ago he told me, as renovation was taking place in our building, that he was in one of the first groups to be baptised in the building when it was finished. He joked about the baptistry where he was baptised, now being lost. But he came to love his church of the present day, too. No man was more interested in what the church was doing about the building. I never had more questions asked about remodeling, renovation, the choir, the program, and what we were doing. Never had anyone shown more interest in where we are now and where we are about to go in the years ahead than he did. But the church was more than a building. It was the people, and he loved them. And for this town, this community, this place of his childhood, this place where he came back.

But, I'd also mention a love that we should not pass by lightly: A love for his country. He believed in the system. He was part of the experience of many who were great and near great as well as seeing the lives of the despot, the criminal during that particular period of our nation's history when he was part of the Senate Committee. He came in close contact with many of these. Some of the most interesting conversations that I had with him relate to this time. He never lost faith in the democratic system, in our country, in this government.

He never became cynical as some have done about the whole process. He was positive and he would always tell of the good men that he knew who were in politics, who were in government, where he interpreted this public service as a way of service in the country that he loved. He believed in it.

But now of faith. Some of that he shared with me about his faith is so personal and so sacred, that even now it is not the time to share. But it was so good. It had to do in part with the way he faced his illness, that he knew where the circumstances of life were going. He knew that well. He was always honest with himself about that. He did not ask for those circumstances to be changed. He rather asked for courage to face the circumstances, and that over and over. Beneath it all, you see, was a personal relationship, not just some vague notion about some vaguely defined God. But what he confessed was a personal faith in the Lord Jesus Christ. From his own heart, from his own mouth was the confession made over and over that the Lord Jesus Christ, God's own Son, was his Savior and his Lord. More and more that became the most important reality of his life.

I think then that we could say with Paul, "I know whom I have believed, and I am persuaded that He is able to keep that which I have committed unto Him against that day."

I think the words are appropriate in this last moment from Paul's Second Letter to Timothy: "As for me, the hour is come for me to be offered up. The time is here for me to leave this life. I have done my best in the race. I have run the full distance. I have kept the faith and now there is waiting for me the prize of victory awarded for a righteous life. The prize which the Lord, the righteous judge will give me on that day. And not only to me, but to all those who wait with love for Him to appear."

"Bless the Lord, O my soul and all that is within me, bless his holy name."

Dear Father, we thank thee that we have had the privilege of friendship with this man. And of sharing life's experiences with him. We thank thee that he is part of the family of faith, the household of faith. We thank thee that he is your child. For all that he has meant to us, we give you thanks. And now we hold before you for your personal care and keeping the inner circle of this family who have lost one who is so precious to them. Give them your strength and help even as they remember one whom they love. Will you steady and strengthen their lives for the days ahead. Through Jesus Christ our Lord we pray. Amen.●

WHY CONSERVATIVES SHOULD OPPOSE CLINCH RIVER

● Mr. **HUMPHREY**. Mr. President, I call my colleagues' attention to a recent article by Milton Copulos of the Heritage Foundation concerning the Clinch River breeder reactor. While I happen to take exception to Mr. Copulos' characterization of our majority leader, Senator BAKER, I nevertheless think the article is instructive for its economic analysis of this "technological turkey."

If Members of this body ever ask themselves why the financial markets and the general public remain unconvinced of Congress ability to control Federal spending, I would urge them to read Mr. Copulos' article very carefully.

I ask that the full text of the article be inserted in the RECORD.

The article referred to follows:

BREEDER BOONDOGGLE MOVES AHEAD

(By Milton Copulos)

George Washington Plunkett, the legendary political boss of New York's Tammany Hall, once justifed his participation in a number of pork-barrel public-works projects by saying "I seen my opportunities and I took 'em." While the nature of pork-barrel politics has changed somewhat since Plunkett's day—politicians do not tend to frown on their colleagues' enriching themselves at the public's expense—the projects remain a fixture of the political arena. The only difference today is that it is the politician's constituents, rather than the politician himself, who reap the benefits. Although many of these boondoggles are being trimmed as Congress struggles to come to grips with a budget deficit that has soared past the $100-billion mark, at least one has managed to withstand the budget slashing onslaught: the Clinch River breeder reactor.

The continued funding of Clinch River is a testimony to the arm-twisting log-rolling, and plain old political horse-trading skills of Senate Majority Leader Howard Baker (R.-Tenn.). His effort that would make Plunkett proud. Clinch River's price tag has ballooned from $669 million to over $3.3 billion, with more cost overruns in sight.

Originally scheduled to go into service in 1979, it has yet to see a spadeful of earth turned. Worst yet, many nuclear experts believe the technology it represents will be out of date by the time the reactor is finished. Still, Baker has managed to keep the project alive. An article in the August Reader's Digest, "Senator Baker's Costly Technological Turkey," outlines just how Baker has managed to pull off this bit of pork-barrel legerdemain.

Characterizing the episode as ". . . a graphic reminder that raw political power and a vocal constituency are more important to a project's survival than economic merit is," Ernie Beasely chronicles the history of the U.S. breeder reactor program, and the way Clinch River grew out of proportion to its actual worth. When first proposed, the author notes, America thought it would face a uranium shortage by the end of this century. At the time, there were expectations that more than 1,000 conventional light water reactors would be in operation by the year 2000, and that natural reserves of uranium would quickly be exhausted. Under such circumstances, the appeal of the breeder reactor, which produces more nuclear fuel than it consumes, is obvious. With this kind of technology, scientists believed, the world would at last have a virtually limitless source of energy. As a result, in 1969, the Atomic Energy Commission decided that it would be a good idea to try to demonstrate the feasibility of the breeder reactor through building an actual operating unit; and Clinch River was born.

Congress approved the Clinch River breeder in 1970. Under the original scheme, the electric utility industry would put up $257 million of its estimated $699 million cost, and the federal government would contribute the balance. It was just about that time, however, that a budding anti-nuclear movement began to cast a shadow over the future of the entire nuclear industry.

Because the fuel the breeder reactor produces, plutonium, is essentially the same material used to make nuclear weapons, anti-nukes quickly tied the breeder to the issue of nuclear proliferation. Although this is actually nonsense—the plutonium used in making bombs must be very nearly pure, and plutonium from a breeder would have to undergo further processing in a highly sophisticated reprocessing plant in order to be upgraded to weapons-grade material—it became part of the conventional wisdom.

At about the same time, slowing growth in the demand for electricity lessened the need for new power plants of all types, and regulatory delays in nuclear power plant construction in particular pushed their cost beyond the financial capabilities of many utility companies. The net result was to cause a series of downward revisions in the number of nuclear power plants planned over the next two decades, and along with it a corresponding decline in the amount of nuclear fuel that would be needed. Now, only about 170 reactors are expected to be in operation by the end of the century, and domestic uranium supplies are more than adequate to provide for their fuel needs for the intermediate term.

While the decline in demand for electricity was undermining the need for a breeder, and opposition from anti-nukes was delaying its completion, other nations were moving rapidly ahead to develop their own breeder reactor technology.

Even they, however, are finding that the cost is considerably above what had been expected, and, as a result, the technology is not quite as attractive as they once believed. To a large degree the breeder has become something of a technological status symbol. Though $3.3 billion seems a bit much to spend for status.

All these facts are known to Congress, so one might ask why Clinch River is still around. The answer lies in another fact, a political one: Howard Baker is the majority leader. Few legislators are willing to jeopardize their pet legislation by opposing his. Too bad; because as Beazley says, "This is not the United States of Tennessee."●

ARNOLD BERNER: THE FRIEND OF THE FARMER

● Mr. **PRYOR**. Mr. President, in every society, there are those who follow a crowd and those who lead it. The leaders are the ones who make things happen for other people. While such people receive widespread recognition on a national basis, their local contributions often go unnoticed.

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Fortunately, this is not the case with Arnold A. Berner of Little Rock, Ark. Arnold Berner has given 30 years to numerous and tireless efforts on behalf of his State, the Arkansas farmer, and agricultural development. He is my friend and a friend of all Arkansans.

A native of Benton County, Mr. Berner was reared on a poultry and dairy farm and graduated from the University of Arkansas with a degree in agriculture. His leadership was first evident when he served 4 years as a World War II Navy pilot. After the war, he began his long and distinguished career in agriculture as an assistant county agent with the Agricultural Extension Service.

It was in 1953 that Arnold Berner joined the Arkansas Farm Bureau, where he became its executive vice president and witnessed its phenomenal growth. Under his leadership, the organization grew from fewer than 35,000 family members to more than 100,000. At the same time, it became one of the State's most influential lobbying groups. Today the Farm Bureau in Arkansas reflects Arnold Berner's character, his sense of fair play, his professional dedication, and his honest straightforwardness.

On August 27 of this year, the friends of Arnold Berner are gathering to express their thanks for the service he has given over the years. It is with great respect to him and to his wife Lois, as well as his family, that I mark the date of his retirement. I know that he will continue to give his time, experience, and enthusiasm to those he has helped so much in the past.

Arnold Berner, Mr. President, has been a credit to all the people, organizations, and activities he has touched. I wish him the best during his retirement. And on behalf of all Arkansans I am proud to stand before the Senate and say that he has truly given more than he has taken.●

PHONY BILLBOARD REFORM

● Mr. STAFFORD. Mr. President, I would like to bring to the attention of my colleagues several articles that have recently appeared in newspapers around the Nation dealing with the subject of highway beautification.

During the first session of this Congress, I, with several of my colleagues, introduced S. 1548, which is designed to repeal the Federal Highway Beautification Act and to return responsibility for billboard control to the several States.

I took this action reluctantly, because I supported the original purposes of the Highway Beautification Act of 1965, and I continue to support those purposes. However, I have come to the conclusion that the act has been completely subverted by amendments in recent years—amendments advocated by the billboard lobby.

The result is that the Federal law can more appropriately be called the Billboard Compensation and Protection Act these days. It is probably beyond repair and it is better that we return the program to the States rather than to continue the current Federal program.

My proposal would return to the States the ability to use their local police powers and zoning laws to control billboards by providing for amortization. This form of just compensation previously available to State and local governments in certain cases was prohibited by 1978 amendments to the Federal Highway Beautification Act, at the request of the billboard lobby.

That billboard lobby threatens to strike again.

Legislation to reauthorize the Federal-aid highway program, reported originally as H.R. 6211 by the House Public Works and Transportation Committee and more recently as H.R. 6965, contains a provision that would further amend the Highway Beautification Act.

This amendment purports to return the program to the States.

It does no such thing, however. All it returns to the States is the responsibility to pay 100 percent of the cost of any sign removed. Under existing law, the Federal Government pays 75 percent of the cost when—and, if—a sign is removed.

The House provision does not provide any Federal funds, but it would require the States to pay cash compensation for any sign removed, even if the sign is removed for reasons other than the Highway Beautification Act.

And, not only does the House provision intend to protect billboards from traditional State and local laws, it also seeks to provide loopholes so that new signs can be erected.

In addition, if trees or shrubs should impair the viewing of the billboard, the House provision seeks to have the trees or shrubs removed—or else cash payment would have to be made for the sign.

That is not returning the program to the States.

That is the billboard lobby's dream come true.

I ask that the newspaper articles on highway beautification be printed in the RECORD at this time.

The articles follow:

[From the Atlanta Constitution, July 26, 1982]

"BILLBOARD BIGGIES" HEAD TO D.C.

(By Bob Ingle)

A little-noticed portion of the federal Surface Transportation Act of 1982 not only guts the Highway Beautification Act, but perverts the law to the extent that its purpose becomes protection of the powerful billboard industry it was designed to control.

Georgia has three representatives on the House Committee on Public Works that reported the bill out: Billy Lee Evans of the 8th District, Newt Gingrich of the 6th and Elliott Levitas of the 4th.

Evans declined to return several phone calls. Levitas said he couldn't remember anything about it, and Gingrich showed an amazing ignorance of the bill's contents.

He said its aim was to get the federal government out of billboard regulation. When asked why the committee didn't discuss a new law to accomplish that rather than changing the existing law in ways to please and protect the billboard biggies, the congressman from Carrollton was short on answers.

The proposed legislation—called Section 121—changes the wording of the purpose of the 1965 beautification act in a significant way. The original says billboards on interstates and primary roads should be controlled "to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty."

Compare that to the new version, which aims to "protect the public investment in highways, to preserve communications through the outdoor medium and to promote natural beauty in scenic areas."

Out goes safety and recreational value, in goes protection of billboards.

Instead of preserving natural beauty all over the country, this act would "promote natural beauty 'in scenic areas.' " How about those areas that have not been designated scenic by the states but have intrinsic scenic value? We all know of nice little places like that.

The proposed changes further require payment of cash compensation for "the substantial impairment of the customary use or maintenance of signs." That means if trees block the view of billboards, the trees must be cut or the state has to pay for the signs, no matter how old the signs are, which is significant since billboards pay for themselves and turn profits after a very few years.

Unfortunately, however, the bill provides no funds to pay the compensation it requires, so the financial burdens on the states increase. Incidentally, federal funding for all parts of the beautification act expire Sept. 30.

That could end the program to purchase and remove non-conforming signs—billboards that don't meet current sign requirements but were legal when erected. It would be tough to find a state that could afford to pay for the removal of non-conforming signs without federal aid. That's exactly what the billboard interests are banking on.

The $11 billion bill, which deals with a great many other items, such as mass transportation, was based on the hope that the Reagan administration was going to support a 5-cent gasoline tax. It didn't, so the bill never made it to the House floor.

However, there must be a 1982 transportation bill. In Washington, they say no matter what else is included, the billboard lobby's baby, Section 121, will be a part of any skeleton bill passed.

You folks might let Gingrich, Levitas and Evans know how you feel about changing the purpose of the beautification act. You ought to tell Georgia's senators and other representatives, too. Remember, they're all up for re-election.

Don't make the mistake of thinking it will go away by itself. Billboard people think they should be above regulation. They fought the Georgia Department of Transportation for the right to cut trees in front of their signs, and lost, because citizens told the DOT "no."

Billboard interests then called on friends in the state Senate and House to rush through proposed legislation to make an end run around the DOT and the public—and got by with it in the Senate. Luckily, the Georgia House had the good sense to kill it.

Now the fight to give billboard blight special privileges has gone to Washington, where special interests will win unless enough people who'd rather see countryside than cigarette ads speak up.

[From the Washington Post, Aug. 10, 1982]

Lobby Threatens U.S. Role in Highway Billboard Act

(By Howie Kurtz)

Last January, Vernon Clark, chief lobbyist for the nation's largest billboard companies, produced a proposal to repeal most of the Highway Beautification Act, which has forced the removal of more than 100,000 roadway signs.

For years, the $650 million-a-year billboard industry has been nibbling away at the edges of the act, reducing its impact one chunk at a time. Clark's proposal would devour it in a final gulp by having Congress return federal control of the billboards to the states. Clark's idea is that the act's goal should be "to preserve communications through the outdoor medium."

As Clark made his rounds on Capitol Hill, he gave copies of the industry's proposed three-page amendment to several legislative supporters, including a staff member who works for Rep. James J. Howard (D-N.J.), chairman of the House Public Works and Transportation Committee.

In May, when Howard's committee took up a $16 billion transportation bill, the New Jersey congressman inserted Clark's billboard amendment with only a few minor changes. Howard's panel approved the amendment by voice vote without a word of debate.

The committee is scheduled to reconsider the bill today for additional spending cuts, but the billboard provision is expected to reach the House floor by September. So far, it has been a lobbyist's dream: a bill that is passing through the congressional maze almost exactly as it was written by an industry group.

Under Clark's leadership, the billboard industry has mounted a sophisticated lobbying campaign that includes drafting legislation, hours of personal discussions with committee members, and a steady flow of campaign contributions and speaking invitations to conventions in pleasant locales.

Over the past four years, Clark's group, the Outdoor Advertising Association of America (OAAA), has paid $20,500 in speaking fees to 10 members of the House Public Works and Transportation Committee.

The group also has paid $19,000 in honoriaria to eight members of the Senate Environment and Public Works Committee during that period, while handing out $20,780 in campaign contributions to five members of the Senate committee and 34 members of the House committee.

Unlike other special interest groups with broad agendas, the OAAA has just one major goal, getting rid of a law that has plagued its members since the days of the Great Society.

The Highway Beautification Act was adopted in 1965 after Lady Bird Johnson mounted a nationwide campaign to clean up the countryside. The law banned new billboards within 660 feet of interstate and other major federal aid highways in noncommercial areas, and it provided money to compensate billboard owners for the removal of existing signs near these roadways. The industry's amendment would require the states to keep making the compensation payments.

"Vern Clark basically drafted the language and gave it to the [committee] staff," said one House committee staff worker. "We just made a minor technical change. They knew what they could get away with."

A Republican congressional aide added that "Clark hound-dogged Jim Howard for many months on this one."

Howard declined to be interviewed, but his press secretary, Nancy Blades, said that "the billboard issue was not viewed as a life-and-death issue. This is one area where the federal government simply can't afford the money. The feeling was the states could handle it better."

Howard's aide on the committee said the staff made several important revisions in the proposal, with the help of a lawyer for the OAAA. An examination of the industry draft shows that it is nearly identical to the House committee amendment, except for a handful of minor changes.

The industry version says: "The Congress hereby finds and declares that it is in the public interest to deregulate federal controls over the location of outdoor advertising signs . . ." The House committee version says: "The Congress hereby finds and declares that it is in the public interest to deregulate *to the maximum extent practicable* federal controls over outdoor advertising signs . . ."

When billboards are removed, Clark's amendment requires "the payment of just compensation . . . for any such sign, display or device lawfully erected under state law. . . ." The Public Works Committee bill calls for "the payment of just compensation . . . for any outdoor advertising sign, display or device lawfully erected under state law. . . ." The House committee version adds only that such payments also are required for "the substantial impairment" of signs, meaning that the state must cut down any trees that block the sign's view or compensate the owner.

Clark's proposal makes an exception for signs "advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate system." The Public Works Committee bill is identical, right to the definition of "free coffee."

Clark and the billboard group refuse to discuss the measure. "We've got a firm corporate policy of not talking to the press," said Richard R. Roberts, OAAA's vice president. "That's all I want to say."

Sen. Robert T. Stafford (R-Vt.), chairman of the Senate Public Works Committee, said he was "not very happy" at suggestions that the billboard industry had drafted the House committee provision. Without any federal funds, he said, "the practical reality is the states aren't going to take the signs down."

Stafford added: "The billboard lobby has been very successful in supporting a number of people running for reelection and providing them with honoraria for speeches. I think it's probably helped them some."

Shortly after Clark distributed his amendment in January, for example, the outdoor advertisers paid for several members of Congress—including Howard and his staff aide, Clyde Woodle—to fly to their annual convention in Palm Springs, Calif.

This gave the industry a chance to discuss the issue with legislators in the relaxed atmosphere of the Canyon Hotel Racquet and Golf Resort. It is legal under congressional rules for business groups to pay for such trips.

The OAAA also paid honoraria or expenses for House Ways and Means Chairman Dan Rostenkowski (D-Ill.); Sen. Steven Symms (R-Idaho), chairman of the Senate Public Works subcommittee on transportation, and the counsel for Sen. Jennings Randolph (W.Va.). . . .

Since 1979, Clark's group has given $4,000 in honoraria to Howard (along with $3,400 in compaign contributions); $4,000 to Rep. John Breaux (D-La.), and $4,000 to Rep. Bud Shuster of Pennsylvania, the ranking Republican on the transportation subcommittee. On the Senate committee, Senate Majority Leader Howard H. Baker Jr. (R-Tenn.) has received $7,000 and Randolph $3,500.

Howard said through a spokesman that the amendment has nothing to do with these speaking invitations. At the Palm Springs convention, he said, "we listened to the concerns of businessmen, but we did not sit down and draft bills. There's very little lobbying that goes on."

Some House committee members, such as Shuster, said the amendment would eliminate needless federal regulations. Others, such as Breaux, said they knew little about the measure. A spokesman for Breaux said: "I don't think he has any knowledge of this. His involvement with public transportation is almost nil."

The original law provided $160 million a year to compensate owners whose signs were removed by the states. In 1978, however, Clark's group pushed through an amendment that extended these payments to every sign taken down, including those not covered by the federal law. This nearly doubled the government's liability to $1 billion for about 200,000 billboards.

But Congress voted only $500,000 for sign removal this year, and most states simply have stopped taking down signs. Clark' proposed amendment requires that states still make these fixed payments for removing billboards, but cuts out the federal money. It also says that any state that doesn't mount a billboard program could lose 10 percent of its federal transportation funds, but each governor has only to certify that his state is in compliance.

Clark has been asking more reluctant members of the Senate committee to accept the measure in a House-Senate conference, but opponents say that Congress should not dectate the terms of compensation if the issue is left to the states.

Frank Shafroth, counsel of the National League of Cities, said Clark and two aides had pressured his members at a recent convention to drop their opposition to the measure.

"I've never seen lobbying like that," he said. "We were kind of stunned. We aren't used to that kind of pressure. Vern has done a hell of a job."

[From the Des Moines (Iowa) Sunday Register, July 25, 1982]

Why All Those Billboards Still Line the Highways

(By Daniel R. Mandelker)

In 1965, Congress adopted a Highway Beautification Act intended to control bill-

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boards along major federal highways. Billboards are not allowed within 660 feet of the highway and may not be visible from the highway in rural areas. The act has a number of exceptions, including for certain directional signs. It is not a total ban on billboards, but a fair attempt to unclutter the roadsides.

Anyone who has traveled knows that the act hasn't worked as well as was expected. Highway billboards are everywhere in most states. Many are non-conforming. The billboards are located in places where the act does not allow them, but were there when the act was adopted. Congress expected those signs to be removed, but large numbers still remain. Now an amendment to the act being considered by Congress will make the non-conformity problem worse.

Congress legislated that compensation should be paid for removing non-conforming billboards, with 75 percent of the cost to be paid by the federal government. Appropriations for this purpose have been erratic and insufficient, however, Meanwhile, the signs that remain enjoy a monopoly. They do not comply with the law, but the law prevents any competing signs from being erected.

Many municipalities and counties found another way to remove non-conforming billboards. They adopted amortization programs under which non-conforming billboards can remain until their value had been amortized over a period of years. No compensation is paid, because the billboard company has suffered no loss. Practically all state courts have upheld amortization as a constitutional use of the police power. This technique is no different from the amortization of capital assets by taxpayers which is allowed under the income-tax laws.

Municipalities and counties were at first allowed to remove non-conforming billboards along federal highways through the amortization technique. Congress prohibited them from using amortization in a 1978 amendment to the act that slipped through without hearings. The amendment was an improper federal interference with state and local legislative authority.

Since 1978, Congress has not appropriated enough money to meet the federal share of removal cost, and counties and municipalities have not had the resources to pay compensation. By some estimates, the 1978 amendment raised the cost of removing non-conforming billboards to possible $1 billion, depending on how long their removal takes.

In 1980, the U.S. Department of Transportation appointed a National Advisory Committee on Outdoor Advertising to study the non-conforming billboard and other problems with the Highway Beautification Act. The committee recommended that the billboard-control program be turned back to the states and their local governments except for Interstate highways. A user tax would be levied on signs on these highways, the proceeds to be used to remove nonconforming billboards. No commercial billboards would then be allowed along Interstates. To provide motorists with necessary information, the states would develop alternative information systems, including information signs at interchanges and off-highway information centers. Some states already have these sytems.

The committee's recommendations would concentrate federal attention on the federal Interstate highways used by interstate travelers. Highways carrying state and local traffic would be deregulated and placed under state and local control. Local governments could once more use the amortization technique, where it is constitutional, to remove non-conforming billboards. A majority of the committee believed that these recommendations would lead to an effective billboard-control program.

Members of the billboard industry who served on the advisory committee opposed these recommendations. They knew that compensation would not be available to remove non-conforming billboards. They opposed amortization because they knew that it would be an effective alternative.

Now the billboard industry has sponsored amendments to the Highway Beautification Act that distort the committee's majority recommendations. The amendments provide for passing billboard control to the states but keep the compensation requirement. The amortization technique may not be used. These amendments, if adopted, are likely to preserve indefinitely the monopoly position of non-conforming billboards now on the highways. Federal controls are removed on all highways, but the states and their local governments may not use the only effective technique available to them to eliminate non-conforming billboards.

Anyone who cares about the scenic beauty of America's highways should urge congressmen and senators to oppose the 1982 amendments. States and their local governments should be free to use any constitutionally acceptable technique, including amortization, to clear highways of the non-conforming billboards that do not belong there. Congress should be urged to adopt the committee's majority recommendations.

SIGN SITUATION IN IOWA

Daniel Mandelker's article on this page shows how Congress has gutted the federal Highway Beautification Act. The evidence is all to visible in Iowa.

According to a "ballpark" estimate by the Iowa Department of Transportation, the federal act, as implemented by a 1972 state law, has accounted for the removal of 30,000 to 35,000 non-conforming billboards and other advertising signs from Interstate and U.S. primary highways in Iowa, but another approximately 12,000 signs that don't meet the federal standards remain.

Along Interstates, 480 large billboards that are at or beyond the 660-foot minimum-setback distance are non-conforming because they are in rural areas. Yet, because they existed before the effective date of the state law, special permits were issued letting them stay up until Iowa gets the federal and state money needed to acquire them and take them down.

Along federal primary roads, according to a count reported in September 1981, 678 non-conforming signs, mostly billboards, are being allowed to stand under permits until federal acquisition money is available. Congress has required these signs' removal, but has not given Iowa enough money to do it. An estimated 11,000 non-conforming billboards and smaller signs along primary roads for which permits were not obtained are being inventoried by DOT, and the agency eventually will seek their removal.

Mandelker points out that pending amendments in Congress would transfer billboard regulation to the states, but would prevent them from using the amortization technique for removal, in which sign owners are given years to take them down without compensation. Such amendments would make a bad situation worse and sound the death knell for billboard control.

SELECTIVE SERVICE AMENDMENT AND EDUCATIONAL BENEFITS

● Mr. HAYAKAWA. Mr. President, yesterday we passed the conference report on the Defense authorization bill. Included in the conference report is an amendment I offered which insures that Federal tax dollars provided under title IV of the Higher Education Act of 1965 will only be utilized by individuals willing to comply with the law and register with the Selective Service System.

The compromise reached between the Senate and House versions is a good one. Every student applying for financial aid under title IV will file a statement of compliance with the Selective Service registration requirement. If this requirement is not met, students will be notified and given ample time to comply before being denied financial aid. I am eminently pleased with the compromise and believe it will be a very workable law.

The rights and privileges of citizenship must be accompanied by the responsibilities of citizenship. Along with the freedoms that we all enjoy in this society goes the responsibility of protecting and contributing to the Nation which makes these freedoms possible. Students who will not accept their obligations to their country have no right to ask the Government to finance their education. Young men refusing to register do not seem to realize that the benefits we enjoy as Americans come with some obligations to our country—one of the obligations is registering with the Selective Service System.

Federally funded education aid is not a right, it is a privilege that comes with living in an opulent and generous country. Anyone who is unwilling to accept his obligations to his country has no right to ask the Government to finance his education.●

EXPERT SUPPORT FOR SENATE JOINT RESOLUTION 224

● Mr. KENNEDY. Mr. President, on July 30, Senator MATHIAS and I, along with 30 other Senators, introduced Senate Joint Resolution 224, a joint resolution to prevent nuclear testing. An identical resolution was introduced in the House of Representatives by Congressmen MARKEY, BEDELL, and LEACH. The joint resolution was a response to the unfortunate and ill-advised decision by the Reagan administration to abandon the comprehensive test ban negotiations and defer ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties. The Kennedy-Mathias resolution calls upon the Reagan administration to resume the comprehensive test ban negotiations and to submit the other two treaties for Senate consent to ratification.

At the time we introduced it, several distinguished leaders in the field of national security endorsed the resolution. I am pleased to announce that former Secretary of Defense Harold Brown has recently added his endorsement and conveyed his strong support for the resolution:

> A verifiable, comprehensive nuclear test ban has, until now, been a goal of every U.S. President beginning with President Eisenhower, because it would improve U.S. national security. We should ratify the agreements already made on the Threshold Test Ban and on Peaceful Nuclear Explosions, and we should negotiate for as comprehensive a ban as can be adequately verified. I support the joint resolution.

Mr. President, those who have endorsed the Kennedy-Mathias resolution have served as high-level advisers on defense and arms control to Presidents over the last two decades. To them, the Reagan administration's decision to abandon the comprehensive test ban negotiations represents a reversal of the policy followed by the past six administrations, both Republican and Democratic, and is contrary to our best national interests. Several of the endorsers are former Directors of the Arms Control and Disarmament Agency (ACDA) and chief arms control negotiators, and now serve on the Committee for National Security, a nonpartisan national leadership group formed in 1980 to promote debate on the nature of national security and how best to strengthen it. Under the auspices of the committee and the leadership of its Chairman, Paul C. Warnke, they have issued a joint statement that:

> We cannot support President Reagan's decision on the comprehensive test ban treaty.

Those signing the statement include:

Ralphe Earle II, 1979–80 ACDA Director.

Adrian S. Fisher, 1967–68 Chief, Negotiator, Nuclear Non-Proliferation Treaty.

William C. Foster, 1962–69 ACDA Director.

Gerard C. Smith, 1969–72 Director.

Paul C. Warnke, 1977–78 ACDA Director.

Herbert F. York, 1979–80 Negotiator, Comprehensive Test Ban Treaty.

Mr. President. I hope that the Senate will give serious consideration to this statement, which reflects the strong national support that a comprehensive test ban has received for the past two decades. I request that it be printed in full in the RECORD.

The statement follows:

WE CANNOT SUPPORT PRESIDENT REAGAN'S DECISION ON THE COMPREHENSIVE NUCLEAR TEST BAN TREATY—A STATEMENT FROM FORMER ACDA DIRECTORS AND CHIEF NEGOTIATORS

WASHINGTON, D.C.—As former Directors of the United States Arms Control and Disarmament Agency (ACDA) and Chief Negotiators, we cannot support President Reagan's decision to defer negotiations on the Comprehensive Nuclear Test Ban Treaty. A draft treaty, which would prohibit all nuclear explosive testing for military or other purposes, has already been largely negotiated and awaits only the political will in the three negotiating states (the U.S., U.S.S.R., and Great Britain) for completion.

The President's decision undercuts a national security objective set by President Eisenhower and pursued by every Administration since—namely, to seek an end to all nuclear test explosions. Achieving that goal would moderate the superpower arms race, set an example to nations aspiring to join the weapons club, and make it harder for them to develop nuclear weapons. On the other hand, this Administration's departure from an established policy serving the best interests of the United States and the world community:

Diminishes substantially the prospects for ending the arms race with its risks of nuclear war, a proclaimed objective of the President's Agenda for Peace;

Increases the risk of the proliferation of nuclear weapons and is flatly inconsistent with provisions of the Limited Test Ban Treaty and with Article VI of the Non-Proliferation Treaty;

Casts doubt upon the sincerity of the United States in the Strategic Arms Reduction Talks (START) and in other arms control negotiations; and

Perpetuates the possibility of health and environmental hazards arising from the accidental venting of underground nuclear tests.

The Administration has chosen to mask its determination to continue weapons testing by alleging that renegotiation of the verification provisions of the unratified US-Soviet Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty must precede a comprehensive test ban agreement.

The draft Comprehensive Test Ban Treaty contains agreement on the basic means of effectively verifying treaty compliance, including untamperable seismic stations and on-site inspection procedures. Thus, there is no longer a substantial problem of adequate verification.

The Administration's deferral of CTB negotiations confirms the impression that it is seeking nuclear advantage by developing destabilizing, war-fighting weapons rather than seeking to end the arms race with its drift toward nuclear war. This decision can only foster the technological drive that fuels the arms race.●

A WARNING IN THE WIND

● **Mr. ABDNOR.** Mr. President, with much pride, I would like to share the following remarks with my colleagues in the Senate. They were written by one of South Dakota's great citizens and attorneys, Horace R. Jackson. Mr. Jackson has had a career full of accomplishments and this month he begins his 50th year of law practice in South Dakota.

I commend Horace and his wife, Dorothy, for the contributions they have made to their fellow citizens. Through their exemplary lifestyles, the lives of those around them have been made richer and fuller.

Mr. Jackson's remarks were an introduction to the 1982 "Agriculture Symposium," volume 27 of the South Dakota Law Review. He provides for all of us food for thought in regard to the increasing amount of government intervention in our lives.

Many of my rural State colleagues share my love for the land and the fine stewards who till that land. All of us can learn a lesson by reading this article, which I ask to have printed in the RECORD.

The article follows:

INTRODUCTION: HORACE R. JACKSON

"And therefore, never send to know for whom the bell tolls. It tolls for thee."

In these words, John Donne, near 400 years ago, told his parishioners that the church funeral bell signaled not alone the death of one individual, but that all are mortal and in one death we are all diminished.

The content of this introduction is to warn the agriculturalist that the avalanche of environmental legislation and regulations which has inundated the manufacturer, other business concerns, cities and other public entities, is designed and purposed eventually to reach and impose vast effects upon agricultural operations.

Environmentalist pressures will apply not only to the "big corporations", the manufacturers, the miners, the processors, but as well to the agriculturalist who will be subjected to steadily increasing compulsory regulation in the use of his land, and will suffer steady and substantial erosion of his property rights. The ends sought may be praiseworthy, but his is the burden of bearing the cost in time, effort, money and the diminution of his ownership of the land. The bell of bureaucratic regulation also tolls for the agriculturalist.

The initial difficulty in writing an introduction to this issue of the review, devoted as it is to agriculture, is what to call the person concerned. "Farmer" is probably suitable east of the 100th Meridian, while "rancher" comfortably fits the western two-thirds of our country. The resulting "farmer/rancher", however, is awkward on the tongue. "Producer of food and fiber" is the outrageous bureaucratic product of those who for the most part have never produced either. I settle, for want of a better, on "agriculturalist", a slightly elitist term, but at least inclusive of those involved.

Geographical identification is not easier. South Dakota extends from an annual 30 inch rainfall belt at the southeast, with a consequent corn, soybean, hog and cattle feeding economy, to a 14 inch belt northwest, where cow-calf and sheep operations are the primary concern.

THE THREAT TO LAND OWNERSHIP

This introductory article for the Law Review is concerned with the looming threat to the independence of agriculture as a way of life and as a basic source of our national economic and social well-being.

The triggering incident lay in a disturbing article not long since by Tom Wicker, usually writing as a political pundit, from the New York Times News Service, that great newspaper which seems too often to believe the rest of the United States exists for the benefit of the eastern seaboard and the people of New York specifically. The article draws attention to the fact more and more farmland is being converted from pasture to crop, particularly marginal land, because cereals are more profitable. Wicker states his

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thesis: "The resulting increase in row crops that produce good profit but bad soil effects is a major cause of severe and increasing land erosion . . , it's a case of plant now, pay later."

Wicker's particular conclusion is to urge no tillage farming. Although a well-known and widely used farming method for a generation or more, to Wicker it seems to come as a new gospel of preservation: "In one test (in Mississippi) . . . erosion was cut from 17.5 metric tons per hectare to about 1.8 tons". Then comes the real thrust of the article: "To push farmers into acceptance of no tillage and other soil conserving practices, the states need tough compliance laws . . ."

This equating of the farmer with other claimed rapists of our land—the home builder, the miner, the spreading of manufacturing plants in the rural areas, raises some disturbing recollections of other reading I have encountered that accepts the thesis everyone must be forced into a pattern of action for the supposed good of the rest of us, whoever is left as the rest of us if everyone in economic pursuits is to be straitjacketed.

Most surely, the enforcement of economic conduct by law means the usual horde of bureaucratic enforcers and the final result of regulation for regulation's sake.

This introduction by no means opposes conservation. I know of no sensible person today who opposes conservation and few who fail conscientiously to practice it in their several pursuits.

The absolute beauty of the spreading and endless fields of corn and soybeans is forever captured by Grant Wood; the love of a host of painters for the far flung prairies of the west; the tidy farm and ranch steads; all attest the devotion of the agriculturalist to his environment.

I am, however, deeply concerned with the overwhelming itch, pressed most strongly by elitist individuals and organizations among us, to compel, to force, regimentation as a way of life.

This campaign, and I call it that deliberately, was not perceived as a great threat so long as the target was treated as that abstraction, the "big corporation".

But concomitantly and silently, the ground work in publicity and legislation alike, was laid for the assault on the agriculturalist. It has to be remembered, agriculturalists own and operate most of our land, but the people who compose that group are an increasingly small minority of our population and, like most minorities, however vocal and well organized, lack clout when the chips are down.

II. THE STATUTORY BASIS

The initial statutory basis for the compulsion of the agriculturalist has long since been made a part of Federal Law by the 1972 amendments to the Federal Water Pollution Control Act (33 USC §§ 1251–1376). The mid 1980's was set as the target date for the "total elimination of pollutant discharges to water".

". . . the discharge of any pollutant by any person shall be unlawful . . ." 33 USC § 1251. (Except as in compliance with certain provisions of the Act.)

This sweeping prohibition made any pollution unlawful; relief required some positive relaxation under other sections of the law. The accused polluter stood guilty unless he could bring himself within an exception. The law thus neatly shifted the burden of proof from the regulator to the regulated.

". . . the term 'pollutant' means . . . an agricultural waste discharged into water . . ." 33 USC § 1362(6).

Location away from a running stream does not necessarily confer immunity. "Navigable waters" are defined as "waters of the United States"—a broad enough term certainly. Decisional law has held that "waters of the United States" is to be extended to the ultimate reach of the Constitution. Regulations have extended the term further to include "wetlands" which are:

"Those areas that are inundated or saturated by surface or ground waters at a freqency and duration sufficient to support and, that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." 33 CFR 323.2C

It has been held by at least one Federal Court that wetlands are included within the definition of navigable waters. *U.S. v. Weisman*, 49 F.Supp. 1331.

Given the definition of "pollutant" as "agricultural waste" and the creeping but apparently limitless extension of "water" to the furtheest reaches of a dry draw, it seems a fair conclusion that the long reach of the bureaucracy is substantially without limit so far as the agriculturalist is concerned. So far, it has been contained only by available resources of men and money.

Lack of attention to the agriculturalist's operations has not been for lack of pressure from the environmentalists.

Professor N. William Hines in Volume 19, Number 3, Summer 1974 of the South Dakota Law Review authored the article, "Farmers, Feedlots and Federalism: The Impact of the 1972 Federal Water Pollution and Control Act Amendments on Agriculture".

Professor Hines has cast his lot with extreme environmentalists. He has castigated the environmental enforcement agencies for the failure to force the same rigid controls on small feedlots as are presently imposed by regulation on feedlots large enough to handle at least a thousand cattle and corresponding unit numbers of other meat animals. Further castigation was visited for failing to structure and enforce compulsory controls on "non-point", or field wide "pollution", including the absolute control of natural erosion (pages 564–565).

The ultimate goal could only be to compel the agriculturalist to find a cure for the unfortunate fact that all animals vent waste.

The agriculturalist should not delude himself that the failure so far to compel prevention of any erosion or pollution from his pastures and fields stems from any tenderness of the bureaucracy. When an agency of the United States can seriously propose to a Court that a daily fine amounting to nearly $3.50 for every man, woman and child in a small South Dakota city should be imposed on that city for failing to preserve inviolate a minute noisome swamp, tenderness for the citizen is not really apparent.

III. THE EFFORT TO ALTER BASIC ATTITUDE

Not alone has the total elimination of animal waste been a steadily pursued goal of the environmentalists over the past decade. Concomitant has been a well planned program for compulsory controls of the farmer's operation and the diminution of his ownership of his property.

The erosion of the concept of private property has been an ongoing, if somewhat stealthy, process for most of a generation, particularly popular when it is someone else's property right, in this case the agriculturalist, through the compulsion of the agriculturalist to bear the entire burden of creating an antiseptic and aesthetical rural aspect for the pleasure of the urban majority.

Professor Hines' philosophy is summed up:

"Until some kind of compulsory soil erosion controls are instituted, little hope can be offered for significant reduction in these (non-point source) pollutant (pages 564–565).

". . . the current national concern for improving land use management, may eventually alter basic attitudes toward the sanctity of private land and create a political environment favorable to requiring needed soil conservation methods . . ." (pages 565–566).

The "alternation of basic attitudes toward the sanctity of private land" has been the subject of a steady campaign, albeit without total success yet, on the part of what bears every indication of constituting an environmentalist elite.

The Environmental Law Institute in its January, 1980 Report. The First Decade, sums up the campaign to date:

"The concept of comprehensive federal and state land use regulation failed to gain strong public support during the 1970's, and most efforts to enact enabling legislation were blocked by vocal opposition."

The identification of its publication as the First Decade, gives adequate notice the campaign is not abandoned.

Chairman of the Board of the Institute is David Sive, credited with substantial leadership in the twenty-year legal battle that prevented Commonwealth Edison's development of the Storm King Stored Energy Plan on the Hudson River above New York City. Lack of that development was a substantial cause of the extreme blackout suffered by New York City July 13, 1977. It is also clear the eastern seaboard is not done with energy shortages as a result of the relentless environmentalist resistance to all energy construction. William Tucker: Environmentalists and the Leisure Class. Harper's Magazine, Volume 255, #1531, December, 1977.

The Harper's article is beside a detailed analysis of the environmentalist methodology in creating "alteration of basic attitudes . . ."

Not only is the environmentalist waging of this unceasing campaign to "alter basic attitudes" on the part of the environmentalists. The bureaucracy supposedly most interested in the welfare of the agriculturalist seems also to have abandoned his cause.

The United States Department of Agriculture, which most of us think of as devoted to the protection and advancement of agricultural interests, has, in its most public aspect, apparently turned away from agriculture and toward the metropolitan consumer.

The Department almost seems now to lead the hue and cry to dragoon the agriculturalist willy-nilly into the service of the urban majority and on that majority's own terms. Not enough is it for the agriculturalist to feed the country and to place in world commerce enough surplus to furnish the only sizable offset to our catastrophically adverse balance of trade; the agriculturalist is now to be coerced into the service of the urban dweller's concept of aesthetically pleasing countryside. Consider the record of the Yearbook of Agriculture, the showcase of the Department over the past 30 years.

For a decade and a half after 1950, the Yearbooks obviously are oriented to improving the capability and efficiency of agricultural operations; 1951—Crops In Peace and

War; 1952—Insects; 1953—Plant Diseases; 1954—Marketing; 1955—Water (Irrigation); 1956—Animal Diseases; 1957—Soils; 1958—Land; 1959—Food; 1961—Seeds; 1962—After A Hundred Years; 1963—A Place To Live; 1964—The Farmer And His World.

The last 15 years tell a totally different story; 1965—Consumers All; 1966—Protecting Our Food; 1967—Outdoors USA; 1968—Science For Better Living; 1969—Food For Us All; 1970—Contours Of Change; 1971—A Good Life For More People; 1972—Landscape For Living; 1973—Handbook For The Home; 1974—Shoppers Guide; 1975—That We May Eat; 1976—The Face Of Rural America (a picture book); 1977—Gardening For Food And Fun; 1978—Living On A Few Acres; 1979—Children.

The titles reflect the right angle turn in orientation. It is inconceivable that technological advances in increasing the capability of the agriculturalist or the benefits to him of collating useful information in those respects was exhausted by 1965, and the Department thenceforth was occupying itself with "made" work in the absence of topics of legitimate concern to agriculturalists. The Department simply moved to the city where the votes are and the winds of change swirl more fiercely.

Not in the vast bureaucracy of the Department of Agriculture will the agriculturalist find assistance in the preservation of his status.

That the American agriculturalist feeds the world is testified to in every newspaper and magazine.

The unceasing assault on his capability to do this continues, however, unabated.

"People in modern societies usually assume that their own kind of mechanized agriculture is the most efficient known. But if the question is asked whether mechanized producers are really extracting from the soil a greater number of calories of food in proportion to the calories of energy they expand, the answer is no . . . In short, present day agriculture is much less efficient than traditional irrigation methods among others, in this century . . . The primary advantage of mechanized agriculture is that it requires the participation of fewer farmers, but for that, the price paid in machines, fossil fuels, and other expenditures of energy is enormous . . . The boast of industrialized society that they have decreased the workload is valid only in comparison with the exploitation of labor that existed in the early decades of the industrial revolution . . ." Natural History, Volume 89, #9, September, 1980, "The Web of Hunger", Peter Farb and George Armelagos.

". . . In considering the findings of our survey, it is necessary to keep in mind that those who filled in the questionnaire are highly educated and relatively affluent and that the largest percentage of them are in professional, educational, or social service occupations . . . We found that greater percentages of young people . . . and women of all ages working in professional, educational, and social service jobs and earning modest incomes tended to take positions that challenged the status quo . . . Both samples strongly disagreed with the idea that plants and animals exist primarily for human use and enjoyment, and both were fairly evenly divided on whether our ecological problems can be solved by existing American political and economic systems . . . Of all the activist movements described in the 1980 forms, the environmental movement claimed the most followers . . ." The survey referred to in the text showed that 75% in 1970 and almost 50% in 1980 disagreed with the proposition that private property owners should be able to use their property according to current laws. Natural History, Volume 90, No. 1, January, 1981, "The Ecology Movement After Ten Years", Betty Radcliffe and Luther P. Gerlach.

". . . our river banks stand literally at the cutting edge of our nation's consumptive economy. This, I think, is true of many 'marginal' places—is true, in fact, of many places that are not marginal. In its conscientiousness, ours is an upland society; the ruin of watersheds and what that involves is little considered. And so the land is heavily taxed to subsidize an 'affluence' that consists, in reality, of health and goods stolen from the unborn . . ." Smithsonian, Volume 11, No. 5, August, 1980, Wendell Berry, "Abundant Reward of Reclaiming a 'Marginal' Farm".

Examples could be multiplied almost without end; it would, however, extend an Introduction unduly to persist in this documentation of the continued deprecatory attitudinizing toward the agriculturalist, beset as he is with the problem of producing enough food to support this country and to furnish the surplus that has saved and continues to save a good share of the world from rank starvation.●

ACID RAIN CONTROL PROGRAM

● Mr. HUDDLESTON. Mr. President, I am deeply concerned by the acid rain control program approved by the Senate Environment and Public Works Committee, and urge my colleagues to give long and careful consideration to the impacts it would have on consumers of electricity, employment in coal mining communities, and this country's efforts to end our dependence on imported oil.

The committee has approved acid rain provisions requiring an 8-million ton reduction in sulfur emissions in a 12-year period in a 31-State region, and requiring that new powerplants offset new emissions with further reductions at existing plants. This offset provision could bring the required reduction to over 12 million tons.

By some estimates, Kentucky alone would have to absorb 7 percent of the total reductions being called for. Ironically, by these same estimates, New York and all of the New England States, the States with the acid rain problem, would have to bear only about 3 percent of the total reduction.

The Kentucky Department of Energy has examined the impact this would have in our State, and has reached devastating conclusions. While their analysis is based on earlier versions of the acid rain control program, it is their view that the impacts of the final provisions will not vary significantly.

It is their estimate that our utilities in Kentucky would largely comply with the reduction requirements by retrofitting existing plants for flue gas desulfurization. The capital costs for Kentucky for this compliance strategy would be $1.2 to $1.6 billion, with annual costs of nearly $1 billion. These costs would have to be paid by our utility ratepayers.

Other States, particularly those with little or no coal industry, are likely to comply by lowest cost alternatives. Massive fuel switching to very low sulfur coals, fuel oil, and gas could lead to large market losses for Kentucky coals. The Kentucky Department of Energy estimates that of the 150 million tons produced by Kentucky in 1980, 27 to 94 million tons of out-of-State markets could be lost as utilities comply with the emission reductions proposed.

The bottom line for my State is devastating. The department found that these market losses could result in the loss of up to 33,000 mining jobs; 33,000 additional jobs from mining-induced employment; $1.3 billion in annual personal income; and $2.8 billion in annual coal sales.

New coal markets would be extremely limited, with the possible consequence that we would see no new coal-fired electric generating plants; no synthetic fuels industry and very limited prospects for future industrial growth in Kentucky and similarly affected States.

I expect there are those who would quarrel with those figures—some, in fact, would argue that they will turn out to be higher. But, even by the most conservative estimates, the impacts of this acid rain control program would be enormous.

These kinds of burdens should not be imposed on coal or any other industry—on Kentucky or any other State—unless it can be shown beyond a reasonable doubt that they will yield beneficial results worth their price.

Mr. President, there is considerably more than a reasonable doubt. The pace of research on acid rain has increased, and appropriately so. With that increased attention on the problem, we are seeing more and more major new findings that raise serious questions about current and past theories about the causes and effects of acid rain.

The fact is that the causes of acid rain have not been established.

The debate over long range transport versus local sources has not been resolved.

And, a multitude of other questions surround the appropriateness and effectiveness of the proposed control strategy.

Until we have some more answers, we run the risk of implementing a multibillion-dollar program that will not achieve the desired result of significantly reducing the acidity in rainfall.

I will have a lot more to say on this subject as action on the committee's proposal progresses. I intend to do everything I possibly can to insure that this acid rain provision approved by

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the Senate Environment and Public Works Committee does not become law.

Acid rain is not something we can just ignore, and I do not propose that we ignore it. I fully support the legislation introduced by Senator ROBERT BYRD to accelerate the existing Federal acid rain research, and will be looking at the possibilities for establishing an acid rain mitigation program. I will, however, continue to resist efforts to impose expensive acid rain control programs until we know more about what we are doing.●

ADDITIONAL UNEMPLOYMENT COMPENSATION RELIEF

● **Mr. DOLE.** Mr. President, in the view of the Senator from Kansas, the addition of Federal supplemental unemployment compensation benefit program to the conference report of H.R. 4961 was a needed and compassionate change to the legislation. The program agreed to by the conferees will provide, beginning on September 12, additional unemployment benefits to a estimated 2 million workers who have exhausted their benefits under existing unemployment compensation programs. Under the program, either 10, 8, or 6 weeks of additional benefits will be provided to each worker depending of the severity of the unemployment in the State. Every State in the United States will be eligible to participate in the supplemental benefit program.

Mr. President, this is a good program that will provide welcome relief to millions of persons who are suffering from long-term unemployment. It was designed to be implemented quickly and to reach unemployed workers all across the country. Frankly, this program is not the only way to provide additional unemployment relief. We explored a number of other proposals for relief over an extended period of discussion with the House conferees, with representatives of organized labor, and the Department of Labor. On balance, all parties concerned felt the program agreed upon would be the most effective and equitable.

The program agreed to by the conferees will cost about $2 billion in fiscal year 1983 for 6½ months of additional benefits. This is obviously an expensive program. It will take 3 years for the change in the threshold level for taxing unemployment benefits to pay for the additional unemployment benefits. We have to realize there are fiscal restraints on any good program and this Senator believes we reached those limits with this very substantial supplemental benefit program. As far as the Senator from Kansas is concerned, this is the only major change in unemployment compensation this year. We will, of course, want to review the effectiveness of and continued need for the program next spring.●

BESSIE BEATS THE BUREAUCRATS

● **Mr. SYMMS.** Mr. President, several weeks ago, the Idaho Press-Tribune published an incredible story concerning the difficulties an elderly constituent was having with the Social Security Administration and my efforts to help her. I was able to help her because the editor of that paper, Rick Coffman, originally called her plight to the attention of my office in Boise.

Because the news media so often focuses on the negative, emphasizing problems without offering solutions, it has many critics. And I have been among them. But there are times—and this is one of them—when the media deserves credit for helping to find a constructive solution.

Rick Coffman could have written a good "bad news" story in his paper the first time he heard about it. But instead, he helped us solve the problem and, as a result, produced a better story with a "good news" ending.

I commend Mr. Coffman for this example of enterprising and constructive journalism, and I ask unanimous consent that this fascinating article in his paper about Bessie's successful battle with the bureaucrats be inserted in the RECORD.

The article follows:

BESSIE BATTLES BUREAUCRACY—NAMPA WOMAN SEES LUCKY RAFFLE TICKET WIND UP AS THREAT TO LIVELIHOOD

(By J. E. Vail)

Bessie Dewey, a Nampa senior citizen who makes do on a small monthly Supplemental Security Income check from the Federal Government, thought she was lucky to win $100 worth of groceries in a recent school carnival raffle.

She doesn't think so now—not after becoming entangeled in a bureaucratic snafu that threatened to deduct $160 from her income in repayment for an "overpayment."

Dewey's problems began when she reported her "winnings"—a $100 gift certificate redeemable for groceries—to the Social Security Administration as required by law.

I'm honest, so I reported the $100 to the Social Security office," Dewey said. "Then I got a letter from the Caldwell office saying I had been overpaid and that I would have $160 deducted from my checks.

"Now, I thought they might take out the $100, but not $160." she said. "There's nothing fair about that."

U.S. Sen. STEVE SYMMS, whose Boise office staff has been working with Dewey on the case, agreed.

"This doesn't make sense," SYMMS said. "There should be no problem at all.

"I think a wrong button got punched on a computer somewhere," he said. "I don't know that that's what happened, but it could have.

"In defense of the Social Security Administration, most cases don't have this kind of problem and the case worker could have misunderstood what was going on," he said.

According to Craig Thomas, a Caldwell SEA claims representative what did happen was that the Nampa woman had the bad luck of being "caught" in a transition period.

When Dewey reported the raffle winnings, the SSA was in the process of changing the way it computes overpayments, a change ordered by Congress, Thomas said.

Under the new regulations, checks are adjusted for overpayments monthly, based on the income received two months prior.

In other words, if a person receiving SSI checks earns extra income and reports it in July, an adjustment will be made in the September check, Thomas said.

Under the old regulations, that adjustment would have been made on a quarterly basis.

But when Dewey reported her raffle winnings, the SSA was in a transition period between the old and the new computation methods. During this three-month period—April, May and June—check amounts were based on April income.

When Dewey told the SSA she had received extra income in April, the transition period rules, in effect, turned that, one-time, $100 bonus into a three-month, $300 increase in income.

That, in turn, translated into a $160 "overpayment" in April and May and a monthly check reduction of $80 beginning in July. That reduction presumably would have lasted until September when July's income would have been used to recalculate her monthly check amount.

All told, her $100 gain could have turned into a $320 loss—the $160 "overpayment" and another $160 in July and August montly reductions.

No wonder Dewey said she'd been under "a lot of pressure."

"I bought five raffle tickets for one dollar and look what I got in return," she said.

Dewey didn't sit idly by and watch almost a third of her monthly income disappear in this bureacratic SNAFU, though. Instead, she wrote to the SSA in Baltimore.

"I wrote them directly and told them there's nothing right about this and that I couldn't understand why I would have to pay $160," she said. "I wanted an explantion and I haven't heard from them yet."

Even though she hasn't heard from the SSA directly, Dewey's problem has been resolved—no money has been deducted from her checks and the repayment of her overpayment has been waived. She even received her July cost of living increase right on time.

Why? Because by writing to the SSA, she put another set of the agency's rules to work for her this time—her letter activated the agency's appeals process. And that resulted in a favorable ruling.

If Dewey did anything wrong, Thomas said it was writing to Baltimore rather than going to the local SSA office. Her letter was forwarded from Baltimore to Caldwell where the decision to waive her "overpayment" repayment and leave the amount of her monthly checks was made by another claims representative.●

WORLD PEACE

Mr. ARMSTRONG. Mr. President, Walter Berns, resident scholar at the American Enterprise Institute, has raised some very thoughtful and interesting questions about proposals to establish a national peace academy. What interests me most about his recent article (published in the Wall Street Journal, August 2, 1982) is not the peace academy alone, but to the larger issue of how to foster the cause of world peace. I ask unanimous consent that this interesting essay be printed in the RECORD.

There being no objection, the article was oruered to be printed in the RECORD, as follows:

Congress Is Saying, Give Peace a Grant

(By Walter Berns)

The fears of a nuclear holocaust, so long suppressed because the event is too horrible to contemplate, have finally become a prominent element in our political discourse, official and unofficial. Politicians now speak openly of the prospect that our children will be incinerated. At a public meeting earlier this year, for instance, Sen. Paul Tsongas (D. Mass.), pointing to his eight-year old daughter whom he had brought along as a kind of prop, added a nasty note by accusing President Reagan of being indifferent to this awful prospect.

First in the New Yorker (surrounded by the wry cartoons and the ads offering deluxe hotel accommodations), and then in a best-selling book, Jonathan Schell calls upon "the people of the earth to do whatever (is) necessary to save humanity from extinction by nuclear arms." As Congressman Paul Simon (D. Ill.) said the other day, "for the past few months, the people have been telling us, 'let's do something for peace.' "

What has largely escaped attention is that Congress is about to respond to this concern by establishing a U.S. Academy of Peace and Conflict Resolution. The academy would have an international student body and faculty, peace seminars, peace conferences, peace symposia, peace prizes disarmament talks (or talk), even a graduate program leading to a Master of Arts in Peace or a Master of Arts in Conflict Resolution. More to the point, there will be federal grants, lots of grants: research grants, conference grants, travel grants and graduate as well as post-doctoral fellowships. It is this grant-making authority especially that has lips smacking in certain academic circles.

LESS THAN COST OF BOMBER

The House and Senate bills (identical in an esssential respect) call for initial funding of $21 million, which, as many supporters are eager to point out, is much less than the cost of a single B-1 bomber. It may be relevent to point out, however, that the initial funding for the National Endowment for the Arts was $2.5 million; within 15 years it was receiving—and giving away the larger part of—$155 million annually.

The idea of a peace academy has been around for many years, but it began to bear fruit only in 1976 with the founding of the National Peace Academy Campaign, a private organization claiming some 30,000 members, including Ed Asner, Paul Newman, Archbishop Hunthausen (Seattle's Catholic "Peace" bishop) and politicians and professors.

With the support of some 40 national organizations (including the American Psychological Association, the American Sociological Association, the American Association of Retired Persons, the U.S. Catholic Conference, the House of Bishops of the Episcopal Church and the Women's International League for Peace and Freedom), the campaign succeeded in getting Congress to fund a presidential commission to study proposals for a peace academy. Chaired by Sen. Spark Matsunaga (D. Hawaii), the commission delivered its initial report to President Carter in September 1980. The bills pending in Congress derive from its final report delivered last November.

The stated purpose of the academy is to promote peace through "peace learning." It is said that peace and conflict resolutions are subjects that can be taught, rather like the science of labor-management relations. The only differences are that, instead of negotiating wages and fringe benefits, the peace negotiator may find himself at a table where the issue is the life or death of nations, and instead of having to contend with the likes of Lee Iacocca and Douglas Fraser, he will be faced with the Ayatollah Khomeini and Saddam Hussein, or Yasser Arafat and Menachem Begin. But science is science and as such knows no national or other kinds of boundaries.

According to the National Peace Academy Campaign, "there is now a science tested and proved in actual practice—that can help make war obsolete [and] this science can be taught, learned and applied—anywhere in the world." Indeed, one professor of conflict resolution testified in the Senate hearings that had the Peace Academy been in place, "things might have been different" in the Falkland Islands dispute. The academicians would have brought the British and Argentinians together in the "kind of forum . . . developed [to deal with] places like Cyprus or Northern Ireland." Not very convincing examples, Cyprus and Northern Ireland, but the Senate bill, with 54 cosponsors, was reported favorably by the Labor and Human Resources Committee in June, and on July 20 committee hearings were begun in the House. Since peace is popular and because all 435 House members and 20 of those 54 cosponsoring Senators are up for reelection this year, early passage of this legislation seems almost certain.

What Congress would be getting for its money is likely to prove very similar to what it is already getting from the United Nations, except this time it will have to pay 100 percent, rather than a mere 25 percent, of the cost. Leaving aside the studies commissioned to resolve domestic conflicts, we can expect the graduates and fellows of the Federal Peace Academy to begin immediately to churn out disarmament and peace proposals.

Among other things, we shall probably be told that peace requires disarmament and disarmament requires the abolition of sovereign states. As Jonathan Schell puts it (and his name surfaces frequently in the testimony favoring the academy), weapons are needed for wars, and wars are fought by sovereign states (never mind the PLO, the Polisarios, the various Red Brigades); therefore, without sovereign states, there would be no need for weapons, no wars, and—voila!—peace. Peace, Mr. Schell tells us, and we are likely to hear it from the U.S. Peace Academy, depends on the establishment of a world government, for only a world government can dispense with armaments.

What is disheartening in this business is that our legislators seem unaware of the fact that they hold office under a Constitution that was inspired by a handful of political philosophers who, beginning some 300 years ago, succeeded in discovering precisely what the peace academicians will now be paid to rediscover (but won't), namely, how to achieve peace. (When Jefferson was designing the curriculum of the University of Virginia's law school, he put some of their books on the required reading list.)

This search for the conditions of peace began with Thomas Hobbes, the need for peace being as evident in his day as it is in ours. As he wrote in his most famous book, during war the life of man is "solitary, poor, nasty, brutish and short." What he accomplished (with the help of the other philosophers of natural rights, such as John Locke, "America's philosopher") was a radical change in the acknowledged purpose or goal of political society. No longer would the "city" attempt to satisfy the desires of the soul, for it is the pursuit of such desires—glory or salvation, for example—that promotes conflict and war, both foreign and civil; it would confine itself to satisfying the desires of the body, or providing the conditions under which they might be satisfied.

PROMOTE LIBERAL DEMOCRACIES

This is what Madison had in mind when, in Federalist 10, he said that "the first object of government (is) the protection of different and unequal facilities of acquiring property." If these desires are pursued vigorously and freely, there would be a vast increase in the ability to provide material goods, which Adam Smith called "The Wealth of Nations." That increased wealth could be widely shared, and those who shared it would be inclined to subordinate their other desires. During the 1960s, some of them would unknowingly echo Hobbes and Locke by saying, make love (thereby satisfying the body's needs) not war.

On these principles, and with institutional refinement contributed by Montesquieu and our own Founding Fathers, we in the U.S. built the first liberal democracy. The connection between liberal democracy and peace is suggested by the following facts: The United States has never fought a war against another liberal democracy; not one of the many wars now raging in the world is a war between two liberal democracies; indeed, there has never been a war between two liberal democracies.

The conclusion seems obvious: Instead of wasting our money on a Peace Academy, Congress ought to do what it can to advance the cause of liberal democracy around the world.

MENACING JUDICIAL ACTIVISM

Mr. ARMSTRONG. Mr. President, during the next several weeks, the Senate will be considering various proposals designed to restrict the jurisdiction of the Federal Judiciary. Like most Senators, I will approach this task with great caution.

At the same time, however, I regret that courts themselves have been much less than cautious about extending their jurisdiction, assuming prerogatives not intended by Congress or the Constitution and, in general, acting more and more like political bodies and legislative tribunals rather than courts in the old-fashioned tradition. The Wall Street Journal (Friday, Aug. 6, 1982) contained the most interesting article by Mr. Alexander Troy. Mr. Troy illuminates one particular aspect of the menace of excessive judicial activism. I ask unanimous consent that this article be printed in the RECORD.

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There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal]

Learning the Law at Harvard

(By Alexander Troy)

The proper role of the judiciary in creating and directing social policy has been a contentious issue in American politics. At various periods courts have challenged the constitutional limits placed on their powers, either by abusing judicial review or, more recently, by adjudicating political problems they have traditionally avoided. For example courts have in recent years undertaken the management of school systems, hospitals and prison facilities. Judicial management of our society is now so extensive that Congress is considering legislation to remove jurisdiction over certain issues from the federal courts. But whatever Congress does, legal education, particularly at Harvard Law School, will continue to contribute to the problem of an overweening judiciary.

Harvard Law School's reputation for producing lawyers belies the school's current educational environment. Among the Harvard commuity, visions of remaking society are now much preferred to expressions of interest in a corporate career. The law school faculty, which to a large degree shares the antipathies and aspirations of its students, encourages these visions with its instruction. The first year Harvard student is taught today that a lawyer need not be an attorney for a corporation or an individual client, but rather an advocate for society at large. The student is informed that the lawyer's principal activity, litigation, is often less a means of resolving a dispute between two adversaries than a device for implementing social change. In short, Harvard's legal education now seems aimed at developing social engineers rather than lawyers as traditionally envisioned.

A EUPHEMISM FOR CONTROVERSY

Civil procedure, the course that focuses on the nature of litigation, emphatically proclaims at Harvard the decline of the traditional notions of the lawyer and the lawsuit. Traditionally, the lawsuit was regarded as the battle for retrospective redress, and the impact of the contest was generally limited ot its participants. This notion of litigation has been replaced, one Harvard professor explains, by a new model called "public-law litigation."

Public-law litigation is a euphemism for all the controversial activities that judges have undertaken: creating remedies unrelated to the lawsuit's principals or even to the issues before the court administering the remedies over years, and even delegating the responsibility for creating these solutions to experts and masters. Public law litigation, as conceived of and taught by Harvard professors, is a very powerful mechanism for achieving specific notions of social reform.

Obviously, the relegation of the traditional lawsuit to a less significant status signals a corresponding change in the roles of lawyer and judge. The lawyer, formerly an advocate for a client, is now the initiator of a bureaucratic process that supplements or overides legislative efforts. He may choose to represent people who do not know him and have not consented to his representation, and he seeks redress for conditions that he believes require sweeping social change.

The judge becomes a broker of remedies, often actively participating in a continuous bargaining process between the adversaries in an effort to negotiate a solution to a problem often more political than legal. Judge Arthur Garrity is an example of the new type of jurist. His management of Boston's public-school system for the past 10 years, a complete failure, is exactly the sort of activity envisioned by proponents of public law litigation.

Notably, only the clients have diminished in importance in public law litigation. In the typical public-law case, clients merely fulfill the requirement that the lawyer represent someone. The presence of clients gets the case into court, so that judges can wrestle with the larger social issues that lawyers seek to address.

To older law school graduates, the idea of introducing broad social themes in as mechanical a course as civil procedure must be astonishing. However, the transformation of the conception of the lawyer at Harvard has brought about a significant change in courses once thought to be scholastic and apolitical.

Only those recently graduated from Harvard could correctly identify the course given to part of the first-year class as Torts. The course was a desultory survey of economics, spistemology and social psychology, but the professor also found time to address the issue of the limits of a court's power in a democratic society. The professor's conclusion was a simple one: Judicial decisions are substantively indistinguishable from legislative ones. Judges, like legislators, cater to competing interests by compromise rather than by the application of a neutral calculus. therefore, the view that courts are less suited for legislative decision-making because of their institutional nature is unsound. The inference left for students to draw is that there is little that a court cannot do.

JUDICIAL RESTRAINT NEEDED

Since the Harvard faculty is granting a carte blanche to its students to remake society, it must teach the methods that are commonly used in the legislative process. Courses in economics, statistics and public policy are offered by Harvard's law school, as well as its business and government schools. This preparation is not necessarily undesirable, as an exposure to policy techniques can just as easily underscore the difficulties of using the judicial method to solve social problems as encourage its application.

It's unlikely, however, that students who accept the public-law perspective will infer any need for judicial restraint from their policy-preparation courses. Many students enter Harvard Law School with firm convictions about the need for swift change in American society. For them, the message of public-law litigation is a welcome one, delivered by professors who sympathize with the causes these students support. On the other hand, students who enter Harvard unfamiliar with the law and uncertain about their reasons for studying it are being molded into social engineers, a disparaging phrase invented by the late dean of Harvard Law, Roscoe Pound.

Whatever the merits to Harvard's legal training, its presentation and conclusions capture an attitude that permeates the law school. That attitude, explicitly stated in a New York Times editorial by Harvard Law School Professor Lloyd Weinreb, is an impatience with the workings of a democratic society: "One might accept the call for judicial restraint with more equanimity if it were accompanied by as loud a call for greater activism elsewhere."

In short, if the pace or the direction of government is not to the liking of Harvard's Mr. Weinreb, the court system should provide a speedier alternative to the goals that he and some legal elite support. At root, the attitude is anti-democratic, and, if it is accepted by the students it is offered to, the nation can anticipate destructive conflict between its legislative and judicial institutions.

PORTRAIT OF THE MILITARY

Mr. ARMSTRONG. Mr. President, over the last few years, the impression has grown that the men and women in uniform, who have committed their lives to the defense of this country, are morons, malcontents, drug addicts, or worse. So I was extremely pleased to read Fred Reed's recent commentary which decisively refutes this notion. I commend this thought-provoking article to the attention of all my colleagues, and I ask unanimous consent to have it printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Press Portrays Military As Incompetent—Is It?

(By Fred Reed)

Among the more curious aberrations of the press is its habitual portrayal of the military as fools, clowns, madmen, children and incompetents. Whether editors and reporters engage in this deliberately can be debated. My view, based on a good many years of watching, is that they do it more from reflex than from policy. They inarguably do it. They have been doing it so long, so energetically, in so many places, that it has become part of the unnoticed mental luggage of the educated.

If you doubt the existence of the bias, think a moment. When was the last time you saw in a newspaper in Washington, or for that matter on television, a story implying the military had done anything right? Unless you are a confirmed conservative, my asking the question probably strikes you as in bad taste . . . doesn't it? Such is the power of repetition.

When did you last see a story about the military that didn't say or imply strongly that (1) some weapon isn't working, isn't needed or can't work; (2) some weapon is having cost overruns; (3) the military is preparing to do something hideous; (4) the military's strategy and tactics are wrong; (5) the military is bellicose, dangerous and really our principal enemy; (6) the military is racist, sexist or full of Klansmen and druggies; (7) the generals are preparing to fight the last war, or; (8) the generals are concentrating too much on Buck Rogers weaponry? (The last two are mutually exclusive, which doesn't in the least prevent people from believing both.)

Military men are not infallible, or even close to it, but they know a surprising amount about warfare. If you assume that the military is always wrong, however, then questions about a particular policy are answered before they are asked. If you assume that officers are fools, then there is no point in consulting them. The result is military coverage uninformed by military knowledge, preordained in its conclusions and useless as grounds for thought. This we have.

Are officers stupid? The average score on the SATs of midshipmen at the Naval Academy is about 1,237. That's on a level with Georgetown (1,225); 147 points above George Washington, a poor second, (figured for 1978) and 48 points below John Hopkins. Maryland at 950 is comparatively a joke. I asked the academy what proportion of its students had the 1,300 combined boards needed to join Mensa, the club for those with IQs in the top 2 percent. Answer: a shade fewer than one-third.

Are officers incompetent? At what? There is a sense in which any bureaucracy is incompetent—the left hand has only a sporadic acquaintance with the right hand, five tons of paper clips are mysteriously delivered to an office that doesn't use paper clips, and nobody is sure exactly how the budget gets spent. It is true that an error at the Pentagon can have consequences, whereas it doesn't matter what HUD does. As far as individual competence is concerned, the officer corps is impressive.

Spend a few days at sea with a naval vessel. The things run like clocks. Warships are not easy to operate, being stuffed to the overheads with sophisticated electronics and semi-literate sailors, but the fact is that crews operate them almost flawlessly. Running flight operations at night from a carrier in choppy seas is not remotely a job for the incompetent, but it gets done regularly.

Are they competent as strategists? How can you tell? It is easy to detect the fairly common aptitudes needed to be, say, a helicopter pilot, and easy to tell whether a man can fly. No one knows just what rare talents make for strategic ability, much less how to recognize them.

One may wonder whether a huge managerial bureaucracy like the Pentagon is likely to produce them. Probably not—but what would? The traditional way to find strategists is to have a war and see who wins. Trying to find strategic talent in peacetime is like trying to find musical talent without an audition.

It remains that the jejune denunciations of strategy, so beloved of Washington's cocktail Napoleons, are nothing short of fatuous. You know the kind of thing—the A-bomb makes tanks obsolete, so we should disband NATO, or Russian submarines go underwater, so we should scrap the surface fleet. If you look into these questions at greater length than a paragraph, you find perplexing subtleties, unsuspected complications and technical considerations that never make the newspapers (they will make this one). The realization comes: What do you know, this stuff isn't as simple as it looks.

Lieutenants can talk in articulate detail about such things. You will never hear them do so, thanks to the presumption that military men are uniquely ignorant of things military.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, will the Chair inquire if there is further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS NUNN AND SPECTER

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the Senator from Georgia (Mr. NUNN) be recognized on special order for 15 minutes, to be followed by a special order of a similar length in favor of the Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time available after the execution of the special orders and prior to 11 a.m. be dedicated to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMING CONSIDERATION OF THE TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, I ask unanimous consent that at 11 a.m. tomorrow the Senate resume consideration of the debt ceiling bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PROCEDURE TOMORROW

Mr. BAKER. Mr. President, tomorrow we will convene at 10, and at 11 a.m. we will resume consideration of the debt limit bill, at which time the pending question will be——

The PRESIDING OFFICER. The Baucus amendment.

Mr. BAKER. The Baucus amendment. The Senator from Oregon (Mr. PACKWOOD), according to the order previously entered, will be recognized at that time to resume his presentation without interruption without it counting as a second speech under the rule.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to, and at 7:10 p.m. the Senate recessed until tomorrow, Thursday, August 19, 1982, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 18, 1982:

U.S. International Development Cooperation Agency

Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.

Department of State

James Malone Rentschler, of Pennsylvania, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Theodore George Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State.

Farm Credit Administration

Tom H. Carothers, of Texas, to be a Member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988.

Leonard R. Fouts, of Indiana, to be a Member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988.

Department of Agriculture

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture.

The Judiciary

William M. Acker, Jr., of Alabama, to be U.S. district judge for the northern district of Alabama.

Bruce M. Selya, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

Department of Justice

Charles L. Dunahue, of Colorado, to be U.S. Marshal for the district of Colorado for the term of 4 years.

Clinton T. Peoples, of Texas, to be U.S. Marshal for the northern district of Texas for the term of 4 years.

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HOUSE OF REPRESENTATIONS—*Wednesday, August 18, 1982*

Wednesday, August 18, 1982

The House met at 10 a.m.

The Reverend William S. Hill, rector, St. Paul's Episcopal Church, Lansing, Mich., offered the following prayer:

Almighty God, who hast given us this good land for our heritage, and in whose name the founders of this Nation won liberty for themselves and for us; we ask Thy special blessing upon the Representatives of the people, in Congress here assembled, that in their deliberations and in their endeavors they may always regard a public office as a public trust, and that they may ordain for our governance such things as will contribute to the welfare of the whole of mankind and maintain our own freedom in righteousness and peace. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **WAXMAN**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **WAXMAN**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 37, answered "present" 1, not voting 43, as follows:

[Roll No. 289]

YEAS—353

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Campbell
Carman
Carney
Chappie
Cheney
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (SD)
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wortley
Wright
Wyden
Wylie
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—37

Barnes
Brown (CO)
Butler
Clay
Coleman
Coughlin
Derwinski
Dickinson
Dreier
Emerson
Evans (IA)
Fields
Forsythe
Fountain
Gejdenson
Goodling
Gore
Harkin
Jacobs
Johnston
Jones (TN)
Luken
Madigan
Markey
Miller (OH)
Mitchell (MD)
Patterson
Roberts (KS)
Roemer
Rogers
Sabo
Schroeder
Udall
Walker
Washington
Wolpe
Yates

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—43

Applegate
Aspin
Bafalis
Bolling
Brooks
Brown (OH)
Burton, John
Byron
Chappell
Chisholm
Clausen
Daniel, Dan
Dougherty
Evans (GA)
Ford (TN)
Garcia
Ginn
Goldwater
Heftel
Hollenbeck
Holt
Hubbard
Ireland
Leach
LeBoutillier
Leland
Marks
Moffett
Mollohan
Neal
Oberstar
Pepper
Richmond
Rosenthal
Santini
Savage
Schulze
Smith (PA)
St Germain
Trible
Whitten
Young (AK)
Young (FL)

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair desires to make the following announcement. Other than recognition of the gentleman from Michigan (Mr. DUNN), we will suspend the 1-minute speeches. We will then recognize the gentleman from Florida (Mr. GIBBONS), and then we will proceed to consideration of the conference report on reconciliation.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The Chair recognizes the gentleman from Michigan (Mr. Dunn).

REV. WILLIAM S. HILL

(Mr. DUNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNN. Mr. Speaker, it is a great privilege for me to welcome as our guest chaplain, the Reverend William S. Hill.

Reverend Hill has been the rector of St. Paul's Church in Lansing, Mich., since 1959. He is my family pastor so it is a great personal honor for me to have him offer the opening prayer here in the House of Representatives.

The congregation of St. Paul's Church raised the funds in order that Reverend Hill could travel to Washington and be with us this morning. I know they are very proud of the pastor and the many years of service that he has given to the people of Lansing.

Born on October 19, 1911, in Valentignay, Reverend Hill received his early education in the public schools of Highland Park, Mich. He graduated from the University of Michigan with an A.B. in 1933.

Pursuing his theological studies at Cambridge, Mass., and at Alexandria, Va., he received the B.D. degree from the Virginia Theological Seminary in 1936.

Upon his ordination, he became curate of St. John's Church, Detroit, and in 1938 he accepted the call as rector of Grace Church, Hopkinsville, Ky., a post he occupied until he became assistant minister of Christ Church, Cranbrook, and a member of the faculty of Kingswood School, Bloomfield Hills, Mich., in the fall of 1944. In 1948, he became rector of St. Peter's Church, Uniontown, Pa. He came to Lansing from Wilkinsburg, Pa., where he has served since 1953 as rector of St. Stephen's Church.

A former student of social work in the Graduate School of Applied Religion, Cincinnati, Ohio, and the author of numerous magazine articles, he had been for 10 years editor of the Diocesan Church News, a monthly publication of the Diocese of Pittsburgh.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE TO CONSIDER THE CLEAN AIR ACT

Mr. DINGELL. Mr. Speaker, I have a unanimous-consent request.

The SPEAKER. The gentleman will state his unanimous-consent request.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may be permitted to sit today and for the balance of the week during the time that the House is considering legislation under the 5-minute rule for the purpose of considering the Clean Air Act.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I inquire of the gentleman whether this is to consider the Clean Air Act?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the gentleman is correct. I intend to try to see to it that that bill is passed by the Congress during this session.

Mr. WAXMAN. Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

(Mr. Shannon, Mrs. Schroeder, Messrs. Frank, Ratchford, Miller of California, and Dwyer, Ms. Mikulski, Mr. Matsui, Mrs. Kennelly, and Messrs. Studds, Stark, Gejdenson, Foglietta, Edgar, Gibbons, Martinez, and Dellums also objected.)

The SPEAKER. More than 10 Members having objected, objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE TO CONSIDER DOMESTIC CONTENT LEGISLATION

Mr. DINGELL. Mr. Speaker, I have a further unanimous-consent request.

The SPEAKER. The gentleman will state his unanimous-consent request.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may be permitted to sit today and for the balance of the week for the purpose of considering the domestic content legislation during the time that the House is sitting under the 5-minute rule.

The SPEAKER. Is there object to the request of the gentleman from Michigan?

Mr. GRAMM. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

(Mr. Frenzel, Mr. Conable, Mrs. Schneider, Mr. Gibbons, Mrs. Roukema, and Messrs. Johnston, Jeffords, Wylie, and Dornan of California also objected.)

The SPEAKER. The required number of Members having risen, objection is heard.

EXPLANATION OF PROCEDURE ON DISAPPROVAL RESOLUTION RELATING TO ROMANIA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, before I yield the floor, I will ask to be recognized on a privileged resolution. First, I want to take this time to explain to the House what we are about to do.

Under the Trade Act of 1974, this is a procedure that we must follow each year. The President has recommended that we extend nondiscriminatory tariff treatment to certain countries, one of which is Romania. There is no objection to the other countries. There was an objection to Romania, and a resolution to disapprove the President's decision was filed with the House and referred to the Committee on Ways and Means.

We have had many, many hours and days of hearings on this subject. We have listened to all the Members who wanted to discuss the matter. We finally concluded that we should uphold the President's position, and the Committee on Ways and Means has reported almost unanimously a resolution disapproving the resolution of disapproval of nondiscriminatory tariff treatment for Romania.

Mr. Speaker, this is a very highly privileged resolution I am about to offer. I hope the matter will be indefinitely postponed, because if it is not, it will tie the House up for 20 hours of debate. As the Members know, with 20 hours of debate, it could last 2 or 3 days.

If any Members are concerned about this matter and want to talk in detail about it, the offices of the Subcommittee on Trade are open, and the chairman and all the members of the subcommittee and the members of the Committee on Ways and Means are available.

● Mr. FRENZEL. Mr. Speaker, I oppose House Resolution 521, a resolution disapproving the President's recommendation that the waiver of emigration requirements under the Trade Act of 1974 be extended for 1 more year with respect to Romania. Failure to renew the waiver would mean that Romania will lose its most-favored-nation status with the United States and will again be subject to the very high rates of duty applied to the Soviet Union and other column-2 countries.

The trade agreement extending MFN status to Romania has been in effect since the fall of 1975 and has served as the basis for a growing commercial and political relationship between our two countries. Last year, the volume of trade between the United States and Romania reached a new high of just over $1 billion, more than doubling the value of trade which existed in 1976. In 1980 Romania became the largest purchaser of U.S. exports in Eastern Europe. Although imports from the United States have dropped off somewhat because of the worldwide recession and debt problems, Romania remains a valuable source for U.S. exports—espe-

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cially agriculture products, coal, and hides. Our principal imports from Romania include naphthas, iron, and steel plates, and light industrial products.

An important condition of this favorable trading relationship is that Romania make continued progress in assuring free emigration, although the committee reviews the status of Romanian emigration each year under the Jackson-Vanik provisions of the Trade Act of 1974, Romania's emigration procedures remain slow and restrictive. The numbers of persons emigrating from Romania to Israel and to the United States have remained consistent since 1976, yet it is apparent that many who wish to leave still find great difficulties in doing so. In addition, the number of exit visas issued by the Romanian Government has fluctuated during each year, with some departures being negotiated during the waiver renewal period.

The committee has been concerned that Romania's emigration procedures overall have not been improved in a manner that is permanently established. This has led to an annual head count and pressure from individual Members of Congress to let this individual or that family out before the waiver is renewed each year.

This year, under the leadership of the distinguished chairman of the Trade Subcommittee, the committee has sought assurances from the Romanian Government that substantial improvements will be made in their emigration performance on an overall basis, that is, both numbers and procedures. Of principal concern to us are preclearance procedures that are often viewed as a technique for harassment and discrimination; excessively long processing time for applications; and possible obstruction of actual departure once an exit visa is granted.

Also of concern to us has been discrimination or forced assimilation of Hungarian minorities living in Romania and harassment—even imprisonment—of members of evangelical groups seeking to worship as they choose. Recently the Romanian Government released several individuals who allegedly had been jailed for selling Bibles. The subcommittee will continue to press for the elimination of such practices so that violations of human rights will never have to be a cause of strained relations between our two countries.

Romanian officials have responded positively to these concerns and have agreed to enter into serious negotiations with the United States this September in an effort to reach an understanding on emigration issues. Concrete improvements in emigration procedures will weigh heavily in our consideration of the waiver renewal in 1983. However, this year, it was the consensus of the committee that the waiver be renewed and that we work with the Romanians to resolve existing problems.

Failure to extend the waiver this year would mean that MFN would terminate immediately. This would severely limit our ability to make further progress on emigration issues and other areas of mutual concern. Without the valuable leverage of MFN, the United States will have lost an extremely important area of common interest; Romania, and Romanian citizens wishing to emigrate, would move farther and farther from our influence.

Mr. Speaker, it is my belief that the waiver should be renewed for 1 more year. Under the renewal, we expect and look forward to improvements in emigration policies and procedures in the near term. With such assurances, I urge my colleagues to vote no on the resolution of disapproval.●

● Mr. DERWINSKI. Mr. Speaker, I urge the House not to approve this resolution and thus permit the extension of most-favored-nation trading privileges for Romania.

Although Romania, like all communist countries, has a repressive government, I believe there are sound reasons for us to continue MFN treatment for Romanian products.

Romania has exhibited more independence in its foreign policy than any other Eastern European country and has continued to do so despite growing Soviet belligerance in Poland and continued oppression of Afghanistan by the U.S.S.R.

Romania does not take part in Warsaw Pact maneuvers and, in fact, refuses to permit them to take place within its borders. There are no Soviet troops stationed in Romania.

Closer economic relations with the West have been established by Romania than by any other Eastern European country. It is the sole Warsaw Pact nation which is a member of the World Bank and the International Monetary Fund. It is the leader of the COMECON countries in its trade with the West. The United States has a favorable balance of trade with Romania, and our trade relations are improving steadily.

Our granting MFN treatment has given us leverage with Romania in bringing about some progress in permitting emigrants to come to the United States. Romania's emigration policies, while certainly subject to criticism, are, however, better than those of other Eastern European countries such as Czechoslovakia and Bulgaria.

There are some hopeful signs that the Communist bloc may have begun disintegrating from within, and the steps toward independence from total Soviet control which Romania has taken in its foreign and trade policies should be encouraged. We can do this by extending MFN treatment.●

MOTION TO PROVIDE FOR CONSIDERATION OF H. RES. 521, DISAPPROVING EXTENSION OF PRESIDENTIAL AUTHORITY WITH RESPECT TO ROMANIA

Mr. GIBBONS. Mr. Speaker, pursuant to section 152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for immediate consideration of the resolution (H. Res. 521), disapproving extension of Presidential authority to waive freedom of emigration requirements with respect to the Socialist Republic of Romania.

The Clerk read the title of the resolution.

MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, pursuant to section 152(d)(3) of the Trade Act of 1974, I move that consideration of House Resolution 521 be postponed indefinitely.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The matter is postponed.

REPORT OF SPEAKER'S COMMISSION ON PAGES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, as chairman of the Speaker's Commission on Pages, I announce that the Speaker's Commission is herewith submitting its report on pages to the Speaker.

The volume contains the recommendations of the Commission regarding the continuation of the page program, the ages and terms of service of pages, the management of the page program, the supervision of the page program, the centralization of housing recommended under the report, the eating and recreational facilities for the pages, the health care of the pages, and standardization of the page selection process.

The Commission recommends that steps should be taken immediately to begin the process of providing a much-improved page system for the Congress, the pages, and the Nation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement.

Last evening the Chair received many complaints from Members that too many staff people were on the floor, and that Members of the House would bring their personal staff people on the floor although they had no prerogative to do that.

So the Chair cautions and warns the Members not to bring their personal staff members on the floor. The rules prohibit it, and the Chair's announced policy requires committee staff who are permitted to be on the floor when business from their committees is under consideration to remain by the committee tables unobtrusively.

CONFERENCE REPORT ON H.R. 6955, OMNIBUS RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 17, 1982, at page H6137.)

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The **SPEAKER.** The gentleman from Oklahoma (Mr. JONES) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report on H.R. 6955 presently under consideration.

The **SPEAKER.** Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

□ 1030

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the reconciliation bill which we discussed and debated yesterday. This pertains to the spending cuts voted by seven different committees: the Agriculture Committee; Post Office and Civil Service Committee; Armed Services Committee; Foreign Affairs Committee; Banking, Finance and Urban Affairs Committee; Merchant Marine and Fisheries Committee; and Veterans' Committee.

As was pointed out yesterday, these committees were asked to cut spending over the next 3 years by $11,138,000,000. They, in fact, did much better than that. They cut spending $13,725,000,000 or $2,587,000,000 more than they were asked to do.

So I think these committees are to be congratulated for exceeding the requirements that the House placed upon them to cut spending.

I would also point out that there are no more excuses to vote against this bill. Those who felt that there might be some Rube Goldberg attempt to give a congressional pay raise in the conference report that was up yesterday can rest assured that that section has been excised and section 310 is no longer in the conference report.

So I would hope that those Members who have been signing discharged petitions, cosponsoring balanced budget amendments, sending out newsletters as to how fiscally conservative they are, will be witnessed by their local media as to how they vote on this conference report because this is a test of their courage to actually cut spending.

I urge that this conference report be adopted.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to pursue for a moment the gentleman's point with regard to the section that dealt with the Executive and Legislative Pay Commission.

As I understand it, section 310C has been totally stricken from the bill; is that correct?

Mr. JONES of Oklahoma. The gentleman is correct.

Mr. WALKER. There are no comparable provisions in the new bill that would deal with the organization of a pay commission; is that correct?

Mr. JONES of Oklahoma. I suppose if someone was involved in the conspiracy theory that he could probably find a Rube Goldberg mechanism in some of the words thrown together in some fashion that perhaps they could reach the conclusion that maybe someday we will deal with that question.

But I have looked at it. I can find no way that any Member of Congress could ever get a pay raise as a result of this particular conference report.

Mr. WALKER. If the gentleman would yield further, the problem was that we were told yesterday that to some extent we were throwing together a Rube Goldberg contraption, too, to come up with our contention based upon the language yesterday. I think most people, having taken a look at it, understand now what our concerns were.

What I am seeking is an assurance that there is no such mechanism within the bill at this point that would in any way permit Congress to go forward after election with an effort that would result in the Members' pay raise.

Is there any language to that effect in the bill?

Mr. JONES of Oklahoma. I am certain that not even the ingenious ability of the gentleman from Pennsylvania could find anything in the bill that would possibly give him a pay raise.

Mr. WALKER. I thank the gentleman.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I would just like to say that the section of the reconciliation the gentleman from Pennsylvania was just referring to was a Senate amendment which we accepted in the conference.

Unfortunately, yesterday the amendment was not read by very many people. It was terribly distorted in "Dear Colleague" letters that went out before the action on the floor yesterday.

I intend in my extension of remarks to explain the history of that provision and simply say that there was no way that the inclusion of that provision could in any way be construed as an automatic pay raise for anyone.

For those who still believe that there was some trick involved in that language that would automatically increase the pay of Congress, the Federal judiciary, and the top executive positions in the Government, I hasten to tell you it is not true.

Just let me say this: I stood in this well in 1981 when we considered the President's recommendation with respect to the Quadrennial Commission and explained to the House that we were withdrawing our recommendations because in the President's budget message in 1981 he indicated he would like to consider the adjustment of pay for the judiciary, the top executive services, and to the Congress but not until he had a chance to see where we are going.

I have reason to believe that he meant it when he said in that budget message, "I will be back to work with the Congress on these three areas of problems."

I assume from what the Senators told us when we accepted the amendment that they had some indication that the Office of Management and

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Budget and the President wanted us to give them the authority to proceed to work with the Congress in solving those problems.

There is nothing in the provision which has now been stricken from the conference report that would have done anything absent the initiation of action by the President of the United States.

Now I feel compelled to correct some misconceptions concerning the provision adopted by the conferees which would have authorized the convening of the Commission on Executive, Legislative, and Judicial Salaries this fall.

As I mentioned a very misleading "Dear Colleague" letter was circulated on this matter yesterday. Across the top of the letter, in capital letters and underlined, was the statement "a vote for reconciliation is a vote to increase your own pay." The letter went on to say "we find it deplorable that this pay raise is included in the very same legislation which makes cuts in programs which serve the truly needy." These statements were serious distortions of what the conferees had agreed to.

The conferees did not agree to any congressional pay raise. That is a fact. They did agree that it was time for a review of executive pay levels, and that is what the conference report authorized. Specifically, it authorized the convening of the Commission this fall. Under existing law, the Commission would not be convened until 1984—too late to help us deal with the serious "brain drain" now occurring in the executive ranks of the Federal Government.

The conference report further directed the Commission to make recommendations and report to the President not later than November 15 of this year. The decision on what to do at that point and when to do it was left to the President. Contrary to some representations, the conference report did not insure that pay recommendations would be sent to the Congress when it was not in session, or even that they would be sent during a lame-duck session. The decision on what to recommend and when to recommend it was the President's. Finally, the conference report provided a mechanism whereby the Congress could disapprove any pay recommendations if and when they are transmitted.

In accepting the Senate's proposal for an executive pay review, I was, and still am, convinced we were acting in sympathy with the desires of the administration. I previously mentioned Director Stockman's letter of last year, in which he emphasized that while the administration could not support the Commission's recommendations last year, "we should develop other ways to address this issue before the next Quadrennial Commission report due in 1984." Well, that is what we tried to do in conference, and that is what the House yesterday rejected in voting to recommit the report. The text of the Director's letter is set forth below:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Hon. WILLIAM FORD,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR BILL: While the Administration understands and sympathizes with the extent of the problem of inadequate and compressed executive salaries, it is inappropriate, with other planned budget initiatives, to endorse the full recommendations of the Quadrennial Commission. Those would call for increases of around 40%.

President Carter's 1981 budget proposals on Federal executive, legislative, and judicial pay called for an increase of 16.8% over the 1977 pay cap. That proposal would simply bring payable salaries for Federal executives in line with their legal salary rates as established under P.L. 94–82.

The status of the economy requires that we concentrate our resources on achieving substantial budget reductions. Federal executives, the Congress and the Judiciary should forego salary increases at this time. Thus, the President has determined that we should not now seek an increase in Federal Executive salaries.

The President has expressed a deep concern with the dismantling ability of the Federal Government to attract and retain high caliber executives; therefore, we should develop other ways to address this issue before the next Quadrennial Commission Report due in 1984. We will be glad to work with the Congress in this endeavor.

Sincerely,

DAVID A. STOCKMAN,
Director.

I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I am pleased to yield to the gentleman.

Mr. GONZALEZ. Because of this tendency to misread and misinterpret, the distinguished chairman awhile ago referred to this being excised. Certainly he does not mean an excise tax?

Mr. JONES of Oklahoma. No; as a matter of fact, as far as I can tell there is nothing in there that places an excise tax on Members of Congress for the privilege of serving here.

What I had reference to has been taken out, been stricken from the conference report.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I think there is unanimous agreement that the Government will not close its doors tomorrow, next month, or next year if there is no pay adjustment for top Government officials and executives. That is really not the point. The Commission on Executive, Legislative and Judicial Salaries has a long history, going back to 1968. Its recommendations were rejected in 1981. Therefore, the language to reactivate the Commission this year was timely.

We already are paying a price for our indecision. More and more of our experienced, talented executives are leaving Government service at the earliest possible date. It is a logical move. They have seen their income eroded by artificially imposed pay caps, while people with equal responsibility in private industry and professional occupations are better compensated.

There are other dimensions to this issue. When potential future leaders see the frustration of present-day Government executives, they are not likely to opt for Government service. Likewise, midlevel Government employees see no benefit in moving up to accept more responsibility if their promotions are not balanced in terms of compensation.

Whether we like to admit it or not, we all know that Federal executive salaries are falling behind the rest of the economy and that the acceptance of a top Government job really represents a significant sacrifice for most individuals.

These problems must be dealt with if we are genuinely concerned about improving or even maintaining the quality of management in the Federal Government. To ignore the problem is to create a crisis in the management of the Government.

For Members to complain about sloppy bureaucratic work and not to do anything about the caliber of leadership is an obvious contradiction.

As far as Members of Congress are concerned, they deserve a pay raise too. I am not aware of anyone running for Congress because of the salary involved. Instead, Members of Congress and those seeking the office are motivated by the opportunity to demonstrate leadership and to deal with the awesome challenges and responsibilities of the job.

In addition I would like to point out that the explanation given by the gentleman from Michigan (Mr. FORD) is fundamentally correct.

I would also like to point out for those Members who are economy conscious that there is a runaway pay scale for the Federal judiciary. If you want to impose some discipline where it is needed you should have gone along with the amendment that the Senate placed in the resolution.

Furthermore, the point made about the need for the executive branch to review their top level position salaries is accurate. There is a brain drain going on in Washington.

When you grumble about the inefficiency of Government, the inefficiency of the bureaucracy, you have to recognize that the Federal Government at the top level pays far less than private industry, in fact, it is almost miserly. If you do not attract people with talent, the Government is not run correctly or efficiently.

Frankly, the excessive rumors and inferences of yesterday may have been clever short-term politics but bad long-term Government.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I would like to point out that I voted against the resolution yesterday and I did so primarily because of the dairy provisions.

I would just like to alert those people who do have significant dairy in their districts that the provisions of this particular conference report are quite different from those that left the House.

Any hope of anybody getting a refund in the money that they will have to pay as an additional penalty under this bill, up to $1 per hundredweight are about zero. Even if you do cut your production back—and the chances of doing that are very, very limited—what you are entitled to is vague, at best.

I think anyone that has a significant dairy ought to be aware of those provisions. Let me elaborate.

First of all, since this is a budget-cutting proposal, it is important to note that there are other more workable proposals which would have saved as much or more money than the one that is being voted on today. I will briefly run through those.

First was the so-called Jeffords/Gunderson proposal. This proposal received nearly enough votes to pass in subcommittee but lost on a 7-to-5 vote. This proposal would have provided an increased payment per hundredweight for those farmers who decreased their production relative to a certain base period. On the other hand, those that increased production would receive a substantially smaller amount for the increased production.

First, this proposal would have resulted in savings of approximately $1.3 billion. Second, it would have quickly and effectively reduced the surplus. Third, it would have benefited the concept of family farming. Fourth, it would have prevented regional dislocations of dairy farming due to the very cheap grain situation now existing in the Midwest and Far West.

This would have been important for consumers in the future, for if this temporary grain condition wipes out dairy farms east of the Mississippi when that situation rectifies, milk or milk products will have to be brought in from distant locations to eastern locations. Also, from a national security perspective, it is wise and advantageous to have food production distributed throughout the country and not localized on the west coast. This is also true because of the reliance of agriculture in the West on precarious water supplies.

Another proposal which unfortunately only received minimal support on the subcommittee was the so-called Barber/Dunsmore proposal. This was named after the Commissioners of Agriculture in the States of New York and Vermont, respectively. This proposal would have kept stable the price paid farmers for fluid milk, the milk which we drink at home, at the present price, but put the burden of reduced pricing onto the so-called class 2 or manufactured milk which goes into cheese and other products.

The theory is that the problem is in this second class of milk and, therefore, that is where the decreased payments for production ought to go. This proposal had broad support in the Northeast and Southeast but obviously other regions of the country were less favoraly inclined. On an average, however, it would have been a better program than the one being voted on today.

The House-passed proposal, which had the reluctant backing of most of the producer co-ops around the country, provided a possibly significant incentive for producers to cut back their production. It contained about an 8-percent cutback in the money going to farmers for their milk production and provided that if a farmer did cut back his production 10 percent, he could get a refund. The bill was structured so that a farmer could cut back significantly, obtain a refund, and not have any reduced income. He would have the option of reducing his expenses due to the 10-percent cutback and thus enhance his income. This is somewhat of an approximation and made upon certain assumptions as to the size of the refund, but is generally correct.

Now as to the provisions in the conference report: In summary, the bill now provides for an immediate cut on October 1 from $13.10 per hundredweight to $12.60 per hundredweight, or 4-percent decrease. The bill provides that in the event the projected purchase by CCC will exceed 7.5 billion pounds of milk equivalent that the Secretary may impose an additional 50-cent reduction in the price farmers receive for each hundredweight of milk on April 1, 1983. However, this can only be imposed if a refund system is also made available.

The procedure for the refund is extremely vague and difficult to understand. With gross oversimplification, it provides that the Secretary may establish either a 1- or 2-year base period. The refund provision starts out by stating that—

> The Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period.

This would seem to mean that if a farmer reduced his production by the amount of anticipated surplus, say 5 percent, he would be entitled to an entire refund. It is unclear whether this is the whole $1 or the 50 cents. Press comments indicate it is only the 50 cents per hundredweight. The provision, however, goes on to state the following:

> The Secretary may provide for funds to be made of amounts collected from producers on a pro-rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

I tried to ascertain from members of the committee or staff just what this means. In any event, it would seem to allow more flexibility than the previous statement. Further, if you are only talking about refunds of the 50 cents per hundredweight, the incentive will be minimal.

It is important to point out the difference here between the House bill and the conference bill. Under the House bill, the farmer knows immediately what he has to do in order to entitle himself to the refund. He thus may take the action immediately and obtain his reward. The conference bill, however, sets up an incredible situation for a farmer. He does not know as to whether the second 50-cent cut will come, and further, he is at this point unsure of what the refund will be. Also, the refund would be so small as probably not to give him any incentive anyway. The most problematical aspect is that in order to maintain his cash flow for the 6 months from October 1 to April 1, he is going to have to increase his production. This is especially true for Northeast farmers that are at best breaking even now.

If the second 50 cents comes in and he wants to take advantage of the refund, he will find that the base period goes back from October 1, 1982. This means that he will have to severely decrease his production for a very small refund and thus there would be little or no incentive to take advantage of the small refund provision.

One of the arguments being used as a reason to support the bill for dairy farmers is that this refund provision and condition is so complicated, confusing, and vague that it is highly unlikely that the Secretary would want to implement it. However, my concern is the opposite. Since it would appear that no farmer would get any singificant benefit from the refund and would find himself in an intolerable situation in attempting to get the small refund, the Secretary may find that, in perfunctorily setting up the machinery, there would be no risk of anybody asking for a refund. Therefore he may well gamble on implementing it.

It should be noted here that the savings indicated for the House bill are precarious at best. First, the savings are made on an assumpton that both cuts go into effect. Thus, it is obviously the expectation and intent of the conference committee that there is to be a dollar drop in the price paid farmers for each hundredweight of milk. Further, the savings are based on January production figures. Since there has been a significant decrease already in the rate of milk production increase, these assumptions would seem to exaggerate these savings by at least $300 million. There is a further presumption made in arriving at this large savings which will be of no comfort to farmers. It is that the dollar cut will cause such a severe curtailment in production that the savings will be reached. This presumption, if accurate, is of special significance to farmers east of the Mississippi River.

The increase in milk production has been caused primarily by the fact that inexpensive grain is available in the Midwest and Far West. Thus, farmers have found it more advantageous to put on cows and sell the milk to the Government than to sell the grain on the open market. This benefit does not exist east of the Mississippi. Thus, milk production in many, if not most areas east of Mississippi has been declining and in many cases below last year's production. Thus, those farms that lie east of the Mississippi, although they are not part of the problem, will most likely be the biggest part of the solution.

This fact is borne out by my discussions today with an official at the Springfield Federal Farm Credit Bank and Production Credit Agency in Massachusetts. They service the Northeast. In their view, even the 50-cent cut will have a serious impact upon the ability of farms in the Northeast to sustain an adequate cash flow next year and will be in a serious risk situation.

As to the grain situation—and also to a smaller extent the dairy surplus—it is important to point out the serious impact our foreign policy has had. Because of our embargoes, our percentage of the foreign markets has dwindled from around 70 percent to as low as 30 percent by some estimates. Thus, all our farmers are being asked to carry the substantial cost burden of our foreign policy decisions. Foreign purchasers are not about to rely upon us if we keep concealing sales. I personally believe in Hubert Humphrey's statement that we ought to sell the Soviets anything they cannot shoot back.

In summation, although it can be pointed out that the conference bill is somewhat better than the original administration proposal of a dollar drop next year, this will only be so if the April 1 cut is not made. If it is made, it will be worse, as the first cut will be this year, not next year, and at a bad time as we enter the high cost winter season. I'm voting no.

Mr. LATTA. Mr. Speaker, let me say, as I stated yesterday, I am not happy with this reconciliation report. But we have more savings than we had when we started this year.

The budget resolution contained instructions to come up with $11.2 billion in savings. The budget resolution assumed savings of $13.4 billion, a total of $2.2 billion beyond the reconciliation instructions. The CBO says that this reconciliation bill will save $13.6 billion, but the administration says it will save $10.4 billion.

Thus, while there is a lot of variation in the differing estimates of savings, at least the lowest figure is $10.4 billion in savings. Down our way that is not chicken feed. We are happy to save as much as we can.

But let me also say that in the conference report which was brought to the floor yesterday there was a provision establishing a commission for the review of the pay for executive level officials. As we all know, the pay of Members of Congress is tied to the pay scale established for the executive level officials. Furthermore, there were additional provisions which could have resulted eventually in the actual granting of a pay raise to Members of Congress, should the following three events occur: First, if the commission had recommended such raises; second, if the President had concurred on such a recommendation and forwarded it to the Congress; and third, if the Congress did not act to deny that recommendation within 30 days of its submission. This provision on pay review had been inserted into the conference report without my knowledge. In fact, I was unaware of the presence of this provision in the report until the matter was brought up on the House floor yesterday. Having become aware of its presence, I voted for recommittal of the conference bill so that we might have a chance to delete that provision. The conference report now before us has deleted any reference to that pay review commission and eliminated any chance that this bill could result in the passage of a pay raise for Members of Congress. Having been taken by surprise by the insertion of those undesirable provisions in the conference report, I am delighted that they have been properly excised from this reconciliation report.

I yield back the balance of my time.

● Mr. HAMMERSCHMIDT. Mr. Speaker, in July the House considered and passed H.R. 6782 which was primarily a 7.4 percent cost-of-living increase bill for service connected veterans, their dependents, and survivors. That bill also contained a number of cost-savings provisions that brought our Veterans' Affairs Committee into complete compliance with reconciliation instructions. Those cost savings were constructed in such a way as to have minimal impact on veterans programs and have been generally well accepted by the public we serve.

The reconciliation conference agreement now being considered contains almost all of the provisions of H.R. 6782. They, too, more than bring us into compliance with our instructions and I am pleased to support them.

Mr. Speaker, I need not repeat what has already been stated except to note that by almost any measure this agreement as it relates to veterans' programs is reasonable and I urge its support by my colleagues.

Thank you, Mr. Speaker.●

● Mr. WOLF. Mr. Speaker, I support most of the provisions in H.R. 6955, the omnibus reconciliation package. I believe controlling Federal spending is critical to restore productivity and prosperity to our country. I have been a consistent supporter of the economic recovery policies of this administration and I remain committed to the basic principles of these fiscal policies.

However, I believe this budget issue is a matter of fairness and equity. My opposition to H.R. 6955 is, in essence, a protest that this bill does not treat all citizens equally. I believe the language in H.R. 6955 pertaining to Federal personnel, active and retired, is an example of how one group of Americans has been singled out over other groups and this is simply not fair. I do not believe that this is how our system is supposed to work.

Because of these reservations, I cannot vote for H.R. 6955. I believe that in trying to provide equity for Federal retirees compared with their social security and railroad retiree counterparts, we have solved one problem by creating another problem of age discrimination. My opposition is based on the discrimination which exists in this bill against those who have retired prior to the age of 62. Are we granting cost-of-living adjustments based on age or on allowing these individuals a means to keep up with inflation? I believe annuities and COLA's are a part of a contract entered into by employees with their employer and that the Government has a responsibility to honor this agreement whether or not the individual is age 60, 65, or 98.

Again, I reiterate my general support for these budget provisions. However, until we can be fair and equal with all groups of annuitants, I cannot support a measure which does not provide equity. Federal retirees, social security and railroad retirees, should be treated the same.●

● Mr. HUTTO. Mr. Speaker, the Omnibus Budget Reconciliation Act of 1982 contains provisions that discriminate against civil service and military retired personnel by placing the major share of the saving burden on the shoulders. Military retirees are especially affected.

By restricting the annual COLA for retired pay to 50 percent of the Consumer Price Index for those under 62, this provision penalizes four out of five military retirees and only one of five civil service retirees. In actual numbers, there are 186,000 nondisability military retirees over 62 and 834,000 under age 62.

Another provision would cause military retirees who are currently civil service employees to receive no military retirement COLA. There civil service pay will be decreased by the amount of their military retirement COLA. This would unfairly affect 143,000 military retirees.

I object strongly to this unfair treatment of our military personnel, both active duty and retired. Ultimately, the entire country loses—these provisions will, on the one hand, have an adverse impact on our career force retention programs and, on the other, discourage military retirees from serving in a civil service capacity for which they are highly qualified and trained.

For these reasons I voted against H.R. 6955, Omnibus Budget Reconciliation Act of 1982.●

● Mr. MICHEL. Mr. Speaker, last spring it was doubtful we would ever reach the point of having spending cuts—entitlement cuts—before this House for final action.

There were a good many in this House who did not want a budget resolution at all, on both sides of the aisle.

But we are here on the final leg of the journey. We have come a long way and no one, but no one in this House has relished the task or relished the responsibility.

We have had only two choices before us all of this time. To finish what we began at the outset of this Congress, or turn tail and run for the hills, and hope, just hope, that other forces in the economy would move the country in the right direction.

For me, there has never been a choice. We cannot depend upon anyone but ourselves to resolve the fiscal crises we face. We cannot depend on anyone but ourselves to face up to the deficits we have. We cannot depend on anyone but ourselves to stop the floodtide of Federal spending that got us here.

There are those who say these cuts are woefully inadequate. There are those who would kick and scream because these cuts are too severe.

Both sides have been heard. Both sides have had the opportunity to influence the legislative process and work their will. But no one in this House has had the free rein to fashion these pieces of legislation the way they would like.

The legislative process has worked, the way it was designed to work, and this is the outcome.

There are some disagreements over the exact amount of savings in this conference report, but at the minimum it includes 3-year outlay savings of $10.4 billion. This represents 93 percent of the reconciliation instructions to the committees covered in this bill.

In combination with the $15.2 billion in hard-core reconciliation savings contained in the tax bill, we have a total savings of $25.6 billion, or about 94 percent of the $27.2 billion called for in the reconciliation instructions.

If several additional changes are counted as savings, the total savings overall could run as high as $31.2 billion over a 3-year period, which would exceed the target by $4 billion.

In the bill before us, the primary difference in totaling the savings involves how the dairy price support changes are counted. The result is a range in savings for the Agriculture Committee of between $3.6 and $7 billion over 3 years.

The $4.1 billion in COLA savings contained in the conference report falls short of the instruction by $1 billion, but still represents nearly $4 billion more than what we passed in the House.

The COLA savings are achieved through the following:

First. COLA's would be limited to 50 percent of the Consumer Price Index for retirees under age 62;

Second. All COLA increases would be delayed 1 month in each of the next 3 years; and

Third. For military retirees employed in the Federal civil service (the so-called double dippers), the COLA increases would be offset by salary reductions.

These are reasonable changes that get at some of the excesses in the program without impacting in any way on those truly relying on these retirement benefits for their existence. Frankly, at some point we are really going to have to take a hard look at this program, because we currently have too many people retiring at too early of an age. It is costing us billions that we simply cannot afford.

A total of $1.9 billion in food stamps savings is achieved, through the following steps:

First. A reduction in program error rates;

Second. A 1-percent reduction in the scheduled thrifty food plan increase; and

Third. Changes in rules for rounding benefit amounts.

In conclusion, Mr. Speaker, this is a reasonable conference report that achieves essentially what we called for in the first budget resolution. It is worthy of support, and I urge its adoption.●

Mr. JONES of Oklahoma. Mr. Speaker, upon adoption of the conference report I plan to request unanimous consent for the House to consider a concurrent resolution to make technical corrections in the conference report.

Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MINISH). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 243, nays 176, not voting 15, as follows:

[Roll No. 290]

YEAS—243

Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Aspin
AuCoin
Badham
Bailey (MO)
Barnard
Beard
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bingham
Bliley
Boland
Bolling
Bonker
Bowen
Breaux
Brooks
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dingell
Dixon
Donnelly
Dornan
Dreier
Duncan
Dunn
Early
Edwards (AL)
Edwards (OK)
Emerson
Emery
Erdahl
Erlenborn
Evans (DE)
Evans (IN)
Fary
Fascell
Fenwick
Fiedler
Fields
Findley
Foley
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Gibbons
Gingrich
Glickman
Goodling
Gradison
Gramm
Gregg
Grisham
Hagedorn
Hall (OH)
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Hefner
Hendon
Hightower
Hiler
Hillis
Holland
Hopkins
Huckaby
Hunter
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
LeBoutillier
Lee
Lehman
Levitas
Lewis
Livingston

Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lundine
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McClory
McCloskey
McCollum
McEwen
McKinney
Mica
Michel
Miller (OH)
Moakley
Molinari
Montgomery
Moore
Moorhead
Morrison
Murtha
Natcher
Nelson
O'Brien
Oxley
Panetta
Pashayan
Patterson
Paul
Perkins
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Regula
Reuss
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rostenkowski
Roukema
Rousselot
Rudd
Russo
Sabo
Sawyer
Schulze
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stratton
Stump
Swift
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wortley
Wylie
Young (MO)

NAYS—176

Addabbo
Akaka
Albosta
Applegate
Ashbrook
Atkinson
Bailey (PA)
Barnes
Bedell
Beilenson
Bevill
Biaggi
Blanchard
Boggs
Boner
Bonior
Bouquard
Brinkley
Brodhead
Brown (CA)
Burton, Phillip
Byron
Chisholm
Clay
Collins (IL)
Conte
Conyers
Coyne, James
Crockett
Dannemeyer
Davis
Dellums
Dicks
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (CA)
English
Ertel
Evans (GA)
Evans (IA)
Fazio
Ferraro
Fish
Fithian
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gilman
Gonzalez
Gore
Gray
Green
Guarini
Gunderson
Hall, Ralph
Hall, Sam
Hance
Harkin
Hartnett
Heckler
Hertel
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jeffords
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leath
Leland
Lent
Lowry (WA)
Luken
Markey
Martinez
Matsui
Mattox
Mavroules
McCurdy
McDade
McDonald
McGrath
McHugh
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Mottl
Murphy
Myers
Napier
Nelligan
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Parris
Patman
Pease
Pepper
Petri
Peyser
Rahall
Rangel
Ratchford
Richmond
Rinaldo
Rodino
Roe
Rose
Roth
Roybal
Santini
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Smith (IA)
Smith (NJ)
Solarz
St Germain
Stark
Stokes
Studds
Synar
Tauke
Traxler
Vento
Washington
Watkins
Waxman
Weaver
Weiss
White
Williams (MT)
Wirth
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Zablocki
Zeferetti

NOT VOTING—15

Bafalis
Brown (OH)
Burton, John
Chappell
Ginn
Goldwater
Heftel
Holt
Moffett
Mollohan
Neal
Rosenthal
Stanton
Whitten
Young (FL)

□ 1045

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Moffett against.

Mr. Stanton of Ohio for, with Mrs. Holt against.

Mr. Goldwater for, with Mr. Rosenthal against.

Ms. MIKULSKI, Messrs. RICHMOND, MATSUI, BEILENSON, MINETA, FLIPPO, TAUKE, MARKEY, SHAMANSKY, YOUNG of Alaska, Mrs. BYRON, Mrs. BOGGS, Mr. DELLUMS, and Mr. FISH changed their votes from "yea" to "nay."

Mr. LONG of Maryland changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1100

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 6955, OMNIBUS BUDGET RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the concurrent resolution (H. Con Res. 396) to correct technical errors in the enrollment of the bill H.R. 6955.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 396

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 301(a)(1), strike out "during" and insert "taking effect in each of".

(2) In section 301(a)(3), after "Management" insert "on the basis of the calendar year ending in such year".

(3) In section 301(a)(3), strike out "paragraph (1) for" and insert "paragraph (1) taking effect in".

(4) In section 302(b)(1), strike out "and inserting a semicolon in lieu thereof".

(5) In the second sentence of section 303(d)(1), strike out "such date" and insert "September 30, 1982".

(6) In section 306(a), strike out "8331 (8) (B)" and insert "8331(8)(B)".

(7) In section 8334(j)(2), of title 5, United States Code, (as contained in section 306(d) of the bill) strike out "two year period" and insert "two-year period".

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3239. An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2586) entitled "An act to authorize certain construction at military installations for fiscal year 1983, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Tower, Mr. Thurmond, Mr. Warner, Mr. Humphrey, Mr. Denton, Mr. Brady, Mr. Stennis, Mr. Hart, Mr. Jackson, Mr. Cannon, and Mr. Exon to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 923) entitled "An act to amend chapter 207 of title 18, United States Code, relating to pretrial services," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Thurmond, Mr. Mathias, Mr. Laxalt, Mr. Biden, and Mr. Leahy to be the conferees on the part of the Senate.

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REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 3496

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 3496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GOOD NEWS AND BAD NEWS ON HOUSING STARTS

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, today I have some good news and some bad news. The good news is that housing starts in July were up 33.7 percent. That is good news for people who need housing. It is good news for people who build housing. It is good news for people who supply housing materials.

The bad news is that the bulk of the increase came from federally assisted housing, and that is a program that this administration wants to dismantle. That is bad news for people who need housing. That is bad news for people who build housing. That is bad news for people who supply materials for housing in this country.

I only wish that this administration would come to its senses and continue a decent housing policy that has been built over the decades by both Democrats and Republicans.

PASSAGE OF TAX BILL MAY PREVENT SOCIAL SECURITY CUTS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today we vote on the largest defense bill in history, over $178 billion in taxpayer moneys. While this Congress has made significant cuts in other programs and should continue to do so, it seems that we must approve the pending tax bill in order to further reduce the deficit and pay for this massive defense increase.

As one who voted for last year's tax bill, I cannot for the life of me see how this bill violates the basic individual rate reductions we passed last year.

While I have mixed feelings about some of the provisions, I fear that without its passage, the pressure for further cuts in a variety of entitlement programs, particularly social security and veterans' pensions, will be so great that these programs will definitely be the subject for major cuts in the future.

The choices before the Members are not all that enticing, but there really appears to be no choice.

Churchill once said, "It is not enough that we do our best, sometimes we have to do what is required."

I hope my colleagues will follow Mr. Churchill's advice and support the President.

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to announce to my colleagues in the House that yesterday the other body adopted by a resounding vote of 80 to 19 the Immigration Reform and Control Act of 1982.

This is the first major reform in the Nation's immigration and nationality laws in 30 years. This great passage is a tribute to my colleague in the other body, the junior Senator from Wyoming. He showed remarkable acumen and legislative ability in floor managing that bill. I am very proud to be the coauthor of the Immigration Reform and Control Act with the junior Senator from Wyoming.

That great vote yesterday is also a resounding tribute to the chairman of our full Committee on the Judiciary in the House, the gentleman from New Jersey, Mr. PETER RODINO, who has waged for many long and lonely years a battle to reform the Nation's immigration laws. Particularly he has pushed for employers' sanctions which is the centerpiece of our legislation and the one element that will gain control of our borders.

The gentleman from New Jersey (Mr. RODINO) has scheduled markups in our full committee on the Immigration Reform and Control Act for September 14.

I hope and I would ask all of the Members in the House who have any questions about the bill to contact me. We have a bill which in the words of the junior Senator from Wyoming is sensible and fair and humane. I urge its passage.

THE CRIME CONTROL AND VICTIMS' COMPENSATION ACT

(Mr. ALBOSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBOSTA. Mr. Speaker, today I am introducing the Crime Control and Victims' Compensation Act of 1982.

This legislation addresses several basic problems in the criminal justice system by providing a sure sentence for certain types of serious offenders; by providing that these offenders work to pay for their keep and to compensate their victims for the harm they have suffered; and by helping States to care for victims of crime not specifically covered in this bill.

We hear over and over about crimes committed by repeat offenders who are out on parole or released after light sentences. We hear that this is due in part to a lack of prison space and in part to a lack of clear and direct guidance from those who write the laws.

We also know that the poor and the elderly, those who can least afford to be victims of crime, are its most frequent victims. The impact of crime is not just local and not just personal. Crime raises insurance rates and the prices of goods for all of us.

H.R. 6967—A BILL TO CHANGE THE INTEREST RATE POLICY OF THE FEDERAL RESERVE

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, H.R. 6967 has been introduced by the gentleman from Texas (Mr. WRIGHT). It is an attempt to do something about the policy the Federal Reserve has been on since October of 1979. I would encourage the Members to join with us in sponsoring this piece of legislation.

If the Members look back to what has happened since October of 1979, the policy of the Federal Reserve has caused President Carter a recession, caused President Reagan a recession, and it is not going to help the economy until we get away from the policy of trying to set interest rates on money supply. No one knows exactly what money is when you look at the definitions the Federal Reserve Board is using.

I would encourage the Members to cosign this bill to attempt to get the Federal Reserve policy under control and to change from the policy that the Fed adopted in October 1979. To go along with the Fed is to be for high interest rates, high unemployment, and a continuing recession. I am asking other Members to sponsor H.R. 6967 which will stop the Fed from this devastating policy.

H.R. 6976, THE MISSING CHILDREN'S ACT

(Mr. NELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON. Mr. Speaker, today the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary is marking up the Missing Children's Act, H.R. 6976. This bill would require the Attorney General to set up a nationwide network to acquire and exchange information to assist Federal, State, and local officials in the identification of deceased individ-

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uals and the location of missing children.

We have had a couple of dramatic cases in the State of Florida where if this kind of network had been set up nationwide, we would have been able to help parents find their missing children.

I urge the Members to support this legislation.

LAWSUIT FILED CHALLENGING CONSTITUTIONALITY OF TAX BILL CONFERENCE REPORT

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, this morning, I and 17 of my colleagues, an equal number from each side of the aisle, filed suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment that the tax bill conference report we are to vote on tomorrow is unconstitutional. We strongly believe that the extraordinary and unusual procedure this bill has followed clearly violates article I, section 7, clause 1 of the Constitution which provides, "all bills for raising revenue shall originate in the House * * *"

The bill, H.R. 4961, when it left the House did not raise revenue. As a matter of fact, all six of its minor provisions lost revenue. The other body in violation of the Constitution struck all of these provisions and replaced them with a massive revenue-raising bill. This has never happened before and there is no Federal case where this issue has ever been tested.

We feel that this provision of the basic law of the land should not be so casually cast aside, as with it goes the people's protection that the House of Congress closest to them originate taxes placed upon them.

LEGISLATION IMPOSING MANDATORY MINIMUM SENTENCES IN CRIMES AGAINST SENIOR CITIZENS

(Mrs. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ASHBROOK. Mr. Speaker, today I am introducing legislation that would impose mandatory minimum sentences for committing violent Federal felonies against an individual of age 65 or older. The minimum term or imprisonment is one-half of the maximum for the offense, unless the defendant has been previously convicted of a violent crime against the elderly. In this case the defendant would be sentenced to a minimum of three-fourths of the maximum penalty.

This bill contains several provisions that would insure the sentences are mandatory and would be served. It prohibits suspended sentences, probationary sentences, concurrent sentences, parole, and plea bargaining agreements which would result in the defendant serving less than the minimum. If the court would impose a less severe sentence than the mandatory sentence, the Government is authorized to appeal the sentence.

This bill will act as deterrent to violent crimes committed against senior citizens and permit the courts to deal more severely with criminals that prey on our senior citizens.

LEGISLATION AUTHORIZING FEDERAL PARTICIPATION IN CONNECTICUT RIVER ATLANTIC SALMON COMMISSION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I am pleased to introduce today legislation on behalf of myself and members of the congressional delegations from Connecticut, New Hampshire, Vermont, and Massachusetts to authorize Federal participation in a Connecticut River Atlantic Salmon Commission.

At one time the Atlantic salmon, a prized food and game fish, could be found in the Connecticut River in abundant numbers. Over the years, pollution, lack of proper management and cooperation among the States, and the construction of numerous dams in the river for power generation virtually wiped out the salmon.

Since 1967 the four States of Connecticut, New Hampshire, Vermont, and Massachusetts have been working cooperatively with each other and with officials of the Fish and Wildlife Service and the National Marine Fisheries Service to develop and administer a program to restore the Atlantic salmon to the Connecticut River. I am very proud to say that I have had an active role in this effort. With the use of Federal funds, a hatchery in Bethel, Vt., capable of producing 400,000 smolts annually, has already been constructed and work is due to begin shortly on a needed holding facility further down the river. Additionally, efforts by the States and the Federal Government to work with local industries have resulted in the construction of fish ladders at power generating facilities on the river necessary to allow returning salmon free access to their historic spawning and nursery habitat.

In 1974 only one adult salmon returned to the Connecticut River but it was the first one in over 100 years. In 1981, however, 530 fish returned, While this is very encouraging, continued success in this effort will depend on continuing cooperation among the States involved and the Federal Government. For this reason, a joint interstate program of Atlantic salmon management and research has been proposed, Indeed, each of the four States has already signed into law legislation which allows them to engage in a compact establishing a Connecticut River Salmon Commission to conduct appropriate stocking, management, protection, and research activities. Similar legislation is now needed by the Congress to make the Federal agencies a part of the Commission and to put the agreement into effect. The legislation I am introducing today will accomplish this purpose. An indentical bill is also being introduced in the Senate. It is my fondest hope that prompt action may be taken on this noncontroversial but significant legislation.

FINANCIAL IRREGULARITIES IN ELECTIONS IN DISTRICT OF COLUMBIA

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, there was a very interesting article in this morning's Washington Post dealing with the local elections in the District of Columbia, insinuating or inferring there has been hanky panky going on in this election, concerning financing and relating in particular to the AFGE—the American Federation of Government Employees.

Although they are not under the Federal Elections Commission, the Hatch Act restrictions apply fully to District of Columbia employees and to all elections, not simply those involving Federal offices. In particular, they prohibit activity in partisan elections, which means elections in which any candidates are affiliated with major political parties. Under law, the Office of Special Counsel of the Federal Merit Systems Protection Board has the jurisdiction to investigate any violation of the Hatch Act.

If in fact these allegations are true, I think the matter should be looked into.

□ 1115

TAX PROPOSAL IS WRONG MEDICINE AT WRONG TIME

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I have great respect for the President of the United States. I believe he is a man of destiny, chosen to lead our Nation at this particular time in history because of his determination to make America great again, his courage, and his unique powers of persuasion.

In the past few days, like many of my colleagues, I have been touched by the President's arguments on behalf of the tax package that the House of Representatives will soon consider. I believe the President is sincerely trying to do what is right for America.

But when there is a difference of viewpoint about which path is the right path, I also believe that every man and woman in this body has responsibility to their constituents and to themselves to follow their own conscience and exercise their individual judgment.

I have spent a number of hours, reviewing all of the data available to me concerning the tax proposal that is coming before us. As late as last night, I talked to representatives of the White House and to various economists about whether on not this particular tax package at this particular time will hurt or help the economy.

I have come to the conclusion today that this tax proposal is the wrong medicine at the wrong time. Enactment of the tax increase we are being asked to consider may very well choke off the economic recovery we are just beginning to realize.

For that reason, it is my intention to vote against the tax package when it comes to the floor of the House of Representatives for a vote tomorrow.

IS THIS REVENUE PACKAGE RIGHT FOR THE COUNTRY?

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I rise this morning to announce my support for the revenue package which was reported out of conference this past weekend.

I have decided to support this bill, not because it is perfect, clearly it is not; and not because it will be politically popular, for it is never popular to deal with taxes this close to an election. And certainly not just because the President has asked for its passage, for Congress has a clear obligation to work its own will on such matters.

Instead, I will support this bill because I believe it represents the type of bipartisan compromise which is necessary to reduce Federal deficits, lower interest rates, and thereby assure that the private sector has access to the capital needed for job creation and economic growth.

Mr. Speaker, we all know that this is a very tough vote. Some of my colleagues would like to make it a test of ideological purity. Others say it should be a test of loyalty to the President. The fact is, it should be neither.

There is only one question that should apply to this vote: "Is it right for the country?"

On balance, and despite its flaws, I believe that it is. For this reason I intend to support it.

CONSTITUTION REQUIRES ALL REVENUE MEASURES TO ORIGINATE IN THE HOUSE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, 3 weeks ago I held a press conference pointing out the unconstitutionality of the Senate-passed tax bill. Last week I wrote to the President and the leadership of both the House and the Senate again expressing my belief that the bill is unconstitutional and enclosing a copy of a complaint that I intend to file in Federal district court if the conference report passes the House and the Senate—the most appropriate time to test this issue in court. Today I am circulating copies of my letter to the President to all Members of the House.

While I am opposed to any tax increases, the specific taxes are not the primary issue. The American people are sick and tired of the way the system works here in Washington. That is the major issue. Congress votes itself tax breaks, backdoor pay raises, and violates the Constitution routinely. This utter disregard for equality before the law and the Constitution is what disturbs the American people most. As a Member of Congress sworn to uphold the Constitution, I am convinced that this is a substantive, not a procedural matter. The Constitution is very clear; all revenue measures shall originate in the House of Representatives. Nothing less is acceptable. It is not House rules that have been violated, but the supreme law of the land, and the people are disgusted. They have lost confidence in the system, and it is that confidence that must be restored.

WASHINGTON D.C., *August 12, 1982.*

HON. RONALD WILSON REAGAN,
The President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am distressed by the manner in which the Tax Equity and Fiscal Responsibility Act of 1982 (H.R. 4961) has been acted upon in the Congress, for the Constitution clearly provides that "All Bills for raising Revenue shall originate in the House of Representatives. . . ."

As you know, all the provisions of this bill, save the number and the standard enacting clause, originated in the Senate, contravening Article I, Section 7, Clause 1 of the Constitution.

At the appropriate time I intend to file the attached complaint in District Court here in the District of Columbia, and to pursue this action with whatever further litigation seems both appropriate and necessary. I believe that there are Constitutional principles involved in this matter that must not be ignored, no matter how noble the purpose.

I take this action reluctantly and with deep regret. The overriding issue is one of principle, a principle embodied in a Constitution which I have sworn to uphold. I can see no other course should this bill be favorably acted upon by the House of Representatives and the Senate.

I urge you to reconsider your support for this bill in the light of its obvious, Constitutional defects. Thank you for your consideration of this matter.

Sincerely,

RON PAUL,
Member of Congress.

TAX EQUITY AND REALINEMENT

(Mr. DeNARDIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeNARDIS. Mr. Speaker, I applaud President Reagan on his masterful address to the Nation this week. It was the most comprehensive and cogent discussion, not only of the tax bill, but also of the program and outlook of the economic recovery program which he has shaped and guided.

Mr. Speaker, I believe that the Tax Equity and Fiscal Responsibility Act of 1982 is essential to trim deficits, bring about economic recovery and preserve next year's personal income tax cuts.

The bottom line according to the President is this:

> Would you rather reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or would you rather accept larger budget deficits, higher interest rates and higher unemployment?

Critics are concerned that the tax enhancement takes place in the context of a deep recession. However, by phasing in the tax measures gradually, the bill will not exacerbate the slump, and may help persuade the Fed to provide more leeway for growth because the bill will ultimately make a signficant dent in the expected deficit. There is evidence already in the reduction of the prime rate interest rate again this week and yesterday's record breaking day on Wall Street that signals a positive response to our anticipated responsible action this week.

For those purists who are complaining the bill is bad because it raises taxes—any taxes, they cannot be appeased. But for others who do not take this simplistic view, the rise in tax burden is closer to a tax realinement that equalizes effective tax rates on different sources of income, and thus removes incentives to invest in less productive areas. Such a realinement will not have an adverse effect on investment generally—but rather, introduces more balanced incentives.

The most noteworthy feature of the bill, however, is that it takes a substantial step toward greater fairness by reforming the Tax Code to induce higher compliance. The bill has, nu-

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merous provisions for compliance, amounting to about one-fourth of the total revenue gains.

In addition, there was a number of steps that will strengthen the fairness of the Tax Code. Among the useful provisions are the strengthening of the minimum tax for individuals; a 15-percent across-the-board reduction in a number of corporate tax preferences, and removal of some of the abuses in the safe-harbor leasing section.

If the bill passes, the country will have a sounder tax system, and President Reagan will have asserted unquestioned leadership during the "Decade of Decision" by shaping economic policies that will lead to controlled spending and tax equity.

THE FUN OF SPENDING

(Mr. JOHNSTON asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. JOHNSTON. Mr. Speaker, I have been up here for about 18 months and I have not had much fun because I have not voted for all the spending bills. On the contrary, I have tried to get this Government on sort of a weight watcher's program but the spending bills keep coming in.

Many of my colleagues on both sides of the aisle continue to promote the idea of big fat government, feeding on filet mignon and caviar and living well.

Now they want those of us who have tried to control the size of this Government to come in and vote for a tax bill so we can continue to live high. I do not think it is fair.

I think the fellows that have had the fun spending ought to be the ones that vote for the tax increase, and that should be on both sides of the aisle.

IT IS THE PRESIDENT'S TAX BILL

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, the gentleman who previously spoke should have addressed himself to the Republican President of the United States, Ronald Reagan. It is his tax bill.

THE SIMPLISTIC VIEW

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, one of the previous speakers talked about the simplistic view possessed by those of us who do not support this bill. I suppose some might consider it to be simplistic to insist upon following the Constitution.

I really was not so worried about our attitude toward the Constitution until I saw them bringing out the railroad tracks and placing them across the Constitution before the train came down the line.

I think we ought to be truly concerned about this. Our Founding Fathers thought so much of the fact that the power of taxation is an extreme power that they gave that right primarily to the House of Representatives. They decided that it was not the President of the United States or the U.S. Senate, but it was the people's House, those of us who are elected every 2 years and must go back and talk to the people and presumably are closest to the people, that have the primary responsibility for raising taxes. If we give that away, we might as well give away the House of Representatives, because we are then not upholding our oath to the Constitution.

BELLYACHING OVER TAX BILL

(Without objection, Mr. GIBBONS was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I have been here about 20 years and that is long enough to hear about every bellyaching story you can hear by Members who do not want to vote for a tough bill, and I have heard them all.

Let me say, though, you can vote against this tax bill and spending cut bill, because there is 17 billion dollars' worth of spending cuts. You can vote against it if you think this country can endure 115 billion dollars' worth of additional deficits in the next 3 years. That is the bottom line.

You can have all kinds of excuses you want to, but can you add 115 billion dollars' worth of deficits to this burden that the country is already carrying?

AN EXTREMELY COMPLEX TAX BILL

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I think the point about the tax bill that has to be made is that it is not a matter of dealing with simplistics. This is an extremely complex bill that we are dealing with, a bill that has many, many sections, most of which none of the people in this House of Representatives know or understand. The bill is not really in print yet. We are being treated to a series of explanations as to what the bill is all about, but nobody really knows the extent of all the complexities.

We are being asked to vote on something of which we have no knowledge, because it was never debated in this House of Representatives. It was shoved through here in a manner that I think exceeds the constitutional mandate.

I think we also ought to speak to the deficit argument, because there is no way that you can reduce deficits in this country if you do not start economic growth, and exactly what this tax bill is going to do is stop economic growth. It is going to choke it off. At a time when economic growth is just beginning to rear its head, we are going to choke it off with a tax bill.

I think that is wrong and I think the people that say you can bring about reduced deficits by raising taxes just have not studied economic history.

A TAX PROGRAM THAT DID NOT WORK

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, it has been very interesting to listen to the many 1-minute speeches on the tax bill; but the real focus for that goes back to the budget, in which the Republicans, with some conservative Democrats, carried and proclaimed that they wanted to increase taxes this year by $21 billion as designated in their budget.

Now, frankly, I did not think that that was adequate. Many of us favored tax increases that would have been higher because we feel that the current program of hemorrhaging tax decreases, tremendous increases in wartime-like defense spending and high interest rates was not working.

Well, the Republicans won. They got the budget that they wanted; but unfortunately, apparently the Republicans do not have the ability or the willingness to actually invoke and to enforce that tax increase provision of the Republican budget.

Clearly no one wants to increase taxes and indeed the tax measure that will be before us tomorrow raises taxes by $99 billion.

The Economic Recovery Tax Act of 1981 went way overboard in granting tax reductions which in turn required a meat-ax approach to some Federal programs. Ironically the greatest increase in spending for defense is still not addressed today and the President expressed his view not to be limited by the big increases in spending but reserves the right to go beyond.

It would seem that the coalition of Republicans and Democrats who created the economic policy disaster which has led to recession, continued high interest rate policy and wartime-like defense spending and $150 billion deficits—the highest in history—would be eager to temper some of their mistakes especially in light of the failure of these economic policies. Ironically this tax measure bends over backward to protect some of the 1981 ERTA programs, and imports new taxes, some of which are justified, but importantly closes some of the outrageous tax errors of the 1981 Tax Act. Therefore, Mr. Speaker, I find the attitude expressed on this floor astonishing considering the problems and an unwillingness to deny the reality of failure and worst of all an unwillingness to do anything to correct the error of Reaganomics.

READ THE FINE PRINT IN THE TAX BILL

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, I want to agree with the gentleman from Pennsylvania (Mr. WALKER) who just spoke. You know, we got this tax bill coming at us and we have not seen the fine print.

We hear all about the big ticket items that are in the tax bill, but you and I both know that when you look at a tax bill, it is not the big items you want to look at. You want to look at the fine print that is down at the bottom, and so here we are facing this big tax bill coming at us and we do not have it. Where is it?

I ask the people who were managing the tax bill, give us the tax bill so we can read the fine print, because that is where you are going to get tripped up in tax legislation.

NO TRIP TO THE WHITE HOUSE OR CAMP DAVID

(Without objection, Mr. DUNN was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNN. Mr. Speaker, I take the well of the floor of the House today to state publicly that I have not been to the White House. I have not been to Camp David. Instead I have spent the last few days studying the proposals that go into making up this $99 billion tax bill, who it touches and who it does not touch, how it benefits the industries and the people that they employ, the people I represent in Michigan, and have decided to throw my support to the tax bill and urge the rest of my Michigan colleagues, Democrats and Republicans alike, to do the same. I have spent the last few days talking with Michigan government people of both parties, with representatives of both labor and management, and the average person on the street and have decided that the benefits to Michigan are stronger than the disadvantages.

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

Mr. BLANCHARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. BLANCHARD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BETHUNE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 8, answered "present" 1, not voting 68, as follows:

[Roll No. 291]

YEAS—357

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Chappie
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conyers
Coughlin
Courter
Coyne, James
Coyne, William
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (CA)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzales
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hillis
Hollenbeck
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Leland
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marriott
Martin (IL)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (SD)
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vento
Volkmer
Walgren
Walker
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—8

Donnelly
Dreier
Frenzel
Johnston
Madigan
McClory
Mitchell (MD)
Patterson

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—68

Applegate
Archer
Bafalis
Boland
Brown (OH)
Burgener
Carney
Chappell
Cheney
Chisholm
Conte
Corcoran
Craig
Crockett
Daub
Dellums
Dornan
Early
Edwards (AL)
Edwards (OK)
Evans (DE)
Fiedler
Fields
Forsythe
Ginn
Goldwater
Gregg
Hagedorn
Hansen (ID)
Hartnett
Heftel
Hiler
Holland
Holt
Hoyer
Hyde
Ireland
Kemp
Kindness
Kramer
LaFalce
LeBoutillier
Lehman
Lent
Loeffler
Lott
Lowery (CA)
Marks
Marlenee
Martin (NC)
Martin (NY)
McCloskey
McCollum
Michel
Moffett
Moorhead
Oberstar

VOL
128
PT
16
AG
16
—
19
1982
UMI

Roberts (KS)
Robinson
Rose
Rosenthal
Roukema
Savage
Siljander
Vander Jagt
Wampler
Weber (MN)
Whitten

□ 1130

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair designates the gentleman from Georgia (Mr. FOWLER) as Chairman of the Committee of the Whole and requests the gentleman from Pennsylvania (Mr. SMITH) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5540, with Mr. SMITH of Pennsylvania (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Michigan (Mr. BLANCHARD) will be recognized for 45 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Michigan (Mr. BLANCHARD).

□ 1145

Mr. BLANCHARD. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, today the House has the opportunity to help strike a strong blow for strengthening our national security and, at the same time, the economic health of America.

This opportunity is contained in the bill now before you, H.R. 5540, the Defense Industrial Base Revitalization Act. It is a series of major amendments to the Defense Production Act of 1950.

Our 22-member Subcommittee on Economic Stabilization approved this bill by an overwhelming and fully bipartisan vote of 19 to 3 on March 24. The full Banking Committee reported the bill on May 6. It also was approved by the House Education and Labor Committee in virtually the same form with only a few issues to be resolved.

The problems of our industrial base have been clearly identified over the last 2 years by voluminous testimony before the House Committees on Banking, Armed Services, Energy and Commerce, and Small Business, and the Joint Economic Committee.

Thousands of words of expert testimony add up to one conclusion: American industry is in serious trouble with devastating impacts on employment and our ability to compete with foreign-made products.

H.R. 5540 is designed to deal with major aspects of those problems which include:

Aging factories with equipment typically 20 years old at the subcontractor and supplier level;

The lack of skilled workers to carry out new and even traditional technologies;

The great dependence on foreign sources for critical and strategic materials; and

The outdated equipment and instruments at our colleges and universities used to train professional, scientific, and technical personnel.

H.R. 5540 is a mighty pyramid in a sense. That is the way it was designed to hold together and help solve the problems I just described. Let me explain.

It has three major facets. The first provides for the modernization of plant and equipment in high-priority small and medium-sized businesses. There are some 50,000 of these subcontractors and suppliers which are considered the heart and muscle of our defense industrial base. The priorities would be set by the executive branch and updated every 6 months.

In any case, these industries would almost certainly include the machine shops, foundries, casting plants, machine tool companies, small high-technology companies, and a myriad of other industrial activities which provide the so-called nuts and bolts of our aircraft, ships, tanks, missiles, and other defense systems.

But, they also manufacture the primary components of the major products found in our civilian economy. In most cases, defense business utilizes less than 10 percent of a company's total productive capacity.

What I am saying is simply this. Our defense industrial base and our civilian industrial base are virtually one and the same. These are also the same industries which provide most of the jobs in the United States. Yes, I said jobs, of which there are all too few today.

That brings us to the second side of this pyramid. H.R. 5540 provides a major job-training program on a cost-sharing basis with the States to train, retrain, and upgrade skills that are in short supply in the high-priority industries of our defense industrial base.

Yes, these are the very job skills you see help wanted ads for in our daily newspapers. Unfortunately, there are not enough people trained in these skills to fill present or anticipated job vacancies.

Over the next 5 years, these job skill needs are expected to run in the hundreds of thousands—machinists, computer technicians, tool and die makers, electricians, mechanics—the list goes on and on.

These job skills all have civilian applications as well and are needed throughout our economy.

These are jobs where there are existing and anticipated vacancies. Can you believe it? Jobs going begging at a time when we have in many areas the highest unemployment rates since the Great Depression.

What we say in this bill is: "Let's start filling these high-priority jobs as quickly as we can."

The subcommittee also recognizes the serious shortage of professional, scientific, and technical personnel needed in the high-priority sectors of our defense industrial base. We propose a grant program to assist colleges, universities, and other institutions of higher education in obtaining and installing modern equipment to be used in training personnel of this type.

Today, this equipment is typically 15 years behind the times. How can we ever expect to maintain our position of world technological leadership unless we do something about this?

The third side of our pyramid deals with the need to strengthen America's domestic capability and capacity to produce critical and strategic materials.

Our dependence on overseas sources is absolute in some cases and extremely high in others. Minerals such as cobalt, chromium, titanium, manganese, bauxite, and others are absolutely vital to national defense and our civilian industrial sector.

The goal here is not total self-sufficiency but certainly a greater measure of independence from possible shortages, cutoffs, cartel-like arrangements, and unreasonable price demands.

Wisely, I think, from an environmental and energy-saving viewpoint, our committee considered the contribution that conservation, substitution, and recycling can make to this effort and we want some serious attention given to these activities.

We simply must face up to this entire problem. Our industrial base is deteriorating and, in many cases, obsolete. If we are going to carry out a record defense buildup—and do it economically and efficiently—we must help to modernize industry.

The tax bill helped most of the major corporations, including prime contractors. They had the ability to take advantage of the tax credits, accelerated depreciation, and leasing provisions.

Unfortunately, small- and medium-sized businesses were not helped sufficiently by the tax bill. They lack the necessary cash flow and expertise. They need the types of incentives contained in title III of the DPA. Those include purchase agreements, price guarantees, loan guarantees, and direct loans, if necessary.

In each case, we are either repaid or supplied with needed materials so this is no giveaway. And special preference is given to those companies with plans to improve productivity, quality and lessen U.S. dependence on foreign imports.

At the same time, we cannot have a major defense buildup without an adequate supply of trained labor to do the job. Our pyramid also needs the necessary raw materials. Without them, our technology is of little use.

I want you to know how serious this situation is. Earlier, I spoke about the "nuts and bolts" needed for our defense systems and civilian products. Well, unhappily, foreigners now literally make 8 out of every 10 nuts we use in this country and the bolts are not far behind. This really shocked me. We do not even make the nuts and bolts anymore.

Our subcontractors and suppliers are disappearing with the following four results:

Little or no real competition for defense business,

Greater and dangerous dependence on foreign imports,

Higher costs for defense, and

Consequently, more Government borrowing in the credit market, driving up interest rates.

The enactment of H.R. 5540 will help to prevent the four negative results I have cited.

Mr. Chairman, H.R. 5540 also extends the Defense Production Act for 5 years as urged by the administration and updates several provisions of the Defense Production Act to conform it with an admittedly ambitious but absolutely vital program.

For every Federal dollar actually spent on those activities in the past, as much as $9 of new economic activity has been created, generating thousands of new jobs as well. The cost is paid back many times through new Federal, State, and local tax revenues and savings in unemployment welfare benefits. In short, H.R. 5540 is an investment in the future of America.

During the 26 days of hearings we conducted and from the testimony of more than 125 witnesses, the facts became self evident in a single conclusion:

America cannot be a first-rate world power with a second-rate industrial base.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the committee chairman.

Mr. ST GERMAIN. Mr. Chairman, today the House is scheduled to consider, among other legislative matters, passage of H.R. 5540, a bill offering a series of amendments to the Defense Production Act of 1950 specifically aimed at upgrading the national defense industrial base.

Throughout earlier Banking Committee consideration of these amendments, the question uppermost in our minds has been: If the United States has to expand its productive capacities rapidly in order to accelerate national defense buildup, can our industrial system deliver for us—in quantity, in quality, and most important, in time.

Considerable time and effort was devoted by your committee to seeking answers to these questions. Our findings are contained in the report accompanying this measure, but can be summed up in a very few words:

Our safety net of defense-related production is old, somewhat threadbare, and definitely in need of rehabilitation.

We face very serious prospective shortages of skilled manpower in certain key sectors of our economy, and unless we begin now to refurbish this segment of our population, we could end up in the very embarrassing position of having mountains of new equipment, but lacking properly trained and skilled manpower for its operation.

Instead of stockpiling certain very critical minerals and materials, we have been selling them off to the point that any disruption of their supply (much of which comes from not necessarily friendly regions of the world) could bring America's industrial effort dangerously close to a shutdown situation.

Mr. Chairman, I would call attention to the fact that your committee was required to file a supplemental report on this legislation because important administration comment on the legislation's essential purposes was not revealed until after the committee's formal report had been made and was adopted. By memorandum dated March 6, Deputy Secretary of DOD Frank Carlucci directed the DOD, the Chief of the Joint Chiefs of Staff, the Service Departments of the Army, Navy, and Air Force and other DOD personnel to work with the Congress on the matter of providing a realistic statutory basis for the revitalization of the Nation's defense industrial base. That is what H.R. 5540 is intended to do and that is what it can do, if enacted.

By the same token, Mr. Chairman, I must also note for you and my fellow Members, that Mr. Carlucci repudiates his March 6 stance, by unsolicited letter to me, under date of July 20, in which he felt compelled to restate the administration's opposition to this legislation, due to projected budgetary effects.

It is in this special regard that I want to commend my colleague from Michigan, JIM BLANCHARD, and the ranking minority member of his Subcommittee on Economic Stabilization, STU MCKINNEY, for acting in a positive and courageous manner in preparing this legislation for House consideration today. The legislation proposes a $5 billion investment program in America's industrial future. Here, the key word is investment, for the historical record of the use of the Defense Production Act for such purposes is replete with example; but, and I stress this point very clearly, the return on investment has been one of its most exciting rewards. In the context of past experience, the multiplier effect has been extraordinary, and in this instance we are debating today, the anticipated return on investment conceivably can be 9–1. That means that for every $1 invested, America stands to receive a return of $9.

Beyond this most immediate benefit, the amounts to be allocated to manpower training ($250 million per year) and to our universities and colleges for modernization and upgrading of training equipment and material ($100 million), can hardly be dismissed as nonbeneficial in effect. The truth of the matter is—we are, quite literally, "eating up our seed corn" through the recruitment of faculty and staff from our universities by industry. This has left many of our higher learning institutions in a precarious state not of their making. By providing for access to more modern equipment and for better campus-based working conditions, we hope to persuade many of those talented people to remain in their university positions—thus to halt their unfortunate migration from campus to corporate research and development.

The DPA, as we refer to it, has been used from time to time to attack all manner of national problems. More recently, it was used to get the Alaska pipeline underway—cutting at least 1 year from the pipeline's schedule at a saving of hundreds of millions of dollars to the American taxpayer. These new amendments would empower the President to get the modernization of our defense industrial base underway, mainly through the offering of financial incentives to industry, but with the target of the more than 50,000 defense-related contractors and suppliers—by and large, small- and medium-sized businesses, uppermost in mind.

Mr. Chairman, the Reagan recession, which is now in its 13th month, gives every sign of being one of the most serious and most dangerous in postwar history.

Unemployment has exceeded the 40-year record of 9 percent and there are few who doubt that it will not go even higher.

In excess of 30 percent of our industrial capacity stands idle. You can almost hear the grass grow in unused factory parking lots.

Our auto—our housing—our savings and loan industries are on their knees, if not on their backs. The empty pockets of millions of our people, turned inside out, have become a new national flag and sign of distress.

Farm income is the lowest it has been since the Great Depression of the 1930's, and bankruptcies continue

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to set new records on month-to-month basis.

The DPA amendments offered today through H.R. 5540 cannot halt this decline completely, but if adopted, they could effectively begin its reversal; for in truth, Mr. Speaker, the United States cannot regain its status as a first-rate industrial power with a second-rate industrial base, nor can it be expected to accomplish any meaningful degree of economic recovery without the long postponed modernization of that base. For these reasons alone, the probable effect of the legislation now before the House cannot be overlooked.

The current status of America's industrial base is a matter of national debate and national doubt. Its revitalization, however, is absolutely imperative if the process of general revival for the Nation is to occur.

I urge my fellow Members to support the purposes of this legislation and send a message to those who would doubt our determination, or question our ability, to again perform as a major industrial power.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the distinguished gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. As a cosponsor of this legislation, I urge my colleagues to vote for passage of the act.

The bill offers a comprehensive approach to dealing with the complex and varied problems of the defense industrial base.

During more than a year of hearings and study widespread troubles within the defense industrial base were documented. Some of the problems that surfaced were the serious escalating costs for defense goods and at the same time we had shortages of skilled workers to produce the needed items. Presently, we have an insufficency of small- and medium-sized suppliers and we are too dependent on the foreign market for the needed supplies of defense goods.

H.R. 5540 will provide the financial help necessary to begin modernizing the defense industrial base. It will provide credit incentives for firms which are inclined to update and modernize their operations. It will allow States to train employees to upgrade the skills necessary for the production of strategic materials in a domestic market. It will also provide grants to our institutions of higher learning for the installation of new equipment to be used for training personnel in critical industries.

I urge my colleagues to vote favorably for the passage of H.R. 5540.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me congratulate the distinguished gentleman from Michigan (Mr. BLANCHARD) for his leadership in this area. This program is very much needed, and I support the program wholeheartedly.

Mr. Chairman, today I appear in support of H.R. 5540, a bill to revitalize our Nation's defense industrial base.

The need for this legislation is critical and immediate. Defense-related support industries are shrinking, and in some cases disappearing. We are becoming more dependent on foreign suppliers of vital materials.

Many industries suffer shortages of skilled workers, in both the trades and professions, to design, build, and operate modern equipment.

Higher education institutions lack the financial resources to purchase the modern equipment needed for quality programs in scientific and technical disciplines.

H.R. 5540 directly responds to these problems by providing financial incentives to defense-related, high-priority industries to stimulate this modernization and expansion. Other key provisions authorize a major training program to supply the work force needed by the defense industrial base and a program of grants to institutions of higher education to update equipment used in scientific and technical programs.

I would like to commend my distinguished colleague from Michigan, Congressman BLANCHARD, for assuming a leadership role in developing this legislation. I also commend Chairman ST GERMAIN, Chairman BLANCHARD and the other members of the Banking Committee for their cooperation and attentiveness to the view of the Education and Labor Committee as we jointly worked on this bill.

In considering this legislation, the Education and Labor Committee devoted a great deal of attention to the vocational training program and the higher education equipment grants.

I feel we have emerged with a bill that will stimulate new economic activity, generate new jobs, and train unemployed and young workers to fill those jobs. The cost of the bill will be paid back many times over through taxes from productive citizens and through saving in welfare and unemployment benefits.

I would like to briefly describe the education and training portions of this measure.

H.R. 5540 authorizes $250 million per year for each of the next 5 years for programs to train workers in the specialized skills needed for defense-related industries and to retrain workers who are unemployed or whose skills have become obsolete due to technological change.

These funds would be distributed through the State boards of vocational education or any other agency designed by the State's Governor. The amount a State receives depends on the number of priority industries in the State, what the skill shortages are for those industries, and whether the State has submitted an acceptable plan. The allocation formula would be based on the President's determination.

The grants would be provided to States on a cost-sharing basis. The State contribution, consisting of both public and private resources and in-kind contributions, would begin with 10 percent of the cost in the first year and increase an additional 10 percent each of the following years up to 50 percent in the fifth year.

I want to assure my colleagues that all who worked on this legislation took care to insure that the training programs in this bill would be coordinated with other on-going training efforts, such as vocational education and CETA programs, and would not be duplicative of any Federal training and apprenticeship programs. In addition, the bill includes provisions designed to greatly involve the private sector in the authorized programs.

H.R. 5540 also authorizes $100 million per year for 5 fiscal years for programs to help institutions of higher education purchase equipment used to train the scientific, technical, and professional personnel needed in priority industries. These institutions could be required to match up to 50 percent of the cost. The bill also requires any equipment purchased with the grants to be accessible to all students and faculty at the institution, according to the school's practices.

Finally, I want to explain a provision of the bill that was adopted by the Education and Labor Committee and relates to the budget issue. Although this provision is not in the bill before us because we are using the version reported by the Banking Committee, I will be offering this amendment during consideration of the bill. My amendment would make clear that funds for the training programs or higher education equipment program authorized by this bill are not to be attributed to any budget function or budget allocation relating to education or labor, the Departments of Education and Labor, the House Committee on Education and Labor, the Senate Committee on Labor and Human Resources, or any Senate or House Appropriations Committee, subcommittee primarily responsible for education or labor appropriations. The Education and Labor Committee adopted this amendment out of concern that funds appropriated for this legislation could result in funds being shifted away from existing education and labor programs, which have already been the target of large budget cuts.

I would like to make a last point with regard to the need for the programs in this bill. This year we are spending about $225 billion for national defense. Yet, these billions will not improve our defense posture one iota unless we have the support industries and skilled people to back it up. The training provided by this bill will have long-term usefulness for the worker, the industries, and our defense system.

I urge my colleagues to join with me in supporting H.R. 5540.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to my colleague, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I would like to compliment the gentleman in the well, Chairman BLANCHARD. It has been many years since the Education and Labor Committee has reported from that committee important legislation not sponsored primarily by a member of the committee, and I was pleased to join in supporting Mr. BLANCHARD's bill when it came before the Committee on Education and Labor.

I think the House should know that before reaching the floor the bill was fully debated in the Banking, Finance and Urban Affairs Committee, and subsequently referred to and favorably reported upon by the Education and Labor Committee.

Not only is this much needed in States like Michigan, it is needed to maintain a strong national defense. But more importantly, from the perspective of our committee, it is very strongly supported by everyone who has a genuine concern in strengthening vocational education in this country, and is supported by many organizations concerned with vocational education in our public school system.

Mr. Chairman, Congressman JAMES J. BLANCHARD, chairman of the Subcommittee on Economic Stabilization, as I mentioned before should be complimented for his foresight and innovation in drafting H.R. 5540, the Defense Industrial Base Revitalization Act, which is before us today. This bill reflects a number of cooperative efforts. First, as I said previously, H.R. 5540 was debated by both the Committee on Banking, Finance and Urban Affairs and the House Education and Labor Committee, on which I am honored to serve.

Second, it represents a new trend in writing legislation—one which combines the joint efforts of the business, education, and labor communities. I applaud Congressman BLANCHARD for bringing this coalition together to tackle what has become a significant problem for the Nation's work force and for its defense capability. His efforts have been rewarded with the endorsements of the National Society of Professional Engineers, AFL–CIO, UAW, National Small Business Association, Wayne State University, Communication Workers of America, American Vocational Association, National Machine Tool Builders Association, American Association of Community and Junior Colleges, and the Conference of Mayors.

My home State of Michigan desperately needs legislation of this nature to help retrain its work force to compete for the jobs in the defense industries which previously have not been available for our workers. With my State's strong industrial base and know-how, we could play a critical role in strengthening the Nation's ability to produce strategic and critical materials for defense needs. In many cases, our workers may simply need a minimum of retraining services to become skilled in these new areas. In other States where the defense industry has a base, there only may be a need to bring workers skills up to date or to train more workers to supplement the State's work force.

Not only does this legislation assist industry in updating its ability to provide defense-related products and services, it provides local school districts and colleges and universities with access to modernized techniques and the most current skills needed by employers. And, it also gives them funding to purchase modern equipment, which has been a special problem for education programs.

In my mind, a particularly positive aspect of the bill is its goal of lessening the U.S. dependence on foreign sources for defense-related products. The United States has the capability and resources to become more self-reliant in this area, both in the small and big business sectors. This bill is a positive signal that we are interested in remaining strong industrially and more independent in the defense production area.

Because defense and the industries which support it are so critical to the welfare of the United States, and because the United States must retain its technological excellence, it is imperative that the House accept this package of amendments to the Defense Production Act.

Mr. BLANCHARD. I thank the gentleman from Michigan, and I thank him for his help.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield for a question?

Mr. BLANCHARD. I will be happy to yield.

Mrs. FENWICK. I thank my colleague for yielding. As I understand it, this will not cost the taxpayers any additional expense since it will be taken out of defense funds already authorized. Is that correct?

Mr. BLANCHARD. That is the understanding. It would come out of category 050, which in the budget is the subfunction for defense.

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Mr. McKINNEY. Mr. Chairman, I yield myself such time as I may use.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, with the onset of the Arab oil embargo in late 1973, the United States and many other nations of the world should have learned an important lesson—dependence on foreign suppliers for resources essential to economic activity can result in massive economic dislocations. A shortage of critical materials, combined with a resulting dependence on foreign countries that are very unstable is eroding the very foundation of U.S. defense capabilities.

There is a requirement for an updating of our strategic and critical minerals in accordance with the changing needs of our national security. There is no question that today our economy is now and will remain far more dependent on foreign producers for supplies of nonfuel minerals than for supplies of oil. Further, the potential for supply disruption of critical minerals is substantial because of the increased use of cartels, embargoes, and cutoffs as a diplomatic weapon.

To fully understand the magnitude and importance of the economic consequences involved if the cutoff of a supply of critical minerals is effected, one need only examine our dependence on a number of critical materials. For example, in 1978, the United States relied on imports for 92 percent of its chromium, 98 percent of its manganese, 97 percent of its cobalt, and 91 percent of its platinum-group metals. The United States imports 76 percent of its cobalt from the two countries of Zaire and Zambia, and there is currently no cobalt production in the United States.

H.R. 5540, of which I am a cosponsor, responds to the expressed concerns of the administration witnesses who have appeared before the Committee on Banking, Finance and Urban Affairs. Deputy Secretary of Defense Frank Carlucci, in his policy statement made the following points which I would like to reiterate for the record:

> (1) Without the support of a responsive industrial base, both our weapons systems' capabilities and our flexibility to respond are impaired. The industrial base is an integral part of our national security posture; a strong base is, therefore, an important deterrent to conflict.
>
> The capability of the industrial base also determines, in large measure, our ability to acquire in peacetime programed quantities of defense items efficiently. Failure to improve industrial responsiveness will not simply maintain the status quo—it will

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> result in further deterioration of industrial capability and, ultimately, higher defense costs, longer lead times, and diminished defense readiness.
>
> We must weave industrial base considerations into the acquisition process, revitalize industrial preparedness planning, and show industry, through both planning and actions, that industrial preparedness is an integral part of acquisition.
>
> (2) We must also work with other agencies, the Congress and industry, to improve our ability to identify and resolve resource and capacity bottlenecks and to enhance our mobilization capability. We must improve internal DoD policies that inhibit industrial preparedness. We must work with Congress to provide a realistic statutory basis for our action.
>
> (3) I want to emphasize, in the strongest possible terms, that I view revitalizing the capability of the defense industrial base as one of the Department of Defense's principal initiatives, which fits into the Administration's Economic Recovery Program.

I concur with these policy statements and firmly believe that this legislation fits in with the basic thrust of the economic recovery program because of the stimulus which this bill has the potential of providing to thousands of small businesses across the Nation and by its job-creating impact. For these reasons, I believe that we must move this legislation forward.

While there may be some minor difficulties with the legislation, I believe that these can be addressed in the near future. This revitalization effort is directed toward meeting both a domestic economic problem as well as our national security policy requirements. I fully agree with the statement made by Secretary Weinberger with respect to providing the necessary incentives for expansion and revitalization of our domestic industrial base. Secretary Weinberger expressed his support for the funding of title III programs in the following statement:

> It is clearly recognized that the Administration's initiatives for economic recovery will eventually foster conditions under which revitalization of the industrial sectors will occur. This will take several years and may not provide sufficient incentives for expansion of the industries which are subject to predatory pricing from unstable foreign sources and are critical to the production of national security systems. Our need for reducing our dependence on foreign industrial capabilities is urgent and will not allow us to wait.
>
> Through Title III of the Defense Production Act, the Government can provide incentives for increasing our domestic capabilities by encouraging private sector investment. I am concerned with the impasse we are experiencing in developing an acceptable funding mechanism for this critical industrial preparedness authority. Therefore, I propose funding Title III programs from the DoD budget.

I have, as a matter of fact, been working with the administration to incorporate their setting of priorities to coincide with the economic recovery effort. I genuinely believe, that to the maximum extent possible, the administration should give special consideration to providing incentives to those areas of the Nation which have been identifed as economically depressed and have higher unemployment than the national average. They should look to such areas for the placement of manufacturing and processing industries to create jobs and at the same time make a greater contribution to the production of strategic and critical materials.

This concept has worked very well in the past in my own congressional district and one must recognize that the quality of life in these more sparsely populated areas has the potential of attracting and providing the skilled manpower and the trained technical, scientific, and professional personnel which is so important to the productivity component of a manufacturing and processing facility. I would strongly urge that this criteria become an integral part of administration policy.

Mr. Chairman, I now want to refer to the report itself. It says in the report that—

> The Administration is currently developing a priority ranking of industries most important to defense, including the most problem-ridden in terms of capability and capacity.

I assume the gentleman is referring to assistance to establish that priority.

Further in the report, it says:

> Within those priority categories, Congress mandates special preference to those companies that come up with plans showing unusual promise is boosting productivity, improving quality, and reducing our reliance on foreign imports.

Now, does that consider and address the overdependence and the overreliance on cobalt from such areas as Zambia and Zaire, and would that, in fact, permit an operating company in this country to take advantage of legislation to bring online in this country a reliable source of cobalt?

Mr. McKINNEY. Mr. Chairman, the gentleman is absolutely correct. The increase in productivity, production, and in fact the finding and building up of cobalt, titanium sponge, and all of these items are at the very top of the Defense Department's troubled list, because as the gentleman probably knows, the Soviet Union is about 90 percent self-sufficient and we are far less than 30 percent self-sufficient. That is a vital part of this entire program.

Mr. CLAUSEN. Mr. Chairman, I thank the gentleman from Connecticut (Mr. McKINNEY).

Mr. BLANCHARD. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in strong support of H.R. 5540. I do so because I am convinced that an aggressive program to address the severe problems present in our weakened industrial base must be pursued if we are to accommodate the rapid defense buildup projected and reflected in recent actions by Congress. Jacques Gansler, author of the authoritative and best selling book "The Defense Industry," began his book with the following sentence:

> The *free-market* system is not operating to achieve economically efficient or strategically responsive behavior in the area frequently referred to as the military-industrial complex.

Gansler utilizes his 25 years of experience in the defense industry and in the Defense Department to explore for the next 300 pages the serious problems of our defense industrial base and Government approach to contracting. I find myself quoting Gansler quite frequently when I speak about defense issues, because what he confirms in his book is exactly the confirmations which lead the House Banking Committee under the capable leadership of Subcommittee Chairman BLANCHARD to put forth the legislation before us today.

Twenty-six days of hearings before the Economic Stabilization Subcommittee of the Banking Committee and countless witnesses pointed to the fact again and again that critical industries that are central to our defense production are disappearing, particularly at the subcontractor level. This is causing the United States to become increasingly dependent, and vulnerable I might add, to foreign producers. We also found an alarming shortage of skilled labor to sustain production in our defense industrial base, and even more alarming forecasts of future shortages.

While the unemployment level in our country has not been as high at any time since the Great Depression as it is now, the challenge we face is designing a training program to enable these unemployed to reenter the labor market. We need engineers, technicians, machinists, electricians, and tool and die makers for defense production. In the computer sciences alone, the national demand is already greatly exceeding available trained personnel. Finally, we found critical shortages in strategic materials and minerals needed for defense production. Here again, without a concerted Federal effort, we will be forced into an increasing and dangerous reliance on foreign sources.

To address these problems, this bill contains provisions to modernize our industrial capacity at the subcontractor level of providing direct loans, loan guarantees, price guarantees, and purchase agreements to preserve and enhance our industrial base. The money spent on this program will be returned to the Federal Treasury several times over through lower costs for procurement of defense items. A shortage of industrial capacity at the subcontractor level, in particular, has the potential to greatly escalate defense costs.

The bill also authorizes a skills training program to train workers in skills which are needed to sustain defense production. This program will not only insure that adequate manpower is available for defense production, but it also will help to lower unemployment and thereby contribute to our overall national economic performance. This program is not a public service jobs program. While this program is not as flexible as I would like, it will be conducted in cooperation with the States and State boards of vocational education and will be targeted to skills that are in short supply.

In conjunction with the skills training provisions, the bill provides a program to modernize instrumentation in our colleges and universities. Repeated testimony I have heard as both a member of the Banking and Science and Technology Committees confirms the need for this effort. We cannot expect to adequately train scientists and engineers to contribute to an increasingly high technological defense need with laboratories equipped with 20-year-old equipment. This provision is an extremely important part of an effort to modernize and equip a defense capability in this country.

In addition to these critically important provisions, I will be offering an amendment at the appropriate time on a subject which was discussed, but not resolved by the Banking Committee during their deliberations. My amendment will address the need to establish the function for the promulgation and administering of defense cost accounting standards in the executive branch in the Office of Management and Budget. I feel this aspect of defense procurement is an integral part to an effective national defense production capability, and I urge your support of my effort later in this debate.

This legislation is badly needed if we are to effectively increase defense production in this country. If the provisions in this legislation are adopted, the dependence of defense firms on continued high domestic and foreign military expenditures would be reduced. Improved stability and growth in labor needed to sustain defense production would raise productivity and contribute to the development of a national industrial strategy as well as overall economic growth. I urge your support of this measure.

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Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for his articulate comments on this piece of legislation.

I think there are five things that this bill will do. I think it will stengthen our national defense; it will lower the cost for that defense; it will create and preserve jobs; it will decrease the dependence on foreign supplies; and, finally, I think it will stengthen our national economy.

I think the gentleman has made a good point in talking about the technical skills that need to be improved, the industrial skills, particularly in small- and medium-sized businesses that need to be improved.

I thank the gentleman for his strong support.

Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. This bill represents a major initiative to reverse the severe deterioration of our defense industrial base. H.R. 5540 will:

First, strengthen national defense. The Nation cannot quickly or efficiently tool up for wartime production when thousands of factories are plagued by old equipment, lack of materials, and shortages of skilled workers. The Nation's military forces cannot be rebuilt upon a deteriorating defense industrial base.

Second, lower costs for defense. Inadequate numbers of suppliers, shortages of critical materials, and high costs for scarce, skilled labor have continually driven up the price of defense items. By expanding industrial capacity and training greater numbers of skilled workers, H.R. 5540 will help to drive down the costs of defense procurement. Bringing more firms into the bidding process will create more competition, again driving down costs.

Third, create and preserve jobs. New employment will be created in industries vitally needed for national security. These new jobs have wide application in the civilian economy.

Fourth, decrease dependence on foreign suppliers. Currently both American industries and American workers are losing a greater share of the military and civilian markets to foreign suppliers. This increasing dependence on foreign suppliers greatly damages the U.S. mobilization capability and slows down needed revitalization. H.R. 5540 will help lessen this dependence while building up the industrial base as a whole.

Fifth, strengthen the national economy. The weaknesses in the defense industrial base are symptomatic of greater problems in the national economy. H.R. 5540 not only will revitalize the defense sector, but it will create a mini-industrial policy with far greater implications for the economy in general. H.R. 5540 will strengthen and expand small and medium-sized businesses, which hold the greatest promise for the employment expansion needed so desperately in the Nation.

H.R. 5540 presents an excellent opportunity to respond in a comprehensive way to the growing problems of the defense industrial base. It also should make a significant contribution to the revitalizaiton of the national economy as a whole. I urge my colleagues to join me in supporting H.R. 5540.

Mr. LUNDINE. Mr. Chairman, the gentleman has just said in 30 seconds what I took 5½ minutes to say. I thank the gentleman.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitilization Act, and I would like to commend my colleagues on both the Banking Committee and the Education and Labor Committee for their efforts in producing this legislation.

I share their concerns about the deterioration that has taken place within the defense industrial base and the effect this has had on our national security. If left unchecked, this situation could have a disastrous impact on all aspects of our economy.

I applaud the goals which this bill addresses. I think it will help provide a broad base to enable us to produce critical materials for both our defense and civilian requirements while at the same time insuring that small business will have a chance to participate in defense contracts. If we can encourage more competition among suppliers and our defense contractors, the result will be a more competitive economic base, lower prices for defense systems, and a stronger national security.

The programs proposed under H.R. 5540 could help, I believe, to provide the mechanism to rebuild the structure needed to allow for a rapid but orderly change from commercial to military production in a time of national emergency.

In addition to production this legislation also addresses manpower needs which are often critical in these priority industries. I am pleased that the bill includes a provision calling for the nationwide coordination of information about skills training plans to avoid costly duplication of effort in developing and implementing these manpower programs. May I suggest that the National Center for Research in Vocational Education at Ohio State University, is ideally suited to be in the forefront of that effort and I am sure it will be.

H.R. 5540 is badly needed to help our Nation meet its immediate as well as future security needs. I urge its passage today.

Mr. McKINNEY. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, I hate to disturb the euphora that surrounds thc debate up to this point but

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that is exactly what I hope to do at this moment.

I am reminded of the television show that was on a few years ago that was called That Was the Week That Was.

I think in a few more years people will look back at this and say this was the week that determined whether a Member of this House is for more taxes and more spending or whether a Member of this House is for less spending and less tax on the American people.

This bill will call for an authorization of $5 billion over the next 5 years and it is not in the budget. It exceeds the regular budget. It exceeds the credit budget. It exceeds anything that anybody has had on their mind around this place for some time.

What is it for? It is to fund various credit assistance programs, loan guarantees, purchase agreements, and all of that sort of thing to help those hard-pressed defense-related industries who have just managed to squeeze out of this Congress some $175 billion in spending in the last authorization bill that was here on the floor.

Remember that this very day we all voted on a reconciliation conference report which cut out of the budget some $10 to $13 billion, depending upon whose numbers you use. We worked very hard to get that $10 to $13 billion.

This bill alone will stick back into the budget $5 billion over the next 5 years.

This comes also the day before we are going to vote on a massive tax increase for the country. If you vote for that you will be increasing the cost to the taxpayer by $100 billion.

Is it going to come out of the defense budget? The gentleman from Kentucky said that he is going to offer an amendment later. I do not think this House is going to pass such an amendment as that because we had 7 days' debate on the defense authorization bill here and they warded off each and every amendment except for one dinky little amendment that I offered on nerve gas which did succeed. They are not going to permit that to be done.

So you are talking about a budget-busting bill here.

This is not a contribution to national defense. It is just a thinly disguised industrial subsidy program which will provide massive subsidies to firms in which over 90 percent of the goods and services are produced for nonmilitary purposes.

This is your classic case of corporate welfare. If that is what you want to do, subsidize the businesses in this country, particularly those that are getting the biggest subsidy that they have ever gotten through the defense bill that has already passed this Congress, then this bill is the thing that you want to vote for.

You want to be sure then and vote for this bill. This is your big spenders' bill right here. This is your bill that is going to screw up the credit market by encroachment of up to $50 billion each and every year. So this is the one you want to be sure to vote for.

And then, of course, you would want to vote for the tax bill tomorrow to pay for this so that you can go home and indicate to your fans and supporters that you indeed are a big spender and a big taxer.

On the other hand, if you want to try to do something about the deficit in this country then you had better vote no on this bill.

Let me say this further: The administration opposes this bill. I have a stack of letters. I have limited time here. It is awfully hard to get time because of the steamroller that is connected with this bill. But in any case, I have letters here from the administration. In case anyone wonders what their position is, the Secretary of Defense, Caspar Weinberger's strong letter winds up saying, "In summary, the administration opposes H.R. 5540 in its entirety."

They will support the substitute that I will be offering later in the day.

Furthermore, David Stockman signed this very same letter.

In case anybody is wondering whether or not this is going to help small business, they need to ask the question of why the National Federation of Independent Businesses, who represent the largest number of small businesses in the country, have come out against the bill and have caused messages to be sent to every Member's office.

This bill is ill conceived. It will do nothing for the economy.

Those who are worried about monetary policy in the country and the effect that that might be having on interest rates ought to ask themselves whether or not we are helping the situation by encroaching further into the credit market with more and more Federal lending programs or whether we ought to be trying to back out of the credit market.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Texas.

Mr. PAUL. Did I hear the gentleman say that there was a guarantee in here of $50 billion? If that is the case, is that something that will turn up on our budget or is that likely to appear as an off-budget item?

Mr. BETHUNE. There is about $20 billion off-budget deficit that is funded in mysterious ways, principally through the Federal financing bank.

We do not know at this time how they are going to leverage this money. We do not know the leverage figure that will be used. Some people say it is 4 to 1. Some people say it is 8 to 1.

But the $5 billion cost is a net cost. It is not the gross amount of credit that will be generated. It could take $50 billion in credit out of the credit market each year. That crowds out other borrowers and runs up their interest rates.

Mr. BLANCHARD. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I am truly surprised at the previous speaker. There is a central point concerning our own defense which he neglected. Did you know that a substantial number of American defense contracts go to foreign countries? Did you know that a substantial number of parts that relate to defense equipment is manufactured in other countries? How does this contribute to our national security? How does this contribute to our own attempt to halt the growing unemployment in this country? I will show later in my remarks what has happened to our needed industrial base.

Today the House is considering one of the most important pieces of legislation in the 97th session of Congress. The Defense Industrial Base Revitalization Act (H.R. 5540) represents the first phase of a coherent national security policy that is at the same time a national industrial policy.

We live in a world where brushfires are in constant danger of erupting into multination conflagrations, a world in which armed aggression as well as economic warfare has become a constant threat. If we are to survive as a leader in the free world, we must forge a defense-industrial base that can provide readiness in times of strategic crisis as well as a competitive edge that will withstand the onslaughts of rising protectionism.

The role of government will necessarily change, because the world has changed. Laissez faire policies will simply not be adequate to the challenge of the future. The absence of a coherent, substantive industrial policy will ultimately threaten our capacity to revitalize our own economy as well as the social fabric that is dependent on the industrial sector.

The Defense Industrial Base Revitalization Act, which is now before the House, amends the Defense Production Act of 1950 and addresses the three most critical areas of revitalization: modernization, supply of skilled labor, and access to critical materials.

The immediate issues that face us today are unemployment, capital investment, and a decaying infrastructure. Unless we can solve these problems, our defense capability will be inadequate because our industrial base will have eroded. Modernization, more specifically, industrial conversion, is the key to the kind of healthy local economy that solves these problems and thus creates a sustained defense readiness.

I represent a district in northern Ohio which has seen in recent months, years, an epidemic of plant closings, layoffs, and shutdowns. Foundries, assembly plants, and small businesses are closing in my State, jobs are being lost, not because of contract expirations or because there are no markets, but because many of these manufacturers cannot afford the cost of converting to a kind of production that will keep them competitive and allow them to develop new product lines and apply new technologies. The potential regional impact of continued industrial disintegration should be obvious from the recent reports that by the year 2000 one out of every five workers in the United States will live in Texas, California, or Florida, and that these States will absorb over one-third of the new jobs.

If we were to make an inventory of the industries that seem headed for trouble in the near future we would include the automotive industry, machine tools, steel. If we also made a list of the areas that most need developing today we would have to mention public infrastructure, mass transportation, energy, and biomass conversion. It should be obvious that the challenges in the latter areas represent opportunities for solutions in the former areas. Good old-fashioned American horsesense and ingenuity can meet these challenges, but not without incentives to modernization—or, what I like to call industrial conversion.

What is the state of our defense-industrial base? A few facts will demonstrate the timeliness of this legislation:

Thirty-four percent of U.S. machine tools are over 20 years old—the highest percentage in the seven most industrialized nations—35 percent are 10 to 20 years old, compared to Japan, where 61 percent of machine tools are under 10 years old. In the Midwest, the average age of 40 percent of machine tools is over 20 years.

The rate of capacity utilization in manufacturing is declining steadily: the December 1981 rate is the lowest recorded since surveys began in 1965—72 percent.

During the 1970's, while the United States was spending about 7 percent of its GNP on plant and equipment, Germany was spending about 10 percent and Japan 15 to 20 percent.

Foundry closings in key States are threatening to cripple our industrial base: in New Jersey, 48 percent closed between 1957 and 1980; 42 percent in New York; 40 percent in Connecticut; 38 percent in Illinois; 33 percent in Pennsylvania; 26 percent in Michigan; 23 percent in Ohio.

Imports of bolts, nuts, and large screws during 1981 jumped from 49 to 56 percent of the U.S. market.

In Japan at Nissan Motors the production rate is 72 cars per employee per year; in the United States General Motors produces 10 cars per year per person.

Machine tool orders for the first 4 months of 1982 were 47 percent less than the orders for the same period in 1981.

Some 25 percent of Navy subcontractor suppliers have dropped out of military work in recent years; another estimate shows that 3,500 aerospace suppliers have been lost from a high of 6,000 in 1967. According to a U.S. News & World Report of August 17, 1981, there is only one producer of precision ball bearings for military airframes and a single manufacturer of castings for turrets and hulls of the M60 tank. Only five companies are available to produce certain digital microcircuits used in military guidance systems. Three suppliers make large forgings for landing gear, engine parts, airframes.

The losses represented by these statistics cannot be measured only in terms of unemployment, declining capital investments, urban deterioration, and rising levels of foreign imports. Plant closings also mean a serious loss of revenue and resources for our local communities. For example, when the Ford plant of Brook Park, Ohio, laid off several thousand workers a couple of years ago, it represented a total loss of $140 million in taxable income, or a $2,100,000 annual loss in tax revenues to the small city of Brook Park.

Moreover, the "feast or famine," "boom or bust" tempo of defense production more often than not causes regional economic dislocations which are unpredictable and insurmountable. Suppliers and subcontractors are also discouraged by the inherent instability of defense contracts and require other incentives and escape hatches if they are to risk this kind of investment.

The proposed 1982 legislation has two unique features which address these issues:

First, it gives priority to modernization and industrial conversion as the key to a revitalized productivity and defense capacity, by providing loan guarantees, purchase agreements, and price guarantees for specified priority manufacturing processes.

Second, it targets medium- and small-sized businesses who are the critical suppliers and subcontractors in the industrial base, regardless of whether they currently hold defense contracts.

We have many companies in Greater Cleveland that are obvious candidates for industrial conversion and innovation—whether it is robotics or waste disposal—but they require financial guarantees and loans for capital reinvestment and retraining programs. H.R. 5540 will cost U.S. taxpayers an estimated $6.75 billion over a 5-year period. Compared to the cost of one aircraft carrier and its supporting task force—more than $15 billion—this is a small price to pay to insure the vitality of the industries that we depend on to produce not only aircraft carriers but automobiles and appliances. If we cannot afford to assist these small manufacturing companies, then we cannot afford the cost of our own national security.

H.R. 5540 is an investment, not an expense. During its 30-year life, the Defense Production Act has generated nearly $9 billion in economic activity through more than 1,000 industrial projects. The actual net outlay totaled approximately $900 million. Even this figure, however, does not take into account the various Federal, State, and local tax revenues offsetting that cost, or the thousands of new jobs and incomes generated.

I believe this successful experience can be repeated without aggravating the deficit or inflation. Modernization will be translated into major savings in the defense budget, especially when such spending is at a record high. With improved productivity, higher quality items will increase competition at lower cost to our industrial base and thus help to insure economic recovery.

Restoring our Nation to economic vitality and our industries to competitive productivity will do more to strengthen our national security and our international influence than another set of multibillion-dollar missiles. H.R. 5540 represents the first significant opportunity to inject an aging industrial base with new life and an antiquated defense policy with a new readiness.

Mr. McKINNEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, today I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. This bill, which seeks to accelerate the training of skilled workers through grants to State boards of vocational education, is absolutely essential to our Nation's economic future. The revitalization program set forth in this legislation would improve American productivity, lessen dependence on foreign imports and provide thousands of job opportunities that are vital to both our civilian economy and to our national security.

I am particularly pleased with the job training portion of the legislation which is designed to complement our existing and anticipated job training programs. As you know, in the next few years thousands of high-skill jobs will be created in skill shortage occupations such as computer technology,

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tool making, and so forth; jobs that have application to both our defense and our civilian economies. The Defense Industrial Revitalization Act, then, is designed to allow States the opportunity to upgrade the skills of our workers while encouraging the education of professional, technical, and scientific personnel through grants to the universities for the purchase of more modern equipment. I see this as particularly vital to the New England economy, where 75 percent of new jobs are created by small firms and where a large number of higher education research institutes are located. Additionally, our vocational education institutions would stand to benefit greatly from the measures incorporated into the bill.

Mr. Chairman, I believe it is becoming increasingly evident to Members of this Congress, as well as to the American people, that despite our high level defense spending, we are receiving lower quality goods and less reliability in services. We can no longer sit back and allow our defense base to deteriorate. The time to act is now. H.R. 5540 provides the means by which States could most efficiently modernize equipment and train a sufficient supply of professionals in our critical, priority industries.

I urge my colleagues to use their foresight and support H.R. 5540. It is a wise investment in assuring American military and economic security.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in opposition to this piece of legislation. I think it is a very dangerous piece of legislation. I do not think it will do the things that are intended, even though I am quite confident that those who propose this legislation are well intended in trying to revive our industrial base.

But it just happens that it is more of the same, more of the same nonsense, more big spending, and more Government intervention; all of the things that have failed for 50 years.

We are just asking for trouble to pass something like this.

This bill is proposed under the Defense Production Act. Ironically it has nothing to do with defense. That is a red herring. It will not help defense.

By hurting the economy it will hurt defense.

It is nothing more than a corporate welfare bill.

But if you believe in corporate welfare, this is a good "yes" vote.

But I do not believe for 1 minute that this will help to rebuild the industrial base which we are all very concerned about. If anything, you could call this a military CETA program. If you want busy jobs building things and doing things you think are important, then this bill might be appropriate.

I believe this bill represents a basic philosophic difference between those who believe in the marketplace and in individual freedom. It just happens all factions in Congress all believe in freedom and all believe in individual liberty. But to some it means you should have the right to do with your property and do with your life as you please, and you should make those decisions.

Others believe that liberty is something that is determined by the Government and the Congress deciding what people should and should not do according to the arbitrary notions of politicians.

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This is a typical example of Congress assuming they know what is best for the economy. I would venture to say that the Government, and the Congress in particular, knows nothing about what the economy should be doing. I think that it is very appropriate to quote Hayek, who said that what prompts people to intervene so much in the marketplace is a "pretense of knowledge."

We here in the Congress so often pretend that we know what is best for the people, we pretend that we know what is best for the marketplace.

I would like to strengthen that a little bit and not only say it is a pretense of knowledge, but it is an arrogance of knowledge. It is an assumption that you reject the marketplace entirely, that the market can handle these decisions.

This is an inflationary bill. You are assuming that we will have guaranteed loans of $50 billion, appropriate $6.75 billion and it is going to help things. It will cause more inflation. That is the problem. The problem is the monetary system. We have a monetary system on the verge of collapse, and you are going to compound the errors by guaranteeing more loans.

We now have more than $800 billion of guaranteed loans in this country, and it is the single most important event that causes inflation. It puts the pressure on the Fed to create new money. This will do the same thing. If you want to rebuild the industrial base, you are going to have to look at the fundamentals. You have to decide whether you believe in the marketplace or you do not. If you do not, you move in the direction that this bill is moving. Intervention in the economy for the benefit of business if carried to an extreme is dangerous for it can lead to a fascist state. None of us want that.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I was interested in the gentleman's comment that this bill does not have anything to do with defense.

Mr. PAUL. I do not believe that it has anything to do with defense, even though they use that superficially as justification for the bill.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. I wish to commend the chairman of the subcommittee (Mr. BLANCHARD) and the ranking minority member (Mr. McKINNEY) for holding complete and exhaustive hearings on the state of our defense industrial base.

The committee has reported legislation which addresses the most critical needs on our defense and our nondefense industrial base. H.R. 5540 provides the Nation with the tools to:

First, increase the strength and modernization of our industrial and manufacturing sector;

Second, increase the training and skills of American workers for use in defense and civilian industries;

Third, reduce the outflow of U.S. dollars for foreign imports;

Fourth, reduce the cost and the production time of defense purchases; and

Fifth, provide a stable market for these goods which will increase investment in new plant equipment and jobs.

Mr. Chairman, this is important, well balanced, and critically needed legislation. This Congress and the administration have decided to embark on the largest peacetime military buildup in the history of this Nation. Many Members of this body have been critical of either the size of the increased defense budget or the nature and direction of this defense budget. However, whether we agree or disagree with the direction and size of our defense budget, we have a responsibility to insure that our economy can indeed produce the products demanded by this defense buildup and accomplish this task at a reasonable cost and in a reasonable amount of time.

Congressional concern regarding the ability of our economy to meet the demands of our defense needs and the increases in the defense budget is not new. Neither is the method we have chosen to meet those demands a new method or a radical departure from past practices. The Defense Production Act, which the Defense Industrial Base Revitalization Act amends, was first passed to insure we could satisfy the defense industrial demands of the Korean war. The act has proven its success during its 30 years. More than $9 billion of economic activity has resulted from the $900 million of actual Federal outlays. This success is most evident in the aluminum, nickel, titanium, and tungsten industries, all of which are critical to our defense needs.

H.R. 5540 uses the same process of selectivity to identify those critical industries which need to be modernized and strengthened. Primarily these will be small- and medium-sized companies who produce the specialized products needed by our military. Within the most critical category, those companies that demonstrate the greatest promise for increasing productivity and quality or reducing dependence on foreign products will be given special preference. This legislation demonstrates the targeted, well-balanced approach to increasing productivity which may not be achieved by a shotgun-type approach. The committee has done an excellent job in identifying critical needs and establishing the mechanism to meet those needs.

H.R. 5540 also addresses the important problem of training the American work force in the skills needed by defense and civilian sectors of our economy. It provides $350 million per year for State-administered vocational education programs and the purchase of equipment used in colleges and universities for specialized training. In contrast to the opponents of the legislation who claim it merely copies existing programs, the committee received testimony from the chairman of the Defense Science Board Task Force (Robert Fuhrman) who stated:

> We do not have an overall government program aimed at solving this problem, and the individual company training efforts were only touching the tip of the iceberg. In spite of the recession and its attendant unemployment, there remains a shortage of the skills needed by the defense industry.

The shortage of skilled manpower is one of the primary causes of increasingly long leadtimes. There are few actions more important to our defense industrial base and to American workers than to provide the training needed to produce more engineers, computer specialists, and machinists.

This shortage of skills mentioned by Dr. Fuhrman will be exacerbated in future years. In his March Defense Guidance, Secretary Weinberger identifies a need to develop our industrial base capability so that by 1987 we will be able to triple its capacity and responsiveness within 1 year of a decision to do so. If this development is decided upon, our most vital long lead item will be the training of a skilled work force. Thus, H.R. 5540 is an essential precondition of the planning of the Department of Defense.

Secretary Weinberger's guidance mandates a large annual percentage increase in industrial preparedness: 10 percent per annum for the Army; 50 percent per annum for the Navy; 35 percent per annum for the Air Force; and 25 percent per annum for the Defense Logistics Agency.

Without the easing of the critical skill shortages made possible by this bill, this expenditure increase will be useless.

Secretary Weinberger had directed his Department to isolate critical industrial bottlenecks and complaints and to identify actions to eliminate them. This is precisely what the committee has been doing in its hearings over the past year. H.R. 5540 is the result. It has been argued that the Pentagon is against the bill. Nevertheless, I maintain that it is in accord with Secretary Weinberger's instructions.

Mr. Chairman, H.R. 5540 is critical legislation if we are going to meet the demands placed on our defense industrial base and on the civilian work force. The committee has done an excellent job in balancing the competing needs of the civilian and defense industrial base. In addition, it provides a targeted approach to these problems of aging industrial plants, reliance on foreign imported material, and shortages of skilled manpower. It accomplishes these goals in a cost-effective manner. This is excellent legislation and deserves the support of Members of this body.

Mr. Chairman, I listened to some of the critics of this measure H.R. 5540 and some of their concerns. I think it has been amply demonstrated that this bill does deal directly with defense. In the next 5 years this Congress and the administration, at least in the present posture of policy, have decided to spend between what is estimated to be $1.6 trillion to $2.2 trillion to $2.3 trillion on defense.

Now, the question I think that we have before us, of course, is one of what the magnitude of that increase should be, and I guess that we have decided for this year, and some Members agree with that and some Members do not.

But I think an analogy could be made of pouring this money in, to a farmer taking the seeds and throwing them out on the ground without any preparation, without any hoeing of the soil, without putting any water on them, without putting any fertilizer on those particular seeds, and then expecting to get a good crop at the end of the year. That is the difference in approach. Last year and this year again we are throwing this money out on the ground, letting it fall where it may, letting the water rise to the level that it may, and then we expect to get a crop of defense industries growing and supporting an adequate defense base.

This bill I think is a rational approach. It says we have to support the small businesses, the middle-size industries that make up the infrastructure of defense industries. We have to build and educate to get those who have the skills necessary to perform the task.

We have to give the universities and the institutes of technology the ability to have the modern equipment so that they can train and we can better utilize the trillions of dollars that we are going to spend. And that is what we are trying to do with this particular legislation.

We cannot drive our total policy through a tax code. We found that out. A lot of money goes in a lot of ways. If you want to look at corporate welfare, look at the report in yesterday's Washington Post, in which many corporations are paying a negative tax based on the 1981 Tax Act. But I submit to you that they may not be the corporations that we need in this country for productive reinvestment, for jobs, to be able to provide the products that we need. We have many bottlenecks in terms of skills, in terms of the industries that we need. We are trying to smooth the path to provide some ability so that those seeds are not sitting out in the raw soil without any type of protection or intelligent utilization.

This bill gives us intelligent utilization, enhanced utilization of these substantial tax resources that we spend in this Congress.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Wortley).

Mr. WORTLEY. Mr. Chairman, I would like to take the few moments allotted me to speak to my conservative colleagues about why we need H.R. 5540, the Defense Industrial Base Revitalization Act.

Simply put, the United States cannot meet its national security needs with an inadequate defense industrial infrastructure. All the money in the world earmarked for defense is worthless unless we have stable access to critical materials, adequate capital investment in plants and equipment, and skilled personnel. When Gen. Alton Slay, former Commander of the U.S. Air Force Systems Command, appeared before the Banking Committee in 1981, I asked him about the long leadtime to bring critical defense items on line. Specifically, I asked him if he could pinpoint why it takes so long. Was it strictly because of deficient supplies of raw materials? Was it a lack of skilled manpower? Or was it inadequate capitalization?

General Slay responded by saying all of the above. Every one of those things has a part to play. We could use 60,000 extra machinists, skilled machinists, today if we had them. But basically the big problem is the leadtimes it takes to get the raw materials into a useful form of ingot or sponge, or sheet, or plate, then into forgings and castings, and then and only then does capacity of the prime contractor come into play.

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Mr. Chairman, if that is not a stunning indictment of the status quo, I do not know what is.

Now the House of Representatives has the opportunity to do something about our ability to surge if we have to. We have the chance to revitalize the ailing defense industrial base in a way that does not smack of corporate welfare; that is not fraught with overregulation and endless redtape; and that is not a direct intrusion of the Federal Government into the lives of small businessmen.

We can take this opportunity and plan sensibly our future course of action or we can sit back and wait until it may be too late. The choice is obvious. I commend this bill to my colleagues and I urge its adoption.

Mr. KcKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, this is an example before us of the legislative process gone awry. We have a bill which no doubt had some very good, very sound beginnings. It was a bill which was first enacted in 1950 in an attempt to meet a variety of defense-related shortcomings which were highlighted by our involvement in the Korean conflict.

But I think now it has grown to the point where it contains loan guarantees, direct loans, purchase agreements, price guarantees, price supports, and obviously it has gone way beyond the original context. And with all of that growth, of course, has come a great deal of attendant regulation.

I think it is ironic that we have created the very problem that this bill purports to solve by our punitive Tax Code, by antipollution laws, by countless regulations. We have hampered America's business and industry, and now we are trying to create a solution which, in my view, simply compounds the problem—a solution which will burden the capital market which we all know is already overburdened.

Now, we try to dress this bill up by calling it defense related. But I suggest to you that it is much of the same old "saw": Federal programs which interfere in the marketplace, Federal programs which imbalance those influences of supply and demand and, therefore, take us in the wrong direction.

What is wrong with the free enterprise system? Why can we not have faith in the law of supply and demand to fulfill our needs as they may arise in this country? I suggest, Mr. Chairman, that this bill is opposed by the administration, it is opposed by the National Chamber of Commerce, it is opposed by the National Federation of Independent Business and, even though we might try to improve it by various amendments during the 5-minute rule which will follow, it is a bad bill and it deserves to be rejected by Members of the House.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I rise in support of H.R. 5540.

I am reminded of a corporation in my district which used to be called the National Forge & Ordnance Co. until about 5 years ago. It is now called the National Forge Co. And, quite simply, the reason for that is because they got out of the defense contracting business. They found it was too difficult. No. 1, there was less business all the time; but, No. 2, the quixotic policies of the Defense Department and the overwhelming amount of paperwork that was involved in getting involved in defense contracting discouraged them from participating in this area.

This is not a unique situation, but I think it is a symbolic situation because this is replicated throughout the country. We have seen a tremendous diminution of businesses large and small that are willing and able to participate in defense contracting. I think we desperately need to encourage increased competition in defense contracting. The alternative is that we are going to be paying an enormous premium for the weapons and other material that we are going to be buying in the next 5 years. Obviously, if you only have one supplier of a particular item, they can charge whatever price they want. So I think that there is a real need here to encourage and provide incentives for small businesses and medium-size businesses to get back into the defense contracting business.

I think that this bill does provide that kind of incentive.

I think the severity of the problem was brought home to me at a conference that the House Wednesday Group held 2 years ago, in which we had testimony by Frank Carlucci, John Morgan of the Bureau of Mines, and Gen. Alton Slay, all of whom made the significant point that as long as we allow the defense base to continue to deteriorate, we are going to be paying increasingly higher prices for what the Department of Defense buys.

A number of the suggestions that were made at that conference were incorporated into this bill. I think that they made a significant addition to the bill, and I just urge support of this bill as a first step toward expanding the industrial base and getting more cost-effective purchases in the Defense Department.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Chairman, I rise in support of H.R. 5540.

Almost every time I return to my district, I hear of factories in the Pittsburgh area that are closing or reducing their operations. The loss of skilled workers who operate these factories is critical. When these workers join the ranks of the unemployed or are siphoned off into other occupations, America loses a vital resource—the experience and knowledge built up over many generations of industrial labor.

We need to enact H.R. 5540, the Defense Industrial Base Revitalization Act, to help make American industry more competitive.

If we would find ourselves in a crisis, it will be too late to remedy the decline in industrial plants and their cadre of skilled workers. This is why it is imperative that we enact H.R. 5540 so we can begin the job of restoring the productive capacity needed to sustain our defense posture.

This bill has several related thrusts. It offers financial assistance to modernize aging and industrial plants and equipment. It offers training and retraining programs to provide workers with necessary skills. It offers means to reduce U.S. dependence on other nations for strategic materials. It provides assistance to institutions of higher learning for obtaining or modernizing equipment needed to train professional and technical personnel. And it calls for the development of a national infrastructure strategy so the Nation's highways, rails, bridges, waterways, and other public facilities can speed production and transport defense materiel promptly to our Armed Forces.

Financial assistance to small- and medium-size businesses may be in the form of loan guarantees, direct loans, purchase agreements, or price guarantees. Aid would go to firms defined as critical to the defense effort—current or future—by the Secretary of Defense.

This is conceived as a 5-year program and would be funded at $1.35 billion a year. States would share the costs of the skills training programs, starting at 10 percent the first year and up to 50 percent in the fifth year.

H.R. 5540 emerged from hearings of the Economic Stabilization Subcommittee of the House Committee on Banking, Finance and Urban Affairs. These hearings, held in Washington and many areas of the country, including Pittsburgh, revealed the depressed state of the industrial economy and the dangers this posed to our national security.

As a representative of a heavily industrialized area, I must tell you that small- and medium-size firms are in particularly serious trouble. They are struggling to keep from going under. Without properly targeted help, their situation will remain bleak.

Some are saying we should do nothing about this now because the recession is about to bottom out. We have heard these same rosy forecasts for well over a year and should view them with suspicion. Eager as we all are for an economic turnaround, we should face up to facts that dramatize the need for the remedies in this bill.

The findings of a recent survey of over 300 small manufacturers in the Pittsburgh area were made available to me by Leo R. McDonough, executive vice president of the Smaller Manufacturers Council of Western Pennsylvania. The implications about interest rates, profits, backlog orders, and employment struck me as pertinent to this legislation.

About interest rates, I think many people forget that the prime rate is only part of the story. At the time of this survey, the prime was 16 percent. Of 224 firms responding about their current debts, 38 of them are borrowing at interest rates between 16 and 17 percent; 66 are borrowing at 17 to 18 percent; 73 are borrowing at 18 to 19 percent; 21 are borrowing at 19 to 20 percent; 8 are borrowing at 20 to 21 percent; and 5 are borrowing at over 21 percent interest.

I do not have to tell you that these are crippling interest rates. To complete the picture, 17 firms reported interest rates of 15 percent or lower. These more-favorable rates are not really available in the financial market. I am told they represent cases where families and friends came to the rescue of small companies that could not afford to raise capital at those typical rates I just cited.

Here is what the survey shows about profits. Of firms queried, 31 percent showed profits up this year; 13 percent showed no change; and 36 percent showed a drop from last year. Those who reported gains showed modest increases while those who registered losses showed steep declines. Moreover, if the majority of the 20 percent who did not respond were in the loss column, the situation is even worse than these data indicate.

Statistics on backlog orders are particularly significant because they foreshadow the future with a fair degree of certainty. The future, based on this reading, does not look favorable. Of the firms responding, 67 percent report backlog orders down from a year ago. Only 32 percent report their orders are up.

I noted earlier that small manufacturers are fighting hard to stay alive. The survey bears this out when you look at layoffs and hirings. These companies had to lay off 1,444 workers during the past year. Yet they managed to hire back a good proportion, or 1,024 workers.

A point to emphasize here is that small business is responsible for the employment of over 80 percent of the workers in this country. This is not to downgrade the importance of the large industries; in fact, many of the small firms are subcontractors of large firms. However, if this measure beefs up the small- and medium-size industries, as I believe it will, the impact on employment should be substantial.

Throughout the northeastern industrial belt of this country, these twin problems of joblessness and declining small businesses is especially severe.

Surveys cannot show everything. From talking to the owners and managers of the plants in my area, I can report that they are trying valiantly to modernize, to keep in the forefront of their technology, to remain competitive in home and world markets. But they feel the cards are stacked against them.

These small business leaders constantly remind me that the recently enacted tax incentives do not help them overcome the horrendous costs of borrowing so that they can make a profit and thus enjoy the tax benefits. That is why the loans, loan guarantees, and purchase agreements, or price guarantees provided in the bill are needed.

As the author of a section of this bill that deals with infrastructure, I should conclude with a word about that.

My district, like many other urban areas of the Nation, has not been able to keep pace with the maintenance of its bridges, highways, streets, locks and dams, and other public facilities.

Many of these are joint city, county, State, and Federal responsibilities. I am not trying to point a finger of blame at anybody. The evident fact is that deteriorating public facilities are impeding our economy. Heavy trucks have to circumvent many bridges that are now unsafe. In times of national emergency, this loss of time could be critical for defense purposes.

Transportation, no less than manufacturing, is essential for getting material to the right places in the fastest possible time.

For these reasons, we have called for an inventory of the Nation's infrastructure needs as a first step in developing a comprehensive and orderly strategy for bringing them up to par. An immediate result of launching infrastructure upgrading will be to stimulate employment and the construction sectors of the economy.

In conclusion, this bill is needed for our defense posture, and it should have the important side effects of reviving our economy and putting Americans back to work.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act, which will not only help our national security standing but will give America an economic boost.

This legislation, a series of major amendments to the Defense Production Act of 1950, was favorably reported from the Banking Committee on May 6 by an overwhelming bipartisan vote. Unfortunately, the administration does not support this bill and views it as inflationary. I, therefore, seriously question whether or not the administration wants real economic recovery or a smokescreen of increasing taxes and cutting spending.

We now have before this body a bill with some real meat in it. H.R. 5540 provides for the modernization of plant and equipment in high-priority small- and medium-sized businesses. There are some 50,000 of these subcontractors and suppliers which are considered the heart and muscle of our defense industrial base. These industries are found in our civilian economy, which most certainly means jobs. Under this bill, these firms would be eligible for assistance in the production of defense-related items or the possibility of doing defense work.

The second aspect of H.R. 5540 provides a major job training program to train, retrain, and upgrade skills that are in short supply in the high-priority industries of our industrial base. Again, we are talking about jobs and a program of cost-sharing assistance with States to provide training and retraining for workers who will be needed.

The third aspect of this major proposal will strengthen America's domestic capability and capacity to produce critical and strategic materials. From an environmental and energy-saving viewpoint, we need self-sufficiency and a greater independence from possible shortages, cutoffs, and cartel-like arrangements which could threaten our defense industrial base.

Simply put, this bill, H.R. 5540, addresses these problems. Our defense industrial base is deteriorating. We must, therefore, modernize our industry.

Mr. Chairman. I wholeheartedly urge my colleagues to support H.R. 5540. In the final analysis, America cannot be a first-rate world power with a second-rate industrial base.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

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Mr. WEISS: Mr. Chairman, at the outset I want to commend the gentleman from Michigan (Mr. BLANCHARD) for the concept that is incorporated in this legislation and for the gentleman's driving force in bringing it through the committees and to the House for adoption.

The fact is that America's industrial base and industrial plant has deteriorated to a very dangerous extent. As a member of the Subcommittee on Em-

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ployment Opportunities, chaired by the distinguished gentleman from California (Mr. HAWKINS), I participated in hearings across the country where, for example, we had the national association of tool-and-die makers representatives testifying that right now there is a shortage of 90,000 tool-and-die makers. By 1985, the shortage will reach 250,000 people.

It seems to me that at a time of extraordinarily high unemployment something ought to be done to remedy that situation. This legislation will take us in that direction.

This legislation is only one side of the coin. The other side, it seems to me, ought to be to prepare for economic conversion from defense-related industries to civilian industries. The fact is that over the course of the next 5 years, we are going to be spending a tremendous amount of money on defense; but at the same time, we hope that that expenditure is going to be reduced. Communities and individuals in those industries where cutbacks take place ought to be given preparation and help in transforming and converting to civilian operations. People who work in those plants ought to be given the chance to be retrained for civilian-type occupations. People in communities with facilities that are defense related ought to have the chance to have those converted to civilian operations.

It seems to me we ought to be looking at all sectors of our economy in the kind of wise forward planning way that this legislation provides.

On June 16 of this year I introduced H.R. 6618, a bill "to facilitate the economic adjustment of communities, industries, and workers to reductions or realinements in defense or aerospace contracts, military facilities, and arms export, and for other purposes." I urge my colleagues to join me in cosponsoring H.R. 6618.

I thank the gentleman and express my gratitude to him for starting the process toward this kind of overall planning which ultimately will serve America well.

Mr. McKINNEY. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN), the ranking member of the Education and Labor Committee.

Mr. ERLENBORN. Mr. Chairman, H.R. 5540 authorizes $6.75 billion in price supports, loan guarantees, and other subsidies for domestic production of defense-related materials. It includes a new manpower training program and an equipment assistance program for higher education institutions.

Overall spending authority aside, I object to the bill because it would establish another categorical training program that would be similar to other Federal programs. The well-known problems of duplication, overlapping jurisdiction, and State and local planning procedures with accompanying layers of bureaucracy are inherent in such an approach. We have recently completed consideration of a multibillion-dollar job training program which includes skill training for the defense sector. The General Accounting Office, in raising concerns over H.R. 5540, has noted that it has issued a number of reports documenting that the existence of closely related categorical programs can cause duplication, overlap, and excessive administrative costs for grantees, impeding the coordination of services to clients.

The GAO further stated that "we, therefore, believe that creating another categorical grant program would not be the best way to achieve the bill's objective." I agree with the GAO, that, if Congress and the President decide that it is in the national interest to invest additional Federal dollars, such funds ought to be folded into an existing Federal training assistance program such as vocational education, that could be earmarked for accomplishing defense-oriented objectives. It is ludicrous on its face to create a new separate categorical program and then design and elaborate mechanism and process to insure that the new funds would be coordinated with those of other similar federally assisted employment and training programs.

In addition, subsection 303A(i) establishes a grant program to assist in updating equipment in colleges and universities in order to serve the needs of the defense industrial base. This provision was expanded in the Banking Committee markup by an amendment which states that all students and faculty studying, teaching, or conducting research at such an institution shall have access to such equipment. GAO feels that this section raises many questions regarding who decides which disciplines would be qualified and on what basis. Probably every field could demonstrate some link to defense needs. The bill sets no standards against which requests for equipment assistance can be judged. Without such standards, sophisticated equipment could be provided to requesting institutions that have neither the faculty nor students required to utilize them. Also, there is no provision in the legislation to allow the Federal Government to recoup its investment in such equipment if a higher education institution fails to live up to its agreement on the use of the equipment once the equipment is installed.

It is significant that the other Chamber of the Congress has not embarked on such a major new spending program. Keeping more in line with the fiscal realities, the other body apparently finds it unrealistic to propose a bill that would authorize a new $6.75 billion program. The Senate bill would merely extend the existing Defense Production Act for 1 year.

Another negative feature in H.R. 5540 is the extension of the Davis-Bacon Act to these new federally financed programs and beyond the scope of traditional Davis-Bacon coverage. I plan to offer an amendment at the proper time to delete this extension and to assure the status quo.

I shall go into detail on my amendment and the problem it is intended to solve during the amending process.

It should be noted that the administration strongly opposes H.R. 5540. The Director of the Office of Management and Budget has recently written that the "administration is strongly opposed to a proposal to expand the Defense Production Act by providing subsidies or manpower training for selected industries."

The current Defense Production Act provides the authorities necessary to meet defense materiel requirements during peacetime and mobilization. The administration believes that the existing Defense Production Act has met the Nation's needs in this important area and should be extended without change.

Mr. Chairman, we cannot go on with business as usual. This legislation reminds me of the wornout nostrums of the past—create a new categorical spending program for, and involve the Federal Government in, every potential problem. Since we have just completed action on a multibillion-dollar job training program, we have to be realistic.

A mechanism already exists to handle most of the retraining needs associated with the defense industrial base. Right now, if a private firm feels that its labor force needs to be upgraded and workers need to acquire new technical skills, the firm may enter into a contract with local vocational schools or training centers. Such arrangements make sense and the programs can be designed according to the specific needs of a particular contract. There is absolutely no reason for additional involvement by the Federal Government. If the private sector is unable to reach out to the existing vocational education system for specific training programs in an environment of increased defense spending and weapons procurement, then a $350 million Federal job training and equipment assistance program is not going to matter anyway. Let us save the taxpayers of the Nation from another needless boondoggle by defeating this legislation.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Illinois (Mr. ERLENBORN), the distinguished ranking minority member of the Education and Labor Committee. In my role as the ranking minority member of the Subcommittee on Elementary, Secondary, and Vocational Education, I have become acutely aware of the duplication, overlapping jurisdiction, and inherent inefficiency associated with the existence of closely related categorical programs about which the gentleman from Illinois spoke. That is one major reason why I oppose H.R. 5540, and specifically sections H and I dealing with job training and equipment assistance.

In addition, I would like to point out that the legislation before us does not provide any real mechanism for insuring that the private sector has a financial commitment to the program. Without that kind of involvement, the linkages between business and training programs would be tenuous at best.

I am convinced that the most effective way to deal with this issue is in the context of the reauthorization of the Vocational Education Act. Our subcommittee has held nearly 30 hearings on this subject and related topics and more are planned. Certainly a comprehensive approach which seeks to link all Federal job training programs is preferable to an uncoordinated proliferation of categorical grant programs. This is one more reason why I must oppose H.R. 5540.

It is also interesting to note that the American Society for Training and Development does not support passage of H.R. 5540 as reported from committee. In a letter to me dated August 16, 1982, they urge that rather than pass H.R. 5540 as reported, it would be better for the House to "pass a simple extension of the Defense Production Act." This will bring the bill in line with the Senate version and give Congress time to develop a better strategy for defense training capabilities.

I would also like to point out that the chamber of commerce opposes H.R. 5540. In an August 13, 1982 letter, the chamber stated:

> The price guarantees, purchase agreements, grants, loans and loan guarantees that would be provided under H.R. 5540 represent an expensive and inefficient way to improve our defense-related industries. At a time when Federal spending is still increasing at a rapid rate and contributing to record level deficits, we can ill afford the additional $6.75 billion in spending that this bill would entail. Moreover, the $11.3 billion in additional Federal loan guarantees would increase the already burdensome level of Federal credit intrusion in our beleaguered financial markets.

The defense buildup will strengthen the defense industrial base. Increased funding levels for weapons, along with procurement reforms providing longer term awards, will enable firms to increase their capabilities. Coupled with the significant unused production capacity, this should be ample to meet future defense needs without the massive Federal subsidies contained in this bill.

For all of these reasons I urge my colleagues to oppose H.R. 5540, but particularly because sections I and H will become another expansive Federal failure.

Mr. BLANCHARD. Mr. Chairman, how much time do the majority and minority have remaining?

The CHAIRMAN. The gentleman from Connecticut (Mr. McKinney) has 14 minutes remaining, and the gentleman from Michigan (Mr. Blanchard) has 13 minutes remaining.

Mr. BLANCHARD. Mr. Chairman, I yield 1 minute to the distinguished Resident Commissioner from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Revitalization Act, which would address the very real shortages of skilled workers and support industries in the defense sector. We cannot continue to funnel money into defense without considering the productive capability, or lack of it, of plants which manufacture defense systems and the level of expertise of the personnel which man them.

In order to retain our reputation as a first-rate world power, we must insure that we have the capability to produce the systems needed to defend our Nation and to enforce positions taken in world affairs. Without the contributions of small and middle-sized businesses which provide critical components of these systems, our missiles, tanks, warships, and warplanes could be neither built nor maintained. Yet these are the very industries which have been hardest hit by high interest rates and slowing sales—they have not been able to invest in new capital and new technologies. They cannot afford to hire the specialized, highly trained personnel they need. And more and more they are becoming statistics as bankruptcies increase in our stagnating economy. Clearly, unless this trend is stopped we will soon find it impossible to procure components for our defense system from within the United States.

H.R. 5540 would provide incentives to high-priority industries to purchase new plant and equipment and financial incentives to expand the domestic processsing capability for strategic and critical minerals, metals, and materials.

Just as physical plant has deteriorated over the years, so has the availability of sufficiently trained human capital. Despite the high unemployment levels we are experiencing today, the Department of Labor reports a current shortage of skilled workers such as engineers, technicians, machinists, electricians, and mechanics. Obviously, the skills of our labor force are not matched to the needs of the business sector.

H.R. 5540 would create a skills training program to address this very problem. By training workers in skills for needed jobs, by upgrading the skills possessed by workers to enable them to fill existing job openings, and by retraining workers in skills where there is a demand, we provide personnel for defense-related industries and make significant gains in reducing unemployment.

Let me point out that the training system under H.R. 5540 is not a giveaway—it provides $250 million a year for each of the next 5 fiscal years on a cost-sharing basis to State boards of vocational education or other Governor-designated State agencies. Each State would receive awards based on the number of priority industries located there and skill shortages for those industries. But based on past experience with financial incentives used under the Defense Production Act we know that benefits to the Federal Government in reduced welfare costs and increased revenues will far outweigh expenditures.

Mr. Chairman, I firmly believe in a strong national defense, but unless we support those industries which supply items for our defense systems we cannot maintain the level of quality and superiority our country is known for. I urge my colleagues to seriously consider this bill as a vehicle for strengthening our defense industrial base, and to join me in supporting H.R. 5540.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. Evans).

Mr. EVANS of Indiana. Mr. Chairman, 30 years ago, the United States was the greatest industrial nation in the world. England, France, Germany, and Japan were using our technology, our manpower and our money to rebuild their war-damaged industries. Today, industrially, they rank ahead of us. What was the industrial heartland of this country has become an area of mass layoffs and plant closings.

As a country, we have become shortsighted. We continue to provide for the defense of overseas countries while our own national defense preparedness has fallen. We have become increasingly dependent on foreign sources for our mineral consumption. The net reliance for bauxite and aluminum is 94 percent and 91 percent for cobalt. It is urgent that we reduce our dependency on unstable foreign sources before we are faced with critical national emergency conditions.

In a country where there are 10 million people unemployed, we face a serious problem in meeting demands for highly skilled workers. To meet current requirements, the Department of Labor estimates that nearly 9,000 tool and die workers and 22,000 new ma-

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chinists will be needed each year through 1985. The number of journeymen for both trades combined totals only 5,000. Because of the shortage of skilled labor, the leadtime for the production of one aircraft engine has gone from 19 months to 41 months.

Our problems in the work force goes beyond the need for skilled workers. Japan with half of our population, graduates more engineers that we do and 1½ times as many electrical engineers. Fifty percent of the technical students at the Ph. D. level in this country are foreign nationals who eventually leave this country.

The quality of research instrumentation in major university laboratories has seriously eroded. Not all, but many researchers in the Nation's best funded universities are struggling to work effectively with obsolete tools. The equipment being used in the top-ranked universities has a median age twice that of the instrumentation available to leading industrial laboratories. For abut 15 years, Federal support for basic research has gradually declined; now support levels are being further strained by rapid inflation.

As a nation we need to put together a program that will revitalize our sagging industries, reduce our dependence on the foreign supply of strategic materials, and assure adequate domestic production of energy supplies for defense needs.

H.R. 5540 will provide a sound beginning for rebuilding our Nation's industrial base. As a member of the Subcommittee on Economic Stabilization, I urge my colleagues to support this measure.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. Kildee).

Mr. KILDEE. Mr. Chairman, it has long been common knowledge that the strength and security of our Nation relies, in no small measure, on a strong and viable industrial base. This industrial base, in turn, requires a well-trained and skilled work force to operate effectively.

These needs are addressed in H.R. 5540, the Defense Industrial Base Revitalization Act, which was introduced by my colleague from Michigan, Mr. Blanchard. This bill has received the consideration and scrutiny of both the House Banking Committee and the House Education and Labor Committee. Both committees have reported the bill favorably.

Passage of this bill will allow for planning and creation of manpower training programs that will alleviate what is developing into a critical manpower shortage in various skilled areas. It will also benefit many of our unemployed citizens by allowing them to receive the training that will foster increased employment in the future.

The unemployment rate in my home city of Flint, Mich., is now over 20 percent. Testimony from educators at a field hearing of the House Elementary, Secondary, and Vocational Education Subcommittee recently conducted in Flint leaves no doubt that while unemployed workers are seeking training in skilled areas where employment openings exist, the training programs in local facilities are already filled to capacity in those areas.

Mr. Chairman, passage of H.R. 5540 would simultaneously meet several critical needs. It would help alleviate manpower shortages in critical industries while insuring that unemployed workers receive the training they need to fill jobs now vacant. Mr. Chairman, I submit that H.R. 5530 is needed legislation which would stengthen our industrial base and national security by meeting employment and training needs of our Nation's work force and the manpower needs of our defense industries.

Mr. BLANCHARD. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. Hertel), who is also a member of the Committee on Armed Services.

Mr. HERTEL. Mr. Chairman, even as a 9-year-old boy, I still vividly did note how our Nation readily responded to the challenge generated by the Soviet Union's successful launching of Sputnik, the first space shot, where seemingly overnight the U.S. Congress expanded its Federal policy of funding education to assure America's superiority in technology for defense, space, and industry.

As a member of the House Armed Services Committee today, I am acutely aware of the administration's efforts to increase defense spending from 25 to 33 percent of our national budget.

Between 1981 and 1986, we are expected under their plans to spend $1.6 trillion on defense with much of this amount used for the production and advancement of more modern technological weapons.

As the technology increases, though, we will need more qualified people to build these weapons. The billions of dollars spent on expensive advance weapons mean nothing if our people cannot execute and repair and continue to build and improve the equipment involved. If they cannot do it because of inadequate education and training, then all of that money is wasted.

The problem is compounded by the fact that the Soviet Union at this time has been having higher test scores for their personnel. They have been making great improvements in the area of construction and in the area of training.

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We need more and better educated people if we are to keep pace with the world's advancing technologies. Right now, the United States is far short of the trained engineers it needs. In 1979, the United States had 53,000 engineering graduates—17,000 fewer than the Department of Labor estimated that were needed just to keep pace with attrition alone.

In Japan, 40 percent of the recent college graduates have been engineers; the engineers graduating in the United States, however, amount to a mere 5 percent. More importantly, in the Soviet Union, they are producing six times as many engineers as the United States, with more than 60 percent going into defense work, another figure that we are lacking in.

At the very time we need to make every effort to reindustrialize the portions of our economy severely hurt by the recession, we have this bill brought to us. Our greatest problem in this country is unemployment. Our greatest investment for the future is education. That is why this bill aims directly at it.

H.R. 5540 provides the mechanism to deal with these skill shortages through a 5 year, $250 million annual program to train, retrain, and upgrade the skills of workers needed by defense-related firms. It will be operated, most importantly, at the State and local levels to carry out State plans to meet skill shortage needs. The plans would be developed with the cooperation of defense contractors and subcontractors, labor, the vocational education community and other public education communities, private training operations, and the States' Governors themselves.

Mr. Chairman, the skill training program established in H.R. 5540 is patterned after the highly successful training programs conducted by State agencies during World War II that trained at that time some 7.5 million workers for defense jobs during a 4-year period. It does not, most importantly, replace any currently operating training programs, apprenticeship programs, or privately operated skill training programs. It does not duplicate such training programs, but instead supplements and expands upon present inadequate efforts. It is not at all related to existing CETA-type job creation programs.

We are talking about something that has worked before in the Second World War when we had our greatest threat as a nation to our national security and to our future; this bill is patterned exactly after that.

There have been questions brought up regarding the funding of this legislation. If we look at the House Education and Labor report dated May 17, we see on page 16 a letter from Chairman Jones which states very clearly the regular procedure of the House. That the Defense Appropriations Subcommittee would take care of this in section 302(b), in that subdivision; so it would be the same as in any other case, the money would come out of appropriations for the defense budget.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. For a brief question, yes.

Mrs. ROUKEMA. Mr. Chairman, I would like to concur with the gentleman's statement, particularly on the gentleman's observations on how well crafted this legislation is in addressing the manpower training needs and particularly the gentleman's emphasis on the coordination at the State level to avoid duplication of training programs and inefficient operations.

Mr. Chairman, as the only Member sitting on both committees which reported H.R. 5540 I have tried to serve as a liaison between the Education and Labor Committee and the Banking Committee. Although the original bill was drafted in the Banking Committee, there was always an understanding that the interests of the other committee would have to be considered. It was in this atmosphere of bipartisan cooperation that H.R. 5540, as it is today, has evolved.

Of particular importance to myself and the other members of the Education and Labor Committee has been the assurance that the funds appropriated under this bill would not be competing with the existing education and job training programs. This assurance has been essential to my own support of the bill. I am confident that the committees have accommodated this concern. I do understand that there will be an amendment offered on the floor to leave no room for doubt on this question and I urge the adoption of that amendment.

The legislation is designed to address some serious weaknesses in our defense industrial base. H.R. 5540 is not expected to solve the entire problem, but the assistance it will provide to priority industries can have a major impact in modernizing and revitalizing those production facilities. By strengthening our American defense industrial base and by ultimately reducing our dependence upon foreign-made parts and equipment, we will be ultimately lowering defense costs by improving efficiency. We will also be acting to reduce an overdependence upon imported parts and equipment which could, in a time of crisis, create a serious problem for the United States.

But as important as increasing our productive capacity is, it is vital that there be skilled Americans to work in those industries. H.R. 5540 provides for a manpower training program to train and upgrade the skills of people for the priority industries essential to the defense industrial base. Because I consider this element of the program so important I offered a series of amendments which both committees accepted to insure efficient and coordinated implementation of this program and to avoid costly duplication with other training efforts.

As these State training plans are developed, it is important for all concerned to remember that Federal funding is contingent on a State contribution from public or private resources. That is not meant to be exclusively one or the other party. In the strongest terms possible we want the administrators of this program to look to the private sector—both management and labor—to share with the States this burden.

H.R. 5540 will do much to help this Nation through a transition to a stable industrial capacity and manpower requirements. It has been carefully crafted and deserves the support of my colleagues.

Mr. HERTEL. Mr. Chairman, let me just thank the gentlewoman. She has called attention, I think, to the main points. It is a new way of expanding job training.

Let me commend the sponsor of the bill and let me point out briefly that as the chairman of the subcommittee, since the gentleman is not seeking reelection, this might be his last major bill on this House floor, and I think many of us in Michigan have a great deal to be grateful for and in our Nation to the chairman of this committee, the gentleman from Michigan (Mr. BLANCHARD).

Mr. McKINNEY. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act, although I will at the appropriate time endorse all the nasty things that will be said about its Davis-Bacon provisions.

Under the leadership of President Reagan we are undertaking to restore our Nation's defense capabilities. While Congress has demonstrated its support for this effort, I believe the success of this program will be jeopardized if we fail to address the structural problems of our Nation's defense industrial base.

In a report prepared for the House Wednesday Group, former Deputy Assistant Secretary of Defense, Dr. Jacques Gansler, outlined the following scenario: First, world tensions heat up; second, SALT negotiations break down; third, U.S. military deficiencies are recognized; fourth, the defense budget is dramatically increased; and fifth, the defense industry is unable to respond rapidly to needed increase in military equipment production.

Regrettably, Dr. Gansler has been nearly prophetic. Today, the defense industrial base is characterized by increasing leadtimes, shortages of subcontractor capacity, shortages of skilled manpower, aging and inefficient plants, inadequate competition, and—as a consequence of these—rapidly increasing unit costs. Left untouched, there are serious doubts that the defense industrial base will be able to utilize efficiently increased defense dollars or, more importantly, to have the capacity to surge; that is, to increase production rates rapidly to meet emergency needs.

As in the past, the Federal Government has an important and necessary role in restoring the health and vitality of our Nation's defense industrial base. The need is too urgent, the problems are too deep, and the stakes are too high to risk deferring actions. H.R. 5540 outlines a comprehensive response to the problems of the defense industrial base which, I believe, merit support.

The primary concerns addressed by H.R. 5540 are modernization of priority segments of the industrial base, and the rebuilding of a healthy, competitive subcontractor segment. Inadequate and inconsistent funding of defense programs, under previous administrations and the economic woes of recent years have had a telling effect on the subcontractor tier of the defense industrial base. Consider for example, that it is estimated that the number of subcontractors in the aerospace industry dropped by 33 percent between 1968 and 1976; that nearly 1,500 foundries closed between 1957 and 1982; and that there are only 2 subcontractors for aluminum plate and tubing in the United States. The implication of such facts for competitive procurement are particularly disturbing when you consider that procurement programs now underway total some $250 billion.

H.R. 5540 amends title III of the Defense Production Act which authorizes the use of a variety of incentives for expanding production capacity and supply. These incentives, which include guaranteed purchase levels, price supports, below-market-rate loans, and loan guarantees are targeted to small- and medium-sized companies which heretofore have been the heart of the defense industrial base.

The effectiveness of such incentives has been demonstrated in the past. Consider these accomplishments under the Defense Production Act during the Korean war period: Doubling of U.S. aluminum production; quadrupling of U.S. tungsten production; launching of the naval nuclear reactor program; and creating the U.S. titanium industry.

H.R. 5540 authorizes $1 billion for each fiscal year from 1983 to 1987 for use under title III, creating an "ultimate net cost" to the Government of $5 billion. The mix of indirect and direct assistance provided will limit exposure to credit obligations, assuring that the credit budget will not be sig-

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nificantly affected, while at the same time, providing the stimulus necessary to remedy the problems afflicting the defense industrial base, particularly the subcontractor level. However, it should be emphasized that the type of assistance utilized will determine how much economic activity will be generated under this proposal and in no event can the Federal Government's outlay exceed the amount authorized and appropriated.

In the end, I believe that the cost of this program will be more than offset by the benefits derived from modernizing the subcontractor tier. The successful modernization will improve the productivity of the defense industrial base, increase competitiveness, and improve the quality of goods produced, therefore resulting in major savings in the defense budget. Moreover, the economic activity generated will provide tax revenues for all levels of government and will create thousands of new jobs.

Although I have chosen to focus on modernization of priority industries, the bill addresses other important areas including training skilled manpower, expanding strategic minerals and materials, and providing modern equipment for training professionals, these provisions also warrant your support.

My only criticism of this legislation is that Davis-Bacon requirements have been imposed on some of its provisions; I intend to support efforts to strike these requirements.

Nonetheless, I am committed to the purpose of the act and believe that it is necessary that we act now. Further delay in dealing with the shortcomings of the defense industrial base will only exacerbate what are already well-documented problems. These problems are at the heart of inflated procurement costs and our failure to address them immediately will insure that we get even less for our defense dollars in the future.

I urge my colleagues to consider the wisdom of this legislation and to vote in favor of this bill.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I appear before the Committee today to support H.R. 5540, the Defense Industrial Base Revitalization Act. As the ranking Republican on the Employment Opportunities Subcommittee, which has jurisdiction over job training programs, I would like to express my support for the skills training aspect of the bill.

As we all know there is a large unmet need for employment skills training. Current funding levels for the existing employment and training programs have been dramatically reduced over the past 2 years. Prospects for any increased funding in this area appear to be bleak. H.R. 5540 would require coordination of skills training program with any CETA or successor program through provisions for participation in the plan's development by the State employment and training council or a successor entity, and opportunity for prior review and subsequent comment by that entity. To maximize effective coordination, additional requirements of the plan prohibit duplication of other Federal, State, or local programs unless necessary to achieve the objectives of the skills training program, make provision for joint agreements with CETA, or successor, programs; and require consultation and coordination with certified apprenticeship plans where they are in effect.

Finally, given the fact that basic programs have been reduced significantly, and that there is a definite need for skills training under this act, we should not be forced to strain our current resources even further thereby diverting funds that serve low-income, disadvantaged individuals. It seems logical and appropriate to fund skill-training programs designed for national security interest out of the defense budget rather than the already overburdened education and job training function. H.R. 5540 as amended, by the Committee on Education and Labor would accomplish this objective.

Therefore, for these reasons I support H.R. 5540 and feel that its advantages outweigh the concerns raised by some Republican Members.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I rise in strong support of H.R. 5540, the Defense Industrial Base Revitalization Act. This legislation introduced by my colleague, JIM BLANCHARD, is a major step toward revitalizing the defense industrial base of this country.

This legislation will set up a program to train workers with skills needed to fill the manpower shortages now existing in high-priority industries related to our national defense. The bill will also help small- and medium-size businesses modernize their facilities through loan guarantees and purchase agreements, so that materials important to our national defense will be produced in this country.

Right now because of old or inadequate factories, we cannot manufacture many of the basic components needed for our major industries. The U.S. dependence on foreign sources for such items as fasteners, castings, forgings, optical parts, and other basic parts does not enhance our national security.

We have to be able to manufacture the parts for our basic industries so that we can both take care of our defense needs as well as our industrial needs. This legislation will enable us to do just that by retraining workers with skills that are needed and by assisting smaller firms to modernize their facilities.

With almost 10 percent unemployment now, this country cannot afford to export any more jobs abroad. This legislation is a straightforward, sensible solution to this problem.

No country can continue as a superpower for a very long while being dependent on foreign sources of production for its basic industries and national defense. It makes no sense to spend record levels of funds on defense without making sure we can produce these goods in the United States and put our people back to work.

America has let her industrial base dwindle for far too long. The Defense Industrial Base Revitalization Act will put us on the right road to correct this problem in the 1980's. In a State like Michigan, with 14 percent unemployment, the training programs will benefit workers who have seen their jobs exported to foreign countries or disappear during the recession. The Midwest needs a program like this to help our small- and medium-size businesses rebuild and retool their older plants.

The Defense Department has already developed a list of 73 skill areas related to high-priority industries necessary for our national defense. This legislation will help fill the skills needed in these high-priority industries while putting people back to work. Under this program, companies who want to qualify for loan guarantees will have to come up with specific plans and proposals so that the funds will be used productively.

I strongly urge my colleagues to approve H.R. 5540 as reported out of the committee. We need this type of legislation to get on with the job of rebuilding American industry and reducing our outrageous unemployment problem.

Mr. BLANCHARD. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Before I start, I would just like to say, Mr. Chairman, that we are all very grateful to the gentleman from Michigan (Mr. BLANCHARD) for the great job he has done on H.R. 5540. I believe the bill is timely and absolutely essential in these times we are presently living in.

Mr. Chairman, I rise in strong support of H.R. 5540, the Defense Industrial Base Revitalization Act.

This bill is of great significance not only to our defense base but also for small business, distressed America and the unemployed.

If you favor a more prepared Defense Department, then you should be supporting H.R. 5540.

If you favor assisting the Nation's industrial regions in recovering from this most damaging recession, then you should be supporting H.R. 5540.

If you favor putting our untrained youth in new jobs and with new skills, then you should be supporting H.R. 5540.

If you have a large population of blue-collar workers passed by because of changes in American industry, then you should be supporting H.R. 5540.

If you believe that our universities and colleges as well as our vocational education facilities need some improvement to once again move America forward and to maintain a competitive position with the rest of the world in technology and the sciences, then by all means, get behind H.R. 5540.

This bill is not just another spending bill. Far from it. The authors have had the upmost regard for our budget situation and for that they are to be commended. Its provisions have been carefully crafted to address a myriad of economic and defense related problems.

We need to provide for the development of preparedness programs and the expansion of industrial productivity capacity and supply beyond the demand the civilian economy places on it. We must also reduce our dependence on the foreign supply of strategic and critical materials and to assure adequate domestic production of the necessary supplies for our defense needs.

This is also an urban development initiative. As Chairman **Blanchard** stated earlier this year—

> Cities today are facing some of the toughest challenges of the decade. Our industries have long been the backbone of many of our cities. But today those industries are deteriorated and production is seriously hampered by a shortage of skilled labor despite the record high unemployment we now confront.

There should be little question in our minds that our industrial base is in trouble. Just travel through the Northeast and Midwest and increasingly in the South during this most drastic recession.

If we are to continue on our course of increase defense expenditures, as seems likely with the $178 billion defense budget, then we need to prepare American industry to meet the challenge. To fail to do so would be more than a failure of the Congress, it will be a failure of our determination to prepare for an adequate defense.

As a corollary, if we are to pursue this course of increased defense buildup, then let us attempt to achieve some domestic goals as well—revitalize our economy, provide assistance to distressed America, new training for our unemployed labor force and our youth population.

I urge my colleagues to support H.R. 5540, the Defense Industrial Base Revitalization Act.

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Again, as I close, Mr. Chairman, I would like to say to my colleague from Michigan: If this is your last piece of legislation on this floor, thank God you were here, because, God knows, this is a critical time in America's history and this bill is absolutely essential.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. **Bethune**).

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding this time to me.

As I mentioned in earlier remarks, this bill is not a contribution to national defense but is a thinly disguised industrial subsidy program—subsidies, subsidies, subsidies; corporate welfare, corporate welfare, corporate welfare. That is what this bill is, pure and simple.

I direct Members' attention to pages 10 and 11 of the committee report wherein it is announced expressly that the estimate of the number of companies that would benefit by this is 50,000, and that they are small- and medium-sized businesses making the nuts and bolts which support our defense effort.

They go on to say that the defense businesses utilize less than 10 percent of the total productive capacity of the companies.

What we are doing here today is giving ths administration, although it is not likely to use it so much, but other administrations in the future, carte blanche power to simply hand out credit assistance, subsidies, and corporate welfare to those companies that they decide are deserving.

That is why, as I mentioned earlier, the administration is so strongly opposed to this, particularly the Defense Department, which knows that this is simply going to further encroach into the credit market and provide subsidies for those who manage to have the political clout to get to the head of the line.

I remember well when we were dealing with the Chrysler bailout, and other Members will remember, all of the lobbyists all over this Hill. That bill would not have passed if we had not had the auto workers, the big banks, the little banks, the corporate stockholders of Chrysler and the dealers, all here on the Hill going from door to door, lobbying for the bill.

It is political clout that will get you credit and get one a loan after we pass this type of legislation, rather than the merits of one's business which would qualify one under the market system.

I urge Members to vote no on this bill.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. **DeNardis**).

Mr. DeNARDIS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I commend the gentleman from Connecticut (Mr. **McKinney**) and the gentleman from Michigan (Mr. **Blanchard**) for their leadership on H.R. 5540, the Defense Industrial Base Revitalization Act, which I have cosponsored.

Extensive research by the Congress has revealed that the condition of the defense industrial base has deteriorated to an extent that threatens our national security. The defense industrial base consists of approximately 50,000 small- and medium-sized companies who supply the "nuts and bolts" to the defense contractors, from industrial fasteners to aircraft landing gear. A vital element as well is the continued availability of the critical materials and metals needed to manufacture these components.

H.R. 5540 provides financial assistance to companies who qualify on a priority basis as determined by the Defense and Commerce Departments. When assistance is given, it will be only to companies essential to our defense that need it and ask for it. If anybody is being bailed out by this program, it is the American people and our national security.

In addition to the deterioration in the physical condition of the defense industrial base, there is also a severe shortage of skilled manpower to operate those industries. H.R. 5540 contains a manpower training program to provide skills training only for the priority industries designated as essential for national defense. This is not a jobs program; it is a logical step to improve the productivity of the defense industrial base.

All of the funds authorized and appropriated will come from the defense function of the budget. The possible cost of H.R. 5540 is $6.75 billion over 5 years or $1.35 billion each year. Over the same 5-year period it is expected that more than $1,000 billion—a trillion dollars—will be authorized for defense. H.R. 5540 designates less than seven-tenths of 1 percent of that amount to be used to strengthen domestic industries needed for national defense and if financial assistance is given in the form of price guarantees or purchase commitments, the actual cost could be much less.

Economic preparedness is an important element in today's military arsenal. Strengthening the defense industrial base will help reduce the threat to our Nation of armed aggression.

For these reasons, I strongly support the bill and urge its adoption.

Mr. McKINNEY. Mr. Chairman, there has been a great deal of discussion today about this bill. There have been charges that it is an industrial bailout, charges that it is forced credit. It does, in fact, force credit. But where

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does its force credit? It forces credit by helping small, secondary manufacturing elements of the defense process which are failing right and left, as I mentioned earlier. In the foundry business, almost 50 percent of our foundries have closed down over the last 10 years.

Only four 35-ton or above presses are left in the United States dating from World War II, which are well over 40 years old. That is where it assembles credit.

Right now we are sending our fighter planes off the end of our assembly lines with essentially not one American fastner in them.

I would suggest to you that if we are ever in trouble, we would have to travel across the entire Pacific or over to Europe to get fasteners to build an airplane. We do not make a binocular for a field commander; we do not make a telescope in this country for ground use. It all has to be bought overseas.

We are about to start buying all our small diesel generators overseas because these companies simply are going out of business because Government procurement from the Defense Department has been so sporadic, so up and down, that they cannot count on the business.

How can this House say it is going to build a trillion dollars' worth of military equipment and not have the heart nor the strength to realize that we cannot do it unless we buy it overseas, or we turn around and build up our industrial base?

Mr. Stockman sits downtown and says the free enterprise system will do it. I hope to God it will. But the free enterprise system can only compete with another free enterprise system. What Mr. Stockman does not tell you is that we are competing with governments. There is no relationship between real cost for a Rolls Royce engine coming from England and the engine itself; the cost is set because the British Government has made a decision that x number of Englishmen will make x number of jet engines and work x number of hours.

We are not competing with a company in the free marketplace of this world; we are competing with a government.

Everyone wanders around and says, "Woe, woe, woe. The steel industry." Well, look at the steel business, a disaster in anyone's book. Why? Because the Germans have lost over $700 million in their steel business. But they receive Government assistance, Government subsidy. The British, the same.

What we are talking about is that we want to be the leader of the world when we are, first, not energy independent; and second, we cannot build the material we need.

I would suggest if anyone votes against this bill who still voted for that absurd, obscene defense budget we passed in this House, they simply are not doing their duty to their constituents and they are being hypocritical beyond the edge of belief.

I yield back the balance of my time.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. Schumer).

Mr. SCHUMER. Mr. Chairman, the gentleman from Michigan has done an outstanding job on this legislation.

The one point I would like to make is that this legislation does something that President Eisenhower and the Congress did back in the late 1950's during the sputnik fear. Then we were beset by a similar feeling that the Soviet Union was gaining on us, producing more weapons, more technology, better missiles. One of our responses was to put money into education, to educate the minds of our young people.

Up until this bill, what this Congress and President have done, in response to a similar crisis is take money away from education. We cannot have fancy weapons systems without fancy minds to operate them.

Mr. Chairman, I yield back the balance of my time.

Mr. BLANCHARD. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. Eckart).

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, at the outset let me indicate the tremendous respect that many of us from the Northeast and Midwest have for the gentleman from Michigan (Mr. Blanchard), and the gentleman from Connecticut (Mr. McKinney), who just spoke so eloquently about the importance of not only preparing ourselves to meet the industrial challenges that are before us, but relating those industrial and economic challenges to our question of military preparedness and adequate and efficient use of our taxpayers' dollars.

Mr. Chairman, as a cosponsor and strong supporter of this important legislation, I urge my colleagues to vote for the Defense Industrial Base Revitalization Act, H.R. 5540, because it offers a creative and comprehensive program for rebuilding our seriously debilitated defense industrial base.

The erosion of our Nation's industrial base has been well documented. In a thorough series of hearings by the House Armed Services Committee in 1980, problems ranging from acute shortages of skilled workers to a paucity of small- or medium-sized defense suppliers were identified. Instead of allowing our defense industrial base to languish further, our colleagues, Mr. Blanchard and Mr. McKinney, took action by introducing the bill before us today.

The Defense Industrial Base Revitalization Act is not only good for our Nation as a whole, but is particularly valuable to the troubled economies of the Northeastern and Midwestern States, such as my home State of Ohio. It goes to the heart of many of the problems which are currently plaguing the economies of the industrial Northeast by training skilled workers who can become productive members of the community and by strengthening small businesses engaged in defense-related activities.

In addition to making it possible for small- and medium-sized firms to purchase and install new plants and equipment through direct loans and loan guarantees, it establishes credit assistance incentives to businesses involved in expanding the Nation's capacity to process and produce materials essential to the national defense. The critical shortage of strategic materials could seriously hamper our country's ability to respond in times of crisis. Without the materials to build airplane engines on short notice, our national security is jeopardized.

The Defense Industrial Base Revitalization Act also provides grants to our colleges and universities that will train professionals for industries central to our national defense. In this way, we can help to offset the severe cutbacks in many education programs.

The bill enjoys the support of both business and labor. By working together, business, labor, and the Congress can help to upgrade and modernize our defense industrial base and provide jobs for the thousands of workers displaced in this stagnant economy.

Let us help put our people back to work. This legislation is an important part of rebuilding our Nation's economy.

● Mr. SANTINI. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. For years defense experts have testified that we are taking unacceptable risks by continuing our reliance on unstable foreign sources for many of our strategic and critical minerals and materials. Yet, little has been accomplished. We remain import dependent for over 80 percent of 13 of the most critical minerals which are vital to our defense industrial base. These include cobalt, bauxite, chromium, manganese, the platinum metals, tantalum, columbium, and rutile—the basic raw material in the production of titanium.

As chairman of the Interior Subcommittee on Mines and Mining, I have been concerned over the availability of critical and strategic minerals. Our economic well-being and security of our Nation hinge on a strong and stable industrial base. In order to have this base, we as policymakers, must look for a means to revitalize our domestic capabilities.

I commend the chairman of the Banking Committee and of the Education and Labor Committee for their excellent work in bringing before this Congress a legislative product that will help America. H.R. 5540 is the first concrete proposal that has come to the House floor in decades that would directly attack this problem. It would do so by creating within the Defense Production Act of 1950 a specific program authority for contingent purchase contracts and other cost-effective incentives for domestic production of minerals and other materials on which we are import dependent.

These are not untested programs. During the 1950's their use doubled U.S. aluminum production; initiated U.S. nickel mining; created the U.S. titanium industry; and more than quadrupled U.S. tungsten mining. And, they did so at a cost of less than 10 percent of the face amount of the contracts. The cost-effectiveness of Defense Production Act programs has recently been confirmed by a study conducted by the Federal Emergency Management Agency.

It is clearly time to act. In a recent report to Congress, the President stated that it is the policy of his administration to "decrease America's minerals vulnerability by taking positive action that will promote our national security, help insure a healthy and vigorous economy, create American jobs, and protect America's natural resources and environment." I and many other Members of this body believe that H.R. 5540 would do just that, and therefore I urge my colleagues to cast their vote in support of H.R. 5540.●

● Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 5540, the Defense Industrial Base Revitalization Act. The bill contains provisions that not only are unnecessarily costly, but also subsidize domestic production in a way that violates our international agreements under GATT.

The purpose of the bill is to strengthen the capability of the U.S. defense industrial base through programs of Federal loans, loan guarantees, purchase agreements and grants. Another goal is to promote modernization in order to provide materials which will reduce the Nation's reliance on imports.

In addition to the anticompetitive nature of these financial subsidies which other domestic firms will not receive, the programs would be subject to trade complaints under the GATT because they amount to domestic subsidies designed to displace or impede imports. We could not defend against those complaints because displacing imports is a stated objective of the bill.

Discipline over the use of domestic and export subsidies has been a longstanding goal of the United States in the GATT. This bill, as reported, could seriously hamper those efforts. In addition, we make ourselves vulnerable to retaliation from our trading partners who are adversely affected by U.S. subsidy practices.

The U.S. trade representative, in a letter to the chairman of the Trade Subcommittee dated July 9, said that section 2(J)5 "could have a serious negative impact on U.S. trade interests."

Another objectionable aspect of the bill is the requirement that all plant and equipment financed by the Government under this bill be of U.S. origin. Only if U.S. equipment is not available or is not practicable to obtain can imports be substituted. This provision totally ignores the value of imports to our economy and to the competitiveness of our industrial base. Such blanket protection will weaken rather than improve the health of our basic industries. Even in the case of national defense purchases, only a 50-percent domestic preference is given.

Continual efforts to enact restrictive Buy American provisions are becoming a serious threat to our own exports and to the ability of U.S. firms to bid successfully on foreign contracts. Protectionism in the area of Government purchases also has made efforts by the U.S. trade representative to expand the coverage of the Government Procurement Code extremely difficult, even though the benefits to U.S. firms could be substantial.

Mr. Chairman, this bill is bad policy from the point of view of domestic competition as well as foreign competition. Its Buy American provisions are extreme. Overall the bill is costly and, I believe, detrimental to U.S. economic and trade interests. The administration, especially the Department of Defense and the U.S. trade representative, strongly oppose enactment.

I urge my colleagues to reject H.R. 5540.●

● Mr. UDALL. Mr. Chairman, one of the key issues addressed in H.R. 5540 is the dependence of the U.S. industrial and defense base on uncertain, and potentially undependable sources of supply of a whole list of strategic and critical minerals.

The Committee on the Interior has been concerned about this issue for a number of years. Our concern was prompted in no small part by the interruption of cobalt supplies during a 1978 civil disruption in Zaire. That traumatic event drove the prices of cobalt from $6 to $50 a pound in a period of months while chaos reigned in the world metal markets. It also taught us a lesson: That this country's almost total dependence of foreign sources of supply for essential minerals has endangered our economy in fundamental ways.

H.R. 5540 addresses this concern by providing incentives that will turn the mining industry's attention toward the recovery of strategic minerals where such production makes sense from an economic and environmental standpoint. These incentives are in the form of purchase agreements, loans, and loan guarantees—essentially a re-creation of the Korean war minerals program, which was so successful. That program doubled domestic aluminum production, initiated U.S. nickel mining, quadrupled U.S. tungsten production, and created our titanium industry. All of this investment was accomplished at minimal cost to the taxpayer because of the new economic activity generated by the program.

I am a cosponsor of H.R. 5540, and I support passage of the bill. The essential mining envisioned by this bill would create a much-needed minerals safety net under the U.S. economy. Importantly, the mining that is envisioned would be conducted under existing environmental restrictions at the State and Federal level.

Mr. Chairman, I congratulate Congressman BLANCHARD and MCKINNEY on their determined 2-year effort which led to today's floor action. They have done the country a service.●

● Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 5540, the reauthorization of the Defense Production Act.

I commend the committees involved for the insight they have shown in the reauthorization of the Defense Production Act and congratulate them in particular for their initiatives in the area of industrial modernization, including manpower training, and instrumentation modernization for institutions of higher education.

While we spend hundreds of billions of dollars on defense programs aimed specifically at military preparedness, I am happy to support a $1 billion per year program addressing fundamental issues directly affecting the strength of our Nation. Many of our industries are in trouble, unable to compete in foreign markets, and we do not have the skilled work force needed by new or revitalized industries.

I have long contended that the national security of the United States depends on much more than weapons development or stockpiles. Industrial production, a skilled and appropriately trained work force, and an ability to respond with flexibility to shortages in materials are all factors affecting our national security. Most of these factors are reflected in the health of the economy. Anyone who doubts this need only recall the 1973 oil embargo. "Dependence on foreign oil" has become a dirty word raising the specter of armed conflict.

The bill before us provides for a new major training program aimed specifically at job vacancies that exist now or that will exist in new industries. Most

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of the skills would be applicable to the civilian sector with an important example being in the computer field. The hearing record indicates that the demand for skilled workers in the computer field is estimated at 20 to 40 percent above the supply. The Japanese threaten to overtake us in this field, and in some instances are already ahead. We cannot hope to compete without the adequate work force.

Retraining is a vital component of the training program of this legislation. For example, the steel industry has laid off many workers who may never be employed in the steel industry again. These workers need retraining for new skilled jobs, a need which this bill addresses. The training language in this bill is a focused effort to fill the gap created by recent major cuts made in existing job training programs. It emphasizes those skills which this country requires for its economic and national security. At the same time, workers are trained in skills which will remain in demand for years to come, guaranteeing their economic security. Representing a district where many steel workers are currently on layoff and an area which will be experiencing substantial expansion in coming years, I enthusiastically endorse this provision.

Also critical to revitalization of U.S. industries is a strong research and development base. As a member of the Science and Technology Committee, I have had the opportunity to examine this need in some detail. I have been distressed at reports of industry needing to retrain graduates from colleges and universities because they cannot use the equipment that industries use daily. Our colleges and universities often do not have this modern equipment because they cannot afford it. This bill provides $100 million per year over the 5-year reauthorization period specifically aimed at the instrumentation needs of colleges and universities for training professional, scientific, and technical personnel. This is an important component of any program aimed at arming our work force with usable skills.

I might also add that the strong emphasis on strategic materials contained in this bill is one with which I am pleased. As some of my colleagues know, I have been pushing for some time for increased emphasis to be placed on a number of domestic, agricultural sources of strategic materials. In particular, I have been pushing for the last 15 years to encourage the development of the guayule plant, a semiarid shrub which produces natural rubber. It was developed to some extent during World War II when our supplies of imported rubber were cut off. This potential danger exists today as well, and a major natural rubber shortfall is expected in the coming decade.

We import 100 percent of our natural rubber, which is used in airplane tires, tank treads, and numerous other strategic applications. Synthetic rubber cannot substitute for the natural rubber used in many of these applications. I am encouraged by the recent proposal by the Defense Department to contract to build a guayule processing plant and hope that the purchase guarantees contained in this bill will be used to speed that program along. Growing natural rubber at home makes sense from a national security standpoint, as well as an economic standpoint. I hope that with the passage of this bill we will be able to speed the development of guayule and a host of other needed approaches to increased independence in this critical area.

Mr. Chairman, I urge adoption of this bill.●

● Mr. FAZIO. Mr. Chairman, I rise in support of this bill, and I shall vote for it. However, I do want to point out a problem that I believe needs to be looked into. The bill contains a legislative mandate for the General Accounting Office to conduct audits and issue annual reports and for the Office of Technology Assessment to conduct studies and issue reports to Congress. I take no issue with the objectives of these audits, studies, and reports. I only wish to point out that the policy of a legislative mandate to agencies of the legislative branch is more restrictive than it needs to be to accomplish the same purpose. Both agencies have the authority under their basic statutes to conduct these studies, audits, and to issue reports. They can do so at the specific request of the committees of interest. This is the way they normally do business. However, when we make this a legislative requirement, we absolutely foreclose any adjustments due to changing circumstances. I believe that is bad policy, Mr. Chairman, as the attached letter explains.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 14, 1982.

Hon. JAMES BLANCHARD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that your Subcommittee has been considering H.R. 5540, the Defense Industrial Base Revitalization Act. Among its provisions is a requirement for monitoring, auditing and annual reporting by the General Accounting Office. In our capacities as Chairman and Ranking Minority Member of the Legislative Branch Appropriations Subcommittee, we would like to share our thoughts with you about that provision.

By way of background, we have done our best over the past several years to limit the incidence of specific audits and studies being mandated in legislation governing the activities of Legislative Branch study agencies. Legislative mandates weaken managerial controls at the agencies and lessen the ability of Congress to control agency funding levels. The study agencies—GAO, Office of Technology Assessment, Congressional Budget Office, and Congressional Research Service—generally have charters which are broad enough, as is apparently true in this case, to accomplish congressional objectives while providing a little more flexibility for both Committee or Member and agency.

In this current instance, we have been informed that Comptroller General Bowsher has indicated by letter of April 22, 1982, that the General Accounting Office already has sufficient statutory authority under its organic legislation to conduct the activities which would be authorized by the bill. Furthermore, the Legislative Reorganization Act of 1970 directs the Comptroller General to respond to requests from committees of jurisdiction for reviews of Government programs and activities. Therefore, it appears the General Accounting Office would be able to tailor whatever assistance is needed to meet the specific needs of the Committee. The unfortunate part of the present proposal is that it limits this ability of the General Accounting Office to respond in the most appropriate manner and mandates what may turn out to be an expensive, recurring reporting requirement, and one which will remain in the law perhaps long after it has served its usefulness.

We hope, Mr. Chairman, you will consider these views as you move to report H.R. 5540. Thank you for your continued cooperation.

Sincerely,

VIC FAZIO,
Chairman, Legislative Branch Subcommittee.
CLAIR BURGENER,
Ranking Minority Member, Legislative Branch Subcommittee.

I hope this matter can be taken care of as the bill is considered in the other body, and I hope the Chairman of the Committee will give this matter due consideration.●

●Mr. RAHALL, Mr. Speaker, I rise in support of H.R. 5540, the Defense Industrial Base Act, of which I am a consponsor. My primary interest in this legislation deals with the provisions which seeks to stimulate efforts to increase the number of trained workers with skills necessary to meet the national defense needs.

This legislation authorizes $250 million in each of fiscal years 1983 through 1987 which would be provided in the form of grants to state boards of vocational education. Vocational education will upgrade the skills of workers, retraining, apprenticeship programs, and training in the workplace to give this Nation the labor force necessary to meet pressing defense requirements.

Despite today's high unemployment levels, it is irnoic that there is a critical shortage of skilled workers in the areas of engineering, mechanics, technicians, machinists, laboratory assistants, and machine repairmen. According to the Department of Labor, 9,000 tool and die makers and 22,000 new machinists will be needed annually through 1985. However, it is estimated that the number of journeymen for both trades combined totals only 5,000 per year.

Vocational education can meet the needs of the Nation for these skilled workers. Yet, with drastic cuts in these programs, the necessary funds are simply not available to accomplish this task. The bill before use today is a prudent and badly needed response to the lack of trained workers in this country, and, to high levels of unemployment.●

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.

The Clerk read as follows:

H.R. 5540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Industrial Base Revitalization Act".

STRENGTHENING OF DOMESTIC CAPABILITY

SEC. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:

"SEC. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.

"(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war.

"(2) Such assistance shall be provided only to small- and medium-size businesses, as defined by the Secretary of Commerce, unless the President transmits to the Congress a formal notification that the interests of national defense require an exception to this limitation.

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports.

"(d)(1) The President shall extend assistance under sections 301, 302, and 303, and any other authority contained in this Act, to persons engaged in the expansion of the domestic capability and capacity to produce or process critical and strategic metals, minerals, and materials, including—

"(A) the conservation, substitution, and recycling of such metals, minerals, and materials; and

"(B) the development of processes which lessen or obviate the need for such critical and strategic metals, minerals, and materials.

"(2) The President shall exercise the authority granted under this subsection in consultation with the Secretary of Defense, the Secretary of the Interior, the Secretary of Commerce, and the Director of the Federal Emergency Management Agency.

"(e) The President, in extending assistance under subsections (b) and (d), shall extend such assistance on the basis of proposals submitted in response to a series of public solicitations, the first of which shall be issued by the President within ninety calendar days following the date of the enactment of this section.

"(f)(1) Any contract for financial assistance which is awarded under subsection (b) or (d) and which utilizes financial assistance through purchase agreements specified in section 303 shall provide that the President has the right to refuse delivery of the items specified in such contract and to pay the person involved an amount equal to the amount by which the price for such items, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Commerce, for such items on the delivery date specified in such contract.

"(2) Financial assistance under subsection (b) or (d) shall not be extended to assist establishments relocating from one area to another or to assist persons whose purposes is to divest, or whose economic success is dependent upon divesting, other persons of contracts theretofore customarily performed by them, except that such limitation shall not be construed to prohibit such financial assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such business entity if the President finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the President has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(g)(1) There are authorized to be appropriated to carry out the provisions of subsections (b), (c), and (d) not to exceed $1,000,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(2)(A) In the use of loan guarantees, price guarantees, and direct loans as Federal financial incentives to accomplish the objectives of this section, the President may utilize the borrowing authority of the Treasury to the extent that the estimated ultimate net cost of such incentives to the Government does not exceed the total of appropriations made by the Congress to carry out the provisions of subsections (b), (c), and (d). Such estimates shall be based upon the past experience of the actual costs of Federal financial incentives under this Act and related expenses.

"(B) The use of loan guarantees, price guarantees, and direct loans under this section and the use of the borrowing authority of the Treasury under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(h)(1) The President shall take immediate action to develop and implement a national program to train workers in skills—

"(A) which the President determines are necessary in the industries identified under subsection (b), (c), or (d); and

"(B) which the President determines are in short supply or are anticipated to be in short supply.

"(2)(A) Assistance under this program shall be in the form of a grant to a State board of vocational education or other agency or agencies designated by the Governor of the State involved. Such grants may be extended only if a State plan for a five-year program of skills training has been submitted to the President and approved by the President.

"(B) The President may, to the extent possible—

"(i) provide assistance in coordinating the State plans developed under this subsection; and

"(ii) provide technical assistance and support services in the implementation and conduct of programs of skills training which are carried out under this subsection.

"(3) The President shall not approve any State plan unless—

"(A) the State plan has been developed with the management and workers of the industries involved and with public and private educational institutions of the State;

"(B) the State plan includes workplace training and registered apprenticeship training programs;

"(C) the State plan is designed to insure meaningful opportunities for participation by minorities and women;

"(D) the Governor of the State has certified in writing that the State plan will be carried out and that it meets the requirements of this subsection;

"(E) the State plan includes—

"(i) training;

"(ii) upgrading skills; and

"(iii) retraining of workers, in depressed industries, in surplus labor areas, or with occupational skills which might become obsolete because of industrial modernization of technological advancement, in skills which the President determines under paragraph (1) are necessary in the industries identified under subsection (b), (c) or (d) as necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war;

"(F) any bona fide public or private training program engaged in training workers in skills described in paragraph (1) is considered eligible to deliver such training services upon written application to the State board of vocational education or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A);

"(G) the State employment and training council under Public Law 95-524 (or a comparable entity under a successor statute) has been given the opportunity—

"(i) to participate in the development of the plan;

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"(ii) to review the plan for thirty days prior to its submission to the President; and

"(iii) to submit written comments along with the submission of the plan to the President;

"(H) the activities funded under this subsection will not duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan provides evidence that alternative services or facilities would be more effective or more likely to achieve the objectives in paragraph (1) of this subsecton;

"(I) the plan contains assurances that the activities funded under this subsection will be coordinated to the maximum extent feasible with other employment-related programs in the State, through joint agreements, where practicable, with programs funded under the Comprehensive Employment and Training Act (or a successor statute) to assure maximum participation of eligible participants under that Act (or statute) in training programs funded under this subsection, and through consultation and coordination with certified apprenticeship plans, where such plans are in effect, to ensure that the plan does not duplicate or undermine existing certified apprenticeship programs; and

"(J) a certification is included which assures the following labor training standards and requirements will be met:

"(i) Conditions of training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(ii) Appropriate health, safety, and other standards for training shall be established and maintained.

"(iii) Appropriate workers' compensation or equipment protection shall be provided to all participants.

"(iv) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(v) No program shall impair existing contracts of employment.

"(vi) No person shall be trained for a job (I) when any other employee in the same workplace or plant is on layoff from the same or any substantially equivalent job, or (II) when the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy so created by hiring a participant whose training is assisted under this subsection.

"(vii) No individual may be required to join a union as a condition of enrolling in a program assisted under this subsection in which only institutional training is provided, unless such institutional training involves individuals employed under a collective-bargaining agreement which contains a union security provision.

"(viii) No funds available under this subsection may be used to assist, promote, or deter union organizing.

"(4) Any grant to a State board of vocational education, or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A), under this subsection shall be extended in any year only after the State involved has provided a contribution, from public or private resources, to carry out the State plan in an amount—

"(A) in the first year of the State plan, equal to 10 per centum of the cost of the State plan for such year;

"(B) in the second year of the State plan, equal to 20 per centum of the cost of the State plan for such year;

"(C) in the third year of the State plan, equal to 30 per centum of the cost of the State plan for such year;

"(D) in the fourth year of the State plan, equal to 40 per centum of the cost of the State plan for such year; and

"(E) in the fifth year of the State plan, equal to 50 per centum of the cost of the State plan for such year.

"(5) A State's contribution may include 'in kind' contributions of equipment, facilities, personnel, or services to the extent that such 'in kind' contribution is utilized in carrying out the State's plan. No such 'in kind' contribution may include equipment acquired under subsection (i).

"(6) The President shall act upon each State plan not later than ninety days after the date on which such State plan is received. Such action shall be based upon the recommendations of the Secretary of Defense, the Secretary of Labor, and the Secretary of Education.

"(7) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied training in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(8) Not more than 5 per centum of the amount of any grant made under this subsection may be used by a State board of vocational education, or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A), for administrative expenses incurred in carrying out a State plan.

"(9) Assistance under this subsection may be used to purchase and install equipment for training purposes. The purchase of any such equipment shall be done by means of competitive bidding.

"(10) For purposes of installing government-owned equipment pursuant to section 303(e), the term 'industrial facilities', as used in such section, shall include vocational schools, other schools offering technical and vocational training programs, and any other location in which workers are trained pursuant to this subsection.

"(11) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $250,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(i)(1)(A) The President shall take immediate action to develop and implement a grant program to assist colleges, universities, and other institutions of higher education in obtaining and installing modern equipment which shall be used to train professional, scientific, and technical personnel who are needed in the industries identified under subsection (b), (c), or (d).

"(B) All students and faculty studying, teaching, or conducting research at such an institution of higher education shall have access to such equipment for use in accordance with regulations and practices of such institution of higher education.

"(2) Any college, university, or other institution of higher education which desires to receive a grant under this subsection may submit an application to such Federal department or agency as the President shall designate. Each such application shall—

"(A) certify the cost of purchasing and installing the equipment involved; and

"(B) contain such other information as the President deems necessary.

"(3)(A) Each college, university, or other institution of higher education whose application is approved under this subsection may be required to provide a matching share of up to 50 per centum of the cost of purchasing and installing the equipment involved.

"(B) The purchase of any such equipment shall be done by means of competitive bidding.

"(4) At the discretion of the President, equipment may be provided under section 303(e) to colleges, universities, and other institutions of higher education. For the purpose of such section, the term 'industrial facilities' shall include colleges, universities, and other institutions of higher education.

"(5) There are authorised to be appropriated to carry out the provisions of this subsection not to exceed $100,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(j) Any equipment or plant financed through Federal assistance authorized by this section shall be of United States origin. No exception shall be made to this limitation unless the Secretary of Commerce makes a written determination that such equipment or plant of United States origin is not available and is not practicable to obtain.

"(k) The Comptroller General of the United States shall monitor the implementation of this section, conduct such audits as he determines to be necessary, and submit an annual report of his findings to the Congress at the beginning of each session of the Congress. The first such annual report shall be submitted in the year following the enactment of the Defense Industrial Base Revitalization Act.

"(l) In order to carry out the purposes of this section, the Office of Technology Assessment is directed to conduct a study of the public facilities or infrastructure essential to the defense industrial base, and, at the beginning of each Congress, to report to the Congress with appropriate recommendations for measures to avoid serious impediments to the production and distribution of materiel.

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

"(2) Guaranteeing agencies shall not extend guarantees and the President shall not make loans or grants for the construction, repair, or alteration of any project, or the installation of equipment, unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for loan, guarantee, or grant, if construction has already commenced, that these labor standards will be maintained at the project.

"(3) With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40, United States Code.

"(n) On October 1, 1982, and on the first business day of every second month beginning after such date, the President shall transmit a report to both Houses of the Congress listing all loans, loan guarantees, and commitments for loan guarantees which were issued under this section during the two calendar months preceding the transmittal date of the report involved.

"(o) For purposes of this section—

"(1) the term 'apprenticeship plan' means a plan approved by the Secretary of Labor pursuant to the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(2) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

"(3) the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

Mr. BLANCHARD (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. JOHNSTON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read section 2.

□ 1330

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2?

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. PERKINS: Page 43, line 11, strike out "(o)" and insert in lieu thereof "(p)" and insert before such line the following new subsection:

"(o) Notwithstanding any other provision of this section, no funds are authorized to be appropriated to carry put this section, unless all of such funds are attributed to a budget function or budget allocation other than one affecting or relating to education or labor, the Department of Education or the Department of Labor, the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, or any subcommittee of the Committee on Appropriations of either House primarily responsible for appropriations for education or labor.

Mr. PERKINS. Mr. Chairman, this amendment, adopted by the Committee on Education and Labor, assures that funds to support these new defense-related vocational education and higher education equipment programs will not come from ongoing Federal education and training programs. First, let me make it clear that the authorization for vocational training is $250 million, and for higher education equipment, $100 million, altogether totaling $350 million a year.

Now, this amendment does not affect the main part of the bill which deals with loan guarantees for companies, which the gentleman from Arkansas talked about here today. I am sure that everybody in this Chamber recognizes that we have many youngsters in this country and many adults that need skill training. In this bill we leave it up to the President to make a decision about those areas where the skill training is needed. A large part of this training may be done by the vocational schools. I believe this will be money well expended. In a bill this size we ought to have training provided for people who need defense jobs and are capable, but in many instances companies are not able to provide these opportunities.

Now, we have testimony like that before the committees every day; and the vocational education programs, the regular Federal programs, were cut 16 percent for the past 2 fiscal years. It is good judgment to place this new vocational education program in the bill, but this amendment I am offering is more or less a clarifying amendment to make sure that funds for this new training do not come out of the regular vocational education funds that are allocated to all the States in the country.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I appreciate the amendment and I heartily support it. What the gentleman is suggesting, as I understand it, is that we want to make sure that this does not squeeze money from the already squeezed vocational and higher education programs, is that correct?

Mr. PERKINS. That is correct, the sole purpose of the amendment.

Mr. SIMON. I can follow through with two other questions. Is it not also correct that the chairman of the Budget Committee, our colleague from Oklahoma, wrote to us and said that the funds for this purpose would not come out of function 500, the education function?

Mr. PERKINS. That is correct.

Mr. SIMON. And if the gentleman would yield further, is it not true that Secretary Weinberger has indicated to OMB Director Stockman, and stated, "I propose funding title 3 programs from the Department of Defense budget."

Is that correct?

Mr. PERKINS. That is likewise correct, so I do not see any objection to this amendment from any source.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to commend the chairman on the amendment. I think it clarifies a situation that has bothered a great many people, and clarified the issue as to where the money is going to come from. It is coming from new authority, but no new outlays, and will be appropriated within the function of the Defense Department.

Mr. PERKINS. I thank the gentleman.

Mr. BLANCHARD. Mr. Chairman, will the gentlman yield?

Mr. PERKINS. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I would like to reiterate what the distinguished ranking Member indicated. We support this amendment. We think it is a helpful, clarifying amendment. It is our understanding, because of our communications with the Budget Committee and others, that the money for this program would indeed come from national defense and not from the categories the gentleman is concerned about.

I commend the committee chairman and want to express our deep appreciation for the help of the Education and Labor Committee in crafting this legislation.

Mr. PERKINS. Let me thank the gentleman from Michigan.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess this act might well be called "The Saber Rattler CETA." It is intriguing to me to find all these people up here now dedicated to a strong national defense when I have been privileged on occasion to take a look at their American Security Council ratings.

It appears to me that what we have got here is an attempt to make palatable to the conservatives in the House one more raid on the Defense Department. The bad part about this, Mr. Chairman, is that this is not our money. This is our childrens' money, because it is going to be financed by the deficits that we are running up at a rate of more than $100 billion a year.

Now, anybody who wants to tell me this is not a bailout bill is kidding themselves. I refer specifically to page

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26 of the final print of the bill, specifically the amendments from the Committee on Education and Labor where it stipulates that the Secretary can, in lieu of taking delivery of products which it had committed to purchase under this bill, can simply pay the purveyor of those products the difference between what the contract would otherwise cost and what it could buy the products for at a lower price. In other words, if you can go in the open market and buy the product for a dollar, but the Department of Defense has contracted to pay $2 you just write a check to the guy providing the products at $2 for the difference. If that is not a bailout, I do not know what you could possibly call a bailout.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON. I yield.

Mr. BETHUNE. Is the gentleman making the point that if this bill passes, that we are either going to have to come up with new money to fund this program, or we are going to have to take it out of the defense money that has already been set aside by the defense authorization bill that came through last week?

Mr. JOHNSTON. That is precisely the point. Here is the Secretary of Defense writing checks for products that are not going to be delivered. That is a novel way to spend this $175 billion that all these strong national security proponents in here pushing this CETA bill this afternoon are suggesting. We simply write a check for products not delivered.

Take a good hard look at section (f)(1) of the education and labor amendments.

But, it is intriguing to me that when we are attempting to once again sell the American people that we can balance the budget by raising taxes, we are the evening before proceeding to come up with a new way to spend $5 or $6 billion. It just does not make any sense, but the same people that will vote for the balanced budget amendment will come in here this afternoon and promote and develop and advocate this new $5 or $6 billion giveaway.

Now, there is no one more dedicated to a strong national defense than I am, but I do not believe any bankrupt nation is ever going to have the national defense it could otherwise have, and it is obvious that if we pass bills like this we are going to have a bankrupt country, or a burden imposed on our children and grandchildren to pay an interest burden for deficits run up in bailout bills such as this for years and years to come.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that it is important that we get something straightened out, and I would enjoy a colloquy with the chairman of the subcommittee to the end that we would establish where the money is going to come from if this bill passes. I think there have been some cloudy statements made, and I think we ought to lay that to rest. We do have a budget, and this is not in the budget save and except we take it out of something else, is the way I understand it.

It appears to be the hope of the proponents of this legislation to take the money out of the defense function, and so I wonder, if we take this $5 billion over the next 5 years out of the defense function, would the chairman please state what sort of things we are going to have to delete from the authorization we worked so hard to pass here just about a week or 10 days ago for defense function?

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield.

Mr. BLANCHARD. I think the gentleman knows that back on April 30 the chairman of the Budget Committee indicated in a letter to us that any money appropriated for this legislation would come from category 050, which is national defense. How much is appropriated and a number of questions, including leverage, which the gentleman has alluded to as a foregone conclusion although it is not, will be decided by the Appropriations Committee. As a matter of fact, we were delighted that the ranking member and the chairman of the Subcommittee on Defense Appropriation supports this legislation. We see it as a way, quite honestly, and I am surprised that the gentleman does not, of economically and spending all these billions of dollars on defense.

□ 1345

I, for the life of me, have a difficult time following the logic I have been listening to during the last few minutes because we seek to get more bang for the buck and more efficient spending of defense dollars in a way that over time has proven very successful, both in World War II and the Korean war.

Mr. BETHUNE. Mr. Chairman, would the gentleman agree with me that we are either going to have to come up with new money or we are going to have to take this out of the defense function, or we are going to bust the budget?

Mr. BLANCHARD. Clearly, it is going to come out of the defense function. It is not either/or, it will come out of the defense function.

Mr. BETHUNE. Mr. Chairman, I think that the Members should be clear on the subject. After some 7 days of debate on the defense authorization bill and after the House has stood fast after an onslaught of some 100 amendments, and has passed a bill which has gone out to conference, Members should know that this is really no different than if this proposal had been offered as an amendment during the course of the defense authorization bill, because this will reduce the amount of money that is set aside for defense spending. Is that correct?

Mr. BLANCHARD. Yes. Mr. Chairman, if the gentleman will yield further, I would like to elaborate on that.

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, the Congressional Budget Office has estimated that the actual outlays in fiscal year 1983 would be approximately $189 million. That will have to be decided by the Appropriations Committee, but it certainly is not approaching the wild numbers I heard cited earlier. I am not sure that that was by the gentleman, but from some others who were speaking against the bill.

Mr. BETHUNE. Mr. Chairman, may I ask this: The bill will cost $5 billion at least, maybe $6.67 billion?

Mr. BLANCHARD. It might cost a mere fraction of that. Then again, depending on what crisis might develop, it could cost that much.

Mr. BETHUNE. Mr. Chairman, the bill says that the President shall make these expenditures, these net expenditures, so we are talking about some $6 billion over the next 5 years. The only thing that would constrain that would be that this Congress would decline to take the money out of the defense function.

Mr. JOHNSTON. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from North Carolina.

Mr. JOHNSTON. Mr. Chairman, I asked the gentleman to yield so that I might pose a question to the distinguished subcommittee chairman to get an explanation of this section of the act, if I may read from page 28 of the printed bill.

Mr. BLANCHARD. Excuse me. Mr. Chairman, if the gentleman will yield, what section is the gentleman talking about?

Mr. JOHNSTON. This is section (f)(1) on page 28 in section 2.

Mr. BLANCHARD. We will have to get that out and refer to it.

Mr. JOHNSTON. If I may read that, it says:

> Any contract for financial assistance which is awarded under subsection (b) or (d) and which utilizes financial assistance through purchase agreements specified in section 303 shall provide that the President has the right to refuse delivery of the items specified in such contract and to pay the person involved an amount equal to the amount by which the price for such items, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Commerce, for such items on the delivery date specified in such contract.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. Bethune) has expired.

(By unanimous consent, Mr. Bethune was allowed to proceed for 2 additional minutes.)

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the chairman of the subcommittee.

Mr. BLANCHARD. Mr. Chairman, this type of provision, which is called a take-or-pay provision, has worked quite successfully over the years. In fact, down through the years since World War II, it has saved the taxpayers hundreds of millions of dollars and allowed us to double U.S. aluminum production, allowed us to initiate the U.S. nickel industry, helped to create the titanium industry, and quadrupled U.S. tungsten production. It has saved the taxpayers hundreds of millions of dollars.

Mr. BETHUNE. Mr. Chairman, I will reclaim my time because I only have a minute left and other Members can get their own time.

When the gentleman says that previous credit assistance programs have done certain things, first of all, without debating that point, which I would enjoy debating, I would observe that those were the days when the Federal Government was not sopping up 70 percent of the available credit in the country. Federal lending programs had not become a problem in this country until about 4 years ago when we started clamping down on spending and the creative applicants for Federal assistance just moved over to the lending window.

Now we have a first-class problem. We have got about $600 billion in outstanding Federal loans out there of one description of another, and we have a problem. It is out of control, and what it does is it crowds people out of the credit market and runs their interest rates up. The little guy cannot come in and get up to the trough to get these subsidies or one of these nice political handouts. He is going to be left to his own devices. He is going to pay more if he can get to the head of the line to even get credit.

So these days are different than they were. The gentleman cites all of those instances when it worked in the past, but this is a new day, and all of this is confounding the ability of our Federal Reserve to establish any sort of sensible monetary policy, because this is not really fiscal policy we are fooling with here. When we encroach on the credit market and allocate credit, as we are doing here, we are practicing the mystical art of monetary policy, and we have got this thing so confused already that we do not need any more of it.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I yield to the distinguished gentleman from North Carolina (Mr. Johnston).

Mr. JOHNSTON. Mr. Chairman, I am still a little uncertain as to how this country is going to get ahead economically by having the Secretary of Defense or the President pay a price which is greater than the market price or how it is going to come out ahead economically by having the President or the Secretary of Defense pay a subsidy to the high-priced producer so that he can compete with the low-priced producer. I just do not quite understand that economic system. And I would like to address one other question to the gentleman.

Mr. BLANCHARD. Mr. Chairman, if the gentleman will yield, let me respond.

The difference is that we pay a domestic producer rather than a Soviet producer. It has a little something to do with national security.

Mr. JOHNSTON. Mr. Chairman, I submit to the gentleman that I am unaware of any major defense procurement programs that are coming from the Soviet Union. If perhaps the gentleman would enlighten me as to what items of defense come from the Soviet Union, I would be glad to listen.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the subcommittee chairman.

Mr. BLANCHARD. Mr. Chairman, the legislation covers critical minerals and materials, and I could pull out a list and read them to the gentleman. We are very much dependent on foreign sources for those items, and oftentimes, as I think the gentleman knows, or should know, many of those items do come from the Soviet Union or from South Africa, and we have a very, very thin thread of security here. I think that is probably why everyone who understands our overdependence upon foreign producers of minerals is supporting this legislation.

Mr. JOHNSTON. Mr. Chairman, I fail to see how a job training program for people to each them to upgrade their technical skills is going to do anything about the fact that most of the strategic minerals in the world are located in Africa or the Soviet Union.

The gentleman is not suggesting, is he, that we are going over and train Africans with this money?

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to put to rest a couple of points here.

Purchase agreements are an item, I suppose, that may certainly force the credit market up. I have to agree with my friend, the gentleman from Arkansas (Mr. Bethune), on that. However, the fact of the matter is that in the past, during the Korean war, we found out that there were many items that private investment was not going to invest in or build unless they were given a purchase agreement.

The bill allows the President, the Pentagon, and the Department of Commerce to set that purchase price. Should the price of the product go above and beyond that, the fact is that then he has a right to sell it in the open market free and clear or to the Government. As I stated earlier in my statement, we authorized $2.1 billion and commitments against that totaled over $8.3 billion, we only put out an outlay of about $900 million after the end of the Korean war borrowing.

I would, then, suggest to the gentleman on the manpower training program that what he heard is the Pentagon talking. This has nothing to do with economic stabilization. The Pentagon lists 73 trades in this Nation which are vital to the Defense Establishment and which are very clearly falling off into oblivion and will not be available in this country. I would suggest that this is something we should be concerned about. Representing Sikorsky, Avco, and Norden, as I do, I would say that the gentleman should be and would be appalled at the average age of the working teams in those plants.

The last fact of the matter is, though, that maybe we have not bought anything from Russia, but I would suggest that we get quite a few minerals through other countries from Russia. We are, for instance, putting our planes together with European fasteners. Our soldiers in the NATO countries are looking across fields with Japanese binoculars. We are in a major problem in this country; we are lacking a tremendous number of basic technical industries that are totally necessary for our defense.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Connecticut (Mr. McKinney) for his contribution.

Mr. Chairman, I wonder if I might ask the distinguished gentleman from Arkansas (Mr. Bethune) a question. He earlier referred to the amount of drain on available domestic credit that would be caused by this bill.

The subcommittee chairman tells us that it will require an outlay of only about $180 million next year. May I ask the gentleman from Arkansas what this is going to do in terms of our credit budget over the 5 years of the act. I yield to the gentleman for a response.

Mr. BETHUNE. Mr. Chairman, I am glad the gentleman from Minnesota (Mr. Frenzel) raised this point because the outlays of which we speak here in this bill are net cost to the Government for the credit assistance program. Therefore, the amount of actual credit, the gross amount of credit, that should be leveraged against the net cost is yet undetermined.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 3 additional minutes.)

Mr. FRENZEL. Mr. Chairman, I yield further to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, some people argue that the leverage would be 4 to 1, others say it would be 8 to 1, and others say it would be more, we are not certain. It would depend on actually how it would be done, and the bill is not specific in this regard, so we are unsure at this point.

But let us just assume that we take $1 million and we are able to leverage that into 7 million dollars' worth of loans or Federal lending programs of one description or another. That $7 million is the actual amount that is drawn out of the credit market and is, therefore, unavailable to those poor applicants who do not have some sort of Federal subsidy, who do not have the privilege to move to the head of the line.

So that is pure credit allocation. If that is what the Congress wants to go to, that is great, but the fact is that we have a credit budget.

Mr. FRENZEL. Mr. Chairman, can the gentleman inform me as to whether the loan guarantee or direct loan authority is limited in this act in any way other than the authorization total?

Mr. BETHUNE. I cannot find specific limitations. In fact, it is very flexible, and it would depend upon the imagination of the bureaucrats who would be administering it. They could go to purchase agreements, loans, loan guarantees, direct loans, interest subsidies, or whatever, but I would say this to the gentleman: That we do have finally a credit budget at least in the embryonic stage in this Government now, and in this year's budget we have decided to make the targets for credit enforecable when we get to the second budget resolution.

We put in there a very small amount for the defense function because we decided, looking at the macroeconomic picture, that we did not want to allocate any more for the defense function at this particular time.

Now, that is the way that we should make decisions. We have got the cart before the horse here in that we continue to pass credit assistance programs and lending programs spasmodically with no direction or overall control. If we want to allocate credit, let us do it in a sensible, logical way. I do not want to allocate credit. I think the marketplace is a better place to allocate credit. But if we are going to do it, we should do in in a reasonable, sensible way.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Arkansas (Mr. BETHUNE), and I think he makes an excellent point.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Mr. Chairman, I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to say that on the authorization for the outlays, the authorization is obviously subject to the authorization committee. The outlays are subject to the Appropriations Committee, and the bureaucrat in charge is the President of the United States, and he does not have to use the program.

According to the Congressional Budget Office, which the gentleman and I have had our questions about once in a while concerning some of their statements, they say in this report to our committee on this bill:

> However, the addition of section 303(a) under the Defense Industrial Base Authorization Act would extend the authorization—

And then it goes on to say:

> Outlay will depend on how the President chooses to use the authority or if he chooses to use it at all.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has again expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, this has been an interesting discussion, and I hope that it makes the effect of the bill more obvious, and the potential effect on the credit market more obvious.

I must admit that I have some sympathy for the motivations of the authors of the bill, and I think I see what they are driving at. On the other hand, service on the Budget Committee forces me to take a certain point of view against spending, deficits, and added Federal loans. I must concur in the opinion of the gentleman from Arkansas (Mr. BETHUNE).

□ 1400

At this time one of our biggest problems is the claims the Federal Government makes on the credit market. The Government gets the first shot at available credit at any price. That is what causes interest rates to go up. That is what causes small companies not to be able to borrow money.

Yes; this bill calls for a rather small outlay in the following year, fiscal year 1983. But the large amount of credit which will be drained out of our economy and the higher interest rates which will result in my judgment, are far too great a risk.

In fact the CBO estimates that this bill will result in loan guarantees of $11.3 billion, and it could, I am told, actually be as high as $50 billion.

The risk is not commensurate with the advantages that the bill provides.

I yield back the balance of my time.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am hoping the House will reject this piece of legislation. I think it is a very bad piece of legislation and many reasons have already been given for this.

I would like to discuss a little bit the context in which this discussion is occurring. It seems that we accept the notion that we must be in a state of perpetual war.

When you think about when the Second World War ended we had drastic and dramatic reductions in spending. We got off the war machine.

After Korea we did the same thing. We had drastic reductions.

But when you look back and see what has happened since the 1960's, since Vietnam, we have accepted the notion that we must be perpetually prepared for massive war.

I think this is a bad habit to get into and it has nothing to do with defense. We can be prepared for defense but we do not necessarily have to prepare in the way we are today and the way we discuss this bill, it is as if we are in the midst of a great war.

There has never been any of this type of legislation ever passed in peacetime. So why do we accept the basic premise that we are in the midst of a great war.

It has been said by the administration that we must prepare, indicating that programs like this could be beneficial because there may come a time in the near future when 50 percent of our gross national product would be used in wartime activity.

I think these are concepts unworthy of discussion because I just cannot foresee these kinds of conditions occurring.

Yet in the long run I believe if we pursue bills of this sort what we do is we weaken our national defense and in no way do we strengthen our national defense. We cannot possibly be strong if we destroy our economy and that is precisely what programs like this do, destroy our economy.

The real issue today, the real debate today, is "Why is the industrial base eroded?" I do not know of one Member on either side of the aisle, whether you are for or against the bill, who does not recognize the fact that the industrial base is eroded.

I think that is conceded by everyone.

I think it is also conceded by everyone that we must do something about it. We must do something to revive the economy in this country.

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The question that we do not even ask, we do not even discuss, is: "Why is the industrial base eroded?" Who destroyed it and how was it destroyed?

There are precise answers for this and yet this bill compounds all of the errors we have made and will contribute to the further destruction of the industrial base.

I would like to suggest that there are precise reasons for the erosion of the industrial base. We have an economy operating right now with no incentives to save. I think to rebuild industry and to rebuild new industries you must have savings.

The notion that capital formation can come out of the printing press is absolutely false. It has been tried for centuries and it always fails. All that does is devalue your money and distorts the economy and promotes malinvestment and misdirects capital flow.

All industrial growth must come from savings and yet we have no incentive to save money because of taxation on savings as well as the destructive process of the inflation that persists by Government printing up money.

Under those circumstances where the people will not save, you can not have true investment.

Taxes are bad in general. Yet we are here talking about raising taxes in the Congress this very week.

If you want to do something about rebuilding an industrial base we should be talking about reducing taxes by hundreds of billions of dollars more, but also reducing spending to the same tune.

So if you want to rebuild the industrial base you must reduce taxes, certainly not raise them.

Another subject that I am sure people from some of the Northern industrial States will not want to talk about, but the plain truth is that the destruction of the industrial base has something to do with the wage rates.

I know that is taboo, you cannot talk about a wage rate that is triple the wage rate of some of the Southern States and say it has anything to do with the health of our industries. But it does. It bankrupts companies and it happens to be the reason there is a migration of unemployed workers from the industrialized States in the North to the ununionized and noncoercive-labor States in the South where the wage is set more by the marketplace.

The wages are triple in the Northern industrial States what they are in the South and unemployment is triple, and it is not accidental. It is precisely because of the wage rate which causes unemployment and destroys profits, destroys the incentive to build, and it destroys the industrial base that we are trying to save.

PARLIAMENTARY INQUIRY

Mr. SIMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SIMON. Is the question pending before the body the Perkins amendment?

The CHAIRMAN. The gentleman is correct.

Mr. SIMON. I thank the Chairman.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some degree of embarrassment because I am really not prepared to go into the merits of this. As the ranking member of the Armed Services Committee I was not apprised as to the effect of this bill nor the subsequent amendments being offered.

To say I am appalled is an understatement.

I have in my hand a letter signed by David Stockman and Cap Weinberger in opposition to this bill. My understanding is that, there is over $6 billion that will be allocated to the defense portion of the budget even though the funds do not have any direct relationship to defense.

I will yield to the chairman of the committee and, as a matter of fact, I would like to ask the chairman some questions but not at this time.

I will be glad to yield to have a colloquy and ask the gentleman a question, but not now.

We just finished several days of intensive conference with the other body. To guide us in this conference we had parameters set by the Budget Committee and the action on the floor.

Then toward the end of the authorization bill debate we had another constraint of a $1.7 billion across-the-board cut. So we were really bumping up against a ceiling to get the defense that the administration feels we need and that I feel that we need.

I am talking about the basic things like housing, which will come up in another bill, and aircraft, ships, planes, the payment of people.

We had a real constraint. For 5 or 6 days we met until 10 or 11 at night with the other body trying to find money within those constraints to buy what we thought this country needed.

It was not easy. Some people felt very strongly we should fund the A-10, particularly people from New York.

Some people felt we should fund binary chemicals.

Some people thought we should fund another Trident submarine in the bill.

All of these things were precluded because of monetary constraints that were imposed by the House. That is just the way our system works and we could not fund everything we would like to buy.

So we scaled down what we thought we should buy and we made the best of what we had to work with.

Now with no notice, so far as I know, to the committee and certainly no notice to this Member, we are asked to act on this matter. I notice that our chairman, Chairman PRICE, has not spoken on this, and I am not even sure that he is apprised of this. If I understand correctly what is envisioned here, a little over $6 billion will be labeled "Defense" and subsequently used for some other process or purpose. It will be used for vocational education, and to create new programs of vocational education which is good. It will broaden the application of the Davis-Bacon Act which artificially increases construction costs by mandating minimum union wages in nonunion areas. This is not so good. This runs up the cost of military construction about 10 percent. The bill under consideration will also require the equipment, plant and equipment financed under the DPA not be of foreign origin.

Now if the funds are to be taken out of Education and Labor Committee accounts then fine, we will debate that. If the funds are to be taken out of the Banking, Finance and Urban Affairs accounts, that is fine.

But this bill mandates that they will be charged to the Defense account. This is difficult because—as I described—we are already up against a ceiling. I will be glad to yield to the chairman of the Education and Labor Committee, to determine if, in fact, this $6 billion is going to come out of defense procurement, operation, and maintenance, and so forth.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. These are not legitimate defense functions. As I said, both David Stockman and the Secretary of Defense, Weinberger, strenuously object to this attempt to transfer this and label it defense related.

This is because in the last year or the year before defense efforts were popular. If you remember, there was a time when defense was popular. This was in the early 1960's. Sputnik came along and if efforts were labeled space related they just sailed through the House.

Then in the latter part of the 1960's anything that was labeled civil rights whistled through the House.

Then environmentalists' concerns were paramount. If you wanted something to pass the House you just put an ecology label on it.

So now the defense label is to be misused in the same way.

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I will be happy to yield to the chairman of the Education and Labor Committee.

I would like to ask him a question if he would respond.

Are you seriously proposing to take these functions which have nothing to do directly with defense, and fund them from the 050 function—defense—instead of paying for it out of funds within your committee's oversight?

What is it you are trying to do?

Mr. PERKINS. Will the gentleman yield?

Mr. DICKINSON. I yield to the chairman of the Education and Labor Committee.

Mr. PERKINS. Let me say to the gentleman from Alabama that this is only a clarifying amendment. The amendment that I offered was an amendment adopted unanimously in the committee.

Mr. DICKINSON. This is the gentleman's committee?

Mr. PERKINS. The Education and Labor Committee. That amendment has nothing to do with loan guarantees or purchase agreements. It has nothing to do with what the gentleman has been talking about here.

The amendment that I offered for the Committee on Education and Labor was a clarifying amendment and provides that the funds shall come out of the defense appropriation instead of out of the regular vocational education funds that go to the State of Alabama and the other States of the Union.

To my way of thinking if you are going to have legislation of this type it is money well spent to have a training program with everything that is involved in this particular bill.

Be that as it may, this amendment has nothing to do with loan guarantees or purchasing or anything of that type.

Mr. DICKINSON. Under the vocational education part of it, and this does come out of the gentleman's committee, right?

Mr. PERKINS. We clarify it so that it does not come out of the regular funds for vocational education or for any other education or training program. We have already been cut 16 percent in the Federal vocational education program in the last 2 years.

Mr. DICKINSON. The amendment in that portion of the bill comes out of funds within your committee's oversight rather than the Committee on Banking, Finance and Urban Affairs; is that correct?

Mr. PERKINS. It comes out of the funds that will be appropriated for this bill. If the amendment is adopted the only condition will be that whatever funds are appropriated cannot be deducted from any currently funded education or training program. These funds could not be attributed to any budget category or account dealing with Federal education or training programs.

□ 1415

Mr. DICKINSON. Out of the defense funds?

Mr. PERKINS. It could be out of the defense funds.

Mr. DICKINSON. So what you are saying is that portion of your amendment that would cover vocational education ultimately would be charged against the Defense Department's budget.

Mr. PERKINS. To the extent of $350 million only.

Mr. DICKINSON. I thank the Chairman.

I will yield to the gentleman from Michigan. Maybe he can help me, because this is a case of a first impression for me. We were not briefed on this. We were not alerted. And if we are talking about taking $6 billion out of the defense budget and farming it out to other functions, we cannot live with that.

Mr. BLANCHARD. If the gentleman will yield, I am glad the gentleman asked, because we are not talking about taking $6 billion. The program over a period of 5 years, at maximum, could be up to $7 billion. It is highly unlikely that it will. Most of that will be loan guarantees, which will not come out of your budget.

The critical thing to mention is that whatever fraction of that amount is spent, and the CBO estimates $180 million in fiscal year 1983, would indeed come out of the defense section of the budget.

Mr. Weinberger, Secretary Weinberger, indicated in a letter recently the following to OMB Director Stockman:

"Through Title III of the Defense Production Act, the Government can provide incentives for increasing our domestic capabilities by encouraging private sector investment. I am concerned with the impasse we are experiencing in developing an acceptable funding mechanism for this critical industial preparedness authority. Therefore, I propose funding Title III"—that is this program—"from the DOD budget."

That is the understanding we also have in a letter from the distinguished chairman of the Budget Committee, and it is something that your committee and the Appropriations Committee is going to have to decide.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Let me ask the gentleman this: Did the gentleman vote for the Glickman amendment on the defense authorization bill, that 1-percent cut across the board?

Mr. BLANCHARD. No. I was not here for that.

Mr. DICKINSON. You were not here at the time.

Mr. BLANCHARD. I might have had I been here.

Mr. DICKINSON. Let me tell you what that did. That took $1.7 billion out of our authorization bill.

And when we tried to find $1.7 billion someplace in the bill for things to drop out, it got to be a real sweat, so to speak. We had a real problem.

Now we are talking about buying hardware. We are talking about paying people. If you want to take $118 million, if that is the figure, out of the defense budget, I do not know how that impacts on what we authorized, nor do I know how that would impact on the appropriations process.

But I am surprised, I really am, that this bill hit the floor and that we were not alerted—I cannot speak for the chairman because he is not here, but I was not aware of it. I am surprised that it was not at least sequentially referred since it will reduce our purchasing level in authorization or in appropriations.

I believe we are in accord now that we agree that it could have that impact.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield on that very important point?

Mr. DICKINSON. I will yield in a minute. The gentleman from Michigan asked to be recognized first, and then I will be glad to come back to the gentleman from Connecticut.

Mr. BLANCHARD. Indeed it could come out.

Mr. DICKINSON. Sure.

Mr. BLANCHARD. Absolutely. Yes. I am surprised you were not aware of it. But I also believe that if you look at this legislation, it is something you are truly going to support because I know you are committed to a strong national defense.

Mr. DICKINSON. Wait a minute. The concept I support. Our committee was briefed initially by Gen. Al Slay, with a tremendous presentation. Our Subcommittee on Research and Development was briefed. We were so impressed that we asked the full committee be briefed. He did this. They were so impressed, we asked the Speaker and the leadership on both sides be briefed, and he did this. And one of the main thrusts of his briefing was the conclusion that the defense industrial base is eroding and needs attention.

I am in sympathy. What I am saying is, we are being blind sided if you are going to decrement our procurement funds for this purpose. We have not even dipped an oar from our boat in this little race.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

I think this type of legislation is important to our defense effort. That is the reason I am supporting it. If we do not have the trained personnel to work in those defense plants, to build those submarines, to build those aircraft carriers, or to build all of the other component parts that goes with any military establishment, then how in the world are we going to get a budget factor involved in the cost of that particular equipment? If we have to go to some other country perhaps to the Japanese, for technology or we might even have to look to the Soviet Union in some way, because they are graduating 3 to 4, maybe 5, times more engineers and more skilled people than we are.

Mr. DICKINSON. I cannot argue, I cannot differ with you one iota. I agree with what you say. And in speeches throughout the United States, in my district, and in speaking to national groups, the VFW, what have you, I have tried to emphasize this point. This is what we need to do. But what I am saying is that what you are trying to do is not within the defense authorization budget. If I understand it correctly, this bill will have the effect of subtracting authorization from our budget when we have already had a ceiling imposed. Where is the money coming from? From which pocket?

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I understand the gentleman's concern. I would understand the gentleman's concern, say, over the $250 million each year, which is the technical education part. The other obligation, I would suggest to the gentleman, is procurement. It is just giving you the ability, the Pentagon the ability, to get a purchase contract and make an agreement.

Mr. DICKINSON. Are you going to raise our budget by that amount?

Mr. McKINNEY. No, no.

Mr. DICKINSON. No. You take it out of defense.

Mr. McKINNEY. I think the gentleman misunderstands.

Mr. DICKINSON. I hope I do.

Mr. McKINNEY. You are already spending that money. What we are simply doing is giving you an ability to spend it here and to give out purchase guarantees, and it is going to come right within what you are already spending.

Mr. DICKINSON. We are already up to the ceiling. Where is it coming from?

Mr. McKINNEY. Let me suggest to the gentleman that I know you are up to the ceiling.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. McKINNEY. I can give you examples right now. In other words, I would suggest that the purchase commitment part of it is part of the very procurement policy which will make it easier, much easier, for you to spend that money efficiently and to leverage more and to get some competition.

Mr. DICKINSON. We do not need it.

Mr. McKINNEY. Let me say something. Right in my district the Defense Department is about to put 400 people out of work and go totally to a foreign source supplier. To the only sole surviving manufacturer of diesel 200 kWh generating plant in the entire country the Defense Department says, "Oh, you cannot bid, you are not a small business, so, zip, you are canceled." Four hundred people are out of work, and the company is going to close down. Where are we going to go? We are going to go to Europe.

This kind of a commitment, though, we have put in so that we can do it by saying to a company, "If you make your product at a competitive price over a period of 5 years, we guarantee to purchase so many at such a price," and it will foster competition and bring your prices down and allow your procurement to be efficient.

Mr. DICKINSON. Let me ask you, without this legislation could this training and the other efforts take place?

Mr. McKINNEY. In one way I would suggest not, sir, because one of the problems we have with many of these basic industries, we are not competing with another company. We are competing with the Government.

Mr. DICKINSON. You are not answering my question. You say you are not competing. Can it happen without charging it against the defense authorization or appropriation?

Mr. McKINNEY. But defense procurement is an authorization item.

Mr. DICKINSON. You do not need this. You do not have to charge this against the defense authorization bill, against our ceiling, is what I am trying to say. By labeling it defense related you are just trying to find an easy way out. Consequently, it does not have to come out of education or banking. That does not make sense.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Let me just correct some of the statements that have been made.

Mr. DICKINSON. Mine or someone else's?

Mr. ERLENBORN. The gentleman from Michigan said that this could be as much as $7 billion, I think it is $6¾ billion, over 5 years. But part of that would be loan guarantees. Actually there is an additional $11.3 billion in the credit budget for loan guarantees.

Let me also suggest to the gentleman that in your conference you had reconciliation instructions under the budget resolution that constrained what you could do. And I might suggest to the gentleman that our Education and Labor Committee does not suffer under those restraints. We have no reconciliation instructions. So I sympathize with the gentleman in trying to manage your budget with instructions from the House when the gentleman from Kentucky, who offered this amendment, has no instructions to conform to.

Mr. DICKINSON. If I might, let me yield to the gentleman from Georgia. I will come back to the gentleman, if time permits. This is the darndest thing I have ever heard in a while.

Mr. LEVITAS. I thank my colleague for yielding.

I have been sitting here for quite a while listening to this debate, and I appreciate the gentleman from Alabama raising the question.

What really bothers me about this, as I understand it, is that I do not think the American people understand or give a tinker's darn about this bookkeeping debate that we are engaged in right now.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. The fact of the matter is that, when we educate our children, when we build highways, when we improve our airway system, when we provide nutrition for our young people, all of these things ultimately contribute to the national defense of this country by having a good transportation system, by having a good education system. Why do we not just put it all in the defense budget? Why just take this part and put it in the defense budget?

Just to say that it will help our national defense in and of itself is not an adequate justification for dealing with the budget process. The question that has not been answered—and I think the gentleman has tried to get an answer to this question, for those of us who need a little understanding—does this authorization increase the defense authorization? Are you adding to the defense authorization?

Mr. DICKINSON. Or budget.

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Mr. LEVITAS. Or budget. If the answer to that is yes, then you have busted your budget because you are right up against it, as I understand it.

Mr. DICKINSON. That is right.

Mr. LEVITAS. Is there someone who can answer that question?

Mr. BLANCHARD. If the gentleman will yield, this is a separate authorization. This is not a part of the defense or the Armed Services Committee authorization. And the fact is that the Banking Committee has jurisdiction over the Defense Production Act. We have had that since time immemorial. That act is the economic war powers of the President. The fact is, this is fully within our jurisdiction.

Mr. DICKINSON. I am not arguing your jurisdiction.

Mr. BLANCHARD. The fact is, not everything that is under national defense category 050 falls within the jurisdiction of the Armed Services Committee. If it were you would have jurisdiction over the Defense Production Act, which the Banking Committee has.

Mr. DICKINSON. I understand that. If I might reclaim my time to respond, I will then be glad to enter into any colloquy that you like. I am not questioning your jurisdiction in this initial matter. What I am asking you is, If by earmarking the money as defense as I understood you are trying to do is it automatically included under the ceiling that has been given our committee? That is what I want to know. Answer that.

Mr. BLANCHARD. I do not think it fits within your committee's ceiling. I think the Appropriations Committee is going to make a decision as to what degree this program is funded.

Mr. DICKINSON. Help me with this: We went back to the drawing board; the Budget Committee came in and they put a budget ceiling on the defense authorization bill. The gentleman understands that, does he not?

Mr. BLANCHARD. This does not affect the defense authorization bill.

Mr. DICKINSON. That is all I need to know, if this is in fact true and everybody agrees to it.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Arkansas.

Mr. BETHUNE. The gentleman has made some very important points, and the question that the gentleman from Georgia raises is, Where are you going to get the money?

Mr. DICKINSON. Yes.

Mr. BETHUNE. That is what we are talking about here, because you are passing a brand new authorization bill.

Now, you asked a moment ago another important question, which really got them in a hard place. And the question was answered: Well, we are just granting the authority, and they may or may not use it, and that would give you an additional authority and powers that you might want to use under the Defense Department, in lieu of spending the money on something else.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Dickinson) has again expired.

(On request of Mr. Bethune and by unanimous consent, Mr. Dickinson was allowed to proceed for 3 additional minutes.)

Mr. BETHUNE. It is very useful in times like this to look at the language of the bill. In section 303A(b)(1), it says:

> The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries. . . .

Later on, in section (d)(1), it says: "The President shall extend assistance * * *."

So the fact of the matter is this mandates the President to go forward with this type of assistance, and then you are going to have the question the gentleman is worried about, Where are you going to get the money?

□ 1430

They are going to take it out of something else. This idea that loan guarantees do not cost anything is refuted in the report, I would say to the committee chairman, where in an attempt to determine what leveraging factor would go here, the gentleman uses the present average default rate on SBA guaranteed loans which is 21.8 percent.

If one puts out a bunch of loan guarantees and has defaults of that magnitude, we are going to have a drain on the budget. It will come out of function 050, and there is no room in that function is the point the gentleman in the well is trying to make.

Second, I would make the point loan guarantees being made usually by this Government are made in connection with some specific interest rate which is submarket and then it is laundered through the FFB and we have to pick up the difference in an off-budget deficit or in an on-budget deficit. This is nonsense. What is happening here is they are trying to pass off this program, get it through here, crow about getting it passed. It is nothing more than corporate welfare that will not help defense. It will come out of the defense function. It is going to be political favoritism to all those people out there who can manage to get up the political strength to come in here and get some sort of lending assistance from this government.

Times are tough. Credit is hard to get. Interest rates are high. The squeeze is on. People are here asking for help.

This is an attempt to give those people help. I understand that. But this is not the way to be doing business in this economy.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

The gentleman from Arkansas (Mr. Bethune) is strongly opposed to this legislation. I do not want the gentleman's characterization to go unanswered. I reject the gentleman's analysis of this matter.

The gentleman in the well (Mr. Dickinson), has raised a good point. I think it is fair to say that this program which does not come under the Defense Department authorization will, indeed, compete with the authorization from the gentleman's committee before the Committees on Appropriations.

Mr. DICKINSON. And before the Budget Committee next year?

Mr. BLANCHARD. Yes, it will.

Mr. DICKINSON. Yes.

Mr. BLANCHARD. Certainly before the Appropriations Committee. I suspect in looking at it, the gentleman is going to think it should not. The gentleman likes the idea. The gentleman thinks perhaps we are trying to do an end run. I do not intend to do an end run on the gentleman's committee or anything the gentleman has done.

Mr. DICKINSON. Look, I do not ascribe any ulterior motives or anything unworthy to the gentleman. I am in favor of the ultimate effect of what we are trying to do, I think, as I understand it. We have not had a chance to look at it.

This is the first impression here, as I said before.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Dickinson) has expired.

(By unanimous consent, Mr. Dickinson was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, the point is that if this is going to draw down our authorization authority in the next year or this year or if it is going to impact on our budget ceiling this year or next year, or if it is to impact on the appropriations process, then we should be a part of it so that we can help set the priorities.

The gentleman, through this process, comes sailing in from left field. We do not know where it is coming from. We wrestled with the problem and finally came up with a conference report that should hit the floor today. We worked with the Senate and did the best we could within the parameters that the House set, and now we find there may be an additional requirement for $6 billion in the next 3 years that was a part of our deliberations.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, the point is that this program, which is a separate authorization, will indeed compete with other defense-related programs before the Appropriations Committee for the expenditure of funds.

I sincerely believe the committee, as well as the members of the Armed Services Committee, will probably support the triggering of this program. I hope I have made that clear.

Mr. DICKINSON. I assume the gentleman would certainly be willing to vote to increase the budget by the amount that this impacts it.

Mr. BLANCHARD. I will vote for this.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, I suggest the impact of the budget authorization the gentleman is talking about is going to be next to negligible because the bill requires the Appropriations Committee to appropriate.

Yes, it should compete. Who is going to run it? The Pentagon. The Pentagon is the one that will run the outlays and the entire program.

Mr. DICKINSON. But the authorization and the budget go over to the Pentagon from us. We give them the size of the piece of pie they are going to eat.

Mr. McKINNEY. Mr. Chairman, I have never been able to win against the gentleman from Alabama (Mr. Dickinson) on his knowledge of Defense Department appropriations anyway. I would answer the direct question the gentleman asked me earlier.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Dickinson) has again expired.

(At the request of Mr. McKinney and by unanimous consent, Mr. Dickinson was allowed to proceed for 1 additional minute.)

Mr. McKINNEY. If the gentleman will continue to yield, the gentleman said would this all happen anyway, as far as the industrial base coming up. I was going to read the testimony from General Slay, but he has probably seen it. Instead I will read the gentleman a comment from the Secretary of Defense in a letter to Mr. Stockman:

> It is clearly recognized that the Administration's initiatives for economic recovery will eventually foster conditions under which revitalization of industrial sectors will occur. This will take several years and may not provide sufficient incentives. . . .
>
> Through title III of the Defense Production Act, the government can provide incentives for increasing our domestic capabilities by encouraging private sector investment.
>
> Therefore I propose funding title III programs from the DOD budget.

Mr. DICKINSON. Mr. Chairman, let me reclaim my time.

Normally under other circumstances, I think I would be supportive of this. Coming in the back door, impacting on us without our being able to have anything to do with the prioritizing of the various things, I would have to oppose it. I certainly hope the Members of the House will do the same.

Mr. WEBER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, earlier in the debate we had a great deal of discussion about the strategic minerals, metals, and materials and the fact that we do have to place a great reliance at the present time on foreign countries for our sources of supply.

There is not a person in the House of Representatives, I am sure, who wants us ever to be in a situation where we run out of strategic metals, minerals, or materials; but I would like to call the attention of my colleagues to the studies that have been made and reported by the Office of Management and Budget pointing out that if we are talking about getting the most "bang for our buck," it is much more efficient to utilize the strategic metals stockpile than to subsidize domestic mines.

Subsidies, loan guarantees, and price guarantees are much less cost effective than stockpile purchases.

For example, it is estimated that guarantees of $17 to $28 per pound would be necessary in the case of cobalt in order to acquire this production from U.S. cobalt sources. To acquire 2 million pounds, if cobalt prices remain at present levels, would require a Government subsidy of $120 to $360 million over 10 years.

The equivalent amount of cobalt purchased for the stockpile would cost only $60 million, a difference of anywhere from $80 million to $240 million.

If we are talking about cost effectiveness, there is a much more cost effective way to proceed by building up the purchases of the strategic stockpile.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. WEBER of Ohio. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I appreciate what the gentleman is saying. I have been an advocate of using our surplus grain commodities in this country to barter with other nations to build up our strategic reserves of metals, in oil, or whatever.

I think it is very important that we start in a system here in this country of bartering with those nations that do not have the money to pay us immediately for their needs for grain and give them a long-term agreement to be able to deliver that particular strategic material.

I think the gentleman's point is very well taken, for me at least. I believe we ought to deal with our strategic materials much differently than we have in the past.

Mr. WEBER of Ohio. Mr. Chairman, I thank the gentleman for his remarks. I certainly think that the gentleman has called a very, very important point to our attention.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Perkins).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1445

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from North Carolina (Mr. Johnston) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 242, noes 180, not voting 12, as follows:

[Roll No. 292]

AYES—242

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brodhead
Brooks
Brown (CA)
Brown (CO)
Burton, John
Burton, Phillip
Chisholm
Clausen
Clay
Coelho
Coleman
Collins (IL)
Conte
Conyers
Coughlin
Coyne, William
Crockett
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dunn
Dwyer
Dymally
Early
Eckart
Edwards (CA)

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English
Erdahl
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Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fithian
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hertel
Hightower
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Jacobs
Jeffords
Jones (OK)

Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Lehman
Leland
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marks
Martin (IL)
Martinez
Matsui
Mattox
Mazzoli
McCloskey
McDade
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Moakley
Mottl
Murphy
Murtha
Natcher
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss

Richmond
Rinaldo
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
St Germain
Stangeland
Stokes
Studds
Swift
Synar
Tauke
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weiss
Whitten
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NOES—180

Akaka
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Barnard
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Bliley
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clinger
Coats
Collins (TX)

Conable
Corcoran
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derrick
Derwinski
Dickinson
Dornan
Dougherty
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
Fiedler
Fields
Flippo
Fountain
Frenzel
Gingrich
Goldwater
Gramm
Gregg

Grisham
Hagedorn
Hall, Ralph
Hall, Sam
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hiler
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnston
Jones (NC)
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler

Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mavroules
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
Michel
Mitchell (NY)
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Myers
Napier
Neal
Nelligan

Nelson
Nichols
Oxley
Parris
Pashayan
Patman
Paul
Price
Quillen
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Roth
Rousselot
Rudd
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen

Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Solomon
Spence
Staton
Stenholm
Stratton
Stump
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Wilson
Winn
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Bafalis
Brown (OH)
Chappell
Edgar

Fish
Ginn
Heftel
Hillis

Holt
Moffett
Stanton
Stark

□ 1500

Mr. DYSON and Mr. BEVILL changed their votes from "aye" to "no."

Messrs. EVANS of Georgia, HEFNER, ROGERS, and LaFALCE changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1510

Mr. BLANCHARD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Mr. FOWLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS ACT, 1982

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Aug. 13, 1982.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6863, and that I may include extraneous tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, we bring to you today the conference report on the supplemental appropriations bill in which 12 of the 13 subcommittees on appropriations had items in conference. In those instances when items arise in the particular jurisdiction of a subcommittee I would hope that those who are in charge of the particular subcommittee would handle them from the desk here.

May I point out to my colleagues that the controversial items, that is the items that I understand are controversial, having to do with the Salary Commission, the various foreign aid items, and the copper amendment—are outside the conference and will be handled separately, since they are subject to a separate motion and a separate vote. If necessary, I personally intend to move to eliminate or prevent the acceptance of the Pay Commission amendment which was added by the Senate, and I understand that others will take action on other items. But I want to say again, we first will have the vote on the conference report, and those items that are believed to be controversial, are outside the conference report. I urge the Members to support the conference report.

I repeat, Mr. Speaker, the controversial items are outside the conference, so I hope that Members will go along with the conference, and the item on the Pay Commission, the foreign aid items, and the copper purchase item at GSA, will be treated separately and will be subject to such action as the House may take.

May I turn then to what is within the conference agreement. Approximately 85 percent of the conference agreement is classified as mandatory. This includes supplemental pay costs of $6.2 billion; Commodity Credit Corporation, $5 billion; and retirement and health benefits, $607 million. There are approximately $5 billion to fund pay increases for the uniformed personnel in the Department of Defense. The conference report does not contain any provision for a report of the Commission on Legislative Salaries. That will be separate. A vote for the conference report cannot and should not be construed in any way to affect Members' pay, because it would not.

The amendment No. 115, on the special commission, in that respect we will propose to strike out that provision, but at any rate is not in the conference report.

May I say that in the conference report we bring before you we are approximately $1.8 billion below the administration's request and approximately $400 million over the House figure, this is according to our figures. I understand that others may have picked out all the increases but neglected to take into account the subtractions. We nevertheless have preserved in the committee and thereby in the Congress the right to deal with items. In the overall conference agreement we bring the Members a bill that is under the budget and is absolutely required, because the pay schedule, especially military pay, is such that we have to have this bill passed soon in order to meet our commitments.

I repeat again that we are late in bringing this to the Members, but as I have said many times this year, due to the lateness of getting authorizations and getting budget figures agreed to.

I want to repeat, we are under the budget. We have preserved for the Congress as the peoples' branch the right to determine the amount of money for programs and items, but in the overall we are well below the overall budget.

Mr. Speaker, I have nothing further to say at the moment.

□ 1520

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference agreement on H.R. 6863, the general supplemental for the 1982 fiscal year.

The conference agreement totals $14.6 billion in new budget authority, and $400.8 million in rescissions of previously enacted budget authority.

The conferees were faced with 183 Senate amendments, which included such diverse issues as:

The President's Caribbean Basin Initiative;

Funding for the Commission on Executive, Legislative, and Judicial Salaries;

Mandatory employment levels for the Department of Energy;

Funds for the purchase of copper for the material stockpile;

Funds and trust agreements for resettlement of the people of Bikini;

Distribution of funds for Community Service Employment for Older Americans;

Exemption from excise taxes for the manufacturers of custom-made firearms; and

Restriction of loans and credits to Poland.

In a moment, I will describe the conference agreement on these and other specific issues.

As a whole, I support the conference agreement, and for the same reasons I supported the bill in the House.

The conference agreement on new budget authority and rescissions is $1.9 billion under the President's requests, which consist of a reduction of almost $2 million in defense supplementals, and a new addition of about $100 million in other programs.

The program supplementals proposed for defense totaled $2.4 billion, of which an estimated $2 billion was to restore funds previously denied by the Congress, or to start new programs which should and could have been proposed for consideration in the defense appropriations bill for fiscal 1983.

These proposals were not proper supplementals, and funds were denied on that basis, not "to finance other programs."

Supplementals should be used to fund pay costs under existing law, and to provide funds for emergencies or other critical and unanticipated requirements. Supplementals should not be proposed where Congress has previously denied the request, unless the circumstances and justification have changed sufficiently to constitute a new proposal.

We cannot presume to impose these standards on the President, but we can and do apply these standards in the evaluation of proposed supplementals.

In my judgment, the conference agreement is a sound compromise between the priorities of the administration and the priorities of the Congress.

I will vote for it, and I urge the President to sign it.

Mr. Speaker, let me now tell the Members why their trip home may be delayed.

I have a letter here from David Stockman saying that he is going to recommend to the President a veto on this bill, primarily because of $210 million in here for title V under the Older Americans Act. This House several weeks ago passed a resolution supporting title V of the Older American Act, and there were only four dissenters in the whole House.

So that is the main objection, the $210 million for the Older Americans Act. There is also $29 million that he objects to for handicapped education. Then he objects to a $217 million add-on for student financial assistance, about $140 for Pell grants, and about $77 million for SEOG grants.

Those are the main things he objected to, and the Members should know about them, if the President vetos the bill.

Now, here is another letter that is important. It is dated August 17, 1982, from David A. Stockman, and it reads as follows:

> EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
> *Washington, D.C., August 17, 1982.*
>
> Hon. SILVIO CONTE,
> *U.S. House of Representatives, Washington, D.C.*
>
> DEAR SIR: Howard Baker had requested from us a report on the consequences of failure to enact a fiscal year 1982 pay and program supplemental before Congress adjourns for the August recess. This letter is to inform you as well of the response we provided to Senator Baker. It is our view that it is essential for the Congress to enact a pay and program supplemental for fiscal year 1982 before adjournment. If Congress fails to act, the first, and probably most serious problem we will encounter is that it will be impossible to disburse the military payroll on August 31, 1982 from existing appropriations. I'm sure that you regard, as I do, this as a serious problem that we must endeavor to avoid. I look forward to working with you in the days ahead to enact a supplemental appropriations that is satisfactory to both the Congress and the Administration.
>
> Sincerely,
> DAVID A. STOCKMAN,
> *Director.*●

There it is, Mr. Speaker, right in a nutshell. If we do not pass a supplemental with the money in here for military pay, the Treasury will not be able to pay the military out of existing funds on August 31. So, therefore, I think it is very, very important that the Members know what is in this bill, so that they can make their decisions here today and be ready for the veto that will be coming forth and decide whether they will want to vote to override or to sustain the veto.

Mr. PURSELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Michigan.

Mr. PURSELL. Mr. Speaker, I thank the distinguished ranking minority member for yielding, and I rise in support of this conference report on the supplemental.

I did not serve on the conference committee, but let me ask this question: Is it my understanding that in the aggregate total, on the bottom line, you came within the budget resolution and the authorization levels?

Mr. CONTE. Mr. Speaker, we are below it. We are below the budget resolution.

However, I want to be very fair about this and say that the cuts came from the defense supplemental. The Defense Subcommittee, including the ranking minority member, the gentleman from Alabama (Mr. EDWARDS), felt that that was a proper cut. I might add one other thing, and that is that all Republican conferees signed the conference report.

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Mr. PURSELL. Mr. Speaker, I thank the gentleman.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Massachusetts (Mr. Conte), and others, for retaining in the conference report the $210 million appropriation to fund title V of the Older Americans Act. I know that the gentleman from Massachusetts has had a longstanding interest in this. It seems to me that this is extremely appropriate, and I intend to support it.

Mr. CONTE. Mr. Speaker, I appreciate the remarks of the gentleman from Virginia (Mr. Wampler). He has been a great help, and I recall, as we moved through the process, the many times that he has stopped me here on the floor and asked me how we were progressing on title V.

I might add also that, under the able leadership of the gentleman from Kentucky, Mr. Bill Natcher, we added the $210 million in committee. The gentleman from Kentucky will bear me out. We were in conference on the urgent supplemental.

□ 1530

We had put the $210 million in the urgent supplemental for the older Americans. Then the Senate knocked it out.

So we made a promise in that conference, Bill Natcher and I, that when we marked up this general supplemental bill, we would put the $210 million in it, and we did that in committee.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend.

Mr. NATCHER. Mr. Speaker, I would like to say to the Members of the House that the statement my friend from Massachusetts has just made is absolutely correct. In the previous conference on the urgent supplemental bill we all agreed to put the $210 million into the regular supplemental bill.

As my friend further knows, the $210,572,000 added to the current appropriation of $66,528,000 brings the total to $277,100,000 for fiscal year 1982.

The gentleman is absolutely correct.

Mr. CONTE. I thank the gentleman. We worked very hard on that.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. I have a question in connection with the gentleman's statement and the reading of the letter.

That letter was from Mr. Stockman. What has me puzzled is on the one hand it seems to me that they are mandating that we approve in order to avoid a crisis with respect to the military pay. On the other hand they are saying we are going to veto it if you approve it as it is contained now.

So this to me seems as if the administration is trying to do one thing and that is dictate policy by the threat of a veto.

Mr. CONTE. Let me say this: We are caught in a very difficult dilemma here. The $210 million they oppose was put in in the House and the other body accepted it, so it was not a matter of conference. The money for the Pell grants was put in in the House and accepted and also put in in the other body, so it was not a matter of conference.

So when they write to me now today saying they are going to recommend a veto because of these items, these are all the items that were passed by the House, and passed by the other body, and were not part of the conference at all.

So how would you take these items out of the bill, even if you wanted to take them out?

Plus let me say this: There is $350 million in here for the Caribbean Basin. The President wants that Caribbean Basin money in the worst way for Central America.

I said to the President when I went down to the White House for a meeting that the only way he was ever going to get that $350 million is to have it right in this supplemental.

Can you imagine me coming on the floor of the House to ask my colleagues to vote for $350 million in foreign aid? I would get my head beat in. Nobody would vote for it at a time when you are cutting all of the domestic programs.

That is another good reason why this bill ought to be signed, to get this program through.

Mr. GONZALEZ. The significant point, as I see it, is that the gentleman reported that this bill is under the budget, or at least conforms to a non-budget-busting aspect or impact so that then the issue is a matter of policy.

Mr. CONTE. Yes. It is a question of where we put the money. It is a question of where money has been shifted.

As far as the bottom line is concerned, the bill is below the President's supplemental request.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I rise in support of the conference report on H.R. 6863. In particular, I would like to voice my strong support for the provision requiring the construction of flood protection along the Upper Cumberland River.

And I would like to commend the gentlemen from Mississippi, Massachusetts, Alabama, and Indiana for their effective efforts in bringing this bill through conference.

The Upper Cumberland provision is of vital importance both to the physical safety of entire communities in my district as well as to my district's economic development.

I would like to describe the flooding problems we have faced and why it is that the provisions in this bill are so important.

Southeastern Kentucky has been plagued by severe flooding from time immemorial. We have steep mountains, which cause rapid runoffs. These runoffs are made especially treacherous by the fact that we have very narrow valleys, valleys which constrict the flow of the water. And we have next to no warning of these floods since the mountains prevent the accurate forecasting and warning systems which are possible in other parts of the country.

And the hazards of this flooding are greatly magnified by the fact that many families live right along the river banks. With the severe lack of level land, most families and businesses have no choice but to build along the rivers. And this places them right in the track of the rushing waters.

In 1977, all of these threats and all of these geologic and hydrologic factors turned into cold reality, with the worst flood on record along many portions of the Upper Cumberland, Tug Fork, and Levisa Rivers.

Barbourville, Ky., was the scene of heroism which is rare in this day and age. Despite the rapidly rising waters, and despite the personal danger they faced, many couragious citizens stayed behind to pile sandbags on top of the levees. Their heroic efforts succeeded in keeping the torrential waters from flooding through the streets of Barbourville.

Pineville, Ky., was not so fortunate. All the protection they had simply was not good enough. As the townspeople looked on, the waters came rushing over the floodwalls, into the town, into their homes, and into their businesses. Over the next tense hours, volunteers rescued stranded men and women, including many senior citizens, from rooftops and car tops. Families found shelter in the local hospital. And in the coming days and weeks, they returned to their homes and businesses to start the backbreaking work of cleaning up the sediment, which averaged about half a foot deep, and which covered most of the town.

The damage was staggering. Immediate estimates were at least $27 million in damages. Nine hundred homes were destroyed or severely damaged. Property owners were forced into long-term debt—debt which continues to burden these communities. Property values plummeted. And tax bases were depleted.

And perhaps worst of all, the flood added yet another burden to the backs of these communities which are trying so hard to help themselves. In an area which has long suffered from chronic underdevelopment, they have been striving to attract more businesses and jobs to the area. This newest flood dashed many of those hopes.

In view of this record documenting the clearcut need for flood protection along the Upper Cumberland, the Congress specifically appropriated funds for the construction of flood protection. But despite the black and white instructions in the law, we have faced roadblock after roadblock in the construction of our flood protection. First, bureaucratic delays prevented any construction during fiscal year 1982—despite the fact that funds had been appropriated specifically for that purpose. And second, the corps decided not to build the normal standard project flood protection (protection to cover the worst flood that could reasonably be expected in an area), but to build protection only just high enough to cover a flood of the magnitude of the flood of 1977.

Mr. Speaker, these proposals were altogether unacceptable and I am delighted that language has been included in the bill to correct them.

First, the bill requires the fiscal year 1982 funds, included in the Energy and Water Appropriations Act for fiscal year 1982, to be obligated still during this fiscal year.

I wholeheartedly applaud this clear, unequivocable, and unmistakeable instruction requiring the corps to proceed with construction without any further delay.

If we are going to build flood protection, let us get on and build it. Every indication is that flooding is going to continue—and will probably occur even more frequently in years to come. And when those flood waters come rushing down the mountains and are ebbing toward the top of the floodwalls, the men and women in my district are going to need more than studies, more than promises, and more than good will to save them—they are going to need full-fledged flood protection. And nothing less will do them any good.

A second important provision in this bill requires the corps to construct the flood protection at the standard project flood level. This is exactly the blunt message we have needed to set the record straight; it is the intention of the Congress to give the communities along the Upper Cumberland River full and complete flood protection. And protection just to the flood of 1977 level is simply not good enough.

As the corps has stated in its own documents, flooding in this region is sure to continue—and it may even worsen as the region is developed. While I respect the need to reduce Federal spending, any marginal savings in this case would be more than wiped out by even one major overtopping flood. And where human health and life is concerned, as is the case here, there can be no excuse for pinching pennies.

In addition, protection to the level of the flood of 1977 is absolutely inadequate to allow the economic development of this area. It would not free local communities from the flood insurance requirements. It would prevent these communities from ever building on their few acres of level land, most of which are located along the river banks, thereby condemning them to continued economic stagnation. And it would deny these communities any opportunity to attract businesses to the area, a step which is essential if these communities are ever to help themselves.

The provisions in this bill give my district the life lease it desperately needs. It will give us a foundation for the economic development of this whole region along the Upper Cumberland. It will give hundreds of families the assurance that they can sleep without fear, even when they hear a forecast for rain.

Mr. Speaker, if a man were standing beneath a rushing tidal wave, we would not suggest a study of his plight; if a man were drowning, we would not saw his lifeboat in half. But Mr. Speaker, this has been exactly the plight of these communities in my district, when each day they wondered what new roadblock had been placed ahead of their flood protection. The provisions in this bill give us the relief we need.

I commend my distinguished colleagues from Alabama and Indiana for their efforts in working with the other body to secure this effective and badly needed provision and I urge the support of my colleagues.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to try to clarify if I can where we stand on the bill. The gentleman said the bill as reported back by the conference is within the budget recommendations; is that correct?

Mr. CONTE. Below the supplemental request sent up here by the President, yes.

Mr. WALKER. Then the gentleman has also said that the difference between the two bills is the fact that the administration has found money in this bill that they do not particularly like spending, that they do not like, and what they want to do is spend it in the defense area and in which the Appropriations Committee has decided could be cut; is that correct?

Mr. CONTE. That is right. I can give you the exact programs if you want them.

Mr. WALKER. I think you reiterated there were things such as the Older Americans Act and several items.

Mr. CONTE. The community services employment for older Americans, $210 million; student financial assistance, $217 million; compensatory education for the disadvantaged, $148 million.

Those are the three main ones.

Mr. WALKER. So if the gentleman would yield further, what we have is the administration saying that even though this comes in within the budget or within their recommendation they are going to veto the bill.

So that Members who would feel that the President is vetoing a bill that he calls a budget buster do put themselves in some jeopardy if they feel they would have to support that kind of a veto coming up in support of this bill.

I mean, is that fair analysis, based on the letter the gentleman has from OMB?

Mr. CONTE. All I can give you are the facts. The facts are that the committee cut defense, which the administration did not want, and added some of that money into the programs that I have mentioned here in the well of the House.

The bill comes below the President's supplemental request.

Mr. WALKER. Will the gentleman yield further?

Mr. CONTE. I cannot explain it any plainer than that.

You come in with all of these labels, budget busters, and so forth, and I am giving you the plain facts.

What more do you want?

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. Yes.

Mr. WALKER. What I am concerned about is the President, as a part of the fight over the tax bill, has said rather plainly to many Members of the Congress, in order to get them to vote for the tax bill, that he is going to veto any bill that he regards as a budget buster. We are going to have that particular debate with the American people. He has made that very clear.

So the first bill that he vetoes after the tax fight is likely to be this one. So that Members will be faced with a decision that they have been guaranteed something about budget-busting bills, that the President is going to veto, of sustaining him on that side of this debate now going on over the tax bill.

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That is what I am getting at, is we have a tie-in here with the tax bill and the promises that the President is making with Members with regard to the tax bill.

I just want to point that out to the people.

Mr. CONTE. I do not know what you are talking about. I really do not know what you are talking about. You have me utterly confused.

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. This is below the budget. This is below the President's budget. What else can I say?

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. Yes.

Mr. WALKER. I am simply trying to point out that the administration is vehemently opposed to this bill. They say they are going to veto it.

Mr. CONTE. I do not know what the President is going to do on this bill. I am saying that Dave wrote me a letter and Dave says he is going to recommend a veto on this bill.

The President may not veto it because it is below his request.

There has been a shifting here and I do not know how you feel about the older Americans and the handicapped kids. But there has been a shifting.

But the bottom line is a minus, you see.

Mr. WALKER. Will the gentleman yield further?

Mr. CONTE. Sure.

Mr. WALKER. The point that I am trying to make, the point I am trying to make is just this one, and I am sorry that I am not explaining it in a way that the gentleman has an understanding——

Mr. CONTE. That is all right.

Mr. WALKER. I will try to do better.

But the fact is that the President, having made that assurance to many Members of Congress, if he does veto this bill we are likely to find ourselves in a situation where Members will be voting to override a Presidential veto that would be a Presidential veto that he will frame as a budget-busting fight.

Mr. CONTE. That could be possible.

Mr. WALKER. That to me could be serious when we think about the fact that the President is saying that the overall tax fight is about reducing this deficit. If he says this is a deficit increase many Members are going to find themselves in a very difficult position. That is the point I am trying to make.

Mr. CONTE. Is the gentleman trying to tell me that he is going to vote for the tax bill and vote to sustain the President? Is that what you are telling me?

Mr. WALKER. No. I will tell the gentleman flatly that I am not going to vote for the tax bill.

Mr. CONTE. Oh, I see.

How did the gentleman vote when the Gramm-Latta bill had a cap of 4 percent on Federal pensions? How did the gentleman vote on that?

Mr. WALKER. I voted to sustain the gentleman from Illinois, Mr. DERWINSKI, when he tried——

Mr. CONTE. I am not talking about Mr. DERWINSKI. I am talking about Gramm-Latta. Were you one of those 94 guys that tried to save $5 billion on a 4-percent cap? Give me a yes or no answer.

Mr. WALKER. I voted to have a freeze across the board on all Federal pensions.

Mr. CONTE. I am talking about the Downey amendment.

Mr. WALKER. Would the gentleman be willing to vote for a freeze to save $8 billion instead of $5 billion?

Mr. NELLIGAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Pennsylvania.

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Mr. NELLIGAN. I thank the gentleman for yielding.

I want to compliment the gentleman from Massachusetts on this legislation, as well as the chairman of the committee. I would like to associate myself with the gentleman's remarks. This is one Member who does have a strong feeling for older Americans and handicapped kids.

Mr. Speaker, I firmly believe that the $211 million included in H.R. 6863 for the senior community service employment program is a prudent use of taxpayers' dollars. This program, authorized by title V of the Older Americans Act, has long been recognized as one of the most effective programs operated by the Federal Government. It is for this reason that the program enjoys such strong support from Members of Congress.

I receive numerous letters from my older constituents expressing fear that the jobs they are able to perform through this program will be lost. These jobs are too important to senior citizens and the people they are serving to lose. Not only does this program provide employment to thousands of older Americans who would rather work than accept welfare payments; the program is also designed to provide worthwhile community service through such programs as Head Start and public libraries.

I am firmly convinced that this program should continue to be funded, and for that reason have consistently voted in favor of legislation which will provide for full funding for title V programs.

Disadvantaged and handicapped children are another precious resource to which this country must maintain its commitment, despite concurrent efforts to reduce the Federal deficit. I have consistently supported programs for the handicapped, and I support the supplemental appropriation for compensatory education for disadvantaged children, as well as the funds included in the bill for handicapped education. These programs enable schools to provide specialized educational services to children in need, and have allowed these children to learn and develop to their fullest potential. It is critical to any economic recovery program that we maintain our commitment to our Nation's young, who do, in fact, represent the future of our country. We cannot shortchange these youth by cutting out necessary funding for programs that have demonstrated success.

I would also note that this appropriation measure includes language to restrict the authority of the Department of Defense to purchase foreign coal or coke for use at its military installations in Europe.

This is a provision which I have strongly supported in the past, and which I will continue to support in the future.

Last year, the Department of Defense was required, for the first time, to solicit foreign bids for its European coal requirements under certain trade agreements approved by Congress in 1979. As a result, the Department purchased over 55 percent of its total coal requirements from foreign suppliers—and U.S. anthracite producers lost over 117,000 metric tons in defense orders.

I believe this practice must be stopped.

The purchase of foreign coal and coke has a serious impact on the anthracite industry and on the railroads and U.S. shippers which transport the coal to Europe. Figures I have examined indicate that the total economic loss to U.S. firms from this foreign coal purchase totals over $38 million.

In addition, the present purchase of foreign coal and coke increases our reliance on non-U.S. source fuel for military operations. I believe the most secure military logistical system is one which depends on American products and American citizens to support our Armed Forces.

I am therefore pleased that the House has agreed to this conference report with the language regarding DOD coal purchases. I am hopeful that further legislative and administrative actions will result in a final termination of foreign coal and coke purchases by the Department of Defense.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from South Carolina.

Mr. HARTNETT. I would like to ask the gentleman if he would explain to me, as one who would like to support this bill, because I think the gentleman has done a fairly good job, how the gentleman, as a leading member of this conference committee, could not have taken exception to Senate Amendment 177, which set a floor on the number of employees that the Department of Energy could have. It actually legislates.

Mr. CONTE. I am glad the gentleman asked that question. It should not be in here. I hope we can have a vote on it. I am with the gentleman 100 percent.

Mr. HARTNETT. I am going to have an amendment. I appreciate the gentleman's help. Generally what you are for everybody else is for.

Mr. CONTE. You are foursquare right, believe me.

Mr. HARTNETT. I thank the gentleman.

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from North Carolina.

Mr. JOHNSTON. In response to the various components of this legislation, are all of the items in this bill below budget authority for their respective functions?

Mr. CONTE. Now, let me get this straight. Below budget authority?

Mr. JOHNSTON. Yes. Or below the budget figures for each function. In other words, if an item is within, say, function 050, is it in fact below budget?

Mr. CONTE. No, we cannot say that. No.

Mr. JOHNSTON. So in fact all components of the thing are not below budget?

Mr. CONTE. No.

Mr. JOHNSTON. Some of them are above budget, some are below budget?

Mr. CONTE. Sure.

Mr. JOHNSTON. But collectively they are below budget?

Mr. CONTE. Absolutely.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. I thank the gentleman for yielding, and anyone who would wear pinstriped pants cannot be all bad, that is for sure.

I would like the gentleman to highlight something positive. I continue to hear from a number of parents who are concerned that they do not have answers yet on student assistance for this fall, even though it is the middle of August.

Do I understand the gentleman correctly that under "student financial assistance," if we pass this and the Senate does, and if it becomes the law of the land, many of those issues will be finally resolved, at least for this fall?

Mr. CONTE. Definitely so. We have already taken care in the urgent supplemental of appropriating the additional needed funds for the guaranteed student loan program totaling $1.3 billion, and in this general supplemental bill we are adding money for Pell grants, and for the SEOG grants. If my calculations are right, everyone who was eligible for Pell grants last year would get them this year, with a possibility of slight reduction of maybe $50.

Mr. RATCHFORD. I thank the gentleman, because there are still parents and students with the uncertainty of whether or not they will qualify for this fall and what the level of funding would be. Certainly the least we could do, this late in the year, is to support the gentleman who is trying to say to the college students of America, "We think you are important."

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I, too, want to compliment the gentleman for clarifying the situation, and I found the exchange, the dialog he had with the gentleman from Pennsylvania, very enlightening.

I know that the President and his spokespeople have been saying that he wants his tax bill passed and if it is not passed, there are going to be very heavy social cuts. This Member is persuaded by that argument and is inclined to vote for the President's tax bill. However, unless there is a very clear statement from the White House that this supplemental is not going to be vetoed, then what is the sense of voting for the President's tax bill? I hope perhaps that David Stockman and some of the others around the President will understand that very, very clearly.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New Mexico.

Mr. LUJAN. The gentleman alluded to one of the items in disagreement with the Senate, and that is on the purchasing of copper from the sales of strategic materials.

Can the gentleman tell me why the House would not go along with that, when we feel that the copper industry is in such bad straits and, really, there is no money that is being appropriated? It is just money that comes from the sale of other items within the stockpile. Could the gentleman give me the reasons for the House not agreeing with the Senate on that?

Mr. CONTE. I think that when we debate that particular issue later on today, the gentleman will hear the arguments. But in capsule form I will say that the Armed Services Committee, both on the appropriation and on the authorizing committees, were very, very much opposed to that amendment. They felt that the stockpile should not be used as an employment program to put people to work and buy metals because people are unemployed. I am going to vote with the gentleman, incidentally. But they felt that they have a subcommittee on the Armed Services Committee headed up by the gentleman from Florida (Mr. BENNETT) on the House side, and the one over in the Senate, and they know about some of these precious metals, they know the metals that they need, and it should go through the authorization process rather than through the appropriation process.

Mr. LUJAN. Just one point: The gentleman characterizes it as some kind of an employment program. It is really a strategic metal, copper, and we need it, and those kinds of remarks are really not warranted in this particular case.

Mr. CONTE. Sure. As I said, I will vote with the gentleman.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I want to associate myself with the remarks of the distinguished ranking minority member and I would just simply say that I do not think we have to be embarrassed to be appropriating money for Pell grants, I do not think we have to be embarrassed about appropriating money for older people and community service, I do not think we have to be embarrassed about appropriating money for compensatory education for children. And particularly I think it is important that we did put the money in for the Caribbean Basin Initiative that the President needs and wants. It is an important initiative that I think can help save that part of the world that is so important to the United States from potential disaster. I certainly support the gentleman.

Mr. AuCOIN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Speaker, I rise in support of H.R. 6863, the supplemental appropriations bill for 1982, which includes critical additional appropriations for federally supported education programs. As reported by the House-Senate conference committee, the bill shifts funds from unnecessary military spending programs to maintain key educational programs.

David Stockman, the President's Budget Director, is threatening to recommend a veto of this bill on grounds that it exceeds the President's budget request. The fact of the matter is the bill is $1.8 billion less than the President's budget request. What Mr. Stockman really objects to is the House Appropriations Committee exercising its responsibility, as it is required to do, in determining how funds shall be apportioned among de-

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partments and programs. In this case, the committee cut $2.1 billion from defense, military construction, and foreign aid, and increased appropriations for other functions—notably education.

As a member of the Appropriations Committee, I wholly endorse these committee actions and urge adoption of the bill. While staying under the budget request, the bill represents a wiser use of the budget dollars available by investing a larger share in our Nation's greatest resource—our youth, our Nation's future. In virtually every field, from medical research to manufacturing, from communications to chemistry, we are being challenged as never before. Every one of us has a stake in seeing to it that this generation of children growing up today is the best educated generation in the Nation's history.

To cut back on education programs, as this administration has sought to do at every opportunity, makes as much sense as a farmer cutting back on his seed corn. The bill before us today assures a prudent supply of seed for education. It recognizes that our future security as a nation depends not only upon a strengthened defense capability, but also upon strengthened human capabilities. Specifically, it provides:

One hundred and forty-eight million dollars for grants to local school districts for the education of disadvantaged children under title I of the Elementary and Secondary Education Act. To resolve a controversy arising from the Secretary of Education's decision to apportion supplemental title I funds on the basis of 1970 census data rather than 1980 data, the committee has included an amount necessary to give school districts their allocation under the 1970 census or 1980 census, whichever is higher.

Twenty-six and one-half million dollars for programs for education of handicapped children, which were reduced between 20 and 50 percent below the 1981 fiscal year level in the continuing resolution, to restore those programs to their previous year's level.

Two and one-half million dollars for vocational education. No supplemental funds were requested by the administration.

Two hundred seventeen million dollars to provide assistance to qualified undergraduate students with demonstrated financial need under the Pell grant program, and $77 million for supplemental education opportunity grants.

Ten million dollars for aid to developing institutions under title III of the Higher Education Act.

Mr. Speaker because of the delay in passing a budget resolution, this bill comes to the floor for final passage 2 months behind schedule. Further delay will only exacerbate the serious problems with which local school boards and educational institutions are wrestling in budgeting their resources.

Mr. Stockman can say he does not like it, he can say it is not what he wants, but he cannot truthfully say this bill is a budget buster, because it demonstrably is not.

Mr. NATCHER. Mr. Speaker. will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like to add a comment to the statement of the gentleman in the well with regard to Pell grants. The gentleman is exactly correct. The amount in this bill of $140 million when added to the amount that is in the continuing resolution brings the total up to $2,419,040,000 for the fiscal year 1982.

In total, this supplemental bill is under the budget resolution. We did not exceed the overall ceiling:

I just want to point that out to the Members of the House at this time.

Mr. CONTE. Mr. Speaker, chapter II of the bill, as reported by the conference committee, contains $149,951,000 in new budget authority for the Departments of Commerce, Justice, and State, for the judiciary and for related agencies for program supplementals. This total represents and increase of $18.6 million over the budget requests which were officially submitted to the Congress. However, the administration has expressed no opposition to the provision of new budget authority for increased security activities within the Department of State in the amount of $40 million, rather than adhering to the administration's original proposal to transfer such funding from existing resources available in the migration and refugee assistance account. Instead, those funds are transferred in the foreign operations chapter of the bill for relief and rehabilitation activities in Lebanon. Since those funds are thus not available for transfer to this chapter for security enhancement at overseas posts, new budget authority was needed.

This chapter includes a number of appropriations and language provisions which are important to many of your constituents and which may very well not be provided if this bill is not enacted.

For example, language is needed and is included authorizing the Economic Development Administration to issue $30 million in direct loans and $150 million in loan guarantees during the remainder of fiscal 1982 from the economic development revolving fund. This is in accord with the clear intent of Congress in the continuing resolution, but the language is necessary if these loans are to be made available.

The bill, as reported from the conference, includes funding for the coastal zone management program for the State of New York. Whaling research and activities are funded for Alaska. Ten million dollars is included for the 1984 Louisiana World's Fair. Law enforcement assistance funding is provided through the FBI, the Drug Enforcement Administration, U.S. attorney's and marshals, and the Federal Prison System for the expenses of the South Florida Task Force Against Drug Traffic and Organized Crime. Money is in here for the long-delayed alien detention center to be located in either Louisiana or Oklahoma, both of which are lobbying to get it. A few Federal prison to house 4,000 inmates is included for Arizona, as well as a minimum security prison camp for California. And $1.6 million is included to conduct the U.S. case in the Gulf of Maine boundary dispute, which is critical to New England and to the entire country in terms of future resources.

As I mentioned earlier, funding is provided in this chapter in the amount of $49 million for additional security requirements at overseas posts in Western Europe and other highly threatened areas. The appropriation of this money is timely and important if we are to do all we can to avoid future attacks and kidnapings against our personnel serving in these countries.

And finally, $3.4 million is provided in the bill for the Iran-United States claims tribunal, an activity which must be funded regardless of our individual feelings about that whole ugly episode.

The defense supplementals total $435.3 million, a reduction of about $2 billion from the request. This is $67.8 million over the House, and $57.4 million below the Senate.

The major change from the House bill approves the funding for two new or an appropriate number of used DC-10 or KC-10 aircraft for the Air Force.

In the main, funding is denied for program elements because the requests did not meet the committee criteria for inclusion in a supplemental or because they are not authorized.

Pay items are funded at appropriate levels, but it is essential that action be taken on pay before August 31. The military has no money to meet the end of the month payroll for the uniformed personnel, and will have no money to make the mid-September civilian payroll. This bill must be enacted now or our military simply will not be paid.

DOD has no transfer authority left, and, because it has been paying the higher pay rates enacted last October, it is now out of money without a supplemental. We are at the end of the road on the military pay without this bill.

CHAPTER V—ENERGY AND WATER DEVELOPMENT

The conference report provides a total of $64,300,000 in new budget authority and $16,000,000 by transfer for the energy and water development chapter. It also provides $35,000,000 in pay supplementals for the Army Corps of Engineers. This compares with a House-passed level of $92,700,000 and a Senate-passed level of $56,200,000 in new budget authority. Both the House and Senate versions provided for $35,000,000 in new funding for the Corps of Engineers.

Without this pay supplemental for the corps, many corps flood control projects will lay idle as a result of insufficient funding. As winter approaches with its heavy snowfalls, the critical need for immediate construction as well as maintenance of the dams and dikes is obvious.

For atomic energy defense activities, the conference report funds the operating expenses account at the House-passed level of $57,000,000 and the plant and capital equipment account at the Senate-passed level of $7,300,000.

Chapter VI of the bill, as reported by the conference committee, contains $406,543,000 in new budget authority and $50 million in transfers for foreign assistance activities. This represents a net reduction of $60 million below the budget requests. The bill also denies the administration's request of $186 million in foreign military sales guarantees, and provides only $125 million of the $300 million in obligational authority requested for the special Defense acquisition fund.

Most important, this chapter provides $350 million in economic assistance for the President's Caribbean Basin Initiative. This is the aid portion of the total CBI package of trade and aid initiative proposed last February.

In my view, if this money is not included in this bill, and if this bill is not enacted, the Caribbean Basin aid package will not be funded. And that would send the wrong signal to our neighbors to the south, a very damaging signal that we do not care and that we do not follow through on our promises.

If we do not come through with this money after it has been so well publicized, we cut the legs out from under those in the Caribbean and Central America who would be friendly with the United States. Those friends are in Costa Rica, Jamaica, the eastern Caribbean, the Dominican Republic, the new, democratically elected Government in Honduras, the new and hopefully less repressive Government in Guatemala, and yes, the new constituent assembly in El Salvador.

The bill reduces the administration's request for economic aid to El Salvador from $128 million to $75 million, and we have eliminated the $20 million request for military assistance to that country entirely. Our House conferees compromised with the Senate Members, who wanted to include all of the requests for El Salvador. I believe it is a reasonable compromise.

The conference agreement also includes $3.5 million, as requested, for international military education and training. These funds represent the best investment we can make with foreign assistance money—for a very small amount of funding, we expose the rising military leaders in many countries to the U.S. system of a civilian-controlled and restrained military and to our way of domestic life.

The compromise also includes $50 million in forgiven military credits for Sudan, as requested. Sudan has proven itself a good and loyal friend to the United States and to our friends in the Middle East region, and that country is now directly threatened by Soviet and Cuban-inspired forces from Libya and Ethiopia. We must continue our support.

Both the House and Senate bills included a transfer of $50 million for relief and rehabilitation in Lebanon, and the conferees agreed to Senate language which earmarked $10 million of this for the American University of Beirut and its hospital. The Senate also included report language, which our conferees have no difficulty in accepting, proposing that up to $1.9 million of the total $50 million be made available for Beirut University College. These are American institutions of longstanding which are located right in the heart of some of the most severe fighting and damage. We intend to continue our support for them during this very difficult period, just as we intend to support our Lebanese friends.

In terms of language provisions, the conferees agreed to Senate language stating the U.S. determination to rid the Caribbean and the United States of any threat from Cuba, along with language making clear that this provision in no way overrides the requirements of the War Powers Act.

We also agreed to extend existing language through fiscal 1983 which prohibits the payment of guaranteed loans in respect to transactions with Poland until that country has been declared in default, unless the President declares it to be in our national interest to do so. I, personally, would prefer no language in this regard, but again this was a compromise with the Senate.

I also would personally have preferred, and offered a proposal in conference to do so, to provide $75 million in off-budget foreign military credits to four countries: Portugal, Spain, Morocco, and Tunisia. Although this proposal was not accepted, I remain convinced that these countries are important to our own interest and that they have shown their reliability in the past when we and our allies have needed them.

In any event, the items I have mentioned that we did bring back in this conference report, especially the Caribbean Basin Initiative money, represent more than adequate justification to vote for this report.

CHAPTER VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

Chapter VII contains the conference agreement on supplemental funding in the amount of $3,775,000 and authorizes transfer of $12.7 million for programs, activities and pay cost needs of the Department of Housing and Urban Development and independent agencies.

The conference agreement includes language clarifying action taken earlier in the urgent supplemental appropriation bill directing the use of sufficient recaptured or deobligated funds by the Department of Housing and Urban Development for FAF and cost amendments to allow the 70,000 units estimated to be in the section 8 pipeline to go to construction.

Also included in the conference agreement is language requiring the Selective Service System to establish at the time of mobilization civilian review boards for alternative service worker job assignments; $150,000 is provided for the program development and training costs of these civilian review boards.

The conference agreement also approves the transfer of $4,198,000 within the Veterans' Administration for agent orange studies.

CHAPTER VIII—DEPARTMENT OF THE INTERIOR

Chapter VIII contains the conference agreement on supplemental funding in the amount of $258.9 million for programs and activities, and $31.3 million in pay cost needs, for the Department of Interior and related agencies. The agreement also provides $3 million in reappropriations and $38 million rescissions.

Items in the conference agreement which were not in the House-passed bill include $700,000 to allow the BLM to complete acquisition of the Yaquina Head Outstanding Natural Area in Oregon, $1 million for continued NPS land acquisition at the Cumberland Island National Seashore in Georgia; $11.1 million for the transfer of 17 BIA schools to the State of Alaska and $3 million to the Forest Service for partial settlement of land claims of the Chugach Natives.

Notable decreases to the House recommended items include $11.2 million, rather than $17 million, for Indian Health Service construction of water and waste facilities for Indian housing and $2 million, rather than $9 million, for Wolf Trap. This $2 million, to be made available subject to authorization, is for the development of plans

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and specifications for the reconstruction of the Filene Center at the Wolf Trap Farm Park.

The conference agreement also recommends the disapproval of the administration's recently submitted rescission of funds appropriated for the SRC-1 project and recommends instead that $28.1 million be used for the post/baseline activities previously negotiated between the contractor and DOE, $22 million be reserved for project termination costs and $5 million be available for the Department's administrative expenses. The remaining $64 million in previously appropriated funds for this project would be deferred.

Finally, while the conferees deleted House bill language specifically prohibiting any reduction in employment in DOE's fossil energy programs below the level of July 1, 1982, language is included under the general provisions establishing minimal levels of full-time permanent employment in certain DOE program areas including conservation, fossil energy, ERA and EIA.

CHAPTER IX—LABOR/HHS/EDUCATION

The Labor, Health and Human Services, and Education chapter of this supplemental appropriations, as approved by the conferees, looks very similar to the bill the House passed on July 29. In fact, most of the major items were included in the Senate's bill and so did not need to be addressed in conference. That unanimity between the two Houses is a good indication of the importance and need for the items in this chapter.

The House and the Senate both included $210 million for the community services employment program of which the conferees agreed to allocate 78 percent to the national sponsors and 22 percent to States. They both included $6 million for childhood immunization, $1 million for tuberculosis control, $10 million for mental health and alcohol and drug abuse research, $123 million for acquisition of new computers for the social security system, $148 million for title I elementary and secondary compensatory education, $26.5 million for handicapped education, $140 million for Pell grants, $5.8 million for Howard University, $11 million for Railroad Retirement dual benefits payments in August and September, and $160 million in requested pay supplementals.

As a result of the general agreement on these and other supplementals, the conference was limited to a fairly small number of issues.

The Senate did add a provision, modified in conference, that is important to know about. This conference report will make up to $1.6 billion in unobligated funds automatically available upon enactment of the Federal supplemental unemployment benefits proposal currently pending as part of the tax package. It is conceivable, if both this supplemental bill and the tax bill are passed and signed into law, that we could take home an extended unemployment benefits program over the upcoming district work period.

In addition, the conferees agreed to a Senate amendment adding $48 million to the supplemental equal opportunity grant program, bringing the total amount for SEOG's in this bill to $77 million. This was offset by cuts and rescissions totaling $78 million beyond what was in the House bill. The conferees also agreed to a level of $40 million in the college housing program.

All in all, the Labor/HHS/Education chapter, as agreed to by the conferees, totals $791 million in new budget authority; $9 million less than what the House originally approved. This is in comparison with the administration's request of $561 million, a considerable difference, but acceptable, I believe, in the context of the total bill, which is $1.9 billion under the request.

I would just add a note on the urgency of the items. In the education programs, the school year is upon us. Local educational agencies will be starting the school year without knowing how much title I money is available to them. University students will be starting school without knowing what level of financial assistance they will be receiving. In the Department of Health and Human Services, the immunization money is also connected with the start of school. And in the Department of Labor, unless the title V money is forthcoming, a disruptive gap in funding is likely in the community services employment program, which is exactly why this program has been forward funded in the past, and why we are trying to restore forward funding in this supplemental. With regard to the pay supplementals, the agencies may have to provide furlough notices, if not funding is forthcoming within the next week or so, in anticipation of potential agencywide shutdowns in September.

Chapter X of the bill, as reported by the conference committee, contains $8,757,325 in new budget authority for program supplementals. This is $26.9 million below budget requests. Major reductions include $4.5 million for the purchase of additional property south of the House office buildings, $11.5 for furnishings for the Hart Senate Office Building, $8.5 million for claims arising from the Madison Library, and $2.2 million for the General Accounting Office. All of these reductions were included in both the House and Senate bills.

For other requests, the Senate receded to the House items, and the House receded to the Senate for Senate items.

The Senate refused to recede to the House on the issue of a limitation on outside income for House and Senate Members of 30 percent of congressional salary, and that provision has been dropped, regrettably. I will continue to press for this provision on any vehicle going through until Members of both Houses are treated equally in terms of pay and benefits.

Senate language is included which provides $160,000 for reconvening the Commission on Executive, Legislative and Judicial Salaries, requires a report by that Commission to the President by November 15, 1982, and requires the President to submit his recommendations to Congress as soon as practicable. The Congress has an opportunity to disapprove the President's recommendations by concurrent resolution within 30 days of receiving them.

CHAPTER XII—TRANSPORTATION AND RELATED AGENCIES

The conference report provides program supplementals in the amount of $340,020,000 in new budget authority, $19,000,000 by transfer and a $37,500,000 deferral disapproval. It also provides a pay supplemental of $153,150,000 for the Department of Transportation and related agencies. This compares with the House-passed level of $383,645,000 in new budget authority, $32,400,000 by transfer, and a $37,500,000 deferral disapproval, and the Senate-passed level of $187,520,000 in new budget authority, $19,000,000 by transfer and a $37,500,000 deferral disapproval.

For the beleaguered Coast Guard, the conference report makes available $30,500,000 for its operating expenses. I realize that the Appropriations Committee, as well as the entire House of Representatives, has been working diligently to provide sufficient funding for our forgotten branch of the military services. Without this minimal amount of money, many of the responsibilities the Congress has thrust upon the Coast Guard, such as the drug interdiction program and the search and rescue missions, will be jeopardized. In addition, this report allocates a total of $78,100,000 in supplemental pay for these dedicated men and women. Of that amount, $64,100,000 is in new budget authority and $14,000,000 by transfer. For the Coast Guard's acquisition, construction, and improvement account, the conferees direct that $16,000,000 in unobligated funds be reprogramed for the purchase of an aircraft to replace a C-130 aircraft which recently crashed and had been based at Kodiak, Alaska. The conferees also direct that the Coast Guard make every effort to deploy an existing aircraft to Kodiak during the interim period.

For the Federal Aviation Administration, the conference report makes available a total of $119,145,000 in program supplementals and $84,250,000 in pay supplementals. Failure to enact this legislation into law will mean that the $48,000,000 for additional overtime for air traffic control centers and tower personnel, requested by the administration, will not be made available to these hard-working and loyal men and women.

As regards the Federal Highway Administration, the report provides $119,375,000 in new budget authority for program supplementals. Of this amount, $112,500,000 is allocated to the interstate transfer grants—highways account. Seventeen different States will receive funding which is critical to the construction of highways in this country.

INTERSTATE TRANSFER GRANTS—HIGHWAYS

Amendment No. 122: Appropriates $112,500,000 instead of $197,000,000 as proposed by the House. The conference agreement includes the following amounts:

Albany	$8,000,000
New York	1,000,000
Iowa	1,000,000
Twin Cities, Minn	1,400,000
Omaha	4,000,000
New Jersey	7,500,000
Washington, D.C	5,000,000
Philadelphia	5,000,000
Hartford-New Britain	10,000,000
Minneapolis	2,200,000
Northeast Illinois	20,000,000
Tucson	3,000,000
Denver	5,000,000
Oregon	10,000,000
Baltimore	1,500,000
Duluth	2,400,000
Indianapolis	8,000,000
Cleveland	12,500,000
Memphis	5,000,000
Total	112,500,000

The Federal Railroad Administration is funded in the amount of $30,000,000 for various program supplementals. In addition, there is a disapproval of a $37,500,000 deferral request for the commuter rail service.

For the Urban Mass Transportation Administration, there is provided a total of $37,000,000 in program supplementals. Of the total, $15,000,000 is for the urban discretionary grants account and $22,000,000 is allocated to the interstate transfer grants—transit account. Boston's red line extension project will receive $10,000,000 of this $22,000,000 in supplemental funding.

Mr. CONTE. Mr. Speaker, I rise in support of the motion to recede and concur in Senate amendment No. 58 with an amendment.

This amendment provides $350 million for the Caribbean Basin Initiative, along with language providing that none of these funds shall be made available until enactment of authorizing legislation or September 15, 1982, whichever occurs first. The amendment also includes language prohibiting the use of any of the CBI funds for any country not cooperating with the United States in controlling the flow of drugs into the United States. Finally, language is included in this amendment expressing U.S. determination to rid the Caribbean and our country of any threat from Cuba. Language in the next amendment, No. 59, provides that this latter anti-Cuba language, including the implied use of force, shall not override the restrictions on the executive branch contained in the War Powers Act.

The key to amendment 58 is, of course, the $350 million in economic support funds for friendly and increasingly democratic nations in the Caribbean and in Central America. This is the aid portion of the aid and trade package proposed by the President in February.

In all likelihood, this is the last general supplemental appropriations bill we will bring to the floor during the remainder of fiscal 1982. Look at the calendar; there is just not time after the Labor Day break to run another bill through the gauntlet it must go through to be enacted.

I want to make this very clear: Clear to my colleagues in the House, clear to the Senate, and above all, clear to those at the other end of Pennsylvania Avenue: If the Caribbean Basin Initiative economic assistance program is going to be funded this year, it will have to be in this bill.

If we are to begin to correct years of offical neglect toward our neighbors in Central America and the Caribbean, as promised in the President's proposal last February, it will be in this bill.

I hope this message is getting through downtown. I certainly have made my own position clear on this in meetings down there over the past couple of weeks.

I recall that when this bill was first considered in the House on July 29, it did not contain the Caribbean Basin Initiative. In response to that fact, I received a letter from the Director of the Office of Management and Budget stating:

> The administration is opposed . . . to the failure of H.R. 6863 to provide necessary funding for foreign assistance programs. In particular, no funding is included for the President's Caribbean Basin Inititative.

That letter concludes:

> The administration will strongly support amendments on the House floor to remedy these defects, including funding for the Caribbean Basin Initiative.

Well, we were not able to offer the CBI on the floor because of a point of order. But the administration's position was clear. And now we have that CBI amendment in here. I trust the administration will continue its strong support.

Before closing, I want to point out one other thing. The trade portion of the Caribbean Basin Inititative is being considered by the Ways and Means Committee. Trade is not the responsibility of the Appropriations Committee, and the CBI trade provisions proposed by the President are not in this bill. This bill deals only with economic support funds to provide desperately needed foreign exchange so that these countries in Central America and the Caribbean can import more commodities and materials, not export more. Imports into these countries mean exports from the United States, and exports mean U.S. jobs. This aid package of $350 million can generate up to 10,000 U.S. jobs, based on the generally accepted estimate of the Census Bureau on the relationship of exports to jobs.

The input of fresh foreign exchange is needed by these countries because they have been suffering far more than we have from high petroleum prices, lower world prices for their mineral and agricultural exports, high unemployment and sizable balance-of-payments deficits. Tourism is down dramatically due to unsettled political situations, including armed conflicts. Private lending has dried up for all of these reasons, and this CBI aid package is intended to alleviate that situation.

I strongly urge your support for the chairman's motion, just as I will continue to strongly urge the President to sign this bill.

FOREIGN ASSISTANCE COMPROMISE IN H.R. 6863

	Amount
AMENDMENT NO. 58	
I. Caribbean Basin Initiative, economic support funds—Allocated as follows:	
Eastern Caribbean	[1] 20,000,000
Dominican Republic	[1] 41,000,000
Haiti	[1] 10,000,000
Jamaica	[1] 50,000,000
Belize	[1] 10,000,000
Costa Rica	[1] 70,000,000
Honduras	[1] 35,000,000
AIFLD (regional)	[1] 2,000,000
Inter-American Foundation	[1] 2,000,000
Guatemala	[2] 10,000,000
El Salvador	[2] 75,000,000
Unallocated	[2] 25,000,000
Total	350,000,000
AMENDMENT NO. 61	
II. International military education and training	3,512,000
AMENDMENT NO. 60	
III. Military assistance program—Allocated as follows, including a reprograming:	
Honduras	10,000,000
Somalia	5,000,000
Costa Rica	2,000,000
Portugal	10,000,000
Sudan	−25,000,000
Total	2,000,000
AMENDMENT NO. 62	
IV. Foreign military credit sales—Allocated as follows: Sudan	50,000,000
Total	405,512,000

[1] Not less than.
[2] Not more than.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. I thank the chairman for yielding.

Mr. Speaker, I take this opportunity to rise in support of the supplemental appropriations bill for 1982 and, more specifically, chapter XII of that bill dealing with transportation and related agencies.

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The final figure arrived at by the conference is about $57 million less in program and pay supplementals than the figure adopted by the House in the original passage of the bill. I think it is an excellent compromise that affects all modes of transportation and represents a good step forward in the support of the transportation program of the United States.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from New Jersey.

Mr. HOWARD. On August 13, 1982, the Acting Executive Director of the Federal Highway Administration, Mr. R. D. Morgan, wrote to Senator Mark Andrews to offer his assessment of the language in the bill which would prohibit the use of funds for implementing the Federal Highway Administration's final rule on geometric design standards for resurfacing, restoration, and rehabilitation of streets and highways other than freeways.

First, Mr. Morgan contends they would not be able to authorize any more 3R projects after the date of enactment of the Supplemental Appropriations Act and, second, that the provision would not automatically expire on September 30, 1982. Mr. Morgan states that the 3R program would have to be shut down and that there is serious doubt whether the Federal Highway Administration could provide reimbursement for 3R projects authorized after July 12, 1982.

I call this to your attention, Mr. Chairman, because the Federal Highway Administration letter seems to be in direct conflict with the language in the Appropriations Committee report and with our understanding of the effect of this provision—specifically, that resurfacing, restoration, and rehabilitation work could continue to be carried out without disruption and delay using the standards and procedures in effect and being utilized by the States immediately prior to July 12, 1982.

Does the chairman agree that the legal effect of this provision is accurately stated in the committee report accompanying this legislation?

Mr. BENJAMIN. The chairman is absolutely correct. It is our intent that the 3R program continue and reimbursements for projects authorized after July 12, 1982, be made.

Mr. HOWARD. Does the chairman of the subcommittee also agree that a failure on the part of the Federal Highway Administration to approve 3R projects after the date of the enactment of this act would constitute a violation of the law and an illegal impoundment of funds pursuant to title X of the Congressional Budget and Impoundment Act of 1974?

Mr. BENJAMIN. Again, the chairman has stated the situation correctly.

Mr. HOWARD. I thank the gentleman for yielding.

□ 1550

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for his leadership on this section of the bill, and I certainly want to support his efforts. The people of Ohio are very grateful to the gentleman and to all Members who supported our efforts. The Tower City project is extremely valuable and means so much to our community.

Mr. BENJAMIN. I thank the gentlewoman.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. Schroeder).

Mrs. SCHROEDER. Mr. Speaker, I just wanted to have a conversation with the gentleman because there are so many things in the supplemental that I care about and I compliment the gentleman for the fine work the gentleman has done on the supplemental, whether it is students, whether it is the elderly, whether it is transportation or urban development, he has done a wonderful job. The supplemental is very important.

We are in a unique parlimentary position where we vote for the conference report first and then go through the items in disagreement with the Senate.

One of the items in disagreement with the Senate in the conference report is, of course, the pay commission that was resoundingly rejected by this body yesterday. I know the gentleman from Mississippi said in his opening statement he would move to remove the pay commission item, but I would like once again for him to tell the Members how the gentleman is going to get that out of the bill so we will feel free to vote for the conference report, and it will not be viewed as a turnaround of the House position voted yesterday.

Mr. WHITTEN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Not only is that issue outside the conference report, but the other controversial items of which I know—such as foreign aid and the copper amendment—are also outside this conference report. We hope you will all vote for the conference report. Then those matters will come up separately. A motion will be made to eliminate that section regarding the pay commission which the Senate added. When the time comes either myself or the gentleman from California (Mr. Fazio) who is the chairman of the subcommittee, will offer such a motion to insist on the House position. That is, there will be no provision for a salary review commission.

I state again, this issue is outside the conference, so the thing for the Members to do is adopt the conference report and then proceed to dispose of those other controversial points.

Mrs. SCHROEDER. I appreciate the assurance of the gentleman from Mississippi that either he or the gentleman from California (Mr. Fazio) will make that motion to remove the pay commission/pay raise item so we will have a vote on it.

Mr. WHITTEN. I can say to the gentlewoman, it will be done.

Mrs. SCHROEDER. I thank the gentleman very much.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Walgren).

Mr. WALGREN. Mr. Speaker, I wish to compliment the committee on its work.

Mr. Speaker, obviously the right thing for the House to do is to reject the provision proposed by the Senate which would set in motion a commission to report on legislative salaries whose recommendation, as modified by the President, would take effect unless voted down by both the Senate and the House.

Under the Senate proposal, the Commission would be required to recommend changes in congressional pay to the President before November 15 of this year. The President must then submit his recommendation based on the Commissions report to the Congress as soon as practicable. These recommendations would become effective 30 calendar days later unless disapproved by both the House and the Senate.

Some have taken exception to our description of this amendment as providing an "automatic pay raise." All would agree, however, that this amendment could very well result in a substantial increase in congressional salaries taking effect without any opportunity for the House of Representatives to vote on its merits, one way or another.

This is because the pay recommendations of the President would take effect automatically unless they are actually disapproved by both Houses of Congress. There is no reason to believe that any resolution of disapproval would ever reach the House floor for a vote in view of the ability of a few to bottle up any such effort in committee.

And this is the central point. Salaries for Members of Congress ought to be changed only by a separate, individual vote by the only real representatives the people have—the Congress of the United States. Any other system risks a break in the tie between the people of our country and their Government. We come close to becoming "Noble Lords" in the eyes of the public with the infamous $75 per-day tax break for Members of Congress slipped through without a separate vote in the rush to adjourn last December. Requiring a separate record vote on my measure changing the pay of Members of Congress is the only safeguard we have against the gradual widening of the jobs in income level between the public and Government officials.

I know the leadership is frustrated by the repeated rejection of proposed pay increases by the House when the pay question has been put to a record vote. The Founding Fathers almost solved this problem when they proposed the 11th amendment to the Constitution when our original Bill of Rights was adopted. Although it was not included in the group of 10 amendments that make up the Bill of Rights, the Founding Fathers proposed that the 11th state that the compensation for Members of Congress shall not be changed during their term of office.

If we returned to that principle, the public would have greater confidence in our judgment on this issue.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from New York (Mr. Kemp).

Mr. KEMP. Mr. Speaker, I just briefly want to say how much I appreciate the work of the conference, particularly that of my friend from Massachusetts (Mr. Conte) and the gentleman from Mississippi (Mr. Whitten) and others who worked out the compromise to help the President provide this essential foreign assistance program. This foreign aid—I am not ashamed to say it—will go to an important initiative that this country needs to take on behalf of our neighbors in Central America and the Caribbean.

The President's Caribbean/Central American Initiative is an extremely important new undertaking for this country. It involves not only trade and tax policy incentives, but also economic support funds that will help some of our Central American neighbors with their foreign exchange problems, and to make the type of reforms in their economy needed to bring about economic prosperity, which is the best answer to Marxist-Leninism that the world has ever known.

I want to thank again my friend the gentleman from Massachusetts (Mr. Conte) and the members of the conference for their good work.

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. Burgener).

Mr. BURGENER. Mr. Speaker, I wonder if the gentleman from Pennsylvania (Mr. Walker) would be kind enough to engage in a very brief colloquy.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I would be happy to.

Mr. WALKER. I would be glad to engage in a colloquy with the gentleman from California.

Mr. BURGENER. The gentleman expressed concerns about a possible veto. All Members are concerned about that. I have no idea whether the President will veto the bill or not.

I really do not think this is the time to consider that. I would think regardless of how one votes on this bill, we have to take a look at the matter when and if the President vetoes, what the veto message contains. What are his reasons? Are they sound in our opinion? Do we agree with them?

I have on a number of occasions voted for legislation, and when a veto message came along, have changed my position and voted to sustain the veto when new facts came to light. There is no hard and fast rule about what one should do about that; but to consider in advance what the President's position is is not that important to this Member.

Mr. WALKER. I thank the gentleman.

If the gentleman would yield further, my only point was that we are proceeding toward a confrontation, perhaps with the President. We have a confrontation right now over the tax bill. Some Members are going to support him on the tax bill with the idea they are also going to support him when he cuts spending.

If he decides to veto this bill on the basis that what he is doing is cutting spending, that could produce another confrontation for Members who vote for this bill today.

Mr. BURGENER. We may or may not be heading toward a confrontation, but we are doing our business here now. If and when the President decides he may veto the bill, it would seem to me we ought to read the veto message, make up our own minds and act on that, not try to avoid the confrontation in advance.

Mr. WALKER. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. I thank the chairman of the Committee on Appropriations.

I have a question. I do not know whether the gentleman from New York (Mr. Kemp) wants to respond or the gentleman from Maryland (Mr. Long). It deals with foreign affairs and the Caribbean Basin.

As I understand it, the money for El Salvador—$75 million—that is authorized in this bill is subject to—at least until September 15—the action of the authorizing committee because if the authorizing committee comes to the floor with any restrictions or if it is amended on the floor with restrictions for El Salvador as I intend to do then that could conceivably prevent this money from going to El Salvador. I just want to know if that is correct.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, it is my understanding that the $75 million for El Salvador, which we incidentally cut basically in half from what was originally requested, is subject to the authorization until September 15, 1982, and any restrictions thereon.

Mr. PEYSER. In other words, it would have to be covered by the authorization bill in order to be enacted?

Mr. LONG of Maryland, Yes, until September 15.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

I would like to repeat again that we have before us a conference report which does not include the controversial items, the Commission on Salaries, foreign aid items that have been mentioned, and the copper purchase for the defense stockpile. They are outside the conference and will be dealt with separately.

I hope we can go ahead and adopt the conference report, vote yes on the conference report, and then proceed to these items which would be handled separately.

Mr. Speaker, at this point in the Record I will insert a table which shows, by appropriation account, the administration request, House action, Senate action and the conference agreement:

(Pursuant to the provisions of Title 44, section 904 of the United States Code, the Joint Committee on Printing approves the insertion of the following material into the Congressional Record.)

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)

H. Doc.		Supplemental Request	House	Senate	Conference
	TITLE I				
	CHAPTER I				
	DEPARTMENT OF AGRICULTURE				
	COMMODITY CREDIT CORPORATION				
97-160	Authority to borrow..	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
	Total, Chapter I:				
	New budget (obligational) authority	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
	(Authority to borrow)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
	CHAPTER II				
	DEPARTMENT OF COMMERCE				
	Bureau of the Census				
97-140	Periodic censuses and programs (effect of deferral disapproval)	---	---	(100,000)	(100,000)
	Economic Development Administration				
97-125	Economic development revolving fund (limitation on direct loans)	(30,000,000)	---	(30,000,000)	(30,000,000)
97-125	(Limitation on guaranteed loans)	(45,000,000)	---	(150,000,000)	(150,000,000)
	International Trade Administration				
	Operations and administration:				
97-125	(Limitation on direct loans)	(12,484,000)	(12,484,000)	(12,484,000)	(12,484,000)
97-125	(Limitation on guaranteed loans)	(28,250,000)	(28,250,000)	(28,250,000)	(28,250,000)
97-219	Participation in Unites States expositions	10,000,000	10,000,000	10,000,000	10,000,000
	Minority Business Development Agency				
---	Minority business development (effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
	National Oceanic and Atmospheric Administration				
---	Operations, research and facilities	---	---	2,163,000	2,163,000
---	(By transfer)	---	---	(5,250,000)	---
---	Coastal zone management (by transfer)	---	(3,000,000)	(3,600,000)	(3,000,000)
97-125	Foreign fishing observer fund	3,250,000	1,000,000	1,000,000	1,000,000
	Patent and Trademark Office				
97-125	Salaries and expenses	2,500,000	2,500,000	2,500,000	2,500,000
	Total, Department of Commerce	15,750,000	13,500,000	15,663,000	15,663,000
	RELATED AGENCIES				
	DEPARTMENT OF TRANSPORTATION				
	Maritime Administration				
97-125	Federal Ship Financing Fund (Limitation on guaranteed loans)	(675,000,000)	---	(675,000,000)	(675,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF THE TREASURY				
	Bureau of Government Financial Operations				
97-168	Fishermen's Protective Fund	2,000,000	2,000,000	2,000,000	2,000,000
	Securities and Exchange Commission				
---	Salaries and expenses	---	400,000	200,000	400,000
	Small Business Administration				
	Business loan and investment fund:				
97-125	(Limitation on guaranteed loans)	(2,735,000,000)	---	(3,000,000,000)	(3,000,000,000)
97-140	(Effect of deferral disapproval)	---	---	(2,500,000)	(2,500,000)
97-140	Surety bond guarantees revolving fund (effect of deferral disapproval)	---	---	(3,000,000)	(3,000,000)
97-125	Pollution control equipment contract guarantee revolving fund (limitation on guaranteed loans)	(150,000,000)	---	(250,000,000)	(250,000,000)
	Total, Department of Commerce and related agencies	17,750,000	15,900,000	17,863,000	18,063,000
	DEPARTMENT OF JUSTICE				
	Legal Activities				
97-185	Salaries and expenses, general legal activities	2,183,000	383,000	383,000	383,000
---	(By transfer)	---	(1,800,000)	(1,800,000)	(1,800,000)
97-125 97-185 97-168	Salaries and expenses, United States attorneys and marshals	18,205,000	9,015,000	10,000,000	9,015,000
97-185	Support of United States prisoners	7,423,000	7,423,000	7,423,000	7,423,000
97-168	Fees and expenses of witnesses	4,750,000	4,750,000	4,750,000	4,750,000
	Federal Bureau of Investigation				
97-185	Salaries and expenses	4,000,000	4,000,000	4,750,000	4,400,000
	Drug Enforcement Administration				
97-185	Salaries and expenses	4,860,000	4,860,000	4,860,000	4,860,000
	Federal Prison System				
97-185	Salaries and expenses	285,000	130,000	130,000	130,000
97-185 97-219	Buildings and facilities	37,750,000	1,500,000	40,750,000	40,750,000
---	(By transfer)	---	---	(1,000,000)	(1,000,000)
97-185	Federal Prison Industries, Incorporated: (Limitation on administrative and vocational training expenses) (increase in limitation)	(5,579,000)	(5,579,000)	(5,400,000)	(5,400,000)
	Office of Justice Assistance				
---	Research and Statistics (By transfer)	---	---	(900,000)	(450,000)
	Total, Department of Justice	79,456,000	32,061,000	73,046,000	71,711,000

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF STATE				
	Administration of Foreign Affairs				
97-125	Salaries and expenses	7,996,000	37,378,000	37,978,000	37,978,000
97-160	(By transfer)	(31,228,000)	---	---	---
97-160	Acquisition, operation, and maintenance of buildings abroad	8,883,000	17,655,000	17,655,000	17,655,000
97-160	(By transfer)	(8,772,000)	---	---	---
97-160	Payment to the American Institute in Taiwan	244,000	244,000	244,000	244,000
97-125	Payment to the Foreign Service Retirement and Disability Fund	4,615,000	4,615,000	4,615,000	4,615,000
	International Commissions				
---	American Sections, International Commissions (reappropriation - FY 1983)	---	95,000	95,000	95,000
	Total, Department of State	21,738,000	59,987,000	60,587,000	60,587,000
	RELATED AGENCIES				
	Board for International Broadcasting				
97-102	Grants and expenses (effect of deferral disapproval)	---	(915,000)	(915,000)	(915,000)
---	Rescission	---	-2,000,000	-2,000,000	-2,000,000
	Commission on Wartime Relocation and Internment of Civilians				
97-105	Salaries and expenses (reappropriation FY 1983)	90,000	90,000	90,000	90,000
	Funds Appropriated to the President				
97-107	Radio Broadcasting to Cuba	10,000,000	---	---	---
	Total, Department of State and related agencies	31,828,000	58,077,000	58,677,000	58,677,000
	THE JUDICIARY				
	Courts of Appeals, District Courts, and Other Judicial Services				
97-125	Defender services	2,350,000	1,500,000	1,500,000	1,500,000
	Total, Chapter II:				
	New budget (obligational) authority	131,384,000	107,538,000	151,086,000	149,951,000
	Appropriations	(131,294,000)	(109,353,000)	(152,901,000)	(151,766,000)
	Reappropriation FY 1983	(90,000)	(185,000)	(185,000)	(185,000)
	Rescission	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
	(By transfer)	(40,000,000)	(4,800,000)	(12,550,000)	(6,250,000)
	(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
	(Limitaiton on guaranteed loans)	(3,633,250,000)	(28,250,000)	(4,103,250,000)	(4,103,250,000)
	(Effect of deferral disapproval)	---	(915,000)	(6,515,000)	(6,515,000)
	(Effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER III				
	DEPARTMENT OF DEFENSE - MILITARY				
	MILITARY PERSONNEL				
97-125	Military personnel, Army	105,400,000	61,900,000	14,400,000	53,700,000
97-125	Military personnel, Navy	154,200,000	55,656,000	57,474,000	57,474,000
97-125	Military personnel, Marine Corps	50,700,000	31,945,000	40,645,000	37,145,000
97-125	Military personnel, Air Force	28,300,000	4,500,000	4,500,000	4,500,000
97-125	Reserve personnel, Army	9,400,000	4,200,000	9,000,000	9,000,000
97-160	Reserve personnel, Navy (liquidation of obligations)	(300,000)	(300,000)	(300,000)	(300,000)
97-125	Reserve personnel, Marine Corps	2,800,000	2,000,000	800,000	2,000,000
97-125	Reserve personnel, Air Force	4,000,000	4,000,000	3,650,000	3,650,000
97-125	National Guard personnel, Army	9,700,000	9,600,000	9,600,000	9,600,000
97-125	National Guard personnel, Air Force	2,200,000	2,000,000	2,000,000	2,000,000
	Total, Military Personnel	366,700,000	175,801,000	142,069,000	179,069,000
	RETIRED MILITARY PERSONNEL				
97-125	Retired pay, Defense	97,685,000	47,685,000	47,685,000	47,685,000
	OPERATION AND MAINTENANCE				
97-125	Operation and maintenance, Army	362,900,000	27,300,000	4,300,000	4,300,000
---	(Transfer from other accounts)	---	(23,500,000)	(23,500,000)	(23,500,000)
97-125	Operation and maintenance, Navy	191,874,000	40,974,000	---	---
97-125	(Transfer from other accounts)	(37,226,000)	(76,426,000)	(117,400,000)	(117,400,000)
97-125	(Liquidation of contract authority)	(43,641,000)	(43,641,000)	(43,641,000)	(43,641,000)
97-125	Operation and maintenance, Marine Corps	25,300,000	4,800,000	4,800,000	4,800,000
---	(Transfer from other accounts)	---	(2,000,000)	(2,000,000)	(2,000,000)
97-125	Operation and maintenance, Air Force	103,300,000	23,000,000	18,000,000	23,000,000
97-125	Operation and maintenance, Defense Agencies	61,200,000	25,800,000	25,800,000	25,800,000
97-125	Defense stock fund	109,200,000	---	---	---
97-125	Operation and maintenance, Army Reserve	800,000	800,000	800,000	800,000
97-125	Operation and maintenance, Navy Reserve	200,000	200,000	200,000	200,000
97-125	Operation and maintenance, Air Force Reserve	600,000	600,000	600,000	600,000
97-125	Operation and maintenance, Army National Guard	1,500,000	1,500,000	1,500,000	1,500,000
97-125	Operation and maintenance, Air National Guard	1,400,000	1,400,000	1,400,000	1,400,000
	Total, Operation and Maintenance	858,274,000	126,374,000	57,400,000	62,400,000
	(Transfer from other accounts)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
	PROCUREMENT				
	Procurement of weapons and tracked combat vehicles,				
97-125	Army	126,000,000	---	---	---
97-125	Other procurement, Army	20,000,000	---	20,000,000	---
97-125	Shipbuilding and conversion, Navy	263,400,000	---	57,000,000	---
97-125	Reappropriation FY 1983	343,721,000	---	---	---
97-125	Procurement, Marine Corps	20,000,000	---	---	---
97-125	Aircraft procurement, Air Force	219,100,000	---	70,000,000	120,000,000
97-125	Other procurement, Air Force	40,470,000	17,700,000	88,600,000	19,700,000
97-125	Procurement, Defense agencies	10,000,000	---	10,000,000	6,500,000
	Total, Procurement	1,042,691,000	17,700,000	245,600,000	146,200,000
	RESEARCH, DEVELOPMENT, TEST, AND EVALUATION				
97-125	Research, development, test, and evaluation, Air Force	57,000,000	---	---	---
	Total, Chapter III:				
	New budget (obligational) authority	2,422,350,000	367,560,000	492,754,000	435,354,000
	Appropriations	(2,078,629,000)	(367,560,000)	(492,754,000)	(435,354,000)
	Reappropriation FY 1983	(343,721,000)	---	---	---
	(By transfer)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
	(Appropriation to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER IV				
	DISTRICT OF COLUMBIA				
	DISTRICT OF COLUMBIA FUNDS				
97-192	Governmental direction and support	(2,982,400)	(2,982,400)	(2,982,400)	(2,982,400)
97-192	Economic development and regulation	(4,603,800)	(4,603,800)	(4,603,800)	(4,603,800)
97-192	Public safety and justice	(2,601,500)	(2,601,500)	(2,601,500)	(2,601,500)
97-192	(Rescission)	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
---	(By transfer)	---	---	(800,000)	(800,000)
97-192	Public education system	(7,768,900)	(7,768,900)	(7,768,900)	(7,768,900)
97-192	Human support services	(38,144,400)	(38,144,400)	(38,144,400)	(38,144,400)
97-192	(Trust fund rescission) 1/	(-227,400)	(-227,400)	(-227,400)	(-227,400)
---	(By transfer)	---	---	(1,900,000)	(1,900,000)
97-192	Environmental services and supply	(368,900)	(368,900)	(368,900)	(368,900)
97-192	Personal services	(7,401,500)	(7,401,500)	(7,401,500)	(7,401,500)
	Total, operating expenses (net)	(49,171,400)	(49,171,400)	(49,171,400)	(49,171,400)
	Appropriations	(63,871,400)	(63,871,400)	(63,871,400)	(63,871,400)
	Rescission	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
	(By transfer)	---	---	(2,700,000)	(2,700,000)
97-192	Capital outlay	(10,555,000)	(10,555,000)	(10,555,000)	(10,555,000)
97-192	Washington Convention Center Enterprise Fund	(774,000)	(774,000)	(774,000)	(774,000)
	Total, Chapter IV:				
	District of Columbia funds (net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
	Appropriations	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
	Rescission	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
	(By transfer)	---	---	(2,700,000)	(2,700,000)
	CHAPTER V				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Reclamation				
97-206	Operation and Maintenance (by transfer)	(2,000,000)	---	(2,000,000)	(2,000,000)
	DEPARTMENT OF ENERGY				
	Operating Expenses				
97-162	Atomic Energy Defense Activities	59,400,000	57,000,000	48,900,000	57,000,000
	Plant and Capital Equipment				
	Energy Supply: Research and Development Activities				
---	(by transfer)	---	(14,000,000)	---	(14,000,000)
97-162	Atomic Energy Defense Activities	38,000,000	35,700,000	7,300,000	7,300,000
	Total, Chapter V:				
	New budget (obligational) authority	97,400,000	92,700,000	56,200,000	64,300,000
	(By transfer)	(2,000,000)	(14,000,000)	(2,000,000)	(16,000,000)

1/ Not reflected in totals.

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER VI				
	BILATERAL ECONOMIC ASSISTANCE				
	Funds Appropriated to the President				
	Agency for International Development				
97-125	Payment to the Foreign Service Retirement and Disability Fund	1,031,000	1,031,000	1,031,000	1,031,000
97-125	Overseas training (foreign currency program)	(920,000)	(920,000)	(920,000)	(920,000)
97-198					
97-211	International disaster assistance	50,000,000	---	---	---
---	Lebanon emergency relief (by transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
97-161	Economic support fund, Caribbean basin initiative	350,000,000	---	355,000,000	350,000,000
	Total, Agency for International Development	401,031,000	1,031,000	356,031,000	351,031,000
	MILITARY ASSISTANCE				
	Funds Appropriated to the President				
97-168	Military assistance	61,988,000	---	16,988,000	2,000,000
97-168	International military education and training	3,512,000	---	3,512,000	3,512,000
	Foreign military credit sales:				
97-168	Direct credits and forgiven loans	50,000,000	---	50,000,000	50,000,000
97-168	(Loan guarantees)	(186,000,000)	---	(186,000,000)	---
	Special Defense Acquisition Fund:				
97-125	(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
	Total, Military Assistance	115,500,000	---	70,500,000	55,512,000
	Total, Chapter VI:				
	New budget (obligational) authority	516,531,000	1,031,000	426,531,000	406,543,000
	(By transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
	(Limitation on guaranteed loans)	(186,000,000)	---	(186,000,000)	---
	(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
	CHAPTER VII				
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
	Government National Mortgage Association				
97-125	Guarantees of mortgage-backed securities (limitation on guaranteed loans)	(-20,250,000,000)	---	---	---
	COMMUNITY PLANNING AND DEVELOPMENT				
97-125	Community development grants (limitation on guaranteed loans)	(-100,000,000)	---	---	---
	INDEPENDENT AGENCIES				
	FEDERAL EMERGENCY MANAGEMENT AGENCY				
97-125	Salaries and expenses	1,000,000	---	---	---
97-125	State and local assistance	1,408,000	---	---	---
	Total, Federal Emergency Management Agency	2,408,000	---	---	---
	SELECTIVE SERVICE SYSTEM				
97-125	Salaries and expenses	1,367,000	---	304,000	150,000
	VETERANS ADMINISTRATION				
---	Medical and prosthetic research (by transfer)	---	---	(4,198,000)	(4,198,000)
---	Medical administration and miscellaneous operating expenses (by transfer)	---	(8,000,000)	(8,000,000)	(8,000,000)
97-206	Grants to the Republic of the Philippines (by transfer)	(500,000)	(500,000)	(500,000)	(500,000)
	Total, Chapter VII:				
	New budget (obligational) authority	3,775,000	---	304,000	150,000
	(By transfer)	(500,000)	(8,500,000)	(12,698,000)	(12,698,000)
	(Limitation on guaranteed loans)	(-20,350,000,000)	---	---	---

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER VIII				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Land Management				
97-125	Management of lands and resources	60,000,000	60,000,000	55,000,000	55,000,000
---	Land acquisition	---	---	700,000	700,000
	FISH AND WILDLIFE AND PARKS				
	United States Fish and Wildlife Service				
97-125	Resource management	1,800,000	2,000,000	1,800,000	1,800,000
---	Construction and anadromous fish	---	8,000,000	---	4,000,000
	National Park Service				
97-125	Operation of the national park system	2,200,000	2,200,000	2,200,000	2,200,000
97-206	Construction	9,000,000	17,680,000	6,000,000	10,680,000
---	Land and Water Conservation Fund (rescission of contract authority)	---	-30,000,000	-30,000,000	-30,000,000
---	Land acquisition and State assistance	---	30,000,000	29,000,000	30,000,000
	Total, Fish and Wildlife and Parks	13,000,000	29,880,000	9,000,000	18,680,000
	Geological Survey				
97-206	Surveys, investigations, and research	6,200,000	6,200,000	6,200,000	6,200,000
97-210	Exploration of national petroleum reserve in Alaska (rescission)	-16,200,000	-16,200,000	---	---
	Bureau of Mines				
97-125	Mines and minerals	4,073,000	4,073,000	4,198,000	4,073,000
97-125	(By transfer)	(991,000)	(991,000)	(991,000)	(991,000)
	Office of Surface Mining Reclamation and Enforcement				
---	Abandoned mine reclamation fund	---	13,251,000	---	13,251,000
	Bureau of Indian Affairs				
97-222 97-125	Operation of Indian programs	12,450,000	7,000,000	22,900,000	18,100,000
---	Construction	---	1,000,000	1,000,000	1,000,000
	Office of Territorial Affairs				
97-125	Administration of territories	3,402,000	3,402,000	3,402,000	3,402,000
97-125	Trust Territory of the Pacific Islands	21,000,000	21,400,000	26,457,500	24,957,000
	Total, Territorial Affairs	24,402,000	24,802,000	29,859,500	28,359,000
	Office of the Secretary				
97-206	Inspector General	3,150,000	3,150,000	3,150,000	3,150,000
	RELATED AGENCIES				
	DEPARTMENT OF AGRICULTURE				
	Forest Service				
97-125	National forest system	76,600,000	69,400,000	64,900,000	64,900,000
---	Construction and land acquisition	---	---	3,000,000	3,000,000
	DEPARTMENT OF ENERGY				
97-125	Economic regulation (reappropriation FY 1983)	7,300,000	3,000,000	3,000,000	3,000,000
---	Fossil energy research and development	---	2,580,000	---	1,080,000
---	Fossil Energy Construction (effect of new deferral)	---	---	---	(-64,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF HEALTH AND HUMAN SERVICES				
	Health Services Administration				
---	Indian health facilities	---	17,000,000	4,400,000	11,200,000
	NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES				
	National Endowment for the Arts				
---	Salaries and expenses	---	246,000	246,000	246,000
97-219	(By transfer)	(246,000)	---	---	---
	FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE				
97-203	Permitting and enforcement (rescission)	-8,000,000	-8,000,000	-8,000,000	-8,000,000
	NATIVE HAWAIIANS STUDY COMMISSION				
97-125	Salaries and expenses	175,000	---	---	---
	Total, Chapter VIII:				
	New budget (obligational) authority	178,150,000	217,382,000	199,553,500	223,939,000
	Appropriations	(200,050,000)	(268,582,000)	(234,553,500)	(258,939,000)
	Reappropriation FY 1983	(2,300,000)	(3,000,000)	(3,000,000)	(3,000,000)
	Rescissions	(-24,200,000)	(-54,200,000)	(-38,000,000)	(-38,000,000)
	(By transfer)	(1,237,000)	(991,000)	(991,000)	(991,000)
	(Effect of new deferral)	---	---	---	(-64,000,000)
	CHAPTER IX				
	DEPARTMENT OF LABOR				
	EMPLOYMENT AND TRAINING ADMINISTRATION				
---	Employment and training assistance	---	8,500,000	---	4,000,000
97-210	(Rescission)	-47,429,000	---	-48,186,000	-48,186,000
---	Community service employment for older Americans	---	210,572,000	210,572,000	210,572,000
---	Grants to States for unemployment insurance and employment services	---	---	20,000,000	20,000,000
	LABOR-MANAGEMENT SERVICES ADMINISTRATION				
97-125	Salaries and expenses (by transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)
	Total, Department of Labor	-47,429,000	219,072,000	182,386,000	186,386,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES				
	CENTERS FOR DISEASE CONTROL				
---	Preventive health services	---	11,000,000	11,500,000	11,500,000
	ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION				
---	Alcohol, drug abuse, and mental health	---	10,000,000	10,000,000	10,000,000
	HEALTH RESOURCES ADMINISTRATION				
---	Health resources	---	7,000,000	---	7,000,000
	ASSISTANT SECRETARY FOR HEALTH				
97-125	Salaries and expenses	10,313,000	10,313,000	10,313,000	10,313,000
97-168	Health maintenance organization loan and loan guarantee fund	17,500,000	17,500,000	17,500,000	17,500,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	HEALTH CARE FINANCING ADMINISTRATION				
97-125	Grants to States for Medicaid	552,757,000	142,000,000	112,000,000	112,000,000
97-125	Program management	5,941,000	---	---	---
	Total, Health Care Financing Administration	558,698,000	142,000,000	112,000,000	112,000,000
	SOCIAL SECURITY ADMINISTRATION				
97-125	Limitation on administrative expenses	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
	Total, Department of HHS	586,511,000	197,813,000	161,313,000	168,313,000
	DEPARTMENT OF EDUCATION				
	OFFICE OF ELEMENTARY AND SECONDARY EDUCATION				
---	Compensatory education for the disadvantaged	---	148,000,000	148,000,000	148,000,000
---	School assistance in Federally affected areas disaster assistance (Waubay School District)	---	---	200,000	200,000
	OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES				
---	Education for the handicapped	---	26,500,000	26,500,000	26,500,000
	OFFICE OF VOCATIONAL AND ADULT EDUCATION				
---	Vocational and adult education	---	2,520,000	---	2,520,000
	OFFICE OF POSTSECONDARY EDUCATION				
---	Student financial assistance	---	169,000,000	217,000,000	217,000,000
97-125	Higher and continuing education	5,184,000	5,184,000	5,184,000	10,000,000
97-125	Higher education facilities loan and insurance	9,746,000	9,746,000	9,746,000	9,746,000
	Total, Office of Postsecondary Education	14,930,000	183,930,000	231,930,000	236,746,000
	SPECIAL INSTITUTIONS				
---	American Printing House for the Blind	---	200,000	200,000	200,000
---	National Technical Institute for the Deaf	---	1,052,000	1,052,000	1,052,000
---	Gallaudet College	---	2,080,000	2,080,000	2,080,000
97-125	Howard University	5,808,000	5,808,000	5,808,000	5,808,000
	DEPARTMENTAL MANAGEMENT				
97-206	Office of the Inspector General, salaries and expenses	430,000	430,000	430,000	430,000
	Total, Department of Education	21,168,000	370,520,000	416,200,000	423,536,000
	RELATED AGENCIES				
	Railroad Retirement Board:				
---	Dual benefits payments account	---	11,000,000	11,000,000	11,000,000
	Soldiers' and Airmen's Home:				
97-125	Operation and maintenance (trust funds)	796,000	796,000	796,000	796,000
---	Capital outlay (trust funds)	---	953,000	953,000	953,000
	Total, Related Agencies	796,000	12,749,000	12,749,000	12,749,000
	Total, Chapter IX:				
	New budget (obligational) authority	561,046,000	800,154,000	772,648,000	790,984,000
	Appropriations	608,475,000	800,154,000	820,834,000	839,170,000
	Rescission	(-47,429,000)	---	(-48,186,000)	(-48,186,000)
	(Increase in limitations)	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
	(By transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER X				
	LEGISLATIVE BRANCH				
	SENATE				
	Salaries, Officers and Employees				
97-219	Offices of the Majority and Minority Leaders	120,000	---	120,000	120,000
97-185	Administrative, clerical, and legislative assistance to Senators	80,000	---	80,000	80,000
97-219	Offices of the secretaries for the Majority and Minority	100,000	---	100,000	100,000
	Total, Salaries, Officers and Employees	300,000	---	300,000	300,000
	Contingent Expenses of the Senate				
97-125 97-219	Miscellaneous items	938,000	---	938,000	938,000
	COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES				
---	Salaries and expenses	---	---	160,000	160,000
	HOUSE OF REPRESENTATIVES				
	Payments to Widows and Heirs of Deceased Members of Congress				
---	Gratuities, deceased Members	---	121,325	121,325	121,325
	Contingent Expenses of the House				
	Allowances and Expenses				
97-125	Official expenses of Members	5,987,000	5,987,000	---	5,987,000
	JOINT ITEMS				
	Contingent Expenses of the House				
97-125	Joint Committee on Taxation	84,000	---	---	---
	ARCHITECT OF THE CAPITOL				
	Capitol Buildings and Grounds				
97-125	Acquisition of property as an addition to the Capitol grounds	4,500,000	---	---	---
97-125	Senate office buildings	11,500,000	---	---	---
97-125	Capitol Power Plant (operation)	1,500,000	1,200,000	1,200,000	1,200,000
	Total, Capitol buildings and grounds	17,500,000	1,200,000	1,200,000	1,200,000
	Library of Congress				
97-185	James Madison Memorial Building	8,525,000	---	---	---
	COPYRIGHT ROYALTY TRIBUNAL				
97-125 97-206	Salaries and expenses	84,000	51,000	51,000	51,000
	GENERAL ACCOUNTING OFFICE				
97-125	Salaries and expenses	2,211,000	---	---	---
	Total, Chapter X: New budget (obligational) authority	35,629,000	7,359,325	2,770,325	8,757,325

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER XI				
	MILITARY CONSTRUCTION				
97-125	Military construction, Army	34,000,000	---	---	---
97-125	Military construction, Air Force	84,400,000	12,700,000	12,700,000	12,700,000
	Total, military construction	118,400,000	12,700,000	12,700,000	12,700,000
97-125	Family housing, Defense	80,300,000	32,300,000	32,300,000	32,300,000
	Total, Chapter XII New budget (obligational) authority	198,700,000	45,000,000	45,000,000	45,000,000
	CHAPTER XII				
	DEPARTMENT OF TRANSPORTATION				
	Coast Guard				
97-125	Operating expenses	30,500,000	30,500,000	30,500,000	30,500,000
---	Alteration of bridges	---	3,000,000	---	3,000,000
	Total, Coast Guard	30,500,000	33,500,000	30,500,000	33,500,000
	Federal Aviation Administration				
97-125 97-185	Operations	130,145,000	55,645,000	113,145,000	103,145,000
---	(By transfer)	---	(10,000,000)	(10,000,000)	(10,000,000)
97-125	Research, engineering and development (Airport and Airway Trust Fund)	16,000,000	16,000,000	16,000,000	16,000,000
97-125	Aircraft purchase loan guarantee program! (Decrease in limitation on new loan gurantees)	(-50,000,000)	---	---	---
	Total, Federal Aviation Administration	146,145,000	71,645,000	129,145,000	119,145,000
	Federal Highway Administration				
---	Interstate transfer grants - highways	---	197,000,000	---	112,500,000
---	Access Highways to Public Recreation Areas on certain lakes	---	---	6,875,000	6,875,000
	Total, Federal Highway Administration	---	197,000,000	6,875,000	119,375,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF TRANSPORTATION—Continued				
	Federal Railroad Administration				
97-125	Rail service assistance	11,948,000	1,355,000	1,355,000	1,355,000
97-125	Appropriation for debt reduction	-11,948,000	-1,355,000	-1,355,000	-1,355,000
---	Rescission	---	---	-5,000,000	-5,000,000
---	Appropriation	---	---	5,000,000	5,000,000
---	Grants to the National Railroad Passenger Corporation (by transfer)	---	(8,400,000)	---	---
---	Redeemable preference shares	---	20,000,000	20,000,000	20,000,000
97-219	(By transfer)	(5,000,000)	(5,000,000)	---	---
---	Rescission	---	---	-99,000,000	-99,000,000
---	Appropriation	---	---	99,000,000	99,000,000
97-125	Settlements of railroad litigation	816,000,000	639,424,275	639,424,275	639,424,275
97-125	Appropriation for debt reduction	-816,000,000	-639,424,275	-639,424,275	-639,424,275
	Commuter rail service:				
97-171	(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)
---	Appropriation	---	10,000,000	---	10,000,000
	Railroad rehabilitation and improvement financing funds:				
97-125	Appropriation	28,566,000	24,766,000	24,766,000	24,766,000
97-125	Appropriation for debt reduction	-28,566,000	-24,766,000	-24,766,000	-24,766,000
97-125	(Decrease in limitations on new loan guarantees)	(-135,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
---	Rail labor assistance (by transfer)	---	(9,000,000)	(9,000,000)	(9,000,000)
	Total, Federal Railroad Administration	---	30,000,000	20,000,000	30,000,000
	Urban Mass Transportation Administration				
---	Urban discretionary grants	---	29,500,000	---	15,000,000
---	Interstate transfer grants - transit	---	22,000,000	---	22,000,000
	Total, Urban Mass Transportation Administration	---	51,500,000	---	37,000,000
	RELATED AGENCIES				
	National Transportation Safety Board				
---	Emergency Fund	---	---	1,000,000	1,000,000
	Department of the Treasury				
	Office of the Secretary				
---	Investment in Fund Anticipation Notes	---	(20,000,000)	(20,000,000)	(20,000,000)
---	(By transfer)	---	(5,000,000)	---	---
---	Rescission	---	---	(-99,000,000)	(-99,000,000)
---	Appropriation	---	---	(99,000,000)	(99,000,000)
	Total, Chapter XII:				
	New budget (obligational) authority	176,645,000	383,645,000	187,520,000	340,020,000
	Appropriations	(1,033,159,000)	(1,049,190,275)	(957,065,275)	(1,109,565,275)
	Rescissions	---	---	(-104,000,000)	(-104,000,000)
	(By transfer)	(5,000,000)	(32,400,000)	(19,000,000)	(19,000,000)
	(Limitation on guaranteed loans)	(-185,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
	(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER XIII				
	DEPARTMENT OF THE TREASURY				
	Bureau of Government Financial Operations:				
97-125	Postal savings system liquidation	200,000	200,000	200,000	200,000
---	Payment to the city of Fairfax, Virginia	---	41,959	41,959	41,959
	Internal Revenue Service:				
97-125	Salaries and expenses	8,084,000	8,084,000	8,084,000	8,084,000
97-125	Taxpayer service and returns processing	78,232,000	77,232,000	72,354,000	72,354,000
97-125	Examinations and appeals	15,563,000	15,563,000	14,563,000	15,563,000
97-125	Investigations and collections	21,604,000	19,121,000	16,604,000	19,121,000
	Total, Internal Revenue Service	123,483,000	120,000,000	111,605,000	115,122,000
97-201	United States Secret Service: Salaries and expenses	12,772,000	7,080,000	11,272,000	8,998,000
97-201	Reappropriation FY 1982	1,400,000	1,400,000	1,400,000	1,400,000
	UNITED STATES POSTAL SERVICE				
---	Payment to the Postal Service Fund	---	20,000,000	20,000,000	39,000,000
---	(By transfer)	---	---	(19,000,000)	---
97-155	Rescission	-215,230,000	-208,660,000	-189,660,000	-208,660,000
	INDEPENDENT AGENCIES				
	General Services Administration:				
	Federal Buildings Fund:				
	Limitations on availability of revenue (increase in limitation):				
97-125	Construction and acquisition of facilities	(857,000)	(857,000)	(857,000)	(857,000)
	National Archives and Records Service:				
---	Operating expenses	---	---	6,500,000	4,100,000
	Office of Personnel Management:				
97-125	Payment to Civil Service Retirement and Disability Fund	303,257,000	303,257,000	303,257,000	303,257,000
97-125	Government payment for annuitants, employees health benefits	303,806,000	303,806,000	303,806,000	303,806,000
	Total, Office of Personnel Management	607,063,000	607,063,000	607,063,000	607,063,000
	Total, Chapter XIII:				
	New budget (obligational) authority	529,688,000	547,124,959	568,421,959	567,264,959
	Appropriations	(743,518,000)	(754,384,959)	(756,681,959)	(774,524,959)
	Rescissions	(-215,230,000)	(-208,660,000)	(-189,660,000)	(-208,660,000)
	Reappropriation FY 1982	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
	(By transfer)	---	---	(19,000,000)	---
	(Increase in limitations)	(857,000)	(857,000)	(857,000)	(857,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	TITLE II				
	INCREASED PAY COSTS				
	LEGISLATIVE BRANCH				
	SENATE				
97-125	Salaries, officers and employees	8,771,000	---	8,771,000	8,771,000
97-125	Office of the Legislative Counsel of the Senate	66,000	---	66,000	66,000
97-125	Office of Senate Legal Counsel	13,000	---	13,000	13,000
97-125	Senate policy committees	110,000	---	110,000	110,000
97-125	Inquiries and investigations	1,975,000	---	1,975,000	1,975,000
97-125	Folding documents	6,000	---	6,000	6,000
	Total, Senate	10,941,000	---	10,941,000	10,941,000
	HOUSE OF REPRESENTATIVES				
97-125	House leadership offices	141,000	141,000	---	141,000
97-125	Salaries, officers and employees	1,651,000	1,651,000	---	1,651,000
97-125	Committee employees	1,955,000	1,955,000	---	1,955,000
97-125	Committee on Appropriations (studies and investigations)	16,000	16,000	---	16,000
97-125	Office of the Legislative Counsel	137,000	137,000	---	137,000
97-125	Office of the Law Revision Counsel	29,000	29,000	---	29,000
97-125	Members' clerk hire	4,902,000	4,902,000	---	4,902,000
97-125	Allowances and expenses	1,279,000	1,279,000	---	1,279,000
97-125	Special and select committees	374,000	374,000	---	374,000
	Total, House of Representatives	10,484,000	10,484,000	---	10,484,000
	JOINT ITEMS				
97-125	Joint Economic Committee	55,000	55,000	55,000	55,000
97-125	Joint Committee on Taxation	169,000	169,000	169,000	169,000
97-125	Education of pages	11,000	11,000	11,000	11,000
	Total, Joint Items	235,000	235,000	235,000	235,000
	OFFICE OF TECHNOLOGY ASSESSMENT				
97-125	Salaries and expenses	250,000	150,000	150,000	150,000
	CONGRESSIONAL BUDGET OFFICE				
97-125	Salaries and expenses	408,000	358,000	358,000	358,000
	ARCHITECT OF THE CAPITOL				
97-125	Office of the Architect of the Capitol: Salaries	187,000	137,000	137,000	137,000
97-125	Capitol buildings	230,000	230,000	230,000	230,000
97-125	Capitol grounds	74,000	50,000	50,000	50,000
97-125	Senate office buildings	374,000	---	200,000	200,000
97-125	Senate garage	3,000	---	---	---
97-125	House office buildings	568,000	200,000	---	200,000
97-125	Capitol power plant	106,000	106,000	106,000	106,000
97-125	Library buildings and grounds: structural and mechanical care	138,000	70,000	70,000	70,000
	Total, Architect of the Capitol	1,680,000	793,000	793,000	993,000
	BOTANIC GARDEN				
97-125	Salaries and expenses	56,000	40,000	40,000	40,000
	LIBRARY OF CONGRESS				
97-125	Salaries and expenses	4,224,000	3,187,000	3,187,000	3,187,000
97-125	Copyright Office: Salaries and expenses	630,000	504,000	504,000	504,000
97-125	Congressional Research Service: Salaries and expenses	1,605,000	1,605,000	1,605,000	1,605,000
97-125	Books for the blind and physically handicapped: Salaries and expenses	163,000	---	---	---
97-125	Collection and distribution of library materials (special foreign currency program)	16,000	---	---	---
	Total, Library of Congress	6,638,000	5,296,000	5,296,000	5,296,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	COPYRIGHT ROYALTY TRIBUNAL				
97-125	Salaries and expenses	36,000	36,000	36,000	36,000
	GENERAL ACCOUNTING OFFICE				
97-125	Salaries and expenses	9,225,000	6,700,000	6,700,000	6,700,000
	GOVERNMENT PRINTING OFFICE				
97-125	Office of Superintendent of Documents: Salaries and expenses	303,000	---	---	---
	Total, Legislative Branch	40,256,000	24,092,000	24,549,000	35,233,000
	THE JUDICIARY				
	SUPREME COURT OF THE UNITED STATES				
97-125	Salaries and expenses	427,000	427,000	427,000	427,000
97-125	Care of the building and grounds	32,000	---	---	---
	Total, Supreme Court of the United States	459,000	427,000	427,000	427,000
	COURT OF CUSTOMS AND PATENT APPEALS				
97-125	Salaries and expenses	58,000	58,000	58,000	58,000
	UNITED STATES COURT OF INTERNATIONAL TRADE				
97-125	Salaries and expenses	166,000	86,000	86,000	86,000
	COURT OF CLAIMS				
97-125	Salaries and expenses	270,000	270,000	270,000	270,000
	COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES				
97-125	Salaries of judges	2,850,000	2,850,000	2,850,000	2,850,000
---	(By transfer)	---	(50,000)	(50,000)	(50,000)
97-125	Salaries of supporting personnel	12,900,000	2,400,000	2,400,000	2,400,000
---	(By transfer)	---	(10,500,000)	(10,500,000)	(10,500,000)
97-125	Defender services	670,000	670,000	670,000	670,000
97-125	Bankruptcy courts, salaries and expenses	3,500,000	3,500,000	3,500,000	3,500,000
	Total, Courts of Appeals, District Courts, and other Judicial Services	19,920,000	9,420,000	9,420,000	9,420,000
	ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS				
97-125	Salaries and expenses	750,000	750,000	750,000	750,000
	FEDERAL JUDICIAL CENTER				
97-125	Salaries and expenses	170,000	170,000	170,000	170,000
	Total, The Judiciary	21,793,000	11,181,000	11,181,000	11,181,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	EXECUTIVE OFFICE OF THE PRESIDENT				
	White House Office:				
97-168	Salaries and expenses	775,000	775,000	775,000	775,000
	Executive Residence at the White House:				
97-168	Operating expenses	143,000	122,980	122,980	122,980
	Special Assistance to the President:				
97-168	Salaries and expenses	56,000	48,160	48,160	48,160
	Council of Economic Advisers:				
97-168	Salaries and expenses	37,000	31,820	31,820	31,820
	Council on Environmental Quality and Office of Environmental Quality:				
97-168	Council on Environmental Quality and Office of Environmental Quality	17,000	17,000	17,000	17,000
	Office of Policy Development:				
97-168	Salaries and expenses	121,000	104,060	104,060	104,060
	National Security Council:				
97-168	Salaries and expenses	233,000	200,380	200,380	200,380
	Office of Administration:				
97-168	Salaries and expenses	221,000	190,060	190,060	190,060
	Office of Management and Budget:				
97-168	Salaries and expenses	1,677,000	1,442,220	1,442,220	1,442,220
97-168	Office of Federal Procurement Policy: Salaries and expenses	86,000	73,960	73,960	73,960
	Total, Office of Management and Budget	1,763,000	1,516,180	1,516,180	1,516,180
	Office of Science and Technology Policy:				
97-168	Salaries and expenses	64,000	---	---	---
	Office of the United States Trade Representative:				
97-168	Salaries and expenses	188,000	188,000	188,000	188,000
	Total, Executive Office of the President	3,618,000	3,193,640	3,193,640	3,193,640
	DEPARTMENT OF AGRICULTURE				
97-168	Office of the Secretary	284,000	284,000	284,000	284,000
97-168	Departmental administration	550,000	550,000	550,000	550,000
97-168	Office of the Inspector General	693,000	693,000	693,000	693,000
97-168	(Transfer from food stamp program)	(385,000)	(385,000)	(385,000)	(385,000)
97-168	Office of the General Counsel	441,000	441,000	441,000	441,000
97-168	World Agricultural Outlook Board	69,000	69,000	69,000	69,000
97-168	Foreign Agricultural Service	542,000	542,000	542,000	542,000
	Agricultural Stabilization and Conservation Service:				
97-168	Salaries and expenses	1,077,000	1,077,000	1,077,000	1,077,000
97-168	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
	Rural Electrification Administration:				
97-168	Salaries and expenses	600,000	600,000	600,000	600,000
	Farmers Home Administration:				
97-168	Salaries and expenses	5,092,000	5,092,000	5,092,000	5,092,000
	Soil Conservation Service:				
97-168	Conservation operations (by transfer)	(7,849,000)	(7,849,000)	(7,849,000)	(7,849,000)
97-168	River basin surveys and investigations (by transfer)	(618,000)	(618,000)	(618,000)	(618,000)
97-168	Watershed planning (by transfer)	(355,000)	(355,000)	(355,000)	(355,000)
---	Watershed and flood prevention operations	---	2,000,000	2,000,000	2,000,000
---	Resource conservation and development	---	500,000	500,000	500,000
97-168	Animal and Plant Health Inspection Service	4,585,000	4,585,000	4,585,000	4,585,000
	Agricultural Marketing Service:				
97-168	Marketing services	800,000	800,000	800,000	800,000
97-168	Funds for strengthening markets, income and supply (sec. 32) (increase in limitation)	(190,000)	(190,000)	(190,000)	(190,000)
	Food Safety and Inspection Service:				
97-168	Salaries and expenses	10,022,000	10,022,000	10,022,000	10,022,000
	Packers and Stockyards Administration:				
97-168	Salaries and expenses	377,000	377,000	377,000	377,000
	Forest Service:				
97-168	Forest research	1,753,000	1,753,000	1,753,000	1,753,000
97-168	State and private forestry	486,000	486,000	486,000	486,000
97-168	National forest system	16,813,000	18,813,000	16,813,000	18,813,000
97-168	Construction and land acquisition	3,598,000	3,598,000	3,598,000	3,598,000
	Total, Forest Service	22,650,000	24,650,000	22,650,000	24,650,000
	Total, Department of Agriculture	47,782,000	52,282,000	50,282,000	52,282,000
	(By transfer)	(9,207,000)	(9,207,000)	(9,207,000)	(9,207,000)
	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
	(Increase in limitation)	(190,000)	(190,000)	(190,000)	(190,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF COMMERCE				
	General Administration:				
97-168	Salaries and expenses (by transfer)	(1,467,000)	(1,467,000)	(1,467,000)	(1,467,000)
	Bureau of the Census:				
97-168	Salaries and expenses (by transfer)	(2,200,000)	(2,200,000)	(2,200,000)	(2,200,000)
	Economic and Statistical Analysis:				
97-168	Salaries and expenses (by transfer)	(1,295,000)	(1,295,000)	(1,295,000)	(1,295,000)
	National Oceanic and Atmospheric Administration:				
---	Operations, research, and facilities	---	20,000,000	21,294,000	21,294,000
	Patent and Trademark Office:				
97-168	Salaries and expenses	3,874,000	3,874,000	3,874,000	3,874,000
	Total, Department of Commerce	3,874,000	23,874,000	25,168,000	25,168,000
	(By transfer)	(4,962,000)	(4,962,000)	(4,962,000)	(4,962,000)
	DEPARTMENT OF DEFENSE--MILITARY				
	MILITARY PERSONNEL				
97-168	Military personnel, Army	1,476,573,000	1,476,573,000	1,476,573,000	1,476,573,000
97-168	Military personnel, Navy	1,073,144,000	1,073,144,000	1,073,144,000	1,073,144,000
97-168	Military personnel, Marine Corps	316,634,000	316,634,000	316,634,000	316,634,000
97-168	Military personnel, Air Force	1,244,286,000	1,202,558,000	1,198,858,000	1,198,858,000
97-168	Reserve personnel, Army	104,800,000	104,800,000	104,800,000	104,800,000
97-168	Reserve personnel, Navy	28,230,000	28,230,000	28,230,000	28,230,000
97-168	Reserve personnel, Marine Corps	12,880,000	12,880,000	12,880,000	12,880,000
97-168	Reserve personnel, Air Force	32,403,000	32,403,000	32,403,000	32,403,000
97-168	National Guard personnel, Army	162,300,000	162,300,000	162,300,000	162,300,000
97-168	National Guard personnel, Air Force	54,033,000	54,033,000	54,033,000	54,033,000
	Total, Military Personnel	4,505,283,000	4,463,555,000	4,459,855,000	4,459,855,000
	OPERATION AND MAINTENANCE				
97-168	Operation and maintenance, Army	245,000,000	234,500,000	125,500,000	180,000,000
97-168	Operation and maintenance, Navy	238,400,000	238,400,000	238,400,000	238,400,000
97-168	Operation and maintenance, Marine Corps	12,700,000	12,700,000	12,700,000	12,700,000
97-168	Operation and maintenance, Air Force	162,500,000	67,300,000	126,400,000	86,774,000
---	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
97-168	Operation and maintenance, Defense agencies	145,800,000	144,800,000	144,800,000	144,800,000
97-168	Operation and maintenance, Army Reserve	11,611,000	11,211,000	11,211,000	11,211,000
97-168	Operation and maintenance, Navy Reserve	3,247,000	3,247,000	3,247,000	3,247,000
97-168	Operation and maintenance, Marine Corps Reserve	145,000	145,000	145,000	145,000
97-168	Operation and maintenance, Air Force Reserve	9,500,000	9,500,000	9,500,000	9,500,000
97-168	Operation and maintenance, Army National Guard	20,947,000	20,247,000	20,247,000	20,247,000
97-168	Operation and maintenance, Air National Guard	23,400,000	23,400,000	23,400,000	23,400,000
	National Board for the Promotion of Rifle Practice,				
97-168	Army	16,000	16,000	16,000	16,000
97-168	Court of Military Appeals, Defense	93,000	93,000	93,000	93,000
	Total, Operation and Maintenance	873,359,000	765,559,000	715,659,000	730,533,000
	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
	FAMILY HOUSING, DEFENSE				
97-168	Family housing, Defense	15,743,000	9,800,000	9,800,000	9,800,000
	Total, Department of Defense--Military	5,394,385,000	5,238,914,000	5,185,314,000	5,200,188,000
	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
	DEPARTMENT OF DEFENSE--CIVIL				
	DEPARTMENT OF THE ARMY				
	CORPS OF ENGINEERS - CIVIL				
---	Construction, general	---	13,000,000	13,000,000	13,000,000
---	Operation and maintenance, general	---	17,000,000	17,000,000	17,000,000
97-168	(By transfer)	(17,000,000)	---	---	---
---	General expenses	- -	5,000,000	5,000,000	5,000,000
97-168	(By transfer)	(5,000,000)	---	---	---
	Total, Corps of Engineers, Civil	---	35,000,000	35,000,000	35,000,000
	(By transfer)	(22,000,000)	---	---	---

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H. Doc.		Supplemental Request	House	Senate	Conference
	CEMETERIAL EXPENSES, ARMY				
97-168	Salaries and expenses	79,000	79,000	79,000	79,000
	SOLDIERS' AND AIRMEN'S HOME				
97-168	Operation and maintenance	753,000	753,000	753,000	753,000
	Total, Department of Defense--Civil	832,000	35,832,000	35,832,000	35,832,000
	DEPARTMENT OF EDUCATION				
	Departmental Management:				
97-168	Salaries and expenses	4,676,000	4,676,000	4,676,000	4,676,000
	Office of the Inspector General:				
97-168	Salaries and expenses	559,000	559,000	559,000	559,000
	Total, Department of Education	5,235,000	5,235,000	5,235,000	5,235,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES				
	FOOD AND DRUG ADMINISTRATION				
97-168	Salaries and expenses	10,300,000	10,300,000	10,300,000	10,300,000
	HEALTH SERVICES ADMINISTRATION				
97-168	Indian health services	6,600,000	18,160,000	16,250,000	18,160,000
97-185	(By transfer)	(11,560,000)	---	---	---
	CENTERS FOR DISEASE CONTROL				
97-168	Preventive health services	4,832,000	4,832,000	4,832,000	4,832,000
97-168	(By transfer)	(2,300,000)	(2,300,000)	(2,300,000)	(2,300,000)
	NATIONAL INSTITUTES OF HEALTH				
97-168	National Library of Medicine	633,000	633,000	633,000	633,000
97-168	Office of the Director	1,056,000	1,056,000	1,056,000	1,056,000
	Total, National Institutes of Health	1,689,000	1,689,000	1,689,000	1,689,000
	ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION				
97-168	Saint Elizabeths Hospital	1,000,000	1,000,000	1,000,000	1,000,000
97-168	(By transfer)	(3,454,000)	(3,454,000)	(3,454,000)	(3,454,000)
	ASSISTANT SECRETARY FOR HEALTH				
97-168	Salaries and expenses	2,858,000	2,858,000	2,858,000	2,858,000
	HEALTH CARE FINANCING ADMINISTRATION				
97-168	Program management	3,260,000	3,260,000	3,260,000	3,260,000
97-168	(Limitation on trust fund transfer)	(4,800,000)	(4,800,000)	(4,800,000)	(4,800,000)
	SOCIAL SECURITY ADMINISTRATION				
97-168	Assistance payments program	1,600,000	1,600,000	1,600,000	1,600,000
97-168	Special benefits for disabled coal miners	300,000	300,000	300,000	300,000
97-168	Supplemental security income program	20,711,000	20,711,000	20,711,000	20,711,000
97-168	Refugee assistance	123,000	123,000	123,000	123,000
97-168	Limitation on administrative expenses	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
	Total, Social Security Administration	22,734,000	22,734,000	22,734,000	22,734,000
	(Increase in limitation)	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
	ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES				
97-168	Human development services	2,497,000	2,497,000	2,497,000	2,497,000

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SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
DEPARTMENTAL MANAGEMENT				
97-168 General Departmental management	6,473,000	6,473,000	6,473,000	6,473,000
97-168 Office of the Inspector General	1,559,000	1,559,000	1,559,000	1,559,000
97-168 Office for Civil Rights	397,000	397,000	397,000	397,000
97-168 Office of Consumer Affairs	88,000	88,000	88,000	88,000
Total, Departmental Management	8,517,000	8,517,000	8,517,000	8,517,000
Total, Department of Health and Human Services	64,287,000	75,847,000	73,937,000	75,847,000
(Increase in limitation)	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
DEPARTMENT OF THE INTERIOR				
BUREAU OF LAND MANAGEMENT				
97-168 Management of lands and resources	3,728,000	3,728,000	3,728,000	3,728,000
UNITED STATES FISH AND WILDLIFE SERVICE				
97-168 Resource management	2,400,000	4,572,000	3,400,000	4,572,000
97-168 (By transfer)	(1,000,000)	---	---	---
NATIONAL PARK SERVICE				
97-168 Operation of the national park system	6,446,000	6,446,000	6,446,000	6,446,000
97-168 National recreation and preservation	235,000	235,000	235,000	235,000
97-168 John F. Kennedy Center for the Performing Arts	70,000	70,000	70,000	70,000
Total, National Park Service	6,751,000	6,751,000	6,751,000	6,751,000
GEOLOGICAL SURVEY				
97-168 Surveys, investigations, and research	7,042,000	7,042,000	7,042,000	7,042,000
BUREAU OF INDIAN AFFAIRS				
97-168 Operation of Indian programs	8,252,000	8,252,000	8,252,000	8,252,000
OFFICE OF THE SOLICITOR AND OFFICE OF THE SECRETARY				
97-168 Office of the Solicitor: Salaries and expenses	150,000	150,000	150,000	150,000
97-168 Office of the Secretary: Departmental Management	775,000	775,000	775,000	775,000
Total, Office of the Solicitor and Office of the Secretary	925,000	925,000	925,000	925,000
Total, Department of the Interior	29,098,000	31,270,000	30,098,000	31,270,000
(By transfer)	(1,000,000)	---	---	---
DEPARTMENT OF JUSTICE				
GENERAL ADMINISTRATION				
97-168 Salaries and expenses	1,041,000	1,041,000	1,041,000	1,041,000
UNITED STATES PAROLE COMMISSION				
97-168 Salaries and expenses	206,000	206,000	206,000	206,000
LEGAL ACTIVITIES				
97-168 Salaries and expenses, general legal activities	5,022,000	5,022,000	5,022,000	5,022,000
97-168 Salaries and expenses, Foreign Claims Settlement Commission	29,000	29,000	29,000	29,000
97-168 Salaries and expenses, Antitrust Division	1,020,000	---	---	---
97-168 Salaries and expenses, United States attorneys and marshals	12,167,000	12,167,000	12,167,000	12,167,000
97-168 Salaries and expenses, Community Relations Service	227,000	227,000	227,000	227,000
Total, Legal Activities	18,465,000	17,445,000	17,445,000	17,445,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	FEDERAL BUREAU OF INVESTIGATION				
97-168	Salaries and expenses	23,000,000	23,000,000	23,000,000	23,000,000
	IMMIGRATION AND NATURALIZATION SERVICE				
97-168	Salaries and expenses	12,000,000	12,000,000	12,000,000	12,000,000
	DRUG ENFORCEMENT ADMINISTRATION				
97-168	Salaries and expenses	6,000,000	6,000,000	6,000,000	6,000,000
	FEDERAL PRISON SYSTEM				
97-168	Salaries and expenses	9,000,000	6,700,000	6,700,000	6,700,000
	OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS				
97-168	Research and statistics (by transfer)	(232,000)	(232,000)	(232,000)	(232,000)
	Total, Department of Justice	69,712,000	66,392,000	66,392,000	66,392,000
	(By transfer)	(232,000)	(232,000)	(232,000)	(232,000)
	DEPARTMENT OF LABOR				
	EMPLOYMENT AND TRAINING ADMINISTRATION				
97-168	Program administration (by transfer)	(4,847,000)	(4,847,000)	(4,847,000)	(4,847,000)
	LABOR-MANAGEMENT SERVICES ADMINISTRATION				
97-168	Salaries and expenses (by transfer)	(1,710,000)	(1,710,000)	(1,710,000)	(1,710,000)
	EMPLOYMENT STANDARDS ADMINISTRATION				
97-168	Salaries and expenses (by transfer)	(4,974,000)	(4,974,000)	(4,974,000)	(4,974,000)
	OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION				
97-168	Salaries and expenses (by transfer)	(2,927,000)	(2,927,000)	(2,927,000)	(2,927,000)
	BUREAU OF LABOR STATISTICS				
97-168	Salaries and expenses (by transfer)	(3,498,000)	(3,498,000)	(3,498,000)	(3,498,000)
	DEPARTMENTAL MANAGEMENT				
97-168	Salaries and expenses (by transfer)	(3,377,000)	(3,377,000)	(3,377,000)	(3,377,000)
	Total, Department of Labor (by transfer)	(21,333,000)	(21,333,000)	(21,333,000)	(21,333,000)
	DEPARTMENT OF STATE				
	ADMINISTRATION OF FOREIGN AFFAIRS				
97-168	Salaries and expenses	22,070,000	22,078,000	22,078,000	22,078,000
	DEPARTMENT OF TRANSPORTATION				
	FEDERAL HIGHWAY ADMINISTRATION				
97-168	Limitation on general operating expenses (increase in limitation)	(2,829,000)	(2,500,000)	(2,500,000)	(2,500,000)
	FEDERAL RAILROAD ADMINISTRATION				
97-168	Office of the administrator	240,000	200,000	200,000	200,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	URBAN MASS TRANSPORTATION ADMINISTRATION				
97-168	Administrative expenses	500,000	500,000	500,000	500,000
	FEDERAL AVIATION ADMINISTRATION				
97-168	Operations	83,794,000	83,794,000	83,794,000	83,794,000
97-168	Operation and maintenance, Metropolitan Washington airports	456,000	456,000	456,000	456,000
	Total, Federal Aviation Administration	84,250,000	84,250,000	84,250,000	84,250,000
	COAST GUARD				
97-168	Operating expenses	78,100,000	78,100,000	64,100,000	64,100,000
---	(By transfer)	---	(14,000,000)	(14,000,000)	(14,000,000)
97-168	Reserve training	1,500,000	2,000,000	2,000,000	2,000,000
---	(By transfer)	---	(868,000)	(868,000)	(868,000)
	Total, Coast Guard	79,600,000	80,100,000	66,100,000	66,100,000
	SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION				
97-168	Limitation on administrative expenses (increase in limitation)	(38,000)	(38,000)	(38,000)	(38,000)
	OFFICE OF THE INSPECTOR GENERAL				
97-168	Salaries and expenses	500,000	445,000	445,000	445,000
97-168	(By transfer)	(155,000)	(155,000)	(155,000)	(155,000)
	RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION				
97-168	Research and special programs (by transfer)	(218,000)	---	---	---
	OFFICE OF THE SECRETARY				
97-168	Salaries and expenses	1,385,000	700,000	700,000	700,000
	Total, Department of Transportation	166,475,000	166,195,000	152,195,000	152,195,000
	(By transfer)	(373,000)	(15,023,000)	(15,023,000)	(15,023,000)
	(Increase in limitations)	(2,867,000)	(2,538,000)	(2,538,000)	(2,538,000)
	DEPARTMENT OF THE TREASURY				
	Office of the Secretary:				
97-168	Salaries and expenses	1,766,000	1,766,000	1,766,000	1,766,000
97-168	International affairs	992,000	992,000	992,000	992,000
	Office of Revenue Sharing:				
97-168	Salaries and expenses	181,000	61,000	61,000	61,000
	Federal Law Enforcement Training Center:				
97-168	Salaries and expenses	255,000	255,000	255,000	255,000
	Bureau of Government Financial Operations:				
97-168	Salaries and expenses	2,588,000	2,588,000	2,588,000	2,588,000
97-168	Chrysler Corporation Loan Guarantee Program	9,000	---	---	---
	Bureau of Alcohol, Tobacco and Firearms:				
97-168	Salaries and expenses	2,685,000	2,685,000	2,685,000	2,685,000
	United States Customs Service:				
97-168	Salaries and expenses	18,565,000	18,565,000	18,565,000	18,565,000
	Bureau of the Mint:				
97-168	Salaries and expenses	3,386,000	3,386,000	3,386,000	3,386,000
	Bureau of the Public Debt:				
97-168	Administering the public debt	1,594,000	1,594,000	1,594,000	1,594,000
	Internal Revenue Service:				
97-168	Salaries and expenses	8,068,000	8,068,000	8,068,000	8,068,000
97-168	Taxpayer service and returns processing	25,222,000	25,222,000	25,222,000	25,222,000
97-168	Examination and appeals	34,846,000	34,846,000	34,846,000	34,846,000
97-168	Investigation and collections	23,117,000	23,117,000	23,117,000	23,117,000
	Total, Internal Revenue Service	91,253,000	91,253,000	91,253,000	91,253,000
	United States Secret Service:				
97-168	Salaries and expenses	5,855,000	5,855,000	5,855,000	5,855,000
	Total, Department of the Treasury	129,129,000	129,000,000	129,000,000	129,000,000
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION				
97-168	Research and program management	31,050,000	80,000,000	80,000,000	80,000,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	VETERANS ADMINISTRATION				
97-168	Medical care	97,308,000	147,308,000	147,308,000	147,308,000
97-168	(By transfer)	(50,000,000)	---	---	---
97-168	Medical and prosthetic research	4,244,000	4,244,000	4,244,000	4,244,000
97-168	Medical administration and miscellaneous operating expenses	1,078,000	1,078,000	---	---
97-168	General operating expenses	21,925,000	21,925,000	21,925,000	21,925,000
97-168	Construction, minor projects	579,000	---	---	---
	Total, Veterans Administration	125,134,000	174,555,000	173,477,000	173,477,000
	(By transfer)	(50,000,000)	---	---	---
	OTHER INDEPENDENT AGENCIES				
	ACTION:				
97-168	Operating expenses, domestic programs	952,000	952,000	952,000	952,000
	Administrative Conference of the United States:				
97-168	Salaries and expenses	52,000	52,000	52,000	52,000
	Advisory Council on Historic Preservation:				
---	Salaries and expenses	---	25,000	---	---
	Civil Aeronautics Board:				
97-168	Salaries and expenses	766,000	700,000	---	375,000
	Commission of Fine Arts:				
97-168	Salaries and expenses	8,000	12,000	12,000	12,000
	Committee for Purchase from the Blind and other Severely Handicapped:				
97-168	Salaries and expenses	19,000	19,000	19,000	19,000
97-168	Commodity Futures Trading Commission	888,000	788,000	788,000	788,000
	Consumer Product Safety Commission:				
97-168	Salaries and expenses	675,000	500,000	500,000	500,000
	Equal Employment Opportunity Commission:				
97-168	Salaries and expenses	4,850,000	4,850,000	4,850,000	4,850,000
	Farm Credit Administration:				
97-206	Limitation on administrative expenses (increase in limitation)	(259,600)	(259,000)	(259,000)	(259,000)
	Federal Communications Commission:				
97-168	Salaries and expenses	3,124,000	3,124,000	3,000,000	3,000,000
	Federal Election Commission:				
97-168	Salaries and expenses	184,000	184,000	184,000	184,000
	Federal Emergency Management Agency:				
97-168	Salaries and expenses (by transfer)	(2,084,000)	(2,084,000)	(2,084,000)	(2,584,000)
	Federal Home Loan Bank Board:				
	Federal Home Loan Bank Board:				
97-168	(Increase in limitation on administrative expenses)	(630,000)	(400,000)	(400,000)	(400,000)
97-168	(Increase in limitation on nonadministrative expenses)	(800,000)	(300,000)	(300,000)	(300,000)
	Federal Savings and Loan Insurance Corporation				
97-168	(Increase in limitation on administrative expenses)	(30,000)	(30,000)	(30,000)	(30,000)
	Federal Labor Relations Authority:				
97-168	Salaries and expenses	645,000	645,000	645,000	645,000
	Federal Maritime Commission:				
97-168	Salaries and expenses	273,000	273,000	273,000	273,000
	Federal Mine Safety and Health Review Commission:				
97-168	Salaries and expenses	225,000	225,000	225,000	225,000
	General Services Administration:				
	Federal Buildings Fund:				
	Limitations on availability of revenue (increase in limitations):				
97-168	Program direction	(3,022,000)	(3,022,000)	(3,022,000)	(3,022,000)
97-168	Federal Supply Service: operating expenses	4,088,000	4,088,000	4,088,000	4,088,000
	Transportation and Public Utilities Service:				
97-168	Operating expenses	611,000	611,000	611,000	611,000
97-168	National Archives and Records Service: Operating expenses	1,681,000	1,681,000	1,681,000	1,681,000
	Automated Data and Telecommunications Service:				
97-168	Operating expenses	488,000	488,000	488,000	488,000
	Federal property resources service:				
97-168	Operating expenses	578,000	578,000	578,000	578,000
97-168	(By transfer)	(501,000)	(501,000)	(501,000)	(501,000)
97-168	General management and administration: Salaries and expenses	4,994,000	4,994,000	4,994,000	4,994,000
97-168	Office of Inspector General	677,000	677,000	677,000	677,000
97-168	Consumer Information Center	29,000	---	---	---
	Holocaust Memorial Council:				
---	Salaries and expenses	---	17,000	17,000	17,000
	Intelligence Community Staff:				
97-168	Intelligence community staff	632,000	632,000	632,000	632,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	OTHER INDEPENDENT AGENCIES—Continued				
	Intergovernmental Agencies				
	Advisory Commission on Intergovernmental Relations:				
97-168	Salaries and expenses	82,000	82,000	82,000	82,000
	International Communication Agency:				
97-168	Salaries and expenses	7,115,000	7,115,000	---	7,115,000
---	(By transfer)	---	---	(7,115,000)	---
	International Trade Commission:				
97-125	Salaries and expenses	603,000	603,000	603,000	603,000
	Merit Systems Protection Board:				
97-168	Salaries and expenses	326,000	326,000	326,000	326,000
97-168	Office of the Special Counsel	104,000	104,000	104,000	104,000
	Total, Merit Systems Protection Board	430,000	430,000	430,000	430,000
	National Capital Planning Commission:				
97-168	Salaries and expenses	106,000	106,000	106,000	106,000
	National Foundation on the Arts and the Humanities:				
97-168	National endowment for the arts: Salaries and expenses	170,000	250,000	170,000	170,000
	National Labor Relations Board:				
97-168	Salaries and expenses	2,400,000	2,400,000	2,400,000	2,400,000
	National Science Foundation:				
97-168	Research and related activities	1,900,000	1,900,000	1,900,000	1,900,000
	National Transportation Safety Board:				
97-168	Salaries and expenses	580,000	580,000	580,000	580,000
	Nuclear Regulatory Commission:				
97-168	Salaries and expenses	3,344,000	---	---	---
	Office of Personnel Management:				
97-168	Salaries and expenses	3,312,000	3,312,000	3,312,000	3,312,000
97-168	Salaries and expenses (by transfer from trust funds)	(803,000)	(803,000)	(803,000)	(803,000)
	Pennsylvania Avenue Development Corporation:				
97-168	Salaries and expenses	48,000	48,000	48,000	48,000
	Railroad Retirement Board:				
97-168	Limitation on administration (increase in administration)	(661,000)	(661,000)	(661,000)	(661,000)
	Selective Service System:				
97-168	Salaries and expenses	938,000	938,000	938,000	938,000
	Smithsonian Institution:				
97-168	Salaries and expenses	2,300,000	2,700,000	2,700,000	2,700,000
	National Gallery of Art:				
---	Salaries and expenses	---	300,000	---	---
	Woodrow Wilson International Center for Scholars:				
---	Salaries and expenses	---	25,000	25,000	25,000
	UNITED STATES TAX COURT				
97-125	Salaries and expenses	381,000	381,000	381,000	381,000
	TITLE II - INCREASED PAY COSTS				
	TOTAL - New budget (obligational) authority	6,204,886,000	6,187,225,640	6,106,872,640	6,145,002,640
	(By transfer)	(129,006,000)	(164,846,000)	(112,861,000)	(145,872,000)
	(Increase in limitations)	(79,559,000)	(78,500,000)	(78,500,000)	(78,500,000)
	(Trust fund transfer)	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
TITLE I - GENERAL SUPPLEMENTALS				
Chapter I				
Agriculture:				
New budget (obligational) authority	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
Authority to borrow	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Chapter II				
Commerce, Justice, State and the Judiciary:				
New budget (obligational) authority	131,384,000	107,538,000	151,086,000	149,951,000
Appropriations	(131,294,000)	(109,353,000)	(152,901,000)	(151,766,000)
Reappropriation FY 1983	(90,000)	(185,000)	(185,000)	(185,000)
Rescission	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
(By transfer)	(40,000,000)	(4,000,000)	(12,550,000)	(6,250,000)
(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitaiton on guaranteed loans)	(3,633,250,000)	(28,250,000)	(4,103,250,000)	(4,103,250,000)
(Effect of deferral disapproval)	---	(915,000)	(6,515,000)	(6,515,000)
(Effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
Chapter III				
Defense:				
New budget (obligational) authority	2,422,350,000	367,560,000	492,754,000	435,354,000
Appropriations	(2,078,629,000)	(367,560,000)	(492,754,000)	(435,354,000)
Reappropriation FY 1983	(343,721,000)	---	---	---
(By transfer)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
(Appropriations to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
Chapter IV				
District of Columbia:				
District of Columbia funds (net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
(By transfer)	---	---	(2,700,000)	(2,700,000)
Chapter V				
Energy and Water Development:				
New budget (obligational) authority	97,400,000	92,700,000	56,200,000	64,300,000
(By transfer)	(2,000,000)	(14,000,000)	(2,000,000)	(16,000,000)
Chapter VI				
Foreign Operations:				
New budget (obligational) authority	516,531,000	1,031,000	426,531,000	406,543,000
(By transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
(Limitation on guaranteed loans)	(186,000,000)	---	(186,000,000)	---
(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
Chapter VII				
Housing & Urban Development-Independent Agencies:				
New budget (obligational) authority	3,775,000	---	304,000	150,000
(By transfer)	(500,000)	(8,500,000)	(12,698,000)	(12,698,000)
(Limitation on guaranteed loans)	(-20,350,000,000)	---	---	---
Chapter VIII				
Interior and Related Agencies:				
New budget (obligational) authority	178,150,000	217,382,000	199,553,500	223,939,000
Appropriations	(200,050,000)	(268,582,000)	(234,553,500)	(258,939,000)
Reappropriation FY 1983	(2,300,000)	(3,000,000)	(3,000,000)	(3,000,000)
Rescissions	(-24,200,000)	(-54,200,000)	(-38,000,000)	(-38,000,000)
(By transfer)	(1,237,000)	(991,000)	(991,000)	(991,000)
(Effect of new deferral)	---	---	---	(-64,000,000)
Chapter IX				
Labor, Health and Human Services, and Education:				
New budget (obligational) authority	561,046,000	800,154,000	772,648,000	790,984,000
Appropriations	(608,475,000)	(800,154,000)	(820,834,000)	(839,170,000)
Rescissions	(-47,429,000)	---	(-48,186,000)	(-48,186,000)
(Increase in limitations)	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
(By transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)
Chapter X				
Legislative Branch:				
New budget (obligational) authority	35,629,000	7,359,325	2,770,325	8,757,325
Chapter XI				
Military Construction:				
New budget (obligational) authority	198,700,000	45,000,000	45,000,000	45,000,000
Chapter XII				
Transportation:				
New budget (obligational) authority	176,645,000	383,645,000	187,520,000	340,020,000
Appropriations	(1,033,159,000)	(1,049,190,275)	(957,065,275)	(1,109,565,275)
Rescissions	---	--	(-104,000,000)	(-104,000,000)
(By transfer)	(5,000,000)	(32,400,000)	(19,000,000)	(19,000,000)
(Limitation on guaranteed loans)	(-185,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)

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H. Doc.	Supplemental Request	House	Senate	Conference
TITLE I - GENERAL SUPPLEMENTALS—Continued				
Chapter XIII				
Treasury, Postal Service & General Government:				
New budget (obligational) authority..........	529,688,000	547,124,959	568,421,959	567,264,959
Appropriations..............................	(743,518,000)	(754,384,959)	(756,681,959)	(774,524,959)
Rescissions.................................	(-215,230,000)	(-208,660,000)	(-189,660,000)	(-208,660,000)
Reappropriation FY 1982.....................	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
(By transfer)................................	---	---	(19,000,000)	---
(Increase in limitations)....................	(857,000)	(857,000)	(857,000)	(857,000)
Total, title I - General Supplementals:				
New budget (obligational) authority..........	9,851,298,000	7,569,494,284	7,902,788,784	8,032,263,284
Appropriations..............................	(5,647,160,000)	(3,495,314,559)	(3,945,595,059)	(4,094,069,559)
Rescissions.................................	(-286,859,000)	(-264,860,000)	(-381,846,000)	(-400,846,000)
Reappropriation FY 1982.....................	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
Authority to borrow.........................	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Appropriation for debt reduction............	(-856,514,000)	(-665,545,275)	(-665,545,275)	(-665,545,275)
Subtotal, fiscal year 1982................	(9,505,187,000)	(7,566,309,284)	(7,899,603,784)	(8,029,078,284)
Reappropriation FY 1983.....................	(346,111,000)	(3,185,000)	(3,185,000)	(3,185,000)
(Appropriation to liquidate contract authority and obligations).................	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
(By transfer)................................	(87,120,000)	(213,774,000)	(262,239,000)	(250,939,000)
(Limitation on administrative expenses)......	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
(Increase in limitations)....................	(6,436,000)	(6,436,000)	(6,257,000)	(6,257,000)
(Limitation on direct loans).................	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitation on guaranteed loans).............	(-16,715,750,000)	(-141,750,000)	(4,119,250,000)	(3,933,250,000)
(Limitation on obligations)..................	(300,000,000)	---	(250,000,000)	(125,000,000)
(Effect of deferral disapproval).............	---	(38,415,000)	(44,015,000)	(44,015,000)
(Effect of new deferral).....................	---	(-2,000,000)	(-2,000,000)	(-66,000,000)
(District of Columbia funds - net)...........	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
Total, title II - Increased Pay Costs:				
New budget (obligational) authority..........	6,204,886,000	6,187,225,640	6,106,872,640	6,145,002,640
(By transfer)................................	(129,006,000)	(164,846,000)	(112,861,000)	(145,872,000)
(Increase in limitations)....................	(79,559,000)	(78,500,000)	(78,500,000)	(78,500,000)
(Trust fund transfer)........................	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
(Transfer from Commodity Credit Corporation).	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
Grand total - titles I and II:				
New budget (obligational) authority..........	16,056,184,000	13,756,719,924	14,009,661,424	14,177,265,924
Appropriations..............................	(11,852,046,000)	(9,682,540,199)	(10,052,467,699)	(10,239,072,199)
Rescissions.................................	(-286,859,000)	(-264,860,000)	(-381,846,000)	(-400,846,000)
Reappropriation FY 1982.....................	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
Authority to borrow.........................	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Appropriation for debt reduction............	(-856,514,000)	(-665,545,275)	(-665,545,275)	(-665,545,275)
Subtotal, fiscal year 1982................	(15,710,073,000)	(13,753,534,924)	(14,006,476,424)	(14,174,080,924)
Reappropriation FY 1983.....................	(346,111,000)	(3,185,000)	(3,185,000)	(3,185,000)
(Appropriation to liquidate contract authority and obligations).................	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
(By transfer)................................	(216,126,000)	(378,620,000)	(375,100,000)	(396,811,000)
(Limitation on administrative expenses)......	(122,459,000)	(121,400,000)	(121,400,000)	(121,400,000)
(Increase in limitations)....................	(6,436,000)	(6,436,000)	(6,257,000)	(6,257,000)
(Trust fund transfer)........................	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
(Transfer from Commodity Credit Corporation).	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
(Limitation on direct loans).................	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitation on guaranteed loans).............	(-16,715,750,000)	(-141,750,000)	(4,119,250,000)	(3,933,250,000)
(Limitation on obligations)..................	(300,000,000)	--	(250,000,000)	(125,000,000)
(Effect of deferral disapproval).............	---	(38,415,000)	(44,015,000)	(44,015,000)
(Effect of new deferral).....................	--	(-2,000,000)	(-2,000,000)	(-66,000,000)
(District of Columbia funds - net)...........	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. William J. Coyne).

Mr. WILLIAM J. COYNE. Mr. Speaker, I seek clarification of language contained in the committee report to accompany H.R. 6863 on pages 104 and 105 in the section concerning the Bureau of Mines.

I would like to enter into a brief colloquy with the chairman of the subcommiittee, the gentleman from Illinois (Mr. Yates), if the gentleman is available.

Mr. Speaker, the language concerns the implementation of Public Law 96-543 which authorizes the Secretary of the Interior to enter into a contract with Carnegie-Mellon University of Pittsburgh. The committee report reads as follows:

> The committee understand that suitable appraisals of the fair market value as of September 1, 1982, of the Forbes Avenue property have recently been obtained. Therefore, the committee expects the Secretary to now establish a fixed price for the property based on its fair market value as of September 1, 1982, so that a contract of sale with Carnegie-Mellon University can be entered into without delay.

Mr. Speaker, it is my understanding that this transaction will not cost the Federal Government any money. With that in mind, Mr. Speaker, was it the committee's intent that the price in question be the fair market value as of the date of the contract which is September 1, 1982.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WILLIAM J. COYNE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the statement of the gentleman is correct. That was the committee's intent.

Mr. WILLIAM J. COYNE. I thank the chairman of the subcommittee.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. Myers).

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Mr. MYERS. Mr. Speaker, I signed the conference report with a couple exceptions and I think the number of exceptions that we have in the conference report by the signers indicates that there certainly were problems with this supplemental. The bill has a lot of money in it that is very important to the functions of our Government; but also at this late date in this fiscal year it is very obvious by the size of this supplemental that there is going to be money that cannot be spent wisely; so I am afraid this supplemental is facing a certain veto. Particularly, one item that I object to, there are some weapons requests that I think it would have been wise for us to have continued the purchase and construction of these weapons.

The other amendment, No. 177, requires the President, or the executive, to hire some people in some agencies that might not be needed. I think this is unwise for us at this time. At the proper time I am going to ask that we withhold our support for these two amendments.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, chapter VII is not controversial. The major difference between the House passed bill and the conference agreement is the language in the annual contributions for assisted housing paragraph.

The language amends the Urgent Supplemental Appropriations Act by mandating that $1,750,000,000 provided in such act shall be available to assist in "buying out" the section 8 pipeline. The Urgent Supplemental Appropriations Act provides that the $1,750,000,000 could be used to buy out the section 8 pipeline. OMB is insisting that the $1,750,000,000 be deferred until fiscal year 1983. The language agreed upon will insure that the existing pipeline of section 8 and public housing units will have sufficient funds to go to construction.

Chapter VII also includes $150,000 and bill language requiring that the Director of the Selective Service establish, at the time of mobilization, civilian review boards to review appeals made by conscientious objectors to their job assignments.

In addition to agreements reached on various pay cost requirements, chapter VII includes language permitting the transfer of $4,198,000 from the Veterans' Administration's medical care account to the medical and prosthetic research account for the purpose of three agent orange studies. The conferees believe that such medical research should be managed within the medical and prosthetic research account.

The conference report contains two other items which I consider especially important. By making an additional $26.5 million available for three discretionary programs for educating handicapped children, this legislation will restore the programs to about the level of funding they received in fiscal year 1981. These programs had been reduced between 20 percent and 50 percent by the continuing resolution adopted by Congress late last year, and those reductions were altogether too severe. The money we spend on providing a quality education to those of our children who are handicapped pays extraordinary dividends by helping them become fully productive members of society. I am pleased that this conference report gives us an opportunity to insure the continued effective operation of these vital education programs.

When the supplemental appropriations bill was before the House several weeks ago, I indicated to my colleagues that it would insure that the problem created by the decision of Secretary of Education Bell to use 1970 rather than 1980 census data in allocating title I compensatory education for the disadvantaged funds was resolved. By making available an additional $148 million in title I funds, the bill will allow allocations for the coming school year to be made on the basis of either the 1970 or 1980 census data, whichever yields the higher allocation. The conference report further clarifies the expected use of this appropriation by directing that it be used only in those counties that would experience a gain or loss in their allocation depending upon the selection of census data. It is important that title I funds go to those areas most in need of them, and this legislation will insure that that result is achieved.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding.

There has been some talk here about a veto. I want to point out that with regard to the $148 million in this bill for the disadvantaged, title I; if this bill is vetoed, there is going to be a great deal of difficulty in a number of school districts. There will not be any congressional district in the United States that will escape this problem.

The problem comes in the allocation of the funds and whether the Department uses the 1970 census or the 1980 census as a basis for distributing the funds to local districts and there has been a dispute about that. The Census Bureau has not been able to finalize their census data, because they had some problems in Puerto Rico and a couple other places, and under the technical wording of the law the Education Department says that if they do not have the final data even down to the last precinct, that then they will distribute on the basis of the number of disadvantaged children in each district according to the 1970 census instead of the 1980 census.

This $148 million would provide enough money so that a district will receive whatever they would under whichever census would provide the most for that district. That is just for this year only; but if this bill is vetoed and it is sustained, there will be a lot of problems in a lot of school districts. The time to distribute the money is now and the districts with the increased population of disadvantaged will not receive the additional funds they need unless this bill will provide the $148 million in extra funds. There

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is no congressional district in the United States that will escape this problem.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Yates).

Mr. YATES. Mr. Speaker, the conference agreement on the Interior chapter includes supplemental appropriations of $258,939,000, rescissions of $38,000,000, a reappropriation of $3,000,000, and transfer of $991,000, for a net increase over the budget estimates of $115,489,000. More than half of this amount is offset by a deferral of $64,000,000.

The conference agreement includes $130,900,000 for fire supplementals, $21,000,000 for the resettlement and relocation of the people of Bikini Atoll, and $6,200,000 for improvement of the royalty management program in the Department of the Interior. The conference agreement provides $2,000,000 for planning and design for the reconstruction of the Wolf Trap Farm Park for the Performing Arts, and $2,000,000 to restore the F.D.R. Home National Historic Site at Hyde Park, N.Y., both of which were destroyed or damaged by fire.

The conference agreement provides $11,200,000 for construction of sanitation facilities for Indian housing units which are under construction by BIA and HUD in fiscal year 1982, but without the necessary central sanitation facilities to make them habitable.

There is included in the conference agreement a plan to terminate the Federal Government's direct involvement in the SRC-I project. The agreement includes $28,100,000 for postbaseline work, including toxicological studies, $22,000,000 for termination costs, and $5,000,000 for the Department of Energy to manage these activities. The balance of the amount previously appropriated for the SRC-I project, $64,000,000, has been deferred. It will receive further consideration in the regular appropriations bill, for the Department of the Interior for fiscal year 1983.

A rescission of $8,000,000 for the Federal Inspector for the Alaska gas pipeline as proposed by the administration is included in the conference agreement. In addition to this rescission, the agreement also provides for rescission of $30,000,000 in annual contract authority under the land and water conservation fund. The agreement provides that this amount be appropriated for land acquisition, to be used for payment of anticipated deficiencies for land condemnation cases on which court action has been completed or is pending.

The conferees have developed a sound, balanced proposal. I recommend its adoption as presented.

● Mr. KASTENMEIER. Mr. Speaker, the conference report (H. Rept. No. 97-747) on H.R. 6863 contains $41,750,000 for buildings and facilities for the Federal prison system. The House had originally approved $1.5 million of this amount to improve security at the Metropolitan Correctional Center in Miami, Fla. The Senate added $22 million for the construction of a new Federal prison in Phoenix, Ariz.; $1,250,000 to acquire and renovate a surplus U.S. Air Force facility at Mount Laguna, Calif., for a minimum security camp; and $17 million for a detention facility for the detention of aliens. The conference report indicates that the detention facility may be located in either El Reno, Okla. (colocated with a Federal prison which is there), or in Oakdale, La., and that before alternate sites are approved, reprograming procedures must be followed. I have particular concerns about the $17 million detention facility. On May 25, 1982, the administration requested $35 million in this supplemental bill for the construction of two 1,000-bed detention facilities for aliens—each to be colocated with a Federal prison—one in Petersburg, Va., and the other in El Reno, Okla. On June 23, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice held hearings on this proposal.

I have subsequently expressed my views to the gentleman from Iowa (Mr. Smith) on the many problems with the proposal to build such facilities, and I appreciate the attention which he has given to my views.

First, I question whether there is a need for such facilities. Within the past year the administration has tightened its standards for the release of aliens pending determination of their immigration status and asylum claims. The new policy has resulted in the detention of 2,000 Haitians in INS camps and BOP facilities. Recently Judge Eugene Spellman ordered the release of most of these Haitians. One of the Haitians who was a plaintiff in the case committed suicide last week. Many other Haitians in detention have attempted suicide. I regret this rigid detention policy and the slowness in effectuating release to appropriate relatives and community sponsors. Community release offers a less expensive, more humane alternative to undocumented aliens, many of whom are seeking asylum.

Second, assuming that there may be a need to increase the number of detention spaces for undocumented aliens, I question the fact that the administration has idicated its intent to build 1,000-bed facilities. If the bureau of Prisons (BOP) was constructing a new prison for convicted criminals, as opposed to undocumented aliens, it would not build any facility larger than 500 beds, in order to be consistent with current correctional standards.

In addition to questions about the size of these facilities, I question the remote location of these facilities—distant from the places of apprehension and from families and legal representatives of these aliens. Therefore, smaller facilities located closer to major metropolitan areas might be more suitable. The gentleman from Kentucky (Mr. Mazzoli) has indicated that this would be a preferable alternative.

My final question is whether the BOP is the appropriate caretaker of undocumented aliens. Traditionally the INS has been given this responsibility. In conclusion, I believe there are too many unanswered questions and variables; for example, immigration reform legislation, to justify the expenditure of $17 million on such a facility at this time.●

● Mr. MOFFETT. Mr. Speaker, the conference report on the supplemental appropriations bill, H.R. 6863, contains essential funding for vitally important programs, particularly the title I compensatory education program and title V, the senior community service employment program. Without the additional funding earmarked in the supplemental bill, the well-being of disadvantaged children and low-income elders—the most vulnerable members of our communities—will be seriously jeopardized.

H.R. 6863 contains an additional $148 million for title I. This sum represents the amount of title I dollars necessary to overcome the potential loss of funds based on either 1970 or 1980 census data. In my home State of Connecticut, the issue of using the outdated census figures on the number of children living below the poverty level could result in a significant loss of title I services. Since 1970, there has been an increase of 27 percent in the number of such poverty level children in Connecticut. The Connecticut State Department of Education has supplied me with figures that detail the extent of the damage done by computing allotments with 1970 census data. $3 million would be lost in title I funds; 4,100 children would be cut from the program; and, 200 staff positions would have to be terminated. Taken in conjunction with funding reductions casued by Federal budget cuts in education, the hardship imposed by the antiquated census data would be considerable—and entirely unfair. The $148 million for title I contained in the supplemental bill will insure that our State will not suffer from the use of outdated census data.

The senior community service employment program, title V, is facing shutdown if we do not appropriate the additional $211 million contained in H.R. 6863. I have heard from hundreds of title V participants, and those they serve, on the tremendous value and benefits they have derived from the senior employment program. Nationwide, 54,200 low-income elders are taking part in the job training, job fairs, and referrals to permanent private sector employment provided by title V. In addition to the inherent sense of belonging and dignity which community service brings to elders, title V is a very wise investment for our Nation. A 1976-78 study by the National Retired Persons Association and the American Association of Retired Persons revealed that for every title V $1 invested, $1.15 is saved. The placement of retirees in permanent jobs yields a total rate of return of approximately 16 percent per year to the American taxpayer.

Allowing this program to shut down would simply be unconscionable. The $211 million contained in the supplemental bill will insure that this forward-funded employment initiative will continue to serve senior citizens through next summer. I must make note of an aspect of the conference agreement on title V about which I have grave reservations, at this point. The Older Americans Act clearly stipulates an allocation formula for title V which requires that 55 percent of new moneys be earmarked for State sponsors and 45 percent for national contractors. H.R. 6863, however, changes the statutory formula so that State sponsors will receive a reduced percentage of new title V dollars and national contractors an increase. The Connecticut State Commissioner on Aging has informed me that the loss of State title V funds will cause both job loss and dislocation for elders participating in the State-sponsored program. The State program currently provides employment for 158 economically disadvantaged elders, who may be adversely affected by job dislocation and changeover, due to the loss of State funds. It should also be noted that the State program insures an equitable distribution of services across the State, reaching seniors who are not assisted by private contractors.

In closing, I sincerely hope that President Reagan does not follow through on his threat to veto today's supplemental appropriations bill. Essential services for this Nation's disadvantaged citizens would be seriously undermined. Let us show our commitment to insuring the future well-being of the most vulnerable persons in this Nation, low-income elders and children, by approving H.R. 6863 overwhelmingly.●

Mr. RINALDO. Mr. Speaker, I rise in support of the conference report on H.R. 6863, the supplemental appropriations bill for fiscal year 1982.

As a strong supporter of employment rights and opportunities for older workers, I am particularly pleased to note the inclusion of $210 millon for the senior community service employment program under title V of the Older Americans Act. This amount, plus the $66.5 million appropriated in the continuing resolution, together provide a total of $277.1 million for fiscal year 1982—the same amount authorized in the older Americans act amendments of 1981, signed by the President last December. Because the program is forward funded, money in this bill will continue this program beyond September 30, 1982, through June 30, 1983, at its current national level of 54,200 jobs.

I have been a consistent supporter of the cost-effective older workers program because it provides the opportunity for low-income persons aged 55 and over the chance to remain active and vital members of the work force. The program helps workers to lead independent, productive, and satisfying lives, while performing critical community services in such settings as clinics, hospitals, schools, libraries, and senior citizens' nutrition sites. In my own State of New Jersey, over 1,680 individuals depend on title V for employment.

It is critical that we maintain the existing partnership between the States and the national contractors in sponsoring these jobs. Moreover, any disruption in funding caused by the failure to timely implement this appropriations bill will create untold hardship among the thousands of title V job holders and those who depend on them for vital services. The Congress owes it to our Nation's elderly to provide continued funding for older workers' jobs now.●

● Mr. RAHALL. Mr. Speaker, today I rise to express my support to amendment No. 55 to the conference report on H.R. 6863, making supplemental appropriations for fiscal year 1982. This amendment makes it clear that Congress intended for work authorized under section 202 of the Energy and Water Development Act of 1981, the Tug Fork flood protection project, to be carried out especially with regard to the Williamson, W. Va., and Pineville and Barbourville, Ky., project components.

Earlier this year the administration turned its back on the taxpayers of this region by ordering a halt to all construction on the Tug Fork project. Their decision was based on false assumptions. This amendment, hopefully, will clarify the intent of Congress with regard to this flood protection project. Several years ago, this project was passed after undergoing close Congressional scrutiny. Once again, we must make clear to an administration that this is a worthwhile project, that is needed and has many benefits.

I wish to commend the conferees on both sides of the aisle and in both Houses for including this language in the supplemental appropriations bill. This should send a clear signal to the administration that Congress supports the construction of flood protection measures on the Levisa and Tug Forks of the Big Sandy River.●

● Mr. TRAXLER. Mr. Speaker, I want to take this opportunity to compliment the chairman of the Appropriations Committee, Mr. WHITTEN, for his skillful leadership of the House conferees on this supplemental appropriations bill. I know that budget limitations make any appropriations bill a difficult task, and it is only through the diligence of efforts like those of the gentleman from Mississippi that we will be able to be sure that proper attention is given to all of our diverse spending needs.

I am particularly interested in the section of the conference report which accompanies this legislation dealing with certain pilot school lunch projects. The House had originally taken the position that the Department of Agriculture could not give bonus assistance in any form but commodities, whereas the Senate had taken the position that the bonus assistance could be given either in cash, letter of credit, or commodities.

This issue is particularly critical because the bonus commodities that USDA provides to the school lunch program are out of surplus stocks held by USDA as a result of price support operations.

The Department had claimed that it could only conduct the pilot study which had been authorized in the fiscal 1981 Agricultural Appropriations Act if it was able to give out bonus assistance in mulitiple forms. If bonus assistance was available only in the form of commodities, the Department claimed that some of the schools participating in the study would drop out. I have yet to see any documentation beyond the assertions of the Department regarding this matter.

But the conferees recognized the essential element: The bonus commodity assistance provided to schools participating in the school lunch program is a program separate and distinct from the national school lunch program. When this study was authorized, and even now, we had no intention whatsoever of changing this bonus commodity program. Bonus commodity assistance, the report points out, will remain available so long as there are commodity surpluses to distribute.

For this very reason, the report clearly states that the Department shall not include in its evaluation phase any of the impacts of bonus assistance. The study is geared solely toward the basic school lunch program, not the bonus assistance program. Because the Department has given the committee assurances that it can "net out" the effects of bonus assistance, we feel confident that we can have a credible study of the basic

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school lunch program without jeopardizing the bonus commodity program.

But the Department must be aware that it is directed to separate out the impact of bonus assistance in its evaluation of these projects. It is being allowed to give bonus cash and bonus letters of credit only so that it can continue to run the pilot project without interruption. We are taking the Department at its word that schools would not participate in the absence of multiple forms of bonus assistance, and that its study methodology will allow for it to separate out the impact of bonus assistance. If the Department cannot meet these conditions, we expect the Department to tell the House Appropriations Committee immediately.

The bulk of the problems associated with this program have been of the Department's own making. It failed to secure total agreement in its study design from the Appropriations Committee, which authorized and funded this study. This point cannot be made too clearly. An examination of our hearing record with the Food and Nutrition Service on its fiscal 1983 request shows that the Department did not provide the same level of detail in response to questions about this program as it had in a recent meeting with committee staff regarding these pilot projects. I cannot explain why such detail was not provided earlier, and I appreciate the fact that the technicians working on this project at USDA have made every effort to be as honest as they can with respect to this project. Perhaps their recognition of a detailed response was not appreciated by the people holding policy positions at USDA. I am hopeful that such problems will not occur in the future.

The point, Mr. Speaker, is a simple one: USDA can give bonus assistance in the form it claims is necessary, but it may not evaluate bonus assistance in the study because the Appropriations Committee did not authorize such a study, and we fully expect the bonus program to continue to operate in its present form so long as surplus commodities remain.

The report also maintains the original House position regarding the third year of operation of these pilot projects: The Department should not make any plans for a third year without further authorization from Congress. We will review the operation of the project as it is underway, and make a determination with respect to the third year at a future date.

Again, Mr. Speaker, I want to thank the chairman, Mr. Whitten, and the staff of the Agricultural Appropriations Subcommittee, Mr. Bob Foster, and Mr. Hank Moore, for their assistance in this matter. It is one of great concern to me, and one which I will continue to pursue.●

● Mr. BIAGGI. Mr. Speaker, I rise to address myself to the pending amendment reported in technical disagreement to which a motion for the House to recede and concur will be offered. The program involved here is title V of the Older Americans Act—the Community Service Employment for Older Americans program.

The net effect of the upcoming motion will be to legislate on an appropriations bill which is violative of clause 2, rule 21. In fact—I had raised a point or order during House consideration of H.R. 6863 on this very point and it was sustained. Immediately afterward an amendment was offered which was ultimately accepted by the House which in effect was equivalent to language ruled to be out of order. One of the reasons this amendment was adopted was because its content was clearly misrepresented by its sponsor.

What is at issue here is the formula for distribution of the $277 million reserved for the title V program. Under the 1978 amendments to the Older Americans Act—a revision was made in the formula to try and provide more funds for the various State administered programs. As a result—during fiscal year 1981 and thus far in fiscal year 1982—76 percent of the funds have been given to eight national contractors and the remaining 24 percent to the various State programs.

The House version of H.R. 6863 proposed to give national contractors 80 percent of the funds while reducing State programs to 20 percent. Despite this being against the letter of the law it was pursued with great vigor for adoption by the House. The House language, had it prevailed, would have produced the loss of jobs for some 2,000 low-income elderly around this Nation.

When the House and Senate met in conference—a compromise agreement was achieved whereby 78 percent of funds will be reserved for national contractors and the remaining 22 percent for States. At this juncture let me pay tribute to my two colleagues from New York, Senators D'Amato and Mr. Addabbo for their herculean efforts which averted the full brunt of problems which would have occurred if the amendment agreed to by the House were upheld.

There are several issues involved here—the first of course relates to the program. The State administered programs are doing a find job of providing employment opportunities for eligible elderly. Estimates indicate that on the average State programs spend at least 5 percent less than they are allowed to under law for administrative costs meaning they spend more funds for the intended purpose providing employment. The record among some of the national contractors is nowhere as good and this should be remembered by those who would seek to give them more of the share of the funds under title V. It should also be noted that in a letter prepared by five of the eight national contractors they urged support for retaining the existing statutory formula for distribution of these funds.

The second main issue involved in this matter relates to the relationship between authorizing and appropriations committees in this House. The House Education and Labor Committee under the distinguished leadership of Carl Perkins has been the author and primary advocate for the various programs of the Older Americans Act since its creation in 1965. In 1981 the House and Senate overwhelmingly approved and the President readily signed into law the Older Americans Act amendments of 1981 which reauthorized for 3 years all of the programs under the act including title V. This same bill called for retaining the existing formula for distribution of the funds—namely 76 percent for national contractors and 24 percent for States. It did so and in the conference report which accompanied the legislation it stated clearly relative to the retention of the formula "efforts to distort this formula through other legislative vehicles clearly violate the letter and spirit of this act."

Certain members of the Appropriations Committee felt fit to ignore the existing law and seek to alter this formula. Unfortunately in this endeavor they have succeeded and the impact which this will have on the program remains to be seen. However one clearly recognizes the fact that it represents an unfortunate usurption of power from the Committee on Education and Labor and if the President should veto the legislation I will work to insure the formula is restored to present ratios.

What is not in dispute here today is the value and importance of title V for the 54,200 elderly it now serves. What is not in dispute is the millions of hours of community service provided by title V workers.

I am fully supportive of the fact that $210 million has been offered for retaining title V. Failure for us to complete the appropriation of this program today could result in the sending of traumatizing lay off notices for most title V workers. This is something we do not want.

I will support this conference report but wanted to make sure for the record that I convey my total opposition to the tampering with the title V formula and my resentment for the methods used to accomplish this change.●

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 67, not voting 19, as follows:

[Roll No. 293]

YEAS—348

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bailey (MO)
Bailey (PA)
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Coughlin
Coyne, James
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Goldwater
Gonsalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marriott
Martin (NC)
Martin (NY)
Martines
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Moakley
Molinari
Mollohan
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patterson
Pease
Fepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Siljander
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
St Germain
Stangeland
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Trible
Udall
Vander Jagt
Vento
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—67

Archer
Ashbrook
Atkinson
Badham
Barnard
Bennett
Bouquard
Broyhill
Cheney
Collins (TX)
Corcoran
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Dreier
Edwards (OK)
Fields
Prenzel
Gingrich
Gramm
Gregg
Grisham
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hubbard
Hughes
Hunter
Johnston
Jones (TN)
Kindness
Latta
Leath
Lewis
Loeffler
Lott
Lowery (CA)
Marlenee
Martin (IL)
McDonald
Michel
Montgomery
Moore
Moorhead
Patman
Paul
Roemer
Rousselot
Sensenbrenner
Shumway
Shuster
Smith (AL)
Smith (OR)
Snyder
Spence
Stenholm
Stump
Taylor
Thomas
Walker

NOT VOTING—19

Bafalis
Brown (CO)
Brown (OH)
Burton, John
Chappell
Courter
Fish
Ginn
Heftel
Holt
Madigan
Marks
Mitchell (NY)
Moffett
O'Brien
Pashayan
Stanton
Volkmer
Weber (OH)

□ 1610

The Clerk announced the following pairs:

On this note:

Mr. Courter for, with Mr. Brown of Colorado against.

Mr. TAYLOR, Mr. ATKINSON, Mrs. MARTIN of Illinois, and Messrs. GINGRICH, HERTEL, SAM B. HALL, JR., JONES of Tennessee, and BADHAM changed their votes from "yea" to "nay."

Messrs. JEFFORDS, SKELTON, EMERSON, SOLOMON, and HERTEL changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Colorado? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DINGELL, WIRTH, and BROYHILL.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT AND MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the conference report on the bill, H.R. 3239, may be filed with the House by midnight tonight, and that it be in order to consider the conference report on the bill, H.R. 3239, at any time after it is filed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 521, the consideration of which has been postponed indefinitely.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

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PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT THURSDAY, AUGUST 19, 1982, DURING 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow, August 19, 1982, for the purpose of considering legislation during the time that the House is sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS ACT, 1982

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178 be considered en bloc and printed in the Record.

This does not include the controversial items we discussed earlier. I have conferred with my colleague on the Republican side, the gentleman from Massachusetts (Mr. Conte) and I ask that these be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement.

The Senate amendments offered en bloc are as follows:

Senate amendment No. 1: Page 2, after line 13, insert:

Conservation

Soil Conservation Service

CONSERVATION OPERATIONS

Funds appropriated for fiscal year 1982 under this account may be used under the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f), for the acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

Senate amendment No. 3: Page 2, after line 15, insert:

Bureau of the Census

PERIODIC CENSUSES AND PROGRAMS

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $100,000 of the proposed deferral D82-225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs" as set forth in the message of February 5, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 4: Page 2, after line 15, insert:

Economic Development Administration

ECONOMIC DEVELOPMENT REVOLVING FUND

During fiscal year 1982, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $30,000,000. During fiscal year 1982, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal. The unobligated balances in the Economic Development Revolving Fund shall be available for necessary expenses of protecting the Government's liability in federally guaranteed loans made prior to October 1, 1981, under the authority of title II of the Trade Act of 1974, as amended, including defaults of loan guarantees and care and protection of collateral and such other costs as may be necessary to protect the Government's investments.

Senate amendment No. 5: Page 3, strike out lines 2, 3, and 4, and insert:

For necessary expenses for designing, fabricating, installing and dismantling exhibits, and operating a Federal Pavilion in the Louisiana World Exposition, $10,000,000, to remain available through September 30, 1985, including not to exceed $65,000 for official entertainment of officials of other countries when specifically authorized by the Commissioner General: Provided, That no additional Federal funds shall be made available for this purpose: Provided further, That these funds shall be available only upon enactment into law of authorizing legislation.

Senate amendment No. 8: Page 4, after line 7, insert:

DEPARTMENT OF TRANSPORTATION

Maritime Administration

FEDERAL SHIP FINANCING FUND

During 1982, total commitments to guarantee loans shall not exceed $675,000,000 of contingent liability for loan principal.

Senate amendment No. 10: Page 4, after line 24, insert:

BUSINESS LOAN AND INVESTMENT FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed $3,000,000,000 of contingent liability for loan principal.

Senate amendment No. 11: Page 4, after line 24, insert:

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $2,500,000 of the proposed deferral D82-233A relating to the Small Business Administration, "Business Loan and Investment Fund" as set forth in the message of May 18, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 12: Page 4, after line 24, insert:

SURETY BOND GUARANTEES REVOLVING FUND

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D82-234 relating to the Small Business Administration, "Surety Bond Guarantees Revolving Fund" as set forth in the message of February 5, 1982, which was tansmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 13: Page 4, after line 24, insert:

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE

REVOLVING FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

Senate amendment No. 15: Page 6, after line 5, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Of the funds provided under the above heading for fiscal year 1982, not to exceed $60,290 shall be available to satisfy a settlement pursuant to the Back Pay Act (5 U.S.C. 5596 and 29 CFR 1613,217(a), 271 (a), (b), and (c)) for back wages from prior fiscal years.

Senate amendment No. 18: Page 6, line 21, strike out "such amounts" and insert "funds appropriated under this head for fiscal year 1982".

Senate amendment No. 19: page 7, line 9, strike out "such amounts" and insert "funds appropriated under this head for fiscal year 1982".

Senate amendment No. 21: Page 7, line 21, after "$1,500,000," insert "of which $1,000,000 shall be derived by transfer from "Salaries and expenses, Antitrust Division",".

Senate amendment No. 22: Page 7, line 21, after "expended" insert ": *Provided*, That sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned: And provided futher, That the building to house aliens be constructed in a separate building from an existing Bureau of Prisons building housing Federal prisoners".

Senate amendment No. 37: Page 13, line 20, after "1982/1984"," insert "$7,500,000 shall be derived by transfer from "Weapons procurement, Navy, 1982/1984",".

Senate amendment No. 44: Page 16, line 5, after "Europe" insert "when coal from the United States is available".

Senate amendment No. 47: Page 16, line 20, strike out "$2,601,500" and insert "$3,401,500, of which $800,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council".

Senate amendment No. 49: Page 17, line 11, strike out "$38,144,400" and insert "$40,044,400 of which $1,900,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council".

Senate amendment No. 50: Page 18, after line 11, insert:

ADMINISTRATIVE PROVISIONS

Title 11 of the District of Columbia Code is amended by adding the following new section:

"§ 11-1732. Hearing commissioners

"(a) The chief judge of the superior court may appoint and may remove hearing commissioners who shall serve in the superior court and shall, in addition to the performance of the duties enumerated in subsection (c) of this section, perform such other duties as are not inconsistent with the Constitution and laws of the United States and of the District of Columbia, or as may be assigned by rule of the superior court.

"(b) No individual may be appointed or serve as a hearing commissioner under this section unless he or she has been a member of the bar of the District of Columbia for at least three years.

"(C) A hearing commissioner, when specifically disignated by the chief judge of the superior court, may perform the following functions:

"(1) administer oaths and affirmations and take acknowledgments.

"(2) with the consent of the parties, determine conditions of release and pretrial detention pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedures).

"(3) with the consent of the parties, conduct preliminary examinations in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

"(4) with the consent of the parties involved make findings and recommendations in uncontested proceedings, and in contested hearings in the civil, criminal and family divisions of the superior court. A rehearing of the case, or a review of the hearing commissioner's findings and recommendations, may be made by a judge of the appropriate division sua sponte. The findings and recommendations of the hearing commissioner shall when approved by a judge of the appropriate division constitute a final order of the Superior Court.

"(5) with the consent of the respondent make findings and recommendations in any nonjury traffic infraction matters in the superior court. A rehearing of the case, or a review of the hearing commissioner's findings and recommendations, may be made by a judge of the superior court sua sponte. The findings and recommendations of the hearing commissioner when approved by a judge of the superior court shall constitute a final order of the superior court.

"(d) The provisions contained in this section shall remain in effect until September 30, 1983.".

Senate amendment No. 51: Page 18, after line 12, insert:

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance", $2,000,000, to remain available until expended, to be derived by transfer of unobligated balances in the construction program.

Senate amendment No. 55: Page 19, after line 20, insert:

Appropriations for the execution of work pursuant to section 202 of the 1981 Energy and Water Development Appropriations Act shall be made available for obligation in the amount designated for that purpose with emphasis on the Pineville and Barbourville, Kentucky and Williamson, West Virginia project components and without regard to any other designation in the joint explanatory statement of the committee of conference (Report No. 97-345) pursuant to title I of the Energy and Water Development Appropriations Act, 1982. Flood control measures authorized by section 202 of the 1981 Energy and Water Development Appropriations Act involving high levees and floodwalls in urban areas should provide for a standard project flood level of protection where the consequences from overtopping caused by large floods would be catastrophic.

Senate amendment No. 67: page 22, after line 5, insert:

MEDICAL AND PROSTHETIC RESEARCH

(TRANSFER OF FUNDS)

For an additional amount for "Medical and prosthetic research", $4,198,000, to remain available until September 30, 1983, and which shall be derived by transfer from "Medical care".

Senate amendment No. 74: Page 25, line 2, after "legislation" insert ": *Provided further*, That the Park Service shall obligate by November 1, 1982, out of funds available, no more than $160,000 for the rehabilitation of the mounted police training barn at Rock Creek Park Horse Center for use by the National Center for Therapeutic Riding, as directed by the managers of the Committee of Conference on the bill making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1981 (Public Law 96-514).".

Senate amendment No. 83: Page 26, line 18, after "$7,000,000" insert ": *Provided*, That $11,100,000 of such amount shall be immediately available for transfer to the State of Alaska to assist in the basic operation and maintanance during the period ending September 30, 1984, of formerly Bureau-owned schools which have been transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to such schools on the same basis as other public schools".

Senate amendment No. 88: Page 28, after line 11, insert:

For an additional amount for "Construction and land acquisition", $3,000,000, to remain available until expended, for partial payment, subject to the execution of a memorandum of understanding by September 30, 1982 between the Secretary of the Interior, the Secretary of Agriculture, and the Chugach Natives, Incorporated, for the settlement of land claims of the Chugach Natives, Incorporated as authorized by Section 1302(h) and Section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and Section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204): Provided, That in the memorandum of understanding, Chugach Natives, Incorporated shall generally describe the lands to be conveyed to it in satisfaction of all its entitlements.

Senate amendment No. 89: Page 28, after line 15, insert:

Administrative Provision

Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Forest Service, U.S. Department of Agriculture shall not exceed $400 annually.

Senate amendment No. 93: Page 30, after line 19, insert:

Institute of Museum Services

Of the funds made available under this heading in Public Law 97-100, $720,000 shall remain available for obligation until September 30, 1983.

Senate amendment No. 96: Page 32, after line 2, insert:

(RESCISSION)

Of the amounts available for obligation in fiscal year 1982 for "Employment and training assistance", $48,146,000 are rescinded.

Senate amendment No. 100: Page 32, line 23, after "expenses" insert ": *Provided*, That none of the funds made available under this head for fiscal year 1982 may be obligated or expended to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary to be equivalent to Federal staffing levels".

Senate amendment No. 103: Page 33, after line 17, insert:

Funds appropriated for fiscal year 1982 pursuant to section 1537 of the Public Health Service Act shall not be denied to a health systems agency solely because it fails to meet the numerical criteria for staffing under section 1512(b)(2)(B) of the Act if the minimum size of its professional staff is three, or, if the quotient of the population (rounded to the nearest three hundred thousand) of the health service area which the agency serves divided by three hundred thousand is greater than three, the minimum size of the professional staff is the lesser of (i) such quotient, or (ii) twenty-five.

Senate amendment No. 107: Page 35, line 7, after "reduced" insert ": *Provided further*, That in the case of Puerto Rico, poverty data gathered by the Bureau of the Census in the 1975 Survey of Income and Education shall be used if 1980 Census data are not available".

Senate amendment No. 108: Page 35, after line 19, insert:

For an additional amount under section 7 of Public Law 874, Eighty-first Congress, to be made available to the Waubay School District, Waubay, South Dakota, $200,000.

Senate amendment No. 114: Page 39, after line 2, insert:

Senate

Salaries, Officers and Employees

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders", $120,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For an additional amount for "Administrative, clerical, and legislative assistance to Senators", $80,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For an additional amount for "Offices of the Secretaries for the Majority and Minority", $100,000.

Contingent Expenses of the Senate

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", $938,000.

ADMINISTRATIVE PROVISIONS

Sec. 101. Effective October 1, 1981, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of ten million but less than eleven million, the population of said State having exceeded ten million inhabitants.

Sec. 102. The third sentence of section 105(b) of the Legislative Branch Appropria-

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tion Act, 1957 (2 U.S.C. 123b (b)) is amended by striking out "and committees of the Senate" and inserting in lieu thereof "committees of the Senate, the Secretary of the Senate, and the Sergeant at Arms of the Senate".

Sec. 103. Clause (1) of section 117 of Public Law 97–51 (2 U.S.C. 61f–8) is amended to read as follows:

"(1) the procurement of the services, on a temporary basis, of individual consultants, or organizations thereof, with the prior consent of the Committee on Rules and Administration; such services may be procured by contract with the providers acting as independent contractors, or in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate; and any such contract shall not be subject to the provisions of section 5 of title 41, United States Code, or any other provision of law requiring advertising; and".

Sec. 104. (a) Paragraph (2) of subsection (b) of section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended to read as follows:

"(2) In the event that the term of office of a Senator begins after the first month of any such calendar year or ends (except by reason of death, resignation, or expulsion) before the last month of any such calendar year, the aggregate amount available to such Senator for such year shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by subsection (a) of this section shall be effective on and after January 1, 1982.

Sec. 105. (a) The first sentence of the first section of the joint resolution relating to the payment of salaries of employees of the Senate, approved April 20, 1960 (Public Law 86–426; 2 U.S.C. 60c–1), is amended by striking out "Senators and officers and employees" and inserting in lieu thereof "the Vice President, Senators, and officers and employees".

(b) The third sentence of section 104 of title 3, United States Code, is repealed.

(c) Amendments and repeals made by the preceding provisions of this section shall be effective in the case of compensation payable for months after December 1981.

Sec. 106. If at the close of any fiscal year there is an unexpended balance of funds which were appropriated for such year (or for prior fiscal years) and which are subject to disbursement by the Secretary of the Senate for any purpose, then, if such unexpended balance is by law rescinded, any unpaid obligations chargeable to the balance so rescinded (or to appropriations for such purpose for prior years) shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

Sec. 107. For the fiscal year ending September 30, 1982, and for each of the next three succeeding fiscal years, the Secretary of the Senate is authorized to pay to the General Services Administration such amounts as may be necessary to reimburse the Archivist of the United States for expenditures made to conduct a project to provide for the proper preservation of the Senate's records of continuing valve, which expenditures cannot be defrayed from funds otherwise available for such purpose. The aggregate of the sums paid to the General Services Administration under this section shall not exceed $300,000. Amounts paid under this section shall be paid from the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

Senate amendment No. 120: Page 41, line 8, after "$9,945,000" insert "to remain available until expended and".

Senate amendment No. 121: Page 41, line 12, after "$10,000,000" insert "to continue to remain available until expended and".

Senate amendment No. 123: Page 42, after line 7, insert:

For an additional amount for "Access highways to public recreation areas on certain lakes," $6,875,000, to remain available until expended.

Senate amendment No. 124: Page 42, after line 16, insert:

Unobligated balances of appropriations under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982, (Public Law 97–102; 95 Stat. 1442) are hereby rescinded, and an amount equal to such balances is appropriated, to remain unavailable until expended.

Senate amendment No. 126: Page 43, after line 3, insert:

Notwithstanding any other provision of law, the National Railroad Passenger Corporation (the "Corporation") shall be exempt from any taxes or other fees imposed by any State, political subdivision of a State, or local taxing authority which are levied on the Corporation, or any railroad subsidiary thereof, from and after October 1, 1981, including such taxes and fees levied after September 30, 1982: *Provided, however,* That notwithstanding any provision of law, the Corporation shall not be exempt from any taxes or other fees which it is authorized to pay as the date of enactment of this provision. Taxes and fees levied on the Corporation or any railroad subsidiary thereof by States, political subdivisions of States, or local taxing authorities with respect to periods beginning prior to October 1, 1981, shall be payable in proportion to the part of the relevant tax period which elapsed prior to such date. Notwithstanding the provision of 28 U.S.C. § 1341, the United States district courts shall have original jurisdiction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.

Senate amendment No. 128: Page 43, line 14, strike out all after "exceed" down to and including "development" in line 16 and insert

"$20,000,000 to remain available until expended. Notwithstanding any other provision of law, the authority granted under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97–102; 95 Stat. 1442) and prior Acts shall continue during the period in which appropriations remain available for this purpose under the heading: 'Department of the Treasury, Office of the Secretary, Investment in Fund Anticipation Notes'.".

Senate amendment No. 135: Page 46, after line 1, insert:

NATIONAL TRANSPORTATION SAFETY BOARD

EMERGENCY FUND

For necessary expenses, not otherwise provided for, of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); $1,000,000, to remain available until expended.

Senate amendment No. 137: Page 46, line 9, strike out all after "notes," down to and including "development" in line 11 and insert

"$20,000,000 to remain available until expended. Unexpended balances under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97–102; 95 Stat. 1442) and prior Acts are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended".

Senate amendment No. 140: Page 47, line 7, after "$77,232,000" insert ", of which $340,000 shall be used for the tax counseling for the elderly program (TCE) to retroactively reimburse volunteer tax counselors for personal and administrative expenses incurred during the past 1981 filing season.".

Senate amendment No. 143: Page 47, after line 13, insert:

ADMINISTRATIVE PROVISION

None of the funds provided in this Act or Public Law 97–161 shall be used for the redecoration, refurbishment, or remodeling of the office of the Commissioner of the Internal Revenue Service or the office of the Chief Counsel of the Internal Revenue Service.

Senate amendment No. 145: Page 47, line 20, after "expended" insert ": *Provided further,* That $1,518,000 appropriated herein for expansion of the Beltsville, Maryland, training facility shall remain available until expended".

Senate amendment No. 146: Page 48, line 2, after "1982" insert ": *Provided further,* That none of the funds made available by this or any other Act may be used to place the United States Secret Service, the United States Customs Services, and the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury".

Senate amendment No. 151: Page 50, after line 10, insert:

SENATE

"Salaries, officers and employees", $8,771,000;

"Office of the Legislative Counsel of the Senate, $66,000;

"Office of Senate Legal Counsel", $13,000;

"Senate Policy Committees", $110,000;

"Inquiries and investigations", $1,975,000;

"Folding documents", $6,000;

Senate amendment No. 153: Page 51, after line 9, insert:

"Senate Office Buildings," $200,000;

Senate amendment No. 166: Page 68, line 10, after "$80,000,000" insert ", of which $50,000,000 shall remain available until September 30, 1983".

Senate amendment No. 178: Page 77, after line 14, insert:

Sec. 304. Funds appropriated by chapter VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97–216, in the amount of $18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the

State of Washington as a result of a serious threat of catastrophic flooding.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered: 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178 and concur therein.

Mr. CONTE. Mr. Speaker, the motion does not include amendments 150 or 177?

Mr. WHITTEN. That is correct.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No.: Page 2, after line 13, insert:

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

If the funds available under this Act or any other Act, heretofore or hereafter enacted, for Nurtrition Education and Training grants authorised under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minumum grant for each State shall be $50,000 to the extent that the funds are available.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

If the funds available for Nutrition Education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 6: Page 3, after line 11, insert:

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operations, research, and facilities", $7,413,000, of which $5,250,000 shall be derived by transfer from "Coastal energy impact fund": *Provided*, That of the funds appropriated under this head, $200,000 shall remain available until expended for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall remain available until expended for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OPERATIONS, RESEARCH AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,163,000, to remain available until expended: *Provided*, That of the funds appropriated under this head, $200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 17: Page 6, line 15, after "1983" insert ": *Provided further*, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That notwithstanding the provisions of title 31, United States Code 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation acts.".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 24: Page 8, after line 8, insert:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(TRANSFER OF FUNDS)

For an amendment amount for "Research and statistics", $900,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(TRANSFER OF FUNDS)

For an additional amount for "Research and statistics", $450,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

The motion was agreed to.

A motion to reconsider was laid on the table.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 41: page 15, after line 4, insert:

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $70,000,000, to remain available until September 30, 1984, only for purchase of KC-10 aircraft under a multi-year contract.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"AIRCRAFT PROCUREMENT, AIR FORCE

"For an additional amount for "Aircraft procurement, Air Force", $120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or for fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 42: Page 15, line 7, strike out "$17,700,000" and insert "$88,600,000".

MOTION OFFERED BY MR. WHITTEN

Mr. **WHITTEN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$19,700,000".

The motion was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 43: Page 15, after line 8, insert:

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement defense agencies", $10,000,000, to remain available until September 30, 1984.

MOTION OFFERED BY MR. WHITTEN

Mr. **WHITTEN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$6,500,000."

The motion was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 16, after line 5, insert:

The transfer authority limitation contained in section 733 of Public Law 97-114 is increased to $900,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. **WHITTEN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$800,000,000".

The motion was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 57: Page 21, line 7, after "expended" insert ": *Provided*, That of such amount not less than $10,000,000 shall be available only for the American University of Beirut".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. **LONG** of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 57, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment Number 58: Page 21, after line 7, insert:

Economic Support Fund

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $355,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That of such amount $10,000,000 shall be available only for Belize, $70,000,000 shall be available only for Costa Rica, $10,000,000 shall be available only for countries and territories of the Eastern Caribbean, $40,000,000 shall be available only for the Dominican Republic, $128,000,000 shall be available only for El Salvador, $5,000,000 shall be available only for Haiti, $40,000,000 shall be available only for Honduras, and $50,000,000 shall be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. **LONG** of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 58 concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Economic Support Fund

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than $20,000,000 for the Eastern Caribbean; not less than $41,000,000 for the Dominican Republic; not less than $10,000,000 for Haiti; not less than $50,000,000 for Jamaica; not less than $10,000,000 for Belize; not less than $70,000,000 for Costa Rica; not more than $10,000,000 for Guatemala; not less than $35,000,000 for Honduras; not more than $75,000,000 for El Salvador; not less than $2,000,000 for the American Institute for Free Labor Development; not less than $2,000,000 for the Inter-American Foundation; and $25,000,000 unallocated: *Provided further*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. Long) will be recognized for 30 minutes, and the gentleman from Massachusetts will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. Long).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment provides for the Caribbean Basin initiative. It contains $350 million in economic support funds, the amount requested by the President.

The amendment will provide $20 million for the Eastern Caribbean, $41 million for the Dominican Republic, $10 million for Haiti, $50 million for Jamaica, $10 million for Belize, $70 million for Costa Rica, $35 million for Honduras, $2 million for AIFLD (Regional), $2 million for the Inter-American Foundation, $10 million for Guatemala, $75 million for El Salvador, and $25 million allocated.

While the amendment before us contains the funds for the Caribbean Basin Initiative, it should be viewed in the context of the package of foreign assistance items that this bill contains.

Along with the $350 million requested for the CBI, the administration had also requested $301 million in total funds for various military assistance programs.

When this bill first came to the floor, I offered, on behalf of myself and Mr. Kemp, the ranking minority member of the Subcommittee on Foreign Operations, an amendment which represented a very carefully worked out compromise to these requests.

The compromise, which was supported by the administration, contained the $350 million for the CBI, but with only $75 million for El Salvador rather than the $128 million requested. It also contained $52 million out of the $301 million requested for the various foreign military assistance programs.

This compromise amendment was struck on a point of order and thus was never voted on by the House.

It is exactly this compromise amendment which we are bringing back to the House today. The only change at all is that we did agree to add $3.5 million for international military education and training. These funds are in the conference report which has already been adopted.

It is important to note that only $75 million in ecomomic aid is being provided for El Salvador, some $53 million less than the amount requested by the administration. Not a penny is provided anywhere in this legislation for military aid for El Salvador.

To me this represents a great victory for those of us who believe it is wrong to continue to provide military assistance to El Salvador. And let me say to my colleagues, it was not an easily won victory. Only at the last minute of the conference, after every other item had been completed, did the Senate finally yield.

Mr. Speaker, the amendment before us on the Caribbean Basin Initiative has wide-ranging bipartisan support. I would urge its adoption.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on H.R. 6863, making supplemental appropriations for fiscal year 1982.

While I support the adoption of the appropriations contained in this conference report, specifically the appropriation for the Caribbean and Central American countries, I must strenuously protest the inclusion of a number of legislative provisions written into the issues brought back in technical disagreement. Although the rules of the House do not allow points of order against otherwise inappropriate provisions reported in technical disagreement, such provisions nonetheless violate the spirit of clause 2 of rule XXI which prohibits legislation in appropriations measures.

Prior to the conference on this supplemental appropriations bill, I wrote the distingushed chairman of the Appropriations Committee the gentleman from Mississippi (Mr. Whitten) requesting that the House conferees reject the various legislative measures under the jurisdiction of the Committee on Foreign Affairs contained in the Senate amendment which would be in violation of House rules. Mr. Speaker, I will insert the letter with my remarks. Despite my request that the letter and spirit of the rules of the House be respected, the conference committee agreed to include all of these extraneous legislative provisions and policy statements among the matters brought back in technical disagreement.

None of the provisions or policy statements in amendment No. 58, which appropriates funds for Caribbean and Central American countries would be germane or otherwise in order under regular procedure. Such actions in appropriations measures clearly violate and erode the integrity of the authorization/appropriation process.

I might say to my friend, the gentleman from Mississippi and distinguished chairman of the Appropriations Committee, that, when the Foreign Affairs Committee is in conference with the other body on authorizing legislation, we insist that any provisions violating the rule on appropriations in legislation be deleted because such provisions violate the House rules. We would only hope that the Appropriations Committee would do likewise.

Because these funds are so urgently needed, I will, reluctantly, not oppose the amendment.

In the future, however, I would strongly urge our appropriations conferees to defend the authorization/appropriation process and reject provisions which violate the rules of the House. Otherwise, I will find it necessary to vote against these motions and encourage others to do the same.

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Congress of the United States,
Committee on Foreign Affairs,
Washington, D.C., August 12, 1982.
Hon. Jamie L. Whitten,
Chairman, Committee on Appropriations, Washington, D.C.

Dear Mr. Chairman: I am writing to request that the House conferees on H.R. 6863, making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, insist on the House position and reject the following Senate provisions which constitute legislation pursuant to clause 2 of Rule XXI:

1. In Senate amendment 58, under the Caribbean Basin Initiative, the third proviso which deals with narcotics;

2. Also in Senate amendment 58, under the Caribbean Basin Initiative, those provisions relating to S.J. Res. 230.

3. In Senate amendment 60, the portions of the amendment that will earmark funds for specified countries.

4. Senate amendment 182 in its entirety.

With respect to the allocation of the funds under the Caribbean Basin Initiative, particularly in light of the fact that members of the Subcommittee on Foreign Operations, agreed to an allocation of the funds almost identical to that provided for in H.R. 6755, as reported by the Committee on Foreign Affairs, I would hope that the House conferees would reject the Senate allocations and make those funds subject to the availability of an authorization without time limitation.

Thank you for your cooperation and with kindest regards, I am

Sincerely yours,
Clement J. Zablocki,
Chairman.

Mr. WHITTEN. If the gentleman will yield. Mr. Speaker, the gentleman is very fluent and very eloquent. I voted against this provision in this bill and I so noted in the conference report.

Mr. ZABLOCKI. But you were overruled.

Mr. WHITTEN. I was outvoted. But may I say to my good friend, the gentleman from Wisconsin—and I have none better—that the problem is that we do not have enacted authorizing legislation in time. I do not speak critically of the gentleman's committee. It is a chronic problem we all face in Congress. The problem is not new but is seems to get worse. Committees report bills but they do not get enacted in time. We have not passed an appropriations bill all the way through the Congress yet this year because the authorizing legislation has not become law. That has contributed to the situation where we do not have any appropriations bill for the forthcoming fiscal year. There is a general breakdown in the Congress.

Mr. ZABLOCKI. If I may retrieve my time, Mr. Speaker, I believe that the Committee on Foreign Affairs has the finest record of any authorizing committee in reporting out legislation within its jurisdiction.

Mr. WHITTEN. It may be reported out but it does not get to the floor and it does not become law. That is the problem I refer to. We are going to have to do something, you and I and everyone else together. I said earlier—and I certainly mean it—the gentleman is a very distinguished Member and one of my good friends. But we have a mutual problem and somehow we are going to have to have deadlines for authorization and budget resolution if we are going to have appropriations timely so that the Government can operate.

Mr. ZABLOCKI. I can assure the chairman of the Appropriations Committee (Mr. Whitten), who knows, I am sure, the record of the Foreign Affairs Committee—that we had all of our authorizing legislation for fiscal year 1983 reported out of committee by the May 15 deadline. The authorization for economic assistance to the Caribbean and Central American countries for fiscal year 1982 was expeditiously reported out after it became clear that the Ways and Means Committee could not act on its part of the omnibus legislative package in time. We are ready to come on the floor as soon as we can get scheduled. I am not criticizing the gentleman from Mississippi. I am sure he has in mind, perhaps, other authorizing committees, but not the Foreign Affairs Committee.

Mr. WHITTEN. If the gentleman will yield, I suggest that it is also a matter for the attention of the Rules Committee, I understand they are studying the whole matter. I would be pleased if they would straighten this thing out.

Mr. ZABLOCKI. I am sure the gentleman from Mississippi is sincere in that suggestion, and maybe we ought to consider it. But I do want to say that I appreciate the cooperation we have had with the chairman and with the subcommittee chairmen of the Appropriations Committee, and I can assure you, Mr. Chairman, that we will continue to cooperate with you in the future on a reciprocal basis.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Kemp).

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I compliment the gentleman from Massachusetts and the gentleman from Maryland (Dr. Long) and, of course, our distinguished chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. Whitten), and all of those members of the committee who participated in this attempt to help bring to the attention of this body a very important initiative that I mentioned a little bit earlier. At this critical moment, at this critical juncture in the economy and the foreign policy of Central America and the Caribbean, it seems to me important, Mr. Speaker, and absolutely critical to the future of our relations with our neighbors to the South, that this Nation have the type of initiative that President Reagan has endorsed and pushed which would provide not only for assistance to help those countries to our South with their foreign exchange problems, but also in terms of trade and investment incentives.

As the gentleman from Maryland, our chairman, pointed out, this is the result of a compromise. It is the same coalition that was put together which helped pass the fiscal year 1982 foreign aid appropriation, the first foreign aid appropriation that passed in 3 years, and I want to give a lot of the credit to not only Dr. Long but Matt McHugh and my friend Mr. Dixon from California and to Mickey Edwards, Bob Livingston, John Porter, and Jerry Lewis on our side, others on the committee, including Dave Obey, and Silvio Conte who made a very valiant attempt to see this bill passed a few weeks ago when there was a point of order raised on it on the floor. But that is water over the dam.

This amendment provides funding for President Reagan's program to promote economic revitalization in the Caribbean/Central American region. The full $350 million requested by the President for immediate development and balance of payments support is appropriated.

Additionally, in the supplemental $50 million is made available for immediate disaster relief for Lebanon, including $10 million for the American University of Beirut.

Further, the supplemental makes available $52 million for military assistance to five of our key allies who are in desperate need of our support and $3.5 million for Military Education and Training. These funds will go for Honduras ($10 million), Portugal ($10 million), Somalia ($5 million) and Costa Rica ($2 million).

The balance of economic and military assistance in this bill and the distribution to the nations receiving assistance maintains the delicate coalition of interests which combined as I said earlier last year to pass the first foreign assistance bill in 3 years.

The coalition we have put together, from all political persuasians, is strongly supporting an American foreign policy which takes a balanced approach to the economic and security interests of the United States and our allies among developing nations.

In the votes we will have today, I think we will again demonstrate that the Congress is a willing partner with the President in reshaping American foreign policy to deal with the economic and military crises which we face throughout the world.

THE CARIBBEAN INITIATIVE

This amendment will bring about only the first phase of the President's total Caribbean Initiative. The other phases, now under consideration by the Ways and Means Committee are:

TRADE

Designated nations of the Caribbean/Central American region will be granted duty-free status for selected exports to the United States for a period of 12 years. While there are significant exclusions, notably sugar, textiles, rum and leather, the new open trading arrangement will be beneficial to creation of new industries.

TAX INCENTIVES

Designated nations may participate in a program of tax incentives and investment insurance which will encourage U.S. businessmen to invest in the region. The basic incentive is extension of the investment tax credit to direct investors and allowing pass-through of the credit to U.S. investors who own 5 percent or more of businesses incorporated in the participating nations.

Additionally, U.S. investors will receive increased protection under the Overseas Private Investment Corporation.

ALLOCATION OF ASSISTANCE

Funds appropriated under this amendment would be allocated almost identically to the distribution recommended by the House Committee on Foreign Affairs:

[Dollars in millions]

Nation	President's request	HFAC earmark	Supplemental earmark
Belize	$10	$10	$10
Costa Rica	70	70	70
Dominican Republic	40	40	41
Eastern Caribbean	10	20	20
El Salvador	128	100	75
Guatemala	0	11	10
Haiti	5	10	10
Honduras	35	35	35
Jamaica	50	50	50
Regional AFILD	2	2	2
Inter-American Foundation	0	2	2
Unallocated	0	0	25
Total	350	350	350

This three-pronged program of investment incentives and provision of foreign exchange is offered in recognition of the unique relationship between the United States and nations of the Caribbean/Central American region. For too long we have ignored the economic plight of our neighbors, ignoring such important signals as increased immigration, both legal and illegal, and increased capital flight in the face of declining business and security conditions.

While we offered the Marshall plan for Europe and other substantial economic assistance for Japan following World War II, we have never in our history proposed and carried through on a comprehensive program to assist our closest neighbors to join in the prosperity of democratic capitalism.

The program which the President sent to the Congress was a clear offering to our neighbors that the people of the United States would support them in their struggle to establish and preserve democratic institutions.

Mr. Chairman, this Caribbean Initiative would provide support to countries desperate for democracy. Many of these nations have recently held free elections, often at great personal risk to individual safety. The desire for freedom and liberty has never been more clearly demonstrated.

DOMINICAN REPUBLIC

The largest democracy in the Caribbean has just held its fifth free election spanning a period of 16 years. This period included two changes in government, in 1966 with the election of Joaquin Balaguer and again in 1978 with the election of Antonio Guzman. A third transition is now occuring. The election this May of the moderate Jorge Blanco is an indication of Dominican determination to emphasize economic, social and political freedoms. Support for continued economic and political progress of this nation—which our own Marines prevented from falling victim to Communist takeover—should not be denied.

EL SALVADOR

The election in El Salvador was held during a period of extreme adversity. Despite threats by Communist forces and the daily dangers of travel in the outlying areas, over 90 percent of all eligible voters turned out. The election was generally regarded as honest and accurate.

HONDURAS

Living under threat of armed aggression, the Honduran people have just elected Roberto Suazo Cordova. President Suazo, on his recent visit to the United States appealed to President Reagan to support democratic forces in Central America in their fight against Communist insurgents.

JAMAICA

The best known political story in the Caribbean is Jamaica. Following the economic destruction of Michael Manley's socialist policies, the Jamaican people threw out the socialists in 1980, sending to their Parliament the largest majority in history. Prime Minister Seaga has moved quickly to alter incentive destroying. Jamaica has, perhaps, the best chance for rapid economic success, given its relatively well-developed financial institutions and industrial base. Also, it has been the recipient already of substantial interest throughout the international community.

All the nations of the region are making efforts to restore prosperity. Belize, struck by seven severe hurricanes since 1955, is making efforts to reform its agricultural prices to spur production. It is also applying for membership in the IMF and making structural adjustments to make that application successful. Costa Rica, an economy once the pride of Central America is working hard to comeback from an economic collapse which required if to suspend payment on its debt last year. Our assistance will enable it to meet the exchange requirements needed to restructure its debt and begin recovery.

In Guatemala, President Efrain Rios Montt, a Christian fighting communism, has disbanded all secret military operations, he has made the military and civilian security forces totally responsible for their actions and established a system of military justice. President Montt has even created a militia not unlike the militia that answered our own call for liberty to combat insurgents who would destroy the fabric of society in his nation. Can we not support this effort? Can we not provide a bare $10 million of economic support for a nation which is valiantly trying to bring excesses under control and to establish a system of law and justice?

Mr. Chairman, these are the countries we wished to assist. We come to the House with a clear offering to these neighbors that the people of the United States would support them in their struggle to adopt our institutions. The very terms under which the trade and investment incentives contained in the President's program are themselves incentives to adopt the system in which we believe.

The portion of the Caribbean initiative which we are considering today is designed to provide much needed foreign exchange for participating nations. In many of these countries there are industries producing well below capacity due to a lack of foreign exchange with which to purchase raw materials and spare parts. This situation has developed largely as a reaction to the increase in oil prices over the past decade since all nations of the regions import almost all of their energy. The following table provides some indication of the immediate need:

BALANCE OF PAYMENTS

[In millions]

Nation	1982 BoP	Unfinanced	ESF	Percent BoP unfinanced deficit
Belize	−31.0	25.0	10.0	40
Costa Rica	212.0	140.0	70.0	50
Dominican Republic	187.0	95.0	41.0	42
Eastern Caribbean	−35.0	32.0	20.0	63
El Salvador	−53.0	151.8	75.0	50
Guatemala			10.0	
Haiti	−28.4	5.0	10.0	200
Honduras	−121.0	94.0	35.0	37
Jamaica	273.0	109.0	50.0	46

Source: AID briefing documents.

As the table shows, the assistance being proposed leaves unfinanced a substantial amount of projected foreign exchange deficits. But we are not

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dealing with static economies. With our assistance, confidence will be restored both to local entrepreneurs and to international banking houses. As factories begin to reopen and jobs are regained, we can look forward to an end to capital flight and a resurgence of private industrial and agricultural financing.

In proposing this assistance we do not imply that U.S. assistance alone will restore confidence. It is critically important that these nations adopt the type of domestic economic policies which give incentives to individual initiative and entrepreneurial activity. In many nations that will mean a substantial reduction in business and personal tax rates, including export taxes, and a reevaluation of the role of the public sector.

We recognize these realities. Two large recipients of assistance, Costa Rica and Jamaica, continue to have marginal tax rates of 50 percent. Tariff barriers also retard investment throughout the region. In 1978 taxes on either exports or imports accounted for 34 percent of revenue in Honduras, 37 percent in Guatemala and 50 percent in El Salvador. But we also recognize that these policies reflect in part the same mistaken economic philosophy which has plagued our own Nation. Now, together, we will work to bring prosperity to all Americans.

As AID points out most of these nations have erred by increasing domestic transfer payments at a rate in excess of economic growth, thus creating major budget problems, problems which rapidly are manifest in an inability to finance the foreign exchange requirements of the nation. Costa Rica, second largest recipient of assistance, allowed its social security and welfare payments to grow by 35 percent per year when its economy was growing at only 6 percent. In economies with a small base of economic activity such disparities cannot continue without stifling economic activity.

Mr. Chairman, this amendment will not solve completely the problems of economic and social instability in the Caribbean. It is only a start. But I believe that it is the right policy for the United States to give this initial support.

Later this session, we will take up the authorizing legislation for this Caribbean/Central American assistance. After the recess, hopefully before we adjourn for the year, we will have before us the trade and investment legislation from the Ways and Means Committee. I hope that each of you will work with the committees and with the admiration to fashion a program which will combine the democratic capitalist ideals which we hold with the strong desire for freedom and democracy which our neighbors have clearly demonstrated.

The legislation currently before us also contains a significant affirmation of longstanding U.S. security policy in the Western Hemisphere. Recent years have witnessed an expansion of Soviet military presence in our hemisphere unprecedented since the Cuban missile crisis of 1962, and a concomitant growth in Cuban assertiveness which has as its objective the destabilization of governments friendly to the United States.

Gen. Warren Nutting, Commander in Chief of the Southern Command, recently detailed the Soviet presence in Cuba at hearings before the House Subcommittee on Foreign Operations, which I called in order to examine U.S. security interests in the Western Hemisphere. A 3,000 man Soviet brigade has been stationed near Havana since 1979, which General Nutting speculated may be there to guard and control electronic warfare facilities; whether or not nuclear weapons may also be under their control is not known. Additionally, there are some 10,000 Soviet "advisers" stationed in Cuba. Soviet nuclear submarines operate out of Cienfuegos along Cuba's southern coast, despite a November 1970 Soviet agreement that no nuclear submarines would be serviced in or from Cuban ports. The Soviets are operating heavy, TU-95 "Bear" bombers out of Havana; and in February of this year it was reported that two of these Bear bombers penetrated 42 miles into the U.S. air defense zone off the coast of Virginia, to within one mile of the new U.S.S. *Carl Vinson* nuclear aircraft carrier.

The Soviet Union provides $3 billion in aid to Cuba each year, or one quarter of Cuba's total GNP. This aid clearly supports Cuba's military establishment and its foreign adventures. Last year alone, Cuba received 63,000 tons of Soviet arms shipments, three times more than in the previous year and more than in any year since 1962; and the rate thus far for 1982 is even higher. Cuba already has an air force second only to that of the United States in the Western Hemisphere: indeed, a military force second only to the United States. The arrival this year of a second squadron of Mig-23 fighter aircraft and an unspecified number of modern attack helicopters enhances that capability.

I believe that, taken together, the Soviet buildup of Cuban offensive military capability and the introduction inTo Cuba of Soviet forces and modern arms constitutes a blatant violation of the agreement reached in 1962 forbidding the emplacement of offensive weapons in Cuba. The President has noted such violations, and other U.S. Government officials, including CIA Director William Casey, Undersecretary of Defense Fred Ikle, and Chairman of the Joint Chiefs of Staff David Jones, have expressed the judgment that the Soviet offensive presence in Cuba violates the Kennedy-Khrushchev understanding.

The systematic violation of that accord has now produced an even more serious threat to the security of the Western Hemisphere, which has only recently been officially acknowledged. It is now the declared judgment of the U.S. Government that the Soviet Union, through its regional surrogate Cuba and its newly acquired allies Nicaragua and Grenada, has embarked upon the express objective of destabilizing as many governments in the Caribbean as possible, with a view towards spreading violence and expanding pro-Soviet regimes and Soviet power in this hemisphere. I share that somber assessment.

Cuba's exportation of revolution has persisted over the past two decades, spanning support for insurgents in at least 13 Latin American countries. Success in Nicaragua has provided a key base of forward operations from which to direct insurgencies throughout Central America. These terrorist operations are designed to disrupt public life, to weaken economic and industrial infrastructures, to undercut confidence in personal security and in the ability of the existing governments to afford protection against guerrilla actions, and ultimately to cause those governments to fall. And there is no longer any doubt about the guerrillas' source of inspiration, supplies, and arms.

The State Department and the Defense Intelligence Agency have made public evidence of the vast Soviet-Cuban-Nicaraguan arms supply effort in Central America, including their direction of terrorist forces. Other information available to the U.S. Government has been reviewed by the Select Intelligence Committees of Congress, who have affirmed the administration's judgment of intimate Soviet-Cuban control and support of guerrilla insurgents in Central America. Moreover, the international character of the terrorist effort is underscored by Yasser Arafat's public boasting of the presence of PLO operatives in Nicaragua.

And we should not overlook the fact that the terrorists' victims include people, as well as governments. Their tactics of fomenting warfare and strife, if unchecked, will surely generate a stream of refugees seeking to escape violence and looking for a life that offers some promise of well-being. This was true in Cuba following Castro's takeover in 1959, and the flow of Cuban refugees continues today. We have witnessed the plight of Southeast Asian refugees with deep sadness. Totalitarian successes in Latin America not only would bring yet further tragic losses and human suffering, but the ability of the United States and other nations in this hemisphere to absorb such refugees would be severely taxed.

While combating guerrilla forces, the nations of Central America must also confront the growing disproportionate military might of Nicaragua, which is already far beyond anything credibly needed for Nicaragua's defense. The Sandinistas have announced their intention to build up their armed forces from an estimated 60,000—already the largest in the history of Central America—to 250,000, equivalent to the standing armed forces of Cuba. Major Soviet arms shipments to Nicaragua have reportedly included 25 T-55 tanks with 100mm guns, truck-drawn howitzers, armored personnel carriers and amphibious military ferries.[1] If Soviet Mig-17 or Mig-21 aircraft are shipped to Nicaragua later this year—as expected—the threat to neighboring countries would dramatically increase. currently, an estimated 70 Nicaraguans are being trained as jet fighter pilots and mechanics in Bulgaria; and four major airfields in Nicaragua are being readied to accommodate heavy attack aircraft.

There is reason to believe that these airbases in Nicaragua, in addition to Cuban airbases, are under Soviet supervision. Soon to be added is an airbase now under construction in Grenada, with a 9,800-foot runway capable of handling heavy fighter aircraft. Grenada's Minister of National Mobilization has announced that the new airbase and housing facilities in his country are at the disposal of Cuba and the Soviet Union.

Our ability to deter Soviet intervention and Cuban expansion in this hemisphere as elsewhere depends in the first instance upon Soviet and Cuban perceptions of our will and determination. As President Kennedy wrote to Premier Khrushchev on October 22, 1962,

> The one thing that has most concerned me has been the possibility that your Government would not correctly understand the will and determination of the United States in any given situation.

The President continued:

> It was in order to avoid any incorrect assessment on the part of your Government with respect to Cuba that I publicly stated that if certain developments in Cuba took place, the United States would do whatever must be done to protect its own security and that of its allies . . .
>
> Moreover, the Congress adopted a resolution expressing its support of this declared policy.

That resolution, Senate Joint Resolution 230, was signed into law by President Kennedy in 1962 and still remains the law of the land. It reads in part "that the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere." These principles were echoed in a declaration issued by the Organization of American States, in support of measures necessary to prevent Cuba from threatening the peace and security of the hemisphere.[2] And President Kennedy pledged that if Cuba ever became a military base of significant capacity for the Soviets, then the United States would take any action necessary to protect itself and its hemispheric allies.[3]

The danger of incorrect assessment is still very real. If the Soviets should see the United States allowing adverse changes in this hemisphere to proceed without opposition, they may misunderstand the depth of our commitment to the independence of our neighbors and to the defense of our vital interests. I believe that an express congressional reaffirmation of Senate Joint Resolution 230 would make an important contribution to our efforts to deter Cuban aggression and Soviet expansion. Accordingly, I support that language, as included in the conference report on the fiscal year 1982 supplemental appropriations bill, as an important restatement of longstanding U.S. policy to protect our hemisphere from external intervention or manipulation.

The fiscal year 1982 security assistance supplemental also includes $52 million in supplemental military assistance, approximately one-sixth of the President's original request of $30 million. These funds—which represent an amount below that justified by our requirements—are vital to our national security interests.

We need supplemental grant funds right now for Honduras, Costa Rica, and Somalia, all of which are facing active aggression from neighbors, and for Sudan, which is verging on bankruptcy, and cannot afford the FMS guarantees we had to give it last year.

We also need additional funds for Portugal, to diminish the enormous ill-will deriving from the very small concessional credit allocation that was available under the December fiscal year 1982 appropriation. Portugal is critical to the whole range of U.S. defense needs in Europe, and in the Middle East. Without the full use of the bases in the Azores the United States would have been unable to respond to emergencies in the Middle East over the last decade such as the resupply of Israel in 1973. The $10 million included herein for Portugal is absolutely fundamental to reestablishing the climate of trust and reliability that we need to negotiate a new relationship agreement this fall with expanded access rights for the Rapid Deployment Force.

Mr. McHUGH. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to my friend, the gentleman from New York (Mr. McHugh), who was such an able Member of this coalition.

Mr. McHUGH. I thank the gentleman for yielding.

Mr. Speaker, I simply want to take this brief opportunity to commend my friend, the gentleman from New York (Mr. Kemp), who has spent countless hours attempting to work out very delicate compromises on foreign assistance in this fiscal year and in this supplemental in particular.

It has not been easy, as there are great differences in perspective from time to time between the various members of our subcommittee and this House. But the gentleman, in working with Dr. Long and others, has done a very responsible job in putting together a package which I think is in the interest of our country.

Mr. Speaker, I rise in support of the conference report on H.R. 6863. While I am not entirely satisfied with all of its provisions, on the whole our conferees have done very well in sustaining the House position in conference. Thus, I hope that our colleaques will support this supplemental and that the President will sign it.

Because I serve on the Foreign Operations subcommittee, I would like to comment on the compromises reached with the Senate conferees on foreign economic and militarty assistance. As many will recall, the President requested more than $950 million in supplemental foreign assistance funds over and above what Congress has previously appropriated for this fiscal year. Of that amount, $550 million was for supplemental military assistance and $400 million was for supplemental economic assistance.

While many of use have traditionally supported a balanced program of security and development assistance as one way of advancing U.S. interests abroad, it is not appropriate to ask for substantial increases in foreign aid at a time when the American people are being asked to accept major cuts in domestic programs. For this reason, I and others were determined to opposed these supplemental requests unless a compelling case could be made by the President.

As a result, a number of significant reductions were made in the President's supplemental request. While the conference report does include the $400 million in economic assistance requested by the President for reasons that I will shortly explain, we have managed to reduce the $550 million request for supplemental military aid to

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[1] Aviation Week and Space Technology, Mar. 15, 1982.

[2] Resolution approved by OAS Council, October 23, 1962.

[3] 57 Department of State Bulletin 460,461 (1962).

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$180.5 million. Of this amount, $125 million is for the special defense acquisition fund which many of us support so long as strong safeguards on its use are maintained.

Mr. Speaker, this represents a reduction of $371 million, which is approximately 40 percent below the President's original request for foreign aid in the aggregate and almost 70 percent below his request for supplemental military aid in particular.

In short, the President's request has been pared to a level that I can support and I would urge my colleagues to do so as well. At the time, I want to make it clear that I would have great difficulty supporting even this reduced level of foreign aid if the President subsequently vetoes this bill. If the President takes the position that other amounts in this bill should be reduced still further, the supplemental military assistance contained in this bill as well as the funds to implement the aid component of the Caribbean Basin Initiative should be prime targets for elimination from any future bill. We cannot cut essential domestic programs still further and at the same time retain the funds for foreign aid.

Turning to the specifics of chapter VI, Mr. Speaker, there was no controversy regarding the urgent nature of some of these funds, particularly the $50 million in emergency aid to alleviate the plight of those who are homeless and suffering in Lebanon. We all recognize that this is a real emergency, and that the United States should play a constructive role in helping to meet the crisis.

Moreover, there was broad consensus in favor of the President's $350 million request to fund the aid component of his Caribbean Basin Initiative (CBI). It is clear that our neighbors to the south are experiencing some very serious economic problems as a result of the worldwide recession. At the same time, some of us were concerned about the priorities reflected in the proposal submitted by the President.

In his original request, which the Senate essentially adopted, $128 million of the $350 million for the CBI would have been allocated to a single country, El Salvador. While recognizing the serious situation in El Salvador, many of us believed that far too much of the CBI was being targeted to that nation. Although El Salvador has only one-eighth of the Caribbean Basin's people, the President's proposal would have allocated more than one-third of the econcomic aid request to that nation.

Moreover, many of us have very serious reservations about the policy this administration is pursuing in El Salvador, and doubts as to whether the new government of that nation remains committed to the kinds of programs, including the land reform program, that are needed if it is to have any hope of meeting the legitimate aspiration of its own people.

There were other problems with the President's CBI proposal as well. For example, none of the funds were originally targeted for development projects designed to meet the long-term needs of the region. However, as a result of this conference report and the authorization bill approved by the House Foreign Affairs Committee, we have gone a long way toward realtering the priorities in the original proposal and in satisfying the reservations that some of us had. El Salvador would receive only $75 million under this conference agreement, and many of the other problems associated with the CBI will be resolved if the authorization is finally passed.

In sum, Mr. Speaker, this conference report represents a responsible compromise on the President's original CBI request. At the same time, we should recognize that these aid funds will not do very much good in the absence of congressional action on the trade and tax incentives which were also contained in the President's original proposal. Those provisions are critical to the success of the CBI, and I would hope that the Ways and Means Committee will act favorably in the near future. I also hope that the Reagan administration will rethink its proposals to cut back U.S. support for the Inter-American Development Bank and the World Bank, two orginzations which continue to be important in addressing the development needs of the people in the Caribbean and Central America.

The CBI is important to meet the immediate, short-term problems being experienced by these nations. In the long term, however, the problems they face will only be resolved if their economic grow and develop, and if the fruits of development are shared equitably. The IDB and the World Bank play a crucial role in promoting such long-term development, and I think that it is shortsighted for the administration to be proposing cutbacks in their lending programs at the same time it is promoting the CBI as an urgent initiative.

Mr. Speaker, the real sticking point in the conference was the President's request for supplemental military assistance. As many of our colleagues know, the House Foreign Operations subcommittee rejected this request for a number of good reasons.

First, we believe that in requesting substantial increases in military aid the State Department did not deal with us in good faith. As you know, last December Congress was able to pass a foreign aid bill for the first time in 3 years only because of certain very sensitive compromises that were reached on the fiscal year 1982 bill. One of those compromises was that the President would receive less than he originally requested for foreign military assistance. The purpose of these compromises was to retain a responsible balance between security and development aid.

Before the ink had dried on that bill, the administration came back to Congress requesting every last dollar that was authorized but not appropriated. In the absence of some overriding emergency affecting the national interest, that was a clear breach of faith with those of us who worked so hard to reach a compromise on a balance bill.

In fact, while it had every opportunity to do so in hearings before our subcommittee, the administration utterly failed to make a case that the additional military aid funds were needed on an urgent basis. A number of items in its request were particularly objectionable, including its request for $35 million in additional grant military assistance for El Salvador and for $82 million in FMS loan guarantees for Turkey.

Fortunately, these requests were denied on the House side. However, the Senate subsequently added virtually all of the military aid funds that the administration had requested in the supplemental, including the additional aid for El Salvador and Turkey, and the Senate conferees fought very hard to get the House conferees to accept them.

However, under the strong leadershiop of Mr. Long (of Maryland) and Mr. Dixon (of California) the House conferees held firm. Instead of the large add-ons proposed by the Senate, the House conferees agreed to only $50 million in loan forgiveness for Sudan, which I support, and to an additional $2 million for the military assistance program. This, in conjunction with $25 million in MAP appropriated for Sudan last year that will now be available for other purposes, will provide $27 million to meet needs in Honduras, $10 million; Portugal, $10 million; Somalia, $5 million; and Costa Rica, $2 million. An additional $3.5 million for the International Military Education and Training (IMET) program was provided in response to a request by Mr. Kemp. Finally, the $250 million provided by the Senate for the special defense acquisition fund was reduced by the conferees to $125 million with some strong report language as to how these funds are to be used.

The administration's request for $35 million in supplemental grant military assistance for El Salvador and the $82 million in FMS loan guarantees for Turkey was totally rejected.

Mr. Speaker, with these modifications I believe that the supplemental appropriations for foreign assistance are reasonable and should be supported, as should this entire conference report.

Mr. KEMP. I very much appreciate my colleagues's comments. I want to say publicly how much I enjoyed working with the gentleman and how much respect I have for his leadership on this issue.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to support my colleague's remarks, but I want to ask a question. It would seem to me that the No. 1 country in the allocation or resources in the Caribbean Basin Initiative ought not to be El Salvador, but ought to be Costa Rica, which, other than the United States and Canada, is the most Democratic country in the Western Hemisphere, and they are under very serious problems now, as the gentleman and I have talked about before. They are under serious attack potentially from Nicaragua, and it would just seem to me that we ought not to be locked into allocation whereby the most Democratic country in the whole group is not receiving the highest amount of resources. I wonder if the gentleman might want to comment on that?

Mr. KEMP. I appreciate the comments of my friend, the gentleman from Kansas, and let me just say to him that Costa Rica is receiving $70 million. Costa Rica is also receiving $2 million in security assistance, not a great deal, to be sure, but Costa Rica is getting security assistance.

I would remind my friend that the total amount of money in this bill for El Salvador is $75 million of economic assistance, not 1 penny of security assistance, as was pointed out by my friend, the gentleman from Massachusetts (Mr. CONTE), as well as Dr. LONG.

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So there has been a careful balance struck to reflect the needs of the countries in that region of the world. I do not think one needs to apologize to anybody for providing vital economic assistance to El Salvador. In the light of the courage displayed by the men and women who went to the polls throughout El Salvador, in the face of violent threats and intimidation by leftist guerrillas, I believe that we should continue to support that spirit of freedom by giving the democratically elected new government this desperately needed economic assistance. No one need apologize for this.

Costa Rica is getting $70 million plus security assistance. The gentleman I think would agree that the only chance for democracy and stability in Central America in general and in El Salvador in particular is by providing the assistance needed to support our neighbors' security and economic health.

Mr. GLICKMAN. If the gentleman would yield further, I would make a final comment. I will not argue with the gentleman and will vote for the Caribbean Basin Initiative package. I would say, though, we have one ally of ours, Costa Rica which has a government like ours, which has a political system like ours, which is free from violence, which is free from dictatorship. That is Costa Rica. It is unlike any other country in Central America. And it is suffering from an enormous economic dislocation which may affect its ability to remain democratic. It deserves our highest support.

Mr. KEMP. I would only say if we want El Salvador to be free from violence and to move toward democracy and to provide some hope that there will not be a Nicaragua-like future for El Salvador, it seems to me a modest amount of money should be forthcoming. That was an essential element of the agreement reached by a coalition of the left, the right, the center, the liberals, conservatives, Democrats, Republicans, and so forth.

I hope the gentleman would recognize we went through extensive negotiations to reach this fragile compromise; what we have jointly proposed is a modest, prudent, and responsible approach to not only assistance to El Salvador, but assistance to Costa Rica, Honduras, Belize, and many other countries in that part of the world that are desperate for aid and support.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

In response to the point raised by the gentleman from Kansas (Mr. GLICKMAN) that we are giving less money to Costa Rica, I think the gentleman loses sight of the fact Costa Rica is a much smaller country than El Salvador. When one considers it in relation to the size of the country, Costa Rica is doing very well in this bill; probably almost twice as well as El Salvador. I think that should not be overlooked.

Mr. KEMP. Mr. Speaker, I appreciate the chairman's remarks.

I again want to thank the chairman of the subcommittee.

Mr. Speaker, I yield to the gentleman from California (Mr.

Mr. CLAUSEN. Mr. Speaker, I rise briefly to associate myself with the remarks of the gentleman from New York (Mr. KEMP). I think the Caribbean Initiative that has been worked out through this coalition is one of the more significant things we have done in this Congress. I truly want to support the effort and indicate my willingness and my desire to continue that support.

Mr. Speaker, I rise in support of the Senate amendment to H.R. 6863, which provides funds for the Caribbean Basin Initiative, and would like to associate myself with the remarks made by the gentleman from New York (JACK KEMP).

This legislation is in full accord with what I have long felt should be the policy goals of the United States with respect to Latin America: Balanced regional economic growth stemming from a network of mutually beneficial national development strategies. Over 10 years ago, I stood before the Pan American Highway Congress to give testimony to one of the greatest achievements of inter-American cooperation—the Pan American Highway. This project has set the stage for the unlimited economic, social, educational, and cultural benefits that will become available to the people of North, Central, and South America. Witnessing this, why should we stop short of aspiring to anything less in the way of cooperation with our Caribbean Basin neighbors?

As a cosponsor of H.R. 5900, the Caribbean Basin Initiative, I wish to take this opportunity to stress to you that this is one component of an economic package—emergency loans and grants to finance imports of U.S. goods by private businesses in these Caribbean and Central American nations, the removal of most of the existing U.S. duties on imports from the region, and tax incentives to encourage U.S. businesses to invest in the region. Nowhere in this package is military aid included. With economic assistance, we are seeking to prevent the democratic governments of the Caribbean Basin from being undermined by the severe economic problems they are currently facing. The economic assistance we provide to this region will not be without benefit to the United States—one such benefit is likely to be a step toward the solution of the unprecedented immigration problem we are currently facing with respect to the countries of the Caribbean Basin, as people fleeing from fear and poverty crowd the southeastern shores of the United States, the States along the border, including my own State of California.

Mr. Speaker, I have over the years become very disenchanted with the on-again, off-again relationship the United States has with our neighbors to the south. In my view, we have all wavered from one extreme to the other. When we needed each other desperately, we would join together to meet a common threat to our respective interests. After the threat had passed, we would fail to communicate adequately, to keep in touch, thereby neglecting to recognize or deal with promptly the increasing problems associated with the challenges of

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change—economic, political, technological, military. We need to strive for a greater degree of consistency in our relationships that at the same time makes provision for these changes. The legislation before us makes considerable inroads in this area.

Finally, I would like my colleagues in the House to give heed to the imbalance between the attention that has been paid to our neighbors to the east and west of the United States versus the attention that has been paid to our neighbors to our north and south. More and more we are becoming aware, as a nation and as individual business men and women, of the impact the European Economic Community (EEC) is having on world trade and especially on the ability of the United States to expand her commercial export markets. There has been much discussion of late concerning the formation of export trading companies to combat the strengths of the EEC and other blocs in world trade. I welcome these efforts and commend those who initiated them. Yet I wonder at times why we have not chosen to respond to the creation of the European Common Market with a North, Central, and South American common market of our own, a rational, planned, coordinated, and integrated system that functions efficiently in serving the economic needs of our societies. By continuing to foster inter-American cooperation such as that proposed in the Caribbean Basin Initiative, we will have the opportunity to test the feasibility of such a system, and in the meantime benefit economically and politically from improved relationships with our neighbors to the south—and simultaneously minimize the requirements for military confrontation and bloodshed.

Mr. Speaker, I urge you to support this amendment, and H.R. 6863 as a whole.

Mr. KEMP. I appreciate the gentleman's remarks.

Mr. Speaker, I have no further requests for time.

I want to thank my friend, the gentleman from Massachusetts (Mr. Conte) and simply say this: I do not think this initiative is a cure-all. It is not a panacea. It will not cure the sources of social and economic instability in the Caribbean and Central America, but it is a sign the United States and this Congress and the President and the American people deeply care about those neighbors and friends of the United States south of our border upon whom we rely for so much of our vital resource requirements, and ultimately our very security and prosperity.

I deeply appreciate the leadership of our distinguished chairman, the gentleman from Maryland (Mr. Long).

Mr. LONG of Maryland. I thank the gentleman.

Let me say that the help of the gentleman from New York (Mr. Kemp) has been enormous in drawing up this compromise and, in fact, his work has been invaluable to the subcommittee during the course of the year.

The gentleman is an extremely valuable member of the subcommittee. I appreciate the gentleman's work, as well as that of the gentleman from California (Mr. Dixon); the gentleman from Wisconsin (Mr. Obey); the gentleman from New York (Mr. McHugh); the gentleman from Pennsylvania (Mr. Gray); and the gentleman from Florida (Mr. Lehman). All these Members were very active in fashioning this compromise. I do not think we could have worked it out quite as well as we did if it had not been for the help of these Members.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Speaker, I rise in support of this supplemental. It is absolutely necessary we move ahead on this for a number of reasons; however, I do have a grave concern over the one section of the Caribbean Initiative which deals with El Salvador.

I would like to ask the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. Zablocki) a question.

My understanding, as the gentleman from Maryland (Mr. Long) outlined before, is that if we have a bill on this floor before September 15, we will then have an opportunity of further expressing our thoughts and concern on this issue of El Salvador and the money that is allocated for them.

Does the chairman feel that we have an opportunity of having a bill on this floor by September 15?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, it is the hope of the gentleman from Wisconsin that the authorizing legislation on this matter will be scheduled. We have appeared before the Rules Committee. A rule has been granted. I sincerely hope we will have the authorizing legislation considered and enacted before September 15.

Mr. PEYSER. I thank the Chairman for that answer. I still believe the conditions in El Salvador are not of the type that we want to be contributing money to that country at this time until we receive certain further assurances that have not been forthcoming either from the White House or from El Salvador as to the murder of the four American churchwomen.

I hope that the Members have the opportunity when that bill reaches the floor to discuss this issue and let the House work its will on what it wants to do on that $75 million which I believe should be eliminated.

I thank the Chairman for his time.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Dymally).

Mr. DYMALLY. Mr. Speaker, I rise in support of this measure. However, I cannot let this opportunity pass without expressing my distress over the fact that Members of Congress and the State Department keep referring to the Caribbean as Central America and Central America as the Caribbean. They are two distinct geographical areas with separate economies, separate cultures and separate language.

It distresses me no end that we keep referring to the Caribbean as a Communist-infested area when we are really speaking about Central America.

When we reflect on the fact that students do not know their geography and history of the Western Hemisphere, we must also remind ourselves that we, too, have indulged in this incorrect designation of one area with another.

Nevertheless, I want to take this opportunity to thank the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. Zablocki), as well as the gentleman from Maryland (Mr. Barnes), and the gentleman from Maryland (Mr. Long), and the members of the Subcommittee on Foreign Operations of the Appropriations Committee for bringing about this compromise.

When the measure was originally submitted to the House by the President, it only contained $10 million for the eastern Caribbean nations. That money has been increased to $20 million with an additional $7 million for scholarship. The portion affecting the Commonwealth Caribbean, I think, is in very good shape and deserves support. There are questions about the Central American portion, but we have to compromise on this issue.

Therefore, I urge an "aye" vote on this measure.

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. Harkin).

Mr. HARKIN. Mr. Speaker, I rise in reluctant support of the motion of the gentleman from Maryland (Mr. Long). As the Members all know, I am concerned about the entire direction of American policy in Central America. Clearly this bill gives support to and is part of the administration's overall policy toward that region.

On the other hand, the House conferees have done a superb job in reducing the moneys available to El Salvador. Under the leadership of my colleagues, the gentleman from New York (Mr. McHugh), the gentleman from Wisconsin (Mr. Obey), the gentleman from California (Mr. Dixon), and under the leadership of the chairman of the Foreign Operations Subcommittee, the gentleman from Maryland (Mr. Long), the Senate figure of $128 million in economic support funds was reduced to $75 million and the Senate's $20 million in military assistance to El Salvador was reduced to zero.

I commend all of the members of that subcommittee for doing that.

Nonetheless, I am still troubled with the amendment. I believe $75 million to El Salvador is still too much by at least $50 million. I agree with the gentleman from Kansas (Mr. Glickman), if anything we ought to take $50 million out of that and put it in Costa Rica.

Let us remember: This $75 million is hard currency. It is a gift to the Government of El Salvador that will not have to be paid back.

Why does the El Salvadoran Government need this money, these U.S. tax dollars? It is because El Salvador's own entrepreneurs have been taking their money out of El Salvador for at least 10 years.

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We are trying to bail out the capital flight from that country, but we should remember that Salvador's basic problem is neither economic nor military and no amount of either military or economic aid by itself will solve that country's basic problem, which is political. Salvador needs political negotiations and solutions.

I am troubled also because this $75 million comes 3 short weeks after the administration's certification on progress in human rights by the Government of El Salvador. I believe that certification was fraudulent and it only signaled to the Government of El Salvador that it has a blank check to continue its human rights violations.

In case anybody doubts, they should look at a chart that I have from the Department of State that shows that the civilian deaths in El Salvador from last August until this summer has basically remained the same. The trend has not been downward in El Salvador, as the certification said.

I am also troubled by the $10 million in ESF for Guatemala. I believe that appropriation borders on being illegal and it violates section 502(B) of the Foreign Assistance Act which prohibits ESF to gross and consistent violators of human rights. The basic fact remains that the Guatemalan Army has stepped up, not decreased, its policy of massacres and killings of civilians in the countryside.

Now, while the CBI is not directly related to the administration's policies and actions within Honduras to destabilize the Government of Nicaragua, it is nevertheless an integral part of the administration's foreign policy toward Central America. At the moment, that policy includes a $19 million appropriation to carry out covert operations against the Government of Nicaragua. Our whole policy in Honduras seems to be to turn that country into a surrogate for belligerent U.S. policies.

Such a policy, I believe, is a disaster for Honduras. It will lead to war between Honduras and Nicaragua; and finally, engaging in covert operations is illegal under our treaty obligations.

I am not sure that this Congress can, in good conscience, support any proposal that in any way aids and abets this administration's policy toward Central America.

Finally, I just quite frankly do not trust the people who will administer these funds. I trust the House conferees who fashioned this compromise, but I do not trust this administration. They are indifferent to human rights in Central America in each and every country in the region. This administration prefers intransigence to diplomacy, conflict over negotiation, and apparently war instead of peace.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Garcia).

Mr. GARCIA. Mr. Speaker, first of all, I want to associate myself with the remarks of the gentleman from Iowa (Mr. Harkin) because I think his points are well made.

I am delighted that today we are discussing the Caribbean Initiative, a part of the world that has been over the last several years full of strife, killings, and murders. Yet today we are talking about economic development.

Last week I was among those who spoke against the spending of $21 million for an airfield in Honduras. At that time I said that if we really want to help the nations of the Caribbean Basin, then let us encourage them to help themselves.

One of the problems I have is that the money appropriated for El Salvador is excessive. Several years ago there were four Catholic workers in El Salvador murdered, brutally murdered, and yet their murderers have not been brought to trial. Justice has not been served, and yet we are going to allocate $75 million for El Salvador.

I want to help the Government of El Salvador, but that Government has a responsibility to this country, and especially to this Congress, to bring to justice those persons who murdered the four religious workers, so that we can get on with the business of helping that nation and all the other nations of Central America.

I, therefore, want to voice my support for the supplemental appropriation to Caribbean Basin nations. This portion of the Caribbean Basin Initiative is designed to provide balance-of-payment supports for the nations of the region. That is a worthy cause. Many of the basin countries are struggling to establish democratic traditions. The Dominican Republic and Jamaica are two excellent examples.

If the United States wants to promote regional stability, it must help these countries develop economically. The CBI is an appropriate gesture. Although, it does not provide the answer to the region's problems.

What disturbs me, however, is that there is still an excessive amount of money for El Salvador. The House conferees fought to cut out all the military aid for El Salvador. They also cut back economic assistance by over $50 million. This is a victory, but it is still not a strong enough statement.

El Salvador should not get an additional $75 million. It is still in a state of political and civil chaos. The present Government is by no means representative of the majority of the Salvadoran people.

Neither is the Government of Guatemala. The violence in that country since the March 23 coup has not lessened. A state of siege has existed since the beginning of July. The present regime has not outlined a specific economic or political recovery program. It has instead concentrated on terrorizing the civilian population in the countryside, claiming it is wiping out the guerrillas. This is no way to handle a political problem. Yet, Guatemala is being allocated $11 million in this appropriation.

Compromise is the nature of politics, but protest is the nature of democracy. I am willing to compromise by supporting this initiative, but I wish to protest the money being sent to El Salvador, and I hope the money sent to Guatemala is used for humanitarian purposes.

Mr. LONG of Maryland. Mr. Speaker, I might point out in answer to the gentleman from New York that I was strongly opposed to anything for El Salvador. I feel very strongly and, I agree with the gentleman entirely on many of the points he is making; but, like so many compromises, this is one of those things that is not terribly satisfactory from an intellectual point of view.

We were told that if we did not allocate this sum of money, the President would likely veto the entire supplemental bill. That action would have caused $14.5 billion worth of very important programs, social programs and others, to go down the drain.

I do not think there is any question that a veto would occur without these funds. We got the bottom dollar on El Salvador. I think the gentleman from Massachusetts, who helped convince the administration that they were not going to get any Caribbean Basin funds if they vetoed the bill was a very important factor here. The gentleman might want to speak to that point.

In other words, we did the best we could.

Mr. PEYSER. Will the gentleman yield for a question on that?

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Mr. LONG of Maryland. I would be glad to yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, did I understand the gentleman to say that the administration said that unless they got this money for El Salvador, the $75 million, that they would consider vetoing the supplemental?

Mr. LONG of Maryland. This was never openly stated. So you cannot find the fine print to prove this.

Mr. PEYSER. But that was the inference?

Mr. LONG of Maryland. We were given the unmistakable understanding that if without this sum of money, that the whole supplemental would nearly for sure be vetoed.

Mr. PEYSER. I must say, I would find that probably one of the most outrageous statements our executive branch could ever make, that if we did not give money to a country who has certainly violated all the human rights we can think of, that they would veto an urgent supplemental that covers pay raises for military, schools, and everything else. It is just really inconceivable.

I thank the gentleman for yielding.

Mr. LONG of Maryland. Well, let me point out that in fashioning this compromise, we had the invaluable help of the gentleman from New York (Mr. McHugh) and the gentleman from Massachusetts (Mr. Conte). Without those two, I do not know how we could have come to this result. I express my gratitude to both of them for the great job they have done. Further, the valiant work of the gentleman from New York (Mr. McHugh) throughout the years in the operation of this subcommittee has been outstanding. He is always there and he is a tremendously valuable man.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Speaker, I rise in support of the motion of the gentleman from Maryland and associate myself with the various series of commendations of those Members on both sides who have been instrumental in working out this compromise. It is, like all compromises, imperfect, and I doubt that there is a single Member of this House who is satisfied with it in its entirety.

My own views with respect to the administration's policy in Central America are well known, having been stated often on this floor and in committee.

Notwithstanding my most serious personal reservations with respect to the wisdom of current U.S. policy regarding Central America in general and El Salvador and Honduras and Guatemala in particular, I do believe that this initiative is worthy of support by all of us, whether or not we support the administration's general foreign policy in Central America.

I would caution my colleagues, if possible, not to read page 23 of this conference report before us, because there apparently were some flights of rhetoric engaged in by the Senate, I assume late at night, on this subject, wherein the Monroe Doctrine was invoked and will become recodified in the statutes with the adoption of this, and there is something which can only be called almost a Gulf of Fonseca resolution passed by this Senate, which says the United States is determined to prevent by whatever means may be necessasry, "including the use of arms," the regime in Cuba from extending or subverting activities in any part of this hemisphere.

The Senate frightened even itself, apparently, in adopting that amendment, because a few hours later it adopted another amendment which reads:

> This act does not constitute the statutory authorization for introduction of U.S. armed forces contemplated by the war powers resolution.

That, I think, we can all note with enormous relief.

Notwithstanding, as I say, the flights of rhetoric with which I suppose both bodies tend to be consumed in the late hours of the evening, this effort, I think, is the best we are likely to see made both by this administraton and this Congress to address the economic problems which lead to so much of the violence and unrest in Central America.

I urge its support by all Members on both sides, regardless of our differences with respect to policies in general.

Mr. Speaker, I rise in support of the motion to accede to the language worked out by the conferees.

I believe the Caribbean Basin Initiative, despite its many faults, is on balance a positive effort to address the severe economic problems of nations in Central America and the Caribbean. Several of these nations, particularly Costa Rica, the Dominican Republic, and Honduras, are democracies which both deserve and desperately require the assistance contained in this legislation.

Much of the debate over U.S. policy toward Latin America results from differing perceptions about the primary cause of political unrest in the region. Some argue that Cuba and the Soviet Union are largely responsible, others suggest that social injustice and economic problems deserve the primary blame. I do not believe that those who tend to subscribe to the latter view, including myself, should be recorded in opposition to the best effort we are likely to see made by this administration and this Congress to deal with the economic problems contributing to the violence and unrest so prevalent in Cental America today. I suspect a tendency exists on the part of some to oppose this Initiative simply because it was orginially proposed by President Reagan. I understand this reaction, but I believe the CBI must be considered on its merits.

I doubt there are any Members in this body who are completely satisfied with the terms of the compromise worked out by the conferees. I, myself, discussed a series of reservations in the course of offering additional views to the Foreign Affairs Committee report on this subject. In particular, I question the need to send yet another enormous batch of aid to El Salvador at this point, I am uncertain of the legality of providing aid to Guatemala at a time when the government of that country continues to engage in a systematic pattern of gross violations of human rights, and I wish that a greater portion of the funds could have been used for development assistance, particularly of the sort made available by the Inter-American Foundation.

I am also concerned that the Reagan administration may be using the leverage provided by the CBI to persuade Honduras to cooperate in a blatantly illegal effort to overthrow the Government of Nicaragua. Paramilitary operations are being launched regularly from Honduran soil into Nicaragua, clearly with the knowledge, and very likely with the financial backing, of the United States. These operations threaten to embroil Honduras in a regionwide war, and they are making it almost impossible for democratic elements within Nicaragua to argue for a moderation of policies inside that country. I support economic aid to Honduras, but I want the record to reflect my hope that the Government of that country will end its complicity in violence directed by Somocista exile groups against Nicaragua.

In closing, I want to congratulate particularly the gentlemen from Maryland (Mr. Barnes and Mr. Long) and the gentleman from New York (Mr. McHugh) for their work in improving the provisions of this legislation. I think they have done a good job, and I urge support for the CBI.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to clarify one point, and I hope the gentleman from New York (Mr. Peyser) is here.

I do not ever recall the administration saying that unless they got what they wanted in the Caribbean Basin, that they would veto this.

I know what was at stake was that there was some military credit sales money for Spain, Portugal, Morocco, Tunisia, Greece, Turkey, Korea, Thailand, and Sudan.

□ 1710

They wanted that money very, very badly. I believe it was $186 million. We had hours and hours of negotiations on this with Mr. McHugh, Mr. Long, Mr. Obey, and Mr. Kemp.

Mr. McHugh said in no way could he buy any package if it contained that $186 million in military credits. Mr. McHugh is here. If I am wrong, I would like to be told.

That was a compromise. Finally, they dropped that and they went back to the original Long-Kemp package.

Then there was a great deal of discussion in regard to El Salvador because the Senate wanted $128 million in economic aid, and Mr. Long wanted $75 million. That was the agreement finally agreed to, and the Senate was very upset, if I recall, at the end, over that agreement. They were upset that the House prevailed with the $75 million rather than the $128 million.

Those are the facts. There is no military assistance, no military assistance whatsoever, for El Salvador in this bill. That was part of the agreement also.

Of course, I concurred on that part with Mr. Long and with the others.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Hyde).

Mr. HYDE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I just want to say that it is very difficult to sit here and listen to the sacred cause of human rights being used as a club to beat El Salvador over the head, which is fighting a bloody, dirty war for its survival and has had an election, which is more than Nicaragua will have in your memory.

Then to note that the people who are most strident and loud in attacking El Salvador are those who hardly raise an eyebrow, at least in public, to 400,000 innocent people in Beirut, not PLO but the innocent victims of a brutal war who are being killed daily over there. They have human rights, too. There are many more than the four nuns who were killed down in El Salvador.

I will give you some names if you want them, of people who are withholding food and water and medical care from innocent refugees in West Beirut. Those people have human rights, too.

Now, there are those who say that this double standard is intellectually dishonest—count me among them.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. Roth).

Mr. ROTH. I thank the gentleman for yielding this time to me.

Mr, Speaker, this is, I think, generally laudable legislation we are looking at but, like all legislation, I think it should be reviewed with a fine-toothed comb and take a look at all the pitfalls involved.

This legislation mandates $7.5 million to scholarships to Caribbean area students. We have at this time some 38,000 students from the Caribbean area and Latin America. I think when this bill comes up for authorization, I intend to add an amendment, to ask for an amendment to correct this defect. I think it is only appropriate that the American people ask this Congress, at a time when we are cutting back on our own students, how can we mandate money for foreign scholarships?

I think this is an issue that we have to take a look at in this Congress, and at the appropriate time I intend to offer an amendment to that effect.

The Caribbean Basin program, as reported by the Foreign Affairs Committee, contains provisions with which I and many of my colleagues disagree. The legislative calendar has been such, however, that today we are compelled to address the question of appropriations even before we have had an opportunity for floor debate on the authorization itself.

In the authorization, I am particularly concerned over the provision that mandates that the President use at least $7.5 million of the Caribbean Basin funds for scholarships for individuals from the Caribbean and Central America. I have already introduced an amendment which will delete that provision from the authorization. I wanted to bring this to the attention of my colleagues because some may be hesitant to vote for the appropriations portion of the program while this scholarship provision remains in the authorization.

I know that many of you feel as I: How can we go back to our districts and defend cutbacks in student aid—and tell our citizens that we can no longer afford to lend money to American college students—when we are setting up a special scholarship program for foreign nationals? Even without these scholarships, over 12,000 students from the nations covered by the Caribbean Basin program are studying here in the United States. In comparison, only some 4,500 students from the region are studying in the Soviet Union and Eastern European universities.

The problem is that we cannot compare just official aid levels—we must look at the total picture. Whereas in the Soviet bloc, only official aid is available; here in America, there are a wealth of private resources: Churches, business, private foundations all supplement our official aid programs.

Perhaps the most damaging argument that can be utilized against those who contend that our Government must do more in regards to official assistance lies in the total number of foreign students. In the 1980-81 academic year, over 300,000 foreign students came to our Nation. On the other hand, the Soviet Union and the Eastern Europeans—despite all of their financial inducements—were only able to attract some 63,000 foreign students.

I think that the facts are clear: We do not need this scholarship program, it should not be part of the overall initiative, and I will work to see that it is taken out of the authorization bill. Because I am confident that the majority in this House will join with me in striking this provision from the authorization, I feel that I am able to support the appropriation which is before us—and that those of my colleagues, who have had reservations about voting for the appropriation because of the scholarship language in the authorization, will join with me in support of the appropriations for the Caribbean program which is, overall, a valuable contribution toward achievement of America's objectives for the region.

During debate on the authorization bill, I look forward to the discussion on my amendment, which I feel will have the strong support of the majority of my colleagues. At that time, we will have an opportunity for full consideration of the merits of the proposed scholarship program—for now, let us join together in support of the appropriations for this important program.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, I hate to put a discordant note into all of the accolades to the conferees in putting together the Caribbean Basin initiative, but I think it ought to be made very clear that at this point we are authorizing and appropriating all at once a new $350 million foreign aid program that will be operational for less than a year, and when we come back in the spring in the new Congress, there will be further appropriations requested in the fiscal year 1983 appropriation bill.

This is at a time when we are cutting back on our own domestic programs as well as asking the American people to pay more taxes to finance bridging the budget deficit.

I think it is wrong to bring up the Caribbean Basin initiative at this time. I believe that the motion of the gentleman from Maryland ought to be defeated, and, furthermore, in a procedure where a non-amendable motion, in a conference report comes up, it will not allow the House to work its will in terms of setting the priorities as to where this money should go.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Dornan).

Mr. DORNAN of California. Mr. Speaker, how we work out what is in or what is not in this bill is not my primary concern at this moment although the CBI moneys are critically important. I want to address myself to several of the statements about human rights in El Salvador. Again, there is an unfortunate distortion of facts on this floor.

Mr. Speaker, some of my colleagues are severely crippled, handicapped, I believe, in the area of deductive reasoning. They simply cannot tell "the good guys" from "the bad guys" in many conflicts around the world.

I have not heard from the more hot-eyed Members who made a case for the Sandinistas in this well, any comments whatsoever about the human rights violations that are going on in Nicaragua right at this minute. As we talk, at this very moment, Catholic students are rioting against the Sandinista government in some neighborhoods of Managua; for example, yesterday, a Catholic priest was run naked through the streets by the Sandinistan-Marxist-Leninist government there and students are sick of suppression of the church.

Now what about El Salvador? Having visited two hospitals there in San Miguel and San Salvador, within the last 6 days, I have to refute the one-sided statements made on this House floor about the murders from the extreme right only. The Marxist left does more than its share of brutal killing and maiming. I have spoken with the wounded, most of them teenagers.

While murders in many of our own metropolitan areas, such as the cocaine-related killings in Dade County are going up and up, the murders are going down in San Salvador and in the other 13 provinces of that small country, and they are going down precisely because of the American presence and U.S. aid.

Thursday, I flew over the destroyed Golden Bridge which once spanned the major river crossing, El Salvador the Lempi. It was blown up and dumped into the river, this expensive, high-suspension bridge, by Soviet- or Cuban-trained demolition teams. And that expense, the economic expense to El Salvador, we cannot make up for in aid in this Congress over the next 4 or 5 years; if we give them $75 million a year for the next 10 years, we would not make up a fourth of the capital that has fled from that country in just the last 2 years because of the Communist terrorism.

El Salvador is a North American nation worthy of our support as long as they keep that ugly death toll going in the right direction, down, and it is going downhill.

When I look at the country of Belize—they are getting $10 million—which has only 146,000 citizens compared to the 4.5 million Salvadorans excluding the half million that are already up here in the United States, I have to say that $75 million is the minimum that we should give in aid to El Salvador.

I saw with my own eyes 1 week ago today British Harriers in the nation of Belize, which, although a bigger land mass, has a tiny population to protect.

I saw F-86 Sabrejets that I flew in the Air Force sitting at San Pedro Sula in Honduras last year. I saw French-built Mysteres there, over 20 of them that were purchased from Israel after they had been used to defend Israel in the 1967, 6-day war. If there are transonic F-86's and Israeli-sold Mysteres in Honduras, and British Harriers of Falklands fame in Belize, what is so threatening to Central American stability having six tiny Cessna T-37 "Dragonfly," converted primary pilot training aircraft, flying as fighter bombers in El Salvador? By the way, those A-37's are doing a superb job in driving the bad guys back into Nicaragua.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Gilman).

□ 1720

Mr. GILMAN. Mr. Speaker, I rise in support of the chairman's motion in support of the Caribbean Basin Initiative.

The Caribbean Basin Initiative is an important step forward in our efforts to help our neighbors in the Caribbean and Central American area address their longstanding political, social, and economic problems. While helping to strengthen stability and promoting economic development, the CBI will help protect our own political, economic, and security interests in the region.

In addition to our humanitarian interests, it is clear that the Caribbean and Central America has greatly increased in its importance to U.S. interests. With nearly half of our trade, two-thirds of our imported oil and many of our strategic minerals transmitting the region's sea-lanes, this area has become vital to our own self-interest. Furthermore, we are not immune to the violence and unrest that has been taking place as millions of the area's citizens flock to our shores.

The compromise package worked out in the House Foreign Affairs Committee and between the House and the Senate as reflected in this bill is a good-faith effort to meet the concerns of the broad bipartisan coalition that give it near-unanimous support. This measure best reflects that compromise which was designed so that individual country programs complement each other.

Accordingly, I urge my colleagues to support this CBI amendment, to keep the CBI package together, thereby supporting U.S. interests in the Caribbean-Central American region.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Gray).

Mr. GRAY. Mr. Speaker and colleagues, I rise in support of the Caribbean Basin Initiative, and I do so with many of the strong reservations that have been expressed by some of my colleagues, including the distinguished gentleman from Iowa, because I, too, am concerned about what is happening in El Salvador. Yet, at the same time, I recognize that what has happened during the deliberations, and also the hearings, with respect to this Initiative, has been a carefully constructed compromise that tries to speak to a significant policy area in our hemisphere.

Essentially, we may debate about El Salvador, and there are those of us who do not even like the $75 million going to El Salvador, and I would probably come down on that side, or we can talk about the fact that Belize is getting $10 million, but I think the real central issue we are going to be facing in voting today is whether or not we are going to begin to provide some aid to our Caribbean neighbors whom we have ignored. Essentially, the CBI seeks to address itself particularly to those neighbors in the Caribbean.

Yes, there are those in Central America, and that is why some of my colleagues now call it, not the Caribbean Basin Initiative, but the Caribbean-Latin Basin Initiative. But I think we are beginning to move in the right direction, and that is to provide substantial economic assistance to the Caribbean.

No one perhaps in this Congress has greater unemployment than I do; 25 percent of my adult population is unemployed, but yet at the same time I recognize that the $356 million that will be spent with our Caribbean neighbors particularly is a worthwhile investment so that next year, or the year after next we will not have to vote on high military assistance which will cost more than this Initiative. Let us walk through this door of opportunity.

I urge the support for the Caribbean Initiative.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. Barnes).

Mr. BARNES. Mr. Speaker, I just want to respond briefly to two comments made by some of our colleagues about this legislation.

One, as one gentleman said, this is not the time; we have got problems here in America. The problem is, there has never been the time. That is why we are where we are now. We have put off doing what needed to be done year after year, and that is why we have the problems we face today in the Caribbean and Central America. If we had done this 20 years ago we would not face the problems we have today.

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Another gentleman said he is opposed to the scholarship money that is in this legislation that will provide funds for students to come to the United States from Central America and the Caribbean to study. I am a strong proponent of this. The Soviet Union, the Cubans, and the East Germans are spending a fortune educating these young people, and we are not competing with them. I think we ought to be doing it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BARNES. I yield.

Mr. LONG of Maryland. The fact is that the gentleman put scholarships into the authorization but they are not earmarked in the appropriation.

Mr. BARNES. I am glad it is in the authorization, and I hope we can get some money appropriated for it, because the United States ought to be competing with the Soviet Union on scholarships.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I would like to follow up the comments made by the gentleman from Pennsylvania, Mr. GRAY. His point was that this is a very sound proposal, and as the gentleman from Maryland (Mr. BARNES) pointed out, that it is really long overdue. What we are talking about is a practical investment by the United States in an area where we have substantial trade as well as traditional ties. It is essential to our national defense. This is essential to our role of leadership in all of Lation America, but specifically the Caribbean. I maintain we should have had this program in the Alliance for Progress in a much more aggressive fashion.

It is true that there is a never a right time for anything. Perhaps now may not be the right time, but it is the time to make a good, hard decision. This legislation and these funds are necessary to show the leadership and the long-term interest the United States has in the well-being of the nations and the peoples of the Caribbean.

I personally think countries like Haiti and Belize will eventually get a larger slice of the pie. There is nothing magic or hard in the original distribution of funds. That will be corrected over the years, but to fund the program now is absolutely essential. I urge the House to take that position.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. LONG of Maryland. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. Is the gentleman from Massachusetts (Mr. CONTE) objecting to the vote?

Mr. CONTE. No, Mr. Speaker, I am just making the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) has a right to object to the vote.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 129, not voting 24, as follows:

[Roll No. 294]

YEAS—281

Addabbo
Akaka
Alexander
Annunzio
Anthony
Archer
Aspin
Badham
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Bonior
Bowen
Brinkley
Broomfield
Brown (CA)
Burgener
Burton, Phillip
Butler
Campbell
Carman
Carney
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dornan
Dougherty
Downey
Duncan
Dwyer
Dymally
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Ford (TN)
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hamilton
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hawkins
Hightower
Hiler
Hillis
Holland
Hollenbeck
Horton
Howard
Hoyer
Huckaby
Hunter
Hutto
Hyde
Jacobs
Jeffords
Kazen
Kemp
Kennelly
Kildee
LaFalce
Lagomarsino
Lantos
Latta
Leach
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McGrath
McHugh
McKinney
Mica
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Moore
Morrison
Myers
Natcher
Nelligan
Nelson
Nowak
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roth
Rousselot
Roybal
Rudd
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Sharp
Shaw
Simon
Skeen
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Spence
Stangeland
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Trible
Udall
Vander Jagt
Walgren
Wampler
Waxman
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—129

Albosta
Anderson
Andrews
Applegate
Ashbrook
Atkinson
AuCoin
Bailey (MO)
Benedict
Benjamin
Bennett
Bethune
Blanchard
Boner
Bonker
Bouquard
Breaux
Brodhead
Brooks
Brown (CO)
Broyhill
Byron
Chappie
Collins (TX)
Conyers
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daschle
Dellums
Donnelly
Dorgan
Dowdy
Dreier
Dunn
Dyson
Early
Eckart
Emerson
Emery
English
Fithian
Ford (MI)
Fountain
Frank
Gaydos
Gramm
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hartnett
Hatcher
Heckler
Hefner
Hendon
Hertel
Hopkins
Hubbard
Hughes
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kindness
Kogovsek
Kramer
Leath
Leland
Marlenee
Martin (IL)
Mattox
McDonald
McEwen
Mikulski
Miller (CA)
Miller (OH)
Moorhead
Mottl
Murphy
Murtha
Napier
Neal
Nichols
Oakar
Pashayan
Patman
Patterson
Paul
Quillen
Ritter
Roberts (KS)
Roberts (SD)
Roemer
Rose
Roukema
Russo
Savage
Sensenbrenner
Shannon
Shelby
Shumway
Siljander
Skelton
Smith (NE)
Smith (OR)
Snyder
Solomon
St Germain
Stark
Stenholm
Stump
Tauzin
Taylor
Traxler
Vento
Walker
Washington
Watkins
Weaver
Whitley
Whittaker
Whitten
Wyden
Young (AK)

NOT VOTING—24

Bafalis
Beard
Bolling
Brown (OH)
Burton, John
Chappell
Foley
Ginn
Goldwater
Heftel
Holt
Ireland
Lott
Madigan
Marks
Michel
Moffett
Montgomery
O'Brien
Rosenthal
Rostenkowski
Shuster
Stanton
Volkmer

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□ 1740

Messrs. EMERY, HARTNETT, SAVAGE, MARLENEE, MILLER of California, and D'AMOURS, Mrs. HECKLER, Mr. AuCOIN, and Mr. PATTERSON changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 59: Page 21, after line 7, insert:

Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker. I offer a motion.

The Clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 59, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 60: Page 21, after line 7, insert:

Military Assistance Program

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $16,988,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and $25,012,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only for Somalia, Honduras, and El Salvador: *Provided further*, That of the funds available only for the countries referred to in the first proviso, $10,000,000 shall be available only for Somalia, $12,000,000 shall be available only for Honduras, and $20,000,000 shall be available only for El Salvador.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Military Assistance Program

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $2,000,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and $25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: $10,000,000 shall be available only for Honduras; $5,000,000 shall be available only for Somalia; $2,000,000 shall be available only for Costa Rica; and, $10,000,000 shall be available only for Portugal.

Mr. CONTE. (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. Long) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. Myers) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. Long).

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. Wolpe).

Mr. WOLPE. Mr. Speaker, I want to take this opportunity to share with this body some reservations that I and other Members on the House Subcommittee on Africa have with respect to the additional military assistance that is programed for Somalia within the body of this amendment. My subcommittee recommended $20 million in military support for Somalia in the 1982 fiscal year. In the 1983 authorization we have recommended another $20 million. What is before us now is a proposed increase of $5 million for 1982; there is also discussion underway within the administration about possible reprograming of additional military assistance for Somalia.

It needs to be understood that beyond a symbolic affirmation of support for Somalia in its current conflict with Ethiopia, additional military aid is basically irrelevant to both the external and internal problems facing that friendly country. What is desperately needed is not more arms for Somalia but a constructive diplomatic initiative in the region. Without such an initiative, more military aid shows little promise of fulfilling its goal of reducing Soviet and anti-American influences in the Horn of Africa. Moreover, the escalation of American military assistance to Somalia carriers with it substantial risks to American interests in the Horn.

The military assistance for Somalia is being offered as a response to the recent border invasion into Somalia of Ethiopian forces. But this military assistance is clearly inadequate to the military challenge facing Somalia. Ethiopia, with almost 10 times the population of Somalia and possessing large amounts of Soviet equipment, is the predominant regional power. In addition, a key element of Somalia's present problems with Ethiopian incursions and Ethiopian-aided Somali dissident forces is the growing internal political crisis in Somalia. In the past few months, the Somali Government has arrested seven top officials from various political and ethnic groups, repressed nonviolent mass demonstrations in northern Somalia against economic shortages and political underrepresentation, arrested over 1,500 people, and experienced the defection of numerous cabinet ministers, party officials, ambassadors and troops. At least two key opposition groups, the Somalia Democratic Salvation Front and the Somalia National Movement—neither of which are socialist much less Communist—have launched attacks within Somalia from Ethiopian sanctuaries. Somalia's military forces are clearly hampered in the current fighting by the Government's loss of internal political support.

□ 1750

There are really three points that I think need to be understood very clearly. The first is the military aid that is being provided is essentially irrelevant to the effort by Somalia at repelling the recent Ethiopian incursion.

Ethiopia is the dominant regional power with almost 10 times the population of Somalia.

Actually, no one in the administration is even pretending that the limited military assistance that is being extended is going to do the military job. What is being argued instead is that the increased military assistance to Somalia is intended as a symbol of our support for President Siad and a warning to the Ethiopians to desist from efforts to undermine the Siad regime.

The reality, however, is that the signal that is being sent out by the additional programing of military support to Somalia could well have some very serious and negative unintended consequences. The first of those consequences is that Somalia may well be encouraged to expand its military operations in the Ogaden region of Ethiopia. At the heart of the historic conflict between Ethiopia and Somalia is Somalia's claim to Ethiopian territory that is inhabited by Somali, a claim that has been rejected by the U.S. Government as well as by the entire African continent. Somalia has continually supported dissidents in the Ethiopian Ogaden and even invaded Ethiopia with its regular forces in 1977-78 and 1980. Prior to the latest Ethiopian border incursions there were reliable reports of a large Somali-aided guerrilla attack in the Ogaden and even of Somali regular incursions into the Ogaden. There are indications that this activity is now increasing again.

I want to repeat: The position of the U.S. Government has been that the

Somalia claim to Ethiopian territory is an invalid claim. We have opposed consistently Somali troops being involved in the Ogaden region. In fact, in the past we have insisted as a condition of American aid to Somalia that there be no Somali troop involvement in the Ogaden region. We took this position because we did not want the United States to be drawn into a regional conflict, and we did not want American arms exacerbating that conflict.

The **SPEAKER** pro tempore. The time of the gentleman from Michigan (Mr. Wolpe) has expired.

(At the request of Mr. Long of Maryland and by unanimous consent, Mr. Wolpe was allowed to proceed for 2 additional minutes.)

Mr. **WOLPE**. Mr. Speaker, I believe the issues are significant and do require some discussion.

The final point I would make is that U.S. interests in the Horn of Africa are to minimize regional violence which, as developments following the 1977-78 Somalia invasion of Ethiopia make clear, attracts Soviet and Cuban involvement. It is for this reason that the gentleman from Pennslyvania (Mr. Goodling), the ranking minority member of my subcommittee, and I have urged the administration to back away from its focus upon the military dimension of the conflict in the Horn and to take a broader, diplomatic approach to both Ethiopia and Somalia that will address the underlying causes of that conflict. A high-level diplomatic initiative to both Somalia and Ethiopia should seek mutual withdrawals of all military forces. Such an initiative could meet the security concerns of both sides, as in our successful diplomacy with Angola and Zaire since 1978. As part of this approval, we must reaffirm to Somalia congressional conditions that no regular Somali troops be in the Ogaden when U.S. military aid is agreed to or delivered and the applicability of Somalia's previous assurances to the United States that it would refrain from the use of force against Ethiopia. We must further insist that U.S. aid not be used against internal dissidents in Somalia. Likewise, we need to make clear to Ethiopia our opposition to Ethopian cross-border insurgence into Somalia and Ethopian military support for the Somalia Democratic Salvation Front.

In sum, increased military aid for Somalia, beyond its symbolic effect, gives no promise of helping Somalia cope with recent Ethiopian border incursions. It is irrelevant to the internal crisis in Somalia which could well erupt into internal revolution following military defeats. And it is irrelevant to the need to defuse the historic conflict between Ethiopia and Somalia over the Ogaden which has spawned the current border war. I hope, therefore, that the Congress will be vigilant in insisting that the administration develop a diplomatic and political approach to Somalia's problems. This is the only effective means we have of curbing violence and Soviet influence in the region. By simply throwing money to a weak and willful "friend," we risk a wasteful, expensive course which could result in greater external and internal pressures on a friendly regime, and greater risk of the emergence of a less pro-American successor.

Mr. **DIXON**. Mr. Speaker, will the gentleman yield?

Mr. **WOLPE**. I yield to the gentleman from California.

Mr. **DIXON**. Mr. Speaker, I would like to associate myself with the gentleman's remarks. As the Members know, we tried to get language into the conference. Due to unforseen circumstances, we were not able to accomplish this. I think the gentleman's point that this military assistance to Somalia will do no good is well taken. It probably will do a lot of damage.

Mr. **LONG** of Maryland. Mr. Speaker, I yield for 4 minutes to the gentleman from New York (Mr. Stratton).

Mr. **STRATTON**. Mr. Speaker, the gentleman from Michigan (Mr. Wolpe), the previous speaker, has given only one side and a very distorted side of the problem of the nation of Somalia in the Horn of Africa with a 15,000-foot runway, a very capable naval port, directly across from Aden in South Yemen, where the Soviets are staging a massive military buildup.

This is a country which the Armed Services Committee visited in 1975 when Siad Barre, the President, was flirting with the Soviet Union.

The Soviets had already constructed the 15,000-foot runway, the longest, I believe, on the east coast of Africa, and they already had their naval ships in the harbor. Within a couple of years of that visit—and I dare say our visit may have had something to do with it—the Somalis broke off with the Soviet Union, and they then sought help and support and understanding from the United States. This gave our country a great opportunity.

I cannot imagine a more strategic location for the activities of the Rapid Deployment Force to be based than in the country of Somalia. After some pressure on the administration—which always seems to resist some of these things—two administrations finally indicated that they recognized the strategic importance of Somalia, the importance of keeping Somalia and its runway in American hands, friendly to the United States of America. Eventually a total of something like $40 million in defensive weapons were designated for Somalia, in conjunction with the agreement which Somalia signed with us to provide facilities for the operation of our Navy in the Indian Ocean and also our RDF.

However, the liberal members of the Foreign Affairs Committee have consistently fought against this agreement, one after the other of the members of the African Affairs Subcommittee because, they said, the Somalis were being nasty to the Ethiopians. But it is the Ethiopians who are invading Somalia today, and with vast, with modern Soviet equipment.

What happens now to our RDF base? And how did this come about? Well, when the Soviet Union saw that in spite of the commitment that the State Department and Secretary Haig had given to President Barre and the renewed assurances that President Barre got just a few months ago from members of the Foreign Affairs Committee at an elaborate breakfast on the second floor of the Rayburn Building, the United States was dragging its feet and consistently refusing to send to Somalia what had been originally authorized and had been promised, the Ethiopians figured obviously the United States is not really sincere in its support of Somalia, so we might as well go ahead and invade Somalia and break up the U.S. Navy's schedule and the U.S. R.D.F. installation.

That is precisely what is going on now. It was only when the actual invasion of Somalia got under way that the administration finally recognized that they better ship the stuff over to Somalia which had been promised to them 2 years ago, if they were going to be able to hold on in the strategically important Horn of Africa, and keep that Horn out of the control and domination of the Soviet Union which ended in 1977.

I think for Members to reject the relatively modest amount of money that the distinguished gentleman from Maryland (Mr. Long) has included in his request would be a major tragedy for the foreign policy and our whole strategy in the Indian Ocean.

I hope that Members will support the gentleman from Maryland by a wide margin.

□ 1800

Mr. **MYERS**. Mr. Speaker, I yield back the balance of my time.

Mr. **LONG** of Maryland. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. Long).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **MILLER** of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

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The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 237, nays 175, not voting 22, as follows:

[Roll No. 295]

YEAS—237

Addabbo
Akaka
Alexander
Andrews
Annunzio
Archer
Ashbrook
Aspin
Badham
Bailey (PA)
Benedict
Bennett
Bereuter
Bevill
Biaggi
Bliley
Boggs
Boland
Bouquard
Bowen
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coleman
Conable
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dixon
Donnelly
Dornan
Dougherty
Dreier
Duncan
Dwyer
Dyson
Edwards (AL)
Edwards (OK)
English
Erdahl
Erlenborn
Evans (GA)
Fary
Fascell
Fazio
Fenwick
Fiedler
Fields
Findley
Fish
Foley
Fountain
Fowler
Frenzel
Frost
Fuqua
Gibbons
Gilman
Gingrich
Gore
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hertel
Hightower
Hiler
Hillis
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Jeffords
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
LaFalce
Lagomarsino
Latta
Leath
LeBoutillier
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery (CA)
Luken
Lungren
Marriott
Martin (NC)
Martin (NY)
Mavroules
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Obey
Oxley
Panetta
Parris
Pashayan
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Railsback
Regula
Rhodes
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rogers
Rose
Roth
Roukema
Rousselot
Roybal
Rudd
Santini
Sawyer
Scheuer
Schulze
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snyder
Solarz
Solomon
Spence
Stangeland
Staton
Stenholm
Stratton
Stump
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Waxman
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Wilson
Winn
Wolf
Wright
Wylie
Young (AK)
Young (FL)
Zablocki
Zeferetti

NAYS—175

Albosta
Anderson
Anthony
Applegate
Atkinson
AuCoin
Bailey (MO)
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bethune
Bingham
Blanchard
Boner
Bonior
Bonker
Breaux
Brodhead
Brooks
Brown (CA)
Brown (CO)
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Collins (TX)
Conte
Conyers
Coyne, James
Coyne, William
Crockett
Daschle
Deckard
Dellums
Dingell
Dorgan
Dowdy
Downey
Dunn
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emerson
Emery
Evans (IA)
Evans (IN)
Ferraro
Fithian
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Forsythe
Frank
Garcia
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Goodling
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hollenbeck
Horton
Howard
Hoyer
Hughes
Jacobs
Jenkins
Kastenmeier
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lantos
Leach
Lee
Leland
Long (LA)
Lowry (WA)
Lujan
Lundine
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mattox
Mazzoli
Mikulski
Miller (CA)
Miller (OH)
Mitchell (MD)
Mottl
Murphy
Neal
Nowak
Oakar
Oberstar
Ottinger
Patman
Patterson
Paul
Pease
Perkins
Peyser
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Ritter
Rodino
Roe
Roemer
Rostenkowski
Russo
Sabo
Savage
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Skelton
Smith (IA)
Snowe
St Germain
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Vento
Walgren
Washington
Watkins
Weaver
Weiss
Whitten
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wortley
Wyden
Yates
Yatron
Young (MO)

NOT VOTING—22

Bafalis
Beard
Bolling
Brown (OH)
Burton, John
Chappell
Ertel
Evans (DE)
Ginn
Goldwater
Heftel
Holland
Holt
Ireland
Madigan
Marks
Moffett
O'Brien
Rosenthal
Shuster
Stanton
Volkmer

□ 1810

Messrs. DECKARD, SAVAGE, and DYMALLY changed their votes from "yea" to "nay."

Mr. HAMMERSCHMIDT and Mrs. BYRON changed their votes from "nay" to "aye."

Mr. EMERSON changed his vote from "present" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 62: Page 21, after line 7, insert:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $50,000,000, which sum shall be available only for the Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made $50,000,000 of such gross obligations during such fiscal year.

In addition to the total amount of commitments to guarantee loans during the fiscal year 1982 provided under the heading "Foreign Military Credit Sales" of Public Law 97-121, there are provided $186,000,000 of commitments to guarantee such loans during such fiscal year: *Provided*, That such additional commitments and $25,000,000 of reprogrammed commitments to guarantee such loans during the fiscal year 1982 shall be provided only to guarantee loans for Korea, Thailand, Morocco, Tunisia, Portugal, Spain, Greece, and Turkey: *Provided further*, That of the commitments provided only to guarantee loans for the countries referred to in the first proviso $26,000,000 shall be provided only for Korea, $25,000,000 shall be provided only for Thailand, $20,000,000 shall be provided only for Morocco, $10,000,000 shall be provided only for Tunisia, $20,000,000 shall be provided only for Portugal, $25,000,000 shall be provided only for Spain, $35,000,000 shall be provided only for Greece, and $50,000,000 shall be provided only for Turkey.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $50,000,000, which sum shall be available only for Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made $50,000,000 of such gross obligations during such fiscal year.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 63: Page 21, after line 7, insert:

Special Defense Acquisition Fund

(LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, $250,000,000.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. Long of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Special Defense Acquisition Fund

(LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisiton Fund for the fiscal year 1982, $125,000,000.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 64: Page 21, strike out lines 8 to 16, inclusive.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows:

DEPARTMENT OF STATE

Migration and Refugee Assistance

The funds appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1982, for resettlement services and facilities for refugees and displaced persons in Africa shall remain available until expended.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 65: Page 22, after line 3, insert:

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further*, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: *Provided further*, That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further*, That not withstanding any other provision of law the Department of Housing and Urban Development shall obligate not more than one-fifteenth of the amount appropriated for personnel compensation and benefits during each month beginning on January 1, 1983, until October 1, 1983, until the Department issues final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further*, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 CFR section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 CFR section 883.207 shall not be deferred: *Provided further*, That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 66: Page 22, after line 4, insert:

Selective Service System

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $304,000: *Provided*, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendent, as follows: In lieu of the matter proposed by said amendment, insert the following:

Selective Service System

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $150,000: *Provided*, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 69: Page 23, after line 22, insert:

LAND ACQUISITION

Notwithstanding the date cited in section 119(d) of Public Law 96-199 for acquisition of Yaquina Head Outstanding Natural Area, Oregon, an additional $700,000 is provided, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows: In lieu of

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the matter proposed by said amendment, insert the following:

LAND ACQUISITION

For an additional amount for "Land acquisition", $700,000: *Provided*, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with $1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 84: Page 26, line 18, after "$7,000,000" insert ": *Provided further*, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "Indian affairs" in the paragraph headed "Tribal trust funds" by deleting the last sentence of said paragraph and isnerting the following in lieu thereof:

"No funds shall be deposited in such 'Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balance of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows;

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "Indian affairs" in the paragraph headed "Tribal trust funds" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:

"No funds shall be deposited in such "Indian money, proceeds of labor" (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow account represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe of individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds.

Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate Amendment No. 86: Page 27, line 3, strike out all after "$21,400,000," down to and including "funds" in line 22 and insert "to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in turst pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided further*, That such fund and the earnings and distributions therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further*, That $2,000,000 of such fund shall remain available for future ex gratial distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further*, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 86 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided further,* That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further,* That $2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further,* That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: *Provided further,* That of the remaining funds, $2,500,000 shall be transfered to the "Administration of territories" account for technical assistance activities, to remain available until expended".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 91: Page 29, after line 16, insert:

FOSSIL ENERGY CONSTRUCTION

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $28,100,000 shall be used to implement the SRC-I project post-baseline workplan as outlined in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the SRC-I project termination reserve; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned post-baseline workplan or other current SRC-I project contracts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered #91 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

FOSSIL ENERGY CONSTRUCTION

(DEFERRAL)

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, $28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the termination costs of SRC-I; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned activities.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 97: Page 32, line 6, strike out all after "$210,572,000" down to and including "amended" in line 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: ": *Provided,* That not more than $46,325,840 shall be for grants to States under paragraph (3) of section 506(a) of the Older Americans Act of 1965, as amended".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate Amendment No. 98: Page 32, after line 9, insert:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For "Advances to the Unemployment Trust Fund and Other Funds", such sums as may be necessary, to remain available until September 30, 1983, for nonrepayable advances for a Federal supplemental benefits program subject to enactment of authorizing legislation.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Funds appropriated under this head shall be available for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No 112: Page 36, strike out lines 21 to 25, inclusive, and insert:

For an additional amount to carry out title III of the Higher Education Act, $5,184,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided,* That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further,* That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further,* That of the amounts that shall remain

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available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, $10,000,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which $5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided*, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further*, That the remaining $5,000,000 shall enable the secretary to award grants under parts A and B of title III of the Act to eligible institutions which had an application approved, but did not receive a grant in fiscal year 1982: *Provided further*, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further*, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, the next amendment has to do with the Salary Commission. I had expected to make the motion, but instead the gentleman from California (Mr. Fazio), who is chairman of the Subcommittee on the Legislative Branch, is to present the next amendment to insist on the original House position which strikes the Salary Commission and leaves congressional salaries as they are.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 115: Page 39, after line 2, insert:

Sec. 108. For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642–645), $160,000, to remain available until expended: *Provided*, That, in accordance with such section 225 (except as otherwise provided in this section), the Commission shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall become effective for pay periods which begin 30 calendar days after submission to the Congress, unless Congress disapproves such recommendations by concurrent resolution.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fazio moves that the House insist on its disagreement to the amendment of the Senate numbered 115.

The **SPEAKER** pro tempore. Does the gentleman from California (Mr. Fazio) desire recognition?

Mr. FAZIO. Yes, Mr. Speaker, I do.

The **SPEAKER** pro tempore. The gentleman from California (Mr. Fazio) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes

The Chair recognizes the gentleman from California (Mr. Fazio).

Mr. FAZIO. Mr. Speaker, I thank the chairman of the full committee for giving me this opportunity, and I will not take anywhere near the amount of time that I have been allotted, but I think it is important that we stop for just a minute and consider the action the House took yesterday on this same amendment when it was part of the reconciliation package.

I do so regretfully, because I think it is important that the House understand fully what was considered, however briefly on the floor, before the House acted in panic to reject the recommendation that has come over from the Senate on both of these measures, the language offered by the assistant majority leader of the other body.

I think it is important that we take this time because a number of people may have been misled by some of the rhetoric that occurred on the floor and was included in Dear Colleague letters, and eventually placed in the Record in other instances. I realize there are time when it is best to quickly dismiss these matters and assume they are better left unsaid, but I think we have reached a point where it is important for the House to consider some of them, because impressions are left which I think poison the well for the future. I am personally very troubled by some of the things that were said, and concerned, as I know many others are, as to where we might go from here in dealing with the very serious issue of how the Congress considers these needs in the future to assure a just and reasonable level of compensation for the Members of Congress and all senior officials of the Government.

Obviously, we are in an election period and it is not a good time to talk about these things. Clearly, I am in agreement with my chairman that we should not proceed, and I am not of course forcing that issue. But, there are several things that I think need to be said to clarify further misimpressions. It was said yesterday that we were attempting to use the back door way to get a large pay raise. Well, it was not a back door way, Mr. Speaker. This vote right here is certainly an opportunity for the House to express its opposition to the formation of a Commission to make recommendations to the body as to what our pay might be at some point in the future. The conferees, in reporting the amendment to the House, were giving the House the opportunity to vote up or down on the Commission. That is not back door.

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Certainly there is no assumption that there would be a large raise involved. The President would have to decide upon the recommendations of a Commission comprised of people he would appoint as to whatever amount he would submit to the Congress for our ultimate approval.

There is absolutely no assumption that we could make at this time as to what amount of salary adjustment might have been proposed to us. We might have simply been asked to provide for a catchup in our cost-of-living adjustment, which has been denied to the Members of Congress each year but once since 1977.

I might point out to the Members that we have had a 60-percent-plus cost-of-living increase in our economy during a time period when this membership has had one raise of 5.5 percent several years ago.

It was also said that we could anticipate that in the next Congress we would be given at least a $96,000 pay scale. That is based I guess on what the Commission recommended 2 years ago.

I think it is important to point out that President Carter, when he submitted the recommendation to this body, which we rejected 2 years ago, reduced the $85,000 figure recommended by the Commission down to $70,900. The President certainly would have had the option to do that again and to even reduce it to a level lower than recommended by the Commission so no assumption along those lines is appropriate at this time.

It was stated that a vote for this is a vote for a $36,000 pay raise. That ignores, as I say, the President's ability to reduce that recommendation as President's have done in every instance of a quadrennial recommendation. It totally overlooks the process in the organic law by which we are protected and our constituents are protected from any decision that would be seen by this body or anyone else as excessive.

We were told that we were giving the Commission the power to decide on our salaries. The Commission merely recommends to the President and it is the President who makes the recommendation to the Congress which will make the ultimate decision as to what that level of compensation will be.

There is absolutely no relegation of power or decision authority to the Commission.

It was stated for the record that last December the House passed a similar hidden pay raise through an amendment never read or printed. I want to point out that we did not pass a pay raise for the Members of this body last December. We allowed the executive branch's top-level people to have a pay raise while at the same time denying it for ourselves.

I take the time to make these comments not because I wish to be combative or to take additional time on the floor on a subject that is very difficult for all of us. But I think it is important we begin to rebut some of the remarks that are made, inappropriately, and to clarify the record.

I think it is time we had some dialog on this issue. I think it is time we stand up in public and create some understanding and awareness of just what the issues are.

I think there will have to be other opportunities to do this because the hour is late. I hope that some of my colleagues will join me perhaps in a bipartisan effort after the session to talk in terms of where we might go from here.

But I do want to take this opportunity to clarify the record and appreciate the chairman of the committee giving me this opportunity.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Wisconsin who has been a real leader in this area.

Mr. OBEY. I thank the gentleman in the well for his comments.

I want to congratulate him for frankly having the courage to even mention the subject on the floor today.

I would just like to observe that I have had at least four or five Members of this House today come up to me and say, "For God's sake, do not talk about this subject." It is almost as though they equate the question of congressional compensation with an unmentionable social desease.

I frankly think it is a mistake for us not to create the Commission which is being considered today, for a number of reasons I think, for instance, that not to do so perpetuates a very serious threat to the integrity of this House.

I have been here now almost 14 years. I have seen Members, very often the same Members, piously, on occasion after occasion, posture against front-door pay raises for Members of this and the other body while at the same time, through their posturing, helping to make inevitable the kind of back-door pay raises that have gone on in this institution over the past years.

They have helped make inevitable the conditions that have created an unhealthy level of outside income, for instance, especially in terms of the other body.

They have helped create the atmosphere that led to the efforts at the tax gimmicks last year.

This House has a responsibility to itself and to the country to find a mechanism to adjust congressional compensation and compensation for high level executives at regular intervals through the front door in a clean way, and this Commission should have been created, in my judgment, to review the question of congressional pay, the question of congressional tax treatment, and the question of outside income.

As the gentleman in the well indicates, he and I were trying to explore a series of amendments which could, for instance, have guaranteed a vote on whatever recommendation came out of the Commission.

It would have also tried to suspend raises which are scheduled to go into effect until that Commission reported and had its product reviewed by the Congress.

This House cannot justify, obviously, large pay raises in the middle of the economic problems the country is having. But it also cannot afford, in my judgment, to avoid the responsibility to look for and establish a mechanism which provides clean, front-door adjustments in congressional pay on a regular basis.

I would suggest that the absence of such a mechanism is a long-term threat to the independence and integrity of this House.

I would suggest also, very frankly, that it guarantees that a larger and larger share of the membership of this and the other body will be composed of people with wealthy ancestors, wealthy husbands or wealthy families or well-heeled sponsors, very frankly, because of the problems associated with outside income.

I personally believe it is absolutely ridiculous for Members of this House to insist that Members vote on their own pay. I cannot think of anyone who is less qualified to vote on our own pay than we are.

But, very frankly, I think it is even more ridiculous and much more regrettable that this body has so few Members who care enough about the long-term integrity of this House to do anything other than talk about the problem.

Mr. FAZIO. I appreciate the gentleman's comments.

I would like to insert in the RECORD at this time a memorandum which explains an amendment that the gentleman and I would have offered at this point which would go a long way to allaying these concerns, I believe the misplaced concerns, that some had expressed during the debate yesterday.

The material referred to follows:

MEMO OUTLINING THE AMENDMENT WHICH WAS CONSIDERED BUT NOT OFFERED BY THE GENTLEMAN FROM CALIFORNIA, MR. FAZIO

An amendment will be offered to the federal pay provision in the Supplemental Appropriations conference agreement when the House considers that measure later today. The pay provision in the Supplemental Appropriations conference agreement is identical to the pay provision in the Omnibus Reconciliation conference agreement which the House rejected yesterday.

The provision: (1) Requires the so called Quadrennial Commission on Executive, Legislative, and Judicial Salaries make salary recommendations to the President by November 15; (2) requires the President to forward his own recommendations to the Congress "as soon as practicable" after receipt of the Commission report; and (3) provided that the President's recommendations shall take effect automatically unless Congress disapproves them by concurrent resolution within 30 calendar days.

Rep. Fasio will offer a motion to amend the pay provision as follows:

(1) Change the time period for Congressional review from "30 calendar days" to "30 legislative days;"

(2) Require a vote by both the House and the Senate before any recommendation could take effect; and

(3) Suspends the automatic pay increase scheduled to take effect on October 1 under the Executive Salary Cost of Living Adjustment Act of 1975. (This law provides that Members of Congress, federal judges, and other top government officials shall automatically receive the same government wide percentage pay increase granted to civil

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service workers under the Federal Pay Comparability Act of 1970.)

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Michigan.

Mr. TRAXLER. I commend the gentleman for his statement and wish to join with him. I agree with my colleague from Wisconsin that this body has not straightforwardly addressed this issue.

Let me just say since the history of this Republic there have been eight pay raises for the Congress.

I would also say to the gentleman, in support of his remarks, since 1977, which was the last major consideration given to salary, there has been over 60-percent inflation.

I might add in 1979 there was a 5.5-percent increase for the Members of this body and that is the last congressional pay increase.

If the body votes a bill for an increase in salary then the Members are voting themselves a pay increase and those critics say you ought not to do this and the public says it is rather unseemly.

On the other hand, if Congress sets up an impartial mechanism to establish a fair salary, to make adjustments up or down in salary, to make a recommendation to the President, as the gentleman has pointed out, then it is sort of a back-door approach, according to the critics.

They cannot have it both ways. I have seen the same critics on this floor criticize both approaches.

So I commend the gentleman for his statement.

Mr. FAZIO. I appreciate the gentleman's strong statement.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to say that I think we already have a mechanism. It worked in 1979 and I proved it when I voted for a raise in the salaries of Members of the House. I would do it again.

I was on a nationwide program recently, called the "Phil Donahue Show," and I spoke in no uncertain terms to the whole country, and I have received letters from all over the country about it, explaining the absolute necessity of a rise in the salary of Members of Congress and what it would do for the people of this country.

□ 1840

I believe in it. We have a mechanism. I do think we ought to act by an open and recorded vote. I think it ought to apply, not to the Congress in which we sit, but to the next Congress, as many States as in their constitutions provide. I think we should stand up and say that we know that the time has come when we cannot decently expect fine Members of Congress—as three of my colleagues have told me—to dig into their life's savings to meet expenses. Yes, we need a raise. And I have spoken about it. What was the result? One of my colleagues who heard me on the "Phil Donahue Show" said, "You must be crazy. What a foolish thing for you to do." I do not think it was foolish. I think it was right. And we tell the people of this country the truth, which is that a raise in salary for Members of Congress is absolutely essential; that we ought to do it with an open and recorded vote; and that it should take effect in the Congress following the one in which it has been voted, standing up for what we know is right and necessary. We should do it.

Mr. FAZIO. I appreciate the gentlewoman's enthusiastic support for a pay raise, and I appreciate the fact that she has been willing to take that to the public through the media. There are many other Members here who have a very difficult time meeting the kinds of expenses that most Members have, families who have been finding it difficult to afford a home in the area, with the interest rates at the level that they are, and the very highest of living in Washington, and the necessity in many cases to maintain a house in the district as well as a home in Washington. Those are people who I am most concerned about, the younger Members who have yet to move their families here. The gentleman from Massachusetts (Mr. CONTE) has made this point on many occasions. There are very few Members of this freshman class who have made that move with their families. We have a class system, to some extent, in this House, based upon the level of mortgage interest that people have to pay. It has a tremendous effect upon the disposable income that any of us have. I think it is important for the public to understand that.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Wisconsin, and the gentleman in the well from California, and thank him for his service on this issue.

In this week's Newsweek magazine is, I think, a particularly appropriate article depicting some of the circumstances of serving in Congress today.

The article is as follows:

THE CAPITOL HILL HASSLE

(By James A. Miller)

After a year of working in the United States Senate, I am intrigued less by who votes for what than by why all these "whos" are even here. Recently, serving in Congress has turned into such an aggravating, exhausting and generally exasperating hassle, it's a wonder anybody wants to do it. Perhaps never before in political history have so many sacrificed so much for so little that was supposed to be so much.

A wise man once said, "Person who climb ladder of success too far, may hit head on ceiling." Running for Congress is chancy and perilous enough, but serving there has become nothing less than an endurance test. The Hays Scandal, the Mills Scandal, Koreagate and Abscam weren't enough; now there's talk of Pagescam or Sexscam or Dopescam, or whatever one wants to call the current flurry. It really doesn't matter if a legislator is personally involved or not; citizens assimilate and stereotype at the drop of an innuendo.

If people are starting to feel squeamish about running for Congress, who can blame them? It's not that they can't stand the heat and are getting out of the kitchen; it's that nobody in his or her right mind rushes into a kitchen that's already a blazing inferno.

FUNDRAISING

Congress, lacking miracle cures, keeps falling short of national dreams, and politicians keep failing short of public expectations. The combination of financial sacrifices, wrenching family traumas, media aggressiveness and endless fund raising is driving smart members home and smart potential candidates away.

The sad fact is, the inducements to run for Congress aren't all that glorious to begin with. In fact, they may never before have been so paltry. An individual graduating with honors from a top-ranked law school may earn more after a few years than does a representative or a senator. In addition, lawyers in the private sector do not have to maintain two houses or comply with restrictions on income or publish their tax returns for all the world to see.

Whatever a representative or senator might choose to do instead of serving in Congress would, almost unquestionably, be a great deal more lucrative and rewarding than public office. After all, if these people could convince an entire district, or an entire state, that they were capable of leading and legislating the affairs of those who elected them, and if they had the financial resources to launch a successful drive to office, chances are that they are capable of getting a great many other jobs that would be regarded as darn good.

Congressmen are more than legislators, they are executives who must manage large staffs; they are businessmen as well. It is ironic that they could be more financially successful selling used cars back home.

Republican Sen. Jake Garn of Utah, chairman of the Senate Banking Committee, goes from lunch with bank executives who make hundreds of thousands of dollars a year to the Senate floor where he must fight to lift the limitation on honorariums that senators can accept. Senator Garn has seven children, a mortgage in Washington and a mortgage in Utah.

But there is a much more profound frustration than money that makes serving in Congress more and more of an ordeal. There is a perceived decline in the number of qualified and committed people who serve there—because the positions of senator or representative are not as attractive as they should be, or as they once were. Perhaps this is why Senator Garn, in a speech on the

Senate floor in May, during the debate on the budget, cried out, "I am angry. I am angry at this body. I am angry at Congress—and I do not care which party, Republicans or Democrats—because there are weak-kneed, gutless politicians on both sides who will not face up to the issues . . ."

In Congress today one is expected to have the intellectual credentials of a Rhodes scholar, the oratorical skills of a Ted Kopel, the godlike trustworthiness of a Walter Cronkite and the sense of humor of a Johnny Carson. Americans may expect too much of the people they chose to represent them. After all, these aren't extraterrestrials. They're people who grew up next door, people who are just as capable of failure and indecision as anybody else.

When those folks next door get to Washington, they will have to adapt to a life without privacy. They must endure constant intrusions from aggressive reporters and countless interest groups, nonstop fund raising to sustain their political and financial survival, exhausting plane travel, the disruption of normal family life and a growing fear that all this may just be too much trouble for too little satisfaction. From a great distance, serving in Congress sounds like fun—lots of power, money and great tables at French restaurants. When you see it up close, you realize it's more like tunafish sandwiches from carryouts. The glamour disappears, and people who should know better start regarding you as some lower form of life.

The cost-benefit ratio for many in Congress has fallen to a new low. The usual reasons for retirement—age, political vulnerability, redistricting and new political aims—are being replaced as quickly as one can say, "It's not worth it." In fact, they are being replaced by "It's not worth it."

RISK

It's hard to forget the smile of the wife of former Rep. John Cavanaugh, a Nebraska Democrat, as he announced his retirement from Congress at 35. Or the rhetorical question Texas Democratic Rep. Joe Wyatt Jr. put to a reporter a couple of years ago: "Why stay and take the grief?"

Certainly we should hold the people we elect to high standards—but not impossible ones. If they check all their frailties and vulnerabilities at the door of Congress, might they not be checking their humanity as well? "Nobody's perfect" is a pretty feeble excuse for wrongdoing, malfeasance and willful deceit, but the fact remains that nobody is perfect. If we wait around for perfect beings to elect to Congress, we risk frightening the imperfect but damned good people away. As for those who are currently serving, as long as they are masochistic enough to stay, we might as well take advantage of their talents.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to compliment the gentleman from California (Mr. FAZIO) for his comments. I think one of the things that he and the gentleman from Wisconsin were pointing out is that they had some perfecting amendments to the Commission that would have made it better. I think some of the things that people worried about were the calendar days rather than legislative days, the November 15 date, the two Houses having to turn it down, and so forth. That really did make it look a little suspicious.

I understand the gentleman being angry about people portraying it as an automatic pay increase, but I think when it was put in both reconciliation and the supplemental with those kinds of things it did come across that way, and it is really too bad.

The gentleman is correct. This must be argued openly. It must be argued out front. It must be dealt with by this body. There is no way to find some magic pay fairy who is going to say, "Here, take it, you have to have it, even if you do not want it." I think that is a dream, but it is not going to happen. We have to deal with this in an up-front method. I think the methods that happened right before the election made it a little suspicious. It is too bad that the gentleman did not get to offer his amendment that he and the gentleman from Wisconsin prepared. But I hope you do them in an open, up-front way, and we start on a new foot with this in the next session so that everybody can testify, can talk about it, and it is there.

Mr. FAZIO. If I might respond to the gentlewoman, first of all, I think if we do have some disagreements among ourselves as to what the words of the Senate amendment mean, we ought to sit down and try to clarify them, and to develop an amendment that will be clearly understood for the record. That would have been a constructive way to build confidence in what we are trying to do rather than destroy it.

I think there are clearly some questions that were not satisfactorily resolved. I think the amendment we worked out would have done that. But I do not in any way want to imply that the amendment that was drafted in the other body and acquiesced in initially in the conference committee was drawn in a way that would preclude this body from expressing its opinion. I worry very much about a one-house veto, when the other body has no limitation on its outside income. They feel much less pressure to support a pay raise, nowhere near as much pressure as this body does, which is made up of individuals who, in most cases, do not have or want to take the opportunity to derive additional income from honorariums, which is anywhere near the old limit let alone the one we carry today.

Under the Senate amendment, the President had the authority and the power to make his submission to the Congress at a time when we would be in session which would have given us the opportunity to deal with it, in an open, up-front manner, and I am sure he would not have acted in a way to provide a back-door pay raise for us or any of the senior officials of Government who would be covered by these recommendations.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply like to say to the gentlewoman from Colorado that the House would be greatly assisted in dealing with this in an up-front manner if, for one thing, the "Dear Colleague" letters which she sent out would be a little more accurate on the subject.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. LEWIS. Mr. Speaker, I thank my colleague from California for yielding, and I would like to say at the outset that I believe that the Members of the House should observe with great care and appreciation the amount of effort and work that my colleague from California has put into this matter. He is one of the very few around here who are willing to recognize the critical importance of professionalism in this House. And he has been willing to put himself on the line when many a person would rather demagog than put themselves on the line.

Having said that, I spent 10 years in the California Legislature, and there I came to the conclusion that a 2-year legislative body was incapable of handling its own compensation matters. As a practical fact of life, I found in the State legislature people who needed raises did not have the guts to stand up and say what they really needed to be able to survive in this business. Demagoguery dominated the day, and so time and time again I suggested we take these matters out of the hands of a 2-year elective body.

In coming to the Congress it was my hope that we would find a different circumstance because, after all, this is the greatest deliberative body in the land. I was sure I would find people of conviction, of good will, people who recognized that the House must reflect a mix of this country. Indeed, that is not the case.

I am coming to the conclusion that this House, too, is too much controlled by those who would wish to demagog for elective purposes. I have come personally to the conclusion that we had better take these matters out of our hands and let some independent body make these decisions. If we do not follow a different path, I would suggest that in the not too distant future we will have a continuation or extension of that which is the current pattern—more and more of people with two kinds of backgrounds coming to this House; on the one hand, those who were born with silver spoons in their mouths, who feel guilty about the way their parents made their money; on the other hand, those who

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could never make the kind of money we make, even at $60,000 a year.

The people of this country deserve better than that. So I would suggest, unless the good work of my colleague from California gets a better response than it has up to now, that in the near future we take these matters out of our control.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to my good friend, the gentleman from California (Mr. Burgener), the ranking minority member of the Legislative Subcommittee of the Committee on Appropriations.

Mr. BURGENER. Mr. Speaker, I would like to commend the gentleman in the well and associate myself with his remarks and also the other gentleman from California (Mr. Lewis). I could not agree more.

Mr. Speaker, I have said many times that if this House does not do something about the pay and allowances of Members and do it up front and do it right, we will soon have two kinds of people in here, as Mr. Lewis said. We will have a collection of millionaires and ne'er-do-wells—and in some cases you get both at once.

I do want to associate myself with the remarks of the gentleman in the well.

Mr. FAZIO. I thank the gentleman for his remarks.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Minnesota.

Mr. SABO. I thank the gentleman from California for yielding, and I wish to associate myself with his remarks and the remarks of the gentleman from Wisconsin (Mr. Obey) and the gentleman from California (Mr. Lewis). I think their comments are right on target.

In particular, I want to commend my friend from California (Mr. Fazio) for undertaking what I am sure is one of the more uncomfortable tasks in this body in trying to deal with this sensitive issue. The work that he has done, I think, will reflect well on this body in the future because it is an issue that we have to deal with. It is a difficult issue for the gentleman to deal with. It is not one that I am sure adds to his vote totals. But for those of us who are concerned about the House as an institution of Government, he has made a great and long-lasting contribution.

Mr. FAZIO. I thank the gentleman for his comments.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I thank the gentleman for yielding.

Mr. Speaker, I will say today what I had intended to insert in remarks on the last day I serve in this body this year. I announced my retirement some time ago, and I have tried to think of all kinds of reasons for leaving service in this body, which I have greatly enjoyed.

□ 1850

I frankly do not want to leave the Congress. I would prefer to remain here, and the fact that I did not have any opposition indicated to me that my constituents would have preferred that I remain here. Both the gentlemen who are nominated in my district are fine people, I hope, because I do not know either one of them. They have been widely publicized as millionaires. I did not know I had two millionaires in my district. Neither of them ever contributed to my campaign or paid honoraria to me.

There was a program on CBS the other day about those of us who are leaving. I think one of the messages carried there was somebody like me with four children, the first beginning college next week, just cannot remain in Washington under the pay that is provided by this body to itself.

I know a lot of other people I would like to see remain here who have told me privately that that is their basic reason. It is mine. I hope to get out and make enough money in a couple of years to be able to afford to come back.

Mr. FAZIO. Mr. Speaker, I would like to thank the gentleman from South Carolina for his courage on this issue even before his decision to retire and certainly his willingness to discuss it since.

I would like to thank all the Members who commented and express my appreciation to those willing to move on from here in a positive way to see what we can do together to solve our mutual problem.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Fazio).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 117: Page 40, after line 25, insert:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogramed for the acquisition of a replacement C-130 aircraft to be based at Kodiak, Alaska.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogramed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 119: Page 41, line 8, strike out "$45,700,000," and insert "$103,200,000, of which $57,500,000 shall remain available until September 30, 1983,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: in lieu of the matter stricken and inserted by said amendment, insert the following: "$93,200,000, of which $57,500,000 shall remain available until September 30, 1983".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 132: Page 45, after line 15, insert:

From funds previously appropriated for the Urban Mass Transportation Administration, Urban Discretionary grants, advances shall be made immediately toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants, advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 138: Page 47, line 4, after "$8,084,000" insert ": *Provided*, That none of the funds appropriated by this act shall be used to impose or assess any tax due under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That none of the funds appropriated by this Act shall be used to impose or assess any tax due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 149: Page 49, after line 20, insert:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $6,500,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $300,000 shall be for the preservation of Senate historical records.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 149 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $4,100,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $600,000 shall be for the preservation of House and Senate historical records.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 150: Page 49, after line 20, insert:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

All moneys that—

(1) are received from the sale of materials sold from the National Defense Stockpile (as defined in the second sentence of section 3(a) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(a))) after July 31, 1982, and before October 1, 1983; and

(2) are covered into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98h(d)),

are appropriated for the acquisition of copper that is mined and smelted in the United States after July 31, 1982. Section 301 of this Act shall not apply to the appropriation made by the first sentence of this paragraph.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House insist on its disagreement to the amendment of the Senate numbered 150.

PREFERENTIAL MOTION OFFERED BY MR. RUDD

Mr. RUDD. Mr. Speaker, I offer a preferential motion.

The Clerk read as follow:

Mr. Rudd of Arizona moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. Whitten) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. Whitten).

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. Roybal), who handled this matter in the subcommittee.

Mr. ROYBAL. Mr. Speaker, I rise in opposition to the amendment that has been proposed by the gentleman from Arizona (Mr. Rudd).

Mr. Speaker, I would like to lay the groundwork for this coming action, by describing, to the House, action that transpired in conference.

The subject matter before the conferees was a proposal that would appropriate funds from the sale of materials from the national defense stockpile from July 31, 1982, to October 1, 1983, for the purpose of purchasing copper, and only copper.

There was a long debate with regard to this subject matter. Those who made the presentation on behalf of the other body pointed to the fact, Mr. Speaker, that copper is a strategic material pointed out also that copper can be purchased now at its lowest price.

Then they made the further argument that the States that now produce copper have a problem of unemployment and that this is a serious subject matter that must be dealt with by the Congress of the United States.

May I point out that there was not a single conferee who was not in sympathy with the problems that were being presented, and most of us, I am sure, sympathetic to the arguments made by those representing copper States at the conference. The conferees on the part of the House, however, had to depend on facts.

Mr. Speaker, the conferees on the part of the House had to make a decision based on the law itself, and on the true needs of the national defense stockpile. The decision was made because we were sure that their request actually violated the express purpose of the Strategic and General Materials Stockpile Act as found in Public Law 96-41 which was enacted July 3, 1976, and amended by Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981.

□ 1900

Specifically, the law clearly states under section 3(b)(1) of Public Law 96-41, and I quote:

> That the purpose of the stockpile is to serve the interests of national defense only and is not to be used for economic or budgetary purposes.

That was the key item upon which the House took a position, a very specific mandate in the law.

We also had a communication from the administration and the adminis-

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tration clearly told the conferees that the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes. In other words, the administration clearly agreed with the reasons and the position being taken by the House conferees; but then they went beyond that. They told the conferees in writing in no uncertain terms that the amount in the stockpile fund is now adequate for remaining 1982 purchases and administration proposed 1983 appropriations.

They also went on to tell the conferees that the stockpile contains almost $4 billion in excess materials, not needed for national defense, but should be sold in an orderly manner to provide funds for purchases of materials that are needed.

They went on to inform the conferees that the stockpile has $393 million in unmet priorities I and over $4 billion in unmet priorities II goals for items such as titanium, cobalt, and rubber, and then pointed out to the conferees that while copper is a strategic material, that it is in priority III, IV, and V. The conferees were informed in that same written memo from the administration that at the present time there is $1.2 billion in other priority III needs in the stockpile goals, which means that even though copper falls under that low priority, that there are many other items, other metals higher in priority and needed more for national defense purposes than copper itself.

The administration also pointed out to the conferees that if the proceeds of the sale of these commodities are used to purchase copper, either the national security will suffer or the Congress will have to consider appropriating funds that are not generated by stockpile sales.

If the position of the House is not agreed to, Mr. Speaker, what will happen is that we will open up the doors to the purchase of a particular metal simply because it may be in abundance or because unemployment is high in those States that produce those metals. Pretty soon the entire stockpile can well be open to any section of the country that may seek some relief from their economic problems.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman.

Mr. STRATTON. I was not quite clear what the proposed amendment was. The gentleman talked about $400 million of items in the stockpile that were not needed for defense. But under the law the decision on what is needed and what is not needed in the stockpile resides in the Committee on Armed Services.

Is there any contemplated change of that procedure in the amendment that the gentleman is proposing?

Mr. ROYBAL. My understanding is that there is absolutely no change in the amendment. What will be proposed, of course, is that the House agree with the position of the Senate, which simply seeks to appropriate all funds for the sale of materials from the national defense stockpile from July 31, 1982, to October 1, 1983, solely for purposes of purchasing copper.

The argument is that copper is so low that now is the time to buy it. The administration takes the position, however, that we have enough copper, that copper is readily available and that the use of this method does not conform with the priorities that have been set up under the stockpile priority system.

I am sure that the administration is also sympathetic with the plight of States that produce copper, but they are interested in getting these materials for defense purposes, not for the purpose of helping economically any particular area of the United States.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, the gentleman is absolutely correct and that is the legislation, as I understand it today. Of course, some people would like to sell off the stockpile to reduce the national debt. Some people would like to sell it off and acquire other metals, as the gentleman says, because those metals may be at a low monetary value. But I am glad to see that the Committee on Appropriations is sticking with the basic legislation on the control of the stockpile.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. YATES. Is not the purpose of the amendment of the gentleman from Arizona to grab the funds that are available for purchasing of essential materials for the stockpile, those that are in short supply, in order to use those funds for the sole purpose of buying copper from the copper-producing States, totally in opposition to the basic purposes of the stockpile law?

Mr. ROYBAL. May I say to the gentleman, the proposed amendment is definitely not within the intended purpose of the stockpile agreement.

Mr. Speaker, I hope that I have, in fact, set the stage as to what happened at the conference. I hope that I have clearly indicated that the administration is definitely opposed to any proposal to start buying, not only copper, but any particular metal that is not urgently needed for the national defense, the reasons why they oppose this notion and the same reasons that prompted conferees on the part of the House to take the position that the action being proposed is inconsistent with purpose of the national defense stockpile.

Therefore, I request, Mr. Speaker, that we not go along with this proposed amendment or motion.

May I reiterate the fact that the conferees are most sympathetic to the plight of the States. We have no disagreement with some of their arguments, but their request is really not in keeping with the intent of the law.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. Rudd).

Mr. RUDD. Mr. Speaker, the purpose of this amendment is not to avoid the law. It is to comply with the law. There is nothing subrosa about the amendment at all. We simply want to make sure that the law be complied with.

The stockpile in this effect is 3 percent of what is needed in that stockpile. Copper is a basic industry in our country and I offer this motion on behalf of my colleagues in some 19 States, including not just Western States, but States such as Tennessee, New Jersey, New York, Maryland, Illinois and, of course, on behalf of my colleagues in Western States such as Montana, New Mexico, Arizona, and for my good friend, the gentleman from New Mexico (Mr. Lujan).

□ 1910

The purpose of this is to rebuild the stockpile with a vital metal which is needed for our defense purposes, and the policy has been that when the metal itself is low, then that is the time to buy and restockpile.

Let me tell my colleagues, copper has dropped from $1.20 per pound to, last week, 57 cents per pound.

Now is the time to buy and to restockpile, at market. It would do some good things for our economy and for people who are out of work. About 50 percent, as high as 60 percent of the workers in the copper industry are out of work. Sixty percent in my own State, for example, where over half of the mines have been closed down and 60 percent of the workers are out of work.

So it would do that job; no question about it. But we have to take some other ideas in mind, too, because copper is a cyclical industry, has its ups and downs, according to a fickle market, I guess, in metals, but the technicians and the people who work in the industry, if they have to leave, will go to some other industry, and if we find ourselves in an emergency it will be impossible to once again start that industry up, speaking of the copper industry.

So the purpose of this amendment is to comply with the law and to comply with the authority which is vested in GSA to sell off excess metals when we have high markets, and to buy them and keep the stockpile intact also. It is not to avoid the law at all.

We have become so dependent on foreign operations in this industry that if we do not do something about it, we are going to lose the industry because these people are going to find other means of employment.

These mines and smelters and refining institutions that are being closed down, some of them permanently, will never be able to reopen again. Then we will be left at the mercy of the foreign operations, which will have to provide the copper that we need. So it is not to avoid the law that we are doing this; it is to comply with the law the way it is and to protect a vital industry, keep it vibrant and alive and producing for America.

That is the purpose of the amendment, very simply put.

Mr. Speaker, I ask unanimous consent that I may insert in the RECORD at this point a list of the States that have either smelting, refining, or mining operations in copper.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The list of States follows:

List of States that have either smelting, refining or mining in copper:

Smelters.—Montana; Arizona; Texas; Washington; Tennessee; Nevada; New Mexico; Utah; and Michigan.

Refineries.—Illinois; Arizona; New Mexico; Utah; Maryland; New York; Georgia; Michigan; Washington; New Jersey; Montana; and Texas.

Mines.—Missouri; Montana; New Mexico; Tennessee; Utah; California; Arizona; Colorado; Idaho; and Michigan.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I want to thank the gentleman from Massachusetts for yielding this time to me.

I cannot really understand all of the arguments that are going on here, and I shall try to put the problem into perspective.

Senator SCHMITT, from New Mexico, offered this amendment in the Senate. The amendment has a twofold purpose.

One purpose, of course, is the employment situation in the mining industry. This amendment said that we would buy into the strategic pile copper which was mined and smelted within the limits of the United States.

Now, it is true the copper industry is in a very desperate situation, operating at 50 percent of capacity, because the international producers are flooding the world market. So that is true; that is one of the objectives of this amendment.

But the other objective is that we are short of copper in our strategic stockpile.

FEMA, the Federal Emergency Management Agency, sets the goals for the amount of materials that we must have in that strategic stockpile. The goal for copper is 1 million tons. Now listen to this: We have only 28,444 tons, or 3 percent of the goal that is set by FEMA.

The opponents of this amendment would have you believe that it is illegal to buy copper for the strategic pile. It is not. It is clearly within the law. As a matter of fact, I am alarmed that we should be at 3 percent of the goal as set by FEMA.

Sales of strategic materials go on all the time. It is nothing new. Those sales are ongoing. There is income being generated. As a matter of fact, it is estimated that there are $3.6 billion—$3.6 billion—in excess materials in the stockpile.

We have authority right now to sell stone diamonds, tin, tungsten, to the tune of $300 million. That is the amount of money that we are talking about here. We are not talking about going out and appropriating another $300 million. All we are saying is that those materials that are excess to the needs of national security be sold and that we buy a material that is, in fact, in short supply.

So I would think that the request by the gentleman from Arizona is a legitimate one, is a request in the national security interest of this country and, by the way, we can fix a problem that exists in the unemployment area in this country.

Mr. SKEEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I will be happy to yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman in the well, as well as those of the gentleman from Arizona (Mr. RUDD).

Mr. Speaker, I rise in strong support of the gentleman from Arizona's motion.

Mr. Speaker, the copper industry in this country is in dire straits. Today, the copper industry is operating at 50-percent capacity, and is going down fast. And today Mr. Speaker, we have an opportunity to do a real service for an industry that is important to the national security of this country.

As we all know, the strategic stockpile was established in order to provide a temporary source of materials in the event of war.

The Federal Emergency Management Agency sets goals for units of materials in the stockpile, and, also establishes priorities for acquisition of materials for the stockpile.

The goal for copper is 1 million tons. As of June 30, 1982, there were only 28,444 tons of copper in current inventory. The strategic stockpile is not even within 3 percent of its own goal for copper, yet mines are closing at a rapid pace, and miners are sitting idle.

Mr. Speaker, what are we waiting for? The price is now low, and the need is obviously great.

Mr. Speaker, I urge the adoption of this motion.

Mr. CONTE. Mr. Speaker, will the gnetleman yield to me?

Mr. LUJAN. I would be happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to compliment the gentleman in the well for his fine presentation.

Copper is at a low price right now, I believe around 53 cents a pound. It might be real smart to buy a lot of that copper and keep it in our stockpile when you can buy it this cheap, rather than buy it when the price is high.

Mr. LUJAN. That is exactly right.

Mr. CONTE. I thank the gentleman for yielding.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Speaker, I join in this amendment. I urge the House to see the wisdom in the Senate action regarding the purchase of copper to replenish the copper stockpile.

I know the House wants to get on with business tonight, and so do I, but this House has very few chances, very few chances during our term, to directly vote for increased productivity, more jobs, the revitalization of lost employment, and a more secure defense position.

This amendment offers us that one opportunity. Today the copper industry is operating at 50 percent of capacity, 50 percent. In the district that I represent, we have lost copper refining capacity, copper mining operations, and 5,000 jobs.

The national strategic stockpile stores units of strategic minerals necessary for national emergency purposes. The copper stockpile—listen to this—the copper stockpile is 97 percent below the goal that has been set for it by the Federal Emergency Management Agency.

Copper in this country is a national defense need, and it is 97 percent below what it ought to be, according to the Federal Emergency Management Agency.

This amendment does not affect the purchases currently planned, and it will leave enough money to fund current budget requests. We will still purchase the needed cobalt, palladium, other important minerals. We also will make a strong move, however, to save a vital part of our mining industry. We will put people to work without reducing the National Treasury.

This amendment is most likely the only opportunity this session that this

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Congress will have to aid the ailing, failing copper industry.

Mr. Speaker, I urge my colleagues to see the wisdom in doing what we can before it is too late for the copper industry. Every time a mine closes in this country, every time a smelter is mothballed, our defense stockpile needs increase and this Nation goes farther onto its knees.

☐ 1920

I hope to have the attention of the House on the gentleman's amendment, and I hope reason prevails. I urge the Members to vote aye.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the Chairman for yielding. Actually, I am very much in sympathy with the pleas of those who represent copper mining districts; very sympathetic to an industry that has got 50 percent unemployment. But, let us go one better. Let us include iron ore in the stockpiling. We have got 6 percent of capacity operation in iron ore mining—not 50-percent, but 90 percent of iron ore miners in northern Minnesota are out of a job—90 percent. You have a hell of a lot of taconite we can mine and process and put in the stockpile, and put those 14,000 iron ore miners back to work not only in Minnesota, but in northern Michigan as well, and not be dependent upon Canada or Venezuela or Brazil to get our iron ore.

The fundamental industry in this country is steel, so let us go one better. Let us add iron ore. Well, we cannot. We cannot under the conditions of this proposition. I do not think we ought to consider just one industry. We ought to take into consideration the whole country and its needs, and we ought to deal with this matter in the legislative process instead of in an appropriation bill.

So, I do not think that the exclusiveness of the Senate provision ought to prevail in this body where we have no chance to look at the whole condition of the Nation's strategic minerals and materials requirements. So, I do not think that the House ought to recede from its position.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. I wonder if I might get the attention of the subcommittee chairman. I do not have a position on this, but I would like to establish something for the record if the gentleman from California would assist me in a colloquy.

It is my understanding that as strategic materials are sold from the stockpile the money goes into a fund. Then from this fund as other requirements arise, other strategic materials are purchased.

I wonder if the gentleman could assist me. Are there excess funds available at the present time to purchase copper or other strategic materials or minerals?

Mr. ROYBAL. Mr. Speaker, if the gentleman would yield, it is my understanding and that of the committee that there are no excessive funds for the purchase of any materials. May I also call to the attention of the gentleman page 84 of the bill. What we find on page 84 is that all moneys received from the sale of materials sold under the national defense stockpile after July 31 and before October 1, 1983, are appropriated for the acquisition of copper that is mined and smelted in the United States.

That clearly says that all the money received from the sale of the materials sold will be used for the purchase of copper only.

Mr. DICKINSON. Let me see if I understand the gentleman correctly. The last 2 years that I can recall, and perhaps more, there has been an attempt to raid—these are my words—the silver stockpile. This has been beaten back. If silver, for instance, were sold this year, is the gentleman saying that the proceeds then would have to go to purchase copper?

Mr. ROYBAL. Whether it be silver or any other metal sold, if this amendment prevails it will be used exclusively for the purchase of copper.

Mr. DICKINSON. And is the gentleman saying that there are no funds available now for this purchase? Are you saying that whatever is sold hereafter from the strategic stockpile these funds would automatically be mandated to purchase silver?

Mr. ROYBAL. Copper is correct.

Mr. DICKINSON. One other question if I might, Mr. Chairman. I wonder if the gentleman could help me and clarify who sets the goals, that is the strategic stockpile targets and goals?

Mr. ROYBAL. I believe it would be one of the committees, dealing with defense.

Mr. DICKINSON. I believe it is FEMA, the Federal Emergency Management Agency. I believe this is correct.

Mr. ROYBAL. My understanding is, that is in cooperation with the appropriate committee of the Congress.

Mr. DICKINSON. I see my other chairman coming down. He manages this on the Armed Services Committee. Now, I served on the subcommittee for a while, and that is the reason I am engaging in this colloquy with the gentleman. We have authority to approve the disposition and the sale from the stockpile. I am not sure that we approve the purchase to the stockpile. FEMA, as I understand it, sets the goals. GSA manages the acquisition, disposition, and storage. Also, they sell it in such a way as not to adversely impact the economy. Who sets the goals and what criteria do they use, because it seems to me, whether we are talking about industrial diamonds, silver, copper, the requirements go up and down like an elevator, and there is no accountability for the decisions.

They decide at one time that they want to prepare for 1½ wars, then they change this and they decide to prepare for one war or two wars, and the requirements go up and down. We wrote into the law that they could not do that solely for economic reasons to influence the budget. It had to be done for legitimate reasons. But, I think sometimes we circumvent that from time to time.

I was wondering if the gentleman could help me. Who sets the requirement and the criteria that they use?

Mr. ROYBAL. I do not think there is criteria that is being used other than the defense needs themselves. The stockpile is based on what is needed.

Mr. DICKINSON. Does the gentleman know how much rare earth there is in the stockpile?

Mr. ROYBAL. No, I do not have that information.

Mr. DICKINSON. There is a substantial amount. I do not know how this comes into our defense picture, but we have rare earth metals.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I will be happy to yield.

Mr. LUJAN. Who sets the goals for FEMA?

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. MYERS. Mr. Speaker, I yield 8 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there seems to be some difference of opinion between the gentleman from California and the gentleman in the well as to not only the level of the stockpile transaction fund, but its usage. I would like to ask my friend if he would agree with me that the stockpile transaction fund is subject to appropriation. May I have the attention of the gentleman from Alabama, who was asking the questions?

☐ 1930

There is no such thing as automatic authority to expend those sums of money in the stockpile transactions fund. It is subject to appropriation.

I would imagine the purposes for which the money is appropriated would control the types of materials which would be purchased.

I also understand, and this comes from the testimony that was offered in the Senate committee, that there is some $360 million in that stockpile transaction fund and that therefore there are funds available for appropriation.

Mr. DICKINSON. This is a little bit contrary to what I have just been told.

Mr. RHODES. That is the reason I thought I should bring it up because it does bring a different picture forward.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from New York.

Mr. STRATTON. I think the gentleman is correct that no purchases could be made without appropriations from the Appropriations Committee. But my understanding is that the decision as to what metals should be purchased for the stockpile still resides with the Committee on Armed Services and more specifically with the subcommittee chaired by the very able gentleman from Florida (Mr. BENNETT).

Mr. RHODES. I think that is my understanding, certainly, of the situation.

Mr. DICKINSON. If the gentleman will yield back to me, you are saying, though, that from previous sales there is presently $360 million available for this purpose?

Mr. RHODES. That is my understanding.

Mr. DICKINSON. That must be appropriated, but it can be only spent for this purpose. But it has to be approved by the Appropriations Committee.

Mr. RHODES. That is my understanding from the testimony in the other body and then, of course, if the amendment of the gentleman from Arizona is adopted there would be made available funds for the purchase of copper.

Mr. DICKINSON. I do not think copper should be singled out as the only thing they can buy from the stockpile.

It is interesting, too, that they do have the money available.

Mr. RHODES. For the purposes of this particular bill, as far as I know, nobody is asking for money to buy anything but copper. That does not mean that it is going to last forever.

Mr. BENNETT. Will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from Florida.

Mr. BENNETT. It really disturbs me to hear anybody say that because actually there is a shortage of about $8 billion in the stockpile. There is that much that needs to be acquired and copper is way down on the list.

In other words, it is not one of the top items. Eventually we might buy some copper but it is years off to buy copper. There are things like cobalt and chrome and things like that, billions of dollars of that material which is desperately needed for our national defense long before copper and there is $8 billion of red ink if we face the needs for purchase.

Mr. RHODES. May I regain my time in order to very respectfully, and the gentleman knows I have great respect for him, say that I disagree with the statement that he has made because I am sure that his committee has found that in the past. But I am also sure that you have not looked at the present situation because you were probably since those priorities were set looking at a copper industry which was in motion, which was going, and the mines were working.

Mr. BENNETT. We have copper in the United States and we do not have these other things.

Mr. RHODES. I will not yield. I want to finish my statement and then I will be glad to yield to my friend. But that is not the situation.

My State produces more copper than any State in the Union. As far as I know there is not one working mine of a major nature in Arizona today which is operating. That is because the price has gone from $1.20 a pound down to 53 cents a pound.

Now I ask my friend from Florida if there were to be a war to begin, say, within a year or whatever, if he thinks that 28,000 tons of copper in the stockpile would be anywhere near adequate when not backed up by the mining industry which we have had in this country.

Mr. BENNETT. I do not think that would be adequate but there are some other things that are so much more inadequate that we are not taking care of.

Mr. RHODES. Then I would suggest that the gentleman's committee ought to be asking for them.

Mr. BENNETT. We are asking for them, absolutely. I have not been able to get the President to ask for all of them but we are asking for chromium, we are asking for cobalt, and we are asking for a number of things. That silver bill was passed some time ago. That silver bill was tied to a list of things that would have balanced this.

Mr. RHODES. I am amazed that your committee has not looked at the situation.

Mr. BENNETT. We have. We have. We have recommended purchasing but they do not include copper.

Mr. RHODES. When did you look at it last? When was the last time you considered this?

Mr. BENNETT. This year.

Mr. RHODES. This year? This is August and since January every mine in Arizona has closed, every mine in Montana, and only one is left operating in New Mexico.

Mr. BENNETT. The problem is there are some things that we do not have in this country at all, not at all. We do not produce them here, have no way to produce them here.

Mr. RHODES. That may well be the situation.

Mr. BENNETT. It is the situation.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. YATES. There is a letter here from the chairman of the Armed Services Committee of another body in which he says, urging against the Schmitt amendment,

> Copper is only a category 3 priority. There are over two dozen materials that have been determined to be more critical than copper. Approximately $4.5 billion is needed to purchase these materials to meet inventory requirements.

The problem is the administration refuses to make enough money available to buy the materials that are needed for the stockpile, including copper. But you should not require the administration to take whatever money has been available and use it exclusively to buy copper.

Mr. RHODES. The gentleman must have read the Constitution and he must realize that the Congress disposes and even if the Executive does not propose.

If the situation is that bad then the Armed Services Committee should have brought it to the floor of the House and asked for authorization.

Mr. BENNETT. We have asked and we have authorized the purchase. We have authorized the purchase of a good number of very rare materials, but the Appropriations Committee has nor appropriated the money for them.

Mr. RHODES. We are asking the Appropriations Committee right now.

Mr. BENNETT. We have authorized the purchase of a great number of rare materials.

Mr. RHODES. Would the gentleman let me finish my statement, please?

Mr. BENNETT. Yes, sir.

Mr. RHODES. What I am saying is that the Appropriations Committee is now before the Congress and we are asking for permission for them to spend money to buy one commodity which is certainly in short supply.

Now I am not going to argue with the gentleman from Florida because he knows more about it than I do.

I am sorry I cannot yield any more because I only have 1 additional minute and I would like to finish up.

The facts are that the copper industry, since the first of this year, has flat gone to hell. There is no more copper being mined on a commercial basis in this country.

If you do not believe that that is an emergency then you had better look at the things which copper is used for when we decide to go to war. It is an absolute necessity to do something to start some of these copper mines going again.

I certainly hope, Mr. Speaker, that the House will vote favorably on this amendment.

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Mr. CONTE. Mr. Speaker, I yield myself 1 minute.

In answer to the question the gentleman from Arizona (Mr. Rhodes) posed to the gentleman from Florida (Mr. Bennett) about buying the strategic material let me say the FEMA on two occasions has asked the Armed Services Committee to sell silver.

I have appeared before that committee. FEMA says we do not need any silver in the stockpile.

We could have sold silver. I believe it was $20 an ounce at that time. I went there and I pled for the sale of silver—Mr. McDonald on that committee has strong feelings about selling silver and therefore I did not prevail.

Had we sold the silver we could have bought the cobalt and we could have bought the other strategic materials that the Armed Services Committee wanted to buy.

Mr. BENNETT. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. BENNETT. The gentleman may have been in a correct position several years ago but more recently the authorization committee has approved the selling of silver and in large amounts.

That is where I presume the $360 million comes from.

Mr. CONTE. But it did not pass the other body, if I recall.

Mr. BENNETT. I know, but the gentleman said the House Armed Services Committee. The House Armed Services Committee has authorized the selling of silver and my memory is that this became law.

☐ 1940

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. Miller).

Mr. MILLER of Ohio. Mr. Speaker, I was not going to speak on this subject, but as ranking minority member of the Appropriations Subcommittee on Treasury, Postal and General Government, I feel obliged to oppose my very good friends from New Mexico and from Arizona.

I am very much interested in the subject. We have through our subcommittee handled GSA's business as far as stockpiling is concerned, and we find that, yes, the goal for copper is 1 million tons. We have over 29,000 tons right now. We also have a problem beyond that, because if all of the funds that come into the trust fund to purchase, go for copper, we will not then be able to purchase the 17 materials that are necessary that GSA has found of higher priority than copper.

We have the same problem year after year. There is always an industry that is down and needs aid. And I have sympathy with my friends. But the stockpile should not be used to solve economic problems.

The gentleman from Minnesota spoke about why not have iron ore, as well as copper, in the stockpile. Once we start stockpiling for economic conditions, there is no stopping. One of the items we have right now is a surplus in the stockpile of tungsten, approximately 33 million pounds. And that is hanging over the tungsten market today. Those people who would normally mine tungsten ore are not mining that ore because GSA has it for sale to the tune of 1 million pounds per month. If they do not sell that much, they at least hold the market price down.

If we buy an excess amount of copper, it will be held over the head of people who are mining copper now, and they in turn will find that GSA will be driving the price back down.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, the very point of stockpiling is this: The copper industry is on its knees. It is down from $1.20 a pound to 52 cents a pound. It takes 90 cents a pound for them to break even. That is what is happening in the copper industry. All of the mines are closing down.

The mining industry has now collapsed, and it will stay collapsed for good. That is why the priority will be changed, and that is the point my friend and colleague from Arizona was making in the well. Therefore, we will be at the mercy of the industry from abroad. This does have a different priority and is a far higher priority than any of the metals we have been talking about here because it is about to go defunct. Certainly it has a higher priority than iron, and that is the point I wanted to make.

One other thing. Information given to me is that the administration is opposed to this because they would like to get their fingers on this money to help pay the deficit.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio, I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the gentleman is absolutely correct. There are some 16 vital minerals that are important for the defense effort. Of that 16, the Soviet Union has adequate quantities within its own borders. However, in the United States, in the case of 14 of those 16, we have to import more than 50 percent of our needs from abroad. The purpose of the strategic stockpile is to get adequate amounts of those 16 minerals that we have to import from abroad over to this country before an emergency erupts which would totally cut off any additional supplies from abroad.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, I rise in strong support of the motion by my colleague from Arizona, and I want to identify myself with the remarks of the gentleman from my State. We have an opportunity here if we concur in the Senate amendment to do a real favor to the taxpayers. We can buy copper at probably the cheapest price it is going to be in a long, long time, and down the road we can sell it off with a profit to the taxpayers. The mining industries are in bad condition, and we do need this kind of relief. I think it makes sense, and I am glad to support it.

Mr. Speaker, I rise today in support of the amendment of the other body. I do so for several reasons.

First, it is I think in our national interests to purchase copper for the defense stockpile at a time when the price of copper is at a historical low. Just 2 years ago, the price of copper was at $1.20 a pound. Last week, it was just 57 cents a pound. Commonsense suggests that we should meet the needs of the defense stockpile now—not when the price of copper again rises to a dollar or more.

Second, we need copper in the stockpile. I recognize the arguments of those that suggest copper is a category 3 priority. But I also recognize that at the present time we have less than 3 percent of the goal of 1 million tons in the stockpile. I also recognize that the copper industry is itself a strategic asset to this country.

And that industry is in trouble. The copper industry today is operating at only 50 percent of its capacity. Many mines are being shut down. Many may never reopen. With the shrinkage of our domestic copper industry, we will become increasingly dependent on foreign sources. We will become more vulnerable. And we will do so at a time when our stockpile reserves are critically low.

Finally, I also think that the amendment of the other body makes good economic sense. Copper purchases at this time would exert a countercyclical effect on the economy. It would help to put unemployed workers back to work.

In my State of Arizona, there are several thousand unemployed copper workers who face the prospect of long layoffs. Small towns like Douglas, Morenci, Ajo, San Manuel, and others are threatened with economic devastation.

But it is not just Arizona that is affected. Similar problems exist in New Mexico, Utah, and Nevada.

By requiring copper purchases at this time we would be acting in the best defense interests of this country. Even more so, we would be acting in the best economic interests of the country.

I urge my colleagues, therefore, to support the amendment of the other body.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I am chairman of the Strategic Materials Committee, and I have been on the committee for at least 10 or 15 years. There have been some statements made here which I should correct, and some explanations which I should make.

First of all, the committee has authorized the purchase of a half billion dollars' worth of very rare things that we cannot get in the United States, and we put up the silver to buy it with. It was the Appropriations Committee which cut off the sale of silver and not the House authorization committee. The House authorization committee authorized the sale of the silver in order to get a half billion dollars of very rare commodities. Instead, the Appropriations Committee allowed only a little silver to be sold and some of the proceeds were used by the administration to purchase some bauxite, if I remember correctly. So although we reformed the law several years ago to get authorization and appropriation for the ingoing and outgoing of commodities, as a matter of fact the Appropriations Committee has seen to it that the activity of the authorization committee is almost a nullity; because when we sell commodities they do not allow the funds to be used for the purchase of needed commodities.

Now, there is a great temptation to take care of one's friends, and particularly when it is for a bad industry situation. There are no two Members of this House for whom I have greater admiration than the two Members from Arizona who have spoken here. I have urged each of them to think about running for the Presidency at some time in their lives. It is painful for me to say these things I am saying, as I hate to be negative about anything they want. They are doing what they have to do. They are, in a sense, attorneys for their areas and good ones indeed. But it is my duty to tell you that the authorization committee has authorized the purchase of very rare things which we need and we cannot get in this country at all. We also authorized the sale of silver in order to make that available, but the Appropriations Committee has said "No."

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. Marriott).

Mr. MARRIOTT. Mr. Speaker, first of all, I think we all understand, as the gentleman from Florida would agree, that the stockpile is in pathetic shape. There is no question about that. Cobalt is down half of what it ought to be. Platinum is down one-fourth of what it ought to be. Bauxite is down. Copper is down. Everything is down. So we understand that we have the problem. I would just like to make one statement, Mr. Speaker, if I could, in the time I have, and that is this: We are saying we should not do anything because we cannot deal with the 17 higher priority items in the stockpile. I think that is just the point. There are $300 million setting over there. We are not using that money to buy the priorities. It seems to me, then, that we ought to use that money to buy some of the lower priorities. If we can in fact kill two birds with one stone and help the copper industry and increase the strategic reserve, I think that it is a good thing.

I just got back a year or so ago from Peru, where we went up to the Peruvian copper mines. Believe me, those people take care of themselves. They are not suffering that much because of problems in copper today.

It seems to me, Mr. Speaker, that in fact we ought to do something with that money. The options are these: Either the money sits there or we are going to use it to purchase cobalt and other critical minerals from the big list of 17. Why not help a crippled industry? Why not use it? We are not using it.

My proposal is that we support this resolution and get about doing the things that will benefit this country and benefit the industry.

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Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. Williams).

Mr. WILLIAMS of Montana. Mr. Speaker, there is one piece of confusion which needs correction. No one is suggesting we only buy copper. There is currently $300 million in the national strategic stockpile transaction account. We do not touch that $300 million. We do not change the priorities for buying other strategic minerals. FEMA goes ahead; the national stockpile goes ahead; the authorizing committees of this House are not impeded.

All we say is that the proceeds from the sales of minerals under the normal priority system be used to purchase copper which is currently 97 percent below its goal.

The other purchases go ahead and the sales proceeds are used to purchase copper. This is not a ripoff for the copper industry. This is simply trying to protect the national defense of this country by bringing the stockpile of copper in this Nation up above the unreasonably low level at which it now lies.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Roybal).

Mr. ROYBAL. Mr. Speaker, I would again like to remind the Members of the House of something that is very specific. I again refer to page 84 of the bill which provides that all moneys received from the sale of materials sold from the national defense stockpile will be used for the purchase of copper.

The other main point is that copper is in much lower priority than at least 17 other metals that are necessary for the national defense.

The administration opposes this motion and opposes the motion because again I must repeat that the stockpile has $393 million in nonmet priority No. 1 goals. It also has $400 million in nonmet priority goals No. 2. It also clearly points out that while copper is needed for the national defense, that its priority status is way below other metals needed for the national defense itself.

I would like to again remind the Members of the House that the purpose of the stockpile is to serve the interests of national defense only and is not to be used for economic or budgetary purposes. This motion, in my opinion, is being proposed for the specific purpose of helping an industry that needs to be helped, but should not be done in this manner.

Mr. SKEEN. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the gentleman for yielding.

Is it or is it not true that within the last 12 months the administration has expedited a purchase for the strategic stockpile of some 1.6 million tons of bauxite from Jamaica to help Jamaica's failing economy?

Mr. ROYBAL. This is probably true.

Mr. SKEEN. I thank the gentleman.

Mr. ROYBAL. It has nothing to do with the subject matter before us. The administration takes a definite and positive position in opposition to the motion being proposed by the gentleman from Arizona (Mr. Rudd).

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. McDonald).

Mr. McDONALD. Mr. Speaker, I would like to ask the gentleman from Massachusetts (Mr. Conte) with regard to the sale of silver considered by the Armed Services Committee. Does the gentleman have any particular reference to any individual there with an interest in silver at the time?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman opposed it very strenuously when I came up before the committee. The gentleman even came before the subcommittee of the gentleman from California

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(Mr. Roybal), and opposed it. There is no doubt about it. The gentleman is very much opposed to the sale of silver.

Mr. McDONALD. The question was whether or not the gentleman from Massachusetts (Mr. Conte) was suggesting I had a personal and financial involvement in silver.

Mr. CONTE. Nobody said the gentleman had a financial interest. The gentleman is against the sale of silver, period.

Mr. McDONALD. The majority of the Armed Services Committee has consistently opposed this except when faced with the budget reconciliation under Gramm-Latta. We were very much concerned with the sale of silver simply because we had been using it at twice the rate it was being mined. We had to go out and use such a tremendous amount during World War II and during the Vietnam war, far beyond that which we had mined in the past.

As a strategic mineral, for the sake of national defense, it was necessary to increase the silver in the stockpile.

Mr. WHITTEN. Mr. Speaker, I yield back the balance on my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Arizona (Mr. Rudd).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RUDD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 62, nays 339, not voting 33, as follows:

[Roll No. 296]

YEAS—62

Alexander
Archer
Atkinson
Badham
Boggs
Boland
Burgener
Butler
Cheney
Clausen
Coats
Collins (TX)
Conte
Daschle
Davis
Derwinski
Dicks
Donnelly
Dorgan
Duncan
Gaydos
Gephardt
Hall (OH)
Hammerschmidt
Heckler
Jenkins
Kogovsek
Leath
Loeffler
Lott
Lujan
Luken
Marriott
Mattox
Mavroules
Moakley
Moorhead
Mottl
Murphy
Natcher
Oakar
Quillen
Rahall
Ratchford
Rhodes
Rousselot
Rudd
Russo
Santini
Schroeder
Seiberling
Skeen
Spence
St Germain
Stangeland
Stump
Taylor
Udall
Weaver
White
Williams (MT)
Young (AK)

NAYS—339

Addabbo
Akaka
Albosta
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Aspin
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappie
Clay
Clinger
Coelho
Coleman
Collins (IL)
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dingell
Dixon
Dornan
Dougherty
Dowdy
Downey
Dreier
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lundine
Lungren
Markey
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Molinari
Mollohan
Montgomery
Moore
Morrison
Murtha
Myers
Napier
Neal
Nelligan
Nelson
Nichols
Nowak
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Rangel
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Vento
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weber (MN)
Weber (OH)
Weiss
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—33

Bafalis
Beard
Blanchard
Bolling
Brodhead
Brown (OH)
Burton, John
Chappell
Chisholm
Conable
Dunn
Ertel
Ginn
Goldwater
Gramm
Heftel
Hollenbeck
Holt
Horton
Madigan
Marks
Michel
Mitchell (NY)
Moffett
O'Brien
Porter
Railsback
Rosenthal
Shuster
Stanton
Vander Jagt
Volkmer
Wilson

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Messrs. SIMON, PASHAYAN, and WHITEHURST changed their votes from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Whitten).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 161: Page 56, line 4, strike out all after "1980/1982"" down to and including "1982/1983"" in line 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 161 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", $10,000,000 shall be derived by transfer from "Missile procurement, Air Force, 1982/1984", $12,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and $17,626,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983"".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 172: Page 69, line 24, after "assistance"" insert "of which

$1,000,000 shall be derived by transfer from State and local assistance” and $1,084,000 shall be derived by transfer from “Emergency planning and assistance”: *Provided*, That the National Flood Insurance Fund shall be available, subject to the provisions contained in Public Law 97-101 under the heading “National Flood Insurance Fund”, for salaries and expenses of employees engaged in National Flood Insurance Program activities related to the direct, actual and necessary expenses incurred in connection with selling or servicing flood insurance coverage”.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: “and an additional $500,000 to be derived by transfer from ‘Emergency planning and assistance’, for a total available by transfer of $2,584,000”.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, may I be recognized so I may yield to the gentleman from Ohio (Mr. Seiberling)?

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. Whitten) is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding to me.

At the time the House voted on amendment No. 58, the House Subcommittee on Monopolies and Commerical Law of the Committee on the Judiciary was in session and, therefore, I was not privy to the debate on the amendment. I voted for the amendment to recede in favor of the Senate when the amendment came up.

To my surprise, that amendment not only deals with the Caribbean Basin Initiative, but also contains with it the reaffirmation of a policy which I will try to read, which says as follows, that it is the policy of the United States—

> (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere.

While I agree we do not like the activities of Cuba, I certainly feel that in voting to provide the funds for the Caribbean Basin Initiative, I certainly did not intend to indicate any support for the use of military force against Cuba and I do not think most of the Members of this House did.

Mr. Speaker, I want to simply state for the record that that is not to be construed as supporting that policy, by my voting for those funds, and I would hope if other Members feel likewise that they would also state so in the Record.

Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Whitten).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 177: Page 77, after line 14, insert:

Sec. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 488 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, not less than 180 employees shall be assigned to State and local conservation activities, and not less than 136 employees shall be assigned to renewable resource programs; (2) The Office of the Assistant Secretary for Fossil Energy, 779 employees, of which not less than 175 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Office of the Assistant Secretary for Nuclear Energy, 787 employees, of which not less than 130 positions shall be assigned to the Idaho Operations Office; (4) The Economic Regulatory Administration, 520 employees, of which not less than 51 employees shall be assigned to the Office of Fuels Conversion; (5) The Energy Information Administration, 490 employees; (6) Energy Research, 392 employees; and (7) Departmental Administration, 4,192 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further*, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which the special message was transmitted with respect to such rescission, reservation, or deferral.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) The Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) The Energy Information Administration, 490 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further*, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which such special message was transmitted with respect to such rescission, reservation, or deferral: *Provided further*, That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriations Acts to programs or activities funded in Interior and Related Agencies Appropriations Acts or vice versa.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I ask for a division of the question.

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The **SPEAKER** pro tempore. The question will be divided.

Does the gentleman from Mississippi desire time?

Mr. **WHITTEN**. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. AuCoin).

PARLIAMENTARY INQUIRY

Mr. **CAMPBELL**. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state it.

Mr. **CAMPBELL**. Mr. Speaker, what is the status on the division of the question?

The **SPEAKER** pro tempore. The gentleman will be protected.

Mr. **CAMPBELL**. Mr. Speaker, that time has been divided, or is the gentleman under a 5-minute allocation?

The **SPEAKER** pro tempore. No. There will be 30 minutes on each side. The gentleman from Mississippi (Mr. Whitten) has the time here.

Mr. **CAMPBELL**. I had not heard that stated by the Chair prior hereto.

The **SPEAKER** pro tempore. The gentleman from Pennsylvania (Mr. McDade) will have 30 minutes. The gentleman is protected on his motion.

The gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

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Mr. **AuCOIN**. Mr. Speaker, before I am recognized I think it is proper for the gentleman who offered the amendment to be recognized first, is it not?

The **SPEAKER** pro tempore. The question will be divided. When the question is put, it will be divided.

Mr. **AuCOIN**. How can the gentleman from Oregon debate against the gentleman's amendment before he makes his argument?

The **SPEAKER** pro tempore. The Chair recognizes the gentleman from Mississippi. Does the gentleman wish to yield time?

Mr. **WHITTEN**. I was under the impression that my colleague, the gentleman from Oregon wished to have the time. Should he not wish it, I will reserve the time.

The **SPEAKER** pro tempore. The gentleman from Mississippi reserves his time at this time.

Mr. **McDADE**. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. Hartnett).

Mr. **HARTNETT**. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a quite unusual amendment which was added to this conference report by the Senate conferees. If my colleagues would give me a moment, we could perhaps avoid a recorded vote on this and look at it for what it really is.

This amendment puts a floor under the level of employees that must be employed by the Department of Energy. It states in the amendment precisely how many employees must be employed by, for example, the Office of Assistant Secretary for Conservation, the Office of Assistant Secretary for Fossil Energy.

I really think this is an amendment that is kind of repulsive to most Members. It is like this Congress mandating how many employees we should have in each individual office, whether we wanted them or not.

I have a letter from Secretary Edwards, and I will read it at this point:

> The Secretary of Energy,
> *Washington D.C., August 17, 1982.*
>
> Hon. Thomas F. Hartnett,
> *House of Representatives,*
> *Washington, D.C.*
>
> Dear Tommy: During floor consideration of the conference report on H.R. 6863, the Supplemental Appropriations Act, 1982, you will take up Senate Amendment No. 177, which has been reported in technical disagreement. That amendment would direct that employment levels in certain Department of Energy offices be maintained indefinitely, subject to special rescission, reservation, and deferral procedures.
>
> I understand that the managers on the part of the House will offer a motion to recede and concur in Senate Amendment No. 177 with an amendment. I strongly urge you to reject that motion and the provision recommended by the conferees.
>
> The bottom of the second page of the enclosure entitled, "General Provision on Personnel Levels," explains in more detail. We are attempting to manage the Department of Energy in an efficient and effective manner and these provisions would be absolutely contrary to our efforts. The personnel levels prescribed in Amendment No. 177 are in excess of our needs. This amendment, in other words, would compel a waste of Federal funds. It would also require the rehiring of separated personnel and, in some cases, the hiring of unneeded new personnel.
>
> Your assistance in defeating this wasteful amendment will be appreciated.
>
> Sincerely,
>
> James B. Edwards.

It is my understanding, my colleagues, that this amendment might have been a special interest of one of the senior Members of the other body who was trying to protect a particular Department of Energy installation in his particular district. There is no question, nor has it been said by our Secretary of Energy, that it would waste Federal funds. It would in some instances require the rehiring of already discharged personnel from the Department of Energy, and in many cases, if not some, the hiring of unneeded new personnel at a time when we are trying to cut back on Federal spending and are faced with a great tax increase tomorrow that we are going to have to decide how we are going to vote on.

I just think it would not be in the best wisdom of this body to go about placing a floor level and telling the Secretary of Energy exactly down to what number—for example, 153 employees and 154 and 352—that he must have. I think it would be unwise for us to accept such an amendment as is forced on us by the Senate in the conference committee, and I would urge my colleagues to defeat this amendment.

Mr. **WEBER** of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. **HARTNETT**. I would be happy to yield.

Mr. **WEBER** of Minnesota. Mr. Speaker, I thank the gentleman for yielding. I have to confess that I am not fully familiar with the amendment, but I do have some interest in energy policy, and I think some of us in this body have disagreement in the area because the Secretary is seeking to reduce personnel in the Department of Energy.

My question to the gentleman is, how does this impact on that particular problem? Specifically, many of us, although we are willing to support a reduction in the level of personnel in the Department of Energy, find that the Secretary's policy is to reduce only in selected areas; conservation, solar programs, and so forth, while making no reductions at all in other areas, primarily nuclear energy programs.

I wonder if the gentleman could inform me if this amendment or his position on it affects that position, which in my judgment is not so much an economic one as a decision relating to energy policy.

Mr. **HARTNETT**. I would have to say to my colleague that in the amendment, page 5 of the conference report specifically outlines, and it says in here that in the Office of Assistant Secretary of Conservation and Renewables, 352 employees, of which not less than 154 shall be assigned to research, conservation, development activities; the Office of Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 shall be assigned to activities of the headquarters program. In the Office of the Pittsburgh Energy Technological Center, no less than 250 employees.

The **SPEAKER** pro tempore. The time of the gentleman from South Carolina has expired.

Does the gentleman from Mississippi wish to yield time?

Mr. **WHITTEN**. Mr. Speaker, I yield 8 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. **AuCOIN**. Mr. Speaker and Members, it has been stated by the previous speaker that this is an unusual amendment, and I want to submit to my colleagues that it is an unusual amendment because we are faced with an unusual problem. I want the Members to listen very carefully to what the issue is.

The problem simply is that OMB and the Department of Energy are trying to make an end around on the Congress of the United States on program decisions and policy decisions that this body and the other body ought to be weighing in on. That is what the issue is.

Mr. Speaker, the provision of section 303 of the supplemental appropriation bill reported by the Appropriations Conference as amendment No. 177 would establish minimum employment levels which the Department of Energy must maintain for conservation programs, fossil energy research and development, the Economic Regulatory Administration, and the Energy Information Administration. This language was inserted by the conferees not because they wanted to, but because they felt they had to if Congress is going to retain any policymaking or decisionmaking over programs or policies in the Department of Energy.

The language would insure that the Department of Energy does not proceed with a de facto dismantlement of those programs prior to the time when Congress might take action on the pending reorganization proposals of the agency, which is in bill form, pending before the Congress. It is known in the other body as S. 2562, and we want to preserve that action by the Senate and by the House of Representatives. We also want to preserve our opportunity to have some input on these programs in the fiscal year 1983 appropriation. That is not unreasonable.

I believe that section 303, though unusual, is necessary because the Department of Energy has recently conducted a reduction in force which is contrary to the intent of the Congress. There is also evidence that the Department is planning to conduct other reductions in force which are inconsistent with congressional intent expressed thus far, and which would limit the Congress options in considering fiscal year 1983 appropriations.

□ 2030

Mr. Chairman, the question is whether the reorganization of this agency is going to be by statute fully considered by this body and the other body or whether it is going to be reorganization by RIF in which we have very little to say about the consequences and do not have the time to debate the issues at stake.

If my colleagues do not think those RIF's have already taken place and future ones are not already being proposed, then listen to this history.

With respect to the Fossil Energy research and development program, the House supplemental appropriation bill which was passed by this body on July 29 contained language prohibiting the expenditure of funds to administer a reduction in force which was scheduled to become effective on August 6.

The language in the supplemental said it was the will of this House that the proposed reduction in force that was scheduled to be effective on August 6 not take place. This reduction in force was designed by the administration to cut the Fossil Energy headquarters staff in half. We said, do not do that. This body agreed to that.

Despite the House language, the acting Under Secretary of the Department of Energy, Mr. Jan Mares, proceeded with the scheduled personnel reduction in the face of the stated will of this body. He proceeded in the face of the clear statement of the House of Representatives that we were opposed to his planned reduction and he proceeded with the full knowledge that the Senate Appropriations Committee had at that time reported in the supplemental appropriation bill that language in section 303 which clearly stated opposition to his planned reduction.

I might add, Mr. Chairman, I am unaware of any reason why the planned reduction in force could not have been delayed pending a congressional decision which so far has not been made.

Because the Department, Mr. Speaker, has demonstrated an unwillingness to cooperate with the Congress on this matter I believe it is imperative that we identify specific employment levels which the Department must maintain in certain programs. I believe because of this clear threat of a major policy preemption that it is imperative that we in the Congress identify specific employment levels which the Department must maintain in certain programs, not ad infinitum but until further notice so that we can work our will on that.

That is not an unrealistic thing to do. We have been placed in an awkward position. We do not like doing it but if we do not do it we are not going to have any ability to influence these significant policy implications which will be brought about by reductions in force.

I might add I believe the provision in section 303 is fair to the administration. It is not unfair to the administration. It is fair because it does provide the opportunity to the President to seek a rescission or a deferral of funds supporting the position levels established by the Congress under this amendment.

In this way the administration and the Congress can review in an orderly way and with full discussion, the employment levels and make whatever adjustments we in our collective will want to make.

I repeat to my colleagues: If we fail to agree to this language we will be voting for and allowing to go forward a de facto dismantlement of programs in the Department of Energy.

We have already worked our will on them and I do not think we want to do that. There is an orderly way to do this.

-Before I finish, let me just say I know there are Members who are not particularly fond of the Department of Energy. The gentleman from Oregon is not particularly fond of the Department of Energy. I think we need a lot of change down in that part of our bureaucracy.

But if you want change, allowing major decisions with major policy implications to go forward by the RIF process you are pretty much sacrificing what the people sent you here to do: the duties you are supposed to uphold.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I now yield to the gentleman from South Carolina.

Mr. HARTNETT. Does my distinguished colleague in the well really not feel that the 27,000 employees presently employed by the Department of Energy are not sufficient to bring about the energy program of this country?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding, because this is a very important point I would say to the gentleman from Oregon.

The gentleman from South Carolina said we are talking about not permitting a reduction in the number of employees at the Department of Energy. As I read the amendment the gentleman speaks to, they can reduce the number of employees in the Department of Energy. It is only in these program areas where they are trying to get around the policymaking.

Mr. AuCOIN. That is correct, programs that this Congress already stated its will on at least once and may well express its will in the future.

Mr. LEVITAS. If the gentleman will just yield for a question: Is it not true that even with this amendment the number of employees at the Department of Energy could be reduced overall?

Mr. AuCOIN. The gentleman is correct. I appreciate the gentleman's contribution.

Mr. McDADE. Mr. Speaker, I yield 7 minutes to my distinguished colleague, the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I am deeply concerned with the procedure that we are undergoing here. Had this matter come to the floor it would have been stricken by a point of order in the House of Representatives as legislating on an appropriation bill.

What we are doing here, in effect, because of the other body's nongermaneness rule, is we are putting in an amendment on a particular subject, allowing us then to go back and to then put our amendment back.

We are getting around the rules of this body that protect the legislative committees and protect against legislating on appropriation bills.

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That bothers me a great deal because if we do it this time, the next time the other body comes in we can do it and some people would like to do it depending on which agency they are after and want to change and they can do it to the Department of Defense or you might do it to the Department of the Interior or any of the rest of them.

If that is what you want to do, if you think you know enough about each category in every agency to tell them they cannot have but so many employees in *x* division, then you know a lot more about this Government than the gentleman from South Carolina.

I do not pride myself as a great expert but I do try to keep up.

I will go a little bit further with this thing. I do not think that you can destroy the tools of management in the process of carrying out the policies, the legislative policies that we have passed into law, and you destroy the tools of efficient management by dictating minimum provisions in any division.

I believe that we make a grave mistake as we undertake to put this amendment through.

I would think we would be better served if we were to strike this amendment, carry forward with the provisions that we passed through the House, that we would like to, some say, pass into law, and strike it by law.

I honestly believe, and I am not one that is here to argue any specific, but I would like to say I concur with some who are upset about the conservation areas and all.

□ 2040

But I look in here and I see that we mandate that we are going to have 450 employees, of which not less than 40 shall be assigned to this particular office. I look in another area and see that we are going to have 490 employees, and then we are going to put some more in another particular office in a division. We are telling them how to run each division, every office, what place in the country.

If that is what we are doing in here, then we better start managing a lot more agencies because I do not think we have the expertise to do it. There are one or two that will have a special area they want to protect, but do they really know about the rest of the department? I doubt it. Would you want to take it up on any other one?

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I appreciate the gentleman yielding.

In the event that an administration shows a method of RIF'ing to circumvent the will of the Congress, what alternative, what procedure would you offer? This is the only procedure available to us, unless you have some other alternative. How would you handle a deliberate, willful attempt to circumvent the will of the Congress by using the RIF process?

Mr. CAMPBELL. Will the gentleman cite for me the will of the Congress, as a piece of legislation passed by both bodies, a specific piece of legislation, that prohibited this? Can the gentleman cite it for me? I can cite for the gentleman a provision that came out of the Senate on something or a provision that came out of the House.

Mr. MITCHELL of Maryland. If the gentleman will let me respond, I think I can. I think this issue was addressed by the committee and by the House, the issue of protecting certain programmatic areas in the Department of Energy. I recall the vote on that, unless I am seriously mistaken. So that is the instance that we are dealing with.

Mr. CAMPBELL. I have no problem with a piece of legislation going through saying something shall be maintained, passing and going through the process. That is what we are here for. I have a serious problem with us telling each division, each agency, and every place that they can be, even, in the country, where the office is, how many employees must be in each office. That is what we are doing here. And people would agree with this, I am sure. Why do we not just manage the departments? I am sure there are those who think they could.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentlemen from South Carolina.

Mr. HARTNETT. I would like to say to the gentleman from Oregon that that was my error. I apologize to the gentleman from Oregon and to you. The Department of Energy only has 17,000 employees. I had the 1 and 2 confused.

I just read a letter, and I will ask my colleague from South Carolina, did he not hear the letter I read from the Secretary of Energy which said that if this amendment passes, he would be required to go out and hire unneeded personnel, whom I assume would sit around, and maybe write letters home, or whatever they would do? But would you condone the hiring, in these hard economic times that we face, of unneeded personnel? Of course, I am sure that the Secretary of Energy does not know as much about his Department as do Members of this Congress. But would you condone the hiring of unneeded personnel?

Mr. CAMPBELL. I think the gentleman from South Carolina makes an excellent point. We are trying to force back in the old saying that if you hire somebody, you build a government agency, it never shrinks, it only expands. And we are going to protect. Now, we can keep right on spending. We are going to face a tax bill, we are going to face everything else. But I am more concerned with us getting into the direct management in an agency. If you want to put legislation through that says you have to have a program in conservation and it has to do certain things in a broad context, fine. When you start telling people they are going to have so many people in a certain office in a certain city and that is the way you are going to do it, I think you are going far beyond what is necessary to legislate.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I want to bring to the attention of every Member of this body an issue that is included in this amendment that they will be voting on when they vote on this amendment.

The effort to collect illegal overcharges by individuals and oil companies that have violated the law in a systematic manner since 1973, to the tune of about $12 to $15 billion still outstanding, is at issue in this vote.

The committee has specified that the number of auditors and investigators at work trying to collect the illegal overcharges will not go below the minimum level necessary to successfully prosecute those cases and get the money back.

If you want to let them off the hook, if you want to declare amnesty for all those in the oil industry that brazenly violated the oil price control laws, then vote "no" on the motion to recede.

I actually hope that we have a record vote on this motion, because I think it would make extremely interesting reading.

Let us briefly review the history of this issue. It does not involve the oil price control laws as an issue. It does not matter whether you are for those laws or whether you are against those laws. What does matter is whether or not you believe in equal enforcement of the law. If you believe that an individual who steals $50 from a grocery store to be pursued to the ends of the Earth, of course he should be, he violated the law. What about someone who has stolen $50 million with a pencil and paper? Should they not be pursued as well? They are not being pursued under the work plan that has been devised by this Department of Energy. Why not? The reason is, in my judgment, that they disagreed so strongly with the laws that were in effect that they cannot bring themselves to believe that the violations of those laws were of any particular consequence, so they are not going to waste much time and effort trying to prosecute violators of those laws.

But this committee believes that laws should be enforced equally. Moreover, they believe that $12 to $15 billion is not something to sneeze at. In fact, those overcharges might just come in handy in this day and age, as we prepare to vote on the tax bill tomorrow. You vote on the tax bill; then tell your constituents that you voted to declare amnesty for corporations and individuals that have taken illegally $12 to $15 billion.

One example: A fellow had $7,000 on his form 1040 in one year. The next year it was over $1 billion. Now, do you want that kind of activity to go unprosecuted and unpunished?

Here is the line item: Economic regulation. It was referred to earlier. I wonder if my colleague really knew that this was in here. Conference report: 409 positions. It says no less than 160 shall be auditors. The Department of Energy has just conducted a new RIF, taking that level below the 160 that the conference committee has found to be the minimum level. If you want them to get off the hook, if you want to declare amnesty, go ahead, vote no on the motion to recede.

What the fiscal year 1983 budget would have without the committee's conference report, without this amendment, would be 303.

The Committee on Energy and Commerce has had 20-some odd hearings on this issue. It is unbelievable what the Department is trying to do. If you want to help them, I repeat again, vote "no" on the motion to recede. And I hope we have a record vote.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from California.

Mr. FAZIO. I wonder if the gentleman could enlighten us. Is it not true that the Department has used some of these penalties to help fill the Strategic Petroleum Reserve? Has that not been one of the ways these companies have been repaying the taxpayers for their illegal action?

Mr. GORE. It is currently alleged that some of the individuals and companies that are accused of this activity put garbage oil in our strategic petroleum reserve. If you vote no, they are off the hook.

☐ 2050

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. Hartnett).

Mr. HARTNETT. Mr. Speaker, I would just like to ask the gentleman from Tennessee (Mr. Gore) who just left the well or the chairman, would these auditors that we need so desperately—that the Justice Department ought to go after—would these auditors go after that individual who took $5 million from the Department of Energy shortly before President Carter left office and gave it to charity? Would these auditors go after that same individual to try to recoup that $5 million from the Energy Department which was lost when President Carter was President and gave it to charity? Would they be interested in collecting that also?

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Speaker, the question is so incisive I think it demands a response.

I presume that the gentleman's question refers to the distribution of some of the collected overcharges in late 1980. Is that what the gentleman is referring to?

Mr. HARTNETT. I was making reference to the $5 million given to charity by one of the employees of the Energy Department shortly before President Carter left office.

Mr. GORE. Is the gentleman alleging a law violation?

The SPEAKER pro tempore. The time of the gentleman from South Carolina (Mr. Hartnett) has expired.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important debate for all of us because what we are really asking ourselves is who is going to make the decision about what the future is in the Department of Energy?

A lot of people want to abolish it outright. There is a way to do that. One sends a bill up to the Congress and gets it approved.

There are a lot of people who say we want to reorganize it, move divisions here, there, and shift a part of it here. There is a way to do that. Send a reorganization bill up to the people's branch and the people's branch makes judgments.

It is true that, as my distinguished friend, the gentleman from South Carolina (Mr. Hartnett) pointed out, we did not carry this amendment. It was added by the other body. It is not correct—it is totally incorrect—to say it was done by a single Senator to try to have some project some place. That is an absolutely incorrect statement.

What is involved here is whether or not there will be the resources, the people, to do whatever this Congress decides on both sides of the Capitol—hopefully in conjunction with the Department of Energy—on what the Nation's energy policy ought to be and not have it done just by RIF'ing employees, whether we all vote to do something or not.

Let me give the Members one example: We decided many years ago we should facilitate, to the maximum extent, the conversion of electric utilities from burning oil to burning coal or fossil energy, our long suit; that it was improper to have them burning coal because, as all of us know, no matter what is put into an electric utility—whether it be coal, natural gas, or oil—we only get half of the end product out of the other side. There is a conversion penalty for changing that form of energy.

We decided—all of us—it was in our national interest to try to convert those utility plants where we can and put them on coal and move them off oil and natural gas wherever it is in short supply, where we have to import from the OPEC nations, where we pay hundreds of billions of dollars.

Guess what? That seems like a pretty good program. I have not seen anybody here who would argue with that. There are no people in the budget to do it. That is defeating that policy by a backdoor RIF.

We are only talking about roughly four programs here. Conservation—some people think that is a pretty good program to work on. Some people can show you in dollars and cents that the most efficient barrel of oil one gets is the one saved. We put money in the bill to do that. The Department is trying to obliterate that program.

The same is true for renewable resources. One can say this is an unusual sort of amendment. Indeed, perhaps it is, but we are caught in a legitimate dispute between one end of the avenue and the people's branch in deciding what the future energy policy of this Nation will be.

Let me tell the Members what we did when we went over to the other body. As I say to my colleagues, we did not carry this one over there. We put a buffer in for the Secretary of Energy. He does not have to rehire anybody. That is totally false.

We gave him flexibility within these various accounts below his current onboard strength. In other words, our floors are below what his current employment is. That is reflected in the facts at the Department. The people are on board, our floor is below.

The hour is late, everything we do is important, I do not want to minimize this amendment. It is important.

It involves what the energy policy of this Nation will be and who will decide it. Will it be decided by us or will it be decided by fiat based on RIF's downtown?

I hope we will stick with the committee on this. Hopefully we will work out an agreement with the Department of Energy. We certainly want to. But we want to see—all of us—an effective energy program in this country.

I believe and I think the Members do, too, that next to the issue of war and peace, the question of energy survivability of the United States in the future is one of the most critical issues that faces the Nation.

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We are not going to let anybody—anybody—decide that issue based on who they want to RIF or what their own personal feelings are about what a given program is.

That is our job. Please stick with the committee and stay with us.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

My colleague, the gentleman from Pennsylvania, points up parts of a very serious problem which we have. Many of the Members heard me and many others discussing the fact we have three branches of Government, which, of course, is no new story. But we do need to work together as coequal branches.

We have had problems in the Congress, but we do have the right and the responsibility to pass laws and to say what we mean by those laws. But for years now, whatever the Congress may do in the way of explaining what it has done—in the reports accompanying legislation—it has been said by the Budget Director, that a congressional report is nothing but advisory.

Insofar as immediate enforcement, that may be true; but next year when the issue recurs, they cannot say they did not know what the Congress meant when it passed the law.

For years we have seen the executive branch—through the Budget Director—impose ceilings on programs and thereby circumvent what the Congress intended. There are billions and billions of dollars owed to the Treasury because the Government did not make proper inspection before a loan was made or adequately advise so it was run properly.

Several years ago we appropriated money for personnel where they could not use it for anything else, we did this so the executive branch could not circumvent congressional intent.

I am not familiar with all the details concerning this issue of personnel floors for the Department of Energy, I defer to the subcommittees involved for that. However, in this particular instance here, I call attention to the fact that the Congressional Budget and Impoundment Control Act provides for deferrals and rescissions of budget authority. The law says the executive branch can impound money if accomplished under the provisions of the Budget Act.

What we have here is a power struggle between the people's branch where we write the laws, where we write the reports saying what the laws mean—and the executive branch that wants to circumvent what we mean.

I say let us look to the last section of the amendment where we address the rescission issue. We cannot spell it out here in detail, but I will tell the Members: we can do it as well as the Budget Director, judging from my experience and observation.

I say the situation has gotten so serious I hope you will vote with the committee. We will bring it to a head. We need a working relationship with the Office of Management and Budget. If we do not have it, we will both suffer. If it keeps up as it is, I am going to recommend to some of the subcommittees that have the greatest problems that they appropriate by line item for personnel.

Then if they do not spend the funds for personnel, they cannot spend it for something else. That has been done before and may prove necessary again.

I hope the Members will stay with the committee.

□ 2100

Mr. McDADE. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Minnesota (Mr. WEBER).

Mr. WEBER of Minnesota. Mr. Speaker, I would like to associate myself with the position of the committee, but from a little different point of view. I will not take a lot of the Members' time, but I think there is a point that needs to be made, particularly to some Members who find themselves attracted to the point of view expressed by our colleagues from South Carolina, that we would like to see a reduction in the employee level at the Department of Energy.

I guess I find myself in sympathy with that as well and I think many Members, particularly on our side of the aisle do, because we would like to see us move in the direction of a freer market in energy; but I would raise a point that I think is important for Members to consider. We have seen and I think most Members would agree that there have been serious problems in dislocations caused in the energy marketplace in the past because of artificial controls on the price of one form of energy or another. That is not the only form of serious interference in the energy marketplace.

Another form of interference is subsidization of one form of energy or another by pricing the subsidized form of energy at a lower level than the nonsubsidized forms of energy.

I support the position of the committee, because it is obvious to me that the Department of Energy is presently pursuing a course which is not truly aimed at a freer market in energy, but rather it is subsidizing one or two forms of energy at the expense primarily of solar and conservation programs.

For instance, next year, I believe, the entire research budgets for solar, conservation, and renewables combined will be less than the research budget for the Clinch River breeder reactor alone.

I think that is not a free market approach to the energy budget, and given that fact I think that Members who truly want to see us work toward market pricing of energy resources probably should support the committee position, because if we are going to be subsidizing sources of energy, at least we should try to provide some equity in that subsidization level, rather than pricing certain forms of energy out of the marketplace entirely by subsidizing their competitors too heavily. That is a little different point of view than has been expressed, but I find myself in sympathy with the position of the committee for that reason.

I wanted to bring that point of view to the attention of those Members who find themselves in sympathy with the movement toward a reduction in employment and regulatory power through the Department of Energy.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, there have been some very impressive and eloquent arguments made both for and against this amendment. I am not here to urge or advise Members how to vote one way or the other on this. I think the arguments have been presented.

What I do seek to do, however, is to point out very clearly what this amendment does not do. This amendment does not, as I read it, as the gentleman from South Carolina said to the contrary, put a floor under the number of employees that the Department of Energy is required to have.

This amendment does not say that the present total number of employees of the Department of Energy cannot be reduced by any number.

What it is doing, as I read the amendment, it says that for reasons already pointed out by the gentleman from Pennsylvania and the gentleman from Mississippi, that in certain areas where the Secretary of Energy has indicated his unwillingness to go along with the policy established by the Congress that those programs cannot be gutted through a reduction of personnel in a RIF in those areas, but rather it should be approached directly either through legislation or through reorganization, and there is a reorganization bill now pending before the Congress, which has been referred to the Government Operations Committee.

I would like to ask the gentleman from South Carolina who made the assertion if there is anything in this amendment which he is opposed to that would place a floor under the total number of employees in the Department of Energy, and they may well do without some, whether they are in the Office of the Secretary or the General Counsel or the nuclear weapons area; there are places where reductions can be made. It is only in these specific categories, not in the overall numbers.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. HARTNETT. Mr. Speaker, I would respond by saying that the Congress of the United States notwithstanding and the typical bureaucrat notwithstanding, there are some of us that manage various departments and businesses that can more efficiently operate with a lesser number of employees. I think that the Secretary of Energy is trying to tell us by virtue of this letter and his request that this amendment be defeated is that maybe he can operate some of these things that have been mandated by the Congress that he can maintain with a lesser number of employees.

The only unfairness, I would say to the gentleman from Georgia, is that we are mandating to the Secretary of Energy the specific number of employees, notwithstanding the efficiency of the operation. I just think that is terribly unfair.

Mr. LEVITAS. Mr. Speaker, let me reclaim the few seconds I have left.

I think that that point is one that can be argued, and the other gentleman from South Carolina argued that point. He said it is a management decision.

The gentleman from Pennsylvania, the ranking member, says it is a policy decision that the Congress ought to make.

I just want to make it clear that we are not placing a floor under the total number of employees in the Department of Energy. They can be reduced by even more than the mandated figure.

Mr. McDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana (Mr. Myers).

Mr. MYERS. Mr. Speaker, I thank my colleague and the patience of my colleagues on the committee for taking this time this evening at this late hour.

I reluctantly take issue with the subcommittee here and I do not like to do that, because I believe in the subcommittee system and we have fine, reputable people doing a fine job as members of this subcommittee; however, in agreeing to this conference report, I did take exception to this amendment No. 177. In fact, in conference we took exception to it, to the point that the conferees agreed to exempt the subcommittee that I am closest to, and that is Energy and Water, from the provisions of this particular amendment added by the other body.

Now, it has been said today that this is something that is unusual, this type of amendment. Really, the amendment itself as far as the thrust of it is not unusual. We have done this before. We have put minimums in quite often. We have often put ceilings in, how many people, no more than so many may be hired.

Where this is unusual is the location; the fact that we specifically tell the Department they must employ so many people at certain locations, even though the Department may be more wise and think they could use the same and do the same job some place else. It would be altogether within the prerogative of the subcommittee and the full committee to tell the Department, you must do this job, but where we made the mistake, or the other body did and we are if we accept this, is telling them that they have to do it at this specific location.

Then the timing of this particular amendment, it is only a supplemental for the remainder of this year. From today, we have 44 days left in this fiscal year. We have not got it passed yet. It has to go to the other body. Probably less than a month to hire these people for a month does not make a whole lot of sense.

So I think we have to take exception, not that the practice is unusual, but tonight in this bill and the way it is fashioned, it is unusual.

Now, it was suggested that these people be used for collecting on judgments and elsewhere. How can you say that? How can anyone say this?

Read what this amendment does. It says positions. It does not say what GS rating they shall be. The Department could hire and employ all GS-2's.

Now, if you can go out and foreclose a judgment and collect on it, why have they not done it already?

You do not have any assurance that these judgments are going to be collected and you do not have any assurance they are going to be in the collection side.

Besides, judgments are made not by the Department of Energy, they are carried out by the Justice Department. The case is prepared, it is delivered to the Justice Department to do the prosecution.

Now, the additional employees spoken about here, several have mentioned this, I have some serious objections. As an example, at a location not less than 250 employees are assigned.

The **SPEAKER** pro tempore. The time of the gentleman from Indiana has expired

Mr. McDADE. Mr. Speaker, I yield 1 additional minute to the gentleman from Indiana.

Mr. MYERS. The instructions by section 303, not less than 250 employees shall be assigned to the Morgantown technology center. I am told that there would have to be 60 additional people employed at Morgantown, W. Va., for some reason—nothing shown here what job they shall do, but 60 additional employees must be hired for the next 30 days to fulfill the obligations brought about in this section 303.

Now, it is said it is going to cripple the Department of Energy if we do not give them these additional people, that they will not be able to carry out the mandate of their responsibility.

In a letter that I have been shown here, written by James Edwards, Secretary of Energy, to the chairman of the subcommittee for the Department of Interior, Mr. Yates, in the next to the last paragraph Mr. Edwards tells Mr. Yates in the August 12 letter:

> The Department realizes that Congress is concerned that the Department have sufficient personnel on hand to manage appropriated funds. We will make no major adjustments to personnel levels for fiscal year 1983 until Congress and the President have agreed on program funding levels for energy programs in fiscal year 1983. Whatever the outcome, we are pledged to maintain the appropriate personnel levels to execute these programs as intended.

Mr. Speaker, I urge a "no" vote.

□ 2110

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered.

There was no objection.

The **SPEAKER** pro tempore. The question is, Will the House recede from its disagreement to Senate amendment No. 177?

The question was taken; and on a division (demanded by Mr. Hartnett) there were—ayes 51, noes 22.

So the House receded from its disagreement to Senate amendment No. 177.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The question is, Will the House concur in Senate amendment No. 177 with an amendment.

The House concurred in Senate amendment No. 177 with an amendment.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

> Senate amendment No. 180: Page 77, after line 14, insert:
>
> Sec. 306. (a) The Congress finds that—
>
> (1) since the enactment of Public Law 94-142, the Education for All Handicapped Children Act of 1975, amending part B of the Education of the Handicapped Act, significant numbers of handicapped youngsters have been successfully brought into the Nation's educational system;
>
> (2) part B of the Education of the Handicapped Act has been consistently upheld since its enactment and any attempt to

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weaken the rights of handicapped children or the rights of parents of handicapped children has been rejected by the Congress;

(3) handicapped children have consistently demonstrated that they can and do take full advantage of the educational opportunities afforded to them;

(4) the success of part B of the Education of the Handicapped Act in States where it is in effect can be attributed in large measure to the statutory and regulatory provisions assuring the rights and participation of parents in determining the education of their children; and

(5) the Department of Education has on August 4, 1982 published proposed changes in the regulations implementing part B of the Education of the Handicapped Act designed to eliminate the assurances that the rights and participation of parents and handicapped school children be recognized.

(b) It is the sense of the Congress that—

(1) the proposed final regulations implementing part B of the Education of the Handicapped Act should not become effective, and should not be transmitted to the Congress under paragraph (1) of section 431(d) of the General Education Provisions Act until—

(A) after the 97th Congress has returned from the recess which is scheduled to begin in October 1982, or

(B) after the 98th Congress is convened, whichever first occurs;

(2) the forty-five day period specified in such paragraph (1) should begin on the day that such regulations are transmitted to the Congress in accordance with clause (1) of this subsection; and

(3) paragraph (2) (except the first sentence) of section 431(d) of such Act should not apply to such forty-five day period.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 180 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "305".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 182: Page 77, after line 14, insert:

Sec. 308. Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 182 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Sec. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantees or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 183: Page 77, after line 14, insert:

Sec. 309. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(dX3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 183 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(dX3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I ask for recognition and yield such time as he may consume to the gentleman from Wisconsin (Mr. Zablocki), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding to me for the purpose of a colloquy with the gentleman from Iowa (Mr. Smith), the chairman of the Subcommittee on Commerce, Justice, State, and Judiciary, of the Committee on Appropriations.

Mr Speaker, as our colleagues will recall, there continues to be a wide interest in Congress, as well as in the concerned countries, regarding the reopening of U.S. consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

In the act (Public Law 96–60), authorizing appropriations for the Department of State for fiscal years 1980 and 1981, the Congress mandated that these consulates be kept open, or if already closed, to be reopened. Unfortunately, due to budget constraints, the consulates in question were closed. This year, however, the Department of State notified the Congress of its intention to reopen these consulates in light of their political and economic importance to the United States, and requested permission to reprogram funds for this purpose. Subsequently, the Congress mandated the reopening of these consulates in the conference report on S. 1193, authorizing appropriations for fiscal years 1982 and 1983 for the Department of State.

I have been advised that the Appropriations Committee in the other body is prepared to provide the necessary appropriations to accomplish the reopening of these consulates in fiscal year 1983. I would like to ask the gentleman from Iowa, in his capacity as subcommittee chairman, what his position would be on this issue in conference with the other body?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I would be delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to point out, first of all, that our committee has a very high regard for the gentleman from Wisconsin (Mr. ZABLOCKI) and we knew of his interest in these consulates.

When we received the reprograming request, we immediately asked for some information on it. First of all, we wanted to know, if we did reprogram funds in fiscal year 1982 to reopen these consulates, what would the cost be in 1983 to continue the same services? The State Department told us it would cost $1.8 million.

We also asked, who is performing these services now? The Department said that they are using consular agents in four locations with another scheduled to begin this fall. These consular agents work part time when there is work to be done and in that sense they are like local agents hired by airlines which do not need full time employees in certain locations. The Department also told us, and and gentleman may disagree, but the Department indicated that the service being provided by the consular agents is working out pretty well. Therefore, we have not proceeded as fast as the gentleman would like, I am sure, but the budget is under great constraint, as the gentleman knows.

Now, the Department of State has the responsibility for providing administrative services and support to all Government agencies at overseas locations. The Department is providing these services to the Commerce Department, the Agriculture Department the Defense Department, and so on, and the Department is strained. It needs all the resources requested to service these departments. Therefore, we wanted to know which Embassies would the Department take people out of to reopen these consulates? What services would be reduced within the Embassies in the countries where the consulates would be reopened? We really have not gotten all the answers to that question. However, I do want to say to the gentleman that, of course, we will always seek the gentleman's opinion. It may be that even though consular agents can perform the services in the seven locations adequately, it might still make sense from a political and economic point of view to spend the extra money to reopen the consulates; that may be the case.

I just want to say that, of course, we will give sympathetic consideration to the gentleman's opinions and those of the authorizing committee because the gentleman has been over this problem. We will try to work with the gentleman on this matter. I would not want to promise in advance exactly what we will do, but if the Senate puts the money in the fiscal year 1983 bill for the consulates, we will consult with the gentleman and we will give every consideration to his request.

Mr. ZABLOCKI. I do thank the gentleman for his cooperation. I do know that the gentleman has agreed that the Congress did speak on this issue, that it is very important for political and other reasons, and that we do have consulates reopened.

I thank the gentleman for whatever help he can give us.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

A motion to reconsider was laid on the table.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 97-763) on the resolution (H. Res. 569) providing for the consideration of the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, yesterday, August 17, 1982, I was not present to vote because I was with my wife who underwent surgery in Kansas City.

If I were present I would have voted as follows:

Rollcall No. 281, "yes."
Rollcall No. 282, "no."
Rollcall No. 283, "yes."
Rollcall No. 284, "yes."
Rollcall No. 285, "yes."
Rollcall No. 286, "yes."
Rollcall No. 287, "yes."
Rollcall No. 288, "yes."

WE SHOULD NOT LOSE SIGHT OF HUMAN TRAGEDIES WHICH ARE A CONSEQUENCE OF THE ECONOMIC SITUATION

(Mr. RICHMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues a heart-rending letter I received from one of my constituents:

> DEAR CONGRESSMAN RICHMOND: After working 42 years I am retiring. No one cared when the Social Security kept climbing up and up. I always figured well (God willing) one day it will be my turn to get my share of what I had put in.
>
> I don't see no difference today.
>
> Yes the food stamps are a blessing. I get them and they keep me from starving. My unemployment has been cut from $75 a week to $60. How do you pay rent and food plus, gas, electric and phone on $240 a month, plus subway fares? You have to pay bus and subway fares to look for work when you are almost 65. This takes $3 and more out of my small amount of money—so food stamps sure helped me.
>
> Keep up the good work.
>
> EVE ABRAMS.
>
> BROOKLYN, N.Y.

I understand we must bring the Federal budget under control. I voted for the reconciliation bill and I plan to vote for the tax bill.

However, while we are concentrating on these difficult problems, we should not lose sight of the human tradgedies that are the consequence of our present economic situation.

INTRODUCTION OF A BILL TO PLACE A MORATORIUM ON CONTINUING DISABILITY INVESTIGATION TERMINATIONS UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDGAR. Mr. Speaker, I am introducing today a companion bill to a bill introduced by my colleague in the other body, Senator HEINZ.

Mr. Speaker, today I am introducing legislation which will temporarily halt the case reviews of American workers who receive disability insurance. Since the passage of the 1980 disability amendments, which mandated continuing disability investigations for recipients of disability insurance, many beneficiaries have been suddenly and unjustly dropped from the disability rolls. My colleagues on the Ways and Means Committee have worked hard this session to fine tune and strengthen the 1980 legislation. The product of their efforts, H.R. 6181, is pending on the House calendar, and similar legislation has been introduced in the

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other body. However, because neither House has yet acted on these changes, the problem of unfair and inequitable disability terminations has continued.

Since the Reagan administration began the accelerated disability review process in March 1981, this epidemic of improper cutoffs has been reflected in the figures of overturned termination decisions. Although in 1979 the Social Security Administration estimated that only 20 percent of disability insurance recipients no longer qualified for benefits, 45 percent of those reviewed at the State level have been terminated. Eighty to eighty-five percent of these recipients are appealing their cases to the administrative law judge level, and 65 percent of these appeals are successful. This high rate of overturned decisions indicates that a substantial problem exists with the reviews.

This statistical approach to the problem is very antiseptic. Let me illustrate this point more vividly by describing some specific examples which my caseworkers in Delaware County, Pa. have brought to my attention.

One of my constituents, who had been receiving benefits since 1972, was reevaluated in the early part of this year. He had multiple problems: An accident in 1970 had left him with spinal injuries, and he underwent several back operations. Originally he suffered from severe back pain and muscle spasms, and doctors judged him unfit to perform substantial gainful activity. Over time, his condition became worse as the pain and spasms moved to his neck. Doctors feel that the problem might be solved by further surgery, but chances of success would be only 25 percent, with a 25-percent chance of total paralysis and a 50-percent chance of death. Nevertheless, in February his benefits were terminated. On February 16, he appealed to the State reconsideration level; only last month was the State decision reversed on the record by an administrative law judge. The extended period without benefits and his anxiety over his case have caused such mental distress that he has almost been forced to seek psychiatric care.

Another man who lives in my district has been receiving disability insurance for several years, a result of various mental problems. Last year his case was reviewed and his benefits were cut off. An administrative law judge reinstated his benefits, but the stress of the cessation and subsequent procedures and uncertainty aggravated his condition. His physician is of the opinion that his condition deteriorated significantly as a result of the process. This year he was terminated again, and presently has an administrative law judge hearing pending. It seems likely, according to my caseworker, that he will have his benefits reinstated.

In order to properly attack this problem and introduce an element of compassion into the continuing disability investigation process, changes must be made in three areas of the disability insurance review arrangement. The committee bill includes many of these changes. First, we must act to smooth the passage back to work for those who are terminated from disability insurance. We should consider:

Adding additional adjustment benefits for those terminated after more than 36 months on the disability rolls.

Making identical the month benefits are ended and the month in which a termination notice is received, thus avoiding retroactive terminations.

Earmarking funds for special rehabilitative services for those terminated in fiscal years 1983 and 1984, the first round of cuts.

The review process itself must also be modified in several ways:

All disability insurance recipients should be notified by the Social Security Administration of the continuing disability investigations, their intent, and their form.

Considering the high reversal level on appeal, payments to terminated beneficiaries who appeal should be continued through the administrative law judge level. Repayment would be obligatory if the appeal is unsuccessful.

Face-to-face interviews should be instituted at the State reconsideration level.

The hearing record should be kept open through the administrative law judge level.

Finally, and most significantly, we must make major changes in the rules guiding the reviews:

The rules used by the States and those employed by the administrative law judges must be rationalized somewhat, but we must insure at the same time that all guidelines are published and subject to public comment.

In 1980 we indicated that we wished to terminate coverage for individuals who have medically improved and still receive disability benefits. We must now clarify our intent that those whose condition has deteriorated or remained the same should not be cut off. New guidelines should be applied to new recipients; it is cruel and unnecessary to grandfather those who have been on the rolls for many years.

The time limit for filing a State reconsideration appeal should be extended from 60 days to 180 days in order to encourage attempts by terminated recipients to return to the workforce.

Mr. Speaker, both Houses of Congress recognize the necessity for the continuing disability investigations. At the same time, every one of us has heard of the agony and trauma suffered by those unjustly dropped from the disability roles as the reviews proceed. In order to provide us with additional time to consider the myriad of possibilities for making the continuing disability investigation process more fair, and in order to add some time for reflection on the effects of the program to date, I have introduced a companion bill in the House to Senator Heinz' S. 2730. This legislation will provide for a moratorium on continuing disability investigations until January 1, 1983, giving us all a chance to review the process and modify it. Of course, all cases of medical diaried reviews would be exempted from the freeze, as would those involving fraud and abuse of the system. This is only a temporary pause, but one that would allow us to contemplate the product of our legislation without seriously disrupting the review process. I hope that Members will seriously consider some of these ideas as we examine the present disability provisions.

"COP KILLER BULLETS" AND THE NRA—THE TRUE STORY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, for the past 3 years, I have been leading an effort to outlaw a special type of handgun bullet that can penetrate the bulletproof vests worn by police officers. Although not used for any legitimate purpose, these so-called cop killer bullets have been used to shoot and kill law enforcement officers.

Most Americans, including police officials across the country, are convinced this is a worthy cause—but not the National Rifle Association. Instead, they argue, "there is no such thing as a good or bad bullet," and they have lobbied heavily against any restrictions on armor-piercing handgun bullets.

Especially disturbing are the deceitful tactics they have employed. Recently, the NRA's campaign reached a new low when they told a newspaper the New York City Police oppose a ban on armor-piercing handgun bullets. Presumably, this is the same New York City Police who asked me to introduce the bill banning these bullets and then testified before Congress in full support of the legislation.

At this time, I would like to clear up further confusion by inserting a recent newspaper editorial that exposes the NRA's totally irresponsible conduct in this matter. It is appropriately entitled, "Tugging at the Truth."

[From the Lakeland (Fla.) Ledger, Aug. 1, 1982]

TUGGING AT THE TRUTH

The National Rifle Association of America apparently has begun to take on a quality attributed to Mark Twain. Twain told the truth mainly, "but there was things which he'd stretch," Huck Finn said.

When it comes to defending bullets which can pierce soft-body armor worn by police officers, the NRA is having a taffy-pull with the truth. U.S. Rep. Mario Biaggi, D-N.Y., who introduced legislation to restrict the distribution of such bullets, can speak with authority about a police officer's safety. Biaggi, a former New York City police lieutenant, was wounded 10 times in the line of duty.

His bill to ban the manufacture and sale of bullets which can pierce police protection vests when fired from a handgun has drawn the support of the National Fraternal Order of Police, the International Association of Chiefs of Police, the Alabama State Trooper Association, the Baltimore City Police Department, the Connecticut State Police, and the Los Angeles Police Department, to mention but a few.

But the NRA, which long has depicted itself as a friend of the police officer, has fought hard against any restrictions on the sale of armor-piercing ammunition.

The NRA argues that banning these fiendish cop-killer bullets is needless legislation that possibly would outlaw bullets used by game hunters. In a letter to The Ledger published elsewhere on this page, rebutting an earlier editorial, NRA spokesman John R. Iler says that police agencies oppose the legislation. Among them, he cites the FBI, the Los Angeles Police Department, the New York City police, and the Maryland State Police.

While Reagan administration spokesmen have expressed reservations about the blanket nature of the proposals, the other named agencies sing a different song.

The FBI: "We have not gone out either supporting or opposing this bill," said an FBI spokesman Friday. "The NRA is not accurate in saying the FBI is opposed to this legislation."

Additional checks with the other cited agencies cause NRA's credibility to slip further. In a Dec. 9, 1981 letter to federal officials, Los Angeles Police Chief Daryl F. Gates supported Biaggi's ban on cop-killer bullets. Said Gates on the department's behalf: "Because of the significant hazard to our officers posed by ammunition with these capabilities, we have requested that legislation be introduced in California which would control its possession and sale. However, this type of ammunition is available throughout the country. Legislation on a national level is urgently needed to control the ammunition. This needless risk of injury or death for both state and federal law enforcement officers can be eliminated through our combined efforts."

Could the NRA also have missed the fact that a bill to ban the bullets in California was introduced by Sen. Ed Davis, immediate past chief of the Los Angeles Police Department? And that Davis is a life member of the NRA?

NRA's claim that the New York City police have "opposed these bans" also has a hollow ring. On March 30, Phil Caruso, president of the New York City Patrolmen's Benevolent Association, testified before a House subcommittee examining the armor-piercing bullets. Caruso, representing more than 20,000 New York officers (more than 95 percent of the force), said: "Consequently, since there are no legitimate and logical purposes for their availability; there should be no objection to the prohibition of the use of this type of armor-piercing projectile . . . these bullets should be banned."

And what of the NRA claim that Maryland State Police oppose the ban? "Just the opposite," said Sgt. John Hughes, president of the Maryland State Troopers Association, which represents 92 percent of the uniformed state police. "I cannot understand where the NRA got that information. We speak for almost all the troopers in Maryland."

In a recent newsletter, Biaggi pointed out that Florida Highway Patrol trooper and a visiting Canadian policeman were shot and killed in 1976 with 9mm metal-piercing ammunition. In 1974, a Federal Protective Service guard was permanently disabled when a metal-piercing handgun bullet was fired through the rear of his protective vest and still had enough fire power to rip through the front of the vest. Yet the NRA believes these cases don't count: "The fact is, no law enforcement officer wearing soft body armor has ever been killed by the bullets in question," writes Iler.

Perhaps not, but past statistics are sketchy. But must there be police deaths before NRA supports an armor-piercing bullet ban? The International Association of Chiefs of Police presents a strong argument for Congress setting distribution bans on bullets capable of passing through a police vest: "As long as the manufacture and sale of the ammunition remains unregulated, the potential for such a tragedy is only too real. The International Association of Chiefs of Police currently can find no legitimate use, in or out of law enforcement, for this type of ammunition."

In its recent attempt to discredit Biaggi's legislation, the NRA has done exactly what it has accused the media of doing: The NRA has distorted the facts on gun control legislation. Could it be that the NRA doesn't shoot straight?

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CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, pursuant to the order of the House of August 17, 1982, I call up the conference report on the Senate bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Wirth). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 16, 1982.)

Mr. PRICE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. Price) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. Dickinson) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 2248 is the result of an intense and difficult conference conducted over a period of 15 days with conference sessions running late into the night and the conferees faced with a great number of differences and some extraordinarily painful choices.

I am happy to say that we have arrived at a conference report that I think reflects, as well as one could expect, the position of the House, and I want to particularly express my commendation to the House conferees who defended the House position with vigor, even when it was contrary to their personal inclinations. The conference report provides authorizations totaling $177,867,548,000. This is $5,589,762,000 below the amount requested by the President. The sum total of the authorizations referred to here is made up of a variety of separate authorizations for procurement, research, development, test, and evaluation (R.D.T. & E.), operation and maintenance, and civil defense. In addition, the compromise reached on personnel strength and related manpower provisions, although related principally to strength authorizations, rather than dollar authorizations, will result in additional savings in manpower costs.

Mr. Speaker, the bill, as its name implies, provides the authorization for appropriations and, thus, does not provide budget authority. Budget authority must be provided in an appropriation bill. Therefore, there is no direct relationship between this bill and the budget resolution just adopted since the first budget resolution targets levels of budget authority. We were conscious throughout the conference, however, of the requirement under the budget resolution for a total of $9.8 billion in reductions below the President's request for the national defense function (Category 050). This conference report would make a reduction of approximately $5.6 billion and, in the view of the House conferees, is consistent with the target of the first budget resolution in light of reductions that have been or will be made in items

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under the jurisdiction of the Armed Services Committee. Included in the latter are reductions in military pay, both active and retired, military construction, Department of Energy nuclear weapons programs, and other personnel changes. Additional reductions in Department of Defense programs are usually made during the appropriations process.

The reductions made here are consistent with the intent of the budget resolution considering the percentage of the total budget that is subject to authorization in the present bill.

The conference report has appeared in the Congressional Record for Monday, August 16, which has been available to all Members, so I won't take extensive time to review conference action. Let me just highlight some key decisions of the conferees.

Mr. Speaker, the question of binary chemical munitions was one of the most difficult items in conference and was only settled toward the very end of the proceedings. The Senate conferees felt very strongly that binary chemical munition production should begin and that it was necessary for the United States to have the capacity to deter chemical warfare. The House conferees believed in light of the very strong position of the House against the production of chemical munitions that the House position should be maintained, even though the Armed Services Committee in the House had supported binary production. The House held its ground on this issue and the conferees deleted all of the requested authorization, $54 million, for the beginning of procurement of binary chemical munitions. The language provisions of the House bill concerning chemical munitions were deleted in view of the agreement to deny all funding and, correspondingly, language provisions in the Senate bill were also removed.

Mr. Speaker, as you know, a provision was added to the House bill on the floor in the nature of a reduction on obligation of authorizations contained in the bill, which was designed to impose a limitation 1 percent below the total of authorizations approved. The Senate had an analogous general provision that contained a limitation on spending for the procurement of C-5B aircraft and would have reduced the total authorizations available for obligation in the Senate bill.

The House conferees were able to gain Senate acceptance on the House position for the procurement of the C-5B in view of the substantial vote in the House on that program. This resulted in elimination of the Senate general provision on limitation of funding.

Correspondingly, the Senate conferees objected to the House limitation on obligations. Additionally, the House conferees found that the provision could not be translated into effective reductions in each authorization category without either going beyond scope or denying the conferees virtually all discretion on disputed programs. The conferees concluded, therefore, that further reductions from the authorizations under the bill should more appropriately be made, if necessary, in the appropriations process, and the House reluctantly receded. This was one of the final items settled in the conference.

While approving the House position on beginning procurement of 50 C–5B aircraft, the conferees, in recognizing the serious shortfall in airlift, agreed to the procurement of three commercial cargo aircraft for military airlift and provided a total of $144.8 million for this purpose, including $60 million in new authorization and $84.8 million reauthorized from amounts provided in fiscal years 1981 and 1982 for the CRAF enhancement program. In addition, as part of our concern for airlift, the House conferees were able to maintain in conference the R. & D. line providing $1 million in new authorization for C–17. The conferees concurred that there was a long-term requirement for replacement of the C-141 fleet and that work on C–17 should go forward. It is the opinion of the conferees that with funding available from previous years and the $1 million provided in the bill, research and development work on C–17 can continue; in addition, the conferees would be willing to consider reprograming requests as necessary for this program. The $1 million is available only for the C–17.

On the MX program, it was necessary for the House conferees to agree to a reduction in the procurement authorization of $152 million for procurement, resulting in an authorization of $830 million for procurement of five missiles and the cost of establishing a production base, plus $158 million for missile support equipment and procurement relating to basing and deployment of the missile. The $158 million is restricted in that obligation is not permitted until the President notifies Congress that a permanent basing mode has been selected and 30 days have elapsed after receipt by Congress of such notice. A similar restriction applies to $715 million of research and development authorization that is related to basing. For R.D.T. & E., the conferees agreed to $2,509.3 billion for the MX, a reduction of $250 million.

In shipbuilding, the conferees were able to maintain the House position deleting one Trident submarine from the bill.

Mr. Speaker, there were numerous other difficult decisions made by the conferees, but I will not take the time of the House to discuss them. The decision of the conferees is spelled out in detail in the statement of managers accompanying the conference report. The conferees, led by the gentleman from Alabama (Mr. Nichols), spent many hours going over the difficult legal ground involved in the issue of former spouse protection, on which the two bodies had quite different intentions. The compromise reached I think is fair and retains much of the House version.

The House conferees were also able to maintain the position of the House on the creation of an Office of Inspector General for the Department of Defense in providing that the IG in the main will be independent. I want to particularly express my appreciation to the gentleman from Texas, Mr. Brooks, and his colleagues on the Government Operations Committee, who worked with persistence and diligence with the conferees on this issue and were willing to propose a compromise that allowed a very fair settlement of a difficult issue where there were strongly held views on both sides. The elements of the compromise concurred in were proposed by the gentleman from Texas, Mr. Brooks, and I congratulate him.

I also want to express my appreciation to the gentleman from Massachusetts, Mr. Boland, chairman of the House Permanent Select Committee on Intelligence, and his fellow conferees and capable staff for working with us to solve the differences on intelligence-related matters on which our committees share jurisdiction.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with our distinguished chairman, Mr. Price, in support of the conference report on the DOD fiscal year 1983 authorization.

As the chairman outlined, the conference report recommends authorization of $177.9 billion or $5.6 billion below the President's request. The recommended amount is large—but in opinion of the House and Senate conferees—it reflects an adequate amount to continue the rebuilding of our military strength that was started in 1982. However, the total is significantly larger than last year because, for the first time, the committees are recommending authorization of appropriations for the categories of ammunition and other procurement.

As we consider this conference report, I would like to ask my colleagues to recall the extraordinary briefing given by the Defense Intelligence Agency in this very Chamber. Those of you who were fortunate enough to attend have a more complete understanding of the capabilities of our major adversary. You saw the progress he is making toward increasing the destructive power of his conventional and nuclear forces.

Let me outline a few of the Soviets' recent accomplishments. In the past year two new fighters have joined their inventory: The Frog Foot—a close air support aircraft similar to our A-10—and, the Foxhound—a fighter/interceptor modification of the Foxbat. We have had the first sighting of their new large variable geometry strategic bomber, the Blackjack. Our analysts estimate an initial operational capability within several years. Additional SS-20's have been added to their forces. These 3,000-mile missiles, with three warheads each, now total 315. Sixty more Backfire bombers have been added to the Soviets' inventory for a total of 200, evenly divided between the naval and strategic air forces.

Finally, the Defense Intelligence Agency has recently reestimated the percentage of Soviet gross national product allocated for defense. That percentage is now estimated to be between 14 to 16 percent up from 12 to 14 percent last year.

It is with this understanding of Soviet power that the conferees joined to work out the differences in our two bills.

The conferees agreed on significant reductions in major programs. We reduced funding in two major programs because of favorable contract negotiations. In the M-1 tank program we found that it is now possible to procure 855 tanks, 79 more than originally requested, for $96.6 million less than requested.

On the AH-64 attack helicopter program, due to the efforts of Congress, the Army, and the contractor, it was possible to reduce the costs of 48 helicopters from $760.3 million to $710.0 million. This translates into a 15-percent cost reduction in the flyaway cost of the helicopter ($10.7 million to $9.1 million).

In other programs, such as the light armored vehicle, we recommended major reductions because the services either could not justify the need for the system or had not yet stabilized the quantities required.

In other areas we simply deleted or deferred programs because of competing requirements for dollars. To this end, the conferees agreed to delete complete funding for the second Trident submarine. The conferees did not dispute the need for that submarine, but felt that there were more urgent requirements for the funds.

The conferees agreed that a strong, flexible strategic airlift force with outsize capability is an urgent requirement. We agreed to the earliest initiation of the C-5B procurement program and to this end, recommended authorization of $847.5 million for fiscal year 1983. The conferees believe that the C-5B program, coupled with KC-10 procurement and the civil reserve air fleet, will provide our forces with a balanced and comprehensive capability.

With respect to the Guard and Reserve Forces, the conferees believe that additional funds must be provided to replace old equipment. Consequently, the conferees agreed to recommend authorization of $200 million for the Guard and Reserve Forces. The chief of each Reserve component will determine the priority for spending these funds and shall report to the Committees on Armed Services of the House and Senate on the items of equipment procured with these funds. The conferees recognize the potential contribution of the Guard and Reserve Forces. For example, as a part of the total force, the Army National Guard comprises 33 percent of the total Army combat division strength, and the Air National Guard comprises 27 percent of the Air Force tactical fighter aircraft fleet. Consistent with other budget priorities, these forces must be modernized to the point where they can make an effective contribution to our total force structure.

Mr. Speaker, in the opinion of the conferees, this bill contains the essential elements that continue the revitalization of our conventional and nuclear deterrent forces.

I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I would like to offer a brief statement with regard to the conferees on the Air Force research and development program—the C-17 cargo transport aircraft.

The conferees agreed that of the amount authorized for the Air Force for fiscal year 1983, $1 million is available only for the research, development, test, and evaluation of the C-17 aircraft. The statement of managers was to reflect this fact and clarify the intent of the conferees. Having served as a conferee on S. 2248, I believe that the conferees intent was that these funds be used for the C-17 aircraft and not a C-17 type aircraft as reported in the CONGRESSIONAL RECORD. I wish to emphasize this point here today.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the conference report. This is not to say that there are not some good provisions in this report. There are some.

FORMER SPOUSE PROTECTION

The conference report contains a strong section providing for the direct payment of retirement benefits to former spouses of members of the military. There is the provision for health benefits and commissary privileges for spouses of 20-year marriages. Finally, members of the military are permitted to assign their survivor's benefits to former spouses. There are some bad parts to this provision, including a requirement for a 10-year marriage before service Secretaries can honor State court decrees awarding retirement benefits. Still, this provision is a major step forward, a substantial victory for women.

CONTRACTING OUT

The conference report contains a 6-month moratorium on new contracting out at DOD, together with a restoration of the personnel spaces reduced in anticipation of contracting out. It is truly the height of disingenuousness for the administration to claim that it is conducting straight, above board cost comparisons for the purpose of determining whether jobs should be contracted out when it has already reduced the personnel allocation of the Department of Defense in anticipation of contracting out. I think the 6-month moratorium is too short and that what is really needed is some rational Federal policy on contracting out. The chamber of commerce front, known as the Office of Federal Procurement Policy, is only interested in reducing the Government work force, not in saving money.

CIVIL DEFENSE

The conference cut $100 million out of the ridiculous administration request for crisis relocation. We ought to spend our scarce tax dollars on something a little more practical and a little more useful than drawing up plans to evacuate cities in case of nuclear attack.

INSPECTOR GENERAL

After years of steadfast opposition to the establishment of an independent Inspector General in the Pentagon, the conferees have finally agreed to establish an office whose mission it is to find waste, fraud, abuse and mismanagement. If any department of Government needs an IG, it is the Defense Department. It's about time we created one.

COST OVERSIGHT

The Nunn amendment of last year, which I instructed the House conferees to accept in conference, has been strengthed to provide better cost oversight of major weapons programs. Given the Pentagon's dreadful record of cost control in major acquisitions, this sort of regulatory control is needed. I hope it will make some difference.

Despite these good provisions, the conference report is marred by the same philosophy of throwing money at defense which gripped the House Armed Services Committee. Worse still, much of this money is thrown at weapon systems which raise the risk and probability of war.

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Acting out of a feeling of self-disgust for having blindly thrown so many billions of dollars at the Pentagon, the House voted overwhelmingly for a cap on authorizations at $175,300,000,000. The bill that came back to us has authorizations set at $177,867,548,000, even higher than the $177,066,115,000 the House bill had before the 1-percent cut was adopted. Even more surprisingly is that the compromise reached is higher than the figure in either the House or the Senate bill. The Defense conferees have given new meaning to the word compromise.

Given this spendthrift penchant, it is not surprising that when the conferees were presented with the difficult choice of buying C-5B's or 747's, they decided to buy both. Rather than anger the Lockheed supporters or the Boeing supporters, the conferees felt it better to spend more money and please both.

The conferees also adopted the meaningless 30-day fence around money for MX interim basing. This means that we have obligated the Government to spending enormous sums to base the MX, when we have no idea how to do so in a survivable manner.

Although funding for chemical weapons was stopped, the conference report makes it quite clear that the committees plan to go ahead with the development of binary weapons.

Additionally, this conference report contains nongermane and unconstitutional language on cutting off benefits for those who fail to register for the draft and on collecting information about young men.

The few good features of this bill do not make up for the numerous, expensive and dangerous bad features of it. I urge my colleagues to oppose it.

□ 2130

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Speaker, I thank the gentleman for yielding this time.

I just want to ask a particular question with respect to section 1101.

Is it the understanding of the gentleman from Illinois that the provisions of section 1101 do not affect, or in any way diminish, the requirements of section 103 of the Intelligence Authorization Act for fiscal year 1983, the requirements of title V of the National Security Act of 1947, or the requirement to comply with the established reprograming procedures now in force?

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Illinois.

Mr. PRICE. Yes. The intent of section 1101 is to provide a statutory basis for established reprograming procedures.

Mr. BOLAND. Mr. Speaker, I thank the gentleman.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. Aspin).

Mr. ASPIN. Mr. Chairman, I, too, would like to compliment the committee on a number of parts about this conference report which is coming back to us from the conference of the Senate and the House Armed Services Committee.

However, I, too, am a little worried about the total amount of money that is in this bill.

To remind the House where we were at the time the House passed this bill, before the Glickman amendment the total amount of money in this bill was $177.1 billion. After the passage of the Glickman amendment, which was the 1-percent cut, we ended up with a total of $175.3 billion.

The other body had a version which went into conference with us of $177.4 billion.

So we went into conference with $175.3 billion and $177.4 billion and we came out of conference with $177.9 billion. So we came out spending more than we went into with either the House or the version from the other body.

It is not subject to a point of order because I know this has happened in the past because what you do is you take each of the parts and take the House version or the Senate version in each of the parts and if you take the House version when it is higher in one part and the Senate version when it is higher in another part you can end up with a total which is higher than either of the two bills going in. That is in fact what happened this time.

I think that is unfortunate because we are quite a bit higher than we went into conference from the House version, $2.4 billion, and we are over what we had in both the House and the Senate versions.

We do not have to conform in this bill. This bill does not have to conform with the budget resolution because it is an authorizing bill and not an appropriation bill.

It is, however, higher than we would have had if this were an appropriation bill.

We are leaving to the Appropriation Committee some very, very large cuts to make. We are leaving cuts of $2.2 billion in budget authority and $3.3 billion in outlays that the Appropriation Committee is going to have to cut to make the defense part consistent with the budget resolution.

So again, while I agree with a lot of the things that were done in this bill, I think the total dollars really are too high. They are too high from the budget resolution standpoint and they are too high from what we went into conference with the House and the Senate version.

Mr. Speaker, I yield back the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Speaker, the bill as passed by the House was $177.1 billion. It is correct that the bill as reported out of conference is $177.86 billion. That represents an increase of 0.4 percent above the House authorization. I would say that 0.4 percent—that is less than one-half of 1 percent—is not too much to leave to the judgment of the Appropriations Committee and I would hope the gentleman would not disagree.

I would also like to point out that the committee has clearly identified other reductions in the personnel area that can be made as part of the effort to be consistent with the budget resolution.

In addition, the committee has yet to finalize action on the Department of Energy nuclear weapons bill, and the military construction bill. A difference of more than $1 billion has to be ironed out in a conference between the House and Senate.

I would point out that the bill as presented in the Senate on May 12 provided for a level of authorization of $177.9 billion. The chairman of the Senate Budget Committee at that time congratulated the Senate Armed Services Committee for having a bill consistent with the budget resolution. It was only later that the Senate bill was reduced to $177.4 billion, an action relating to procurement of airlift aircraft. At the time the chairman of the Senate Budget Committee said that the bill was consistent with the budget resolution, the budget resolution actually contained $1 billion less for defense than the resolution as finally passed.

Finally, let us not forget that this is an authorization bill and it does not provide budget authority. Budget authority is provided in an appropriation bill and leaving an amount less than one-half of 1 percent for the appropriation bill is certainly consistent with past practices.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. Fountain).

Mr. FOUNTAIN. Mr. Speaker, I want to thank the chairman for yielding.

On behalf of Chairman Brooks of the Government Operations Committee and myself as chairman of the Intergovernmental Relations and Human Resources Subcommittee I want to thank the other Members and the conferees on the committee for the cooperation they gave us and for sticking with those of us who had been interested in section 1117 in this bill.

I think this is one of the most important provisions in this bill because it will enable the Inspector General to coordinate the auditing and investigative activities of the Department of Defense and in my opinion in the years to come will save billions and billions of dollars.

Mr. Speaker, the Department of Defense authorization bill contains a number of provisions which are of great importance to the future of our national defense program.

By far the most important of these provisions, in my judgment, is the one which establishes a statutory Office of Inspector General at the Department of Defense—section 1117.

As most of you know, I have devoted a great deal of time and effort over the last 7 or 8 years in working to establish a system of statutory Offices of Inspector General in Federal departments and agencies.

There are now 16 statutory Inspectors General in civilian departments and agencies. There is still a very long way to go, but their work is beginning to produce very significant benefits to the taxpayers through improved economy and efficiency and reduction of fraud and abuse in Federal programs.

The present situation is a tremendous improvement over the old system where auditors and investigators could—as a practical matter—be kept from doing their job whenever agency heads and program managers so desired.

The statutory Office of Inspector General which this bill will create at the Department of Defense is more urgently needed than any of the others.

In contrast to most civilian agencies, where programs are being cut back, spending by the Department of Defense is increasing rapidly. Over the next 5 years, DOD is expected to spend more than $1½ trillion.

I have consistently supported defense appropriations. Unfortunately, as all of us know, an unacceptably high percentage of the funds made available to the Defense Department has been—and still is being—expended in a manner which does little or nothing to strengthen our national defense.

We cannot expect the Nation's taxpayers to continue to provide massive funding for the Defense Department—at considerable personal sacrifice—unless we provide far greater assurance that their money will not be wasted or stolen.

This bill will help greatly in providing that assurance by establishing a DOD Inspector General whose independence is protected by statute.

The Department of Defense exerted great effort to prevent the establishment of an independent Office of Inspector General. DOD openly acknowledged that they wanted the Inspector General to be subject to the "authority, direction and control" of the Secretary so that he or she could not investigate matters the Secretary did not want investigated.

Although the House had twice voted for an independent DOD Inspector General by overwhelming margins, the Senate versions of the Defense authorization bill called for an Inspector General who would be subject to the "authority, direction, and control" of the Secretary.

I served as a member of the conference committee on the section of the Defense authorization bill relating to the Office of Inspector General, section 1117 in the record, I am glad to be able to report that—thanks to the solid support provided by all House conferees—the House position prevailed and we will have an independent Office of Inspector General.

We did yield to the Senate in providing that the Inspector General might be subject to the authority of the Secretary in specific instances in which the Secretary determined that an Inspector General investigation might endanger the national security. However, in order to prevent national security from being used as a cloak to cover up waste, fraud, and abuse, we provided that the Inspector General must report to the appropriate congressional committees if and when this national security provision is invoked. And the Secretary of Defense is required to provide a full explanation of his actions to the House and Senate Armed Services Committees and the Senate Governmental Affairs and the House Government Operations Committees.

I do not believe the President would nominate—or the Senate confirm—an Inspector General who would knowingly jeopardize the national security. That is why the language was unnecessary, but we need the office so badly in the Defense Department that these compromises with the Senate conferees were necessary. It should rarely—if ever—be necessary for a Secretary of Defense to order an Inspector General to stop an investigation on national security grounds. If it ever does occur, I am confident the Congress will review the circumstances very, very closely.

There is one obvious deficiency in the DOD Office of Inspector General being established by this bill. The Defense Contract Audit Agency is not being transferred to the new Office of Inspector General, even though it has several times as many auditors as will be available to the new Inspector General.

DCAA should be transferred to the Office of Inspector General, and I am confident that it will be so transferred in the not-too-distant future.

With the enactment of this bill, only two major Federal departments will be left without independent statutory Inspectors General. They just happen to be the two most important law enforcement agencies—the Treasury and Justice Departments.

By and large, these two agencies have good records for honesty and integrity. Unfortunately, a high degree of integrity, while essential, does not assure a high degree of effectiveness. Our law enforcement operations must be managed more effectively and statutory Inspectors General are urgently needed to help accomplish this task.

This will be my last year in Congress. The House has voted to establish statutory Inspector General's at the Treasury and Justice Departments on two separate occasions, and House-passed legislation for this purpose is currently pending in the Senate.

I hope these last two Inspectors General will become a reality before the end of my service in this body. If not, you can be sure that I will continue to fight for the establishment of these offices as a private citizen.

● Mr. BROOKS. Mr. Speaker, I just want to comment briefly on the provision in this conference report that establishes an Office of Inspector General in the Defense Department. The establishment of a statutory Inspector General for the Department of Defense may be one of the most significant and responsible actions taken by this Congress. In taking this action, this Congress has shown the American people that we intend to carefully monitor the management and expenditure of the massive appropriations now being authorized for the Defense Department. This bill provides for the first year of a 5-year defense buildup that is expected to exceed $1.6 trillion. It is appropriate that at the outset we are establishing a mechanism to provide for more effective and timely oversight of the expenditure of those funds.

I want to commend the conferees from the Armed Services Committee who stood firmly with those of us from the Government Operations Committee in working out a strong, effective Inspector General provision.

The main issue in disagreement was the degree of independence the Inspector General would have. The House bill gave him the same independence all other Inspectors General have, placing him under the general supervision of the Secretary of Defense, but prohibiting the Secretary from interfering with any audits or investigations. The Senate bill placed the Inspector General totally under the authority, direction, and control of the Secretary.

The conference agreement adopts the language of the House bill in placing the Inspector General under the general supervision of the Secretary, but gives the Secretary authority to step in and prohibit audits and investigations requiring information which, if disclosed, might constitute a serious

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threat to national security. The agreement spells out the specific areas in which this authority can be exercised, and provides that whenever it is exercised, the Secretary must make a written report to the Armed Services Committees of the House and Senate and the House Government Operations and Senate Governmental Affairs Committees.

I think we've got a good, workable compromise that will finally bring the Defense Department into line with the rest of the Government in the effort to control wasteful spending and mismanagement. This is something we on the Government Operations Committee have been seeking for a long time and I am delighted it has finally been achieved.●

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. I thank the gentleman for yielding.

I take this time, Mr. Speaker, because there were erroneous reports as to what the conferees had done or agreed to on the binary chemical weapons. I wish to commend the chairman and the conferees because they have strenuously upheld the position of the House on this issue.

I do know that the conferees in the other body were of an adamant attitude but, again, I wish to thank and congratulate the chairman because, indeed, our House conferees upheld the House version.

I yield back the balance of my time.

□ 2140

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Lowry).

Mr. LOWRY of Washington. Mr. Speaker, I rise in opposition to the conference report on the Defense Department authorization. After careful consideration of the issues involved, I have concluded that this legislation does not adequately deal with the real defense problems facing our nation.

I am pleased by the deferral of $54 million for the production of binary chemical weapons. Our existing stockpiles of chemical weapons are an adequate deterrent to chemical warfare. We do not need to produce new binary weapons. The reduction in civil defense funds to $152 million, from the $252 million provided by the House, is also an improvement. The only defense against a nuclear war is to prevent it from starting in the first place. In addition, the creation of an Office of Inspector General for the Defense Department will hopefully help us to deal with the serious problem of waste in that agency.

However, these positive points are outweighed by many others.

The $178 billion in funds authorized by the conference report is $2.6 billion higher than the amount voted by the House. Given the state of our economy, I believe that even the House bill provided too much for these programs. Because our national security is dependent on economic health, we need to look at the military budget much more carefully. Military spending cuts are an essential part of a responsible fiscal policy which will reduce the record-high deficits of the Reagan administration and lead to economic recovery.

The conference report also authorizes wasteful weapons such as the B-1 bomber, and weapons which will make us less secure, such as the MX missile. In addition to $2.5 billion for research and development on the MX, the report includes $988 million for procurement of the first five MX missiles, even though we do not know how they will be based. If we ever do find a workable basing system for the MX, its high accuracy will threaten the Soviets with a first strike. Their response to this perceived danger could include a move to launch-on-warning status for their missiles. This will increase the chance of war through miscalculation or accident, especially in times of crisis. As a result, the MX will actually make us less secure. The same objections apply to the Trident II missile, which is also authorized in the report.

We are now hearing that any MX basing system will require a ballistic missile defense—BMD—system to protect it. The report provides $520 million for BMD technology advancement, exploitation, research, and development. It is likely that any BMD system, if built, would violate the Anti-Ballistic Missile Treaty, which is perhaps the most successful arms control agreement we have achieved.

The search for an effective BMD system could go on forever, at an enormous cost, without ever making us secure. We are fortunate that the ABM Treaty has kept us from wasting billions of dollars on this futile goal. We need mutual, verifiable arms agreements and substantial arms reductions. We do not need to destroy an effective, existing treaty.

It is also disturbing to me that the report deleted the House amendment stating that no funds could be used for weapons that would violate provisions of the SALT II Treaty. Even the Reagan administration is adhering to the terms of this treaty, although it does not favor ratification. Given the time required to accomplish new arms agreements, we are more secure because we continue to observe the provisions of SALT II.

I supported the unsuccessful amendment to delete funding for 50 new C-5 cargo aircraft and procure, instead, new or used 747's. I remain convinced that this amendment would have saved at least $7.9 billion overall, while still providing sufficient airlift capacity to meet our outsize, oversize, and bulk requirements. Unfortunately, the report did not accept this view.

For all these reasons, I have decided to oppose the conference report. I urge my colleagues to do likewise.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from New York.

Mr. STRATTON. We put in three 747's, I might point out to the gentleman.

Mr. LOWRY of Washington. Yes, and there is a real question, I might respond, as to whether we can really afford the type of airlift that will be necessary to carry out this program.

● Mr. HORTON. Mr. Speaker, I rise to commend the House Armed Services conferees for their complete and unwavering support for an independent Office of Inspector General for the Defense Department.

The report before us contains a provision that would place in the Department of Defense an independent Inspector General to lead the fight against waste, fraud, and program abuse. This Inspector General has the same powers and is just as independent as the 16 Inspector General's that the Congress has placed in other major departments and agencies.

To protect sensitive information, this provision would require the Secretary of Defense to exercise "authority, direction, and control" of the Inspector General only when carefully defined matters of national security are concerned. At all other times the Inspector General would remain independent of the Secretary.

Should the Secretary exercise his authority to prohibit the Inspector General from operating in defined sensitive areas, the Inspector General would be required to report the prohibition to the Congress. The Secretary would then have 30 days to explain the prohibition to the appropriate committees of the Congress.

As a further protection of classified information within the Defense Department, this legislation specifically prohibits the public disclosure of certain sensitive information, not just at Defense but also at the 16 other major departments and agencies currently operating with statutory Inspectors General. This is an important feature of the bill, a feature that recongizes the serious nature of an IG's work.

All in all Mr. Speaker, I am quite pleased with the work of the conferees in this area. At a time when Congress is cutting back on social programs and is sharply increasing Defense spending, it is absolutely imperative that someone at Defense has enough independence to investigate and curtail instances of fraud, waste, or mismanagement. This legislation will provide that independence without jeopardizing national security.

Mr. Speaker, I support the Inspector General language in this conference report and I urge its approval.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of the conference report on S. 2248, the Department of Defense authorization bill.

This legislation contains authorization of funding for our critically important programs of national defense. A strong national defense to protect the United States from aggression is the single most important duty of the Federal Government. All other Government programs pale in comparison to our efforts at making America secure.

I am particularly supportive of provisions in this bill that authorize the procurement of C-5 transport planes. These aircraft are central to our efforts at putting together a first-rate rapid deployment force. In times of emergency, we must be capable of moving enough troops with the right equipment to those strategic "hot spots" around the globe where America's national security interests must be protected. The C-5 is the best plane around to meet that need.

As my colleagues know, the other body approved purchasing surplus commercial 747's instead of C-5's. When this same issue was debated here in this Chamber, it was made abundantly clear that a 747 just cannot do the job of a C-5. I believe one of my colleagues summed it up well when he said, "If you needed a truck for hauling things, would you buy a used car to do the job?" The overwhelming rejection of the 747's by this House placed our conferees in a strong position, and they were able to insure that the House position prevailed.

I am especially familiar with the capabilities of these aircraft because many of them are stationed in my home State of Delaware at the Dover Air Force Base. A substantial number of the new C-5's we are authorizing today will be stationed at Dover as well, where they will be expertly maintained and kept ready for use by our Armed Forces.

This bill will go a long way toward making America secure from our adversaries and will promote the cause of world peace through a strong United States. I urge my colleagues to join me in strong support of the conference report.●

Mr. PRICE. Mr. Speaker, I yield back the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Mr. EDGAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 148, not voting 35, as follows:

[Roll No. 297]

YEAS—251

Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
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Badham
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Butler
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Campbell
Carney
Chappie
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Clausen
Coleman
Collins (TX)
Corcoran
Courter
Coyne, William
Craig
Crane, Daniel
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Daniel, Dan
Daniel, R. W.
Dannemeyer
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Daub
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de la Garza
Deckard
Derrick
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Ford (TN)
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Hall, Sam
Hamilton
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Hansen (ID)
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Jones (TN)
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Long (LA)
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Martin (NC)
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Miller (OH)
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Price
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Robinson
Roe
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Rogers
Rose
Rostenkowski
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Santini
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Smith (AL)
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St Germain
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Stratton
Stump
Synar
Tauzin
Taylor
Thomas
Trible
Udall
Walker
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Watkins
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Wright
Yatron
Young (AK)
Young (FL)
Young (MO)
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Zeferetti

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Addabbo
Albosta
Anthony
Aspin
Atkinson
AuCoin
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bingham
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Bonior
Bonker
Brodhead
Brown (CA)
Brown (CO)
Broyhill
Burton, Phillip
Chisholm
Clay
Clinger
Coats
Coelho
Collins (IL)
Conable
Conte
Conyers
Coughlin
Coyne, James
Crockett
D'Amours
Dellums
DeNardis
Dixon
Donnelly
Dorgan
Downey
Dymally
Early
Eckart
Edgar
Edwards (CA)
Erdahl
Evans (IA)
Fenwick
Findley
Fithian
Florio
Forsythe
Frank
Frenzel
Garcia
Glickman
Goodling
Gramm
Gray
Green
Grisham
Guarini
Gunderson
Hall, Ralph
Harkin
Hawkins
Heckler
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Hubbard
Hughes
Jeffords
Jones (OK)
Kastenmeier
Kildee
LaFalce
Leach
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Lowry (WA)
Lundine
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Miller (CA)
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Roberts (KS)
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Scheuer
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Smith (IA)
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Traxler
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Walgren
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Wirth
Wolpe
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Wylie

NOT VOTING—35

Bafalis
Beard
Bolling
Breaux
Brown (OH)
Burton, John
Carman
Chappell
Ertel
Ford (MI)
Ginn
Goldwater
Hall (OH)
Heftel
Holt
Huckaby
Jones (NC)
Kemp
Luken
Madigan
Marks
Moffett
O'Brien
Paul
Railsback
Rhodes
Richmond
Rosenthal
Stanton
Vander Jagt
Volkmer
Weaver
Whitten
Wilson
Yates

□ 2150

The Clerk announced the following pairs:

On this vote:

Mrs. Holt for, with Mr. Richmond against.

Mr. O'Brien for, with Mr. Moffett against.

Mr. Beard for, with Mr. John L. Burton against.

Messrs. GRAMM, GREEN, FINDLEY, LAFALCE, RALPH M. HALL, GUARINI, ATKINSON, ROBERTS of South Dakota, and COATS changed their votes from "yea" to "nay."

Messrs. EDWARDS of Oklahoma, DREIER, and KOGOVSEK changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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□ 2200

GENERAL LEAVE

Mr. **PRICE.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 2248.

The **SPEAKER** pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 297

Mr. **RAHALL.** Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 297, the Carney nuclear freeze regulation.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. **BROWN** of Colorado. Mr. Speaker, on rollcall No. 294 I was necessarily absent on official business. Had I been present I would have voted "nay."

I ask unanimous consent that this statement appear in the permanent RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Colorado.

There was no objection.

PERSONAL EXPLANATION

Mr. **PORTER.** Mr. Speaker, I was unavoidably detained at the White House this evening and had I been present and voting on rollcall No. 296, I would have voted "no."

OUR ENERGY POLICY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EDGAR) is recognized for 60 minutes.

Mr. **EDGAR.** Mr. Speaker, I would like to thank my colleagues for agreeing to participate in this special order this evening. I have asked for this time so that we could review and document the current state of the energy problem.

Mr. **SIMON.** Mr. Speaker, will my colleague yield?

Mr. **EDGAR.** I yield to the gentleman from Illinois.

Mr. **SIMON.** Mr. Speaker, I wish to change the topic from energy just for a moment, because I have just learned, because unfortunately I was not on the floor when our colleague, the gentleman from Ohio, explained the language that was in the Caribbean Basin provision tonight.

I support the Caribbean Basin Initiative of the administration, but the language that was in there authorizing—I do not know what, and I do not know that anyone else knows what, in the way of possible military adventurism on the part of the United States concerns me a great deal.

I am confident that the majority of the Members of this body were not aware of the language that was in the document that we passed.

I think clearly the sentiment in this House is that we want to support the Caribbean Initiative. We want to do constructive things. We do not want to be using our military muscle where that is not necessary and we do not want to invite this administration to do that.

Mr. **BEDELL.** Mr. Speaker, will the gentleman yield?

Mr. **EDGAR.** I yield to the gentleman from Iowa.

Mr. **BEDELL.** Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Illinois.

I am sorry that some of us were not more aware of the exact language that was in that particular report.

Mr. **EDGAR.** Mr. Speaker, I thank the gentleman for his comments. I would like to associate myself with the remarks of the gentleman from Illinois as well on the language that did appear in that legislation.

Mr. Speaker, tonight the special order that I have asked for deals with the issue of energy policy. A number of Members of the House, North, East, South, and West, are concerned about what our energy policy for the future should look like.

I strongly believe, as I know many of you do, that the energy crises is not over. Furthermore, as unpleasant as it may seem, I think it will not be over until we commit ourselves to a safe, efficient and affordable energy future.

Unfortunately, we are experiencing once again the effects of a "glut psychology"—a state of mind that allows us to ignore the lessons of the past and delude ourselves into thinking that our current energy sources are abundant and their supply will remain. Daniel Yergin, in his new book entitled "Global Insecurity," warns against falling prey to the lure of complacency and quotes the Director of the International Energy Agency as saying, "There is still an oil gap; only now it is expressed in the number of unemployed."

To fully comprehend the inordinate effect energy has had upon the economy in recent years, one need only look to energy prices. The increase in size and percentage of national energy spending over the past decade—the era of OPEC and domestic oil decontrol—has been formidable. Data on National and State energy expenditures show that in 1970 the United States paid $83 billion for energy; in 1980, energy spending totaled $378 billion.

While overall energy consumption rose by only 14 percent in the 1970's, the cost of energy used in the United States increased 132 percent in real dollars. That was significantly higher than the decade's inflation rate of 94 percent and the increase in real personal income of 37 percent. Nationally, expenditures for energy over the decade grew from 8.5 percent of the gross national product to 14.4 percent.

The current oil situation, which in recent months has resulted in lower prices for imported and domestic oil, is an encouraging sign. It shows the effect of lower demand on worldwide prices and supplies. However, the price decreases are slight compared to the overall increases since 1973. For example, in 1979, imported crude sold for $21.67 a barrel. By 1981, a barrel of imported crude cost $37.14. In April 1982, the price dropped to $32.50—a 12.5-percent decrease, but still well above the 1979 price. Moreover, U.S. production, despite record prices and levels of new drilling, has not increased dramatically.

Some observers claim that the drop in consumption proves that high energy prices spur investment in energy efficiency. However, it is not known how much of the decrease is attributable to reduced activity in a recessionary economy and how much reflects increased efficiency. The broad indicators are alarming. The greatest drop in energy consumption between 1979 and 1981—fully 69 percent—occurred in the industrial sector. Reduced energy consumption for transportation accounted for another 24 percent, while the residential and commercial sectors combined showed only a 7-percent decline. These figures suggest that an upturn in the economy could increase energy consumption significantly and renew upward pressure on oil prices.

It is difficult to assess the full impact of rising energy prices on the economy. Mr. Yergin, however, paints a dim picture of possible effects worldwide unless we begin the long process of adjustment to new energy realities. He writes:

> The unhappy set of economic circumstances set in motion by the oil shocks contains the potential for far-reaching crises. In the industrial nations, high inflation, low growth, and high unemployment can erode the national consensus and undermine the stability and legitimacy of the political system. In the developing world, zero growth leads to misery and upheavals. Protectionism and the accumulation of debt threaten the international trade and payments system. And, of course, there is the tinder of international politics, particularly involving the Middle East, where political and social upheavals can cause major oil disruptions and where fears about and threats to energy supplies can lead to war.

We in the United States are beginning to adjust. The most impressive example is New England, which used

6.5 percent less energy in 1980 than it used in 1978. This was at a time when that region also was experiencing healthy economic growth—thereby contradicting the commonly held belief that energy use and economic growth must move in lockstep.

Unfortunately, the commitment to energy efficiency and alternative energy development—so evident just a few years ago—has begun to diminish. We could speculate indefinitely on the cause for this loss of interest. I think it is fair to say, however, that the change in administrations, the cautious approach to discretionary spending, and the "glut psychology" all have been partly responsible.

It seems, therefore, that this special order is particularly timely. At a time when not many people are focusing on energy, the next hour or so should give us the opportunity to "get up to speed" on the current energy situation.

Before we begin, let me set the tone for our discussion by relating a conclusion of the Global 2000 report. In their summary of the world energy situation, the report's authors quote Vincent McKelvey's assessment of the current energy situation:

> The era of readily available, cheap fossil fuels is closing and a high order of human ingenuity will be required to extend it and to bring into use another energy resource base. The time necessary to complete these tasks depends not only on the vigor and imagination with which new sources are sought but on the wisdom and restraint exercised in the use of the old.

We will hear tonight from a bipartisan group of members from throughout the country. The group itself is a strong indication of the breadth of support for energy conservation and alternative energy development.

□ 2210

Mr. Speaker, I yield now to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I would like to begin by commending the gentleman from Pennsylvania (Mr. EDGAR) for calling this special order on the important issue of national energy policy. It is remarkable that this critical subject has, in recent months attracted so little public attention.

I would like to make a few observations about national energy policy in general, and comment specifically about the future of solar and renewable energy resources.

It has been estimated that over $7 trillion will be spent on energy in the United States in the next 20 years.

In the best of all possible worlds—with the free market working perfectly—this $7 trillion would be so efficiently invested that we could meet our Nation's energy requirements without any need for a national energy policy. However, as most of us are aware, this is not the best of all possible worlds. The energy marketplace is anything but a perfectly free market, and the policies and practices of powerful energy interests do not always coincide with the interests of the Nation. A comprehensive national energy policy is essential if we are to achieve the goals of economic growth, increased employment, and enhanced national security in the years to come.

However, I would emphasize that the Federal Government need not dominate the energy marketplace or expend tremendous sums of taxpayer dollars in an effort to correct market imperfections. In fact, we must avoid past mistakes which have resulted in an energy policy which is little more than a patchwork of ad hoc special interest subsidies that only serve to exacerbate existing market imperfections and to prolong our energy vulnerability by diverting scarce capital into uneconomic, wasteful investments.

In my view, the role of the Federal Government should simply be to provide guidance to the marketplace so as to match the Nation's present and future energy needs with available resources in the most cost-effective, environmentally sound, manner possible. I am convinced that if we were to adopt the commonsense criteria which I have just described, we could rise above the ideological debates of the past, and form a much-needed consensus on national energy policy.

So where do we begin?

The first step in meeting the criteria must be an assessment of the Nation's end use requirements for heating and cooling, lighting, transportation, and industrial and agricultural processes.

The second step must be an analysis of available energy options to determine which can most effectively meet specific energy end use requirements.

It is imperative that we take these steps in this order. In the past we have put the cart before the horse by spending large sums of taxpayer dollars in developing costly technologies only to find that there are much more efficient ways to meet our energy needs.

For example, numerous studies have indicated that investments in improved energy efficiency can much more cheaply reduce our dependence upon oil and gas than massive spending on nuclear and synthetic fuels technologies. It is now generally acknowledged that U.S. energy consumption could be reduced by at least 25 percent without sacrificing economic growth. Improving energy efficiency should be the highest priority of our national energy policy.

Unfortunately, the current administration has once again put the cart in front of the horse. While continuing to support multibillion expenditures for the Clinch River breeder reactor and the Synthetic Fuels Corporation, the administration proposed reducing energy efficiency funding to only 1 percent of the Department of Energy's research and development budget.

This situation illustrates the importance of establishing criteria to compare the effectiveness of competing energy technologies in meeting the Nation's energy requirements. While it is clear that increased energy efficiency should be our No. 1 energy priority, we must also utilize the same criteria to determine which new sources of energy can effectively meet our energy needs as domestic oil and gas supplies become increasingly scarce.

I strongly believe that solar and renewable energy technologies are excellent examples of potential energy resources which could meet the criteria that I have suggested, but may need assistance in overcoming market imperfections. These resources must be given the opportunity to aggressively compete with highly subsidized nuclear and synthetic fuels technologies as we move to replace dwindling oil and gas supplies.

A number of studies have indicated that solar and renewable energy technologies could provide 20 to 30 percent of our energy supply requirements in the year 2000. Regrettably, the current administration does not share my enthusiasm about the potential of renewable energy technologies. They consider solar to be an "exotic" technology which cannot compete as a viable energy option. Their support for nuclear and synfuels and neglect of solar could make their prediction a self-fulfilling prophecy.

I believe that if solar is to be given a fair shake in the energy marketplace, there are a number of market imperfections which must be addressed by Federal policy.

First, the Federal Government must be committed to a vigorous research program if energy investors are to be given a choice between competing technologies. Unfortunately, the current administration has proposed reducing solar funding to only 4 percent of the Department of Energy's research and development budget. The administration justified its proposed budget on the grounds that existing solar tax credits were sufficient incentives for solar development.

Second, due to the fact that millions of individual energy consumers are potential investors in solar technology, we must insure that they have adequate access to capital to compete with investments in centralized energy technologies. As incredible as it may seem, the current administration attempted to eliminate the same solar tax credits that it had earlier used to justify its proposed cuts in the solar research and development budget. Fortunately, a majority of both Houses of Congress expressed their support for the tax credits. In addi-

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tion, the administration attempted to kill the Energy Conservation and Solar Energy Bank. This Congress created the bank to provide low-interest loans to attempt to eliminate the barrier of the "up front" capital required for the purchase of solar technology. It now appears that the bank will finally open its doors—but only after the administration was sued and lost its case in court.

Third, it is critical that the Federal Government provide homeowners, the business community, and the building sector with the solar information necessary to assist them in comparing competing energy investments. While these relatively low-cost programs improve the working of the marketplace, the administration has consistently proposed their reduction.

Finally, if solar and renewable energy resources are to be competitive in the marketplace, we must engage in an extensive examination of Federal subsidies for other energy technologies to determine if they remove, or create, imperfections in the marketplace.

While the administration has attacked solar programs as inappropriate meddling in the marketplace, they have also supported substantial subsidies for the nuclear industry, $12 billion in new tax breaks for the oil industry, and have failed to seriously question the role of the Synthetic Fuels Corporation.

In closing, I believe that it is extremely important to redefine the Federal role in the energy marketplace. It is clearly unrealistic to assert that the Federal Government should either fund every conceivable program or leave all energy decisions to market forces. However, I believe that it is essential for us to agree upon criteria for Federal support for energy technologies which will be consistent from administration to administration if we are to make progress in addressing our energy problems. I believe that the criteria which I have suggested, which would require all energy technologies to fairly compete for Federal support based upon the technology's ability to meet the Nation's energy needs in the most cost-effective and environmentally sound manner possible, is a formula worthy of consideration.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his leadership and also for his comments.

I think it is important to outline the whole concept of a national energy policy.

Mr. Speaker, at this time I yield to my colleague, the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, first, I would like to thank and commend the gentleman from Pennsylvania (Mr. EDGAR) for organizing this special order. Energy has fallen from the top of our priorities list in the last few years, and I believe that this neglect will come back to haunt us. We seem to have an extremely short memory when it comes to gaslines and skyrocketing fuel costs. I hope that this special order will help to raise the consciousness of the Congress about the energy issue so that we can attempt to head off the next crisis rather than applying band-aids after the wounds have been inflicted.

It is clear that our energy policy must focus on easing our dependence on foreign oil, both for the sake of consumers at home and for international stability. One role of Government is to provide for the needs of its citizens in ways that the market does not address. Just as the Government must spend time and money on defense to promote national security, it must also attempt to minimize the possibility of scenarios that could lead to conflict or other threats to our national security. Certainly one of the most obvious of these is the possibility of an oil cutoff.

There are many policies that we should pursue at home to promote conservation and renewables, and many of the other speakers here today have addressed these eloquently. I would like to discuss two issues that are somewhat divergent from each other and from the other matters we have been talking about today.

For the United States, our overdependence on OPEC is an overdependence on imported liquid fuels. In the last 2 years, a great deal of emphasis have been placed on increasing domestic production of oil. Unfortunately, we have done little to stimulate production of alternative fuels. Government research on alcohol fuels has been cut back, and even with the massive subsidies, synthetic fuels plants have had to be closed. It is clear that the United States will fall far short of the goal of producing 500,000 barrels a day of synthetic fuel by 1987, and 2 million barrels a day by 1992, as spelled out in the Energy Security Act that Congress passed just 2 years ago.

I believe that this is an area where the Government should take a new approach to alternative fuels development that is in keeping with the current emphasis on fiscal austerity in Government and reliance on the marketplace.

Tomorrow, I will introduce legislation to require that by 1990, 10 percent of each gallon of motor fuel sold in the United States must be a replacement fuel. The term "replacement fuel" is defined as alcohol or other liquid produced from coal, oil shale, tar sands or other substance for the purpose of mixing with gasoline to be used as a motor fuel. The ultimate goal, by 1995, is to replace 20 percent or more, by volume, of the nationally projected consumption of motor fuel.

Without a doubt, the United States has the technical capability to produce fuels from grains, garbage, coal, oil shale, tar sands, and other sources. The problem that private industry faces is not technical; rather, there is a lack of certainty about the demand for the final product. The most effective Government policy to promote alternative fuels is to guarantee a market.

This concept is built on the model of the successful program of mandating fuel efficiency in motorcars. I hate to think of the condition the auto industry would be in today if Congress had not mandated these standards. We should take a similar approach to fuel for motor vehicles, a sector that constitutes about one-third of our Nation's energy use.

Another ramification of the long-term, worldwide liquid fuels shortage that often goes unnoticed in this country is the impact of oil prices and shortages in the developing world. The oil bills of many Third World countries have strangled their development by creating balance-of-payments and debt-service problems, international monetary instability, and the potential for energy-related economic, social, and political unrest in several regions.

The threat to vital U.S. interests of present trends include prospects of a collapsed international financial system, lost rights to military bases and facilities, strengthened OPEC influence on the foreign policies of less developed countries, and significantly curtailed international trade. Clearly, the relationship between energy and security is important not only in the domestic context, but in the context of our relations with many other nations of the world.

It is extremely disturbing to me that there is little or no coordinating of foreign, defense, energy, and nonproliferation policies. For instance, it seems ludicrous to address our overdependence on Middle Eastern oil in a military way. It is an energy problem that threatens our security, and it should be treated as such.

In the contect of our policy toward the developing world, it is certainly in our interest to promote renewable technologies in the Third World. Since the United States probably will remain a major importer of petroleum for many years, it is in our interest to reduce the competition for supplies and provide alternative energy options both at home and abroad. A strong leadership role for the United States could also benefit U.S. foreign policy interests by reducing the present hostility of many developing nations toward us. It would also provide stimulation and visibility to our domestic renewable energy industry.

Finally, a commitment to promoting renewables around the world would be of great benefit to our efforts to curb the spread of nuclear weapons. The threat of nuclear proliferation is as serious a problem as any facing the world today. We simply add fuel to the fire, if you will, by pushing nuclear reactors around the world in countries where the need for energy is largely for uses such as heating, cooking, and pumping water. To paraphrase Amory Lovins, the use of nuclear energy for such purposes is like using a chain saw to cut butter.

I appreciate the opportunity to participate in this important special order today on this important, and recently neglected issue. I hope this will be the start of a renewed consciousness in the Congress on energy.

☐ 2220

Mr. EDGAR. Mr. Speaker, the gentleman I think has made a good statement. I would like to commend the gentleman for his leadership over the years in both the area of energy and the area of environment. I think it is important for us to have sensible national energy and a sensible national environmental policy that recognizes the need for renewable energy. The gentleman from Vermont has really led the way in many creative ways in making sure the legislation we pass, whether it is appropriation or authorization, really is focused on those concerns.

I know the gentleman has been in anguish over the last year and a half when some of those programs that were put in place to help in conserving renewable energy have indeed been diminished, and I know the gentleman's concern about the dependency we have on imported oil.

I think the gentleman's statement was effective.

Mr. JEFFORDS. I thank the gentleman for those kind comments, and certainly share those views about the gentleman for his leadership, and I have enjoyed working with him on many of these projects.

I think it is incredibly foolish that some of the things we have been doing recently by cutting back, especially on conservation from a dollar deficiency, is so much greater than many of the things that we do.

I thank the gentleman for yielding me this time.

Mr. EDGAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend our colleague from Pennsylvania (Mr. EDGAR), for taking this special order to discuss our national energy policy.

I serve as the chairman of the Small Business Committee's Energy Subcommittee. Our activities in this Congress have brought us into close contact with the present administration's energy policies. And I have to tell you, I am thoroughly perplexed by this administration's lack of direction in the energy area.

Most troubling to me is the failure to commit the Government to a policy of pursuing least-cost energy options. Such a policy could, in the long run, reduce our dependence on unstable and environmentally unsound sources of energy.

In the past decade, America has been hit with two major energy supply disruptions that left our economy reeling and threatened our national security. Yet, to this day, the Department of Energy has no idea how to handle a significant energy disruption and the President has vetoed legislation that would have given him standby authority to act in the event of a new energy crisis.

This evident lack of concern for short-term energy contingency planning runs parallel to the administration's lack of direction in its long-range energy goals. Internal contradictions in our national energy policy are abundant.

For instance, if we are going to adopt the notion of an unencumbered, free-market, hands-off approach to energy policy, then we must do so with the conviction of honest principles and root out the billions of dollars in subsidies we now give each year to petroleum, coal, gas, and nuclear. But if this administration will not or cannot do this, then they at least should stop trying to kill the emerging new technologies that are arising to compete with those older sources of energy.

This Government continues to encourage, through tax policy and numerous other subsidies, conventional and capital intensive sources of energy. We even go so far as to encourage and subsidize the export of nuclear energy technology and hardware.

At the same time, however, this administration seeks to deny comparable assistance to decentralized, renewable energy technologies that have the potential to greatly reduce our dependence on uncertain or unsafe fuels. Every budget cycle seems to bring new attacks by this administration on funding for solar energy research and energy conservation programs. Last year, the administration went so far as to suggest the total elimination of the residential and business energy tax credits.

The new regime at the Department of Energy also tried last year to kill virtually all of the Federal Government's efforts to promote solar energy. Congress intervened to save some key portions of the program, but our national efforts in this field have been crippled nonetheless. Foreign competitors, who enjoy strong support from their governments, are rapidly overtaking our domestic solar industry in the race for world markets. Just a few short years ago, there would have been no question of our dominance of the international market.

I submit that our present national energy policy, if we can call it that, is taking us in the wrong direction. If we continue on our present course, we will have to pay an enormous price in the future for the poor choices we are making today. We will lose some of the technological advantages over our international competitors that we have achieved in recent years; the growth of new energy industries in this country will be stunted; jobs and tax revenues will be foregone; and our national security will be weakened. All of this is likely unless we act now to increase our energy independence by investing in the energy sources of the future.

At the conclusion of my remarks, Mr. Speaker, I would like to place in the RECORD an excerpt from a draft report that was prepared by members of the Solar Panel of the Energy Research Advisory Board. This group was established by the Department of Energy to advise the administration on energy policy matters.

While the draft report is still in preliminary form, it is nonetheless a reflection of the best thoughts of the Government's top advisers on energy research and technology. It is interesting to note how different a tack the draft report takes from the course laid out by the administration this group is advising.

It is obvious to me that the administration is acting in disregard of its own advisers. Actually, we can also see that they are acting in disregard of just plain commonsense.

For example, one of the first things this administration did when it took office was to summarily cancel dozens of promising energy research and development contracts with small businesses, many of them being interrupted in midproject. However, the new folks at DOE left in place all of the multimillion-dollar deals with the big corporations that do not really need the Government's help. Instead, they took funds away from the struggling smaller firms who most need the help and who are most likely to come up with the great innovative breakthroughs if they are given the chance.

Mr. Speaker, I believe this country can move forward, toward the goals of least-cost energy and energy self-sufficiency. But the Government is going to have to encourage this movement, either by supporting the emergence of the new technologies or by ending our subsidies and bureaucratic support for the older forms of energy. In short, we are going to have to reject the con-

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fused energy policies of this administration.

Congress has expended much effort in resisting, with some success, the misguided energy policy initiatives of this administration. Perhaps we should resolve now to take the initiative to put forward our own energy policy. Whatever we come up with will surely be preferable to the current absence of coherent thinking on this important subject.

An excerpt from the draft report of the Solar Panel of the Energy Research Advisory Board follows:

REPORT OF THE SOLAR PANEL OF THE ENERGY RESEARCH ADVISORY BOARD, JULY 30, 1982[1]

FEDERAL ROLE

The Panel acknowledges the increased reliance on private industry and the use of market mechanisms to commercialize solar technologies to the maximum extent possible. It is even more important now for the federal solar program to work closely with the private sector to leverage private investment. Federal outlays should be viewed not as expenditures, but as investments in the Nation's future to protect us from energy vulnerability, to encourage far greater private activity and to strengthen the economic base in ways that will yield revenues far in excess of the investment.

1. Research and development

Basic research and long-term, high-risk, high-payoff research and development are important federal roles. They provide information and know-how which benefit the country as a whole, but are not sufficiently of benefit to any one interest to warrant private investment.

Under this policy, the federal government retains a critical R&D role to support industry in the development of solar technology. The Panel feels that the proper federal role should be limited largely to supporting technology base activities including basic and applied research, exploratory and technology development, and vigorous technology transfer efforts such as operating some key test facilities and programs. Generally, the most commercially promising technologies must be completed through the technology development stage to permit transfer to U.S. industry, although, for some technologies, private industry will step in sooner. Engineering development programs, such as small scale pilot plants, may be justified in special cases when substantial industry cost-sharing is forthcoming. Until recently this had been accomplished with some form of financial support from the federal government. The Panel believes that costly demonstration and commercialization programs by the federal government are not justified under current economic conditions. This is not to say, however, that the need for demonstration isn't still there.

The expectation that private industry alone will finance the demonstration of near-commercial, "large-scale" technologies (central receiver, OTEC, some large wind machines) that otherwise are ready for commercial operation, is not always realistic as explained in the previous section. In the shorter term, the withdrawal of all government support for demonstration and commercialization of near-commercial, cost competitive solar technologies undoubtedly would slow the rate at which these technologies will be introduced into the marketplace. A slowdown would create a risk that the U.S. solar industry will not be ready when market conditions improve.

The Panel urges, however, that if the new policy is to be successful, federal solar programs which produce near-commercial technology should be transferred to industry as soon as possible.

Dissemination of documents alone is not effective. Personnel exchange and residence programs, widely publicized program and topical review meetings, and other methods should be included. Programs should not be abandoned until it is clear that the technology and know-how have been transferred in an orderly manner.

The federal role should include important technology support functions not likely to be conducted by private industry, namely solar energy resource assessments, and performance testing of specialized materials and components, test facilities programs, and assistance in developing industry-made standards. A key to gaining market acceptance is an independent testing or verification program. Operating without such a program requires offering investors especially large "risk premiums"—rates of return substantially higher than those available on more conventional investments. Such rates of return can, by themselves, make renewable energy technologies appear uneconomic, even when the delivered cost of energy may actually be lower than that of conventional energy technologies financed on the same terms. Test facilities are also often a useful research technology transfer tool and should be supported on a reasonable cost recovery basis with industrial users.

Prompted by very rapid growth in federal funds, solar energy activities of various kinds developed rapidly in universities, national labs and in industry in the mid-1970's. The Panel believes that this diversity is basically healthy, assures richness, and reduces the risk of early commitments to less than optimal paths. Because of extensive recent reductions in the federal solar budget, the available level of administrative overhead and funding may not support the critical number of scientific and engineering teams needed to promote quality research and technology. A consolidation of activities into fewer field operations offices, national laboratories, and research centers is likely to improve efficiency; consolidation efforts already accomplished will be helpful. Consolidation of the management structure and decentralization of programmatic authority to fewer lead centers and research centers is also necessary. However, this must be carefully balanced against the need to keep competent teams in place until technology transfer occurs.

As the national economic outlook and the prices of energy change, and as the development of a solid solar technology base yields insights on new technological options of marketplace potential, the relative significance of the various solar technologies will undoubtedly change. The Panel stresses the continuing need for R&D program planning, technical assessments, systems analysis and program evaluation from inside and outside government to provide an appraisal of program accomplishments and directions.

TAX CREDITS

At a time when direct federal involvement in commercialization is ending, tax policy may be the most important factor to foster the maturity of the solar industry. Both the business energy tax credit (ETC) and the R&D tax credit are important for stimulating private investment in renewable energy R&D. The R&D tax credit reduces the cost of investment in research and development, and encourages greater investment once firms have decided to invest in R&D on a particular subject. But firms rarely engage in an activity just because of the tax code, particularly marginal firms just starting out. To justify R&D a firm must first see an interesting and substantial market for the products. It is in assuring this market that the energy tax credit is so important.

For numerous renewable energy projects—wind, solar thermal, biomass projects of a wide variety, and some proposed photovoltaic projects—the energy tax credit has been essential to financing. It has transformed projects that are essentially attractive into projects with the additional rate of return needed to provide the risk-premium investors demand. These projects are beneficial to the Nation; the energy tax credit must be seen as fostering investment, as investing money to make money, not as a "tax expenditure".

The tax also helps alleviate and correct for market failure. It should be emphasized that, despite move toward deregulation, the overall market for energy is not a free marketplace. Internationally, oil prices are influenced by OPEC decisions on production and pricing. Domestically, producers of traditional fuels (oil, gas, coal, uranium) have special tax treatment for the costs of extraction and for depletion that continue to be important in stimulating production and in obtaining needed capital. Federal and state regulation continues to control the prices of natural gas and electricity.

Moreover, expenditures for fuels used in business constitute operating costs, deductible from revenue in computing income taxes. Renewable energy sources generally are not purchased from someone else. Capturing a river, the wind, or direct solar energy substitutes capital for the continuing expense of fuel. Tax incentives for renewable energy capital investments help provide some equitable balance and partly offset the tax advantage of fuel expensing. Federal R&D investments also help to rectify the deficiencies and inequities in the marketplace. Even discussion of changes in the tax laws create uncertainty in this fragile marketplace.

The Panel recommends that the tax credits be extended until there is an equalization of tax laws for all energy sources. When that occurs, a specific phasedown schedule needs to be set for industrial planning. The R&D tax credit cannot take the place of the Business Energy Tax Credit and will not, in the Panel's view, be a major factor in the private sector moving ahead. However, the R&D tax credit can be improved by expanding it to include new business and limited partnerships to provide further incentives for private solar R&D from these sources. These measures will produce a more stable investment climate for the solar industry by reducing the uncertainties of federal tax policy, and will allow industry to carry out its new leadership role.

CONTINUITY

Rapid changes and discontinuities in Federal actions over the last five years have induced instabilities and unanticipated costs in the private sector. Continuity, relative stability, and gradual change are critical for

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[1] This is a draft report which does not necessarily reflect the views of the Department of Energy, the Energy Research Advisory Board, or the Solar Panel.

> research and development. This may be more important than the absolute amount of money in the budget. R&D is totally dependent on teams of talented people, trained, assembled and maintained by universities, laboratories, and firms at significant cost and with considerable effort. Such teams of talent cannot be turned off and on like production lines; they are inherently fragile.
>
> Stability and continuity are critical for the regulatory and economic climates, and in R&D funding. Without both, firms cannot adequately plan their investments and their staffing. Industry needs continuity to maintain its teams of people, to maintain commitment, expertise, and strength in important national areas. The same holds true for universities.
>
> To assure future consistency and continuity to facilitate maximum private sector commitment, we suggest five year advance funding for key programs. Such a program, followed quite successfully in the Defense Department and the National Institutes of Health, would encourage far more effective and efficient involvement by leading private institutions in renewable energy development.
>
> We also recommend that any further reductions in funding be phased gradually. Gradual changes are vital to give time to adjust. Rapid, unplanned changes hurt everyone. And by hurting everyone, they waste tax dollars that have been invested in these programs.
>
> Even in programs scheduled for ultimate phasing out, we feel it important to maintain a basic information and tracking function, to serve as a central focal point for continuing private-sector activity. A tracking program would have very modest cost. A handful of people might be required with a modest budget for occasional conferences, symposia, and sponsored state-of-the-art summary publications. These activities help preserve what has been learned. Research that goes undocumented might just as well never been performed.

Mr. EDGAR. Mr. Speaker, the gentleman from Iowa, I think, makes a really telling point, and as one of the leaders of not only the small business community, but also one of the leaders of the new group that formed a few years ago called the Clearing House on the Future, he has helped to give us vision beyond the 2-year and 6-year mentality that legislators have.

The energy problem that we face is a serious one. It is a crisis that confronts all of us to develop a cohesive and comprehensive package of policies that really work, and it is unfortunate to see those policies being diminished in any way, particularly in the renewable area that the gentleman is concerned about, and the conservation area.

I would like to commend the gentleman for his statement. I hope that we can continue to focus people's attention on the energy issue.

Mr. BEDELL. Mr. Speaker, if the gentleman will yield further, one of the new technologies our committee has looked into very significantly is the area of photovoltaics, where you take a panel, put it on the roof, the sun shines on it and generates electricity. There are no moveable parts, no replaceable items. It uses up nothing at all. Tremendous replaceable items. It uses up nothing at all. Tremendous advances are being made at this time.

This technology came out of our space program where we had the technology. The fact of the matter is, with the cutback we are seeing at this time in our Government support for such efforts, the other nations are going to move right in and take advantage of this new technology, and if it does develop into what at least I expect it to be, which will be a major product particularly for developing countries in the world, our producers are going to sit on the sidelines while we watch foreign manufacturers take those markets and other foreign workers have the job of producing those products.

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Mr. EDGAR. I thank the gentleman for his comments about photovoltaics. I think it is a new area and we do in this Nation have to get the skills and the knowledge and the expertise on this area.

I hope the gentleman is wrong, that we do not keep that as one of the technologies here in this country that is on the cutting edge of the future.

I thank the gentleman for his comments.

Before recognizing my colleague from Michigan, I would like to thank all of the gentlemen on the Republican side who have waited to listen to this debate. It is really good to have you here.

Mr. ALBOSTA. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Michigan (Mr. Albosta).

Mr. ALBOSTA. Mr. Speaker, there is an energy source that is renewable; that now supplies more net energy than nuclear power; that can be used as a liquid, gas, or solid fuel; that is labor intensive; that is available in great supply in the Northeast, Midwest; that is economical now and could provide several times the amount of clean, low-cost energy that it does now. That energy source is wood.

The Office of Technology Assessment estimates that wood can provide up to 10 quadrillion Btu's, between 10 and 20 percent of our projected energy needs by the year 2000. The OTA adds that this can be done without disrupting the supply of wood or agricultural products for uses other than energy. However, OTA points out that this depends on the level of Government involvement.

In fact, unless the Federal Government can provide better information and assistance on wood energy, we will be taking some serious risks, with the combined pressures of possible price increases for most other energy sources and the ever present threat of foreign oil shortages, energy users may turn to whatever sources are at hand. The Maine Audubon Society has studied the issue and concluded that with a strong wood energy program forests can be improved but without a strong program an energy emergency could do great damage to forests, particularly in the oil-dependent Northeast. With proper planning and assistance now, our wood reserves could take the sting out of an oil boycott or a severe winter.

A study done for the Federal Emergency Management Agency concluded that dispersed energy sources, such as wood, are best for the Nation in terms of security, reliability, and national defense.

The vast potential for renewable energy that can be generated where it is needed, rather than imported, and the fact that the Federal Government was not paying much attention to this source of energy, led to the formation of the congressional Wood Energy Caucus in early 1980. Although the Wood Energy Caucus has members from the South and from the West, over two-thirds of its 29 members are from the Northeast-Midwest region.

In briefings and hearings initiated by members of the Wood Energy Caucus, the Federal wood energy efforts have been shown to be far short of efforts recommended by the Government Accounting Office, and off target in terms of the greatest potential for energy supply and security as identified by OTA and other expert groups.

Let me give some concrete examples. The GAO points out that over $120 million is spent every year just to dispose of wood residues on Forest Service land, often by simply burning the wood in the forests. The GAO recommends that a small fraction of that amount could pay for pilot projects around the country to show how these residues could be used productively for energy. The Agriculture Department has the authority to do those studies and to spend the money that way.

The GAO reported that if the 600 million dry tons of unused wood residue that is available each year could be used to replace oil, we could reduce imports by almost 85 percent. The GAO identified barriers that exist which prevent more efficient use of this waste wood. These are: Lack of information on the availability of wood, lack of investment capital needed for harvesting and using residues, and a limited awareness of wood energy and product technology among industrial firms, utilities, and State and local bodies, among others.

The GAO testified before the Forests, Family Farms and Energy Subcommittee of the Agriculture Committee on their recommendations, saying:

> It may also be necessary for the Federal Government to promote markets for these

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wood residues by making potential customers aware of the resources and, more importantly, of existing and emerging technologies which make increased wood use feasible. This communication process may require that the Federal agencies demonstrate the use of wood residues and sponsor demonstration of new technologies.

Let me provide an example from my own district of what this can mean to the private sector. The Dow Corning Corp. is now finishing a 22-megawatt cogeneration plant that will be fueled primarily with waste wood. Their supervisor of natural resources testified at another hearing that with management, less than 2 percent of the private forest land within 75 miles of Midland, Mich., can supply all of the energy the Dow Corning plant will need on a regular, renewable basis.

I asked him earlier why this was not being done by the private sector everywhere that forests and industry are near each other. He felt that the main reason is a lack of information. He said that the information the private sector needed is in the hands of the Federal Government. He said this could be provided by an extension service type of approach.

When President Reagan first took office several of the founding members of the congressional Wood Energy Caucus wrote to him. We reminded him that one of his own radio commentaries was devoted to promoting waste wood for clean renewable energy on a scale large enough to produce far more energy that we import in oil. Yet we pointed out that the entire DOE budget for wood and other biomass energy was only one-tenth of 1 percent of the overall DOE budget, and wood was only a part of that.

From a high point of over $40 million under the last administration, the DOE biomass budget has been reduced at the request of the administration to $20 million with a recommendation that it be cut to less than $7 million for fiscal year 1983. Furthermore, the very programs most urgently needed according to GAO and private sector experts have been eliminated. Excellent and vital work remains but key efforts to bridge the gap between industry and Government have been stopped in wood as in other areas of renewable energy and energy conservation.

Even the energy information agency has back-tracked on wood energy information. They refuse to publish information in the Monthly Energy Review that has already cost a considerable amount to produce.

Several members of the Wood Energy Caucus were joined by other key members this year in urging the Appropriations Committee of the House to specifically require a more balanced wood energy program of a size more suited to the potential energy reward.

Wood for energy can provide significant income for farmers and other rural landowners. It can even turn a disposal problem into an asset for cities and towns. It can keep much-needed cash in the Northeast-Midwest and other forested areas. It can provide ethanol, methanol, methane, and various forms of solid fuels for home or industrial use while producing almost no sulfur dioxide—acid rain—unlike coal. It can provide jobs in large numbers for workers with relatively little training. It can complement other forms of energy and other sources so that we can use the right technology and the right energy source for every job and do it economically.

Can you imagine that even Ireland is growing short rotation wood crops for energy on top of the same peat bogs that they have cut for fuel for centuries? Meanwhile, similar programs are scheduled to be cut in next year's budget in this country. We could be exporting wood energy technology to a world that derives 8 percent of its energy from wood but not as efficiently as it could. Instead we keep importing oil.

This administration continues to make the same mistakes in the area of energy. What can we say at this point but, "There you go again."

I want to thank the gentleman for this opportunity to participate in pointing out this problem. The gentleman from Pennsylvania (Mr. EDGAR) has been a leader in this and I want to appreciate his efforts and express this to the gentleman.

Mr. EDGAR. I thank the gentleman for his comments and I thank all the Members who have participated in this special order. I thank Congressman TAUKE and Congressman DICK FAZIO, Congressman JIM OBERSTAR and Congressman AL GORE, Congressman DON FUQUA and Congressman NORM MINETA. I thank Congressman MICKEY LELAND and Congressman SIL CONTE. I thank Congressman CEC HEFTEL, Congressman TOM BEVILL. I thank Congressman STEWART MCKINNEY. I thank Congressman TOM RAILSBACK for his comments. I thank Congressman PHIL SHARP, Congressman HENRY REUSS, Congressman DICK OTTINGER, and Congresswoman CLAUDINE SCHNEIDER for her remarks.

● Mr. SHARP. Mr. Speaker, energy remains a critical item on our national agenda. Although improved conservation and the recession have allowed us to cut oil imports by nearly 50 percent since 1977, we are still dangerously vulnerable to events in the Mideast. Our economy is still suffering from the sudden leaps in oil prices that followed the 1973 and 1979 crises, and it could clearly happen again.

In the short run we must continue to fill our strategic petroleum reserve and develop plans for handling a severe oil emergency. The unfortunate veto of the Standby Petroleum Allocation Act early this year leaves the Government with questionable authority to protect our economy and our people in the next oil crisis.

For the long run, we must do much more to promote energy conservation and the use of renewable resources. During the previous administration Congress struggled to achieve a balance in the levels of support for various energy sources. While no one was entirely pleased with the compromises necessary to achieve that balance, we were not putting all of our eggs in one basket. The Nation's energy budget supported fossil research and development, nuclear, solar, alcohol, synthetics, and conservation.

With the submission of the present administration's energy budgets, however, we have lost that balance. While the nuclear and synthetic fuels budgets were not reduced, funding for renewable fuels and energy conservation was cut by 97 percent. This is a short-sighted policy that will delay our reaching an energy situation that is less dependent on foreign oil and more reliant on environmentally benign sources.

One promising approach to reducing our need for imported oil is the use of methanol as a transportation fuel. The Subcommittee on Fossil and Synthetic Fuels has begun hearings on this prospect, and I believe it deserves widespread consideration.

Most sectors of the economy can, to some extent, use alternative forms of energy to lessen dependence on foreign oil. There is one major exception. The transportation sector is totally dependent on gasoline and diesel fuel made from crude oil.

In spite of major efforts to conserve gasoline, we remain a nation in love with the automobile. According to recently released 1980 census data, two-thirds of American workers continue to drive to work alone every day. The number of people using public transportation has dropped to 1 in 16, despite two fuel-short periods since the last census, when the figure was 1 in 12. Thus, development of domestic alternative fuels for automotive uses is of critical importance.

Methanol, which can be produced from natural gas, coal, or biomass, has been demonstrated to be a technically and economically feasible automotive fuel.

However, in seeking broader commercialization of methanol, the Nation faces a chicken and egg situation. The oil companies say they can and will produce the methanol if the automakers will produce and sell the dedicated vehicles. The automakers say they will produce the dedicated vehicles if the oil companies will produce and distribute the methanol.

In spite of this dilemma, most major automobile and oil companies agree that methanol is the alternative fuel of preference. However, unless reasonable steps are taken, methanol may not reach its full potential. While the marketplace should decide between gasoline and any alternative fuel, the marketplace has a built-in bias toward gasoline because of its large existing infrastructure. The Federal Government should consider ways to assist in development of a methanol distribution infrastructure so that the American driving public has a choice between gasoline and domestically produced, secure methanol. I believe this can be done at little or no cost.

Testimony before our subcommittee has indicated that on a mile-per-gallon basis, methanol is roughly equivalent to gasoline, and on a mile-per-dollar basis it exceeds methanol. The Bank of America has over 3 million miles of experience with methanol in its fleet, so clearly the fuel is not a laboratory experiment. The State of California has chosen methanol as their preferred alternative fuel. Methanol usage is environmentally advantageous since it burns cleaner and more fully than gasoline.

Our subcommittee will continue to review the appropriate role of the Federal Government in methanol commercialization. I encourage my colleagues to consider the advantages of widespread methanol use as one aspect of a balanced, economical, and secure national energy policy.●

● Mr. **TAUKE**. Mr. Speaker, I thank the gentleman for calling this special order to draw attention to national energy policy. It is commendable that the gentleman from Pennsylvania (Mr. EDGAR) has chosen a time when our energy supplies are at a relatively stable level.

Unfortunately, this body has a tendency to address our energy problems only when we are faced with an energy crisis or shortage. Then, and only then, does Congress consider our uncertain energy future and develop appropriate energy policies.

As a member of the House Energy and Commerce Committee, and the committee's two key energy subcommittees, I welcome this opportunity to stand back and view our energy situation in an atmosphere removed from the hectic pace generally associated with the development of energy policy.

I am of the belief that our Nation's energy policy should be market oriented. The administration should be praised for trying to develop a market orientation in our energy policy. Clearly, the market is better able to price energy than Government; the market can usually better distribute energy than Government; and the market, if allowed to work, would have prevented many of the problems we in Congress have been forced to rectify in the past.

It does occur to me, however, that as the administration has attempted to lessen the Federal Government's influence in the energy field that we are losing sight of the unique circumstances affecting energy issues.

Widely varying differences among the States in energy production, consumption, and pricing are having a dramatic effect on the national economic balance. States in the Midwest and Northeast, which consume large amounts of energy compared to the South and West but possess limited production resources, are increasingly vulnerable to rapid changes in energy price and supply.

My home State of Iowa produces less than 2 percent of the energy it consumes and therefore is very dependent on energy-producing States as well as foreign sources. To give you an idea of what this has meant to the economy of Iowa, let us compare the cost of energy with revenue from Iowa's corn crops: In 1973, our energy bills consumed 30 percent of the revenues from our corn crops; in 1979, 60 percent; and in 1981, our energy bills consumed an estimated 90 percent of our corn crop revenues.

And, as prices for energy continue to rise—particularly for oil, gas, and coal—the domestic economy will become even more imbalanced and potential disruptions in foreign sources will become even more serious. Clearly, there is a need for a coherent, comprehensive national energy policy.

And, while I strongly believe that our Nation's energy policy should be all encompassing, involving both traditional energy sources and alternative sources, I would like to speak a few moments about one fuel alternative in particular; namely, ethanol, commonly known as alcohol fuels.

Mr. Speaker, my home State of Iowa has taken a dramatic, leading role in the development of the alcohol fuels industry. The citizens of Iowa, in an almost patriotic, zestful spirit, have endorsed the production and consumption of alcohol fuels far beyond anyone's wildest expectations.

Nearly 40 percent of all the gasoline sold in Iowa during the first 5 months of this year contained alcohol. That is the highest it has ever been and about three times the percentage of just 1 year ago. No other State comes close in percentage of use, and in fact more than one-third of all the gasohol sold in the United States during the first quarter of 1982 was sold in Iowa.

Some of the gasohol sold in Iowa is 90-percent unleaded gasoline and 10-percent alcohol; the remainder—referred to as "reguhol"—is a 90/10 mixture of regular leaded gasoline and alcohol.

In the first 5 months of 1982, Iowa motorists used nearly 189 million gallons of gasohol. In other words, we consumed some 19 million gallons of alcohol, reducing our dependence on gasoline by an equal amount. Iowans effectively conserved our Nation's usage of gasoline by utilizing the ethanol mixture.

In 1978, the first year gasohol was made available on a large scale within the State, total use was 4.5 million gallons. The figure climbed to 59.6 million gallons of gasohol in 1979, 156 million in 1980, and 189.5 million in 1981.

Iowa presently has the capability of producing some 55 million gallons of alcohol each year. This productive capability will help greatly to lessen our dependence on other domestic and foreign sources of petroleum. But, while we will be able to produce more than enough alcohol to meet present consumption patterns within the State, it is possible that next year, without additional expansion and growth of the alcohol fuels industry within Iowa, the demand may outpace the supply.

Mr. Speaker, I am pleased to note that a group of 100 farmers from my northeast Iowa congressional district have launched a cooperative effort to build a new alcohol facility in Elgin, Iowa. We are currently awaiting approval from the Farmers Home Administration for a guaranteed loan to help this project get off the ground.

These farmers from Allamakee, Clayton, Fayette, and Winneshiek Counties are planning to construct a $5 million plant because they recognize that the production and utilization of alcohol fuels will help them reduce our staggering surplus of corn. They further realize that through the production and use of alcohol as an energy-stretcher, we can strike a blow against the dominance of OPEC in our Nation's energy future.

I would also like to note that one reason for the widespread acceptance of gasohol by Iowans is the incentives provided by the State and Federal governments. These incentives, which have reduced the State and Federal gasoline taxes on the sale of gasohol, have resulted, in many instances, in gasohol being sold at a cost below that of gasoline.

In my judgment, the Government needs to play a significant role in the research and development of alternative energy sources—such as gasohol—simply because without Government involvement in these areas we may not develop the alternative sources of energy that are needed for a secure energy future.

Further, I believe that it is incumbent upon this Congress and the administration to provide these incentives in a fair and balanced method without unduly discriminating or penalizing any particular energy alternative.

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We, in Iowa, have made tremendous strides in the development of the alcohol fuels industry in just 4 short years. We have effectively reduced our State's consumption of gasoline by utilizing the fuel-stretcher—gasohol. Through these efforts we have helped our Nation conserve millions of gallons of gasoline.

This same Yankee ingenuity can, and should be, applied to other alternative sources of energy. I fear that without a balanced, equitable national energy policy, we, as a nation, will fail in our drive to provide for a secure energy future.●

● Mr. **FAZIO**. Mr. Speaker, I appreciate the opportunity to discuss here the role of energy-related research and development programs funded by the Federal Government. In my judgment it is an issue which remains as important as it was during the height of the Arab embargoes and price increases.

The immediate pressure upon us to come up with energy alternatives seems to have waned. Largely because OPEC nations began to demand excessive oil price increases following the rapid escalations of the 1970's, the Saudis put a brake on their expectations by simply increasing its own production 2 million barrels a day. This was not done out of any charitable concern for the welfare of the industrial West, so much as it was done out of respect for our ability, our willingness to make the effort to come up with energy alternatives. It was no secret that the Saudis understood well that had OPEC continued on its high profile course of steadily increasing the costs of energy, the Western countries would sustain the political will to find sources of energy elsewhere.

The Saudis almost single-handedly created a glut. Gas lines disappeared. Unfortunately, much of the alternative energy constituency in the United States did also. The new administration, bouyed by this glut, announced that it would henceforth rely on the private sector to produce energy and to deliver it when or economies needed it. It deemed the entirety of the previous Federal effort at energy independence to have been superfluous intrusions into the energy marketplace. It credited decontrol entirely for the decrease in energy imports and consumption. It ignored the reasons the Saudis helped create the glut, which was fundamentally to deprive energy development programs of their political base. In fact, the administration sees little more that the Government could or should do to counteract OPEC's manipulation of the marketplace. The Government has, in this administration's view, no responsibility to prepare for events, even events that OPEC may not be able to control.

I do not want to debate the merits of the Department of Energy's previous regulatory programs. Let me say that I tend to be a supporter of decontrol and am a specific supporter of both President Carter's and President Reagan's steps to decontrol the price of oil. I agree that no energy program can succeed unless one of its components brings about accurate price signals from the marketplace.

However, the very confusion in price signals, the hiatus in what we all know will be a steady increase in the price of oil over the coming decades, is conclusive proof of the need for an active research and development program into energy alternatives. It is during periods like this that the short term signals from the marketplace divert us from what commonsense tells us our long term objectives should be. The Wall Street Journal reported August 11 that the regular price of oil is about $31 a barrel, $4 below last year, and the spot market prices are even lower than that. The Journal attributes this unexpected softening to a prolonged international recession, aggravated by widespread cheating on OPEC's production levels while the recession lasts.

When Western economies recover, the entire situation will be reversed and we will again be hostage to OPEC's policies. At that point the test of the administration's policies will occur, and to the extent that it is successful in reducing our governmental efforts at energy independence the failure of the policy will become clear.

Conservation, induced by price or by DOE and State and local programs, has proven to be the shortest term source of energy and it is the most responsive to short-term price signals. As conservation maximizes its potential and as the economy begins to revive, the Nation will have a need for increased energy supplies. The research and development we engage in today will be the source of those new supplies, provided we stick to our energy research and development program.

Particularly important in this period of uncertainty will be those new sources of energy that involve small, incremental investments by either utilities or individuals. One might point to certain utilities as illustrations of this key point. The Southern California Edison Co. has announced in the last year plans to construct three new incremental sources of power, one involving wind energy, the other solar thermal energy, and the third photovoltaics. It also has an interest in geothermal deposits in the California desert and in a solar pond project in the Salton Sea. These options have the advantage of requiring relatively low amounts of initial capital. They can be expanded or left at any level of output and still be cost-productive. Similarly, another utility, the Sacramento Municipal Utility District in my district, has with the help of the Federal Government embarked on a 100-megawatt photovoltaic plant, to be constructed in stages.

These utility projects have several things in common. They all use technologies which have been developed to one degree or another with governmental assistance. They each depend on some form of government backing, tax credits in the case of the SCE and up-front risk loans in the case of SMUD. They are all consistent with incremental capitalization and supply strategies. Not coincidentally, they are all renewable.

The renewable energy research and development budget has been slashed enormously in deference to the marketplace philosophy, though other energy forms have not had that philosophy applied so rigorously to them. They would be cut from $520 million in fiscal 1981 to a proposed $72 million in just 3 years. The chairman of the Science and Technology Committee, Mr. FUQUA, has told the Energy and Water Development Appropriations Subcommittee, on which I sit, that approximately $209 million is necessary in fiscal year 1983 to preserve the core of the renewable energy programs.

Though spending in any brand new exploratory area in an atmosphere of great concern is bound to allow waste, I would think that a reduction from $520 to $209 million in 3 years should be enough sacrifice to satisfy any budget cutter. To go further, to go to the $72 million proposed, would be itself a massive waste of the investment the taxpayers have made in energy options which by now are emerging with real potential.

For instance, we have spent about $150 million on large scale wind energy in recent years. With an additional $20 million, we can produce a wind machine called the Mod 5 which is believed capable of 3 cent per kilowatt hour electricity in over 1,000 locations around the Nation. Electricity does not come much cheaper. However, the administration proposes not making this $20 million final expenditure, which would be matched with $36 million in private commitments incidentally.

We have devoted roughly $550 million to the development of photovoltaics in recent years. If we maintain our level of commitment for just several more years, will probably have in our possession a technology capable of gigawatts by the year 2000. The administration proposes to back away from the photovoltaic program, keeping it at the level of abstruse research so that its transition into the marketplace is doubtful and dependent on its geopolitical whims. We can well expect a Japanese success in this realm of international economic competition.

In biomass we have an energy option that can directly supplant quads of energy in liquid fuel form in a relatively few years. Alcohol fuels are making a contribution now. If we are wise enough to devote merely $5 million a year for several years on an approach called cellulosics, we will likely unlock 10 quads of energy from agricultural wastes.

The administration is operating on the assumption that if the marketplace does not pick up these technologies, the technologies are ipso facto without merit. The Department of Energy has unfortunately little faith in the technologies it has developed. DOE Secretary James Edwards told me in a hearing before the Energy and Water Appropriations Subcommittee that he thought it was worth having devoted millions of dollars to wind energy up to this point because "to find out that something isn't practical is sometimes worth the investment, and we have found that wind isn't practical for general use now, except in isolated areas." If the department merely proceeds 1 more year with a $20 million contribution to large-scale wind energy, the Secretary could disprove his own self-fulfilling prophecy.

I am hopeful that the Congress will keep alive and well those energy options that we will need should, all of a sudden the marketplace collapse, be the collapse due to war in the Mideast or a resurgence of demand or to any number of possible causes. That is the purpose of research and development: to prepare for the day when this most imperfect marketplace fails us. Sustaining our energy research and development program against the simplistic philosophies that would destroy it will be one test of the wisdom of this Congress and its successors.●

● Mr. CONTE. Mr. Speaker, I would like to thank Mr. Edgar, my colleague from Pennsylvania and chairman of the Northeast-Midwest coalition, for giving us the opportunity to discuss our energy policy. I am pleased to participate in this important review.

The Arab oil embargo of 1973 forced us to examine two sources of energy that had received little prior consideration—energy conservation and alternative energy development. Through a firm Federal commitment to energy consideration—especially weatherization—and alternative energy programs, we have made great strides in decreasing the amount of energy we use, and in the development of alternative sources of energy. Despite the current "oil glut" we must continue the progress we have made in these areas to achieve our goal of energy independence.

Odd as it may seem, energy conservation is our greatest source of new energy. Every bit of energy we save reduces the amount that has to be imported or produced. I will continue to support the energy conservation tax credits in effect and support legislation of these credits which are expiring.

Another way we are supporting energy conservation is through the small business energy loan program. This program targets capital to businesses that are entering the energy conservation and renewable energy business. I would like to reaffirm my support of this program, and urge all Members to notify their constituents of its existence.

These programs have had tangible, beneficial results. In the late 1970's the Northeast was 80 percent dependent on oil. Now it is approximately 70 percent dependent. Further, while the area's economy has grown, total energy consumption has declined. This is admirable progress, but we must not be lulled into a sense of complacency by this temporary oil glut. It is important that the Members of Congress reaffirm their support for energy conservation, and the development of alternative energy sources. Nothing less than the economic health of our country is at stake.●

● Mr. UDALL. Mr. Speaker, I commend you for arranging this discussion on energy policy. For nearly 9 years the manner in which we produce and consume energy has been a primary focus of national concern. During this period we have considered numerous proposals for paths to secure and affordable energy supplies. With one exception, conservation, these paths have not proven promising.

Nuclear, once considered a panacea, is so burdened with economic, technical and institutional problems that expansion beyond existing projects is on hold for the indefinite future.

Synfuels continue to be too costly even in light of the doubling of oil prices in real terms that has occurred in the last decade. Moreover, we are only beginning to understand the adverse environmental consequences of a major synfuels industry.

We know too well that greatly increased production and use of our plentiful coal reserves is not without serious environmental consequences.

We have made a major commitment to discovering new oil reserves. But success has been limited. In spite of new discoveries, the ratio of reserves to annual demand continues to drop.

Meanwhile on the research and development front, progress has been made, but we do not see anything that is likely to make a major difference before the third or fourth decade of the next century. The road to fusion, so promising in principle, is blocked by engineering obstacles of a significant magnitude.

While the costs of solar have dropped precipitously over the last decade, we obviously have a long way to go before the sun achieves its rightful place in our energy mix.

Wind and geothermal will have their place, but neither seems to be on the verge of becoming a major energy source.

Fortunately we have made much more progress in restricting and reducing energy demand than we have in increasing production. This is the bright spot in the energy picture. We have seen a major movement toward automobiles which make much more efficient use of gasoline than did those of just a few years ago. We have seen individuals take large steps toward insulating their homes and keeping thermostats down in winter and up in summer. Energy use in both new and old commercial structures has been substantially curtailed.

We have come a long way with conservation and I believe we can go much further. In view of this, it is particularly unfortunate that the administration seems to believe that an energy policy emphasizing conservation is somehow inconsistent with the political foundations of our system of government.

I hope that something that might emerge from today's discusson is a renewed effort by the committees having jurisdiction over energy use and conservation. I would hope that they might take steps to insure that citizens are aware of the benefits that have been derived from energy conservation practices in recent years. I would hope that these committees would give serious consideration to legislation that would stimulate further conservation efforts.●

● Mr. BROWN of California. Mr. Speaker, I am extremely pleased to participate in this special order on the subject of energy. In the last 2 years this issue has not gotten the serious attention it needs. Frankly, I think this is because the problem has not been felt as severely on a daily basis as it was following the 1973 oil embargo. This has resulted in neglect of the issue.

I think this neglect is a serious problem. But the problem, unfortunately, goes beyond neglect. Since this administration came to office, we have had no energy policy save for the stated objective of dismantling the Department of Energy. Even worse than the neglect however, has been the concerted effort by the administration to destroy most of the alternative energy and energy conservation programs which enjoy strong public support and which are so important to addressing our energy needs.

For example: The administration is under court order to keep the solar energy and energy conservation bank functioning. The administration request for recession of the fiscal year 1982 funds was rejected by Congress. Funds are included in the HUD-Inde-

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pendent agencies appropriations bill for the bank.

The Energy Extension Service has been severely cut.

The "no-standard standard" appliance efficiency proposal would preempt California's standards which have been in place since 1976.

State and local conservation grants programs are being cut.

The geothermal budget is just 10 percent of what it was a couple of years ago. This is an area that shows promise, especially in California.

These are just a few examples of what the administration proposes as an energy policy.

At the same time, the nuclear program comprises almost 90 percent of the entire energy budget. And I don't believe that the money being spent in the nuclear program is being spent in the right place.

A few million dollars invested in improving the efficiency of conventional nuclear reactors would eliminate the claimed need for the expensive nuclear breeder reactor technology—I think the public realizes this technology is unnecessary due to changing electricity demand and the declining price of uranium. The Clinch River breeder reactor, the plant the administration wants built, with a price tag of $3.2 billion, is premature according to Department of Energy estimates. Since I have been fighting this project, the case for building it gets worse and worse every year. I think the public knows this and I believe we will win the fight against the Clinch River breeder reactor this year.

Nuclear waste remains a stumbling block. We ought to be concentrating on solving this problem.

Mr. Speaker, I believe the Federal Government has a role in supporting a balanced energy program. I differ with the administration on this point. Our economy is vitally dependent on the cost and availability of energy. Earlier in the day we debated the reauthorization of the Defense Production Act and found that our national security is dependent not just on military preparedness, but on strategic materials, the health of our industrial base, and the skills of our work force. Energy security is directly related to our national security. If anyone doubts that they only need remember the oil embargo of 1973.

In times of stringent budgets, we should try to plan for the future while addressing immediate problems in the most efficient manner possible. This means that we should be practical in the short term, emphasizing conservation as the cheapest and fastest way of decreasing our dependence on various energy forms. And in the long term, we should assess supply-and-demand trends and adapt our programs to our needs. Unfortunately, just the opposite seems to prevail in the administration's approach. In my view this is exemplified in the lack of emphasis placed on alternative energy such as solar or geothermal, and the increased emphasis on nuclear breeder reactors.

Mr. Speaker, I appreciate the opportunity to express my views on this subject.●

● Mr. OBERSTAR. Mr. Speaker, on March 15, Representative CLAUDINE SCHNEIDER and I introduced H.R. 5833, legislation which would broaden the authority of the Synthetic Fuels Corporation to permit the Corporation to fund district heating and cooling and municipal waste-to-energy projects. The legislation grew out of two hearings of the Northeast-Midwest Congressional Coalition which Representative SCHNEIDER and I held last year, and extensive discussions with the Conference of Mayors and district heating and resource recovery organizations.

The purpose of the legislation is to:

First, broaden the lending authority of the Synthetic Fuels Corporation to include district heating and cooling. These projects would be eligible for all forms of financial assistance available from the Corporation.

Second, amend section 132 of the Energy Security Act, relating to loans made by the Synthetic Fuels Corporation, by adding a new section authorizing price support loans for municipal waste-to-energy projects.

Third, stipulate and require that 25 percent of the financial assistance available from the Synthetic Fuels Corporation be directed to district heating and cooling and municipal waste-to-energy projects.

Fourth, require the Board of Directors of the Synthetic Fuels Corporation to assure that the Corporation is organized and staffed so as to effectively evaluate, process, and review applications for district heating and cooling and municipal waste-to-energy projects.

District heating is an American technology developed in 1877. It is a system of delivering hot or cold water or steam from a central thermal source through pipes to customers for space heating and cooling and industrial processes. District heating and cooling is a flexible energy distribution system that takes heat from any number of fuels and delivers it to many different customers. The central source may be from the waste heat of an electric powerplant, refuse incineration, industrial process, geothermal sources, manufactured sources, or coal. This technology is used widely in Denmark, Sweden, West Germany, France, Italy, and the Soviet bloc. It is gaining acceptance in Japan.

District heating can achieve 85 to 90 percent fuel efficiency and such systems can be cost effective in 48 States. By comparison, kinetic energy derived from an electric turbine uses only 30 percent of the energy potential of a conventional fuel burn. District heating harnesses the remaining byproduct which would otherwise be released into the atmosphere or waterways as waste.

District heating and cooling systems have been getting increased attention in these days of energy conservation and "appropriate energy technology," particularly in the district and State I represent, which have been pioneers in America's use of district heating.

Minnesota is the home of some of the oldest systems in the Nation. Furthermore, my home area, the Mesabi iron range, has some of the largest residential systems in the world. In Virginia, Minn., 90 percent of the commercial district and 75 percent of the residential area are linked to the community's system. Virginia claims the largest number of metered customers of any district heating system in the world.

District heating and cooling offers the very attractive prospect of stabilizing heating and cooling costs for business, industry, and residential consumers, through its broad-based distribution of costs. Fuel accounts for only 25 percent of the annualized cost of supplying thermal energy through district heating and cooling; 75 percent is capital cost. This suggests that fuel price inflation will be less of a factor in future energy pricing for district heating and cooling customers than for other systems.

District heating and cooling systems can be a means of promoting new technology in the energy field. As the new technologies mature, they can be incorporated into an existing district heating and cooling system at relatively low risk. District heating systems can become a convenient channel for new suppliers and new users to enter the energy market.

I believe that the Synthetic Fuels Corporation should be broadened to include energy options applicable to all regions of the country in order to spread out this much-needed investment capital. The entire Northeast and Midwest is virtually eliminated from consideration of Corporation-supported projects. The continued regional inequity in Corporation spending is sure to strengthen growing opposition to the Corporation within our region.

There are substantial benefits for States interested in developing district heating and cooling systems. If district heating were developed in all Minnesota communities over 5,000 people, the total heat delivered by the year 2000 would be 44 trillion Btu's per year. This is about 3.5 percent of the State's total projected primary energy demand in the year 2000. Since about 60 percent of this would be cogenerated, the heat would be produced by fuel—mainly coal—also used to generate electricity. Cogeneration would save 28 trillion Btu's of energy per year. This is equivalent to 200 million gallons of oil per year.

So why is not every city in the United States scrambling to convert to district heating? Because of the high costs of financing these projects. The assistance provided through the Synthetic Fuels Corporation would mitigate financial impediments and promote development of these innovative energy technologies. I firmly believe that, as a matter of public policy, government—Federal, State, and local—has a responsibility to stimulate the development of initiatives like district heating and cooling.

Mr. Speaker, at a time when the administration and Congress are telling America's cities that there will be no funds for new programs, and less money for existing programs, I urge the Members of this House to focus on an energy source that is as old as the century. District heating and cooling are old processes that Congress, State and local governments, and the American people are wisely giving a new look.

For district heating is not an idea whose time has come; it is an idea whose time has been born again.●

● Mr. FUQUA. Mr. Speaker, I am pleased to participate in this special order on energy policy with particular focus on the Federal role in energy conservation and alternative energy development. It is timely because fundamental changes are occurring in our national energy policies. There are some who say the private sector can handle the research on alternative energy systems and that increased energy costs will encourage conservation without Federal involvement. The majority of witnesses appearing before the Science and Technology Committee state there is continued need for a strong Federal role in alternative energy development and conservation. I would like to review briefly the major energy technologies being developed through Federal assistance and the potential energy savings representated by these new technologies. Then I would like to describe the fundamental changes that have occurred in our Nation's energy policies due to budget cuts and the implications for the future.

A. EXAMPLES OF SOLAR ENERGY AND CONSERVATION TECHNOLOGIES SPURRED BY FEDERAL ASSISTANCE

First. Active heating and cooling: Conducted successful tests of a prototype solar/rankine chiller that permits air cooling; initiated field testing of a commercial-sized solar/rankine cooling system.

Second. Passive and hybrid solar energy: Completed design and development of 27 prototype passive and hybrid manufactured buildings both residential and commercial; constructed 100 passive residential units in a joint DOE/HUD demonstration program.

Third. Photovoltaics: Produced a 10-percent efficient amorphous silicon cell at small scale; several companies have achieved multimegawatt capacity module production lines using technology supported by DOE.

Fourth. Solar Thermal Energy Systems: Began operation of Solar 1, the 10 megawatt central receiver solar thermal pilot plant, at Barstow, Calif.; provided design and evaluation studies of parabolic through mass production techniques compatible with industrial process heat applications.

Fifth. Biomass: Completed conversion of three industrial boilers to wood fuel use on a cost-shared basis; constructed a prototype freshwater microalgal production facility.

Sixth. Wind energy system: Conducted test operation of the first generation MOD-OA large wind turbine (200 kW, 125 ft. diameter) with utilities at four locations; operated three second generation MOD-2 large wind turbines (2 MW, 300 ft. diameter) as a combined system over 2,000 hours with 2,500 MW-hour being generated.

Seventh. Industrial energy conservation: 72 textile mills have adopted the energy efficient foam-finishing process developed with DOE assistance; 177 industries have integrated advanced ceramic recuperators to utilize waste heat more efficiently.

Eighth. Buildings conservation: Worked with a major appliance manufacturer to develop a high efficiency freezer; 1,000 units have been produced thus far; developed high efficiency fluorescent lamp with electronic ballast, which is three times as efficient as traditional lamps; it is now marketed by three major retail outlets; and developed a heat pump water heater in a cost-shared program, which is now produced and marketed by five manufacturers.

This administration's conservative estimate indicates that the solar technologies, if consistently and adequately developed could provide 5.4 quads of energy by the year 2000. A few years ago the Department of Energy estimated that the application of state of the art technology and the development of new technologies by the industrial sector could save the Nation more than 1 quad of energy by 1985 and 5.5 quads by the year 2000, at the cost of $6 per barrel of oil equivalent that is one-fifth the current $30 per barrel cost of oil. The overall potential for energy savings due to efficiency improvements in residential and commercial buildings was estimated to be 14 quads by the year 2000. To have an effective buildings conservation program, technology development is important, but it is also necessary to disseminate the information to homebuilders, contractors, architects and engineers.

B. FUNDAMENTAL CHANGES AND IMPLICATIONS

Despite the achievements listed above, these important programs face a grim and uncertain future; the budgets have been cut drastically, as shown below.

BUDGET AUTHORITY

[In thousands]

	Fiscal year 1981	Fiscal year 1982	Fiscal year 1983 request
Solar	552,081	256,913	72,236
Conservation	289,726	155,098	17,542

The change in budget authority from 1981 to 1983 represents an 87-percent decrease in solar programs and a 94 percent decrease in conservation programs. The overall decrease for the DOE civilian R. & D. programs is 20 percent. Such a drastic and rapid change is difficult for any program, but it is especially devastating for technology development. Technologies will be lost or cut short. Scientific and engineering teams will be dispersed, and their experience will only be regained slowly and painfully.

The administration states the technologies have been developed to the extent that the private sector can take over the development and production of these technologies. Such is not the case. There is still a need for a strong Federal program.

Another major problem facing the Federal programs is addressed by a recent GAO report, dated July 19, 1982 and entitled, "Loss of Experienced Staff Affects Conservation and Renewable Energy Programs." It talks bluntly about the significant personnel losses occurring in these programs. The fiscal year 1981 RIF's and resignations reduced the conservation staff from 266 to 146 persons and the Renewable Energy staff from 217 to 132 persons. Within these two offices there are seven major organizational elements and six of these organizations have over 30 percent new staff. Even more disheartening is the fact that half of the divisions or branch heads were replaced or the positions left vacant. The loss of experience and the reduction in staff has severely crippled DOE's most cost effective programs.

C. NEED FOR A STRONG FEDERAL ROLE IN ENERGY CONSERVATION AND ALTERNATIVE ENERGY DEVELOPMENT

It is projected that in the year 2000 approximately 5.4 percent of our Nation's domestic energy production will be as a result of renewable energy technologies. If this percentage were doubled, the implications for our Nation's energy independence and security are obvious.

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Conservation is also a commonsense approach to lessen our Nation's dependence on unstable sources of oil. To pay $30 to import a barrel of oil makes no sense when conservation measures cost you $6 for an equivalent barrel of oil.

The uncertain future coupled with a weak economy dictates that business decisions are made for short-term profits rather than our Nation's long-term needs. Yet, it is the private sector that the Reagan administration is depending on to determine the pace of future growth of renewable energy technology. This simply does not make good sense. What is needed is a long-term, consistent commitment to both renewable energy technologies and conservation.

The Government has and should continue to play an important role in accelerating the pace of technical development of energy renewable and conservation technologies. Two examples clearly show why continued Federal support is essential. In photovoltaics, many experimental projects are under contract to test most major industrial or residential applications. In addition, exploratory development is underway for mass-producing inexpensive sheet silicon needed for making photovoltaic cells. Without these Government efforts cost-competitive photovoltaic systems will not reach the marketplace in the late 1980's.

Another example is the industrial conservation program which involves those projects not being pursued by the private sector. Particular emphasis is placed on waste energy reduction, industrial process efficiency, and industrial cogeneration. When one considers the industrial sector consumes 40 percent of all energy used by our Nation each year and that nearly $100 in energy has been saved by industry for every dollar of Federal investment in industrial conservation, this $30 million program—in 1981—needs to be continued, not shelved. Renewing this Nation's international competitiveness and improving its productivity will depend on cooperative, highly leveraged Federal-private sector programs and the DOE industrial energy conservation program has been an outstanding prototype. A strong Federal role is needed to assert long term leadership and direction that is not forthcoming from any other sector. Without this Federal support, needed energy technologies will be implemented late or not at all, thereby further aggravating our current energy situation.●

● Mr. GORE. Mr. Speaker, recently the Science and Technology Committee's Subcommittee on Investigations and Oversight conducted a hearing on U.S. solar and conservation technologies in international markets.

This hearing examined the U.S. programs to support and promote the sales of U.S. energy conservation and renewable energy technology products in international markets. As had been brought out earlier, many of the problems facing the export of these technologies are generic to small and medium sized industries who want to develop the export market.

We heard testimony that America is gradually losing its leading position in technology as a direct result of failing to develop the international markets. The competitive edge is eroding.

At one time, the United States was a market unto itself; this country could and did support emerging industries; imports were absorbed without adversely affecting our domestic industry. While our market was, and is, very large, we reached a point where the imports began to adversely affect our domestic industries: Steel, automobiles, TV and electronics, and so on.

Another consequence of the very size of our domestic markets has been a neglect of international markets. Historically, our industry has not needed the access to international markets in order to survive and prosper. Consequently, we have not developed the institutions which are needed to successfully market internationally. And now that we need the access to these markets, we are starting to learn our shortcomings in terms of the total effort which results in successful exports.

While these points apply to many technologies, I believe that it is especially critical that we do not permit our solar energy, renewable energy, and energy conservation efforts to falter. These are areas we will depend upon heavily in the future; they are too important to neglect.●

● Mr. MINETA. Mr. Speaker, I am happy to have the opportunity today to join with so many of my colleagues to speak on the important questions of energy production, consumption, and pricing.

There was a time, indeed there have been several times, when the specter of an "energy crisis" has suddenly loomed large in the public consciousness. Each of these crises has come and gone, as public attention has moved on to other issues.

Despite this on again off again crisis atmosphere, there are basic and fundamental problems before us. Curiously, however, these problems are not always the impressions common in the mind of the general public.

For example, our total national energy consumption in 1981 was less than the level of use in 1973. Given the growth in our population over this time, such a drop in consumption is truly remarkable. Moreover, the decrease came entirely in the industrial sector, as residential, commercial, and transportation consumption rose in the same period.

We have also, since 1973, seen a marked shift away from natural gas and petroleum as fuel and an increase in coal and nuclear power as energy sources.

At the same time, there has been growing and significant interest in alternative sources of energy; sources which are renewable and do not deplete our scarce and finite resources. These renewable sources include, of course, solar, wind, geothermal and ocean thermal energy generation.

In summary, we do not have an energy crisis at the moment. Consumption is down and renewable sources are an increasingly important part of our economy. What, then, is the problem? Or is it possible we do not even have a problem?

It is unfortunate that the rhetoric of past energy crises has made it difficult for us to focus on energy matters in times of no crisis. On the other hand, when we are in the midst of one of our recurring energy crises, I am not sure that situation makes for balanced reasonable discussion either.

The real problem is a simple and straightforward one, which perhaps more accurately can be called a task and not a problem. It is a question of long standing, which does not come and go with our recurring crises. How do we plan for balanced development of scarce resources in such a way as to provide for reasonable economic development and protect our environment?

Fossil fuels are limited, and often have difficult environmental problems. Much of our fossil fuels are imported, which creates a whole set of complex economic and political problems we are all too familiar with. Fossil fuels are also costly, and it is clear to many of us that the Federal Government has failed in its attempt to regulate these prices—particularly natural gas costs—so as to protect consumers while gradually removing price controls.

As the author of the Wind Energy Systems Act of 1980, and as the sponsor of the Solar Energy Employment and Training Act; I strongly support and endorse our efforts to stimulate the development of renewable sources. This Federal stimulus is needed, of course, because of the very nature of renewables. There are no mineral rights to own, no long term leases to sign. Without these assets on hand, it is hard for a business to develop an investment package.

Mr. Speaker, we must reaffirm and continue our commitment to renewable energy sources. Not because they are magic solutions to an energy crisis that may or may not exist. Not because renewables are stylish. We must develop our renewable resources as part of a long-term comprehensive plan for the balanced development of all our energy resources. Without such a plan, our prospects for economic development will be significantly impaired.

The argument for renewable energy is neither esoteric or complex. Simple commonsense is all that it takes to undestand that we should proceed with this important task. I am proud to say that the city of Santa Clara, Calif., has begun down this road with the purchase of land for an extensive wind farm. I hope that many others will follow their lead.

Thank you. ●

● Mr. LELAND. Mr. Speaker,because escalating energy prices are a major cause of inflation and the resulting unemployment that is so devastating to our communities I would like to read to you the statement of principles of the energy and employment strategy group, that has been working on these two related issues:

STATEMENT OF PRINCIPLES

The energy and employment strategy group is focusing on the dual need for jobs and for reliable, safe, and affordable energy. Particularly today, it is the responsibility of the Government to promote job creation and job training for those who need work, and to concentrate employment opportunities in areas of critical national need. Energy is just such an area of need, and energy conservation and renewable energy are the most cost effective and create the most jobs of all possible energy investments.

EMPLOYMENT

As many Americans are currently unemployed as at the height of the Great Depression. There are 10½ million workers officially out of work, and another 1.5 million have stopped even looking. An additional 5.6 million workers are underemployed and seek full-time, or better-paying, jobs. For minorities and youth, the situation is most drastic. Nationally, black teenage unemployment is a staggering 52 percent with little prospect of improvement.

What America's unemployed workers need is not low paying, dead end, or health destroying make work, but productive, environmentally sound employment at fair rates of compensation in areas of national need.

ENERGY

The Nation still wastes more than half of the energy it uses. Eighty million commercial and residential structures are uninsulated or poorly insulated. And energy prices continue to rise. The Nation still relies on increasingly scarce and costly nonrenewable resources. The poor, the elderly, and those on fixed incomes suffer disproportionately, spending an average 25 percent of their finances directly on energy bills. As consumers and businesses spend more and more money on wasted energy, there is less and less money available for necessities and job-generating purchases and investments.

Rapidly rising energy bills, aggravated by inefficient energy use, are a primary cause of runway inflation and recession. The occasional oil gluts that result from decreased economic activity have led people to believe that the energy crisis has ended. However, domestic energy production and drilling for new oil have also been declining. And the progress that had been made toward increasing energy efficiency and tapping renewable resources has been stymied by current administration policies. Should the economy start to recover, without a new commitment to conservation and renewables, the need for energy will increase, and once again we will be dependent upon insecure oil supplies.

JOBS IN ENERGY

Energy conservation is the cheapest and most readily available new energy source. Energy efficiency improvements can easily be achieved in all sectors of the economy, yielding savings that far outstrip costs. By the year 2000, more than one-fifth of our Nation's energy could come from renewable technologies. Conservation and renewables can create far more jobs per dollar invested than any other energy alternative at a wide range of job skills levels. According to a study commissioned by the Joint Economic Committee of Congress, as many as 2.9 million jobs could be generated by a comprehensive program introducing conservation and solar energy into all sectors of the economy. And millions of additional jobs would be created as consumers shifted their spending from costly and capital intensive energy to other goods and services that generate greater employment. The combined effect of improving energy efficiency and producing energy from renewable resources would: replace all imported oil, reduce fuel consumption and bills significantly, create new jobs in a growing industry, and improve the environment and the economy.

With a genuine commitment to energy conservation and renewable energy employment and training, the Nation could save billions of dollars, create millions of new jobs, make better use of human resources now going to waste, improve public health and the environment, save energy, decrease national dependence on foreign oil, and insure reliable supplies for sound economic growth.

This statement of principles of the energy and employment strategy group *convened by the jobs in energy program*, has been endorsed by the American Federation of State, County and Municipal Employees; Citizen/Labor Energy Coalition; Consumers Energy Council; Environmental Action; Environmental Action Foundation; Environmental Defense Fund; Environmentalists for Full Employment; International Association of Machinists; Interreligious Emergency Campaign for Economic Justice; National Consumers League; National Urban Coalition; National Urban League; Public Citizen; Rural Coalition; Service Employees International Union, Sierra Club; Solar Lobby; United Auto Workers; United Church Board of Homeland Ministers.●

● Mr. HEFTEL. Mr. Speaker, I am pleased to participate in this special order on our continuing national energy problem. I congratulate my distinguished colleague from Pennsylvania, Mr EDGAR, for bringing this issue to the attention of the House at this opportune moment. I appreciate having the opportunity to comment on the need to maintain a program of energy tax incentives.

Mr. Speaker, as the President seeks to dismantle the Department of Energy, and as Congress looks for ways to meet its new budget obligations, it is imperative that we do not abandon the important gains that we have made in energy conservation and utilization over the past 10 years. The industrial energy conservation tax credits, which were enacted in the 1978 Energy Tax Act to provide an important stimulus to energy conservation in the private sector at minimal cost, represent one important program that deserves to be continued.

On June 10, I introduced H.R. 6572, legislation which would extend the termination date from 1982 to 1985 for the industrial conservation tax incentives enacted in 1978. H.R. 6572 also extends so-called affirmative commitments to renewable energy as well as industrial conservation projects. Affirmative commitments assure companies that projects begun but not necessarily completed by 1985 will continue to be eligible for tax incentives until 1993, despite the 1985 expiration date.

While the industrial conservation tax incentives will expire this year in the absence of congressional action to extend them, the renewable energy business energy incentives will remain in effect until the end of 1985. The administration had earlier this year sought to eliminate these credits. However, a strong show of support for the incentives in both the House and Senate has apparently headed off further administration attempts to eliminate them before their intended expiration.

If we do not take action to extend these industrial energy credits, the Nation may never realize important new gains in energy conservation. For example, H.R. 6572 extends tax incentives aimed at encouraging american industry to convert to coal, our most abundant energy source. It also would provide continuing incentives to encourage cogeneration by industrial or commercial facilities. Cogeneration is perhaps the most important and readily accessible source of industrial conservation in the near term. Very simply, cogeneration is the production of two forms of useful energy from one fuel source, leading to a more efficient use of the primary energy. In addition, H.R. 6572 would continue the program of incentives aimed at promoting retrofits of inefficient manufacturing plant equipment and accelerating the recycling of solid waste into useful energy.

Both the national economic costs of dependence on foreign oil and continuing U.S. strategic vulnerability to energy supply disruptions demand that we seek near-term solutions to our energy problems. Energy policy in the early 1980's must respond to this challenge by stimulating increased domestic energy production and by removing impediments to an accelerated energy conservation program in U.S. industry. The current tragic upheaval in the Middle East demands that we

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not back away from the national effort to accelerate our energy conservation technologies. In addition, our economy is not so strong that we can afford to eliminate the only significant remaining targeted Federal incentive for industrial energy conservation.

I fully realize that budget constraints have made it virtually impossible to enact a comprehensive energy conservation tax incentive program during the remaining months of this Congress. I, therefore, offer H.R. 6572 to merely continue for 3 years a program that has significantly advanced the state of the art of industrial energy conservation. I believe that the United States is still in a very vulnerable position with regard to its energy supplies. We have not arrived at the point where we can honestly say that we have solved either our short-term or our long-term energy problems. Hence, I believe that the administration has made a grave mistake in failing to recognize the economic and national security implications of our continuing dependence on Middle East oil.

Mr. Speaker, I offer H.R. 6572 to once again encourage congressional debate on America's energy problem and to focus attention on solutions which will promote the energy security which has alluded us thus far.

Thank you for giving me the opportunity to present my views on H.R. 6572 and the need to maintain an aggressive program of tax incentives for industrial energy conservation and renewable energy development.●

● Mr. **BEVILL**. Mr. Speaker, I am pleased to share my thoughts on U.S. energy policy with the Members of the House. The Energy and Water Development Subcommittee, which I chair, of the Committee on Appropriations, has funded a significant portion of the Federal efforts to develop environmentally sound, cost-effective alternatives to the continued reliance on oil imports. These efforts include the development of:

Solar energy in all its forms—active and passive heating and cooling systems; photovoltaics; large thermal systems; wind; biomass; ocean thermal; small-scale hydroelectric; and others.

Geothermal energy—including high- and low-temperature resources, geopressured wells and loan guarantees to help alleviate uncertainties in commercial use of geothermal resources.

Nuclear energy—including issues relating to the safe application of nuclear technology, research and development to resolve methods for storage and disposal of nuclear waste so as to assure long term isolation and protection of public health and safety, along with the development of more efficient reactors which could provide essentially an inexhaustible energy resource.

Fusion energy—to use the elements of hydrogen in a process so as to provide an unlimited source of clean and efficient energy.

Synthetic fuels—utilizing TVA's capabilities to develop ammonia from coal and coal gasification technologies to the point of commercial use.

Power marketing—to utilize the Nation's investment in hydroelectric development more effectively in substituting for oil-fired generation.

Environmental research—to determine scientifically the effects of energy production on man's environment, to develop cost-effective measures to mitigate their harmful effects, and to better understand their effects on man and his environment.

Basic energy sciences—to understand the basic physical and chemical elements involved in energy options and to develop the scientific and engineering base on which the Nation's future energy options depend.

General sciences—including high energy, medium energy, and low energy physical research to gain better understanding of the fundamental forces of matter and energy.

Considerable progress has been made in each of these areas; more is needed. But fundamentally, all of these programs address the development of longer term energy supply options to provide the energy resources needed for sustained national growth and to alleviate our dependence on imported oil.

The administration's budget proposals for fiscal years 1982 and 1983 reflected a substantial shift in policy with respect to several of these programs, principally, the curtailment of near-term efforts thought to be within the capability of industry. Our committee review found that some of the administration proposals were too precipitous and would run the risk of losing the benefits of the public investment in the work to date. As a result, we recommended and the Congress approved a more gradual transition to the administration's emphasis on long term, high-risk research and development programs. For example, in fiscal year 1982 we provided $141,373,000 or 71 percent more for renewable energy development than requested in the President's September 1981 budget proposals, to provide sufficient funding to complete ongoing efforts and continue promising programs for the future.

With the uncertainties involved in future energy supply and the country's needs for future growth, I believe it is essential that the Congress continue to support a strong Federal energy research and development program with appropriate emphasis on all those technologies which show potential to meet energy needs in an environmentally sound and cost-effective manner. It is essential to be able to respond to change in the future in a balanced and measured way. Moreover, I believe we have an obligation to our progeny to optimize our energy program so as to leave as many options as possible to future generations, including some fair fraction of our natural resources.

There is another element to the Nation's energy policy on which I would like to comment—stability of policy and management for longer term Federal efforts. Since 1974—8 years ago—there have been five reorganizations and five different executives heading the Department of Energy's programs—each with differing perspectives and objectives. Within the Congress, we have several overlapping committee jurisdictions—again with differing perspectives and objectives. From my perspective as an Appropriations Subcommittee chairman, we clearly need a consensus for longer term efforts and stability of management to carry out those efforts more cost effectively than we have to date.

In summary, our energy policy should include:

First, a strong Federal program to continue research and development on all those technologies which can contribute in an environmentally sound and cost-effective manner to meet future needs.

Second, stability of policy and management to allow Federal activities to be pursued and completed in a more efficient manner.●

● Mr. **McKINNEY**. Mr. Speaker, I know a way to create jobs, encourage capital investment, and spur the growth of new industry, while lowering energy costs and expanding our domestic energy production infrastructure. It is an idea that requires only modest appropriations, while offering a potentially limitless return. It is an investment in the future, not a payment to the past. I am speaking of the Solar Energy and Energy Conservation Bank, a program which I firmly believe offers all the just mentioned benefits. However, despite all its promise, the Bank is still not a reality 2 years after becoming law.

Congress has funded the program for the past 2 years, yet none of this money has been spent. We have battled for funding, we have battled against rescission, and we finally went to court to force the administration to disburse the funds Congress had ordered spent. While we have won each battle, and while Congress has steadfastly supported the Bank, a clear victory still eludes us. The Solar Energy and Energy Conservation Bank remains the missing link in the effort to make the boundless energy of the Sun a significant part of our Nation's energy mix.

We need the Bank more than ever today, to stimulate investment in solar and conservation applications in the face of unaffordable interest rates and a period of relative calm in world oil markets. I must remind my colleagues that reduced imports and the world oil glut notwithstanding, this country is still paying $80 billion annually to import petroleum. We need the incentive which the Bank offers to move proven solar technology from the store front to homes and small businesses.

For the millions of moderate income homeowners and businessmen who cannot reap the benefit of the energy tax credit and who lack the means to borrow at today's interest rates, the Solar Bank offers the opportunity to invest in equipment they would never otherwise be able to afford. By investing in solar equipment they would have foregone without the Bank, these individuals will benefit, the solar industry will benefit, and the Nation will benefit from new jobs, growing industry, and lessened demand for imported oil.

Congress has contributed millions to developing solar and conservation know-how, and an earnest young industry has grown up around that research base. Yet the new industry faces barriers. Solar investment implies a major up-front financial commitment equal to years' worth of fuel costs.

This represents a new way of thinking about our energy needs as well as requiring access to capital. The Bank can handle the financial barrier with its low interest loans. The mental barrier will only be eroded by the commercial success of this fledgling industry. The Bank can offer the impetus the industry needs to move solar equipment from the realm of the exotic into the realm of the conventional.

While I am no solar moonie, while I would never suggest that solar power represents the quick energy fix for the eighties, I will suggest that existing solar technology can contribute significantly more energy that it does today. What is needed is a fully commercialized solar industry to champion its own cause. The Solar Energy and Energy Conservation Bank can offer the necessary incentive to achieve the goal of a fully commercialized solar industry.●

● Mr. RAILSBACK. Mr. Speaker, I am pleased to have the opportunity to speak on the importance of maintaining a Federal energy information data bank. I think BOB EDGAR should be commended for his effort to highlight the status of U.S. energy policy.

My interest in maintaining energy information programs is not new. During the shortage in 1978-79, I introduced a concurrent resolution calling for expeditious development of Federal data, fully independent of industry statistics. I did so because my constituents demanded action.

At that time, labor unions conducted a post card campaign, calling for an investigation into the major oil companies and for a Government agency to import oil. I received hundreds of cards. I also heard from retail gas station owners and wholesalers who complained about predatory practices used by major refiner-marketers, forcing independents out of business. People from all backgrounds wrote, called and talked with me about their suspicion that the shortage may have been fabricated to provide an excuse to raise prices. Because of the growing public distrust since the 1973 embargo, Congress created the Energy Information Administration (EIA) in 1977. The public displayed distrust of Federal policies based on industry data, so a source of unbiased information was and continues to be needed by Congress.

That is why I first became interested in energy information. My interest was rekindled last year when the Office of Management and Budget (OMB) recommended that the EIA budget be cut to a point where several important collections activities would be curtailed. Speaking on behalf of myself and as a member of the Northeast-Midwest Congressional Coalition, I emphasized the need for a Federal energy data bank, specifically addressing programs which the coalition eventually included in its energy agenda. They are the State-level petroleum product price, supply, and market distribution program; the residential, commercial, and industrial energy surveys; and the financial reporting system (FRS).

State-level energy consumption, prices, and distribution data is needed for emergencies as well as policymaking. No other source of State-level data is available in such a comprehensive form. States need the information for budgeting, conservation goals, and planning for supply disruptions. Federal policymakers must have the information to determine the impact of proposed legislation and Federal budget/tax policies like an oil import fee, a decision to repeal the Fuel Use Act, or emergency planning. OMB just released a form which will provide the data, but obtaining approval has been difficult. Recent congressional authorization of data collection in the conference report on the Energy Emergency Preparedness Act underlined the need for State-level energy consumption, price, and distribution data.

The residential, commercial, and industrial energy surveys report on energy consumption by end use and can be used to study trends of energy use, the market potential for energy conservation supplies and equipment, the price structure by fuel type, and other purposes. No other source of such information exists. Survival of the residential and commercial surveys seems likely, although the EIA proposes to discontinue annual collection. Given the volatile nature of energy prices, a lack of current data could lead to inefficiencies. For example, the residential survey provides data to the Department of Health and Human Services used in administration of the low-income energy assistance program as well as valuable information on housing characteristics and efficiency investments in low-income housing that is important for evaluating the weatherization program.

The industrial survey will probably be discontinued. While the commercial survey looks at nonresidential building energy consumption, the industrial survey views the boilers and machinery inside. Data obtained by both surveys would be invaluable in monitoring building and equipment efficiency and fuel switching capability. Because the Northeast and Midwest have a preponderance of old, energy-inefficient buildings, these surveys should be continued to expedite private sector investment in our regions' best source of energy—conservation.

Another form that is no longer being used is the financial reporting system. I am disappointed in the decision to eliminate the form, because it could be helpful to Members of Congress now that decontrol is a reality. A recent Congressional Committee Chairman JACK BROOKS states that the proposed elimination of the FRS "will make it more difficult for the Government to examine profit and investment patterns of the major oil companies" or monitor the "impact of Federal policies designed to encourage the development of new resources."

Finally, I would like to comment on the proposed budget for the EIA. While Congress authorized $80 million in its budget resolution, OMB recommended $54.5 million. Funding at the fiscal year 1982 level of $78.9 million would be a minimum needed to maintain quality programs. OMB based its $54.5 budget, in part, on a personnel cut from 490 to 415 people. Data quality would be lowered. EIA has already reduced personnel from more than 750 in early 1981, and further reductions will result in additional contracting out, not always the most efficient way to administer a program.

The programs I discussed are not only essential during an emergency or in predicting another shortage, but are necessary for evaluating the energy market and the effects of existing or proposed legislation. Both the FRS and the petroleum product price, supply and market distribution data programs are required by law. EIA has improved its programs and gained credibility. For example, its 1981 annual report published 1981 data in

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many cases. Therefore, I feel it is essential that EIA retain the staff and receive the funding required to maintain congressionally established energy information programs.●

● Mr. REUSS. Mr. Speaker, I appreciate this opportunity to discuss our energy problems and their relationship to the cities. This has been a primary concern of mine for many years, but has become particulary urgent for me as energy prices have skyrocketed through the seventies. From 1975 to 1980, I chaired the Subcommittee on the City of the House Banking Committee, where we concentrated on bringing important energy-saving options to the attention of citizens and officials at all levels of government. In the fall of 1979, we held two hearings on "Renewable Energy and the City" and "Compact Cities: A Neglected Way of Conserving Energy." The testimony presented in those hearings was reviewed carefully and discussed in a final report, which I believe, is important to today's discussion.

The report is entitled "Compact Cities: Energy Saving Strategies for the Eighties," which the subcommittee published in July 1980. Since little that has occurred over the last 2 years does anything but confirm our recommendations, I wish to bring them to our attention today.

First, the report notes that uncontrolled sprawl not only wastes energy, but eliminates valuable farmland.

Second, it outlines the many ways in which healthy cities save energy. For example, commuting distances are shortened, public facilities are in place, cogeneration and district heating are economic, and common walls reduce energy consumption.

Third, the report notes that past energy policies have not adequately accounted for urban realities. This was true in 1980 under the past administration and it is even more true today.

The report made 32 recommendations, which I would like to insert at this point in the RECORD. They remain relevant to the problems of urban energy policy that we continue to face.

I. SPRAWL AS A WASTER OF ENERGY

Recommendation 1

The Department of Agriculture should take the lead among federal agencies in (a) demonstrating that farms are vital to urban areas, and (b) promoting state-local efforts to assure that endangered farmlands will not be invaded or surrounded by development except for essential purposes when all feasible locational alternatives are exhausted.

II. THE CITY AS ENERGY SAVER

Recommendation 2

The Department of Energy should include small-scale neighborhood systems in its district heating demonstration projects.

III. CURRENT ENERGY PROGRAMS SLIGHT THE CITY

Recommendation 3

The Department of Energy's biennial revision of the National Energy Plan should specify the contribution expected from urban areas to meet the year 2000 goals for conservation and the use of renewable energy, describing measures by which cities can achieve their share of the goals.

Recommendation 4

Congress should authorize taxpayers to receive the full residential solar tax credit regardless of their tax liability.

Recommendation 5

Congress should allow taxpayers to apply to the Internal Revenue Service for prompt rebates of their residential solar tax credit, rather than making them wait until after filing their annual returns.

Recommendation 6

The Department of Energy, the Department of Housing and Urban Development and the Treasury Department should jointly (a) maintain data on the income brackets, owner or rental status, and location of recipients of federal energy tax credits and agency grants or loans, and (b) submit these data with appropriate analysis to Congress each year.

Recommendation 7

The Department of Energy should shift more of its renewable energy research to the development of cost-effective systems appropriate for existing urban neighborhoods.

Recommendation 8

Congress should provide larger subsidies for the installation of renewable energy systems in existing buildings than in new buildings in recognition of greater actual costs.

Recommendation 9

Federal agencies, in consultation with the Department of Energy, should establish energy conservation standards for existing buildings plus procedures and timetables for bringing into compliance (a) all buildings owned or leased by the Federal Government, (b) all buildings whose owners receive Federal renewable energy subsidies, (c) all federally-assisted housing, and (d) all federally-insured housing.

Recommendation 10

States and localities should revise building codes, zoning regulations and other land use controls to remove restrictions which prohibit or inhibit the use of renewable energy systems.

Recommendation 11

State public utility boards should encourage utilities to make conservation and renewable energy loans to their customers by permitting utilities to include the cost of such loans in their rate bases.

Recommendation 12

In order to tap the job-creating potential of energy projects, the Department of Commerce and the Department of Housing and Urban Development should promote greater use of economic and community development grants for energy conservation industries and local renewable energy projects in distressed urban areas.

IV. HOW TO REVERSE PROGRAMS THAT INDUCE SPRAWL

Recommendation 13

Federal agencies that provide grants and loans for sewer, water and wastewater treatment facilities should require local governments (a) to design systems that channel new growth primarily into existing urbanized areas, and (b) to use pricing systems that reflect the economies of serving compactly-settled areas.

Recommendation 14

The Environmental Protection Agency, to give wider effect to its 1978 anti-sprawl regulations, should encourage local governments to modify waste facilities that were funded before 1978 but that are not yet built. EPA should provide technical assistance to minimise the growth dispersal impacts of these projects.

Recommendation 15

The Department of Transportation should vigorously pursue its declared intention to screen all proposed beltways for adverse urban impacts.

Recommendation 16

State governments should give priority to maintenance of existing highways over new construction.

Recommendation 17

Federal, state, regional and local mass transit agencies should make greater efforts to align bus and rail routes to support urban containment and infill strategies.

Recommendation 18

The Congress should authorize the Department of Housing and Urban Development to increase the quantities of public housing for poor urban residents.

Recommendation 19

The Department of Housing and Urban Development should review all its local development assistance and housing programs to identify aspects that foster sprawl and then recommend corrective measures.

Recommendation 20

The Department of Housing and Urban Development should require that states and localities, as a condition of receiving 701 planning grants, adopt provisions for channeling future growth into already urbanized areas.

Recommendation 21

The Office of Management and Budget, along with current urban impact analyses of new federal programs and policies, should (a) review existing government programs and policies to identify anti-city or pro-sprawl bias, and (b) recommend steps to remove such bias.

Recommendation 22

Federal agencies that help finance local infrastructure should underwrite demonstrations in several urban areas of full-scale user charges and land value recapture systems to measure their land use and fiscal impacts.

Recommendation 23

States should accept their responsibility over land use by (a) specifying land use changes that require state approval, (b) indentifying scenic resources, fragile ecological zones and other lands to be safeguarded, and (c) mandating that localities adopt comprehensive land management programs to curb scattershot growth.

Recommendation 24

State legislatures should prohibit communities from using (a) exclusionary practices such as growth caps that directly bar entry of new residents, and (b) "gold-plated" subdivision standards, large-lot zoning or other devices that price out all but the affluent.

Recommendation 25

States and localities that offer preferential farmland assessments should insist that (a) tax advantages apply only to acreage where exclusive farmland zoning or other legally binding covenants will keep the land in agricultural use, and (b) conversion to nonfarm use by the owner triggers a return to the local jurisdiction of the cumulative tax savings plus interest.

Recommendation 26

States should enforce minimum property assessment standards with special attention to (a) equal treatment of all property within jurisdictions, (b) equalization among jurisdictions, and (c) proper evaluation of land compared with structures.

Recommendation 27

The Treasury Department, to avoid revenue losses from depreciation of commercial buildings whose stated values reflect substantial amounts of land value, should study the feasibility of refusing to accept assessments as the basis for depreciation in localities that systematically undervalue land and overvalue buildings.

Recommendation 28

Legislatures in states that require uniform property taxation of land and buildings should, by law or constitutional amendment, enable local jurisdictions to exempt buildings entirely or tax them at lower rates, halting present tax "penalties" for structural improvements or investments in solar equipment.

Recommendation 29

State legislatures should provide (a) more effective metropolitan coordination or consolidation of areawide functions, and (b) statewide or regional tax base sharing systems to avoid interjurisdictional disparities between taxes paid and services received.

Recommendation 30

Cities and urban counties should consider greater reliance on true-cost user charges for public services that are costlier to deliver in dispersed developments.

Recommendation 31

State governments should help conserve the central business districts of their cities by withholding capital ependitures in aid of proposed malls and other developments that could undermine existing commercial centers.

Recommendation 32

City and county governments, to prevent market forces from working against social goals, should stop relying almost exclusively on soning to control land use and make greater use of (a) public service pricing, (b) recapture of land values generated by public expenditures, and (c) creative mixes of compatible land uses.●

● Mr. OTTINGER. Mr. Speaker, every night now on the evening news we are shown stories about the victims of the President's voodoo economics. This magic potion that the President's medicine men have concocted is poisoning the patient. In his budget proposals to Congress for fiscal years 1982 and 1983, the President has presented us with a voodoo energy policy where the marketplace's magic substitutes for balance and substantive analysis.

With only ideology as a guide, the President's fiscal year 1983 budget proposes to slash energy conservation programs by 94 percent, and renewable energy programs by 78 percent. Meanwhile, nuclear programs continue virtually unscathed, and constitute an incredible 87 percent of the proposed energy technologies budget. The Congress largely rejected the fiscal year 1982 energy budget proposal and did so again in the fiscal year 1983 budget resolution. However, even though Congress restored a degree of balance and equity to Federal energy programs last year, support for energy conservation programs is way below what it would be under an administration that was truly concerned about this Nation's energy future.

If the administration gets its way there will be many victims of voodoo energy policy. The poor and the elderly will be victims if the administration is allowed to eliminate the low-income weatherization program and slash low-income energy assistance which so many people depend on. The administration already has tried to wipe out weatherization by starving it of the funds Congress authorized and appropriated. As a result many of the competent workers who were trained in weatherization had to look elsewhere for jobs in the fall.

Moderate- and low-income people will be victims if Reagan succeeds in terminating the Solar Energy and Energy Conservation Bank. The Bank would help individuals pay the up-front costs of installing energy saving equipment. The President has refused to spend the money Congress provided the Bank for fiscal year 1982, and it has taken a successful lawsuit, in which I joined as a plaintiff, to force the administration to spend that money.

Our schools and hospitals will also be victims, as will the people they serve and the taxpayers who support them. The administration wants to eliminate the program to provide technical assistance and grants for energy conservation equipment for those institutions. Apparently, the administration would like schools to lay off teachers, and hospitals to raise medical costs, as their response to the high energy prices of the marketplace.

Consumers will be victims, because the administration wants to cut funds for State energy offices and their efforts to provide energy information to the public.

As this is not bad enough, the administration also proposes repealing numerous energy conservation laws by "zeroing out" the Energy Department programs which implement and enforce those laws. For example, the administration has decided not to prescribe Federal efficient standards for households appliances, even though the law requires it to issue standards unless energy savings are negligible and costs are too high. The Department's own analyses conclude that the Nation could save as much as 2 million barrels of oil and that consumers could save more than $19 billion by the year 2005 through such standards.

The administration also proposed terminating the residential conservation service program which requires utility companies to provide customers with low-income home energy audits, provide advice on cost-effective energy conservation measures, and arrange financing for these measures. Finally, the administration intends to ignore the law establishing the Federal energy management program. That program monitors the Federal Government's own energy performance and could save millions of taxpayer dollars in reduced Government energy bills.

Will the dramatic budget cuts in conservation and renewable energy programs help control the deficit? Absolutely not. In fact, the administration's DOE budget for 1983 is virtually identical to that of 1981. The difference is that cuts aborbed by conservation and renewable energy programs are being reprocessed to fuel the Department's nuclear energy program.

Last year Congress rejected the administration's energy proposals and established its own energy budget priorities. The administration would like to forget that Congress has already spoken on at least a half dozen times over the past year in support of a balanced energy budget. I am confident that once again Congress will reject the administration's proposals and enact its own energy budget.

Repudiation of these misdirected priorities is the best antidote for the noxious curative of the President's medicine men.●

PHOTOVOLTAICS: AN AMERICAN OPPORTUNITY

● Mrs. SCHNEIDER. Mr. Speaker, I would like to thank the gentleman from Pennsylvania for inspiring this special order to discuss the future of our energy policy, and to express my appreciation for the leadership the gentleman has displayed on this important issue.

Contrary to the rumors that have been circulating, the energy crisis is not over. We are still far too dependent on foreign oil, and my constituents in Rhode Island are still trying to cope with $1,500 winter heating bills. Forecasters in both industry and government appear to agree that U.S. reserves of oil and natural gas are declining rapidly, and that the synthetic fuels industry is not growing quickly enough to fill the gap. Before the end of the decade, if we are not prepared, we are going to run short of energy, and OPEC will resume its grip on our economy. We had better use the time we have to diversify our energy system. That means a balanced Federal investment in research to develop those technologies that can make a difference over the next 20 years.

One of the most promising alternatives is photovoltaics, which the Energy Research Advisory Board has identified as one of the two major renewable options for energy supply. Photovoltaics—or the direct conver-

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sion of sunlight into electricity—is environmentally benign, potentially cheap, and offers energy users a unique new service—the opportunity to generate their own power on site. It is ideally suited for the small scale, localized production of electricity that can help our existing power supply system to meet peak load demands, thereby reducing the need for the construction of expensive, large fossil or nuclear powerplants that place a stress on our environment.

As a member of the Science Committee, I have had the privilege of participating in a series of hearings to try to determine the potential of the renewable energy industry in the decade ahead so that we may develop appropriate Federal policies. One theme was repeated by almost every witness—the market for photovoltaics, both in the United States and internationally, is going to grow by leaps and bounds. From an expected sales volume of 90 million modules this year, the world market is expected to order 300 million modules in 1985 and 1.5 billion modules by 1990.

Right now, America is a world leader in photovoltaics technology and in a unique position to take advantage of the world market that is quickly developing. In 1980, 85 percent of photovoltaics sales abroad came from American companies, for a total export earning of $25 million. Unfortunately, if our current energy policy—or the lack of one—is not reversed, we may lose our opportunity to exploit the growth of this important high technology energy industry.

Ironically, while we are cutting back on our photovoltaics program, our competitors—particularly the Japanese—are beefing up their own research, with a view toward penetrating the American market within 5 years. The Japanese have pioneered in the development of amorphous silicon, the logical next step in the technological development of low-cost, mass-produced photovoltaic cells. In fact, amorphous silicon cells are already on the American market, in photovoltaic-powered calculators marked "Texas Instruments" on the front, and "Made in Japan" on the back. It should come as no surprise that the Japanese are speeding up their research to emphasize low-cost production techniques. The Japanese photovoltaics budget increased by more than 300 percent between 1980 and 1982—meanwhile, the Department of Energy is preparing to shut down our own photovoltaics research efforts just at the point where it promises to deliver results.

Our Science Committee hearings suggested at least two important conclusions for U.S. policy. The first is that our photovoltaics research effort should be stepped up, not cut back. We are on the brink of capturing the international market in an exciting new technology—it would be foolish to throw that opportunity away.

Equally important, we need to focus our photovoltaics budget on preparing the industry for the world market. West Germany—where the lack of direct sunlight imposes natural limits on photovoltaic applications—is nevertheless investing half of its renewable energy budget in developing photovoltaic technologies for export, with an emphasis on testing and developing PV power generation in developing countries, including Egypt, Argentina, Brazil, the People's Republic of China, Indonesia, Mexico, the Sudan, and the Philippines.

Americans pride themselves on being a practical people. Pragmatism suggests that the Federal Government should team up with private industry and push photovoltaics forward into the worldwide market that surely awaits this technology in the eighties. America's photovotaics industry is on the brink of success—we can not afford to waste the opportunity before us.●

GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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Mr. EDGAR. Mr. Speaker, tonight's special order was taken to focus attention of the House on the issue of energy. I think the statements that will be included in the RECORD will in fact do that.

LYNDON B. JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

● Mr. GONZALEZ. Mr. Speaker, had he lived, Lyndon B. Johnson would be 74 years of age this month, August 27. I rise to honor his memory, to recall his vision for America, and to remind my colleagues that it is not only possible for our country to rise to greatness, it is necessary to do so.

Lyndon Johnson never believed in a diminishing future. He believed in growth, in dynamism, in progress. He never believed that this country must live by some sort of economic fatalism; he believed that we could control our own destiny. He never believed that this Nation could or should abide the waste of unemployment, the scourge of poverty, the numbing blight of ignorance, nor the casual inhumanity of injustice.

Lyndon Johnson had a vision for his country. He believed we could conquer our problems, that we could alleviate poverty, and indeed his programs did open whole new worlds of opportunity. Through the vision and unparalleled political skills he commanded, President Johnson brought decent medical care to the old and the poor; he demanded that we no longer tolerate hunger among the people of this, the greatest food producing Nation in the world. He established vast new programs to improve the Nation's schools, to insure that every child got a sound education, and to make available a university education to all who could benefit from it. He insisted that the poor, even the long-term unemployed, could be placed into useful jobs. Through all these, and many other efforts, he was responsible for a vast reduction in the incidence of poverty in our country. Where there was no hope, he opened hope; and where there was hope, he insisted that there be genuine opportunity.

Compare that to the experience of today. Under our present leadership, we have not progress but retreat. There are millions of newly unemployed, there are millions of newly poor. No longer do we seek to insure that the poor are decently housed and fed; far from it, our leadership demands that the hungry should go more hungry. Our leadership is not one with a vision of what our country could be, but one that sees a diminishing future—a world with shrinking hopes, not one of growing possibilities.

Lyndon Johnson was excoriated as a free spender, but the leadership of today, the current administration, will incur deficits that are 60 times as great as any that Johnson would even dream of. He was called a radical experimenter, but he never abandoned the basic principle of sticking with programs that were practical, that were proven, whose results could be measured. Compare that to the pie in the sky claims that we heard for supply-side economics, nonsense that we are paying dearly for today.

The present administration likes to say that there is no need to produce new housing for the poor, or for anybody else, because the marketplace will take care of everything. But Lyndon Johnson knew that this was not so, and could not be so, if there are millions of people who cannot even get into the marketplace. The market serves only people who have the means; it does not serve those who have no means. Johnson would have wanted to know how many were without housing, what could be done to get them into housing, and how to get it done. Compare that to the breezy callousness of today's antihousing administration.

There is no way for me, or for anyone else, to describe the whole, complex, dazzling being who was

Lyndon Johnson. It might be said that he never believed that there was a problem that could not be licked. Whatever it was, he would argue, threaten, worry, demand, plead, work, and pester anyone and anything in his considerable reach, until he was satisfied that the matter had been disposed of. It might be civil rights. It might be interest rates, which today are treated as given from Godly writ—but which he knew were made and broken by men just like him. It might be education, or any one of a thousand things. Whatever it was, he believed the problem could be solved, and he intended to do it.

Compare that to the casual callousness of today, when human needs and human miseries are ignored, and when not only is no positive action taken, every effort is taken to destroy what little help people have available. He would never understand, would be terribly grieved, to see the sorry spectacle that we have today, in which misery is compounded, in which inequity is heaped upon unfairness, in which shameless dishonor is dismissed as practical politics. He would be horrified by policies that are nothing more than warmed over 19th century Darwinism, nothing less than callous disregard of even so basic a thing as providing for economic growth—far from it, policies that destroy even that possibility.

Lyndon Johnson reached farther than he could grasp, but he drove this country to its greatest heights. His programs were the most comprehensive, humane, and effective domestic efforts ever attempted. They were also the most effective. There is no way to describe the kind of new dreams that were not only made possible, but that were achieved, thanks to President Johnson's efforts. He could not understand, and would not tolerate, a government that was indifferent. It is a mercy that he never lived to see the indifference, the outright emptiness that characterizes the present occupant of the White House. A man who was a doer could never understand one whose sole mission seems to be to undo, do nothing, do deliberate and calculated harm.

I salute the memory and legacy of Lyndon Johnson. No man ever cared so much, dared so much, or did so much for his country. May his spirit endure, and may someday this country be blessed with another leader as bold, as caring, as great, and as determined as he was.●

COMPREHENSIVE COAL JOB COMPENSATION, PROTECTION, AND PROMOTION ACT OF 1982

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 60 minutes.

● Mr. **RAHALL.** Mr. Speaker, today I am introducing the Comprehensive Coal Job Compensation, Protection, and Promotion Act of 1982 in response to the growing number of the coal mining labor force who are now without a job. Across the Nation, mineworkers are being laid off with those who dig metallurgical coal used in steelmaking, finding themselves especially hard hit as steel imports continue to wreak havoc on our domestic economy.

In my congressional district alone, 20 percent of the coal labor force is unemployed. A large portion of the coal mined in southern West Virginia is used for steelmaking, and as the steel industry continues to feel the harsh brunt of unfair foreign competition in the form of subsidized dumping of steel imports a perverse application of trickle-down economics takes place. As steelworkers lose their jobs, coal miners lose their jobs. In a few counties in my district, up to 70 percent of the personal income is derived from the coal industry. Combine 20-percent unemployment figures with this level of dependency in the coal business and you have a formula for disaster.

While I realize the Department of Commerce is beginning to release the results of several antidumping investigations, the damage to the labor force has already been done and, short of drastic steps, can be expected to escalate. My bill seeks to address this problem by creating a trade adjustment assistance program which would provide trade readjustment allowances, training and job search and relocation allowances similar to those contained in the Trade Act of 1974 for impacted workers in the coal industry. Those workers who can show that steel imports contributed importantly to losing their jobs would be eligible for this program. Steelworkers, of which approximately 35 percent are now unemployed, would also be eligible for this program.

Mr. Speaker, this new trade adjustment assistance program for coal and steelworkers would not place an additional burden on the taxpayer because it would be funded by revenues equal to those obtained from tariffs the Customs Service collects on steel imports which would be deposited into a Steel and Coal Workers Adjustment Assistance Trust Fund. In 1981, for example, tariffs on steel imports amounted to $11.2 billion. I might add that not all this funding would even have to be appropriated because under the trade adjustment assistance program created under the 1974 Trade Act, only $1.636 billion was used in fiscal year 1980 for trade readustment allowances; and this figure was a great increase from the $259 million allocated in fiscal year 1979. However, the need for a new program for coal and steelworkers has become apparent due to the drastic reductions made in this area under the Omnibus Budget Reconciliation Act of 1981. In 1980, under the program as contained in the 1974 Trade Act, 562,000 workers were certified for assistance. In 1981, under the Reagan administration, only 23,687 workers were certified.

The practice of allocating specific amounts of funds quantitatively related to customs collections is not without precedent. Each fiscal year, an amount equal to 30 percent of the gross receipts from customs duties is used for the encouragement of exportation and domestic consumption of agricultural products. The Saltonstall-Kennedy Act requires the Secretary of Agriculture to transfer to the Secretary of Commerce an amount equal to 30 percent of the customs duties collected on fishery products. And, under the National Wool Act of 1954, an appropriation not to exceed 70 percent of the customs duties collected on wool products is provided to the Commodity Credit Corporation.

It only seems fair to me that if foreign imports are going to lead to unemployment figures as high as those being experienced in the coal and steel industries, then those responsible for those imports should be made to pay for this program to help American workers.

The trade readjustment allowance provided to eligible workers under this program would supplement State unemployment insurance and other earnings. If a worker has unemployment insurance the trade readjustment allowance declines by the full amount of the State-provided funds and any training allowances being received. The combined value of the net trade readjustment allowance, unemployment insurance, training allowances and other earnings may not exceed the lower 80 percent of the worker's average weekly wage or 130 percent of the average weekly manufacturing wage. If the worker has no earnings, unemployment insurance or training allowances, the weekly trade readjustment allowance equals the lower 70 percent of the worker's average weekly wage or the national average weekly manufacturing wage. These provisions are identical to those contained in the 1974 Trade Act before the 1981 changes.

With respect to the training provisions of this program, the major change made from the 1974 act is that training becomes an entitlement rather than left to the Secretary of Labor's discretion. The job search and relocation allowances are also being altered to $800 from $600 in order to reflect today's economic climate.

This legislation also would create a Coal Industry Full Employment Council under the Department of Labor. The Council would consist of 30 mem-

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bers; 10 from coal labor with the remaining representation being 5 members from coal producers, 5 from shippers and receivers of coal, 5 from banking and other financial institutions having a substantial interest in communities whose economies are based on coal, and 5 from civic organizations whose purposes include the promotion of regional and community economic development within coal producing areas. The purpose of the Council would be to further define the reasons behind growing coal industry unemployment and to make recommendations on how to alleviate the situation. The Council must consider ways to increase the production and use of coal from areas of high unemployment on both the domestic and export fronts. It must make yearly recommendations to the President and the Congress and its findings must be considered by Federal agencies with activities that impact the coal industry.

The final section of this legislation urges the President to enter into negotiations with countries which are major exporters of steel to this Nation for the purpose of establishing agreements where they will import U.S. coal in quantities equal to that used in the production of steel exported into this country. The Secretary of Commerce must also work through the Foreign Commercial Service to promote coal purchases from regions of this country with high-industry unemployment.

While the compensation, protection, and promotion provisions of this legislation will not solve all the reasons for high-coal industry unemployment, I believe they are a step in the right direction toward reducing the human suffering job loss creates. Coal miners are not looking for handouts; they are looking for a fair shake. At this time foreign trade policies are being unjust to the coal miner and this legislation proposes to place a measure of equity in the area of trade policy.●

SOCIAL SECURITY—CURRENT STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PICKLE) is recognized for 15 minutes.

● Mr. PICKLE. Mr. Speaker, this Friday the National Commission on Social Security Reform will hold its sixth meeting. A 15-member group announced by President Reagan last September 24 and appointed December 16 in an attempt to diffuse the political heat surrounding this issue, the Commission is due to report by December 31, 1982, but may report sooner if a "lameduck" session on social security materializes. The Commission has made no formal or informal decisions, but has discussed a variety of options for social security financing, primarily centered so far on the long-term problems facing the system.

Right now all focus is on the Commission. After the elections and after the Commission reports, all focus will return to the Congress, which must make the decisions on what to do or not do.

SHORT TERM

Current law will provide for payments from the large social security retirement fund only through June of 1983, and will provide for payments for that long only if the administration borrows enough funds from the medicare and disability funds in December of 1982 to carry benefit payments through June. By June of 1983, therefore, and possibly sooner, the Congress will have to complete some short-term action. Under legislation enacted on December 29, 1981 (Public Law 97-123), the large retirement fund will borrow up to $11 billion from the medicare and disability funds beginning this October in order to make benefit payments. The authority expires in December, but enough could be borrowed then to carry the fund for an additional 6 months.

The authority to interfund borrow could be extended further, but this action may not be universally acclaimed for the following reasons: First, it would further drain the medicare fund, which soon will experience its own difficulties. Second, projections of trust fund assets increasingly predict that interfund borrowing will not be sufficient to carry the retirement fund through the 1980's, making action beyond interfund borrowing inevitable anyway.

The question does remain, however, how long the funds could go solely by allowing the large retirement fund to continue borrowing from the medicare and disability funds. The President's midsession economic review altered the administration's official projections on this issue considerably. Under the midsession review assumptions of July 1982, interfund borrowing would carry the combined trust funds only until early 1984, putting these projections in line with the intermediate (II-B) projections of the 1982 trustees report. Pessimistic projections indicate the combined funds would be sufficient to pay benefits only until sometime in late 1983.

The tax and revenue bill, H.R. 4961, contains $2.879 billion in medicare spending reductions and $0.617 in new medicare revenue for fiscal 1983. These changes could extend the worth of interfund borrowing by 4 to 6 months, according to preliminary estimates, but no further.

Short-term options beyond interfund borrowing are few: First, speedup of the tax increases scheduled for later in the 1980's; second, sharp benefit reductions; third, reductions in the cost-of-living increase; and fourth, assistance from the general revenue.

Few have yet focused on the magnitude of the help needed, especially if a general revenue backup system of some sort is not used. The current system relies on having sufficient reserves in the trust funds to weather adverse economic conditions—or even normal business cycle ups and downs. As one moves 3, 4, 5, or more years into the future, higher reserves are needed because estimates are more likely to be off. To reach a 30-percent reserve in the combined trust funds by 1987, not an extravagant cushion by any means, would require $116 billion in additional resources—or cutbacks—for the funds by that time. Using a general revenue borrowing authority as a backup instead of trust fund reserves would cut this requirement by about in half but would raise deepfelt philosophical concerns. Any changes enacted in the medicare program in the tax bill or any other changes in subsequent legislation can be deducted from this requirement if the Congress chooses to do so, but the remaining task clearly is still huge. It is no wonder all sides share a reluctance to act.

SOCIAL SECURITY BENEFIT CUTS

Since 1980, through the budget process, benefit reductions have been enacted in social security and in medicare. The 1980 budget reconciliation credited 5 year savings of $6.892 billion in social security and medicare for fiscal years 1981-84.

In 1981, in the Gramm-Latta reconciliation bill, extensive reductions were enacted in social security and medicare, totaling $10.275 over the first 3 fiscal years—$8.324 in social security and $1.951 in medicare over fiscal years 1982, 1983, 1984. A later provision regarding payment of social security taxes on sick pay added $2.124 billion in revenue over the same timeframe.

The 1982 reconciliation proposals now before the House will add an additional $8.763 in medicare reductions and revenue in fiscal years 1983 and 1984.

Some may think that we will not need to do more, but we should not be misled.

These changes add up to over $28 billion in benefit reductions and revenue increases over 1981-84, yet trust fund projections for this same period have not improved. Economic hardship has taken revenue away from the trust funds and added expenses to the program faster than these changes could compensate for.

The current volatility of the trust funds and projections concerning them will require the most careful scrutiny by the Commission and the Congress. Clearly we would not want to enact further changes which will do nothing to insure the solvency of the program and which will do nothing to settle the fears and uncertainties on this issue for some time to come.

We have already lost 2 valuable years. Because we have delayed we now face the inevitable fact that we must rely on the Government directly or indirectly to provide assistance during the next few years to meet benefit payments. At this point I see little other alternative and all Members should be mindful of this cold fact.

TAX BILL

Although the tax and revenue bill, H.R. 4961, contains very little relating to the social security cash benefits program—the programs other than medicare—there are a few matters in this bill of interest and importance to social security.

INDEPENDENT CONTRACTORS

The bill provides that direct sellers and real estate agents will be classified as independent contractors and that the current moratorium and interim relief provision of section 530 of the Revenue Act of 1978 will be extended indefinitely. This provision will cost the social security trust funds between $75 millions and $100 million annually.

NO INCENTIVE TO END SOCIAL SECURITY COVERAGE UNDER HOSPITAL REIMBURSEMENT

The bill sets up a new target system of hospital reimbursement under the medicare program. In the conference, I added an amendment to this provision which would prevent any hospital from avoiding a penalty or earning a bonus if it reduces its costs by ending social security coverage for its employees. A growing number of nonprofit hospitals, who are in the social security program on a voluntary basis, have been terminating coverage for their employees. These employees, particularly nurses and low-paid hospital workers, most likely will never earn any pension rights under any replacement plan, even if one is offered. The amendment does not prevent a hospital from leaving the system if it so desires. But it will avoid rewarding the hospital for doing so.

PENSION REFORM

Under current law, a pension plan ostensibly has to provide equivalent benefits for low- and high-paid workers. However, provisions allowing pension benefits to be offset against social security benefits mean that lower paid workers can receive little or no pension above their social security. The bill requires these plans to provide a minimum pension beneift, so that lower paid workers have a guarantee of some actual pension benefit in addition to their social security.

At the insistence of the House conferees, two provisions of the Senate revenue bill affecting social security were dropped. First, a provision was dropped which would have allowed the Government to collect SSI overpayments by garnishing an individual's social security check. The fundamental purpose of social security was that it be available to the elderly by right, and that it not be something which can be used for debt collection by the mortgage bank, the doctor's office, the tax collector, or anyone else. This provision would have violated that fundamental principle upon which social security is based.

Second, the House conferees removed a loosely worded provision which would have reclassified home health workers as independent contractors. Many of these individuals clearly are employees and are best protected by remaining so.

Finally, H.R. 4961 will reduce benefit payments and increase revenues to the medicare trust funds by $15.688 billion over the next 3 fiscal years. As I have discussed above, this could be an important factor in the short-term decisions made regarding the retirement fund financing.

LONG TERM

Changes made in social security in the 1981 Gramm-Latta reconciliation reduced the long-term deficit faced in the retirement and disability funds combined from 1.82 percent of payroll to 1.65 percent of payroll. This figure is roughly equivalent to the combined employer/employee payroll tax it would be necessary to add to current tax schedules to put the system in actuarial balance. Changes in how the long-term deficits are estimated, however, have returned the long-term deficit to a 1.82-percent level. This is a 75-year projection, and clearly much can happen to change it between now and then. It is sometimes more helpful, therefore, to break this out into shorter, 25-year projections. Under the estimates made in the 1982 trustees report, the large retirement fund by itself will show deficits in all three 25-year periods: A small deficit of −0.21 percent of payroll in the first 25 years, but deficits of −2.23 percent in the second 25 years and −5.00 percent in the third 25 years. The smaller disability fund shows surpluses in all three periods. What this indicates is that the problems facing the retirement fund right now are caused by adverse and temporary economic conditions. Problems down the road have other causes.

The National Commission has discussed several areas of long-term reform, including changing the formula for cost-of-living increases, changing the basic benefit formula, raising the retirement age, altering the treatment of certain categories of beneficiaries, and so forth. There are many options here, and the Congress when it acts will face significant decisions on what social security will look like when the current beneficiaries' grandchildren take their turn.

DISABILITY

Members have been hard hit with casework stemming from the ongoing comprehensive review of the disability rolls. Current estimates are that about 70 percent of those whose benefits are terminated are not returning to the rolls, but appeal levels also are high and there is a 140,000-case backlog of appeals before the administrative law judges.

The Ways and Means Committee has reported legislation, H.R. 6181, which would provide extra benefits for these individuals while they appeal their cases and attempt to improve the process before a case reaches the ALJ level since a beneficiary may have to wait many months before an ALJ can hear his case.

Some ALJ's and lawyers who represent beneficiaries before ALJ's, however, raised objections to changes in the procedures and set off an emotional reaction which has spread to other groups. Mistrust of the Reagan administration and of the State agencies and social security offices has added to this problem.

It is of little use to extend benefits without devising a procedure that will humanely and quickly resolve any review case. Regardless of the problems we now face, I think that help should be extended and the process improved.●

A LOOK AT LONG-RANGE MIDDLE EAST QUESTIONS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DeNardis) is recognized for 30 minutes.

Mr. DeNARDIS. Mr. Speaker, I have asked for this special order today because I believe that as we approach the implementation of an evacuation plan for the Palestine Liberation Organization at the end of this week, we must look beyond with an American policy to deal with the vexing, long-range Middle East questions. As a result of the extraordinary leadership of President Reagan and Ambassador Habib, the United States has exerted positive and skillful leadership in bringing the war in Lebanon to an end. We now have a unique opportunity to move forcefully and creatively to the larger and more difficult questions. Toward that end, I have written the following letter to Secretary of State George P. Shultz.

Congress of the United States,
House of Representatives,
Washington, D.C., August 18, 1982.

Dear Mr. Secretary: Please accept my congratulations for the smooth and competent manner in which you have assumed the critically important position of Secretary of State. I have long admired your ability and performance in service to our country.

As a new member of Congress vitally interested in international affairs with an aca-

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demic background in the same, I am prompted by your solicitation of views from certain ranking members of Congras to respectfully offer you my own views on how to deal with long-range Middle East questions, such as the future of the Palestinians, once the crisis in Beirut is ended.

Last week, in remarks I made in the House of Representatives on the war in Lebanon—"Progress Toward Peace in the Middle East," August 11, 1982 p. H5626—I stated that "American policy should now reach beyond the immediate task of ending the Lebanon conflict to fulfill Palestinian settlement hopes."

My outlook is based on the premise that the pattern of events in the Middle East reflects more than random turbulence in the aftermath of the British and French empires. For over 30 years, the Soviet Union has sought control of this geopolitical nerve center by taking advantage of regional conflicts, especially between Arabs and Israel.

Since the early 1950's the Soviet Union has actively supported the major Arab wars against Israel, as well as guerrilla raids and terrorist attacks. The Palestine Liberation Organization—P.L.O.—was planned and established in the 1960's and has been heavily supported and influenced by the Soviet Union through the 1970's to the present. Through their alliance, they have been successful in focusing media and public opinion attention on the so-called "Palestinian question" as part of their propaganda campaign.

As difficult a political and human problem as this matter is, the real Palestinian problem bears no relation to the somewhat distorted version which is now held in many quarters. The result is that opinion is building to demand that Israel be more "flexible" and that the United States "force" Israel to acquiesce in the establishment of a third Palestinian state—an Arab state in the territories of Palestine generally known as the West Bank (including Jerusalem) and Gaza. It is expected that such a state would be under the control of the P.L.O.

The emergence of such a state, in my view, would weaken Israel, the strongest military power in the Middle East, and the most reliable ally of the West in area, by necessity and conviction. The campaign for such a state is irrational from the point of view of Western security interests.

The legal assumption behind this drive is that the territories in dispute are in some sense "Arab" territories held by Israel only as military occupant. But that premise is erroneous. The only possible geographic, demographic and political definition of Palestine is that of the Mandate as established by the League of Nations, which included what are now Israel and Jordan, as well as the West Bank and Gaza. The term "Palestinian" applies to all the peoples who live or have a right to live in the territory—Jews, Christians, and Muslims alike. Thus, the West Bank and Gaza are not "Arab" territories in the legal sense, but territories which have been recognised as belonging to Israel or to Jordan. Transjordan and Israel were established as states in 1946 and 1948, and were gradually recognized thereafter.

The controversy over the future of the West Bank and Gaza can be understood only as part of the history of the Palestine Mandate and the international law of Mandates which lies behind and informs the U.N. Security Council Resolutions purporting to govern the process of establishing peace between Israel and its neighbors.

In Palestine under this law, Israel and Jordan exist as states created out of the Mandate, and the West Bank and Gaza remain as unallocated parts of the Mandate. While it is true that Israel has established controversial settlements in the West Bank, they are not strictly speaking, illegal. Its right of settlement survived the end of the Mandate and undoubtedly will continue until Jordan and Israel settle what is essentially a territorial dispute between them, make peace, and divide the land in accordance with provisions of Security Council Resolution 242, which is based on the Mandate.

Legally, politically, and strategically, the obvious solution for the Palestinian problem is peace between Israel and Jordan. Such a settlement could take many forms. But it seems to me that a creative approach would establish definitive boundaries between Israel and Jordan, dividing the West Bank and perhaps making Gaza part of Jordan with the potential of giving it a port on the Mediterranean. Special arrangements would have to be made for Jerusalem—perhaps a borough system, as suggested by Mayor Teddy Kollek. Any plan for that city would have to take fully into account all the religious interests in that city.

I think it is important to emphasize that there is no foundation in international law for the idea of a second Arab Palestinian state in the West Bank and Gaza. It would be political and military folly for the West to force Israel to acquiesce in such a scheme. Establishing a new Arab state there would injure Western interests, and advance those of the Soviet Union, by strengthening the Soviet position in the region, and by increasing Arab dependence on Soviet protection. It would weaken Israel, which since the fall of the Shah of Iran, is the most important ally in the area.

The remaining question is whether pressure will be brought to bear on Jordan. Only Jordan and Israel can solve the Palestinian problem; they are the Palestinian states, and they speak for the Palestinian people. Jordan must be brought into the Camp David peace process immediately.

For Jordan and for many other small and vulnerable states of the region, the real issues are not legal, but political and military, and are linked to the question: Will the U.S. and its allies reestablish the system of world public order contemplated by the Charter of the United Nations, or will the Soviet Union succeed in its quest for dominance? In other words, who is going to prevail?

Mr. Secretary, the answer will determine not simply the Palestinian question, but even more importantly, the relevance of international law to international politics.

Thank you for your attention to these views. I look forward to the opportunity to discuss this issue with you soon.

Sincerely,

LAWRENCE J. DENARDIS,
Member of Congress.

SOVIET DAY OF SHAME

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, August 21 marks yet another anniversary of the unprovoked and unjustified invasion of Czechoslovakia by the Soviet Union. On this date, 14 years ago, Soviet military forces crossed over the borders of Czechoslovakia, crushing the reform-minded government of Alexander Dubcek, and attempting to suppress all efforts by citizens in that country to obtain freedom and liberty.

The Communists have tried to destroy the independence of the Czechoslovak sovereign state, and to deny its people the basic human right of self-determination. Nevertheless, the Soviets have been unable to completely eliminate the courageous spirit of the Czechoslovak people and their zealous opposition to Soviet domination. In January 1977, 242 heroic individuals demanded, in the Czechoslovak charter 1977, the restoration of their fundamental civil and political rights. Even though the Communists have responded with trials, prison terms, loss of employment, and denial of entrance into universities, this human rights group still survives today; and its members still choose to fight for their rights, rather than submit to their Communist oppressors.

On the anniversary of this Soviet Day of Shame, we pause to pay tribute to the brave men, women, and children of Czechoslovakia who must daily live under this brutality. We, as Americans, must renew our commitment to taking a strong stand in the defense of the rights of the Czechoslovak people their efforts to determine the course of their own destinies, free from Communist domination.

Mr. Speaker, a statement by the Czechoslovakia National Council of America located in Chicago, on the Soviet invasion of Czechoslovakia, and an article published in the New York Times on February 7, 1982, regarding the fifth anniversary of the charter 1977 human rights movement follows:

CZECHOSLOVAK NATIONAL
COUNCIL OF AMERICA,
Chicago, Ill., August 21, 1982.

FREEDOM IS INDIVISIBLE

On this sad occasion of the fourteenth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in

the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "the withdrawal of Soviet troops from Czechoslovakia."

[From the New York Times, Feb. 7, 1982]

CZECH HUMAN RIGHTS GROUP MARKS 5TH YEAR

VIENNA, Feb. 6 (Reuters)—The Czechoslovak Charter '77 human rights movement has celebrated its fifth anniversary.

Set up in January 1977 with 242 signatories who called for an exchange of views with the Government over human rights and urged the authorities to abide by their own laws, it has established itself as a factor in Czechoslovak society, although opinions on its significance vary.

However, hopes that it would develop into a large movement have faded. While it could boast a total of 800 signatories just six months after it was set up, in the intervening four and a half years it has managed to add only 400 to the list.

The Government's strong-arm tactics toward the group and divisions within its own ranks have insured that it has remained a tiny minority, though members say it has much more influence than its numbers suggest.

The authorities' constant pressure on the group has also stemmed its flow of documents, statements and appeals through a variety of underground channels from a high of 400 in its first year to a trickle in 1981.

Last September an offshoot of the rights group, the Committee for the Defense of the Unjustly Persecuted, said in a statement reaching Vienna that repression by the Prague authorities, who were worried by events in Poland, had become so severe that it might be forced to cease its activities.

Several leading members of the committee, which publicizes what it calls examples of Government abuse of power and violations of civil rights, are either in prison or subject to criminal proceedings. Eight others have been forced to emigrate.

The crackdown on this group, formed a year after the Charter '77 movement, followed the detention and expulsion last spring of two French citizens accused of trying to smuggle in émiginé literature and money for dissidents.

The movement marked its birthday last month by declaring that it was one of the realities of contemporary life and by announcing the latest in a long line of spokesmen, some of them once-prominent figures in political and cultural life.

One of the best known, former Foreign Minister Jiri Hajek, wrote to the public prosecutor last November to reject charges of subversion against him on the ground they were based on false evidence.

Last month the group issued statements condemning martial law in Poland and declaring support for the day of solidarity with the Polish people organized in several countries on Jan. 31.

The group was founded as the Charter '77 Civil Initiative two months after Czechoslovakia ratified and published international human rights conventions signed 10 years earlier.

Government reaction was swift. Signatories were pilloried as "political shipwrecks," many were subjected to police interrogation and some were arrested.

An anti-Charter '77 signature campaign was quickly organized, and there was a joke circulating that the millionth signatory would get a special prize—a look at the charter.

In October 1979 the Government moved against the group, putting six activists, including the playwright Vaclav Havel, on trial and sending them to prison for long terms.

The nucleus of the original signatories was formed by former members of the Communist Party who lost their positions in the so-called normalization process that followed the 1968 invasion of Czechoslovakia.

The broad spectrum of interests in the movement has been both its weakness—making consensus on Charter documents difficult—and its strength, since it can hardly be accused of being an organized political opposition.

Charter '77 signatories can expect to lose their jobs, forcing them into casual work, and their children are normally barred from going to universities.

During the past year, a debate has been going on in the group between those prepared to sacrifice their livelihoods and those arguing for a lower profile and broader base.●

OPPOSITION TO CONTINUED CONVERSION OF DUAL-STATUS TECHNICIAN UNDER DOD

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

● **Mr. FRANK.** Mr. Speaker, I would like to take this opportunity to voice my opposition to the continued conversion of the dual-status technician to full-time military personnel under the Department of Defense. Historically, this program has served a unique role in providing the Reserve Forces with qualified and mobilization-ready individuals who are fully prepared to take part in military action if the need arises. Those who take part in the program serve as civilian technicians in the military during the normal workweek and serve in the Reserves on weekends, receiving annual military training drills and other instruction necessary for remaining mobilization ready.

The test program to convert the civilian positions to full-time military personnel has been underway since 1978, and we have reached a point where a more permanent decision will be considered on the merits of the program. There has been lengthy study of this situation and it now appears that the benefits of the dual-status program heavily outweigh the detrimental and costly effects of a conversion to permanent military personnel. Primary among the failures of the conversion to full-time military personnel is cost.

There have been many studies on this subject and I would like to point to two which conclude that the conversion of the dual-status technician program will result in either no cost savings whatsoever or it will result in an actual increase in costs. The first study, prepared by Management Consultants and Research, determined that no savings would result from this conversion.

The second study, conducted by the American Federation of Government Employees, concluded that there will be an increase of $1.8 million in costs over the amount now spent on civilian technicians in the 514th Military Airlift Wing. I should point out that this represents only a small part of the overall civilian technician force. In fact, there are six wings in the Military Airlift Command which would result in an increase of $12.1 million dollars for this portion of the dual-status program. Furthermore, this estimate for the increase in costs covers only one of four components of the dual-status program.

Mr. Speaker, it appears that the Department of Defense is creating unnecessary havoc in a program which is operating in a fiscally efficient manner. The benefits of eliminating the program are difficult to discern. There will be increased salary costs, retirement benefits, and other privileges accorded to full military personnel which will drive up the cost of maintaining the functions which are currently performed by the civilian technicians. At a time when the taxpayers are being asked to tighten their belts and to make significant sacrifices, it is incomprehensible how the Department of Defense can continue with this conversion process.

Mr. Speaker, I call on my colleagues on the House Appropriations Subcommittee on Defense to terminate this conversion program and to direct our cost-saving efforts into other areas of the defense budget in which tangible results can be achieved without making hard-working American citizens bear the brunt of an ill-conceived plan to eliminate the dual-status program.●

LET'S CUT FRAUD AND ABUSE INSTEAD OF CUTTING THE MOST NEEDY

The **SPEAKER** pro tempore. Under a previous order of the House, the gen-

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tleman from Michigan (Mr. CROCKETT) is recognized for 5 minutes.

● Mr. CROCKETT. Mr. Speaker, I recently received an extraordinary communication from my constituents—a scroll, signed by more than 1,500 people, asking this Congress to cease cutting services to the needy, and to instead seek to cut Federal spending by ending the waste, fraud, and abuse in military spending. These people are deeply concerned, Mr. Speaker, about the economic situation in our community and in our country. They see the callousness of this administration being reflected in the outrageous defense budget; in the unwarranted tax cuts of last year; in the inequities of the tax increase we will debate tomorrow; and in the general tenor of the Reagan administration's approach to the needs of the poor.

Mr. Speaker, I only wish there were time in this body to read to you the names of each of the individuals who signed this petition. Perhaps then my colleagues would have some understanding of the depth of feeling in my district, and in others around this country, for the damage being done. As my constituents say in their scroll: "Why not cut the fraud and abuse, instead of cutting the most needy?"

Why not, indeed?●

LEGISLATION DIRECTING DEVELOPMENT AID TO BE TARGETED TO THOSE IN ABSOLUTE POVERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, I am pleased to introduce, along with Congressman PAUL SIMON and others, legislation which directs that at least 50 percent of our development aid be targeted to projects which directly benefit those who live in absolute poverty.

The World Bank defines absolute poverty as "an income level below which a person cannot afford a minimal nutritionally adequate diet plus essential nonfood items." This contrasts with the somewhat better-off "relatively poor" who are identified by the World Bank as those people with an income of less than one-third of the national average. I quote these definitions to give some perspective on how poor "absolutely poor" is. It is estimated that 800 million people, or 40 percent of people in developing nations, live in absolute poverty.

Our fiscal year 1983 development aid budget is expected to be $1.4 billion—this compares with $2.6 billion that we will spend on the economic support fund and $1.4 billion which will be channeled through international institutions, neither of which require that the money be spent on programs that directly serve the needs of the poor. And even though AID's primary mission in administering development aid is to help the poor become more productive, a survey of development aid projects shows that only about one-quarter of the money for this program is currently being used in projects that directly benefit the absolutely and relatively poor. Examples of development aid projects that do not directly benefit the poor are $722,000 to Sierra Leone to collect taxes, $5.6 million for the Government of Mauritania to improve its administrative procedures, electrification in the Philippines where poor people cannot afford to get their houses wired or buy electrical appliances, $5 million for training of Haitian Government officials, aid to medium size Jamaican businesses for purchase of machinery and equipment, and assistance to the interisland shipping project in the Caribbean to improve cargo traffic.

Our bill simply directs that we spend about $700 million, or 9 percent out of our $6 billion nonmilitary foreign aid budget, on programs that directly benefit the poorest people in the world. The only criticism I would hope to hear of this legislation is that it is not a big enough proportion of our budget to be so directed.

I was struck by a 1980 market opinion research poll which showed that 80 percent of Americans believe we should spend more money, or at least not decrease the amount of money, for alleviating hunger. But the same poll also showed that 60 percent feel we should cut foreign aid. And this attitude held by American citizens is reflected in another statistic—the U.S. ranks very low in relation to our GNP in official development aid assistance, but Americans rank second in relation to GNP in donations to private assistance organizations.

It is no wonder, upon doing any analysis of our foreign aid, including food aid, that people do not perceive a direct relationship between the elimination of poverty and hunger, and foreign aid expenditures. The report from the House Appropriations Committee on the fiscal year 1982 foreign assistance bill says, "Despite the new directions legislation and repeated encouragement by this committee, AID has to a large extent been unable to deliver foreign assistance in a manner which involves the poor in the development process." Our economic support fund money goes mainly to Israel and Egypt for balance of payment and other nonpoverty-oriented things. Our food for peace program is generally governed by political considerations, both foreign and domestic, with food currently going to nations such as Egypt and Indonesia, rather than to countries and people with the most need—there are, however, some reform efforts taking place in the food for peace program. And our foreign aid budget also includes $1.4 billion for concessional arms sales to Israel, Egypt, and 14 other nations—the administration's fiscal year 1983 request for this program is $1.9 billion. Some of the arms sales go to repressive governments which are obviously not committed to alleviating poverty and hunger among even their own citizens.

And so I feel this legislation, by directing our development aid to those who most need it, is very much in line with what Americans feel the Government should be doing. We have certainly had, and have, some development aid projects that directly benefit those living in absolute poverty—community water systems in Kenya, credit for small business cooperatives in Upper Volta, public health training for villagers in Cameroon, irrigation for small farm development in Guyana. These are not dead-end efforts, but rather are ones which will improve peoples' ability to provide their own basic needs. With population projections of 4.8 billion people in the developing world by the year 2000, the ability to provide ones own basic needs must be the goal of our development aid. There is no reason why we cannot, even without increasing our development aid budget, assist more people out of poverty and into self-sufficiency. I urge my colleagues to support this legislation, and include for the RECORD a copy of the legislation below:

In carrying out chapter 1 of part 1 of the Foreign Assistance Act of 1961 the President—

(1) In fiscal year 1983 shall attempt to use not less than 40 percent of the funds made available to carry out this chapter, and

(2) In fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 percent of the funds made available to carry out this chapter

To finance productive facilities, goods and services which will expeditiously and directly benefit those living in absolute poverty as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association. Such facilities, goods and services may include, for example, irrigation facilities, extension services, and credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, foods and services shall not include studies, reports, technical advice, consulting services or any other items unless

(1) They are used primarily by those living in absolute poverty themselves, or

(2) They constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty.

Research shall not constitute the major part of such facilities, goods and services.●

REUBIN O'D. ASKEW PROPOSES A NATIONAL SERVICE PROGRAM FOR THE NATION'S YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL), is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, recently the former Governor of Florida, Reubin O'D. Askew delivered an address to the national convention of the Delta Tau Delta Fraternity in St. Louis, Mo.

In his remarks, Governor Askew proposed a program of national service for the Nation's youth which seems to me to make a great deal of sense. His proposal would not only provide needed direction and sense of purpose for our young people, but would result in badly needed services for other segments of our society, particularly in areas which are now being most severely impacted by Federal budget cuts.

I commend the Governor's remarks to our colleagues:

The material follows:

EXCERPTS FROM AN ADDRESS BY REUBIN O'D. ASKEW TO THE NATIONAL CONVENTION OF THE DELTA TAU DELTA FRATERNITY IN ST. LOUIS, MO. ON AUGUST 14, 1982

The world is not as simple today as it seemed when I was young. It is not always easy now for young people to find the opportunities they seek for service to their country. It is not always easy now for them to define their responsibilities to their country, much less to fulfill them.

Young people today face temptations we never faced. They see obstacles we never saw. They have doubts we never had. This is a different world, a much harder world in which to grow up, a much harder world in which to define personal responsibility, a much harder world in which to tell right from wrong.

In this changed world, youth unemployment has reached staggering levels, especially for minorities in the inner cities. Crime and vandalism by young people have increased. Political apathy among young people is widespread. Alcohol and drug use by young people are at disturbing levels. The suicide rate among young people has doubled in the past 20 years.

All this has occurred, not because young people have ceased to care, but rather because they have been left to drift in a confusing world which seems sometimes not to care for them.

This alienation, this aimlessness, this waste of young lives is tragic. And it is tragic most of all because much of it could be avoided. It could be avoided if we found a way to engage young people once again in shaping their own futures by helping to shape the future of this Nation.

Recent polls reveal that today's young people have been misnamed the "me generation." They are not really self-centered at all. In fact, fully one-third of them told Gallup pollsters they would like to go into social services as a career. George Gallup himself called this "an incredible finding."

To me, it is not incredible at all. I have visited every one of the 50 States in our Union this year. I have returned to a number of those States several times. I have spoken with young men and young women throughout America. And I can say with confidence:

Young people today are willing to serve. They want to help others. They want to give something back to a country which has given so much to them. In many instances, they lack only the opportunity to do so.

I believe we should consider providing that opportunity for young people through a comprehensive and affordable program of national service. In this way, we could tap the resources of youth by giving young Americans a chance to participate in the great unfinished work of our democracy.

Such a program should be available to both young men and young women alike. It should provide opportunities for both military and non-military service. And it should allow for some flexibility to accommodate individual needs and desires.

Through national service, we could revive the sense of community that has sometimes seemed diminished in recent years in our national life. Through national service, we could provide the sense of direction, the sense of purpose, the sense of accomplishment, and, perhaps most of all, the sense of belonging that so many young people long for in America. Through national service, we could help fulfill the deep sense of obligation which is evident among the young people I meet every day.

I recall the sense of obligation I felt upon graduating from high school in 1946 and joining the Army paratroopers at the age of 17. Many of us felt that obligation to our country then. And many young Americans feel it just as fervently now.

This obligation could be met in many ways through national service. By defending our country. By rebuilding our neighborhoods and cities. By protecting our environment. By working with the retarded and the handicapped. By caring for children in schools and day care centers and for the elderly in hospitals and nursing homes. By representing America overseas in a revitalized Peace Corps. In these and numerous other ways, young men and young women could serve America, and, in so doing, could give added meaning to their individual lives.●

A BILL TO ASSIST MEALS ON WHEELS OF MONTEREY COUNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation designed to assist the Meals on Wheels organization of Monterey County in California. This organization, which has dispensed nutritional services to homebound senior citizens in Monterey County for 10 years, has, because of incorrect tax advice, found itself owing the Internal Revenue Service some $33,000 in back FICA taxes. Because this was completely unintentional, and because Meals on Wheels will probably have to close down if it is forced to make this payment, I am introducing this bill to relieve the organization of its debt to the IRS and to provide it with the FICA tax exemption that is normally available to nonprofit organizations.

Under current law, a nonprofit organization such as Meals on Wheels has the option to declare whether or not its employees will participate in the social security system. If there is an election to participate, the organization is obligated to withhold the employees' share of the FICA tax as well as to pay its own share of the tax.

When the organization was founded in 1972, it apparently filed a waiver of its exemption for participation and paid taxes on some employees through 1975. However, around that time, Meals on Wheels hired a new accountant, who mistakenly informed the organization that it was exempt from social security texes. At that point, Meals on Wheels stopped reporting and withholding for FICA taxes, and no payment has been made to the IRS for FICA taxes since that time.

The Internal Revenue Service now proposes to assess Meals on Wheels for FICA taxes from 1976 on, an amount which stands at more than $33,000 and which, naturally, continues to rise. As my colleagues are well aware, an obligation of that size is beyond the capacity of the average Meals on Wheels program to pay.

The law permits an organization to apply for a reinstatement of its exemption from FICA taxes with 2 years' advance notice if the waiver has been in effect for 8 years. But even if Meals on Wheels were granted an exemption now, it would still owe the same amount of money in back taxes.

I do not subscribe to the argument that any taxpayer who receives incorrect tax advice from a private source should not be obligated to pay for mistakes based on that bad advice. However, this is a unique case. Meals on Wheels is a charitable organization which provides vital assistance to homebound senior citizens. It could have, had it chosen, avoided obligation for these tax payments, and it will almost certainly have to shut down if it does not receive an exemption. I believe the Congress would be fully justified in relieving Meals on Wheels of Monterey County of any obligation for the past FICA tax payments and providing it with the exemption to which it is entitled as a nonprofit organization.

My bill provides that exemption and relieves the organization of its FICA tax obligation. It is my hope that we can act swiftly on this measure to end any doubt about the status of this important community organization.

Mr. Speaker, at this point in the RECORD I would like to insert the text of my bill:

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H.R. 7018

A bill for the relief of Meals on Wheels of the Monterey Peninsula, Inc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) with respect to service performed in its employ after 1975, Meals on Wheels of the Monterey Peninsula, Inc., shall not be considered to have filed (under section 3121(k)(1) of the Internal Revenue Code of 1954) or to have filed constructively (under section 3121(k) (4) or (5) of such Code) a certificate waiving its exemption from payment of taxes imposed by chapter 21 of such Code.

(b) Meals on Wheels of the Monterey Peninsula, Inc., and any individual in its employ before the date of the enactment of this Act are relieved of all liability to the United States for the payment of unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1954 (and any interest or penalty assessed or accrued on such taxes) with respect to service performed in the employ of Meals on Wheels of the Monterey Peninsula, Inc., before such date.●

THE CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982

(Mr. ALBOSTA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBOSTA. Mr. Speaker, today I am introducing the Crime Control and Victims' Compensation Act of 1982.

This legislation addresses several basic problems in the criminal justice system by providing a sure sentence for certain types of serious offenders; by providing that these offenders work to pay for their keep and to compensate their victims for the harm they have suffered; and by helping States to care for victims of crimes not specifically covered in this bill.

We hear over and over about crimes committed by repeat offenders who are out on parole or released after light sentences. We hear that this is due in part to a lack of prison space and in part to a lack of clear and direct guidance from those who write the laws. We also know that the poor and the elderly, those who can least afford to be victims of crime, are its most frequent victims. The impact of crime is not just local and not just personal. Crime raises insurance rates and the prices of goods for all of us. It raises the overall costs of government at every level. The longer we fail to deal with serious and repeating offenders, the more they are encouraged to strike again. Yet it is not enough just to lock the door and throw away the key. Unless we provide for the innocent victims of crime then justice is not done even if we punish for past crimes and prevent future crimes.

In light of these concerns and the increasingly interstate nature of crime and its impact, I believe it is time for the Congress to take the initiative. The Crime Control and Victims' Compensation Act would create a Federal Mandatory life sentence for three of the most serious classes of offenders. These are: Persons who commit first degree murder with a weapon; those who commit three felonies while carrying a gun; and those who sell $500 or more worth of controlled substances. This sentence would be applied to those who violate either State or Federal law.

The bill requires that these offenders work to pay for their keep and to compensate victims. A recent poll of my district shows that of those responding, 93 percent favor requiring criminals to pay back victims of crime and to perform public service jobs.

In order to provide facilities for housing and employing these prisoners, my bill authorizes the Attorney General to issue bonds to pay for any construction needed. This section completes title I, concerning Federal prisons and criminal law.

Title II was approved by the Judiciary Committee of the House in February 1980. It provides grants to States with programs to compensate victims. This would cover most crimes not covered by title I.

This is a criminal justice bill that offers greater protection for every citizen. A summary and a section-by-section review follow:

CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982—SUMMARY

In light of the fact that serious and repeated offenses have an impact on every sector of society, including interstate commerce, through increased insurance rates, public health expenditures, judicial time and expense, and the general mental and physical well-being of the victims, the community, and the nation, I have drafted legislation to correct some of the most basic problems in our criminal justice system.

The key elements of my bill are provisions to:

(1) Sentence 1st Degree murderers and certain 3-time felons to life imprisonment without parole;

(2) Compensate victims or their families for harm done; and

(3) Make the guilty persons work to pay for their keep and for victims' compensation.

SECTION-BY-SECTION SUMMARY

TITLE I—FEDERAL SENTENCES

Sec. 101. Whoever commits a homicide with a weapon, if that homicide is punishable by life imprisonment under state or Federal law, then that person shall be subject to a mandatory life sentence in a Federal prison without parole.

Sec. 102. Whoever carries a firearm while committing each of three felonies shall be imprisoned for life in Federal prison without parole.

Sec. 103. Whoever sells on three or more occasions $500 worth of controlled substances shall be imprisoned for life without parole.

Sec. 104(a). Each person imprisoned under the terms of this Act shall be employed for pay with half of the pay going to the victim(s), and half going to cover the costs of imprisoning the offender. After the victims are compensated, that half of the prisoner's pay shall be deposited in a fund to compensate victims who would otherwise not be compensated.

(b). The Attorney General is authorized to issue bonds to finance the construction of facilities necessary to provide suitable employment for convicted persons.

TITLE II—VICTIM COMPENSATION

Sec. 201. This Title may be cited as the "Victims of Crime Act of 1982".

Sec. 202. The Attorney General shall make annual grants to states with qualifying programs for compensation of victims of crime.

Sec. 203. There is established an Advisory Committee of state officials appointed by the Attorney General which shall advise the Attorney General with respect to the compensation of victims.

Sec. 204. Criteria for qualifying for grants.—State programs must include the following:

(1) Compensation for personal injury or death;

(2) Applicant victims must cooperate with the law; enforcement authorities with respect to the crime;

(3) Conviction is not necessary for compensation from the fund;

(4) Proceeds from books or interviews about the crime are deposited in compensation fund until victim is compensated.

Sec. 205. Federal Grants limited to actual cost of compensation for injuries or death and directly related expenses.

Sec. 206. Attorney General to report on progress of program to Congress.

Sec. 207. Definitions.

Sec. 208. Authorizes 15, 25, and 35 million dollars for grants to states over the next three years.

LEAVE OF ABSENCE

By unanimous consent, leave of absense was granted to:

Mr. Chappell, in his own behalf for August 18, on account of business in his district.

Mr. Young of Florida for today prior to 11:15 a.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Brown of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. DeNardis, for 30 minutes.

Mr. Dornan of California, for 15 minutes, today.

(The following Members (at the request of Mr. Hertel) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Mica, for 60 minutes, today.

Mr. Frank, for 5 minutes, today.

Mr. Crockett, for 5 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Fascell, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr Hansen of Idaho, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,190.

(The following Members (at the request of Mr. Brown of Colorado) and to include extraneous matter:)

Mr. Broomfield in two instances.
Mr. McKinney.
Mr. Shumway.
Mr. Weber of Ohio.
Mr. Coughlin.
Mr. Lowery of California.
Mr. Erdahl.
Mr. Porter.
Mrs. Martin of Illinois.
Mr. Daub.
Mr. Derwinski in three instances.
Mr. LeBoutillier.
Mr. Green.
Mr. Smith of New Jersey in three instances.
Mr. Philip M. Crane.
Mr. Collins of Texas in two instances.
Mr. Corcoran.
Mr. James K. Coyne in two instances.
Mr. Wolf.

(The following Members (at the request of Mr. Hertel) and to include extraneous matter:)

Mr. Fuqua in five instances.
Mr. Rangel in two instances.
Mr. Crockett.
Mr. Moffett.
Mr. Albosta.
Mr. Fauntroy.
Mr. McHugh.
Mr. Simon.
Mr. Corrada.
Mr. Hamilton.
Mr. Schumer.
Mr. Skelton.
Mr. Studds.
Mr. Udall.
Mr. Mazzoli.
Mr. Dorgan of North Dakota.
Mr. Peyser.
Mr. Wyden.
Mr. Rosenthal.
Mr. Stark in three instances.
Mr. McDonald in two instances.
Mr. AuCoin.
Mr. Guarini in two instances.
Mr. Williams of Montana.
Mr. Markey.
Mr. Kastenmeier.
Mr. Obey.
Mr. Fazio.
Mr. Lehman.
Mr. Frank.

(The following Members (at the request of Mr. Hertel) and to include extraneous matter:)

Mr. Hubbard.
Mr. Bonker in two instances.
Mr. Traxler.
Mr. Foley.
Mr. Pease.
Mr. Nichols.
Mr. Swift.
Mr. Zablocki.
Ms. Oakar.

ADJOURNMENT

Mr. ALBOSTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, August 19, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4610. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of transfers of funds appropriated to the Department of Defense, pursuant to section 733 of Public Law 97-114; to the Committee on Appropriations.

4611. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Spain (Transmittal No. 82-34), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4612. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Spain (Transmittal No. 82-34), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4613. A letter from the Executive Director, National Advisory Committee on Oceans and Atmosphere, transmitting a report on fisheries for the future, pursuant to section 4 of Public Law 95-63; to the Committee on Merchant Marine and Fisheries.

4614. A letter from the Director, National Science Foundation, transmitting the report on "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1980," pursuant to National Science Foundation Act of 1950, as amended; to the Committee on Science and Technology.

4615. A letter from the Comptroller General of the United States, transmitting a report on the Federal laws and the regulatory supervision for approving bank mergers, pursuant to the Federal Banking Agency Audit Act (31 U.S.C. 67), (GAO/GGD-82-53, August 16, 1982); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

4616. A letter from the Administrator, National Oceanic and Atmospheric Administration, transmitting the report on the 5-year deep seabed mining environmental plan for the years 1981-85, pursuant to section 109 of Public Law 96-283; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Science and Technology, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6838. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982 (Rept. No. 97-762). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 569. Resolution providing for the consideration of the conference report on H.R. 4961, to make miscellaneous changes in the tax laws, and for other purposes (Rept. No. 97-763). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 562. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982; with an amendment (Rept. No. 97-764). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FUQUA: Committee on Science and Technology. H.R. 4281. A bill entitled "Critical Materials Act of 1981"; with amendments; referred to the Committee on Armed Services for a period ending not later than September 22, 1982, for consideration of such portions of the bill and amendment as fall within its jurisdiction pursuant to clause 1(c), rule X (Rept. No. 97-761, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 7001. A bill to amend title 18 of the United States Code to provide additional penalties for certain criminal conduct, to provide assistance to State programs of compensation for crime victims, and for other purposes; to the Committee on the Judiciary.

By Mrs. ASHBROOK:

H.R. 7002. A bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes; to the Committee on the Judiciary.

By Mr. CONTE (for himself, Mr. Boland, Mr. Early, Mr. Frank, Mr. Shannon, Mr. Mavroules, Mr. Markey, Mr. Moakley, Mrs. Heckler, Mr. Donnelly, Mr. Studds, Mrs. Kennelly, Mr. Gejdenson, Mr. DeNardis, Mr. McKinney, Mr. Ratchford, Mr. D'Amours, Mr. Gregg, Mr. Jeffords, and Mr. Moffett):

H.R. 7003. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the resto-

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ration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on Merchant Marine and Fisheries.

By Mr. EDGAR (for himself and Mr. Wolpe):

H.R. 7004. A bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. FAZIO:

H.R. 7005. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture.

By Ms. FIEDLER:

H.R. 7006. A bill to amend the Trade Act of 1974 to provide for congressional initiation of actions to respond to unfair foreign trade practices, and for other purposes; to the Committee on Ways and Means.

H.R. 7007. A bill to amend the Internal Revenue Code of 1954 to extend the credit for the employment of certain new employees, to include as a targeted group for purposes of such credit certain individuals who have exhausted their rights to unemployment benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 7008. A bill to clarify the taxation of cooperative apartments; to the Committee on Ways and Means.

H.R. 7009. A bill entitled: "The Cooperative Apartment Tax Act"; to the Committee on Ways and Means.

By Mr. LeBOUTILLIER:

H.R. 7010. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; jointly, to the Committees on the Judiciary and the Permanent Select Committee on Intelligence.

By: Mr. LONG of Maryland:

H.R. 7011. A bill to prohibit U.S. Government financial assistance and exports of agricultural commodities and high technology to Soviet bloc countries, to require the United States to oppose assistance by the World Bank and International Monetary Fund to Communist bloc countries, and to require approval and justification for extensions of credit by banks to Communist bloc countries, until there is an agreement between the United States and the Soviet bloc countries on stabilizing nuclear and conventional arms; jointly, to the committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. SIMON:

H.R. 7012. A bill to amend chapter 1 of the Foreign Assistance Act of 1961 to provide that no less than 50 percent of the funds made available through this chapter shall directly benefit those living in absolute poverty; to the Committee on Foreign Affairs.

By Mr. SWIFT (for himself, Mr. Foley, Mr. Annunzio, Mr. Stokes, Mr. Ottinger, Mr. Horton, Mr. Forsythe, and Mr. Tauke):

H.R. 7013. A bill to promote fairness and equity in used motor vehicle sales by permitting buyers to return the vehicles to dealers from whom the vehicles are purchased within 3 days after the date of purchase; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself, Mr. Aspin, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mr. Bonior of Michigan, Mr. Bonker, Mr. Coelho, Mrs. Collins of Illinois, Mr. Dellums, Mr. Dingell, Mr. Donnelly, Mr. Downey, Mr. Edgar, Mr. Fazio, Ms. Ferraro, Mr. Fithian, Mr. Flippo, Mr. Florio, Mr. Fowler, Mr. Frank, Mr. Frost, Mr. Gejdenson, Mr. Gephart, Mr. Gibbons, Mr. Glickman, Mr. Gore, Mr. Gray, Mr. Sam B. Hall, Jr. Mr. Hance, Mr. Hefner, Mr. Holland, Mr. Hoyer, Mr. Hughes, Mr. Jones of Oklahoma, Mr. Kogovsek, Mr. Leath of Texas, Mr. Leland, Mr. Long of Louisiana, Mr. McHugh, Mr. Markey, Mr. Mattox, Mr. Mottl, Mr. Mineta, Mr. Nelson, Mr. Oberstar, Mr. Obey, Mr. Ottinger, Mr. Panetta, Mr. Perkins, Mr. Ratchford, Mr. Rose, Mr. Sabo, Mr. Scheuer, Mr. Sharp, Mr. Stark, Mr. Stenholm, Mr. Swift, Mr. Synar, Mr. Walgren, Mr. Watkins, Mr. Waxman, Mr. Weiss, Mr. Wolpe, and Mr. Wyden):

H.R. 7014. A bill to establish a Commission on Capital Markets to evaluate Federal and State regulation of financial and investment institutions and other financial intermediaries, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. BEARD (for himself, Mr. LeBoutillier, Mr. Nelligan, Mr. Montgomery, Mr. Derwinski, Mr. Emery, and Mr. Robinson):

H.R. 7015. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to minimize the release of sensitive U.S. technology with military applications while improving the efficiency of export regulation, and for other purposes; to the Committee of Foreign Affairs.

By Mr. SAM B. HALL, JR.:

H.R. 7016. A bill to amend sections 2733, 2734, and 2736 of title 10, United States Code, and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 7017. A bill to amend the Trade Act of 1974 regarding the trade adjustment assistance available to iron and steel workers and certain coal miners, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. GREGG (for himself, Mr. Stump, Mr. Natcher, and Mr. Horton):

H.J. Res. 583. Joint resolution designating the week of October 10 through October 16, 1982, as "Freedom Week USA"; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK:

H.J. Res 584. Joint resolution designating October 5, 1982, as "Raoul Wallenberg Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE (for himself, Mr. Solomon, Mr. Rousselot, Mr. Hartnett, Mr. Lee, Mr. Craig, Mr. Paul, Mr. Shuster, Mr. Walker, Mr. Smith of Oregon, Mr. Dannemeyer, Mr. Carney, Mr. Stump, Mr. Livingston, Mr. Jeffries, Mr. McDonald, Mr. Daniel B. Crane, Mr. Badham, Mr. Philip M. Crane, Mr. Hunter, and Mr. Young of Alaska):

H. Res. 570. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to the People's Republic of China; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. PANETTA introduced a bill (H.R. 7018) for the relief of Meals on Wheels of the Monterey Peninsula, Inc.; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. Evans of Delaware.

H.R. 65: Mr. Long of Maryland and Mr. Lantos.

H.R. 1331: Mr. Simon and Mr. Marriott.

H.R. 2954: Mr. Wright.

H.R. 3021: Mr. Chappell.

H.R. 3172: Mr. Frenzel.

H.R. 3268: Mr. Patman.

H.R. 4059: Mr. Tauke.

H.R. 4427: Mr. Trible.

H.R. 4535: Mr. Mineta.

H.R. 4572: Mr. Wright and Mr. Rogers.

H.R. 5044: Mr. Matsui and Mr. Zeferetti.

H.R. 5045: Mr. Matsui.

H.R. 5046: Mr. Matsui and Mr. Zeferetti.

H.R. 5047: Mr. Matsui.

H.R. 5048: Mr. Matsui.

H.R. 5507: Mr. Gunderson, Mr. Courter, Mr. Kramer, and Mr. Traxler.

H.R. 5738: Mr. McHugh and Mr. Mineta.

H.R. 5797: Mr. Weaver.

H.R. 5897: Mr. Barnard, Mr. Bonker, Mr. Brinkley, Mr. Campbell, Mr. Chappell, Mr. Chappie, Mr. de la Garza, Mr. Derrick, Mr. Derwinski, Mr. Erlenborn, Mr. Evans of Georgia, Mr. Fazio, Mr. Fowler, Mr. Fuqua, Mr. Gibbons, Mr. Gingrich, Mr. Ginn, Mr. Hartnett, Mr. Hatcher, Mr. Hefner, Mr. Hutto, Mr. Jenkins, Mr. Lantos, Mr. Marriott, Mr. Mitchell of Maryland, Mr. Murphy, Mr. Napier, Mr. Nelson, Mr. Rose, Mr. Sunia, Mr. Whitley, Mr. Wilson, and Mr. Zablocki.

H.R. 5950: Mr. Mineta.

H.R. 6009: Mr. Parris.

H.R. 6048: Mr. Schumer, and Mr. Solomon.

H.R. 6077: Mr. Hall of Ohio, Mr. Sabo, Mr. Ertel, Mr. Donnelly, Mr. Mottl, and Mr. Martinez.

H.R. 6124: Mr. Guarini.

H.R. 6170: Mr. AuCoin, and Mr. Bennett.

H.R. 6202: Mr. Akaka, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Bingham, Mr. Brodhead, Mr. Brown of California, Mr. John L. Burton, Mr. Phillip Burton, Mrs. Collins of Illinois, Mr. Conyers, Mr. D'Amours, Mr. Dellums, Mr. Downey, Mr. Dwyer, Mr. Dymally, Mr. Edgar, Mr. Edwards of California, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Frank, Mr. Gejdenson, Mr. Gray, Mr. Harkin, Mr. Horton, Mr. Hughes, Mr. Jeffords, Mr. Kastenmeier, Mr. Leland, Mr. McCollum, Mr. McHugh, Mr. McKinney, Mr. Markey, Mr. Matsui, Mr. Mineta, Mr. Mollohan, Mr. Oberstar, Mr. Panetta, Mr. Pepper, Mr. Ratchford, Mr. Richmond, Mr. Rodino, Mr. Rosenthal, Mr. Roth, Mr. Roybal, Mr. Sabo, Mr. Scheuer, Mrs. Schneider, Mr. Seiberling, Mr. Sharp, Mr. Shaw, Mrs. Snowe, Mr. Stark, Mr. Studds, Mr. Sunia, Mr. Swift, Mr. Synar, Mr. Traxler, Mr. Udall, Mr. Washington, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Williams of Montana, Mr. Wirth, Mr. Wolpe, Mr. Wyden, Mr. Young of Florida, and Mr. Zablocki.

H.R. 6321: Mr. Courter.

H.R. 6429: Mr. Lowry of Washington.

H.R. 6467: Mrs. Kennelly, Mr. Donnelly, Mr. Bowen, Mr. Moffett, Mr. Simon, Mr. Regula, Mr. Gaydos, Mr. Shaw, Mr. Emerson, Mr. McCurdy, Mr. Ford of Tennessee, Mr. Evans of Indiana, Mr. Hillis, and Mr. Shannon.

H.R. 6526: Mr. Applegate.

H.R. 6527: Mr. Applegate.

H.R. 6676: Mr. Won Pat, Mr. Markey, Mr. Corrada, Mr. Mottl, Mr. Stokes, Mr. Addabbo, Mr. Dougherty, Mr. Beard, Mr. Frost, Mr. Edgar, Mr. Sunia, Ms. Mikulski, Mr. Hughes, Mr. Dan Daniel, Mr. Conyers, Mr. Mitchell of Maryland, and Mr. Santini.

H.R. 6767: Mr. Roe, Mr. Dunn, Mr. Corrada, Mr. Davis, Mr. Eckart, Mr. Smith of Pennsylvania, Mr. Mitchell of Maryland, Mr. Foglietta, Mr. Edgar, Mr. Shamansky, Mr. Seiberling, Mr. Kildee, Mr. Porter, and Mr. Dougherty.

H.R. 6794: Mrs. Snowe.

H.R. 6821: Mr. Forsythe, Mr. Morrison, Mr. Weaver, and Mr. Patman.

H.R. 6864: Mr. Matsui, Mr. Clausen, Mr. Wolf, Mr. Loeffler, Mr. Dougherty, Mr. Oberstar, Mr. Jones of North Carolina, Mr. Young of Alaska, Mr. Bailey of Pennsylvania, Mr. McDonald, Mr. Mitchell of New York, Mr. Parris, Mr. Pepper, Mr. Forsythe, Mr. Ford of Tennessee, Mr. Jacobs, and Mr. Whitehurst.

H.R. 6938: Mr. Smith of Iowa, Mr. Dwyer, Mr. Sam B. Hall, Jr., Mr. Murphy, and Mr. Dymally.

H.R. 6972: Mr. Corcoran.

H.J. Res. 25: Mr. Patman.

H.J. Res. 31: Mr. Patman.

H.J. Res. 467: Mr. Ottinger, Mr. Bedell, Mr. Bethune, Mrs. Bouquard, Mr. Brown of Ohio, Mr. Brown of Colorado, Mr. Broyhill, Mr. Dwyer, Mr. Foglietta, Mr. Frank, Mr. Frenzel, Mr. Gingrich, Mr. Markey, Mr. Miller of California, Mr. Neal, Mr. Oberstar, Mr. Roemer, Mr. Tauke, Mr. Weaver, Mr. Weber of Ohio, and Mr. Weber of Minnesota.

H.J. Res. 493: Mr. Robinson, Mr. Tauzin, Mr. Snyder, and Mr. Ritter.

H.J. Res. 552: Mr. Scheuer and Mr. Donnelly.

H.J. Res. 564: Mr. Shelby, Mrs. Collins of Illinois, Mr. Mitchell of New York, Mr. Howard, Mr. Gore, Mr. Fish, Mr. Young of Florida, Mr. McHugh, Mr. Hance, Mr. Dowdy, Mr. Foglietta, Mr. Williams of Ohio, Mr. Lowery of California, Mr. Kemp, Mr. Hyde, Mr. Sunia, Mr. Rodino, Mr. de la Garza, Mr. Peyser, Mr. Evans of Indiana, Mr. Markey, Mr. Gradison, Mr. Lantos, Mr. Nelligan, Mr. Benjamin, Mr. O'Brien, Mr. Molinari, Mr. Patman, Mr. John L. Burton, Mr. Ratchford, Mr. Lewis, Mr. Gejdenson, Mr. Beard, Mr. Rahall, Mr. Robinson, Mr. Rudd, Mr. Traxler, and Mr. AuCoin.

H. Con. Res. 332: Mr. Wolpe and Mr. Williams of Ohio.

H. Con. Res. 378: Mr. Porter.

H. Res. 506: Mrs. Heckler, Mr. Addabbo, Mr. Kramer, Mr. Lagomarsino, Mr. Won Pat, Mr. Lantos, Mr. Conte, Mr. Beilenson, Mr. Benjamin, Mr. Rosenthal, Mr. Porter, Mr. LeBoutillier, Mr. Shaw, Mrs. Fenwick, Mr. Ford of Tennessee, Mr. Archer, Mr. Edgar, Mr. Edwards of Oklahoma, Mr. Bingham, Mr. Albosta, Mr. Frank, Mr. Corcoran, Mr. Wyden, Mr. Schumer, Mr. Derwinski, Mr. Dougherty, Mr. Yates, Mr. Frost, and Mr. Mineta.

H. Res. 558: Mr. Stokes and Mr. Bonker.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3496: Mr. Garcia.

H. Con. Res. 297: Mr. Rahall.

PETITIONS, ETC.

Under clause 1 of rule XXII,

569. The **SPEAKER** presented a petition of Roof Mechanics, Inc., relative to Federal tax limitation/balanced budget amendment; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540

By Mr. COURTER:

(To the amendment offered by Mr. Bethune)

—At the end of the amendment proposed by the gentleman from Arkansas add the following new section:

Sec. 2. The Secretary of Defense shall, within one year after the date of enactment of this Act, submit to each House of Congress a report containing any recommendations of the Secretary with respect to improvement in the defense industrial base of the United States through programs and policies established by the Defense Production Act of 1950.

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EXTENSIONS OF REMARKS

TARGETED DEVELOPMENT AID AMENDMENT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SIMON. Mr. Speaker, today, on behalf of myself and my colleagues, Representatives, GILMAN, JIM COYNE, ERDAHL, HALL, and STATON, I am introducing the targeted development aid amendment.

This language would require that 50 percent of all money appropriated under the Foreign Assistance Act would have to be spent on goods and services which directly benefit those in developing countries living in absolute poverty. This policy represents a direction in our foreign aid programs that many of us support. In fact, the language from the targeted development aid amendment comes directly from a provision in H.R. 4588, the Hunger Prevention and African Food Security Act sponsored by Mr. GILMAN. That bill has over 100 cosponsors, from both sides of the aisle, and includes 17 members of the Foreign Affairs Committee. While we do not have a legislative vehicle yet for this targeted development aid amendment, it is of such importance to the future of our foreign aid programs that we put it before the House for your consideration and comment.

Mr. Speaker, from all accounts we are seriously deficient in targeting our foreign aid programs on those who are really poor and could benefit greatly from economic assistance. The concerns that those of us supporting this language have are well expressed in testimony presented yesterday by Dr. Ernest Loevinsohn, on behalf of Bread for the World, an organization long involved in the fight to eliminate world hunger. I am submitting a copy of Dr. Loevinsohn's testimony as well as the language of the proposed targeted development aid amendment for your consideration.

TARGETED DEVELOPMENT AID AMENDMENT

In carrying out chapter 1 of part 1 of the Foreign Assistance Act of 1961 the President—

(1) in fiscal year 1983 shall attempt to use not less than 40 per cent of the funds made available to carry out this chapter, and

(2) in fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 per cent of the funds made available to carry out this chapter,

to finance productive facilities, goods and services which will expeditiously and directly benefit those living in absolute poverty as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association. Such facilities, goods and services may include, for example, irrigation facilities, extension services, and credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, foods and services shall not include studies, reports, technical advice, consulting services shall not include studies, reports, technical advice, consulting services or any other items unless (1) they are used primarily by those living in absolute poverty themselves, or (2) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty.

Research shall not constitute the major part of such facilities, goods and services.

PREPARED STATEMENT OF DR. ERNEST LOEVINSOHN, ISSUE ANALYST, BREAD FOR THE WORLD, BEFORE THE COMMITTEE ON FOREIGN AFFAIRS, AUGUST 17, 1982

Mr. Chairman, I am glad to appear before this distinguished committee today to discuss the impact of United States development aid on the poorest people. I will be presenting Bread for the World's views on this topic, with particular reference to legislation now before Congress.

As you may know, Bread for the World is a Christian citizens' movement which seeks to alleviate hunger by influencing public policy. We have members in every Congressional District, with a total of about 41,000 members nation-wide.

Mr. Chairman our research indicates that in the great majority of cases the people who receive goods and services financed by U.S. bilateral development aid are not the poor. Bread for the World studied the project budgets of 40 randomly selected[1] projects from among the 422 A.I.D. development aid projects begun in fiscal 1980 and fiscal 1981. In this sample under 25 percent of A.I.D. expenditures went to finance goods and services used primarily by the poor. Poor persons were defined as those who would be classified as absolutely or relatively poor by World Bank standards. A.I.D. relies heavily on a top-down strategy, claiming that goods and services supplied to the non-poor will result in benefits for the poor.

The top-down approach has two main variants which could be called the orthodox trickle-down approach and the bureaucratic trickle-down approach. I would like to briefly examine each of these and contrast them with a third approach, namely the direct approach to benefiting the poor.

THE ORTHODOX TRICKLE-DOWN APPROACH

Under the orthodox trickle-down approach development aid is used to promote overall economic growth. It is often acknowledged that the factories and highways built with development aid funds will not benefit the poor directly, but it is claimed that the benefits of the economic growth produced by these projects will trickle down to the poor, thus reducing the extent of deprivation.

The orthodox trickle-down approach was heavily discredited by the early 1970's. In 1973 as you know Congress passed the New Directions aid reforms which turned U.S. development aid away from the orthodox trickle-down approach. However, the current A.I.D. leadership is reviving this approach.

For example in the fiscal 1983 program and budget guidance cable to A.I.D. missions A.I.D. Administrator McPherson set out his ten main priorities. Delivering aid to the poor was not mentioned; instead McPherson stressed the importance of overall economic growth.

The priorities set out by McPherson are being translated into project funding decision. Many new projects are being approved which seek to produce general economic growth, rather than attempting to channel benefits to the poor. Examples include the $8 million program to assist private businesses in Africa (A.I.D. project 698-0438) and the $5 million program to promote hydroelectric projects in Central America (project number 596-0106).

A few years ago attacking the orthodox trickle-down strategy would have been flogging a dead horse. However in view of corrent A.I.D. policies it is worthwhile to ask "How effective was the orthodox trickle-down approach in benefiting the poor?"

The track record of this approach in providing benefits to the poor is not a good one. Some trickling down of the benefits of economic growth did occur, but often the poor benefited so little that the extent of deprivation was not reduced. For example in Latin America the number of people receiving less than 80 percent of the required calories increased by 25 percent between the mid 1960's and the early 1970's despite high rates of economic growth. As one looks at economic growth success stories one sees that in many cases the poor were left out. In the Ivory Coast for example economic growth averaged about 8 percent per annum through the 1950's and 1960's. Despite this spectacular record and despite some trickling down of benefits extreme deprivation remained widespread. Even today, average life expectancy in the Ivory Coast is several years less than in much poorer countries such as Tanzania which have paid more attention to the basic needs of their citizens.

It is not just that the orthodox trickle-down strategy happens to have a bad record. Even when it succeeds in producing across-the-board growth it is an inherently inefficient method of benefiting the poor. The reason is that in across-the-board economic growth, that is, growth where each household's income rises by the same percentage, the great majority of the benefits will go to the relatively prosperous. This is because the poorest 60 percent of households in developing countries generally have less than one-third of total household income. Therefore if every household's income rises by the same proportion less than one-third of the extra income will go to the bottom 60 percent of households. More than half of the extra income would typically go to the top 20 percent of households. Thus across-the-board economic

[1] Projects were selected randomly within each fiscal year, except that projects for which project papers were not on file were excluded from the sample.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

growth tends to benefit the elite much more than the poor majority.

The only way to benefit the poor majority more than the elite is to achieve targeted economic growth, growth such that the income of poor households rises by a substantially higher percentage than the income of more affluent households. But the orthodox trickle-down strategy has no mechanism for achieving this targeted growth. On the contrary, it tends to increase the income of the better-off households (the direct beneficiaries of trickle-down aid) at a higher rate than the income of poorer households.

In sum, the pay-off from aid investments directed by the orthodox trickle-down strategy will mainly be in the form of benefits to the relatively prosperous. At best, the poor majority will get a fraction of the benefits.

In view of the demonstrated ineffectiveness of the orthodox trickle-down approach in producing benefits for the poor it is distressing to see A.I.D. giving new emphasis to this approach.

THE BUREAUCRATIC TRICKLE-DOWN APPROACH

Although the orthodox trickle-down approach has been gaining ground, it is not as prevalent in A.I.D.'s project portfolio as the bureaucratic trickle-down approach. Under this approach aid is provided to government agencies, with the claim that the ultimate beneficiaries will be the poor. Training for government officials and consulting services for government bodies, usually at a cost to A.I.D. of $500 or more per consultant per day, are common forms of assistance to bureaucracies.

In some cases the bureaucratic trickle-down approach is an appropriate way to benefit the poor. In general however this approach faces serious problems. A major difficulty is that the government bodies to which A.I.D. is providing assistance are not generally oriented toward benefiting the poor. It is therefore unlikely that strengthening these government bodies will yield substantial benefits for impoverished people.

For examaple A.I.D. is planning to spend $5 million to provide studies, training and analyses for government officials in Haiti. But since the government of Haiti has long demonstrated neglect for the welfare of its poor citizens it is improbable that the U.S. assistance will end up providing substantial benefits for impoverished people in Haiti.

This problem is not confined to governments such as that of Haiti. Even governments such as that of Tanzania, noted for its commitment to equity in economic development, have developed bureaucratic elites whose interest in providing benefits to the poor is limited. For example A.I.D. has been assisting the authorities in Mbulu district in the Arusha region of Tanzania in drawing up a "twenty year plan". Now it might be thought that in bureaucracy-bound Tanzania there is no pressing need for another long-range plan. But, even aside from that, the priorities chosen by the Mbulu district government in drawing up the plan (e.g. electrification of Mbulu town and of the government buildings) are not oriented to the alleviation of poverty. It is therefore unlikely that A.I.D.'s assistance in helping to draw up the plan will yield any significant benefits for poor people in the district.

Another problem with the bureaucratic trickle-down approach is that the aid provided is often very remotely related to the goal of benefiting the poor. For example A.I.D. is planning to spend $9.3 million in Indonesia to improve English language instruction, mainly in government teacher-training institutions. It is very difficult to imagine that this is the most effective way to reduce poverty in Indonesia.

THE DIRECT APPROACH TO AIDING THE POOR

The top-down strategies which have been discussed can be contrasted with a direct approach to benefiting the poor. Under the direct approach aid funds are used to finance goods and services to be primarily used by the poor themselves. These might include health and family planning services, irrigation facilities, appropriate technology, safe drinking water supplies, and credit for small farmers.

The direct approach should include aid to the very poorest groups, such as landless laborers and squatters. It is true that it may be difficult to reach these groups with some sorts of projects. Electrification projects for instance will obviously tend to bypass those who cannot affort electrical appliances. But human development activities such as health and literacy projects can focus on the poorest of the poor.

A.I.D. does sometimes employ direct approach to benefiting the poor. One interesting example involved the rural water supply program in Kenya.

The Kenyan government's policy in most parts of the country has been to promote individual connections between water supply-pipes and the user's home. The user must pay for this individual connection. Community water taps would be a less expensive alternative. However the government has strictly limited the number of community water taps and often curtailed their hours of operation to encourage people to pay for individual connections.

Because the poor cannot affort the individual connections and because there are not many community taps, poor people have received only limited benefits from the program.

Confronted with this situation A.I.D. did not employ a top-down approach. Instead the agency provided funds through CARE to support self-help water projects. In these projects communities organized themselves and contributed labor and some money to build a water system for themselves. A.I.D. via CARE contributed materials and equipment. Although the self-help water systems suffer from the same maintenance problems as the government systems, they generally serve the entire community, rather than primarily benefiting the more affluent.

Private voluntary organizations such as CARE are one channel for implementing the direct approach but they are not the only channel. Financing government facilities such as schools and clinics in impoverished areas would also exemplify the direct approach.

Bread for the World does not assert that the direct approach to aiding the poor is always appropriate. We recognize that in some cases top-down aid makes sense. But because the direct approach to aiding the poor is often the surest and most efficient way to alleviate extreme poverty we believe that this approach deserves higher priority than it is now accorded. Given that aiding the poor is declared in the Foreign Assistance Act to be the principal purpose of U.S. bilateral development aid, it seems inappropriate that roughly three-quarters of such aid should finance goods and services primarily used by those who are not poor.

BUILDING A POLITICAL CONSTITUENCY FOR DEVELOPMENT AID

A.I.D.'s reliance on the top-down approach is not conducive to building support for development aid among the American public. When Bread for the World campaigns for foreign economic aid,we are made aware of how reluctant many Members of Congress are to vote for foreign aid. They have sound political reasons for their reluctance; we all know that there is widespread public opposition to foreign aid spending, including foreign economic aid spending.

Why is this? At a time when hundreds of millions of people abroad are malnourished, why is there so little support for foreign economic aid?

The answer is not that Americans don't care about hunger and starvation overseas. On the contrary, Americans enthusiastically support private voluntary organizations which fight hunger in the developing countries. Although the U.S. is near the bottom of the list of aid donors in proportion of G.N.P. devoted to official development assistance we are tied for second in terms of proportion of G.N.P. devoted to voluntary assistance.

In a revealing 1980 study the Market Opinion Research organization found that less than 2 Americans in 10 want to see the amount of tax money spent to alleviate world hunger decreased. 8 out of 10 want it either increased or kept the same. However the same study found that 6 out of 10 want the amount of U.S. foreign economic aid decreased. As the study commented, spending on economic aid "is not tied in the public's mind with solving the world hunger problem."

In sum, there is a reservoir of public support for programs which reduce deprivation abroad, but the Public does not believe that the foreign economic aid program is effective in reducing such deprivation.

We have before us then an opportunity. If development aid can be reformed so that it is more effective, and is seen to be more effective, in reducing the extent of deprivation public support for the program would be significantly increased.

PROPOSED LEGISLATION

There is a bill now before Congress which would require that more U.S. development aid directly benefit the poorest people. Bread for the World believes this reform would make development aid more effective in reducing human misery and in improving the economic prospects of the poor.

The bill, HR 4588, would require that half of U.S. bilateral development aid (excluding operating expenses) go to finance productive facilities and other goods and services to be primarily used by those falling below the World Bank's absolute poverty line. This group constitutes about 40 percent of the developing world's population. The bill thus emphasizes the direct approach to aiding the poor.

HR 4588 was introduced by Rep. Gilman and has attracted widespread support. It currently has well over one hundred cosponsors in the House, ranging all across the ideological spectrum. Its cosponsors include 17 members of this committee.

A weakened version of the provision targeting 50 percent of development aid to the poor has gone through the Senate Foreign Relations Committee with Administration approval.

HR 4588 would shift some aid to impoverished people but it leaves the Administration plenty of flexibility. It leaves 50 percent of A.I.D.'s development accounts and all of the huge Economic Support Fund for aid which need not directly benefit the poor. Directing 50 percent of bilateral devel-

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opment aid to the poor would place restrictions on approximately $700 million out of a total of over $6 billion in non-military U.S. foreign aid.

In some ways therefore HR 4588's proposed targeting of aid to the poor is a very modest measure. But because this measure would sharply increase the amount of U.S. development aid getting through to the people who need it most desperately we urge you to support the proposal. Without calling for any additional U.S. government spending it nevertheless holds out promise of substantially decreasing the extent of poverty and hunger.●

MAJ. HOWARD HOFFMAN NEW SUPERINTENDENT OF MISSOURI HIGHWAY PATROL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to congratulate Maj. Howard Hoffman on his appointment as the new superintendent of the Missouri Highway Patrol. Major Hoffman is currently district chief of enforcement at the Jefferson City headquarters of the patrol and, prior to that, was commander of Troop D in Springfield.

Major Hoffman has given 27 years of dedicated service to the patrol. In that time, he has developed a reputation beyond reproach with his fellow patrolmen. He is from my home county of Lafayette, and all of us from our county are proud of his accomplishments through the years. I wish him well in his new position.●

SIMPLE GUIDE TO THE MONETARY MAZE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SHUMWAY. Mr. Speaker, there can be no question that the historically high "real" rates of interest we are now experiencing represent the single most significant impediment to economic recovery. The real rate of interest is the difference between the actual, or "nominal" rate, and the prevailing rate of inflation. It is abundantly clear that, until interest rates decline on a substantial and sustained basis the health of such key sectors as the automobile and housing industries cannot improve.

There is, Mr. Speaker, no single cause for high interest rates nor any simple solutions to the problem. Projected Federal deficits in excess of $100 billion which, as a result of Federal borrowing needs, limit the amount of credit available for the private sector, and thus increases its cost, bear a large part of the blame. The expectation of the financial markets that our recent success on the inflation front cannot be sustained is a significant factor. The policy of the Federal Reserve Board to restrict the rate of growth of money and credit in order to slow inflation has also contributed to the problem.

In this regard, Mr. Speaker, a great deal of confusion exists throughout the country about the Fed's role in the conduct of economic policy generally, and monetary policy in particular. It is widely believed, for example, that the Fed is an entirely independent entity, which profits greatly from the high interest rates which so burden the citizens of our Nation. This is, of course, not true; the members of the Federal Reserve Board are appointed by the President, and are subject to confirmation by the Senate. The Fed must report on a regular basis to Congress. Approximately 90 percent of the revenues the Fed derives from interest income on its portfolio of Treasury securities is returned to the U.S. Treasury, while most of the remainder goes for operating expenses. In short, the Fed was established by Congress, is subject to all the laws of the United States, and will be responsible for U.S. monetary policy only so long as Congress continues to delegate this authority.

At this point, Mr. Speaker, I would like to comment to our colleagues a very lucid explanation of how the Fed conducts monetary policy which recently appeared in the Washington Post.

Controlling the money supply is now a central part of economic policy. Yet the language of monetary policy can be very confusing to the layman—so confusing that it may be hard to understand what the Federal Reserve is trying to control, and why.

Put simply, the Federal Reserve wants to control the amount of spending power—or money—in the economy in order to affect the level of economic activity in the nation. If the Federal Reserve limits the amount of money available for businesses and individuals to spend, then it indirectly influences, and limits, how much is actually spent.

Such a limit may affect both real output in the economy and the rate of inflation, since an extra dollar of spending may be used either to pay a higher price, or to buy more goods. Monetary policy makers hope that their control of the money supply will eventually have a bigger impact on inflation than on output and employment. In other words, they hope a tighter money supply will put the squeeze more on prices than on output.

There are two different kinds of problems with this view of monetary policy.

The first, highlighted by Prof. Tobin, concerns the balance of costs and benefits in using tight money to fight inflation. Tobin argues that restrictive money policy is now damaging the economy, by holding down output and pushing up unemployment, more than it is helping it. In other words, the cost to the nation of reducing inflation through monetary policy is proving too high.

Secondly, there are severe practical difficulties in carrying out a monetary policy aimed at restricting the money supply.

For one thing, there is no single definition of money. While dollar bills and coins are obviously money, people and businesses also use their checking accounts to buy things in much the same way as they use cash. The narrow "M1" measure of the money supply includes currency in circulation and all checking accounts.

But what about money market funds, or passbook savings accounts? While these may not be drawn upon as easily as a billfold full of notes, some people may use them like "money" for making major purchases. The Federal Reserve's "M2" money measure includes these and some other similar items, such as small-denomination certificates of deposit. There is a still broader money measure, "M3," which includes funds even further removed from the cash in one's pocket but which may still be used to support spending—for instance, large CDs.

Monetary policy is further complicated by the fact that the relationship of all of these measures to total spending—which is what the Fed is really interested in—is only loose, and can change over time.

For example, some checking accounts now pay interest. These NOW accounts may be used just as an ordinary checking account and thus be akin to cash. But some people may treat the "money" in these accounts more like savings than like spending money. If people switch money from passbook savings to NOW accounts, M1 grows. But this growth may not represent any increase in spending power.

The final difficulty for the Fed is that it does not have direct control over any of these kinds of money, other than the cash in circulation. Money is actually created when banks lend it. Borrowers, whether businesses or individuals, either deposit the funds in accounts included in one or another of the money measures or pay the money to others who do.

The Fed influences how much banks can lend and how large their deposits can be by adding to or taking away from the reserves which all financial institutions must hold in proportion to the deposits they accept. The Monetary Control Act of 1980 will eventually require banks and all other major deposit-taking institutions to hold as reserves 3 percent of nonpersonal time deposits; 3 percent of the first $26 million of transactions accounts; and 12 percent of the amount above this. These requirements are being phased in.

Banks can obtain the necessary reserves either from the Federal Reserve, from each other, or from overseas. The Fed supplies reserves to the entire banking system by buying government securities, like Treasury bills. This is actually the closest that monetary policy comes to the popular notion of "printing money." If the Federal Reserve does not supply enough reserves to support the level of deposits in the banking system, banks must borrow more from each other, or from the Fed. As banks bid for these reserves, the price, or interest rate, rises.

As their own borrowing becomes more costly, banks will charge their customers, or borrowers, more. Some individuals and businesses will then decide against borrowing and therefore against spending as much as they might have. In this way the Federal Reserve's "tight money," in the form of a tight supply of reserves to the banking system, feeds through, via high interest rates, to spending power and economic activity.●

INDIAN HEALTH SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DYMALLY. Mr. Speaker, it is of vital importance that I alert my colleagues to a most alarming development in the area of health services for American Indians.

A report submitted to Congress by Dr. Everett R. Rhoades, Director of the Indian Health Service, attempts to assess and categorize various urban American Indian health projects with regard to funding priorities. This report indicates that many Indian health clinics should undergo drastic reductions in funding or be terminated altogether.

This report, however, is completely, and dangerously, misleading. Questionable methodology and dubious conclusions render this report entirely ineffectual.

These health clinics are serving thousands of impoverished Americans who are unable to obtain sufficient health care elsewhere because, for a great many urban American Indians, proper medical attention is prohibitively expensive. Consequently, any further limitation of these people's access to health service would constitute an intolerable injustice.

There remains, for example, only one Indian health clinic in the entire Los Angeles area, in Compton, CA; and that one has been marked for extinction by the authors of this report. The removal of this last Los Angeles-area clinic alone would cause a great many people to go without any health care whatsoever. This, however, is only one of the threatened clinics.

I ask my colleagues not to permit the abolishment of these Indian health centers. Each is carefully geared to provide important, essential services to needy people within its particular service area. The IHS report's most flagrant violation of sound methodology, however, is the fact that individual clinics were evaluated according to blanket criteria which were not established until after each clinic formulated its programs in compliance with its own area's needs and State regulations. This, even without the other substantial methodological shortcomings, is reason enough to disregard the misleading "evidence" of the IHS report. I vehemently oppose taking any actions on the basis of the report's findings or recommendations.

I implore my colleagues to join me in this struggle to maintain, if not increase, funding for these desperately needed clinics. If we are not successful, one of the most disadvantaged peoples in America will suffer yet another crippling blow.●

OUR THANKS TO JOE WOMACK

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to publicly express my appreciation and that of the Subcommittee on Housing and Community Development to Joseph L. Womack, an assistant legislative counsel, for his work on behalf of all Members of Congress. Joe will be leaving the service of the House this week after 9 years to take a position at the East Texas State University in Commerce, Tex.

As a freshman and as a member of the Housing Subcommittee, I have benefited from Joe's expertise and his patience. He has always made himself available to me and other members of our subcommittee, as well as to members of the staff.

Now he will be returning to Texas, where he is no stranger, having attended Baylor University and the University of Texas Law School. I am sure that Joe and his wife, Cynthia, and his children, Chris, Todd, and Heather, are looking forward to returning to Texas to start a new life there.

On behalf of all Members who have worked with Joe Womack, I would like to express our thanks and our best wishes for his future success.●

EXPLAINING SOCIAL SECURITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my "Washington Report" for August 18, 1982, into the CONGRESSIONAL RECORD.

EXPLAINING SOCIAL SECURITY

Everywhere I go in the Ninth Congressional District, I see that Hoosiers are deeply concerned about the future of the social security system. Older people fear that their benefits are in jeopardy. younger people are convinced that they will get little in return for what they pay into the system. As much as three quarters of the nation's population believe that the system will not be able to pay them their full benefits. In fact, the social security system faces a short-term problem beginning next year and continuing through the late 1980's, and a long-term problem beginning around the year 2025. Between 1990 and 2025, however, the system should be in good condition.

The short-term problem is one of cash flow. Since 1974, the old age and disability trust funds have been paying out more in benefits than they have been taking up in taxes: an imbalance due mainly to sharp increases in benefits. However, benefits have always been paid because the funds could draw on substantial reserves which had built up over the years. Under current law, these reserves could be exhausted in 1983. Benefits to be paid out may exceed revenues to be taken in by some 6 percent from 1983 to 1986. At the outset, the main consequence of the fiscal shortfall would be a delay in the receipt of benefits for a few days.

The long-term problem is by far the more serious. As the "baby boom"—those born after 1947—begins to retire, a shrinking number of workers will have to support a growing number of retirees. The fiscal shortfall between 2030 to 2054 would be roughly equal to 33 percent of expenditures.

A number of measures are being considered as solutions to the short-term problem. They include extending interfund borrowing among the trust funds, holding cost-of-living increases to the average rate of increase in workers' wages, granting the system standby authority to borrow from the general fund of the Treasury, taxing some of the benefits received by persons with very high incomes, bringing federal and other non-covered workers into the system, and moving up the scheduled increase in the payroll tax from 1985 to 1983. Measures under consideration to address the long-term problems include a gradual rise in the retirement age from 65 years to 68 years, a change in the formula used to determine initial benefits at retirement, and a gradual reduction in the benefits of those workers who choose to retire before age 65.

The attitude of Congress is of prime concern to Hoosiers. Will Congress ignore the problems until they cannot be solved? Will Congress slash the benefits of current retirees? Actually, there are many reasons for optimism that Congress will act cautiously and prudently to protect the social security system.

1. A complete overhaul of the system is not required. The system faces a fiscal shortfall of only 6 percent in the next few years. Interfund borrowing alone may be a sufficient remedy. Likewise, the more serious long-term problem can be solved as long as we act without too much delay.

2. The record of Congress is a good one. Since the issuance of the first social security check in 1940, monthly benefits have always been sent on time. Congress has taken the steps needed to preserve the integrity of the system on at least 20 occasions in the past. This session, too, Congress and the President have evinced their clear desire that the problems be corrected soon.

3. Congress knows the importance of a stable system. Congress is aware that social security is critically important to the nation's elderly, two thirds of whom have it as their primary source of income. Also, Congress realizes that it must restore the confidence of younger people, who are paying much higher pay roll taxes than their parents paid. Politicians know that they have too much at stake—36 million beneficiaries and 116 million covered workers—to permit the system to falter or collapse.

4. Major recommendations are expected by the end of the year. Action by Congress was postponed last year because of the formation of a 15-member commission whose task is to find a bipartisan consensus on reform of the system. A report should be ready by December 31, 1982, and could be the blueprint for far-reaching legislative reform. Since Congress must take some action before July, 1983, there is a definite

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chance that Congress might try to enact important, substantive changes at that time.

Congress will not take steps which destroy public support for the system. First, it will in all likelihood not reduce the benefits of current, legitimate retirees. If you are getting a $400 monthly check now, you can expect to collect at least that much every month in the future. The major proposals under consideration for current retirees would at most trim back future increases in benefits. Second, Congress will give future retirees some years' notice of any significant cutbacks so that they will have time to adjust their plans for retirement. Proposals now under consideration would phase in significant long-term changes at a slow pace.

Present projections about the stability of the social security system should concern us all. I will do all I can both to assure payments to future retirees and to preserve the benefits of current retirees.●

GETTING OUT THE VOTE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● **Mr. RANGEL.** Mr. Speaker, I would like to bring to your attention and to the attention of our colleagues a unique and noteworthy contest that took place in Manhattan this summer. The American Citizenship Committee of the New York County Lawyers' Association ran an essay contest for high school students on the subject of "Getting Out the Vote."

Few matters should be of as great concern to the elected representatives of this Nation as the downward slope of participation in elections by voting age citizens. In 1880, 81 percent of voting age population chose to exercise their right of franchise. By 1960, that total had dropped to 65.4 percent. In the 1980 election, a mere 55.1 percent of voting age citizens bothered to cast ballots.

In a government by and for the people, this trend is more than simply disheartening. It is a sign of the breakdown of democratic government itself. When citizens neglect the privilege and duty of voting, our Nation is the grave danger.

The New York County Lawyers' Association, by encouraging students to get involved in solving this problem, has taken steps to turn it around. Focusing the sharp minds of our youth on the problem is, in the end, the only solution. For they are the ones who otherwise will inherit a democracy crippled by apathy.

I would like to share with you the three essays that won. They are reprinted below:

GETTING OUT THE VOTE

(By Darlene Heckstall)

In our society today, many people feel that their vote is useless. They have taken the attitude that their vote does not really count. I feel that this attitude is a threat to all of us and should be rejected, for if each and every person came out to vote we would have a more representative society.

As we look around us, at the conditions in which we live and the current economic situation, we should realize that the only way these conditions will change is if we, as individuals, come together as one and make our vote count.

I believe that we cannot sit back and watch our country decline. The young people should not let this country decline and continue to go under, but instead they should unite and speak up against what is happening to our society. We, as young people, cannot separate ourselves from society, but we instead must become a productive force of society. We should not become leaners on our communities but become a strong foundation of the community.

Black and Hispanic areas must give their vote in order to better their living conditions. They must pull together, so that they will no longer be the part of society that is being left behind.

Blacks and Hispanics cannot sit back and watch their homes turn into useless ghettos, but they have to come out and make their community a help to society, and not a constant burden.

Many people are unemployed, depending on public assistance. These people openly complain of no jobs and poor housing, yet they do not come out to make their vote count. How can we expect a change if we are not willing to give support and let our representatives know that we care about our families and communities.

Recently, while on a bus ride, I passed some abandoned homes and rundown tenements. The streets were filthy, and some of the men and women sat around as if they did not care. As I passed, I tried to understand exactly what I was looking at. I asked myself, why did these people have to live in such degrading areas? Why weren't able-bodied men contributing to their societies, and why were little kids destroying their property? As I sat and watched, I realized that these people lived like this, because not enough people cared enough to come out and speak out against these conditions. Not enough people tried to make their vote count. If these people are unhappy with their surroundings, they can make a change. If we vote someone into office who cares and understands what the people want and need, I feel it would be a step towards a more unified and prosperous country.

One way I think we can get people to come out and vote is if we follow a custom which Australia has. In Australia, if a person is of legal age and does not vote, they can be fined. I think this policy would move a lot of people to vote.

I think our country will once again rise if we, as individuals, join together as one and make our vote count.

GETTING OUT THE VOTE

(By Kim Conway)

Voting is the method used by citizens in a democratic state to decide issues and choose their leaders. Freedom to vote is essential to self-government, whether carried out directly or through elected representatives of the people.

In our own country, the individual states set up the qualifications necessary for a person to vote. All states require the voter to be a citizen of the United States and to live in the state and voting precinct a certain length of time. Most states also require a voter to be at least 21 years of age and disfranchise those convicted of certain serious crimes or who are mentally deficient. Before the recent passing of national voting rights laws, some southern states used poll taxes (a tax paid before voting) and literacy tests to keep Blacks from voting.

The antislavery movement, which culminated in the right of Blacks to vote, was linked with the women's suffrage movement. The Fourteenth Amendment passed in the Reconstruction era guaranteed equal rights for black men, but seemed to deny them not only to black women, but to all other women. It was not until the current century that the women's suffrage movement finally won.

It took 52 years of almost ceaseless effort and hundreds of separate campaigns to convince state constitutional and presidential party conventions to include women's suffrage in state constitutions and presidential platforms.

In countries having forms of government other than democratic, the voting process is sometimes denied, or, if permitted, becomes meaningless because the candidates for office are limited to those approved by the existing government.

Despite how precious the right to vote is, a high percentage of eligible voters in the United States either never or seldom vote. No more than two thirds of the eligible voters become involved, even when Presidential elections are at stake. In many other democracies, at least 80 percent of the voters go to the polls in equivalent elections.

According to Webster's New Collegiate Dictionary, the definition of "vote" is a wish, choice, or opinion of a person or a body of persons expressed by a ballot. To account for the percentage of people who do not vote, can we conclude that non-voters do not possess a real choice among basically similar candidates? If their inaction is simply a matter of disinterest, non-voters seem just as swift in condemning the elected official as those who voted for him, assuming dissatisfaction later prevails.

Therefore, let us encourage non-voters to get out and vote. Let them utilize the power they hold to choose the best candidate. Most importantly, let them realize that every vote does count.

Those working for the success of a particular party's candidate know how important it is to "get out the vote" and employ various methods of reaching potential voters such as direct mail appeals, telephone calls, and door-to-door personal visits. The recent win of New Jersey's Governor Thomas Kean over his democratic opponent was by a margin of less than 2,000 votes. This should convince even the doubtful of the value of the individual vote.

Citizens in other democratic countries consider voting one of their most important rights. All of us should remember that the right to vote, our ability to choose our leaders, is for our collective benefit. That right should not be ignored by anyone.

WOMEN CAST THEIR BALLOTS!

(By Wendy Silverman)

That women should vote is now so generally accepted that few of the post-war generation can appreciate the long and intense struggle that occurred before women's right to political equality was recognized. John Stuart Mill presented his Woman Suffrage petition to the House of Commons in 1866. It took Parliament 52 years to accede. In the United States, the Seneca Falls Declaration of July 19, 1848, resolved, "That it is the duty of the women of this country to secure to themselves their sacred right to the elective franchise." Again, over 71 years passed before this resolution was adopted.

After reviewing the nationwide voter turnout in the 1980 Presidential election, it is rather hard to comprehend the lengths to which women went in the late nineteenth and early twentieth centuries to secure their right to vote. The percentage of registered voters who did vote was roughly 74.3. However, the percentage of the voting age population that voted was considerably less—only 55.7.

The woman's suffrage movement was organized by such dedicated people as Elizabeth Cady Stanton, Lucy Stone, Susan B. Anthony, and Lucretia Coffin Mott. These were women who devoted their lives to the suffrage cause. Their general intentions were to inform the public through speeches and the like, and dispel the myths that giving women the vote would destroy the family and disrupt politics.

Among the tactics employed by the suffragists was the demonstration. These mass meetings were frequent occasions across the country. In 1910, the Women's Political Union sponsored the first of a series of major suffrage parades in New York City. One such demonstration was held in Union Square on Friday, May 20, 1910. It included over 10,000 persons who listened to the speeches presented by the women. It was the largest suffrage demonstration ever held to that date in the United States. The suffrage campaign in California which saw the use of huge billboards, electric signs, pageants, plays and essay contests, culminated in victory in 1911. The next year, the women of Oregon, Arizona, and Kansas became voters.

In January 1917, women suffragists, representing all parts of the country, posted pickets about the White House grounds, their purpose being to make it impossible for the President to enter or leave the White House without encountering a picket bearing some device pleading the suffrage cause. This culminated in over nine arrests, and during their prison stay, several women risked their health on a hunger-strike to protest their unreasonable arrests.

After the House of Representatives' vote in January 1919 favoring woman suffrage, the Senate proceeded to pass the Susan Anthony amendment to the Constitution on June 4. With ratification taking place by August 18, 1920, women were first able to exercise their right to cast their ballots that November.

It is fascinating to find that for several years, beginning with the presidential election of 1868, women attempted, mostly unsuccessfully, to cast ballots. In 1872, Susan B. Anthony led 50 women to a polling place in Rochester, N.Y., her hometown, where they registered to vote. On election day, she and more than a dozen other women cast their ballots. Within two weeks, Anthony and the others were arrested and charged with voting illegally under a statute which carried a possible three year term.

During the trial of the United States versus Susan B. Anthony in June 1873, Anthony fought gallantly for her right to be represented as one of the governed and one of the taxed in this so-called republican form of government. It is unfortunate that in the last presidential election, 44.3 percent of the voting age population could not even be cajoled into voting. As a matter of fact, 18.6 percent of them were not even registered. If people want the fruits of democracy, it is only fair that they take on the responsibility of expressing their views through the ballot system. The voter apathy of today would shock the suffragists. As Elizabeth Cady Stanton once said to Lucretia Mott, "the power to make the laws is the right through which we can secure all other rights."●

EL SALVADOR CERTIFICATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. STUDDS. Mr. Speaker, I would like to take this opportunity to share with my colleagues two recent editorials from Massachusetts newspapers—the first from the Quincy Patriot-Ledger and the second from the Boston Herald American—regarding President Reagan's certification on El Salvador. I believe that these pieces do much to point out the fallacies inherent in such a certification of progress in the areas of human rights, land reform, and the investigations into the murders of six American citizens. It is my hope that my colleagues will support House Joint Resolution 552, legislation which would declare "null and void" President Reagan's certification that El Salvador is in compliance with the conditions placed upon continued U.S. military aid.

[From the Quincy Patriot-Ledger, July 29, 1982]

MATTERS OF CREDIBILITY

If the United States terminated its military and economic assistance to El Salvador on the grounds of human rights violations, things could get much worse in that Central American country.

Still, this week's "certification" by President Reagan that El Salvador is making progress on human rights and on changes in the economic and political systems comes close to being a whitewash.

True, the administration's report—required by Congress as a condition for continuing aid—is not enthusiastic over the situation in El Salvador. While concluding that the Salvadoran government is making "tangible signs of progress," the report also notes that "the strife continues to produce serious and frequent violations of basic human rights committed by leftist guerrillas, right-wing terrorists, and members of the government's military and security forces." (On the day the report was submitted, U.S. reporters in El Salvador found the multilated bodies of four persons apparently in their teens along the side of a major highway not far from the entrance to the barracks of the country's elite battalion. All the victims showed signs of torture. Who killed them has not been disclosed.)

To justify its certification, the administration pointed to the holding of national elections in Salvador despite the continued fighting, the continuation of the land reform program, and fewer civilian deaths and abuses by security forces.

Still, there are reports of police torture, the violence continues, and land reform has slowed.

While there was an elaborate ceremony at the presidential palace this week as President Alvaro Magana delivered titles to the new peasant owners of 12 cooperatives, this event appeared to be a public-relations show. Some peasants continue to be kicked off land for which they had provisional title, President Reagan's report notes. A surge in evictions, some carried out by local military forces, occurred after rightist parties gained political power in the March balloting for the Constituent Assembly. The assembly itself issued decrees that were interpreted as postponing some land redistribution measures.

In requiring the certification progress, Congress was sending a clear message both to the Reagan administration and to the Salvadoran leaders on what the conditions of continued American support would be. It was also giving the administration leverage in dealing with the Salvadoran government.

That leverage won't count for much if it isn't used to get clear results, if the U.S. government pretends things are better than they are.

The administration may believe that without continuing U.S. aid and the accompanying U.S. pressure there would be even less respect for democratic processes and for human rights in El Salvador. Perhaps. But the U.S. government also is weakening the force of the pressure it can bring to bear on aid recipients when it puts a seal of approval on nations that haven't lived up to specified conditions. And the more this happens, the less other nations will believe we mean what we say, and the less heed will be given to American advice, or American "conditions."

[From the Boston Herald American, Aug. 4, 1982]

STOP AID TO EL SALVADOR

There are strings attached to the military aid the United States gives to El Salvador.

Under U.S. law, the president last week certified that progress is being made by the Salvadoran government in protecting human rights and in implementing land reform.

But a look at the situation in El Salvador makes it clear that no progress has been made. Militarily, the Salvadoran army so quick to accept U.S. weaponry has been just as quick to shun U.S. advice. Instead of adopting U.S.-supported counter-insurgency tactics designed to spare civilian lives, the Salvadoran army has continued to use the large-scale military operations that it favors. Its aggressive efforts to ferret out left-wing guerrillas have left many innocent civilians dead.

The Salvadorans have also turned a deaf ear to U.S. advice on how to institute land reforms to turn the land back over to those who work it. The right-wing Constituent Assembly, led by reactionary despot Roberto d'Aubisson, has dismantled the U.S.-sponsored Land to the Tiller program. As a result, thousands of peasants are once again landless, having been evicted from their newly-granted land.

It is time for the United States to yank the string and to cancel military aid to El Salvador. If the tug brings about drastic progress toward human rights and land reform by the Salvadoran government, aid could eventually be resumed.

But if El Salvador refuses to change its tack, aid must be halted permanently. U.S. policy must continue to push for a free and democratic El Salvador. The Salvadoran government, by ignoring and supressing populist demands for human rights and

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land reform, is blocking that goal. Every time its army kills an innocent civilian, every time it takes land away from a peasant, the government sows the seeds of rebellion.

As John F. Kennedy once said: "Those who make peaceful evolution impossible make violent revolution inevitable."●

PRESIDENT REAFFIRMS BACKING OF TAIWAN RELATIONS ACT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROOMFIELD. Mr. Speaker, I was privileged to be in attendance at the White House to hear the President explain the United States-China joint communique issued Tuesday.

I was pleased to hear him reaffirm his support for the Taiwan Relations Act and his longstanding friendship for the people of Taiwan.

Despite reports to the contrary, the President said the issuance of the joint communique will not pressure Taiwan to negotiate with the People's Republic of China.

"The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter," the President said.

In view of the strong interest in this issue, I am including the text of the joint communique along with the President's statement on its issuance for the information of my colleagues.

PRESIDENTIAL STATEMENT ON ISSUANCE OF COMMUNIQUE

The U.S.-China Joint Communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides, and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My longstanding personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper, and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waver from this fundamental position.

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past three decades, and of the American contribution to that process. I have full faith in the contribution of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well being of the people of Taiwan.

UNITED STATES-CHINA JOINT COMMUNIQUE OF AUGUST 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972 and reaffirmed in the Joint Communique on the Establishement of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point Proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point Proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.●

RETIREMENT OF MRS. CANDY C. PARKER

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. CORRADA. Mr. Speaker, I would like today to pay special tribute to Mrs. Candy C. Parker who, on September 15 will leave the Congress of the United States after 15 years of dedicated service to the people of Puerto Rico in the office of four consecutive Resident Commissioners from our island.

That date marks the retirement of Mrs. Parker, whom everyone in the House of Representatives knows as Candy, as my personal secretary and office manager since 1977. Candy, a native of Fajardo, P.R., met her husband Jim while he was on duty in Puerto Rico and except for two brief assignments in Trinidad and New York, the Parkers have lived in the Washington area for the last 30 years.

I wanted to take this opportunity to pay public tribute to Candy and to join with the many friends she leaves behind in the House of Representatives in wishing her health and happiness in the future.

In 1967, Candy began working for the then Resident Commissioner from Puerto Rico, Hon. Santiago Polanco Abreu, as a secretary. She has been working for the office of the Resident Commissioner since that time in various capacities, as a secretary, caseworker, and office manager.

Prior to 1967, when she came to the Congress, she worked in the Washington Office of the Commonwealth of Puerto Rico for 10 years.

Throughout her 25 years of dedicated service to the people of Puerto Rico, and to the Resident Commissioners like myself who were fortunate to have her on board during our tenure in the Congress of the United States, Candy Parker always did her work as a public servant diligently, loyally, and with a cheerful disposition that has endeared her not only to her immediate office colleagues, but to hundreds of people in the Nation's Capitol.

It is, indeed, an acknowledgement of her wise counsel, discretion, friendship, duty and dedication that her career has spanned five consecutive administrations in Puerto Rico.

All have benefited from having her as a coworker, and she will be sorely missed by her many friends.

Oliver Wendell Homes once noted that "every calling is great when greatly pursued" and this maxim certainly applies to the considerable talents Candy brought to her work.

To both her, and her husband Jim, we wish luck and happiness in their new home in Florida, our gratitude for their work and many sacrifices made on behalf of the people of Puerto Rico, we bid a found "hasta luego."●

TOO MANY ROTTEN APPLES

HON. ED WEBER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WEBER of Ohio. Mr. Speaker, I want to bring to the attention of my colleagues an outstanding statement about what is right about America. Instead of blaming everybody but ourselves for our problems today, let us take a good hard look at what each American might be able to do about it himself or herself.

I offer to you the script, "Too Many Rotten Apples," a tape recording which came to me from someone who is obviously the type of concerned citizen we need, the type of person who is ready, willing, and trying to carry his own weight and pull his own oar—my constituent Roger A. Brown.

The statement follows:

TOO MANY ROTTEN APPLES

You read a lot and hear a lot about what's wrong with America. You never hear or read what's right about America.

Well, let me tell you something mister and you too sister—

I was what they called a "depression baby" because I was born in the midst of the Great Depression of the 1930's.

My old man made $10 a week and damn glad to get it—a lot of people who were out of work stood on the corners selling apples. They'd pay a nickel a piece for the apples and hope they could turn a profit—most of them lost their money and ended up with a bunch of rotten apples. And that's the trouble with America today—there's too many rotten apples—we need people with ideas and guts to carry them out to improve ourselves and our country.

Too many people think that America owes them a living. We have double-digit inflation, we have 9- to 12-percent unemployment. And who do we blame? We blame the Japanese, the Russians, the Chinese, the Arabs, and most of all we blame our own President—the man who had the guts and courage enough to run for that office and who was elected by the people of America and just because he didn't make everything hunky dory in less than a year the mess we're in is all his fault.

I can remember when a baby boy was born, the proud parents would say, "Maybe someday he'll be President."

Now you hear, no way would I want my son to be President, that's one giant headache and thankless job. Anyone has to be crazy to want to be President.

The President of the United States doesn't receive respect anymore, he receives condemnation, criticism, ridicule, and an assassin's bullet.

You know what's wrong with America? It's not the Japanese, the Russians, the Chinese, the Arabs, and least of all our President—the trouble with the United States is U-S US we've become too damn soft and lazy and we expect too much for too little. We just have to have two cars, two TV's, a home with two baths, a dishwasher, a room for every kid and that's just the bare necessities—but we think we deserve those things and we shouldn't have to work for them.

We've become masters at seeing how much work we can get out of doing and still get paid for it. Come in late, go home early, take coffee breaks, sick leave. "The company owes me a living, they got so much money, it's about time they gave me some."

That's why we have inflation—nobody does a dollar's work for a dollar's pay—and a country like Japan that does $2 work for $1 pay and takes pride in doing it comes over here and sells cars, computers, cameras, bikes, boats, skis, stereos, and steel better than ours for less money. Then we curse them instead of admire them but, we still buy their products.

Instead of changing our system, we cry and complain—where would we be if our forefathers cried and complained? America would still belong to the Indians.

Why are people out of work? They're out of work because they're not working—they're not working because they say there aren't any jobs. What they mean is, there aren't any jobs to suit their taste or special talent—there's jobs out there, but you might have to sweat a little—you might have to exert some physical labor—heaven forbid. If we would just get off our dead a-- and look for a job and take a job instead of crying about the unemployment, there wouldn't be any unemployment. If we did our job, no matter what it was with pride and did it the best we knew how, there wouldn't be any inflation because our products would be good and the price would be right.

We've stopped thinking and inventing and creating, we expect the other guy to do it—we want the government to pay for everything and then we cry about taxes.

Come on America, wake up—if you don't like what you're doing at your job, learn to like it, change it or leave it.

If you don't like the way America is being run then stop crying about it and do something about it.

We've got enough rotten apples and enough cry babies. What we need are some good old fashioned, honest, hard working, innovative, patriotic Americans that will change it.

So stand up America and get out of the red,
Wake up America and get out of bed,
Damn the complainers America and full
speed ahead.●

ENERGY COMPLACENCE IS NATIONAL DANGER

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FUQUA. Mr. Speaker, we are all aware of the danger of complacency about the need for a strong program of developing alternative energy sources during a period of declining petroleum prices caused by events over which the United States had no control.

I am happy to report that others are similarly concerned about our future dependence on foreign petroleum and are alert to the necessity of continuing

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the synfuels program which we so ambitiously launched 2 years ago.

The following editorial from the Florida Times-Union, published in Jacksonville, Fla., clearly states the dangers of complacency and the value of planning for alternative energy:

TEMPORARY OIL GLUT WEAKENS SEARCH FOR ALTERNATIVE ENERGY

In an unusual display of foresight a couple of years ago, Congress set up a synthetic fuels project—synfuels—with an ambitious goal: Produce the equivalent of two million barrels of oil per day by 1992.

The mechanics of the program set aside $17.5 billion initially to encourage private-industry synfuel projects, by guaranteeing loans, prices and purchase agreements.

That was two years ago. Of the total sum set aside, $15 billion has never been committed.

Why?

It is because of short-term considerations: A momentary "glut" turned oil prices soft while interest rates made borrowing for major projects uninviting, if not prohibitive.

Industry shied away.

Whereupon immediately, flocks of congressmen coveted the money for various other programs.

"I don't think the country is that stupid," answered House Majority Leader Jim Wright, who had led the fight for the synfuel program.

"After having foreign oil producers pull the rug out from under us twice . . . I can't believe we'll go back to sleep again. Even Rip Van Winkle didn't go back to sleep a second time."

Wright is by no means alone in his expressed concern. Two recognized experts on energy and international politics have written a book, "Global Insecurity," which foresees as "highly likely" a new oil crisis during this decade that could, by the year 2000, drive oil prices to "more than twice what they are today."

The authors point out that "glut can turn to shortfall on little more than an assassin's bullet" and that the "orderly and reasonable functioning of markets" can be totally overwhelmed by a political revolution and the sudden panic of the unprepared.

The scholarly credentials of the two authors—Daniel Yergin is associate director of Harvard University's Energy Security Program, and Martin Hillenbrand, a former U.S. ambassador to Germany and Hungary, is director general of the Atlantic Institute for International Affairs in Paris—and the academic-sounding title of the book should not discourage readers. The book reads like a suspense thriller.

The authors warn that dwindling oil supplies will be responsible for renewed inflation, unemployment, and tensions among the Western allies, causing "the greatest danger to world peace."

The impending crisis is also seen as creating conditions "dangerous to this nation's social structure (and) a challenge on the scale of the Great Depression to the viability of democratic institutions."

It is no secret that repeated and/or critical energy losses pose grave economic, social and political problems, reflected in rising unemployment and declining real incomes. All of this could, as the authors warn, lead to "declining confidence in government."

Indeed, one wonders if what's going on at present might not cause a decline of confidence in Congress and in the foresight of U.S. industry as well.

Despite the government's guarantee, the prime action in the synfuel field to date has been one major oil company pulling out of a giant project in Colorado and another firm delaying a second effort.

Rip Van Winkle may not have gone to sleep a second time but the sounds from the United States alternative energy front sound like snores.●

IN SUPPORT OF THE INCREASED APPROPRIATION FOR THE NATIONAL SCIENCE FOUNDATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. RANGEL. Mr. Speaker, I rise today in support of the Appropriations Committee recommendation to increase funding for the National Science Foundation (NSF). The increased appropriation includes additional funds for research in the social and behavioral sciences and more money for science education.

Today, more than ever before, we need reliable information about how our economy and society function. These are the topics addressed by the social and behavioral sciences. The social science research that is supported by the NSF includes studies on productivity, technology and organizational structure, saving behavior, the relationship between level of education and juvenile delinquency, and health and human behavior, among others.

One area of research on human behavior that I believe is particularly important is its relationship to health. We are currently spending enormous sums of money to improve the Nation's health, but we have not yet recognized that a major cause of bad health is not the failure of medical knowledge and technology but the perverseness of human behavior. Seven of the ten leading causes of death in this country are determined, in large part, by behavior that could be changed. Habits relating to diet, exercise, dental care, smoking, drinking, and drug use, to name a few, can be changed to improve the health of millions of Americans. We cannot afford to neglect the human factors that determine the Nation's health, productivity, or progress. The cost is too great.●

A POLITICAL SOLUTION IN NORTHERN IRELAND—ARE WE ANY CLOSER?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan 126-member Ad Hoc Congressional Committee for Irish Affairs I am deeply concerned about the ongoing political vacuum which exists in the six counties of British controlled Northern Ireland. From the outset—our committee has contended that the United States does have a role to play in helping to establish a lasting political solution in Northern Ireland.

It has been my view that the key to a solution in Northern Ireland rests in the fundamental premise that all parties to the problems in the north should be involved in trying to bring about a solution. However, in making this premise—I add the caveat that all parties involved must be committed to a peaceful political solution one where violence has no place.

In October the people of Northern Ireland will elect a new 78-seat assembly under the terms of the British Government's new governmental plan for Northern Ireland. While the British Government and especially its Secretary to Northern Ireland Mr. Prior are to be commended for embarking on an initiative—it is unfortunate that they did not use the occasion to develop a new and workable plan. The elected assembly idea is not new and has already failed—there is no indication that it will fare any better this time out.

It is vital that the base upon which negotiations have been started involving a solution in Northern Ireland go beyond the governmental realm. It is time for bold initiatives which acknowledge a role for all parties in Northern Ireland and which have a return to economic stability as a key element to any plan for a political solution in Northern Ireland.

At this point in the RECORD I wish to insert an article written by Prof. Paul Arthur of the Ulster Polytechnic in Northern Ireland who has written an analysis of current situations in Northern Ireland including his projection on the impact of the prior plan. His article "Wrong Road in Ulster" follows:

WRONG ROAD IN ULSTER

(By Paul Arthur)

BANGOR, NORTHERN IRELAND.—"I long for the time when I can go to the United States and say: 'Look at what we have accomplished. We've got politcal stability and put some money in.'" This is what James Prior, Britain's Northern Ireland Secretary, told a London newspaper in February. Mr. Prior has now carried this message to the United States. But is political stability any closer in Northern Ireland?

Mr. Prior inherited a tense security problem arising from the Irish Republican Army hunger strike, but he ended it successfully. There followed in November 1981 the assassination of the Rev. Robert Bradford, an Ulster Protestant member of the British Parliament, by the outlawed Provisional I.R.A. In retaliation the Rev. Ian Paisley formed a "Third Force," an unofficial militia of hard-line Protestants. Once again civil war became a real possibility in Ulster. But Mr. Prior proved unflappable and decisive in defusing a dangerous situation.

On the economic front, he has worked mightily but with limited success. In January he extracted an extra £90 million from the British Exchequer, but it has been only a drop in the ocean. "The Northern Ireland economy is not in recession," he conceded. "It is actively in decline." About 1 in 4 of the province's adult men are unemployed and the percentage for Roman Catholics is higher.

But while he can be given high marks for crisis management and praise for his efforts to help the economy, Mr. Prior has done little to achieve the more important goal of political stability.

Every British government to date has failed to achieve an internal political settlement in Northern Ireland because they cannot persuade the political leaders of the two-thirds Protestant majority to share power with the one-third Catholic minority. Mr. Prior hoped to succeed where others had failed by offering Northern Irelanders an elected assembly of Protestants and Catholics, a shot at real power over matters of great local concern that are now exclusively London's province. With these inducements he hoped to turn sectarian foes into allies.

The first stage of Mr. Prior's plan will be an election for a 78-seat assembly in October. Initially the assembly will only scrutinize the British Government's policies on Northern Ireland, but if there is enough agreement between the Nationalist Catholics, who identify with the Republic of Ireland and aspire to a united Ireland, and the Protestant Unionists, who staunchly support the link between Northern Ireland and Britain, then genuine authority will be given to the new assembly.

But Mr. Prior's proposals cannot and will not work. His plan is gravely flawed.

The British Government has quite correctly stated that the clash of identity and aspiration between Nationalists and Unionists goes to the heart of the problem. Recognition of the differing identities and aspirations should be the key elements on which a solution is based.

Ulster politicians are concerned with the fundamental problem of national allegiance and they will not set that concern aside to work together on economic or social issues. Only the nonsectarian Alliance Party, the fourth largest in the province, has shown any enthusiasm for Mr. Prior's proposals. Even a section of his Conservative Party mounted a filibuster against the bill in Parliament. Furthermore, an increasing number of critics believe that the whole exercise has deflected what appeared to be a promising effort to break down decades of suspicion between London and Dublin so they could work together on the problems of the North. Finally, the assembly idea may give a new lease on life to the I.R.A.'s political wing, Sinn Fein, which will now be able to contest the assembly elections on the platform that moderate nationalism has failed to obtain any real power for Nationalists.

So what of the future? Clearly the prospects of the proposed assembly offer little if any hope of stability in Northern Ireland and may indeed be an opportunity for a naked power play not only by the I.R.A. but also by extremists from Mr. Paisley's Democratic Unionist Party. It is worth recalling that in 1980 and again in 1981 the Irish and British Governments embarked on the development of better relations between the two countries and between Northern Ireland and the republic, and agreed on the need to further this relationship in the interests of peace and reconciliation. It is only through the development of this relationship that long-term peace and stability in Northern Ireland can be achieved. All parties to the issue—Dublin, London and Belfast—must eventually sit down and work together to achieve a solution.

(Paul Arthur is senior lecturer in politics in the Ulster Polytechnic in Northern Ireland and the author of two books on Northern Ireland, "The People's Democracy 1968–73" and "The Government and Politics of Northern Ireland.")●

1982 OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DERWINSKI. Mr. Speaker, since July, a great deal of information has been reported on the 1982 Observance of Captive Nations Week. The thrust of the recent observance is well depicted by the following selected examples: The first is a Captive Nations Week Proclamation issued by Governor Carlos Romero-Barcelo of Puerto Rico; followed by a special feature carried in the June 11 News World in New York on the suppression that exists in the captive nations, featuring the activities of the Polish police in the Solidarity movement; and finally an article from the China Post of July 21, which reports on the "Freedom for Captive Peoples" rally held in Taipei, Taiwan:

OFFICE OF THE GOVERNOR,
San Juan, Puerto Rico, July 1982.

A MESSAGE FROM THE GOVERNOR OF PUERTO RICO

As United States citizens fully cognizant of the significance of Soviet interventionism, the people of Puerto Rico join our fellow American citizens and all other freedom-loving peoples of the world in observing Captive Nations Week 1982.

On our Caribbean island we are intensely aware of the menace of Soviet aggression, for agents of this totalitarian power have for over twenty years denied basic human liberties to our neighbors in Cuba, tens of thousands of whom have emigrated to Puerto Rico to escape tyranny. The Moscow-oriented government in Havana, meanwhile, has maneuvered continuously, employing tactics ranging from the hypocritical to the criminal, in an effort to separate Puerto Rico from the United States, despite the overwhelming opposition of our own people, as expressed by majorities consistently exceeding 90 percent in the elections held here every four years.

The people of Puerto Rico cherish our democratic way of life. We have witnessed in this region of the world how cynically and swiftly the enemies of freedom can impose subjugation in the guise of "liberation." And we are responding by moving steadily toward thwarting permanently the brutal designs of dictators, through the achievement of full and equal participation in shaping the destiny of the United States, the nation for which so many young Puerto Ricans have fought and died during this century.

This is the message we would share with the men and women who have been enslaved under Communist totalitarism: the people of Puerto Rico stand ready to join with all other American citizens in supporting the courageous struggle of the people in Captive Nations for deliverance from Soviet oppression.

Sincerely,

CARLOS ROMERO-BARCELÓ.

[From the News World, New York City, June 11, 1982]

POLISH POLICE INFILTRATED UNIONS

(In the last few months a number of refugees have arrived from Austria, among them Andrzej Cyran. Until May 1981 Cyran was the vice president of the Polish Free Trade Union in the region of Malopolska, with its headquarters in Krakow.

(The following interview was granted to Alexander Pruszynski, the publisher of the Polish North American Weekly—"Slowo-Solidarnosc" from Toronto.)

Q: How did you become involved in the Solidarity movement?

A: Even before the workers in Gdansk signed an agreement with the government, I started to organize free trade unions in my home city of Krakow in southern Poland. Together with my friend Krzysztof Palkowski, we helped create more interest in Solidarity for our city.

During the second part of August 1980 in the Lenin Steel Works on the outskirts of Krakow, a Steel Workers Committee was formed and together with our group we created the Inter-factory Committee to form new trade unions, which were formally initiated on the 15th of September.

The first decisive step I made on my behalf was a speech I gave at an open meeting of the Communist Party held at a place of business called Biprostal, where I was employed as an engineering consultant.

I criticized the communist system as a ridiculous medieval form of government. I then referred to a letter I had sent to Mr. Gierek [former president of Poland] in 1971. In this letter I told Mr. Gierek that the Polish state had to be transformed from the "dictatorship of the proletariat" to a national state with free trade unions with a limited role for the police and other oppressive forces.

The speech was met with a fantastic response from both the party members and the non-party members. Suddenly, in just a few hours I became a hero. But everyone was expecting the party to crush the union the next day with force and everything would be lost.

Those who agreed with my speech and wanted to do something contacted me. From this, a group formed with the desire to create a free trade union system in Poland.

On the 26th of August, I formally resigned from the existing trade unions and signed a document of access to the new unions, which did not yet exist. With this letter in my briefcase, I started to promote the new free and independent unions. I was invited to different enterprises (businesses) and there I explained to the people why we had to form such free unions.

Q: How did the security police react to the birth of Solidarity?

A: Each communist state is a totalitarian state which bases its existence on the use of

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force, especially from the police. In Poland the police are called "milicja"; its plainclothed or security forces are called "bazpieka" or simply "SB."

From the very beginning, the SB made efforts to plant their men inside our union. Few people really know just how successful the SB was in this and how much they were able to manipulate Solidarity through their agents. It was difficult to speak of this problem in Poland, but today it is necessary to tell all the truth. Actually a lot of our activists, including myself, wanted to speak out a long time age.

The effort on the part of the security to infiltrate the new union was being made across Poland and on all levels of the union. We all know now of the success they had in such regions as Jastrzebie Zdroj, Bialystok and Krakow, where the first regional presidents were police agents.

The same took place in other regions, even in Warsaw and Gdansk. In spite of our efforts, of the first 17 members of our presidium [union governing body], at least four were SB agents. They were discovered later because of their actions, which brought tremendous, irreparable damages.

We have proof that the first wildcat strikes, organized against the direct orders of Solidarity headquarters in Nowy Sacz, were the work of the SB. These unauthorised strikes were conducted in coordination with members of the hard-line group of the Polish Communist Party leadership, such as Grabski, Olszowski and Zabinski.

Although the strikes in Nowy Sacz were against the orders of the regional Solidarity headquarters, they opened a series of wildcat strikes across the nation and helped disorganize the union. This disruption was obviously one of the goals of the SB.

Q: What other goals did the SB have in its campaign against the free trade union?

A: A second goal was to create an open confrontation between Solidarity and the party, led then by Mr. [Stanislaw] Kania. Such fighting would be used by the Soviets as an alibi to enter Poland with a "peaceful mission" of conciliating the two sides. The best example of such provocation, which by a miracle failed, took place in Bydgoszcz in March of 1981.

At that time the Politburo, the ruling organ of the party, had two channels of information, through the SB and through the local secretary of the party. If in a region those two channels were controlled by one person or one group, then the Politburo could be fooled in believing false information. Such a situation took place in Bydgoszcz.

A delegation of Solidarity was invited for talks to the City Hall. When they arrived, they were brutally beaten and removed. This action was witnessed by thousands of Solidarity members who were called to witness the talks.

Unfortunately for the SB, the members of Solidarity did not react violently [as the SB had hoped they would] when they saw their leaders carried out of the building bloodstained and nearly lifeless. The masses listened to their leaders and did not attack the party headquarters.

Any violent retaliation by Solidarity would have provoked fighting and a call for police reserves. The SB provocation failed, but they informed the Politburo that the incident was caused by Solidarity, that its union leader, Rulewski, had damaged his head by bumping it against the wall.

If the SB provocation had achieved its goal, there would have been little chance that the real cause of the riots would have come to light. There were more efforts to organize such provocations.

The third goal of the SB was to destroy the liberal wing of the party with Mr. Kania as its leader. The wing was a stumbling block for the conservatives and the SB. It had to be destroyed before a confrontation with Solidarity could be carried out.

To achieve this, various methods had been used, such as anti-liberal propaganda within the party bureaucracy. The situation of Mr. Kania was extremly critical. All the plenary meetings of the Central Community were called by his opposition and he never knew in advance if after the meeting he would still emerge as the first secretary.

The final removal of Mr. Kania from his post was a signal to all who understood the situation in the party that the moment of confrontation was coming. Before Mr. Kania was removed, some of his liberal friends such as Mr. Klasa were removed from their position or kicked out of the party as was Mr. Stefan Bratkowski, the leader of the Polish journalist union.

[From the China Post, July 21, 1982]

RALLY LARGEST OF ITS KIND HERE

Captive Nations Week activities have been taking place in the Republic of China since July 18 and will continue through July 24. One of the highlights of the activities took place yesterday as the "Freedom for Captive Peoples" rally was held in Tsoying, Kaohsiung. This was the largest rally of its kind in the history of the Captive Nations Week activities and the first to be held in southern Taiwan.

Captive Nations Week was first promulgated by an act of the United States Congress in 1959, as the West first became obvious of the threat imposed by the expansionist aims of the Communists.

Fifty-eight foreign guests were on hand in Tsoying yesterday, representing 25 nations in the rally which was attended by an estimated 60,000 people who gathered to show support for all those held captive behind the Iron and Bamboo Curtains of Communism.●

TENNESSEE-TOMBIGBEE WATERWAY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BEVILL. Mr. Speaker, the Tennessee-Tombigbee Waterway has been the most investigated and the most thoroughly studied public works project ever built in this country. In addition, it is the first major waterway built under the provisions of the Environmental Policy Act, insuring that it will not endanger our environment.

All of these investigations have yielded much beneficial information, showing that this will be a wise investment for our country. However, many charges which have been hurled against this waterway have been made either from a lack of knowledge about its extensive planning, its careful construction and its environmental safeguards, or they have been made with little regard for the truth.

The projected annual appropriations which will be needed in the next few years to finish work on the project are expected to decrease rapidly. By the end of this fiscal year, nearly 80 percent of the navigational features will have been completed. In fact, 83 percent of the funds already have been committed. I want to point out that if construction were halted, as some of the opponents of this project wish to happen, there would be no savings to the taxpayer. In fact, it would cost almost as much to stop work on this project as it would to complete it. And if the project were stopped, more than $100 million in annual benefits would be lost forever.

I was most distressed to read a statement recently published in the CONGRESSIONAL RECORD suggesting some impropriety by the Corps of Engineers and impuning the corps' integrity, because of a 2-year investigation which has been underway affecting one contract on the Tenn-Tom project. The investigation was initiated by the Army Audit Agency and has had the complete cooperation of the Army Corps of Engineers.

I feel it is very important that Members have the true facts in this matter, so I include the following letter I wrote to the Public Works and Transportation Committee regarding the investigation.

The Tennessee-Tombigbee Waterway is an important project which stands on its merits.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 13, 1982.

Hon. JAMES J. HOWARD,
Chairman, House Public Works and Transportation Committee, Washington, D.C.

DEAR JIM: I recently obtained a copy of a letter and accompanying press release, both dated August 3, 1982, from Congressman Robert W. Edgar to you, concerning an ongoing investigation of alleged fraud associated with one construction contract of the Tennessee-Tombigbee Waterway project (TTW).

Certain statements and implications of Mr. Edgar's letter are inaccurate and objectionable. For example, the fourth paragraph of that letter implies that the alleged fraud at issue here would have gone undiscovered without the intervention of the Federal Bureau of Investigation (FBI) and the Justice Department. In fact, the normal and comprehensive auditing mechanisms of the U.S. Army Audit Agency (AAA) discovered the allegedly fraudulent transactions at issue here over two years ago. Following its standard operating procedures, the AAA then invited the FBI to investigate for possible criminal charges; this led to a grand jury investigation. I have been assured that all relevant units of the Department of the Army, including the AAA and the Corps of Engineers' Nashville District Office, have cooperated with the U.S. Attorney, the grand jury, and the FBI to the maximum extent possible, ever since the AAA discovered these alleged irregularities.

To cite a second example, Mr. Edgar's letter and press release state that the Paul Boscoe Company was performing under a "cost plus" contract when the alleged fraud occurred. One might infer from this statement that the TTW is being constructed on a "cost plus" contractual basis; that is untrue. In fact, the Boscoe contract at issue here was a "firm fixed price" contract; however, a changed condition at the work site (soil conditions different from those anticipated) necessitated a "change order". That change order directed the contractor to proceed with his work on a reimbursable basis, and to keep detailed records of his increased expenses caused by the changed conditions and change order. Once the nature and scope of the changed conditions had been ascertained, the Government would negotiate with the contractor to agree on an equitable adjustment of the original contract. The instant dispute concerns the validity of those expenses which the contractor certified as arising from the change order. The point is that the contract at issue was a fixed price contract, not a "cost plus" contract as claimed in Mr. Edgar's letter.

Thirdly, Mr. Edgar's letter and press release substantially exagerate the amount of Government money which could have been fraudulently obtained in this situation; even assuming the worst. I have been advised that the total amount involved in the change order under discussion was $11 million; only some fraction thereof could have been obtained fraudulently. This fact contrasts sharply with the $18 million figure presented in Mr. Edgar's letter and press release.

Finally, and most importantly, I object to the following statement from Mr. Edgar's letter (repeated in the press release): "I believe this episode could have implications for the whole project and perhaps even for the whole Corps of Engineers program." That statement is unfair and illogical, and raises questions about the motivation underlying Mr. Edgar's letter and press release. The above-quoted statement implies that the U.S. Army Corps of Engineers and the entire TTW project are somehow tainted with fraud, simply because one contractor has been accused of fraudulent activities. That can only be described as a grossly improper attack on a highly reputable Federal agency and a vital national water resources development project.

Mr. Edgar's letter has exaggerated and misrepresented the facts concering one isolated investigation of alleged fraud involoving one construction contract. In fact, this case demonstrates that the Department of the Army's audit and investigatory functions can and do ferret out alleged abuses effectively, if and when said abuses occur.

The TTW is a very large-scale construction project, which has involved many hundreds of contracts and contractors, and thousands of employees of those contractors and subcontractors. One cannot really be surprised that one contractor has been accused of one irregularity, and that two of his employees have been indicted (only for perjury, thus far) during the eleven years of project construction to date. This record compares favorably with that of the great majority of large-scale construction projects.

While such an irregularity should be (and is being) taken seriously and investigated by the appropriate agents of the Executive and Judicial Branches, it certainly does not justify the charges and the allegations presented in Congressman Edgar's letter of August 3, 1982.

Finally, Mr. Chairman, if your Committee does pursue an investigation of this matter, I would strongly urge that the ongoing grand jury investigation be considered. The most important objective at this point should be the indictment of any and all persons (if any) who are guilty of fraud against the Government.

I would certainly hope that nothing we do would in any way impair the ongoing efforts of the grand jury of ascertaining guilty parties (if any) and sending those people to prison.

Whatever action you and your fine Committee take on Mr. Edgar's request will certainly have the support of myself and my Subcommittee.

Sincerely,

TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development.●

A TRIBUTE TO TOM BARRETT BY HON. CHRIS SMITH OF NEW JERSEY, HON. MARK SILJANDER OF MICHIGAN, HON. BILL EMERSON OF MISSOURI, HON. DUNCAN HUNTER OF CALIFORNIA, HON. VIN WEBER OF MINNESOTA, HON. GREG CARMAN OF NEW YORK, HON. GEORGE WORTLEY OF NEW YORK, HON. FRANK WOLF OF VIRGINIA, AND HON. ALBERT LEE SMITH OF ALABAMA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon as spokesman of the Freshman Members' Bible Study to publicly thank Tom Barrett of the Christian Embassy for the outstanding teaching, leadership, and direction he has provided for our weekly Bible session.

In just a few days, Tom, joined by his wife Linda, also a Bible teacher on the Christian Embassy staff, will be leaving for graduate school to earn a master's degree in counseling psychology. This degree, combined with the master's he already holds in Scriptural studies, will undoubtedly enable him to better wed the two academic disciplines into an even more effective Christian ministry.

Mr. Speaker, my colleagues and I are real sad to see Tom go. I'm sure the Senators and staffers in his other studies feel the same way. We will miss him. All of us have profited much by his uncanny wisdom and penetrating knowledge of the Scriptures. Most of all, we have been impressed by the genuine character of his witness for our Lord, Jesus Christ. You see, Mr. Speaker, Tom Barrett practices what he preaches. He is a doer of the Word, not just a hearer. His example has been an inspiration and source of encouragement.

Mr. Speaker, Tom Barrett has worked hard to instill in us a thirst and appreciation for the Bible. He has exhorted us to more actively seek the Lord's will in our lives. He has encouraged us to pray more and read the Bible frequently and intelligently. Tom has also helped us understand more clearly how to claim the Lord's magnificent promises and how to "give thanks in all things" despite the circumstances. After all, the Bible tells us, "I can do all things through Christ who strengthens me . . . In Christ, we are more than conquerors."

Our weekly studies have been practical and relevant. Some of the topics we have explored with Scriptural insight included: Is Christ Nice or Necessary?; How To Deal With Pressure; Persevering Under Adversity; True Forgiveness; Maintaining Priorities in an Election Year; What is Faith: Putting on a New Self; and The Christian Walk.

Our weekly study sessions have truly been a time of spiritual refreshment, fellowship, and learning.●

AMENDMENTS TO THE 1939 SEED ACT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FAZIO. Mr. Speaker, I have introduced in the House today a bill which I hope will ameliorate consequences of a recent decision by the U.S. Department of Agriculture to close, effective the beginning of the 1983 fiscal year, the Agricultural Marketing Service's four regional seed laboratories. These labs are charged with the enforcement of the requirements in the 1939 Federal Seed Act. The Department has determined that the functions of the regional laboratories may be safely consolidated into the AMS' Federal Seed Standardization Laboratory in Beltsville, Md. The Department has said that the closures will result in the savings of $600,000 a year and will cause a net loss of 17 jobs, though many of the jobs to be preserved will require transfer to Beltsville.

In response to various concerns expressed by the seed industry and knowledgeable members of the general public, the Department has modified its closure plan over the last several months. It has sought to insure that the single laboratory in Beltsville will not be overwhelmed with work and that the seed industry will not suffer inordinate delays while waiting for samples of seed to travel large distances for testing. We were particularly concerned about the closures of the Sacramento laboratory on the west coast, through which more seed is processed than through any other laboratory. In 1981, for example, 4,486 seed samples subject to the Federal Seed Act were handled in Sacramento,

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versus 3,599 in New Jersey, 4,130 in Minnesota, and 2,340 in Alabama. Some 57 percent of all the vegetable seed imports were handled through the west coast laboratory, 84 percent of the service tests for imported seed, and 57 percent of the service tests for exported seed. With this volume occurring at a point 3,000 miles from Beltsville, Md., concern was obviously strong that the program consolidation did not result in missed plantings and higher costs—in one of the most time-sensitive and cost-sensitive steps in agriculture.

Therefore during a period of negotiations, when we were ably assisted by Mr. WHITTEN, chairman of the House Appropriations Subcommittee on Agriculture, the Department proposed various ways in which the seed laboratories' workload could be assigned elsewhere within the USDA. The Animal and Plant Health Inspection Service received responsibility for noxious weed testing, a function it could efficiently assume with existing personnel at ports of entry. The Department found and assured us that the awarding of certificates for the export of U.S. seed could be delegated to the States (to be supported with user fees) without any changes in statute. The remaining function of the laboratories—known as pure live seed random sampling—had to be performed at Beltsville, we were told. Subsequently, the APHIS was assigned live random sampling in its laboratory at New Brunswick, N.J.

The Department of Agriculture has assured us that these consolidations and changes will be carried out with absolutely no loss in time or efficiency. However, Mr. Speaker, its good intentions aside, the Department will not be able to eliminate entirely the prospect that the requirement for pure live sampling will not result in costly coast-to-coast shipment delays.

It happens also that pure live seed random sampling does not even appear to be necessary, at least in the minds of the USDA and the seed industry. Each State has its own seed standards, and in most cases they are higher than the Federal standards. In no case are they lower. Additionally, for its own marketing purposes the industry must generally provide quality and germination assurances that exceed even the highest of the State standards. The Federal requirements set forth in the 1939 Seed Act are obsolete and redundant.

The possible problem of shipping great distances combined with the lack of purpose for the Federal pure live sampling requirement lead us to conclude that it would be best to simply eliminate the requirement from the statute prior to October 1, if possible.

That is this bill's primary purpose, as far as I am concerned. In addition, however, it contains some other provisions to eliminate conflicts between Federal and State seed laws and to provide flexibility to the Secretary of Agriculture in administering the act.

The act specifies that certain grasses be classified as "fine textured" or "coarse kinds" and a list of the two categories is provided in the regulations. The development of new improved varieties of grass seed has blurred the distinction between the two lists. It has come to a point where it is impossible, from a legal standpoint, to differentiate between the two kinds. It is a very slow and difficult process to change the lists in the regulations as new varieties are developed and even more difficult to classify a new variety of grass into one of the categories.

The Association of American Seed Control Officials, made up of State representatives, has recommended elimination of the requirement to label according to these distinctions and has made the change in the "Recommended Uniform State Seed Laws." Several States have adopted this labeling change in their seed laws; others are only waiting for the Federal Seed Act to be changed in order to change their laws.

In an attempt to conform to two different sets of laws, a seedsman selling seeds in one of these States could be in violation of either the State or Federal law or both. A member of the seed industry selling seeds on a national level finds it difficult, if not impossible, as well as expensive to attempt to label his seeds in a different manner in the 50 States.

The second immediate need for changes in the FSA pertaining to lawn seed mixtures is to correct the labeling requirement to allow that only the month and year of the oldest germination test be required. Since the test must be completed within a 5-month period of the date of sale, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on a small package of seed and, since this is a control measure and does not afford the consumer additional protection, it would save time and money in printing the label and make it easier for the consumer to understand the information that is helpful.

There is also a need to provide the Secretary of Agriculture with authority to extend the 5-month period between the test date and date of sale when he finds that, under ordinary conditions of handling, certain kinds of seed will maintain its germination qualities over a longer period of time.

Mr. Speaker, it may seem late in the year to be introducing a bill. However, one of my Senators from California, Senator HAYAKAWA, has introduced a similar measure. With his help and the cooperation of the Agriculture Committees and the Congress as a whole, I am hopeful we can resolve this lingering problem by October, when the new fiscal year begins and the closure of the laboratories is completed. Thank you.●

SENIOR ENVIRONMENTAL EMPLOYMENT PROGRAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. UDALL. Mr. Speaker, I would like to take this opportunity to note the passage of an important amendment yesterday, offered by Representative COOPER EVANS of Iowa to the Environmental Research, Development, and Demonstration Act of 1983. The amendment authorized the senior environmental employment program. This program gets at the heart of two problems this Nation faces. First, we need more workers to enforce and research our environmental policies. This problem did not come with the Reagan administration. When the senior environmental employment program was first implemented in 1978, State and local environmental offices cited a need for more employees. I might add that this administration's view that there is no need for more environmental employees—in fact that fewer employees can do the job better—somewhat baffles me. Nevertheless, the job of protecting our environment is an enormous one and the use of senior employees can help get it done.

The second problem the senior environmental employment program can help to alleviate is the growing numbers of unemployed senior citizens. The population of people over the age of 65 is steadily rising. And so is poverty, boredom, and disillusionment among our Nation's elderly. This program is an excellent opportunity for senior citizens to pursue their interests in environmental protection and make a valuable contribution to this Nation's future.●

KEEP THE EMBARGO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DERWINSKI. Mr. Speaker, the bill, H.R. 6838, which terminates certain export controls would directly influence U.S. technological involvement in the construction of the Soviet Union's natural gas pipeline. It has been held for consideration until after the upcoming recess.

Personally, I am pleased to see that this misdirected piece of legislation has been delayed. As a result of an ill-advised legislative effort, this bill was reported out of the full Foreign Affairs Committee without the benefit of thorough debate on the foreign policy impact that could result from its passage.

Therefore, I was especially pleased to note that the distinguished columnist, William Safire, gives very detailed arguments on the possible repercussion on the use of our technology in the Soviet pipeline construction in his column which appeared in the August 17 Chicago Tribune.

KEEP THE EMBARGO

(By William Safire)

Here are seven aguments advanced by Europeans miffed at our refusal to help build their Siberian gas pipeline, followed by short doses of realism that have escaped U.S. congressional doves:

The gas pipeline is a private business deal that should not be blocked by cold war politics.

Nonsense: West German Chancellor Helmut Schmidt, in the twilight of his power, is making this last-ditch attempt to impose the dead hand of detente on the East-West future. When Russians lose their capacity to export oil in a few years, they will need a new source of hard currency to finance purchases from the West. The Soviet-European pipeline deal would provide it more than $10 billion a year. Schmidt's West German Socialists delude themselves that growing East-West trade will somehow make possible the reunification of Germany.

Americans should have told us long ago that they opposed this deal—now it's too late.

Our displeasure was made known over a year ago at the Ottawa summit meeting and followed by a mission to Europe to dissuade the West Germans; these repeated warnings were treated with contempt. Finally, President Reagan publicly warned that unless the crackdown in Poland ended, "further steps" would be taken—but the Europeans didn't believe him.

America's concern that this deal will make Europe subject to Soviet blackmail is misplaced—it will supply only 5 percent of total energy needs.

Even the West Germans admit that the Russians will supply one-third of their natural gas in this deal; within the decade, that dependency will probably jump to one-half, concentrated in the home heating market. Only detente politics dictates this dependency: the needed gas could be developed from the North Sea instead.

If you really wanted to punish Moscow, you would embargo your grain—why ask Europe to make a sacrifice America won't make?

When America embargoed grain after the Soviet invasion of Afghanistan, Europe undercut that pressure of quadrupling its annual grain sales to the Soviet Union to two million tons. Europe profiteered on our embargo. When Schmidt made the grain-pipeline connection this spring, I asked the question that punctures that balloon: If America did embargo grain to help ease the pressure on Poland, would Europe drop the pipeline? The answer was a horrified "No!"

America has no right to apply extraterritoriality to deals made by U.S. companies—if you want to do business in Europe, selling your licenses to our companies, you must abide by our laws.

That charge turns truth on its head: The contracts made by U.S. companies with European concerns contain clauses that permit cancellation if the U.S. government decides the deal is against our national interest. The Europeans are now threatening to breach these contracts, in effect ordering their companies to expropriate the U.S. technology on pipeline compressors. That would be a highly unfriendly act by the Europeans, demanding retaliation. Nor are we acting ex post facto—the issue has to do with the transshipment of our technology, which has not yet taken place.

By denying the use of American technology, the U.S. may delay the pipeline for a couple of years—but won't stop it.

If Schmidt and French President Francois Mitterrand are so committed to making the biggest East-West trade deal in history that they are willing to risk a serious breach in the Atlantic Alliance, that is their business: But the U.S. is not obligated to assist them in what we believe to be a fundamental mistake. As European nations are sovereign, so is the U.S.; and a two-year delay in the flow of hard currency to the Russians would be salutory.

America is suffering a public relations defeat, alienating its allies without stopping the pipeline.

The point of having an alliance is not merely to have an alliance—it is to act together in a common purpose. The purpose of NATO, for example, is to deter the Soviet Union from doing in West Germany what it has done in Afghanistan and Poland. If the West Germans consider it more important to strengthen their ties with the Russians than to maintain their ties with the Americans, then the "alliance" has become a hollow shell and we would do well to so recognize it.

A total of 350,000 U.S. servicemen are stationed in Europe to defend it from Soviet aggression. We have a right to object to actions by misguided allies that add to the power of our common adversary.

If these serious objections are derided by foreign ministers who bluster about "divorce" and threaten to use our technology against our will, Europeans now taking us for granted may find themselves with a fine gas pipeline to the East and no umbilical cord to the West.●

BALANCED BUDGET

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. COLLINS of Texas. Mr. Speaker, there is a pressing need to pass the balanced-budget amendment. We have a balanced budget in our constitution in Texas. It applies to the State of Texas, it applies to the city of Dallas, it applies to the county of Dallas. All of Texas must operate on a balanced budget and the system works.

The big difficulty is that those in political life have pressures to keep spending and spending. Under the balanced budget we have alternatives of having to reduce here or reduce there as you cannot spend for everything.

The Dallas Morning News writes one of the greatest editorial pages in America. They had a very sound editorial on balanced budget. They asked a good question about balanced budget. "Do you have a better idea?" That is what it all boils down to, because inflation is moving fast. Taxes are escalating, interest rates will go even higher. The answer is the balanced-budget amendment.

Remember back in 1968; the national budget was $100 billion under Lyndon Johnson. National budget was $298 billion under Ford in 1976. But right now we are talking about Congress spending $770 billion or more this year. That means that the budget went up $200 billion in 8 years but it has gone up $500 billion in 6 years. The only way that we can establish fiscal responsibility is with a mandated balanced budget.

You will be interested in the editorial from the Dallas Morning News.

BUDGET AMENDMENT: GOT A BETTER IDEA?

David Stockman's interesting essay on the balanced-budget amendment, published on the Viewpoints page last Friday, underlined several notable truths about the spending addiction that has called it forth.

The federal government's share of the total wealth produced by the nation in a year, the gross national product, has increased by a third in just 15 years.

And the addiction is even worse in other industrial nations that have a welfare state. The 10 Common Market economies now turn over half the produced wealth to government every year. On both sides of the Atlantic, the trend climbs toward even greater shares for government.

Meanwhile, the welfare-state mentality continues to increase the numbers getting money in relation to the numbers working to earn the money at productive jobs. In 1950, Stockman shows, there were five people working in private sector jobs for every one getting a transfer payment from the government. Last year, the proportion was 1.3 to 1.

What's more, there is what Stockman calls "asymmetry" between the interest group receiving payments and subsidies and the mass of working taxpayers. In plain English, what he means is that for each payment, the few getting it will fight harder to keep it than the many who pay taxes will fight to stop it.

For example, he cites dairy subsidies. They amount to $7,000 per dairy producer, but they cost the average taxpayer only about $18 a year. Obviously, a dairy producer is much more likely to give his time and money to a lobbying fight to keep the subsidies than John Q. Taxpayer is to get the subsidies cut.

Multiply that situation by the hundreds, thousands, of programs that hand out the taxpayers' money. You can easily see why Congress, for all its brave talk about economy, rarely reduces any spending program.

There are plenty of arguments against the amendment. But there aren't plenty of alternatives.

It is obvious that we cannot go on as we are going. That way lies certain calamity. But none of the critics has produced any other way to get the federal government to budget as well as does a prudent household,

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a well-managed business, a fiscally responsible state.

What we've heard so far is criticism. What we'd like to hear is a better idea for doing what clearly has to be done.●

EXPLANATION OF VOTES ON AUGUST 17, 1982

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, I was necessarily absent from the Chamber on official business in order to honor a long-standing commitment to meet with a group of my constituents in Montana. There were a number of recorded votes during the time I was absent and I want to make my position known on those measures considered by the House.

On H.R. 1489, Puerto Rican passenger service, rollcall No. 281, I would have voted "yea."

On H.R. 5618, Organic Farming Act, rollcall No. 282, I would, as a cosponsor of the bill, have voted "yea."

On H.R. 6323, EPA research authorization, rollcall No. 285, I would have voted "yea" on final passage.

On the amendments to the EPA research authorization, I would have voted "yea" on rollcall No. 283 to amend the amendment in the nature of a substitute and would have voted "yea" on rollcall No. 284 to adopt the amendment on the nature of a substitute.

On H.R. 6324, NOAA authorization, rollcall No. 286, I would have voted "yea." On that bill, I would have supported the amendment agreed to by a voice vote that established an objective procedure for opening and closing weather stations and for consulting local officials.

On H.R. 6955, budget reconciliation, rollcall No. 287, I would have voted "yea" to send the bill back to conference to delete the congressional pay raise.

On H.R. 6530, Mount St. Helens volcanic area, rollcall No. 288, I would have voted "yea" on agreeing to the conference report.●

MRS. PATTON SERVED LONGEST ON HILL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FAUNTROY. Mr. Speaker, from time to time I have the privilege of knowing men and women who are described as senior citizens because they have been blessed to live a certain number of years, yet by their activity and their spirit they seem to have found the fountain of youth, for their age is measured by the temper of their will, by their hope, and by their faith.

One such person, who many of you may already know, is Mrs. Alma Patton. On Friday, July 30, 1982, Mrs. Patton retired as manager of the Dirksen Senate Branch of Western Union. She is the person you have come to rely on in getting out those last minute messages to your constituents.

Mrs. Patton has seen many a Congressman come and go during her 54 years of service on the Hill and in fact has been in the Congressional Telephone Directory longer than any employee on the Hill.

I think we all owe Mrs. Patton a thank you for her dedicated service, for I am sure that you will all agree that she exemplifies the American ideals of determination, hard work, loyalty, and compassion—qualities which have built our Nation and continue to make us great.●

AMERICAN-FLAG PASSENGER VESSELS SAIL AGAIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, Friday of this week, August 20, ceremonies will be held in Los Angeles welcoming the first American-flag passenger cruise ship to dock in Los Angeles Harbor in over 5 years. An American-flag passenger ship docking in Los Angeles 20 years ago would have warranted absolutely no attention. In the late 1950's there were 15 passenger vessels flying the American flag, directly employing 10,000 American seafarers. And there were about 25,000 shoreside jobs in shipbuilding and repair, tourism and support industries that depended on this segment of the American maritime industry. But, that was 20-odd years ago.

In the intervening years, we have seen the American-flag passenger industry in a steady decline. This decline was caused by the terrific advances made in air traffic which took away passengers from vessels plying normal commercial routes, and heavy competition from less expensive foreign-flag vessels. In 1978 the last two all-passenger vessels flying the American flag were retired. Although for the last 5 years we have had combination cargo-passenger vessels and freighters carrying passengers under the U.S. flag, we have not seen the true all-passenger vessel, stately and majestic, plying the waters under the Stars and Stripes.

But I am happy to say that now this has changed. The ceremonies this Friday welcoming the SS *Independence* to the L.A. Harbor mark a limited, but nonetheless significant, revival of the American-flag passenger trade. The *Independence* and her sister ship, the SS *Constitution*, are operated by the American Hawaii Cruises. The *Independence* began operating in the Hawaii interisland trade in June of 1980, and proved to be so successful that the *Constitution* was placed under the U.S. flag earlier this year. Both of these ships are crewed by members of the Seafarer's International Union.

I am pleased to report, Mr. Speaker, that the rebirth of the American-flag passenger cruise industry is a good example of what labor, business, and Government can achieve when they act together in concert. I am indeed proud of the part that I played in obtaining approval from Congress in 1979 to recommission the 30,000-ton passenger liner *Independence* as a U.S.-flag vessel. And I am proud that this enterprise is proving successful, because that equates to American profits, American jobs, and a broader American tax base. That is surely something which we can all applaud, and it will indeed be a thrill to see a mighty passenger vessel steaming into the Los Angeles Harbor carrying the U.S. flag proudly on its stern.●

"A HANDGUN DEATH TOLL"

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LEHMAN. Mr. Speaker, the Florida Coalition To Halt Handgun Crime has recently released the tragic statistics for the month of June on south Florida's handgun victims. Ralph Renick, vice president and news director of WTVJ in Miami, presented an editorial about these figures and called on our local county commissions to enact handgun legislation.

I am including Mr. Renick's editorial in the RECORD and I commend him for bringing these senseless killings to the attention of television viewers in south Florida.

With more and more local governments taking the initiative in the struggle to curb handgun violence, it is clear that the American people favor stronger handgun control legislation. I hope that my colleagues in the Congress will be encouraged by this trend and act soon to pass Federal legislation.

The editorial follows:

[Broadcast Tuesday, July 27, 1982]

A HANDGUN DEATH TOLL

The Dade County Association of Chiefs of Police is for it . . . the Society of Former F.B.I. Agents supports it . . . the North Miami City Council backs it . . . the American Jewish Congress and Catholic Archbishop Edward McCarthy favors it . . . the "it" being a proposed ordinance by the Florida Coalition to Halt Handgun Crime.

In April, the Coalition presented its proposed law to the Dade and Broward County Commissions. It's three months later . . . neither commission has come close to considering the seven gun control recommendations.

Today the Coalition released the handgun death toll for the month of June. 30 people died by handgun bullets in Dade and 21 had their lives ended by handguns in Broward. While you look at the names and ages of the 51 victims, we'll highlight verbally some of the circumstances in these deaths.

VIDEOTAPE

Dade handgun death toll in June—30

Jose Andujar	37
Pablo Aviles	20
William Banks	32
Catherine Bleich	14
Oswyn Boyd	26
Keith Brown	17
Juan Jose Bultron	26
Celedonia Cordero	32
Richard Cunningham	22
Barbara Farrell	52
Ronnie Ferguson	18
Janet Gayzel	22
Carlos Hess	53
Jose Ioo	57
Alfredo Lorenzo	36
Grisel Lorenzo	27
Charles Mills	25
German Mitat	38
Ernesto Perez	35
Donald Phillip	26
Jorge Pujol	19
Freddy Ramires	20
Sara Rey	31
Pedro Rodriguez	35
Letitia Shannon	28
Theotis Sharpe	26
Miguel Suara	23
Percival Wright	35
Clara Zaballa	50
Humberto Zuniga	17

Broward Handgun Death Toll in June—21

Alvin Austin	30
Patricia Daniels	36
Robert Daniels	46
Raymond Dunlop	70
Sharon Evers	35
Ira Goodman	31
William Hall	53
John Hofen	64
Thomas Hosty	44
Monte Klein	33
Paul Neal	67
Byron O'Dena	40
Monica Porth	20
Angel Sarduy	35
Steve Seidel	21
Charles Sherrard	54
Justin Smollin	16
Michael Sparber	37
Shellie Summers	48
John Vissing	65
Leonard Walls	29

Total Dade and Broward handgun deaths Jan. 1 through June 30: 334. Dade, 222; Broward, 112.

AUDIO

14-year-old Cathy Bleich of Miami took her father's handgun from his automobile and killed herself. She and her brother were alleged to be victims of child abuse. She had a high I.Q. and played in her school band.

18-year-old Ronnie Ferguson of North Dade was killed by a neighbor after Ferguson complained of clippings from a hedge falling into his yard.

26-year-old Juan Bultron of Miami was driving along Northwest 79th Street when a passenger in another car pulled a handgun and killed Bultron instantly.

35-year-old Pedro Gonzalez died at the wheel of his truck in Hialeah . . . shot by someone who had pulled up in front of him.

This brings the number of handgun deaths in Dade and Broward for the first half of 1982 to 334. Three-hundred-and-thirty-four . . . that's more than the handgun deaths in the entire year of 1979 in the following countries combined . . . Great Britain . . . Switzerland . . . Canada . . . Israel . . . Sweden . . . and West Germany . . . more in the first half of this year in Dade and Broward then those six countries combined in all of 1979.

Dade and Broward County Commissions . . . are you listening or even caring?●

BALANCED BUDGET FLIMFLAM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. OBEY. Mr. Speaker, recently, we have witnessed the spectacle of an administration which has asked the Congress to pass the largest deficit in history engaging in a diversionary operation to take people's attention away from the ludicrous nature of these deficits by posing as the champions of a constitutional amendment to balance the budget.

The budget should be balanced in years of full employment in order to pay back Treasury borrowing that occurs at other times. But the constitutional amendment sham being enticingly dangled in front of the American public today is a prescription for making recessions deeper and longer and more painful and it is a prescription for minority rule—the very antithesis of the constitutional principle of majority rule built into our system by our Founding Fathers.

I am inserting in the RECORD at this time two newspaper editorials from my home State—one from a traditionally Republican newspaper, and the other from a usually Democratic newspaper. I am also inserting three excellent articles by Tom Wicker, David Broder, and James Kilpatrick, which put into perspective the sham game being played by this administration and many people in this Congress as well.

I also invite Members who are interested in a balanced budget to quit posing about actions they will take 6 years from now to balance the budget and start addressing the need to get today's budget deficits under control now.

The articles follow:

LAW TO BALANCE BUDGET BORDERS ON RIDICULOUS

Two years ago, President Reagan said his economic programs would balance the federal budget by 1984, maybe 1983.

Now, in the wake of approval of a 1983 fiscal budget calling for a deficit of more than $100 billion and smaller but still immense overages down the line, Reagan has called for a constitutional amendment to require a balanced budget.

With all due respect to the basic belief that budget deficits are bad for the economy and that their elimination would have an effect on both interest rates and inflation, the idea that this can be achieved through a constitutional amendment borders on the preposterous.

Indeed, even the proposal under debate in the senate allows a loophole through which the deficit ban could be temporarily lifted by a three-fifths vote of Congress or in wartime.

If Reagan really believes the budget can be balanced by act of law, why doesn't he just forgo the next request to increase the national debt limit? Indeed, if he merely vetoes every objectionable spending bill, it will take a two-thirds, rather than a three-fifths, majority vote of Congress to defy his will.

But it seems obvious that Reagan is trying to divert attention from his budget deficit by wrapping the idea in the constitution and ceremoniously embracing it. It will be an argument to use against Democratic critics who recall his promise in the November elections.

All this is not to say that the deficits are Reagan's fault. As he has noted, there have been deficits in 21 of the last 22 years, some of which were pretty good economically. And a case can be made stricter adherence to and broader acceptance of his supply side theory would have brought us closer to a balanced budget at this time.

But the current situation seems to demand a continuing effort by the administration and Congress to determine where economies in the subsequent budget years can be made.

Wasting time on the constitutional amendment can only divert the president and the lawmakers from this responsible course of action.

[From the Milwaukee Journal, Aug. 7, 1982]

DECEPTIVE "APPLE PIE" AMENDMENT

"It's quite hard to explain why you are not for motherhood, or low interest rates or a balanced budget."—Sen. John Chafee (R-R.I.)

Chafee's wry comment probably explains why many senators voted for the "budget balancing" constitutional amendment in spite of the serious damage that it could do to the orderly processes of government.

Commendably, Chafee chose not to join the stampede. We regret that Wisconsin's Sens. William Proxmire and Robert Kasten didn't show comparable courage.

On the surface, a vote for the amendment was like a vote for apple pie and the Fourth of July; while a vote against it—even for the soundest of reasons—might look too much like a vote for big spending.

Actually, the amendment has no bearing whatever on the mind-numbing deficits that loom over the next few years. If the House quickly follows the Senate's lead and adopts the measure, it still will have to go through a long ratification and implementation process before being put into effect.

Even for the long run, the measure's impact on deficits is somewhat debatable. The amendment apparently would make it harder for Congress to adopt an unbalanced budget and harder to raise the federal debt ceiling. Three-fifths of the membership of both houses would have to approve, except

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in wartime. But the measure would not prevent economic recessions, which are one of the main causes of deficits. On the contrary, by limiting the government's policy options, the amendment might make recessions more likely.

Some advocates of the amendment argue that it is a necessary goad to the lawmakers. "We don't have the appetite to limit ourselves," says Sen. John East (R-N.C.). That problem can be remedied at the ballot box. Tying the hands of future Congresses isn't the answer.

Although today's record deficits are cause for genuine concern and appropriate action, deficits are not always bad. Economic depressions or other emergencies can make it temporarily necessary to spend money more than taxpayers can afford to.

The constitutional amendment presents two other serious problems. First, it would clutter the Constitution with what is at best a legislative rule. That's like drawing whiskers on the Mona Lisa. The Constitution is an elegantly simple document that should not be altered except for compelling reasons. Second, the amendment would install minority rule, allowing 41 of the 100 senators or 175 of the 435 representatives to dictate the terms of the federal budget. That is intolerable in a country committed to democratic government.

[From the New York Times]

THE BIGGEST HOAX

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes." The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year $750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from $140 billion to $160 billion, even after approval of the proposed $99 billion tax increase for the same years. Without a shred of evidence other than voodoo throbbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of $214 billion for 1983, $243 billion for 1984 and $279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.

[FROM THE MILWAUKEE JOURNAL, AUG. 10, 1982]

COWARDS IN CONGRESS

(By David S. Broder)

After summarizing the copious arguments for the ratification of the Constitution in the last of the Federalist papers, Alexander Hamilton gave vent, briefly, to the emotions he felt as he contemplated the choice before the infant republic:

"The establishment of a Constitution, in a time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."

Last week, the Senate of the United States voted for an amendment to the Constitution to require a balanced budget, except in time of war or by vote of 60 percent of both houses of Congress.

This is what a US Sen. John G. Tower of Texas offered as a rationale for his vote:

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States. We are unable to discipline ourselves to do what we should do and, therefore, we feel constrained to try to institutionalize that discipline in the Constitution.

"This is a matter that should not really be in the fundamental law of this land . . . Because I think it should be submitted to . . . a referendum and because I think there should be a great national debate on this issue, I intend to vote to report the amendment. However . . . I would be deeply delighted to testify against its ratification."

What a commentary on the condition of public life and leadership in this republic.

When but recently liberated from colonial status, men of influence were prepared to risk "their lives, their fortunes and their sacred honor" for the ratification of the charter of this nation's being.

Today, this rich and powerful nation is governed by people who are prepared—against their better judgment—to forward, for inclusion in that charter, any kind of simple-minded scheme they think commands a popular majority.

The point is not to condemn Tower. His own words do that. The rationalization he offered was, in fact, adopted by the leaders of the Senate. Majority Leader Howard H. Baker, Jr., of Tennessee used it to solicit votes. Minority Leader Robert C. Byrd of West Virginia employed it in explanation of his own tortured vote.

Not to worry, they said. It's just a harmless little old constitutional amendment, which happens to shackle the national government and prevents it from conducting a national economic policy, which transfers to a minority of 40 percent the power to set fiscal policy, meaning, among other things, the capacity of this country to defend itself and to secure the general welfare—the fundamental purposes of creating the national government.

But, they said, the House may not pass it. Legislatures may not ratify it.

Don't you believe it. Cowardice is contagious. Already, one hears House leaders saying it might be smart to let the members vote for the amendment, in a slightly different form, to "protect themselves" for election purposes, and then hope that it dies in a House-Senate conference committee.

But the conferees will not withstand the heat—nor will state legislators—unless someone decides to stop the buck-passing and vote on conviction. In the Federalist papers, Hamilton explained that the procedure for amending the Constitution was made difficult so that "the judgments of many must unite in the work (and) experience must guide their labor."

Hamilton did not reckon with the kind of leaders we have today, who are all too eager to suspend judgment, ignore experience and avoid responsibility.

It is a different kind of "trembling anxiety" one feels when the Constitution falls into the hands of such people.

[From the St. Paul Pioneer Press, Aug. 16, 1982]

Wrong Way To Balance Federal Budget

(By James Kilpatrick)

Washington.—The proposed constitutional amendment to compel a balanced federal budget offers a regrettable but familiar combination often seen on Capitol Hill. The resolution is a mishmash of good intentions and bad law.

Since the days of John Randolph of Roanoke, who defined pay-as-you-go as "the philosopher's stone" of wise government, almost everyone has proclaimed the virtues of a balanced budget. This is the ideal. There is nothing wrong with the ideal. The problem lies only with members of Congress who have despoiled it and with the people who have voted these members into office. Barring periods of true national emergency, of course our government should spend no more than it takes in.

There is much to be said, also, for the argument that the only way to restrain our irresponsible lawmakers, who have spent us into a trillion-dollar debt, is to deny them the money in the first place. The theory is that they can't spend what they don't have. It is supposed that the constitutional amendment would provide precisely such a restraint. At the very least, the amendment would raise a symbol that honorable men could repair to.

But for the past 10 years, we have heard some of these same arguments about the ill-fated ERA amendment. It would have provided that "equality of rights under the law" shall not be abridged on account of sex. The ERA never would have accomplished what its proponents believed it would have accomplished; and the notion that constitutional amendments are "symbols" is a notion that ought to be abandoned.

The resolution adopted by the Senate on Aug. 4 is flawed in a dozen ways. It undertakes to write statutory law into the Constitution, and this always is a bad business. In Section 2 of the amendment, it is proposed to limit the rate of increase in annual receipts, but the formula by which this would be fixed is a formula composed of algebra and moonbeams.

The Congress and the president, says this amendment, shall ensure that actual outlays do not exceed a statement of proposed outlays, but there is no way under moon or sun that this provision could be enforced. It is generally forgotten, but we already have a law to this identical effect. Under Section 7 of Public Law 95-435, adopted in October 1978, it is specifically provided that, "Beginning with Fiscal Year 1981, the total budget outlays of the federal government shall not exceed its receipts." This already is a part of the supreme law of the land, and no one has paid a particle of attention to it.

Extended analysis would be a profitless exercise. The political and parliamentary situation in the House suggests that the amendment is dead for this session. Like T. S. Eliot's famous patient, the Senate's amendment now lies etherized upon a table. It is sleeping in the House subcommittee on monopolies and commercial law. This is Chairman Peter Rodino's personal operating room, and Dr. Rodino is a skilled operator.

It is conceivable, though barely conceivable, that the chairman could set aside his own opposition to the amendment and in the name of democracy let the resolution move toward floor consideration. The alternative is for the resolution to be bombed out of its unlikely abode by a petition for discharge. Such a petition requires 218 signatures, and these will be hard to come by.

Suppose the 218 signatures were obtained. Seven legislative days must then elapse. A resolution thus press-ganged then may be called up on the floor, but only on the second or fourth Mondays of each month. Aug. 16 is out; the House will be in recess on Aug. 30; Sept. 13 is a possibility, but only if the seven-day requirement has been met; Sept. 27 is Yom Kippur, when nobody's home; the Congress is expected to adjourn well before Oct. 11, which happens also to be Columbus Day.

If we want balanced budgets, the answer lies not in the straw fetters of this amendment, but in the election of responsible representatives. The whole House and a third of the Senate will be up for election in November. If the deficits get worse, let us blame them—but let us blame ourselves too.●

SECURITY AND STRATEGY IN NORTHEAST ASIA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BONKER. Mr. Speaker, on July 28, Mr. Lee Jong Chang, the majority leader of the Korean National Assembly, spoke at a symposium on security and strategy in northeast Asia. This meeting was sponsored by the Center for Strategic and International Studies at Georgetown University and the Institute of Foreign Affairs and National Security of the Republic of Korea.

In discussing the efforts to enhance security in Asia and the Pacific region, Mr. Lee makes certain interesting observations which I would like to commend to the attention of my distinguished colleagues.

The remarks of Mr. Lee follow:

Mr. Chairman, Members of the U.S. Congress and the Korean National Assembly, distinguished representatives of the U.S. Government, Ladies and Gentlemen:

As Co-Chairman of the First Annual Korea-U.S. Symposium on Security and Strategy in Northeast Asia, it is indeed an honor and a privilege to have this opportunity to share with you our mutual concern and interest in the theme of this important conference. I feel that today's symposium will provide a significant opportunity for those assembled here to examine the entire Northeast Asian situation of the 80's.

Following the Second World War, with increasing tension between East and West, the communists attempted to expand their sphere of influence by military force and intervention in the affairs of many Asian nations, contrary to the type of activity in which they engaged in western Europe. There are numerous examples of this including the establishment of the People's Republic of China as a result of internal conflict, the outbreak of the Korean War, the communist overthrow of Vietnam in the early 70's and the communization of the Indochinese peninsula.

In Europe, the attainment of political and social stability and economic prosperity, as well as the re-attainment of a military balance, combined to function as a preventive element in avoiding war. This condition also made it possible to conduct various forms of negotiations between the two blocks.

In Asia, however, political instability, economic underdevelopment, and social disorder eventually brought on war, and consequently encouraged expansionism by the communists in the region.

To put it another way, in Europe the communists realized that the values to be preserved by maintaining the peace were far too important to risk destroying them by resorting to war. In Asia, however, it can be said that wars occurred in most cases because of the vague expectation that war, although it causes ruin, might create many new values which would be more beneficial to communism than those which existed before.

From the latter part of the 1970's, however, the people of Asia gradually began to recognise that this was a misconception. In other words, it has been demonstrated that a society that is newly constructed after total destruction can not, under any circumstances, guarantee human dignity, political equality or economic progress, but can only result in endless oppression and the degradation of human life.

Together with this deep awakening of the peoples of Asia, the economic development of Japan gave great incentive to the region. Stimulated by Japanese economic progress, the developing countries of Asia are now making impressive progress in their own economic development plans.

As we emerge into the '80's, with the expectation that an era of competition will eventually replace that of war, Asian countries are seeking peaceful solutions to all their problems. To attain these goals, however, several important conditions must be clearly recognized and met.

The first thing to be considered is that when one nation suffers the ravages of war, all neighboring nations are adversely affected, resulting in a generalized disturbance of the regional order. Consequently, each nation should assume responsibility for the protection of the entire region under a system which delegates an equal share of responsibility to each country.

Second, each nation must exert its utmost efforts to achieve prosperity through growing regional economic cooperation. They must also develop their national economies and improve their standards of living. By successfully accomplishing this, they should be able to prove to themselves that these actions will effectively deter war and lead to fair competition.

Third, the necessity of the United States' continued an active assistance to deter any military aggression should be unequivocally stressed. All available data show us that Soviet military capabilities have been expanded in the Far East during the '70's, and this appears to be the most serious threat to our region. The Soviet Pacific Fleet alone, at a tonnage of 1.5 million, surpasses the United States 7th Fleet. Its overall strength is twice as great. Under these circumstances, it is inevitable that the deterring of Soviet military power should depend to a significant extent, on United States' support through both nuclear weapons and conventional forces.

I believe that only when we successfully meet these requirements, will a new regional order in Asia and the Pacific be established in harmony with the one being

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sought in the West, thus ultimately contributing to world peace.

Northeast Asia, in particular, is a key area in measuring the security of Asia and the Pacific region. Four great powers of the world, the United States, Japan, the People's Republic of China and the Soviet Union—together with South and North Korea—maintain a perilous coexistence through their delicate interactions and the formation of triangular relations among themselves. Because of the precarious geopolitical situation, this region has such a built-in vulnerability that even small frictions may immediately cause overall disruption of the balance of power and lead to the total destruction of the existing regional order. The Republic of Korea is located within this strategically important area.

At this point, I would like to discuss U.S. policies toward Northeast Asia. It seems to me that the United States policies in this region have not sufficiently reflected a regional defense concept covering the entire Asia-Pacific Area.

They seem to rely to a large extend, on a strategic area defense concept focusing primarily on the security of Japan.

With regard to the Republic of Korea, it has been unfortunately true that the defense of Korea has been perceived at least in concept, as subordinate to that of Japan and this fact was clearly pointed out in the Nixon-Sato Joint Communique of 1969.

This basic concept and approach of the United States has made it possible for Japan to project even less than one percent of its GNP for its defense budget while the Republic of Korea bears the heavy burden of sacrificing six percent of its GNP for her national defense.

In regard to these budget allotments, it is important to view the military tension on the Korean peninsula as a regional matter, thereby demonstrating North Korean provocation as a potential threat to the region as a whole.

Is it imaginable that North Korean military power, which consumes more than 15 percent of the GNP and maintains a 700,000 man army is designed solely for the purpose of its own defense? I have my doubts.

Is it imaginable that the so-called "export of revolution" through which North Korea trains guerrillas and supplies arms to them would be stopped automatically once they complete the communization of the entire Korean peninsula? I would certainly answer no.

Although the perception that Korea is a dagger pointed at the heart of Japan prevails, it would be more appropriate to say that the Korean problem is a dagger pointed at the entire Asian and Pacific region.

In order to ease these prevailing tensions in Northeast Asia and in order to bring durable peace to our region, we Koreans are making concerted efforts with particular emphasis on the following three points.

To begin with, through successful implementation of a planned defense program, our military capability will not be second to that of the North Korean in the '80's.

Second, we look forward to seeing mainland China continue its moderate line and the present Kim Il Sung regime in North Korea to be replaced by a more rational one which may also follow a moderate line. Thus, hopefully, such a regime would sincerely agree with us on a peaceful solution to the problems on the Korean peninsula.

Third, we anticipate that the United States will unequivocally continue to remain a Pacific power and play a vital role in the region.

When we have a confirmation that these expectations have been fulfilled we can then relax with the knowledge that the security of our region has been significantly solidified.

Our region of Northeast Asia is usually recognized as the "Far East" by Western Europe. However, we might say that the same region is the "Near West" in relation to the United States.

If we look at our relationship from this perspective, the U.S. might generate a more well-defined global picture of world problems.

I would like to conclude my opening remarks by expressing my sincere hope that this symposium will greatly contribute to the exploring of our mutual needs, particularly enhancing security in Asia and the Pacific region.

On behalf of my colleagues, I wish to express my special appreciation to the faculty members of the Center for Strategic and International Studies and the participants from the Institute of Foreign Affairs and National Security of the Republic of Korea who worked very hard to make this symposium a successful one.

Thank you.●

SOVIETS REVOKE ACADEMIC DEGREES HELD BY JEWS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GREEN. Mr. Speaker, today's Wall Street Journal contains a useful article on official harassment of Jews in the Soviet Union. This article, "The Soviets Are Revoking Degrees Held by Jews," was written by William Korey, director of international policy research for B'nai B'rith International.

Mr. Korey reports that a total of 65 Jewish scientists have lost or will soon lose their degrees as a result of applying to emigrate. Losing a degree means an academic's intellectual freedom is totally restricted, and that he or she cannot earn a living. I am particularly sensitive to the restrictive and repressive influence of the Soviet Government on the lives of academics in the U.S.S.R.: My adopted prisoner of conscience, Dr. Semyon Gluzman, was imprisoned and exiled for refusing to practice his profession, psychiatry, under the terms dictated by the KBG when he would not provide inaccurate testimony to commit on psychiatric grounds a Ukrainian nationalist dissident.

That this loss of academic freedom is occuring is troubling; that it is focused on Jews in extremely disturbing. I commend Mr. Korey's article to my colleagues' attention, and ask that it be printed in the RECORD at this point.

THE SOVIETS ARE REVOKING DEGREES HELD BY JEWS

(By William Korey)

An extraordinary assault upon the autonomy and integrity of academia has been launched in the U.S.S.R. It warrants the attention and concern of the international scholarly community. A number of distinguished Jewish scientists who have sought to emigrate are advised that their higher academic degrees have been or will be revoked.

Not since the imposition by the Kremlin of the scandalous "diploma tax" in August 1972 has the Soviet Jewish intellectual been confronted by such a serious threat to his fundamental academic rights as well as to his livelihood. Higher academic degrees everywhere are granted in recognition of scholarly achievement. In the international community, a veritable sancity envelops the awarding of advanced degrees. Only in Hitler's Germany were academic degrees of Jews revoked. That action foreshadowed more intense persecution.

The unprecedented Soviet revocation practice was initiated in a systematic way about a year ago, though several cases occurred somewhat earlier. In 1978, a Jew holding the very advanced degree of doctor of biological sciences was deprived of the title. In 1980, revocations took place for two Jews holding advanced degrees in economic science and physical science. Since then, the scope has broadened and intensified, embracing a wide number of academic disciplines from geography to cancer research, from history to mathematics. A total of 65 Jewish scientists, according to available information, have lost or are in process of losing their advanced degrees.

The final stage in the revocation process stuns the degree-holder. He is suddenly advised, in a letter, without any previous indication, that the Soviet Higher Attestation Commission (VAK), on the basis of a "request" of some scientific council, "deprives you of the academic degree of Candidate of Agricultural Sciences" (as in one typical case; the "Candidate" degree is approximately equivalent to a Ph.D degree here).

VAK is the special, all-union body that confers academic degrees in the U.S.S.R. Individual Soviet universities, unlike those in the West, don't award them. Originally, VAK operated under the authority of the ministry of higher and specialized secondary education. However in 1974, VAK was transferred to the jurisdiction of the Council of Ministers. Its chairman explained that applicants for higher degrees would be required to "combine a profound professional knowledge with a mastery of Marxist-Leninist theory and with the convictions of an active builder of communist society."

Apparently, under the current interpretation, Jews seeking to exercise the fundamental human right to leave a country do not display the required "convictions." Even worse, several scientists were told that they were deprived of their degrees for "unpatriotic behavior," that is, applying to emigrate.

The personal ramifications of degree revocation are profoundly burdensome and humiliating. Soviet Jewish scientists say that it can mean salary cuts, demotion, denial of access to libraries and laboratories and even job dismissal. Further, those deprived of degrees can be kept from seminars, scientific meetings and professional publications. As non-persons in academia, they can have their research findings pirated or mutilated.

A public letter written by 13 prominent Jewish scientists in February spelled out the trauma: "We are being destroyed as scholars and as breadwinners . . . Our knowledge is locked away to decay." The writers interpret their torment to be "a deterrent for all potential new applicants for emigration to Israel."

They are no doubt correct. The Kremlin has reduced emigration to a trickle. Only a half-dozen Jews with advanced degrees were allowed to emigrate last year. About 500 emigration applicants holding advanced degrees were refused permission. Of these 45 percent have been fired from their jobs.

The revocation of degrees constitutes a new twist of the Soviet bureaucratic screw. The technique is only beginning. One of those affected, Yuri Medvedkov, a geographer associated with the Soviet Academy of Sciences, warns: "This poisonous process is not yet in full swing. We are trying to stop it early." But the burden of responsibility for halting the subversion of intellectual integrity rests with the international academic community. It was the outcry of Western academics in every discipline that helped end the notorious "diploma tax." A renewed outcry could produce a similar result.●

THE TAX REFORM

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JEFFRIES. Mr. Speaker, soon this body will be faced with the responsibility of dealing with a so-called tax reform—one that would raise taxes $98 billion over the next 3 years and $228 billion over the next 5 years. If this tax package is passed, you can be sure that the recession, which we are now starting to come out of, will be prolonged.

This week, major banks lowered the prime lending rate, a major economic indicator, to 14 percent. The proposed tax increase may jeopardize this downward trend because it contains certain provisions which affect corporate cash flow at a time when many companies are critically short of cash. Such action will put more upward pressure on short-term rates as companies are forced to borrow more heavily.

Many people believe that the tax increase will lead to more revenues for the Government. True, the Government will receive $98 billion over the next 3 years, but the increase will also ease pressure for Congress to cut spending, the real solution to the huge deficit. Moreover, the tax increase will inhibit personal savings and business growth which, in turn, will limit Government revenues and do nothing for our record high deficit. History shows that tax increases lead to a drop in personal income, which leads to less savings and long-term investment, which, in turn, leads to less revenue producing economic activity. On the other hand, a reduction in taxes has been shown to lead to growth in Government revenues.

Now, however, the administration has abandoned its economic philosophy. If you recall, this year the administration wanted $13 in spending cuts for every $1 in tax increases. But thus far, there have been only 16 cents in spending cuts for every $1 in tax increases. Yet the administration is supporting a $98 billion tax increase, instead of trying to get Congress to enact better than $25 billion of the $40 billion budget cuts of the fiscal year 1983 budget resolution.

Some $37 billion of this tax increase is aimed at the business sector. With Congress changing the tax code so often, how is the business world supposed to set plans for economic recovery? This instability will lead to the business community's distrust of the Government and to a slowdown of the recovery from the present recession.

Last year's tax cuts amounted to only one-fifth for business. But nearly one-half of this year's tax increase is directed at business. As a result, the tax increase will take away over two-fifths from the original business tax cut. How can the administration expect stability in the business world with this kind of give-and-take attitude?

One of the major provisions in this tax package that would inhibit economic recovery is the 10-percent withholding tax on interests and dividends. This tax will lead to a loss of long-term savings in the private sector. This tax package will thus inhibit savings which is something that the administration tried to stimulate last year with a tax cut, knowing that it would increase economic activity. Furthermore, it will cost hundreds of millions of dollars for the financial institutions to administer this increase, costs that will be passed onto the private sector. This increase will inhibit savings even more.

This tax reform must not pass. For one thing, conservatives have not been promised that there will be any action to cut spending which would help to balance such a large increase. Who's to say that this increase won't just provide more money for the liberals to spend? The least that the administration could do would be to promise more spending cuts before it decides to push a major tax increase through Congress.

If this legislation passes, you can be sure that there will be more people in need of the Government's money because the economic situation will not improve and more funding for present government programs will be needed to help support the truly needy. With more money going to welfare programs, the deficit will grow and the recession will remain.●

DEFEAT THE TAX INCREASE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. McDONALD. Mr. Speaker, in the very near future, we will vote on H.R. 4961, the "Tax Equity and Fiscal Responsibility Act of 1982." I would like to take this occasion to urge my colleagues to vote against the measure.

While I have always been a staunch advocate and supporter of a balanced Federal budget, I believe that efforts to balance the budget by raising taxes are misguided as demonstrated by the fact that even if H.R. 4961 is enacted into law, the proposed Federal deficit for fiscal year 1983 will be in excess of $100 billion. Thus, if Congress attempted to balance the Federal budget at the current level of expenditures, it would be necessary to enact massive tax increases—increases that go far beyond those proposed in H.R. 4961. I, for one, do not believe that we have amassed a national debt of over $1 trillion or that Federal deficits continue to escalate because taxes are too low. To the contrary, Federal spending is much too high and passage of H.R. 4961 will do very little to curb the insatiable appetite of the Federal Government's policies of "tax and tax, spend and spend."

If we are indeed serious about lowering Federal deficits without resorting to massive tax increases, then it must be recognized that we must go beyond the political rhetoric and make actual reductions in Federal spending and not be complacent with merely slowing the rate by which expenditures increase. As each of the myriad of federally-funded programs and projects has its own constituency, you can be sure that such action will not be popular with all sectors and special interests. Nevertheless, this is the action that we must take and these are the difficult decisions that we must make if we are to restore fiscal sanity to the economic policies of the Federal Government.

During the past several days, the Chattanooga News-Free Press has carried two excellent editorials concerning H.R. 4961 and the economic policies of the Federal Government. Prior to casting a vote on the largest peacetime tax increase in history, I urge my colleagues to carefully read these editorials which follow:

[From the Chattanooga News-Free Press, Aug. 15, 1982]

DEFEAT THE TAX INCREASE

The huge tax increase that Congress is considering passing has been portrayed by some proponents as mainly closing loopholes and bringing fairness to the tax system. But a close examination of the handiwork of Senate Finance Chairman Robert Dole, R-Kan., shows that the tax package will affect almost everyone in our society.

If you are a traveler, you will pay a portion of the billions of new taxes on air travel over three years. The tax on gasoline for noncommerical aviation will jump from four cents a gallon to 12 cents, and a five percent toll will be collected on airfreight waybills.

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If you are going abroad, you will have to pay a $3 departure tax.

If you plan to fish on your trip, you may run into the new tax on fishing equipment or the three percent levy on some boats and equipment.

If you want to call the folks back home, expect to pay twice the current one percent excise tax on long-distance service. That applies to local calls as well. The rate would rise to three percent for 1984 and (at least according to the document) drop back to two percent after 1985.

If you are a saver, you will face the withholding of 10 percent of the interest from your savings account. This aspect is described as being similar to wage withholding, with the aim being to insure collection.

If you are a smoker, you will pay 16 cents on a package of cigarettes, which is double the current eight-cent levy.

If you go to the doctor, you will find that tax deductions for medical expenses and casualty losses are drastically cut. Deductions will only be allowed for medical and dental costs exceeding seven percent of adjusted gross income, up from the current three percent.

The current deduction of half of health-insurance premiums up to $150 would be cut to $100.

If you suffer a theft or fire, you will find that deductions for losses from theft, fire and other misfortunes are limited to losses in excess of 10 percent of adjusted gross income.

If you are a businessman, you will also be hit. A White House summary says, "Though less than one percent of the revenues come from 'new' business taxes, a large amount of the base broadening measures directly affect business. Overall about half of the increased revenues are business taxes."

Employers would be faced with an unemployment levy of 3.5 percent of the first $7,000 of each worker's wages. That is up from 3.4 percent of the first $5,000.

Also in the bill are tighter depreciation requirements, restrictions on the safe harbor leasing law, limits on the investment tax credit and other business tax controls.

The new tax package is often referred to as "the largest peacetime tax increase in history." In truth in absolute dollar amounts, it is our largest tax increase ever, (Earlier wartime tax hikes were bigger percentage-wise, but not dollar-wise).

When considered over a five-year period the tax take is actually $227 billion rather than the $98.9 billion that is usually cited.

Even with the recent personal income tax reductions and even without the Dole tax increase, Treasury Department figures show that people in every income category from $15,000 to $40,000 a year will experience a net increase in taxes over the period 1981-1988.

The study says. "The 'cuts' are only cuts when measured against the rapidly rising tax burden under prior law.

"The 'cuts' are imperfect and often inadequate offsets to tax increases that were occuring."

We can begin to see the real problem when we note that from 1960 to 1982, federal revenues increased by a whopping 578 percent. But during that same 22-year period, federal expenditures skyrocketed by 687 percent.

The dire situation has gotten to the point that in 1982 the Federal Government will take as tax revenue more than 20 percent of all the goods and services produced in our country in 1982. That does not include the Dole increases.

At the same time the government will spend more than 23 percent of every single thing produced in the U.S. this year.

It is true that the federal deficit is great and interest rates are far too high.

It is true that taxpayer compliance needs to be tightened, loopholes need to be plugged and inequities removed in a number of areas in our tax system. (Perhaps the best way to carry that out would be the flat-rate income tax system.)

But it is also a fact that if this unsavory tax package is signed into law that there is no guarantee that it would cure the deficit or interest rate problems.

What it more likely would do is provide the spend-happy Democratic majority in the House of Representatives with a revenue cushion and reduce the pressure for budget cuts.

It would hit business with new levies and disincentives when it is already reeling and on the ropes. Businesses with closed doors would not be able to contribute "any" revenues to government.

It is informative to note that the same package that contains $227 billion in added taxes suggests only $22 billion in federal entitlement program cuts over the same five-year period.

Congress has spent months devising almost every conceivable means of raising new taxes, while it should have been looking at every possible avenue for cutting the wasteful government spending that continues at a rapid pace.

[From the Chattanooga News-Free Press, Aug. 17, 1982]

A Judgment Call

Sometimes in a sporting event there has to be a judgment call. A pitcher has to be taken out or a new quarterback put in. Or maybe there's a question about whether a player was on sides or a ball went foul. It's a matter of judgment, and different people may have different honest judgments about the situation.

President Ronald Reagan has made a judgment call in his support of the bill before Congress designed to bring in $98.3 billion in additional taxes. Some of his philosophical friends find themselves having a different judgment.

The president's evident sincerity and honesty in presenting his case to the nation last night carried much weight for his side of the argument. We believe, however, that better judgment lies with those who oppose his call for tax increases at this time.

Mr. Reagan agreed that he does not like the idea of tax rises, and finds this plan less than perfect. "Why then do I support it?" he asked. "I support it because it's right for America. I support it because it's fair. I support it because it will when combined with our cuts in government spending, reduce interest rates and put more Americans back to work again."

Those are good reasons. But people who oppose the tax increase make their judgment call on the grounds that not increasing taxes will be better for America, that not taking more from the people and giving it to government will help the national economy, so employment is more likely to rise and interest rates that prohibit economic expansion may go down.

The whole problem is that over the last half a century, government has grown much too big and has made costly promises that the people, members of Congress and presidents have been unwilling to fund. Now faced with staggering deficits, there are only two solutions, to cut more or to tax more.

Mr. Reagan proposes cutting three dollars in spending for each additional dollar to be raised in taxes. We believe spending cuts and tax cuts rather than tax increases offer better prospects for real recovery. Give money to government and it will spend it. Starve government and there is a better chance to hold spending down. Leave more money in the hands of those who earn it and it will be used more productively than if government gets it. That's where judgment calls differ.

Mr. Reagan effectively explained that the whole $98.3 billion involved in the current bill is not a tax increase. Part would be: For instance, additional levies on cigarettes ($2.40 amonth for one-pack-a-day smokers), telephone tax increases, air ticket tax rises and the like would account for about 19 percent of the tax increases. But, said the president, 33 percent of the bill would come from taxes now due but not being paid while 48 percent would come from closing loopholes.

The president is right in calling attention to the large amount of tax being evaded by people who do not pay, on tips, for instance. And those with interest and dividend incomes should pay, as most do. But institution of forced tax withholding on interest and dividend payments would impose new and costly burdens on the payers, with the result that the earners will have to foot the bigger bill.

Mr. Reagan wants as nearly everyone does, to reduce the deficits, easing federal borrowing, easing the loan competition that pushes interest rates up, encouraging economic recovery. All of that is quite sound. But if raising taxes $98.3 billion will keep interest rates down, would raising taxes twice that much reduce interest rates twice as much? We believe the best solution is reducing government spending, not increasing governmental taxing.

We are afraid that raising taxes will ease the pressures on Congress to cut spending. In the end we may see Democratic Speaker of the House Tip O'Neill, a champion symbol of what has caused our economic trouble, continuing big spending, boasting to the voters about what he is "giving" them, while pointing an accusing finger at President Reagan as a tax raiser.

In that case, we would have the worst of all economic possibilities. Mr. Reagan's judgment is that the tax rise would help. But the judgment of many sound conservatives is that it would hurt. We believe they are right. This is a difficult judgment call.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily

Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 19, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Justin Dart of California, to be a member of the Board of Directors of the Communications Satellite Corporation.
235 Russell Building

SEPTEMBER 16

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the effects of coal slurry pipelines on the overall national transportation system.
235 Russell Building

2:00 p.m.
Judiciary
To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

SEPTEMBER 23

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of Government contractors.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

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HOUSE OF REPRESENTATIVES—*Thursday, August 19, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord and Heavenly King, may we ever seek to know Your will and to do good to all Your people. May Your spirit abound in us that we may do justice, love, kindness, and walk humbly with You. Kindle our hearts with a concern for the right and strengthen us that we may seek truth and be the people You would have us be. Bless our Nation and the people we seek to serve, that righteousness and peace and goodness may be our goal and love our constant joy. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **PETRI**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **PETRI**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 27, unanswered "present" 2, not voting 39, as follows:

[Roll No. 298]

YEAS—366

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Burgener
Burton, Phillip
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—27

Barnes
Brown (CO)
Butler
Clay
Coughlin
Dickinson
Emerson
Evans (IA)
Fields
Forsythe
Gejdenson
Goodling
Harkin
Jacobs
Johnston
Luken
Markey
Miller (OH)
Mitchell (MD)
Patterson
Roemer
Sabo
Schroeder
Solomon
Walker
Washington
Yates

ANSWERED "PRESENT"—2

Oberstar
Ottinger

NOT VOTING—39

Akaka
Applegate
Atkinson
Bafalis
Beard
Bowen
Brown (CA)
Brown (OH)
Burton, John
Byron
Chappell
Chisholm
Corcoran
Dellums
Dyson
Ertel
Evans (DE)
Fountain
Goldwater
Heftel
Holt
Jones (NC)
Marks
McCloskey
McKinney
Moffett
Pashayan
Rahall
Roberts (SD)
Rosenthal
Santini
Savage
Shelby
Stark
Volkmer
Walgren
Williams (MT)
Wilson
Young (AK)

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 396. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 6955.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) entitled "An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress)."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

H.R. 3239. An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3239) entitled "An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Goldwater, Mr. Stevens, and Mr. Cannon to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. The Chair wishes to state to the Members that there will be no 1-minute speeches today at this time. We will suspend with them until after the rule and the conference report have been completed.

PERSONAL EXPLANATION

Mr. **WEAVER**. Mr. Speaker, I wish to state that last night, as I was on my way from the Capitol to my office, the bells rang for a vote on the Defense authorization conference report, and I missed the vote. Had I been here, I would have voted nay.

RESOLUTION RAISING QUESTIONS OF CONSTITUTIONALITY AND INFRINGEMENT OF PRIVILEGES OF THE HOUSE RELATING TO H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. **ROUSSELOT**. Mr. Speaker, I have a privileged resolution (H. Res. 571), which I wish to send to the desk. I encourage my colleagues to listen to it because I am sure there might be a motion to table it, because it would be a disaster to have a debate on it, I am sure.

Mr. **ROSTENKOWSKI**. Regular order, Mr. Speaker.

The **SPEAKER**. The Chair is following regular order.

The gentleman from California, Mr. Rousselot, is bringing up a privileged resolution.

The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 571

Resolved, That the Senate amendments to the bill, H.R. 4961, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and that the action of the conferees on H.R. 4961 and the Senate amendment thereto in agreeing to provisions of the Senate amendment further contravene said constitutional requirement and that the action of the Senate and the action of the conferees is an infringement of the privileges of this House and that the Senate bill with the Senate amendments be respectively returned to the Senate with a message communicating this resolution.

MOTION OFFERED BY MR. ROSTENKOWSKI

Mr. **ROSTENKOWSKI**. Mr. Speaker, I move to lay the resolution on the table.

The **SPEAKER**. The question is on the motion offered by the gentleman from Illinois (Mr. Rostenkowski).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **ROUSSELOT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 144, not voting 22, as follows:

[Roll No. 299]

YEAS—268

Addabbo
Akaka
Alexander
Annunzio
Anthony
Applegate
Aspin
AuCoin
Badham
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Carman
Cheney
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Coughlin
Courter
Coyne, William
D'Amours
Daniel, Dan
Daschle
Davis
de la Garza
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Downey
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Hall (OH)
Hamilton
Hance
Harkin
Hatcher
Hawkins
Hertel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hoyer
Huckaby
Hunter
Ireland
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kogovsek
Lantos
Latta
Leach
Leath
Lehman
Leland
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McDade
McEwen
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Murphy
Murtha
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Oxley
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Roberts (KS)
Rodino
Roe
Roemer
Rose
Rostenkowski
Roukema
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Smith (NE)
Smith (PA)
Snowe
Solarz
St Germain
Stanton
Stark
Stokes
Swift
Synar
Tauke
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Williams (OH)
Wilson
Winn
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zablocki
Zeferetti

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Albosta
Anderson
Andrews
Archer
Ashbrook
Bailey (MO)
Bethune
Bliley
Bouquard
Brown (CO)
Campbell
Carney
Chappie
Clausen
Collins (TX)
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel, R. W.
Dannemeyer
Daub
Deckard
Dornan
Dowdy
Dreier
Emerson
Evans (GA)
Evans (IN)
Fiedler
Fields
Fithian
Frank
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hefner
Hendon
Hiler
Hopkins
Hubbard
Hughes
Hutto
Hyde
Jacobs
Jeffries
Johnston
Kazen
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Lowery (CA)
Lungren
Marlenee
Martin (NC)
McCloskey
McCollum
McDonald
McGrath
Miller (OH)
Moore
Moorhead
Morrison
Mottl
Myers
Napier
Natcher
Neal
Oakar
Ottinger
Parris
Pashayan
Patman
Paul
Porter
Rinaldo
Ritter
Roberts (SD)
Robinson
Rogers
Roth
Rousselot
Roybal
Rudd
Santini
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NJ)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stratton
Studds
Stump
Tauzin
Taylor
Thomas
Trible
Walker
Wampler
Weber (MN)
Whitley
Whittaker
Whitten
Williams (MT)
Wolf
Wortley
Yatron
Young (AK)
Young (FL)

NOT VOTING—22

Atkinson
Bafalis
Beard
Bingham
Bowen
Brown (OH)
Burton, John
Chappell
Chisholm
Corcoran
Dellums
Dickinson
Duncan
Ertel
Fountain
Goldwater
Heftel
Holt
Moffett
Rahall
Rosenthal
Savage

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Messrs. STRATTON, GINN, and ROYBAL changed their votes from "yea" to "nay."

Messrs. McCURDY, MARRIOTT, and MARTIN of New York changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL, 1983

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH submitted the following conference report and statement on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-765)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—COMMUNICATIONS AMENDMENTS

SHORT TITLE

SECTION 101. This title may be cited as the "Communications Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SEC. 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

"(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

"(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

"(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

"(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

"(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

"(D) the perceptions held by the public regarding the business activities of such company or other entity.

"(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

"(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out "The";

(2) by striking out "first appointed" and all that follows through "but their successors"; and

(3) by striking out "qualified" and inserting in lieu thereof "been confirmed and taken the oath of office".

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

"(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.".

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out "a legal assistant, an engineering assistant," and inserting in lieu thereof "three professional assistants".

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2)(A) If—

"(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

"(ii) such attendance and participation are in furtherance of the functions of the Commission; and

"(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

"(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

"(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

"(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985.".

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out "; Provided, That the" and all that follows through "by such reports".

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

"(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph.

"(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

"(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

"(II) accept and employ the voluntary and uncompensated services of such individual.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper amateur radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

"(I) recruit and train any citizens band radio operator; and

"(II) accept and employ the voluntary and uncompensated services of such operator.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper citizens band radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.".

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "thereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

REGULATION OF POLE ATTACHMENTS

SEC. 106. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsection (e) thereof.

JURISDICTION OF COMMISSION

SEC. 107. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out "interstate and foreign";

(2) by inserting "State," after "any" the third place it appears therein;

(3) by inserting a comma after "Territory" the first place it appears therein; and

(4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 108. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices,".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

SEC. 109. Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United

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States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;".

GROUNDS FOR SUSPENSION OF LICENSES

SEC. 110. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or caused, aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

SEC. 111. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(t) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.".

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(t))" after "United States".

REVISION OF LICENSE TERMS

SEC. 112. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station.".

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

SEC. 113. (a) Section 307 of the Communications Act of 1934, as amended in section 112(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule.".

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorized to operate without a license under section 307(e)(1),".

AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 114. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

(1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";

(2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and

(3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

SEC. 115. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).".

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out ", groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.".

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.".

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 116. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.".

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station".

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 117. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.".

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 118. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect,".

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 119. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

PRIVATE LAND MOBILE SERVICES

SEC. 120. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES

"SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.".

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.".

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services.".

NOTICES OF APPEAL

SEC. 121. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 122. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of.".

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

SEC. 123. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order.".

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

SEC. 124. The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting ", or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

SEC. 125. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES

"SEC. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States.".

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

SEC. 126. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting ", aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: ", or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

SEC. 127. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code.".

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(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it appears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

Sec. 128. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,".

TITLE II—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

AUTHORIZATION OF APPROPRIATIONS

Sec. 201. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $12,917,000 for fiscal year 1983, and $11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

STUDY OF TELECOMMUNICATIONS AND INFORMATION GOALS

Sec. 202. (a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which directly affect such policies.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

John D. Dingell,
Timothy E. Wirth,
James T. Broyhill,
Managers on the Part of the House.

Barry Goldwater,
Ted Stevens,
Howard W. Cannon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

Short Title

House bill

The House bill provided that the bill may be cited as the "Federal Communications Commission Authorization Act of 1981."

Senate amendment

The Senate amendment provided that this title may be cited as the "Communications Amendments Act of 1982."

Conference substitute

The conference substitute adopts the Senate provision.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and clean-up. The Act still contains numerous instances of obsolete language, while imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of advancements in technology and changed circumstances.

While many of the provisions of the Conference Substitute are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in reorganizing staff, in carrying out its duties, and in reducing the amount of unnecessary paperwork.

Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. For example, section 307 of the Communications Act would be amended by authorizing the Commission to eliminate the individual licensing of citizens band (CB) and radio control services, which would save the Commission at least $400,000 annually. Other provisions such as those relating to reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits would also result in significant budgetary and resource savings.

Three major classes of licenses are dealt with in the Conference Substitute. Amateur radio, citizens band (CB) radio, and private land mobile radio. In addition, the issues of radio frequency interference rejection standards and Commission authority to use a system of random selection to grant licenses are addressed in the bill. A descriptive background on each issue follows.

A. Amateur radio service.—The amateur radio service is as old as radio itself. Every single one of the early radio pioneers, experimenters, and inventors was an amateur: commercial, military, and government radio was unknown. The zeal and dedication to the service of mankind of those early pioneers has provided the spiritual foundation for amateur radio over the years. The contributions of amateur radio operators to our present day communication techniques, facilities, and emergency communications have been invaluable.

In the early 1920s, amateurs were relegated to the portion of the radio frequency spectrum that was considered at that time to be virtually useless: the short-waves below 200 meters. These short-waves that once were considered useless are now occupied by marine and aviation, police and public safety, television and FM broadcast, international broadcast, and amateur services, to name a few.

Amateurs are pioneering still today. Space or satellite communications are a most important part of amateur radio. Through Program OSCAR (Orbiting Satellite Carrying Amateur Radio), amateurs have been utilizing advanced technology from their relatively simple, inexpensive ground stations. Seven amateur satellites have been built to date by amateurs at their expense. The amateur space activities are playing an important role in attracting the young people of America to scientific fields.

Almost every nation has amateurs who communicate each day with fellow amateurs in other countries and on other continents passing vital emergency message traffic and acting as ambassadors of international goodwill. The modes of communication include Morse code telegraphy, telephone, teletype or teleprinter, television and facsimile. Equipment ranges from home-built transmitters and receivers using parts from discarded radio and television receivers and costing only a few dollars, to the most sophisticated equipment manufactured for commercial, government, and military use costing many hundreds of dollars.

There are approximately 400,000 amateurs in the United States and almost 900,000 throughout the world. At any time of every day, thousands of amateurs scattered throughout the world are listening to and communicating with fellow amateurs over distances varying from only a few miles within a city to thousands of miles across the world. It is the large number of amateurs dispersed around the world operating in the five high frequency bands that has made it possible to provide the first, and for some time thereafter, the only communication links between areas devastated by natural disasters—earthquakes, tidal waves, hurricanes, tornadoes, blizzards and floods—and the outside world.

Every amateur has earned his license by having demonstrated his knowledge of radio theory and application, International Morse Code, the Communications Act, and the regulations of the Federal Communications Commission. Entry into amateur radio usually is through the Novice Class. Amateurs are encouraged to increase their knowledge and skills by a series of five classes or grades of license, all but one with limited operating privileges.

The Amateur Radio Service has been praised for being self-regulated. The Commission has reported that less time has been devoted to monitoring and regulating the Amateur Service than to any other service because of its self-policing and discipline.

One primary purpose of the Conference Substitute is to provide the Federal Communications Commission with the authority to implement various programs which will result in improvements in administration of the amateur radio service and to cut the cost thereof. It will further allow the amateur radio service to continue its tradition as the most self-regulated radio service in the United States, and to become to some extent self-administered, requiring even less expenditure to government time and effort than in the past.

B. Citizens band radio service.—The citizens band (CB) radio service comprises the largest single class of radio operators in the country. Although the CB fad the nation experienced during the late 1970s may now be over, there are still about millions of CB licensees throughout the United States.

Citizens band radio is the primary highway communications system for individuals in the United States. It is the only two-way service available to conduct personal and/or business communications between private citizens, businesses, police and government officials.

Channel 9 on the citizens band has been designated as an Official Emergency Traveler's Assistance Channel. This has been recognized by users and manufacturers alike, resulting in the purchase of CB radios as a highway safety device to be used in family automobiles and other vehicles. The U.S. Coast Guard monitors Channel 9 to hear boating emergencies. Moreover, many fleets of state highway patrol and state and local police vehicles have been equipped with CB radio to assist motorists.

In addition to the special Channel 9 function, CB radio has often been used by individuals and organizations to notify appropriate authorities of emergencies and natural disasters. In many cases, a CB radio operator on the scene has communicated the first news of airplane crashes, floods, earthquakes, tornadoes, and other catastrophes. Moreover, many CB organization have worked with local law enforcement agencies to establish on-going programs whereby CBers voluntarily perform function such as motorist assistance, security patrol observation, area searches for missing persons, escorts for oversized vehicles or parades, disaster duty, or facilitation of rescue missions.

The community service provided by the CB radio service and its many organizations has been recognized on numerous occasions. For example, in 1978, the heads of the three federal government agencies (Department of Transportation, Interstate Commerce Commission, and Federal Communications Commission) signed a federal policy statement on the benefits of CB radio for the promotion of highway safety. The American National Red Cross has officially recognized the effectiveness of CB radio in disaster situations and has agreed to work with CB groups for the purpose of disaster relief. One CB organization in particular, REACT International, received the 1982 President's Volunteer Action Award in recognition of the outstanding public service performance of its volunteer members in monitoring Channel 9 and providing other assistance to promote highway safety.

These public service voluntary efforts by CB operators have been threatened by a small minority of CB users who, either maliciously or in ignorance of FCC rules, transmit regularly non-emergency communications on the Official Emergency and Traveler's Assistance Channel. One key purpose of the Conference Substitute is to permit the FCC to accept the volunteer services of CB operators to monitor the CB frequencies for such rule violations in order to preserve the integrity of the CB service. Moreover, the Conferees are extremely concerned that should the Commission decide to de-license the CB service, the commission continues to ensure that the overall integrity of this service is protected.

C. Private land mobile service.—Licensees in the private land mobile services include public safety, industrial, business and land transportation users which operate their own private one-way and two-way land mobile systems, most often as means of enhancing a firm's ability of providing a multitude of other goods or services to the American public. Private land mobile services play a relatively unknown, but critically important, role in protecting the public welfare and in promoting economic vitality. Because of the existence of private land mobile radio, a large number of business establishments, large and small, are capable of responding quickly to service calls from homeowners and consumers, enabling them to be more efficient and economical.

Police, fire, ambulance and other emergency services to the public are in large part reliant on the use of private land mobile radio. In addition, private land mobile radio is rapidly becoming an important tool for the survival of the small businessman in the present economy. Additionally, public utilities are able to respond quickly to calls, avoid widespread disruption of utility service to the general public, and promptly restore service during blackouts through use of such radio services. Moreover, manufacturing plants and refineries are able to operate in a more efficient and safe manner; forest crews are able to contain forest fires with less personal danger and with less loss of valuable timber; and, snowplows and other highway equipment can be utilized more effectively and construction activities can be better coordinated. These are only a few of the many important and essential uses of private land mobile radio affecting public safety and the welfare, as well as the economy.

The Conference Substitute recognizes the critical importance of the private land mobile services and provides statutory support and guidance for existing and future FCC regulation of these services.

D. Radio frequency interference rejection standards.—Radio frequency interference (RFI) arises when a signal radiated by a transmitter is picked up by an electronic device in such a manner that it prevents the clear reception of another and desired signal or causes malfunction of some other electronic device (not simply a radio or television receiver). While almost any transmitter of any service is a potential interference source, Amateur or Citizens Band (CB) stations are very often associated with RFI problems involving electronic devices in the home.

Particularly since the advent of commercial television immediately following World War II, amateur radio operators have been active in interference control and elimination. The amateurs learned very early that the incorporation of good engineering practices in their transmitter construction, such as electrostatic shielding and filtering, minimized the possibility of interference by preventing the radiation of spurious signals. Such practices and techniques are well understood and are universally incorporated in transmitters manufactured and in use today, irrespective of the service. Appropriate rules of the Federal Communications Commission require all transmitters of all services, including the transmitting sections of transceivers, to suppress spurious radiation.

It has become evident that many interference problems involving home electronic equipment and systems are not fully resolvable through taking protective steps with the transmitting equipment, but that resolution of some interference problems may require action with respect to receivers and other electronic devices picking up unwanted signals.

Causes for interference to television reception, for example, can be divided into the following categories. First, although least common, is the pickup of a spurious (unwanted) signal having a frequency within or close to the band of frequencies occupied by the television signal. Such interference usually is caused by an interfering transmitter. In many instances, there is what is termed an harmonic relationship between the transmitter frequency and the television channel. That is particularly the case with the 27 Megaherts CB service: the second the third harmonics (multiples) of the 27 Megaherts CB signal fall in TV Channels 2 and 5, respectively. It is generally recognized that no TV design can eliminate susceptibility to harmonic interference. Second is the overloading of the input circuit of the television receiver by an undesired signal so strong that overloading, i.e. malfunctioning, of the circuits generates spurious signals within the television receiver that interferes with the desired signal. Such interference usually is more severe with transistorized receivers and may result from poor circuit design in the receiver. Third is the pickup of an undesired signal by circuits within the set or wiring leading to the set. Poor shielding or poor circuit design in the receiver is usually the culprit.

Interference to other electronic devices such as record players, hi-fi amplifiers, home burglar alarm and security systems, automatic garage door openers, electronic organs, and public address systems usually arises from the pick-up of a relatively strong signal by the external wiring, such as the wires leading to the speakers or to the power source, followed by the rectification of the signal by a circuit, contact or component within the device.

The cures for most such interference have been well known for many years. Often an inexpensive filter in the lead from the antenna to the television receiver will reduce the interference to an acceptable level or eliminate it entirely. For the other electronic devices, the judicious installation of inexpensive capacitors (devices which prevent wiring from picking up undesired signals) may suffice.

Even though the causes and cures of radio and television interference have been known for many years, the number of complaints received by the Commission has grown steadily each year. With the rapid, and indeed explosive, growth of the 27 MHz CB service in the mid-1970s, the probability of a home electronic device being located near a transmitter of some sort has increased substantially. The public's use of home electronic devices has grown, and continues to grow, at an exponential rate.

Many manufacturers of home electronic equipment and systems have been willing to provide, often free of charge, filters for electronic equipment when a particular interference problem is brought to their attention. However, their efforts to voluntarily address the root problem by incorporating such RFI suppression techniques in the design and assembly-line stage have been less than adequate. This is true even though such filtering mechanisms and anti-interference design may only cost a few cents per unit.

Many believe that the Commission does not now have authority to compel the use of

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protective devices in equipment which does not emit radio frequency energy sufficient in degree to cause harmful interference to radio communications. Manufacturers and retailers also believe that the Commission cannot require a label on equipment or the supplying of a pamphlet of the possibility of interference and outlining corrective measures. The Commission has thus far acted in consonance with this belief. The Conference Substitute would thus give the FCC the authority to require that home electronic equipment and systems to be so designed and constructed as to meet minimum standards for protection against unwanted radio signals and energy. Extensive amateur and Commission experience over the years with interference investigation and elimination supports the conclusion that, in most instances, satisfactory corrective measures can be simple and inexpensive. The Conferees by no means intends for major modifications and redesigns of equipment to be required, or that the Commission require steps to be taken which impose substantial additional costs or unnecessary burdens on equipment manufacturers. We do not believe that elaborate procedures will be necessary in order to achieve the desired result. Existing equipment and that manufactured prior to the date of enactment of this legislation will be exempt from any such standards as might be established by the FCC.

The millions of purchasers of television and radio receivers and other home electronic equipment and systems each year deserve protection from interference. Significant reduction of interference from the multitude of complaints received each year by the Commission should result from enactment of this provision, as should lawsuits against amateur and other radio operators in local jurisdictions based upon interference. Section 7 of the Conference Substitute is viewed by the Conferees as necessary to address adequately this increasing problem, which plagues so many of the nation's consumers. Moreover, by virtue of this section, the Conferees wishes to clarify that the exclusive jurisdiction over RFI incidents (including pre-emption of state and local regulation of such phenomena) lies with the FCC.

E. FCC authority to use a system of random selection.—On August 13, 1981, President Reagan signed into law the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

This statute permitted the Commission to grant licenses or construction permits involving any use of the electromagnetic spectrum to a qualified applicant through the use of a lottery system. The statute gave the Commission the discretion to determine when the use of a lottery to grant licenses or permits was appropriate. Any use of a lottery system by the Commission, however, was required to incorporate "significant preferences" to "groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties." 47 U.S.C. 309(i)(3)(A). The intent of the Congress in requiring such significant preferences in the administration of a lottery was to increase the number of media outlets owned by such underrepresented persons or groups, thereby fostering diversity of ownership in the media of mass communications. Conference Report on H.R. 3982. Omnibus Budget Reconciliation Act of 1981—Book 2. H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981).

Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). The 180 day period expired on February 9, 1982. On February 8, 1982, the Commission held a public meeting to announce that it would "decline" to adopt rules governing a lottery system, stating that it found the requirements of the statute to be ambiguous and unworkable. Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768 (1982). The Commission stated that it did "not believe that Congress would intend for [it] to expend [its] limited resources to draft and defend rules creating a lottery framework which would not be used." Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768, footnote at page 28 (1982). While the Commission cited legal and administrative difficulties with the statute, it did not seek any type of formal direction or clarification from the Congress prior to the expiration of the 180 day period as to how a lottery system might be designed. It was only after certain members of the Congress expressed their view that the Commission's abdication of its statutory responsibility must be rectified, that the Commission sought additional guidance from the Congress.

The Conferees considered this action to be in clear violation of the plain language of the statute, which mandated that the Commission prescribe lottery rules within 180 days, while permitting the agency discretion only with respect to when a lottery would actually be used. It was felt that as a creature of Congress, the Commission must obey the directives of its creator, and that it is not for the FCC to presume legislative intent when Congress clearly mandated that an action be taken, or to refuse to take action because it felt that Congress had not passed the precise lottery statute it wanted. Several Budget Reconciliation Act of 1981, Pub. L. No. 97-35, Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

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Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). Members considered this to be a violation of Federal law which totally thwarted Congressional intent that generic lottery rules be established and available for use as soon as possible. This was so that if at any time the present or some future Commission wished to utilize a lottery process, the rules would already be in place and there would be no delays brought about by having to then take the time to develop a generic lottery process.

The amendments to the lottery statute in the Conference Substitute and the legislative history contained in the detailed section-by-section analysis which follows are intended to give the Commission the additional guidance and clarification it said it needed to establish lottery rules. The amendments retain the principles which were agreed upon by both the House and Senate during the budget reconciliation process.

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment section 4(b) of the Communications Act of 1934 by replacing the absolute bar on the ownership of any interest in any company involved in wire or radio communications or in the manufacture or sale of wire or radio equipment with a standard that prohibits ownership only when there exists a "significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, and sets forth reasonable guidelines as to when the standard is met.

Conference substitute

The conference substitute adopts the Senate provision, with one change. Section 4(b)(5) of the Act, drafted when the FCC had seven members, has been amended in the Conference Substitute to establish a formula for political balance in Commission membership, regardless of the size of the Commission.

The statutory restriction imposing an absolute bar on ownership interests, addressed by the Senate amendment, has proven to be a hardship, particularly for staff employees who may have minor securities holdings in firms which deal only peripherally with "wire or radio communications." For example, a Commission employee working in the common carrier bureau is forbidden from owning even one share of stock in a bus company which incidentally might own and operate radios on its transportation vehicles.

As the Commission has observed in addressing this prohibition, in the telecommunications age there is scarcely a major enterprise which is not in some way connected with a telecommunications product or service. Employee Financial Interests, Notice of Proposed Rulemaking, 45 Fed. Reg. 47885 (July 17, 1980). For example, radio communications are used and Commission licenses are held by businesses such as airlines, railroads, maritime vessels, taxicabs, and numerous other industries. Additionally, virtually every large retail establishment sells equipment regulated by the Commission (e.g., radios, television, microwave ovens).

The language amending Section 4(b)(2) of the Communications Act specifies a two-fold requirement that must be met before the prohibition would be applicable: (1) the interest or activity must fall within the parameters of at least one of four specified categories involving significant regulation set out in the legislation; and (2) the entity involved must have a significant interest in activities subject to Commission regulation. The Conferees intend that these ownership prohibitions be read separately. For example, a company that has certain operations which are "significantly regulated" by the Commission would not necessarily have a "significant interest" in activities subject to Commission regulation. The Conferees believe that this provision will add integrity to the regulatory process by assuring that members and employees of the agency will not have conflicts of interest of any meaningful consequence, while at the same time not precluding financial interests in matters that are only remotely related to the agency's activities.

In addition, the provision would permit the Commission to waive the conflict of interest prohibitions for Commission employees (but not Commissioners) if the Commission determines that financial interests of the involved employee are minimal. This waiver authority is subject to 18 U.S.C. 208, which essentially prohibits an employee from participating in any matter in which the employee has a financial interest (subject to another waiver provision where the interest is so insubstantial as to be deemed unlikely to affect the integrity of the employee's services). Any exercise of this waiver authority must be accompanied by publication of such action in the Federal Register and notification of both the House and Senate Authorization Committees in order to retain Congressional oversight and pubic confidence in the Commission's regulatory responsibilities. The Conferees intend that the Commission exercise this waiver authority with the utmost care and propriety.

The Conferees note that the amendment to section 4(b) also deletes a sentence which prohibits any Commissioner who has not served his full term from representing any person before the Commission in a professional capacity for one year following the termination of his service. The Committee wishes to emphasize that the purpose of this deletion is only to make the Communications Act consistent with the conflict of interest rules which govern all Federal officials, the Ethics in Government Act, as amended 18 U.S.C. 207 (1978). The Committee notes that the prohibitions in the Ethics in Government Act are stronger than those presently in section 4(b) of the Communications Act, and that it intends that these stricter requirements govern former FCC officials.

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

This section allows the Commission, under certain circumstances, to accept reimbursement from non-governmental entities for travel and related expenses incurred by Commissioners and employees attending non-government-sponsored functions. The provision will expire at the end of fiscal year 1985.

Conference substitute

The conference substitute adopts the Senate provision.

In order to keep in touch with the industries and individuals they regulate, Commissioners and Commission employees have found it useful to travel on occasion to different parts of the country on official business to attend conferences, conventions, and meetings. These trips range from Commissioners' participation in industry-wide conventions, to a bureau chief's panel appearance in an educational institution's symposium, to a division head's meeting to explain a new FCC rule to a small group of licensees. Given the rapid technological changes which are occurring in the telecommunications industry, and the continuing introduction of new communications services and facilities to the public, the ability of the Commission to travel is a relatively significant aspect of its service to the public.

The reimbursement experiment is designed to supplement appropriations to the Commission during a period in which the Commission's responsibilities, particularly in the area of common carrier regulation, are projected to increase, while Congress moves to reduce federal government expenditures. The Committee recognizes that attendance by Commissioners and Commission employees at non-governmental conventions and meetings generate valuable exchanges between government officials and non-governmental groups and should be allowed to continue at reasonable levels. Appropriated travel funds saved hereby should be used to pay for other high-priority non-travel expenses of the Commission.

The Conferees further intended that such reimbursement, in general, should be permissible notwithstanding the provisions of any other statutes, regulations, executive orders or similar restrictions which ordinarily would bar the receipt of such reimbursements from any source.

As part of the program of budget austerity, the amount of money available for travel by Federal agencies is being reduced. This might well have a negative impact upon the Commission's ability to participate in industry functions intended to offer those subject to FCC regulation a better opportunity to interface with Commissioners and staff. As the amount of moneys appropriated to the Commission for travel decreases, smaller organizations and non-profit or educational groups in particular may find themselves out of the Commission's travel picture. Meanwhile, at the present time, those groups which could easily afford to pay the necessary expenses for Commissioners' and Commission employees' travel to their functions are prevented from doing so.

Currently, no independent regulatory agency has the authority to accept travel reimbursement from private parties except with respect to a very limited number of groups. However, given the rather severe budget constraints facing the Commission, providing for an experimental period to test the operation of a limited travel reimbursement mechanism over which Congress could exert strong oversight, preserves Congressional control while enhancing budgetary resources for travel purposes. Thus, the Conference Substitute establishes a limited travel reimbursement mechanism, which will sunset after three years, and is intended to alleviate some of the budgetary pressures which might inhibit the ability of Commissioners and Commission staff to travel.

To ensure Congressional oversight, the amendment to Section 4(b) includes three significant limitations on the Commission's reimbursement authority. First, the total amount that the Commission could travel in any fiscal year is limited to the level of travel money appropriated for the Commission for such fiscal year. In this way, the Commission is not given carte blanche with respect to travel, while Congress continues to decide the overall degree of travel which would be appropriate in any given year. Second, the Commission is required to report to Congress, as well as publicly report, any instances in which it receives travel reimbursements under this section. Third, the entire travel reimbursements section, since it is intended to be an experiment, commences with the beginning of fiscal year 1983, and sunsets at the end of fiscal year 1985.

The Conferees wish to emphasize that during this experimental period, the Commission is not to neglect groups or organizations which do not have the means to reimburse the Commission for its travel expenses. The Conferees intend that the Commission attend and participate in conventions, conferences, and meetings held by non-profit, public interest, educational, and other groups at roughly the same or higher level as in previous years.

The amount of reimbursement permitted is limited to the travel appropriation specified by Congress for each fiscal year. Congress may wish to raise the present ceiling on Commission travel if it feels that additional travel is warranted, particularly if it appears that such additional travel would likely be funded by non-governmental sources. The Conferees intends that, in the absence of an express limitation on the amount of moneys which the Commission can expend on any given fiscal year, the reimbursement limit will be the figure listed as "Travel and Transportation of Persons" contained in the President's Annual Budget Estimate for the Commission. Appropriated travel moneys saved through the reimbursement mechanism may be "reprogrammed" between programs and activities for other uses in the Commission's budget to the extent permissible under existing law. These limits may be exceeded only upon written approval by both House and Senate Appropriations Committees.

The Conferees note that the Commission currently has experience with the travel reimbursement process, since federal law permits acceptance of reimbursement from certain private non-profit organizations for government travel expenses. *See, e.g.*, 5 U.S.C. 4101 *et. seq.* Under its current practive, the Commission pays all the proper expenses of the Commission traveller from its general appropriation; subsequently, the Commission bills and receives reimbursement from the sponsoring private non-profit organization, crediting its appropriation by the amount of reimbursement. The Committee intends that these procedures serve as the model for implemention of this provision notwithstanding any contrary provision of law. See 31 U.S.C. 484 (1976). In no instance should private entities make direct payments to or provide transportation tickets for Commissioner or Commission employees.

The quarterly reports required by Section 3 shall consist of the following information: a) the dates and brief description of the private event, b) the name and address of the sponsoring organization, c) number of Commissioners, and number and title of employees who attended the event, and d) the total amount of reimbursement, subdivided into travel, room, board, and other expenses. These shall be filed, within thirty days after the close of each fiscal quarter, with the House and Senate Commerce and Appropriations Committees.

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment provided a statutory basis for the present Commission practice of permitting amateurs of a higher license class to voluntarily administer novice (entry) class amateur radio license examinations to candidates and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture of distribution of amateur radio equipment, or involved in the preparation or distribution of publications which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams. The Senate amendment also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976).

Conference substitute

The conference substitute adopts the Senate provision.

There are five classes of amateur radio licenses with admission to higher license classes contingent upon the satisfactory completion of progressively more challenging license examinations. These examinations are presently administered by FCC personnel, generally those in the Field Operations Bureau. Due to resource and personnel reductions, the opportunity to take amateur license examinations is extremely limited. In some areas of the United States, amateur examinations can only be given once per year as a result of shortages of personnel in the Commission's Field Operations Bureau. Should a person not pass an amateur examination the first time, up to two years can pass without an individual having an amateur license. The benefits of amateur radio to individuals, especially young people, including technical self-training and knowledge of electronics should not be denied to such persons on the basis of personnel shortages at the Commission.

To help alleviate this problem, for several years amateurs of a higher license class have voluntarily administered novice (entry) class amateur radio license examinations to candidates. After administering the exam, the volunteer mails the written portion of the exam to the Commission for grading. This has saved Commission resources and provided a convenient method of administering these entry level examinations, especially to young people interested in radio.

The Conferees believe that this use of volunteer services by licensed amateurs by the Commission is a beneficial and efficient utilization of manpower in the public interest. Thus, the Conference Substitute provides a statutory basis for present Commission practice and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture or distribution of amateur radio equipment, or involved in the preparation or distribution of publication which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams.

This provision also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976). The FCC's failure to update and revise written examinations has resulted, through repetition, in compromise of the examination system. The Conferees note that at least one firm has published study aids which include the exact questions contained in current FCC amateur license exams. This has enabled some to pass amateur exams on the basis of rote memory rather than an understanding of FCC regulations. By permitting the Commission to accept suggested questions for various classes of amateur license exams from the licensees themselves or from amateur radio operator organizations, the Commission will be able to amass a larger pool of examination questions. The Conferees expect that volunteering individuals and organizations will protect against the premature disclosure to the public of submitted questions.

Another important consequence of the diminishing resources of the Commission's Field Operations Bureau, is the inadequacy of monitoring and enforcement services in both the amateur and Citizens Band (CB) radio services. This section authorizes the use of volunteers from the amateur and CB radio services to assist the Commission in monitoring for violations in their respective services. While these volunteers may issue advisory notices to apparent violators, they may not impose sanctions or take any other enforcement action against violators. See Section 4(f) (C) and (D) of the Communications Act of 1934.

This provision also makes it clear that all volunteers will serve without compensation and will not be deemed employees of the Federal Government for the purpose of receiving any benefits as a result of their services.

The Conference Substitute should help conserve Commission resources by giving statutory approval to the use of amateur radio volunteers who will complement the Commission's staff in carrying out licensing and monitoring responsibilities. The use of CB volunteers for monitoring assignments should yield similar benefits.

ORGANIZATION AND FUNCTIONING OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate reduced the minimum composition or quorum of the FCC's Review Board established by section 5(d) of the Communications Act of 1934, from three to two employees.

Conference substitute

The conference substitute adopts the Senate provision.

Section 556(b) of the Administrative Procedure Act, 5 U.S.C. 556(b), provides that a federal administrative agency may designate employee boards to preside over specified classes of proceedings. The FCC's employee board, which is known as the Review Board, on occasion, has not been able to issue decisions either because one of its members was disqualified from participating in a particular proceeding, a member was absent due to long illness or because a vacancy on the Board was unfilled.

By reducing the Board's minimum composition or quorum requirement to two employees, the problems caused by disqualification, prolonged illness, and prolonged vacancies should be alleviated. Where a deadlock occurs on a two-member panel, the Committee expects that such proceedings be certified to the full Commission for final disposition.

This section also deletes obsolete language.

POLE ATTACHMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate repealed Section 224(d) and 224(e) of the Communications Act of 1934.

Conference substitute

The Conferees agreed to the Senate provision deleting Section 224(e) but voted to retain Section 224(d) in current law.

On February 21, 1978, the President signed into law P.L. 95-234, which grants the Federal Communications Commission jurisdiction to regulate the rates, terms, and conditions for the attachment of cable system transmission lines to utility poles, where pole attachments are not regulated by a state. The purpose of requiring the regulation of the pole attachment rates was to provide that the rates are "just and reasonable". The statute imposes a methodology on the FCC to determine appropriate rates. This methodology expires five years after the date of enactment.

The Pole Attachment Act has brought considerable certainty regarding the price of access to utility poles. Further, it has encouraged private settlements by parties to a dispute. It has saved the FCC money by reducing the number of disputes brought to the Commission for administrative action. The FCC has administered the methodology set forth in subsection (d) by applying a formula which deals with all parties concerned.

The Conferees recognized that the FCC has the discretion to continue to use the standard called for in Section 224(d) if that subsection were permitted to expire. Further, the Commission has shown no indication that it would change the existing formula. In the event that the requirement of the formula established by Section 224(d) were permitted to expire, it would increase the likelihood that parties would petition to alter the formula by rulemaking, with resulting increased burden on the FCC and uncertainty in the industry until such issues were resolved.

Finally, the Conferees recognized that Section 224(e) was added to the Section because Congress was uncertain whether the methodology established by the statute would work. In the face of evidence indicating the effectiveness of this provision, the Conferees agreed that it should remain in the statute. Accordingly, the sunset provision of Section 224 has been deleted, while the methodology established in that Section will remain in force.

JURISDICTION OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 301 of the Communications Act of 1934 to make clear that the Commission's jurisdiction over radio communications extends to intrastate as well as interstate transmissions.

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Conference substitute

The conference substitute adopts the Senate provision.

The present statutory ambiguity imposes wasteful burdens on the Commission and various United States Attorney's particularly with regard to prosecution of Citizens Band (CB) radio operators transmitting in violation of FCC rules. Typically in such a case, the defendants concede the violation, but challenge the Federal Government's jurisdiction on the ground that the CB transmission did not cross state lines. To refute this argument, the Commission invariably is asked to furnish engineering data and expert witnesses, often at considerable expense. In most instances, once the expert evidence is made available, the defendants plead guilty and the case terminated.

The provision would end these wasteful proceedings. Further, it would make Section 301 consistent with judicial decisions holding that all radio signals are interstate by their very nature. See, e.g., *Fisher's Blend Station Inc.* v. *Tax Commission of Washington State*, 297 U.S. 650, 655 (1936).

INTERFERENCE WITH ELECTRONIC EQUIPMENT

House bill

The House bill contained no provision.

Senate amendment

The Senate amends Section 302(a) of the Communications Act of 1934 and authorizes the Commission to establish minimum performance standards for "home electronic equipment and systems" to take appropriate action in order to protect such equipment from radio frequency interference (RFI).

Conference substitute

The conference substitute adopts the Senate provision.

For many years, public complaints have persisted about radio frequency interference to consumer electronic equipment, such as televison sets and radio receivers. This interference has often been attributed to transmissions from the Amateur and Citizens Band (CB) radio services.

The Conferees wish to emphasize that it was its hope that voluntary efforts by manufacturers to reduce RFI when possible, as opposed to the use of government regulation, would be sufficient. Devices designed and marketed for use in a commercial environment normally include necessary protection against interference and do not require Commission regulation. In the market for home devices, however, good faith industry attempts to solve this interference problem have not always been as successful. Thus, in view of complaints regarding home devices, the Conferees believe that Commission authority to impose appropriate regulations on home electronic equipment and systems is now necessary to insure that consumers' home electronic equipment and systems will not be subject to malfunction due to RFI. However, the legislation does not mandate Commission exercise of this authority; that decision is well within the technical expertise of the agency.

The Conferees intend that the Commission's authority apply only to "home electronic equipment and systems" likely to be found in a private residence and intended for residential use, as distinguished from devices intended for office and business use. Radio and television sets would be typical examples of equipment subsumed under the term "home electronic equipment and systems." Other examples include home burglar alarm and security systems, automatic garage door openers, electronic organs, record turntables, and stereo/high fidelity amplifier systems. Although this legislation is aimed primarily at home equipment and systems, it is not intended to prevent the Commission from adopting standards for such devices which are also used outside the home. Portable TV receivers and radios as well as medical alert devices, for instance, are intended to be covered.

A number of alternatives are available to the Commission in exercising the authority granted hereunder. The Commission could direct manufacturers of some types of home electronic equipment and systems to meet certain minimal standards by incorporating an interference suppression capability into their devices before the equipment is offered for sale. On the other hand, the Commission may choose to require only a warning label on those types of home electronic equipment and systems for which the installation of filtering, shielding or other interference suppression components would be unreasonably costly in relation to the total price of the device, or where such installation otherwise is unreasonable or impractical. Such a warning could be given in a pamphlet or tag accompanying the equipment, and marketplace forces would determine the success of particular competitors who chose to rely on such warnings instead of actually building in the filtering devices necessary to fully protect against interference.

The Conferees expect the Commission to exercise the authority granted herein, as it has exercised the authority granted under section 302 of the Communications Act of 1934, by balancing the cost of improving the performance of a device to particular levels against the benefit to be gained from requiring manufacturers to meet standards of various levels of stringency. In so doing, the Conferees expect the number of interference complaints recorded and investigated by the Commission to be significantly reduced.

The Conference Substitute is further intended to clarify the reservation of exclusive jurisdiction to the Federal Communications Commission over matters involving RFI. Such matters shall not be regulated by local or state law, nor shall radio transmitting apparatus be subject to local or state regulation as part of any effort to resolve an RFI complaint. The Conferees believe that radio transmitter operators should not be subject to fines, forfeitures or other liability imposed by any local or state authority as a result of interference appearing in home electronic equipment or systems. Rather, the Conferees intend that regulation of RFI phenomena shall be imposed only by the Commission.

QUALIFICATIONS OF STATION OPERATORS

House bill

The House bill contained no provision.

Senate amendment

Section 303(1) of the Communications Act authorizes the Commission to grant radio operator licenses to citizens and nationals of the United States. The Senate broadened this category to include aliens who are legally eligible for employment in the United States.

Conference substitute

The conference substitute adopts the Senate provision.

Under current law, aliens must undergo an extensive time and resource consuming waiver procedure to obtain commercial radio operator licenses. For example, an alien aircraft mechanic or baggage handler seeking employment with an airline cannot obtain the necessary Restricted Radio Operator Permit for aircraft radio communications needed in those jobs without an express waiver from the Commission. The Commission will thus be spared these extensive and time consuming waiver proceedings. The change being proposed here would continue to have the effect of excluding undocumented aliens or other aliens not eligible for employment in the United States. See 8 C.F.R. Part 109 (1981).

In addition, the Conference Substitute would make a minor technical change in other language in Section 303(1). Current law exempts from the citizenship requirement persons holding United States pilot certificates which are valid in this country because of reciprocal agreements between the United States and the foreign country involved. To achieve consistency, the standard for such reciprocal agreements would be changed from one of citizenship to one of eligibility for employment. The intent here is not to narrow the number of persons falling within the scope of the existing law, but merely to make Section 303(1) internally consistent.

GROUNDS FOR SUSPENSION OF LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act to allow the Commission to suspend the license of any operator who causes, aids or abets in a violation of the Act or the Commission's rules.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, the Commission cannot take such action against the increasing number of operators who illegally advise, equip, or otherwise assist applicants seeking communications facilities. This provision authorizes the Commission to suspend licenses when serious violations occur.

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act of 1934 and authorizes the recognition of certain aircraft radio licenses issued by foreign nations. It would authorize a means to permit a foreign aircraft operator who leases a U.S.-registered aircraft to have the aircraft radio equipment licensed by the foreign country.

Conference substitute

The conference substitute adopts the Senate provision.

The Conference substitute conforms the Communication Act to recently proposed amendments to the International Telecommunications Union Radio Regulations and to other international agreements which allow the State of Registry of an aircraft (operated under a lease, charter, or other such arrangement in a second country) to transfer certain functions and duties to that country.

Section 301(e) of the Communications Act of 1934 requires radio equipment on domestic aircraft to be licensed under the provisions of the Act. In light of the recent amendments to the Convention on International Civil Aviation and the ITU Radio Regulations (the ratification of which is pending in the United States), the Confer-

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ees intend by this amendment to Section 303 of the Act to provide an exception to Section 301(e) in situations where the Commission agrees to transfer licensing of United States aircraft and radio operators to another country.

REVISION OF LICENSE TERMS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended redesignated Section 307(c) of the Act to expand the maximum license term for non-broadcast licenses from five to ten years, upon a Commission finding that the public interest would be served by such an action.

Conference substitute

The conference substitute adopts the Senate provisions.

A ten-year license term might be inappropriate, for example, in many of the Private Radio Services, where a current data base is necessary for accurate and current knowledge of spectrum availability and usage. For other services, however, where specific frequency assignments are not made to individual stations, ten-year license terms would not impede the Commission's spectrum management capabilities. The Conferees believe that, in authorizing the Commission to issue licenses for such terms where appropriate, the burden on the public and on the Commission will be lessened by reducing the number of renewal applications filed.

The Conference Substitute also eliminates the necessity for separate renewal of auxiliary broadcast station licenses, such as remote pickups, studio-transmitter links and intercity relay transmitters. Currently, over 10,000 auxiliary broadcast licenses outstanding must be renewed periodically by the Commission. A tremendous volume of paperwork is created in processing such licenses. Since these auxiliary licenses are contingent upon possession of the main station license, the terms for all related licenses should be concurrent.

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment authorised the Commission to terminate the individual licensing of operators in the Citizens Band (CB) and radio control (RC) services if it determines that permitting the operation of these radio stations without individual licenses would serve the public interest, convenience, and necessity. The Commission would retain blanket licensing authority over CB and RC services and would continue to enforce its rules against and prohibit operation by any operator who violates these rules.

Conference substitute

The conference substitute adopts the Senate provision.

At present, CB and RC licenses are granted to virtually any person who files an application and, unlike broadcast and some other spectrum licenses granted by the Commission, confer no exclusive use of the spectrum. As a result, the grant of individual CB and RC licenses represent neither considered Commission approval nor the exclusive right to a particular frequency. Nonetheless, the cost of processing and granting the millions of license applications in these services has been substantial. Thus, this provision will produce significant savings without impairing important regulatory interests. Moreover, of the estimated twenty million operators in the CB service, some eight million are estimated to be operating without a license. This situation could create a regulatory nightmare for the Commission if serious attempts were made to remedy this situation.

The Conferees wish to emphasize that this provision authorizes only the "de-licensing" (of individual licenses) of the CB and RC services, and not the "deregulation" of such services. The Conferees fully intend the Commission to vigorously enforce the Communications Act and FCC rules relating to the CB and RC services, and to use its forfeiture authority against violators where necessary. Since the Commission would no longer have the ability to revoke a CB license if it chose to de-license the service, forfeiture authority should be exercised in a way that demonstrates a commitment to preserving the integrity of the CB service through enforcement. In addition, the authority granted the Commission in section 4 of this legislation to utilize CB volunteers will provide additional Commission resources to safeguard the integrity of the service.

AUTHORIZATION OF TEMPORARY OPERATIONS

House bill

The House bill contained no provision.

Senate amendment

The Senate lengthened the duration of Special Temporary Authority (STA) from 90 to 180 days, and allows the Commission to renew an STA for additional terms of 180 days each.

Conference substitute

The Conference substitute adopts the Senate provision.

While the Conferees recognize that multiple STA renewals may be appropriate in extraordinary circumstances, it is emphasized that an applicant for STA renewal bears a heavy burden of showing, consistent with the test in Section 309(f), that a renewal should be granted.

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

House bill

The House bill contained no provision.

Senate amendment

The Senate bill amends Section 309(i) of the Communications Act of 1934, relating to the authority of the FCC to grant licenses or permits for the use of the electromagnetic spectrum through a system of random selection.

Conference substitute

The conference substitute adopts the Senate provision.

FCC discretion to use a system of random selection.—Section 309(i) of the Communications Act, as amended by this legislation is intended to alleviate many of the delays and burdensome costs faced by both applicants and the Commission in an initial comparative licensing proceeding with mutually exclusive applicants. Use of a lottery system established pursuant to this subsection is discretionary with the Commission and such use is appropriate in the public interest within the parameters set forth below.

Relevant factors for the Commission's consideration in determining whether a lottery would serve the public interest would include: whether there is a large number of licenses available in the particular service under consideration; whether there is a large number of mutually exclusive applications for each license, for example, when a new service is initiated; whether there is a significant backlog of applications; whether employing a lottery would significantly speed up the process of getting service to the public; and whether selection of the licensee will significantly improve the level diversity of information available in the community versus the use of the traditional comparative hearing process. The Commission, in making this public interest assessment when deciding whether to utilize a lottery in a particular instance, should consider all of these factors.

With respect to the above criteria, if the traditional comparative process would provide a superior means of diversifying media ownership in particular instances, a service should not be subject to a lottery when to do so would undermine or thwart this policy goal, but all factors must be weighed. Diversification of media ownership and information are central goals of the traditional comparative licensing process, and continued promotion of these goals should not be sacrificed merely because a lottery may be more expedient. This concern takes on its greatest significance when the particular license grant involves a service over which the licensee exerts substantial content control, as opposed to strictly common carrier services where the licensee does not appreciably affect the content of the communication. For example, the Commission would have an extremely heavy burden to meet in attempting to justify use of a lottery for purposes of granting an individual license for a full-power station (e.g., the fourth full service television station in a community), the licensing of which is unrelated to the initial grants of licenses for a new service. There, the flood of new applicants for a multitude of licenses in a newly created service, with all of the administrative problems attendent thereto, have not to date confronted the Commission. On the other hand, the Commission would be perfectly justified in using, and is in fact encouraged to use, a lottery when awarding licenses for low power television stations, which involves huge backlogs which would otherwise significantly delay service to the public if the traditional comparative hearing process were relied upon.

The Conference Substitute provides that the Commission adopt implementing rules within 180 days of the date of enactment of this Act. The Conferees wish to emphasize that this is an absolutely mandatory requirement. Once these rules are established, the Commission shall have the authority to modify them as necessary and the discretion, based upon an articulated assessment of the public interest factors discussed above, to apply them to particular proceedings or classes of proceedings before it. The Conferees wish to emphasize their strong expectation that the Commission will exercise carefully its discretion to use a lottery system by making a finding that the public interest would be significantly benefited by using a lottery instead of a comparative hearing to select licenses or permits with respect to those services or instances in which it determines that use of a lottery would be appropriate. Use of a lottery without identifying a substantial public interest benefit flowing therefrom would disserve the Commission's ultimate statutory goal of obtaining the best practicable information service from diverse sources.

The Conferees intend that the Commission, in making this public interest finding, should not apply the aforementioned factors mechanically or without regard to other salient considerations. For example, the Conferees note that the mere existence of a backlog of applications is not itself a sufficient reason for employing a lottery.

The Conferees also wish to emphasize as strongly as possible their firm intention and expectation that the Commission will use a lottery to expedite the processing of low power television service and translator facilities. Low power television and translator service is the ideal service for which to use a lottery, given the large number of licenses available, the large number of mutually exclusive applications for each license, the substantial backlog of applications on file with the Commission, the likelihood that the use of a lottery is essential to expediting the process of getting low power television service to the public, and the likelihood that bringing low power television service to the public quickly, through the use of a lottery, will result in a significant increase in the diversity of information sources available in many communities throughout the country.

The Conferees do not intend for this provision to be construed to prevent the Commission from granting licenses or permits in "blocks" of frequencies where it determines that this would serve the public interest (e.g. the proposed multi-channel multipoint distribution service).

Qualification of applicants in a random selection system.—It is the intent of the Conferees that, prior to the use of a lottery in a particular proceeding, the Commission conduct a preliminary review of each application submitted to determine that it is acceptable for filing. The Conferees expect that the Commission will use the standards for acceptability set out in James River Broadcasting Corp. v. FCC, 399 F.2d 581 (D.C. Cir. 1968), unless, by rule, it has adopted or shall adopt different standards. See, e.g., 47 C.F.R. 73.3564, 22.20. Following the lottery, the Commission shall determine that the applicant selected therein is fully qualified to become a licensee under 308(b) and 309(a). Should the applicant selected be found not to be so qualified, the Commission shall conduct another lottery, if necessary, and select another applicant. It is the intention of the Conferees that determinations under Section 308(b) and 309(a) need be made only as to the applicant who has been selected by lottery.

It is only at this latter, post-lottery stage that petitions to deny the application need be considered and that the right to a hearing may arise. This hearing may be a "paper hearing" unless the Commission determines, by rule or by decision in a particular case, that due process or other public interest considerations require some or all of the hearing to be conducted by any responsible employee or employees, including Bureau Chiefs or their delegates, to whom the Commission shall, by rule, delegate such functions. If the Commission chooses to delegate the function of presiding over these paper hearings to employees other than Administrative Law Judges (ALJ), the Commission must assure that the examiner or reviewer is truly independent in order to avoid any undue influence in the fact-finding process. Here the Conferees wish to emphasize that use of non-ALJs to govern hearings is strictly limited to post-lottery hearings. This does not imply that similar delegation would be acceptable with respect to the traditional comparative hearing process.

The Conferees wish to emphasize that the qualifications set out in Section 308(b) are not diminished in importance. By permitting the FCC to make the findings after an applicant is selected, it is intended that the Commission will be able to conduct a more thorough and in-depth inquiry than it could if it had to make a finding as to the qualifications of all applicants. Moreover, to preserve the incentives of the other applicants to raise questions concerning their competitors' qualifications, if the initial "winner" is determined to be unqualified, the subsequent lottery must be conducted with the same applicant pool with each applicant's selection probabilities recomputed as necessary (see below).

The Conferees note that requiring the Commission to find the applicant selected by the lottery fully qualified prior to the grant of the license to that applicant protects the public from unqualified licensees, while affording the Commission the relief from the burden of having to pass on the full range of qualifications of every applicant. As with the use of non-ALJs to conduct hearings, the post-selection assessment of qualifications process is strictly limited to the lottery context and should not be utilized in the traditional comparative process.

Application of preferences in a random selection system.—It is the firm intent of the Conferees that traditional Commission objectives designed to promote the diversification of control of the media of mass communications be incorporated in the administration of a lottery system under section 309(i), as amended by this legislation. The Commission's application of its Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393 (1965), has resulted in significant comparative advantages to minority-controlled applicants and to applicants with a low degree of ownership interest in mass communications media. While the degree of advantage, merit, or preference heretofore awarded to such applicants need not be precisely duplicated in the administration of a random selection system, the Conferees expect that the Commission's lottery rules will provide significant preferences to applicants (especially those who are minority-controlled), the grant to whom of the license or permit sought would increase the diversification of the media of mass communications. The Conferees intend that two distinct diversity preferences be applied where appropriate: a media ownership preference and a minority ownership preference.

The underlying policy objective of these preferences is to promote the diversification of media ownership and consequent diversification of programming content. This diversity principle is grounded in the First Amendment, as illuminated in a line of cases in large part stemming from *Associated Press* v. *United States*, where the Supreme Court stated that the First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." 326 U.S. 1, 20 (1945). Thus, in finding that the "public interest, convenience, and necessity" would be served by granting a given mass communications media license, "the Commission simply cannot make a valid public interest determination without considering the extent to which the ownership of the media will be concentrated or diversified by the grant of one or another of the applications before it." *Citizens Communications Center* v. *FCC*, 447 F.2d 1201, 1213 n. 36 (D.C. Cir. 1971).

The nexus between diversity of media ownership and diversity of programming sources has been repeatedly recognized by both the Commission and the courts. For example, in promulgating its "concentration of control" regulations, the Commission stated that "the fundamental purpose of this facet of the multiple ownership rules is to promote diversification of program and service viewpoints as well as to prevent any undue concentration of economic power contrary to the public interest." Amendment of Sections 3.35, 3.240, and 3.636, Report and Order, 18 F.C.C. 288 (1953), aff'd, *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956). In its rulemaking on low power television, the Commission noted that it has received expressions of interest from minorities wishing to develop new services and that it "specifically encourages this interest, and fully intends that the inauguration of this new broadcast service be the occasion for assuring enhanced diversity of ownership and of viewpoints in television broadcasting." Low Power Television Broadcasting, Notice of Proposed Rulemaking, 82 F.C.C. 2d 47, 77 (1980). In *TV 9, Inc.* v. *FCC*, a landmark case dealing with comparative merit for minority applicants, the court stated "that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proved significantly influential with respect to editorial comment and the presentation of news." 495 F.2d 929, 938 (D.C. Cir. 1973), *cert. denied*, 418 U.S. 986 (1974).

Common carrier licensees are often not engaged in the provision of information or mass media services over their facilities which they control. When common carrier licensees do exert such control, by definition they do not exclusively control the content of the information or programming which is transmitted over their facilities. Thus, Section 309(i), as amended by this bill, only requires significant preferences to be applied to licenses or construction permits for any media of mass communications. This permits the Commission to use a lottery without preferences for services such as common carrier "beepers," for which there is a large back-log of applications.

A question arises as to the administration of a lottery in services which may be neither clearly common carrier nor broadcast entities (such as multipoint distribution service), or services in which the applicant may be able to self-select either common carrier or broadcast status (such as the Commission's treatment of the direct broadcast satellite service). The Conferees intend that the Commission apply significant preferences, if it decides to use a lottery system for these services, to the extent that the licensees have the ability to provide under their direct editorial control a substantial proportion of the programming or other information services over the licensed facilities. If such services are treated by the Commission in the future strictly as common carrier services with no ability on the part of the licensee to exercise direct editorial control over a substantial proportion of the programing offered over its facilities, no preferences need be applied in using a lottery system for those services.

Characteristics of the preferences.—One important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications. The definition of media of mass communications relevant here includes the entities listed in section 309(i)(3)(C)(i), as amended by this Act, plus daily newspapers, which the Commission

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has long regarded as important in considering the diversification of the media. See, e.g., Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order, 50 F.C.C.2d 1046, modified, Memorandum Report and Order, 53 F.C.C.2d 589 (1975), aff'd sub nom., FCC v. Nat'l Citizens Comm. for Broadcasting, 436 U.S. 775 (1978); Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393, 394-95 (1965).

To the degree an applicant for a license or permit for the media of mass communications has controlling interest in no other, or few other, media entities, the policy of diversifying media ownership would be promoted by the grant of the license to such an applicant. Thus, the Conferees intend that in the administration of a lottery to be used for granting licenses or construction permits for any media of mass communications, the Commission awards a significant media ownership preference to those applicants whose owners control no other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. Thus, each such situated applicant must be awarded a preference so that its chances of being granted the license in a lottery are at least doubled from what its chances would be if a straight random selection process without preferences were conducted. Similarly, a media ownership preference should be awarded to those applicants whose owners, when aggregated, have controlling interest (over 50%) in 1, 2, or 3 other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 1.5:1 for each such application. No media ownership preference should be awarded to applicants whose owners, when aggregated, have controlling interest (over 50%) in more than 3 other media of mass communications properties.

The Conferees are concerned that the objectives of this media ownership preference scheme might be diluted where there are large numbers of applicants in a given use of a lottery. To help insure that these preferences have appreciable impact on the results of the lottery, adjustments in the preferences awarded may be required where there is a relatively large number of total applicants compared to the number of applicants deserving of the media ownership preference.

The Conferees intend that the Commission assign applicants to groups based on the number of other media of mass communications owned. A specific multiplier (preference) factor should be applied to each applicant in a given group, the factor varying inversely with the number of media of mass communications owned by the applicants in that particular group. After the appropriate preference factor is applied to each preferred applicant, the overall likelihood of selecting an applicant from one of the preferred groups should be calculated. If this probability does not meet or exceed .4, the individual applicant selection probabilities should be recomputed to bring the combined preferred group probabilities to no less than .4. (See Administering the System of Random Selection, infra).

A second important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications which are in, or close to, the community being applied for. See Policy Statement on Comparative Broadcast Hearings, 1 F.C.C. 2d 393, 395 (1965). The Commission has recognized the importance of this factor in promulgating local cross-ownership rules barring the common ownership of a VHF television station and an aural (AM or FM radio) station in the same community, Multiple Ownership of Standard, FM and Television Broadcast Stations, First Report and Order, 22 F.C.C. 2d 306 (1970), modified, Memorandum Opinion and Order, 28 F.C.C. 2d 662 (1971), and barring daily newspaper—broadcast station combinations under common ownership in the same community, Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order, 50, F.C.C. 2d 1046, modified, Memorandum Report and Order, 53 F.C.C. 2d 589 (1975), aff'd sub nom. FCC v. Nat'l Citizens Comm. for Broadcasting, 436 U.S. 775 (1978).

The Conferees strongly believe that the avoidance of local ownership concentration should continue to be a factor of major significance in promoting diversity in the licensing process. Where an applicant for a license or permit has controlling interest (over 50 percent) in any other medium of mass communications which would be co-located with the licensed facility sought, it would not promote diversity to give such an applicant a preferred status relative to other applicants. Thus, in the administration of a lottery system to be used for licenses or permits in the media of mass communications, no media ownership preference should be awarded to any applicant whose owners, when aggregated, have controlling interest (over 50 percent) in any medium of mass communications which is licensed to serve, franchised to serve (in the case of a cable television system), or primarily serves (in the case of a daily newspaper) the community of license for which of the grant is sought.

The Conferees expect that the Commission will make certification as to whether or not an applicant has a controlling interest in any media of mass communications in the community of license of the grant sought a prerequisite for an acceptable application for a license or permit for a medium of mass communications. Applicants who do have such ownership interests should be ineligible for a media ownership preference, notwithstanding the possibility that they might otherwise receive a preference by virtue of owning only a few media of mass communications. In sum, awards of licenses which would increase local media ownership concentration, by definition would not further the goal of diversifying media ownership, and thus the Conferees intend that such applications not be eligible for a diversity preference.

A third important factor in diversifying the media of mass communications is promoting ownership by racial and ethnic minorities—groups that traditionally have been extremely underrepresented in the ownership of telecommunications facilities and media properties. The policy of encouraging diversity of information sources is best served by not only awarding preferences based on the number of properties already owned, but also by assuring that minority and ethnic groups that have been unable to acquire any significant degree of media ownership are provided an increased opportunity to do so. It is hoped that this approach to enhancing diversity through such structural means will in turn broaden the nature and type of information and programming disseminated to the public. The Conferees find that the effects of past inequities stemming from racial and ethnic discrimination have resulted in a severe underrepresentation of minorities in the media of mass communications, as it has adversely affected their participation in other sectors of the economy as well. We note that the National Association of Broadcasters recently reported that of 8,748 commercial broadcast stations in existence in December 1981, only 164, or less than two percent, were minority owned. Similarly, only 32 of the 1,386 noncommercial stations, slightly over two percent, were minority owned.

One means of remedying the past economic disadvantage to minorities which has limited their entry into various sectors of the economy, including the media of mass communications, while promoting the primary communications policy objective of achieving a greater diversification of the media of mass communications, is to provide that a significant preference be awarded to minority-controlled applicants in FCC licensing proceedings for the media of mass communications. The narrowly-drawn preference scheme established in section 309(i), as it is amended by this legislation, is intended to achieve such a purpose. Evidence of the need for such preferential treatment has been amply demonstrated by the Commission, the Congress, and the courts. See, in this regard, Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C.2d 979 (1978); FCC Minority Ownership Taskforce, Report on Minority Ownership in Broadcasting (May 17, 1978) at 3, 7-9; and *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980), and reports cited therein at 467 n.55. As the court stated in *Citizens Communications Center* v. *FCC*:

> The Commission . . . may also seek in the public interest to certify as licensees those who would speak out with fresh voice, would most naturally initiate, encourage, and expand diversity of approach and viewpoint. . . . As new interest groups and hitherto silent minorities emerge in our society, they should be given some stake in and chance to broadcast on our radio and television frequencies.

447 F.2d 1201, 1213 n.36 (D.C. Cir. 1971) (citation omitted).

The Conferees intend that in the administration of a lottery to be used for granting licenses or construction permits for any media of mass communications, the Commission award a significant minority ownership preference to those applicants, a majority of whose ownerships interests are held by a member or members of a minority group. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. For purposes of becoming eligible for this minority ownership preference, individuals who are participants in a group, partnership or corporate entities and who are members of different minority or ethnic groups should be allowed to aggregate their ownership interests to achieve a majority interest in any given application.

It is clear that the current comparative hearing process has not resulted in the award of significant numbers of licenses to minority groups. Many minority applicants are simply unable to participate in comparative hearings which often take a considerable period of time and require subtantial economic resources. The Conferees believe that a lottery preference scheme will greatly speed the process of initial licensing awards, and will permit not only greater numbers of minority groups to apply for licenses, but also will result in the award of a greater proportion of available licenses to minorities than has been the case to date.

It should be noted that such groups as women, labor unions, and community organizations which were mentioned in the legislative history of the lottery statute that was originally adopted, Conference Report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981—Book 2, H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981), are all significantly underrepresented in the ownership of telecommunications facilities. Such applicant groups would, of course, be eligible for both media ownership and minority ownership preferences if they meet the eligibility guidelines. The Conferees expect that such groups will also substantially benefit from this lottery preference scheme, and, consequently, the American public will benefit by having access to a wider diversity of information sources.

The operative definition of minority group is found in section 309(i)(C)(ii), as amended by this bill. It is the Conferees intention that the definitions in Office of Management and Budget Statistical Policy Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," be utilized for guidance with regard to any dispute as to an individual's membership in a named group.

The Conferees direct the Commission to report to the Congress annually on the effect of section 309(i)(3) and whether it serves the purposes stated. See generally *Fullilove v. Klutznick*, 448 U.S. 448, 510, 513 (1980). This report should include a statistical breakdown of the characteristics of applicants involved in lottery proceedings, those receiving preferences, and those actually awarded licenses.

The Conferees intend that both a media ownership preference and a minority ownership preference will be available to all eligible applicants. Thus, for example, an applicant, a majority of which is owned by minorities, and whose owners have no controlling ownership interests in the media of mass communications, would receive no less than a cumulative, 3:1 preference over an applicant without preferences. Moreover, an applicant, a majority of which is owned by minorities, but whose owners have controlling interest in four media of mass communications properties or a medium of mass communications serving the community of license of the grant sought, would still receive a minority ownership preference (though not being eligible for a media ownership preference).

With respect to both the media ownership and minority ownership preferences, the Conferees expect that the Commission shall evaluate ownership in terms of the beneficial owners of the corporation, or the partners in the case of a partnership. Similarly, trusts will be evaluated in terms of the identity of the beneficiary.

The Conferees expect that the preferences which will be awarded in the administration of a lottery will result in a real and substantial increase in the diversity of ownership in the media of mass communications and consequent diversification of media viewpoints. The Conferees note that this carefully designed preference scheme could be undermined by the rapid re-assignment or transfer of stations, construction permits, or licenses granted by a lottery. Thus, it is the firm intent of the Conferees that for any mass communications media service in which the Commission determines use of a lottery is appropriate, it should retain its present anti-trafficking rules (47 C.F.R. 73.3597 (1981)) or devise similar protections to help ensure that the very purposes sought to be achieved by the preference scheme be fulfilled. Moreover, the Commission should require that the applicant that is actually awarded the license certifies that they have not entered into any agreement, explicit or implicit, to transfer to another party after a period of time any station construction permit or license awarded. If those eligible for preferences were simply applying for licenses for the purpose of obtaining a quick profit on the sale of the station once the license is awarded, the entire lottery preference mechanism would be undermined.

Administering the System of Random Selection.—The Commission's administration of the random selection system will differ depending on whether the licenses are to be granted for the media of mass communications or for non-media services. The lottery procedure for the latter is extremely simple, with each applicant for a given license receiving a selection probability of 1/x, where x equals the total number of applicants.

The random selection system for mass communications media licenses, on the other hand, must take into account preferences for ownership of few or no mass communications media entities, and preferences for minority ownership, along with the total number of applicants for a given license.

The Conferees intend that the media ownership preference be computed prior to the minority ownership preference. Those applicants with no controlling ownership in mass communications media should receive a fixed relative preference of 2:1; applicants with controlling interest in one, two, or three mass communications media entities should receive a fixed relative preference of 1.5:1. Applicants with controlling interest in more than three mass communications media entities or in at least one entity serving the city of license should receive no media ownership preference. Following the award of media ownership preferences (where applicable), each applicant's selection probability should be normalized (*i.e.*, adjusted to reflect its actual probability of being selected), taking into account the total number of applicants in the lottery.

The Conferees are concerned that their objective of increasing media diversity by granting preferences in the administration of a lottery system will be diluted in instances where the number of applicants for a given license is large. It is important to ensure that the media ownership preference will have an appreciable impact on the results of the selection process. The award of preferences, therefore, is not only intended to ensure that the lottery process is conducted in a way which guarantees the consideration of certain criteria which are of primary significance in the comparative hearing process, but it is also intended to create a process which is highly outcome-oriented in terms of furthering the actual granting of licenses to those applicants who would most further diversity objectives.

Thus, the Commission must ensure that the sum of the selection probabilities of all applicants deserving of a media ownership preference be no less than .40 for any given instance in which the lottery is being used, even if after the award of the media ownership preference the aggregated selection probabilities of all such applicants awarded this preference totals less than 40 percent. The Conferees intend that this be accomplished by adjusting the normalized selection probabilities of each applicant deserving of a media ownership preference, where necessary, to ensure that the sum of the selection probabilities for all such applicants be at least .40. Following this adjustment (where applicable), the selection probability of applicants not deserving of a media ownership preference should again be normalized.

After making all the necessary adjustments for ownership preferences (where applicable), each minority controlled applicant should receive a fixed relative preference of 2:1. This minority ownership preference should be awarded in addition to any media ownership preference to which a particular applicant may be entitled. Following the award of minority ownership preferences (where applicable), each applicant's selection probability should again be normalized to arrive at the final selection probability for that particular use of the lottery.

The following step-by-step procedure, to which the Conferees and the Commission have agreed following extensive staff discussions, establishes the process for the Commission to follow in the administration of a lottery to be used for granting licenses for any media of mass communications. This detailed procedure offers the Commission guidance to correct its previous failure to implement a lottery system.

A. Divide the total number of applicants into 100 to find the individual applicant selection probabilities without adjustment for preferences.

B. Identify all applicants by ownership group according to the following table:

Group, ownership of mass communications media, and preference factor

1—no controlling ownership interest.	2.0
2—controlling interest in 1-3 entities	1.5
3—controlling interest in more than 3 entities or in at least 1 entity........	1.0

C. Multiply the selection probabilities for each applicant from Step A by the appropriate preference factor from Step B.

D. Normalize all probabilities using the following formula: Intermediate probability for each applicant=applicant's Step C probability divided by sum of all applicants' Step C probabilities.

E. Sum the probabilities from Step D by group. Then sum the probability totals from Groups 1 and 2. If this sum is greater than .40, skip Step F and go on to Step G. If this sum is less than .40, each applicant in Groups 1 and 2 will have its intermediate probability raised as follows:

(1) Compute the quotient of .4 divided by sum of the probability totals from Groups 1 and 2;

(2) the new intermediate probabilities are then computed as: intermediate probability for each applicant=applicant's Step D probability times quotient from (1) above.

F. Normalize the probabilities not altered in Step E (i.e., Group 3—those with no media ownership preference) using the following formula: intermediate probability for each Group 3 applicant=.6 divided by number of Group 3 applicants.

G. Identify minority controlled applicants.

H. Multiply the intermediate probabilities of the minority controlled applicants by 2.0.

I. Normalize all probabilities using the following formula: Final probability of selecting any applicant=intermediate probability of applicant divided by sum of all intermediate probabilities.

The following hypothetical situation illustrates this procedure. Assume that there are ten mutually exclusive applications for a

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given license for a medium of mass communications, with the following characteristics:

Applicant and minority status	*Media ownership*
1—nonminority	owns 1 other media property.
2—nonminority	owns 4 other media properties.
3—nonminority	owns 4 other media properties.
4—nonminority	owns 4 other media properties.
5—nonminority	owns 4 other media properties.
6—nonminority	owns 4 other media properties.
7—nonminority	owns 4 other media properties.
8—nonminority	owns 4 other media properties.
9—minority	owns no other media properties.
10—minority	owns 4 other media properties.

Step A: Total number of applicants equals 10. Individual applicant selection probabilities without preferences equals 10/100 equals .10

STEP B

Applicant	Number of media properties owned	Group
1	1	2
2 to 8	4	3
9	0	1
10	4	3

Step C.—Applicant and selection probability multiplied by preference factor

1	.1(1.5)=.15
2	.1(1.0)=.10
3	.1(1.0)=.10
4	.1(1.0)=.10
5	.1(1.0)=.10
6	.1(1.0)=.10
7	.1(1.0)=.10
8	.1(1.0)=.10
9	.1(2.0)=.20
10	.1(1.0)=.10
Total	1.15

Step D.—Applicant and step C probabilities divided by sum of all probabilities

1	.15/1.15=.1304
2 to 8	.10/1.15=.087
9	.20/1.15=.1739
10	.10/1.15=.087

Step E: Group 1 probabilities and Group 2 probabilities=.1739 +.1304=.3043.

Since .3043 < .40, each Group 1 and Group 2 applicant will have its intermediate probability adjusted as follows:

(1) .4 divided by the sum of the probability totals for Groups 1 and 2 equals .4 divided by 1739+.1304 equals .4 divided by .3043 equals 1.314.

(2) For Group 1: .1739(1.314) equals .2285. For Group 2: .1304(1.314) equals .1713.

Step F: Each Group 3 applicant's probability equals .6 divided by the number of Group 3 applicants equals .6 divided by 8 equals .075.

Step G: Only applicants 9 and 10 are minority controlled.

Step H.—Applicant and probability with minority ownership factor

1	.1713(1.0) = .1713
2	.075(1.0) = .075
3	.075(1.0) = .075
4	.075(1.0) = .075
5	.075(1.0) = .075
6	.075(1.0) = .075
7	.075(1.0) = .075
8	.075(1.0) = .075
9	.2285(2.0) = .457
10	.075(2.0) = .150
Total	1.3033

Step I.—Applicant and final probabilities

1.1713/1.3033=.1314	
2	.075/1.3033=.0575
3	.075/1.3033=.0575
4	.075/1.3033=.0575
5	.075/1.3033=.0575
6	.075/1.3033=.0575
7	.075/1.3033=.0575
8	.075/1.3033=.0575
9	.457/1.3033=.3506
10	.150/1.3033=.1151
Total	.9996

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision amends Section 311(c) of the Act to impose identical standards and further the same goals in proceedings involving competing applications for new broadcast facilities as those used when applications are withdrawn during renewal proceedings.

Conference substitute

The conference substitute adopts the Senate provision.

Section 311(d) of the Act was amended by the Omnibus Budget Reconciliation Act of 1981 to provide that, in broadcast renewal proceedings involving mutually exclusive applications, the Commission shall approve any agreement between the applicants where one or more of the applicants agrees to withdraw its application in return for valuable consideration. However, the Commission first must determine that the agreement is consistent with the public interest and that no party to the agreement filed its application for the purpose of entering such an agreement. Section 311(d) was intended to prevent the filing of frivolous applications calculated to harass an incumbent or coerce payment of expenses to the competing applicant. This provision imposes identical standards and furthers the same goals in proceedings involving competing applications for new broadcast facilities.

The Conferees recognize that in relative terms there are more Commission proceedings involving competing applicants for new facilities than there are proceedings involving license renewal applicants and competing applicants. Similarly, there are relatively more dismissal agreements between competing applicants for new facilities than there are between incumbent licensees and their competing applicants. These dismissal agreements generally serve the public interest because they often avoid lengthy hearing appeals, thus expediting the start of the new broadcast service involved in the proceeding. This public interest benefit would be substantially reduced, if not eliminated altogether, were the Commission required in every case to incur the costs and delays of determining whether the application to be dismissed was filed for the purpose of entering into a dismissal agreement.

It is not the intention of the Conferees that such proceedings be held in every case involving a dismissal agreement. Accordingly, in enacting regulations to implement this provision, the Conferees expect the Commission to create a procedure whereby this question can be resolved expeditiously. For example, Section 73.3525(a) of the Commission's rules, 47 C.F.R. 73.3525(a), currently requires each party to a dismissal agreement to submit an affidavit setting forth all relevant facts about the agreement (i.e., nature of consideration paid, history of negotiations, etc.). These parties also could be required to state the circumstances surrounding the filing of their respective applications. Further proceedings would be required only if, after reviewing these affidavits, there remained a question of whether the applications had been filed in good faith for the purpose of actually obtaining the license.

This provision also makes a clarifying change to Section 311(d) of the Act.

WILLFUL OR REPEATED VIOLATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision in defines the terms "willful" and "repeated" for purposes of Section 312, and for any other relevant section of the Act (e.g., Section 503).

Conference substitute

The conference substitute adopts the Senate provision.

Section 312 of the Communications Act of 1934 presently provides in part that the Commission may revoke any station license or construction permit for willful or repeated failure to operate substantially as set forth in the license, for willful or repeated violation of any provision of the Communications Act of 1934, Commission rule, or treaty, and for willful or repeated failure to allow reasonable access to legally qualified candidates for Federal elective office. Section 503 provides in part that the Commission may impose forfeitures for willful or repeated failure to comply with license terms and conditions, or for willful or repeated failure to comply with the Act, any Commission rule, or treaty.

As defined in the Conference Substitute, "willful" means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. "Repeated" means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be "continuous" would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms in Midwest Radio-Television Inc., 45 F.C.C. 1137 (1963).

The Conferees intend that these new statutory definitions as applied to Section 312(a)(7) of the Act be read in conjunction with past Commission decisions and court precedent with respect to providing reasonable access to Federal candidates.

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision deletes obsolete language from Section 319(a) of the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that construction permits shall not be required for public coast stations, privately owned fixed microwave stations, or stations licened to common carriers, unless the Commission makes a public interest finding that such permits are necessary.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, most prospective radio licensees must follow a two-step procedure to obtain operating authority—first applying for a construction permit and then for a station license. The Conferees believe this requirement in some cases may delay market entry and place an unnecessary administrative and financial burden on both the potential licensee and on the Commission.

The present procedures for government stations, amateur stations, and mobile stations—for which construction permits are not required—remain unchanged by the Conference Substitute. Broadcasting stations must still comply with the existing two-step procedure. With respect to any other station or class of stations, the Commission shall not waive the construction permit requirement unless it determines that the public interest would be served by such a waiver.

PRIVATE LAND MOBILE SERVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate clarified the treatment of land mobile services under the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

This provision makes a number of additions and revisions to Sections 3 and 331 of the Communications Act of 1934, which will be discussed by subsections.

Subsection 331(a).—The Communications Act of 1934 contains no guidelines for the FCC to follow in managing the spectrum to be made available for the private land mobile services, other than its broad statutory authority to promote the "public interest, convenience, and necessity." The Conferees believe such guidelines are necessary since these services have a direct and substantial impact on the public welfare and the economy. Subsection 331(a) sets forth general principles that are to guide the Commission in taking actions to manage the spectrum made available for use by the private land mobile services, as defined in new subsection 3(gg) of the Communications Act. Private land mobile service includes those services described in new paragraph 331(c)(1).

In managing these services, the Commission should take actions which will promote safety, improve spectrum efficiency, reduce the users' regulatory burden, encourage competition, provide services to the largest number of users, or increase interservice sharing opportunities with these and other services. These guiding principles are not intended to be exclusive. The Commission may consider, consistent with the other provisions of the Act, any other relevant factors in the public interest. Moreover, not all of these guidelines need be considered in each individual case. All are important goals. The Commission may wish to focus its efforts on one or more in each instance, varying its emphasis with each particular case.

The Commission should be ever vigilant to promote the private land mobile spectrum needs of police departments and other public agencies which need to use such radio services to fulfill adequately their obligations to protect the American public. The Conferees are particularly concerned about radio services which are necessary for the safety of life and property and urges the Commission to carefully consider the legitimate needs of public safety agencies in managing the private land mobile spectrum.

The Conferees believe that implicit in the guidelines enumerated in subsection 331(a) is the principle that the Commission may not employ auctions in managing the spectrum made available for use by the private land mobile services. The Conferees are concerned that use of an auction—that is, selling frequency space to the highest bidder—or a similar method which turns upon a user's monetary ability to pay for a frequency allocation will work to the detriment of an efficient and competitive private land mobile spectrum. Thus, by providing the guidelines in this subsection, the Conferees intend to specifically prohibit the Commission from employing auctions or similar economic methods in managing the private land mobile spectrum. However, this prohibition should not be construed to limit the ability of the Commission to use lottery procedures for purposes of granting private land mobile licenses, or to impose reasonable fees upon a private land mobile licensee after the grant of the license.

Subsection 331(b).—The Conferees recognize the value of the assistance provided to the Commission by non-Federal Government advisory coordinating committees in the frequency assignment process for the private land mobile and fixed services. Subsection 331(b) specifically authorizes the Commission to utilize the services of such committees.

The number of licensees and users in the private land mobile and fixed services is already large. There are now approximately 850,000 stations in these services and there are almost 25,000 applications received each month for private land mobile and fixed station licenses. The number of licenses is expected to increase even more dramatically in the future. *See Future Private Land Mobile Requirements,* Notice of Inquiry, FCC 82-2, PR Docket No. 82-10, released January 26, 1982.

From the data on record with the FCC, the Conferees are convinced that the frequency coordinating committees not only provide for more efficient use of the congested land mobile spectrum, but also enable all users, large and small, to obtain the coordination necessary to place their stations on the air. Without such frequency coordinating committee activity, some of these applicants would not be able to afford the engineering required in the applications process. Thus, by essentially equalizing the frequency selection process for all applicants, the applicants are placed on a competitive parity, with no one applicant operating on a better or more commercially advantageous frequency than his or her competitor. The Conferees note that this procompetitive aspect of frequency coordination is of particular importance to small business operators.

To further promote fairness in frequency allocation, the Conferees encourage the Commission to recognise those frequency coordinating committees for any given service which are most representative of the users of that service. The Conferees also encourage the Commission to develop rules or procedures for monitoring the performance of coordinating committees.

The Conferees note that the Commission presently accepts applications for private land mobile services licenses which are based on appropriate field study coordination techniques. *See* 47 C.F.R. 90.175 (1981). In adopting these provisions authorizing the Commission's use of advisory coordinating committees for coordinating the assignment of frequencies to stations in private land mobile service and in the fixed services, the Conferees do not intend to mandate the elimination of frequency coordination by way of field study engineering reports. The FCC would thus have the discretion to conduct frequency coordination through use of a frequency coordinating committee or by accepting the submission of a field study report, as the Commission determines best serves the public interest.

The section also makes it clear that advisory committee personnel retain their private sector status. They are not to be considered employees of the United States Government and they are not covered by the provisions of either 5 U.S.C. 2101 et. seq. or 31 U.S.C. 665(b) (1976). Finally, this section makes it clear that any committee which assists the Commission in this regard is not subject to the provisions of the Federal Advisory Committee Act.

Subsections 331(c) and 3(gg).—The purpose of adding Subsections 3(gg) and 331(c) to the Communications Act of 1934, as amended, is threefold:

(1) to provide a definition of private land mobile service;

(2) to delineate the distinction between private and common carrier land mobile services; and,

(3) to specify the appropriate authorities empowered to regulate these same services.

The Communications Act of 1934, as amended, does not include a definition of the private land mobile services. New subsection 3(gg) adds this definition and thereby provide explicit Congressional support and guidance for existing and future FCC regulation of these services. The definition adopted herein encompasses the myriad of radio systems utilized by these governmental, commercial, industrial and transportation licensees which range from small relatively uncomplicated two-way dispatch systems, to complex ones involving multiple transmitters to cover wide areas. The private land mobile services currently consist of the following radio services: local government, police, fire, highway maintenance, forestry conservation, special emergency, power, petroleum, forest products, motion picture, relay press, special industrial, business, manufacturers, telephone maintenance, motor carrier, railroad, taxicab, automobile emergency, and radiolocation. The Conferees expect the Commission to add, modify, or delete private land mobile serv-

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ices as the need arises, consistent with the guidelines specified in subsection 331(a).

New Subsection 331(c) both establishes a clear demarcation between private and common carrier land mobile services and specifies that only the latter may be regulated on a common carriage basis. By contrast, no person, participating in the private land mobile services, whether as a licensee, equipment supplier or otherwise, shall be classified as a common carrier with respect to its participation in these services. The distinction between private and common carrier land mobile services is the subject of considerable litigation between private land mobile operators and radio common carriers before the FCC and the courts. The Conferees believe that establishing this demarcation in the Communications Act of 1934 would serve the public interest by resolving much of this litigation.

The basic distinction set out in this legislation is a functional one, i.e., whether or not a particular entity is engaged functionally in the provision of telephone service or facilities of a common carrier as part of the entity's service offering.[1] If so, the entity is deemed to be a common carrier. If not, it clarifies that private systems may be interconnected with the public switched telephone network under the tests in subsections 331(c)(1) (A) and (B), and the entity providing the base station facility or service is nonetheless providing private land mobile service. With respect to the land mobile services, this test supersedes the traditional common law test of indifferent service to the public established in National Association of Regulatory Utility Commissioners v. ECC, 525 F.2d 630 (1976), cert. denied, 425 U.S. 992 (1976).

To implement this distinction, subsection 331(c)(1) provides for the following: (a) classifies the various types of shared radio systems currently licensed in the private land mobile services (e.g., specialized mobile radio and multiple licensed systems) as "private" (i.e., non-common carrier) radio systems; (b) authorizes the entrepreneurs involved in such systems (i.e., licensees, equipment suppliers or any other third party) to offer their services or facilities to eligible users "indiscriminately" or otherwise, as their discretion and marketplace forces may dictate; and (c) prohibits such shared systems from being interconnected with common carrier facilities if the licensees or entrepreneurs are engaging in the resale of telephone service or facilities.

Section 331(c)(2) further specifies that radio dispatch systems are not authorized in the domestic public (common carrier) land mobile service with the exception of those stations authorized as of January 1, 1982.[2] In substance, the bill deregulates dispatch service, except for "grandfathered" common carrier stations, and requires that it be provided on an unregulated basis in the private land mobile services. The Conferees are informed that current use of common carrier stations to provide dispatch service is de minimis. Thus, while such stations licensed in the domestic public land mobile radio service (47 C.F.R. 22.500, et seq. (1981)) prior to January 1, 1982, may continue to add customers and locations, this limited exception should not impair the Conferees objective of assuring that frequencies allocated for use by radio common carriers are not devoted to dispatch service to any significant extent.

Nothing in Subsection 331(c), however, should be construed to bar persons who are otherwise licensed as common carriers from providing dispatch service in the private land mobile services; nor should it be construed to impair the ability of common carriers to compete for any class or type of customer for their services. Thus, for example, if a plumber or taxi company or a police department has radio communication needs that can be satisfied through service provided by a cellular radio operator, this section interposes no objection. Moreover, Section 331(c) does not bar common carriers from providing interconnected services or facilities to users of licensees of stations licensed in the private land mobile services, via a base station or through interconnection on the user's premises. Only if a private land mobile operator or licensee is reselling for profit interconnected common carrier services is the interconnection prohibited. This will assure that frequencies allocated essentially for purposes of providing dispatch services are not significantly used to provide common carrier message service.

Subsection 331(c)(3) delineates the jurisdiction of state and local governments with respect to the land mobile services, consistent with the demarcation between private and common carrier service established by the bill. State and local authority is entirely preempted with respect to the activities of any person operating within the private land mobile services. Conversely, however, the states retain full jurisdiction to engage in the economic regulation of common carrier stations (*i.e.*, regulation of entry, rates and practices) consistent with Sections 2(b) and 221(b) of the Communications Act of 1934 (47 U.S.C. 2(b), 221(b) (1976)), to the extent they deem it necessary in the public interest to do so. Similarly, the Commission's exclusive radio licensing authority under Title III of the Communications Act is maintained. Nothing in this subsection shall be construed as prohibiting the Commission from forbearing from regulating common carrier land mobile services; however, the Commission may not use its licensing powers to circumvent limitations in its economic regulatory jurisdiction over common carrier stations.

Subsection 3(n).—Finally, the definition of mobile service presently contained in Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n) (1976)) would be amended so as to include clearly one-way paging service as well as two-way radio communication services.

NOTICES OF APPEAL

House bill

The House bill contained no provision.

Senate amendment

The Senate shifted the burden from the Commission to the appellant or petitioner when a Commission action is appealed.

Conference substitute

The conference substitute adopts the Senate provision.

The Conferees believe that since the Commission is the appellee in proceedings filed with the U.S. Court of Appeals to review Commission actions, the party seeking review of a Commission decision is the party best able to carry out the relevant notice obligations, and thus should be required to notify all interested parties.

The Conferees intend that the term "interested parties" include only the formal participants in a Commission action, i.e., informal commentators in a rulemaking proceeding need not be individually notified of an appeal of a final order in that proceeding. The Conferees direct the Commission to assist appellants and petitioners in compiling lists of formal participants in order to facilitate the notification process.

This section also removes the requirement that the Commission present the decisionmaking record to the court within 30 days after an appeal is filed, leaving such procedures to be controlled by the Federal Rules of Appellate Procedure, which provides that the record must be filed with the court within 40 days after the Commission is served with the notice of appeal. F.R.A.P. Rule 17, 28 U.S.C. (1976).

COMPUTATION OF CERTAIN FILING DEADLINES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 405 of the Communications Act by providing that specified pleading periods for seeking agency reconsideration or judicial review of Commission decisions commence from the date on which the Commission gives "public notice" of its decisions.

Conference substitute

The conference substitute adopts the Senate provision.

Recently, the Commission adopted rules which refine the meaning of "public notice." Addition of New Section 1.103 to the Commission's Rules, Amendments to Section 1.4(b), Report and Order, 85 F.C.C.2d 681 (1981).

By adopting these rules, the Commission determined that public notice, as that term is used in Section 405, only can take the form of a written document. See Section 1.4(b) of the Commission's rules as amended, 47 C.F.R. 1.4(b) (1981). The kind of written document constituting public notice will be governed generally by the kind of proceeding that is involved. For example, in notice and comment rulemaking proceedings, public notice of a final Commission decision will occur on the date such decision is published in the Federal Register. See Section 1.4(b)(1) (1981). For most nonrulemaking proceedings, public notice of a final Commission decision will occur when the full text of that decision is made available to the public at the Commission's headquarters. See Section 1.4(b)(2) (1981). See also, Section 1.4(b) (3) and (4) (1981) which describe the other two kinds of written public notice the Commission may give. The Conferees believe that in rulemaking proceedings it is important that the public have the opportunity to obtain a copy of the full text of the Commission decisions before pleading periods for appeal begin. See 47 C.F.R. 1.4(b)(1) (1981). The provision of the Conference Substitute is premised on the present FCC rules remaining in effect.

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 408 of the Communications Act of 1934 and clarifies the Commission's authority to specify the effective date of its decisions.

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[1] See, e.g., Resale and Shared Use of Common Carrier Services, 60 F.C.C.2d 261 (1976), on recon. 62 F.C.C.2d 588 (1977), aff'd sub nom. American Tel. & Tel. Co. v. ECC, 572 F.2d 17 (2d Cir. (1978)), cert. denied, 439 U.S. 875 (1978).

[2] Common carriers are presently authorized to provide both "general" and "dispatch" two-way communication services. See 47 C.F.R. 22.501(a), (b), (c); 22.911(d) (1981). Only "dispatch" service would not be permitted by the Conference Substitute; neither "general" service nor one-way paging service is affected.

Conference substitute

The conference substitute adopts the Senate provision.

Absent this provision, the unamended language of Section 408 appears to provide that no orders of the Commission (other than orders involving the payment of money) could become effective until thirty days after such orders became final. However, the legislative history shows that Section 408 was not intended to totally restrict Commission flexibility with respect to such matters. The Conferees intend that Section 408, as amended by this provision, will make clear that Commission decisions shall become effective 30 days after public notice is given unless the Commission, in its discretion, specifies a different effective date. The Conferees also note that current Commission rules are consistent with this provision.

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 503(b)(5) of the Communications Act of 1934 to make clear that the Commission may impose forfeitures on cable system operators without first, among other steps, issuing a warning and providing the opportunity for comment. It is not clear under current law whether the Commission must comply with these and other procedures before taking forfeiture action against cable system operators.

Conference substitute

The conference substitute adopts the Senate provision.

This amendment to Section 503(b)(5) makes clear that, for purposes of the forfeiture provisions of the act, cable system operators are to be treated in the same manner as licensees or other holders of Commission authorizations. This amendment ratifies current Commission practice.

FORFEITURE OF COMMUNICATIONS DEVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate added a new Section 510 to the Act to permit courts to be directed to seize and retain illegal radio equipment or unlicensed equipment used in violation of the act, thus preventing its continued operation.

Conference substitute

The conference substitute adopts the Senate provision.

Section 302 of the Communications Act of 1934 empowers the Commission to prohibit the manufacture, import, sale, shipment or use of radio equipment that may cause severe interference problems. Additionally, Section 301 requires the Commission to license radio stations in the United States. In carrying out these statutory responsibilities, the Commission has repeatedly encountered situations where, notwithstanding the conviction or judgment against an individual for violating one of these sections, the court has returned the illegal equipment to the defendant.

The Conference Substitute provision remedies this problem. This new authority will apply only in cases where warrants are properly obtained and served by law enforcement officers and upon a judgment rendered in United States District Court. The Conferees intend this provision to apply only to those violations that involve willful and knowing intent or gross negligence.

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

House bill

The House bill contained no provision.

Senate amendment

The Senate permitted self-enforcement of non-compliance of Commission policies by amateur radio operators.

Conference substitute

The conference substitute adopts the Senate provision.

The amateur radio service has long enjoyed the reputation of being largely self-regulating. The amateurs have kept their bands in order with minimal enforcement activity by the Commission. It is critical that amateurs be allowed to continue this self-enforcement because the number of amateurs is increasing at a steady rate, and because the Federal Communications Commission's Field Operations Bureau is unable to monitor amateur radio to any great extent due to its limited resources. From time to time enforcement problems do arise, to which amateurs must and do respond with efforts to bring any noncompliant action into full compliance with amateur rules. For example, one amateur operator might inform another that he was engaging in prohibited transmission of commercial traffic or use of indecent language which should be discontinued. This has worked in an overwhelming number of cases.

There are very few cases involving continued noncompliant behavior, and those have in the past been handled by amateur operators. However, even here amateurs can be helpful through proficient use of direction-finding techniques. Utilizing these techniques and taping on-air conversations on unlicensed or licensed persons on amateur bands, amateurs have saved countless hours of FCC Field Operations staff time in identifying the source of illegal transmissions on the amateur bands.

Questions have arisen from time to time concerning the applicability of Section 605 of the Communications Act to amateur radio. Section 605, which is intended to protect the privacy of persons engaged in wire or radio communications, expressly exempts certain communications, as follows: "This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress."

Amateurs in the past have been considered exempt for the privacy provisions of Section 605 by virtue of the language cited. However, recent interpretations have held that amateur transmissions, other than general calls for a contact from any other station, are subject to the secrecy provisions of Section 605. *Reston v. F.C.C.*, 492 F. Supp. 697 (D.D.C. 1980). The U.S. District Court for the District of Columbia in *Reston* painstakingly reviewed the legislative history of Section 605 in the hope of ascertaining Congressional intent with regard to amateur transmissions as referenced in the last sentence of that section. The Court, frustrated at the lack of clear expression of legislative intent regarding the matter, held that amateur radio transmissions are not exempt from Section 605 unless they are transmissions "for the use of the general public."

The problem with this interpretation is that it precludes amateur radio operators from disclosing the contents of transmissions heard on the amateur bands, even illegal transmissions. Thus, amateurs are prohibited from working together to locate and monitor illegal transmissions and unlicensed operators. Nor can amateurs be of as much assistance to Commission enforcement personnel, because amateurs cannot disclose to Commission personnel the content of transmissions received. This has already had an adverse effect on amateur self-policing efforts.

All amateur and CB radio operators may use any of the channels allocated to their services. Thus, these operators do not enjoy any reasonable expectation of privacy, a right which Section 605 is intended to protect. Therefore, this section of the Conference Substitute expressly exempts the amateur and CB radio services from the prohibitions in Section 605. The Conferees believe that self-enforcement efforts on both the amateur and CB radio services should be encouraged, and that this provision will promote such self-regulation without unduly infringing upon individuals' privacy rights.

TECHNICAL AMENDMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate made certain technical modifications to the Communications Act of 1934, including Section 405 and its heading, where the term "reconsideration" is substituted for the term "rehearing."

Conference substitute

The conference substitute adopts the Senate provision.

The term "reconsideration" has come to be used customarily in Commission practice and is used in the Commission's rules. The modification of terms will not change the operation of this section 405.

AMENDMENTS TO OTHER LAW

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that offenses against Commission officers or employees assigned to perform investigative, inspection or law enforcement functions will be punished in the same manner and to the same degree as are offenses against the federal employees now specified in this section.

Conference substitute

The conference substitute adopts the Senate provision.

Section 1114 of Title 18 of the U.S. Code imposes specific sanctions against individuals who interfere with or harm certain federal employees who may be assaulted, intimidated or interfered with in the performance of their duties. Commission employees are not now specifically entitled to the protection offered under this statute.

TITLE II

NTIA AUTHORIZATION

House bill

The House bill contained no provision.

Senate amendment

The Senate authorized appropriations for NTIA at $12.4 million for FY 1983.

Conference substitute

The Conference Substitute adopts the Senate provisions with the following change. The Conferees agreed that NTIA

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would be authorized for two years at $12.9 million for FY 1983 and $11.8 million for FY 1984. The amounts authorized are below that currently authorized for NTIA. The reduction is based on a change in the functions of the agency; NTIA's level of involvement in Federal regulatory proceedings will be substantially lower than that in prior years.

The Conferees do not expect NTIA to eliminate the Public Telecommunications Facilities Program (PTFP), and expect that the authorization of $15 million in fiscal year 1983 for the PTFP as contained in Public Law 97-35, will be appropriated by Congress.

The PTFP has brought public broadcasting service to states like Arizona, South Dakota, New Mexico, Nevada, and Colorado, where no service would otherwise exist. The Committee expects this program to continue since many areas of the country are yet to be served. An adequate level of funding has to exist to accomplish this end.

There are a number of functions currently performed by NTIA which are either inappropriate for that particular agency, or expendable in light of constraints upon federal funds. In particular, both the Telecommunications Protection program and the Federal Facilities Review program are eliminated under the Administration's request. The Conferees do not object to the elimination of these programs. However, the Conferees are disturbed that the Biomedical Feedback Group, which is concerned with non-ionizing radiation, is being eliminated under the Administration's request. The Conferees agree that this type of biological research should not fall within the purview of NTIA, which has no authority to issue a standard on non-ionizing radiation. However, the Conferees believe that research should continue, under the auspices of a more appropriate agency, such as the National Institute of Health or the Environmental Protection Agency. The Conferees are aware of the budgetary constraints upon each of these agencies, but encourage NTIA to make available its research and experience so that the effects of non-ionizing radiation are better understood.

STUDY OF LONG-TERM TELECOMMUNICATIONS GOALS

House bill

The House bill contained no provision.

Senate amendment

The Senate required that NTIA conduct a study of the long term telecommunications and information goals of the United States, and the policies which are necessary to achieve them.

Conference substitute

The Conference Substitute adopts the Senate provisions with certain changes. The Conferees accepted the Senate provision regarding a study on the telecommunications and information goals of the United States, but included stipulations which serve to focus the study on international telecommunications and information policies. The Conference Agreement also contains a restriction on the release of information which could harm U.S. commercial interests in international trade.

The Conferees agreed that ascertaining the goals and objectives of its international telecommunications and information policies by the United States is of great importance. The Conferees also agreed that the U.S. government should be organized in such a way so as to maximize the ability of the United States to realise its goals in international negotiations.

The Conferees expect NTIA to play a significant role in the formulation of international telecommunications policy by the Executive Branch. The United States faces a rising challenge to its technological telecommunications leadership from foreign firms, many of them directly or indirectly supported by their governments. In the area of information services, there has been an increase in barriers to U.S. service offerings, limits on transmission facilities, problems of entry into foreign markets and restrictions on the flow of information across the national boundaries.

The U.S. government must establish a long range strategy that will promote and protect U.S. interests. NTIA must exercise leadership in the development of that strategy.

The Conferees were concerned that, in the course of conducting the study, data might be released which could enable foreign PTT administrations to harm U.S. commercial interests in international trade. This concern is grounded in the increasing potential for restrictions on the transmission of data across national boundaries; and in various restrictions to telecommunications facilities under discussion in other countries.

In the event that usage or traffic data is released to the public, it would then be possible for these PTT administrations to target restrictions on those industries or sectors which are most vulnerable. The Conferees admonish the Administration to respect the need to avoid giving foreign PTT administrations any information which could be used against American companies doing business abroad. Such information must be kept confidential.

John D. Dingell,
Timothy E. Wirth,
James T. Broyhill,
Managers on the Part of the House.

Barry Goldwater,
Ted Stevens,
Howard W. Cannon,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 569

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, all points of order against said conference report are hereby waived, and said conference report shall be considered as having been read when called up for consideration. After debate in the House on said conference report, which shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the previous question shall be considered as ordered on the adoption of the conference report without intervening motion, except one motion to recommit which may not contain instructions, on which the previous question shall be considered as ordered.

The SPEAKER. The gentleman form Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule, which makes in order the tax bill, is a very straightforward, very tight rule. It waives all points of order against the conference report. It does not allow amendments. It therefore is a closed rule. It allows the minority to offer a motion to recommit without instructions.

Perhaps at a later date I will talk a little bit about the philosophy with regard to that, but I should not think that thoughtful Members will give very serious consideration to changing this rule. The reason I say this is that it is very much in line with the philosophy of considering a conference report.

We are at the end of a complicated and difficult process, a process in which most of the difficult work is done by a great many people whose names are not even known, who worked in both committees. I am talking about Members, as well as staff, and I do not deny for a minute that there were plenty of lobbyists involved. But the leaders of this effort were four people that I have never seen work together before. I think that is terribly important. The leaders of this effort were Bob Dole, Russell Long, Dan Rostenkowski, and Barber Conable. You could hardly put together four people with more divergent views.

This is the product of the kind of compromise that has made this country function well. It is supported by people who are precise opposites in the political process. It is supported by the leadership of the House and the Senate, Tip O'Neill and Howard Baker. Joining them in the process is the President of the United States.

I submit to you that those seven people, when they agree on a matter as in the public interest, ought to be given very careful consideration. This country operates by the compromise of people who differ.

Now, I have no criticism of the people who oppose the tax bill. That is their right. but a little analysis will indicate that in virtually every case they are heavily involved in a specific interest, a perfectly legitimate interest. All of the interests in this country are legitimate as far as this Member is concerned, except those that are illegal, and I know of no position on this bill by those people who are illegal and support illegal interests.

This is a classic example—and the rule faces up to this—of the difference between the public interest and the mere sum of the special interests. This rule and the previous question deserve your support. The tax bill deserves the opportunity to be voted up or down.

I believe the rule is a good rule, a good rule for a conference report of any kind, a good rule for this particular conference report. I urge the Members to support the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Missouri (Mr. Bolling) has explained the provisions of the rule, and I agree with him that it has bipartisan support. It is time that we here in the House put America before politics. What needs to be done needs to be done now, and we are facing up to that today.

This is a fair rule, a reasonable rule, a closed rule, permitting an up or down vote on the tax conference report. I would hope that there would be no effort to vote down the previous question. If there is, let us defeat that movement and vote for the previous question and the rule.

Now, what do we face? We face here in America a very critical situation. Only in the last 2 days have things begun really turning around. Our financial market is now on the upturn. We have seen that happen. We have seen interest rates drop to the lowest point in 2 years. Our deficit must be reduced, and this conference report does that.

And how does it do it? The opponents of the measure say that it is the greatest tax increase in history. Let us look at the facts. Actually, what it does is put the freeloaders on the taxpaying rolls. The freeloading should be eliminated. I read in the paper the other day where one corporation listed a total profit of over $1 billion and paid no taxes whatsoever. But in addition to that, they filed a tax form for a tax refund of over $40 million under the rules and regulations that we are using today. Other corporations are in the same category. Is that fair to the American worker, the American taxpayer, who pays through the nose?

Some 80 percent of this conference report is reworking the Tax Code and closing the loopholes and making the freeloaders pay their fair share. Only $19 billion represents a tax increase.

So when the opponents say that the tax increase is the greatest in history, look at the facts. And, besides, the 5, 10, and 10 tax break for the American worker is still in effect.

So let us confront the problem. Let us face it head on. Let us adopt this rule. Let us adopt the conference report for the benefit of all of the American people.

Of course, there are things in it I do not like.

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My district is one of the largest burly tobacco growing districts in this country. I do not like the tax on tobacco. I do not like some of the other things in the conference report, but overall, let us take it as a package; let us do what is right for America and get things going even better than they are now.

The trend is favorable. I plead with the Members and I urge the Members to vote for the rule and vote for the conference report when it is on the floor of the House, because it is right for America.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New Hampshire (Mr. D'Amours).

Mr. D'AMOURS. Mr. Speaker, I thank the chairman of the Rules Committee for having allowed me this 5 minutes, because I rise in opposition to the rule as it is presently drafted and I rise to ask that we defeat the previous question, at which time I would hope to be recognized for the opportunity to submit a new rule which would be identical to the current rule with one exception: the Members would be provided with the opportunity to vote separately "yes" or "no" on the question of whether or not we should withhold taxes on interest and dividends.

One hundred and fifty Members of this body have signed a letter to the Committee on Rules asking for such a separate vote. An overwhelming number of our constituents—an overwhelming number of our constituents—oppose withholding of interest and dividend taxes.

The Members never got a chance to debate it. Most of the Members do not even know what is in it and most Members do not even know how it works.

If the previous question is defeated and if the substitute rule I offer is adopted, we will have at least 20 minutes on each side to find out what we are doing in withholding of taxes on interest and dividends. That is not too much to ask given the fact that we have not had an ounce of debate on it in this body and given the fact that there are misconceptions about what this does, even in the Ways and Means Committee, in the Committee on Rules, and in this House.

People like the gentleman from Wisconsin, Mr. Henry Reuss, our leader on the Joint Economic Committee; the gentleman from Rhode Island, Mr. St Germain, of the Banking Committee; a lot of people who understand this issue have signed the letter asking for a separate vote on it, asking that we get a chance to debate it.

Let me tell the Members: One of the reasons people are going to ask us not to support the move to defeat the previous question is that they claim this destroys the tax bill. It is the very cornerstone of the tax bill as Senator Bob Dole says. I hope to blazes this is not the cornerstone of the tax bill, because it is composed only of loose cement and papier mache.

The $10 billion that they say they are going to raise with this interest and dividends withholding tax can be raised without imposing the tax. All that we need is some reporting. I repeat: All we need is some reporting.

Do the Members know that the IRS has a study—the Members are not aware of this, are they?—the IRS conducted a study in 1981 that said where there is reporting, such as on 1099 forms, there is a 97-percent—97-percent—compliance rate.

When people know there is a 1099 form filed with the Federal Government identifying their interest earnings, they comply; they file. Do the Members realize why people do not file? Because there is no reporting in some cases. Guess where that happens—in the Treasury Department. Treasury obligations, Treasury security, notes, and bonds have no reporting. That is the money we are not collecting.

This bill, independent of anything I am going to do, provides the Treasury with the means and the wherewithal to impose that kind of reporting. That is going to raise revenue without doing all of these terrible things that the public is so righteously indignant about.

I would ask the Members to consider very carefully their vote on the previous question. Vote to defeat the previous question. It is the only chance we will have to get a separate vote on the withholding of interest and dividends.

Do we want to answer to our constituents that we imposed this massive bureaucracy? That we imposed a tax on investments and savings? A year ago, ostensibly, our first concern was to promote investment and savings. Do we want to now explain that we are now taxing investment and savings? That we are imposing a massive bureaucracy to collect money that we could collect anyway by a simpler means? If you are able to justify these absurdities, then you may not want to vote against the previous question.

If we vote for the previous question, our constituents are going to know that, in fact, we voted against taking a separate vote, and against allowing some discussion on interest and divi-

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dends withholding and that we voted for this bureaucracy.

One little thing I would like to raise, if we get 20 minutes, is that this $150 exemption everybody is talking about as the great savior of the little people? That is not mandatory. That is a voluntary thing. The banks if they want to can refuse to give this $150 exemption at their choice.

Let us debate this question. Please vote to defeat the previous question.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. Moore).

Mr. MOORE. Mr. Speaker, I take this time on the rule to point out to my colleagues that, as the chairman of the Rules Committee indicated, this rule waives all points of order.

To me this rule is indicative of what has happened in the violating of all principles of legislation all along the way that this bill has followed from the day it began.

It started by violating the most important principle, article 1, section 7, clause 1 of the Constitution since this was a revenue-raising bill and it began in the Senate and not in the House, as that provision of the Constitution plainly provides.

Then in an "extraordinary procedure"—as termed by the chairman of the Ways and Means Committee, our colleague, the gentleman from Illinois (Mr. Rostenkowski), on the floor in debate—the bill went straight to conference, bypassing the House. This House voted to go to conference without any consideration whatsoever of this bill, violating the very fundamental principles of legislative procedure and concepts of a bicameral legislative body. We did not even look at the bill. We just sent it straight on to a conference committee, abdicating our responsibilities.

Third, this rule now waives all rules of the House, including rule XXVIII, section 3, which clearly provides that a conference is not to go beyond the provisions of the bill in conference—the scope rule. One cannot go beyond the scope of what is in conference.

This has been waived or violated. There was a reason. The conference committee went beyond the scope of the bill in conference, at least some eight times on substantive provisions, according to staff, and many more times on more minor provisions.

Some of these provisions were taken out of thin air, since there was no bill in conference to draw them from.

Then, lastly, those who voted along the way to make it possible for this bill to follow this procedure have violated the principles of legislative responsibility and commonsense. At the time we voted to go straight to conference, the Senate bill was not even in print. Nobody in the House even knew what was in it, but they voted to send it on to conference, putting the stamp of approval on it of the House of Representatives of the United States of America.

We are now going to be asked today to vote and give final approval to the conference report. If the Members will check with their offices, the conference report was just delivered this morning. It just got here. It has 400 pages of small print, single spaced, that I doubt any Member of the House will have read by the time he or she is called upon to vote on it this afternoon.

Look at this history of the rules we have violated, the rules of law, the rules of legislative procedure, the rules of the House.

All of this has been done, I submit, for the reason of political expedience—not a very good reason.

The thing that concerns me is what rules we will violate the next time because of the precedents we set this time. We have violated all these rules. We have not worried too much about it. That now leaves us with a precedent we will hear about in years to come for those of us who may be lucky enough to return. We will hear about this precedent, and what rules will we violate then?

Maybe the next time we will bypass the Senate, too, and just go straight to conference, both Houses, with no bill, write the whole bill out of thin air, ask for a waiver of the rules and depend on a popular President to ram it through the Congress of the United States and down the throats of the America people. When we tear down the rules that govern our Nation, then who shall protect the people?

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I rise in support of the rule and I, like my good friend and colleague, the gentleman from Tennessee (Mr. Quillen), ask that the rule be adopted without amendment. I am not used to doing things like this, but in this situation, I feel impelled to ask the Members to vote for the previous question and for the rule.

This package was put together very carefully by the so-called Gang of 17. I was not a member of the Gang of 17, but in my 7 years as minority leader, there were many times that I found myself in about the same scenario as I am sure occurred there.

There was give and take. Believe me, I am sure when this bill came out, there was not a single member of that group that was really happy with it.

I imagine that may be one of the main strengths of this bill: Nobody is really happy with it. Yet, yesterday our beloved Speaker went to the Rose Garden, and with the President of the United States—one of them with impeccable credentials on the liberal side, the other with impeccable credentials on the conservative side—both of them agreed that this bill was in the best interests of the country. I agree with them.

Mr. Speaker, I say to my friends on the Republican side, there are many of the Members I am sure who feel that it is good politics to vote against this bill. Let me just reason with the Members a little bit on that one. People are saying that this is the largest tax increase in history. I would suggest that we might follow the reasoning that our good friend, the minority leader, the gentleman from Illinois, Mr. Bob Michel, used the other day in the conference. He put the whole Congress together instead of taking one session at a time and came up with the very startling fact—and it is a fact—that continuing the tax bill of last year and this bill also—if it passes intact—we will still have cut the taxes of the people of this country $370 billion in 3 years.

That is not raising taxes. That is cutting taxes. It ought to suffice to salve the conscience of all of my friends on the Republican side and many of my friends on the Democratic side, also. It is important for us to remember that and to put our performance in this Congress in proper context.

Also, when I was at the Republican conference yesterday, I heard some people saying, "Well, it is great, the interest rate is on the way down, the stock market is on the way up, we do not have to worry about voting for this bill. It is not needed." So, I called one of my private personal gurus of Wall Street.

I said, "Is it true that what has happened in the market, the money market and the stock market is largely due to the anticipation that the Congress will pass this tax bill?"

He said, "Absolutely."

I said, "What will happen if we do not pass it?"

He said, "The markets will reverse themselves inside of 24 hours."

It is his opinion that that would happen. He is in a position to have an educated opinion.

If any Members think it would be good politics to vote against this bill and risk the probability that the salutary effects which it has already had on the money market and the stock market would be reversed, then that Member does not agree with me as to what good politics would be.

The best thing for the country is to pass this bill, to pass it now, and not fool around with adjusting the package. It is not exactly what any of us really want, but it is the best we can do. It is the best thing for the country.

Please, vote for the previous question and vote for the bill.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I seek the vote of my colleagues to defeat the previous question on this rule; if I am recognized, I will offer a substitute rule which will permit motions to strike each section of this bill and give this House the only opportunity it will have to debate and consider each of its provisions. The substitute rule provides that 5 minutes shall be allowed on each side on each motion.

□ 1115

Mr. Speaker, as has been said before, this omnibus tax increase and expenditure cut bill arrives here under a most unusual procedure. In my view, the Constitution was violated by the House not having satisfied its obligation under the Constitution to initiate revenue raising provisions, and I voted against the motion to table with the gentleman from California (Mr. ROUSSELOT) a short time ago.

Not only that, the House has never considered any of the provisions of this bill. The Senate initiated and passed it, and it then went to conference without any prior consideration by the House, over my objection. Most of the provisions in this bill have not been subject to hearings in either body. Most of the Members of this House had no opportunity even to see its 400 pages until just the day before yesterday. This is no way to legislate.

Just like the omnibus supply side tax bill so unwisely passed in one great lump sum last year, no studies have been made of the effect of this bill on the economy or on individuals, industries, and businesses that will be affected. We are confronted again with measure that will have vast uncharted effects, operating on seat-of-the-pants guesses as to their impact. This is exceedingly unwise.

Many of the provisions of this bill are highly controversial. The provisions for withholding of taxes on interest and dividend income, as pointed out by the gentleman from New Hampshire (Mr. D'AMOURS), have already been overwhelmingly rejected by this body; yet under this rule we will not be given an opportunity to vote on it.

Lumped in with tax provisions, good and bad, are nontax matters, including $13.3 billion in additional medicare cuts, on top of already devastating reductions, $1.1 billion in medicaid cuts, $791 million in cuts in SSI and AFDC benefits and unemployment compensation changes that have no place in a tax bill and will have dire consequences for already hard-pressed poor and elderly individuals. The telephone excise tax will have a particularly harsh effect on seniors for whom a telephone is their lifeline. The disallowance of medical expenses over 5 percent of income will be incredibly harsh for gravely ill people at a time of their greatest economic distress. Waiters and waitresses are burdened while the three-martini lunch survives. These measures, if they cannot be subject to hearings, ought at least to be subject to debate and decision by the elected representatives of the people, not thrown together in one massive up-or-down vote on the entire potpourri.

Also included in this monstrous package is a provision that is incredibly odious and odriferous, the so-called grease provision, which has the taxpayers subsidize bribes by American companies to foreign officials. Now, certainly, if this greasy provision were put to a separate vote it would be overwhelmingly rejected by this body; to concoct a package, as the rule does, which prevents a motion to strike this odriferous provision is simply unconscionable.

I am equally concerned about this highly restrictive procedure as a disturbing pattern of denial of our democratic processes. In my view, this omnibus tax increase and spending cut bill, if considered under a closed rule, will carry us further down the road to destruction of this great institution, the House of Representatives. We are following a pattern of bringing before the House omnibus bills with closed rules or very tightly restricted rules and passing them in packages, just as the tax bill last year was passed and the budget bill with binding reconciliation instructions affecting the entire Federal Government was passed earlier this year.

No longer are Americans given the opportunity to be heard on matters which gravely affect their lives. No longer does legislation get careful study by the committees that have relevant expertise. Indeed, legislation of the most profound importance to this Nation is thrown together hastily, without study, put in omnibus bills and we are asked to vote on them as a package, without study, without hearings, without even the opportunity of the elected Representatives of the people to vote up or down on their various provisions.

I think that this is a very dangerous precedent and I do hope that, whether or not the previous question is adopted and we get an opportunity to vote on the individual parts of this bill, it will be a matter of the highest priority for the Rules Committee and for the leadership of this body to see to it that we do not continue this destruction of the legislative process, the destruction of the opportunity for people to be heard on matters which affect them, the destruction of the opportunity for committees of appropriate jurisdiction to consider legislation and the opportunity for Members of this House to be able to vote on the provisions of law which vastly affect the Nation and our constituents.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support this rule because I think if we try opening this package of tax and spending cuts at this point, and then succeed in knocking just one provision out on a point of order or a vote, then we risk losing the whole package for good.

I would like my colleagues to keep in mind that this is not just a tax bill. It does have spending cuts. It does have unemployment compensation. It is tax reform, and if we do not get this rule and this bill now, I shudder to think what will be the result of what might come next.

I frankly think it would have a devastating impact with an increased deficit the result.

After the good news we have had this week from the financial and investment markets, if we turn around and do not pass these deficit reductions and then hightail it out of here for a 2-week summer district work period, I think we would be saying, in effect, "deficits be damned; full speed ahead with business as usual."

Now, the rule that has been crafted here is a fair one. There may be an effort to defeat the previous question. There is a straight motion to recommit that will go to the ranking member of the minority. We will have those efforts. They are in there. They were not taken away.

Some colleagues might say, "Oh, it won't hurt to knock out just one provision," but let me tell you, if you knock out just one provision in this package by changing the rule, it could be devastating to the conference report.

We should not forget also that this must go back to the Senate. The Senate has yet to act.

Now, I would ask my colleagues to consider this package sort of like an egg, and maybe some people might say it is a rotten egg; but like it or not, we produced this egg when we passed the budget resolution. We said that we were going to cut spending and we were going to raise revenue. If we do not fulfill that commitment to ourselves and the American people, I think it will have an adverse impact on getting the deficit down and our hope to reduce interest rates and end this recession. But if we let one little crack in the shell occur, the whole yolk may drain out and all the President's horses and all the Speaker's men will not be able to put this thing back together.

Like it or not, Democrats or Republicans, this is the usual tight rule that is granted for a bill involving the tax code from the Ways and Means Com-

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mittee. We waived scope requirements. The point was made about scope a while ago. I have already researched the RECORDS. At least eight times in recent years on bills like this we have waived scope.

This is a proper rule. I urge my colleagues to support this rule, without change.

Mr. BOLLING. Mr. Speaker, I yield 6 minutes to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I rise in support of this rule and ask the membership to vote for the previous question and for the rule and for the bill.

I guess the title of my talk could be, "How it works," after a previous speaker talked, saying that many Members do not know what is in the bill.

I would like to set part of the record straight. A study that was quoted from saying that there was 97-percent compliance already is somewhat misleading. In talking to the IRS, they have informed me that this figure is only for those cases where there is a perfect match between the taxpayer information number on the 1099 and on the return; but when you take into consideration all of the errors, omissions, either intentional or nonintentional, the compliance rate drops to 88 percent. That is the main reason that this provision was brought forward, to try to bring in those lost revenues.

Well, how does it work? The elderly and the low income taxpayers are largely exempt from withholding under the exemption levels provided in the conference agreement. Elderly couples with income of $22,214 or less, and this is excluding exempt income like social security and before itemized deductions are considered, will be exempt, as will elderly individuals with incomes of $13,323 or less.

At these levels, it is estimated by the IRS that 80 percent of all elderly persons will be eligible for an exemption.

There are 2.7 million nonexempt taxpayers and their interest and dividend earnings amount to about $48 billion. That is an average of $17,778 per taxpayer.

What about the low income taxpayer? Those earning $12,438, married, no dependents, are exempt. This is also before their itemized deductions.

It is $14,438 if they are married with two children, and if they are single, it is $7,450; so I believe that this is very fair treatment for those people.

Mr. PEYSER. Mr. Speaker, will the gentleman yield for a question on that?

Mr. ANTHONY. I yield to the gentleman from New York.

Mr. PEYSER. I am just interested in knowing, how does an elderly person say who has a nest egg of $10,000 in a savings account, how does that interest they earn get exempted? What is the process that has to be gone through?

Mr. ANTHONY. A very simple process; you go in and on a one-time basis, not on a quarterly or semiannual, but one time, lifetime only, unless you go in and voluntarily withdraw the exemption, ask for an exemption, stating what your income level is and that you are subject to the exemption.

It is a very simple process to put into play and, in fact, in order to insure that there is no misunderstanding about that, the conferees moved forward 6 months the effective date of this withholding requirement so that all of the institutions, both large and small and the depositors, can make sure that they understand all the rules by which they will be operating under, a very fair thing that the conferees did.

Mr. D'AMOURS. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. I will yield briefly, I have got such a short period of time.

Mr. D'AMOURS. Mr. Speaker, when the gentleman just said that this reporting had to be done only one time, not on a quarterly or semiannual basis, the gentleman meant annually, did he not? It has to be done at every institution, at every business, every year. Once every year people with bank accounts have to restart the whole process and file new reports.

Mr. ANTHONY. It is my understanding that you make one declaration and it is valid until you withdraw it.

Mr. D'AMOURS. But you have to do it the following year.

Mr. ANTHONY. It is my understanding, that it is good on an annual basis until you withdraw it.

Mr. D'AMOURS. You will have to file a new certificate each year.

Mr. ANTHONY. Mr. Speaker, I would like to talk about the $150 exemption. The conferees moved this up from a $100 level to a $150 level, trying to alleviate the fears of those who think they would be adversely impacted by this.

What is the effect of this? It is not insignificant and I think the membership should pay attention to this. At a 7-percent interest rate, the principal amount would have to exceed $2,000 in order to generate interest in excess of the $150 level of exemption. Even then, the withholding would only be about $15—10 percent times 150 equals $15.

The Credit Union National Association has prepared materials which indicate that 84.5 percent of the credit union savings accounts are under $2,000, so we are only looking at that top 15 percent, those that are most capable of complying with this rule.

What have the conferees done in order to alleviate some of the problems? I would like to tick them off for you. First, the effective date is delayed by 6 months to July 1 at a revenue loss of approximately $1.1 billion.

Second, the conferees agreed to allow the Secretary to provide an additional 6 months for any payor that could not implement the system on July 1 without undue hardship. How much fairer can you be to our institutions?

No. 3, the conferees also increased the amount of interest that could be exempt from withholding, at the option of the institution, to $150 on an annual basis.

Finally, in order to take care of the additional software costs, the administrative costs, the conferees took this into consideration and there are generous "float" rules that are permitted to all institutions for the first year of withholding to compensate for startup costs, an additional 30 calendar days on average for making deposits of withheld taxes. Small- and medium-sized banks, savings and loans, and credit unions, would be allowed to use these "float" rules for a longer period to time; again, the conferees trying to be extremely fair under the circumstances to the institutions.

I would like to close by just making one additional point. If you are concerned that the effects would be adverse to encourage savings, let us look at the facts and let us compare them with what would be the normal reaction of a depositor.

□ 1130

Let us assume $1,000 in savings at 7-percent interest; that is only $7. Very insignificant.

Now, even assuming a 12-percent money market rate of interest, you are only talking about $12. If this were increased tenfold, we would still only be talking about $120.

I submit to you that argument is a fallacious argument when you say that amount of money withheld is going to change the dynamics of the people saving money.

This rule was put into effect to make sure that those people who are not presently paying their fair share do pay their fair share. When Members go home and discuss the issue with our citizens who do pay their fair share, Members can say, "It is a compliance provision. We are trying to make sure that those who are refusing to report interest income and dividend income and pay taxes are required to pay what is due the Treasury."

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WEBER).

Mr. WEBER of Ohio. Mr. Speaker, I rise in support of the rule, and let me say also that I am going to support this tax bill.

I did not come to that decision in haste; in fact, I was undecided until yesterday. I would like to see a diffenent tax bill; for one thing, I would like to see a tax bill in which the Members of this House had a greater participation in its formulation.

But that is not going to happen. This bill is it. You cannot expect to unglue one section or another of the bill for a separate vote without killing the chance to pass any of it. We all know that. It is up or down on this bill as a package, or nothing.

And on that question, I have to ask: "Is the country better off, more likely to have an economic recovery, if we vote this bill down and finance an additional $21 billion deficit, with the promise of crowding out and higher interest rates that deficits bring; or are we better off by bringing the budget closer to balance?"

Interest rates are beginning to come down. We are on the path back to prosperity and full employment. This is not the time to vote for a deficit that would choke off the recovery that we are beginning to see.

Mr. Speaker, I urge Members to vote for this rule.

Mr. QUILLEN. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. Latta).

Mr. LATTA. Mr. Speaker, like everybody else in this House, in this country, I hate taxes. Everybody hates taxes.

But everyone wants the benefits from those taxes, and the polls naturally are reflecting that fact. If 10 people are stopped on the street and asked whether they want to pay any more taxes, there will be 10 responses: "No, I do not want us to pay any more taxes."

So these polls that are coming in are expected. Your mail and my mail reflect the fact that the people hate taxes. They do not want to vote for any tax increases. However, my mail also reflects the fact that people hate deficits more. Let me repeat that: My mail reflects the fact that the American people hate deficits more than taxes, and they want something done about it.

This bill before us today will do something about those deficits. Those deficits are unconscionable, and I have said it many, many times in the well of this House. Why are they unconscionable? Because they are unfair to our children's children, and they have no voice in this House.

It is easy, it is easy, to pass all of these expenditures and pass the bills on to our kids. That is what we are talking about here today.

Are we going to do it again? Are we going to have the courage to stand up and do something about it? Are we going to be able to go home tonight and look our kids in the eye, our grandkids, and say, "Well, we put something else on your shoulders. You have no voice in it. We are going to enjoy the benefits?" Or are we going to be able to go home and say, for once, "For once we had the courage to stand up and vote for the benefits that we enjoy today without passing them on to you?"

Will we do that? God help us if we do not.

The national debt right now stands—and, Mr. Speaker, I am sure everybody is interested in the national debt because we all have part of that national debt—at $1 trillion $140 billion—$1 trillion $140 billion—and the interest on that national debt in the budget that this Congress passed is $113 billion in fiscal year 1983, and that is more than the total cost of Government in the second year of President Kennedy's term of office. Imagine that. What are we doing?

For fiscal year 1983, that national debt is going to go to $1 trillion $290 billion, notwithstanding the passage of this legislation.

The budget resolution for fiscal year 1983 passed by this House provides $79 billion in reductions in the deficit anticipated for fiscal year 1983. That deficit at that time was anticipated at $182 billion.

Now, how did we arrive at that $79 billion? $58 billion in spending reductions and $21 billion in new revenues.

That resolution passed this Congress. Many Members who were saying, "I am not going to vote for that tax bill" voted for that resolution. Now, do Members have the courage of their convictions to stand up and say, "I meant what I did when I voted for the resolution"? Or are Members going to be able to say, "Well, I did not vote for these little tax increases. I want to run back home and say I did not vote for that; I really did not mean what I voted for when I voted for that budget resolution"?

I think not. I think not.

So what are we going to do? Well, we have made a fairly good effort toward reducing those expenditures; not as much as I would have liked. I would have liked to cut them more but I happen to be a political realist.

That is behind us. We have passed the reconciliation bill; we have passed the budget. We have no other place to go but to come up with $21 billion, the other part of the package. Are we going to be found wanting in doing that? I hope not.

And the American poeple want this Congress to do something about this deficit, and today is the time Members can do it.

Let me say I do not like the various parts of this bill. If I were writing the bill, I would have changed a lot of the parts in it. I was not writing the bill. I do not sit on the Committee on Ways and Means. I did not sit in that conference.

But that conference did its work. It came up with $21 billion mandated by this House.

Are we going to be able to weasel out of our vote for this bill by saying, "I do not like this part," or "I do not like that part?" When they did their work and came up with $21 billion?

If we had the whole House in on it, then maybe we would have had an opportunity. We did not operate that way.

Yesterday I commended the chairman of the Committee on Ways and Means for following through on the mandate of this House and coming up with the $21 billion, and I salute them for doing it. They had the courage to do it. Now I hope the House has the courage to do what it is supposed to do.

Let me say I have but one vote, and that vote will be cast not to put $21 billion more debt on that tremendous Federal debt and pass it on to our kids. I am going to vote for the bill because we need that $21 billion in revenue.

Shall I cast that vote which will keep interest rates coming down? And they are coming down. The prime today is as low as it has been since October 1980, 14 percent.

I am going to cast that vote to put people back to work. People cannot buy automobiles, they cannot buy homes, they cannot buy TV's, they cannot buy refrigerators. Why? Because the Government is out there in the market week after week borrowing money, borrowing money—and you have not seen anything yet. If we do not pass this legislation, CBO has already estimated that our deficit for fiscal year 1983 will be $150 billion, with this $21 billion. Add that $21 billion and we come up with $171 billion of debt in fiscal year 1983; fail to pass this legislation and we do not have to worry about interest rates. There is not going to be any money out there to borrow. Uncle Sam is going to be borrowing it all. That is what we are faced with.

I do not think we want to go back home and tell those people who are out of work in the automobile industry, in the construction areas, all of these others areas, that we voted to keep your taxes down.

Speaking about taxes, this is a small tax increase when you consider that last year we gave every taxpayer in this country a 25-percent reduction in his income tax, or in her income tax; 10 percent of that is yet to come. What are we talking about? Eight cents on a package of cigarettes, 50 cents on a telephone bill; add it up for a year and then lay it side by side with the 25-percent reduction given last year income taxes.

We have had a dip in the economy. That is the reason we have to go this route. But if Members want to really go out there on deficit financing, want to increase those interest rates, let us vote this bill down.

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But I think today is the time we ought to think a little about what President Kennedy said. One thing I remember he said, "Ask not what your country can do for you, but what you can do for your country."

And today is that day. Do something for your country today and leave politics outside this Chamber.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I want to commend the gentleman from Ohio on his statement and address two questions which have been raised earlier today by my colleagues.

First of all, to those who are raising constitutional questions in urging the defeat of this rule because of the procedure which brought us here, I simply say that this is not a question of paternity, but of who will raise the child?

This foundling was left on our doorstep by extraordinary deficits, extraordinary interest rates, and extraordinary unemployment. No one will claim paternity for these conditions. But someone must raise the child.

☐ 1145

No one wants to raise the child. Nobody wants to raise taxes. Those are the easy things to cast off. But, with the Congressional Budget Office saying that we will have deficits at $140 to $160 billion, do we not owe at the very least to the American people to put aside once and for all procedural questions and decide whether or not in fairness to this country we are going to raise this baby? If we say no, we will take some risk. If we say yes, we will take some risk. But at least we will have been decisive; at least we will have faced up to the substance of the question before us today: What do we do about these economic conditions?

There is also an effort led by my friend from New Hampshire to defeat the previous question, have a separate vote on the question of withholding of interest. I ask you to consider this: If we were to allow that, would it be fair? Would it be fair to the 85 other items that remain in this bill? Would it be fair to the majority of the items that are being taxed, where there is a real tax increase? The "withholding" item, this one item for which Members are seeking a separate vote is part of the one-third of this package where we are not raising taxes. It is a compliance provision. We are trying to help honest taxpayers who are paying more than their share because a few taxpayers do not pay their fair share of the load.

I am in sympathy with the tobacco-producing States, because we are doubling the tax on a single industry. I am sympathetic with some inequities in other parts of the bill. I am not sympathetic to trying to cut our part of the bill that insures compliance and spreads the load of taxes already owed. It would not be fair under any circumstances for us to defeat the rule, defeat the previous question, and vote on that 1 item and not address the other 85 items also.

The Chairman of the Rules Committee, as usual, put it best. This bill is a compilation of taxes; that is, to a large measure, a smorgasbord. The question before the body is: Will we decide this question on the merits, the merits being the public interest, not individual private interests? The only way to do that is to adopt this rule and get on to the very difficult decision that awaits us.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I support the conference report. I support the rule. I urge an "aye" vote on the previous question.

The issue before us at this point is the rule. The assaults on the rule that have been made so far range all the way from odoriferous unconscionability and a suggestion that we should have a fully open rule to unconstitutionality, to assaults on specific items in the measure which different Members; particularly on the majority side, would like to see taken out of the conference report, and therefore urge a "no" vote on the previous question so that they can be recognized for a new rule.

The most serious assault seems to be on the withholding issue, and I do wish to say a few words about that, although I think that is by no means the issue that would be pinpointed were the previous question to be voted down. It seems to me, my friends on the minority side, that there is very little reason for us to vote against the previous question and leave in the hands of the Speaker the lottery as to who shall be recognized for the submission of an alternative rule. I hope we will not fall into that trap.

Now, on the issue of withholding, let me just say that there are several rumors going around here that need dealing with. First, that Treasury obligations are not subject to withholding. They are under this provision. I must acknowledge that Treasury obligations, particularly bearer bonds, are one of the big areas of avoidance now, but this particular conference report will spike that. All future Treasury obligations will be registered, and those of the type which are offered to the public—coupon bonds, for instance—will be subject to withholding hereafter under this provision.

Second, that this is an assault on the proverbial little old lady who has only a little money in savings accounts. It is alleged that she will lose under this provision. There are, Mr. Speaker, some 26.3 million elderly. Only 3.5 million of them will not be eligible for exemption from withholding under the provisions that we are considering. This 3.5 million have very substantial incomes and contribute very heavily to our taxes now, and so will not suffer from the issue of withholding.

I urge, Mr. Speaker, the support of the previous question when that vote comes. I urge support of the rule.

● Mr. HUGHES. Mr. Speaker, I rise in opposition to the motion on the previous question on House Resolution 569, and urge my colleagues to allow a separate vote on provisions of the conference report requiring the 10-percent withholding on interest and dividend earnings.

Despite many of the much needed reforms in H.R. 4961, there are many other very bad provisions. The 10-percent withholding provisions on interest and dividends remain particularly troublesome and will only result in unnecessary cost and paperwork burdens on financial institutions and corporations. As many Members have expressed their deepest concern with regard to these provisions, I believe that failure to provide for a separate vote on the withholding provisions could prove fatal to final passage of this bill.

As our colleague from New Hampshire, Hon. NORMAN D'AMOURS has so aptly stated: Withholding is overkill. It is not withholding that is needed to insure taxpayer compliance, but rather, better use of information on interest and dividends, much of which is already provided on 1099 forms. Taxpayer compliance with regard to dividend and interest reporting is already remarkably high at a 96.7 percent compliance rate. The provisions outlined in H.R. 4961, will only result in a nominal increase in compliance but at the same time will require millions of new forms to be processed while creating clearly unreasonable paperwork.

I regret that the real impact of the 10-percent withholding provisions will not come from better compliance but rather from speeding up collections by the IRS. Many taxpayers, however, already have more than their fair share of taxes withheld from income during the tax year. Requiring withholding on dividend and interest will only complicate this matter further, resulting in the Federal Government holding more than its share from taxpayers and requiring larger refunds to individuals at the end of the year. Clearly, the projected revenue gain resulting from instituting these provisions is overstated and illusory.

In conclusion, the interest and dividend withholding provisions are an extremely costly way to improve compliance from a very small group of individuals. There are far less burdensome ways to achieve this same goal.

I urge my colleagues to join me in opposing the motion on the previous question so we can adopt a rule allowing a separate vote on these unnecessary provisions.●

Mr. QUILLEN. Mr. Speaker, I urge my colleagues to vote for the previous question, for the rule, and for the conference report when it is debated here on the floor of the House.

Mr. Speaker, to close debate on this side, I yield 4 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, this attempt to defeat the previous question touches one of the most controversial and probably one of the most publicly misunderstood provisions of this bill. When I was back in my district, I got more questions about this provision than any other. Some people thought the tax on interest and dividends was going to be doubled. Others thought it was going to be increased. Few knew of the special exemptions for the poor and the elderly. Even fewer understood that if they are paying what they should already, this provision will mean nothing to them.

I do not want to see the rule opened up for this special vote on one provision. I am ready to stand the test on the whole bill. This provision surely cannot make any difference to those who oppose revenue-raising measures on the grounds of principle. Do some tax provisions apply to principles and others not?

I will concede now that eliminating the withholding provision could make a difference to these in this House who have particular problems with it themselves or who run into heavy opposition back home in their districts, but let me cite, as the gentleman from New York (Mr. CONABLE) did, just a few figures that may assuage this feeling on that matter relative to hurting elderly people particularly.

Mr. CONABLE made reference to 26 million elderly people out there, but 22.8 million of them will be exempted from withholding. So, we are narrowing this down now to about 3.5 million elderly people, only 2.7 million of whom actually file returns. But, get this: What we are talking about is $49.7 billion in income on interest and dividends. Now, we are not talking about helpless elderly people out there, but we are talking about getting the tax due the Government; not a new one, but those who pay have nothing to fear. Those who are escaping ought to pay like everybody else.

We are not talking about chicken feed. It is a meaningful amount. It is almost $4 billion in 1 year. It is much better that we get that than enacting new taxes.

Individuals who have prior year income tax, paying on only $600 or less, they are exempt. Those filing a joint return of $1,000 or less, they are exempt. Elderly with prior year tax liability of $1,500 or less, if an individual, are exempt. Those with $2,500 of tax liability on a joint return are exempt. In other words, they are up here in this $14,000-a-year bracket for a single individual and $24,000-plus for a married couple. So, I think we can dispel this notion that we are really hurting a lot of poor, destitute people here, because that just is not the case.

Keeping the provision intact meets the commitment we made when we voted in June for the budget resolution, as the gentleman from Ohio so well pointed out, and the level of revenues that we agreed upon then at that time.

This bill has seen just about all the hype and controversy it can see. It is too late to be playing procedural video games with this bill at this juncture. The issue before us is not the withholding provision. The issue is whether we raise sufficient revenue and make sufficient reductions in spending to stabilize the deficit and hold interest rates down.

With that, Mr. Speaker, I would urge Members to certainly vote up the previous question on the rule and vote for the rule so that we can get on to discussing this very important piece of legislation the balance of the day.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman is recognized for 4 minutes.

Mr. BOLLING. Mr. Speaker, I think this has been a useful and clear debate. I think it supports the contention that I made in the beginning that this is a unique situation with a unique coalition, with a compromise that is only designed to be in the interests of the country. I think to alter that compromise would destroy the fabric of the whole bill and perhaps destroy the whole bill.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. D'AMOURS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 210, not voting 4, as follows:

[Roll No. 300]

YEAS—220

Akaka
Albosta
Alexander
Annunzio
Anthony
Archer
Atkinson
AuCoin
Badham
Bailey (PA)
Barnes
Beilenson
Benedict
Benjamin
Bennett
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Chappie
Cheney
Chisholm
Clinger
Coats
Coelho
Collins (TX)
Conable
Conyers
Coughlin
Coyne, William
Craig
Crockett
Daniel, Dan
Dannemeyer
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dougherty
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Erlenborn
Fary
Fascell
Fazio
Fenwick
Ferraro
Fields
Findley
Flippo
Foley
Ford (MI)
Fowler
Frenzel
Frost
Garcia
Gephardt
Gibbons
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Hall (OH)
Hall, Sam
Hance
Hansen (ID)
Hartnett
Heftel
Hightower
Hiler
Hillis
Holland
Horton
Hoyer
Huckaby
Hunter
Hyde
Ireland
Jeffords
Jones (OK)
Kogovsek
Lantos
Latta
Leath
Lehman
Leland
Levitas
Livingston
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lundine
Madigan
Markey
Martin (IL)
Martin (NC)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McDade
McHugh
Mica
Michel
Miller (CA)
Mineta
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Nelson
Nichols
O'Brien
Oberstar
Obey
Oxley
Panetta
Pease
Pepper
Pickle
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Roemer
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Sawyer
Scheuer
Shannon
Shelby
Simon
Skeen
Smith (NE)
Solarz
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Stump
Tauzin
Thomas
Traxler
Udall
Vander Jagt
Vento
Walker
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Wilson
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zablocki

NAYS—210

Addabbo
Anderson
Andrews
Applegate
Ashbrook
Aspin
Bailey (MO)
Barnard
Beard
Bedell
Bereuter
Bethune
Biaggi
Bliley
Bonker
Bouquard
Brown (CA)
Brown (CO)
Carman
Carney
Clausen
Clay
Coleman
Collins (IL)
Conte
Corcoran
Courter
Coyne, James
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Daschle
Daub
Davis
Deckard
DeNardis
Dorgan
Dornan
Dowdy
Dreier
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fiedler
Fish
Fithian
Florio
Foglietta
Ford (TN)
Forsythe
Fountain
Frank
Fuqua
Gaydos
Gejdenson
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Green
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hamilton
Hammerschmidt
Hansen (UT)

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Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
Lagomarsino
Leach
LeBoutillier
Lee
Lent
Lewis
Loeffler
Lowery (CA)
Lujan
Luken
Lungren
Marks
Marlenee
Marriott
Martin (NY)
Martinez
Mavroules
McCollum

McCurdy
McDonald
McEwen
McGrath
McKinney
Mikulski
Miller (OH)
Minish
Mitchell (MD)
Molinari
Murphy
Myers
Napier
Natcher
Neal
Nelligan
Nowak
Oakar
Ottinger
Parris
Pashayan
Patman
Patterson
Paul
Perkins
Petri
Peyser
Porter
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Santini
Savage
Schneider
Schroeder

Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Studds
Swift
Synar
Tauke
Taylor
Trible
Volkmer
Walgren
Wampler
Washington
Weber (MN)
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wolf
Wortley
Yatron
Young (AK)
Young (FL)
Zeferetti

NOT VOTING—4

Bafalis
Chappell

LaFalce
Rahall

☐ 1200

Messrs. SMITH of Iowa, HERTEL, HAMMERSCHMIDT, RODINO, SEIBERLING, SCHUMER, MARTINEZ, and KASTENMEIER changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

☐ 1215

The **SPEAKER**. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 176, not voting 5 as follows:

[Roll No. 301]

YEAS—253

Akaka
Albosta
Alexander
Annunzio
Anthony
Archer
Aspin
Atkinson
Badham
Bailey (PA)
Barnard
Barnes
Beilenson

Benedict
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker

Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron

Campbell
Chappie
Cheney
Clinger
Coats
Coelho
Coleman
Conable
Conte
Conyers
Coughlin
Coyne, William
Crockett
Daniel, Dan
Daschle
Davis
de la Garza
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
Erdahl
Erlenborn
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Guarini

Hall (OH)
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hawkins
Heftel
Hightower
Hiler
Hillis
Holland
Horton
Howard
Hoyer
Huckaby
Hunter
Hyde
Ireland
Jeffords
Jenkins
Kazen
Kennelly
Kogovsek
LaFalce
Lantos
Latta
Leath
Lehman
Leland
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McDade
McEwen
McHugh
Mica
Michel
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moorhead
Morrison
Mottl
Murtha
Nelson
Nichols
O'Brien
Oberstar
Obey
Oxley
Panetta

Pease
Pepper
Petri
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rodino
Roemer
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Shelby
Simon
Skeen
Smith (NE)
Solarz
St Germain
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Tauzin
Thomas
Traxler
Udall
Vander Jagt
Vento
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitten
Wilson
Winn
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—176

Addabbo
Anderson
Andrews
Applegate
Ashbrook
Bailey (MO)
Beard
Bedell
Bereuter
Bethune
Bliley
Bouquard
Brown (CA)
Brown (CO)
Carman
Carney
Chisholm
Clausen
Clay
Collins (IL)
Collins (TX)

Corcoran
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daub
Deckard
Dickinson
Dorgan
Dowdy
Dreier
Duncan
Edwards (OK)
Emerson
English
Ertel
Evans (GA)

Evans (IA)
Evans (IN)
Fithian
Florio
Foglietta
Fountain
Frank
Fuqua
Gilman
Gingrich
Ginn
Green
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hamilton
Hansen (ID)
Harkin
Hartnett
Hatcher

Heckler
Hefner
Hendon
Hertel
Hollenbeck
Holt
Hopkins
Hubbard
Hughes
Hutto
Jacobs
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Leach
LeBoutillier
Lee
Lewis
Lowery (CA)
Lujan
Luken
Lungren
Marlenee
Martin (NC)
Martin (NY)
Martinez
Mavroules
McCollum
McCurdy
McDonald

McGrath
McKinney
Mikulski
Miller (OH)
Molinari
Moore
Murphy
Myers
Napier
Natcher
Neal
Nelligan
Nowak
Oakar
Ottinger
Parris
Pashayan
Patman
Patterson
Paul
Perkins
Peyser
Porter
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rogers
Rose
Rousselot
Rudd
Santini
Savage
Schroeder
Schulze
Sensenbrenner

Sharp
Shaw
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
Stangeland
Stump
Synar
Tauke
Taylor
Trible
Volkmer
Walgren
Walker
Wampler
Washington
Weber (MN)
Weiss
Whitley
Whittaker
Williams (MT)
Williams (OH)
Wolf
Wortley
Yatron
Young (AK)
Zeferetti

NOT VOTING—5

AuCoin
Bafalis

Chappell
Early

Lent

☐ 1230

Mr. ZEFERETTI changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) entitled "An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes."

APPOINTMENT OF CONFEREES ON H.R. 3663, BUS REGULATORY REFORM ACT OF 1981

Mr. **HOWARD**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, with Senate amendments thereto, disagree to the Senate amendments, and requests a conference with the Senate thereon.

The **SPEAKER**. Is there objection to the request of the gentleman from New Jersey? The Chair hears none, and appoints the following conferees: Messrs. Howard, Anderson, Rodino, Clausen, and Shuster.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today and for the balance of the week during the time that the House is conducting business under the 5-minute rule for purposes of considering two pieces of legislation: First, the Clean Air Act; and, second, the domestic content legislation.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. DANNEMEYER. Mr. Speaker, with respect to the domestic content bill, I reserve the right to object, and I do object.

The SPEAKER. It requires 10 objectors. The Chair hears an objection, and the Chair will count.

(Messrs. Philip M. Crane, Conable, Wylie, Frenzel, Cheney, Weber of Ohio, Kindness, Clausen, James K. Coyne, Gradison, and Waxman also objected.)

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 569, I call up the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to House Resolution 569, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 17, 1982).

The SPEAKER. Under the rule, the gentleman from Illinois (Mr. Rostenkowski) will be recognized for 1½ hours, the gentleman from New York (Mr. Conable) will be recognized for 1½ hours; the gentleman from California (Mr. Waxman) will be recognized for 15 minutes; the gentleman from Illinois (Mr. Madigan) will be recognized for 15 minutes; the gentleman from California (Mr. Mineta) will be recognized for 15 minutes; and the gentleman from Kentucky (Mr. Snyder) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House for consideration the conference agreement on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. It is a compromise hard won during 8 days and nights negotiating with Senate conferees.

The compromise is distinguished by tough new compliance demands, the broadest tax reforms in more than two decades and a full measure of economic justice. By any standard it is the finest tax legislation to come before Congress in many years—and most compassionate in its treatment of budget cuts. Along the rugged climb toward our budget mandate we managed to protect the vast majority of individual taxpayers and those now receiving Federal assistance. It is an antirecession document that directly confronts high deficits, high interest rates, and high unemployment.

This bill comes to the House floor under an unusual, but not unprecedented, process under which the Senate has amended a House-passed revenue measure by adding major tax increases. I feel strongly about the prerogatives of the House of Representatives and the Committee on Ways and Means, and I lament that we had to resort to a process whereby the House simply goes to conference on Senate revenue-raising provisions.

In the past, we have used this process when emergency tax legislation was needed. The start of the Korean war or the time of the Vietnam war surcharge are examples. But this, too, is an emergency. Given the economic and political situation that we face, a counterdeficit tax bill is needed this year. The path we chose was the only way to get a tax bill to the House floor, and I am more convinced than ever that we were right to use it.

A few Members of the House have just taken the extraordinary step of challenging the bill in court, claiming that congressional action has violated the revenue bill origin clause of the Constitution. I respond by noting that in both the House and the Senate, the precedents have been clear and consistent from the beginning of the Republic that all bills relating to the raising of revenues—tax decreases as well as tax increases—are covered by the revenue bill origin clause in the Constitution.

The bill before us should not be viewed in isolation, but rather as the final stage in a budget process designed to deal with a very serious deficit problem. Earlier this year, leaders of both parties met over a period of several weeks to talk over solutions to the country's budget problems. We disagreed on many issues, but were unanimous in our dread that no action guaranteed a catastrophic budget deficit. We agreed on a set of assumptions under which these baseline deficits would be a staggering $182 billion in 1983, $216 billion in 1984, and $233 billion in 1985.

In May, Congress passed a budget resolution providing tax increases and spending cuts that would bring these deficits down closer to acceptable levels. Those Members who voted for that budget resolution have a special responsibility to see that the mandate is carried out.

Those Members who voted last year for the economic program which created those deficits have a similar responsibility. This reconciliation bill is the centerpiece of the budget process. It is the only hope of bringing the Federal deficit under control this year. Without this bill, the Nation has no budget. Without this bill, we face a resurgence of interest rates and must abandon hope for a strong economic recovery.

The conference agreement reduces outlays over the 3-year period by $17.2 bilion—actually exceeding the committee's reconciliation instruction—and raises revenues by $98.3 billion.

For many of us, cutting domestic spending is more painful than raising taxes.

MEDICARE

The medicare spending reductions were a sensitive issue when the budget resolution was voted on by the House last June. The Members of this body made it clear that they did not want to harm beneficiaries by reducing medicare benefits. The House conferees fought hard for that position and were successful.

We staved off virtually all direct beneficiary cuts. The conferees rejected cuts proposed by the Senate which would have eliminated the first month of medicare benefits, made beneficiaries pay for a share of home health services and increased the part B deductible for physician services.

The only provision in the conference report which directly affects medicare recipients is minimal and would be spread equally among beneficiaries. The part B premium, paid for coverage of physician services, would increase 60 cents a month in the first year and $1.30 a month in the second year. These increases would occur on July 1, 1983 and 1984—at the same time beneficiaries receive increases in their social security checks.

More than 70 percent of the medicare savings were achieved through measures aimed at reducing extraordinary increases in hospital costs. Hospital costs are currently rising at over 16 percent a year, increasing the deficit and straining the medicare trust fund. The agreement would limit medicare reimbursement to hospitals whose medicare costs far outstrip the average for similar hosptials. It would also penalize hospitals whose medicare costs are increasing at an excessive rate and would reward hospitals whose costs rise more slowly. This system of penalties and rewards will provide an incen-

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tive for hospitals to keep down their costs for everyone.

Reductions in payments to hospitals would not affect beneficiaries since current law permits hospitals to only charge beneficiaries the specified coinsurance and deductible.

Cuts in payments to physicians are minimal and are not likely to be passed along to beneficiaries.

The medicare agreement contains two important improvements. Medicare coverage would be provided for terminally ill beneficiaries who wish to spend their last months receiving hospice services. In addition, an alternative payment system would be established to encourage health maintenance organizations (HMO's) which have a proven record of reducing medical costs.

One of the most sensitive and controversial decisions of the conferees was to extend medicare coverage to all Federal employees—and to include the 1.3 percent hospital insurance tax.

Right now, 193,000 Federal annuitants age 65 and over are not covered by medicare. These retirees must pay up to $90 per month for medical coverage which cannot match medicare. The maximum medicare tax is $35 per month.

The conference provision has a lenient grandfather provision which protects workers who are employed through January 1983—giving them full coverage even though they have not paid into the trust fund for the requisite 40 quarters.

PUBLIC ASSISTANCE

The conference agreement reduces Federal expenditures for the aid to families with dependent children (AFDC), supplemental security income (SSI) and child support enforcement programs by $343 million over the next 3 fiscal years; $212 million, or almost two-thirds, of the cuts are reductions in administrative costs or Federal matching payments to States. The conference agreement contains no reductions in title XX social services or low income energy assistance.

For fiscal year 1983, the conference agreement contains only $131 million of the $2.3 billion in direct public assistance and social service benefit cuts proposed by the administration and $411 million passed by the Senate. In other words, the conferees approved less than 6 percent of the administration's benefit cuts and 25 percent of the Senate's cuts.

The benefit reductions approved by the conferees include nominal reductions through the rounding of AFDC and SSI benefits to the next lower dollar, and the proration of monthly benefits from the date an application is filed. States are given greater flexibility to require job search on the part of AFDC recipients as well as the option of developing work incentive (WIN) demonstration programs. In addition, the agreement would permit the elderly to own burial spaces or burial contracts and retain eligibility for SSI benefits.

Reductions are made in Federal matching payments for erroneous AFDC payments and for State administrative costs under the child support enforcement program. However, the conference agreement allows States greater flexibility in recovering administrative costs of collecting child support from absent parents.

UNEMPLOYMENT BENEFITS

Mr. Speaker, the current recession has pushed millions of Americans out of work. The national unemployment rate is the highest it has been since World War II. The conference agreement addresses the crisis facing thousands of workers who have already used up, or soon will use up, their unemployment benefits.

The compromise includes an emergency program of up to 10 additional weeks of unemployment compensation that will help more than 2 million jobless workers, and help those States which have recently triggered off the extended benefit program.

Some Members say they will vote against the compromise because it does not fully restore the permanent 13 weeks of extended benefits.

The compromise does better than that. First, the package will help the hundreds of thousands of workers who have already exhausted extended benefits. A simple restoration of the extended benefit program would not help the long-term unemployed. Auto workers laid off the last half of last year, for example, would get nothing from restoration of extended benefits. But under the conference agreement, they get an additional 10 weeks—up to 49 weeks of benefits in all.

Second, these benefits are completely paid for out of Federal general revenues—without an extra dime from employers or financially pressed State unemployment funds.

This package provides $2 billion in benefits for 6 months—the equivalent of $4 billion a year.

To those who say this is not enough, I ask how you would get $2 billion of immediate assistance to workers who have exhausted benefits? When, if not now, do we convince the President to take another $2 billion spending increase? When, if not now,, do we move a President who originally opposed any additional benefit increases to unemployed workers?

Let me tell my colleagues from States with chronically high unemployment—especially those States near the trigger point—that this is as large and as timely a benefit package as is likely to come our way.

Effective September 12, 1982, through March 31, 1983, up to 10 additional weeks of benefits will be provided in States where extended benefits are being paid, or have been paid, at any time since June 1, 1982. This covers workers in 38 States who have exhausted some or all of their extended benefits.

Up to 8 additional weeks are provided in States that have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals, or exceeds, 3.5 percent. Up to 6 additional weeks of benefits will be provided in all other States.

Again, these new benefits will be paid to jobless workers who have exhausted their State or extended benefits.

To neutralize the budget impact of the additional benefits, the conference agreement lowers the income thresholds at which unemployment compensation is subject to the Federal income tax.

Mr. Speaker, because of past and present economic downturns, estimated Federal unemployment tax receipts are inadequate to cover projected Federal unemployment benefits, as well as administrative and employment service obligations. In addition, State UC trust fund accounts are severely strained. As of June 1982, 19 States owed $7.8 billion in outstanding Federal unemployment loans.

The conference agreement makes necessary adjustments in the Federal unemployment tax to insure the solvency of the Federal unemployment trust fund. These changes will also generate new revenue for State unemployment compensation systems.

Specifically, the Federal tax wage base is increased from $6,000 to $7,000 and the net Federal tax rate is increased from 0.7 percent to 0.8 percent. By making modest changes in both the wage base and the tax rate, the conference agreement raises necessary revenues in the most equitable manner.

TAXES

Let me now address myself to the principal tax provisions in the bill.

Thirty percent of the revenue from the bill comes from changes in reporting, penalty, withholding, and other administrative provisions designed to achieve a major improvement in compliance with the tax laws. I mention these compliance provisions first because collecting taxes from people and from businesses who are now evading taxes is obviously the fairest way to produce additional revenue. How can we ask the honest American who pays his taxes to accept sacrifices unless we can assure him that every reasonable effort is being made to collect what is owed from the minority who do not obey the law? We have all read about the underground economy. This is the chance to bring some of it above ground.

While there are several dozen compliance provisions in the bill, withholding on interest and dividends has generated the most controversy. I urge the House to look closely at the withholding provision in the conference report. It contains very liberal exemption provisions for low-income taxpayers and for those people over age 65 which will exempt married couples whose adjusted gross income—not including tax-exempt income like social security—is less than $22,000. It also accommodates in every way possible the concerns of financial institutions by delaying the effective date until July 1, 1983; by exempting minimal payments of interest; by allowing generous float provisions and by permitting withholding on an annual, end-of-the-year basis for certain types of accounts.

The debate now in progress on interest and dividend withholding occurred 40 years ago on wage withholding. Now wage withholding is a popular system, and perceived as a relatively painless way to accurately pay taxes. I predict that in a few years, we will be able to say the same of interest and dividend withholding.

Most of the revenue from the bill comes from broadening the tax base for business income. Despite protests from a few special interests, the business tax reforms are long overdue. If you examine the specific provisions, you will find that they close tax loopholes, limit unintended effects of current law, and scale back tax preference provisions that can no longer be justified when the budget is so tight. With only one or two exceptions, these changes in business taxes were proposed by, or have been supported by, the administration.

The bill corrects one of the biggest mistakes we made last year by repealing safe-harbor leasing after 1983. This is the provision that allows companies to use paper transactions to buy and sell tax benefits—an opportunity not available to the average citizen. We provide generous transition rules to allow companies to lease during the remainder of the recession. After 1983, safe-harbor leasing is replaced with a modified form of prior law leasing.

The bill also modifies the 10-5-3 depreciation system enacted last year to make sure that the tax benefits provided for a business that purchases equipment do not exceed the benefits from expensing, that is, writing off that asset in the year it is placed in service. This is done by not allowing businesses to depreciate one-half of that portion of the cost of the assets that is, in effect, paid for by the Treasury through the investment credit. In addition, the further acceleration of depreciation scheduled for 1985 and 1986 is repealed.

The bill also deals with a number of more complex business tax issues that address questions of concern to many Members. The bill reduces the tax benefits for future mergers and acquisitions—like the recent United States Steel-Marathon and the Du Pont-Conoco deals. These large-scale mergers are artificially attractive under the current tax provisions which are modified by this bill. The bill reduces the ability of multinational oil companies to escape tax on foreign-source income. It scales back a broad list of corporate tax preferences by 15 percent.

The conference committee tried hard to take into account concerns expressed by Members of the House. Thus, the provisions dealing with industrial development bonds closely follow those in the Senate amendment.

Concern has also been expressed about the excise tax increases in the bill, often by people who also argue that we should do things to discourage consumption and encourage saving. However, I think a strong argument can be made for these taxes.

The aviation excise taxes in the bill are in the nature of a user fee, under which users of the airport and airway system pay the costs of that system. Forty percent of these taxes are paid by business travelers and as such are fully deductible. The cigarette excise tax increase, equal to 8 cents a pack, will have a significant impact in reducing smoking, particularly by teenagers. Yet it will impose a tax increase of only $30 a year on a pack-a-day smoker. Finally, the telephone excise tax increase will have a very small impact on the typical consumer of less than $5 per year. I want to emphasize that all these excise tax increases are sunsetted.

It would have been preferable not to raise any taxes paid by individuals, but given the budget targets, that was impossible. The conferees attempted to minimize the impact of the tax increases required and raised revenues in the fairest way possible. The conferees also agreed to an important reform that will affect those taxpayers who presently avoid paying tax through complex tax shelters. The bill restructures the minimum tax for individuals to insure that high-income people pay some minimum amount of tax. This is essential to tax equity, and it will only raise taxes for upper income people.

The bill also restructures the medical and casualty deductions to simplify them and restrict their availability to cases of extraordinary costs or losses. These were painful steps, but, I believe, essential ones if we were to meet budget targets. We were successful in moderating the changes to medical deduction passed by the Senate.

I also want to point out a printing error on page 631 of the statement of managers. The second full paragraph on that page provides—

> In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

That paragraph is wrong. It would require that a key employee's aggregate limit in a top-heavy plan be immediately reduced from 1.25 to 1.0 by precluding future contributions or accruals. The paragraph is substantively incorrect and should have been deleted by GPO as instructed.

Although the conferees did decide to make this reduction to 1.0—like the overall reduction from 1.4 to 1.25—immediately effective, they decided to provide a "fresh start" to insure that contributions or benefits provided under the prior-law higher limits would not have such a drastic effect on future contributions or benefits. Accordingly, the conferees required the Secretary of the Treasury to prescribe regulations under which the numerator of the defined contribution plan fraction—as determined for the last plan year beginning before January 1, 1983—would be reduced—by an amount not exceeding this numerator—so that the sum of the fractions does not exceed the aggregate limit permitted under the conference agreement.

A year ago the rhetoric of supply-side economics was full of promise and hope. If many of us doubted the promise, we all shared the hope that massive tax cuts would draw us out of the recession. We hoped that interest rates would fall in anticipation of recovery. We hoped that business would begin to make the enormous investments needed to bring millions of unemployed back to work. But hope is not enough to turn around an economy.

So here we are a year later staring at an economy barely breathing. Financial markets paralyzed by uncertainty. More people out of work than since the thirties. An angry Nation staring back at Washington waiting for an answer. Election day 11 weeks away.

Today's vote is the most critical economic choice we will make this year—

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perhaps in the next few years. It will record us individually and as a Congress as for or against record deficits—for or against high interest rates—for or against extending unemployment benefits—for or against meaningful tax reform.

Today's vote will separate those with commonsense from those with blind faith. It will separate those who are convinced that our economic course must be modified from those who would march lockstep to the economic commandments of another century. It will separate those with a passionate concern for the entire country from those with a passionate concern for one special region or one special economic interest.

It is a rare moment when the leaders of both parties can agree. It is even rarer that leaders of both parties can agree to raise nearly $100 billion in revenue and to cut spending by three times that amount. We are passing through a thin shaft of time when economic urgency dominates partisan politics.

We have no real choice but to send this compromise to the President.

I urge the House to approve the conference report.

Mr. CONABLE. Mr. Speaker, in view of the careful opening statement of the chairman, which I appreciate, I shall forego an opening statement and yield 3 minutes directly to a valued member of the committee, the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, I rise in opposition to the tax bill. Winston Churchill once observed that taxing your way to prosperity is like standing in a bucket and trying to lift yourself up by the handle. The American people understand that we cannot tax our way to prosperity. This bill is being offered to the Nation as a measure that will stimulate economic recovery. It will not. Let me list my objections to the bill, H.R. 4961, in order:

First. It is unconstitutional legislation. Article I, section 7 is explicit about the exclusive House responsibility for initiating money bills: "All bills for raising revenue shall originate in the House * * *." In this instance, the Senate took a miscellaneous tariff bill reported out of the House that reduced revenues, struck everything after the enacting clause, and then proceeded to draft one of the largest tax raising bills in history. Counsel for the Ways and Means Committee in the House described this action as "unprecedented," "troublesome," and possible an invitation to court challenges. Indeed, Mr. Speaker, I am obligated by my oath of office to challenge this unconstitutional action. I, in fact, have filed a complaint with the Federal court, along with 17 colleagues—9 Democrats, 8 Republicans—charging the principal parties involved in this action with a violation of the Constitution.

Second. It is the wrong economic medicine. Neither liberal Keynesians nor conservative free enterprisers believe it is sound economics to levy massive tax increases during an economic downturn. Such action is a recrudescence of the economic decisionmaking that guided President Hoover's advisers early in the Great Depression. It was the wrong policy then; it is the wrong policy now.

Third. It rests upon faulty economic assumptions. The President has been told this will pull down interest rates and thus lead to an economic upturn with increased employment. I cannot, offhand, recall anytime that massive tax increases led to a lowering of interest rates. Moreover, with the dramatic decline in the prime rate that has taken place this past month, and that at a time when the outcome of this tax battle was still very much in doubt, it would appear that the administration changed its game plan just as it was beginning to work.

Further, Mr. Speaker, the President was told, as a condition for getting his support for this tax increase, that he would get a $3 reduction in spending for every $1 in tax increases. The assumptions about future spending, upon which this scheme is based, have been shown to be faulty in a Wall Street Journal editorial, August 13, 1982, entitled "The Budget Scam." The savings allegedly to be made are simply reductions from theoretical projections about future expenditures. The bottom line of the editorial is that: "Congress clearly has no intention of curtailing Federal spending." Thus, as Congressman Kemp noted in a U.S. News & World Report interview, August 23, 1982, the President will be lucky to get a $0.25 reduction in spending for each $1 increase in taxes.

Fourth. It is for the most part, unwise tax legislation. Some forms of taxation, while soaking up more revenue from the private sector, nevertheless have some beneficial side effects. For example—and I am not recommending this—if one raised all of H.R. 4961's anticipated revenue from a single source—such as a tax on imported oil—it would: First, stimulate increased exploration and discovery at home; second, it would increase the world's oil supply thus pressuring prices downward; third, it would accelerate the goal of independence from unreliable and unstable sources; and fourth, it would cause increased conservation because of higher prices. By contrast, the current tax bill mounts a broad scale attack on savings and investment as well as corporate earnings. Moreover, this tax bill has counterproductive features. It assaults waiters, waitresses, bartenders, and the owners of eating and drinking establishments by harrassing them with cumbersome procedures and volumes of additional paperwork. And the drastic cuts in medical deductions, while affecting everyone equally, affects most adversely those lowest on the economic ladder.

Fifth. It sends confusing signals to the public. Last year, the administration and the Congress committed this Government to a policy of reduced spending and tax cuts. That policy has been overwhelmingly endorsed by the American people. In pursuit of this policy, the President achieved great successes in attacking the most serious economic problems he inherited from the Carter years. Last year the American people saw the President and a bipartisan majority in Congress enact into law two major bills which restrained runaway budget increases and provide a measure of tax relief. Now they see the President and some in the Congress reverse course and vote to raise taxes with nothing more than vague and thus far unrealized promises of future reductions. The American people can not help but be confused by this sudden, inexplicable, and unannounced change in direction.

Inflation has been reduced from a 1980 high of almost 14 percent to less than 5 percent. The prime rate in 1980 approached 22 percent, and it is now down to 14 percent. The rate of growth of Federal spending has been slowed, notwithstanding the Democratic leadership's objections to budget reductions proposed by President Reagan. But at the same time these gains were recorded, unemployment rose from 8 million people to 10 million people as a result of past excesses. Nor could the economic situation be reversed overnight. But now, the tax and spend crowd—which conveniently overlooks the enormous progress President Reagan has made since taking office just a year and a half ago—now claim that their assessment of our enduring economic problems is confirmed by what is obviously a self-repudiation of the President's earlier initiatives of last year. The President has told us he is not abandoning his program and I believe him. But he has changed it so much to satisfy critics who never supported his goals and objectives, and that now too many citizens do not know what to believe.

Eighty-seven percent of the 15,000 respondents to my July questionnaire indicated their support of President Reagan's economic recovery program which calls for reduced spending and lower taxes.

I share their commitment to that program. For that reason, I will vote against the current tax bill. In a meeting with President Reagan 2 weeks ago, I indicated my enduring commitment to the President's program of last year. But I also told him that I was not elected to Congress to raise taxes.

We have come to a time when the Government is consuming the largest portion of our people's labors in history, including World War II. I cannot, therefore, in good conscience support legislation that will aggravate that problem. The creative talent and industry of the American people has rewarded them with an unequaled standard of living. That reward was not produced by a benevolent Government embarked on policies of redistributing income. Nor was it produced by preserving the offices of elected officials who have appealed for votes with costly programs designed to reward special interest groups.

The answer to our existing problems remains unchanged: It is President Reagan's policies of budget and tax reduction. In a letter President Reagan sent to supporters on April 16 of this year, he stated:

> We must adhere to these reductions in federal spending and taxes over the next several years to finally bring down inflation and high interest rates.

In an elaboration of his program before the Los Angeles County Board of Supervisors on March 3 of this year, President Reagan said:

> Bear in mind, they [deficits] would not be significantly reduced, if at all, by raising taxes, which is the common element in most of the curb-the-deficit proposals that are being bandied about. . . .

President Reagan was right, the policies he initiated are still right and for these reasons we must defeat this conference report. This battle will not easily be won, but we must persevere. "If not now, when? If not us, who?"

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the able gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, many Members here do not want to vote on a tax increase. Most Members here do not want to vote on a tax increase before an election. I must add that I am really not thrilled with the prospect myself, but I think our duty is clear. We must pass this tax bill.

This debate is not a philosophical exercise nor a theological debate on whether you are for or against higher taxes. We are not operating in a vacuum. We are operating in an environment of over $100 billion of deficit.

This is the real world. Now is our political moment of truth.

Other speakers are going to discourse on the specifics of this bill. I would rather speak about the package. There have been broad objections to procedure and to concept and specific objections to features. I have plenty of the latter.

I am especially unhappy about the reduction of the ACRS, some annuity and compliance provisions and, of course, the withholding provision. But, in general, the conference committee did as good a job as could be done with any major tax bill.

I would have created a different package, but the conference did a good job of meeting the budget resolution targets. My ideal package might not pass. I hope the conference's version will be passed.

But back to the hard political issue—this bill, must be considered as a package. We will vote on it as a unit. That package will achieve budget resolution targets. It will prevent deficit increases of $26 billion in fiscal year 1983. That $26 billion includes $19 billion in new revenue and $6 and a half billion in spending cuts.

The 3-year combination represents nearly $130 billion in deficit reduction.

For me and for everyone here, this is a difficult vote. However, nearly every person in this body voted for one or another of the budget resolutions. The resolution we passed calls for the total presented today. The Democrat resolutions, all of them, called for much greater tax increases.

Now, support of one of those budget resolutions is not forcing on the vote today, but for me a vote on this package is supportive of the budget resolution this Congress has passed.

Some Members have claimed that this bill exceeds that resolution, particularly with respect to the second and third year, but in my judgment, it comes as close to the targets of that budget resolution as is possible in any complicated tax bill. I personally feel a strong obligation to vote for this bill, simply because it is our only choice to implement the budget resolution.

I can understand that some of our colleagues will not vote for any tax increase. That is their privilege; but if we do not pass this bill, the additional $26 billion in borrowing it will require or the $130 billion over 3 years will surely push interest rates up again. A vote against this bill is a vote for higher interest and will have to be explained as such.

Supporters of the bill, in addition to our House leadership on both sides of the aisle, include all 10 living former Secretaries of the Treasury, led by Bill Simon, a strongly identified tax cut advocate. That is a group that thoroughly understands today's economic problems. It is a bipartisan group which knows what is good for the economy.

The chief supporter of all is, of course, the President. He has made it quite clear, crystal clear, as we used to say, that he considers passage essential to the health and recovery of our economy. He likes taxes less than any of us, but he also knows better than any of us that the passage of this bill is crucial to avoid bigger deficits and higher interest rates. He was also able to preserve his individual tax cuts and to steer this package toward compliance and reform.

Mr. Speaker, despite the fact that many of us object to new taxes on a philosophical basis, and despite the fact that all of us can find some objectionable features as an excuse to vote against it, I urge each Member not to look for a hiding place. Let us look instead to deficit reduction, to economic recovery, to lower interest rates and higher economic opportunities.

Let us not vote for our own convenience. Let us vote for this tax bill and do our country some good.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. Smith).

Mr. SMITH of Oregon. Mr. Speaker, I am voting against the Tax Equity and Fiscal Responsibility Act because no matter how you play it, it is neither.

There is nothing equitable or responsible about asking American taxpayers and businesses to pay another $99 billion in taxes, or $228 billion or whatever.

That is not what Americans sent us here to do.

They sent us here in 1980 with a mandate: Cut Government spending. Do not raise taxes.

Even with last year's tax rate cuts in place, the Federal Government will take in more and more revenue for years to come. There is not a shortage of tax revenue.

I have gone the extra mile for President Reagan and I will in the future. Ronald Reagan is one of the best things that has happened in this country for a long, long time.

But call it "revenue enhancement."

"Closing loopholes."

"The price we have to pay."

"The best we can do."

I am not hiding—and neither is the American taxpayer. We will not lower interest rates by raising taxes.

If this were the truth, Americans would have been buying homes and cars interest free for the past 40 years.

Let us look at what has happened to the deficit just this year.

President's budget in February: $92 billion.

Congress budget in June: $100 billion.

OMB midyear estimate: $115 billion.

Recent Treasury estimates: $135 billion.

CBO estimates, as high as $180 billion.

Yet during all this, interest rates have been coming down. Now at 14 percent.

Now here is the deficit, gearing off the CBO estimates, if we pass this tax bill. In the range of $160 billion.

We are literally swimming in the red, any way you look at it.

We are drowning in the red.

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What is the difference between drowning in 180 feet or 160 feet of water?

We don't need to raise taxes.

I am not going to swallow this kind of logic.

I am not going to vote to increase taxes on: Businessmen, savers, and investors—millions of Americans across this country.

I urge you to do the same.

I am doing what I was sent here to do—voting to cut taxes.

I came here in 1981 to help provide a different kind of leadership.

I urge you to join me in voting No—against "business as usual."

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I rise not in opposition to the President, but in support of the beliefs that led me to run for Congress in the first place and the beliefs that I think are essential to economic recovery in this country.

Many say loyalty is the reason to support this tax bill, that we should not resist the President, should not interfere with his plan for the economy, or that we should not oppose because it will limit his ability to govern.

Mr. Speaker, the opposition here does not come from me and it does not come from the gentleman from New York (Mr. KEMP). It does not come from the gentleman from Georgia (Mr. GINGRICH) or the gentleman from California (Mr. LUNGREN), because today in modern politics it is not a struggle among men. It is a struggle of forces.

The opposition to this tax bill comes from the people. The people intuitively know that we have reached a crossroads in this country and that economic growth is the key to the success and the prosperity that we all wish for. If we give way to the excuses and the elitist arguments that are now advanced to support this tax bill, then we are going to wind up, just as Michael Harrington, who wrote "The Twilight of Capitalism" predicted, inexorably to socialism.

Our system was designed to insure limited government and that is why we have the checks and balances that we do. If you want more government, if you want efficiency, speed in the way this Government operates, then see your role here as one just to ratify whatever the Executive wants.

If, on the other hand, you believe that this people's House has a higher duty than to just ratify the Executive, then listen to the commonsense of the people. Here is what they are saying and here is what they are saying to you and here is what they know. You cannot get people to work, save, produce and invest, by taxing them more. You cannot get economic growth and balanced budgets by raising taxes. Congress will not use new tax money to reduce the deficit. It will just spend it. You do not raise taxes in a recession.

The problem is not fiscal. It is monetary. That is what the people are saying. That is what they have been saying for 200 years.

Listen to the people. Do your duty as a representative in the people's House. Vote down this tax bill. This will not hurt the President, to vote down a $230 billion tax increase. This will strengthen the President, because it reaffirms the mandate that the people gave him in 1980.

The people want this House and this President to do the things that they elected him to do in 1980 and that is to get the tax burden off the people, stimulate the work, savings, production and investment that will cause economic growth, that will bring revenues to the Government and that will cut down on the drain of Government which is caused when people are out of work. That is the key to economic success in the country. That is what we need to do.

Let us do what the people are sending us here to do, keep the tax burden down, keep the regulatory burden down, stay on course, do not give way to these flimsy excuses that are being advanced here to continue the policies of the past.

Hold fast and do your duty.

☐ 1315

Mr. CONABLE. Mr. Speaker, I now yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to address two questions. No. 1, where did the deficit come from? No. 2, where did this tax increase come from? And finally, I would like to talk about the choice we face here today.

Mr. Speaker, we wrote a budget in May a year ago that set out a path toward a balanced budget and reduced Federal spending. In that budget, we assumed that after 18 months of economic stagnation that we were going to have a steady economic recovery. Those same assumptions were present in the House Budget Committee's budget; those same assumptions were made by CBO and OMB and every economic consulting firm of any stature in America.

The only problem was that, crippled by high interest rates, the economy fell into a recession 5 months before any budget cut or any tax cut went into effect. As unemployment went up, as economic growth went down, the deficit soared. A 1-percentage point rise in unemployment sends the deficit up by $38 billion.

So the American people went to bed one night looking at a $42 billion deficit. They woke up the next morning, I am sure at least as they perceive it, and the deficit was over $150 billion.

The question now is: What are we going to do about it? I have heard people call this Ronald Reagan's tax package. That is not true. If you look at the February 8 budget Ronald Reagan sent to this body, a budget that called for $6 billion in new revenues in 1983, $13 billion in new revenues in 1984, $13 billion in new revenues in 1985, all coming from closing of loopholes in the Tax Code, the President asked for $350 billion of spending cuts.

This body and the other body rejected the President's program out of hand.

We have an alternative presented by the Budget Committee that called for $151.9 billion of taxes, an actual increase in entitlements by putting back some of the cuts we made last year, and no significant reduction in discretionary spending.

We were not able, through the first round, to adopt a budget. In the second round, we fought for 6 weeks to come up with a budget that did two things: That, No. 1, had a low deficit; and that, No. 2, did not raise taxes beyond acceptable limits; and finally, one that had acceptable levels of cuts.

After all that effort, we adopted the bipartisan recovery budget that called for $98 billion worth of new taxes in terms of the revenue figures carried in that budget.

So whose tax increase is this? It is our tax increase. We have already voted on it once when we adopted the budget.

Now, there are those who keep saying, "Let us cut more. Let us cut more." I am willing to cut more. I voted for the Rousselot amendment. I voted last year for the Gramm-Latta budget, and when we had the vote on minimum benefits for social security, I stood up with five other people to stick with those cuts.

I would like to know where all these cutters were when we voted on eliminating the minimum benefit on social security. The plain truth is, we could not cut any more and get 218 votes.

I was once asked by someone in the media how I decided how much to try to cut, as if there was something arbitrary about it. I pointed out it is pretty straightforward. It takes 218 votes to pass a budget. If we get 219, we did not cut enough; if we get 217, we got greedy and we did not get anything. We passed the budget by two votes.

I say how much we cut is now an old, dead issue. We cut as much as we could.

The question now is: Are we going to live up to the budget we passed?

We conservatives in both parties have had the luxury for a long time to protest, to cast votes on the basis of what we wished the Congress and the country were really like. Now we have a tacit majority and the time has come to stop the protesting and to start the governing.

We faced a hard choice, a difficult choice, an unpleasant choice. The choice is between raising revenues as a linchpin to get $280 billion worth of savings, or to accept a $200 billion deficit.

Now, I have never had one of my constituents come up and say, "Raise my taxes." My mail is running overwhelmingly against the so-called tax increase. But nobody is writing me saying, "Accept the $200 billion deficit" either.

We now have to make a fundamental decision, and I would like to address my final remarks to those who share my conservative philosophy: It seems to me we reach a point where we have to make a tough decision, and that is, do we want to be judged on the basis of how we vote or on the basis of what happens to the country?

For me, I think we have reached the point where we have go to go ahead and take the best budget we are going to get. I do not want to tell my grandchildren 50 years from now that "Everything went to hell in Washington, but I want you to know I voted against it every step of the way." I want to be able to tell them that in a critical time in our history when we had to make some marginal decisions to make things better, that I was willing to stand up and take the best we could get.

That is what governing is about. I urge my colleagues to vote aye and pass the budget package and the tax increase that we adopted.

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, having voted for the budget, I certainly will support the legislation before us which implements that budget. Frankly, I do not want to go home and explain why I voted to increase the fiscal year 1983 deficit by $25 billion—which is what a "no" vote could do.

At the same time, I have serious reservations about some of the provisions as well as the procedure we are following. I recognize that questions of constitutionality are settled by the courts, and I have no crystal ball to tell me what they will decide, but I must acknowledge serious doubts about the constitutionality of what we are doing. We now have a revenue raising measure before us—but it did not originate in the House as a revenue raising measure. In fact, the Ways and Means Committee never consider the tax provisions of this bill, nor did the full House—until today. I am glad that my colleague from Louisiana (Mr. MOORE) and others have taken steps to assure that these legal questions are pursued. I am disappointed by the failure of leaders on both sides of the aisle who support this bill to permit us to meet these procedural objections by considering this legislation in the normal manner in the Ways and Means Committee and in the House.

As to substance, my greatest problems are the withholding provision and the cigarette tax. As for withholding, the bill recognizes the compliance problem which exists for interest and dividends, but solves it in the most expensive, cumbersome, complicated way possible: through withholding, and an exemption system. It would be far easier for all concerned to beef up reporting requirements and give the IRS the resources needed for adequate matching and auditing.

As to cigarettes, I feel it is unfair to single out this product to bear such a large increase in excise taxation. Doubling this tax with no increase, for example, in alcoholic beverages cannot be justified; it amounts to discrimination against a single industry. Happily this 8 cents per pack increase expires October 1, 1985, unless extended through separate legislation.

Mr. Speaker, the conference report must be accepted as a package or rejected as a package. On balance the Nation will be far better off with the lower spending, higher revenues, lower deficits, and lower interest rates which will come from approval of this conference report.

Mr. GIBBONS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, a number of years ago, some person far wiser than I observed that there are no final solutions to the problems of mankind; that we try to solve them as we go along. What we are doing here today is providing the best solution that is available to us at this particular time and moment in history.

I think it is wise to reflect on where we have been in the last 2 years.

Over a year ago, we stood in this Chamber and made certain budget decisions to decrease revenue and to decrease expenditures. Early this year, we came to the conclusion that despite our efforts last year, realizing that there may have been some excesses in our activities last year, particularly on the tax reduction side—and the tax reductions last year were huge—we came to the conclusion that the budget deficit facing us, and this was a consensus conclusion shared by the President, by his Office of Management and Budget, by the Senate, by the House, the Budget Committee recommendations, and the Congressional Budget Office, that the deficit was $182 billion that we faced for fiscal year 1983.

Also, that the outyear deficits were far greater than that.

The obvious result was that people who work in the marketplace which controls the economic destiny of this great country decided that that was an intolerable amount of deficit to face.

So in an attempt to cure some of the excesses of last year, particularly in the Tax Reduction Act, and to make prudent trimmings of the expenditures, we find ourselves here today.

What does this bill do? This bill, for the immediate 3 fiscal years that face us, will reduce expenditures by about $17 billion. That is a correct score by the Congressional Budget Office. That is a correct score by the Office of Management and Budget.

It will increase the revenue side in the next 3 fiscal years by about $98.5 billion. Now, these are estimates, because no human being can exactly predict the interaction of the economy and these tax laws, but they are the best that humans can do.

There are some things we should look at. One of the things that we learned after last year's large expenditure reductions is that people were concerned about the outyears and the impact that would have upon the amount of money that was out there to be used in the private capital market.

Some of the provisions of this act—and I would call Member's attention to the conference report on page 691 to what happens in the outyears—we gain a substantial amount of revenue pickup because of some of the mistakes that were made—and they were honest mistakes—in last year's tax bill. Where, in the first year, we pick up $20 billion in revenue, by 1986 we are picking up $63.9 billion in additional revenue. The detail of that is spelled out in the report.

That, coupled with the expenditure cuts, should reassure those who work in the marketplace, not just the stock market, but the big marketplace that runs the economy of America, that we are sincere about trying to match our outgoes.

Mr. FASCELL. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I yield to my colleague, the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding to me.

Mr. Speaker, I want to rise in support of the conference report and associate myself with the remarks of the gentleman in the well and compliment him and the conferees for having done an excellent job.

I agree also, Mr. Speaker, that after a close examination of this matter, I do not believe we have a real choice. We have to make a decision here whether we like less tax revenue and less taxes or whether we are going to live with over $600 billion of deficits in the next 3 years projected at a cost that would be phenomenal to the economy, much less the actual cost of carrying that debt.

I see no choice, and I am one who did not vote for a $732 billion reduction in revenue, because I thought it

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was too big a cut too rapidly. Revenue cuts should have been phased in with expenditure cuts. In that way we would have avoided the huge deficits we now face.

I have voted for expenditure cuts and will continue to do so, even below the level of those requested by the President. But these cuts cannot be made all at once—we all know that. Furthermore, the President did not submit a balanced budget. It contained almost a $100 billion deficit. Now, because the economy did not perform as expected, together with the greatest military expenditure increases in the history of the country, plus the tremendous loss of revenue with the largest tax cut in history we find that we will have the largest deficits in history for the next 3 years. We must reduce these deficits. We must move toward a balance budget. We must cut expenditures. But we must also have enough revenues.

So, I agree with the President, that it is absolutely essential that we support this bill.

Mr. GIBBONS. Mr. Speaker, I thank my colleague for his wise remarks.

☐ 1330

There has to be a bottom line in every argument, and the bottom line in this argument, as far as I am concerned, is this: I do not believe America can endure an additional budget deficit over and above the budget deficit we are going to have over the next 3 years of another $115 billion. If anyone in the room really, sincerely believes that, then he sincerely ought to vote no, but I think the strain on our savings, our capital markets, and everything else would be so horrendous that we would go into an even deeper recession than we have now, and we would destroy all confidence in our Government and all confidence in our economic system. So, I would urge my colleagues, when this bill comes to final passage, to vote aye.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to a valued member of the committee, the gentleman from North Carolina (Mr. Martin).

Mr. MARTIN of North Carolina. Mr. Speaker, shall the House recede and concur with the other body on a massive, complex, thousand-page bill to raise taxes? Or not?

Some say we should. Some say we can heal the ailing economy and energize its struggling signs of revival by this massive reverse transfusion of taxes out of its weakened vital parts. Some say the only way to raise $98 billion over the next 3 years is to set aside the Constitution and the rules of the House and the prerogatives of the Ways and Means Committee; and instead defer to the judgment of barely half the other body and only six of our own colleagues, swallow hard, and look the other way, and vote for this conference report to H.R. 4961.

I disagree.

In the first place, that House bill number and its enacting clause are the only part of this bill to originate in the House of Representatives, article I section 7 of the U.S. Constitution to the contrary notwithstanding. None of the provisions relating to revenues, not one, is a part of any bill reported to the House by the Committee on Ways and Means. Not one.

What is more (or perhaps I should say: What is less), the House not only did not originate this tax bill, but we have not even reviewed it, studied it, considered amendments, or modified it in any way in the House or in the committee charged with jurisdiction to which, for some reason the Senate bill sporting the purloined House number was referred.

Most of the public debate so far has dealt with the broad, general issues of public policy and revenue aggregates. Very little has focused on the specific provisions of the bill—and for good reason. After all, how can any news or editorial account deal with more than three or four issues at a time? There are over a hundred important changes in the Tax Code scattered through nearly 700 pages of this bill. The outlines available until today could not describe all the ramifications of these hundred provisions.

Most Members are aware of the issue of withholding on dividends and interest, but few know that the same will apply to pension benefits. In the rush to rescue the former, no care was exercised on behalf of the latter. As for failure of some to report such income and pay taxes on it, all that was required was to impose stricter reporting requirements, with triplicate 1099 forms to be attached to your Federal and State tax returns, just like your W-2. That would have garnered half the revenue of this provision. Beyond that, withholding is another way to take money directly out of the savings pool.

Is that going to strengthen our economy?

Another provision which directly damages the business recovery is the doubling of the unemployment tax levied on employers. This is not needed to finance the extra weeks of benefits, for that is covered by another tax on unemployment benefits. But small businesses and other employers in labor-intensive industries like our textiles will be severely damaged by doubling the tax. It is another higher fixed cost which must be paid even when you are unprofitable.

No wonder the National Federation of Independent Business is against this bill, 7 to 1, because of this one measure.

There is another provision, though, that is even worse for them and their employees. That is the package of changes to severely restrict pension funds. The Senate bill was more modest, dealing only with limiting the tax benefits for very high-income individuals and limiting the amount they could borrow from their own pension fund. The conference report went much further. It will seriously impact 92 percent of all 600,000 pension plans in this country. It will terminate an estimated one-third of them. That is worse than ERISA. Those that survive will have to file extensive amendments and reports, at a cost of $2.5 billion.

That is probably the worst achievement of the bill.

Then there is the severe erosion of the recently enacted accelerated depreciation incentives. The biggest change is the cancellation of changes now scheduled for 1986 and 1987, raising $28 billion in those 2 years alone. Ironically, if that is an adequate word, this major change will produce only $1 billion in the 3 years of the budget resolution to which this tax bill is a response. This will levy $20 billion a year in the outyears, in order to boost the first 3 years' collections by a mere 1 percent.

No wonder the business community is unhappy with this bill. This gives them unappreciated deceleration instead.

Next on my list is the doubled excise tax on cigarettes. This was done, we are told, to avoid levying any similar tax increase on whiskey, wine, beer, or even cigars. All these were exempted. One product was singled out as the fall guy.

"Don't tax you;
Don't tax me;
Go tax the fellow
Behind that tree."

Yet, instead of a 100-percent tax increase on cigarettes alone, just a 25-percent increase spread over the whole group of products would have afforded the same revenue, at a lighter burden on any one.

No wonder those of us in the southeastern tobacco States are opposed to this unfair provision. We have been told by House conferees that they did not need our votes for this bill, that we were isolated, and that we would stay that way.

Another unheralded but damaging provision is that dealing with completed contract accounting. The intent is fair: to tax the early-year profits on a multiyear contract. The gentleman from South Carolina (Mr. Holland) pointed out that it would be unfair to require such a contractor who had not yet been paid to have to borrow money to pay the tax on earnings not yet received. He was right. His amendment to correct this was disregarded.

Then there is the unhappy insurance industry. Lured at first to endorse a tax of $1 billion on their business, they helped design a way to do it without disrupting the competitive balance between stock companies and mutual companies. This bill overreaches that mark and does disrupt that balance. Yet they gamely support the bill for fear they will be treated worse if they do not.

My colleagues, these are not trivial little parts of this tax bill. These seven provisions make up $38 billion worth, or about 40 percent of the $98 billion total.

There are other features that should have had closer attention. The "grease payments" have already been mentioned. The compliance features have some merit, but how will you feel if your tax accountant is obligated to flag your return for an audit for any deduction that was previously routine and unchallenged by IRS, but for which there yet is no revenue ruling.

Surely there should have been some hearings on these and other measures; but there were not.

Accordingly, I must regretfully oppose this bill in this form; insisting that we start over. We should return to the Committee on Ways and Means and more carefully and correctly do the job we were elected to do.

The SPEAKER pro tempore (Mr. Boland). The time of the gentleman from North Carolina has expired.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Stark).

Mr. STARK. Mr. Speaker, we have nothing before us today but tough choices, that will test our mettle as legislators. Before I explain why I think we must support this bill, I would like to take a moment to thank Chairman Rostenkowski and the ranking minority Member of the committee, Mr. Conable, and indeed Senator Dole, for producing what I think is one of the fairest tax bills to come before this House in the 10 years I have served.

This bill is not going to make anybody happy, be they conservatives, liberals, businessmen, Federal workers or average citizens. All will have some additional burden placed upon them. The value of this legislation and the reason I am supporting it is that it will go a long way toward lowering the deficits which are the cause of increased interest rates, the decline in housing and auto production and leading us into the highest unemployment this country has seen since Hoover's depression. Many of the provisions of this bill reverse tax loopholes on those who have benefited from the unjustified 1981 bill.

One increase over last year will be about a $500 million increase on the General Electric Corp., which made a profit last year of $2.6 billion on which they not only paid no income tax, but they got a check back from the Treasury for $100 million. This bill will cause General Electric to pay the $400 to $500 million that they rightfully owe in taxes, and General Electric is supporting the bill because it is closing a loophole that serves no economic benefit.

The legislation contains a number of provisions to improve taxpayer compliance—it will hit the cheaters, those who create tax shelters, those who do not report income, and those who create phony deductions. These people make a sham of the Tax Code which honest, law-abiding citizens support and participate in. That is where the taxes will be raised.

One of the big items is withholding on interest, about which I think there has been a lot of misunderstanding. The cost to the savers in this country is extremely small. Elderly couples with incomes of less then $22,000 a year are exempt, as are low income couples making less than $12,000. The loss of interest on interest that withholding entails is less that $3. on a $10,000 account.

"But the cost to banks," they say, "will be high." Let me tell the Members that is nonsense. For any Members who have stuck their little plastic in the talking teller and had the teller tell them what their balance was or what their overdraft is, how much they weigh, what State they come from or how much their car payment is going to be; they know that same machine can move a decimal point one point to the left and record the interest deduction. If the machine cannot do that, then my faith in the banking system is completely destroyed.

So, do not be frightened by withholding or compliance. The real question is, do you want to lower car payments from 18 percent and lower mortgages below 17 percent. But, we all have to give a little to get a little. To save the third-year tax cut, you are going to lose safeharbor leasing—which was not even in Kemp-Roth.

The oil companies gained $11 billion last year, and they gave back $2 billion this year.

You give up $300 million in child support enforcement which is used only by 12 States and 2 million workers are going to get extended benefits.

Some people will have small increases in medicare. On the other hand we save $400 million in title 20 that goes to senior citizens and the disabled.

Mr. Speaker, there is something in this bill for everyone to dislike, I personally do not like the increase in the medical casualty deduction or the cuts in medicare, but more than anything else, I dislike our dead-in-the-water economy with its high interest and unemployment rates. This bill is just one of a number of difficult actions that we are going to have to take to restore health to the economy. Without it, deficits will rise, vital Government services will suffer, and interest rates will skyrocket. Mr. Speaker, no one will love us for this bill, but in the long run all of us will benefit from it.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. Wylie).

Mr. WYLIE. Mr. Speaker, I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, I remained undecided on this tax bill until this very morning. I realize that there is a lot of opposition to the bill from people in my congressional district, and I would say that most of it relates to a provision which the gentleman who was just in the well referred to, the income tax withholding of interest and dividend provision. I do not like that provision in the bill either, and I have said so to the President on three different occasions. I said so to Senator Dole and Chairman Rostenkowski. I suggested as an alternative that we ought to consider placing a tax on alcoholic beverages. I think we make a mistake when we do not lay a glove on alcoholic beverages. I would say that 90 percent of the people in my congressional district would support that view. I asked the Joint Economic Committee to give me an estimate, and they said that doubling the tax on a gallon of distilled spirits from $8 to $16 would produce $10.3 billion in new revenue. To me, that would be far better than withholding taxes on interest and dividends.

May I say at this point, however, that there has been a considerable amount of accommodation with reference to the withholding provision, which I appreciate, but misunderstood or not, the withholding provision on interest and dividends is not being well received. So, the provisions of this bill would have been different if it were my bill. I am aware of some of the political vicissitudes which have come into this, and I might say that I congratulate those who did bring the bill to the floor today.

I did not make my decision easily, and I did not make it until this morning for two reasons, one of which I have stated. The other was, I wanted to hear from the people in my congressional district. I would say that on Monday 62 telephone calls came in; 31 were for and 31 were against. Altogether as of noon today, 416 people have called or sent telegrams; 235 are for, 181 are against. So, I would say that people in my congressional district have said, "Congressman, this is a tough vote and you are going to have to make up your own mind."

No one knows for sure how the economy is going to respond, but many people whose judgment I respect and who run successful businesses with many employees say they are worried not so much about what the impact

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will be this year, but what the impact will be in the outyears, and that bothers them, and that bothers people in the market. Well, I would say that the deficit will surely worsen and the bond markets will undoubtedly head for new lows, causing more unemployment and higher interest rates, if this bill is not passed. I do not necessarily think it is a good bill, but I am absolutely convinced that we have no alternative. Besides, when in doubt, I say vote with the President.

Mr. CONABLE. Mr. Speaker, I now yield 2 minutes to the distinguished gentlewoman from California (Ms. Fiedler).

☐ 1345

Ms. FIEDLER. Mr. Speaker, the debate on the tax bill reminds me of an old story that I heard from a friend who had been in the service, and perhaps some of the Members have heard it as well. It goes something like this:

The top sergeant walks in and says to a private "do you see that group of rocks? I want you to move them from here to over there."

When he has moved them over there, then he says, "I want you to move them back over there."

That is essentially the way I see the tax bill itself. What we are asking for is to make major shifts in the way in which people invest their money, because that is exactly what will happen. If we plug up a loophole in one place, people who have substantial amounts of money will take those funds and put them into a tax-exempt or tax-reduced investment. Ultimately it becomes the average person who, without the sophisticated assistance of attorneys and financial consultants, end up having to pay the bill. It is with those individuals that I am particularly concerned, and so I plan to vote against this bill.

First of all, I would like to speak just very briefly about withholding of interest and dividends. Most of the money in savings and loans today happens to belong to individuals who are senior citizens. They need the meager incomes that they get from the extra interest that they earn. To put an additional penalty on them by denying them the right to have all the funds they have worked hard for—and paid taxes on, I might add—is simply unfair, as far as I am concerned. If they would take those 5,000 IRA agents they plan to employ and put them to work trying to uncover those individuals who have not been honest and not reported their dividends, and interest then they would not need to take these funds away from honest taxpaying individuals.

Another area, I think, particularly affects senior citizens, and that is the medical deduction. Why should we be penalizing individuals who have suffered ill health by changing the medical deduction?

The SPEAKER pro tempore. The time of the gentlewoman from California (Ms. Fiedler) has expired.

Mr. CONABLE. Mr. Speaker, I now yield 1 minute to the gentleman from Virginia (Mr. Bliley).

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I rise in opposition to the legislation.

I do not believe I was elected to Congress to lower taxes and then reimpose the taxes on the American people and retreat from curtailing Federal spending.

The way to economic recovery cannot be found by imposing tax burdens and regulations on our citizens and the Nation's businesses. As much as I would like to support our President, I have yet to be convinced that the measure we have before us today will reduce interest rates or create new jobs in the private sector.

I believe we can best reach a balanced budget through further spending cuts and reductions in the size of the Federal Government. It seems to me that every time we raise new tax revenues we only create another excuse for the majority in Congress to find new ways to spend tax dollars.

Last year our order of business was to cut and simplify taxes. This year we are being asked to change direction and pass a bill to raise and complicate taxes.

The legislation before us is neither all bad or all good. I wholeheartedly support some of the provisions, but there are far too many that are objectionable.

I question the constitutionality of the legislative path which this bill traveled from House to Senate and back. I further object to the fact that a rule was not granted to allow a separate vote on the withholding provisions which my constituents have strongly opposed. Had there been an opportunity to vote on this provision separately, as I urged the House Rules Committee to do, then many of my colleagues and myself might have supported this bill.

I do not believe we should impose new Federal regulations on our Nation's financial institutions and over 50 million American savers. This runs contrary to the need to encourage savings and investment.

Other features of the tax bill which I oppose are the change in medical deductions, the telephone excise taxes and new regulations requiring restaurant owners to report estimates of their employees' income from tips. I also believe it is unfair to burden the airline users or industry at this time with heavier taxation.

This is not to say I do not support adjustments. Many elements contained within this legislation are necessary and important steps in the right direction. I would have gladly supported these measures if given the opportunity to vote separately on them.

Last year's tax bill was overzealous as we all know. Safe harbor leasing led to many abuses and needs to be repealed. I support extension of the HI social security tax to Federal workers who reap the many benefits of our medicare system in their old age.

Industrial revenue bonds and tax preference items have been the source of much abuse in years past. It is time we cracked down on compliance. I certainly have no problem supporting tougher penalties for those citizens who defraud their government.

I support these measures and wish that I had an opportunity to vote to enact these good provisions into law. No legislation is ever perfect. We must always weigh the good against the bad. Unfortunately, in this case, I find the bad outweighing the good.

The economic events of this week are of great interest to us all. I believe all Members on both sides of the aisle sincerely hope that Wall Street's good fortune is a positive sign for the future. If I only had some small guarantee that the upswing was a result of congressional action, this bill, and the measures I strongly dislike, would be a small price to pay for economic security. If I could guarantee my farmers and small businessmen that this bill would lower their interest rates, I would be the first one to register my aye in favor of H.R. 4961. However, I cannot with conviction say that and therefore, I must regretfully oppose the entire bill.

Mr. BLILEY. Mr. Speaker, only 3 months ago this House came very close to passing a budget, presented by the gentleman from California, Mr. Rousselot, and others, which would have been very nearly balanced, rather than over $100 billion in the red. That budget failed by a margin of only a dozen or so votes and it proved to me that there are still too many excess programs and grants in the Federal budget.

It is remarkable that that budget included no tax increases. That is why I know that the proposed $228 billion tax increase which we have before us today is just plain unnecessary in addition to being a disaster for the economy.

President Reagan himself noted recently that you should not raise taxes in a recession. Even if you believed that this bill only closed loopholes, it would still be taking money out of the productive sector of the economy and giving it to the Government.

But the details of this tax increase are not just loophole closing, they truly hurt people on an every day, personal level. This bill will double the Federal cigarette tax from 8 to 16 cents; and I might add if you smoke that is a couple of dollars right out of your pocket every week. This tax bill would triple the Federal telephone excise tax—an unfair tax that at one time had been scheduled to disappear altogether.

This tax bill would establish a new tax on interest from savings accounts at a time when savings institutions are in trouble, and we are trying to create new capital and lower interest rates. That tax would be particularly harsh on the retired, who are trying to get along on savings they have accumulated over a lifetime of work. Last but not least, this bill would raise the tax on employment—the tax on jobs, most of which would leave my State to fund benefits for people elsewhere.

In other words, every time you smoke a cigarette, every time you use the telephone, every time you put money in a savings account, and even every time you go to your job this bill would tax you. That is just not the kind of medicine the economy needs.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Downey), a very distinguished member of our committee.

Mr. DOWNEY. Mr. Speaker, I would like to begin by making a prediction. It is not one I make happily, but it is one that I want to be held to. This will be the first of two major tax increases or revenue raisers that this President is going to have to make.

I say to those Members who want to vote against this one, imagine what the second one will look like. All you have to do, if you are serious, is to take a look at the size of the deficit in the next fiscal year, in 1984 and 1985. Take a look, and you will see that if we do not raise revenue or decide to cut entitlements or the military in a massive way we will have to do away with the rest of the Government. All of the discretionary portions of the Government will have to be eliminated if we want to come near a balanced budget.

Now, we are not going to do that. No one wants to do away with the FBI or student loans or the National Park Service. We need this money in the next few years to govern this country.

We have to have a revenue base that will provide us the money to do the things that we all agreee need to be done—providing a strong national defense, minimal health care for the poor, and a recognition that the National Government can provide help and comfort to individuals and industry.

This also is a question of leadership for all Members of Congress. Who shall govern this Nation? Is it the people of this country, or the special interest?

During the last 5 days the tax lobbyists have more than earned their keep. Bleary-eyed, they stayed outside the halls of the Ways and Means Committee and the conference room to work their will. The conferees resisted. They recognized that there was a higher calling, and that calling was to try to staunch the flow of red ink. They have done that. They have bitten the bullet. Now it is our turn.

We need to support that effort because the people come first, not the special interests, and that is also the message in this bill.

When one takes a look at the substantive side, there are three things that the tax policy Members need to keep in mind. Changes in the tax law should attempt to be neutral, simple, and equitable. This bill meets two of those important tests.

It is not simple, but I think until we rewrite the whole tax code, we can forget about ever being simple. But it does move toward neutrality, and it does move toward equity. It broadens the tax base.

Corporations will now have to pay taxes. it will not be like it was last year, when they paid taxes like their contributions to the United Way. They paid that which they wanted to pay. They are going to have to pay taxes. This makes the tax base broader so that the rates potentially in the future will be less for all of us.

It is neutral in the sense that we have, with the ACRS changes and the other business changes, decided that the tax code should not be the impetus for one type of business investment over another, but business persons should be able to make those investments by themselves based on what is in their economic interest, not on what is a tax advantage or a tax penalty.

So the bill meets two of the three important tests of good tax legislation, but, more importantly, it is a recognition on the part of the members of both parties that this is something we need to govern our country. It is that simple.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, in rising to support H.R. 4961, I am conscious of the numerous provisions of this measure affecting virtually every segment of our society. The issues involved in many of these provisions are controversial with highly vocal interests expressing themselves on opposite sides of these issues.

The substantial additional revenues which will result from the provisions requiring the withholding of taxes on certain interest and dividend payments will, in turn, impose burdens upon those who withhold and transmit these tax revenues to the Government.

The delay in the application of these provisions until next July and the authority to compensate for some of the costs of installing this withholding and reporting system are designed to ease the burden on those agencies which will be involved in complying with these provisions. Also, I note that most older Americans and those with limited incomes will be exempted from these provisions.

Without endeavoring to discuss the multiple specific provisions of this measure, let me refer to that part of the bill relating to the subject of possession credit limitation. The provision will modify substantially the tax advantages granted to many American companies which established manufacturing plants in Puerto Rico. While any withdrawal of these advantages may seem unfair, the measure before us has been modified so that it will have only prospective application, and will withdraw as a tax credit only income attributable to intangible assets such as patents and trademarks. These provisions will give some relief. However, the increased cost of production which this change in the law will cause may, indeed, be passed on to consumers. Furthermore, this part of the bill may result in a reduction in employment in Puerto Rico, which was a major objective of the possession credit limitation in the first place.

Finally, Mr. Speaker, I feel that this measure is a clear demonstration that this administration and the Congress are determined to put our governmental economic house in order. That goal is basic to the health of our entire economic, social, and political system. By advancing this tax measure, the President has acted with courage and with a firm conviction that our Government must continue to move in new directions toward greater fiscal responsibility. More opportunities for the private sector to expand, reduced Federal spending, lower Federal deficits, and all of the ensuing benefits which these policies can, and will, produce.

Mr. Speaker, I commend President Reagan on his leadership and our House and Senate leaders, particularly Senator Bob Dole of Kansas and my colleague Congressman Bob Michel, for their tremendous efforts in behalf of this landmark measure. The people of the Nation, at all economic levels, will be the beneficiaries of the action which I expect will be taken today on this measure.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. Lujan).

Mr. LUJAN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, in my 14 years in this House, I have never heard a single one

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of my colleagues praise the exhorbitant national debt. Nor have I heard anyone say that we should not have balanced budgets. Has it been lip service?

The House voted for the budget resolution just a few short months ago. Even though we felt the deficit was too high, we still voted for it because it was a beginning toward a balanced budget.

The reduction in the deficit, according to this resolution, was a combination of reduced expenditures and increased revenues. Many of us have fought hard to reduce those expenditures.

We are called today to vote on the other side of the coin, increased revenues. Nobody likes additional taxes, but we must act responsibly. The budget resolution, which most of us voted for, called for a $20 billion increase. To vote against it today would be like hiring an orchestra to play at a dance, enjoy dancing the evening away, but when it came time to pay for the music, we refused to do it. It is time to live up to our commitment of a balanced budget.

To the Members on our side of the aisle, we have long told our constituents that we have the means to responsibly put this country on course. We have told them that we will make our decisions based on what is right, not on what is the best politics. We promised them a new beginning. And we told them the time is now. My friends, there is only one rational decision we can make and that decision is to pass this bill. And the time is now.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Speaker, last week I had lunch with a former Member of this body in the House dining room who told me that he was drawing $78,000 a year in pension benefits from the Federal Government. Those pension benefits are due to increase this year 7 percent.

Yet, what does this act do? This act denies to the private sector of this country adjustments for cost of living. It fixes once and for all at $30,000 a year the maximum contribution to a defined contribution pension plan.

It triples taxes on general aviation.

We ought to read this act before we pass it. It provides for withholding on pensions under section 334 unless people file a certificate to be released from these provisions, and it does nothing to address the real problem that the Federal Government next year will be spending a greater percentage of our total economy than it was at the height of World War II.

What this Congress lacks the courage to do is cut our own generous pensions; instead we impose another burden on an already overtaxed citizenry.

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, this is Stick-It-to-the-Consumers-and-Constituents Day. I do not want anybody in this House to think that, boy, we are really socking it to business today with this bill. The main price of new taxes contained in this bill will be paid for by the consumers of this country.

All of these taxes will be paid for by consumers and constituents in our districts, because the Members know as well as I do that corporations pass those taxes on to us and our constituents.

So I say to the Members, if you want to stick it to the consumers and your constituents today, vote for this bill.

Now, one of my colleagues from this side of the aisle just said that this is not Ronald Reagan's tax bill. He is dead right. This is not President Reagan's tax bill. When he came originally to the Ways and Means Committee, he had a package of roughly $13 billion. This is not his tax bill. It has been added by the other body, and we have acted unconstitutionally, as the Members well know. This constitutional issue will be discussed, I believe, by others.

Mr. Speaker, I do not support this bill, and I want to quote Ronald Reagan, whom so many of my colleagues here are so extensively quoting today. Finally you are quoting President Reagan.

Ronald Reagan, our President, said in March of this year before a group of public officials in Los Angeles, Calif., the following:

> And bear in mind, they (the deficits) would not be significantly reduced, if at all, by raising taxes, which is the common element in most of the curb-the-deficit proposals that are being bandied about. . . . A tax increase now might well stall recovery further, suppressing tax revenues and ensuring permanently high budget deficits.

That is President Ronald Reagan this year in California. He was right then, and I believe that statement is right for today's situation. So I encourage my colleagues to vote down this tax bill which "sticks it to the consumers and to our constituents."

Make no mistake about it, every tax dollar raised in this bill will be passed on to our constituents and our consumers. We are not kidding anybody.

Let me now list other reasons why this gigantic tax bill is defective:

This bill represents tax deform, not tax reform. Any legislation that permits tax deductibility of corporate bribes hardly can be called a reform measure.

The claim may be made that only 17 percent of the Senate-passed tax bill's provisions place additional burdens on individuals. However, it can be shown that a typical middle-income taxpayer could be liable for $810 in additional taxes and lose $1,750 in benefits as a result of the changes this legislation makes.

There is no credible economic theory which argues that tax increases in the midst of a recession are proper medicine for the disease.

Tax increases cannot produce lower interest rates. Additional taxes crowd productive dollars out of the economy in the same way that higher deficits do.

The increased compliance aspects of the tax bill which are one of its principal selling points will in fact result in a regulatory nightmare that will further undercut a weak economy.

The biggest so-called revenue raiser in the tax bill, the withholding of interest on dividends and savings, is in fact a revenue loser. Any new revenues generated by this provision will be more than offset by the deductions which banks and other financial institutions will be able to write off as legitimate business expenses for doing all of the extra paperwork involved.

Reducing red ink in the budget does not take place because we raise taxes. The history of the last decade proves the point. Deficits can only be dealt with successfully in a climate of economic growth. Tax increases deter growth and only spending cuts are consistent with governmental actions which both promote growth and reduce deficits.

New jobs are not created by higher taxes. New jobs are created by more investment. Increased taxes and increased investment are completely incompatible.

Even the administration admits that the Senate-passed tax bill does not protect all of the accelerated cost recovery provisions which were a cornerstone of the President's original proposal.

I urge my colleagues to vote no.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Indiana, a member of the Appropriations Committee.

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding.

That same President last year told the American people this: That if Congress does not have the money, they cannot spend it. So why are we doing this now?

Mr. ROUSSELOT. Well we should not I say not, be doing it. As the gentleman knows, and the American people as a whole do not favor this tax bill. The polls overwhelmingly show that, and I believe it is the wrong tax at the wrong time.

Let me share some of the data from the latest Washington Post/ABC News poll:

THE WASHINGTON POST/ABC NEWS POLL

VIEWS ON THE ECONOMY AND THE NEW TAX BILL

Q. As you may know, Reagan called for public support of a tax bill now being considered by Congress. Reagan said it is more a tax reform bill than a tax increase bill. Would you say the bill is more tax reform or more tax increase, or don't you have an opinion on that?

	Percent
More tax reform	14
More tax increase	32
Mixture of both	3
No opinion	51

Q. Just your best guess: Do you think the tax increase bill would make the federal tax system fairer for all Americans or not?

	Percent
Yes, it would make taxes fairer	29
No, it would not make taxes fairer	52
No opinion	19

Q. Would you say you approve or disapprove of the tax bill?

	Percent
Approve	35
Disapprove	54
No opinion	11

Q. Reagan cut income taxes last year. Now he is calling for new taxes. Do you think this means Reagan has lost faith in his economic program of spending cuts and tax cuts?

	Percent
Yes, he has lost faith	48
No, he hasn't lost faith	41
No opinion	11

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Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. Mr. Speaker, I have been given 2 minutes here to express a position which took me weeks and a considerable amount of gnashing of my own teeth to arrive at. That in itself is a fairly taxing experience.

Clearly this bill causes heartburn to those of us who came here to reduce the Government. It is a traumatic experience for those of us who happen to believe that one of the best ways to reduce Government is to simply deny it revenues.

When you look at the new Members of the Congress who arrived here with the 97th, at least on the Republican side, we came here with a purpose. That purpose was to slay the colossus that is known as the Federal Government. The purpose was to disassemble and put back together in a better manner this Government which is so out of control.

But the opportunity to do this in a single stroke has been lost. It was lost by this bill, but at a prior time when we had ultimate strength and we chose to compromise.

Now we are in the difficult task of house-to-house, trench-to-trench warfare. You can look on this bill as one confrontation in that effort. Consider it a lost battle, if you wish. But we still have a long way to go. And there is one fact which is abundantly clear, that this Congress has shown in vote after vote, under the leadership of this Congress, is not going to show the way. We need a viable Presidency.

Ladies and gentlemen, this Presidency is the last best hope to turn this Government, to slay this colossus. There is no question but that the Republican Party is in the position of leadership, that we are the party of ideas.

But in order to accomplish those ideas, in order to accomplish those goals, we must have tomorrow. Let us not forsake the leadership that got us here, the leadership which will take us to tomorrow.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to a very distinguished member of our committee, the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I rise to commend the House conferees on the legislation which is before the House today.

I know there are those of us on both sides who might disagree with certain tax provisions of the bill. As chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means I would like to state, looking at the spending cuts, that the conferees worked diligently to try to keep intact the subcommittee budget decisions as well as the budget decisions of the full Ways and Means Committee. Again, I commend them.

Mr. Speaker, a number of States have indicated that last year's reductions in aid to families with dependent children, supplemental security income and public assistance programs within the subcommittee's jurisdiction were somewhat excessive. In addition, the administration appears to be insensitive to the work disincentive effect of its AFDC policies.

The House conferees attempted to restore the AFDC work incentives eliminated by last year's reconciliation legislation although their efforts were adamantly opposed by the administration and the Senate conferees.

I regret these changes were not accepted but I wish to thank my House colleagues for their strong support in this area.

Fortunately the conference agreement contains no reductions in title XX social services or any reductions in the low-income energy assistance program.

I also thank the House conferees for standing firm in opposition to most of the AFDC and SSI benefit reductions proposed by the administration and the Senate conferees. For fiscal year 1983, the conference agreement contains only $131 million in direct benefit cuts in the public assistance and social service programs under the Ways and Means Committee. This compares to $2.3 billion in benefit cuts proposed by the administration and $411 million passed by the Senate. In other words, less than 25 percent of the Senate benefit cuts were accepted by the conferees.

Mr. Speaker, I would also like to point out that the national unemployment rate is 9.8 percent, the highest level we have seen since World War II. One of every five workers faced some unemployment in the year of 1981 and the rate is still increasing.

Every month more and more jobless workers are competing for the shrinking number of jobs. Nationwide there are some 550,000 initial claims for unemployment benefits that were filed for the week of July 31.

The number of unemployed workers who have exhausted their unemployment benefits before finding work is increasing dramatically. Nationwide some 423,000 individuals exhausted their State benefits in June, which is 75 percent higher than the exhaustion rate in June of 1981. Over 175,000 exhausted extended benefits in June, which is twice as many as the year before.

Changes enacted in the last year's reconciliation bill have drastically reduced the effectiveness of the extended benefit program. Since June, 10 States have triggered off extended benefits and it is projected that 16 other States will trigger off in the very near future.

The conference agreement addresses the crisis faced by thousands of individuals who are out of work and who have exhausted State-extended benefits. It includes an emergency program that will provide some $2 billion in additional weeks of unemployment benefits between this September and March of 1983. Over 2 million jobless workers will be aided by this program, effective September 12, 1982 through March 13 of 1983.

Up to 10 additional weeks of benefits will be provided in the States in which extended benefits are being paid or have been paid at any time since June 1 of 1982.

This includes 38 States and the new program will largely restore extended benefits to those States. This program will largely restore extended benefits to these States. Further, these new benefits will go to workers in these 38 States which have already exhausted their extended benefits, whereas simply restoring the extended benefit program to these 38 States would not help those jobless workers who have already exhausted their benefits.

In States that have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals or exceeds 3.5 percent, up to 8 additional weeks of benefits will be provided. Up to 6 additional weeks of benefits will be provided in all other States.

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The benefit and administrative costs of the additional unemployment benefits will be financed out of Federal general revenues. Therefore, employers will not incur any new financial obligations because of the program. Also, no portion of the cost of these additional benefits will be charged to already hard-pressed State unemployment trust funds.

Mr. Speaker, I call upon my colleagues to consider this provision within the bill that is before us today and act accordingly.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. JAMES K. COYNE).

Mr. JAMES K. COYNE. Mr. Speaker, many of my colleagues have already given eloquent reasons to oppose this tax bill. I rise to add my voice to the pleas of others who hope for its defeat.

This is not a small bill, a simple set of painless measures that close loopholes and bring effortless compliance with existing law. Instead it holds a hidden snake, a very painful, permanent economic poison that will affect our economy and all Americans for decades to come.

I am, of course, referring to the proposed withholding of interest on dividends. Here our Government is extending the long arm of the IRS into the pockets of those Americans who receive these interest and dividend payments in a way that will discourage savings and investing for generations to come and at a time when we all know we need desperately to bolster our Nation's capital base.

At the same time, this withholding proposal will slow the drop of interest rates or perhaps even reverse the favorable trend we have seen over the past few weeks, and further crowd out the American saver and investor from access to capital markets they need if we are going to foster a recovery.

We often describe our Nation's source of capital as a "pool of savings." If that is so then this tax bill is going to siphon off those funds from that pool into the Federal Treasury.

In short, we are getting hosed.

Some say we need that siphon so that we can take the funds out of the interest and savings pool and put the money right back into that interest and savings pool, sort of like a perpetual motion machine that will somehow miraculously create a recovery of our economy.

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Nonsense. If we drain that pool via increased interest and dividend withholding, it is just as catastrophic as draining the pool by further increasing the national debt or increased Federal borrowing. In either case, our economy will continue to suffer for the months ahead. Is it fair to punish all American savers permanently for decades, if not for centuries, just so that we can achieve a short-term gain in the revenue collection process of our country? Obviously it is not.

This withholding proposal is a phony "tax enhancement." It is a step which cannot easily be reversed. It is a course of action we will all come to regret.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, it is not with pleasure that I take the floor today to oppose H.R. 4961. As Members know, I have been one of the strongest supporters of the President in this body and, very frankly, I would like to support him today. But not even the President can persuade me to vote for something that I think would be bad for my district, my State and, yes, the Nation as a whole.

Mr. Speaker, I have several problems with this bill beginning with the way the House abdicated its constitutional responsibility to originate revenue raising bills, and thus eliminated any chance for House Members to have input into any of the specific provisions in this nearly thousand page bill.

Now, I tried in good faith to clean up some of the provisions I thought were most onerous. I was one of those who met with the President on several occasions to seek a compromise, and the President was most forthcoming. He and the Senator from Kansas and the Republican House conferees worked for such changes as sunsetting the increase in unemployment taxes on employers; cutting in half the proposed cigarette tax increase; certain changes proposed by my colleague from South Carolina (Mr. HOLLAND) in the completed contract method of accounting; a higher threshold on withholding taxes on interest and dividends; a change in the industrial revenue bond section specifically requested by the Treasurer of the State of South Carolina; a loosening of the new restrictions on pension plans; and, perhaps most importantly, a reinstatement of part of the accelerated cost recovery benefits which was a significant portion of the investment incentives given last year.

But, even after all these efforts—by the President and the Senator from Kansas, by Democrats as well as Republicans—even after all these efforts, the five Democrats on the conference committee voted down each and every one of these changes. And, if television can be believed, they laughed at us as they did so. That is just not right, Mr. Speaker, and I cannot support that kind of legislating.

Specific problems with the tax bill aside, I am also concerned about the failure of the House of Representatives to enact legislation necessary to bring about the budget cuts that the President asked for and Congress approved in the budget resolution. The two went hand in hand when the budget resolution was adopted: increased revenues must be accompanied by budget cuts. But this is not being done; our goals are not being met, particularly for the 2 outyears of the 3-year tax bill.

I will not argue that there are not some good features in the bill that I would like to see enacted. There are. But the bill remains one with more bad than good features. It remains a measure which I feel I must oppose if I am to do the job I was elected to do.

Mr. Speaker, I do not know what the outcome will be today. But if this conference report should be voted down, I make my pledge now to work with my colleagues here in the House, with the other body and with my President to fashion a tax compliance bill that will meet the guidelines of the budget resolution and that I can support. I will work to get the budget cuts we promised to make. I will not, however, work or vote to increase taxes so we can continue to fund programs enacted by the liberals of the past and which have proven to be wasteful and unwieldy.

I cast my vote today against H.R. 4961 not in philosophical rebellion against the President, but in a difference of opinion over the particulars of a piece of legislation. There is no rebellion as far as I am concerned. I have and will continue to support the aims of this administration and I look forward to the resolution of this tax bill so I can once again work with my President to reach the vision for the Nation which we share.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise to support H.R. 4961 and, in so doing, I want to call special attention to just some of the numerous tax loopholes that this bill closes.

Far and away the largest changes in this bill affect corporate taxpayers, not individuals. The changes repeal or modify portions of the Tax Code that have not lived up to our expectations or have simply outgrown their usefulness. One example is the so-called possessions credit which allows some American companies to reduce their Federal income taxes to nearly zero. Another example is a severe modification and eventual repeal of the "safe harbor leasing" law that has become one of the biggest tax scams in recent memory. The bill contains dramatic changes that will plug insurance companies' huge loophole that have allowed them to be close to tax free.

Billions of dollars will be saved by these three changes alone.

The bill also stiffens both the individual and corporate "minimum tax" to insure that wealthy taxpayers cannot completely escape Federal taxation. Taxation of American oil companies operating in foreign countries is also tightened. And the bill will limit tax-motivated corporate mergers.

Mr. Speaker, this bill closes significant tax loopholes that the Congress has not been able to close before—including many that I have proposed in my own alternative budget and tax reform suggestion over the last 2 years.

More remains to be done, but this bill is an important start. The Congress owes it to the public to approve this bill in order to plug at least some of the "tax loopholes" which are a drain on the Treasury.

Mr. Speaker, there is little question that the conference agreement before us today represents the biggest tax reform bill since the 1969 Tax Reform Act. I hope we do not have to wait another decade for a reform bill of comparable import, but I want to impress upon my liberal colleagues how long it has taken to get here, what a difficult goal tax reform is to achieve, and how unique and fortuitous circumstances must be for success.

Let me now describe in detail a few of the tax reform features of H.R. 4961.

INDIVIDUAL MINIMUM TAX

The conference agreement repeals the two minimum taxes we have in present law and replaces these with a comprehensive alternative minimum tax. The tax is imposed at a flat rate of 20 percent on minimum taxable income which includes most types of preference income, including the bargain element of stock options. The message is clear—all Americans are expected to pay some minimum amount of tax regardless of their ability to use various tax avoidance techniques.

CORPORATE TAX PREFERENCES

The bill reduces a large number of corporate tax preferences by 15 percent. These include percentage depletion for coal and iron ore, excess deductions for bad debt reserves, income deferred through DISC's, intangible drilling costs for integrated oil companies, fast writeoffs for mining exploration and development costs and for pollution control facilities, interest deductions for purchasing tax-exempt bonds by certain financial institutions, and capital gains on certain types of real estate transactions.

INVESTMENT TAX CREDIT

Two important changes are made to reduce the Government subsidy granted through the investment tax credit. The conferees agreed to reduce the basis of assets by 50 percent of the credit taken before applying the depreciation schedules under ACRS. Taxpayers will also be allowed to offset only 85 percent, versus 90 percent, of their tax liabilities by the use of such credits. These new rules will also apply to the energy and historic structure credits.

COMPLETED CONTRACT METHOD OF ACCOUNTING

The bill limits the unwarranted deferral of tax liability that can be achieved under the completed contract method of accounting by requiring a better matching of income and expense items. While far from a complete reform, the bill takes an important first step and at the same time deals fairly with taxpayers who have relied on the old rules. The outright abuses of the method are also curbed.

MERGERS AND ACQUISITIONS

The bill contains a number of provisions which will limit tax-motivated mergers and similar acquisitions. In recent years, many of these transactions have been designed to take advantage of the complex rules of present law to effectuate asset purchases while avoiding the tax consequences of an outright purchase and sale. Economically sound mergers and acquisitions will not be prevented.

FOREIGN OIL AND GAS

Under the conference agreement, U.S. taxpayers will be subject to current tax on the nonextraction income from foreign oil and gas operations under some circumstances, and limitations will be placed on the amount of foreign tax on extraction income that will be allowed as a foreign tax credit.

SAFE HARBOR LEASING

This controversial provision of last year's bill will be repealed at the end of next year. The leasing rules of prior law will then be liberalized.

Mr. Speaker, let us look at this tax bill in relation to Federal deficits.

As directed by the first congressional budget resolution for fiscal year 1983, Congress has been charged with the task of raising approximately $100 billion in new revenue over the next 3 years to reduce our unacceptably large Federal budget deficits. Both the President's own Office of Management and Budget and the Congressional Budget Office have indicated that Federal deficits, if current policy does not change, could reach $182 billion in fiscal year 1983, $216 billion in 1984, and $233 billion in 1985.

I believe very strongly that Congress when looking for ways to raise the revenue needed to offset in part those deficits, must address the problem of tax equity. Before we examine such revenue-raising alternatives as increasing individual income tax rates, we must close the tax loopholes that are allowing people to avoid paying their fair share of taxes. Tax cheaters must be ferreted out and provided with strong incentive to begin paying the taxes they owe. Special treatment under the law for those few taxpayers wealthy enough to take advantage of high income tax shelters must be discontinued. I cannot support creating new taxes, even in the fiscal crisis we are facing now, until existing tax law is enforced fully and fairly.

With the principle of equity foremost in my mind, this spring I prepared a list of 34 tax loophole closings which I felt should be considered by the congressional tax-writing committees before any new taxes were proposed. I offered these 34 tax loophole closings as an amendment to the first congressional budget resolution when it was debated on the floor this May. They would have generated $110 billion in additional revenue in a 3-year period. Although one of my colleagues termed my effort "foolhardy," I stated at the time and would like to emphasize again that closing tax loopholes is the sort of thing which the people across America will understand. Maybe we do not understand in this body why we cannot stand up to the special interests but, believe me, the ordinary rank-and-file American does understand that and will support this kind of action.

Having worked long and hard on these 34 proposals—and I would like to give special thanks to the staff of the Joint Committee on Taxation for their cooperation and assistance—I was extremely pleased to see that the Senate-passed tax bill included changes in tax law in at least 15 of the areas I treated in my proposal. As a result, I am gratified to see a new emphasis in Congress on tax equity which I hope will continue next year as we write tax policy in our effort to bring our skyrocketing budget deficits under control.

Mr. Speaker, everyone in the Chamber today is committed to reducing the tragic level of unemployment that is inflicting suffering on millions of American families across the country. We cannot put people back to work until the Federal Government has demonstrated its ability to set stable and consistent budget policy. Businessmen and investors are not going to expand plants and hire workers when their investment decisions must be made in an atmosphere of wildly fluctuating interest rates setting record highs. We in Congress have the enormous responsibility of steering a stable course in setting our Federal budget goals each year and showing that we can bring the deficits under control. With a reasonable expectation that our budget goals will be achieved at the end of each year and with a reasonable monetary policy emanating from the Federal Reserve, we hopefully will see the unemployed returning to their jobs.

I believe that the Tax Equity and Fiscal Responsibility Act of 1982, with its emphasis on tax equity and its focus on responsible fiscal policy, will turn this country toward a fairer distribution of the tax burden among all

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taxpayers and will help reduce Federal deficits, lower interest rates, and put Americans back to work.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, in my view the Congress should support the President and approve this tax bill.

So far, his decisions and policies seem to have effected substantial accomplishments in certain important areas. Inflation is one; the rate has been cut in half. Interest rates is another; the rate has been cut from 21½ percent to 14 percent.

So far, we the Congress, seem to have been unable to get together and develop solutions to our many problems that actually work, except for those initiated by the President.

A small majority of my calls and mail reflect opposition to the bill, but in almost every case the opposition is directed in rifleshot fashion against one provision or another. The other view, of course, favors the bill in its entirety.

I believe this tax bill is the only acceptable alternative to higher deficits, higher interest rates, and increasing unemployment. I hope the House will approve this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, no matter in my tenure in the Congress has given me greater pause for reflection and consideration than this conference report.

When the Senate's package came over to the House, and the Ways and Means Committee failed to hold hearings, offer amendments, or do anything but send the package by motion to conference unchanged, I was extremely upset. I felt that this procedure plainly violates the Constitution's specific provision requiring revenue measures to originate in the House closest to the people and most subject to their control. I have three times voted not to allow the measure to proceed in this manner. I commend those Members who have filed suit to question this procedure in the courts and to seek a decision once and for all that the House cannot in this way abdicate its constitutional responsibility. I suspect that earlier, had someone asked me to join in the lawsuit, I would have done so and opposed the bill solely on this ground.

It is unfortunate, perhaps, that a test case occurs on so sensitive and important a piece of legislation, affecting, as this one does, the President's momentum in moving the country from economic stagnation to vibrant growth. It will always be suspected that those who sue do so simply as another means of stopping legislation they oppose. In my judgment, the plaintiff's constitutional concern is genuine and fully justified. The merits of the policy expressed in the bill, however, remain to be considered and a decision on them cannot be shirked or avoided.

I have said repeatedly that the bottom line on this measure is whether this is good economic medicine or bad. Clearly, there are precedents for saying the latter. The depression 50 years ago was the last time a general tax increase was considered and passed by the Congress—all others have resulted from inflation-pushed bracket creep—and most economists believe that one was the wrong prescription at the wrong time.

This one, however, differs substantially. We have in place $930 billion of tax cuts coming on over the next 5 years, and it is in this context that this $230 billion increase—over 5 years—must be considered. The net: A $700 billion tax reduction that should adequately spur consumer spending to raise us out of the economic mud—provided one condition has taken place: Lower interest rates.

Now, Mr. Speaker, there are those who argue that deficits—large ones like we are having now, too—have nothing to do with interest rates—that the supply of lendable money and its consequent price are unaffected by huge Government borrowing demands. I find this impossible to believe. Rather, it seems to me, the prospects of ever-increasing Federal credit demands, competing with consumer and business borrowing, forces up interest rates and keeps them high in the absence of some signal to the markets and the people of our country that the pressure will be reduced.

I see this package as that signal—that Congress has the courage to follow its own budget resolution and to take actions that will help reduce the deficit, bring down interest rates and put unemployed Americans back on the job.

The President has correctly described the package as mainly tax enforcement and reform of some of the excesses—the ornaments hung on the Christmas tree—of last year's tax reduction legislation. But just as correctly—let us not kid ourselves—there is $98.3 billion of new revenue this bill raises. Clearly, the people are the ones who will pay it. But if fairness and equity are a part of our consideration—and God help us when they cease to be—then this package commends itself. Yes, it will require some sacrifice, especially by higher income taxpayers and corporations. But all segments of American society must participate—equitably and fairly—if we are to succeed in turning the corner on our economy's problems.

Mr. Speaker, no one expects Americans to want or like tax increases. The only surprise in today's Harris survey is that one-third of the people favored this measure. But there are times when courage and commitment are needed in the Congress, the courage to recognize what must be done and to do it. That's what the American people are looking for now. The economic crisis is largely one of spirit. The signal must be sent.

Last year we began a program to reverse the stagnation, to rebuild our economic base and to rekindle the competitive spirit in America. We have accomplished much. The rate of increase in Federal spending has been curbed, taxes have been reduced substantially and indexed for the future, and excessive Federal regulation has been cut back. Inflation's back has largely been broken, interest rates have been reduced by one-third, and the supply of money and credit have been stabilized. But because economic growth rates have not responded quickly to our policies—ones which I strongly believe are correct—we face an exorbitant Federal deficit which, as I have said, holds interest rates captive.

Further control on the rate of increase in future Federal spending is also necessary. To secure the $284 billion in additional spending cuts specified in the budget resolution, the administration needed to promise some readjustment—particularly of business deductions—on the revenue side. If we fail now to carry out the revenue portion of the budget resolution, what expectation can there be that the spending portion will be carried out? Without further spending cuts, the third year of the Kemp-Roth tax reduction program will soon be under siege and the prospect of preserving it in the face of even higher deficits, conjectural at best.

My economic instincts frankly find me most comfortable with those opposed to this legislation. But we are not engaged in an exercise in economic theory. We are no longer the minority. We must govern. To do so effectively and preserve the principles and the program we have fought so hard for, passage of the conference report is, in my judgment, essential.

Mr. CONABLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I was not elected to raise taxes, neither was President Reagan, and neither, I suspect, was any Member of this House. I believe the Federal Government is already imposing far too high a burden on our economy, and that burden needs to be reduced, not increased. However, we need to be clear about just what that burden is.

Let us consider two general propositions. The first is one of the core arguments of this bill's opponents. It is that "You don't raise taxes in a recession." This implies that there are times when you do raise taxes. I was under the impression that there is never a good time to raise taxes, but if there is, the bill is on target as most of its provisions will take effect not during the recession, but after the recovery is well underway.

But most of all, I think this bill's opponents should be uncomfortable with their argument because of a second general proposition that most of them hold: That Federal spending, not taxes, is the best measure of the burden the Federal Government places on the economy. Federal spending is the total resources commanded by the Government.

It is the real level of taxation. Whether those resources come directly out of our pockets through conventional taxes or are taken out of the capital markets through borrowing is important, but in either case the resources are bid away from private uses.

In a recession, spending for unemployment insurance and other transfer payments increases automatically and resources are bid away from private capital markets. Twenty years ago this may have done little damage, for inflation and interest rates were low, financial markets were stable, and private demands for capital would decrease in a recession. Since that time, however, we have had 20 years of deficit spending, ever-increasing Ggovernment, expanding regulatory burdens, growing private sector inefficiencies, excessive monetary growth, upward-ratcheting inflation, and a destruction of confidence reflected in critically ill long-term capital markets.

Finally the country has realized that this could not go on. Fundamental reforms are necessary and have been begun.

Monetary growth is being restrained, hard victories over inflation are being won, businesses are tightening their belts, regulation is being improved, and we are fighting hard to reduce the overall burden of Government spending.

But we have found that the momentum of 20 years cannot be reversed in a few months. In particular, long-term capital markets cannot be revived by promises alone. They require results, and results continued for sufficient time to revive shattered confidence. We are now digging out of a recession caused mainly by capital market disarray. It is crucial that we demonstrate a willingness to stay on the course and continue reducing Government demands on those capital markets and the overall burden of Government spending on the economy.

Earlier this year the Congress and the President worked hard to produce a reasonable budget. No one was completely happy with the eventual result, but it was the best that could be achieved. Now we are debating the actual implementation of that budget.

Opponents of this bill are willing to destroy the previous budget agreement, for which many of them voted. Some claim that this will force further spending cuts.

Mr. Speaker, I do not believe that would be the result. Defeat of this bill destroys the budget process for this year. In the first place, it will defeat the $17 billion of spending cuts in this particular bill. Beyond that, it will shatter our ability to come close to achieving the rest of the cuts envisioned in the budget agreement. But most important of all, it will deeply undermine the leadership of the President, without which the entire program of painfully purchased economic reforms could be lost. Defeat of this measure will produce chaos both in Washington and on Wall Street.

It is helpful that this bill raises revenue in a relatively undamaging way, by collecting it primarily from people who are not now paying their fair share of taxes. It is also helpful that it preserves for the average taxpayer the vastly greater tax cuts enacted last year. But those are not the main reasons for supporting the bill, for no tax measure is palatable.

Rather, I urge my colleagues to vote for this bill in order to cut the real tax level imposed on the economy by Government spending and to support the President's ability to lead us on a steady course of economic reform.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I rise in reluctant support of H.R. 4961. I say reluctant not only because there is never any satisfaction in raising taxes and casting an unpopular vote, but also because several of the bill's provisions are not good.

I dislike withholding on savings. Many people are evading taxes by failing to report income from interest and that I do not defend. Withholding unloads a broadside that mows down the innocent along with the guilty, and is an added burden to savings institutions. More important, in a nation which already saves too little, this is one more disincentive to save.

In this bill we pass up the opportunity to eliminate the abuse of business lunch deductions and instead go after the men and women who work in those restaurants.

I still have concerns as to what this bill will do to hospitals in rural areas like southern Illinois. But after going over this carefully with the staff of the House Ways and Means Committee I have become convinced that what has emerged is as good as can be secured to protect our hospitals and—even more important—senior citizens on medicare. I note that the senior citizens organizations are supporting the bill. There is the possibility that both our hospitals and our senior citizens will be helped appreciably. Also on the positive side, the measure closes some tax loopholes. And most important of all, it provides additional revenue. When the President is wrong I have not hesitated to oppose him, and when he is right I have the duty to support him. He is right in saying this proposal will reduce deficits and be a force for lower interest rates and more jobs. That is what the Nation needs; that is what southern Illinois needs.

If we do not pass it, deficits will grow and interest rates are likely to rise.

The job of a Member of Congress is to do what is best for the Nation, and his district, not what is the most popular. Judged by that standard, I really have no choice but to support the tax increase.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Speaker, I think I can say, without fear of contradiction, that there are few of us here today who approach the vote we will soon be taking on this revenue measure with any great sense of pleasure. This will be a most difficult vote, one that will not be made without much soul-searching and careful scrutiny. But when those of us who now occupy this body chose to run for the Congress, there were never any guarantees made that all of the votes we would be required to cast would be easy ones. Today confronts all of us with just such a set of circumstances.

With this in mind, I urge my colleagues to vote to adopt the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Our country faces some difficult times in the days ahead. Interest rates are still far too high to stimulate a truly healthy economic recovery. Many of our most critical industries are struggling for survival. Millions of our citizens sit idle, their lives shattered by economic conditions totally beyond their control. And if we fail to act responsibly today, we only increase the likelihood that the Federal Government will continue to run enormous deficits, unprecedented in their magnitude, amounting to some $400 to $500 billion over the next 3 years alone. Deficits of this size, coming at a time when the economy will hopefully be entering a period of reasonably strong growth, can only serve to put immense pressure on the capital markets, thus prolonging the existence of intolerably high interest rates.

There are those who would argue that we should reject this tax package, that no revenue measures are required, that an economic boom awaits just around the corner, holding out the promise of inflation-free economic

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growth. I know these individuals are well-intentioned, and possessed of the highest motives. But I cannot help but recall that those are the same words that were being uttered on the floor of the House just 1 year ago. Since that time we have had no increase in growth, except in the length of America's unemployment lines. We have had no rise in output, but we have experienced a surge in business failures of historic proportions. It is these painful circumstances that leave me skeptical of the claims being made by those who urge us to defeat this measure today.

I would not want to close without making a specific reference to several of the provisions contained within this measure that I believe would deserve our support, even without the lengthening shadow of massive budget deficits. I refer to those components of H.R. 4961 which make needed revisions in the depreciation schedules and the investment tax credit. This measure before us repeals the acceleration of the ACRS system for 1985 and 1986 and requires a basis adjustment for one-half of the investment tax credit before the ACRS depreciation allowances could be applied. The rationale for these changes is clear and compelling. Without these alterations in the Economic Recovery Tax Act of 1981, we will be perpetuating an unwarranted distortion in investment patterns, a distortion that in some areas presently allows more than a dollar in deductions for a dollar invested. By adopting the changes that are a part of H.R. 4961, we will insure that the combination of ACRS deductions and tax credits do not result in treatment more favorable than the expensing of equipment costs. This particular proposal makes both good fiscal sense and good economic sense.

I would also like to remind my colleagues of the provisions in this measure that authorize the extension of unemployment benefits to those in need. Some 10 percent of our work force is now jobless, a figure which represents the highest level of unemployment experienced by the United States in 40 years. Nearly 3 million Americans were without work throughout the entire year of 1981. Forty percent of the work force in the steel industry is on layoff.

These are numbers, Mr. Speaker, and they cannot adequately capture the agony and anguish that afflicts those without jobs in a society that values work. And this tragedy has been complicated by a sharp decline in the availability of publicly supported employment counseling, painfully diminishing a traditional source of assistance to those seeking guidance. The conference report on H.R. 4961 addresses this crisis by establishing an emergency program consisting of additional weeks of unemployment compensation to millions of jobless workers. Beginning on September 12 of this year, and running through the end of March 1983, as much as 10 additional weeks of benefits will be provided in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. In States which have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals or exceeds 3.5 percent, up to 8 additional weeks of benefits will be provided. An additional 6 weeks of benefits will be provided in all remaining States.

One unemployment office in the Washington metropolitan area, which a little over 1 year ago had 21 job advisers on their staff, has seen this number shrink to 7. This unfortunate situation, precipitated by last year's budget cuts, can only serve to extend the period of unemployment presently being experienced by countless numbers of our fellow citizens.

We all know, Mr. Speaker, that the only real solution for those without work lies in the creation of meaningful employment. But in the interim, we can at least attempt to provide some cushion against the pain of unemployment. This measure, H.R. 4961, contains that cushion.

Again, Mr. Speaker, I would urge my colleagues to lend their support to the passage of H.R. 4961. Reality compels its approval.

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Mr. CONABLE. Mr. Speaker, I yield 5 minutes to a valued member of the committee, the gentleman from Texas (Mr. Archer).

Mr. ARCHER. Mr. Speaker, we have heard from a number of our colleagues today for and against this bill. Some are opposed to the bill because they are opposed to any tax increase. Others would vote for any tax because of budget pressures, and still others are concerned about the politics of their action today. I leave those issues to others who wish to debate them.

What concerns me is the content of this bill. Before we vote we should try to understand what impacts will result and what this bill will do to the efficiency of our country.

No one—not even I, even though I have participated in the lengthy hours as a member of the conference committee during the last weekend—actually understands all the untoward results which will occur from the enactment of the specific provisions of this bill. I feel it is a minefield of future time bombs.

I do not have enough time to go through a bill of this magnitude and point out all its arcane features, but I do want to mention a few items.

In the pension area, the conference adopted provisions on which the Senate had held no hearings, and on which, to my knowledge, there were no hearings in the House. But the impact of this provision will severely touch every single private pension plan in the United States of America. Every one of the 600,000 plans, as a result of this bill, will have to be rewritten at a nonproductive cost of $2.5 billion; 530,000 are small pension plans of 100 people or less. They are operated by small businesses and small service corporations. It is now estimated that the result of our action in this bill will be the termination or the freezing of up to 50 percent of those plans. Some argue that we are going to hit only the top people in those small organizations, but those are not the people who will be hurt. They have other means of protecting their assets by seeking certain other tax shelters. When these plans are canceled or frozen it will directly impact on the workers, the employees within those organizations who will be less able to plan for the future.

This perhaps is the most damaging and unintended effect of this bill, but please understand that it is a part of this bill.

We have already heard about withholding on interest and dividends. It is estimated that the cost of administration to the private sector will be 50 cents for every dollar that is generated in revenue. That is a poor return in my opinion; but the IRS decided that they did not want to undertake the extra cost as a governmental function because it would increase the Federal deficit and increase Federal spending. So they have dumped it off on the private sector. In that way, it is not supposed to cost anybody anything. More paperwork, more lawyers, more professional people and consultants, but no real benefit to this country.

In the foreign tax area—mostly overlooked because it has a seductive appeal that if you tax corporations working abroad, some way or other that does not impact on us domestically so it is easy politically to do that.

Perhaps, but as a result of the provision that is in this bill, we will make our own domestic corporations noncompetitive overseas in the exploration and development of oil and gas outside of the OPEC countries. We will play right into the hands of OPEC, and we will cede that oil and gas to the Japanese and Europeans. Then if we have a worldwide shortage of oil at a later date, our companies will not control that supply of oil for the benefit of American consumer needs.

Under the completed contract accounting provision for construction industries across this country that have long term construction projects, this bill will require them to borrow the money to pay their taxes in advance before the contract is completed, and before they know whether they will have a profit or loss in the contract.

Now, what does this mean? This means that the Defense Department is going to have higher costs on all of its long term construction projects and it is tough enough to maintain a defense budget today to keep this country healthy and strong.

In the area of powerplants, it means that every one of us as consumers of electricity is going to have to pay more to build those powerplants, so that the contractor can pay his taxes in advance by borrowing the money and paying interest on it. We need to understand this in advance.

In the area of compliance, we are going to create another massive additional army of IRS agents to go across this country. Yes, we want people who legitimately owe taxes to pay their taxes, but believe me, there is a monstrous gray area in this bill and existing law that will be exploited at the expense of honest taxpayers if the wrong Commissioner gets control of the IRS with the new tools that are provided in this bill.

In the area of tax preferences for corporations, that sounds good, but we have no accurate idea of what the economic impact will be on the municipal bond market.

It is very fragile; yet this bill makes 15 percent of municipal bond interest taxable for the first time in the history of this country.

What is this going to do to the cost of building schools and other local projects? The answer is, "We don't know."

These and many other issues too long to mention are involved in this bill. We have no idea what impact they are going to have. We do know one thing. This bill has taken longer to draft than any other bill in recent history. It will provide for more IRS and Treasury regulations than perhaps we have ever seen from any tax bill in the history of this country.

The compliance costs are astronomical and I do not think we need that at this time.

We also need certainty in our tax code. It is not "certainty" when we pass a bill in 1981 urging capital investment and 1 year later we change all the rules.

We must have time for the people of this country to understand what the tax code does to make their decision with certainty, and we must strive for simplification. At a time when we see a thrust toward a flat tax for simplification, we leash the horses to the chariot to run 180 degrees in the opposite direction and create the most complex tax mechanism in the history of the United States of America.

If you believe that it is proper to raise taxes to close the deficit, it should be in the simplest and most efficient form, it should be fairly shared by everyone and with a certainty to the revenue estimates. This bill fails on all counts.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, as we consider the conference agreement on H.R. 4961, I want to go on record as standing adamantly opposed to this tax increase.

President Reagan, the other evening, painted a pretty good picture why we, as Members of Congress and as Americans, should support his proposals to increase taxes by $98.3 billion and cut spending by $17.2 billion over the next 3 years. The President was quick to point out to the American people that this revenue-raising proposal would be offset by the tax reductions enacted last year by Congress. This would be fine if the tax reductions enacted last year would have been geared for middle- and low-income people. Unfortunately, the tax reductions were meant, and have only helped, the wealthy and corporations. Ironically enough, this is just how the President wants to increase revenues—by taking away the tax breaks he assumed would spur the economy and would be vital to his economic recovery plan. The bottom line of all this for the average American taxpayer is still the same—nothing.

The President spoke of "savings," but the very programs he seeks to save money are the very programs which have suffered devastating budget cuts already. How far does the President want to go? How much does he think the American people can stand? Can we, in all good conscience, support a conference agreement which calls for a "savings" of $13.3 billion in medicare—the very program which helps our older Americans meet their hospital costs? To me, this does not represent a saving, but represents driving our senior citizens to ill-health and pushing adequate health care further from the realm of being obtainable.

If this is not enough, the President also wants to hold the elderly's property hostage and drive them further into the poorhouse. A small, simple provision making cuts in the medicaid program of $1.1 billion would set a lien on property of those poor, elderly persons owing the medicaid system money. States, threatened by new Federal sanctions if money is not collected, would become the "Snidely Whipflashes" of foreclosing on those, who through no fault of their own, are having difficulty in meeting their payments. Now, we all want to see both the State and Federal Government collect revenue rightly due, but those older Americans who had to rely on the medicaid system should not be driven further into the poorhouse. There will be no "Dudley Doright" to help the elderly. There will be no ray of hope for those who desparately need medical attention.

It is also not clear to me how a President, who is insistent upon getting the Federal Government out of peoples' lives and reducing needless paperwork, can support a provision to enact a withholding tax on interest and dividends. We all are aware that such a provision will impose substantial new economic and paperwork burdens on financial institutions, businesses, and taxpayers and the U.S. Government. This is a classic example of "economic smoke screening" because the revenue windfall to the U.S. Government is heavily front loaded. The bulk of the revenue gain—about $2 billion—comes only in the first year when the Government receives its tax revenues earlier than it normally would. After the first year, there is very little revenue difference even though the economic and paperwork burden for taxpayers, businesses, and financial institutions continues at the same level. In other words, this is a one-shot deal of raising revenues while other provisions will continue over the 3-year period. I, therefore, question where the President is going to wave his magic wand next year after we have already been hit with the withholding tax on interest and dividends.

The President has also thrown us, who wants to help the unemployed, a bone to entice us into voting for his tax increase package. That bone, and I might add that bone has no meat on it, is a provision to extend unemployment benefits in States hardest hit by his economic policies. If we really want to help the unemployed, then let us address it in a separate piece of legislation.

Can President Reagan honestly tell the American people that he really wants to extend unemployment benefits after his fiscal year 1983 budget request and his approval of the first budget resolution passed earlier by the Congress provided no funding for extended unemployment benefits? Can President Reagan ignore the fact that since January 1981, when he took office, to July 1982, the unemployment rate increased from 7.4 to 9.8 percent—the highest since 1941? These are very serious questions we need to address, not in tax legislation, but in logical, responsible legislation to effectively deal with our unemployed. Let me also stress that this unemployment benefits "bone" is less enticing when you consider the fact that the President turns around and taxes the very same unemployment benefit he is giving out-of-work Americans. In the conference agreement, the thresholds limiting the inclusion of unemployment benefits in adjusted gross income will be reduced from $20,000 to

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$12,000 for a single taxpayer and from $25,000 to $18,000 for a married taxpayer filing jointly. In other words, the President wants to give the unemployed 10 extra weeks of benefits and then tax them on those benefits. This may help the unemployed now, but come the end of the year, that unemployed person is going to end up with nothing.

If we really want to do something meaningful, then let us talk about making corporations accountable for their fair share of the tax burden—not those who can least afford it. A recent independent tax study concluded, very clearly, that Federal taxes paid by 514 largest U.S. corporations has declined from an average of 22.7 percent in 1980 to 20.5 percent in 1981. Why? Because President Reagan wanted and the Congress gave him reductions in taxes last year. It, therefore, makes no sense to me why the President ever proposed cutting these corporate taxes only to turn around in the next year and urge that we support a bill to reverse the corporate tax reductions he so desperately needed last year as part of the Republican economic recovery plan.

Mr. Speaker, the whole idea of increasing taxes at a time when the American people are already overburdened with taxes, depressed about the economy, and tired of the same old rhetoric from Washington is absurd. To recall Vice President Bush's phrase, it is nothing but "voodoo economics." We need sound economic policies, not a made-for-television melodrama.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. Fountain).

Mr. FOUNTAIN. Mr. Speaker, I rise in strong opposition to this unconstitutional Senate Finance Committee tax increase bill.

Mr. Speaker, quite frankly, this bill does not measure up.

If fairness and equity are to play a part in legislating tax increases, then this bill should be defeated.

And if we are to follow the Constitution of the United States of America, that is if this House is to continue to keep its constitutionally mandated duty to initiate tax legislation, then this bill must be defeated. It is a genuine travesty, a black mark on this House.

Let us just take a look at a few of the items contained in this bill.

The double tax on tobacco. Deductions for overseas bribes for large corporations. The paperwork nightmare of forcing institutions to withhold small investors' dividends and interest. The continuation of the three-martini lunch for fat-cat businessmen while sticking it to the waiters and waitresses on the tips they need to survive. And the novel economic theory that raising taxes during a recession is a good idea.

The Senate tax bill encompasses all this and a lot more. And let us be absolutely clear on what this bill is. Whatever you choose to call it, tax reform or revenue enhancement, this Senate bill is a tax increase—an increase which is going to take a lot of money out of the pocket of the average working American and give it to the Federal Government to spend.

And remember, the people out there watching us today know that this is a tax increase bill. In fact, a poll taken by the Washington Post right after Mr. Reagan's Monday night performance shows that a clear majority of Americans oppose this tax increase bill.

Furthermore, that opposition is amplified by a diverse cross section of American groups and organizations which flatly oppose the tax increase bill.

From the National Association of Letter Carriers and the Confectionery and Tobacco Workers Union to the U.S. Chamber of Commerce and the National Federation of Independent Businesses, the opinion is a resounding "No" to this tax increase bill.

Indeed, the National Taxpayers Union estimates that if this bill is passed, the average American household will pay an additional $2,500 in taxes by 1987. Do we really want to adopt the largest peacetime tax increase in our Nation's history here today? And over the objection of the majority of the American people, do we want to adopt this particular tax package which is unfair to some and unjust to others? I think not.

Mr. Speaker, I come from a State and district which is very familiar with the financial benefits each and every level of Government reaps from tobacco; and I can tell you that this double tobacco tax is liable to kill the goose that lays the golden eggs.

Apart from the fact that Government at all levels receives billions and billions of dollars annually from tobacco already, this double tobacco tax is an unfair burden to thrust upon the already hard-pressed average working man and woman of America.

To begin with, the double tobacco tax is regressive in that it places an even greater load on the backs of the low- and middle-income taxpayers. And for low-income smokers, the double tobacco tax will more than wipe out the personal income tax reduction granted by this House only last year.

Furthermore, the double tobacco tax will erode the revenue base of State and local governments which currently derive a significant amount of revenue from cigarette taxes. Indeed, the anticipated reduction in sales, if this ill-advised bill should pass, will be in excess of one-third of a billion dollars for State and local governments. What this bill will do is to further preempt the States' right to increase their own needed excise taxes.

In fact, in the distinguished Speaker's home State of Massachusetts, annual basic income would decline by nearly $20 million and hundreds of tobacco-related jobs in that State would be lost.

In the home State of the distinguished minority leader, Illinois, total decline in annual basic income could be in excess of $30 million, with a loss of well over 400 badly needed jobs.

In fact, at a time of staggering unemployment, this one aspect of the tax increase bill—the double tax on tobacco—could jeopardize over 11,500 needed jobs nationwide. Can we afford to put that many more people out of work with this unfair tax increase bill?

Finally, let me say again that the manner in which this tax increase bill has been handled is highly questionable.

In a bout of political one-upmanship, the House has seen fit to cede its constitutional right and duty to initiate tax legislation.

Let me remind the Members that the Ways and Means Committee held no hearings on this tax increase bill. The House itself has had no prior opportunity to debate or even discuss this issue; and likewise in the Senate, there was neither debate nor were there hearings on this bill. The tax increase bill has simply been railroaded through by the Senate Finance Committee and the House has acquiesced.

Now today, we are expected to vote on a 723-page conference report on a 758-page Senate Finance Committee tax increase bill after only 4 hours of debate—debate which has been almost entirely monopolized by the members of the House conference committee. And we are operating under a closed rule to boot.

In fact, what we really have here today is a conference committee discussion of a tax bill, and the other 400-odd Members of the House are apparently here merely to provide an audience for the conference committee.

I ask the Members: Is this a responsible way to conduct business on tax increase legislation? I don't think so. This very procedure alone is reason enough to oppose the tax increase bill.

And the fact that the tax increase bill presently under consideration is inequitable, and in many places uninterpretable, only adds to my strong opposition to a tax increase which is unfair to the average working American.

I urge, in the strongest terms possible, the defeat of this ill-advised tax increase bill. It is unfair and it may well be unconstitutional.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I am for the conference report, and here is why: High interest rates, as the gentleman from Ohio (Mr. WYLIE) so well pointed out a few minutes ago, are ruining this country and causing the recession. High interest rates are due in part to out-year deficits, and in part to overtight Federal Reserve monetary policy.

We are doing a partial healing of the first cause today. We are going to reduce the 1983 deficit from about $170 billion to about $150 billion. And while that reduction is not much, it is a whole lot better than doing nothing about it.

But that still leaves the problem of the Federal Reserve's part in high interest rates, and there the cause of high interest rates is in large part an overzealous, too-tight monetary policy that could not care less about the level of interest rates, but instead focuses entirely on the monetary aggregates.

We must induce the Federal Reserve to take account of interest rates. That is the job ahead of us, as is getting into place a sensible energy policy, a sensible incomes policy, a sensible credit conservation policy, and a sensible industrialization policy.

The President wrote me—as he did many of the Members—asking for our support, and I am pleased to say—and this undoubtedly will surprise him, as it does me—that I am with him on this one. I welcome his walking the right track. I urge him to enlarge his flirtation with commonsense to a wholehearted embrace. And if he does, there is no limit to the good he can do for this country.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Connecticut.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 20, 1982, TO FILE REPORT ON H.R. 6598

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to have until midnight tomorrow, August 20, 1982, to file its report on H.R. 6598.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

□ 1430

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference report and ask my colleagues to support the conference report by their votes.

I keep asking myself, if we do not pass this tax bill and savings bill, what do we do here in Congress? Where do we go? There is not an answer for it. We have to pass the tax bill.

Mr. Speaker, in my opinion we did go too far in the tax cutting package of 1981 and, yes, I supported the tax cutting package. We left too many tax loopholes and were too generous in some areas.

Now we need to tighten up on what we did last year and get some control on some of these reductions. We need to get more money back into the Treasury.

You know, we are kind of kidding ourselves if we think that interest rates will continue to come down if we do not pass this tax bill. We have to pass it.

I point out that of the capital market funds that we have in this country, that is the savings and loan firms, the banks, the pension funds, money markets, I am told that 60 percent of this money will be borrowed by the Federal Government either directly or indirectly in 1982; so naturally, interest rates are going to stay up if the Federal Government does not get out of borrowing so much money and bring spending under control.

Now, to my conservative friends who sit in the middle of the aisle here in the House Chamber, let me point out that there is a savings of $17.5 billion over a 3-year period and also the taxes certainly will bring money into the Treasury.

So I say, there comes a time when we have to make a tough vote and the time is now.

Now, sure, there are many reasons why I can think of not voting for the bill, voting against the bill. I think the cigarette tax is a little too high. I do not like the contracting and the withholding provisions; but I am going to vote for the bill.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the distinguished minority whip, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to first say what a pleasure it has been for a change to be able to work on a piece of legislation in a bipartisan manner. I hope maybe we can do it again sometime soon.

It is funny how some of the arguments that used to not be too appealing make more sense when they are speaking on the same side that you are on.

Let me make just three brief points, though, because I do have limited time.

Just remember what is in this bill. No. 1, spending cuts. We said we wanted spending cuts and we had them in the budget resolution that we passed. It is in here. The tax bill is in here, tax increases and tax reform.

A lot of us on both sides of the aisle for years have been saying, "Hey, we need to close up some of these unintended benefits and to have a tax reform." Well, this is it.

Remember that there is unemployment compensation extension of benefits in here. Some of us will say, oh, we will get that later. Well, are you sure? Time is running out and nothing is for certain any more.

To me one of the main reasons why I am speaking for this thing is, look, we committed for this when we passed the budget resolution. Those of us who voted for domestic spending and those of us who voted for military spending, you have got to pay the maker. You have got to pay for it. This is it. Now is the time to do it.

Now, one final point. What is the option? If we do not pass this bill today, we are not through with this issue. It will be back tomorrow or next week or in September, and let me remind you on both sides of the issue, it will probably be a worse bill.

Mr. Speaker, I urge my colleagues to vote for this bill. If we do this, I believe it will have a favorable economic impact and we will see a continued drop in interest rates and a recovery of the economy of this country. The American people want very desperately for us for a change to do what is needed in a bipartisan manner.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Speaker, I rise today in support of this bill. In the 6 years that I have been here in Congress, I have never voted for a tax increase, but I think it is the responsible thing to do, today.

The gentleman from Texas (Mr. ARCHER) pointed out that there were time bombs ticking away in this bill, but there is a bigger time bomb ticking away if we do not pass this bill; that is the tremendous deficit overhanging not only us today, but the next generation.

Mr. Speaker, in the last 25 years we have accumulated a debt of a trillion dollars. If we did not have that debt and were not having to pay interest of over a hundred billion dollars, we would almost have a balanced budget today and we would not have these problems.

My fear, Mr. Speaker, is that I have a 7-year-old son. Twenty-five years from now, will he say, "Dad, why did your generation do this to us? We can no longer afford to have the things that you had because of the tremendous tax burden that we have, just paying the debt that you created. Why didn't you do something about it?"

We are still going to have tremendous deficits even if we pass this legislation today, but it will help. It is a start in the right direction for fiscal responsibility.

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I urge my colleagues who have voted for cuts, just as I have voted for cuts, let us now also look at the other side of the ledger, let us reduce this tremendous deficit that we have. Because keep in mind, this legislation only reclaims one-fourth of the tax increase that was passed last year.

□ 1440

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the distinguished gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Well, Mr. Speaker, here we go again. This bill has dominated our conversation for more than 2 weeks. We have debated it for nearly 5 hours today, and what do we talk about? We talk about shelters, grease payments, business lunches.

Mr. Speaker, the bottom line is people, people who are trying to get ahead, people who are trying to improve their standard of living and save for their retirement or to send their children to college. And they, Mr. Speaker, are the people who will pay this bill. They are going to have to come up with $200 billion in new taxes over the next 5 years.

Now, this bill does not affect the average man and woman in this country, Mr. Speaker, unless they use the telephone, or pay premiums for medical insurance, or smoke, or ride in airplanes, or have a savings account, or unless they work for, invest in, or buy something from, a business. But if they fall into any one of those categories, Mr. Speaker, then they are going to pay the bill created by this massive document that nobody has read.

Mr. Speaker, let me say this, finally, to my fellow Republicans: I love and admire this President. I was his campaign manager in the State of Oklahoma. I respect him and am loyal to him. But, Mr. Speaker, how far does loyalty go?

Every single one of us in this Chamber has been elected by men and women who put their trust in us to represent them and their interests. No one of us should ever vote for any bill with this kind of impact out of loyalty to anybody except the people we represent.

Mr. CONABLE. Mr. Speaker, may I inquire, has any time been yielded back?

The SPEAKER pro tempore (Mr. MURTHA). One minute has been yielded back.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, the gentleman from Mississippi (Mr. LOTT) was saying how pleasant it was to work on a bipartisan basis. I was beginning to think I would end my career in the House this coming year without ever having had the opportunity to support this President on a major issue. But lo and behold, here is an opportunity.

I remember not too long ago, about 2 years ago, when I was one of the token Democrats who was invited out to the Hoover Institute in California for one of those discussions that they have. I remember thinking about how easy it was to agree with people like JOHN RHODES and the gentleman from Illinois (Mr. MCCLORY) and others, in that kind of setting.

The thread that went through our discussions at the Hoover Institute on a whole host of issues was the same thread that is now weaving through the arguments in favor of this bill, and it is called commonsense.

Now, what happens is that we can go away from here to the Hoover Institute or other places and, as conservatives and liberals, Northerners and Southerners, Republicans and Democrats, we can agree on things and say, "Gee, that is commonsense." But we cannot get it done here in this body when we come back. This body has been plagued by paralysis, as we all know, for a long time. We could not close tax loopholes; this bill does it. We could not do anything about oil company loopholes; this bill does it. We could not do anything about a code that gives more incentive to do mergers and acquisitions than to the semiconductor industry; this bill does it. It begins to get us going in the right direction.

So lo and behold, we break out of the paralysis. This conference committee did a great job, an unbelievable job, I think. So let us seize the moment you know, it is likely that tomorrow we will be right back in that paralyzed state, unable to get anything significant done. Oh, we will all have our prescriptions for fixing the economy. But there will not be a majority for anything.

This bill before us is one we can pass. The economy is strangling and this bill represents our only chance to loosen the noose, ever so slightly.

For my own State, this bill means an end to the confusion that has plagued our insurance industry and thrown its future into a cloud.

We need those insurance jobs. We need that industry to be competitive. This bill sets the stage for it.

And, of course, the bill means extended unemployment benefits for lots of people who are on the economic ropes.

Let us pass it. Let us be responsible.

There are issues that come before us that do not have a great ideological framework to them; they are just commonsense, and it is the responsible, reasonable, sensitive thing for us to do, without all sorts of mea culpas about who voted for the tax bill and who did not. Let us support this excellent bill.

Mr. CONABLE. Mr. Speaker, I now yield such time as he may consume to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Speaker, I rise in oposition to the conference report on H.R. 4961, the Miscellaneous Revenue Act.

The bill contains some favorable provisions, notably the extension of unemployment compensation, the assurance that a VHF television station will be allocated to New Jersey, and the designation of the New Jersey public utilities gross receipts tax as a State-collected tax, which would correct the distribution of general revenue sharing within the State.

I have concluded, however, that this tax bill as a whole is too high a price to pay for these benefits. First of all, it is extremely questionable whether a tax increase during this period of recession would have a positive effect on the deficit. An increase in taxes is likely to further retard the Nation's economic recovery by depressing consumer spending and business investment, leading to further declines in Federal revenues and a worsening of the deficit.

In addition, many of the specific tax increases called for by this bill will have the heaviest impact on the middle-income taxpayers who are only now beginning to feel the effects of the tax cut we passed last year. The requirement that taxes be withheld on interest and dividend income is the most objectionable provision of this bill, and one whose cost far outweighs any additional revenue the Government will receive. The New Jersey Savings League has calculated that in my State alone it will cost thrift institutions $18 million to implement withholding. If the withholding requirement is combined with the existing requirement that these institutions maintain a reserve of 3 percent of their assets, thrifts will lose over $500 million in additional savings they might otherwise have taken in. These funds therefore will not be available for home mortgage lending and other productive investments. In view of the severe slump in the housing industry, it is imperative that we not impose this burden on the industry that provides essential financing.

Withholding will also be costly to savers. Only last year, we passed legislation to encourage saving as a means of developing the Nation's capital resources for economic recovery and to lower interest rates. Now we are contemplating a measure that will discourage taxpayers from placing their money in savings accounts by imposing withholding on the earnings. Withholding will result in lower returns to savers because part of the interest that would otherwise have been compounded will have been forwarded to the Government. In addition, the exemptions that have been provided for the elderly and for those with low incomes, while necessary, will further complicate the administration of withholding and the filing of tax returns on interest income. I have already been contacted by elderly constituents unsure of the income used to determine their qualification for the exemption and confused as to how withholding will affect their filing of estimated quarterly tax returns.

Other provisions of the bill, such as the increased excise taxes on cigarettes and telephone use, the increase in the floor for the medical expense deduction, and the increase in airline taxes, will also negatively affect middle-income people who are barely holding their own as a result of current economic conditions. This bill would reverse the course we decided on last year to cut taxes in order to reduce the share of the Nations' productivity taken by the Federal Government. I must therefore oppose the conference report.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in support of H.R. 4961, a bill consistent with the requirements of the first budget resolution to increase revenues in fiscal year 1983 by $21 billion.

The moment of truth is at hand, and the inevitability of the decision that lies before us should not come as a surprise to the Members.

There will be no miracle cures, no elixirs, but there must be responsible action to keep us on a course toward stable economic recovery.

Last year, a new administration pledged to take courageous and bold steps to give us a new beginning as we turned from the failed economic policies of the past, and Congress concurred.

First, on Federal spending, this Congress went against conventional wisdom of the past by cutting the growth of the Federal budget by more than $35 billion in 1981. We rewrote the 25-year trend of ever-spiraling Government spending with astonishing success.

Second, we accomplished an historic redirection of tax policy, including a 3-year, 25-percent reduction in personal income taxes, incentives for savings and IRA retirement plans, a reduction of the marriage penalty and, of particular importance, tax incentives to stimulate business and industry modernization.

But we went too far. Rather than a clean and lean, aerodynamically designed and efficient model—which we originally promised—we passed a revenue "guzzler" that was all fins and flash—a "something-for-everyone" model.

During the debate on that bill, I spoke in support but observed that the cost of the numerous "add-ons" would come back to haunt us. "With the passage of the tax bill, the Congress brings upon itself a solemn obligation to sustain the budget restraint and exercise even sterner budget discipine than was required this year. Unless tax policy is reconciled by this Congress with spending decisions, there is no place to hide. We have made an open commitment to the American people for which we should be held accountable."

One might observe that this overly generous tax cut did have at least one salutory effect: It served to put the brakes on ambitious spending programs and has been a powerful incentive to keep Members from the temptation to stray from the requirements of the Omnibus Budget Act of 1982.

However, the anticipated recovery has not yet taken place. Deficit estimates continue to grow and interest rates have remained intractable for too long. Congress and the administration must now squarely face the responsibility to raise additional revenues to rein in the mushrooming deficits.

I would suggest that today's vote on the tax bill is a test of our commitment to the American people. Last year, we kept our commitment by reversing the course of Government and reducing spending and tax growth. This year, we stayed on course by adopting a budget resolution that requires further limits on spending and some additional revenues.

Now is the time to once again challenge conventional wisdom as we did last year when we reduced the growth of Government spending and voted the largest tax cut in history. Now is the time to keep our commitment to the American people; a commitment to keep our economy on a course toward steady, stable, and lasting economic recovery.

To those who are squeamish about going against the dictum, "you can't raise taxes in an election year," I say we have no alternative.

The American people do not want politics as usual. They want leadership. They want leadership that will bring them lower deficits, lower interest rates, and they want leaders who will be straightforward with them.

As I see it, there are three functions of an elected Member of Congress—the people's house. Those functions are legislator, friend to his constituents, and educator. Please note: Being an educator and leader does not mean public relations. I think people understand and can discern the difference. And this is an issue that clearly requires us to help educate the public on its merits.

I voted against sending this bill to conference because I believed, and I still believe, that the House should have reserved its historic responsibility for tax legislation. If so, I believe we might have had a better bill today.

I also circulated a "Dear Colleague" letter to the Members, which gathered more than 40 signatures, urging the conferees to reject the provisions for withholding taxes on interest and dividends. I have exerted every influence possible on the conference and supported a rule calling for a separate vote on the withholding provision. Clearly, this is the most objectionable portion of the bill, but we lost. On another issue, our objections did result in a compromise on the proposed increase of the threshold for medical deductions.

There are other parts of the bill that would deserve support in and of themselves, such as the provisions to genuinely reform the leasing of corporate tax breaks. The bill also strengthens the tax law relating to the payment of a minimum tax by corporations and individuals.

But we must look at this issue from the larger perspective. We are considering today a tax bill which has been called the greatest tax increase in history, the greatest tax reform in history, and nearly everything in between. It is probably all and none of these. Whatever it is, it is vitally necessary to our current economic situation and vitally necessary to our economic recovery.

I do not use the term "economic recovery" lightly. I am not a purist; I am a realist who can clearly see that the case has been made. If there be any here today who, after a week of "friendly persuasion," can still be open to a few cogent facts, let me take note of them.

Last year, we reduced Federal spending by $130 billion over 3 years. This year, we passed a budget resolution calling for an additional $280 billion in savings over 3 years. We went on to order $27.2 billion in savings so far this year. Yesterday, we passed $13.3 billion of that savings and today we can pass an additional $17.5 billion in savings—which includes about $2 billion saved from interest on the national debt. This is a portion of the tax bill not to be ignored. It is, in my judgment, one of the most difficult parts of the bill. But it is not the size of the savings which has put its passage in jeopardy. It is the so-called revenue enhancement, which you and I and the American people call taxes, that has caused the furor.

But what do the tax increases really mean? Last year, we passed a $402 billion tax cut. This year, we propose to change that by raising $98.5 billion: $31.5 billion through compliance, $48.3 billion in closing loopholes (some of which my own constituents have admitted are too generous—and that from those who have benefited from our Federal largesse), and $18.7 billion in new taxes on businesses and individuals (8 percent of which are sunseted out in the next few years). What this really means is that we preserve at least 76 percent of last year's tax cut and, if you consider compliance measures as nontax increases, you can even go so far as to say we preserve 83 percent of last year's tax cut.

And we preserve all of the individual tax cut enacted as the cornerstone of the promised tax cut last year.

I know that many of my colleagues on my side of the aisle are still undecided. I noted earlier my own belief that we have an obligation to lead and educate. What we cannot do is fall prey to a rigid mindset which denies basic economic reality and leads us down a road which ignores basic facts. We are still reducing the level of Government spending; we are preserving the individual tax cut, and we do preserve most of the tax cut from last year.

My friends, the inevitability and necessity of raising revenues is before us. There will never be a tax package anywhere, anytime, on which each of us can agree in every detail. To govern, we must have a consensus; this bill is, for the present, the only prospect for consensus. I urge your support.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, I rise in support of this imperfect bill, but I address those who plan to vote "no." There are many reasons to vote "no": procedural, practical, particular, and political. But when you make the easy no vote remember that you have to go home and report to your people.

Just go back home and tell your people that you voted "no," not to close some $40 billion in loopholes for big business.

It is all right to vote "no." Just go back and tell your people that you voted not to require the freeloaders who pay nothing to pay their fair share of taxes.

It is all right to vote "no." Just go back and tell your people that when faced with the biggest deficits in American economic history, you voted to do nothing.

It is all right to vote "no." Just go back and tell your people that after you passed a budget resolution with 3-to-1 spending cuts over tax increases, and after having interest rates go down in the last 6 weeks and the economic recovery begin to pick up, that you decided that you were just kidding and the budget was just a joke.

Vote "no" and then go back and tell the people back home that although you believe in a strong military defense, you are just not willing to pay for it.

Vote "no" and then go back and tell the American people that you are tough on Federal spending, yet you turned down a chance to save some $17 billion in spending cuts.

Vote "no" and then go back and tell the people the truth: political courage is rare and very painful.

I ask you to vote "yes" and go back and tell the folks that it was a vote to reduce Federal spending, to lower the deficit, to continue interest rates down and to get people working again.

Political courage is rare, but it is alive in this House today.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, the bill before us presents a difficult decision for many in this Chamber, including myself.

Many elements in this bill I do not like, and I am sure others do not like. There are many provisions that should probably be included that are not. But I am convinced that it is the only viable option we have to send a clear and unmistakable signal to the financial markets of this country and to the world that the Congress is serious, deadly serious, about reducing the Federal deficit, lowering interest rates, and putting Americans back to work.

□ 1450

There are no magic formulas or instant solutions to the problems that have been building for three to four decades as far as our economy is concerned. This is not an instant solution either, it is not magic, but it is an important step, and I am convinced that we must also move ahead with spending restraints and couple them with measures like this, and make sure that everyone pays their fair share in taxes, no more and no less.

This legislation closes some tax loopholes and closing a loophole is not a tax increase, it is tax equity. This measure does provide for a minimum tax, and these provisions will make sure that everyone contributes their fair share in taxes regardless of the number of accountants and tax attorneys they can afford to hire.

This is a difficult decision, but all of us have a responsibility to vote for this bill, not because it will help out the President or one party or the other, but because it is in the best interests of America.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, they say pain brings character, and if that is true, I am a full-fledged Eagle Scout this morning with a chest full of merit badges, because this is the most painful decision I have had to make since I have been here.

I believe in supply-side economics. I believe that if we cut the marginal rates on personal income taxes that behavior modification will set in and we will produce more, save more, and private sector jobs will grow, but there is a time factor involved.

I have been very disappointed that the financial markets have not reacted as promptly as I had wanted them to. I think they will react. I think they will yield to supply-side economics, but meantime there is a problem of perceptions, and I think the people on Wall Street that set interest rates deal in perceptions, and they see us here in Washington, with $140 billion or $150 billion deficits and they want to know what we are going to do about it. Their commitment to supply-side economics is less fervent than my own.

I suppose I am economically impatient, but I am unwilling to sit here passively and do nothing. We might be able to wait, but 10 million unemployed cannot wait, and a $150 billion deficit is staring at us with bloodshot eyes. I am unwilling to just stare back or to try and fight that deficit from Mount Olympus with a rolled-up copy of the Wall Street Journal. Once we convince the financial markets that we are serious about attacking the deficit—through spending cuts and, yes, some tax increases as well, interest rates should respond. I am willing to take that chance in support of my President.

Therefore, I will support, painfully and reluctantly, the conference report.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982.

In the best of all possible worlds, this would not be the measure I would prefer. This is not, however, from my perspective, the best of all possible worlds. We have a conservative Republican administration. We have a conservative Republican Senate. We have a House which, in matters of budget and taxes over the last 18 months, has had a working administration majority.

For the administration, legislative victory has followed legislative victory. This has meant that, in the last session, Congress reduced taxes by more than $750 billion over 5 years, while it embarked on a military spending program of more than $1.6 trillion over the same period. For the administration and its supporters, it has been, if not the best of all possible worlds, certainly a better world for them than for those who opposed them.

Congress has gone to the well for the administration; it is now coming up dry. Despite administration promises to the contrary, the number of unemployed has risen from 8 million in January 1981 to 10.8 million in July 1982—a 35 percent increase. Tax reductions, it was argued, would aid small business. The numbers say otherwise. In the first 7 months of 1982, nearly 2,000 businesses failed each month. In 1980, the last year of the Carter administration, the average was 978 per month.

The annual growth rate of the gross national product was 7.9 percent when the Reagan administration took office in the first quarter of 1981. In the second quarter of 1982, it stood at 1.7 percent. In one of the most dismal indicators of all for those of us from western Pennsylvania, steel production stands at 44 percent of capacity—the lowest on record.

I opposed the administration's tax and budget bills last year not simply because they were fiscally unsound, but because the administration's proposals lacked any notion of social justice. That opposition, of course, had a partisan nature, as well it should. The views of an urban Democrat and a conservative Republican administration rarely coincide.

This opposition of principle should not be reduced to a strategy based principally on opposition. For those who oppose this tax measure with an eye toward electoral gain in November, I would commend the observation of Governor Adlai Stevenson:

> More important than winning the election is governing the nation. That is the test of a political party—the acid, final test.

The measure we consider today is indeed our acid test. I strongly object to a number of provisions, as do most Members of the House, in one manner or another. I must commend the conferees, however, for extending the time period for unemployment benefits. I regret that the benefits were not extended for a longer period of time. This tax measure is before us because the economic policies of this administration have failed. We, as responsible Members of Congress, must address that issue. The large number of unemployed individuals in the country today are there because the administration has failed them. Simple justice dictates that we address their situation in a fair manner. And Mr. Speaker, a 10-week extension is simply not fair.

We, in Congress, will be judged by what we fail to do as much as by what we do. Failure to enact a responsible revenue measure at this time, by this Congress, would be irresponsible. Congress assisted in creating this fiscal fiasco. It is our responsibility to find a way out. By offering this measure, the administration has, to its credit, admitted that the economic program it so successfully sold to Congress has been a failure—an observation I have made more than a few times in recent months. A vote against this measure, flawed though this bill may be, would be a vote to sustain the economic failure achieved thus far.

I urge a "yes" vote on the Tax Equity and Responsibility Act of 1982.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Peyser).

Mr. PEYSER. Mr. Speaker, it has been said today on the floor that we should pass this bill to help all Americans, and I wonder what Americans we are helping. The elderly? The students of this country? The unemployed? The middle income?

We are helping none of them. We are hurting them in this billl, and there is no denying it. Mr. Speaker, in spite of all the nice letters and the telephone calls from the White House, from the President himself, I hope that particularly my friends on the Democratic side remember that just 1 week ago, the President was calling us jackasses. I am convinced that we will be if we go along with this bill, because this bill is going to do nothing but hurt the very people whom we should be helping.

I hope we defeat this measure.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Speaker, I believe the Members should vote "yes" for three reasons:

First, as one who suported last year's tax cut, this bill does not in any way violate the individual rate reductions in last year's tax cut.

Second, it does help to alleviate the deficit problem, which will in turn help to reduce interest rates; thus reducing the unemployement which has thrown millions of Americans out of work, including thousands of aircraft workers in Wichita.

Third, defeat of the tax bill will insure bigger cuts in social security, bigger cuts in veterans' pensions. While I am not so bold to say that a vote against this bill is clearly a vote for social security cuts, the fact of the matter is, because of this Congress reluctance to control the growth of the defense budget, our elderly citizens may well suffer if this bill is not passed, because the budget pressures will inevitably lead to massive and unwise cuts in social security pensions and veterans' payments.

Churchill said:

> Sometimes we have to do more than our best * * * sometimes we have to do what is required.

I think we need to heed Mr. Churchill's advice, do what is required for America, and pass this bill.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. Foglietta).

Mr. FOGLIETTA. Mr. Speaker, 1 year ago the President and his lieutenants pushed through this Congress the largest single tax cut in history. Today he is attempting to push through the largest single tax increase in history.

Today's vote is a product of last years mistakes. No business in America could have convinced its stockholders that you could drastically cut revenues, increase expenditures, and still come out in the black. No group of stockholders would have voted for such a program. But that is exactly what this Congress did.

Monday night the President went on national television to endorse this tax package. In effect, he was saying to the American people, "My program is not working." Clearly, he is right.

I opposed the Reagan program last year. I continue to oppose it. It would be simple, and probably easier, to let the administration lie in the mess it has made of the economy. But that would only hurt our Nation, and the people who are already at the end of their economic rope.

This bill does nothing to address the Federal excesses of wasteful, hyperinflated defense spending; of pork barrel projects; or of undeserved tax advantages that help the wrong people, and ignore the ones who need a break. But for all those failing, it takes a major step toward reducing a crippling deficit—a deficit that threatens every program we hold dear, that threatens any hope of economic recovery, and that jeopardizes the economic foundation of our Nation.

It reforms and reduces the tax-loss-leasing provision, oil company write offs for overseas drilling, and cuts back the ridiculous tax breaks given big business last year.

This bill extends for an additional 10 weeks desperately needed unemployment benefits, something that we could not, in good conscience, deny to the 1 out of every 10 Americans presently unemployed.

I am not happy with the 1.3-percent medicare tax, which is undeserved and unfair. Nor am I happy with other cuts in benefits.

Too few Americans have been told that this is not a personal income tax bill. The popular misconception exists that we are raising the average American's income taxes. We are not, and that must be made clear.

This bill closes loopholes that we have been trying to close for years. Loopholes that should never have existed.

Mr. Speaker, I believe that a quote from the Philadelphia Enquirer's editorial of August 18 is appropriate. This editorial says:

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> Defeat of this tax bill would commit the country to a course of combatting budget deficits entirely through spending cuts—and thus raise an ominous new threat to the future of basic social welfare, especially social security.
>
> There are two reasons to vote against this bill. One is to commit the country to a fiscal course of supply side extremism that is destined to savage the masses for the benefit of the prosperous. The other is to seek quick political popularity by parading nominal opposition to tax increases at the cost of irresponsibility.

No matter the convenience or expediency of voting "no," the right choice, the responsible choice, is clear.

We must put aside our differences on how we got to this point and why. There is no room for recrimination, or grandstanding for the home audience. The national interest is the issue here, and the national interest demands that we vote "aye" and pass this bill.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I bring two straightforward messages today. First, the tax and budget policies of this administration have an uncanny and dangerous similarity to the Republican economic policies preceding the Great Depression. Second, we are on this economic track in part due to the collapse of Democratic leadership in the House of Representatives.

We all know what this Congress and the administration have done. Last year it passed a tax cut which only decreased the actual tax burden for the wealthy. Now, it is attempting to pass the largest peacetime tax increase in history. This increase adds new tax burdens to the middle and lower income Americans.

But I must remind you that these policies run parallel to Republican economic policies in the 1920's and early 1930's. In 1925, under President Coolidge, Treasury Secretary Andrew Mellon steered a tax cut through the Congress which helped mostly millionaires. On top of that, he handed out $3.5 billion in tax credits and refunds to the wealthy during his 8 years in office.

Mellon operated on the trickle down economic theory. If you make the rich rich enough, they will invest, save, and bring prosperity to the rest of the population, said the theory. That theory has been renamed today. We now call it supply side economics.

Coolidge and Mellon achieved the supply sider's dream. By the time they were finished, the wealthiest 60,000 Americans saved as much as the other 25 million. Just 2.3 percent of the population were responsible for two-third's of the country's savings.

And what happened? Working American families did not have the purchasing power that they needed to buy the goods and services that America could produce. The trickle down theory of economics led our country into a recession and then into the Great Depression.

Then, in the midst of a depressed economy, Republican President Herbert Hoover put forth a plan for economic recovery. He described the main components of his plan in 1931 as follows:

> One, drastic economies (savings); two, resolute opposition to the enlargement of federal expenditures until recovery, and three, a temporary increase in taxation * * * in such a fashion as not to retard recovery.

The Hoover tax increase for economic recovery succeeded in stagnating the U.S. economy throughout a good part of the 1930's.

As you can see, Republican economics have not changed much over the past 60 years. Americans earning less than $47,800 are losing $18.2 billion under the Republican tax and budget passed last year. Americans earning over $47,800 are gaining $9.2 billion from this program. Those figures come straight from the Wall Street economic analysis firm, Gary A. Schilling.

With this kind of resource shift going on, where is middle America's purchasing power going to come from to boost us out of this recession? Will it come by raising new taxes on the average American taxpayer?

Those who say that this bill does not raise taxes on the average taxpayer are simply not telling the truth. A family making $20,000 a year which incurs major medical expenses will have to pay hundreds of dollars in higher taxes under this bill. A family which loses its house to fire or other accidential damage will also pay hundreds more. Americans who use telephones, airplanes, cigarettes, and savings accounts will face new taxes.

Furthermore, this bill cuts medicare by more than $13 billion. That means higher health care costs and higher private insurance bills for our Nation's senior citizens.

Worst of all, however, this bill locks into law most of last year's tax bill under the guise of reform. It is still a child of last year's bill, which was the most unfair piece of legislation to be passed in this century. Can you really call it reform when you only take back 15 percent of a major oil industry tax loophole? Which is more important, taking back the 15 percent or letting the oil industry keep the 85 percent?

We would not be debating such a bill right now were it not for the collapse of Democratic leadership in the House of Representatives. The leadership has lost its way, first by shirking its responsibility to draft its own revenue bill, then by agreeing to accept this unfair legislation.

When did it become Democratic doctrine to raise taxes on working Americans in the midst of a deepening recession? When did it become Democratic doctrine to cut medicare by $13 billion at a time when hospital costs are rising at a 17 percent annual rate? When did it become Democratic dogma to confirm the three-martini lunch tax deduction for businessmen and then press waiters and waitresses to the wall for collection of their tips? And when did it become Democratic doctrine to give businesses tax deductions for bribes that they give to foreign officials?

I believe the House should have offered an alternative which gets to the root of our deficits—last year's unfair tax cut and an excessive increase in defense spending. I would have liked to see an alternative fashioned much like the amendment offered by the Senator from New Jersey when the Senate debated this bill. That amendment would have postponed or reduced the 1983 tax cut for individuals who earn more than $46,500. The revenue gained from that measure would have made many of the "man on the street" tax increases and medicare cuts now before us unnecessary.

Let me add one other Democratic perspective to this debate. If we lowered the unemployment rate by 1½ percent each year for the next 3 years, it would have the same fiscal impact as this tax hike.

Finally, a word about extended unemployment benefits. The benefits which have been added to this bill are an attempt by the administration to blackmail the American people. In essence, the administration is saying, "If you want jobless workers to get the benefits that they desperately need, you have to accept a $100 billion tax increase."

This is shameless. We should immediately pass a bill separate from this tax bill that extends unemployment compensation. I have cosponsored such a bill. Let me assure my colleagues that if this bill is defeated, there are enough votes in both houses of Congress to pass extended unemployment benefits.

Take a good hard look at our economy. It is time to get off of the trickle down economic track which we are on and to get our economy moving again. This tax bill is not the answer. Let us defeat this bill and draft tax and budget legislation which will effectively deal with our economic problems in a fair manner.

Because of the collapse of Democratic leadership in the House, we have before us a $100 billion tax increase without one new idea in it for creating jobs. How can we raise taxes on people who are going broke? Are we so devoid of leadership that we could not come up with anything better than this?

The SPEAKER pro tempore (Mr. BOLAND). The gentleman from California (Mr. WAXMAN) will be recognized for 15 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report, and I want to urge my colleagues to vote for it.

Members who share my concern for the poor and the elderly medicare and medicaid beneficiaries must understand that a vote for this conference report is a vote for their interests. Given the reconciliation instructions that we finally decided to impose upon ourselves after extensive debate earlier this year, the conference report is the best that beneficiaries could hope for. If we reject this report, we will almost certainly get a far more draconian set of medicare and medicaid cuts—cuts that will do unacceptable damage to the poor and the elderly.

Let us look at the numbers. Last year, we enacted $2.7 billion in medicaid cuts. The administration wanted to slash medicaid again by $8 billion over the next 3 years. The Senate lowered that cut to $2.2 billion. Even the Senate's cuts, coming on top of those enacted last year, would clearly create an impossible situation for the States.

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Few, if any, of them are in a position to absorb further Federal cost shifts during this recession.

The conference agreement reduces these cuts to $1.1 billion over the next 3 years. Make no mistake, these reductions, combined with those we made last year, will still hurt the States and the poor. But $1.1 billion is a long way from $8 billion.

As for medicare, last year we enacted $3.4 billion in cuts. The administration proposed to chop the program by $17.7 billion over the next 3 years. The conference agreement reduces that to $13.3 billion. This is over $4 billion less than what the administration wanted.

I think these numbers make it very clear that medicare and medicaid did very well under the circumstances. Let us not kid ourselves. If we do not pass this legislation, the fiscal year 1983 deficit will increase by $24 billion. The deficit increase in the outyears will be even higher—$44 billion in fiscal year 1984 and $50 billion in fiscal year 1985. This will only intensify the pressure on domestic programs, including medicare and medicaid. The resulting reconciliation instructions would be far more devastating, and we would have no alternative but to dismantle parts of these programs in order to comply.

I have decided to support this bill only after a great deal of soul-searching, for it contains many provisions that I find repugnant. I do not believe that medicaid and medicare programs should be cut, but this legislation does cut these programs by $14.4 billion over the next 3 years.

I do not like a lot of these provisions that would shift costs to the States and to the patients, the poor and the elderly, but I know that what is going to happen if we reject this compromise will be something far worse. The conference report cuts medicaid and medicare programs in the least harmful way to beneficiaries.

The conference agreement achieves medicaid savings through the following provisions:

It allows States at their option to impose copayments on beneficiaries; it allows States at their option to impose liens on the homes of nursing home patients with some important exceptions, which I will outline in a minute; it penalizes States whose eligibility errors exceed 3 percent; it changes the medicare hospital reimbursement formula; and it changes AFDC elegibility rules.

The first two provisions were of most concern to our committee, and I would like to explain how these were modified to protect beneficiaries.

The conference agreement allows States to impose some copayments. The provision is optional, not mandatory as the administration originally proposed. The copayments must be nominal. Children under 18 may not be subjected to copayments. Pregnant women are exempt. Patients in nursing homes are exempt. The States may not impose copayments on emergency or family planning services.

The conference agreement contains a provision that allows States to impose liens on the homes of medicaid beneficiaries in nursing homes and to delay medicaid eligibility for persons who dispose of their homes for less than fair market value. Under the agreement, these provisions are also optional. Even if a State chooses to adopt such policies, we have protected the home from a lien so long as a spouse, dependent child, or—in many cases—a brother or sister is living in that home.

The conference agreement moderates existing restrictions on transfers of assets. Burial spaces and burial policies will be protected in most States from transfer prohibitions. The States will have the discretion to waive penalties in cases of undue hardship. This will enable the State of Virginia to restore medicaid coverage to Mattie Dudley, the wheelchair-bound newspaper saleswoman from Charlottesville who was cut off the program for 2 years because she transferred a burial certificate that put her $200 over the allowable resource level for SSI benefits.

These changes may appear small, but they can make a big difference in the lives of the poor toward whom these restrictions are targeted.

I want to make an additional comment about another provision in the bill, one relating to private insurance coverage for the working aged. First, this would in no way remove a person's entitlement to medicare. Second, it would clearly be the employee's choice as to whether to elect his employer's health plan or to keep medicare. The choice is voluntary.

Third, although the Secretary of Labor may issue regulations to prevent deliberate circumvention by employers of the requirement to offer coverage to employees, those employers would also be able to offer policies which provided supplementary benefits, so long as that alternative was available to all employees. Policies covering prescription drugs, eyeglasses, and so on would be acceptable supplementary policies, and would not be considered an attempt to evade the law.

Fourth, even where a person elected his employer's group health plan, medicare would supplement that plan to the extent necessary to assure every person would have the full package of medicare benefits.

The conference agreement is not limited to program cutbacks. It also contains some important improvements. One of these is in medicaid, where States are allowed to provide coverage to certain disabled children at home, even though these children may only be eligible for institutional care at the present time. This will address the problem of families like those of Katie Beckett of Cedar Rapids, Iowa, whose situation our colleague Congressman TAUKE brought to the President's attention, and to whom President Reagan referred in one of his addresses to the Nation. Now families like hers will be able to keep their disabled children at home with them rather than warehousing them in institutions, at less expense to the State and to the Federal Government.

Another program improvement is the provision authorizing health maintenance organizations to participate in medicare on a prospective risk basis. This should greatly increase the options available to medicare beneficiaries, while at the same time promoting competition among providers and reducing Federal outlays.

Yet another program improvement is the provsion authorizing coverage under medicare for hospice services. This will give the terminally ill beneficiaries the option of spending their last days at home rather than in a hospital. Again the Federal Government will benefit from the changes.

Mr. Speaker, when the leadership of this Nation, including the President of the United States of one party, and the Speaker of the House of Representatives, of the other, all support a proposal to help us out of an economic

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mess, then if we, their troops, reject their proposal, the American people can only despair at the idea that leadership cannot lead and Government cannot govern.

There are a lot of reasons that each one of us could give for voting against this proposal, but let me say this to my liberal Democratic friends: the alternatives will be worse for the programs and people we care about. Some of you have heard from some senior citizens organizations that they do not like some of the provisions, and there is not a lot of reason to like cuts. But there does come a time when we have to say to our friends that we cannot just follow you blindly. We, who know what will happen if we reject this program, we who are committed to your interest, must lead you to realize that this alternative is better than the other alternative that will be before us.

Mr. Speaker, I urge my colleagues to vote for this proposal.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) has consumed 9 of his 15 minutes. The Chair now recognizes the gentleman from Illinois (Mr. MADIGAN) for 15 minutes.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, one of the key titles of this bill deals with certain changes that are made in the medicare and medicaid programs. The fact is that the House conferees were able to achieve 3-year savings of $13.3 billion in the medicare program and $1.1 billion in the medicaid program, for a total of $14.4 billion.

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I would call attention of the Members to the summary of the changes and the provisions that are provided in this title in the summary sheets that have been provided to the Members.

I would remind Members that these savings and the spending programs are provided in this bill. Most of the debate thus far has been on the tax portion of the bill.

Deficits have plagued the U.S. economy for the past 10 years, 10 deficits in the past 10 years, 19 in the past 20 years. They have come about because of the spending habits of the Congress.

During this period the practice had been to add on dozens of new spending programs and each one of them with their built-in escalators.

Now we have come to a time when no new programs are advocated. In fact, this administration is trying to reduce spending.

Notwithstanding that, the deficit is growing. If it continues we are going to add almost $500 billion to our national debt between 1982 and 1985 and we are going to see the disastrous effects that that is going to have on our economy in continuation of high inflation and high interest rates.

The root cause of deficits is the fact that we have these uncontrollable spending programs.

In this bill we have modest attempts to deal with some of these programs. As I say, modest. The total savings in this bill are some $17 billion, of which medicare and medicaid, as I pointed out, is some $14.3 billion.

Medicare inflation alone is running at 15 percent a year. That program will be bankrupt in 3 years if we do nothing.

Medicare and medicaid together account for $75 billion in spending next year, 10 cents out of every tax dollar.

Failure to deal responsibly with this bill will mean that the people, the economy of this Nation will continue to go through the meat grinder of high inflation, high interest rates, economic stagnation.

I advocate, Mr. Speaker, getting on with the job of putting our economic house in order.

I maintain that this bill is a step forward in helping balance that budget and licking the problem of deficit spending which has plagued this Nation too long.

Mr. MADIGAN. Mr. Speaker. I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, we are in the mess we are in today, very succinctly, because in the last 8 years Federal spending has gone up 152 percent and the increase in prices has gone up 84 percent which means that Federal spending is way out of control.

When you get to this point you can do one of two things: You can raise taxes or cut spending.

What do the American people say that we in this House should do? On June 3 of this year, the National Tax Limitation Committee published the results of a poll which said that 79 percent of the people of this country want the budget balanced.

On March 15 of this year Newsweek produced a poll saying that the way the people of the country want this budget balanced is by cutting spending, not increasing taxes. The margin was 85 percent to 10 percent. So the people all across this land have expressed very clearly how they want the balanced budget to come about: to cut spending, not increases taxes.

Then you say "Well, how do you do that?"

Let me suggest how you can do that. On May 25 of this year some of us in this House proposed a budget resolution which called for spending for the next fiscal year at a level $70 billion lower than what is contained in the budget proposal that we finally adopted, $772 billion versus $702 billion.

On that vote, 182 Members voted for the proposal and 242 Members voted against cutting spending by $70 billion; 191 Democrats, which represents 78.9 percent of their membership in this House, and 51 Republicans, which represents 28.7 percent of the Members of this House made up the 242 negative votes.

Those 242 Members should have the privilege in the November election of explaining why they are standing in the way of a balanced budget by cutting spending.

We can bring runaway Federal spending under control, through the method of cutting spending, when the American people decide to do it. If a Members vote did not reflect the wishes of a Members district on this importance issue, such a person should be retired from the Congress.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE. Mr. Speaker, colleagues, I take this opportunity today to share with you my reasons for casting a vote against this proposed tax measure.

I have not turned a deaf ear to the call to battle in this matter. I believe that the most sincere efforts have gone into the creation and drafting of this bill. My principal objection, however, is that the sincerity was badly misplaced. Had the same anguish and work been invested in a budget document just weeks ago, we would not today be faced with this deficit dilemma.

Just a year ago this month, we stood together here on the floor of this Chamber and declared the beginning of a new era for American Government, an era of reversal. We cut spending and because of that, we were able to cut taxes. We were universally applauded by the American taxpayer. A new direction had been declared; we had taken our first major step in that direction.

Our journey was short-lived. I watched in absolute despair in June as we fumbled our way through preparation of a budget that looked, to all American eyes, like nearly every budget before. Congress courage waned. The deficits grew. We all knew the moment that budget resolution was approved that this kind of tax package—or a compounded national debt—lay ahead. I voted against that budget.

We are all painfully aware that there are two ways to balance a budget: we can either make more money come in or we can see to it that less money goes out. I think we have made precisely the wrong decision. Congress insatiable appetite for spending will never be curbed as long as we keep giving it more to spend, even on a "once in a while" basis. As for the taxes, I think it is a sad chronicle to say that this Government will only close loopholes in taxes when we are a trillion dollars in debt. We might not be a trillion in the hole if everyone's "fair share" had been demanded in the past. Regardless of the ultimate fate of this bill, I will expect those holes to be closed, and, for that matter, all loopholes.

In conclusion, I sincerely hope that a passage of this tax package will not appear to the American taxpayer as the ultimate in hypocrisy. We risk the loss of public confidence only recently restored and terribly fragile. That confidence may be our only path out of America's deep economic doldrums.

I urge my colleagues to consider carefully their actions and the consequences of this tax bill.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the very distinguished chairman of the Energy and Commerce Committee, the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I thank my friend and colleague, the gentleman from California (Mr. Waxman) for yielding this time.

Mr. Speaker, the Committee on Energy and Commerce has conducted a program of damage control. The committee was directed to cut entitlements.

The committee has, I think, done as good a job as can be done in cutting the spending portions of this bill and has done the least damage possible to the medicare and medicaid program and their recipients.

The beneficiaries have been protected.

We have pressed the hospitals, who are the biggest spenders in the health sector, and they will, as a result of the provisions, save $6.3 billion in medicare. This will compel them to be more efficient. We hope that it will not impose undue hardships either on the hospitals or their patients.

The committee has stopped the President's effort to deregulate the nursing home industry and there is a 6-month moratorium on deregulation of that industry.

The committee believes that we might have done more damage, but this bill is the best way to cut these programs with the least impairment of the humanitarian concerns that have been the reason for the existence of those programs over the years.

This was a bipartisan effort. The gentleman from California (Mr. Waxman), the gentleman from Illinois (Mr. Madigan), and the gentleman from North Carolina (Mr. Broyhill), deserve the thanks of the House for their labors in this matter.

Mr. Speaker, I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Marks).

Mr. MARKS. Mr. Speaker, on March 9, I rose on this floor and very highly criticized this administration and the President of the United States for his failure to adjust its policies in light of the severe economic conditions that prevailed at that time.

I followed those remarks with others that were as severe if not harsh.

Today I rise in fairness, in fairness because the President of the United States and his advisers have now taken steps which we have reason to believe will help to bring down unemployment, bring down the interest rates, and reduce the enormous projected deficits which, in spite of what the savior of the Republican Party, the gentleman from New York, says, do affect interest rates.

The most major step, of course, that this administration has taken to date has been the support of this legislation—which I support and will vote for.

Mr. Speaker, it takes political courage of the type exemplified by Senator Dole, Senator Baker, the Speaker of this body, Mr. O'Neill, and the minority leader, Mr. Michel, as well as wisdom to see that we can no longer afford the interest rates which prevail today or the intolerable unemployment which we have with us. That political courage was shown by the President in backing this bill.

When I last spoke, Mr. Speaker, I mentioned a marvelous song from the great show, "Annie." It is called, "Thank you, Mr. Hoover, you have made us what we are today." I think again, in fairness, I should mention another great song from that wonderful show, "Annie," which is called, "The sun will come up tomorrow."

Those of us who hope for the very best look forward to this piece of legislation helping that sun shine brightly.

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Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Speaker, the administration's supply-side economic program has bankrupt our National Treasury and is the cause of the most severe economic recession since the Great Depression. The President is not candid when he claims that his program has only been operational for 10 months and that more time is required to see results. Last year's Economic Recovery Tax Act applied every business tax reduction provision retroactive to January 1, 1981, the beginning of the Reagan administration.

We are now into the 20th month of the administration's program. The 1981 multiyear tax cuts will remove $750 billion from the U.S. Treasury at the same time that defense spending will increase by 86 percent. As a result, record deficits are forecast for the next 5 years, driving interest rates high and business investment down. Capital spending by businesses this year will be lower than the 1981 level, and still lower than the level 2 years ago. Business and farm failures are at their highest rate since the Great Depression. One in five Americans were unemployed at some time in 1981. Unemployment today is the highest since World War II.

The administration's supply-side economics has created great inequities across the country. Their program has isolated a small minority of Americans from today's economic realities. A Congressional Budget Office study shows that 35 percent of this year's tax cut will go to less than 5 percent of Americans in the highest tax bracket. A family earning $80,000 will be rewarded next year with a $15,000 tax reduction. Yet the net worth of a family earning less than $10,000 will actually be reduced by the administration's tax and budget programs. Aided by the administration's 1981 Tax Act, 33 companies with U.S. earnings over $100 million paid no income taxes last year. At the same time our national deficit for 1 year exceeds $100 billion, depriving consumers and small businesses credit needed for economic expansion.

Last year's policies created a forecast of expanding budget deficits: 1982—$110 billion; 1983—$210 billion; 1984—$250 billion; 1985—$280 billion; 1986—$330 billion; 1987—$380 billion.

To bring these projected deficits down to a $140 to $180 billion range, the administration is seeking a $98 billion tax raise. This tax hike will not bring deficits down to anyone's notion of an acceptable level, and interest rates will continue to be driven by Government absorbing an unprecedented share of available credit to finance the ballooning red ink. The administration justifies the tax increase bill on the grounds that it will impose minimal taxes on certain individuals and corporations who do not pay their fair share of the tax burden, and that these changes will result in greater fairness in our tax laws.

In numerous and little discussed provisions, however, the administration's tax increases will actually fall most heavily on lower and middle income working Americans, the same group of taxpayers who are receiving the least amount of tax relief under the administration's current tax policies. I do not support a bill that increases taxes on average Americans, while it does nothing to rectify last year's mistake of awarding the largest tax cuts to the most affluent.

The elderly, our society's most vulnerable group, will see their limited income further reduced under the administration's tax bill. Through a combination of out-of-pocket premium increases and curtailment of medicare

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reimbursement of services, the administration's bill will increase the amount of money senior citizens have to pay for their health care. Administration officials argue that most of the $13 billion medicare cut is directed at hospitals, physicians, and other health institutions, and not at beneficiaries. But ultimately these health providers are going to pass on the cuts in medicare. Perhaps some portion of the medicare cuts will be passed on to private patients, or purchasers of health insurance, or directly to medicare's beneficiaries, the elderly. Senior citizens will have to pay these added costs, or elect not to seek medical care. In 1980 the elderly paid more than 19 percent of their income for health care costs. The administration's tax bill insures that this burden will increase. The administration's bill asks the elderly to shoulder an increasing burden to make up for a failed economic policy. I do not believe this is fair or acceptable.

The penal nature of the administration's tax bill on the elderly is further reflected in a provision to allow States to impose a lien on the homes of medicaid recipients when they enter institutions, such as nursing homes. Medicaid recipients have very little income, and their home is usually the only property of value they own and which bridges them to their community. The prospect of a State lien against one's home would emotionally traumatize anyone. Such a prospect may discourage a poor elderly medicaid recipient from seeking institutionalized care, even for a short period of time and when it is medically necessary. The "savings" from this provision are estimated at $600 million over the next 3 years, accruing from the State's being in a better position to recover the value of the liened property after the owner dies. But this estimate does not even consider that the threat of losing ones home may delay a medicaid recipient from seeking institutionalized care until his medical condition worsens. This may lengthen the person's hospital or nursing home stay, and end up costing the Government more money.

Middle income, working Americans will be penalized in the administration's tax bill through changes being made to the medical expense deduction. The bill provides that taxpayers will only be permitted to deduct medical expenses exceeding 5 percent of their adjusted income, compared with a 3-percent threshold under present law. Also, the present separate deduction for one-half of medical insurance premiums up to $150 will be eliminated. These provisions will impose over $3.7 billion in new taxes over the next 3 years. A substantial portion of this new tax burden will fall on low- and middle-income taxpayers. Forty percent of the existing medical care deduction is claimed by taxpayers with incomes below $30,000. Clearly this tax increase will fall heavily on those who are already beset with the burden of heavy medical expenses.

The bill's proposed limitation on casualty and theft loss deduction also asks the average American to shoulder an increased tax burden. Under the bill, a taxpayer would not deduct losses of personal property, such as resulting from fire, storm damage, or theft, unless his total casualty losses for the year exceed 10 percent of his adjusted gross income. Current law allows the taxpayer to deduct the fair market value of the lost or stolen property. The FBI recently disclosed figures showing that the volume of reported crime is at an all-time high, with robbery alone showing a 5-percent increase nationwide, and burglary up by 13 percent in the last 2 years. The bill's provision limiting casualty loss deductions will cost Americans $3 billion over the next 4 years and make it harder for low- and middle-income Americans to replace stolen or damaged personal property.

Other tax increases whose burden would be borne most heavily by low- and moderate-income taxpayers include higher excise taxes on cigarettes and telephones. The cigarette tax will be increased from 8 to 16 cents per pack, and the telephone excise tax will be raised from 1 to 3 percent in each of the next 3 years.

The telephone tax increase will net about $6 billion. The administration claims that this will only amount to a 54-cent-monthly increase for an average household. Yet this increase can be a significant burden to an elderly person on a fixed income, or to an unemployed family trying to stretch their savings. The telephone is a necessity of life, and a $6 billion tax increase levied on its use is inequitable and will contribute to making low-income, working Americans feel that they are being asked to bear a disproportionate share of the tax burden.

The administration's tax bill also represents a major step backward from the gains our country has made in increasing the incentive to save, and providing equitable treatment to the small saver. Some $10.5 billion over the next 3 years is expected to be raised in the administration's tax package calling for a 10-percent withholding on interest and dividends beginning July 1, 1983. The loss to savers is estimated between $1.5 billion and $2 billion a year, because interest withheld early in the year by the Government would not be available for compounding.

In these and other ways the administration's tax bill continues to shift the tax burden away from the affluent and onto the backs of the middle class, working men and women, the poor and the elderly. The administration's tax bill does not do enough to force the affluent to share equitably in the effort to reduce our Nation's deficit and put our economy on the path to economic growth. The bill does not correct many of last year's mistakes. Next year persons making over $78,000 a year will be rewarded with a $25 billion tax cut. The administration's bill does nothing to correct that inequity. Last year's policies created "Safe Harbor Leasing," a corporate welfare scheme that will cost the U.S. Treasury $16 billion over the next 3 years. The administration's tax bill only succeeds in recovering half of this enormous corporate tax abuse.

The administration's deficit policies and the resulting recession has fallen heavily on middle- and low-income Americans. These same people must not be asked to reduce the deficit through large and unequal tax increases.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I rise today in support of the conference report on H.R. 4961. Clearly supporting this conference report is not a simple decision. This tax bill is not a panacea. It does not rectify some of the basic unfairness of the tax bill enacted last year, which left the tax burden to fall much more heavily upon average working Americans and much less heavily upon wealthy individuals and large corporations. Still this tax bill does repeal some of the worst excesses of last year's tax bill.

Mr. Speaker, the present state of our economy forces us to choose between three rather bleak alternatives:

First, we can do nothing. Of course, such inaction would guarantee a Federal budget deficit of no less than $200 billion annually in 1984 and beyond.

Second, we can institute new taxes on average working families. Of course, those individuals are already paying more than their fair share of the national tax burden. Such action would require us to repeal the third year of the individual tax cut, impose an oil import fee, or enact new excise taxes on a multitude of items.

Third, we can enact a bill which is aimed at economic moderation and for tax fairness. We can act to insure that the most highly privileged individuals and corporations in our society, many of whom now pay little or no tax as a result of last year's tax bill, contribute their fair share along with the average wage earner. This bill is a small and imperfect step toward fairness, but a step nonetheless, in the direction of moderation and fairness. In my view, it is a step which must be taken.

Mr. Speaker, even if this tax bill is enacted, the Tax Code will still contain more loopholes, not fewer, than it did when this administration took office. The average wage earner will still bear a heavier burden of taxation and the wealthiest citizens will still have a much lighter burden than they did just 2 years ago. But this bill reverses the trend which has seen the average working American be forced to accept virtually the entire tax burden of the Nation. In this regard, the conference report represents the best alternative to meet the economic crisis facing this country.

To my colleagues on the other side of the aisle, I say: We have only one economy to give to our country. Fortunately, the President recognizes this fact. This is a Republican tax bill, but it is a Republican tax bill which recognizes the value of acting upon economic reality rather than adhering to an economic theory. We cannot ignore the unwelcome fact that our economic prospects are less than rosy. We cannot create a new economic reality by wishing away our present economic circumstances. We need this step toward moderation and fairness. We all must abandon our rhetoric and take a stand on real issues of the day. I urge my colleagues to support this bill.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Speaker, today is a very important day for all of us who are facing the stark reality of voting for a bill that will raise taxes in time of a recession.

Raising taxes, by any other name, remains raising taxes. A measure designed to collect an extra $99 billion from American taxpayers and enterprises is going to withdraw, from the economy, precisely that capital which is needed for the investment that yields growth, efficiency, and jobs. Tax hikes do not bring down interest rates and Government spending. They never have; they never will.

Everyone agrees that budget deficits and high interest rates are wreaking havoc on the economy. The question remains, however, is Congress correct in the solution they are currently pushing?

The main reason that the country should support a tax increase, say its advocates, is that increased revenues are necessary to reduce the budget deficits—the major cause, it is claimed, for the high interest rates blocking economic recovery. But tax increases will not lower interest rates, stimulate economic recovery, or create more jobs.

While deficits should be reduced for many reasons, lowering interest rates is not one. There simply is no statistical or historical evidence linking lower deficits to a dramatic lowering of interest rates. Indeed, if high deficits do cause high interest rates, then why have rates declined so dramatically in recent months? The prime rate was at a lofty 21.5 percent when Reagan took office. Today, when project budget deficits are over six times higher than projected in March 1981, the prime rate is 14½ percent and falling.

Recently, the Congressional Budget Office raised its projected deficit for fiscal year 1983 by $40 billion. This should have caused interest rates to jump—if big deficits mean high rates. Instead, Treasury bill rates fell below double-digit levels for the first time since spring 1980. It is simply not the case that there is a direct relationship between high interest rates and budget deficits. History confirms this with many examples.

Budget deficits, of course, do mean that the Federal Government will claim, through increased borrowing, a larger share of the private sector's and taxpayers' money. But tax increases also claim a larger share of the capital or money. When that capital pool shrinks, interest rates are likely to rise. Thus lowering the deficit by hiking taxes is not going to do much to bring down interest rates. For that to happen, the deficit has to be lowered by reducing Government spending.

The contention that this tax increase will not affect middle- or lower-income families is false. As long as you are not among the 80 percent of Americans covered by private retirement pensions, do not use the telephone, do not have big medical expenses, do not pay medical insurance premiums, do not smoke, do not ride in airplanes, do not have a savings account, do not work for, invest in, or buy from a business—you will not be affected. The bill also increase the Federal Unemployment Tax Act (FUTA) tax on wages, which would hit labor-intensive small businesses especially hard and raise the cost of hiring people when unemployment is almost 10 percent.

Supporters of the $99 billion tax package maintain that they are not calling for a tax increase but a tax reform. Three-quarters of the revenues are to be raised, they contend, by enhancing tax compliance and plugging loopholes. Who could be opposed to making tax cheaters pay up and making everyone, especially the rich, pay their fair share? Is it not, as the President asked, a matter of fairness?

Indeed, tax cheaters should be fully prosecuted; laws to do this are already on the books. Mounting tax cheating is a cancer on the tax system, sapping the vigor of what used to be of particular to Americans: their voluntary compliance with the Tax Code.

Despite the attempt to tag the bill a compliance and reform package, only about $2 of every $10 raised comes from what might be called true compliance measures: Increased reporting, penalties, and interest changes. The remaining $8 is a tax increase. Many of these compliance items will cost the honest taxpayers—the vast majority of Americans—more in paperwork and expenses.

Withholding on interest and dividends—the largest single compliance item—typifies the unfair costs imposed on taxpayers and businesses. Withholding could inflict on the law-abiding public about $3.2 billion in administrative costs and lost interest, plus the very real costs of added time to comply with a new set of regulations.

Over 60 percent of the new revenues is from increasing business taxes. Among the dozen or so business tax hikes recommended, the package repeals the 1985-86 depreciation changes, accelerates corporate tax payments, limits the use of investment tax credits, and repeals the safe harbor tax leasing provision.

The argument has also been put forth, that this bill does not affect the tax cuts. Not true.

Almost 80 percent of the tax cuts that had been passed will be wiped out if this bill is allowed to pass. Along with the scheduled social security payroll tax increases, bracket creep due to inflation, and the $98 billion tax increase will effectively take away any benefit of the tax cut.

The question will be: What tax cuts? The Treasury figures show that Americans suffered a $14 billion tax increase in 1981 despite the tax cuts. Taxpayers will only break even this year, and will not recoup their loss until next year under current law. And now, we are proposing to pass a $98 billion tax bill that will further erode any benefits that the taxpayer could have received under the tax cuts.

The tax bill grants IRS agents new power, among other things, to issue and enforce administrative summons. This expands the IRS authority to require financial institutions to divulge confidential information on their customers. These powers are fine when the IRS goes after tax cheats. But the rights of legitimate taxpayers should also be protected. Such civil liberties questions deserve much more attention than the current rushed debate has allowed.

Perhaps the most seductive argument in the tax package is that the hikes are part of a compromise that includes the reductions in Government spending. It is claimed that the $99 billion tax increase is the necessary price to pay for a congressional approval of over $280 billion in budget cuts over 3 years. Under the terms of this compromise, every $1 in tax increases is supposed to yield $3 in budget cuts. This is simply not the case. The true ratio may well be just the opposite: $1 in spending cuts for every $3 in tax increases. Of the $280 billion in promised outlay reductions, Congress has no control over 55 percent or $154 billion: Assumptions

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about interest rates, debt service costs, and administrative "management initiatives." Of the remainder, the grand total of cuts actually enforceable by the "budget reconciliation" process is only $27 billion over 3 years—less than a tenth of the $280 billion total. Even if all of these cuts materialize, they would amount to $1 for every $3.66 in tax increases. The CBO has estimated only $17 billion in spending cuts in action to date, meaning roughly $1 in spending cuts for every $6 in tax increase.

Some budget cuts have been made but Congress is very far from achieving the $125 billion in cuts suggested in the budget resolution. So far Congress has acted on only $30 billion in budget cuts over 3 years. This means that here are only some 30 cents in cuts for every $1 in tax hikes—a ratio exactly the reverse of what Reagan said was the minimum tax increase, the Congress in most likely to give Reagan only $1 in budget cuts for every $3 in tax levies.

Even much of the $30 billion in budget cuts that the Congress has passed is dubious. Three-year food stamp savings fall some $6 billion short of administration recommendations. Nonreconciled spending cuts are almost entirely phantom. Of the $13 billion recommended, only $294 million in cuts are expected. Finally, some $85 billion in cuts still await action by the Appropriations Committees.

What this means is that Congress will see little more than $30 billion in budget cuts over 3 years, far from the $280 billion in cuts that Congress has promised.

Tax increase cannot produce lower interest rates. Additional taxes crowd productive dollars out of the enconomy in the same way that higher deficits do. New jobs are not created by higher taxes. New jobs are created by more investment. Increased taxes and increased investment are completely incompatible.

I have stated repeatedly, that the best form of welfare is a job in the private sector. Provisions of this tax bill will have a detrimental impact on our ability to create jobs and hurt that form of welfare we all support.

This is a tough decision but I believe until Congress honors their responsibility to reduce Federal spending, we cannot increase taxes. This is why I am voting no on H.R. 4961.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, in the years that I have been a Member of this body, I have not seen a tax bill that I have been completely happy with. I dare say that 90 percent of the Members of this body would echo those sentiments. While this particular bill is no exception, I do intend to support it because an unusually courageous and healthy step has been taken with it.

Many Members know of my concern with the proliferation and direction of tax expenditures. Even in last year's tight fiscal atmosphere, we created 8 new ones and embellished 22 others while eliminating only 2 for a total 5-year cost of almost $120 billion.

H.R. 4961 reverses that trend for the first time in many Congresses. It—

Repeals the "safe harbor leasing" provisions of last year's tax bill after 1983. That provision had allowed companies earning millions of dollars in profits to actually draw money from the Treasury through the sale of unused tax breaks. Until repeal in 1983, lessor/buyers will be prohibited from reducing their tax liability by more than 50 percent through this method. Savings: $8.1 billion.

The second and third stages of the accelerated cost recovery system (ACRS), by far last year's most expensive tax expenditure, are eliminated. I believe we can go further in this area but this is a start. Savings: $1.5 billion.

Currently, some defense contractors defer taxes until completion of a contract while taking expense deductions over the life of it, in essence an interest-free loan. H.R. 4961 requires deferral of expense deductions until completion of the contract and tightens the ability to defer taxes beyond contract termination. Savings: $5.7 billion.

It reduces by 15 percent tax preferences on:

First, percentage depletion for coal and iron ore;

Second, excess bad debt reserves of banks;

Third, intangible drilling costs of integrated oil companies; and

Fourth, mineral exploration and development costs and others. Savings: $2.4 billion.

Mr. Speaker, I would just like to remind Members that tax expenditures which disproportionately benefit corporations and individuals with incomes over $50,000 per year, will cost the Treasury $439 billion in 1987. For the first time, it seems to me, there is a recognition that that pool of exemptions should, as a matter of equity, be tapped to share the burden of recovery. This bill is certainly not perfect but it is certainly an improvement over the tax bill that was passed by the Congress last year and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I rise in opposition to the conference report on H.R. 4961, the proposed $98.3 billion tax increase. I do so as much for what is not in the bill as for what it does contain.

We do not work in a perfect world in Congress, and there probably is no such thing as the perfect tax bill. Still, the legislation before us today falls way short of being a satisfactory bill. It is bad for American working people, bad for American consumers, and bad for American businesses struggling to overcome the current soft economy.

I was deeply disappointed that this House refused to develop a tax bill of its own for fear of putting the stigma of a Democratic tax increase on the measure. The sluggish economy and the impending deficits of upward of $160 billion are everyone's problem. So are the issues of fairness and effectiveness, however, and H.R. 4961 does not live up to these goals.

That any substantial tax increase at all is being considered in August 1982, is an admission by the current administration that adjustments in its economic program are needed. I have been arguing here and back home in Connecticut that adjustments are indeed necessary for several months now. The changes proposed in H.R. 4961—as well as those conspicuously absent—have left me to conclude that this bill is a step in the wrong direction.

I am deeply concerned that this Congress and this administration are holding loopholes for the oil industry sacrosanct. Big oil received $13 billion in breaks in the 1981 tax bill, breaks they did not need and which were added to the bill only to gain votes for the administration's version of the tax bill. One year later, these excesses have not been touched. So the $13 billion in breaks for oil which were approved over this Member's objections last year remain, as do other loopholes for that industry like the multibillion depletion allowance and expensing of intangibles.

Breaks for wealthy individuals in the form of exemptions on estate taxes also remain. The phase-in of this exemption will ultimately exclude all estates worth less than $600,000 from taxation, making most wealthy inheritors free from any taxation. Even a modification of this giveaway would have saved the Treasury several billion dollars.

The three-martini lunch has also once more escaped the plugs of the tax-writing committees. Ironically, this special-interest break was almost reduced. As I am sure all the Members know, however, it was replaced in the conference report by a measure to increase reporting on waiters' and waitresses' tips. Once more, the little guy carries the burden while the big fish go free.

Finally, I am disappointed by the refusal to reexamine the third year of the personal tax cut. I do not advocate a repeal of this tax reduction. Rather, I believe, as I have stated for more than a year, that the third year ought to be conditioned on the strength of the economy. Locking the Treasury into this policy despite economic conditions which may deem it unwise is not a sound idea. Still, this important proposal has not been included in the conference report.

These and other measures have tragically been neglected. In their place are several provisions which exact a high cost on working men and women as well as businesses which seek to reinvest in job-creating plant and equipment.

I have serious objections to the 10-percent withholding provision on interest and dividends. The measure is impractical for banks, savings and loan, and other financial institutions, for it would require them to create a large and costly withholding system on their interest and dividend payments. Just as importantly, the provision would be damaging to Americans on fixed incomes who rely on regular interest and dividend payments to live. The conferees have made an effort to write into the bill exemptions for low-income and older Americans. I fear that too many men and women will fall through the cracks, though, causing more hardship for those who can least afford it.

American consumers—and every American is a consumer—will be forced to pay higher taxes on telephone bills, cigarettes, and air travel. These nickle-and-dime taxes add up, but they are regressive in nature and thus would be especially damaging to working people and retirees. These consumer taxes are a thin disguise for increases in personal taxes, and should not be supported as long as the administration is unwilling to take a second look at the third year of the tax bill.

I am also concerned over the about-face taken on some of the better breaks given to businesses, provisions which encouraged reinvestment in industries like copper, brass, and steel which are so important to the economy of my district. It seems as though too many of the valuable business tax incentives have been rescinded, while the inefficient loopholes and special interest breaks remain.

Finally, I cannot support the deep cuts in medicare and medicaid, cuts which will have the effect of driving older and low-income Americans away from receiving the health care they need. I recognize the need to cut spending and I am more than willing to support budget cuts. But to take the budget ax to the health care services for the poor and the elderly while so many other wasteful spending programs remain is simply unfair. Let us cut the budget. Let us cut subsidies for tobacco, sugar, and other commodities. Let us cut wasteful spending on public works projects like the Tennessee-Tombigbee Waterway and the Clinch River Breeder Reactor. Let us cut spending on ill-conceived defense systems like the land-based MX missile, the neutron bomb, and nerve gas. And, yes, let us cut social programs where waste and inefficiencies exist. But let us not jeopardize the health of millions of Americans with ill-directed changes in medicare and medicaid, as proposed in the conference report, for Federal employees, for retirees, and for the poor.

Mr. Speaker, I wish this House could come back with a bill which is more balanced and reasonable. In the eyes of the people of the Fifth Congressional District, H.R. 4961 is unacceptable. And it is unacceptable because it is unfair. I have laid out a number of alternative provisions which would at once raise revenues, cut spending, and do so in a manner which would be less costly to the people and businesses struggling to survive the recession.

I recognize that not all of my suggestions would be adopted in 1982. But H.R. 4961 falls so far short of the goals of fairness and responsibility that I see no alternative but to reject it.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALGREN), a very distinguished member of our subcommittee.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 20, 1982, TO FILE REPORTS ON H.R. 6457 AND H.R. 6173

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight tomorrow to file reports pertaining to H.R. 6457, relating to reauthorization of NIH, and H.R. 6173, relating to reauthorization of the health planning program.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the conference report on H.R. 4961.

The Committee on Energy and Commerce was successful in meeting 93 percent of its 3-year savings goal. Our efforts resulted in a package of medicare and medicaid changes which both slow the growth of these programs and also minimize the effect on the program beneficiaries. But to put this effort in its proper context, I want to advise the Members of this body of the problem our Nation faces regarding the skyrocketing costs of health care and remind all of the Members assembled here that some of the people who are talking against this portion of the conference report are talking against the very cuts in the growth of rate of spending that they have been advocating for all of the time that they have been Members of this body.

The most obvious aspect of health care spending in 1981 was its rapid and sustained rate. In 1981 health care expenditures increased by 15.1 percent. This, along with the 15.8-percent increase in 1980, provide the highest increases in the last 16 years. Public sources provided 42.7 percent of all of the money spent on health care in 1981, including Federal payments of $84 billion, and $39 billion in State and local government funds.

In order to put these increases in a more proper perspective, I would like to recount to the Members a brief program growth history of just these two entitlement programs over the last 5 years, and then the administration's projections through fiscal year 1985.

In 1977 Federal outlays for medicaid accounted for some $9.7 billion. This year $17.2 billion. By 1985 $24.2 billion. For the medicare program, 1977 expenditures were $20.8 billion. Current expenditures for this year are $50 billion rising to $76 billion in 1985, and that would amount to a 266-percent increase over an 8-year period of time.

The programmatic changes called for in this conference report amounting to some $14.5 billion in savings over the next 3 years will help in retarding the growth trends that I have described to the Members, and for this reason alone I would support this package.

But I want to go beyond these reasons, to remind many of the Members of this conference on both sides of the aisle that we admitted to ourselves last year when we passed the tax cut bill that we went too far. We put too many things in it, and at some point we were going to have to address the revenue shortfall that we created last year.

This bill proposes to do that by enacting the very tax changes that the budget resolution that a majority of this House voted for earlier this year calls for.

What we are doing here in adopting this conference report, if we choose to do that, is to merely acknowledge publicly what we have been acknowledging privately among ourselves, that we went too far last year and we have to do something about it. And the alternative to doing something about it is to confront the $184 billion deficit being projected by the Congressional Budget Office and the probable 20 percent prime interest rate that would result from that.

If we want the young people of America to ever be able to afford to buy a home or to even think about a purchase like a new automobile, that interest rate problem has to be addressed. The adoption of this conference report is the manner in which we can address it, and I hope that a ma-

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jority of the Members of this body will have the courage to do that.

Mr. Speaker, I reserve the balance of my time.

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Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Speaker, although the immediate question before this House is the conference report on the Tax Equity and Fiscal Responsibility Act of 1982, the real issue is so much larger that I prefer to call it the Legislative Responsibility Act of 1982.

Look at the legislative record for this session of Congress. We have yet to enact any major legislation. We have not passed a single appropriation bill in the House, which is a disgrace—the worst legislative record in history.

For more than 2 months we stumbled through a concurrent resolution of the budget—not even a statute.

For 4 months we fumbled through a "Keystone Cops" comedy of political gamesmanship on urgent supplementals, which took four bills and two vetoes to get a bill signed.

When we finally brought an appropriation bill to the floor—on August 13—the rule was defeated by the authorizing committee because they have been unable to enact the authorization for the Federal Trade Commission.

What a comic opera. Will this comedy play once more today, or can we finally get our act together? How can we go home, how can we present ourselves to our constituents as responsible legislators if this conference report fails?

The conference report itself is a classic political compromise. The members and chairman of the Committee on Ways and Means—and particularly the ranking minority member of the committee, the gentleman from New York—deserve the gratitude of this House, and indeed of the country, for the many days and nights of sweat and tears which have given the people's House a chance to work its will.

We are on the edge of another legislative miracle—a delicately balanced package of tax and spending reforms which corrects, but does not reverse, the course set by the administration and the Congress last year.

It was the hope and the intent of the Congress and the administration that the tax and spending reductions of 1981 would lead us into an accelerated economic recovery. That has not happened.

Persistent deficits and high interest rates have suffocated that recovery. The administration—to its credit—recognized that more spending cuts were not enough, and that additional revenue could and should be raised through tax reform. Over the next 3 years, this conference report would reduce Federal spending by an estimated $17.5 billion, and would raise an estimated $91.4 billion in additional revenue.

The conference report also authorizes $1.9 billion for supplemental unemployment compensation, beginning September 12, which targets those States with high and persistent unemployment.

The choice is ours: another legislative miracle, or another act in the legislative comedy that will make this House the laughingstock of the Free World.

Vote for the conference report.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I know the gentleman's strong feelings about medicare. I know the gentleman is pleased we have done as well as we have in preserving the program.

Mr. CONTE. Mr. Speaker, I do not have much time remaining, but I do want to compliment the gentleman from California (Mr. Waxman) and I do want to compliment the ranking Republican, the gentleman from Illinois (Mr. Madigan), for doing a fine job here and bringing in an equitable bill. This is a fair bill overall. It should be passed.

The SPEAKER pro tempore (Mr. Boland). The Chair now recognizes the gentleman from California (Mr. Mineta) for 15 minutes and the gentleman from Kentucky (Mr. Snyder) for 15 minutes.

The Chair recognizes the gentleman from California (Mr. Mineta).

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. Howard).

Mr. HOWARD. Mr. Speaker, I strongly support title 5 of the conference report, the Airport and Airway Improvement Act of 1982. It is important for the continued development of our Nation's airport and airway system that this title be passed and signed into law promptly.

We have heard a great deal lately about the critical needs of our Nation's transportation infrastructure. This bill presents us a valuable opportunity to address the development needs of one important segment of that infrastructure, our Nation's airports and airways. These development needs will be costly, but I would like my colleagues, as they consider this title, to bear in mind that under the conference report the costs of these capital improvements are borne completely by users of the system, at no cost to the general taxpayer.

Our distinguished subcommittee chairman, in his statement, has provided details on the bill, so I will not go through it all again. But I would like to call attention to what I believe are some of the more important aspects of title V.

With regard to the ADAP program, the bill recognizes a number of areas that the conferees believe require greater funding attention in the future. The bill establishes funding minimums for reliever airports, noise compatibility programs, and system planning.

Also, the authorization levels for facilities and equipment reflect levels required for the needed modernization of the air traffic control system. This modernization will generate significant safety and productivity benefits.

The conference bill also authorizes that approximately two-thirds of the FAA's direct cost of operation and maintenance of the Nation's air traffic control and airway system be borne by the users. This represents an increase over what has come out of the trust fund in the past for this purpose, but we believe it represents an equitable split between the users and the general public in funding operations. I would like to note that what we are recommending is considerably less than what the administration was proposing and less than what was in the Senate bill.

Mr Speaker, in conclusion, this title is necessary if we are to continue to accommodate growth in air traffic in a safe and efficient manner. Without this title, the needs of a major element of our Nation's infrastructure will not be adequately met. This title has the broad support of our committee and the conferees on this title, and I urge my colleagues to support it.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of title 5 of the conference report, which renews the authorizations for the airport and airway programs for fiscal years 1982-87. These authorizations have been included in the conference report because the new user taxes supporting the authorizations are part of the basic $98 billion tax package.

The renewed airport and airway programs will be a major step in the development of an aviation system which can handle the increased demands of the eighties. The programs will not burden the general taxpayer since they will be funded completely by user taxes paid into the airport and airways trust fund.

Title 5 renews a highly successful program which was first authorized in 1970. During these 11 years, the program has improved aviation safety and increased airport and airway capacity, at no cost to the general taxpayer. As a result, the airport and airway systems are now able to handle 100 million more passengers a year than they did in 1970. The increased traffic has been handled without a deterioration of the outstanding safety record of the system, and passenger delays have been reduced.

Although the accomplishments of the first 11 years of the ADAP program have been great, much remains to be done. The airway system now uses computer and radar technology which is more than 20 years old and is becoming increasingly expensive to operate and maintain. It would probably be cost effective to modernize the system even if no increase in use of the system was contemplated. Modernization is mandatory if the system is to be able to handle the increased demands which will be placed upon it during the coming decade. FAA estimates that if the system is not modernized, the number of severely congested airports will grow from the current 11 to 91 by the year 2000.

The legislation now before us provides funding for the first 5 years of the administration's long-range program for modernizing the airway system. The modernization will make the system much more efficient and productive. FAA estimates that its proposal will save $43 billion in operating costs to the Government between now and the year 2000, at an estimated capital cost of $10 billion.

The needs of airport capital development are equally great. It would make no sense to develop the world's best airway system to accommodate aircraft in the air, but have no place for them to land.

Airport development needs have been estimated at $12 billion over the next decade. Unless this development is undertaken, capacity constraints, which are already becoming a problem at some major airports, will become more prevalent. Congestion will increase and significant delays will become normal.

The bill now before us includes substantial funding for airport development and noise compatibility planning and programs. Although the funding for the early years of the program is somewhat less than I would have liked, the 5-year program will enable us to begin the capital development of our airports which is needed if they are to continue to meet the demands placed upon them.

The conference bill also authorizes substantial funding out of the trust fund for operating and maintaining the airway system. Although the amounts are considerably above the level of user contributions in the past, the O. & M. authorization in the conference report is considerably below the requests of the administration and the Senate. Over the 5 years of the conference bill, O. & M. will be $3.2 billion below the administration's request and $400 million below the level in the Senate bill.

The conference bill includes important innovations to insure that capital development continues to take priority over O. & M. In the conference bill the authorization for O. & M. is not stated as a dollar amount, but as a percentage of the funding actually made available for airport development. This will insure that O. & M. funding is related to adequate funding for capital development of airports. The bill also provides that O. & M. will be reduced, on a 2-for-1 basis, if the authorized levels for F. & E. are not appropriated. These provisions will insure that capital development continues to be the primary objective of the trust fund.

Finally, Mr. Speaker, I note that in the conference bill the Senate has receded completely from its prior support of so-called defederalization, the concept of making the larger airports, whose passengers are the main supporters of the trust fund, ineligible for funding. There has been little support for this concept in the House and I am very pleased that we have been able to persuade the Senate to continue the eligibility of all airports for funding.

Mr. Speaker, title 5 of the conference report is a long overdue authorization for modernization of the airport and airway system at no cost to the general taxpayer. I strongly support this important legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I thank the gentleman. I would like to make a point with regard to the funding that goes to general aviation airports. Too often we focus only on the benefits to the airport or to the direct users of the airport when we authorize a program such as this. I believe more recognition should be paid to the broader benefits of the general aviation ADAP funding to a local economy.

In my district there is a general aviation airport in Essex County, N.J., that will probably be applying for future grants to make improvements at that airport. This, of course, will be of great benefit to the airport and its users, but I would like to call to my colleagues' attention that Essex County is also contemplating a business and industrial park next to the airport. This will foster commerce, create jobs, and expand the local tax base. The linkages between ADAP funding and these broader economic benefits are obvious.

In other modes of transportation we are linking capital improvements with economic development objectives. We do this with programs within UMTA, the Federal Railroad Administration, and in the Northeast rail corridor programs. However, it is my understanding that in the ADAP programs we cannot specifically use the money to leverage economic development activity off the airport site.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from California.

Mr. MINETA. That is correct. ADAP funds must be used on the airport site itself and for specified purposes, but I am very sympathetic to the gentleman's point that more attention should be paid to the linkages between general aviation airports such as Essex County and economic development.

Mr. MINISH. I believe more should be done in this area. Could we inquire with FAA to what extent they do look at the linkages between capital airport improvements and other economic development?

Mr. MINETA. We certainly can, and I believe the gentleman's suggestion is an excellent one.

Mr. MINISH. I thank the gentleman for his comments.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I would like to inquire as to the eligibility for funding of an airport in my district, the Mojave Airport. The Mojave Airport, which is operated by the East Kern Airport District, has a very special and important role in our Nation's aviation system. Mojave Airport is extensively used by civil aviation manufacturers to test aircraft and their components, particularly in the general aviation sector. The airport has attracted numerous businesses involved in flight testing and has generated substantial employment.

Mr. Speaker, given Mojave Airport's role in the design and development of aircraft, would the gentleman agree that the FAA should give serious consideration to the improvement needs at Mojave Airport eligible for ADAP funding?

Mr. MINETA. Yes, I agree with the gentleman. In light of the importance of Mojave Airport to aviation, I believe the FAA should give serious consideration to the Mojave Airport's request for ADAP funds.

Mr. THOMAS. I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

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Mr. MOORHEAD. Mr. Speaker, we have an airport in our area, the Burbank-Glendale-Pasadena Airport, which has a terminal building and other facilities located within the zone, known as the primary surface

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area, adjacent to the runway which is supposed to be clear of all such obstacles under current FAA airport design standards. What kind of priority would the ADAP program under this bill give to projects to correct that type of problem?

Mr. MINETA. The conference bill, in section 502, specifically provides that "the safe operation of the airport and airway system will continue to be the highest aviation priority." And it further provides that "all airport and airway programs should be administered consistent with" the section of the FAA Act which specifies "the assignment and maintenance of safety as the highest priority in air commerce * * *." So I do not think there can be any question that safety is to be the highest priority in the administration of the ADAP program. And I think it should also be clear that projects to correct a preexisting violation of primary surface area are, to the extent they are otherwise eligible, the kind of safety-related efforts which should be accorded that statutory priority for safety.

Mr. MOORHEAD. I certainly agree that this type of safety-related project should receive priority, and I thank the gentleman.

Mr. MINETA. Mr. Speaker, I am pleased to yield such time as he may consumer to my colleague, the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, since I am not a member of the Public Works Committee and, therefore, did not participate in the committee consideration of this legislation, I want to make certain that my understanding of the bill coincides with that of the distinguished chairman of the subcommittee, Mr. MINETA. It is my impression, for example, that one of the intended purposes of the funds authorized for the airport development aid program is projects involving the construction of new airport facilities. A new airport at Wilkes County, N.C., has been made necessary in order to insure the continued safety of pilots and passengers flying in and out of Wilkes County, as well as to meet the rapidly expanding aeronautical needs of the region. The project has been evaluated by the Federal Aviation Administration, which has indicated that a new airport for Wilkes County is "aeronautically justified."

Am I correct in my understanding that a new airport facility, such as that planned in Wilkes County, would be eligible for ADAP funding?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from California.

Mr. MINETA. Yes; this is precisely the type of project that could be appropriately funded under this program. And from what you have told me, the proposed Wilkes County general aviation airport would contribute greatly to the economic growth of the community and help insure the continued safety of its citizens.

Mr. NEAL. I thank the chairman for this clarification.

Mr. MINETA. Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would like to elaborate on the gentleman's remarks on the aviation title of H.R. 4961. It is a comprehensive measure and one which, if it were not included in this particular bill, would be most worthy of my colleagues' support.

If the conference report on H.R. 4961 is adopted it would mark the third time that the basic airport and airway development programs have been extended by the Congress since their adoption back in 1970. The original statute was enacted because the Congress realized the critical importance of developing and improving our Nation's airports and airways so they could safely accommodate increased levels of air traffic.

Since that time much has been done to help this country retain its position as the world leader in aviation. More airports are equipped with more sophisticated navigation aids than ever before and countless projects have been completed which enhance safety and increase the capacity of the system to handle future growth.

Notwithstanding these positive developments, the national air transportation system can and must be improved. We have all heard about near midair collisions occuring in the crowded airspace, the all too frequent computer and radar outages at our air route traffic control centers, and the need to restrict operations at some of the busier terminals in the country.

Sometimes these problems result from limited airport capacity while at other times the culprit is an air traffic system which is in serious need of a major overhaul. Granted, the PATCO strike has exacerbated the situation and has required FAA to limit operations to the extent the system can safely accommodate them. Recently released forecasts prepared by the FAA demonstrate that, notwithstanding the current shortage of air traffic controllers, the recession and high fuel prices, aviation activity will increase substantially over the coming years.

Therefore, if we do not address the chronic, long-term problems of congestion and delay at many of our airports—whether in this bill or in subsequent legislation—restrictions such as those being imposed today will continue to be required and will become even more widespread in the future. It is these serious problems which title V of H.R. 4961 is designed to address.

As the chairman of the Aviation Subcommittee has indicated, title V of the conference report would authorize funds through fiscal year 1987 for the four programs financed out of the airport and airway trust fund. Total authorizations for these programs are $4.8 billion for airport development (ADAP), just over $6 billion for facilities and equipment (F. & E.), $1.1 billion for research and development (R. & D.) and a maximum of $6.6 billion for operations and maintenance (O. & M.). This latter amount, which represents the user contributions to the operations and maintenance of the airway system, will be substantially reduced if the ADAP and F. & E. authorizations are not spent for their intended purpose.

Many of my colleagues are aware that although F. & E., R. & D., and O. & M. are currently being funded out of the trust fund for fiscal year 1982 pursuant to the DOT appropriations statute (Public Law 97-102), the ADAP program has been dormant since October 1, 1981. Therefore, if the conference report is adopted, adequate funds would once again be made available for critical projects to increase the safety and capacity of our national airport system.

Another major part of title V would authorize funding for the facilities and equipment program through fiscal year 1987. These authorizations were requested by the administration to begin implementation of its national airspace system plan, which would modernize our air traffic and airway systems during the coming decade and beyond. Like the ADAP program, it will be financed entirely by taxes imposed on aviation users.

The main objective of this modernization effort will be to enhance safety through increased equipment reliability, while increasing system capacity. According to the administration, lower labor costs should eventually result due to reduced personnel requirements for air traffic controllers and maintenance technicians. In addition, substantial fuel savings are expected as increased levels of automation are introduced into the ATC system.

Although the FAA plan is not perfect, it still represents the most comprehensive statement we have seen to date on how to deal with the problems associated with the current system.

Moreover, the Public Works Committee, as well as other committees of the House and Senate, will carefully monitor the FAA's progress as it undertakes these important programs. Consistent with this obligation, section 504(b) of H.R. 4961 requires the administration to update its plan as necessary every year so that it can be adjusted to meet new problems which may arise in the future.

Finally, I am pleased that the tax conferees decided to terminate all trust fund taxes on December 31, 1987. This will assure that aviation users will not be taxed as they have been since October 1, 1980, unless the authorizations for these important programs are renewed. It will also permit the Congress to renew both the tax levels and the authorizations in light of the capital and revenue needs prevailing at that time.

In closing, I want to emphasize to my colleagues that if the conference report on H.R. 4961 is adopted, needed airport and airway improvements will be permitted to go forward—improvements which will unquestionably benefit the traveling public while being funded entirely by taxes imposed on aviation users.

If this conference report is defeated the Public Works and Transportation Committee is prepared to accomplish the same result in separate legislation—for which the rule has already been adopted. I recommend the latter course.

Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of title V of the conference report and wish to associate myself with the remarks made by the chairman and the ranking member, the gentleman from Kentucky (Mr. SNYDER).

Mr. Speaker, I would like to join my colleagues in their discussion of title V of H.R. 4961 which relates to the airport and airway trust fund authorizations.

As many of you know, I have long been concerned about the direction that our airport development program has been taking. In 1967, I delivered a speech to this body stressing the need to establish a stable and reliable source of funding for our airport and airway system. I emphasized the important role that integrated airport system plans could play in assuring that airport development would be responsive to the needs of our metropolitan areas and that access to these areas would be provided to all segments of aviation.

Three years later, the Congress enacted the Airport and Airway Development Act of 1970, commonly known as ADAP, and a companion revenue bill which created a trust fund comprised of tax revenues from aviation users. This fund was created to assure that the money would be available for necessary capital development along our Nation's airways and at our airports.

While we have undoubtedly made significant progress since this legislation was first enacted in 1970, it is my belief that existing deficiencies in the system must be addressed as soon as possible.

In my opinion, one of the major shortcomings of our airport and airway system has been a lack of national purpose and direction, with not enough emphasis on establishing an integrated airport system.

Therefore, I am pleased that title V of H.R. 4961 addresses these concerns by emphasizing the importance of these integrated airport system concepts. If and when this legislation is adopted, I am confident that these provisions will enable us to effectively respond to the needs of our air transportation system in the future.

The cornerstone of the integrated airport system concept is its emphasis on the development and improvement of reliever airports. These airports not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide badly needed access to these areas for general aviation. Implementation of a viable reliever system is therefore critically needed to increase the safety and capacity of our national airport system while giving full recognition to the importance of general aviation for the economic development of these areas.

Because the conferees recognize the importance of improving our reliever system without further delay, the conference report sets aside a minimum of 10 percent of total ADAP funds for the development and improvement of reliever airports—an amount which could result in reliever funding at an average of approximately $80 million per year over the 6-year period covered by the legislation.

In addition, the conference report also sets aside 5.5 percent of total ADAP funds for smaller commercial service airports—an amount which will adequately address the needs of our smaller communities and rural areas.

I believe that another way to address these problems is the existence of a 1-percent annual set-aside for local bodies to undertake and implement integrated airport system plans on an areawide basis. Hopefully, by setting aside funds for this purpose, we can assure that adequate funds will exist to finance such planning with the end result being a viable, balanced and integrated system of public-use airports.

Title V also contains other provisions which would go a long way toward assuring that we can safely accommodate the increased demand anticipated in the future. It would strengthen the existing policy statement by recognizing the important role that integrated airport system plans can play in our metropolitan areas and allows the Secretary to give funding priority to those projects which are consistent with such plans.

In addition, the conference report would require a GAO study on the feasibility of increasing joint civilian use of military airports and a subsequent DOT-DOD plan to maximize available opportunities for increasing joint use. While joint use does exist today at some military facilities, there is wide agreement throughout the industry that we can do more in this area. Hopefully, the study required by the conference report will provide greater impetus to this program and thereby increase system capacity wherever feasible.

Although my statement has thus far concentrated on the airport side of the program, we must not lose sight of the importance of implementing the FAA's plan to modernize our air traffic control and airway systems. The plan is a comprehensive effort at setting forth the capital development needs necessary to enable us to accommodate increased growth at even higher levels of safety than we enjoy today.

The Aviation Subcommittee recently held hearings on this issue and the vast majority of witnesses supported the FAA's national airspace system plan. In addition, and I believe this is quite significant, we also heard from five former FAA administrators—Republicans and Democrats—all of whom emphasized the overwhelming importance of proceeding with the administration's plan to modernize the airway system as expeditiously as possible.

Obviously, implementation of this plan will have to be closely monitored by the Congress and revised if future circumstances dictate. Fortunately, there are provisions in the conference report which will assist us in carrying out this oversight role, such as extensive reporting requirements on the FAA during all phases of the plan's implementation.

In conclusion, if H.R. 4961 is adopted, the aviation provisions embodied in title V of the conference report would go a long way toward establishing a fully integrated national airport and airway system and one which will be responsive to the changes which will most certainly occur in the future.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Illinois (Mr. FARY), a very distinguished member of the subcommittee.

Mr. FARY. Mr. Speaker, the bill designates that reliever airports receive a high priority by requiring that 10 percent of ADAP funds be spent at such airports. I understand that the Federal Aviation Administration also supports a greater emphasis on the development and improvement of reliever airports. This type of funding assistance to relievers is essential to traffic relief at larger airports like Chicago O'Hare; the Nation's busiest. Also, Mr. Speaker, I would like to note that investments to preserve and improve relievers are usually cheaper than major

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new capacity increases at the larger hub airports. This is extremely important under constrained ADAP authorization levels, particularly since at O'Hare, an approximately $1 billion capital program is being developed just to accommodate the traffic growth through 1990.

Three Chicago area airports that provide O'Hare with critical traffic relief are Midway, Pal-Waukee and Waukegan. Together, they serve 660,000 operations annually and provide a base for over 1,000 aircraft, including 380 multiengine and/or jet aircraft. Midway is especially important in that it also provides commercial traffic relief. Mr. Chairman, considering the importance of these three airports to the efficient functioning of O'Hare, would you agree that these airports are the type of projects where ADAP funds could be put to good use and that they should receive serious consideration for reliever funding.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, yes, I agree that projects to preserve and improve these three airports are the type of projects we would like to see funded with ADAP funds and that FAA should give them serious consideration.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, it is my understanding that under the ADAP entitlements in the legislation, Stapleton Airfield in Denver will receive approximately $4 million in fiscal year 1982 and approximately $5 million in fiscal year 1983; is that approximately the numbers involved?

Mr. MINETA. That is correct. Under the conference report for this, the ADAP entitlements for Stapleton for fiscal year 1982 will be a little over $4 million and for fiscal year 1983 will be $5.3 million.

Mr. WIRTH. I thank my colleague.

Mr. MINETA. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Minnesota (Mr. OBERSTAR.)

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the airport and airway development title of the tax bill. This legislation will provide the necessary funding to insure that this Nation's airports and airway navigation system are adequately maintained. The bill authorizes between $12 and $13 billion to repair and upgrade the Nation's airport infrastructure, including funds for traffic control and FAA operating costs. Most importantly, enactment of this title will reauthorize the Airport and Airway Development Act which expired in September 1980 and will thereby direct the administration to expend trust fund moneys for airport development. This legislation would penalize the administration for failing to make the amounts authorized in the bill available for obligation.

I do, however, have reservations regarding the airport funding portion of this bill. I am concerned about the large sums earmarked for funding the FAA's operation and maintenance costs. Unfortunately, the administration and the Senate have insisted on using almost half of the annual trust fund authorization, some $1.4 billion in fiscal 1983 alone, to supplement this agency's budget. It is an unwise precedent to allocate trust fund money for a specific Federal agency because it tends to place that agency beyond the control that Congress exercises through the appropriations process and discriminates against certain classes of users.

Another issue, and one that causes me even deeper concern, is the failure of the conference committee to accept an amendment I offered during the conference to require the Labor Department to comply with the labor protection provisions of the Airline Deregulation Act of 1978. My amendment would have forced the Labor Department to implement section 43 of that act or make employee compensation payments directly from the operations and maintenance account of the Airport and Airway Development Trust Fund.

To be specific, the Airline Deregulation Act of 1978 established a program to provide, first, monthly compensation, and second, the right of first hire with other airlines for employees adversely affected by deregulation. The law directed the Department of Labor to draw up the necessary regulations and implement them. The Carter administration's regulations were issued in January 1981 but were withdrawn in one of the Reagan administration's first acts after taking office. They have never been reissued despite several specific reminders from Congress of what the law requires and several specific requests that the Labor Department comply with this clear and unambiguous legal mandate.

Since 1978 over 50,000 airline employees have been laid off and there are now 13 airline relief requests pending before the Civil Aeronautics Board. The administration's refusal to carry out this act of Congress is a blatant disregard for law and has left thousands of airline employees without any labor protection. On June 10 I wrote to the President and reminded him of his constitutional duty to faithfully execute the laws of the land. The response I received from the White House staff claimed that the CAB had not yet determined whether any of the 50,000 employees of various airlines had lost their jobs due to the effects of deregulation. That reply is just plain out of touch with reality; unemployment among airline employees is serious and cries out for relief.

Recently many editorial writers and several Members of Congress have argued that the Federal Government has no business imposing labor protection provisions on any segment of private industry. I would remind those who make this argument that the first labor protection provisions in the United States applied to the railroads, an industry that is both private and regulated. The Interstate Commerce Commission, before it would ever approve mergers, acquisition, or transfers between railroads, consistently imposed some kind of labor protection and, I emphasize, on private industry.

The railroads were privately owned in those days when labor protection was started; they were mostly making a profit. But because they were regulated by the Government and because there were certain things they could and could not do and there were certain things the Government, even though this was private enterprise, said "thou shall and thou shall not." Therefore, when we were going to change the rules, we said, we are going to make sure employees shall not suffer economic injury.

I believe, as the Senator from Nevada (Mr. CANNON) said during our conference committee meeting, that this Congress has an obligation to provide for the legitimate needs of those airline employees who have been injured as a result of airline deregulation. I regret that the conferees felt that there was no remedy available for this issue within the scope of the conference. I would, however, encourage my colleagues who share my concern to join me as a cosponsor of H.R. 6077, legislation introduced by the gentleman from New Jersey (Mr. HOWARD) that would resolve many of the problems currently facing unemployed airline workers.

Despite these misgivings over labor protection and FAA funding, I believe that the airport title is necessary and important legislation and I support it.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 4961, the Tax Equity Act of 1982.

Three principal considerations have guided my thinking to vote in favor of this tax bill.

First is its effect on jobless workers whose unemployment benefits have been cut off.

Second is its impact on the national economy.

Third is the tax reform it offers.

My first and overriding consideration is the well-being of those people who have exhausted their unemployment benefits or soon will. This bill does not provide the targetting of unemployment benefits or the 13-week extension provision I have advocated, but, frankly, we are not going to get a better deal for the unemployed in this Congress or from this administration than we have in this bill. I think we've just plain got to be realistic about that fact.

Enactment of the Tax Equity Act will bring $46 million in extended benefit payments to the 60,000 or 70,000 people in Minnesota who have exhausted their unemployment benefits. These benefits are 100 percent federally funded—no contribution from the State and no tax on employers. Nationally it will mean some $2 billion in benefits for an estimated 2 million people who have exhausted their unemployment benefits.

Minnesota workers who have received no unemployment benefits since June 1, either because their entitlement ran out or because they were cut off on July 10 when Minnesota was triggered off eligibility for the extended benefits program under the Reconciliation Act of 1981, will get an additional 10 weeks of benefits beginning September 12 through March 31, 1983, under this legislation.

If we kill this bill, we will not get another chance to help the unemployed in this Congress—and, frankly, they cannot wait until next year; they need help now.

From the standpoint of the national economy, I must say, in all candor, that it would not be right to vote against this tax bill simply because it will help President Reagan out of a serious political problem caused by the severe recession brought on by the failure of his economic program. On the contrary, our decision must be based on what is best for the country. The best decision for the national economy is to acknowledge that this tax bill will help reduce deficits over the next 3 years, restore investor confidence in the future performance of the economy, encourage a reduction in interest rates, and help get the national economy moving again.

We have to recognize that without the additional revenues from this bill, without a substantial reduction in defense spending, deficits will grow, interest rates will rise, and, frankly, the pressures will increase, to make more cuts in domestic, social, and economic programs. And those of us who care about the needy in our society, those who care about programs to help the cities, to sustain education, to provide for the needs of the elderly, have to recognize the reality of this Congress, which is, that this 97th Congress is not going to make any substantial reductions in military spending in order to cut Federal deficits.

Unless we act now, the recession will be prolonged, the suffering of those who have lost their jobs, and of those who have borne the heaviest burden of budget cuts, will be unnecessarily continued and even aggravated.

From the standpoint of tax equity, this bill does have merit; it does include tax reform; it does correct some of the worst corporate giveaways in last year's tax bill.

For example, it ends one of the most offensive provisions of last year's tax bill: the "safe harbor" leasing provision under which corporations have escaped tax liability and which help U.S. Steel buy an oil company.

It strikes at one of the provisions of current tax law that I have found extremely objectionable and which I have been fighting since I came to Congress: The foreign investment tax credit available to oil companies to reduce tax liability on oil and gas income generated in the OPEC countries. For the first time under the law that will take effect under this conference report, oil companies will pay real taxes and a substantial amount of taxes on their foreign income—some $1.2 billion over the next 5 years. Under current law they are escaping $1.2 billion anually in tax liability.

We have also achieved a long sought after limitation on hospital cost increases, which the gentleman from California (Mr. WAXMAN) has fully explained earlier.

Finally, Mr. Speaker, I think we have to consider the alternatives. Any other tax bill written in this Congress will favor big business and the wealthiest of Americans as did last year's tax bill. This bill is our last chance to pass real tax reform in this Congress and perhaps for the next 2 years and our last chance to make the big corporations shoulder their fair share of the Nation's tax burden.

Mr. Speaker, this is not the tax bill that I would have written. It bears no resemblance to the tax bill I helped write and voted for last year or to the one that I have cosponsored this year which would cap the individual tax cut at $700 a year, benefiting all taxpayers under the $42,000 income bracket and repealing indexing; and raising $150 billion in taxes by requiring big business to pay their fair share. No; it is not that tax bill; it is not the tax bill we should have, but it is the best we can get under the present circumstances and I urge a vote in favor of H.R. 4961.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT), a member of the conference committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, as a conferee on title V of H.R. 4961, I would like to join my colleagues in explaining what is contained in the bill as it pertains to the aviation trust fund programs.

As my colleagues have indicated, this is the first multiyear reauthorization of the aviation trust fund programs since 1976 and would fund airport development, facilities and equipment, research and development and operations and maintenance through fiscal year 1987. It is something that all of us on the aviation subcommittee have been working toward for the last few years and, if this conference report is adopted, title V would make a substantial contribution to the future of our air transportation system.

I know that most of my colleagues are aware that ADAP, the airport grant program, has not been funded thus far for fiscal year 1982. A similar situation also occurred last year when the fiscal year 1981 authorization was not enacted until the middle of August, thereby adversely affecting the ability of many airport operators to undertake important capital improvement projects.

If adopted, therefore, title V of H.R. 4961 would address these problems by lending some much needed stability and certainty to the ADAP program by assisting airport operators in their ability to undertake necessary long-range planning.

Since its inception in 1970, the ADAP program has funded over $4.5 billion in projects to improve the system's ability to accommodate increased demand while maintaining the highest level of safety. New airports, runways, taxiways, and terminals have been built throughout the country and ADAP has played an important role in assuring that this work was accomplished. Without question, this money has been well spent and has resulted in a safer, more efficient airport system than before the program was instituted.

I am particularly pleased that the aviation conferees agreed on a provision which would assure adequate funding for the smaller commercial service airports in the country. While these airports do not account for a large portion of total national enplanements, I am sure all of my colleagues would agree that the traveling public deserves the same level of safety at the smaller airports as it receives at the larger facilities. Accordingly, title V of H.R. 4961 would authorize a minimum of 5.5 percent of the total ADAP funds for these smaller commercial service airports.

My colleagues have mentioned the FAA's national airspace system plan and the higher level of authorizations requested by the administration and agreed to by the conferees to begin implementation of the plan. I think all of us can appreciate the necessity of maintaining our air traffic control and airway navigation equipment at a high level of reliability. Unfortunately, much of the existing equipment is outdated and in need of modernization if we are to safely and efficiently accommodate the growth expected in the future.

Therefore, title V of the conference report would authorize FAA to accelerate its efforts along these lines. Although many of us have concerns

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about the FAA's ability to carry out this ambitious plan, we expect to monitor the agency's progress periodically to make sure that its efforts are proceeding on schedule and in accordance with the best interests of the traveling public and the aviation community.

Mr. Speaker, the aviation provisions embodied in title V of the conference report on H.R. 4961 are the result of considerable hard work and perseverance not only by the conferees themselves, but by virtually all segments of the aviation community. If H.R. 4961 is adopted, therefore, it would assure that our air transportation system would be able to effectively respond to the challenges in the years ahead.

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Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Kentucky (Mr. HOPKINS).

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, after much deliberation and thought, I am supporting H.R. 4961, the Tax Equity Fiscal Responsibility Act of 1982. This has been the most difficult decision that I have had to make during my 4 years in Congress and I do so despite serious reservations about several provisions in the legislation.

Nevertheless, I am supporting the President in his efforts to reduce the budget deficit and to close certain loopholes in the present tax code which are unfair. This bill must be viewed as part of the initiative made by President Reagan last year to reduce personal income taxes for all Americans and to achieve control over Federal spending. This legislation will, in fact, preserve the $370 billion worth of tax cuts provided to all Americans last year and will also serve to insure the much-needed third year of the tax cut.

While serving in Congress, I have consistently taken the position that sharply reduced Government spending, taxation, and budget deficits are essential for a healthy economy. I am pleased that this bill does include some major reductions in spending, but much more must be done to achieve further spending cuts and to eliminate the deficits that will remain after this year's congressional action.

In my judgment, passage of this legislation is necessary to reduce the Federal budget deficit in fiscal year 1983 and to continue the trend toward lower interest rates. Such action is critical to help stimulate the needed economic recovery. Failure to pass the tax bill will leave the Federal budget deficit at unacceptably high levels and will negatively impact interest rates and recovery.

Mr. HOPKINS. Mr. Speaker, I would like to inquire of my colleague the gentleman from Kentucky (Mr. SNYDER) about the Blue Grass Airport in Lexington.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I say to the gentleman that I am personally familiar with that runway because my plane lands there on the way up here most every week.

Mr. HOPKINS. Mr. Speaker, I would like to inquire of the gentleman from Kentucky about some very important work which is needed at the Blue Grass Airport in Lexington, Ky.

Mr. SNYDER. I would be pleased to respond to the gentleman. What type of project is involved?

Mr. HOPKINS. The main runway at Blue Grass (4–22) is 6,500 feet in length which, as you know, is marginally acceptable for DC–9 and B–727 operations. Although the airport operator has studied the feasibility of constructing an 8,000-foot parallel runway to complement the existing runway, our local officials have concluded that the airport would be well served by a 550-foot extension of the existing runway at this time, particularly since there are steep dropoffs at both ends of the runway. No additional land purchase will be necessary for this extension. The Federal share for the project is expected to be about $4.5 million.

While the Blue Grass Airport would be eligible to receive an entitlement as a primary airport under H.R. 4961, I am concerned about whether adequate funds will be available out of the ADAP discretionary program to finance this important project.

I am sure that my colleague can appreciate the necessity of lengthening the existing runway, thereby providing an additional margin of safety to the flying public. What is the gentleman's opinion of the desirability of completing this project as soon as possible?

Mr. SNYDER. I appreciate the gentleman's concern and I agree that this is the type of project which the FAA should accord high priority when it allocates the available discretionary funds. As has always been the case with the ADAP program, projects such as this, which would increase safety, are to be given the highest consideration.

Therefore, I would agree with the gentleman that the completion of the runway extension at the Blue Grass Airport would be a substantial improvement to the safety of operations at the airport and that the FAA should assure that the project is given serious consideration for ADAP discretionary funding.

Mr. HOPKINS. I thank the gentleman for responding.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Speaker, I would like to ask the gentleman from Kentucky about the discretionary grants program under H.R. 4961, particularly as it applies to the needs of Bradford Regional Airport in Bradford, Pa.

Bradford is a truly regional airport, operated by a multicounty authority and serving McKean, Elk, Cameron, and Warren Counties in Pennsylvania as well as adjacent southwest New York State.

Industry relies heavily on the services provided by Bradford Regional Airport, since this area is very poorly served by other modes of transportation. Access by motor vehicle is difficult, as Bradford is near no Interstate or other high-speed road that would connect it with cities in the rest of the State.

There are a number of vital projects at Bradford Regional Airport in need of funding over the next 2 or 3 years. These include repairs to the shoulders of runway 14–32, as well as overlay and marking work on this runway, at $1,500,000, and an extension of runway 5–23 and rehabilitation of its lights, at around $750,000. This work, which needs to be done if services at Bradford are not to suffer, obviously requires financial support from the ADAP program.

In former years, Bradford Regional Airport would have been entitled, as an air carrier airport, to a regular yearly apportionment from which it could fund such needed projects. However, because of financial limitations, airports will need enplanements of around 32,000 to qualify for entitlement funding as primary airports under H.R. 4961. Therefore, Bradford will be in particular need of funds from other portions of the ADAP program, particularly from the discretionary grants program, in order to complete these much-needed projects over the next few years.

Are these projects at Bradford Regional Airport the sort of work that the gentleman believes the FAA should consider for funding under the provisions of the 5.5-percent set-aside for small commercial service airports, as well as the discretionary fund in general?

Mr. SNYDER. I am well aware of the needs of Bradford Regional Airport. We on the Aviation Subcommittee cannot help recalling how two Allegheny aircraft crashed at Bradford in the early 1970's, killing over 50 people. The airport was then without instrument landing facilities; these have since been provided out of the airport and airway trust fund, and there have been no similar tragedies.

Bradford Regional Airport presently has fine facilities, in large part because of the support it has received through the decades from the Federal Government. Continued Federal assistance to smaller airports like Bradford is essential not only to these airports but also to the air transportation network of the Nation as a whole.

Therefore, I agree with the gentleman that the projects he has mentioned are precisely the sort of projects that the FAA ought to be considering when making grants under the discretionary program provided by this legislation. It is my expectation that Bradford Regional Airport will continue to receive support from the ADAP program, and I appreciate your having brought its needs to the attention of this body.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982.

Earlier today I overheard a colleague say, "This is an easy 'no' vote." Yes, it certainly is, if one chooses to ignore the need to improve the fairness of the tax system, and to reduce deficit levels now destroying the American economy.

Mr. Speaker, we were not elected to serve in this body in order to take the easy way out—to renege, on the short term, the responsibility we have to this Nation and to our constituents in the long run. My support for this bill comes after long and careful reflection. It is not perfect and I have real concerns over several provisions, especially those which impose a small 1.3-percent medicare tax for Federal employees and withholding provisions on interests and dividends (although most objections to them have been satisfied). I will take advantage of future legislative opportunities to voice these objections. However, this bill is in many ways the best alternative available to us in order to bring down interest rates and the deficit without, at the same time, choking off the economic recovery now on the horizon.

Mr. Speaker, the truth about this bill is that fully three-fourths of the new revenue generated by this legislation will come from measures to close loopholes and to collect money from the tax evaders of the underground economy. Let me repeat: This legislation, rather than imposing new taxes on honest taxpayers who report all their income and pay their taxes on a timely basis, simply seeks to collect taxes that are already owed from those who do not.

For example, there are compliance and collection measures that are designed to collect taxes from those who currently owe them, but do not pay them. These include provisions to improve and expand information reporting, to increase penalties for noncompliance, and to change interest computation rules.

Measures contained in the bill to reduce loopholes are also long overdue and are needed to reduce unintended benefits. These include changes in the treatment of long-term contracts, private purpose tax-exempt bonds, construction period interest and taxes, and modified coinsurance. Most importantly, the bill restructures and strengthens the minimum tax for high-income individuals and large corporations.

With regard to the medicare and medicaid agreements in the conference report, although I do not feel these programs should be cut and have voted accordingly, I do believe that the provisions in the conference report are the best we can hope for, having been achieved after negotiation by Member such as Mr. WAXMAN, certainly a sensitive Member. My main concern is for the elderly and disabled medicare and medicaid beneficiaries who I believe will be far better off under this bill than any legislation we could adopt in the future.

Under the medicaid agreements, the bill manages to reduce by over $1 billion, the cuts the Senate and administration have requested. In addition, only one of these reductions comes as a direct shift of costs to the States. This provision will not allow Federal matching payments to States with error rates for medicaid eligibility of over 3 percent. Furthermore, these penalties will not take effect until early 1984 in order to give the States a chance to improve their performance standards. States who have made good-faith efforts to comply with this provision can also apply for a waiver of penalties after this time.

The legislation before us is not only limited to program cutbacks. In my opinion, it also contains some positive provisions. States would now be allowed to provide health benefits to certain disabled children at home when currently only children in institutions are eligible. Hospice benefits are included in medicare, and provisions authorizing health maintenance organizations to participate in medicare on a prospective risk basis are also contained. In addition, the concerns I had that proposed cost shifts to physicians would result in a declining number of doctors accepting medicare and medicaid assignments have been dropped from the conference report.

If we did not pass the reconciliation bill yesterday despite my opposition, I would not be supporting today these changes in the medicare and medicaid programs. However, the majority of my colleagues have imposed these reductions on us, my objection notwithstanding, and I believe this legislation enacts these cuts in the most compassionate way possible. If we do not pass these reductions, I am afraid that the next time we vote, the cuts would be more harmful.

Another favorable change I support is the provision in this bill to place a 6-month moratorium on nursing home regulations. The conference report also establishes a program of emergency Federal supplemental unemployment benefits which provide up to 10 weeks of additional unemployment compensation payments to workers who have exhausted their other benefits. This program will be financed entirely out of Federal general revenues and, therefore, will not impact employer taxes or the solvency of State unemployment programs. We all know the recession has hit hard. This bill is not only designed to bring interest rates down and put Americans back to work, but also, in the interim, to allow half a million workers to stay afloat financially. In New Jersey alone, 50,000 workers will be directly benefited by this provision.

In addition to increased supplemental unemployment compensation benefits, this bill includes several provisions of special importance to New Jerseyans. One such provision will facilitate the allocation of a VHF television station in the State. Also, included is a general revenue-sharing allocation provision which will enable the State's 21 counties to realize an increase in their general revenue-sharing allocations.

Another provision of special benefit to people in New Jersey is the relaxing of the restrictions imposed 2 years ago on mortgage revenue bonds, which should improve the New Jersey Mortgage Finance Agency's ability to finance more homes. The bill also extends the targeted jobs tax credit which was due to expire in December; a program which is of enormous benefit to New Jersey employers and workers.

As I stated earlier, two particular areas of deep concern to me in this bill are the 1.3-percent medicare tax on Federal employees and the withholding provisions on interest and dividends. Although the medicare tax provision would entitle Government workers with the required number of years of service to qualify for medicare, it fails to recognize that many active and retired civil servants have already worked long enough in covered employment to be eligible for these benefits. If I had the opportunity to vote on this particular aspect of the conference report, I would vote "no." Unfortunately, I do not have this opportunity despite my joining an attempt earlier to gain that right and will support future efforts to repeal this provision of the bill.

In addition, I voted prior to consideration of the tax bill to allow consideration of an amendment which would have removed the withholding provision from the tax bill. Unfortunately, the vote against the rule governing consideration of the tax bill failed. Had I been given the opportunity, I would have voted against the inclusion of the withholding provision.

Nevertheless, it is important to point out that this provision only requires financial institutions to withhold taxes already owed. Individuals who pay their taxes now will not be taxed one additional dime. Added to this is specific exemptions to provide for the elderly and low-income individuals. Nearly 90 percent of the senior citizens in this country (including single people with incomes less than $14,450 and joint returns with incomes less than $24,214) will be exempt. Adjustments have been made to not inflict real hardships on financial institutions because of the exemptions authorized in the conference agreement. First, the Treasury Department is authorized to exempt certain small financial institutions until they are able to comply. Second, the Treasury is authorized to permit financial institutions to retain the money withheld for a period of time so that it can be invested. The income the bank receives from this investment will offset the administrative costs of the withholding provisions.

While the chief function of the measure we are considering today is to insure that we can pay for programs our country needs, programs for education, environmental protection, mass transit, defense, and health care, to name a few, it also makes contributions to tighten many loopholes in the tax system. I deplore the "tax and spend" policies of the Federal Government and want to end this vicious cycle which has placed heavy burdens on our citizens.

When I go home to New Jersey tomorrow to visit with my constituents, I would prefer to be able to say I did not vote to increase taxes. But, I deeply feel that unless we take this action today, when I return home in the months ahead, I will have to face my constituents with higher Federal deficits, higher interest rates, higher unemployment, higher bankruptcies, and worse legislative remedies than we are facing today. No politician in his right mind wants to vote for a tax increase; especially before an election. I, too, would like to take the easy way out today and face the consequences later on down the road. But I know the conference report is necessary for the future strength and stability of the country. And therefore, I must vote today for the future viability of our economy and not my own immediate interests. I hope a sufficient number have the courage to join me.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, as someone who has supported the President's economic recovery program, I take no pleasure in rising today in opposition to H.R. 4961, the President's tax increase bill.

My decision to oppose this tax legislation is not made in haste, nor is it based on rigid, economic theory. While I enthusiastically support efforts to reduce both interest rates and unemployment in this country, I am not convinced this legislation is the solution to either of these pressing problems.

In fact, I am fearful this legislation will only exacerbate our economic problems and will slow the economic recovery program which this Congress approved just last year.

Without going into a great deal of detail, I would like to share with my colleagues and my constituents some of the general and specific objections I have to H.R. 4961.

Whether you call this legislation tax increase or tax reform, the simple, undisputed fact is that this bill will remove nearly $100 billion, just over the next 3 years, from our economy and this at a time when our industries are starving for capital to create new jobs. A proposal of that sort, whatever it might be called, is not acceptable to me, and is not helpful to this country's economy.

What is even more tragic is that many of these industries were just beginning to respond positively to the tax incentive provisions contained in last year's Economic Recovery Tax Act. Now, this new tax increase will not only repeal 60 percent of the business tax reductions approved last year, but also will heighten investment uncertainty among business managers all over this country.

The second objection I want to express is the timing of this legislation. While there is no good time to raise taxes, history has shown clearly that such a tax increase, during a recession, invites only prolonged and more severe suffering among our people. I will not be a party to such suffering and I am asking you not to be, as well.

We had tax rate increases in 1916–20, 1932, and 1968–69 and all were followed quickly by sharp drops in reported income, tax collections, and economic activity. The increase in 1932 occurred in a period very much like today's with the economy in a slump and the Federal deficit growing. The Hoover administration and Congress agreed to raise taxes by $900 million nearly 30 percent of the 1931 level in order to reduce the deficit. However, tax receipts actually fell by $1.2 billion in 1932, the deficit grew from $0.5 billion to $2.7 billion, and a severe recession turned into the Great Depression.

While I am not suggesting the passage of this bill will result in another depression, I have no doubt that it will slow the economic recovery that all Americans want.

Let me also say that I am deeply troubled that this tax legislation is being taken up at a time when the Congress, and specifically this body, has refused to make necessary spending reductions that we voted to institute earlier this year. It seems to me that what we are doing today is a classic example of putting the cart before the horse.

In my judgment, this Congress must first approve the spending reductions called for in our budget and then, and only then, decide if increase revenues are appropriate. To do otherwise, is to admit that we lack the political courage to make these necessary spending reductions and that we prefer, instead, to return to the vicious old tax-and-tax, spend-and-spend cycle that I have worked so hard to break.

An additonal objection I have to this legislation is that it flies in the face of my efforts to simplify our tax system. At a time when there is a growing movement in this country for a simplified, perhaps even flat rate, tax system, this 800-page tax bill greatly complicates our tax laws and will make it even more difficult for small business people, in particular, to file their own tax statements without substantial professional assistance.

Finally, I am concerned as to how this legislation was written and the possible unintended, adverse effects it may have on thousands of Americans.

While one can argue that this tax bill does not violate the letter of article 1, section 7 of our Constitution, it clearly violates the spirit of this sacred document which states "all bills raising revenues shall originate in the House of Representatives."

Not only has the House of Representatives not had an opportunity to discuss, debate or amend provisions of this bill prior to action on this conference report, but the House committee of jurisdiction the Ways and Means Committee, has not even held hearings on most of the items contained within this proposal.

In my judgment, this legislating by fiat is grossly unfair to those millions of Americans who will be hurt by this bill, Americans who were denied even the opportunity to state their reservations. In addition, I am convinced that once this fight is over, we will find dozens of mistakes and unintended effects which will force this body to once again admit it has legislated a bill without really knowing what effect it will have on thousands of Americans.

At this point, Mr. Speaker, I would like to briefly state some of my specific objections to certain provisions contained within H.R. 4961.

First, I believe the 10-percent withholding requirement on dividends and interest is an absolute disaster. That requirement will create a paperwork nightmare for America's financial institutions and will encourage individuals to spend, rather than save, their discretionary income to avoid this withholding provision. The net result of this action will be a loss to both the Federal Government, in terms of lost revenues, and to the equity capital markets which desperately need a larger, rather than smaller, pool of available capital.

Second, at a time when unemployment has reached near record levels, it is inconceivable to me that we would nearly double, as this bill does, the Federal unemployment payroll tax. As small-business people know, payroll taxes come off the top of their gross income and must be paid whether or not a small business is profitable. In the case of a marginal business, these increased payroll taxes will be one more disincentive to hiring people.

Third, I am concerned at the changes this legislation mandates in the pension plans of thousands of Americans. At a time when the social security system faces complex financial troubles, we should be encouraging, not discouraging, individuals to put aside funds for their retirement years. With these pension plan changes, I believe these thousands of Americans will seek out tax-exempt shelters which not only will deny the Government revenue, but will once again take money out of the badly depleted capital markets.

Fourth, it seems inappropriate to me to be increasing taxes on such things as cigarettes, telephones, airline tickets, aviation fuel, fishing equipment and medical care. These taxes are regressive and they more heavily penalize low-income families in our society. We need to move toward a tax system which, to the extent possible, treats all Americans equally. I regret these taxes, in particular, do not meet that criteria.

Fifth, while I strongly believe that every American should pay his or her fair share of taxes, I am concerned that this bill grants broad dangerous new powers to the internal revenue service. For example, this bill will, for the first time, require taxpayers to pay a penalty for late filings even when the IRS owes them refunds. In the case of businesses, it will allow the IRS to require taxpayers to file their return on their own computer tapes. And, in those cases when the IRS wins certain disputes in tax court, the Service could impose a special penalty on taxpayers for merely challenging a disputed deduction. In my judgment, the IRS already has more than enough power to legitimately collect taxes due. We should be very careful to not further stack the system against American taxpayers.

Finally, this bill contains a number of changes in rules governing depreciation laws, business tax payments, construction deductions, multiyear contracts, corporate mergers and foreign oil and gas income which will result in lost job opportunities. These changes will, I fear, hurt some of my constituents along the Houston ship channel.

Mr. Speaker, let me say in conclusion, that I believe this legislation is badly timed and ill conceived. It will not create jobs for unemployed Americans and it is generally bad for our economy.

The overwhelming majority of my constituents, in a recent questionnaire to the eighth congressional district, indicated they oppose increased taxes at this time. As their elected Representative in the Congress, as their voice here in Washington, I must oppose this measure, however painful it is for me to oppose my President.

Last year, I supported President Reagan's calls for spending reductions and tax cuts for working Americans. I believe then, and I continue to believe, that such spending cuts and tax cuts will get our economy moving again. I will remain true to my beliefs and consistent in my efforts.

Mr. Speaker, there are ways, which we must pursue, to bring down interest rates and reduce the Federal deficit. Regrettably, this legislation fails to accomplish either of those goals. I, therefore, will oppose passage of this tax increase legislation.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in opposition to this bill. This bill is a real bummer.

Mr. Speaker, I rise to express my opposition to this tax increase, for it is an increase, despite the pretense that it is merely a reform involving miscellaneous changes in the tax structure. Leaving all the rhetoric aside for a moment, objectively this is a poor piece of legislation.

My primary objection to this bill is that it is unconstitutional, an issue which many of my colleagues have chosen to ignore. But can we really afford to look the other way on this issue? I submit that we must not, because what is really on trial here is the entire basis of our form of government. Each one of us here in this Chamber today has taken an oath, a moral obligation, to uphold the Constitution.

Regardless of whether they favor or oppose specific provisions of the bill, the American people are sick and tired of the way the system works. Congress gives itself tax breaks, backdoor pay raises, and violates the Constitution as well. This willingness to play fast and loose with the supreme law of the land is what disturbs the American people more than anything else.

But this is just one little provision, you may say, surely what can this hurt? Well, the Constitution is nothing more than a series of provisions. Freedom of speech, freedom of the press, freedom of religion, and the right to due process are all just "little" provisions. Can we afford to flirt with tyranny by blatantly ignoring the clear mandate of the Constitution which states that: "All bills for raising revenue shall originate in the House of Representatives." I call on every Member of this body to exercise his or her moral obligation by voting against this bill on the basis of its unconstitutionality.

Even if this bill were constitutional, it would still be an unjust piece of legislation. It is neither equitable, nor right for America, as its proponents would have us believe. It is not fair to retain the three martini lunch, while going after tip income with a vengeance. It is not just to tax the pensions of senior citizens who are living on low, fixed incomes. Is it really fair to withhold 10 percent on interest income, and allow the banks to have the free use of those withheld funds for at least 30 days? Any objective sense of equity tells us that these provisions will not make the tax system fairer. Our current tax structure is inherently inequitable, and this bill does nothing to correct the problem.

We have chosen a fine to be restricting the deductions for medical expenses by raising the percentage from 3 percent to 5 percent of gross income. The United States has an aging population that will require more health care in years to come; certain diseases such as cancer are reaching near-epidemic proportions; and more people, especially the 10 million unemployed, are finding the cost of health insurance prohibitive; yet we, in our infinite widom, have chosen this time to restrict medical deductions. I would hate to think that people in this country would have to deny themselves necessary medical care for fear that they would not have enough money to pay Uncle Sam on April 15.

This bill will hit virtually every household in this country. The excise tax on telephones, the tax on airline tickets, the withholding on interest and dividend income, will affect every family. Once again, it is the individual who will bear most of the cost of this bill. By the proponents' own admission, of the $19 billion of the purported new taxes, $17 billion will be levied on individuals, while $2 billion will come from corporations.

To increase taxes by $225 billion over the next 5 years is certainly not good for the United States. The Amer-

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ican economy is literally starved for investment capital, and removing an additional $225 billion from the economy can only have disastrous consequences. To bring about a real, sustained recovery of the economy, savings must be encouraged, not discouraged. What we really should be doing right now is reducing taxes even further, so that people can begin to save and invest their money. No economy can grow and prosper when there is no capital formation.

I recognize the need to balance the Federal budget, but this should be accomplished by spending cuts rather than tax increases. In 1980, Americans went to the polls and demanded a stop to the old Washington policies of high spending and taxes. Despite all the hysterical claims, there have been no real cuts in Government spending—only cuts in the rate of increase in spending. A sense of fiscal responsibility and a willingness to say "no" to special interest groups are what are really needed in Washington, not a new tax increase.

Some people are making the argument that we will hurt the American people if we do not raise their taxes. This is an incredible assertion that is passing for truth. Raising someone's taxes can never help him, it can only hurt. Some people in this town seem to think that all money belongs to the Government, and that the people should be grateful for what the Government allows them to keep. A person's wages belong to that person, and the Government has no right to take a person's income for wasteful programs. Congress can always find ridiculous and frivolous ways to spend the taxpayers' money.

The people of my district have made it abundantly clear that they are overwhelmingly opposed to the tax increase. The mail and phone calls from my district are running around 15 to 1 against the tax bill. I cannot violate my own conscience, and the clear wishes of the people of my district, by voting for this tax bill. I urge my colleagues to consider their moral obligation to uphold the Constitution, and the wishes of the people in their districts, by defeating this bill.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. Jeffries).

Mr. JEFFRIES. Mr. Speaker, I rise in opposition to this conference report because it does exactly the opposite of what we should be doing. It dramatically raises taxes, instead of dramatically cutting spending.

I announced my retirement from this body because of my disgust with the refusal of Congress to do what needs to be done. This proposed tax raise confirms my decision.

Mr. Speaker, the American people have been betrayed. In 1980 they did not call for the biggest tax raise in history, the biggest deficit in history, the biggest national debt in history. No; they called for tax relief, and a government which lives within its means. But, they have been given just the opposite.

We do not need a big fat tax raise. We need a big fat spending cut.

This tax hike will only compound and prolong the recession in which we now find ourselves. With this tax and spend philosophy, Congress is only guaranteeing our citizens that they will continue to be afflicted by the four horsemen of the economic apocalypse: high taxes, high inflation, high interest rates, and high unemployment.

Congress is not solving the problem. Congress is the problem.

I believe that an economic remedy is not going to be found here in Congress, but rather at the grassroots level. The people are going to have to force Congress to make the needed changes.

If you think that the voters are going to overlook this tax raise, you are sadly mistaken. Their response to the President's call for this tax bill has been negative. And it will be negative in November.

I urge my colleagues to rise up and defeat this tax abomination.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Iowa (Mr. Bedell).

Mr. BEDELL. Mr. Speaker, I rise in support of the conference report to H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. As with any legislation of this magnitude there are bound to be provisions with which I disagree, and this bill is no excepton. Among other things, I am opposed to instituting a 10-percent withholding on interest and dividends—and I just voted against the previous question in an effort to remove this provision from the bill. However, despite these objections, I am compelled to support the bill for two overriding reasons.

First and foremost is the desperate economic situation facing this Nation. We are in the grips of the most severe recession we have experienced since the 1930's due to record high interest rates—the result of massive and unprecedented deficits. It is absolutely imperative to reduce this ever-growing budget gap in order to ease upward pressure on interest rates. America cannot go back to work and stay working until interest rates are reduced. Our priorities must rest with achieving this task.

Mr. Speaker, we are on the horns of an economic dilemma, and I encourage my colleagues to muster the courage to pass this bill. Combined with the reconciliation legislation passed yesterday, there will be budget savings of $130 billion. This revenue bill, an integral part of the savings, enjoys remarkable and strong bipartisan support, including that of the President. I am pleased the President recognizes the extreme urgency of taking this action in order to resolve our economic problems and supports the bill as necessary to this end.

It is my contention that we all realize that last year's tax bill simply was too large, especially when combined with the largest peacetime military buildup in our history. As I said 1 year ago, I fail to see how we can cut taxes by $750 billion and increase defense spending to $1.5 trillion over 5 years and not expect the terrible economic problems we are having with deficits and high interest rates.

Second, my support for the conference report stems from some of the tax reform measures in this bill. Given the necessity of narrowing the wide gulf between revenues and spending, I note this bill does not, for the most part, institute new taxes in this severe recession. Instead, it initiates largely warranted and meaningful tax reform measures.

The bill contains reform measures to halt abuses used by some to reduce their tax responsibility at the expense of all. I note with interest that: The corporate pension system will be reformed without harm to the rank and file employee; a new alternative minimum tax will be imposed on the wealthy to insure that they will pay some tax no matter how many shelters and loopholes they utilize; safe harbor leasing allowing corporations to buy and sell tax deductions and credits through paper transactions will be sharply curtailed this year and repealed at the end of 1983; abuses of the investment tax credit will be reformed; the tax provisions encouraging undesirable corporate mergers and acquisitions will be eliminated so that a decision to take over another company will not be based on tax consequences. Finally, the bill contains strong compliance measures to aid in stopping tax cheaters and others who would evade paying their taxes.

Mr. Speaker, we need to take dramatic action to respond to the economic crisis. While any revenue bill is always unpopular, refusing to stop the budget hemorrhage to aid in lowering interest rates is even less popular. Accordingly, I encourage passage of the conference report.

Mr. Speaker, I am pleased to see the provisions in the conference report on H.R. 4961 which pertain to corporate merger activities. This is an area of our tax laws that is much in need of revision.

Merger activity among the Nation's largest corporations has been at a fever pitch in the past few years. While our economy has been languishing in a prolonged recession, Wall Street's investment bankers and stock market speculators have been busy spending America's capital resources on dubious deals that do little more than shift the ownership of existing corporate assets from one bank account to another.

In the 96th Congress, when I chaired the Small Business Committee's Antitrust Subcomittee, we were told by the Chairman of the Securities and Exchange Commission that in a 5-year period more than $100 billion of corporate cash resources was diverted away from productive uses and spent on tender offers alone. Not one single new job or new innovation or increase in productivity resulted from the expenditure of that money.

And do not believe for 1 minute that these deals only affect those directly involved. The repercussions of these huge mega-mergers are felt throughout the economy. The billions of dollars of credit extended in these deals shrinks the supply of funds available for small business expansions, farm credit and mortgage loans. The amount of credit used in just one merger last year, the one involving Du Pont and Conoco, exceeded the total amount of money lent to all small businesses and entrepreneurs by the Small Business Administration in 1981.

Probably the most disturbing fact uncovered in the Antitrust Subcommittee's merger investigation in the last Congress was that our Federal tax laws actually encourage a large amount of this merger activity. We learned that our tax code is anything but neutral when corporate reorganizations are involved.

For example, we found that the depreciation laws favor the acquisition of existing plant and equipment and real estate assets over the development of new, more productive assets. This is why certain oil companies with substantial, largely depreciated mineral properties are in such demand these days.

The Antitrust Subcommittee also reported that, because of our policy of double-taxing dividends, many large companies often do not pay out their excess cash as dividends. They choose instead to use these excess resources to purchase other companies.

Our tax policies also may be forcing many small business owners to sell out to large corporations. Our subcommittee found that the tax system does not allow small businesses to generate enough capital internally to grow, and at times, this forces them to merge with larger corporations to obtain capital for expansion.

Our estate tax laws, we were told in the 1980 hearings, were so strict that many small businesses were forced to liquidate or sell out in order to settle estate-tax debts.

I am pleased to note that since our report was issued in 1980, progress has been made to change some of these tax policies that adversely affect unproductive economic activity. For one, we have substantially improved our estate tax laws. This move alone will allow many small businesses to remain in family control for subsequent generations that otherwise would not have that option under the old estate tax laws.

Most recently, a measure contained in H.R. 4961 will seek to revise the way the tax code treats depreciated assets acquired in a merger in order to close some of the loopholes companies were using to avoid proper tax payments on acquired assets. This provision, supported by both the Senate Finance Committee and the House Ways and Means Subcommittee on Select Revenue Measures, chaired by our colleague Pete Stark, will greatly reduce the incentives behind tax-motivated mergers and is similar to a bill introduced by Henry Reuss and myself, H.R. 6604, the Truth in Merger Economics Act.

Closing loopholes in the tax code is never easy. By the standards of corporate tax reform in recent years the antimerger provisions in this tax bill are substantial. But do not think this will be enough. Armies of corporate lawyers will still search for new angles to serve the pecuniary interests of their major shareholders and boards of directors. The promerger incentives in our Tax Code still run deep. For example, I am apprehensive that the massive tax breaks won by the administration in last year's tax bill will allow some corporations to accumulate tax benefits and thus become attractive acquisition candidates.

Nonetheless, I am pleased with the proposals in H.R. 4961 that will tighten the partial liquidation tax laws along the lines suggested in the Small Business Committee's 1980 report on mergers. Hopefully, Congress will follow up on this important first step toward removing tax inducements that provide artificial market incentives for merger and acquisition activity.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Kentucky (Mr. Hubbard).

Mr. HUBBARD. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Having heard my colleagues in their recent comments, I feel compelled to speak about the Paducah, Ky., airport in my district, but there are many other problems in my district which are even greater than the problems of the Paducah airport.

Mr. Speaker, let me assure you that high interest rates and unemployment across our country are two serious problems that we need to continue to address ourselves to this afternoon.

In my own Kentucky district, high interest rates and unemployment have been devastating.

My constituents want a balanced budget. However, they want less government spending and not higher taxes.

I sincerely believe that the tax bill that we are voting on this afternoon is unconstitutional. It did not originate in the House of Representatives as required by our U.S. Constitution. Every word in House bill 4961 originated in the Senate, and it now comes to us after conference.

I repeat what the voters of this country so loudly said in November 1980, which is that the people want less government spending, less government controls, and less taxes.

Could it be that we today would inflict upon our people higher taxes instead of cutting back on government spending? It is impossible for me to vote western Kentuckians the biggest tax increase in history while my constituents see their current tax dollars going overseas to foreign countries, some of which are not even friendly to the United States.

I urge my colleagues to think seriously before they vote. This should not be a vote on whether or not we go along with the President, but whether we go along with the great majority of the American people who do not want higher taxes. They want a balanced budget by way of reduced Federal spending.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. Moore).

Mr. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I simply point out that the debate in which the gentleman and I participated in defeating the previous question on the rule on H.R. 2463 several weeks ago, due to the raising of the tax rates on the aircraft, airline, and air pilot industry, and those revenues not being spent out of the trust fund in the past 10 years. This bill now brings in even higher taxes than H.R. 2463, which we never got around to considering, and the whole reason for the passage of this bill, we are being told, is to bring down the deficit.

That confirms my worst fears: That those air taxes are being collected, put into the trust fund, but will not be spent for air safety, but will remain there as a prisoner or frozen, to help balance the budget, as they have been in years past.

Mr. SNYDER. Mr. Speaker, I would say to the gentleman, if this conference report is defeated, that a rule has already been adopted and we are ready to take up the ADAP bill. We can adopt what is in this title separately the same as it can be adopted in this bill.

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I would recommend to the House that course of action.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. Schneider).

Mrs. SCHNEIDER. Mr. Speaker, I rise in support of H.R. 4961. There are many reasons to vote against this bill, but in my opinion there are many more compelling reasons to vote for it. Today's economic climate demands action, and this revenue bill represents one clear opportunity to reduce the deficit and show the financial markets and the American people that we are serious about addressing the problems of interest rate pressure due to Government borrowing and fundamental fairness in our tax laws.

As has been said so eloquently over the past few days, this is not a time for finger pointing. We are not faced with a Republican problem or a Democratic problem, but with an American problem, and it is time for us to join together in positive action.

Why should we vote for this bill? There are many important reasons:

A clear opportunity to reduce the deficit by $20.9 billion during the first year and an additional $78 billion over the following 2 years;

Improved collection to the tune of $48 billion over 3 years, or nearly one-half the revenue generated by the bill—the first place to start raising revenue is to insure that we collect taxes that are owed;

Closing of loopholes in the amount of $32 billion, or one-third of the revenue generated. This makes this legislation the most comprehensive tax reform measure ever undertaken by the Congress. This is a clear chance to insure fairness, including minimum tax reform for the very wealthy in our society.

An opportunity to provide for extended unemployment benefits for those who simply are unable to find work. Unemployment is a national problem, and we in the Congress have a clear responsibility to lend a hand to those encountering hard times.

Like many Members of the House, I am not happy with some of the provisions of this bill. In fact, I have joined with others of our colleagues in seeking a reexamination of the withholding provision. Certainly, those undesirable portions of the bill need not be there, had the nearly 2 to 1 majority on the committee permitted reform of oil taxes and other, further reform measures not affecting most Americans. But they did not, and we are now faced with a package which we must evaluate in terms of the greatest good or greatest detriment.

Mr. Speaker, after days of soul-searching, I believe that H.R. 4961 is a bill which we should all support. Failure to enact this measure promptly will insure continued misdirection in the financial markets and kill any chance to bring fairness to the tax laws for some time to come. My constituents want to buy cars, homes, and borrow capital for their small businesses. Until we can grapple with this country's economic problems and show the ability to exercise leadership on the road to economic recovery, the only signal we will be sending will be one of polarization and inability to move in any direction. This bill represents the only clear shot we may have for a long time to come.

Mr. Speaker, many voices are calling for a courageous vote today. I am calling for the only right vote—a vote in favor of this bill.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. I thank the gentleman for yielding to me.

Mr. Speaker, I came into this debate uncommitted, not knowing for sure how I was going to vote. I have been listening attentively all afternoon.

I have come to the decision that the only responsible vote on this particular bill is a "yes" vote.

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I did not vote for all of the spending that has created historic deficits. I did not approve of all the spending. I just talked to the President a few moments ago from my office, and I told him that I felt like the man who had to feed the cow and did not get the milk. We did not get all the milk we paid for, but I think now is the time to ante up.

I think any vote but yes is a bad vote, a vote that is not responsible and certainly not in the best interests of our country. I urge a "yes" vote.

The SPEAKER pro tempore. All time of the gentleman from Kentucky (Mr. Snyder) has expired.

The gentleman from California (Mr. Mineta) has 2 minutes remaining.

Mr. MINETA. Mr. Speaker, I yield 1 minute to our colleague from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Speaker, I thank the gentleman for yielding. I would like to express my appreciation to Mr. Mineta and to the House conferees on the ADAP portion of this legislation, for providing that Puerto Rico will be included as a State in the ADAP legislation funds which are very much needed for the improvement of the San Juan International Airport and will help in our economic development.

I also want to state that the version passed by the other body would have been very damaging and injurious to the possession's tax credit and our ability to create jobs, but the compromise arrived at with the help of Mr. Rangel, Mr. Rostenkowski, Mr. Conable and others is acceptable to Puerto Rico, to our Government, to the people there.

Mr. Speaker, I urge my colleagues to vote for this bill. It has some positive provisions and some negative provisions, but the balance is one that is favorable for the country, for the United States, and I urge Members to vote in support of this legislation.

Mr. MINETA. Mr. Speaker, I urge an aye vote on the conference report, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired for the Committee on Public Works and Transportation.

The time now returns to the Committee on Ways and Means. The gentleman from Florida (Mr. Gibbons) has 31 minutes remaining, and the gentleman from New York (Mr. Conable) has 30½ minutes remaining.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Speaker, we are told that this bill will end the fiscal crisis that the Federal Government confronts, owing to the actions the administration foolishly demanded 1 year ago. It will not. Even with these new taxes, we will again next year be faced with monstrous deficits and yet one more round of foredoomed efforts to deal with those deficits through cuts in domestic spending. As the chairman of the Budget Committee well knows, we could virtually shut down all domestic spending and still be left with immense deficits, thanks to the Reagan program. This bill does not alter the Reagan program; it does not rescue the Nation; and it does not restore fiscal responsibility. All it does is put a tiny rag of respectability over the nakedness of the emperor's economic policy.

We are told that this bill brings about a token advance toward a fair Tax Code. How can it be fair when this bill says that a homeowner who has been robbed cannot deduct his losses, but a corporation that pays bribes overseas can make a deduction? How can it be fair when the bill continues for 1 more year the notorious tax leasing provisions that allow a rich corporation, a profitable corporation, not only to escape all taxes, but to get million dollar refunds—even while it takes away the tiny deduction that individuals have long been allowed on the purchase of health insurance? How can it be fair to claim that businesses will pay the bulk of the tax increases, when in fact the figures we are given shows that individuals will end up paying $13 billion in new medicare expenses, while fatherless children will lose a billion in what is already pitiful support, and while regressive new taxes are piled onto the backs of ordinary citizens? No; this is not a step toward fairness for ordinary, individual taxpayers. It is a leap toward a still more unfair system.

Let me return to the point of fiscal responsibility. The fact is that the projected $150 billion deficit for fiscal 1983 assumes that this tax-and-slash bill will pass. That projection will continue to grow. This means that obviously, the bill we are presented today will not represent a return to fiscal sanity. To accomplish that would take a wholesale abandonment of what the President is pleased to call Reaganomics. He has not changed his policy, nor his plans.

Clearly, when we come back here a few months hence, we will again be faced with this same crisis and renewed demands for still more domestic budget cuts. We will again be called upon to round up the usual suspects—any programs that aid the old, the sick, the young, the poor, or the hungry. We will again find that the cuts will not make any difference. The fact is that even optimistic projections leave us with a $200 billion deficit in fiscal 1985, and that, I repeat, is assuming that this tax-and-slash bill is enacted. If we cut every last dime out of food stamps, welfare, and student loans, we would then be left with a $175 billion problem—bigger than we face today. We could cut 90 percent of all money for highways, for health and science, even for the Weather Bureau, for education, for everything except the most rudimentary Government functions like law enforcement and still be left with a huge deficit. That is what will happen if we continue to swallow the Reagan program. This bill not only fails to solve our immediate problems, it fails to address the needs of the Nation—economic, social, governmental or otherwise.

We are told that this bill is a response to the Nation's economic illness. Certainly there is illness and certainly there is need for a decent response. But this bill changes nothing, and change is what is needed. It does not solve the fiscal problem. Whatever token advance it makes toward repairing last year's corporate raid on the Treasury is obliterated by new and doubly unfair burdens on the elderly, on citizens whose burdens are already unfair, on people who are told that this bill is fair but who will find next April just how unfair it is. They will find that corporations can deduct all manner of expenses for high living—what you might call corporate food stamps—while individuals will not be able even to deduct what they lose to thieves, to fire or to flood, unless such losses are catastrophic. Corporations can deduct the expenses of grease money paid abroad in this bill, but no citizen can deduct the loss of the family silver if it is carried off by a thief. The taxpayers will be forced to absorb the loss of crime, corporate or individual. Where is the reward for virtue?

This bill does not change anything. It does not change the Reagan program. It does not change the continued attacks on people who do not have lobbyists in town—the poor, the old, the young, the sick, and the ordinary citizen in the street, in the store, in the factory, or down on the farm. No; these citizens will find yet more unfairness headed their way. It will not change the foolishness that led to the present economic crisis. What this bill does is to deny responsibility. It allows the President and—I am sorry to say—the leadership of my own party, to deny responsibility. If the economy continues to roll downhill, they will be able to say, "Well, we did our best. We cooperated." If recovery falters and fails, if growth is slow, they will be able to deny any responsibility.

If the Nation somehow escapes its present bind, it will not be any thanks to this bill. All this does is to paper over the problem. It is a prayer that the storm will not break. It is most certainly not a bill that qualifies for the title of fiscal responsibility or tax equity.

Does the leadership believe that Mr. Reagan is any less partisan today than he was a year ago? No; he is desperate and they do not want to carry the burden of responsibility. They do not want to fight the multi-million-dollar lobbies any more than he does. They do not want to face the truth any more than he. They find comfort in a strange alliance. But they should be warned, as Shakespeare wrote:

> Be not fond to think that Ceasar bears such a rebel blood that will be thawed . . . (through) sweet words and crooked courtesies, and base spaniel fawnings.

It is wrong to go along with these inequitable tax increases, these harsh and cruel cuts imposed on the old and the needy, and the continued hokum of a discredited economic policy, or supply-side nonsense. This bill is not fair, it is not responsible, and it is not any solution to our crisis.

Mr. GONZALEZ. Mr. Speaker, I offer for the Record, in connection with the consideration today of the tax bill, the following correspondence with the President.

The White House
Washington, August 18, 1982.

Hon. Henry B. Gonzalez,
House of Representatives
Washington, D.C.

Dear Henry: The other night on television Congressman Tom Foley said he supports the bipartisan tax reform conference report currently before the Congress because it is fair. I appreciate Congressman Foley's support, but that support alone is not enough. I need your support as well because I'm convinced that this bill, combined with our other efforts, is going to reduce interest rates even further and get the economy moving again.

As you know, since I've been in office, inflation has been cut about in half and interest rates are down by a third. But, unemployment remains a serious problem, and if we are to put Americans back to work, we must drive interest rates down even further.

I believe the single most important question facing us today is: Do we reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or do we accept bigger budget deficits, higher interest rates and higher unemployment simply because we disagree on certain features of a legislative package that offers hope for millions of Americans at home, on the farm, and in the work place?

You and I both know there's only one fair answer to that question. I know this measure is not perfect, but I'm convinced that it will bring us closer to our goals of a balanced budget, restored prosperity, and jobs for those who need them. Despite any differences we may have, I know we both want what is best for our country. Working together, I'm confident we can have the best. This bill is a start in that direction. I earnestly hope you will vote for it for that reason alone.

Sincerely,
Ronald Reagan.

Congress of the United States,
House of Representatives,
Washington, D.C., August 19, 1982.

Hon. Ronald Reagan,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: I have your letter, and have given long and earnest consideration to the tax-and-slash bill that the House is considering today.

It is clear that reform is necessary to rectify the colossally unfair and unwise tax bill enacted last year. It is equally clear that the bill before the House is just as unfair and onerous to ordinary citizens as any bill ever presented. It cannot be defended as anything other than a token admission of last year' irresponsibility. It does not meet the test of reform.

I certainly respect my colleagues, but Tom Foley was not empowered to speak for anyone other than himself. What may satisfy him as being a fair bill fails almost any meaningful test of genuine fairness.

You know, I am certain, that I have not supported your program. I am sorry to say that my worst fears about your program have been realized; indeed, events have proved that my fears were all too modest. With all respect, I cannot believe that your current prescription will benefit the nation any more than your last one did.

Your policy, I know, has been not to respond to letters from Congressmen. I am responding to your letter because I feel a duty to do so, and not because I expect that you feel any reciprocal sense of obligation. Whether or not you read these lines, I do hope that you will reconsider your basic program, for I fear that it not only creates irreconcilable fiscal problems, but will insure that interest rates remain high, economic recovery will be slow or aborted, and that our ability to meet the nation's pressing, basic needs will be severely eroded.

Respectfully,
Henry B. Gonzalez,
Member of Congress.

● Mr. HUGHES. Mr. Speaker, my decision to support this bill was not an easy one. Many of us warned early on

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that we were trying to do too much at one time—increasing defense spending and cutting taxes against the backdrop of recession and high interest rates.

Those warnings were not heeded, but fortunately the President has acknowledged the need for a mid-course correction. The vehicle for that correction, this tax bill, is not perfect. It is a mixed bag. It has provisions that are going to hurt some people, but it also has some provisions and major reforms that are long overdue.

It regains about two-thirds of the tax losses due to excessive cuts made for businesses last year, such as safe-harbor leasing which provided undeserved benefits to some very wealthy corporations and the equivalent of welfare for some losing corporations.

It reforms the minimum tax, to make sure that the very wealthy do not escape paying at least some taxes.

There are items which I find objectionable: the raising of the threshold for medical expense deductions, the withholding of taxes on interest income which I voted against earlier today, the telephone taxes, and others. But on balance there are more good provisions than bad.

But even more importantly, it sends a message to the American people and the financial community that we are serious about getting our fiscal house in order. It is a step toward getting deficits under control and eradicated.

There is certainly much more to be done. There are still tax reforms that are needed, such as making the oil industry pay its fair share and reducing the use of foreign tax credits and deferrals. There is more to be done in the area of cutting spending and adopting sensible priorities too.

But those proposals are not now before us. What is before us is this tax package, warts and all, as the best that is politically achievable. It is a patch on the dike that holds back the sea of red ink that will absolutely inundate us if we do not do something.

The projected budget deficits, even assuming further massive spending reductions, are mind-boggling in size, measured not in billions or tens of billions, but in hundreds of billions of dollars.

This revenue measure will help keep those deficits under some degree of control. It also makes clear that there is no free lunch, not in our day-in, day-out lives and not for gurus of supply-side economics.

I urge my colleagues to support this responsible measure that points us on the road we all wish to follow toward an improved economy and fiscal responsibility.●

● **Mr. STOKES.** Mr. Speaker, today, I am voting against H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Over a 3-year period, the conference agreement on this measure raises $98.5 billion in revenues, cuts spending by $17 billion, and provides supplemental unemployment benefits.

Mr. Speaker, I decided to vote against this bill after careful deliberation and with a certain amount of consternation because H.R. 4961 does contain a number of provisions which I endorse. I am particularly supportive of the 6- to 10-week extension of unemployment benefits for those workers who have exhausted their current benefits. This provision, in my estimation, is needed for the nearly 11 million Americans who are now out of work.

On balance, however, I felt that several objectionable and troubling provisions included in this legislation outweighed its beneficial recommendations.

First, I consider the spending reductions recommended in H.R. 4961 to be harsh and unfair given other areas of the budget, primarily defense-related programs, which have completely escaped any sharing of the burden of reducing the Federal deficit. I simply could not support budget cuts amounting to $13.3 billion for medicare, $1.1 billion for medicaid, $405 million for aid to families with dependent children, and $386 million for supplemental security income. These budget reductions will wreak havoc with our Nation's medical care delivery system by further restricting Federal reimbursements for medicare and medicaid services. More importantly, these budget cuts will be passed along to the elderly and the poor, resulting in a loss of much-needed medical care and increased medical costs to these persons.

Second, Mr. Speaker, while I support measures to reform the Tax Code to achieve equity and fairness, I consider some of the proposed tax increases to be unjustifiable or unsound. For example, I am troubled by H.R. 4961's provision to require financial institutions to withhold 10 percent of interest income and dividends in order to achieve improved tax compliance, when the Internal Revenue Service already has the information required to enforce current tax laws in this regard but simply has not. I am equally troubled by the imposition of a 1.3-percent medicare tax on Federal workers when these workers pay substantial amounts for Federal health insurance. Further, Federal employees have already helped to reduce spending by forgoing compensation and benefit increases that otherwise would have accrued to them.

Moreover, Mr. Speaker, several other provisions of this bill are objectionable. I question the propriety of allowing corporations to deduct questionable payments, so-called "grease" money or bribes, to foreign government officials if such payments are not illegal under the laws of the foreign country involved. Further, I do not believe that corporate executives should be allowed to continue to deduct the cost of their three martini lunches while the tax burden for waitresses, waiters, and other workers who receive tips is increased. In my opinion, these and other illogical provisions outweigh the positive features of H.R. 4961, which restrict or terminate unproductive or excessive corporate tax perferences.

Mr. Speaker, I firmly believe that the Congress should enact legislation which will help to reduce the Federal deficit and lower interest rates and thereby put our Nation on sound economic footing once again. All Americans, particularly those who have been thrown out of work due to the recent recession, deserve no less. H.R. 4961, however, is not the way to achieve these goals.●

● **Mr. KASTENMEIER.** Mr. Speaker, our economy is in serious trouble. About 9.8 percent of our working population is unemployed. This is tragic. Industrial production is running below 70 percent of capacity. Interest rates are still far too excessive. The home building industry is in a depression. Small business bankruptcies are at record levels. The Reagan administration has given the Nation the greatest deficits in the history of our Nation. The midsession review of the 1983 budget of the Office of Management and Budget estimates the fiscal year 1982 deficit to be $108.9 billion and the fiscal year 1983 budget deficit to be $115 billion. We are in the worst situation since the days of the Great Depression.

The President and his party have chosen to blame almost 30 years of Democratic control of the Congress for the mess in which we find ourselves. Nothing could be further from the truth. The truth is, Mr. President, that your administration with its radical economical policies has produced the calamity which confronts us. Your economic program, Mr. President, has caused high unemployment, record budget deficits, and the deep recession.

We are now faced with a $98.3 billion tax bill, the biggest tax increase in the history of the Nation. We are asked to approve this tax measure only 1 year after the passage of the administration's pie in the sky, the misnamed Economic Recovery Act. What happened in the ensuing year to cause this great collapse in the economy? Could it be that the Reagan econmic program simply does not work and is the cause for the further deterioration of our economy?

Secretary Regan, on September 14, 1981, said:

> This administration has done its job. It has provided just what American industry said it needed to transform our economy.

On October 31, 1981, Secretary Regan said:

> Though I anticipate that there may be several more months of disappointing economic statistics, there are powerful forces already at work to transform current areas of weakness into sources of economic strength. First and foremost, a powerful incentive and growth-oriented tax reduction is already in place. Consequently, the current recession will be mild, its end certain and swift . . . 1982 and subsequent years will show vigorous, perhaps, unprecedented economic growth.

Earlier this year, on February 3, 1982, Secretary Regan again issued another one of his optimistic reports. He said, "I think the economy is going to come roaring back in the late spring." By May the Treasury Secretary began humming a different tune. On May 1, Secretary Regan said, "I don't think the recovery can be nearly as robust as we would like with these deficits." Finally, on July 25, Secretary Regan finally admitted, "This recession came along and was much deeper than we had originally thought it would be."

The administration certainly has transformed our economy and we are now confronted with this tax measure. Interestingly, the President is using the same arguments in citing the need for an increase in taxes as he did last year in promoting his disastrous Economic Recovery Act.

I have many objections against this tax bill. It cuts more than $17 billion in medicare, medicaid, aid to families with dependent children, child support enforcement, and supplemental security income. While the President is promoting these spending reductions with which affect those, I might add, in our society who can least afford curtailments in Government services, Mr. Reagan, on the other hand, is not prepared to hold down wasteful defense spending. In fact, the President proclaims that he does not feel bound by any ceilings Congress may impose on military spending. Mr. Reagan spends more time and shows greater interest in promoting the MX system, neutron weapons, chemical gases, and other instruments of death and destruction than he exhibits on behalf of those citizens in our society who are in need of the helping hand of government.

This tax legislation also contains a number of offensive features. It increases the telephone tax, which was first imposed by Lyndon Johnson to help pay for the war in Vietnam and which is still with us today. It imposes a withholding tax on interest and dividends, and while exceptions are made for certain low-income and elderly individuals, I believe this scheme, which I have opposed since the time when it was first proposed by President Carter, will discourage saving and investment and will produce a whole new set of bureaucratic forms with which individual taxpayers and financial institutions will have to contend. I have joined with other colleagues in urging the House Rules Committee to permit a separate vote on this withholding scheme. I also object to the changes in the medical deductions.

On the other hand, there surprisingly are some commendable provisions contained within this legislation. The conferees shrewdly agreed to include a temporary program of emergency Federal supplemental unemployment benefits which will provide from 6 to 10 weeks of additional unemployment compensation benefits which are urgently needed by workers who are victims of the Reagan recession and who have exhausted other unemployment benefits.

There are a number of tax reform features in this proposal, such as the individual minimum tax on wealthy individuals who would otherwise pay little or no tax, the repeal of the further acceleration of depreciation scheduled for 1985 and 1986, changes in the investment tax credit and corporate tax preferences, and the repeal of the scandalous safe-harbor leasing, effective January 1, 1984. These provisions will allow the Government to recoup billions of dollars which were raped from the Treasury by the 1981 Economic Recovery Act. We will never have another opportunity in this administration to redress the outrageous giveways resulting from the Economic Recovery Act.

Mr. Speaker, it would be easy to sit back and watch the President and the congressional Republicans twist slowly in the wind on this tax bill. Many of President's conservative supporters are agonizing over this bill. Unlike my Republican colleagues, I have not been called to Camp David to be lobbied for the bill. It is far easier for me to vote against this tax measure than to support it. However, those of us who are committed to a responsible Government have a responsibility to repair the state of our economy and to stop the blood-letting practiced by the radical Reagan economic policies on our economy.

Ronald Reagan has brought economic despair to our Nation. He is the biggest budget buster in the history of our Nation. He has produced the largest budget deficits ever. He is responsible for over 10 million Americans being out of work. His wild spending military policies do not reflect the true needs of our national priorities. But, notwithstanding my strong condemnation of the Reagan economic policies which have brought such misfortune to so many of our citizens, I feel that we must do something about the huge Reagan deficits. This tax measure is the only proposal we have before us. We were not permitted to consider any other alternative. We should not derive any comfort from the fact that the taxes raised from this bill, along with the budget cuts, will hold down the Reagan deficit for fiscal year 1983 to OMB's estimate of $115 billion. At best, this bill will keep the Reagan deficit from mushrooming. I will not cast my vote to politically exploit the misfortunes which Mr. Reagan has delivered to our people. The responsible position is to hold down these immense deficits and, thus, I am constrained to vote for this tax bill.●

● Mr. McDADE. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982 because it's extension of unemployment benefits provides what the unemployed in my district need to cope with our current economic situation and because its revenue-enhancing provisions offer the only practical way before us today to create jobs and work our way out of the current downturn. Over 30,000 jobless people in Pennsylvania would have faced a cutoff of unemployment compensation if this extension has not been approved.

Furthermore, the tax equity and fiscal responsibility stands as the kind of legitimate tax reform that Democrats and Republicans have talked about for years. It is an unusual day when we can cast a vote that will help create jobs and contribute to the basic fairness of our tax system.

The time for economic theories is long past. It is time to look at economic realities, and I know the economic realities of the 10th Congressional District of Pennsylvania. I am sure the situation is similar to that which is found in most of my colleague's districts. I have seen what interest rates are doing to potential homebuyers and businessmen in northeastern Pennsylvania, and I ask myself what else can be done to pull down interest rates. There is no—I repeat, no—other answer on this day than to vote for this tax bill. The financial markets are waiting to see the Congress cut the deficit, and the tax equity bill does just this.

And we can do this fairly and in good conscience. Fairness—we have all talked fairness during the past year—Democrats and Republicans alike. The fact that both the Republican and Democratic House leadership, as well as the President, support this bill underscores the essential fairness of the Tax Equity and Fiscal Responsibility Act of 1982. In essence, more than 80 percent of the increased tax revenue from this bill will come from increased taxpayer compliance and the closing of tax loopholes. The bill will have little or no effect on the majority of individual taxpayers.

There is certainly no perfect bill. Who among us does not object to one or more particular feature of the bill? I have taken my criticism of the bill to both the President and the Ways and Means conferees. Some of my objections have been addressed; others I, too, have had to swallow as part of a revenue package—a whole package—

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that is equitable and offers the only way to cut the deficit, help drive down interest rates and get out people back to work now.

There has been much confusion regarding the interest and dividend deduction provision of this bill. There is the mistaken belief that this is a new tax. It is not. This provision simply requires that taxes on interest and dividends, which are or should be paid under current law, will be withheld just as wages are now. One of many major concerns was that our elderly and low-income citizens are in no condition to afford this kind of deduction. Make no mistake: they cannot. But this tax bill provides exemptions for low-income and elderly citizens.

The first budget resolution required these revenue increases, and the Tax Equity and Fiscal Responsibility Act of 1982 raises these funds in a fair and equitable fashion, closing loopholes for corporations and individuals and making sure that all taxpayers pay their fair share.

The people of the 10th Congressional District, Pennsylvania, and the Nation need the extended unemployment benefits, lower interest rates and jobs that will result from the Tax Equity and Fiscal Responsibility Act of 1982. They cannot wait on theories. I therefore support this bill.●

● Mr. **HAWKINS**. Mr. Speaker, I listened with utter amazement Monday night as the President told the American people that this tax bill before us today will, "put Americans back to work again", and will "increase productivity".

I would like the President to point out to us when in the last 50 years has a revenue increase, geared to reduce a budget deficit and close tax loopholes, accompanied by domestic spending cuts, ever created new jobs? The President said himself that the great percentage of the $99 billion increase is to make sure people pay their fair share of the tax burden and that the Treasury gets the money it is due.

Will that create jobs for the over 12 million unemployed? Or use the money for a $72 billion hike in weapon systems? No one is sure at this time.

If Mr. Reagan cannot make a case for the tax increase based on its own merit of reforming the gross indulgencies of last year's giveaways, then he should be honest and true to his supply-side creed and oppose this bill.

The President tells us to support the tax increase premised on the need to reduce the deficit. He uses the same old worn-out script of blaming the deficit on years of so-called mismanagement and wild spending, ignoring the fact that it is his own economic program (or lack of an integrated policy) that has produced this deficit. It is the result of deep-rooted deficiencies and imbalances in his economic policy of the last year and a half and no amount of revenue increases are going to bring us back into the black as long as lop-sided economic priorities rule the decisionmaking of the day forcing a recession on us as a cure for inflation.

The President continues to have the contradictory belief that you can produce a recovery while supporting a restrictive, stifling monetary policy.

While we are slightly encouraged by the recent lowering of the prime rate, make no mistake about it. As Nobel Prize winner James Tobin so eloquently explained in Sunday's Washington Post, "The Federal Reserve holds the key to recovery. High interest rates, above the inflation rate by unprecedented margins, are the source of the recession and remain the insurmountable barrier to recovery and prosperity." He goes on to argue that there is no way to have both lower interest rates and economic recovery without an easing of the money supply.

The President and some of my colleagues are putting the cart before the horse when they argue that the deficit is preventing a recovery. The deficit is the result not the cause of the recession.

This bad situation is made even more horrible because it is coupled with a shifting of the burden of reducing the deficit to an untargeted-meatax approach of reducing domestic spending, including $17 billion cuts in vital social programs.

While the President's rationale for the tax bill is shaky, the supporting arguments for butchering social support systems, food programs, and other necessary governmental responsibilities is even more dubious.

Capital formation and business investments are certainly not likely to be encouraged by the resulting decrease in consumer buying power and reduced Government outlays—both necessary factors in obtaining an adequate GNP growth rate.

So, taking these various factors into consideration, I believe that any tax increase in a deep recession is of questionable economic and philosophical merit, due to its further depressing an already stalled economy. However, if we were to have one, then we should specifically earmark a substantial part of the increased revenues for putting to work our unused resources and involuntarily idle people. That way we can alleviate our domestic problems; and, thereby fairly curtailing inflation, reducing unemployment, increasing revenues and lowering the deficits.

In Mr. Reagan's administration, unemployment has increased by 3 million individuals and plant utilization is at a dangerously all-time low point. Critical shortages have developed in housing, health care, transportation, and urban and rural development. The unemployed and underemployed could be productively utilized on a cost-effective basis working at improving these sectors of the economy. An investment of $30 billion toward this end, would, conservatively estimated, generate $150–$180 billion in economic activity and revenues. Now that would really put a dent in those deficits.

An initial investment of this amount would be more than offset in the budget by a reduction in unemployment compensation (now costing about $20 billion annually), welfare, medical benefits, food stamps and other entitlements to which the unemployed qualify because of the current shortsighted policies.

We would not only recoup the initial $30 billion investment, but reap high dividends in needed goods and services, revenues, and reduced expenditures through savings in outlays for social programs.

Also, the social benefits in terms of reduced crime, health deficiencies, family disruptions and educational losses would be incalculable.

If we are to go the revenue-increase route, let us make sure we will provide a comprehensive framework from which we can save our recession-ridden economy. To fail to do so would be to dangle false hopes before the eyes of millions of struggling Americans who are looking to us for a way out of this malaise. I will, therefore, vote against tax increases until we clarify the purposes for which the money will be used.●

● Mr. **MOFFETT**. Mr. Speaker, it is no secret that I have not been a big supporter of Reaganomics. I think the supply-side approach embraced by the President and pushed through the Congress by him last year has been an absolute disaster.

When the President's tax package of last year was under consideration by the Congress, I said I believed that, if approved, it would lead to record deficits. I did not believe then that we could afford the tax cuts. And I voted against them and in favor of less extravagant alternatives, including the option of tightening down on existing loopholes. It is ironic that the President is now beginning to move in the direction many of us have been looking toward for many years: insuring that individuals and corporations pay their fair tax share.

I could now take the position that we should let the President stew in his own juices. "Why should Democrats bail him out?" some of my colleagues ask.

Or I could now take the position that this bill does not go far enough, that it does not repeal all of the unwise tax breaks created last year, for instance the modifications in the windfall profits tax that substantially lowered the tax rate of the oil companies.

But there is no question as to what is the responsible thing to do.

As Reaganomics have taken hold, the deficits have mounted. The economy has choked. Joblessness has skyrocketed.

I do not need to dwell on the unemployment figures, the bankruptcy figures, the economic distress signals. Even in my own State, which is in somewhat better shape than many others, we have pockets of near-depression, especially in housing and auto-related industries. Those areas are especially sensitive to interest rates. And interest rates will not come down and stay down until we take action to get the deficits down.

The good economic indicators of recent days, in the stock market and in the figures on personal income growth, mean little unless we get the massive Federal budget deficits down—and bring down interest rates with them.

What are the options for doing that? If we do not pass this bill, there may be no other options in this session of Congress, no other attacks on the deficit for the rest of the year and the first few months of 1983. Our very inaction will likely reverse the first positive signs of the past few days and return us to the psychology of economic despair.

But if this tax bill fails, there are sure to be even more brutal Reagan cuts next year in programs for the elderly, in health care, education, and environmental programs. There is already discussion that if this bill fails, the President would ask for major cuts in the social security program or impose a regionally and socially inequitable energy tax.

This bill is not perfect. It is not a bill that is popular with the American people. But it is obviously the best we are going to do. And we should remember that many of the provisions contained in this bill represent true tax reform. Obviously, more work will need to be done to make our complex tax code more simple and more fair. But if we defeat this first move toward tax reform in many years, I can assure you that the next step will not be greater tax reform but less. At this time and with this administration, this tax reform bill is obviously the best we are going to do.

Eighty percent of the money raised by this bill will result from stricter compliance and from closing loopholes: Collecting taxes that some taxpayers have managed to avoid paying.

The bill closes loopholes that have been used and abused by the oil companies. This bill tightens up some enormous loopholes created especially for oil companies—the foreign tax credit, intangible drilling cost deduction, and changes in the Alaskan pipeline tariff. The bill also tightens up on loopholes available for all companies but which oil companies, because of their tremendous wealth, are best able to take advantage of: Accelerated depreciation, leasing provisions, accelerated corporation payments, and changes in merger provisions.

In general, the bill will force wealthy taxpayers to pay more and those who have paid little or nothing to pay much more.

Undoubtedly, the most important aspect of this bill for my State of Connecticut is its treatment of our insurance industry.

In the past several years, there has been considerable confusion in the industry about what products to sell and how they would be taxed. Because of IRS tax rulings, buyers have been confused.

This bill does not give the industry a free ride. In fact, it requires that the industry pay at least $6 billion more in taxes over the next 3 years.

But it clears up confusion on taxation in the insurance industry—and that is why the leaders of the industry in Connecticut believe this is one of the most important bills affecting their industry ever to be considered by Congress.

If this bill is not passed, the confusion in the industry and among its customers will continue. That will hurt business; it will surely affect jobs in the industry and the economic well-being of our State.

This bill is an effective, responsible response to a serious problem. In and of itself, it will not cure the very serious problems that our economy faces. This bill will have to be coupled with other programs, notably a more reasonable defense spending policy and a more activist posture in controlling interest rates, before we will truly find economic health. But it is a sound beginning. It is more important than any partisan or political election year considerations. I urge my colleagues, therefore, to support this measure as a necessary first step toward restoring economic strength by reducing interest rates and creating new jobs.●

● Mr. GUNDERSON. Mr. Speaker, the tax debate now before Congress presents Members of the House, especially Republicans, with a very difficult choice. Should the Federal Government, in a time of severe recession, raise taxes?

Throughout the past few weeks, I have followed closely debate on the tax bill. During this time, I have studied almost all of the complex issues involved. My discussions on the issues have been with economic experts, the business community, and most important, the people of my district. And yesterday I had the opportunity to discuss the issue with the President and Vice President.

After careful consideration, I am now convinced that the negative impact on the country, should the bill fail, far outweighs the problems with both the concept of raising taxes, and the specific areas of disagreement with the legislation,

For the past 18 months, this country has embarked on a long and difficult struggle to reduce government spending and reduce interest rates, in order that economic activity might be restored.

To defeat this bill would result in adding $37 billion to the 1983 budget deficit and $115 billion to the deficit over the next 3 years.

I am convinced the financial markets and the Federal Reserve both now finally recognize the commitment of this Congress to cutting spending.

As positive actions are being taken to provide economic recovery, it is essential that Congress do its part to maintain that momentum. This concern overrides all others in terms of what is good for America as a whole.

Last year, Congress passed the largest tax cut in U.S. history, as part of its economic recovery program. Many look upon this year's bill as a major retreat from that action.

Yet, we must recognize that the bill passed last year far exceeded what President Reagan sought as part of his tax reduction program.

More important, the net effect of last year's tax cut and this year's revenue increase still represents a $337 billion tax cut for the American people.

COMMITMENT TO REDUCING SPENDING

I came to this Congress with a commitment to reducing spending and reducing the rate of Government growth. I believe we are achieving this goal.

During the last 2 years, we have cut $95 billion in total spending. Some would suggest we cut more. So would I. Unfortunately, we cannot get a majority vote to cut more in other areas.

We must remember that this Congress considered seven budgets earlier this year before finally approving a budget compromise on a very close 204–202 vote. That compromise included an agreement to cut $60 billion in spending and raise $20 billion in revenue.

After taking that action, we must follow through.

Recognizing the need, and commitment, to raise some revenue this year, the bill before us probably does less harm to economic recovery than any other possible measure.

TAX CUTS PRESERVED

The individual income tax rates are preserved. Indexing for inflation is preserved. Inheritance tax cuts are preserved. Most improvements in accelerated depreciation are preserved. And incentives for Americans to put more money in long-term retirement accounts are preserved.

It would be easy indeed to pit one interest group against another on this

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issue and simply vote "no." Yet, considering all the issues involved, I believe that would be irresponsible.

Many Americans citizens have paid a very high price over the past few months. They have paid for the excesses and mistakes of the past. They have endured the pain and sacrifice that is a part of the cure.

To abandon that effort at this time, for political gain, would be a disservice to the American people and to our country.

For these reasons, I join with the President today in support of this legislation so important to the total economic recovery program.●

● Mr. **GOLDWATER.** Mr. Chairman, I rise in very reluctant support of the measure pending before us, the so-called Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961.

Basically I feel that this bill is neither equitable nor responsible. It is a denial of everything that Republicans and conservatives have worked for over the past 2 years.

The bill may be unconstitutional. Measures raising revenue, by the dictates of the Constitution, have to originate in the House of Representatives. This measure was not even considered in committee here, much less debated on the floor of the House.

This bill is being marketed as tax reform. There is no reform involved. Let us face it. A tax increase is a tax increase is a tax increase. Whether it is the largest increase in history or the second largest or whatever is immaterial. The majority of both Houses of Congress has campaigned; some of us for years, others more recent converts, on the platform of the need for and the economic value of cutting individual and business taxes. In my mind, this is still unquestionably valid economic theory. This bill raises individual taxes and repeals 80 percent of last year's business tax changes. And the argument that it simply raises revenues by "enforcing compliance" is nonsense, and makes a mockery of our traditional national pride in voluntary compliance with the tax code. As far as I can see, increased tax fraud is simply indicative of the widespread attitude that taxes are already extortionate without this increase.

We have to look at this bill in perspective. On one hand, most conservatives (myself included) are philosophically opposed to tax increases in general. On the other hand, some tax increases are the price we had to pay last June to get the Latta substitute budget proposal passed. About $21 billion in tax increases were called for in that bill. However, a substantial amount of savings were also called for in the same bill; about $40 billion. The savings were not large enough for some of us, just as the tax increase was unpalatable. However, the Democratic alternative was to repeal the third year of the individual tax cut passed last year and increase spending back to pre-Reaganomics levels. This was clearly unacceptable.

What I am particularly concerned about is that, although this enormous tax increase bill is sailing through Congress, corresponding spending cuts are being sandbagged in committee by the Democratic leadership of the House. A total of $280 billion in various savings was called for in the June 1982 Omnibus Reconciliation bill. About $154 billion of this was to be achieved through nonlegislative means, such as surplus property and Federal land sales, and reducing waste and fraud. I doubt that these proposals will save anything like the sums proposed.

The remainder of the savings was to be through legislated cuts in existing programs; about $125 billion. Only about $30 billion of these has been acted on as yet. This all means that instead of $3 in budget cuts for every $1 in tax increase, the Congress is most likely to approve only $1 in spending reductions for every $3 in tax increases. As an illustration, Congress has only completed appropriations action on three bills as of this date and every one of them exceed the June budget resolution.

We have been given the President's assurance that he intends to veto any and all legislation presented to him that are over the budget spending ceilings. I am willing, for the sake of this assurance, to lend my support to this measure. As I said earlier, this goes completely against the grain for me. I have never voted for a tax increase in my life. Certainly not one of this magnitude. I would not be doing so now if I did not have faith in the President to do what he promises and enforce the budget ceiling—by veto if necessary. The ball is in the administration's court now.●

● Mr. **EVANS** of Delaware. Mr. Speaker, Members of this body face a difficult decision today. The tax bill before us contains many elements that I do not like, and does not contain many elements that it should.

However, it is clearly the only viable alternative that we now have for this Congress to send a strong and unmistakable signal that we are serious about reducing the deficit, lowering interest rates and putting Americans back to work.

Mr. Speaker, I want to bring to the attention of my colleagues a most thoughtful editorial on this subject, published in the Wilmington News Journal. The editorial reads as follows:

[From the Wilmington News Journal, Aug. 18, 1982]

TAX PLAN MAKES SENSE

President Reagan's appeal to Congress and the nation to support the compromise tax bill should be heeded. Unless the federal government reduces the deficit the economy will continue to stagnate.

The $99.3 billion combination of new taxes, loophole closings and spending cuts is no final solution to the nation's economic difficulties. But, without adoption of this bill, or something very similar, unemployment and interest rates are bound to continue at unacceptable levels.

Many view Mr. Reagan's support for this bill as a sign that he has reversed his economic course. The president must accept much of the responsibility for this perception. It is always dangerous to make economic forecasts in absolute terms. The president did this on the campaign trail and during last year's budget battle. Now, he must ask for adjustments in his economic plan. The political repercussions could be severe. The conservative elements of his own party are waging a bitter battle against the tax compromise. They do the president and the nation a disservice.

Nearly 50 percent of the revenues the bill would generate would come from closing loopholes in the tax system. Many of the unwise features of last year's tax reduction bill—accelerated depreciation and "safe harbor leasing" are examples—are tempered in the new bill. The president correctly described the loophole closing as insisting that those "who are financially well able pay their share."

Demanding stricter compliance with the tax laws will not increase anyone's tax liability. It will mean, however, that those who cheat the government by failing to report all of their income won't be able to continue to do so. Those who save only a small amount each year and low-income elderly persons are exempt from withholding of taxes on interest and dividend income.

The only new taxes on individuals in the compromise package are increases in excise taxes on cigarettes and telephone services. There are valid health reasons, let alone economic ones, to add another eight cents to a pack of cigarettes. The telephone tax would amount to about $7 a year for the average user—not a burdensome amount.

A substantial portion of the compromise is tax reform—closing loopholes that never should have been adopted. The new taxes on individuals and businesses are within acceptable levels.

Though it is never easy or popular to endorse new taxes, particularly in an election year, the president has courageously done just that. He has put the nation's economic health first, instead of political gain. The members of Congress should do the same.●

● Mr. **BIAGGI.** Mr. Speaker, I have been a Member of the House of Representatives for the past 14 years. In that time period I have cast several thousand votes. On some occasions, the issue or issues have been clear, thus the vote has been simple. On other occasions, the issues have been more complicated and the vote more difficult.

In my judgment, the legislative proposal before us today presents me with a very difficult decision as it does for many of my colleagues. To describe it best, let me paraphrase Charles Dickens in saying "this is the best of bills, this is the worst of bills."

In any type of omnibus bill such as this conference report there are provisions that you support and those you oppose. This is the case here today.

However, I have decided to support this legislation and in doing so I apply the wisdom of the old adage, the whole is always greater than the sum of its parts. If one were to do a detailed pro and con analysis of all the individual components of this legislation, in addition to being a massive undertaking, it would not result in the kind of decision which one must make relative to this legislation.

I am voting for this bill because I believe it is essential for our goal of achieving economic recovery. I am voting for this bill because I have respect for the prestige of the President of the United States who is working so diligently for this bill, not for partisan gain, but to improve the economic fortunes of our Nation.

It is necessary in bills such as H.R. 4951 to qualify your support. My voting for this legislation does not constitute an endorsement for provisions such as cutting medicare and SSI benefits and medicaid by some $13 billion over the next 3 fiscal years or imposing a new 10-percent withholding tax on interest and dividend incomes or imposing a new 1.3-percent medicare tax on postal and Federal employees or the rounding down of benefits under programs such as SSI. I remain opposed to these provisions and if I had been given an opportunity under the rule, I would have voted against them separately.

My vote for this tax bill should not be construed as my supporting the administration's economic policy or "Reaganomics" as it has been called. Far from it, I am voting for this legislation because it will help correct the many flaws which this current economic policy contains—flaws which are causing so much hardship to millions of Americans. Let us not deceive ourselves. We are considering H.R. 4961 because we have to. After about 1 year of Reaganomics it clearly needs a midcourse correction of the magnitude that this bill proposes. We have slashed Federal spending but have produced the opposite of what we expected—we have produced record high deficits. One reason is that our cuts have not been universal in scope which they must be if we are to truly reduce the size of the deficit. The other factor, which brings us to this point of emergency today, is last year's landmark tax cut legislation. This legislation, has not achieved its goal either. Thus far individuals have received 60 percent of the tax cut they will receive under this law yet the industries and businesses which were to be stimulated by these tax cuts have not responded. The reasons are several but the primary one is continuing high interest rates.

Today we have before us the largest tax increase bill in history which we must pass to replace the lost revenues from the tax cut legislation of last year.

In terms of describing this bill it is important to stress that while we are in fact raising taxes, we are doing so in an equitable manner. As Secretary of the Treasury Donald Regan says:

> Rather than raising taxes on working people the bill eliminates abuses, removes obsolete incentives, and improves taxpayer compliance. More than three-quarters of it will have no effect on the average taxpayer. Instead, it is aimed at those who have been taking advantage of unintended loopholes and special benefits.

This is a vitally important point to me. If this legislation were to cancel out the positive benefits which last year's tax cut is providing for individuals and families, I would stand opposed to the bill. If this legislation continued to keep hands off those wealthy individuals and corporations who fail to pay taxes, I would have no part of it. Instead it concentrates its attentions on those who have grown fat at the expense of the tax laws. When people speak of their dislike of taxes, it is oftimes done in the context of the inequity of the system. H.R. 4961 takes significant steps in the right direction toward bringing about a more equitable tax system.

There are a number of individual features of this legislation which I am very supportive of and which aided me in my decision to vote for the conference report. Let me review them briefly:

First, the first time inclusion of hospice services under medicare. This is a long-overdue acknowledgment by Congress of an outstanding element of our health care system which provides humane and compassionate care for those who face the imminency of death.

Second, adoption of a provision barring the use of medicare reimbursements for costs incurred for activities directly related to influencing employees respecting proposed unionization. This is identical to a bill I introduced earlier this year.

Third, the deletion of Senate-passed bill provisions which would have imposed a 5-percent copayment requirement for home health services which would have further impeded the development of this important element in our health care delivery system.

I am especially pleased that the conference report contains specific language allowing medicaid for persons who have burial funds that presently disqualify them from eligibility. This issue was first brought to my attention when an 84-year-old constituent of mine was advised that her decision to prepay her funeral expenses disqualified her from medicaid and other programs where she could obtain an urgently needed home health attendant. This was a ludicrous provision of law which happily would be remedied by this legislation.

I support the strong effects of this legislation to reduce error rates by States in the medicaid program. There is no purer form of waste than that caused by program administrator errors and this step should be encouraged in all Federal programs.

Addressing an issue of particular importance to me as an original member of the House Select Committee on Aging, the conference report states clearly that no regulation that in any way would weaken the health and safety of elderly in nursing homes can be promulgated over the next 6 months. This time period should permit negotiations to commence in earnest between the various sides so if we must develop new regulations they can accomplish the laudable goal of reducing the size of Government while maintaining this Nation's commitment to its elderly citizens.

I applaud the conference report's various efforts to secure more child support payments from delinquent or absent parents. This is a glaring shortcoming in our current tax law which must be remedied to alleviate a most tragic social problem in this Nation. H.R. 4951 starts the process.

I strongly endorse the decision of the conferees to retain those aspects of the safe-harbor leasing provisions of the 1981 tax bill. This will mean a great deal to my home city of New York and especially our metropolitan transit authority which has been effectively utilizing this provision to purchase much-needed new subway and railcars without incurring enormous cash outlays.

I am very supportive of the conferees decision to permit continued use of tax-exempt industrial development bonds for economic development. Similarly, I support the expansion of mortgage subsidy bonds for the purchases of certain cooperatives.

Let me state that I deeply regret the failure of the conference report to address one particular issue dealing with the ability to refinance certain cooperative housing with tax-exempt mortgage bonds. approval of this by the conference would have been of great benefit to the Amalgamated Houses located in the Bronx. I hope that the Committee on Ways and Means will see fit to consider this issue in a subsequent revenue bill as I intend to introduce the necessary legislation later in the year.

I was deeply concerned about the Senate-passed bill's attempts to gut the possessions tax credit—IRC section 936—which has been so vital to the economy of Puerto Rico. I personally wrote to the chairman, Mr. Rostenkowski, urging the House to oppose the Senate language and I am pleased with the improvements made

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in the conference and the assurances which the chairman gave me in a letter that the language did enjoy the support of the Puerto Rican Government.

There are numerous other provisions I could address myself to in this legislation and I, in fact, will in subsequent statements. For example, the decision to extend unemployment benefits in a number of States is vitally important to millions of our citizens who have fallen victim to the realities of the existing administration's economic plans.

In recent weeks I have heard from a number of my constitutents, and like many of us here they too are divided as to their position. For those who opposed the legislation I can assure them that my vote has come after extensive deliberation and is in fact cast with great reluctance. To those who have told me of their support I, too, appreciate having the benefit of their views.

Let me close with an observation especially targeted to those who find fault with this legislation. In my view, if we do not pass this bill now and work to lower the deficit by collecting more taxes from the rich, then we will be faced with the more objectionable choice of having to cut even deeper into already beleaguered social programs including entitlements such as social security. This approach is a harsh one but it is the lesser of two evils.

There is much to be gained by the passage of this legislation today, far more than is to be gained if we defeat it. If we lower our deficit, our interest rates will continue to decline, industries will be stimulated and unemployment will come down. When we look at what is contained in this bill we find that we are closing the tax loopholes that we have been trying to close for years. it could be the forerunner of a long overdue realistic reform of the system.

I urge support of the conference report and once the President gets the reprieve which this bill clearly provides, I hope he will continue to view his future economic policy from a broader and more humane perspective.●

● **Mr. COLEMAN.** Mr. Speaker, passage of this bill calling for revisions in our Tax Code will help bring down high interest rates by lowering the Federal deficit, and close some of the most flagrant tax loopholes used by major corporations and wealthy individuals. A vote against the bill will be a vote to perpetuate these loopholes.

While any revenue-raising measure faces criticism, I believe the good points of the bill far outweigh the bad. Since coming to Congress I have advocated more fairness in our Tax Code and this bill does that by slamming the door on billions of dollars worth of loopholes. Here are a few examples:

MINIMUM TAX ON WEALTHY INDIVIDUALS

Several thousand taxpayers with incomes of $200,000 or more pay little, if any, Federal tax by making use of extensive loopholes. This bill sets a minimum tax they have to pay—3-year revenue gain, $2.4 billion.

DEFENSE CONTRACTOR LOOPHOLE

By using the "completed contract accounting method," the defense industry has developed a massive tax shelter which allows them to report substantial profits to creditors and shareholders while simultaneously reporting large losses for tax purposes—3-year revenue gain, $5.7 billion.

FOREIGN OIL AND GAS

Big international oil companies have been hiding profits from U.S. tax by claiming excessive foreign tax credits or by putting their profits in offshore tax havens—3-year revenue gain, $1.1 billion.

LIFE INSURANCE LOOPHOLE

Through bogus risk-shifting gimmicks between insurance companies, investment income which should be taxed at 46 percent is subject to far lower tax rates or even escapes tax completely—3-year revenue gain, $6.9 billion.

SAFE HARBOR LEASING

This loophole has allowed many extremely profitable companies to avoid paying any U.S. taxes by selling tax benefits to other companies. For instance, General Electric, certainly no weak struggling company, wiped out this year's tax liability and received refund checks of hundreds of millions of dollars from the Treasury—3-year revenue gain, $8.1 billion.

CAP ON TAX DEDUCTIBILITY OF $100,000+ PENSIONS

While an average family can only contribute $2,000 a year to an individual retirement account, wealthy individuals have been able to shelter over $150,000 a year by contributing such funds to a pension plan. And, they can then borrow from it with no tax liability unlike people with IRA's who suffer a tax penalty if they try to use the money in their accounts—3-year revenue gain, $1.8 billion.

These are but a few of the major loopholes that have been plugged by the bill. In the name of fairness they have to be closed, but you would have thought the world was coming to an end to talk with some of the special interest lobbyists who were malingering in the Halls of Congress the last few weeks.

There are other portions of the bill which deserve attention. In many instances, the true facts about their impact has been ignored by the media and those who tried to scare the public.

For instance, many elderly people are frightened by the withholding of interest provisions of the tax bill. The fact is 87 percent of the senior citizens in America will be exempt from having any interest withheld from their savings accounts. If a senior citizen's income—excluding social security payments—is less than $14,450 ($24,214 on a joint return) they are totally exempt from the withholding provision.

Quite honestly, the impact of this bill on the average American will be minimal. Closing of the tax loopholes like those mentioned earlier accounts for 51 percent of the $99 billion in new revenues. Stricter compliance measures to collect unpaid taxes will account for 31 percent of the money. Law abiding citizens certainly have nothing to fear from this.

Of course, there will be some impact on individuals. For instance, a family with a typical phone bill will pay 54 cents more per month. A one-pack-a-day smoker will pay another $2.40 per month for his habit.

But, I believe that this tax bill, along with the $285 billion in new spending cuts approved by Congress this year, will help lower the Federal deficit and bring down interest rates. And, it will preserve the third year of the individual income tax cuts which will mean $400 next year to the average taxpayer.

A 2-percentage-point drop in interest rates far outweighs any additional tax liability on the average taxpayer. By lowering mortgage interest rates from 16 percent to 14 percent, the median priced new home will cost a homebuyer $1,200 a year less—that's $36,000 less in interest payments over the life of a 30-year mortgage.

Farmers would enjoy similar savings if interest rates drop. A 2-percentage-point decrease in short-term interest rates would save a Missouri farmer who plants 100 acres of corn and another 100 acres of soybeans nearly $700 in interest on his annual operating loan.

While passage of the bill was difficult, I think all Americans who believe in tax equity and fairness should be satisfied with it. This bill is but one part of an overall economic recovery program that is already making headway in the battle to reduce inflation and to turn our economy around. By moving closer to a balanced budget, I believe we will see more jobs created and lower interest rates.●

● **Mr. HUTTO.** Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise today in opposition to this conference report. Let me assure you that much prayer and consideration went into this matter prior to my decision. I have talked to many of my constituents and asked their advice and believe I am representing them in this vote.

Many items in this report are good for America and close loopholes in our tax laws that need to be closed. Other items in this report are terrible and it is for that reason I am voting against this report. I understand that it is not possible to vote on each provision in this report separately, although I would like to see that take place.

Mr. Speaker, there are several items that place an undue and unneeded burden on the average taxpayer. I cannot agree that raising taxes is the answer to this Nations economic problems. We do need to close the loopholes that are unfair to the majority of taxpayers, but we do not need to place additional burdens on our people during a recession.

When I ran for the privilege of representing the people of Florida's first and finest congressional district, one of the major planks in my platform was to balance the Federal budget. I still believe that we need to balance the budget. But I do not think this bill is the answer. We can still make more budget cuts in all areas of Government instead of raising taxes.

If we vote this report down, Mr. Speaker, I do not believe we should stand idly by and not immediately begin to enact other legislation that will be beneficial to this Nation and its economy. I would support the several measures in this bill that close the loopholes in our tax laws. I would not support those affecting the average taxpayer.

My suggestion is that we again look at our excise taxes to raise the tax on tobacco and alcohol products, both of which cause many American's lives to be affected adversely each year. Many even die as a result of these products. And the problems caused by each of these products causes the Federal, State, and local governments to spend more and more money directly and indirectly each year than is collected from related taxes.

Also, luxury items including such things as jewelry, furs, yachts, expensive automobiles, and so forth, should be taxed.

The provisions in this report for closing loopholes and causing people to pay their just share of taxes are good measures to collect taxes that are needed. But hitting the man on the street by deleting his deductions for medical expenses and premiums on medical insurance, withholding 10 percent of his interest from his savings account, and other measures is not the answer.

Mr. Speaker, I ask that this conference report be voted down.

Thank you.●

● Mr. **YATES**. Mr Speaker, the issue before us is whether to take this step toward fiscal commonsense in spite of the unfair and onerous burdens it places upon people who should not have to shoulder that burden.

Our financial plight has increased since the Congress adopted the Reagan programs last year of massive tax cuts and massive increases in military spending. Contrary to supply-side predictions, the Treasury is bare, the country is in a deepening recession and the prospect is for a bleak future unless ways are found to ease the prospective deficits the Reagan programs have brought us.

President Reagan has adopted this tax increase even though he refuses to call it that. It will bring some drops of revenue into the Treasury with which to pay some bills. But it will not begin to pay for the enormous expenditures incurred by the Defense Department. They will go forward at the same extravagant rate at which they were launched last year by the President.

I said the bill was unfair. One has only to look at the figures in the reconciliation bill against which I voted to verify that charge. The total savings claimed by the reconciliation is $31 billion. Of that amount, $16 billion is charged to the medicare, medicaid, and other related family programs, while the savings attributed to the armed services is only $2 billion derived from COLA's.

I would much have preferred a tax bill that would have rescinded many of the inequities that were included in the tax bill of 1981. This bill addresses some of those inequities, not enough, but we welcome the constructive provisions it does include. We welcome, too, the provision for additional weeks of unemployment compensation.

This bill is in measure a repudiation by the President himself of his economic program which was supposed to have stimulated business so much that large deficits would not occur. The fallacy in that assumption has been evident for some time. This bill is a recognition of an existing circumstance, a step toward common sense.

The President must recognize, too, that his huge military programs have unbalanced the economy. He must realize that military programs, too, constitute Government spending and that the military must also share in the parebacks of Government expenditures which have been focused on social programs. We are waiting for that acknowledgment from the President.

Mr. Speaker, I shall vote for this bill. It leaves a lot to be desired, but the alternative to its passage appears to be worse. There is a chance it will help revive the economy, there is the hope it will help put people unemployed back to work, that it will help restore the confidence in the American economy that the current economic programs have eroded. For these reasons, I will cast my vote for this bill.●

● Mr. **ROYBAL**. Mr. Speaker, this past week all of us were faced with a very difficult decision. We were confronted with a tax bill that, on the face of it, appeared to be an excellent way of raising revenue, closing unwarranted tax loopholes, and reducing the Federal deficit. Every day my office has been flooded with letters from my colleagues, testifying as to the fairness of this legislation. A look at most of the provisions of the tax bill clearly shows the hard work of the conferees. They made every effort to insure that this legislation was balanced and responsible. I recognize all this, but I still decided to cast my vote in opposition to the conference report on H.R. 4961.

I could cite constitutional concerns or economic principles to justify my opposition, as did many of my colleagues. However, my opposition in this case is based on the same reasoning that caused me to oppose every other economic initiative of this administration—my certainty that Reaganomics is wrong.

We have seen its results. Rather than sparking new investment, the Reagan economic program has caused a serious recession, characterized by a decrease of 7 percent in industrial production, sharply reduced new investment, a 45-percent rise in business failures and, most worrisome of all, post-World War II record unemployment rates. In pursuit of his goals, Mr. Reagan has managed to cut the muscle from many of our most worthwhile domestic programs, throw more obstacles in the paths of the working poor who were striving to become self-sufficient, increase military spending by untold billions of dollars, much of it wasted on weapons and equipment about which even the military has doubts, choke off credit to those who need it most—small businesses and home buyers, and saddle us with a budget deficit twice as large as any other in history. Now he wants us to set another record by passing the largest tax increase in history in the middle of a recession. I will not help him continue to pursue his dangerous policies.

During the 1980 Presidential campaign, one of the other Republican candidates said that if Mr. Reagan wanted to make his economic programs succeed, he would have to do it with mirrors. This tax bill is one of those mirrors. It is an illusion that will buy the President a few more months in which to pursue his trickle-down, supply-side theories. As long as he is able to ignore the fact that it was his policies that caused this recession and the huge deficits in the first place, he will continue to promote further increases in the military budget at the expense of the poor and middle class. Enough is enough.

In our zeal to be fair and responsible, we must not lose sight of the big picture. We know Reaganomics is not working. We must pursue programs that will. Let us seek real tax reform—

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restructure our system so the burden does not fall disproportionately on the lower to middle income groups. Let us get this country back to work by providing all of our citizens with the educational and vocational training that will make them employable and at the same time strengthen our industrial base. Let us support responsible, rather than reactionary, defense and foreign policies. Let us return to the noble principles on which the Democratic Party is based, and support those programs which provide everyone the chance to fulfull his or her potential.●

● Ms. FERRARO. Mr. Speaker, I rise in opposition to the conference report on the tax bill, and I ask unanimous consent to revise and extend my remarks.

We are all very aware of the need to reduce the Federal deficit as a means of lowering interest rates and achieving economic recovery. It is obvious that the Reagan administration's economic program is a failure, and that drastic changes are needed to reverse the damage done by last year's cruel budget cuts and excessive tax cuts for the wealthy and increases in defense spending.

The bill before us takes some important steps toward undoing the excesses of last year's tax bill. The provisions strengthening the minimum taxes on wealthy individuals and corporations, and eliminating some of the corporate tax giveaways from last year's bill are important tax reforms.

In addition, the bill provides supplemental unemployment benefits for 2 million American workers who have lost their jobs in the Reagan recession. This action is critical to keep people's lives from being destroyed.

Important as these provisions are, however, they are far outweighed by the many tax increases and spending cuts in this bill that continue the assault on America's poor and elderly.

This bill makes $14.4 billion in cuts in medicare over the next 3 fiscal years. Some of the cuts are in the form of direct costs to medicare beneficiaries, including increases in the premium for part B supplemental medical insurance, which pays for doctor's services.

The bill's supporters argue that most of the savings in medicare are in the form of reductions in reimbursements to hospitals and other health care providers, and not in direct costs to beneficiaries. But many hospitals will be forced to pass the increased costs on to patients, or to cut back on the quality of care they provide. Either way, it is the elderly patients who suffer.

Elderly Americans who are working or seeking work could lose under a provision of the bill which requires employers to offer the same health insurance coverage to workers aged 65 to 69 as they do all other workers. Currently, medicare serves as the primary health insurance for older workers, and employers provide supplemental coverage. The new provision could result in increased costs to employers for hiring older workers. The result could be that firms will be discouraged from hiring or retraining older workers. Given the widespread problem of age discrimination in the work force, and this administration's efforts to eliminate the title V job program, this is not the time for us to construct new barriers for seniors seeking work.

Perhaps the most serious concern of many seniors in my district regarding this bill is the requirement that taxes be withheld on interest and dividend income. Elderly Americans whose savings are already being eroded by the effects of inflation should not have the worth of their savings reduced even further by requiring withholding of taxes. And even the exemption procedure for seniors with incomes below certain levels imposes a requirement on the taxpayer to fill out the forms to get the exemption—it is not automatic, and seniors who do not know the exemption is available will be denied it.

There are other good reasons to oppose this bill. I am sure every Member has received letters from constituents concerned about reduction in the allowable deduction for medical expenses. This provision would add thousands of dollars in some cases to the tax burdens of middle- and working-class Americans who have high medical bills. It singles out those with unusual medical ailments that are not covered by medical insurance. We in Congress must not compound the lives of people who suffer from such illnesses by increasing their tax load.

Another group singled out for special disadvantage in this bill is Federal employees, who would be required to pay 1.3 percent of their incomes in medicare taxes. Federal employees have already borne a disproportionate share of the burden of Reaganomics. Most recently, they have had their cost-of-living increase capped at 4 percent, much below what would be necessary to achieve comparability with private-sector workers. Requiring them to pay the 1.3-percent medicare tax effectively reduces the already-inadequate 4-percent increase to only 2.7 percent. And this pay cap comes on the heels of new changes in Federal employees' health benefits that mean Federal workers are paying more for less medical coverage.

The list of bad provisions of this bill goes on and on. It doubles the cigarette tax and triples the Federal tax on telephone usage, both changes of which hurt poor and middle-class Americans more than wealthy Americans. It allows multinational corporations a tax deduction for bribes paid to foreign officials. It cuts almost $1.2 billion over 3 years from SSI, child support enforcement, and Federal aid to single mothers and children, and $1.1 billion from medicaid.

Finally, there is language in this bill which allows continued and somewhat expanded use of industrial development bonds. IDB's have become a very popular means of raising capital for small business, and they are a very effective job-creation tool. My concern, however, is that the growth of IDB's is forcing tax-exempt municipal bonds out of the market, leaving local governments without funds needed for public services like bridge and subway repair.

Mr. Speaker, this is an unusual bill, in that parts of it are very good while other parts are very bad. I am convinced that the bad parts outweigh the good, and I will vote against the bill. I am hopeful, however, that the good sections can be introduced as separate legislation and enacted into law in this Congress.●

● Mr. BARNARD. Mr. Speaker, I cannot support this tax bill for a variety of reasons, but one major reason is the prospect of withholding on interest and dividends. This proposal has been presented as simply a way to make sure that all taxes that are due are collected.

However, withholding is not a simple proposal to eliminate a loophole in the tax laws. This is a major departure from the past, and will impose a new tax that will especially hit the poor and the elderly. Withholding on interest and dividends will hurt individuals, our financial system, and our economy.

First, individuals. Unless an exemption certificate is filed annually, savers and investors will find that 10 percent of their interest and dividends are withheld when credited. However, most of them will simply see that their interest has gone down, and the amount of confusion and anger that will be caused by this procedure will be monumental.

True, there is supposed to be an exemption for the older savers, but that will not be a simple exemption based on age. All will have to file a separate certificate annually with each institution they have an account with. Many of us, who are supposed to be sohpisticated about our investments, have trouble remembering deadlines and forms to fill out. What trouble will older, less sophisticated savers have? How many thousands will not remember to file the forms each year, and will find that the income they depend on to survive is reduced? How many thousands who do not have to file tax returns normally will end up forgetting to file, and will make involuntary contributions they cannot afford to the Government.

The same applies to poorer or smaller savers. True, there is a $150 a year threshold below which the institutions can eliminate deductions. However, this is highly misleading—for this threshold is not mandatory, it is at the discretion of the institution. Banks do not keep all accounts on the same computer for the most part, and most will find it impossible to aggregate them. Thus, this supposed concession to poorer and smaller savers is meaningless.

For financial institutions, the problem is even more serious. The amount of extra work they will be put through will be immense. They will have to process literally millions of new pieces of paper to comply with this provision. They will have to deal with millions of angry savers who will want to know why their interest is less than last time. They will have to bear the cost of implementing this process. True, they will be allowed a more generous float than in the past, but this will not cover their costs—especially the costs associated with starting up this tax.

Financial institutions will have to process the certificates from older savers. Financial institutions will be expected to issue the withholding forms. Financial institutions will be forced to try somehow to find a way to implement the supposed $150 threshold. These are not minor things. They will require major costs that we in Congress seem to imply are minor.

Although the private financial institutions will be expected to bear this cost, the Treasury Department says that it cannot meet the requirements for withholding. In a discussion with Secretary Regan yesterday, he said that the Treasury will not be able to process the paperwork necessary to withhold on Treasury notes. Why do we expect business to comply with regulations the Government is not able to. Why do they have to bear a cost that is impractical for the Treasury?

When you picture these institutions, do not fall into the error of thinking they are all rich banks. Most of them will be the very savings and loans that are already in serious trouble, or the credit unions that service not only wealthier members, but those too poor to have accounts elsewhere. Someone will have to pay the costs of this new tax. It will not be the Government. Most institutions cannot afford to eat the cost. It will be paid by the savers and customers, resulting in lower savings returns and higher interest costs for borrowers.

This provision is not a minor tax reform, but a major change in tax policy. It flies in the face of our vote against it in the last Congress, when we approved a resolution against it by a 401 to 4 margin.

Withholding on interest and dividends alone is reason enough to oppose this bill. Not only is it a new burden, it is in direct conflict with several past actions of this Congress.

Last Congress, we passed both the Regulatory Flexibility Act and the Financial Regulation Simplification Act. Both of these acts stated that it was the intent of Congress to simplify and reduce the regulatory burden on financial institutions. Now we are saddling them with heavy new burdens that will greatly increase their paperwork and regulatory problems.

This Congress, we have passed two measures for the relief of the troubled institutions, both banks and thrifts. We passed a bill last year that makes it easier to merge troubled institutions, and one this year that will give some of them direct Government subsidies to keep them in business.

Now we are imposing huge new costs on them—costs that will hit the hardest on those who can least afford it. We seem to be helping with one hand, and hurting with the other.

Finally, we are hurting the economy for no good reason. We are removing over $30 billion a year in interest income from institutions that could use it to lend to businesses and individuals. Most of this money will simply have to be refunded to the people it has been taken from. This is not a revenue enhancement, we are simply allowing the Government to live on involuntary loans from savers.

Withholding is doubly useless since a simple reform could be used by taking the 1099 form that is currently required, and having it attached to tax returns. No extra cost is involved. No expensive new paperwork. No older or poorer savers will find their income reduced. More money will be available to lend to businesses.

IRS studies show that if such a step were taken instead of withholding, 96.3 percent of taxes due on interest and dividends would be collected. We would accomplish the same thing without all of the problems withholding is going to cause.

Yesterday, I urged the Rules Committee to allow this body to express itself on the issue of withholding separately from the other parts of this tax package. I felt that we needed the opportunity to clarify our positions on regulations, and on the extra burden we will be imposing on the American people.

This was not to be, and I accept that. However, I cannot in good conscience support this tax bill, and I urge my colleagues to join me in opposition.●

● **Mr. MOFFETT.** Mr. Speaker, while I am a supporter of this package, let me tell you that I have reservations about a bill which imposes further cuts on the elderly and poor recipients of federally financed health care. Ordinarily—if this package was not tied to the tax provisions—I could not support billions in reductions for these essential programs. But these are not ordinary times.

Why are we here considering further health care cuts? We have been told that these cuts are necessary because of the skyrocketing level of inflation in the health care industry. These increases drive up Federal expenditures. Following this argument to its extreme, there may be a time when we eliminate all Federal health care assistance because we have not acted against the persistent inflation levels found among hospitals, providers, medical technology costs, and suppliers.

In November 1979, we were told that a hospital cost containment approach at the Federal level was inappropriate and that a voluntary scheme would do the trick. Now, we are confronted with 2 consecutive years of double-digit increases in health care costs. And, we heard testimony recently before our Health Subcommittee that the voluntary system has not worked.

Despite over 30 years of effort beginning with the Truman administration, there has been no progress in forming national health insurance. While I have certain concerns about elements that such a proposal might contain, it is hard to believe that we have not been able to harmonize the interests of physicians, consumers, hospitals, and insurance companies and make some meaningful progress.

We are concerned about the cost of taking care of elderly people and poor people who are sick. Yet, we do nothing to reduce the incidence of those illnesses. Pending before our Energy and Commerce Committee is legislation which would require food manufacturers to provide information relative to sodium in their products. We know that excessive use of salt leads to hypertension. The incidence of stroke and heart attacks which results cost us $8 billion annually. By reorienting the diets of people in this country we could save a substantial portion of the dollars which are being cut in this bill. Indeed, sodium labeling legislation could have a more significant impact, in terms of lowering overall health care costs, than the legislation which the conference committee has approved.

I would say that the same could be true with respect to cigarette labeling legislation; stiff OSHA regulation on harmful exposures in the workplace; and, so forth.

In conclusion, it seems to me that we are losing the distinction between the cause of the illness of health care inflation and its symptoms. The causes of health care inflation and its symptoms. The causes of health care inflation are numerous—overbuilding, overbedding, overutilization of facilities, unwise reimbursement schemes, et cetera. Finding a solution to these

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problems will not be easy. But we should not delude overselves into believing that health care cost inflation will be arrested by cutting people off at the needs.

Let me conclude by pointing the attention of the membership to the excellent hospice reimbursement provisions of the bill. They include some important language for my constituents in Connecticut, for which I am particularly grateful. We had a nearly unanimous congressional delegation favoring this language, and I would like our letter to the conferees—authored by our friend Representative GEJDENSON—printed in the RECORD at this time.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. August 2, 1982.

DEAR CONFEREE: During Conference on H.R. 4961, we urge you to keep intact the waiver of the limitations imposed by the Hospice legislation.

This waiver will permit Connecticut Hospice, the oldest and the first teaching hospice in the country, to continue to provide hospice care. Because it was the first hospice to be organized, Connecticut Hospice served an entire state. Due to this historical factor, patients from all over Connecticut have been welcome in this facility since its inception. Thus, Connecticut Hospice has much higher in-patient care costs than later hospices which deal with localities.

Connecticut Hospice is important to our state and nation because of the excellent pioneering work it has done since it was first started in 1974 under a grant from the National Cancer Institute. Due to its long innovative tradition as the first center of research and the first national center of teaching in hospice care, Connecticut Hospice deserves flexible treatment under H.R. 4961.

During the debate on hospital cost containment, there was widespread Congressional recognition that certain institutions serving national purposes should be exempted from those rate-setting provisions which would cause them to shut down. We submit that Connecticut Hospice serves an important national purpose as a leader in teaching and research and should likewise be granted "grandfather status" to exempt it from provisions which will cause it to cease operating.

We appreciate your assistance.

Very truly yours,

CHRISTOPHER J. DODD,
U.S. Senator.
SAM GEJDENSON,
Member of Congress.
LAWRENCE J. DENARDIS,
Member of Congress.
ANTHONY TOBY MOFFETT,
Member of Congress.
BARBARA KENNELLY,
Member of Congress.
WILLIAM R. RATCHFORD,
Member of Congress.
STEWART MCKINNEY,
Member of Congress.●

● **Mr. RAHALL.** Mr. Speaker, after very careful consideration, I have decided to support this very important legislation, for the following reasons.

Some claim that this bill will further inflict personal sacrifices on the elderly and low and middle income families of America. The tax increase does not affect the average taxpayer. Most of the new revenues are raised from increased taxes on business, upper-income individuals and from closing a number of loopholes and tax shelters created by the Reagan Tax Act of 1981. The facts will show that this important revenue raising measure will attack deficits and high interest rates by cutting spending less than might otherwise occur and insuring that everyone pays his fair share of the tax burden.

Withholding on interest and dividends is not a tax increase measure; it merely insures that those taxpayers having this type of income pay their proper tax under present laws. Elderly and low income taxpayers are largely exempt from withholding under the exemption levels provided in the conference agreement. Elderly couples with income of $22,214 or less will be exempt next year as well as elderly individuals with $3,323 or less. At these levels nearly 90 percent of all elderly persons will be eligible for exemption.

Many of the loopholes to special interests opened by President Reagan's Economic Recovery Tax Act of 1981 will be closed by this bill. The legislation is designed to insure that all persons who would otherwise avoid taxes because of tax preferences—pay at least some tax. In addition, provisions that allow U.S. oil companies use of foreign tax credits to avoid U.S. tax on other income will be eliminated.

Besides maintaining many vital domestic social programs, which I feared might face further elimination by this administration, and leaving social security untouched, this bill also provides an extension of unemployment compensation benefits for a period of 10 weeks to some 25,000 unemployed West Virginians who stand to lose all means of economic support when State unemployment benefits run out of funds in September of this year.

Therefore, for the reasons that have become apparent to me, I support H.R. 4961 in an effort to reduce the biggest Federal deficit in history created by the biggest tax reduction in history and the biggest military spending increase in history.●

● **Mr. ATKINSON.** Mr. Speaker, I rise in support of the Miscellaneous Revenue Act of 1982. Over the past 12 months President Reagan's economic program have brought down inflation by 50 percent and have reduced interest rates by 30 percent. Now we are called upon to increase revenue collections and close loopholes in a concerted effort to reduce the Federal Budget deficit and continue to regain the confidence of the economic community.

There are aspects of this bill I do not agree with. However, now is not the time to turn our back on the President or fiscal responsibility. This President's compassion is exhibited in the fact that the bill also contains a provision extending unemployment benefits for the most economically distressed areas. Let us all put limited interests aside and look at the greater national interest. Though it may not be politically popular to make this vote, let us stay on the road to economic recovery. Do not give Wall Street an excuse to raise interest rates, do vote to reduce the Federal deficit.●

● **Mr. BROWN of California.** Mr. Speaker, it was just a little over a year ago that this Congress agonized over the largest tax package in history. The Economic Recovery Tax Act of 1981 has obviously not met the expectations of its proponents. I did not support the package last year because I believed that it was very inequitable, creating, rather than closing, loopholes. But I must admit, as I pointed out then, the alternative before the House was not substantially better.

Today we must confront the largest tax increase in history. This tax package is of utmost importance and I regret that the manner in which it has been presented has prevented the House of Representatives from fully and thoroughly debating its contents. While I understand the reasons for this unusual step, I fear that, as with the omnibus reconciliation bill last year, we may live to regret the procedural precedent established by this tax bill. By voting against the rule, I had hoped we would have the opportunity to debate and seperately vote on some of the more controversial parts of the bill.

This is not a perfect bill, but some of its provisions will, in part, close some of the worst tax loopholes. And this time we have no alternative. We must attempt to determine on its merits if we should reform taxes, and in some instances increase them, in order to reduce the overwhelming deficit, or do nothing about spiraling deficits.

The package before us will raise $98.5 billion in revenues, while cutting spending by $17 billion over the next 3 years. As a result, the potential deficit will be reduced by $115.5 billion. In any other time in history, these reductions would be substantial, but now they are merely a drop in the bucket compared to deficits of over $100 billion per year. The question last year was not whether the American public deserved a tax break—they most assuredly did. But it was the fairness, the equity of the tax cut that was at issue. This year's debate centers on the same issue. Is this bill fair and equitable?

There are many provisions, a few being highly controversial, in this bill.

Some I support, and have long supported. Others I oppose, and have long opposed. This is not the bill which I would have devised, but I do not sit on the Ways and Means Committee, and I was not priviledged to participate in the conference committee. As with any massive piece of legislation, no Member of Congress can be entirely pleased with everything, but must instead weigh all considerations before determining how to vote.

For instance, the purpose of the withholding tax on interest and dividends appears reasonable by better enforcing compliance with existing law. But while this provision is expected to raise $10.6 billion in the next 3 years, the additional records required of the financial institutions will cost millions of dollars. Can we afford to place additional financial burdens on an already hard pressed part of our economy? Will the fears about the impacts on savings prove to be real?

Federal employees are also hard pressed. Over the last few years Federal employees have had benefits cut, pay increases reduced or capped below inflation, and now by extending the medicare tax to Federal employees, this bill intends to place an additional tax burden on them. This double taxation is essentially for the same benefits Federal retirees already receive if they are enrolled in the Federal employee health insurance system. It will also do very little to resolve the long-term financial difficulties facing the medicare system.

In addition, medical deductions for all citizens have been reduced. This is being done despite the fact that these deductions have not been abused, and the cost of medical care has risen sharply in recent years and shows every sign of continuing to increase faster than the cost of living. To reduce them simply to help lower the Federal deficit is unfair to individuals with high medical costs.

While these and other groups are expected to carry more, others who are not paying their fair share will only be modestly affected. For example, a few new restrictions have been placed upon oil and gas companies, but, for the most part, we have again missed the opportunity to force them to pay their fair share, or repeal the tax breaks they were given in last year's tax bill.

However, there are a number of reforms in this bill that have been long overdue. This bill eliminates the liberalization of capital gains, tightens up the minumum tax for upper income individuals, and restricts some of the worst abuses of the tax leasing benefits for corporations. Another corporate restriction would make mergers and acquisitions more tax-neutral, raising a total of $2.1 billion in the next 3 fiscal years. However, I cannot let pass the opportunity to question the provision allowing corporations to deduct questionable payments—such as bribes or so-called grease money—to foreign government officials, regardless of its legality in other countries.

This bill also temporarily increases the Federal excise tax on cigaretts from 8 cents to 16 cents per pack beginning January 1, 1983, and ending September 30, 1985. I do not particularly want to increase this tax, but given the tax choices and the adverse health effects and costs to Government inherent in smoking, this may be fairer than most new taxes.

One aspect of this tax package is especially important to my constituents, where unemployment exceeds 12 percent. Since this package will only decrease this year's deficit, now estimated at $171 billion, by $21 billion, I am not entirely convinced that this bill alone will substantially reduce deficits and interest rates, and get our economy moving again. Therefore, additional unemployment benefits are needed as we attempt to overcome the highest unemployment rate since the Great Depression. These benefits are needed—and are needed now.

This bill is before us because of the growing Federal deficit. As we speak of the need for a balanced budget, we must make the hard choices in order to accomplish that goal. The tradeoffs are not perfect, but this particular bill is an improvement over past spending without any consideration of financing. Much in the same way the pay-as-you-go budget proposal would do, we explain in this bill how we intend to finance the additional expenditures for unemployment benefits. I urge us to use this approach more frequently.

While all the provisions in this legislation are not acceptable, the whole package must be weighed against the greater good of the Nation. I have not always agreed with the goals or methods of President Reagan, but I must concur, when he said in a recent letter to me, "I know this measure is not perfect, but I'm convinced that it will bring us closer to our goals of a balanced budget, restored prosperity, and jobs for those who need them. Despite any differences we may have, I know we both want what is best for our country. Working together, I'm confident we can have the best. This bill is a start in that direction."

As long as we continue the campaign for tax reform, close loopholes, and insure fairness in our tax laws, I will continue to follow the President's lead. If tens of billions of dollars of loopholes can be found in a few short months, imagine what we could do if we devoted considerably more effort to this task. Let us get on with the job.●

● Mr. **LOWERY** of California. Mr. Chairman, I have been in the past, and will continue in the future to be a strong and consistent supporter of President Reagan and his economic programs. In fact, it is on the very basis of my belief and commitment to that program that I am today rising in opposition to the conference report on H.R. 4961.

Proponents of this tax package have argued today that they are supporting tax reform, not tax increases. However, only about $2 out of every $10 raised by this legislation comes from what might be called true compliance measures: increased reporting requirements, penalties and interest charges. The remaining $8 is a tax increase, pure and simple.

Furthermore, by whatever name we choose to call it, the fact remains that this proposal exacts an extra $99 billion from American taxpayers and business. If passed, it will withdraw from the private sector the capital that is so desperately needed for new investment to increase productivity, create jobs, and expand our economic base.

The argument against tax increases such as the one we are considering today was perhaps best made by President Ronald Reagan, at the 1980 GOP Convention in Detroit. At that time, he made the statement:

> We are taxing ourselves into economic exhaustion and stagnation, crushing our ability and incentive to save, invest, and produce. We must stop. We must halt this fiscal self-destruction and restore sanity to our economic system.

While I wholeheartedly agree that we must reduce the deficit, I disagree that a $99 billion tax increase is the way to do it. Imposing such a tremendous tax increase on a weakened economy is a sure route to further economic troubles. It could send our economy into an even deeper decline, and actually aggravate the deficit by sabotaging economic growth. A deficit of $104 billion is currently projected by the administration for fiscal year 1983, based on an assumed 4 percent growth in GNP next year. If the tax hike slows economic growth to only 2½ percent, the deficit would climb to about $150 billion. Therefore, tax increases to cut deficits may very well be self-defeating.

The quickest and surest way to reduce the deficit is to speed the economic recovery and get people back to work. Over four-fifths of the estimated increase in the deficit can be attributed to a deteriorating economy. Expenditures for unemployment compensation, food stamps, and other entitlements have increased rapidly, while a slower than expected recovery has depressed revenues. What we need, therefore, are more incentives—not disincentives, as contained in this bill—to stimulate the increased saving

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and investment needed for job creation and economic growth.

What is more, we are being asked to pass this tremendous increase without concurrent reductions in spending. It has been claimed that the $99 billion tax increase is the price we must pay for congressional approval of over $280 billion in spending cuts over 3 years. Under the terms of this compromise, every $1 in tax increases is supposed to yield $3 in budget cuts. However, this has simply not proved to be true. Under close examination, the $280 billion in projected cuts evaporates.

Approximately 55 percent of the alleged $280 billion in budget cuts—over $150 billion—is to come from three nonlegislative budget items: management savings, interest rate savings, and debt savings. Few experts believe that we have any chance of saving such enormous sums on these items.

On the legislative side, we have been able to make some of the required cuts. However, Congress has so far acted on only $30 billion of the required $125 billion in cuts over the next 3 years as directed by the budget resolution. We have made only $1 in cuts for every $3 in tax increases—an exact reversal of the ratio in the original bargain. Enactment of H.R. 4961 will merely return Republicans to their all-too-familiar role of tax collector for Democratic spending programs.

Despite the fact that revenues have increased at the tremendous annual average rate of 10½ percent, Government deficits have still ballooned from less than $15 billion in 1973 to over $100 billion today. Over the same 10 years Federal Government spending increased from 21.5 percent of GNP to over 24 percent, or almost one-quarter of the economic pie.

Mr. Chairman, I was first elected as a city councilman in San Diego based on a pledge to trim 10 percent from the municipal budget. We worked long and hard for 6 months to achieve that cut of $25 million to no avail. My city council colleagues and I were told by the bureaucrats that it could not be done.

Coincidentally, proposition 13 passed that very June and effectively mandated a 10-percent cut in the budget. Do you know that it took just 30 days for that same bureaucracy to find the $25 million in budget cuts?

The same phenomenon, multiplied a thousand times, exists here today. Is it possible that this Government and this Congress will spend into deficit any amount of revenue it raises? We have scarcely impacted the spending habits of this Government and, with this tax increase, we will perpetuate "Washington as usual" revenue practices.

We are asked today to do the fiscally responsible thing and accept the tax increase. I submit to you that I, for one, was not elected in 1980 from a tradition of fiscal conservatism to turn on the taxpayers with a $99 billion tax increase in 1982.

The lesson of local government in California I bring to this Chamber today is: The surest way to restrain Government spending is to restrain revenues. The economic policy reflected in this tax bill is directly counterproductive to the expressed desire of the American people to reduce the size and scope of the Federal Government's share of the economy. It represents a return to the tax-and-tax, spend-and-spend cycle that got us into this economic mess in the first place, and I urge my colleagues to join me in opposing it.●

● Mr. CORCORAN. Mr. Speaker, I rise in reluctant opposition to the conference report accompanying H.R. 4961, the Tax Act of 1982. I say reluctance because it has been a painful decision for me to oppose the President and many of my colleagues on this important matter. Many long hours of work have gone into the preparation and presentation of this conference report that we are considering today. There are some provisions in the report which I strongly support, including the continuation of unemployment benefits for the thousands and thousands of our workers who have been caught up in this tragic recession and are still without jobs. The Midwest, and my State of Illinois particularly, has been hard hit. I am also pleased that the conferees have achieved savings to the Government within the medicare/medicaid program areas of $17.2 billion over 3 years.

But, I cannot and will not support this conference report. This bill is not economically consistent with the President's economic recovery program that this Congress enacted little more than 1 year ago. The investment incentives for businesses, small and large alike, which will not trigger in until the out-years of 1985 and 1986, will be effectively repealed in this bill. Capital formation, an important part of the tax cut bill last year, will be stymied. Of more concern to me is the fact that just when the prime interest rate is falling to a 2-year low of 14 percent housing starts are up sharply, and the stock market is showing signs of a major rebound, this Congress is ready to abort this recovery by passing a major tax increase. Simply put, raising taxes during a recession is wrong. Tax increases cannot produce lower interest rates. Additional taxes crowds productive dollars out of the economy in the same way that higher deficits do.

Mr. Speaker, I first was elected to Congress nearly 6 years ago. During that campaign and subsequent campaigns I have promised to reduce the size of the Federal Government. By increasing tax revenues at this time, as this bill would do—not over 1 year, or 3 years, but at least 5 years, to the tune of $26 billion—the temptation to spend it on the bankrupt social welfare programs would be overwhelming. It may never be used to reduce the deficit, still projected to be in the three-digit range in the out-years. Beyond this, by raising taxes, we are taking the focus off the major impetus for the 1980 election revolution—reduce Government spending growth and ultimately Government spending. I am afraid many of my colleagues, especially within your Democratic Party, Mr. Speaker, would see this as a way to get them off the hook. They may ask, why continue to cut spending when the pot of money available to the Government will increase, along with increased inflation which is always a boon to Government?

The programs which have failed us in the past and which we have just begun to overhaul within the last 18 months may have a new life. On the other hand, the absence of additional tax revenues would force the congressional debate back where it belongs: on the spending side of the ledger.

With unemployment hovering near 10 percent, it is fairly certain that raising taxes will not create new jobs. New jobs are created by more investment and the incentive to invest by our people, not our Government. Increased taxes and increased investment are completely incompatible. The businesses of America cannot afford the economic inconsistencies that plagued the Carter administration—there is too much at stake. The provisions dealing with withholding of taxes on interest and dividends are unfair and counterproductive to increased consumer savings and investment.

It is the prerogative of the House, and specifically of the Ways and Means Committee, to write tax legislation under the Constitution. The methods employed to bring this tax increase bill to the floor were unconscionable. There is no reason that in the event this bill does not pass, we cannot come back and write a 1-year, $20 billion tax bill as required by the first budget resolution adopted in June.

Mr. Speaker, this is the wrong bill at the wrong time for the wrong reasons. Let us reject this bill—which is a vehicle for many of the liberal tax programs of the past—and reduce the deficit and interest rates by reducing Government spending.●

● Mr. FUQUA. Mr. Speaker, I am voting today in opposition to H.R.

4961 which would increase taxes on Americans by $99 billion because it is an unaffordable burden on the working person and a measure which would have only a minimal impact on our economic problems.

While I have supported much of President Reagan's economic program, I could not justify to myself nor my constituents increasing taxes during the depths of one of the longest and most onerous recessions of modern times.

One of the dangerous provisions of this bill is the beginning of erosion of the incentives we initiated last year to encourage greater U.S. competitiveness in the vital high-technology industries on which much of our future economic health depends. While other industrialized nations are concentrating immense resources on developing these industries so that they can outperform and outsell American industry, it is the height of economic folly to withdraw from our own commitment. We are talking here about the loss of high-paying jobs which produce income to the Treasury.

Those of our citizens presently fortunate enough to have jobs when unemployment is at the highest level in 40 years, find their earnings already eroded by inflation and see only faint hope of reduction of interest rates which deny them access to credit markets so they can purchase homes in which to live and dependable transportation so they can travel back and forth to work.

To aggravate their problems by taxing their medical costs, driving up their telephone bills, doubling the tax on their cigarettes, and endangering their pension plans, is an affront to their industry.

While these necessities and simple pleasures would be made more expensive under the administration proposal, jewelry and other luxury items would bear no additional taxes.

It has frequently been said that all taxes are ultimately borne by the consumer, but this bill hardly even makes a cosmetic attempt at disguising that fact and would be particularly unfair to individuals who have large medical expenses.●

● Mrs. SCHROEDER. Mr. Speaker, I am voting no today on H.R. 4961, President Reagan's 789 page, $99 billion tax increase bill for these reasons:

First, the tax increases and the spending cuts, notably in medicare and medicaid, will fall heavily on the poor and the working poor, especially working mothers and the elderly. According to the National Taxpayers Union, the Reagan tax bill will cost the average American household $2,500 in increased taxes by 1987.

Second, the bill imposes substantial, new regulatory burdens on millions of individuals and small businesses.

Third, the bill contains the largest tax increase in U.S. history, $99 billion, while it avoids making any hard spending choices.

Fourth, last night we passed the conference report to the DOD authorization, the largest, most bloated military budget in our history. The military got everything they wanted and then some. Today we are attempting to pay for it. I say "attempting" because this $99 billion tax bill, as large as it is, will not even begin to cover Reagan's $1.5 trillion military spending spree. Reagan's fiscal excesses make LBJ's Vietnam era guns and butter budgets look like paradigms of frugality.

Fifth, the inequities in the tax measures are stark: Reagan goes after restaurant workers' tips and makes corporate foreign bribes tax deductible.

Finally, the bill will not help the economy. It is like throwing a cement lifejacket to a faltering swimmer. The bill will not create jobs, it will not spur investments, it will not lower interest rates. The motto of the Reagan administration is, "Spend, spend. Tax, tax." If he wanted to help the economy, he would launch an all-out attack on high interest rates. Instead, he blitzes the already beleaguered taxpayer.●

CALL OF THE HOUSE

Mr. GIBBONS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 302]

ANSWERED "PRESENT"—400

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
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Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
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Mollohan
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Moorhead
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Murphy
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Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Sawyer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

□ 1610

The SPEAKER pro tempore. On this rollcall, 400 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call will be dispensed with.

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PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL AUGUST 26, 1982, TO FILE REPORT ON H.R. 6978, THE BANKRUPTCY COURT ACT OF 1982

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until August 26, 1982, to file a report on the bill, H.R. 6978, the Bankruptcy Court Act of 1982.

Mr. Speaker, the minority has been consulted and has cleared the request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. Conable).

☐ 1620

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. Trible).

Mr. TRIBLE. Mr. Speaker, I rise in opposition to the conference report.

I want to emphasize that the President and I share the same goals: Reducing the size of the Federal deficit, expanding economic opportunities, and creating new jobs. Along with the President, I believe that we must restore fiscal responsibility and balance the Federal budget. My only reservation is about the appropriateness of raising taxes now.

No economic theory supports increasing taxes in a recession. No Keynesian, monetarist, or supply-side model provides a rationale for increasing taxes during a recession. In fact, a tax increase will hamper both the demand and the supply sides of the economy. It will reduce demand and weaken business investment incentives. It could deepen the recession and increase joblessness.

We have heard arguments that increasing taxes will reduce interest rates. A tax increase can only reduce interest rates by weakening the economy and increasing unemployment. Interest rates are falling and will continue to fall without a tax increase. As inflation comes down and stays down, interest rates will continue to fall.

If we are going to reduce the deficit, it should be by restraining Federal spending. The problem is not that taxes are too low, it is that the Government spends too much. Our deficit problem is a problem of overspending. Americans are not undertaxed; the Federal Government is already collecting an unprecedented percentage of the income of working men and women.

I was not elected to increase taxes to pay for excessive Government spending, nor to impose new regulatory burdens on people and businesses. The tax bill does all these things.

This is not tax reform. We cannot extract $100 billion from the economy without taxing people. And we cannot extract $100 billion by taxing "business." People will pay for all the increases in corporation taxes—as consumers in higher prices, as workers in lower wages, and as lenders in reduced dividends, interest, and capital gains. Nor will businesses pay the new taxes for unemployment compensation. These will burden workers as well. Individuals will pay the new telephone, tobacco, and airport taxes. People will pay more, in many cases, much more, for medical expenses, casualty losses, and health insurance premiums. Federal workers will pay up to $470 each year in new medicare taxes.

For my State of Virginia this bill is particularly onerous. It increases the tax on cigarettes and payroll tax for unemployment compensation. This will decrease job opportunities and income in Virginia. The unemployed in Virginia will have their benefits taxed to pay for extended benefits in other States.

The bill singles out Federal workers for sharp new increases in medicare services. I question the wisdom of creating a sizable new classs of those who will be eligible for medicare at a time when we are desperately trying to control medicare spiraling costs.

Accordingly, I must oppose the conference report.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

I am far from satisfied with this legislation, but taken as a whole, I think it represents an honest and responsible attempt to undo some of the exceses of last year's tax cut bill and close certain tax loopholes at a time when our Federal deficit problem is acute. H.R. 4961 also balances the need for new revenues with additional restraint on the spending side; it cuts $17.5 billion from Federal programs over 3 years. And, the final key element of this package, it provides for up to 10 additional weeks of unemployment compensation benefits to individuals who are out of work and who have exhausted the benefits to which they are currently entitled.

In 1981, the Congress passed and the President signed the largest tax cut bill in this Nation's history, a measure reducing Federal revenues by a least $750 billion over 5 years. I supported the tax cut plan the President had campaigned on, namely a 30-percent across-the-board for individuals and accelerated depreciation for business. The time was right, I felt, for some supply-side economics to be given a chance. The hour had come to try some of these untested but promising theories. I voted against the tax bill which came to the House floor, however, because it was overloaded with addons and special interest tax breaks during the vote bidding war between the two parties. All in all, the Congress, with the administration's complicity, added more than $140 billion in cuts to Mr. Reagan's basic plan, more than $40 billion in last few days of the summer. It was perfectly clear to me at that time that these massive revenue reductions, combined with the planned increase in defense spending, would lead to record deficits in the near term. Events have borne out my worst fears.

Some of my more conservative colleagues are not concerned about these record deficits. They reject the argument that we need a modest increase in revenues, coupled with additional spending rollbacks, to cut the size of the fiscal year 1983 deficit. They claim that if we will only give last year's tax cuts a little more time, they will spur the economic recovery that was predicted in the first flush of excitement following the adoption of last year's tax bill. Many of them, in fact, would like to see new tax cuts this year, in place of H.R. 4961. Any additional revenues, even in the form of closed loopholes and increased taxpayer compliance, will choke off the economic rebound that is just around the corner, they maintain. With the economy like an airplane in a nosedive, they would push the stick forward.

I, for one, think the projected deficits for fiscal year 1983, 1984, and 1985 are going to have a very negative affect on the economy. Let us remember that, even with the revenues and spending cuts contemplated by H.R. 4961, the fiscal year 1983 deficit will be near $150 billion. Those who vote against this legislation today are in effect supporting an fiscal year 1983 deficit of closer to $174 billion. These colossal levels of Federal borrowing will crowd private borrowers from the credit markets. The housing and auto industry slumps will be exacerbated, as Americans find themselves unable to finance new home and car purchases. Moreover, there will be continuing and escalating upward pressure on interest rates.

Permit me to turn now to some of the specific provisions in H.R. 4961. As I said earlier, I am not pleased with everything in this bill. I am not enamored of the 10-percent withholding proposal for interest and dividend income. During last administration, I voted several times against a 15-percent withholding plan. I am very reluctant to support the new tip reporting system, as well as the new restriction on medical expense deductions. There is a very serious underreporting problem with interest and dividends, H.R. 4961 provides withholding exemptions for the poor and elderly, and for troubled financial institutions like some of our S. & L.'s. It is estimated that 80 percent of all tip income is not reported.

The medical expense deduction, which can include voluntary expenses, such as cosmetic surgery, rest cures and other optional expenses, can only be taken advantage of by the 40 percent of taxpayers who itemize, and these taxpayers are middle- and upper-income individuals. Nonetheless, I would have preferred that we turn to other sources of revenue rather than these three. In addition, I think some of the medicare, medicaid, and other spending cutbacks in this bill are harsh.

However, if one looks at last year's tax cut bill and H.R. 4961 together, as one bill, I think one can make a good argument that H.R. 4961, warts and all, is a worthwhile price to pay for many of the add-ons, over and above the President's tax cut package, in last year's measure. H.R. 4961 is the price we have to pay for last year's reduction in the marriage penalty. It is the price we have to pay for indexing the personal income tax beginning in fiscal year 1985, so that bracket creep does not take an unwarranted bite out of our paychecks. It is the price we have to pay for the reduction in estate and gift taxes which will help our small farmers keep their operations in the family. And I ask my friends from the oil-producing States: Are you not willing to support H.R. 4961 as the price tag for the royalty credits in last year's bill which will help the mom and pop oil operations in your districts?

Let us look at the features of today's legislation which are commendable. H.R. 4961 repeals safe harbor leasing at the end of 1983. As Members will recall, this is the new law which has given profitable U.S. companies net tax refunds from the Federal Government, and which has allowed firms with huge foreign profits to sell their unusable tax credits. Studies have shown that the thriving oil industry was by far the largest buyer of tax breaks under these leasing provisions, and that leasing was only 76 percent efficient, an efficiency rating far below the food stamp program, which has a rating of 90 percent.

H.R. 4961 also contains sound modifications in life insurance company taxation and sound new restrictions on the tax advantages of corporate mergers, which have, because of heavy corporate borrowing, exerted upward pressure on interest rates. It includes new individual and corporate minimum taxes, which will insure that the well-to-do pay their fair share of taxes.

H.R. 4961 includes funding for airport development and planning, airway facilities and equipment and airway research, engineering and development. These capital programs, and the taxes that support them, are very important to my State of Vermont and to the country. Unless they are undertaken, our airports and airways will be unable to handle the demands which will be placed on them in the coming decade.

As the President has pointed out, more than three-fourths of the additional revenues that will be generated by this bill consist of taxes already owed but not being collected and taxes from the closing of loopholes and other unintended advantages in the Internal Revenue Code. If H.R. 4961 is adopted, the American people will still derive the benefits of a $370 billion tax cut over the next 3 years, and a tax cut of more than $600 billion over the next 4 years.

Finally, several months ago this House adopted a first budget resolution for next fiscal year calling for $20.9 billion in new revenues and for roughly $30 billion in spending cuts over 3 years. If this bill is defeated, we will fail to achieve both our revenue and spending targets, and the budget process will be in ruins. Those who oppose the balanced budget constitutional amendment, as I do, must realize that such an outcome will only give ammunition to proponents of the amendment. We will be playing into the hands of those who claim the Congress does not have the discipline and the fortitude to make the tough budget decisions.

Mr. Speaker, I urge my colleagues to support this important legislation. Thank you.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKinney).

Mr. McKINNEY. Mr. Speaker, no one is terribly pleased with this bill. But then I have never known anyone to be enraptured by the prospect of increased taxes. The question is whether we have a decent alternative to passing this bill. All my colleagues know what that alternative would be: a huge 1983 Federal deficit, perhaps as high as $200 billion. I do not think that any of us here today, in our role as Representatives of the American people, can responsibly opt for that alternative. The impact on interest rates, economic confidence, and public faith in this institution would be severe.

You know that I have had my quarrels with this bill. I voted against the motion to go directly to conference with the Senate because I felt we were setting a terrible precedent by abdicating our constitutional responsibility to originate revenue bills. I still feel that way today.

I opposed the provision to withhold 10 percent of interest and dividend income. I wrote to the House conferees. I went before the Rules Committee to ask for separate consideration of the measure. I voted against the previous question this morning. We lost—by 10 votes.

I do not need to reiterate my reasons for opposing the withholding provision. These have been expressed adequately elsewhere. It is based on faulty assumptions and it makes specious claims to raising additional revenues.

We are singling out the honest taxpayer and the hardworking saver as scapegoats for our budgetary problems. In the middle of a recession, in this lowest of all saving nations, I think it is simply unwise to reduce the incentive to save. Yet that is exactly what this measure will do. For this reason, I sought separate consideration of this part of the bill.

Other provisions of the bill which I opposed were improved by the House conferees. The floor for deductible medical expenses, which the Senate Finance Committee originally raised to 10 percent and the Senate lowered to 7 percent, has been further reduced to 5 percent—an increase of only 2 percent over the current level. That is certainly an improvement. The completed contract method of accounting, which the Senate had eliminated, has been reinstated, with a few additional restrictions. Given the current weak state of our housing industry, I think it would have been a mistake to impose this additional burden on contractors. So this, too, is an improvement over the original bill. And, finally, the conferees replaced the rather shortsighted Senate provision regarding possessions corporations—which would have created severe hardship in Puerto Rico—with a reasonable compromise worked out in consultation with the Government of that Commonwealth.

Furthermore, there were some issues of particular regional importance where the conferees upheld our view. I joined with my colleagues from Connecticut in asking that the Senate compromise on taxation of life insurance companies, raising an additional $1.5 billion annually in taxes from this industry, be kept. It was. I joined my colleagues from Connecticut again in asking that the amendment approved on the Senate floor easing the new restrictions on industrial revenue bonds be kept. It was. As a result, IRB's remain exempt from the individual minimum tax, depreciation reverts to the regular, rather than the delayed, schedule, small issue programs remain in effect through 1986, and accelerated cost recovery remains available to

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such crucial projects as low income housing, municipal solid waste or sewage facilities, pollution control equipment, and UDAG assisted facilities. I think my colleagues from the older cities of the Northeast and Midwest will be pleased with this.

So for this Member, as for most other Members, there are good points and bad points to the bill. But I think it is important to point out that only 17 percent of the additional revenues raised by this bill will come from new personal taxes. Over 30 percent will come from improved compliance measures, and nearly 50 percent will come from restrictions on some of the tax preferences passed in last year's tax bill, such as safe harbor leasing and accelerated cost recovery. When coupled with last year's tax bill, it still leaves an overall reduction in taxation of $376 billion over 4 years—$358 billion alone in individual income tax cuts.

The crucial question here today is this: Will we lose sight of the forest for the trees? Can we as individual Members afford to take the short-term, parochial view and vote against this entire package because we disapprove of certain features of it? I do not think so. This bill implements the budget resolution recommendations for raising $20 billion in additional revenues for 1983 and $98 billion over the next 3 years. The Congressional Budget Office has already estimated the 1983 budget deficit to be somewhere between $140 and $160 billion if we follow the guidelines of the budget resolution. If we vote down this bill, that figure would go even higher. I do not think our economy can support that.

We must certainly continue with the task of cutting Government spending in a reasonable, equitable manner to further reduce the deficit. My colleagues know full well where I stand on this, ever since my vote for the Aspin budget substitute. I say let us stop cutting everything from social programs, and look to those programs heretofore unscathed: Water projects, agricultural price support programs, and the defense budget. As in the past, I voted against such weapons programs as the MX missile, the B-1 bomber, the nuclear aircraft carrier, and countless others. The savings that the elimination of these programs from the defense budget would have generated is about $61 billion—three times as much as we are hoping to gain from next year from this tax bill. A majority of my colleagues disagreed with me on this; I hope that next year we may see the error of our ways.

In conclusion, Mr. Speaker, I think we have no choice if we are to act as responsible legislators today. I am going to vote for this bill, and I urge my colleagues to do likewise. If the bill passes, I will not exactly be jumping for joy, but at least I will be able to feel that we have acted in the best interests of the Nation.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in support of the conference report.

Reform and fairness is what most of this tax bill is about. Eighty percent involves: first, the collection of taxes presently owed; and second, ending tax havens enjoyed by some industries. Few can argue against everyone paying his fair share or against closing loopholes.

Faced with a staggering Federal deficit, the Congress this spring in its own budget resolution agreed to spending cuts up to a point and insisted on revenue increases as well. What we have before us is a compromise between further cuts in Federal programs and reducing the deficit by raising taxes. It is late in the day and important that Congress send a clear signal it is serious. Our paramount concern must be to reduce the Federal deficit and encourage, not hinder, prospect for lower interest rates.

In his recent address to the Nation, the President pointed out that the tax hike amounts to a rollback of one-fourth of the generous tax incentives for business passed in 1981. The key features of that reduction—capital cost recovery and individual tax relief—are not affected by the 1982 hike. Most would agree that the 1981 tax cut was overgenerous and should be trimmed back.

The most controversial part of the tax bill is the withholding on interest income and dividends. These are not new taxes. Withholding is an effort to meet known evasion. Investment income would be treated the same as salaries and wages, which are presently subject to withholding. However, senior citizens and those with low incomes will not be subject to the withholding.

Withholding is one provision I objected to, proposing instead that Congress rescind the 1981 rollback in the windfall profits tax on oil. The compromise worked out included making the effective date of the withholding July 1983, the date of the next scheduled 10-percent individual income tax reduction. This also allows time for the next Congress to reconsider the matter. Those of us who favor striking withholding have had our day. We were out-voted; we lost. Now we must bite the bullet.

The other factor I find objectionable is the medicare contribution required of Federal employees. These employees are not eligible for medicare and it seems grossly unfair to enhance medicare solvency on the backs of Federal employees. In its comprehensive review of social security later this year or early next year, this issue also should be reviewed.

For those of us in the Northeast, there were tax proposals which would have been far worse. A levy on foreign oil imports would only have driven up the price we would pay for home heating oil. Rescinding the scheduled 10-percent cut for individuals scheduled in 1983, or repealing the indexing provisions were other options. By enacting the provisions of the tax bill, this individual tax cut is protected.

For these reasons, the tax bill should be supported. The need to reduce the deficit outweighs the flaws in the bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the soon to be a former Member, the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of the conference report.

I have told President Reagan that I will support him by voting for the tax reform bill. It was a difficult decision and there was no joy in it for me.

I remain a strong advocate of supply-side economics, which holds that if you cut taxes in the right way, you can stimulate work effort, saving and investment. This bill does not do too much damage to that principle.

It is much more of a tax reform package than a tax increase. The minimum tax on individuals, for example, will not increase taxes at the margin, but will increase the basic fairness of the tax code by insuring that all Americans pay their fair share.

I do regret the abrupt impact this bill is likely to have on tobacco growers and the additional burden that will be placed on small banks and small savings institutions.

But the tax reform bill will reduce the deficit, which will help to further reduce interest rates; and that is necessary if we are to have an early recovery from the recession which has devastated Ohio. Jobs and economic growth in Ohio must be my top priority.

There are two ways to reduce the deficit: by increasing taxes or by cutting spending. I continue to prefer spending cuts. I have consistently supported reduced spending and I will continue to do so. President Reagan says he will, too.

But the Congress has begun to weaken in its resolve to cut spending and the President is convinced we will not get more spending restraint from congressional Democrats until we raise more revenue. Reluctantly, I agree with him that the psychology of the Congress on spending cuts and the psychology of the investment community on interest rates depends on passage of this bill.

Because spending restraint and lower interest rates will translate directly into jobs for Ohioans, I will vote "yes" on the tax reform bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, today we are debating a bill that some say will be the largest tax increase in history. I fail to see the logic behind raising taxes in the midst of an economic recession. I fail to understand how interest rates will fall when $100 billion is taken from businesses and individual taxpayers. I fail to see how new taxes will generate jobs. In fact, there is a good chance that this tax increase could seriously hurt, rather than help our economy.

As disturbing as the thrust of the tax bill is for me, I do feel there are some provisions that are necessary, particularly the provision that allows an airport to use a portion of its ADAP grant to retire debt on terminal development and the provision to extend unemployment compensation benefits.

With the provision concerning the airport development aid program, airports like the Allentown-Bethlehem-Easton (ABE) Airport can use part of its ADAP grant to retire terminal development debt. This will give airports more flexibility to use its grant as it wishes without costing the taxpayer a penny.

Regarding the extension of unemployment compensation benefits, I strongly support this extension of benefits for our Nation's citizens who through no fault of their own have lost their jobs. For my own State of Pennsylvania, this extension will mean an additional 10 weeks of benefits to help the jobless pay their bills and see them through this period of uncertainty.

This provision though unrelated to the tax portion of this bill was added as a sweetener to guarantee its passage. I believe the extension of unemployment compensation benefits should be voted on separately and passed before Congress recesses until September. Our jobless should not be used as political pawns.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we are faced with a monumental task. Many of us, on both sides of the aisle, have fought hard and long for the principles embodied in the program for economic recovery.

That program is beginning to work. Already, the prime rate is down from a Carter era of 21 to 14 percent and is still falling. There is renewed hope in the stock market and more importantly, renewed activity in the almost deceased bond and equity markets. The inflation rate, which had been almost constantly on the rise for the last decade, is not controlled and still falling.

The most important aspect, however, of the program for economic recovery is that hope has been reborn in this Nation. No longer are the attitudes of "no growth" and static economies prevalent. No longer are Americans told that we need to regulate, ration, or organize because "We can't grow anymore," Americans have seen leadership in Washington for the first time in a long time.

But, leadership brings with it heavy responsibilities. It is easy to stay dogmatically with one's convictions. But these are unusual times. For the first time in 40 years we actually have a good chance to turn around the fiscal and monetary irresponsibility that has governed this Nation since World War II. This Congress has curbed it enormous proclivity for spending programs. Make no mistake, every cut in the gargantuan and bloated budget is being fought tooth and nail by those who seek to keep us on the road to decay and ruin. But we are progressing. We have managed to pass the most significant tax program in the Nation's history; a bill that not only represented the largest tax cut in memory, but a tax cut that would give us what this country was created to give us, the freedom to grow, to build, to restore the economic greatness that is this Nation.

That act, passage of the Economic Recovery Tax Act, was an act of leadership. We now face another act of leadership that is just as necessary as the first.

If we are to keep the program for economic recovery on track, it is necessary to combine the spending cuts that we desire with this tax reform bill.

On its merits, I am not in favor of this bill. I am particularly opposed to the withholding provisions concerning interest and dividend payments.

However, I cannot judge this bill just on the individual components. I have the heavy responsibility of not only representing the citizens of the fourth district of Arizona, but of doing what I think is best for this country.

I feel strongly that we must continue the work done by the program for economic recovery, and, at this time, this tax bill is necessary to keep the program on track.

This is a very hard decision for me to make. I have always opposed increased tax burdens and will continue to do so. But the urgency of the situation with regard to the program for economic recovery and the best interests of the Nation compel me to cast my vote for this bill, despite my distaste for it.

I am committed to continue the fight to reduce the size of the Federal budget, to preserving the individual tax cuts passed last year, and restoring the economic vitality that makes this Nation great.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Although it is with some discomfort that I find myself compelled to vote against the position of the President and many of my good friends, particularly on this side of the aisle, I am convinced that this tax bill is not in the best national interest.

Before I outline my specific objections to the bill, I would like to emphasize that the entire procedure by which H.R. 4961 has been considered by Congress is, in my view, unconstitutional. The Constitution specifically mandates that all revenue measures must originate in the House of Representatives. This tax package, however, was written in its entirety by the Senate Finance Committee. It was then attached to H.R. 4961, a minor bill passed by the House last year which actually provided for revenue reductions.

No hearings were held by the House Ways and Means Committee; there was no opportunity for the full House to perfect the Senate bill, nor of voting it up or down. By agreeing to send H.R. 4961 directly to conference, a motion I opposed, we in the House effectively abrogated our constitutional responsibilities and established a precedent that will undoubtedly haunt us in years to come. If for no other reason, therefore, this conference report should be rejected on constitutional grounds.

Mr. Speaker, H.R. 4961 provides for tax increases totaling $98.5 billion over the next 3 fiscal years; $228 billion over the next 5. On an annualized basis, this works out to the largest peacetime tax increase in history. No matter how proponents of the bill attempt to diguise this fact by terming it "tax reform," "revenue enhancement," or "improved compliance," the fact remains that, if this legislation is enacted, the average American household will pay an additional $2,500 in taxes by 1987.

I yield to no one in my advocacy of efforts to reduce budget deficits and to bring the growth of Government under control. I am afraid, however, that what really lurks behind all the talk of tax reform and compliance by advocates of this bill is yet another attempt to finance unrestrained Federal spending. According to OMB Director Stockman, Federal spending, as a percentage of GNP, will reach its highest level since 1946 this year. The President's original program for economic recovery called for a reduction of this

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ratio to 19.3 percent in 1984. Current estimates are that Federal spending will consume 24 percent of GNP in fiscal 1984. During this fiscal year, the Federal budget will increase by 11.7 percent, a rate substantially greater than that of inflation.

The implication should be obvious: if we are serious about controlling the growth of the Federal Government, reducing the deficit, and improving the economy, we must cut spending. A mid-August Gallup survey asked how Congress should reduce the Federal deficit: 50 percent of those questioned said "reduce spending;" only 4 percent said "raise taxes." The rest suggested doing both, or had no opinion. The same poll shows that 66 percent of those questioned oppose this tax bill. It is that simple. To attempt to avoid the admittedly difficult process of cutting spending by burdening the American people with additional taxes is not only bad economic policy, but also reflects an utter lack of congressional courage and responsibility.

It is claimed by proponents of this tax package that we are getting $3 in spending cuts for every $1 in tax increases. It is more likely that the ratio will be just the opposite—the spending cuts enforceable by the congressional budget process amount to only 27 cents of savings for each dollar in increased taxes. For fiscal year 1983, the first concurrent budget resolution assumes budget savings of $50.6 billion from changes in present law, aside from reconciled spending cuts. According to the Federal Reserve Bank of New York, $33.6 billion of these assumed savings are implausible or nonexistent. Based on this analysis, the ratio of all spending cuts—those subject to congressional enforcement and others—to tax increases for fiscal year 1983 is about 1 to 1.

The administration's arguments are based upon questionable projections and assumptions about future economic activity which cannot be predicted with any degree of certainty. While all tax increases are subject to reconciliation, only a fraction of the projected spending cuts are. Further, if our inability to agree to the limited spending cuts mandated by the budget resolution, as evidenced by the controversy over Federal retiree COLA's, is any indication, tax increases may play a larger role in reducing the deficit than even now anticipated.

I would like to reiterate, Mr. Speaker, that tax hikes are not the way to reduce the deficit, particularly since the concurrent spending cuts promised seem increasingly illusory. In the past, tax increases have been enacted on the basis of the argument that they were necessary to finance spending programs; historically, the greater the tax increase, the greater the growth in Federal outlays. With Federal spending now at an all-time high as a share of GNP, congressional policy should be clear. We must focus on substantially cutting spending, on reducing the growth of Government, and returning economic resources to the private sector where they can be most effectively utilized.

In addition to the fact that the tax increases contained in H.R. 4961 will be quickly consumed by rising Federal spending, it makes little economic sense to enact a tax bill of this magnitude at a time when the economy is only now showing signs of recovery. Although such signs exist—interest rates, for instance, are declining rapidly—corporate liquidity is at its lowest level since World War II, before-tax profits are down 30 percent from last year, and business failures are running at their highest rate in 50 years. There is no evidence which suggests that taxes should be raised during a recession. Herbert Hoover tried it in the early 1930's, and turned a recession into the Great Depression which, at its peak, resulted in an unemployment rate of 25 percent.

If this legislation is enacted, fully one-fourth of the tax relief provided by the Economic Recovery Tax Act of 1981 (ERTA) will be repealed. Aside from reducing personal income tax rates over a 3-year period to a level where, in view of social security tax increases already mandated and bracket creep caused by inflation, the tax burden of most families is held relatively constant, the ERTA provided important incentives for business investment and expansion. Although business received less than 20 percent of the total tax cuts enacted last year, these benefits were intended to help the private sector create more jobs and profits. H.R. 4961, however, repeals nearly 70 percent of these business tax reductions and will have the inevitable effect of hampering savings and new investment. At a time when the private sector is struggling to overcome the worst recession since World War II—a recession caused in large part by the misguided Federal economic policies of the past—it is just plain wrong to take away tax incentives which would ultimately result in more jobs for Americans who want to work because we in the Congress have been unable to restrain our appetite for spending.

Aside from its impact on business, the tax bill before us contains many elements which will adversely affect the average taxpayer. Above all else, the American people desire simplicity, certainty, and fairness in the tax code. H.R. 4961, as passed by the Senate, is a 758-page compendium of complicated corrections, changes, and additions to present law which represents a substantial retreat from our efforts last year, in enacting the Economic Recovery Tax Act, to move in the direction of clarity and certainty. With regard to fairness, the bill provides for an increase in the Federal excise tax on cigarettes, but none on alcohol. It establishes a complicated and burdensome tip reporting system which must be observed by waiters and waitresses, but makes no change in the three-martini lunch business deductions. The general compliance provisions included will empower the IRS to intrude more easily and often into the affairs of law-abiding citizens.

Perhaps the most onerous provisions of the bill is that requiring the withholding of dividend and interest income "at source." The withholding of 10 percent of all such income whenever it is credited to an individual's account will take billions of dollars out of the national flow of savings so essential for the investment necessary for capital formation and economics growth. Those who will suffer directly, however, are not large corporations, or even the financial institutions which will be responsible for the actual withholding, but the small savers who depend to varying degrees on dividend and interest income, and who religiously pay their taxes.

While private savings and investment will be hampered by withholding at source, it is by no means certain that the revenues anticipated will be forthcoming. The increased operating costs of financial institutions necessary to comply with the withholding provisions are deductible business expenses, and will thus reduce net revenues; many individuals may compensate by lowering withholding on their wages.

Two years ago, Congress passed a resolution objecting to a similar withholding proposal by a vote of 401 to 4. If anything, withholding would have a more deleterious effect on the economy today.

The bill contains a number of additional provisions which will discourage savings and investment. The ability to reinvest certain utility stock dividends without taxation, enacted just last year, is repealed. The tax benefits of private pension plans are significantly reduced. At a time when the future of Federal retirement programs is increasingly questioned, it makes little sense, in my view, to reduce the attractiveness of private plans.

There are, Mr. Speaker, several positive features of this bill. The mortgage subsidy bond program is expanded, and will thus stimulate housing construction. For many years overdue, the tax treatment of the life insurance industry is reformed; the tax treatment of independent contractors is clarified in a constructive fashion.

These provisions notwithstanding, however, I remain opposed to H.R. 4961. I am committed to the President's program of reducing the size of government. By providing for massive tax increases over the next 5 years, this bill will help finance historically high levels of Federal spending; spending which we in the Congress have proven unwilling and unable to bring under control. The bill, if enacted, will make economic recovery more difficult by assuring that a greater share of national resources will be consumed by the Federal Government. The incentive of individuals and businesses alike to save and invest is reduced. The ability of the IRS to intrude in the daily lives of our citizens is enhanced.

In short, Mr. Speaker, we must not enact this huge tax package at this time. To do so would, in effect, be reflective of the fact that we have chosen to violate our constitutional responsibilities, and to discard our commitment to economic sanity. I, therefore, urge that the conference report on H.R. 4961 be rejected.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Coughlin).

Mr. COUGHLIN. Mr. Speaker, I rise in support of the conference report. The $99 billion compromise tax reform package has spurred opposition and controversy, but President Reagan has detailed the case for it. Cutting the Federal deficit even further, knocking down interest rates, and creating more jobs are necessary if we are to rise from the economic doldrums.

More than 80 percent of the revenue in the measure would come from collecting taxes due but not paid and from closing so-called special-interest tax loopholes. Many people have called for just such action. For example, there is no additional tax on interest and dividends. Similar to wages and salaries, estimated taxes on interest and dividends would be withheld—but only up to 10 percent—and actual taxes would be refunded or paid at the end of the year. Most older Americans and those with low incomes would be exempted from even those withholding requirements.

Less than 20 percent of the revenues would come from consumer taxes. The bill would not change the 10 percent, third-year phase individual income tax reduction set for July 1, 1983, or the tax indexing provisions, both of which will leave Americans with more real income. When combined with last year's tax cut, individuals and businesses still would have a net tax reduction of $236 billion over 3 years. Further, beginning in 1983, an average family of four will be paying $788 less in yearly taxes.

Although several provisions of the bill were particularly disturbing to me and I continue to be concerned about what—in my view—is excessive defense spending, the tax reform bill is fair and supported by both Democrats and Republicans. The politically popular vote, of course, is against the measure. The responsible vote, I believe, is for it.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. Annunzio).

Mr. ANNUNZIO. Mr. Speaker, I am a Democrat, and I was elected to serve in this Congress as a Democrat. The people of my district in the 1980 election voted for a Democrat for President. They did not vote for voo-doo economics; and they did not vote for astronomical interest rates and double-digit unemployment.

This ill-conceived legislation before us is a stopgap remedy for the problems created by this voo-doo economics of a Republican President, a Republican Senate, and a coalition of Republicans and conservative Democrats. It is needed because their program has not worked, and has not put people to work. Instead it has wrecked our economy and worsened our ever-deepening recession.

This bill is a bitter pill to swallow, but it is the only medicine on the shelf. If we do not prescribe it now, I am afraid that Wall Street again will fall to the floor, interest rates again will rise to the ceiling, the Americans will find it even more difficult to put a roof over their heads.

I do not believe many of the doctors of legislation in this House agree with all of the ingredients in this pill of a bill. I have a strong revulsion for many of these ingredients, and I realize that initially there will be harmful side effects for a large portion of our population. This is not an easy decision to make, but since, in this only medicine in town, all the ingredients are compounded into one prescription, and the good effects outweigh the bad, we must swallow this pill whole, and adopt the conference report, or face even more desperate times of higher unemployment and rising interest rates caused by the voo-doo economic policies of the past which have not been effective.

Next year there must be a better economic year for all Americans. During the next year, with the adoption of this legislation, we are taking a positive step toward curtailing the largest deficits ever created by an administration.

The Federal Reserve's money supply targets are too stingy to finance a growing economy. There must be an easing of this monetary policy. The faucet is turned too tightly, squeezing the jugular of our country, and we must open up the faucet a little bit to ease the Nation from this economic stranglehold.

There is only one way to lower interest rates and reduce unemployment, and that is to reduce deficit spending. This legislation will allow the Federal Government to collect an additional $98.5 billion in order to reduce the deficit over the next 3 years, mostly by tightening the enforcement of tax laws already on the books. The bill also cuts spending by more than $17 billion, and authorizes an emergency supplemental unemployment benefits program, a program my own State of Illinois desperately needs. In addition, the bill tightens current tax laws that allow large corporations to make leasing arrangements for the purpose of buying and selling tax breaks among themselves.

Cutting the Federal deficit will work to lower interest rates. Every point of interest costs this Government $7 billion in debt service. At a 15-percent interest rate, our annual cost is $105 billion. At a 5-percent interest rate, our annual cost is $35 billion. Drop interest rates by 10 percent—from 15 to 5 percent—and we have an annual savings of $70 billion. In all the years of this Nation's history until 1968, the interest rates of this country were never more than 5 or 6 percent, and they must be returned to this level.

Lowering the interest rates will stimulate the economy, and will work to cut unemployment in half. Every percentage point of unemployment costs this Government $30 billion in tax revenues that are lost in outlays for benefits. Drop unemployment from 10 to 5 percent, and we will have annual revenue increases of $150 billion.

Full employment and low interest rates—these are the goals of Democrats—these are the hopes of every American—these are the challenges of the 97th Congress.

This pill of a bill proposed by the administration is poor medicine for the massive ills of our economy, but, like the little Dutch boy who used his finger to plug up the hole in the dike, this legislation is the only tool we have to use at this time. With great reluctance, but with a deep sense of commitment to Democratic Party principles of achieving lower interest rates and full employment, I will hold my nose and swallow this sour-tasting medicine.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. St Germain).

Mr. ST GERMAIN. Mr. Speaker, after careful consideration I have concluded that the Tax Equity and Fiscal Responsibility Act is a compromise bill which, ultimately, will improve economic conditions by reducing the Federal deficit. Many provision of the legislation are controversial, but the bill clearly improves the equity of our tax system and eliminates some of the excesses of last year's tax bill. For example, the legislation before the House today will:

Create an emergency unemployment compensation program which will provide 6 to 10 weeks of additional unem-

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ployment aid for those who have exhausted current benefits. In Rhode Island, where unemployment reached as high as 10.3 percent this year, these benefits are crucial to the survival of many of my hard working constituents who have been idled by Reaganomics;

Repeal safe harbor leasing provisions which allow large corporations to buy and sell tax breaks and thus avoid tax payment;

Increase taxes paid by wealthy individuals, international oil companies, and insurance companies and eliminate preferential depreciation and contracting rules for businesses;

Amend the industrial development bond program to insure the continued availability of a financial tool critical to Rhode Island's economic development;

Alter the mortgage subsidy bond program to assist the housing industry and promote construction of multifamily rental housing.

Focus the burden of cuts in the medicare program to hospitals and service providers rather than on elderly recipients of health care and encourage restraint on the growth of hospital costs.

The new tax liability will fall most heavily on corporation. Corporations will pay 43 percent of the revenue raised; individuals will pay 17 percent. Approximately 80 percent of these revenues will come from improved collection of taxes—collection of tax revenues already owed to the Federal Government, but not now being paid.

This is not a perfect bill. I introduced legislation specifically opposing the new withholding of tax on dividends and interest because it is both unwise and unnecessary. This will discourage savings, create mountains of paperwork for financial institutions, and hurt those dependent on their savings for income. I fought this proposal in 1964, in the last administration in 1979, and again last year. This year, I have repeatedly sought a separate House vote on the new withholding proposal during consideration of the entire tax act. Under the parliamentary situation approved to consider this legislation, it is not possible to obtain separate votes on the withholding issue. So, if we are to do what we must to help right the economy, some of the less attractive features of the bill will have to be accepted in the spirit of bipartisan compromise.

With the prospects of a 1983 Federal deficit reaching $140 billion, the additional revenue raised by this legislation is essential to stop an economic disaster from becoming a full-fledged catastrophe. As chairman of the Banking, Finance and Urban Affairs Committee, the signs of the corrosive effects of the Reagan deficits on the American financial system and our country's economic health are perfectly obvious to me. Already this year, 27 banks have failed—the highest number since 1940. Hundreds of thrift institutions have had to be merged, and loan losses at financial institutions are rising at a disturbing rate. The threat to our financial system from burgeoning deficits and the roller coaster interest rates that accompany them must be halted. The 1982 Tax Equity and Fiscal Responsibility Act will reduce future deficits, and therefore, despite its other provisions, must be passed.

It is not enough to pass this tax act and reduce the deficit. We must understand how and why the Federal borrowing got out of control in the first place. Though the answers are not easy, they can be summarized quickly. The administration's 1981 Economic Recovery Tax Act cut taxes for the wealthy and business, and so dramatically reduced Government revenues that large deficits were inevitable. The spending cuts imposed by the administration were cruel, ill-chosen, ill-timed, and nullified by increases in defense spending. The administration's high interest, tight money policies implemented by the Federal Reserve guaranteed a deep recession which, in turn, has added tens of billions of dollars to the sums government must borrow to meet its obligations.

Passage of the 1982 Tax Equity and Fiscal Responsibility Act alone will not bring us out of a recession. That will require a wholesale reevaluation and repeal of much of the Reagan economic program. Passage of the 1982 Tax Act will reduce the deficit, however, and this is essential if we are to prevent our Nation's economy from slipping even deeper into recession.

The alternative to passing this new tax legislation is grim. If we do not raise revenues, we must cut more spending. The administration has declared that defense spending is sacrosanct. Congress has already cut billions from people programs but, unless this legislation is adopted, we will be forced to further reduce spending for human service programs. In Rhode Island this would mean more cuts in health services, more reductions in student aid, elimination of job training programs, reduced aid for handicapped, vocational, and bilingual education, more reduction in veterans benefits, and more cuts in environmental protection and energy development programs. This could also further reduce programs for senior citizens and add more burdens on them.

In conclusion, Mr. Speaker, I want my vote for the 1982 Tax Equity and Fiscal Responsibility Act to be seen for exactly what it is—an effort to bring deficits under control, to correct the imbalance of benefits under previous Reagan tax and spending programs, and to close some of the huge tax loopholes created in the 1981 act, and to avoid any further cuts in people programs and essential services. My vote is not in support of the President's economic program, it is an effort to minimize its consequences.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ERLENBORN.)

Mr. ERLENBORN. Mr. Speaker, the pension provisions of H.R. 4961 make major changes in the structure of private pension plans that will clearly affect the continuation of existing plans and the growth of new plans. It has been my experience that any proposals along these lines require thorough study in order that the potential long-term, as well as short-term effects on the very diverse employee benefit plans community may be fully analyzed. I believe it is sheer folly to make substantive changes in the pension system without the benefit of hearings and deliberate study. These pension provisions have had neither.

The vast majority of private pension plans cover fewer than 100 employees. I expect that nearly all of these plans will be to have continual, expensive actuarial and legal reviews to determine and redetermine that they are in compliance with the new so-called "top heavy" plan qualification requirements. This uncertain legal environment will be worse than current ERISA and Internal Revenue Code requirements, which I have attempted to correct in the past. The increased administrative and benefit costs to the Pension Benefit Guaranty Corporation resulting from the inevitable plan terminations caused by these new requirements can only further undermine and destabilize the single-employer insurance system, and I need not remind my colleagues that the PBGC recently requested an increase in the premiums paid by single-employer plans.

The pension scheme in H.R. 4961 raises unanswered questions about public plans. Would it apply to governmental plans—Federal, State, and local? Would it disqualify pension plans for State and Federal judges?

While there may be ways to make the pension system more equitable and a more effective complement to social security and private savings, I am not convinced the pension provisions in this bill will achieve these goals.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. SMITH).

Mr. SMITH of Alabama. Mr. Speaker, I rise in opposition to the conference report.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Speaker, I rise today to explain to this body why I have chosen to vote against H.R. 4961, the tax bill now under consideration. I believe I am doing so for sound reasons.

Because of mistakes made in the past we have a tax policy that places an unfair burden on the poor and the middle class in this country. I believe the bill before us today does not adequately shift that unfair burden.

There are those who claim this tax bill will erase our excessive Federal deficit. The real reason for our large Federal deficit is excessive spending. With spending out of control—as it clearly is—a tax increase on those least able to afford it can only make things worse by moving us deeper in this recession.

While there are good parts of this bill, Mr. Speaker, I believe there are many provisions that are selectively unfair. For example, this bill would raise the Federal telephone tax by 200 percent and raise the cigarette tax by 100 percent. It is not a question of whether cigarette smoking is detrimental to one's health, but a question of who should pay the price. This bill also adds to the cost of transportation.

Lumped in with tax provisions are nontax matters—including $13.3 billion in medicare cuts, $1.1 billion in medicaid cuts, $386 million in social security insurance cuts. These have no real place in the tax bill.

We hear again today, as we have heard too many times in the past year, that this is a do or die situation. Some claim we must pass a tax bill today. I strongly disagree. I think we should go back and spend whatever time it takes to put together a good tax bill. Whether it takes 2 weeks or 2 months, a better, more equitable tax bill can be passed by Congress, one which will lower the deficit without hurting the poor and working people.

We have the opportunity now to take the good parts from this bill and include them in a fair tax bill. We must, however, make some critical additions to make this a better measure.

Mr. Speaker, we can start by looking at next year's tax break. Those earning over $50,000 should not receive a tax break unless they are willing to invest in our industrial revitalization. As for those earning $35,000 to $50,000, they should receive all scheduled tax breaks only if they invest a specified portion of their return in job creation. Next year's tax cut should be maintained for those earning less than $35,000, because they are the ones who will use the money to purchase durable goods, thereby bringing this country out of the recession.

We must take a second look at tax breaks given to the major oil companies. They should be paying a fair share of taxes to this country instead of reaping windfall profits. Mr. Speaker, Congress and the President should take the time to write a good tax bill which will undo many of the mistakes made in the past and help reduce our swelling deficit. It is time that Congress act responsibly for all the people and not just the special interest groups. I stand ready to work with my colleagues in drafting a fair tax bill which does not place the burden of economic recovery on the working men and women of this country.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, in an election year I think most of us try to be adept at the art of survival. Unfortunately one of the ways we try to survive is to have it both ways, to argue one position and then vote another.

I recognize and respect those who sincerely disagree with this bill on principle. But from this debate I sense that there are many who are trying to play the game of walking both sides of the same street.

Many claim that they are against deficits and that they are for a balanced budget and, indeed, many of the opponents of this tax bill are strong supporters of a constitutional amendment to balance the budget. But when it comes to getting there they will not vote to cut defense, they will not vote to cut social security or entitlement programs, and they will surely not vote to raise revenues.

There simply is no other way to reduce the deficit, with or without a constitutional amendment.

Many claim that they are for tax reform, that they are for tax simplification. Indeed, many now support a flat rate tax that would exclude all deductions and all loopholes.

But if Members cannot vote to enact this bill, which has the most significant tax reforms in over 14 years before this House, then how possibly can they vote to eliminate all deductions?

They claim that the tax cut bill that was enacted last year is unfair, that it was excessive, and yet refuse to support the one bill that tries to correct those inequities.

When this final vote comes there are Members who may very well be able to play it both ways and survive politically. But I remind you that the country cannot play it both ways, that its economic survival is very much dependent on the passage of this bill.

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Edmund Burke said that the only thing necessary for the triumph of evil is for good men to do nothing. Let us do something and vote for a reduced deficit, for tax reform, for fairness, but, most of all, for economic survival.

Mr. CONABLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, the preceding speaker is right. The country cannot have it both ways. Most Americans want to cut spending and cut taxes. From proposition 13 in California to proposition 2½ in Massachusetts, the American people have asked their elected leaders to cut taxes.

In 1980 the American people repudiated a tax and tax, spend and spend Presidency and elected a Senate and House committed to cutting spending and cutting taxes.

President Reagan in the state of the Union for 1982 said:

> Higher taxes would not mean lower deficits. If they did, how would we explain the tax revenues more than doubled just since 1976, yet in the same 6-year period we ran the largest series of deficits in our history. In 1980 tax revenues increased by $54 billion, and in 1980 we had one of our all time biggest deficits. Raising taxes won't balance the budget.

That was President Reagan just 8 months ago.

Today we are at crossroads. This week was the week of Camp David and White House dinners. Next week is the week of the people, when we go home to the people who elect us. After President Reagan's speech, the Washington Post-ABC news poll discovered that by over 2 to 1 the people believe this bill is a tax increase. By almost 2 to 1 the people do not believe this bill will make taxes fairer. By 54 to 35 the people disapprove of this tax increase. Democrats polled 4 to 1 against this tax increase. The Midwest was 2 to 1 against this tax increase.

What you will decide in the next hour is simple: Who really matters to you? Do you listen to the strange, unexplainable alliance of powerful political opponents who, together, form an establishment in Washington? Or do you listen to the long anguished voice of the American people, which in every referendum, every poll, every vote for 4 years have begged us to cut taxes, not to raise them.

You, the Members of the people's House are the country's last stronghold against mistaken policy.

I urge you, I beg you to vote against this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), a valued member of the committee.

Mr. DUNCAN. Mr. Speaker, the Tax Equity and Fiscal Responsibility Act is a patchwork quilt of tax increases, tax reforms, and reductions in tax incentives. These measures will take their toll on businesses, investors, farmers, and the average American taxpayer in the years ahead. The feeling seems to be that more taxes are all right as long as they are spread out, but not around.

The one who will end up paying for this tax bill, however, will be the middle-class American. Whether it is

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in his job, or her phone bill, a father's pension, or the withholding of interest on a mother's account, the tax bite will be felt in the pocketbooks of taxpayers. While the quilt may be taken only from a patchwork of groups, its impact will cover us all.

As a member of the conference which produced this quilt, I recognize the need for some of the reforms contained in this bill. The route which the conference followed, however, made it impossible to tie these together in a more acceptable manner. This was the most difficult and awkward conference I have participated in during my years in Congress. Many of the issues which are addressed in this bill have not been the subject of hearings of the House side. The impact of these provisions has not been measured, and the results will probably be a shock to many.

Many other avenues for raising revenue were ignored because the conferees had only one horse in the race. I hope both the House and the Senate have learned the reason our Founding Fathers believed two Houses are needed in this great democracy of ours, and will never again allow the other House to delegate its legislation for us. In this kind of race no one can be the winner, but everyone can be a loser.

The reforms which are included here were chosen piecemeal. The need for these reforms depended on the amount of revenue each could raise, instead of the amount of good the reform could bring. Because of this, many worthwhile incentives have been wiped out. And with the loss of these incentives will come a loss in expansion and growth in our economy. Plants which might have been built will be delayed or canceled. Jobs which would have opened up in labor surplus areas will not appear. Investments which might have set up new products and industries will be forgotten. All of this because revenue was given a higher priority than value.

There are those, however, who believe they can support this bill because it does not touch them. They support a tax increase because it is not an increase on distillers, or brewers, or cigar manufacturers. These are most interested in the safety of their own constituency than in the good of the whole. This selfish attitude will not pay. Just as it is the cigarette industry today, it will be the distilled spirits, or beer, or cigars tomorrow.

There are also those who will be taking a stand against issues they have supported in the past. They will vote for withholding of dividends and interest, after stating publicly that they would oppose such an action. These may suggest that this bill is needed to reduce the deficit, but I do not believe it is our intent to reduce the deficit on the backs of the taxpayer. We have an obligation to reduce spending to the maximum degree possible, before we even consider raising taxes. I do not believe anyone here would suggest that we have eliminated all the waste and mismanagement in our Federal Government, and could make no further cuts in our budget. We should move in this direction first and tackle those difficult, but necessary spending cuts, before looking at higher taxes.

This is, after all, the largest revenue raiser in our history. To approve such an increase the year after the largest tax reduction in history is to admit to the American people that the tax and spend cycle is neverending. While the third year of the individual tax cut was saved in one pocket, the Government dipped into the other pocket and pulled out even more. We are using mirrors to deceive the taxpayer into thinking that because the third-year cut remains he is safe. I believe the least the taxpayer can expect is for us to be open and honest with them on this matter. This crazy quilt which is the tax bill has no sense or symetry to its pattern. It is a mishmash of increases and reforms put together for the sole purpose of raising revenue. I do not believe this is what the American people expect or want from the Congress, and would urge my colleagues to oppose this bill.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, I rise in support of the conference report this afternoon. There is absolutely no doubt in anyone's mind that it is essential for us to reduce the size of the Federal deficit, and the tools to do this are fairly simple. One is to cut spending, which many of us prefer. The other is to raise revenues in a responsible fashion, as we were called upon to do in the budget document recently passed.

No tax increase is popular. That is obvious. And the last tax cut, in fact, was criticized by some Members as being unfair because of certain provisions affecting various segments of society.

We can make the tax laws more equitable, and raise revenues at the same time by passing this bill. This legislation will help us reduce the budget deficit. It will help us to bring interest rates down. But failure to pass this legislation today may well choke off those sparks of optimism that we are now seeing from Wall Street, at a time when it is essential that we send the right signal to strengthen our economy.

Mr. Speaker, although I continue to have reservations about specific provisions in the bill, I intend to vote for this $99 billion revenue reform measure because I believe that, on balance, the legislation is an equitable, well-reasoned, and responsible approach to reducing the Federal deficit, lowering interest rates, and insuring a lasting economic recovery. Tough decisions are a part of effective leadership and few issues have caused as much concern as devastatingly high interest rates, unemployment, and the threat of a $180 billion deficit next year. The long-range answer definitely lies in further Federal spending cuts. In the short term, however, it is painfully evident that any effort to cut the 1983 deficit must be based on a program targeting both expenditures and revenues for reform.

The first budget resolution for 1983 passed by Congress in June, anticipated major spending cuts, improvements in program management, and $20.1 billion in revenue increases as the primary weapons in our battle to curb deficit growth next year. Congress has, in fact, tentatively agreed to $280 billion in spending cuts over the next 3 years. For 1983 alone, we have targeted $30 billion in outlay reductions. There is much more to be accomplished, but we have made a start. The Tax Equity and Fiscal Responsibility Act of 1982, which will be voted on today, comprises the revenue portion of this year's deficit reduction effort. Failure to pass this legislation would simply signal a lack of fortitude on the part of Congress to live up to the deficit reduction blueprint included in the first budget resolution.

The tax bill before us does not ask working Americans to sacrifice the well-deserved tax cuts adopted last year. The bill makes absolutely no changes in either the third year of the tax cut or in the indexing provision scheduled to go into effect in 1985. What the bill does do is require big businesses and individuals who owe taxes to pay them. Thirty-two percent of the revenue will be raised through improved compliance and collection measures; 49 percent through reductions in unintended or unwarranted tax benefits now enjoyed by wealthy persons and larger corporations. Only 19 percent of the revenues will be raised through new taxes.

A study of the Nation's 514 largest corporations recently conducted by tax analysts found that 33 companies with U.S. earnings in excess of $100 million paid no taxes at all last year, and that the average rate for all corporations was 20.5 percent, a decline of 10 percent from 1980 levels. The tax package now before Congress would call upon these corporations to assume some responsibility for their tax liabilities by closing a number of generous loopholes. Moreover, the legislation calls upon the Nation's wealthiest individuals to pay a minimum tax, and limits generous tax breaks benefiting the life insurance industry.

While I support the shape and direction of the tax package, I do continue to have reservations about the most controversial aspect of the revenue measure: the flat 10 percent withholding requirement for interest and dividend earnings. Although I believe that we must insist on taxpayer compliance, I am concerned that a withholding provision could impede savings at a time when we are trying to encourage personal investment and capital formation. Consequently, I joined over 130 of my colleagues in a letter to the House Rules Committee requesting a separate vote on the withholding provisions. Additionally, during debate on the rule accompanying the conference report for H.R. 4961, I voted to open the debate up so that amendments in disagreement could be offered. This section of the legislation could, I believe, have been eliminated without jeopardizing the overall effectiveness of the bill in closing the revenue-expenditure gap.

Opponents of the legislation have argued that this tax package represents the largest peacetime tax hike in history. While I dispute these allegations due to the fact that less than one quarter of the revenue will come from new taxes, I do think it is time we faced the real facts. We have the largest projected deficit in history. Encouragingly, interest rates are coming down. Nevertheless, there is no doubt in my mind that interest rates will climb back up, that the recovery will be stymied, and that unemployment could worsen if Congress allows a recordbreaking deficit to materialize. For this reason, I support the revenue reform bill which, when combined with the spending cuts we have already made, will reduce the deficit by almost $400 billion over the next 3 years.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. DeNardis).

Mr. DeNARDIS. Mr. Speaker, the two essential questions we must face are these:

First. Do we need additional revenue or not?

Second. If so, how can we raise that revenue in the fairest way possible?

I believe the bottomline to the first question is whether we would rather reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or would we rather accept larger budget deficits, higher interest rates and higher unemployment?

I believe we need additional revenue this year to help us continue to move toward economic recovery and a balanced budget. Therefore, how do we meet that requirement in the most equitable fashion possible?

The conference report we have before us raises a substantial amount of revenue through procedures to insure more effective compliance to existing taxes and by correcting and removing from the Tax Code unintended benefits accruing to certain corporations and businesses.

The bill takes a number of steps that will strengthen the fairness of the code. It is tax reform in the best sense. Its greatest feature is "equity."

Mr. Speaker, a Minister of Finance under King Louis XIV named Colbert once said that the art of taxation is like plucking a goose: How to get the most feathers for the least squawk. While I wince at the analogy, Colbert, if he was alive today would probably say that the feathers on this "bird" are the plumes that adorn the rich and the more well-to-do and not the hairs that protect the poor and the middle class.

He would say it is a good bird and ought to be plucked. I think it is a good bill—a fair bill—and ought to be passed. Thank you.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. McDonald).

Mr. McDONALD. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, the issue of the Reagan-Dole tax increase bill—which may be called the Reagan-Dole-O'Neill-Rostenkowski tax bill or even more accurately the George Bush-James Baker tax bill—is somewhat analogous to an event that took place on January 1, 1929. There is an interesting parallel.

The place was Pasadena, Calif., and the event was the national football championship match, the Rose Bowl. An All-American star-studded team from Georgia Tech, was pitted against a tough University of California team.

Roy Riegels (R.R.) was named captain of the California team and was All-American center in 1929. R.R. was to go down in history as "Wrong Way Riegels."

Early in the second quarter, just after the teams had changed sides, California's star single-wing tailback Benny Lom, tackled Tech's halfback, Stumpy Thomason, to cause a fumble. Riegels dashed from his roving center position to grasp the bounding ball at Tech's 36-yard line. A touchdown was surely ahead as he passed the 20-yard-line but a nagging voice kept shouting at him above the strange sounds from a crowd of 71,000 (capacity in 1929).

"Stop, Roy! Stop, you're running the wrong way!" shouted Benny Lom, slowly gaining on his teammate in an agonizing chase.

Riegels heard but did not understand. He thought the speedier Lom was asking for a lateral. "Get away from me," he barked. "This is my touchdown."

At the 10-yard-line, Lom managed to grab him but Riegels shook clear. At the 3-yard-line Lom clutched again and somehow convinced Riegels to come about. They fell together as a wave of Tech tacklers smeared them. Riegels had run a 64-yard path to a kind of zany immortality.

Riegels had run the wrong way and by so doing had run into the record book. One of the most unique photographs of sports is that of a frantic and determined Roy Riegels bent over and running with conviction but heading in the wrong direction. In the background were a number of Georgia Tech players, the opposition, running along as an escort. For the Georgia Tech team it must have been a humorous moment to have the captain of the California team make one of the best gains of the season for Georgia Tech.

Now we come to 1982, 53 years later, when the captain of the conservative movement, R.R., is found running in the wrong direction. His political enemies in his own party and in the opposition party are galloping along as an escort. President Reagan campaigned and was elected as a foe of the philosophy of "tax and tax, spend and spend * * * ." Candidate Reagan presented himself as a clear foe of the New Deal-Great Society philosophy.

Unfortunately, President Reagan has three qualities, desire for consensus, desire for nonconfrontation, and desire for gradualism; the 1980's require exactly the opposite characteristics. As the result of a fascination for consensus, candidate and President Reagan has surrounded himself with the same members of the elitest wing of the Republican Party who have been part of the program of the last 50 years; that is, the policies of "tax and tax, spend and spend * * *." He is surrounded by those who opposed his candidacy for President in the 1980 Republican primaries and at the convention of the Republican Party in Detroit, Mich.

Today we see two Reagans. The American people elected Ronald Reagan No. 1, a foe of the New Deal-Great Society philosophy. With the sellout of Taiwan and with this giant tax bill we see Ronald Reagan No. 2. Which is the real Ronald Reagan?

I plan to support Ronald Reagan No. 1. I support the President and plan to do my best to tackle him before he makes a touchdown for those who are radical collectivists or elitest collectivists. We need to reject this bill and avoid turning the clock back to the failures of the welfare state, the concepts that have given us the disaster we face in the economic arena.

Finally and in summary, I would like to add the recent column of John Lofton of this tax bill:

[From the Washington Times, Friday, Aug. 6, 1982]

BALL'S IN YOUR COURT, MISTER PRESIDENT

(John Lofton's Journal)

Dear. Mr. President: Thank you very much, sir, for your prompt reply to my rather unorthodox method of questioning

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you. And just as I hope my note was not impertinent, I also hope the following observations are not out of line.

Point One: No, I do not mind if you prefer to use the three-year Dole bill "increased revenue" projections of roughly $99 billion. And the point you make about the reliability of five-year estimates has merit. But, despite your preference, the fact remains that according to the Senate Finance Committee's report, by 1987, the Dole bill increases taxes by about $228 billion.

Point Two: Regarding the size of the Dole bill, you say that even if the entire three-year, $99 billion figure is counted, this is still not the biggest single tax increase in history. You say that for this same time period, the Social Security tax hike is larger and there are other equally valid examples.

Well, sir, I'm sure you've been told this. But Charlie Powers, a public information officer at your Treasury Department, tells me that the Dole bill is the "largest, one-year and three-year legislated tax increase on record, in dollar terms, in a single piece of legislation."

Furthermore, even if what you say is true, the question remains: Why now, in a recession, support a large tax increase when even larger tax increases are already in place?

Point Three: As to the "why?" of your support for the Dole bill, you say it is the price you had to pay to get a reduction in outlays which amount to three dollars for every one dollar of increased revenue.

Now, I assume that this three-to-one ratio is an allusion to the First Concurrent Budget Resolution conference report which passed the House (210-208) and the Senate (54–45) in late June. Because in the Dole bill—which is what I asked you about—there is no such ratio. In fact, the Dole bill, over three years, calls for $99 billion in tax increases and only $17.5 billion in budget savings.

Speaking of this alleged three-to-one ratio rationale, sir, I must be blunt: Many of your strongest supporters on the Hill believe that in buying this, you were sold a bill of goods. What these Reaganites believe is that there's no way—once the dust settles—that Congressional spending cuts are going to outnumber tax increases by a margin of three-to-one. No way.

One strong Republican backer of yours on the Hill put it to me this way:

"The problem with the three-to-one spending cuts versus tax hikes argument is that it is premised on events in the House the President has no hope of controlling, that is how the Democrats will specifically consider cuts and tax increases and how many votes they will force us through.

"Last year we were very lucky. We defeated a rule on reconciliation and we got our own rule adopted with the result being one big vote on the whole package. But this won't happen this year.

"The only way the three-to-one ratio could possibly work would be if the Democrats let us set the voting procedure which, of course, they won't."

This source says that what the House Democrats are doing, and will continue to do, is put Republicans through a whole series of votes—like silhouette targets in a shooting gallery—where they will be cut to ribbons by highly organized special interest groups.

Point Four: You say that as a "supply sider" you believe that tax increases "slow the recovery." Well, I could not agree more. And the reason I agree is because I have found your previous utterances on this subject so convincing. Over and over, you have said that the way to reduce the size of the deficit is not to increase taxes but to cut Federal spending. For example, at the White House on May 20, you told a group of businessmen:

"We don't have a trillion dollar debt because we don't tax enough; we have a trillion dollar debt because government spends too much. Simply raising taxes won't do the trick. It's well for us to remember that in the last five years taxes went up by more than 200 percent, and we still had in those five years the largest string of deficits in our history."

Well, sir, this is indeed something to remember. But, acording to a report prepared for the Senate-House conference committee by the staff of the Joint Economic Committee on Taxation, the business tax provisons of the Dole bill will account for $40 billion of the $99 billion in proposed new revenues. People will, of course, pay these additional taxes.

And, in addition, even though you traveled to Hartford, Connecticut, on Tuesday and declared that "we've replaced that old doctrine of tax and tax, spend and spend with a new philosophy that says there is one overriding cause for our current economic troubles: government is too big and it spends too much money," this has not happened. A study released yesterday by the New York Federal Reserve Bank shows that under the First Concurrent Budget Resolution—which you supported—federal spending, as a percent of the Gross National Product, will be 24.3 percent of the GNP in 1983, 24 percent of GNP in 1984 and 23.8 percent of the GNP in 1985. To put it kindly, this hardly represents an end to the old doctrine of tax and tax, spend and spend.

I know, Mr. President, that you sincerely believe the Dole bill represents an acceptable trade-off in terms of tax hikes versus budget cuts. But, for what it's worth, I and a lot of other people who are among your staunchest and most enduring supporters, strongly disagree.

In my judgement, because I agree with your repeated statements that tax increases only increase the deficit, you should have thrown down the gauntlet and fought! You should have fought for at least another $100 billion in budget cuts and dared Tip O'Neill and Company to oppose you.

Too many of your top advisers really believe that because you don't "have the votes" on an issue—and you might not on another $100 billion cut—that the battle is over, that you've lost. But his is a dangerously mistaken analysis. If you don't have the votes on another $100 billion budget cut, all this means is that another battle has begun.

Take your case to the people, Mr. President, in a systematic comprehensive campaign to pin the tail on the Democratic donkey where it belongs. The Big-Government, tax and tax, spend and spend issue is yours, all yours.

In every poll I've seen, when given a choice between raising taxes or cutting federal spending to reduce the deficit, by sizeable margins the American people favor the latter over the former.

This is your issue, Mr. President. You have only to seize it and run with it. As you've often asked, sir, if not you, who? If not now, when?

Best regards,

JOHN.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Speaker, I rise in opposition to the conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I do not think there has been any decision that has been more difficult for me to reach. But I rise today in support of the tax bill before us, convinced that this is the only responsible position I can take.

This decision is difficult, because I know full well that there is seldom a constituency in support of legislation that increases tax revenue; it is always much easier to cut than it is to raise taxes. Moreover, there are several features of this legislation that I find personally objectionable and that I would have preferred to see modified or eliminated: I am particularly uncomfortable with the provision mandating the withholding of 10 percent of interest and dividend income, with the regressive nature of some of the excise tax increases, and with some of the medicare and medicaid cuts. However, in a package as comprehensive and complex as this, it is inevitable that there will be provisions that trouble each and every Member of this body. The real question that we must ask is: Do the benefits and positive features of this legislation outweigh the more objectionable provisions? And in my judgment, the answer to this question is a resounding and unequivocal yes.

There is an urgent need for a mid-course correction in the administration's economic recovery plan. However well-intended that plan may have been, it simply has not produced the results that had been promised. Instead of lower Federal spending, what has been produced is higher Federal spending; instead of a balanced Federal budget, we are facing the largest Federal deficits in our history; instead of economic recovery, we are facing an economy on the verge of collapse. The tragic reality is that the combination of a massive supply-side tax cut—totalling $750 billion over 5 years—in combination with an equally massive defense build-up—representing a $1.6 trillion expenditure over the same period—undermined the confidence of the financial markets; and resulting high interest rates have plunged the Nation into the deepest economic crisis since the years of the Great Depression. We are now looking toward Federal deficits in excess of $140 billion for the next 3 years.

What more compelling indication of the severity of our economic problems can there be than the President's decision to ask for this tax increase? Would he have taken an initiative that was certain to be seen as a backtracking from his original program, as an acknowledgement that his program had not generated the desired results, if he were not persuaded that an economic disaster was upon us? It is no secret that I have been highly critical of the President's program and of this administration's priorities. But I believe that the President is to be applauded for his willingness, in this time of emergency, to support required modifications in his original program. We can ill afford either continued ideological rigidity or narrow partisanship. In calling for the passage of this bill, designed to correct some of the excesses and unfairness of last year's tax cut, the President has taken an important and constructive initiative.

We really have no responsible alternative but to act favorably upon the tax bill before us: it is a critical first step in achieving the desperately needed midcourse correction in the administration's economic plan.

One warning is needed: This is only a first step; in and of itself it will not mean lower interest rates or economic recovery. It is increasingly obvious that we must make further deep cuts in Federal spending. Such cuts, however, must not come from critical domestic programs, but must be taken from those parts of the budget that have yet to be touched by the budget cutters and which contain the greatest amount of waste. Specifically, the administration's defense budget must be reexamined and pared down. Given the recent disclosures that $30 billion is wasted annually, there is simply no justification for writing the Pentagon a blank check. Similarly, other "sacred cows" in the budget—such as the Clinch River breeder reactor and uneconomic water projects—must be recognized as the pandering to special interest pressures that they are, and be measured against both the real and deserving spending needs that face us and the urgent need to reduce the size of Federal deficits.

This legislation deserves bipartisan support for another reason as well: Aside from a few objectionable features, it on balance represents the most significant tax reform legislation to pass through this body in many a decade. Frankly, I began my examination of the conference committee report with some decidedly cynical assumptions about the kind of provisions I expected the bill to contain. But the closer I looked, the more obvious it became that this legislation contains some extremely important tax reforms—reforms that I have publicly and repeatedly supported. I am referring to such provisions as the repeal of the so-called safe harbor leasing provision enacted last year, an increase in the minimum tax paid by the wealthiest individuals, the elimination of the ability of oil companies to use foreign tax credits to avoid U.S. tax on other income, and the closing of a variety of other corporate and special-interest loopholes. We are finally, in this bill, making some progress in restoring some semblance of equity to the Tax Code; for a change, it is the special interests rather than the average taxpayer that is faced with most of the new tax burden.

A number of provisions of this bill are particularly compelling for a Representative of Michigan—the State with the highest percentage of unemployed workers in the country. For millions of jobless Americans whose unemployment benefits have expired, this legislation offers at least some hope in the form of extended unemployment compensation benefits; in Michigan, a 10-week extension is authorized. Moreover, Michigan employers and the fiscally strapped State government come out way ahead under the legislation's mandated changes in the system of unemployment insurance financing. The State government stands to gain as much as $114 million in savings in the bill's first year, and Michigan employers will be able to avoid literally millions of dollars in additional taxation that would trigger into effect in 1986 without the passage of this legislation.

Finally, I cannot emphasize enough the importance of the mortgage revenue bond provisions to Michigan. Michigan now leads the country in economic distress, and the housing industry has shouldered a large part of this painful burden. The revisions in the mortgage revenue bond program included in this bill are a long-awaited and much-needed step toward revitalizing our housing industry.

This legislation makes sense for the Nation, but it is absolutely obligatory for Michigan.

Mr. Speaker, throughout this session of Congress we have been called upon to make important decisions affecting the present economic climate. Unfortunately, these decisions have too often been molded by partisan conflicts and rigid ideology. We now have an opportunity to move beyond these petty conflicts. The bill before us has been endorsed by the leadership of both parties and has the support of many Members on both sides of the political aisle. It has received the support of many diverse interests—realtors, homebuilders, workers, small business men and women, and a variety of public-interest groups. We all share the goal of economic recovery. The administration and the Congress share the responsibility for taking the steps necessary to move us toward the realization of this goal. Economic distress does not discriminate between Republicans and Democrats. We are all in this together. It would indeed be a tragedy if this important opportunity to embark upon a true partnership is rejected by this body. Such an action can only postpone indefinitely all of our shared hopes for a substainable economic recovery.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I rise in support of the measure before us, not because it is perfect but because not to pass it would be to endanger the economy of our Nation and the economic survival of its citizens. The excessive tax cut bill of last year is, in my opinion, the principal cause of our present national economic recession; but whatever the cause, our current deficits cannot be continued without grave danger to every American. This bill will help fight those deficits. A still better way to fight deficits is to cut expenditures; and my voting record shows I strongly support massive cuts every year. Some targets for substantial cuts that I favor cutting are revenue sharing, foreign aid, arts and humanities and in fact a host of others. But since Congress has not made such cuts as are needed the current bill before us will at least help us fight high interest rates and unemployment.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Nelson).

Mr. NELSON. Mr. Speaker, the political and economic crosscurrents are very strong. The political and economic intrigue is such that there has been considerable confusion, and that is what is the case across the land now among our people, wondering: What about all of these alliances?

For this Member, that confusion dissipated quickly and it became quite clear what was in the national interest, and that is to bring the huge annual deficits down and to continue the downward trend in interest rates in order to resurrect our national economy.

Thus, I will vote for the bill.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. Jacobs).

Mr. JACOBS. Mr. Speaker, may I have the attention of the minority leader for a question? Would the gentleman respond to a question? This morning on television, Secretary Don Regan said: "This tax bill is a deal the President made with the Democrats to obtain spending reductions."

Is that statement true or false?

Mr. MICHEL. If the gentleman will yield, I did not hear what the Secretary said and I did not observe the interview.

Mr. JACOBS. Is the statement I quoted true or false?

Mr. MICHEL. I am not sure what the Secretary had in mind when he

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said that. All I have been concerned about in my own case is that we are trying to do the best we can to get a good tax bill, period.

Mr. JACOBS. I thank the gentleman.

To quote our beloved colleague, Jimmy Burke, "That's the answer you get."

I tell you that is exactly what the Secretary said this morning, and I tell you that this bill was authored by Members of the other party in the other body, and not one Member of our party in the other body voted for it. But this is just a sample of what you are going to get if you pass this bill. That statement was made by the Secretary of the Treasury this morning. This is a deal made with the Democrats to obtain spending cuts, as if Democrats were not frugal in the first place.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. Conyers).

Mr. CONYERS. Mr. Speaker, why does Jack Kemp challenge his President and his party leader?

First, is it personal?

Second, is it raw ambition?

Third, is it unswerving dedication to a principle?

Fourth, is it pragmatic?

Fifth, is it out of self-interest?

This bill officially concedes the unworkability of supply-side economic theory. Everything that Jack Kemp stands for is being swept away by, of all people, the President of the United States, and this is the heart of the matter.

Raising corporate taxes in an election year has never been done before, and who could have predicted that the most conservative President since World War II would be the instrument by which we would raise corporate taxes in an election year?

The President faces a reality that Kemp will not, and that is that his economic ship is sinking, and not so slowly either.

Now, in these instances one would imagine the Democrats would be having a field day, but not so. Many object to the SSI, medicare, medicaid, and AFDS cuts. Others, incensed with our gross military appropriations, claim that they will vote for no more taxes unless the military gets less. And my dear colleague from Indiana has pointed out that the Democrats who support this White House bill will be blamed for sponsoring the largest tax hike ever, and the President will be depicted as being forced into this deal to get the Democrats into spending reductions. He claims on good evidence that Mr. Reagan did this in California and now here we go again.

We do not have to let this administration make jackasses out of us. Let us write a fair bill in January. Well, he and I have been trying to write a fair tax bill since January of 1965, and never before have we been able to raise corporate taxes as much as is contained in this legislation. The chances of us doing better in January than we can do today in August are nonexistent. Now is the time.

If this bill goes down, those entitlements will be cut far deeper than presently provided and there will be no 10 weeks, unemployment compensation and, as Andy Jacobs must know, there will be no tax bill either.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Matsui).

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Mr. MATSUI. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. Rostenkowski), the chairman of the Committee on Ways and Means.

First of all, I want to commend the gentleman for the fine job he and the gentleman from New York (Mr. Conable) the ranking member, did in putting together this conference report. I think it is a fair, fine, reasonable proposal.

I speak in favor of this particular bill. I think a lot of people have already spoken about the deficits and the fact we could have economic calamity if in fact this tax bill does not pass.

I think one other thing should be noted: This bill will bring fairness to the process of taxation, fairness we have not had over the past 18 months.

Let me just bring up another factor about that fairness aspect of this particular bill.

In addition to all of the good provisions in the bill, we have the unemployment benefits that the gentleman from Michigan (Mr. Conyers) just spoke about. If many of the Members have been receiving phone calls from their constituents over the past 24 or 48 hours about some of the provisions in that bill and wanting the Members to vote against it, I can assure the Members in September and October of this year, when over 2 million people lose their extended unemployment benefits, we will be receiving many more phone calls and many more people angry about that situation.

Last, Mr. Speaker, I think there has been a lot of misunderstanding about the withholding of the interest and dividend provisions of this bill.

First of all, I might say there is a $150 exemption. Basically that means one can have $2,000 in a savings account, and not have to have any withholding or taxes paid during the course of that year.

In addition, over 80 percent of the senior citizens of this country will be exempted. All they will have to do is file an exemption statement. It will be good for the rest of their lives.

Third, there have been statements made by the gentleman from New Hampshire that the compliance rate on this proposal is 97 percent, and therefore we do not need to have withholding.

The gentleman is mistaken. The compliance rate is only 87 percent and that comes to $9.5 billion in lost revenue.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. Gephardt).

Mr. GEPHARDT. Mr. Speaker, I think there really are three issues here today. I want to quickly dispose of the first two.

The first one is whether this is a good tax bill or not. I think most people here have read the major provisions in it and understand them. We can argue about whether this provision is good or that provision is good.

In my view, on the whole, the bill is a good tax bill. It performs lots of good tax reform. It is a fair bill in the main.

The second issue is whether or not this helps or hurts Reaganomics. We have argued Reaganomics up one side and down the other. We will continue to do that.

In my view Reaganomics has many flaws and defects, and this bill corrects some of these defects and makes a midcourse correction that may help make Reaganomics begin to work.

The third issue is the most important issue today and I hope everybody in the House will listen to this for just a minute. The real issue today is whether or not the House and the Congress can govern. We passed a budget a few weeks ago. We said we wanted to raise revenues by so much and cut spending by so much.

If a Member voted for that budget, I find it hard to understand how now we can say we do not want to vote for the implementation of it. Half of the reconciliation cuts are in this bill. Half of the deficit reduction over the next 3 years is in this bill. If a Member voted for the budget, it is almost certain that that Member has to vote for this bill, if that Member meant what he said.

If one did not vote for the budget because the cuts were too great, they are going to get worse if we do not vote for this bill. If one votes against the budget because we wanted to make more cuts, the decision was made in the budget. That is where we said we wanted to do this and that. We are now here today to try to do it.

If we do not do it, I say this is a historic moment because we will be saying we are not capable of governing.

Then I think we are saying there is only one part of the Government that can govern—and that is the President of the United States. If you do not want to transfer the power of the Congress over budgets and fiscal policy to the Executive branch you should support this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. I thank the gentleman for yielding and rise in opposition to this tax measure. After careful consideration of the provisions of the conference report on the tax bill and after consultation with the people in my district in New York, I have decided to vote against this tax bill. I previously voted against sending the bill directly to conference because at that time I had serious reservations with certain provisions and hoped that the House, as the revenue-initiating body, might have an opportunity to hear debate on the issues involved and the effects of this bill on all segments of America. This has not been an easy decision for any of us to make, and I congratulate the conferees who have worked long exhausting hours and put a great deal of tremendous thought into producing an equitable bill.

There are provisions in this legislation with which I agree wholeheartedly, and I want to do what is best for this country in reducing record high deficits to get interest rates down and hopefully stimulate the economy. Overall, however, I feel that the short-term benefit of the revenue increase is not worth the long-term loss to American taxpayers. Of particular concern is the effect of some of these provisions on the average taxpayer with a minimum amount of money to save and who, barely makes ends meet once expenses are accounted for at the end of the year. The medical expense deduction limits will hit millions of Americans very hard and may go directly to affect, not only their expenses, but their health.

The conferees eliminated the original proposal to halve the three martini lunch provision, yet maintained the tip income reporting requirement. Again, the hard-working American is tackled here rather than those more capable of affording stiffer tax requirements. It gives the impression of unfairness as does another compliance provision—the withholding tax of 10 percent on most interest and dividends. At a time when we are working to stimulate savings and investment, to restore growth and productivity to our ailing economy, we turn around and, by this provision, reduce the incentive to say by implying that these small savers have not been complying with the law and therefore will be deprived of interest earned on those savings up until the time of reporting.

Though I applaud that portion of the withholding provisions exempting senior citizens and others below a certain income level, I believe the reporting provisions required by this and the general withholding provisions would be a devastating blow to our Nation's banks and savings and loans, many of which are struggling as it is. The cost and complication of the withholding provisions to our financial institutions and the impact it will have on individual savings has been a major factor in my early determination that this aspect of the bill should be considered separately from the rest of the tax bill.

The fact that we are not able to consider individual provisions of the bill, which do have such an impact on the workers in America, is especially important because this bill involves so many complex areas of our economy and programs long a part of our system. As a member of the Post Office and Civil Service Committee, I am particularly aware of the opposition of Federal employees to the provision bringing them into the medicare system by requiring that they contribute 1.3 percent of their salary to it every year.

Finally, Mr. Speaker, although it is true that we should be doing more to reduce the deficit, this tax bill attempts to accomplish this laudable goal in the wrong way. It does so by raising taxes, taking money out of the private sector, while we are in a crucial phase of a recovery. We stand a good chance of killing the recovery off if taxes are raised right now.

Accordingly, Mr. Speaker, I urge my colleagues to defeat this conference report.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, a little earlier a Member asked us to perform a legislative miracle and pass this tax bill. Miracle indeed. That Member understated what we are talking about here. This should be known as the "Tax bill of the Immaculate Conception." Think about it.

This bill was not conceived in this House. This bill is unsoiled by the requirements of the Constitution. It has not had any real deliberation, it has not had any consultation, it has not had input by the Members of this, the people's House. The Constitution ought to be more important than that.

Other than contravening the Constitution, what does all this mean? It means, of course, we are not even sure what is in this bill. Look at it. The conference report is 722 pages long. Who has read it? Four hundred and six pages of a bill, 313 pages of an explanation. Who here really knows what is in it?

If you think this is something, wait until we see the regulations that are going to follow upon the passage of this bill. This will be a bonanza for tax preparers, a bonanza for tax attorneys, a bonanza for accountants, but not for our constituents.

Just the cost of the pension changes will be $2 billion. Add it all up and it means $21 billion on our constituents.

Is that what we need when we still find ourselves in the midst of a recession? Can anyone here cite one economist or one economic theory that suggests we ought to raise taxes while we are in the midst of a recession?

In fact, with this week's good economic news, our pell mell rush to judgment on this bill suggests that we desperately wish to make sure that we impose these taxes before the recession is over.

What nonsense. To these who would say the interest rates will decline with the passage of this bill, let me just ask one question: Is there any difference in crowding money out of the national borrowing pool with deficit Government spending or crowding it out with higher taxes? There is one difference. Higher taxes are more destructive because they destroy incentive and initiative.

In short, Mr. Speaker, this is the wrong bill at the wrong time. Our constituents are begging us: Please vote this bill down.

Mr. ROSTENKOWSKI. Mr Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. Shannon).

Mr. SHANNON. Mr. Speaker, I thank the gentleman from Illinois (Mr. Rostenkowski).

I am not a supporter of the Reagan administration's policies. I opposed Gramm-Latta I, Gramm-Latta II, and the Kemp-Roth tax cut. So I do not feel comfortable coming down here saying I support this President on anything, but I do support what he is trying to do in this tax bill.

I think we all have to ask ourselves, What is it that could drive someone like Ronald Reagan, who has built his political career on cutting taxes and cutting Government spending, to come to the Congress within 90 days of an election and ask for a major tax increase? And this is a tax increase.

What is it that could get him to risk the type of political division that we are seeing on the minority side today?

I think there is only one thing that could do that, only one thing that could create the type of alliance that we have seen created here on behalf of this tax bill. That is fear; absolute terror about what happens if we do not pass this bill.

What is happening? The unemployment rate last month was 9.8 percent. This week in my district in Massachusetts, General Motors announced it is closing an automobile factory, throwing 3,500 people out of work. This sort of thing is taking place all across the country because things did not work out the way we all hoped that they would.

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Last year when I opposed the administration in its budget and tax policies, I fervently hoped that I was wrong and they would work. For one reason or another, they have not. I do not think this is a time for any of us to stand here and point fingers and blame one another. This is a time for us to work together to deal with what is a very serious economic crisis, the most serious of my lifetime.

We have been talking on the Democratic side for years about tax reform. Well, let me tell the Members something: Tax reform does not just mean lowering taxes, it also means raising somebody's taxes. We have a $750 billion tax cut that was passed last year. We have been talking about how unfair it is. The only way we can make it fair is to go back and rework it, and I think that this bill has done that.

It repeals those provisions of the reductions in the corporate tax that have created corporate welfare. It says that business will not have subsidies anymore, but they will be paying taxes on income.

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The changes in the accelerated cost recovery system alone are going to amount to $18 billion a year once they fully go into effect, and believe me, that is going to save some of the programs that all of us are interested in saving in this House.

Let us work together. Let us solve the problem. Let us support this bill.

● Mr. BOLAND. Mr. Speaker, I commend my colleague Mr. Shannon for his able and knowledgeable statement. I am pleased to associate myself with his remarks.

Like many of my colleagues, I do not favor each and every component of this package. Several of the provisions which will increase revenue, such as the withholding of tax on income from interest and dividends, and some of the provisions which will reduce spending, are not particular favorites of mine. It is time to face economic reality, however, and that reality is that the mammoth deficits we now face have to be reduced.

Deficits can be reduced by cutting spending, and Congress has, over the last 2 years, taken steps to cut tens of billions of dollars from the Federal budget. It is unrealistic to assume, however, that cutting spending alone can solve our budgetary problems. Revenues sufficient to pay for the necessary activities of Government must be generated. Regrettably, both the administration and a majority in Congress lost sight of this fact last year, and a tax reduction bill that decimated our revenue base was enacted. The plain fact of the matter is that the tax reductions enacted last year, in conjunction with the record increase in defense spending contained in the last two budgets endorsed by the administration, have led to the historic deficits we now face. Those deficits must be addressed; they must be addressed now, and they must be addressed by both reducing spending and increasing revenues.

So, Mr. Speaker, I am going to vote for this year's tax bill. In addition to being necessary, the bill deserves support because the preponderance of the revenues it will generate, $80 billion, will not come from the imposition of new taxes. Those revenues will instead result from requiring those who either deliberately fail to pay all their taxes, or who artfully shelter their incomes in some loophole in the Tax Code, to pay their fair share to maintain this Nation. In that way, the bill will partially balance the excesses of last year's tax reduction legislation, which was inequitably tilted toward some of the most wealthy and privileged businesses and individuals in our society.

This tax package gives us the opportunity to begin to moderate some of the radical economic theories that were unfortunately enshrined in legislation last year. Hopefully, we have learned that massive increases in spending in one area of the budget, when combined with massive reductions in revenues, are a recipe for mammoth deficits. No meaningful economic recovery can occur in the face of such deficits. We cannot undo today all of the damage sustained by the economy as a result of last year's budget and tax bills, but we can make a start. The hope for a healthy economy, which all Americans share, depends on us taking this step.●

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. Vander Jagt).

Mr. VANDER JAGT. Mr. Speaker, I think there is one thing that everbody agrees on about this measure before use, and that is the defeat or passage of this conference report holds grave consequences for the American people, and because of you, I believe that this House has reached one of those rare and p-recious moments when in the main most every Member on each side is laying aside personal and political and partisan considerations and basing his agonizing decision on the principle, what is best for my country and the chances of bringing about economic recovery.

Actually, the political considerations were probably awash anyway. It is bad politics to vote for a tax increase 75 days before an election, but I believe it is equally bad politics to vote in a way that increases the deficit by $116 billion or says that this Congress will fail to live up to the fiscal responsibility that we imposed upon ourselves as recently as June in the budget reconciliation bill.

This measure is in no way a retreat from the tax incentives that were enacted last year. Every dollar of the individual income tax cut remains, as we were triumphant in resisting the overwhelming pressures to eliminate the third year of the tax cut, and 90 percent of the business incentives remain.

Where does the revenue come from? Three places: eliminating unintended benefits, better compliance, and only $17 billion in new and additional taxes.

Let us take a look at those unintended benefits. Right now it is possible for a company to spend $90 and get $100 tax writeoff. That is not an incentive. That is a subsidy and it ought to be corrected, whether we have a surpluse or a deficit.

Last year there were four major U.S. corporations each with net earnings in excess of $500 million and none of them paid a penny of Federal tax.

It is no retreat to say we ought to strengthen the corporate minimum tax and in greater compliance.

Let us take a look at the most coontroversial of all, the withholding of interest and dividends. Nearly 90 percent of the senior citizens have been exempted. That leaves 2.7 million and those 2.7 million earn each year in interest and dividends $48 billion. It sure is not a retreat to say that we are going to collect $6 billion in upaid taxes on incomes of that vas scope. That is why the coauthor of the Kemp-Roth bill of last year, the gentleman from Delaware said. "I reject any suggestion that this bill is in any way a retreat from the basic thrust of the Kemp-Roth tax cut."

I found some things hard to swallow. I personally do not like the increase in the cigarett tax, but when you stop to think about it, that had not been increased since 1952. Can you think of anything else in America that has not gone up since then? And the tax disappears in 3 years.

The increase on telephone use from 1 to 3 percent, not only the increase, the whole tax disappears in 3 years, and to suggest that the average American paying $24 more a year in cigarett tax and $4.86 more a year in telephone use, that that somehow undermines the extra $788 he has in his wallet from the tax cut which we enacted last year is I believe trying to turn a couple of raindrops into a thunderstorm through exaggeration.

II believe in the incentives that we enacted last year and I believe that they will work. That is why I support this measure: first, to protect the tax incentives that remains in place, but second, those encentives have not worked up until now because they could not get through the barrier of high interest to the business community so that they could respond to it.

The strach-stopper pill on the market today stops the starch from reaching the system in a body, and high interest rates have prevented our incentives from reaching the investment community of this country.

So let us do what we can to reduce interest rates and unleash our incentives and put America back to work again.

Last January in the minority leader's office, Henry Kaufman of Salomon Bros. predicted that interest rates would continue upward, because he said, "You people in the Congress don't have the political courage in an election year to take the steps you have to take to reduce the deficit and therefore interest rates.

Continuing to observe us the day before yesterday, he changed his mind about whether we would find political courage or not and predicted that interest rates would go down, and set off the biggest explosion in the history of Wall Street.

This afternoon, whatever we do, we will be sending another message. I hope the message that we send is that we can find the political courage to do the untkinkable and pas a tax increase in an election year and send the message that we do have the courage to do whatever is necessary to reduce the deficit, reduce the interest rates, so that we can unleash those incentives that remain intact and make this American system work right again.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, first I want to commend the gentleman from Michigan (Mr. VANDER JAGT) for his very effective and forthright speech. It is good to hear it, and I think the gentleman has helped the cause today.

Mr. Speaker, as one of the House conferees, I support the tax bill which is before us now. I believe it is a necessary part of the overall program we must undertake to redirect our ailing economy. This may be like swallowing castor oil—or a bitter pill—but it is necessary.

When the House passed the Latta budget resolution on June 10, I think we made a commitment that this body would take a number of necessary steps to lower the deficit and reduce interest rates. We agreed then—by vote—that we would raise new revenue totaling $20.9 billion. We also agreed to reduce expenditures by holding down the increase in defense spending, lowering some entitlements and discretionary programs and by cutting out waste, fraud, abuse, and mismanagement of programs.

This bill is one part of those commitments. If you voted for the Latta budget, or indeed, the Jones budget, then you made a commitment, I think, to raise some new revenues as a part of this package—just as you made a commitment to cut back on spending. This is our opportunity to fulfill the second half of that commitment, as we honored the first half of the bargain with the reconciliation bill yesterday. Those of you who supported the Democratic alternative may recall that it called for some $30 billion in revenue raisers compared to the $20.9 billion in the bill we adopted. Those of you who supported the Latta budget will recall that this was the price you said you were willing to pay for continued spending cuts and for lower interest rates. Both groups should remember that this is essentially a reform bill, and that both our Democratic Speaker and our Republican President support it.

It does us little good at this point to wallow in our anxieties and our fears, or even our preferences. Sure, it is always easier to vote "No." As a former colleague told me years ago, "you never have to explain a 'no' vote on a tax bill!" Any one of us could select a few sections of this bill and find reasons to campaign against it. For my part, I could argue that we did not cut defense spending quite enough, though I consider myself normally very conservative on defense issues. I could repeat my complaint that we should have delayed the third-year tax cut unless the economic indices justify it. And most of all, I could lecture us because we have not done more to cut entitlements. As I have said before, here is a big area which we have not really touched: As a body we are guilty of looking at the huge entitlement mountain with apprehension and foreboding, and this makes us stand back and postpone action. I say again to you that we will not bring the budget into the arena of solvency until we have indeed made meaningful changes in the entitlement formula. And I could complain about the heavy tobacco tax, the completed contract provisions, and certainly the withholding of dividends and interest.

But once you look beyond all the "easy outs," the fact remains that we have a revenue-raising measure before us today, one nowhere near perfect, but probably as close as this Congress can come. And the truth is, as most of us know deep inside our political hides and hearts, that this bill is a necessary ingredient to economic recovery.

Standing alone it will not cure all our problems. Perhaps no one thing will. But if we do not pass a revenue-raising bill today, then the burden will fall on spending cuts alone, and as surely as the sun rose this morning, that will not work. If this bill is defeated the Congress will have proven for its critics that it cannot live up to its obligations, that it is too weak to honor its commitments; the bargain will be broken, agreements for spending cuts will evaporate, and the deficit will continue to rise, along with interest rates.

This is tough medicine. But our economy is ailing, and we must swallow a bitter pill to help cure it. I urge its adoption today.

If we pass this bill I think the American people will accept it. If we do not, I think the American people will be shocked, and dismayed and worried about the shaky economy. My friends, it could cause fear and panic—and great damage.

Although this bill contains very little relating to the social security retirement and disability programs, there are a few matters of importance the Members should be aware of.

First. It is good that we have come to some resolution of the independent contractor issue and that at least in some of the most troublesome categories these individuals can now know their status with certainty. But this is going to cost the social security trust funds money. Mandating real estate agents and direct sellers as self-employed will cost the trust funds annually between $75 and $100 million. When we grant these exemptions, it costs. And we should be aware from the start that if these exemptions start to proliferate then other action will be pushed to cut losses to social security. It could take the form of stricter compliance rules, or reform of the self-employment tax so that we do not lose money there—but something would have to be done if this is abused or expanded.

Second. The bill sets up a new target system of hospital reimbursement under the medicare program. In the conference, I added an amendment to this provision which would prevent any hospital from avoiding a penalty or from earning a bonus if it reduces its costs by ending social security coverage for its employees. A growing number of nonprofit hospitals, who are in the social security program on a voluntary basis, have been terminating coverage for their employees. These employees, particularly the nurses and low-paid hospital workers, most likely will never earn any pension rights under any replacement plan, even if one is offered. The amendment does not prevent a hospital from leaving the system if it so desires. But it will avoid rewarding a hospital for doing so.

Third. Just as important as what is in the bill are provisions which, at the insistence of the House conferees, were dropped in conference.

A provision was dropped which would have allowed the Government to collect SSI overpayments by garnishing an individual's social security check. The fundamental purpose of social security was that it be available to the elderly by right, and that it not be something which can be used for debt collection by the mortgage bank, the tax collector, or anyone else. This provision would have violated that

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fundamental principle upon which social security is based.

The House conferees removed a loosely worded provision which would have reclassified home health workers as independent contractors. Many of these individuals clearly are employees and are best protected by remaining so.

Mr. CONABLE. Mr. Speaker, I now call forth that clarion voice from the State of New York, the distinguished gentleman from New York (Mr. Kemp), and I yield 5 minutes to the gentleman.

Mr. KEMP. I thank my friend from New York for yielding this time to me.

Mr. Speaker, this is not really a clash of purism versus pragmatism or party or personality. It is an historic clash of ideas. It is, as Guy Vander Jagt mentioned, a precious moment in this body when only we can make up our minds which, in our judgment, is the best course, the best strategy, the best thing to do to get this country on the road to full recovery and price stability.

Each and every one of us has to make that decision, predicated on our own beliefs, our own principles, our own ideals, and those values which we hold dearly, as well as our loyalty to our constituents and to the cause for which we were elected in 1980.

Fifty years ago a Congress faced a similar choice. There was high unemployment, there was a huge deficit, the President wanted a tax increase, and the Congress went along blindly with it. Interestingly enough, interest rates did not go down, they went up; unemployment did not go down, it went up; the deficit grew and the recession deepened into the Great Depression.

In 1946, a courageous President by the name of Harry Truman faced a choice. We were coming out of the war. There was high unemployment, millions of Americans coming out of uniform, a deficit five times as big as a percent of the economy as the one that we are facing today, as bad as that is.

The Congress—it was a Republican Congress with a Democratic President—cut taxes, restored sound money and reduced regulations. The economy grew and produced its way out of the problems of the post-World War II economy.

We are today faced with the choice of how to get more revenue for Government. There is nobody—well, maybe there are some—there are very few of who do not want more revenues. There are defense needs, there are domestic needs, there are needs that go beyond any of our immediate considerations with regard to the long-term rebuilding of our Nation's infrastructure.

We need more revenue. How do we get it? Can we raise taxes at this point in the economy? We talk about tax reform, and tax compliance, but, ladies and gentleman, whether we call it reform or compliance or a tax increase, this bill takes $100 billion out of the economy; it takes $100 billion of resources out of the pockets of the American people and out of the cash flow of American business, and particularly small businesses, at a time when individuals and businesses are facing a liquidity crisis and a credit crunch.

This Nation and Congress before us have faced these questions before and it has not torn them apart. They have been able to go on and strengthen the process and strengthen the political party system, and indeed ultimately it strengthened the Presidency.

Lower interest rates by raising taxes? Why do we in the face of interest rates finally starting to come down—and they have since July—why do we all of a sudden think that raising taxes will lower interest rates? The Fed is proving it can lower interest rates. It is doing it irrespective of what we do today. It started in July, it lowered the Federal funds rate, it lowered the discount rate and the prime rate has come down, short-term interest rates have come down to less than 9 percent.

The way to get the rates further down is to force monetary reforms along the lines of what Senator Boren and Senator Quayle and many other Republicans and Democrats are starting to talk about: Bring about monetary reform that will allow forcing the Fed to target the price of money and not the quantity of money.

Some have said on my side of the aisle that it will weaken the President if he happens to lose this tax bill. I do not think this will weaken the President. I think it will strengthen the President.

As Ed Bethune said, it will remind us all of the mandate for which we were elected in 1980, to get America moving again, to get deficits down, to get interest rates down by making this Nation grow and expand again.

After all, it did not weaken Franklin Roosevelt to lose votes in the Congress. In 1936–38, he lost a big clash with the Congress over tax policy. He went on to win elections by a bigger margin than he had in 1932 and 1936.

In 1937 there was a clash over the Supreme Court. Everyone said that this was vital to the President, to have a bigger Supreme Court. He lost. But it strengthened the Roosevelt Presidency.

As far as loyalty goes I am as loyal as anyone in this room to the President of the United States but I do not think loyalty requires that you sacrifice your judgment and your conscience and your belief in your principles, and that is what this clash is all about, a fundamental idea as to how to get this Nation back to work.

Ladies and gentlemen, some in this body have said that we have cut taxes too much. Do not forget that we must view the tax cut of last year against the backdrop of the tax increase that is going on. Social security over the next 3 years is going up, as well as bracket creep, by $238 billion. Taking $100 billion of resources out of the economy at this anemic point in our economy, coupled with the tax increase on social security and bracket creep, will return about $338 billion of revenue into the Government and wipe out about 80 percent of the tax cut.

This is no time to be passing this tax bill. Our goal should be getting interest rates down, getting people back to work. That will do more to get the deficit down than anything else. Economic recovery will help the President of the United States and more importantly it will benefit the people of America.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. Fowler).

Mr. FOWLER. Mr. Speaker, it has been said of the early settlers of this country that they were never disillusioned because they had no illusions in the first place.

We modern Americans have not been so fortunate. Over the last two decades we have seen the illusions of our country the illusions of unlimited power, of unlimited virtue, and now unlimited wealth, shattered one by one.

That is not to say that we are not still a country of great power, of great virtue and of great wealth. But we must begin the painful process of rebuilding that wealth without illusion, to forget that there is no economic magic, and to rebuild, as a God-fearing businessman, your capital and your revenue, and your optimism simultaneously, if we are to progress, because, my friends, optimism, unlike oil, cannot be imported at any price.

I am proud of the President of the United States. As one who did not support the President's economic policies, I am proud that he is man enough to shuck off an ideological straitjacket and face the hard economic realities that are to be faced if we are to rebuild our economy without illusion.

The question is not to go back to supply-side economics; the question is, for goodness sakes, not that offered by my colleague, the gentleman from Georgia, to go to Government by polling.

The question before this body is: Who will bell the cat? Who will bell this economic cat? Who will make the painful decisions, because pain every once in a while, let us face it, is required for progress?

Or will we be judged, as Churchill once had to judge, by the American people that we are still rats swimming toward the sinking ship?

This bill is no panacea. This will not save the Nation; but this bill is a cold splash of economic reality. It is a clarion call, as Thomas Paine once said, to test the summer soldiers and the sunshine patriots, to test those who are man enough when one theory does not work to say to the American people, "Well, we will not continue to sit on our hands, we will not continue to preach our rhetoric; but we will offer, even though painful, some hope that the first step toward recovery can be taken."

□ 1710

Mr. CONABLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, we have had a number of attractive campaign speeches here today, but government should be more than a place for politics. It should be a place of reality and responsibility as well. At this point we must face fiscal reality. I hope we will support the conference report.

I hesitate to challenge anything said by my good friend from New York. I must say, though, that if we are in a state of serious illiquidity, the stock market has not noticed it in the last 3 days. I must say also that while there are many historic and economic precedents which can be used as arguments for or against the action we will take here, the old Greek philosopher who said that we never step into the river at the same point is absolutely correct when talking about a society or an economy as well. The cross currents are constantly changing, and this river has flowed on into a new channel.

It seems to me that we must have refuge in commonsense and judgment and our own individual sense of responsibility, and not in precedents which probably occurred in a very different economic environment than the environment we have today.

I would like to suggest five good reasons for voting for this conference report.

First, the President asked us to do so, and that in itself is a compelling reason. He has laid his prestige on the line for this measure, and I am disposed to support him. As a nation, we needed a stong President, and we got one. We needed a leader with a sense of direction and a firm commitment to restoration of our sagging economic base. That is exactly what we have, and this conference report is entirely consistent, in my opinion, with that leader's program. It has been said that we may have the leaders we elect, but we cannot elect to do without them. I hope the Nation will follow, not reject, reasonable leadership.

I certainly do not believe in following any leader blindly into chaos or oblivion. All this leader has asked us to do is to vote for legislation which is likely to improve the Nation's economy, and is very unlikely to damage it. It is not unfair legislation. His request does not seem to me immoral or unethical or even very difficult.

Second, this conference report is indeed designed specifically to improve the economy by closing a deficit gap and helping to bring down interest rates as well. Our greatest single economic need today involves the reduction of these interest rates. It might be argued that enactment will not guarantee lower interest rates, but it can also be argued that failure to enact it is much less likely to help.

Some critics of the conference report contend it will not reduce the size of future budget deficits. This is one argument I simply cannot buy. Both mathematics and economics point the other way. The math indicates that if Federal revenues are increased by some $98 billion and expenditures cut by $17.2 billion over the next 3 years, the gap between income and outgo will be closed by at least that much. The President has assured us that he will veto excessive spending bills, so we know that the added revenue will not be used for additional expenditures. Therefore, I think most economists would go further and assume an even greater deficit reduction, largely because of the domino effect the static reduction would have in money markets.

The third good reason for backing this report lies in the legislative budget process itself. Earlier this year, a majority of Members on both sides of the aisle and on both sides of the Capitol agreed to cut expenditures by $17 billion and increase revenues by $98 billion over the next 3 years. This report merely complies with that requirement. A vote for the report is a confirmation of that earlier action. A vote against represents repudiation and complete reversal of our goal at that time.

A fourth good reason for endorsing the report is from a taxpayer's standpoint, perhaps the best of all. It preserves the third year of the President's tax cut for individuals and the indexing which follows. The other provisions, designed to help get the Nation's industrial body back on its feet, eventually will mean more and better jobs and living conditions for all, but for the here and now, the individual rate reduction has been the chief symbol of Reaganomics for the average American.

In a very real sense, then, this conference report is the price we must pay for the retention of the individual tax reduction. Once we agreed to raise revenue, we began moving inexorably in that direction. The leading alternatives were a huge tax on energy, massive excise levies on all sorts of commodities, or repeal of the individual tax cuts.

The fifth good reason to vote for this report is that it includes substantial cuts in spending, cuts which would otherwise be very hard to achieve.

A fifth good reason for me to vote for this report is that it follows, and includes, some substantial cuts in spending—cuts which were very hard to achieve. Many of us, particularly those on my side of the aisle, have been anxious to reduce the growth of Government expenditures, because it is the right thing to do and because so many of our constituents want it. I do not believe we can expect, realistically, to attain that objective except through a combined package along the lines of this report. We might wish to do otherwise, but wishing will not get us there.

Now that I have cited five good reasons why I intend to vote for this conference report, I should in all candor and fairness concede that I am not entirely comfortable in this position. I have some very substantial problems with both the report and the way in which it developed.

First, I deplore the circumstances which forced us to bypass the normal legislative procedures. It would have been far, far better if we could have spent the time necessary in the Committee on Ways and Means to develop our own bill. It probably would not have been more acceptable, in substance, than the product before us today, but it certainly would have been more palatable from a procedural standpoint.

Mr. Speaker, I hope most sincerely that we have, at the least, learned a valuable if painful lesson from this unorthodox sequence of events. I do not see any point in standing here and figuratively wringing my hands over the matter, but I do want to express the strong hope that we will avoid this kind of pitfall whenever possible in the future.

Second, I must say also that I have some problems with the substance of the report. Most of this represents not real tax increases, but adjustments or reforms designed to make certain that taxes already owed are actually paid. In that respect, the legislation has merit, especially now. At a time when we are cutting back on programs affecting millions of our citizens, it does not seem unreasonable to expect all of us to pay the taxes we rightfully owe.

I am not happy with the details of conferees' decision on accelerated cost recovery, leasing, medical deductions, corporate tax preferences, the individual minimum tax, and others.

As most of my colleagues know, I have been a highly vocal advocate of liberalized rules to encourage the revitalization of American industry. I was one of the patrons of the accelerated

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cost recovery system which became an important part of the Economic Recovery Tax Act of 1981. Those ACRS advances are being scaled back in the legislation before us.

I also worked hard for the so-called safe harbor leasing rules, which have been terribly misunderstood and maligned. These rules did need some adjustment in order to remove perceived abuses, and I developed a plan to do just that, while retaining the basic safe harbor concept, which I still feel is a desirable and needed economic device. The conferees declined to accept my plan. adopting instead an outright repeal of the safe harbor rules, with a sop thrown toward our distressed industries, in the form of some selective transitional rules.

Tightening-up medical and casualty loss deductions never has appealed to me. The only salutary aspect of this change is that the conference agreement does soften to a considerable extent the cutback provided in the bill developed by the other body.

As for corporate and individual minimums, I certainly do not disagree that everyone should pay a fair share of assessed taxes. But I have found that reforms of so-called minimum taxes often lead to mischief rather than equity.

Just as there are provisions of the report which I would have designed differently, there are sections which represent real and desirable reforms. One which comes quickly to mind impose the hospital insurance, or medicare tax on Federal civilian employment.

Most Federal employees already either have, or will have, medicare coverage as spouses of insured workers or through their own employment as "moonlighters" or after early Federal retirement. The others should have this coverage also. If medicare participation is good enough for the 116 million Americans who already are required by law to pay for it, it should be good enough for the 2½ million who, as Federal employees, do not have to pay for it. The only problem with this provision is that it provides a "windfall" for a few civil servants who will be getting medicare benefits even though they have contributed to the hospital insurance trust fund for just a few months. Despite this bonanza, it is a good provision.

Some of the opposition to this proposal cites its complexity. It is complex. But the same people would vehemently oppose a simple tax increase, which would necessarily be an across-the-board measure reversing the thrust of last year's bill.

In summary, Mr. Speaker, although I do have problems with the legislation and the legislative procedure, these are outweighed by the reasons I cited earlier for supporting the measure.

I will support the President and his economic policy, I will reaffirm my earlier vote on the budget resolution, I will do my part to reduce the Federal deficit with the hope it will help cut interest rates, I will endorse substantial expenditure reductions, and I will help preserve the third year of the individual income tax reduction. In short, I will vote for this conference report today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. RANGEL).

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I rise in support of the Conference Report, the Tax Equity and Fiscal Responsibility Act of 1982. I support this bill, not because the President has belatedly endorsed it, not because I like all of its provisions; not because I support the cuts which it makes in medicare, medicaid, and AFDC, but because it is, on balance, better than any other alternative before us, including the alternative of inaction.

Let me say that this legislation has many good points, especially in its tax provisions. Many of the tax provisions—indeed, $51.6 billion worth—are ideas which were included in the Fauntroy amendment incorporating the Congressional Black Caucus's alternative budget. Consequently, when I first saw the reports on the contents of the tax bill, I was pleased that members of the Senate Finance and House Ways and Means Committees had found so much virtue in the tax ideas which the CBC had offered. I did have reservations, and still do, about the excise taxes in the bill and the mechanisms for withholding of income taxes on dividends and interest, but I felt that on balance the tax bill was a good first step toward redressing the excesses and inequities of last year's tax bill. I continue to feel that way, that this tax bill will not significantly affect poor people and middle income people, but will fall most heavily on those who most benefited from last year's tax cuts, the rich and big businesses.

On the other hand, I was very concerned about the cuts which were made by this bill in medicare, medicaid, aid to families with dependent children, and supplemental security income. I was concerned that medicare recipients would have to be paying a large amount of their limited income for insurance premiums and minimum treatment payments, and I was concerned that Federal employees, who have already been subjected to so much abuse, RIF threats, pay freezes, and other hardships, would have to pay a medicare tax. I have been opposed to these ideas, and I continue to be opposed to them.

The problem is that some cuts in these programs have been made inevitable by passage of the First Budget Reconciliation Act in June. I opposed that particular act, offering instead a much more humane substitute that would have avoided those cuts. But, that act was passed and we cannot escape its mandates without destroying the whole budget process. Thus, whether or not we vote for this particular package of cuts, these or even worse cuts in these programs will sooner or later be adopted. My fear is that, if we do not pass this bill, even worse cuts, which would inflict even more hardship on the poor and the elderly, will prevail. Moreover, those cuts will occur without the increase in revenues and the closing of loopholes that this bill provides. Other Members may hope differently, but I think that you have only to look at the large number of Republican Members who are opposed to even these tax increases and who want even larger cuts in social programs to realize what the political realities are.

I should note that there is one favorable spending provision in this bill, the extension of unemployment benefits for an additional 10 weeks. I know that this is not enough, that our unemployed people will need more assistance than this, but without this bill there would be nothing.

Consequently, while I do not like in any sense the cuts made by this bill, I think that the benefits of the tax bill, the extension of the unemployment benefits, the realities of potentially larger spending cuts in social programs if we do not pass this, and the threats of even worse unemployment and economic deterioration if we do not act to restore fiscal soundness from the irresponsible actions of this administration last year, all argue for adoption of this bill, even if it has been endorsed by the President.

Mr. RANGEL. Mr. Speaker, I hope the record does not put me down as being a friend of the President, but certainly I have to sympathize with our President if he has to depend on all the friends that he has on this side of the aisle for support. Boy, there were some great days when we were talking about supply-side economics; no one knew what we were talking about, but you had a popular President, and by giving away billions of dollars, we were going to turn the economy around following the years of Jimmy Carter.

But, I guess it happens the same way in Washington as it does in Harlem; when things are not looking too popular, the people have to find another reason and ideology to explain why politically they cannot support the President. What a wonderful day this would be for me if I were to enjoy the luxury of saying, I told you so.

Who in the heck ever believed by reducing taxes by $750 billion, by having an insane obsession with defense, and by talking about a balanced budget, that would end up with a tremendous deficit? Oh, I know that we will never be able to win against the Pentagon, not when we are talking about medicaid and medicare, not when we are talking about housing programs, but now the time has come when the President is asking us to raise some taxes.

You can call it revenue enhancement; you can call it reform; you can call it anything you want, but if you are going to deal with Federal programs and if you are going to deal with deficits, you have got to raise the revenues.

Mr. CONABLE. Mr. Speaker, will the gentleman yield for a comment?

Mr. RANGEL. I yield to my colleague.

Mr. CONABLE. Am I not correct in noting that the gentleman has been nominated frequently by the Republicans?

Mr. RANGEL. There is no question about that.

Mr. CONABLE. Makes a lot of sense; makes a lot of sense.

Mr. RANGEL. Makes a lot of sense in New York, but it certainly did not make a lot of sense nationally, and I think the American people are catching up with it.

I would like to say one thing. If we pass this tax bill, and I certainly hope we do, you can bet your life that they will be coming back, that the Stockmans will be coming back, and the GRAMMS and the LATTAS will be coming back, and they will be asking to cut and to cut again, and we will be here trying to defend against the Pentagon and losing each step of the way.

But, I ask just one question. If we do not pass this tax bill, and the only thing we have left is those rascals who made their minds up in Hollywood many years ago, not that they were going to balance the budget, but rather that they were going to dismantle social programs. I do not care whether you are Republican or Democrat, you know darn well there are people that believe that medicaid should never have been enacted, medicare should never have been enacted, and our Secretary of Housing says the best thing you can do for housing for the poor is to leave it to the private sector.

□ 1720

So what I am saying is this: Yes; we have to raise taxes. I can tell you that this Congress has never seen a bill that has raised so many dollars from so few people. From people who should not have had those bucks in the first place and only have them because of inequities in the tax system.

Now it took a lot of courage to put a package together. This package certainly does raise some of the money that is necessary.

I am saying this: We are dealing with a battle that some of the people say is between two elephants. Who cares who wins the battle on television between the Republicans or between the economists since they can shift with the wind anytime they get in front of the cameras.

The real question I guess people have to decide is how are they going to look in front of their voters come the election.

I would submit that saying you are for a tax increase is not the best way to get elected. But I will tell you this: For those people that are dealing with the sick, the poor, and the aged, if we fail to provide the revenue that is necessary to have these programs, I hope that when the time comes to use the cleaver that you will be able to explain why you did not provide the revenues to support some of the programs.

Ask the unemployed and ask the teenagers which side you should have been on when they asked for this vote today.

Mr. ZABLOCKI. I rise in support of the conference tax bill, H.R. 4961.

Mr. Speaker, to vote for the pending bill is one of the toughest votes of my political career. Tough, not because of the merits of the bill but because of the misconceptions surrounding the bill. I received, as did all our colleagues, hundreds of letters, telegrams, phone calls urging me to vote one way or the other from individuals, special interest groups and members of businesses and labor organizations.

After careful and full consideration I will vote for the bill because I feel it is in our country's best interests. If we are serious about getting down interest rates, about balancing the budget and about making everyone—big business included—pay its fair share, then passage of this conference report is necessary.

It is no secret that this bill is not perfect—far from it. This bill has things in it that I do not like—for example, withholding on interest and dividends. But it also has:

Extension of unemployment benefits for Wisconsin's workers—10 weeks;

The closing of loopholes that allow big businesses to sell their tax breaks; and

Billions of dollars in new revenues raised primarily from increased taxes on business and upper-income invididuals.

In short, passage of this bill has the real possibility of lowering interest rates. It is in our country's best interests.

Therefore, I can not cast the easy political vote. My conscience dictates, and the dictates of my constituents who want a lower deficit and the restoration of a healthy economy require that I vote in favor of this bill.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to a distinguished member of the committee, the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, this debate has been helpful, unfortunately it is all too brief and the only one we will have. If we had followed the basic law of the land, the House rules, the fundamentals of legislative procedure and commonsense, there would have been other debates. There should have been.

We did not have that normal, regular legal procedure because of political expediency. Some felt it expedient that one political party or the other should take the lead or blame, others did not want to face a tax bill, still others felt whatever the President wanted was acceptable to them, and lastly many felt this tax bill would never become law if we followed principles. We had to break all the rules, they felt, to get this through to help the economy. There is no evidence to the correctness of that feeling as the House never even tried for so much as 1 hour to write a tax bill, but the feeling is there and I acknowledge that it is genuine.

But I would hope that as responsible representatives of the people and Members of the greatest and most deliberative lawmaking body in the world, we would consider before we act that expediency often has a noble reason behind it. We would not allow expediency to violate the fundamental civil rights of the American people, and we should not, the basic order of their Government.

The people have the right to have both Houses of Congress consider carefully taxes they are to be ordered to pay and to have the House closest to them originate that tax bruden. The framers gave them that right in article I, section 7, clause I of the Constitution. We have the duty to uphold that right, and no privilege to waive it. I know as a member of the Committee on Ways and Means that there are taxes in this bill that the House would not have originated, but if this bill passes, the people will be forced to pay due to our abdication of their rights. Proponents try to hide behind the legal hope that this is a political question the courts will not consider. They know they are in trouble if a court does consider it and reads the clear language of the Constitution. It is no political question, it is a basic question of the order of government.

I have always supported this President and badly want him to win in the fight to lower deficits and interest rates. This is a noble cause I share, but there is a right way and a wrong way to accomplish that end. The ends do not justify the means as we are a nation of laws, not men. The casting aside of our most basic principle of

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this Nation for expediency is wrong. We should not do this wrong for any political party, any President, or any desirable end. We have a higher allegiance we must first honor. For when we finished casting aside the Constitution, House rules, legislative principles and commonsense, what then is left to protect the people?

As Henry Ward Beecher said, "expedients are for an hour, but principles are for the ages."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts, the Honorable Tip O'Neill, Speaker of the House.

Mr. O'NEILL. Mr. Speaker, during the course of the day I have spoken literally to dozens of the Members on my side of the aisle asking them to go along with this tax bill. I did not do it in a method that I was trying to twist their arm. I did it in the method of what I thought was best for America.

So any of you that I have missed along the line, I ask you to vote with your conscience and your heart. I ask you to vote for the arguments that have been presented here today, the arguments that have been presented as America needs more confidence, America needs to be turned around.

Let me just say a few words to the Republicans over here. Usually, as the Speaker of my party, I do not address my remarks to you, but to the body as a whole, not to an individual.

I remember a year ago when you stood and wildly applauded the fact that you had a victory for the President of the United States. He was your President. In lockstep you followed along, the greatest discipline I have ever seen in the 30 years that I have been in the Congress of the United States.

To the younger Members who are here for the first term: You should have applauded and cheered the President of the United States. He elected you.

We have analyzed the elections and we lost about 20 or 30 Members. I am addressing the young Members. We lost them because of a coattail effect and the 8½-million vote victory of Reagan elected about 30 of you. You are here because of Reagan. You are here because he was elected President of the United States. He brought you to the Congress of the United States and now we are on the eve of an election and he is asking for a change of policy.

Are you going to follow the leader that brought you here or are you going to run? I ask you just to think of that.

Today I rise in support of the legislation endorsed by the President. It is his legislation.

The President and I do not belong to the same political party. We do not share the same philosophy. In fact, we seldom agree. But we do share something together, a deep love for this country and a deep concern for its future.

This is one bill that we do not disagree on. We are together because we know that if the economy of this Nation is not strong and vigorous its citizens are going to suffer.

We know that we need a strong economy if we are going to maintain a strong defense.

We know that today the economy is suffering and millions of people are suffering out there.

I know from 30 years' experience in the House of Representatives that no tax reform or increase can occur without the full support of the President of the United States. In the last 20 years we have given nothing but tax rebates and how easy it is to vote for a tax reduction and tax rebates, starting with my own Jack Kennedy in 1962.

There was a slight increase in 1976 at the time of the Vietnam war.

Then we had nine consecutive tax reductions which we gave to stimulate the economy, or we gave back to the people with the sole exception of the tax increase for social security.

That is the record. How easy it is to vote for a tax decrease, but only the President of the United States and the full support of his office can pass a tax bill. And only will the President do it when he thinks the Nation is in dire trouble and it needs this kind of a shift.

Last year I opposed the administration's tax bill. I thought it did not give the President and the Congress an opportunity to assess the results of enacted policies and to make corrections.

Today the President has sent over a correction and we have that opportunity to make that correction.

□ 1730

We have it before us only because the President of the United States has endorsed it. He believes that it is necessary to put this country back on the road to an economic recovery. And I believe that this tax increase is necessary. It is unfortunate that this correction must take place just weeks before an election. But it is more unfortunate that there are 10 million unemployed out there today. It is unfortunate that millions of small businesses and small farmers are facing disaster.

We Democrats in the House leadership believe the most important task Congress faces is to put millions of people back to work. We believe that they will not go back to work unless the citizens of this country, the people, the white-collar worker, the blue-collar worker who lost confidence, who still is employed but feels that he or she may be laid off, and because of that they save for the rainy day, they do not invest in a new automobile or a refrigerator or a toaster or clothes for their children.

And then we must have confidence stimulated in the business of America. That is what this is all about—the actions of this week in the market. I wonder what will happen if we were to leave here tonight with a failure. Millions of Americans who have looked to this Congress will say, "The Congress of the United States in a conference voted out a bill. How proud I am of this great free Nation of ours that they had the courage at a time of election to do what is best for the Nation."

Ladies and gentleman of the Congress, I ask you today as the leader of the opposition party, as a leader opposed to the President of the United States in most of his philosophies, the President is right. We need this tax bill. I ask for your vote.

Mr. CONABLE. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. Michel), the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, this is one of those votes that will not be won or lost by either of our political parties. There are marked divisions on both sides of the aisle. Let us face it. There is no mileage out there in raising taxes of any kind. How many times have I said it takes no particular manly quality to be for tax reduction? That is an easy vote. The Speaker corroborated that a few moments ago. It is a lot tougher around here to be for expenditure reduction or to raise taxes if you have to do it.

Now, why do I come down on the side of supporting this conference report?

I have to build my case beginning with last year's tax bill. President Reagan, as I recall, asked for two things: 3 years of personal rate reduction, 10 percent, 10 percent, 10 percent across the board 3 years in a row for all individuals in this country. Second, more rapid depreciation writeoffs for business and industry. That is all he asked for.

Now, admittedly, he advocated some of the other changes but they would be added later. What did he get? Not only the 3 years of personal rate reduction that totaled not 30 but 25 percent, but a reduction on unearned income subject to tax from 70 to 50 percent in 1 year, not 3 years, indexing, IRA's, marriage penalty correction, estate tax reduction, reduction of capital gains from 28 to 20 percent, reduction of corporate rate taxes from 48 to 36 percent, utility dividend investment, all-savers certificates, safe harbor leasing, and what have you.

Now, most of these are desirable. But I wonder if we had to do it, in retrospect, all at once.

This tremendous loss of revenue so quickly was not commensurate, with the kind of expenditure reduction that was possible to achieve around here. And there is plenty of blame to go around when you consider them as individual spending reduction bills

As a result, the President was forced to submit a budget with an unacceptable deficit that almost everyone in this body decried on both sides of the aisle.

But we here in the Congress reworked the budget our way and agreed, after long, tortuous hours, on a budget resolution. It passed this body by a very narrow margin, if you recall, and in it we called for that $21 billion of revenue to be raised in fiscal year 1983 to narrow the deficit.

Now, the skeptics did not think we would meet our reconciliation goals on expenditure reductions called for in that budget. But we did it with that vote yesterday, 96 percent of it.

The skeptics did not think we would meet our revenue goals either in an election year, but here we are, biting down hard on the bullet, just to prove them wrong.

Do you think that has not gone unnoticed by those smart money market managers? I read the ticker a while ago and the market is up by 9 points with 78 million shares traded. I tell you, they have been watching what we have been doing around here in the last week or 2, and have concluded that we really mean business. We have beaten down inflation, down to half the rate it was.

And interest rates finally seem to be responding to what we have been doing.

I am convinced personally the vote for this bill will reduce those interest rates further, and that is the key element to full economic recovery.

Defeat of this bill will surely mean a higher deficit. Mark that in your book. We might very well expect interest rates to rise again if the bill goes down.

I have to say here, in conclusion, my friends—that I have been in the Congress now for 26 years. Would you believe it, except for the social security tax increases and that temporary excise tax during the Vietnam war that the Speaker referred to, I have never had to vote for a tax increase, and Federal revenues went from $78 billion when I come here in 1956, to what they are at $650 billion today.

How did it happen? Bracket creep. Inflation. Bracket creep. Inflation. And who was the beneficiary? Big government. Tax moneys just kept rolling into the Treasury.

I say that is why those personal rate reductions enacted last year are so important, why the President has been so insistent that we have got to retain the third year of that tax reduction, because that is the way the average citizen catches up with these other preferences some of which we are trying to correct today.

□ 1750

That principle has been preserved and indexing beyond 1985 has also been preserved. If it holds in the future, every time we want some big spending program, we are going to have to toe the mark for the taxes to pay for the program. I have been in the Congress a quarter of a century as I said, and have never had to vote for a tax increase like today but these are different times.

By voting for this bill we are not doing a flip-flop, I might say to the Members on our side, or turning our back on the principal thrust of what we began to do last year.

Yes, we are strengthening compliance.

Yes, we are making a few adjustments in our excesses of last year, but the bottom line here is that passage of this bill will still leave us with a net tax reduction from last year's most comprehensive tax bill of $377 billion. Those are the facts.

May I say in conclusion, it is good to have this bipartisan support we see manifested here today. I urge Members to vote for the conference report.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 3½ minutes to close debate.

Mr. ROSTENKOWSKI. Mr. Speaker, Joe Louis, one of the greatest athletes that I have watched in my lifetime once said about his opponent in the ring, "He can run, but he can't hide."

I think that time has come in the ring of this Hall. We can make all the political speeches, posture ourselves, talk about whose fault it was, but in several minutes, there will be no place to hide. The choice is at hand. We have to choose what this institution is all about.

There have been some changes in procedure, but I was convinced when we decided to go directly to conference, that we would not be here at this time; that the best interests of our country and the people that we represent, would be best served by a change in procedure.

I am concerned about the credibility of this institution. I am not in the well today to criticize the President or the Republican Party or my colleagues in the Democratic Party for a different philosophical view.

What concerns me is what the Nation thinks about this institution.

How will they feel when they hear this evening's news or when they read tomorrow's papers?

Whether or not people agree with me or not, I wonder if we have the courage to take a midcourse correction?

I congratulate the President of the United States. I think he has provided leadership by recognizing that deficits are out of hand. I admire the fact that he recognizes that the only way that we can confront the problems of our economy is to make a correction. I applaud him for it and I applaud my Speaker for having the courage to recognize that there must be a unity of purpose.

When it is reported what we have done in this House today, I am sure we will have once again established this institution's credibility.

We cannot allow people in tomorrow's unemployment lines to feel that they have been denied additional weeks of benefits.

All the rhetoric is behind us. We have to make a choice. I hope that once the vote is over, we can unite again in the Nation's best interest, for tomorrow's economic revival.

Mr. Speaker, I urge Members of both sides of the aisle to support this conference report.

● Mr. BIAGGI. Mr. Speaker, I voted against the previous question to the pending rule to demonstrate my opposition to this closed rule. If we are to adopt this resolution we will be forced to cast one vote up or down on a massive combination of tax increases and spending cuts some of which if permitted to be voted on separately would be soundly defeated.

Nowhere is the inequity of this situation clearer than with respect to the new provisions calling for a new 10 percent withholding penalty tax on earnings achieved from interest and dividends. This is one clear example of a provision which if subject to a separate vote would be defeated. I predict that its inclusion in the overall tax bill before us could jeopardize the prospects of passage for this important bill.

I joined with more than 145 of my colleagues in a very reasonable appeal to Chairman BOLLING of the House Rules Committee to permit a separate vote on this particular provision. Unfortunately this request was denied and as a result efforts will be made to open the rule and not thwart the will of almost one-third of the House.

Further, just 2 years ago by an overwhelming vote of 401 to 4 the House voted to reject a similar withholding proposal advanced by the previous administration. I am hard pressed to believe that the sentiments of this body have changed all that much in this short a time period.

On its merits the new withholding tax does not stand up. One of the main arguments advanced by the proponents is that it will produce a great savings to the Government thus lowering the deficit. First, even the most generous estimates point to this withholding provision only reducing the deficit by $1.3 billion in fiscal year 1983. When one considers the new paperwork and administrative burdens which will be thrust on the Government, this will cut directly into these savings. Further, according to the U.S. Chamber of Commerce, withholding will force 50,000 lending institutions to spend $1 billion or more to implement and another $1 billion to maintain.

Perhaps an even more relevant issue is: Why do we need this new penalty? In my judgment the answer is, We do not. According to the Internal Revenue Service, in tax year 1975 taxpayers reported $55.8 billion out of $57.7 billion, or 96.7 percent, of all interest and dividends for which information returns were filed. The IRS notes further that voluntary compliance levels are substantially higher when the payments are reported on information returns. Overall the Department of the Treasury estimates it has an 85 percent rate of collection due on interest and dividend income.

Obviously we have a system which works, why do we need to invent new trouble for ourselves? The withholding provisions in this legislation represent an example of an unnecessary action on the part of the Government.

I call upon my colleagues to vote against the previous question and allow us to debate separately the merits or lack thereof of the withholding provisions in this legislation. Let us not again travel down the road which has brought us to this bleak point in our economic history. We are now seeing the outcomes of some of the votes we took last year. Failure to open up this rule most certainly will come back to haunt us very soon.●

● Mr. UDALL. Mr. Speaker, I rise in support of the tax bill. I do so with some reluctance. Like many Members of this body, I have objections to various aspects of this bill.

I am particularly concerned about the withholding of interest and dividends. In this regard, however, I am glad to see that the House conferees were able to negotiate for some important changes in the bill. The effective date has been delayed 6 months. The allowable exemption has been raised from $100 per account to $150 per account. We have retained provisions exempting a large number of elderly households from the withholding requirements. And we have made special provision for those financial institutions who are unable to comply due to undue hardship, by giving them an additional 6 months for compliance at the option of the Secretary of the Treasury.

I am also troubled by the changes in the medical deduction. The other body wanted to increase the floor for itemized deductions from 3 percent of gross income to 7 percent of gross income. House conferees were able to reduce that figure to 5 percent. Still, I would have preferred to retain the existing law and the protections it affords to those with high medical costs.

I also have reservations about the repeal of the dividend reinvestment provision, which allows utility share stockholders to reinvest their dividends in utility stocks and thereby defer the payment of taxes.

And I am aware of the concern expressed about the changes made in the law regarding tax-qualified pension plans.

But these reservations aside, I still must support the bill that is before us today. I do so for several reasons.

First, I have always felt that the President on close calls deserves the benefit of the doubt. This one such occasion. Without the passage of this bill, the deficit will rise from an estimated $141 billion next year to an estimated $165 billion deficit. Or higher. Such an increase would serve to further boost interest rates and shake the confidence of the financial markets. In turn, higher interest rates and reduced business conference would trigger a major economic downturn.

Second, I think voting for a mixture of spending cuts and revenue increases is the prudent and responsible thing to do given the size of the projected deficits. I do not think we can go on borrowing hundreds of billions of dollars each year. Such a policy could only lead to economic disaster and saddle our children with a huge public debt. We must reduce the deficit.

But, of course, there is no easy way to cut the deficit. Nor is there one single solution.

Last year, in the debate over the President's tax cut I rose and offered an alternative. It was not half as generous as the President's tax package. Nor did it gain as many votes. But it did point the way to a balanced budget. It was, I think, the responsible alternative. If it had passed, we would not be talking here today about $150 billion deficits. We would be on our way to a balanced budget and we would not have to vote on a tax package like the one we have before us today.

But my plan did not pass. The President's plan passed. We gave the President nearly everything he wanted: The tax cuts, the spending cuts, and the increases in the Defense budget. What we have received in return is a record deficit, not a balanced budget. And higher interest rates, not lower. And instead of economic recovery, we have had a recession. A severe one.

It is time to make some mid course corrections in the President's plan. The President knows that, that is why he is supporting this bill. And I am going to support him on this one.

But let us move on to some of the positive aspects of the bill that is before us today. A few weeks ago, unemployed workers in Arizona became eligible for an additional 13 weeks of unemployment beyond the standard 26 weeks. But unless changes are made in the law, a new standard of eligibility will go into effect on September 25—one that would likely deny extended benefits to the unemployed in Arizona. This bill guarantees that Arizonans will have at least 10 weeks of extended unemployment benefits beyond the standard 26 weeks. I support that change. It is needed to help the hardship being experienced by unemployed copper miners and others who are now experiencing extended layoffs.

Beyond that, this bill provides for some important tax reforms. It limits the amount of foreign oil and gas extraction taxes allowed companies as foreign tax credits. It provides for the current taxation of foreign oil and gas nonextraction income. It closes in a responsible way a new tax loophole that has developed in the taxation of life insurance companies and annuities. It tightens up the safe harbor leasing provisions that have allowed profitable corporations like General Electric to collect tax refunds. It clarifies the independent contractor status of real estate agents. And finally, it contains a number of provisions that will improve taxpayer compliance, insuring that all taxpayer compliance, insuring that all Americans pay their fair share of taxes.

And so, Mr. Chairman, despite my reservations about H.R. 4961 I urge its passage. Its defeat would mean higher deficits in the years ahead. In turn, those higher deficits would mean higher interest rates and troubled economic times ahead. Passage of this bill is not a solution to our economic woes, but it is a start. Coupled with spending cuts—some of which are contained in this bill—this bill will help to restore fiscal responsibility and economic stability.●

Mr. ROUSSELOT. Mr. Speaker, one of the most issues that I wish to address here today as we discuss this measure is the issue of the completed contract method of accounting.

It is my understanding that under the accounting method changes for long-term contracts, a contract which is not expected to be an "extended period long-term contract" would not become an extended period long-term because of unforseeable circumstances which a reasonable businessman could not anticipate based on prior experience with similar long-term contracts or events which are beyond his control. For example, litigation between the parties to the contract, litigation by third parties, defaults by subcontractors, owner caused delays such as failure to make progress payments or provide access to the construction site, unusual delays in delivery of materials or supplies, change orders extending contract duration beyond 36 months which could not be anticipated, delays due to zoning or permit applications, and delays caused by Government agencies as in the acceptance of environmental impact statements are the types of events which will not turn a contract into an extended duration contract if they are not forseeable.

It is my understanding, Mr. Speaker, that the chairman of the House Ways and Means Committee agrees with this interpretation. Further, Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD, Secretary Regan's letter of August 13, 1982, to Senator DOLE supporting Senator DANFORTH and Representative HOLLAND's alternative complete contract proposal because of the effects of the Senate passed proposal on the construction industry.

THE SECRETARY OF THE TREASURY,
Washington, August 13, 1982.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: After further consideration I am concerned that the Senate provision dealing with the completed contract method of accounting is perceived to have a unnecessarily adverse impact upon the construction industry at this time.

Senator Danforth has supported a proposal which is sponsored in the House by Representative HOLLAND. This proposal restricts abuses associated with the completed contract method of accounting without harming the construction industry. This proposal meets the goals of the Administration in this area and I urge you to support it.

With best wishes,
Sincerely,

DONALD T. REGAN.

It is my further understanding, Mr. Speaker, and I have been informed that the chairman of the House Ways and Means Committee concurs with this understanding, that contract commencement begins with the first contract costs incurred other than bidding expenses. Therefore, in view of the dire economic straits of the construction industry, it would seem to us that mobilization and insignificant preparatory costs weeks or months prior to actual physical construction start should be treated as bidding costs.

Mr. Speaker, I stand in opposition to this tax bill. Winston Churchill once observed that taxing your way to prosperity is like standing in a bucket and trying to lift yourself up by the handle. The American people—the hard working Americans that made our country the great Nation it is today—understand that you just cannot tax your way into prosperity. Rather than stimulate our economy, this measure will hurt the efforts that have already been agreed to in this body under the Reagan economic recovery program.

The initial policies of our President are still correct today. It is imperative that we defeat any and all proposals before us which will hurt this initiative and delay our economic prosperity. After all, the President said it best: "If not now, when? If not us, who?

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 569, the previous question is ordered on the conference report.

MOTION TO RECOMMIT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report.

Mr. DUNCAN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

Mr. DUNCAN moves to recommit the conference report on H.R. 4961 to the committee on conference.

The SPEAKER. Pursuant to House Resolution 569, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit offered by the gentleman from Tennessee (Mr. DUNCAN).

The motion to recommit was rejected.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 226, nays 207, not voting 1, as follows:

[Roll No. 303]

YEAS—226

Akaka
Annunzio
Anthony
Aspin
Atkinson
Badham
Bafalis
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Biaggi
Bingham
Boggs
Boland
Bolling
Bonior
Bowen
Breaux
Brodhead
Broomfield
Brown (CA)
Brown (OH)
Broyhill
Burgener
Butler
Byron
Carman
Chappie
Cheney
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Coughlin
Courter
Coyne, William
Davis
DeNardis
Derwinski
Dicks
Dingell
Donnelly
Dorgan
Dornan
Dougherty
Downey
Dunn
Dwyer
Early
Edgar
Edwards (AL)
Edwards (CA)
Emery
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Findley
Fish
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frenzel
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hall (OH)
Hamilton
Hance
Harkin
Hartnett
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Huckaby
Hughes
Hunter
Hyde
Ireland
Jeffords
Kastenmeier
Kennelly
Kildee
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman
Leland
Lent
Livingston
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NY)
Matsui
McClory
McCloskey
McCollum
McDade
McHugh
McKinney
Mica
Michel
Miller (CA)
Mineta
Mitchell (NY)
Moakley
Moffett
Montgomery
Morrison
Murtha
Nelligan
Nelson
Nowak
O'Brien
Oberstar
Obey
Oxley
Panetta
Pashayan
Pease
Pepper
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Roberts (KS)
Rodino
Roemer
Rosenthal
Rostenkowski
Roukema
Rudd
Russo
Sabo
Sawyer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Simon
Skeen
Smith (NE)
Smith (PA)
Snowe
Solarz
St Germain
Stanton
Stark
Swift
Tauke
Thomas
Udall
Vander Jagt
Vento
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wylie
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—207

Addabbo
Albosta
Alexander
Anderson
Andrews
Applegate
Archer
Ashbrook
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bethune
Bevill
Blanchard
Bliley
Boner
Bonker
Bouquard
Brinkley
Brooks
Brown (CO)
Burton, John
Burton, Phillip
Campbell
Carney
Chappell
Chisholm
Clausen
Clay
Collins (TX)
Corcoran
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
Dellums
Derrick
Dickinson
Dixon
Dowdy
Dreier
Duncan
Dymally
Dyson
Eckart
Edwards (OK)
Emerson
English
Evans (GA)
Evans (IN)
Ferraro
Fiedler
Fields
Fithian
Flippo
Florio
Fountain
Frank
Fuqua
Garcia
Gaydos
Gilman
Gingrich
Ginn
Gonzalez
Gray
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hiler
Hopkins
Howard
Hoyer
Hubbard
Hutto
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kindness
Kogovsek
Kramer
Lantos
LeBoutillier
Lee
Levitas
Lewis
Loeffler
Lowery (CA)
Luken
Lundine
Lungren
Martin (NC)
Martinez
Mattox
Mavroules
Mazzoli
McCurdy
McDonald
McEwen
McGrath
Mikulski
Miller (OH)
Minish
Mitchell (MD)
Molinari
Mollohan
Moore
Moorhead
Mottl
Murphy
Myers
Napier
Natcher
Neal
Nichols
Oakar
Ottinger
Parris
Patman
Patterson
Paul
Perkins
Peyser
Ratchford
Rinaldo
Ritter
Roberts (SD)
Robinson
Roe
Rogers
Rose
Roth
Rousselot
Roybal
Santini
Savage
Schroeder
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stokes
Stratton

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Studds
Stump
Synar
Tauzin
Taylor
Traxler
Trible
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Weber (MN)
Whitley
Whittaker
Whitten
Winn
Wolf
Wortley
Wyden
Yatron
Young (AK)
Zeferetti

NOT VOTING—1

Scheuer

□ 1800

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 398) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 398

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In the table of contents of the bill—

(A) insert after the item relating to section 281 the following new item:

"Sec. 281A. Technical provisions relating to tax on transportation of persons by air."; and

(B) insert after the item relating to section 349 the following new item:

"Sec. 349A. Extension of period for redemption of real property."

(2) Immediately before the section heading for section 116 of the bill, insert the following:

"Subpart C—Other Payment Provisions".

(3) In section 1916(a)(2) of the Social Security Act (as added by section 131(b) of the bill), insert "and" at the end of subparagraph (D).

(4) In section 1916(b)(2) of the Social Security Act (as added by section 131(b) of the bill), insert "and" at the end of subparagraph (D).

(5) In clause (viii) of section 168(f)(8)(D) of the Internal Revenue Code of 1954 (as added by section 208(b)(3) of the bill), strike out "Definitions" and insert in lieu thereof "Definition".

(6) In paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (as amended by section 209(a) of the bill)—

(A) strike out "the taxable year" in subparagraph (B)(vii)(II) and insert in lieu thereof "the calendar year", and

(B) strike out "For purposes of" in subparagraph (C)(iv) and insert in lieu thereof "Agreement otherwise lease, etc.—For purposes of".

(7) In clause (ii) of section 168(i)(1)(D) of the Internal Revenue Code of 1954 (as amended by section 209(b) of the bill)—

(A) strike out "(other than any deduction for interest)" in subclause (I), and

(B) strike out subclause (III).

(8) In subparagraph (B) of section 954(h)(2) of the Internal Revenue Code of 1954 (as added by section 212(c) of the bill), strike out "any preceding" and insert in lieu thereof "the preceding".

(9) In section 222(f)(2)(D)(iv) of the bill, strike out "subclause (I)" and insert in lieu thereof "subclause (II)".

(10) In section 222(f)(4) of the bill, strike out "229" each place it appears and insert in lieu thereof "224".

(11) In section 269A(b)(3) of the Internal Revenue Code of 1954 (as added by section 250 of the bill), strike out "106(b)(6)(C)" and insert in lieu thereof "103(b)(6)(C)".

(12) In section 256(d)(3) of the bill strike out "contract, the reinsurer" and insert in lieu thereof "contract which the reinsurer".

(13) In section 260(a) of the bill, strike out "section 259(a)" and insert in lieu thereof "section 258(a)".

(14) Subsection (1) of section 4041 of the Internal Revenue Code of 1954 (as added by section 279(b) of the bill) is amended by striking out "System Development" and inserting in lieu thereof "Improvement".

(15) Subsection (e) of section 4261 of the Internal Revenue Code of 1954 (as added by section 280(a) of the bill) is amended by striking out "System Development" and inserting in lieu thereof "Improvement".

(16) In section 9502(d)(1)(A) of the Internal Revenue Code of 1954 (as added by section 281(a) of the bill)—

(A) strike out "(as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act)", and

(B) strike out "Airport and Airway System Development Act of 1982" and insert in lieu thereof "Airport and Airway Improvement Act of 1982 (as such Acts were in effect on the date of the enactment of the Airport and Airway Improvement Act of 1982)".

(17) After section 281 of the bill, insert the following new section:

SEC. 281A. TECHNICAL PROVISIONS RELATING TO TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) Technical Modifications to Transportation of Passengers by Air.—

(1) Longer layover permitted to qualify as uninterrupted international air transportation.—Paragraph (3) of section 4262(c) (defining uninterrupted international air transportation) is amended by striking out "6 hours" each place it appears and inserting in lieu thereof "12 hours".

(2) Authority to waive 225-mile zone provisions.—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection:

"(e) Authority to waive 225-mile zone provisions.—

"(1) In general.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement, the term '225-mile zone' shall not include part or all of the country with respect to which such determination is made.

"(2) Termination of waiver.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

"(3) Qualified agreement.—For purposes of this subsection, the term 'qualified agreement' means an agreement between the United States and Canada or Mexico (as the case may be)—

"(A) setting forth that portion of such country which is not to be treated as within the 225-mile zone, and

"(B) providing that the tax imposed by such country on transportation described in subparagraphs (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

"(4) Requirement that agreement be submitted to congress.—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

(3) Effective date.—The amendments made by this subsection shall apply to transportation beginning after August 31, 1982.

(b) Manner in Which Tax on Transportation by Air Is Required To Be Shown on Airline Tickets.—

(1) General rule.—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows:

"(a) Tickets.—In the case of transportation by air all of which is taxable transportation (as defined in section 4264), the ticket for such transportation shall show the total of—

"(1) the amount paid for such transportation, and

"(2) the taxes imposed by subsections (a) and (b) of section 4261."

(2) Effective date.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

(18) In Section 289(b) of the bill, strike out "of such Act" and insert in lieu thereof "of the Second Liberty Bond Act".

(19) In Section 310(d)(3) of the bill, strike out "warrant for" and insert in lieu thereof "warrant or".

(20) In Section 6053(c)(1)(D)(ii) of the Internal Revenue Code of 1954 (as added by section 314 of the bill) strike out "6041" and insert "6051".

(20A) In Section 6053(c)(5) of the Internal Revenue Code of 1954 (as added by section 314 of the bill), strike out "paragraph (3)(A)(ii)" each place it appears and insert in lieu thereof "paragraph (3)(B)".

(21) In Section 604(a)(1) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(22) In the first sentence of section 604(a)(2) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(23) In the first sentence of section 604(b) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(24) In Section 605 of the bill, strike out "this title" and insert in lieu thereof "this subtitle".

(25) In Section 611(a) of the bill, strike out "section 85" and insert in lieu thereof "section 85 of the Internal Revenue Code of 1954".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SCHEUER. Mr. Speaker, I failed to vote on the last bill, the conference report on the tax bill. I was here, and I had my card in my hand. I was talking with my colleagues. I omitted to vote. Of course, I would have voted "aye."

CONFERENCE REPORT ON H.R. 6068, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 6068) to authorize appropriations for the fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes:

Conference Report (H. Rept. No. 97-779)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That titles I, II, III, IV, V, and VII may be cited as the "Intelligence Authorization Act for Fiscal Year 1983."

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1983, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 6068 of the Ninety-seventh Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1983, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 104. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1983 the sum of $12,125,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1983 the sum of $15,400,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and ten full-time personnel as of September 30, 1983. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1983, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1983, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detained on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1983, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1983 the sum of $91,300,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1982

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence Authorization Act for Fiscal Year 1982 (Public Law 97-89; 95 Stat. 1150), funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the United States Government. The amounts authorized to be appropriated under the preceding sentence are those specified for that purpose in the classified Schedule of Authorizations described in section 102.

CEILING ON THE EMPLOYMENT OF CIVILIAN PERSONNEL BY THE CENTRAL INTELLIGENCE AGENCY

SEC. 402. Section 102 of the Intelligence Authorization Act for Fiscal Year 1982 (95 Stat. 1150) is amended—

(1) by striking out in the first sentence "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) by adding at the end thereof the following:

"(b) The Director of Central Intelligence may authorize the employment of civilian personnel by the Central Intelligence Agency in excess of the number authorized by subsection (a) when he determines that such action is necessary to the performance of important intelligence functions, except that such additional number may not exceed two percent of the total number authorized for the Central Intelligence Agency by such subsection.

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"(c) The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any authorization to increase civilian personnel of the Central Intelligence Agency under subsection (b).".

TITLE V—PROVISIONS RELATED TO INTELLIGENCE AGENCIES

UNAUTHORIZED USE OF DEFENSE INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 501. (a) Title 10, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—DEFENSE AGENCIES

"Sec.

"191. Unauthorized use of Defense Intelligence Agency name, initials, or seal.

"§ 191. Unauthorized use of Defense Intelligence Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Intelligence Agency', the initials 'DIA', the seal of the Defense Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 7 the following new item:

"8. Defense Agencies .... 191".

AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES

SEC. 502. (a) Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (e) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)), the provisions of section 111 of such Act relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.".

(b) Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of enactment of this Act.

TITLE VI—RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SHORT TITLE

SEC. 601. This title may be cited as the "Central Intelligence Agency Spouses' Retirement Equity Act of 1982".

ANNUITANTS

SEC. 602. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by inserting "former spouses," after "including surviving wives and husbands,"; and

(2) by adding at the end thereof the following:

"(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this Act, at least five years of which were spent outside the United States by both the participant and the former spouse.".

COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

SEC. 603. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by inserting immediately above the section the following section heading: "COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES"; and

(2) by amending subsection (b) to read as follows:

"(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

"(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse, if the election is made (i) before the end of the 12-month period beginning on the date the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement of the participant.

"(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

"(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(4).

"(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

"(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

"(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.".

RIGHT OF ELECTION

SEC. 604. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 603 of this title, is further amended in subsection (g)—

(1) by inserting "(1)" after "(g)";

(2) by redesignating paragraphs (1) and (2) as clauses (A) and (B), respectively; and

(3) by adding at the end thereof the following:

"(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.".

SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

SEC. 605. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by sections 603 and 604 of this title, is further amended by adding at the end thereof the following:

"(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

"(2) The Director shall issue regulations to provide for the application of paragraph (1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 222(b).

"(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

"(o) The Director shall, on an annual basis—

"(1) inform each participant of his or her right of election under subsections (f)(2) and (n); and

"(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 222, 223, and 234(c), (d) and (e).".

COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

SEC. 606. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

"COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

"SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to any annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes final, whichever is later. The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

"(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph 4(B)).

"(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

"(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the salary of the annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

"(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

"(7) No spousal agreement or court order under section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant. No such court order relating to an annuity under this subsection may be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

"(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

"(B) Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221 (b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

"(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 263(b) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

"(3)(A) In accordance with regulations which the Director shall perscribe, the participant involved may provide for any annuity under this subsection—

"(i) by a reduction in the annuity or an allotment from the salary of the participant,

"(ii) by a lump-sum payment or installment payments to the fund, or

"(iii) by any combination thereof.

"(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

"(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

"(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

"(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

"(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

"(4) an annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

"(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

"(d) Section 221(1) shall not apply—

"(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

"(2) to any annuity payable under subbsection (c).".

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 607. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 606 of this title, is further amended by adding at the end thereof the following:

"ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

"SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982 has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

"(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982 as the Director may prescribe.

"(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).".

"(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 221(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

"(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) November 15, 1982 in the case of an election under subsection (b)(2).".

DISCONTINUED SERVICE BENEFITS

SEC. 608. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by striking out in subsection (a) "Any" and inserting in lieu thereof the following: "Subject to the limitations contained in subsections (c), (d), and (e), any"; and

(2) by adding at the end thereof the following:

"(c) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity under this Act and becomes entitled to receive a lump-sum payment under this section or section 241, a share of that lump-sum payment shall be paid to any former spouse of the participant in accordance with subsections (d) and (e).

"(d) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be—

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

"(e) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant—

"(1) only upon written notification by the Director to a current spouse of the participant, if any; and

"(2) only if the express written concurrence of that spouse has been received by the Director.".

SPOUSAL AGREEMENTS; COURT DECREES

SEC. 609. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out "None" in section 263 and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, none"; and

(2) by adding at the end thereof the following:

"(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.".

TECHNICAL AMENDMENTS

SEC. 610. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out in the first sentence of section 221(f) "Any" and inserting in lieu thereof the following: "Subject to the rights of former spouses under sections 221(b) and 222, any"; and

(2) by adding to subsection 221(1) the following paragraph:

"(4) This subsection shall not apply to the extent provided in section 222(d).".

COMPULSORY CONTRIBUTIONS

SEC. 611. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding at the end thereof the following new subsection:

"(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed thirty-five years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b), and any balance not so required shall be refunded in a lump sum to the participant after separa-

tion (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a current spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivor benefits for a current or former spouse or spouses.".

PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 612. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a-m) is amended by adding at the end thereof the following new section:

"RETIREMENT EQUITY FOR SPOUSES OF CERTAIN EMPLOYEES

"SEC. 14. (a) The provisions of sections 204, 221(b)(1)-(3), 211(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

"(b) The Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe such regulations as may be necessary to implement the provisions of this section.".

EFFECTIVE DATE

SEC. 613. (a) Except as provided in subsections (b) and (c) of this section, this title shall take effect on November 15, 1982.

(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title becomes a former spouse of an individual who separates from service with the Agency after such date.

(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, the provisions of section 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.

TITLE VII—GENERAL PROVISIONS

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 702. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EFFECTIVE DATE

SEC. 703. The provisions of titles IV and V and of this title shall become effective upon the date of the enactment of this Act.

And the Senate agree to the same.

EDWARD P. BOLAND,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
BOB STUMP,
CHARLIE ROSE,
ALBERT GORE, Jr.,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For matters falling within the jurisdiction of the Committee on Armed Services:
MELVIN PRICE,
SAMUEL S. STRATTON,
W. L. DICKINSON,
Managers on the Part of the House.

BARRY GOLDWATER,
MALCOLM WALLOP,
JAKE GARN,
W. V. ROTH, Jr.,
HARRISON J. SCHMITT,
DANIEL PATRICK MOYNIHAN,
D. K. INOUYE,
HENRY M. JACKSON,
PAT J. LEAHY,
LLOYD BENTSEN,
For matters of interest to the Committee on Armed Services:
J. W. WARNER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Comittee of Conference.

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill, and the classified report and appendix that accompanied the Senate amendment) are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions between the two Houses and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the Department of Defense Authorization Act, 1983, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation categories of Military Pay and Military Construction.

TITLE II—INTELLIGENCE COMMUNITY STAFF

The House bill authorized $17 million and 220 personnel for the Intelligence Community Staff in fiscal year 1983. The Senate amendment authorized $15.2 and 210 personnel for the Staff. The conferees agreed to a total authorization of $15.4 million and 210 personnel.

INTELLIGENCE COMMUNITY STAFF (ICS)—CONFERENCE ACTIONS—FISCAL YEAR 1983

[Dollars in millions]

Project	Fiscal year 1983 request	Changes			Authorization
		House action	Senate action	Conference action	
ICS computer	1.3	−1.3	−1.2	−1.3	
Personnel increase—funding	.4		−0.4	−0.4	
(Manpower)	(10)		(−10)	(−10)	
External contracts	4.5		−1.5	−1.2	3.3
Funding not at issue	12.1				12.1
(Manpower not at issue)	(210)				(210—
Total ICS funding	18.3	−1.3	−3.1	−2.9	15.4
Total ICS manpower	(220)		(−10)	(−10)	(210)

ICS Computer (millions): −$1.3

The conferees were in agreement that the IC Staff may receive computer support from any agency of the Community provided such support is in keeping with other authorization decisions.

IC staff personnel (millions): −$0.4.

The conferees agreed to the Senate reduction.

External contracts (millions): −$1.2.

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The Senate reduced CIA external contracts by $1.5 million. The conferees agreed to a restoration of $0.3 million. The restored funds are to be earmarked as indicated in the classified annex to the joint explanatory statement.

SECTION 401

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill and classified report and appendix accompanying the Senate amendment) are shown in the classified annex to this joint explanatory statement.

SECTION 402

The Senate amendment contained a provision, section 402, which empowered the Director of Central Intelligence to authorize the employment of additional civilian personnel at the Central Intelligence Agency above the limit set by the Intelligence Authorization Act for Fiscal Year 1982, upon his determination that such action was necessary to the performance of important intelligence functions. Section 402 permitted this additional authorization to exceed the statutory limit by two percent of the fiscal year 1982 personnel ceiling and required that the authorization be reported promptly to the House and Senate Intelligence Committees. The House bill contained no similar provision.

The conferees agreed to the Senate provision. The conferees believed that, based on the presentation by CIA officials, an opportunity existed to hire new employees at CIA in several critically important fields. These were applicants whose qualifications would provide job opportunities in other areas of government or private industry. The conferees had agreed to increase the CIA personnel ceiling in fiscal year 1983 and felt that advancing the time within which certain new employees could be hired made good sense.

It is the understanding of the conferees that the authority granted by section 401 will be used to hire only those new employees who fall within areas of identified need. Section 401 represents the unique congruence of both opportunity and need within the last few months of the fiscal year. Ordinarily, such authority is not needed.

SECTION 502

The Senate amendment contained a provision, section 502, which would exempt the Central Intelligence Agency from the provisions of Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), the "Brooks Act." The House bill contained no similar provision. The conferees agreed to the Senate provision.

Section 111 authorizes and directs the Administrator of General Services to coordinate and provide for economic and efficient purchase, lease, and maintenance of automatic data processing (ADP) equipment by federal agencies. Section 111 grants the Administrator authority to provide ADP equipment for federal agency use through purchase, lease, transfer from other federal agencies, or otherwise, and to provide for ADP equipment maintenance and repair by contract or otherwise. The Administrator may delegate his ADP equipment procurement authority to federal agencies for reasons of efficiency or national security.

In addition to granting ADP equipment procurement authority to the Administrator of General Services, section 111 grants to the Secretary of Commerce authority to provide scientific and technological ADP advisory services to other agencies and to recommend uniform federal ADP standards to the President. The President has delegated his authority to establish uniform federal ADP standards to the Secretary of Commerce.

The Federal Property and Administrative Services Act generally does not affect the Central Intelligence Agency since section 602(d)(17) of the Act provides in pertinent part:

> "Nothing in this Act shall impair or affect any authority of— . . . (17) the Central Intelligence Agency; . . ."

However, section 111(e) of the Act provides in pertinent part:

> "The . . . provisions of section 602(d) of this Act shall have no application in the administration of this section. No other provision of this Act or any other Act which is inconsistent with the provisions of this section shall be applicable in the administration of this section."

Thus, unlike the rest of the Federal Property and Administrative Services Act, section 111 (the "Brooks Act") applies to the Central Intelligence Agency.

Since 1973, the Central Intelligence Agency has operated under a delegation of ADP equipment procurement authority from the Administrator of General Services. In the exercise of this delegated authority the Agency observes the Federal Procurement Regulations and the Federal Property Management Regulations. The General Services Administration periodically reviews CIA ADP equipment procurement under its delegated authority.

In its exercise of ADP equipment procurement authority the Agency must also observe the Federal Information Processing Standards, the uniform federal standards established by the Secretary of Commerce.

The Central Intelligence Agency, like the Department of Defense, uses automatic data processing equipment and services extensively in the conduct of intelligence activities. To conduct such activities effectively requires reliability, reasonable flexibility and speed, and the highest security in the acquisition of supporting automatic data processing equipment and services. Externally imposed ADP-related constraints diminish the effectiveness of this process. To resolve this conflict with respect to Department of Defense intelligence activities, the Congress included in the Fiscal Year 1982 DOD Authorization Act a new provision which excludes *all* Department of Defense ADP equipment and services procurement whose function, operation, or use involves intelligence activities from the scope of the Brooks Act (10 U.S.C. 2315(a)(1)).

The Congress also excluded from the scope of the Brooks Act DOD procurement of ADP equipment and services whose function, operation, or use, while not involving intelligence activities, is critical to the direct fulfillment of intelligence missions, except for routine administrative and business applications (10 U.S.C. 2315(a)(5) and (b)). This separate category of ADP procurement exclusion, in addition to the category involving intelligence activities, is unnecessary with respect to CIA. Unlike the Department of Defense, which has a great variety of national security-related responsibilities, the Central Intelligence Agency engages exclusively in intelligence activities, and the function, operation, and use of all CIA ADP equipment and services involves intelligence activities (Executive Order 12333, sections 1.8 and 3.4(e) (4 December 1981)). Thus, excluding CIA ADP equipment and services procurement from the scope of the Brooks Act is equivalent to the exclusion for DOD intelligence activities contained in 10 U.S.C. 2315(a)(1).

Such an exclusion is warranted. Since 1973, the Administrator of General Services has provided a delegation of authority for procurements under the Brooks Act. Likewise, when the Agency has sought a waiver of the Federal Information Processing Standards from the Secretary of Commerce, it has been granted. It appears clear that, over a considerable period of time, the Agency has always been able to make its case for exception from the statute's provision in the interests of the national security. Exempting the CIA entirely will not change the nature of CIA ADP procurements, but it is likely to result in more timely procurements and better security at no loss to the government as a whole, since the Agency's ADP procurements have always been creafted to meet the CIA's unique requirements and have not resulted in shared use by other agencies.

TITLE VI: RETIREMENT EQUITY FOR SPOUSES OF CERTAIN CIA EMPLOYEES

Both the House bill and the Senate amendment contained provisions designed to provide retirement equity for spouses of certain CIA employees. The conferees agreed to a modified version of the Senate provision.

The provisions of Title VI are substantially equivalent to those of section 814 and related sections of the Foreign Service Act of 1980, Pub. L. No. 96-464. These sections established a vested interest for spouses of Foreign Service officers in the officers' retirement benefits by entitling qualifying former spouses to a pro rata share of the employees' retirement annuities, survivor benefits and lump-sum disbursements paid from the retirement fund. The amount of these payments would be based on the duration of the marriage during the period of creditable government service. These interests are accorded the spouses in recognition of the difficulties of their life abroad in support of the professional activities of the officers and their contribution to fulfillment of the mission of the CIA. Providing these benefits automatically and directly from the fund in case of divorce will provide substantive and procedural protections for these persons. However, in individual cases in which the division of benefits specified by Title VI would be inappropriate, state courts (or the parties themselves through spousal agreement) will remain entirely free to review the division and reach an alternative disposition.

METHODOLOGY

The intent of both the House bill and the Senate amendment was to extend to the CIA the provisions of the Foreign Service Act of 1980 that dealt with the rights of former spouses. The House bill would have established the rights of the spouses in general terms and directed the Director of Central Intelligence and the Director of the Office of Personnel Management (for Civil Service Retirement and Disability System—CSRDS—participants) to implement them through regulations conforming to the relevant terms of the Foreign Service Act.

The Senate amendment would have adopted detailed statutory amendments, based on the provisions of the Foreign Service Act, to the CIA Retirement and Disability System (CIARDS) to guide the Director of Central Intelligence (and the Director of OPM, for the CSRDS participants) in prescribing regulations to implement the interests of the spouses.

In adopting the Senate approach, the conferees believe that no undue inflexibility is created by statutory amendments, which spell out in great detail the precise legal interests of the participants and their spouses. The Director of Central Intelligence and the Director of OPM are completely free to prescribe, within the legal framework that has been created, the procedures required to implement these interests.

The detailed provisions contained in the Senate amendment and adopted by the conferees have been drawn directly from the relevant provisions of the Foreign Service Act, with minimal conforming amendments to the Act which established CIARDS. Since the virtually identical provisions in the Foreign Service Act were enacted, the State Department has had nearly two years of experience in implementation and has developed an extensive body of regulations.

RETIREES IN THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM (CSRDS)

Both the House bill and the Senate amendment covered CIA employees who are retirees from CIARDS or the CSRDS, providing that the marriage upon which former spouse benefits is based was for at least ten years during the period of creditable government service of the participant, at least five years of which were spent outside the United States by both the participant and the former spouse.[1]

The House bill required further, however, that CSRDS payments would be affected only "in the case of an employee of the Agency on an immediate annuity under such system or who . . . dies while employed by the Agency."

The Senate amendment contained no similar restriction.

One effect of the requirements of the House bill would have been that the vested interests of the spouse, accrued during the period of marriage in Agency service, could have been defeated by a transfer of the participant to another federal agency prior to retirement. The conferees agreed that the need to close this loophole outweighed any possible administrative inconvenience that OPM might suffer in processing those few cases in which a long-time CIA officer, with at least five years overseas service, transfers late in his career to another civilian federal agency.

Under section 612, it is the Director of the Office of Personnel Management who has primary rulemaking authority for the CSRDS participants affected by these provisions, in consultation with the Director of Central Intelligence. The conferees feel that the Directors of OPM and Central Intelligence can minimize any recordkeeping difficulties by OPM in providing this special benefit. For example, CIA could provide in its rules that ex-employees of the Agency inform it of their retirement; OPM could require that the CIA inform it of the retirement of these individuals. CIA could also inform OPM of the few facts needed to compute the former spouse benefits in eligible cases: Whether the participant and spouse qualify for this treatment based on the duration of the marriage and extent of overseas service, and if so, how many days the marriage perdured during Agency service. Provided with this information, OPM would not have to earmark participant files for application of this procedure upon retirement. It should be noted that OPM already, under Pub. L. No. 96-366, must provide retirement benefits directly from the fund to former spouses if ordered by a court to do so. (Similarly, the Director of Central Intelligence is required to make payments from CIARDS directly to a former spouse if ordered to do so by a divorce court, under Ex. Ord. No. 12197, section 1-101(e), which conformed the Administration of CIARDS with the CSRDS in this regard.)

LUMP-SUM PAYMENTS

The House bill incorporated by reference provisions of the Foreign Service Act which entitled former spouses to a share of any lump-sum payment made to a participant from the retirement fund.

The Senate amendment contained detailed provisions which afforded the same entitlements as the House bill and also required the Director to notify a current or certain former spouses and obtain written consent to such a withdrawal of employee contributions to the retirement fund.

The conferees have accepted the Senate provision, modified to eliminate the requirement of consent by certain former spouses. These former spouses would already have a statutory entitlement to a pro rata-share of such payments. The purpose of the notice and consent provision is to ensure that the entitlement is not defeated by a lump-sum withdrawal by a still married employee.

TIME LIMITATIONS

The House bill incorporated by reference the substance of sections 806(b)(1)(C) and 814(a)(4) of the Foreign Service Act of 1980.

The Senate amendment struck the 12-month time limitations found in each of these provisions.

The conferees agreed to the House position, reinserting the 12-month time limitation in the detailed CIARDS amendments drawn from the analogous Foreign Service Act provisions. The inclusion of these time limits ensures that judicial divorce orders based in part on a division of benefits affected by this Act can become final.

In readopting the time limitations in CIARDS section 221(b)(1)(C), however, the final phrase of section 806(b)(1)(C) of the Foreign Service Act, "whichever comes first," has been left deleted. This is because this phrase would unnecessarily restrict marital partners from making alternative dispositions of survivor benefits after retirement but prior to a divorce.

ELECTION OF SURVIVOR BENEFITS FOR CERTAIN INELIGIBLE FORMER SPOUSES

The House bill incorporated by reference the terms of section 2109 of the Foreign Service Act enabling participants voluntarily to provide survivor benefits out of their uncommitted base for such benefits to persons who are former spouses at the time of this Title's enactment and thus are not eligible for its benefits.

The Senate amendment adopted detailed provisions from section 2109 but several subsections inadvertently were omitted.

The conferees have adopted the Senate language, modified to take the effective date provision into account, with the missing subsections reincorporated.

EFFECTIVE DATE

The House bill established an effective date of 30 days after enactment for Title VI.

The Senate amendment established an effective date of 90 days after enactment for Title VI.

The conferees agreed that Title VI should become effective on November 15, 1982.

Edward P. Boland,
Clement J. Zablocki,
Norman Y. Mineta,
Bob Stump,
Charlie Rose,
Albert Gore, Jr.,
J. K. Robinson,
G. William Whitehurst,
For matters falling within the jurisdiction of the Committee on Armed Services:
Melvin Price,
Samuel S. Stratton,
W. L. Dickinson,
Managers on the Part of the House.

Barry Goldwater,
Malcolm Wallop,
Jake Garn,
W. V. Roth, Jr.,
Harrison J. Schmitt,
Daniel Patrick Moynihan,
D. K. Inouye,
Henry M. Jackson,
Pat Leahy,
Lloyd Bentsen,
For matters of interest to the Committee on Armed Services:
J. W. Warner,
Managers on the Part of the Senate.

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LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was give permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I asked to proceed for 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of the day, and conceivably tomorrow.

Mr. WRIGHT. Will the distinguished minority leader yield?

Mr. MICHEL. Yes.

Mr. WRIGHT. Mr. Speaker, I will send to the desk a privileged resolution concerning the committee appointment for our newest Member, Mr. Martinez. Then, I will send to the desk a concurrent resolution for approval by the House and the Senate, that when we adjourn, we stand adjourned until 12 o'clock on Wednesday, September 8.

I understand there is one conference committee report that should take

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[1] The House bill did not contain a separate provision to cover CSRDS retirees. Rather, the phrase "agency retirement system" in the House bill was defined to include the CSRDS for participating CIA employees.

The Senate amendment contained a separate section 612 which established the general criteria for coverage of CSRDS retirees and ordered the Director of OPM to prescribe implementing regulations, in conformance with the relevant provisions of CIARDS.

The conferees, in adopting the detailed approach of the Senate amendment, modified section 612 to make clear by more detailed references to the relevant CIARDS provisions that those CIA employees and their spouses who come within the purview of Title VI are to be treated equally, whether the employee spouse is a member of CIARDS or CSRDS.

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maybe 5 minutes, the Communication Act.

We will have some unanimous consent requests, and then while awaiting the Senate's return of our concurrent adjournment resolution, we will take up the appropriations bill on military construction and proceed as far as we can with that. If it were possible to do it in a short period of time, perhaps we could finish that tonight, but when we adjourn tonight, whether or not that bill is completed, we would adjourn until Wednesday, September 8, and any further program will be announced later.

Mr. MICHEL. Do I gather then, for emphasis, that there will definitely be no session tomorrow?

Mr. WRIGHT. The gentleman is exactly correct. There is no session planned for tomorrow.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield.

Mr. CONTE. We may have a problem, though, which I mentioned on the floor yesterday, with the supplemental. If the President should decide to veto the supplemental, will we have to come back here?

Mr. WRIGHT. If the gentleman will yield further for a response, if the President were to veto the supplemental it contradicts my understanding of the situation.

Mr. CONTE. Beautiful. I thank the gentleman.

Mr. MICHEL. I thank the gentleman.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, AUGUST 19, 1982, TO WEDNESDAY, SEPTEMBER 8, 1982

Mr. WRIGHT. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 399) providing that when the House adjourns on Thursday, August 19, 1982, it stand adjourned until 12 o'clock meridian Wednesday, September 8, 1982, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 399

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 19, 1982, and that when the Senate adjourns on Thursday, August 19, 1982, or on Friday, August 20, 1982, or on Saturday, August 21, 1982, pursuant to a motion made by the majority leader in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Wednesday, September 8, 1982.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES

Mr. WRIGHT. Mr. Speaker, I call up a privileged resolution (H. Res. 572) designating membership on certain Committees of the House, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 572

Resolved, That the following-named Member be, and is hereby, elected to the following standing Committees of the House of Representatives:

Veterans' Affairs: Matthew G. Martinez, California.

Education and Labor: Matthew G. Martinez, California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 8, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 8, 1982.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 8, 1982, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

VETERAN'S ADMINISTRATION HEALTH-CARE PROGRAMS IMPROVEMENT AND EXTENSION ACT OF 1982

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6350) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

"(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

"(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.".

(b) Section 4107(f) is amended by striking out "paragraphs (2) through (8) of".

(c) Section 4107 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans' Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

"(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

"(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

"(4) The Administrator shall prescribe regulations for the implementation of this subsection.".

(d)(1) Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

(2) Not later than 300 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

(1) in subsection (a)—

(A) by striking out "full-time" in clause (1); and

(B) by adding below clause (4) the following new sentences:

"To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a 'part-time student'.)";

(2) in subsection (e)(1)(A)(i), by inserting "(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as the result of such extension)" after "years";

(3) in subsection (e)(1)(B)—

(A) by inserting "(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)" in division (iv)(I) after "Scholarship Program";

(B) by striking out "years; and" in division (iv)(II) and inserting in lieu thereof "years (or in the case of a participant who is a part-time student, one calendar year);";

(C) by inserting "and" at the end of division (v); and

(D) by adding at the end the following new division:

"(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility;";

(3) in subsection (f)—

(A) by inserting a comma and "except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section" before the period at the end of paragraph (1)(B); and

(B) by inserting "maximum" after "The" in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

"(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

"(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

"(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States."; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting "by virtue of their participation in such program (1)" after "Program shall not";

(B) by striking out "and shall not" and inserting in lieu thereof a comma and "or (2)";

(C) by striking out "employment" and inserting in lieu thereof "personnel"; and

(D) by striking out "while they" and all that follows through "clinical training".

(b)(1) Section 4143(b) is amended—

(A) by inserting "who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student" in paragraph (1) after "Scholarship Program";

(B) by amending paragraph (2) to read as follows:

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.";

(C) in paragraph (3)(B) by inserting "the later of (i) the date upon which the participant completes such participant's course of training, or (ii)" after "is"; and

(D) by adding at the end the following new paragraph:

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.".

(2) Section 4143(c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a)

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of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.".

"(c) Section 4144(b) is amended—

(1) in clauses (1) and (2), by striking out the semicolon at the end and inserting in lieu thereof a comma;

(2) by striking out the semicolon and "or" at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and "or"; and

(4) by inserting after clause (4) the following new clause:

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.".

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,".

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983,", respectively.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

SEC. 7. Section 643 is amended by striking out "of any war".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorized to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years.".

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans' Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, the House originally passed this bill on June 15, 1982. The Senate took up the measure on June 21, 1982, and struck all of its provisions after the enacting clause and substituted a companion measure, S. 2385, and returned it to the House. Since that time we have been working with the Senate Veterans' Affairs Committee to reach a compromise agreement on the final provisions of this bill.

Mr. Speaker, the compromise agreement would:

First, provide discretionary authority to the Administrator of Veterans' Affairs to pay premium pay to VA nurses for Saturday work.

Our Subcommittee on Hospitals and Health Care has found that a major factor contributing to the nationwide shortage of VA nurses is the inability of the Department of Medicine and Surgery to successfully compete with the private sector for nursing personnel. Difficulty in recruiting and retaining nurses without this needed flexibility to provide incentive plans would only exacerbate this shortage.

The proposed amendments would also provide the Administrator with authority, when he determines it to be necessary in order to retain the services of nurses at VA health care facilities, to consider nurses who work two regularly scheduled 12-hour tours of duty within the period commencing midnight Friday and ending midnight the following Sunday to have worked a full 40-hour basic workweek.

Second, amend subchapter IV of chapter 73 of title 38, United States Code, the "Roberts" scholarship program, to provide for an expansion of the program. Registered nurses currently employed by the Veterans' Administration on a full-time basis who desire to pursue part-time training for a baccalaureate or advanced degree or other health-care personnel, such as licensed practical or vocational nurses, would be able to participate in the scholarship program.

This provision would make current employees eligible for financial assistance from the Veterans' Administration while pursuing training as part-time students. In addition, it would provide the Administrator with the authority to prescribe the conditions under which part-time students would be obligated to serve the Veterans' Administration as full-time registered nurses based on VA support while pursuing such training.

Third, amend section 601(4)(C)(v) to extend for 1 fiscal year, or until September 30, 1983, the Administrator's authority to waive certain restrictions, based on the provision of hospital care and medical services, for treatment of eligible veterans who are residents of the Commonwealth of Puerto Rico and the Virgin Islands.

The loss of the Administrator's authority to waive these restrictions would place an undue hardship on eligible veterans in Puerto Rico and the Virgin Islands now being furnished essential services by limiting the provision of such services in Government and private facilities to the annually determined incidence of such care in the 48 contiguous States. The Veterans' Administration Medical Center in Puerto Rico is unable to meet the demand for care of veterans in that area.

Mr. Speaker, the Committees on Veterans' Affairs of the House and Senate desire to permanently resolve the provision of medical services and hospital care to veterans who are residents of Puerto Rico and the Virgin Islands at the earliest possible date. We expect the Administrator of Veterans' Affairs to immediately develop comprehensive plans for providing such care within VA facilities, to the extent that new construction of VA facilities may be involved. We expect the Administrator to develop the needed project or projects, including bed sizing and cost estimates, for inclusion in the President's budget. In the joint statement following these remarks, the two Veterans' Affairs Committees direct the VA to provide them by December 1, 1982, a specific, detailed proposal, including construction, of what the VA considers necessary for the provision of health care to eligible veterans in Puerto Rico and the Virgin Islands. Such submission is considered essential for the committees to evaluate the proposal and to plan for any short-term extension of the fee-basis authority that is being granted in H.R. 6350.

Fourth, restores VA civilian health and medical program (CHAMPVA) eligibility for the spouses and children of certain severely disabled service-connected veterans who lose such eligibility by virtue of becoming eligible for hospital benefits under part A of medicare, and the latter benefits have been exhausted due to limitations placed upon the beneficiaries. The spouses and dependent children of totally and permanently service-connected disabled veterans, survivors of veterans who died of a total and permanent service-connected disability, or survivors of members of the Armed Forces who died while on active duty in the military service would not again lose their CHAMPVA benefits by virtue of later becoming eligible for benefits under medicare.

It would also encourage the Veterans' Administration to provide the medical care for these individuals in VA medical facilities to the extent such facilities are available, equipped to provide the care, and are not being used for the care of eligible veterans.

Fifth, extend the reporting period for the Administrator's report on the pilot program on alcohol and drug dependency and abuse required by section 620a(f) of title 38, United States Code, for 1 additional year.

Sixth, extend authorization of appropriations for the Administrator of Veterans' Affairs to make grants to State veterans homes to assist them in construction, modernization, or alteration for an additional 4-year period, or through fiscal year 1986.

Mr. Speaker, the remaining provisions of H.R. 6350 are technical amendments relating to payments to State veterans homes, and a report by the Administrator of the use of flexible and compressed work schedules by the Veterans' Administration.

There follows a more specific explanation of the differences between the House- and Senate-passed bill, and the proposed agreement:

Explanatory Statement on House Bill, Senate Amendment (S. 2385), and Compromise Agreement on H.R. 6350, the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982"

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

Both the House bill (section 1) and the Senate amendment (section 3) would amend subsection (e) of present section 4107 of title 38, United States Code, relating to rates of additional pay for registered nurses and (by virtue of subsection (f)) certain other health-care personnel employed in VA facilities under title 38, to give the Administrator discretionary authority, under paragraph (3) of that subsection, to extend on a nationwide, local, or other geographic basis the period for which additional pay is paid under that paragraph for certain work on a weekend—presently limited to a period of work that occurs at least in part on a Sunday. The House bill would have amended present paragraph (3) to authorize the Administratior to provide additional pay, at a rate of up to 25 percent of the applicable basic houly rate, for each hour of service on a tour any part of which is on a Saturday. Under the House bill, the Administrator would set the rate of such additional pay within a geographic area at a percentage, up to 25 percent, that the Administrator considers necessary to retain and recruit adequate nursing staff in that area. The Senate amendment would have amended present paragraph (10), relating to the Administrator's authority to modify rates of additional pay, to authorize the Administrator to provide additional pay—at a rate of 25 percent of the applicable basic hourly rate, the rate set forth in present paragraph (3)—for some of all of a tour that occurs on a Saturday. Under the Senate amendment, the authority would be available when its use is justified on the basis of a review of the need for it.

The compromise agreement (section 2(a)) contains a provision that would amend paragraph (10) of present subsection (e) to provide the Administrator with discretionary authority to extend, on a nationwide, local, or other geographic basis, the period for which additional pay is paid under paragraph (3) to include some or all of a tour that occurs at least in part on a Saturday. The authority would be available if the Administrator has determined that its use is necessary for recruitment and retention purposes and that the extension is justified on the basis of a review of the need for it in the geographic area involved. The rate of such additional pay for "Saturday" work would be set at a rate determined necessary for recruitment and retention purposes but not in excess of the percentage rate specified in paragraph (3)—25 percent under current law. As noted above, the Administrator has discretionary authority under paragraph (10) to increase that percentage. Such increase may be made where necessary for recruitment and retention purposes, and where the percentage has been increased, the higher percentage would replace the 25-percent limitation on additional pay for "Saturday" work.

The Senate amendment (section 3(1)), but not the House bill, would have further amended paragraph (10) to provide that any discretionary increase under that paragraph in rates of additional pay may be made on a nationwide, local, or other geographic basis, provided that the increase is justified by a specified review of the need for it.

The compromise agreement (section 2(a)) contains this provision and a provision (section 2(b)) amending subsection (f) of section 4107, relating to the general applicability of the additional-pay provisions in subsection (e) to physician assistants or expanded-function dental auxiliaries or both, to clarify that the provisions of subsection (e)(10) are applicable to these categories of personnel (that is, may be applied, as a matter of the Administrator's discretion, in the case of either category or both), based on the individual justification therefor.

Both the House bill (section 1) and the Senate amendment (section 3) would have further amended present secton 4107, relating to the pay of VA Department of Medicine and Surgery (DM&S) personnel employed under the DM&S title 38 personnel system, to authorize the Administrator, when necessary to recruit or retain registered nurses in DM&S, subject to specified limitations relating to rates of pay and computations of leave, to provide that a nurse may work two regularly-scheduled twelve-hour tours of duty during a weekend and have such service be considered a full forty-hour workweek.

The compromise agreement (section 2(c)) contains a provision derived from these provisions.

The House bill would have limited eligibility for participation in the "Baylor plan" program to VA nurses appointed under section 4104 of title 38, all of whom are permanent VA employees. The Senate amendment would have permitted all nurses appointed under subchapter I of chapter 73 to participate in the program, thereby making possible the participation of temporary as well as permanent VA employees.

The compromise agreement would allow all VA nurses appointed under subchapter I to participate in the program. In adopting this approach, the Committees stress that they intend and expect that, to the extent that the use of this authority for weekend scheduling is necessary, the "Baylor plan" opportunity will first be offered to permanent employees and that it will be offered to temporary employees only as a last resort in order to obtain adequate nurse staffing.

Under the House bill, a nurse working such a weekend schedule—a so-called "Baylor plan" schedule—would be entitled to additional pay under subsection (e)(5) of present section 4107, relating to additional pay for overtime service, when the nurse's total officially ordered or approved service is in excess of either fifty-two hours during his or her administrative workweek (the period from Sunday to Saturday), eight hours on a day other than a Saturday or Sunday, or twelve hours on a Saturday or Sunday. Under the Senate amendment, such a nurse would be entitled to additional pay under subsection (e)(5) when the total officially ordered or approved service is in excess of either forty hours during the nurse's administrative workweek, eight hours on a day other than a Saturday or Sunday, or twenty-four hours within the weekend period during which the two regularly-scheduled twelve-hour tours of duty are worked.

The compromise agreement would specify that additional pay for "Baylor-plan" nurses would, with certain exceptions, be paid in accordance with the provisions of current law—section 4107(e) for permanent employees and, for temporary employees,

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section 4114(a), which authorizes temporary and part-time appointments and the administrative establishment of pay rates for those with such appointments. Thus, a "Baylor-plan" nurse would generally be entitled to overtime pay only for officially ordered or approved service that is in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours on a weekend, and would not be eligible for "night differential" pay (under section 4107(e)(2)) for tours beginning during the period between 6 P.M. and 6 A.M. on a Saturday or Sunday, for "holiday" pay (under section 4107(e)(2)) when a holiday occurs on a Saturday or Sunday, or—except as described in the next sentence of this discussion—for overtime pay (under section 4107(e)(5)) for work in excess of forty hours in an administrative workweek. However, if the administrator determines it to be further necessary in order to obtain or retain the services of nurses so as to obtain adequate staffing at a particular facility, a "Baylor-plan" nurse may be paid additional pay for service in excess of forty hours—or in excess of such number of hours over 40 that the Administrator determines with respect to that facility—in an administrative workweek.

REGULATIONS FOR IMPLEMENTATION OF CERTAIN SPECIAL PERSONNEL AUTHORITIES

The Senate amendment (section 10), but not the House bill, would require the Administrator, within 90 days after the date of enactment, to publish in the Federal Register, for a 60-day public-review and comment period, proposed regulations for the implementation of the discretionary authorities in section 4107(e)(10) (as proposed to be amended in part by section 2 of the compromise agreement) to increase rates of additional pay and (as proposed to be added by section 2 of the compromise agreement) to extend the period for which additional pay is paid for certain weekend work and the authority in present section 4107(g) to increase rates of basic pay for certain health-care personnel. The Administrator would be required to publish final regulations within 210 days after the date of enactment.

The compromise agreement (section 2(d)) contains this provision with amendments making this requirement applicable also to the "Baylor plan" regulations under new subsection (h) of section 4107 (as proposed to be added by section 2 of the compromise agreement) and extending to 120 days and 300 days the post-enactment deadlines for publication of proposed and final regulations, respectively, to implement all of these authorities.

The Committees note that these deadlines for the regulations are extended, upon the VA's request, to ensure that adequate time is provided for the agency to develop proposed regulations and fully to take into account the views of all parties before publishing final regulations. Also, Committees emphasize that these periods are only maximums. Thus, the Committees urge that every effort be made to publish final regulations in a lesser period of time.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

The Senate amendment (section 2), but not the House bill, would amend various provisions in subchapter IV of chapter 73 of title 38, relating to the VA's Health Professional Scholarship Program, to authorize the Administrator to provide scholarship assistance to VA health-care employees attending school on a part-time basis; to clarify that the amount of the stipend to be paid to a participant under the program may be modified so that the Administrator may limit, to tuition reimbursement and a nominal stipend, its payments to a VA employee participating in the scholarship program as a part-time student; to authorize, in the case of part-time students, an up-to-2-year extension of the 4-year limit on scholarships if the extension is in the best interest of the United States and the student maintains an acceptable level of academic standing; and to provide that sums appropriated for the purpose of making payments under the Scholarship Program shall remain available for that purpose until expended.

The compromise agreement (section 3) contains a provision derived from this provision with modifications—to limit the VA employees eligible for scholarship assistance for part-time study to those who are full-time employees when they apply for and are awarded a scholarship; to make a part-time student's scholarship contingent upon continued employment in a VA health-care facility and make the scholarship pay-back requirement (in section 4144(b) of title 38) applicable to a part-time student who fails to maintain such employment; to specify that no stipend may be paid to a full-time VA employee participating in the Scholarship Program; and to delete the provision extending the availability of appropriated funds.

The compromise agreement also contains certain conforming and clarifying amendments. These include amendments that would clarify the Administrator's responsibility (under section 4143(b)(2)) to act promptly with respect to the appointment and assignment of scholarship recipients after they have completed their training (where such action is necessary) so that they may begin to discharge their service obligations without undue delay; would clarify the provision (section 4142(c)) regarding the date on which a period of obligated service begins so as to specify, in the case of a scholarship recipient who is also a VA employee, that the period begins as soon as that individual has completed training and is appointed or assigned as a full-time employee in the Department of Medicine and Surgery in a position for which the training prepared him or her; and would make certain conforming changes in the provisions (section 4142(e)) specifying what must be included in the written contract between the Administrator and a scholarship recipient.

With respect to VA employee participation in the Scholarship Program, the Committees note their view that the first preference should be given to those VA employees who, by the length and quality of their VA service, have demonstrated their commitment to the agency. In this way, the Scholarship Program can promote retention not only through the requirement of a period of obligated service in return for scholarship assistance but also through the use of such assistance as a reward for continuity of service to the agency.

With reference to the requirement that VA employees be working on a full-time basis at the time of application and award, the Committees note that this requirement is intended to allow a full-time employee the option to apply to the VA for conversion to part-time service after being notified of the award of a scholarship and beginning the training course. As to the possibility of making the program available to applicants who are working in the VA on a part-time basis, the Committees note that the Scholarship Program is just now about to be implemented and that they intend to follow closely the award of scholarships to full-time employees. After experience has been gained in that regard, the Committees will give further consideration to the need for and desirability of legislation authorizing the award of scholarships to part-time VA employees.

With respect to the provision that would make funds appropriated for the program available until expended, this provision was not included in the compromise agreement in response to the request of the Appropriations Committees. In this connection, the VA has assured the Veterans' Affairs Committees that the $4 million appropriated for this program for fiscal year 1982 in the VA's medical administration and miscellaneous operating expenses (MAMOE) account will be fully obligated by September 30, 1982. With respect to future appropriations, the Veterans' Affairs Committees understand, as a result of staff discussions, that the Appropriations Committees will specifically take into account the need for the extended availability, beyond a single fiscal year, of funds made available for this program.

The Veterans' Affairs Committees are satisfied that, with these understandings, the duration of the availability of funding for the Scholarship Program will receive appropriate attention and that there is, therefore, no need to amend title 38 to extend the availability of appropriated funds for the program.

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 2) and the Senate amendment (section 4(2)) would amend present section 601(4)(C)(v) of title 38, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for one year—from September 30, 1982, until September 30, 1983—the VA's contract authority, in Puerto Rico and the Virgin Islands and other Territories and possessions of the United States, to provide hospital care for non-service-connected disabilities and such medical-care services as will obviate the need for hospital admission for such disabilities.

The compromise agreement (section 4) contains this provision.

The Committees note that this is the second, consecutive short-term extension—the first having been enacted on November 3, 1981, in Public Law 97-72—of this authority to provide certain fee-for-service care in Puerto Rico and the Virgin Islands, and that it is likely that further extension will be required before a permanent approach to providing appropriate and cost-effective health care to veterans in those locations can be developed. In order to move toward such an approach as quickly as is possible, the Committees consider it imperative that the VA take immediate steps to develop a comprehensive plan for providing such care and, to the extent that new construction is involved, prepare the needed project or projects for inclusion in the President's budget.

In order to be able to evaluate the VA's proposal in this regard prior to the time that a further, short-term extension of the fee-basis authority is required, the Committees direct that by December 1, 1982, the agency provide them with a specific, detailed proposal, including any construction project that the VA considers necessary, pertaining to health care for eligible veterans in Puerto Rico and the Virgin Islands and, most particularly, for meeting the health-care needs of those veterans included in that population who have service-connected disabilities.

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

The Senate amendment (section 5), but not the House bill, would amend present section 613 of title 38, relating to eligibility for medical care through the CHAMPVA program for the survivors and dependents of certain severely disabled service-connected disabled veterans, to provide for a reinstatement of CHAMPVA eligibility if an individual, after losing CHAMPVA eligibility by virtue of becoming eligible for hospital insurance benefits under part A of Medicare, exhausts some or all such Medicare eligibility.

The compromise agreement (section 5) contains this provision.

The Committees note that an amendment was enacted last year in Public Law 97-72 (section 105) to section 613(b) to facilitate the treatment in VA facilities of individuals eligible for health care through the CHAMPVA program where the use of those facilities for CHAMPVA beneficiaries would not interfere with the care or treatment of any eligible veteran. In this regard, the Committees urge that, to the extent feasible and with a view toward optimal utilization of VA health-care facilities, the VA use this authority as much as possible with respect to those whose eligibility would be restored under the compromise agreement as well as current CHAMPVA beneficiaries.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

The Senate amendment (section 6), but not the House bill, would amend subsection (f) of present section 620A of title 38, relating to the Administrator's report to the Committees on the pilot program of alcohol and drug treatment and rehabilitation being conducted under that section, to extend by one year both the due date of the report—from March 31, 1983, to March 31, 1984—and the end date of the period of pilot program operations to be covered in the report—from September 30, 1982, to September 30, 1983.

The compromise agreement (section 6) contains this provision.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

The Senate amendment (section 7), but not the House bill, would amend present section 643 of title 38, relating to payments to State veterans' homes for care provided to eligible veterans, to strike an anachronistic reference to service during a period of war as an eligibility factor for such payments. This would conform section 643 to section 641, which sets forth the operative criteria for payments by the VA to State veterans' homes.

The compromise agreement (section 7) contains this provision.

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

Both the House bill (section 3) and the Senate amendment (section 8) would amend present section 5033(a) of title 38, relating to the authorization of appropriations for matching-fund grants to States for the construction of State veterans' home domiciliary and nursing-home facilities and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing-home, or hospital care in State veterans' homes, to extend the current authorization of appropriations (at a level of "such sums as may be necessary"). The House bill would extend the authorization for three years (through fiscal year 1985); the Senate amendment would extend the authorization for four years (through fiscal year 1986).

The compromise agreement (section 8) contains a provision to extend the authorization for four years, through fiscal year 1986.

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

The Senate amendment (section 9), but not the House bill, would amend present section 5054(b) of title 38, relating to the discretionary authority to make available to non-VA medical facilities, particularly those near VA facilities in remote areas, VA educational facilities and programs and the VA electronic communications capability linking such VA facilities to major medical centers and to charge a fee for such services, to include an express reference to State veterans' homes as part of the surrounding medical community eligible to participate in such reimbursable medical information programs.

The compromise agreement (section 9) contains this provision.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

The Senate amendment (section 3(2)), but not the House bill, would have further amended section 4107 (see the first part of this statement for discussion of the other amendments), to authorize the Administrator, upon a determination that it is necessary in order to recruit or retain certain specified categories of health-care personnel in DM&S, to permit the use by such personnel, on a nationwide, local, or other geographic basis, of the flexible and compressed work schedules that were described in regulations and guidelines issued by the Office of Personnel Management in order to carry out the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390. This authority would have been available through fiscal year 1987, and the Administrator would have been required to report to the Congress, not later than four years after the date of enactment, on the results of the use by the VA of such alternative work schedules, both as authorized by this provision and otherwise. The mandated report would include an evaluation of the effects of the use of such schedules on the recruitment and retention of health-care personnel, together with recommendations for administrative or legislative action, or both, based on the VA's use of and need for such schedules.

The compromise agreement does not contain the provision authorizing the VA to utilize such alternative work schedules. In light of recent enactment of Public Law 97-221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which provides government-wide authority to utilize alternative work schedules until July 23, 1985, the Committees do not believe that the VA-specific authority proposed in the Senate amendment is needed at this time.

However, because of the Committees' strong interest in the results of the VA's use of this authority, the compromise agreement (section 10) contains a provision, derived from the Senate provision, requiring the Administrator to submit a report—not later than July 1, 1985, one year prior to the expiration of the new government-wide authority—on the VA's experience under that authority. The Committees intend to study that report carefully so that they will be able to assess the VA's use of that authority and to consider again, prior to the expiration of the government-wide authority, the desirabilty of providing the VA with agency-specific authority.

CONTRACT CARE FOR WOMEN VETERANS

The Senate amendment (section 4(1)), but not the House bill, would amend present section 601(4)(C)(iv) of title 38, relating to the Administrator's authority to provide contract hospital care to women veterans, to expand that authority so as to allow the Administrator to provide, on a fee basis, such outpatient medical services as are needed pre- or post-hospitalization or that would obviate the need for hospital admission for non-service-connected, gender-related disabilities of a woman veteran that the VA itself is not able to treat.

The compromise agreement does not contain this provision. Rather, in light of the expected increase in demand for VA medical services from women veterans in the coming years, the Committees believe that it would be preferable for the agency to build up its in-house staff capacity to meet the gender-related needs of these veterans for outpatient care and are concerned that the new fee-for-services authority proposed in the Senate amendment might discourage that result if enacted. The Committees note that, in those cases in which a particular VA facility does not have the capacity directly to provide such care to an otherwise eligible woman veteran, authorities under two provisions of title 38—section 4117 (authority to contract for scarce medical specialist services) and section 5053 (authority to enter into agreements for sharing of specialized medical resources)—are available to and should be used by the VA to arrange for furnishing the needed care.

The Committees intend to monitor closely the VA's efforts to meet the health-care needs of the growing population of women veterans and will consider legislative action in the future if that appears necessary.

Mr. Speaker, this is an excellent bill which is essential to the provision of quality health care to eligible veterans. I urge my colleagues to support this measure. I want to express my appreciation to my distinguished colleague, the ranking minority member of our committee (Mr. HAMMERSCHMIDT), the chairman of our Subcommittee on Hospital and Health Care (Mr. MOTTL), the distinguished chairman of the Senate Veterans' Affairs Committee (Mr. SIMPSON) and the very able ranking minority member of the Senate committee, (Mr. CRANSTON) for the cooperation they have provided in helping to resolve differences between the bills passed by the two bodies. The compromise agreement will enhance the quality of care to be provided to our Nation's veterans.

● Mr. MOTTL. Mr. Speaker, the House passed H.R. 6350 on June 15, 1981, by a vote of 390 to 0 and sent it to the other body. On June 21 the

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Senate amended the bill and returned it to the House.

Since that time we have been working with the Senate Veterans' Affairs Committee to come to an agreement on the measure.

The principal provisions of the compromise agreement are as follows:

First. It provides the Administrator of Veterans Affairs with the authority to pay premium pay to VA nurses who work on Saturdays.

It also grants the Administrator the authority to pay nurses who work two regularly scheduled 12-hour tours of duty between midnight Friday and midnight Sunday as if they had worked a full, basic workweek. A similar plan is being used in the private sector.

Second. It expands the existing VA nurse scholarship program to allow nurses employed full time by the VA to participate in this scholarship program on a part-time basis.

Third. The agreement would extend for 1 year the authority of the Administrator to provide hospital care and medical services to eligible veterans in the Commonwealth of Puerto Rico and the Virgin Islands.

Fourth. It also restores CHAMPVA benefits—the civilian health and medical program of the Veterans' Administration—for certain spouses or children of veterans with total, permanent service-connected disabilities.

Fifth. The agreement would extend by 4 years—through fiscal year 1986—the authorization of appropriations for the Veterans' Administration to make grants to States to construct, modernize, or alter State veterans homes.

These are the principal provisions of the House amendments being proposed. The remaining amendments are technical in nature.

I urge my colleagues to accept the amendments so the bill can be adopted by the Senate and sent to the President without further delay.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 6350 was a good bill when it passed the House on June 15 of this year. I believe it is now a better bill as a result of the compromise agreements with the other body which have been explained by Mr. MOTTL and by the chairman of the House Veterans Affairs Committee, the gentleman from Mississippi.

Passage of this legislation will enable the Veterans' Administration to better compete with the private sector in the recruitment and retention of nurses. This is so because we improve premium pay provisions of existing law and we improve the nurse scholarship program just recently enacted. The end result of H.R. 6350 will be enhancement of quality of care in the VA medical system.

The bill also provides for extension of expiring authority for VA to participate with the States in the providing of medical care in State extended care facilities. This participation is an excellent example of good Federal-State relationships and is a program that has long enjoyed the support of the Congress.

Finally, Mr. Speaker, H.R. 6350 extends a much needed special authority for contract medical care in Puerto Rico and the Virgin Islands. The extension is limited to 1 year during which time it is expected that the Veterans' Administration will present a construction plan to the Congress designed to finally solve medical care needs of veterans in those two important areas.

Mr. Speaker, I urge support of H.R. 6350 and I congratulate the gentleman from Ohio, Mr. MOTTL, the chairman of the Subcommittee on Hospitals and Health Care, and I also congratulate our chairman for his excellent work on an important bill.

Thank you, Mr. Speaker.●

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT OF 1982

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1526) to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "Federal Managers' Financial Integrity Act of 1982".

SEC. 2. Section 113 of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that—

"(ii) obligations and costs are in compliance with applicable law;

"(ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and

"(iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

"(B) The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings.

"(2) By December 31, 1982, the Director of the Office of Management and Budget, in consultation with the Comptroller General, shall establish guidelines for the evaluation by agencies of their systems of internal accounting and administrative control to determine such systems' compliance with the requirements of paragraph (1) of this subsection. The Director, in consultation with the Comptroller General, may modify such guidelines from time to time as deemed necessary.

"(3) By December 31, 1983, and by December 31 of each succeeding year, the head of each executive agency shall, on the basis of an evaluation conducted in accordance with guidelines prescribed under paragraph (2) of this subsection, prepare a statement—

"(A) that the agency's systems of internal accounting and administrative control fully comply with the requirements of paragraph (1); or

"(B) that such systems do not fully comply with such requirements.

"(4) In the event that the head of an agency prepares a statement described in paragraph (3)(B), the head of such agency shall include with such statement a report in which any material weaknesses in the agency's systems of internal accounting and administrative control are identified and the plans and schedule for correcting any such weakness are described.

"(5) The statements and reports required by this subsection shall be signed by the head of each executive agency and transmitted to the President and the Congress. Such statements and reports shall also be made available to the public, except that, in the case of any such statement or report containing information which is—

"(A) specifically prohibited from disclosure by any provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs,

such information shall be deleted prior to the report or statement being made available to the public.".

SEC. 3. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsection:

"(k)(1) The President shall include in the supporting detail accompanying each Budget submitted on or after January 1, 1983, a separate statement, with respect to each department and establishment, of the amounts of appropriations requested by the President for the Office of Inspector General, if any, of each such establishment or department.

"(2) At the request of a committee of the Congress, additional information concerning the amount of appropriations originally requested by any office of Inspector General, shall be submitted to such committee.".

SEC. 4. Section 113(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a(b)), is amended by adding at the end thereof the following new sentence: "Each annual statement prepared pursuant to subsection (d) of this section shall include a separate report on whether the agency's accounting system conforms to the principles, standards, and related requirements prescribed by the Comptroller General under section 112 of this Act.".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, but I would ask the chairman of the committee to explain briefly what H.R. 1526 contains. I rise in support of the bill and make the point that this is a bill originally introduced by the gentleman from Illinois (Mr. HYDE).

Mr. BROOKS Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS Mr. Speaker, the House passed H.R. 1526 by voice vote on May 18, 1981. The bill would require agency heads to sign an annual statement certifying the effectiveness of the agencies' internal accounting and administrative controls.

The Senate amendment incorporates, with only minor changes, the House provision requiring annual evaluations by agency heads of the agencies' systems of internal accounting and administrative controls. The Senate added a provision which would protect sensitive information. The Senate amendment also deletes a House provision which, in effect, restated current law requiring specified investigations by an inspector general.

The Senate amendment also makes minor modifications in the type of information to be provided Congress concerning original budget requests made by the Offices of Inspector General. The Senate amendment preserves the basic purpose of the provision, however, by requiring that the President specify in his budget message the amount of appropriations requested for each statutory Office of Inspector General.

Mr. Speaker, we have worked with the Senate of the language of their amendment and I can assure my colleagues that the Senate amendment is consistent with the original intent of the bill as passed by the House.

Mr. HORTON. Mr. Speaker, I support H.R. 1526, the Federal Managers' Financial Integrity Act, which amends the Accounting and Auditing Act of 1950 by requiring ongoing evaluations and reports on the systems of internal control used by each executive agency. It is a good product, one that reflects the continuing interest of the Government Operations Committee in financial accountability, effective audit followup, and other basic ingredients of sound financial management and good government.

H.R. 1526 would require the establishment of internal accounting and administrative controls at each executive agency in accordance with standards prescribed by the Comptroller General. These controls would provide assurances that all obligations and costs are in compliance with the law; that all funds, property, and other assets are protected against waste and mismanagement; and that all transactions are properly recorded. Standards would also be prescribed by the Comptroller General to insure the prompt resolution of all audit findings.

Once the standards have been prescribed by the Comptroller General, the Office of Management and Budget would be required to establish guidelines for the evaluation by agencies of their internal control systems. By December 31 of each year the head of each executive agency would be required to prepare a statement certifying that the agency's control system either is in compliance with the standards or is not in compliance. If the system is not in compliance, weaknesses must ge identified and a plan and schedule for correcting those weaknesses must be described in detail. The statements would be signed and transmitted to the President and to the Congress.

There are safeguards in the bill to protect against public disclosure of sensitive or classified information or of information specifically prohibited from disclosure by any provision of law.

Finally, the bill would require additional efforts on the part of the President and of the agency heads in preparation of annual budget documents. The President would be required to submit with annual budget information a simple statement on the amount of appropriations requested by the President for each Office of Inspector General. At the request of a committee of Congress, additional information concerning the orginal amount of appropriations requested by any inspector general shall be submitted to such committee.

Mr. Speaker, I believe that it is vitally important that the Congress know when agency financial systems do not meet appropriate GAO standards. H.R. 1526 will provide the Congress with the information it needs to keep track of the adequacy of these financial systems and will contribute substantially to reducing fraud, waste, and abuse of Federal programs.

For these reasons, I support H.R. 1526, Mr. Speaker, and urge its approval here today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 27, 1982, TO FILE REPORTS ON H.R. 6813, H.R. 6520, H.R. 6804, AND H.R. 6580

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Marine and Fisheries may have until midnight, Friday, August 27, 1982, to file reports on the bills, H.R. 6813, Federal Boat Safety Act amendments; H.R. 6520, Transfer of the Truman House Bridge Administration program; H.R. 6804, Subsistence and Allowance in Institute of Commodore Rank, Coast Guard; and H.R. 6580, the Sailing School Facilities Act of 1982.

The SPEAKER pro tempore (Mr. BRODHEAD). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING COASTWISE TRADING PRIVILEGES FOR THE VESSEL "SKYLARK"

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3126) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, do pass with the following, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That, notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883), or any other provisions of law to the contrary, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Sky Lark (official number 617395), owned by Edwin E. Corwin, of Costa Mesa, California, the vessel Tempest (official number 611985), owned by Charles H. Bundrant, of Seattle, Washington, the vessel Alani Lipine (official number 609822), owned by Albert J. Barder, of Boulder City, Nevada, and the vessel Sylvia, owned by Les Bolton of Everett, Washington, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade so long as such vessel is owned by a citizen of the United States.

SEC. 2. (a) The Secretary of Transportation is authorized and directed, at any time not later than 90 days after the date of the enactment of this Act, to transfer to the State of Hawaii, without consideration, all right, title, and interest of the United States in and to the United States vessel Chepachet, the former United States Navy ship Coffatot (AO-78).

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(b) Any interests transferred under this section shall revert to the United States if the Secretary determines that—

(1) the State of Hawaii has not taken control of the Chepachet within 90 days after its transfer;

(2) the State of Hawaii is using the Chepachet for operation or transportation purposes; or

(3) the State of Hawaii has not scrapped the Chepachet within 24 calendar months following the date of enactment of this Act.

SEC. 3. Notwithstanding the last sentence of section 2 of "An Act to authorize the foreign sale of certain passenger vessels" (Public Law 92-296; 86 Stat. 140), the Secretary of Transportation may permit United States Lines, within a reasonable period not to exceed 12 months from enactment of this section, to use the funds committed pursuant to that sentence as equity capital for the construction of new vessels or of new containers for vessels or the reconstruction of vessels which the Secretary of Transportation determines are made to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

Amend the title so as to read: "An Act to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Sky Lark to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes.".

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Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SNYDER. Mr. Speaker, reserving the right to object, there is no objection to this legislation that I am aware of, on our side of the aisle. The administration today delivered to the committee a letter recommending approval of section 3 added by the Senate. As the chairman has already stated, this legislation passed the House earlier this year and we are considering it today due to the fact the Senate added several provisions to the bill. As a result of that action, I had some concerns about these amendments and their affect. Accordingly, the bill has been delayed pending review of these provisions and until the administration was afforded an opportunity to comment upon them. I am now in a position to report to the Members that the administration has informed the committee about their views. Accordingly, I would like to read the following letter for the benefit of the Members from the General Counsel of the Department of Transportation.

DEAR MR. CHAIRMAN: This is in response to your request for the Administration's position on H.R. 3126, as amended by the Senate, a bill "to direct the Secretary of the Department in which the United States Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwide trade."

Prior to amendment by the Senate, this Department submitted reports on H.R. 3126 to the Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation, respectively. In these reports we stated that the Department was not in a position to comment on the merits of conferring coastwise trade privileges on the yacht *Sky Lark*. We note that, as amended by the Senate, the bill would also confer coastwise trading privileges on two additional vessels. Our position remains unchanged on this provision in the bill.

Section 2 of the bill would transfer title to a surplus United States Navy tanker vessel to the State of Hawaii, without consideration, for scrapping within two years after enactment. The Administration believes that the government should receive consideration for the vessel.

Section 3 of the bill would authorize the Secretary of Transportation to permit United States Lines to utilize the net proceeds from the sale of the SS *United States* as equity capital for the construction of new vessels or of new containers for vessels or the reconstruction of vessels which the Secretary of Transportation determines are made to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

This Department supports enactment of this provision, since it would provide U.S. Lines flexibility to finance vessel reconstruction or the construction of new containers, in addition to new construction. This provision would put U.S. Lines on an equal footing with other U.S. carriers, and is consistent with the Administration's thrust to provide even broader flexibility to U.S. carriers.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN M. FOWLER.

Mr. Speaker, as a result of the correspondence, I would urge my colleagues to pass H.R. 3126 as amended by the Senate, thus clearing the bill for the President.

Mr. Speaker, I would ask the chairman of the committee to explain to the Members what the three Senate amendments are.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, H.R. 3126 was passed by the House on December 15, 1981. On May 27, 1982, the Senate passed H.R. 3126 with an amendment, adding five distinct items to this legislation.

The first of these permits the vessel *Tempest* to engage in coastwise activities. The *Tempest* is a fish-processing vessel which although originally built overseas, has been operating legally in the Alaska fishery for 3 years. Recent problems with the Customs Service in regard to the transportation of materials used in processing fish makes it essential that this vessel be granted the right to operate in the domestic commerce. Incidentally, work done in a U.S. shipyard resulted in the expenditure of twice the original purchase price of the *Tempest*.

The second involves the *Alani Lipine*, a pleasure yacht capable of carrying six passengers, built in the United States, previously owned by a foreign citizen, but now owned by a U.S. citizen who plans to provide a luxury charter service in Hawaii.

The third item involves the vessel *Sylvia*. The *Sylvia* is a unique and historically significant wooden sailboat built in Denmark in the 19th century. The current owner has preserved the vessel and intends to use it for charter purposes to defray maintenance costs.

The fourth addition involves the *Chepachet*, the former U.S. Navy ship *Coffatotg*, which is to be transferred to the State of Hawaii for sale as scrap. This vessel was being used as an ocean test facility under a joint ocean thermal energy conversion (OTEC) program with the Department of Energy and the State of Hawaii until the program was canceled due to budgetary limitations. Hawaii wishes to dispose of the ship itself, using the proceeds from the sale of the vessel to narrow a shortfall in Federal funding for OTEC and other renewable energy programs in Hawaii. This proposal has the support of the administration. The language is identical to that in H.R. 5723, the authorization for the Maritime Administration reported by the Merchant Marine and Fisheries Committee on May 5, 1982.

The fifth and final change involves the use which can be made of certain funds deposited in a capital construction fund. In 1974, Congress allowed the United States Lines to sell a passenger ship to the Federal Government. The proceeds ($4.6 million) were required to be placed in a tax-deferred capital construction fund for construction of new vessels. This amendment would allow these funds to be used for reconstruction of existing vessels or purchasing new containers consistent with current requirements in section 607 of the Merchant Marine Act, 1936. All work would be done in the United States.

There is no known opposition within the maritime industry, the administration, or the House and Senate to any of the amendments added by the Senate.

Mr. BADHAM. Mr. Speaker, will the gentleman yield to me?

Mr. SNYDER. Further reserving the right to object, I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding under this reservation and I, too, will not object .

I want to say that H.R. 3126 originally started out as a bill having to do with a vessel in my district and I thank the chairman for his response to the bill and I thank the ranking minority Member.

H.R. 3126 will restore coastwise trading privileges to a U.S.-built vessel that had been sold, in part, to a person who was not a citizen of the United States.

The *Sky Lark*, official No. 617395, is presently documented as a yacht under a yacht license issued at Los Angeles, Calif., on April 1, 1980, with an endorsement prohibiting the vessel from employment in the coastwise trade.

Coast Guard records show that the *Sky Lark* was built in 1975 by Ericson Yachts, Inc., at Santa Ana, Calif., for Trans Pac Yachts, Inc. Subsequently, the vessel was transferred to Valentin H. Wirth and Maria A. Wirth. Mr. Wirth was not a citizen of the United States. Accordingly, pursuant to section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), the vessel lost its coastwise trading privileges.

Since the loss of coastwise trading privileges is a matter of law, these privileges can only be restored by legislation such as H.R. 3126.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

● Mr. HEFTEL. Mr. Speaker, the House of Representatives has on this day, August 19, 1982, taken from the Speaker's desk and passed H.R. 3126 as amended by the Senate and has sent the legislation to the President for his signature.

Section 2 of the legislation which is of particular interest to my State of Hawaii would give the Secretary of Transportation the authority to transfer to the State of Hawaii, without consideration, all right, title, and interest of the United States in the *Chepachet*, an ex-Navy tanker. The transfer is subject to a number of limitations. The State of Hawaii must take control of the vessel within 90 days of transfer; it cannot be operated or used for transportation purposes; and it must be scrapped within 24 calendar months following date of enactement.

This vessel was being used as an ocean test facility under a joint ocean thermal energy conversion program with the Department of Energy and the State of Hawaii until the program was canceled in 1981 due to budgetary limitations. The vessel is presently moored in Pearl Harbor, Hawaii, and was turned over to the Maritime Administration for possible disposal as scrap or for release to any Federal agency interested in using it. MarAd delayed offering the vessel for sale under the competitive bid procedures pending enactment of legislation to permit transfer of the vessel to the State of Hawaii.

It should be noted that the House Committee on Science and Technology (in Committee Report 97-94 dated May 19, 1981) encouraged the Department of Energy to take all steps possible to transfer title of the vessel to the State of Hawaii.

It is expected that the funds to be derived by the State of Hawaii from the scrapping of the *Chepachet* will be used to fund renewable energy projects and programs in Hawaii.

The proceeds that the State of Hawaii expects to realize from the sale of the vessel for scrap will help narrow a shortfall in Federal funding for the completion of the Seacoast Test Facility—potentially, the preeminent shore-based ocean thermal energy conversion and marine science research facility in the world—and other renewable energy projects and programs in Hawaii.

Mr. Speaker, I would like to take this opportunity to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. Jones, the distinguished ranking minority member, Mr. Snyder, and the distinguished chairman of the Merchant Marine Subcommittee, Mr. Biaggi, for helping to expedite the passage of this legislation.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3126.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL 5 P.M. FRIDAY, AUGUST 20, 1982, TO FILE REPORT ON MONETARY POLICY

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until 5 p.m. Friday, August 20, 1982, to file its report on monetary policy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 294

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 294.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4576, RURAL ENTERPRISE ZONE DEVELOPMENT ACT OF 1981

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Arizona (Mr. Stump) be removed from the list of cosponsors of H.R. 4576. the Rural Enterprise Zone Development Act of 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the bill, H.R. 6350.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 3239, COMMUNICATIONS AMENDMENTS ACT OF 1934

Mr. WIRTH. Mr. Speaker, I call up the conference report on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The Clerk read the title of the bill.

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the joint statement of the managers be read in lieu of the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of today, August 19, 1982.)

Mr. WIRTH (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

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The **SPEAKER** pro tempore. The gentleman from Colorado (Mr. Wirth) is recognized for 30 minutes.

Mr. **WIRTH**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3239. This report embodies an agreement between the House and Senate conferees on the Communications Amendments Act of 1982, and authorization of the National Telecommunications and Information Administration for fiscal year 1983 and 1984.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and cleaning up. The act still contains numerous instances of obsolete language, while also imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of changed circumstances.

While many of the provisions of this package of amendments are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in carrying out its duties, and in reducing the amount of unnecessary paperwork. Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. The budget saving provisions include authorizing the FCC to eliminate individual licensing of citizen band services, as well as those involving reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits.

In addition, the conference substitute repeals the sunset of the existing methodology for determining the reasonableness of rates for cable television pole attachments. The existing standard has resulted in adoption of a formula by the FCC which is fair to all parties and has worked extremely well.

Finally, the conference report reauthorizes the National Telecommunications and Information Administration of the Department of Commerce for fiscal years 1983 and 1984 at levels of $12.9 million and $11.8 million respectively. These amounts are below the current authorization level but provide for a sufficient level of funding to enable NTIA to effectively carry out its responsibilities in the area of public broadcasting.

I urge my colleagues to support passage of this conference report.

Mr. **BROYHILL**. Mr. Speaker, will the gentleman yield?

Mr. **WIRTH**. I yield to the gentleman from North Carolina.

Mr. **BROYHILL**. Mr. Speaker, I rise in support of the conference report.

This bill is to authorize appropriations for NTIA which is in the Department of Commerce, and also various amendments to the Federal Communications Act.

Basically it is a number of amendments to the act that have been requested and have been supported by the Commission and others for some time that are basically deregulation.

I would urge support. It had unanimous support of the conferees and bipartisan support on both sides of the Capitol. I would urge it be adopted at this time.

Mr. **WIRTH**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **BROYHILL**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXPRESSION OF GRATITUDE TO SPECIAL ENVOY PHILIP HABIB

Mr. **ZABLOCKI**. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 397) expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

The Clerk read the title of the concurrent resolution.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 397

Whereas a peaceful and just solution to the fighting in Lebanon is important to the continued viability of the overall Middle East peace process; and

Whereas Special Envoy Philip Habib has given freely of his time and energies to promote and support the vital national interests of the United States in peace in that critical region; and

Whereas, in furtherance of those national interests, Special Envoy Philip Habib has carried out with tireless dedication supremely difficult and demanding negotiations to bring an end to the tragic bloodshed in Lebanon: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress expresses its deep gratitude for the selfless and courageous service of Special Envoy Philip Habib, in the best tradition of American diplomacy, to negotiate an end to the siege of West Beirut and to achieve the removal of all foreign forces from Lebanon.

Mr. **ZABLOCKI** (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the Record.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. **BROOMFIELD**. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the chairman of our committee an opportunity to explain the purpose of this resolution.

Mr. **ZABLOCKI**. Mr. Speaker, will the gentleman yield?

Mr. **BROOMFIELD**. I am happy to yield to the gentleman.

Mr. **ZABLOCKI**. Mr. Speaker, I consider it an honor and a distinct privilege to join with the ranking minority member of the Committee on Foreign Affairs, the distinguished gentleman from Michigan (Mr. Broomfield), in sponsoring this resolution of commendation for a great and dedicated public servant, Ambassador Philip Habib.

Ambassador Habib's remarkable accomplishments, against all odds, as well as his unusual diplomatic skills, are a matter of public record and need little further elaboration. In his heroic and persistent effort to secure a just settlement to the Lebanese conflict, he has managed to maintain the confidence of a broad spectrum of conflicting interests and parties to the dispute. This, in itself, is a testament to his abilities and, I might add, to his character.

Above all, however, I would like to emphasize one additional point: Ambassador Habib has enjoyed a long, honorable, and very distinguished career in the Foreign Service of the United States. He has no further career ambitions and was, in fact, recalled from retirement by the President of the United States to undertake a thankless assignment of critical importance to this country and to the peace of the region.

Mr. Speaker, the role of Ambassador Habib and the universal confidence he has inspired among the disputants in the Lebanon crisis—speak for themselves. We own him, as a nation, a profound debt of gratitude.

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The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. **BROOMFIELD**. Mr. Speaker, further reserving the right to object, as a principal sponsor of this concurrent resolution, I strongly urge support of this effort to express the deep gratitude of the Members of this body for the contributions of Special Envoy Philip C. Habib to bring about an end to the tragic bloodshed in Lebanon.

On many occasions, he has been called upon to serve his country in resolving the most difficult and challenging problems in this particularly volatile region. His prowess in diplomacy and his negotiating skills are legend among his colleagues and foreign government officials. His successes are noteworthy.

Once again, in furtherance of the national interests of his country, he has carried out with dedication the extremely complex negotiations to end the horrible bloodshed and destruction in Beirut.

In the midst of the bitter fighting, Envoy Habib traveled to war-torn Beirut and deftly worked with the many concerned parties to effect a rapid cease-fire. He displayed not only personal courage, but incredible stamina in pursuing the long-term negotiating efforts. When a resolution of the problems appeared to be slipping away, his determination and professionalism prevailed; he resolved differences by urging compromise when necessary, and displayed sensitivity to the vital interests of the concerned factions. He brought together men with varying backgrounds and political positions, and urged them to stop the carnage. When personal meetings with high-ranking officials were critical to maintain momentum, he seized the moment and shuttled off to distant capitals in his quest for peace.

He is more than a man with a mission; I believe that because of his personal commitment and involvement with the Middle East, he has truly devoted his life to resolving the longstanding troubles in this strategic area of the world. It is perhaps fitting that a son of Lebanon should return to bring peace to his ancestral land.

I believe that the international community should reward these achievements by presenting Envoy Habib with the coveted Nobel Peace Prize.

As we approach the day for the implementation of the Habib Plan to bring about an end to the siege of West Beirut and the removal of all foreign forces from Lebanon, I encourage my colleagues to join me in expressing our sincere appreciation for Mr. Habib's distinguished service and historic accomplishments in working to bring peace to the Middle East.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I, too, wish to join in the tribute to this outstanding peacemaker who, despite all kinds of problems from all sides, in a very difficult situation, has helped to bring peace to a very troubled part of this world. We hope and pray that it will be a long-lasting peace. Our hats are off to a great Ambassador, Philip Habib.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman and the ranking minority member for bringing this resolution for a truly great American and a great peacemaker.

During the last several days in July, Mr. speaker, I had occasion to be in the Middle East, and on two occasions I met with Ambassador Habib in the course of his travels from capital to capital. While you could see very clearly the effects of these hard labors and stringent schedules upon him, he never lost hope. I came away from meeting with him with an optimism and an encouragement that this man, if anyone, could bring about the peaceful solution to the events there. He was universally respected by every one of the national leaders with whom he met and with whom we talked, and I simply want to add my word of commendation for Ambassador Habib.

Truly, "Blessed are the Peacemakers."

● Mr. MOFFETT. Mr. Speaker, I would like to join my colleagues in praising Presidential Envoy Philip Habib's extraordinary success in negotiating an end to the seige of West Beirut, and the removal of PLO guerrillas from that beleaguered city.

Against tremendous odds, Mr. Habib has averted a terrible clash in Beirut and laid the groundwork for a lasting peace in Lebanon, and, hopefully, in the Middle East.

I would like to insert in the Record at this point my comments before the Democratic Mid-term Conference regarding the Lebanon conflict. Our party made official its support for Mr. Habib's heroic efforts on behalf of peace.

Remarks of Representative Toby Moffett in Support of Siegel Resolution on Lebanon

In 1964, as a junior in college, I flew into Beirut as a Lebanese American who was being welcomed there for the first time by hundreds of relatives.

For those of you who went to and were ever in Lebanon before the destruction of the 1970s, you will remember very well that it was the pearl of the Mediterranean. It was an awesome experience to be welcomed by relatives, to have celebrations last for two and three days both in east and west Beirut, in Moslem communities like Tripoli, as well as in the mountains of northern Lebanon.

The next time I returned to Lebanon was in 1980, January of 1980, as chairman of a delegation charged with trying to figure out how Lebanon could be put back together again. The situation was quite different, to put it mildly, in 1980 than it had been in 1964. You could hardly recognize the country as the same country except for traces of the physical beauty.

The PLO had set up a state within a state, as we all know, and an intensive military operation. The Syrians, under the name of peacekeepers, had come in and done enormous damage, particularly in one section of Beirut, but also in other parts of the country.

We found a situation where one militia after another, one group after another—the Syrians, the PLO—could put 25,000 troops on the street. The central government was outnumbered something like 200,000 to 5,000 in terms of total armed might.

Now, what Mark Siegel is trying to do here, by proposing this resolution on the Middle East, is not to pass judgment on the current situation, but to do something very important: to recognize that at this moment there is a man in Lebanon named Phil Habib who probably doesn't have much in the way of instruction and guidance. If you read this language very carefully, it presents a perfect blueprint for what our policy should be in that part of the world.

I congratulate Mark for his craftsmanship because he has included the obvious things. He says we should focus on reunification and on restoration of Lebanon's sovereignty and independence, potentially breaking the vicious cycle of violence which has inflicted such tragic suffering on the people of Lebanon. He does not fall into the trap of including only the Christian people of Lebanon. We should all know that when Lebanon is put back together again, it will be put back together again with a difficult political equation, but one that is doable, and it will have to include the Moslems of Lebanon as well.

When we were in Lebanon in 1980, my conclusion was that the Moslems wanted everybody out as much as the Christians did. They wanted to be left alone. And what Mark Siegel's resolution is doing here is saying that is the major diplomatic challenge for the United States:

Disarm everyone other than the central army;

Remove the PLO state within a state military operation;

Have the Syrians go home and stay there;

And finally, after those agreements are made, have the Israelis go home—and they are perfectly willing to do that, as I read it.

I hope we will adopt this without any opposition. I think it is critically important that we adopt this. I think it is critically important for the people of Lebanon that we adopt this, and that the Democratic Party make the strongest possible statement that we want Lebanon left to the Lebanese, and we look forward to the day when we can have two great pro-Western allies side by side in that area of the world.

Text of Siegel Amendment

The Democratic Party believes that the current situation in Lebanon presents an opportunity for the reunification and restoration of Lebanese sovereignty and independence, free from any form of foreign occupation, potentially breaking the vicious cycle of violence which has inflicted such tragic suffering on the people of Lebanon for the last decade. International terrorism has been dealt a severe blow and Soviet influence has been reduced. The Democratic Party believes that the United States should exert every effort to reinstate Lebanese sovereignty and Israeli security. We support as well immediate humanitarian relief efforts by the United States to provide medicine, food, and other badly needed aid to the ci-

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vilian population of Lebanon. With strong and decisive leadership by the United States, a new opportunity exists to build a lasting peace for the people of Lebanon and greater security for Israel. We urge such leadership.●

Mr. **BROOMFIELD**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. OBEY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The **SPEAKER** pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **ZABLOCKI**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

FINANCING OF OUR NATIONAL ECONOMIC LIFE IS MATTER OF CENTRAL CONCERN IN AMERICA

(Mr. **WIRTH** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **WIRTH**. Mr. Speaker, the financing of our national economic life is a matter of central concern in America. The experiences of recent years have raised fundamental questions about the adequacy of capital formation in this country and about the continuing vitality of current laws regulating the financial intermediaries that raise and allocate capital.

In recent years we have witnessed dramatic changes in the American capital markets. High and volatile interest rates have resulted in a shifting of capital from long-term investments to short-term instruments offering liquidity. Money market mutual funds, less than a decade old, have emerged as deposit alternatives. The thrift industry, traditionally charged with funding home mortgage loans, today is seriously threatened, and its future mission is under serious debate. Insurance companies and pension funds—financial intermediaries which are now major factors in our capital markets—once had dramatically different roles.

The differences in regulatory treatment of commercial banks and securities firms, pension funds, insurance companies and other financial intermediaries reflect their previously separate and distinct roles. But the proliferation of new financial instruments in the market, mergers among financial and nonfinancial institution, and the general homogenization of institutions offering financial services, reflects dramatic changes in those roles. Distinctions between classes of institutions that were previously maintained by statutory boundaries are disappearing in the marketplace, as developments in telecommunications technology make certain geographic and product restrictions virtually obsolete.

It is clear that changes in the financial markets have in many ways outpaced the regulatory structure in form and content. Laws and regulations written after the great crash to insure the safety and soundness of institutions and protect investors could not anticipate the current shifts in investment patterns or the creation of many of today's new financial products and instruments. The blurring of functions among institutions has called into question the legally mandated separation of markets under Glass-Steagall and other laws, and the notion of applying sharply different regulatory approaches to institutions with different labels now performing much the same functions.

In the past, changes in regulatory policy have come about through piecemeal amendments. We have applied band-aids as small cuts have appeared: Regulation Q to the initial outflow of savings from thrift institutions; and last year, the all-savers certificate made its debut. Moreover, each proposed change which would benefit one group is fought by market participants from another group. Bills introduced to give thrifts certain powers of commercial banks and to permit banks to engage in securities activities are good examples: The recent experience in the Senate demonstrates the difficulty of gaining a consensus on these issues, even among similar institutions.

More and more, participants in the debate are turning to the regulators, who are called upon to give expansive or strained interpretations of existing laws.

I believe Congress must seek a comprehensive reexamination of this Nation's financial and investment institutions and other financial intermediaries and the regulatory structure overseeing those institutions. The legislation I am introducing today proposes the creation of a Commission on Capital Markets—composed of outstanding men and women representing the full spectrum of financial intermediaries, business, and labor—to work closely with the Congress in examining these issues.

The first charge in the Commission's review should be an evaluation of America's long-term capital requirements. What kinds of institutions and markets will we need in the future to meet those requirements? What will users of those institutions and markets—from consumers and small businesses, to governments themselves, require for their continued vitality and growth? How does the institutional structure and regulatory policy impact on the level of savings and capital formation, and upon our overall economic growth? How do these factors impact upon the efficient and fair allocation of capital to all business sectors and geographic regions? Finally, the Commission should assess whether significant legislative or regulatory changes in Federal and State financial policies are required to efficiently raise and allocate capital to meet this Nation's future needs.

The present regulatory structure was imposed to improve the efficiency, fairness, and safety of finanical intermediaries that raise and allocate capital in this country. Thus, deregulation should not be an end in itself. Concerns about safety and soundness—from which investor and depositor confidence flows—and concentration of financial power should be kept in mind throughout the review.

We have been fortunate that the financial system developed by those preceding us has served us so well for many years. But we are at a crossroads where we must develop policies that will insure the soundness of our institutions and continued growth of our economy for future generations. If we act now, with the counsel of those who are most knowledgeable, we can develop a workable, logical framework which will keep our financial institutions viable, and serve our economic needs, for the next 50 years.

UNITED PARCEL SERVICE'S 75TH ANNIVERSARY

(Mr. **LOWRY** of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LOWRY** of Washington. Mr. Speaker, I would like to take this opportunity to salute a little messenger company opened in Seattle in 1907 with $100 of borrowed capital. Today, its familiar brown vehicles serve every community in the contiguous 48 States, as well as Anchorage, Alaska and Oahu, Hawaii. The company that started with 6 messengers now has 114,000 employees in more than 1,000 locations. I am proud to congratulate that little messenger company, better known today as the United Parcel Service, on its anniversary of 75 years of dependenable service and share with you a brief history of the organization.

THE PIONEER DAYS IN SEATTLE

At night, ships heading into its harbor found its streets alive with pearls of light and the energy of high-spirited people flowing from all corners of its hilly landscape. This was

Seattle, early 1907, a time when people on their way to dig for gold in Alaska would stop for fresh stocks and merriment. Seattle—the City of Seven Hills—welcomed and inspired visitors, and rewarded those dreamers who chose to stay and test their mettle in the city just beneath the Gold Coast.

One thoughtful 19-year-old who chose to build his dream of a delivery service in Seattle was James E. Casey. In spite of his age, Jim had several years experience under his belt and had even tried his hand at another delivery service. Now he was determined to make his new dream work. In August 1907, with the help of another young partner, Claude Ryan, Jim brought the American Messenger Co. to life.

At first the fledgling company took on all sorts of assignments to gain a foodhold in Seattle, where other firms were already competing for business. Jim's original messengers—called foot pads because they often walked or used the trolleys for their work—did just about anything. Their assignments ranged from taking a blind man to a funeral, to tracing a husband for a jealous wife, to carrying chocolates and flowers, to the many ordinary calls, like bringing a satchel to the depot or carrying a tray of dinner and delivering a note.

In 1911, Jim's younger brother George joined the company to help solicit business: The young men tacked up placards near hotels advertising, "Want a Messenger?" for the "Best Service and Lowest Rates." In the early days, Jim took all the calls that came into the office, and personally instructed messengers on their assignments.

One competitor stood out in the early days—a congenial, imaginative young man named Evert "Mac" McCabe. Jim and Mac decided that a better service could be provided if they joined forces and in 1913 their two companies merged to form Merchants Parcel Delivery, a name more in keeping with the direction they wanted the business to follow.

By 1915, the firm had four automobiles, five motorcycles and 20 messengers. In 1916, Charlie Soderstrom became a partner and another force on the management team. To Charlie goes much of the credit for standardization of vehicles and use of the Pullman Brown color which identified the company's cars and, in later years, driver uniforms.

Yet the company still struggled in search of a direction. George Casey recalled: "We didn't know what rates we should charge, or what schedules we should keep * * *." It took the advent of World War I and three major new customers to give the young firm the direction it needed to help shape it into a thriving consolidated retail parcel delivery company over the three decades to follow.

THE RETAIL ERA

It was 1918—the year the company clearly became the consolidated delivery department for retail department stores and specialty stores.

A number of events encouraged the move into what is now called the retail era of UPS. World War I had made dramatic changes in the work force, prompting stores to consign their parcel deliveries to outside companies. Three stores: Fraser-Paterson, Rhodes, and Bon Marche, were the first major department stores to give Merchants Parcel Delivery their package business.

When the Seattle operation was running smoothly, the founders sought ways to expand their business. In December 1918, they took an option to purchase a small delivery company in Oakland, and the growth was on. It was in Oakland that the founders decided to change the name of the firm to United Parcel Service, although operations in Seattle remained as Merchants Parcel Delivery until 1925.

With Oakland's operation established, the founders set their sights on Los Angeles, which was growing faster than any other American city in 1922. Development here was not easy, but UPS persevered, confident that with high standards of service and appearance—it could win the trust of Los Angeles businesses.

It did. One innovation in the early days of Los Angeles was establishment of a wholesale business patterned after parcel post but with added features to meet service requirements of shippers. Inaugurated in 1922, United Express Service was the forerunner of the common carrier operation which was begun in earnest in the 1950's.

In 1924, UPS established suburban operating stations in Long Beach and Pasadena. These substations filled a need for the first feeder runs operated by UPS.

Attracted by the outstanding job UPS was doing in other areas, four of the five largest department stores in San Francisco invited UPS to set up a delivery service, which it did in 1925. Then, in 1927, Portland called for UPS business.

By the late 1920's UPS operations overall were on a profitable basis. A holding company was incorporated in 1927, when UPS of America was organized. Managers were given an opportunity to become shareowners in the business.

Around this time, Jim and Mac made several exploratory trips to the east coast to determine delivery needs of New York merchants. Jim wrote: "It is strange that someone has not discovered the wonderful opportunity that exists here. Maybe our chance will come some day."

Some day came in 1930, when three stores, Lord & Taylor, James McCreery and Co., and Hahnes turned over their delivery operations to UPS. Although it was difficult gaining that foothold in New York, UPS never let go of the commitment to high standards and service. Before World War II, UPS had inaugurated retail operations in Cincinnati, Milwaukee, Philadelphia, and Chicago. Thereafter, Detroit, Minneapolis, Pittsburgh, and Cleveland also became major centers of UPS retail delivery operations.

COMING OF AGE

Expanded retail store delivery operations, improvements in package-sorting systems and vehicles, a growing acceptance by the public of UPS delivery as part of American tradition and a war—this was the setting as UPS entered another new era.

There were many forces at work to help UPS take the bold new step into common carrier operations. During and after World War II, retail deliveries were dramatically reduced. Stores, regulated to curtail deliveries and save on gas and rubber, encouraged shippers to carry their own. Suburban branch stores and shopping centers came of age, further encouraging the drop in retail store deliveries. Only because UPS was serving more stores and had entered more cities, did volume continue to grow.

At the same time, parcel post rates were kept far below cost and it was difficult for private firms to keep their rates competitive. In 1950, Congress remedied the situation by putting enforcement teeth into the law requiring the Postmaster General to establish rates that covered costs. In 1951, when parcel post rates increased again, to more than double the pre-1949 level, private carriers could finally compete with the Postal Service.

It was decided to expand the company's limited common carrier operation. This was accomplished by extending to northern California the common carrier service then being rendered in the Los Angeles area only.

This was a highly regulated business, and Government approvals had to be secured every step of the way. UPS'ers began what was to become 30 years of extensive regulatory applications. After proceedings in which shippers testified to their needs for service, UPS secured the California extension and operations began Jan. 2, 1953. Two other common carrier seeds were planted in that year: operations were initiated in the commercial zones of Chicago and New York City.

The retail store delivery business continued to be important, but UPS soon realized that future growth would lie in a quality parcel delivery service as a common carrier primarily in competition with parcel post. To this goal UPS set its full energies. All

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facets of operation, administration and customer service were geared up.

THE GROWTH YEARS

Stimulated by that historic turn in 1953 toward common carrier service, UPS forged ahead into one of the most unprecedented periods of growth in the company's existence.

The common carrier developments extended into the 1960's and 1970's requiring innovations in equipment, systems and planning. UPS moved cautiously, demonstrating its capacity to serve first in smaller areas, then in larger ones. Always it demonstrated the ability to provide the highest level of service at rates equal to or lower than parcel post.

A climax to the chapter on common carrier service occurred in 1975, when the ICC gave UPS the authority to serve five additional States and the west coast was linked with the rest of the country.

In September 1980, UPS received ICC authority to remove the remaining geographical restrictions. UPS was finally providing interstate service from and to all points in the 48 States.

In the meantime, intrastate service was added in State after State. By 1982, UPS faced the need to secure intrastate authority in only Oklahoma and Texas.

In this, its 75th year, UPS has improved its service through the purchase of 21 Boeing 727 aircraft which it uses to provide expedited delivery service throughout our country. From that small beginning in Seattle to today, UPS has extended and improved its service until now, it provides prompt, dependable delivery to every person in 48 States and beyond.

U.S. ACADEMY OF FREEDOM

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, on June 8 President Reagan addressed the Parliament of Great Britain. In that address, he challenged the Western World to join the United States in a major effort to promote the growth of democracy—"a crusade for freedom." As you know, the President has initiated a comprehensive study to determine how the United States can realize this goal. He has called upon the Congress, along with representatives of business, labor, and other major institutions in our society for ideas.

Mr. Speaker, today I am introducing legislation which proposes to establish a U.S. Academy of Freedom whose function shall be to develop and implement programs to promote the growth of democracy and free and open societies throughout the world. I believe that this proposal will prove to be a major initiative in fostering free institutions and the infrastructure of democracy. The freedom initiative which I am proposing goes well beyond the global quest for peace—there is peace in East Germany, Hungary, and Czechoslovakia—but peace without freedom and the right of self-determination is contrary to human nature.

I would like to urge my colleagues to examine this proposal carefully.

The time has come to put freedom on the move. We are the leading advocates of a free and open society. Let us demonstrate to the world our burning desire to help people everywhere enjoy the benefits of living, working and realizing a quality of life—consistent with their own ideals, ideas, and goals. This is in marked contrast to the advocates of a closed-controlled society. I ask my colleagues to join me in this exciting freedom initiative.

By joining in the President's "crusade for freedom," we can light the darkest corners of the world—for people who hunger for a better life.

IN HONOR OF LT. COL. DAVID S. OSTERHOUT

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I would like to bring to the attention of the Congress the September 30, 1982, Air Force retirement of Lt. Col. David S. Osterhout, Office of the Secretary of Defense, Legislative Affairs.

I first met Dave when I came to Congress in 1976 and he was an Air Force liaison officer for the House. During his tour in the Liaison Office he was particularly helpful to Members and their staffs in understanding Air Force issues and in resolving constituent problems. His knowledge of the Air Force, his thorough understanding of congressional operations and his extremely personable manner made him very popular in this forum. Since being selected to coordinate overall Department of Defense issues with the House, Colonel Osterhout has become even more valuable to this Nation. He has demonstrated a complete grasp of the issues, combining a clear-cut understanding of Defense needs, while mindful of the responsibilities of the Armed Services Committee.

There is no doubt that his presence will be sorely missed by the Air Force, the Defense Department, and by the many Members of Congress, who have looked to him for valuable advice and counsel in recent years.

My colleagues and I salute Colonel Osterhout for his dedicated and faithful service to his uniform, his God, and his country. All his many friends in the Congress join me in wishing he and his wife, Priscilla, continued success and good fortune as they pursue new endeavors.

PROTECTION OF THE HOUSE AGAINST UNWARRANTED INVASION BY THE EXECUTIVE

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I have introduced a resolution today involving a matter of fundamental constitutional duty for the House to protect itself against unwarranted invasion by the executive. Actions by police agents have always been the method employed by ruthless kings who wished to compromise or destroy the independence of the elected representatives of the people.

In the present case, we have a colleague who invited a police agent or agents to carry out undercover operations on the premises of the House, who allowed that agent or agents to pose as House staff, and who then accused six members of illegal, possibly criminal misconduct. The gentleman in question (Mr. DORNAN) then refused to provide any evidence to support his accusations, nor even the names of those individuals he claimed to have violated civil or criminal laws.

At the very least, those actions impugned the House. More fundamentally, they are precisely the kind of actions that caused the Framers of the Constitution to provide the congressional privilege against executive harassment and intimidation. The authors of the Constitution never would have tolerated the kind of police activity invited by the gentleman from California, and would never have tolerated his subsequent accusations, which he refused to support with any shred of fact or evidence. These actions were dishonorable, they were an improper use of House facilities and privileges, and the House ought not leave unchallenged this dangerous vigilantism, which ultimately invites executive harassment and intimidation that clearly would compromise the independence and integrity of the House as the freely elected legislative body of the people. The constitutional privilege exists in order that we may speak and act freely—for if the representatives of the people cannot be free from harassment, intimidation, or entrapment, the people themselves cannot be free. That is the issue here, and it is a matter that cannot be ignored by any legislative body that is cognizant of the fragility of political freedom.

MILITARY CONSTRUCTION APPROPRIATION BILL 1983

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 561 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 561

Resolved, That during the consideration of the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, line 1 through page 8, line 21.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 561 waives points of order against H.R. 6968, the military construction appropriation for fiscal year 1983. The rule specifically waives points of order against the bill for failure to comply with clause 2 of rule XXI of the Rules of the House.

Clause 2 of rule XXI prohibits the consideration of provisions in an appropriation bill unless an authorization for those provisions has been enacted into law. To date, H.R. 6214, the military construction authorization for fiscal year 1983, has not been finally passed. The bill was passed by the House August 11 and while conferees have been named, it is not expected that the conference will begin to meet until after the August district work period. In order to provide for the expeditious and orderly consideration of the programs in H.R. 6968, the Committee on Rules has granted the waiver of clause 2, rule XXI as requested by the Committee on Appropriations. The waiver covers all appropriations in the bill.

The appropriations in H.R. 6968 closely track the provisions of the authorizing legislation by recommending $7 billion for military construction activities in fiscal year 1983. This figure is $500 million less than the authorization level reported from the House Armed Services Committee and all recommended appropriations are authorized in the committee reported bill.

Mr. Speaker and colleagues, I am sure we are all well aware of the lateness of the date. I would urge the adoption of this rule in order that the House may proceed to the consideration of this most important appropriation.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 561 is an open rule waiving certain points of order against our consideration of the military construction appropriations bill for 1983.

This rule waives all points of order that would otherwise lie against the bill because certain specified provisions fail to comply with clause 2 of rule XXI. Clause 2 of rule XXI prohibits appropriations that are not previously authorized by law, and this waiver is necessary because the appropriations contained in H.R. 6968 are not yet authorized by law.

The authorization bill, H.R. 6214, was passed by the House on August 11, and a conference between the members of the Committee on Armed Services and the other body will be held shortly.

Mr. Speaker, the Members will notice that the waiver provided by House Resolution 561 begins on the second page of the bill and runs through the eighth page of the bill. These are all the appropriating paragraphs in the bill. There is no doubt that this waiver is necessary, if we are to consider this vital legislation.

H.R. 6968 appropriates slightly over $7 billion for military construction activities during the 1983 fiscal year. These are the "brick-and-mortar" expenditures necessary to provide for construction, operation, and maintenance of our Nation's military facilities both here at home and overseas during 1983.

Mr. Speaker, the Subcommittee on Military Construction Appropriations, chaired by the able gentleman from Georgia (Mr. GINN) and the distinguished gentleman from Ohio (Mr. REGULA) conducted 22 days of hearing on the bill made in order by this rule. They have brought forth an excellent bill, one that deserves our support.

There was no controversy about the necessity for this rule in the Committee on Rules, and I urge my colleagues to adopt the rule.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GINN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio (Mr. REGULA) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6968, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. By unanimous consent, the first reading of the bill is dispensed with.

Under the unanimous-consent agreement, the gentleman from Georgia (Mr. GINN) will be recognized for 30 minutes and the gentleman from Ohio (Mr. REGULA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present today the fiscal year 1983 military construction appropriations bill. The $7 billion recommendation includes more than 1,000 projects in the United States and in 28 countries overseas. The program before you is $1.2 billion below the President's request in budget authority and $252 million below in outlays. The program is $470 million below our budget 302 allocation in authority and $163 million below in outlays.

I think too often we forget about the importance of military construction in the overall large defense spending picture. It should not be overlooked, because construction programs outlast both personnel and equipment and represent decisions that will be with us for 30 to 50 years. Military construction appropriations are also important because our building program sends a signal on what and where our military priorities are going in the future.

Our role in making decisions that have that degree of permanency and direction is one we take very seriously. The committee went to great lengths this year to establish a program that we believe provides for firm priorities, permanency, and addresses both readiness and quality of life in the military.

This year—more than any in the past—there was a need to examine the large $8.2 billion military construction request and weigh the highest priority military requirements against the need for fiscal restraint.

In assessing the Department's request, we found that it was possible, in fact, to recommend a strong military construction program and yet provide for a substantial billion dollars in savings.

Our priorities in this bill have been to increase readiness not only through operational and training facilities but also through better housing and facilities that support the quality of life in the military. We have made promises to individuals joining the military as

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volunteers, and to retain this system we must fulfill our commitments. We need to demonstrate that we recognize the worth of each person in the military by creating an environment that is conducive to professional and motivated work. You will find in this bill new or modernized unaccompanied personnel housing—barracks—for almost 30,000 people. This is the largest peacetime housing improvement program ever recommended. The $2.8 billion family housing appropriation and other support facilities will improve substantially the quality of life in the military.

The committee has also made a concerted effort to provide funding for improvements in Europe and the Persian Gulf to support improved readiness and, in the case of Europe, to address long neglected needs. You will find that in our report we have been quite critical of the lack of our NATO allies and Japan to be more responsive to the need for increased defense expenditures. We have specified areas that the Department of Defense is to pursue in order to obtain more support from our NATO allies and Japan.

The committee has also recommended changes to be made in DOD policy that will lead to savings in defense spending. For instance, in the area of planning and design, the committee has insisted on the development of an aggressive program to pursue architect and engineer liabilities and cost increases due to contract modifications and change orders. In the NATO infrastructure area, more than $150 million in recoupments owed to the United States have been identified that are to be pursued and paid.

In determining what reductions could be made to the program, the committee followed a general thrust:

First, eliminate overseas projects that have either uncertain country-to-country agreements or uncertain building plans. Estimated savings: $350 million.

Second, eliminate overseas projects that can or should be funded through NATO or host-nation support. Estimated savings: $55 million.

Third, concur in the Armed Services Committee authorization reductions. Estimated savings: $300 million.

Fourth, eliminate construction for programs in which program decisions have not been approved by Congress. This includes MX, ballistic missile defense, and binary chemical programs, none of which can be under construction in fiscal year 1983 because of decision delays. Estimated savings: $300 million.

Fifth, eliminate projects that are not fully justified or are too costly. Also, eliminate or reduce funding for nondefense items. Estimated savings: $170 million.

Sixth, reduce NATO infrastructure to reflect fiscal year 1983 recoupments and fiscal year 1982 carryover. Estimated savings: $50 million.

Seventh, reduce per unit cost of family housing by 10 percent because of good bidding climate. Estimated savings: $25 million.

Eighth, reduce high overhead and non-cost-effective family housing items. Estimated savings: $100 million.

Ninth, apply savings from good 1981 and 1982 bids toward fiscal year 1983 project funding. Estimated savings: $90 million.

In order to take advantage of the current good bidding climate, the committee has recommended funding several authorized projects in the United States that; First can be under construction in fiscal year 1983; Second, have a firm defense justification; and Third will offset higher costs in future years.

I urge the swift adoption of this bill for two important reasons: First, so that the Department can proceed with programs that provide for an essential foundation to our defense needs; and second, to provide $4 billion for construction within the United States, thereby providing 250,000 jobs in construction and related industries. Our action today will lead to an early initiation of both of these priorities.

Mr. Chairman, the committee is recommending appropriations totaling $7,000,249,000 for military construction projects for the Department of Defense and for family housing. The committee's recommendations reflect the current fiscal and economic conditions of the country and weigh the highest priority military requirements against the need for fiscal restraint.

The recommendation is $1,211,578,000 below the President's request and $61,003,000 below the final amount appropriated in fiscal year 1982.

The committee conducted a thorough and comprehensive review of this year's request, holding 22 different hearings on individual functional areas of the program. The areas focused on especially were the Persian Gulf/Indian Ocean construction, MX missile program, NATO and European construction, the Caribbean Basin, the security of nuclear weapons, quality of life in the military, and planning and design. I will highlight a number of major recommendations, which are explained in more detail in the committee report.

PERSIAN GULF/INDIAN OCEAN

The committee supports the continued development of necessary capabilities in the Persian Gulf area. The expansion and enhancement of existing facilities will help assure a continued flow of oil from the region while respecting the sovereignty of foreign states. A total of $700 million has been provided by the United States in the last 2 years for the development of facilities in Diego Garcia, Kenya, Oman, Somalia, and Portugal. The completion of facilities planned or under construction at these locations will cost the United States an additional $400 million, of which $156 million has been approved for fiscal year 1983. This program will provide the United States access to six separate airfields and three ports in the immediate Persian Gulf area, as well as providing a large capability for air and sea support from Diego Garcia and Lajes, Portugal.

Clearly the United States has assumed the leading role for maintaining the stability of this region. Neither our NATO allies nor Japan, who import over 70 percent of their oil from the Persian Gulf region, have taken any steps to support facility construction in the region or to develop other types of offsets to the large U.S. investment. In fact, certain Western European countries have recently concluded arrangements to build a natural gas pipeline from the Soviet Union. The United States has assumed total responsibility for assuring the flow of oil from the region at a time when we import less than 10 percent of our oil from there. Neither the Department of State nor the Department of Defense has taken any action on the committee's recommendation of the past 2 years to develop and aggressively pursue new burden-sharing concepts with NATO countries and Japan.

The Department, in addition to the funding mentioned earlier, has requested $178,600,000 in fiscal year 1983 to initiate construction of an additional facility at Ras Banas, Egypt. The total known cost of construction and minimal pre-positioned equipment for this facility is $948 million. The Congress denied funding of the initial construction requests in fiscal year 1982 because of the preliminary nature of development plans. Additionally, however, the House objected to the development of Ras Banas because of the lack of allied support, the lack of a country-to-country agreement, program uncertainties, and the need to more closely examine other facilities in the region. Despite these concerns the Department submitted an identical request as part of the fiscal year 1982 supplemental, which the House rejected.

The committee has approved requests for funding at the authorized level for all locations except Ras Banas in order that those facilities already planned or under construction can be completed. The committee has again rejected the current plan for Ras Banas and denied all funds requested to initiate construction.

CARIBBEAN BASIN

The fiscal year 1983 military construction request included funding in three areas of the Caribbean Basin. The committee has recommended the

$8 million requested for Panama and the $25 million requested at Guantanamo Bay, Cuba.

The executive branch also requested $21 million for facility improvements at two airfields in Honduras. The authorization was not approved because of the lack of the necessary country-to-country agreement and, therefore, appropriations for these airfields have not been recommended.

The committee feels that the Department should proceed cautiously in expanding the Caribbean Basin access program. The committee believes that if further access were required into Central America, the facilities proposed in Honduras could prove valuable.

EUROPEAN CONSTRUCTION PROGRAM

The committee has recommended more than $2 billion in military construction and family housing improvements for Europe. This includes approximately $700 million for military construction projects at U.S. installations, $325 million for the NATO infrastructure program, and more than $1 billion for family housing construction, improvements, operations, and maintenance.

In the past there has not been enough attention paid to addressing the large backlog in military construction and family housing improvements in Europe. This year's program funds substantial improvements in areas from tank hard stands to major increases for the maintenance of family housing units. In every area the program recommended is the largest ever provided for Europe.

The committee feels that the United States is proceeding with too many unilateral funding programs overseas. The increases to fund facility improvements in Europe have been made this year in order not to deprive our own service members of decent living and working conditions. Further increases in unilateral funding will be reviewed against the Department's success in obtaining more host nation and allied support.

The committee has deferred without prejudice the prefinancing of $28 million for collocated bases in NATO. Last year the committee insisted that the U.S. mission proceed to accelerate the priority of this program within the NATO infrastructure program. The committee is pleased to note that NATO has recently moved forward $32 million for COB funding that had been planned for later years. The committee feels that this is a positive result of efforts by the U.S. delegation and should be pursued for each NATO slice.

Also the committee has stated its belief that the NATO infrastructure program presents an excellent opportunity for our NATO allies to increase their funding of construction projects to offset U.S. costs in the Persian Gulf.

The committee has also included language expressing concern that U.S. contractors have consistently not been given a fair opportunity to bid on NATO projects.

MASTER RESTATIONING PLAN

The Department is proceeding in the right direction to seek and obtain both approval and financial support from the Federal Republic of Germany for the proposed $1.2 billion master restationing plan in Germany. However, the committee is disappointed that the German Government has not made firm financial commitments to the restationing plan.

The master restationing plan as now proposed will relocate approximately 20,000 U.S. personnel in 3 U.S. Army brigades from their present decentralized locations in the western part of Germany to three forward locations. This is an opportunity for the United States to improve its facilities in Europe in an orderly, well-planned matter. The master restationing plan also provides an opportunity to build the type of bases our personnel deserve and provides for improved readiness.

Last year $18 million was provided for various facilities at Vilseck, Germany, as advanced funding for the first state of the program. The Congress showed its support for the program in the hope of attracting a like response from the German Government. Additional facilities requested for this purpose this year were not funded. The committee is hopeful of some positive sign from the Germans prior to conference on this bill.

HOST NATION SUPPORT

The committee feels that current defense burden sharing is wholly inconsistent with economic realities. The situation is much changed from the early postwar period when it was widely recognized that the United States would have to carry the major free world defense load. Today our NATO allies and Japan have gross national products that are proportionally not far from that of the United States.

The United States has increased its defense spending by an average of 4.6 percent during the past 3 years, and even larger increases will be realized this year. Our NATO allies have increased their spending by an average of 2.2 percent during the same period. Japan has realized real growth of approximately 4 percent. As the United States significantly increases its spending on defense, other countries should develop host nation programs to reduce the U.S. costs associated with the maintenance of large numbers of U.S. troops and dependents stationed abroad.

The following are presented as areas that should be pursued by the Department: (1) Increased support for unaccompanied housing, family housing, and operational facilities in NATO countries, Japan, and Korea; (2) funding commitment from the Federal Republic of Germany for the master restationing program in Germany; (3) specific increases in host nation support to offset U.S. construction costs associated with the Persian Gulf construction program; and (4) increased emphasis on peacetime host nation support.

SECURITY OF NUCLEAR WEAPONS

The committee is alarmed at the slow progress being made by the Department in providing security for nuclear weapons. The program has been fully funded by Congress.

A major problem in implementing the program is the lack of expeditious coordination within the NATO construction program. The committee recommends that the Department address this problem at the highest level and desires confirmation from the Secretary of Defense that he has expressed his concern over this issue to NATO officials.

MX MISSILE PROGRAM

The committee has not recommended the $207 million requested for construction of the initial portions of the interim basing of the MX missile system. It is the committee's feeling that military construction funding for MX basing should follow firm policy decisions on site-specific basing proposals.

The Department recently announced its intentions to review yet another approach to basing the MX missile. This proposal is called closely spaced basing, and is known as "dense pack." It is unclear to the committee how the "dense pack" plan relates to the three areas of research proposed last year.

The committee does not recommend proceeding with design or construction associated with basing the MX missile until specific program and site decisions on the near term plan have been resolved.

Almost a year after the near-term plan was selected, no site has been announced, environmental impact assessments or studies have not been initiated, and consequently no design work can begin. As a result, the fiscal year 1983 near-term MX request is funding in search of a program and, if approved, would be tantamount to handing the Department a blank check.

Since site decisions on the near-term plan have been so delayed, the committee feels that the Department should evaluate the interim plan together with the long term program. If the executive branch fulfills its planning promises and is ready to announce its long term plan by July 1, 1983, or before, it may be possible to proceed with only one permanent basing plan.

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QUALITY OF LIFE IN THE MILITARY

Improving the quality of living and working conditions in the military is an essential factor in the improvement of overall readiness. The committee has made a determined effort to fund quality of life projects that were requested and authorized. Additionally, the committee has recommended adding more than $230 million to the Department's request to provide for additional quality of life programs. This will provide for an additional $100 million for unaccompanied personnel housing facilities, $100 million for improved working facilities, and more than $30 million for increased family housing maintenance in Europe.

PLANNING AND DESIGN

Because of rapid increases in the funds requested for these purposes and the too frequent occurrence of cost overruns and reprogramings, the committee conducted an in-depth study into this process. It revealed both strengths and weaknesses in this area. The committee has, as a result, required more stringent contract modification and change order procedures for field offices, encouraged greater use of value engineering, and more vigorous pursuant of architect and engineer liability.

ENERGY

The committee has approved all funds requested for energy conservation and has urged the Department to request necessary funds to achieve its goal of 20 percent reduction in energy consumption by 1985.

The general provision in the bill governing the application of solar energy has been deleted, because it was recently made permanent law in other legislation. As a result, however, the discount rate used to calculate life cycle costs has been changed from 7 percent to 10 percent.

The committee has also requested the Department to review potential sites for development of geothermal energy resources.

MILITARY CONSTRUCTION, ARMY

The committee is recommending appropriations totaling $941,570,000 for military construction, Army. This is $158,630,000 less than the amount requested and $2,131,000 less than the amount appropriated in fiscal year 1982. The major reductions are the binary munitions facility in Pine Bluff, Ark.; RDF facilities at Ras Banas, Egypt; a host of various facilities failing authorization; and a general reduction of $40 million. The committee has added a number of new barracks projects to reduce the backlog of substandard spaces.

MILITARY CONSTRUCTION, NAVY

The committee is recommending appropriations totaling $1,120,813,000 for military construction, Navy. This is $87,487,000 less than the request and $330,580,000 less than the amount appropriated in fiscal year 1982. Major reductions include a host of various facilities failing authorization, five projects with a low design status, and a general reduction of $45 million. The committee has added several projects to modernize and enhance the capabilities of the Nation's shipyards. The committee has also approved the full request of the Marine Corps.

MILITARY CONSTRUCTION, AIR FORCE

The committee is recommending appropriations totaling $1,420,825,000. This is $660,975,000 below the amount requested and $124,926,000 less than the amount provided in fiscal year 1982. Major reductions include RDF facilities at Ras Banas, Egypt; MX missile basing construction; a host of facilities failing authorization; planning and design; and collocated operating bases. Major increases include various barracks projects and industrial facilities.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

The committee is recommending $289,145,000 for military construction, defense agencies. This is $119,755,000 below the amount requested and $17,345,000 less than the amount provided in fiscal year 1982. Major reductions include the Mariana Islands land lease, emergency construction, and a European war headquarters facility.

NATO INFRASTRUCTURE

The committee is recommending appropriations totaling $325 million for NATO infrastructure. This is $20 million less than the amount requested and $60 million less than the amount provided in fiscal year 1982.

MILITARY CONSTRUCTION, RESERVE COMPONENTS

The committee is recommending appropriations totaling $285,458,000 for military construction for the Reserve components. This is $23,958,000 more than the amount requested and $25,913,000 less than the amount appropriated in fiscal year 1982. The committee has added several projects to accelerate replacement and modernization of needed facilities but has recommended adding only projects that are at a sufficient design level to allow construction in fiscal year 1983.

FAMILY HOUSING, ARMY

The committee is recommending appropriations totaling $1,054,610,000 for family housing, Army. This is $37,343,000 less than the amount requested and $189,210,000 above fiscal year 1982 appropriations as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, NAVY

The committee is recommending $741,400,000 for family housing, Navy. This is $55,444,000 below the amount requested and $130,325,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, AIR FORCE

The committee is recommending $929,271,000 for family housing, Air Force. This is $59,814,000 less than the budget estimate and $134,235,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimated for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, DEFENSE AGENCIES

The committee is recommending $14,233,000 for family housing, Defense agences. This is $4,088,000 below the amount requested and $1,310,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

HOMEOWNERS ASSISTANCE FUND

The committee has recommended $2 million to insure payment to individuals who are forced to dispose of their homes due to base closure or reduction in scope of operations.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from New York (Mr. ADDABBO), the chairman of the Defense Appropriations Subcommittee.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding.

I take this opportunity to rise in support of this legislation, but more important to wish our colleague, the gentleman from Georgia—the next Governor of Georgia—the best. This will probably be the last time he will be handling this bill—military construction—as the chairman. We lose the gentleman to the State of Georgia. We know the gentleman will be successful in the forthcoming primary and election in November.

The gentleman has been a great chairman of the subcommittee and he also has been helpful to me as a member of my Subcommittee on Defense Appropriations. The gentleman has been a great supporter of the Defense Department and a great fighter of waste in defense spending.

The gentleman's leaving for Georgia as its Governor will be a great win for them and a great loss to me and my committee and the entire country and the Congress.

We wish the gentleman well and commend the gentleman on the great service to the subcommittee, to the Committee on Appropriations, and to all Americans.

Mr. GINN. Mr. Chairman, I thank the gentleman for his optimism with regard to my future. Of course, I thank the gentleman for the great work and great assistance the gentleman has been to me as chairman of Military Construction and for permitting me to serve with the gentleman on the Subcommittee on Defense Appropriations.

I thank the gentleman very much.

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Mr. ADDABBO. Mr. Chairman, I thank the gentleman.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. I also want to add my words of congratulations with the chairman for his excellent work. He has provided outstanding leadership on the Military Construction Subcommittee. The gentleman has been totally free from partisanship. Every effort was made on the part of the chairman to allow all points of view adequate time to be heard and to recognize and evaluate these in a very responsible way.

We will lose the gentleman to the Governor's office in Georgia, but it will be a gain for the people there. I am quite sure he will provide to the people of Georgia the same leadership, the same freedom from partisanship that has characterized the chairman's stewardship in this Military Construction Subcommittee.

Mr. Chairman, military construction is not a glamorous subject. Our hearings are not overwhelmed with TV cameras or large audiences. Our expenditures do not shoot. They do not fly. They do not sail. They do not dive, but military construction is the fabric of an effective national security.

I would point out a couple things to my colleagues and that is that military construction precedes weapons systems. You can have a lot of airplanes, you can have a lot of ships, you can have a lot of tanks and troops, but if you do not have adequate construction, you are not going to be able to use those systems effectively. It is our responsibility to be sure that we have the airfields, that we have the Army bases, that we have the naval bases, that we have the necessary facilities for troops, that we have all the things that go with systems.

Therefore, our committee has to be out front in determining defense policy, because as new systems come on stream, it is our responsibility to make sure that adequate construction and adequate facilities resulting from that construction are available.

Second—and I think a point that is oftentimes missed—is that military construction represents a Nation's foreign policy, a decision as to whether we will build facilities, be it in Oman, be it in the Caribbean, be it in Hawaii, be it in South Korea, all flow from the foreign policy decisions of the United States.

Therefore, judgments as to what type of construction, the length that it will serve, where it will be located, all are effective instruments of foreign policy and, therefore, are important decisions, because as the United States reaches out to provide for free world security—and ours is part of that—the decisions on construction of facilities become extremely vital. This is reflected in Europe. It is reflected in the Middle East. It is reflected, as I mentioned, in the Caribbean.

I would say this, that the burden of this responsibility was clearly understood and respected by the members of the Military Construction Subcommittee. Just a few minutes ago we completed work on a tax reform bill. What we did, in effect, is take some of the hard-earned dollars of the American people to fund the necessary programs of these United States through the Federal budget.

It is our responsibility as a followup to that action to manage those dollars carefully, to insure that we give value received to the taxpayers that have to share part of their earnings with their Government.

I would mention that many times we, as Members, hear the statement at home that we ought to cut military spending. There is a concern that we do not always get a dollar's worth of value for a dollar expended in military activities. Certainly as we reflect on the decision of this body a few minutes ago to raise revenues, we have to look at what this bill accomplishes in that respect.

The chairman has outlined very well the fact that our bill is about $1,200 million less than was requested by the administration. This represents a very dedicated effort on the part of committee members to get as much value as we could for every dollar that we appropriated through this bill for construction.

As I mentioned earlier, it is not a glamorous activity, but I remember so well just recently being in a meeting where General Vesey, the Chairman of the Joint Chiefs, just recently appointed, said that one of the key elements in the morale, in the ability of the American serviceman and servicewoman to function effectively is to have adequate housing and to have a decent workplace.

I have seen some of the facilities we provide for our troops, particularly overseas, and they are not very desirable. We cannot ask the young men and women of America to go out and serve without providing for them decent housing and a decent workplace. This is an essential part of the morale and of the well-being of people who serve this Nation of ours.

We have a volunteer force, that is a policy decision that has been made by the people of this Nation, as reflected in the Congress of the United States and a very important element of having a volunteer force is to have good housing, to have good working conditions, to say to those people who sign up and serve that we care about your well-being.

The chairman initiated a rather unique program in military construction hearings and that is he brought in to testify not only the officers and the leaders of our military forces, but he brought in enlisted personnel to discuss the quality of life in the military service. I think that the information these people shared with us was a vital part of our response to the needs in funding this budget.

I would make a couple points, because this is an management responsibility that this committee has. We need in Government to address even more than we do our need to manage dollars carefully. We are living in an era where we have shrinking resources in relationship to the many needs, both private and public. Therefore, we have to insure that we spend money wisely. What we have done in this bill in the way of management are several things I would point out. For one thing, as the chairman mentioned, we require much more careful procedures on planning and design. We want to avoid overruns. We want to avoid changes in plans. We want to avoid change orders. All of which are very expensive.

We have had some glaring situations that were brought to the attention of the committee wherein there was not adequate planning, not adequate design, nor adequate engineering, and the result is that the taxpayers of this Nation were required to pick up costs that should not have been part of the construction project.

We have attempted in this bill to address that problem by demanding and insisting on adequate planning and design before venturing forth on a construction project.

Second, we point out the fact that host nations do not provide enough support in terms of what we are doing for Free World security. We have precise recommendations in the way of what we think should happen in host nation support for our overseas troops.

Recently I introduced a bill on this along with several others to put an import tax on goods coming in from other nations that do not spend their fair share on defense. A glaring example, of course, is Japan. While we provide security for this nation, they

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spend less than 1 percent of their gross national product on security, as compared to over 6 percent in this Nation of ours. That is not fair. The per capita GNP in Japan is larger than the United States and, therefore, they should be paying much more than they presently do. They can do much more in host nation support. They can provide housing. They can provide facilities. They can provide utilities. They can provide a lot of things that are not presently being done.

We also address the problem of recruitment and refinancing of NATO commitments. We have been too easy in putting our money up front, whereas the other NATO nations hold back, and the result is that we pay an inordinate share of NATO costs in relationship to our responsibility.

Mr. ECKART. Mr. Chairman, will my colleague yield?

Mr. REGULA. Yes. I yield to the gentleman from Ohio.

Mr. ECKART. My good colleague, the gentleman from Ohio, has been very outspoken and articulate on the difficulties that are besetting our economy as the result of the disproportionate share in defense spending with our NATO allies.

Could I ask the gentleman to specifically reference some of the spending recommendations contained in this legislation that would give our American taxpayers a better share and a better feeling that we are doing more to watch our tax dollars in relation to the spending of our allies?

Mr. REGULA. I thank the gentleman for his contribution. I would refer the gentleman to pages 11 through 15 wherein his concerns are discussed. That is exactly what we have tried to do, because construction is a very significant place that our NATO allies, as well as Japan, could contribute through host nation support by taking a larger responsibility for support.

I would point out, for example, that in the Persian Gulf we are taking responsibility through the Rapid Deployment Force in the construction of bases at Oman, Diego Garcia, Mombasa, and some other locations.

We take responsibility for access to the raw materials of the Middle East, whereas Japan and the NATO countries get over 70 percent of their supplies. Now, perhaps they cannot necessarily duplicate what we have done, but certainly through the device of host nation support and a greater contribution to NATO, other countries that are benefiting from the efforts of the United States in the Middle East should, in fact, take on that responsibility.

I would point out just two more things. One is that we have added $230 million above the President's request for housing, for working conditions, for quality of life programs.

While the overall bill is about 15 percent below the President's request, about 19 percent in nonhousing areas, we went above in the things that are vital to the morale of our service people wherein we say to them that we care about you, we care about your living conditions, and we are doing something to change that.

□ 1900

One only has to travel in Europe and some other overseas lcoations where we ask our service people to live to realize how badly we need to improve those conditions.

Just let me once again emphasize that construction decisions are long term; they precede any weapons system; they commit us to a foreign policy decision that reaches out for many years.

We build runways, we build housing, we build working facilities, and they are there for many, many years. Therefore, it becomes important that we make wise decisions in terms of making these long-term investments in the military construction program of this Nation.

Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON), the ranking member on the Committee on Armed Services.

Mr. DICKINSON, Mr. Chairman, I would like to pay tribute to the Committee on Appropriations, the Military Construction Subcommittee. They have done a tremendous job. Particularly do I want to recognize the efforts of the chairman of the subcommittee, whom we can call "Bo" GINN.

We are going to miss you, Mr. Chairman. I hope the gentleman from Georgia winds up as the Governor of Georgia, or wherever he would like to go. I understand that his ticket is punched for that as his next stop.

But let me say that we have a measure to work with. The committee does a tremendous job. I think that the product that the subcommittee has brought to the House this evening attests to that. The gentleman from Georgia and the gentleman from Ohio (Mr. REGULA), my good friend, and other members of the subcommittee, do good work. They are conscientious, they have the best interests of the country at heart, and of the people in uniform, those in the military. I think that the results that they have brought to the floor attest to that.

Yesterday we had a bill up on the floor which has not been completed but which would charge against the total defense bill—bumping against the budget—vocational education, revitalization of our industrial base, increased enhancement of the Davis-Bacon Act, and so forth, all of which militates against what we are trying to do here.

I would hope that Members of this body and certainly this committee would be cognizant of what has occurred here because when we levy a budget ceiling against the "defense," it works against military construction just as it does procurement, just as it does other areas of defense, operations and maintenance, and so forth. It is wrong.

Mr. Chairman, I just want to raise this flag because the fight has not ended. I think it came up on the blind side of most of us.

What we are doing here, this gentleman and many others from the Committee on Armed Services—we have just completed a conference with the Senate on the authorization bill, not military construction, where we have procurement, operations and maintenance, research and development and so forth. We were bumping up against the ceiling in a budget that made it impossible for us to get what we thought was needed for the total defense of this country. We did a pretty good job.

The conference report passed last night, but it was made evident in the conference that the total ceiling was such that the exotic weapons we were buying, the MX missile, the satellites that we put up in the air, the Trident submarines, and so forth, if we were to add more to this procurement we would have to balance this by reducing our military construction budgets. We do not want to do that.

I made the point as emphatically as I could, and I reiterate it this evening: Quality of life has got to come first. We have got to get our troops into livable conditions.

I was in Kaiserslautern as a member of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services. One of the gentlemen said to me, "Congressman, you would not let your son live in the conditions where some of our enlisted men have to live."

So what we are doing here, I think, contributes to the quality of life. As has been commented on it does help morale; it does help retention.

We are talking peanuts in terms of total dollars expended versus satellites, MX missiles, B-1 bombers, all of these things, and we are foolish if we do not spend more for our military construction budget than we have in the past.

I think if you talk to any military commander, he will agree to this.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. REGULA. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alabama.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

Mr. Chairman, I too was concerned over the same matter when it came to the floor, about its eating into this particular budgetary area. I am in a quandary as to why that bill, at least part of it, was not referred to the Committee on Armed Services.

Mr. DICKINSON. Mr. Chairman, I think we got blind-sided.

Mr. SKELTON. This impacts so much on the decisions that we make. I would hope that somewhere along the line we would have at least some sort of a joint jurisdiction on that. It bothers me a great deal because it eats into what we are doing here today.

Mr. DICKINSON. That is correct. I think we can work this out, but the gentleman is correct.

Mr. SKELTON. I thank the gentleman for yielding.

Mr. DICKINSON. Mr. Chairman, let me say again that I think the subcommittee has done an outstanding job. I commend them. We will miss some of those gentlemen. Hopefully, we will stay in very close contact.

Mr. Chairman, I yield back the balance of my time.

Mr. GINN. Mr. Chairman, may I first thank the distinguished gentleman from Alabama for his very gracious comments and express the viewpoint that we have enjoyed working not only with him, but with all members of the Committee on Armed Services.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I want to first add my plaudits to those of the gentleman from Alabama (Mr. DICKINSON) for the gentleman from Georgia (Mr. GINN), who has the admiration and respect of all of us.

We wish him, well. I know he will do well. We will watch him in Newsweek and Time magazine in future years as he progresses along his political career.

Mr. Chairman, the House Appropriations Committee deleted $6.7 million for the division air defense training facility (DIVAD) at Fort Bliss stating that Congress had approved a ROLAND facility at Fort Bliss in fiscal year 1982 that was later defined as DIVAD thus the fiscal year 1983 request would provide a second separate building for the same purpose.

The fiscal year 1982 ROLAND/DIVAD facility approved by Congress was and still is a joint-use facility. When ROLAND was reduced to a one-battalion force, the project was down scoped with the resultant cost of $3.7 million ($1.56 million—DIVAD portion). The DIVAD area will house one classroom trainer, one fire control trainer, and one organizational trainer. Delivery of these training devices will begin October 1983.

The training devices for both fiscal year 1982 and fiscal year 1983 projects are currently under contract at a cost of $16.1 million.

The fiscal year 1983 project contains 31,259 square feet and houses 2 organizational maintenance trainers, 3 classroom trainers, 11 fire control trainers, 14 troop proficiency trainers and cannon, mount and feed system training devices. Delivery of training devices will begin in March 1984.

The facility will be utilized to train 2,500 officers, warrant officers, and soldiers annually during the 4- to 5-year deployment period. After deployment, these facilities will be required for replacement training of personnel for the life of DIVAD. The design of this facility took into consideration the facilities available in the fiscal year 1982 project and was sized accordingly.

If the fiscal year 1983 project is not constructed, the trainers to be housed in the building could not be used thus requiring that DIVAD fire units be used for training. Based on a Directorate of Training, U.S. Army Air Defense School Study, it would require 90 DIVAD fire units to maintain the same student load. This would require an additional buy of 90 fire units costing in excess of $250 million.

If only the facilities and three training devices in the fiscal year 1982 project are used, an unacceptable slippage of DIVAD fielding would result and the initial operating capability (IOC) would be delayed until after fiscal year 1988.

Mr. Chairman, the House Appropriations Committee also deleted $5.5 million for a launch complex at White Sands Missile Range stating that military construction funding for ballistic missile defense (BMD) facilities should be deferred until further program decisions have been reached.

The ability to conduct research and development (R. & D.) as a hedge to defend intercontinental ballistic missile systems (ICBMS), and other strategic facilities depends on test facilities to validate the R. & D. effort. It is necessary to develop interceptor components that are insensitive to the basing modes. Major interceptor subsystem components must be tested early in order to reduce the lead time necessary to deploy a BMD. The current SENTRY interceptor design is an outgrowth of several years of technology development in the areas of propulsion and guidance and control systems. The fiscal year 1983 R. & D. funding of $313 million for SENTRY is adequate to maintain interceptor development which is to be test validated in the proposed launch complex.

In order to support the test vehicle flights at White Sands Missile Range (WSMR), installation and checkout of the launcher and test support equipment must begin in January 1985. Accordingly, test facility construction must begin in fiscal year 1983 to support a beneficial occupancy date of December 1984. Military construction funding in fiscal year 1983 is required to support this schedule. A delay in funding until fiscal year 1984 would result in approximately a 6-month delay in the test program and in final verification of the SENTRY Interceptor Subsystem design.

Mr. Chairman, in view of the extreme importance of these facilities to our national defense and security, I would like to ask the gentleman from Georgia that if the Senate military construction appropriations bill includes these full facilities, in the conference between the two House would he seek to rectify these omissions and restore the full Fort Bliss allocation of $21,300,000, and the launch complex at White Sands Missile Range.

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Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield.

Mr. GINN. Mr. Chairman, I want to thank the gentleman and the gentleman is correct, that the committte has raised questions concerning both the trainer facility at Fort Bliss and the launch complex at the White Sands Missile Range. It is our understanding that the Army is now preparing a very thorough analysis of both these facilities, and it appears certain to us that our concerns will be in fact clarified.

The gentleman has my assurance that once the Army has provided additional information, we on the subcommittee will work with the House conferees and that I will, as chairman, work toward a favorable consideration of the project.

Mr. WHITE. I thank the gentleman very much.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HUNTER) for the purpose of having a colloquy with the chairman.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. I would like to enter into a colloquy with the subcommittee chairman at this time if I could.

I notice that the Appropriations Committee has deferred without prejudice the Navy's request for $18.5 million to build a composite remanufacture/repair facility at the Naval Air Rework Facility, North Island Naval Air Station. I also understand that the committee has deferred this project because they do not feel that the Navy has provided sufficient justification for the project. I wonder if the gentleman could confirm this for me and explain the committee's reason for the decision.

Mr. GINN. The gentleman is correct. The committee has deferred the re-

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quested funds without prejudice. We have stated in the committee report that, "The Navy should reevaluate the need for this F-18 laminated skin production facility and confirm that no private sector potential exists to fulfill this function." Basically, what we are saying is not that the project is unwarranted, but simply that we had some questions that we do not feel were adequately answered by the Navy. The Navy has not fully addressed the possibility of the private sector being able to provide the composite materials and other spare parts. It is our hope that the Navy will be forthcoming with a short study so that we may reconsider this decision in the future.

Mr. HUNTER. I admit that I am not the expert in this area that the gentleman is, but will say that I think that the project should be funded in fiscal year 1983. The composite remanufacture/repair facility is designed to support the increasing requirement for repair of composite aircraft structures. The Navy's new fighter/attack airplane, the F-18, has a significant percentage of composite material, and repairing and maintaining it will involve industrial facilities and processes that are significantly different from the facilities used to repair current Navy planes.

If the project is funded in 1983, it will be constructed and ready to service F-18's by early 1985. By then, we will have 150 F-18's in the fleet with the oldest being 3 years old. If we wait another year, the facility will not be built until 1986. At that time, we will have 225 F-18's in the fleet. I think it is reasonable to assume that by 1985 we will have the need to repair F-18's. I believe that we should continue to rely on the rework facilities to fill this need. A failure to do so may result in decreased readiness for the Navy.

I hope that the other body would include this project in their version of the bill. I would like to ask the gentleman if the other body includes the project, and the Navy provides adequate information, would the gentleman consider receding to the other body in the conference committee?

Mr. GINN. I want to assure the gentleman that if the Navy is able to present a better case for this project, I will work with the House conferees toward favorable consideration.

Mr. HUNTER. I thank the gentleman for yielding to me.

Mr. GINN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. Nelson).

Mr. NELSON. Mr. Chairman, first of all I want to say what a delight it has been to serve with the gentleman from Georgia, the chairman of the Appropriations Subcommittee. Our loss will be the State of Georgia's gain as he goes on to a higher calling of public service, and we will look forward to the continuing friendship and communication we have had.

Second, let me say that I support without reservation this funding bill. The gentleman has done a marvelous job.

I would like to engage in a colloquy on one part of the bill that I have some concern about. It is the part dealing with the Ras Banas facility in southern Egypt, on the Red Sea.

My concern is that whereas the authorizing committe, the Armed Services Committee, has included and passed a bill providing for $172.1 million for construction of this base, and that the authorizing committee of the other body has likewise passed a bill for fiscal year 1983 of $178.6 million for this base as a future advance point for us in the Middle East should we have to go to help quell any uprising in that region, should we have to go to protect the interests of the United States, particularly to see that oil flows from the Persian Gulf region to the free world, I would urge upon the chairman that when he goes to conference with the Senate on this appropriations matter, and if the Senate were to include an appropriation for this Ras Banas base in southern Egypt, then I would ask the chairman of the Appropriations Subcommittee for a fair review of this proposal if it were to be an issue in conference.

Mr. GINN. Mr. Chairman, I want to thank the gentleman from Florida for his keen interest in this matter. I would like to take just a moment to give the gentleman a little background as to why the committee acted as it did.

First, I would remind the gentleman from Florida that the Congress has provided a total of $700 million in the last 2 years to develop facilities at Diego Garcia, Kenya, Oman, Somalia, and in Portugal. Of the $400 million necessary to complete work at these locations, $156 million has been recommended in the bill this year. This program will provide the United States access to six separate airfields and three ports in the immediate area of the gentleman's concern, as well as provide substantial air and sea support from Portugal and Diego Garcia.

□ 1920

The subcommittee denied in the bill this year the funding requested for Ras Banas and directed the Department to develop plans for a truly bare base at Ras Banas or at some other location for some very simple reasons.

These are the high cost, the lack of a country-to-country agreement, questions about the operational feasibility, and that existing facilities would be available.

A further summary of the committee's concerns about Ras Banas are as follows:

First, high cost. The Egyptian air facility at Ras Banas, Egypt, was originally proposed for development as a bare base to support Army staging and resupply. However, the current plan calls for more than 500 separate buildings and improvements to support housing for many thousands of Army and Air Force troops, B-52 capability, tactical air support, a substantial amount of pre-positioned portable equipment, and a large-scale port development.

The best current estimate of its total cost is $948 million. The accuracy of this estimate is uncertain, although the costs are most likely to rise.

Second, no country-to-country agreement. Country-to-country agreements have been signed by every country involved in the Persian Gulf RDF program except Egypt. The signed agreements are necessary to verify what both the United States and the host nation expect from the facility development program. Since there is no country-to-country agreement with Egypt and no prospect of getting one, when, how, and to what extent we can use Ras Banas is uncertain.

Third, operational feasibility. Ras Banas has numerous potential operational problems that make reliance on it as a staging facility unrealistic. These problems include extreme desert heat coupled with constant wind, certain flooding whenever it rains, the difficulty of resupply by sea through the narrow choke points of the Red Sea, the uncertainty of early access to the facility, and its distance from likely areas of conflict.

Fourth, existing facilities would be available. With or without a staging facility at Ras Banas, the ability of the United States to assure the stability of the Persian Gulf region in a time of conflict depends heavily on the willingness of those states who are directly affected to allow us access. Clearly the United States cannot be expected to assist in maintaining the security of these nations without this access.

Fifth, allied support lacking. Neither our NATO allies nor Japan, who import over 70 percent of their oil from the Persian Gulf region, have taken any steps to support facility construction or to develop offsets to the sizable U.S. investment. In fact, Western European countries have recently concluded arrangements to build a natural gas pipeline from the Soviet Union. For the United States to increase the magnitude of its present investment at a time when we import less than 10 percent of our oil from the region, and when our allies are increasing their reliance on the Soviet Union, is incongruous.

We feel, I would say to the gentleman from Florida, that until these concerns are addressed we cannot in good faith come to the House and recommend initiating construction on an additional $1 billion base in the Persian Gulf region.

I assure the gentleman that we are well aware of his concern and we will go to conference with an open mind.

Mr. NELSON. I thank the gentleman.

When I revise and extend my remarks I will point out some rebuttal to the arguments the gentleman has made.

The House Appropriations Committee recently sidetracked the Department of Defense's plans for protecting the Persian Gulf region's oil fields. The committee refused to appropriate funds to enlarge air fields in Egypt for large aircraft such as bombers and transports.

If the oil fields were attacked, U.S. strategy is to blunt that aggression with bombers and then land America's Rapid Deployment Force. Also importantly, a threat could be thwarted with an advance force deployed into an area near the theater.

The recent committee action is very shortsighted.

I believe the potential cutoff of oil is a major threat to the security of the United States. If the Persian Gulf oil stopped flowing to the free world or even were disrupted, there would be immediate panic, hoarding, long gas lines, and very high gas prices. Fuel supplies would be short. It would be 1973 and 1979 all over again—only worse.

Unfortunately and alarmingly, the possibility that this senario will materialize is becoming increasingly real. The instability caused by the Iran-Iraq war, as well as the instability caused by the vengeful PLO searching for a home outside of Lebanon, are real possible preludes for attack.

I definitely believe that if Iran is successful in its war with Iraq, then a Khomeini-inspired, Soviet-encouraged attack against Saudi Arabia will be planned.

Recognizing the fact that, at full production, Saudi Arabia's share of Persian Gulf oil is 11 million barrels a day of the region's total 18 million barrels per day, it is clearly in the interest of the United States to protect the free flow of that oil.

We can do so by achieving a rapid military deployment and an air defense for the area. That is why I believe the committee to be mistaken in its action.

Furthermore, we must continue aggressive pursuit of energy research and development. I differ sharply with the present administration in their policies to cut back the Government's role in energy research and development.

We can do no less—for energy independence is our future—economically and militarily.

I would like to engage in a colloquy with the chairman of the subcommittee concerning funding for the Ras Banas facility in Egypt.

The House Appropriations Committee deleted funding to the Army and the Air Force for the construction of this base. There is funding at the President's request in the Senate authorizing bill of $178.6 million for fiscal year 1983. The House authorization bill contains $172.1 million for the construction of this base for fiscal year 1983. There is a very good possibility that the Senate Appropriations Committee will concur with their authorization committee to fund this program.

Mr. Chairman, I would like to discuss some of the arguments that were made by the House Appropriations Committee and I ask for a fair review of this proposal if it is a conference issue.

I submit the following rebuttal to the five arguments printed in the committee report. Each rebuttal I believe to be on point to show why this appropriation is in our national interest.

High Costs. The House Appropriations Committee stated that the estimates have increased dramatically since the first proposal two years ago. Also, according to the committee, the best current estimate of the total cost is $948 million. The accuracy of the total is uncertain. The Committee drew the total from "numerous" sources at the Department.

Rebuttal. The planned construction at Ras Banas would be constructed elsewhere for at least comparable cost if not at Ras Banas.

The $948 million includes not only the actual $522 million for the construction over three years, but prepositioned supplies and equipment that must be located in the area to improve response time and force susstainability, which is required whether or not Ras Banas is constructed. This total of $522 million has been consistent for the last year.

This figure of $522 million is the official DOD figure for construction of this facility. These funds—over three years—are the only ones that would come within the jurisdiction of this bill. The other supplies and equipment would be contained within the regular DOD Appropriations Bill and would be necessary regardless of whether we build at Ras Banas or some other facility.

The scope of the project has changed since its inception two years ago. Originally it was to be a "Bare Base." Since that time the DOD has decided that this was insufficient for the purposes of protecting our oil interests in the Persian Gulf region. It is now anticipated to be a rear-staging supply, and support base.

No Country-to-Country Agreement. The House Appropriations Committee stated that these agreements have been signed by all of the other countries except Egypt and that there is no prospect of reaching one with Egypt.

Rebuttal. This is not a bone of contention with the Senate Appropriations Committee. In their recent report for the FY82 Supplemental Appropriations, they state, "the Committee is satisfied that our present relationship with Egypt fully supports the development of the rear staging base at Ras Banas. A letter to President Reagan offering the use of Egyptian facilities for contingency purposes was signed by the late Egyptian Sadat. Since the death of President Sadat, the new Egyptian President Mubarek, has confirmed the Egyptian support for the Ras Banas Facility. This confirmation was made to President Reagan, administration officials and various Members of Congress. In addition, other high-ranking Egyptian officials have expressed their support as evidenced by such joint military exercises as Bright Star 81 and 82."

Lack of Allied Support.—The Committee Report states that neither our NATO allies nor Japan who imports over 70% of their oil from the Persian Gulf region, have taken steps to support facility construction or to develop offsets to the sizable U.S. investment.

Counter.—There is no doubt that we are still the leader of the Free World. We must be the ones to take the initiative to protect the interests of the Free World.

Neither oil nor other economic resources are our principal concerns in the area. The U.S. has a commitment to the concept of the freedom of a nation to choose its future without the threat of aggression. The Soviet presence in the Middle East is a fact of life. We must be a realistic deterrent presence to constantly remind the Soviets of our dedication to the principles of self determination.

In the area of international economics we know that in the final analysis the health of U.S. economy depends on the health of our trading partners. The production of the industrial economies of the U.S. and our European allies are largely dependent on oil. While we would not be as directly and immediately affected as our allies we would feel the strongly detrimental effects of a major oil decrease within months.

Operational Feasibility. Floods from the Red Sea are a potential problem. The high winds and the sand could also be potential problems.

Counter. According to the Department of Defense, the weather at Ras Banas is one of its strongest pluses. Because of the location on the Red Sea the temperature here is considerably moderated over inland desert locations in Egypt and Saudi Arabia. The blowing sand does not normally present any problems for USAF pilots and their sophisticated aircraft. The flooding that occurred at the field in 1977 was the first such event in nearly 100 years (the area is outside the normal rain pattern for Egypt). The facilities planned are designed to withstand water erosion.

Deployment of men and materiel can reach Ras Banas through both the Suez Canal at the north end of the Red Sea and the Bab al Mandeb straits in the south. It is doubtful both of these would be simultaneously closed. In such an unlikely event there are other options. One is by land from Alexandria. Another are the POL pumping stations 125 miles across the Red Sea in Saudi Arabia.

Consider Alternative Existing Facilities. The House Appropriations Committee Report states that other countries would offer facilities if there were an emergency in that area.

Counter. According to the DOD the distance from Ras Banas to potential combat areas is one of the principal reasons that the site was selected. It is within troop deployment range by C-130 while located outside the threat area of tactical fighter aircraft.

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Mr. GINN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I join with the gentleman from Florida (Mr. NELSON) in his concern about Ras Banas as an airfield. We have seen this.

All of the fields you have named, with the exception of the Portuguese, and I presume you are talking about the Azores, are on the opposite side and not in the route of transit of American aircraft that would be moving toward the Persian Gulf. So, therefore, I did not hear in the list you gave a stopping point that would be necessary for predisposition and for refurbishing of troops that would be moving into whatever area of emergency.

The problem is you may be looking at a situation of political realities. It may be that country may not be able to enter into an agreement as such, yet the threat still exists as far as our Nation goes, and as far as our needs go for a forward deployment area.

Mr. GINN. Will the gentleman yield?

Mr. WHITE. I yield to the gentleman.

Mr. GINN. The gentleman makes a good point.

Our main concern is one of significantly increased costs for the base at Ras Banas over and above what we were originally and initially told it would be. We are simply asking for more facts.

We are not prejudiced against Ras Banas at all. We are awaiting additional facts and we will be willing to take another look.

Mr. WHITE. I thank the gentleman.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. I thank my good friend and colleague from Ohio for yielding.

I want to take one moment to express my strong support of this bill and to commend and compliment the committee for one particular item that appears in here and that I happen to know about because it affects Grissom Air Force Base in my district.

That particular item involves some $3,400,000 which is a considerable sum, but in view of the entire amounts involved in the legislation it is probably not all that great.

But it provides for improvements in unaccompanied and enlisted personnel housing.

I happen to know about this because I visited the base and I went through these particular buildings. I suspect we have a lot of these all over the country on important bases. Grissom is a very important refueling base for SAC.

The history of the buildings, as I recall, they are 1950 Korean war vintage, and they are well maintained, as well as they can be, and they are clean, they are orderly and all of that. But I know in one of those particular buildings we had a rather severe winter in Indiana last year and that building had to be vacated because the interior temperature that could be reached during that stretch of weather was 40 degrees. So it is in need of insulation, updating on its heating and storm windows and that sort of thing.

The second thing that is needed there, and I suspect in many places in the Volunteer Force, and Grissom is just an example of it, we have so many more young women who are coming in and serving in so many vital roles. They are mechanics, drivers, you name it, they do about everything. In this renovation these quarters are being modified so that the enlisted personnel both male and female, can utilize them and it provides for more privacy and everything else that is necessary.

But the point is if we are going to keep a good, strong Volunteer Force, and we are going to keep bright, young people, men and women both in the service, we are going to have to do this sort of thing on all of our important facilities.

I congratulate the committee for taking this step forward and thank the gentleman.

Mr. GINN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I wish to extend my personal optimism and good wishes to the distinguished gentleman, the chairman of the subcommittee, the gentleman from Georgia (Mr. GINN), on his professionalism, his integrity, his intelligence, and his personal friendship, which have meant a great deal to this House.

I truly wish him the very, very best. Georgia is a very fortunate State to have you as her native son, Mr. Chairman.

I would also wish to engage the chairman in a colloquy if I might.

The Appropriations Committee deferred without prejudice $710,000 which was authorized for a small arms range complex at Whiteman Air Force Base, Mo. the reason was that this project was at a very preliminary design level. Now, however, we know that the project is 90 percent design complete and will be 100 percent design complete by October 1. I would like to seek the assurance of the distinguished subcommittee chairman that if this project is authorized by the conference committee and funded by the Senate Appropriations Committee, that he will work with the House conferees toward favorable consideration of this project, especially in light of its importance and the change in its design status.

Mr. GINN. Will the gentleman yield?

Mr. SKELTON. I yield to the gentleman.

Mr. GINN. First I want to thank the gentleman for his very gracious personal remarks. I am pleased to learn that substantial progress has been made in completing the design of the range complex at Whiteman Air Force Base. The gentleman has my assurance that if the project is authorized, I will work with the House conferees toward favorable consideration of the project.

Mr. SKELTON. I thank the gentleman and wish him well.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I have asked this time from the other side rather than my normal side because I want to spend most of my time, the 2 minutes that I have, in saying some things about Bo GINN.

I have been here for 34 years and I have watched a lot of Congressmen come and go. I really do not remember a more outstanding person than Bo GINN that has come into this Chamber.

The St. Mary's River, a historical river that divides our two districts, has on its banks a lot of Floridians that are in Georgia and a lot of Georgians that are in Florida. We have a great propinquity and a great affection for our various constitutents who are there.

I guess the greatest pleasure and the greatest joy and the greatest personal reward that comes in being a Member of Congress is the association we have with people that come here to Congress that we serve with.

This man is a man of intelligence and of dedication to his country. He has a great sense of humor. I am just so glad that all over the world, certainly in our own country and all over the world there are memorials to his concern about the sailor, the airman, and the infantryman, and so forth, in the buildings that he has made possible and the things that he has done for his country. They are really outstanding.

So, Bo GINN, I realize you are not leaving right away, but you are leaving soon, and this is your last major bill before us. As I say, I have taken the time form the other side because I did not want you to be yielding to me to say these things.

But you are a magnificent person and we are going to miss you.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman.

Mr. GINN. I must thank you for your very gracious remarks and say that you have certainly been an inspiration to me. I thank you.

Mr. BENNETT. God bless you.

Mr. GINN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. Dyson).

Mr. DYSON. Mr. Chairman, I, too, would like to add my voice to the numerous others who have appeared before us today in recognition of the service that Congressman Ginn has offered.

Certainly, he will be sorely missed, but I know his talents will be appreciated by the people of Georgia.

Mr. Chairman, I rise in support of H.R. 6968, military construction appropriations for 1983. I am particularly pleased with and supportive of the committee's efforts to address the quality of life issue in the military. In my opinion, the most significant steps we can make in this area are in the improvements to family housing. This bill does just that.

I understand there are some differences in the bill before us now and the legislation which the military installations and facilities reported out earlier this year. In the Senate large cuts have been made in family housing and new construction. The differences in each of these authorizations and appropriations will be resolved during the month of September.

Before you reach the conference on the bill before us today I would hope that the conferees would favorably consider some of the important projects which the House Armed Services Committee has already approved.

Mr. Chairman, I can appreciate the budget constraints under which both Houses are operating this year. I understand, also, that some funds may be available from fiscal year 1982 to accomplish some of the projects we sought to include in this bill but could not.

The House Armed Services Subcommittee on Military Installations and Facilities has evaluated the family housing situation at Patuxent River over the last 2 years. In its markup this year the subcommittee approved $5 million for the acquisition of 1,000 Wherry housing units. It also approved $16.8 million for the first phase of a renovation process which would greatly improve the condition of these units. At the same time, this effort will address the painfully acute shortage of adequate housing now at Patuxent River.

We made substantial progress last year when the committee successfully sought a waiver to a DOD regulation which had complicated all previous efforts to deal with the housing problem at Pax. The funds, which I previously mentioned, were included in the President's budget for fiscal year 1983 and approved by the House Armed Services Committee. More recently, the full House gave its approval to this $21.8 million authorization.

I would certainly appreciate any efforts your committee and our colleagues in the Senate may undertake to help finish the work on this important project.

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Mr. GINN. Mr. Chairman, if the gentleman will yield, I will be glad to respond.

Mr. DYSON. I yield to the gentleman from Georgia.

Mr. GINN. I have become aware of the availability of existing fiscal year 1982 funds in the Navy's family housing construction account. I am prepared to direct the Navy to use these existing funds to purchase these units and to relocate those nonmilitary families now occupying them. As chairman, I will give favorable consideration to including the $16.8 million for improvement or new housing in the fiscal year 1983 conference agreement on this bill.

Mr. Chairman, I thank the gentleman, a very distinguished Member of the Committee on Armed Services for working closely with us on this very important matter.

Mr. DYSON. I thank the chairman.

I certainly appreciate your interest in this matter and I look forward to working closely with you and the members of your committee in addressing this problem in the future.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will just wrap this up by saying, particularly in dealing with Ras Banas, we have been very careful in the committee to avoid construction in areas where we do not have an adequate country-to-country agreement. I think sometimes construction has raced ahead of foreign policy decisions. What we have tried to require as prerequisites to making construction investments are a solid country-to-country agreement and a very fundamental foreign policy decision that any construction that is put in place will be used for many years hence.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GINN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military Construction, Army

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $941,570,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $137,900,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *And provided further,* That $8,000,000 of the funds available for planning and design shall be available only for the design of the renovation of and addition to Brooke Army Medical Center at Fort Sam Houston, Texas.

Military Construction, Navy

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,120,813,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $110,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless he Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Military Construction, Air Force

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,420,825,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $102,453,000 shall be available for study, planning, design, architect and engineer serivices, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefore.

Military Construction, Defense Agencies

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $289,145,000, to remain available until September 30, 1987, and, in addition, not to exceed $20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense, to be merged with and to be available for the same purposes, and for the same time period, as this appropriation: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*

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further, That of the amount appropriated, not to exceed $10,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

North Atlantic Treaty Organization Infrastructure

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, U.S. Code, $325,000,000, to remain available until expended.

Military Construction; Army National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contribution therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $54,958,000, to remain available until September 30, 1987.

Military Construction, Air National Guard

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $127,900,000, to remain available until September 30, 1987.

Military Construction, Army Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $41,800,000, to remain available until September 30, 1987.

Military Construction, Naval Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $25,200,000, to remain available until September 30, 1987.

Military Construction, Air Force Reserve

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United Staes Code, as amended, and military construction authorization Acts, $35,600,000, to remain available until September 30, 1987.

Family Housing, Army

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $146,781,000; for Operation and maintenance, $864,645,000; for debt payment, $43,184,000; in all, $1,054,610,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

Family Housing, Navy and Marine Corps

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,091,000; for Operation and maintenance, $604,516,000; for debt payment, $32,793,000; in all, $741,400,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

Family Housing, Air Force

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $143,004,000; for Operation and maintenance, $722,153,000; for debt payment, $64,114,000; in all, $929,271,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

Family Housing, Defense Agencies

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $433,000; for Operation and maintenance, $13,800,000; in all, $14,233,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

Homeowners Assistance Fund, Defense

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000.

General Provisions

Sec. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Niney-seventh Congress.

Sec. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Sec. 103. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Sec. 104. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Sec. 105. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

Sec. 106. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

Sec. 107. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

Sec. 108. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriations Acts.

Sec. 109. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations.

Sec. 110. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.

Sec. 111. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

Sec. 112. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

Sec. 113. No part of the funds appropriated in this Act may be obligated for design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

Sec. 114. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Sec. 115. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Sec. 116. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such projects, plus any amount by which the cost of such project is increased pursuant to law.

Sec. 118. Unexpended balances in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554 shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the purposes for which originally appropriated, and shall remain available for obligation for the same period as such funds were available before such transfer is made, except for funds available for debt payment, which shall remain available until September 30, 1983.

This Act may be cited as the "Military Construction Appropriation Act, 1983".

Mr. GINN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objeciton.

The CHAIRMAN. Are there any points of order against the bill?

The Chair hears none.

Are there any amendments?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Obey: page 13, after line 18, insert the following new section:

Sec. 119. Each sum appropriated by this Act for any account, activity, or project is reduced by an amount equal to 30.8 percent of such appropriated sum.

(By unanimous consent, Mr. Obey was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Mr. Chairman, at the desk at the present moment, as most people in the country are beginning to understand, is a discharge petition that would bring to the floor the Conable-Jenkins constitutional amendment requiring by constitutional mandate that the budget for the U.S. Government in all years be in balance.

Despite the fact that the President has submitted the largest deficit in the country's history, he is telling the country with a straight face that he wants that amendment passed; and despite the fact that many Members of this House have voted on many occasions for budget-busting amendments, we have at this point 200 Members of this House who have signed that discharge petition.

I think, in light of those two facts, that the country has reached new heights in doublespeak, and it seems to me that if the President is sincere, and if the Members who have signed that discharge petition or who have authored that constitutional amendment are sincere, then they ought to vote not just to require a balanced budget 5 years from now, as the constitutional amendment would require, but they ought to vote for a balanced budget now. It seems to me that what is sauce for the successor ought to be sauce for the incumbent.

So, very simply, what I am doing is offering an amendment that would reduce this bill by the portion that would be required across the board throughout the Federal Government if we were in fact to balance the budget not 5 years down the line but this year.

I suppose you might call it the put-up-or-shut-up balanced budget amendment before we go home for Labor Day. The purpose of offering this amendment is twofold: To illustrate what would be required if the Jenkins-Conable constitutional amendment were now law and, second, to give all of you who say you are for it a chance to demonstrate that you are sincere and not just engaged in a diversionary ploy.

Now, how do we get to a 31-percent reduction in this bill? It is very simple. The Congressional Budget Office estimates that the projected deficit for the coming fiscal year will be somewhere between $140 billion and $150 billion. They estimate total outlays for the year to be about $770 billion. Of that $770 billion, about $300 billion is direct spending which is not subject to appropriations—items, for instance, such as social security, which amounts to about $170 billion, interest, which amounts to about $117 billion, and unless we can repeal the basic laws of mathematics, we cannot do anything about the amount of interest we are required to pay this year.

That means that there is in the budget for this year only $448 billion which is subject to appropriation, and $245 billion of that is mandatory spending. It is entitlements or it represents contractual commitments already entered into by the Federal Government.

What that means, very simply, is this: The sum total of discretionary outlays which will occur in fiscal year 1983 as a result of the adoption of all 13 appropriation bills, assuming they come in at their budget targets, is about $213 billion. Of that total, $126 billion is in the defense area.

If, for instance, you are one of the Members of this House who seems to buy the line that we should not go much further than we already went on entitlements in this year's reconciliation package, and that the tax bill before the Congress is too big and that the world is too dangerous to permit any cuts in defense, it means that you have a $141 billion deficit, and only $87 billion in programs which you can take cuts from.

If you eliminate all discretionary domestic spending, ranging from the salary of Members of Congress to the cost of printing tax forms at IRS, all of the discretionary spending that remains in the budget, you would still have remaining this year a $54 billion deficit. Therefore, to balance the budget, we would have to cut more than the entire discretionary amount contained in those programs. It seems to me that since interest on the debt cannot be cut and the Congress position in resistance to social security cuts is quite clear, therefore it makes sense to apply this cut only to appropriated funds.

To reduce total outlays by $140 billion, which is the lower end of the deficit projection by CBO, we would have to cut all programs subject to appropriations by 30.8 percent, keeping in mind that this would, of course, not only require a reduction in the appropriated amounts, it will also require changes in law for each of the entitlements involved, otherwise those who are entitled will have standing to sue the Treasury and force the expenditure with or without an appropriation.

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Very simply, this is the put-up-or-shut-up amendment on the constitutional amendment. It indicates what would have to be done this year if that discharge petition came out to the floor and was actually passed by the Congress and was in effect now.

It seems to me if we are sincere about wanting a balanced budget down the line, we ought to be willing to apply it to this budget this year and not in some never-never land in the far distant future.

It means very simply we have three choices if we want to reach a balanced budget this year: We would have to cut across the board by 21 percent on all programs if we exempted only interest from the cut; or if we wanted to exempt all mandatory spending items from any budget reduction, we would

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have to cut the remaining portion of the budget by 64 percent this year.

Or we have the third item available, which is to do what I am offering the opportunity for the Members to do tonight which is to take all of the money which is subjected to appropriations and reduce that by the amount required to balance the budget if we do the same thing on all appropriations bills which we are doing on this bill.

I intend to offer this same amendment incidentally to every appropriations bill.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Chairman, is this amendment similar to an amendment that has continually been offered by the gentleman from Pennsylvania, the gentleman's notorious balance the budget amendment?

Mr. OBEY. I frankly do not remember what the gentleman from Pennsylvania's amendment was, but this amendment simply says that if one really is for balancing the budget under all economic circumstances regardless of the unemployment levels, regardless of conditions of national security or anything else, one has to cut it by this amendment here tonight right now.

Mr. WILLIAMS of Montana. I thank the gentleman.

Mr. GINN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I have to say as chairman of the Military Construction Subcommittee, I am pleased we are the first of the 13 appropriations bills to reach the floor. I cannot say that I am overjoyed to be the target of my distinguished colleague's amendment to reduce what we have done by 30.8 percent.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I want to say I certainly regret the fact that the gentleman from Georgia is the first target, so to speak, because I hold him in immensely high regard. Having been a member of the subcommittee myself, I know that the gentleman would just as soon get the bill through with as little trouble as this amendment will cause at this late hour.

Mr. GINN. I thank the gentleman for his comments.

Let me say this: Reducing the military construction appropriations bill or any appropriations bill through a percentage basis negates the appropriations and congressional review process. The bill before us has been carefully constructed, program by program, project by project, after very extensive hearings and weeks of analysis and review by both the subcommittee and the full committee.

Our job has been so thorough, Mr. Chairman, that we have found over a billion dollars in reductions that can be made. No further reduction can be justified, Mr. Chairman.

Certainly the method of reducing by percentage would do nothing but harm the central portions of the military construction program.

Further reductions to this military construction appropriation would mean drastic reductions in the quality of life for our people in the military. Problems in our vast family housing programs would go unattended. More than $1½ billion in readiness programs could be delayed or eliminated. Efforts by the committee to improve the living conditions for more than 30,000 individuals now living in substandard housing would be wasted.

Programs such as the Space Shuttle, Persian Gulf facilities, national security functions, and Navy, Army, and Air Force complexes throughout the world would be affected.

Mr. Chairman, the gentleman from Wisconsin (Mr. OBEY) has been a very valuable part of the appropriations process here in the Congress now for many fruitful years. I urge the gentleman to respect the appropriations process of which he has been a part and withdraw his amendment.

Mr. OBEY. Mr. Chairman, if the gentleman will yield further, I most certainly respect the appropriations process which is why I am offering the amendment, because as the gentleman from Louisiana, our former colleague, Mr. Passman, used to say: "This amendment is offered for illustrative purposes."

Everything that the gentleman has said is absolutely true; but I think nonetheless, it is important to decide whether people are really willing to put up or shut up on this issue of a balanced budget amendment.

Mr. GINN. Mr. Chairman, since my distinguished colleague, the gentleman from Wisconsin (Mr. OBEY) will not withdraw his amendment, I would ask the Members to vote against it in the interests of the work of the subcommittee, and in the interests of the appropriations process. I would also like to say that I am very interested in balancing the budget. However, this is not the appropriate mechanism to achieve that end.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I concur in the remarks of the chairman of the subcommittee and would also emphasize that what we are talking about here is investment in real estate. It is not the grocery bill. It is something that is long term in nature. It is absolutely essential if we are to maintain a volunteer service in this Nation that we provide decent housing and adequate working conditions. If the Members could see, as I did in Germany, young men lying in mud in the middle of winter trying to fix tanks, the Members would want to add to this bill rather than subtract.

I would point out one other thing. That is that in fiscal year 1983, the bill will only spend out $2.14 billion.

The gentleman from Wisconsin (Mr. OBEY) does not indicate in his amendment whether the gentleman is addressing this amendment to budget authority or to outlays, but if, in fact, it is directed toward outlays, it would even more seriously cripple the ability to meet the housing and quality of life needs of America's servicemen and servicewomen.

I would urge all my colleagues to vote against this amendment if the Members care about the people that serve this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 34, noes 322, not voting 78, as follows:

[Roll No. 304]

AYES—34

Albosta
Aspin
Bonior
Brown (CO)
Collins (IL)
Dellums
Dymally
Edgar
Forsythe
Garcia
Gephardt
Harkin
Kastenmeier
Lehman
Leland
Martin (IL)
Miller (OH)
Mitchell (MD)
Murphy
Obey
Paul
Rahall
Rangel
Reuss
Rodino
Roybal
Savage
Schroeder
Seiberling
Stark
Washington
Weaver
Weiss
Zablocki

NOES—322

Addabbo
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Bliley
Boggs
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conable
Conte
Corcoran
Coughlin
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon

August

Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dwyer
Dyson
Eckart
Edwards (AL
Edwards (OK
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschm
Hance
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Hollenbeck
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffries

Applegate
Bafalis
Beard
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling

Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dwyer
Dyson
Eckart
Edwards (AL)
Edwards (OK)
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Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
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Gregg
Grisham
Guarini
Gunderson
Hagedorn
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Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
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Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Hollenbeck
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
LeBoutillier
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lungren
Markey
Marlenee
Marriott
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McGrath
McHugh
McKinney
Michel
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nichols
O'Brien
Oakar
Oberstar
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Stratton
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Udall
Vander Jagt
Vento
Volkmer
Walker
Watkins
Waxman
Weber (MN)
Weber (OH)
White
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wirth
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (MO)
Zeferetti

NOT VOTING—78

Applegate
Bafalis
Beard
Bethune
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Brodhead
Brown (CA)
Brown (OH)
Burton, John
Chisholm
Clay
Collins (TX)
Conyers
Courter
Crockett
Davis
Dunn
Early
Edwards (CA)
Erlenborn
Ertel
Evans (GA)
Fenwick
Fithian
Flippo
Foley
Fountain
Fowler
Fuqua
Gore
Hartnett
Holland
Holt
Horton
Hyde
Jeffords
Jenkins
Latta
Lowery (CA)
Lundine
Madigan
Marks
Mattox
McEwen
Mica
Mikulski
Mitchell (NY)
Moffett
Mottl
Nelson
Nowak
Richmond
Roe
Rose
Rosenthal
Sensenbrenner
Shannon
Smith (PA)
Solarz
Stanton
Studds
Thomas
Traxler
Trible
Walgren
Wampler
Whitehurst
Wilson
Winn
Wright
Yates
Young (AK)
Young (FL)

☐ 2000

Messrs. DINGELL, SCHEUER, WHITE, ROSTENKOWSKI, AuCOIN, McDADE, and VENTO changed their votes from "aye" to "no."

Mr. WEISS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 13, after line 15, add the following new section:

SEC. 119. No funds appropriated under this act shall be expended in violation of section 7 of Public Law 95-435.

Mr. WALKER. Mr. Chairman, I might say at the outset that I do not have an intention of asking for a record vote on this amendment. I realize the hour is late.

☐ 2010

The reason why I offer the amendment is to show how this amendment is different from the kind of approach taken in the amendment before, is the point that I have been trying to make for some time about the balanced budget amendments that I have been offering, because what I have been asking is that we comply with the law that now stands. It is the law that this Congress has passed and reaffirmed on a couple of occasions.

I think it is important to realize that that does not necessarily imply an across-the-board cut in the manner the previous amendment talks about doing. What my amendment would require is a setting of priorities, a setting of priorities across the totality of the budget.

If, in fact, there is a balanced budget approach taken in any given bill, my point is that the President of the United States, this Congress, any number of ways in which we handle the budget could be applied toward getting us to a balanced budget if, in fact, we mandated it in these particular bills.

So, there is a large difference between an across-the-board cut in particular categories and areas and the balanced budget approach that I am taking, which asks that we comply with the law. I think that it is important for Members for future reference if this amendment is offered to realize that this is not an attempt to do any more than ask that we obey the law of the land.

Why is that important? Because right now, as an alternative to constitutional amendments, we are hearing a number of people come forth with things they say we are going to pass into law, we are going to have a law requiring a balanced budget. I am saying that the law of the land now is a balanced budget, and if we do not have the courage in this body to go along with what we have already passed into law, I have no reason to think that any other law would be any more effective.

So, this is an attempt, and it is an attempt that I have been making now for several weeks, to show that a law just will not work; we have got to have a constitutional amendment if we are ever going to get fiscal discipline based upon what the Constitution requires us to do.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. I just want to reemphasize once again to the Members that are here that this bill is $1.2 billion less than the President's request. That represents a reduction of nearly 15 percent from the amount requested by the President, and I think that the committee made every effort to respond to the kind of concerns expressed by the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman.

Mr. GINN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the bill before us, as pointed out by Mr. REGULA, contains the funds necessary to house the operations of our Armed Forces. Adopting this particular provision would tie up the funds necessary to improve readiness and the quality of life of the women and men and those who serve in our Armed Forces. I am confident that the gentleman from Pennsylvania does not intend to hinder that process. I ask for a nay vote.

The CHAIRMAN. The question on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

Mr. GINN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr.

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Foley) having assumed the Chair, Mr. Panetta, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983 and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 325, nays 31, not voting 78, as follows:

[Roll No. 305]

YEAS—325

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bliley
Boggs
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conable
Conte
Corcoran
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dwyer
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hollenbeck
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffries
Jones (OK)
Jones (TN)
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Leach
Leath
LeBoutillier
Lee
Lehman
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McGrath
McHugh
McKinney
Mica
Michel
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nichols
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rousselot
Sabo
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Udall
Vander Jagt
Vento
Volkmer
Walker
Watkins
Waxman
Weber (MN)
Weber (OH)
Weiss
White
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (MO)
Zablocki
Zeferetti
Walgren
Wampler
Whitehurst
Wilson
Winn
Wright
Yates
Young (AK)
Young (FL)

NAYS—31

AuCoin
Bedell
Brown (CO)
Collins (IL)
Coughlin
Crockett
Dellums
Downey
Dymally
Forsythe
Garcia
Harkin
Kastenmeier
LaFalce
Leland
Miller (OH)
Mitchell (MD)
Murphy
Ottinger
Paul
Rahall
Rangel
Reuss
Roybal
Russo
Savage
Schroeder
Seiberling
Washington
Weaver
Wirth

NOT VOTING—78

Applegate
Beard
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Brown (CA)
Brown (OH)
Burton, John
Chisholm
Clay
Collins (TX)
Conyers
Courter
Davis
Dunn
Early
Edwards (CA)
Erlenborn
Ertel
Fenwick
Fithian
Flippo
Fowler
Fuqua
Gore
Gregg
Hartnett
Hillis
Holland
Holt
Horton
Hyde
Ireland
Jeffords
Jenkins
Johnston
Jones (NC)
Kemp
Latta
Lent
Lundine
Marks
Mattox
McCloskey
McEwen
Mikulski
Mitchell (NY)
Moffett
Mottl
Nelson
Nowak
Richmond
Roe
Rose
Rosenthal
Rudd
Sensenbrenner
Shamansky
Shannon
Smith (PA)
Solarz
Stanton
Studds
Thomas
Traxler
Trible

□ 2030

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may be permitted to include extraneous matter and tabulations, on the bill just passed.

The SPEAKER pro tempore. (Mr. Foley). Is there objection to the request of the gentleman from Georgia?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power;

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service; and

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3663) entitled "An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Packwood, Mr. Danforth, and Mr. Cannon to be the conferees on the part of the Senate.

ELECTION OF HON. MELVIN PRICE AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

Mr. ROSTENKOWSKI. Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 573

Resolved, That Hon. Melvin Price, a Representative from the State of Illinois, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Melvin Price as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HON. MELVIN PRICE AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER pro tempore. The Chair asks the distinguished gentleman from Illinois (Mr. PRICE) to assume the chair.

Mr. PRICE assumed the chair and took the oath of office administered to him by the gentleman from Washington (Mr. FOLEY).

CONFERENCE REPORT ON H.R. 3663, BUS REGULATORY REFORM ACT OF 1982

Mr. HOWARD submitted the following conference report and statement on the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers:

CONFERENCE REPORT (H. REPT. NO. 97-780)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Bus Regulatory Reform Act of 1982".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary and burdensome Government regulation.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel-efficient motor bus system contributes to the maintenance of a strong national economy and a strong national defense and is vital to the transportation needs of the elderly, handicapped, and the poor; that the statutes governing Federal regulation of the motor bus industry are outdated and must be revised to reflect the future transportation needs and realities; that historically the existing Federal and State regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the motor bus industry; that State regulation of the motor bus industry has, in certain circumstances, unreasonably burdened interstate commerce; that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry; that the objectives contained in the national transportation policy can best be achieved through greater competition and reduced regulation; that in order to reduce the uncertainty felt by the Nation's motor bus industry and those persons and communities that rely on its services, the Interstate Commerce Commission should be given explicit direction for reduced regulation of the motor bus industry and should do everything within its power to promote competition in the motor bus industry; and that legislative and resulting changes should be implemented without unnecessary disruption to the transportation system consistent with the scope of the reforms enacted.

CONGRESSIONAL OVERSIGHT

SEC. 4. The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, not less than annually until July 1, 1985, to ensure that this Act is being implemented according to congressional intent and purpose.

NATIONAL TRANSPORTATION POLICY

SEC. 5. Subsection (a) of section 10101 of title 49, United States Code, is amended by striking out "and in regulating those modes" and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, passengers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers and intrastate bus services; (F) provide and maintain commuter bus operations; (G) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (H) promote greater participation by minorities in the motor carrier system; and (I) promote intermodal transportation; and

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.".

MOTOR CARRIER OF PASSENGERS ENTRY POLICY

SEC. 6. (a) Subsection (a) of section 10922 of title 49, United States Code, is amended (1) by striking out "II or", and (2) by striking out "motor common carrier of passengers or water common carrier, respectively," and inserting in lieu thereof "water common carrier".

(b) Section 10922 of title 49, United States Code, is amended by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) (and any references thereto) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Except as provided in this section—

"(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and shall issue a certificate to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(B) For any application for authority as a motor common carrier of passengers, except an application to which subparagraph (A) of this paragraph applies, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

"(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of this subsection to provide interstate transportation of passengers if the

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Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

"(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority, or will be granted authority, after the effective date of this section to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(C) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and if a city within the commercial zone, as defined in section 10526(b)(1) of this title, is served by a motor common carrier of passengers providing regular-route transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(D) Subject to subparagraph (F) of this paragraph, any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this subtitle. Upon issuance of such certificate, the carrier shall establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under such subchapter establishes rates, rules, and practices applicable to such interstate transportation. Any such rate, rule, or practice (including changes thereto) shall be subject to the provisions of chapter 107 of this subtitle as if such rate, rule, or practice were related to interstate transportation.

"(E) Not later than 30 days after the date on which a motor common carrier of passengers first begins providing transportation entirely in one State pursuant to a certificate issued under this paragraph, the carrier shall take all action necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

"(F) Transportation entirely in one State authorized by issuance of a certificate under this paragraph shall remain subject to the jurisdiction of the Commission, and rates, rules, and practices applicable to such transportation established under subparagraph (D) of this paragraph shall remain in effect, until permanent rates, rules, and practices applicable to such transportation are established under the laws of such State.

"(G) The Commission shall take final action upon an application filed under subparagraph (A) of this paragraph for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

"(H) This paragraph shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(I) Notwithstanding subparagraph (F) of this paragraph, intrastate transportation authorized under this paragraph may be suspended or revoked by the Commission under section 10925 of this title.

"(3) In making any findings relating to public interest under paragraphs (1)(A) and (2)(B) of this subsection, the Commission shall consider, to the extent applicable—

"(A) the transportation policy of section 10101(a) of this title;

"(B) the value of competition to the traveling and shipping public;

"(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

"(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route system.

"(4) The provisions of paragraph (1) of this subsection relating to the Commission finding that transportation to be authorized by issuance of a certificate is not consistent with the public interest shall not apply to any application under this subsection for authority to provide—

"(A) interstate transportation service to any community not regularly served by a motor common carrier of passengers under this section;

"(B) interstate transportation service which will be a substitute for discontinued rail or commercial-air passenger service to a community if such discontinuance results in such community not having any rail and commercial-air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

"(C) interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to discontinue or reduce its level of intrastate service to such community under section 10935 of this subchapter.

"(5) The Commission may not make any finding under paragraphs (1) and (2) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(6) The requirement that persons issued certificates under this subsection be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.

"(7) No motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the traveling public; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(8) No motor contract carrier of passengers may protest an application to provide transportation filed under this subsection.

"(9) For purposes of this section, authority under this subsection to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation or any combination of air, rail, or water transportation.".

(c) Paragraph (4) of subsection (e) of section 10922 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended to read as follows:

"(4) A certificate of a motor common carrier to transport passengers shall be deemed to include permissive authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with the passengers, or baggage of passengers in a separate motor vehicle.".

(d)(1) Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (5) through (29), and any references thereto, as paragraphs (6) through (30), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) 'commuter bus operations' means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced-fare, multiple-ride, or commutation tickets during morning and evening peak period operations.".

(2) Section 11711(f) of such title is amended by striking out "10102(10)(A)" and inserting in lieu thereof "10102(11)(A)".

(3) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(18)" and inserting in lieu thereof "10102(19)".

(4)(A) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(12)" and inserting in lieu thereof "10102(13)".

(B) Section 5201(6) of title 39, United States Code, is amended by striking out "10102(7)" and inserting in lieu thereof "10102(8) of title 49".

(e) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting "10708(f)," immediately after "10708(b),";

(2) by striking out "10922(h)(2)" and inserting in lieu thereof "10922(i)(2), 10922(i)(4)"; and

(3) by adding at the end thereof the following new sentence: "In addition, the deadlines set forth in this section do not apply to any application filed under section 10922(c)(2)(A) of this subtitle for authority to provide regular-route transportation entirely in one State as a motor common carrier of passengers.".

(f) Section 10521(b) of title 49, United States Code, is amended—

(1) in clause (1) by inserting "except as provided in sections 10922(c)(2), 10935, and 11501(e) of this title," immediately before "affect";

(2) in clause (2) by inserting "except as provided in sections 10922(c)(2) and 11501(e)," immediately before "authorize"; and

(3) in clause (3) by inserting "except as provided in section 10922(c)(2) of this title," immediately before "allow".

(g) Section 10922 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Except as provided in paragraph (2) of this subsection, the Commission, notwithstanding any other provision of law (other than such paragraph (2)), shall not issue any certificate to any motor common carrier, or any permit to any motor contract carrier, domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country in the two-year period beginning on the effective date of this subsection. The President of the United States may extend, beyond such two-year period, such moratorium with respect to any contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision.

"(2) The President of the United States may remove or modify, in whole or in part, any moratorium imposed under paragraph (1) of this subsection on the issuance of certificates or permits if the President determines that such removal or modification is in the national interest and notifies, in writing, the Congress of such removal or modification before the date on which such removal or modification is to take effect. In any case in which such moratorium applies to a contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision, such removal or modification shall not take effect before the 60th day following the date on which the Congress is notified of such removal or modification.".

RESTRICTION REMOVAL

SEC. 7. Section 10922(i) of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by adding at the end thereof the following new paragraphs:

"(3) On the effective date of this paragraph, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authorize (but not require)—

"(A) round-trip operations where only one-way authority exists; and

"(B) special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

"(4) Upon request of any person issued a certificate to provide interstate transportation of passengers under this section, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be provided.".

MIXING OF REGULAR AND CHARTER PASSENGERS

SEC. 8. Subsection (j) of section 10922 of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, by inserting "(1)" before "A person holding", and by adding at the end of such subsection the following new paragraphs:

"(2)(A) Subject to the provisions of this paragraph, a motor common carrier of passengers who has authority under this section to provide special or charter transportation of passengers and to provide regular-route transportation of passengers may transport the special or charter passengers in the same motor vehicle with regular-route passengers.

"(B) Subparagraph (A) of this paragraph shall only apply to transportation of passengers entirely in a State if the motor common carrier of passengers has authority under the laws of such State to provide within such State special or charter transportation of passengers and regular-route transportation of passengers and if the laws of such State and the certificate, permit, or other authority under which such carrier provides intrastate transportation in such State authorizes such carrier to transport special or charter passengers in the same motor vehicle with regular-route passengers.

"(C) Special or charter transportation of passengers may only be provided under subparagraph (A) of this paragraph in the same motor vehicle as regular-route transportation of passengers if the mixing of such passengers does not interfere with the obligation of the carrier to comply with section 11101 of this subtitle.

"(3) Subject to such regulations as the Commission may issue, a person who has authority under this section to provide charter transportation of passengers may transport groups of charter passengers in the same motor vehicle at the same time.".

RULE OF RATEMAKING

SEC. 9. (a) Section 10701(e) of title 49, United States Code, is amended by striking out "of property" each place it appears.

(b) Section 10704(b)(2)(B) of title 49, United States Code, is amended by striking out "of property".

RATE BUREAUS

SEC. 10. (a) Paragraphs (1) and (2) of section 10706(b) of title 49, United States Code, are amended by striking out "of property" each place it appears.

(b)(1) Section 10706(b)(3)(B)(i) of title 49, United States Code, is amended by striking out "and (D)" and inserting in lieu thereof ", (D), (E), and (F)".

(2) Section 10706(b)(3)(B)(iii) of title 49, United States Code, is amended by striking out "of property".

(3) Section 10706(b)(3)(D) of title 49, United States Code, is amended by inserting after the first sentence the following new sentence: "This subparagraph shall not apply to any single-line rate proposed by a motor common carrier of passengers.".

(4) Section 10706(b)(3) of title 49, United States Code, is amended by redesignating subparagraphs (E) and (F), and any references thereto, as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (D) the following new subparagraphs:

"(E) On and after January 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon any single-line rate proposed by a motor common carrier of passengers. On and after January 1, 1984, no agreement approved under this subsection may provide for discussion of or voting upon any joint rate proposed by one or more motor common carriers of passengers. This subparagraph shall not apply to any rate applicable to special or charter transportation. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

"(i) any general rate increase or decrease, broad change in tariff structure, or promotional or innovative fare change, as defined by the Commission and subject to such notice requirements as the Commission may specify by regulation, if discussion of such general increase or decrease is limited to industry average carrier costs and intermodal competitive factors and does not include discussion of individual markets or particular single-line rates or joint rates; and

"(ii) publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(F) After the effective date of this subparagraph, no agreement approved under this subsection may provide for discussion of or voting upon any rate applicable to special or charter transportation proposed by a motor common carrier of passengers. This subparagraph shall not apply to publication of any such rate.".

(c) Subsection (b) of section 10706 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this subtitle (other than paragraph (3)(F) of this subsection, relating to special and charter transportation of passengers), before January 1, 1983, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of passengers from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, or divisions, except that before January 1, 1983, the Commission may issue regulations which take effect on or after January 1, 1983, to carry out the provisions of paragraph (3)(E) of this subsection.".

(d) The first sentence of section 10706(c) of title 49, United States Code, is amended by striking out "of property".

(e)(1) Paragraph (2) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended to read as follows:

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"(2)(A) The Study Commission shall make (i) a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and upon the need or lack of need for continued antitrust immunity therefor, and (ii) a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for antitrust immunity therefor. The Study Commission may study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. Each such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. Each such study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

"(B) The Study Commission shall make a full and complete investigation and study of the impact of implementation of the Bus Regulatory Reform Act of 1982 on persons over the age of 60, including those who reside in rural areas and small communities. In particular, the Study Commission shall investigate and study the effect on such persons of the potential termination of routes as a result of implementation of the Bus Regulatory Reform Act of 1982. In making the study required by this subparagraph, the Study Commission shall provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In addition, the Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high quality intrastate motor bus services. Such study shall focus on the impact on existing firms currently providing service, some or all of which is conducted between points wholly within a single State. The Study Commission shall present its conclusions in its final report. Prior to such final report, if the Study Commission finds the existence of conditions that jeopardize the viability of continued intrastate services, it shall immediately notify the Congress and the Interstate Commerce Commission of its findings. If such notice is presented to the Interstate Commerce Commission, it shall give expedited treatment to whatever recommendations are made. The mandate to study the impact on intrastate bus transportation shall be an on-going one throughout the duration of the Study Commission's existence.".

(2) Paragraph (3) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended—

(A) by striking out "ten members" and inserting in lieu thereof "fourteen members";

(B) by striking out "and" at the end of clause (B); and

(C) by striking out the period at the end of such paragraph and inserting in lieu thereof "; and"; and

(D) by adding at the end of such paragraph the following:

"(D) four members of the public appointed by the President, one who is a motor common carrier of passengers receiving $3,000,000 or more per year in revenues from motor common carrier of passengers operations, one who is a motor common carrier of passengers receiving less than $3,000,000 per year in revenues from motor common carrier of passengers operations, and two who are not affiliated with the motor common carrier industry.

No member of the Study Commission who is appointed under clause (C) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of passengers, and no member of the Study Commission who is appointed under clause (D) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of property.".

(3) Paragraph (4) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended by striking out the first 2 sentences and inserting in lieu thereof the following:

"(4) The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of property not later than January 1, 1983, and its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984. The Study Commission shall, not later than January 1, 1984, submit to the President and the Congress the report required by paragraph (2)(B) of this subsection. Such reports shall include, but not be limited to, the findings and recommendations of the Study Commission. The Study Commission shall cease to exist 6 months after submission of the last of such reports.".

(4) Paragraph (12) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 808) is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000".

(f) Any organization established pursuant to an agreement entered into by motor common carriers of passengers and approved by the Commission prior to the effective date of this subsection under section 10706(c) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such effective date, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

ZONE OF RATE FREEDOM

SEC. 11. (a) Subsection (d) of section 10708 of title 49, United States Code, is amended by redesignating paragraph (4) of such subsection, and any references thereto, as paragraph (6) and inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any single-line rate proposed by a motor common carrier of passengers, or joint rate proposed by one or more such carriers, applicable to any transportation (other than special or charter transportation) on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(A) the carrier or carriers notify the Commission that they wish to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 20 percent below the lesser of the rate in effect on the effective date of this paragraph (or, in case of any rate which the carrier or carriers first establish after such date for a service not provided by the carrier or carriers on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(5) One year after the effective date of this paragraph, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 15 percent and 25 percent, respectively. Two years after the effective date, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 20 percent and 30 percent, respectively.".

(b) Paragraph (6) of section 10708(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting after the first sentence the following new sentence: "Evidence that any motor common carrier of passengers established pursuant to this subsection a joint or single-line rate applicable to transportation over any route which is the same as or similar to a joint rate applicable to transportation over such route which such carrier together with one or more other motor common carriers of passengers established pursuant to this subsection shall not be in and of itself sufficient to establish a violation of any such antitrust law.".

(c) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Notwithstanding any other provision of this title, 3 years after the effective date of this subsection, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers on the grounds that such rate is unreasonable on the basis that it is too high or too low, unless the proposed rate is established collectively in accordance with the procedures of an agreement approved by the Commission under section 10706(b) of this title. In publishing and filing a tariff under section 10762 of this title, the carrier shall disclose whether such rate is the result of collective ratemaking procedures pursuant to an agreement approved by the Commission under section 10706(b) of this title.

"(f) Notwithstanding any other provision of this title, an interested party may file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under this section by a motor carrier of passengers. Any such complaint proceeding shall be finally determined by the Commission no later than 90 days after the filing of the complaint.".

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

SEC. 12. (a) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

(b) Section 10762(c)(3) of title 49, United States Code, is amended—

(1) in the second sentence by inserting "and motor common carrier of passengers with respect to special or charter transportation" immediately after "a rail carrier"; and

(2) by adding at the end thereof the following new sentence: "In the case of a motor common carrier of passengers, a proposed rate change resulting in an increased rate or a new rate applicable to special or charter transportation shall not become effective for 30 days after the notice is published, and a proposed rate change resulting in a reduced rate applicable to special or charter transportation shall not become effective for 10 days after the notice is published.".

MOTOR CONTRACT CARRIERS

SEC. 13. (a) Section 10923(b)(2) of title 49, United States Code, is amended to read as follows:

"(2) The provisions of paragraph (2) of subsection (a) of this section shall not apply to applications under this section for authority to provide transportation as a motor contract carrier of passengers. The requirement that persons issued permits under this section as motor contract carriers of passengers be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.".

(b) Subsection (e) of section 10925 of title 49, United States Code, is amended—

(1) by striking out "of property" each place it appears;

(2) by striking out "section 10922(b)" each place it appears and inserting in lieu thereof "section 10922"; and

(3) in paragraph (2)—

(A) by striking out "transportation"; and

(B) by striking out "of the same property" and inserting in lieu thereof "the same type of transportation".

BROKERS

SEC. 14. (a) Subsection (a) of section 10924 of title 49, United States Code, is amended by striking out "passengers or".

(b) Subsection (e) of section 10924 of title 49, United States Code, is amended by striking out "of travelers and".

(c) Section 10924 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Commission may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers.".

(d) Section 10526(a) of title 49, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) brokers for motor carriers of passengers, except as provided in section 10924(f) of this title.".

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

SEC. 15. Section 10928 of title 49, United States Code, is amended—

(1) in subsection (a) by striking out "motor carrier of passengers or" each place it appears;

(2) in subsection (b)(1) by striking out "of property" each place it appears; and

(3) in subsection (c)(1) by striking out "of property" each place it appears and by inserting immediately after "not more than 90 days" the following: "and, in addition, in the case of a motor carrier of passengers, the Commission may extend such authority for a period of more than 90 days but not more than 180 days if no other motor carrier of passengers is providing transportation to the place or in the area".

EXIT POLICY

SEC. 16. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10935. Discontinuing bus transportation in one State

"(a) When a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of this subchapter, to provide transportation over any route to any point in such State has proposed to discontinue providing transportation over such route to such point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays) and the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over granting such discontinuance or reduction for permission to discontinue such intrastate transportation or to reduce its level of service to a level which is less than one trip per day (excluding Saturdays and Sundays) and the request has been denied (in whole or in part) or such department, agency, or instrumentality has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request, the carrier may petition the Commission for such permission.

"(b) When a petition is filed under subsection (a) of this section, the carrier shall certify that he has notified (1) the Governor of the State in which such transportation is provided, (2) the State authority having jurisdiction over granting discontinuances of transportation by motor common carriers of passengers and reductions in levels of service by such carriers, (3) local governments having jurisdiction over areas which would be affected if such petition is granted, and (4) such other interested persons as the Commission may specify by regulation.

"(c) Any person (including a department, agency, or instrumentality of a State or local government) may object to the Commission to the granting of permission to any motor common carrier of passengers to discontinue or reduce transportation under this section.

"(d) If no person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the Commission shall grant such permission at the end of such 20-day period.

"(e)(1)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that such discontinuance or reduction is not consistent with the public interest or that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted, on or before August 1, 1982, authority to provide interstate transportation of passengers.

"(2)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce. For the purposes of this paragraph, continuance of the transportation would not constitute an unreasonable burden on interstate commerce only if discontinuance or reduction of such transportation is not consistent with the public interest and the interstate and intrastate revenues from such service under reasonable pricing practices are not less than the variable costs of providing the transportation proposed to be discontinued or reduced.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted after August 1, 1982, and before the effective date of this section, or is granted on or after such effective date, authority to provide interstate transportation of passengers.

"(3) The Commission shall only grant permission to a carrier to discontinue intrastate transportation over any route to any point under this subsection if such carrier has applied for authority to discontinue its interstate transportation over such route to such point under section 10925(b) of this subchapter and the Commission has granted or will grant such authority.

"(4) If any person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the carrier, within 15 days after the filing of such objection with the Commission, shall furnish to the Commission and to objecting persons—

"(A) an estimate of the annual subsidy required, if any, to continue the service;

"(B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service; and

"(C) such other information as the Commission may require by regulation.

The Commission shall take final action upon such petition not later than 90 days after the date the carrier files such petition.

"(f) Before a discontinuance or reduction in level of service proposed in a petition

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filed by a carrier under subsection (a) of this section has become effective, the Commission may order the carrier to continue any part of the intrastate transportation in not to exceed the 165-day period beginning on the date the carrier files such petition with the Commission.

"(g)(1) In making a finding under subsection (e)(1) of this section, the Commission shall accord great weight to the extent to which interstate and intrastate revenues received for providing the transportation proposed to be discontinued or reduced are less than the variable costs of providing such transportation, including depreciation for revenue equipment. For purposes of the preceding sentence, the carrier filing a petition for permission to discontinue or reduce service shall have the burden of proving the amount of the interstate and intrastate revenues received for providing the transportation and the variable costs of providing the transportation.

"(2) In making a finding under subsection (e)(1) or (e)(2) of this section, the Commission shall consider, to the extent applicable, at least—

"(A) the national transportation policy of section 10101 of this title;

"(B) whether the motor common carrier of passengers has received an offer of, or is receiving, financial assistance to provide the transportation to be discontinued or reduced from a financially responsible person (including a governmental authority); and

"(C) in the case of a petition to discontinue transportation to any point, whether the transportation is the last motor carrier of passenger service to such point and whether a reasonable alternative to such service is available.

"(h) No State or political subdivision thereof and no interstate agency or other agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to discontinuance or reduction in the level of intrastate service by a motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title corresponding to an interstate service initiated pursuant to the provisions of section 10922(c)(4) of this title, except to the extent that notice of discontinuance or reduction in service, not in excess of 30 days, may be required.

"(i) This section shall not apply to any carrier owned or controlled by a State or local government.".

(b) The analysis for subchapter II of chapter 109 of title 49, United States Code, is amended by inserting

"10935. Discontinuing bus transportation in one State."

after

"10934. Household goods agents.".

(c) Section 10322(a) of title 49, United States Code, is amended by inserting "10935," after "10934(c),".

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

SEC. 17. (a)(1) Section 11501 of title 49, United States Code, is amended by redesignating subsection (e), and any references thereto, as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) The Commission shall prescribe any rate, rule, or practice applicable to transportation provided entirely in one State by a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

"(A) if the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice for permission to establish such rate, rule, or practice and the request has been denied (in whole or in part) or the State authority has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request; and

"(B) if the Commission finds that the rate, rule, or practice in effect and applicable to such intrastate transportation causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

"(2) For purposes of paragraph (1)(B) of this subsection, there shall be a rebuttable presumption that—

"(A) any rate, rule, or practice applicable to transportation provided by a motor common carrier of passengers entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds—

"(i) that such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers;

"(ii) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice such carrier does not receive revenues from such transportation which exceed the variable costs of providing such transportation; or

"(iii) that the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice failed to act finally (in whole or in part) on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request; and

"(B) any rate applicable to transportation entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds that the most recent general rate increase applicable to transportation provided by motor common carriers of passengers in such State is less than the most recent general rate increase applicable to interstate transportation provided by motor common carriers of passengers under this subtitle.

"(3)(A) A motor common carrier of passengers must file an application with the Commission for prescription under this subsection of a rate, rule, or practice applicable to transportation provided entirely in one State by such carrier. When such application is filed with the Commission, the carrier shall certify that he has notified (i) the Governor of such State, (ii) the department, agency, or instrumentality of such State which denied, or failed to take action on, the request of such carrier related to such rate, rule, or practice, and (iii) such other interested persons as the Commission may specify by regulation. The Commission shall take final action on any such application not later than 60 days after such application is filed with the Commission.

"(B) The Commission shall establish, by regulation, procedures for processing applications under this subsection.

"(4) This subsection shall not apply to any carrier owned or controlled by a State or local government.

"(5) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation provided by motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title on an authorized interstate route or relating to the implementation of any reduction in the rates for such transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This paragraph shall not apply to intrastate commuter bus operations.

"(6)(A) No motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission may charge or collect a rate for intrastate service provided on an authorized interstate route which constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title.

"(B) When the Commission decides, upon complaint by any person, that a reduction in a rate charged or collected by such a motor common carrier of passengers for intrastate service provided on an authorized interstate route constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title, the Commission shall prescribe the rate applicable to such service.".

(2) Subsection (f) of section 11501 of title 49, United States Code, as redesignated by paragraph (1) of this subsection, is amended by inserting "(1)" immediately after "take action" and by inserting ", or (2) with respect to a rate, rule, or practice of a motor common carrier of passengers, in accordance with the procedures established by the Commission under subsection (e)(3)(B) of this section" immediately after "a full hearing".

(b) Section 10322(a) of title 49, United States Code, is amended by inserting "or 11501(e)" immediately after "section 10934".

(c) The Interstate Commerce Commission, in consultation with each national association representing State departments, agencies, and instrumentalities having jurisdiction over motor common carrier transportation of passengers, shall cooperate with each such department, agency, or instrumentality of a State for the purpose of establishing standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers who provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of subtitle IV of title 49, United States Code, which are—

(1) to the extent feasible, uniform among the States; and

(2) consistent with the standards and procedures established by the Interstate Commerce Commission under such subtitle for regulation of interstate transportation provided by motor common carriers of passengers.

(d) It is the sense of Congress that each State should revise its standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers to conform such standards and procedures to the standards and procedures for rates, rules, and practices applicable to interstate transportation provided by motor carriers of passengers not later than 2 years after the effective date of this section.

(e) Not later than 30 months after the effective date of this section, the Interstate Commerce Commission shall report to the Congress on the results of its efforts to estab-

lish uniform standards and procedures applicable to motor common carrier of passengers rates, rules, and practices.

FINANCIAL RESPONSIBILITY

SEC. 18. (a) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability and property damage for the transportation of passengers for hire by motor vehicle in the United States from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.

(b) The minimal level of financial responsibility established by the Secretary under subsection (a) of this section—

(1) for any vehicle with a seating capacity of 16 passengers or more shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $2,500,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service; and

(2) for any vehicle with a seating capacity of 15 passengers or less shall not be less than $1,500,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $750,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(c)(1) If, at the end of the one-year period beginning on the effective date of this section, the Secretary has not established regulations to require minimal levels of financial responsibility as required by subsection (a) of this section for any class of transportation of passengers, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in subsection (b)(1) of this section in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount set forth in subsection (b)(2) of this section in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount under this section.

(2) Notwithstanding the provisions of subsection (b) of this section, the Secretary may only make reductions in the $5,000,000 and $1,500,000 amounts set forth in such subsection for the two-year period beginning on the 366th day following the effective date of this section or any part of such period.

(d) Financial responsibility may be established under this section by any one or combination of the following methods acceptable to the Secretary: evidence of insurance, including high self-retention, guarantee, or surety bond. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(e)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) This section shall not apply—

(1) to a motor vehicle transporting only school children and teachers to or from school;

(2) to a motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points; and

(3) to a motor vehicle carrying less than 16 individuals in a single, daily round trip to commute to and from work.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" means a State of the United States and the District of Columbia.

(h) Section 10927(a)(1) of title 49, United States Code, is amended by inserting immediately after "Motor Carrier Act of 1980" the following: ", in the case of a motor carrier of property, or section 18 of the Bus Regulatory Reform Act of 1982, in the case of a motor carrier of passengers".

SECURITIES

SEC. 19. (a) Section 11302 of title 49, United States Code, and the item relating to such section in the analysis for chapter 113 of such title, are repealed.

(b) Section 11348 of title 49, United States Code, is amended by striking out "11302," each place it appears.

(c) Section 11911(a) of title 49, United States Code, is amended by striking out "or of a person to which that section is made applicable by section 11302(a) of this title".

(d) Section 3(a)(6) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended by striking out "Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any" and by inserting in lieu thereof "Any".

TAX DISCRIMINATION

SEC. 20. (a) Section 11503a(a)(3) of title 49, United States Code, is amended by striking out "of property".

(b) Section 11503a(c)(1) of title 49, United States Code, is amended by striking out "other commercial and industrial property" and inserting in lieu thereof "such other property".

MERGER PROCEDURE

SEC. 21. (a)(1) Section 11341(a) of title 49, United States Code, is amended by inserting "or exempted by" immediately after "approved by".

(2) The third sentence of section 11341(a) of title 49, United States Code, is amended by inserting "approved or exempted" immediately after "participating in that".

(b) Section 11343 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any provisions of this title, the Interstate Commerce Commission, in a matter related to a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, may exempt a person, class of persons, transaction, or class of transactions from the merger, consolidation, and acquisition of control provisions of this subchapter if the Commission finds that—

"(A) the application of such provisions is not necessary to carry out the transportation policy of section 10101 of this title; and

"(B) either (i) the transaction is of limited scope, or (ii) the application of such provisions is not needed to protect shippers from the abuse of market power.

"(2) At least 60 days before any transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter may take effect, each carrier intending to participate in such transaction shall file with the Commission a notice of its intention to participate in such transaction and shall give public notice of such intention. The Commission shall prescribe the information to be contained in such notices, including the nature and scope of the transaction.

"(3) The Commission, on its own initiative or on complaint, may revoke an exemption granted under this subsection, to the extent it specifies, when it finds that application of the provisions of this section to the person, class of persons, or transportation is necessary to carry out the transportation policy of section 10101 of this title.

"(4) If the Commission, on its own initiative, finds that employees of any carrier intending to participate in a transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter are or will be adversely affected by such transaction or if employees of such carrier adversely affected by such transaction file a complaint concerning such transaction with the Commission, the Commission shall revoke such exemption to the extent the Commission deems necessary to review and address the adverse effects on such employees.".

(c) The heading of section 11345a of title 49, United States Code, is amended to read as follows:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier procedure".

(d) Subsection (a) of such section is amended by striking out "of property".

(e) The item relating to section 11345a in the analysis for subchapter III of chapter 113 of title 49, United States Code, is amended to read as follows:

"11345a. Consolidation, merger, and acquisition of control: motor carrier procedure.".

(f) Section 11344(b) of title 49, United States Code, is amended by redesignating paragraphs (1), (2), (3), (4), and (5) (and any references thereto) as subparagraphs (A),

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(B), (C), (D), and (E), respectively, by inserting "(1)" immediately before "In a proceeding", and by adding at the end thereof the following new paragraph:

"(2) In a proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, the Commission shall consider at least the following:

"(A) the effect of the proposed transaction on the adequacy of transportation to the public.

"(B) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

"(C) the total fixed charges that result from the proposed transaction.

"(D) the interest of carrier employees affected by the proposed transaction.".

(e) Section 11344(d) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The provisions of this subsection do not apply to any proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.".

SAFETY ENFORCEMENT

SEC. 22. (a) Section 10925(d) of title 49, United States Code, is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, upon petition by the Secretary of Transportation, the Commission may suspend a certificate or permit of a motor carrier of passengers if the Commission finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.".

(b) Paragraph (3) of section 10925(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting immediately before the period at the end thereof the following: "or, in the case of a suspension under paragraph (2) of this subsection, until the Commission revokes such suspension".

ILLEGAL OPERATIONS

SEC. 23. Section 11901(g) of title 49, United States Code, is amended by inserting immediately before the period at the end of the first sentence the following: "; except that, in the case of a person who does not have authority under this subtitle to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 10921 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be more than $1,000 for each violation and $500 for each additional day the violation continues".

ADMINISTRATIVE ASSISTANCE

SEC. 24. Section 10321(b) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of such section and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(4) consistent with the transportation policy of section 10101 of this title, provide administrative assistance to small motor common carriers of passengers and local governments in preparing for proceedings under sections 10922(c)(2), 10935, and 11501(e) of this title.".

STUDY OF CITIZEN BAND RADIOS ON BUSES

SEC. 25. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the use of citizen band radios on motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, by the operators of such vehicles. Such study shall determine, at a minimum, the following:

(1) the effect on safety if such operators are authorized to use such radios; and

(2) the effect on safety, health, and convenience of the passengers of such vehicles if such operators are authorized to use such radios.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit to the Secretary and the Congress, within one year after entering into arrangements with the National Academy of Sciences for conducting the study under subsection (a) of this section, a report on the results of such study along with its recommendations concerning whether operators of motor vehicles providing transportation of passengers should be allowed to use citizen band radios. The Secretary shall furnish to such Academy, at its request, any information which such Academy deems necessary for the purpose of conducting such study.

(c) Not later than 60 days after the National Academy of Sciences submits its report to the Secretary of Transportation under subsection (b) of this section, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether operators of motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, should be allowed to use citizen band radios in such vehicles. In making such determination, the Secretary of Transportation shall give substantial weight to the recommendations and conclusions of the National Academy of Sciences. Such rulemaking proceeding shall be completed not later than 120 days after such proceeding is commenced. If the Secretary issues a rule or regulation which recommends that operators of such vehicles be allowed to install temporarily and operate citizen band radios in such vehicles, the Secretary of Transportation shall issue regulations establishing guidelines for the use of such radios in such vehicles in order to ensure that the public safety is adequately protected.

(d)(1) Subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 11111. Use of citizen band radios on buses

"(a)(1) A motor carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall allow the operator of any motor vehicle providing such transportation to temporarily install and operate a citizen band radio in such vehicle if the Secretary of Transportation issues a rule or regulation which recommends that operators of such vehicles be allowed to temporarily install and operate such radios in such vehicles.

"(2) Citizen band radios installed and operated in motor vehicles providing transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be installed and operated in accordance with the guidelines established by the Secretary of Transportation under section 25(c) of the Bus Regulatory Reform Act of 1982.

"(b) The Commission shall issue such regulations as it considers necessary to carry out this section.".

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by inserting

"11111. Use of citizen band radios on buses."

after

"11110. Household goods carrier operations.".

(e) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11111" after "11109".

(f) This section shall not be construed to provide new spending authority within the meaning of section 401(c)(2)(A) of the Congressional Budget Act of 1974.

BUS TERMINAL STUDY

SEC. 26. (a) The Secretary of Transportation and the Interstate Commerce Commission shall conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in section 10101 of title 49, United States Code. A report on the results of such investigation and study, including legislative recommendations, shall be submitted to the President and Congress not later than December 31, 1983.

(b) The report under this section shall include an analysis of at least the following:

(1) the pattern of ownership of bus terminals, including public and private ownership;

(2) the desirability of terminals for more than one mode of transportation and their impact on urban development;

(3) the desirability of governmental assistance in the construction of nonurban bus terminals.

EMPLOYEE PROTECTION

SEC. 27. (a)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of priority reemployment, in his or her occupational specialty, by such carrier at such time as such carrier is hiring additional employees.

(2) Any motor common carrier of passengers hiring additional employees shall have a duty to hire an individual eligible for protection under this section, in his or her occupational specialty, before hiring any other individual if such individual—

(A) was terminated previously by such carrier;

(B) has applied for a vacant position for which such carrier is accepting applications; and

(C) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(b)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of consideration for em-

ployment, in his or her occupational specialty, by any other motor common carrier of passengers who is hiring additional employees.

(2) Each motor common carrier of passengers who is hiring additional employees shall have a duty to consider for employment, in his or her occupational specialty, an individual who is eligible for protection under this section if such individual—

(A) has applied for a vacant position for which such carrier is accepting applications; and

(B) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(c) An individual (other than a member of a board of directors or an officer of a corporation) who was employed by a motor common carrier of passengers for the 2-year period ending on the date of enactment of this Act shall be eligible for protection under this section if, upon application of such individual, the Commission determines that the employment of such individual has been terminated by a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of title 49, United States Code, to provide transportation over any route to any point in such State as a result of such carrier—

(1) discontinuing (A) interstate service over such route under section 10925(b) of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State;

(2) reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State; or

(3) substantially reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 11501(e) of such title, or (ii) under the laws of such State.

In a proceeding to determine whether an individual is eligible for protection under this section, it shall be the obligation of the individual whose employment has been terminated by a motor common carrier of passengers to identify to the Commission the discontinuance or reduction which such individual alleges resulted in such termination and to specify the pertinent facts; and it shall be the obligation of any carrier contesting the eligibility of the individual for protection under this section to prove that the discontinuance or reduction was not a contributing factor causing such termination.

(d) The Commission shall establish, maintain, and periodically publish a comprehensive list of jobs available with class I motor carriers of passengers. Such list shall include that information and detail, such as job descriptions and required skills, the Commission deems relevant and necessary. In addition to publishing the list, the Commission shall make every effort to assist individuals eligible for protection under this section in finding other available employment. The Commission may require each class I motor carrier of passengers to file with the Commission the reports, data, and other information necessary to fulfill the duties of the Commission under this subsection.

(e) For the purposes of this section:

(1) A motor common carrier of passengers shall not be considered to be hiring additional employees when it recalls any of its own furloughed employees.

(2) An individual who is furloughed by a motor common carrier of passengers and who still has a right of recall by such carrier shall not be considered to be terminated.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "motor common carrier of passengers" means a person who has authority under section 10922 of title 49, United States Code, to provide transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title.

(5) The term "class I motor carrier of passengers" means a motor common carrier of passengers having annual gross revenues from motor common carrier of passengers operations in excess of $3,000,000.

(f) Nothing in this section shall be construed to affect (1) an affirmative action plan or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan.

(g) This section shall not apply (1) to any carrier owned or controlled by a State or local government, and (2) to any periodic discontinuance of or reduction in motor carrier of passenger service which is seasonal in nature.

(h) The Commission shall issue such rules and regulations as are necessary to carry out this section. Initial rules and regulations shall be promulgated within 6 months after the effective date of this section.

(i) The provisions of this section shall terminate on the last day of the 12-year period beginning on the effective date of this section.

PUBLICATION OF COMMISSION ACTIONS

SEC. 28. (a) Section 10322(b)(3) of title 49, United States Code, is amended by striking "in the Federal Register".

(b) Section 10328(b) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by amending paragraph (1), as so redesignated, by striking out "that is, or is proposed to be, provided in a State" and by striking out all after "interested persons" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following:

"(2) The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as a motor or water common or contract carrier or freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceedings, that such method of providing notice would not be unduly burdensome to the public.".

GENDER-NEUTRAL TERMINOLOGY

SEC. 29. (a) Section 10722(c)(4) of title 49, United States Code, is amended by striking out "newsboy" and inserting in lieu thereof "newspaper carrier".

(b) Section 10722(d)(1)(B) of title 49, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(c) Section 10723(b)(1)(C) of title 49, United States Code, is amended to read as follows:

"(C) an individual traveling on behalf of a nonprofit organization which provides recreational, housing or other services and benefits for the general welfare of employees of common carriers.".

(d) Section 11504(c)(3) of title 49, United States Code, is amended by striking out "seaman" and inserting in lieu thereof "sailor".

(e) Section 11905 of title 49, United States Code, is amended by striking out "linemen" and inserting in lieu thereof "line maintainers".

EXEMPT MOTOR CARRIER TRANSPORTATION

SEC. 30. Section 10525 of title 49, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding the provisions of this section, the Commission has no jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from the jurisdiction of the Commission under this subsection and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt from the jurisdiction of the Commission under section 10523 of this title.".

EFFECTIVE DATE

SEC. 31. (a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect on the 60th day after the date of enactment of this Act.

(b) The amendment made by section 10(e)(4) of this Act shall take effect on October 1, 1982.

(c) The provisions of sections 6(g) and 30 of this Act shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

JAMES J. HOWARD,
GLENN M. ANDERSON,
PETER W. RODINO, Jr.,
DON CLAUSEN,
BUD SHUSTER,
Managers on the Part of the House.

BOB PACKWOOD,
JOHN C. DANFORTH,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below,

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except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

The short title of the bill is the "Bus Regulatory Reform Act of 1981".

Senate amendment

The short title of the bill is the "Bus Regulatory Reform Act of 1982".

Conference substitute

Same as Senate amendment

PURPOSE OF THE BILL

House bill

The purpose of the bill is to reduce unnecessary and burdensome government regulation.

Senate amendment

Same as House bill

Conference substitute

Same as House bill.

CONGRESSIONAL FINDINGS

House bill

This House bill makes findings with respect to regulation of the intercity bus industry.

The findings highlight the importance of a financially sound bus industry and the need for that industry to meet the transportation needs of the citizens of this country. The findings set forth the need for a change in the regulatory scheme and that the new policy should be regarded closely and be implemented by the Interstate Commerce Commission (I.C.C.) consistent with Congressional policy. Finally, the Congress finds that some regulatory practices by the States have tended in certain circumstances to impair the industry to the detriment of the public and that procedures need to be established to minimize those effects.

Senate amendment

The findings highlight the importance of a sound and competitive bus industry and the need for that industry to meet the transportation needs of the citizens of this country. It is emphasized that the existing Federal and State regulatory structure has tended to impair, in certain circumstances, the ability of carriers to enter markets and to maximize use of equipment and opportunities to expand. The Committee finds that this overly protective regulation has caused diminished price and service completion. The ICC is given explicit direction to reduce regulation and to do everything possible to promote competition in the industry. It is through greater competition and reduced regulation that the goals of the national transportation policy can be best achieved.

Conference substitute

Same as the Senate amendment.

CONGRESSIONAL OVERSIGHT

House bill

The House bill directs the appropriate Congressional authorizing committees to hold periodic oversight hearings to assure that the Act is being implemented according to Congressional intent and purpose. The committees are to hold hearings no less than annually until July 1, 1985.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

NATIONAL TRANSPORTATION POLICY

House bill

The House bill amends the national transportation policy by modifying section 10101(a) of title 49, United States Code, to incorporate motor carriers of passengers into the provision by the Motor Carrier Act of 1980 for motor carriers of property and to include a new subparagraph (3) applicable to motor carriers of passengers. The emphasis of the three additional goals added to the national transportation policy for passenger carriers is the continued development of a cooperative and reasonable approach to Federal and State regulation of interstate bus carriers.

The guidelines provide for the Interstate Commerce Commission to cooperate with the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of the subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1981 are not nullified by State regulatory actions.

Senate amendment

The Senate amendment amends the national transportation policy by modifying subsection (a) of section 10101 of title 49, United States Code, to incorporate motor carriers of passengers into the provision added by the Motor Carrier Act of 1980 for motor carriers of property, with some modification. This language states that it is the Federal policy with respect to all motor carriers to promote competitive and efficient transportation services in order to meet a number of important goals.

Specifically, the Senate amendment states nine guidelines for the regulation of all motor carriers. These include: meeting the needs of shippers, receivers, passengers, and consumers; allowing a variety of quality and price options; allowing the most productive use of equipment and energy resources; enabling efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; providing and maintaining service to small communities and small shippers and intrastate bus services; providing and maintaining commuter bus operations; improving and maintaining a sound, safe, and competitive privately-owned motor carrier system; promoting greater participation by minorities in the motor carrier system; and promoting intermodal transportation.

Three additional guidelines are added with respect to regulating transportation by motor carrier of passengers. The ICC is directed to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle, and to ensure that Federal reform initiatives contained in this Act are not nullified by State regulatory actions.

Conference substitute

Same as the Senate amendment.

MOTOR CARRIER OF PASSENGER ENTRY POLICY

House bill

The House bill adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers. In addition, the new subsection would govern applications of motor common carriers of passengers for authority to provide intrastate transportation in certain situations.

Subsection 10922(c) retains the test requiring the Commission to find that the applicant is fit, willing, and able. However, it revises the public convenience and necessity requirement. Specifically, it directs the Commission to grant the application unless it finds, on the basis of evidence presented by any person protesting the application, that the transportation to be provided would not be consistent with the public interest.

This entry standared will apply to all types of service offered by motor common carriers of passengers, including regular route service, charter service, special service, or any combination thereof.

Paragraph (3) of proposed subsection 10922(c) prohibits the Commission from granting an application if a protesting carrier demonstrates that issuance of the certificate would impair, contrary to the public interest, its ability to provide a substantial portion of its regular route passenger service.

Paragraph (4) of new subsection 10922(c) requires the Commission, to the extent raised by a protestant, to consider the national transportation policy, the effect on small community service and commuter bus service, the effect of transportation-related subsidies (in charter and special operations cases), and the effect of multiple applications, in making any public interest determinations.

Paragraph (5) of proposed subsection 10922(c) eliminates the required finding on public interest for particular types of proposed service. Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a direct substitute (service in the same corridor, generally along the same route) for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail or air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (6) of new subsection 10922(c) assures that applications will be decided on a case-by-case basis by prohibiting master certification. This applies to findings related to fitness as well as to public interest.

Paragraph (7) of new section 10922(c) modifies the fitness standard by directing the Commission to look at operational and financial fitness, as well as safety fitness.

Paragraph (8) of proposed section 10922(c) lists the qualifications for protesting an application and are the same as those enacted for motor common carriers of property in the Motor Carrier Act of 1980.

Paragraph (9) of new section 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (10) of new section 10922(c) states that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service is provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation.

Paragraph (2) of the proposed section 10922(c) provides for the preemption of State law to authorize the provision of intrastate transportation on a route over which a bus carrier has authority to provide interstate transportation. The paragraph requires that the interstate carrier apply first to the State for the removal of the closed door restriction. If the State denies the request or fails to act within a specified time frame, then the carrier can petition the Commission to preempt the State decision. States would be required to act on a carrier request within 150 days for the first two years after the effective date of the Bus Regulatory Reform Act and within 120 days thereafter.

If the State denies the request or fails to act (or State law prohibits entry), the interstate carrier can petition the Commission for relief. The Commission's authority to grant relief is limited to granting authority to provide regular route intrastate transportation of passengers, including incidental authority to transport newspapers, baggage or passengers, express or mail in the same motor vehicle with the passengers. The Commission does not have the authority to authorize intrastate charter service or special operations.

In order for the Commission to grant relief, it must find (1) that the applicant is fit, willing, and able, (2) that the intrastate transportation to be provided is along the carrier's interstate route, and (3) the applicant went to the State first and the State denied the request or failed to act. If these three requirements are met, the Commission can preempt the State and authorize the interstate carrier to provide the intrastate regular route transportation.

However, the Commission cannot preempt the State decision if it finds, on the basis of evidence presented by the State or any other protestant, that the grant of authority is not consistent with the public interest, or that the denial or faiure to act by the State is not an unreasonable burden on interstate commerce.

In determining whether the grant of authority is not consistent with the public interest, the Commission can consider, under paragraph (3) of proposed subsection 10922(c), whether a substantial portion of the operation of an existing intrastate carrier would be impaired contrary to the public interest.

The Commission is required to act on petitions of interstate carriers to preempt State actions within 90 days from the time the petition is filed.

Any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission. Upon issuance of the certificate, the carrier should file rates and comply with practices in the same manner as for a regular interstate operating certificate not later than 30 days after the carrier begins providing the service. The carrier would have to take all actions necessary to establish under the laws such States, rates and rules applicable to such transportation. Federally established rates and practices shall remain in effect until permanent rules, rate, and practice are established under the law of the State. The Commission would retain jurisdiction for suspending and revocation of certificates.

In addition, the preemption provision applies to pending applications which are not acted upon by the 120th day after the effective date of the Act and to any denial which is administratively final after January 1, 1981.

And, finally the bill adds a new subsection (l) to section 10922. New subsection (l) gives the Commission the discretion to deny an application of a Mexican or Canadian company if the Commission determines that Mexico or Canada, or the pertinent governmental entity thereof, does not treat American companies at least as favorably as it treats its own companies. This determination may extend beyond an examination of the foreign government's granting of operating authority. Moreover, the Commission would be prohibited from issuing a certificate to a Mexican or Canadian firm if it determined that Mexico or Canada did not grant authority to American firms. This applies to both trucking and bus companies.

Senate Amendment

The Senate amendment adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers.

New subsection 10922(c) requires the ICC to find that the applicant is fit, willing, and able. The burden of proof in this case is on the carrier applying for the operating authority.

For charter or special operations service to be provided by privately-funded companies, the ICC is required only to find that the applicant is fit, willing, and able. For regular route service or any service to be provided by a carrier receiving government financial assistance, the ICC is to issue a common carrier certificate if it finds the person fit, willing, and able, unless the ICC finds, on the basis of evidence presented by opponents, that the proposed transportation is not consistent with the public interest.

The amendment makes two other changes in the entry procedure. First, the new evidentiary standard ("consistent with" rather than "required by") will expedite the substantive analysis of the application. Second, the provision creates a presumption that the grant of the application is consistent with the public interest. This means that the burden will be on any protestant to provide sufficient evidence to negate the presumption of consistency.

The Senate amendment also substantially eases intrastate entry for interstate carriers. Paragraphs (2)(A) and (B) are intended to remove the problem of "closed door" intrastate policies on interstate operations.

For entry authority to serve intrastate points on existing interstate routes, the Commission is to allow entry unless it finds that the intrastate service would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. For intrastate entry authority to serve points on new interstate routes, the ICC is to allow entry unless it finds the transportation to be authorized is not consistent with the public interest. The burden of proof is on the protestant. The bill also allows immediate entry for interstate carriers to provide pick-up and delivery express service within the commercial zone of each city reserved by the carrier.

The terms "commuter bus operations" and "commuter bus service" are synonomous. The definition of "commuter bus operations" is set forth. The new definition of "commuter bus operations" includes short-haul regularly scheduled passenger service utilized primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak period operations.

The ICC is to take final action on these intrastate applications under paragraph (2)(A) within 90 days. Any intrastate transportation authorized by the ICC shall be subject to ICC jurisdiction. Upon issuance of such certificate, the carrier is to establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as would a carrier subject to ICC jurisdiction. Any such initial rate, rule, or practice related to this transportation shall be subject to Federal regulations as if it were related to interstate transportation.

Within 30 days after a common carrier begins providing intrastate transportation approved by the ICC, the carrier is to take all action necessary under the laws of the State to establish rates, rules, and practices applicable to such transportation. Intrastate transportation authorized by the ICC shall remain subject to ICC jurisdiction and initial rates, rules, and practices established by the carrier shall remain in effect until permanent rates, rules, and practices are established under the laws of the State. The ICC can suspend or revoke intrastate transportation it has authorized.

Paragraph (3) of new subsection 10922(c) specifies the factors to be considered by the ICC in making the public interest determination. The ICC is to consider, to the extent applicable, the national transportation policy, the value of competition to the traveling and shipping public, the effect on small community service, and whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the service it provides over its entire regular-route system.

Paragraph (4) of new subsection 10922(e) eliminates the required finding on public interest for particular types of proposed service.

Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a substitute for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail and commercial air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (5) of new subsection 10922(c) prohibits master certification relating to fitness and public interest findings. Applications will be decided by the ICC on a case-by-case basis.

Paragraph (6) of new section 10922(c) modifies the fitness standard by directing the ICC to look at safety fitness and an applicant's proof of insurance, subject to the minimum insurance standards of this act.

Paragraph (7) of new subsection 10922(c) lists the qualifications for protesting an entry application or a request to remove operating restrictions under section 10922(i)(4) of this title. These qualifications are the same as those enacted for motor common

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carriers of property in the Motor Carrier Act of 1980. It should also be noted that under subparagraph (c) any carrier may protest on the grounds of safety fitness.

Paragraph (8) of new subsection 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (9) of new subsection 10922(c) clarifies existing law by expressly stating that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation. This provision recognizes developing intermodal transportation systems. The act also redefines common carrier authorities in paragraph (4) of section 10922(e), as redesignated. The act includes in operating certificates permissive authority to transport newspapers, passenger baggage, express, or mail in the same vehicle with passengers baggage in a separate vehicle.

The Senate amendment also amends section 10922 to add a new subsection (1) to direct the Commission not to grant authority to motor carriers (truck carriers and bus carriers—common and contract carriers) owned or controlled by Canadians or Mexicans in the 2-year period after enactment. The U.S. Trade Representative, in consultation with the Secretaries of Transportation and State, may remove or modify such restriction if it is in the national interest.

Conference substitute

Same as Senate amendment (other than minor technical changes); except that with respect to the moratorium on entry of Canadian and Mexican motor carriers (1) the Commission, during the two-year period after enactment, is directed not to grant authority to motor carriers domiciled in Canada or Mexico as well as motor carriers owned or controlled by Canadians or Mexicans; (2) the President may extend such moratorium beyond such two-year period with respect to Canada or Mexico or both if such country or countries are substantially prohibiting American carriers from receiving authority to provide motor carrier transportation; and (3) the President may remove or modify a moratorium under clause (1) or (2) if he finds it is in the national interest and first notifies the Congress. In those situations where Canada or Mexico is substantially prohibiting American carriers from receiving motor carrier authority, the effective date of a removal or modification of a moratorium applying to such country is delayed for the 60-day period after Congress is notified of such proposed removal or modification.

The moratorium provision applies to the issuance of certificates or permits for motor carrier operating authority, all motor carrier merger, consolidation, and acquisition of control proceedings, and all motor carrier restriction removal proceedings.

The conferees recognize that application of this provision can be to any contiguous foreign country or a political subdivision thereof and that this provision applies to foreign-owned corporations domiciled in Canada or Mexico.

The Conferees want to acknowledge the deep concern of Congressman Glenn M. Anderson over the situation which currently exists with respect to the unfair and inequitable treatment of U.S. motor carriers by Mexico. The Conferees believe that the overall compromise reflected in the Bus Regulatory Reform Act of 1982 on foreign reciprocity is adequate to deal with this problem.

The compromise has three key elements to it. First, the President is given the discretion to extend the prohibition with respect to Mexico if Mexico does not substantially change its current policies.

Second, it is the intent and expectation of the Conferees that the President will not waive or modify the moratorium against Mexico until such time as Mexico substantially changes its laws in such a manner to ensure the fair and equitable treatment of U.S motor carriers.

And third, in reaching this compromise, the Conferees have relied on the representations of Administration officials that there will be an increased enforcement effort (including a significant increase in resources) against illegal operations by Mexican carriers in the United States.

In light of the urgent nature of this problem, it is the intent of the Conferees that the Department of Transportation shall, in consultation with the Departments of State, Treasury, Justice, and the U.S. Special Trade Representative, submit a comprehensive progress report to the Congress every six months during the three-year period commencing on the date of enactment of this Act on the implementation of the foreign reciprocity provisions of the Act and on efforts to eliminate illegal Mexican operations in the United States. Such report should also address the Canadian situation, and should be submitted to the Chairman and Ranking Minority Member of the Senate Committee on Commerce, Science and Transportation, and the House Committee on Public Works and Transportation.

Finally, it is the judgment of the Conferees that, notwithstanding the existence of a prohibition imposed under this Act, the ICC has the authority to deny operating rights or the easing of any circumstance related to operating rights, to any carrier from any contiguous foreign country or political subdivision thereof which discriminates against or prohibits entry by U.S. operators. This authority may clearly be traced back to any of the number of sections of title 49, U.S.C.; section 10101, section 10321(a), section 10521(a)(1)(E), and section 10922(b).

RESTRICTION REMOVAL

House bill

The House bill directs the Commission to implement by regulation, within 180 days after the effective date, procedures to process expeditiously applications filed by operators to reduce unreasonable restrictions so as to (1) authorize service to intermediate points on any route covered by their certificates; (2) reasonably broaden regular route service covered by the certificate to off-route points; (3) provide under the certificate round-trip authority where presently only one-way authority exists; or (4) authorize special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited by the certificate to one or more points of origin in such political subdivision. In deciding these applications, the ICC must give consideration (1) to the impact of the restriction removal on commuter bus operations; (2) to the impact upon the consumption of energy resources, to potential cost savings and to improved efficiency; (3) to the national transportation policy; and (4) to providing and maintaining service to small and rural communities and small shippers.

Senate amendment

The Senate amendment removes certain ICC imposed operating restrictions from existing bus certificates. Certificates shall be deemed to authorize, but not require: (1) round-trip operations where only one-way authority exists; and (2) special and charter transportation from all points in a political subdivision of a State in any case where such authority is limited to one or more points of origin.

With respect to restrictions against service to intermediate points on routes over which transportation of passengers is authorized by an interstate certificate, the amendment provides for removal of such restrictions by the ICC within 90 days upon the request of the holder. The ICC would be required to remove an intermediate point restriction unless it found that the resulting interstate transportation "directly competes with a commuter bus operation" and "will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed." Commuter bus operations are defined the same as for the entry process.

Conference substitute

Same as Senate amendment except for minor technical changes.

MIXING REGULAR AND CHARTER TRANSPORTATION

House bill

The proposal allows motor carriers of passengers to provide charter passenger service in the same vehicle and at the same time as it provides regular route scheduled passenger service. Charter trips between points authorized in the charter certificates could make use of authorized regular route service over any segment of the charter trip. The proposal would also allow mixing of intrastate charter with regular route operations if the law of the individual State allows such mixing. The mixing of charter passengers on regular route service shall not interfere with the obligation of the motor common carrier to comply with the provisions of the Interstate Commerce Act. This section would also allow bus companies, subject to rules and regulations adopted by the Commission, to transport up to three groups of charter passengers in the same motor vehicle and at the same time.

Senate amendment

Same as House bill, except that the Senate amendment deletes the limitation on the mixing of charter groups to three groups per bus.

Conference substitute

Same as Senate amendment.

RULE OF RATEMAKING

House bill

This House provision would establish a rule of ratemaking which must be considered by the Commission in proceedings to determine the reasonableness of rate levels of passenger carriers. It would authorize revenue levels for passenger carriers that are adequate to allow well-managed carriers to cover their costs and to earn a fair return. The standards must allow passenger carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure repayment of debt, permit raising of equity capital, and cover the costs of inflation by taking into consideration estimated or foreseeable future costs.

The provision also requires the Commission to consider the new rule of ratemaking when it prescribes the rate; that is, when the ICC establishes the rate.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

RATE BUREAUS

House bill

This House provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

Now, carriers may collectively act on rates where the Commission has approved an agreement for collective action and, in order to have antitrust immunity, the carriers must act within the scope of the agreement. This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

Specifically, this provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry.

The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. Specifically, it eliminates antitrust immunity for voting upon or discussion of single-line rates after January 1, 1984.

The same time limitation applies to joint-line rates except where carriers can practicably participate in the transportation to which the rate applies. This provision will limit the scope of antitrust immunity for collectively discussing and voting on joint rates.

Antitrust immunity is retained for general rate increases and decreases, broad changes in tariff structures, ministerial functions, and for unlimited travel on the system of concurring carriers.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations.

The bill provides for the appointment of three members of the public by the President of the Motor Carrier Rate-making Study Commission. The newly appointed members will include one member from a motor common carrier of passenagers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than $3 million per year from motor common carrier of passengers operations, and one member not affiliated with the motor common carrier industry. The Study Commission members representing the motor common carriers of property shall limit their Commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their Commission voting to matters related to motor common carriers of passengers.

The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The bill provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the Commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Senate amendment

This Senate provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

At the present time, motor carriers of passengers are authorized by the terms of an agreement approved by the ICC to jointly discuss, initiate, and maintain rates for the transportation of passengers and express. Since the agreement was approved by the ICC as in furtherance of the national transportation policy, the antitrust laws do not apply to actions of the carriers in conformity with the collective ratemaking agreement (section 10706(c), title 49, United States Code). This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

This provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry. The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. On and after January 1, 1983, no collective ratemaking agreement approved for motor carriers of passengers may provide for discussion of or voting upon single-line rates. Under the House bill, this prohibition would not become effective until January 1, 1984.

Second, on and after January 1, 1984, no agreement approved for motor carriers of passengers may provide for discussion of or voting upon any joint rate. The House bill would provide antitrust immunity for an indefinite period with respect to joint rates for interline movements if the carriers involved "can practicably participate" in such movements.

Finally, as in the Motor Carrier Act of 1980, general rate increases and decreases are excepted from the prohibitions against collective consideration of single-line and joint-line rates. In considering such increases and decreases carriers would not be allowed to discuss individual markets or particular single-line rates or joint rates. Industry average carrier costs and intermodal competitive factors may be discussed by the carriers.

Immunity for broad changes in tariff structure and changes in promotional or innovative fares is also retained.

Immunity is also retained for publishing of tariffs, filing of independent actions, providing of support services for members, and changes in rules or regulations.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations. Using the language of the Motor Carrier Act of 1980, new subsection (c)(5) prohibits the ICC from taking any action which would result in the exclusion of discussion or voting on matters concerning rates, allowances, or divisions prior to January 1, 1983, unless the regulations are to take effect after that date.

The amendment provides for the appointment of four members of the public by the President to the Motor Carrier Ratemaking Study Commission. The newly appointed members will include one member from a motor common carrier of passengers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than than $3 million per year from motor common carrier of passengers operations, and two members not affiliated with the motor common carrier industry. The study commission members representing the motor common carriers of property shall limit their commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their commission voting to matters related to motor common carriers of passengers. The bill increases the authorization for the study commission from $3 to $4 million.

The study commission will be required to make a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The study commission will be permitted, but not required, to study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. The study commission will be required to submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The study commission also is required to study the impact of the Senate amendment on persons over the age of 60 and submit its final report on the results of this study not later than January 1, 1984. If the study commission, before submission of such report, finds that the viability of continued intrastate services are jeopardized, the study commission shall immediately notify Congress and the ICC. After receiving notification of such a finding, the ICC shall give expedited treatment to any recommendations made to it.

The Senate amendment provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Conference substitute

Same as Senate amendment except for miner technical changes.

ZONE OF RATE FREEDOM

House bill

The House bill amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise passenger and express fares, including both single-line and joint rates, not more than ten percent above

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or more than twenty percent below the rate in effect one year prior to the effective date of the proposed rate without suspension by the I.C.C. The use of percentage general rate increases by passenger carrier will count against the upward ten percent zone of freedom.

Under the zone of rate freedom, the Commission has the discretion to increase the zone an additional ten percentage points annually above that provided the carrier under the new paragraph (4)(B) of section 10708 of title 49, United States Code. In deciding whether to increase the percentage, the Commission will consider (1) whether there is sufficient actual and potential competition to regulate routes and whether there are benefits to the traveling public from further rate flexibility, or (2) whether an increase is needed to meet the costs of inflation.

The House bill also provides that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

The antitrust laws apply to all proposals using the zone or rate freedom.

Senate amendment

Amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise any passenger or express fare (other than charter or special transportation fares) not more than 10 percent above or more than 20 percent below the rate in effect 1 year prior to the effective date of the proposed rate without suspension by the ICC on the grounds that such rate is unreasonable on the basis that it is too high or too low. The carrier must notify the ICC that it wants the rate considered pursuant to this subsection. The use of general rate increases by a passenger carrier will count against the upward zone of freedom.

One year after the effective date of the Act, the limits for the zone become 15 percent above and 25 percent below rates then in effect; 2 years after, 20 percent above and 30 percent below. Three years after the effective date, paragraph (e) removes ICC authority to suspend rates, except on ratemaking actions where antitrust immunity is retained or where any rate is predatory or discriminatory. Interested parties may, however file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under the zone. The complaint remedy continues to be available after the specific parameters of the zone are removed after three years. Paragraph (e) requires the ICC to dispose of such complaints within 90 days after the complaint is filed.

The antitrust laws apply to all proposals using the zone of rate freedom. However, paragraph (d)(5) of section 708 states that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

Conference substitute

Same as Senate amendment.

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

House bill

The House bill eliminates Commission investigation and suspension powers over the reasonableness of rates proposed by passenger carriers of special operations or charter transportation. Collective consideration of these rates by the industry rate bureau would be prohibited although filing and publication of such rates by the rate bureau would continue to be allowed. The Commission would retain the authority to suspend or investigate proposed charter or special service rates on the basis that rates are discriminatory or constitute predatory practices.

The bill retains the notice requirement for charter and special operations rate change increases at 30 days while the notice requirement for charter and special rate decreases is reduced to 10 days.

Senate amendment

Same as House bill, except that the ICC only retains authority to review special and charter rates on the basis of predatory practices.

Conference substitute

Same as Senate amendment.

ENTRY POLICY FOR MOTOR CONTRACT CARRIERS OF PASSENGERS

House bill

Entry for contract carriers of passengers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Senate amendment

The Senate amendment states that the entry test for bus contract carriers is a fit, willing and able entry test only. Fit, willing and able is defined as a carrier meeting safety and insurance requirements.

The Senate amendment further allows the ICC to amend or revoke a contract carrier's permit and issue in its place a common carrier certificate if the ICC determines that a carrier's operations do not conform with those of a contract carrier but rather are those of a common carrier.

Conference substitute

Same as Senate amendment, except for minor technical changes.

ENTRY POLICY FOR BROKERS OF PASSENGERS

House bill

Entry for brokers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Regulated common carriers and regulated contract carriers are given a specific duty to utilize only brokers that hold licenses.

Senate amendment

Exempts motor carrier brokers of passengers from ICC regulation except that the ICC retains discretion to impose such requirements for bonds or insurance or both as it determines are needed to protect passengers and carriers dealing with brokers.

Conference substitute

Same as Senate amendment, except for minor technical changes.

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

House bill

This provision generally applies the changes of section 23 of the Motor Carrier Act of 1980 to motor carriers of passengers. This section expedites the handling of temporary authority requests by the Commission and codifies emergency temporary authority (ETA) for passenger carriers. The main difference between this section and the comparable section of the Motor Carrier Act of 1980 is that in the case of an ETA used for passenger transportation in an area or to a point not previously served, the Commission can extend the ETA an additional 90 days (a total extension of 180 days).

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

EXIT POLICY

The House bill adds a new section 10935 to title 49, United States Code, to provide a procedure for carriers to exit or substantially reduce the service level on the intrastate portion of a route for which they have both interstate and intrastate authority.

Subsection (a) of proposed section 10935 establishes the criteria that must be met before a bus carrier can petition the Commission for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in the proposed amendment to section 11501 of title 49.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate authority and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request or failed to act within 120 days.

Fourth, the bus carrier must not be owned or controlled by a State or local government.

And fifth, the bus carrier must certify that it has notified the Governor of the State, the appropriate State agency, the affected communities, and such other persons as the Commission may specify that it intends to petition the Commission for relief.

If these conditions are met, the Commission is required to consider granting relief. If no one protests within 20 days, the Commission must grant the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the Commission must grant the discontinuance or reduction in service unless the State or other protestant demonstrates that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce. However, the Commission can only grant a discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the Commission has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest or that continued intrastate service would not constitute an unreasonable burden on interstate commerce, the Commission is required to consider (to the extent raised by a protestant) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source;

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether a reasonable alternative transportation service to that area is available; and

(4) whether granting a carrier's request will have a significant adverse effect on commuter bus operations.

If the Commission finds that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

The Commission must complete action within 90 days from the time the petition is filed.

The Commission is also given the discretionary authority to require the carrier to continue providing service for up to 180 days after the petition so that, in cases where it is going to permit the discontinuance or reduction in service, the State and affected communities have time to find a replacement carrier.

Senate amendment

The Senate amendment proposes a two step process by which the ICC can preempt burdensome state regulations by adding a new section 10935 to title 49, United States Code, which establishes a procedure under which carriers can exist or substantially reduce interstate and intrastate routes on which both types of service are provided.

Subsection (a) of section 10935 establishes the criteria that must be met before a bus carrier can petition the ICC for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in section 17 of the Bus Regulatory Reform Act of 1982, pertaining to discriminatory State regulation of rates and practices.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request of failed to act within 120 days.

Fourth, the bus carrier must not be owned or controlled by a State or local government.

Fifth, the bus carrier must certify that it has notified the governor of the State, the appropriate State agency, the affected communities, and such other persons as the ICC may specify that it intends to petition the ICC for relief.

If these conditions are met, the ICC is required to consider granting relief. If no one protests within 20 days, the ICC must allow the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the ICC must grant the discontinuance or reduction in service unless it demonstrated that it is not an unreasonable burden on interstate commerce to continue or maintain the service. Continuance of the transportation would not be a burden if discontinuance or reduction of the service is not consistent with the public interest and the interstate and intrastate revenue from the service are adequate to cover the variable costs of operating the service.

In defining what constitutes an unreasonable burden on interstate commerce, the Senate amendment provides that the intrastate and interstate revenues must be adequate under reasonable pricing practices to cover the variable costs of providing the transportation.

However, the ICC can only grant discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the ICC has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest, the ICC is required to consider (to the extent applicable) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source; and

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether a reasonable alternative transportation service to that area is available.

If the ICC finds that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

In order to expedite proceedings under this section, the ICC must complete action with 75 days from the time the petition is filed.

The ICC is also given the discretionary authority to require the carrier to continue providing service for up to 150 days after the petition so that, in cases where the discontinuance or reduction in service is to be granted, the State and affected communities have time to find a replacement carrier.

In order to encourage experimental service by a motor common carrier of passengers, the act prohibits States from taking action on exit from service initiated under the three fitness-only cases. These include entry for: (1) interstate service to any community not regularly served by a motor common carrier of passengers; (2) interstate transportation service which will substitute for discontinued rail or commercial air passenger service; and (3) interstate service to any community where the only interstate bus carrier providing service to the community applies to discontinue interstate service or reduce its intrastate service. Carriers, may, however, be required to give 30 days notice before discontinuing or reducing the service.

Conference substitute

Same as House bill; except that (1) the Commission must give great weight to the extent to which the carrier's interstate and intrastate revenues on the route to be discontinued are less than the variable costs of providing the transportation on such route; (2) in the case of a route for which interstate authority is granted after August 1, 1982, the Commission shall grant a protested application for discontinuance of or reduction in intrastate service on such route, unless it finds that continuing the service will not constitute an unreasonable burden on interstate commerce; (3) the Commission may order an exit applicant to continue providing the intrastate service to be discontinued or reduced for 165 days after submission of such application instead of the 180 days specified by the House bill; and (4) the States are preempted from taking any action (other than requiring 30-days pre-notification) on exit from intrastate service which corresponds to interstate service initiated under the 3 fitness-only categories specified in section 10922(c)(4) of title 49, United States Code. The exceptions specified in clauses (2) and (4) of the preceding sentence are the same as the Senate amendment.

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

House bill

This section of the House bill would permit the Commission to prescribe any intrastate rate, rule, or practice of a motor common carrier of passengers if the carrier has requested permission to establish the rate, rule, or practice from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request. If the request relates solely to scheduling, the time is shortened to 60 days.

Once the Commission has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule, or practice in effect at the State level causes unreasonable discrimination against or imposes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. As in the other preemption sections, the carrier would first have to go to the State for a rate change request and, after a denial or undue delay, could appeal the action or inaction to the Commission. The State could protest at the Commission and argue that the State action was reasonable.

The House bill creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the Commission.

There is a rebuttable presumption that:

(A) any rate, rule, or practice imposed by a State for a motor common carrier of passengers imposes an unreasonable burden on interstate commerce if it makes the following findings:

(1) that the rate, rule or practice results in intrastate rates lower than comparable interstate rates;

(2) that the carrier's intrastate revenues which result from the State's rate, rule, or practice fall below the variable costs of providing such intrastate service; or

(3) the department, agency, or instrumentality of the State having jurisdiction over the rate, rule, or practice failed to act on the request of the carrier by the 120th day (or by the 60th day for a scheduling change);

(B) if a State grants a general rate increase that is below the most recent general rate increase approved by the Commission; and

(C) if the Commission finds that the scheduling which the carrier proposes to establish would conform the schedules applicable to such transportation on such route to schedules applicable to interstate transportation provided by the carrier on such route under this subtitle.

If a carrier applies for relief to the Commission under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The Commission must take final action within 60 days upon receipt of application (30 days if the application relates solely to scheduling). This subsection shall not apply to any carrier owned or controlled by a State or local government.

The House bill also provides that the Commission, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the Commission for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this Act, the Commission is required to report to Congress on its effects in this area.

Senate amendment

The Senate amendment, with two exceptions, confers a review power in the ICC with respect to all proposed increases in intrastate passenger fares and express rates. The first exception is that the States would retain full authority over the rates of carriers owned or controlled by a State or local government. Secondly, State ratemaking authority over the intrastate rates of solely intrastate carriers would not be affected.

Although the ICC, with the two exceptions noted, is granted appellate review power over the intrastate rates of interstate motor carriers of passengers, States would continue to regulate such rates. State regulatory commissions are familiar with the special circumstances which might justify the prescription of some intrastate fares at a level lower than the corresponding interstate fares.

The Senate amendment would permit the ICC to prescribe any intrastate rate increase of a motor common carrier of passengers of the carrier has requested permission to increase the rate, from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request.

Once the ICC has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule or practice in effect at the State level causes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. The State could however, protest at the ICC and argue that the State action was reasonable.

The Senate amendment creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the ICC.

There is a rebuttable presumption that any intrastate bus rate, rule, or practice imposes an unreasonable burden on interstate commerce if the ICC finds that: (1) such rate, rule, or practice results in the carrier charging a rate for intrastate transportation which is lower than the rate for comparable interstate transportation; (2) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice, the carrier does not receive revenues which exceed the variable costs of providing such transportation; or (3) the appropriate State authority failed to act finally on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request.

Any rate applicable to solely intrastate transportation imposes an unreasonable burden on interstate commerce if the ICC finds that the most recent general rate increase applicable to the bus transportation in a State is less than the most recent general rate increase applicable to interstate common carrier bus transportation.

If a carrier applies for relief to the ICC under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The ICC must take final action within 60 days upon receipt of application.

States may not act on intrastate scheduling changes on authorized interstate routes or on intrastate rate reductions relating to transportation over such routes. For scheduling changes, carriers may be required to give States 30 days advance notice. This provision does not apply to intrastate commuter service.

If the Commission, upon complaint, determines that a rate reduction for intrastate service provided on an interstate route is a predatory practice, the Commission shall prescribe the rate.

The Senate amendment provides that the ICC, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the ICC for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this act, the ICC is required to report to Congress on its efforts in this area.

Conference substitute

Same as Senate amendment, except for minor technical changes and the addition of language which makes clear that a rate reduction for intrastate service provided on an interstate route which the Commission finds is a predatory practice is unlawful. A predatory practice includes a destructive competitive practice.

FINANCIAL RESPONSIBILITY

House bill

Section 18(a) of the House bill amends existing law so as to require the Secretary of Transporation to establish regulations which will provide minimum financial requirements for motor carriers of passengers involved in interstate or foreign commerce.

Section 18(b) (1) and (2) establishes the following minimum levels of financial responsibility: $5 million for vehicles having a seating capacity of more than 15 persons and $1.5 million for vehicles having a seating capacity of 15 or less. The Secretary of Transportation has the discretion to reduce these minimum levels for the two-year period beginning on the effective date of the regulations issued under subsection (a), or for any part of this period, if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation. During the two-year period, the minimum financial requirement for a carrier having a vehicle with a seating capacity of more than 15 passengers, is $2.5 million, and no less than $750,000 for a carrier having a vehicle with a seating capacity of 15 or less.

Subsection (c)(1) provides that, if the secretary does not establish regulations setting a minimum financial requirement by the end of the one-year period, beginning on the effective date of the Act, then the higher levels cited in 18(b) go into effect until such time as the Secretary, by regulation, changes such amount as discussed in this section.

Subsection (c)(2) provides that if the Secretary, by regulation, makes a change as discussed in (c)(1) after the higher levels have gone into effect, then these lower amounts may only remain in effect for a two-year period, beginning on the 366th day following the effective date of this Act.

Section 18(d) sets forth the methods by which carriers will be able to demonstrate financial responsibility.

Section 18(e)(1) establishes civil penalties for violations of this section.

Section 18(e)(2) establishes procedures for collecting civil penalties for violations of this section.

Section 18(f) excludes school buses, taxicab service and certain motor vehicles carrying less than 16 individuals (van pools).

Senate amendment

Same as House bill, except that the Senate amendment expressly includes high self-retention as a method of establishing financial reponsibility.

Conference substitute

Same as Senate amendment.

SECURITIES OF MOTOR CARRIERS OF PASSENGERS

House bill

The House bill transfer's jurisdiction over the issuance of securities for motor carriers of passengers from the Commission to the Securities and Exchange Commission.

The Commission would still retain its general authority under sections 11343 and 11344 to regulate intercorporate transactions and monitor or impose any conditions on any transactions referred to in this section. In the past, the Commission has imposed conditions on a bus carrier that stated that the carrier could not engage in any of the following activities without express Commission approval:

(1) declare or pay a dividend; for example, the Commission determined that the carrier should not pay in excess of 70 percent of its net income in dividends without Commission approval;

(2) make advances to affiliated companies;

(3) encumber its assets for noncarrier purposes; or

(4) engage in any other intercompany property transactions.

Senate amendment

The Senate amendment removes all motor carriers from ICC jurisdiction in the securities area and places them under the jurisdiction of the Securities and Exchange Commission.

Conference substitute

Same as Senate amendment except for a conforming cross reference change to section 11348 of title 49, United States Code.

TAX DISCRIMINATION

House bill

Section 20 of the House bill amends section 11503a(a)(3) of title 49, U.S.C., by striking out "of property." this provision makes current law which prohibits the assessment, levying or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property applicable to motor carriers of passengers.

This section applies to motor carriers owned and used in interstate commerce, whether or not subject to the Commission's jurisdiction. The provision thus makes the law uniform for motor carriers of passengers and motor carriers of property.

The prohibition applies to taxes on real or personal property, general sales taxes, or other levies that are part of the general tax structure applicable to commercial activity. It does not apply to highway user taxes.

Relief from violations is available in Federal and State courts.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill except for a minor technical change to clarify an amendment made by the Motor Carrier Act of 1980.

MERGER PROCEDURE

House bill

Section 11345 of title 49, U.S.C., is amended to include the identical merger procedures established under the Motor Carrier Act of 1980 for motor carriers of passengers. The intent of this procedure, as was the case for motor carriers of property, is to expedite Commission procedures for consolidation merger, and acquisition of control. Deadlines are imposed for disposition of these types of proceedings.

The House bill also changes the criteria for deciding motor carrier applications under section 11344 back to the criteria that existed for motor carriers prior to the Staggers Rail Act of 1980.

Senate amendment

Section 21 of the Senate amendment gives the ICC the authority to exempt merger, consolidation, and acquisition of control transactions involving motor carriers of property from the pertinent provisions of title 49. The ICC may exempt such transaction if it finds that scrutiny of the transaction is not necessary to carry out the national transportation policy and either that the transaction is of limited scope or that such scrutiny is not needed to protect shippers from the abuse of market power. The ICC may revoke an exemption if it finds that review of the transaction is necessary to carry out the national transportation policy.

Section 21 also reinstates the criteria which the ICC must consider in merger, consolidation, and acquisition of control proceedings involving motor carriers of passengers which existed prior to enactment of the Staggers Rail Act of 1980. These criteria include: (1) the effect of the proposed transportation on the adequacy of transportation to the public; (2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of affected carrier employees.

This section also amends section 11345a to include the mergers of motor carriers of passengers in the expedited procedures established for motor carriers of property in the Motor Carrier Act of 1980.

This section does not in any way affect the ICC's jurisdiction with regard to rail transactions under subchapter III of title 49 U.S.C.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment with respect to merger, consolidation, and acquisition of control provisions involving motor carriers of passengers. In addition, the conference substitute, like the Senate amendment, amends subchapter III of chapter 113 of title 49, United States Code, to authorize the Commission to exempt a person, class of persons, transaction, or class of transactions, involving an interstate truck carrier from the merger, consolidation, and acquisition of control provisions of such subchapter if (1) such provisions are not necessary to carry out the national transportation policy, and (2)(A) the concerned transaction is of limited scope, or (B) such provisions are not needed to protect shippers from abuse of market power.

The conference substitute, unlike the Senate amendment, requires before an exemption takes effect, the applicant for the exemption to give the Commission and the public 60 days advance notice. It is expected that the Commission will arrange for publication of the notice in a manner that notifies the public of the proposed transaction. The Commission may publish the notice itself or it may require the participants to publish the notice. In any event, the notice should be provided in a manner so that persons and employees affected by the transaction receive adequate notice.

A merger exemption granted may be revoked, in whole or in part, if the Commission finds (1) it is necessary to carry out the national transportation policy, or (2) employees of a carrier who is to participate in the exempt transaction are or will be adversely affected by such transaction.

SAFETY ENFORCEMENT

House bill

This section of the House bill provides for suspension of operating authorities by the Commission in an expedited manner. Upon request of the Secretary of Transportation, the Commission would be able to suspend the operating authority of a carrier where the carrier has engaged in continuous unsafe acts that constitute an immediate hazard to life or property.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ILLEGAL OPERATIONS

House bill

This section of the House bill would double the civil penalties for illegal operations for carriers holding no authority to operate in interstate commerce.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ADMINISTRATIVE ASSISTANCE

House bill

To assist local governments and smaller carriers in presenting their positions effectively, section 24 of the House bill permits the Commission to provide them with assistance in preparing for proceedings dealing with the new preemptive sections of the law.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

STUDY OF CITIZEN BAND RADIOS ON BUSES

House bill

This section of the House bill directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the bus operator on motor vehicles providing intercity motor carrier passenger transporation. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health, and convenience of passengers of such vehicles.

A full and complete investigation and study by the National Academy of Sciences shall be conducted to resolve safety, technical, and administrative problems precluding intercity bus operators from having full access to any type of communication system that may be used for enhancing public safety.

The National Academy of Sciences shall submit to the Secretary of Transportation and the Congress the results of the study, along with its recommendations, within six months of entering in the contract but no later than one year after the effective date of this bill.

After receipt of the report, the Secretary is required to initiate a rulemaking proceeding to detemine whether or not citizen band radios should be allowed to be used by bus operators. The Secretary has 120 days to complete the proceeding.

The provision also provides that the Secretary shall issue regulations establishing guidelines for the use of such radios if the Secretary determines that their use should be allowed.

If the Secretary recommends the use of citizen band radios, motor carriers would be required to permit the use of such radios.

Senate amendment

This section of the Senate amendment directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the operators of carriers providing intercity bus service. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health and convenience of passengers on these vehicles.

The Academy is to submit a report to Congress and to the Secretary on the result of this study, along with its recommendations within 1 year after entering into a contract with the Secretary.

Within 60 days of submission of the Academy's report the Secretary is required to initiate a rulemaking proceeding to determine whether operators of buses for ICC regulated bus companies should be allowed to use citizen band radios. The rulemaking is to be completed within 120 days after its initiation.

If the Secretary issues a rule or regulation which recommends that bus operators be allowed to install temporarily and operate citizen band radios the Secretary must issue

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guidelines on their use to ensure protection of public safety.

A new section 11111 is added to title 49, United States Code, which provides that the Secretary may recommend the temporary use of citizen band radios. If the Secretary recommends this, then the Secretary must issue guidelines for their use and installation.

Conference substitute

Same as Senate amendment.

BUS TERMINAL STUDY

House bill

The House bill directs the Department of Transportation and the Commission to conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in title 49, U.S.C., sec. 10101. This investigation and study must be completed, including legislative recommendations, and be submitted to the President and the Congress not later than December 31, 1982.

The House bill provides that the report include an analysis of, at least, (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Senate amendment

The Senate amendment requires the Secretary of Transportation and the ICC to make a full investigation and study of the relationship between the ownership, location and adequacy of bus terminals and their capacity to provide passenger service in accordance with the national transportation policy. A report, including legislative recommendations, shall be submitted to the President and Congress by December 31, 1983. The report shall include an analysis of: (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Conference substitute

Same as Senate amendment.

EMPLOYEE PROTECTION

House bill

The House bill requires that an employee who is terminated by a motor common carrier of passengers for a reason other than cause within ten years of the date of enactment of the Act shall have a right of priority reemployment by that carrier at such time as it is hiring additional employees in his or her occupational specialty.

The House bill provides that a motor common carrier of passengers has a duty to hire an individual in his or her occupational specialty before hiring any other individual, if such individual (1) was terminated previously by such carrier, (2) has applied for a vacant position for which such carrier is accepting applications, and (3) if the employee has notified the carrier that he or she is eligible for protection under this section.

The House bill states that an employee who is terminated for reasons other than cause within ten years of the date of enactment of the Act shall have a right of consideration by those other motor common carriers of passengers, aside from the one which terminated his or her employment, whenever it is hiring employees in his or her occupational specialty. The House bill applies this provision to those employees who have applied for a vacant position for a carrier which is accepting applications to fill the vacancy and have notified such carrier that he or she is eligible for protection under this section.

Eligible protected employees under the House bill are those who, other than members of a board of directors or officers of a corporation, were employed by a motor common carrier of passengers for the two-year period ending on the date of enactment and who, upon application of such individual, the Commission determines was terminated as a result of certain actions under the Act.

The House bill requires the Commission to establish and publish a list of vacancies available with Class I carriers (those having annual gross revenues from motor carrier of passenger operations exceeding $8 million) that includes relevant information relating to those job descriptions and requisite skills, as the Commission deems necessary. The Commission may require Class I carriers to provide it with certain information allowing it to fulfill its mandate under this provision. The Commission is also directed to make every effort to assist eligible protected employees in finding other available employment.

Under the House bill, a motor common carrier shall not be considered to be hiring employees when it recalls any of its own furloughed employees, and furloughed employees who still enjoy a right of recall shall not be considered to be terminated.

The House bill shall not be construed as affecting any affirmative action plan or hiring plan designed to eliminate discrimination that is required by any Federal or State law, regulation, or executive order, or by order of a Federal court or agency, or is a permissible voluntary affirmative action plan.

The House bill does not apply to a carrier owned or controlled by a State or local government or to any periodic discontinuance or reduction which is seasonal in nature. The House bill directs the Commission to issue regulations implementing the employee protection provision within six months of the Act's effective date and terminates the employee protection provision on the last day of the twelfth year following the Act's effective date.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill and Senate amendment.

BUDGET AUTHORITY

House bill

The House bill insures that for fiscal year 1982 only funds which have already been appropriated or authorized may be used to support the various activities of the bill. No new budget authority or new spending authority is authorized.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

PUBLICATION OF COMMISSION ACTIONS

House bill

No comparable provision.

Senate amendment

The Senate amendment allows the ICC to adopt, after a rulemaking a special procedure for providing interested parties reasonable notice of entry or restriction removal applications rather than requiring use of the Federal Register.

The legislation also amends section 10328 to eliminate the statutory requirement that notice of filing of new applications be provided to state regulatory commissions in all of the states in which the applicant proposes to operate. At present, the ICC's regulations provide for service upon the State commissions at their request. This type of notification will also continue.

Conference substitute

Same as Senate amendment.

GENDER NEUTRAL TERMS

House bill

No comparable provision.

Senate amendment

This section of the Senate amendment replaces gender specific terms in title 49 of the United States Code with gender neutral terms. For example, the term "seaman" is replaced with "sailor."

Conference substitute

Same as Senate amendment.

EXEMPT TRANSPORTATION

House bill

The Senate amendment amends section 10525 of title 49, United States Code, to exempt motor carrier transportation (other than transportation of household goods) in the State of Hawaii from the jurisdiction of the Commission and to authorize such State to regulate such exempt transportation and motor vehicle transportation in terminal areas exempt from the Commission's jurisdiction under section 10523.

Conference substitute

Same as Senate amendment.

EFFECTIVE DATE

House bill

The Act is to take effect 60 days after enactment.

Senate amendment

The Act is to take effect 60 days after the enactment, except that (1) the amendment to section 14(b)(12) of the Motor Carrier Act of 1980, increasing the authorization for the Motor Carrier Ratemaking Study Commission from $3,000,000 to $4,000,000 takes effect on October 1, 1982, and (2) the amendment pertaining to entry of Mexican and Canadian motor carriers and the amendment exempting motor carrier transportation in the State of Hawaii from ICC jurisdiction take effect on enactment.

Conference substitute

Same as Senate amendment.

JAMES J. HOWARD,
GLENN M. ANDERSON,
PETER W. RODINO, Jr.,
DON CLAUSEN,
BUD SHUSTER,
Managers on the Part of the House.

BOB PACKWOOD,
JOHN C. DANFORTH,
HOWARD W. CANNON,
Managers on the Part of the Senate.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. ANDERSON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on H.R. 3663, the Bus Regulatory Reform Act of 1982. It represents yet another effort by the Congress to lessen government regulation in the transportation marketplace. The conference report is the product of long and hard work by the Committee on Public Works and Transportation and the Senate Committee on Commerce.

The conference report, like previous regulatory measures, calls for regulatory reform and not total deregulation. This result was thought to be the best approach. It is an approach reached after extensive and open meetings with many groups of interested persons. The conference report balances the interests of all parties, with an intent to maintain and to improve transportation and to oversee closely that this intent bears fruition.

The conference report on H.R. 3663 permits freer entry for those who wish to participate in this marketplace by substantially reducing Federal entry requirements. Simultaneously, it permits the interstate bus companies to augment their intrastate services where State regulation has prohibited them from fully utilizing their resources.

Conversely, it permits them to abandon segments of their operations unless such actions are not consistent with the public interest or such abandonment is not an undue burden on interstate commerce. The ICC is to oversee these processes in a manner that requires that agency to examine the effects on service to small communities and commuter services.

In the future, pricing will be freer; yet, antitrust immunity for collective ratemaking is narrowed.

Additionally, more emphasis will be placed upon safety by requiring minimum insurance levels and by giving the ICC more clout in suspending unsafe operations.

Other provisions in the legislation give the carriers opportunities to better utilize their equipment in a manner that should be beneficial to the public.

The conference report represents a compromise position, yet it is a balanced compromise, one that should benefit the industry and the traveling public it serves.

Mr. Speaker, I believe this conference report deals with an important piece of legislation that should be considered favorably by the House.

At this time, I wish to thank all the members of the committee, Mr. ANDERSON, and Mr. SHUSTER, for their hard work and leadership on this report.

I would also like to thank the distinguished gentleman from California (Mr. CLAUSEN) for the important role that he played in assuring that the rural areas of the country are adequately protected. His strong leadership was instrumental in preserving the protections of the House exit provision for existing bus service. Without his perseverance and input, I do not think that it would have been possible to achieve the level of protection contained in the conference report.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the agreement arrived at by the conferees on H.R. 3663, the Bus Regulatory Reform Act of 1982. H.R. 3663 was passed by the House on November 19, 1981. The Senate passed a similar bus reform bill on June 30, 1982. While the Senate bill was patterned on the House bill and adopted most of the House bill provisions, it slightly changed provisions of the House bill in a few areas. The sections of the bill where changes were made are the following: Entry, restriction removal, entry, reciprocity, regulation of passenger brokers, rate bureaus, zone of rate freedom, exit, discriminatory rates, securities, and mergers.

In general, these modifications to the House bill provisions provide for an overall slightly less regulated environment for the bus industry than the overall provisions of the House bill. The Senate provisions would generally involve less Government regulation and more reliance on market discipline to insure that the public is well served and protected from carrier abuse and to promote the financial well-being of the industry.

Like the House bill, the Senate bill represented a balanced regulatory approach in terms of entry, ratesetting, and exit. It is in light of this need for a balanced regulatory reform bill that the differences between the House and Senate bill were resolved in conference. While the Senate bill opts for greater carrier flexibility than the House bill, the Senate, like the House, was extremely concerned about the provision of bus service to small communities and, in fact, the Senate bill was amended on the floor to include a provision to institute a study to the impact of the bill on intrastate bus service and on older citizens. The ICC is directed to give expedited treatment to whatever recommendations are made.

The Senate bill added sections not contained in the House bill which dealt with: publication of Commission actions, gender neutral terminology, and exempt motor carrier transportation.

With the recognition that the differences between the two bills represented differences in the degree of reliance on Federal regulation versus market regulation, the conferees reached an acceptable compromise agreement. While the conference report results in slightly less Federal regulation of the bus industry than the House bill, it is important to emphasize that the protections on service to small communities included in the House bill and amended to the Senate bill are substantially maintained in the conference report.

Mr. Speaker, for the benefit of our colleagues, let me outline the conference agreement that is before us, and point out some of the key differences which exist between it and the bill which was approved in this Chamber on November 19 by a vote of 305 to 83.

If the theme of this legislation is competition, then this is perhaps best reflected in our entry section. For too many years, in too many locales, carriers have enjoyed sanctioned monopolies. And, of course, where a monopoly exists, normal marketplace forces cannot work.

The conference agreement that is being considered, like the House bill, will allow the marketplace to work. A carrier who demonstrates that he is fit, willing, and able will be issued a certificate unless this would be contrary to the public interest. The ICC could consider, as contrary to the public interest, the effect the issuance may have on small communities, and its impact upon the ability of other

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carriers to provide a substantial part of its service.

Further, under the conference agreement, the restriction removal provision for interstate certification is automatic except for intermediate point restrictions where the Commission shall remove the restriction in 90 days unless protestant's evidence shows that removal would have an adverse effect on commuter bus service. Under the House provision, the restriction removal procedures were to be established by the ICC after formal rulemakings.

With respect to the regulation of brokers of passengers, the conference agreement discontinues the regulation of brokers of motor carriers of passengers. However, it still permits the Commission to require bonds or insurance, or both, if the Commission determines they are needed to protect passengers and carriers. Regulation of passenger brokers under the House bill consisted mainly of a simplified ICC licensing procedure.

With regard to rate bureaus, the House bill would have removed antitrust immunity for single-line collective ratemaking on January 1, 1984. The Senate bill and this agreement moves that date up to January 1, 1983, and removes this immunity for joint-line rates on January 1, 1984.

The zone of rate freedom, under which carriers may unilaterally revise their rates, has been liberalized from the House bill. The provision before us here would allow carriers to increase their rates by 10 percent the first year after enactment, 15 percent the second, and 20 percent the third. After the third year, the Commission loses its power to suspend a rate based on reasonableness. However, the Commission retains its authority to suspend proposed rates on the basis of discriminatory or predatory practices and the Commission must consider complaints against the reasonableness of existing rates filed under the zone on an expedited basis.

In the exit section, the conference substitute maintains the House exit test for intrastate regular route bus service on routes for which interstate authority was granted before August 1, 1982. For intrastate authority as a motor common carrier of passengers on a regular route granted after August 1, 1982, the exit test is modified. The new language requires the Commission to grant the requested discontinuance unless the Commission finds on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction is in the public interest and revenues from such service cover the variable costs of such service. The conference report clarifies the financial burden test on carriers and places the burden of proving financial burden on the carrier. In addition, the conference substitute allows for expedited exit from new routes initiated pursuant to the fitness-only entry standards of the entry provision. Finally, the agreement contains a requirement that the Rate Study Commission make an investigation and study the impact of implementation of the Bus Act on persons over the age of 60, including those who reside in rural areas and small communities. The Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high-quality intrastate bus services. The ICC shall give expedited treatment to whatever recommendations are made.

With respect to rates, interstate scheduling and rate decreases on interstate routes are preempted from State control except for up to 30 days' notice of schedule changes. The conference report further specifies as a check on the greater carrier flexibility that predatory pricing practices on interstate rates is a violation of the law and provides a complaint procedure and remedy at the ICC. This provision does not apply to commuter service.

And finally, with respect to entry, States are totally preempted on intrastate portions of interstate routes. For existing interstate certificates, the ICC can eliminate closed-door intrastate restrictions for fit carriers unless the restricted service would adversely affect commuter bus operations. For new authority, the entry test for interstate and intrastate authority would be the same.

The conference agreement on merger procedures has the same provisions for bus mergers as the House bill. For motor carriers of property, the conference agreement treats truck mergers differently than mergers of buses. Specifically, the agreement would retain existing law for truck mergers, except that the Commission could exempt a person, class of persons, transaction, or class of transactions for motor carriers of property from the provisions of the law if the Commission finds that the application of these provisions is not necessary or of limited scope. In addition, the Commission could revoke an exemption if it finds the merger provisions are necessary to carry out the national transportation policy.

The provisions of the merger section of the conference agreement would specifically require that the Commission consider "the interests of carrier employees affected by the proposed transaction" in the merger application for buses and if raised by affected parties in case of motor carriers of property.

Mr. Speaker, I have been particularly concerned these past weeks and months that this legislation, when enacted, address and remedy the very serious problem of foreign motor carriers operating within our borders despite the fact that the laws of their own countries may discriminate against or preclude the operation of U.S. carriers within their borders.

This conference report does contain a provision designed to help protect U.S. truck and bus operators from such discriminatory foreign practices. Our 1981 subcommittee hearings on oversight of the Motor Carrier Act helped illustrate to us how damaging the present situation was.

The Mexican Government has two laws, the "Law to Promote Mexican Investment and Regulate Foreign Investment," and the "Law on Several Means of Communication" that work to prohibit the certification of U.S. carriers in Mexico, even through partially owned subsidiaries or joint ventures.

It is not difficult to figure out the impact of this prohibition when superimposed over the easier entry into our country guaranteed, inadvertently to foreign carriers, by the 1980 Motor Carrier Act. Our carriers are effectively shut out of crossborder traffic. What Mexican or U.S. shipper would want to have a U.S. carrier, when doing so means their goods must be interlined at the border, when he can just hire a Mexican carrier to single line his shipment between any two points in Mexico and the United States?

And there exists a similar problem with respect to Canada. Motor carrier regulation there is done on a provincial basis, with each Province having its own laws and regulations. As might be imagined, the laws among the Provinces with respect to entry by U.S. carriers vary.

They also have in Canada, superimposed over this provincial regulatory structure, a national Foreign Investment Review Board. This board may prohibit, without any public documentation, an American company from operating within its borders. It is not concerned, however, with a U.S. company's acquisition of a noncontrolling minority interest in a Canadian motor carrier nor with operation of a U.S. carrier's trucks north of the border so long as no terminals are established there. And even then, such an operation could be initiated if doing so would result in a significant benefit to Canada.

So, though the situation with respect to Canada is lamentable and demanding of action and redress, it is not as clear cut as is the Mexican prohibition.

To address these circumstances, H.R. 3663, as initially passed in the House, would have prohibited the issuance of certificates to carriers from contiguous countries such as Mexico, which prohibits U.S. carriers from operating within their borders, and have allowed the ICC to refuse certification to carriers from countries that treat U.S. carriers desirous of operating within their jurisdictions in a less favorable manner than their own.

Nearly every person with whom I have discussed this issue concurs that this is a perfectly reasonable approach to a very real problem. The administration, though, refused to sign off on the proposal and, indeed, threatened to veto over it.

As a result, we have a provision here today that prohibits the issuance of certificates to Mexican or Canadian carriers for 2 years, and authorized the President to extend this moratorium to beyond that point with respect to carriers from any country which precludes entry by U.S. carriers. Such restrictions may be removed or modified if the President determines that doing so is in the national interest and notifies Congress in writing that he is doing so. If the President intends to modify or remove such a restriction on a country which prohibits U.S. entry, notice must be made to Congress 60 days ahead of time.

The Secretary of Transportation, Drew Lewis, wrote to me on August 5 concerning the administration's authority to waive these restrictions:

> As you are aware, the Mexican constitution prohibits non-national motor carriers from being authorized to provide service within Mexico. I do not believe that any removal or modification of the moratorium would be warranted when such a prohibition is in effect.

The Secretary's position on this is clear. And equally appreciated were the words of the ICC Chairman, Reese Taylor, in a letter to me, also dated August 5:

> With respect to reciprocity, the intent of Congress appears to me to be quite clear. The ICC will refrain from issuing certificates to foreign carriers while the moratorium is in place, and the moratorium will not be lifted unless and until an appropriate solution to the reciprocity issue is negotiated.

Chairman Taylor's statement perfectly reflects the intent behind this provision. It is my expectation that the prohibition on the carriers from nations that prohibit U.S. entry will be continued until that situation is remedied and that, similarly, no restriction removals or any other regulatory mechanism that facilitates or liberalizes operations within this country will be extended to carriers from offending governments.

I would be negligent if I failed to clearly make another point here. And that is: With or without the moratorium, the ICC is presently possessed with the authority to deny operating rights, or the easing of any circumstance related to operating rights, any carrier from any contiguous foreign country or political subdivision thereof which discriminates against or prohibits entry by U.S. operators. I would posit that the mere existence of ex parte No. MC-157 is ICC acknowledgement that this is the case. Regardless of the findings of this investigation, the fact that it is continuing indicates that the Commission believes it has the authority to deny certification on this basis.

But, more importantly, title 49 of the United States Code gives the Commission this authority. There first, section 10922(b), which allows the Commission to find that it would be inconsistent with the public convenience and necessity to grant operating certificates to foreign carriers whose governments prohibit entry or discriminate against U.S. carriers; second section, 10521(a)(1)(E) authorizes the ICC to regulate that motor carrier transportation between points in the United States and a foreign country that takes place in the United States; third, the national transportation policy which directs the Commission "to promote competitive and efficient transportation."

The conference agreement has provisions for three subjects not included in the House bill. They are:

First. It gives the ICC the authority to provide notice of proposed applications for motor carrier and broker authority in a publication other than the Federal Register.

Second. Makes certain changes in reference to gender in the Interstate Commerce Act.

Third. The agreement would provide for clarification of the Interstate Commerce Act on the issue of regulation of interstate motor carrier transportation in Hawaii. The agreement provides that Hawaii may regulate certain Hawaiian motor carrier transportation exempt from the jurisdiction of the Commission.

Mr. Speaker, I would like to commend the efforts of Chairman Howard, Mr. Clausen, whose outstanding efforts have been instrumental in helping to protect the interests of those in smaller communities in California and across the country, and Mr. Shuster for their efforts in producing this fine legislation.

I urge adoption of the conference report.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3663, the Bus Regulatory Reform Act of 1982. The compromise agreement reached on this bill reflects substantial contributions by all interested parties, including the administration, labor and public interest groups, and representatives of large and small carriers in the intercity bus industry. Through the cooperation of all parties involved, we have been able to reach agreement on the final product and present it for floor action prior to the August recess.

We have, as a result of long hours of negotiations and deliberation, a carefully constructed approach to a very difficult problem of regulatory reform, one which has not been addressed in nearly 45 years.

We have sought throughout to strike a proper balance on entry and exit by opening up the system, while providing safeguards to protect small communities and those who depend on bus service. What has resulted, I believe, is a piece of legislation that will foster constructive competition and realistically address the needs of the industry and the traveling public which it serves.

As Members will recall, the legislative initiative originated in the House, where H.R. 3663 passed by a vote of 305 to 83 on November 19 of last year. Working on the basis of our bill, the Senate retained the essential framework while making a number of amendments which were incorporated into the conference report. In addition, there are a number of compromise provisions, particularly in the area of foreign reciprocity, involving Canada and Mexico, and conditions which must be satisfied if carriers wish to reduce or discontinue service, which I will discuss at some length at a later point in my statement.

In approaching the modernization of the economic regulation of the intercity bus industry, the legislation recognizes the practicalities of the Federal-State climate in which the industry has operated for decades and the special problems associated with the structure of the industry and the competitive environment in which it operates.

Eased entry is fundamental to any regulatory reform measure which seeks to infuse a greater degree of competition. The conference report, to a somewhat greater degree than did the House bill, makes it easier for new bus companies to enter the market by requiring that applicants meet a fitness-only test. There would be exceptions in cases where the Interstate Commerce Commission finds that the proposed service would not be consistent with the public interest.

In making this public interest determination, the Commission will be required to consider, among other things, whether a substantial portion of the regular-route service of an existing carrier would be impaired. This is intended to give due regard to the ability of small carriers to compete.

As a means of promoting a more competitive and efficient intercity bus industry, the bill would substantially reduce State-imposed closed door restrictions, which prevent a carrier with interstate authority from providing intrastate service along the same routes.

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One key aspect of entry involves the ability of U.S. carriers to compete in the contiguous nations of Canada and Mexico. The House bill provided that no certificate for operation as a common carrier in this country be issued to a carrier from Mexico or Canada, or any political subdivision thereof, unless the country or political subdivision grants operating authority to U.S. carriers. In addition, it provided that the Commission, in its discretion, could deny operating authority to foreign carriers whose country of origin or political subdivision thereof discriminates against U.S. carriers

The conference substitute provides for a 2-year moratorium on issuance of certificates to Mexican and Canadian carriers, which the President can extend if either country or a political subdivision of that country substantially prohibits the operation of U.S. carriers. The President may remove or modify, in whole or in part, such a moratorium if he finds it in the national interest and so notifies the Congress. If the moratorium involves a foreign country or a political subdivision of such a country which prohibits the operation of U.S. carriers, the removal or modification of such a restriction would not take effect for 60 days after notification to the Congress.

Another entry-related provision in the House bill, slightly modified in the conference report, would promote maximum use of equipment by carriers through the mixing of charter- and regular-route passengers in the same vehicle at the same time.

The House bill provided for removal of restrictions on operating authority on a case-by-case basis. The conference report provides that restriction removal shall be automatic subject to the following exception: In the case of restrictions against service to intermediate points, it provides for removal by the Commission within 90 days upon request by the holder of a certificate, unless it found that resulting competition with a commuter bus operation would harm such a commuter operation.

The conference report's provisions with respect to rate bureaus would eliminate antitrust immunity regarding single-line rates on January 1, 1983, and joint-line rates on January 1, 1984.

Another key element of regulatory reform deals with pricing freedom. Under the House bill, individual carriers could increase by 10 percent and decrease by 20 percent their fares in any given year without being subject to suspension as unreasonably high or low. The conference report provides that, in the second year after enactment, carriers would be free to increase or decrease fares by 15 and 25 percent respectively from levels in effect a year earlier; in the third year, rates could go up another 20 percent or down 30 percent. after the third year, there would be no restrictions on rate increases or reductions exempt from suspension and investigation. Nevertheless, the Commission would still have the authority to suspend rates on the grounds that they are discriminatory or constitute predatory practices, that is, that they are intended to destroy competition.

As a member representing a considerable number of small towns and rural countryside, I have been particularly concerned about the impact of any regulatory reform on service to such areas. And I know these concerns are shared by many Members on both sides of the aisle. The interests of rural America are not and should not be a partisan matter. I therefore have concentrated on the exit-from-service aspects of this bill as much as any other single provision in my role as ranking minority member of the full committee in order to beef up the protection for small communities.

Intercity bus service in this country is in trouble; that applies not only to smaller companies but the two largest, Greyhound and Trailways, which account for roughly two-thirds of the service provided. If we insist that they continue providing service on routes on which they are sustaining heavy financial losses, their ability to provide service in otherwise profitable markets will be impaired. And we do not want to see the intercity bus industry go the way of passenger rail.

I could not go along with proposals by the Interstate Commerce Commission, the Department of Transportation, and the industry, which while varying in detail would all amount ultimately to automatic exit.

Members who have focused particularly on this issue will recall that, as it passed the House, H.R. 3663 provided that, in the case of proposed reduction or discontinuance of intrastate service by a carrier with interstate operating authority over the same route, the Commission could preempt State authority and approve such a request. However, if the Commission found that discontinuance or reduction would not be consistent with the public interest, or that continuing the transportation without the proposed discontinuance or reduction would not constitute an unreasonable burden on interstate commerce, the service would be retained.

In other words, there was an either-or test, with an affirmative finding in either case serving as grounds to deny the reduction or discontinuation.

However, in amending the House bill, the Senate made it more difficult for protesting parties to successfully challenge a proposed reduction or discontinuation of service. The Senate language would have required the Commission to grant such permission unless it found that continuing the service would not constitute unreasonable burden on interstate commerce. A finding of no unreasonable burden on interstate commerce would require a showing both that discontinuance or reduction of service is not consistent with the public interest and revenues from the service are adequate to cover the variable costs of providing the service.

In the simplest shorthand terms, the Senate test said that if you are a carrier and your are losing money—any money on a route—you are out. The House test said that either the public interest or the absence of an unreasonable burden on interstate commerce—which I translate as excessive losses—could keep you in.

Substitute language in the conference report before the House today provides that, in the case of existing service, the Commission shall permit the proposed reduction or discontinuation of service unless it finds that such would not be consistent with the public interest or that continuing the transportation would not constitute an unreasonable burden on interstate commerce. In other words, we retain the House test for existing service, and protection for small communities.

In the case of new service initiated in the future, the Senate test would apply. And I would emphasize that new service is just that—new service by a carrier on a route which it has not previously served. We emphatically do not mean that a carrier would qualify for the lesser test for exit by virtue of picking up a community or two on an existing route and calling it new service.

In determining variable costs, the Commission is given authority to consider some amount of depreciation of revenue equipment and we leave it to the discretion of the Commission to determine the most appropriate means of doing so. The language also leaves latitude to the Commission in identifying revenues appropriately attributable to service on routes or segments thereof.

Consider, for example, the case in which a carrier provides service at a relatively low per-mile fare between two major metropolitan areas, points A and B, and also between point B and a smaller city, point C, on the same route. Fares between points A and C might well be much more costly on a per-mile basis than between points A and B.

If the carrier proposed to discontinue service between points B and C, the Commission would have the ability to consider the differences in revenues generated between points A and B and between points A and C in determining the revenues generated by service between points B and C. In other words, a carrier could not necessarily average the per-mile revenues generated between points A and C in the calculation of interstate and intrastate revenues which are compared with variable costs.

Another important point: The conference substitute also provides that, in making its public interest and burden-on-commerce determinations with respect to reduction or continuation of existing service, the Commission shall give great weight to the extent to which the revenues derived from the service in question are less than the variable costs of providing the service.

I would think it entirely appropriate that the Commission, in making its determinations as to whether discontinuation of a route would be in the public interest, to take into account whether, first, the State affected had a statewide plan relating to intercity bus service and, second, whether the route in question is identified on such plan as an essential or priority route.

On another matter, dealing with rates and schedules for intrastate service, the House bill authorized the Commission to preempt a State rate or scheduling practice if found to be the cause of unreasonable discrimination or an unreasonable burden on interstate commerce. The conference report is the same as the House provision, except that State-sanctions scheduling changes and decreases in rates would be preempted.

Mr. Speaker, this conference report also deals with other matters, such as regulation of passenger brokers, securities and mergers, provisions regarding Hawaiian motor carrier regulations, and changes in certain terminology to remove references to gender. These have been or will be elaborated on by my colleagues in the Committee on Public Works and Transportation and I shall not go into them at this point.

In summary, Mr. Speaker, if we as a nation expect to meet our national transportation objectives, if we truly expect to have the best possible coordinated, integrated, and balanced transportation system, we must insure that our regulatory systems enhance our ability to achieve those objectives. Only by operating our modal systems at maximum efficiency can we preserve what is generally accepted as the world's best transportation system. To that end, we have already reduced Federal regulation in the airline, trucking, and rail industries. H.R. 3663 represents another part of the overall effort to reach our national transportation objectives.

I urge the adoption of the conference report.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. Shuster), the ranking minority member on the Subcommittee on Surface Transportation, who has done an outstanding job.

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Mr. SHUSTER. Mr. Speaker, we bring before the House today the conference agreement on H.R. 3663, the Bus Regulatory Reform Act. Negotiations have been ongoing with the Senate and the administration for several weeks and I believe the compromise we have reached is sound and fair.

I would like to specifically point out to my colleagues that this would be the last of a long line of transportation regulatory reform bills to be brought to this Chamber. Previously, this House has debated and passed legislation on railroads, airlines, trucks, and household goods carriers. The intercity bus industry competes directly with two of those modes previously given regulatory relief. It is only reasonable and proper that regulatory reform for intercity buses be enacted into law.

In reaching this compromise with the Senate, several issues of concern to House Members were discussed. The issue of exit policy and its impact on small communities was one of the most debated topics when H.R. 3663 was discussed on the House floor last year. The House provision loosened up regulation as compared to current law but was a proper balance with the entry provision. The Senate provision completely opened up exit and left little protection for small towns from losing bus service. This compromise goes beyond the House provision and makes it tougher for a carrier for no justifiable reason from abandoning a small town that may rely solely on bus service. I am convinced this agreement was the best possible for rural America and for intercity bus transportation. Congressman Don Clausen deserves great credit for his untiring efforts to provide this provision to protect small communities.

There were several other problem area where compromise was reached such as zone of rate freedom, merger requirements and reciprocity. I am pleased to see that with this agreement nearly all of the recommendations of the National Transportation Policy Commission, which I chaired, were implemented in the area of intercity buses.

The Commission called for more route flexibility for intercity buses. As discussed, this bill sets a proper balance on entry and exit with freer opportunities for intercity bus companies but adequate safeguards to protect service to the public. The Commission report also called for more flexibility for both upward-and-downward rate changes within a zone of reasonableness. This compromise provide for that flexibility.

I urge my colleagues to support this agreement and send it to the President for his signature.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Texas.

Mr. PATMAN. I thank the gentleman for yielding.

Mr. Speaker, could the gentleman give me some assurance smaller communities will be, in fact, served after this deregulation goes into effect? I have heard complaints that some communities after airline deregulation went into effect were not served and have not been served.

Mr. CLAUSEN. I was faced with the same situation, because I come from a rural, sparsely populated area. As the gentleman knows, the exit provision we had in the House version was designed to protect the smaller communities. Of course, the Senate version did not have that kind of protection.

So, as a result, there is a requirement for wherever a public interest test is needed, the communities themselves can, in fact, go to the public utilities division as in the case of the State of California, or whatever your counterpart organization would be in the State of Texas. They have the right of appeal to the Interstate Commerce Commission.

There is a provision in the legislation that would give them the right of that forum; and as I say, if the gentleman voted for the bill when it went through the House and was concerned about the protection provision—the House provision on exit—in essence, prevailed.

Mr. PATMAN. In fact, I did not vote for the bill as it went through the House. Our Texas Railroad Commission, which is the regulatory agency which has jurisdiction over matters of this nature, had gotten in touch with the members of the Texas delegation and expressed their opposition to that legislation.

Has that opposition been met and satisfied?

Mr. CLAUSEN. As far as I am concerned, those that have expressed concern to me from these rural areas are satisfied with the provision.

As I said, the Senate had virtually no exit protection, and the House committee held firm on this and backed us to the hilt so we could sustain our position.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I share the same concerns that my friend, the gentleman from Texas (Mr. Patman) has. I had communications from the Texas Railroad Commission stating that they had serious reservations about this matter because they

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feared that if this bill passes—and I know that it will—small cities in Texas would probably have very severe difficulty in trying to keep Trailways and that sort of bus transportation in the cities.

The gentleman stated in our situation, the Texas Railroad Commission would make the final determination. Do I understand if a city, a small town, files an application with the regulatory body—whatever it is throughout the country——

Mr. CLAUSEN. State or Federal, intrastate or interstate——

Mr. SAM B. HALL, JR. Does the local regulatory body have the final say so as to whether or not there will be bus service in a small town or does that have to be appealed, if necessary, to the Federal level to make that determination?

Mr. CLAUSEN. The ICC does in fact have the final say.

Mr. SAM B. HALL, JR. If the Texas Railroad Commission held that the Greyhound busline should service Marshal, Tex., or Jefferson, Tex., or whatever—both small towns—then the action of that tribunal would not be final?

Mr. CLAUSEN. No; that is correct, because there is a clear distinction, as the gentleman knows, between the intrastate jurisdictional responsibilities and the interstate routes. That, of course, lies with the ICC.

Let me go one step further in stating that if an intrastate exit decision is appealed to the Commission, the test would be whether the State could show that the discontinuance was not a burden on interstate commerce or was in the public interest.

So they are subjected to the public interest test, meaning the community itself would have the right of access to make their appeal to the State regulatory authority and the Interstate Commerce Commission.

Mr. SAM B. HALL, JR. If the gentleman would yield further, if the Texas Railroad Commission ruled that an intrastate busline should serve a town or towns—intrastate—would the buslines have the right to appeal that decision to the ICC?

Mr. CLAUSEN. No; not if it is purely intrastate.

Mr. SAM B. HALL, JR. Suppose the buslines attempted to show that their intrastate line had a direct bearing on interstate commerce? Would they then have the right to appeal to the ICC if the local instrumentality held that they should serve a small town?

Mr. CLAUSEN. Only if it is a part of an interstate route.

Mr. SAM B. HALL, JR. If the gentleman would yield further, I do not understand what the gentleman means by that.

Mr. CLAUSEN. Only if the point that is involved—the community involved—is a part of an interstate route.

Mr. SAM B. HALL, JR. There is no way to get from Dallas, Tex., to east Texas without going Interstate 20, unless you go on a dirt road to get to those small towns. Would not all of those cities be governed by the ICC?

Mr. CLAUSEN. I am advised by counsel it has to be a bus that crosses State lines. It would be interstate service in that sense—intrastate service between two points on an interstate route.

Mr. SAM B. HALL, JR. I thank the gentleman.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR U.S. PARTICIPATION IN 1984 LOUISIANA WORLD EXPOSITION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6409) to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 12, after line 3, insert:

SEC. 16. (a) That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803), is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2), and (3), respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

(4) by adding at the end thereof the following new subsections:

"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) The enactment of a specific authorization of appropriations shall be required—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I shall not object, I make this reservation so the gentleman might explain what the Senate amendment is.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, as the Members know, this bill authorizes $10 million to fund Federal participation, staffing, and providing the exhibitions for the 1984 World's Fair in New Orleans.

The Senate passed the bill as it passed the House with the addition of one amendment implementing a 1980 GAO report by requiring certain procedures be followed in the construction of Federal pavilions at world's fairs, including prior provision for the post-fair utilization of a permanent structure; and if such an agreement is not possible, for the pavilion to be a temporary structure.

That is all the Senate amendment provides.

Mr. LAGOMARSINO. Further reserving the right to object, I strongly support the legislation and the Senate amendment and urge my colleagues to vote for it.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

I certainly urge the gentleman not to object.

I appreciate all the work the gentleman has done along with the chairman of the subcommittee, the gentleman from New York (Mr. BINGHAM) as well as the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), and the ranking member, the gentleman from Michigan (Mr. BROOMFIELD).

All have been extremely cooperative. They have managed to move this bill through the Congress very proficiently with the cooperation of myself and the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentlewoman from Louisiana (Mrs. BOGGS).

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Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding. I would like to make certain that all of us know the very, very particular attention that the chairman of the full committee and the members, the ranking minority members of the full committee and the subcommittee, have paid to this legislation.

Those of us in Louisiana are very grateful to the gentleman for the expeditious way in which he has handled this. We are especially happy that the gentleman has taken it up this late at night as we are about to adjourn.

I would hope that we would pass the legislation and that in 1984 all of you will come down to enjoy the World's Exposition in New Orleans in the State of Louisiana with us.

Mr. LIVINGSTON. Mr. Speaker, I simply want to echo that challenge. We hope that everybody here in the House will come down and join us for the 1984 World's Fair.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME TODAY, SUBJECT TO THE CALL OF THE CHAIR

Mr. MURTHA, Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare recesses at any time today subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LIVINGSTON. Mr. Speaker, reserving the right to object, I would like to inquire whether there will be any additional legislative business at this time.

Mr. MURTHA. No.

Mr. LIVINGSTON. And not tomorrow either; is that correct?

Mr. MURTHA. That is correct.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 20, 1982, TO FILE CERTAIN REPORTS

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight, Friday, August 20, 1982, to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

GENERAL LEAVE

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted concerning the World's Fair.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

TRIBUTE TO THE HONORABLE THRUSTON B. MORTON, FORMER MEMBER OF THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. PERKINS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members who may desire to do so may have 3 weeks in which to extend their remarks on the subject of this special order on the late Honorable Thruston B. Morton.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was not objection.

Mr. PERKINS. Mr. Speaker, today would have been the 75th birthday of Thruston Ballard Morton, a former Member of this House from Kentucky, a former Senator of the United States, a former Assistant Secretary of State, a former national chairman of the Republican Party, and one of the outstanding Kentuckians of the 20th century.

The occasion for these remarks today is so that we who admired him so much in life may now come to eulogize him in death, for Thruston died last Saturday in Louisville, his native city. He was buried there on Monday of this week.

Thruston B. Morton was already a successful businessman and active community leader in Louisville when in 1946 his fellow citizens elected him to the House as a Member of the famous 80th Congress. He took his seat here on January 3, 1947.

Two years later I was privileged to join him when the 81st Congress came in, and I was enriched and honored to have him as a friend until his dying day.

Although we were of opposite political parties, Thruston was far too big a man to be partisan in his personal relationships. We could talk with each other as friends, and we did often—all through his political career, and even after he reentered private life in 1969.

Today, my mind returns to those days in the late 1940's and early 1950's when Thruston and I served together as young members of the Committee on Education and Labor. That was

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during the chairmanships of John Lesinski and Graham Barden.

Two other young men then serving with us on the committee later went on to carve out notable careers for themselves in other pursuits. They were John Fitzgerald Kennedy and Richard Milhous Nixon.

Those were years of great activity and great controversy on the committee, when we wrestled with questions such as whether or not to repeal Taft-Hartley, or whether we should enact Federal assistance to education; and there were many others.

Thruston and I had many discussions about these matters as we tried to determine what was the best thing to do for our home State of Kentucky and for the country. You get to know a man that way, that is the way I came to know and respect the young Louisville Congressman.

Thruston decided to retire from the House in 1952, even though he knew with some certainty that he could have been reelected in that year of the Eisenhower sweep. But he devoted full time to his party's campaign in Kentucky that year, and came within 700 votes to carrying it for the popular general-turned-candidate.

As the new administration came to power in 1953, the President drafted Thruston Morton to be Assistant Secretary of State for legislation. It was a wise choice, for his three terms in the House had given Thruston considerable stature on Capitol Hill, as well as knowledge about and respect for the legislative process.

I saw him often during those years as he made trips to the Hill to explain the President's foreign policy initiatives, and sometimes to soothe the congressional feathers that had been ruffled by the high-flying Secretary of State, Mr. Dulles. Thruston did his job well and enhanced the high regard in which he was already held by both House and Senate.

In 1956, the leadership of the Republican Party in Kentucky and nationally prevailed upon Thruston to stand for the U.S. Senate. It was a year of turmoil in Kentucky politics, for the great Alben Barkley had died suddenly that spring, and the seat held by Senator Earle C. Clements was up. That meant two Senate seats to be filled. A divided Democratic Party nominated former Gov. Lawrence Wetherby for the Barkley vacancy.

And so Thruston Morton became a Senator of the United States. Among many political friends it was believed that he would be a one-termer, and that Kentucky would in 1962 revert to its old pattern of electing Democrats to the Senate. But he stood for reelection in 1962, opposing the able Wilson W. Wyatt, his fellow Louisvillian, a former mayor of that city, and the incumbent Lieutenant Governor of Kentucky. It was a hard-fought campaign between two good friends. But even though Thruston's old friend and former colleague on the Committee on Education and Labor, John Kennedy, came to Kentucky to campaign for the Democratic candidate Wyatt, it was Thruston who carried the day.

That he could be fiercely partisan on issues and in matters of political philosophy is evidenced by the fact that his party turned to him for leadership as its national chairman from 1959 to 1961. But surely no Democrat would ever say that Thruston Morton denied him civility or even friendship on the ground of politics.

This happy faculty to be decent and courteous and always reasonable is what endeared him to his fellow Kentuckians. They never denied him election to any office he sought.

A wealthy, Yale-educated, almost patrician man in manner and dress, Thruston Morton struck a chord with the people of the farms and small towns of rural Kentucky, just as he did with people in the larger cities.

During the 1962 Senate campaign, a Kentucky reporter at one of the Morton rallies in an isolated, impoverished rural community asked a man in the edge of the crowd how the people felt about "a rich man from Louisville who wears white-on-white shirts with French cuffs and gold cuff links, and $400 suits" when he came among them to ask for their votes.

"Well," the man replied, "when our Senator comes to see us, we kind of expect him to wear his good clothes."

In the early spring of 1968, when he confided to me his decision to retire from the Senate at age 61, I told him he was unbeatable in Kentucky if he wanted another term. But he had made up his mind. He wanted to go home to Louisville. He wanted to spend more time with his wife, Belle Clay, and with his fine family. He wanted to do some things as a private citizen that he thought were important and which he did not have time to do as a U.S. Senator.

He wanted to go home to Kentucky, a State where his very name echoed the rich heritage of pioneers moving westward from Virginia as the new American Nation expanded and developed. Thrustons and Ballards and Mortons rode in Pullman cars and jetliners in later days, but in the 18th century they came afoot or on horseback, with a flintlock slung across their arms. The 20th century man who came to wear all of their names in one, Thruston Ballard Morton, was a descendant worthy of his stock. He added mightily to the heritage now passed to his children and his grandchildren.

He left to his native city, to his beloved State, and to his country a legacy of public service of the highest order.

And now he deserves to rest well in the sweet Kentucky land.

Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, it was with profound sorrow that I learned of the passing of Thruston B. Morton. Mr. Morton's service in the House of Representatives and in the U.S. Senate will continue always to be one of the bright spots in our country's legislative history. He was a good Member of the House and Senate in every sense of the word.

While serving as chairman of the Republican National Committee, he established an outstanding record and served with distinction in the State Department. His forward-looking attitude and determination to give great service gives all of us an inspiration to work harder in our years upon this Earth for worthy causes.

We are today honoring him in death, but he did not have to wait for the many honors and respect his colleagues in the Congress and Americans accorded him during his life. His service to his people was during an unusual period in the history of our country. His name will be known in all time to come at home and in the far corners of the Earth for his monumental works in behalf of representative government, which is the source and the protector of all human liberties in all nations where freedom prevails.

During his tenure as a Member of Congress, he was always willing to listen. This is a trait, Mr. Speaker, possessed by few people, and one that is almost sacred.

Mr. Speaker, I regret his death, and I extend my condolences to the members of his family.

Mr. PERKINS. Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I thank my friend, the chairman of the Committee on Education and Labor, for yielding to me.

Mr. Speaker, I rise to join my colleagues in paying tribute to a great Kentuckian, a great American, a great man, and a very close personal friend of mine, Thruston B. Morton. It was with sadness that I attended his funeral last Monday.

Thruston B. Morton was a Kentuckian from pioneer stock, with a strong political heritage who went on to greatness. He was a man who could be a hard-hitting campaigner and master politican when he had to be. I had the pleasure of campaigning with him in 1962—during his second Senate race while I was running for the old Third District seat he had held earlier in his career. During that campaign, I learned a great deal about the art of politics from a master—but I also learned that, above it all, Thruston Morton was a statesman always.

Throughout his career, Thruston served in many posts and served his Nation and his party in many ways. But whether it was as a U.S. Representative for the Third District of Kentucky or as a U.S. Senator for the Commonwealth of Kentucky, or as chairman of the Republican Party or as Under Secretary of State, he served with distinction. Serving through many periods of extreme divisiveness and heated emotions, when harsh rhetoric and extremism were in vogue, he was a constant proponent and spokesman of moderation when we needed it most. Still, he was a man capable of vigorous action in support of his ideals. He never sought out an unnecessary fight, but never backed away from one either. One might not have always agreed with his positions on issues, but one always had to admire the way he stood by them—and no one could ever deny the sincerity of his convictions or his effectiveness in pursuing them.

Thruston Morton was a very good friend of mine. Over the years, I went to him many times for advice—and it was always sound and true. I will miss him deeply.

But, above it all, Thruston Morton was a Kentuckian who did Kentucky proud; who served his State and Nation in exemplary fashion; a statesman, a master legislator and a true American.

I extend my sympathies to his lovely wife, Belle Clay and his two sons.

Mr. PERKINS. Mr. Speaker, I yield to our colleague, the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. I thank the gentleman for yielding to me, and I thank him for taking this special order for our late friend Thruston Morton, who was a distinguished Member of this body and a distinguished Member of the other body, and who further served in the executive branch of Government with great distinction.

Mr. Speaker, it was not my good fortune to have served in this body with the gentleman, Mr. Morton. However, all of those who did, friends of mine who were here and those who came in contact with him, always knew him to be a man of courage and a man of his word and a man of vision for the future.

When he returned to Louisville following his public service, which also spanned a session and term as chairman of the Republican National Party, the gentleman, Mr. Morton, returned to Kentucky and resumed business activities which included chairmanship of the Churchill Downs. From time to time our paths crossed over these years, but while I did not know him personally, I do know and have had contact with his sons and with his family.

I thank the gentleman for taking this special order because he will be widely mourned, both for his outstanding public service, for his civic responsibilities, and for his being a genuine Kentuckian.

Mr. PERKINS. Mr. Speaker, I yield to our colleague, the gentleman from Kentucky (Mr. Hubbard).

Mr. HUBBARD. Mr. Speaker, it was with deep regret that I learned of the death of former U.S. Senator Thruston B. Morton of Kentucky at his home in Louisville on August 14.

Thruston Morton was a decent and honorable person, and a man of many careers. He was successful in all of them: in business, in community service, as a naval officer during World War II, as a Member of the U.S. House of Representatives, as an Assistant Secretary of State under President Eisenhower, as chairman of the Republican National Committee, and as a U.S. Senator. His wide experience and thorough knowledge, both in international and national affairs, placed him in positions of great responsibility and leadership.

A native of Louisville, Ky., and a 1929 graduate of Yale University, Senator Morton became a leader of his party's moderate faction. He was well known as a leading proponent for improving East-West relations. He believed that global problems needed dialog and communications. Upon Morton's retirement, he was remembered as an alert, vigorous, and well-informed man of moderate views, completely in tune with the problems of his time.

I extend my deepest respect and sympathy to his wife, Bell Clay Lyons Morton, his two sons, T. Ballard Morton, Jr., and Clay Lyons Morton, his sister, Jane Morton Norton, and his five grandchildren, all of Louisville.

● Mr. McCLORY. Mr. Speaker, the passing of Thruston B. Morton of Kentucky marks the close of an outstanding career of public service and private endeavor. Thruston Morton served in this House for 6 years between 1947 and 1953. Subsequently he was elected to the U.S. Senate for the State of Kentucky, during part of which period he was elected and served as chairman of the Republican National Committee.

An outstanding American whose imposing appearance and manner gave character and prestige to every office in which he served, Thruston Morton brought great honor to this body and to the U.S. Senate by reason of his qualities of leadership and his active participation in the legislative process.

Mr. Speaker, while we honor our former colleague in this body today, we should recognize also that the people of the entire Nation have reason to express gratitude for this great American and for the honorable and constructive service which he provided during his useful life as a public official and as an active and valuable private citizen.

Mr. Speaker, I take this occasion to express my respect and sympathy to surviving members of Thruston Morton's family.●

● Mr. PHILIP M. CRANE. Mr. Speaker, we were all saddened by the news of the loss of a friend who served his country so well, both in and out of uniform—Thruston B. Morton.

A member of one of the pioneer families of Kentucky, he devoted 5 years of his life to his country, serving as a lieutenant commander in the U.S. Naval Reserve during World War II. Once having tasted service for his Nation, he embarked on a political career which brought him to Washington where he contributed his many talents to both his country and his party.

He had been discharged from the Navy only a short time when he began his successful campaign for a seat in the U.S. House of Representatives. After serving three terms in the House, he retired and moved to the executive branch upon his appointment as Assistant Secretary of State by President Dwight D. Eisenhower.

But Congress had captured his heart, and he relinquished his State Department post to run for the U.S. Senate. He was victorious in that campaign in 1956, and he won again in his reelection bid 6 years later. For 2 years during that 12-year span, he stood at the helm of his party, as chairman of the Republican National Committee. As one friend noted, he was a "hard-driving charger" as he battled for his party in the political arena, while at the same time he fought for better government in the Senate Chamber.

He retired from the Senate in 1969, and returned to his native Kentucky where he was active in the business world until overcome by bad health.

Thruston B. Morton unhesitatingly devoted his life to his country, his family, and his party. His contributions were many and will long be remembered by a grateful citizenry.●

● Mr. GOODLING. Mr. Speaker, I am privileged today to pay tribute to a skilled and genial politician who passed away recently and who during his lifetime was noted for having maintained good relations with every segment of my own Republican Party, which he once ably served as National Chairman—the Honorable Thruston Ballard Morton, a former Member of this body. Although I myself never had the honor to serve in Congress with Thruston, my Dad, George Goodling, did and he remembers Thruston as being tough as well as charming, at all times a man who knew what he was doing.

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The designation of Thruston as chairman of the 1964 Republican National Convention while he was a U.S. Senator topped a distinguished career which included 6 years in the House, 3 years as Assistant Secretary of State for Congressional Relations under President Eisenhower, and 13 years in the Senate. While he served in this body, Thruston sat for a time on the Education and Labor Committee, of which I am a member, and his House colleagues recalled him as being an easy-going fellow with quick intelligence who seldom spoke unless he had something important to say. When he did, Members listened. During his three terms in the House, he represented the District in Kentucky which included Louisville, and the quality for which he will always be remembered is his independence, which gave him the courage to reprimand even his own party on occasion. Thruston said his fellow Kentuckians recognized the need for experienced leadership in those dangerous years, and the record indicates that he cast his congressional votes in an independent manner. Thruston himself acknowledged that he always "followed one pattern" and that was to "never take a partisan—violent partisan—attitude for the sake of being partisan."

His independence was most striking where U.S. foreign policy was concerned, and during his heyday Thruston was known as an internationalist Republican who came out strongly in favor of the consular treaty with the Soviet Union and for expanded East-West trade. When the McCarthy era was at its height, Thruston claimed that, while the threat of communism was severe, there were some Americans whom he considered to be "so disturbed by the menance of communism that they are beginning to wonder whether it would not be best to chip off a little liberty to preserve the basic fundamentals of democracy. . . . The fact is that you cannot chip any part of the structure of liberty without beginning to destroy the entire structure."

On domestic issues, Thruston can be remembered for his advocacy of Federal aid to education, and for his long time support of civil rights measures and for the Voting Rights Act. I look back on his voting record, and I see a man who had visions that we as a Congress are just now considering, such as balancing the budget and streamlining Federal spending. Thruston thought of himself as a moderate conservative, and on this day just after we have considered the major tax bill of this session—in a session in which we for the first time have taken serious attempts to cut the growth in Federal spending—I think it appropriate that we are remembering a man who, as early as 1967, said, referring to the 1968 Presidential nominee, "whoever he is, I personally think he will win if he restrains some of these Great Society programs." And, he continued, "I think there is great disaffection among the people with many of these programs in the domestic field."

The man who founded the Chowder and Marching Club in the House was formerly a businessman in the family grain and milling business, the Ballard & Ballard Co., of Louisville, and prior to that he served in the Navy for more than 4 years in the Pacific. Thruston B. Morton was a 6'2", 200 lbs., native of Louisville with seventh generation Kentuckian Republican roots that can be traced back to Abraham Lincoln. I understand that he got his first taste of politics at the tender age of 7, when he witnessed his maternal grandfather, S. Thruston Ballard, represent the Wilson administration in labor negotiations with Samuel Gompers. That grandfather later became Lieutenant Governor of Kentucky, and took his grandson with him to Frankfort as an assembly page.

May I take this opportunity to extend my condolences to Thruston's wife, Belle, to his sons, Thruston Ballard Jr., and Clay Lyons, and to his grandchildren, family, and personal friends. The public record is clear: Thruston B. Morton served the GOP—he served Kentucky—he served his country, and he served all of them admirably.●

● Mr. RHODES. Mr. Speaker, I am honored to join in this tribute to Thruston Morton who died last week.

When I first come to Washington, Thruston was an Assistant Secretary of State. He soon moved on to the many other posts in Government and in politics which comprised his varied career.

His service during the Eisenhower adminsitration, as Assistant Secretary of State for Congressional Affairs—his 12-year term as a U.S. Senator—and his tenure as the Republican national chairman from 1959 to 1961—all provided Thruston with opportunities to demonstrate his many personal talents in the broad arena of public service and politics.

Thruston Morton identified with the volatile issues of the 1950's and the 1960's, taking an early stand against the Vietnam war, and opposing the policy of racial segregation in the South. He scored victories in the Congress through the deft application of his outstanding parliamentary skills, and he led with distinction the Republican Party as its national chairman.

Thruston voluntarily declined to run for reelection after serving two terms in the Senate, prompting the Washington Post to write an editorial lamenting the formidable loss his retirement would be to the Congress and to his constituents.

He was missed then and he will be missed now by all who knew and respected him. Mrs. Rhodes joins me in offering sincere sympathy to Senator Morton's wife, Belle, and to all his family.●

● Mr. CONTE. Mr. Speaker, I am pleased to take part today in the special order taken by the gentleman from Kentucky, Mr. PERKINS. I appreciate the opportunity to pay tribute to my good friend, Thruston Morton, who passed away this last Saturday. I was sad to learn of his death, but I am proud to be able to have counted this truly great American among my friends.

Thruston Ballard Morton represented the Louisville, Ky., area in this body from 1947 to 1953. After leaving the House, he went to the Senate, where he served the people of the State of Kentucky well for 12 years, from 1957 to 1969. In 1960, he was the Republican national chairman during the Presidential campaign.

In his selfless years of dedication to this Nation, he always showed unending realism, and the belief that being an American meant more than being a politician. As an early critic of the Vietnam war and the uncompromising anti-Communist tone of American politics in the 1960's, Thruston proved that he knew what was right for this Nation. "I think," he said at one point over debate over the U.S. involvement in the war, "that we have a somewhat myopic view of communism that doesn't help the cause of world peace. * * * I hate communism. I deplore its atheistic qualities and all about it. But I think that if the Russians and ourselves could sit down together like grown men and say we're going to start wars, why, we could do it."

Tim made a tremendous contribution to American politics, nearly being nominated ahead of Henry Cabot Lodge for the Vice-Presidential seat in the 1960 election. But the most important thing I feel he did was to teach us all of the importance of being Americans first and politicians second.

Thank you, Mr. Speaker.●

● Mr. DE LA GARZA. Mr. Speaker, today I join my colleagues in honoring a past Member of the House, the Honorable Thruston B. Morton, who passed away this last Saturday. During his distinguished career in Washington, Thruston Morton also served in the other Chamber, and was a valued member of the Eisenhower administration.

As a young Member of the House, I had the honor and pleasure of being able to work with Thruston Morton on a number of projects. We who knew him during his years in Washington join the legions of his friends in his home State of Kentucky in mourning his death.

Thruston Morton was an outstanding American, loved and respected by those who knew him. For his dedication to public service, he leaves a legacy for others to follow.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join with my colleagues in paying a special tribute to the late Thruston B. Morton, an old friend and respected colleague. Thruston B. Morton will long be remembered as a dedicated American and a dynamic statesman for Kentucky as well as a loyal leader for the Republican Party.

I had the pleasure of working with Thruston during the years that he served as chairman of the Republican National Committee. Thruston was an effective spokesman for the views and ideals for which the Republican Party stands. He handled that all-encompassing position, a job that carries with it a great amount of work and responsibility, in an exemplary fashion.

Thruston was an able and dedicated individual who was a credit to public office as well as to the business world. He served as chairman of the board of Churchill Downs and chairman of the board of Liberty National Bank in Louisville, Ky., after leaving Government.

During the Eisenhower administration, Thruston served as Assistant Secretary of State for Congressional Relations, and he was known for his outstanding dedication to getting the job done.

As a Member of the House for 6 years and then as a Senator for two terms, Thruston's consistent concern for not only the people of the State of Kentucky, but also for the good of our country, made him a driving force in passing responsible legislation. Thruston was a true gentleman who was well respected for his strength of character.

Thruston served as a superb role model for those of us who followed him in elective office. He was always available for those seeking his advice and counsel. He was a strong leader, excellent legislator, and a caring representative of his constituency. He exemplified the finest attributes of a public servant.

My wife Pat joins me in extending our heartfelt condolences to his wife, Belle, and the entire Morton family.●

● Mr. WON PAT. Mr. Speaker, during the time of Senator Thruston B. Morton's service in the U.S. Senate, I was a frequent visitor to his and other Senator's offices in my quest for assistance to Guam. I always found the Senator to be a willing listener and compassionate man. He was a source of great encouragement to me.

I also had the pleasure of knowing and working with the Senator's brother, the late Honorable Rogers B. Morton, when he was a Member of the House, and as Secretary of Interior.

I have always held the Morton brothers in the highest regard, and now that Thruston has joined his brother, Rogers, in the life beyond, I join my colleagues in paying tribute to him while offering my deepest sympathies to the Morton family.●

Mr. PERKINS. Mr. Speaker, I yield back the balance of my time.

CONTROL OF INDUSTRIAL DEVELOPMENT BONDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PICKLE) is recognized for 15 minutes.

● Mr. PICKLE. Mr. Speaker, the use of industrial development bonds has become popular with many Members of Congress and has been endorsed and used by many of our cities and counties and other public entities. This is understandable because in many instances these kinds of bonds can be very useful and can help a community. But the growth of these industrial development bonds (IDB's) has increased in such an alarming manner that we, the Congress, should take a careful look at the operation of this program. In particular, our cities, our counties, schools, and our other public entities should realize that there is a "hook" in the growth of these bonds. As the use of IDB's grows in a larger and larger manner, the inevitable fact that local taxes will have to be raised to pay for these bonds is becoming increasingly apparent.

Last week the Dallas Morning News ran a story by Mr. Richard Fish which noted that the abuse and overuse of IDB financing is just as prevalent in Texas as it is in other States. Mr. Fish pointed out that a Japanese petrochemical plant on the Houston ship channel and a beer, bowling, and billiard parlor in Port Arthur have one thing in common: Both are being built for private profit with taxpayers' help.

"Texas taxpayers," the story goes, "also have aided a distributor of X-rated magazines, helped build a plant for Krupp Steel, and cut costs for Coors Beer, Coca-Cola, Honda Motors, and Hitachi Metals. Those enterprises and more than 500 other private companies have received nearly $2 billion in below-market loans to finance plants, warehouses, motels, and offices under the State (Texas) industrial revenue bond program."

The writer continues, "Industrial revenue bonds are a way of letting corporate borrowers use the tax exemption granted to a government on the theory that stimulating local economies and creating jobs benefit local citizens."

But, "In the process of providing cheaper financing for private businesses, the bonds have increased the cost of public projects and reduced Federal tax revenues, according to the Municipal Finance Officers' Association in Washington, D.C. There is almost no dispute that the growing use of the bonds for the financing of private business has helped drive up the cost of local government borrowing for such public purposes as roads and water systems."

If the increase amounts to 1 percentage point of added interest, local governments must pay to finance public projects, then the municipal bonds that Texas governments will issue this year could cost their taxpayers and ratepayers $400 million in extra interest during the life of the bonds. Many finance experts believe the impact is even greater than that.

Mr. Speaker, many of our local officials actively approve and promote the sale of these bonds. In many instances they have done it in the past without public hearings and without the open approval of a locally elected body. As the article I have just quoted said, some of them feel that they can "sprinkle holy water" on the IDB bond program and take credit for the addition of a new facility, but they do not give much thought to the fact that in so doing they are drying up sources of revenue and driving up interest rates for the traditional municipal tax-exempt bonds. The inevitable result is that local governmental political subdivisions will have to raise taxes to pay for traditional public service functions and projects.

There are times and places where these IDB's can and should be used. But, Mr. Speaker, if we do not control them, we may well destroy our regular tax-exempt municipal bond program. As much as a community wants to have an IDB project in its area, as appealing as it is to build a new shopping center or a hotel, the cold and honest truth is that we are allowing private business to reap a benefit of some 3 to 4 percentage points off the conventional interest rate through the use of tax-exempt bonds. This amounts to a direct Federal grant of $300,000 to $400,000 per project for a typical $10 million "small issue" package.

We have to ask ourselves what business does the Federal Government have in allowing DuPont or any other large corporation the right to have Uncle Sam finance their projects. The Federal Government has many serious problems of its own, and we ought to avoid trying to help any major corporation or developer in making Uncle Sam foot the bill for their project.

Let me give you a bit of background on these IDB programs. As you know, Mr. Speaker, tax-exempt, private-purpose bonds are corporate bonds issued by a government entity and are similar to municipal bonds. It is important to note, however, that they differ from municipal bonds which are used to fund public works projects sponsored by a municipal, State, or public authority in that they are issued by gov-

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ernments to raise funds for private development.

In the past 5 years, the use of these bonds to subsidize the borrowing costs of private business has increased dramatically. In 1976, the issuance of bonds for private business activities amounted to $8.5 billion or 25 percent of all tax-exempt bonds. By 1981, the figure had jumped to a total of $25 billion or 48 percent of all tax-exempt bonds issued. Beyond doubt, the share of private-purpose bonds will continue to grow explosively in the absence of additional limits. Meaningful restrictions on these tax-exempt bonds will help restore the benefit of tax-exempt financing for traditional government purposes and will reduce the growing Federal revenue loss attributable to the increasing volume of private-purpose, tax-exempt obligations.

The dramatic increase in issuance of private-purpose, tax-exempt bonds has had the effect of flooding the tax-exempt money market and driving up interest rates for the traditional government financing of municipal water and sewerage projects, roadpaving, and other State and county projects. Thus, the burden of financing business subsidies through tax-exempt bonds is passed to local, county, and State taxpayers in the form of higher taxes and increased fees for public services.

The sale of "small issue" industrial revenue bonds has grown more rapidly than private-purpose bond sales for any other purpose, except for residential housing. Between 1975 and 1980, annual "small issue" sales grew from approximately $1.3 billion to about $8.4 billion. In 1975, small issues accounted for approximately 4 percent of all long-term tax-exempt bond issues; in 1980 they represented 15 percent of the market. According to Congressional Budget Office estimates, under current law small issues could amount to between $15 and $49 billion by 1986, resulting in revenue losses increasing from approximately $1 billion this fiscal year to between $2.9 and $4.4 billion in fiscal year 1986.

Tax-exempt bonds are clearly an inefficient method of providing a subsidy. Historically, the ratio of interest rates on tax-exempt bonds to the interest rates of taxable bonds has averaged between 65 and 70 percent. At that ratio, the Federal Government loses approximately $3 of tax revenue for every $2 of benefit to the entity for whom the bonds were issued. This year, however, the interest rate ratio of tax-exempt bonds to taxable bonds has increased to 80 percent and above, further reducing the efficiency of tax-exempt bond financing. As more tax-exempt bonds are issued, this ratio can be expected to increase further, and the value of tax-exempt bonds will be further diluted.

It is frequently argued, Mr. Speaker, that local communities need IDB's to attract business and industry. But, the simple truth is that these bonds can be issued by any community in the country and thus provide no incentive for a business to locate in one community over another. The simple truth is that IDB's give a competitive advantage to those companies able to get them—a competitive advantage awarded at taxpayer expense.

We in the Congress, Mr. Speaker, should address ourselves to placing some meaningful limits, in a relatively equitable manner, on further expansion of the IDB program. We should recognize, for example, that large corporations have access to sources of capital unavailable to small businesses, and thus do not have the same need for tax-exempt financing to make investment possible.

Mr. Speaker, the House conferees on the tax bill, of which I was a member, attempted to place some limitations on the use of tax-exempt, private-purpose industrial development bonds. We diluted, to some extent, the rich ACRS provisions of present law and we place some rather stringent limitations on the use of "small issue" bonds to finance big business.

But, finally, Mr. Speaker, the conferees yielded to the pressure and sidestepped what had become a controversial political issue. Some apparently felt their "pet projects" were being attacked and threatened to withdraw their support for the tax bill if we persisted. The changes adopted by the conferees, Mr. Speaker, were very few and very minor. Our major accomplishment was to sunset small issues on December 31, 1986, rather than 1 year later. So the task is still before us. And most of the conferees agree that the problem grows larger every day and must be faced.

Potentially, Mr. Speaker, the issue of uncontrolled issuance of tax-exempt, private-purpose industrial development bonds is a national embarrassment to both the communities involved and to the Congress. Local taxpayers are beginning to wake up to the fact that they are picking up the tab for these Federal subsidies to private business in the form of higher taxes and user fees for traditional public services. In our next session, Mr. Speaker, the Congress must take a close look at this program and make some much-needed changes in the private-purpose use of these bonds as distinguished from regular public-purpose bonds.●

ANALYSIS OF ABC DOCUMENTARY BY SOCIETY OF FORMER SPECIAL AGENTS OF THE FBI, INC.

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Rudd) is recognized for 30 minutes.

● Mr. **RUDD**. Mr. Speaker, in June of this year, ABC televised what I considered to be an extremely biased and slanderous attack against J. Edgar Hoover. Numerous citizens, former agents, and lawmakers have since come out and severely criticized this program on the former Director, including myself and other Members of Congress during a special order earlier this summer.

The Society of Former Special Agents of the FBI, to which I belong, recently released a comprehensive and fact-filled response to the ABC program, which clarifies statements made on the program and should remove doubts about our Nation's chief domestic law enforcement agency.

On behalf of the society's 8,000 members, this analysis was done to correct what has been called by many a television vendetta spawned in anti-Mr. Hoover sentiment that was founded on preconceived notions fitted out with contents only suited to "ABC News Close-Up" purpose. This should fill in these large gaps with truth and accuracy.

Analysis and Commentary of "ABC News Close-up: J. Edgar Hoover" on ABC Network, June 3, 1982, by the Society of Former Special Agents of the FBI, Inc.

The June 3, 1982, program "ABC News Close-up: J. Edgar Hoover" serves as a classic example of the shortcomings and dangers of the current news programs and documentaries on television. The American Broadcasting Companies, Inc., the Federal Communications Commission, and the television industry should examine this show as a prime threat to the cherished concept of "freedom of the press" and as an explanation of the increasing public distrust of news media coverage.

This particular project, along with the Janet Cook hoax in the Washington Post and the recent CBS News attack on the reputation of General William Westmoreland, certainly spotlights the laxity of the television media in maintaining safeguards for fairness and accuracy.

On behalf of the 8000 members of the Society of Former Special Agents of the FBI, we have publicly charged this program as "a television vendetta, spawned in anti-Mr. Hoover sentiment, founded on a pre-conceived conclusion, and fitted out with contents only suited to ABC News Close-up purpose."

In May, 1981, the cooperation of this Society was solicited by the Close-up staff on assurance that this was to be an objective and balanced evaluation of Mr. Hoover's leadership of the FBI and to be based on interviews with the late Director's supporters as well as adversaries.

The Present Society President, Mr. Joseph A. Sizoo, was contacted by investigative reporter Ms. Patricia K. Lynch in November, 1981, shortly after assuming office. Stating she already had a surplus of favorable references about Mr. Hoover, Ms. Lynch asked only for critical comments or areas where he had conflicts with the Director. When such remarks were not forthcoming, the interview was terminated.

For approximately one year the officers, liaison representative Lawrence J. Heim, and numerous members of this Society furnished material and answered inquiries of the Close-up staff consisting of producer Tom Bywaters, investigative reporter Ms. Patricia K. Lynch (both at her office and residence in New York City), and assistant Eames Yates. The staff was afforded: comprehensive data concerning the history and accomplishments of the FBI under Mr. Hoover from 1924 to 1972; references and arrangements for interviews with numerous friends of the late Director; and privileges at the Society annual convention in Atlanta, GA, in October, 1981. None of the material furnished and not one of the suggested friends of Mr. Hoover, with the exception of former Bureau officials Cartha D. DeLoach and W. Mark Felt, appeared on the program.

In presenting documentaries, which have almost unfettered influence on public opinion, the television networks possess an awesome power. Backed by bountiful funds from sponsors who have little cognizance of the end result, and with sights set on television ratings, the producers seem more interested in entertainment than education, theatrics than truth. The viewing audiences have little knowledge of the make-up of these shows. Hundreds of hours of interviews and thousands of feet of film are culled, edited, re-arranged at the whim and desire of the production staff. Interviews of an hour or longer are reduced to a minute or less on screen. The interviewee has no knowledge of or control over the liberties that might be taken with his contribution. Little if any opportunity for correction exists.

As Congressman Eldon Rudd (Arizona) a former Special Agent not interviewed for the program, noted in the Congressional Record:

"This documentary represents what is becoming the genre of broadcast journalism—the courtroom technique, if you will, of interrogating one witness, then editing his or her comments and sandwiching them between other hostile comments, out of context. The viewers are never treated to the full facts, nor are they given the full answer. It is, in fact, the camera or editor acting as the prosecutor and the judge. The jury, we the viewers, are not given the chance to see all the evidence. We only see what the interviewer wants us to see"

That is what occurred in this case—an array of predominantly hostile witnesses, inflammatory rhetoric by the commentator, elimination of achievements of historic record by Mr. Hoover, a crescendo of innuendo and general accusations without documentation, and total absence of qualifications or motivation of Mr. Hoover's detractors.

Accordingly, this analysis and commentary by the Society will fill some of the voids and misrepresentations—deficiencies created, it is found, mainly by willful intent and partly by faulty research. Due to one of the major short-comings of the program—lack of specific details—only a few tangible points need rebuttal, and attention will center on the selection and use of a highly prejudiced cast of characters and the manipulation of their statements.

HARSH DISCIPLINE

In an effort to tar-brush Mr. Hoover for his "grim ways of punishing agents who disappoint him or criticized the Bureau", commentator Marshall Frady cited the case of former Agent Jack Shaw who resigned after receiving disciplinary action for conduct reflecting bad judgment. The FBI, like the U.S. Marine Corps, prospered under strong discipline, and strict adherence to the existing regulations was well known to all incoming and working members of the Bureau. This case was an internal administrative matter handled within the well-promulgated rules and regulations of the FBI. It is not surprising that the Jack Shaw case was first given public notice by another FBI critic on the program, Jack Nelson, in an article in the January 17, 1971, issue of the Los Angeles Times headlined: "Hoover Blackballs ex-Agent who was critical of him." Jack Nelson is a perennial detractor of Mr. Hoover and has accepted cameo appearances on talk shows to criticize him and the FBI.

Quinn Tamm, described as "another Assistant Director who was rumored to be Hoover's successor", was critical of some disciplinary measures as "extreme" and some "transfers for punishment reasons" as being "needless and thoughtless."

Comment

Mr. Tamm served in the FBI from 1934 until 1961, and had few transfers himself inasmuch as he was stationed at FBI Headquarters in Washington, D.C. from 1936 until his retirement in 1961. During this period he served as Assistant Director of the Identification Division, the Laboratory Division, and the Training-Inspection Division. In this capacity he spent most of his career in the Bureau as a participant in the FBI Executive Conference which was the advisory board on FBI policy and procedures. He had ample opportunity for in-put in personnel policies he considered "extreme" or "needless". Another unsuccessful successor to Mr. Hoover, Mr. Tamm became hostile and critical only when he entered private employment after 26 years in the Bureau.

LACK OF COOPERATION

Patrick V. Murphy was erroneously listed in the program script as "Head of Association of Police Chiefs". As a matter of fact, the International Association of Chiefs of Police in July 1982, was in the process of expelling Murphy for statements detrimental to the organization and self-serving contradictory remarks.

Mr. Murphy makes a two-sentence contribution to the program, stating that the FBI Agents get information from police departments but "rarely ever gave information back that would have been helpful to those police departments in solving cases, and that the FBI took credit for cases in which the local police had done most of the work."

Comment

Patrick Murphy, an unsuccessful aspirant to the post of FBI Director, served short periods of time as police chief or commissioner in three different cities before affiliating with the Police Foundation, and has been a long-time critic of the FBI. In spite of Mr. Hoover's 50 years of leadership in the law enforcement profession and as founder of the FBI National Academy, it is noteworthy that ABC News Close-up selects only Mr. Murphy to represent the police and law enforcement.

Contrary to Mr. Murphy's remarks, the FBI's Annual Report for fiscal year 1971 (last year before Mr. Hoover's death) lists the following:

"During the 1971 Fiscal Year, over 340,000 items of criminal intelligence data were furnished to local, state, and other Federal agencies by the FBI Field Offices throughout the Nation. Included among this was information which led to the arrest of nearly 4,000 rackets and gambling figures by these other agencies—and to the seizure of more than $2,000,000 in currency, contraband and gambling paraphernalia."

In regard to cooperation, the Close-up staff was furnished material concerning the J. Edgar Hoover Physical Memorial, consisting of a sculpture and a wall quotation, which this Society placed in the courtyard of the FBI Headquarters Building in Washington, DC in 1979. This data was not used.

It is noted that at the end of the program, commentator Frady states, in an insinuating manner: "We asked the current Director of the FBI, William Webster to comment on the Hoover era. He declined."

Commentator Frady could have used the reply of FBI Director Webster to an inquiry regarding Mr. Hoover at an address before the National Press Club in Washington, DC on May 13, 1980. The Director at that time said:

"History itself reflects the contributions of a man who, for my entire lifetime—I was born the year that J. Edgar Hoover took over the FBI—made enormous contributions to law enforcement, not only at the Federal level, but state and local, and there is a quotation inside the courtyard that the Former Agents put up in his memory, that says: 'The most effective weapon against crime is cooperation . . . the efforts of all law enforcement agencies with the support and understanding of the American people'. That is quite a legacy—a tremendous legacy that all of us can be proud of."

WILLIAM C. SULLIVAN, COINTELPRO, DR. MARTIN LUTHER KING, JR.

In many instances the Close-up staff had correct information, or access to it, and designed to ignore it or to present a false concept. A glaring example is the use of deceased William C. Sullivan as a chief weapon in the character assassination of Mr. Hoover. Sullivan, a former Bureau official, turned from a "favorite son" to an antagonist of Mr. Hoover. At the same time, two of the major charges against Mr. Hoover were the COINTELPRO activities and the harassment of Dr. Martin Luther King.

Now the facts are:

(1) W. C. Sullivan was the originator and director of the COINTELPRO activities.

(2) W. C. Sullivan was the instigator and promoter of the Martin Luther King activities in the FBI; and he was not only the author of the letter to Dr. King which the latter believed to have suicide suggestions but Sullivan was the sole individual in the FBI with any pre-knowledge of this letter and the package of tapes sent to Dr. King's Atlanta home.

(3) the program totally ignored this connection.

(4) this program included three individuals who know the above facts, and two of them had published this information previously, namely: ABC Close-up investigative reporter Patricia Lynch; author and program consultant Sanford J. Ungar; and author David J. Garrow.

COINTELPRO

The Cointelpro program was originally suggested by William C. Sullivan (then a Section Chief in the FBI Domestic Intelligence Division) as a systematic program for the disruption of the Communist Party, USA, in a memorandum dated July 17, 1956. This memorandum cited the confusion and dissatisfaction existing in the Communist Party and noted:

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"These developments are clear indications of the opportunities present to disrupt and seriously damage the Party. We may never have a better chance to do so."

He bolstered his idea with a quote from a Party National Committee member to the effect that the latter was "surprised that the enemy (e.g. the FBI) has not used this intolerable situation to its own advantage." Sullivan recommended:

"An ad hoc committee be established, with one member from each Section of the Domestic Intelligence Division, to meet and discuss and formulate and recommend a systematic program for the disruption of the Communist Pary, U.S.A."

The recommendation was approved, with the full force of Sullivan's influence in Communist matters, and the Cointelpro program initiated in August 1956. Subsequently, other phases of this program also were initiated and directed by Sullivan as he took charge of the Domestic Intelligence Division.

In regard to her inquiries about Cointelpro, Ms. Patricia Lynch of the Close-up staff, by letter dated January 1, 1982, addressed to her New York City residence, was specifically referred to testimony and court records in the case of Socialist Workers Party, et al, V. Attorney General (S.D., N.Y.) 73 Civ 3160 (TPG) and to testimony in the trial transcript beginning with page 7523. The referenced records include as an exhibit the July 17, 1956 memorandum of Mr. Sullivan as well as the initiating memoranda concerning other Cointelpro activities after Mr. Sullivan became head of the Domestic Intelligence Division in 1961.

* * * * *

It is not surprising that Sanford J. Ungar, never a member of the FBI, was selected as the consultant for this Close-up show. He has consistently been a severe critic of Mr. Hoover and the FBI as a reporter for the former Washington Evening Star; in his book "FBI: An Uncensored Look Behind the Wall"; and in his August 21, 1977, article in the Outlook section of the Washington Post, entitled: "An Agenda for Rebuilding the FBI". What is surprising is that Ungar, in his professional capacity as consultant, would allow ABC News to use William C. Sullivan as a principal accuser, and condemn Mr. Hoover for Cointelpro, when he was aware of Sullivan's responsibility for the program.

In his book "FBI", Ungar cites Sullivan's rise in the Bureau and mentions a 1964 conference in Atlanta, GA called by Sullivan to plan an attack on the Ku Klux Klan. Ungar's book (pp. 300–301) then sets out:

Out of the conference came a bold decision—and what would turn out to be a major precedent—to use against a purely domestic organization techniques that had previously been reserved for espionage cases, forign intelligence matters, and Communist Party and other old-line, leftist political groups with alleged foreign connections: to set up a full-fledged 'counterintelligence program' in Bureauese, a COINTELPRO, against the Ku Klux Klan.

"The purpose of this program," said a memorandum that went out from Headquarters to Atlanta and other southern field offices on September 2, 1964, "is to expose, disrupt and otherwise neutralize the activities of the various Klans and hate organizations, their leadership and adherents." The memorandum continued:

". . . We must frustrate any effort of the groups to consolidate their forces or to recruit new or youthful adherents. In every instance, consideration should be given to disrupting the organized activities of these groups and no opportunity should be missed to capitalize upon organizational and personal conflicts of their leadership."

A victory for Sullivan, the COINTELPRO—Disruption of White Hate Groups led to a broad expansion of such techniques in the domestic intelligence field. Eventually he proposed and obtained Hoover's approval for, other similar COINTELPROs against "black extremists" and the constellation of groups that the FBI helped to label as the New Left.

DR. MARTIN LUTHER KING, JR.

The program attempts to becloud the issue of the authorization by Attorney General Robert F. Kennedy of FBI wire-taps on Dr. King on the basis of King's association with Stanley Levison, a Communist figure.

Comments

In his book "The FBI and Martin Luther King, Jr.", David J. Garrow, who appeared on the program, verifies the fact that Attorney General Kennedy did authorize the wire-taps on Dr. King, and further points out the concern of the Kennedy Administration by citing the personal contacts by Robert Kennedy, President Kennedy, and officials of the Department of Justice with Dr. King concerning his association with Stanley Levison.

In response to her request for data on the Dr. King wire-tap controversy, Ms. Patricia Lynch was furnished by letter dated December 31, 1981, a copy of a letter of December 7, 1966, from Director Hoover to Congressman H. R. Gross; and a copy of an FBI News release dated December 11, 1966. These public source data detail the FBI procedure in regard to having wire-taps authorized by the Attorney General, and particularly cite the handling of wire-tap authorization under Attorney Robert F. Kennedy. This news release of December 11, 1966, related to the controversy of the authorization of wire-taps on Dr. King, and included a copy of an August 17, 1961 memorandum signed by Attorney General Kennedy approving the use of leased telephone lines in New York City in connection with microphone surveillance.

* * * * *

In regard to the wire-taps on Dr. King, commentator Marshall Frady stated that: ". . . the tapes indicated a highly active sex life by King" and that this scandalized Hoover who scrawled on a memorandum "King is a tomcat with obsessive degenerate sexual urges."

Comments

It is noted that Close-up Ms. Patricia Lynch specifically requested from a Society member some documentation of Dr. King's sexual activities which were so frequently mentioned in this case. She was advised that this Society could not accede to her request and that it would be most difficult to document inasmuch as by mutual bargaining between the King family and the Department of Justice, all tapes, transcripts and reports in this category of the case have been sealed for 50 years. Approximately one week later, Ms. Lynch called back. According to the recorded account of this long-distance call, Ms. Lynch stated that she had contacted the Department of Justice and talked with the attorney who had handled the Dr. King reports and heard the tapes, and he had advised her that she could be assured that Dr. King's reputation for "moral degenerate acts" was true. She said this had satisfied her superiors at ABC in New York as far as using such data on the program.

* * * * *

Commentator Frady stated that in 1964, when it was announced that Dr. King would be awarded the Nobel Peace Prize ". . . the FBI mails an unmarked package of the sex tapes to King's home in Atlanta with a letter which King thought suggested suicide."

Comments

It categorically can be stated it was not the FBI or Mr. Hoover who engineered, approved or had knowledge of this mailing. The program's main critic of Mr. Hoover, the deceased and discredited William C. Sullivan, was singly and solely responsible for the planning, preparation, and perpetration of this action. And ABC News Close-up knew it, or should have known it.

In his book "The FBI and Martin Luther King, Jr." (pp. 125-126, 163), David J. Garrow, a participant on the show, specifically sets out the details of Sullivan as the author and sole individual responsible for this mailing. In his research, Garrow contacted pertinent former FBI personnel unwittingly connected with this incident and he cites them in his account. None of these individuals, both by Garrow's account and their own current personal statements, had any knowledge regarding the contents of this "package and letter." Furthermore, knowledgeable former Bureau officials are firmly convinced that Director Hoover had no pre-knowledge of this incident. One facet of the so called "suicide letter" has not been widely publicized. A copy of the "letter" was received at Dr. King's Atlanta residence in November 1964. After the forced FBI retirement of William C. Sullivan on October 6, 1971 an inventory of Sullivan's "personal files" in his office uncovered the original copy of this document—and up to this time there was no trace of such a letter in the FBI filing system.

Surely, the blatant disregard for the truth in this passage suggests willful intent and malice aforethought. Certainly, Sanford J. Ungar, the consultant, and Ms. Patricia Lynch, the investigative reporter, must stand responsible for this chicanery.

(NOTE.—For further illumination on the integrity of critic William C. Sullivan and his personal hostility toward Mr. Hoover, there is attached hereto a compendium of public source data relating to his actions and statements.)

PRESIDENT J. F. KENNEDY ASSASSINATION

The confusing treatment of the Kennedy assassination, which filled no less than 10 minutes of this one-hour program, purported, according to pre-program publicity, to provide "new evidence surrounding the complex series of mistakes, cover-ups, disinformation, and intelligence failures. . . ." Commentator Frady stated' "Only seventeen days then after the assassination, Hoover produced his FBI report; its conclusion—Oswald was the lone assassin and there was no evidence of a conspiracy."

Facts

In this investigation the FBI conducted approximately 25,000 interviews and reinterviews and submitted over 2,300 reports totalling approximately 25,400 pages to the Warren Commission, as reported in the Commission's findings. The cited report, made 17 days after the tragedy, was in fact a preliminary report, but it developed that it did agree with the final report.

In its final report the Warren Commission listed among its conclusions the following:

(1) "The shots that killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald."

(2) "The Commission has found no evidence that either Lee Harvey Oswald or Jack Ruby was part of any conspiracy, domestic or foreign, to assassinate President Kennedy."

* * * * *

Commentator Frady further stated: "It was not to be until 1979, after Hoover himself had died, that a Special House Assassination Committee would criticize the FBI for a 'seriously flawed' investigation that 'ignored substantial evidence of a conspiracy'."

Facts

The House Assassination Committee report was based in large measure on examination by acoustics experts hired by the Committee. These experts examined a police tape recording made in the vicinity of the assassination and their testimony was to the effect that the tests showed "beyond a reasonable doubt" that a second gunman fired at the President from the area of the so-called grassy knoll near Dealey Plaza in Dallas, Texas.

Subsequently, the House Committee referred its report to the FBI with a request for further investigation of these findings, particularly the acoustic tests results. The FBI assigned this task to the National Science Foundation and its affiliate, the National Academy of Sciences. On May 14, 1982, the National Academy of Sciences concluded after a 1½ year study that:

"The acoustic analyses do not demonstrate that there was a grassy knoll shot, and in particular, there is no acoustic basis for the claim of 95 per cent probability of such a shot."

The study by the National Academy of Sciences contends that the noises believed to be gunshots were probably static, and were "recorded about one minute after the President was shot and the motorcade had been instructed to go to the hospital".

* * * * *

One of the chief critics in the assassination segment is former FBI Agent James P. Hosty, assigned the Lee Harvey Oswald case in the Dallas FBI Office, and who was disciplined for investigative deliquencies which had no bearing on the outcome of the assassination investigation.

In connection with Hosty's testimony, the Warren Commission report states:

"The official Bureau files confirm Hosty's statement that from November 5 until the assassination, no active investigation was conducted. . . . Agent Hosty testified that several matters brought to his attention in late October and November, including the visit (by Oswald) to the Soviet Embassy in Mexico City, required further attention."

Not only the FBI but also the Warren Commission criticized Hosty for his shortcomings. Yet the program, neglecting to furnish any details, used him as an "expert witness". It is noted that Mr. Hosty remained in the FBI for 16 years after the assassination (from 1963 to his retirement in 1979) and waited 19 years to express his disenchantment with Mr. Hoover and the FBI.

In a perplexing use of "hearsay" evidence, Hosty claimed that in 1964 the FBI sent its source "SOLO" to Cuba where Premier Fidel Castro allegedly told SOLO that on his visit to the Cuban Embassy in Mexico City Lee Harvey Oswald had told them he wanted to kill President Kennedy for the Cubans.

After the assassination Castro consistently and vehemently attacked "reactionary elements" in the United States for trying to link Cuba to the killing. In a June, 1976, public radio address Castro emphatically said: "I can categorically affirm that the Cuban Revolution never had the most minor participation in the death of the United States John Kennedy."

There is public source substantiation for Castro's latter statements and Hosty's word for the former statement. In any case, which Fidel Castro, if at all, should be believed?

Surely, this entire handling of the Kennedy assassination is an example of the technique prompting the Washington Post reviewer to write:

"The general sketchiness of the documentation and the use of second-and third-hand testimony from highly interested parties leaves a large credibility burden on correspondent Frady."

After 19 years of controversy and numerous books and television programs for sensationalism and profit, the conclusion of the FBI and the Warren Commission that Lee Harvey Oswald was the lone assassin and there was no conspiracy still stands.

DECEPTION AND DISTORTION—CONGRESSMAN DON EDWARDS

An example of deceptive tactics is the appearance of Congressman Don Edwards, described as a former Special Agent of the FBI and as Chairman of the FBI Oversight Committee—apparently to give him relevancy. Edwards states:

"Mr. Hoover would go to the Appropriations Committee every year and show the Appropriations Committee that for every dollar spent on the FBI, the FBI got back a dollar fifteen or a dollar twenty or whatever the figure might be. And the Subcommittee started to wonder about these figures . . . and so we asked the General Accounting Office to audit those statistics . . . and the General Accounting Office found out that the statistics really didn't hold water."

Facts

The General Accounting Office report Cong. Edwards cites is set out in the GAO news release made on September 29, 1976 captioned: "Statement of Victor L. Lowe, Director, General Government Division, before the Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, on the Federal Bureau of Investigation's Methods of Developing and Reporting Accomplishments from the Criminal Investigative Activities."

This report included the following:

"We found only a small number of errors in the accomplishment statistics. However, the statistics are subject to misinterpretation because of the way they are presented."

Even more important is the portion of this report which states that it is based on a study of FBI cases by the General Accounting Office encompassing the period of July, 1975, through July, 1976. Here it should be noticed that Mr. J. Edgar Hoover died on May 2, 1972. Who is responsible for this chicanery— Congressman Don Edwards or ABC News Close-up?

Is Don Edwards a bona fide critic of the FBI and Mr. Hoover? He was a Special Agent in the FBI from December, 1940, until December, 1941, when he resigned. Subsequently, he attempted unsuccessfully to return to the FBI before going into military service in 1942. A long-time critic of Mr. Hoover, Don Edwards fell prey to the discredited news articles stating that the FBI caused the suicide of Jean Seberg. In the heat of that erroneous publicity Congressman Edwards came out for taking Mr. Hoover's name off the FBI Headquarters Building.

MASSIVE SURVEILLANCES

At the beginning of the program, commentator Frady stated that one of the charges that would be examined was "massive surveillances of hundreds of thousands of innocent Americans."

Maybe hyperbole or maybe dishonesty, this is certainly outside the realm of reason. At its highest Agent complement the FBI had 8000 Special Agents. Without expertise in law enforcement, one can realize that surveillance require shifts of personnel and huge manpower quotas. If the FBI handled no other work at all, the 8000 Agents could not begin to handle physical coverage of hundreds of thousands.

This charge never is examined but later in the program commentator Frady, on second thought perhaps, says these surveillances were:

". . . directed—the best authorities say—against many thousands of innocent citizens."

And who are the "best authorities" cited?

One is Morton Halperin, current Director of the American Civil Liberties Union's Center for National Security Studies and well-known antagonist of the FBI. He is not identified by ABC as one of the victims of the Nixon-Kissinger wire taps, which may furnish some motivation.

Another expert is an unidentified Letty Pogrebin whose expertise consists of her review of 1,377 pages of the "Women's Liberation Movement file."

The third alleged "best authority" is former Agent William Turner, who complains that his file obtained under the Freedom of Information Act shows the FBI kept watch on him after he left the Bureau.

Not mentioned on the program is the fact that William Turner was dismissed from the FBI in July, 1961, for disruptive actions, inexcusable bad judgment, and irresponsible statements. As a result of his appeal to the Civil Service Commission, the Commission found that the FBI action in discharging Turner was "warranted" and for such cause as will promote the efficiency of the service. . . ." On May 10, 1963, the U.S. District Court in the District of Columbia upheld this decision. On April 2, 1964, the Federal Court of Appeals in the District of Columbia concurred in the decision. And on November 4, 1964, the U.S. Supreme Court closed the case by declining to hear it. Unable to win a legal suit, Turner proceeded to earn a livelihood writing anti-FBI books and articles.

Another "authority" on harassment by the FBI is former Sen. Frank Church, whose personal ambition at the head of the Church Committee demolished the ability of the FBI, CIA and intelligence community in safeguarding national security. Referring to FBI activity, Church states on the program: "Nothing is more ominous to freedom than a secret police."

How much of Frank Church's comments can be taken in good faith? He visited Havana, Cuba, in 1977 and fawned over Fidel Castro without discovering any evidence of the Soviet troops stationed there. Then in a re-election bid in 1979, Church used "insider" information from the State Department regarding these Soviet troops in Cuba to suddenly become a hard-line anti-Soviet and anti-Cuban campaigner. Al-

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though the voters of Idaho ejected Church from the Senate, it is taking his associates in Congress many years to repair the damage his self-serving crusade did to the intelligence apparatus of the United States.

EIGHT NAZI SABOTEURS CASE

In relation to the 1942 Nazi saboteurs case, Mr. Hoover is charged by an unidentified Army major general with "premature breaking" of a story of the capture of the Nazis which had "wrecked our plans" for seizing other Nazis in the country.

Commentator Frady declares: ". . . the fact is the Nazis were not apprehended by the FBI. George Dasch, one of the leaders of the saboteurs actually had trouble getting himself and others apprehended." He then introduces author Seth Kantor in a 15-second comment that at first the FBI didn't believe Dasch's story.

Facts

In this particular case the White House was vitally interested in early arrests and President Franklin D. Roosevelt instructed FBI Director Hoover that as soon as the saboteurs were caught the arrests should be announced immediately in order to forestall additional saboteur attempted landings.

Contrary to the commentator's remarks, the FBI did apprehend the eight saboteurs—within 14 days of the initial landing on Long Island, NY. Dasch was arrested at Washington, DC; Neubauer and Haupt in Chicago, IL; and Kerling, Thiel, Burger, Heinck and Quirin at New York, NY.

Seth Kantor has been in contact with a member of this Society in connection with a book Kantor is writing on the saboteur case. Regarding Kantor's 15-second segment, Kantor in correspondence with our Society member said he had been interviewed on camera for one-hour for this show. Kantor also stated: "At the same time my research led me to discover that the Coast Guard had withheld evidence from the FBI and had dragged its feet in notifying the FBI about the landing. I also discovered how unstable and self-seeking George Dasch was. These things have changed my views about the overall approach of J. Edgar Hoover and the FBI into the saboteurs affair." These comments were in a letter dated December 9, 1981.

ABC News did not choose to use these views of Seth Kantor. In addition the following first-person testimony contradicts the Close-up account of this case!

In a letter to the Editor of the Arizona Republic, issue of June 12, 1982, Dr. William Helme, a Phoenix, AZ neurological surgeon and former FBI Agent, called the program's version of the saboteurs case "demonstrably false." He refuted the statement that the subjects were not apprehended by the FBI. Dr. Helme stated: "A number of FBI Agents, including myself, arrested Herbert Haupt and Herman Neubauer on June 27, 1942, and we were surely working under Mr. Hoover."

In one of many protest letters sent to ABC, another former FBI Agent, George E. Davis, Jr., Pinehurst, NC, denounced the program's treatment of this case. Mr. Davis stated: "It so happened that I was involved in this case from the inception. Another agent and myself picked up Dasch at the Mayflower Hotel in Washington, DC, and delivered him to the Bureau for interrogation. We then returned immediately to the hotel, searched his room, and found over $80,000 in $20 bills as well as other evidence to support Dasch's claim of being a Nazi saboteur. This left no doubt at once concerning his authenticity. The intensive FBI investigation that immediately followed resulted in the apprehension of Dasch's seven fellow saboteurs in different parts of the country to which they had dispersed."

ALGER HISS CASE

In the treatment of the Alger Hiss case the program makes the following charges:

"Hoover mismanaged one of the most celebrated cases of the Cold war."

"Hoover was furious when he discovered the case was developing outside his own hands due to lapses by his own Bureau.

". . . they did not find the major pieces of evidence in the case—the House Committee on Un-American Activities turned up Chambers. . . . Chamber's defense lawyers turned up the famous incriminating "Pumpkin papers."

"Hoover found himself . . . somehow . . . the last to know when the key pieces of evidence turned up."

"Despite his failure on the Hiss case. . . ."

Facts

This passage is a glaring example of condemnation by innuendo—something the program castigates as "McCarthyism" in a later portion on the deceased former Sen. Joseph McCarthy.

The Hiss case began with Whittaker Chambers' appearance before the House Committee on UnAmerican Activities in August, 1948, where he identified Alger Hiss as one of his accomplices. After Hiss' denials and libel suit, Chambers produced incriminating documents and the "Pumpkin papers". On December 15, 1948, Alger Hiss was indicted for perjury.

Over the years there has been a misunderstanding, as in this case on the part of ABC News Close-up apparently, that the FBI was in the Hiss case as an espionage investigation. Actually the FBI's role was to investigate the controversy—the accuracy of Chambers' charges against Hiss' denials. Until the perjury allegation, the FBI was not involved.

In regard to the "key pieces of evidence", the following include some of the damning evidence that Hoover's FBI furnished as vital in the successful prosecution of Hiss on the perjury charge:

(1) proof that documents in Chambers' collection has been typed on a Woodstock typewriter which belonged to the Hisses in 1936 and 1937.

(2) the location of Chambers' maid, Edith Murray, who verified the association of the Hisses with the Chambers in the latter's home in Baltimore, MD.

(3) substantiation of Chambers' claim that Hiss had loaned him $400 to buy an automobile.

(4) location of the photographer and the Leica camera which had filmed the pumpkin "microfilms".

Concerning the allegation of "Hoover's failure on the Hiss case," the record reflects that Alger Hiss was convicted in Federal Court in November, 1949, mainly on the investigative and scientific crime detection work of the FBI, and was sentenced to serve five years on each of two counts of perjury. It should also be noted that Whittaker Chambers in his book "Witness" credits the "men of the FBI" as one of the major forces which "won the Hiss case for the Nation."

RAMSEY CLARK

Of the 16 Attorneys General under whom Mr. Hoover served, it is expected that ABC News would select only Ramsey Clark whom Mr. Hoover publicly called the "worst Attorney General of all" and characterized as a "jellyfish" for his inefficiency.

Constantly complaining that he never knew what was going on while he was Attorney General, Clark subsequently has been masquerading in liberal costume. Two of his comments on the program are particularly of interest:

(1) "On a subjective level, at least, Mr. Hoover had deep racial prejudices."

(2) "I never heard the word COINTELPRO until. . . .when in the mid-70's early '70's, I don't know. . . .years after I left the Department of Justice. The idea that you would have, you know, deliberate activities of disruption, interference with the lives and rights of people in the United States never occurred to me."

Facts

Now Ramsey Clark, as Attorney General, received in the Department of Justice copies of all FBI reports and it was his responsibility to supervise activities of the Department.

In the summer of 1967 racial violence and rioting throughout the country mounted. From Boston, Tampa, Cincinnati, Buffalo, the guerrilla warfare spread to major disasters in Newark, NJ and Detroit, MI, in July, 1967. As reported in the news media: "The looting, arson, and rioting that occurred in Detroit, July 25–30, reached a scale unknown in an American city in the 20th century." This was the period in which Stokely Carmichael, leading advocate of "Black Power", was urging American Negroes to use arms if necessary to get full equality. Before a crowd of 7000 at Berkeley, CA, in February, 1967, he cried: "To hell with America." At a Washington, DC, gathering in May 6, 1967, Carmichael charged that "the United States stands on the brink of murdering all Negroes."

At this time, Attorney General Ramsey Clark, who accuses Mr. Hoover of racial prejudice and disclaims any knowledge of "deliberate activities of disruption", personally sent the following direct order to FBI Director Hoover under date of September 14, 1967:

"It is important that you use maximum available resources, investigative and intelligence, to collect and report all facts bearing upon the question as to whether there has been or is a scheme or conspiracy by any group of whatever size, effectiveness or affiliation to plan, promote or aggravate riot activity." The order further said that Mr. Hoover was "to take every step possible" to this end "before, during and after any overt acts."

THE ROSENBERG ESPIONAGE CASE

The program claims a "first" in reporting the statement of former Agent Robert Lamphere that the deciphering of the Soviet code, though not cited in the trial for security reasons, confirmed the guilt of Julius and Ethel Rosenberg. Even in citing this successful case, the program criticizes Mr. Hoover for "eagerness for quick arrests" and for posing "problems for a sensitive investigation of Soviet espionage."

Mr. Lamphere is quoted: "I was not always in total agreement with some of the decisions he made. On occasion, I would have been less interested in prosecuting a case than I would have been in working the case as a carefully controlled counter-intelligence operation."

Comments

In his quoted statement, former Agent Lamphere was not citing the Rosenberg case. For historical purposes, this documentary could have reflected that the Rosenberg case still holds status as one of the most reviewed and appealed cases in American judicial history.

In espionage cases, there generally is a difference of opinion between FBI, other intelligence agencies, and the State Department as to the decision of making an arrest or continuing the intelligence investigation, and the final decision is based on an aggregate of factors and circumstances. In major cases, such as the Nazi saboteurs and the Rosenbergs, the judgement rests not with the FBI but in the highest levels of government.

After the program, former Agent Robert Lamphere advised that in August, 1981, he was contacted by ABC News Close-up reporter Ms. Patricia Lynch and participated in a one-hour filming session. He said he agreed only after Ms. Lynch "assured me that this program on the Director would be a balanced one." He said that as a result of telephone contacts with Ms. Lynch since his filming "I came gradually to understand that much in the program would be critical of the Director except for the portion in which I was to appear. It was not, however, until I saw the program on June 3 that I realized how far the program would go to slant and sensationalize the program. I have told Ms. Lynch of my unhappiness and my strong belief that portions of the program were inaccurate."

OMISSIONS

Two very salient points in any J. Edgar Hoover documentary, which were specifically furnished to Ms. Patricia Lynch, were totally ignored. At the outbreak of World War II, when then California Attorney General (later Supreme Court Chief Justice) Earl Warren and other liberals of the period spearheaded the mass evacuation of thousands of Japanese-American citizens from California without due process, FBI Director J. Edgar Hoover was the lone public figure to oppose this move.

Also no mention was made of the Supreme Court's special citation of Mr. Hoover and the FBI in the famous Miranda decision of 1966. In that landmark decision in the history of criminal justice, the Court decreed that a person in custody had to be first advised of his right against self-incrimination and also of his right to counsel. The Court's decision specifically lauded Mr. Hoover for his "exemplary record" in having the FBI discharge these two provisions for several decades prior to this decision.

Civil libertarians, minority activists, and the FBI detractors of today credit Mr. Hoover with the above stands as well as the FBI's destruction of the awesome power of the Ku Klux Klan. Yet the Close-up promoters chose to dismiss these facts which did not fit into their general picture of the late Director.

Mr. Roy K. Moore, former FBI official, directed the 4-year FBI investigation of the Ku Klux Klan in the State of Mississippi, and this effort solved the murders of the 3 civil rights workers in Philadelphia, MS, and smashed the Klan in 1968. Mr. Moore was interviewed extensively for this program but his contribution was excluded from the show. He has advised:

"Yes, I reluctantly submitted to an interview . . . I made it clear to the persons involved—producers, interviewers etc. . . . that only after being assured that it was not a 'hatchet job' would I cooperate. I was assured it would be fair and objective. . . . I now can only assume that the results of my interview were too favorable for their slanted desires."

Instead of details regarding how the FBI defeated the Klan, the ABC News staff used old film clips of local police repelling riots with dogs, fire hoses and clubs to project the false impression that Mr. Hoover was responsible for these tactics.

PRO-FBI WITNESSES

Of the 20 individuals interviewed on the program, only 4 can be called supportive of Mr. Hoover and the FBI. The reaction of former Special Agent Robert Lamphere has been previously set forth. The other three expressed their opinions in letters to Mr. Leonard Goldenson, Chairman of the Board of ABC.

Mr. Roy M. Cohn, prominent attorney and friend of Mr. Hoover, stated:

"Not only I, but many, many of us of all persuasions felt that the June 3, 1982, program on the FBI was one-sided and biased against the FBI. I am sure that my participation of a few seconds and that of a few others represented tokenism rather than any effective effort to make a balanced presentation."

Mr. W. Mark Felt, retired FBI official, interviewed briefly on the program, wrote:

"Everyone I have talked to thought the program was slanted, biased, frequently in error and sometimes actually deceitful. I know this to be the case. To put it bluntly, a real 'hatchet job'."

Inasmuch as only a few seconds of his interview were used, Mr. Felt requested ABC News to furnish him with a transcript of his two extensive filmed interviews. Mr. Tom Bywaters, producer of the program, replied that, after consultation with his superiors, he was not permitted to furnish such a transcript.

Mr. Cartha D. DeLoach, retired former No. 3 Man in the FBI, said in his protest letter:

"When I was approached to cooperate in the preparation of this program, I was assured that it was intended to be an even-handed evaluation of the man and his leadership developed through extensive interviews of Hoover associates and adversaries. . . . Much to my dismay, I found that my contribution to the program was reduced to two exceedingly brief appearances, followed immediately by attempts to brand me as a liar through the use of completely uncorroborated rebuttals by two well-known critics of Mr. Hoover and the FBI."

FRIENDS OF MR. HOOVER IGNORED

In response to the request of Ms. Patricia Lynch for personal friends of Mr. Hoover among FBI veteran officials, Mr. W. Richard Glavin, former FBI Assistant Director in charge of Administration and Personnel, and Mr. Lee O. Teague, former Chief FBI Inspector and current President-elect of the Society of Former Special Agents of the FBI, were interviewed at the Societys, annual convention in Atlanta, GA, in October, 1981. Neither interview was used.

In his letter to the Vice-President of ABC News Close-up, Mr. Glavin said:

"I want to thank you for not using the interviews with me and other former Special Agents of the FBI conducted by Pat Lynch in Atlanta, GA. I would not want to be associated with your vindictive smear program called a 'documentary'. . . . The program had one purpose only, to destroy the image of a great and dedicated American, and why? The hate that came through from (commentator) Marshall Frady's comments raised the question again—why?. . . . Deliberately and viciously smearing a public servant, for no useful purpose, who can no longer defend himself, reaches the depth of degradation in media news coverage."

Mr. Teague wrote to the Chairman of ABC as follows:

"The recent 'ABC News Close-up' on J. Edgar Hoover was far beneath the jounalistic abilities and responsibilities of a news media organization such as ABC. . . . I was one of those orginally interviewed by Ms. Lynch and, of course, data I provided was not presented. It (my data) was an honest appraisal of certain incidents regarding Mr. Hoover."

If ABC News had not pre-determined to criticize Mr. Hoover for "harsh discipline over his agents" and for lack of personal interest in his employees, one of the incidents related to Ms. Lynch by Mr. Teague would have been most appropriate. She asked whether in his later years Mr. Hoover withdrew from all contact with people in the Bureau, and Mr. Teague answered this was not true and gave an example.

During the Vietnam War the eldest Teague son served in the U.S. Marine Corps for over a year in the DMZ near Khe Sanh, Vietnam, and was seriously wounded when a contingent of 5000 Marines was surrounded and over-run by 48,000 Vietcong. He received a telegram and very sketchy information that his son was shot, in serious condition, and not expected to live. Not being able to get any details of the injuries or where their son was hospitalized, the Teague family was naturally confused and distraught. Without having advised the FBI about this incident, Mr. Teague received a telephone call from Mr. Hoover who extended sympathy and sought details. The Director advised that he was meeting with the Commandant of the U.S. Marine Corps that very day and would be back in touch with Mr. Teague. Within several hours, the FBI Director called back long-distance and told Mr. Teague the nature of his son's injuries, that he was going to recover, and that arrangements had been made for the Teagues to contact their son in the Naval Hospital in Guam.

* * * * * *

The names of all former Agents currently or formerly serving in the Congress, along with names of numerous personal friends of Mr. Hoover in various fields of endeavor, were furnished to the Close-up staff. Of this entire group not one was interviewed or appeared on the program. It should be noted again that the only member of Congress interviewed for the program was Don Edwards, an FBI critic, who barely met this Society's requirement of one year's FBI service but is not a member of this organization.

Congressman Eldon Rudd (Arizona), who served 20 years in the FBI, inserted his remarks in the Congressional Record, an excerpt of which follows:

"This supposedly unbiased view of the career of Director Hoover, which spanned five decades, was a collection of half-truths and oft-repeated criticisms which have been standard fare for those opposed to him and the Bureau . . . the public deserves better."

Congressman Mike Oxley (Ohio), a former FBI Agent, inserted in the Congressional Record his respect and support for the FBI and Mr. Hoover, and among his comments he said:

"I would simply point out that ABC waited 10 years after J. Edgar Hoover was dead before they had the intestinal forti-

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tude to even think about airing the hatchet job that they showed on television."

Former Congressman Sam Devine (Ohio), a former FBI Agent, was quoted in the Congressional Record from his letter to ABC as follows:

"I never cease to be amazed at the sudden surge of courage by certain media people, after a subject has passed away and cannot defend himself against untrue, scurrilous, twisted charges. Most of them lacked the guts to take him on when he was alive. You and your network should be ashamed of yourselves, and recognize what a disservice you have done to the millions of TV viewers by your intentional destructive tirade against one of America's great patriots."

Congressman Dan Daniel (Virginia), a personal friend of Mr. Hoover, wrote about this program:

"It was one of the most biased, vicious, unsubstantiated cases of character assassination it has ever been my misfortune to witness". He then cited the remark of a prominent attorney after viewing the program: ". . . a media predisposed to a subjective point of view is a dangerous force in a free society—to say the least."

EDITORIAL COMMENT

A survey of available editorial comment and reviews . . . reported by representatives of this Society throughout the country, reflect sparse coverage and predominantly unfavorable opinions of this program. Several pertinent examples follows:

Christian Science Monitor, June 3, 1982:

". . . in the light of the questioning now going on about the easy opportunity for distortion in TV documentaries, one cannot help but wonder if the premise for the show ordained the conclusion."

Atlanta Constitution, June 3, 1982:

". . . the hour-long program—hosted by Marshall Frady and produced by Tom Bywaters—is just as calculated and one-sided a hatchet job as CBS's on Westmoreland."

Minneapolis Star Tribune, June 3, 1982:

"The documentary would have been better if ABC News had either narrowed its focus to new information about Hoover, or expanded the show beyond a single compressed hour of one-sided diatribe. ABC wields a broadsword against Hoover, and its the wrong weapon."

CONCLUSION

J. Edgar Hoover was born, he lived, and he died—the same chronology for all mortals. Like all mortals, he had his virtures and vices, his strong characteristics and his weaknesses, his likes and dislikes. He could be dictatorial and dogmatic in business matters, compassionate to a friend in need, relentless against malicious attacks, austere in administration, humorous and personable in social affairs. The vast majority of FBI Agents who served under him recognized him as a leader who demanded no more than he was willing to give, and one who would support them in any honest effort in fulfillment of duty. And yet, it is safe to say, that at one time or another, every agent grumbled about some idiosyncrasy or rule of the late Director.

Former FBI Official W. Mark Felt, in his book "The FBI Pyramid", said of Mr. Hoover:

"Charismatic, feisty, charming, petty, giant, grandiose, brilliant, egotistical, industrious, formidable, compassionate, domineering—all these adjectives were applied to Hoover and, to a degree, they all fitted him. He had both wide recognition and detraction—and he accepted this. He was a human being."

In an editorial in the Tucson Citizen of July 8, 1982, chief editorial writer Asa Bushnell, a former FBI Agent, stated:

"He made mistakes, who doesn't?—as he tried too hard to protect America by the old-fashioned book. But the man did not deserve the totally unfair and unbalanced treatment he received last month in "ABC News Close-up: J. Edgar Hoover."

In America the record of an individual and his place in history is based on the "bottom line". None of our "founding fathers", illustrious Presidents, or other giants of American history has ever been an unanimous selection to fame without some dissenting opinion. However, it is customary to judge a person on the over-all performance of his short-comings and achievements.

Truly, and sadly, this ABC News program did not follow the rules, did not play fair. It spot-lighted some human frailties, magnified other alleged faults, and totally eliminated achievements. In replies to Society members' protest letters, Mr. George Watson, ABC News Vice President "responsible for investigating charges of inaccuracy or unfairness" stated: "As an analytical documentary, the program reached conclusions based on the evidence and information we had compiled."

As reflected in this analysis, the ABC News staff had considerable additional "evidence and information," both furnished by this Society and available through sources connected with the production. Apparently not given consideration, this "evidence and information" was not used.

Recently, Mark S. Fowler, Chairman of the Federal Communications Commission, stated:

"Reporters are like many other people; they come to their work with experiences bound to shape perceptions. But if they are professional, they put their biases to one side and get on with the job of reporting as accurately as they can."

The June 3, 1982, program on the late FBI Director J. Edgar Hoover should cause the Federal Communications Commission, the American Broadcasting Co. network, the television industry, and the sponsors of this show to take an objective look at the integrity of the "ABC News Close-up" operation, and to seriously question the personal honesty and professional competence of producer Tom Bywaters, investigative reporter Patricia K. Lynch, and commentator Marshall Frady.

In our American society it is understood that for every privilege there is a responsibility. Privileged to use the airways to enter the homes of millions of citizens, the television networks certainly must have an obligation to present history and purported documentaries in an unprejudiced and objective manner. Broadcast journalism, in conformity with its own code and the tradition of fair play, must at least make a distinction for the viewing audience between fact and fiction.

The "ABC News Close-up: J. Edgar Hoover" of June 3, 1982, on an American patriot who dedicated his life to government service, was a disgrace to the television industry, an affront to the principle of freedom of the press, a mockery of journalism's standards, and a most undesirable invitation for outside censorship in such cases where internal safeguards for honesty and accuracy are woefully lacking or wantonly violated.

ADDENDUM

Inasmuch as Mr. William C. Sullivan, former Bureau official, was used as a vital witness in the program's denunciation of the late FBI Director Hoover, there is set out here pertinent public source data reflecting on Mr. Sullivan's character, personal ambition, motivation, and hostility toward Mr. Hoover.

On three occasions the producers of the program quoted from what were described as "exclusive tapes of a series of interviews Sullivan gave shortly before his death." These inserts were used to riducule Mr. Hoover's personnel policies, charge FBI assistance to the late Sen. Joseph McCarthy's anti-communist campaign, and to allege FBI influence in some way on some of the conclusions of the Warren Commission.

In selecting Sullivan's comments for the program, the producers knew or should have known of his background and hatred for Mr. Hoover, which are spread clearly on the public record.

The following data are based on "Submission of Recorded Presidential Conversations to the Committee on the Judiciary of the House of Representatives by President Richard Nixon, April 30, 1974" (Nixon tapes):

During a meeting between President Nixon and John Dean in the Oval Office on March 13, 1973, Dean told Nixon, "The person who would destroy Hoover's image is going to be this man Bill Sullivan. Also it is going to tarnish quite severely some of the FBI. And a former President. He is going to lay it out, and just all hell is going to break loose once he does it. It is going to change the atmosphere of the Gray hearings and it is going to change the atmosphere of the whole Watergate hearings."

President. "Why is Sullivan willing to do this?"

Dean. "I think the quid pro quo with Sullivan is that he wants someday back in the Bureau very badly."

President. "That's easy."

Dean. "That's right."

President. "Do you think after he did this, the Bureau would want him back?"

Dean. "I think probably not. What Bill Sullivan's desire in life is, is to set up a domestic national security intelligence system, a White House program. He says we are deficient. He says we have never been efficient, because Hoover lost his guts several years ago. He and Tom Huston worked on it." (pp. 122, 123)

The Church Committee devoted an entire volume to the so-called Huston Plan—"Hearings before the Select Committee to Study Governmental Operations With Respect to Intelligence Activities of the United States Senate, Ninety Fourth Congress, First Sessions, Volume 2, Huston Plan, September 23, 24, 25, 1975."

During testimony before the Church Committee on September 23, 1975, Tom Charles Huston, former Associate Counsel and Staff Assistant to President Richard Nixon, stated under oath that prior to June 1970, he had numerous conversations with Mr. William Sullivan of the FBI. They had discussed "inhibitions upon intelligence collections." Huston said:

"I think it was his (Sullivan's) opinion that the Bureau was operating under restraints. . . . that they did not have available for use the tools that they felt were necessary to do the job." (p. 3)

Under President Nixon's instructions, a working group was set up to propose a plan to alleviate the "restraints". Mr. Sullivan chaired the working group and a plan (the Huston Plan) was submitted to the President and approved.

Regarding the Huston Plan, Sen. Frank Church said:

"Some provisions of the plan were clearly unconstitutional; others violated Federal statutes. As the distinguished American journalist Theodore White observed, the Huston Plan would have permitted Federal authorities to reach "all the way to every mailbox, every college campus, every telephone, every home."

"Five days after the President approved the plan, he revoked it at the insistence of the FBI Director and the Attorney General—to the dismay of those CIA, NSA, and FBI representatives who had helped Huston develop it." (pp. 1, 2)

The Attorney General's opposition to the Huston Plan was predicated on Hoover's adamant refusal to be a part of the plan. FBI Director Hoover informed the Attorney General of his opposition and took the stand that the FBI absolutely would not undertake an investigative step bordering on unconstitutional or illegal action without the Attorney General's specific and prior approval in each instance. Since he was the main architect, Sullivan was infuriated at the collapse of this plan and turned against Mr. Hoover, whom he held solely responsible for its demise.

* * * * *

Sullivan's penchant for making his perceptions supercede factual information is illustrated in just one passage from his book attacking Mr. Hoover—"The Bureau—My Thirty Years in Hoover's FBI." On page 135 Sullivan states:

(1) "When I took over the Intelligence Division in 1961, the FBI counter-intelligence operation was already in existence.

It definitely was, inasmuch as the counterintelligence program (COINTELPRO) originated with the adoption of Mr. Sullivan's initial suggestion for this program by his memorandum of July 17, 1956. (Details of Sullivan as originator of COINTELPRO previously set out in this analysis.)

(2) "Hoover singled out the King case, emphasizing the need to extend great care and discretion in the wiretaps and other techniques that were being used against King. . . ."

His insinuation that wiretaps had already been used in the King case when he became head of the Intelligence Division in 1961 is blatantly false. The Final Report, Book III, under date of April 3, 1976, of the Church Committee contains a chart at bottom of page 116 showing that the earliest wiretap in the King investigation was installed on October 24, 1963, some two years after Sullivan took over the Division. On Page 115 this report states: "On September 6, 1963, Assistant Director William Sullivan first recommended to Director Hoover that the FBI install wiretaps on Dr. King's home, and the offices of the Southern Christian Leadership Conference."

(3) ". . . the tapes that Hoover had placed on King. . . ."

The above citation refutes this statement by Sullivan that the tapes originated with Mr. Hoover. In addition, the Final Report of the Church Committee, Book III, page 101, reflects that in July, 1963, Attorney General Robert Kennedy first suggested the possibility of wiretap coverage on Dr. King, and then decided against it until Mr. Sullivan recommended such coverage on September 3, 1963. The dates for the Attorney General's approval were October 10, 1963, for home coverage and October 21, 1963, for the office coverage.

* * * * *

The reviews of the above-cited book by Mr. William C. Sullivan are very illustrative of his lack of integrity and character in his attack on Mr. Hoover.

Law Enforcement News, Book reviews, October 22, 1979, page 11:

"The image of the author (William C. Sullivan) that emerges in this book is that of a deceitfully ambitious man. Sullivan continually refers to himself as a 'liberal democrat' but at the time tries to justify official use of illegal wiretaps, breakins, and dirty-trick letters. His book might be compared with John Dean's 'Blind Ambition' except that Sullivan's ambition, after thirty years in the very shadow of a boss he considered to be 'one of the most balefully powerful men in America' can hardly be called blind."

Washington Post, Book World, September 30, 1979, by Anthony Marro:

"This book . . . adds up to little more than a diatribe against Hoover and the Bureau he created, coupled with a scattering of self-serving (and not entirely believable) justifications for Sullivan's having stayed in the organization for so long, and for being a part of so many of the things—the anti-communist hysteria, the harassment of political and civil rights groups, among them—that he later found reason to denounce Hoover for. (It should be noted that in this context that Sullivan was the sort of person who, while in government, believed that the government should have great powers to involve itself in people's lives; but who, after retirement to New Hampshire, questioned the right of the state to make him have his car inspected each year.)

"Also, Sullivan had to be cautious in assigning any blame to himself because by the time of his death, he had been named in civil suits stemming from almost every infraction, real or imagined, that the Bureau had committed against citizens since World War II. . . .

"But the main purpose of the book appears to be neither serious history nor self-justification, nor disclosure with intent to reform. Rather the purpose seems to be getting even, pure and simple, and the result is a series of assaults on Hoover and almost all his lieutenants that should cause even veteran Hoover-haters to wince."

As set out previously in the body of this analysis, William C. Sullivan authored and promoted many of the alleged FBI abuses for which the Bureau has been criticized. On the occasion of his death the previous day in a hunting accident, the Washington Post, issue of November 10, 1977, published an article which stated that when Sullivan joined the FBI in August, 1941,

". . . the FBI saw itself—and was seen by other—as a crime-fighting organization and as the country's first line of defense against Nazis and other subversives. By the time he left, the Bureau was coming under increasing attack for violating the rights of American citizens. . . . Mr. Sullivan played a role in these transformations, first as a loyal lieutenant of Hoover who initiated many of the abuses that been uncovered by Congress and the press in recent years, and then as a bitter critic of his late boss."

* * * * *

For an insight into Mr. Sullivan's character deficiencies, duplicity, and unreliability, the ABC News Close-up staff would have had to go no farther than the two books previously cited in this piece: "The FBI: An Uncensored look behind the Walls" by the program consultant, Sanford J. Ungar: and "The FBI and Martin Luther King, Jr." by David J. Garrow, who was a participant on the program.

* * * * *

Acquaintances of the late William C. Sullivan know that he was an avid reader with a fondness for philosophy, poetry and history. One of his favorite quotations was the following from Shakespeare:

"Blow, blow, thou winter wind!
Thou art not so unkind
As man's ingratitude,"

How ironic! Sullivan spent thirty years of his life in the FBI under J. Edgar Hoover as Director. He rose from Special Agent to the post No. 3 Man, personal counselor to the Director, and a personal favorite of Mr. Hoover. In the 1950's Sullivan suffered a near physical collapse and nervous breakdown. Mr. Hoover personally arranged for Sullivan to spend several months recuperating in Arizona, and made certain Sullivan received the best of medical attention. The Director also arranged to have Sullivan's family join him in Arizona for the last phase of his recovery period, and subsequently restored him to his position at FBI Headquarters.

This is the same man who conspired with the Nixon Administration to oust Mr. Hoover and give him the FBI Director post, and when unsuccessful, proceeded on a character assassination campaign against his former benefactor and friend.●

THE OTHER SIDE OF THE STORY: ISRAEL'S ROLE IN THE CURRENT CONFLICT IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the hour is late and we have had a most exciting and hopefully productive day in the House of Representatives of the U.S. Congress.

I apologize to my colleagues and the excellent staff here at the end of a long, difficult day, for discussing so serious and tragic a subject as the Middle East; but given the long recess that we are going on, I think that I must address the subject of the calumny being perpetrated against a nation that is a true and good friend of the United States, so that one voice and other voices will begin to help the good citizens of Israel get back the good name of that much maligned nation.

Yesterday, I met with three family members, Israeli family members, whose lives were shattered by vicious PLO terrorist attacks that took loved ones from them, husbands or children, of blessed memory, as they were described.

Unfortunately, only three Members from this distinguished body turned up in the Rayburn Building to hear their stories, the stories that we all

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heard in brief or sketchy reports on our evening news, as we heard so much about terror in the Middle East and on the aviation routes of the world over the past decade and a half.

Before I give a brief analysis of what I learned on a recent trip to the Middle East, I have to say that I have lost count of how many times I have been to Israel and some of the surrounding countries; I have been to Lebanon at least three times. I have traveled more deeply into the country that I believe any Congressman or Senator has traveled now or for many years, putting over 850 kilometers on the car that we used to criss-cross the mountains of Lebanon and to visit several times the cities of Tyre, Sidon, and the Christian village of Ad Damour that was utterly devastated in a blood bath a few years ago; up into the southern regions of the Bekaa Valley, those parts secured by the State of Israel looking over the beautiful man-made Lake Karoum and talking to not only some of the young Israeli soldiers, but to the citizens of Lebanon who had been gracious to those Palestinian people who also have a crying need to find themselves a place in the world that they can call home.

They were gracious to them, but horridly abused by the PLO terrorists among the Palestinian people—a minority, anyone is grateful to be able to say.

Before I give this analysis, I want to set the scence by describing the front page of the Los Angeles Times of Wednesday, August 18, to my colleagues and anyone listening on television. It tells a great deal about what is going on in Beirut at this moment.

Here is a sort of cowboy-looking character described by the Los Angeles Times as a Palestinian guerrilla. I have refrained from using the world guerrilla in the El Salvador situation or in respect to the PLO because a guerrilla can be a noble fighter. He fights with the support of the people. He usually has weapons or a uniform of some conformity, although that is not necessary.

□ 2110

But, he usually has the capability to hold terrritory and face his adversary honorably on the field of battle. In the case of El Salvador and the PLO in Lebanon, they hide in the night. They hide among villagers; literally hide behind the skirts of women and behind little children, and in the case of Beirut it is just as though they were on a gigantic 747 jumbo jet. They have held a whole city hostage over the past 2½ months.

This cowboy on the front page of the Los Angeles Times is carrying a big, brand new suitcase, probably lifted from some store window, and he has at least eight grenades across the front of his chest and sort of a straw plantation hat perched on his head. He is boldly walking off to some waiting point where he thinks some airline is going to take him into some Arab country where he is going to get off the airplane in his designer jeans and keep these hand grenades and what looks like a machinegun pistol or a small submachinegun that he is carrying in the hand opposite his suitcase-carrying hand.

This symbol of PLO terriorism traveling somewhere else in the world to wreak its mischief is not going to bring stability anywhere in the Arab world, I am afraid.

These three families came to the United States—a wife, a mother, and a husband—to try and give some balance, as they put it, to the slander that has been committed against the good name of Israel over the last 10 weeks. They called the PLO murderers, and they have every right to use that harsh term, because the PLO is the umbrella for eight or more terrorist groups, different groups that took the lives of their loved ones. They said they are dismayed at the way the PLO seems to be leaving with some peculiar honor that these survivors do not feel the PLO is entitled to. They complain about the gentleness with which the PLO has been treated even by members of this distinguished House of Representatives, and they warn against allowing them into countries where they might be allowed to start operations all over again. They use the quote of President Reagan where he called the PLO "a scourge of international terrorism."

The first of the citizens of Israel that I had the honor to visit with was Mrs. Ankie Spitler. Her husband, Andrei, emigrated to the nation of Israel from Austria. She emigrated from Holland, and they began to build a new life. She was an athelete, a fencer, and he was the fencing coach for the Israeli team. I was lucky enough to be at the Olympic Games in Munich, and I left from there, coincidentally, to go to Lebanon and to Israel. I had visions of those handsome young athletes in my mind as I sat stunned like every other American by a television set and watched a handful of terrorists hold the coaches and the athletes of the nation of Israel in hostage status after they brutally murdered a weight lifter who tried to prevent their entry into the Olympic quarters, and then later shot to death another of the weight lifters and allowed him to bleed to death slowly over a 3- to 4-hour period, and in the black of night at the German air base at Furstenfelburck threw a grenade into one of the hallways at close range and machinegunned to death the athletes and the coaches on another helicopter.

Andrei Spitzer was the father of a brandnew, 3-week old daughter. His wife was with him at the Olympic village. It was in his room that the athletes and coaches were taken and held hostage. The bargain that the terrorists were trying to strike was that 292 terrorists held in prison in Israel would be released before they would release the athletes. When one of the other House Members, Mr. SOLARZ of New York, asked Mrs. Spitzer if she would have succumbed to the hostage demand, she said:

> At the time I was a suffering family member. I would have given the hostages anything they wanted, but as soon as the immediate agony of my sorrow began to subside, I realized my husband's life was the sacrifice any nation of integrity must pay so as not to be held hostage ever to the demands of bloodthirsty terrorists.

She actually had sitting next to her a mother whose two children had been brutally blown apart, one of them again bleeding to death over a 3-hour period, when young youths paid $10 by an Arab terrorist group threw a grenade in the back of their car while they were on holiday. The Israeli security forces arrested these three young men, and it is quite possible, because this happened in June 1971, it is quite possible that those young terrorists were some of the very ones among the 292 that the Munich terrorists, the Olympic terrorists, were asking to be released. She said, knowing the suffering that the mothers and fathers and wives and girlfriends and younger brothers and sisters of all the athletes that were under the gun in Munich were going through, she knew what the hostages were asking for was release of the murderers, maybe, of her very own children.

Then sitting there was a gentleman I had heard about in Israel last week, saw an interview with him on television and had no idea that a few years later in one of our own congressional office buildings I would have the honor of meeting him: Mr. Joseph Hochman, who works for one of the bus transportation companies in Israel. He and his wife, Rivka, and their two young sons were on a vacation to the stalactite caves in the middle of Israel, a routine holiday picnic. On their way home, on the very bus system he worked for, heading north to Haifa, they were highjacked by a team of PLO commandos. It started out as 13. Two of them drowned in the surf as they landed on the beach of Israel. They thought they were landing on the outskirts of Tel Aviv. They had misidentified the single funnel of an energy plant, and after losing two of their number in the surf they came up on the beach, and as a peculiar fate would have it, they come across the niece of a U.S. Senator, former Senator Abraham Ribicoff. His niece was a nature photographer. She was on the beach with her Israeli boyfriend, and when they saw her camera they shot her to death and shot the boyfriend in the stomach, who miraculously survived.

The 11 of them, including a female terrorist, made their way to the highway, stopped this bus, turned it around and then began what Mr. Hochman described as a sheer nightmare ride of terror. The 11 terrorists were on the bus with 50 people, with the shades pulled down as they thundered south to Tel Aviv to destroy God knows how many people. The discovery of the body and the dying young man who had survived on the beach alerted the Israeli security forces, and the soldiers put up a blockade north of Tel Aviv. As the bus approached the blockade, the terrorists, who had already shot to death a 4-year-old boy who would not stop crying, frightened in the darkness, then shot the father to death when he sobbed in protest over his son's brutal murder in front of his face, leaving 48 people alive on the bus.

The gentleman that I was visiting with, Joseph Hochman decided he had to take some immediate action because the terrorists were desperate. He grabbed a rifle away from one of the female terrorists and shot to death two of the terrorists. One of them, before he died, threw a grenade in the midst of the Hochman family, tearing his wife apart—she died almost immediately; snuffed out the life of his two sons, and so badly mangled Mr. Hochman's legs that they were both amputated later that day in an Israeli hospital.

Mr. Hochman has never remarried. The other family, husband and wife, who lost their two children in the back of the car, have rebuilt their lives and God has given them three new young children to raise in this small country of Israel. Mrs. Spitzer has tried to rebuild her life. Her daughter knows very well that this September 5, when we are in recess, will be the 10-year anniversary of the ugliest blight on sports in the entire history of recorded civilization. The 10-year anniversary of the Munich hostage horror is coming up next week.

☐ 2120

These three people from Israel including Mrs. Preetam Aroyo, hope that they will be able to get some brief moments in the Sun on American television, meeting with editorial boards of newspapers, talking to radio commentators to try at least in a small way to straighten out the record of what I have called the calumny against the reputation of Israel.

In all of the trips I have taken to Israel, and I have traveled extensively throughout the West Bank, going all the way back to 1966 when that part of the Holy Land was under the authority for 19 years of the State of Jordan, and every time I have talked to Israeli citizens the overwhelming majority agree that there must be some moderate approach to give the 1,200,000 Palestinians who live in what had been their homeland over 700 years a shared role in the government of the Jewish State that represents a millenia of existence in that area of the world for the Hebrew people.

But the path of terrorism is a sickening road to take anywhere in the world today, whether it is Morazan Province in El Salvador or blowing apart English Army musicians in a bandstand in one park, hours after we see the English Household Guard blown apart on their horses by a deed of cowardly terrorism in the streets of London.

No matter what our sympathies may be for some of the geographical or ethnic injustices we see in the world today, and there are injustices, certainly at the root of the struggle in Northern Ireland, no one today, after meeting the relatives who have had their lives nearly destroyed and certainly shattered by the cowardice of terrorism, a phenomenon reaching intolerable proportions in this last decade, no one can ever opt for that terrorism process, particularly when there is a Parliament, a Knesset, a Congress, a right to vote to handle problems the way we handle them in this House, through debate and compromise.

I would like to make several points that I learned traveling throughout Lebanon and Israel last week about a service that I think Israel and its defense forces have performed literally for the world. I put them in my own sort of arbitrary order of importance, but depending upon what someone's own view is on geopolitics, they can order them any way they want.

But I suggest anyone taking exception with the points that I make had best do their homework if they want to explain to me why they are not valid areas of discussion for what Israel has tried to accomplish and, in fact, has accomplished in the Middle East.

One, Lebanon now has a chance to become a nation once again. It has literally been drenched in blood in a fratricidal struggle for over 7 years.

I remember I was in Israel 4 years ago as well as 5 years ago and people would say to me:

> Is there no Christian organization or group anywhere in Europe or the United States that can bring about an end to this slaughter of Christian Arabs in this state of Lebanon?

I called the Lebanese office in this town and several pro-Lebanon groups that want all of the foreign soldiers out of their small nation. They want the Syrian troops out, they want the Israeli defense forces out, and they certainly want to get rid of these grenade-toting cowboys that have been holding the city hostage.

But the Lebanon offices in Washington, D.C., gave me the following figures: 100,000 people killed in Lebanon over the last 7 years without any Israeli involvement. That is a third of all of the men that the United States lost over the 3-year 9-month period of World War II. It is double what we lost on the battlefield in World War I. It is double what we lost in the Vietnam war over a 10-year period, including drug overdoses and airplane and car crashes in Vietnam.

We did not lose but barely half of 100,000 people.

The wounded, because there is a lot of talk about people being maimed and hurt during the last 2½ months, the wounded figure is 130,000 and the Lebanese office told me that may be a conservative figure.

But after the initial flurry of the gunfights in 1975, 1976, and 1977, and the ugly films of parliamentarians in Lebanon trying to get to vote for the current president, Elias Sarkis, being shot at from an ambush, their cars machinegunned, artillery fire hitting the President's car and a Parliament house in Lebanon, with no one trying to prevent it, and the legislators who did in fact vote and did keep a skeleton government for over the last almost 6 years, in spite of all of that, after the initial flurry of news coverage the world turned to other things and the suffering of Lebanon went on in private.

I talked, for example, to just pick one symbolic family, the Said family. They say that word opposite to the phonetic way it is pronounced, which sounds like sad but means hope and happiness in Arabic. The Said family invited me into their home in the small city of Rashayya up in the southern edge, before the Bekaa Valley starts, with a beautiful Mount Hermon which nurtures the Jordan River and is the site some people think for the transfiguration of Jesus Christ into God before his apostles, with Mount Hermon like an Alpine backdrop, I sat in this beautiful home as this Christian family told me that they had felt like strangers in their own country over the last years.

They said they only wished that the Israeli defense forces had gone all the way north in the Bekaa Valley to Zahiah to stop a slaughter of Christian people in the northern part of the Bekaa by Syrian and/or disgruntled PLO forces. They said I should consider, as any Congressman should, their home in Lebanon a second home to any American in this Nation, and they said, similar to a question I used to ask in Vietnam about our young soldiers: "Do you believe the Israelis will leave?"

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They said, "Our problem, Mr. Congressman, is that the Israelis leave too soon. We know they will go eventually, but they have come to liberate us from being held hostage in our own country."

It was not only the Christian Lebanese that felt this way. There were many other Lebanese of the Muslim faith who felt that they were held hostage in their own country.

In Tyre, in Sidon, which I drove through 2 days in a row, going both directions, people were at the beaches, it was a Saturday and Sunday, the stores were opening back up, the camera shops were filled with cameras, goods were being sold, fruit was back on the stands, and what is not properly conveyed by some of the European camera coverage, some of the press coverage is that, yes, you will see two houses in a row that were pummeled badly by the advancing Israeli columns. When you have soldiers armed to the teeth and snipers are killing the men in your lead vehicles, you use whatever firepower you have to defend your forces, then suddenly you found a house that stood idle, untouched, and there stenciled on the side of the house, or on the white front of it, or the brick fence in front would be a Lebanese Cedar of Lebanon or a white flag symbolizing that they were not involved in the struggle, or simply no sniper fire came from this dwelling and the Israeli forces would respect that.

I was informed this was to their own detriment because sometimes they would take sniper fire to the back from a home or a dwelling or a business that they had bypassed on their charge up that once beautiful coastal road before the PLO had turned armed camps out of all of the villages between Beirut and the Israeli, a major defended buffer area.

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Lebanon will have a chance, God willing, to be a country again. If after the PLO is out, if the Syrians and the Israelis leave, a nation can once again become what was described in the past as the Paris of the Orient.

Second, this may not be important to some people, but it is certainly important to Israelis. The constant rocketing and shelling of the small kibuzzin in the northern part of Israel, the farm and agricultural cooperatives, like Metulla, their furthermost city, or Kiryat Shemona, a beautiful little agricultural community kibuzzin right on the border, there were the colorfully painted bomb shelters to take some of the terror away from the children having to grow up under constant katusha, rocket threat, all of them gaily painted so that they could run through their bomb drills, which only too often became real. And who was supplying the weaponry for this? The Soviet Union.

Yes; it is important to Israel. Just as they went through the Camp David process with the United States of America and the great nation of Egypt to secure their southern borders, as they would like to have King Hussein of Jordan involve himself in the peace process with them on their eastern flank, they now have peaceful and secure borders on the northern boundaries of their country.

Third, ridding the world, hopefully, more than temporarily, of PLO terrorism. Who knows when the threat of a George Habash, the head of one of those groups under the PLO umbrella, to punish the United States or any other nation who defended Israel during the coming decade, to bring terrorism right here entirely to the United States, who knows if those threats will be fulfilled?

Do you know that I was told in the U.S. Embassy in Tel Aviv—and it has been confirmed to me by State Department people of long experience here in the United States—that they consider the murderers of our Ambassador to Lebanon in 1976, Francis Malloy, to be George Habash and his group?

And here we have Congressmen meeting with the umbrella group over the group that murdered, shot him dead in the dust of the streets at the beginning of all of this fratricidal murder in Beirut, Lebanon, killed an American Ambassador, one of five American Ambassadors to die in a 10-year span of history. And that is the first time in two centuries we saw an American Ambassador suddenly fair game for murder in the streets of the world.

Ridding the world of PLO terrorism or attempting to suppress it is no small accomplishment.

Fourth. A cooperative moderate effort can now emerge within Israel in a peaceful climate as to what type of arrangement to have with the Palestinians in the Gaza, the peace-loving ones who have lived in isolation from what they consider their own native land, and the Palestinians living on the West Bank, some sort of autonomy. There are several valid plans. I am not expert enough to choose one over the four or five that have been described to me. But when people describe to me the brutal murders like mafia gang killings of every moderate voice that has tried to rise in the West Bank area or in the Gaza area, to speak out for some accommodation with the nation of Israel, to have moderate leaders killed by the PLO, has only kept that tragic area of the world that some of us like to call the Holy Land in a state of turmoil, when years ago, decades ago, a just resolution could have been worked out.

The moderate voices now will have the courage to speak out, particularly since the Palestinians have learned that their course for justice remains with the sense of justice and the good will of the Members of the Knesset in Israel and its Government, not with the Arab nations, none of whom were willing initially to take in the PLO or come to their aid in the streets of Beirut.

Fifth. This is a significantly important point. The Persian Gulf nations, all of which I visited last year, Kuwait, Bahrain, Qatar, the United Arab Emirates, Oman, all of these nations that are threatened by the religious fanaticism of the Ayatollah Khomeini and the warlike posture of Iran, which was once the stable anchor of the Persian Gulf, that No. 1 problem now comes back into full focus because suddenly the Persian Gulf nations can see very clearly that Israel is not their threat and that there is nowhere they can go supporting PLO terrorism.

Sixth. Syria has been disabused of the idea that at some point in 1984, 1985, it alone could take on the nation of Israel and beat it into submission or annihilate it, because Syria, with more tanks supplied by the Soviets, more aircraft—what they thought were advanced Mig aircraft supplied by the Soviets—more men under arms, more armored units, and a population of 9 million to Israel's less than 4 million, on paper they had puffed themselves up to think that they could take out Israel.

After they had lost 79 of their best Soviet supplied aircraft and pilots to the loss of only 1 obsolete Israeli American-made Douglas A-4 Skyhawk, they suddenly realized losing even the T-72 tanks in head-on conflict with the Israeli Merkava—the Hebrew word for chariot—tanks, in the Bekaa they suddenly realized that their ally, the Soviet Union, was not reliable, nor was its training or its equipment.

So the Israelis, I believe, have avoided a far more serious conflict in war that could bring the superpowers into juxtaposition next year or the year after.

In short, Syria has learned that peace in the Middle East—peace with her neighbors, Arab or Jewish, will never be attained by military associations with a Communist atheistic state. Especially when that state, the Soviet Union, looks upon Syrians, upon all Arabs as inferior people.

Seventh. The Soviet Union has been shown to be an unreliable ally. I ask you: What Arab nation is in the market to purchase Soviet arms today? I say not one.

There they are: Seven points and there are more which I will discuss here after September 7.

Here is a footnote. A very, very important footnote. The treasure trove of intelligence about Soviet equipment gleaned by the Iraelis is invaluable to our Defense Department. Plus the improvements that they have made to every American weapon system that they have used will help us to defend ourselves and Europe and strengthen an increasingly fragile peace.

Finally, the role President Reagan has played has been laudatory. He cannot stand the thought of innocent civilians being hurt, but he never, even in frustration and anger, lost sight of who perpetrated this bloody conflict—the PLO.

In closing may I make the observation that with all due respect to the conduct of American fighting men in the field—and our Armies have been as humane to our enemies as any in history—the young men and officers of the Israeli defense forces are as decent and humane as any army that has ever taken to a field of battle. They want to be so and they know they have to be so.

Civilization always demands more of those with a just cause.

The first 10 days of September the Speaker of the Knesset, Mr. Menachem Savidor, will be visiting here in Washington, D.C. I hope many of my colleagues will try to meet with this fine statesman and hear the other side of the story of Operation Peace in Galilee.

Thank you, Mr. Speaker.

INTRODUCTION OF A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 20 minutes.

● Mr. **HAMMERSCHMIDT**. Mr. Speaker, serious problems surrounding the continuing disability investigations (CDI's) being undertaken by the Social Security Administration (SSA) are causing thousands of eligible persons to be erroneously terminated from the disability rolls. I am introducing legislation today that I believe will protect persons who are truly disabled from the egregious loss of their disability insurance and medicare benefits.

In order to understand the necessity for my amendments, we must take a brief look at the Social Security Disability Amendments of 1980. One section of that bill addressed Congress concern that there were persons receiving disability who were no longer eligible due to medical improvement or who, in spite of their condition, had achieved gainful employment. To assure that benefits went only to eligible persons, Congress mandated that SSA conduct continuing disability reviews of all nonpermanently disabled persons every 3 years.

It is important to note that in 1980, SSA was straining its resources to review 100,000 cases. The 1980 amendments require SSA to review 500,000 cases in 1982 and 700,000 cases in 1983, a 500-percent and 600-percent increase over 1980 levels. Since the 1980 amendments, State staff responsible for these reviews has increased on the average only 27 percent. Further stress was added to the system when the new administration decided to limit the 18-month preparation time to only 10 months, which rapidly accelerated the CDI process.

Testimony before the House Select Committee on Aging and the Senate Government Affairs Committee revealed that cases are being handled carelessly and arbitarily. The volume, gross understaffing, and rapid acceleration are having tragic results. Many recipients are not receiving fair or careful medical evaluations. State agencies have monstrous backlogs, some of 6 months or more. I believe the highest is Florida with a 15-month backlog and New Jersey is not far behind. Wrongful terminations are so high that one wonders if staff has resorted to flipping coins instead of conducting serious reviews. In 1981, of the approximately 50 percent of the cases that were denied at the continuing disability review, almost 67 percent were reversed and placed back on the disability rolls through the reconsideration and appeals process.

It is important to understand the number of people whose lives are being painfully disrupted by the accelerated CDI process. Federal Social Security Administration officials, testifying before a Senate subcommittee on May 25, 1982 admitted that out of all the individuals whose disability eligibility will be reviewed during the current review period (fiscal year 1982 through fiscal year 1984), about 250,000 people will be terminated by State agencies but then reinstated on appeal by the the administrative law judges. What this means is that 250,000 disabled workers who shouldn't be terminated in the first place will be forced to live without necessary income or medicare services for an average of 8 months. Their 200,000 dependent wives and children will also be deprived of necessary income.

My amendment proposes to slow down and better target the continuing disability reviews. The amendment maintains the basic intent of the periodic reviews, but by slowing the pace, provides time for thorough reviews. It mandates continuing reviews of all persons who are not permanently disabled during their first 3 years on disability with further reviews conducted at the discretion of the Secretary.

SSA can use the profiles they have developed to target reviews to the beneficiaries most likely to recover. From a sheer management, cost/benefit perspective, this makes sense. Moreover, SSA has informally confirmed that a substantially smaller but targeted review will net over 90 percent of the currently projected savings—assuming 350,000 reviews a year. This will save over $100 million a year in administrative costs.

My second amendment continues the payment of benefits through the administrative law judge hearing—the second level in the appeals process. As of February of this year, it took 6½ months to get an administrative law judge decision following reconsideration, and another 1½ months before checks began after a favorable decision.

In paying benefits through the administrative law judge decision, we are simply recognizing the principle that legally awarded benefits should not be taken away without due process. Without the amendment, 250,000 workers and 200,000 dependents, who will have their benefits reinstated at the administrative law judge level, will be deprived of their just benefits for an average of 8 months. During this waiting period with no disability benefits, I have learned that many of my constituents have lost their homes and cars. Others have been forced into bankruptcy. Many disabled workers have had serious declines in their health because at the same time their benefits were terminated, they lost their medicare services. Many are ending up on the rolls of hard-pressed State and local public assistance agencies or in public mental institutions. Finally, there have been instances of persons dying from their disabling condition at the same time SSA was finding that they were no longer disabled. This amendment requires the payback of extended benefits if one is found ineligible at the end of the appeals process. I feel this caveat will limit appellants to those who firmly believe in their eligibility.

The combination of the slow down and paying benefits through the administrative law judge level work together to keep the costs very low. First, limiting the reviews to those who are most likely to recover will allow for more streamlined administration of the program. This reduces both the numbers of people seeking appeals and the time it takes to render a decision. The fiscal year 1982 to fiscal year 1985 net savings from the targeted review will approach $2.5 billion as compared with $2.6 billion for the current accelerated review. In a phone conversation with CBO on July 14, I received an estimate of the cost of paying benefits through the administrative law judge level of about $190 million for fiscal year 1982 to fiscal year 1985.

My third amendment requires that any rules, regulations, or procedures used to make determinations of disability have to be consistent with the

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law and shall be subject to public review and comment. According to the May 1982 Social Security Bulletin, SSA intends to use the Program Operation Manual System (POMS), internal operating instructions written within SSA, as the single set of binding administrative standards. The POMS, however, have not been subject to public review and comment and may not reflect the law's definition of disability. Disability advocates and many administrative law judges charge that, although the law's definition of disability has not changed, SSA has continually narrowed the administrative interpretation of disability through the POMS. The publication, public review, and comment requirements of the Administrative Procedures Act do not guarantee that all mistakes or inconsistencies with law are caught, but they at least give the public a chance to correct administrative errors before they affect people's lives. They also make a Government agency openly accountable to the Congress and the public for its policies.

My fourth amendment would institute a policy that cessation of disability benefits for medical reasons be allowed only when evidence shows that there has been: First, substantial medical improvement, or second, in spite of an individual's impairments, new medical or rehabilitative technology that provides an individual with the functional capacity to perform substantial gainful employment on a regular basis, or third, fraud or error in the original determination.

There have been numerous reports that, under the accelerated continuing disability investigations, many beneficiaries are being terminated despite a lack of improvement or even a worsening in their medical condition. Unpublished GAO information estimates that as many as one-third of the current CDI terminations based on medical rationale affect nonrecovered beneficiaries.

This amendment simply codifies the standard legal doctrine of "res judicata" and administrative finality. It assures that when there has been a proper finding of disability in the first place, there is a presumption that disability continues. The burden of proof is then on SSA to show that a condition has changed, not on the beneficiary to show that it has not. Numerous court rulings have upheld the doctrine of res judicata and the need for proof of medical improvement (Finnegan against Matthews, Patti against Schweiker).

My final amendment provides a face-to-face meeting for the mentally impaired at the beginning of the CDI process. Although the mentally impaired are only 11 percent of the DI recipients, they make up 28 percent of those terminated by the CDI process. For those who are on the roles because of mental illness, a face-to-face would be required. If there is immediate family or a guardian they would also have to be notified of review.

Generally, the CDI process includes sending a form to the attending physician and a self-evaluation form to the recipient. This form asks about mental health, physical health, and employment. Many of the mentally ill are not intellectually capable of filling out this form. Others, fearing they might be reinstitutionalized if they say they are still sick, may not be truthful and fill out the form favorably. Written forms are inadequate to communicate with this population.

Mr. Speaker, I think that the problems surrounding the CDI process warrant the immediate action of Congress. I hope we will act expeditiously upon our return to Washington from the district work period.●

LET'S GIVE THE OLYMPICS A PERMANENT HOME

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. **ANNUNZIO**. Mr. Speaker, several weeks ago the United Hellenic American Congress, one of the leading Greek-American organizations in this country, adopted a resolution calling for Athens, Greece to become the permanent home of the summer Olympic games. I would like to direct my colleagues to this resolution as I think it raised a number of issues that deserve our careful consideration.

Giving the Olympics a permanent home in Greece would be in keeping with tradition since the games were born there more than 26 centuries ago when the first competition was held at the sacred site of Olympia. The first modern Olympic games were held in Athens in 1896. We also commemorate the Greek birth of the Olympics at the beginning of each Olympiad when we pass the Olympic torch from its resting place in Greece to the host country.

The Olympics celebrate human ideals that are shared and honored by all of mankind—pure athletic competition and individual excellence. Placing the games in a permanent neutral site would not only give universal recognition to the value we place on these ideals, but would also lessen the likelihood of our amateur athletes being adversely affected by world politics. It would also eliminate the scrambling that seems to go hand in hand with the selection of the host city.

In recent years many have commented on the prohibitive cost of staging and promoting the Olympic games; we are still hearing about the enormous debt Montreal faced after the 1976 Summer Olympics. If the same facility was used for each Olympiad, these expenses would be reduced tremendously. And the hugh effort that goes into readying a new city could be used to preserve and improve the permanent site, thereby insuring the success of the event.

The proposal to give the summer Olympics a permanent home in Greece warrants the attention of the Congress and the various Olympic committees for it may offer a viable solution to some of the problems that have confronted the games in the past few years. The world's amateur athletes that devote so much time and energy to train for this outstanding competition deserve to have an environment that is peaceful and free from political and social turmoil in which to test their athletic prowess. And we, who are so proud of their accomplishments, should do everything in our power to help these young men and women achieve their goals, for the Olympic spirit is part of all of us.

The resolution of the United Hellenic American Congress follows:

RESOLUTION

Whereas, The Olympic Games were founded in Ancient Greece to promote the ideal of a sound mind in a sound body and to foster competition between men in athletics instead of in armed conflict on the field of battle; and

Whereas, The first modern Olympic Games were held in Athens, Greece; and

Whereas, In recent years the exploitation of the Olympic Games for political purposes and the extravagant expenses incurred in their presentation threatens the true spirit and high ideals of the Olympic Games; and

Whereas, Greece has indicated a willingness and ability to provide a permanent home for the Olympic Games at its original ancient site where they may be held in the true spirit of their original founding and in keeping with the hopes and purposes of their reestablishment in modern times to serve the youth of the world in healthful athletic competition in an atmosphere of mutual respect and brotherly affection; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress, that the Olympic Games be held permanently in Greece where they may be conducted in a manner and in an atmosphere conducive to the true and ancient ideals of the Olympic Games; and, be it further

Resolved, That a suitable copy of this Resolution be presented to the appropriate representatives of the United States, the Republic of Greece, the International Olympic Committee, and the United States Olympic Committee.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

WE MUST HONOR OUR COMMITMENTS TO ISRAEL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. **ADDABBO**. Mr. Speaker, last night, some of our colleagues took part in a special order on the current situation in the Middle East. That event gave colleagues an opportunity to set forth their views on the Middle East conflict. Unfortunately, I believe some allegations possibly misstated the case against Israel.

There are many who have condemned Israel for her military actions in Lebanon against the Palestinian Liberation Organization. There are certain facts which I believe must be clarified before any further decisions are made.

Several years ago, Lebanon was ravaged by PLO terrorists who had been expelled from Jordan. Along with the supposed "peacekeeping" force of the Syrian army, the PLO waged war on the Lebanese: Killing thousands of civilians, orphaning thousands of children, and wounding countless others. The PLO made Beirut the center of its activity—from where they launched their bombs and missiles against Israel—blatantly inviting retaliation. Lebanon was held hostage by PLO terrorists who would do anything—shell East Beirut, set up roadblocks to stop Lebanese citizens trying to escape, and use hospitals and schools to house military equipment.

Various legal agreements were arranged to control the PLO presence in Lebanon—agreements which the PLO signed and subsequently ignored.

Given the stated purpose of the Palestinian Liberation Organization, given the willingness to pursue these goals, any action against the PLO is warranted. The Israeli action was definitely an anticipatory move taken to avoid the prospect of continued murder and terrorization of those living in the northern territories. The PLO could not be allowed to continuously jeopardize the lives of innocent citizens; they could not be allowed to continue their efforts to destroy a proud and courageous nation. The PLO has turned into a full force Army—equipped with Soviet arms. Israel's move into Lebanon was aimed at removing a serious military threat. We have all heard that the amount of ammunition and weapons that Israel has captured from the Palestinian terrorists is tremendous.

In conclusion, I think that we all agree—all foreign troops should be removed from Lebanon—Israeli, PLO, and Syrian. However, I caution my colleagues to remember that the independence of Israel is important to our and the world's national security. This is the only democratic nation in the Middle East, and we must honor our commitments.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Livingston) to revise and extend their remarks and include extraneous material:)

Mr. Rudd, for 30 minutes, today.

Mr. Dornan of California, for 30 minutes, today.

Mr. Hammerschmidt, for 20 minutes, today.

(The following Members (at the request of Mrs. Boggs) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Dicks, for 60 minutes, today.

Mr. Addabbo, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hughes, prior to the vote on House Resolution 569, today.

Mr. Zablocki, to revise and extend his remarks following the remarks of Mr. Rangel on the conference report on H.R. 4961 in the House today.

Mr. Rudd, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $3,808.

Mr. Hughes prior to the vote on the conference report on H.R. 4961, Tax Equity and Fiscal Responsibility Act of 1982.

(The following Members (at the request of Mr. Livingston) and to include extraneous matter:)

Mr. Robert W. Daniel, Jr.
Mr. Erlenborn.
Mr. Leach of Iowa in two instances.
Mr. Lee in two instances.
Mr. Gunderson in two instances.
Mr. Rousselot in two instances.
Mr. Wampler in two instances.
Mr. Broomfield.
Mr. Duncan.
Mr. Paul in two instances.
Mr. Davis.
Mr. Corcoran.
Mr. Kemp.
Mr. Ritter.
Mr. DeNardis.
Mr. Dickinson.
Mr. Jeffords.
Mr. Wolf.
Mr. Philip M. Crane.
Mrs. Holt.
Mr. Dougherty.
Mr. Moorhead in two instances.
Mr. Hansen of Idaho.
Mr. Evans of Delaware.
Mrs. Heckler.

(The following Members (at the request of Mrs. Boggs) and to include extraneous matter:)

Mr. Wirth.
Mr. Skelton.
Mr. Albosta in two instances.
Mr. McHugh.
Ms. Oakar.
Mr. Lehman in two instances.
Mr. Weiss in two instances.
Mr. Coelho.
Mr. Matsui.
Mr. Mazzoli in two instances.
Mr. Hance.
Mr. Barnes.
Mr. White.
Ms. Mikulski in two instances.
Mr. Peyser.
Mr. LaFalce.
Mr. Moffett.
Mr. Rodino.
Mr. Guarini.
Mr. Roybal.
Mr. Studds in two instances.
Mr. McDonald in two instances.
Mr. Jones of Tennessee.
Mr. Brooks.
Mr. Heftel.
Mr. Stokes.
Mr. Fascell.
Mr. Waxman.
Mr. Dicks.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 167. An act for the relief of Juan Esteban Ramirez.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on August 18, 1982, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 2160. An Act to amend the Potato Research and Promotion Act;

H.R. 4647. An Act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6033. An Act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States;

H.R. 6260. An Act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. An Act to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

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RECESS UNTIL 12 O'CLOCK TOMORROW, FRIDAY, AUGUST 20, 1982

The SPEAKER pro tempore. The Chair declares the House in recess until noon tomorrow.

Accordingly (at 9 o'clock and 37 minutes p.m.), the House stood in recess until tomorrow, Friday, August 20, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4617. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the American Institute in Taiwan's proposed sale of certain defense articles to the Coordination Council for North American Affairs (Transmittal No. 82-80), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4618. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the operation of the administration center in the Provost Marshal's Office, Fort Riley, Kans., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4619. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the laundry and dry cleaning function at the Presidio of San Francisco, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4620. A letter from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the proposed conversion to contractor performance of the food service mess attendants function at Port Austin Air Force Station, Mich., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4621. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the administrative telephone service function at the Navy Experimental Diving Unit, Panama City, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4622. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the guard service function at the Naval Construction Battalion Center, Davisville, R.I., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4623. A letter from the Director of ACTION, transmitting final notice of guidelines for minigrants, pursuant to section 420(d) of the Domestic Volunteer Act of 1973, as amended; to the Committee on Education and Labor.

4624. A letter from the Secretary of Energy, transmitting the quarterly report on the strategic petroleum reserve, pursuant to section 165(b) of the Energy Policy and Conservation Act, as amended; to the Committee on Energy and Commerce.

4625. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense articles and services to the Coordination Council for North American Affairs (Transmittal No. 82-80), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4626. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment sold commercially to Taiwan (Transmittal MC-14-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4627. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Peru, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4628. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Guatemala, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4629. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Ecuador, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4630. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Morocco, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4631. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Cameroon, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4632. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Malawi, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4633. A letter from the Inspector General, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

634. A letter from the Lieutenant General, U.S. Marine Corps (Installations and Logistics), transmitting the annual report for the retirement plan for the civilian employees of the Marine Corps exchanges, recreation funds, clubs, messes, and the Marine Corps Exchange Service, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4635. A letter from the Register of Copyrights, Library of Congress, transmitting a report on revised records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4636. A letter from the Secretary of Transportation, transmitting a quarterly report on Urban Mass Transportation Administration obligations by State and activity as of March 31, 1982, pursuant to section 4(h)(1) of the Urban Mass Transportation Act, as amended; to the Committee on Public Works and Transportation.

4637. A letter from the Comptroller General of the United States, transmitting a report on the impact of congressional review on the Federal Trade Commission decisionmaking and rulemaking processes (HRD-82-89, August 17, 1982); jointly, to the Committees on Government Operations, Energy and Commerce, and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee of conference. Conference report on H.R. 3239 (Rept. No. 97-765). Ordered to be printed.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 5519. A bill to give trade negotiating priority to service sector issues, to expand and clarify existing laws governing interestate and foreign commerce to better deal with service trade problems, and for other purposes; with amendments (Rept. No. 97-766, Pt. I). Ordered to be printed.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 6384. A bill to extend title XVII of the Public Health Service Act (Rept. No. 97-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 6458. A bill to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes; with amendments (Rept. No. 97-768). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1628. A bill to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052) (Rept. No. 97-769). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5652. A bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District; with an amendment (Rept. No. 97-770). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1621. A bill to authorize the replacement of existing pump casings in southern Nevada water project pumping plants 1A and 2A, and for other purposes; with an amendment (Rept. No. 97-771). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on improvements needed in the Department of Housing and Urban Development's efforts to avoid single-family mortgage foreclosures (Rept. No. 97-772). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. H.R. 6422. A bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut; with an amendment (Rept. No. 97-773). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 6124. A bill to reduce interest rates, control inflation, and insure the availability of credit for productive purposes, and promote economic recovery by extending the Credit Control Act; with an amendment (Rept. No. 97-774). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 6222. A bill to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions; with an amendment (Rept. No. 97-775). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90.-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505); With an amendment (Rept. No. 97-776). referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 6928. A bill to promote the development of nonanimal methods of research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing; with an amendment (Rept. No 97-777, Pt. I). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 5154. A bill to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business; with an amendment (Rept. No. 97-778). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conferences. Conference report on H.R. 6068 (Rept. No. 97-779). Ordered to be printed.

Mr. HOWARD: Committee of conference. Conference report on H.R. 3663 (Rept. No 97-780). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on stronger support for coordinated Federal policy on voluntarism needed in action (Rept. No. 97-781). Refered to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 6788. A bill to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training (Rept. No. 97-782). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENJAMIN: Committee on Appropriations. H.R. 7019. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-783). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENJAMIN:

H.R. 7019. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. CLAUSEN:

H.R. 7020. A bill to establish the U.S. Academy of Freedom whose function shall be to develop and implement programs to promote the growth of democracy and free and open societies throughout the world; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. DASCHLE:

H.R. 7021. A bill to remove the limitation on the maximum rate of interest which may be paid on certain balances maintained in a negotiable order of withdrawal account; to the Committee on Banking, Finance and Urban Affairs.

By Mr. de la GARZA (for himself, Mr. White, Mr. Kazen, and Mr. Loeffler):

H.R. 7022. A bill to amend the Small Business Act to provide assistance to areas of economic dislocation in the United States that is the result of drastic fluctuation in the value of the currency in a country contiguous to the United States; to the Committee on Small Business.

By Mr. DICKS, (for himself, Mr. Fazio, Mr. Barnes, Mr. Hoyer, Mr. Gejdenson, Mr. Gray, Mr. Matsui, Mr. Parris, Mrs. Schroeder, Mr. Swift, Mr. Weiss, Mr. Akaka, Mr. Hance, Ms. Oakar, Ms. Ferraro, Mr. St Germain, Mr. Anderson, Mr. White, Mr. Kogovsek, Mr. Stark, Mr. Moffett, Mr. Coelho, Mr. Moakley, Mr. Zeferetti, Mr. Markey, Mr. Biaggi, Ms. Mikulski, Mr. Garcia, Mr. Frank, Mr. Vento, Mr. Dwyer, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Peyser, Mr. Downey, Mrs. Kennelly, Mr. Dyson, Mr. Bonker, Mrs. Boggs, Mr. Mica, Mr. Dymally, and Mr. Lowry of Washington):

H.R. 7023. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

By Mr. DINGELL:

, H.R. 7024. A bill to amend the Federal Reserve Act to require the Board of Governors of the Federal Reserve System and the Federal Open Market Committee to take such actions as are necessary to reduce interest rates to reasonable levels; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DUNCAN (for himself and Mr. Guarini):

H.R. 7025. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.R. 7026. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits for any person employed by a correctional institution or facility who dies as the result of personal injury sustained while performing official duties; to the Committee on the Judiciary.

By Mr. EVANS of Iowa (for himself and Mr. Roberts of Kansas):

H.R. 7027. A bill to suspend the duty on sulfapyridine until the close of December 31, 1985; to the Committee on Ways and Means.

H.R. 7028. A bill to lower the rate of duty on sulfathiazole until the close of December 31, 1985; to the Committee on Ways and Means.

By Mr. FASCELL (by request):

H.R. 7029. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia; to the Committee on Foreign Affairs.

H.R. 7030. A bill to amend the Hostage Relief Act of 1980; jointly, to the Committees on Foreign Affairs, Post Office and Civil Service, and Ways and Means.

By Mr. FLORIO:

H.R. 7031. A bill to remove certain restrictions relating to voluntary contributions by utilities for remedial action at Three Mile Island; to the Committee on the Judiciary.

By Mr. FRANK:

H.R. 7032. A bill to abolish the insanity defense for Federal crimes; to the Committee on the Judiciary.

By Mr. FROST (for himself, Mr. Wright, Mrs. Chisholm, Mr. Leland, Mr. Gray, and Mr. Mattox):

H.R. 7033. A bill to assist certain institutions receiving funds under the Higher Education Act of 1965; to the Committee on the Judiciary.

By Mr. SAM B. HALL, JR. (for himself, Mr. Moorhead, Mr. Mazzoli, Mr. McClory, Mr. Kindness, Mr. Evans of Georgia, and Mr. Collins of Texas):

H.R. 7034. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, to provide a remedy against the Unites States with respect to constitutional torts, and for other purposes; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 7035. A bill to amend title II of the Social Security Act to provide continued payment of disability benefits during appeal of decisions to terminate benefits, to make equitable adjustments to the continuing disability review process, to insure that rules, regulations, and procedures governing the adjudication of disability determinations are established with adequate notice and public participation, and to provide standards for disability benefit terminations; to the Committee on Ways and Means.

Mr. HEFTEL:

H.R. 7036. A bill to amend the Congressional Budget Act of 1974 to establish a Council on Economic Indicators and to provide for House and Senate approval of economic assumptions underlying the budget; to the Committee on Rules.

By Mr. JEFFORDS:

H.R. 7037. A bill to establish a program for replacing, by 1990, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from coal and renewable resources; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina:

H.R. 7038. A bill to promote maritime safety on the high seas and navigable

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waters of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. KASTENMEIER:

H.R. 7039. A bill to amend title 18, United States Code, to provide for the protection of Government witnesses in criminal proceedings, to establish a U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mr. MADIGAN (for himself, Mr. Waxman, Mr. Shelby Mr. Dingell, and Mr. Broyhill):

H.R. 7040. A bill to amend the Public Health Service Act to replace title XV of such act with a new program of grants to States for certificate of need programs and health planning, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARLENEE (for himself and Mr. Forsythe):

H.R. 7041. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Ms. MIKULSKI:

H.R. 7042. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. NAPIER:

H.R. 7043. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who add new employee positions to their payrolls in areas of substantial unemployment; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. Ford of Michigan, and Mr. Leland):

H.R. 7044. A bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H.R. 7045. A bill to provide certain protections for tenants of public housing and other assisted housing projects; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING:

H.R. 7046. A bill to establish the private employment training incentive program, and for other purposes; to the Committee on Education and Labor.

H.R. 7047. A bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. Perkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Andrews, Mr. Weiss, Mr. Peyser, Mr. Eckart, Mr. Erlenborn, Mr. Coleman, Mr. Erdahl, Mr. DeNardis, and Mr. Bailey of Missouri):

H.R. 7048. A bill to require a separate family contribution schedule for Pell grants for academic years 1983–84 and 1984–85, to establish restrictions upon the contents of such schedule, and for other purposes; to the Committee on Education and Labor.

By Mr. STENHOLM (for himself and Mr. Young of Alaska):

H.R. 7049. A bill to authorize the Secretary of the Air Force to enter into certain contracts for the lease of family housing facilities for assignment to members of the Armed Forces; to the Committee on Armed Services.

By Mr. STUMP:

H.R. 7050. A bill to amend the Internal Revenue Code of 1954 to provide that certain individuals will not be treated as manufacturers for purposes of the excise tax on sporting goods or firearms, and for other purposes; to the Committee on Ways and Means.

By Mr. WAMPLER:

H.R. 7051. A bill to require that a certain minimum amount of funds be appropriated for grants to conduct forestry research, to require that such funds be apportioned among the States on the basis of specified, objective factors related to growing and harvested timber, and for other purposes; to the Committee on Agriculture.

By Mr. WAXMAN:

H.R. 7052. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for performance standards for medical devices and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILLIAMS of Montana (for himself, Mr. Courter, Mr. Wyden, Mr. Mitchell of Maryland, Mr. Corcoran, Mr. Hughes, Mr. LeBoutillier, Mr. Ratchford, and Mr. Rosenthal):

H.R. 7053. A bill to amend the Internal Revenue Code of 1954 to provide for individual education accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. WOLF (for himself, Mrs. Holt, Mr. Hoyer, and Mr. Parris):

H.R. 7054. A bill to provide for the reimbursement of certain moving expenses incurred by Federal civil service employees who are transferred in the interest of the Government from one official station or agency to another for permanent duty; to the Committee on Government Operations.

By Mr. ANDERSON (for himself, Mr. Rhodes, Mr. Rahall, Mr. Wolf, Mr. Sunia, Mr. Roberts of South Dakota, Mr. Kindness, Mr. Jeffries, Mr. Bafalis, Mr. Andrews, Mr. Beilenson, Mr. Stump, Mr. Lungren, Mr. Bliley, Mr. Bingham, Mr. Dwyer, Mr. Conte, Mr. Fountain, Mr. Beard, Mr. Chappell, Mr. Lowery of California, Mr. Montgomery, Mr. Hatcher, Mr. Roth, Mr. Mavroules, Mr. Weber of Ohio, Mr. Fazio, Mr. Napier, Mr. Dreier, Mr. Corrada, Mr. Hoyer, Mr. Perkins, Mr. Vento, Mr. Whitehurst, Mrs. Fenwick, Mr. Clinger, Mr. Yatron, Mr. Edgar, Mr. Derwinski, Mr. de la Garza, Mr. Lagomarsino, Mr. Shelby, Mr. Ford of Tennessee, Mr. Horton, Mr. Hagedorn, Mr. Applegate, Mr. DeNardis, Mr. Pepper, Mr. Ralph M. Hall, Mr. Bevill, Mr. Wampler, Mr. O'Brien, Mr. Patman, Mr. Roe, Mr. Ginn, Mr. Kemp, Mr. Lantos, Mr. Skelton, Mr. Addabbo, Mr. Fuqua, Mr. Stanton of Ohio, Mr. Annunzio, Mr. Foley, Mr. Hansen of Idaho, Mr. Stump, and Mr. Fary):

H.J. Res. 585. Joint resolution to designate the week commencing with the third Monday in February of 1983 as "National Patriotism Week"; to the Committee on Post Office and Civil Service.

By Mr. de la GARZA (for himself, Mr. Wampler, Mr. Albosta, Mr. Annunzio, Mr. Anthony, Mr. AuCoin, Mr. Bedell, Mr. Benedict, Mr. Bereuter, Mr. Bevill, Mr. Bowen, Mr. Brinkley, Mr. Brown of California, Mr. Brown of Colorado, Mr. Broyhill, Mr. Butler, Mr. Chappie, Mr. Coleman, Mr. Corcoran, Mr. Corrada, Mr. Craig, Mr. Robert W. Daniel, Jr., Mr. Daschle, Mr. Daub, Mr. Derwinski, Mr. Dickinson, Mr. Dorgan of North Dakota, Mr. Dyson, Mr. Emerson, Mr. Erdahl, Mr. Evans of Iowa, Mr. Fascell, Mr. Fazio, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Fithian, Mr. Foley, Mr. Forsythe, Mr. Fountain, Mr. Gingrich, Mr. Ginn, Mr. Goodling, Mr. Gunderson, Mr. Hagedorn, Mr. Hansen of Idaho, Mr. Harkin, Mr. Hatcher, Mr. Hopkins, Mr. Horton, Mr. Hubbard, Mr. Huckaby, Mr. Jeffords, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Kindness, Mr. Lagomarsino, Mr. Latta, Mr. Leach of Iowa, Mr. McEwen, Mr. Madigan, Mr. Marriott, Mrs. Martin of Illinois, Mr. Matsui, Ms. Mikulski, Mr. Mineta, Mr. Mitchell of New York, Mr. Montgomery, Mr. Morrison, Mr. Napier, Mr. Nichols, Mr. Oberstar, Mr. O'Brien, Mr. Panetta, Mr. Pashayan, Mr. Patman, Mr. Pepper, Mr. Porter, Mr. Rahall, Mr. Richmond, Mr. Roberts of South Dakota, Mr. Roberts of Kansas, Mr. Roe, Mr. Rogers, Mr. Rose, Mr. Rudd, Mr. Scheuer, Mr. Shamansky, Mr. Skeen, Mr. Skelton, Mr. Stangeland, Mr. Stenholm, Mr. Stump, Mr. Tauke, Mr. Tauzin, Mr. Thomas, Mr. Traxler, Mr. Volkmer, Mr. Watkins, Mr. Weaver, Mr. Whitehurst, Mr. Wilson, Mr. Winn, Mr. Wolf, Mr. Wortley, Mr. Wylie, Mr. Yatron, and Mr. Young, of Alaska):

H.J. Res. 586. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY (for himself and Mr. Donnelly):

H.J. Res. 587. Joint resolution to repeal provisions of law which require withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. Perkins, Mr. Andrews, and Mr. Petri):

H.J. Res. 588. Joint resolution to provide for the designation of the month of October 1982, as "Head Start Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself, Mr. Zablocki, Mr. O'Neill, Mr. Michel, and Mr. Wright):

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib; to the Committee on Foreign Affairs.

By Mr. SWIFT (for himself and Mr. Dorgan of North Dakota):

H. Con. Res. 400. Concurrent resolution expressing the sense of Congress that the President should fill the next vacancy on the Federal Reserve Board with a person of substantial small business or agricultural experience; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEISS (for himself, Mr. Lehman, Mr. Rosenthal, Mr. Oberstar, Mr. Edwards of California, Mr. Schumer, Mr. Simon, Mr. Scheuer, Mr. Brodhead, Mr. Fauntroy, Mr. Peyser, Mr. Hughes, Mr. Shamansky, Mr. Downey, Mr. Murphy, Mr. Kildee, Ms. Mikulski, Mr. Yates, Mr. Udall, Mr. Pepper, Mr. Stark, Mr. Moffett, Mr. Shannon, Mr. Fish, Mr. Crockett, Mr. Vento, Mr. Wyden, Mr. Dymally, Mr. Dellums, Mr. Ratchford, Mr. Synar, Mr. Ford of Michigan, Mr. Ford of Tennessee, Mr. Boner of Tennessee, Ms. Oakar, Mr. Frank, Mr. Phillip Burton, Mr. John L. Burton, Mr. Roybal, Mr. Mottl, Mr. Pease, Mr. Erdahl, Mr. Ottinger, Mr. Garcia, Ms. Ferraro, Mr. Bingham, Mr. Mitchell of Maryland, Mr. Conyers, Mrs. Schroeder, Mr. Guarini, Mr. Richmond, Mr. Williams of Montana, Mr. Florio, and Mr. Solarz):

H. Con. Res. 401. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should withdraw a proposed reduction in public notice and comment opportunities; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H. Res. 574. Resolution to direct the Committee on House Administration and the Committee on Standards of Official Conduct to conduct certain investigations; to the Committee on Rules.

By Mr. PAUL:

H. Res. 575. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation which provides budget authority, including spending authority, of at least $1 billion; to the Committee on Rules.

By Mr. PICKLE (for himself and Mr. Conable):

H. Res. 576. Resolution to honor the work and achievements of Allyn Cox, N.A., D.F.A., Artist of the Capitol and those who made possible the program of beautifying the Capitol with historical murals; to the Committee on House Administration.

By Mrs. SNOWE (for herself and Mr. Pursell):

H. Res. 577. Resolution expressing the sense of the House of Representatives that the President should request levels of funding for national defense in his budget requests for fiscal years 1984 and 1985 that are not in excess of the target levels for defense spending for those fiscal years adopted by Congress in the first concurrent resolution on the budget for fiscal year 1983; to the Committee on Armed Services.

MEMORIALS

Under clause 4 of rule XXII,

459. The SPEAKER presented a memorial of the Legislature of the State of California, relative to child health care; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2222: Mr. Goodling, Mr. McCollum, and Mr. Pepper.

H.R. 2832: Mrs. Schneider.

H.R. 3298: Mr. Ralph M. Hall and Mrs. Schneider.

H.R. 4657: Mr. St Germain.

H.R. 4663: Mr. Stump and Mr. Emery.

H.R. 5006: Mr. Evans of Delaware.

H.R. 5084: Mr. Dwyer.

H.R. 5238: Mr. Boner of Tennessee.

H.R. 5653: Mr. Cheney.

H.R. 5717: Mr. Martin of New York, Mr. Forsythe, Mr. Marriott, Mr. Ritter, Mr. Weaver, Mr. Gregg, Mr. Bevill, Mr. McHugh, and Mr. Glickman.

H.R. 5818: Mr. de Lugo, Mr. Foglietta, Mr. Lantos, Mr. Oberstar, and Mr. Molinari.

H.R. 5920: Mr. McKinney.

H.R. 6230: Mr. Dyson.

H.R. 6291: Mr. Beilenson.

H.R. 6299: Mr. Smith of Alabama.

H.R. 6315: Mr. Hoyer.

H.R. 6328: Mr. Anthony.

H.R. 6348: Mrs. Snowe, Mr. Matsui, Mr. Molinari, Mr. Rangel, Mr. Dymally, Mr. Pickle, Mr. Rudd, Mr. McHugh, Mr. Hoyer, Mrs. Schneider, Mr. St Germain, and Mr. Coats.

H.R. 6391: Mr. Gore.

H.R. 6461: Mr. Patman.

H.R. 6463: Mr. Erdahl and Mr. Leach of Iowa.

H.R. 6483: Mr. Tauke.

H.R. 6488: Mr. Won Pat and Mr. Patman.

H.R. 6492: Mr. Lagomarsino, Mr. Livingston, Mr. Lungren, Mr. Mavroules, Mr. Mitchell of New York, Mr. Sensenbrenner, Mr. Tauke, and Mr. Zeferetti.

H.R. 6497: Mr. Robert W. Daniel, Jr., Mr. Lent, Mr. Beard, Mr. Wolf, Mr. Pepper, Mr. Dannemeyer, Mr. Trible, Mr. Whitehurst, Mr. Mitchell of New York, Mr. Lagomarsino, Mr. Hendon, Mr. Solomon, Mr. Dougherty, Mr. Hightower, Mr. Dunn, Mr. Bafalis, Mr. Grisham, Mr. Whittaker, Mr. Stump, Mr. Tauke, Mr. Frenzel, Mr. DeNardis, Mr. Smith of New Jersey, Mr. Zeferetti, and Mr. Won Pat.

H.R. 6529: Mr. Annunzio and Mr. Lott.

H.R. 6531: Mr. Frank, Mr. Conyers, Mr. Gray, Mr. Bereuter, and Mitchell of Maryland.

H.R. 6538: Mr. Bereuter.

H.R. 6673: Mr. Dornan of California, Mr. Gradison, Mr. Perkins, Mr. Miller of Ohio, Mr. O'Brien, Mr. Ritter, Mr. Benjamin, Mr. Evans of Georgia, Mr. Bevill, Mr. Hillis, Mrs. Ashbrook, and Mr. Roe.

H.R. 6773: Mr. Emery.

H.R. 6815: Mr. Forsythe, Mr. Jeffries, and Mr. Wilson.

H.R. 6820: Mr. DeNardis, Mr. Dreier, Mr. Frenzel, Mr. Hagedorn, Mr. Molinari, Mr. Oberstar, Mr. Sabo, Mr. Simon, Mr. Stangeland, Mr. Vento, and Mr. Weber of Minnesota.

H.R. 6825: Mr. Lent.

H.R. 6880: Mr. Robert W. Daniel, Jr., Mr. Mavroules, Mr. Emery, and Mr. Stump.

H.R. 6938: Mr. Annunzio and Mr. Stokes.

H.R. 6974: Mr. Brown of Colorado, Mr. Wirth, Mr. Kramer, and Mr. Kogovsek.

H.R. 6989: Mr. Lagomarsino and Mr. Santini.

H.R. 7012: Mr. Gilman, Mr. Daschle, Mr. James K. Coyne, Mr. Staton of West Virginia, Mr. Hall of Ohio, and Mr. Erdahl.

H.J. Res. 172: Mr. Jeffords.

H.J. Res. 486: Mr. Rangel.

H.J. Res. 496: Mr. Mollohan, Mr. Albosta, Mr. Murtha, Mr. Miller of Ohio, Mr. Nelligan, Mr. Coelho, Mr. Hendon, Mr. Jones of North Carolina, Mr. Dymally, Mr. Smith of Oregon, Mr. Snyder, Mr. Foley, Mr. Brodhead, Mr. Goldwater, Mr. Boland, Mr. Rahall, and Mr. Pepper.

H.J. Res. 532: Mr. Markey, Mr. Horton, Mr. Roe, Mr. Winn, Mr. LeBoutillier, Mr. Fauntroy, Mr. Bowen, Mr. Dwyer, Mr. Sunia, Mr. Hughes, Mr. Yates, Mr. Guarini, Mr. Vento, Mr. Evans of Georgia, Mr. Barnes, Mr. Fish, Mr. Frenzel, Mr. Rodino, Mrs. Collins of Illinois, and Mr. Williams of Ohio.

H.J. Res. 543: Mr. Tauke, Mr. Stump, Mr. Gunderson, Mr. Boner of Tennessee, and Mr. Madigan.

H.J. Res. 547: Mr. Bevill.

H.J. Res. 556: Mr. Forsythe, Mr. Edwards of California, Mr. Jeffords, Mr. Bingham, Mr. Frank, Mr. Rosenthal, Mr. Hall of Ohio, Mr. Edgar, Mr. Lehman, Mr. Rangel, Mr. Richmond, Mr. Brown of California, Mr. Gray, Mr. McKinney, Mr. Seiberling, Mr. Wirth, Mr. Conyers, Mr. Downey, Mrs. Chisholm, Mr. Wyden, Mr. Barnes, Mr. Stokes, Mr. John L. Burton, Mr. Dwyer, Mr. Dellums, Mr. Fauntroy, Mr. AuCoin, Mr. Weiss, Mr. Lowry of Washington, Mr. DeNardis. Mr. Mineta, Mr. Weaver, Mr. Oberstar, and Mr. Gore.

H.J. Res. 566: Mr. Benjamin, Mr. John L. Burton, Mr. Daub, Mr. Duncan, Mr. Goodling, Mrs. Fenwick, Mr. Florio, Mr. Foley, Mr. Forsythe, Mrs. Holt, Mr. Horton, Mr. Kindness, Mr. Lee, Mr. Matsui, Mr. Pepper, Mr. Rahall, Mr. Savage, Mr. Scheuer, Mr. Simon, Mr. Whitehurst, Mr. Yatron, Mr. Zeferetti, and Mr. Staton of West Virginia.

H.J. Res. 571: Mr. Fithian, Mr. Conyers, Mr. Mitchell of Maryland, Mr. Simon, Mr. Wolpe, and Mr. Wyden.

H. Con. Res. 314: Mr. Shuster.

H. Con. Res. 321: Mr. Bedell, Mr. Beilenson, Mr. Bingham, Mr. Bonior of Michigan, Mrs. Chisholm, Mr. Coelho, Mr. Conyers, Mr. Edgar, Mr. Edwards of California, Mr. Fazio, Mrs. Fenwick, Mr. Forsythe, Mr. Frank, Mr. Harkin, Mr. Hughes, Mr. Kildee, Mr. McHugh, Mr. McKinney, Mr. Moffett, Ms. Oakar, Mr. Ottinger, Mr. Patterson, Mr. Rodino, Mr. Roe, Mr. Schumer, Mr. Stark, Mr. Staton of West Virginia, Mr. Weiss, and Mr. Wolpe.

H. Con. Res. 355: Mr. Shamansky, Mrs. Schneider, Mr. Bedell, and Mr. Patterson.

H. Con. Res. 379: Mr. Neal, Mr. Oberstar, Mr. Gore, Mr. Ratchford, Mr. Frank, and Mr. Hertel.

H. Con. Res. 391: Mr. Coats, Mr. Frost, Mr. Edwards of Oklahoma, Mr. Edgar, Mr. Goodling, Mr. Wolf, Mr. Hughes, Mr. Edwards of California, and Mr. Corcoran.

H. Res. 506: Mr. Wortley, Mr. AuCoin, and Mr. Barnes.

H. Res. 532: Mr. Ford of Tennessee, Mr. Pritchard, Mr. Mattox, Mr. McDade, Mr. Rodino, Mr. John L. Burton, Mr. Richmond, Mr. Mottl, Mr. Matsui, Mr. Brodhead, Mr. Molinari, Mr. Conyers, Mr. Wyden, Mr. Dymally, Mr. Addabbo, Mr. de la Garza, Mr. Seiberling, Mr. Savage, and Mr. Stanton of Ohio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4576: Mr. Stump.

H.J. Res. 294: Mr. Watkins.

PETITIONS, ETC.

Under clause 1 of rule XXII,

570. The SPEAKER presented a petition of the City Council of Oakland, Calif., relative to its opposition to the expanded 1983 Federal military budget; which was referred to the Committee on Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6957

By Mr. YOUNG of Florida:

—Page 20, line 16, strike out "$799,478,000" and insert in lieu thereof, "$817,078,000".

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SENATE—*Thursday, August 19, 1982*

(Legislative day of Tuesday, August 17, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

God of all wisdom, all power and all love, we invoke Thy presence in this place today. Our Nation was born out of struggle. Strong men with strong convictions disagreed. But they prayed, and out of controversy came a great Nation. We know Lord that when two disagree, one is not necessarily right and the other wrong. Both may be wrong—or both may be right; and agreement is most difficult when both sides in an issue are right.

Somehow Almighty God, visit the Senate with Your wisdom and Your power. Make known to us the truth which transcends sides, or positions or views. Lead us to synthesis. Show us Thy will for our Nation at this critical hour as Thou didst guide our forbearers.

And gracious Father, infuse this place with Thy love. May it never be forgotten that we are one in purpose seeking the best for our Republic. In the name of Him who was Incarnate Love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, the Senate should be on notice that today will be a very busy day and it could be a very busy, long night.

We have special orders and routine morning business here this morning. At 11 a.m. we will resume consideration of House Joint Resolution 520, the debt limit bill and under the previous order of yesterday the Senator from Oregon (Mr. PACKWOOD) is to be recognized.

Mr. President, the leadership is hopeful that some agreement may be reached on the controversial issues now pending before the Senate on the debt ceiling bill, and we are hopeful that a compromise or some approach to controversial issues involved in the amendment and before the Senate will be forthcoming today.

The Senate will some time today take up the supplemental appropriations bill. That is the current plan. There is a strong possibility that we will have the conference report on the tax bill before the remainder of the day is over.

What it means, Mr. President, is that the majority leader may ask us to remain in session tonight in order to complete consideration of these matters.

It is my understanding the majority leader will make a further statement on the schedule of the Senate later today.

I ask unanimous consent that when I complete my statement here the remainder of the time be reserved for his use and that a place in the RECORD at this point be reserved for his comments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDATION OF SENATOR STAFFORD FOR INTER-PARLIAMENTARY UNION SERVICE

Mr. BAKER. Mr. President, I want to take this opportunity to commend my good friend and distinguished colleague from Vermont, Senator STAFFORD, for the exemplary and dedicated service which he has given to the Inter-Parliamentary Union. Senator STAFFORD will soon be completing his term as President of the U.S. delegation to the IPU, and is also finising his tenure as a member of the IPU's Executive Committee.

The Inter-Parliamentary Union is the oldest organization of unions. U.S. involvement in the Union predates the birth of the United Nations by almost an entire century. Throughout war and peace, the IPU has been a vital forum for the exchange of socioeconomic issues between political leaders, and has been a constructive force which has enhanced our relationship with our allies and the Third World.

When he first arrived in the Senate, Senator STAFFORD was appointed to the U.S. delegation and has since become one of our Nation's most devoted and able representatives. Membership in the IPU is a demanding and arduous assignment. It requires constant attention and hard work, and is a responsibility that many Senators would not be willing to accept.

But BOB STAFFORD has not only accepted this challenge, but made the most of it. Last year, he was cited by President Reagan for defending our country against a tirade by Castro in Cuba, and prior to that, was the driving force behind resolutions condemning the Soviet invasion of Afghanistan—the only condemnations of that invasion by any world body.

Mr. President, I believe that Congress and the citizens of our country owe Senator STAFFORD a debt of gratitude for his participation and leadership at the IPU. He has protected American interests, and has brought honor to our country in a most important international forum.

FEDERAL COMMUNICATIONS ACT AMENDMENTS

Mr. STEVENS. Mr. President, I understand this has been cleared with the minority.

Mr. PROXMIRE. It has indeed. There is no objection on our side.

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3239.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House disagree to the amendments of the Senate to the bill (H.R. 3239) entitled "An Act to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.
>
> *Ordered*, That Mr. Dingell, Mr. Wirth, and Mr. Broyhill be the managers of the conference on the part of the House.

Mr. STEVENS. Mr. President, I move that the Senate insist on its amendments and agree to a conference as requested by the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. GOLDWATER, Mr. STEVENS, and Mr. CANNON conferees on the part of the Senate.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I understand that I may use a small portion of the minority leader's time and I reserve the remainder of his time for his use later.

WHO REMEMBERS THE ARMENIANS?

Mr. PROXMIRE. Mr. President, I have recently received a letter from an Armenian American who is distressed over the world's amnesia regarding the first genocide of the 20th century, that against the Armenians of the Ottoman Empire. This terrible episode has become the "forgotten genocide" of modern times. History records that it began in April of 1915, when the Empire uprooted the Armenian inhabitants and forced them to migrate on foot. The letter recounts what happened:

> The Armenian people . . . were . . . deported from every city, town, and village of Asia Minor and Turkish Armenia. In most instances during the death marches, the men were quickly separated and executed soon after leaving town. The women and children were marched for weeks into the Syrian desert; thousands were seized along the way, forcible converted to Islam, and raised in Turkish homes and harems. The majority of the deportees died of starvation and disease during the forced marches. Many others were murdered brutally. During the years 1915-1922, 1,500,000 Armenians were killed and more than 500,000 exiled from the Ottoman (Turkish) Empire. Thus, the Armenian Community of the Ottoman Empire was virtually eliminated as a result of a carefully executed government plan of genocide.

Eyewitness accounts alerted a horrified world to these massacres almost immediately. On May 24, 1915, the Triple Entente nations of Britain, France, and Russia declared that they would hold all the members of the Ottoman Government personally responsible for the fate of the Armenian people.

Yet only two decades later, the slaughter of the Armenians had faded from the memory of the world. Adolph Hitler scoffed at the notion that he would go down in infamy for perpetrating the Holocaust. He would ask: "Who remembers the Armenians?" Just as popular wisdom has it, history forgotten is history repeated. How many times must me vow, "never again?" We can never stop learning the lessons from the "final solutions" of the past.

We should never let anyone ask of the Armenians, or of the Jews, or of any others, "Who remembers?" Nor should anyone ask, "Who cares?" or "Who would bring me to justice?" If only the U.S. Senate would ratify the Genocide Convention, we could announce with conviction that we will remember, we will care, and we will bring the guilty to justice. Let us insure that the horror of genocide stays alive in our collective conscience, that those who may consider such a crime will be shamed and deterred, and that no future Hitler shall shrug off the prospect of a judgment day.

BIOLOGICAL WARFARE BY U.S.S.R. RAISES ARMS CONTROL QUESTIONS

Mr. PROXMIRE. Mr. President, those who believe strongly in the prospects and promises of arms control, and I count myself among that group, are faced with a critical problem. How do we interpret the meaning of the apparent violation of the Biological Warfare Convention by the U.S.S.R.?

This issue tests our dogma that the Soviets will keep any treaties entered into and that while they may press treaty restrictions to the limit they will not willfully disregard them.

Arms controllers also have long believed that the step-by-step process of reinforcing relationships creates the climate for successful arms control.

But now there is growing evidence that the Soviets have experimented with biological warfare in Southeast Asia through their allies the Vietnamese.

If the Soviets have violated the Biological Warfare Convention, then what does that mean for the SALT or START process? Will they violate nuclear arms control agreements if conditions favor such action? Is a paper signature security enough against cheating?

Mr. President, I think it is time that the arms control community address these issues head on. I believe there are answers—answers that revolve around verification and compliance procedures which are lacking in the Biological Warfare Convention.

But if nothing else, the Soviet activity in biological warfare should give us pause for it signals the need for the toughest kind of verification procedures in subsequent arms control agreements.

Mr. President, I ask unanimous consent that two articles from the Washington Post discussing some of these issues be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Aug. 17, 1982]

Is It Worth Negotiating With The U.S.?—Consider the Case Of the Nuclear Test Ban Treaty

(By Bruce A. Bishop)

A most interesting aspect of the current debate on nuclear arms control is the lack of comment on the Reagan administration's foreclosure of further negotiations on a Comprehensive Test Ban Treaty (CTB). There were news stories reporting President Reagan's decision to stop negotiations for a treaty, but I've seen no follow-ups of any substance anywhere in the media or on Capitol Hill.

Reagan's sincerity on nuclear arms control and eventual disarmament is once again in question.

The president's excuse for ceasing efforts to obtain a CTB is that his administration will instead seek to upgrade, or perfect, the Threshold Test Ban (TTB) and the Peaceful Nuclear Explosions (PNE) treaties, with respect to the means of verification of those instruments.

"Verification" is the question raised consistently by those who have time after time opposed any ban on the testing of nuclear explosives. Arms designers and some in the military have raised this scarecrow every time it appeared likely that any administration was going forward with a test ban treaty, and they have propagandized Congress and the nation with it.

Now Reagan has abandoned an effort started during the Eisenhower administration and carried forward by every president since, on which considerable progress has been made.

The whole idea of a Comprehensive Test Ban Treaty is to make verification unnecessary. With a CTB in force, the world could simply watch its seismographs, and any suspicious "earthquake" would be subject to immediate question. "National Technical Means" of observation—a euphemism for spy satellite—insure observation of any atmospheric tests.

It is generally agreed among arms control specialists that the provisions for verification of nuclear explosions already included in the TTB, the PNE and in SALT II could render Russian cheating almost immediately observable. Experts from a variety of public and private agencies here generally agree that if the provisions already accepted by the Soviet and American negotiators were ratified and therefore functional, a nuclear explosion of 0.5 kilotons could be verified almost immediately anywhere in the world. Yet the Reagan administration continues to allege that an explosion of 150 kilotons, or 300 times as large as 0.5 kilotons, would be unverifiable.

The Russians have a justified reputation for being tough negotiators. The Standing Consultative Commission (SCC), a super-secret joint American-Soviet body established under the provisions of the SALT I Treaty, which became effective in 1972, provides part of the record on Soviet capacity to live up to agreements. A former U.S. representative on the SCC, Sidney N. Graybeal, told the Senate Foreign Relations Committee in 1979: "I do not believe that the Soviets would enter into any agreement which required them to cheat in order to attain their military objectives, or on which they planned to cheat."

Graybeal pointed out to the committee that the Russians have lived up to the letter of any nuclear arms treaty they have signed. "This is not to say that they will not press the agreement to its limit . . . " Graybeal said. However, with respect to the Soviet propensity to cheat, Graybeal also concluded that "the risk of being caught is always greater than zero."

The Soviets, in fact, have agreed to verification methods for the three treaties in question that would have been unthinkable in the political climate 25, or perhaps even 10 years ago. These methods include the use of tamper-proof instrumentation for on-site installation and on-site seismic devices. The Soviets have even agreed to allow on-site inspection by specialists in case of ambiguous

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events. This is an unprecedented political concession by the Soviets and, if acted upon by the United States could have lasting effects on the ability of the two superpowers to control nuclear arms.

It is this last fact that scares the pants off the weapons designers and the military. As one analyst here in Washington has said, the Joint Chiefs "turn pasty white at the idea" of Soviet specialists running around the testing sites of Nevada and New Mexico. The military and the weapons designers want to conduct a whole new series of tests of a new generation of weapons, and that is their reason for being unenthusiastic about the appearance of Russian technicians at American test sites. They have been talking for years about the need for verification and now, with verification nearly at hand, they are backing away.

The cries about verification, in the context of the new Russian willingness to verify, also lends credence to the general belief among arms specialists that the Reagan administration wishes to depend on nuclear weapons for our security, instead of negotiating arms control or limitations on arms.

With a CTB, we could—or perhaps will—establish the principle that the United States is committed to arms control. We will have gotten major concessions from the Soviet Union. However, a CTB is not the be-all and end-all. It will represent, if we can attain it, only one more step down the road to the control and possible banning of the use of nuclear weapons.

Arms control specialists are disturbed that the Reagan decision to end efforts for a CTB is evidence that the administration is caving in to the demands of the weapons designers and the military—the whole bureaucracy at the Department of Defense, the Department of Energy, which manufactures the bombs, and other elements that oppose nuclear arms control.

Some officials at the Arms Control and Disarmament Agency are concerned that the White House staff, some at the Department of State and many at the Pentagon seem to believe that the nuclear freeze movement here and abroad will wither away. If this is so, they and Reagan must be depending on the silence of the press and the preoccupation of Congress for help in preventing examination of the record.

An Interview With Fred Ikle—There's Reason for Our Caution About Dealing With the Soviets

Q: There is quite a history, not just in this administration, but generally in American governments lately, of either participating heavily in negotiations or actually going so far as to sign agreements and then somehow walking away from them. We think of SALT II, Law of the Sea, Threshold Test Ban and Peaceful Nuclear Explosion, a couple of fishing treaties with Canada. There is a record of this. What accounts for it?

A: I don't know whether other governments have a better record in ratifying the treaties that they sign, other governments that have a democratic ratification process. But you're right: it's happened before, from the League of Nations onward and probably backward, too. The Geneva Protocol of 1925, prohibiting the first use of chemical weapons, was negotiated with a lot of U.S. inspiration, and it was not ratified until 1975. I was myself involved in taking it to the Senate for ratification.

That incidentally is one of the agreements that the Soviet Union violated by using chemical weapons in Afghanistan. Then, there's been a long hassle about the genocide convention.

What accounts for these difficulties of ratification? Maybe our constitutional structure: the Senate's two-thirds requirement, and the fact that in a change of administrations there's almost always a certain change in foreign policy.

Q: But is there no feeling of the sanctity of the contract, the gravity of the treaty? Would it not be desirable to have such feelings come to be the political norm?

A: Well, we shouldn't walk away lightly from any international agreement that has been signed by the president. But there are two steps—signature and ratification—and this is understood by other governments that negotiate with the United States.

Q: Let us take the threshold test ban and the peaceful nuclear explosion agreement, which were signed in '76. You were involved in both. What is the American ratification problem? What is the hangup?

A: There are three hangups. First, at the end of the Ford administration we had to package together the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty because they are legally linked. But it was too late in the administration to get ratification.

Early in 1977, the Carter administration decided to submit these twin treaties to the Senate for ratification, and I remember myself testifying in behalf of ratification together with Paul Warnke. The Senate Foreign Relations Committee was about to vote out favorably the recommendation for ratification when the Carter administration pulled the package back because they felt it would divert from the effort to get a comprehensive test ban treaty, banning all tests, regardless of size.

After that the Carter administration did not want to submit it throughout the four years. Once they'd pulled it back, they just left it lying there.

In the Reagan administration, we do not have the concern that these twin treaties would interfere with a comprehensive test ban. But we have deeper concerns about their verifiability. That is because we have had some additional experience with the Soviet test program. That program was supposedly under the limits negotiated in the threshold treaty. We had an agreement worked out between the Soviet Union and us to temporarily observe these limits, even without ratification. But for many tests, it was impossible for us to know enough.

Q: Why? Was some evidence developed in the intervening five years that gave you grounds for reservations about the verifiability?

A: Right. Facts that were not that clear in '74 when we negotiated that treaty came to light. We saw these seismic signals coming in from Soviet tests, and in several instances throughout the late '70s, we really were unable to determine whether the test wasn't substantially at a larger yield than the agreement allowed.

Q: That's a statement with some heavy implications—an argument for those who will say, "Well, you can't *ever* be sure. Something might turn up. We'd better wait." It makes it very hard to call positively for the ratification of anything.

A: Well, there are two things that happened that made us more concerned. One, we learned somewhat more about how difficult this seismic analysis would turn out to be. Two, as a backdrop to this uncertainty, we had had the experience of the violation of the biological weapons convention, which had been signed in 1972 and ratified in 1975.

In the early '70s, we had the view that the Soviet Union would probably not violate a treaty if doing so was of marginal military value—even if verification would be rather difficult. We felt if there was at least a chance of detection, the Soviet Union would not want to run the risk of the reaction that would occur in event of such discovery. Now, after what has happened on the biological weapons convention, we no longer have this comforting expectation.

Q: What you're talking about then is not so much the result of new scientific techniques of monitoring. It is a new or different *political* interpretation—a difference in judgment not about science but about Soviet intentions and reliability. Whether or not it is justified, it does mean we will change our terms in mid-negotiation. So is there any way we can establish some consistency in our negotiation? What guarantee can we give anyone, not just in terms of ratifying a treaty that's been signed but of the continuity of the thinking of our negotiators, that they are not wasting their time?

A: I think the issue is more narrow here. It's not a general problem of American unreliability. There's not a broad overall revision of American views on the Soviet Union. There's one particular revision: our view of the reliability of arms control agreements for which verification is inadequate or marginal.

In earlier years, we felt since all the arms control agreements in some sense hang together and since there seemed to be a Soviet interest in arms control, the Soviet government would not want to incur the risk of undermining this entire edifice by violating a few agreements here and there, where they might get away with it because they were hard to verify. After what we have learned of the "yellow rain"—the Soviet use of prohibited biological weapons—we can no longer think that way. That doesn't mean that we don't want to negotiate. Obviously, we are negotiating.

Q: Then you don't think this changeability reflects something distinct or characteristic of this country as a negotiator?

A: No. Just recall the nuclear nonproliferation treaty. There was a long list of countries that had signed, but it took years and years to get the ratification, in some cases 10 years. I don't think American habits are particularly bad in this respect.

Q: Earlier in the '70s there was a common feeling that negotiations with, especially with, the Soviet Union were very difficult but were a necessary instrument for achieving American security interests. This administration does not put so much reliance on serving our security by means of negotiating agreements with the Soviet Union but rather by steps that we take on our own. What are the implications of this?

A: I believe it would be fair to say that the Reagan administration takes a more pragmatic view toward negotiating with the Soviet Union, that it thinks this is just one process among many processes of dealing with the Soviet Union. In particular that the approach of the Carter administration of considering the SALT negotiations almost the be-all and end-all of our relationship with the Soviet Union, that approach was mistaken.

Under the best of circumstances strategic arms limitation agreements could only cover a small sector of our military relationship and a smaller sector even of our overall relationship, but the Carter administration seemed to feel that really the entire U.S.-Soviet relationship hinged on SALT.

Q: So that even if this administration had to deal in our political arena with the charge that it backed off from an agreement negotiated by three presidents, not just Carter, and had thus incurred some suggestion of unrealiability, you think that this is a lesser charge, that this is a lesser price to pay considering the gains that come about by virtue of adopting a firmer security policy?

A: Well, if you're talking about the SALT II agreement, first of all, it's two presidents, Presidents Ford and Carter. The treaty was submitted by the Carter administration to the Senate and encountered a lot of criticism, mixed reaction without coming to a vote in the Senate, a negative reaction in the Senate Armed Services Committee, and in the end the treaty was pulled back from ratification by the Carter administration. So the president, who was instrumental in negotiating the greater part of that very treaty, himself didn't push it.

Q: We have a situation now where a particular MX basing option, Dense Pack, is being studied and the question arises as to whether that would be consistent with the ABM treaty on one side and perhaps with some provisions of SALT I on the other. Are those considerations that are real, that are troubling at all?

A: Well, they are important considerations. If and when there is a concrete proposal, we would obviously have to review it and see whether it would require a change in the ABM treaty. At this time, we do not have any proposal for an ABM system to protect the MX deployment that is sufficiently advanced to make this judgment. Likewise, once the particular way of basing the MX is developed in final form, we have to see whether our temporary policy of not undercutting the SALT provisions can be continued or has to be discontinued.

The ABM treaty is a valid treaty; there is no question about undercutting or not undercutting. If there was a conflict between an important way of protecting the MX and the ABM treaty, that would then raise the question of whether or not we want to try to renegotiate the treaty. But it's clear that we are legally bound to abide by the ABM treaty.

Q: So if matters come to that, it's not a question of violating that treaty, it's a question of attempting to change the terms of it?

A: Correct.

Q: Could public confidence and public interest in arms control negotiation as a method of serving our security survive the reopening of the ABM treaty? The ABM treaty and SALT are popularly regarded as the bedrock, the scripture, what negotiations are all about. Once you start going into those, what do you have left?

A: I beg to disagree. The opinion polls went quite strongly against SALT II, particularly when the issue of ratification was a prominent issue in the Senate, and in opinion polls support for SALT II often fell below a majority of the public. On the other hand, the ABM treaty, among the people who focused on it, is probably regarded as a more solid treaty.

But in a way, the belief in arms control, I think, is surprisingly sturdy, maybe almost too sturdy. And one might wonder whether the belief should not be shaken more by the fact that the very party with which we are currently negotiating treaties has been caught violating a treaty.

Well, here's a partner with whom you are dealing in a particular area and in this very area where you are trying to make additional contracts he has violated an important contract, yet you continue to negotiate contracts with him.

Q: You're saying then that, in effect, our changeability in negotiating is a lesser problem, a lesser offense than the fact that our principal negotiating partner negotiates a law and then cheats?

A: Oh, indeed, an immensely lesser offense.

Mr. PROXMIRE. Mr. President, I yield the floor.

S. 2857—NATIONAL PORT DEVELOPMENT AND CUSTOMS REVENUE SHARING ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, I am today introducing legislation designed to address the need to develop and improve America's commercial ports so that we can take full advantage of the opportunities in the world market for American coal.

The bill I have introduced carries with it the following cosponsors: Senators RANDOLPH, FORD, HUDDLESTON, BRADLEY, and HEINZ. I anticipate that other Senators on both sides of the aisle—and I invite Senators on both sides of the aisle—will join my effort to improve our Nation's ports.

The world is looking to coal as a major alternative to OPEC oil. It is estimated that there will be an expanding long-term world demand for U.S. steam coal through the rest of this century. U.S. steam coal exports could be as high as 79 million tons by 1990, as compared to about 16 million tons in 1980. U.S. metallurgical coal exports could be as high as 55 million tons. By the year 2000, U.S. steam coal exports could improve our international balance of trade by $6 billion in 1990 and $14 billion by the year 2000.

In 1980 the United States experienced a dramatic upsurge in demand from Europe and the Pacific rim nations. Overseas demand for U.S. coal was 72.8 million tons, including steam and metallurgical coal. Overseas demand for our steam coal was more than 16 million tons, a sixfold increase over 1979. The value of all U.S. coal exports was about $4.5 billion in 1980, which should be considered against that year's trade deficit of $24 billion.

This bright future for U.S. coal exports is not assured. Price is one of the major factors which will play an important role in determining the extent to which the full potential for U.S. coal exports can be realized. Since ocean transportation costs represent from 20 to 30 percent of the delivered cost of the coal, there is a strong economic incentive to search for ways to lower costs. The use of large "super-colliers," ships which are 150,000 deadweight tons and over, to transport coal to overseas markets is one attractive alternative. However, these ships require channel depths of 55 feet. The deepest U.S. port has a depth of 51 feet. Consequently, American ports can only accommodate ships of 80,000 to 100,000 deadweight tons. If our ports could accommodate the larger ships to transport American coal overseas, transportation costs could be lowered by as much as 40 percent. This would be a significant reduction, since U.S. steam coal exports are currently priced about $4 per ton above the world price of steam coal.

The tragedy of this situation is that over the years our attention has been called to the problem of developing America's ports by various studies, reports, and the testimony of expert witnesses at congressional hearings. It seems that anyone with any concern for the future competitiveness of American coal in overseas markets has warned us that we may allow a golden opportunity to slip through our fingers like sand.

Mr. President, we seem no closer today to addressing the problem of improving America's port system. Given the magnitude of the opportunity which lies before us, it would be a travesty of prodigious proportions if we failed to move forward to help improve the competitive position of American coal in the world market.

U.S. PORT DEVELOPMENT: A 200-YEAR PARTNERSHIP

The national system of 189 deep-draft commercial ports and 25,000 miles of navigable inland waterways is the result of a 200-year old partnership between the Federal Government and the States (operating through ports, municipalities, and State port authorities). The partnership has proven to be a successful demonstration of American federalism, where the Federal Government pays the cost for maintaining and improving the ports and the States pay the costs for landside and other developments.

As a result, the Federal Government has invested (since 1824) about $1 billion for improving and maintaining the navigability of deep-draft commercial ports. Local ports and the private sector have invested about $40 billion in terminals and other landside facilities.

Recently, however, there has been an effort to bring about changes in U.S. port development policy. In the Senate, the administration is supporting a legislative proposal which would dramatically change the terms of the Federal-State partnership. That proposal, sponsored by Senators ABDNOR and MOYNIHAN (S. 1692), would require that 25 percent of Federal maintenance costs for the Nation's ports be recovered by the local port authority through the imposition of user fees. New harbor construction dredging would be paid for entirely by the local port authority. These provisions are

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strongly opposed by the small and medium-sized ports. User fees tend to discriminate against low-volume, high-maintenance-cost ports. In addition, under S. 1692 it is highly unlikely that any small port could afford to pay all the costs of construction dredging.

PORT DEVELOPMENT AND INTERNATIONAL TRADE

In the context of a world economy which is becoming increasingly competitive, port development is important for maintaining the competitive position of the United States. There is cause for concern. We are falling behind our most aggressive competitors in the area of port development.

Ports play a key role in international trade, and improvements in some of the 2,000 major world ports lead to pressures for improvements in others. During the seventies, at least 30 major ports undertook significant navigation improvements in order to expand trade handling capacity. This is in contrast to the United States which, by any measure, lags behind the rest of the world in this area. Indeed, there has not been a single navigation improvement project initiated in the last decade. The apparent lack of Federal support for port development in the United States is in contrast to the policy of national governments in most developed nations, where at least half the cost of construction and the entire cost of maintaining ports is financed by those governments.

NATIONAL ECONOMIC BENEFITS

The costs of port development are a good investment, for international trade represents a significant source of revenue to the United States and provides a stimulus to economic development. Customs revenues are the fourth largest source of revenue for the General Treasury. In 1981 customs revenue amounted to about $9.2 billion. According to the U.S. Bureau of Customs, customs revenues are expected to reach $13.8 billion in 1967.

In addition, it is estimated that America's ports make a direct contribution to the GNP of over $35 billion and are credited with the creation of about 1 million jobs in the domestic economy.

POTENTIAL U.S. EXPORT COAL MARKET

The world is looking to coal as a major alternative to OPEC oil. It is estimated that there will be an expanding long-term world demand for U.S. steam coal through the rest of this century. U.S. steam coal exports could be as high as 79 million tons by 1990, as compared to about 16 million tons in 1980. U.S. metallurgical coal exports could be as high as 197 million tons. At those levels, U.S. coal exports could improve our international balance of trade by $6 billion in 1990 and $14 billion by the year 2000.

In 1980 the United States experienced a dramatic upsurge in demand from Europe and the Pacific rim nations. Overseas demand for U.S. coal was 72.8 million tons, including steam and metallurgical coal. Overseas demand for U.S. steam coal was more than 16 million tons, a sixfold increase over 1979. The value of all U.S. coal exports was about $4.5 billion in 1980, which should be considered against that year's trade deficit of $24 billion. This bright future for U.S. coal exports is not assured. Price is one of the major factors which will play an important role in determining the extent to which the full potential for U.S. coal exports can be realized. Since ocean transportation costs represent about 20 to 30 percent of the delivered cost of the coal, there is a strong economic incentive to search for ways to lower costs. The use of large "supercolliers," ships which are 150,000 deadweight tons and over, to transport coal to overseas markets is one attractive alternative. However, these ships require channel depths of 55 feet. The deepest U.S. port has a depth of 51 feet. Consequently, American ports only accommodate ships of 80,000–100,000 deadweight tons. If our ports could accommodate the larger ships to transport American coal overseas, transportation costs could be lowered by as much as 40 percent. This would be a significant reduction, since U.S. steam coal exports are currently priced about $4 per ton above the world price of steam coal. It is expected that about 25 percent of the world's coal export tonnage will be carried by these supercolliers in 1985, and 44 percent by 1990.

I am today introducing legislation, the Port Development and Customs Revenue Sharing Act. First, my bill would establish a national policy based upon a recognition of the significance and importance of waterborne commerce to America's economic well-being.

Second, my bill would authorize the use of customs revenues to pay for the deep-draft channel operation, maintenance, and navigation improvements. A portion of the gross customs revenues would be put in a $750 million Customs Revenue Sharing Trust Fund. Financing for port development and maintenance would come from that trust fund.

Third, my bill would establish an orderly procedure for authorizing necessary maintenance, operation, and deep-draft navigation improvements, and would give us reasonable and fair ways to grant necessary Federal permits needed for such improvements.

Finally, my bill would continue the traditional Federal role relationship to ports which are between 14 and 45 feet in depth. However, for ports with navigation improvements deeper than 45 feet, there would be 50–50 cost sharing between the Federal Government and the local port authority. The additional operation and maintenance required by the deeper channel would also be subject to 50–50 cost sharing.

Mr. President, we must act now to put the Nation in a position to take full advantage of the opportunity which awaits the American coal industry and the American economy. I am convinced that my bill addresses that need and will help establish the future position of the United States and the American coal industry in the world coal market.

Mr. President, I ask unanimous consent that my bill be appropriately referred and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Port Development and Customs Revenue Sharing Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) it is in the national interest to maintain and develop a viable marine transportation system within the United States, including a network of commercial deep-draft seaports adequate to accommodate the needs of foreign and domestic commerce, promote economic stability and provide for the national security of the United States;

(2) development and maintenance of the national system of transportation necessary to promote and accommodate foreign and domestic waterborne commerce has been accomplished through a productive partnership of the Federal Government, States, port authorities and private commercial enterprises, in which the Federal Government has developed and maintained the navigability of deep-draft channels and harbors and facilitated maritime commerce, while States, port authorities and private commercial enterprises have provided the necessary landside port facilities and other navigation improvements necessary to accommodate foreign and domestic waterborne commerce;

(3) while each of the deep-draft ports has its own concerns, problems, and opportunities which affect the flow of international and domestic commerce, it is in the public interest to treat each port as an essential component of the national port system to facilitate the waterborne commerce of the Nation;

(4) ports in the United States are significant generators of national and regional revenue and customs revenues and are promoters of exports to improve the United States balance of trade, providing economic stability and growth; domestic and foreign shippers, producers, consumers, and receivers of international commerce have been well-served by the Nation's unified seaport system; and

(5) there have been costly delays in the authorization of, and the granting of required Federal permits for, new deep-draft navigation projects, and there is a backlog of economically justified projects which, if

implemented, would enhance the overall efficiency of the waterborne transportation system of the Nation.

(b) It is the purpose of this Act to—

(1) provide a national policy that recognizes the significant role and importance of waterborne commerce to the economic well-being of the United States;

(2) establish a procedure to facilitate the orderly authorization of necessary maintenance, operation, and construction projects for deep-draft navigation improvements and to provide consistency and predictability in the granting of required Federal permits with respect to such projects;

(3) expedite the permitting, authorization, and funding of deep-draft navigational improvements necessary for the Nation to compete effectively in export markets for coal, grain, and other commodities, and to import necessary commodities in cost-effective fashion;

(4) authorize the use of revenue from customs duties to finance necessary deep-draft channel operation, maintenance, and navigation improvements to the port system which generates these customs revenues;

(5) continue the traditional Federal role in performing operation, maintenance, and navigation improvement projects between 14 and 45 feet in depth;

(6) provide for cost-sharing between the Federal Government and public port authorities for the cost of navigation improvements for channels with depths greater than 45 feet and the operation and maintenance of such improvements; and

(7) relieve the Saint Lawrence Seaway Development Corporation of its construction debt and treat the Seaway on a fair and equitable basis as part of the overall port system of the Nation.

DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "deep-draft commercial port" means any port, harbor, or other place within any State that—

(A) is open to public navigation;

(B) has a federally authorized channel at least 14 feet in depth at mean low water (or mean low low water on the Pacific coast); and

(C) is subject to operation by a public port authority, or private port interests;

(2) the term "existing channel" means a channel which—

(A) is in a deep-draft commercial port having a depth of not less than 14 feet;

(B) was authorized by Congress, and its construction was completed before the date of enactment of this Act; and

(C) an agreement pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) was executed prior to December 31, 1981;

(3) the term "access channel" means a channel associated with a particular pier, dock, or ancillary harbor facility which is not a federally maintained channel, but which is required in order to provide access from such pier, dock, or ancillary harbor facility to a federally maintained channel;

(4) the term "navigation improvement project" means a project authorized by Congress to increase the depth of any channel and modify other required features (other than an access channel) in a deep-draft commercial port;

(5) the term "maintenance project" means any dredging or other operation and maintenance, deemed necessary by the Secretary pursuant to section 5 of this Act—

(A) for a channel, regardless of whether the operation and maintenance, or any portion thereof, will be undertaken by the Secretary or by persons under contract to the Secretary; and

(B) for the access channels, and berthing areas associated with that channel, that will be undertaken by a public port authority, or by persons under contract to such an authority, or by any other entity allowed by State and Federal law to undertake such operation, maintenance, or dredging of non-Federal channels;

(6) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers;

(7) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory of the Pacific Islands, and any other territory and possession over which the United States exercises jurisdiction;

(8) the term "public port authority" means—

(A) a State;

(B) a political subdivision of a State;

(C) an authority, established for the purpose of developing or operating a deep-draft commercial port, under an interstate compact or under a law or ordinance of, or a charter issued by, a State or political subdivision thereof; or

(D) any other entity, public or private, designated by a State, political subdivision, or authority pursuant to subparagraph (C) established to operate, maintain, or improve deep-draft channels, or to help finance such operations, maintenance and improvements; and

(9) the term "customs revenues" means any duty or penalty levied pursuant to the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including any duty or penalty levied pursuant to the Tariff Schedules of the United States, any countervailing duty, any antidumping duty, and any excise tax collected by the Customs Service pursuant to any statutory authority.

CUSTOMS REVENUE SHARING TRUST FUND

Sec. 4. (a) There is established in the Treasury of the United States a fund known as the "Customs Revenue Sharing Trust Fund" (hereafter in this Act referred to as the "Fund"). The Secretary of the Treasury shall administer the Fund and shall invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest bearing obligations of the United States.

(b) The Secretary of the Treasury shall pay into the Fund not later than October 31, 1983, and not later than each October 31 occurring after October 31, 1983, an amount equal to 7 per centum of all customs revenues collected during each preceding fiscal year, beginning with the fiscal year ending on September 30, 1982, until there are $750,000,000 in the Fund. The Secretary of the Treasury shall maintain the Fund at $750,000,000. In the event that all revenues and interest derived therefrom exceed $750,000,000, the amount in excess shall be applied as payments in the following order:

(1) payment on interest for any amount borrowed for the Fund;

(2) payment on the principal of any amount borrowed for the Fund; and

(3) payment into the general fund of the Treasury.

(c) The Secretary of the Treasury shall deposit $187,500,000 from the Treasury into the Fund no later than October 31, 1983. Such amount shall be repaid into the Treasury, with interest, in accordance with terms to be determined by the Secretary of the Treasury.

(d) The Secretary is authorised to expend money from the Fund as may be necessary to conduct the operation, maintenance, and navigation improvement authorised by Congress pursuant to this Act.

(e) Congress shall make an annual appropriation from the Fund in order to pay for the operation, maintenance, and navigation improvements authorized by Congress pursuant to this Act. The Secretary of the Treasury is authorized to expend the money from the Fund as may be necessary to conduct the operation, maintenance, and navigation improvement authorized by Congress pursuant to this Act.

(f) All moneys in the Fund which have not been allocated by the end of the fifth full fiscal year after the Fund begins to collect money, and at the end of each fifth fiscal year thereafter, shall revert to the Treasury.

(g) Beginning October 1, 1984, and at the end of each fiscal year thereafter, the Secretary of the Treasury shall submit to the Senate Appropriations Committee and the House Appropriations Committee a report on the status and operations of the Fund, including a specification of—

(1) all revenues accured in the Fund and the source of such revenues; and

(2) each amount expended from the Fund and the recipient of each such amount.

MAINTENANCE PROGRAM FOR COMMERCIAL PORT CHANNELS

Sec. 5. (a)(1) Within 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive port maintenance program that specifies, with respect to each deep-draft commercial port—

(A) those non-Federal maintenance projects requiring Federal permits during the 5-year period beginning after the close of the 60th day referred to in section 6(a);

(B) existing Federal maintenance projects for existing channels required during the 5-year period in subparagraph (A) and any additions deemed necessary by the Secretary; and

(C) the alternate sites at which dredged or fill material resulting from the projects referred to in subparagraphs (A) and (B) should be disposed and the conditions of disposal.

(2) In preparing the comprehensive port maintenance program required under paragraph (1), and in preparing revisions to and reapprovals of approved maintenance projects under this Act, the Secretary shall consider, among other factors the findings, conclusions, and recommendations of the study required under section 158 of the Water Resources Development Act of 1976 (33 U.S.C. 540 note).

(b)(1) The comprehensive maintenance program required under subsection (a) shall be accompanied by a programmatic environmental impact statement prepared by the Secretary in consultation with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, and the Fish and Wildlife Service.

(2) In preparing the comprehensive port maintenance program and the programmatic environmental impact statement, the Secretary shall publish the proposed program and an environmental impact statement

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summary in the Federal Register 18 months after the date of enactment of this Act, and shall receive comments thereon for 60 days after publication. He shall consider such comments in preparing his final program.

(3) At the conclusion of the comment period, the Secretary shall conduct at least one public hearing concerning the proposed program and the accompanying environmental impact statement. The Secretary, at his discretion, may hold any further public hearings he deems necessary. No other public hearings or public comment periods shall be required after completion of the environmental impact statement.

(c) Nothing in this section shall affect the conduct of the Federal maintenance program or any non-Federal maintenance project prior to the date of completion and approval of the port maintenance program required by this section nor shall it affect the completion of any maintenance project authorized prior to such date.

PROCEDURES FOR ADOPTION AND REVISION OF MAINTENANCE PROGRAM

Sec. 6. (a) The Congress may approve the maintenance program required under section 5 by adopting a concurrent resolution approving the program. To the extent practicable, the Congress will act on such concurrent resolution before the close of the 60th day, as determined under section 14, after the date on which the program is delivered to Congress. Each such concurrent resolution introduced in the House of Representatives shall be referred to the Committee on Public Works and Transportation, and each such concurrent resolution introduced in the Senate shall be referred to the Committee on Environment and Public Works. Each project included in the program that is approved by Congress under the preceding sentence shall be treated as an approved project for purposes of subsection (b), and the Corps of Engineers shall carry out the approved projects within 5 years. Approval pursuant to this subsection shall be deemed to grant all necessary Federal approvals and permits, and to conclusively establish the adequacy of the environmental impact statement.

(b)(1) After the 60th day referred to in section 14(c), the Secretary shall periodically submit to Congress, subject to section 14, documents containing one or more of any of the following:

(A) such changes to approved non-Federal maintenance projects as he deems necessary or appropriate;

(B) any dredging or other operation and maintenance deemed necessary by the Secretary under section 12 for navigation improvement projects and for associated access channels and berthing areas; and

(C) a supplement to the programmatic environmental impact statement required by section 5(b).

(2) In preparing revisions, the Secretary shall publish the proposed revision in the Federal Register, receive public comment thereon for 30 days after publication, and consider such comments in preparing any such revision proposal to Congress.

(3) If Congress approves the change, or the dredging, or operation and maintenance, as the case may be, set forth in the document, then the change, or dredging, or operation and maintenance, shall be carried out by the Corps of Engineers within 5 years of the date of approval.

(4) Approval pursuant to paragraph (3) shall be deemed to grant all necessary Federal permits, authorization, and approvals for operation and maintenance to proceed, and shall be deemed conclusively to establish the adequacy of the accompanying supplemental environmental impact statement or environmental assessment.

CONSOLIDATED PERMIT PROGRAM FOR PORT DEVELOPMENT PROJECTS

Sec. 7. (a) There is hereby established a consolidated port development permit program which shall be administered by the Secretary. A consolidated port development permit shall constitute all necessary permits, authorizations, and approvals required under Federal law in order to construct, operate, and maintain a navigation improvement project and any shoreside installations ancillary to the navigation improvement project. Upon grant of such a permit, the Secretary shall submit appropriate amendments to the maintenance program described in section 5 of this Act.

(b) A public port authority which has filed applications under otherwise applicable Federal permit requirements, shall have the option to apply for a consolidated port development permit in lieu of such other permits. Permits which the public port authority has already granted prior to the enactment of this Act, shall not be reexamined in the consolidated port development permit proceeding, but shall, at the option of the public port authority, be made part of any consolidated port development permit which the Secretary may issue to the public port authority, and may be reviewed only under the judicial review provisions of this Act.

(c) For the purposes of this section, any entity allowed by State and Federal law to undertake operation, maintenance, or improvement with respect to non-Federal channels may apply for a consolidated port development permit for such work in the same fashion as a public port authority.

(d)(1) A public port authority making an application under this section shall submit detailed plans to the Secretary. Within 21 days after the receipt of an application, the Secretary shall determine whether the application appears to contain all of the information required by paragraph (2). If the Secretary determines that such information appears to be contained in the application, the Secretary shall, not later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Secretary determines that all the required information does not appear to be contained in the application, the Secretary shall notify and advise the applicant of the necessary steps to bring the application into substantial compliance with paragraph (2).

(2) Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—

(A) the proposed cost-sharing agreement, if any, pursuant to section 8;

(B) a request for the Secretary's engineering feasibility determination pursuant to section 8 on the basis of either (i) feasibility studies for which Congress has appropriated the necessary funds; or (ii) engineering feasibility studies prepared by an independent third-party contractor and submitted to the Secretary by the applicant; or (iii) the applicant's binding commitment to advance funds to have such a feasibility determination made by the Secretary under section 8(a)(1)(B);

(C) detailed plans concerning ancillary onshore facilities proposed to be constructed by or for the public port authority if the public port authority is seeking authorization under the consolidated port development permit to construct such facilities;

(D) the environmental impact statement or environmental assessment, to the extent required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332);

(E) such other information as may be required by the Secretary to determine the environmental impact of the proposed operation, maintenance, or navigation improvement and ancillary onshore facilities; and

(F) such additional information necessary to determine the proposed substantial compliance of the project with the standards of Federal and State law concerning health, safety, and environmental protection.

(3) The applicant may satisfy the requirement of paragraph (2)(D) by—

(A) submitting or agreeing to submit, when available, an environmental impact statement or assessment concerning the project prepared as part of a feasibility study for which Congress has appropriated the necessary funds; or

(B) making a binding commitment to advance funds to the Secretary to have such an environmental impact statement or assessment prepared either by the Secretary or an independent third-party contractor.

The applicant may submit previously completed environmental studies concerning the project in partial satisfaction of the requirement of subparagraph (B).

(4) The Secretary shall make engineering feasibility and financial responsibility determinations within 1 year of the filing of a completed application by a public port authority for a consolidated port development permit.

(e) An application filed with the Secretary shall constitute an application for all Federal permits, authorizations, and approvals required under Federal law for the conduct of operations, maintenance, and navigation improvements and the construction of ancillary onshore facilties by or for a public port authority. At the time notice of any application is published pursuant to subsection (d), the Secretary shall transmit a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such consolidated port development activities (operation, maintenance, and navigation improvement and construction and operation of ancillary onshore facilities by or for a public port authority) for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Secretary the approval or disapproval of the application, not later than 45 days after the last public hearing on a proposed permit for operation, maintenance, navigation improvement, and ancillary onshore facilities constructed by or for the public port authority. In any case in which the agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Secretary how the application may be amended to bring it into compliance with the law or regulation involved.

(f)(1) In the event an environmental impact statement or assessment has not been prepared concerning the proposed project at the time the permit application is filed, the Secretary in cooperation with other involved Federal agencies and departments, shall pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), prepare a single, detailed environmental impact statement or assessment, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environomental impact statement or assessment.

(2) The Environmental Protection Agency, the National Park Service, the Fish and Wildlife Service, the National Marine Fisheries Service, the National Oceanic and Atmospheric Administration, and the Department of Transportation shall be included in the agencies consulted by the Secretary under paragraph (1) and shall be transmitted copies of the application and supporting materials pursuant to subsection (d).

(3) Comments by Federal agencies pursuant to subsection (e) or (f) (1) shall conclusively discharge the statutory responsibilities of such agencies with respect to the consolidated port development permit application pursuant to Federal environmental law, including section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), section 309 of the Clean Air Act (42 U.S.C. 7609), the Endangered Species Act (16 U.S.C. 531 et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 777 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), and the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401 et seq.).

(4) The Secretary, at his discretion, may deem the failure of a Federal or State agency or department to comment on the draft environmental impact statement or assessment of a project within 90 days of its transmittal to such agency or department, to conclusively waive any objections by such department or agency to the adequacy of the environmental impact statement or assessment of such project.

(g) (1) The Secretary shall transmit the application and supporting materials to the Governor of the State in which the proposed project is to be located, as well as to the State agencies which the Governor may thereafter designate. State agencies shall have the right to comment on the permit application with regard to substantive environmental, health, and safety requirements under their jurisdiction pursuant to State law, to the same extent Federal agencies or departments may comment pursuant to subsection (e). The State or its designated agencies shall concur or object to a certification furnished pursuant to section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456), within the time specified in that Act. The Secretary, at his discretion, may condition the permit to address issues raised by the State or its designated agencies.

(2) The Governor of the State in which the proposed project is to be located may, within 45 days of the conclusion of the final public hearing concerning the proposed permit, submit comments on the proposed permit. Failure to do so shall be deemed conclusively to waive any State objections to the permit.

(h) A consolidated port development permit may be issued, transferred, or renewed only after public notice and public hearings in accordance with this subsection. At least one such public hearing shall be held at the port or the closest location to the proposed operation, maintenance, navigation improvement, or construction of ancillary onshore facilities is to occur. Any interested person may present relevant material at any hearing. If the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, after hearings at the port are concluded, at least one adjudicatory hearing shall be held within the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be the basis for the decision of the Secretary to approve or deny a permit. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on an application for a consolidated port development permit shall be consolidated to the extent feasible and shall be concluded not later than 1 year after notice of the initial application has been published pursuant to subsection (d) (1).

(i) The Secretary shall approve or deny any application for a permit under this Act not later than 90 days after the last public hearing on a proposed permit. Failure of the Secretary to approve or deny a permit application within 16 months of its completed filing shall be deemed to constitute approval and issuance of the permit as proposed by the applicant.

(j) The Secretary may issue a consolidated port development permit if—

(1) the Secretary determines that a State port authority is capable of meeting its financial obligations under any applicable cost-sharing agreement under section 8;

(2) the Secretary determines that the applicant can and will comply with applicable law, regulations, and permit conditions;

(3) the Secretary determines that the grant of the permit will be in the national interest, and is consistent with national security, promotion of trade, and environmental quality; and

(4) the Secretary has considered any comments by the Administrator of the Environmental Protection Agency concerning the compliance of the proposed operation, maintenance, navigation improvement, and ancillary construction with the requirements of the Clean Water Act of 1977 (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.) and the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) except that, the Secretary need not consider such comments, if they are submitted later than 45 days after the last public hearing on a proposed permit.

AUTHORIZATIONS FOR CONSTRUCTION OF NEW NAVIGATION IMPROVEMENT PROJECTS

SEC. 8. (a)(1) The Secretary shall submit a report to Congress recommending approval for any new channel improvement project within 1 year of the date of which—

(A) Congress appropriates money for an engineering feasibility determination and any necessary environmental impact statement or assessment for the project; or

(B) a public port authority first advances the Secretary funds for the purpose of preparing, or causing to have prepared, an engineering feasibility determination.

A public port authority may satisfy the requirement of subparagraph (B) by submitting completed engineering studies and a binding commitment to fund further work that the Secretary finds necessary to make a determination.

(2) Failure of the Secretary to submit his report on a project to Congress within 90 days of completion of the necessary determinations and statements shall be conclusively treated as a transmittal of a report recommending construction of the proposed project.

(b) A navigation improvement project shall not be submitted to Congress by the Secretary unless the following events first occur—

(1) to the extent required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), an environmental impact statement or assessment for the project has been prepared;

(2) the Secretary determines that the proposed project is feasible from an engineering standpoint; and

(3) the State port authority agrees to enter a cost-sharing agreement, if required by section 9.

(c) Notwithstanding any other provision of law, the Secretary may accept and expend funds advanced to him by a public port authority for the purpose of preparing or causing to be prepared any engineering studies which the Secretary, in his sole discretion, may require to determine the engineering feasibility of a proposed navigation improvement project. No engineering feasibility studies beyond those deemed necessary by the Secretary shall be required. The Secretary shall also accept and expend such funds for the purpose of preparing the necessary environmental impact statement. Any or all of the studies or statements referred to herein may be carried out, in consultation with the Secretary, by an independent third party contractor agreed upon by the Secretary and the public port authority.

(d)(1) The Secretary shall make an engineering feasibility determination and complete or cause completion of any environmental impact statement or assessment necessary under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) within 1 year of the date when—

(A) Congress appropriates funds necessary for such studies and determinations;

(B) the public port authority first advances funds to the Secretary for such studies or determinations; or

(C) the public port authority submits the necessary studies and makes a binding commitment to advance funds to the Secretary for additional work the Secretary may thereafter deem necessary to make a determination and complete the required environmental impact statement or assessment.

(e) The final environmental impact statement or assessment required by this section shall comply with section 102 of the National Environmental Policy Act of 1960.

(f) Congress shall consider the Secretary's report pursuant to the procedures of section 14 within 60 days of the submission of the report to Congress.

(g) Navigation improvement projects approved pursuant to section 14 shall be funded and constructed by the Secretary from funds in the Fund. The Secretary shall enter a binding cost-sharing agreement as may be appropriate under section 9, within 60 days of project approval by Congress.

(h) Approval pursuant to section 14 shall be deemed to grant all necessary Federal authorizations for the Secretary to construct, or cause to have constructed, the projects so approved. Such approval shall be deemed conclusively to establish the adequacy of the environmental impact statement or assessment.

CONSTRUCTION OF, OR CONSTRUCTION FINANCING ASSISTANCE FOR, ELIGIBLE NAVIGATION IMPROVEMENT PROJECTS

SEC. 9. (a)(1) The Secretary shall expedite construction of the projects authorized pursuant to section 8 and, with respect to projects subject to a cost-sharing agreement under paragraph (2), expedite such construction after the execution of a satisfactory cost-sharing ageement with the public port authority.

(2) For purposes of this Act, a cost-sharing agreement means an agreement entered into between the Secretary and the public port authority concerning an authorized navigation improvement project requiring depths in excess of 45 feet at mean low water, and that contains such terms and conditions as are necessary to protect the interest of the United States, and under which—

(A) the Secretary agrees to implement the project with funds from the Fund for the construction of the project; and

(B) the public port authority agrees to reimburse the United States through financing arrangements acceptable to the Secretary, during the life of the project (but not after the fiftieth year after the project becomes available for use) for—

(i) 50 per centum of the construction funds appropriated to the Secretary under subparagraph (A), plus interest, and

(ii) 50 per centum of the additional annual operating and maintenance costs incurred by the United States with respect to the project after construction.

(3) Reimbursement payments to the United States shall be paid into the Fund.

(b)(1) A public port authority that wishes to undertake, either on its own or through contractors or both, the construction of a navigation improvement project that is authorized for construction through financing assistance under this section may finance the construction through financing arrangements acceptable to the Secretary, if the authority enters into a cost-sharing or reimbursement agreement under paragraphs (2) and (3) for such project.

(2) For an authorized navigation improvement project, greater than 45 feet in depth at mean low water, a public port authority may enter a cost-sharing agreement whereby—

(A) the public port authority agrees to finance 100 per centum of the costs of the construction of the project; and

(B) the Secretary agrees to reimburse the public port authority from the Fund for 50 per centum of the construction and financing costs of the project.

(c) No cost-sharing or reimbursement agreement may be entered into under this section unless the public port authority agrees to such terms and conditions as the Secretary deems necessary to ensure that the construction of the project is being carried out in accordance with the project plans and specifications and is subject to such periodic inspection by the Secretary as he deems necessary to assure compliance with the plans and specifications.

(d) Payments from the Fund for a project authorized pursuant to section 8 shall be given priority according to the date the public port authority applies for a cost-sharing agreement, and, in the case of an authorized navigation improvement project less than or equal to 45 feet in depth at mean low water undertaken by the Secretary, priority shall be given according to the date that the Secretary makes a binding commitment for construction for the project.

(e) Regulations issued by the Secretary pursuant to section 20 shall include regulations pertaining to applications for cost-sharing and payments to and from the Fund, and shall provide that reimbursement to a public port authority for a project constructed pursuant to a reimbursement agreement shall be completed when the project is completed and becomes available for use or as soon thereafter as is reasonably practicable in view of the payment priority of the project pursuant to subsection (d).

APPLICABILITY TO CERTAIN OTHER NAVIGATION IMPROVEMENT PROJECTS

SEC. 10. (a) A project to increase the depth of a deep-draft commercial port channel (other than an access channel) to more than 45 feet at mean low water, if not authorized by Congress before the date of the enactment of this Act but for which a permit was approved under section 404 of the Federal Water Pollution Control Act before the date of enactment, is eligible for construction financing assistance under section 9 of this Act with respect to the construction that remains to be completed as of the date of enactment.

(b) A project to increase the depth of a deep-draft commercial port channel (other than an access channel) to more than 45 feet at mean low water, if authorized by Congress before the date of the enactment of this Act but the contruction of which was not completed before the date of enactment, is eligible for priority construction by the Secretary under section 9 (a), and for construction financing assistance under section 9 (b).

EFFECT UPON OTHER AUTHORIZED NAVIGATION IMPROVEMENT PROJECTS

SEC. 11. (a) This Act does not modify, amend, or repeal any congressional authorization for the construction of a navigation improvement project to increase the depth of any channel in a deep-draft commercial port to a depth not to exceed 45 feet, or for the United States, to the extent provided for in appropriations Acts, to pay all of the costs of constructing and maintaining any navigation improvement project other than a project approved under this Act.

(b) This Act does not modify, amend, or repeal any agreement requiring local cooperation as a condition of Federal authorization of a navigation improvement project.

FEDERAL MAINTENANCE RESPONSIBILITY

SEC. 12. (a) The Secretary, after the completion of the construction of a navigation improvement project under sections 7, 8, and 9 shall, on a continuing basis, determine—

(1) the dredging or other operation and maintenance that is necessary for the project;

(2) The dredging or other operation and maintenance that is necessary for associated access channels and berthing areas; and

(3) the sites at which dredged or spoil material resulting from the dredging or other operation and maintenance described in subparagraphs (1) and (2) should be disposed and the conditions of disposal.

For purposes of paragraph (3), disposal sites shall be selected, and conditions of disposal shall be established in accordance with section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)) and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413).

(b) The Secretary shall make appropriate revisions to the maintenance program pursuant to sections 5 and 6 in order to assure that new navigation improvement projects are properly maintained once completed.

JUDICIAL REVIEW

SEC. 13. (a) Only the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review any issue arising from the approval of the maintenance program, a program revision, or navigation improvement project. Any such challenge shall be filed within 30 days after approval of the maintenance program, program revision, or navigation improvement project by Congress.

(b) Only the United States Court of Appeals for the circuit in which a proposed maintenance project or navigation improvement is to be located shall have jurisdiction to review any challenge to the adequacy of the environmental impact statement or assessment of the project, the issuance, denial, or conditions of any consolidated port development permit, and the compliance of any related revision to the comprehensive maintenance program with applicable law. Any such challenge shall be filed within 60 days of the decision by the Secretary to grant or deny a consolidated port development permit under section 7.

(c) In reviewing alleged procedural errors, the court may invalidate the program or permit only if errors were so serious and related to matters of such central relevance to the program or permit that there is a substantial likelihood that the program or permit would have been significantly changed if such errors had not been made.

(d) In the case of the review of any action of the Secretary to which this section applies, the court may reverse any such action found to be—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations; or

(4) without observance of procedure required by law;

if (i) such failure to observe such procedure is arbitrary or capricious, or (ii) the requirements of subsection (c) are met.

PROCEDURES FOR APPROVING NEW NAVIGATION IMPROVEMENT PROJECTS, THE MAINTENANCE PROGRAM AND MAINTENANCE PROGRAM REVISIONS, AND OTHER PROCEDURAL MATTERS

SEC. 14. (a) For purposes of this section, the term "approval resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the ———— maintenance program, program revision, or navigation project specified in the document submitted to Congress on ———— pursuant to ————," with the first blank space being filled in with the name of the maintenance program, program revision, or navigation project intended to be approved, the second being filled in with the appropriate date, and the third being filled in with a reference to either section 5, 6, or 8 of this Act, as appropriate.

(b) All approval resolutions introduced in the House of Representatives shall be referred to the Committee on Public Works and Transportation, and all approval resolutions introduced in the Senate shall be referred to the Committee on Environment and Public Works.

(c)(1) For purposes of submitting a document referred to in section 5, 6, or 8 to Congress, a copy of the document must be delivered to both House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(2) In computing the 60th day for purposes of applying section 5, 6, or 8, there shall be excluded—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday or Sunday not excluded under subparagraph (A).

CONGRESSIONAL CONSENT TO THE LEVYING OF DUTIES OF TONNAGES BY THE STATES

SEC. 15. (a) The Congress consents, under clauses 2 and 3 of section 10 of article I of the Constitution, to the levying by the States of duties of tonnage as provided for in this Act, but only to the extent that any such levy is consistent with the conditions of consent set forth in subsection (b).

(b) The consent of Congress under subsection (a) is granted with respect to any State, subdivision of a State, or any port authority, subject to the following conditions:

(1) The duty of tonnage may only be levied for the following purposes:

(A) The reimbursement of the United States under, and in a manner consistent with the terms and conditions of, the cost-sharing agreement entered into under section 8 with respect to a navigation improvement project. The levy may not exceed that portion of the costs of construction and maintenance that the public port authority is obligated to pay.

(B) The financing of the costs of constructing, and the reimbursement of the United States for the costs of operating and maintaining a navigation improvement project under, and in a manner consistent with the terms and conditions of, the cost-sharing agreement entered into under section 8 with respect to the project. The levy may not exceed that portion of those costs that the State port authority is obligated to pay.

(2) The duty of tonnage is computed in accordance with section 16.

(3) The public port authority may levy the duty of tonnage on vessels engaged in commerce and their cargo entering the port and cargoes loaded at the port, except that such cargoes moving in domestic commerce shall not be assessed such a duty more than once. The public port authority shall impose, compute, and collect the duty in a nondiscriminatory manner and in accordance with this Act and such limitations as may be prescribed by the Secretary under section 16.

(4) Those revenues accruing through the levy of a duty of tonnage, or moneys equal in amount of such revenues, may be expended solely for the purposes enumerated in subparagraph (1)(B).

(5) The public port authority shall provide to the Comptroller General of the United States, upon his request, such books, documents, papers, or other information as the Comptroller General considers to be necessary or appropriate to carry out the audit required under section 17.

(6) The public port authority shall designate an officer, or other authorized representative or agent of the port, to receive tonnage certificates and cargo manifests from vessels engaged in commerce; export declarations from shippers, consignors, and terminal operators; and such other documentation as may be necessary for the imposition, computation, and collection of the duty of tonnage.

(7) No duty of tonnage authorized by this section may be imposed on—

(A) a vessel owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service; or

(B) a vessel used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision.

(c) The Congress expressly reserves the right to withdraw the consent granted by it under subsection (a) with respect to any public port authority if at any time in the view of Congress—

(1) the conditions of consent set forth in subsection (b) are not being complied with by the authority; or

(2) an impediment to compliance with any of those conditions is imposed by the authority or under State law.

COMPUTATION OF DUTIES OF TONNAGE RATES

SEC. 16. The Secretary shall establish guidelines for the use by public port authorities in computing the rates of duties of tonnage levied by them under this Act. Such guidelines shall contain, but not be limited to—

(1) a formula for allocating rates on an equitable basis between vessels and cargo;

(2) a rate ceiling with respect to cargo which shall be established by the Secretary after consultations with the Secretary of Commerce, not exceeding $1 per short ton of cargo, unless the Secretary determines that a higher rate is just and equitable and that the imposition of such a higher rate will not impose an unreasonable burden upon any commodity by virtue of its sensitivity to increased transportation costs;

(3) provisions requiring the imposition of a flat rate surcharge (which shall not be subject to the rate ceiling provided under paragraph (2)) on all vessels that draw 41 or more feet of water; and

(4) such limitations as may be necessary or appropriate to ensure that the rate of the duty for each fiscal year (or other appropriate accounting period) is established at the level necessary to ensure that the revenues resulting from the levy during that period will equal, as nearly as practicable, the expenditures to be made during that period with respect to the purposes for which the levy is made.

AUDITS BY THE COMPTROLLER GENERAL

SEC. 17. The Comptroller General of the United States shall carry out periodic audits of the operations of public port authorities that have elected duties of tonnage under this title in order to ascertain whether the port is complying with the conditions of consent provided in section 15. The Comptroller General shall submit to each House of Congress a written report containing the findings resulting from each audit and shall make such recommendations as the Comptroller deems appropriate regarding the compliance of those authorities with the requirements of this Act.

INJUNCTIVE RELIEF

SEC. 18. The United States District Court for the district in which is located a public port authority that is levying duty of tonnage under this Act shall have original and exclusive jurisdiction over any matter arising out of, or concerning, the imposition, computation, or collection of such duty of tonnage, and, upon petition by the Attorney General, may grant appropriate injunctive relief to restrain any act by such port authority that violates the conditions of consent provided in section 15(b).

ENFORCEMENT

SEC. 19. (a)(1) The master of each vessel engaged in commerce, upon the arrival of such vessel in a deep-draft commercial port that levies a duty of tonnage under this Act shall, within 48 hours after arrival and before any cargo is unloaded from such vessel, deliver to the appropriate authorized representative or agent (appointed as required under section 15(b)(6)) a tonnage certificate for the vessel and a manifest of the cargo aboard such vessel or, if the vessel is in ballast, a declaration to that effect.

(2) The shipper, consignor, or terminal operator having custody of any goods to be loaded on a vessel engaged in commerce while such vessel is in a deep-draft commercial port that levies a duty of tonnage under this Act shall, within 48 hours before departure of such vessel and before the loading of such goods on board such vessel, deliver to the authorized representative or agent a declaration specifying the goods to be loaded on such vessel.

(b) The Secretary of the Treasury, acting through the appropriate customs officer, shall withhold, at the request of an appropriate authorized representative referred to in subsection (a), the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91), for any vessel—

(1) if the master of the vessel is subject to subsection (a)(1) and fails to comply with such subsection; or

(2) if a shipper, consignor, or terminal operator having custody of any goods to be loaded on such vessel is subject to subsection (a)(2) and fails to comply with such subsection.

Clearance may be granted upon the filing of a bond or other security satisfactory to the Secretary of the Treasury and the authorized representative or agent of the public port authority.

(c) A duty of tonnage levied under this Act against a vessel engaged in commerce constitutes a maritime lien against that vessel which may be recovered in an action in rem in the United States District Court of the district within which the vessel may be found.

REGULATIONS; ISSUANCE, AMENDMENT, OR RESCISSION; SCOPE

SEC. 20. The Secretary shall, as soon as practicable after enactment of this act, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code. Such regulations shall pertain to, but need not be limited to tonnage duties, and to application, issuance, transfer, renewal, suspension, and termination of permits. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with the State in which an affected port is located and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation.

FINANCING, OPERATION, AND MAINTENANCE OF SAINT LAWRENCE SEAWAY CHANNELS

SEC. 21. (a) Section 4 (a)(10) of the Act of May 13, 1954 (33 U.S.C. 984(a)(10)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "nor facilities necessary to the

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operation and maintenance of seaway channels;".

(b) Section 5(b) of the Act of May 13, 1954 (33 U.S.C. 985(b)) is amended by adding the following sentence at the end thereof: "The obligation of the Corporation to pay the principal on such obligations is terminated on the date of enactment of the National Port Development Act of 1982.".

(c) Section 12(a) of the Act of May 13, 1954 (33 U.S.C. 988(a)) is amended by striking out the second sentence and inserting in lieu thereof "Any formula for a division of revenues shall not take into account annual debt charges and shall not include the total cost incurred by the United States in financing activities authorized by this Act, including both interest and debt principal, but shall provide for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada.".

(d) Section 12(b)(4) of the Act of May 13, 1954 (33 U.S.C. 988(b)(4)) is amended to read as follows: "That the rates prescribed shall be calculated to cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, except for the cost of operating and maintaining connecting seaway channels, which shall be the responsibility of the Secretary of the Army pursuant to the National Port Development Act of 1982.".

(e) Section 12(b)(5) of the Act of May 13, 1954 (33 U.S.C. 988(b)(5)) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "but such rates shall not include any charge to amortize the principal of the debts and obligations of the Corporation which have been terminated by the United States pursuant to this subsection.".

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, there are two special orders this morning; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Mr. President, I understand that that will be followed by a period for the transaction of routine morning business not to extend beyond 11 a.m. with 2 minutes allowed therein for speeches of Senators; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the period for routine morning business commence at this time and Senators who have special orders be recognized for their 15 minutes as they appear in the Chamber.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hatfield). Without objection, it is so ordered.

Mr. NUNN. Mr. President, is there a special order in the name of the Senator from Georgia?

The PRESIDING OFFICER. The Senator is correct.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. Nunn) is recognized for not to exceed 15 minutes. The Senator from Georgia is recognized.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. I thank the Chair.

Mr. President, Senator Chiles and I have been addressing this Senate for over 3 months about the necessary need for habeas corpus reform. Almost every day I have pointed to a case where a convicted felon had actually delayed and frustrated the ends of justice by manipulation of the writ of habeas corpus. In all these cases, the problem would have been alleviated under the proposals included in S. 2543, the Crime Control Act of 1982. I might add they would also be alleviated under Senator Thurmond's bill which has recently been introduced, and which is now on the calendar, which Senator Chiles and I have both gladly cosponsored. These examples clearly demonstrate the long-awaited need for change in the rules governing habeas corpus proceedings.

In the case of Dorsey against Gill, the Court of Appeals for the District of Columbia affirmed a district court's denial of a petition for a writ of habeas corpus, but only after fully examining a series of seemingly frivolous and already litigated allegations by the petitioner. In facing that time-consuming task, the appellate court was obviously frustrated with what appeared to be yet another instance of misuse of the writ for purposes of delay.

Given that frustration, it is hardly surprising that the Dorsey court took great care to make some particularly appropriate comments on the problem of abuse of the writ of habeas corpus. It is interesting to note that those comments, made in 1941, are equally pertinent and appropriate today, in 1982. Even in 1941, the problem had already reached substantial and burdensome proportions. Consider the comments and statistics pointed out in the Dorsey opinion:

> . . . [P]etitions for the writ are used not only as they should be to protect unfortunate persons against miscarriages of justice, but also as a device for harassing court, custodial and enforcement officers with a multiplicity of repetitious, meritless requests for relief. The most extreme example is that of a person who, between July 1939 and April 1944, presented in the District Court 50 petitions for writs of habeas corpus; another person has presented 27 petitions, a third 24, a fourth 22, a fifth 20. One hundred nineteen persons have presented 597 petitions—an average of 5.

Imagine for a moment the spectacle of an individual filing some 50 petitions for habeas relief within a span of only 5 years. Surely that sort of outrageous litigation does little to enhance the credibility of our courts in the public eye.

Citing the "dangerous possibilities of a too-liberal use of the writ for review purposes," the Dorsey court considered the problems of purposefully delayed petitions:

> . . . . If the presumption of regularity of proceedings were permitted to be lightly upset by irresponsible allegations, the judges, to whom petitions for writs of habeas corpus are presented, would be forced to look back of and beyond records, into unreported proceedings, conducted by other judges, with witnesses, lawyers and other court officers long since dead or scattered. The problem would be intensified, also, by the fact that a large percentage of commitments are based upon pleas of guilty. A premium would be placed upon deception if an accused person could plead guilty; wait until the case had become "cold" and then, by challenging jurisdiction or alleging deprivation of constitutional rights, secure a reopening and new trial of his case. If greater safeguards are needed in original proceedings, they should be provided. But it will not solve any problem, which may exist there, to permit large-scale use of this extraordinary writ for review purposes. Instead, it would cause confusion worse confounded.

Abuse of the writ of habeas corpus law has rendered our criminal justice system nearly incapable of producing finality of judgment. S. 2543 confronts this grave problem by requiring Federal courts to give increased deference to State court findings. The bill will also limit Federal habeas corpus relief to those cases brought within a 3-year statute of limitations. This measure will pave the way to a return to a credible and effective criminal justice system. Based on the overwhelming evidence of abuse, no one should doubt the importance of these reforms to this Nation's continuing struggle against violent crime.

Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. SPECTER) is recognized for not to exceed 15 minutes.

S. 2856—AMENDMENT OF PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

Mr. SPECTER. Mr. President, I am today introducing a bill to amend the Protection of Children Against Sexual Exploitation Act of 1977.

Four years ago, congressional hearings indicated that child pornography had become a multimillion dollar industry, victimizing thousands of children. Congress responded by outlawing the production of child pornography and the distribution for sale for sale of obscene materials which pornographically depicted children.

Last month the Supreme Court ruled in New York against Ferber that the compelling State interest in safeguarding the physical and psychological well-being of minors constitutionally justified the prohibition of nonobscene pornography involving children.

I applaud the Supreme Court and concur that the child pornographer's first amendment guarantee of free speech is not violated when he is prohibited from sexually expoliting a child.

My interest in, and commitment to fighting the child pornographer stems from a series of hearings on the sexual exploitation of children which began last November before the Subcommittee on Juvenile Justice. Although it is clear that Federal efforts to enforce existing laws have decreased the availability of child pornography, testimony at those indicated that the Federal law is not tough enough to protect the thousands of our children who continue to fall victim to pornographers and exploiters.

Father Bruce Ritter who directs a runaway house in Times Square testified that thousands of runaways in New York City are "recruited, if not openly abducted, by the organized child prostitution and pornography industries which, in New York at least, are estimated to earn close to $1 billion each year."

In contrast figures supplied by the Department of Justice and the Postal Service show a low number of Federal arrests and convictions of child pronographers. From May of 1977 to April of 1982, 43 persons have been convicted under all available obscenity statutes for distribution of obscene material depicting minors. Less than half of these convictions were for violations of the laws specifically focusing on child pornography, which carry penalties exceeding those imposed by the general obscenity laws. As of April 29, 1982, the 20 persons who were convicted under these tougher child pornography laws had received sentences ranging from a $500 fine with a suspended sentence to a $25,000 fine with a 20-year sentence.

Testimony at the subcommittee hearings offered one key explanation for the limited Federal success in attacking the child pornography industry—Federal law currently reaches only distribution of child pornography for sale. Charles P. Nelson, Assistant Chief Postal Inspector, Office of Criminal Investigations for the U.S. Postal Service testified:

> The bulk of the child pornography is noncommercial. This activity is not in violation of the Federal child pronography statutes. These statutes require a commercial transaction in connection with the manufacture or distribution of the material before a violation exists.

The result of this commercial limitation is far reaching. Dana E. Caro of the Criminal Investigation Division of the Federal Bureau of Investigation testified that:

> (T)he FBI has determined that a clandestine subculture exists in the United States which is functioning in violation of the child pornography and sexual exploitation of children statutes. This culture is involved in recruiting and transporting minors for sexual exploitation and investigation has revealed that this culture is very difficult to penetrate. It has been determined that the largest percentage of child pornography available in the United States today was originally produced for the selfgratification of the members of this culture and was not necessarily produced for any commercial purpose. Pedophiles maintain correspondence and exchange sexual explicit photographs with other members of this subculture and often establish contact with each other through "swinger" type magazines and newspapers which act as mail forwarding services for the readers. FBI investigations have revealed that commercial photographers and major distributors pose as members of this subculture and obtain free of charge the sexually explicit photographs of minor children. As a result, many of the photographs taken for private use and obtained by these commercial photographers and pornographic distributors subsequently appear in child pornography magazines which have wide commercial distribution. Neither the child posing for the picture or the original photographer receive any payment from these commercial photographers or major distributors. Therefore, the FBI's effectiveness in combatting child pornography and the sexual exploitation of children at the grass roots has been seriously impaired by the pecuniary interest requirement contained in title 18, U.S. Code, sections 2251 and 2252.

The bill I am introducing today reflects the testimony of the law enforcement community. It makes any interstate distribution of child pornography or any distribution of child pornography through the mails a Federal crime.

My bill also amends the 1977 law to bring it into accord with the Supreme Court's July 2, 1982, decision in Ferber. It makes unlawful the distribution of any photographs which sexually exploit children under age 16.

Finally, this bill provides for tougher penalties—fines would increase from $10,000 to $75,000 for a first offense and from $15,000 to $150,000 for a second offense. Given the testimony we have heard, it is apparent that the current statutory penalties are insufficient to take the profit out of child pornography. The elevated fines I propose are intended to correct this shortcoming, as well.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

Be it enacted by the Senate and Housing of Representatives of the United States of America in Congress assembled, That section 2251 of title 18, United States Code, is amended in subsection (c)—

(1) by striking out "$10,000" and inserting in lieu thereof "$75,000"; and (2) by striking out "$15,000" and inserting in lieu thereof "$150,000".

SEC. 2. Section 2252 of title 18, United States Code is amended—

(1) in subsection (a)(1) by striking out "for the" through "obscene" and inserting in lieu thereof "any";

(2) in subsection (a)(2) by striking out "for the" through "obscene" and inserting in lieu thereof "any"; and

(3) in subsection (b)(A) by striking out "$10,000" and inserting in lieu thereof "$75,000"; and (B) by striking out "$15,000" and inserting in lieu thereof "$150,000".

SEC. 3. Section 2253 of title 18, United States Code is amended—

(1) in clause (2)(E) by striking out "lewd exhibition" and inserting in lieu hereof "exhibition without literary, artistic, scientific or educational value"; and

(2) in clause (3) by striking out ", for pecuniary profit".

THE PRICE OF ACQUIESCENCE IS TOO HIGH

Mr. BOREN. Mr. President, earlier this week, the United States and the People's Republic of China issued a communique jointly in their respective capitals on the matter of the Republic of China on Taiwan. At the same time, the President of the United States let it be known that he was now prepared to go ahead with the sale of 60 F-5 fighter planes to Taiwan, to be coproduced in Taiwan. This is a sale the President had agreed to in principle last January, but upon which he had not acted until this week.

It is clear that last January when he agreed in principle to the sale, the President was also in the midst of negotiations with the P.R.C. over Taiwan and he knew that the outcome of those talks were going to require at least some small gesture to try to satisfy the friends of Taiwan when the joint communique was finalized and made public.

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The price of acquiescence is too high, Mr. President, and I, as one Senator, will not be placated by so cynical a display of diplomatic doubledealing.

Nowhere does it appear that we held to a strong bargaining position on behalf of the 18 million free people of Taiwan. What did we get in return for apparently bartering away their security? What guarantee did we obtain for their right to self-determination? How can we defend such callous treatment of a nation which is one of our best trading partners and one of the few that pays its bills with hard cash? Taiwan has also been our ally in the Korean conflict and in every other international and military crisis.

An excellent editorial appeared in Wednesday's Wall Street Journal entitled "China's China Card." It points out that "it is easy to see what is being surrendered, hard to see what is being gained. As Washington edges its policy further away from Taipei, the world has new cause to wonder what an alliance with the United States is worth."

Beyond even those issues, Mr. President, rises the specter contained in an article on the front page of this morning's Washington Post—namely, that this joint communique has handed the Communist leadership in China what 33 years of civil war has not achieved, the inevitable reunification of Taiwan and the mainland. Included in this analysis is the observation of an unidentified European diplomat that "Peking can just let time run its course."

In 1979, when I first came to this Chamber, one of the first major issues we debated was the Taiwan Relations Act. In fact, the first amendment I offered as a U.S. Senator was to that act.

I remember well the feelings prevailing in the Senate at the time. No one argued with then President Carter's right to normalize relations with the People's Republic. A majority of us, however, were highly displeased with the manner and the conditions under which he proceeded. In particular, we disputed his abrogation of the mutual defense treaty between the United States and Taiwan and his acceptance of a set of conditions which had been rejected by other administrations. There was an additional feeling that Carter's rush to judgment was driven by a strong need to show leadership in foreign affairs.

The result of all this was the passage of the Taiwan Relations Act—an expression of the Congress that we wished to continue our relationship with these 30-year-old allies in as normal a manner as possible under the circumstances. The Taiwan Relations Act was also a signal to the rest of the world that U.S. alliances did mean something and that the Taiwanese could be assured that their future security, resting as it does on U.S. defense arms support, would be uppermost in the minds of their friends in the U.S. Congress.

Almost from the day of its passage, the implementation of the Taiwan Relations Act has been weighed down by the foot-dragging of a State Department which never agreed with its provisions and an administration that viewed its very existence as an infringement on the executive branch's inherent right to conduct foreign policy.

Time after time, the senior Senator from Arizona, Mr. GOLDWATER, and others, inserted into the RECORD examples of how the Taiwan Relations Act was being ignored or circumvented and the trend of eroding away its provisions bit by bit became evident. The old game was on—Congress cannot concentrate on anything for long, so if at first you don't succeed, stall, wait, vacillate—sooner or later, you can get what you want little by little.

There was some hope for those of us who feel commitments are not matters of convenience. In addition to the tenacious pursuit of Senator GOLDWATER, there was a new day on the horizon. Ronald Reagan was on his way to the White House, campaigning around the country in large measure against what he called the weak-kneed foreign policy which was then emanating from the Carter administration, a prime example of which was Jimmy Carter's abandonment of Taiwan. A Reagan administration would not be so callous and capricious with our friends. We were told Communist China needs us more than we need them, and on August 25, 1980, candidate Reagan told the world he "would not impose restrictions which are not required by the Taiwan Relations Act."

But the air on Pennsylvania Avenue is rarefied, Mr. President, probably due in part to its proximity to Foggy Bottom. When Senator JOHN GLENN brought that quote to the attention of the State Department's John Holdridge at a meeting of the Foreign Relations Committee recently, Holdridge made no comment.

In this week's communique and the accompanying statement, now President Reagan declares his affection and commitment to Taiwan while saying the United States—

> * * * does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution.

None of these limitations and phaseouts can be found in, nor can they be squared with, the Taiwan Relations Act.

The Wall Street Journal editorial writers wonder what we received in return, Mr. President, and so do I. Part 4 of the communique does mention the Communist Chinese Government's "fundamental policy of striving for peaceful reunification of the motherland." One is supposed to hope, I suppose, that the P.R.C. can successfully strive to avoid military force on behalf of the motherland. It is possible, however, that Taiwan may be a little nervous on this point faced as they are with 400,000 troops and nearly 4,000 aircraft in the southeast region of Communist China. The reality Taipei must deal with is that the biggest single reason they have been able to deal evenly with Peking—U.S. defensive support—is fading fast.

I disagree with the President's action. I believe that once again our negotiations were driven by expediency, not prudence, and the only long-term interests that have been served are those of the Communist Chinese.

For all these reasons, Mr. President, I deplore this week's communique and urge all my colleagues to review their diligence in protecting the rights of our friends on Taiwan as set forth in the Taiwan Relations Act.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I believe there is an order that at 11 a.m., the Senate will resume consideration of the unfinished business, which is the debate on the debt limit; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, for the benefit of Senators, let me say that I continue to hope for some sort of a time agreement that will permit us to vote on something today. As I indicated last evening, I hope there is some possibility that the distinguished Senator from Oregon (Mr. PACKWOOD), the distinguished Senator from North Carolina (Mr. HELMS), and others who are principally involved in this matter, will urgently explore that possibility. We will be on this bill for the remainder of this day, and since this is Thursday, there is a possibility that it will be a late day, particularly if we can make some progress on the question at hand, that is, the debt limit and the pending amendments to it.

Mr. President, I anticipate that we will have from the other body the conference report on the tax bill sometime today, which, of course, is a privileged matter. If we do receive that today, it would be my hope that we could proceed to the consideration of that tax conference report and dispose of it, and then resume the debate on the debt limit bill.

There is a messenger, I believe, seeking entry to the Chamber at this time from the House of Representatives, who has, I believe, the conference report on the supplemental appropriations bill. Senators should know that it is not my plan to take up that supplemental conference report today. I think our platter is full today, as the minority leader has said so many times. But I do not think it is possible for us to take care of the tax conference report, the supplemental conference report, and the debt limit during this day, so I anticipate that the supplemental appropriations conference report will be dealt with tomorrow as well as the continuation of the debate on the debt limit as and if that is necessary.

I continue to hope, Mr. President, that we can finish these matters, the debt limit, the amendments to it, the supplemental conference report, and the tax conference report and go out tomorrow evening. There is a recess resolution on its way here from the House of Representatives that provides for a recess tomorrow or Saturday. I would warn Senators once again of the possibility of a Saturday session or even perhaps next week, although I think that is a receding prospect if we get the tax bill, as I anticipate we will, from the House of Representatives.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. Yes. I yield.

TEMPORARY DEBT LIMIT INCREASE

Mr. HELMS. Mr. President, I thank the able minority leader.

Let me ask the Chair if I am correct in my impression that there are now four amendments that are pending?

The PRESIDING OFFICER. The Senator from North Carolina is informed that there are five amendments pending including the committee substitute.

Mr. HELMS. The Chair is obviously correct, including the committee substitute, but with relation to the school prayer and abortion question there are four amendments, two offered by the Senator from North Carolina, on which the yeas and nays have been obtained, one offered by the able Senator from Connecticut (Mr. WEICKER), and a second-degree amendment by the able Senator from Montana (Mr. BAUCUS).

Am I correct that the yeas and nays have been obtained on all four of these?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Am I further correct in my understanding that if we were to start voting right now the Baucus amendment would be first to be considered?

The PRESIDING OFFICER. The Senator is correct?

Mr. HELMS. The second will be the Weicker amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. The third would be the Helms abortion amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And the fourth would be the Helms prayer amendment, so-called?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Let me say to the distinguished majority leader that I am ready to vote now.

Mr. BAKER. I thank the Senator.

Mr. President, I wonder if the Senator from Oregon, the manager of the bill, and a principal in the debate, could indicate to me what he thinks the prospects are that we might have a vote on one, all, or some kind of composite of these amendments today?

Mr. PACKWOOD. Mr. President, one of the difficulties I face is I need to talk with some of my allies, and I cannot do that while I am on the floor. When we go back on the bill, I have the floor. I am reluctant to give up the floor if it might jeopardize the parliamentary situation.

The other side has indicated, some of them, that they felt shut out; they have not had a chance to speak. I would like to explore the possibility of some agreement, but I would need some time off. During that time I would need agreements that there would be no motions or no votes while the debate is going on.

Mr. BAKER. Mr. President, now I inquire of the distinguished Senator from North Carolina if he would have any objection to such an agreement, were it formulated and presented to the Senate.

Mr. HELMS. I say to the Senator from Tennessee that all I have done this entire week is protect my rights and the interests of the cause I am representing.

While we are on the subject, let me say that there have been certain assertions that there was some double-dealing in this matter. I ask the majority leader right now if I have misled him even once.

Mr. BAKER. Mr. President, the Senator has not. I have indicated to him that, while it is my job to try to protect the interests of every Senator—Senators on both sides of this issue—the Senator from North Carolina has always been square with me. He has never misled me. He has indicated no intention to deceive me, nor has he deceived or misled me. I state for the RECORD that he has dealt aboveboard in every respect, and I have no reservations in making that statement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The hour of 11 a.m. having arrived, under the order previously entered, the Senate will now proceed to the consideration of House Joint Resolution 520, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, a parliamentary inquiry. Does the order provide that the Senator from Oregon be recognized as we resume debate on this measure?

The PRESIDING OFFICER. It does.

Mr. BAKER. Will the Chair please recognize the Senator?

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor and without his statements prior to or after this interruption appearing as a second speech under the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me under those conditions?

Mr. PACKWOOD. I yield.

Mr. BAKER. Mr. President, it seems to me that there is the possibility, at least, of working out something. I think the requirement of the Senator from Oregon, that he needs time to check with his conferees and allies, is reasonable.

I suggest, then, that we debate this matter for the next few minutes, while I explore the most reasonable time for the Senate to recess briefly.

I have in mind at this time—so that those who may be listening in their offices may hear and know what I am contemplating—that we recess from 12 until 1:30. That would accommodate, I think, the needs of some other Senators, and it would give the Senator from Oregon and the Senator from North Carolina time to check with their respective partisans and perhaps to bring us closer to an agreement.

First, I ask the Senator from Oregon whether that would be suitable for his purposes.

Mr. PACKWOOD. Yes—if we recess at 12 noon and I have the floor when we return from the recess.

Mr. BAKER. Yes. I include that in the request.

I ask the Senator from North Carolina if that would be agreeable to him.

Mr. HELMS. Mr. President, there is no problem at all. As I have said repeatedly, let us vote. The forces on my side—if indeed there are any forces—are not holding up this matter. We have not even been allowed to have the floor, except when I had to use some unusual circumstances to modify

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my own amendment yesterday. I was forbidden to do that by my friend.

So I say to both Senator Packwood and the distinguished majority leader that I want to accommodate the Senate in any way possible, and I think we should go ahead and vote in the order that the amendments appeared, under the Senate rules.

Mr. **BAKER**. I thank the Senator.

I see the distinguished minority leader on the floor. I would have consulted him in advance on this subject, but I believe he may have been testifying before a committee and could not be present at the time.

I am not sure whether he heard the nature of the request I am perpared to make—that is, at 12 noon we recess for an hour and a half, until 1:30, p.m., so that Senator Packwood and Senator Helms could explore the possibility of an agreement on some formulation on which we could vote, with the understanding that when we resume debate, the Senator from Oregon would once more be recognized.

Mr. President, I will put a request, now that I have had a moment to consult informally with the minority leader.

Still under the unanimous-consent request which was granted, that the Senator from Oregon will not lose his right to the floor, nor will the interruption create a second speech, I ask unanimous consent that at 12:15 p.m. today, the Senate stand in recess until 2 p.m.; that at 2 p.m., the Senate resume consideration of the pending business, the debt limit; that at that time, the Senator from Oregon, who presently has the floor, will be recognized, to proceed with his debate, without it being charged as a second speech.

The **PRESIDING OFFICER** (Mr. Andrews). Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, we now need some time for a variety of other reasons, for the transaction of routine morning business. In a moment, I will yield the floor, and I thank the Senator for yielding.

I am a firm and staunch believer in looking forward instead of backward, so what I am about to say is not meant to engage in a further analysis of how we reached the point we are at now, but I should like to say one thing for the Record.

Neither side, in my view, has misled me. Both sides have treated fairly with me, and I am grateful for that.

Yesterday what we had, in the parlance of the basketball world, was a tipoff. We had a free ball and threw it in the air to see who would be recognized. The distinguished President pro tempore was in the chair, and he recognized the Senator from North Carolina. I will not engage in that debate, except to say that no unanimous-consent agreement was violated.

There was a previous agreement, on the prior day, that the Senator from Oregon would be recognized. I recessed the Senate on the previous evening because we appeared to be stymied as to how to proceed next, with the understanding that we would resume consideration of that bill, that we would throw the ball up in the air and see how it came down.

So, Mr. President, all I want to say was that, so far as I am concerned, I do not feel misled in any respect. I have seen reports that one side or the other has taken advantage of the Senate or of me, and I wish to say that that is not my understanding of the situation.

Mr. **PACKWOOD**. May I ask a question?

Do I correctly understand, however, that under the normal precedents of the Senate, after the recognition of the leaders, it is usual for the manager of the bill to be recognized?

Mr. **BAKER**. Yes, Mr. President, that is the precedent of the Senate. The Chair ruled that the precedent applied in the case of simultaneous efforts by Senators to gain recognition; and as I understand the Chair, he ruled that the recognition effort was not simultaneous. That is not a matter I would care to judge, because I was not in the Chair, which is one of my many blessings.

ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend past 11:30 a.m., in which Senators may speak for not more than 15 minutes each.

The **PRESIDING OFFICER**. Is there objection?

Mr. **BAKER**. That is not the end of the request.

I also ask unanimous consent that the interruption in this debate not be counted as a second speech to the Senator from Oregon and that after we resume debate on this measure, he once again be recognized.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. I thank the Chair.

Mr. **ROBERT C. BYRD**. Mr. President, I thank the majority leader and the distinguished Senator from Oregon.

NATIONAL SUDDEN INFANT DEATH AWARENESS WEEK

Mr. **DURENBERGER**. Mr. President, I send a joint resolution to the desk and ask for its immediate consideration.

Mr. **ROBERT C. BYRD**. Mr. President, will the Chair have the clerk state the title of the joint resolution first?

The **PRESIDING OFFICER**. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 233) to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

Mr. **ROBERT C. BYRD**. Mr. President, there is no objection to the immediate consideration of the resolution.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its immediate consideration and without objection the joint resolution will be considered to have been read the second time at length.

The joint resolution is introduced by Mr. Durenberger, for himself and Senators Abdnor, Baucus, Burdick, Cochran, Cranston, Danforth, Dole, Ford, Hatch, Hayakawa, Heinz, Hollings, Jackson, Kassebaum, Leahy, Levin, Lugar, Mathias, McClure, Metzenbaum, Murkowski, Packwood, Quayle, Sarbanes, Weicker, Zorinsky, Gorton, Kennedy, Proxmire, Chafee, D'Amato, and Robert C. Byrd.

Mr. **DURENBERGER**. Mr. President, I thank the minority leader and I thank the Chair.

Mr. President, each day, some 20 infants in the United States succumb while asleep to the sudden infant death syndrome, which is commonly called SIDS. Before it was called SIDS it was known to many as crib death. There is no warning and no reason to expect that any particular baby will die. But 7,000 of them do die each year in this country—7,000 apparently normal and healthy infants between the ages of 1 week and 1 year.

Little is known about his mysterious syndrome. It appears to be as old as recorded history, and it strikes every ethnic group, every social class, every economic stratum, every region of the world.

The death of any child is a senseless tragedy which can totally disrupt the lives of parents and siblings. But a SIDS death or crib death often results in unique and particularly traumatic problems for the families of victims. Because SIDS is not well understood and because it is not well known among the general public, the families of SIDS victims can often find themselves suspected of child abuse or child neglect. Even when an autopsy results in a formal finding of SIDS as the cause of death, friends, neighbors, and relatives often remain confused and parents often suffer from feelings of guilt. This added anguish can be helped with counseling where needed, but it can be avoided if more people are aware of SIDS in the first place. It was for this reason that Congress passed legislation in 1974 to provide for counseling projects and medical protocols in SIDS cases.

But SIDS cuts a wider swath. Because it is not well understood, it can cause panic among parents of any young children. Recently, for example, a brief news item concerning a possible link between SIDS and certain innoculations—a link which was disproved—caused many parents to insist that their children not be innoculated. More horrifying, a number of unscrupulous people have been known to capitalize on the ignorance about SIDS to peddle quackery.

Substantial progress has been made in the investigation of SIDS in the past few years. It is possible that we may soon be able to identify infants who appear particularly susceptible to this pernicious killer. Once identified, they can be closely monitored so that resuscitation is undertaken as soon as needed. But diagnosis and prevention remain only distant goals, and research must be supported with contributions.

In other words, there is a clear need for more awareness of the sudden infant death syndrome. A greater awareness by the public can help the parents of victims to avoid added anguish. Just as important, it can prevent panic among other parents. Finally, it can stimulate the contributions needed for further research.

Mr. President, for the last 10 years, I have known Dr. Ralph Franciosi, a young pathologist up in Minneapolis. He has dedicated his life at the Children's Health Center in Minneapolis to the study of SIDS, and to trying to spread knowledge, information, and a greater awareness among the public. But it was not until I received a phone call about 5 o'clock in the morning very early this spring from one of my legislative assistants who said only, "Something terrible has happened. Our baby is dead," that I felt as a U.S. Senator that I had to take it upon myself to inform my colleagues about their obligations to spread the word and increase the awareness of sudden infant death syndrome.

This resolution is only part of that process. What we and others do with this resolution from here on out is what will help other parents to avoid the problems experienced every year by 7,000 parents in this country.

That is why I have introduced this resolution designating the first week of October as National SIDS Awareness Week. It is why so many other Senators, more than 30, have cosponsored this resolution.

The breadth of support indicates just how serious the problem of sudden infant death syndrome is and how willing people are to work for its solution.

● Mr. QUAYLE. Mr. President, I rise to join my colleague, Mr. DURENBERGER, as he introduces this resolution to declare the week of October 1, 1982, as "National Sudden Infant Death Awareness Week."

Twenty times a day in this country a lifeless infant is found. These babies are normal, healthy infants that are found dead in their cribs by their families. One cannot imagine the grief and heartache these crib deaths bring into a family, nor the guilt or the prosecution.

Because these crib deaths are not well known, many families of sudden infant death victims are suspected of child abuse. In one case, three siblings were removed from the grieving parents by child protection authorities within hours of the death of the new baby. With more public awareness, these needless tragedies can be avoided.

I support this resolution because it will bring public attention not only to the problem, but to the progress that is being made, particularly in the development of monitoring for susceptible children. Infants who have had near misses can be monitored through their first year of life, when the danger of another episode appears to subside.

I commend the Senator from Minnesota for his interest in this problem, and join him in support of this resolution.

Mr. DURENBERGER. Mr. President, I move the adoption of this resolution.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DURENBERGER. I yield.

Mr. ROBERT C. BYRD. I congratulate the Senator for his introduction of the joint resolution, and I wonder if I might be named as a cosponsor?

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is added as a cosponsor.

If there are no amendments, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

The preamble was agreed to.

The joint resolution (Senate Joint Resolution 233), together with its preamble, is as follows:

S. J. RES. 233

To provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas Sudden Infant Death Syndrome is a recognized disease entity which kills at least 7,000 infants per annum in the United States;

Whereas the victims of Sudden Infant Death Syndrome are babies who appear healthy but who nonetheless die without warning while asleep;

Whereas Sudden Infant Death Syndrome knows no boundaries of race, ethnic group, region, class or country;

Whereas Sudden Infant Death Syndrome is the leading killer of infants between the age of one week and one year;

Whereas Sudden Infant Death Syndrome annually kills more infants than cystic fibrosis, cancer, heart disease and child abuse combined;

Whereas research is underway throughout the world to identify the causes and process of this syndrome and to treat infants who can be identified as potential victims;

Whereas the parents and siblings of Sudden Infant Death Syndrome victims often suffer added anguish because many people are unaware of the existence of the pernicious killer; and

Whereas an increase in the national awareness of the problem of Sudden Infant Death Syndrome may ease the burden of the families of victims and may stimulate interest in increased research for the causes and the cure of Sudden Infant Death Syndrome: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning October 1, 1982, is designated as "National Sudden Infant Death Syndrome Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that are cleared for action by unanimous consent on this side. May I inquire of the minority leader if he is in position to proceed on items that I believe have been brought to his attention?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Chair.

FEDERAL COMMUNICATIONS ACT AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 3239 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

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(The conference report is printed in the House proceedings of the RECORD of today, August 19, 1982.)

Mr. GOLDWATER. Mr. President, I rise in support of the conference report on H.R. 3239, a bill that contains amendments to the Communications Act of 1934 to facilitate the provision of amateur radio and private land mobile radio services. I first proposed similar provisions to the Senate in 1979. That year, along with Senators SCHMITT, PRESSLER, and STEVENS, I introduced S. 622, the "Telecommunications Competition and Deregulation Act of 1979." No action was taken on that bill. On April 8, 1981, I introduced S. 929, a more far-reaching bill to improve the administration of these communications services. S. 929 was cosponsored by Senators PACKWOOD, SCHMITT, PRESSLER, STEVENS, CANNON, HOLLINGS, and INOUYE. The Committee on Commerce, Science, and Transportation reported that bill with amendments on September 18, 1982 and it passed the Senate on September 25, 1981.

Mr. President, I have been continually frustrated by the failure of many in Congress to appreciate the important role that ham operators and private land radio users have in our national communications system. With the passage of H.R. 3239, I hope we have finally overcome this failure to grasp the importance of these services.

The contributions of the over 400,000 amateur radio operators nationwide to the welfare and safety of the United States, through the furnishing of public service communications, emergency communications, technical self-training, self-regulation and advancement of the modern radio and television arts are too well documented to require elaboration. Nonetheless, threats to the continuation of amateur radio's unblemished record of service to the public exist from a number of sources, including governmental fiscal restraints, unintentional statutory restraints and problems arising from interference to home entertainment equipment through no fault of the amateur radio station. These problems can be easily solved at essentially no cost, and in most cases, the apparent solutions are actually cost-saving measures. Despite the simplicity and cost-saving aspects of these solutions, however, the need for them remains acute.

Amateur radio constitutes one of the best educational opportunities for America's youth and one of the most worthwhile pastimes for its elderly. The unavailability of Federal funds to administer this service need not and should not be permitted to preclude amateur radio involvement for the young or the elderly. Amateurs must be permitted, through voluntary efforts supervised by the FCC, to supply the services, including examinations, to those who would benefit from them, as funds are not available to supply these services any longer. In that regard, the FCC must insure that there are no conflicts of interest in the preparation and administration of amateur examinations and that no one is treated unfairly.

Judicial construction of statutory limitations have bound the hands of amateurs who would work together to identify intruders into the frequency bands used for amateur radio public service communications. It is imperative that amateurs be unfettered in their efforts to continue the cooperative self-regulation that has impressed regulatory authorities since the dawn of radio.

The problem of interference to television and other home entertainment equipment from transmitting equipment has plagued our citizens for years. Complaints are increasing at an exponential rate. This is not because of the transmitting equipment, but because of the need to incorporate inexpensive filtering mechanisms in home entertainment equipment. The need for better design now in such home entertainment equipment is critical to stem the tide of electromagnetic incompatibility now throughout our atmosphere and creating disputes among neighbors. The millions of purchasers of television and radio receivers and other electronic devices each year deserve and need protection from interference.

In addition, this bill contains a provision which will enable the FCC to eliminate licensing of citizens band radio (CB) and radio control (RC) services. The major purpose of this provision is to give the FCC the option of relaxing or virtually eliminating its regulation of operators in the RC and CB services. With respect to CB, licenses are available to virtually anyone who makes such a request. These licenses do not grant any special spectrum privileges, meaning that all CB licenses may use any of the 40 channels allocated to that service. These same considerations apply to the RC service. I believe this is a necessary step, and one which will result in significant savings to everyone concerned.

Mr. President, I also want to emphasize the importance of private land mobile services to the Nation. These services are rapidly becoming an important tool for small businesses to use in operating more efficiently. Also, police, fire, emergency rescue services and other governmental services are heavy users of land mobile radio, as are the railroads and motor carriers. Public utilities depend upon land mobile radio to promptly restore utility service to the public. Other uses include heavy construction, fuel oil delivery, manufacturing, the petroleum industry, and the forest products industry.

At a time of governmental belt-tightening at all levels, this bill is timely. It provides a means of cutting costs, eliminating problems which have plagued a most worthy public service-oriented avocation, and yet actually permits an increase in the availability of services to amateur radio, the most self-regulated radio service in the United States. In an electronic age, it is critical to nurture an interest in technical experimentation and development. Amateur radio inherently fosters such an interest. This bill is necessary to insure continued growth of the service and its continued effectiveness as a source of public service involvement.

Mr. President, the amateur radio and land mobile provisions in this bill are far too important to allow them to not be enacted this year. The time for action is now and I therefore endorse this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOUNDARY OF CRATER LAKE NATIONAL PARK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1119.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1119) entitled "An Act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) the first section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, nd so forth", approved May 22, 1902 (32 Stat. 202), as amended, is further amended by revising the second sentence thereof to read as follows: "The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, 'Crater Lake National Park, Oregon', numbered 106–80–001–A, and dated March 1981, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.".

(b) Lands, water, and interests therein excluded from the boundary of Crater Lake National Park by subsection (a) are hereby made a part of the Rogue River National Forest, and the boundary of such national forest is revised accordingly.

(c) The Secretary of the Interior is authorized and directed to promptly instigate studies and investigations as to the status and trends of change of the water quality of Crater Lake, and to immediately implement such actions as may be necessary to assure the retention of the lake's natural pristine water quality. Within two years of the effective date of this provision, and biennially thereafter for a period of ten years, the Secretary shall report the results of such studies and investigations, and any implementation actions instigated, to the appropriate committees of the Congress.

SEC. 2. (a) In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Cumberland Island National Seashore, Georgia, which comprise about eight thousand eight hundred and forty acres, and which are depicted on the map entitled "Wilderness Plan, Cumberland Island National Seashore, Georgia", dated November 1981, and numbered 640-20038E, are hereby designated as wilderness and therefor, as components of the National Wilderness Preservation System. Certain other lands in the Seashore, which comprise about eleven thousand seven hundred and eighteen acres, and which are designated on such map as "Potential Wilderness", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, designated wilderness. Such notice shall be published with respect to any tract within such eleven thousand seven hundred and eighteen acre area after the Secretary has determined that such uses have ceased on that tract. The map and a description of the boundaries of the areas designated by this section as wilderness shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Cumberland Island National Seashore.

(b) Within six months after the enactment of this Act, a map and a description of the boundaries of the Cumberland Island Wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made.

(c) The wilderness area designated by this section shall be known as the Cumberland Island Wilderness. Subject to valid existing rights, the wilderness area shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. MATTINGLY. Mr. President, it is with great pride that I rise to support S. 1119, which contains a provision establishing portions of Cumberland Island, Ga., as a wilderness area. Some sections of the island are being designated as potential wilderness and will remain so long as there are retained rights owners.

Cumberland Island is one of the many barrier islands along the southern Atlantic coast. Unlike so many of the islands, however, it is unspoiled by commercial development.

There are almost 20 miles of beautiful, untouched beaches. There are marshes, freshwater ponds, creeks, and forests that provide natural habitats for a host of plants and animals.

I cannot adequately describe the beauty of the island here on the Senate floor. Magazines such as National Geographic have attempted to capture the island in words and pictures. But none of these prepare the visitor for the full impact of Cumberland. It is a unique experience and I urge all Senators to one day visit this natural wonder.

The legislation before you today is the end product of more than 10 years of work. In 1972 Congress established the Cumberland Island National Seashore. Since that time, the Interior Department and the State of Georgia have acted to purchase much of the island.

The legislation will insure that the public will always have an unspoiled, natural Cumberland to visit. The provisions of the bill have been worked out carefully between private landowners, the Park Service, the State of Georgia, and other concerned groups. All deserve creidit for the many days of hard work that went into passing the bill.

The legislation has already passed the House, where it was attached by Congressman Bo GINN of Georgia to the Crater Lake bill sponsored by Senator HATFIELD. I would especially like to thank Senator HATFIELD for his patience in this matter, as he watched the Georgia amendment slow down passage of his bill.

I was joined by our distinguished senior Senator from Georgia, SAM NUNN, in introducing S. 2569. That bill was the Senate's vehicle for hearings and committee approval. This enabling bill, S. 2569, retained the Cumberland Island language that is in the bill, S. 1119, before you today. I am deeply indebted to my distinguished colleagues Senator WALLOP, Senator MCCLURE, and Senator JACKSON for the expeditious way in which they handled the hearings and the markup on this companion bill.

And so, Mr. Presdient, I commend this bill to the Senate as one that is supported by all parties and will result in the protection of one of my State's and this Nation's treasures.

Mr. NUNN. Mr. President, today the Senate marks a significant achievement in the protection of one of the most outstanding natural areas remaining on our eastern seaboard by passing S. 1119 which designates the majority of the Cumberland Island National Seashore as a wilderness area.

My family and I camped on Cumberland Island during this past Easter, and I can personally attest to this island's beauty and tranquility. Cumberland Island is the largest and southern-most of Georgia's barrier island system. On Cumberland's eastern edge are waves of the Atlantic Ocean, a majestic white sandy beach that stretches for 16 miles with both shifting and stable sand dunes, some of which rise to a height of over 50 feet. West of and behind the dunes is the maritime forest of live oaks, pines, magnolias, hollys, palmettos, and Spanish-moss. Ribbons of tidal creeks slice through this deep forest and are home to waterfowl and alligators. West of the maritime forest is the salt marsh and the Atlantic Intercoastal Waterway.

In 1972, Cumberland Island was established as a National Seashore in order to preserve the scenic, scientific, and historical values of this unique land. Of the 36,878 acres within the national seashore area, the legislation which we are enacting today designates 8,840 acres as wilderness and an additional 11,718 acres as potential wilderness. This acreage comprises the mostly natural area of the northern half of Cumberland Island.

Passage of this legislation by the U.S. Senate guarantees the availability of experiences found nowhere else in the world. This legislation will assure that people seeking a natural wilderness experience will have an opportunity to see representative examples of all of the island's ecosystems under conditions almost identical to those discovered by the island's first inhabitants.

The existence within this wilderness area of a number of privately owned life estates, and of retained rights to vehicular access along the primitive island roads, presents a unique management challenge. Until these rights expire or are teminated, the National Park Service also will be permitted to use the existing access ways for emergency purposes, for essential law enforcement, and for administrative purposes necessary to meet minimum requirements for the administration of these areas as wilderness. The ultimate goal in the Cumberland Island wilderness plan is to phase out activities or uses which are nonconforming to wilderness as soon as it is practicable to do so, and these vehicular access uses—by both private residents and the National Park Service—are to be considered special and limited. Such uses which presently exist should not

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be considered or allowed to become traditional or "established," as such term is used in the Wilderness Act.

At the same time, this legislation assures the availability of other examples of the same ecosystems to those people who are not seeking a wilderness experience by leasing the southern half of the island under nonwilderness management.

Mr. President, this bill represents the culmination of a long and deliberate effort by a great many people over a period of nearly 10 years to develop an appropriate wilderness plan for Cumberland Island. It represents the input of thousands of citizens, virtually all of the national conservation organizations, the National Park Service and the State of Georgia.

This work has been shepherded by my colleague in the House of Representatives, Congressman Bo GINN, and by individuals representing each of the major conservation organizations in my State.

I am pleased to join my colleague Senator MATTINGLY and these dedicated individuals in this effort to preserve for the enjoyment of future generations of Americans this remarkable part of our rich environmental heritage.

● **Mr. McCLURE.** Mr. President, for purposes of the legislative history on S. 1119, I would like to clarify that section 2 of S. 1119 is identical to the text of S. 2569, a bill to declare certain lands in the Cumberland Island National Seashore, Ga., as wilderness, ordered reported by the Committee on Energy and Natural Resources on August 13, 1982. The report to accompany S. 2569 (S. Rept. No. 97-531) provides the legislative history of the Senate for section 2 of S. 1119. The section-by-section analysis included in that report is particularly important and for ease of reference I quote it here in full:

> Subsection (a) would designate certain lands as wilderness and potential wilderness additions at Cumberland Island National Seashore, Georgia. About 8,840 acres would be designated wilderness and about 11,718 acres would be designated potential wilderness. Most of the potential wilderness is intertidal area owned by the State of Georgia. The bill provides for public notification of future wilderness boundary changes and for making maps available to the public.
>
> Subsection (b) provides that a map and a description of the wilderness boundaries be filed with the authorizing committees of the Congress within six months of the date of enactment.
>
> Subsection (c) designates the wilderness as the "Cumberland Island Wilderness" and provides that the area be administered in accordance with the relevant provisions of the Wilderness Act.
>
> Since so many of the other barrier islands of the Atlantic Ocean along the eastern seaboard of the United States are in various stages of development, it is most appropriate that the majority of the lands of the Seashore be retained in, and restored to the maximum degree possible, to their natural state.
>
> The Committee supports the compatibility and reinforcement which wilderness designation provides in assuring that the dynamic natural forces at play on the wilderness-designated portions of Cumberland Island National Seashore will continue basically unfettered by activities of man.
>
> Some present human activities and structures and evidence of past activities remain on the landscape, but will phase out in time. The Committee notes some complexities introduced into the wilderness designation action by virtue of: (1) the implications of the retained rights (including vehicle use) granted to former landowners; (2) the need to restore, maintain and provide public access to the historical values of the Plum Orchard mansion bounded by the proposed wilderness; (3) the geologically unstable intertidal zones proposed as potential wilderness additions and (4) existing non-conforming uses of the intertidal areas and related channels. The legally retained private rights which exist shall not be adversely affected by the designation of wilderness or potential wilderness. The Committee does express its desire, however, that insofar as possible as practicable, all such rights, as well as the management activities of the National Park Service, be exercised in a manner as compatible as possible with the wilderness and potential wilderness addition designations.
>
> To the extent it can legally do so, the National Park Service is expected to manage the potential wilderness areas as wilderness, according to the provisions of the Wilderness Act of 1964. Although portion's of the island's existing primitive roads are included within the designated wilderness and potential wilderness areas, the Committee intends that while these access ways continue to exist for honoring retained private rights, the National Park Service may utilize these access ways for emergency purposes. The Committee intends that the National Park Service shall be permitted to respond in an adequate manner to any emergency that might occur within the designated wilderness or potential wilderness. Until all private rights expire or are terminated, National Park Service access within the designated wilderness or potential wilderness also will be permitted for essential law enforcement, and for administrative purposes necessary to meet minimum requirements for the administration of this area. The Committee intends that, wherever feasible, the use of non-motorized conveyance is preferred to the use of motorized conveyance. The Committee notes that nothing in the bill shall affect retained right agreements previously negotiated by the Government, nor shall the bill prejudice the standing of current private landowners in the negotiation of retained right agreements as part of future land sales, nor the renewal of special use permits in accordance with the established practices of the National Park Service.
>
> The Plum Orchard mansion and grounds have been excluded from designation as wilderness or potential wilderness. That portion of Grand Avenue from Plum Orchard mansion to the southernmost wilderness boundary is designated as potential wilderness, and any part of it is intended to change to wilderness classification at such time that all retained rights for use of such road segments expire.
>
> The Committee recognizes the need for access to Plum Orchard for purposes of public visitation and National Park Service restoration, rehabilitation and maintenance activities.
>
> The National Park Service may provide access via the potential wilderness segment of Grand Avenue. The Committee does not intend that any motorized vehicle use of Grand Avenue should become a traditional or "established" use, as such term is used in the Wilderness Act, and all such motorized use shall be discontinued no later than the expiration of the last private, retained right to use any segment of the road. The Committee desires to be kept advised of the development of plans for access to Plum Orchard, and desires to be informed in writing of new access plans before they are implemented.
>
> Existing utility lines may continue to be maintained by the minimum practical tools so long as the retained rights which require their existence remain. The Committee intends that the National Park Service be responsible for determining what constitutes the minimum practical tool(s) each time a maintenance activity is proposed.
>
> Such tool(s) may include motorized vehicles and mechanical equipment if the National Park Service determines that the use of such tool(s) are (is) essential to repair and maintenance of the existing utility lines.
>
> It is the intent of the Committee to allow for the continuation of the operation and maintenance of necessary navigation aids, dredging ranges and survey markers including those intended to assure proper alignments for the maintenance and use of the Kings Bay navigation channel. The agency responsible for these aids should consult with the National Park Service prior to taking actions other than routine maintenance within the wilderness and potential wilderness additions areas established by this Act.
>
> The intertidal lands (those lands between mean high and mean low tides) within the boundary of the Seashore located north of Greyfield on the western side and north of Stafford Beach on the eastern side are designated as potential wilderness. These lands shall be classified as wilderness at such later time as title may be granted to the United States acting through the National Park Service. Since the channels, navigable by small craft, are not included within the wilderness or the potential wilderness additions, the existing uses of these channels for waterborne access or fishing shall not be affected or diminished. The Committee recognizes that these intertidal areas are unstable and subject to changes due to the tide and storm. Accordingly, the Committee feels that the wilderness map that is finally developed by the National Park Service should clearly set forth in writing the Committee's intent, as described in this paragraph, so as to preclude the need to publish new maps each time a physical change in the intertidal lands or channel configuration occurs.●

Mr. BAKER. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. BAKER. Mr. President, Calendar Order 700, S. 705, has been cleared on this side of the aisle for action at this time, and if the minority leader has no objection, I ask the Chair to lay before the Senate S. 705.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The Senate proceeded to consider the bill (S. 705) to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike out all after the enacting clause, and insert the following:

That for purposes of this Act—

(1) the term "person" includes any State or any political subdivision or entity thereof;

(2) the term "interchange" means a land transfer in which the Secretary and another person exchange titles to lands or interest in lands under such regulations as the Secretary may prescribe; and

(3) the term "Secretary" means the Secretary of Agriculture of the United States.

SEC. 2. The Secretary is authorized, when the Secretary determines it to be in the public interest—

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 3; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of value, including the mineral estate, to the lands being conveyed by the Secretary.

SEC. 3. The National Forest System lands which may be sold, exchanged, or interchanged under this Act are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more that $150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description that there was not such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

SEC. 4. Any person to whom lands are conveyed under this Act shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under this Act, the Secretary may, in those cases in which the Secretary determines it would be consistent with the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under this Act, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be consistent with the public interest, waive payment by any person of costs incidental to such conveyance or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

SEC. 5. Conveyance of any road rights-of-way under this Act shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

SEC. 6. The Secretary shall issue regulations to carry out the provisions of this Act, including specification of—

(1) criteria which shall be used in making the determination as to what constitutes the public interest;

(2) the definition of and the procedure for determining "approximate value"; and

(3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 3.

SEC. 7. Nothing in this Act shall authorize conveyance of Federal lands within the National Wilderness Preservation System.

SEC. 8. The Act of December 4, 1967 (81 Stat. 531), is amended by inserting before the phrase "public school district" wherever it appears, and before the phrase "public school authority" the second time it appears, the words "State, county, or municipal government or" and from the Committee on Energy and Natural Resources with amendments to the reported amendment of the Committee on Agriculture, Nutrition, and Forestry, as follows:

On page 5, line 15, after "lands", insert the following: "of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and."

On page 6, line 9, strike "approximate value,", and insert "approximately equal value,";

On page 6, after line 11, insert the following: "The Secretary shall insert in any such quit-claim deed such terms, convenants, conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.".

On page 8, line 5, strike "consistent with the public interest", and insert "in the public interest,";

On page 8, beginning on line 13, strike "consistent with the public interest,", and insert "in the public interest,";

On page 8, beginning on line 15, strike "such conveyance", and insert "any conveyance authorized by this Act";

On page 9, line 4, strike "'approximate value'" and insert "'approximately equal value'";

On page 9, line 12, strike "System.", and insert the following: "System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in this Act shall authorize sale of Federal lands, within National Recreation Areas.".

On page 9, line 17, strike "Sec. 8.", and insert "Sec. 8. (a)";

On page 9, after line 21, insert the following: "(b) The Act of December 4, 1967 (81 Stat. 531), is further amended by adding the following at the end thereof: "Lands may be conveyed to any State, county, or municipal government pursuant to this Act only if the lands were being utilized by such entities on the date of enactment of this sentence. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance.".

Mr. DOMENICI. Mr. President, S. 705, the Small Tracts Act is long overdue because the problem it addresses grows with each passing day.

The problem is one that involves disputes between the U.S. Forest Service and adjacent landowners. These disputes have occurred as the Federal Government has engaged in resurveying of the public lands of this Nation. Those surveys are conducted today using the most modern technological equipment available. However, they have turned up numerous boundary discrepancies across the United States. This is not simply a New Mexico problem nor just a California problem. It exists across our Nation and currently the U.S. Forest Service has some 60,000 pending cases involving adjacent landowners who thought they owned land that they now find has been placed by these new surveys within the boundaries of our national forests.

I want to make it very clear that through absolutely no fault of their own these property owners now find their titles to deeds clouded and have seen, in some cases, improvements to their property now placed within the boundaries of the national forests. It is clear that these citizens relied on the only surveys that were available, those that had been done to the best degree possible years ago with the then-existing surveying equipment. Everyone, including the U.S. Government, thought those surveys were correct.

Now, if these disputes had occurred between two private landowners, the individual would have some recourse through the doctrine of adverse possession. However, under our laws, an individual cannot invoke that doctrine against the U.S. Government.

So what are the individual's options?

Of course the individual can perhaps sue the U.S. Government. That type of action is, needless to say, long and costly with no guarantee of vindica-

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tion in our courts. And in most cases, the amount of land involved in these disputes is less than 10 acres.

Another method of satisfaction to the individuals involved is the use of legislative remedy or private relief bills which allow the individual to purchase the disputed land back from the Federal Government or trade it back for an equal value.

Can you imagine some 60,000 individual relief bills coming before the U.S. Senate in trying to solve this problem?

I think S. 705 provides us with a solution to this dilemma. It also provides a form of relief to countless thousands of property owners across the Nation who just want this cloud of ownership lifted.

Simply stated, the Small Tracts Act allows the Forest Service at the local level to enter into negotiations with these individuals and, further, it gives the U.S. Forest Service the authorization to clear title.

I would point out that we have placed a cap on this legislation and only parcels of 10 acres or less can be returned to the property owners. It seems to me that the cap insures the fact that this act will not be abused. Furthermore, with this cap we allow the Forest Service to administratively resolve 99 percent of the existing disputes.

I think this bill, while not addressing all of issues involved with the Government's land survey problems, goes a long way in resolving the issue for thousands of our citizens. It is a fair bill that is supported by the administration, by the U.S. Forest Service, by countless organizations and by thousands of individual Americans.

I would point out that the U.S. Government has to some extent just begun its resurveying of Federal land across the United States. This means that today we may have 60,000 cases of boundary disputes and tomorrow we could easily have 100,000. Unless the Congress acts we are doing an extreme disservice to countless thousands of our citizens.

A similar measure is currently moving its way through the House of Representatives and, I am confident that once the U.S. Senate acts, the Members of the House will expedite this legislation.

Mr. HUDDLESTON. Mr. President, I support S. 705 as reported by the Senate Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources.

S. 705 authorizes the Secretary of Agriculture to convey certain small tracts of national forest lands to individuals and local governments. Presently, the Forest Service is responsible for managing many thousands of very small and irregularly shaped lots for which proper management is impractical. An example of such a parcel of land is a road right-of-way several yards wide and 33 miles long. By allowing the Secretary to sell or exchange these small tracts of land, S. 705 would enable the Secretary to better manage national forest lands.

In addition, some parcels of national forest land have been innocently encroached upon because of inaccurate surveys taken many years ago. S. 705 would provide a method of resolving innocent encroachment cases equitably and avoid lengthy and costly litigation for private landowners and the Government.

The amendments included by the Committee on Energy and Natural Resources would provide additional protection of the public interest. The committee's amendments specify that scenic, wildlife, and recreation values be included in assessing the value of small tracts to be conveyed.

I urge my colleagues to join me in supporting S. 705.

Mr. BAKER. Mr. President, there are amendments from the Committee on Agriculture as well as from the Committee on Energy and Natural Resources, is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

The Senate proceeded to consider the bill (S. 1986) to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the U.S. Court of Claims, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 2, line 8, strike "Reservation", and insert "Indian Community";

On page 2, line 23, strike "Reservation", and insert "Indian Community";

On page 3, line 6, strike "Reservation", and insert "Indian Community";

On page 3, line 12, strike "Reservation", and insert "Indian Community";

On page 3, line 19, strike "Reservation", and insert "Indian Community";

On page 3, strike line 24, through and including page 4, line 5, and insert the following:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in section 3 of this bill.

On page 4, line 19, strike "Reservation", and insert "Indian Community";

On page 5, line 14, after "Act", insert "or other Federal assistance programs"; and

On page 5, line 17, strike "Act", and insert the following:

"Act, including the establishment of deadlines for filing applications for enrollment.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of the law, the funds appropriated on January 23, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250-A and 179-C of the United States Court of Claims (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be distributed and used as herein provided.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation, Montana, in docket numbered 279-C, amounting to $400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for governmental operation and social and economic programs.

SEC. 3. The funds appropriated to the Assiniboine Tribe of the Fort Belknap, Indian Community, Montana, in docket numbered 250-A, amounting to $2,170,013 shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboine members of the Fort Belknap Indian Community and born on or prior to and living on the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 279-C, amounting to $2,094,987, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gross Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in section 3 of this bill.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

Sec. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interests of such individuals.

Sec. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

Sec. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENTS NO. 1254

(Purpose: To distinguish between membership in the Gros Ventre Tribe and the Fort Belknap Indian Community and to clarify that eligibility for per capita payments as provided in S. 1986 does not affect the Tribe's right to determine its membership)

(Purpose: To assure that other judgments awarded by the Court of Claims to the Gros Ventre Tribe of the Fort Belknap Indian Community are distributed in accordance with the provisions of S. 1986)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of Mr. Melcher two amendments, and I ask unanimous consent that they be considered en bloc and that an explanation of the amendments by Mr. Melcher be printed in the Record.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) for Mr. Melcher proposes an unprinted amendment numbered 1254, en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, beginning on line 18, strike Sec. 4 and insert a new Sec. 4 as follows:

"Sec. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Reservation, Montana, in docket numbered 279-C amounting to $2,094,987, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in the sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are (1) duly enrolled members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one-quarter degree Gros Ventre blood, or (2) who are enrolled in the Fort Belknap Indian Community and are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and are not eligible to share in Section 3 of this bill.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

(c) Nothing in this section is deemed in anyway to increase, diminish or in anyway affect the right of the Gros Ventre Tribe to determine its membership."

On page 5, after line 18, insert the following new sections:

"Sec. 8. Twenty-six and eight-tenths percent of funds in the amount of $29,404,951.84 (less attorney fees and litigation expenses), appropriated on June 30, 1981 in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in Docket numbered 649-80L of the U.S. Court of Claims, shall be distributed to the Gros Ventre Tribe of the Fort Belknap Reservation in accordance with sections 4, 5, 6, and 7 of this Act.

"Sec. 9. Funds in the amount of $77,780.13 (less attorney fees and litigation expenses), appropriated on July 16, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Gros Ventre Tribe of the Fort Belknap Indian Community in Docket numbered 309-74 of the U.S. Court of Claims, shall be distributed in accordance with sections 4, 5, 6, and 7 of this Act.".

● Mr. MELCHER. The blood quantum requirements in S. 1986 for participation in per capita payments differ from the requirements for membership in the Gros Ventre Tribe, whose affairs are conducted by its treaty committee. The amendment clarifies that the distribution of the judgment awards will not affect tribal membership requirements. It should be noted that membership in the tribe is not synonymous with enrollment in the Fort Belknap Indian Community, which is made up of Indian residents of the reservation who have enrolled as either Gros Ventre or Assiniboine. Some are mixed blood of the two tribes, but the election determines how they participate in affairs affecting the entire Fort Belknap community.

The new section 8 relates to a plan for the distribution of judgment funds awarded by the U.S. Court of Claims in Docket 649-80L to the Gros Ventre Tribe of the Fort Belknap Reservation that was timely submitted to the Congress in accordance with the Indian Judgment Funds Act of October 19, 1973. The Gros Ventre Tribe was awarded 26.8 percent of the $29,404,951.84 judgment, with the remainder going to the Blackfeet Tribe. The Blackfeet Tribe's share of the judgment is not affected by the bill. The Gros Ventre plan, as submitted, was to conform to an amendment proposed by the Department of the Interior to S. 1986. However, the specific amendment referred to was further amended by the Select Committee on Indian Affairs in its business meeting. To be sure that the distribution of the Gros Ventre portion of the funds in Docket 649-80L is in accordance with the decisions of the select committee, the plan was disapproved by the Senate. (See: S. Res. 409, passed on June 16, 1981.) Section 8 authorizes the distribution of these judgment funds in accordance with sections 4, 5, 6, and 7 of the bill.

The new section 9 relates to a judgment in the amount of $77,780.13 awarded to the Gros Ventre Tribe by the U.S. Court of Claims in Docket 309-74 for which the Department of the Interior failed to submit a distribution plan within the statutory time limit. The funds were appropriated on July 16, 1981, and section 9 provides that these funds shall be distributed to the Gros Ventre Tribe in accordance with sections 4, 5, 6, and 7 of the bill.●

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (UP No. 1254) were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I take great pleasure in moving to table the motion of the distinguished Senator, who serves very ably as majority leader of this body. I am able to win on these motions.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, it will not diminish the relationship between the two of us to say that if the Senator is going to win on something, I would rather it would be on this than almost anything else. [Laughter.]

ORDER THAT H.R. 5288 BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that H.R. 5288 be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, on today's Executive Calendar on my side of the aisle I find that I am prepared to proceed by unanimous consent to the consideration of nominations under Department of State on page 4, continuing on page 5 under New Reports in the Air Force and the Army, through page 6 and page 7, including nominations in the Navy, page 8 for nominations in the Marine Corps and those nominations under Securities and Exchange Commission, and finally, on page 9, the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding with the nominations enumerated by the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, the Senate will go into executive session.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominees identified and listed just previously be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered en bloc and confirmed en bloc are as follows:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs, vice James L. Buckley.

AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8036, to be Surgeon General of the Air Force:

To be Surgeon General, USAF

Maj. Gen. Max B. Bralliar, 410-64-2170FR, U.S. Air Force, Medical.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, 378-28-6898FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast, 498-34-9821FR, U.S. Air Force.

ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, 427-28-9186, Army National Guard of the United States.

The following-named Army National Guard of the U.S. officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., 557-32-7721.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., 495-28-6662, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, 516-28-8461, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsiblity designated by the President under title 10, United States Code, section 601.

To be lieutenant general

Maj. Gen. Emmett H. Walker, Jr., 427-28-9186. Army National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601.

To be lieutenant general

Lt. Gen. LaVern E. Weber, 445-16-9508. Army of the United States.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370.

To be lieutenant general

Lt. Gen. Hillman Dickinson, 495-20-6943, (age 56), U.S. Army.

NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601.

To be admiral

Vice Adm. Wesley L. McDonald, 579-24-4664, /1310, U.S. Navy.

MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

SECURITIES AND EXCHANGE COMMISSION

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1987, vice Bevis Longstreth, term expired.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Clayton B. Anderson, and ending Terrence P. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Air Force nominations beginning John S. Adams, Jr., and ending Allen V. Wexler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Army nominations beginning Robert O. Porter, and ending Robert A. Sharp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Army nominations beginning Enrique Del Campo, and ending Richard Hagle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Marine Corps nominations beginning Robert L. Peterson, and ending Michael L. Zanotti, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Navy nominations beginning Michael L. Arture, and ending Charles E. Johnston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Navy nominations beginning Javier Arquimedes Arzola, and ending Patricia James Watson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Navy nominations beginning Bruce P. Dyer, and ending Joseph C. Wiley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 17, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER THAT THE RECESS TODAY BE EXTENDED TO 2:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the previous order providing for a recess of the Senate over until 2 p.m. be extended to 2:30 p.m. under the same terms and conditions.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The **PRESIDING OFFICER.** The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (H. J. Res. 520) to provide for a temporary increase in the public debt.

The Senate resumed consideration of the Joint Resolution.

AMENDMENT NO. 2040

(Previously number UP amendment No. 1253.)

The **PRESIDING OFFICER.** The pending question is the Baucus amendment. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, when I was speaking last night, we were talking about the so-called prayer portion of the substantive amendment before the body. Let me recap the situation. There is clearly a difference of opinion in this country on the subject of abortion. Should a woman have a right to make a choice whether or not she wants to have an abortion? There are people who feel strongly on both sides of that issue. There are well-intentioned people on both sides and we fully understand in this body that difference of opinion.

There is a second issue involved now before us that was not initially before us, and it has nothing to do with abortion. It has to do with the issue of the jurisdiction of the Federal courts over the subject of voluntary prayer in public schools. Only, in a greater sense, it goes way beyond that, because it has to do with the issue of whether or not this Congress has the right to take away from the Federal courts jurisdiction to hear cases involving fundamental constitutional issues.

Therefore, I want to read for the Senate the particular amendment that relates to the jurisdiction of the courts and voluntary prayer.

This section may be cited as the "Voluntary School Prayer Act of 1982" and

Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.": *Provided further,* That the section analysis at the beginning of Chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations."

Provided further, That Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."; provided, further, that the section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction."

And provided further, That the amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Translated into layman's language, that means essentially as follows: If this bill passes, we will be taking away by statute—which can be passed by 51 votes in the Senate out of the 100 and by a majority out of 435 in the House of Representatives—we will be passing by statute a bill that will take away from all Federal courts—Federal district courts, Federal courts of appeals, the U.S. Supreme Court—the right to hear any cases involving voluntary school prayer, including any appeal from any State court to the U.S. Supreme Court.

The reason offered by the proponents of this amendment is that they do not like the Supreme Court decisions on this subject which have limited school prayer. Those decisions started about 20 years ago. The gist of them is that you cannot have a school board or a State legislature or a Governor, or any other governmental body, write the school prayer which the school teacher is compelled to recite and the students in the class recite it with the teacher, unless they want to be excused from reciting. They can go stand in the hallway or go in the cloakroom, whatever. They are not compelled to do it. But in the process of not doing it they are going to have to distinguish themselves from their fellow students who are willing to stand and recite the prayer of the teacher.

The first issue, of course, is what prayer—assuming this statute passes—whose prayer? A Catholic prayer? A Baptist prayer? I would defy anyone in this Senate, let alone in the gallery, to sit down and attempt to get an agreement among the different religions in this country as to what would be a uniform, acceptable prayer that had any meaning.

In New York City, you have a heavy predominance in the public schools of Hispanics, many of whom are Catholic. You have heavy predominance of Jewish students who are obviously of the Jewish faith. Does it mean that the school board in New York City can write a prayer that would tilt toward the Jewish religion? tilt toward the Catholic religion? And despite the fact that many Baptists, Presbyterians, and Moslems go to those schools, they would be compelled to say the prayer or ask to be excused.

First, Mr. President, I defy you to try to write a meaningful prayer.

If the purpose of religion, as we understand it in our churches and in our homes, is to try to inculcate our families with the religion of the parents, to try to pass it on to our grandchildren, you do not do it by some meaningless, watered-down prayer that has no significance to anybody and is so inoffensive because it says nothing. Yet if you try to write a meaningful prayer, you are clearly going to have objections.

But if this amendment is agreed to, what it means is that any school district can decide what the prayer is going to be for that school district, compel the teacher to read it, and say that the students must recite it unless they are going to be excused.

If you do not like it, if your child is going to a school where a prayer is being given that you think tramples on your child's religion, you cannot sue in the Federal courts. That marvelous first amendment of ours that prohibits the Government from establishing religion will be of no help.

That is what is going to be accomplished if this amendment is agreed to.

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I was struck by an article I read in the Washington Post some time ago, which read as follows:

> PINEVILLE, LA.—At precisely 7:45 a.m. Principal Robert Cespiva eyed the wall clock at E. I. Barron Elementary School and made the day's first official announcement over the intercom: "Will everyone please stand while Matt Barlett leads us in prayer."
>
> A fifth-grader stepped to the microphone, a pint-sized point man in Rapides Parish's (county) defiance of the U.S. Supreme Court. "Dear Heavenly Father," said Matt, 11, as students bowed their heads, "we are thankful for today. We ask that You let us live without committing any sins. In Your name we pray. Amen."
>
> And with that, he was off to class, having sent a message from this Bible Belt of bayou rebels all the way to Washington, D.C., via the Lord.
>
> Louisiana's law allowing voluntary prayer sessions in public schools was ruled unconstitutional by the U.S. Supreme Court last month, but many schools are praying away. The people of Rapides Parish say God and President Reagan are on their side.
>
> As for the Supreme Court, "To heck with them," said Ina LaBorde, who defied a federal busing order last year to send her daughter, Michele, to all-white Buckeye High School. "I'm not going to let anyone tell me when my child can pray. If we're breaking the law, so be it."
>
> All across America, people like Ina LaBorde are interpreting Reagan's election and his vow to get government off the backs of the people as a license to do their will, even if it goes against the law of the land.
>
> "I feel like Reagan is cheering us on from the sidelines," said school board member Arthur Martin, 63, a local real estate man whose white Cadillac sports a "My Nationality, American" bumper sticker. "He keeps making references to God on the TV. In fact, he's the most outspoken president, in reference to God, we've ever had. I figure if he had to take a stand, he'd come out for prayer in public schools."

Mr. GOLDWATER. Will the Senator yield at that point?

Mr. PACKWOOD. I am willing to yield so long as I do not lose my right to the floor and so long as what I say following not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. I thank the Senator. I wanted to ask a question relative to a court case. As I remember a court case which prohibited schools from giving prayer, did it not involve a prayer prepared by the State?

Mr. PACKWOOD. There is a particular case in Alabama where the prayer that is being given to the children in the Alabama schools was written by the Governor's son. That is being contested in court right now, yes. That is correct.

Mr. GOLDWATER. Could I ask a further question? Would the prayer amendment proposed by the Senator from North Carolina allow the Governor's son to write the prayer or the Governor or the school board?

Mr. PACKWOOD. Yes; it would.

Mr. GOLDWATER. Is there much argument against children praying in school as long as they pray in their own way?

Mr. PACKWOOD. I think Senator Danforth, if we every get to the substantive issue, will have a long amendment on that. So long as you or your child want to stand up and say a silent prayer to themselves, to their own God, there are many people who have no objection to that. But when the school board writes the prayer that you are going to say if you are going to say a prayer at all, that is an entirely different matter.

Mr. GOLDWATER. I agree with the Senator. I think that that one inclusion in Senator HELMS' amendment will destroy an amendment that many people in this body had hoped they could support, but I cannot support that type of prayer amendment. As much as I want my grandchildren to pray anytime they want to, I do not want them praying some prayer that somebody wrote. I hope that the Senator from North Carolina would understand this and remove it. But if he does not, he is going to lose some votes.

Mr. PACKWOOD. I thank the Senator from Arizona very much. I could not agree with him more.

May I ask a question of the Chair? What is the order of the Chair as to when we reconvene at 2:30? Who has the floor?

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon would be recognized and his speech will still be the first speech.

Mr. PACKWOOD. I would be recognized regardless of who had the floor when we recessed at 12:15?

The PRESIDING OFFICER. Will the Senator withhold for a minute?

The Senator is correct. Regardless of who has the floor at the time the Senate goes into recess, the Senator from Oregon will be recognized when the Senate reconvenes.

Mr. President, let me read that one sentence again. I am quoting now from Mr. Martin, school board member:

> Just because the Supreme Court says it doesn't mean it is the law. The people are the law of the land.

Mr. President, it was only a few years ago, during the zenith of the Vietnam war, that we heard roughly that same chant:

> Power to the people. It doesn't matter what the Supreme Court says about the legitimacy of the draft; it doesn't matter what the Supreme Court ruled about whether or not Americans have a right to be fighting in Vietnam. The people are the law of the land.

Mr. President, this country cannot be operated on the basis of everybody choosing to observe or not observe the laws as they choose. We are a free country. We vote every 2 years for the House of Representatives, we vote every 4 years for President. In addition, we elect a third of the Senate every 2 years. The legitimate way to express your complaints about Government is to change the Government when you have an opportunity to vote. But we do not selectively decide which laws we are going to observe and which ones we are not. And we do not, if we have any good sense, decide to try to overrule the Supreme Court by a statute when we do not like the constitutional decisions of the Supreme Court.

Do I like every decision of the Supreme Court? Of course not. When I was a young lawyer, I practiced extensively in labor relations. The court made decision after decision interpreting the National Labor Relations Act and upholding decisions of the National Labor Relations Board that I thought were wrong. I thought they were adverse to my clients. I thought they put us in a difficult situation in the area dealing with labor relations. I did not go out and attempt to say, I am the law, and thumb my nose at the Supreme Court.

If we can do it for prayer, and I want to emphasize that this is a constitutional right, there shall be no establishment of religion. If we can pass a law that says henceforth, the Federal courts, including the Supreme Court on any right of appeal, shall have no jurisdiction over the issue of establishment of religion, because that is what prayer is, then there is nothing we can not take away from the Supreme Court.

Do you think the local newspapers are unfair, think they slant the news? Take away from the Federal courts the right to review cases involving freedom of the press.

Are you mad because a group you do not like in your town gets a permit from the local city council and assembles 300 or 400 people in the city park and chants things you do not like and holds meetings you find objectionable? Get the city council to pass a limitation on the right to peaceably assemble. Then pass a law saying that the Federal courts cannot review the right of the citizens to assemble.

You do not like self-incrimination? You think that a defendant ought to have to be made to take the stand in a criminal trial regardless of the Constitution, that says no person shall be made to be a witness against himself? Pass a statute saying that, henceforth, the Federal courts cannot review any cases involving the fifth amendment and self-incrimination. It is easy to do.

When I was reading last night, I was reviewing the history of some of the efforts made by Congress to take away jurisdiction from the Court. I had just started to move into the issue of reapportionment of the legislatures and eventually of Congress because, prior to 1964, in a case called Baker against Carr, the Federal courts took no jurisdiction over issues involving reapportionment.

We had congressional districts in this country with a million, a million and a half people; congressional districts with 50,000, 60,000, 70,000 people; we had legislative districts five, six, or seven times as big as other districts. While we all paid homage to the concept of one man, one vote, we did nothing to enforce it. Finally, the Supreme Court, after years of saying they would not interfere in this subject, found the disparity of representation so gross that it was a denial of the equal protection of the laws to the citizens when perhaps, in one district, a citizen's vote was worth 10 times as much as that in another district.

So, in those famous cases, Baker against Carr and Reynolds against Simms, the Supreme Court said, henceforth, that is out; the districts are going to be reasonable in size; one person's vote in a congressional district in Tennessee is going to mean as much as one person's vote in a congressional district in New York, Oregon, Connecticut, and Virginia. So Congress set about trying to undo that Supreme Court decision.

I continue with that history:

H.R. 11926 was introduced in 1964 by Congressman Tuck to remove the Court's appellate jurisdiction and to deprive the inferior federal courts of trial jurisdiction in all cases relating to the apportionment of representation in state legislative bodies.

To translate what that means, it was to remove the jurisdiction of the Federal courts to determine whether or not you are being denied equal protection of the laws in reapportionment matters where you had districts that were horrendously different in population. Take it away.

The bill was referred to the House Committee on the Judiciary, but the Committee gave no evidence of intention to act on the bill. Therefore, proponents of the measure introduced a procedural resolution, which was referred to the Rules Committee and reported out, to discharge the Judiciary Committee from consideration of the bill and calendar the bill for immediate action by the full House. After an acrimonious debate, the resolution was passed and the bill was called for consideration. By nearly the same margin, the bill was subsequently passed. However, the Tuck bill died in the Senate without further action being taken. In the case of the Tuck bill, the House was affirmatively on record in a formidable way as disapproving of a particular doctrine enunciated by the Court, and one peculiarly close to the political question doctrine of justiciability. The relevant language of the Tuck bill was as follows:

"The Supreme Court shall not have the right to review the action of a Federal court or a state court of last resort concerning any action taken upon a petition or complaint seeking to apportion or reapportion any legislature of any State of the Union or any branch thereof. . . .

"(c) The district courts shall not have jurisdiction to entertain any petition or complaint seeking to apportion or reapportion the legislature of any State of the Union or any branch thereof."

The lack of action in the Senate on this bill is, however, illusory. The Senate had considered a bill introduced by Senator Dirksen which would have required that in cases before the federal courts which complained of malapportionment, the court, on petition, would be required to stay further action until two regular sessions of the legislature involved had passed. The House action in passage of a stronger measure was seen as a possible method of acquiring the Senate's approval of a lesser version; in fact, this was not to be successful.

Other than the Jenner Bill in 1958 and the Tuck Bill in 1964, no substantial activity took place in Congress to except subjects from the appellate jurisdiction of the Court until the Spring of 1979. During debate on the establishment of the Department of Education, Senator Helms proposed an amendment to exclude from the Court's appellate jurisdiction, and the inferior federal court's jurisdiction as a whole, any cases drawing into question the validity of state or local statutes or ordinances permitting voluntary prayer in public schools or other public buildings.

Subsequently, on the premise that the Department of Education bill would not otherwise pass, the Helms Admendment was added to a bill abolishing for the most part the mandatory jurisdiction of the Court—i.e. The Appeals Docket—thus permitting the Court complete control and discretion as to what cases it would hear. Thereafter, the Senate reconsidered the Helms Amendment as added to the education bill and tabled it; both the Department of Education bill and the Supreme Court jurisdiction bill was passed and sent to the House.

In the House, the Supreme Court jurisdiction bill, with the Helms amendment, was referred to the Committee on the Judiciary, but the Committee took no action. Congressman Crane filed a petition to discharge the Committee on the Judiciary of further responsibility for the bill, thus allowing individual Members to indicate whether they desired the bill brought before the full House. The petition for discharge, which is filed with the Rules Committee, is essentially the written version of the up-or-down vote on the procedural resolution which brought the Tuck bill to the floor of the House in 1964, and requires a majority of Members' signatures to become effective. Thereafter the Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice held hearings on the school prayer amendment. However, neither the Committee nor the discharge petition brought the bill to the floor and the measure died at adjournment.

At the beginning of the 97th Congress, Senator Helms reintroduced his proposal as a free standing bill. On the House side, Representative Crane introduced an identical bill. The language is as follows:

"§ 1259 Appellate Jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253,1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.

"For the purposes of this section, the term 'voluntary prayer' shall not include any prayer composed by an official or employee of a State or local government agency.

"§ 1364 Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."

Like its predecessors, the Helms bill responds to a perceived erroneous interpretation of the Constitution by the Court, in this instance to the cases of *Engel* v. *Vitale* and *Abington School District* v. *Schempp*. Engel held that the regulated recitation of the "Regents' Prayer" at the beginning of each school day violated the Establishment Clause of the First Amendment. Schempp held that mandatory Bible reading violated the Establishment Clause. The doctrinal development of the Establishment and Free Exercise Clauses has been steady since the mid-1960's. Most recently, the Court held that a University could not prohibit religous services held by students at its facilities, in *Widmar* v. *Vincent*. The bills to limit jurisdiction in instances of state regulation relating to voluntary school prayer would appear to preclude adjudications such as Widmar. The bills introduced in the 97th Congress are pending before the respective Committees on the Judiciary.

The only other substantial action in this area occurred in 1968 during consideration of what is now the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. § 3500 *et seq.* (1976). Similar provisions were included to limit the power of the Court in State criminal confessions cases, but these were dropped before passage. Other bills have not received attention on either Floor; the bulk of proposals introduced to limit the appellate jurisdiction or remedies of the Supreme Court have been reintroductions of prior bills.

Mr. President, I emphasize once more the seriousness of that with which we are dealing: Should we take away from the Federal courts of the United States the right to hear cases involving fundamental constitutional liberties, take it away, cannot hear it.

This debate is not a debate over whether we agree or disagree with certain decisions of the courts. As a matter of fact, I thought the best single statement that I have seen on this subject comes from Robert Bork. Robert Bork was a well-known professor of law in this country. He is a previous Solicitor General of the United States, and he has recently been appointed by President Reagan to the U.S. court of appeals. He is generally regarded as a conservative legal scholar, and his credentials on scholarship are without question unassailable. Professor Bork, now Judge Bork, did not think that the case of Roe against Wade, which was the case which granted to women the right to make the decision whether or not they wanted to have an abortion, was correctly decided. He thought that the Supreme Court overstepped its bounds in that case. He thought that their decision was unconstitutional. He means

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that, of course, in a technical sense, because whatever the Supreme Court finds to be constitutional is what our forefathers said will be the final interpretation unless it is reversed by the Court itself or reversed by a constitutional amendment.

Professor Bork, now Judge Bork, thought the case was utterly and totally wrong. He said as follows:

> The question to be answered in assessing S. 158—

S. 158 is the so-called human life bill and in that bill—it is a bill of Senator HELMS—we would take away from the courts the power to hear cases involving abortion—

> is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformations. Only if we are prepared to say that the Court has become intolerable in a fudamentally democratic society and that there is no prospect whatever for getting it to behave properly should we adopt a principle which contains within it the seeds of the destruction of the Court's entire constitutional role. I do not think we are at that stage, but if others think we are then we should be debating not the technicalities of S. 158 but the question of whether we should retain, abandon or modify the constitutional function of the courts as we have known it since Marbury v. Madison in 1803. That is a legitimate subject for inquiry, but we ought not arrive at the answer in the narrow context of S. 158 without fully realizing what we are really discussing.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor and without it counting as an additional speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the recess—which is now 12:15—ordered earlier today be changed to 12:30 and that the remainder of the order remain unchanged.

Mr. PACKWOOD. Mr. President, based upon the previous agreement, I have made arrangements to meet with some people at 12:15.

Mr. BAKER. Mr. President, I can assure the Senator that between 12:15 and 12:30, no action will be taken on this measure. I need the additional 15 minutes, however, in order to let another Senator try to clear another piece of work on this bill, and it is not possible for him to reach Senators who have to consider that by 12:15.

Senator LEVIN is trying to reach Senator DOLE, the chairman of the committee. I am not certain he will be able to do that by 12:15, and in order to accommodate that, I want to extend the time to 12:30.

Mr. PACKWOOD. I am wondering if there is a way we could put that into a unanimous-consent order, so that I could go to the 12:15 meeting without jeopardizing any of the parliamentary rights I would have.

Mr. BAKER. Mr. President, instead of extending the agreement, I will suggest the absence of a quorum at 12:15, and I will object to calling it off.

Mr. WEICKER. Mr. President, to accommodate the distinguished Senator from Oregon and the distinguished majority leader, if I took the floor at this time, would it be all right? What was the agreement as to whom should be recognized when we return?

Mr. BAKER. The previous agreement provided that the Senator from Oregon would be recognized when we resume debate on this bill.

Mr. PACKWOOD. That would be most helpful to me, if the Senator from Connecticut could have the floor until he yields it to the majority leader for the purpose he has requested; and when he returns at 2:30, I would still have my right to the floor.

Mr. BAKER. Mr. President, I amend the unanimous-consent request as follows: That at 12:15 the Senator from Connecticut (Mr. WEICKER) will be recognized; that the Senate will recess at 12:30; that at 2:30, the Senate will reconvene, and the Senator from Oregon will be recognized once more to resume the debate; that in neither case will the interruption—that is, of the Senator from Connecticut or the Senator from Oregon—count as an additional speech.

Mr. WEICKER. If, by some chance, the Senator from Oregon is in negotiations or discussion with the majority leader, why not just leave it that the Senator from Oregon or the Senator from Connecticut can resume at 2:30?

Mr. BAKER. I include that in the request.

The PRESIDING OFFICER. Will the Senator restate the unanimous-consent request?

Mr. BAKER. As we put it together, it is this: Instead of going out at 12:15, in order to accommodate certain Senators who must attempt to arrive at a time agreement—and they know that I wish them well in that respect—we will go out at 12:30; that at this time, the Senator from Connecticut will be recognized; that the Senate will recess then at 12:30, to reconvene at 2:30; that at that time, 2:30, the Chair will recognize either the Senator from Oregon or the Senator from Connecticut, depending on which seeks recognition at that point; and that the interruption of their presentation will not show as a second speech.

The PRESIDING OFFICER. Without objection, the new unanimous-consent request is agreed to.

Mr. PACKWOOD. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I have in my hands a memorandum prepared by the Congressional Research Service of the Library of Congress. It is from the American Law Division. The subject is "Possible Arguments in Opposition to Amendment to Strip the Federal Courts of Jurisdiction over Cases Involving School Prayer."

[Memorandum]

(This is in response to your request for brief "talking points" that might be used in opposition to an upcoming amendment to the debt-ceiling bill. That amendment would eliminate the jurisdiction of the federal courts over cases involving voluntary school prayer. Arguments that might be used are attached.)

POSSIBLE ARGUMENTS IN OPPOSITION TO AN AMENDMENT TO STRIP THE FEDERAL COURTS OF JURISDICTION OVER CASES INVOLVING SCHOOL PRAYER

(1) If enacted, proposal would undermine the system of separation of powers embodied in the Constitution. The Founding Fathers created a system of government in which—the better to protect liberty—political power was dispersed rather than concentrated and certain rights of the people were enumerated. One aspect of this system was the vesting in the federal courts of the power to review the acts of the other branches of government, and particularly of the Congress, for consistency with the Constitution. As expressed by Alexander Hamilton in the Federalist Papers, this power of judicial review was deemed essential to the preservation of constitutional rights from "legislative encroachments."

"Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."—The Federalist, No. 78

But the pending proposal would undermine this notion of an independent judiciary dedicated to upholding the Constitution against abuse by the other branches of government. It would vest in Congress the power to determine whether its acts should be subject to judicial review in the federal courts.

(2) Similarly, if enacted, the proposal would undermine the system of checks and balances created in the Constitution. Though creating a system of political power divided among three branches of government, the Founding Fathers provided as well for numerous checks and balances among and between the branches, again for the purpose of preventing the exercise of tyranny by any one branch and preserving liberty. Each branch was given some degree of authority with respect to the other branches. But the pending proposal, if enacted, would connote a plenary power in Congress, virtually unchecked and uncheckable by the other branches. Under the Constitution, the acts of Congress are subject to review in the federal courts, and this was seen as an essential restraint on majoritarian excess. But if Congress can insulate its own acts from review by the federal judici-

ary by simply denying the courts jurisdiction of their subject matter, that essential check on majoritarian excess would be eliminated.

(3) The proposal would substantially undermine the independence of the federal courts. The Constitution takes great pains to assure that federal judges can exercise their powers free from political pressures—life tenure, no diminution of compensation, etc. That independence was deemed essential if the courts were to maintain an "inflexible and uniform adherence to the rights of the Constitution, and of individuals . . ."[1] and to render judgment impartially. But the pending proposal would make judges less independent. To preserve their powers, they would have to pay close attention to the political tides of the moment, lest popular displeasure with their decisions cause Congress to divest them of jurisdiction in particular subject areas. As the Senate Judiciary Committee noted in 1937, in opposing President Roosevelt's plan to "pack" the Supreme Court:

"Courts and the judges thereof should be free from a subservient attitude of mind, and this must be true whether a question of constitutional construction or one of popular activity is involved. If the court of last resort is to be made to respond to a prevalent sentiment of a current hour, politically imposed, that Court must ultimately become subservient to the pressure of public opinion of the hour, which might at the moment embrace mob passion abhorrent to a more calm, lasting consideration.—S. Rept. No. 711, 75th Congress, 1st Session (June 7, 1937).

(4) The proposal attempts to amend the Constitution without using the procedures of Article V. The Constitution contemplates the overruling or revision of federal court interpretations of the Constitution in two ways-reversal by the courts themselves, and constitutional amendment. The former may happen as the courts themselves reconsider their previous decisions or as new judges are appointed to the courts. The latter is, perhaps, even more cumbersome, a process that Justice Frankfurter has described as deliberately "leaden-footed." The reason for the difficulty of the amending process was to assure that the basic charter of the nation would not be changed unless there was a considered consensus in the country that it ought to be changed. But the pending proposal attempts to obtain a reversal of Supreme Court interpretations of the Constitution without going through this process. It attempts to bypass the method set out in the Constitution for assuring that the Constitution is not changed for merely temporary reasons.

(5) The proposal would eliminate as well the other means of altering federal court interpretations of the Constitution—reconsideration by the courts themselves. By eliminating Supreme Court jurisdiction over the matter, the proposal would set in stone the Court's previous decisions on the matter of school prayer. State courts would remain bound by those decisions, and the possibility of Supreme Court revision of its precedents would be eliminated.

(6) The proposal is based on a pernicious assumption about the integrity of state court judges. The proposal would not in itself restore prayer to the public schools; that could occur only as stated authorities acted to do so and had their actions upheld by the state courts. Because the pending proposal would leave intact the Supreme Court's decisions on school prayer, that could occur only if state court judges, freed from the possibility of Supreme Court review, chose to ignore the Court's decisions. But Article VI of the Constitution makes it the "Supreme Law of the Land" and obligates state court judges, by oath or affirmation, to support the Constitution. Thus, as the Conference of State Chief Justices observed in a resolution adopted on Jan. 30, 1982:

"These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents."

(7) The proposal would undermine the essential function of the Supreme Court of giving national uniformity to the interpretation of the Constitution. The proposal, if adopted, would make the highest court in each state final arbiter of the meaning of the First Amendment in the context of school prayer. Thus, the possibility would be created of the First Amendment coming to mean different things in each of the fifty states. An individual's constitutional rights would become a matter of geography.

(8) Similarly, the proposal would undermine the supremacy of the Constitution and of federal law. If state courts could be the final arbiters of the meaning of the Constitution and of federal law within their jurisdictions, and if as a consequence the Constitution and federal law could be interpreted differently from place to place, it would mean little to say, as does Artaicle VI, that "This Constitution and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the Supreme Law of the Land . . ." That exhortation connotes some means to make it a reality, some national tribunal able to give binding and uniform interpretations to the Constitution and to federal law. As Chief Justice Taney stated in *Ableman v. Booth*, 62 U.S. (21 How.) 506 (1858):

"But the supremacy thus conferred on this Government could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitutions and laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States, and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States . . . should be finally and conclusively decided . . . And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; and to make the Constitution and laws of the United States uniform, and the same in every State."

(9) The language of the "exceptions and regulations" clause itself suggests that it is not a grant to Congress of plenary power over the appellate jurisdiction of the Supreme Court. In contrast to the sweeping description of Congress' power relative to the inferior federal courts ("The judicial power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish"), the term "exceptions" suggests a broader power of appellate review in the Supreme Court immune from Congressional excision. As Attorney General William French Smith has stated:

"The concept of an "exception" was understood by the Framers, as it is defined today, as meaning an exclusion from a general rule of law. An "exception" cannot, as a matter of plain language, be read so broadly as to swallow the general rule in terms of which it is defined. Letter to Sen. Strom Thurmond, Chairman, Senate Committee on the Judiciary (May 6, 1982), reprinted at 128 *Cong. Rec.* S4727 (May 6, 1982)."

(10) The Case of *Ex parte McCardle*, 74 U.S. (7 Wallace) 506 (1868) is no justification for a broader interpretation of Congress' exceptions power. In that case the Court upheld the constitutionality of a Congressional act repealing an 1867 *habeas corpus* statute under which McCardle had brought his appeal. Even though the Court had already heard oral argument on the case, it promptly dismissed it, stating:

"We are not at liberty to inquire into the motives of the legislature. We can only examine its powers under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words. What, then, is the effect of the repealing act upon the case before us? . . . Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. 74 U.S. (7 Wallace) at 514."

But the Court carefully noted that Congress had repealed only the means provided in 1867 for appealing from a denial of *habeas corpus* and that it retained jurisdiction over such appeals if brought under the Judiciary Act of 1789. The case thus stands only for the limited proposition that Congress may eliminate one means of appealing from a denial of a petition for *habeas corpus* when another avenue remains open.

(11) More to the point of the proper scope of the exceptions power is the case of *United States v. Klein*, 80 U.S. (13 Wallace) 128 (1871). That case involved a statute adopted by Congress which provided that, contrary to a Supreme Court ruling, a Presidential pardon could not be used as the basis for claiming damages from the U.S. for property seized or destroyed during the Civil War and which further provided that the Supreme Court would have no appellate jurisdiction over any pending case if it found that a pardon had been held to be the predicate for such a claim. The Court held not only that the statute unconstitutionally infringed on the President's pardoning power but also that it unconstitutionally infringed on the Judicial function by prescribing a particular outcome for the cases pending before the Court:

"* * * The language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end * * * Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? The question seems to us to answer itself. 80 U.S. (13 Wallace) at 145–147."

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[1] The Federalist No. 78 (Hamilton).

The case establishes, in other words, that the separation of powers doctrine imposes substantial limitations on Congress' use of the exceptions power.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. Under the previous order entered into, the Senate now stands in recess until 2:30 p.m. today.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, as we continue the debate on the Weicker-Baucus-Helms amendments, I would like to read a later communication from the American Bar Association, from the new president of the American Bar Association, Mr. Morris Harrell. It is dated August 18, 1982:

AMERICAN BAR ASSOCIATION,
Washington, D.C., August 18, 1982.

DEAR SENATOR: As the newly installed president of the American Bar Association, I write at this critical time to repeat, and reinforce strongly, the position of the ABA expressed by my predecessor, David Brink, opposing the many pending proposals to limit the ability of federal courts to act in abortion, school prayer and busing cases. I urge the Senate to reject any and all such proposals offered as amendments to the debt limitation bill, H.J. Res. 520, currently under consideration.

These proposals have been perceived by many as involving only positions for or against prayer, abortion or busing. But the truth is that they are unabashedly court-stripping bills, and that is the reason that thoughtful Senators on both sides of the underlying controversial social issues should recognise these proposed amendments for what they really are and join in defeating them.

The present proposed amendments are offensive to our American governmental framework and processes on two grounds. First, the means by which these proposals attempt to change constitutional law derogate the Constitution, the separation of powers and the restraint that traditionally and uniformly has been observed among the three branches of government. Second, the amendment procedure being used circumvents the normal legislative process by coupling two unrelated measures of great importance that deserve separate consideration, by forcing uncritical consideration of both as a unit and by avoiding customary and appropriate advance study.

Mr. President, I ask unanimous consent that I might be permitted to yield to the distinguished Senator from Vermont (Mr. LEAHY) for 10 minutes without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Without this being construed as the end of the speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HELMS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair asks the Senator from Connecticut to restate his request.

Mr. HELMS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Connecticut, and I thank the Chair.

The debate over limiting Federal court jurisdiction to make changes in the nature and quality of rights declared by the Supreme Court under the Constitution is not new. It seems that every generation is bound to test the strength and the limits of the principles of an independent judiciary and the separation of powers. I compare the current assault on Federal court jurisdiction to attacks through our history on the first amendment. It is by now a truism that the first amendment is most ardently embraced when there is relatively little dissent in the society and most challenged when unpopular views seem to disturb the placid consensus.

Much the same can be said of our courts, the branch of Government devoted to interpreting our Constitution and laws, free of the pressures of the passing majority. A healthy and independent judiciary is never more necessary than at a time when there is impatience and discontent with the way the Supreme Court chooses to interpret the Constitution.

There are numerous bills before the Senate that seek to limit or eliminate the jurisdiction of the Federal courts, and the amendment of the Senator from North Carolina on school prayer eliminating both lower and Supreme Court jurisdiction is but one example. On some of the issues a majority of this body will agree with the underlying social goals of particular bills. But much more than school prayer, busing, or abortion are at stake, and much more than court jurisdiction will be limited if we let expediency become the engine of change.

In all of these examples, State statutes to be shielded from review would override rights declared and protected by the courts. The impatience and outrage of some Americans is directed to the fact that the courts move more slowly than legislative bodies, and a change in the law is brought about not in response to a public outcry for change but as a byproduct of a legal dispute arising under our laws—that is, a case or controversy.

In normal times, we all perceive a great personal stake in the independence of the courts. No one can safely predict whose rights will depend on that independence in the future. Therefore, we favor a strong judiciary, under law, rather than a judiciary that bends first in one popular direction, then in another. But to make this system work, no one has the right to look to the courts for a quick fix. No one has a stake in courts that can be easily persuaded to follow the howls rather than the law.

I do not accept the proposition that if Congress creates lower Federal courts it must endow them with unlimited authority to vindicate every federally created right. There have been limitations on Federal court jurisdiction, such as increases in the jurisdictional amount, changes in the nature of diversity and removal jurisdiction, and a few—very few—instances where Congress has limited Federal court jurisdiction altogether, such as the Norris-LaGuardia Act and the Tax Injunction Act of 1937.

But not even the few instances where Congress limited the jurisdiction of the Federal courts in specific subject areas did Congress ever go so far as to remove from the total protection of the Federal courts rights guaranteed under the Constitution. Through the lengthy and sometimes tumultuous history of Congress, many bills have been introduced to do just that, and none has ever passed. Through that long history the power of Congress to establish lower Federal courts and to make exceptions to the appellate jurisdiction of the Supreme Court has been exercised to adjust the scope and authority of the judiciary to better serve the needs of the litigants, to promote efficiency, to maintain a healthy balance between the State and Federal systems.

But there should be a clear distinction in the minds of every Senator between legislation to improve the courts and legislation to use the courts to accelerate changes in substantive constitutional law. The thrust of the court-stripping bills now before the Senate, including the amendment to the debt ceiling bill on school prayer, is to short circuit the normal processes for amending the Constitution, which are difficult and time consuming. But they are difficult and time consuming for a reason. The Constitution should reflect the wise resolve of the people, tested over time.

In the Constitution Subcommittee hearings on court jurisdiction conducted in 1981, we observed the Nation's finest legal scholars in a sincere and technically complex discussion of the constitutionality of various proposals to limit lower and appellate Federal court jurisdiction on an issue-by-issue basis. It is hard to predict the outcome of that same debate in the courts, simply because there is a scarcity of precedents truly on point. The scarcity, however, results from the devotion of past Congresses to the principle of shared powers and an unwillingness to buy fast changes in law at a steep constitutional price.

Among the eminent law professors who appeared before the Constitution

Subcommittee, a few believed that there were few limitations imposed by the Constitution on Congress under article III and that an underlying purpose of Congress to extinguish particular rights did not, in general, signal a violation of the Constitution. But it is interesting that most of the scholars who read article III broadly—that is, in a manner giving Congress relatively broad authority—also believe that it would be a tragedy for Congress to forgo the self-restraint that has united each generation with the next.

One witness, Prof. Martin Redish of Northwestern University Law School, believed that Congress has a broad authority under article III and that the court-stripping bills may be constitutional. But he ended his visit with us on a very different note:

> In past years, previous Congresses were also disturbed with many substantive decisions of the Supreme Court. They, too, considered legislation to curb the Court's jurisdiction. But, with rare exception, those Congresses declined to take such drastic action. I strongly urge you to exercise similar restraint, both for the good of the nation and for the rule of law.

The hearings and the opinions can only help us to decide if we have the authority to act. We must answer the question of whether we ought to act. It is that issue which must concern us all.

Nothing less than the rule of law is at stake. It may be shocking to think that not every syllable of every word necessary to protect the rights of citizens under the Constitution is located within the four corners of that document, that so much of the quality of constitutional government rests with the judgment of the fallible men and women who serve in government.

Limiting the jurisdiction of the courts as a means of reversing particular decisions or limiting their effects is a grave and potential threat to our system of checks and balances.

The separation of powers has never been absolute in our system of government. The three branches overlap. The lines of authority are at times unclear.

Underlying the success of the system over nearly 200 years, is a strong notion of comity and accommodation among the branches. The self-restraint exercised by each branch is strengthened by genuine concern about destroying that sense of comity, just as one is careful to nurture a fruitful relationship with a good neighbor.

Perhaps the most important language from the most important Supreme Court case on the issue of Congress control of the Supreme Court's appellate jurisdiction, ex parte McCardle, is the Court's simple description of what happens to the legal process itself when jurisdiction is eliminated:

> Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining in the court is that of announcing the fact and dismissing the cause.

In limiting the power of the Supreme Court, no one is left to declare the law. There are no rights out there that you can rely on. The people of our country must realize that if their rights are violated, they have no one to turn to.

Mr. President, the issue before us, the issue of court-stripping, is truly a radical issue. This is a radical concept. Anyone who considers himself a true conservative should reject this. This is radicalism in the extreme. This is a vast change in 200 years of our history. It is destructive of the process of three equal branches of Government.

Every school child in this country, if they have had even a modicum of training in the Government of their Nation, will tell you we have three equal and separate branches of Government. If this radical court-stripping move were to be adopted where we say there are two far more than equal branches of Government and there is a third branch of Government but a vestigial residue of its former self, not equal, unequal, grossly unequal, and that your rights, if they are not protected by the executive and the legislative, they will never be protected by the judiciary no matter what might be the makeup of the judiciary because they no longer will have the power to do so.

A Government of carefully balanced powers is very literally unbalanced and thrown into disarray. Relations among the three branches of Government are a careful mix of competition and accommodation. Without the final authority to declare the law in any branch, the will to accommodate the other branches declines, and the need to become the strongest branch, prevailing amid the chaos, grows ever greater.

The matter has never been put better than Alexander Hamilton stated it in the Federalist, No. 80:

> There ought always to be a constitutional method of giving efficacy to constitutional provisions. What, for instance, would avail restrictions on the authority of the State legislatures without some constitutional mode of enforcing the observance of them? * * * No man of sense will believe that such prohibitions would be scrupulously regarded without some effectual power in the Government to restrain or correct infractions of them. This power must either be a direct negative on the State laws or an authority in the Federal courts to overrule such as might be in manifest contravention of the articles of Union. There is no third course that I can imagine. The latter appears to have been thought by the convention preferable to the former, and I presume, will be most agreeable to the States.

I hope that as we consider the amendment presented to this body earlier today, we can remember that what is permissible is not always wise. Simply because we can do it does not mean that we should. Simply because we have the power does not mean that it is good for our Nation. Congress must resist temptation to adjust the jurisdiction of the lower Federal courts, or of all Federal courts, to respond to particular decisions of the Supreme Court.

The process of constitutional amendment is clearly open to the Nation to alter or reverse a judgment of the Supreme Court. While that process is slow, the result is a more certain measurement of national sentiment and a deeper respect for the law that results.

In addition to the amending process, the power of the President to affect the makeup of the courts over time through judicial appointments is an important one. The President, and indirectly, the political process, can have a potent effect on law and public policy.

The 75th Congress was faced with a dilemma not unlike our own when it considered and rejected President Roosevelt's Court-packing proposal. The Senate Judiciary Committee rose to the occasion, despite the great pressure to speed along legislation that was designed to ease the pains of the Great Depression. The words of that committee could be our own today:

> Let us, of the 75th Congress, in words that will never be disregarded by any succeeding Congress, declare that we would rather have an independent court, a fearless court, a court that will dare to announce its honest opinions in what it believes to be the defense of liberties of the people, than a court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact. We are not the judges of the judges. We are not above the Constitution.

Mr. President, what the Judiciary Committee said during the 75th Congress should be harkened to by this Congress.

If the amendments before us were to be enacted into law, we would shatter the independence of the Federal courts. We would shatter the foundation of our freedoms which have been nurtured through 200 years of constitutional government. We would shatter the Constitution, itself.

The freedom of every American is at stake. And every American should know that we will have as much freedom as he or she is willing to fight for.

I believe the American people will not reject our history. They are not seeking a new, radical vision of America in which the Government can sweep into every corner of a person's personal life. I believe that when the American people understand the stakes we are playing for, they will do what every generation of Americans has done. They will fight to preserve

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the Constitution and the freedoms it protects.

The **PRESIDING OFFICER.** The Senator from Connecticut.

Mr. **WEICKER.** Mr. President, I resume the letter of August 18, 1982, from the president of the American Bar Association, Morris Harrell, to this Senator:

> As you well know, the ABA takes no position on the issues of school prayer, abortion or busing, but is concerned that the pendency of another highly emotionally-charged debate over prayer or abortion will obscure the fundamental flaw in all these proposals. We emphasize again that the issue is not prayer, abortion or busing; the real issue is the integrity of our tripartite system of government. The ABA has long opposed any legislative attempt to alter constitutional law through means other than constitutional amendment. We believe that the enactment of any of these measures would constitute an unprecedented attack on the Constitution and the independence of the federal judiciary and establish unwise policy. Such proposals, if enacted, could be used in the future as precedents for effecting constitutional changes that would impair other rights of all Americans, including proponents of the present amendments. All such proposals should be vigorously resisted.
>
> We also reiterate that the serious constitutional questions involved in these court limitation proposals deserve full consideration in Committee. Avoiding the healthy public debate currently underway in the Judiciary Committee and injecting the unrelated court jurisdiction issue into the debate over the debt ceiling would do a grave disservice to both issues.
>
> We strongly urge that the Senate permit the normal legislative process to continue uninterrupted and to oppose any court-stripping proposals. Consequently, we endorse adoption of the pending Weicker and Baucus amendments.
>
> Sincerely,
>
> MORRIS HARRELL.

Mr. President, let me review for a few minutes, if I might, the amendment of the distinguished Senator from North Carolina. I will ask rhetorical questions as to the substance of that amendment.

QUESTIONS AND ANSWERS ON SCHOOL PRAYER BILLS

WHAT DOES THIS LEGISLATION PROPOSE TO DO?

This legislation would enable State courts to sanction "voluntary" prayers in public school classrooms. No longer would the Supreme Court be able to review State court decisions. Additionally, challenges to school prayer programs could no longer be brought in any Federal court.

The statutes do not define "voluntary" prayer, but it is generally assumed that the term refers to proposals whereby students, teachers or others offer prayers of their own choosing in school classrooms. Used as such, the term "voluntary" is a misnomer because, as the courts have found, prayer sessions in the schools are never truly voluntary. Students are pressured by their peers and teachers to participate in the prayer sessions and are severely stigmatized if they choose not to.

WHAT IMPACT WOULD THIS LEGISLATION HAVE ON THE FIRST AMENDMENT PRINCIPLE OF RELIGIOUS LIBERTY, THE ESTABLISHMENT CLAUSE, AND CHURCH-STATE SEPARATION?

This legislation would violate the fundamental principle of church-state separation and dilute the strength of the establishment clause. Its intent is to undermine those Supreme Court rulings which prohibit government sponsored and supervised prayer in public schools. This would directly violate the establishment clause which guarantees each and every citizen the right to be free of governmental entanglement with religion, such as prayer in the public schools. The passage of this legislation would run counter to American tradition and religious liberties.

WHAT IS THE CURRENT LAW ON THE SUBJECT?

In the early 1960's, the Supreme Court ruled in the cases of *Engel* v. *Vitale,* 370 U.S. 421 (1962) and *Abington School District* v. *Schempp,* 374 U.S. 203 (1963) that a State may not compose and prescribe a form of prayer for recitation in the schools, and that a State or city may not require the Bible to be read without comment and the Lord's Prayer to be recited in public schools. Following upon the principles established in these cases, Federal courts have forbidden students to compose their own prayers and offer them. As recently as January 25, 1982, the Supreme Court unanimously upheld a fifth circuit ruling that Louisiana's "voluntary" school prayer law which authorized local school districts to adopt a before-class school prayer period was unconstitutional. (*Treen* v. *Karen B.,* No. 81-1031)

> Neither the fact that the prayer may be denominationally neutral, nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause . . . The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. (Engel at 430.)

Nothing under current law regarding school prayer prohibits a student from freely exercising his/her right to voluntarily pray. Religious freedom and true voluntary prayer for public schoolchildren has never been outlawed by the Supreme Court. Therefore, this legislation is unconstitutional and unnecessary.

WHAT ELSE IS PERMISSIBLE UNDER CURRENT LAW?

First, schools may use the Bible or other religious books as source books in teaching about religion.

Second, schools may offer a course in the Bible as literature and history.

Third, schools may offer objective instruction in comparative religion.

Fourth, students may study the history of religion and its role in the story of civilization.

Fifth, students are free to recite such documents as the Declaration of Independence which contain reference to God.

Sixth, students may sing the national anthem and other patriotic songs which contain reference and assertions of faith in God.

Seventh, references to faith in God in connection with patriotic or ceremonial occasions are permissible.

Eighth, students may be dismissed for sectarian instruction off school premises.

Ninth, school facilities may be rented during off-hours to religious groups if there is a general policy of renting the facilities to nonschool organizations.

WHAT IS THE GOVERNMENT'S ROLE WITH REGARD TO RELIGION?

Government's role has been and should continue to be one of neutrality. It should neither oppose nor support religion, favor one religion over others or favor nonreligion. It has no expertise in religion and should leave the teaching of theology and the practice of it to parents and theologians.

HOW WILL THIS LEGISLATION ALTER THE FEDERAL COURTS' ABILITY TO ADDRESS CONSTITUTIONAL RIGHTS?

This legislation removes the jurisdiction of the Supreme Court and the lower Federal courts in cases of government sponsored and supervised prayer in the public schools. It would establish a dangerous precedent of disabling the Federal courts and preventing them from protecting constitutional rights when those rights become politically unpopular. Only through decisions by the Federal judiciary has this country seen a uniform and consistent principle of judicial supremacy in matters of constitutional interpretation established in *Marbury* v. *Madison,* 1 Cranch 137 (1803). By precluding Supreme Court and lower Federal court review of any cases arising from State court decisions pertaining to school prayer, parents and other aggrieved parties would have no opportunity to acquire relief from State court decisions.

WHY DO MAINLINE DENOMINATIONS OPPOSE THIS LEGISLATION?

This legislation, contrary to the philosophical view of its proponents on other issues, would not get Government out of our lives. There would merely be a transfer of governmental authority and power from the Federal level to the State level. Local governments would be given greater power to intervene, influence, support and control religious exercises in the classroom.

These programs are never truly "voluntary" and produce psychological pressures upon the children who do not wish to participate or whose parents do not wish them to participate. No child should be faced with the Hobson's choice implicit in any "voluntary" school prayer program: Either participate in a ceremony contrary to your religious beliefs or find yourself labeled as "different."

The Supreme Court's interpretation of the first amendment's wall of separation in school prayer cases is consistent with the Constitution and the intention of the Founding Fathers. It is in the best American tradition and serves religion and religious freedom. The legislation proposed is unconstitutional, unnecessary, and constitutes an unconscionable attempt to breach that "wall." It is an attempt which we strongly urge Congress to reject.

(Mr. HAYAKAWA assumed the chair.)

Mr. President, I would like to, if I might, at this time indicate for the benefit of those who might be listening to these words the difference between the prayer recited in this Chamber and that recited or that proposed to be recited in the classrooms of the Nation. Many times people say, "Well, prayer is recited in the Senate Chamber at the opening each day of this body." What has to be pointed out is that this Senator does not have to attend. He does not have to be in this Chamber and, indeed, may leave the Chamber in the middle of the prayer if he so chooses.

That choice and that option is not available to any child attending school. There is nothing voluntary about attendance at school. That is mandatory. So let us make it clear that when the term "voluntary" is used, it might be used in conjunction with the prayer. It cannot be used in conjunction with presence in the classroom. That is mandatory. That is the very distinct difference between the occasion of prayer in the Senate and the occasion of prayer in the public schools. One truly is voluntary in the sense that those who are in the Chamber do not have to be here and may leave. It is mandatory in the sense of the schoolchildren who are obliged to be in the classroom.

There are those who indicate that no harm can come from this, and, indeed, a young child does not have to listen. I ask anybody within the sound of my voice, what 6-year-old, 7-year-old child is going to stand up and insist on their constitutional rights? At that age and even older, when everybody stands, you stand; when everybody bows their head, you bow your head; when everybody mumbles words, you go ahead and mumble words. So, in the very real sense, neither is the exercise of the prayer voluntary to a young child.

I am well aware, Mr. President, that public polls are taken on this subject of "voluntary prayer in the schools." I am well aware that a majority say, "Let us have voluntary prayers in the schools." Maybe this is a good time for us to once again review the history of this Nation to come to an understanding as to what it is the Constitution of the United States says. These words were not planted here by some liberal fanatic from the 1960's and 1970's and 1980's. Rather, these words were carefully chosen and written on the basis of experience back in the 1700's.

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

No law. The Archbishop of Canterbury was not on the *Mayflower*. The Archbishop of Canterbury was not on the *Mayflower* because those who were on the *Mayflower* were fleeing from the state religion of England. That is our origin as a Nation. There is no greater mischief that can be created than to combine the power of religion with the power of government, and history has shown us that time and time and time again.

Now, tell me, what is the prayer to be if it is to be voluntary? Is it to be a Protestant prayer? Is it to be a Catholic prayer? Is it to be a Jewish prayer? Is it to be a Buddhist prayer? Is it to be a Mormon prayer? Or is it to be a mishmash of every religion known to the world and therefore meaningless?

The Constitution of the United States was not written for the generation that existed at the time of its writing. It was meant to last through all generations and all circumstances, and so now I pose to you the question: Who knows today whether any faith or any religion is the true faith or the true religion?

What the Constitution is saying is that when that comes along—if indeed none of the faiths existing today are the true faiths—when that comes along, the circumstances should exist whereby it could be proclaimed in total freedom to all the people of this country. That is the purpose of the Constitution.

So I do not care if a prayer is written that encompasses every faith in this country. I have to make sure that document stays clean for the faith that has not even been proclaimed yet. That is the purpose—not to tailor it to the existing circumstances or the people of this generation, but to make certain that it is operative for all generations and all circumstances and, in the case I am talking about, all faiths.

That is why I say that probably nothing is more important to the Nation than this debate.

It sounds very comfortable, very inspiring: One can almost envisage a Norman Rockwell painting, with people in their pews, with hands clasped, to illustrate all this business of prayer in school, as if it will protect us. The only thing that will protect us is the assurance, by the laws of this country, that no matter what a person believes, he will be able to practice it in total freedom, free from any hurt or any harm.

People say, "In the United States of America, in 1982, how can we have religious persecution?" Why do we have to put it in terms of persecution? Why do we have to put it in terms of anybody being burned at the stake, and so forth? Let us put it in its mildest form: Why should a child be embarrassed by his or her classmates because he or she fails to stand up or bow his or her head or mumble some set words prescribed by the Government of the United States?

I referred earlier to our history as a nation, when I said that those who came here were fleeing from religious persecution, the religion of the state—the Church of England. We are a nation of immigrants. Nearly all of us come from families that have practiced various faiths around the world.

It is ironic that here I stand as a citizen of the United States, reciting the history of a people fleeing from the Church of England, when my own great-uncle was the Archbishop of Canterbury. But I do not want a state religion in this Nation.

We forget so fast. It is not a matter that there is any peculiar mark upon all of us living in the year 1982 that we tend to forget our origins or the words in that document, because it was shortly after the arrival in the United States by those who were persecuted that they started their own persecution. The Salem witch trials are nothing of which any citizen of this Nation is particularly proud.

Ask my colleagues here on the floor of the U.S. Senate who are of the Mormon persuasion about the persecution of the members of their faith as they trekked across the Nation to find their final home in the West.

As I say, it sounds very convenient and very comfortable and warm and cozy, this idea of a little prayer. But the history of the world offers too many instances of being bathed in blood in the name of religion. What has distinguished the United States of America from any other nation has been our unwillingness to go down that path.

For those who disagreed with the Supreme Court decisions of several decades ago and thought the world was going to come to an end, I suggest that never before have we had such religious freedom in the United States of America. It was a touchy matter just within my lifetime to be Jewish. It was touchy to be Roman Catholic. Why should it have been? Who gave to anybody the right to say that Protestantism, my faith, should de facto be the State religion of the United States? Who gave anybody the right to do that? And the fact that that "right"

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was taken away is bothersome? Not at all. It should not be. It should never have been. This is not a Protestant country; but for some 200 years it was—to the detriment of Catholic and Jew, to the detriment of the Mormon, to the detriment of many other minority faiths.

I do not yearn for those good old days. We are finally living what the Constitution says, and I want to leave it that way.

Just in our memory, President John F. Kennedy brought down the barriers that existed for politicians of the Roman Catholic faith. It was said that no Catholic could be President of the United States, because he or she would owe their allegiance to the Pope in Rome. That did not come out of your history book. Those were the words we heard as we were growing up. With the election of President Kennedy, that barrier came tumbling down.

Let me read some words of that President of these United States. During a campaign address in 1960, President Kennedy told the Greater Houston Ministerial Association:

> I believe in an America where the separation of church and state is absolute, where no Catholic prelate would tell the President how to act, and no Protestant minister would tell his parishioners for whom to vote, where no church or church school is granted any public funds or political preference, and where no man is denied any public office merely because his religion differs from the President who might appoint him or the people who might elect him.

When the Supreme Court banned school prayers in the New York public school system in 1962, President Kennedy commented:

> We have in this case a very easy remedy and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity, and we can make the true meaning of prayer more important in the lives of all our children.

There was a man who understood what prayer is all about and what the Constitution is all about, whose faith had been denied access to the highest offices in the land because Protestantism was de facto the official state religion.

No, I think we are under a far better set of circumstances today, since that Supreme Court decision.

It is not up to the Senator on Monday to take up where the rabbi leaves off on Saturday or the priest or the minister on Sunday. That is not the job of the men and women of this Chamber.

It is all we can do to see the Constitution of the United States is lived up to, never mind some particular religious creed.

When I think of the teachings of my own faith on the matter of prayer, I recall the words of the Sermon on the Mount. I am reading from the Phillips edition of the New Testament, the Gospel of Matthew:

> Beware of doing your good deeds conspicuously to catch men's eyes or you will miss the reward of your Heavenly Father.
>
> So when you do good to other people don't hire a trumpeter to go in front of you like those play actors in the synagogues and streets who make sure that men admire them. Believe me, they have had all the reward they are going to get.
>
> No, when you give to charity don't even let your left hand know what your right hand is doing so that your giving may be secret. Your Father who knows all secrets will reward you.
>
> And then when you pray don't be like the play actors. They love to stand and pray in the synagogues and street corners so that people may see them at it. Believe me, they have had all the reward they are going to get. But when you pray go into your own room, shut your door and pray to your Father privately. Your Father who sees all private things will reward you, and when you pray don't rattle off long prayers like the pagans who think they will be heard because they use so many words.
>
> Go into your room and pray to your Father in secret because he knows all secrets.

Why all this great proclamation? Why this wearing of religion on the sleeve? Why the writing of these matters in the Constitution of the United States when they should be written in the heart?

This is one of the great debates, not in the sense of my contribution to it, but in the sense of the subject matter, that will ever come before this Chamber during the course of the lives of those both on the floor and in the galleries.

If anyone thinks that the problems of this Nation are reduced merely to those things which we hold in our hand, be it money, or be it an automobile or a home, or a television set, or all these matters—that has never been the measurement for greatness in this Nation. It has been our idealism, and the courage to have that idealism manifest itself time in and time out that has given to us the greatness that we enjoy.

You do away with the Constitution of the United States and what it says and the United States will not be No. 1 for very long, not with all the missile systems in the world, not with all the billions of dollars spent on defense, not with the greatest gross national product. The greatness of this Nation lies in those words, those principles, those ideals. They give to this very few people a greatness way beyond our numbers and way beyond the resources or the land that comprises America.

People have come here to this Nation because man and woman can speak whatever they feel. They can worship as to however they feel. Why is it up to us to narrow those visions and to define religion in terms of the religions that we know now? There might be something greater and more beautiful out there than anything we have ever heard or seen something that might be even truer than anything that we have had taught to us.

But it will take that much longer to flower and to be revealed to us by virtue of the fact that we have defined religion within the terms of our own experience.

I understand that it is difficult for those of us as we move along in years to comprehend what the status of the young of this Nation is compared to our experiences.

I was asked a question by the distinguished Senator from North Carolina—we had a good go-around on public television yesterday. He very articulately and eloquently expressed his point of view. I did my best to lay out on the table my own belief. He indicated to me that prayer was recited as he was attending public school. He asked me whether or not such was my experience. I explained I had not been to public school, that I attended private school, and indeed in the private school I attended, prayer was mandatory. Worship was mandatory, and believe me it was Protestant in form.

My Jewish friends either had to attend or they could stand in the park. The same holds true of my Catholic friends. And we looked upon them as something different just as they must have looked upon themselves. There have to be certain scars that go along with that, even though they are not the ones that you visibly see on a person.

Of my children, and there are eight of them, some go to private school and some go to public school. They have not had that experience. On the other hand, I think they probably have a more profound understanding of the world around them and a greater love and a greater beauty to their lives than I do mine. I wonder when I see them working with a group of retarded children, giving of their free time, whether or not that really is not a form of worship far more exhilarating and far more meaningful than my sitting in the pew in church with hands folded. It is certainly different, far different from what I did. But according to the matters in which I believe I think maybe they are closer to Heaven than I am. Times change. Love changes. Faith changes.

How we view our fellow man changes. But, yes, I believe this is a far more religious Nation, and one far closer to the ideals professed by many religions, today than it was 20 or 30 or 40 years ago.

People say, "Well, take a look at all the promiscuity, drugs and sex," and all the rest of it. There is only one difference, only one difference today. You are seeing it, you are seeing it in a free society.

Everybody is amazed. When I grew up, to be called Victorian was the epitome of strictness, of discipline. Now we know differently, do we not? We know behind those closed doors and under all those big dresses and all the rest of it that it was not such a disciplined or such a strict society. So that all that is different is not that the world is going downhill. What we see is with a far greater eye for the truth, and there is nothing wrong with that.

I do not feel my children are one step behind me. Indeed, they are ahead of me in the practice of ideals, the lessons I learned through a formalized instruction in my particular religious faith. Some turn to me and say, "Well, you know, unlike those of us who had to perform our military service, the youngsters nowdays do not have to go into the Army, the Navy, or the Marine Corps, or whatever, and, therefore, they are less patriotic."

They are not less patriotic. My kids and all those I know would lay down their lives just as would any other generation. They might demand a little bit of reason, a little bit of logic, before they do it. Too often in the past we have all gone marching just on the symbol of a flag to lay down our lives, not always necessarily in the greatest causes. Because there is some logic that comes to our patriotism, does that make somebody less patriotic? Hopefully, it takes us a step away from war and from death and from destruction. But indeed when we do lay them down, we know what we are laying them down for, and it will be for a good reason.

I remember when I first came to the Congress of the United States representing the Fourth District of Connecticut, and I believe it was during the October break, it was during the time of Vietnam, and a time of profound change in the physical, not just the mental but the physical, appearance of the Nation. Young people were considered to be disrespectful and not patriotic. We did not understand people who had beards and bluejeans and granny dresses and all the rest of it; they were different, they were not patriotic. To be sure, some were not patriotic.

But I always remember this: I remember a class of seniors from Roosevelt High School in Bridgeport, Conn., and they came down during their Thanksgiving vacation and they were dressed just as I have described to you. Their appearance was nothing that was in line with the way I had been raised or indeed the Nation as a whole had been raised. But when it came to the subject of patriotism, instead of standing all neatly dressed and cleanshaven in their classrooms in Bridgeport, Conn., reciting the Pledge of Allegiance to the flag and singing the Star Bangled Banner, they chose to take their Thanksgiving vacation and bring down to Washington, D.C., one-on-one a retarded child.

So I would have to ask the question, who is the greater patriot? That is a different form of patriotism, is it not, to share America with those who do not have the opportunity available to each one of us? All of a sudden the bluejeans and the beards and the stench, and everything else, are sort of forgotten. What a great act of Americanism.

There can be no returning to the good old days. I do not want people dying for just a flag or a bar of music. I want them to lay down their lives because this Nation in its living means something, has a value to it. To recite words, does that do any of us any good? Call it a prayer but it becomes just words and, indeed, if it is so watered down that it appeals to every religion in the world it cannot mean very much. By the time you are through with the Constitution of the United States and you throw in there busing and abortion and balanced budgets and congressional salaries and school prayer, it is not going to mean very much. It may make you feel good to read it but it will not mean anything, and it will not create something better as each day dawns on this Nation.

I do not recall, for example, that we can rest easy with religion around or that all good emanates from it. Where were the religious leaders of this Nation, where were they, when we unabashedly practiced segregation? That was not just something of the time of Martin Luther King. We have been practicing it since the document was written. Where were they? Where were all the great principles that were recited in church on Sunday and forgotten on Monday? Where were they? Maybe it will be that if indeed there has been a decline in church attendance that that will spur people on to doing a better job in convincing persons they ought to belong to some particular faith. I might add that my profession is not immune from that because we have had a little decline in attendance when it comes to voting. I have all I can do to take care of the Government side of the United States. Do you know where we have come to in this Nation? We are at the point now where a majority to elect a President of the United States is 29 percent of those eligible to vote. That was the majority in the last election.

A majority to elect a Senator of the United States is now about 25 percent. Probably a majority to elect a Congressman is somewhere around 20 percent. I should worry whether the churches are full? I have got to worry whether the voting booths are full of people who care about this Government, and if they do not then something is wrong in our own backyard.

Maybe it is that we are not living up to the ideals of that document so that we can inspire people to participate in Government, to elect the best, to vote. Obviously, we are falling short, and maybe so it is with the various religions in this country. No, the churches are not full. Maybe they had better do something about that. But that is their job. My job is to reinstill an enthusiasm and a faith and ideal in the political system of this country.

I have never seen a merger between two weak companies that ever worked, and that is what you are trying to do, trying to lean one on the other, religion and government, in this country. Each has to stand on its own two feet, and if it cannot, then shake it up, but do not glue them together because then we will both go down the chute.

I realize that at the outset of this debate I have got an awful lot of convincing to do. The polls say that, people say we ought to have prayer. But, it is to be hoped that by the time we are through we will have it clearly understood that what we are not talking about in any way is the stifling of religion but rather the encouragement of it.

I find it ironic that my conservative brethren, so-called, who want Government out of our lives want Government in religion. There are some areas where the Government should be because nobody else wants to go there. But religion is not one of those areas. Once the Government comes into our faith, then, believe me, it can tell you exactly what to believe in. That is not a happy circumstance for the United States of America.

Mark Twain had a great paragraph in his "A Connecticut Yankee in King Arthur's Court," which book a little later I think my colleagues would like to listen to. But Twain, speaking on the separation of church and State, said:

> Spiritual wants and instincts are as various in the human family as are physical appetites, complexions, and features, and a man is only at his best, morally, when he is equipped with the religious garment whose color and shape and size most nicely accommodates themselves to the spiritual complexion, angularities, and stature of the individual who wears it; and besides I was afraid of a united church; it makes a mighty power, the mightiest conceivable, and then when it by and by gets into selfish hands, as it is always bound to do, it means death to human liberty, and paralysis to human thought.

You see, he was not just a man who wrote about Tom Sawyer and Huck Finn. He knew about the spirits that bring greatness or bring tragedy to this world.

How many of you remember seeing the movie "Cromwell"? I remember that depiction of the Battle of Naseby. The two forces opposing each other across the valley were the forces of Charles I and the forces of the Lord Protector Oliver Cromwell. And there

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on one side of the valley sat Charles I, next to him the Archbishop of Canterbury and all the bright Polesian horses and armored officers, with Charles I praying to the Almighty to give him the victory in the name of right. And the camera pans across the field and there sit the troops of the Lord Protector, a ragtag bunch, and there sits Cromwell on his horse, hands clasped, asking the Almighty to give him the victory in the name of right.

My job is not to define who is right. That is left to a far higher authority. And I do not know what that authority is. Do I think he exists, she exists? Yes. But there is no great wisdom on this floor of this U.S. Senate in the year 1982 that should make that determination.

So I would hope that everybody that is of a religious bent would please write their Senator and Congressman and ask them kindly to keep their noses out of their particular faith.

This is not the business of the U.S. Senate, the President of the United States, or the House of Representatives. It is the business of each American.

Do I encourage my fellow citizens to pray? Yes. And I hope that much of it will be devoted to those of us serving here in the U.S. Senate. But constitutionally for this body to tell you what to pray, that is a blasphemy. That is blasphemy, constitutionally.

Now we get back to the issue presented, the form as to how we are all supposed to line up here and pledge allegiance to some particular prayer that is going to be put together by—I do not even know what committee this is going to be assigned to in the U.S. Senate, but whatever it is let us talk about the form as to how we are going to achieve this.

We are going to achieve it, in essence, not by constitutional amendment, but by stripping the courts of their powers.

You see, as soon as I see that I smell the weakness of the case. Why not go the constitutional amendment route? Do you want to know why? Let me read to you from the Constitution of the United States.

This is not the personal credo of some screaming liberal. It is the Constitution.

This article is just as it was written. Just as it was written. Just as George Washington signed it. I do not think he has ever been put into the screaming liberal category.

> Article V. The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article, and that no State without its Consent, shall be deprived of its equal Suffrage in the Senate.

That is why we are coming down the road of court stripping. This is too tough. This is too tough. You cannot get it through, not for a long time. And, if there is any opposition, you might never get it through. But in the tempers of these times, in the philosophy and partisanship of this particular moment, it is the intention of some to quickly try to run it through the legislative route to strip the courts of their authority to protect the rights of all of us as Americans under the Constitution of the United States.

That is the reason why it is being done in the fashion of court stripping. The Constitution is too tough. Well, it was meant to be too tough. It was not easy to amend. It is not easy to amend the Constitution of the United States.

Now what? Is this generation going to be the one to change the rules of the game just so we feel good and cozy with our little prayer? Never mind future generations, never mind the protections of the courts. To heck with the first amendment and the Constitution as to no establishment of religion. Throw it all out. People will not care. You cannot drive it, you cannot live in it, you cannot watch it, you know, in the evening. Who cares about the first amendment? Who cares about article V of the amending process? Nobody even knows the Constitution anymore.

Make people feel good in 1982. But I am not going to let you feel good. It is a disagreeable activity on the floor of the U.S. Senate for Senator PACKWOOD, myself and others, who are clearly in the minority on this issue. The idea is to go along with the polls, go along with the majority and enjoy life.

No. If you are going to win this one, and I am addressing both my fellow Senators and the American people, you are going to have to fight very hard. You are not just going to have something handed to you. If you want to change the Constitution of the United States, and the ideals and principles that have brought this Nation to its present greatness, if you want to do that you are going to have to really fight.

This is not just the fight of a few Senators here on the floor, whether it is Senator BAUCUS, Senator PACKWOOD, Senator LEAHY, Senator SPECTER, or others. This is not our problem. I do not think that many people in the State of Connecticut care about what it is that is going on right now. I am up for reelection. I have things to do.

People ask, "How does this affect your election?" I do not think it is affecting my election one iota. Certainly it is not a plus. Certainly, it is true that I am not in Connecticut doing what I am supposed to be doing during an election year.

We have thrown too much of value out the window of late without exacting any price or any recognition of what it is we are doing. But when it comes to the Constitution, we all take an oath. We all line up, those who are elected come walking down this aisle and then move to the right, hold up the Bible and take an oath of office under the Constitution, to preserve it and protect it, and we are here for another 6 years. Most of the time they are great moments. They are moments of humor, moments of great thought, great debate, the adulation of the public, the television cameras, the press, all the rest. It is great. But then there come those times when you just have to stand in there. What you do is unpopular. But in this case I think it is totally necessary. It is one of those times. So much has been given away without anybody thinking twice or exacting any price for it. But I am saying, as I have said since the beginning of this session, leave the Constitution alone—alone. The Constitution is not in trouble. The words that are there are the words that have lasted for hundreds of years. The ideas have lasted for hundreds of years. The concepts.

There is nothing wrong with the Constitution. It is the country that is in trouble, big trouble. Unemployment, high interest rates, no homes being built. I can go down the whole list. There is the problem.

That is what we ought to be doing on the floor of the U.S. Senate. Instead, all we have to do is to fend off all this garbage that is being thrown out here in the name of social issues.

I will fight tooth and nail against the making of a trash basket out of this document. Maybe my generation is willing to let it go in return for "feeling good."

But then that means that my children and those after them will not have a United States of the same value as the one that was my Nation when I took my oath of office in that well. And I would hope others would feel the same.

Get on your Congressmen and Senators. Tell them to fix up the economy. Tell them to get people back to work. Tell them to bring the interest rates down. Tell them to get the housing industry and the automobile industry going. Tell them to clean up the air and all the rest. That is all well and good. But tell them that you want this document with the same value tomorrow, next week, next month, that it has today.

Right now it is all right. It has not been changed. But it is only when the American people speak on this subject that the efforts will stop here on the floor of the U.S. Senate.

This is not an exercise separate and apart from what the American people think and feel.

I remember several years ago an enterprising young radio reporter standing in the supermarket, I think in Miami, Fla., with a copy of the Bill of Rights. It was not labeled Bill of Rights. It was just a copy of the statements of the Bill of Rights. He had it there as a petition for people to sign. Seventy-five percent of the people he asked to sign it would not sign it, and the reason given was that it was some Communist document.

If everybody knows what is in here and they still want what is being advocated on the floor, I will give up. But I do not think anybody in this country has read this for a heck of a long time. I think they better start to do it.

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Contained there is a whole group of concepts and of ideals just within the first amendment that are very uncomfortable to live with. But they were born of the discomfort that was visited upon those in their home country who came to found this one. They did not have a free press.

How many times do I hear people say, "The press is at fault. Look at all that bad news. Why do they not clean up what they talk about?"

They cleaned up the press in the nations from which our forefathers came and they did not have the truth. Hitler cleaned up the press. Stalin cleaned up the press. Brezhnev cleans up the press.

You either have the press free or you do not have it free. And there is no middle ground. That means you get the bad news with the good, and it means that you get the biggest bigots and the racists and the incompetents in the press along with the great people, just like life. You cannot pick and choose any more than you can pick and choose as to what the right religion is. Again, our forefathers came here when somebody tried to pick and choose the right religion.

Do you think there is some magic that is going to excuse us from the tragedies of history when it comes to religion, that we are going to escape scott free? The heck we are.

Freedom of speech, the right of people peaceably to assemble.

Well, the Ku Klux Klan was recently in Connecticut. You know, that is a thrill we do not normally enjoy up in my neck of the woods.

I have never been prouder of my State than I was several weeks ago. They were there. They were there. They went into town and there they were with their hoods and sheets, hiding behind whatever it is they hide behind, mouthing their thoughts, which defy every principle of religion or of State, as we know State in this country. But they were there.

People say, "Well, they should not be here. Let us get an injunction to stop them from speaking."

Let them speak. Do you want to know how to destroy the Ku Klux Klan? Let them get out in that bright sunshine and unload from those dirty minds with those dirty mouths. They will not last a week. They were made a laughingstock in the State of Connecticut with that hate. That has been an issue from time to time throughout the Nation, as to whether or not they should be permitted to speak, to assemble. They certainly should be. Nothing will knock them off faster than letting them speak.

On the other side of town, the NAACP was having a voter registration session.

Now, there is the difference of the United States, not to deny the Ku Klux Klan their first amendment rights but, rather, to assure every American of their right to vote. That way not only will the people of the Klan not get elected but the ideas they espouse will never come to pass.

That is the way you knock off the Klan. Let them do their work in the daylight and out vote them. Do not deny them their first amendment rights.

Mr. **RANDOLPH**. Will my able colleague yield?

Mr. **WEICKER**. Yes. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from West Virginia (Mr. RANDOLPH) for the purpose of debate only without losing my right to the floor and without this being construed as the end of the speech for purposes of the two-speech rule.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **RANDOLPH**. Mr. President, I am grateful to the able Senator from Connecticut.

The Senator has been discussing, very thoughtfully, a subject that needs to be discussed, the right of all eligible Americans to vote in our country. The trouble is that we talk about the right to use the ballot but we fail, in substantial degree, to use that ballot.

In 1960, when John Kennedy was elected President of the United States, 63 percent of the eligible voters in this country were at the polls. Approximately 1 year later, as I recall, he created a commission to study an appalling condition in the country where Americans do not vote. As many other studies, it went forward and then, gathered dust.

Twenty years later in this country we had not 63 out of every 100 Americans using their vote but the figure had dropped to 53.4 percent.

We are a republic of, for, and by the people. We talk of the strengthening of voting rights. I would appreciate it very much if the Senator and others would help me, and I would work with those of good intent, as is the Senator from Connecticut, to have that American ballot used at the polling place.

Most recently, in Michigan, for example, a State where there is heavy unemployment, with the condition of the automobile industry, that in the primary election contests for the governorship, approximately 21 to 22 eligible voters out of every 100 were at the polls.

I shall not ask my friend what the vote was percentagewise in Connecticut in 1980. It was 71.4 percent in the State of West Virginia. So I am not attempting to spell out States so much but to give an indication, with which the Senator would agree, that the strengthening of the voting rights legislation has seemingly not received a positive response from the American people.

I offered the constitutional amendment, first in 1942 when I was a Member of the House of Representatives, to provide the opportunity for 18-, 19-, and 20-year-old youth to have not only the right but the responsibility to vote. As the Senator will recall, the only State in 1942 to have this vote by our youth was Georgia.

In 1942 I was disappointed that in the process of the hearing on the subject only two members of the House Judiciary Committee were present—the veteran chairman, Emanuel Celler, of New York, and Representative John Tolan of California. The energetic young Governor of Georgia, Ellis Arnall, appeared and testified for the constitutional amendment. It went absolutely nowhere. It was 30 years later in this country that we gave the right, coupled with the responsibility, to vote to the young people of this Nation. We passed it in the Senate and in the House in 1971 almost unanimously and referred it to the States. In 90 days, the quickest time in which a constitutional amendment has received the approval of the States, we acted to provide the right and responsibility to our youth to vote.

In the last Presidential election, in 1980, only 22 out of every 100 of these young Americans went to the polls.

I hope that I have not made an interruption in reference to the Senator's discussion of the ballot and its use by saying we have every reason to mount a crusade for a nonpartisan effort—an effort in which leaders like the senior Senator from Connecticut,

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can join, to elicit from men and women, fathers and mothers, youth, their sons and daughters, the responsibility of the use of the American ballot.

Mr. WEICKER. Mr. President, I agree with the comments of my good friend, the distinguished Senator from West Virginia. As usual, he has articulated the matter in a very expert way, in a way that clearly speaks from the heart.

He raises this very valuable point: We are not going to take care of the problem as articulated by the Senator from West Virginia by adding an amendment to the Constitution saying that we will all vote. We are not voting. The Senator is right: We are not voting. That is the situation in elections for Senators, President, and Congress—in Connecticut, West Virginia, and across the country.

Now, according to the temper of the times, we are going to put a little amendment to the Constitution saying that we will all vote. How do you think anything is going to change? The way people are going to vote is if we get good men and women running, if we have a simplified political process in which all can share in the selection of candidates. Get it out of the smoke-filled rooms. Get it to the American people. We are not going to accomplish it by saying that we will all vote.

Yet, that voting is absolutely key to everything else that issues therefrom—everything. The United States is only going to be as good as the men and women who run it. Right now, with only a few people voting, the emphasis is on mediocrity so far as the humanity of politics is concerned; and if that is the case, we are going to have mediocrity with the Government of the United States and everything this Government does.

Would it make everybody feel good? Do you want to feel good? Let us have a little amendment saying we will all vote. Let us write it in the Constitution: We will all vote. Does it make you feel good? Do you think one more person is going to vote than voted last week or last year? Not one.

Congress wants to balance the budget. So it seeks to write it in the Constitution. You will balance the budget by electing men and women who have the guts to stand up here and set their priorities and be willing to speak out for the costs of achieving those priorities. That is the way you balance the budget. You do not balance it by saying, "We are going to balance the budget." You do not get political participation by saying, "We will vote." You are not going to get great religious fervor by mumbling a prayer in school. And so on down the list.

There is no easy way to excellence or greatness. There just is not.

I hope that the words of the distinguished Senator from West Virginia are taken to heart, that people will realize the importance of what is at stake here in terms of their Nation.

We have had great pressure lately on the floor of the U.S. Senate on abortion, because somebody was elected just on the issue of abortion; or somebody was elected just on the issue of school prayer; or somebody was elected on the issue of busing; or just on the issue of balancing the budget.

How about the issue of the United States of America, of life in these United States? How about all those issues, instead of just one issue? I think it is terribly important that good men and women come down here.

I repeat: I respect the differing points of view as articulated by the distinguished Senator from North Carolina and others. I am not saying they are wrong. Obviously, they are very forceful in their presentation, and very convincing, if a lot of the polls I read are correct. But there had better be another point of view, and there had better be somebody here to enunciate it. The only time we really get into trouble in this country is when everybody agrees. Right now, the agreement is an agreement to silence, an agreement to the easy way out, and that is of concern.

I certainly hope that serious attention is paid to this matter by the Senate, that we stand up and be counted.

Mr. PACKWOOD. Mr. President, the Senate is deeply indebted to the Senator from Connecticut for the extraordinary analysis he has made, not just of the bill before us but also the fact that we are talking about something greater than just this bill. We are talking about a fundamental change in the concept of government, a change so fundamental that we have never even dared approach it with any seriousness since the founding of this country.

Mr. President, when I was speaking yesterday, I was talking about the history of the efforts that have been made—and they are only recent—to strip the courts of jurisdiction. They really started only in the 1950's, with the Jenner bill to strip the courts of jurisdiction over subversive activities. That was the word—subversive activities—however defined, and it can be defined by school boards or by States.

We had an effort to strip the courts of their right to hear cases on reapportionment after the Supreme Court made its famous one-man, one-vote decision in the mid-1960's.

Then, again, we did not have any serious effort until 1978 or 1979, when we approached the attempt to remove from the jurisdiction of the courts some of the issues with which we are now dealing.

Mr. President, one of the excellent memos that has been done on this subject was done by Mr. David Ackerman of the Library of Congress, entitled "Adoption of Bills Limiting Federal Court Jurisdiction over Prayer, Busing, and Abortion by Either House or Senate, Bills Pending in Present Congress." I should like to read that memo:

> This is in response to your request for a listing of bills limiting federal court jurisdiction over prayer, busing, or abortion which have been adopted by either the House or Senate, and for a listing and brief description of such bills pending in the current Congress.
>
> With respect to prayer, the Senate on April 9, 1979, adopted an amendment sponsored by Sen. Helms denying the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."
>
> Several days earlier the Senate had initially added this amendment to the bill establishing the Department of Education by a vote of 47-37 after rejecting, 43-43, a motion to table the amendment. But on April 9 the Senate deleted the amendment from that bill and added it instead to a minor bill (S. 450) which specifically concerned federal court jurisdiction. That bill was then adopted by the Senate and became the subject both of an unsuccessful discharge petition campaign in the House and of hearings by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. But no further legislative action was taken on the bill.
>
> With respect to abortion, neither the House nor the Senate has adopted any restriction on the federal courts' jurisdiction, although the Subcommittee on the Separation of Powers of the Senate Judiciary Committee has approved a bill (S. 158) which would, inter alia, deny the federal courts jurisdiction to issue any temporary or permanent injunction or declaratory judgment with respect to any state statute or municipal ordinance protecting fetuses or regulating abortions and an identical bill (S. 1741) has been placed directly on the Senate calendar.
>
> Congressional action with respect to limitations on the jurisdiction of the courts to employ busing as a remedy in desegregation cases is detailed in the enclosed CRS report, "A Legislative History of Federal Anti-Busing Legislation: 1964 To 1981."
>
> With respect to bills in this Congress relating to prayer, abortion, and busing which would limit or eliminate the jurisdiction of the federal courts, three constitutional amendments and thirty statutory limitations have been proposed. Each of the constitutional amendments—H.J. Res. 56, H.J. Res. 91, and H.J. Res. 95—would bar the federal courts from requiring that a student attend a particular school because of race. Eight of the proposed bills—H.R. 340, H.R. 761, H.R. 869, H.R. 1079, H.R. 1180, H.R. 3332, S. 1005, and S. 1647—would similarly extinguish federal court jurisdiction to order the attendance of children at particular schools, while three bills—H.R. 2047, S. 528, and S. 1743—would limit federal court

jurisdiction to order the transportation of any student except in specified circumstances. Six bills—H.R. 73, H.R. 900, H.R. 3225, S. 158, S. 583, and S. 1741—would bar the lower federal courts from issuing any injunctive or declaratory relief with respect to state statutes and municipal ordinances protecting fetuses or limiting abortions, while another bill—H.R. 867—would eliminate all original and appellate federal court jurisdiction over matters relating to abortion. Eleven bills—H.R. 72, H.R. 311, H.R. 326, H.R. 408, H.R. 865, H.R. 989, H.R. 1335, H.R. 2347, H.R. 4756, S. 481, and S. 1742—would eliminate all original and federal court jurisdiction over state statutes and regulations relating to voluntary prayer in public buildings. Finally, one bill—H.R. 114—would bar the federal courts from modifying any order of a state court that is or was reviewable in the highest court of a state.

Submitted by David M. Ackerman, Legislative Attorney, American Law Division, Library of Congress.

Mr. RANDOLPH. Mr. President, will my capable colleague from Oregon yield to me for an observation?

Mr. PACKWOOD. I yield, asking unanimous consent that I not lose the floor and succeeding comments that I may make not be counted as a second speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I have listened with interest to what my colleague is saying. He has made reference, as our colleague from Connecticut has made reference, to constitutional amendments.

I do believe the record should indicate that we have had, as of now, 193 years under which Congress has been constituted as it is at this moment, only 26 amendments have been brought into being.

I shall not say that some were wrong and some were right. But I do for the record include one that I believe should be mentioned today and that was the right given to women to vote in the United States of America.

The record can further indicate that there are at the present time 8 million more women eligible to vote in the United States of America than there are men eligible to vote.

So as we look back to those earlier days of the so-called suffrage movement. It seemed that this constitutional amendment would not have support. But we have come forward with a greater activity, a greater participation of women in the body politic. I mentioned particularly the right of women to vote and a responsibility to vote.

Franklin Roosevelt at the very beginning of his first term in March 1933 nominated Frances Perkins to be the Secretary of Labor of the United States. She served for 12 years in a constructive manner indicating then as now that women have a very vital public role in this country. Only a few months ago President Reagan nominated the first woman to serve on the Supreme Court of the United States, Mrs. Sandra O'Connor.

I refer only to the earlier action with the nomination by Franklin Roosevelt of Frances Perkins, coming up to just a few months ago, as I have indicated, the first women to serve in the Supreme Court of the United States of America, and I supported both of those efforts. I supported the nomination of Frances Perkins in 1933, although I was not in the Senate. I could not on rollcall support it, but I advocated it then in the House where I served. Recently I supported with my vote the nomination of Mrs. O'Connor to be a member of the Supreme Court.

In fact, I testified before the Judiciary Committee, for Mrs. O'Connor.

I realize my comments today do not focus directly on the issues that are being discussed. I think however, that we must pause, in a sense, and mention the contributions of women, as well as men.

A young man asked me in recent days, "why is my one vote important, Mr. Randolph?" I said to him, as I have said to hundreds of young people, it is important, and I say this to the able Senator from Oregon, it is important because it belongs to that person, no one else. "It belongs to you and if you do not use it it ceases to exist."

Over and over, with an organization hopefully like Convention II meeting here soon on the 195th year of the Constitution, young people themselves must generate this effort to a greater degree than before. But with dad and mother not voting it is increasingly difficult, perhaps even though they have concerns, for them to vote in elections, local, State, and Federal.

The prayer and the abortion issues are controversial. I include in the Record today the words of a poem I shall read, called "There's Another Day."

If things go wrong
And skies are gray,
Remember—there's
Another day!
If paths are steep
And hard to climb,
Remember—sometimes
Things take time!
Don't give up hope
And don't despair,
Remember—God hears
Every prayer!

I believe those words by Helen Farries in her book—and I know they are believed by the Senator who now occupies the floor and allows me to interrupt him—that it all comes back to the belief that the individual himself or herself must feel so deeply on any of these subjects that they are direct participants in the process.

Perhaps, in the quiet of a morning or evening, it would be good to remember that there is another day. Each day on this Hill must be not just another day, Senator; it is a new day. I ask the Senators, the Representatives, those who sit in these galleries, to remember that there are firm foundations in this country. If we drift from these moorings we are in difficulty in a world of violence and strife and misunderstanding and war.

Mr. PACKWOOD. I thank my distinguished colleague from West Virginia. Few people have done more to advance the causes of women and the poor and disenfranchised than the Senator from West Virginia with his 50 years of service, with a slight intermission, as I recall, in the service of this country, having been elected for the first time in 1932 to the House of Representatives.

Mr. President, I ask unanimous consent that I might yield without losing the floor to my colleague from the State of Oregon, Senator Hatfield, for the purpose of his making remarks.

The PRESIDING OFFICER (Mr. Gorton). Without objection, it is so ordered.

Mr. PACKWOOD. I ask unanimous consent that my previous comments not be considered to be a second speech under the second-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I want to thank my colleague and friend from Oregon for yielding the floor at this time.

Mr. President, I will not belabor the constitutional issues involved when Congress attempts to wrest jurisdiction from the Federal judiciary. This constitutional question has been vigorously debated and is an issue upon which the minds of reasonable persons can, with good cause, differ. The grant in article III of the Constitution to Congress, which vests judicial power in such inferior courts as Congress deems necessary, is well documented. I am also aware of how, by curtailing the Federal court's jurisdiction, the Supreme Court's constitutional authority to interpret constitutional questions could be eviscerated, if not altogether eliminated.

No, Mr. President, I will not consume more of the Senate's time with an elaboration on the constitutional merits of court-stripping legislation. Even if we assume, for purposes of argument, that Congress is within the four corners of the Constitution when it enacts legislation that deprives the Federal judiciary of jurisdiction over controversial issues—in this instance, voluntary prayer in schools—Congress must still go a step further. An examination of constitutional authority should not be Congress primary inquiry. A cursory look at the language in the Constitution indicates that Congress has tremendous authority and can enact a broad range of restrictive legislation.

If this body is to be truly a deliverative one, then it must ask the normative question: Should Congress legislate here? Should Congress consent to legislation which withdraws court jurisdiction from the Federal judiciary? In my estimation, this is the crucial channel of inquiry.

I oppose this court-stripping legislation because I perceive it as a gross intrusion into the sacred area which, throughout history, has separated our three branches of Government. By enacting this legislation, Congress would sanction affirmatively such an abhorrent invasion. What Congress is contemplating in the amendment offered by my colleague from North Carolina is no minor housekeeping matter. There is a fundamental question at stake in this debate, and that is: To what degree will Congress compromise our historical adherence to the constitutionally ordained and time-honored doctrine of separate but equal branches of government? That, my distinguished colleagues, is the pertinent question.

Mr. President, deciding what Congress ought to do is a two-step process. We must look into the past and we must glimpse into the future. From a historical perspective, I see a clear parallel between the proposal at the desk and the effort by President Franklin Roosevelt in 1937 to stack the Supreme Court so that the Court would render decisions consistent with the New Deal philosophy. A discussion of the history of this matter will not only set the amendment being considered today in close perspective, but will be sufficient to caution against similar assaults on the judiciary, both now and in the future.

Rather than consume precious time of the Senate by expounding on the details of President Roosevelt's initiative, I have a prepared statement that I would like to insert into the Record, Mr. President, which adds a historical color to this debate and which discusses the events of some 45 years ago when revolutionary use of Executive power was tempered by legislative review.

Mr. President, I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Mark O. Hatfield

Mr. Hatfield. Mr. President, in November 1932, the Nation voted in large Democratic majorities in the Congress and a Democratic President. President Roosevelt made it clear that he would exercise "broad executive power to wage a war against an emergency as great as the power that would be given me if we were in fact invaded by a foreign foe." He called an emergency session of the Congress and during the next 100 days passed into law much of the New Deal.

Legislation passed included such bills as the Emergency Banking Act, which called for the surrender of all gold and gold certificates to the Treasury Department; the Agricultural Adjustment Act, which provided for an agreement between the Federal Government and farmers that the farmer would plant fewer acres and in return would receive better prices for his goods through a Federal subsidy; the National Industrial Recovery Act, which established codes of fair competition for wages, prices, and trade practices; and the Tennessee Valley Authority Act, which created a Government corporation to construct dams to develop the Tennessee Valley region. Each of these bills was based on the emergency powers of the Executive and the power of the Congress to act on behalf of the general welfare of the Nation and to regulate interstate commerce. Each was passed with alacrity due to the pressing needs of the moment by a Congress that was most receptive to supporting the President.

However, the New Deal package encountered significant opposition in the Supreme Court, which was not receptive to this revolutionary use of Executive power. Between January 1935 and June 1936, the Supreme Court ruled against the New Deal in 8 out of 10 major cases involving New Deal statutes. The only measures upheld by the Court were the monetary legislation of 1933 and the creation of the Tennessee Valley Authority.

The first major New Deal measure to be overturned was the case of Panama Refining Company against Ryan, the hot oil case, where the Court held unconstitutional the portion of the National Industrial Recovery Act (NIRA) which provided for a code to govern the production of oil and petroleum products. The Court held that the contested portion unlawfully delegated legislative power to the President.

Shortly thereafter, the Court struck down the Railroad Pension Act. This action was based on the Court's view that Congress had exceeded its scope of power to regulate interstate commerce when it approved the creation of an industry-wide pension system. The vote on this ruling was 5 to 4 and initiated a series of votes by that tally, indicating an ideological split against the New Deal on the Court.

On "Black Monday," May 27, 1935, the Court, in unanimous decisions, struck down the National Industrial Recovery Act, the Frazier-Lemke Act and ruled that the President lacked any inherent power to remove members of the Federal Trade Commission from their posts. FDR was particularly upset at the Court's actions in overturning the NIRA, as it was the foundation of the President's recovery program. In expressing his frustrations with the Court, FDR stated:

"Is the United States going to decide . . . that their Federal Government shall in the future have no right under any implied or any court-approved power to enter into a solution of a national economic problem, but that the national economic problems be decided only by the states? . . . We thought we were solving it, and now it has been thrown right straight in our faces. We have been relegated to the horse-and-buggy definition of interstate commerce.

The Court continued its opposition to the New Deal in 1936 as the court struck down several portions of the New Deal. On January 6, 1936, the Court opposed the Agricultural Adjustment Act as an unconstitutional invasion of State's rights. In May 1936, the Court struck again, as it held the Bituminous Coal Conversion Act to also be an unconstitutional invasion of State's Rights. One week later the Court maintained the same position in overturning the Municipal Bankruptcy Act.

Throughout this time, opposition to the actions of the Court in overturning New Deal legislation was mounting throughout the country and within the administration. The Nation was viewing the court as an obstacle to much-needed reform and several Members of Congress introduced bills which ranged from expanding the size of the Court to allowing congressional override of Court decisions.

In response to this growing concern and based on an overwhelming mandate from the Nation, FDR moved with a plan to increase the size of the Supreme Court to 15 Justices, creating one new seat for each Justice who, upon turning the age of 70 refused to retire. While calling for other changes, such as the creation of additional judgeships and assignment of judges to congested areas to relieve the backlog of cases, the President's purpose was barely concealed:

"During the past half-century the balance of power between the three great branches of the Federal Government has been tipped out of balance by the Courts in direct contradiction of the high purposes of the framers of the Constitution. It is my purpose to restore that balance. You who know me will accept my solemn assurance that in a world in which democracy is under attack I seek to make American democracy succeed."

Opinion in the Congress was sharply divided over the President's proposal. Some shared the view of Senator Thomas Minton:

"It is said that this is an attempt to pack the Court. How do we find the Court today? It is packed now by appointees of administrations gone and repudiated. Do you think these administrations are more entitled to pack the Court than Roosevelt? Do you think that Harding, Coolidge, or Hoover were qualified to pick judges for the Supreme Court, but Roosevelt is not? I think the Court is already packed, and this bill would unpack it."

Similar sentiments were shared by the Honorable Thomas F. Ford, who stated:

"These men are legal-minded; they are corporation-minded; they were nourished on the discredited economy of laisses-fair; they do not believe in Government 'interference' in business; they are doubtlessly honest and sincere in thinking that the public welfare clause of the Constitution is not to be taken seriously, while the tragically perverted 'without due process of law' clause is to be utilised against every law that looks too progressive to be safe. Thus, five reactionaries exercise the veto power over legislation they are temperamentally unable to see as constitutional, because it is out of line with old economics."

However, most of the sentiments toward the President's proposal ran contrary to it. Despite disgruntlement with the decisions of the Court, a great surge of opposition arose from all sectors of the Nation, since the people of this country saw that the independence of the judiciary was at stake. We would be well-advised to fully consider the sentiments expressed in that day, as I believe we could learn much from the wisdom of our predecessors. The noble Senator from North Carolina, Josiah W. Bailey, expressed his deepest concerns as he stated:

"Courts, in order to administer justice, must be independent. Grant that his motive is the purest, I deny the President's right to seek to mold the Supreme Court to his heart's desire. I deny the right of Congress to seek to form a court that will interpret the Constitution to suit its interpretation, its judgment, or its will. None may seek to influence the Court save by accepted processes of justice. President, Congress, and Court are each under the Constitution. It is the people's instrument, the charter of their rights, the sheer anchor of their liberties and it must be interpreted, if it is to be of value, only by a court independent of all influence, free of all politics or personal will, free of all force, inducement, or temptation, and upon the altars of reason and conscience * * *

"Congress is mighty, but the Constitution is mightier. Presidents are powerful, but the Constitution is more powerful. Courts are great, but the Constitution is greater.

"The Court and the Constitution, they stand or fall together. The Constitution creates the Court, and the Court declares and maintains the Constitution. To weaken one is to weaken the other. To weaken either is to weaken the foundations of our Republic; to destroy either is to destroy the Republic."

As we can see from the statement by the Senator from North Carolina, Senator Bailey, he properly understood the issue of the day—the shaking of the very foundations of the Republic. We simply cannot affect the independence of the Court without shaking the roots of this great Nation of ours. For these roots are planted firmly in the Constitution and are nourished by the freedoms protected in that document. By causing an imbalance in the delicate balance created in the Constitution between the three branches of Government, we are heading down a reckless course. Senator Arthur Vandenburg of Michigan understood this as he stated:

"When you tamper with the Supreme Court you tamper with the Constitution's safety valve. It is not enough to infer that it has occasionally been done to some degree before. Maneuver to control the Court may address an objective which you may aggressively approve. Tomorrow's objective, under different Auspices, may address a purpose you abhor. The consequences of such an innovation are as incalculable as time and vital as the spark of life itself."

This same sentiment was echoed by the Senate Judiciary Committee report, signed by members of the President's party, loyal supporters, but who nevertheless were able to envision the consequences of FDR's action. These great men, Patrick McCarran, Tom Connally, Joseph O'Mahoney and Republicans like William E. Borah, among others, had a sense of vision. I trust we would exercise that same vision in the contemplation of this proposal today. This Senate Judiciary Committee report stated some very succinct points for our consideration today, and let me quote from the Judiciary Committee's report of that day:

"Today it may be the Court which is charged with forgetting its constitutional duties. The next day it may be the Executive. If we yield to temptation now to lay the lash upon the Court, we are only teaching others how to apply it to ourselves and to the people when the occasion seems to warrant. Manifestly, if we force the hand of the Court to secure our interpretation of the Constitution, then some succeeding Congress may repeat the process to secure another and a different interpretation and one which may not sound so pleasant in our eyes as that for which we now contend."

Mr. HATFIELD. Mr. President, Congress also has a duty, to the best of its ability, to take a prospective look at the effect of its actions. None of us here can claim to predict future developments without legitimate reservations. But it is incumbent upon this body to attempt to consider what this amendment will mean 10, 15, 25 years down the road. Do we want every constituency that is the victim of a Supreme Court ruling to turn to Congress for relief in the form of a court-stripping bill? More importantly, do we want to address public policy questions with after-the-fact, jurisdiction-limiting bills?

Let me pose a simple hypothetical situation which illustrates exactly what I am talking about. Suppose public sentiment reached a point whereby the majority of this body was staunchly pro-gun control. How would we look at legislation which precluded the Supreme Court from interpreting the meaning of the right to bear arms?

Mr. President, the plethora of jurisdiction-stripping proposals that the Congress has considered over the years, in many cases, reflect the failure of the Congress to perform its responsibilities on controversial matters. When the courts step into this vacuum created by congressional inaction, then a host of legislative initiatives are dropped into the hopper denying the Supreme Court and lower Federal courts the authority to decide such cases.

The most obvious example of what I am talking about occurred between 1953 and 1969 with the Warren Court when it stepped into the legislation vacuum by delivering activist opinions affecting civil rights and civil liberties. While many in Congress proposed drastic jurisdiction-stripping measures, fortunately, wisdom prevailed and major civil rights legislation was enacted.

Today that same "ducking of issues" is continuing and is leading to more of this same judicial activism. By refusing to deal with emotional issues like school prayer, abortion, and tax exemptions for racially discriminatory schools, we invite the kind of drastic jurisdiction-stripping measures that we are faced with today.

For nearly 10 years, we have waited for the Congress to substantively deal with the emotionally charged issue of abortion. For nearly the entire 97th Congress, we have told the right-to-life groups that pressing economic and budgetary matters precluded the consideration by the Senate of this issue. Again, we are avoiding a quality and substantive debate on the abortion issue and are concentrating our efforts on procedural haggling.

I understand the strategy fully, and I do not in any way question the right of any Senator to further his particular issue and position on that issue. All I am saying is simply that if the Committee on Labor of the Senate 5, 6, 7, 8, 9 years ago had addressed this issue and brought the bill to the floor where we could have had a substantive debate up or down we would not be facing then this issue every year on the appropriations bills which has, in effect, crippled in many ways the appropriation process. Mr. President, the Senate must break this cycle of inaction and avoidance and face up to the responsibilities that the Constitution puts squarely in our hands.

We cannot forever postpone the discussions of abortion and school prayer and busing and other controversial issues and use the appropriations vehicle in order to get some kind of confrontation. We cannot afford to dodge these issues by consenting to legislation which perverts the Constitution and which dodges a debate on the merits of controversial social and moral issues by trying to strip the courts of their rightful jurisdiction for judicial review.

I thank the Senator from Oregon for yielding the floor.

Mr. PACKWOOD. I thank my distinguished colleague.

I must say that no one has had to put up with this more than he has. He has been patient and long-suffering as the chairman of the Appropriations Committee.

He is absolutely right. There are great issues to be discussed in this Congress. Abortion, busing, and prayer are some of them. But the place to discuss them is not on the appropriations bills. My colleague from Oregon and I are longstanding friends of 35 years duration and fraternity brothers from college. He was my teacher in college. We have gone through many battles together, mostly side by side. And, as far as the battles on the appropriations bills, I stand side by side with him again.

Let us face up to this. Let us have a debate. Let us do it in a proper forum. The proper forum is not the appropriations bill or the debt ceiling.

Let us dispose of some these issues up or down. He and I have been in politics long enough to know that we are going to lose some and win some.

But you do not try, when you lose a case in the Supreme Court, to overturn it by some kind of a statute because you do not like the decision.

I would say again that there are a fair number of decisions the Supreme Court has passed that the senior Senator from Oregon does not agree with. Yet I have not found him as an author of any bill to overturn those decisions.

Again, I wish to thank him once more. And I hope—and I will say this to him publicly—I hope we can work out something, somehow that will get us through the rest of this Congress with appropriation bills where we dis-

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cuss money and how much money we should spend for the subjects that are relevant to those appropriation bills. And that is a fair discussion. I hope we can keep those bills as clean and neat as possible, and he will have my support in that.

Mr. HATFIELD. Will the Senator yield?

Mr. PACKWOOD. Without losing my right to the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator be able to yield to me without losing his right to the floor.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I just want to make a record here that even though my very dear friend and colleague from Oregon and I happen to be, perhaps, on opposite sides of the question of abortion, let us not be found off wandering into the byways and highways of these other matters which we stand shoulder to shoulder on, and that is the question of keeping the appropriations process free from the entanglements and these thickets in which we have been plunged by these controversial measures because of the use of that vehicle.

Second, we revere equally the role of the Supreme Court in our constitutional system. As I say, we may be on different sides of a particular issue from time to time, but these are issues I think that transcend the subject issues that we find ourselves in debate and so forth. These are matters that really strike at the very heart of our whole constitutional system, strike at the very heart of our legislative system.

I think sometimes we do not concern ourselves sufficiently with the preservation of the vehicles and the framework and the whole mechanism of government that is the greatest that has ever been conceived by human minds, our constitutional system.

I think, wherever we may differ on the issue, that transcending those differences are greater common allegiances to the things we are trying to preserve in this country.

Mr. PACKWOOD. My distinguished colleague will recall that Senator Merse, my predecessor and his colleague in the Senate, he probably heard him say many times, as I did: "Give me control of the procedures of democracy and I will control the substance of democracy." And he was absolutely right.

Mr. HATFIELD. Absolutely, I thank the Senator.

Mr. PACKWOOD. I thank my distinguished colleague.

Mr. President, in an earlier speech on the floor of the Senate, our distinguished colleague from Maryland had indicated attempts in the past to limit Supreme Court jurisdiction or Federal court jurisdiction. He indicated those issues had not been limited solely to busing, prayer, and abortion. Those are the hot issues now, Federal court jurisdiction over those things.

As I indicated in my earlier comments, this is not the only time in the last 20 years, because of passion—I will not say misguided conclusions, because many times the courts have taken actions I did not agree with. But I think in misguided passions we have attempted to overturn decisions of the Supreme Court.

Therefore, let me recount again what we have done in the past when we have found decisions that we did not agree with. The distinguished Senator from West Virginia, Senator RANDOLPH, talked about the fact there have been only 26 amendments to the Constitution. And when you realize the first 10 of those, the Bill of Rights, were passed in 1791, we have had only 16 amendments since that time in almost 200 years of history.

Hundreds of amendments have been introduced in Congress. Most have failed. A few have passed Congress and been submitted to the States for ratification and have failed as, unfortunately, the equal rights amendment. It would be my hope that we will again see that amendment passed through Congress and submitted to the States and one day adopted.

But in the past, we have had circumstances where the Congress and the populace in this country did not agree with decisions of the Supreme Court and we went through the proper procedure for changing them—the constitutional amendment.

First, the 11th amendment. In the case of Chisholm against Georgia, the Supreme Court came forth with a decision that a citizen of one State had the right to sue another State in Federal courts. A citizen of one State suing a State, the States did not like that. The 11th amendment was offered in the Congress which would prohibit a citizen of one State from suing another State and that amendment was adopted for the specific purpose of overturning a Supreme Court decision. It was a legitimate way to go about overturning it.

In the infamous Dred Scott case, the Supreme Court reached the conclusion in the mid-1850's that blacks were not citizens. Even then, when we were approaching the Civil War and the passion that that war generated—and that war divided this country more deeply than even the Vietnam war—even in the heat of that war, and even though in the Congresses of that period the southerners had left so that it would have been easy to pass through the remainder of the Congress a bill to overturn the Dred Scott case, we did not do so.

Instead, we adopted an amendment, the 14th amendment, to overturn the Dred Scott case. And even though Abraham Lincoln, a wartime President, was beset with criticism at a time when the war was going badly for the North, he did not succumb to the pressure of trying to overturn the Dred Scott case with a statute. It was done with an amendment.

A few years later, the Supreme Court, in the case of Pollock against the Farmers' Loan Trust Company, handed down a decision that said Congress could not levy an income tax, mainly because Congress the previous year had tried to tax income as uniformly throughout the United States and the Court held that violated the Constitution. Therefore, we adopted the 16th amendment. We said that Congress could levy an income tax.

There were efforts, there were thoughts, that we should overturn that Supreme Court decision by statute. Suggestions were made in the Congress, but we did not adopt them. And after waiting a fair number of years, we finally passed and had ratified that amendment that allows the Congress to levy an income tax.

And then just recently, Congress passed a statute that said 18-year-olds could vote in this country in both Federal and State elections. The Supreme Court held that while Congress has the power to say that 18-year-olds could vote in Federal elections, we did not have the power to say they could vote in State elections. So, Congress sent out the 26th amendment guaranteeing to all those 18 and over the right to vote in all elections in this country. And that amendment was adopted by the States.

In each case, we followed the constitutional procedure for reversing Supreme Court decisions we did not like.

But as my distinguished colleague, the Senator from Connecticut said earlier, it is a very difficult and burdensome process, deliberately so. It was meant to be so.

All of us who supported the equal rights amendment were very disappointed that it was not ratified by the States. For 10 years we worked for the ratification and we lost. But we will try again, and I assume the fight will be another long fight. But our founders did not intend that the Constitution be changed easily or lightly. Least of all did they intend that it be changed in moments of passion.

Mr. President, there is another excellent memo that has been written by the Library of Congress, written by David Ackerman 3 years ago, on the subject of the constitutionality of the withdrawal of all Federal court jurisdiction over questions involving state-sponsored prayer in public schools and public buildings.

I would like to read that memorandum for the benefit of the Senate.

> In the case of *Engel* v. *Vitale* the Supreme Court held the establishment of religion

clause of the First Amendment to be violated by a state requirement that school children say aloud at the beginning of each school day the following prayer:

> "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."
>
> The following year the Court similarly held unconstitutional, in the case of *Abington School District* v. *Schempp*, a state requirement that at least ten verses from the Holy Bible be read at the beginning of each school day and that students join in the unison recital of the Lord's Prayer. The Court found these requirements to constitute establishments of religion notwithstanding that in both cases the states made provision for the excusal or nonparticipation of students either at their own request or at the request of their parent(s) or guardian(s).

Let us understand what the situation is. My children are 15 and 11. They go to the neighborhood public schools. A prayer is not required of them in the public school, and I would object if it was. We will say grace at our dinner table at night. We will worship in our way. But I do not want my children having to say a prayer written by the local school board or written by the State or written by anybody else. I will challenge any of you to try to sit down and say to yourselves, "What kind of a prayer, am I going to write?"

One of the most interesting cases that has recently come to mind comes out of Alabama. I am reading here from the wire service report from the Associated Press:

> A bill to allow prayer in Alabama public schools was signed into law Monday of Gov. Fob James, and opponents of school prayer promised a court challenge of the measure.
>
> James said he views the new law as a legal vehicle for Alabama to test the U.S. Supreme Court's 1962 ruling against prayers in public schools.
>
> He said the law will "challenge the fundamental essence of that '62 decision that I think is totally ridiculous."
>
> He said he doesn't think the nation's founders intended the Constitution to ban prayer in public schools and that the new legislation gets "right at the heart of that question."
>
> The law allows public school teachers and professors to lead "willing students" in prayer. It includes a suggested prayer written by the governor's oldest son, Fob James III.

I say to my fellow Senators, that is one written by the Governor's son, whatever it is he may be. The children in Alabama are going to have a choice of saying the prayer written by the Governor's son or excusing themselves and going outside the room, to the bathroom or someplace, but they will have to say to the teacher: "Teacher, I do not want to say this prayer written by the Governor's son."

We all know what kind of pressure there is on our children to conform in school, be it in terms of dress, social behavior, or the possibility of trying drugs. They do not want to be "out."

Consequently, when a prayer is going to be read by the teacher, written by the Governor's son, most children will probably say it or recite it, even if they in their heart do not feel they want to, because they will not have the courage to ask to be excused.

To resume the Library of Congress memorandum:

> On April 9, 1979, the Senate adopted an amendment which would deny the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."

All appeal of any Federal court, including the U.S. Supreme Court, would be stricken. That means that the interpretation of the first amendment, which is probably the most important amendment in the history of our liberty and probably the most important single sentence in the history of liberty in the world, will be left to the vagaries of the different State courts. What the term "establishment of religion" means may mean one thing in Alabama and another in Connecticut and another in Oregon. The one thing that you will be able to guarantee, guarantee with certainty, is that it will not be a uniform protection of civil liberties throughout this country. That is not what our founders intended.

They were well familiar with State churches. They had left a country that had a State church, and they had no desire for a State church to be imposed in this country. Yet that is exactly what you will get in some States if this kind of an amendment is passed.

Quoting again from the memorandum:

> That is, under this amendment, sponsored by Senator Helms, no case challenging the constitutionality of a state statute relating to voluntary prayer in the public schools could be heard in any federal district court. Such cases could be adjudicated only in state courts. Moreover, no decision by the highest court of any state concerning such a statute or regulation could be reviewed in the Supreme Court. Each state's highest court would be its own final arbiter in such cases. *Engel* and *Schempp* would continue to stand as controlling precedents, but future litigation on the issue could be heard only in state courts, with no opportunity for review by any federal court.
>
> The issue addressed in this report is whether Congress has the constitutional power to eliminate completely all federal court jurisdiction over a matter involving a constitutional right. Assuming the efficacy of the Senate-adopted amendment, the constitutional right that is implicated is the First Amendment right to be free from governmental establishments of religion, in this instance, as held by the Supreme Court in *Engel* and *Schempp*, state-sponsored voluntary prayer in the public schools. The Senate amendment would remove all federal court jurisdiction, both original and appellate, over all cases related to such state-sponsored prayer. The issue is, does Congress have that power under the Constitution?
>
> CONGRESSIONAL POWER OVER THE JURISDICTION OF THE LOWER FEDERAL COURTS
>
> Article III of the Constitution defines the judicial power of the United States in the following terms:
>
> Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State; between Citizens of different States; and Citizens of the same State claiming Lands under grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.
>
> Article III does not by its terms create any of the inferior federal courts, but instead confers that power on Congress:
>
> Section 1. The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. . . .
>
> This Congressional power is also affirmed in Article I of the Constitution concerning the legislative power, which states:
>
> Section 8. The Congress shall have the Power . . . To constitute Tribunals inferior to the Supreme Court.

Let me digress from the memorandum for a moment so that it is clear what we are talking about. The United States Constitution creates the Supreme Court. That Court is not a creature of Congress. All of the other Federal courts are created by statute, all of the U.S. Federal district courts, all of the courts of appeals, and we determine their jurisdiction. We have on occasion raised what is known to lawyers as the "amount in controversy," how much are you suing for, so that cases with a very low amount in controversy will not be brought in Federal court and clog up the Federal courts. And thereby we have denied jurisdiction to certain kinds of claims in Federal courts by simply saying that they must reach a certain amount or the courts cannot hear them.

In the Norris-LaGuardia Act, we passed a law that said that henceforth Federal courts could not issue injunctions in labor disputes. The case testing that went to the Supreme Court, and the Supreme Court upheld the right of Congress to take away the power to issue injunctions in labor disputes although it was very clear that the court said in that case it was not leaving litigants without other remedies, that all Congress did was remove from the courts one remedy, an injunction.

The issue boils down to this: If we in Congress have the power to create the

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district court and the courts of appeals, do we have the power to abolish them? We probably do. If we have the power to create them and determine their jurisdiction, do we have the power to say that they may not have jurisdiction over certain subjects? Clearly, we do. We say that they cannot have jurisdiction over cases unless a certain amount of money is involved and they cannot issue injunctions in labor disputes.

Then the question further evolves, do we have the power to deny to the Federal district courts and courts of appeals, which we have created, the power to hear cases involving constitutional liberties guaranteed to our citizens by other sections of the Constitution?

By the very act of taking away the jurisdiction of the court, can we effectively prevent a citizen of the United States from attempting to bring a case involving what they regard as a constitutional liberty?

That case has never been tested clearly and exactly in the Supreme Court. I hope that we do not have that constitutional power because, if we do, then we are perfectly at liberty to say not only do we take away from the courts jurisdiction over cases involving the establishment of religion and school prayer, not only do we take away from courts the right to hear cases involving abortion, even though the Supreme Court in its decision almost 10 years ago said that that is a constitutional liberty that the women of this country are entitled to, but if we can take away from the courts the power to try abortion cases or prayer cases or busing cases, we can take away from them the power to try freedom of speech cases, freedom of press cases, self-incrimination cases.

Mr. President, I ask unanimous consent, without losing my right to the floor and without this being construed as the end of a speech for the purposes of the two-speech rule, to yield to the Senator from Colorado.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. HART. Mr. President, I thank the distinguished Senator from Oregon. Among the many ironies that prevail and surround the current debate over the issues of stripping the courts of jurisdiction of cases involving abortion or school prayer are the relative roles of the parties in this debate, for there are those who have complained at great length and with extreme conviction about the prevailing role of Government in our lives and the increasing repressive and suppressive position that the Government plays in intruding into the lives of the American people one way or the other, and yet these very same people, who claim to be extremely concerned abouth the growth of governmental power, are here in the Senate today advocating an increase in governmental power, for it is, after all, the Government that would write the prayers that the children of this country would recite. Whatever claim might be made for voluntariness, we all know that in the mind of the 5-, 6-, and 7-year-old child there is very little sense of voluntariness when an official in a school is presenting a prayer for the children of that school to recite.

One wonders who the governmental official would be who would write the prayer. Would it be a committee? Would it be a group of teachers? Would it be the school principal? Would it be some designee of the board of county supervisors? Would the school board pick the prayer writers? Who are these prayer writers and how will they be selected?

Further, what is one's qualification to write prayers? Must one attend church every Sunday or the synagogue? Must one hold a seminary degree? Must one be qualified by examination in religious history or theology or doctrine? If so, who will judge those qualifications? Who will set the standards that qualify someone to be the official government prayer writer for the school district where that prayer is going to be invoked?

Mr. President, I can think of no area of our lives, particularly given the history of religious liberty dwelt upon, to a very accurate and considerable extent, by the Senator from Connecticut, no area of our lives where the Government is less qualified to intervene than in our practice of religion and our individual religious beliefs. If there is one theme that runs throughout the deliberation of the Founding Fathers and the framers of our Constitution, it was, "Keep the Government out of religion." Keep the Government out of religion—no official ministers of the country, no official church of the country. I dare say that the Jeffersons, the Madisons, the Hamiltons, the Patrick Henry's all would roll over in their graves if they thought there was serious consideration in the Senate to the designation of an official writer of prayers for our children. But that is exactly what this amendment contemplates. It says that the court cannot hear a case by an aggrieved party where that individual has been subjected to the official hand of the Government inserting religion and prayers into the public schools.

There was no American of his time—and perhaps of any time since—who felt more strongly about the role of public education in this democracy and of sustaining the future of this Republic than Thomas Jefferson. Throughout his writings, throughout his speeches, throughout his leadership, he constantly stressed the need for a strong educational system to underlie the foundations of this country. Also, there was no individual who was more concerned about the intermingling of state and church than Thomas Jefferson.

I should like to see the advocates of this amendment to incorporate official government prayers in the schools go down and hold a rally at the Jefferson Memorial and find anywhere in the writings of Thomas Jefferson justification for the radical proposal to appoint official school prayer writers. Who is going to do that? The Secretary of Education? I suppose that he would be the logical officer in our Government to select the official school prayer writers for our schools.

What if a prayer writer, the officially designated prayer writer, for the school districts in Portland, Oreg., or Denver, Colo., did not write a good prayer? Maybe parents in those cities quarreled with that prayer. They did not like it. It did not sound like the kind of prayer they wanted their children reciting. To whom would they appeal? Maybe they would write a letter to the Secretary of Education: "Mr. Secretary, we are reciting prayers in our schools here in Denver that we do not like. Can you intervene and get the official school prayer writer dismissed?"

Let us think about that. We could have the Secretary of Education before the appropriate committees of Congress, and we could inquire as to how he is doing in terms of the thousands of official school prayer writers around our country. We could hold hearings. We could compare the relative merits of the prayers that are being written. That might be interesting. Or we could do what most governments in the history of mankind have done: We could help devise the, single, official prayer, so that the 7-year-olds in Portland are reciting the same prayer as the 7-year-olds in Denver and Montgomery, Ala., and New York City and Sacramento, and all across this country. Would not that be nice?

We would eliminate disparities in the prayer, so that one child was not reciting a better prayer than another, or a worse one; but we would have an official Government religion.

I think that anyone who spends 10 minutes thinking about the implications of government bureaucrats, whether at the local, State, or Federal level, trying to devise an official prayer for the schools of America, understands the brier patch that the amendment represents in terms of social policy, in terms of equity in our society, in terms of public well-being; leaving aside the issues of law and constitutionality. It is the height of irony that those who profess to worry about the Government intruding into our lives are now suggesting that the Government write the prayers for our children. They cannot be serious. They cannot be serious.

A government runs our schools, our public schools. That is what public schools in the United States means. They are functions and institutions of the State, of the Government—albeit, and I think wisely, those are local institutions, local school boards, local school districts, but local governments.

There is government all over the United States. There is the General Government that we participate in, in Washington. There are 50 governments in the States of the Union, in 50 State capitals, and there are thousands, if not tens of thousands, of governments at the local level. Many of those governments and those governmental units, official public bodies created by law and sustained by law, do nothing but run the school system of this country, the public schools, and that is what we are talking about. But they are governmental entities.

So, do the people who advocate this amendment really believe they are talking seriously about getting the Government out of our lives? They cannot be serious. They cannot be serious. They are not talking only about getting the Government deeper into our lives. They are talking about having the Government do something that, to a person, the Founding Fathers said should not be done, and that is even suggest the possibility or the insinuation of an official Government role in religion.

There is no end to that. Once the Government, any government, even a local school board, acquires to itself the authority to write an official school prayer, then it can do all kinds of things, without—if this amendment were adopted—any possibility on the part of any American citizens to question the constitutionality of any of those things.

If you can take the Supreme Court out of the issue of the constitutionality of school prayer, you can take the Supreme Court out of the constitutionality of when churches should meet. Let us not have churches meet on Sundays. Let us have churches meet on Wednesday. Why not? Do you want the Government deciding that? No church on Sunday. We think Sunday is more important for professional football—or who knows that? Maybe government rallies. So the churches will convene on Wednesdays.

Do you want to appeal that to the Supreme Court? No, no, you cannot do that. You cannot do that in any Federal court. We have taken the jurisdiction away. We took it away in 1982 for official government school prayers, and now we are going to take it away—in 1985, 1990, or 1995—for a challenge to the constitutionality of a law that says churches will convene only on Wednesdays, because the Government wants them to convene on Wednesdays, not on Sundays. The Government has another purpose for Sundays.

I think that is wonderful. I think it is wonderful that we are talking seriously in the U.S. Senate about the Government—the Government—writing prayers for our schoolchildren. It may not be the Federal Government, or it may be. There is nothing that says the Federal Government, down the road, could not write these prayers or might not be called upon to do so when the squabble breaks out among the parents of the children as to whether one prayer is better than another. Why not take it to Washington? That is where everything else ends up.

I can see it: a Subcommittee of the Senate Judiciary Committee on School Prayer. Or on official religion. Subcommittee of the Senate Judiciary Committee on Official Religion. The first hearings will be held on the adequacy of school prayers in Portland, Oreg., or Cleveland, Ohio, or Denver, Colo. The prayers in Denver are better than the ones in Cleveland and Portland, so the parents in Cleveland and Portland want a prayer as good as the one in Denver.

They come back to Washington to appear before the Subcommittee on Official School Prayer of the Senate Judiciary Committee. They have their Senator convene a hearing of that subcommittee to have the Senate of the United States discuss whether one prayer is better than another, and we could have all the Government bureaucrats up here. We could have the Secretary of Education and call some ministers in.

What is that? That is the Govenment in religion that Thomas Jefferson said we should not have, James Madison said we should not have, and all the rest. Talk about a slippery slope. This is it.

If you talk about getting the Government out of our life, this is the place to do it. This is the place to do it.

I cannot believe anyone in this body is serious about a claim of Government intrusion in our lives and comes out on the floor of the Senate barefaced and advocates the Government writing official school prayers.

It is appalling. It is shameful. It is ridiculous, not to say asinine.

So how do we fix this? How are we going to guarantee the Government is not going to get in religion, get itself hip deep in religion in this country and violate all of the principles, standards, and barriers set up by the framers of the Constitution. We are going to say you cannot appeal to the Constitution. That is the way to fix that.

Now, we heard a lot in the 1960's and 1970's about radicals, radicals in our country, radicals opposing the Vietnam war, radicals doing this and radicals doing that. Radicals were going to tear down our form of Government. They were going to tear down America, radicals who wanted to peaceably assemble, radicals who disagreed with the official Government policy of being involved in Vietnam, radicals who disagreed with the CIA and the FBI wiretapping them and opening their mail and intervening in their political meetings—radicals. Radicals were threatening America. We heard a lot about that in the late 1960's and early 1970's.

I have not heard a more radical proposal in my 8 years in the Senate than the one that is pending before the Senate today, not one, not one. If we want to look for some radicals in this country, let us find the people who are proposing to strip the courts of the authority to hear constitutional challenges to these actions.

I will challenge any Senator to find me a more radical proposal of the tens of thousands that get introduced in this body every session than the ones that are pending before the Senate today. That is a challenge. I cannot think of anything more radical, a back door alteration of the sacred charter of this country, back door, not front door, not the procedure set up in the Constitution, a back door alteration of the Constitution of the United States so the Government can write prayers for the children of this country. If that is not radical I will eat your hat.

So here we have a wonderful situation. We have people saying the Government is involved in our lives too much, and they also say or did say some years ago the country was in jeopardy of some sort of radical element in our country. So what are we doing? We are spending our time while the economy of this country deteriorates debating one of the most radical notions this body has seen in decades, a back door alteration of the constitutional process and the authority of the judicial branch of this Government, so the Government can write prayers for the children of this country.

If you seriously think about that for 3 minutes we would be off this matter and we would be onto something that really counts and that is getting people back to work, getting this economy stabilized, controlling nuclear weapons, and the rest. No. We are wasting our time debating the issue of whether we are going to have official prayers in the schools.

I still have not heard from any of the proponents of this measure their views on who is going to write the prayers or what their qualifications are, or who is going to judge their qualifications, or to whom they will be responsible, and where a parent who believes the prayer is not the best kind of prayer can go to get that matter solved. A parent is certainly not going to be able to go to the Federal courts if this amendment passes. We are

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taking that constitutional right away from him. We are going to take that constitutional right away from that parent. You cannot, if this amendment passes, go to the court to exercise your constitutional right to complain about that prayer. So not only are we going to get the Government into religion, we are going to take your right away to complain if you do not like what the Government did—that is pretty frightening—all in the name of the free exercise of religion.

I say nonsense. I think Thomas Jefferson would have said nonsense thrice over and I suspect his colleagues who established this Republic would have done likewise.

This is not a serious proposition. I cannot believe it is a serious proposition. And I certainly do not hear any advocates of it out on the floor of the Senate trying seriously to suggest that it is a serious proposition, and I particularly do not hear the advocates of it out here justifying the radical scheme that is incorporated here so that we can have an official prayer for our schools.

There is no justification for the radical proposal that we take away individual constitutional rights so that we can have official Government prayers in our schools.

Talk about a compound felony, we are going to have the Government writing prayers and to permit that happening we are going to deny the existing constitutional rights of citizens to complain if they do not like the Government action.

I wonder if the American people really understand that. I really seriously wonder if the people outside this Chamber who pay their taxes, pay our salaries, and wish we would get on with the business of this country understand what it is we are discussing here today. We are discussing taking away their constitutional rights—that is what we are discussing—in the name of religion.

I have made my case, and one hopes that sooner rather than later the majority of Senators will let their views be known on what their priorities are so that we can get back to serious business and get off this sidetrack that unfortunately we have been put on while the economy burns.

I appreciate the indulgence of the Senator from Oregon and I wish him well in his continued leadership.

I yield back the floor.

Mr. PACKWOOD. I thank very much my distinguished colleague.

I was intrigued by the question of who writes the prayer. It is a very valid question. I know what Alabama's solution is. The Governor's son writes the prayer.

Mr. HART. Yes; I saw that.

Mr. PACKWOOD. That makes it much more simple. It is sort of a gubernatorial primogeniture, so long as the Governor has an eldest son he can write the prayer. I do not know what he would do if the Governor has daughters.

Mr. HART. He would pick his major contributor to his last campaign. We all know how that works. We get people who contribute to our campaigns who get certain privileges. They can come down and have lunch with us in the Senate dining room. Why not be the prayer-writer for the State of Colorado or the State of Oregon?

Mr. PACKWOOD. If you have a prayer a week you can spread it around. It has good potential.

The Senator mentioned churches on Wednesday night. He raised a very valid question. We are all old enough to recall the blue laws in our country that were passed on the assumption that people went to church on Sunday or they should go to church on Sunday and we would not have any businesses on Sunday. It did not matter if the Sabbath, the Jewish Sabbath, was Friday night and Saturday; it did not matter that for the Seventh Day Adventists it was the same time; it did not matter that other religious groups observed it during the week. This was a country that was going to observe Sunday as a day of rest, even though many people in this country did not observe a religion that said Sunday was a day of rest. Finally, the Court struck down those laws and justifiably so.

Mr. HART. Mr. President, will the Senator yield for a question? What does the Senator think would happen if, in its infinite wisdom, the Senate of the United States had said at that time, "We are going to permit the States and local governments to have those blue laws, and you cannot take a challenge of those laws to the Federal courts in this country"? That is exactly the analogy, as I understand it.

Mr. PACKWOOD. You know it would be dependent upon the predominance of a particular religion in a different State. You could have different days of observation officially designated by the State and based on the observation by the rest of the citizens of the State, depending on whether you belonged to that religion or not.

There is no reason why this country can or will escape. It happens in most countries which have a dominant religion, which insists on imposing its views on the country, and they are well meaning people who do it out of zeal, and who want to make the country perfect, as they see it, in their God's eyes, and if you do not agree, you are not on the right wavelength because it cannot be that they are wrong. There must be some other reason, and that is dangerous thinking because when you know you are right, you absolutely know you are right, because God tells you you are right, and then those who disagree with you must be wrong. They have to be.

Mr. HART. Do you not suppose it is exactly that concern about that peculiar brand of zealotry that led Jefferson and Madison and others to say, "Don't do that"?

Mr. PACKWOOD. They absolutely knew our liberties were best protected not by some kind of compelled conformity to one view but by a protection of diversity where each of us had our own God, each of us had our own jealousies, each of us were a bit suspicious of each other's God, but we tolerated all of our views for the sake of liberty for all of us, and that has worked well for 200 years.

Mr. HART. Does not the Senator agree that we have breached that separation between church and state in this very crucial way, and that we are opening up the floodgates for untold mischief of the sort the Senator From Colorado tried to suggest in his remarks?

Mr. PACKWOOD. I posed the question yesterday, and I am delighted that the Senator from Colorado dwelt on it at length, because it is not just the establishment of religion clause we are dealing with. I posed the situation of a particularly heinous murder, a Lindburgh kind of kidnaping, and a suspect is caught, and on the way to the police station he makes some statements to the police officers, and maybe signs a confession. It is hard to tell whether he has done so. He goes to trial. The defendant does not take the stand, but the alleged confession or statements to the police officers are admitted in evidence, and the defendant is convicted, sentenced to death, and the case goes to the U.S. Supreme Court, and the Supreme Court overturns it on the basis of self-incrimination, and the defendant is set free, and the public is up in arms.

We come to this Congress and we pass a law that says that henceforth the Federal courts cannot consider cases involving self-incrimination. If we can do that with religion, we can do that with self-incrimination, we can do that with the right to assemble if we get tired of our constituents bothering us or we can do it with regard to the right to petition your government.

Mr. HART. Or freedom of the press.

Mr. PACKWOOD. Or anything.

The danger of starting down that road on something that is so popular, because we have all seen the polls, so popular as prayer in schools, is that it then becomes very easy to bend whatever popular transitory, passionate opinion happens to be in the majority at the time, and if that means an absolute trampling on the rights of the minority, so be it. They will understand or they will learn to live with it.

Only what happens in history is they do not learn to live with it; they chafe under it, it rankles in them all the time, and finally, if worse comes to worst, and there is no safety valve for them to be able to protect their liberties, you finally have civil war because one group insists upon using the Government to impose upon another group the views of the dominant group.

Mr. **HART**. Certainly that is so from reading human history.

The Senator from Colorado thanks the Senator from Oregon.

Mr. **PACKWOOD**. I thank the Senator from Colorado.

Mr. President, I ask unanimous consent that I may yield to the Senator from Ohio (Mr. GLENN) for the purpose of debate only without losing my right to the floor and without it being construed as the end of a speech for the two-speech rule.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **GLENN**. Mr. President, I thank the distinguished Senator.

The amendments we are talking about here or we are considering are wrong, and I am opposed to them. The one on abortion would have the effect of overturning by a majority vote of Congress the Supreme Court's 1973 Roe against Wade decision which legalized most abortions under the constitutional right to privacy.

We are discussing two important issues here: A woman's right to choose whether to have an abortion, and also whether we can overturn a constitutional decision of the Supreme Court by congressional statute.

I believe the decision to have an abortion should be an individual one based on the woman's own personal religious and moral views, in consultation with her husband, her priest, her pastor, her rabbi, whomever, and I do not think it would be wise for this body to try to reverse the Supreme Court's Roe against Wade decision.

You know, recent polls across these United States have shown that the majority of Americans support those views for freedom of choice, not pro-abortion but freedom of choice, and are opposed to legislation prohibiting abortion.

Further, making abortion illegal would not end the controversy, and it certainly would not stop women from having abortions. What it would do would be to cause them to once again probably go and seek unsafe, illegal abortions.

Before 1973 the individual States had different laws with regard to abortion, and women who could afford to went to the States with the least restrictive abortion laws. Others relied on self-induced or even illegal abortions. I do not want to see a return to that tragedy that was caused by illegal abortions.

We have all heard too many horror stories about that, and we have seen the difficulties with it.

Even with the Roe against Wade decision some women are unable to obtain abortions due to a restriction on Federal funding under medicaid to pay for abortions except to save the life of the mother.

I believe this discriminates against low-income women, and I have consistently voted against such prohibition when it has come up on appropriation bills.

The amendment before us now would make permanent this restriction of Federal funds, and it would also prohibit the use of Federal funds for medical training and research with regard to abortion. I think that would be a mistake.

I also oppose this amendment on the ground that it attempts to overturn a constitutional decision of the Supreme Court by a majority vote of Congress, and I do not want to see that precedent set.

Many consitutional scholars who disagree with the Roe against Wade decision, nevertheless, even though they disagreed, believe that to overturn a Supreme Court decision by a majority vote is an unconstitutional violation of the separation of powers. A Supreme Court decision can be reversed by the Court overturning its own decision or by an amendment to the Constitution.

Our Nation is divided on this issue of abortion. I respect the hearfelt views of those who are opposed to abortion, and I certainly support their right to live their lives under whatever rules, whatever moral compunctions, they feel are right for them. But, Mr. President, I also feel that those who do not believe the same as the people who hold those views against any abortion at all should not force their views on others in this country who feel every bit as strongly. If we do not know the moment when this is a God-given life, and that moment is not just the instant of conception, those who wish to go along with the Roe against Wade decision of the Supreme Court. In other words, I do not believe that the views of those who are so opposed to abortion should be imposed on those who hold a different but equally firm conviction.

Mr. President, I thank the distinguished Senator for yielding to me for this purpose, and I yield the floor back to him.

Mr. **PACKWOOD**. I very much thank my distinguished colleague from Ohio. I agree with every word he said.

Mr. President, I ask unanimous consent that the earlier yielding of the floor by the Senator from Connecticut (Mr. WEICKER) not be construed as the end of a speech for the purpose of the two-speech rule.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **PACKWOOD**. Mr. President, those who are listening to this debate or reading the RECORD may wonder why there is a mix of discussion on the establishment clause and prayer in schools and the subject of abortion. That is mainly because the issue has been fused in an amendment that we may or may not have to vote on offered by the Senator from North Carolina (Mr. HELMS), which has put both the subject of prayer and abortion in one amendment.

The prayer part of it is the straight-out court stripping that Senator HART from Colorado and others have referred to, that no Federal courts may hear these issues involving voluntary school prayer. The abortion part of it, after some extensive statements that the decision in Roe against Wade allowed the woman to make the choice whether she wants to have an abortion or not was wrong. There were attempts to overturn that decision by statute and also prohibit funding by the Federal Government for a whole variety of reasons, training of doctors, Federal health insurance that would provide abortions for Federal employees, and what not. But they are in the same amendment and that is why, therefore, you will find some speakers talking about one and others talking about the other.

Let me dwell at some length on the abortion part of it, although I have spent the bulk of my time today on the prayer part.

The abortion part comes from the decision of Roe against Wade in 1973 when the Supreme Court said that a woman had the choice, the right for herself to decide whether or not she wanted an abortion.

Basically, it said that in the first 3 months of her pregnancy she had an unlimited right to make the choice whether or not she wanted to have the abortion. In the second 3 months, she could, by and large, make the choice but the State could put limitations on who could perform it and where it could be performed, basically medical limitations. In the third 3 months, the balance tilted on the side of the fetus and the woman could only have an abortion if her physical or mental health was in danger. That is roughly the paraphrasing of the decision. That is not exactly legally it, but very close.

Now, what that caused, of course, is any number of people wanting to reverse the Supreme Court decision; people who very honestly do not think that a woman ought to have the right to make the choice; that it is not an individual choice; that basically it is a State choice and the position of the State should be that she cannot legally have an abortion.

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I think even the proponents of those measures are not blind enough to fool themselves into thinking that if a law is passed people will not have abortions. We tried that once with prohibition. It did not work. It is very clear, from the evidence that is available, that, during the entire history of the period in this country when many of the States had laws against abortions, women had them. Dangerous on many occasions, performed under very adverse circumstances, very unsanitary circumstances, and many women died because of unsafe abortions.

Fortunately, since the Supreme Court decision in the legalizing of abortion, that problem has been almost totally eliminated in this country until today, and abortions, properly done, are safer than the conditions for a woman who carries the child. More women die in carrying a fetus to 9 months than die by abortions. But that is the background.

The Supreme Court made that decision and the argument was made that the Supreme Court had no business making that decision, that it was an unconstitutional decision, although that is an internal contradiction in terms. As our founders gave to the Supreme Court the ultimate responsibility to determine what is and what is not constitutional, clearly what they say is constitutional is constitutional, because there is no higher authority to appeal to. If we do not like their decision, if we want to reverse what they have done, then we pass a constitutional amendment to reverse their constitutional decision.

For those who say the Supreme Court has become too activist, too far-reaching, that the Court is undertaking the legislative decisions in the guise of constitutionality, they would suggest the responsibility be shifted to the Congress to make the decisions as to what is constitutional. And we can do that in a variety of guises, but the principal one is that we will take away from the courts the power to make decisions on those cases and then we will write what is constitutional and there will be no appeal from us.

Of course, the danger in that is that our minds change and popular opinion changes. And if we are to be nothing but a weather vane and reflect popular opinion, abortion will be legal this year, illegal the next year, and legal after that. We will put limitations on the press the next year, perhaps ease them up after that, depending upon what the popular opinion may be as reflected by the elections. That is not what our founders intended.

I would go even further, however, in attempting to analyze why those who want to reverse the Supreme Court decision want to reverse it. First, they have a misreading of history in this country and in England. In arguing on this subject, they will talk about returning to the morality of our founders and, in their mind, I think they are thinking of a Puritan time of heart and home, strict morality, enforced puritanism. That was not this country at the time the Constitution was written.

First, in England, an abortion was not a felony, or at least what we call abortion before quickening; that is, when a woman could feel a child move, and that would be some place between 20 and 24 weeks in most cases. It was not a felony. It was common. It was not punished as a felony at common law.

At the time this country was founded, not a single State had any laws against abortion. It was commonly practiced in this country. Our founders were well familiar with it. Whatever they may have thought of it personally or whether they liked it or did not like it, they did not think it rose to the dignity of having to pass laws to prohibit it.

So, whatever their personal views may have been, they thought it was certainly not the job of the Constitutional Convention or the Bill of Rights or Congress to pass laws prohibiting women from having that choice.

It was only in the middle 1800's that many of the States in this country began to pass laws against abortion. Some of the motivation behind the passage of the laws was moral. People seized control of the legislatures that did not like abortion, did not like the women's right to choose, and they passed laws prohibiting it.

Some of it was medical, because many women were dying from infection following badly performed abortions.

Interestingly, part of the motivation was commercial. The establishment doctors—those that had gone to establishment medical schools—really were dispensing relatively primitive medicine in those days, primitive even by the standards in those days. They could set a broken arm. They had slightly above a witch doctor's concept of the use of herbs and certain remedies. But, by and large, if you got any of the diseases that you could commonly be saved from today, you died in those days. And the doctors did not know how to save you. They did not know how to treat smallpox. They did not know how to treat typhoid. They did not know how to treat most of the diseases that would ravage across the country from time to time.

Most of the citizens in this country, and especially in the rural areas, began to realize that the establishment doctors could not do them much good and there was really no harm, no greater harm, in turning to folklore remedies dispensed by people with significantly less training than the establishment doctors and at a significantly less price than the establishment doctors charged.

Abortion was commonly performed by these people that were not trained at the then existing medical schools. The establishment doctors found themselves in the position of losing patients. So they, either on the sly, began to do the abortions themselves or attempted to get them outlawed.

Now, that is the history, again, a very condensed history, of the 1800's.

In the 1950's, the situation had turned again. First, we realized by that time that abortions properly done under clinical circumstances were very safe.

Second, the issue of physicians and money had faded and most physicians were not worried about what they regarded as quacks taking away their business. Consequently, you find the American Medical Association on the side today of saying that a woman should be able to make the choice as to whether or not she wants to have an abortion.

Then you begin to have a greater tolerance for differences of opinion, for your religious tolerances in ths country.

Most of us in the Senate today can still remember when, if you were a Jew, you could not be admitted to the so-called better country club, and unfortunately in some areas that still exists today.

If you were a black, you could not join the local civic clubs.

If you were a woman, you were discriminated against in a variety of ways. I am not talking just about abortions, I am talking about joining clubs, practicing law, joining a law firm, becoming a partner. Letting a woman handle a case? Terrible.

Those barriers have gradually changed, and with that change came the difference in attitude on abortion. Several States changed their laws. Colorado was the first to adopt what is known as the modern, liberalized abortion law in the mid-1960's, followed closely by a titanic struggle in New York when abortion was legalized by the legislature, followed in Hawaii, followed in Alaska. In the State of Washington, interestingly enough, the issue was placed on the ballot. The people voted on it and they voted to allow women to have the right in that State.

So you began to have a variety of States saying that as far as the women in that State were concerned, they should be permitted to have an abortion if they wanted.

Naturally, this lent itself to a situation where women of wealth traveled to the States where abortion was legal to have one, and the women of poverty could not. It was very clearly a dual standard. If you were poor, whether or not you wanted it, you had a baby, and if you were rich, if you chose you could have an abortion by flying to New York, Washington, or Hawaii.

At that juncture, the case of Roe against Wade went up to the Supreme Court out of Texas.

Texas had a very restrictive law, very, very severely limiting abortions. The Supreme Court struck it down. They rested the case principally on the woman's right of privacy, on the 9th and 14th amendments, and said that henceforth States could not pass laws prohibiting a woman from making the choice. They could set certain limitations on where it could be done, when it could be done, but not on the fundamental decision.

That is why we find ourselves in the position we are in today. Those who think that the right to make a choice is immoral, is ungodly, is irreligious, is going to cause this country to degenerate into debauchery, want to change the law in one way or another. Their preference would be, if they had their druthers, to have a constitutional amendment passed which would simply reverse the Supreme Court decision and, as a matter of law in the Constitution, say that henceforth nobody could legally have an abortion.

They have clearly not the votes to pass that constitutional amendment through this Congress. I very greatly doubt if it were passed through this Congress that it would be ratified by the States. That would take the law even further back than where it was before the case of Roe against Wade, because prior to that case whether or not a State wanted to sanction abortion was a State's decision. But those who would like to abolish that choice all together would take a national decision that there would be no freedom of choice on abortion any place, in any State, under any circumstances.

It is hard to tell, then, what the next best choice is because it presents a dilemma for those who do not want the choice. Picture in your mind, assuming that you are very much opposed to a woman having the right to make that choice, just morally opposed, but you cannot pass a constitutional amendment that will reflect your choice. Well, another alternative is to pass what is known as a States rights constitutional amendment. We will send an amendment out to the States for ratification that says henceforth it will be up to each State to decide whether or not they want to permit a woman to have a choice in that State.

But that bothers the moral sensibilities of those who do not think you should have the right in any State, and it puts you back in the situation roughly where you were before Roe against Wade, where some States would have it and some States would not. A rich woman could fly to a State to have an abortion and a poor woman could not.

I do not think that type of a constitutional amendment could pass this Congress either, and if by chance it did pass I do not think it could be ratified by the States. Besides that, it is a long, slow, tortuous process. The attempt for the passage of the Equal Rights Amendment demonstrated that. It was an attempt for 10 years and it did not pass.

Those who want to limit the right of a woman to have the choice as to whether or not she can have an abortion want action now—not 5 years from now, not waiting for the ratification of a constitutional amendment assuming you could pass one through the Congress that you liked. They want it now. So the avenue they are prepared to try is to strip the Federal courts of the right to pass on the subject of abortion. They they hope that different States will pass laws restricting abortions and perhaps the courts in those States will uphold at least those State laws. But in any event, the Federal courts would be prohibited from ever again passing on the subject.

Do not let it bother you that it is a constitutional right the Supreme Court says every woman has. Henceforth, they will take away the decisions of the courts to determine that, if the votes are here. It is the quick and expedient way, if the votes are here, to impose on this country their view of morality.

That is what we are basically debating, only we have also fused it, and perhaps confused it, with the school prayer issue because both of the issues are involved in the one amendment. If and when we finally have to vote on the issue we will have to vote on both. Both of them reflect the same principle: Should this Congress pass a law to take away from the courts the right to pass on fundamental liberties, assuming the courts uphold it? I do not think they will, but I would not advise anyone to vote for it or against it on the assumption of what a court would or would not do when the constitutionality of this issue is tested.

If the court did find it constitutional, then there is no end to the mischief, no end to the dangers to the constitutional liberties that may be threatened by the possibility of a Congress, this Congress or any Congress, by a majority vote, passing a law to prohibit any particular enforcement in the Federal courts of any particular liberties guaranteed under the Constitution.

Let me read from three statements of three different groups involving the issue of prayer.

The first is from the National Council of Churches of Christ in the United States, from testimony presented on July 29, 1980, before the Subcommittee on Courts, Civil Liberties, and Administration of Justice of the House Judiciary Committee during the hearings on S. 450, a Senate-passed school prayer bill.

The quote is from M. William Howard, the president.

This the fifth time in 17 years that major religious bodies of the nation have come to Washington to resist attempts to reverse the rulings of the Supreme Court which held that it is not the business of government to institute prayers for the nation's children to recite in public schools.

There was the Becker Amendment in 1964, followed by two Dirksen Amendments in the '60s, the Wylie Amendment in the early '70s and now the Helms Amendment in 1980. Whereas the previous four attempts sought to reshape the First Amendment to the U.S. Constitution by straightforwardly following the amending process set forth in the Constitution, the Helms Amendment seeks to achieve the same effect without submitting the issue to the necessary two-thirds majority vote of both houses of Congress and the ratification by three-quarters of the States.

The Amendment in question undertakes to withdraw the subject of prayer from the jurisdiction of the U.S. Supreme Court and relegate it to jurisdiction of State authorities. This tactic is fraught with problems that reach far beyond the issue of prayer itself. If Congress can eliminate from the purview of the Supreme Court any issues on which its decision displease a portion of the electorate, what implication will this have for the entire Bill of Rights? If this can happen by way of a mere majority vote of both houses of Congress, without ratification by the States, is this not a way of amending the Constitution without regard for the safeguards which shield our nation's highest laws and principles from capricious attack?

To say the very least, it is appalling that one should propose to put outside the purview of the Supreme Court the protection of the basic rights of Americans guaranteed by the Bill of Rights in any area, let alone the sensitive and intimate area of religion. It is also disturbing indeed that one house of Congress should actually have approved such a proposal. Now it rests with the other house to resist this misguided undertaking, lest the important gains made with regard to civil liberties of all kinds be whittled away.

Why does the National Council of Churches oppose the effort to reintroduce prayer in public schools? The reasons should be plain to all who have reviewed the three volumes of hearings which the House Judiciary Committee held in 1964. Nothing significant has been added to the controversy since that time, but once more we must reiterate the arguments for a new generation, and we do so glady.

1. Public school prayers are an injustice to those children and their families who belong to minority religions or to no religious group. Persons in this category, because of their religious views, can be made to feel out of place and less than equals in public institutions. Such persons are told they are free to excuse themselves from prayers which offend their religious beliefs. I suppose that is what is meant by "voluntary" prayer.

But do we really expect impressionable and vulnerable children to separate themselves from the rest of their peers, thus branding themselves as "oddballs"? Do we expect them to excuse themselves from ac-

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tivities that are sanctioned by their school, in which all the other children are joining? Having a difference in religious belief should not be a stigma for our children. In our increasingly pluralistic society, we must not subject youngsters of religious minorities to the queries, taunts and jeers of uncomprehending classmates. Instead we must leave way for the children, with ease, to be true to the religious tutelage, or the lack of it, that is propagated in their families. This does not even begin to address the problem of religiously pluralistic teaching and administrative staffs who would presumably be responsible for leading such prayers.

2. Public school prayers are a disservice to true religion. The other reason we are opposed to prayer in public schools is that we believe prayer is too important, too sacred, too intimate to be scheduled or administered by government. It is the responsibility of the family, the home, the religious institution, not the public school, to provide religious education and experience. Children attend public schools under force of law. They come from many religious and ethnic backgrounds and, therefore, should not find their school experience demeaning to their religious heritage.

We are told that the prayers could be "nonsectarian," or that they could be offered from various religious traditions in rotation. I believe such a solution is least acceptable to those most fervently devoted to their own religion. Furthermore, I believe they do not want least-common-denominator prayers addressed "to whom it may concern." Even less do they wish to engage in the prayer forms peculiar to religous traditions other than their own or to have to show their colleagues the discourtesy of nonparticipation.

In our view, there is simply no such thing as "nonsectarian" prayer, and if there were, it would be of little value to either committed Christians or adherents of the other religious traditions. Whenever prayer is presented in a group gathered for other purposes (such as a public school classroom), the question cannot be avoided: "Whose prayer is it"? And all too often it will be either the prayer form of the majority (imposed on the minorities) or a nearly meaningless prayer belonging to no historic religion. In the latter case, the exercise is likely to be offensive to devout members of all religions.

We are told that there are many children in public schools who would have no other contact with prayer and religion than what they might gain from public schools.

We think it odd that this argument comes most often from those who otherwise are highly resistant to governmental interference in family life. It suggests a curious willingness to condone governmental imposition of religious practices on children contrary to their own parents' choices for them. We oppose any effort to allow the government to intrude in this most sacred of parental responsibilities, even if the parents have chosen to give their children no religious training. This is their right. If it is not, then religious freedom in this nation has lost an essential part of its meaning.

We are told that the current proposal is not designed to overturn the Supreme Court's decisions barring prayer from public schools. We are told that it is meant only to restore the matter to the States for the future. What can this mean other than a return to the "local option" which prevailed before the Supreme Court's decision on this issue? During the days of local option, children were actually subjected to corporal punishment for refusing to participate in public school prayers that were contrary to their own religious practice.

"Local option" is unlikely to be very pluralistic. Though this nation is highly pluralistic, taken as a whole, its pluralism tends not to be very local. A map showing the religious complexion of the counties of the United States submitted in the 1964 hearings showed that the vast majority of the counties in the U.S. have more than 51 percent of their population affiliated with one particular denomination; Lutherans in the North Central States, Baptists in the Southeast, Roman Catholics in the Northeast and Southwest, et cetera. In those counties it would be surprising if the majority religion did not dominate the prayer practices. in the public schools.

We are told that 70 per cent of our people responding to public opinion polls favor restoring prayer to public schools, and that may indeed be the case. But the rights protected by the Bill of Rights, I am pleased to say, are not at the mercy of public opinion polls. As the U.S. Supreme Court said in words that undergird the rights of every one of us:

The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no election."

Our experience over the past 20 years has been that when people are asked pointblank, "Do you think there should be prayer in public schools," their impulse may be to reply "Why yes, I guess so." But if they study the issues, all their ramifications, for a while, they often come to the opposite conclusion. That has happened in the governing body of the NCCC—the National Council of Church of Christ—when it considered this issue in 1963. It happened in the United Presbyterian Church and in one after another of our major member denominations.

That is the kind of consideration that we believe this important matter deserves. We do not believe these issues can be properly understood without indepth study and reflection on the issues and their widest implications. So we welcome the hearings being undertaken by this committee. We are confident that all sides will be fully considered and that a deeper understanding of this fundamental issue of civil liberty will be attained by all.

I think, Mr. President, if you were to actually take a poll of the governing bodies of the principal denominations about "Do you want prayer reinstituted in public schools?" you would find that they would come out in opposition to prayer, voluntary or otherwise, in public schools.

Next I read a statement by the Synagogue Council of America given at the same hearing, presented by Rabbi Daniel F. Polish:

The Synagogue Council has a long history of defending both dimensions of the First Amendment's guarantees—both free exercise and the separation of church and State.

Yours is a most important and unquestionably difficult task, as you deliberate what must be called by its proper name—the issue of prayer in public schools. Certianly it would be appropriate for you to ask why then is there such an intense interest in introducing it into the school setting? Why not prayer in factories or offices, prayer on public transportation or places of entertainment?

The issue, no doubt, is because the school setting offers the prime opportunity to shape and mold the attitudes of future citizens, and an exposure to the minds of people when they are at the most malleable and impressionable stages of their lives. It is precisely for those reasons that the issue of prayer in public schools arouses such deep-seated concern.

Certainly, it is commendable to seek to see religious attitudes inculcated in our children. Certainly, it is of greatest importance to instill in them the values taught by the Jewish and Christian traditions. But it is no less self-evident that prayer in the public schools is not a satisfactory means of attaining those fine and desirable ends.

I respectfully suggest that you judge the proposal not by its worthy intent, but by a careful consideration of the consequences which would flow its adoption. I can talk with some competence about two of the consequences which would flow from its adoption—the impact on children who are members of minority religious groups and the effect on popular understanding of prayer itself.

Truly, voluntary prayer is already permitted in public schools. What we are discussing here is officially sanctioned and officially conducted prayer exercises.

The voluntary nature of these exercises would be difficult indeed for a child to comprehend. For a child, these class prayers are more likely to be understood as compulsory. Children, who are encouraged to hold their teachers in the highest respect and to accept their word as authoritative in all matters, are not likely to question their authority when it comes to this specific subject.

Similarly, children are more subject than adults to the tremendous influence of peer pressure. A child in school would rather conform to the actions and expectations of his classmates than deviate from them, even if that deviance carried the approval of their families.

To suggest that under the proposed amendment a child would be free to excuse himself to remain aloof from a class prayer is, at the very best, to invite that child to be exposed to the cruelest inner turmoil.

Add to this the fear, real or imagined, of the disapproval of the teacher, and the ridicule of their classmates and the threat of alienation from them for being different and you have a situation which involves coercion of the most potent kind.

Now you may ask, what would be wrong with coercing a child to pray. The answer to that question lies in the nature of those prayers themselves. They will either possess a specifically sectarian character or they will be of a nondenominational nature. Either alternative carries within it implications which warrant attention.

It is not inconceivable that prayer in a school setting will, indeed, be sectarian in form and content. It is not unreasonable to conjecture that they may well reflect the religious orientation of the individual teacher or child assigned to lead them. Or, they may simply conform to the religious patterns of the majority community of a particular school district.

In either event, they would be indirect conflict with the religious traditions of some, perhaps a sizeable number, of children in the class. Of course, this could be true of Jewish children. But it would be no less possible for Catholic children in a predominately Protestant community, Protestant children in largely Catholic areas, members of other minority religious communities, of children of no faith at all.

Perhaps, some might suggest, it is right and proper for a majority group to impose its values and beliefs on the minority. This is certainly a conceivable position. But it is manifestly at odds with the pluralistic ideals of America.

America is unique in the religious history of mankind. For too much of human history, States arrogated to themselves the right to impose religious beliefs and practices on their children.

America alone has been scrupulous in avoiding that practice. Indeed, American society arose in part in reaction against theocratic government. The religious genius of America, for which we have become a beacon to the entire world, is the conviction that each of its citizens is entitled to his own faith, and even the right to have no faith at all.

The Jewish community is one that has had a long and painful acquaintance with the government imposition of religion. Indeed, it was the pain that resulted from that very union of church and State which led many of our ancestors to flee the tyrannies of Europe and seek refuge in this blessed land. We cannot help but view the attempt to undermine America's pluralism with alarm and profound concern.

The form of the very proposal before you, of course, assures the likelihood rather than the unlikeliness of a sectarian character to the prayers which would be introduced into the schools.

For this amendment would deprive aggrieved parents of judicial recourse if the religious sensitivities of their children were violated by the practices of their schools.

It is those children who would suffer most grievously. Children of minority religious communities would be confronted with the choice between fidelity to the religious patterns of their families, or participating with their classmates in religious practices which are not their own and which might even be in conflict with their own beliefs. Such a choice can only be wrenching and painful and beyond what a young child should be expected to cope with.

Now it is possible that the prayers to be recited in schools will be especially constructed to reflect the lowest common denominator of the faith traditions represented in a particular class; that is, they would be nondenominational in character.

Certainly, this would solve some of the civil rights and civil liberties issues with which we have dealt to this point. But it would raise questions which are no less disturbing from a theological or religious perspective.

The effect of the State-enforced, mechanical recitation of 'prayers' at times that must be called arbitrary because of their unrelatedness to the religious calendar of any faith, would be to trivialize the nature of prayer itself, to diminish rather than enhance it in the eyes of those who were forced to participate in such exercises.

By the same token, these prayers would have to be carefully constructed to avoid specific theological content. The effect of such denatured religious expression could only be to give children a distorted sense of what real prayer is.

The effect of the attempt to create nonsectarian prayers would, ultimately, and most disturbingly, amount to the creation of a secular religion, a religion of the State, if you will, which would now take its place alongside the various particular faith traditions.

The need to compose or monitor such prayers would put the government in the business of religion, a position which neither government officials nor religious leaders can contemplate with much enthusiasm.

Perhaps, in response to everything that I have said, you might ask me how children are to form religious values and come to appreciate the elevating and sustaining nature of prayer.

I would tell you that the proper locus for the formation of religious values and for religious expression is in the home and in the religious institutions with which a family is affiliated.

Let children pray in the home, in the church, the mosque, or the synagogue, there and not in the classroom. It is not proper to intrude the State into the true domain of faith.

Mr. President, we have discussed at length the problems involved in the amendments we face—one on abortion and one on prayer. There are some people who are not as disturbed by the removal of the jurisdiction of the courts for prayer as others of us are. There are some who are more concerned with the abortion section of this amendment than the prayer section of this amendment. But, whichever section you are concerned with, it is very, very clear that those in this body who do not agree with the Supreme Court decisions in these areas want, if they can find it, to change those decisions by a majority vote and to impose upon this country not a tolerance and a diversity of opinion but a conformity of opinion to a particular belief.

I will not call it a particular religious belief, because there are many, many religious views that have misgivings about a woman's right to choice.

This not an issue to attempt to remove the right of choice nor one that is being pushed by any particular religion, but the attempt to remove the right of choice to have an abortion is an effort by a coalition of people who share a similar belief to impose that belief on those who do not share that view.

What is going to happen to this country if those who want to impose their view that a woman should have no choice in the matter of abortion fail? What if the Supreme Court decision is not overturned by constitutional amendment? What if they are not successful in getting a majority of votes in Congress and the situation continues as it is—that is, a woman will have a right to make a choice whether or not she wants to have an abortion? Are families going to fly apart? There is no evidence of that.

In the almost 10 years we have had legalized abortion in this country, there has been no evidence—no evidence—that the divorce rate or the decision to marry or not to marry has been in any way related to the fact that the Supreme Court has allowed a woman to make a decision as to whether or not she wants to have a choice. Has the country become less patriotic? I think not.

COURT JURISDICTION AND SCHOOL PRAYER STATEMENT

Mrs. **KASSEBAUM**. Mr. President, my comments will be brief. I believe strongly in the need for a strong and independent judicial branch of our Government. This structure was created by our Constitution and nothing in our 200 years of history has cast doubt on the wisdom of it. Indeed, one of the central themes of the deliberations of our Founding Fathers was the need for such an independent judiciary.

I have long held a strong and abiding belief in the value of voluntary prayer in our public schools. It is also my belief that such voluntary prayer is consistent with the first amendment guarantee of the free exercise of religion. Voluntary prayer has an essential role to play in the shaping of the moral and social fabric that has served our country so well.

Regardless of how one feels concerning the role of voluntary school prayer, however, the method that this amendment utilizes to achieve the laudable goal of insuring such prayer sets an extremely dangerous precedent. To arbitrarily strip the Supreme Court of its jurisdiction to interpret any area of our Constitution strikes at the very heart of our tripartite form of government. The essential strength of our Constitution lies in the structure that it created making the Supreme Court the final arbiter of its meaning. This structure has resulted in a living Constitution that is able to adapt to our rapidly changing world. This amendment would establish the dangerous precedent of "freezing" the Constitution by prohibiting review of whatever area happened to be in disfavor with the Congress at the time.

I would readily admit that I do not always believe that the Supreme Court interprets the Constitution correctly, nor do I always believe that even correct interpretations of the Constitution lead to wise social policies. However, the Constitution clearly spells out the procedure to be followed when Congress and the country desire to change those fundamental precepts contained in that document. To endorse this attempt to, in effect, amend the Constitution by a simple majority vote of the Congress would be to yield to the siren song of the easy cure, the quick fix. We would not be making progress, but rather breaking down

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the process of order when it has been struck by the tide of the public opinion of the moment. I urge my colleagues to join me in opposing this unconstitutional assault on the jurisdiction of the Supreme Court.

IN SUPPORT OF PRO-LIFE LEGISLATION

Mr. ZORINSKY. Mr. President, it is a privilege for me to stand before my colleagues in support of this pro-life initiative by the distinguished senior Senator from North Carolina. I greatly admire the diligence and dedication that he has consistently demonstrated in defense of the unborn child. It has long been my position that legislation which protects the rights of unborn children be enacted. Today we have the opportunity and we must take this opportunity to prevent the future loss of so many young lives.

I can think of no more worthy role for the Senate of the United States of America than the protection and safeguarding of innocent human life. As Thomas Jefferson declared, "the care of human life and happiness, and not their destruction is the first and only legitimate object of good government."

When one considers that over 10 million human lives have been lost through abortion since the tragic Supreme Court decision of January 22, 1973, it is not at all difficult to appreciate why the Senate Judiciary's Subcommittee on Separation of Powers has reported that "today there is strong concern among many citizens that Government is not fulfilling its duty to protect the lives of all human beings."

Those concerned citizens include many of my constituents and they certainly include me.

There may have been a time when the key question to the abortion issue was "When does human life begin?" But I submit the answer to that question can no longer be held to be in reasonable doubt. Not when Newsweek can declare: "A developing baby is known as an embryo * * * during its first 8 weeks of gestation. The process starts at the moment of conception. * * * the sperm merges its genes with the egg * * * that union creates a new human life." and again: "a fertilized human egg * * * is unquestionably alive, a unique entity whose destiny was forged in the ecstatic mingling of male and female gametes, within minutes of fertilization." Again, the subcommittee is on sound footing in finding that "contemporary scientific evidence points to a clear conclusion: The life of a human being begins at conception, the time when the process of fertilization is complete."

So if the key question to the abortion issue was "When does human life begin?" The key question today is "What value shall we assign that life?"

Obviously, there can be no "mother" without a "child." Should the happiness of the mother sanction the killing of her child? Not, Mr. President, in a civilized and humane society, one which holds with the principles outlined in our Declaration of Independence, which as the subcommittee quite properly observed, "expressly affirms the sanctity of human life."

Mr. President, I believe with our Founding Fathers, with the distinguished Senator from North Carolina, and with numerous people of Nebraska that we are endowed by our Creator with the unalienable right to life and this it is the legitimate and necessary function of Government to safeguard that God-given right.

Accordingly, I proudly and earnestly urge my colleagues to favorably consider this amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor and without the interruption counting as an additional speech.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I believe that very shortly we will receive the conference report on the tax bill from the House of Representatives, and I hope we can proceed to the consideration of that matter. I should like to do certain routine matters that the Senate should attend to before that. I will make this unanimous-consent request, which has been cleared on this side with the principals involved, and which I hope will be satisfactory to the Senate.

Mr. President, I ask unanimous consent that the Senate now have a brief period for the transaction of routine morning business, not to extend past 7 p.m., in which Senators may speak for not more than 10 minutes each.

I ask unanimous consent that when we resume consideration of the pending bill, the pending question, the distinguished Senator from Oregon be rerecognized and that the interruption in his presentation not count as an additional speech under the rule.

The **PRESIDING OFFICE.** Without objection, it is so ordered.

Mr. BAKER. Mr. President, I also say to my colleagues that as soon as we receive the conference report, since it is privileged, it is my intention to ask the Senate to proceed to its consideration. I hope we may do that prompty and by unanimous consent. I think it is urgently important that we try to do that tonight.

We still have the supplemental appropriations conference report to deal with tomorrow, plus a continuation of the debate on abortion. We will deal with that, of course, when the conference report arrives and is received in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

ROBERT C. BYRD. I suggest that our respective cloakrooms—certainly my own—alert Senators to the fact that the distinguished majority leader is going to present the unanimous-consent request to proceed to the consideration of the tax bill, so that they can be present, hear the request, and if they have any objections, make them.

Mr. BAKER. Mr. President, I think the suggestion is very timely. I will instruct my cloakroom to issue a hotline notice to that effect, and it should be done promptly, because I intend to try to proceed to it as soon as we receive it from the House of Representatives.

Mr. President, there are certain routine matters I am prepared to deal with.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. LEVIN. Is it the majority leader's intention to propound a unanimous-consent request relative to the tax bill?

Mr. BAKER. Yes. Mr. President, it is my hope that the Senate will grant unanimous consent to proceed immediately to the consideration of the tax bill when it is received from the House of Representatives.

Mr. LEVIN. Without any time limitation?

Mr. BAKER. I would hope the Senate would also agree to a short time limitation. I do not know how much time Members might require, but I had in mind 1 hour equally divided or 2 hours equally divided.

Mr. LEVIN. In any unanimous-consent request which is propounded by the majority leader, I request that the interests we discussed earlier, relative to an amendment of mine on the debt limit bill—to be sure that amendment is voted on by the end of business tomorrow—be considered.

I think it is important—we discussed this earlier, and the majority leader has been very helpful—that I have an opportunity to have a vote in a short period of time before we go out, and I ask that any unanimous-consent request propounded by the majority leader consider that.

Mr. BAKER. Mr. President, I will consult once again with the distinguished chairman of the Finance Committee, Senator Dole.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are certain matters that can be dealt with at this time by unanimous consent, according to my calendar.

I inquire of the minority leader if he is in a position to consider one nomination on the Executive Calendar, the nomination of Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission, Calendar No. 902.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader allow me just a moment to ascertain what our situation is here?

Mr. BAKER. Yes, I will indeed.

Mr. ROBERT C. BYRD. Mr. President, I am now prepared to respond to the distinguished majority leader with respect to the nomination, and I am prepared on behalf of Senators on this side of the aisle to go forward with the nomination.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination of Oliver G. Richard III.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The bill clerk read the nomination of Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission.

Mr. McCLURE. Mr. President, on August 12 the Committee on Energy and Natural Resources held a hearing on the Presidential nomination of Oliver G. Richard III, to be a member of the Federal Energy Regulatory Commission. Mr. Richard was nominated for a term expiring on October 20, 1985. The Committee on Energy and Natural Resources favorably reported Mr. Richard's nomination on August 13. The vote was 16 to 0.

Mr. Richard is a partner in the law firm of Hayes, Durio & Richard in Lafayette, La. From 1977 to 1981, Mr. Richard served as energy legislative assistant to Senator BENNETT JOHNSTON. In that position he worked on a broad variety of energy legislation, including the Natural Gas Policy Act of 1978, the Powerplant and Industrial Fuel Use Act of 1978, the Public Utility Regulatory Policies Act of 1978, the Emergency Conservation Act of 1979, and the Energy Security Act.

Mr. Richard holds a bachelor of arts degree and a juris doctor degree from Louisiana State University, and he has also received a master of laws degree in taxation from Georgetown University.

In his testimony before the committee, Mr. Richard described why his background as a member of the Senate staff is particularly relevant to a position on the FERC. He stated:

> During my tenure, Mr. Chairman, my duty involved analyzing questions of national energy policy. National policy does not stand in a vacuum, devoid of particular regional considerations. The mosaic is made up of many pieces of unique regional characteristics.
>
> As an energy advisor to Senator Johnston I became aware of the diversity of regional perspectives. As importantly, I came to recognize the importance, indeed the obligation, for decisions regarding national policy to be made so as to balance interests from all parts of the country. Without that balance, compromise is difficult, if not impossible. And compromise is the heart of consensus decisionmaking.

Mr. President, Mr. Richard has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of Oliver G. Richard, III, to be a member of the Federal Energy Regulatory Commission.

Mr. BAUCUS. Mr. President, I support the President's nomination of Mr. Richard, and I am confident that the Senate will confirm him as a member of the Federal Energy Regulatory Commission (FERC).

As the Senate is no doubt aware, the only opposition to Mr. Richard's appointment has come from some who are concerned that being from Louisiana his decisions will too often reflect oil and gas producing States' interest as opposed to consumer or national interest.

I am confident that Mr. Richard will not let this occur. Indeed, I would call to the Senate's attention two letters from Mr. Gordon Bollinger, chairman of Montana's Public Service Commission, with regard to this point.

On July 13, Chairman Bollinger wrote to me to express his concern about this appointment. His concern reflects the spirit of activism and consumer protection that has been evident at the Montana Public Service Commission in recent years. Indeed, his letter is just one example of many in which the commission or its individual members have taken extra initiative, beyond their traditional rate-setting duties, to try to protect the interests of Montanans. I, for one, appreciate and strongly encourage this activism and vigor at the Montana Commission.

Upon receiving Mr. Bollinger's letter, I forwarded it to the Senate Energy Committee, and had my office contact Mr. Richard. At my request, Mr. Richard in turn took the time to telephone Chairman Bollinger. I understand they had a most productive discussion during which Mr. Richard expressed his strong concern and willingness to work with Montanans and others to make sure that FERC policy and case decisions are regionally balanced and do not work on behalf of one interest over another.

Based upon this conversation, Mr. Bollinger wrote to me a second time. In this letter of August 5, he expressed his support for Mr. Richard. I have forwarded this letter to the Energy Committee as well, and I ask that both letters be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Mr. President, I have expressed my concern in several forums that FERC work harder to see that the interests and needs of parts of the country remote from Washington, D.C., are adequately taken into account during its decision processes. I have been particularly concerned that FERC hold field hearings close to the sites of matters in controversy before it. Indeed, I recently wrote to the Senate Appropriations Committee to express my strong concern on this point. In at least three instances over the past year—concerning natural gas pricing review: a Kootenai Falls, Mont., hydroelectric proposal; and the designation of a potential tight sands gas formation in Montana—I have asked for FERC field hearings and in only one case received a positive response. Even in this case, concerning the Kootenai Falls application, at this time FERC has agreed to hold a hearing only in Montana's capitol, hundreds of miles from the site in controversy.

I ask unanimous consent that a copy of my letter to the Senate Appropriations Committee also be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BAUCUS. Mr. Richard has assured my office that he shares this strong concern about FERC responsiveness to State and local concerns, especially those brought to FERC's attention by Members of the Senate. His quick responsiveness to my request that he call upon Chairman Bollinger reflects his willingness to respond to my State and others.

During its hearings on the nomination, the Senate Energy Committee has reviewed Mr. Richard's background thoroughly. He has been found to be both highly qualified and personally competent to become a member of the Commission, and I would strongly urge my colleagues to support his nomination.

EXHIBIT 1

PUBLIC SERVICE COMMISSION,
Helena, Mont., July 13, 1982.

HON. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: I am writing you to urge that you oppose the pending nomina-

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tion of Oliver G. Richard III of Louisiana to the Federal Energy Regulatory Commission. The appointment of another commissioner from a major producing State could have major consequences for natural gas consumers at a time when FERC is contemplating whether to effectively decontrol old gas.

At present two of the four commissioners are from Texas. A third is from Hawaii, which consumes little natural gas, and the fourth is from Virginia, a State ranking in the lower half of the natural gas consuming States.

I am also enclosing a reprint of the Plain Dealer which is an editorial and self-explanatory.

Anything that you may be able to do to keep the nomination from going to Mr. Richard would be appreciated.

Sincerely,

GORDON E. BOLLINGER,
Chairman.

PUBLIC SERVICE COMMISSION,
Helena, Mont., August 5, 1982.

Hon. MAX BAUCUS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BAUCUS: This is a follow-up on my July 13 letter, in which I opposed the nomination of Oliver G. Richard, III, of Louisiana to the Federal Energy Regulatory Commission.

While the conditions remain that the FERC Board will not be made up of members representing the various parts of the United States, after talking with Mr. Richard, I am certain that he is very well qualified and will do his best to represent the interests of the entire United States, as well as the various regions. I am also certain that he will not be parochial in his outlook as the FERC regulations affect our part of the country.

In visiting with our congressional people, I am assured that Mr. Richard is a very knowledgeable individual and would be a good asset to the Federal Energy Regulatory Commission. It is very important to have someone with a knowledge of the industry, as well as the interest of the entire nation at heart when decisions are made on the Commission.

I, therefore, withdraw my opposition to Mr. Richard and concur that he would be an excellent member of FERC.

Sincerely,

GORDON E. BOLLINGER,
Chairman.

EXHIBIT 2

U.S. SENATOR,
Washington, D.C., August 13, 1982.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I write concerning appropriations for the Federal Energy Regulatory Commission (FERC).

As you are no doubt well aware, in places such as Oregon and Montana it is quite difficult for a citizen to see and participate in FERC hearings held in Washington, D.C. FERC, by nature of its responsibilities, has the decision making authority for many constroversial issues ranging from dam permits to natural gas pricing. When these matters are before FERC, constituents often seek intervention from their Senators and Congressmen. While the quasi-judicial nature of FERC significantly restricts the substantive involvement that would be appropriate from members of the House and Senate, at least these elected representatives are often able to point out to FERC matters of significant public concern to their states and attempt to see that FERC's administrative procedures are adequate.

Often, the simple rescheduling of hearings from Washington, D.C., closer to the areas of controversy will suffice to allow adequate public participation in the process. It is, therefore, most unfortunate when members of the Senate advise FERC of the need for a field hearing on a matter of such importance to a locality of state only to be told that budget constraints prohibit FERC from holding its hearings far from Washington. If travel costs pose a difficulty for FERC and its personnel, they certainly pose a difficulty for individual citizens and local interest groups with an interest in the proceedings.

Accordingly, I seek appropriations report language as follows:

The Committee would emphasize its concern that the Commission utilize its support funds to hold field hearings as necessary to ensure that controversial matters before it and its administrative law judges affecting states and regions distant from Washington, D.C., are aired in the states and localities affected. The Committee is especially concerned that the Commission respond favorably to requests from the Senate and its members for such hearings.

The Commission is directed to report back to the Committee as part of its fiscal 1984 budget request with a comparison of field hearings scheduled in response to congressional requests during fiscal years 1980, 1981, 1982, and 1983.

It is my hope that report language this year will focus the Commission's attention on this problem and avoid the need for specific earmarking of a higher percentage of FERC support appropriations for this function in the future.

Thank you for your assistance.

With best personal regards, I am

Sincerely,

MAX.

Mr. JOHNSTON. Mr. President, under the Constitution it is the duty of the Senate to give to the President advice and consent on certain nominations. I am particularly well qualified to perform this function with regard to the nomination of Oliver G. "Rick" Richard to be a Commissioner of the Federal Energy Regulatory Commission.

As most of you know, Rick served as my legislative assistant for energy matters for roughly 3½ years. During this period, which extended from November 1977 to August 1981, the Energy Committee dealt with some of the most complex and difficult issues in recent memory. Rick was intricately involved in virtually every aspect of these matters, which included such bills as the Natural Gas Policy Act, the Public Utility Regulatory Policies Act, the Fuel Use Act, and the Energy Security Act.

Rick clearly demonstrated an outstanding intellectual ability, and showed a great capacity for thoughtful, independent judgment. As a Commissioner at the FERC, Rick will once again be called upon to use these abilities. From his previous experiences in the Senate, Rick learned very well the special concerns which combine to form the national interest. I have no doubt that he will prove himself to be one of the most qualified and able Commissioners to serve on that body. I commend the President for his choice of nominees for this position, I congratulate Rick in his selection, and I strongly urge my collegues to support his nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, today we had the Executive Calendar and Gen. Emmett H. Walker was confirmed to be Director of the National Guard Bureau.

I ask unanimous consent that my remarks be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MAJ. GEN. EMMETT H. WALKER TO BE THE CHIEF OF THE NATIONAL GUARD BUREAU

Mr. STENNIS. Mr. President, I wholeheartedly and enthusiastically endorse and support the nomination of my fellow Mississippian, Maj. Gen. Emmett H. Walker, to be the Chief of the National Guard Bureau. From long personal experience and observation, I know that General Walker, or Mickey, as we know him, is qualified in every respect for this important and responsible position.

General Walker has made outstanding contributions to the Army National Guard during more than 37 years of distinguished commissioned service in the U.S. Army. This service culminated most recently with a 4-year tour as Director of the Army National Guard. During his tenure the Army National Guard benefited greatly from his fine leadership and sound judgment. Upon confirmation by the Senate, as I know he will be, he will bring the same fine qualities to all of the activities of the National Guard Bureau.

Some of us sometimes overlook the important and major role of the National Guard and other reserve components in our military posture, structure and policy. The Army National Guard represents some 46 percent of the total ground combat power of the U.S. Army as measured by the number of combat brigades and battalions.

The Air National Guard represents 32 percent of the Air Force tactical airlift forces and 26 percent of the tactical fighter forces.

The truth is that our military strength and power would be significantly reduced and impaired without the National Guard forces. It is important that we keep the very valuable talents and abilities of these forces carefully honed and adequately trained so that we can call on them immediately if the need should arise. It is also important that we provide these forces with the modern equipment which is necessary for these forces to do their job.

Equally important we must provide the National Guard with the finest type of leadership at the highest levels of command. I am convinced beyond all doubt that Mickey Walker will bring that type of leadership to his new command. His long, varied and distinguished military career assured that he will provide the guidance and direction that will serve to enhance the quality, capability and preparedness of our Guard forces.

I congratulate General Walker on the new honor and challenge which has come to him. He is completely qualified in every respect by training, experience and character for his new post. I know that he will continue the superb performance he has consistently displayed over his years of service and bring added credit both to himself and our National Guard forces.

I urge my colleagues to give prompt consent to and approval of General Walker's nomination.

I was highly impressed and personally with the Nations wide support that rolled in from over 40 States that officially recommended the selection of General Walker. These recommendations were of the highest quality and all emphasized his achievement and his high sense of dedication. This all pleased me very much. I predict that his services will continue to be of the highest order.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTOR CARRIER DEREGULATION

Mr. BAKER. Mr. President, another matter that has been cleared on this side to which I invite the attention of the majority leader is H.R. 3663.

Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3663.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3663) entitled "An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers", and ask a conference with Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Howard, Mr. Anderson, Mr. Rodino, Mr. Clausen, and Mr. Shuster be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment and agree with the conference requested by the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. Packwood, Mr. Danforth, and Mr. Cannon conferees on the part of the Senate.

EXTRADITION ACT OF 1981

Mr. BAKER. Mr. President, S. 1940, Calendar Order No. 576, is cleared on this side for action by unanimous consent.

I inquire of the minority leader if he is prepared to consider that item at this time.

Mr. ROBERT C. BYRD. Mr. President, speaking on behalf of the Senators on this side of the aisle, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 1940.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1940) to amend chapter 209 of title 18, United States Code, relating to extradition, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 16, line 17, strike "may", and insert "shall";

On page 16, line 19, strike "Attorney", through and including "satisfaction", and insert "court is satisfied";

On page 18, line 7, strike "punishing the person for his political opinions", and insert the following: "punishing the person for his political opinions. When it is claimed that the foreign government is seeking the person for a political offense or an offense of a political character, the Secretary will make his determination in accordance with the following principles. A political offense or an offense of a political character normally does not include—

"(A) an offense within the scope of the Convention for the Supression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or serious unlawful detention;

"(F) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(G) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs; or

"(H) an attempt or conspiracy to commit an offense described in clauses (A) through (G) of this subparagraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

On page 19, line 25, strike "A decision", through and including line 2 on page 20, and insert the following: A decision of Secretary under paragraph (1) or (2) or a decision of the Secretary under paragraph (3) with respect to whether the foreign state is seeking the person's extradition for the purpose of prosecuting or punishing the person for his political opinions is final and is not subject to judicial review. A decision by the Secretary under paragraph (3) denying the person's claim that the foreign state is seeking his extradition for a political offense or an offense of a political character may be appealed by the person to the United States court of appeals to which an appeal under section 3195 would lie. The court shall not set aside the Secretary's decision if it is based on substantial evidence. The appeal shall be determined promptly. Pending determination of the appeal, the court shall stay the extradition of the person, unless the court determines that the appeal is frivolous or taken for purposes of delay.

And had been reported from the Committee on Foreign Relations, with amendments, as follows:

On page 7, beginning on line 22, strike "for a political offense, for an offense of a political character, or";

On page 10, strike line 19, through and including page 11, line 11, and insert the following:

"(e) Political Offenses and Offenses of a Political Character.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has established by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense.

"(1) For the purposes of this section a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

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"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) For the purposes of this section a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or a serious unlawful detention;

"(B) an offensive involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraphs (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(f) Determination by the Court of the Application of the Political Offense Exception.—

"(1) Upon motion made by the person sought to be extradited or the Attorney General, the United States district court may order the determination of any issue under paragraph (e) of this section by a judge of such court.

"(2) No issue under paragraph (e) of this section shall be determined by the court and no evidence shall be received with respect to such issue unless and until the court determines the person sought is otherwise extraditable.

"(g) Other Issues.—

"(1) Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(2) any issue as to whether the extradition of a person to a foreign state would be incompatible with humanitarian considerations shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(3) In determining the application of subparagraphs (1) and (2) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State including the Bureau of Human Rights and Humanitarian Affairs.

"(h) Certification of Findings to the Secretary of State.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.".

On page 17, line 25, strike "; or";

On page 18, strike line 1, through and including page 19, line 21;

On page 20, line 3, strike "or a decision", through and including "opinions" on line 6;

On page 20, line 7, strike "A decision", through and including line 17;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Extradition Act of 1981".

Sec. 2. Chapter 209 of title 18, United States Code, is amended as follows:

(a) Section 3181 is deleted.

(b) Section 3182 is redesignated as section "3181".

(c) Section 3183 is redesignated as section "3182" and is amended by striking out "or the Panama Canal Zone" in the first sentence.

(d) A new section 3183 is added as follows:

"§ 3183. Payment of fees and costs

"All costs or expenses incurred in any interstate rendition proceeding and apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.".

(e) Sections 3184 through 3195 are deleted.

(f) The chapter heading and section analysis are amended to read as follows:

"CHAPTER 209—INTERSTATE RENDITION

"3181. Fugitives from State or Territory to State, District, or Territory.
"3182. Fugitives from State, Territory or Possession into extraterritorial jurisdiction of the United States.
"3183. Payment of fees and costs.".

Sec. 3. A new chapter 210 of title 18 of the United States Code is added as follows:

"CHAPTER 210—INTERNATIONAL EXTRADITION

"Sec.
"3191. Extradition authority in general.
"3192. Initial procedure.
"3193. Waiver of extradition hearing and consent to removal.
"3194. Extradition hearing.
"3195. Appeal.
"3196. Surrender of a person to a foreign state.
"3197. Receipt of a person from a foreign state.
"3198. General provisions for chapter.

"§ 3191. Extradition authority in general

"The United States may extradite a person to a foreign state pursuant to this chapter only if—

"(a) there is a treaty concerning extradition between the United States and the foreign state; and

"(b) the foreign state requests extradition within the terms of the applicable treaty.

"§ 3192. Initial procedure

"(a) In General.—The Attorney General may file a complaint charging that a person is extraditable. The Attorney General shall file the complaint in the United States district court—

"(1) for the district in which the person may be found; or

"(2) for the District of Columbia, if the Attorney General does not know where the person may be found.

"(b) Complaint.—The complaint shall be made under oath or affirmation, and shall specify the offense for which extradition is sought. The complaint—

"(1) shall be accompanied by a copy of the request for extradition and by the evidence and documents required by the applicable treaty; or

"(2) if not accompanied by the materials specified in paragraph (1)—

"(A) shall contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement of the essential facts constituting the offense that the person is believed to have committed, or a statement that an arrest warrant for the person is outstanding in the foreign state; and

"(iii) a description of the circumstances that justify the person's arrest; or

"(B) shall contain such other information as is required by the applicable treaty;

and shall be supplemented before the extradition hearing by the materials specified in paragraph (1).

"(c) Arrest or Summons.—Upon receipt of a complaint, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to the person to appear at an extradition hearing. The warrant or summons shall be executed in the manner prescribed by rule 4(d) of the Federal Rules of Criminal Procedure. A person arrested pursuant to this section shall be taken without unnecessary delay before the nearest available court for an extradition hearing.

"(d) Detention or Release of Arrested Person.—

"(1) The court shall order that person arrested under this section be held in official detention pending the extradition hearing unless the person establishes to the satisfaction of the court that special circumstances require his release.

"(2) Unless otherwise provided by the applicable treaty, if a person is detained pursuant to paragraph (1) in a proceeding in which the complaint is filed under subsection (b)(2), and if, within sixty days of the person's arrest, the court has not received—

"(A) the evidence or documents required by the applicable treaty; or

"(B) notice that the evidence or documents have been received by the Department of State and will promptly be transmitted to the court:

the court may order that the person be released from official detention pending the extradition hearing.

"(3) If the court orders the release of the person pending the extradition hearing, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"§ 3193. Waiver of extradition hearing and consent to removal

"(a) Informing the Court of Waiver and Consent.—A person against whom a complaint is filed may waive the requirements of formal extradition proceedings, including an order of surrender, by informing the court that he consents to removal to the foreign state.

"(b) Inquiry by the Court.—The court, upon being informed of the person's consent to removal, shall—

"(1) inform the person that he has a right to consult with counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) address the person to determine whether his consent is—

"(A) voluntary, and not the result of a threat or other improper inducement; and

"(B) given with full knowledge of its consequences, including the fact that it may not be revoked after the court has accepted it.

"(c) Finding of Consent and Order of Removal.—If the court finds that the person's consent to removal is voluntary and given with full knowledge of its consequences, it shall, unless the Attorney General notifies the court that the foreign state or the United States objects to such removal, order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition. The court shall order that the person be held in official detention until surrendered.

"(d) Limitation on Detention Pending Removal.—A person whom the court orders surrendered pursuant to subsection (c) may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings, the person is not removed from the United States within thirty days after the court ordered the person's surrender. The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3194. Extradition hearing

"(a) In General.—The court shall hold a hearing to determine whether the person against whom a complaint is filed is extraditable, unless the hearing is waived pursuant to section 3193. The purpose of the hearing is limited. The court does not have jurisdiction to determine the merits of the charge against the person by the foreign state or to determine whether the foreign state is seeking the extradition of the person for a political offense, for an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. The hearing shall be held as soon as practicable after the arrest of the person or issuance of the summons.

"(b) Rights of the Person Sought.—The court shall inform the person of the limited purpose of the hearing, and shall inform him that—

"(1) he has the right to be represented by counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) he may cross-examine witnesses who appear against him and may introduce evidence in his own behalf with respect to the matters set forth in subsection (d).

"(c) Evidence.—

"(1) A deposition, warrant, or other document, or a copy thereof, is admissible as evidence in the hearing if—

"(A) it is authenticated in accordance with the provisions of an applicable treaty or law of the United States;

"(B) it is authenticated in accordance with the applicable law of the foreign state, and such authentication may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer; or

"(C) other evidence is sufficient to enable the court to conclude that the document is authentic.

"(2) A certificate or affidavit by an appropriate official of the Department of State is admissible as evidence of the existence of a treaty or its interpretation.

"(3) If the applicable treaty requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense had been committed in the United States, the requirement is satisfied if the evidence establishes probable cause to believe that an offense was committed and that the person sought committed it.

"(d) Findings.—The court shall find that the person is extraditable if it finds that—

"(1) there is probable cause to believe that the person arrested or summoned to appear is the person sought in the foreign state;

"(2) the evidence presented is sufficient to support the complaint under the provisions of the applicable treaty;

"(3) no defense to extradition specified in the applicable treaty, and within the jurisdiction of the court, exists; and

"(4) the act upon which the request for extradition is based would constitute an offense punishable under the laws of—

"(A) the United States;

"(B) the State where the fugitive is found; or

"(C) a majority of the States.

The court may base a finding that a person is extraditable upon evidence consisting, in whole or in part, of hearsay or of properly certified documents.

"(e) Certification of Findings to the Secretary of State.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secreatary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.

"(e) Political Offenses and Offenses of a Political Character.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has extablished by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense.

"(1) For the purposes of this section a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) For the purposes of this section a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraphs (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(f) Determination by the Court of the Application of the Political Offense Exception.—

"(1) Upon motion made by the person sought to be extradited or the Attorney General, the United States district court may order the determination of any issue under paragraph (e) of this section by a judge of such court.

"(2) No issue under paragraph (e) of this section shall be determined by the court and no evidence shall be received with respect to such issue unless and until the court determines the person sought is otherwise extraditable.

"(g) Other Issues.—

"(1) Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(2) Any issue as to whether the extradition of a person to a foreign state would be incompatible with humanitarian considerations shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(3) In determining the application of subparagraphs (1) and (2) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State including the Bureau of Human Rights and Humanitarian Affairs.

"(h) Certification of Findings to the Secretary of State.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropri-

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ate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.".

"§ 3195. Appeal

"(a) In General.—Either party may appeal, to the appropriate United States court of appeals, the findings by the district on a complaint for extradition. The appeal shall be taken in the manner prescribed by rules 3 and 4(b) of the Federal Rules of Appellate Procedure, and shall be heard as soon as practicable after the filing of the notice of appeal. Pending determination of the appeal, the district court shall stay the extradition of a person found extraditable.

"(b) Detention or Release Pending Appeal.—If the district court found that the person sought is—

"(1) extraditable, it shall order that the person be held in official detention pending determination of the appeal, or pending a finding by the court of appeals that the person has established that special circumstances require his release;

"(2) not extraditable, it shall order that the person be released pending determination of an appeal unless the court is satisfied that the person is likely to flee or to endanger the safety of any other person or the community.

If the court orders the release of a person pending determination of an appeal, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"(c) Subsequent Review.—No court has jurisdiction to review a finding that a person is extraditable unless the person has exhausted his remedies under subsection (a). If the person files a petition for habeas corpus or for other review, he shall specify whether the finding that he is extraditable has been upheld by a court, and, if so, shall specify the court, the date, and the nature of each such proceeding. A court does not have jurisdiction to entertain a person's petition for habeas corpus or for other review if his commitment has previously been upheld, unless the court finds that the grounds for the petition or appeal could not previously have been presented.

§ 3196. Surrender of a person to a foreign state

"(a) Responsibility of the Secretary of State.—If a person is found extraditable pursuant to section 3194, the Secretary of State, upon consideration of the provisions of the applicable treaty and this chapter—

"(1) may order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition;

"(2) may order such surrender of the person contingent on the acceptance by the foreign state of such conditions as the Secretary considers necessary to effectuate the purposes of the treaty or the interest of justice; or.

"(3) shall decline to order the surrender of the person if the Secretary is persuaded, by written evidence and argument submitted to him by written evidence and argument submitted to him by the person sought, that the foreign state is seeking the person's extradition for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. When it is claimed that the foreign government is seeking the person for political offense or an offense of a political character, the Secretary will make his determination in accordance with the following principles. A political offense or an offense of a political character normally does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or serious unlawful detention;

"(F) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(G) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs; or

"(H) an attempt or conspiracy to commit an offense described in clauses (A) through (G) of this subparagraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

The Secretary may order the surrender of a person who is a national of the United States unless such surrender is expresaly forbidden by the applicable treaty or by the laws of the United States. A decision of the Secretary under paragraph (1) or (2) or a decision of the Secretary under paragraph (3) with respect to whether the foreign state is seeking the person's extradition for the purpose of prosecuting or punishing the person for his political opinions is final and is not subject to judicial review. A decision by the Secretary under paragraph (3) denying the person's claim that the foreign state is seeking his extradition for a political offense or an offense of a political character may be appealed by the person to the United States court of appeals to which an appeal under section 3195 would lie. The court shall not set aside the Secretary's decision if it is based on substantial evidence. The appeal shall be determined promptly. Pending determination of the appeal, the court shall stay the extradition of the person, unless the court determines that the appeal is frivolous or taken for purposes of delay.

"(b) Notice of Decision.—The Secretary of State, upon ordering a person's surrender or denying a request for extradition in whole, or in part, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that found the person extraditable. If the Secretary orders the person's surrender, he also shall notify the diplomatic representative of the foreign state of the time limitation on the person's detention that is provided by subsection (c)(2).

"(c) Limitation on Detention Pending Decision or Removal.—A person who is found extraditable pursuant to section 3194 may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings—

"(1) the Secretary does not order the person's surrender, or decline to order the person's surrender, within forty-five days after his receipt of the court's findings and the transcript of the proceedings; or

"(2) the person is not removed from the United States within thirty days after the Secretary ordered the person's surrender.

The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3197. Receipt of a person from a foreign state

"(a) Appointment and Authority of Receiving Agent.—The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a Federal, State, or local offense. The agent shall have the authority of a United States marshal. The agent shall convey the person directly to the Federal or State jurisdiction that sought his return.

"(b) Temporary Extradition to the United States.—If a foreign state delivers custody of a person accused of a Federal, State, or local offense to an agent of the United States on the condition that the person be returned to the foreign state at the conclusion of criminal proceedings in the United States, the Bureau of Prisons shall hold the person in custody pending the conclusion of the proceedings, and shall then surrender the person to a duly appointed agent of the foreign state. The return of the person to the foreign state is not subject to the requirements of this chapter.

"§ 3198. General provisions for chapter

"(a) Definitions.—As used in this chapter—

"(1) 'court' means

"(A) a United States district court established pursuant to section 132 of title 28, United States Code, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands; or

"(B) a United States magistrate authorized to conduct an extradition proceeding;

"(2) 'foreign state', when used in other then a geographic sense, means the government of a foreign state;

"(3) 'foreign state', when used in a geographic sense, includes all territory under the jurisdiction of a foreign state, including a colony, dependency, and constituent part of the state; its air space and territorial waters; and vessels or aircraft registered in the state;

"(4) 'treaty' includes a treaty, convention, or international agreement, bilateral or multilateral, that is in force after advice and consent by the Senate; and

"(5) 'warrant', as used with reference to a foreign state, means any judicial document authorizing the arrest or detention of a person accused or convicted of a crime.

"(b) Payment of Fees and Costs.—Unless otherwise specified by treaty, all transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of—

"(1) a foreign state, shall be borne by the foreign state unless the Secretary of State directs otherwise;

"(2) a State, shall be borne by the State; and

"(3) the United States, shall be borne by the United States.".

SEC. 4. This Act shall take effect on the first day of the first month after enactment, and shall be applicable to extradition and rendition proceedings commenced thereafter.

The **PRESIDING OFFICER**. The bill is open to amendment.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I move adoption of the amendments.

The **PRESIDING OFFICER**. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1940) was passed.

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN FEDERAL LANDS HELD IN TRUST

Mr. **BAKER**. Mr. President, if the minority leader does not object or other Senators do not, I propose to ask the Chair to proceed to the consideration of Calendar Order No. 727, S. 1858.

Mr. **ROBERT C. BYRD**. Mr. President, there is no objection.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1858) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northwest quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of and lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 munutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

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Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

The **PRESIDING OFFICER**. The bill is open to amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1858) was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5081) entitled "An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service", do pass with the following amendment: Strike out all after the enacting clause and insert: That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northeast quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

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Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diable Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line at a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west, along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing is this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BAKER**. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5081.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5081) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 5081 be stricken and that there be substituted therefor the text of S. 1858, as amended, as just adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the bill will be considered as having been read twice and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 5081), as amended, was passed.

Mr. BAKER. I thank the Chair.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that S. 1858 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, H.R. 4347 is cleared on this side. If it is agreeable to the majority leader, I wish to ask the Chair to proceed to the consideration of that item at this time.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask that the Chair lay before the Senate the budget waiver to accompany that measure which is Calendar Order No. 732, H.R. 4347, if there is no objection.

The resolution (S. Res. 440) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4347, was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4347. Such waiver is necessary because H.R. 4347, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit construction of the WEB rural water development project to be initiated in early fiscal year 1983 so as to take advantage of favorable weather conditions for such construction.

H.R. 4347 provides a reauthorization of the WEB project which was authorized by the Rural Development Policy Act of 1980 (94 Stat. 1171). It should be noted that $1,900,000 was appropriated for fiscal year 1981 to provide for initial planning and construction of the project; however, obligation of the funds was deferred until conditions of section 9(b) of the Rural Development Policy Act of 1980, regarding the Oahe project (also in South Dakota), had been met; H.R. 4347, as reported, meets those conditions.

Failure to pass H.R. 4347 would preclude initial construction activities during calendar year 1982 (or early in fiscal year 1983) because the construction season for the authorized types of work is generally only from March to November. Such a delay in initial construction activities until calendar year 1983 would result in increases in construction costs.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENT OF CERTAIN WATER PROJECTS

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 4347, Calendar Order No. 732.

The Senate proceeded to consider the bill (H.R. 4347) to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That the WEB Rural Water Development Project, authorized by section 9 of the Rural Development Policy Act of 1980 (94 Stat. 1175), is reauthorized subject to the provisions of section 9 of that Act, as amended by section 2 of this Act. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to proceed with the development of the WEB Rural Water Development Project, consistent with the terms and conditions of section 9(e) of that Act, as amended by section 2 of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

Sec. 2. Section 9 of the Rural Development Policy Act of 1980 is amended by—

(a) striking out in subsection (b) all after "the types of construction involved herein" and inserting a period in lieu thereof;

(b) striking out the first sentence of subsection (d); and

(c) striking out the first sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of the Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section.".

Sec. 3. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct feasibility investigations of the following proposed water resource developments:

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri basin program, North Dakota; and

(3) a reformulated plan for the development of the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri basin program, South Dakota, including irrigation of alternative lands or reduced acreages.

(b) The Secretary shall report to Congress the findings of the studies authorized by this section along with his recommendations.

(c) The Secretary may contract with the State to carry out the studies authorized by this section.

Sec. 4. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial Stage: Provided, That such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown irrigation districts: Provided further, That any repayment obligation existing at the time of cancellation of the master and participating and security contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri basin program: Provided, however, That such costs shall be assumed and repaid by the beneficiaries of any future project which utilizes the Oahe unit facilities. Such repayment obligation and manner of repayment shall be determined pursuant to the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for an could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East canals; Cresbard, and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

Sec. 5. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Pick-Sloan Missouri basin program pumping power to the Crow Creek, Cheyenne River, and Standing Rock Indian Reservation irrigation developments, and the Grass Rope Unit, Pick-Sloan Missouri basin program. Such pumping power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by Act of Congress.

Sec. 6. There is hereby authorized to be appropirated beginning October 1, 1982,

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such funds as may be necessary to carry out the provisions of this Act.

The **PRESIDING OFFICER.** The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1255

Prupose: To include the Omaha Indian Reservation Irrigation Development within the authorization to receive Pick-Sloan Missouri Basin program pumping power.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EXON, I offer an amendment and ask that it be stated.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. EXON, proposes an unprinted amendment numbered 1255:

On page 9, line 16, after the word "River," and before the word "and" add the word "Omaha".

Mr. MURKOWSKI. Mr. President, I am pleased the majority leader has offered this amendment on behalf of the Senator from Nebraska (Mr. EXON). As my colleagues will note, section 5 of H.R. 4347 as reported by the Committee on Energy and Natural Resources, identifies specific irrigation projects as being eligible to receive pumping power from the Pick-Sloan Missouri Basin program. The amendment which I offer on behalf of the Senator from Nebraska identifies an additional irrigation development which would be authorized to receive such power. The lands to be served are on the Omaha Indian Reservation and the irrigation development is being funded by the Bureau of Indian Affairs. This proposal is similar in nature to the other Indian irrigation projects which were included in the bill by the committee and I support the amendment.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1255) was agreed to.

Mr. PRESSLER. Mr. President, I rise in support of House Resolution 4347, legislation to reauthorize the WEB pipeline project, authorize feasibility studies of the CENDAK irrigation project and the extension of the Garrison Diversion Unit, as well as provide low-cost pumping power to a number of Indian irrigation projects. Passage of this legislation will be a first step in meeting the Federal commitment to South Dakota for land sacrificed for construction of dams on the Missouri River.

Under the Pick-Sloan Missouri Basin program, a water development plan was established for the Missouri River basin. This plan included the construction of four dams on the Missouri River in South Dakota and irrigation of over 900,000 acres of land in South Dakota. The four dams were constructed, flooding over 530,000 acres of land in South Dakota, but the irrigation facilities have not been constructed.

The Oahe irrigation project was authorized in 1968 to meet a major part of the commitment to South Dakota, but due to local controversy over the project, work on it ceased in 1977. As a result, South Dakota has not received any irrigation from the Pick-Sloan Missouri basin program. South Dakota has not been compensated for the 530,000 acres of land sacrificed to construct the dams.

In 1975, the WEB Water Development Association was formed to provide domestic and municipal water to an area in north central and northeast South Dakota. The WEB pipeline project was proposed to provide domestic water to 30,000 people and 50 rural communities in 10 counties. The project has the support of South Dakota's Governor and State legislature, the Oahe subdistricts and the people in the WEB region. In fact, the State of South Dakota and the Oahe subdistricts have committed funds to help finance the construction of the WEB pipeline. The WEB pipeline project was originally authorized in 1980, but the authorization was tied to the deauthorization of the Oahe project. Because of this linkage, the WEB project authorization expired September 31, 1981, since the Oahe project was not deauthorized.

The bill will reauthorize the WEB pipeline, subject to the provisions of the original 1980 authorization and the terms and conditions of the consolidated Farm and Rural Development Act. The Rural Development Policy Act of 1980 specifies that the project be funded by a combination of grants and loans with grants for not less than 75 percent of the eligible cost. When the WEB project was originally authorized the Rural Development and Policy Act and the Farmers Home Administration regulations established a 5-percent interest rate for the loans that may be required to develop the WEB project.

This legislation, H.R. 4347, would reauthorize the WEB project and begin to resolve the Oahe project issue. The bill will provide for the cancellation of the contracts between the Bureau of Reclamation and the Oahe subdistricts and will prohibit the construction of the Oahe project features listed in the bill without specific direction from Congress. The features could not be constructed unless reauthorized by Congress. To further clarify this section, I request that two letters interpreting this section of the bill be included in the RECORD, immediately following my remarks.

The **PRESIDING OFFICER.** Without objection, it is ordered.

(See exhibit 1.)

Mr. PRESSLER. Feasibility level studies of the CENDAK irrigation project and the Garrison diversion unit extension would also be authorized in H.R. 4347. The CENDAK project is a grassroots movement to use the Oahe unit features that were constructed to irrigate an area in central South Dakota. The CENDAK organization has already done a great deal of work and study on the project. The next step needed is a feasibility study for the project.

The extension of the Garrison diversion unit would study the possibility of the Garrison diversion unit providing water for irrigation and domestic use along the James River in South Dakota. With Canada's objection to receiving return flows from the Garrison diversion unit in North Dakota, the alternative route for return flows is the James River in South Dakota. If the return flows are to flow down the James River through South Dakota, it is important that the possible beneficial use of the water be studied.

Finally, H.R. 4347 also provides low-cost Missouri Basin program pumping power to a number of Indian irrigation projects. This power is part of the Pick-Sloan program and will help to make these small irrigation projects profitable. Other qualifying irrigation projects may also be granted low-cost pumping power by Congress in the future.

Mr. President, I would also like to enter into a brief colloquy with the floor manager of the bill to clarify one technical point. This legislation includes a provision for making available $1.9 million appropriated for fiscal year 1981 for initial planning and construction of the WEB pipeline which were not spent. The Secretary of the Treasury will make these funds available at the request of the Secretary of the Interior, based on the authority of this act. It is my understanding that this is the administrative procedure to be followed for the release of the $1.9 million appropriated for the WEB pipeline. Is this correct?

Mr. MURKOWSKI. That is correct.

Mr. PRESSLER. I thank my distinguished colleague from Alaska for his clarification of this important matter.

The WEB organization has met all of the requirements to begin construction of the project as soon as it is authorized and the funds released. The WEB organization has waited 2 years for the $1.9 million and it is important that the funds be made available as soon as possible.

Mr. President, I urge my colleagues to join me in support of H.R. 4347. South Dakota has made a major sacrifice for flood control, navigation, and hydroelectric power, mostly for the benefit of neighboring and downstream States. South Dakotans have long waited to receive compensation for their sacrifices and H.R. 4347 would begin to repay South Dakota for its sacrifices.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., March 17, 1982.

To: Hon. LARRY PRESSLER.
From: American Law Division.
Subject: Whether Language in H.R. 4347 (97th Congress) Constitutes a Deauthorization of the Oahe Irrigation Unit.

This memorandum responds to the request of Mr. Ustad that our telephone conversation on the topic above be put into writing.

H.R. 4347 provides in section 3(b) that—

"Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts . . . shall not be constructed by the Secretary [of the Interior] . . ."

Research reveals no reason why the operative phrase—"shall not be constructed by the Secretary"—should be interpreted as anything less than a deauthorization of the specified features of the Oahe unit. The legal literature reveals no rule to the effect that Federal project deauthorizations can only be achieved through use of the term "deauthorize" or any other particular language.

The contemplated addition of the phrase "unless reauthorized by Congress" immediately following "shall not be constructed by the Secretary" seems to be unnecessary, given the foregoing interpretation. It is a truism that a deauthorized project remains so only until such time as it is reauthorized.

ROBERT MELTZ,
Legislative Attorney.

U.S. SENATE,
OFFICE OF THE LEGISLATIVE COUNSEL,
Washington, D.C., March 5, 1982.

MEMORANDUM

To: Senator Pressler.
Re deauthorizing language in H.R. 4347 relating to the WEB Pipeline.

You requested an opinion as to the effect of subsection (b) of section 3 of H.R. 4347 which provides as follows:

"(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts, namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron Dams and Reservoirs; James and Byron Pumping Plants; and associated features; shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2 (a) (1) of this Act".

You have specifically asked about the effect of the language "shall not be constructed". If this bill is enacted into law, the effect of the language would be to deauthorize construction of the features specified in such subsection. Any future construction relaitng to such features would have to be specifically reauthorized by legislation.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Respectfully,

WILLIAM F. JENSEN.

Mr. ABDNOR. Mr. President, I rise in strong support of H.R. 4347, as reported by the Committee on Energy and Natural Resources, and I urge its passage.

Congressman ROBERTS and I have authored this measure, with the cosponsorship of our colleagues in the South Dakota delegation; and while we would prefer to see it enacted in the form it was introduced, it is acceptable to us and to the State of South Dakota as it has been modified by the committee.

Repeatedly, on the floor of the House and the Senate, I have raised the issues which justify enactment of this measure; and my colleagues may wish to look in particular at page S8868 of the July 30, 1981, CONGRESSIONAL RECORD and page H8758 of the September 15, 1980, RECORD for further background. The committee report (S. Rept. 97-514) restates the case very well, however, and I ask unanimous consent that an excerpt from the report be reprinted at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND NEED

A comprehensive program for the development of the water resources of the Missouri River Basin was authorized by section 9 of the Act of December 22, 1944 (58 Stat. 887). The Act authorized the then War Department and the Secretary of the Interior to undertake a massive program based upon water resource development plans set forth during the 78th Congress in House Document 191 (the Bureau of Reclamation's proposal) as revised and coordinated in Senate Document 247. The reconciliation of the two plans became known as the Pick-Sloan Missouri Basin Program and called for construction by the Corps of Engineers of a series of main stem dams on the Missouri River in Nebraska, South Dakota, North Dakota, and Montana and irrigation of over 5 million acres to be served by Bureau of Reclamation facilities. Major project purposes included flood control, navigation, irrigation and municipal and industrial water supply, and electric power generation.

Under the Pick-Sloan program, South Dakota was to be the site of four main stem dams along the Missouri: Gavins Point, Fort Randall, Big Bend, and the Oahe. Identified for irrigation development were 972,000 acres of irrigable land. The main stem dams have been built at the expense of the flooding of over 530,000 acres of lands in South Dakota; much of which were fertile bottom lands along the Missouri River. However, the irrigation developments as authorized for South Dakota under the Pick-Sloan plan have not come to fruition. The strong support which South Dakota has given to the Pick-Sloan plan resulted, in effect, in benefits accruing to downstream states with virtually none accruing to the State which had made the greatest sacrifice.

Mr. ABDNOR. Mr. President, the committee is absolutely correct that virtually none of the irrigation benefits promised to my State have been provided, despite the fact we sacrificed over a half million acres to provide flood control for downstream States. The strong support of which the committee report speaks was predicated upon the Federal commitment to irrigation development in our State. It should be noted as well that there was also strong opposition to the program in the Dakotas. I myself, as a private citizen, was against construction of the high dams because of all the land required. Based upon the promise of Federal irrigation development, however, our major elected officials went along the program; and the supporters prevailed over the opponents.

Notwithstanding the promises which were made, the following tables demonstrate very graphically that we, along with our sister State to the north, have been left behind by comparison to the water development which has been undertaken both in the other States of the Missouri River basin and in the other 15 traditional Western reclamation States. I ask unanimous consent that these tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ESTIMATED USE OF WATER IN THE UNITED STATES IN 1980

	Water withdrawal (million gallons per day)		
	Industrial	Irrigation	Total
Missouri Basin States:			
1. Colorado	910	14,000	14,910
2. Nebraska	2,300	9,300	11,600
3. Montana	280	11,000	11,280
4. Kansas	530	5,600	6,130
5. Missouri	5,800	130	5,930
6. Wyoming	420	4,900	5,320
7. Iowa	3,800	60	3,860
8. Minnesota	2,300	160	2,460
9. North Dakota	930	280	1,210
10. South Dakota	50	460	510
Reclamation States:			
1. California	12,400	37,000	49,400
2. Idaho	2,200	16,000	18,200
3. Texas	8,300	8,400	16,700
4. Colorado	910	14,000	14,910
5. Nebraska	2,300	9,300	11,600
6. Montana	280	11,000	11,280
7. Washington	1,030	6,400	7,430
8. Arizona	250	7,100	7,350
9. Oregon	520	5,900	6,420
10. Kansas	530	5,600	6,130
11. Wyoming	420	4,900	5,320
12. Utah	580	3,200	3,780
13. New Mexico	70	3,600	3,670
14. Nevada	240	3,100	3,340
15. Oklahoma	550	870	1,420
16. North Dakota	930	280	1,210
17. South Dakota	50	460	510

Source: Geological Survey 1980 update to Circular 765 (1982).

Mr. ABDNOR. Mr. President, these tables speak for themselves. The Dakotas, which together gave up over 1 million acres for the benefit of other Missouri basin States, have been forgotten and ignored. We have not received equal consideration, even if not for our sacrifice. Taking into account the tremendous acreage we relinquished, the failure of the Federal Government to honor its commitment to water development in the Dakotas becomes almost criminal. Considering that I was opposed to the high dams in the first place, I would be more than justified in being outraged, but I prefer instead to be hopeful.

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Mr. President, the measure before the Senate today, H.R. 4347, constitutes a small step toward rectifying the great injustice which has been done to my State. Hopefully, it will help to get water development moving in South Dakota, consistent with the obligation of the Federal Government to do so. Specifically, it will reauthorize the WEB pipeline project, a sizable rural and municipal water supply project; it will authorize three studies which may lead to development of irrigation projects; and it will provide hydropower for several Indian irrigation projects funded by the Bureau of Indian Affairs, rather than through traditional procedures.

The latter provision has significance beyond its importance for the particular projects named in section 5 of the bill because it sets the precedent that Missouri basin hydropower will be provided for nonreclamation irrigation projects in the Missouri basin. In other words, the failure of the Bureau of reclamation to provide construction funding for irrigation developments, as promised, will no longer be a sufficient excuse to deny the hydropower allocated to these projects as well. The promised hydropower will be provided even if the local sponsors must finance construction of their projects through sources other than the Bureau of Reclamation.

In that regard it should be noted that the Indian projects covered by section 5 will use a very small portion of the Missouri hydropower allocated to irrigation development in our State. Over 300 million kilowatt hours of energy and over 170,000 kilowatts of power are allocated to irrigation in South Dakota under the Missouri basin program. For further information on water and power allocations under the program, my colleagues may wish to refer to my statement on page 1677 of the April 5, 1978, Congressional Record.

This measure takes a hopeful step in the direction of honoring the Federal commitment through the projects listed in section 5, and the committee has also included language in the bill which states: "* * * power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by act of Congress." This language renews in clear, explicit statutory terms the commitment of the Federal Government to follow through on its obligation to provide the hydropower as promised.

While not addressed directly in H.R. 4347, the provision of Missouri basin hydropower is vital to the CENDAK project, which will be studied under paragraph 3(a)(1) of the bill as a potential alternate use of facilities already constructed for use in conjunction with the Oahe unit. The Oahe unit was authorized by Public Law 90-453 (43 U.S.C. 371), approved August 3, 1968, but subsequently became embroiled in controversy, as noted in the committee report, and has been terminated. CENDAK has garnered substantial local support, however, and appears at this point to be a viable alternative, potentially to be constructed as a reformulation of the Oahe unit. If CENDAK can be constructed under the Oahe authorization, the hydropower can be provided under that authorization, too. If, on the other hand, CENDAK requires a new authorization, the language the committee has included in section 5 indicates that the power will be provided at that time.

Technically, it appears CENDAK could be constructed under the Oahe authorization, and I ask unanimous consent that the Oahe authorization be reprinted at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Public Law 90–453—An Act to Authorize the Secretary of the Interior to Construct, Operate, and Maintain the Initial Stage of the Oahe Unit, James Division, Missouri River Basin Project, South Dakota, and for Other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to construct, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto) the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, for the principal purposes of furnishing a surface irrigation water supply for approximately one hundred and ninety thousand acres of land, furnishing water for municipal and industrial uses, controlling floods, conserving and developing fish and wildlife resources, and enhancing outdoor recreation opportunities, and other purposes. The principal features of the initial stage of the Oahe unit shall consist of the Oahe pumping plant (designed to provide for future enlargement) to pump water from the Oahe Reservoir, a system of main canals, regulating reservoirs, and the James diversion dam and the James pumping plant on the James River. The remaining works will include appurtenant pumping plants, canals, and laterals for distributing water to the land, and a drainage system.

Sec. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the initial stage of the Oahe unit shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). Construction of the initial stage of the Oahe unit shall not be commenced as long as the State of South Dakota retains in its laws provisions that prohibit the hunting of migratory waterfowl by nonresidents in the waterfowl enhancement areas included within the area served by the project herein authorized.

Sec. 3. The Oahe unit shall be integrated physically and financially with the other Federal works constructed or authorized to be constructed under the comprehensive plan approved by section 9 of the Act of December 22, 1944, as amended and supplemented.

Sec. 4. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marked is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

Sec. 5. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

Sec. 6. There is hereby authorized to be appropriated for construction of the initial stage of the Oahe unit as authorized in this Act the sum of $191,670,000 (based upon January 1964 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit.

Mr. ABDNOR. It may be argued that the CENDAK proposal is significantly enough different from the originally authorized Oahe unit plan that it should be reauthorized. Realistically speaking, that is no doubt the most likely course of action if the results of the study are positive. CENDAK could be constructed under the terms of Public Law 90–453, however, particularly in light of the provisions of paragraph 3(a)(1) and subsection 4(b) of the measure before us.

Paragraph 3(a)(1) provides for a study of alternate uses of Oahe unit facilities, and subsection 4(b) lists certain facilities which cannot be constructed under the existing authorization. If the listed facilities cannot be constructed "without further action by the Congress," as stated in section 4(b), the implication is clear that other facilities can be constructed. That implication is made still more clear by the clause which follows: "* * * nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by paragraph 3(a)(1) * * *" Therefore it is quite clear that features identified in the study authorized in paragraph 3(a)(1) can be constructed under the authority of Public Law 90-453, so long as they are not explicitly prohibited from construction "without further action by the Congress," under the terms of subsection 4(b). To construct the features identified under paragraph 3(a)(1), the Secretary would recommend their development to Congress through the Department's budget submission, and Congress would determine whether to appropriate the necessary funds.

I ask unanimous consent that subsection 4(b) of H.R. 4347 be reprinted at this point in the RECORD.

There being no objection, the subsection was ordered to be printed in the RECORD, as follows:

> Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

Mr. ABDNOR. Mr. President, there has been quite a controversy over the language of subsection 4(b). This controversy delayed action on the bill in the House Agriculture Committee; and the words, "without further action by the Congress," were added at the insistence of the Oahe Conservancy Subdistrict. Whereas the subsection previously stated simply that the listed facilities "shall not be constructed," now the implication is clearly present in the compromise language that Congress may act to reauthorize construction of those facilities. I do not believe that is likely, but I have raised the issue to show how petty differences can be made into major obstacles and, in fact, have been made into obstacles to the passage of H.R. 4347.

The last thing South Dakotans need is to continue needlessly to fight among ourselves. Doing so will only make it easier for the Federal Government to continue to ignore us.

On March 2, 1982, Commissioner Broadbent wrote to me on this particular issue. His letter makes very clear that the objectionable features of the Oahe unit plan could not have been constructed under the terms of subsection 3(b), which has become subsection 4(b) in the committee amendments, prior to the addition of the language, "without further action by the Congress," upon which the Oahe Subdistrict insisted. I ask unanimous consent that the Commissioner's letter be reprinted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., March 2, 1982.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABDNOR: In response to your letter of earlier today, this is to confirm your understanding of the meaning of the language of subsection 3(b) of S. 1553/H.R. 4347 regarding the construction of certain features of the authorized Oahe unit, initial stage. The Department has endorsed enactment of this legislation with amendments.

In our view the language of subsection 3(b) is clear on its face. The listed facilities could not be constructed under this provision unless Congress were to reverse itself and reauthorize them. Enacted into law, subsection 3(b) would preclude construction of those facilities by the Department.

While the intent of the language is clear as it is, we would have no objection to a technical amendment citing House Document 90-163 in order to further and more formally identify the features not to be constructed.

I regret any confusion which has resulted on this point as a result of the August 31, 1981, letter addressed to Mr. John Sieh by Acting Assistant Commissioner Aldon Nielson. Hopefully, this will clarify the legal interpretation of subsection 3(b).

Sincerely yours,
ROBERT N. BROADBENT,
Commissioner.

Mr. ABDNOR. Again, this was a minor misunderstanding which was blown all out of proportion, into a major, public, confrontation simply because of the petty differences of the parties involved. South Dakotans must guard against future incidents of this sort or we will have no one but ourselves to blame for the results. There is no reason why such differences cannot be settled quietly, dispassionately, and without fanfare; and the results will not be good if South Dakotans cannot learn to do so among ourselves, rather than in the press and before congressional committees in Washington.

Washington is not the seat of all wisdom, nor can the Federal Government respond to a Tower of Babel of voices from South Dakota. It is for that reason that I believe two apparently minor provisions of section 3 may prove to be major in importance; that is, the provision in subsection 3(a) which directs the Secretary to conduct the authorized studies "in cooperation with the State of South Dakota" and the provision in subsection 3(c) which allows the Secretary to contract with the State to carry our the studies.

These provisions will be important for several reasons, not the least of which is that the State can speak as a single, authoritative voice for the best overall interests of the people of the State. In addition, by conducting the studies with and through the State, the Bureau of Reclamation will be able to avoid the bureaucratic redtape and delays associated with the Federal procurement process. The Reagan administration has worked to eliminate bureaucratic requirements which exist only for their own sake, and the provisions of subsection 3 (a) and (c) will enable the Department to cut the redtape in this instance. Finally, in view of its past failings, the credibility of the Federal Government is not great in our State. Having the State play a major role in the studies will enhance in the eyes of South Dakotans the validity of the findings and will increase the likelihood of success in developing the projects.

On that note, the one, major project which will actually be brought to the construction stage through enactment of H.R. 4347 is the WEB pipeline project. Considering the relatively short period of time since WEB was conceived, as compared to the much longer period it takes normally to authorize water projects, WEB has a very intricate history, one which would require many words fully to explain. I will try to give an admittedly less-than-complete summary in a few words, however.

As pointed out in the committee report, the area to be served by WEB is characterized by inadequate water supplies, both in terms of quality and quantity. Much of the water consumed by citizens in the area does not meet Safe Drinking Water Act standards; and the dual quality and quantity problems prompted citizens in Walworth, Edmunds, and Brown Counties to band together in search of a feasible solution. Thus, the name, WEB, resulted from the first initial of each of the three originally organized counties. Subsequently, others in other counties expressed interest in joining; and WEB's engineering firm determined that the presently proposed area, involving 51 towns and about 30,000 people in portions of 10 counties, could feasibly be served by one system using the Missouri River as a source.

WEB is solely a rural and municipal domestic and livestock water supply system. It will use a relatively small quantity of water, only about 6,000 acre-feet annually, and in that sense is more a public health project than it is a water development project. Nevertheless, it will have beneficial economic impacts upon livestock production in addition to the obvious health, convenience, and esthetic benefits. It will not be an inexpensive source of water, but it will certainly be cheaper than hauling water, as one community was forced to do last winter. It will be cheaper, too, than many of the existing, inadequate wells which provide poor quality water and can fail with little warning.

WEB will be reauthorized through enactment of H.R. 4347. It was authorized initially in the Rural Development Policy Act of 1980, and first year

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funding in the amount of $1.9 million was appropriated in the fiscal year 1981 Interior appropriations. The House attempted to rescind these funds, however. At my urging, the Senate refused to do so, but the House insisted in the conference that the funds be deferred until the project is reauthorized. Section 1 of the measure before us today reauthorized WEB, thereby meets the conditions of the deferral and directs that the first year funding be released for obligation.

Mr. President, this incident involving first year funding for WEB is yet another episode in a long and continuing tale of how South Dakotans have been promised one thing and given another, or perhaps I should say given almost nothing at all, in the context of the Pick-Sloan Missouri Basin program commitment to water development in the Dakotas. Although I had been assured, once the Senate had rejected the House-passed deferral, that the house would give us no further trouble on the WEB funds, we were betrayed and the House conferees did insist that the funds be deferred. In order to refute certain misrepresentations being made by the House conferees, my staff prepared and I circulated at the afternoon session of the conference committee a seven-point factsheet. The House conferees were not interested in the facts, however, and continued to insist that the funds be deferred. Facing a delay in progress in resolving other differences in the bill and in view of the fact the House conferees had relented to the degree of insisting only on a delay in expenditures of the funds, and not a rescission as the House had originally proposed, the Senate conferees were forced to agree to the WEB funding delay insisted upon by the House.

Immediately upon conclusion of the conference committee, I wrote Chairman YATES, who headed the House conferees on this issue, to express my disappointment and displeasure. Enclosed with my letter was another copy of the seven-point factsheet which I had presented to him at the conference committee meeting. I ask unanimous consent that the letter and factsheet be reprinted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 3, 1981.

Hon. SIDNEY YATES,
Chairman, Subcommittee on Interior, House Committee on Appropriations, Washington, D.C.

DEAR SID: As you know, the history is not good with respect to the Federal Government living up to its commitment to South Dakota to provide water development assistance to offset our sacrifice of over 500,000 acres for the flood control benefit of downstream states. It is a history of changing authorizations through appropriations to delay and deny the water development needed and promised to my state.

You are well aware that I consider the action just taken by the appropriations conference committee to be a continuation of that history, as per the seven points on the attached sheet. Be that as it may, however, can we be assured that if "the conditions of Section 9(b) of Public Law 96–355 regarding deauthorization of the Oahe Unit have been met," that you will support funding the WEB project to completion?

More specifically, officials at OMB have indicated to WEB that $33 million is available for their project in the fiscal year 1982 budget, under the Interior Secretary's contingency fund. I have attempted to obtain some assurance from Interior and OMB that these funds will, in fact, be made available to WEB. The language which you moved in conference would seem to imply that WEB's funding problems will be resolved when continued authorization is assured. Is that the case as far as your subcommittee is concerned, and will you support the provision of $33 million for WEB in fiscal year 1982?

Again, Sid, I sincerely believe that the interests of my state are being deeply wronged. In fairness, any further consideration you can give us will be appreciated, particularly with respect to the prospect of fiscal year 1982 funding for WEB.

With best wishes,
Sincerely,

JAMES ABDNOR,
United States Senator.

Enclosure.

Per section 9(a) of Public Law 96–355, fiscal year 1981 funding for the WEB project in the amount of $1.9 million is not contingent upon deauthorization of the Oahe Unit.

The agreement between the Carter Administration and the South Dakota Congressional delegation and enacted by Congress provides for a period, ending September 30, 1981, during which the terms of deauthorization of the Oahe Unit should be negotiated.

In view of critical water supply needs, now aggravated by the drought, the WEB project was to be initiated without delay as part of the Oahe "settlement."

The South Dakota Congressional delegation is working to achieve an acceptable settlement and has requested Congressional field hearings on the necessary legislative action.

Deferring fiscal year 1981 funding for WEB will contravene the intent of Public Law 96–355 and negate the agreement between the Carter Administration and the South Dakota Congressional delegation which was reached through long and arduous discussions.

South Dakotans have been waiting for years for the Federal Government to live up to its commitment to provide water development assistance to offset over 500,000 acres relinquished for flood control reservoirs for the benefit of downstream states.

Deferring fiscal year 1981 funding for WEB is not consistent with the clear intent of the authorization act and would be further evidence to the people of South Dakota that the Federal Government cannot be trusted to live up to its commitments.

(Note: The Oahe unit was initially authorized in the Flood Control Act of 1944, which also authorized construction of the dams and reservoirs which have taken so much of our land, only in effect to be deauthorized in a Missouri Basin Program monetary authorization act in 1964. It was reauthorized in 1968, only to be stymied again. Now an appropriations act has been used to contravene the first year funding for WEB, in clear contradiction to the authorization.)

Mr. ABDNOR. Mr. President, Chairman YATES never replied to my letter; but I have heard thirdhandedly, through Congressman DASCHLE's office that the language in H.R. 4347 with respect to WEB is adequate to insure that Chairman YATES and the House will cause no further problems with the funding of WEB. I wish I could be confident that such will be the case. Bitter experience would cause me to feel otherwise, but, again, I prefer to be hopeful.

Lest there be any further confusion on that point, however, I ask unanimous consent that a pertinent excerpt from the Senate committee report be reprinted at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Section 1 reauthorized the WEB Rural Water Development project authorized by section 9 of the Rural Development Policy Act of 1980 (Public Law 96–355; 94 Stat. 1175, 1176), as amended by section 2 of this Act, and authorizes the Secretary of the Interior to proceed with the development of the WEB Rural Water Development project and make immediately available any funds heretofore previously appropriated.

It should be noted that the sum of $1,900,000 was appropriated to the Department of the Interior on December 12, 1980, by the Department of the Interior and Related Agencies Appropriations Act, fiscal year 1981 (94 Stat. 2970), for initial planning and construction for the WEB Rural Water Development project, and that on June 5, 1981, the Supplemental Appropriations and Rescission Act of 1981 (95 Stat. 46), deferred obligation of said funds until the conditions of section 9(b) of the Rural Development Policy Act of 1980 (Public Law 96–355), regarding deauthorization of the Oahe unit, had been met. H.R. 4347, as amended, meets those conditions.

Mr. ABDNOR. Thus, Mr. President, the Senate committee removes any doubt as to the authority to proceed with development of WEB and the availability of first year funding. Prospects for funding for fiscal year 1983 and beyond are uncertain at this point due to budgetary constraints, but the funds which were appropriated for obligation in fiscal year 1981 will be released immediately to initiate construction.

So after numerous fits, starts, and frustrations it appears the WEB project may at last get underway. The success of WEB, together with the progress on the irrigation projects addressed in the bill, can provide the impetus and the inspiration toward the development of other projects in South Dakota so that we can begin to capitalize upon the great potentials which the huge Missouri River reservoirs afford. For the hope that H.R. 4347 represents for the future of water development in my State, a number of people have my deepest gratitude.

Foremost among those responsible for passage of H.R. 4347 today is my good friend and colleague, Senator FRANK MURKOWSKI, the chairman of the Subcommittee on Water and Power, who scheduled and sat through a long and hot field hearing in Pierre, S. Dak., followed up with the requisite hearing here in Washington, and shepherded the bill through the Committee on Energy and Natural resources and to the floor of the Senate. The chairman has been ably assisted throughout by Mr. Russell Brown of the committee staff, and the unanimous vote by which the committee reported the bill to the floor is a testament to Mr. Brown's work.

Finally, Mr. President, I have spoken repeatedly of the sacrifice made by the Dakotas for the benefit of other States under the Pick-Sloan Missouri Basin program. Mr. Michael L. Lawson, a historian in the BIA's Office of Rights Protection in Aberdeen, S. Dak., has written a book on this subject as it relates to the Indian people of the Dakotas. The foreword to Mr. Lawson's book, entitled "Dammed Indians: The Pick-Sloan Plan and the Missouri River Sioux, 1944–1980," was written by Mr. Vine Deloria, Jr., who has authored such works as "Custer Died for Your Sins" and "Behind the Trail of Broken Treaties."

I ask unanimous consent that the following review of "Dammed Indians" by the University of Oklahoma Press be reprinted at this point in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

> Increasingly in the twentieth century the United States has used its powers of eminent domain to seize large parcels of Indian land for flood-control and reclamation projects. The Pick-Sloan Plan in the Missouri River Basin was developed by the United States Corps of Engineers and the Bureau of Reclamation in 1944. It caused more damage to Indians than any other public works project in America and was perhaps the single most destructive act perpetrated against an Indian tribe by the United States. Three of the dams constructed—the Fort Randall, Oahe, and Big Bend dams—flooded over 202,000 acres of profitable Sioux bottomland on the Standing Rock, Cheyenne River, Lower Brule, Crow Creek, and Yankton reservations in North Dakota and South Dakota.
>
> Using the Sioux reservations flooded by the Pick-Sloan Plan as examples of federal acquisition of trust land and the application of recent Indian policies, Michael L. Lawson sketches briefly the history of the Missouri Basin, the Pick-Sloan legislation, and the land and peoples of the reservations. He chronicles eloquently and thoroughly the events from the 1940s through the 1960s, when the impact of the federal water projects was most keenly felt, and describes in detail the personalities and agencies involved.
>
> "One cannot read this book without a shudder of fear at bedtime that one's life and property may someday fall victim to ruthless, power-mad federal agencies."—Vine Deloria, Jr., in his foreword to "Dammed Indians."

Mr. ABDNOR. Mr. President, while I do not shudder in fear or share Mr. Deloria's view that the Bureau of Reclamation and the Corps of Engineers are "ruthless, power-mad Federal agencies" his comments do make a valid point. The institutional effect of the actions of these agencies through the Pick-Sloan program has been inexcusable, even though the officials of these agencies may have acted with the best of intentions. In H.R. 4347, however, we have the threads of hope that the wrong which has been done will be righted, both for the Indian and the non-Indian people of my State alike.

Mr. President, I am committed to developing the water resources of our State and to seeing to it that the Federal Government carries out its obligations in that regard. H.R. 4347 is a good stride in the right direction and I urge its enactment.

The committee amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 448) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409, was considered and agreed to, as follows:

> *Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6409, a bill to authorize appropriations for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes. Such waiver is necessary to allow the authorization of an appropriation of $10,000,000 for the costs of the design and fabrication of exhibits, and the appointment by the President of a commissioner general for the exposition. The need for the expeditious passage of authorizing legislation is great. There are less than two years remaining to put together a presentation of which the American people can be proud.
>
> Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982, deadline because the committee was unaware of the time constraints on the planners of the exposition and the administration had failed to formally request authorizing legislation prior to the deadline.
>
> The effect of defeating consideration of this authorization will severely impede the preparations for the Louisiana World Exposition.
>
> The desired authorization will not delay the appropriations process and is being accommodated in the supplemental appropriation.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. PARTICIPATION IN THE LOUISIANA WORLD EXPOSITION

The Senate proceeded to consider the bill (H.R. 6409) to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes, which had been reported from the Committee on Foreign Relations with an amendment. On page 11, after line 24, insert the following:

> SEC. 16. (a) That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803), is amended by—
>
> (1) striking out "The" and inserting in lieu thereof "(a) The";
>
> (2) redesignating clauses (a), (b), and (c) as clauses (1), (2) and (3), respectively;
>
> (3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and
>
> (4) by adding at the end thereof the following new subsections:
>
> "(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—
>
> "(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;
>
> "(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—
>
> "(i) participation in the exposition; and
>
> "(ii) permanent use of such pavilion after the termination of participation in the exposition; and
>
> "(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all

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liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator, determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) The enactment of a specific authorization of appropriations shall be required—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

Mr. JOHNSTON. Mr. President, I am both pleased and gratified to see the Senate take up H.R. 6409 today, legislation which authorizes the participation of the United States in the 1984 Louisiana World Exposition scheduled to be held in New Orleans from May 12, 1984, through November 11, 1984.

Sections 1 through 15 of H.R. 6409 as reported incorporate the main concepts of S. 2701, legislation which the senior Senator from Louisiana and I introduced on June 30 to provide for U.S. participation in the New Orleans World Fair. The committee amendments authorize the appropriation of $10 million for expenses associated with the planned exhibits, personnel necessary to staff the U.S. pavilion and other necessary expenses associated with our responsibilities as host nation. No funds are authorized in the amendments for construction of the pavilion itself. Instead, this facility will be built with local funds and will be leased to the United States for a nominal sum. After the Expo is finished, the site, all permanent structures and improvements will be returned to private developers and public use.

The $10 million authorized is considerably less than the total Federal investment made in the two most recent world fairs held in the United States in Spokane, Wash., in 1974—$11.5 million—and in Knoxville, Tenn., this year—$20.8 million. Moreover, the Federal investment authorized in H.R. 6409 is less than 10 percent of the State and local commitments made to date—$100 million and $50 million respectively. As the report accompanying H.R. 6409 points out, "the organizers have presented the Congress with the minimum possible funding request for U.S. participation, in keeping with the current budget restraints being addressed by the Congress and the Nation." The administration supports enactment of this authorization, Mr. President, and I was pleased to note that the Foreign Relations Committee ordered it favorably reported by voice vote.

Mr. President, the need for expeditious action on this measure is critical. Funding for the United States participation requested by the administration was included in the fiscal year 1982 supplemental appropriations bill, but none of the funds can be made available until the authorization is enacted. I believe the need for urgent action is amply explained in a letter from the Assistant Secretary for Trade Development in the Department of Commerce to the majority leader and I ask unanimous consent that this letter be printed in full in the Record at this point.

I urge approval of this measure and hope congressional action on it will be completed prior to the upcoming recess.

There being no objection, the material was ordered to be printed in the Record, as follows:

Hon. Howard H. Baker, Jr.
Majority Leader,
U.S. Senate, Washington, D.C.

Dear Howard: On behalf of the Department of Commerce, I urge you to help expedite authorizing legislation for the 1984 Louisiana World Exposition. As you know, the legislation has cleared the Senate Committee on Foreign Relations and is awaiting consideration before the Senate floor. Not only will passage of this bill permit the Department of Commerce to proceed on this project, but it also will make it possible for the President to nominate a Commissioner General of the United States for this exposition. Until that time, I have been appointed to be the United States Commissioner General.

While I appreciate the critical nature of the numerous issues before you, I want to alert you to the very serious time pressures faced by the Department of Commerce as we seek to provide a suitable Federal presence at the 1984 Louisiana World Exposition. Even if we already had Congressional authorization and appropriations in hand, we would be facing the shortest deadline we have ever faced for a BIE-sanctioned exposition. May 1984 is now less than two years away, and there is much to be done. Until we receive Congressional approval for this project, we cannot sign the contracts or hire the staff necessary for the most important phase of this undertaking.

If action on this measure is delayed until the fall months, I have grave doubts that the U.S. Pavilion can be completed in time for opening day. I am sure that with your knowledge of international expositions, you will agree that as the host nation for this exposition, we cannot permit such an unfortunate occurrence to take place. It would be a blow to our international prestige and standing in the BIE and could endanger future U.S. expositions requiring BIE approval.

I appreciate your consideration and assistance in this matter.

Sincerely,

W. H. Morris, Jr.,
Assistant Secretary
for Trade Development.

Mr. HOLLINGS. Mr. President, I am pleased that the Committee on Foreign Relations has amended H.R. 6409 by adding most of the substance of S. 1482, that Senator Weicker and I introduced to provide a procedure for determining the need for permanent facilities for U.S. participation at international expositions. As the committee's report indicates, S. 1482 was based on a series of recommendations by the General Accounting Office, in report No. 81-11 of March 20, 1981, and are designed to avoid unnecessary expenditures and maximize residual use of U.S. pavilions constructed as part of such expositions in the future. I requested the GAO report as the former chairman of the State, Justice, Commerce, the judiciary and Related Agencies Appropriations Subcommittee, that Senator Weicker now chairs, and of which I am the ranking minority member. The GAO also submitted an earlier report in June 1976 that came to the same conclusions.

The current Knoxville World's Fair is evidence of why this legislation is needed. We have built a $12,800,000 building down there and no one knows what to do with it after the Fair is over. They are now thinking of making an arts center out of it. While we all support the arts, it is obvious they are straining to find a use for the building. You may recall that in New York, the Federal Government had to spend $530,000 to demolish the beautiful $10,400,000 pavilion we built there, when no use could be found for it. We have got to treat the taxpayers better than that in the future.

I believe that U.S. participation in international expositions is good in the context that it promotes the sale of our products or substantially draws international visitors to the United States. However, Senator Weicker and I are among the many that are concerned that these events are becoming thinly disguised urban renewal projects, with huge amounts of Federal funds being passed through the back door in grants that result in far greater costs than is readily evident.

In Knoxville for example, GAO documented $23,000,000 in Federal funds went out through the back door in addition to the $21,800,000 appropriated directly for U.S. participation—and that does not count all the highway improvements.

By training the spotlight on Knoxville, we held things down in New Orleans so that this bill contains the $10,000,000 lid that the President imposed on U.S. participation. That is salutory indeed and is commendable, but these proposals are always last-minute, hurry-up matters. Our bill would insure that permanent facilities not be constructed unless the after use is clearly identified, a change that I believe the Congress should grasp if only to protect us from ourselves.

Therefore, I am concerned that the amendments proposed by the Committee on Foreign Relations may weaken the reforms we seek with regard to the facilities constructed for U.S. participation in international expositions. The committee has changed our original language so that a "federally endorsed" need has to be determined for future structures for U.S. pavilions instead of a strictly "Federal Government need" in S. 1482.

The committee's hearing on S. 1482 is printed in the report. Senator MATHIAS used that opportunity to show the difference between a "Federal need" and a "federally endorsed" need. On page 22 he noted that the fine officers quarters at the Norfolk Naval Base were constructed as part of the Jamestown Exposition of 1907. This certainly is a true Federal need, but not likely to come along often. On the other hand, he mentions the pavilion in Golden Gate Park that was left over from the Golden Gate Exposition. I agree with Senator MATHIAS that pavilion is beautiful, and with that example of a "federally endorsed" need, as the after-use of that building was clearly in the public's interest. If Knoxville had presented us with a pavilion with a continuing use—such as the one in San Francisco—perhaps I would not have been as aroused about this, but we were asked to build a $12,800,000 pavilion that they are now scrambling for someone to use after the fair.

Mr. President, based on the above examples, I cannot object to the term "federally endorsed" being inserted in our bill. That is considerable progress from the conditions that now govern these international expositions.

Mr. BAKER. Mr. President, I might say that I wish the city of New Orleans and the State of Louisiana well in their efforts for a world exposition and world fair. Being a native of Tennessee, as I am and of my hometown of Knoxville, I can attest to the extraordinary effort that is required to consummate an undertaking, but the great satisfaction that results from a successful exposition, and I wish them well.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN LAND TO HOBOKEN, N.J.

The Senate proceeded to consider the bill (H.R. 3620) transferring certain Federal property to the city of Hoboken, N.J., which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 1, line 4, strike "transfer", through and including "value,", and insert the following: "transfer for the fair market value as determined by the General Services Administration under the guidelines set forth in this Act, at a price to be negotiated,"

On page 3, after line 12, insert the following:

SEC. 2. In making its determination of fair market value, the General Services Administration shall recognize that the fair market value of the property is determined by the market in which it shall be sold, with the city of Hoboken being the only potential purchaser. The General Services Administration shall make every effort to expedite the sale and transfer of the property to the city of Hoboken, recognizing the hardship which would result in any undue delay in lengthy negotiations. The General Services Administration shall give full consideration to the right of the Federal Government to be compensated for the property while considering the city of Hoboken's ability to pay for the property. Furthermore, the General Services Administration shall give consideration and recognition to whatever funds and costs the Federal Government has invested in the property. The General Services Administration shall also give consideration to the fact that the city of Hoboken has been deprived of tax revenue from the property since its acquisition by the United States, in 1917, but has been required, despite its loss of tax revenue, to provide municipal services to the property.

On page 4, line 8, strike "2." and insert "3."

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. STEVENS. Mr. President, H.R. 3620 is a bill to transfer certain property located in Hoboken, N.J. from the Federal Government to the city of Hoboken. The transfer will be made at fair market value, under guidelines specified in the bill. The bill was reported out unanimously by the Governmental Affairs Committee on June 17, 1982, and the committee report was printed on August 11, 1982.

I also ask unanimous consent to insert into the RECORD at this time two letters received by Chairman ROTH on the issue of whether a related transfer of land from the Maritime Administration to the Department of Agriculture shall be made for monetary consideration. I want to emphasize, however, that this intra-agency transfer of property is not the subject matter of the bill before us.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., August 16, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in regard to H.R. 3620, a bill providing for the sale of the Hoboken Pier Terminals. The bill was reported out of your Committee recently.

The property has been under the jurisdiction of the Maritime Administration since 1917. One parcel of the property has been occupied by the Department of Agriculture; this parcel is not subject to sale. It was my Committee's intent that this excluded portion be transferred from the Maritime Administration to the Department of Agriculture without compensation. As I understand it, the General Services Administration has recently established a policy that transfers of property between Federal agencies shall be compensated. I thought it important that the intent of the Committee on Merchant Marine and Fisheries be clarified on this point. I would hope that you concur in this judgment and that the Department of Agriculture will be relieved of complying with the new policy laid down by the General Services Administration.

Sincerely,

WALTER B. JONES,
Chairman.

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENT PROCESSES,
Washington, D.C., August 18, 1982.

Hon. WILLIAM V. ROTH, Jr.
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR BILL: I am writing you to clarify my intentions with regard to H.R. 3620, the Hoboken Pier Terminals bill.

As you know, I offered an amendment to the bill to require that the property be transferred at the full fair market value. The determination of full market value is to take into consideration several factors including the planned use of the property, as well as Hoboken's ability to pay. Since marking up the bill, some questions have been raised as to whether this fair market standard was intended to cover a portion of the Hoboken Piers property that is to be

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transferred from one federal agency to another.

The portion of the property I am referring to has been under the jurisdiction of the Maritime Administration since 1917. It has been occupied by the Department of Agriculture. This parcel is not part of the sale to the city of Hoboken.

I fully support the President's policy, as explained in the 1982 budget message, of requiring full fair market value payment by federal agencies when transferring excess property from one agency to another. It is my intention that for any portion of the Hoboken Piers property which is transferred from one agency to another, the receiving agency pay full fair market value. Also, any such transfer should be reviewed and approved by the Federal Property Review Board. Any exceptions to this policy should come only if approved by the Federal Property Review Board.

Thank you for your cooperation on this matter.

Warm personal regards,

CHARLES H. PERCY,
Chairman.

Mr. BRADLEY. Mr. President, the measure which the Senate is now considering is one of utmost importance to the people of New Jersey. Very briefly, this legislation which I am pleased to sponsor authorized the sale of approximately 50 acres of Federal property to the city of Hoboken, N.J. With the anticipated sale of the property, the city of Hoboken will be able to turn blighted land and burned-down piers into economically productive property.

This extraordinary legislation is necessary to dispose of the property because the legal and leasing arrangements which now govern the property prevent its economic development and prevent any transfer under normal administrative means. This legislation, H.R. 3620, sponsored in the House of Representatives by Congressman FRANK GUARINI, will provide for the expedited sale of the property to the city of Hoboken.

I am particularly pleased that this legislation provides for the sale of the property in a manner which is fair to all parties involved—the people of New Jersey, the city of Hoboken, and the Federal Government. The General Services Administration is specifically directed to consider the enormous burden which Federal ownership of the property has placed on Hoboken for over 50 years and must make every effort to expedite the transfer of the property to relieve Hoboken of this hardship without undue delay.

Mr. President, the passage of this legislation represents an important first step in our effort to rebuild our urban waterfronts. I thank the members of the Governmental Affairs Committee for their assistance in bringing this legislation before the Senate. I hope that this measure will soon become law so that we may begin to rebuild Hoboken's waterfront without delay.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I thank the minority leader for his cooperation on this extensive list of items to be dealt with by unanimous consent.

Now, Mr. President, I see my fondest wish has been realized. There is a messenger from the House of Representatives at the door seeking admission, and I yield for that purpose.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, as I indicated earlier in my remarks during morning business, it is my hope that the Senate will proceed now to the consideration of this item of this important conference report which has just been adopted by a substantial margin in the other body.

I am prepared now, Mr. President, to ask the Chair to lay before the Senate and I do ask unanimous consent that the Chair lay before the Senate, the conference report on H.R. 4961.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The clerk will report.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there a reservation there?

Mr. ROBERT C. BYRD. I beg the Chair's pardon?

The PRESIDING OFFICER. Is there a reservation?

Mr. ROBERT C. BYRD. I beg the Chair's pardon?

The PRESIDING OFFICER. Did the minority leader reserve the right to object?

Mr. ROBERT C. BYRD. Yes, momentarily.

Mr. President, I personally have no objection, but I am reserving the right to object in order to protect my colleagues on this side who may or may not wish to object. For the moment I continue my reservation.

Mr. LONG. Mr. President, reserving the right to object, I just do not believe that for the Senate to vote on this conference report that anybody ought to have any commitment, anybody ought to receive a commitment, and, therefore, I object, and I will continue to object as long as the condition of bringing this conference report up here is that somebody has to make some agreement with somebody to do anything. This is something we are all entitled to vote on regardless of how we want to vote, and I just object to doing business that way.

One hundred Senators are entitled to vote on the conference report however they want to vote, and I do not think as a condition of voting on that we have to agree to do anything for anybody, and I therefore object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, Senators should pay attention because I really want to ask the Senate to act on this request, if it will. I ask unanimous consent that the Senate now proceed to the consideration of the conference report on H.R. 4961.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I withdraw my request for the time being. We are still in morning business and I believe one or two Senators are seeking recognition.

THE SOVIET DAY OF SHAME

Mr. ZORINSKY. Mr. President, Saturday, August 21, marks the 14th anniversary of the brutal Soviet-led 1968 invasion and occupation of Czechoslovakia. With martial law continuing in Poland and the "Forgotten War" dragging on in Afghanistan, it is more important than ever that we pause now to remember this infamous Soviet Day of Shame and the plight of yet another country suffering under Communist tyranny.

The occupation of Czechoslovakia foreshadowed in many ways last year's equally brutal Polish crackdown. Both brought to an end brave experiments in independence behind the Iron Curtain. And both proved once again that Soviet communism is incompatible with the traditional concepts of freedom and democracy.

In Czechoslovakia, the Soviets, threatened with a breath of freedom, had no choice but to crush the people's attempt to fashion institutions of government free of external influence. But, despite a Soviet occupation that continues to this day, many courageous Czechoslovak citizens continue to call out for a restoration or freedom and human rights in their country.

In particular, the charter 77 group continues to grow and urge adherence to the Helsinki agreement. It flourishes despite severe oppression that takes the form of harassment, arrest and imprisonment by the puppet regime in Prague.

These people deserve our admiration, our support and, most of all, or gratitude for constantly reminding us that we cannot turn our backs on Soviet aggression. Nor can be ignore flagrant violations of human rights and the denial of freedom of an entire nation.

The struggle of the Czechoslovak people reminds us of our own good fortune to be citizens of the United States and of our responsibilities and obligations to the 1 billion people now living under Communist enslavement. Let us join with these brave patriots in their own solemn acknowledgment of the Soviet Day of Shame and reaffirm our commitment to men and women everywhere who yearn for freedom and democracy.

ACID PRECIPITATION TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, today I testified before the Committee on Energy and Natural Resources. The committee was holding hearings on the acid precipitation control proposal which was recently adopted by the Committee on Environment and Public Works during their markup of the Clean Air Act. I have been very concerned with this issue for some time, especially since the proposal, if passed, will have a devastating impact on an important segment of the West Virginia coal industry, as well as on the economy of my State.

Since this issue is of interest to many of my colleagues from the Appalachian and Midwestern States, I ask unanimous consent that my testimony be inserted in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Acid Precipitation Testimony Before the Senate Energy and Natural Resources Committee

Senator Robert C. Byrd. Mr. Chairman, let me first take this opportunity to thank you for providing this occasion to express my views on a difficult issue. As you know, the issue of acid precipitation has been of concern to me for some time now. On January 28, 1982 I introduced S. 2027, the Acid Precipitation Accelerated Review and Reporting Act. This legislation, which is identical to Title IV of S. 2266, my bill to amend the Clean Air Act, is an alternative to the proposal which was recently adopted by the Committee on Environment and Public Works. The Committee's proposal would require expensive reductions in SO_2 emissions to achieve an arbitrary reduction target. More recently, I have written letters to the Chairman of the Committee on Environment and Public Works and to you, Mr. Chairman, to express my deep concerns.

Mr. Chairman, the new acid precipitation control program recently adopted by the Committee on Environment and Public Works as a part of the Committee's revision of the Clean Air Act is considered by some to represent a compromise. I cannot agree.

The proposal adopted by the Committee requires an 8 million ton emissions reduction. However, it also requires that any new sources be offset by equal reductions from existing sources. As a consequence, the estimated total reduction is not 8 million tons, but 12 million tons when one includes the estimated 4 million tons of reductions required to offset emissions from new sources.

In addition, the proposal places a cap on nitrogen oxide emissions. This provision would, in effect, prohibit coal conversions altogether, and it is conceivable that facilities which have converted from oil to coal may have to convert back to oil in order to comply with the cap. This is quite obviously contrary to the bipartisan policy which the Congress has endorsed calling for greater use of coal to meet our energy needs.

Mr. Chairman, I am deeply concerned by the proposal. It implicitly assigns the blame for acid precipitation in the Northeast on the Midwestern and Appalachian states. In my view, this approach is based upon incomplete scientific information and a limited understanding of the implications for the use of coal. Indeed, such an approach does a disservice to the complexity of the issue by over-simplifying the scientific evidence and virtually ignoring the severe economic and social impacts on the Midwest and Appalachian regions.

I am particularly concerned with the disruptive impact of the Committee's proposal on the pattern of traditional markets for coal. Midwestern and Northern Appalachian coal markets could be devastated as high sulfur coal from these regions lose their markets to low sulfur coals from the Western coal states. Obviously, this would entail the loss of thousands of jobs in the mining industry in states such as West Virginia. In West Virginia it is estimated that the acid precipitation control program being proposed will put about 15,000 miners out of work, and could entail a direct loss of about $380 million to the West Virginia economy.

As these figures suggest, the proposed new control program would place inequitable burdens upon some of the states in the 31 state control region defined by the Committee's proposal.

In fact, under the proposal adopted by the Committee on Environment, eight states—Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Missouri, Tennessee and West Virginia—would bear 78 percent of the required 8 million ton reduction. This means that the costs of the program would be borne largely by the residents of these states. In contrast, the Northeastern states, where acid precipitation is perceived to be most in evidence, eight states—New England plus New York and New Jersey—would bear less than 2 percent of the reduction requirement. Thus, the responsibility, and the costs, for achieving the reduction target will be borne by those living outside the Northeastern states.

Mr. Chairman, let me say that while acid precipitation appears to have some environmental consequences over a long period of time, there is also little doubt that the Committee proposal will have major economic consequences which will be manifest in the near term. Yet I fear that these consequences were only superficially explored and may have received only passing consideration.

Mr. Chairman, with your indulgence, let me go into a bit more detail with regard to the points I have just raised.

The proposal adopted by the Committee on Environment is based upon an oversimplification of the diversity of scientific opinion regarding a complex phenomenon. Based upon the testimony received in the Senate and other evidence, it is clear that there are areas of agreement within the scientific community about the origins, causes and effects of acid precipitation. However, it is very important to point out that there are also areas of disagreement and uncertainty on key issues. Indeed, there is insufficient scientific data in many of these areas so that drawing firm conclusions is impossible.

For example, the Interagency Task Force on Acid Precipitation, which was directed to conduct a scientific research program on acid precipitation, has pointed out that there is considerable controversy regarding the data presented as evidence of changes in precipitation acidity. The Task Force has pointed out that the acidity of precipitation has only been measured consistently for a long period of time in one place in North America—the Hubbard Brook Experimental Forest in New Hampshire. According to the Task Force, there is no marked trend in PH evident in that record. In other words, because of the general lack of consistent monitoring, trends in acid deposition in North America are only poorly defined.

Indeed, a recent report by the U.S. Geological Survey in New York has concluded that sulfate concentration in New York has actually decreased an average of 1 to 4 percent per year. The report notes that this decrease in sulfate concentration is similar to that observed for precipitation in New York and "may, therefore, reflect a decrease in sulfate from atmospheric deposition." This, then, suggests that acid precipitation may be decreasing in New York, despite the increased use of coal in the Midwest and elsewhere, over the past several years.

The Committee's proposal is based upon the assumption that SO2 emissions from coal-fired powerplants in the Midwest are transported long distances, transformed into acid precipitation, and deposited in New York and New England. In other words, the Committee's proposal is based upon the principle of "what goes up must come down." The issue of long range transport of pollutants is one of the crucial questions. Although this issue is becoming better understood, the Interagency Task Force has pointed out that it is still not possible, based upon the scientific evidence, "to determine the extent to which any specific source or collection of sources, of SO2 in one region leads to acid deposition in another region." In mid-November 1981, a panel of distinguished scientists testified before the House Committee on Natural Resources, Agriculture Research and Environment. During their testimony on the status of acid precipitation resarch, the panel testified that on the basis of available scientific evidence, it is not feasible to identify the contribution of individual sources to an area affected by acid deposition. Furthermore, "while the relationship between sulfur emissions and total sulfur deposition is linear on a global scale, that is, what goes up must come down, one may not be able to predict what comes down regionally." Consequently, these scientists concluded, for a given reduction in emissions, "it is difficult to predict a reduction in deposition or acidification."

In January of 1982, the U.S. Department of Energy convened a workshop of scientists to examine the "source-receptor" relationship in acid precipitation. The technical panel concluded that "significant policy

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guidance" is precluded by the current state of scientific knowledge regarding this relationship. As the GAO recently reported, "scientists studying these processes generally indicate that, while it appears clear that acid deposition comes from oxide emissions, the proper course of action to take is not yet clear, because we lack the necessary understanding of how the sequence of events operates."

Mr. Chairman, these considerations indicate to me that there is considerable diversity of opinion and uncertainty in the scientific community on the issue of acid precipitation. At this time it does not seem prudent to design a massive new regulatory program which, in light of the state of scientific knowledge, would be of dubious effectiveness.

The second point on which I would like to elaborate is that the Committee's proposal will disrupt the traditional coal market pattern in the United States, to the detriment of the Northern Appalachian and Midwestern coalfields. For example, recent projections developed under the auspices of the Office of Technology Assessment indicate that an acid precipitation control program, such as the one being proposed, would cause a redistribution of coal production among the coal producing regions of the nation. The effect of the proposal would be to increase the demand for low sulfur coal, while drastically diminishing (if not eliminating) the marketability of the nation's medium and high sulfur coal reserves. As a consequence, there would be shifts in production between high sulfur coal producing areas to low sulfur areas. Indeed, when compared to the projected levels of production for 1990 which would be expected if there were no new regulatory programs, it is estimated by OTA and others that the shift in production would be largely from the eastern coalfields to the western coalfields, especially Colorado.

Although there could be some increase within regions of some eastern states, Northern Appalachia and the Midwestern coal production would suffer production losses. The Edison Electric Institute has estimated that in 1990 Northern Appalachian coal production would be about 45 million tons less than it would have been under current law. In the Midwest, coal production is estimated to be 51 million tons less. Thus, these two regions of the nation would be producing 96 million tons less than they would have under current law. Northern West Virginia would be producing about 9 million tons less; Ohio would be producing 27 million tons less; and Illinois could be producing 38 million tons less. In other words, the coal industries in these states would be the big losers.

To put this into perspective, it has been estimated that coal production in Northern Appalachia and Midwestern coalfields would be about 329 million tons in 1985 under current law. However, if there were no SO2 restrictions—i.e, absent current law—production would have been about 423 million tons. Thus, the imposition of the current clean air standards for SO2 has meant a production displacement of 94 million tons.

Now recall that the Committee's proposal would mean a production displacement of 96 million tons. What this suggests to me is that the coal industry in Northern Apalachia and the Midwest will have to sacrifice another 96 million tons in 1990 with little assurance that it will contribute to cleaner air anywhere.

If these estimates are accurate, it will mean that employment will continue to be restricted in an industry that has already been hit hard by the current recession. In fact, the United Mine Workers has estimated that the imposition of an acid precipitation control program as severe as the current proposal could result in the loss of as many as 89,000 jobs in the coal industry. It would entail direct economic losses as high as $6.6 billion. It is important to point out that these losses would be suffered only by the Northern Appalachian and Midwestern coalfields.

Mr. Chairman, I am deeply concerned that the effect of the Committee's proposal will be to single out the Northern Appalachian and Midwestern states for additional economic hardship.

In order to appreciate the significance of the proposed acid precipitation control program for ordinary people living in the Midwest, we need to consider the impacts on consumer electric utility rates. In a recent analysis, ICF has estimated the change in electric utility rates that would be required in 1990 in order for utilities to recover capital costs associated with an acid precipitation control program. According to that analysis, several states in the Midwest had utility rate increases of over 10 percent. These same states are also currently facing high unemployment rates. In my own state of West Virginia, where unemployment is about 10.9 percent, the first-year electric rate increase would be about 6.3 percent. In Ohio, where unemployment is about 11 percent, electric utility customers would see their rates increase by 19.2 percent in 1990. Indiana, where unemployment is about 11.4 percent, would see electric rate increases in 1990 of 14.3 percent. Kentucky, where unemployment is about 9.8 percent, would see electric rate increases of 10.9 percent. In other words, Mr. Chairman, people in those states who have already been hit hard by the economic recession can also look forward to the prospects of significantly higher electric rates.

I would point out that these estimates of electric rate increases are probably understated, because they are based upon an ICF computer model which assumes that electric utilities will adopt a "least-cost" optimum compliance strategy. For a variety of reasons, this assumption has little or no grounding in the real world.

Mr. Chairman, there is one final point I wish to make, which has not been discussed by anyone. There has been no consideration given to the impact of the Committee's proposal on the export market for American steam coal. It has been estimated that, under normal market conditions, low sulfur steam coal commands a market premium of 30 percent over the price of high sulfur coal. That is, low sulfur coal is about $11 more expensive than high sulfur coal. An acid precipitation control program would enhance the demand for low sulfur coals which, in turn, would then command a market premium of an additional 30 percent, about $12 per ton. This could impair the competitive position of American steam coal in the world market. American steam coal already commands a price of about $4 per ton above the world price. With the prospects of significantly higher prices for U.S. coal, we might find potential customers in Europe and the Pacific Rim nations looking elsewhere for their coal supplies.

If this were to occur, the significant potential benefits to the American economy would be lost. In 1980 the value of all U.S. coal exports was $4.5 billion. It is estimated that by 1990 U.S. coal exports could have a value of $6 billion. These estimates, however, do not take into account the impact on demand of significantly higher U.S. steam coal prices as the result of an acid precipitation control program.

In closing, Mr. Chairman, let me say that I have been trying to point out the extent to which this issue represents a conflict between the nation's environmental goals, and our energy and economic goals. In the past we have been able to achieve a delicate balance between the need for maintaining and improving environmental quality and the need for increased energy supplies and economic growth. Public opinion polls consistently show that Americans overwhelmingly support protection of the environment. However, those same polls also show that Americans are just as concerned with such issues as jobs, inflation, energy, defense and tax burdens. I think the Senate can draw one conclusion from such data: We must recognize that environmental goals cannot be pursued in isolation from other goals. I hope that we can take that message to heart.

In light of these considerations, I am firmly convinced that my bill, S. 2027, represents the basis of a reasonable, balanced approach to the issue.

My bill requires the federal Acid Precipitation Task Force, established in Title VII of the Energy Security Act of 1980 (P.L. 96-294), to complete its study of the causes and effects of acid precipitation by June 30, 1985. That date is five years sooner than provided for in the Energy Security Act.

The federal government should have sound scientific information available to it on the complex relationships between sulphur and nitrogen-based emissions and acid precipitation before it attempts massive regulatory action. The federal study, accelerated by my bill to complete its work and submit a final report by June 30, 1985, will help provide the information required for a responsible approach to this problem.

I therefore hope that the members of the Committee will give careful consideration to my proposal.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, with the full knowledge that someone will perhaps reserve the right to object, I renew my request to proceed to the consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Reserving the right to object, I did not hear the request.

Mr. BAKER. Mr. President, we provided for the transaction of routine morning business until 7 p.m. I made a request that we proceed immediately to the consideration of the conference report on the tax bill. There were several reservations of objections to that. The absence of a quorum was suggested, which ran until just now, until it was called off. I called it off, which I suppose closes morning business, and renewed my request.

So the request now pending before the Senate is a unanimous-consent request that the Senate proceed to the consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Reserving the right to object. I would like to inquire of the majority leader, had he considered the possibility of laying this over until tomorrow. The hour has gotten so late. We might dispose of it on tomorrow. I wondered if he had considered that option in view of the fact that the House has just adopted the conference report. The opportunity for us to reflect upon it at all has been greatly reduced. I inquire if the majority leader has considered that possibility.

Mr. BAKER. I do understand the concern of the Senator. It is now past 7 o'clock in the evening. Occasionally, things come along in the Senate which require our immediate attention. This bill is one of them. This conference report is so important in terms not only of its economic impact but also in terms of the overall economic policy of Government that we should move promptly. It is a privileged matter. It is a conference report of the most privileged sort under the Budget Act. The House has just acted upon it.

There is an adjournment resolution at the desk. Not that that should determine our course of action, but there is an adjournment resolution at the desk which provides for the House and the Senate to go out tomorrow or Saturday.

I would hope two things would happen. I would hope, first, that there not be an objection to my request that we proceed immediately to the consideration of the conference report so that it may be laid before the Senate.

I must say in all candor, however, that if and when that is done, my second request would be that the statutory time for debate on the conference report be reduced from 10 hours to either 1 or 2 hours. I would think 2 hours would be adequate, and I would hope for 1 hour equally divided; 2 hours would be reasonable, I think, under most circumstances.

The act, as the Senator knows, provides for 10 hours of debate. Beginning at 7 o'clock and given the interruptions that might occur, we could run all night, if we take advantage of the full 10 hours. I very much do not want to do that. I think the Members are tired and it would seldom serve a good purpose. That is our realistic alternative.

We still have the conference report on the supplemental appropriation bill to deal with. It is my intention to ask the Senate to turn to the consideration of that item early in the morning.

My somewhat long-winded answer to my good friend from North Carolina is that I have considered that and I must say reluctantly I do not feel it is feasible to postpone it until tomorrow. That is why I make the request.

Mr. EAST. I thank the majority leader. I will accede to the request. I will not object to it. I saw some advantages first in considering this on tomorrow.

I would like to make a parliamentary inquiry, if I might.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator will state it.

Mr. EAST. The majority leader referred to the fact that we are operating under the Budget Act in disposing of this matter. Is the majority leader correct on that point?

The PRESIDING OFFICER. This is the tax reconciliation conference report which comes under the act, that is correct.

Mr. BAKER. Mr. President, I thank the Senator for indicating he will not object. I say parenthetically that I did not move the consideration of this measure, which would have been the normal procedure under the Senate rules, because I wanted to make sure that Senators had an opportunity to object. But under the act I can also do that. Indeed, I believe I am correct in saying that a motion to proceed to the consideration of the conference report, even notwithstanding the other provisions, such as the report time or even to reduce the time for debate, would be a nondebatable motion at this time.

I would hope we could arrange this amicably and by unanimous consent.

I am grateful to the Senator for indicating that he will not object.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will get on with its business.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I would hope that the majority leader would press for action tonight. I would also hope that action can be completed within an hour or two. We have not been unaccustomed to staying on Thursday nights. The majority leader made that clear at the beginning of the year. I would not like to see an objection, because, under the provisions of the Budget Act, he could move and he would have a majority of the votes. He would have my vote.

There is no point in waiting until tomorrow. I simply want to say I hope the majority leader will press forward.

As to shortening the time, 1 hour or 2 hours, I think, would be sufficient, but maybe my colleagues on this side of the aisle would want more time. That question can be resolved once the matter is before us.

Mr. BAKER. Mr. President, I thank the Senator. I understand his situation. He has indicated to me privately and off the floor that he intends to vote against the conference report. I understand that. But I am especially grateful for his statement that he will support my motion, if necessary, to go forward with consideration of this conference report.

Mr. MATTINGLY. Will the majority leader yield?

Mr. BAKER. Yes, Mr. President, I yield.

Mr. MATTINGLY. I just want to make the point that there is not one undecided vote in this Chamber, so I do not see there is any time needed for debate.

I yield to the Senator from Kansas.

The PRESIDING OFFICER. The clerk will state the conference report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Aug. 17, 1982, pt. II.)

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the distinguished Senator from Louisiana.

Mr. BAKER. If the Senator from Louisiana will yield to me, I had hoped to make a request at this time to move to reduce the time for debate on this measure.

Mr. LONG. I do not have the floor.

Mr. BAKER. I ask unanimous consent that the time for debate on this measure be reduced to 1 hour.

Mr. EAST. I object.

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for debate on this measure be reduced to 2 hours equally divided.

Mr. EAST. I object, Mr. President. I shall be happy to explain my position. I am willing to move along with this in an expeditious manner, no question about that, but I would like to reserve

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the right to object now on specific time limits.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I really hope that we can arrive at a time that Members will be happy with. I make one more request.

I ask unanimous consent that the time for debate on this matter be limited to 3 hours equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. I would like to object, Mr. President, again. I do not anticipate any long delay here, but I would simply like to leave open the possibility of——

Mr. GOLDWATER. Will the Senator yield for a suggestion?

Mr. BAKER. Yes; I yield.

Mr. GOLDWATER. I suggest we go the full 10 hours.

Mr. BAKER. Mr. President, if I did not know my friend so very well, I would take that seriously.

Mr. METZENBAUM. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Ohio.

Mr. METZENBAUM. Is it not the fact that, by majority vote, the majority leader can obtain a reduction in the number of hours? Are those not the rules?

Mr. BAKER. Mr. President, I believe that is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. On a nondebatable motion, that time can be set at any time under 10 hours.

Mr. METZENBAUM. I thank the Senator.

Mr. BAKER. Mr. President, I am reluctant to do that. Before I do that, a parliamentary inquiry: Am I not correct that that motion can be made at any time during the pendency of the measure?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Before I make that motion, I would like to pursue the matter a little. I suggest that the managers go forward with the debate. The Senators should know that before 8 o'clock, I intend to renew my motion and try to establish a lesser time for debate.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. Am I not correct in saying that any other Senator can make the same motion?

Mr. BAKER. Yes; indeed, Mr. President, any other Senator can make that motion.

Mr. ROBERT C. BYRD. May I say that while the majority leader has made such a promise, I do not make such a promise. I am not committed by such promise.

Mr. BAKER. I understand fully, Mr. President. There are cases when I would think of that as a usurpation of leadership right, but in this case I do not.

For the time being, Mr. President, why do we not proceed with the debate and I shall confer with my friends.

Mr. EAST. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I am happy to yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. EAST. Am I correct now that the conference committee report is before the Chamber?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAST. Mr. President, I would like to make a point of order regarding the conference report.

The PRESIDING OFFICER. Will the Senator turn on his speaker?

Mr. EAST. I have it on. I think it had gotten turned off up there. I do not know.

If I may state my point of order:

Mr. President, I make the point of order that under the provisions of rule XXVIII, paragraphs 2 and 3, the conference report is out of order in that it contains material which is not a germane modification of subjects in disagreement, to wit: That the report contains a provision requiring a new set of information reporting requirements for certain businesses, and a tip allocation requirement.

I state in explanation of the point of order that the Senate struck out a similar provision from the Senate committee amendment to H.R. 4961, and that no such provision was contained in either the Senate-passed or original House-passed versions of the bill. Although the Senate-passed bill contained a provision dealing with the deductibility of business expenses incurred for meals and beverages, that provision dealt only with the issue of deductibility of business expenses. The provision included by the committee on conference deals with the allocation and reporting of income which in no way can be considered a modification of a provision dealing with deductions.

I further state in explanation of the point of order that the provision relating to the deductibility of business expenses appears under the heading, "Reduction in Certain Deductions and Credits," in the Senate-passed version of H.R. 4961. The provision on tip reporting and tip allocation contained in the report of the Committee on Finance on H.R. 4961 appeared under the heading, "Provision Designed To Improve Taxpayer Compliance." Likewise, these matters appeared in separate titles. The tip provision appeared in the Senate committee amendment in title III. It is thus clear that the committee on conference did not confine itself to modifying a matter in disagreement. Rather, it inserted new matter that had been approved at no time by either the Senate or the House.

I accordingly state that under the provisions of rule XXVIII, paragraph 2, the conference report is out of order and must be rejected in its entirety, since the House of Representatives has already acted thereon.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The conferees went to conference with a complete substitute, which gives them the maximum latitude allowable to conferees. The standard is that matter entirely irrelevant to the subject matter is not in order. That standard has not been breached. The point of order is not well taken.

The Senator from Kansas.

Mr. EAST. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. I am happy to yield.

Mr. EAST. I would like to appeal from the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On an appeal, there is 1 hour of debate equally divided.

Mr. BAKER. Mr. President, who has control of the time on the appeal?

The PRESIDING OFFICER. The Senator from North Carolina and the Senator from Kansas or their designees.

Mr. BAKER. Will the Senator from Kansas yield to me?

Mr. DOLE. I am happy to yield.

Mr. BAKER. Mr. President, I hope we will not take an hour to debate the appeal from the ruling of the Chair. Would the Senator from North Carolina be willing to reduce the time?

Mr. EAST. I should be happy to reduce the time to 15 minutes to a side.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for debate on this appeal be 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Mr. President, my purpose in raising this matter is that I think it goes to the question of the integrity of the legislative process; that in any dimension of the legislative process we ought to maintain, as well as we can—granted, reasonable minds will differ sometimes over whether we are moving the right way—the integrity of the legislative process. We do know that under rule XXVIII, as I have indicated, paragraphs 2 and 3—Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator will repeat his request.

Mr. EAST. I am requesting that we might have order in the Chamber.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator will continue.

Mr. EAST. Mr. President, my appeal again is offered in the spirit of trying to maintain the integrity of the legislative process and is not offered in the spirit of being dilatory or offered in the spirit of simply trying to slow down the final process of consideration of this matter, but we did deal with this matter in the Senate. We had made our position clear on it. The House never did act upon the matter. I submit that under rule XXVIII, paragraphs 2 and 3, where we are required to have a germaneness of subject matter and that modifications must meet that germaneness of subject matter requirement, this in fact does not do that. Or to put it another way, if you can tie these two matters together under some notion that they are both done under the roof of a restaurant, then I would submit that rule XXVIII has no vitality at all in terms of germaneness.

We had clearly and expressly in this Chamber rejected the idea on this matter of tip reporting, the feeling being this was an undue burden upon restaurants, restaurant owners, restaurant operations. It was simply placing an additional burden of paperwork and Government regulation and control upon them, and whatever relative benefit might come out of it was more than offset by the inconvenience placed upon them. We had specifically rejected that out of hand.

In the conference committee that was altered, and in lieu of it we now have this question of the deductibility of business expenses, the three-martini lunch problem. That was put in here on the floor. Then the matter went over to the conference committee, and they in fact then made the change back the other way. Thus, we are in the very strange position where neither Chamber ever agreed to the tip provision prior to conference, and in fact the Senate had expressly rejected it.

When the conference makes that modification, I submit it runs up against a very clear statement in rule XXVIII, paragraphs 2 and 3, regarding germaneness of subject matter, making a substitution, an alteration, an interchange, exchange, or whatever label you wish to put on it, of matters that are not germane and hence runs afoul of this rule.

It might appear to be a small matter, but again it is a matter of the integrity of the rulemaking process. It is a matter of the integrity of the rules of our own Chamber. More particularly, I do think, since we had expressly rejected this in our own Chamber, we do owe a certain degree of responsibility to see the matter through, and that includes then honoring the requirement of subject matter germaneness under rule XXVIII, paragraphs 2 and 3.

My point is—and I do not wish to delay this unduly and I will not—that if this is germane as a subject matter requirement under rule XXVIII, paragraphs 2 and 3, I submit that this rule then has no substance at all and in effect the conference committee now and henceforth would be under no real genuine germaneness requirement as regards subject matter.

As I had previously indicated, Mr. President, these provisions are in separate titles in the bill. They deal with very dissimilar matters. The only thing they have in common is restaurants. I submit that certainly could not be the subject matter requirement of germaneness in the rule. That could not certainly have been the intent of the rule. If so, the rule has no substance to it at all. You have merely the form of a rule with no substance to it, and hence I feel it does great violence to the integrity of the legislative process.

One of these provisions is taxpayers' compliance, the other is in a revenue measure, and so whether you look at it in terms of the physical location in the bill or whether you simply look at it in terms of comparing the subject matters in question, I do not see how one comes out having met this germaneness requirement.

I would certainly appreciate having this matter explained to me by someone, as to how it does in fact meet this requirement and why they think I am wrong in raising it, if they think it is a frivolous point.

I would happily entertain this opportunity to hear the explanation from anyone, Mr. President.

Mr. President, I will yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. Mr. President, in order that we might expedite this matter, I am willing on my own time to inquire of the distinguished chairman of the Finance Committee, or anyone else, how this is explained as having met this germaneness requirement of subject matter under the rule. There may be an explanation for it. It simply is not clear to me what it is. Aside from these events occurring under the roofs of restaurants, which I cannot believe is the touchstone of germaneness here, how does one justify this?

If I might put that inquiry to the distinguished chairman of the Finance Committee, I think it would expedite this and ultimately get a vote on the matter.

Mr. DOLE. Mr. President, I think the Chair properly ruled.

I repeat that for the purpose of consideration of a conference report, there are extremely broad rules on germaneness, much broader than the normal germaneness requirement which applies in the case of reconciliation bills or after cloture.

Any matter added in conference is germane if it is not entirely irrelevant to matters in Senate or House bills. The Senate bill as it passed the Senate contained a variety of provisions requiring or improving information reporting. The tip reporting requirements are part of the taxpayer compliance package and are not dissimilar to other expanded reporting requirements contained in the Senate bill.

The following are four areas where the Senate bill dealt with information reporting:

First was expanding reporting on interest and dividends.

Second, reporting of gross proceeds from broker transactions.

Third, reporting on payments made to independent contractors.

Fourth, reporting on State and local income tax refunds.

In addition, we increased penalties on reporting requirements.

So, Mr. President, we considered whether or not this was appropriate in the Congress itself. In fact, we discussed the very question raised by the distinguished Senator from North Carolina. We checked with the Parliamentarian and decided that we were following the proper course, and I am prepared to vote.

I yield back the remainder of my time.

Mr. EAST. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes and 55 seconds.

Mr. EAST. Mr. President, I am prepared to move quickly. If the Senator from Kansas, for whom I have the greatest admiration, wishes to move in that direction, I will do so.

To justify my position, lest some think I raised a frivolous point—I wish

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to move on and to vote on it and have my colleagues resolve it—I will quote from the rule and ask my colleagues to reflect soberly on this, as to what they think it means and whether it meets that germaneness requirement.

> In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House.

I submit, Mr. President, that that covered this situation.

Mr. DOLE. Mr. President, will the Senator yield on that point?

Mr. EAST. I yield.

Mr. DOLE. I think the subject matter is information returns subject to reporting of income. That is what the tip provision is. There are a number of other similar provisions. We were led to believe it complied with that rule.

Mr. EAST. Will the Senator repeat that, please?

Mr. DOLE. There are a number of provisions on information reporting, various types of income, in the compliance section. That is the subject matter. I just indicated four specific areas addressed in the Senate bill. Therefore, we believe this provision does comply with the rule referred to.

As I indicated, we were not unaware that this question might be raised. We think it is appropriate to raise it. So we checked it ourselves during the conference. Can we drop the provision on the business lunch, go back to tips, and still come back to the Senate without a point of order being raised? We were advised it was possible, on the basis of the Chair's ruling and the statement the Senator from Kansas just made.

Mr. EAST. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes and ten seconds.

Mr. EAST. I thank the Chair.

I continue reading from rule XXVIII:

> They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

I am simply submitting that this subject was not in disagreement. Therefore, I think that by any reasonable reading of rule XXVIII, they have run afoul of it.

If the Chair's ruling is upheld, I submit that henceforth we have a precedent that germaneness of the subject matter under rule XXVIII, conference reports, in effect, is so broadly conceived as to be defined out of existence.

I think it will tend to weaken greatly the power of the respective Chambers and each Member thereof, because even though we expressly reject something—which we did in the case of tips—the conference committee henceforth will be in a position simply to make that alteration. I think it tends to elevate the conference committee to a power of a superlegislature, which is beyond the intent of Members of both Chambers. I think it does violence to rule XXVIII.

So, Mr. President, not wishing to unduly delay this, and assuming my colleagues can reflect on this and do what they think is proper—I believe I have requested the yeas and nays; have I not?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. EAST. I yield.

Mr. DOLE. We want to make a record. I think the Senator makes a serious point.

As I recall, the distinguished Senator from Arkansas (Mr. PRYOR) offered the amendment to knock out that section. The Senate bill contained a penalty for failure to report tip income. We knocked out the reporting but did not knock out the penalty.

We were persuaded by the House conferees to restore the reporting, so that there was a part of the amendment that is still under consideration in the conference report. I submit that is another reason why we have not violated the rule.

Mr. EAST. Mr. President, in a desire to expedite this matter, I have stated my case. I hope I have stated it as well as I can and have made clear that it is not frivolous.

I yield back the remainder of my time, if the opposition does, and we can proceed to vote on my appeal of the ruling of the Chair on the germaneness of the subject matter question under rule XXVIII.

The PRESIDING OFFICER. All time has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BAKER. Mr. President, will the Chair please state the question?

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. BAKER. A parliamentary inquiry. An "aye" vote sustains the ruling of the Chair. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. JOHNSTON), is necessarily absent.

I also announce that the Senator from Florida (Mr. CHILES) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 27, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—68

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boschwitz
Bradley
Brady
Byrd, Harry F., Jr.
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heinz
Inouye
Jackson
Jepsen
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Quayle
Roth
Rudman
Schmitt
Simpson
Specter
Stennis
Stevens
Symms
Tower
Tsongas
Wallop
Weicker

NAYS—27

Boren
Bumpers
Burdick
Byrd, Robert C.
Cannon
Denton
Dixon
Eagleton
East
Exon
Glenn
Heflin
Helms
Hollings
Huddleston
Humphrey
Kasten
McClure
Melcher
Mitchell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Zorinsky

NOT VOTING—5

Chiles
Johnston
Stafford
Thurmond
Warner

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the ruling of the Chair was sustained.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. DOLE. Yes.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I would like to renew the unanimous-consent request with respect to the time for debate on this measure.

Mr. President, I ask unanimous consent that there be a period of 1 hour and 30 minutes, equally divided, for debate on this measure.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Will the majority leader be willing to revise that request to 2 hours? This is an extremely important measure, as somebody has said. Everybody has made up their minds, as near as I can tell, but it would be appropriate, on a measure of this consequence, this particular change of economic direction, to make sure that there was no semblance that we might be steamrolling.

Mr. **BAKER**. Mr. President, I really hope that nobody thinks that we are steamrolling this. We spent 1 hour and 3 minutes on this matter already. That is why I reduced the request from 2 hours to 1½. That is a 50-percent discount.

But I will not quarrel with the Senator from New Mexico if he feels that is a reasonable time. I amend my request to make it 2 hours, an hour to a side.

Mr. **SCHMITT**. I appreciate that. I do not intend to use the time, but I suspect others may wish to.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. **BAKER**. I thank all Senators.

The **PRESIDING OFFICER**. Who yields time?

Mr. **DOLE**. Mr. President, I might say to the Members, if I could have order for just a minute.

The **PRESIDING OFFICER**. May we have order in the Chamber so we may hear the Senator from Kansas?

Mr. **DOLE**. Mr. President, the Senator from Kansas does not intend to take the full hour unless there are requests for time on this side. I understand there may not be that many requests on the other side. So I would just caution Members not to be too far away. Hopefully we can finish this in an hour but if it takes a little longer, so be it.

Mr. President, may we have order?

The **PRESIDING OFFICER**. Senators will please conduct their private conversations outside of the Chamber. Let us have order in the Chamber so the Senator can be heard.

Mr. **DOLE**. Mr. President, I wish to extend my thanks to the President of the United States for his successful effort in the House of Representatives and my congratulations to the Speaker of the House of Representatives and the distinguished minority leader, Congressman MICHEL, for their valiant efforts this afternoon in moving this conference report back to the Senate, where I hope that, within 1 hour we can approve the conference report.

Mr. President, after many months of effort, we are finally prepared today to complete the first substantive congressional action to reduce the deficit this year. The conference report on H.R. 4961 now before the Senate follows closely on the Budget Committee reconciliation bill approved by both Houses on Wednesday. That bill reduced spending by about $13.3 billion over 3 years, a significant and much-needed step toward implementing the budget resolution for fiscal year 1983. The bill now before us, however, goes quite a bit further. Under the conference agreement on the Tax Equity and Fiscal Responsibility Act, spending will be reduced by $17.5 billion and revenues will be increase by $98.3 billion over the next 3 years. The deficit reduction provisions of this bill account for over 30 percent of the entire deficit reduction called for by the budget resolution.

A LONG ROAD

This legislation has been a long time in the making; it was not developed overnight. A few times last weekend, though, it did seem, as though much of the work was being done late at night; or early in the morning, depending on your point of view. But the long hours that have been devoted to this bill in recent weeks are only the culmination of a process begun early this year. In fact, the pedigree for the revenue provisions of this bill can be traced back to September 1981, when President Reagan proposed a package of loophole closings designed to raise $22 billion, plus additional spending reductions to cut the deficits projected due to the onset of recession. Those revenue proposals were not pursued at that time, but many of the same items were included in the fiscal year 1983 budget proposal President Reagan submitted to Congress in early February of this year. The Senate Finance Committee promptly began to review budget alternatives on both the spending and revenue side, with hearings on the budget beginning in late February and carrying through the middle of March.

Mr. President, during the course of those hearings it became clear that a major deficit reduction effort on both the spending and revenue sides was vitally necessary to insure a sustained economic recovery. Four distinguished economists who testified to our committee on February 24, while they disagreed on the specific deficit-reduction measures that ought to be taken, did agree on this basic point. Those witnesses were Dr. Martin Feldstein, who has been named for the post of Chairman of the Council of Economic Advisers; Dr. Joseph Pechman of the Brookings Institution; Dr. William Fellner of the American Enterprise Institute; and Dr. Allan Meltzer of Carnegie-Mellon University. These gentlemen represent a wide range of viewpoints cutting across partisan lines, so it has been clear for quite some time what Congress had to do if it wanted to be responsible and reassert control over our fiscal affairs.

I would add that our February and March hearings were only the first formal, public review of the budget problem. Long before that our staff—even before the President's budget was submitted—was at work reviewing possible spending reductions and sources of revenue, along with the Joint Committee on Taxation, the Congressional Budget Office, and others. At the same time the Budget Committees of both Houses were similarly hard at work.

Because there was a general consensus that the President's budget did not go far enough in reducing the deficit, an effort was made to forge a bipartisan consensus in Congress on a package of spending cuts and revenue increases, with primary emphasis on spending. That effort, while it proved less successful than many of us hoped, did prove important in laying the groundwork for the budget we finally adopted. The so-called gang of 17 meetings helped us sort out the options, understand where everyone stood, and give us a target to shoot for. Thanks to the leadership of the Budget Committees, we did finally adopt a budget in June that calls for $378 billion in deficit reduction over 3 years. By July 2 the Finance Committee had completed action on the present package, and this legislation was approved by the Senate early in the morning of July 23. Finally, at about 2 a.m. on August 15, we reached final conference agreement on the spending cuts and revenue increases—tax reforms, for the most part—that are now before us.

A BALANCED PACKAGE

Mr. President, we have come a long way in a very difficult year for the economy and for the Congress, and an election year to boot. We have, I believe, assembled a fair and sensible package of spending cuts and tax changes that tackle the deficit problem head-on without interfering with or underminging the fundamentals of the President's economic recovery program. This is not a step backward; it is a shift in emphasis that is the only way to guarantee continued momentum for the President's program of reducing the rate of growth of Federal spending, restraining the tax burden, building a strong defense, and insuring monetary restraint to keep inflation in check. Many of us believe those principles are still the key to an economic recovery that will last, creating real jobs and leading to higher productivity and stable growth. That is why it is so important that we approve this legislation now. It should have been done much earlier: but we now appear to be at a crucial turning point for the economy, and it is imperative that we do the right thing.

At the conclusion of my remarks I will ask to have printed in the RECORD a detailed summary of the spending reductions, tax reforms, tax compliance changes, and new revenue sources provided by H.R. 4961. I would, however, like to summarize at this time some of the major features of the bill as it emerged from conference.

Mr. President, on the spending side of the ledger we have agreed to changes with an emphasis on better allocation of program costs and administrative improvements, with minimal

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impact on beneficiaries themselves. In fact, it should be noted that in the health area the conferees agreed to drop three provisions of the Senate bill that would have had a direct impact on beneficiaries. These are the proposed copayment for home health services, the increase in the part B deductible for physician services, and the 1-month delay for initial medicare benefits. In the conference agreement 73 percent of the cuts are out of reimbursements to providers of services; only 19 percent directly affect beneficiaries. If we also include all of the income security savings, the breakdown for this spending reduction package is 68 percent of savings from payments to providers, 19 of savings from beneficiaries, and 13 percent from employers and others, including various administrative savings such as improved error rates.

This is a fair and carefully considered package. It addresses the urgent need to bring burgeoning entitlement programs under control, but with concern and compassion for those who depend on these vital benefit programs. For example, 63 percent of the savings in the supplemental security income program come from tightening the retrospective accounting procedures adopted last year and from eliminating special Federal subsidies to a few States. Much of the rest comes from rounding and prorating benefits. What we are trying to do here, in short, is what we ought to do as legislators in any event: make these programs work better and more efficiently for our citizens, cutting bureaucratic overhead and improving administration.

Mr. President, at this point I would like to take the opportunity to clarify the intent of the conferees with respect to three provisions of the spending package, so that there can be no confusion with regard to these items.

REIMBURSEMENT OF PROVIDER BASED PHYSICIANS

While this provision has been slightly modified in conference, the intent in making this change remains the same. Under the amendment, the Secretary is required to differentiate those services that require a physician to personally perform in the diagnosis or treatment of a patient's illness from those activities that are of a general administrative nature. General administrative services—such as supervision of personnel who perform clinical laboratory tests—and those services that do not require a physician to perform in person are to be reimbursed as a hospital service on a cost basis. These distinctions will assure the appropriate source of payment, while continuing to reimburse physicians a reasonable amount for the services they perform. Our intention was not to penalize but rather to create some equity between the way we pay physicians generally and the way we pay those who are hospital based.

WORKING AGED

Medicare will become secondary for older workers who choose to remain covered under the group health plans provided by their employers. That provision produces program savings of $1,480 million while allowing older workers the option of rejecting the plan offered by their employers. The savings are realized because we assume employers would be prevented from offering a health insurance plan or option designed to circumvent this provision by inducing employees to reject the coverage offered other employees—those under age 65. The clear intent of this provision, however, is to continue to allow employers to offer limited coverage for those health care services wholly uncovered by medicare; outpatient prescription drugs, for example.

Again, I want to stress the basic point: Although the employer must offer private coverage to the elderly, the retention of private coverage is voluntary for the employee.

The medicare trust fund is rapidly approaching a period of time where expenditures will exceed income. It is only appropriate that we encourage beneficiaries to utilize private resources first, while making sure they receive no less than they would have under medicare.

SUBSTANTIAL SPENDING CONTROL

Mr. President, before I move on to briefly discuss the revenue provisions of H.R. 4961, I want to emphasize once again that this bill is a solid, significant step toward getting spending under control. The medicare savings in our bill alone exceed the total savings in the reconciliation bill for all other legislative committees that was just adopted. We are making real progress on containing the growth of health care programs. If you consider the savings contained in last year's reconciliation bill, together with the savings contained in the present bill, you see that in fiscal years 1983, 1984, and 1985 combined medicare and medicaid spending is reduced by $19.3 billion. Of this amount 75 percent is a result of the program changes provided by the bill now before us. This is a major shift in favor of fiscal restraint for programs that have, over the past decade, grown far faster than original cost estimates projected.

The same is true of other major programs in the jurisdiction of the Finance Committee: AFDC, supplemental security income, and unemployment compensation. While the savings in this area in H.R. 4961 are relatively modest, you have to remember that the 1981 reconciliation bill made major and lasting changes in those programs that provide large cumulative savings in the years ahead. Combining last year's reconciliation changes in these programs with the further modifications in the pending conference agreement, total savings are $15.5 billion over the fiscal years 1983, 1984, and 1985. I should add that the total outlay savings in H.R. 4961 are about $1 billion over our reconciliation instruction, as costed out by the Budget Committee. So, it cannot be said that we have not done a thorough job on the spending side in this legislation. There is of course always more to be done: But we will be back next year to continue the job, as we should.

REVENUE RAISING: TAX REFORM

Mr. President, the revenue provisions in this legislation have, of course, been much debated: much more so than the spending cuts, I might add. There probably is little point in extending the debate any further, but I would like to set out for the record at least a basic outline of the tax changes. A more detailed description of the revenue provisions will appear in the RECORD following my statement.

In the Finance Committee, and in the Senate, and in the conference, there was basic agreement that we should concentrate not on new taxes, or on undermining tax relief for working Americans, but on tax reform and improved compliance. Most of our bill, as President Reagan noted in his address to the Nation on Monday, is in these areas. The reasons for this are simple: We ought to make sure that everyone pays their fair share of tax before we try to collect more from those who already are fulfilling their obligations as citizens. Second, given our fiscal problems, we should take this opportunity to review provisions of existing tax law that may be obsolete, inefficient, unjustifiably generous to a limited group of taxpayers. That is what we have tried to do: I believe we have done a good job, although there is much more yet to be done.

TAX COMPLIANCE

A very large proportion of the new revenues to be raised under this bill—about $28 billion—comes from a series of measures to improve compliance with existing law. New information reporting and penalties do much of the job, existing withholding requirements are strengthened, and 10 percent withholding is imposed on interest and dividend income. In addition, a new allocation rule is provided to help collect tip income, an area where compliance is notoriously low.

Mr. President, I believe it is important that we have taken these steps to improve compliance. On March 5, when the Dole-Grassley compliance bill was first unveiled, there was a great deal of skepticism. Compliance is something people usually talk about, and go through the motions without having any real impact. By now I hope everyone knows that we were serious.

We do not believe it is fair to raise everyone's taxes while a minority of taxpayers gets away with evading their obligation to their fellow citizens. This package of compliance measures does not bridge the gap, but it does take us a long way.

Withholding on interest and dividends has been widely criticized. I believe the case for this provision has been made, not only by the President, but by the Members of the House and the Senate who have contributed to making this an equitable and effective change. In conference we agreed to delay this change until next July 1, to give everyone more time to gear up for the new system. In addition, we have provided an exemption for the first $150 of interest income for all taxpayers; a low-income exemption covering those whose previous year's tax liability was under $600 ($1,000 joint returns); and an exemption for the elderly, age 65 or over, whose tax liability does not exceed $1,500 ($2,500 for joint returns). This exempts all those over 65 with adjusted gross incomes in 1984 under $14,450 ($25,214 joint returns). So this provision has been carefully thought out, and it merely provides the same compliance tool for those with interest and divident income as now applies to those with wage income.

PENSIONS

In the act we have eliminated the distinctions in the tax law between retirement plans of corporations and retirement plans of self-employed individuals—so-called Keogh plans. These parity rules, which will allow equal contributions and benefits under both types of plans, will apply in 1984. However, for 1983, a corporation is allowed contributions for its employees that are higher than the permitted contributions under Keogh plans.

The act also provides rules to address certain limited cases where the principal purpose for which a personal services corporation is formed or availed of is to evade or avoid Federal income tax by securing significant tax benefits for an employee-owner. These rules are intended to overturn cases like *Keller* v. *Commissioner* (77 T.C. 1014 (1981)) where the corporation served no meaningful purpose other than to secure income tax advantages for the employee-owner. These rules (contained in new code section 269A) will apply beginning in 1983—1 year before the parity rules for retirement plans take effect.

I want to make it clear that under the conference agreement a personal service corporation will not be considered to be formed or availed of for the purpose of evading or avoiding Federal income tax solely because, for 1983, the qualified plan rules will permit higher contributions and other advantages for corporate employees. Thus, in applying section 269A, the Secretary of the Treasury will not take a corporation's retirement plan into account.

I also want to point out a printing error on page 631 of the statement of managers. The second full paragraph on that page provides:

> In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

That paragraph is wrong. It would require that a key employee's aggregate limit in a top-heavy plan be immediately reduced from 1.25 to 1.0 by precluding future contributions or accruals. The paragraph is substantively incorrect and should have been deleted by GPO as instructed.

Although the conferees did decide to make this reduction to 1.0 (like the overall reduction from 1.4 to 1.25) immediately effective, they decided to provide a fresh start to insure that contributions or benefits provided under the prior law higher limits would not have such a drastic effect on future contributions or benefits. Accordingly, the conferees required the Secretary of the Treasury to prescribe regulations under which the numerator of the defined contribution plan fraction (as determined for the last plan year beginning before January 1, 1983) would be reduced (by an amount not exceeding this numerator) so that the sum of the fractions does not exceed the aggregate limit permitted under the conference agreement.

EQUITY IMPROVEMENTS

I have already noted that President Reagan proposed in his budget a series of significant loophole closings and measures to improve the equity of the Tax Code. This conference agreement raises over $24 billion from the President's proposals. In addition, we addressed other loopholes or overgenerous provisions which, while not raised formally by the administration, were a matter of concern to the Treasury as well as to Members. These additional equity improvements raise about $28 billion.

Mr. President, in both these areas we cut provisions that have helped companies evade paying a fair share of tax, and cut back preferences for both businesses and individuals with strengthened minimum taxes. The areas addressed include industrial development bonds, pension tax breaks, completed contract method of accounting, modified coinsurance, tax breaks for mergers and acquisitions, modifying and sunsetting safe harbor leasing, and a number of others. With respect to the medical deduction, a matter of concern to some in the version passed by the Senate, in conference we reduced the floor from 7 to 5 percent. We believe this is economically realistic but should not cause hardship.

USER FEES AND EXCISE TAXES

We have also agreed to increase the telephone excise tax to 3 percent for 3 years, and to double the cigarette tax for 3 years. Both of these provisions are temporary expedients; to be perfectly frank, we would have preferred to do the entire package without resorting to add-on taxes. That did not prove to be possible, but we should note that these are temporary changes, sunsetted after 1985; and that they are relatively modest increases. The higher cigarette tax would cost someone who smokes a pack a day about $2.40 more per month.

Finally, the bill raises the taxes that finance the Airport and Airways Trust Fund, as part of a broadly supported compromise to deal with the financing of the airport system and the FAA. In addition, taxes associated with specific spending—the unemployment tax and the medicare tax—are raised. In the case of the medicare tax, it is extended to Federal employees. This change has been the source of some confusion. In fact, we are also insuring that Federal workers receive an assurance of medicare coverage when they retire. This puts them on the same footing as other workers and shares the cost of financing medicare more equitably.

EXTENDED UNEMPLOYMENT BENEFITS

Lastly, Mr. President, the conferees agreed to a major addition to the Senate bill; a new program of extended unemployment benefits to aid unemployed workers during this period of economic difficulty. For the period between September 12, 1982, and March 31, 1983, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks would be provided where the extended benefit trigger rate equals or exceeds 3.5 percent, and up to 6 additional weeks of benefits would be provided in all other States. These extra benefits will be available to workers whose entitlement to State benefits or extended benefits ended on or after June 1, 1982, and who have exhausted benefits to which they are entitled, have worked 20 or more weeks prior to applying for State unemployment compensation, and who continue to meet all other State and extended benefit requirements. The cost of this program will be covered by lowering the income thresholds for taxing unemployment compensation from $20,000 to $12,000 for single taxpayers, and from $25,000 to $18,000 for joint returns.

I would add that there is an urgent need for these additional benefits; in many States benefits are now being exhausted, and more will be used up in the weeks ahead. That is why it is important to approve this provision of our bill promptly.

In summation, Mr. President, this is a fair bill, a good compromise, even if it is not perfect. It is essential to sustaining the economic recovery program. It preserves the rate reductions and indexing that are so vital to working Americans. It spreads the burden of deficit reduction equitably, and it improves the equity of the Tax Code. The President has shown outstanding leadership to put this legislation through Congress. We owe it to him, and to the American people, to reaffirm that leadership by approving this conference agreement.

Mr. President, I ask to have included in the RECORD at this point a summary of revenue estimates of the tax provisions of H.R. 4961, and a descriptive summary of the spending reduction provisions included in the conference agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF REVENUE ESTIMATES

[Dollars in millions]

	1983–85 revenue effect	Percent
Compliance and collection:		
Administration proposals:		
Withholding on interest and dividends	$10,565	
Accelerated corporate payments	4,864	
IRS personnel	6,900	
Subtotal	22,329	22.7
Other proposals:		
Improved reporting, increased penalties, etc.	10,329	
Independent contractors	−303	
Subtotal	10,026	10.2
Total, compliance and collection	32,355	32.9
Elimination or reduction of loopholes and unintended benefits:		
Business:		
Administration proposals:		
Reduction of corporate preferences (including ITC limit)	3,023	
Construction period interest & taxes	2,940	
Tax-exempt bonds	863	
Completed contract	5,652	
Original issue discount & coupon stripping	938	
Life insurance	7,017	
Subtotal	20,433	20.8
Other proposals:		
ITC basis adjustment	4,394	
ACRS acceleration	1,541	
Leasing	7,937	
Foreign oil income	1,146	
Possessions credit	1,102	
Mergers	2,135	
Targeted jobs credit	−1,324	
Subtotal	16,931	17.2
Total, business	37,364	38.0
Individuals:		
Minimum Tax	1,360	
Pension provisions	1,844	
Total, individuals	3,204	3.3
Total, loopholes and unintended benefits	40,568	41.3
Earmarked taxes on those responsible for specific spending programs:		
Administration proposals:		
Airport and airway	2,868	
Medicare—Federal employees	2,381	
Subtotal	5,249	5.3
Other proposals:		
FUTA	6,486	6.6
Total, earmarked taxes	11,735	11.9
Other revenue increases:		
Telephone tax ($6 per year for $25 monthly bill)	3,289	
Cigarette tax ($29.20 for 365 packs per year)	4,963	
Medical deduction	3,731	
Casualty deduction	1,400	
TAPS adjustment	389	
Miscellaneous	−109	
Total, other	13,663	13.9
Grand total	98,321	100.0
Memo:		
Administration proposals [1]	48,011	48.8
Other	50,310	51.2

[1] Administration revenue increase proposals in fiscal year 1983 budget would have increased revenues by $56.3 billion.

SUMMARY OF SPENDING REDUCTION PROVISIONS

1. HEALTH PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT

Medicare

Modify coverage of the working aged: Employers would be required to offer employees aged 65 through 69 the same health benefit plan offered to younger workers and medicare would be secondary payor to these plans.

Reimburse inpatient radiology and pathology services at 80 percent of reasonable charges: The special 100 percent reimbursement rate for inpatient radiology and pathology services would be eliminated. Such services would be paid for on the same basis as other physicians' services.

Repeal routine nursing salary cost differential: The differential factor paid to hospitals and skilled nursing facilities for inpatient routine nursing salary costs would be eliminated.

Payments for services of provider based physicians: The Secretary of HHS would be directed to prescribe regulations which would distinguish between the services of hospital-based physicians which are covered under medicare on a reasonable cost basis and those which are reimbursable on the basis of reasonable charges; and establish standards of reasonableness to be applied in each case.

Hold part B premium constant as a percentage of program costs: The part B premium would be increased on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues equal to 25 percent of program costs for aged beneficiaries.

Limit medicare reimbursement to hospitals: The current limits on medicare reimbursement to hospitals (i.e., the section 223 limits) would be extended and modified to include ancillary operating costs and special care unit operating costs; annual increases in the overall operating costs per case would be limited (for a period of not more than 3 years); the Secretary of HHS would be directed to develop methods under which hospitals, skilled nursing facilities and other providers could be paid on a prospective basis; the Secretary, at the request of a State, could allow medicare payment to be made under a cost control system in the State.

Require certain medicare regulations: The Secretary of HHS would be required to issue regulations to (a) eliminate the private room subsidy for hospitals, (b) establish single reimbursement limits for skilled nursing facility and home health agency services, (c) eliminate duplicate overhead payments for outpatient services.

Audit and medical claim review: The medicare contracting budget for fiscal years 1983, 1984, and 1985 would be supplemented by $45 million in each year to be spent specifically for audit and medical review activities.

Temporarily delay the periodic interim payments (PIP): Periodic interim payments to hospitals for the latter part of September 1983 would be delayed until October 1983. There would be a similar deferral of PIP payments from September to October of 1984.

Assistants at surgery: Reimbursement for assistants at surgery in hospitals where a training program exists in that specialty would be prohibited, except in the case of exceptional circumstances.

Ineffective drug provision: Payments for ineffective drugs under medicare part B and under medicaid would be prohibited.

Medicare payments to HMOs: Current requirements for contracting with health maintenance organizations (HMOs) would be modified by authorizing prospective reimbursement under risk sharing contracts with HMOs and other organizations at a rate equal to 95 percent of the Adjusted Average per Capita Cost (AAPCC).

Technical Corrections to Omnibus Budget Reconciliation Act of 1981

Hospice Care: Authorizes coverage for hospice care for terminally ill medicare beneficiaries with a life expectancy of 6 months or less.

Coverage of extended care services without regard to 3-day prior hospitalization requirement. Authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

Prohibiting recognition of payments under percentage arrangements: No cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Interest charges on overpayments and underpayments: Requires interest payments with reapect to medicare overpayments. Similarily, the medicare program would be required to pay providers interest on underpayments.

Prohibition payment for Hill-Burton free care: Requires the Secretary to provide, by regulations, that the costs incurred by a hospital or SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

Prohibiting payment for anti-unionization activities: Prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

Elimination "lesser of cost or charges" provision: The lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

Extending medicare proficiency examination authority: Extends to September 30, 1983, the authority of the Secretary of HHS to conduct a program to detemine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

Retroactivity of regulations regarding access to books and records: Section 952 of Public Law 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1982, preceded by a comment period of no less than 60 days.

Private sector utilization review: Requires the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities.

Special part B enrollment without penalty: Requires a special open enrollment period under medicare part B for merchant seamen.

Medicaid

Allow nominal medicaid copayments: The prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients would be repealed except in the case of certain inpatient hospital and ambulatory services for children and pregnant women, for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses, for categorically needy persons enrolled in an HMO, and for emergency services and family planning services.

Modify lien provision: States would be permitted under certain circumstances to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions.

Reduce medicaid error rates: States would be required to reduce their medicaid error rates to 3 percent.

Optional medicaid coverage of disabled children at home: States would be allowed to cover services for certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previously medicaid was not available if the child received care at home.

Technical corrections to Omnibus Budget Reconciliation Act

Six-month moratorium on nursing home regulations: Prevents the regulations currently proposed by the Secretary regarding changes in survey and certification requirements for nursing homes from going into effect for six months.

Medicaid funding for American Samoa: Provides Federal funding for medicaid services in American Samoa.

Utilization and quality control peer review

Contract for utilization and quality control peer review: The Professional Standards Review Organizations (PSRO) program, would be repealed. The Secretary would be required to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting effective, efficient, and economical delivery of health care under medicare.

II. SENATE HEALTH PROVISIONS NOT INCLUDED IN CONFERENCE AGREEMENT

Medicare

Senate provisions not included in the conference agreement: The conference agreement does not include the provision relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board.

Medicaid

Senate provisions not included in the conference agreement. The conferees did not agree to the following proposals: a provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles; a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981.

* * *

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROVISIONS

Rounding of eligibility and benefit amounts.—States would be required to round both their needs standards and actual monthly benefit amounts to the next lower whole dollar.

Proration of first month's benefit.—States would be required to pay benefits no earlier than the date an application is filed. Therefore, the AFDC benefit would be prorated from the date of application.

Elimination of uniformed services as basis for AFDC eligibility.—Absence from the home solely because of uniformed services would be excluded as a basis for AFDC eligibility.

Job search.—States would be given the option of requiring individuals applying for AFDC benefits to participate in job search while the application is pending. Continued job search would be required, after the application becomes effective, for not more than a total of 8 weeks each year (or 16 weeks in the first year).

Proration for shelter and utilities.—States would be allowed to prorate the portion of the AFDC grant for shelter and utilities for AFDC families living in households with other individuals.

Reduction of Federal match for payment errors.—The allowable error rate for AFDC would be 4 percent in fiscal year 1983, 3 percent in fiscal year 1984, and 3 percent in fiscal year 1985.

Exclusion from income of certain States payments.—States would be allowed to exclude from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated and paid.

Extension of time for States to establish a work incentive demonstration program.—States would be allowed two additional years in which to exercise their option to operate a WIN demonstration program (as provided in the 1981 Reconciliation Act).

Accounting method for income from certain state payments.—States would be allowed to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by States to AFDC households.

Technical amendments to Title XX Social Services and Foster Care Program.—Several technical corrections to social services and foster care provisions of Public Law 97-35 were made.

The following proposals were not included: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (continuing eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT PROVISIONS

Fee for services to non-AFDC families.—The law in effect prior to Public Law 97-35 would be restored which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. As a State option, authority would be retained for States to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.—Allotments would be required from the pay and allowances of any member of the unformed services, on active duty, when he fails to make child (or child and spousal) support payments.

Reimbursement of State agency in initial month of ineligibility for AFDC.—States would be permitted to reimburse themselves for AFDC that would have already been paid for months before the support was collected and known to make the family ineligible. Thus, the family would not receive double payment for the same month, both in the form of AFDC and through receipt of the support collection.

Reduction in certain Federal payments under the Child Support Enforcement Program.—The Federal matching rate for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Effective October 1, 1983, State child support incentive payments would be reduced from 15 percent to 12 percent and the Federal match for the costs of court personnel who perform child support enforcement functions would be repealed.

Technical amendments to Child Support Enforcement Program.—Several technical corrections in the Child Support Enforcement provisions contained in Public Law 97-

35 were made, including certain inaccurate references.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Prorate first month's benefit based upon date of application.—The first month's SSI benefit would be prorated from the date of application or the date of eligibility, whichever is later.

Round SSI eligibility and benefit amounts.—SSI monthly benefit and income eligibility amounts would be rounded to the next lower whole dollar. Rounding would take place after the cost-of-living adjustment had been made.

Coordination of SSI and OASDI cost-of-living adjustments.—The SSI and social security (OASDI) benefit increase would be coordinated so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information.

Phase out "hold harmless" protection.—Federal hold harmless payments would continue to be phased out, being reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years.

Exclusion from resources of amounts set aside for burial expenses.—For purposes of determining SSI eligibility, burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary) would be excluded from countable resources. Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies as would any amounts held by the individual in an irrecovable burial contract or other arrangement made to meet burial expenses.

The Secretary would be authorized to exclude, as income and resources, increases in the value of: (1) amounts set aside for burial expenses because of interest earned, and (2) pre-paid burial arrangements.

SSI pass-through requirement.—In order to meet mandatory pass-through requirements, a State would be allowed to shift from the aggregate spending option to the State supplementation payment level option so long as the State does not decrease its State supplementation payment below the level in the previous December.

Treatment of unnegotiated SSI checks.—The authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks would be clarified.

A provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits) was not included.

UNEMPLOYMENT COMPENSATION PROVISIONS

Round unemployment benefits to next lowest whole dollar.—The Federal 50 percent share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

Reed Act funds.—The authority for States to use Reed Act funds for administrative purposes would be extended for 10 years. The provision would also permit States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

Exclusion from FUTA of wages paid to certain students.—Wages paid to certain full-time students would be exempt from FUTA tax: (1) students enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program; and (2) students employed by certain summer camps (1983 only).

Extension of exclusion from FUTA of wages paid to certain alien farmworkers.—The provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes, would be extended for two years, from January 1, 1982 to January 1, 1984.

Unemployment Compensation (UC) Financing.—The Federal unemployment tax (FUTA) wage base would be increased from $6,000 to $7,000 and the FUTA rate would be increased from 3.4 to 3.5 percent, effective January 1, 1983. (Employers in States with approved State programs would continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate would be increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

Additional unemployment compensation financing provisions would:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration Account (ESAA) and 40 percent to the Extended Unemployment Compensation Account (EUCA) in the Federal Unemployment Trust fund. Amounts allocated to EUCA which exceed the Federal share of extended benefit expenditures would be used to repay Federal general revenue advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues would be allocated to ESAA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience-rating system and/or benefit reductions;

(c) drop the present low additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferred amount.)

Treatment of certain employees of institutions of higher education.—States would be allowed to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years or terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

Short-Time compensation.—The Department of Labor would be directed to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor would also be directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Additional weeks of unemployement benefits.—Additional weeks of unemployment compensation benefits would be provided to unemployed workers. Effective September 12, 1982, through March 31, 1982, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits (EB) are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate (i.e., the percentage of workers who are collecting State unemployment benefits) equals or exceeds 3.5 percent. Up to 6 additional weeks of benefits would be provided in all other States.

The additional benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and:

(a) who have exhausted all State, or State and extended benefits to which they are entitled;

(b) who have worked 20 or more weeks (or had the equivalent in wages as specified in the extended benefit program) prior to applying for State unemployment compensation; and

(c) who continue to meet all other State and extended benefit requirements.

Benefit and administrative costs of the program would be financed out of Federal general revenues.

Taxation of unemployment compensation benefits.—The income thresholds limiting the inclusion of unemployment benefits in adjusted gross income for Federal income tax purposes would be reduced from $20,000 to $12,000 for single taxpayers and from $25,000 to $18,000 for married taxpayers filing jointly. This change would apply to unemployment benefits paid on or after January 1, 1982.

The following proposals were not included: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

Mr. DOLE. Mr. President, as I said, we have been on this matter for a number of months and we have heard a lot of campaign rhetoric. We have not heard much discussion about the bill itself from those who oppose it. We have heard discussions that we should not raise taxes, and that we certainly should not raise taxes in an election year. My answer is that we are not, in effect, raising taxes. Most of this bill, 80 percent or 77 percent or a great majority of the percentage of this bill, is tax reform.

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It has been a long road, but we are simply carrying out the provisions of the budget resolution. I would say to my colleagues that the Senate Finance Committee did not stand around looking for something to do and dream up a tax bill. We are carrying out our budget agreement. We believe we have carried out the budget mandate successfully and effectively. We have met the requirements of the budget resolution on the spending side and on the revenue side.

Mr. President, may we have order?

The PRESIDING OFFICER. May we have order so we may hear the Senator from Kansas? Private conversations will be moved to the cloakrooms so that we may hear the Senator from Kansas.

The Senator from Kansas may proceed.

Mr. DOLE. Mr. President, I know some will say we did not cut spending enough so we should not raise taxes. Well, under this conference report, we have cut spending. Spending is going to be reduced by $17.5 billion and we are going to increase revenues by $98.3 billion over the next 3 years.

The deficit reduction provisions in this bill account for over 30 percent of the entire deficit reductions called for by the budget resolution. We have been a long time in the making of this legislation. It was not developed overnight. A few times last weekend, though, it did seem as though much of the work was being done late at night or early in the morning, depending on your point of view.

But the long hours that have been devoted to this bill in recent weeks are only the culmination of a process begun earlier this year.

In fact, the pedigree for the revenue provisions of this bill can be traced back to September 1981—not this year, but last year—when President Reagan proposed a package of loophole closings designed to raise $22 billion, plus additional spending reductions to cut the deficit projected and to help offset the onset of a recession.

Those revenue proposals were not pursued at that time, but many of these same items were included in the fiscal year 1983 budget proposal, the one that President Reagan submitted to Congress in early February of this year. The Senate Finance Committee promptly began to review budget alternatives on both the spending and revenue side with hearings on the budget beginning in late February and carrying through the middle of March.

Mr. President, during the course of those hearings it became clear that the major deficit reduction effort on both the spending and revenue sides was vitally necessary to insure a sustained economic recovery. Four distinguished economists who testified before our committee on February 24, while they disagreed on the specific deficit reduction measures that ought to be taken, did agree on this basic point.

Those witnesses were Dr. Martin Feldstein, who has been named to the post of the Chairman of the Council of Economic Advisers; Dr. Joseph Pechman, of the Brookings Institution; Dr. William Fellner, of the American Enterprise Institute; and Dr. Allan Meltzer of Carnegie-Mellon University. They have wide and differing philosophies, but they all came down with the same result, that we had to do something.

And that continued through the so-called first round of budget discussions, involving, I think, the Gang of Five, five Republican Senators—the distinguished Senator from New Mexico, Senator DOMENICI; the distinguished majority leader, Senator BAKER; the distinguished Senator from Oregon, Senator HATFIELD; and the distinguished Senator from Nevada, Senator LAXALT—in a series of meetings trying to figure out some way to bring down the deficit, lower interest rates, and get people back to work.

After that effort, the next step was some 13 or 14 meetings of the so-called Gang of 17—Republicans, Democrats, administrative officials—who gathered on a day-to-day basis trying to reach some agreement on revenue increases and spending reductions.

I might say at that time there was almost an agreement to raise $122 billion in revenue over a 3-year period.

That was reduced to $98.3 billion by the budget resolution.

Mr. President, I am not here to apologize for this package. I am here not on the defense. I am here to suggest to Members on both sides of the aisle that we are near the moment of truth.

Do we want to reduce the deficit, do we want to continue the downward trend of interest rates, or do we want to signal to the financial markets and the people in our States that we really do not care, that we really have not quite enough courage to take this step, because some tax might affect someone in our constituency?

I would say that those who talk about tax increases, where you have not paid taxes at all but now you have to start paying taxes because of tax compliance, that is not a tax increase, and there is $30 billion of compliance in this measure.

We have also tried to bring some equity into the system. We have said in effect to those who put away $45,000 to $47,000 a year in pensions, tax free, that is too much. We are cutting food stamps, we are cutting medicaid. We are cutting social programs. The people at the bottom of the scale are making the sacrifices. What about the upper middle income and upper income American? When do they make a sacrifice?

Then we closed some loopholes, giant loopholes.

It seems to me, when you properly consider that, then I suggest that we have a pretty good bill. Call it a tax bill, call it a tax increase, call it a tax reform, call it anything you want, but vote for it. Vote for it because it is good policy.

I really believe we have met our targets and exceeded our targets on the spending side because of the concern of many Senators, including the distinguished Senator from Montana. We dropped many of the provisions that would have directly affected beneficiaries in the conference. We have solid spending reductions, I think about 18 to 19 percent, coming from beneficiaries, the great bulk coming from reducing reimbursement payments to physicians and reducing hospital payments.

We also decided that medicare will become secondary for older workers who choose to remain covered under the group health plan provided by their employers. That provision is going to save about $1.4 billion.

Mr. President, this legislation must be approved in the interest of sending a clear signal at the earliest possible time to people around this country that we are serious about our work.

Mr. President, I have additional information to submit at a later time, but at this time I will yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, almost exactly 1 year ago, the Congress passed and the President signed historic legislation to reduce the rate of growth in Government spending and reform our tax system. When Congress had finished its share of the job last August I took a plane home to Minnesota half expecting to be greeted by a crowd of people congratulating us on our accomplishments.

There was one person at the airport. And the only thing he wanted to say to me was, "When are you going to do something about getting the interest rates down?"

During the last 12 months people I see throughout Minnesota keep asking me the same question: "When are you going to get the interest rates down?"

And they have been asking a few other questions: "When are you going to do something to make the tax system more fair? When are you going to do something to create new jobs? When are your going to cut into that hugh Federal deficit? When are you going to re-do the abuses that crept into last year's tax bill?"

Mr. President, I expect that when I return to Minnesota for this year's August recess, the crowds at the airport will not be much larger or much

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more enthusiastic than they were last year. But there is a big difference. Last year we only started the process of turning the country around. The bill we are considering tonight takes us another big step forward in an ongoing process of tax and spending reform.

If each of the items in this legislation came along as a separate bill, there are many I probably would not vote for. But as a package it is a good piece of legislation. It will create new jobs. It will spur new investment in basic industries. It will make our tax system more fair. And it will keep us on the right road to lower interest rates.

The arguments being raised against this conference report share two common flaws. First, they treat this bill in isolation, as an end in itself, as if it had no relation to overall economic policy and no relation to ongoing tax reform. Second, they proceed on the assumption that U.S. Senators have the luxury of being "100 percenters"—refusing to accept any legislation that contains any element that does not suit our individual fancies.

West of the Washington Beltway people understand that the world does not work that way. And the best way to puncture these misconceptions is to step back from the details of the bill for just a moment, and review the context in which it comes before the country. When Ronald Reagan was inaugurated as this Nation's 40th President, he warned the country that reversing 20 years of economic erosion would be neither a quick nor a painless process. And while in our hearts we hoped the President was wrong, we knew in our minds he was right.

Last year's historic tax and spending reforms came easily, as first steps usually do, and 1981 saw the beginnings of a dramatic reversal in the direction of Federal tax policy.

It was driven by the recognition that the tax system as presently structured was not conducive to work, to savings, and to investment. The reduction of marginal tax rates, the provision indexing inflation out of the Federal income tax, and the many specific provisions encouraging investment and savings all reflect this fundamental shift in policy.

If 1981 was the time to make the first effort at genuine tax reform in almost 50 years, 1982 was to be a period of reflection, adjustment, and refinement of the basic changes begun a year ago. But those thoughts proved to be false optimism. We had all underestimated the price this country was about to pay for two decades of overconsumption and overcommitment. And the roots of this evening's debate actually go back to February, when the President released a budget calling for deficits in excess of $700 billion over the next 3 years.

Those deficits were unacceptable by any criteria. Congress responded by forging a reconciliation budget that reduced these deficits by nearly $400 billion. The Senate proposed achieving those savings mainly through spending reductions; the House proposal called for higher taxes—$180 billion higher over the next 3 years.

The final compromise reached by the two Houses was a blend of both. It reduced the deficit by $378 billion—$279.5 billion through spending reductions and $98.5 billion through new tax revenues. In light of the way interest rates have held up over the past 6 months, I shudder to think what would have happened to the economy if that compromise had not been reached—or if Congress should fail to pass this bill and the other legislation required to meet these budget ceilings.

That is where the tax debate comes into the picture. When the Senate Finance Committee met in July it met to fulfill a specific mandate—draft legislation sufficient to raise the required $98.5 billion in new revenues over the next 3 years.

When the Republican members of the committee met in closed door session to consider how to accomplish that goal, we laid all possible choices on the table. We discovered very quickly that it was impossible to reach the $98.5 billion target simply by accepting revenue proposals we could all support. It was going to be necessary to adopt tax changes that some of us would not support under other circumstances—and the only question was "Which ones?" The committee began that sorting out process by adopting two general principles:

First, wherever possible, the committee would seek to collect taxes from those who owe them but are not paying, rather than levying new taxes on those who are complying with present laws.

Second, if present tax benefits had to be altered or repealed, the committee would seek to preserve tax benefits that applied to all businesses across the board, and alter only those provisions which grant special benefits to one group or company at the expense of others.

The conference report now before this Congress was assembled in line with these principles.

It is not, as some critics have called it, the biggest tax increase in history. It cannot be viewed in isolation from the rest of the President's tax program of which it is a very small part. We have all received more benefits from last year's tax reductions, savings incentives, and the resulting decline in the tax of inflation than we are being asked to return in this proposal.

Moreover, the President was right in pointing out that this bill does not levy $99 billion in new taxes. The bulk of the revenue it raises comes through compelling better compliance from taxpayers who owe taxes but are not paying them. A tax system that fails to force compliance by a small segment of society—usually the richest segment—is a system unfair to the great majority of working men and women who do comply. By improving compliance, this bill creates a tax system that is fairer, and a deficit nearly $45 billion lower. That is a fair deal for all Americans.

At the same time, this bill is not painless. Tax loopholes are closed, and some new taxes are levied. But let us be realistic—there is not any painless way to cut a $140 billion deficit. Everyone is going to have to feel some pain so we can avert the very real threat of indefinite economic stagnation. So far the brunt of the deficit reduction has fallen on some of the poorest elements in society, as so many of the appropriated programs have been cut back. But we are never going to complete the job until all segments of society—including defense, entitlements, and those who benefited the most from recent tax reforms—share in the burden.

No Senator should be foolish enough to believe we have the luxury of rejecting a basically sound bill simply because it contains one or two provisions we might personally disagree with. I am not ashamed to admit that I was the last Republican holdout on several of the provisions in this bill. There are portions of the package I disagree with and will work to modify next year. But I am also not ashamed to tell you that when no other way to meet the budget requirements surfaced, I voted with the committee to keep those proposals in the bill.

There are 100 Senators in this body and 435 Representatives in the House. Each of us would have assembled the bill in a slightly different way. But the fact that I might have constructed the tax bill differently if I had had the power to do so cannot change the reality that a failure to meet the $98.5 billion budget ceiling would have a catastrophic effect on interest rates, inflation and Federal borrowing.

This vote is being taken at a time when the impact of the President's program is beginning to take hold. For the first time in many months, there are some good economic signs. Interest rates have fallen rapidly, down more than 7 points from the peak levels inherited from the last administration. Inflation has been cut in half in just 12 months, and there are signs that the country is finally beginning to recover from the tragedy of this recession. Rejection of this conference report would shatter the confidence that has begun to grow in the financial community, confidence that has been months in the building. Even if this bill differs somewhat from our personal preferences, it is a sound bill, and we cannot afford the risk of being 100 percenters.

The fact is that this bill meets the basic objectives of sound tax policy at this stage of the Nation's passage to tax reform.

It raises the revenue necessary to reduce the deficit and meet budget ceilings without doing harm to the budding tax reform begun last year. The individual rate reductions have been preserved, as has the essence of the accelerated cost recovery system.

It furthers those reforms in several areas, including the further changes made in IDB's and mortgage revenue bonds.

It corrects and adjusts policies made last year that are not in line with the overall thrust of tax reform, for example, by correcting those areas where ACRS was actually better than expensing.

It is also essential to recognize that our consideration of tax law changes in the Finance Committee this year added another important dimension to the goals of Federal tax reform. Besides shifting the tax penalties off workers, savings and investment, American taxpayers have—since ERTA—voiced a strong desire for fairness and equity as a goal of comprehensive tax reform. This bill is what its name implies—a tax equity bill. Its major thrust falls on upper income taxpayers. It imposes a minimum tax on large corporations that have utilized tax expenditures to escape their responsibilities to pay a share of this Nation's expenses. It raises millions of dollars in revenues by imposing a minimum tax requirement on the 200,000 millionaires who now avoid paying any taxes at all.

There are also specific provisions in this conference report that will benefit the country as a whole and Minnesota in particular.

The bill contains a provision I authored cutting out the abuses in safe harbor leasing, and focusing its benefits on the farmers and distressed industries that need the help the most. Estimates are that the provision will save or create tens of thousands of jobs in the steel, airline, and automobile industries.

I take great pride in the fact that we were able to exclude from the restrictions on tax-exempt financing contained in this bill those bonds to finance student loans and the construction of college facilities. In response to a continued reduction in Federal aid to colleges and college students, many States and colleges are compensating by selling tax-exempt bonds and loaning the proceeds to students who otherwise would not be able to obtain a higher education. Also, colleges are using those proceeds to finance the construction of new facilities and the improvement of existing structures. While applying the restrictions in this tax bill to such tax-exempt borrowing would have raised a small amount of revenue in the short term, the long-term consequences would have been devastating—in terms of both human and financial costs. The colleges of this country and their students are showing amazing resilience, creativity and energy in coping with the many difficulties they face. Saving a few dollars now at the expense of higher education is one of the costliest decisions we could have made. I am pleased that the Senate spared them the need to cope with one more difficulty by excluding student loan and college facility construction tax-exempt bonds from the restrictions in this tax exempt bill.

The bill also contains a provision I authored that will allow tax-exempt bonds to be used for district heating and cooling projects. Minneapolis already heats much of its downtown with a district heating system, and my amendment will facilitate its expansion. St. Paul is planning a district heating project, and the bill makes it far more likely that St. Paul can accomplish its goal.

The bill also corrects a loophole in Federal IDB legislation, enabling the city of St. Paul's Port Authority to proceed with an IDB issue needed to further the city's development program.

The bill extends the targeted jobs tax credit, and insures Minnesota's unemployed an additional 10 weeks of supplemental unemployment compensation—something I have been fighting for for more than a year.

These are significant accomplishments, and they are good reasons in their own right to support the bill.

This is, in short, a sound bill from any policy perspective. And in a real sense, Mr. President, the bill is a test of whether we have the courage of the convictions we so often preach to our constituents.

We all speak in ringing terms about our commitment to cutting the Federal deficit. But is that the kind of commitment we abandon when the path to a lower deficit, though a sound and fair path, is a little bit different from the one we might have preferred?

We thrive on the campaign rhetoric of tax equity and closing tax loopholes. But are we going to abandon that commitment when some of those loopholes affect a few of our own constituents?

And we speak so often in this Chamber of the need to support the President. Do we really mean that we will support him only when it is easy, or when his programs do not ask us or our political constituencies to share in some of the sacrifice?

This is not the last tax bill this Congress will consider. The movement toward tax reform will continue next year, and during the years following. I know as well as anyone in this Chamber that increasing taxes in an election year is a difficult thing to do. But we were not sent to Washington just to make the easy decisions. We have an obligation to lead public opinion and do what is right for the country. Passage of this conference report is the only way to meet the budget ceilings and I am going to vote yes. The stakes for the entire country are just too high to do anything else.

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I shall vote in favor of the conference report on the Tax Equity and Fiscal Responsibility Act of 1982.

I support this legislation for several reasons:

First, this legislation provides for an extension of unemployment compensation payments for the jobless who have been unable to find new jobs during this severe and extended economic recession. This is extremely important at a time when our national jobless rate is 9.8 percent and it is very important in the State of Rhode Island where several hundred jobless persons exhaust their unemployment benefits each week and face the prospect of turning to welfare or charity to survive.

This legislation also is an essential part of an effort to narrow the huge gap between Federal revenue and spending, to bring Federal Government budget deficits under control. The bill will increase Federal revenues by nearly $100 billion during the next 3 years. Without this revenue increase, the Federal deficits which threaten to undermine any economic recovery will continue to grow.

I also support this legislation because it corrects some of the most serious mistakes made by the Congress when it passed the Economic Recovery Tax Act of 1981. That tax bill provided much-needed incentives for increased savings and investment, but in my view, the tax cut bill went too far and provided, in some cases, grossly excessive corporate tax cuts. The bill we are considering today corrects the worst of those mistakes, while preserving the justified tax reduction needed to promote sound economic growth and investment.

I am particularly pleased that this bill provides for restriction and ultimate elimination of so-called "safe-harbor" leasing, the provision of the 1981 Tax Act which permits corporations to buy and sell Federal tax credits. I was the principal sponsor of Senate legislation to repeal this unwarranted and unjustified corporate tax loophole and I am happy that this bill closes the loophole.

This tax bill also corrects some blatant inequities and flaws in our tax code. It eliminates a widespread abuse

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in professional corporation pension plans and it corrects serious flaws in taxation of the life insurance industry.

Mr. President, from the outset of the current administration 18 months ago, I have been critical of its economic policy. I said at that time that I believed the administration's proposed tax cuts were too deep, its proposed cuts in spending for worthwhile Federal Government programs were too severe and its proposals for increases in defense spending were too large. I said at that time that these proposals ran a serious danger of creating huge budget deficits that would undermine our national economy.

The tax bill we are considering today is, in part, an admission by the administration that the huge tax cuts approved last year were too large and could hurt instead of help our economy by depriving the Government of needed revenues. This bill moves toward reestablishing a responsibile fiscal policy, toward providing the revenues needed to pay for essential Government services without huge Government deficits. I welcome this correction in the administration's economic policy.

I have said frequently that I want the President's economic program to succeed. All too frequently during the past 18 months, however, I have been compelled to vote against the President's economic policy proposals because I believe they were ill-advised. Today, I am happy to say I believe the President is right. This is basically a very good and very fair tax bill. The bill strengthens our economy by narrowing the budget deficit in the coming years and I will vote for the bill.

Mr. PERCY. Mr. President, I intend to strongly support the report before us. I commend the distinguished managers of this bill for the extraordinary hard work, and imaginative and creative work, they have put into it.

Mr. THURMOND. Mr. President, as my colleagues are well aware, Congress is moving toward consideration of the House-Senate conference report on the tax bill.

The news media has gone to great lengths to show that there is opposition to this bill from a variety of groups including lobbying organizations for businessmen and professionals.

I, for one, plan to support President Reagan on this issue despite that opposition because I firmly believe that this is no time to abandon our economic recovery program.

Today, I had the privilege of meeting with a group of officials from the National Association of Retail Druggists, an organization which represents more than 30,000 stores and the 18 million consumers who do business with them every day.

I was pleased to learn that this group has added its support to the tax bill, believing as I do that we must support the President if we are to have sustained economic growth and a reduction of interest rates. A great deal has been said about the opposition to the tax bill from independent businesses and the lobbying organizations representing them. It is refreshing to know that there are a great number of people who also support the tax bill because they know that is the only sure way, coupled with a program to steadily reduce Government spending, that we will get back on the track to a healthy economy and years of prosperity.

Mr. President, I ask unanimous consent that a statement of endorsement for the tax bill from the National Association of Retail Druggists be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

> The National Association of Retail Druggists, on behalf of America's independent retail pharmacists and our more than 30,000 stores and the 18 million consumers who do business with them daily, urge you to vote for the House/Senate conference report on the tax bill, H.R. 4961.
>
> Through our efforts as the only organization registered with the Congress to represent the interests of independent retail pharmacy, many of you are personally aware of our concerns about the economy. As the owners of independent small businesses that you represent, who have been ravaged by the twin demons of inflation and interest rates, we took a long and hard look at the bill. Likewise, we reviewed proposed alternatives including minimum tax, surtax, excise taxes, as well as the repeal of the 1981 estate and gift tax reform or the 10 percent individual tax cut scheduled for July 1983.
>
> Although those of us who are supporting the President and congressional leaders in this effort to revitalize the American economy have some reservations about the bill, we see the conference bill as the only available vehicle that could further reduce interest rates. NARD, however, does continue to oppose, as shortsighted, cuts in reimbursement for the cost-effective medicaid pharmacy program.

The **PRESIDING OFFICER.** Who yields time?

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. DOLE. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like to say a few words about the alternative minimum tax provisions agreed to by the conference committee. The House conferees proposed substantial revisions to this provision. We were able to reach an agreement which incorporates some of these changes. The differences between the Senate provision and the conference agreement are clearly described in the conference report. But I would like to point out a couple of changes the House conferees attempted to make but which were not agreed to.

First, the House proposal would have disallowed all deductions for charitable contributions. It was my position, and that of the other Senators in the conference, that this proposal was totally unacceptable, in fact, not even worthy of debate. Here we are asking the charitable organizations of this country to take on a greater burden in serving the needs of education, welfare, health care, and a wide range of other functions we have come to rely on the Federal Government for. How could we, at the same time, justify diluting the incentive for charitable giving? Charitable deductions, unlike most other itemized deductions, are already limited under current law. Further restrictions would have been regrettable; to have disallowed the deduction completely, as the House suggested, would have been disgraceful. I am pleased to inform my colleagues that the conference agreement makes no changes in this area, and charitable contributions remain deductible for minimum tax purposes, subject only to the same limitations which apply for the reguair income tax.

Second, the House conferees proposed disallowing the deduction for home mortgage interest for the minimum tax, unless the taxpayer had investment income of at least that amount. Again, I an pleased to point out that the conference agreement does not include that proposal. As under the Senate bill, for purposes of the alternative minimum tax, home mortgage interest remains fully deductible and only other interest is limited to the amount of investment income included in the minimum tax base.

The **PRESIDING OFFICER.** Who yields time?

Mr. DOLE. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise tonight because I am very proud. I am proud of a lot of things. I am thinking back to May 5 of this year. I did not think that night when the Budget Committee was marking up the budget resolution that we would get this far. We have gone through a lot, including negotiations with the White House. I will never forget the great conversation that I had with our President when I suggested that we could produce a budget resolution with $101 billion of new revenue. I suggested that we instruct and hope that the Congress would agree, that the Committee on Finance must produce $101 billion. The President listened and then in a few sentences said, "Go ahead. I will support it." Those who know him know he does not talk that way. He uses other, more typically "Great Communicator" phrases.

I did tell the press that night literally what he said.

I am proud that he has followed through. He has been marvelous in this support of this measure.

I am proud, too, of the Senate. The Senate voted the first budget resolution that contained about $106 billion in new revenue and a lot of budget cuts in it. I am proud of the action taken by those conferees from the House when the bill went over there. We compromised. We came up with $98 billion plus in revenue. We did not lose much of the budget cuts either.

We voted on that measure and that took a lot of courage.

Basically, I am proud of the courageous activity around here. Then it goes without saying that I could not be more proud than to be associated with such distinguished Senators as those on the Finance Committee. Those on my committee did what they had to do, but it is comparatively easy because we do not have to formulate the details. Those members of the Finance Committee and the members from the Ways and Means Committee in the House had to go off and produce a bill. Our committee produced that bill and we voted for it.

The House in the last 10 days or so through their committee conferred and produced another reconciliation bill.

Today I watched another series of courageous acts. I watched the Speaker of the House, and I watched the leader of the Republican Party there, and the chairman of the Ways and Means Committee and many others, and I was proud of what they said in support of the Tax Equity and Fiscal Responsibility Act. Then I anxiously watched the vote and I was proud to be part of the U.S. Congress again. I really was.

It is absolutely historic to see Members in both bodies, on both sides of the aisle less than 90 days before an election, vote yesterday to cut $13.3 billion. That was by a large margin here and by a large margin in the House. Why was I proud? Was that really courage?

Well, it was either courage or there has been some significant change in the way we do business around here. Maybe they are synomymous. Maybe it takes courage to do things differently than they had been done for decades in the past.

Who would believe we would vote a major change in the automatic cost of living just yesterday?

Who would believe that the Finance and the Ways and Means Committees would add another $16.8 billion in savings over 3 years in those uncontrollables that are within their respective jurisdictions? Without those savings, most of those programs would be growing at about 2½ or 3 times inflation.

I am proud that we have done that.

It does not make me proud just because our President said yes on May 5 and has been marvelous ever since, or that the Committee on Finance followed the instruction. If it were not good policy and the right thing to do, it surely would not make me proud. But I am absolutely confident that we are on the road to recovery.

I am absolutely confident that we are on the road to less Government, not more.

I am absolutely convinced that we are on the road to lower interest rates, lower service on the debt. These are the sign posts along the road to prosperity for millions of Americans.

I know of no other way to send a more dramatic signal to the people of this country than by what we have done and what I hope we do here tonight.

I know of no better way to send a message to the money markets that we are serious about getting the huge deficits under control and that we are doing it in a prudent and reasonable way.

I know of no better way that we could send a message that we are serious about a positive reduction in the deficits each year for the next 4 or 5 years. Hopefully, this will culminate in a balanced budget in the not-too-distant future. I would like to be chairman of the Budget Committee when that happens.

There are so many people to be proud of, Mr. President. I missed some as I discussed it. There were literally hundreds of hours in our leader's—HOWARD BAKER'S—office, with Senator DOLE, Senator HATFIELD, Senator LAXALT, figuring out what we could do and what we could get through. There were many others who are running for office, who have voted time and again on tough issues; first on the budget resolution, then on the tax bill and on reconciliation bills. Hopefully we will hang tough here tonight, and pass the conference report on the tax bill. It is one more necessary step if we are to achieve prolonged economic recovery.

None of these votes was easy. They were all hard votes. I am positive, as positive as I have ever been about anything in my life, that those votes were not in vain. To the contrary, Mr. President. If we do not vote this conference report in, I believe we have acted in vain for about the last 18 months.

Then I do not think anybody in the money markets of America or those wondering whether inflation is going to go wild again will have any reason to believe us. I just think they will say, "That is just some more talk up there. That is just more idle promises."

Well, the House did their job. I hope we do ours tonight.

Mr. President, this is a critical moment in our drive for fiscal responsibility. This is a critical moment for the Senate.

We have before us the Conference Report on H.R. 4961, The Tax Equity and Fiscal Responsibility Act of 1982. The question we face is as simple as it is difficult: Do we have the courage to vote for changes in taxing and spending patterns in an election year when the public good demands it?

I fervently hope the answer will be "yes."

We may have gotten a partial answer yesterday when the Senate voted 67 to 32 to adopt the conference report on the Omnibus Budget Reconciliation Act of 1982. I commend my colleagues for that action. I know it was not easy for many. But it was necessary.

Adoption of the conference report before us today is equally necessary. Together, these two actions would provide a clear signal that the Congress means to make the tough decisions that are required to achieve the economic goals we all seek.

I especially want to applaud the efforts of the distinguished chairman of the Senate Finance Committee, Senator DOLE. He and the members of this committee have produced deficit-reduction measures totaling $115.5. billion over the next 3 years. This is an extraordinary achievement. Laboring through many all-night sessions, they have put the common interest of all Americans ahead of the special interests.

This bill cuts spending by $16.8 billion over the next 3 years. It reforms the tax system to yield $98.3 billion in additional revenues over the same period. And it provides for a program of extended unemployment benefits that will pay for itself over 3 years. All these actions are necessary.

Our action yesterday on the Omnibus Budget Reconciliation Act brings the spending cuts in the two bills to $30 billion over the next 3 years.

Mr. President, I ask unanimous consent that a table showing the revenue and spending changes in this conference agreement be included in the RECORD at the conclusion of my remarks.

With the passage of this conference report, the Congress will show the country that we can remove tax loopholes while preserving the fundamental elements of the President's economic program. It will show the American people that Congress means to check the relentless growth in Federal spending. This bill is only one step along the path of fiscal restraint, but it is a very big step.

The necessity of this action should be evident to all. Never before has this country faced the possibility of annual deficits in the hundreds of billions. Never before have interest rates stayed so high for so long. These are

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not just the results of a few policy mistakes but rather the products of a prolonged period of fiscal excess ranging over the past 20 years. Passing the conference agreement today is one of many steps Congress must take to restore the Nation's economic health.

Some recent developments show that if we regain control of Federal spending and reduce deficits, we can lay the groundwork for lower interest rates and economic recovery. The inflation rate has declined more rapidly in the past year than anyone thought possible. And now we find that interest rates are declining as well. Last Monday Treasury 90-day T bills sold at an interest rate of 8.6 percent, the lowest level in 2 years. Even Henry Kaufman is now predicting that intertest rates will decline dramatically. Such progress could be reversed if we fail to adopt this conference report.

Let us look now at some of this bill's major provisions.

MEDICARE

The conference report contains major reforms which will help slow the growth of medicare, saving $12.8 billion over the next 3 years. The bill contains many changes in health care provider reimbursements, including a sweeping reform of hospital reimbursements that for the first time gives hospitals a financial incentive to restrain their cost increases. These changes still permit medicare to grow more than 13 percent per year for the next 3 years.

MEDICAID

The bill saves $1.1 billion in medicaid over the next 3 years, by giving the States the flexibility to adopt small copayments and to recover part of the costs of long-term care. This still allows 9.6 percent growth per year in medicaid.

AFDC AND SSI

In the AFDC and SSI programs, savings of over $700 million are obtained by streamlining benefit calculations and asking States to reduce their error rates. This will have a negligible impact on the truly needy while providing an incentive for beneficiaries to work their way out of welfare dependency.

UNEMPLOYMENT BENEFITS

The conference report provides federally funded supplemental unemployment benefits to help the long-term unemployed for an additional 6 to 10 weeks. The bill provides funds to pay for these benefits by lowering the income threshhold at which unemployment benefits are taxed. This provision responds to instructions given by the Senate to the conferees during debate on S. 2774, the Omnibus Budget Reconciliation Act.

ADAP

The conference report provides for increased spending through fiscal year 1987 for the airport grants-in-aid (ADAP) program and for modernization of the air traffic control system. The bill also enables most of the Federal Aviation Administration's operating and maintenance costs to be paid by aviation users, rather than by general taxpayers. The needed improvements in the safety and efficiency of our Nation's airways will thus be supported by commercial airlines, general aviation users, travelers, and business.

TAXES

The primary emphasis of the tax provisions in the bill is reform. Of the $98.3 billion revenue increase, $70 billion, or 71 percent, involves closing special-interest loopholes and assuring that people who owe taxes actually pay them. We can no longer afford to allow some taxpayers to avoid paying the taxes they owe, nor can we permit business writeoffs which divert resources away from their most productive use.

Only 7 percent of the revenues raised in this bill fall upon individuals. All of the increases on individuals affect either very high income taxpayers subject to the minimum tax or the 20 percent of taxpayers who itemize and claim certain medical and casualty deductions. These structural changes in our tax laws make good sense whether we are in recession or recovery.

This bill, in combination with the 3-year tax cut of last year, keeps the individual tax burden essentially flat over the next 3 years. In addition, it equalizes the taxes on corporate America. It scales back special tax preferences, such as safe harbor leasing; the tax credit for companies locating in Puerto Rico; modified coinsurance; foreign tax havens for multinational oil companies; completed contract method; and certain provisions affecting banks. These provisions affect only a narrow range of industries who now benefit from special tax treatment.

The provisions which affect most corporations include the 50 percent investment tax credit basis adjustment and the acceleration of corporate tax payments. The scheduled increase in the ACRS depreciation for 1985 and 1986 has also been removed. These changes are necessary because the depreciation reductions made in last year's tax bill were simply too generous. They would have misallocated capital and thus reduced economic growth. Approximately half of the business tax reductions contained in the 1981 act still remain even after the changes in this bill.

A third of the increased revenues in this bill come from stopping cheating. This bill implements 10 percent withholding on interest and dividends and requires the reporting of tips. It is only fair that every effort be made to insure the collection of taxes owed.

Much has been made of the impact of the excise tax increases in this bill, especially the 8 cents a pack increase on cigarettes. This increase will amount to less than 50 cents a week for almost all smokers. These taxes have not been changed since 1951. Since that time inflation has reduced the real value of this excise tax by almost half, so in a sense we are only returning the level of taxation to what it used to be.

Each of us may have other measures which we would have liked to include. But it is important to set aside our own particular interests so that we may achieve the essential common goal of reducing the Federal deficit and getting interest rates down. The stock market increase of 39 points last Tuesday, a further substantial rise today, and the continuing reduction in interest rates this week are clear evidence that bold action on the part of the Congress and the President can have dramatic effects upon our economic health.

I urge my colleagues to continue the progress we have made by voting in favor of this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD tables relating to the conference report.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 (H.R. 4961)

EXPLANATORY NOTE

This table outlines the revenue and spending changes in the conference agreement on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

All numbers in this table have been prepared by the Congressional Budget Office based on the materials provided by the conference Committee.

Revenue increases and spending reductions are stated in terms of changes from the baseline estimates used in developing the First Budget Resolution.

This table does not include the "by-product" effects of the changes in revenues and spending in the conference agreement. Some examples of these "by-products" are (1) increases in budget authority for medicare due to greater interest earnings because of the recommended savings in benefit payments; (2) increases in budget authority and outlays for medicaid and food stamps due to the savings being recommended in medicare, AFDC, and SSI; (3) increases in budget authority for the unemployment trust fund that result from the recommended FUTA tax increases; and (4) increases or decreases in budget authority and outlays that result from the federal employees medicare tax.

Recommended authorization levels in H.R. 4961 are not included in this table. These amounts are not binding on the Appropriations Committee which will determine the actual levels of spending at a later date.

Direct spending increases recommended in H.R. 4961 (other than the "by-product" amounts discussed above) are netted against the savings in the bill only to the extent that they exceed the assumptions contained in the First Budget Resolution, pursuant to previously announced Senate Budget Committee practice.

CONFERENCE AGREEMENT—TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 (H.R. 4961)

[In millions of dollars]

	Fiscal year—			
	1983	1984	1985	Total, 1983–85
Revenues:				
Individual income tax provisions	+272	+3,113	+3,106	+6,491
Business tax provisions	+5,422	+13,292	+16,497	+35,211
Compliance provisions	+3,365	+8,869	+8,660	+20,894
Pension provisions	+194	+780	+870	+1,844
Life insurance and annuities	+1,942	+2,155	+2,920	+7,017
Employment tax provisions	+1,904	+3,083	+3,577	+8,564
Excise tax provisions	+2,798	+4,009	+4,702	+11,509
Miscellaneous provisions	−38	−37	−34	−109
Revenue gain from additional IRS enforcement	+2,100	+2,400	+2,400	+6,900
Total revenue increase in H.R. 4961	+17,959	+37,664	+42,698	+98,321
Reconciliation revenue instruction	+20,900	+36,000	+41,400	+98,300
Spending:				
Medicaid:				
BA	−208	−364	−502	−1,074
O	−275	−364	−502	−1,141
Medicare:				
BA	−248	−472	−750	−1,470
O	−2,759	−4,267	−5,821	−12,847
AFDC:				
BA	−84	−95	−163	−342
O	−84	−95	−163	−342
SSI:				
BA	−116	−126	−144	−386
O	−116	−126	−144	−386
Child support enforcement:				
BA	−92	−141	−151	−384
O	−92	−141	−151	−384
Unemployment insurance				
BA	+85	−32	−21	+32
O	+[illegible]	−50	−49	−20
Savings bonds/debt management:				
BA	−329	−691	−858	−1,878
O	−329	−691	−858	−1,878
Airport and airway development [1]				
BA		+194	+312	+506
O		+39	+149	+188
Total spending reduction in H.R. 4961:				
BA	−992	−1,727	−2,277	−4,996
O	−3,576	−5,695	−7,539	−16,810
Reconciliation spending instruction:				
BA	−1,106	−1,444	−1,740	−4,290
O	−4,429	−5,564	−5,976	−15,969
Supplemental unemployment benefits:				
Increased benefits:				
BA	+1,939			+1,939
O	+1,939			+1,939
Offsets:				
Reductions in food stamps and AFDC:				
BA	−209			−209
O	−209			−209
Lower income tax threshold	−763	−734	−611	−2,108
Total effect on deficit	+967	−734	−611	−378
Effect on deficit:				
Revenues	−17,959	−37,664	−42,698	−98,321
Spending (outlays)	−3,576	−5,695	−7,539	−16,810
Supplemental unemployment benefits	+967	−734	−611	−378
Total effect on deficit: H.R. 4961	−20,568	−44,093	−50,848	−115,509
Reconciliation instruction	−25,329	−41,564	−47,376	−114,269

[1] Increase over First Budget Resolution assumption only.

Mr. DOLE. Mr. President, I yield to the Senator from California, then the Senator from Ohio, then the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, when the Senate considerd the tax bill last month, I voted against it. While I agreed that we are in desperate need because of the gigantic Reagan deficits, I believed there were better ways to generate the revenues we need to reduce the deficit and to pay for President Reagan's unprecedented escalation of defense spending.

I was concerned, too, about the severity and inequity of proposed cost savings in medicare, medicaid, and other programs.

What we have before us now is a somewhat different bill. Democratic alternatives like postponement of the third year of Kemp-Roth have not emerged, but this bill is better than the one that passed the Senate.

I remain concerned about the cost-saving provisions of the bill, although they are now less onerous.

I approve some of the current tax provisions, and oppose others.

Despite these reservations, however, I believe the revenues the bill will generate are essential to bring interest rates down and to otherwise alleviate the horrendous economic conditions spawned by Reaganomics.

What is at stake now, Mr. President? What is at stake now is the very credibility of Government to deal with a rising crisis, to manage the deficits we face, and to reverse the financially disastrous course the Reagan deficits are forcing upon the economy.

Failure of the conference report could further imperil our hopes for economic recovery. Failure could severely weaken our Government's ability to cope with rising unemployment, rising bankruptcies, rising foreclosures, rising misery, and rising fear.

Mr. President, I have not frequently supported President Reagan. We have different philosophies. We have different approaches to most of the vast, intricate, and intractable problems of our time. But when I think he is right, I will support the President. I think he is right now.

He is seeking to make a midcourse correction in his economic program, a correction of his own mistakes, his own misjudgments. We should not prevent him from making that correction.

This measure will not cure all the ills of our economy. Much, much more needs to be done. But let us begin tonight. Let us take the first step. Let us approve the conference report.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I promised the Senator from North Carolina he might be recognized next but does he mind if the Senator from Ohio goes first?

Mr. EAST. Mr. President, that is all right, if it would be possible for me to follow the Senator from Ohio.

Mr. DOLE. If it is all right with Senator METZENBAUM, it is possible for him to go before the Senator from Ohio.

Mr. EAST. I thank the Senator, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the Chair. I shall try to be as concise as I can.

I would like to indicate in this final debate for the public RECORD that I shall be voting against this conference report. I should like to outline briefly why I am doing so.

I appreciate the work that many of our distinguished colleagues have put into this measure and I appreciate that it is one of those things that fair-minded people can differ over. The state of the Nation's economy is one of the highest priorities, if not the top priority item, we have facing us at this point. It transcends party lines and it transcends ideology. We are all trying to accomplish the same end.

I simply dissent from the notion that the increasing of taxes in this form, in this report, makes the most decisive and effective contribution to the end we all seek; namely, reduced interest rates and a revitalized economy. Let me put it this way, Mr. President: I am convinced if we continue to increase taxes of this kind or if we put the third year of tax decrease back on, if we slash military sales, we are, in the near term and the long run, going to continue to have a serious problem of deficits in Federal spending in this country until we come to grips with what I think everybody knows is the fundamental problem—the entitlement programs.

The entitlement programs are the open end of the Federal budget over which we do not now have control. So increased taxes simply mean more money available for spending, but it does not come to grips with what I think is the unspoken word and unspoken understanding in this Chamber, that at some point after the election, after the turn of the year—I do not know when it will occur—this Chamber and our colleagues in the House will have to come to grips with the single biggest cause of hemorrhaging in the Federal budget; namely, the entitlement programs. Anything else prior to that, at best, perhaps as an assist, is helpful. But I say, Mr. President, it lulls us into a false sense of security that, some way or other, now, we have done all that needs to be done.

We are increasing revenue, we are increasing taxes. Yes, we may find some cuts in military sales. We may find some more here, there, and yonder. But again, I keep coming back, perhaps ad nauseam, to the basic problem we face in the Federal budget, the entitlement programs.

I have heard may responsible Members of this Chamber on both sides acknowledge that until we come to grips with that and deal with it decisively and responsibly, we cannot control Federal spending, we cannot keep the

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deficits down, and we will not be able to keep interest rates down. That is supposedly what this tax increase is supposed to do—make a healthy contribution to getting interest rates down.

The final point I make, Mr. President, is that often we are told this is primarily tax reform. I understand that language and rhetoric becomes important. We are told it is primarily a matter of compliance and closing loopholes; that there are those provisions in here. I understand why that kind of language is used. But let us also be candid. There are new taxes in here. Revenue is being raised. Taxes are being levied. I will be candid. I have been very troubled about the doubling of the excise tax on cigarettes in this bill. It will have impact in my State and, frankly, in other States.

Here is the problem I raise with the cigarette tax. The cigarette tax has been one of the basic taxes that States have utilized in raising their own revenue. I find it somewhat at odds with the so-called New Federalism, giving greater responsibility back to the States and trying to get the tax base back to the States, when that is one of the areas that they have taxed very heavily, quite candidly, in recent years. Since 1951, the States have increased their excise taxes on cigarettes by 350 percent.

It is true that the Federal Government has not raised it since 1951 but we are now on the threshold of doubling it, which I think is unconscionable and unwarranted from the standpoint of Federal taxation. I do think it is contrary to the grains of the New Federalism, which means we try not to erode away the tax base of the States. If we are trying to get more responsibility and a broader tax base back to the States, we ought not to be taking away this tax, because at some point you will begin to kill the goose that laid the golden egg. Cigarette taxes in this country raise over $6 billion a year. At some point when you are going beyond revenue raising and approaching the point of simply being punitive to an industry, you will kill the goose that laid the golden egg. You will simply suppress sales. You will have less revenue. Ironically, this could not only be nonproductive as regards Federal revenue but I think it will have an effect on State revenues in the whole concept of the New Federalism.

My point is that there are new taxes in this bill. Cigarette taxes are new; taxes on small boats under 20 feet, that is new; telephone taxes, that is new; airlines, that is new. That is not compliance. Those are not loopholes. Those are new taxes. They are regressive taxes in that they are levied against those least able to pay.

I simply bring that out as a point that I think is worth stressing. It is not at all a matter of compliance and loopholes.

I conclude then, Mr. President, by reminding my colleagues that in the euphoria of the evening, when we are perhaps about to join the House in passing this measure and going home with a sense of accomplishment—and I do not belittle that—the day of reckoning still lies ahead in getting control of Federal spending via the entitlement programs. That is where we will ultimately be tested in terms of our sense of responsibility, and that includes, of course, returning integrity to the social security program so that those who are investing in it can make sure they get their return back. We have a lot of very serious work ahead of us. This does not bail us out. This merely defers that day of reckoning, and I remind my colleagues that day of reckoning is yet to come. I wish we had already come to grips with it, but we have not. We have done this as an alternative and we shall do some other things.

So it is not in a spirit of a desire to contribute to big deficits or high-interest rates or a continued weakening economy. To the contrary. I think we would have made the single greatest contribution to low-interest rates and a strong economy and lower deficits by hitting directly at the problem, namely, the spending side, and in particular the entitlement programs.

Mr. President, I appreciate the opportunity to speak on this matter, and I again wish to give my respects to the distinguished Senator from Kansas for whom I have the greatest personal regard. I simply disagree with him on this very important measure.

Mr. President, I will happily yield the floor.

Mr. LONG. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. METZENBAUM).

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank the Senator from Louisiana for yielding 10 minutes to me.

I rise, Mr. President, first to commend the leadership of the chairman of the Finance Committee on this measure because, in all fairness, he has taken on a very difficult assignment. He has brought forth a piece of legislation that unquestionably has a good deal of merit in it. Many of the issues that he tackled in order to provide the necessary revenue for this measure were not easy issues to zero in on, and I wanted to see him succeed.

As a matter of fact, when the bill was originally before the Senate, on an amendment to strike the provision dealing with withholding on interest and dividends, there were only two of us on this side of the aisle that saw fit to vote with him. That provided him the margin of victory, because the amendment was defeated 47 to 50. With respect to a motion to eliminate the increase of unemployment tax on employers, I again saw fit to support as one of two Members on this side of the aisle the Senator from Kansas. And again those two votes provided the measure of victory on a 47 to 50 vote.

I further saw fit to support him in his effort to defeat the motion to strike the provisions on tips. Although he did not succeed I did vote with him.

Having seen his efforts to move in the right direction in connection with many of the matters contained in this measure, on Monday of this past week in Ohio, I indicated publicly that I was seriously considering voting for the measure. I did so in part because the Senate had previously seen fit to adopt my resolution directing the tax bill conferees to provide additional assistance to unemployed Americans. I thought that that particular direction was important. I thought it was especially important for people in my own State who are very much in need of unemployment compensation.

UNEMPLOYMENT BENEFITS

The resolution called for two changes in current law: First, it specified that all States receiving extended benefits on July 1 would continue to receive them. Second, the resolution called for the establishment of a new program of supplemental benefits, providing between 10 and 13 weeks of additional eligibility over and above the extended benefit program.

The conference report on H.R. 4961 addresses some, but by no means all of these concerns. It does not go far enough.

Through March 31, 1983, it provides for a munimum of 6, rather than 10 weeks of supplemental benefits for all unemployed Americans.

For those who reside in high unemployment States, the extension is 8 weeks, with 10 weeks made available only to the States that have been the hardest hit of all.

But, Mr. President, the 1981 reconciliation bill made two crucial changes in the formula that triggers extended benefits: First, it changed the calculation formula determining whether a State is eligible for extended benefits; and second, it raised the actual trigger level for extended benefits.

As a result of these two changes, about 29 States have, or soon will, lose their eligibility for the 13-week extended benefits program. We are talking about States with persistently high unemployment—Alabama, Arkansas, Delaware, Indiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Vermont, Alaska, Arizona, California, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Montana, New Mexico, North Carolina, Ohio, Oregon, Tennessee, Utah, the Virgin Islands, Wisconsin, and by some estimates, Mississippi and West Virginia.

Mr. President, I intended to offer an amendment to the debt ceiling bill which would have assisted these States by doing three things.

First, it changes the effective date for the termination of the supplemental benefits program from March 31, 1983 to the date upon which the national unemployment rate drops below 8.7 percent. That figure—8.7 percent—is the estimated unemployment rate for March 1983 as assumed in the first budget resolution.

Second, the amendment temporarily suspends the formula changes enacted last year that have inadvertently denied benefits to the neediest States. Restoration of the formula is tied to the achievement of an 8.7-percent unemployment rate.

Finally, the amendment suspends the higher insured unemployment rate trigger, which is due to take effect on September 25. This suspension will continue until unemployment falls below the 8.7 percent level.

Mr. President, I believe that this amendment at the relatively modest cost of $529 million, does what the Senate intended to accomplished on August 5.

I am disappointed that the tax conferees did not address these concerns. By not changing the trigger, many States including Ohio, will actually receive fewer weeks of benefits, due to last year's budget cuts. I will use every opportunity to correct this problem, and I urge my colleagues to support me in that effort.

But Mr. President, the fact of the matter is that the Senate conferees did not do that which the Senate had instructed them to do. In all fairness it is my understanding that the chairman of the Finance Committee did indeed make an effort to achieve that which he was directed to do by the Senate, a measure in connection with which he himself had cosponsored. He made a serious, conscientious effort to achieve it. Unfortunately, the objective which he saw fit to attain did not come to pass, and as a consequence many States, 29 to be exact, will be triggered off unemployment compensation benefits within the coming weeks and months. By reason of that fact, it makes it very difficult for me to support this bill.

I was seriously considering supporting this bill because it does close unproductive and costly tax loopholes. It restricts and eventually repeals safe harbor leasing. It reduces tax breaks which have benefited oil companies, and it eliminates some of the accelerated depreciation benefits which were too generous. Also, it improves taxpayer compliance.

But when the matter got to the conference committee, not only did it fail to do that which many of us felt it should do in connection with the extension of unemployment benefits for needy unemployed workers, but it also eliminated the existing $150 deduction for medical premiums which the Senate had only reduced to $100. In all fairness, the conference committee did reduce the amount by which medical expenses must exceed income from 7 to 5 percent of income, and continues to permit medical premiums to be calculated into that amount.

So we find in this instance one change in the right direction, the reduction from 7 to 5 percent, and another change, to eliminate the $150 deduction, a change in the wrong direction.

That change in the law will cost the taxpayer who itemizes his or her deductions more than $70 per year, a burden that I do not believe the average taxpayer is in a position to carry.

The fact that the conference committee saw fit to keep the excise tax on cigarettes at the double figure is a measure I did not approve of, but I thought I could live with it; and the tripling instead of the doubling of the telephone tax, which was the way the matter had left the Senate, was also a regressive move and provides an additional burden for the people of this country.

So this measure comes before this body not being all good, not being all bad. But in this Senator's opinion, the failure of the conferees to do that which the Senate had instructed them to do in connection with the extension of unemployment benefits makes this Senator conclude that, on balance, it does not warrant my voting for the measure. In all fairness, I do want to say again that the Senator from Kansas was not indifferent to the concerns that have been expressed on the Senate floor with respect to unemployed workers. It is a fact that the measure includes a 6- to 10-week extension, which helps some. But it does not mitigate the harm that is done by denying the 13 weeks of extended benefits, which is an entirely different kind of benefit, to the unemployed workers of 29 States.

On balance, I think the effort is commendable on the part of the chairman and the Finance Committee and those who worked on this measure; but, overall, this Senator cannot see fit to vote for it, and I intend to vote "no."

Mr. DOLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Ohio, because he did properly indicate his strong support in three very vital areas during the debate on this bill.

I also indicate for the record, because other Senators may have the same concern, that we believe, based on the sense-of-the Senate instruction, that we had a better proposal than did the House. We worked the greater part of 1 night on the unemployment compensation. We worked with Democrats and Republicans. We also worked with representatives of the AFL-CIO. When our proposal, in effect, was rejected and they offered their plan, we decided that rather than have a fight over it in the conference, we would accept it.

It did not do as much as the other version would have done, so far as the Senator from Ohio is concerned, but it did do more in other States. I guess the one big difference is that what we have done will not cost the States anything, will not cost the employers anything, but will benefit by $2 billion some 2 million unemployed Americans for periods of 6 to 8 to 10 weeks. We hope that will be acceptable to the Senate.

It was not precisely as we might have done had we not had another body to confer with, but we tried to carry out the sense of the Senate resolution offered by the Senator from Ohio and the Senator from New Mexico (Mr. SCHMITT).

Mr. METZENBAUM. Mr. President, as I said in my statement, I think that the Senator from Kansas did indeed make a good faith effort to achieve the objectives of the Senate, as instructed. Unfortunately, with the technical language and the problems concerning this subject, that did not result. But I do not in any manner suggest that there was not a good faith effort on the part of the leadership of this body.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have already stated my decision to support the conference report on the tax bill.

The bill has been improved since it was last before us, particularly with regard to the medicare cuts, that would come directly out of the pockets of the elderly, and unemployment compensation.

On balance, it is the best bill we can now obtain in the midst of one of the worst economic situations in our history.

Let us be honest with each other and with the country about what this bill is—and what it is not.

First, it is a tax increase—but one that is fairer than last year's tax cut, since it asks the most of those wealthy corporations and individuals who can afford to pay more.

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Second, it contains major tax reforms for which I and others have fought during many years. The Tax Code will be less unjust after the enactment of this bill. It eliminates the worst excesses in the depreciation writeoffs enacted last year—and it will end the most flagrant abuses of tax leasing.

Third, let us recognize that the bill before us will not end our economic problems; at best, it will only prevent them from getting worse. The failure of the bill would send the wrong message and could spark a full-scale economic crisis. But we must move further in the months ahead to correct the broader failures of administration policy, especially the continuing and disastrous reign of high-interest rates.

No one yearns to vote in favor of a tax increase. No Member of the Senate or the House—surely no voter in any State—loves a tax increase. But perhaps the action the House has taken today, and the action I hope the Senate takes tonight, will send a signal that we in Congress are at last ready to deal with our economic problems in a realistic and sensible way.

I voted against the Reagan-Kemp-Roth tax bill last year, and I hope this vote a year later spells the end of economic nonsense and easy political appeals of the kind which told us falsely that we could cut taxes, raise defense spending massively, and balance the budget—all at the same time. That was the mistaken assumption of Reagan-Kemp-Roth—which rested more on ideology than reality. In our hearts, how much we all wish now that we had rejected the excesses of that bill.

There is no economic magic cure; there are only hard decisions which must be made. With this decision, we can move closer to a balanced budget than we ever could by approving the empty and meaningless constitutional amendment which was drummed through this body 2 weeks ago.

On this tax bill, let us make the hard choice—which here, as it so often is, also happens to be the only right choice. On this issue, we can and must see beyond partisan tactics. On this issue, to paraphrase words once spoken by Thomas Jefferson, "We are all Republicans; we are all Democrats." In the spirit, let us write this bill into law—and in so doing, we will have met the challenge to put our country and our economy first.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield to the distinguished minority leader, Mr. ROBERT C. BYRD.

Mr. ROBERT C. BYRD. I thank the Senator from Louisiana.

Mr. President, the conference committee has worked long and hard to make the tax bill more fair to working Americans and to the elderly.

Unfortunately, the conference did not eliminate the most unfair provisions. This tax bill still means that the average taxpayer must pay more in medical expenses, before he can deduct them from his taxes. This tax bill still triples the tax on telephones. And together, these two provisions will add more than $7 billion to our taxes over 3 years.

The conference bill still increases the cost of medical treatment for the elderly, striking hard at those who most need medical attention and those who can least afford it.

Senate Democrats offered a plan to stop the tax increases and spending cuts aimed at working Americans, small business people, the elderly, and small farmers. We would have spared middle class taxpayers new telephone taxes, new cigarette taxes, new unemployment taxes and cuts in their medical and casualty loss deductions. We would have saved American middle class nearly $25 billion in increased taxes and medical bills by delaying the full 1983 tax cuts for those who make more than $78,000 a year, and partially delaying that final cut for those making between $46,500 and $78,000.

Those making $46,500 and under, annually, would still get the full 10 percent cut in July 1983 under the fairness amendment offered by Mr. BRADLEY, myself, and other Senators. Had that amendment been adopted I would have supported the bill's passage.

Mr. President, less then 8 percent of American taxpayers make more than $46,500 a year and only 1 percent of our taxpayers make more than $78,000 a year. To protect these very privileged individuals, this administration decided to impose nearly $25 billion in tax increases and health care cuts on the rest of the taxpayers.

This tax bill has been supported with great vigor by the administration. The tax increase is being fought for by the same President who addressed a joint session of Congress in this year's state of the Union, saying:

> I will seek no tax increases this year, and I have no intention of retreating from our basic program of tax relief . . . I will stand by my word.

I would like to take this administration at its word, but I cannot. This administration has flip-flopped. It has broken its promise not to raise taxes, and it is opposing the will of the American public, as demonstrated in today's Washington Post/ABC poll that found the people against this tax increase 54 to 37 percent.

We have heard the President say that this bill is necessary to balance the budget and to bring on economic recovery. But this is a far different story than the one he told us during the state of the Union. Then, he said:

> Raising taxes won't balance the budget; it will encourage more Government spending and less private investment. Raising taxes will slow economic growth, reduce production, and destroy future jobs. . . . So, I will not ask you to try to balance the budget on the backs of the American taxpayers.

Well, I agreed with the President in January, and unlike him, I am still against tax increases parading as a path to recovery and low deficits. Lasting reductions in Federal deficits can only come in the wake of strong economic growth and full employment. I have introduced a bill to bring deficits down and promote economic growth by reducing the level of interest rates to their traditional levels above the rate of inflation. This bill is cosponsored by 33 of our colleagues and is gaining recognition and support on both sides of the Capitol.

We must never forget that high interest rates are a direct cause of high deficits and that by lowering interest rates we can lower our deficits. This is true in two ways. First, high interest rates depress the economy, increase unemployment, and thereby cause both lowered tax revenues and higher spending for unemployment benefits. It has been conservatively estimated that each additional percentage point of unemployment adds $25 billion to the deficit. This, the 2.4 percentage points that the unemployment rate has climbed during the Reagan Presidency—from 7.4 to 9.8 percent—has increased our defict by $70 to $75 billion—about two-thirds of what the administration projects it to be in fiscal year 1983.

Second, high interest rates significantly increase the interest we must pay on our national debt. In fact, interest on the national debt is the fastest growing element of the Federal budget—faster growing, for example, than either defense spending or social security. Ten years ago, interest payments took up 6 cents of every dollar spent by the Federal Government. For 1983 those interest payments will have more than doubled, to 13 cents out of every Federal dollar.

Clearly, to lower interest rates would directly and dramatically lower our Government's annual deficits. We all want a balanced budget, and lower interest rates would be a vital first step.

Mr. President, we cannot accept the premise that the only answer for inflation is recession. This is not an either/or choice. We have had economic growth without inflation in this country, and we can have that again, but only if we pursue balanced, sensible policies that will lower interest rates.

This brings forward another serious problem with the tax bill before us. There have been many claims that the conference report before us contains provisions making additional unemployment benefits available to every State. Some have used that as a reason to support the bill, including the President himself in his televised message.

Mr. President, there is no doubt that we have a terrible, tragic, unacceptable unemployment situation in this Nation. There also is no doubt that we must provide unemployment benefits for a longer period of time than current law allows in those States with the highest rate of unemployment. Last May I introduced legislation to do just that.

The conference report before us claims to do much for the unemployed, but for the great majority of States it is guilty of deceptive advertising. Before the conference began, Mr. President, the Senate voted 84 to 13 to request that the conferees address two major unemployment insurance issues: First, they were asked to remedy provisions in existing law that are causing States with high unemployment to lose eligibility for the existing second tier of benefits—"extended benefits." Second, they were asked to provide a third tier of "supplemental benefits" to last no less than 10 weeks nor more than 13 weeks.

The conference committee simply ignored the first of these two requests. As a result, by the end of December, the second tier—extended benefits for 13 weeks—will cease to be available in all but seven or eight States. My own State of West Virginia may well lose eligibility for these 13 weeks of benefits in December or thereafter, even if total unemployment there remains high.

The conferees did establish a supplemental benefits program, but its duration ranges only from 6 to 10 weeks, depending on the State's unemployment rate.

The net result, Mr. President, is that by the time December arrives, only seven or eight States will be eligible for more than 36 weeks of unemployment benefits—whereas 38 States have been eligible for 39 weeks at some point in the current quarter. For at least 30 States, that is a reduction in duration of benefits—not the increase the Senate unequivocally said it believed is necessary.

Yet, another major flaw in the bill's unemployment insurance provisions is the fact the 6 to 10 weeks of supplemental benefits it establishes will expire on March 31 of next year—no matter how high the unemployment rate is in the Nation or in any individual State. After that point, only five or six States will be eligible for more than 26 weeks of benefits.

Mr. President, the unemployment insurance provisions of the conference report are a thin, watery salve being applied to a gaping wound. They are completely insufficient. They are unacceptable. I do not believe this Congress—either the House or Senate—will settle for these provisions as the sum and substance of our efforts to help the 10.8 million unemployed persons in this Nation and their families.

Without question, these provisions give absolutely no incentive or reason to vote for this conference report.

For the reasons I have stated I am against the tax increases in this bill aimed at our working men and women. I oppose this bill reluctantly, because I think there are some important loophole closings here, but they do not outweigh the unfairness of imposing new taxes on working Americans to spare those better able to afford a delay in new tax cuts.

We have heard that this tax bill is not the largest tax bill in peacetime history. We have heard that it is hardly any tax increase at all. In fact, we are almost led to believe that this tax bill is devoid of tax increases.

Doubling the tax on cigarettes from 8 cents to 16 cents is certainly a tax increase.

Tripling the tax on telephones is certainly a tax increase.

Raising the tax on airplane tickets by 60 percent and adding a 5 percent tax on airfreight, and a $3 tax on all international travelers, are certainly tax increases.

Small businessmen are having their taxes increased on unemployment insurance.

When we raise the minimum medical expenses a family must suffer before any deductions can be taken from 3 to 5 percent, that is certainly a tax increase.

It is a tax increase when we raise the minimum casualty loss a family must endure before deductions are available from $100 to 10 percent of their income.

Let us not kid ourselves, or the American people on this. This bill raises taxes. This bill raises taxes on middle class and lower class working men and women, small business people, the elderly, and the veterans, and it raises them on the theory that new taxes will help us balance the budget and escape from a recession. It is a faulty theory, and I reject it.

I do not believe that this bill is entirely bad. I do not believe that people should ever escape paying their fair share of taxes, nor do I believe that businesses should be faced with negative tax rates when they are making healthy profits. But the unfair aspects of this bill, in my judgment outweigh the small progress made against outrageous loopholes. I will vote against this bill.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield myself about 3 minutes.

Mr. President, I wish to make a few comments this evening on the spending reduction provisions in the bill.

When the Senate passed the budget resolution, it directed the Finance Committee to come up with 3-year spending cuts totaling $23 billion. The conferees, however, required the Finance Committee to achieve only $16 billion in savings even though the budget totals still assume savings above $20 billion.

The tax bill conference report now before us purports to achieve 3-year spending cuts totaling $17 billion. This is slightly more than the reconciliation instruction but it is only about three-fourths of the savings needed to meet the actual budgetary targets underlying the budget resolution. And on a basis comparable to the spending cut provisions as they passed the Senate, the conference report would achieve only $13 billion of comparable savings.

As one of the conferees on this bill, I am well aware that it was difficult to obtain House agreement to even as much savings as it does contain.

In addition not achieving the full savings needed to meet our budgetary goals, this legislation was considered in a manner which raises serious concerns. As has happened before, the reconciliation process which was designed to help balance the budget has been used to expedite consideration of proposals to increase Federal spending. In this case, there was an even more troubling departure from the usual legislative procedures. An attempt was made to use this procedure to repeal savings enacted last year by introducing into the conference matters which had not been considered by either the House or the Senate.

Last year, the administration proposed to reduce spending by eliminating certain expensive features of the welfare programs. These were not cuts in the level of assistance provided to families on welfare but rather changes to eliminate elements which make it difficult for families ever to free themselves from welfare dependency. In addition to the strong support of the administration, these proposals were recommended by the Committee on Finance and approved as a part of the 1981 reconciliation package by both the House and Senate.

In the conference on this bill, the House conferees insisted on considering a proposal to restore those provisions which were eliminated by last year's legislation. The proposal made by the House conferees could not by any stretch of the imagination have been considered a proper matter for the conference. It was not in either the House-passed bill or the Senate amendment. It had not been considered by the House or Senate in this or any other legislation—indeed the only House and Senate action on the matter went in exactly the opposite direction from this proposal.

But the House conferees insisted that the Senate conferees violate the rules of conference to consider this matter which had not been committed

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to their consideration by either House. I cannot recall any similar situation occurring in the past where House conferees wanted the Senate conferees to accept a controversial matter involving significant cost and contrary to the most recent established position of both House and Senate.

In order to avoid agreeing to these costly House provisions which were not within the scope of conference, the Senate conferees had to agree to another provision reducing funding for the child support enforcement program—also language which had passed neither House of Congress. The House position, in effect, was that the Senate conferees must either accept provisions which would expand the welfare program or agree to a cut in the one Federal program which is most effectively aimed at reducing the welfare program by requiring parents to support the children they have deserted. Given this choice, the Senate conferees reluctantly accepted a reduction in Federal funding of the child support enforcement program.

This change in the child support program will prove to be a mistake. Although it achieves a theoretical savings in Federal funds by reducing matching for State costs, it will ultimately cost the taxpayers money by allowing more parents to abandon their children to welfare. This program, since its enactment in 1974, has been the most effective of all Government programs to aid children. Under the AFDC program, the Federal Government generally must put up $1 for every $2 that is provided in aid; the rest of the cost is also borne by the taxpayer through his State taxes. Under the child support program, for every Federal dollar spent, $4 in support is collected for children—most of this is paid by the parents of the children, not by the taxpayer.

It is unfortunate that the procedure followed for this bill forced the Senate conferees to deal with matters which had not been considered by either House. I believe this is a very dangerous precedent which undermines important traditions in our constitutional structure. The rules of conference are designed to permit expeditious resolution of the differences between matters adopted by the two Houses. They are not intended to provide a means for enacting legislation which has not been adopted by either House.

I believe it would be appropriate for the Senate to review the procedures associated with reconciliation bills to see whether changes might be desirable before we act on another reconciliation bill.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. Glenn).

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, last year I voted for and in favor of the President's tax package when it was before us. I sincerely hoped it would work.

We had tried on the Democratic side to modify that package to make it a less massive tax cut. We failed. And having exhausted all our remedies, many of us voted for it hoping very sincerely it would work for the benefit of our country.

Mr. President, it has not worked, and it has turned into such a charade this year that I no longer can support it, and I rise to oppose the legislation before us.

I think it is important that we review the chronology of the past year. I know that many of the speakers this evening have already talked about the details of the proposal that they agree with or do not agree with, but I think it is important we put the chronology of the last year into the Record so we can see exactly what we have done.

Last year the President's tax cut encompassed some one-fourth reduction in revenue over a 3-year period while increasing spending. But we were assured if we did that, that just as soon as we did there would be such a business euphoria, there would be such investment, that the program would come out with a plus on revenues because increased business in this country would result in more revenues coming into the Federal Government.

That program did not work. That euphoria did not occur. The projected Federal deficits, however, went up and up and up. The financial markets reacted accordingly, and real interest rates went up and went up until it became a matter of great concern to the Congress of the United States.

If the press reports during the past year were correct, the concern became so great that basically the Republican leadership in the Senate and in the House went to the President about reducing that third-year tax cut so we would not run up such large Federal deficits.

The President would not give in, would not budge an inch. So the leadership here took action which they thought was appropriate and decided on their own tax increase to make an effort to balance the deficits that were hitting the $150 billion to $160 billion per year level.

The President came out, as I understand from press reports, first solidly opposed to this tax increase and now supports it as being absolutely vital. So, Mr. President, we stand in the position here of seeing the ridiculousness of this economic progam. We passed a tax cut last year mainly to have a beneficial effect on business. Now we turn around and have a tax increase that takes it out of the hides of businesses that the first bill was designed to help. At the same time, we see the President leading a balanced budget amendment rally on the steps of the Capitol, which he should be glad he does not have now or we would be in more trouble than we are in. So the record of what happened over the last year seems to be very clear.

A tax cut was absolutely essential last year; a tax increase seems to be absolutely essential to the President this year. I guess we should ask will the real administration policy stand up and stop playing charades.

Mr. President, Monday night President Reagan addressed the Nation on television to urge support for this year's tax bill. I want to take this opportunity to respond to his remarks.

The President justified his support of this year's tax bill on the grounds that it will reduce interest rates and put more Americans back to work. This is simply not true. This year's tax bill does not reduce projected deficits enough to make any significant impact on interest rates. In spite of the $99 billion in revenues collected by this measure, CBO estimates that our deficits over the next 3 years will exceed $450 billion, almost adding half again onto the national debt. The massive deficits will keep interest rates high and will continue, not end, our unemployment problems.

The President defended keeping indexation in the Tax Code on the grounds that inflation is a tax from which the Government profits. He neglected to mention that the most taxing problem facing American businessmen, workers, and consumers is high interest rates, not inflation. These high interest rates will be perpetuated by indexation. Indexation will contribute nearly $80 billion to deficits for 1985, 1986, and 1987; combined with the third year of the individual tax cut, it will place us $235 billion further away from attaining a balanced budget by 1987.

The President complained to his critics that it has been only 10 months since the first phase of his program went into effect. This is misleading. The business tax cuts Congress enacted were made retroactive to January 1, 1981; the President's deregulation program has been in effect for more than a year; his budget cuts have been in place since last October; the Federal Reserve has given him the tight money policy he wanted since his first day in office; and the President, himself, last year promised that as soon as his package was enacted—1 year ago, August 4—a wave of confidence would wash over our economy and recovery would immediately follow.

The President urged us to evaluate his economic recovery program by looking at the record. Start with interest rates—the basic cause of the present recession. He points to the nominal interest rate and noted that it is declining. And he is right, the nominal interest rate has declined. But, as any investor or consumer can tell you, it is the real interest rate—the difference between the nominal interest rate and the rate of inflation—that affects the cost of doing business or making installment purchases. The President neglected to mention that the real interest rate is at its highest level in history. For him to suggest that interest rates are lower today than when his program went into effect is misleading.

The President pointed out that double-digit inflation has been cut in half and he is right. But he failed to mention that that reduction has come as a result of economic policies that have thrown 3 million Americans out of work. In my home State of Ohio, double-digit inflation has been replaced by double-digit unemployment.

The President reported that real earnings are increasing, but he failed to mention that half of this increase comes from inflation adjustments in social security and other Government payments or that factory payrolls continue to decline. He noted that personal savings are increasing, but he failed to mention that the share of personal savings absorbed by Federal borrowing to finance Government debts is increasing at an even faster rate. According to Manufacturers Hanover Trust, borrowing by the Federal Government, Government agencies and Government guaranteed loans will consume at least 75 percent of all new, net savings in 1983 and 1984. This means less, not more, money in the pool for capital investment. It means higher, not lower, interest rates.

The President concluded his report on his economic recovery program by saying "it hardly looks like a program failed to me." Well, to paraphrase Al Smith as the President did," Let's really look at the entire record."

Current and projected deficits will increase the Federal debt by nearly 50 percent over the next 4 years, Federal spending as a percentage of gross national product is at the highest level since World War II, real interest rates are higher than at any time since 1932, unemployment lines are longer than at any time since 1938, real farm income is at its lowest level in American history, the rates for business bankruptcies and bank failures are the highest since the Great Depression. Housing starts, auto sales, and industrial plant capacity utilization rates are at the lowest levels in decades.

This is the record of Reaganomics—an economic program that has disrupted rather than stimulated our economy.

As the President admits, our biggest problem is unemployment and the main obstacle to getting people back to work is high interest rates. The President says that "interest rates should be lower than they are" and blames their persistence on the psychological problems of pessimism and fear in the money markets. I agree, he could not be any closer to the truth.

There is pessimism and fear on Wall Street and Main Street because the President's supply side economic programs threw fear and gloom into the hearts and minds of businessmen and consumers. They realized, as even the most thickheaded supply side economist must now understand, that you cannot massively cut revenues and increase spending without causing massive deficits, high interest rates, and widespread unemployment.

They realized that the massive deficits created by last year's tax cuts could not be balanced by reductions in nondefense spending—even though Congress actually gave the President more budget cuts last year than he requested—$37 billion versus $35 billion. They realized that these deficits would continue long into the future and that they would sustain interest rates so high that the prospect of profitable investment would disappear. They realized that without the prospect of profitable investment, job opportunities would diminish and unemployment would continue to worsen. Sadly, all this has come to pass and the future is bleak.

A loss of confidence permeates our economy. Whether your point of view is that of Wall Street, Main Street or the union hall—the future appears uncertain. And this uncertainty is killing our hopes and turning dreams into nightmares. Rather than moving boldly to implement plans and realize ambitions, Americans are hunkering down and hedging their bets; postponing investments and forgoing purchases—all the while searching for a hopeful sign, a promise of economic stability and moderation on which they can plan their future.

And what do Americans find when they turn to Washington? Instead of believable programs, they hear false promises. They see their President, who last year cut taxes and reduced revenues by one-fourth over a 3-year period—while increasing Federal spending—now unwilling to admit that his program went too far and has not worked out as forecast; unwilling to make the midcourse corrections every American would understand in light of the enormous deficits that are now projected; unwilling to admit that this year's bill is the largest tax increase in our Nation's history, disguising it instead as revenue reform; yet actively leading a rally on the Capitol steps for a balanced budget amendment he should be glad he does not have or we would all be in even more economic troubles than we are.

They hear their President juggle statistics of economic recovery while they see their hopes for employment and a home of their own dashed on the rocky terrain of high interest rates. They hear their President urge support of a tax reform bill that he promises will "reduce deficits and interest rates" and they see a tax bill which fails to address the most important problem of Reaganomics—inequitable, massive tax cuts for individuals which are the real cause of enormous deficits and resultant high interest rates. They hear him vow to prevent Government from profiting by inflation and they see a tax bill that reduces the tax reductions for medical expenses—unavoidable costs that have risen faster than income or insurance coverage of most Americans. They hear him stress the importance of personal savings and they see a tax bill that withholds income on interest and dividends. They hear the President proclaim the safe port of economic recovery while they see their fortunes sinking in the icy waters of triple-digit, billion-dollar deficits.

The President's message and his new tax bill perpetuate the cruel hoax of Reagonomics. They promise a balanced budget and economic prosperity while adding to our national debt and casting the dark shadows of joblessness across our land. When we look at the record, as the President asked us to do, the statistics for unemployment, bankruptcies, real interest rates, and massive projected deficits clearly report the failure of the President's program. But these cold statistics understate the grim reality of Reaganomics—shattered dreams, broken spirits, and a growing loss of faith in the leadership of our country.

Mr. President, we cannot rekindle the dreams of homeownership by tinkering with tax preferences, we cannot nourish the hopes of jobless Americans with higher unemployment taxes, and we cannot restore faith in our leadership by issuing more false promises. We need plain speaking, not clever communicating, to address the loss of confidence in our future. We need bold leadership, not half-way measures, to revive our economy.

For these reasons, I cannot abide the President's message and I cannot support H.R. 4961.

The PRESIDING OFFICE (Mr. WALLOP). The time yielded to the Senator has expired.

Mr. GLENN. I urge my colleagues to vote against this proposal.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield 5 minutes to the Senator from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. I thank the Senator from Louisiana.

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President Reagan's political history is one of rabid adherence to partisan advantage. Time and time again when initiatives were proposed by Democratic Presidents, Ronald Reagan rushed forth in opposition. When President Carter proposed the Panama Canal Treaty, it was Ronald Reagan who ran around the country trying to defeat it. When Jimmy Carter signed the SALT Treaty, it was Ronald Reagan who helped destroy its chance of passage. When the Democrats proposed modifications to the original tax bill that got us into this mess, Ronald Reagan told them to go to hell. His tenure in office has been marked by the most partisan rhetoric this Capital has seen in my political lifetime. He is a partisan whose instinct is to push to the ideological limits. Now that instinct has gotten him in trouble, and he wants the Democrats to bail him out. What this long public record deserves is an equal dose of partisanship. The temptation among Democrats to respond in kind is very strong. The issue however, is not what Ronald Reagan deserves—it is what the country deserves. And what the country deserves from the Democrats is more than Ronald Reagan-type behavior.

If the Democrats in the House were as partisan and ideological as Ronald Reagan, the bill would have been defeated by a three to one margin. That did not happen. Despite Ronald Reagan's long record of joyous beating up on House Democrats, including TV ads that ridiculed Tip O'Neill, they came to his defense in the country's time of need. They put country before party and so must we.

There were many Members of this body who voted for the original Kemp-Roth tax bill, knowing that it was a shaggy dog, because they feared the wrath of a dogmatic President. They were wrong; he was wrong; but it was the country that paid the price. Millions of people have lost their jobs; thousands of businesses have gone bankrupt; and the human suffering is untold—and now it is time to begin the long road back. When the smoke clears, I would hope that President Reagan, upon quiet reflection, will understand the difference between the instinct that seeks to dominate and vanquish, and the instinct to lead and unite. He above all should remember the slogan at the Republican convention: "Together—A New Beginning." Together, Mr. President—it is a simple word and it is about time you remembered what it means.

Anyone can be a partisan—that is easy. Being a President and all that implies requires a higher standard. Starting today, I think it is time for a new beginning together. In that spirit, I will vote for the tax bill.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Massachusetts for that last line in particular.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Will the Senator from Kansas yield me 10 minutes?

Mr. DOLE. Mr. President, I yield 7 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I first of all wish to compliment the Republican leadership, including the President, who were behind this bill. I think that clearly from the standpoint of the technical progress of the measure through committee, through the Senate, into conference and now through the House that there is no question that they have shown superior technical activity.

I can understand how they got themselves into this position. I sympathize with that. In fact, maybe I assisted in that process with my support of the budget resolution.

I did support that budget resolution, on balance, even though the tax provisions might have been met in other ways. They have tried to live up to the mandates of the resolution. But, unfortunately, Mr. President, the tax increase bill that they have put before the Congress makes no economic sense, in my judgment, either for the country or for New Mexicans.

This has been clear to me at least ever since it was passed by the Senate Finance Committee. However, as the distinguished chairman knows, I did support the Republican leadership with a vote to continue to try to make something of this measure in conference with the House. I should note that all of my Democratic colleagues voted against this bill as it left the Senate. Now many have had a change of heart. We might ask why. Maybe, Mr. President, it is because it is really what some of them wanted all along.

In spite of efforts to delete the worst provisions of this on the floor and in the House-Senate conference, the bill remains a bad bill.

There is no historic justification for raising taxes at the bottom of a recession.

There is no economic justification for raising taxes in hopes of putting people back to work.

There is no personal justification for adding several hundred dollars to the individual tax burden, directly or indirectly, of millions of middle-income Americans.

If this bill were just the reform of existing tax inequities that it is touted to be, I could support it. Unfortunately, it is far more than that.

The bill would raise taxes on all Americans whose tax burden was reduced just last year. I cannot support such an action.

I was one of the few Republicans who publicly supported the President's original fiscal 1983 budget proposals. They were consistent with the new fiscal course we had set in 1981 and had tolerable deficits in comparison to our total GNP and the growth of that GNP which the new tax cuts would stimulate.

Mr. President, that fiscal course is bearing through and we should stick with it.

Now we are asked to change course before our destination is in sight.

The tax increase bill we are asked to support is not just a reform, "sock it to the rich and big corporations" measure. It is also a reversal of all we have stood for for years. It is the dream bill of the Democratic leadership of the Congress.

This bill will raise the taxes, either directly or indirectly, that middle Americans must pay. It will wipe out the effects of the third year of the personal income tax cut for many working Americans.

This bill will raise the cost of small business activities to the point where more workers will be laid off, not hired.

This bill is exactly the wrong medicine at the bottom of a recession. We should be encouraging savings and investment, not taxing it. We should be cutting the costs of running a small business, not raising them.

An analysis of what the provisions of the tax bill conference report would do to the middle American taxpayer is worth close examination.

In the name of forcing compliance by a few, the bill would penalize honest taxpayers by requiring the withholding of taxes on savings income. It is estimated that the cost to savers due to reduced interest compounding and loss of reinvestment would be $1.7 billion to $2 billion annually. The cost of compliance that will be passed on to the consumer would be at least $1.5 billion per year plus a new paperwork nightmare.

The bill would reduce deductions allowed for medical expenses by the average taxpayer. The amount of nondeductible medical expenses paid by a middle-income taxpayer would increase by about $350 from $500 to $850. The $150 deduction for medical insurance premiums would be abolished.

Uninsured casualty losses would be deductible only to the extent that the total losses exceeds 10 percent of adjusted gross income. Current law provides for the amount of loss in excess of $100 to be fully deductible. This change virtually repeals the deduction for casualty losses. The nondeductible cost of personal property losses will rise dramatically, and fall especially hard on middle income taxpayers.

The bill would raise excise taxes on telephones, aircraft fuel, and other broadly used articles in domestic commerce. The effect is to add at least another $100 a year of taxes, direct or indirect, on the average man or woman in this country.

The bill would undermine private pension plans potentially affecting 6½ million Americans and eliminating $5 billion to $10 billion in annual capital formation.

The bill would take the first step toward forcing Federal workers into the social security system without fixing that system so it will work for all retirees. The cost to a Federal worker making $22,000 will be over $280 in 1983 and over $310 in 1985.

The bill would change the business tax cuts enacted last year for small and large businesses but particularly onerous on small businesses, thus discouraging and confusing investment needed to form new jobs.

The bill would discourage new investment in mineral and energy activities at exactly the wrong time for the country and for my own home State of New Mexico and its employment and revenue needs.

The bill would discourage new hiring and encourage layoffs by all businesses by raising Federal unemployment taxes. The additional tax paid by employees would increase by $41 in 1983 and hit $231 in 1985. And that is for a medium-income employee in the Federal work force.

In total, Mr. President, the so-called Tax Equity and Fiscal Responsibility Act is a retreat from the policy of reduced Government taxation and spending that the American people elected most of us to pursue. I supported that policy last year and I intend to continue to support that policy by voting against the unwarranted tax increases contained in the conference agreement.

I supported that policy last year and I intend to continue to support that policy by voting against this unwarranted tax increase that is contained in the conference agreement. Must this bill pass? I think not. Whatever happens, we will go on. We will keep trying. We will eventually, Mr. President, do the right thing.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 5 minutes to the Senator from Iowa.

Mr. JEPSEN. Mr. President, this is perhaps the most difficult vote I have ever cast as a Member of the U.S. Senate.

It is a classic case of "damned if you do and damned if you don't." We either raise taxes or have higher deficits. Neither prospect is desirable.

In point of fact, the reason we are faced with this dilemma is because we have been unable or unwilling to do what we should have done in the first place: Cut spending. Just since I have been a Member of this body—a relatively short time, I might add—Federal spending has gone from about 21 percent of our Nation's gross national product to close to 24 percent in the coming fiscal year. If we had simply kept the burden of spending from rising we would be close to a balanced budget. But we did not and this is why we are here today.

I would feel a lot better about casting a yes vote for this legislation if the $99 billion increase in taxes contained in it were likely to achieve a balanced budget. If that were the case I would not be quite as concerned as I am about some of the specific provisions of this tax bill. As it is, I am left with the feeling that we are imposing a substantial cost on the American people without the likelihood of a corresponding benefit. A balanced budget would be the payoff which justifies this extreme action. Unfortunately, the latest reestimate of revenues for the next fiscal year shows that this tax increase will merely make up the revenue which has been mysteriously lost since the last estimate was made.

This brings me to a point which disturbs me very much about this whole process: We are never dealing with hard numbers. We are always talking about estimates and projections that are just as soft and flakey as they can possibly be. Every Member of this body knows the frustration of casting some tough vote to cut or restrict funding for some program he believes in only to find out the next day that some yo-yo from OMB or CBO or someplace else has reestimated the deficit up again by $5 or $10 billion. Frankly, I do not have the slightest faith in these numbers, but unfortunately we end up guiding our actions by them anyway. And this bill we are voting on today is about as loaded with phony numbers as any bill I have ever seen. Let me elaborate:

One of the principal revenue-raising items in this legislation is tax withholding on interest and dividends. According to the committee report we are supposed to raise some $5 billion per year from this provision because some smart guy at the IRS or the Joint Committee on Taxation or someplace concluded that this amount of tax is currently due as a result of current law and is not being paid. Personally I do not believe this for a minute. These dividend and interest payments are already being reported to the IRS and I think the estimate of underpayment is grossly exaggerated. But there the numbers are in black and white in the committee report and who is to dispute them?

But there is another side of the coin which is not shown in the Joint Committee's revenue estimate: The cost to financial institutions of instituting this withholding and the cost to taxpayers of lost interest they could have earned on the withheld taxes. Remember, the IRS pays no interest on the money that is withheld from our paychecks and they are not going to pay interest on dividend and interest withholding either. So if you have $1,000 per year withheld from interest and dividends you are losing the interest you would have earned on this $1,000 if it had remained in your bank account instead of the Treasury's. And this cost is not insignificant. My staff on the Joint Economic Committee estimate it to be as much as $2 billion per year.

Now I know that there are supposed to be exemptions in this legislation for the poor and the elderly, but realistically how can we expect financial institutions to figure out who is exempt and who is not. I think this whole idea is just crazy and will be an administrative nightmare. I voted to delete it when the issue came up earlier this month and I am very sorry to see that the conference retained it. In fact, I would not be at all surprised if we end up having to undo this provision when the outcry from the people hits us after financial institutions start the withholding.

Another thing about this bill which bothers me is the phony spending numbers in it. For example, there is an assumption that we are going to save some $15 billion a year in interest payments because of the reduction in the deficit and its impact on financial markets. In other words, we reduce the deficit, this reduces interest rates and interest payments, which further reduces the deficit. Using this line of logic all we have to do is reduce the deficit $1 and let the compounding effect I described take care of everything.

What I see lacking from this legislation is the hard cuts in entitlements. These so called untouchable programs are the real source of our problems. We enacted these programs and indexed them to the inflation rate and the unemployment rate so that they go up without any action on the part of the Congress. Again, I would feel a lot happier about casting this vote if I thought we were making some real progress in controlling these entitlements by permanently restraining their growth. We should have done it last year and if we had we would only have had to cast that hard vote once and we would not be here now.

In closing, Mr. President, I have grave reservations about this legislation. We ought to be cutting spending instead of raising taxes and we ought to be casting a vote for permanent spending reductions instead of using phony numbers to make people think that is what we are doing. I feel bad about this vote: We either raise taxes or have higher deficits. What a choice.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. I yield 2 minutes to the Senator from Oklahoma.

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Mr. NICKLES. I thank the Senator.

Mr. President, after long and careful consideration, I have decided to vote against the $98 billion tax increase which also includes about $15 billion in entitlement cuts. This decision was reached after some difficulty because of my respect and admiration for President Reagan and because I believe we must balance the budget as soon as possible.

Upon examination of the reconciliation proposals now before us, we are confronted with spending cuts of approximately $28 billion and tax increases of $98 billion over 3 years. The balance of the $280 billion in spending cuts called for under the first budget resolution is supposed to be made up of about $85 billion in appropriated reductions over the next 3 years, $13.6 billion in additional cuts, which may not be made, $108 billion hoped-for reductions in interest expense, and an estimated $47 billion in administrative and management savings, which I hope will take place. In the final analysis, the only definite changes are a $28 billion spending reduction and $98 billion tax increase over 3 years, a ratio of about 3 to 1. In other words, a ratio of $3 in tax increases for $1 in spending reductions.

It is my belief that we must balance the budget, but we must look at the source of the problem—either we are spending too much or taxing too little. I do not believe that Americans are undertaxed today. I do believe that we continue to overspend. We are presently spending $3,300 for every man, woman and child in this country.

The problem is not due to the Reagan administration. The problem lies with the Congress and its unlimited desires to spend someone else's money for which Congress has had a relentless appetite for the past 20 years.

I do believe we must do everything within our grasp to reduce Federal spending, not increase taxes, in order to balance the budget.

Mr. LONG. I yield to the Senator from Alabama.

Mr. HEFLIN. Mr. President, currently there are techincal statutory rules—such as section 46(f)(8)—prescribing the extent to which accelerated depreciation deductions and the investment tax credit may be considered in setting rates for a regulated company. These rules are applicable to the election to claim an investment tax credit of 8 percent or 4 percent without a reduction in the cost basis for depreciation with respect to regulated companies.

In my opinion, the election to claim or not to claim a lesser investment tax credit without a basis reduction is within the sole discretion of the regulated company. Further it is my opinion, that no regulatory authority may impute additional depreciation to such regulated company which elects the 10 percent or 6 percent ITC and reduced basis. The Internal Revenue Service has been contacted about this and there is no disagreement from that agency with my opinion.

The PRESIDING OFFICER (Mr. Mattingly). Who yields time?

Mr. LONG. I yield 10 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, when this body approved the Economic Recovery Tax Act 1 year ago, claims were made that it would release almost magical powers and propel our economy into an unprecedented boom. Unfortunately, that did not happen. Instead, the contradictory mix of tight money and loose fiscal policy pushed us into the highest unemployment and the deepest recession in 50 years. That is where we are right now, and the people wonder if we have confidence in our own actions and a vision for our economic future. Our sense of uncertainty cast a shadow over all the industrialized and Third World countries whose futures are inextricably bound up with our own.

In today's economically interdependent world, our actions take their toll on the economies of friend and allies. No nation can insulate itself from shocks experienced continents away, in faraway countries such as Poland, or in neighboring countries such as Mexico. When our policies wreak havoc with the economies of our trading partners, that, too, comes back to haunt us. Foreign demand for U.S. goods slackens. That puts Americans out of work. The dollar may appreciate to all-time highs. But that makes foreign products cheaper, giving them a distinct advantage in our markets. Even more disturbing, an international recession threatens to unleash powerful forces for protectionism abroad and isolationism at home—forces that if not soon checked threaten peace and prosperity worldwide.

Laying the foundation for renewed confidence in our own Government's ability to manage and to lead is therefore of paramount importance. The stability of our international financial institutions and indeed, of the world economic order, may hang in the balance.

But restored confidence will not materialize from a single act of the U.S. Congress. It will only evolve gradually from cumulative demonstrations that we know what must be done over the long haul. And it will require repeated evidence that we are willing to make the tough choices involved in translating mere knowledge into effective action.

Approving the Tax Equity and Fiscal Responsibility Act is but one of many steps we must take if we are to nurse our economy back to health and to renew confidence in Government's wisdom and commitment.

Mr. President, I say this because I think it is important to put the legislation now before us in its proper context. Once again, extraordinary claims are being made on both sides. Proponents argue that if this bill is not enacted, our economy will be catapulted into the abyss. Opponents insist that adoption of this bill will put the final nail in the economy's coffin. These are both extremes. Overblown claims are dangerous. They either raise hopes that cannot be fulfilled, or they create despair that is its own undoing

Our economic situation is serious, to be sure. And, it can be repaired only if we are willing to bring our fiscal and monetary policies back into balance and to demonstrate the sense and courage to correct past excesses—whether they be in runaway spending or excessive tax reductions. We only complicate the task ahead if we are less than forthright in estimating how long the recovery will take and how much discipline will be needed

Economic recovery demands that we get control of Government deficits. This in turn requires less spending and increased revenues. I voted to cut spending when I voted this year for the reconciliation bill. I will vote now to raise revenues by supporting this tax bill. But I do so without illusions that this legislation is a panacea.

All in all, Mr. President, I think the bill before us is a significant improvement over the one the Senate passed last month. As I said when I voted against that bill, I believed that important parts of the spending cuts were unfair and unsound. The original Senate bill would have increased out-of-pocket health care costs for millions of Americans who need skilled nursing care in their homes, who visit a doctor, or purchase a medical appliance. I was especially troubled by the prospect of copayments for home health care. Imposing new charges for these services would only encourage the poorest, oldest, and sickest members of our society to resort to more and lengthier hospital stays, thereby making the whole medicare program more costly. I also thought the provision shifting the costs of these medicare programs to the States was unwise and unfair. And I felt that some of the changes to the AFDC program were simply unnecessary for a nation that, for all its difficulties, is still among the richest in the world. Particularly troubling was the elimination of the entire emergency assistance program. Eliminating waste, fraud, and abuse in welfare programs is one thing. Relegating the neediest members of our society to abject poverty, however, is another. I found that unacceptable.

Fortunately, these provisions that most disturbed me about the Senate bill were deleted in conference. Thus, the bill before us is much improved.

I also objected to some of the act's tax provisions. I felt that while parts of the bill merit the label "tax reform," other parts would unfairly and unnecessarily burden low- and middle-income taxpayers. These are the very groups hardest hit by the recession and least able to insulate themselves from its effects.

The conference committee made some much needed corrections. Interest and dividend withholding has been delayed for 6 months until July 1, 1983. In addition, all interest payments under $150 were exempted. There are exemptions for about 90 percent of the elderly and all low-income citizens. Financial institutions were granted an escape hatch if compliance created an undue burden.

The floor for deducting medical expenses was reduced from 7 to 5 percent of adjusted gross income. This should ease the burden on those facing high medical bills.

Finally, the act now provides a much-needed $2 billion temporary unemployment compensation supplemental benefit package. This provision will help a million workers who have exhausted their benefits under existing programs to get through these difficult times. The benefits under this program will be available in every State beginning in mid-September.

Even so, I still have some reservations about this bill. I wonder if its architects are prepared now to acknowledge the origins of the serious problems confronting our economy. Yet understanding their cause is essential to developing sustainable, effective solutions for the long haul. Last year, Congress adopted a 3-year tax cut that reduced Federal receipts by $750 billion over a 5-year period. We also voted to increase defense spending by $150 billion, while cutting nondefense spending by only $135 billion. Taken together, these actions committed us to a highly stimulative fiscal policy at a time when inflation was widely perceived as the primary threat to our economic well-being.

To counter the inflationary thrust of its tax and defense policies, the administration urged, and the Federal Reserve implemented, an unprecedentedly tight monetary policy. This in turn has produced the record high interest rates that have choked off growth and laid the foundation for economic stagnation at home and abroad.

All the bill before us does is to take a few modest steps toward correcting the exceeses in last year's tax bill. Yet these steps are necessary and that is why I will vote for this legisation.

But future progress requires that we learn from our past mistakes. We must acknowledge that we would be much better off today if we had reduced spending in 1981 and limited ourselves to a 1-year tax cut that would have benefited rich and poor alike. Interest rates, deficits and unemployment would be lower and economic growth higher. Only by facing up to past errors can we avoid deluding ourselves into settling for shortrun solutions to what are in fact longrun problems.

At the same time, I am encouraged that this bill corrects at least some of ERTA's excesses. Hopefully, this signals that those managing our economy will take a new and more promising direction in the coming months. Perhaps it even signals understanding that it is not just cutting tax rates that is important. What matters most is the way we cut tax rates. There is no free lunch. We cannot afford to lower rates unless we close loopholes at the same time. Failing to recognize that got us into the budget mess we are in today. If and when we can acknowledge this, we will be on the way toward a new tax policy that guarantees Americans the fair and efficient tax laws they need and deserve.

In closing, Mr. President, let me once again stress that we will not restore economic health, nor will we renew confidence in Government, without making difficult political choices. The mismatch between economics and politics that characterized last year's legislative agenda has brought about the present recession. Worse, that mismatch threatens to feed on itself until some big, perhaps even catastrophic, event jolts us into a painful confrontation with reality. The bill before us is not a cure-all. We should vote for it soberly for much more remains to be done.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 3 minutes to the distinguished Senator from Iowa (Mr. Grassley).

Mr. GRASSLEY. I thank the chairman for yielding.

Mr. President, the Senate has labored with great determination so that we might finally consider the Tax Equity and Fiscal Responsibility Act of 1982. No detail has escaped our analysis. We have literally dissected every section and subsection in order to determine the impacts of these many provisions on the Nation's economy. The chairman of the Senate Committee on Finance is to be commended for his persistence and care for details during the last several months when the various provisions were in the process of refinement.

I am pleased that I have been able to work closely with the chairman on the Dole-Grassley tax compliance sections of the act. There is perhaps no section in this legislation that has suffered more seriously from distorted or misguided analysis. The record on compliance should once again be clarified.

The goal of this entire section of the Tax Equity and Fiscal Responsibility Act is to step-up efforts to collect the taxes already owed the Government from those people who have been successful in avoiding paying their fair share. In my view, it is imperative that we collect taxes from those people before we start raising taxes on all honest taxpayers. This portion of the bill includes such measures as information reporting on stock and securities brokers, and on corporate bearer bonds and Treasury bills which currently escape such information reporting.

Additional provisions such as a penalty for substantial understatement of income tax, increased penalties for failure to supply a taxpayer identification number and for failure to file an income tax form all illustrate the growing awareness that increased efforts must be made to collect unpaid taxes.

Although a great deal of attention has been focused on the tip reporting requirement the conferees restored to this bill, I must stress the broadness of the measures contained within the section of the conference report that deals with compliance. It would be a great injustice to describe this bill as targeting the waiters and waitresses of the Nation while letting higher income individuals manipulate our tax code to their advantage. The problem with taxpayer compliance is not concentrated at the lower end of the income scale, and the provisions of this specific section of the bill reflect the need to collect taxes from upper-income individuals who are in a far better position to shelter their income from the tax collector.

I worked hard with Senator Dole to come up with a compliance bill that was fair and that addressed a serious problem. It was very gratifying to see the Senate Finance Committee, and subsequently, the House and Senate Conferees include the bulk of the compliance provisions within the Tax Equity and Fiscal Responsibility Act. I encourage my colleagues to look beyond some of the unfavorable and largely unjust criticisms of the compliance measures, and examine the compliance section on its merits. I am hopeful they will agree with me that these changes are indeed necessary to restore faith to our tax system, and to return a sense of fairness to the tax code.

I am also pleased to note that the conferees agreed to include taxpayer protections in the conference report which I have long felt were necessary to prevent the Internal Revenue Service from unfairly inflicting financial harm to delinquent taxpayers in its efforts to collect overdue taxes. By accepting these provisions sought by my distinguished colleague from the House, Representative Rangel, and myself, I feel that many of the major complaints echoed by delinquent tax-

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payers have been heard by this body and addressed in a responsible fashion. During hearings which I conducted in the Subcommittee on Oversight of the Internal Revenue Service last year, testimony revealed the frequent sluggishness on the part of the IRS in releasing liens to private property of delinquent taxpayers after they finally pay off their overdue taxes. In this conference report, provisions were adopted which will require the IRS to release such liens within 30 days after payment of Federal tax obligations. In addition, concerns were expressed in my hearings as to irregularities in the sale of private property by the IRS to satisfy an individual's tax liability. Under the conference protections, the IRS will be required to notify delinquent taxpayers 10 days in advance by certified or registered letter before seizing or attaching a levy to private property. The time during which taxpayers can redeem property which has been sold by the Government to satisfy their tax liability will be extended, which I feel is particularly helpful during the current recession. Under the conference report provisions, taxpayers will be provided an extension from 120 to 180 days to repurchase such property. Lastly, these reforms will protect taxpayers from unjust financial loss when their property has been wrongfully sold by the IRS. Current law allows taxpayers to recover sale proceeds of property wrongfully sold by the IRS, however, such proceeds may be less than fair market value of the property. This measure will change current law to allow the taxpayer to collect the greater of the fair market value of the property or the sale proceeds.

I am also gratified to note that the conference report retains a provision based on legislation which I introduced earlier this year to encourage youth employment during the summer months. Youth unemployment has risen to 22 percent this summer, with unemployment among black youths approaching a straggering 45 percent, five times the rate of all workers. High youth unemployment threatens the economic survival of many families, epecially as the number of one-parent families with children continues to rise. This tax provision will offer employers who hire qualified, low-income youth a tax credit increase from the current 50 percent to 85 percent of the first $3,000 earned. Effective from May to Septemer, 1983, the credit is limited to qualified youths 16 or 17 years of age, who fill substantially full-time slots without displacing other workers. I feel that this tax credit expansion is a cost-effective way to increase the productivity of our workforce and assist our disadvantaged youth in entering the job market and economic mainstream.

One final provision I would like to comment on is the retention of the fixed purchase price option for farmers and farm implement dealers when engaged in leasing transactions. The farm implement provision was jeopardized during debate on the broader "safe harbor" leasing modifications, and I am grateful that the conferees realized the importance of the fixed purchase price option to this Nation's farm community. Under this provision, an individual will be allowed to lease $150,000 of farm implement equipment annually with a fixed purchase price option. This measure is exceedingly important to cash poor farmers in this time of economic uncertainty.

I could not have supported any bill which did not address the real culprit in our deficit problem, and that is the rapid increase in the level of Government spending. The bill reported out of the conference committee reduces spending over the next 3 years by $17.5 billion, which meets the budget reconciliation orders agreed to earlier by this Chamber. In my view, the spending reductions are essential to restoring faith to our financial markets and demonstrating that Congress is serious about reigning in the growth of Government. While the need to reduce spending is urgent, we must insure that any such reduction is done in a fair and evenhanded manner, and protects those individuals who merit Government assistance. I believe the bill reported out of the conference committee accomplishes both of those goals.

The conferees agreed to a number of provisions to restrain the growth in medicare expenditures, which have been increasing much faster than the rate of inflation over the past years. The bulk of the savings achieved in this bill are associated with the medicare program. Important strides were made in controlling the spiraling medicare costs attributable to the current hospital reimbursement procedures. These efforts to control costs are critical to the long-term health of Federal health programs. Furthermore, I am pleased to see that the conferees agreed to a provision requiring the Secretary of Health and Human Services to develop a plan for prospective payments for hospitals and skilled nursing facilities.

Various changes in the medicaid, AFDC, and supplemental security income programs also signal gains in streamlining the multiplying expenditures for health and income maintenance programs. The conferees took great efforts to maintain benefits for deserving individuals, and also included provisions targeted to encourage a more efficient administration of State and Federal programs.

One final portion of the bill on which I would like to comment is the extension of unemployment benefits for those unemployed workers whose entitlement to State benefits will shortly expire. This is no doubt a grave time in history for many American workers, and I am glad the conferees found it appropriate to extend some relief to those individual. It is a serious problem, and the conferees are to be commended for recognizing and addressing the problem in an expeditious manner.

I am sure all of us have some reservations about specific portions of the bill. However, given our current economic condition, action needs to be taken, and taken immediately. This bill demonstrates that Congress is serious about narrowing our deficit through a combination of spending reductions and tax reform measures.

I support this conferense report, and urge all of my colleagues on both sides of the aisle to do the same.

Mr. President, I would like to spend the rest of my 2 minutes visiting with the chairman of the committee on the flat-rate tax resolution that was left out in the conference committee. I have a letter I ask unanimous consent to have printed at this point from Secretary of the Treasury Donald Regan, stating that they are involved in a study and that they expect that to be completed very quickly, and that it should be completed in time for the hearings that we are going to have.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C. August 19, 1982.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: I am aware of your interest in the flat tax concept and I ageee with you that this is a matter that must be studied very carefully.

I wanted to let you know that the Department is currently studying a simplified income tax system. This study will take into account the complexities of the existing income tax system with a view toward expanding the current base and lowering present rates.

I will be pleased to share with you and your colleagues the results of this study upon completion.

With best wishes.
Sincerely,
DONALD T. REGAN.

Mr. GRASSLEY. Mr. President, may I ask, the Senator does have hearings scheduled?

Mr. DOLE. Yes, Mr. President.

Mr. GRASSLEY. Just because the flat-rate resolution was left out does not signify any less interest in moving ahead with it, as chairman of the committee, or any less emphasis as far as the Secretary of the Treasury completing that study?

Mr. DOLE. No, Mr. President. In fact, we had hoped to have hearings early in September, but now we have been on this bill for some time. Certainly by the end of September, we will be having hearings in our committee on the flat-rate tax.

There were two studies, as I recall, in conference and it was determined to eliminate both studies, particularly the flat-rate study, because we were assured by Treasury that we would have it in any event; it would be available in time for the hearings in September.

Mr. GRASSLEY. I thank the chairman. I want him to know how much I appreciate his leadership in that area and the extent to which he has been helpful to me in helping to incorporate some of my ideas into this tax legislation.

Mr. DOLE. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. DOLE. I compliment the Senator from Iowa, because when you start adding up the dollars in new revenues, there are about $30 million in compliance.

As I recall, in March, the Senator from Kansas and the Senator from Iowa had a press conference. I am sure a lot of people left that press conference saying, "Well, this is another dog-and-pony show for home consumption." Yet here, some months later, we have most of those compliance provisions in this bill. If this conference report is adopted, they are going to become effective. I thank the Senator from Iowa for his role in that effort.

Mr. GRASSLEY. I thank the Senator. I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to announce my support for the conference committee's report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act. Mr. President, the tax bill has presented me with one of the most difficult decisions I have had to make since entering the Senate.

Each of us must decide what we believe is right.

The people of Montana sent me here, giving me their trust, to exercise my best judgment.

These are extraordinary times that demand extraordinary action. A great writer once suggested that the hotest places in hell are reserved for those who, in times of great crisis, maintain their neutrality.

These are times of crisis.

Over 10 million Americans, including 50,000 Montanans, are out of work.

We face $100 billion deficits. High-interest rates are crippling the economy.

In some parts of Montana, which depend on the housing industry, unemployment has reached 30 percent.

Mr. President, to reduce the deficit and lower interest rates, we must make difficult decisions. Adoption of this conference report will help reduce interest rates and help restore American confidences in the economy.

Congress needs to make responsible, but not Draconian, cuts in spending.

Congress needs to take a good hard look at the tax code, a duty we cannot escape, no matter how great the temptation to take the easy way out.

Look at the facts:

The tax code is littered with a hodgepodge of subsidies, loopholes, credits and shelters. In 1967 there were some 50 of these provisions. Today there are over 100, and the cost to the Treasury is $270 billion a year.

By 1987, according to the Joint Tax Committee, the cost will rise to an astounding $450 billion a year.

That is real money. That is the stuff budget deficits are made of. That is the stuff high-interest rates rates are made of. That is the stuff unemployment is made of.

Moreover, there has been an alarming growth in the underground economy. According to the IRS, in 1980, some $90 billion in taxes were owed but not paid. Tax cheating is on the rise, and the hard-working, law-abiding people have a right to be angry.

We do not have a Republican economy, or a Democratic economy, but an American economy.

We do not have unemployed Democrats or unemployed Republicans, but unemployed Montanans and Americans.

This bill is not a panacea. It is one of many difficult steps that must be taken.

Montanans understand the problem. They want action, and will sacrifice, as long as the sacrifice is fair. I believe the tax bill is one important step on the long road to economic recovery. The people outside Washington, Mr. President, are confused. They are the people who sent us here and have waited patiently for action, but their patience has run out.

Mr. President, over the past several months, I have listened to the arguments of various groups who oppose one portion or another of this legislation. I have sympathized with many and agreed with some. Needless to say, there are portions of the tax bill that I do not like. But no legislation is perfect.

By and large, I believe that the bill is fiscally responsible. I believe it is a sound beginning to meaningful tax reform. I believe it is necessary, however politically difficult, for the good of the nation.

THE TAX PROVISIONS OF H.R. 4961

Half of the $98 billion in revenue raised by this bill comes from eliminating abusive tax loopholes. Safe harbor leasing—the selling and buying of corporate tax breaks—is one obvious example. Leasing is sharply restricted next year, and it is repealed altogether as of January 1, 1984.

Another 30 percent of the bill's revenues come from improved tax compliance measures. The bill picks up revenue from people who legally owe taxes but do not pay them. If we are to make the tax code simpler and fairer for everyone, then we must insure that those who legally owe taxes pay them. This bill is a big step in that direction.

Roughly 17 percent of the bill's revenues will come from individuals. However, most of that will come from high-income taxpayers. Less than 10 percent of the revenue burden of this bill will come from middle-income taxpayers. Better than 90 percent of the revenues raised in this bill will not come from the wallets of middle-income Americans.

Mr. President, this bill is a step toward meaningful tax reform. And I hope that we will contiune to make the Tax Code simpler, fairer, and more equitable for all Americans. In that way, we can begin to restore fairness to the Tax Code and trust in the Government.

This bill is fiscally responsible. It is a substantial and necessary moderation of President Reagan's economic program. It eliminates many of the abusive and unintended loopholes included in last year's tax act. It will reduce the projected deficit. At the same time, it does not cut back on legitimate incentives for economic investment.

Mr. President, I shall have more to say on this bill and on tax reform in the coming days and weeks. In the meantime, I ask unanimous consent that a summary of the tax provisions in H.R. 4961 that appeared in the New York Times be inserted at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

MEDICARE

Mr. BAUCUS. Mr. President, I have devoted a great deal of time and energy this year trying to prevent cuts in medicare benefits and to enacting badly needed reforms in this program.

Health care costs are rising at an astronomical pace. So is the cost of the medicare program. The question is why? Is it due to spendthrift senior citizens? Are the elderly being wasteful and causing these costs to rise? No.

The real reason is that hospital costs are rising. Doctors' fees are increasing. The cost of medical equipment, drugs, laboratory tests, and supplies is skyrocketing.

Since early this year, I have been waging a battle to defeat proposals that I thought would not solve the fundamental causes of the price escalation in the medicare program. I fought these proposals in the Finance Committee, on the floor, and in conference.

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Mr. President, I am still unhappy about the cuts in medicare in this bill. Federal medicare expenditures will be cut $13.2 billion over the next 3 years, including provisions that will cost beneficiaries $1.6 billion.

I believe my efforts saved beneficiaries millions of dollars, but I'd be much happier if I had defeated several proposals in this bill. As it is, however, we were able to remove some very objectionable provisions.

We eliminated the increase in the part B deductible. The part B premium increase was sunseted after 1985, and the home health copayments provision was also eliminated.

Congress also committed more money to auditing medicare claims. A relatively small investment in auditing pays big dividends in increased savings and improved efficiency.

Now we must make sure sufficient funds are appropriated to carry out our intentions.

Section 101 of the bill also is encouraging. The changes in the way medicare reimburses hospitals are painful—but necessary to contol outlays for hospital care. I look forward to working with Senator DURENBURGER in the next few years to develop prospective rate reimbursement for medicare.

In the past, small hospitals have been penalized by the medicare reimbursement system. Section 101 specifically exempts small rural hospitals with fewer than 50 beds from these section 223 limits. Thus, our Nation's small rural hospitals, which have proportionately higher fixed costs than large urban or metropolitan hospitals, will not be threatened.

I admit there is a lot in this bill that I oppose. All beneficiaries are going to pay increased costs. But I am pleased that the cuts are not as bad as those first proposed by President Reagan and adopted by the Senate Finance Committee.

The increase in the premium and other costs is the price we pay to avoid such provisions as delaying initial eligibility for medicare, physician reimbursement provisions that would have had a terrible impact on beneficiaries, increasing the part B deductible, home health copayments, and other proposals that were rejected by the Finance Committee, the Senate or the conferees.

I believe the benefits of supporting this bill outweigh the costs. That is why I have decided to vote for this bill.

EXHIBIT 1

[From the New York Times, Aug. 15, 1982]

WASHINGTON, Aug. 15—Following are the main provisions of the $98.3 billion tax bill agreed to by House and Senate conferees early this morning. The bill, which will affect individual taxpayers and businesses differently, remains to be passed by both the House and the Senate.

I. Effects on Individuals

Withholding on interest and dividends: Beginning July 1, 1983, financial institutions, and other businesses will be responsible for withholding 10 percent of interest and dividends earned by individuals. Exceptions would be made for individuals receiving less than $150 a year in interest and for persons 65 or older who paid less than $1,500 of tax in the previous year (or $2,500 on a joint return).

This provision is expected to raise nearly $12 billion in revenues over three years, the most significant part of the Government's efforts to improve tax payments under existing laws.

Capital gains: The conference rejected Senate efforts to shorten the capital gains holding period to six months and to permit indexing of investment assests for tax purposes. The holding period will remain one year.

Medical deductions: Beginning next year, taxpayers will no longer be permitted to take a separate deduction for premium payments for health insurance, although those costs would still be included in the calculation of total medical costs. Under current law, taxpayers who itemize their deductions could deduct one-half of their premium payments, up to a maximum deduction of $150.

Also effective in 1983, deductions for medical costs would be allowed only to the extent that they exceed 5 percent of adjusted gross income, up from the 3 percent level that now exists. However, the requirement that costs of prescription drugs must exceed 1 percent of adjusted gross income to be deducted would be removed in 1984, allowing these costs to be added to the pool of other medical costs.

These changes will save an estimated $3.8 billion over the next three years.

Casualty deductions: Uninsured casualty lossed not involving business would be deductible begining in 1983 only to the extent that the total of losses exceeds 10 percent of adjusted gross income. Furthermore, each casualty loss may be deducted only to the extent that it exceeds $100, as under current law. This measure is expected to bring in $1.4 billion in revenues over three years.

Individual minimum tax: Under current law, high income individuals who would otherwise pay little or no tax are subject to two different minimum taxes. The bill would repeal the so-called add-on minimum tax, and it would expand the existing alternative minimum tax.

Under the alternative minimum tax, the definition of income to be taxed would be expanded to include items that were taxed under the add-on tax and also benefits gained from special tax treatment of incentive stock options, interest and dividends not taxed under the $100 exclusion and the untaxed interest earned on "All Savers" certificates.

For individuals, the tax rate to be applied to income subject to this tax would be 20 percent on all amounts greater than $30,000 (for couples filing joint returns, $40,000).

Public utility dividend reinvestment plan: The conference rejected Senate efforts to repeal the favored tax treatment applied to the reinvestment of utility dividends.

Excise taxes on cigarettes: The Federal tax on cigarettes, which was last increased in 1951, would rise to 16 cents a pack, beginning in 1983, from 8 cents currently. This would increase Federal revenues by $5 billion over the next three years.

Excise tax on telephone services: The federal tax on telephone services, currently 1 percent, would be tripled to 3 percent for 1983-85 and then fall to zero. This would raise $2.8 billion over three years.

Pensions: The bill would change the overall limits on contributions and benefits available under pension plans. For defined benefit plans, the maximum dollar limit on benefits would be lowered to $100,000 from $136,425. The maximum sum that could be contributed to defined contribution plans would be reduced to $30,000. These new limits, first effective in 1983, would not be increased until 1986 at which point they are to be adjusted for cost-of-living increases.

On Keogh plans for the self-employed, the maximum permitted contribution would be increased gradually from the present $15,000 limit. The figure would rise to $20,000 in 1983, $25,000 in 1984 and $30,000 in 1985. However, tougher rules governing loans from pension plans would also be instituted.

II. Effects on business

Business meals: The conference rejected the Senate's proposal that businesses be allowed to deduct only half of the costs of most business meals.

Restaurant tips: Restaurants with more than 10 employees would be required to report their gross income to the Internal Revenue Service as well as figures for charge receipts and the tips recorded on them. Employees would generally be assumed to earn tips equivalent to 8 percent of the restaurants' income. This provision would take effect on April 1, 1983.

Accelerated depreciation: The bill would repeal the further acceleration of depreciation scheduled for 1985 and 1986, thus dropping a major provision of last year's tax bill.

The savings to the Government will be $1.5 billion in 1985 as well as $10 billion in 1986 and $18 billion in 1987.

Investment tax credit: Businesses are currently allowed to depreciate the full amounts of their investments, even where they also benefit from tax credits. Under the new provision, effective in 1983, the amount that can be depreciated would be reduced by one-half of the amount of available credits. This would include investment tax credits, energy credits and credits for certified historic structures.

An investment tax credit of 10 percent, for example, would mean that a business could no longer depreciate 100 percent of the cost of the project, but only 95 percent (100 percent less one half of 10 percent).

Businesses would be allowed to retain full depreciation, however, if they are willing to reduce the tax credit they are using by 2 percentage points. This will primarily benefit businesses that are currently unable to use their investment credits.

There will be transition rules to protect some companies that have already ordered equipment.

Also, beginning in 1983, the amount of tax liability that could be offset by investment tax credits would be reduced. Taxpayers would be allowed to apply their investment tax credits against the first $25,000 of tax liability plus 85 percent of the amount greater than $25,000. Currently, 90 percent is allowed.

These provisions would save the Government $5.1 billion over three years.

"Safe harbor leasing": Provisions in last year's tax law that permit companies to sell unused tax credits to other companies would be repealed after 1983. Before then, changes would be made reducing the value of the tax benefits. Also, tax treatment of traditional leasing, known as leveraged leasing, would be liberalized beginning in 1984.

Acceleration of corporate tax payments: In making quarterly estimated payments of taxes, businesses would be required to reach 90 percent of their liability for the year, rather than the 80 percent level now required. Companies would be penalized at only three-fourths of the normal penalty rate on amounts that pass the 80 percent mark but fail to reach 90 percent. To ease the burden on companies with large seasonal variations in income, a company would not be penalized if its payments were in line with the average of its annualized income over the previous three years. The measure, which takes effect beginning in 1983, would raise more than $4 billion.

Construction period interest and taxes: The bill would require corporations to capitalize construction period interest and taxes for nonresidential real property. These capitalized costs would be amortized over a 10-year period. This provision would raise $3 billion over three years.

Completed contracts: Companies would be sharply restricted in their ability to defer taxes on longer-term contracts. The Treasury has been instructed to issue regulations. This provision, aimed mainly at defense contractors and the aerospace industry, would raise $5.7 billion over three years.

Independent contractors: The bill would establish tests to determine whether employees are independent contractors. Independent contractors are not subject to withholding on income and also benefit from being treated as self-employed for Social Security taxes. Direct sellers and real estate agents would be specifically excepted from this rule.

Corporation tax preference cutback: Certain corporate tax preferences would be cutback by 15 percent. These include percentage depletion for coal and iron ore, bad debt reserves for financial institutions and interest on debt used to carry tax-exempt securities acquired after 1982.

Mergers and acquisitions: Certain tax benefits that are currently available when two companies merge and their assets are restructured would closed off. Partial liquidation of assets often results in capital gains or losses to shareholders. Now the company doing the liquidation does not have to recognize these gains or losses. Under the new rules, which take effect Sept. 1, 1982, the corporation would have to recognize these gains or losses, with some exceptions. Some mergers already in progress would be protected from these new rules.

Tax-exempt bonds: Issues of tax-exempt bonds will be required to file quarterly reports to the Internal Revenue Service. Furthermore, owners of property financed by tax-exempt bonds will not be eligible for accelerated depreciation of their property. There would be some exceptions, however, for institutions such as nursing homes and municipal waste disposal facilities.

Also, beginning in 1986, it would no longer be possible to issue "small-issue" tax-exempt industrial development bonds, which had allowed many businesses to finance plants on a tax-exempt basis.

The bill would loosen some of the restrictions on mortgage revenue bonds. Purchasers of homes financed through these bonds would be permitted to buy slightly more expensive homes than currently allowed. Also, tax-exempt bonds could be used to finance cooperatives and other multifamily dwellings.

Life insurance taxation: The tax breaks currently available to life insurance companies through the use of co-insurance, in which one company sells part of its risk to another company, would be ended. This would be retroactive to Jan. 1, 1982.

Original issue discount bonds (including zero-coupon bonds): The tax advantages now available on these bonds would be eliminated. Companies issuing these bonds would be forced to reduce the rate at which they take tax deductions for interest paid to bondholders. The rule would apply to bonds issued after July 1, 1982, but some issues after this date would be exempt if a binding commitment existed.

Puerto Rico: The conference generally accepted the Treasury's proposal on taxation of companies operating in Puerto Rico. The measure would limit the tax advantage available to these companies, but by less than the Senate had proposed.

Generally, companies would still be allowed to shelter investment income earned in Puerto Rico (mostly interest payments), but the amounts that could be sheltered would be reduced. Most companies, however, would not be affected by the tighter limit.

Also, the operating income that these companies could protect from United States taxes by transferring patents and similar intangible property to Puerto Rico would be substantially reduced, particularly in the pharmaceutical and electronics industries.

These changes, which would be effective January 1983, would raise $1.2 billion over three years, compared with the $2.7 billion the Senate proposal would have raised.

Alaskan oil: Oil companies bringing oil out of Alaska would be forced to pay higher "windfall profit" taxes on that oil, because a provision known as the TAP adjustment would be eliminated. This adjustment involves the calculation of the cost of moving the oil from the North Slope by the Trans-Alaska Pipeline to the Alaska port of Valdez.

Foreign oil and gas income: A tighter fence would be place around income from oil and gas extracted in foreign countries so that excess foreign tax credits could not be used against taxes on other foreign income.

Targeted jobs tax credit: Tax credit for hiring the hard-to-employ would be extended for two more years and would apply to individuals who begin work before 1986.

Mr. BAUCUS. Mr. President, I think we should support this bill for one simple reason. That is because the country needs it. Interest rates are coming down. The stock market is beginning to go up. American confidence is beginning to rise. I think it is imperative. In fact, I think we in the Senate have a duty to bite the bullet, swallow the pill, and do what we think is right for the good of the country.

I compliment my friends on the other side of the aisle because they are, in the main, swallowing their pride to some degree, biting that bullet, by passing the bill which does, in the main, raise some taxes in an election year. It is very much against the grain of Members on the other side of the aisle.

This bill, too, is a tacit admission that we need a midcourse correction in Reaganomics, that there are some problems with Reaganomics. In fact, the President's strong support of this bill is an admission that we do need changes. I compliment him for noticing that and acting on that conviction.

Mr. President, we on our side of the aisle, too, should be courageous. We should join in the bipartisan effort. We should support the President. We should not vote against this bill just because the President is supporting it and those on the other side of the aisle have, in the main, fashioned this bill. There are some problems with the bill, there are some other problems, but it is my judgment that this bill will help bring interest rates down.

Further, it will give the right signal to the country. It will show Americans that we in Congress are acting courageously, in a bipartisan way, we are not playing politics and in fact, we are trying to get our country moving again.

Conversely, if we do not pass this bill, we will see that stock market take a nosedive that significantly surpasses the increase in the market that has taken place in the last couple of days.

I suggest, I urge, I implore the Members of the Senate to vote for the bill, because I think it is the right vote. If we search our consciences, we will know it is best for this country.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. CHAFEE. One minute, Mr. President.

I commend the chairman of the Finance Committee and commend the House for approving this conference report. I hope the Senate will approve this conference report. It is the right thing to do.

As the distinguished Senator from Montana mentioned, what are the alternatives? Suppose we do not pass this.

Mr. President, I hope all my colleagues will join in support of the conference committee.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, at this point in the Record, I ask unanimous consent to have printed a summary of the spending provisions and a summary of the individual income tax provisions of this measure so that those Members who will be seeking information and other Members who consult the Congressional Record for information will have a summary in brief form of the spending reductions as well as the individual tax revenue measure.

There being no objection, the material was ordered to be printed in the Record, as follows:

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Summary of Spending Reduction Provisions

I. HEALTH PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT

Medicare

Modify coverage of the working aged.—Employees would be required to offer employees aged 65 through 69 the same health benefit plan offerd to younger workers and medicare would be secondary payor to these plans.

Reimburse inpatient radiology and pathology services at 80 percent of reasonable charges.—The special 100 percent reimbursement rate for inpatient radiology and pathology services would be eliminated. Such services would be paid for on the same basis as other physicians' services.

Repeal routine nursing salary cost differential.—The differential factor paid to hospitals and skilled nuring facilities for inpatient routine nursing salary costs would be eliminated.

Payments for services of provider based physicians.—The Secretary of HHS would be directed to prescribe regulations which would distinguished between the services of hospital-based physicians which are covered under medicare on a reasonable cost basis and those which ae reimbursable on the basis of reasonable charges; and establish standards of reasonableness to be applied in each case.

Hold part B premium constant as a percentage of program costs.—The part B premium would be increased on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues equal to 25 percent of program costs for aged beneficiaries.

Limit medicare reimbursement to hospital.—The current limits on medicare reimbursement to hospitals (i.e., the section 223 limits) would be extended and modified to include ancillary operating costs and special care unit operating costs; annual increases in the overall operating costs per case would be limited (for a period of not more than 3 years); the Secretary of HHS would be directed to develop methods under which hospitals, skilled nursing facilities and other providers could be paid on a prospective basis; the Secretary, at the request of a State could allow medicare payment to be made under a cost control system in the State.

Require certain medicare regulations.—The Secretary of HHS would be required to issue regulations to (a) eliminate the private room subsidy for hospitals, (b) establish single reimbursement limits for skilled nursing facility and home health agency services; (c) eliminate duplicate overhead payments for outpatient services.

Audit and medical claim review.—The medicare contracting budget for fiscal year 1983, 1984, and 1985 would be supplemented by $45 million in each year to be spent specifically for audit and medical review activities.

Temporarily delay the periodic interim payments (PIP).—Periodic interim payments to hospitals for the latter part of September 1983 would be delayed until October 1983. There would be a similar deferral of PIP payments from September to October of 1984.

Assistants at surgery.—Reimbursement for assistants at surgery in hospitals where a training program exists in that specialty would be prohibited, except in the case of exceptional circumstances.

Ineffective drug provision.—Payments for ineffective drugs under medicare part B and under medicaid would be prohibited.

Medicare payments to HMOs.—Current requirements for contracting with health maintenance organizations (HMOs) would be modified by authorizing prospective reimbursement under risk sharing contracts with HMOs and other organizations at a rate equal to 95 percent of the Adjusted Average per Capita Cost (AAPCC).

Technical corrections to Omnibus Budget Reconciliation Act of 1981.

Hospice Care.—Authorizes coverage for hospice care for terminally ill medicare beneficiaries with a life expectancy of 6 months or less.

Coverage of extended care services without regard to 3-day prior hospitalization requirement.—Authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

Prohibiting recognition of payments under percentage arrangements.—No cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Interest charges on overpayments and underpayments.—Requires interest payments with respect to medicare overpayments.

Similarly, the medicare program would be required to pay providers interest on underpayments.

Prohibiting payment for Hill-Burton free care.—Requires the Secretary to provide, by regulations, that the costs incurred by a hospital or SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

Prohibiting payment for anti-unionization activities.—Prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

Eliminating "lesser of cost or charges" provision.—The lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

Extending medicare proficiency examination authority.—Extends to September 30, 1983, the authority of the Secretary of HHS to conduct a program to determine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

Retroactivity of regulations regarding access to books and records.—Section 952 of P.L. 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1982, preceded by a comment period of no less than 60 days.

Private sector utilization review.—Requires the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities.

Special part B enrollment without penalty.—Requires a special open enrollment period under medicare part B for merchant seamen.

Medicaid

Allow nominal medicaid copayments.—The prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients would be repealed except in the case of certain inpatient hospital and ambulatory services for children and pregnant women, for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses, for categorically needy persons enrolled in an HMO, and for emergency services and family planning services.

Modify lien provision.—States would be permitted under certain circumstannces to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions.

Reduce medicaid error rates.—States would be required to reduce their medicaid error rates to 3 percent.

Optional medicaid coverage of disabled children at home.—States would be allowed to cover services for certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previously medicaid was not available if the child received care at home.

Technical corrections to Omnibus Budget Reconciliation Act.

Six-month moratorium on nursing home regulations.—Prevents the regulations currently proposed by the Secretary regarding changes in survey and certification requirements for nursing homes from going into effect for six months.

Medicaid funding for American Samoa.—Provides Federal funding for medicaid services in American Samoa.

Utilization and quality control peer review

Contract for utilization and quality control peer review.—The Professional Standards Review Organizations (PSRO) program, would be repealed. The Secretary would be required to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting effective, efficient, and economical delivery of health care under medicare.

II. SENATE HEALTH PROVISIONS NOT INCLUDED IN CONFERENCE AGREEMENT

Medicare

Senate provisions not included in the conference agreement.—The conference agreement does not include the provision relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board.

Medicaid

Senate provisions not included in the conference agreement.—The conferees did not agree to the following proposals; a provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles; a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROVISIONS

Rounding of eligibility and benefit amounts.—States would be required to round both their need standards and actual monthly benefit amounts to the next lower whole dollar.

Proration of first month's benefit.—States would be required to pay benefits no earlier than the date an application is filed. Therefore, the AFDC benefit would be prorated from the date of application.

Elimination of uniformed services as basis for AFDC eligibility.—Absence from the home solely because of uniformed services would be excluded as a basis for AFDC eligibility.

Job search.—States would be given the option of requiring individuals applying for AFDC benefits to participate in job search while the application is pending. Continued job search would be required, after the application becomes effective, for not more than a total of 8 weeks each year (or 16 weeks in the first year).

Proration for shelter and utilities.—States would be allowed to prorate the portion of the AFDC grant for shelter and utilities for AFDC families living in households with other individuals.

Reduction of Federal match for payment errors.—The allowable error rate for AFDC would be 4 percent in fiscal year 1983, 3 percent in fiscal year 1984, and 3 percent in fiscal year 1985.

Exclusion from income of certain States payments.—States would be allowed to exclude from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated and paid.

Extension of time for States to establish a work incentive demonstration program.—States would be allowed two additional years in which to exercise their option to operate a WIN demonstration program (as provided in the 1981 Reconciliation Act).

Accounting method for income from certain state payments.—States would be allowed to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by States to AFDC households.

Technical amendments to Title XX Social Services and Foster Care Program.—Several technical corrections to social services and foster care provisions of Public Law 97-35 were made.

The following proposals were not included: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (continuing eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT PROVISIONS

Fee for services to non-AFDC families.—The law in effect prior to Public Law 97-35 would be restored which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. As a State option, authority would be retained for States to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.—Allotments would be required from the pay and allowances of any member of the uniformed services, on active duty, when he fails to make child (or child and spousal) support payments.

Reimbursement of State agency in initial month of ineligibility for AFDC.—States would be permitted to reimburse themselves for AFDC that would have already been paid for months before the support was collected and known to make the family ineligible. Thus, the family would not receive double payment for the same month, both in the form of AFDC and through receipt of the support collection.

Reduction in certain Federal payments under the Child Support Enforcement Program.—The Federal matching rate for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Effective October 1, 1983, State child support incentive payments would be reduced from 15 percent to 12 percent and the Federal match for the costs of court personnel who perform child support enforcement functions would be repealed.

Technical amendments to Child Support Enforcement Program.—Several technical corrections in the Child Support Enforcement provisions contained in P.L. 97-35 were made, including certain inaccurate references.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Prorate first month's benefit based upon date of application.—The first month's SSI benefit would be prorated from the date of application or the date of eligibility, whichever is later.

Round SSI eligibility and benefit amounts.—SSI monthly benefit and income eligibility amounts would be rounded to the next lower whole dollar. Rounding would take place after the cost-of-living adjustment had been made.

Coordination of SSI and OASDI cost-of-living adjustments.—The SSI and social security (OASDI) benefit increase would be coordinated so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information.

Phase out "hold harmless" protection.—Federal hold harmless payments would continue to be phased out, being reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years.

Exclusion from resources of amounts set aside for burial expenses.—For purposes of determining SSI eligibility, burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary) would be excluded from countable resources. Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies as would any amounts held by the individual in an irrevocable burial contract or other arrangement made to meet burial expenses.

The Secretary would be authorized to exclude, as income and resources, increases in the value of: (1) amounts set aside for burial expenses because of interest earned, and (2) pre-paid burial arrangements.

SSI pass-through requirement.—In order to meet mandatory pass-through requirments, a State would be allowed to shift from the aggregate spending option to the State supplementation payment level option so long as the State does not decrease its State supplementation payment below the level in the previous December.

Treatment of unnegotiated SSI checks.—The authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks would be clarified.

A provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits) was not included.

UNEMPLOYMENT COMPENSATION PROVISIONS

Round unemployment benefits to next lowest whole dollar.—The Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

Reed Act funds.—The authority for States to use Reed Act funds for administrative purposes would be extended for 10 years. The provision would also permit States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

Exclusion from FUTA of wages paid to certain students.—Wages paid to certain full-time students woud be exempt from FUTA tax: (1) students enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program; and (2) students employed by certain summer camps (1983 only).

Extension of exclusion from FUTA of wages paid to certain alien farmworkers.—The provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes, would be extended for two years, from January 1, 1982 to January 1, 1984.

Unemployment Compensation (UC) Financing.—The Federal unemployment tax (FUTA) wage base would be increased from $6,000 to $7,000 and the FUTA rate would be increased from 3.4 to 3.5 percent, effective January 1, 1983. (Employers in States with approved State programs would continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate would be increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

Additional unemployment compensation financing provisions would:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration Account (ESAA) and 40 percent of the extended Unemployment Compensation Account (EUCA) in the Federal Unemployment Trust Fund. Amounts allocated to EUDA which exceed the Federal share of extended benefit expenditures would be used to repay Federal general revenues advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues would be allocated to ESAA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience-rating system and/or benefit reductions;

(c) drop the present law additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferred amount.)

Treatment of certain employees of institutions of higher education.—States would be allowed to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years of terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

Short-Time compensation.—The Department of Labor would be directed to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor would also be directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Additional weeks of unemployment benefits.—Additional weeks of unemployment compensation benefits would be provided to unemployed workers. Effective September 12, 1982, through March 31, 1982, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits (EB) are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate (i.e., the percentage of workers who are collecting State unemployment benefits) equals or exceeds 3.5 percent. Up to 6 additional weeks of benefits would be provided in all other States.

The additional benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and: (a) who have exhausted all State, or State and extended benefits to which they are entitled; (b) who have worked 20 or more weeks (or had the equivalent in wages as specified in the extended benefit program) prior to applying for State unemployment compensation; and (c) who continue to meet all other State and extended benefit requirements.

Benefit and administrative costs of the program would be financed out of Federal general revenues.

Taxation of unemployment compensation benefits.—The income threshholds limiting the inclusion of unemployment benefits in adusted gross income for Federal income tax purposes would be reduced from $20,000 to $12,000 for single taxpayers and from $25,000 to $18,000 for married taxpayers filing jointly. This change would apply to unemployment benefits paid on or after January 1, 1982.

The following proposals were not included: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

BRIEF SUMMARY OF TAX PROVISIONS OF H.R. 4961

A. INDIVIDUAL INCOME TAX PROVISIONS

Individual minimum tax: The bill consolidates the add-on minimum tax with the alternative minimum tax, adds several new tax preferences to the minimum tax, restructures the treatment of itemized deductions in the minimum tax, establishes a flat 20-percent tax rate and increases the minimum tax exemption from $20,000 to $30,000 for single persons and $40,000 for married couples.

Casualty loss deduction: The bill provides that nonbusiness casualty losses are only deductible to the extent they exceed 10 percent of adjusted gross income.

Medical expenses deduction: The bill increases the floor under medical deductions for 3 percent of adjusted gross income to 5 percent. It repeals the separate deduction for one-half of health insurance premiums up to $150. It eliminates the 1-percent-of-income floor on deductions for drugs and limits that deduction to prescription drugs and insulin.

B. BUSINESS TAX PROVISIONS

Corporate tax preferences: The bill scales back the following corporate tax preferences by 15 percent: percentage depletion for coal and iron ore, excess bad debt reserves of financial institutions, interest incurred by financial institutions to carry tax-exempt obligations acquired after 1982, DISC, section 1250 recapture on real estate, rapid amortization of pollution control facilities, intangible drilling costs of integrated oil companies (which would be amortized over 36 months) and mining exploration development costs. This cutback applies only to corporations.

Investment credit limit: The percent of tax liability which taxpayers may offset by the investment tax credit is reduced from 90 percent to 85 percent.

Basis adjustment for investment credit: The basis of assets, which is used to compute cost recovery deductions and capital gain or loss, is reduced by one-half of the amount of the regular, energy and historic structure investment tax credit.

Accelerated depreciation: The bill repeals the acceleration of depreciation currently scheduled for 1985 and 1986.

Construction period interest and taxes: Interest and taxes attributable to the construction period on nonresidential real estate owned by a corporation will be capitalized and written off over 10 years.

Safe-harbor leasing: The bill repeals safe-harbor leasing after 1983. For the period between July 1, 1982, and January 1, 1984, a restricted form of safe-harbor leasing is put into effect. After 1984, a liberalized form of prior law leasing is permitted.

Foreign oil and gas: The bill provides rules under which companies with foreign oil and gas extraction income will not be able to use tax benefits from that income to reduce their taxes on other kinds of oil-related income and under which oil companies will be taxed on the oil-related income of their foreign subsidiaries.

Possessions corporations: The bill contains a series of rules to limit the extent to which businesses can use operations in U.S. possessions to avoid tax by transferring intangibles to their possession subsidiaries and by allowing passive income to accumulate in a possession.

Industrial development bonds: The bill provides several restrictions on industrial development bonds including a sunset of the small issue exemption after 1986. Investments financed with IDBs would, with certain exceptions, be limited to straight-line depreciation.

Mortgage subsidy bonds: The bill liberalizes several of the rules restricting the issuance of mortgage subsidy bonds for both single family and multi-family houses.

Mergers and acquisitions: The bill makes a number of changes in the rules relating to partial liquidations, stock redemptions, stock purchases and other provisions relating mergers and acquisitions. These are designed to reduce the tax benefits which now arise from mergers and acquisitions.

Completed contract method of accounting: The bill revises the rules for determining which costs are currently deductible and which must be allocated to long-term contracts. Exceptions are provided for small construction contractors.

Original issue discount bonds: The bill eliminates the tax benefits associated with original issue discount, or zero coupon, bonds.

Coupon stripping: The bill eliminates the special tax treatment now afforded stripping of coupons from bonds.

Targeted jobs credit: The bill extends the targeted jobs credit for 2 years, makes the credit available for summer employment of economically disadvantaged 16 and 17 year olds, and makes several administrative changes.

Accelerated corporate tax payments: The bill increases the percent of tax liability which corporations must cover with estimated tax payments from 80 to 90 percent.

C. COMPLIANCE PROVISIONS

Withholding on dividends and interest: The bill imposes 10 percent withholding on dividends and interest, similar to the withholding which now applies to wages. Exemptions are provided for people over 65 whose income (not including exempt income like social security) is less than about $22,000 for a married couple, and there is an exemption at a lower level of income for individuals below 65.

Other compliance provisions: The bill includes a number of changes designed to improve taxpayer compliance. These include additional reporting requirements, changes in penalty provisions, modifications of voluntary withholding on pensions, partnership audits, and various taxpayer safeguards.

D. PENSION PROVISIONS

The bill reduces the limits on contributions to, and benefits from, tax-qualified pension plans. The limit for defined contribution plans is reduced from $45,475 to

$30,000 per year, and the limit on annual benefits in a defined benefit plan is reduced from $136,425 to $90,000. The indexing of these limits is suspended until 1986. Limits are placed on loans from retirement plans. Rules are provided to achieve parity between corporate and noncorporate pension plans. A $100,000 cap is placed on the estate tax exclusion for annuities. Finally, there are modifications in the rules relating to retirement plans for church employees, State judicial retirement plans, profit-sharing plans for disabled employees, and group trusts. A nondiscrimination rule is added for employer-provided group term life insurance.

E. TAXATION OF LIFE INSURANCE COMPANIES

The bill makes a series of changes in the tax treatment of life insurance companies and annuities. The Modco provisions of present law are repealed, and the formula for revaluing preliminary term reserves is changed. In addition, a number of provisions are adopted to reduce insurance company taxes for a 2-year stopgap period. There are also new rules relating to annuity contracts and (for 2 years) flexible premium contracts.

F. EMPLOYMENT TAX PROVISIONS

Independent contractors: The bill provides that real estate agents and direct sellers will be treated as self-employed persons and extends the moratorium and interim relief provisions relating to independent contractors.

Federal unemployment tax: The wage base subject to the Federal unemployment tax is increased to $7,000 and the Federal tax rate to 3.5 percent.

Medicare coverage of Federal employees: The bill subjects Federal employees to the hospital insurance portion of the social security tax and makes them eligible for Medicare.

G. EXCISE TAXES

Airport and airway taxes: The bill reauthorizes the airport and airway trust fund through 1987 and reinstates (with some modifications) aviation excise taxes which were reduced in 1980.

Telephone tax: The bill increases the telephone tax to 3 percent for the years 1983 through 1985 and terminates the tax after 1985.

Cigarette excise tax: The bill increases the cigarette excise tax by 8 cents per pack through September 30, 1985.

Windfall profit tax: The bill repeals the special windfall profit tax adjustment for transportation costs applicable to Alaskan oil and clarifies the exemption for Alaskan native corporations.

H. MISCELLANEOUS PROVISIONS

The bill contains the following miscellaneous changes in the tax law:

(a) Extension of the exclusion for National Research Service Awards.

(b) Tax-exempt status for certain amateur athletic organizations.

(c) Modification of the provision denying deductions for payments to foreign government officials.

(d) A technical change permitting use of annual accrual accounting for partnerships growing sugarcane.

(e) Modifications for the provision awarding reasonable attorneys' fees in civil tax cases where the government's position was unreasonable.

(f) Modification of the definition of a lending or financial business under the personal holding company tax.

(g) Additional refunds of the excise tax on buses.

(h) Modification of the rules under which veterans organizations may qualify for tax-exempt status.

(i) A revision of the rules limiting the disclosure of tax information in nontax criminal investigations.

(j) Authorization for the Secretary of the Treasury to vary the investment yield on savings bonds and to issue additional long-term debt.

(k) Relief for the Jefferson County Mental Health Center.

(l) Modifications of the New Jersey general revenue sharing allocation.

(m) Modifications to the Communications Act of 1934 facilitating the movement of VHF television stations to States which do not currently have such stations.

I. REVENUE EFFECT

The bill is expected to raised $18.0 billion in fiscal year 1983, $13.7 billion in 1984 and $42.7 billion in 1985.

Mr. ARMSTRONG. Mr. President, for most of the year, cynics who have observed the budget process have predicted failure for efforts to cut spending, curtail growth of entitlements, and raise revenue. They observed repeatedly that this was an election year and the task force set before Congress was a difficult one politically.

The prevailing wisdom has been that governing amid huge budget deficits could not be done. After all, six Republican Senators of the committee writing the tax increase bill were up for reelection, as were 33 Senators and all of the House of Representatives. Election-year jitters would, the cynics said, scare off efforts to cut spending $300 billion and raise $100 billion in revenue. Over and over again, it was predicted that when push came to shove, the committees, the Senate, the House, and the President would quit, or worse, settle for repealing President Reagan's third year 10-percent tax cut.

Well, the cynics were wrong. Congress for the first time in years fulfilled its principal task—writing and implementing a budget for the National Government. Congress has enacted a budget resolution and the implementing legislation that will help reduce the $600 billion in deficits now projected for the next 3 years. With reduced deficits and less government presence in the capital markets, there is every assurance interest rates will fall, the economy will prosper, the unemployed will return to work, new ventures will form, business will expand, and Americans will be able to afford new homes.

In considering the Tax Equity and Fiscal Responsibility Act of 1982, Congress today votes on the third and final segment of the budget process. This bill is, of course, the most significant and controversial component—alternatively ballyhooed as either the greatest tax increase or the greatest tax reform in American history. Its real significance is neither. What this bill represents, in essence, is that Congress finally admits that deficits do matter, and that the fiscal irresponsiblity of the past two decades brought high inflation, high interest rates, a sick economy, high tax rates, and international disrespect. By endorsing this legislation, and the other components of the budget resolution, the House Senate Democratic and Republican leadership unanimously endorse the twin concepts of fiscal responsibility and deficit reduction.

After a decade serving in Congress while fighting its leadership that has increased the national debt from $398 billion to more than $1.2 trillion, I cannot begin to express my sheer though delighted amazement. If the current attitude prevails, and in the future governs countless congressional and Presidential decisions, the economic recovery so long promised will actually materialize and endure.

For years, deficit spending has been intellectually, but never politically, discredited. With passage of the budget resolution, its implementing budget reconciliation bill, and now with this pending bill raising $100 billion in revenue and reducing entitlement programs, deficit spending is now at last politically discredited. I cannot underscore the significance. Congress has suffered for two decades with the delusion that we can spend ourselves into prosperity. Now, Congress has reversed itself, not just words, but with action: Economic prosperity is accomplished through balanced budgets.

I am delighted with this new attitude—especially if it prevails. I must admit to some cynicism, however. After all, it is just 2 months before election, and the populace has said in no uncertain terms that it wants, no demands, Washington to get its head out of the sand, and get spending under control. My hope is that Congress retains the budget balancing fervor after the election. Based on the congressional track record, my fear is Congress will not.

Congressional sincerity on this issue is incredibly important. Let we say on the floor what I have heard muttered over and over again in the cloakroom. There is concern that the spending restraint provided in the budget resolution may not ever materialize because the spending cuts are either phony, or soft, or require Presidential implementation of further action by Congress. Besides, skeptics say, Congress has yet to pass any of the required appropriations bills for the coming year.

Mr. President, like so many in this body and in the House of Representatives, the major reason I am voting for the tax portion of this bill is because of the spending reductions it accompanies. The Nation's drastic economic problems, caused by two decades of

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gross fiscal irresponsibility, urgently require reduction of Federal budget deficits at the earliest possible time and a balanced budget within the near future. Although I personally feel that the budget resolution does not go far enough toward deficit reduction, it offers the best available prospect for achieving fiscal integrity and, thereby, restoring the Nation's economic health. Under the circumstances, I feel obligated to support certain parts of the budget package which would otherwise be anathema. I therefore will support the conference report on the Tax Equity and Fiscal Responsibility Act of 1982. By supporting this conference report, I am also committing myself, as is Congress, to full and complete implementation of the path toward a balanced budget.

This conference report fulfills the mandate imposed by the congressionally enacted budget resolution. It amends once sacred domestic entitlement programs in compassionate and reasonable ways at the same time saving taxpayers $18 billion over the next 3 years. For example, the bill reduces Federal subsidies for administrative errors, requires benefits to be paid on the date of eligibility and not before, makes uniform the reimbursement schedules for medicare service providers, ends AFDC benefits for those who refuse to work or reject a bona fide job offer, and other similar reforms.

These reforms are important, but I emphasize they are only a step in the right direction. The $18 billion cut is only a small part of the $549 billion that Federal entitlement programs—not counting social security retirement or disabilty—will spend the next 3 years. Further review is necessary to identify additional savings, and they will require congressional enactment.

The tax portion of this bill is also noteworthy in that it meets the budget resolution revenue targets without repealing, delaying, or modifying the third year of President Reagan's multiyear tax cut program. By retaining the third year, Congress has elected to put in the wallets and purses an additional $560 for the typical American family.

The revenue targets were achieved under the skillful leadership of Senator Bob Dole, the Finance Committee chairman. He and his staff scoured the Tax Code to find every possible loophole that needed tightening and that would raise substantial revenue. This tax bill includes provisions that:

No longer permits multibillion dollar defense contractors to pay little or no taxes on record earnings.

Repeals a loophole used by the insurance industry to escape taxation, and at the same time, modernizes antiquated tax laws governing the industry.

Partially ends another loophole in which business received double tax benefits for new equipment purchases.

Authorizes the taxes and finances the spending necessary to update the Nation's airports and airways.

Increases taxpayer compliance at a time when $120 billion in Federal revenue remains uncollected because of outright tax cheating.

Makes critically needed reforms of over-generous provisions permitting corporations to "sell" unused tax benefits.

Scales back provisions permitting some corporations to defer tax payments for as long as 10 years.

The tax bill is not perfect. It includes provisions that I predict will require rethinking and revision, including the provisions governing pensions, acquisitions and mergers, and interest and dividend withholding. This tax bill was written under incredibly tight time deadlines, and pressure to raise revenue, and in a tense, confrontational atmosphere. Now that there is an overwhelming consensus that spending restraint and revenue increases are necessary to reduce deficits and thereby interest rates, I predict there will be a willingness on both sides to make adjustments in light of unforeseen or unreasonable requirements.

Finally, Mr. President, I commend the personal leadership of Bob Dole. I dare say that without Senator Dole, the Congress today would not be reducing future deficits by $400 billion. How we got where we are today is an interesting story, and one laced with irony. The origin of this bill is the infamous "Gang of 17" budget discussions early this year that attempted to achieve a budget compromise among President Reagan, House Democrats, and Senate Republicans. That effort failed—yet, strangely, all have since endorsed the deficit reduction bill crafted by Senator Dole. It was Bob Dole who recognized the vital importance of reducing deficits, and committed himself to reducing them.

I commend him for his perspicacity, intelligence, political intuition, and guts.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Wyoming (Mr. Wallop).

Mr. WALLOP. Mr. President, I thank the chairman. I urge Senators to put aside territorial fears, perhaps put aside election year jitters and take a careful look at what may be good for the country.

This legislation has not been arrived at as an easy decision on the part of any Senator, let alone those who sit on the Finance Committee. This has achieved bipartisan support for the simple reason that it is good for America.

Mr. President, nobody likes the difficult task of doing what is necessary to restore this country to a position of economic soundness through some difficult housekeeping measures, whether that be raising revenues or reducing expenditures,

This bill and this conference report contains a large dose of both. It is not possible for a country to continue to borrow and borrow and borrow and spend as if there were no tomorrow.

Mr. President, we woke up and found that tomorrow was here. Those who are responsible and care about America, those who are responsible and care about those who are out of work, those who are responsible and care about the continued decline in interest rates so that homebuilders can get back to building houses again, so that farmers can make a living in agriculture again, so that this country can restore some of its lost vitality, should take a close, hard look at this bill and do something which is not only courageous but correct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I ask for 1 additional minute from the Senator from Kansas.

It is all very easy to cut and run for cover when there is a large measure of misunderstanding as to what this bill does abroad in the land. I say to Senators who harbor these misconceptions that they have the obligation to know what is in this bill and to the extent that they do not and cannot make the argument for it on behalf of the country, that is the extent to which their constituents perhaps ought to look to them for a little more accountability.

Mr. President, I urge my colleagues to vote for this bill. I urge my colleagues to do what is right for the country and to put aside a little bit of election year cowardice in the process.

Mr. LONG. Mr. President, I yield to the Senator from Hawaii (Mr. Inouye).

Mr. INOUYE. Mr. President, when the budget and tax bills as proposed by President Reagan were before us last year, I voted for them even though I questioned the economic assumptions underlying them because I and many of my constituents believed that the President deserved a chance to implement his polices. I explained at length that my vote was not an endorsement of his policies but only an effort to enable him to pursue his economic programs.

The President got virtually everything he wanted—not every single item—but every major proposal was approved by the Congress. The only major adjustment in his tax program was a scaling down of the cuts from an immediate 30 percent to 25 percent over 3 years.

The President's tax cut program was the largest multiyear reduction in U.S. history. Between 1981 and 1986, business and individual taxes will have been reduced by $749 billion. The Nation was promised that the benefits would begin immediately. Speaking to the Congress on March 10, 1981, President Reagan claimed, "Our tax proposal will, if enacted, have immediate impact on the economic vitality of our Nation."

The President now suggests that we must raise taxes to reduce the very deficits for which his program is largely responsible. The supply-side illusion has given way to a sober assessment of the impact of his economic proposals. The fiscal 1983 deficit is now estimated at $115 billion by the OMB and, more realistically at between $140 and $160 billion by the Congressional Budget Office, with a possible out-year deficit by fiscal year 1985 of $200 billion. Investment, far from booming, has actually declined.

These horrendous figures far exceed the deficits incurred under former President Carter, whose last full year in office saw a deficit of $73.8 billion. The President cannot continue to blame former President Carter for the fiscal year 1983 deficit while accepting the credit for the decline in inflation. An administration theoretically committed to conservative economic policies will preside over the worst 4-year total deficit in American history.

The 1981 tax cut bill, the so-called Economic Recovery Tax Act, was deliberately skewed in favor of the rich. Budget Director David Stockman confessed in his now infamous Atlantic magazine interview that supply-side economics is nothing but the old trickle-down theory in new clothes. The inequities created by the 1981 tax act are startling.

By cutting taxes across the board and reducing the maximum tax rates, the act gave 40 percent of the individual savings to only 5 percent of taxpayers. A taxpayer earning $15,000 would save taxes of $604 between 1980 and 1984, while a taxpayer earning $150,000 annually would save $21,952 in taxes.

The inequities of that act would only be enhanced by this tax increase bill, H.R. 4961, which is now being marketed as tax reform. Who will suffer under this tax bill? Low- and middle-income taxpayers would not benefit, for it does not cut marginal tax rates. Upper income taxpayers would not necessarily pay more because marginal tax rates for them are not increased. Instead, much of the increase would fall on those least able to afford the extra taxes or the extra costs of compliance with this measure. A significant part of this bill's revenues—up to an estimated 30 percent—would be raised from lower and middle income taxpayers.

Cigarette taxes would rise from 8 to 16 cents per pack. For a two pack per day smoker, this would amount to more than $58 a year. The excise tax on telephones would treble from 1 percent to 3 percent.

Taxes on air travel would rise 60 percent, from 5 to 8 percent on passenger tickets. The tax on noncommercial aviation fuel would jump from 4 cents per gallon to 12 cents, while the expired 5-percent tax on freight waybills and $3 tax on international departures would be restored. Citizens of Hawaii traveling round trip to the west coast would be forced to pay $6 in international departure taxes, while those traveling on to other mainland destinations, such as students, tourists, and family visitors, would also have to pay the increased ticket tax.

Excise taxes are justifiably called regressive, for they strike hardest at ordinary citizens, and there are few citizens in Hawaii who do not smoke, use the telephone, or travel by air.

The wealthy may not have to absorb these taxes. Corporate executives or professionals can bill their businesses or clients for travel and telephones, while well-to-do individuals can usually write off these expenses as business deductions. I am not against the rich because I believe that the capitalist system must contain incentives for the talented to innovate and succeed, but I do suggest that sacrifices in these difficult times be spread evenly and fairly throughout society.

Another example of unfairness in this bill is the new tip income reporting requirement which would compel restaurant employers to report an assumed tip income of 8 percent of gross receipts as imputed income to their employees. This proposal is grossly unfair and raises questions about how gratuities in nonpublic facilities are to be treated. For example, in one Honolulu club, the bills of members are aggregated at the end of the year, and each member is then urged to make an employees payment based on his or her total expenditures. Is this gratuity a gift or income?

Restaurant employees were singled out even though they are not the only workers who receive tips. Will the IRS now go after beauticians, cab drivers, shoeshine boys, porters, maintenance employees, entertainers, and others? I cannot underemphasize that restaurant employees are generally among the lowest paid employees in our society. I am certain that this bill is anything but a tax reform measure to them.

Although I generally feel that the health provisions of this bill are reasonable and fair, I am distressed by the extent to which we are being asked to direct our Nation's hospitals to bear far more than their appropriate share of our national effort to curtail ever escalating health care costs. We are proposing to cut approximately $7.5 billion from them over the 3-year period. This is more than a minor reduction.

I was especially saddened to see the proposed elimination of the current medicare 5 percent nursing salary cost differential payments. In my judgment the anticipated $330 million savings over the next 3 years will in the long run be very costly. This is not the time to send a message to our Nation's professional nurses that their services are not necessary. We are currently facing a major shortage of nursing personnel, especially in our Nation's hospitals. Why should we cut back on funds for their services? Who will be expected to pick up these costs?

Similarly, it is patently unfair to individual families in these days of ever-escalating health care costs to eliminate the present $150 deduction for half of one's health insurance premiums and to raise the floor for deductible medical expenses from 3 percent to 5 percent of adjusted gross income. Section 213 of the Tax Code, the medical expense deduction provision, has been available to individuals since 1942. During the Senate deliberations, the floor manager of the Senate bill, Senator George, in response to a direct question as to whether there was any proposed relief for individuals who had incurred long-term obligations responded on October 10, 1942:

> As far as individuals are concerned, no relief is proposed except as provided under the Victory tax . . . We did one thing in the bill to which I should call attention, and I think it an important matter; we allowed a deduction, in computing the tax of all taxpayers, of expenses for unusual medical costs . . .

At that time the committee provided for 5 percent of net income floor. I am sincerely sorry that we have now apparently decided to retreat 40 years. In 1976, more than 19 million Americans claimed deductions under section 213 for a total of $21.1 billion. This item may not be of interest to our business community, but it is very important to individual families.

It is most unfortunate that the conferees decided to reduce the Federal matching commitment for State child support enforcement programs from 75 percent to 70 percent. They recommended that the child support incentive payments should be reduced from 15 percent to 12 percent, with the Federal matching for the costs of court personnel to be totally repealed. In these times of trying economic conditions, we should increase, not decrease, our Federal assistance to programs that address the needs of these vulnerable children.

The conferees' decision to repeal the Professional Standards Review Organization (PSRO) program was also most unfortunate. Although their proposal for consolidation of existing PSRO review areas and the development of new performance contracts

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for utilization and quality control peer review may on its face have some validity, I personally feel that our basic PSRO legislation was quite sound. These entities already in place should have been given more responsibility for insuring that only high quality health care was being provided. Very few of us really understand the complexities of the medical care that we or our loved ones receive, and it is very much in our national interest to insure that every opportunity is made available for our health care providers, of whatever discipline, constantly to review the overall quality of care being delivered by their peers.

I was quite pleased, however, to see that the conferees have agreed to begin coverage for hospice care under medicare and further that they have recommended that the Government of American Samoa will finally be able to develop a truly culturally sensitive medicaid program. I have strongly supported both of these latter initiatives for some time.

If this bill is rejected, we have far preferable alternatives in our efforts to cut Government expenditures and reduce the deficit. Specifically, we can begin to control defense spending as Budget Director David Stockman suggested last year in his Atlantic interview. For fiscal year 1983, he recommended privately to the President reductions totaling $18 billion in budget authority and $11 billion in outlays, while still leaving intact all major new weapons systems and a vastly increased conventional weapons armory.

I would go even further and recommend the termination of several expensive, cost-ineffective weapons that are failing to fulfill their assigned mission or can be replaced by less costly, better substitutes.

For example, a needlessly expensive weapon, the F-18 Hornet, would cost $2.45 billion in fiscal year 1983 and a total of $39 billion. This costly plane can be outperformed by less expensive, well-tested fighters such as the F-4—which costs about one-eighth as much as the F-18—or the A-7.

Cancellation of the cumbersome, fragile M-1 tank would save $440 million in fiscal year 1983 and a total of $8.4 billion. Replacement of the Bradley infantry fighting vehicle would save $780 million next year, and $9.7 billion overall. This new personnel carrier costs eight times more than the vehicle it replaces without delivering the promised performance.

These are only a few examples of weapon systems which could be easily canceled without impairing the effectiveness of our armed services, and these savings could be duplicated throughout the Defense Department.

Finally, a simple deferral of the reduction in the third year would more than make up for the revenue which would be raised in this bill. In 1983, the rate cuts will result in a revenue loss of $96 billion, climbing up to $166 billion in 1984. Yet, President Reagan has stoutly refused to contemplate this simple step even though the supply side miracles of vigorous economic expansion and investment have not materialized.

The tax increase bill is not totally without merit for there are certain desirable improvements which I could support if it were not for the regressive features. The increase in the minimum tax and the changes in the safe harbor leasing provisions are both desirable features, and my vote should not be interpreted as being against genuine tax reform.

Having reviewed the provisions of this bill, I have decided to vote against passage of the conference report. I urge the President and the committees to produce a bill that would first, contain true tax reform; second, defer the 10-percent reduction planned for 1983; and third, avoid the imposition of taxes on our already hard-pressed lower and middle income taxpayer. I would also urge the Congress to delete the expensive, wasteful weapons which have bloated the defense budget beyond reasonable need and which have actually undermined the combat effectiveness of our Armed Forces by burdening them with overly complex technology. I am voting against this bill in the hope that we enact a fair tax bill that truly addresses the serious fiscal problems of this country and finally sets us on a course of economic revitalization.

Mr. MITCHELL. Mr. President, I rise to speak in opposition to the passage of the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

I intend to vote no on final passage because in the final analysis this bill fails to meet the standard implied in its title: It neither restores nor establishes equity in the way it allocates its cuts. And it is not the most fiscally responsible way to raise additional revenues.

There are far better ways to solve our budgetary problems. Some of the tax provisions before us are sound and worthy of support, as the President and others have said. I supported and voted for a number of them when the bill was before the Finance Committee. But on balance, the entire bill does not represent an equitable or responsible step in the resolution of our budgetary problems.

Last Monday evening, when the President spoke to the Nation about this tax bill, he urged Americans not to consider this bill in isolation, but to examine it in the context of the entire economic program.

I agree that this is the proper perspective from which to examine this measure. And from that perspective, the measure fails to correct the flaws that have become evident in last year's program.

One of the most fundamental failings in both this bill and in the economic program is the unfair way that the spending reductions and tax cut have been slanted. I am pleased that some of the worst inequities in the original bill were alleviated in the conference. But sufficiently unfair cuts remain to warrant rejecting this measure.

The bill will cut $17 billion over 3 years in programs serving the health needs of all our elderly, the health needs of the poor, and the basic Federal program which provides a floor under income for the poorest of the poor—old, blind, and handicapped people who are not covered by social security or insurance programs and who have no way to become self-supporting.

The bill before us makes a $300 million reduction in the basic supplemental security income program. This program serves people whose age and disabilities are combined with poverty. People who have more than $1,500 in assets cannot participate in this program. It is, in reality, the most fundamental support for the most needy in our society—the destitute elderly.

The bill contains major cuts in medicare—cuts which will be made up in two ways. Hospitals will either be forced to increase health care costs for other patients, or they will seek direct payment from medicare recipients. Even though the conference version of the bill eliminates some authority for directly increasing out-of-pocket costs to the elderly, the higher costs will ultimately come from other taxpayers or the elderly themselves.

Despite the claim that the social safety net would not be eliminated for those in our society most dependent on society's support, this bill continues to make cuts directed at the elderly and others who are unable to protect themselves against lost income and reduced services. That is simply unfair.

The most controversial provisions in the bill, of course, are those raising taxes.

Some of these provisions are, as they have been characterized, more in the nature of tax reforms than tax increases. But it is incorrect to characterize virtually the entire bill in that fashion.

The bill raises unemployment taxes by $6.6 billion over 3 years. At a time when small businesses, in particular, are struggling to maintain operations, such an additional tax cost is unwise. Small businesses are not responsible for the increase in unemployment.

The excise tax increases are not reforms: they simply raise regressive sales taxes on average-income Americans. They further accentuate the shift in tax burden from those with the highest incomes to those with middle incomes.

The funds raised by withholding taxes on interest and dividends earned are, by the Treasury's own admission, largely a speed up in taxes which would ultimately have been paid. That does not represent either reform or increased compliance. It is simply a form of forced earlier compliance.

But the central feature of last year's tax reduction—the Kemp-Roth across-the-board cut, which has contributed the most to the shifting of the tax burden, has been protected against any and all change.

Last year I voted to change that proposal to a fairer one. That effort failed and the President got exactly the economic program for which he asked.

This year, it is obvious that the economic recovery program has failed, not only to produce a recovery, but even to sustain our economy at the level it was operating last July, when 7.1 percent of working Americans were jobless. Today, 9.8 percent of working Americans cannot find a job, and a million more have given up the hope of doing so.

Surely, when the centerpiece of a program fails, it is sensible to admit that failure and change it.

The administration has now tacitly admitted that last year's tax cut was too big. So this year, it is supporting a partial restoration of that lost revenue. This is a circular way to proceed.

It would have made more sense and provided a better direction to recognize that the Nation could not afford the third year of the tax cut while we were in a recession and to defer it—not repeal it—until the economy recovered. That course was argued last year and again this year. It received no serious consideration by the administration either time.

So we remain locked into a 3-year tax cut we cannot afford. And most importantly, it is a tax cut structured to shift the burden of taxes to the middle and lower income people of this Nation in pursuit of a misguided theory that the economy can only improve if only taxes on the wealthy can be reduced enough.

Ironically, the very same middle and lower income Americans were being eagerly advertised by the administration throughout this June as the key to recovery. They, it was said, would create a surge of buying with their tax cut, which would serve to revive demand and help put Americans back to work.

The average family of four, earning $20,000 gained about $275 a year from the tax cut. This is around $5 per week. Those earning less, of course, received much less. Contrary to the President's assertion, a $400 per year average tax saving is not what the average family received at all.

The fact is that middle-income Americans and lower income Americans were not fairly treated when the tax relief was proposed and have not been fairly treated by its continuation in its present form.

When higher taxes from inflation and social security payroll taxes are taken into account, the tax cut will have a lasting benefit which disproportionately favors the upper income. Last year's across-the-board tax cuts, which superficially promised fairness by giving everyone the same percentage reduction in income taxes, delivered far more relief to the highest income, and much less relief to ordinary Americans. Taxpayers earning over $50,000 per year, who pay one-third of income taxes, will receive almost two-thirds of the net tax cut. Those making under $50,000, who pay two-thirds of income taxes, will only receive one-third of the net tax reduction.

A family of four earning $20,000 will, by 1984, be paying 16.1 percent of its income in Federal taxes if its earnings keep up with inflation, because the combined effect of higher social security taxes and inflation will still result in a higher tax liability. Ironically, before the tax reductions, that same family of four was paying just 16.2 percent of its income in Federal taxes.

A family of four with an income of $30,000 was paying 18.4 percent of its earnings in Federal taxes in 1980. After the effects of the tax cut the higher social security taxes and inflation have occurred, in 1984, that family will owe 18.8 percent of its income to the Federal Government—an increase.

By contrast, a family earning $100,000 will receive a real tax cut, over and above the effect of higher social security taxes, which affect only the first third of its income, and over and above the effects of inflation. That family will receive a tax cut of nearly $2,300, in 1980 dollars.

This was an unfair tax distribution last year. It remains unfair this year.

The administration has belatedly acknowledged that the 1981 tax cut was too large to be comfortably afforded. The unfair elements of that tax cut are predictable, and are widely acknowledged. Surely the most effective as well as the most fair way to raise the revenues needed to help offset the cost of that tax cut would be to defer the cut for those most able to afford a delayed tax cut—those fortunate enough to have high incomes.

The tax increases in this bill are coming mainly at the expense of working families. The excise tax increases take proportionately more from lower incomes. The increased limit on medical deductions eliminates one of the few deductions millions of Americans can use except for those with truly huge medical bills.

When that factor is considered in context—and the context is last year's tax cut—then it is clearly best to reject this unfair measure.

I do not reject this bill without having an alternative. One alternative which is clearly preferable and which I strongly supported when the tax increase was being debated, was the proposal by Senator BRADLEY, which would have asked those earning $40,000 to $50,000 per year to accept a delay in getting part of their final 10 percent installment of the tax cut, and would have asked those with incomes above $50,000 to accept a delay in all of their 1983 tax cut. That alternative would have allowed us to eliminate several of the tax increases which are most regressive, including the increased taxes on telephones and cigarettes and the cutback in the medical and casualty deductions. It would also have allowed us to eliminate the unemployment tax increase, which will have its heaviest effect on small businesses.

That alternative would have protected the tax cut for 75 percent of all Americans, without imposing directly higher taxes on them in other forms, as this bill does. It would have made the shared cost of tax raising and spending cuts more equitable. Unfortunately, this alternative was rejected.

During the debate I offered an alternative which, without changing the total cost of the tax cut itself, would at least have changed its distribution so that more of the relief would have gone to middle-income taxpayers. That alternative too, was rejected.

The bill before us does not further the cause of tax equity. Rather, it continues the unfair policy of spending cuts from those who can least afford them and tax increases for those who are already paying their fair share. I do not believe that such a bill deserves support, and I will not vote for it.

WHY THE TAX BILL IS UNFAIR

Mr. PROXMIRE. Mr. President, it is called the Tax Equity and Fiscal Responsibility Act of 1982. And to some extent that description is true. It closes some of the more blatant loopholes in the Tax Code that the Congress generously provided last year. Some of these issues, such as individual and corporate minimum taxes; treatment of discount and striped coupon bonds; partial reform of safe harbor leasing; reductions in corporate tax preferences; modifications in the completed contract method of accounting; mergers and acquisitions incentive reductions; and foreign oil and gas income are proper and prudent changes in our complex system of taxation.

But all is not equity and fairness in this bill. Take withholding on interest and dividends as an example. This, the largest single compliance feature of the bill, will add as much as $3.2 billion in administrative costs and lost interest on American taxpayers. This is not to mention the hundreds of millions of forms that will have to be filled out, filed, and processed to grant the various exemptions and to catalog the actual withholding. This alone justifies a new title for this bill as the redtape and paperwork bill of 1982.

Food establishments will be required to report tip income equal to 8 percent of gross receipts for their employees unless, of course, the employees already have reported their tip income by that amount. How will the managers know who has reported what? Imagine the paperwork that will be generated to allocate the tip receipts by each employee.

There was an opportunity to improve this bill but the Senate did not take it. Amendments were offered to redistribute the benefits and obligations of our tax system so that those Americans in the low- and middle-income class could have shared more in the benefits of reduced taxation and be called upon to provide less by way of revenue. We could have reduced the burden of this tax bill on small businessmen, on the elderly, on the sick and infirm, on those using our phone system and at the same time leave a cushion of $3 billion to reduce the deficit. We could have redistributed the benefits of lower taxes to middle and lower income Americans. But each attempt to do so, the Bradley and Mitchell amendments, were defeated.

The defeat of these amendments makes this tax bill skewed in favor of those in the very highest income categories while asking the middle and lower income classes to foot the bill.

Add to this the scandalous situation involving tax deductions for certain illegal foreign bribes. Under present law, taxpayers may not deduct payments to foreign governments or employees if those payments would be illegal under U.S. law. The conferees decided that payments made illegal under the Foreign Corrupt Practices Act would remain undeductible but that other payments, which would be illegal under U.S. law, could be deducted by U.S. corporations. Thus we have the situation that a U.S. corporation makes a payment overseas which ordinarily would be illegal under U.S. law and it now can receive a deduction on its tax form. Think of it, U.S. taxpayers will be subsidizing foreign bribes that would be illegal under U.S. law if they occurred here. But since they occurred overseas, they are deemed legitimate tax deductions.

I do not think many U.S. citizens will be happy with thinking that their fair share of the U.S. tax burden will be increased because some U.S. corporation can now deduct what would be an illegal bribe on their taxes.

We have just told the U.S. corporate community to go ahead and make as many "grease" payments and facilitating payments and customs bribes as they want because Uncle Sam and the rest of American taxpaying public is going to grant them a big, fat subsidy. Make no mistake about it, this is a subsidy for illegal bribes—courtesy of the U.S. taxpayer.

There is so much more that could be done with this tax bill to change its impact on the average taxpayer and make it a fair reform vehicle. The leasing provisions could have been closed more tightly. Adjustments should have been made to require integrated oil companies to include disallowed intangible drilling costs in the basis of their property. Other oil and gas tax reforms should have been addressed.

But this did not come to be and consequently I cannot support this bill.

SECTION 207(e)(2)(A)

Mr. HATCH. I understand that during the course of the conference committee deliberations on the construction period interest and taxes provision of the bill, there was some discussion of the requirement in section 207(e)(2)(A) of the bill that approval from a governmental unit has been requested in writing by the taxpayer regarding the construction of a hospital, nursing home, hotel, or motel.

As the author of that requirement, it was my intention, clearly stated on the floor of the Senate when I introduced the amendment adding section 207(e)(2), that a written request for governmental approval did not have to be submitted by any particular date, but only pursuant to the normal course of events. There is no uniform timetable for the submission of these requests. They will vary according to the nature of the project and the nature of the governmental approval concerned.

It was specifically not my intention to require the taxpayer to make a request for an approval by July 1, 1982. Rather, it was my intent that eligible taxpayers qualify who can establish that first, a written plan was in existence on July 1, 1982; second, the project actually commenced is consistent with that plan as evidenced by a submission to a governmental unit in the ordinary course which is based on that written plan; and third, construction is commenced before January 1, 1984. The sole purpose of the governmental approval requirement is to corroborate that the written plan in existence on July 1, 1982, can be specifically identified with the ultimate construction project approved by the governmental unit or units concerned.

I would like the distinguished Senator from Kansas to confirm that this is the intention and understanding of the conferees.

Mr. DOLE. I thank the distinguished Senator from Utah for this opportunity, and I do confirm that his intention regarding this provision was the understanding and intention of the conferees. The Senator's inquiry has been very helpful in assuring that our understanding of your amendment was consistent with your intent and that the statute will be interpreted and applied in that manner.

Mr. LONG. Mr. President, I would like to clarify the scope of the authority granted to the Internal Revenue Service to provide guidelines for reducing the allocation, if any, from 8 percent of receipts to a lesser amount for certain establishments. I understand that the Internal Revenue Service is authorized both to provide general rules for reducing the minimum percentage of reported tips in specifically defined and justified circumstances and to provide administrative procedures for a case-by-case determination of lower amounts.

Mr. DOLE. The Senator from Louisiana is correct; both general rules for appropriate cases and case-by-case procedures may be provided.

Mr. LONG. Mr. President, I would like to confirm that the Senator from Kansas understands that the Internal Revenue Service will cooperate with the affected institutions and employees in making its required study of tip compliance.

Mr. DOLE. It is our fervent hope that the Internal Revenue Service will continue to enjoy and draw upon the full cooperation of employers and employees alike in this industry in making this study. As the Senator from Louisiana knows, it is that cooperation which has made possible the improvement of this legislation in conference over prior proposals. And it is that cooperation, including the anticipated publication of these new requirements by the employers and union, that will do so much to make this new law work.

Mr. LONG. Mr. President, I want to clarify the operation of the tip allocation rule. Is it the Senator from Kansas' understanding that allocation would be required only if voluntary employee reporting does not reach an 8-percent level, and that employees to whom allocations are made need include only those customarily tipped employees to whom allocations are made, including employees who receive tips indirectly through tip pooling or tip sharing?

Mr. DOLE. That is my understanding.

Mr. ROTH. Section 214(e) of the conference report amends paragraph 6 of section (103)(b) by adding at the end thereof a new paragraph entitled, "(O) Restrictions on Financing Certain Facilities." May I ask the distinguished Senator from Texas if he concurs that in our discussions in the conference it was specifically agreed that the language"retail food and beverage services" is meant to apply only to establishments such as restaurants and bars where the primary purpose of the establishment is the service of food already prepared for consumption and that such language would not apply to grocery stores, supermarkets, convenience stores, or other such establishments engaged principally in the sale of grocery and other items?

May I also ask the distinguished Senator if one of the reasons that convenience stores which incidentally may offer the service of prepared foods or drinks would not be prohibited by this amendment from obtaining IDB financing since the service of prepared foods or drinks in those establishments would not constitute 25 percent of the primary activity of the entire establishment?

Mr. BENTSEN. The gentleman from Delaware is correct. The amendment to section 103(b)(6) is intended to apply only to restaurants and bars and that the language referring to "retail food and beverage services" is not intended to apply to grocery stores, supermarkets, convenience stores, or other such establishments engaged in the sale of grocery or other items.

Mr. DANFORTH. I wish as a conferee on the Tax Equity and Fiscal Responsibility Act, H.R. 4961, to associate myself with the remarks of the Senators from Delaware and Texas.

Mr. LONG. I wish as a conferee on the Tax Equity and Fiscal Responsibility Act, H.R. 4961 to associate myself with the remarks of the Senators from Delaware and Texas.

SENATOR HAYAKAWA STATEMENT ABOUT ADAP PORTION OF TAX BILL

Mr. HAYAKAWA. Mr. President, I would like to mention some matters that particularly concern my State. First, the Mojave Airport, which is operated by the East Kern Airport District, has a very special and important role in our Nation's aviation system. It is extensively used by civil aviation manufacturers to test aircraft and their components, particularly in the general aviation sector. The airport has attracted numerous businesses involved in flight testing and has generated substantial employment.

In light of the importance of Mojave Airport to aviation, I believe the FAA should give serious consideration to the Mojave Airport's request for ADAP funds.

The other problem of concern to me is the Burbank-Glendale-Pasadena Airport. It has a terminal building and other facilities located within the zone—known as the primary surface area—adjacent to the runway that is supposed to be clear of all such obstacles under current FAA airport design standards.

The ADAP bill specifically provides that "the safe operation of the airport and airway system will continue to be the highest aviation priority." Further, it provides that "all airport and airway programs should be administered consistent with" the section of the FAA act which specifies "the assignment and maintenance of safety as the highest priority in air commerce * * *" there can be no question that safety is to be the highest priority in the administration of the ADAP program. It should also be clear that projects to correct a preexisting violation of primary surface area are, to the extent they are otherwise eligible, the kind of safety-related efforts which should be accorded that statutory priority for safety.

Mr. MATTINGLY. Mr. President, I rise today to oppose this bill, H.R. 4961, to raise taxes by $98.3 billion over the next 3 years. I do so because this bill—I sincerely feel—is wrong and that it is the wrong economic policy at this time. And it is the wrong message for this Senate and this Congress to send the American people.

Mr. President, I know I will be joined by Members from the other side of the aisle in opposing this bill. But my reasons for opposing this bill have nothing to do with partisan politics. My reasons for opposing this tax increase have to do with the heart of the economic policy debate on the floor of this Senate over the past 18 months. Were we serious about reducing the size of Government, cutting spending, and cutting taxes as the means to economic recovery and renewal in our country? Are we going to pay attention to the popular mandate of the last national election? Or were we just kidding when we passed President Reagan's economic recovery program last year. Is it the truth that this body really does not care what the people of this country want? Is it the truth that we intended all along to continue down the same old road, pursue the same old failed policies, and the public be damned?

I do not have to remind my fellow Members how the people of their States feel about this tax increase. You all know how your mail and phone calls are running. Phone calls to my offices, both here in Washington and back in Georgia, are running 2 to 1 against. The mail in my office is running 5 to 1 against. I do not have to remind my fellow Members of the poll that appeared in this morning's paper. If anyone in this body seriously believes that the people of this country feel the answer to our economic problems is a tax increase, they have been hiding in a closet. Are we to tell the people back home that they are too dumb to know what is good for them? Personally, I will take the wisdom of the working men and women of Georgia over the wisdom of Washington any day of the week.

Mr. President, let me remind this body what we did here only 10 short months ago. We enacted a tax cut. We cut the tax rates on individuals and businesses as a part of the President's economic recovery program. We cut taxes to return incentives and encouragement to individuals and businesses to save, invest and create jobs. We did that because it was realized that years of spiralling Federal spending and taxes had given us the highest inflation and the highest interest rates in history. Now we are told that 10 months is long enough. Now the economy needs a tax increase.

The fact is President Reagan's program is working. In less than 2 years we have cut inflation by two-thirds. In less than 2 years interest rates have been cut from 21 percent to 14 percent. Real income, the real worth of the paychecks in the hands of the working people of this country, increased last month by a greater amount than any time during the past 2 years.

We are told we need a tax increase in the middle of a recession to insure that needed spending cuts are continued in the future. That is a joke. There has not been one dime of reduction in the Federal budget during the 97th Congress. When this Congress came into office in 1981 the Federal budget for that fiscal year stood at $657 billion. Projected 1983 outlays currently stand at $777.5 billion, and that is after the so-called spending cuts. Unless my arithmetic is off, that is an increase of more than $100 billion. Almost the exact amount of this tax bill.

We are told that we need this tax increase to reduce the deficit. Let me quote President Reagan on this subject. On May 20, the President made the following statement to a group of businessmen:

> We do not have a trillion dollar debt because we do not tax enough; we have a trillion debt because government spends too much. Simply raising taxes will not do the trick. It is well to remember that in the last 5 years taxes went up by more than 200 percent, and we still had in those 5 years the largest string of deficits in our history.

Let us be honest here. The purpose of this tax increase is to fund more spending.

Mr. President, we are even told that this tax bill is not really a tax increase at all. We are told it is not even the largest tax increase in history. But the fact is if it walks like a duck, quacks like a duck, and looks like a duck, it must be a duck. And this, my friends, is a duck. It is true this is not the largest tax increase in history. It is the second largest behind the Carter administration's $122 billion social security tax increase. But the worse part is that both of these tax increases will

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hit the American taxpayer at the same time in the middle of a recession.

And finally, we are told, that we must support this tax increase out of loyalty to President Reagan. That if the President loses his ability to lead we will not be able to continue to make the kind of policy changes we must have to turn our country around. Well, I do not mind saying that I have been one of the President's most consistent supporters in this body. I was No. 10 out of 100 in support of the President last year. And I expect to be as high or higher on the list of the President's supporters this year. In fact, I have a better record of supporting the President than a lot of those here in this body who have been waving the loyalty banner for this tax bill.

And it is because I believe in the President and his program, and because I share in his mandate to turn the tide against more government, more spending, and more taxes, that I cannot vote for this bill.

Mr. President, we do need to reduce the Federal deficit. But we need to do so by cutting Federal spending. Not by raising taxes. I, for one, did not come to Washington to vote for more taxes. I hope a majority of my colleagues in this body will join me in support of the Reagan economic recovery program and vote against this bill.

Mr. THURMOND. Mr. President, although I strongly disagree with some of the particular provisions in this revenue-raising legislation and have reservations about other specifics, I have concluded that this package, taken as a whole, is necessary. Thus, I shall lend my support to passage of the conference report for three basic reasons.

First, it is my belief that passage of this bill is essential to reducing the projected Federal deficit for fiscal year 1983 and the following years. The expectation of massive Federal deficits, which would result in a huge drain on the capital markets by Federal borrowing, is perhaps the biggest hindrance to a further reduction of interest rates and a sustained economic recovery.

Fortunately, it appears that interest rates are finally headed down to more reasonable levels. Indeed, the prime rate has dropped by over 7 points from the historic high levels that prevailed when President Reagan assumed office. Most economists and financial market analysts are now predicting further declines in the prime rate, to be followed by a drop in rates charged consumers on loans for automobile and other durable good purchases, and also on home mortgages. As interest charges subside, this will help give a broad-based boost to the economy that will help put people back to work.

These are our hopes and expectations, but they will not be realized if Congress fails to act now and in the future to reduce the budget deficits. This legislation will help to trim deficits by between $98 and $99 billions over the next 3 years. Moreover, it will accomplish that goal without jeopardizing the investment incentives and across-the-board tax relief for individual taxpayers enacted last August.

A second important reason why I am supporting this bill is that it fulfills a commitment made by Congress and the President earlier this year when we adopted the budget blueprint for fiscal year 1983 and the following 2 years. Under the budget resolution approved in June and endorsed by President Reagan, Congress agreed to enact legislation that would reduce the Federal deficit by approximately $380 billion over the next 3 years. Most of the deficit reductions—about $280 billion—are to come from cutbacks in spending, but a portion must be achieved through increasing tax revenue.

My preference would have been for greater emphasis on spending reductions and less emphasis on the tax side of the budget. However, it was necessary to reach an accommodation in order to pass a budget, and the resulting compromise directed the tax-writing committees to produce this revenue enhancement bill. The economic health of our Nation depends on decisive congressional action to trim the Federal deficits, and the budget resolution calls for almost $3 in spending cuts for every $1 of revenues raised by this tax bill. In my judgment, this is a reasonable tradeoff and an acceptable price to pay in order to get much greater and critically needed spending restraint.

Indeed, the legislation before the Senate in this conference report is not just a tax bill. Also included are savings of some $17.3 billion over the next 3 years in several entitlement programs whose cost was spiraling out of control. Again, that is not as much as we needed, but I know the distinguished chairman of the Finance Committee, Mr. Dole, and the Senate conferees did the best they could in bargaining with the House conferees, who were less willing to cut spending. Together with the omnibus reconciliation bill cleared for the White House on Wednesday, savings approximating $30 billion through fiscal year 1985 will be achieved. Further, substantial curtailments must be achieved in the appropriation bills and through management initiatives by the administration, if the outlay savings goals established in the budget resolution are to be met.

The third reason why I believe this legislation is deserving of support is that it achieves most of the necessary revenue increases through improved compliance with existing tax laws and closing down of loopholes which have been used by some individuals and corporations to avoid paying their fair share of the tax burden. It should be emphasized, Mr. President, that this bill does not contain an across-the-board tax increase. In fact, it carefully preserves the 3-year, 25 percent tax reduction for individuals, reduction in the marriage tax penalty, much-needed estate tax relief, and most of the capital investment incentives for businesses enacted as part of the President's Economic Recovery Tax Act last year.

For the most part, the typical wage earner will feel little or no effect from this legislation. There are, however, a number of genuine tax reforms in this bill that are needed to broaden the tax base, improve the fairness of the tax system, and insure that honest taxpayers do not have to bear the burden imposed by those who, through various tax avoidance schemes, have not been meeting their obligations as citizens to help support their government through taxes.

Mr. President, as I emphasized at the outset, I support the necessity of this measure as a means of curtailing the impending budget deficits, which are otherwise frighteningly high. That is not to say, however, that I endorse each of the provisions in the bill, for there are some that I believe are unwise and unjustified. For example, I strongly opposed the doubling of the cigarette excise tax because of the adverse effect this particular increase may have on the tobacco industry, which is so important to the economy of South Carolina and the Nation. I regret that the conferees were unable to shift part of this increase to alcoholic beverages, as I had proposed unsuccessfully in an amendment on the Senate floor.

I am also concerned about the impact of tax withholding from interest and dividends on investors and on depository institutions. This burden will be cushioned, however, by the several exceptions built into the bill for small savers with accounts yielding less than $150 per year, for about 90 percent of the elderly, and all low-income individuals, and by postponing the effective date of this provision by 6 months until July 1, 1983.

Mr. President, I had also expressed strong reservations during Senate consideration of the bill about the pension plan provisions of this legislation. I regret that the conferees did not hold firm against further changes desired by several liberal Members of the other body. It is my understanding that the distinguished manager of the bill is willing for the Finance Committee or the appropriate subcommittee, to hold hearings for the purpose of reviewing the impact of these provisions, and that he also will recommend to the IRS that the effective date of the provisions designed to overrule the Keller case be delayed until January 1,

1984. I shall be pleased to work with him and the committee to remove any inequities and preserve incentives for these pension and profit-sharing plans.

The conferees did add a program of supplemental unemployment compensation, which I support and feel is necessary due to the recession. This will provide an additional 10 weeks of benefits for jobless workers in South Carolina and other States to help them and their families until they are able to find employment.

Mr. President, this bill is certainly not perfect. I hope the Finance Committee will carefully scrutinize the wisdom of its various provisions and be prepared to make necessary changes in the months ahead. However, I believe it is needed and is the price we must pay for a healthier economy. I hope the Senate will join the House in approving it.

Mrs. HAWKINS. Mr. President, I rise in opposition to the conference report on H.R. 4961, the so-called Tax Equity and Fiscal Responsibility Act of 1982. This is not a new position for me. When the Senate debated a similar version of H.R 4961 in late July, I opposed that bill, too. I will vote against this conference report for five reasons. First, the report calls for $13 billion in medicare cuts principally by imposing revenue caps on hospitals and restricting payments to doctors which treat medicare patients. This combination will put additional financial pressure on public service hospitals already on the brink. And equally dangerous, it will slow dramatically the spread of lifesaving technologies.

Hospitals that already do not have CAT-scanning devices already in place, for example, will not be able to introduce them for use on medicare patients. While CAT scanners are now the primary diagnostic tool used to save the lives of many private patients, they are expensive. Hospitals that use them for the first time in 1984 will breach the revenue caps established by this bill. All recent improvements in medicine, if expensive, will likewise face serious impediments to their introduction in hospital settings. It was for this and similar reasons that Congress defeated an analogous proposal put forward by President Carter in the 96th Congress. This reason was sound then and it is sound now.

Second, the tax portions include five major proposals which are especially objectionable. They are: increasing the telephone excise tax to 3 percent, nearly doubling the unemployment tax, imposing 10 percent withholding on dividend and interest income, raising the threshold from 3 percent to 5 percent of adjusted gross income for those with high medical expenses while eliminating the $150 deduction for medical insurance, and eliminating the casualty loss deduction except for those who, due to robbery, fire or accident, have losses exceeding 10 percent of adjusted gross income. All these provisions will hurt real people, and they raise $25 billion of the $98 billion raised by this bill over 3 years.

Third, I question the wisdom of raising taxes during a recession. The last President who tried to raise substantial amounts of revenue to balance the budget during a recession was Herbert Hoover. The results of his strategy should give us all cause before we argue that the way to encourage economic expansion is to raise the level of Federal taxes, as a share of GNP, even higher than the record levels already in existence. Net revenues are therefore likely to be lower than we think, since the economy will be weaker than it would be otherwise.

Fourth, I would like to address the question of fairness. Certain provisions included in H.R. 4961 do improve equity by closing loopholes and insuring that more people pay their fair share. However, the revenues raised by these provisions should be used to pay for long-overdue tax reduction proposals, including two recommended by the administration—tuition tax credits for parents who send their children to private schools and tax relief for business that invest in "enterprise zones." Instead, the additional revenue will be used to finance additional spending.

Finally, some argue that tax increases are needed to eliminate large projected deficits. Their analysis fails to note the dramatic impact unemployment and interest rates have on the deficit, under existing law. If the unemployment rate were 6 percent, instead of 9.8 percent, the budget would now be in surplus, and ways to lower taxes further would dominate discussion on fiscal policy.

The impact of interest rates on the deficit is also large. Over $700 billion in Federal securities are now held by the public. If the average interest rate or these securities were lowered by 5 percent, Federal spending would fall by more than $100 billion over 3 years, an amount larger than that raised under the tax provisions of H.R. 4961.

Finally, unemployment and interest rates are determined as much by monetary policy as by fiscal policy. Changes in monetary policy can and do impact on unemployment and interest rates swiftly. Therefore, we should not move to make permanent changes in fiscal policy until the options for revising monetary policy are explored.

For all these reasons, I will vote against this conference report.

Mr. BUMPERS. Mr. President, this is a difficult vote. On the one hand, some provisions in this bill are long overdue, and the Senator from Kansas must be commended for biting the bullet and standing up to some powerful special interests that oppose controversial provisions of this bill. The bill phases out the so-called leaseback provision Congress adopted just last year. This is the provision that allows some of the largest and wealthiest corporations to buy and sell tax breaks they cannot use. The whole notion of selling unusable tax breaks is anathema to me, and I applaud the conferees for deciding to eliminate this tax giveaway for leases entered into after December 31, 1983.

The bill also contains additional unemployment benefits for millions of unemployed individuals who are victims of the most serious economic crisis this Nation has experienced since the Great Depression. Under the formula in the bill, unemployed persons in Arkansas, for example, who have exhausted their other benefits, will be entitled to an additional 10 weeks of benefits if this bill passes. For the thousands of unemployed in Arkansas, this will help buy groceries, pay the rent, and catch up on overdue bills. With the Arkansas unemployment rate approaching 10 percent, and with over 20,000 workers in Arkansas having exhausted their regular unemployment benefits, the inclusion of these additional benefits in this bill certainly makes it more attractive to me.

On the other hand, Mr. President, I am convinced that this bill contains more bad than good. It will increase the redtape involved in dealing with the Internal Revenue Service and will impose an unfair burden on some employers. It will also impose what I consider to be unnecessary tax increases on consumers.

Mr. President, I have stood on this floor more times than I can count and argued that we cannot even approach fiscal responsibility unless we postpone or repeal a part of the $750 billion tax giveaway we passed last summer. That was the largest tax cut in history, and it went to the wealthiest Americans, those who needed it the least. The person who makes $100,000 a year got a $7,000 tax break. People in my State who earn a median income of $16,000 got a $242 tax break. Meanwhile, that huge tax cut is making it impossible for us to even come close to balancing the Federal budget in the foreseeable future.

So, only 1 year after we gave away $750 billion to the wealthiest Americans, we are forced to come back and pass new tax increases much of which will fall heaviest on those who got the least last summer. There is a better way, Mr. President, and many staunchly conservative economists agree on what should be done. We should postpone the 1983 tax cut, and in so doing we would save at least $76.3 billion. We would not be taking away something that the American

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people are already enjoying, and we would not be creating the bureaucratic nightmare that some of the provisions of this bill may cause.

Mr. President, even if this bill passes and becomes law, we will be faced next year, and the next, with the need to increase taxes again in order to deal with the huge budget deficits caused mainly by last year's tax giveaway. A much simpler solution is to undo some of the evil we created last year rather than thinking up new kinds of taxes. We will be like a dog chasing its tail until we face up to the irresponsibility of last year's tax cut.

Finally, Mr. President, we are in the process, on the urgent insistence of the President, of increasing defense authorization for 1983, by $37 billion, much more than all the much-heralded cuts in medicaid, medicare, student loans, school lunches, immunization, and a host of other worthy programs. Until we recognize that defense is not sacrosanct and insulated from scrutiny, there will be no balanced budget.

Again, Mr. President, I want to commend the Senator from Kansas for his leadership. I oppose this bill with regret. Senator DOLE in many ways had his hands tied because of the President's unwillingness to agree to the postponement or repeal of portions of the tax cut we passed last year. Senator DOLE has shown a high degree of statesmanship in tackling the next-to-impossible task of raising revenues in an election year.

I want to assure my colleagues that I intend to continue to work for responsible tax reform. But I cannot support a tax increase that leaves in place inequities less than a year old while increasing redtape and the burdens of complying with our already complicated tax laws.

Mr. DECONCINI. Mr. President, I voted against H.R. 4961 when it passed the Senate last month. At that time, I did not see how it was possible to reconcile the largest increase in taxes in history with the most severe economic contraction in the postwar period. In addition, I found the massive expansion in the bureaucratic power of the IRS which is at the heart of the so-called compliance provisions of the bill extremely disturbing. No other agency inspires more fear and loathing than the "Infernal" Revenue Service. To augment its regulatory authority so enormously in the name of "revenue enhancement" is, in my judgment, unwise if not dangerous. A statement detailing some of my major concerns with respect to the bill as passed by the Senate appeared in the RECORD July 22, and I ask unanimous consent that it be reprinted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DECONCINI

Mr. DECONCINI. Mr. President, I intend to cast my vote against final passage of H.R. 4961, the 1982 medicare cut and tax increase bill.

This is not an easy vote. I have spent many hours pondering what is the proper course for me to take—proper for the people of Arizona and proper for the Nation as a whole. In the final analysis, however, the issue comes to this: Is this legislation the right way to partially offset what will be the largest deficit in American history? The answer is "No."

Unfortunately, the administration which entered office with high hopes and the full backing of the American people has faltered in its economic policies. The 1980 election put us all on record in favor of fiscal responsibility, and most especially a balanced Federal budget. The administration convinced itself that this could be accomplished by simultaneously increasing defense spending, and decreasing taxes.

The result of these actions has been a massive recession which still shows no real signs of abating and Federal deficits far in excess of those contemplated in previous years. Now, the administration has decided that the deficits created by its own policies are intolerable and asks Congress to pass the largest peacetime tax increase in history.

The rational approach to fiscal matters should have been to decrease taxes commensurate with decreases in Federal spending. Many of us in Congress have asked the President to reconsider the original tax cut bill and to phase in those cuts as the Federal budget can absorb them. That still remains the proper course of action.

The bill we have before us today will strike a powerful blow against middle-income Americans, although it seeks to masquerade as a bill which closes corporate loopholes.

The tax increase bill will double the excise tax on telephone service, an action that will have special impact on Arizonans in light of recent and very substantial increases in telephone rates.

The tax increase bill initiates the withholding of dividends and interest payments to individuals at great cost in paperwork for financial institutions like savings and loan companies which are already going bankrupt because of the deteriorating economic stiuation. It will also impact on retired persons who rely upon their interest and dividends to make ends meet. I fought this proposal when it was advanced by the Carter administration and its advocacy by the Reagan administration has not affected its total inappropriateness.

The tax increase bill dramatically increases the total amount of medical expenses a family must incur before they can be taken as a deduction. It also reduces from $150 to $100 the amount of insurance premiums that can be deducted, an action that will impact upon practically every single filer of an itemized return.

The tax increase bill will double—from 8 to 16 cents—the Federal excise tax on cigarettes. Whatever one's views on the harm that may accrue from smoking, this type of tax penalizes only the poor and middle-income persons.

The tax increase bill raises the wage base upon which business—including hard-hit small business—will have to pay FUTA—Federal Unemployment Tax Act. It also increases the FUTA tax rate.

The tax increase bill reverses some of the capital information—that is, productivity enhancing—changes in depreciation allowances enacted last year which I cosponsored.

The tax increase bill also substantially reduces the basis upon which the investment tax credit is calculated, further reducing the incentives to invest in our undercapitalized economy.

The tax increase bill does close some corporate tax loopholes, but leaves hundreds of others wide open. First, it is totally deceptive to believe that closing these loopholes will not affect average taxpayers. Taxes are a cost of doing business, and businesses will simply pass them on. So, we will all pay in the long run.

Second, the selective closing of loopholes is a mixed blessing. It is a process whereby Congress decides that this loophole is better than that loophole and therefore it penalizes or rewards businesses according to who had the best lobbyists. The rational approach to the terrible problem of our Tax Code—the approach which I have sponsored in S. 2147—is to scrap the present system in favor of a broadbase flat rate tax. It eliminates all loopholes for individuals and corporations and applies a reasonable tax on all income. This would provide the Government with sufficient revenue and restore basic equity to a system whose fundamental unfairness has gotten out of hand.

The time, Mr. President, when the administration and Congress will have to acknowledge that this Nation's fiscal affairs are in disarray is close upon us. We are like helpless bystanders trying to stop massive hemorrhaging with band-aids. The American people—certainly the people of Arizona—are tired of the deceptions and false promises. They do not want "pie in the sky" promises; they do not want free lunches; they do not want what is not rightfully theirs.

However, they do demand that their elected representatives place commitment to the country above the empty rhetoric of campaign promises and election strategies. They want commonsense, common decency, and common fairness to be the rule and not the exception.

First, the present tax system must be fundamentally transformed to meet the dual needs of revenue raising and equity. The flat-rate tax is the best way to achieve this. Second, we must pass a constitutional amendment requiring a balanced Federal budget as a means of forcing Government to live within its means in the face of constant political temptations. Third, we must keep our taxes as low as possible without going into national debt by adopting rational, not irrational, fiscal policies.

In the meantime, Mr. President, I find the 1982 tax increase bill unacceptable. I proposed that we reduce the deficit by cutting certain Federal programs, like foreign aid. We cannot continue to take and take from the American people while we open our Treasury to foreigners. Generosity and altruism have their place, but our obligations are to our own citizens first. And, those citizens, Mr. President, are suffering from unemployment, high interest rates, poor productivity, a lack of capital investment, a decimated housing industry and an unprecedented number of bankruptcies.

When there are alternatives to raising taxes at a time of extreme economic hardship, we owe it to those we represent to pursue those alternatives. If we can cut foreign aid, eliminate waste, reduce the number of trips Government officials take and the number of cars the Government buys, we should. Raising taxes should be a method of last resort, not a substitutte for making difficult decisions about the size, role and function of the Federal Government.

I cannot in good conscience support a measure which increases taxes or American working men and women by $100 billion at a time when many millions are out of work and are experiencing the desperation of shattered dreams.

Mr. DeCONCINI. Mr. President, the month that has elapsed since Senate action, has witnessed little, if any, improvement in general economic conditions. Almost 11 million Americans are now out of work and the national unemployment rate is approaching double digits for the first time in recent memory. In Greenlee County, Ariz., the unemployment rate stands at 59 percent. Let me repeat that, Mr. President. Fifty-nine percent of the labor force in Greenlee County is without gainful employment. And that story is duplicated in county after county, and community after community across my State and the length and breadth of this land. Moreover, Mr. President, from the first of this year to August 5, over 14,000 businesses have turned belly up. The business bankruptcy rate is over 400 a week. Industrial output has fallen almost 16 percent below last year and 30 percent of our industrial capacity—our mines and factories—is currently idle.

And so, Mr. President, the economic environment has not changed for the better since the Senate considered this legislation. And I regret to say that neither has the bill itself. The conference report before us, far from rectifying the flaws in the Senate-passed version, simply reaffirms, and in all too many cases, exacerbates its worst tendencies. It retains a regressive reliance on excise taxes. It dilutes or repeals many of the savings and investment incentives that are central to a genuine supply-side policy. It proliferates the special rules, arbitrary distinctions, and general administrative complexity and opaqueness that have brought the existing tax system into well-deserved public disrepute. There is, in short, no reason to change my original judgment on this measure. It is still the wrong answer to our fiscal and economic woes.

Finally, Mr. President, I cannot bring myself to support a measure that seeks, in effect, to reduce the Federal deficit by shifting the costs of essential medical services to the poor and the elderly. An increase in the part B medicare premium when the costs of health care are skyrocketing and the economy is severely distressed is just plain unfair. People who have worked hard all their lives and paid into the social security and medicare systems should not have to pay for the policy miscalculations and fiscal profligacy of their Government. The same is true for those who are forced by economic or other circumstances to depend on medicaid. While I strongly support efforts to improve the administration of these programs and reduce State error rates, I do not believe it is fair to cut back on real services and impose a new set of copayments on people who are already having a very tough time making it—especially under such trying economic circumstances.

And so, Mr. President, I will vote against this bill and I hope that a majority of my colleagues will vote their conscience, or at least their better judgment, and defeat it. We can do better. And nothing short of our best efforts will serve if we are to restore the kind of economic stability and fiscal soundness this country deserves.

Mr. HELMS. Mr. President, I had not intended tonight to comment on this tax bill as the Senate moves toward what I presume will be final passage of it. But some of the remarks in this Chamber tonight prompt the observation that originated, as I recall, with Will Rogers who once said something to the effect that "It ain't the things that people don't know that hurt them, it's the things they know that just ain't so."

It has given me concern to hear the disdainful comment tonight about what is popularly known as supply-side economics. In earlier days, before the notion became prevalent that we could somehow spend ourselves into prosperity by confiscating the earnings of the people, they did not call it supply-side economics. It was called the free-enterprise philosophy.

But by whatever name—supply-side economics or the free-enterprise philosphy—its is not a matter of its having been tried and failed. It has not been tried.

Ronald Reagan has not been allowed by this Congress to cut Federal spending. At best, Congress has nervously agreed to reduce somewhat—but only somewhat—the rate of increase in Federal spending.

If Congress had been willing to bite the bullet last year, and do what all of us must surely have known was absolutely essential, there would not tonight be any need, nor any excuse, for this tax bill. Interest rates would have been down, unemployment would have been down, and the Nation's productivity would have been up.

So this compromise tax bill is now before us. We shall see in the weeks and months ahead whether it will cause a significant decline in Government spending. We shall see whether the Wall Street Journal was correct when it described this legislation as "an exercise in economic idiocy."

I watched the vote earlier today in the House of Representatives, and it was an interesting coalition—an intriguing collection of bedfellows. The same is true here this evening. Senator HARRY BYRD calculated the other day that this bill, when all the smoke and mirrors are pushed aside, is $4 billion worse than the original bill passed by the Senate, $4 billion worse in terms of increased spending. That may explain why some Senators who voted against the bill in late July will tonight vote for it. The final rollcall will disclose that assessment.

I shall not dwell in the obvious inequity of the excise tax increase on cigarettes. I confess to being provincial about that—in terms of my objection to it. Here we have the spectacle of the cigarette tax being doubled—while the tax on beer, wine, and liquor remains untouched. I proposed a fair and equitable compromise, which the able Senator from Kansas agreed was fair and equitable. I proposed that the excise tax on all of these products be increased by 25 percent. That would have amounted to a 2-cent-per-package increase in the cigarette tax, perhaps a 5-cent increase in the tax on a six pack of beer, a few cents increase on a bottle of wine, and maybe as much as 24 cents on a fifth of whiskey.

It is my understanding that the Senate conferees were willing to agree to my proposal, but that the House conferees rejected it. That is the kind of inequity to which I cannot be a party. If there is to be a tax bill, it should be fair.

Beyond that, I will not discuss in great details my personal evaluation of this measure. And certainly I will not be critical of those who put it together. They have worked hard, and I accord them no less good faith than I would hope they accord me.

But somewhere, somehow, it seems to me that we have lost our sense of history. We have not tried to examine the past in search of a light to guide us down the rocky pathway we must travel, because, Mr. President, if we had searched the history of this and all other nations, we would not have found one instance wherein a tax increase in time of recession was successful.

All of us must pray that this will be then one time when a tax increase will work beneficially. At the same time, surely we can acknowledge privately, if not publicly, that excessive Government spending creates deficits, and that deficits are the consequence of bad economic policies. That is why a tax increase in time of recession is certain to increase the deficit instead of lower it.

We will see whether increasing taxes will not depress economic conditions through reduced incentives, and whether this will not mean smaller-than-expected revenues. Slower economic growth will cause entitlement expenditures to explode—and remember: The budget deficit increases by

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$25 to $28 billion for every 1 percent increase in unemployment.

Mr. President, over four-fifths of the recent estimated increase of the deficit was caused by a deteriorating economy, not by the Reagan tax cuts. Therefore, our problem is a lack of growth, not a lack of revenues.

The logic behind the proposed tax increase is contrary to every respected school of economic thought. I cannot think of a single group—from monetarists to Keynesians to classical supply-siders—that would recommend raising taxes in the middle of a recession. Yet that is exactly what is being done.

Massive tax hikes and policies of austerity in the midst of a recession are not without historical precedence. From 1930 to 1932, Herbert Hoover pursued a policy course that included massive tax increases. Mr. Hoover and his advisers were hopeful that the budget could be balanced and economic expansion unleashed. Mr. Hoover held the view that deficits were the crucial issue—he ignored the factors that would provide for growth. Thus he followed an extremely tight monetary policy, disregarding the massive inflows of gold to the Treasury which should have caused the Federal Reserve to increase the money supply, and Congress raised taxes massively.

Does that strike a familiar chord?

History makes clear that this not only failed to balance the budget, it also set into motion the most severe economic depression in this Nation's history. Today our policymakers are following a frighteningly similar course. We are ignoring growth, we are mesmerized by deficits and we are pursuing a monetary policy that is causing liquidations and deflation in basic commodity prices.

Let me quote from speeches by President Hoover in April and May of 1932 when he was lobbying for his income tax increase. He said that:

> The fundamental contribution to the stability of the situation is the obvious acceptance by everybody that the budget must be balanced . . . The most imperative need of the nation today is a definite and conclusive program for balancing the budget. Uncertainty is disastrous . . . If such a program should be agreed to by the leaders and members of both Houses it would so far to restore business, employment and agriculture . . . The continued downward movement in the economic life of the country has been particularly accelerated during the past few days . . . There can be no doubt that . . . the long continued delays in the passage of legislation providing for such reductions in expenses and such addition to revenue as would balance the budget . . . have given rise to doubt and anxiety as to the ability of our Government to meet its responsibilies.

After the 1932 tax increases passed, the economy took a nosedive. No one could ignore the dire situation, but the President responded with pleas for further tax increases in order to balance the budget. In an address to Congress on January 17, 1933, Mr. Hoover said:

> The increase in revenues enacted at the last session have not had the results hoped for because of continued economic stagnation. The income of the Government for the next fiscal year . . . is likely to fall short under present . . . conditions.

Unfortunately, the President adhered to this economic logic and called for even further tax increases to balance the budget. Later on in the same speech he said,

> No matter how rigid economics may be it is obvious that the Budget cannot be balanced without a most substantial increase in revenues.

President Hoover concluded his address with a passage that could have been used in support of the present bill:

> The balancing of the budget is one of the essential steps in strengthening the foundations for recovery. Capital expenditures are a very important item in our economic life. There can be no doubt that there is an enormous accumulated demand for equipment and replacements of all kinds if long-time funds could be obtained cheaply and if confidence were restored. For some time now long-time funds have not been available for the public at reasonable rates. The retirement of the Federal Treasury from the market as a borrower, the balancing of the Federal Budget and the refunding operations necessary to bring the Government into better balance would have a stimulating effect, would vitalize our entire credit structure and produce one of the conditions essential to continued recovery.

It was said in 1932 that we must balance the budget in order to end Government "crowding out" of the credit markets so as to lower interest rates in order to spur recovery. But when taxes were raised the economy stagnated and revenues declined. Some people would say that the much maligned Laffer curve effect had taken place—that tax increases had so reduced incentives that the economy stagnated and the budget could not be balanced, because revenue declined.

Lowering barriers to exchange and reducing the tax burden to promote growth and prosperity has been called Reaganomics. The view that higher taxes in the midst of a recession is the path to prosperity has been called by some Hoovernomics, and, until very recently, has been discredited and rejected by all schools of economic thought. By opposing this tax increase I am alining myself with the supporters of Reaganomics in opposition to those who see only austerity as a policy alternative. Though economists will disagree on many issues, one thing is undisputed: The last time we implemented Hoovernomics we experienced the most catastrophic economic calamity in our Nation's history.

Mr. President, a growing economy with a high savings rate can handle a large deficit. A stagnating economy cannot. If we adopt policies that are conducive to savings and growth, a temporary deficit is much less a threat to the economy. Tax rate changes have a proven effect on personal savings rates. From 1963 to 1967, when tax rates were reduced by 30 percent, savings rose at a rate of 51 percent. Then a 10-percent tax surcharge was imposed in 1968 and 1969, and the savings rate dropped by 21 percent. Each time, the savings rate changed two to three times the change in tax rates. Such a savings rate change in response to the rate cuts enacted last year would lead to an increase in savings of roughly $100 billion by 1984. Such a dramatic increase in the savings pool will have a dampening effect on interest rates regardless of whether or not there is a deficit.

Nations that have prospered have adopted economic policies that are conducive to growth—low tax rates and minimal barriers to exchange. While I certainly do not condone deficits, I do suggest that we should not try to eliminate it by adopting policies that will strangle productive activity. Higher taxes is the kind of "cure" sure to kill the patient.

Tonight in this Chamber, Mr. President, a number of references—critical references—have been made about the big tax cut of 1981. But the 1981 tax cut has turned out to be no tax cut at all. It was, in fact, a net tax increase of $7 billion, if the austerity advocates have their way—as the chart below demonstrates.

Mr. President, I ask unanimous consent that a chart showing tax revenues be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

[In billions of dollars]

	Fiscal year—			Total
	1983	1984	1985	
Tax increases due to inflation and social security	50	78	110	238
Finance Committee's recommendations	20.9	34.2	43.9	99
Total tax increases	70.9	112.2	153.9	337
Personal income tax reductions [1]	70.1	113.6	146.56	330.26
Net tax increase (+), tax cut (−)	+.8	−1.4	+7.34	+6.74

[1] Rate cuts, marriage penalty, indexing.

Source: Senate Budget Committee.

Mr. HELMS. Mr. President, I could go on, but the hour is late. Suffice it to say that I wish I could agree with the optimism that some have expressed about this bill. I hope that they will prove to be correct—and that I will be proved wrong.

I wish I could in good conscience support the measure, but I cannot. I must cast my vote in opposition.

Mr. DOLE. The bill would apply the new stripped-bond provisions to bonds issued and stripped prior to the effective date of July 1, 1982. It has been suggested that the provisions apply only to bonds stripped after the effective date, just as the original issue discount provisions apply only to instruments issued after the effective date. That was not our intent. However, we intend to consider this suggestion at the appropriate time and if it has merit to include in appropriate legislation a provision grandfathering instruments that were stripped prior to July 1, 1982, so that current law will continue to apply to such instruments.

Mr. STEVENS. Mr. Chairman, it is my understanding that a calculation of gross food and beverage receipts from a hotel or roadhouse would include all charges to the room, but the calculation of aggregated charged tips would not include tips related to those charges. Is that correct?

Mr. DOLE. I am pleased to clear up an ambiguity in the conference report. The Senator is correct. Only gross food and beverage charges to a room—whether consumed in a restaurant, bar, or in a guest's room, would be included in gross receipts—not aggregate charged receipts. Tips on such amounts would not be included.

Mr. DODD. Mr. President, I have a question concerning section 260(b) of the bill, relating to life insurance company taxation. This provision relates particularly to the deduction for certain amounts credited under group pension contracts. It has come to my attention that some life insurance companies issue single premium group annuity contracts, which are sold to allow an employer in a merger, bankruptcy, or other situation to fix permanently the liability for vested employee benefits. Under these contracts, interest is not explicitly credited each year; rather, the price, or premium, for each contract is established primarily by competition, without the identification of a specific interest amount. In this type of situation, where the life insurance company cannot actually determine the exact amount credited under the contract, I understand that this provision of the bill permits the taxpayer to take into account, as an amount credited to policyholders, interest based upon reasonable estimates reflecting the facts and circumstances involved in pricing the contract.

Mr. DOLE. I agree with the gentleman's interpretation of the bill. I also understand that the Treasury will issue regulations to provide further guidance in this and similar situations.

Mr. BENTSEN. I wish to invite the chairman's attention to section 266 of the bill, which enacts new section 101(f) of the code. Paragraph (2)(E) of this new provision concerns the computation of adjustments to the guideline premiums for universal life insurance. It states that if the death benefits or rider benefits are changed after issue of these policies, adjustments will need to be made, upward or downward, when the change becomes effective. Mr. Chairman, I understand that such adjustments are only to be made in two situations: First, if the change represents a previously scheduled benefit increase that was not reflected in the guideline premiums because of the so-called computational rules; or second, if the change is initiated by the policy over to alter the amount or pattern of the benefits. Is this correct?

Mr. DOLE. That is my understanding. I would also note that these adjustments may be computed in the same manner as the initial guideline premiums, but based on the change in the amount or pattern of the benefits and the insured's attained age at the time of the change. Of course, the Treasury may determine in regulations that some other method of computing adjustments is to be used instead.

Mr. HAYAKAWA. On July 23, 1982, I offered an amendment to the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, which was adopted by my colleagues. This legislation amended the transitional rules under section 4943 of the Internal Revenue Code providing the Ahmanson Foundation with a limited extension of the time within which it must dispose of stockholdings in H. F. Ahmanson & Co., the holding company of Home Savings of America, the largest savings and loan association in the United States. It allowed the Ahmanson Foundation to avoid sales of H. F. Ahmanson stock at significantly depressed prices. It is my understanding that during consideration of the conference report, the conferees though it best this language not be included in H.R. 4961.

Mr. DOLE. The Senator is correct. At the unrelenting insistence of the House conferees, all provisions dealing with private foundations were deleted from the bill.

Mr. HAYAKAWA. It is also my understanding that it was agreed on both sides that hearings will be held to review the problems caused by the divestiture requirement applicable to all private foundations, including the Ahmanson Foundation.

Mr. DOLE. The Senator is correct again. Senate Finance Committee hearings will be scheduled at an appropriate time to consider the issue of private foundation divestiture, including the problems faced by the Ahmanson Foundation.

Mr. HAYAKAWA. I would ask that the Senator continue to consider this matter carefully.

Mr. DOLE. I will keep the Senator's concerns in mind.

Mr. HAYAKAWA. I thank my distinguished colleague.

Mr. CRANSTON. Mr. President, I understand that the provisions regarding the financing of rental housing through industrial development bonds have been amended to provide a definition of low- and moderate-income persons that determines who would be eligible under the program. It appears that there is concern that State housing finance agencies and other local issuers may not be able to continue to provide interim financing through loans by the Farmers Home Administration under the section 515 rural rental housing program. I am very concerned that the viability of this program will be threatened if such issuers are unable to provide interim financing for these projects. It is my understanding that the Secretary of the Treasury would not be forbidden from permitting such projects to be financed under the provisions of subparagraph (a) of section 103(b)(4) of the code provided that the definition of individuals of low and moderate income used for such purposes is determined by the Secretary of the Treasury in a manner consistent with determinations under section 8 of the Housing Act, except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent.

I want to ask the chairman of the Senate Finance Committee and manager of the conference report if my understanding is correct.

Mr. DOLE. Mr. President, I appreciate the opportunity to clarify this point. The Senator from California's understanding is correct.

Mr. PACKWOOD. It is my understanding that, under present law, a pension plan may enter into an investment program which includes investment in home mortgages fully secured by real estate, and not by participants' plan benefits.

However, the conference report at page 620 seems to indicate that there is a blanket prohibition against these investments when a mortgage may be related to a home of an officer, director, or owner. That was not the intention of this Senator. Does the language on page 620 of the conference report intend to change current law with respect to whether loans to these persons are permissible plan investments?

Mr. DOLE. No, it is not intended to change current law in this respect. As I understand the requirements of ERISA, loans which benefit officers, directors, or owners, or their beneficiaries, may be subject to restrictions as "prohibited transactions." This conference report does not change these rules.

The statement of managers at page 620 notes that certain mortgage investments made by a pension plan will not be treated as loans to plan participants which this legislation limits. The language there relating to loans to an officer, director, owner, or his

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beneficiary should not be interpreted to introduce or create a bar on treatment of loans to these persons as plan investments. However, this does not change the rules that prohibit certain loans to officers, directors, or owners.

Mr. PACKWOOD. Mr. Chairman, as you know, at the very end of the conference on this legislation we decided to move the effective date for withholding on interest and dividends from January 1, 1983, to July 1, 1983. However, we did not make the same change in the effective date for pension withholding, which, in some cases, could be more difficult to implement by January 1. Therefore, it is quite important that the Secretary of the Treasury exercise his authority under the act to provide pension payors with expeditious and liberal relief from the withholding requirements for the first 6 months of 1983.

Is it the chairman's understanding that the Secretary can and should follow such a policy in issuing regulations and considering applications to delay the application of the pension withholding requirements?

Mr. DOLE. Yes, it is. The legislation provides the Secretary of the Treasury with the authority to delay application of the pension withholding provision where a payor is unable to comply without undue hardship. It is the understanding of this Senator that the "payor" in this provision may be an insurance company or a bank which may administer a large number of individual pension plans. The determination should be made on a case-by-case basis for each payor, but in making this determination of undue burden, the Secretary should be satisfied that the payor has made a good-faith effort to retrieve necessary information from employers whose plans it administers.

Mr. PACKWOOD. I thank the Senator.

Mr. LONG. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr President, on August 13, 1981, President Reagan signed into law the biggest tax cut in American history. Flush with sparkle and promise, the President told us that the 5-year, $750 billion revenue reduction would, at last, flatten the high deficits, and make possible a return to the great days of prosperity.

We were told economic recovery was on the way. We could look forward to increased savings, said the President, and more investment capital at lower rates of interest. There would be more jobs, greater productivity, and all of that was to happen because the Kemp/Roth tax package was the great elixir of economic growth.

Those were euphoric times. And they lasted exactly 6 weeks before the President went on national television in September to say he needed another $22 billion in revenue enhancements in order to meet his goal of a balanced budget by 1984. So it took just 42 days before the country found out that the Kemp/Roth elixir was just snake oil in a fancy bottle, and we had drunk too much.

Last year's high hopes were dashed in a hurry. Now, in August of 1982, the hopes seem high again. The stock market soared 39 points on Tuesday, and traded 133 million shares yesterday. Interest rates have taken a sudden plunge. But, remembering last year's 6 week flipflop, I wonder where we will be 6 weeks from today, especially if Congress approves the biggest tax hike in American history, an increase President Reagan seems to want as badly as the record tax cut he wanted just 1 year ago.

Last year's Kemp/Roth tax package haunts every corridor of the economy, and has deprived us of the chance to mount a realistic attack on the Federal deficit. No matter what we have done in the effort to curtail spending, it has not—and cannot be—enough to catch up with the beheading of revenues because of Kemp/Roth.

With the projected revenue loss of $750 billion over the next 5 years, it is clear that further spending cuts alone cannot achieve a balanced budget. In 1985, defense will cost $300 billion, social security $200 billion, health $100 billion, veterans $25 billion, and the increased cost for interest on the national debt—$140 billion. We are bound to have $765 billion in spending during fiscal 1985, but the expected revenues are only $760 billion.

If we eliminated food stamps—completely wiped out the program—if we closed the Department of Agriculture, Commerce and Interior and stopped all their programs; if we eliminated the courts, the Congress and the FBI; in short, if we, dismantle all the rest of the Federal Government, we would still have a deficit.

So, rather than setting off a boom in the economy, the Kemp/Roth tax reduction has inflicted despair at the very time that the American people need hope.

I am not here to question the President's good intentions. Like everyone else, he wants the country back on its feet. Kemp/Roth, however, has bent the economy to its knees, and that is something the President has not been able to fully grasp. The President's strong support for a tax increase is at least a belated admission that we cannot fight deficits with the revenue arm tied behind our backs. But while the tax bill now before us has its virtues, it is not the kind of adequate or equitable package we need so that more economic surgery will not be needed later.

On the positive side, this bill closes some loopholes. It does away with the obnoxious safe-harbor leasing provision.

But there are many negatives. The bill raises the floor on itemized medical deductions to 5 percent. It includes interest and dividend withholding provisions that tend to discourage savings at the very time that increased personal savings are needed. It penalizes the development of technology. It removes revenue resources from the States. But the largest negative feature of this tax bill is a provision that is not even in it: It obscures the fact that we are still faced with persistently high and totally unacceptable Federal deficits.

This tax bill does not set us on a new course. It leaves us flying blindly and blithely through a mountain range of deficits. We need to get our bearings. We need the political willpower and the economic commonsense to adopt a flight plan toward budgets balanced by spending restraint and prudent revenues.

We must move immediately to forgo the third year installment of the Kemp/Roth tax cut. That would bring in some $74 billion without enacting a tax increase, but just by freezing tax schedules as they are.

Next, we need to look clearly at defense spending. In the last 2 years, we have increased defense spending by a total of $74 billion. Instead of rushing to throw money at the defense industry in the misguided belief that the dollars can be converted overnight into an improvement in national security, we should stretch that out over a longer period. We cannot afford to make actual cuts in defense spending. Neither can we afford to threaten the rest of the economy by accepting exorbitant increases. If we agree to a 3-percent real growth in national defense spending, that still leaves us a $23 billion increase for next year, a level of spending that exceeds President Carter's when adjustments are made for recent rates of inflation.

More than anything else, we must finally face up to the problems in our entitlement programs. What we need to do, and what I have been trying to persuade my colleagues is necessary, is to momentarily freeze the cost-of-living increases and cap them off at 3 percent. It has been done elsewhere—in city halls, in State capitals, and among members of organized labor—where necessary and temporary restraint has been applied to wage increases.

The ideas I have just described are at the core of a program I have offered on several occasions throughout this year. I will do it again, not because I am ornery or because I am a member of a political party different from the President's, but because we genuinely need a firm, fair, and effective approach to the deep trouble we are in.

It is not necessary that the President eat humble pie and reverse his program in total. I am not asking that at all. I share the President's view that we must turn down the spending thermostat. I agree we need to restrain government intrusion. But if the President is truly serious about restraint, then it is essential that he practice it himself.

The wild ride the economy has been on has not served any of us very well. The Reagan program running full out, has not cut the budget deficits, has triggered massive unemployment, and, while the recent genuflection in interest rates is welcome, there is nothing to suggest that it is long term, or related in any way to the President's economic program.

If the events this week on Wall Street tell us anything at all, it is that the economy is dangerously vulnerable to little nudges, to isolated events, to the opinions of highly visible economists. This week tells us we have an unstable economy, made even more uncertain by shifting signals. One day, the distinguished chairman of the Senate Finance Committee expresses disappointment in the President's economic program; the next day the President tells us we should be willing to pay the price for keeping the program going. One morning the President's top advisor, Jim Baker, admits the economic plan is not working as advertised; the same night President Reagan tells us he is not going to change it.

We need to change gears, and we had better do it soon. This tax bill does not do that. It obscures our real problems, and I will not support it.

Mr. LONG. I yield 2 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, we have enormous economic problems in the country with our main requirement to get people back to work and deal in a fundamental way with our problems. I do not think this tax increase package gets that job done. I think it will create the illusion that we are making progress and thus postpone real action for some months, to the real peril of this country. So I will be voting against this tax increase because I think it is the wrong measure to take at this critical time.

THE PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, if there is no further request for time, I am prepared to yield back.

Mr. DOLE. Mr. President, I would just like to take 2 or 3 minutes.

How much time does the Senator from Kansas have?

THE PRESIDING OFFICER. Four minutes, 31 seconds.

The Senator from Kansas.

Mr. DOLE. Mr. President, as we prepare to vote on this measure, I thank all Senators and members of their staffs, Treasury representatives, the staff of the joint committee, our own Finance Committee, on both sides of the aisle, and all the others who have been working night and day for the past month, I might say, to bring us to this point.

Obviously, if we lose, it will be a disappointment—not really a personal disappointment, but I think a disappointment to many Americans who expect more from the Senate and from those who are privileged to sit in this body. I think the vote will be very close. I think it will be favorable. If it is unfavorable, then I hope that someone will come up with a solution. We will go back and visit some taxes that we overlooked the first time in an effort to bring in more people and make it more palatable to more people.

I say, finally, that if someone is concerned about spending reduction, 60 percent of it in the reconciliation process is in this bill. We exceeded the budget resolution in spending reductions. If Senators are looking for tax reform, for closing loopholes, it is in the bill.

Yes, we increased the telephone tax an average of 54 cents a month. If you smoke 200 packs of cigarettes a year, that is $16 more under our bill. We reinstated an airplane tax that we have had until 2 years ago.

We can make all the speeches we want about those great taxes and how they are bad for the American people, but so is unemployment, so are high interest rates and so are big deficits bad for America. I do not suggest for one moment that this bill is perfect or that it is the answer to all America's ills, but I do suggest that if we reject this conference report, after the House passed it today and after the Senate passed the bill once, then we send exactly the wrong signal to those who are looking to us for appropriate action.

Mr. President, as we near what I hope will be a successful conclusion to a long and difficult struggle, I again commend the Speaker of the House of Representatives, the distinguished ranking minority leader, Congressman Michel, Congressman Conable, and Dan Rostenkowski, and others on the House side, for their courageous leadership.

In my own view, having managed the tax bill last year when we were giving away money, I must say that the President's action this year in supporting necessary revenue increases in my view is much more courageous than it was last year. It takes a practical, pragmatic leader to make difficult decisions, and the President has made those difficult decisions.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, if the Senator will withhold for just 30 seconds, the last few speakers have indicated that some of us who oppose this bill are less than knowledgeable, less than patriotic in that opposition. We disagree. That is the bottom line. We disagree. If this bill does fail, we will in fact offer alternatives. There are plenty of alternatives or we would not be in this position today.

Mr. DOLE. Let me say that I do not intend to indicate that. I do not believe the Senator from Kansas has. But I do believe, having gone through the process, if we all wrote our own tax bill, we would have a great time. There would be 100 tax bills on the Senate floor, and we would each have a perfect bill. But I must say that this bill was put together in the Senate Finance Committee, passed on the Senate floor and improved in conference. It comes back now for a final approval by the Senate.

I am prepared to accept that verdict.

Mr. SYMMS. Will the Senator yield?

Mr. DOLE. I yield.

Mr. SYMMS. I thank the Senator for yielding.

I rise in support of this conference report.

I would like to make a few comments with regard to the section of this conference report relating to the completed-contract method of accounting.

I am concerned that under the accounting method changes for long-term contracts, a contract which is not expected to be an extended-period long-term contract could, unintentionally, become an extended-period long-term contract because of unforeseeable circumstances which a reasonable businessman could not anticipate based on prior experience with similar long-term contracts or events which are beyond his control. For example, strikes, unanticipated soil failures, litigation between the parties to the contract, litigation by third parties, defaults by subcontractors, owner-caused delays such as failure to make progress payments or provide access to the construction site, unusual delays in delivery of materials or supplies, change orders exending contract duration beyond 36 months which could not be anticipated, delays due to zoning or permit applications, and delays caused by Government agencies as in the acceptance of environmental impact statements are the types of events which could turn a contract into an extended duration contract if they are not foreseeable.

Also, it would seem that the mobilization and insignificant preparatory costs weeks or months prior to actual

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physical construction should be treated as bidding costs.

I do believe, however, that those concerns can be addressed during the regulatory process. It is my hope that prior to the formulation of the regulations all concerned parties could consult on this matter.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

Mr. DOLE. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), is absent because of illness in the family.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—52

Abdnor
Andrews
Armstrong
Baker
Baucus
Boschwitz
Bradley
Brady
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Denton
Dodd
Dole
Domenici
Durenberger
Garn
Gorton
Grassley
Hart
Hatch
Hatfield
Hayakawa
Heinz
Jepsen
Kassebaum
Kennedy
Laxalt
Lugar
Mathias
Matsunaga
McClure
Murkowski
Packwood
Pell
Percy
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop

NAYS—47

Bentsen
Biden
Boren
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
DeConcini
Dixon
Eagleton
East
Exon
Ford
Glenn
Goldwater
Hawkins
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kasten
Leahy
Levin
Long
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Stennis
Warner
Weicker
Zorinsky

NOT VOTING—1

Chiles

So the conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The majority leader is recognized.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there will be no more record votes tonight. The Senate will convene at 9 a.m. tomorrow.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Arizona seeks recognition.

Mr. DECONCINI. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear what the Senator is saying. May we have order?

The VICE PRESIDENT. The Senator will suspend.

Will the Senate be in order? The Senator from Arizona is speaking.

The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still not in order.

The VICE PRESIDENT. The Senator makes a valid point. The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER (Mr. MATTINGLY). Will the Senate please come to order. Those who wish to talk please retire to the cloakroom.

VHF TELEVISION FOR NEW JERSEY

Mr. BRADLEY. Mr. President, I am extremely pleased that tonight also marks the successful conclusion of one of the chief legislative battles I have fought since coming to the U.S. Senate. With the enactment of tonight's legislation, New Jersey will no longer be one of only two States in the country which has no VHF commercial television station.

For 3½ years, I have tried, through both the administrative and legislative routes, to get a television license reallocated to New Jersey. I deeply appreciate the support I have received from my colleagues in that effort. Four times the Senate has passed amendments I have offered to reallocate a license to my State. Yet, until tonight, those efforts have been stalled.

To those who do not live in New Jersey, this problem may not seem as serious as those in our State know it to be. Last year, for example when we had a drought so severe that water was rationed for most of the residents of our State, the New York television stations gave little meaningful coverage to the problem. New Jerseyites did not learn from those New York stations how to conserve water or what the daily changes were in water use regulations.

And the out-of-State stations do not cover daily events of importance to those who live and work in our State. As a result, New Jerseyites know more about what is happening in New York and Philadelphia than they do about important occurrences in Trenton and the rest of the State.

My amendment, which was ultimately accepted by the House conferees, will remove the impediments which currently discourage an existing licensee in either New York or Philadelphia from voluntarily seeking to move to New Jersey. Under current law, that request would automatically trigger an action to open up that license to new applicants. In other words, the license would automatically be at risk to the current licenseholder. This makes it very unlikely that anyone would voluntarily offer to move to New Jersey.

This amendment will direct the FCC to renew the license of any current VHF TV licenseholder in a State that has more than one VHF TV station who applies to move that license to a State that has no commercial VHF television station.

It is my hope that an application will shortly be made. One station has already expressed a desire to move to New Jersey.

Under the provisions of my amendment, the reallocation of a license to New Jersey will mean that the licenseholder will move its studios and offices to New Jersey and operate in New Jersey for the benefit of the people in our State.

While I have consistently indicated that I will take no part in any effort to determine who will hold a New Jersey license, I intend to carefully monitor the development of any New Jersey station to insure that it is responsive to the needs of my State. This station will not be a New Jersey station in name only. It will serve the people of New Jersey.

Mr. President, we all recognize the tremendous impact that telecommunications has on our lives, on our children's education, on our ability to understand each other's needs. No longer will New Jersey suffer from the lack of this very important tool. I am grateful that tonight signals a new day for the people of my State.

Mr. BAKER. Mr. President, I understand the distinguished manager of the bill has certain details to attend to at this time, before I make arrangements for tomorrow.

CORRECTIONS IN THE ENROLLMENT OF H.R. 4961

Mr. DOLE. Mr. President, I call up House Concurrent Resolution 398, which is at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 398) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 398) was agreed to.

Mr. DOLE. That makes some printing and technical corrections.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, could I have the attention of the Senate for a moment?

The PRESIDING OFFICER. Will the Senate please come to order so the majority leader may proceed.

Mr. BAKER. Yes. I ask unanimous consent, Mr. President, when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, on tomorrow after the recognition of the two leaders under the standing order, it is anticipated that the Senate will be asked to proceed to the consideration of the supplemental appropriations conference report.

The supplemental conference report is the last item of must business that must be transacted before we can pass the adjournment resolution. The House will be in session tomorrow awaiting our action on the adjournment resolution. Mr. President, I hope it will be possible to proceed to the consideration of that matter by unanimous consent.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 10:30 p.m. in which Senators may speak for not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUS DEREGULATION CONFERENCE REPORT

Mr. PACKWOOD. Mr. President, it had been my hope—and I talked with the distinguished minority leader—to bring up the bus deregulation conference report tonight. He has indicated he would like a rollcall vote but, as I understand it, there will be no more rollcall votes.

Mr. BAKER. That is correct. There will be no more rollcall votes tonight.

Mr. PACKWOOD. So I will not push it tonight. I can assure the minority leader that this will not harm the small communities. The problem has been taken care of in the House, and the distinguished chairman of the House committee, Mr. HOWARD, is in the Chamber tonight. I will defer to the minority leader.

I would like to bring it up tomorrow. We may have to have a rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. The bill, when it passed the Senate, would threaten bus service for at least 39 West Virginia communities. I have not had an opportunity to look at the conference report. I would not want to say at this time that I definitely will ask for a rollcall vote. I may be willing to have a voice vote. I may be willing to have a voice vote even if I vote "no." But I will reserve my rights until tomorrow to ask for a rollcall vote.

Mr. PACKWOOD. I understand perfectly, and I appreciate the Senator's consideration.

Mr. ROBERT C. BYRD. The Senator will be assured I will not hold up the conference report.

IN MEMORY OF JACK GILES

Mr. HEFLIN. Mr. President, I have the sad duty of informing the Senate of the death of Jack Giles of Huntsville, Ala.

Jack Giles played an invaluable role in the progress of the Alabama Space and Rocket Center in Huntsville. He had been actively involved with the Alabama Space Science Exhibit Commission since 1965, and served as chairman of the commission since 1970, the year the Alabama Space and Rocket Center opened. Jack worked diligently for the betterment of the space center, and was a key figure in the development of a $16 million expansion program for the center.

Jack's dedication and concern for his community and State is evidenced by the many years he devoted to public service. The former attorney was appointed as director of the State department of industrial relations by former Gov. George Wallace in 1963. In addition, he served as a Huntsville city judge, president of the Huntsville Bar Association and a Madision County Circuit Court registrar.

The native Alabamian was an all-state football player at Huntsville High School. He attended Auburn University and earned his law degree from the University of Alabama. Jack chose to interrupt his college years and enter the military during World War II, where he served as captain of engineers under General Stillwell in the Burma theatre.

A devout Christian, Jack was an elder and former trustee of the Central Presbyterian Church in Huntsville. In addition, he was a retired lieutenant colonel in the Alabama National Guard and a member of the Troy State University Board of Trustees.

I wish to express my deepest sympathy to Jack's family. Survivors include his wife, the former Majorie Brown; two sons, Jack Giles, Jr., of Huntsville and Tom Giles of Birmingham; three daughters, Mary Grace Giles and Phyllis Giles of Huntsville, and Judy Moon of Birmingham; three sisters, Mrs. Sara Poole of Petersburg, Va., Mrs. Molly Goodloe of Richmond, Va., and Mrs. Dolly Stevenson of Birmingham.

Jack has served his family, his State, and his country well. His presence will be greatly missed by those who dearly loved him, and also by those whose lives he touched during his great service to our society.

NATIONAL FIREFIGHTERS WEEK

Mr. HEFLIN. Mr. President, I would like to rise in support of Senate Joint Resolution 227, concerning the commemoration of the week beginning September 20, 1982, as National Firefighters Week. It is certainly appropriate that these brave men and women be honored in this way.

Firefighting has been characterized as the most dangerous occupation in this country. More than 120 firefighters died in the line of duty last year, and countless others were injured. These courageous people risk life and limb every day while protecting the lives and property of other Americans. In fact, we may proudly say that American firefighters are the finest and bravest in the world; their skill and professionalism are evidenced by the fact that America suffers less property damage per fire than does any other country in the world.

Besides serving to honor our firefighters, National Firefighters Week will be a golden opportunity to increase public awarneess about fire. Despite the valiant efforts of our firefighters, America experiences an inordinately high number of fires per capita, primarily because of the lack of public awareness about fire.

I urge my colleagues to support this resolution honoring our brave firefighters, and I call upon the general public to become actively involved in National Firefighters Week.

THE FLAT-RATE TAX

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Post in connection with the flat-rate tax.

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There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1982]

FLAT-RATE TAX WOULD HELP THE RICH

Many persons have asked what I think of proposals to replace our progressive rate income tax system with a so-called flat rate income tax.

My answer to them is simple: "If you're rich you'll love it; if you're not rich, look out!"

A pure flat-rate income tax would eliminate all deductions and tax everyone at a single rate. For example, with a flat rate of 10 percent, a $20,000-a-year worker would pay $2,000 in federal income taxes, while a person with a $200,000-a-year income would pay $20,000. Our "progressive" system permits deductions and taxes individuals at rates ranging from 12 to 50 percent, depending on income. This system is based on the principle that those with large incomes should pay a higher percentage than those with low incomes.

Advocates of a flat-rate tax have correctly argued that our present system is complicated and in need of simplification. The question is whether it is justifiable to shift the tax burden from the rich to the middle- and low-income taxpayers in the name of simplicity.

In my view, simplification of the tax system and flat rates are completely separate issues. If it is desirable to close loopholes in order to reduce tax rates, that can be done without the massive shift in tax burden involved in a flat-rate tax. I am concerned that some proponents of a flat-rate system are using simplification as a convenient slogan to justify big tax cuts for the rich at the expense of middle- and lower-income taxpayers.

Much of the support for a flat-rate tax is inspired by the belief that "fat cats" use loopholes to avoid paying their fair share of taxes under the present system. But what constitutes a loophole is in the eye of the beholder. I doubt that many middle-income homeowners consider their home mortgage interest deductions a "loophole." But how do the millions of taxpayers who do not own their homes view this deduction?

Other deductions—or loopholes—that would be eliminated by a flat-rate tax include charitable and church donations, consumer installment interest, state and local taxes, union dues, medical bills, moving expenses, alimony and educational expenses.

Employer-paid fringe benefits, such as health and life insurance, pension contributions, subsidized parking and educational expenses, would be subject to full taxation. Also subject to immediate taxation would be the gain a homeowner makes when he sells his home. At present, homeowners are permitted to defer tax payment on the sale of their homes if they purchase new ones of equal or higher value within a certain period.

Congress' Joint Committee on Taxation recently reported how an 11.8 percent flat-rate tax on adjusted gross income would affect taxpayers. Using adjusted gross income figures for 1984, the Joint Committee found that the amount of taxes paid by persons with incomes below $30,000 would increase by percentages ranging from 12.8 to an astronomical 1,259. However, taxes for those earning more than $30,000 a year would decrease by amounts ranging from 5 percent to 53.2 percent.

In studies on flat-rate taxes, the Congressional Research Service found that under present law, taxpayers with adjusted gross incomes below $30,000 a year pay 41 percent of the total of federal income taxes raised from individuals. However, if a flat-rate tax of 15.5 percent were imposed, that same group of moderate- and low-income taxpayers would end up paying 58.2 percent of all individual federal income taxes.

Sponsors of some of the flat-rate bills attempt to remedy the built-in inequities of this type of system by allowing some deductions, by increasing the personal exemption allowance, by exempting low-income persons from all taxes and by imposing several—rather than a single—tax rates. All that most of these modifications do is reduce the degree of unfairness in an inherently unfair system. I know that once one type of deduction in a flat-rate tax system is allowed, Congress would be unable to resist the pressure for numerous other deductions.

Justice and fairness require that those who make large amounts of money should pay a higher rate of tax on income than middle- and low-income families. It seems totally unfair to have a person earning $15,000 a year paying the same rate as someone making $1 million.

I strongly support reducing taxes and simplifying our income tax system, and have worked to do so for many years. Our efforts toward simplification made it possible last year for 40.7 percent of the taxpayers to file their income taxes on the so-called short form, which usually can be completed in less than an hour. Another sign of progress in our efforts at tax simplification is the fact that 79 percent of taxpayers in 1980 chose *not* to itemize their deductions. Further work toward simplification is needed, and I intend to continue to push for a simpler and fairer tax system.

I am not arguing that the concept of a flat-rate income tax should be ignored. In fact, I favor giving this idea a thorough study, as the Senate Finance Committee is scheduled to do this year.

Perhaps a way can be found to structure a flat-rate income tax system that will be fair to all. But until such a system is found, the flat-rate income tax will *not* have my support.

AMERICA'S TOWN OFFICIALS TO HOLD EDUCATIONAL CONFERENCE IN WASHINGTON, D.C.

Mr. DURENBERGER. Mr. President, close to 1,000 town officials will be in Washington, D.C., the week of September 6 to take part in the 1983 educational conference of the National Association of Towns and Townships (NATaT). This event is the biggest town meeting in the Nation.

Mr. President, I know that you and our colleagues here in the Senate will want to join me in extending our warmest greetings to the distinguished members of this nationwide federation of State associations and individual community members representing approximately 13,000 units of local government throughout the country. I would also like to commend to you the following officers, directors, and advisors of NATaT. These officials are carrying on the tradition of our Nation's Founding Fathers by promoting cooperation between all levels of government, and by providing economical, effective, and efficient local government services to millions of Americans in small, rural, and suburban communities:

OFFICERS

President, Ed. K. Krueger, Wisconsin Towns Association; First Vice President, George H. Miller, Township Officials of Illinois; Second Vice President, Michael H. Cochran, Ohio State Association of Township Trustees and Clerks; Secretary/Treasurer, B. Kenneth Greider, Pennsylvania State Association of Township Supervisors; and Immediate Past President, Robert R. Robinson, Michigan Townships Association.

BOARD OF DIRECTORS

Wilfred Johnson, Indiana Township Trustees Associations; Floyd D. Snyder, Association of the Towns of the State of New York; Don Misener, South Dakota Association of Townships; David Russell, Connecticut Council of Small Towns, Ervin Strandquist, Minnesota Association of Townships; James Totten, New Jersey Association of Towns and Townships; North Dakota Township Officers Association; and Jean Levesque, ex officio, National Association of Smaller Communities.

ADVISORY COUNCIL

Bob Bergland, President, Farmland-Eaton World Trade; Landrum Bolling, Distinguished Research Professor, Georgetown University, Consultant, Council on Foundations; Herrington Bryce, President, National Policy Institute; Daniel Elazar, Director, Center for the Study on Federalism; Orville Freeman, President, Business International, Inc.; Leigh Grosenick, Director, Graduate School of Public Administration, Virginia Commonwealth University; Robert Hawkins, President Sequoia Institute; Barry Wellar, University of Ottawa, Canada. Executive Director: Barton D. Russell.

Mr. President, these officials and the other delegates to NATaT's national conference are coming to Washington, as their conference theme states, to make their voices count. As a Senator from the State of Minnesota, where there are more than 1,800 townships, I understand the concerns that these men and women are bringing with them and their need to make their voices heard here in Congress, in the White House, and with the Federal agencies.

All they ask is equal treatment with their urban counterparts on the Federal level: A fair share in the Federal budget for programs that help them provide sorely needed services and facilities that create jobs in their communities; equal access to block grants that are going to the States to administer; less Federal redtape that creates a disproportionately heavy burden for small towns and townships; and a fair share of general revenue sharing. In this regard, NATaT is extremely interested in the renewal of this vital program, which expires next year.

The national association is also working hard to gain representation for towns on the prestigious Federal Advisory Commission on Intergovernmental Relations, a deficiency that would be remedied by legislation that

I have the honor of sponsoring in this Congress.

Mr. President, these are some of the issues that NATaT's conference delegates will be discussing and debating during the association's 1983 Make Your Voice Count conference. I know that you will want to join me in applauding their efforts to make their voices count and take part as fully as possible in our federal system of government.

With your permission, I would like to insert at this point in the Record the following information on the town system of local government, which has encouraged our citizens to play a vital role in the life of their communities and to help shape the direction of their government.

TOWNSHIPS—THE VITAL LINK

The township was the first form of local government to be adopted in America, brought to the continent by settlers from England. First established in Massachusetts around 1620, township government moved west as the country grew, and today serves nearly 63 million people.

Townships were originally known as the Nation's rural form of government. This is no longer completely true, as a number of townships have developed characteristics and problems similar to urban communities.

Townships and other small communities differ from State to State, but most are governed by an elected board or council which often consists of a mayor or supervisor, a clerk, and several officials called trustees or selectmen. Most town governments administer a wide variety of vital services such as fire and police protection, water and sewer systems, construction and maintenance of roads, emergency medical care, and aid to the poor.

To this day, small town governments reflect the values of our Founding Fathers. The town meeting is still held in many areas of the country, providing citizens with the opportunity to participate directly in the affairs of their community.

A VOICE FOR TOWNS IN THE NATION'S CAPITAL

When NATaT was first established, towns and townships formed the cornerstone of its membership. Today, the association has expanded to reach across the country to small communities of all types.

The National Association of Towns and Townships is a nonprofit organization offering technical assistance, educational services, and public policy support to local government officials from more than 13,000 small communities across the country. Through its Washington, D.C., headquarters, the association conducts research and develops public policy recommendations to help improve the quality of life for rural people. NATaT's educational conferences, training workshops, and specialized publications help small town officials cope with and manage change in their communities.

As the voice of small town America in the Nation's Capital, NATaT is a highly respected authority on rural community development matters.

NATaT receives numerous requests from Congress, the White House, and the Federal agencies to provide the town perspective as national policy legislation, and regulations are being formulated. NATaT represents the town point of view on a broad range of governmental matters from infrastructure needs to general revenue sharing to the Federal paperwork burden.

One of the most important educational services NATaT offers town officials is the national educational conference, attended by hundreds of local officials every year. Every event is designed to help local leaders learn how to be more effective in administering their local governments and providing vital services to their constituencies.

Conference events include workshops on a wide range of local government topics, general sessions addressed by executive branch officials and key Members of Congress, a legislative exchange between local leaders and Members of Congress on Capitol Hill, and exhibits on local government products and services that seldom reach small rural communities.

Another key element of NATaT education program for small town leaders is the National Community Reporter, the association's bimonthly news journal. The Reporter is the only regular national source of information and ideas exclusively for town officials. Topics range from community and economic development to tested small town management and planning techniques.

In addition to these elements of the association's education program, NATaT offers its members a free information clearinghouse, which distributes a wealth of information on problem-solving resources and other hard-to-find information for small jurisdictions.

Many local officials look to NATaT for information and advice on Government grants-in-aid, technical support, and community improvement programs that will work in their localities. Through its technical assistance program, NATaT helps local leaders find cost-effective solutions to their most pressing community development problems, and guides them through the often bewildering maze of Government rules and regulations.

The National Association of Towns and Townships also works with other major public interest groups on matters important to officials in small rural and suburban communities. Through this type of cooperation, the association helps insure that smaller local governments will remain a vital, effective voice in our Nation's federal system of government.

Mr. President, I know you will agree with me that townships represent a vital system of local government, particularly today when many Government responsibilities are being shifted to the State and local levels. These local forms of government continue to provide outstanding service to millions of Americans and to serve as a crucial link in the intergovernmental system.

It is indeed a pleasure for me to seek this national recognition and to join with you and our colleagues in welcoming delegates to the annual conference of the National Association of Towns and Townships to our Nation's Capital and to salute small town officials everywhere for their commitment and hard work on the local level.

COUNTDOWN ZERO: NUCLEAR TESTS AND THE HUMAN FALLOUT

Mr. CRANSTON. Mr. President, I want to call to the attention of my colleagues the recent publication of a book, "Countdown Zero," which, by focusing on the experiences of the authors, Thomas H. Saffer and the late Orville Kelly, as they participated in this country's nuclear testing program, provides a very personal and useful perspective on the subject of the effects of the use of nuclear weapons.

This book is a moving account of U.S. troops who already may be victims of the horrible force of our nuclear arsenal. The authors, along with 250,000 other nuclear test participants who were guinea pigs in the Government's nuclear weapons tests, were exposed to health risks that may have lasting, sometimes fatal effects. Although I cannot endorse all of the authors' views, the book provides a valuable perspective on an important and tragic problem confronting our Nation.

Recently, the New York Times Review of Books published a review of "Countdown Zero." Because I intend to ask that this review be printed in the Record, I want to make one point of clarification. The legislation that the reviewer discusses in the early part of the review was enacted last year as section 102 of Public Law 97-72. The effect of this law is that veterans exposed to radiation from nuclear devices are now eligible to receive health care from the VA for diseases and disabilities that may be related to their exposure without regard to their disability having been adjudicated as service connected or their ability to pay for the needed care. The statutory provision permits care to be denied, if the veteran is not otherwise eligible for it, only when there is evidence that

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the condition resulted from some cause other than radiation.

Mr. President, I ask unanimous consent that the August 1 review of "Countdown Zero," by Blanche Wiesen Cook be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 1, 1982]

THE LEGACY OF ATOMIC TESTING

("Countdown Zero," by Thomas H. Saffer and Orville E. Kelly; Introduction by Stewart L. Udall)

(By Blanche Wiesen Cook)

The 1950's are remembered by many as a time of air-raid drills during which people were told to stand in hallways or "take cover" beneath their desks. Nelson Rockefeller wanted to build fallout shelters all over America, and neighbors wondered if God would forgive them if they barred their friends or enemies, or bridge or canasta partners, from their backyard bunkers. The still partly classified Killian Report, "Meeting the Threat of Surprise Attack" (prepared by President Eisenhower's Science Advisory Committee, chaired by Dr. James A. Killian and submitted in February 1955), announced: "The public will need indoctrination to accustom themselves to the fact that low levels of radiation can and must be lived with. Radiation must be a phenomenon that is universally accepted." Lewis Strauss ran the Atomic Energy Commission and talked blandly of the temporary and minor inconvenience of radiation; Dr. Edward Teller's thermonuclear (hydrogen) bombs were tested and described as new, different and very clean.

Although the myth of the harmless atom continues to be official government policy, it has actually been laid to rest again and again. According to California Senator Alan Cranston, there are 80,000 published articles on the cancer risks of low-level ionizing radiation exposure. But when Senator Cranston introduced legislation in 1981 to extend veterans' health benefits to the victims of nuclear experiments during the 1950's, William H. Taft 4th, general counsel for the Department of Defense, protested. He objected that Senator Cranston's bill created "the unmistakable impression that exposure to low-level ionizing radiation is a significant health hazard." Mr. Taft condemned this "mistaken impression" as potentially "damaging to every aspect of the Department of Defense's nuclear weapons and nuclear propulsion programs. The legislation could adversely affect our relations with our European allies, impact upon the civilian nuclear power industry, and raise questions regarding the use of radioactive substances in medical diagnosis and treatment."

"Countdown Zero" answers the Department of Defense more personally and more accessibly than any other single volume. Senator Cranston's bill was introduced in response to the case histories of 14 atomic veterans presented by the widow of former Sgt. Maj. Orville E. Kelly, who died in 1980 at age 49 from malignant lymphoma, cancer of the lymph glands. Before Orville Kelly died, he and Thomas Saffer wrote of their own experiences and collected the testimony of many of the servicemen who were assigned to witness or participate in one or more of the 235 announced United States atmospheric nuclear tests conducted between 1945 and October 1958, when President Eisenhower declared a moratorium that drove weapons tests underground.

An estimated 250,000 servicemen and 150,000 civilians participated in the atmospheric tests. Some, like Thomas Saffer, participated in war games in which they were ordered to "attack" the blast site immediately after detonation. Rifles' raised, bayonets poised, hundreds of troops were to charge ground zero from less than two miles away. Many, dazed, nauseated and blinded by dust from the explosion, wandered within a few hundred yards of ground zero. For 17 years, nuclear experiments involved the activity of military personnel, exposed to the awesome force of the blast, the heat, the turbulence and the metallic smell and taste of the elements found in fallout. They bore witness to atomic explosions many times the power of the bombs that leveled Hiroshima and Nagasaki—without protective clothing and without information of any kind. They were assured there was no danger. They were dusted off with brooms and told to shower. Now, as they sicken and die, they are denied medical benefits by the Veterans Administration. They have been told their illnesses are not service-related.

Written out of anguish and rage, "Countdown Zero" describes the experiences of atomic veterans, reveals the government's continuing cover-up of the full extent of the 1950s tests and makes clear the seriousness of their medical legacy. It also recounts the founding of the National Association of Atomic Veterans. The Association, organized by Orville and Wanda Kelly, locates veterans, provides legal and personal support and works to achieve medical benefits for the thousands of veterans now struggling against cancer, neuromuscular diseases and leukemia, as well as the genetic defects that have already damaged the lives of many of their children and grandchildren.

This is not a definitive book. It covers much the same ground as Michael Uhl and Tod Ensign's "G.I. Guinea Pigs" (1980), a well-researched and more thorough analysis of the Pentagon's exposure of United States troops to atomic radiation and the herbicide Agent Orange. Leslie J. Freeman's "Nuclear Witnesses: Insiders Speak Out" (1982), Howard L. Rosenberg's "Atomic Soldiers: American Victims of Nuclear Experiments" (1980) and Harvey Wasserman and others' "Killing Our Own: The Disaster of America's Experience with Atomic Radiation" (1982) have added significantly to our knowledge of this subject. But Mr. Saffer and Mr. Kelly present the fullness of their lives, lives of courage and caring in the face of an official disregard for the health and well-being of men who considered themselves above all the patriots and defenders of this culture.

On June 24, 1957, 23-year-old Thomas Saffer, a second lieutenant in the United States Marine Corps, knelt down in a trench that was to protect him from a nuclear blast called Priscilla. He was told to close his eyes and shield them with his left forearm. Trained and educated at the Virginia Military Institute to be "a citizen-soldier," he neither doubted nor questioned his superiors. Inspired by the words of Gen. Stonewall Jackson, "You may be whatever you resolve to be," Lt. Saffer had resolved to be an outstanding officer. Bolstered by a swagger stick and an "attitude of gung-ho guts and glory," he became platoon leader of the Fourth Marine Corps Provisional Atomic Exercise Brigade, assigned to Nevada for "combat maneuvers using atomic bombs as offensive weapons." His superior officers considered nuclear war inevitable. Lt. Saffer and his troops were to create a team of nuclear warriors who would triumph and prevail. They were repeatedly assured there was no danger, "because the 1957 test series marked the advent of the 'clean' bomb."

Mr. Saffer, who reached the rank of captain before leaving the Marine Corps, received many of the details for this book through the Freedom of Information Act. Unfortunately, many of the relevant documents were destroyed in a mysterious fire that raged out of control on July 12, 1973, on the top floor of a Federal-records storage building in St. Louis. Over 17 million records relating to Army and Air Force personnel were incinerated, including the files of many atomic veterans. Mr. Saffer's research did, however, recover startling examples of the military's slovenly approach to these experiments. When, for example, Gen. Alfred Gruenther, commander of NATO, asked in March 1955 how in fact United States troops were to be protected from fallout during the course of the planned atmospheric tests, he received a memo from the Joint Chiefs of Staff that explained, "Although a great deal is unknown about fallout, the problem is a manageable one." When Saffer arrived in Camp Desert Rock, Nevada, he was handed an information bulletin that explained, "The sun, not the bomb, is your worst enemy at Camp Desert Rock."

According to Mr. Saffer, the Pentagon's safety standards differed from those of the Atomic Energy Commission's Division of Biology and Medicine, which warned that troops should be seven miles from ground zero during a nuclear blast. During the 1952 tests, troops in trenches were positioned as close as four miles to the blast site. Between 1952 and 1957, they were "moved closer and closer to the actual detonation, tentatively at first, but later without caution." The Army's official Infantry School Quarterly assured military radiological-safety officers that in combat their "troops can move into or leave an exposed area a few minutes after an air burst. A soldier is not a casualty until he requires treatment. Even though he has been exposed to a lethal dose of radiation, he can perform his combat mission until symptoms appear."

Mr. Saffer describes his first reaction to a nuclear blast, positioned as he was in a trench two miles from ground zero, wearing a gas mask, a helmet and fatigues: "I heard a loud click. Immediately, I felt an intense heat on the back of my neck. A brilliant flash accompanied the heat, and I was shocked when, with my eyes tightly closed, I could see the bones in my forearm as though I was examining a red x-ray." The earth gyrated violently and Mr. Saffer was thrown from trench wall to trench wall as he was showered with dust, dirt and rocks. "A light many times brighter than the sun penetrated the thick dust, and I imagined that some evil force was attempting to swallow my body and soul. I thought the world was coming to an end."

Mr. Saffer's first blast experience was with a 38-kiloton bomb. He wondered, "Whose decision was it to place us only two miles from such a vengeful creature?" Scientists viewed the explosion through thick glass windows in a concrete and steel control tower ten miles from ground zero. Some noted that Priscilla was the most ethereal and wondrous sight they had ever seen. The fireball was mesmerizing as it changed color, and the mushroom top of the cloud rose to 40,000 feet. Men close to ground zero took off their gas masks and watched "transfixed." But Mr. Saffer was also discomforted by a metallic taste in his mouth and an offensive smell, like that of an overheated electrical unit, that would not go away. Then a "column of dark, powdery dust . . . spread like a dark pall over the entire area." The fallout was like ash and burned holes in his green fatigues. At that point, Mr. Saffer and his men boarded armored personnel carriers for a bumpy ride that would take them within 300 yards of ground zero, where they were to inspect the equipment placed there before the blast. Of course, much of it, including tanks and trucks, had simply vanished or been vaporized. The ground was hot beneath his boots.

His "decontamination" began as soon as he was returned to Camp Desert Rock. A Geiger counter was passed over his body. He was told nothing. "Two men with brooms brushed at me from either side. The dislodged dust stung my eyes and burned my nostrils." A shower had to wait until after lunch. Mr. Saffer washed his hands before eating.

By 1957, the fallout debate raged internationally. But the Atomic Energy Commission supported continued tests, the Los Alamos and Livermore Laboratories insisted on the tests' significance and the subcontractors depended on them. In June 1957, Dr. Edward Teller, Dr. Ernest O. Lawrence of the Livermore Laboratory and Lewis Strauss persuaded President Eisenhower to promote a "clean bomb" test series. Actually, the series of 34 tests conducted in Nevada, "designed to reduce radioactive fallout," determined in part the effectiveness of Teller's new thermonuclear device.

According to Mr. Saffer, this series, called Plumbbob, was a media manipulation "to defuse public pressure." The Plumbbob shot he witnessed up close, code-named Hood, was definitely the dirtiest in the series and was five times larger than the Hiroshima bomb. Assigned to a trench three miles from ground zero, Saffer wondered, "If a much smaller bomb detonated at nearly the same height killed 150,000 Japanese, then why or how are 2100 of us expected to survive. Were we leathernecks supposed to be immortal?" Mr. Saffer, undoubtedly grateful that there was no city to collapse about him, doubted the wisdom of those in command for the first time. Nevertheless, after the blast, he dutifully led 900 of his Marines into the dust storm to charge a hill slightly to the left of ground zero. Two Marine companies moved on foot to within 400 yards of the blast site—a distance officially labeled "safe."

The Nevada experiments were followed in 1958 by the Hardtack I series. Much larger bombs, some in the megaton range, were exploded in the Pacific. In addition to the citizens of the islands chosen as test sites, 20,704 servicemen experienced these blasts. As in the Nevada tests, they were neither physically prepared for nor informed of the dangers of their duties. They watched the blasts in shirt sleeves and shorts.

Sgt. Maj. Orville Kelly, 27, was assigned to command Japtan Island in the Eniwetok Atoll. At first, he was pleased. Born in Iowa, he had long dreamed of traveling to a coral island of blue-green waters, fabulous snorkeling and endless palm beaches. And Japtan was, Kelly thought, "the most beautiful island of the atoll." His description of the moral and emotional breakdown of life on that island is devastating. There was nothing to do but wait, and to witness the bombs. For seven months, they waited. Then the men in Kelly's company walked to the edge of the lagoon 22 times in 16 weeks to observe the blasts, each with its own name: Butternut, Koa, Holly, Magnolia, Linden, Sequoia, Dogwood, Fig.

Each blast followed a pattern, and each time the men endured the searing heat, the penetrating light, the shock waves and winds and the changing colors of an unknown force. One member of Kelly's group, Morris Friberg, recalled that the first time he stared into that "violet ionized air," his conscience asked, "Does God really want this?" The men drank too much. Some became deranged. Some were denied the psychological services they requested. They were told not to eat the fish they caught, but they ate the coconut crabs and drank the water from the lagoon.

Fig was the last shot in the series. On Oct. 30, 1958, President Eisenhower declared a moratorium on United States atmospheric tests. Later tests in Nevada were conducted underground. But the long, silent death that trailed the thousands of atomic veterans who participated in these experiments was under way. Today Mr. Saffer suffers from the debilitating effects of a neuromuscular disease. Kelly died on June 24, 1980.

When Orville Kelly's cancer was finally diagnosed accurately, he vowed to have a remission so that he could "become an expert, and bring national attention" to the plight of all atomic veterans. "In the end," he wrote, "I want to see a world free from the menace of nuclear warfare. If people learn what a supposedly harmless level of radiation did to servicemen like me, perhaps they will begin to understand the urgency of uniting to stop senseless nuclear weapons proliferation." In the process, he and Wanda Kelly founded the National Association of Atomic Veterans. They contacted thousands of veterans who had suffered severe depressions, undiagnosed physical maladies and general upheaval at work and at home; and they contacted thousands of widows of veterans who had died of cancer, leukemia and a disease that took the form of premature "old age." After seven years, Kelly won his case and received veteran's medical benefits. Today Wanda Kelly is director and Thomas Saffer is deputy director of N.A.A.V.

In May 1982, an unpublished Department of Defense document, "Fiscal Year 1984-1988, Defense Guidance," made national headliness. The 125-page report projected strategy for the future that included nuclear war fought "with many exchanges" over a protracted period of time. Continued promises of survival and victory in a nuclear war are being challenged by the global protests of citizens increasingly informed by a growing mountain of literature, highlighted recently by Helen Caldicott's "Nuclear Madness: What You Can Do," "Protest and Survive," edited by E. P. Thompson and Dan Smith, Jonathan Schell's "The Fate of the Earth" and the monumental study by a panel of Japanese physical and social scientists. "Hiroshima and Nagasaki: The Physical, Medical, and Social Effects of the Atomic Bombings." "Countdown Zero's" contribution to this literature is personal and immediate. This harrowing book—with its catalogue of official cruelty, dishonesty and contempt for life—underscores how unprepared we are for our entrance into the nuclear age.

AMENDMENTS TO THE CLEAN AIR ACT

Mr. BAKER. Mr. President, I want to congratulate the chairman and members of the Committee on Environment and Public Works on being in the enviable position of having reported out a comprehensive set of amendments to the Clean Air Act today. The task of developing changes to the act has been a long, difficult process which required study and decisions on a number of complex, technical issues.

The committee's exhausting deliberations over the past 18 months have necessitated the development and clarification of many ideas, concepts, and programs. I commend all the participants in this process—Members, staff, industry, and government representatives, and members of environmental and public interest groups—for achieving this first giant step in the legislative process. This successful journey through the legislative process was based upon the involvement and contribution of such interests, and I appreciate their inputs.

It is my hope that the bill will come to the Senate floor for full consideration this session. I will work hard to see that the amendments are taken up this year and will cooperate fully with the chairman, members of the committee, and all Senators, to achieve passage of amendments to the Clean Air Act this year.

THE RETIREMENT OF GEN. DAVID C. JONES, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. LEAHY. Mr. President, this summer, Gen. David C. Jones retired as Chairman of the Joint Chiefs of Staff of the United States. Much has been said already about General Jones' background. I ask unanimous consent to place in the Record the official biographical material relating to General Jones.

There being no objection, the material was ordered to be printed in the Record, as follows:

Gen. David C. Jones

General David C. Jones was appointed Chairman of the Joint Chiefs of Staff, Department of Defense, on June 21, 1978. He was reappointed to a second two-year term in 1980. In this capacity, he served as the senior military adviser to the President, the National Security Council, and the Secretary of Defense. Through the commanders of the unified and specified commands, he was also responsible for executing the decisions of the National Command Authorities regarding worldwide readiness and employment of combat forces of the United States Army, Navy, Air Force, and Marine Corps. He served eight years as a member of the Joint Chiefs of Staff, the last four as the Chairman.

Drawing from a widely varied career, General Jones brought to his position a wealth of experience and knowledge of national se-

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curity affairs, the diverse U.S. Defense Establishment, and our defensive alliances with other nations. His domestic and overseas assignments have included operational, staff, and command positions in strategic, tactical, training, and Allied organizations. He is a command pilot.

In combat, General Jones was assigned to a bombardment squadron during the Korean War and accumulated more than 300 hours on missions over North Korea. In 1969, he served in the Republic of Vietnam as Deputy Commander for Operations and then as Vice Commander of the Seventh Air Force.

General Jones has had extensive experience in dealing with the leaders of many nations. His intimacy with the North Atlantic Treaty Organization (NATO) alliance and its complex multinational defense structure is based on a range of assignments which cover the spectrum of planning and operational responsibilities, culminating with duties as Commander in Chief of the United States Air Force in Europe (USAFE). Concurrently, he was Commander of the Fourth Allied Tactical Air Forces. General Jones also has been deeply involved in working out mutual security problems with nations of the Middle East and Southwest Asia.

In addition to his military duties, General Jones actively serves a number of civilian public-service organizations. In 1981, President Reagan appointed him to the Board of Governors, American Red Cross. A member of the Board of Directors for Youth Services, U.S.A., Inc., a national youth agency, General Jones has long supported this organization's development activities aimed at making meaningful opportunities available for all young people. He is also a member of the Council on Foreign Relations; the Washington Policy Council of the International Management and Development Institute (IMDI); and the Center for the Study of the Presidency; and is Co-Chairman, Awards Committee, American Academy of Achievement. General Jones has been awarded numerous decorations from foreign governments honoring his accomplishments in international security affairs. Among the numerous civilian awards honoring his public service are the Tuskegee Airman Gold Medallion and the designation as Educator of the Seventies by the Education Magazine, and recipient of the Theodore Roosevelt "Rough Rider Award," the highest award that can be given by the State of North Dakota to a current or former citizen of the State. He also received the National Guard Bureau Eagle Award and the Air National Guard Meritorious Service Award, the highest awards which can be presented by each organization.

General Jones was born in Aberdeen, South Dakota in July 1921. He graduated from high school in Minot, North Dakota, and attended the University of North Dakota and Minot State College until the outbreak of World War II. He volunteered for the Army Air Corps in January 1942 and received his commission and pilot wings in February 1943. A graduate of the National War College, General Jones was awarded an honorary doctorate of human letters from the University of Nebraska at Omaha in 1974; an honorary doctorate of laws degree from Louisiana Tech University in 1975; an honorary doctorate of human letters degree from Minot State College in 1979; and an honorary doctorate of laws degree from Boston University in 1980.

General Jones is an avid jogger and racquetball player. He is married to the former Lois M. Tareel of Rugby, North Dakota. They have three children: Susan, Kathy and David.

DECORATIONS AND AWARDS

Department of Defense Distinguished Service Medal with three oak leaf clusters.

Army Distinguished Service Medal.

Air Force Distinguished Service Medal with two oak leaf cluster.

Legion of Merit.

Distinguished Flying Cross.

Bronze Star Medal.

Air Medal with one oak leaf cluster.

Air Force Commendation Medal.

Air Force Outstanding Unit Award.

American Campaign Medal.

Asiatic-Pacific Campaign Medal.

World War II Victory Medal.

Army of Occupation Medal (Japan).

National Defense Service Medal with one bronze service star.

Korean Service Medal with two bronze service stars.

Vietnam Service Medal with three bronze service stars.

Air Force Longevity Service Award Ribbon with eight oak leaf clusters.

Grand Cross of the Royal Order of St. Olav (Norway).

National Order, Republic of Vietnam, 5th Class.

Republic of Vietnam Air Force Distinguished Service Order, 1st Class.

Grand Cross, 2nd Class of the Order of Merit (Federal Republic of Germany).

National Order of Security Merit (Tong-II) (Republic of Korea).

French Legion of Honor, Grade of Commander.

Air Force Order of Merit with Grade of Grande Official (Brazil).

Venezuelan Air Force Cross, 1st Class.

Venezuelan Legion of Merit Inter-American Aerial Brotherhood Degree of Officer.

Italian Knights of the Grand Cross.

Japanese First Class Order of the Rising Sun.

Wisam Al Ghomhoria First Stage (Decoration of the Republic of Egypt).

Highest Commander of the Order of Honor (Greece).

Yugoslavian Air Force Pilot Wings.

Swedish Knights Grand Cross of the Order of the North Star.

Colombian Antonio Ricaurter Aeronautical Order of Merit.

Republic of Vietnam Cross of Gallantry with palm.

United Nations Service Medal.

Republic of Vietnam Campaign Medal.

ADDITIONAL AWARDS

Gold Medal Educator of the Seventies, Education Magazine, 1976.

The Jimmy Doolittle Fellowship Award, Air Force Association, September 1977.

The Maxwell A. Kriendler Memorial Award, Irongate Chapter (New York). Air Force Association, April 1978.

Golden Plate Award, American Academy of Achievements, June 1979.

Tuskegee Airmen Distinguished Achievement Gold Medallion Award, December 1979.

American Defense Preparedness Association Meritorious Service Award, May 1981.

Gold Medal "For Extraordinary Service" to the Awards Council, American Academy of Achievements, June 1981.

H. H. Arnold Award, Air Force Association, September 1981.

Nathan Hale Award, Reserve Officers Association, October 1981.

North Dakota Hall of Fame, May 1982.

North Dakota "Rough Rider" Award, May 1982.

Ira Eaker Fellowship Award—AFA, May 1982.

National Guard Bureau Eagle Award, June 1982.

Air National Guard Meritorious Service Award, June 1982.

Mr. LEAHY. The official material, impressive though it is, does not do enough credit to him. I had the privilege of serving in the Senate during much of General Jones' tenure both as Chief of Staff for the Air Force and as Chairman of the Joint Chiefs. I knew him both through my service as a member of the Senate Armed Services Committee, service on the Senate Appropriations Committee, and on the Senate Select Committee on Intelligence. Far more importantly, however, was the chance to get to know David Jones as a person and as a friend.

Mr. President, we often forget about the number of highly dedicated, strongly motivated, and extremely qualified people in our Government. General Jones certainly fits all of these categories. It is because of people like him that our military remains the finest in the world and because of the foresight of people like him that we can hope to avoid the kind of wars that would be not only devastating for us as a country but quite possibly for all of humankind.

I will miss my good friend as he enters retirement. At this time, everyone in the Senate should pause to consider deeply his proposals for revamping of the Joint Chiefs of Staff. He made these proposals for his successors and with the kind of objectivity available to one leaving his position of authority. Notwithstanding his career, I feel perhaps his greatest service will be in the future if we follow his proposals.

The whole proposal is so important that I intend to ask unanimous consent that the Record contain it but some of the editorials and analyses printed about it.

I do not believe I have ever asked the Senate to print this much material regarding an individual during the 8 years I have served here. But then I have known few people in Government of General Jones' quality or few proposals this important.

I ask unanimous consent that the attached material be made part of the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Citation To Accompany the Award of the Defense Distinguished Service Medal (Third Oak Leaf Cluster) to David C. Jones

General David C. Jones, United States Air Force, distinguished himself by exceptionally distinguished service as Chairman, Joint Chiefs of Staff, from February 1981 through June 1982. During this critical period, General Jones demonstrated the highest degree of leadership and dedication in shaping national security policy and building our military forces. His personal efforts in developing a United States power projection strategy and posturing the forces required to carry out that strategy; his key role in averting a major crisis in the Middle East; and his strong leadership of our joint and combined forces have demonstrated to all nations that we remain dedicated to peace but fully able to protect our interests should the need arise. The distinctive accomplishments of General Jones culminate a distinguished career in the service of his country and reflect great credit upon himself, the United States Air Force and the Department of Defense.

Why the Joint Chiefs of Staff Must Change

(By General David C. Jones)

I have been a member of the Joint Chiefs of Staff for nearly eight years and its Chairman for most of the past four years, and have thus served as a member of the Joint Chiefs under four Presidents and four Secretaries of Defense. During this time, and before, many good men have struggled very hard to make the best of the joint system, and most, if not all, have experienced a great sense of frustration in dealing with both large and small problems.

Much of this frustration comes from having to cope with legislative and organizational constraints which reflect concerns of the past, inhibit attempts to meet the rapidly changing demands of today's world, and violate basic leadership and management principles. Yet, despite many studies that have periodically documented problems with this military committee system and made cogent recommendations for improvements, the system has been remarkably resistant to change. Committees can serve as useful purpose in providing a wide range of advice to a chief executive or even in making some key policy decisions, but they are notoriously poor at running anything—let alone everything.

Although I recognize the very strong and persistent headwinds, I could not leave office in good conscience this summer without making a major effort to illuminate the real issues once more and hopefully wrest some substantial changes. Most of the problems and some of the approaches I will address have been discovered—then reburied—many times in the past 35 years. The difference this time is that the proposals for improvement are coming from someone inside the system who for many years has been in the best position to understand the causes and consequences of its shortcomings. In formulating my approach, I have been helped by a group of senior retired officers who are in a better position than those now serving to step aside from long-standing Service positions and objectively assess the joint system.

The watershed for development of a permanent interservice system was the crisis atmosphere surrounding our entry into World War II. The British had established a committee of the heads of their military services in 1923. When intensive military consultation with the British commenced after Pearl Harbor, it soon became apparent that we too needed some such system, not only to assure smoother dealings with the British but also to coordinate our own national war effort.

The Joint Chiefs of Staff was established informally by President Roosevelt in February 1942. The White House appointments calendar suggests that the President met with the Chiefs as a body frequently during 1942, but primarily with the Chief of Staff to the President in the remaining three years of the war. For the most part, the Chiefs, along with their British counterparts, directed largely separate wars through three geographic commands which were essentially divided by Service. General Eisenhower commanded Europe while Admiral Nimitz and General MacArthur commanded separate theaters in the Pacific. Strategic planning was conducted on the basis of direct guidance: Put first priority on Europe, use the nation's full resources to support coalition efforts to defeat the enemy forces, and compel the Axis governments to surrender unconditionally. In many ways, it was a simpler world. But as the biographies of many World War II leaders reveal, the joint system established then did not work very well: Service partisanship and inadequate coordination resulted in innumerable delays on many critical issues.

As the war drew to a close, an exhaustive debate ensued on how to organize the postwar military: the Army favored, but the Navy opposed, a highly integrated system. Many at that time believed that the Army would dominate any integrated system. The Air Force, then still part of the Army, supported integration, but was primarily interested in becoming a separate Service.

COMPROMISE FINALLY REACHED

After nearly two years of studies, committee reports, and presidential interventions, the National Security Act of 1947 emerged as a compromise between those who favored full Service integration and those who feared centralization of military authority. The Act created a loose confederation among the military Services and a Secretary of Defense who initially had little authority. Amendments in 1949, 1953, and 1958 served to strengthen the Secretary's authority and to expand the size and purview of his staff, but as far as the joint system was concerned, the changes were much more marginal. The role of the Chairman was formalized, the Joint Staff was expanded, and the chain of command from the President and Secretary of Defense to the combatant commands was clarified.

Even modest changes, however, created great controvesy. During part of the period the amendments were being addressed, I was aide to General Curtis LeMay, then Commander of the Strategic Air Command, and I had many opportunities to observe the intense debate which took place not only in Washington but throughout much of the military. Only from such a vantage point was it clear how strong the pressures for preserving Service autonomy remained.

President Eisenhower, writing in 1965, said he had reminded his associates on signing the Defense Reorganization Bill of 1958 that it was just another step toward what was necessary. I believe he would be disappointed that further steps have not been taken.

Since 1958, there have been many recommendations for fundamental revisions of the system but few changes in its statutory framework. In 1978 the Commandant of the Marine Corps was made a full member of the Joint Chiefs by law, but this primarily codified what has already become practice. Essentially, despite major changes in the world on which I will comment later, we have had 24 years—and in many ways 35 years—without fundamental revisions of the joint system, a system which in effect represents arrangements developed in a patchwork way during World War II.

HOW WE OPERATE

At the top of that system are the Joint Chiefs, appointed by the President and confirmed by the Senate. By law, we are the principal military advisors to the President, the Secretary of Defense and the National Security Council.

As a body, we are responsible for reviewing and developing ways to improve the state of military readiness, assessing threats to our security interests and idenfifying the forces required to meet those threats. We supervise but do not command the senior Combatant Commanders (the Commanders of European Command, Pacific Command, Atlantic Command, Southern Command, Readiness Command, Strategic Air Command, Aerospace Defense Command, Military Airlift Command, and the Rapid Deployment Joint Task Force; some of these have multiple services involved and some a single service). We maintain an elaborate command, control, and communications system which provides the links to and within our combat forces worldwide. We also consult with foreign military leaders and provide military representation to arms control negotiations teams.

Four of the members of the Joint Chiefs are the military heads of their individual Services who, except in time of war, are restricted to a single four-year term. Since 1947, nearly 50 officers have held the office of Chief of one of the four Services. A Service Chief is not only a full member of the Joint Chiefs of Staff but also is the leader of his uniformed Service. As its principal military spokesman, the Service considers him the guardian of its professional interests, standards, and traditions.

The fifth member of the Joint Chiefs, and the only one to devote all of his time to joint affairs, is the Chairman. Although outranking all other military officers, the Chairman does not exercise command over the Joint Chiefs or the Armed Forces but acts as an advisor, a moderator, an implementer, and an integrating influence whenever possible. A Chairman is appointed for a two-year term and may be reappointed one time, except in wartime when unlimited two-year reappointments are allowed.

MORE INFLUENCE BUT LESS CONTROL

After four years as a Service Chief and now on my fourth year as Chairman, I have found a Chairman generally has more influence but less control than a Service Chief. Whereas a Service Chief can draw on significant institutional sources of formal authority, the Chairman's influence must be derived primarily from his effectiveness in personal relationships. His position provides the opportunity to meet with the leadership of the nation, but it is his professional competence, his ability to present well-thought-out and broad-based arguments, and his performance as a team player in grappling with difficult questions of national priorities that determine his degree of influence. The Chairman's only institutional advantage is his status as the one senior military official whose sole responsibility encompasses the entire spectrum of defense.

The Joint Chiefs are supported by a Joint Staff which is significantly limited by law in terms of size—it is dwarfed by the Service and Secretary of Defense staff—and the tenure of officer assignments. Except for urgent matters, a joint action is traditionally handled by assigning the issue to a Joint Staff action officer who meets with compa-

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rable level representatives from the four Service staffs. The pressures at this point create a greater drive for agreement than for quality: the process usually results in extensive discussion and careful draftmanship of a paper designed to accommodate the views of each Service—at least to the extent of not goring anyone's ox.

Then the paper works its way up through a series of such committees to a group composed of the Service Operations Deputies (three-star positions on each Service staff) and the three-star Director of the Joint Staff. These individuals—who normally attend the meetings of the Joint Chiefs—can approve a routine paper, but refer any substantive issue or unagreed upon matter to the Chiefs. As would be expected, papers produced by such a multiple committee process are often watered down or well waffled, although not as badly as Dean Acheson judged when in his 1969 memoirs he wrote of the Joint Chiefs orgainzations: "Since it is a committee and its views are the result of votes on formal papers prepared for it, it quite literally is like my favorite old lady who could not say what she thought until she heard what she said."

When there is not time for this elaborate staff process or even to convene the Joint Chiefs, I must take action and consult with my colleagues later. The most extreme example would be that of direct attack on the United States. The Soviets have a number of submarines on alert off our Atlantic and Pacific coasts which could deliver nuclear warheads on Washington and other targets in a very few minutes. If an attack were made, our warning sensors would pick up the launches within seconds and reports would reach Washington and other key points almost immediately. The general or admiral on 24-hour duty in the National Military Command Center would at once notify me as well as others. I would then recommend a course of action to the President and Secretary of Defense, and would implement the presidential decision without delay.

THE LIBYAN INCIDENT

At the other end of the spectrum are incidents such as the one last year when a Libyan pilot fired a missile at our Navy fighters over the Gulf of Sidra and our pilots responded by downing two of the Libyan planes. I was notified immediately and in turn informed the Secretary of Defense. I then proceeded to the National Military Command Center in the Pentagon to determine what further action, if any, was required. The need to respond to crises and incidents such as this one requires that I be immediately available, a requirement to which I have long been accustomed.

The more routine actions are considered each week in three regularly scheduled Joint Chiefs meetings in which operational as well as policy issues are addressed. When in Washington, the first responsibility of a member of the Joint Chiefs of Staff is to attend all of these meetings, but because of our worldwide responsibilities we must be gone a considerable amount of the time. The Vice Chief of Staff substitutes when a Service Chief is absent but since the Chairman is not allowed a deputy (a major weakness which I will address later), the senior Service Chief in attendance chairs the meeting when I am away. My experience has been that one or more substitutes attend about three-quarters of the meetings, a situation that results in a lack of continuity.

By law, if we cannot reach unanimous agreement on an issue, we must inform the Secretary of Defense. Such splits are referred to the Secretary a few times a year, but we are understandably reluctant to forward disagreements so we invest much time and effort to accommodate differing views of the Chiefs.

IMPORTANT RELATIONSHIPS

The Joint Chiefs must maintain many constructive external relationships, the most important of which derives from our role as the senior military advisors to the civilian leadership, particularly the Secretary of Defense and the President. We meet with the Secretary and Deputy Secretary of Defense each Tuesday to discuss joint matters as well as attend other meetings with them during the week. As Chairman, I meet privately with the Secretary and his Deputy each day and participate with them in interagency discussions.

Traditionally, Presidents have met with the Chiefs as a body only on a few occasions. More often we send memoranda to the Secretary of Defense and request that they be forwarded to the President. Any Chief has the right to ask for an individual appointment or correspond directly with the President, but this right has also been exercised very rarely.

The main contact with the President comes when I participate as the Joint Chiefs' representative in National Security Council meetings. Such meetings are scheduled frequently by President Reagan, who has used the National Security Council forum more than any President since Eisenhower. I have the full opportunity at these meetings to express to the President the corporate views of the Chiefs as well as my personal views on any matters, regardless of whether the Chiefs have addressed them. I also have the opportunity to express such views below the presidential level as a member of various interagency and defense working groups such as the Military Manpower Task Force, the Defense Resources Board and the Armed Forces Policy Council.

Next to advising the President and the Secretary of Defense, the Joint Chiefs' most important responsibility is the requirement to oversee the Combatant Commands. In meeting this responsibility, it is essential to nurture a close relationship with the commanders through long-standing personal contacts and frequent communications as well as visits to the field. The Service Chiefs are also responsible to their Secretaries for organizing, equipping, and training the forces assigned to the Commands.

Responsiveness to Congress is another important responsibility of the Joint Chiefs. The Secretary of Defense and I normally appear together before eight congressional committees—many times each year before some of them. Service Chiefs also have hearings before several committees, particularly those concerned with Service budget matters. And the Joint Chiefs occasionally will appear as a body, as we did during various arms control hearings. Extensive questioning of every action of the Defense Department is the norm during hearings as well as in detailed written questions addressed to us throughout the year.

Whenever military officers appear at a congressional hearing, we are expected to respond fully to questioning, even when asked for personal views about matters on which we may disagree with the position of the Administration. I have responded to unsolicited questions with personal views at variance with the decisions of the civilian leadership on a number of occasions, the most recent of which concerned my reservations on the basing decision for the MX Intercontinental Ballistic Missile. I believe our system is unique among the nations of the world in airing such disagreements. A number of years ago, when I explained this aspect of U.S. military-congressional relations to a head of government of one of our allies, he responded that one of his military officers would be fired if he gave a view other than the official position to his parliament. The U.S. civilian leadership throughout the years has understood and even supported the military's responsiveness to congressional questions so long as our comments have been made in good faith and neither solicited nor intended to circumvent a decision. I have found that senior officers have generally been sensitive to this responsibility.

Finally, it is important for the Joint Chiefs to work very closely with our friends and allies since we simply cannot go it alone in today's world. I meet with my NATO counterparts on at least four occasions each year, and with officials from many other countries somewhat less frequently.

These important external relationships take a great deal of time, but it is the cumbersomeness of the committee processes that constrains our ability to produce the best joint military advice. One of the presidentially directed studies of the joint system, the 1978 "Steadman Report," concluded that the advice provided personally (usually orally) by the Chairman and the Service Chiefs was of high quality but that the institutional products (the formal position papers) were not found very useful.

CONSTRAINTS ON ADVISORY ROLE

Despite the institutional constraints, however, we have managed to make some joint program improvements over the last few years. Much of the credit for whatever progress has been made must go to my colleagues on the Joint Chiefs. The nation has been, and continues to be, well served by these competent, hard-working officers. Some of the improvements are:

Development of a broader joint exercise program to include mobilization practice;

Establishment of a Joint Deployment Agency to integrate deployment plans and activities;

Integration of our land and sea transportation systems;

Redirection of the Industrial College of the Armed Forces to achieve better understanding of mobilization;

Revamping of our joint education system to include establishment of research centers at the National Defense University, in conjunction with the Secretary of Defense, to help us take fresh looks at defense problems;

Organizational adjustments for better integration of the joint command, control, and communications system;

Establishment of the Rapid Deployment Joint Task Force to improve our capability to deploy and operate forces in Southwest Asia and as a mechanism to develop and exercise integrated operations by elements of all four Services;

Increasing the Combatant Commanders' opportunity to influence resource decisions, to include appearing before the Defense Resources Board.

Involving the Service Chiefs in specific joint issues when visiting the field in order to report findings and recommendations at a Joint Chiefs meeting.

PERSISTENT SHORTCOMINGS

While the above represent some important and helpful changes in interservice programs, such progress has been limited primarily to issues which only marginally affect important Service interests. However, unless the basic long-term shortcomings of the system are corrected, the severity of their consequences will continue to increase as the national security environment becomes ever more complex. We need to spend more time on our war-fighting capabilities and less on an intramural scramble for resources.

In my view, the basic causes of our most serious deficiencies can be divided into two categories: personnel and organization.

Personnel. There is inadequate cross-Service and joint experience in our military, from the top down. The incentives and rewards for seeking such experience are virtually nonexistent. And the problem is compounded by the high degree of turbulence in key positions.

We do not prepare officers to assume the responsibilities of membership on the Joint Chiefs as well as we should. I include myself in this judgment, even though I was fortunate in having an unusually diversified background before becoming a member of the Joint Chiefs. In my many years in the Air Force I have been assigned to bombers and fighters, command and staff, Washington and field tours. I had attended the National War College, an institution designed to prepare military officers and foreign policy civilians for joint and interagency duty. I had been an aide to an unusually competent commander, General LeMay, and he taught me much; his initial guidance to me was, "You are in this job to learn first and serve second and do not mix those priorities." I had 10 years overseas in Japan, Vietnam, and Europe, including direct involvement in two wars. And in my last overseas assignment I had two jobs—as U.S. air commander with geographic responsibility stretching from Norway to Iran, and concurrently as a NATO air commander with coalition responsibility for air forces of a number of nations.

However, I still lacked two major ingredients of a fully rounded experience when I was appointed Chief of Staff of the Air Force. I had begun service in the Army and had maintained close contact with that Service even after the Air Force became independent. But my contact with the maritime forces—the Navy and the Marines—was limited. I had visited and had participated in joint exercises with maritime forces, but still did not have as deep an understanding of their strengths and weaknesses, their doctrines and traditions, as I would have liked. Unfortunately, my experience in this regard is far from unique: Few Navy or Marine officers have substantial experience with the Army or Air Force, and vice versa.

EXPERIENCE GAPS ARE COMMON

The second gap in my experience is also far too common among officers who assume key positions in the joint system (both on the Joint Chiefs and as Combatant Commanders): I had never served on the Joint Staff or in the headquarters of a Unified Command. And frankly, I have found from my own experience that serving on the Joint Chiefs as head of a Service does not necessarily make an individual a truly joint officer. My perspective changed when I became Chairman and was immersed every hour in joint problems. But as Air Force Chief, while I prided myself on my joint attitude, and believed that some fundamental changes were needed, I must confess that I was very reluctant—as were the other Service Chiefs—to accept any infringement on Service autonomy on individual issues.

Most newly assigned officers arrive on the Joint Staff or a Unified Command staff from a Service-oriented career with little interservice experience and inadequate preparation for joint duty. In the case of the Joint Staff, the problem is compounded by statutory limits—restrictions which do not apply to the Service and Secretary of Defense staffs. For example, public law (10 USC 143) states that:

"The tenure of members of the Joint Staff . . . except in time of war . . . may [not] be more than three years."

"Except in time of war . . . officers may not be reassigned to the Joint Staff [in] less than three years" unless the Secretary of Defense waives this restriction, which he may do for no more than 30 officers.

Furthermore, officers come from and return to their Services, which control their assignments and promotions. The strong Service string thus attached to a Joint Staff officer (and to those assigned to the Unified Commands as well) provides little incentive—and often considerable disintentive—for officers to seek joint duty or to differ with their Service position in joint deliberations. Indeed, it is hard to argue that Joint Staff duty is a path to the top. With the exception of Army General Earle Wheeler, not a single Director of the Joint Staff or one of its major components has ever become Chief of his Service or Chairman of the Joint Chiefs of Staff.

NEED FOR BETTER CONTINUITY

We have many outstanding officers on the Joint Staff who work very hard under very difficult conditions with few rewards. It is no wonder that many retire while on, or soon after leaving, the Joint Staff, or seek early release for a more rewarding job. The three-year limit on assignments—when coupled with our reluctance to stand in the way of good people attempting to move to Service jobs that may further their careers—results in a turnover of the Joint Staff of a little more than two years. Better continuity is required.

Organization. In the Joint system we not only have the advantages and all the disadvantages typical of committees, but our problems are futher compounded by the "spokesman-statesman" dilemma that a Service Chief encounters. This is especially true when the issue of distribution—of resources or of missions—is raised. Time after time during my years as a member of the Joint Chiefs, the extraordinary difficulty of addressing—let alone gaining the Chiefs' agreement on—the distribution of constrained resources has been driven home to me. A Service Chief finds himself in a very tough position when asked to give up or forego significant resources or important roles and missions: both because his priorities have been shaped by his Service experience, and because he must be the loyal and trusted leader of a Service whose members sincerely believe their Service deserves a greater share of constrained resources and of military missions—and the control thereof.

Service Chiefs do differ from the position of their Service staffs on occasion, but to do so too often and particularly on fundamental issues is to risk losing the support essential for carrying out Service responsibilities. One former Chief relates that during a joint meeting, a Service action officer (a major) handed him a note which said, "General, under no condition can you agree to the third paragraph." This incident is representative of a phenomenon which has often been called "the tyranny of the action officer." However, that phrase tends to obscure a significant point: The major was expressing the viewpoint of a large and often unforgiving bureaucracy.

We in the defense business share the problem which afflicts most of corporate America—the difficulties inherent in long-range planning. Today's business leaders are of course well aware of the problems of accurately predicting the future and developing successful strategies to improve long-range profitability—and creating incentives within constituencies to address the long term. Those of us responsible for defense planning must contend with the same problems, as well as further complications stemming from the lack of a readily calculable "bottom line," the buffetings of political and social disturbances anywhere on the globe, and a high degree of resistance to change.

Any institution that imbues its members with traditions, doctrines, and discipline is likely to find it quite difficult to assess changes in its environment with a high degree of objectivity. Deep-seated Service traditions are important in fostering a fighting spirit, Service pride, and heroism, but they may also engender a tendency to look inward and to perpetuate doctrines and thought patterns that do not keep pace with changing requirements. Since fresh approaches to strategy tend to threaten an institution's interests and self-image, it is often more comfortable to look to the past than to seek new ways to meet the challenges of the future. When coupled with a system that keeps Service leadership bound up in a continuous struggle for resources, such inclinations can lead to a preoccupation with weapon systems, techniques, and tactics at the expense of sound strategic planning.

Despite valiant efforts to improve strategic planning in the Pentagon, we are often faced with intense pressures to spend most of our time addressing immediate issues. Those pressures are particularly great with regard to budget actions: Sometimes we are addressing three Budget documents at a time. For example, in the fall of 1981 we were working with Congress on the fiscal year 1982 budget (well after the fiscal year had started), preparing the 1983 budget for submission to Congress in January 1982, and doing long-range planning for the following five-year budget period (1984–1988). The work with Congress obviously took budgetary precedence, and at the same time, big and small crises (Poland, El Salvador, Libya, the Middle East, etc.) were rippling through Washington with increased frequency. Under such conditions, it takes strong discipline to avoid being a total captive of the urgent.

NEEDED CHANGES

The shortcomings outlined above have been with the joint system for too long and the need for correction is more urgent now than at any time. Since we live in an era in which conflicts could erupt regionally or globally much more quickly than in the past, we must build our military strength without delay—and we must be able to integrate our military forces with great efficiency.

It is clear to me that the fundamental problem is not with individuals but is an organizational one. I have been a close observ-

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er or a direct participant in joint activities for more than 20 years. During that time there have been six Chairmen and dozens of Service Chiefs and the basic problems have continued regardless of who has been in a specific chair.

As a minimum, we need changes in three specific areas:

(1) Strengthen the role of the Chairman. Many areas cannot be addressed effectively by committee action, particularly when four out of five committee members have institutional stakes in the issues and the pressure is on to achieve unanimity in order to act. It is unreasonable to expect the Service Chiefs to take one position as Service advocates when dealing in Service channels, and a totally different position in the joint areas. Such matters should therefore be removed from addressal by the Joint Chiefs as a body.

To the extent that an inter-Service perspective is needed on distribution issues, that perspective could be better provided by the Chairman in consultation with the Combatant Commanders. This in turn would require the strenthening of the Unified Commander's role with respect to his Service Component Commanders who command the forces and report both to the Unified Commander and the Service Chief. Under the current system the Service Component Commander's attention is often drawn more to Service issues than to inter-Service co-ordination problems. In other areas—such as joint operational and long-range planning, crisis management, and a number of routine matters—neither the Service Chiefs nor the Service staffs need participate at the level of detail in which they are involved today.

Furthermore, the Chairman should be authorized a deputy. It is an anomaly that the military officer with the most complex job is virtually the only senior—and in many cases not so senior—officer who does not have a deputy. This causes substantial problems of continuity when individual Service Chiefs, who spend only a fraction of their time on joint activities, stand in for the Chairman in his absence. Second, the Chairman needs assistance, particularly in insuring the readiness, improving the war planning, and managing the joint exercising of the combatant forces.

I would also recommend that, at least until there is far more cross-experience and education among all four Services, the Chairman and the Deputy Chairman should come from the two different groupings (one a Navy or Marine officer and the other an Army or Air Force officer.)

TIME DEMANDS COULD WORSEN

I am convinced that without some such revised role for the Chairman and less reliance on cumbersome committee processes, the very great demands on the time of a Service Chief will continue and perhaps even worsen. President Eisenhower recognized this problem and when he transmitted his final reorganization plan to Congress in 1958, he stated:

"This situation is produced by their having the dual responsibilities of chiefs of the military services and members of the Joint Chiefs of Staff. The problem is not new but has not yielded to past efforts to solve it."

Unfortunately, the approach Eisenhower then advocated—having a chief delegate major portions of his Service responsibilities to his Vice Chief (with the hope that this would overcome many of the joint problems)—has not worked either, as the subsequent 24 years of experience have shown. I for one, would also like to see the Service Chiefs be able to spend more time as the leaders of their Services in improving the combat capabilities of their units and in managing the spending of the billions of dollars in the Service budgets.

There is great wisdom in having the Joint Chiefs of Staff act as senior military advisors to the President and Secretary of Defense of certain key issues. But without a stronger role and better support for the chairman, the work of the Joint chiefs is likely to remain too dispersed, diluted, and diffused to provide the best possible military advice or to insure the full capability of our combatant forces.

(2) Limit Service staff involvement in the joint process. As mentioned before, the Service staffs dwarf the Joint Staff, with many of the Service officers duplicating the work of the Joint Staff. There are two basic problems. First, the Service staff involvement is a cumbersome staffing process and second, the Service Chiefs receive their advice on joint matters from their Service staffs.

There are some advantages to having Service staffs involved in the joint process, but we should abolish the current system in which each Service has almost a de facto veto on every issue at every stage of the routine staffing process. President Eisenhower noted 23 years ago that "these laborious processes exist because each military department feels obliged to judge independently each work product of the Joint Staff." The situation has not changed. The role of Service staffs can and should be reduced to providing informational inputs—the result would be a better product and fewer officers needed on the Service staffs.

When a Service Chief acts on a Service matter he should receive advice from his Service staff, and when he acts on a joint matter he should receive his advice from the Joint Staff; however, since the beginning of the joint process, Service Chiefs have relief almost exclusively on their Service staffs in preparing for joint meetings. It is unreslistic to expect truly inter Service advice from a staff comprised of officers from only one Service. The Joint Staff can and should provide such advice.

(3) Broaden the training, experience and rewards for joint duty. Finally, more officers should have more truly joint experiences at more points in their careers—and should be rewarded for doing so. There should be more interchange among Services at the junior ranks, as Eisenhower strongly advocated, and preparation for joint assignments should be significantly upgraded. The joint educational system should also be expanded and improved. (Along these lines, one innovative idea that is being addresed is to have all newly appointed generals and admirals attend a common course of joint education.) An assignment to the Joint Staff or to a Unified Command headquarters should be part of an upward mobility pattern rather than a diversion or end of a career, as has been the case so often in the past. It is difficult to see how present patterns can be changed, however, without some influence by the Chairman on the selection and promotion of officers. Also, the statutory restrictions on service on the Joint Staff should be removed.

Despite the magnitude of the task, I am encouraged by the willingness of my colleagues to address the issues and by the support of the Secretary of Defense and others in the Administration on the need for change. Furthermore, I sense a different mood in Congress than that shown in the forties and fifties when large and powerful elements strongly protected Service autonomy.

I am working hard in my final months as Chairman to bring about the necessary changes. More specifically, I have underway a course of action which addresses, first, recommendations to my colleagues on changes which are within the authority of the Chiefs, and second, recommendations to the Secretary of Defense and the President on other changes, to include specific proposals for legislative action.

CHANGES FORCED FROM OUTSIDE

Such change never comes easily. As the Navy approached its major reorganizations at the start of the century, Admiral Mahan concluded that no Service could agree to give up sovereignty, but would have to have reorganization forced upon it from outside the organization.

The Services have an understandable desire to protect organizational interests, to preserve their sovereignty, and to conserve hard-won prerogatives. Nevertheless, we cannot escape the fact that our national security today requires the integration of Service efforts more than at any time in our history. To attempt to achieve meaningful integration only through the existing committee system is to leave it at the mercy of well-proven institutional counterpressures. I believe we can find a middle ground which draws on the strengths of the separate Services and of having Service Chiefs as members of the Joint Chiefs, while at the same time making the changes necessary to strengthen our joint system. If not, major surgery will be required.

A MILITARY BOARD OF DIRECTORS

The Joint Chiefs of Staff, if viewed as the military board of a government corporation, would provide some striking contrasts to organization and management principles followed in the private sector: Board consists of five directors, all insiders, four of whom simultaneously head line divisions—reports to the chief executive and a cabinet member—supported by a corporate staff which draws all its officers from line divisions and turns over about every two years—line divisions control officer assignments and advancement (there is no transfer of officers among line divisions)—Board meets three times a week to address operational as well as policy matters, which normally are first reviewed by a four-layered committee system involving full participation of division staffs from the start—at 75 percent of the Board meetings, one or more of the directors are represented by substitutes—if the Board can't reach unanimous agreement on an issue, it must—by law—inform its superiors—at least the four top leadership and management levels within the corporation receive the same basic compensation, set by two committees consisting of a total of 535 members—and any personnel changes in the top three levels (about 150 positions) must be approved in advance by one of the committees.

ROOTS OF THE PROBLEM

The roots of enforced diffusion of military authority can be traced to a period which precedes the founding of the republic. The Continental Congress distrusted standing armies and military heroes, and even with George Washington in command, established multiple checks on his authority. The principles of the separation of powers and civilian control over the military have appropriately become deeply embeded in our culture, both in law and in custom as well as in the attitudes of our military professionals.

In many cases, however, the mechanism erected to exercise such controls has had the unintended effect of permitting—and often promoting—serious organizational deficiencies. As our military institutions evolved, the various military subbureaucracies attempted to establish as much independence as possible. As a result, by the end of the nineteenth century, both military departments—War and Navy—were riddled with semiautonomous, often intractable fiefdoms: branches, corps, departments, bureaus, and so forth. By the time we went to war with Spain in 1898, conditions were ripe for reform, but as is so often the case, it took near military disaster in the conduct of the war to provide the impetus within the Army and Navy to move toward better integration within the Services. The Army, despite much opposition, created a Chief of Staff position in 1903; after several intermediate steps, the Navy created the position of Chief of Naval Operations in 1915. Insititutional resistance was still great, however, and it would take decades before centralized authority had shifted to the Chiefs of the Services.

Both the Army and the Navy began World War II with authority and responsibility diffused. The Army still had a large number of semiautonomous agencies with little effective coordination below the Chief of Staff level. Immediately after Pearl Harbor, General Marshall streamlined the Army by reducing the number of officers reporting directly to him from 61 to six. In December of 1941, the Navy had split responsibility in Washington with Admiral Stark as Chief of Naval Operations and Admiral King as Commander-in-Chief of the U.S. Fleet. A few months later, much of that problem was solved when Admiral King assumed both jobs.

Interservice cooperation developed even more slowly. Before technological developments began to blur the boundaries between sea and land warfare, the Services had evolved independently into distinctly different organizations with separate policies and traditions. Competition rather than cooperation was the standard. This evolution resulted in four organizations which even today gravitate quite naturally to two groups of shared traditions and experiences: a maritime grouping (Navy and Marine Corps), and a primarily land warfare grouping (Army and later Air Force).

[From the Washington Post, Feb. 18, 1982]

THE JOINT CHIEFS NEED A REAL CHIEF

(By R. James Woolsey)

Gen. David C. Jones, chairman of the Joint Chiefs of Staff, has done the country a service. A few months before his retirement this summer he has published a proposal for a thorough revamping of the Joint Chiefs. It is high time.

The weakness and lack of influence of the Joint Chiefs is one of the Pentagon's less well-kept secrets. Of course, each of the chiefs, except the chairman, is the head of one of the four military services as well, and in these roles they are far from weak or ineffective.

Therein lies the problem. In dealing with most of the normal business of a peacetime military establishment—research, weapons procurement, budget, manpower policy, training—each chief heads a sizable and competent staff composed of officers from his own service. As a service chief he also has contacts on the Hill friendly to those who wear his color of uniform, as well as a number of well-connected retired officers and reservists who are sometimes so friendly that they trample folks in their enthusiasm.

For certain other "joint" functions, however, on which the president and secretary of defense seek and need an overall collective military judgment (e.g., SALT, overall defense budget questions, military operations in a crisis), each mighty service chief steps into a phone booth and becomes . . . Clark Kent. Wearing horn-rimmed glasses and a slightly dopey stare, he goes into "the tank," as the Joint Chiefs' conference room is called, a mild-mannered seeker of unanimity.

Ah, unanimity. The price of unanimity among all four military services in this beribboned committee has been, for 35 years, intellectual flab clothed in flaccid prose. True, much good military advice has been given—but ordinarily informally, not through the joint staff system. True, the Joint Chiefs system occasionally produces something useful—a testament to the caliber of some able officers assigned there who have been able to make bricks without straw. But generally it has worked as badly as, Jones reminds us, Dwight Eisenhower suggested it would 24 years ago.

Normally, as the interminable four tiers of their staff's committee meetings lumber on, the formal advice that the Joint Chiefs produce comes more and more to resemble the famous committee-designed camel.

The Joint Chiefs' force planning advice (the Joint Strategic Objectives Plan—say "jaysop") is the least-read document in the Pentagon. Adm. Bud Zumwalt, former member of the Joint Chiefs, wrote after his retirement that even he had never seen a copy. It's no wonder. Memorializations of bureaucratic logrolling that merely add up everyone's "requirements" and staple them together go to the bottom of anyone's inbox.

Bureaucratic stasis is no stranger to Washington, but on many issues the lack of a coherent overall military position—one that rises above individual service interests—is becoming dangerous. As Jones points out in his crisp recent statement of the problem, there is a tendency in each service to look inward and to perpetuate outmoded doctrines and thought patterns since "fresh approaches to strategy tend to threaten an institution's interests and self-image. . . ." We badly need, and have not had, a coherent overall military view about such matters as strategy and forces. Partly as a result, a gaggle of kibitzers has formed throughout government on these questions. Everyone from OMB budget examiners to the stray congressional staffer with a Bonaparte complex now believes himself to be the nation's premier strategist. The individual military services have clear stands on many of these issues, but an overall coherent military view has been conspicuous by its absence.

Such a view may not prove to be correct or persuasive on a good many questions, but it should at least have a chance to be heard in the debate. Clemenceau was absolutely right: war is indeed too important to be left to the generals. But people who have led troops all their lives, after all, do have a contribution to make to the discussion, and they should be permitted to put their most cogent case forward. It is not unimaginable that, seeing the difficulty today of obtaining political consensus behind large increases in defense spending, our senior military officers could think of some relatively inexpensive ways to increase our military effectiveness. They are the ones most genuinely and immediately concerned about prevailing in any hostilities—after all, they'll be the ones who have to fight.

But for years the only central voice in defense has been provided by the civilian staff of the secretary of defense. Lacking military expertise it has, largely, failed. For example, the Office of the Secretary of Defense has labored mightily and given us two decades of systems analysis, enabling us to have certain victory over an enemy only if each side is limited to bombing the other with old computer printouts.

Jones proposes a stronger role for the chairman of the Joint Chiefs and a reduction in influence, on joint matters, for the individual service chiefs. The latter would continue to head their individual military services and would advise the chairman, the secretary of defense and the president. But on strategy, military questions that relate to foreign policy and some aspects of carving up the defense budget pie, the chairman and a stronger central military staff would gain influence over the services. The chairman, for example, would have some control over the promotions of those assigned to his staff; this is not true today, and it is one of the main reasons the current system is so weak.

Some will caution against steps that, it will be contended, might lead to an all-powerful Prussian-style "General Staff." Piffle. We can afford to move several light years toward military staff centralization before we come within any distance of Prussianism. The United States is about as close to having a Prussian-style general staff today as it is to having a dictatorship of the proletariat.

By speaking out, Jones bequeaths to his successor a chance to make the system work. Like Joe DiMaggio, he is retiring with style.

[From the Los Angeles Times, Mar. 10, 1982]

SHORING UP THE JOINT CHIEFS: GENERAL JONES' PROPOSED CHANGES DESERVE A SYMPATHETIC HEARING

(By Philip A. Odeen)

Last month, Gen. David Jones, chairman of the Joint Chiefs of Staff, publicly stated what Pentagon insiders have known for years: that the Joint Chiefs organization simply doesn't work. Jones, who plans to retire this summer, called for badly needed changes that could well result in stronger military leadership and improve the quality of the advice being offered to senior civilian leaders of the government.

The cumbersome Joint Chiefs structure in existence today emerged as a compromise from the post-World War II debate over the establishment of the Defense Department. Because of opposition in Congress and within the military, proposals to create a strong, independent military chief to advise the President were rejected. Instead, a committee approach was adopted, preserving considerable autonomy for each military department. The chief of each service is a member of the Joint Chiefs; in addition, there is a chairman, who presides over meetings but has little independent power. Each chief devotes most of his time to the person-

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nel, weapons and budget problems of his own particular service. His joint responsibilities are clearly a secondary concern.

The Joint Staff, which supports the Joint Chiefs, is also weak and ineffective. It consists of military officers who serve two- to three-year terms and then return to their services, where all assignment and promotion decisions are made. It should be no surprise, then, that able, ambitious officers usually avoid assignment to the Joint Staff, and that those who are assigned seldom take positions contrary to those favored by their service. Moreover, issues that come before the Joint Chiefs are handled via a slow, unimaginative bureaucratic process. Each service essentially has a veto over actions that conflict with its parochial interests. Not surprisingly, the result is lowest-common-denominator mush—no clear, hard-hitting military advice.

The Joint Chiefs, as a body, are incapable of giving advice on the allocation of resources among the services, the most difficult issue that the secretary of defense and the President must face. Melvin R. Laird, secretary of defense during the Nixon Administration, made a valiant effort to bring the Joint Chiefs into the budget process and failed, despite the sympathy of most military leaders. Because there are inevitably winners and losers when such questions are addressed, the committee structure of the Joint Chiefs simply couldn't cope with them. Also, the laws greatly limit the ability of the chairman to voice his views independently.

The Joint Chiefs structure functions almost as badly when advice is sought on military strategy and priorities. Each branch of the armed services has its pet strategic concepts, designed to emphasize its own role and forces. As a result, Joint Chiefs strategy papers incorporate all four service approaches rather than present the best choice or set priorities.

Presidents and Cabinet members need and will seek help in making difficult policy and resource decisions. In the absence of an effective military voice, they turn to the systems analysts, budget specialists, "think tanks" and consultants for help in setting military priorities and deciding on budget increases or cuts. Thus, individuals who don't have operational experience and who won't have to live with the consequences of their recommendations play a key role in developing strategy, planning future forces and making tough budget decisions.

In his proposal, Jones suggested three steps that would greatly enhance the effectiveness of the Joint Chiefs:

Let the chairman advise the secretary of defense and the President on resource-allocation issues based on his judgment and input from the Joint Staff and the field commands (Europe, Pacific, Strategic Air, etc.).

Eliminate the veto that the individual services exercise on most issues, and rely more heavily on the Joint Staff for support of the Joint Chiefs in all areas in which their advice is called for.

Provide better training for personnel assigned to the Joint Staff and take steps to reward those who accept such assignments. This would include giving the chairman power to influence assignments and promotions.

Jones' proposal is certain to be opposed on the grounds that it could lead to a "German general staff" with greatly enhanced powers. But Jones' recommendations would amount to only a modest increase in power for the chairman of the Joint Chiefs. Numerous checks would remain to ensure that the views of the individual services would be heard, both at the Pentagon and in Congress. Nevertheless, the individual branches can be counted on to protest the threat to their veto power over the chairman's views.

It may well be true that war is too serious to be left to generals. But leaving them out of key defense decisions makes even less sense. Jones' proposal to reform the Joint Chiefs of Staff would help ensure that our civilian leaders get clear and sensible military advice on the toughest issues that the nation must face. This is a real reform; it deserves a prompt and sympathetic hearing.

[From the New York Times, Feb. 25, 1982

Q. & A.: GEN. DAVID C. JONES: RETIRING CHIEF SPEAKS OUT ON MILITARY COUNCIL

(By Richard Halloran)

WASHINGTON, Feb. 23.—Gen. David C. Jones, who will retire as Chairman of the Joint Chiefs of Staff in June after having served with the Joint Chiefs longer than any other officer, has begun his valedictory by circulating a provocative set of proposals for reforming the nation's senior military council.

Rarely have military officers, bred in the tradition of keeping their own counsel except when asked by properly constituted civilian authority, undertaken so public a campaign for change.

General Jones, who served four years as Chief of Staff of the Air Force and another four as Chairman of the Joint Chiefs advocates greater authority for the Chairman and the development of a corps of strategic military thinkers. He elaborated on his proposals in a recent interview.

General, what are the fundamental problems in the J.C.S.?

A. The Chiefs have two overall roles. One is to give advice to the Secretary of Defense, to the President, to the National Security Council, to the Congress, to a very wide audience.

The other is to supervise the combatant commands. We don't command them, by law, but we supervise their readiness, their capabilities, their planning.

In advice, one problem is that we've never sired a Clausewitz. In our system, Clausewitz would probably make full colonel, retire at 20 years and go to work for a think tank. We need great commanders with innovation and imagination. But we also need great strategists and our current system doesn't develop that.

Q. Is it in the system or is there something peculiarly American about not developing strategists?

A. Someone once wrote that long-term planning is almost anti-American. We have not done as well as other countries in long-term planning. That's true in government, it's true in business, and it's true in the military.

But there are also specific institutional problems. There are few rewards for the people who step back and look at the problems from the global standpoint. Promotions are determined by a service, assignments are determined by a service, the basic move is up the service channel.

I'm not proposing a general staff of people who are in it for the majority of their careers. But the pendulum is too far one way right now. I'm not suggesting moving it the other way to an elitist group because that would be as bad as what we've got now. There should be something in the middle where there can be greater incentives for people who work beyond their own service's interest.

Q. What about the supervision of combat forces by the J.C.S., which is really a committee of four service chiefs and a Chairman?

A. Committees are useful in providing advice and even in a few policy decisions. But committees are notoriously poor at running things.

Therefore, I would have a more streamlined process. I would give the Chairman a much greater role in this regard, with greater authority. And I would give him a deputy, who would be a four-star officer, to help in this. Between them, they could discharge two very different, very demanding responsibilities—being in Washington to give advice on policy and strategy and getting out to the field to supervise combat readiness.

Q. Is this the main point to your proposals?

A. Yes, the key is to strengthen the role of the Chairman. Part of that is to give him a deputy. Part of it would be to delineate certain areas where the Chairman can act without going through the committee process. Part of it is to give him some influence in promotions.

But all of the combatant commands are under the Secretary of Defense. Therefore, strengthening the role of the Chairman doesn't end up with his having authority to go off on his own and alert forces or to take action with the forces or to get the United States committed.

Q. Should your successor have a new title that sounds more like a military commander than a corporate executive?

A. I think I would still call him, probably, Chairman of the Joint Chiefs. In my analogy or comparison with industry, the Secretary of Defense is the chief executive officer with the Chairman being the chief operating officer.

Q. The Chairman is not in the chain of command now; would you put him back into the chain of command?

A. Although I would like to see that done, I have not recommended it because it is not essential to make major progress. Even though philosophically I support it, it isn't so critical to the issue as to be worth the effort that would be required by me.

Q. Along the same line, General, you wear four stars; should your successor wear five stars to make clear that he is the top soldier in the United States?

A. I think there is a clear advantage to that. I would welcome it, but again I have not proposed it because it would probably be misread as giving the Chairman more power than is intended. My proposal doesn't make him the commander of all other military officers.

Q. How would you get the Chairman and the joint staff more involved in the defense budget?

A. The country's leaders need military advice on issues that cut across the services, that transcend the interests of any one service. But we need to be recommending and commenting on how to get an integration of effort. We are doing more of that already. For example, we formed the Command, Control and Communications Directorate a few years ago. I probably involved myself in the budget process in "C cube" more than on any budget issue.

We are not trying to come up with our own budget but at least to be able to say, here are some of the problems, here are some of the things that need to be done.

Q. General, why have you brought this up now?

A. Well, I guess part of it is that I was ready. Before, I wasn't. I have seen so many abortive efforts for change that I wanted to make sure that I was fully prepared. Also I would like to do it at a time when it didn't look like empire building and self aggrandisement.

Q. After you retire, would you like to become a consultant on this?

A. No, I don't believe in trying to stay around after you're through. I will continue to provide advice after I retire, whether welcome or not, because I think there is so much more that needs to be done.

I intend to continue to work, hopefully in a constructive way, but in a critical way, even beyond my retirement, and on questions broader than the reorganization issue that I have addressed.

We can do so much better.

JCS REFORM—AND MORE: A LONG OVERDUE INITIATIVE

(By Robert E. Ellsworth)

General David C. Jones has done the nation a great service in triggering the debate over how our senior military command should be organized. General Edward C. Meyer has made an equally important contribution by going further than General Jones could tactfully go, noting that much stronger central institutions are needed, and not simply a stronger Chairman. Both sets of recommendations are in our interest if we are to avoid seeing our military become bureaucrats in uniform. As I look out over the next few years, one thing this nation surely requires is military and strategic advice straight from the shoulder. Professional. Tough. And smart. One way to get it is to begin with reform of the JCS, as Jones and Meyer have suggested.

THE OBJECTIVES REFORM MUST SERVE

The objectives of such reform may be summarized as follows:

To give professional military expertise a central role in shaping the nation's military strategy:

To strengthen the role of military expertise in military operations: and

To channel military professionalism so that it can influence the nation's force plans, to create more effective deterrent and war-fighting capabilities for the money made available.

The nation's present Chiefs of Staff and Joint Staff are incapable of adequately meeting these objectives, not because of personal inadequacies but because of statutory institutional roadblocks. The nation's top commanders must now give strategic advice in spite of their Services. They must give it privately, and in the knowledge that Service differences undermine their ability to staff strategic planning from an overall perspective. Whether the issue is nuclear strategy or strategy for the Gulf, the person Joint Staff system tends to reduce military advice to a lowest common denominator of Service and branch biases. Civilians have not taken over strategic planning, but the military are blocked from providing it.

Similarly, it has been exceedingly difficult to get unvarnished professional military advice on military operations. The efforts of the Joint Chiefs to create a national command center in Washington have largely been a waste of time. It has been all too clear that the Joint Staff, which supports this command center, lacks the political sophistication needed to advise on operations, the practical experience in military operations and crisis management, and the ability to react quickly and effectively. On balance, the Joint Staff has become a Service-oriented filter between the nation's top civilians and the Unified and Specified Commands—while the nation's top policy makers have tended to bypass it because it lacks the expertise, flexibility, and competence to do the job.

Among the failures of the present system, moreover, is the inability of the nation's top military to properly influence force planning. While the sophistication of the Joint Staff has increased steadily since the time of former Defense Secretary Robert S. McNamara, the grim truth remains that no responsible civilian can fully trust its advice. The Joint Staff has many competent individual members, but it produces formal staff work that has aroused the dismay of every senior civilian who has been forced to read it. It is laborious, cumbersome, and hopelessly compromised. It ignores real-world resource constraints.

REFORMING THE JOINT CHIEFS AND THE JOINT STAFF

The answer to this is obviously to create a strong single chief of staff and a career joint staff. General Jones and General Meyer are absolutely correct in seeking this objective. Without such reforms, this nation's top military command institutions will continue to fall far short of what the nation needs. General Meyer is also correct in emphasizing the role of the commanders of Unified and Specified Commands. This nation no longer has a serious need for Service chiefs of staff, any more than it has a need for Service Secretaries. Our strategy, our military operations, and our force plans must be shaped to support national missions and to meet global needs involving joint operations. While there is a need for Service-oriented administrators at the major general and assistant third secretary level, such administrators are not the proper advisors to the JCS Chairman, the Defense Secretary, or the President.

REFORMING THE SERVICES AND JOINT COMMANDS

This of course means that reform must in fact go somewhat further than either General Jones or General Meyer has suggested. The time has come to firmly subordinate Service interests to area commands like CINCPAC, CINCLANT, CINCEUR, and Readiness Command, and mission-oriented joint task forces. This can be done by going one step further than General Meyer suggests and giving the major commanders a direct voice in reporting to the JCS Chairman. They should be part of a committee or council that is subordinate to the Chairman, but clearly superior in rank and authority to any committee with a membership that includes the senior, single Service staff officers.

The end result will be more than a stronger Joint Staff, or Chairman. It will be to limit the career path to high command to either operational command or joint command. It will make single Service staff commands at best steppingstones to serving in such a command. It will cut through the forest of uniformed civilians or bureaucrats that now make up the Service military staffs and, combined with a strong, centrally led Joint Staff, will give the nation's responsible commanders a direct voice in decision making.

REFORMING CIVILIAN PLANNING AND DECISION MAKING

These reforms must be supplemented by reforms within the civilian side of the Department of Defense (DoD) and within the Congress. First, with all due respect to General Meyer, the military are not going to reassert their roles as commanders, strategists, and planners unless they work directly with civilian resource managers and policy planners in shaping one coherent force plan that can be implemented with the manpower and defense resources the nation has available.

This means that the Joint Strategic Objectives Plan must vanish forever, and that it must be replaced with a joint policy, planning, programming, and budgeting effort that is jointly drafted, reviewed, and implemented by staffs that mix members from the new Joint Staff and the Office of the Secretary of Defense. As long as the military planner is segregated from the civilian resource manager, and as long as military planners focus on trying to live beyond their resources, the real defense planning in this country will always be done by civilian planners. The golden rule in defense planning is that he who has the gold rules. No reform of the JCS will have much meaning that ignores this reality.

Second, the revised policy, planning, programming, and budgeting system must be directed toward giving the major commands the forces they need to meet potential threats. No reform can survive, or meet the nation's needs, which continues to plan and program around Service-oriented "slices" of general-purpose forces; which prevents joint planning and programming of the nation's strategic forces across Service lines; and which segregates the nation's research, development, and acquisition effort from an explicit link to the forces that will be built in each mission area. The nation must refocus its defense planning and budgeting activities away from a Service-oriented structure. It must concentrate on key mission areas, and it must judge by outputs rather than inputs.

This requires a third reform as well. The nation's forces plans will never support effective military operations or the implementation of a meaningful strategy as long as the annual Congressional budget cycle focuses on Service-oriented or line item budgets; as long as it only looks one year into the future; and as long as it ignores how the mission capabilities being built up compare to those of the threat. Yet the planning effort within DOD is now focused on a budget review process that forces this inadequate and short-sighted approach to planning. Defense must submit plans and budgets to the Congress with a five-year time horizon, which are structured by mission area rather than by Service, and which involve explicit net assessments of U.S. capabilities, those of our allies, and those of the threat.

These are not minor reforms, and it is certainly necessary to begin with the efforts suggested by General Jones and General Meyer. The President and the Congress must, however, have no illusions about the results. Reforms of the Joint Chiefs will not be enough by themselves. They must be accompanied by broad reforms in the organization of the Department of Defense, in the way civilians operate within the Office of the Secretary of Defense, and in the way in which the Congress treats the nation's defense budget. Without such reforms, the nation is virtually certain to fail to create a

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broad and sustainable public consensus around its true requirements.

[From U.S. News & World Report, May 24, 1982]

INTERVIEW WITH GEN. DAVID C. JONES, CHAIRMAN, JOINT CHIEFS OF STAFF: U.S. MILITARY ORGANIZATION "DOESN'T WORK WELL AT ALL"

Q. General Jones, as you prepare to step down as chairman of the Joint Chiefs of Staff, what is the major lesson that you will carry away from the Pentagon?

A. That there is an absolutely critical need to change this nation's structure of military leadership. The fundamental weakness in this area cuts across the whole spectrum of American military efforts—from military advice for grand strategy, for a coherent defense budget and even for management of weapons programs.

Historically, the United States has not paid attention to military organization until a catastrophe occurs. The Spanish-American War was a debacle. In World War I, our logistics system broke down. Pearl Harbor was a disaster. In each of these cases, the U.S. was forced to make radical changes after the conflict began or ended. This time, I hope we can take the needed steps before an emergency is upon us.

Q. What specific change do you have in mind?

A. To put it bluntly, the chairman of the JCS has to be given considerably more authority than he has today. Now he commands a desk—that's all. The chairman can have considerable influence, but he has little real authority. In my view, the chairman should become the President's principal military adviser, and the Joint Staff should be responsible to the chairman rather than to a committee staff. That would enable the chairman to address defense issues far more effectively. Today, we have all five members of the JCS trying to reach agreement on every issue. It doesn't work well at all.

Q. What's wrong with that system?

A. There are four basic, longstanding and very dangerous weaknesses.

One is diffused responsibility. As the 1970 blue-ribbon panel stated: "Everybody is somewhat responsible for everything, and nobody is completely responsible for anything." The JCS is a committee, and committees perform certain tasks well. But they're notoriously inept at running things.

Secondly, JCS advice is not timely or sharp; it's committee advice. The basic drive is for unanimity. So you end up with the lowest common denominator of advice.

Third, the chiefs represent institutions—the services—and they become advocates for their services. There's a built-in conflict of interest between service loyalty and loyalty to the good of the U.S. defense capability as a whole.

Fourth, military jobs are very complex today. A service chief doesn't have time to tend to his own branch and then put on another hat and try to manage joint operations of the entire defense establishment.

Q. What about the criticism that your plan could lead to something like the once all-powerful German general staff?

A. The misperception of the German general staff was that a single general had great overall power. I find it interesting that today many democratic nations have systems which give an individual military leader greater overall authority than the German military leaders had. I'm not proposing we go that far. There would still be individual service chiefs, and they would work for the service secretaries. Furthermore, any chief could appeal directly to the Secretary of Defense or the President if he were strongly enough opposed to the chairman's recommendation on an issue.

Q. How would this improve the management of the military?

A. Service chiefs would be able to spend more time on running their service—combat readiness, discipline and the management of weapon-systems procurement. This really has to come from the military. During the past 20 years, the 30 top Pentagon civilian positions have had people assigned with an average tenure of about 2½ years. They can't focus on all of the problems. Some problems just fester, and not enough is done over the years.

Q. If the system is not overhauled, what will be the likely consequences in the future?

A. Over the past 30 years, 90 percent of our major arms systems have suffered cost overruns even when you take out inflation. This is caused partly because there is great turmoil in our leadership—civilian and uniformed—and the military leaders of the services don't have enough time to do two jobs well. If we continue in that direction, we will not achieve the defense capability that we need and we'll squander our resources. If we are going to solve these problems, some fundamental changes have to be made.

Q. Turning to the dangers this country faces: In the past, you have expressed deep concern about adverse trends in the U.S.-Soviet military balance. Have we begun to reverse those trends?

A. We've reversed the perception of the adverse trends, and this has had a beneficial psychological impact. The world sees that the United States is finally deciding to do something about a deteriorating security situation. That is important.

But there's a lag time. Because of long lead times, the increases in this year's defense budget, for example, won't really translate into a substantial increase in military power for several more years.

Q. How great an impact will the massive defense budgets of recent years have on U.S. military capability?

A. They won't propel us toward superiority over the Soviets, but they will arrest the trend toward U.S. inferiority. No one should expect that higher defense spending will quickly create a no-risk world. In fact, in a lot of ways, it's going to get riskier in years ahead.

Q. What do you mean?

A. In this decade, we're going to see a new leadership group in the Soviet Union. It will be, in a likelihood, a leadership clique that is more willing to take risks.

This leadership group will probably be forced to travel one of two roads. One road is to decide to make painful, but necessary, internal changes in the Russian economy and social structure in order to head off over the long term a potential of a collapse of the Soviet state. A turn in that direction would be to our advantage, because it would siphon off resources that might otherwise be devoted to arms and divert their attention from external adventures.

The other road is for Moscow to attempt to solve—or divert attention from—its internal problems by using its military power against other countries. I'm not predicting war, but I think this second scenario is more likely.

Q. There is criticism that the administration has adopted an ambitious strategy that cannot conceivably be implemented by available forces. Does the Pentagon run the risk that, by trying to do everything, it will end up not doing anything effectively?

A. There is no option but to broaden the scope of U.S. military power. We have a requirement for a global strategy now, and that global strategy is more demanding than our old regional strategies. We used to have overwhelming strategic nuclear superiority. And the Soviets had very limited ability to project power beyond their own borders. We could afford to fight in Korea or Vietnam and not worry too much about the rest of the world. We knew the Soviets either wouldn't or couldn't move.

Now we don't dare turn our back and dedicate massive amounts of military power in one area without worrying about something happening in another area. The only way to overcome that is to steadily build our own military power to cover several areas. Solving this problem will take a long time, and we have only recently started up that hill.

Q. Does this mean the U.S. must be prepared to fight Soviet forces in all areas of the world simultaneously?

A. Not necessarily, but it's hard to envisage a war between the Soviet Union and the United States that's limited to one small part of the world. Whatever the cause for its expansion, it's hard to see our fighting the Soviets with combat divisions in Southwest Asia, for example, and yet be meeting with them in the United Nations or sailing our ships past their ships on the high seas.

Q. Are you saying that any conflict between Russia and the U.S. will automatically escalate to all-out war?

A. I didn't say that. I said it's hard to see how a war between the superpowers could be limited, confined to some specific geographical area, or to certain types of weapons. The Korean and Vietnam wars demonstrated we could fight limited wars against third parties, but it's hard to imagine how Americans and Soviets can ever start fighting each other without having a high likelihood that the war will spread. That's not all bad. The high probability that a war will spread is a powerful deterrent.

Q. Doesn't Secretary of Defense Caspar Weinberger go further by hinting that the U.S. may deliberately widen a war with the Soviets in retaliation for any Russian military aggression?

A. He didn't say we would do it; he said we have the option to do so. Part of deterrence is uncertainty—making the Soviets nervous about how we may respond. They are then forced to consider these uncertainties in their strategic calculations. Nothing could be worse than for them to know that there would be no penalty for an aggressive act somewhere in the world. They should know there would be a penalty but have no certain knowledge about what it may be. That may not prevent them from moving, but they are likely to consider the risks before they act.

Q. How important, in your view, are arms-control negotiations in U.S. strategy to contain Soviet power?

A. The Joint Chiefs have been supporters of arms control. I wouldn't want to have arms control for arms-control sake, where Washington strives to achieve some treaty regardless of its merits. But truly equitable and verifiable arms-control measures can add to our security.

The best way to achieve these agreements is to convince the Soviets that a continued arms buildup is not in their best interest—that they won't obtain an advantage and that it will be a terrible strain on their economy. We're more likely to have a successful arms-control negotiation if they see we are prepared to match their efforts rather than if we exercise unilateral restraints with or without arms control. The latter, unfortunately, has been our tendency for the last 20 years.

Q. What lies at the root of the current strains between the U.S. and its allies.

A. Partly, it's a difference of opinion over détente. The Europeans believe that they go a lot out of détente—growing trade with the Soviet bloc, a lessening of war tensions on the Continent, greater social contacts between East and West Germany. We saw very little—if any—benefit. We saw the Soviet Union, despite détente, continue its massive military buildup and engineer Marxist military takeovers in Angola and Ethiopia and outright invasion of Afghanistan.

Between the U.S. and Western Europe, there are different interests. What we ought to do is try to minimize those differences. However, neither side should make every disagreement a litmus test on the fate of the alliance and claim, just because we can't agree on every issue, that the North Atlantic Treaty Organization is coming apart.

Q. How significant is the demand that is surfacing again to pull American troops out of Europe?

A. There's an isolationist streak in this country that says, "Let's bring our troops home." That would be catastrophic for the United Staes because our troops are there primarily to defend the U.S.; however, our security is inextricably linked. The best we can do is consult thoroughly with our allies, keep pushing them to undertake a greater military effort, continue to remind them of the Soviet threat and try to minimize our differences. But we must recognize that we will never eliminate all differences and that picking up our marbles and going home clearly would not be in our best interest.

Q. Does the growing feeling in this country that Pentagon spending is out of control endanger the big military buildup?

A. Our consensus for increased military spending is fragile. There are lots of arguments lined up against it—that it will harm the economy, that our allies are not doing enough to share the defense burden, that major cuts can be made because of waste, fraud and mismanagement, that our nuclear modernization program is destabilizing and unnecessary and that we are "crying wolf" and exaggerating the Soviet threat. We have good answers to each of these allegations.

But I am concerned. I don't think the consensus for building a stronger U.S. military position is broken. However, it's much harder this year to get the support for the budget than it was last year.

BUDGET RECONCILIATION ACT

Mr. BURDICK. Mr. President, I voted against the fiscal 1983 Budget Reconciliation Act because agriculture gets short shrift again. I just do not see how we can have any faith in the future of agricultural States if we retreat further on farm policy.

We are facing the largest surplus carryover of wheat stocks ever. At the same time, the lack of clear, concise trade policies by this administration is costing us markets overseas.

The administration has not moved in any meaningful way to deal with the surpluses. And, farm income supports have been set at the minimum level permitted by the farm bill, which is not enough to allow wheat and feed grain producers to even recover their costs of production.

When the Budget Reconciliation Act was on the floor of the Senate last month, 63 Senators voted for our acreage reduction amendment—to provide a 15-percent voluntary set-aside and 10-percent paid voluntary diversion for 1983 wheat, and a 10-percent set-aside and 10-percent paid diversion for feed grains—and against the substitute contained in this Budget Act. The large vote showed clearly that the Senate finally wanted to put its own imprint on farm policy.

The amendment was not a bailout for farmers. But it could have helped halt the drift into deeper and deeper depression in the farm economy. But, in the face of pressure from the administration, House and Senate conferees on the Budget Act reduced the paid diversions to 5 percent.

It is important to point out that the House also passed a 10-percent paid diversion. Both the House and the Senate spoke clearly on this issue. But somehow, the conferees compromised the 10-percent House provision and the 10-percent Senate provision and came up with 5 percent.

It is also important to point out that by reducing the surplus and increasing market prices, as the amendment would do, Government costs would be reduced. Two studies, one by the Congressional Budget Office and one by a private consulting firm, looked at this amendment and said the increased market prices would save the Government money. By cutting the paid diversion to 5 percent, we not only prolong the depression in the farm economy, but we increase Government spending by an estimated $626 million.

The Senate Budget Committee chairman recommended earlier this summer that the USDA adopt the 10-percent paid diversion for its 1983 program. When the USDA failed to do that, the chairman voted for our amendment. Again, the amendment passed the Senate by a 2-to-1 vote, in spite of the fact that Secretary Block was standing in the hall twisting arms to get Senators to vote against it.

There are some good features in this Budget Reconciliation Act, and there are many things we could have done to cut deficits further. But, I did not vote for it because of this further retreat on farm policy.

THE DECATUR MIRACLE

Mr. PERCY. Mr. President, Americans are asking anxious questions about the future of free enterprise in our Nation. The United States has been the acknowledged leader in the development of new technologies, new resources, and new opportunities. But that status has been questioned in the face of a slumping economy, high unemployment, and increased competition from abroad.

I want to share with my colleagues in the Senate today the news of a startling and revolutionary innovation that gives me great confidence that the spirit of enterprise that made this Nation great is still at work in our land.

Imagine witnessing the moment when Henry Ford's first automobile rolled off an assembly line in Detroit; or the moment when Cyrus McCormick's combine first thrashed through a field of grain; or the moment when Thomas Edison closed a circuit to illuminate the first practical light bulb. If we had witnessed such events, we would feel like we had been a part of history that, in such a moment, changed our way of life.

I had that feeling last Saturday, August 14, as I was standing under a tent, surrounded by cornfields, on the farm of J. G. Waddell, near Latham, Ill. Latham is located near Decatur in the central part of my State.

With me at that ceremony were representatives of nations abroad, State and local officials, business leaders, reporters, farmers, and area residents, and—most important—the family and friends of a young man named Dale Edgecombe. All of them were there to join Dale in the realization of an innovative idea that may well revolutionize agriculture throughout the world.

To meet a man like Dale is to feel like one is meeting a young 20th century Ford, a McCormick, or an Edison. Dale has developed a new concept in mass food production called controlled environment agricutural systems (CEAS). This system has historic implications for changing the way mankind provides nourishment for himself.

I first met Dale when he was a high school student who led a delegation of the Future Farmers of America that visisted my office in Washington in 1971. To behold the technology he has created for food production as I did last weekend is to believe anew that American genius is still thriving. We are a nation of inventors that has nourished creativity, free thought, and individualism. Dale is a symbol of the kind of progress that will lead the United States into the future.

It is a special tribute to Dale Edgecombe's creativity that he was able to pull his project together during these troubled economic times. In the Decatur area the farm economy is in near depressionlike condition and unemployment stands at over 18 percent. I was heartened, not simply by the representatives of businesses that are sup-

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porting Dale's enterprise, but by the dozens of citizens, Dale's family and neighbors, who helped him to build this demonstration project. Many of them worked full-time jobs during the day and spent their evenings and weekends helping Dale. In fact, much of the labor that went into constructing the facility was volunteer labor. That, alone, is a great tribute to the astounding confidence people have in Dale.

I can assure my colleagues and my fellow citizens that they will be hearing a lot more about Dale Edgecombe and the concept he has created.

CEAS takes the conventional greenhouse that is designed for human harvesting and downsizes it so that the structure barely clears the plants. This design allows for a considerable saving in energy. Using robotlike tractor devices that move on rails, computerized harvesting allows for a considerable saving in labor costs. Plants are grown under solar panels in a nutrition rich watery medium instead of soil. Air purity is regulated, eliminating the need for insecticides. Waste heat can be used in the system such as the heat created by industrial boilers and manufacturing processes—a graphic example of cogeneration of energy. In short, CEAS are closed growing systems in which all factors affecting plant growth are carefully regulated to maximize rapid, healthy plant growth. Seedlings will reach maturity in weeks instead of months.

This concept can be a major step in improving world health through introducing a vitamin-rich diet of vegetables that could otherwise never be grown locally or that would be too costly to import. With me in Latham were representatives for the nations of Nigeria, Canada, Norway, Venezuela, and France. These agriculture experts already see the potential to raise better crops, year round, using this concept. Further, the distinguished industrialist, Armand Hammer, who has a devoted interest in fighting world hunger, has taken a strong interest in this project.

CEAS can mean new sources of food in nations abroad, but it can also be used to grow crops during the winter months in northern climates. Enormous savings could be realized in eliminating the costs of transportation of vegetables from southern climates. The technology could be adapted for use in city neighborhoods. Food could be grown right where the market is located and new jobs could flourish in decaying city neighborhoods.

Most important for the people of central Illinois who have invested their faith in Dale Edgecombe: His project he estimates will initially create 300 new jobs in that part of the State with an annual payroll in excess of $7 million. Eventually, employment levels and the subsequent payroll are projected to reach 10 times that amount. The jobs are good paying jobs and average up to $20,000 annually.

As one who is ceaselessly interested in finding new export markets for Illinois products, commodities, and services, I see a vast potential in this concept. As founder of the Alliance to Save Energy, I am especially pleased by the implications this concept has to conserve our precious energy resources.

In conclusion, I want to underscore a dramatic highlight of this project. Not $1 of Federal money created CEAS. This project is an outstanding example of free enterprise at its best: A solid idea that wins the support and confidence of people who cannot be defeated by pessimism; people who are seeking the new opportunities that will keep America second to none.

I ask unanimous consent, Mr. President, that a description of the CEAS concept prepared by Dale Edgecombe, president of Edgecombe Enterprises International, Inc., be printed in the Record, along with the text of the proclamation signed by James R. Thompson, Governor of Illinois, declaring "Edgecombe Enterprises International Day" in Illinois.

There being no objection, the material was ordered to be printed in the Record, as follows:

SEEDS OF THE FUTURE

Welcome to a new era in food production technology. From current state-of-the-art techniques in nutrient flow farming, Edgecombe Enterprises International, Inc., has developed a new generation concept in mass food production . . . Controlled Environment Agricultural Systems (CEAS).

CEAS are closed growing systems in which all factors affecting plant growth are carefully regulated to maximize rapid, healthy plant growth.

They are more efficient growing systems, functionally designed to reduce the need for energy, labor and land; yet, for a given area of land, to produce more food, more often than any other food growing system available today. In an environment monitored, controlled and enhanced by sophisticated computer technology, products will grow from seeding to full maturity in weeks instead of months . . . and, through the use of automation, go on to harvest with a minimum involvement of manpower.

Controlled Environment Agricultural Systems will make it possible to grow products in areas where they have never been possible before. It means growing decorative foliage in arid deserts by using the cool subsands for temperature control . . . and enjoying "fresh fruit and vegetables in December, from a system heated by "waste" air or water from a local utility or manufacturing plant.

At Edgecombe Enterprises International, we're doing more than growing food more efficiently; we're sowing the seeds of a better tomorrow.

MORE FOR LESS

Man has been growing food for countless generations . . . and in each generation, he has gained knowledge that will help him improve productivity. Today, "open field" farming is the most efficient way to feed millions. But despite increasing investments in labor-saving machinery, land and energy, productivity still remains vulnerable to "uncontrollable" factors that affect plant growth . . . light, heat, insects, disease, poor soil conditions and even the length of the growing period itself.

Traditional greenhouse or "hothouse" farming offers far greater control of environmental factors, but at a great cost in efficient production. Labor-intensive, greenhouse systems require unnecessarily large investments in land and energy just to accommodate human tending, making the system impractical for large scale food production.

The EEI Controlled Environment Agricultural System is a blend of greenhouse and open field systems and more. Soilless farming techniques, labor-saving machinery, efficient land use, co-generation waste heat, plus the control of environment from greenhouse systems, combine to create a food production system of unparalleled productivity.

TOTAL ENVIRONMENTAL CONTROL

Because CEAS are constructed to provide plant growing area alone, they require up to 90 percent less growing volume and heating energy than traditional greenhouse systems.

The base structure is tailored to maximum plant height, serves as a buffer against the outside environment and a basin for the free-flowing water which heats/cools the system to optimum growing temperature. Baffles also make the system ideal for isolating plant populations for controlled genetic research.

CEAS can be adapted to tap diverse water sources, such as wells, geothermal springs, lakes, industrial "waste" water and oceans . . . and, depending on availability, to recycle water back into the system or discharge it into the natural ecosystem.

Hinged panels covering the base protect the system against outside factors such as inclement weather and also complete the containment of ideal growing conditions.

(1) Light Control . . . Growers can regulate the amount or intensity of light. Conversely, optional artificial lights can add light to extend the growing period to 24 hours a day.

(2) CO_2 Control . . . CO_2 levels in the growing atmosphere can be greatly enhanced through the use of CO_2-laden "waste" air from industrial plants and sparger lines located in the heating/cooling water. Sparget lines can increase CO_2 concentrations up to 100 percent for specified periods. Research has indicated that you can control insects by pumping the system with high levels of CO_2 for short periods of time.

(3) Air Temperature/Humidity Control . . . Exhaust fans complete the job of environmental control by removing excess humidity, heat and oxygen created by plant growth. System air is recirculated through dessicants and heated/cooled before its return to the growing tanks.

(4) Nutrient Control . . . The root systems of plants in the growing trays are supplied with a constant flow of liquid nutrients via nutrient trays. The nutrient solution is maintained at a constant termperature and pH balanced to insure maximum growth.

AUTOMATED EFFICIENCY

Just as they provide complete control over all plant growth factors, CEAS also provide one of the most labor efficient growing systems in the world.

Each growing system is constantly monitored to provide current information on growing conditions. When required, sophisticated computer software programs will automatically adjust levels of heat, light, humidity and CO_2 to provide the exact balance required for maximum productivity.

Planting and harvesting, the two most labor-intensive parts of the growing process, have been automated through the development of a unique tractor system which works outside the growing environment itself. This tractor enables one operator to plant and harvest the growing system without disturbing the growing environment. Lateral rail systems enable the tractor to move sideways; one operator and tractor can plant and harvest systems concurrently minimizing equipment and labor investments. Acreage per unit is a factor of the respective crops growing cycle.

From a closed cab, the operator can move over the growing tanks on rails embedded in the base. Sensing devices in the tractor signal when the operator is correctly positioned over a growing tank. In position, the operator can open each set of panels into the tractor, creating a seal which traps the growing environment within the system and the loading bay. Vacuum operated hoists lift trays into the loading bay and on to a storage area; when the tank has been unloaded, the doors swing back into position and the tractor moves on to the next tank.

When the storage area is full, the tractor moves back to the processing building, where it seals against the building to form an air lock. Storage area doors open to unload full trays and load newly planted growing trays.

By centralizing seeding and processing in an on-site building, CEAS can reduce per unit picking, handling and processing costs. And, in areas where food is largely imported, CEAS can also drastically cut retail prices by reducing transportation costs to a minimum.

TECHNICAL ASSISTANCE

Edgecombe Enterprises International, Inc., is the guiding force in an international consortium dedicated to the development of better food production systems. Each consortium partner is a recognized and respected member in a given field; in the aggregate, they represent a full spectrum of assistance in the conceptualization, design, financing, construction, coordination and managment of each individual Controlled Environment Agricultural System.

Their expertise assists EEI in offering the world a superior food production system that can grow any food product in any climate of the world more quickly than ever before . . . and by doing so, helping EEI sow the seeds of a better tomorrow.

PROCLAMATION

Whereas, the Governor's Economic Development Advisory Board, the Illinois Special Events Commission and the Illinois Department of Commerce and Community Affairs are officially recognizing Edgecombe Enterprises International Day on August 14, 1982; and

Whereas, this company's recent development of controlled environment agricultural systems, coupled with computer science and agricultural economics, have produced advances in automation of hydroponics as well as in automated marine life production systems; and

Whereas, the results of these achievements are the improvement of food production and the nutritional welfare of all people not only in Illinois but throughout the world; and

Whereas, such efforts are consistent with Illinois, Inc., the program of cooperative public and private sector activities that improve the quality of life for every Illinois citizen;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim August 14, 1982, as Edgecombe Enterprises International Day in Illinois, to further encourage Illinois companies to research and develop new ideas, techniques and products.

ECONOMIC CRISIS IN MEXICO

Mr. KENNEDY. Mr. President, I would like to draw the attention of my colleagues to the increasingly difficult economic situation facing Mexico, a friend and neighbor whose importance we must never underestimate.

External events have hit hard the recent efforts of the Government of Mexico to harness its oil and gas reserves through a diversified economic development program intended to raise overall living standards for its people.

The current glut in world oil markets has placed severe strains on the still fragile Mexican economy. Observers fear that revenues may drop to $12 billion in 1982, less than half of the previously projected sum of $27 billion. As with other countries in Latin America, economic growth has plummeted to virtually zero, in Mexico's case from a high of nearly 8 percent per annum.

Austerity measures were adopted and the peso was devalued earlier this year to respond to the economic crisis. Those measures, however, were undermined by an inflationary spiral which soared to 60 percent. Unemployment and underemployment are approaching 50 percent, and social programs are hard pressed to match the rising level of need, particularly at a time of fiscal cutbacks. Mexico's total foreign debt now exceed $80 billion—the highest in the developing world—and its debt repayments could amount to a staggering $18 billion in this year alone.

Within the last few weeks, the economic problems have come to a head. In the face of huge debt payments and a continuing slackness in exports, the Government announced on August 5 a system of multiple exchange rates, with the floating rate reaching 90 pesos per dollar. The foreign exchange market was closed and stringent capital controls were instituted to prevent capital flight.

Over the past weekend, Mexico received $2 billion from the United States—$1 billion in advance payments for oil and $1 billion in grain import credits. Finance Minister Jesus Silva Herzog announced that the Mexican Government would seek to restructure its debt with commercial banks and to conclude an early credit agreement with the International Monetary Fund.

The economic health of Mexico is vital to the United States, for two reasons. First, Mexico has long been an important friend of the United States, not only in this hemisphere but on a wide range of issues. It is the third largest trading partner of the United States—after Canada and Japan. Mexico plays an essential role in international economic affairs, including its important contribution to the energy security of the hemisphere, its support for just and peaceful solutions to the crisis we face in Central America, and its leadership in efforts to forge a meaningful north-south economic dialog. Mexico's economic health and progress is a major factor in that country's ability to make a positive contribution internationally, and to pursue social and economic progress at home.

Second, the issue of Mexican immigration into the United States is a familiar one here in the Senate. There can be no question that the economic crisis in Mexico will put even greater pressure on our border, as the unemployed come in search of food and work to the United States. The solution to these problems lies fundamentally not in immigration controls, but in reducing the economic pressures which drive Mexicans and other foreign workers to the United States.

We cannot underestimate the great problems that we face in the United States as a result of the administration's failed economic policies. At the same time, I urge the Senate to recognize that those policies—high interest rates and our own recession—exacerbate sharply the economic crisis in Mexico and other friends and allies of the United States. It is time to address at the highest levels of government ways in which we can cooperate with Mexico in taking actions to ease its present economic difficulties.

First, I support the short-term economic measures taken by our two governments to deal with this crisis. We should continue to do all we can to overcome the credit and currency emergency that we face.

Second, I join in urging the International Monetary Fund to respond quickly and effectively in helping to put the Mexican economy back on a sure footing, and making it possible to resume both equitable and substantial economic growth.

Third, I believe that our two governments should jointly seek to develop long-term solutions to the economic problems we both face. A high priority must be to resolve the trade and immigration issues between us.

In pursuing these matters, we must begin with the fundamental recognition that our bilateral relationship is of the highest priority; the attention

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we give and the diplomats we assign must convey a recognition of that importance. We must recognize that the future of the American and Mexican peoples is increasingly intertwined. Our Nation has a deep interest in the restoration of the Mexican economy, in the well-being of the Mexican people, and the broadest possible range of cooperation between our two governments. The present crisis offers us a major opportunity to act on that interest, and we should not let this opportunity pass us by.

Mr. President, earlier this week the Senate adopted a bill that will have extraordinary implications on our Nation's immigration policies, especially as they relate to Mexico. The bill was promoted as a way of gaining control over illegal migration to the United States. I opposed that bill because I did not feel it constituted a fair or adequate course of action.

As I pointed out during our recent debate, the only real way to gain control over these migration pressures—particularly from Mexico—is if we join with Mexico in cooperative efforts to deal with the root cause of the problem, which is the state of Mexico's economy and its population growth.

If we are really interested in dealing with migration from Mexico, we should be pursuing true economic cooperation between our two nations—not circulating memorandums within the Department of State on how we can take advantage of Mexico's economic plight.

We must look to the longer term implications of Mexico's current economic problems for our bilateral relationship—a relationship that involves a range of political, economic, migration, and cultural issues. By looking only to the short term, as this administration has done—and as the Senate did this week in moving on an immigration bill without full regard for its implications for Mexico—is to mortgage our ability to address the fundamental bilateral problems affecting our two nations in the years to come.

PRODUCTIVITY—AMERICA'S MOST IMPORTANT ISSUE

Mr. PERCY. Mr. President, productivity is acknowledged by nearly everyone in this Chamber as the top economic problem facing us. So many of our other economic symptoms—inflation, unemployment and to a great extent, even high interest rates—can be traced to a slowdown in our productivity.

A number of organizations have appeared in recent years, addressing themselves totally to understand the productivity dilemma and recommend to government, business, and labor ways to improve that productivity performance. One of the most active of these organizations is Productivity, Inc., a small company in Connecticut which publishes a monthly newsletter that bears the same name. An increasingly important part of the American business world is the periodic productivity conferences this company holds around the country. It is an invaluable way for businessmen, labor, and Government officials to discuss their common interests in productivity and begin to take the reins into their hands.

Surely the productivity-enhancing tax cuts we passed last year will contribute to an improvement in productivity in the United States. But the major effort must reside daily in all businesses across the country. Tax policy alone cannot do it. It is a part, but the major thrust will come in ways the private sector can undertake only by itself.

These conferences, produced by Norman Bodek, president of Productivity, Inc., are excellent forums to examine the tools that have been so helpful in some companies. I was very pleased to have had an opportunity to speak to the most recent Productivity Conference which was held in Chicago from June 2 to 4.

Mr. President, I ask unanimous consent that my remarks delivered in Chicago on June 3 be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Productivity—America's Most Important Issue

(Address by Senator Charles H. Percy)

ACKNOWLEDGMENTS

It is a pleasure to be here with so many business executives today. Before I begin my remarks, I would like to thank Norman Bodek, the sponsor of this conference and the publisher of PRODUCTIVITY newsletter. In a few short years, Mr. Bodek has created his own publishing business and moved to fill a gap in our communications network. He has in this initiative not only brought fourth a great resource in his newsletter, but also launched a new business in its own right. I congratulate him on these achievements and I think we all owe him our gratitude for bringing to the Midwest this excellent opportunity for an in-depth look at one of the most fundamental concerns for our economic future.

I noticed that my good friend Leon Skan preceded me on the dais this afternoon. No discussion of productivity in Chicago would be complete without reference to Leon Skan, who has been a knowledegable advisor on this subject for many years. He was instrumental in founding the American Productivity Management Association in the Chicago area seven years ago. The Association encourages productivity enhancement in both the private and public sectors. Through exchange of ideas and business methods, the Association is able to provide a tremendous service to its many business members. I am pleased that Leon is a participant in your program and know that he has much to offer.

Illinois—appropriate place for conference

In recent years, similar conferences sponsored by PRODUCTIVITY have been held in New York City and Washington, D.C. I know that they have been successful in communicating productivity experiences and the sites for the conferences are logical. After all, New York is a financial and commercial center—the source of much of our capital and managerial ideas. And, on the other hand, Washington has for many years stood as the antithesis of that. Taxes have been a drain on much of our investment capital and regulation has demanded more and more of the creative talents of business. I am pleased that Federal tax and regulatory policies have been changed to lighten these burdens and I will address them more fully in a moment. It is certainly our goal to make Washington more of a partner with business and less of an adversary.

This year, productivity selected Chicago as the site of its conference, and I congratulate you on that choice. Chicago offers yet another perspective on American business, one which might not have been emphasized in New York or Washington: namely, the critical importance to our economy of aggressively and creatively meeting the foreign economic challenge.

Meeting the foreign economic challenge

We have a business leader here today, who, as you may have noticed in today's Chicago Tribune, made what was probably the strongest statement ever made by an American bisinessman on the issue of Japan.

As a former businessman, I have always preferred to push for more open world markets as a response to the foreign economic challenge. The American market of 220 million people is very limited compared to four and one-half billion people out there who need and want our services and products. I've spent a good deal of my life leading the international division of Bell and Howell and as its Chief Executive Officer. For two decades I built up our business in other countries, and by so doing expanded our employment in this country. When I started we had 800 people; when I left we had 10,000 and eventually it reached 14,000 in the U.S. I have always believed that the ever widening market opportunities will be this country's greatest economic opportunity for the future. Only in an open system of trade will each country's strongest businesses expand rapidly and achieve economies of scale with commensurate productivity gains.

Yesterday, Bob Galvin, Chairman of the Board and Chief Executive Officer of Motorola, one of our great Chicago companies, singled out the Japanese as a major obstacle to free trade. We seem to be confronted with a trading partner that seeks to use the open trading system to its own advantage, without offering equal access to its market for foreign competition. This system of limited access to the Japanese market was permissible in the 1950s and early 1960s. When I built a factory over there, it was a time when we were helping to rebuild their economy, while taking advantage of their very low labor costs, their skills, and their hard work. But we doing that as a basis of repairing the damage of a war, and these conditions are entirely different today. Today, Japan's protectionist attitude is really threatening to undermine the entire economic system that has been forged over the last 30 years. It is time for us to come to grips with Japan's apparent unwillingness to lower its barriers enough for American investment and products.

Yesterday in Massachusetts, Bob Galvin delivered a strongly worded speech focusing on what must be our response to Japan's trade and investment policies. Now I've known Motorola a long time—30 years—it is the type of company we are talking about today. They're innovative. They're creative. They're imaginative. They're bold. They're not unwilling to try new things. Motorola has put the resources into research and development that will give it the lead into the future. It is a quality and productivity leader in its field, in this country and throughout the world. It is known for its employee participation in management. In short, it is not the type of company that is quick to complain about foreign competition. Some companies blame all their internal problems on foreign competition—Motorola has never done that. Motorola has shown that it is willing to meet that competition head on and has made the productivity-enhancing investments necessary to do so.

Bob Galvin's speech yesterday painted an economic adversary armed with tools that American business would never have at its disposal: for instance, a series of laws that sanction the establishment of cartels. They sanction them! Our laws prohibit them, theirs sanction them. The Japanese system provides for concessionary loans allowing interest and loan forgiveness, collaboration among companies to fix export prices and ostracism of companies that do not play according to those rules. Bob points out that these policies are, and I quote, "supported by the interlocking financial structure of government, banks and manufacturers whose socialized method of financing provides funds on such a low risk basis that one can hardly sense the actions of a free market."

Over and over again in his remarks, Bob Galvin makes the point that Japan is preventing the free market from operating. It is a system, he says, at variance with our own market system.

Now Japan is moving toward a lowering of its barriers and just last week proposed another round of trade barrier reductions. I lauded their drive to remove barriers, but the steps Japan has taken are so few and limited that an economy governed by market mechanisms is still not even on the horizon. Tremendous barriers still exist against American business.

Congress is now in the process of drafting the most sweeping legislation in nearly a decade and Motorola's recommendations for action will be heard loud and clear in Washington. I can think of no other state that has made a greater effort than we have in Illinois to become an export oriented state; to be able to sell our products in free markets throughout the world. My test has always been "How many do we sell in Hong Kong?"—a completely free market. That ought to be the test we all have. Certainly, we all can do a great deal more.

A couple of years ago, I wrote a letter to Prime Minister Ohira. I talked a great deal about the closed nature of the Japanese market and pointed out that they expect us—30 years after the war is over—to hold a nuclear umbrella over them and to protect their sea lanes. They don't have enough anti-tank weapons, they don't have enough antisubmarine weapons, they don't have enough mine layers—all of which is allowed for in their constitution. They spend 8/10 of 1 percent on defense. We are spending better than 6 percent. It is *we* that are protecting the sea lanes and the Persian Gulf with an $11 billion dollar investment—and who is the first beneficiary?—*Japan*. They are almost totally dependent. They would be decimated if they were cut off from Mideastern oil. Yet we are the ones spending $11 billion to protect it. I suggested to Prime Minister Ohira that they should be helping to provide development assistance to Egypt and Somalia and other areas that provide bases for our common defense. Two weeks after I sent him my letter signed by 39 of my colleagues he unfortunately suffered a heart attack, but I have pursued this with his successors.

We have made a little progress since then, but we still must forcefully indicate that fairness is something that must be adhered to. We don't want to have protected markets. We don't want to start a wave of protectionism. We don't want to erect trade barriers. We don't want to raise tariffs. That route has been traveled before as many of us can recall the disastrous Smoot-Hawley Tariff Act of the 1930s. It embodied the highest tariffs in American history and helped to push the world economy even deeper into the deepest depression we have ever experienced. There are more creative ways to deal with the economic challenge from abroad and I can think of no other state that is more in the forefront of that effort to expand our exports and make American products more competitive overseas. Illinois is one of the top exporting states in the country and stands as the number one agricultural exporting state. International trade is a way of life in this state. Not only here in Chicago, the transportation hub of the country, with the Great Lakes, O'Hare Airport—busiest in the nation—and the rail center of the country, but also throughout the state. Employment in places like Peoria, Springfield and Decatur are heavily dependent on exports. In fact, in these downstate cities, as much as a quarter of the jobs depend on export trade.

Nationwide you have heard the statistics before: one of every eight U.S. jobs is export-related; one of every three dollars of U.S. corporate profits comes from international trade or investment; one of every three acres of U.S. farmland produces for export. You are seated today in the most export-dependent city in one of the most export-dependent states in the Union. Illinoisans know that their jobs on the farm, in the factory, at the bank, at the airport depend in large part on U.S. exports. I will never rest until we can go out to O'Hare and get on a United Airlines plane and fly nonstop to Tokyo. I've been working on that one for a year now. It is just a symbol of fairness. If Japan Air Lines can land in Chicago, we must be able to land in Tokyo. They ought to be able to stand a little competition. That's just an example of what I consider to be unfair trade practices and restrictive measures that create the tremendous imbalance we have in our balance of payments.

Now what role does productivity have in all of this? Just as we must expand our exports, we must protect our markets with economic power through productivity, not with political power. Political power—tariffs, quotas—that can always be pulled out from under you, but productivity and economic power cannot be.

Productivity and international competitiveness

I mention the importance of exporting because there is no question that our efforts to rebuild our productivity will influence and be influenced to a great extent by our efforts to compete effectively overseas. Competition in the world marketplace has become increasingly fierce in the past decade and there is no sign that it will let up. To the contrary, all the signals point to even greater competition in the future. We must be prepared to meet these twin challenges of productivity growth and international competitiveness. They are linked together almost like Siamese twins and their solutions are inextricably bound together, too.

At the risk of being accused of preaching to the choir, it may be helpful to sketch the dimensions of the productivity slowdown we face.

U.S. productivity—the record

During the 1950s and first part of the 1960s, our economy enjoyed substantial annual increases in productivity growth, amounting to about 2.5 percent a year. In fact, during the business cycle that ended in 1973, we were still enjoying productivity growth in the range of 2.5 percent. Since 1973, however, productivity has not increased at the historical post-World War II rates. From 1973 right through the first half of 1981, productivity grew at a rate of only 0.7 percent a year, about one third of our earlier pace. During each business cycle, of course, productivity went up and down with the relative health of the economy, but the trend is unmistakable: productivity growth since 1973 has deteriorated. In the years 1978 through 1980, we actually recorded productivity declines. These were not the first productivity declines we had experienced, but they were the only ones that were recorded during a period of relative economic prosperity. They are of great concern to business and government leaders, for they signal an erosion of our economic base.

As a Senator I have taken steps to further the much needed communication between business and labor. I've had both a business advisory committee and a labor advisory committee—65 CEOs on one side and 26 labor union representatives on the other. The first week Governor Thompson was in office I held a meeting of combined management and labor with the theme, "What can we do to grow and expand in Illinois?" It was the first time those labor leaders really heard what was driving business out of Illinois. Our high unemployment compensation, our workmen's compensation. Too high benefits cost far too high—we just were not competitive. For the first time we began to realistically look at what creates labor union membership and what drives people out of this state. Now, we are trying to become more competitive.

Now, every time we meet in the steel caucus with the heads of the steel companies, organized labor is sitting right in that room working together with management to rebuild that industry. That's what has to happen. Labor has to be brought in a partnership to see their companies through the eyes of management. They have to realize that they have a big part in restoring America's productivity.

The present recession has only intensified our concern over productivity. During the last quarter of 1981—and the first quarter of the present recession—productivity fell by 6.9%, the largest drop in any recession since World War II. Economists expected productivity to decline in the first part of the recession, but not so steeply. The gov-

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ernment has released the preliminary data for productivity in the first quarter of this year and it is up slightly, by 0.3%. Despite this small uptick in productivity, the fundamental problems remain with us. We must search for ways to bring about a long-term resurgence in productivity.

Now that is a bleak picture if we look at these statistics. But statistics do not tell the whole story. These recent declines in productivity growth do not mean, of course, that we are no longer one of the most advanced and productive economies in the world. It simply means that we are not pushing as hard as we used to. If our productivity growth were to remain slack for years, we would eventually lose our competitive edge in the world marketplace and, in the absence of trade barriers, we would see a large influx of more efficiently-produced foreign goods and services.

Competitiveness of U.S. business

While we move ahead with plans to improve productivity performance, we need to keep one thing in mind. Namely, U.S. businesses still lead. Let me give you an example of what I mean. According to the Bureau of Labor Statistics, the level of productivity in Japan in 1960 was about 25 percent of the U.S. level. In other words, for every 100 items the U.S. worker produced 20 years ago, the Japanese worker produces only 25 in the same time, with the same resources. We are still outperforming the Japanese, but not as well. Last year, Japanese productivity was 66 percent of the U.S. level. So for every 100 units American workers produce today, Japanese counterparts produce 66 in the same time. These data show that our competition is gaining on us quickly.

There are many reasons for the decline in our productivity. Federal tax policies, excessive regulatory burdens, high labor costs, research and development expenditures and management decisions all have a major part. There is no doubt among economists that each of these played some role in the productivity slowdown.

I know from my own business experience that one of the first items cut back on by corporations in economic slumps are expenditures for research and development. This is always a short-sighted way to economize and these cutbacks have undoubtedly affected our overall productivity performance.

Although no single item is responsible for this slowdown in productivity, one conclusion can be drawn from the evidence. As productivity began its slide in 1973, inflation began its upward march. The rise in inflation and the drop in productivity led directly to the President's proposal for a concerted attack on Federal policies that contribute to them.

Federal efforts

Last year the Congress passed a tax reduction program specifically designed to increase savings and investment. The Accelerated Cost Recovery System, streamlining our antiquated depreciation system, is the core of the investment program. I have worked for modernization of the depreciation system since I came to the Senate in 1967. My years as President of Bell & Howell had convinced me of the need to redesign our tax laws to more adequately allow for new capital expenditures. Inflation only made this need more acute.

The new depreciation system is the most neutral one that Congress could devise. Rather than limiting it only to businesses with profits, the safe harbor leasing provision was added so that all companies could modernize and improve their productivity performance. Some of our key industries—like steel, autos and airlines—could have been hamstrung in their investment planning had there been no safe harbor leasing provision. Moreover, the absence of this incentive could have led to a great number of corporate takeovers and a decline in competitiveness here at home.

On the savings side, the tax bill has a number of specific provisions—like universal IRAs—to encourage less consumption and more savings. Moreover, the three-year individual tax cut will also spur savings. We have only had the smallest part of the tax cut—5% last October. The bigger cuts—10% next month and another in 1983—will be major incentives for savings. Had the government collected these revenues, we know all of it would have been spent. Instead, a great share of it will ultimately go into savings and from there into new productive investments.

In addition, the President has also put in place new research and development incentives and reduced new regulations by about half.

The Economic Recovery Program was ambitious from the start and has yet to prove itself. Enactment of this program does not, however, mean that we are automatically on our way to higher productivity.

Business efforts

The government has removed some heavy burdens and provided some new incentives, but the challenge lies—as it always has—in the private sector. Business must respond to these incentives and there is no question that job-creating investments will take time. Moreover, there is a great deal that management and labor must initiate themselves. As I look over your program at this conference, I see that the focus is properly on the role of business and labor in productivity-enhancement. The ball is now in your court and I know you will respond, as some companies are already.

Earlier this year, I asked Congress' General Accounting Office to look into private sector efforts to boost productivity. GAO has given me a preliminary report of their samplings and has found a number of promising cases. GAO zeroed in particularly on the productivity managers that are cropping up in many businesses. Certainly those of you here today are increasingly aware of this trend. The tasks of the productivity managers vary from company to company and range from technology improvement to quality of work life. GAO has been able to conclude that the companies they surveyed with productivity managers and with measurable goals for all managers to meet had a number of similarities, including: (1) a highly visible productivity manager; (2) a company-wide awareness of productivity's importance to management and employees; (3) an organization-wide productivity plan with specific goals for each manager; (4) a productivity measurement system designed specifically for that organization's needs; (5) repeated use of the productivity plan and measurements to hold employees accountable for productivity improvements; and (6) a mechanism for identifying productivity bottlenecks and their solutions.

GAO is still working on this study so it is premature to draw final conclusions at this time. A central theme of their report, however, has developed around the motivation of firms that have adopted productivity managers.

GAO found that the surveyed companies were led to this system not out of academic interests in productivity. Rather, they were confronted with international competition that prevented them from continually raising prices or increasing volume as they had in the past. Because of foreign competition, the surveyed companies looked inward for a change and found that they could reduce production costs and improve their productivity. It is no surprise that the companies questioned by GAO are among the leaders in their field. Most of the companies are older businesses that have made transitions before and are in the process of doing so again. This time, they are preparing for expanded world trade by taking a hard look at their productivity record and acting when the improvements become clear. Many of you have adopted such programs.

What underlies the GAO evidence is the fact that successful productivity management programs emphasize communication between management and workers. The highly-visible productivity manager, the well-publicized productivity plan and even the measurement system are all expressions of corporate communication.

An old friend of mine and expert on management has stressed this same theme recently and I am struck by the similarity of his findings and those of GAO.

Larry Appley in now Chairman Emeritus of the American Management Associations. The AMA is the group that I worked with in 1958 in sponsoring the Economic Mobilization Conference to pull us out of the recession. President Eisenhower was our featured speaker and he told me later that he viewed that conference as contributing significantly to the end of the recovery, which commenced the very next month. So Larry Appley's business experience goes back a long way.

I think you will be interested in his findings that excellence in productivity hinges in a large part on the ability of managers to communicate with their workers. In fact, AMA has even launched a "Communicating for Productivity Program" to focus management's attention on communicating for productivity.

The AMA productivity program is based on a belief that managers have not been trained extensively on what to communicate or how to communicate. Larry Appley says that in his opinion, this is the reason for the "pitiful productivity record of this nation."

Larry Appley goes on to point out that productivity problems can be related to a lack of skill in clarifying productivity subject matter between supervisors and workers or between managers and other managers for whom they work. Larry says, the productivity subject matter is: "the work to be done; how well it should be done; how well it is being done; and how it can be done better."

Frank Considine, President and Chief Executive Officer of National Can Corp. in Chicago has fully used this program, starting with top officer groups, including himself, and he fully endorses the program.

I cite Larry Appley's efforts to boost productivity because it reaffirms the statistical report of GAO and because it seems to be a workable way to increase this country's productivity.

These are important accomplishments on the part of the business community and they are central to a productivity revival. The government's tax cuts and regulatory relief are only part of the answer to declining productivity. The present recession may obscure some of the efforts companies are making to get ready for a recovery that will ultimately arrive.

When our domestic economy does begin to recover, there is going to be a certain amount of pent-up demand that will look for the best goods at the lowest prices. The companies that will win in that market will be those that have streamlined their operations and improved productivity. This is the way—the American way—to prepare for stiff competition from Japan and Europe. Economists are now predicting that by the late 1980s and 1990s, the United States will be keeping pace with its foreign competitors and possibly even outstripping them in markets around the world. The U.S. and Japan, these economists say, will pull even.

CONCLUSION

That is almost a dream today, as we continually seem to try and catch up with Japan. It is a goal, however, that we can meet, if we put the effort behind productivity improvement. This route will put us on the track for another round in expanding world markets and prosperity. Productivity enhancement is the response to foreign competition that does not require import barriers and trade restrictions. Productivity growth is, in short, an important weapon in our arsenal of expanding and competing effectively in world trade. It is essential that we raise our productivity back up to the levels we knew only a decade ago. This is the challenge that has been given to you as business executives. It is the challenge that has been given to our nation as well.

MESSAGES FROM THE HOUSE

At 11:33 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 57, 59, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 2, 6, 17, 24, 41, 42, 43, 45, 58, 60, 62, 63, 64, 65, 66, 69, 84, 86, 91, 97, 98, 112, 117, 119, 132, 138, 149, 161, 172, 177, 180, 182, and 183, and agrees thereto, each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendments of the Senate numbered 115 and 150.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 167. An act for the relief of Juan Esteban Ramirez; and

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

The enrolled bills were subsequently signed by the Vice President.

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2577. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1983, and for other purposes.

The message further announced that the House disagree to the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOWARD, Mr. ANDERSON, Mr. RODINO, Mr. CLAUSEN, and Mr. SHUSTER, be the managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which requests the concurrence of the Senate:

H.R. 2193. An act for the relief of Berendina Antonia Maria van Kleeff;

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 6324. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes; and

H.R. 6811. An act for the relief of Alejo White and Sonia White.

At 6:43 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H.R. 398. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961; and

H.R. 399. Concurrent resolution providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20, or August 21 to September 8, 1982.

At 7:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3126) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1526) to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 6350) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

At 9:30 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6409) to provide for the participation of the

United States in the 1984 Louisiana World Exposition to be held in New Orleans, La. and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2193. An act for the relief of Berendina Antonia Maria van Kleeff; to the Committee on the Judiciary.

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf; to the Committee on the Judiciary.

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes; to the Committee on the Judiciary.

H.R. 6811. An act for the relief of Alejo White and Sonia White; to the Committee on the Judiciary.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6324. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes;

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read; and referred to the Committee on Foreign Relations:

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4096. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a request for an extension of the statutory time in Docket No. 38805, Railroad Cost Recovery Increase on Recyclables (other than iron and steel); to the Committee on Commerce, Science, and Transportation.

EC-4097. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for March 1982; to the Committee on Commerce, Science, and Transportation.

EC-4098. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, an application for refund of an excess royalty payment by the Koch Exploration Company; to the Committee on Energy and Natural Resources.

EC-4099. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on rental charges for noncompetitive oil and gas leases, dated August 1982; to the Committee on Energy and Natural Resources.

EC-4100. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, proposed lease prospectus amendments; to the Committee on Environment and Public Works.

EC-4101. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1981 annual report on advisory committees under section 1114(f) of the Social Security Act; to the Committee on Finance.

EC-4102. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 11, 1982; to the Committee on Foreign Relations.

EC-4103. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of the report entitled "Projected Annual District of Columbia Obligations as of June 1982"; to the Committee on Governmental Affairs.

EC-4104. A communication from the Chairman and the Supervising Commissioner of the Federal Communications Commission, transmitting, pursuant to law, a report summarizing actions taken in the Commission's proceeding to revise its Uniform System of Accounts; to the Committee on Governmental Affairs.

EC-4105. A communication from the Chairman of the National Arthritis Advisory Board, transmitting, pursuant to law, a report covering the activities of the Board with specific reference to the implementation of the Arthritis Plan; to the Committee on Labor and Human Resources.

EC-4106. A communication from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the Act of September 30, 1950 (P.L. 874, Eighty-first Congress) and P.L. 93-380, and for other purposes; to the Committee on Labor and Human Resources.

EC-4107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the administration of sections 304-309 of the Public Health Service Act for fiscal year 1981; to the Committee on Labor and Human Resources.

EC-4108. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the status of vocational education in fiscal year 1981; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute, an amendment to the preamble; and an amendment to the title:

S. Res. 367. A resolution expressing the sense of the Senate with respect to recognition of the Red Shield of David of the Magen David Adom by the International Committee on the Red Cross.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2420. A bill to protect victims of crime (Rept. No. 97-532).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 448. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409.

By Mr. DURENBERGER, from the Committee on Governmental Affairs, without amendment:

S. Res. 452. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329; referred to the Committee on the Budget.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 956. A bill to amend the Reclamation Safety of Dams Act of 1978 to authorize additional appropriations, and for other purposes (Rept. No. 97-533).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 2436. A bill to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes (Rept. No. 97-534).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Harry W. Wellford, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Everett Alvarez, Jr., of Maryland to be Deputy Administrator of Veterans' Affairs.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

James L. Buckley, of Connecticut, to be Counselor of the Department of State.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1984.

By Mr. ROTH, from the Committee on Governmental Affairs:

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board for a term expiring March 1, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 2856. A bill to amend the Sexual Exploitation of Children Act of 1977; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for himself, Mr. Huddleston, Mr. Ford, Mr. Randolph, Mr. Bradley, and Mr. Heinz):

S. 2857. A bill to establish a Customs Revenue Sharing Trust Fund for public works projects for the development and maintenance of the Nation's ports; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. Chafee, and Mr. Moynihan):

S. 2858. A bill to amend the tariff schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States; to the Committee on Finance.

By Mr. DANFORTH:

S. 2859. A bill to amend the tariff schedules of the United States to correct an anomaly in the rate of duty applicable to textile fabrics, articles and materials coated, filled or laminated with rubber or plastics; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. Chafee):

S. 2860. A bill to eliminate the retroactive application of certain provisions of Public Law 96-364; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. Eagleton, Mr. Boschwitz, Mr. Burdick, Mr. Dixon, Mr. Durenberger, Mr. Grassley, Mr. Huddleston, Mr. Jepsen, Mr. Johnston, Mr. Kasten, and Mr. Percy):

S. 2861. A bill to authorize the construction of a lock on the Mississippi River in the vicinity of Alton, Illinois and Missouri, and to authorize appropriations to carry out certain programs for the Upper Mississippi River System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 2862. A bill for the relief of Joseph E. Saleeby; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 2863. A bill to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. Quayle):

S. 2864. A bill to provide for a two-year Federal budget cycle, and for other purposes; read twice and held at the desk by unanimous consent.

By Mr. BIDEN:

S. 2865. A bill to reinstate the provisions relating to parental involvement in chapter 1 of the Education Consolidation and Improvement Act of 1981 relating to financial assistance to meet special educational needs of disadvantaged children; to the Committee on Labor and Human Resources.

By Mr. HELMS (for himself and Mr. East):

S. 2866. A bill to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within Cape Hatteras National Seashore Recreational Area; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. Stafford, Mr. Baucus, Mr. Gorton, Mr. Heinz, Mr. Mitchell, Mr. Pell, and Mr. Tsongas):

S. 2867. A bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; to the Committee on Evironment and Public Works.

By Mr. HATCH:

S. 2868. A bill to amend the Federal Food, Drug, and Cosmetic Act and related statutes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER (for himself, Mr. Abdnor, Mr. Baucus, Mr. Burdick, Mr. Cochran, Mr. Cranston, Mr. Danforth, Mr. Dole, Mr. Ford, Mr. Hatch, Mr. Hayakawa, Mr. Heinz, Mr. Hollings, Mr. Jackson, Mrs. Kassebaum, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Mathias, Mr. McClure, Mr. Metzenbaum, Mr. Murkowski, Mr. Packwood, Mr. Quayle, Mr. Sarbanes, Mr. Weicker, Mr. Zorinsky, Mr. Gorton, Mr. Proxmire, Mr. Chafee, Mr. D'Amato, Mr. Robert C. Byrd, and Mr. Kennedy):

S. J. Res. 233. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; considered and passed.

By Mr. GOLDWATER (for himself, Mr. Abdnor, Mr. Armstrong, Mr. Boren, Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Cochran, Mr. D'Amato, Mr. DeConcini, Mr. Denton, Mr. Dole, Mr. East, Mr. Ford, Mr. Garn, Mr. Grassley, Mr. Hatch, Mr. Helms, Mr. Hollings, Mr. Johnston, Mr. Kasten, Mr. Laxalt, Mr. Lugar, Mr. Mattingly, Mr. McClure, Mr. Melcher, Mr. Murkowski, Mr. Nunn, Mr. Randolph, Mr. Sasser, Mr. Schmitt, Mr. Stafford, Mr. Stevens, Mr. Symms, Mr. Thurmond, Mr. Tower, Mr. Wallop, and Mr. Warner):

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. Huddleston, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Boschwitz, Mr. Bradley, Mr. Bumpers, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Chiles, Mr. Cochran, Mr. Dixon, Mr. Dole, Mr. Eagleton, Mr. Exon, Mr. Ford, Mr. Hatch, Mr. Hatfield, Mrs. Hawkins, Mr. Hayakawa, Mr. Heflin, Mr. Heinz, Mr. Hollings, Mr. Inouye, Mr. Jepsen, Mr. Johnston, Mr. Kasten, Mr. Laxalt, Mr. Leahy, Mr. Long, Mr. Lugar, Mr. McClure, Mr. Mattingly, Mr. Melcher, Mr. Murkowski, Mr. Nickles, Mr. Nunn, Mr. Pressler, Mr. Pryor, Mr. Riegle, Mr. Sarbanes, Mr. Sasser, Mr. Schmitt, Mr. Stevens, Mr. Symms, Mr. Tower, Mr. Wallop, and Mr. Zorinsky):

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on the Judiciary.

By Mr. McCLURE:

S.J. Res. 236. A joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURENBERGER, from the Committee on Governmental Affairs:

S. Res. 452. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329; to the Committee on the Budget.

By Mr. NUNN (for himself, Mr. Moynihan, Mr. Hollings, Mr. Boren, Mr. Huddleston, Mr. Sasser, Mr. Jackson, Mr. Levin, Mr. Cochran, Mr. Randolph, Mr. Pell, Mr. Zorinsky, Mr. East, Mr. Hatfield, Mr. Hayakawa, Mr. Durenberger, Mr. Goldwater, Mr. Helms, Mr. D'Amato, Mr. Abdnor, Mr. Kasten, Mr. Thurmond, Mr. Tower, and Mr. Chiles.

S. Res. 453. Resolution designating the week of October 3 through October 9, 1982, as "National Productivity Improvement Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2856. A bill to amend the Sexual Exploitation of Children Act of 1977; to the Committee on the Judiciary.

(The remarks of Mr. Specter on this legislation appear earlier in today's Record.)

By Mr. ROBERT C. BYRD (for himself, Mr. Huddleston, Mr. Ford, Mr. Randoph, Mr. Bradley, and Mr. Heinz):

S. 2857. A bill to establish a Customs Revenue Sharing Trust Fund for public works projects for the development and maintenance of the Nation's ports; to the Committee on Finance.

(The remarks of Mr. Robert C. Byrd on this legislation appear earlier in today's Record.)

By Mr. DANFORTH (for himself, Mr. Chafee, and Mr. Moynihan):

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S. 2858. A bill to amend the tariff schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States; to the Committee on Finance.

REVITALIZATION OF WATCH ASSEMBLY INDUSTRY IN THE INSULAR POSSESSIONS

Mr. DANFORTH. Mr. President, I am today introducing legislation for the administration which would revitalize the watch assembly industry in the insular possessions of the United States by: Eliminating the existing foreign content limitations on watches assembled in the possessions, thus providing needed pricing flexibility to the industry; and providing for an additional incentive, based on actual wage payments in the possessions, to encourage quartz analog production in the territories.

The bill would also authorize the Departments of Commerce and the Interior to adjust the annual size of the benefits and require them to publish regulations designed to prevent pass-through operations.

The cost of the bill in 1983 is estimated to be approximately $1.5 to $1.8 million in lost revenues. About 500 jobs are expected to be maintained or restored in 1983, with the potential for additional employment in subsequent years. Without the bill, the entire industry in the Virgin Islands will be forced to shut down operations during 1983. The industry's demise would be a severe blow to the territorial economies particularly in the Virgin Islands, where the watch industry once provided almost one-fourth of all manufacturing sector employment. The bill will also indirectly benefit some domestic manufacturers of watch cases and bracelets having a traditional supply relationship with the insular watch industry.

Mr. CHAFEE. Mr. President, I am attaching my name as cosponsor to the bill introduced by my esteemed colleague from Missouri, Senator DANFORTH. This bill will not only revitalize an industry which is crucial to the Virgin Islands' economy, it will also benefit my constituents in Rhode Island.

The United States, which has been a leader in timekeeping technology since the turn of the century, no longer enjoys the employment fruit of its innovative genius. Very few jobs remain within the continental United States in the manufacture of watch movements and parts. Japan, Hong Kong, Switzerland, and the Soviet Union now dominate the world horological industry, even in the industry's electronic sector in which the U.S. semiconductor industry held a commanding technological advantage a short 5 years ago. The overseas flight of this technological edge and the virtual demise of the U.S. watchmaking industry have, of course, been a severe blow to U.S. manufacturers of watch cases, bracelets, dials, and hands. Accordingly, the relationship of these U.S. supplies with Virgin Islands watch assemblers has assumed greater importance for their long-term survivability.

Bulova's Providence, R.I., Case Manufacturing Division, as well as its Watch Casing Division in New York City, will benefit from enactment of this bill. These two sites alone employ about 750 people. If Bulova is forced to close its Virgin Islands facility, it will have little choice but to divert at least some of this production activity abroad. If the entire Virgin Islands industry closes down, there will be similar impact throughout the domestic watch-peripheral manufacturing industry. This industry now provides employment in Pennsylvania, Puerto Rico, and other locations in addition to Bulova's sites in Rhode Island and New York.

Mr. President, my colleagues and I are acutely aware of the need to assist regional economic development in the Caribbean. By enacting this bill, we will not only be responding to the development needs of our own citizens in the Caribbean but at the same time will be acting to prevent additional unemployment in the States we represent.

By Mr. DANFORTH:

S. 2859. A bill to amend the Tariff Schedules of the United States to correct an anomaly in the rate of duty applicable to textile, fabrics, articles, and materials coated, filled, or laminated with rubber or plastics; to the Committee on Finance.

DUTY APPLICABLE TO CERTAIN LAMINATED OBJECTS

Mr. DANFORTH. Mr. President. I am introducing today a bill intended to correct an anomaly in the rate of duty applicable to textile fabrics, articles, and materials coated, filled, or laminated with rubber or plastics.

The problem this legislation would correct results from two recent customs court cases which have overturned the intent of Congress and have the potential for damaging the American textiles and coatings industries and for causing significant losses of customs duties. Since the current Tariff Schedules of the United States were enacted in 1962, fabric coated with plastic materials has been classified in Tariff Schedule 3, the schedule pertaining to fiber, fabric and apparel. Recently, however, the customs court, in *U.S.* against *Canadian Vinyl Industries* and *U.S.* against *Elbe Products Corp.*, ruled that such products should be classified in schedule 7, which covers plastic materials. The U.S. Treasury strenuously, but unsuccessfully, opposed such a ruling.

When classified in schedule 3, these coated fabrics were subject to duties as high as 13 percent ad valorem plus 10 cents a pound. They also were subject to the provisions of the multifiber arrangement and any bilateral agreements negotiated under it. As a result of the court decisions, these fabrics now are subject to duties ranging between 3.7 percent and 5.3 percent and are not subject to the multifiber agreement. However, as classified in schedule 7, these products are eligible for the generalized system of preferences and subject to zero duty.

Coated fabrics are an important segment of the domestic textile industry, which already is beleaguered by imports. Coated fabrics include such products as tarpaulins, sports equipment, pollution and erosion control fabrics and safety equipment. Their domestic markets amount to about 460 million square yards a year. At an estimated value of $3 a yard, this market is worth more than $1.3 billion.

The attached bill would make certain that these coated fabrics would be classified as textiles, as Congress intended.

By Mr. DANFORTH (for himself and Mr. CHAFEE):

S. 2860. A bill to eliminate the retroactive application of certain provisions of Public Law 96-364; to the Committee on Finance.

WITHDRAWAL LIABILITY ON MULTIEMPLOYER PENSION PLANS

Mr. DANFORTH. Mr. President, today Senator CHAFEE and I are introducing legislation to rectify an unfortunate situation which has unexpectedly arisen as a result of an effective date provision in the Multi-Employer Pension Plan Amendments Act of 1980.

Provisions of that act, among other things, impose a withdrawal liability on employers who withdraw from multiemployer plans. This legislation, which was clearly well-intentioned, was enacted to protect the beneficiaries of multiemployer plans which were on shaky ground. To discourage employers from pulling out of these plans, the act imposes rather stiff penalties on those who do. The penalty is based on a share of the future benefits to which the participants of the multiemployer plan are entitled.

In the nearly 2 years since this law was enacted, it has become apparent that there are problems with its provisions. Labor leaders, business leaders, and pension fund administrators agree on that point. Senator HATCH has introduced legislation to revamp the act. The bill we are introducing today does not conflict with Senator HATCH's bill, nor is it intended to supersede it.

This bill deals with a very specific problem. Mr. President, this is an extremely urgent problem, and failure to address this issue could result in the bankruptcy of a number of companies around the country, which would be disastrous not only for those companies, but for their employees and the very pension plans the 1980 act is intended to protect.

The provisions of the 1980 act were generally effective on the date of enactment, September 26, 1980. However, the withdrawal liability provisions were made effective retroactively to withdrawals which occurred after April 29, 1980, nearly 5 months prior to date of enactment. As a result, a number of companies who were forced to withdraw from multiemployer plans prior to the date of enactment were caught up in the net of this penalty.

Let me give you an example. A trucking company in my State of Missouri was forced, by economic conditions, to liquidate a subsidiary, which was also in the trucking business, in August 1980. Six months later, the company was notified by the Central States Pension Fund that it owed almost $17 million in withdrawal liability to the fund, under the 1980 act. This amount was nearly three times the total assets of the company before liquidation, and more than the company's total earnings in its 35 years of existence.

This resulted solely because of the retroactive effective date of this particular provision. Our bill would simply provide that those provisions of the Multi-Employer Pension Plan Amendments Act of 1980 which had a retroactive effective date will be effective on September 26, 1980, the date of enactment of that act, thereby eliminating any liability for withdrawals which occurred before that date.

Mr. President, this bill is supported by the Teamsters Union and the administrator of the Central States Pension Fund. The Labor Department is studying the bill. It would have no revenue effect. I hope my colleagues will agree with us that this is an important revision to the 1980 act, and pass this into law.

I ask unanimous consent that the text of the bill be printed in full in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) any withdrawal liability incurred by an employer pursuant to part I of subtitle E of title IV of Public Law 93-406, or section 108 of Public Law 96-364, as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980, shall be void.

(2) Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer, less a reasonable amount for administrative expenses incurred by the plan sponsor in calculating, assessing, and refunding such amounts.

(b)(1)(A) Sections 4211 (b) and (c), 4217(a), and 4235(a) of Public Law 93-406 are amended by striking out "April 28, 1980" each place it appears and inserting in lieu thereof "September 25, 1980".

(B) Sections 4211 (b) and (c), 4217 (a), 4219(c)(1)(C) (iii), and 4402(e) of such Act are amended by striking out "April 29, 1980" each place it appears and inserting in lieu thereof "September 26, 1985".

(C) Section 4402(f)(1)(B) of such Act is amended by striking out "April 29, 1985" and inserting in lieu thereof "September 26, 1980".

(2)(A) Paragraph (4) of Section 108(c) of Public Law 96-364 is repealed.

(B) Section 108(d) of such Act is amended—

(i) by striking out "April 29, 1982" in paragraph (1) and inserting in lieu thereof "September 26, 1982"; and

(ii) by striking out "April 29, 1980" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "September 26, 1980".

(c) Section 108 of such Act is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

By Mr. DANFORTH (for himself, Mr. Eagleton, Mr. Boschwitz, Mr. Burdick, Mr. Dixon, Mr. Durenberger, Mr. Grassley, Mr. Huddleston, Mr. Jepsen, Mr. Johnston, Mr. Kasten, and Mr. Percy):

S. 2861. A bill to authorize the construction of a lock on the Mississippi River in the vicinity of Alton, Illinois and Missouri, and to authorize appropriations to carry out certain programs for the Upper Mississippi River System, and for other purposes; to the Committee on Environment and Public Works.

LOCKS AND DAM 26

Mr. DANFORTH. Mr. President, two great arteries of water-borne commerce come together above St. Louis, Mo.: The Upper Mississippi River and the Illinois River and Waterway. The first is a navigable waterway stretching north to Minneapolis; the second is a link to the Great Lakes and the St. Lawrence Seaway. Between their confluence and the uninterrupted water of the Lower Mississippi River stand two linchpins of the entire inland waterway system: Locks and dams 26 and 27. Together, they lock through more traffic than any other facility in the United States.

Locks and dam 27 consists of a 1,200-foot chamber and an auxiliary 600-foot chamber, constructed in 1963. But locks and dam 26 is no such modern structure. It was built in 1938 and has chambers only 600 and 300 feet in length. The facility is deteriorating and in frequent need of repair. Even when functioning properly, it is so undersized that barges must wait in line a day or more to pass through.

This situation could not long be allowed to continue, and in 1978, Congress recognized that fact by authorizing construction of a replacement lock—1,200 feet in length—at Alton, Ill. The need to have identical structures at 26 and 27 seems obvious: After all, both have to handle the same river traffic. And the need for a second lock appears equally obvious: At such a critical juncture in the river, a failure in the main lock could prove disastrous.

But Congress, in 1978, decided to dot every "i" and cross every "t"; before authorizing the second lock, it directed the Upper Mississippi River Basin Commission to prepare a comprehensive master plan for the management of the Upper Mississippi River system. The commission was directed, in part, to undertake a "specific analysis of the immediate and systematic environmental effects of any second lock at Alton, Ill.," as well as a "specific evaluation of the economic need for a second lock at Alton, Ill., and the direct and indirect systematic effects and needs for such a lock at Alton, Ill."

Congress further mandated that: "no replacement, construction, or rehabilitation that expands (the) navigational capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River system, until the master plan prepared pursuant to this section has been approved by the Congress."

Mr. President, on January 1 of this year, the Upper Mississippi River Basin Commission presented that comprehensive master plan to Congress. It examined the environmental effects of a second lock. It examined the economic need for a second lock. And its very first recommendation was: "That Congress immediately authorize the engineering, design, and construction of a second chamber, 600 feet in length, at lock and dam 26."

And so I rise today to bring that recommendation one step closer to fruition. Along with a bipartisan coalition of my colleagues, I am introducing legislation today to approve the master plan prepared by the Upper Mississippi River Basin Commission and to authorize a second lock at Alton.

This is not a project of interest to only one or two States, but a critically needed improvement in the commercial waterway system serving the entire Midwest. As the commission's report observed, "The Upper Mississippi River system is an integral part of a broad regional, national, and international transportation network. As such, it has played a key role in the economic growth and development of the upper Midwest and numerous river communities, including Minneapolis-St. Paul, the Quad Cities, Dubuque, St. Louis, Peoria, and Chicago. The river system provides an important link in the movement of goods both into and out of America's heartland."

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In 1980, more than 126 million tons of commodities moved on the Upper Mississippi River system, including nearly 50 million tons of grain from Illinois, Indiana, Iowa, Minnesota, Missouri, South Dakota, North Dakota, and Wisconsin. Locks and dams 26 and 27 each handled twice the traffic of any other lock on the system, and traffic projections show each of them close to 100 million tons a year by 1990. Traffic delays during the summer of 1980 often ran from 3 to 5 days.

The commission's examination of the economic impact of a second lock at Alton, under a variety of scenarios, found an excess of benefits to costs ranging from $6 to $117 million a year. These benefits will be reflected in consumer prices throughout the Midwest and, indeed, in the prices of everyone who consumes Midwest grain.

Such findings are not surprising to anyone who has studied the bottleneck that is locks and dam 26: They merely corroborate what commonsense would tell us anyway. It does not make any kind of sense to have fully loaded barges stacked up and idle because they cannot get through a major lock. And so it is not surprising, either, that a consensus appears to be forming on the need for a second lock.

The U.S. Army Corps of Engineers considers a second lock to be its top priority for new construction in the entire country. The Governors of the five States bordering the Upper Mississippi River (Missouri, Illinois, Iowa, Wisconsin, and Minnesota) have unanimously endorsed construction of a second lock. And now the Upper Mississippi River Basin Commission, after 3 years of intensive review, has come to the same conclusion: We should build a second lock at Alton.

Commonsense dictates that we act. Fiscal prudence dictates that we act quickly. Construction has begun on the main replacement lock at Alton. Clearly, the most economical way to proceed will be to integrate construction of the second lock into construction of the first, as a smooth follow-on, rather than to disrupt the process and start it up again later. Such a disruption, the corps indicates, would add at least $25 million to the estimated $200 million cost of the second lock—a cost which itself pales by comparison with the $875 million price tag on the main replacement lock and dam. But in order to achieve the $25 million saving, the corps says it needs to have the project authorized and the initial appropriations approved by October 1983.

Mr. President, we must start moving toward that goal without delay. The legislation I am introducing today, along with my colleagues, represents the first step on that journey. It reflects the several recommendations of the Upper Mississippi River Basin Commission and presents a reasonable and equitable balance between the need for immediate navigational improvements and the concern about long-term enhancement of the river system environment as a whole.

I would like to draw particular note to the assistance I have received from the Senator from Minnesota (Mr. DURENBERGER) in striking this balance. He proved, as always, to be a forceful and convincing advocate in the preparation of this legislation. His arguments in favor of a strong environmental section carried great weight and are reflected in the bill.

This legislation confers congressional approval on the master plan prepared by the Upper Mississippi River Basin Commission, which formally went out of existence on January 1 of this year but which continues as an association. The Commission was entrusted in Public Law 95–502 with promulgating regulations for carrying out the plan; because the Commission no longer exists, this legislation amends Public Law 95–502 to strike that language, as well as other language that could be a cause of mischievous litigation.

This legislation also authorizes $53.95 million for four programs recommended by the master plan: a habitat rehabilitation and enhancement program; a long-term resource monitoring program; a computerized inventory and analysis system; and a recreational program. The Secretary of the Interior and the Chief of the Army Corps of Engineers are directed to review all of the recommendations of the master plan, including those authorized by the bill, and submit a proposal for further implementation by June 1985.

In this connection, I must emphasize that these four programs are completely separate and distinct from the authorization for the second lock. The legislation clearly states that the costs of these programs shall not be considered attributable to navigation.

Finally, the bill provides for an exemption from the National Environmental Policy Act of 1969. Ordinarily, I would not support such a proposal, but this case is in many ways out of the ordinary. It is not in any sense a new project, but rather is a follow-on to the first lock. A full-blown environmental impact statement was produced, at considerable time and expense, for construction of the first lock. That assessment subsequently was upheld by the courts after lengthy litigation—litigation that commenced in 1974 and concluded only last November. Second, the environmental impact of the second lock was one of the specific topics that the Upper Mississippi River Basin Commission was charged with examining in producing its master plan—again, at considerable time and expense. Further expenditures in this area, I believe, would not be a wise use of the taxpayer's dollars.

Mr. President, it is my fervent hope that the controversy surrounding construction of the first lock will not afflict this legislation. The need for a second lock is clear, and prompt enactment of this bill will enable construction to proceed in an orderly way, to minimize the impact on the budget and assure an orderly flow of commerce on the Upper Mississippi.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this Act referred to as the "Act of October 21, 1978".

(b) The Congress hereby approved the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(c) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

(d) To ensure the coordinated development and enhancement of the Upper Mississipi River System, the Congress recognizes such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that the system provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

SEC. 2. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide for the engineering, design, and construction, at an estimated cost of $200,000,000, of a second lock at locks and dam 26, Mississipi River, Alton, Illinois and Missouri. Such second lock shall be 110 feet by 600 feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of the Act of October 21, 1978.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 3. (a) The Secretary of the Interior is authorized to undertake with respect to the Upper Mississipi River System, substantially in accordance with the recommendations of the Master plan—

(1) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enchance, or rehabilitate aquatic and terrestrial habitats lost

or threatened as a result of man-induced activities or natural factors;

(2) the implementation of a long-term resource monitoring program;

(3) the implementation of a computerized inventory and analysis system for data storage and retrieval, and for use in the long-term resource monitoring program; and

(4) the implementation of a program of recreational projects.

(b) The Secretary of the Interior shall cooperate and consult with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin in planning and implementing the actions authorized by subsection (a).

(c) There are authorized to be appropriated—

(1) to carry out paragraph (1) of subsection (a)—

(A) for the fiscal year 1984, $1,500,000;

(B) for the fiscal year 1985, $6,500,000; and

(C) for the fiscal year 1986, $13,000,000;

(2) to carry out paragraph (2) of subsection (a)—

(A) for the fiscal year 1984, $7,680,000; and

(B) for each of the fiscal years 1985 through 1988, $5,000,000;

(3) to carry out paragraph (3) of subsection (a)—

(A) for the fiscal year 1984, $40,000;

(B) for the fiscal year 1985, $240,000;

(C) for the fiscal year 1986, $1,220,000; and

(D) for each of the fiscal years 1987 and 1988, $975,000; and

(4) to carry out paragraph (4) of subsection (a), for each of the fiscal years 1984 through 1986, $500,000.

(d) None of the funds appropriated pursuant to the authorization contained in this section shall be considered to be attributable to navigation.

SEC. 4. The Secretary of the Interior and the Secretary of the Army, acting through the Chief of Engineers, in cooperation and consultation with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, are directed—

(1) to review the recommendations contained in the Master Plan;

(2) to assign priorities to such recommendations; and

(3) to develop and submit to the Congress, not later than June 1985, a proposal for further implementation of those recommendations.

SEC. 5. (a) The Congress finds that there has been reasonable compliance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in the formulation of the Master Plan and the environmental impact statement on construction of the first lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri.

(b) The actions authorized in sections 2 and 3 of this Act are exempt from the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Mr. BOSCHWITZ. Mr. President, I am pleased to join my colleagues in sponsoring S. 2861, a bill to authorize the construction of a second replacement lock at locks and dam 26; and to also authorize a complementary program that funds a program for environmental rehabilitation and monitoring.

The Mississippi River provides a vital link to the Midwest's commercial waterway system. In 1981, the Upper Mississippi carried 30 million tons of cargo, 9 million of which were Minnesota farm products headed overseas.

The importance of this waterway to the future of Minnesota's agricultural exports cannot be overstated. Minnesota's agricultural exports, based on our percentage of national farm output, jumped 18 percent in 1981 for a total worth of over $2 billion. These export dollars are special. Every 1 dollar's worth of export sales brings in $1.05 in additional economic activity. This "multiplier" effect means the agriculture support industries such as transportation, financing, warehousing, and agriculture suppliers created another $2 billion for Minnesota's economy. This is real money, and our State cannot survive without it.

For Midwestern farmers, the river is proving to be one of the only stable methods of transporting grain. A quick look at the last few years bears this out:

In 1979, the State of Minnesota suffered a trucker's strike that crippled grain transportation. Later, a grain millers strike at the Port of Duluth/Superior further paralyzed grain shipping. By 1981, after President Carter's restricting grain embargo to the Soviet Union, steady movement of grain appeared to be an antiquated notion. Grain prices fell so low that Minnesota farmers lost $140 million in wheat revenue alone.

Today, farmers are again looking at a record crops; the solution must be to expand our export markets. To handle this needed expansion, we must also expand the ability of the Mississippi to move the grain. Locks and dam 26 is the key.

Locks and dam 26 is part of the overall lock and dam system of the Upper Mississippi. Constructed in the 1930's, the system allows uninterrupted navigation by assuring an even river depth. Locks and dam 26 is located in Alton, Ill., a strategic position only 15 miles south of the confluence of the Mississippi and Illinois Rivers. Together, the two rivers sent 70 tons of cargo through locks and dam 26 in 1981. Unfortunately, the practical capacity of No. 26 is only 65 million tons.

The Corps of Engineers is trying to correct this bottleneck by constructing a 1,200-foot replacement lock 2 miles south of the existing locks. The new lock will immediately increase the practical capacity to 85 million tons, but does not solve the long-term problem. Minnesota farmers are shouldering the burden of millions of dollars in excess cost when traffic is held up by the bottleneck, because transport costs are determined by the hour. Time means money, and a 2-day delay is not unusual.

The Corps of Engineers recognized the need for new locks at Alton, Ill., in 1969, but Congress did not authorize construction until 1978—and then only authorized one lock instead of two. That the second lock must be immediately authorized is clear.

First, it will take 10 years to fund and build the second lock and navigation projections show the second lock will be needed by the early 1990's. Second, substantial cost savings will occur if the second lock is built at the same time the first is being constructed; and third, a single lock system will stop all traffic if the one lock is damaged. With no auxilliary lock no river tows would move until repairs are completed. Locks and dam 26 will continue to be a barrier to foreign trade until the second lock is built.

The Upper Mississippi is a unique resource. It is the only inland river in the United States which is both a Federal commercial navigation project and a major national wildlife refuge. Because of that it has unique demands as well.

The wildlife refuge spans 560 miles, from Wabasha, Minn., to St. Louis. Along the banks of this refuge are 290,000 acres of wooded islands, waters, and marshes all largely untouched.

The value of this refuge system cannot be overemphasized. Not only is the Mississippi "flyway" vital to 75 percent of the Nation's migrating waterfowl, but the refuge also plays host to 270 species of birds, 50 species of mammals, 123 species of fish, and 35 species of reptiles and amphibians.

Unfortunately, the backwater areas which are the invaluable breeding areas, are slowly being destroyed by sediment deposits. The natural process of heavy rains, spring runoff, and snow-melts wash sediment from fields into streams and tributaries. At the same time, deteriorating riverbanks create more sediment. Eventually the sediment is deposited on the inside of river bends and the backwater areas. In fact, since 1939, sediment has changed 25 percent of the open backwater areas to marshland.

This bill begins the process of making these needed corrections. It establishes a 3-year habitat rehabilitation-and-enhancement program to begin cleaning out the backwater areas, plus we will continue to monitor the use of the river by setting up a 5-year resource monitoring program. I believe these programs are a positive first step. Congress must, however, take further steps to assist the Upper Mississippi. I will continue working with my colleagues to develop these preservation programs.

The Upper Mississippi is a special river with special needs. I feel this bill recognizes the multipurpose use of the river, and tries to set a balance. A balance which has been missing in the past. I urge my colleagues to give this

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bill their support and their timely consideration.

Mr. DIXON. Mr. President, I am pleased to join with my distinguished colleague, Senator DANFORTH, in introducing legislation to authorize the construction of a second lock for the new locks and dam 26. The need for a second lock at the replacement facility for the current, deteriorating locks and dam 26 is indisputable.

The existing facility is the chokepoint for the entire Upper Mississippi River system. It passes more traffic than the Panama Canal.

The locks and dam is over 40 years old. It is becoming increasingly costly to maintain and is grossly inadequate to handle the traffic on the Upper Mississippi and the Illinois Rivers. It has a main chamber of 600 feet in length and an auxiliary chamber of 360 feet, while the next and final locks and dam, locks and dam 27, has a main chamber of 1,000 feet in length, and an auxiliary chamber of 600 feet. The result is that barges are often lined up for days at a time waiting to pass through locks and dam 26.

Congress has recognized the desperate need for a replacement facility. In 1978, it authorized construction of a new locks and dam with a single lock of 1,000 feet in length. At the same time, Congress authorized a comprehensive economic and environmental analysis of the entire Upper Mississippi River system. To insure that the analysis would be a useful tool for future congressional actions affecting the future of the Upper Mississippi River system, any capacity expanding construction was prohibited until the master plan that would be the final result of the analysis was approved by Congress.

On January 1 of this year, the Upper Mississippi River Basin Commission, the agency responsible for the development of the master plan, presented its recommendations. Its first recommendation was for construction of a second lock, 600 feet long, at the new locks and dam 26.

Mr. President, I think the case for this second lock is clear. Midwestern agriculture and other users of our waterway system will continue to suffer real economic damage until the second lock is in place.

The need to handle the greatly increased traffic now using our river system is not the only reason an additional lock is essential, however. Because locks and dam 26 is the chokepoint for the entire Upper Mississippi River system, we need to insure that it will be able to continue to handle river traffic even if one lock were to be out of service, due to damage or some other cause. We simply cannot afford to shut down the entire river system because a lock is damaged.

The new locks and dam 26 is now under construction. Now is the time to authorize and construct a second lock. Not acting now will add millions to the ultimate cost of the project. I urge my colleagues, therefore, to join with Senator DANFORTH, with me, and with the other cosponsors of this essential legislation.

The case for a second lock at Locks and Dam No. 26 is compelling. I am sure that a careful review of the merits of the project will convince all Senators of the need to enact the bill swiftly. No single project will be more important to the economic future of the upper Midwest.

AUXILIARY LOCKS IS NEEDED AT LOCK AND DAM NO. 26

Mr. EAGLETON. Mr. President, the 95th Congress ended the long and heated debate over replacing Locks and Dam No. 26 on the Mississippi River at Alton, Ill. The replacement project authorized in 1978 consists of a new dam and a 1,200-foot lock about 2 miles downstream from the old facility. The new lock and dam have been under construction since April 1980, and are expected to be operational by 1987.

While good progress is being made on the major portion of the replacement project, it is appropriate to consider the addition of an auxiliary lock. I am, therefore, pleased to sponsor legislation to authorize a second 600-foot lock at the Alton facility.

Situated as it is below the confluence of the Upper Mississippi and Illinois Rivers, Lock and Dam No. 26 are strategic to the movement of commodities up and down the rivers. Any disruption in the single-lock operation could bring shipping to a halt. Clearly, it will be necessary from time to time to close the chamber for routine maintenance, not to mention the possibility of unexpected emergencies that might occur in the main lock. An auxiliary lock, though smaller in size, would be capable of keeping traffic moving and minimizing delays.

The old facility, with its two locks of smaller capacity, experienced trafffic delays in the summer of 1980 of from three to five days. The average delay that year was about 20 hours per tow. Delays are costly, which is why we decided to replace the old structure. Locks and Dam No. 27 immediately below Alton consists of two chambers, one 1,200 feet long and one 600 feet long. Locks and Dam No. 26 should be of equal capacity if the system is to operate in a safe and cost-effective manner.

Public Law 95–502, which authorized the replacement project, also required the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River. Among the questions the panel addressed was the need for a second lock at Alton. The Commission's master plan submitted to Congress in January of this year recommends construction of a 600-foot auxiliary chamber. Furthermore, the Corps of Engineers' own National Waterway Study, which took inventory of the condition of navigation facilities in the Nation, placed first priority on the additional lock at Alton.

We are fortunate in this country to have been blessed with a natural waterway transportation system that enabled this country to grow and prosper in its early years. George Washington wrote to a friend in 1783, "I could not help taking a more comtemplative and extensive view of the vast inland navigation of these United States . . . would to God we have the wisdom to improve them." We were foresighted enough to realize the hope of Washington. Today, the system we built carries 2 billion tons of cargo annually to foreign and domestic markets. Nationally, the waterway industry employs some 80,000 workers with an annual payroll of nearly $1 billion.

The importance of our inland navigation system cannot be understated, especially to the economy of St. Louis. As the "Gateway to the West," St. Louis played an historic role in our Nation's expansion. It is the leading inland port on the Mississippi River handling over 22 millions tons of cargo in 1978. A study of the Port of Metropolitan St. Louis made in 1977 by A. T. Kearney, Inc., found that over 2,000 full-time jobs were directly related to port activities and that an additional 43,000 manufacturing jobs indirectly depended upon the shipping industry. The annual value of cargo handled in the Port of Metropolitan St. Louis exceeds $5 billion.

In recognizing the importance of replacing Locks and Dam No. 26, Congress departed from the long established policy of free use of the rivers, and imposed a barge fuel tax. Those who ship on the inland waterway system paid the price to remove the Locks and Dam No. 26 bottleneck. The tax which began at four cents a gallon in 1980 will rise to 10 cents in 1985. The users will be sharing between 20 and 25 percent of the cost of the navigation facilities.

The Reagan administration has made it clear that it will not seek funds for new waterway projects until the users pay 100 percent of the costs associated with building and maintaining the navigation facilities. Their proposal goes far beyond the principle established in the 1978 law requiring the commercial users to share in the costs of the system. No mode of commercial transportation pays 100 percent of these costs because there are benefits that accrue to the public at large from investment in efficient transportation systems, whether they be rail, roads, or riverways.

In the case of the riverways, recreational boaters enjoy the pools created by the lock and dam structures; river communities are protected from flooding; some navigation facilities even generate hydroelectric power, and studies are underway to see if this capacity can be increased. Moreover, bulk commodities are more efficiently transported by barge; a single barge carries as much as 15 freight cars or 60 trucks. The major part of our grain for export is shipped to port by barge, and in a national emergency, this capacity would be vital to our defense preparedness.

It would be shortsighted not to complete the Locks and Dam No. 26 facility by adding the auxiliary chamber. But the project should be considered on its own merits. It should not be tied to the Reagan admininstration's proposals for higher waterway user fees.

● Mr. **DURENBERGER.** Mr. President, it is a privilege to join in sponsoring this long overdue legislation, and I believe it merits the support of every Member of Congress. The introduction of this bill marks another step in Congress effort to carry out the provisions of Public Law 95-502. Section 101 of that act established the Upper Mississippi River Basin Commission and charged it with the responsibility of formulating a comprehensive master plan for the management ofthe Upper Mississippi River system. Our actions today will help bring the recommendations of the Commission, reached on January 1 of this year, to fruition.

The most important component of our bill from the perspective of the Minnesota farmers and shippers who rely on the Mississippi to carry their products to the gulf, is the authorization of a 600-foot chamber to complement the 1,200-foot chamber at Locks and Dam No. 26. By making Lock and Dam No. 26 compatible with Locks and Dam No. 27, our proposal will streamline grain movements on the Mississippi and bring peace of mind to Minnesota's farmers.

It is impossible to overstate the importance of the Mississippi to Upper Midwest farmers, as the river provides them with a transportation system essential to the cheap, efficient, and orderly flow of agricultural products to national and international markets. In addition to these obvious and direct benefits, the river provides indirect benefits in the form of effective competition to the rates other modes of transportation charge farmers for the movement of agricultural commodities.

Over 40 million tons of agricultural commodities, representing 45 percent of all agricultural exports, move through the locks and dam on the Mississippi River. Demand for these commodities is projected to double by the year 2000, and at the very least, the river's share of this traffic will remain constant. Locks and Dam 1-25, in conjunction with the Illinois River, have the capacity to handle 115 million tons of traffic per year, and Locks and Dam No. 27 has the capacity to handle 125 million tons; Locks and Dam No. 26, with its limited capacity of 70 to 75 million tons, will become a serious obstacle to upper midwest farmers' ability to meet foreign demand for U.S. feed grains. Without the second chamber, it will be impossible for Lock and Dam No. 26 to accommodate any increase in barge movements on the upper Mississippi.

Another equally compelling reason to move ahead of the construction of the second chamber is security. Locks and Dam No. 26 is the only single-chamber lock on the Upper Mississippi River system. If that chamber were to become inoperable, we would need one 100-car-unit train, leaving every 12 minutes, 24 hours a day, to haul grain from St. Louis to New Orleans. From anyone's perspective, be it environmental or logistical, such an occurance would be an unmitigated disaster.

This bill acknowledges the Upper Mississippi River system as a major multipurpose water resource of national significance for both its rich ecosystem and commercial navigation system. Reflecting both areas of national significance, the bill authorizes the recommendations in the comprehensive master plan for management of the Mississippi River system by establishing programs for habitat rehabilitation and enhancement, long-term resource monitoring, computerized inventory analysis for data storage and retrieval, and a program for recreational projects.

It was my belief that handling the authorizations for the navigation system separately from the ecosystem programs would contradict congressional intent that this magnificent river be managed as a multipurpose resource. The bill encompasses both concerns and provides balanced support for both nationally significant systems.

It is of utmost importance that we move forward with the needed authorizations contained in the bill, and take action to implement the other recommendations in the comprehensive master plan for which authorization exists but which lack needed appropriations and agency direction.

EROSION CONTROL

The most pervasive and damaging problem for the Upper Mississippi River system is excessive sedimentation from upland and stream bank erosion in the watershed. Eroded material settles in the river backwaters, sloughs, and marshes. The natural erosion process has been intensified by agricultural practices and other land surface modification.

The master plan recommends that immediate action be taken to accelerate existing USDA and State programs to target present and increase future funds. The estimated $912 million total cost of the needed programs would be shared by Federal, State, local, and private concerns. Because no additional authorization is needed, this recommendation is not included in the bill.

Recommendations in the master plan concerning programs for system capacity analysis, dredged material productive uses and certain navigation programs do not need additional authorization and are also not included in the bill. It is expected that the appropriate agencies will review the master plan as approved by Congress and take the necessary action to include these programs in their agency budget requests.

AUTHORIZATION OF PROGRAMS FOR HABITAT REHABILITATION AND ENHANCEMENT, RECREATION PROJECTS, LONG-TERM RESOURCE MONITORING AND COMPUTER INVENTORY AND ANALYSIS

Mr. President, existing data and studies completed under the master plan conclude that the natural environment of the UMRS is degrading at a rapid rate as a result of a combination of man-induced and natural forces.

In order to provide for the reasonable development and use of the system without destroying the valuable environment which is unique to the system, the Commission recommended that a habitat rehabilitation and enhancement program be undertaken immediately.

Several studies have also indicated the need to commence work on the many river-oriented recreational projects in order to meet the anticipated growth in recreational demand for the use of the river.

In addition to the Commission's recommendation to initiate immediate implementation of projects to rehabilitate and enhance habitat areas, a long-term resource monitoring program to facilitate those projects and enhance the ability to understand complex and dynamic system relationships is urged. The master plan states that a long-term resource monitoring program (LTRM) is needed to enable decision-makers to measure ecological impacts attributable to a combination of natural and man-induced forces. Included in that program are specific actions to futher our understanding of the physical, chemical, and biological relationships in the system. The program would improve our understanding of future multipurpose management needs and help determine equitable management actions.

Establishment of a computerized inventory and analysis system for data storage and retrieval was also recommended for immediate authorization.

In drafting this bill, it was determined that it was urgent to proceed

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immediately with the four programs included for authorization.

Section 3 therefore, provides a 3-year, $2.1 million authorization for habitat rehabilitation and enhancement and a 3-year, $1.5 million authorization for recreational projects. A 5-year, $2.8 million program is authorized for long-term resource monitoring and is facilitated by a 5-year, $3.5 million inventory and anlysis program. The bill also establishes priorities for funding of the programs authorized in the bill and the additional recommendations in the master plan. Section 4 specifies that the Secretary of Interior and Chief of Engineers, in cooperation and consultation with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, are to utilize the additional information obtained in the habitat restoration and enhancement planning process as well as monitoring data to establish a list of priorities by 1985 for consideration by the Congress.

This approach for establishing priorities takes into account the need for additional information and allows the time needed to evaluate the recommendations proposed in the comprehensive plan.

Finally, the bill's exemption of the second chamber at lock and dam 26 from the National Environmental Policy Act of 1969, recognizes the urgent need to obtain authorization for the second chamber and the other programs included in the bill. The extensive studies conducted for the environmental impact statement on the first chamber and the Upper Mississippi master plan are determined to provide reasonable compliance with NEPA. This provision is not intended to serve as a precedent for congressional exemption from NEPA.

In conclusion, I urge the Senate to act promptly on this bill which is vitally needed to insure the balanced management of the Upper Mississippi River system and the economic vitality of the Upper Midwest.●

Mr. PERCY. Mr. President, I am very pleased to join my distinguished colleague from Missouri (Mr. DANFORTH,) in cosponsoring this measure to authorize the construction of the second lock at the new Locks and Dam No. 26 facility under construction at Alton, Ill. Throughout discussion and work on the authorization of the replacement of Locks and Dam No. 26 in the seventies, it was clear that a second lock would be necessary to adequately handle projected traffic and to prevent the possible shutdown of this essential facility located just below the confluence of the Illinois, Missouri, and Mississippi Rivers—the infamous bottleneck of the Inland Waterway System handling more water borne traffic annually than passes through the Panama Canal.

The possibility of a shutdown was magnified earlier this year when a barge accident at the existing facility halted river traffic for two 8-hour periods. With only one lock at the new facility, the risk of a possible accident or maintenace problem that could shut the river down completely is simply too great. I was delighted when the Upper Mississippi River Basin Commission also recognized how essential the second lock is as they prepared the Upper Mississippi River Basin master plan for Congress that calls for the immediate authorization of the second lock.

Since construction began in 1980, $200 million has been appropriated to finance grading the Illinois bank, building a coffer dam, and starting construction of the main dam. This facility, without the second lock, is now estimated to cost $776 million to complete. Timely authorization of the second lock is critical for coordinating engineering and construction schedules for this addition to the project. Taxpayers will be the beneficiaries of timely authorization of the $200 million second lock, with estimated cost savings of $20 to $50 million—a full 10 to 25 percent of the second lock cost.

The new locks and dam would then be designed to more efficiently handle the flow of river traffic projected through the remainder of this century with a 1,200-foot and 600-foot set of locks replacing the existing 600-foot and 350-foot set. This is the kind of facility that will speed the flow and lower transport costs of farm products, coal, and manufactured goods without endangering the river with tremendous growth in barge traffic that could adversely effect the environment of the river.

I am also pleased that this bill authorizes an additional $53.95 billion, over 3 years, for necessary environmental safeguards such as resources monitoring, computerized inventory, and analysis system for data storage and retrieval, river habitat rehabilitation and enhancement, as well as important recreation projects. Because of our concern for protecting this great natural resource, authorization for these measures will help insure its protection.

Because of projected traffic needs, the importance of having the insurance of a backup lock, and the savings to be accrued by taxpayers if the facility is integrated into the current construction schedules for Locks and Dam No. 26, I urge bipartisan support for this authorizing legislation. I know it is good for Illinois and the Midwest and, I believe, the Nation as well. Being able to move products for export helps strengthen our economy and greatly improves our Nation's balance of payments. We must act responsibly by authorizing this needed facility as soon as possible.

By Mr. GRASSLEY:

S. 2863. A bill to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employments rights, and authorizing the service of jury summonses by ordinary mail; to the Committee on the Judiciary.

JUROR PROTECTION

● Mr. GRASSLEY. Mr. President, today I am introducing a bill that will provide equitable injury protection to all Federal jurors and imporve the administration of the jury system. As a package, the provisions of this bill will not only clarify and correct certain inconsistencies in the current law regarding jurors, but also establish a more efficient jury operation resulting in significant cost savings to the Government.

Among the three provisions of this bill is one which extends coverage under the Federal Employees Compensation Act to all Federal jurors. Current law provides compensation to jurors for duty-related mishaps only if they are also Federal employees. Due to jurisdictional problems, that law, Public Law 93-416 enacted in 1974, failed to extend such benefits to jurors who are private citizens. However, such coverage was expressly supported by the Senate Committee on Labor and Public Welfare as indicated in Senate Report No. 93-1081.

Problems have arisen prior to and since the enactment of Public Law 93-416 which illustrate the need to extend its application to all jurors. While fortunately juror mishaps are rare, a survey of the district courts reveals a number of juror injuries occurring during the performance of duty. Such was the case of a South Carolina woman who fell from the jury box and fractured her wrist. Another Minnesota juror sustained an arm injury while viewing an accident site and was forced to miss several days work. In both cases the injured jurors lacked eligibility for injury compensation on the basis that they were not Federal employees. While these injuries proved relatively minor in nature, the potential exists for a major or possibly disabling injury to befall a Federal juror who would be left without compensation.

Jurors render a valuable service to the Government in carrying out the constitutional guarantee of a right to a jury trial. The United States in turn should afford them the benefit of protection in the case of a duty-related injury. Without that protection, what begins as a high duty of citizenship could result in an economic catastrophe for the private sector juror.

The remaining two sections of this bill stem from studies conducted by the U.S. Judicial Conference, Committee on the Operation of the Jury

System. Both result in Government cost savings and a more efficient administration of the Federal jury.

The first section relates to the awarding of attorneys' fees for Government funded attorneys as well as privately retained attorneys when jurors are successful litigants against their employers. Under the Jury Systems Improvement Act, jurors are authorized to bring legal action against employers interfering with their jury service. This law also provides for the remittance of attorneys' fees to an employer who ultimately prevails in such an action. However, when the juror is represented by appointed counsel paid by the Government, the law does not require that Government be reimbursed.

This bill will appropriately clarify that attorneys' fees should also be paid be paid back to the court, and thus the Government, in such cases. I note that this same provision was passed by the Senate in 1980 but was unfortunately caught in a committee backlog in the House.

The second section of this bill is also a cost-saving measure for the Government, one that will likely save the court administration budget hundreds of thousands of dollars each year. This provision extends to the courts the option of using regular first-class mail for the delivery of juror summonses along with the current methods of personal service and registered or certified mail. In a survey of clerks to U.S. district courts, the Judicial Conference found overwhelming support for this provision which they estimate will reduce mailing costs, lessen the clerical burden and improve the delivery rate of jury summonses.

One Federal appeals circuit court predicts that allowing regular mailing of summonses will cut their delivery costs by nearly 90 percent. This savings estimated by the ninth circuit combined with those of the other 10 circuits represents a sizable portion of Government court funds retained. In the face of our current economic plight, any such economizing of public money is a welcome achievement.

In the event that any court faces a problem of voluntary compliance with the summonses delivered by regular mail, this provision allows the court to retain its discretion in selecting the means of service which proves most efficient.

I would like to thank the Judicial Conference for calling attention to these important and needed steps toward improving the efficiency and conditions of the jury system and I ask my colleagues to join me in supporting the expeditious adoption of this legislation.●

By Mr. FORD (for himself and Mr. Quayle):

S. 2864. A bill to provide for a 2-year Federal budget cycle, and for other purposes; by unanimous consent, read twice and ordered held at the desk.

BUDGET PROCEDURES IMPROVEMENT ACT OF 1982

Mr. FORD. Mr. President, on behalf of the junior Senator from Indiana (Mr. Quayle,) and myself, I send to the desk a new bill to establish a 2-year budget and appropriation cycle, and to make other improvements in the budget process.

I am pleased to say that this new bill is the product of a joint effort by Senator Quayle and me to eliminate the minor differences which exist in our earlier bills—S. 1683 and S. 2008—and to increase our chances of early enactment of a 2-year budget bill by this joining of forces.

The new bill is not, in substance, significantly different from either S. 1683 or S. 2008. If enacted, it will substitute a 2-year budget period for the present annual cycle which is clearly no longer viable.

By eliminating much needless duplication of effort—in Congress and in the executive branch—we will gain time to improve our budget planning, and to strengthen congressional oversight over existing legislation.

We will lengthen the periods of certainty for State and local government planning, which must take into account Federal decisions and inputs affecting their activities.

By lengthening the budget period, we will increase the chances of economic stability in both the public and private sectors. In my judgment, the less frequently we have to tinker with basic tax and spending issues, the more likely we are to level the peaks and valleys in our economy.

Mr. President, Senator Quayle and I have requested that this new bill follow the same referral path as S. 1683, and be jointly referred to the Budget, Governmental Affairs and Rules and Administration Committees. For this purpose, we have also spoken with the chairmen and ranking minority members of the Budget and Governmental Affairs Committees, and I have spoken with Senator Mathias, chairman of the Rules Committee, on which I serve as ranking minority member.

It is my hope that at the appropriate time, the majority leader will make the request for such joint referral, and I ask that the bill be held at the desk until such request can be made.

Mr. President, I yield to my distinguished friend, the Senator from Indiana, Senator Quayle.

Mr. QUAYLE. Mr. President, I thank the Senator for yielding.

I wish to concur with the Senator's remarks and to point out, Mr. President, that this legislation is a composite of ideas that the Senator from Kentucky and the Senator from Indiana have developed concerning the 2-year budget process.

I do not think there is any doubt about it—there are some fundamental problems with the current process. As a matter of fact, so far this year we have not had one—not one—appropriation bill from the House of Representatives. Not one has come over from the House of Representatives. Since the Budget Impoundment Control Act of 1974, we have had but 1 year when we adopted all the regular appropriation bills. We operate instead on continuing resolutions.

So let us face the facts, and face reality. There is no way that Congress can conduct its business of authorizations, appropriations, and a full budget process in 1 year.

What the Senator from Kentucky and I are trying to do is to take that 1-year process and spread it over 2 years. We will have, in the first year, a first budget resolution and authorization bills. During the second year, we will have a second resolution, reconciliation, and appropriations.

Therefore, this legislation will emphasize, Mr. President, what everyone in this Chamber says they want, and that is oversight. We need time to study what we have already enacted and to see what we can reform, modify, increase, decrease, or whatever the case may be. I think that this is a first step to real institutional reform.

I am a strong supporter of the budget process. In no way should this be interpreted as any kind of change of attitude toward the budget process that has served this institution well. But there are some fundamental reforms that need to be taken. Now that the Senate has passed Senate Joint Resolution 58, the constitutional amendment to balance the budget, it is essential that we move ahead expeditiously to strengthen our budget process.

It has been clear for some time that our current budget process, which requires two budget resolutions each year in addition to the required annual authorization and appropriations bills, is simply too time consuming. The current process leaves Congress with little time for needed legislative activity. Indeed, under time constraints embodied in the 1974 Budget Act, the system is in danger of complete collapse.

Since passage of the Budget Act, the first and second budget resolution deadlines have been met only twice out of 11 reporting dates.

Our record on the appropriations has been equally dismal. Since 1976, the first year in which the Budget Act actually went into operation, only once were all appropriations bills enacted by the beginning of the fiscal year. Even in that year a continuing resolution was needed to fund some programs. Over the past 5 years, 10

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continuing resolutions have been enacted. Today, much of the Federal Government is still operating on the basis of a continuing resolution.

We clearly need more time for consideration of authorization and appropriation bills. Our authorization processes need to be strengthened so programs can effectively be reviewed and evaluated. The work of oversight committees needs to be integrated into the work of the appropriations committees as well as into the budget.

Only by providing all our committees with sufficient time and our full, undivided attention can we regain full control of our legislative, budget and appropriations process. Only then can the budget we pass be based on sound economic review of legislative proposals as well as the economic considerations of the moment.

The ability of Congress to gain control over the budget is today in serious doubt. The weight of prior-year obligations and automatic expenditures built into the budget is causing us to drown in a sea of increasing deficits. Mr. President, we face a budget crisis.

Unless we can correct this situation, we will have effectively lost our power to legislate in any meaningful sense. Government will continue to operate on a kind of automatic pilot, without meaningful evaluation of current policy by the legislative branch and with the budget heavily dominated by uncontrollable spending.

It is our responsibility to see that legislation is carefully considered and spending policies are brought under control. For these reasons, I believe it is essential that we move to a 2-year budget cycle as soon as possible.

With a 2-year budget cycle, we would see the results of first year decisions by the second year of the cycle and could make midcourse corrections as necessary. We would have the time to review the major Federal programs and to carefully consider the new ones.

Under the Quayle/Ford bill we will have twice the time we now have to make the necessary decisions on appropriations and budget.

The bill we introduce today:

Establishes a 2-year budget process. The budget for each 2-year budget period is considered and enacted throughout both sessions of the preceding Congress.

Requires that enrollment of all spending bills be withheld until action on the second budget resolution and reconciliation is completed.

Prohibits: (1) including reconciliation instructions in other than the required second resolution; (2) using budget resolutions to expand the congressional budget process to include additional aspects of Government operations; and (3) directing committees, in any budget resolution, to change legislation authorizing the enactment of new budget authority.

Requires that spending measures and budget reports include tables in which the estimates or recommendations are set forth in the same budget accounts used by the President, and requires the President to consult with committees prior to changing the budget accounts.

Strengthens the requirement for committees to conduct oversight investigations and to report their findings to their respective Houses during each Congress. Also strengthens the authority of committees to request assistance and information from agencies and from the General Accounting Office and other legislative staff agencies, while safeguarding the protection of confidential information.

A 2-year budget process is fully consistent with Senate Joint Resolution 58, the constitutional amendment to balance the budget. The constitutional amendment clearly directs Congress to pass enabling legislation which would put the constitutional amendment into effect. The detailed analysis of Senate Joint Resolution 58, contained in the report issued by the Senate Judiciary Committee, July 10, 1981, states clearly that the term "fiscal year," for purposes of balancing the budget, shall be defined by statute. The report states (p. 44): "The amendment does not require an immutable definition of fiscal year; other fiscal years could be defined without straining the intent."

Nothing in the constitutional amendment would require the Congress to change the fiscal year for all Government programs, if it chose to do so for purposes of the budget process. The amendment addresses only the budget process and the constraints under which it shall be balanced.

In addition, it is clear from the legislative history and the debate on the Senate floor prior to passage of the amendment, that its sponsors hoped to provide Congress with substantial procedural flexibility. In a colloquy on July 27, 1982, Senator Domenici proposed that the constitutional amendment be written so as to permit Congress to establish a multiyear base period for determining the rate of national economic growth, should Congress decide that is appropriate. Senator Hatch, floor manager of the constitutional amendment, spoke in support of Senator Domenici's amendment which was accepted by the full Senate. (Congressional Record, July 27, 1982, p. S9190). Senator Thurmond, Chairman of the Senate Judiciary Committee and one of the floor managers of the balanced budget amendment, unequivocably stated in a colloquy with Senator Ford, that "we know of nothing that would prohibit going to a 2-year cycle" (Congressional Record, August 3, 1982, p. S9681).

Congress must review the budget timetables now. Only by moving to a 2-year budget process can we reestablish our capacity to legislate.

Mr. FORD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Mr. President, I believe I should have made a unanimous-consent request that the bill be held at the desk until such time as the distinguished majority leader can make a motion that this legislation be jointly referred to the three committees. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

By Mr. BIDEN:

S. 2865. A bill to reinstate the provisions relating to parental involvement in chapter I of the Education Consolidation and Improvement Act of 1981 relating to financial assistance to meet special educational needs of disadvantaged children; to the Committee on Labor and Human Resources.

PARENTAL INVOLVEMENT IN SPECIAL EDUCATION

● Mr. BIDEN. Mr. President, today I am Introducing legislation to amend chapter I of the Education Consolidation and Improvement Act of 1981 to restore the parental involvement requirement previously contained in title I of the Elementary and Secondary Education Act.

I take this action, Mr. President, in recognition of the fact that, without the active and constructive input of parents, students are far less likely to attain a high level of educational performance. This fact is true, I believe, for students throughout the possible realm of economic circumstances; but is especially true for the disadvantaged students title I was written to help. Oftentimes, these children lack solid and effective role models, making parental involvement all the more crucial.

The justification for removing the parental involvement requirement from the law was based on a perception that the provision was being carried out with an excess of Government regulation and redtape and, therefore, should be discontinued. While I do not share the view of those who believe that programs carried out in such a manner should be wiped out automatically, believing instead that otherwise good programs can be streamlined in their administration; I am always concerned about instances of excess Federal involvement in our educational programs. Consequently, I stand ready to work with the Labor and Human Resources Committee, together with all other interested parties, to insure that criticism of the previous arrangement can be avoided.

I also recognize, Mr. President, that many noted authorities in the field of education have had problems with the use of Parent Advisory Councils as the instrument through which to channel the most effective parental involvement. As such, I also stand ready to discuss alternatives to the Councils with all parties concerned.

Basically, Mr. President, I am introducing this legislation to indicate my strong belief that parental involvement is vital to our compensatory education program, and to provide a vehicle for contructive and useful discussion of the matter. I hope my bill will receive a full and prompt public hearing, as a result of which we may move ahead to reaffirm the idea that parental involvement is a cornerstone of sound educational policy.●

By Mr. HELMS (for himself and Mr. East):

S. 2866. A bill to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within Cape Hatteras National Seashore Recreational Area; to the Committee on Energy and Natural Resources.

MAINTENANCE AND REPAIR OF A CERTAIN HIGHWAY IN NORTH CAROLINA

● Mr. HELMS. Mr. President, I am today introducing legislation to authorize the Department of Interior to assist the State of North Carolina in improving and maintaining N.C. Highway 12, which lies within the confines of the Cape Hatteras National Seashore Recreational Area.

The Cape Hatteras National Seashore Park is a beautiful jewel in the necklace of barrier islands that stretch along the scenic coastline of North Carolina. Unfortunately, however, this jewel has a flaw—the highway through the park is in a state of serious disrepair.

Mr. President, the State built N.C. 12 primarily to serve the needs of its citizens who live in several villages that are now enclaves with the park. When the park was created in 1953, the State retained jurisdiction over the highway to protect access to these villages. Since that time, however, large numbers of visitors have been attracted to the area. N.C. 12 has had to bear much more traffic than it was designed and built for. Traffic in the park often numbers more than 5,000 vehicles per day. More than 85 percent of that volume is attributable to the park, and at least 50 percent of it is from outside North Carolina.

The State maintains the 21 miles of N.C. 12 within the park's boundaries that lie within the eight village enclaves. The State also provides ferry service connecting N.C. 12 across Hatteras Inlet and Ocracoke Inlet. But the U.S. Park Service is responsible for maintaining the park. Since the park attracts so much of the traffic on N.C. 12, the Park Service should at least assist in the improvement and maintenance of the highway through the park. This is what my proposed legislation would authorize.

Mr. President, Congressman Walter Jones is sponsoring a bill in the House identical to the one I am introducing in the Senate today. This proposal has been developed with input from local, State, and Federal officials. I understand officials from the Deparment of the Interior and the U.S. Park Service want to help.

I urge my colleagues to support this bill.●

By Mr. CHAFEE (for himself, Mr. Stafford, Mr. Baucus, Mr. Gorton, Mr. Heinz, Mr. Mitchell, Mr. Pell, and Mr. Tsongas):

S. 2867. A bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; to the Committee on Environment and Public Works.

ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1982

Mr. CHAFEE. Mr. President, today I am introducing the Environmental Programs Assistance Act which would make permanent the current senior environmental employment pilot project—SEE. The Environmental Protection Agency would be authorized to employ and direct the efforts of older Americans to provide monitoring, and regulatory and technical assistance in several environmental programs. The act would be managed by the EPA with guidance from the Department of Labor at an authorized level not to exceed $250,000—a small amount to pay for the objectives of this program.

In the pilot project begun in 1977, SEE demonstrated the effectiveness of older Americans employed in jobs relating to the protection of environmental resources. For example, in Arkansas, 8 senior citizens conducted an EPA-mandated survey of open dumps within the State; in New Jersey, 21 older Americans were hired to gather followup information for an earlier survey of hazardous waste products generated by State industries; and in California, a project studied the extent to which migrant workers were exposed to dangerous pesticides while on the job. It is a rare occasion when the public derives such benefit from an investment as small as the amount expended for the senior environmental employment pilot program.

Retired, unemployed older workers have a wealth of talent and experience that should and must be used. At a time when Federal assistance for environmental programs is being reduced, additional resources are needed to help implement State and Federal programs.

The Environmental Programs Assistance Act will assist in accomplishing such projects as:

Air monitoring and emission testing; pesticides inventory and control; water quality and supply sampling and monitoring; technical libraries and public information projects; carcinogenic surveys and follow-up; hazardous materials routing surveys; health and screening in rural areas and among migrant workers; and noise abatement and control.

The bill requires that SEE participants not replace existing activities within a State. The participants must augment or improve existing programs. SEE will not displace EPA employees. This criterion in the pilot program has brought about ingenious uses of the senior environmental employment program. This trend will certainly continue should this worthy program be given permanent status.

An example of the original use of SEE is an EPA program which was spurred on by medical finding concerning the hazards of exposure to asbestos. In 1980, the EPA launched a program to help educators check school buildings for asbestos-containing materials.

The national manager of the asbestos control program, John Wilson of EPA, commended the program participants, and I quote,

> The great success of this program springs from each enrollee's unique combination of long work experience and enthsiasm to do what he can do to help people in need. We have thrown these people into some difficult situations, and in all cases they have been able to provide.

The SEE project is already a proven success based upon the pilot program. The legislation I am introducing today will give the SEE program a 3-year authorization at a level not to exceed $250,000 each year—a necessary step to insure permanence to a program that will provide many benefits. This legislation offers us the chance to more fully utilize the experience and energy of our senior citizens, and at the same time to enhance environmental programs.

Earlier this week the House, seeing the wisdom of this program, adopted similar language in an amendment to H.R. 6323, the Environmental Research, Development and Demonstration Act of 1983.

I encourage my colleagues to join with me in voting for this.

● Mr. STAFFORD. Mr. President, I am pleased to join with my friend and colleague, the Senator from Rhode Island (Mr. Chafee) in introducing legislation that deals with two of my major interests—the environment and the activities of senior citizens.

This legislation would establish a senior environmental employment

(SEE) program. It would be administered by the Environmental Protection Agency to assist State and local environmental programs to work better with the help of interested older Americans.

A 1977 SEE pilot project demonstrated how talented and effective many of our senior citizens are in dealing with protection of our natural resources.

Retired or unemployed older Americans can bring broad talent and experience to such tasks as air monitoring and emission testing; pesticides inventory and control, water quality sampling and monitoring, surveys of the way we transport hazardous materials, and a wide variety of other environmental activities.

At a time when the threat to our environment is growing and Federal budgets for environmental protection are failing to keep pace with the need, this program will help our efforts to protect the quality of our water, air, and land.

At the same time, the legislation makes it clear that no EPA worker may be displaced by any older American hired under this proposal.

This is one of those rare proposals that has only pluses for our Nation and for its citizens.●

By Mr. HATCH (by request):

S. 2868. A bill to amend the Federal Food, Drug, and Cosmetic Act and a related statute, and for other purposes; to the Committee on Labor and Human Resources.

FOOD, DRUG, AND COSMETIC AMENDMENTS OF 1982

Mr. HATCH. Mr. President, today I am introducing the Food, Drug, and Cosmetic Amendments of 1982.

This legislation would simplify the administrative procedures for establishing performance standards for medical devices, permit the labeling or advertising of marketed drugs and devices that have been approved under the Food, Drug, and Cosmetic (F.D. & C.) Act, and would repeal the obsolete Filled Milk Act of 1923.

Under current law, the present statutory procedures for developing and establishing performance standards for certain medical devices regulated by the Food and Drug Administration (FDA) are unnecessarily complex and cumbersome. They require, at a minimum, six separate publications in the Federal Register to establish a standard for a device. The procedures that are currently in place, if followed, will result in both governmental waste and unnecessary expense to affected persons participating in these procedures. The administration's proposal substitutes informal notice-and-comment rulemaking under the Administrative Procedure Act, with a stipulation that the Secretary of Health and Human Services consult with an appropriate advisory committee. Presently, section 301(l) of the F.D. & C. Act prohibits drug or device labeling or advertisements indicating FDA's approval of a new drug application with respect to these products. In other words, drug and device manufacturers which have received approval to market their products from FDA cannot advertise this fact during product promotions or marketing. Repeal of section 301(l) would permit drug manufacturers to provide pharmacists, health practitioners, and consumers with a means of readily determining which products have FDA approval by reference to labeling or advertisements.

Finally, the administration's bill proposes to repeal the obsolete Filled Milk Act of 1923 which prohibits shipment in interstate commerce of any milk, cream, or skimmed milk which has any added fat or oil other than milk fat. The Filled Milk Act was enacted by Congress in 1923, at a time when food technology was in its infancy. It sought to protect consumers from fraudulent products by prohibiting the interstate and foreign shipment of filled milk products which looked like milk but were actually a combination of dairy and nondairy products. This act was declared unconstitutional in 1972 and has not been enforced by the FDA since this date.

Mr. President, this legislation was submitted by the Department of Health and Human Services, and I ask unanimous consent that the text of the bill and the executive communication which accompanied the proposal from Secretary Schweiker, in which he thoughtfully articulates the purpose and rationale of this legislation, and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

REPEAL OF PROHIBITION OF USE IN LABELING OR ADVERTISING OF REPRESENTATIONS CONCERNING DRUG OR DEVICE APPROVALS UNDER THE ACT.

SEC. 2. Section 301(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(l)) (hereafter in this title referred to as "the Act") is repealed.

PROCEDURES FOR ESTABLISHING PERFORMANCE STANDARDS FOR MEDICAL DEVICES

SEC. 3. (a) Section 514(a) of the Act (21 U.S.C. 360d(a)) is amended by striking out the caption.

(b) Section 514(a)(4) of the Act (21 U.S.C. 360d(a)(4)) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (D), and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) consider relevant safety and effectiveness data, and relevant voluntary standards developed by private organizations, and".

(c) Section 514(a) of the Act (21 U.S.C. 360d(a)) is further amended by adding at the end the following new paragraphs:

"(5) The Secretary may by regulation amend or revoke any performance standard promulgated under this section.

"(6) In promulgating, amending, or revoking any performance standard promulgated under this section, the Secretary shall consult with the appropriate panel or panels established under section 513.".

(d) The caption of section 514(c) of the Act (21 U.S.C. 360d(c)) is amended by striking out "Invitation for Standards" and inserting instead "Establishment of Standards".

(e) Section 514(c)(1) of the Act (21 U.S.C. 360d(c)(1)) is amended by striking out "a notice inviting any person" and all that follows and inserting instead "a notice of proposed rulemaking to establish a performance standard for the device.".

(f) Paragraphs (2) through (4) of section 514(c) of the Act (21 U.S.C. 360d(c) (2) through (4)) are repealed and replaced with the following new paragraphs:

"(2) A notice of proposed rulemaking for the establishment of a performance standard for a device published under paragraph (1) shall set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed standard and the benefit to the public from the device.

"(3) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard, and after consideration of such comments and any report from the appropriate panel or panels established under section 513, the Secretary shall (i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (2), or (ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(4) Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier or later date shall apply.".

(g) Subsections (d) through (g) of section 514 of the Act (21 U.S.C. 360d(d) through (g)), including the captions thereof, are repealed.

(h) Section 517(c) of the Act (21 U.S.C. 360g (c)) is amended in the second sentence by striking out "(2) or".

(i) Section 520(l) of the Act (21 U.S.C. 360j(l)) is amended by striking out "section 514(g)(5)(B) or".

REPEAL OF THE FILLED MILK ACT

SEC. 4. (a) The Act of March 4, 1923 (42 Stat. 1486), known pursuant to Fifty-seventh Statutes at Large, page 499 (1943) as the Filled Milk Act, is repealed.

(b) Section 902(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 392(c)) is amended by striking out "the Filled Milk Act of March 4, 1923 (U.S.C. 1940 ed., title 21, ch. 3, secs. 61-64);".

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, D.C., July 14, 1982.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Federal Food, Drug, and Cosmetic Act and related statutes, and for other purposes." When enacted, it would be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

The bill would reduce administrative burdens both for the Department and for regulated firms. The bill would simplify the administrative procedure for establishing performance standards for medical devices. It would permit the labeling or advertising of restricted drugs and devices that have been approved under the Act to include truthful statements concerning this approval. The bill would also repeal the obsolete Filled Milk Act.

The provisions of the bill are discussed in detail in the enclosed section-by-section summary.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that there is no objection to the transmission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

DICK SCHWEIKER,
Secretary.

Enclosure.

FEDERAL FOOD, DRUG, AND COSMETIC AMENDMENTS OF 1982—SECTION-BY-SECTION SUMMARY

SHORT TITLE

Section 1 would provide the short title of the bill. When enacted, it would be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

Repeal of prohibition on use in labeling or advertising of representations concerning drug or device approvals under the act

Section 2 of the bill would repeal the prohibition on the use in labeling or advertising of representations concerning drug or device approvals under the Federal Food, Drug, and Cosmetic Act ("the Act"). The purpose of this amendment is to allow the labeling or advertising of restricted drugs and devices that have been approved under the Act to include truthful statements concerning this approval. The Secretary would retain his authority elsewhere in the Act to ensure that investigational devices (devices which have been approved only for limited experimental and investigational purposes) are not promoted.

Procedures for establishing performance standards for medical devices

Section 3 of the bill would repeal the present statutory procedures for developing and establishing performance standards for medical devices, and would substitute a procedure similar to the one presently in use for prescribing performance standards for radiation-emitting electronic products under section 358 of the Public Health Service Act. Under this procedure, standards would be set by informal notice-and-comment rulemaking under the Administrative Procedure Act, except that the Secretary would be required to consult with an appropriate advisory committee.

Repeal of the Filled Milk Act

Section 4 of the bill would repeal the Filled Milk Act. The Act, which bans interstate shipment of milk, cream, or skimmed milk which has any added fat or oil other than milk fat, was declared unconstitutional in 1972 and is not enforced.

By Mr. GOLDWATER (for himself, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BOREN, Mr. HARRY F. BYRD, Jr., Mr. CANNON, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. EAST, Mr. FORD, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCLURE, Mr. MELCHER, Mr. MURKOWSKI, Mr. NUNN, Mr. RANDOLPH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. SIMPSON, Mr. SYMMS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. WARNER):

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on the Judiciary.

NATIONAL PATRIOTISM WEEK

● Mr. GOLDWATER. Mr. President, I am today introducing legislation for myself and more than 35 other Senators to designate the week of February 21 through 27 of 1983 as "National Patriotism Week." This week has been proclaimed by President Reagan twice before in 1981 and 1982, but the basic authorizing law must be renewed each year.

The idea originated with a young lady in Arizona, Miss Lori Cox, while she was a high school student. The unique nature of the week is that it is addressed to young persons especially.

The legislation would encourage, but not require, primary and secondary schools to use an appropriate curriculum for Patriotism Week. Numerous private organizations have already made commitments to assist schools voluntarily and financially in offering special activities each year during this week.

National Patriotism Week has served as a rallying point for the great majority of Americans who retain their confidence in our country, our lasting principles, and the Nation's future. In my opinion, there can never be enough patriotism.●

By Mr. HELMS (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. HARRY F. BYRD, Jr., Mr. CHILES, Mr. COCHRAN, Mr. DIXON, Mr. DOLE, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. STENNIS, Mr. SYMMS, Mr. TOWER, Mr. WALLOP, and Mr. ZORINSKY):

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on the Judiciary.

NATIONAL AGRICULTURE DAY

● Mr. HELMS. Mr. President, on behalf of Senator HUDDLESTON, 48 other Senators and myself, I introduce today a joint resolution proclaiming March 21, 1983, as "National Agriculture Day."

The continuing observance of a special day commemorating agriculture is important so that all Americans, young and old, might understand and appreciate the contributions America's farmers and ranchers make to our economy. Adoption of this resolution now will allow planning for the event to move forward quickly and will alleviate time pressures next spring. A similar resolution is expected to be introduced today in the House of Representatives with bipartisan support.

Mr. President, agriculture is the foundation on which our Nation's hopes for economic recovery are based. The achievements and contributions of America's farmers are numerous and far-reaching. There are four major contributions which I would like to emphasize today: The increase in farm productivity, agriculture's impact on the overall American economy, agriculture's importance in export trade, and the values of the American farmer.

All Americans continue to have a more adequate and healthy food supply than anyone else in the world because farmers today produce over 76 percent more on the same number of acres than did their fathers. As populations expand and the need for food increases at home and abroad, the reliable American farmer meets the challenge of supplying these needs with an abundance of food.

When the family farmer initiates his planting season, he starts a series of activities for which the economic impact extends beyond the farm to effect the urban population to a degree most Americans do not seem to understand. As President Reagan stressed in a recent address:

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With all the miracles of modern day electronics, there is still no greater technological revolution than modern day American farming. . . . To produce effectively a farmer must have seed, fertilizer, fuel, chemicals, labor, machinery, and equipment—just to name a few items.

Agriculture creates jobs for over 23.7 million people—nearly 23 percent of the total available workforce. The total assets of agriculture are equal to 88 percent of the capital assets of all manufacturing corporations in the United States.

Farmers produce not only enough for their fellow Americans, but also enough to make large quantities of food available to insure a favorable balance of trade. Without the farmer's $45 billion contribution, our world export trade base would be horrendous.

All of these facts are certainly important, but they pale in comparison to the impact the strong spirit of the family farmer makes on the American character. Farm family life is one of high values, decency, honor, and dedication that spring only from living close to, and working with, the land.

For these reasons and many more, I would urge passage of this resolution to proclaim March 21, 1983 as "National Agriculture Day."●

● Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor the joint resolution proclaiming March 21, 1983, as National Agriculture Day.

I think it is important to set aside 1 day each year to pay special tribute to the Nation's farmers and ranchers. Although the production of food and fiber is the foundation of our national economy, the important contributions of the Nation's farmers and ranchers are sometimes overlooked by Americans not involved in the production, processing, or marketing of agricultural products.

Today, each farmer and rancher produces enough to feed and clothe 75 Americans. In addition, because of the remarkable productivity of U.S. agriculture, Americans spend only about 15 percent of their disposable income for food—the lowest of any nation in the world.

National Agriculture Day will provide an opportunity for the Nation to focus on the agricultural segment of our economy, recognize its achievements, and get a better understanding of its problems.

I urge my colleagues to join me in sponsoring this joint resolution.●

By Mr. McCLURE:

S.J. Res. 236. Joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week"; to the Committee on the Judiciary.

NATIONAL WATER RESOURCES WEEK

Mr. McCLURE. Mr. President, as I have said many times on this floor before, I have been interested in the issues of water development, management, and control all of my professional life.

Such interest comes naturally, I suppose, for those of us who hail from the arid West where water is in short supply. It became clear to me early that the kind of life we are going to have—whether we are going to continue to grow and prosper or just stand still—depends on having an adequate supply of water. I think the basic truth of that statement is coming home to people in all parts of the country, since increased demand for water and the ensuant strains on water supplies has become a problem in eastern as well as western localities.

Water is not just a western concern, it is a national concern.

I believe it is important to elevate the issue of water to the high level of national concern and priority it deserves. We need to develop an understanding of these vital issues in the contexts of traditional forms of control, which differ between East and West. I am, therefore, introducing today a joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week."

This week coincides with the Golden Jubilee Convention of the National Water Resources Association, in Salt Lake City, Utah. For 50 years, this organization has been at the forefront of those who recognize the importance of water to our society, and who have encouraged the wise use and development of our Nation's water resources.

The National Water Resources Association—its membership and its outstanding executive director, Pat O'Meara—do a great service to this country and I am proud that I have been able to work closely with them through the years. I ask unanimous consent that the text of this joint resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 236

Whereas water is the fundamental resource upon which we rely for our social and economic activities, as well as for our health and well-being; and

Whereas water is the necessarey ingredient for the successful operation of every home, factory, city and farm; and

Whereas the continued growth and prosperity of this Nation is dependent on an adequate supply of water; and

Whereas development of needed sources of new energy will require further use of our water resources; and

Whereas expanded use of water for irrigation could increase farm production and hold down domestic food costs and provide additional commodities for export; and

Whereas without water, life itself is impossible; and

Whereas the National Water Resources Association has been an important and effective force in promoting the importance of our Nation's water resources and the wise and careful use thereof; and

Whereas 1982 marks the fiftieth anniversary of the National Water Resources Association: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the President of the United States is requested and authorized to designate, by proclamation, the week of October 24 through 28, 1982, as "National Water Resources Week," and urge all citizens in the States of the Union, the national and local governments, and groups and organizations, especially officials who are responsible for the collection, treatment, distribution, and disposal of water, to conduct educational programs and otherwise alert the citizenry of the vital importance of water to every American.

ADDITIONAL COSPONSORS

At the request of Mr. Cannon, the name of the Senator from Texas (Mr. Bentsen) was added as a cosponsor of S. 894, a bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976.

S. 1840

At the request of Mr. Durenberger, the name of the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 1840, a bill to amend section 170 of the Internal Revenue Code of 1954 to increase the amounts that may be deducted for maintaining exchange students as members of the taxpayer's household.

S. 2149

At the request of Mr. DeConcini, the name of the Senator from Alaska (Mr. Stevens) was withdrawn as a cosponsor of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2189

At the request of Mr. Thurmond, the name of the Senator from Alabama (Mr. Denton) was added as a cosponsor of S. 2189, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 2419

At the request of Mr. DeConcini, the name of the Senator from Alaska (Mr. Stevens) was added as a cosponsor of S. 2419, a bill to amend title 28, United States Code, regarding venue, and for other purposes.

S. 2580

At the request of Mr. Mathias, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2580, a bill to establish the Christopher Columbus Quincentenary Jubilee Commission.

S. 2585

At the request of Mr. Hollings, his name was added as a cosponsor of S.

2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

At the request of Mr. Cranston, the names of the Senator from Massachusetts (Mr. Kennedy), the Senator from Connecticut (Mr. Weicker), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of S. 2985, supra.

S. 2659

At the request of Mr. Hollings, his name was added as a cosponsor of S. 2659, a bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results to periodic reviews of disability determinations.

S. 2700

At the request of Mr. Hollings, his name was added as a cosponsor of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set-aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2792

At the request of Mr. Stevens, the names of the Senator from Florida (Mrs. Hawkins), and the Senator from New Jersey (Mr. Brady) were added as cosponsors of S. 2792, a bill to establish an ocean and coastal development impact assistance fund and to require the Secretary of Commerce to provide to States national ocean and coastal development and assistance block grants from moneys in the fund, and for other purposes.

S. 2801

At the request of Mr. Jackson, the names of the Senator from Delaware (Mr. Biden), the Senator from New Jersey (Mr. Bradley), the Senator from Nevada (Mr. Cannon), the Senator from Rhode Island (Mr. Chafee), the Senator from Florida (Mr. Chiles), the Senator from Maine (Mr. Cohen), the Senator from Missouri (Mr. Danforth), the Senator from Illinois (Mr. Dixon), the Senator from Connecticut (Mr. Dodd), the Senator from Minnesota (Mr. Durenberger), the Senator from Missouri (Mr. Eagleton), the Senator from Nebraska (Mr. Exon), the Senator from Kentucky (Mr. Ford), the Senator from Washington (Mr. Gorton), the Senator from Colorado (Mr. Hart), the Senator from Florida (Mrs. Hawkins), the Senator from Pennsylvania (Mr. Heinz), the Senator from South Carolina (Mr. Hollings), the Senator from Kentucky (Mr. Huddleston), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Michigan (Mr. Levin), the Senator from Maryland (Mr. Mathias), the Senator from Hawaii (Mr. Matsunaga), the Senator from Maine (Mr. Mitchell), the Senator from New York (Mr. Moynihan), the Senator from Georgia (Mr. Nunn), the Senator from Oregon (Mr. Packwood), the Senator from Rhode Island (Mr. Pell), the Senator from Illinois (Mr. Percy), the Senator from Arkansas (Mr. Pryor), the Senator from Michigan (Mr. Riegle), the Senator from New Hampshire (Mr. Rudman), the Senator from Maryland (Mr. Sarbanes), the Senator from Tennessee (Mr. Sasser), the Senator from Pennsylvania (Mr. Specter), the Senator from Connecticut (Mr. Weicker), the Senator from Delaware (Mr. Roth), the Senator from Louisiana (Mr. Johnston), the Senator from New York (Mr. D'Amato), the Senator from Virginia (Mr. Warner), and the Senator from Ohio (Mr. Glenn) were added as cosponsors of S. 2801, a bill to withdraw certain lands from mineral leasing, and for other purposes.

SENATE JOINT RESOLUTION 174

At the request of Mr. Leahy, the names of the Senator from Montana (Mr. Baucus), the Senator from California (Mr. Cranston), the Senator from Illinois (Mr. Dixon), the Senator from Connecticut (Mr. Dodd), the Senator from Kentucky (Mr. Huddleston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Michigan (Mr. Levin), the Senator from Montana (Mr. Melcher), the Senator from Rhode Island (Mr. Pell), the Senator from Wisconsin (Mr. Proxmire), the Senator from Hawaii (Mr. Inouye), the Senator from Maryland (Mr. Sarbanes), the Senator from New Mexico (Mr. Domenici), the Senator from Illinois (Mr. Percy), the Senator from Pennsylvania (Mr. Specter), the Senator from Indiana (Mr. Lugar), the Senator from Oregon (Mr. Hatfield), the Senator from South Dakota (Mr. Pressler), the Senator from Vermont (Mr. Stafford), the Senator from Minnesota (Mr. Durenberger), the Senator from Missouri (Mr. Danforth), and the Senator from Minnesota (Mr. Boschwitz) were added as cosponsors of Senate Joint Resolution 174, a joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day."

SENATE JOINT RESOLUTION 213

At the request of Mr. Tsongas, the name of the Senator from Delaware (Mr. Roth) was added as a cosponsor of Senate Joint Resolution 213, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women.

SENATE JOINT RESOLUTION 226

At the request of Mr. Cochran, the names of the Senator from Virginia (Mr. Warner) and the Senator from Louisiana (Mr. Johnston) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'Amato, the name of the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 355

At the request of Mr. DeConcini, the name of the Senator from New Jersey (Mr. Brady) was added as a cosponsor of Senate Resolution 355, a resolution expressing the sense of the Senate with respect to the need to continue Federal funding for energy conservation and renewable energy resources.

SENATE RESOLUTION 444

At the request of Mr. Danforth, the name of the Senator from Colorado (Mr. Hart) was added as a cosponsor of Senate Resolution 444, a resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war.

SENATE RESOLUTION 449

At the request of Mr. Armstrong, the names of the Senator from Utah (Mr. Garn), the Senator from North Carolina (Mr. Helms), and the Senator from Georgia (Mr. Mattingly) were added as cosponsors of Senate Resolution 449, a resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

AMENDMENT NO. 1906

At the request of Mr. Cranston, the names of the Senator from Oklahoma (Mr. Boren), the Senator from Arkansas (Mr. Pryor), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of Amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

AMENDMENT NO. 2016

At the request of Mr. Quayle, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of Amendment No. 2016 intended

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to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

SENATE RESOLUTION 452—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DURENBERGER, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2329. Such waiver is necessary because S. 2329 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority for an efficiency advisory roundtable to assist the Advisory Commission on Intergovernmental Relations in its consideration of proposals to rebalance the federal system.

S. 2329 authorizes such sums as are necessary to complete the work of the roundtable mandated by the bill. The Congressional Budget Office has estimated that appropriations of $300,000 over two fiscal years will be necessary for this purpose. The Committee on Governmental Affairs noted that ACIR is authorized to accept gifts and enter into contracts to finance programs similar to those mandated by the bill and made authorization for the roundtable conditional on an appropriation or other financing in advance of appointing the roundtable members. Thus, the authorization included in S. 2329 is only triggered when funds for the mandated purposes become available, and not expressly for Fiscal Year 1983.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Advisory Commission on Intergovernmental Relations and the roundtable in Fiscal Year 1983 and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

SENATE RESOLUTION 453—DESIGNATING NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

Mr. NUNN (for himself, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. BOREN, Mr. HUDDLESTON, Mr. SASSER, Mr. JACKSON, Mr. LEVIN, Mr. COCHRAN, Mr. RANDOLPH, Mr. PELL, Mr. ZORINSKY, Mr. EAST, Mr. HATFIELD, Mr. HAYAKAWA, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HELMS, Mr. D'AMATO, Mr. ABDNOR, Mr. KASTEN, Mr. THURMOND, Mr. TOWER, and Mr. CHILES) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. Res. 453

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work-related ingenuity and know-how has brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living of United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore be it

Resolved by the Senate of the United States of America in Congress assembled, That, for the purposes of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the week of October 3 through October 9, 1982, is designated "National Productivity Improvement Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. NUNN. Mr. President, I am pleased today to offer a resolution on behalf of the American Institute of Industrial Engineers which designates a week in October as "National Productivity Improvement Week." A greater understanding of the effects of lagging productivity on our Nation's economy and of methods to increase productivity is necessary today as we face the great challenges of lowering inflation and achieving economic recovery. It is, therefore, my pleasure to submit this resolution, which designates the week of October 3 through October 9, 1982, as "National Productivity Improvement Week."

Traditionally, America has been the international leader in productivity growth since the machine age began. This growth has, however, slipped significantly during the past decade. Now other nations are closing the gap. Japan and Germany have surpassed United States productivity in many areas.

The 1981 tax cut bill made many important tax changes to encourage investment and plant modernization to help improve American productivity. Progress is also being made in the area of regulatory reform and the elimination of unnecessary Federal regulation and paperwork.

Increased productivity growth can play a major role in reducing inflation and at the same time create greater job opportunities and security for our workers. As wage rates increase but productivity decreased, labor costs become more inflated and it becomes necessary for the producer to pass along this expense to the consumer. Increased productivity on the other hand, creates more goods and services for the same capital investment guaranteeing the company a savings and stabilizing or lowering prices for consumers. As long as our Nation's industries can remain competitive through greater productivity, greater job security can be insured for our workers.

Productivity growth can be encouraged. A greater understanding of the serious effects of declining productivity growth will facilitate efforts to reverse this trend. Therefore, Mr. President, I am pleased that the American Institute of Industrial Engineers has continued their public information campaign to promote a better understanding of the critical aspects of productivity improvement. The members of the institute are actively engaged in efforts to enhance productivity through the management of plant design and engineering, systems engineering, energy conservation, operational research and production and quality control. The institute's public information campaign to promote a better public understanding of the need for productivity improvement are to be highly commended and encouraged. I am pleased to introduce this resolution designating October 3 through October 9, 1982, as "National Productivity Improvement Week." I am hopeful that the Senate will act expeditiously on this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

AMENDMENT NOS. 2041 AND 2042

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for an increase in the public debt limit.

AMENDMENT NO. 2043

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 520, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy Conservation and Supply to receive testimony on the Department of the Interior's Outer Continental Shelf 5-year oil and gas leasing plan. This oversight hearing will be held on

Wednesday, September 8, beginning at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Energy Conservation and Supply, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Gary Barbour of the subcommittee staff at 224-0613.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to receive testimony on the following bills: S. 2088, to require treatment of citizens of the Northern Mariana Islands as citizens of the United States of America for purposes of particular Federal statutes; S. 2089, to clarify the applicability of the Federal Tort Claims Act to claims arising in the Northern Mariana Islands; S. 2090, to amend the application of the Clean Air Act to the Northern Mariana Islands; S. 2632, to authorize the government of American Samoa to issue bonds and other obligations and for other purposes; S. 2633, to amend the Organic Act of Guam and the revised Organic Act of the Virgin Islands to transfer the audit authority and related staff of the offices of the government comptrollers for Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa to the Office of Inspector General, Department of the Interior, and for other related purposes; S. 2729, to amend or repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

The hearing will be held on Monday, September 13, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to submit testimony for the hearing record should write to the Committee on Energy and Natural Resources, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Jim Beirne or Ms. Becky Tucker of the committee staff at 224-2564.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 19, at 10 a.m., to hold a hearing to consider acid precipitation and the use of fossil fuels.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 19, at 9:30 a.m., to mark up amendments to the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 19, at 2 p.m., to hold a hearing on S. 2235, a bill to provide improved protection for foreign diplomatic missions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF COSPONSORSHIP OF S. 2585, S. 2700, AND S. 2659

● Mr. HOLLINGS. Mr. President, I am pleased to be cosponsoring three important pieces of legislation today.

The first, S. 2585, restores the social security student benefit for the widows and children of members of the Armed Forces who were killed while on active duty or who died as a result of a service-connected disability.

As we all know, in last year's Budget Reconciliation Act phased out the social security student benefit. However, that change affected over 26,000 surviving spouses and 70,000 children of individuals who died while in the service or later as a result of service-connected disabilities. Of this group, 70,000 were the widows and children of soldiers who served during Vietnam.

Many people will ask why these widows and children should be treated differently from the survivors of other social security recipients. The answer, Mr. President, is that these student benefits, along with other Veterans' Administration programs, were part of a large package of benefits promised by the Department of Defense in documents provided to our servicemen. They were told by the Armed Forces that the social security student benefit, eliminated last year, would be there to help their families in the event they could not. And, through this combination of VA and social security benefits, they were promised that the needs of their wives and children would be met.

Mr. President, the survivors of those who gave their lives in service to this country are, in my opinion, one of our highest national responsibilities. To renege on a promise made to these people would be a terrible breach of our moral obligation. We would, in effect, be saying "Yes, we promised to provide for your family. And yes, you did make the ultimate sacrifice for your country. But no, we cannot keep our promise now because it is too expensive in 1982." That to me is bankruptcy of the worst sort—moral bankruptcy. This bill prevents it. I am proud to be a cosponsor.

The second bill I am cosponsoring today—S. 270—excludes burial plots and prepaid funeral arrangements from the supplemental security income (SSI) program assests test.

Mr. President, SSI provides income to the neediest of our elderly, blind, and disabled people. It is a needs-based program. Eligibility is determined by an assets test.

Under current law, several resources are excluded from the calculation of assets: a home, a car, property used for self-support, and reasonable amounts of life insurance. These exclusions are intended to insure that applicants need not dispose of essential items in order to qualify for SSI. Furthermore, these exclusions are intended to encourage people to provide for themselves as much as possible.

Burial plots and funeral plans are not currently included in the list of exclusions from assets. But those SSI recipients who plan ahead and are seeking some peace of mind in their later years should not be penalized. In addition, if the burial expenses are not excluded, the States and local governments will be forced to pick up the costs of the additional indigent burials.

It is absurd that we have, in many cases, forced the elderly to make a choice between giving up plans for a respectable internment or forfeiting benefits they need to stay alive. This bill eliminates that cruel choice.

Mr. President, the third bill is S. 2659, a bill to improve the new disability review process, which, in the year and one-half since its implementation, has become increasingly unmanageable.

In 1980, Congress enacted amendments that required the review of nonpermanently disabled recipients every 3 years. Regular review was thought to be necessary since evidence presented by the Government Accounting Office indicated that as many as 20 percent of the recipients on the rolls—over half a million people—were not truly disabled.

But, there have been problems in implementation of the review process, especially since the administration, in its quest for immediate savings, started the review process nearly a year before it was scheduled to begin.

The results were predictable. The States, understaffed and not prepared for the new regulations, were overwhelmed. Most recipients had their cases decided by physicians who never even saw them. Nearly one-half of the cases reviewed resulted in benefit terminations—only to have two-thirds of these decisions overturned in appeal.

The personal hardship of this merry-go-round has been devastating. The appeals process takes several months, during which time no disability benefits are received. Medicare coverage, often the most important benefit to the disabled, is also terminated, pending the appeal. Anxiety, poverty, and poor health are heaped upon those who are often the least able to handle them.

This bill makes three important changes to rectify this situation: First, it continues benefit payments for 6 months or until the first appeals hearing is held after notice of termination; second, it continues medicare benefits until the final administrative appeal has been decided; and third, it allows the recipient to be present at the first appeals hearing.

Mr. President, few in this body can doubt my resolve to have a financially sound income security system for the poor and elderly. In the past 2 years, I have offered several proposals to prevent the impending bankruptcy of social security. I also have supported the reconciliation bills to scale back our income security programs in those areas where they have gotten out of control.

But, this does not mean that I wear blinders, that good policy is no longer important. In our pell-mell rush to regain control of the income security function, we cannot forget what our objectives are. We cannot forget that we are dealing with the most vulnerable people in our society. And, we cannot forget that good budgeting works both ways—spending decreases and spending increases.

My support for these three bills in no way diminishes my resolve to see a balanced budget. But it will continue my resolve that good government can and does exist. Government can have its fiscal house in order while at the same time providing a home for the helpless in our society.

Mr. President, I submit for the RECORD an article by James J. Kilpatrick entitled "Mattie Dudley," and an editorial from the Washington Post.

The material follows:

[From the Baltimore Sun, Aug. 8, 1982]

MATTIE DUDLEY

THROUGH A HOLE IN THE SAFETY NET

(By James J. Kilpatrick)

CHARLOTTESVILLE, VIRGINIA.—The story that follows is a true story. It is not one of those events that reportedly happened to someone else in some other place. This story didn't happen once upon a time. It happened here, this week, to Mattie Dudley, 67, crippled since infancy, a little old lady in a wheelchair who peddles the Daily Progress on the streets of this university town.

As of August 1, her Medicaid benefits have been suspended for the next two years.

How come?

The government's welfare workers discovered that Mattie Dudley has assets—really, one asset—in excess of the maximum permitted by law. And what was this asset?

It was a $1,000 funeral certificate that she finally was able to purchase in 1979 from the savings of a lifetime. Possession of the certificate, guaranteeing her a funeral from the Hill & Wood Funeral Service, made her ineligible for benefits under the Supplemental Security Income program. In order to preserve her SSI benefits, she was compelled to give up Medicaid.

Charles Giametta, a reporter for the Progress, spelled out the infuriating facts in a Page One story last week. Mattie Dudley was born at Miller School in Albermarle county, where her father was a grounds keeper. A congenital condition caused her legs to shrivel and atrophy. She lives alone in a sparsely furnished basement apartment, but every day she is out on the downtown streets, a familiar figure in her canopied wheelchair, selling papers, and talking to her customers.

Miss Dudley had been getting along, just barely, on her $280 a month in SSI benefits. This is a federally funded program that aids disabled or poor persons who are not covered by regular Social Security. Such benefits are limited to those persons whose assets do not exceed $1,500.

Purchase of the burial certificate in 1979 pushed her close to the limit. Now, along with a small savings account, interest on the burial certificate, amounting to $226.17, has pushed her over the top. As Mr. Giametta said in his newspaper story, she has dropped through a hole in the safety net.

When this calamitous overage first was called to her attention a few weeks ago, Miss Dudley transferred her burial certificate to a friend. The friend promised to bury her according to plan, in the gray dress in the gray casket that Miss Dudley had picked out. It turned out that mere transfer of the certificate wasn't enough. Mr. Giametta explains: "Because she did not sell the certificate and use the money to purchase necessities such as food or clothing, she violated state Medicaid rules."

Welfare workers summoned Miss Dudley to a conference in City Hall. They gave her three options: (1) She could reacquire the certificate, cash it in and spend the proceeds on approved necessities; (2) she could reacquire the certificate and keep it, and thus lose her SSI benefits; or (3) she could leave things the way they are and forfeit her Medicaid benefits for the next two years. Spinning the wheel of fortune, she picked No. 3. Goodbye, Medicaid.

"Maybe sometime I might need it," she told Giametta, "if I got sick and couldn't do for myself. But right now, I can do for myself. I ain't never sick much."

The welfare workers should not be cast as the wicked witches in this story. They were sympathetic with Mattie Dudley's plight, but rules are rules. "It's not what we want, it's the regulations we have to follow." Another local funeral home confirmed that a dozen other elderly pensioners have cashed in their pre-paid certificates in the past year in order to preserve their eligibility for welfare.

A proper story should have a happy ending. This one doesn't. Congressman Kenneth Robinson, who represents the Charlottesville area, boiled over when he learned of Mattie Dudley's case. He has introduced a bill to remedy the situation for all pensioners so situated, but the mills of the law grind slowly and for this little old lady in a wheelchair, time is running out.

[From the Washington Post, Aug. 3, 1982]

MATTIE DUDLEY'S TROUBLES

There is a lesson for budget-cutters in the story of Mattie Dudley, well told by James J. Kilpatrick on the opposite page today. It is this: there are important social values bound up in how a society runs its welfare programs, and these aren't always measured in the bottom line of a budget sheet.

Miss Dudley has been caught in one of those "welfare traps" that have proliferated in the welfare laws in the last few years. Her trouble comes from the fact that she is too much like other people—and not enough like that stereotypical wastrel whose image has guided recent developments in welfare law. Mattie Dudley wants to be productive, so, despite having been crippled from birth, she sells newspapers on the street. She knows she'll never be well-off in this life, but she thought she might at least provide herself with a decent burial.

The government, of course, could have none of that. Welfare recipients aren't supposed to have aspirations or dignity, and they are certainly not to be encouraged to accumulate any assets beyond the minimum needed for daily survival. So the welfare office threatened to take away her modest welfare grant unless she got rid of the $1,000 certificate guaranteeing her a funeral. When she gave the certificate to a friend, they got her on another technicality added to the welfare law in the budget process a year and a half ago. Because she disposed of an asset for less than fair market value, her Medicaid was cut off.

There are many such traps now built into welfare law—rules that reinforce dependency and destroy people's self-respect. The rule that we noted last week, for example, that now keeps poor youngsters from holding summer jobs lest their mothers lose all welfare aid. And the provisions that now make welfare families considerably worse off if they try to achieve independence by working.

Laws like these are corrosive in their effects on families and individuals. When they come to light in real cases, like Mattie Dudley's, they arouse the general sense of outrage. But somehow those feelings don't come forward in the cold, hard calculations of the budget process that now dominates all congressional consideration. So we'll make another argument more suitable to the times. Destroying peoples' sense of dignity and achievement doesn't save money for the taxpayer, it simply ensures that the problems of dependency will be with us for a long time to come.

There are provisions in the House Ways and Means Committee budget reconciliation bill—in conference with the Senate this week—that would dismantle some of these welfare traps. They're too late to help Mattie Dudley, but they could prevent more cases like hers in the future.●

SENATOR ROTH CONSPONSORS ERA

● Mr. ROTH. Mr. President, I rise today to announce that I have once again cosponsored the equal rights amendment.

I cosponsored this legislation in 1971, and was pleased that it passed the Congress the following year. I also sponsored an equal rights amendment in 1970 when I served in the House of Representatives.

The protection of equal rights is one of the most basic roles and responsibilities of government. That right should not be abridged in any way because of one's sex. In recent years, women have made tremendous strides in many fields and occupations previously thought limited to men.

But more needs to be done. Wage discrimination still exists. Equal pay for equal work is still not the uniform practice around this country. The equal rights amendment is designed to correct, through the highest law of our land, these remaining inequities.

However, I am concerned that the national debate over the past several years surrounding the equal rights amendment did raise certain questions as to whether the courts might be required to find that in the event of a military draft, women must be drafted. I urge the Judiciary Committee, in their consideration of the new ERA, to carefully study these sorts of questions which have been raised.

Mr. President, I hope Congress will move expeditiously on the amendment, and allow the States to once again consider its inclusion into our Constitution.●

TRIBUTE TO JAMES M. MORTON

● Mr. HOLLINGS. Mr. President, I rise on this occasion to praise the loyal service of James M. Morton (Rock Hill, S.C.), a dedicated Senate employee.

During his 4½ years of service as a Senate door attendant, Jim has endured many long evenings with his usual good humor and enthusiasm. He has become an indispensible member of the Senate family, who will be sorely missed.

Jim is leaving us to continue his education at the University of South Carolina Law School. We wish him good luck, and continued success, in his new endeavor.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 16, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229 Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 16, 1982.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an American Republic country tentatively estimated to cost in excess of $50 million.

Sincerely,

WALTER B. LIGON,
Acting Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room 4229 Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 18, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-34, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $379 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL No. 82-34

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major defense equipment[1] $262 million; other, $117 million; total, $379 million.

(iii) Description of Articles or Services Offered: Twelve AV-8B aircraft with spares, related repair parts, and logistic support.

(iv) Military Department: Navy (SCA).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: See Annex under separate cover.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1981.

(viii) Date Report Delivered to Congress: August 18, 1982.

POLICY JUSTIFICATION

Spain—AV-8B aircraft

The Government of Spain has requested the purchase of 12 AV-8B aircraft with spares, related repair parts, and logistic support at an estimated cost of $379 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Spain; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance by improving Spain's coastal defense. Such improvement will benefit the defensive posture of the southern flank of NATO and contribute to keeping the sea lanes open for supplying the U.S. military facilities in Spain which are important staging and reinforcement sites.

The purchase of the AV-8B aircraft will substantially improve the Spanish Navy's VSTOL capability and upgrade and modernize its air strike and support capabilities. These aircraft will be used by Spain to supplement and replace its existing AV-8A aircraft. The Spanish Navy will be capable of absorbing these aircraft within their inventory. Additionally, the Spanish Navy will be capable of performing the required maintenance of these aircraft without adverse impact on its current military capabilities.

The sale of this equipment and support will not affect the basic military balance in the region.

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[1] As defined in Section 47(6) of the Arms Export Control Act.

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The prime contractor will be the McDonnell Douglas Aircraft Corporation of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 19, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-80 and under separate cover the classified annex thereto. This Transmittal concerns the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $240 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

TRANSMITTAL NO. 82-80

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to P.L. 96-8.

(ii) Total Estimated Value: Major Defense Equipment,[1] $127 million; other, $113 million; total, $240 million.

(iii) Description of Articles or Services Offered: The Government-furnished equipment portion of 30 F-5E and 30 F-5F aircraft to be co-produced in Taiwan which includes 60 AN/ALR-46(V)3 Radar Warning Receiver sets, 60 AN/ALE-40(V)7 Chaff/Flare Dispenser systems, and 150 J-85-21 engines.

(iv) Military Department: Air Force (SFD).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: August 19, 1982.

POLICY JUSTIFICATION

Coordination Council for North American Affairs on Behalf of Taiwan—F-5E/F aircraft and related equipment

The proposed Letter of Offer and Acceptance (LOA) provides for the sale of the Government-furnished equipment protion of 30 F-5E and 30 F-5F aircraft to be co-produced in Taiwan which includes 60 AN/ALR-46(V)3 Radar Warning Receiver sets, 60 AN/ALE-40(V)7 Chaff/Flare Dispenser systems, and 150 J-85-21 engines at an estimated cost of $240 million.

The Taiwan Relations Act states that the U.S. will make available to Taiwan defense articles and services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability. The proposed sale of 60 additional F-5E/F is consistent with U.S. law and policy.

Improvement of its air defense is one of Taiwan's highest military priorities. The proposed sale would sustain Taiwan's air defense capability and thus contribute to both Taiwan's security and the maintenance of regional stability. The relative power balance in the Taiwan Strait area has not changed appreciably since normalization of relations between the United States and China. However, attrition of aging F-100, F-104, and F-5A/B aircraft between now and 1986 could degrade Taiwan's air defense capability. Accordingly, Taiwan relies increasingly on the F-5E/F and needs to procure additional aircraft to compensate for these projected losses.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Northrop Corporation of Hawthorne, California.

Implementation of this sale will not require the assignment of any U.S. Government personnel or additional contractor representatives to Taiwan.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

● Mr. JEPSEN. Mr. President, this morning the Senate Banking Committee completed action on the Depository Institutions Amendments of 1982. I congratulate Senator GARN and the other members of the committee for resolving their differences so that the Congress can act on this important legislation this year. Following is a summary of the provisions of this legislation prepared by the Senate Banking Committee staff:

TITLE-BY-TITLE SUMMARY: DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

TITLE I.—DEPOSIT INSURANCE FLEXIBILITY

Part A.—FDIC amendments

The bill expands FDIC's powers to assist troubled banks by allowing either direct or merger-related assistance to prevent the closing of or to reopen any insured bank or when severe financial conditions threaten the stability of a significant number of banks or banks with significant financial resources and by expanding the forms of assistance. FDIC could also assist an FSLIC-insured institution or a bank or savings and loan holding company in acquiring a failing FDIC-insured bank.

This bill permits savings banks to covert from State to Federal charter and continue to be FDIC insured. The FHLBB would charter and regulate such institutions but FDIC, as insurer, would retain essentially the same powers over savings banks chartered under the bill as it retains over national banks.

The bill allows commerical banks and mutual savings banks with assets of $500 million or more which are closed or, in the case of mutual savings banks, are in danger of closing to be acquired. State consultation is mandated. Priority is given to acquisitions in-state first, contiguous states next, and other interstate acquisitions last. All bidders within 15 percent or $15 million of the highest first bid are given the opportunity to re-bid. The agency must give consideration to maintenance of local institutions along with the need to minimize financial assistance.

Part B.—Federal Home Loan Bank Board amendments

The bill expands FSLIC's powers to assist troubled thrifts by permitting assistance when severe financial conditions exist and by increasing the forms of assistance to include deposits in the institution and a purchase of its securities.

The bill provides for emergency acquisistions of insured institutions that are eligible for FSLIC assistance. Priority is given to acquisitions in-state first, contiguous states next, and other interstate acquisitions last. All bidders within 15 percent or $15 million of the highest first bid are given the opportunity to re-bid. The agency must give consideration to maintenance of local institutions along with the need to minimize financial assistance. In the case of a state chartered institution, written approval of the state regulator is required within 90 days after the state chartered institution has exhausted its net worth. The future branching capabilities of an acquired thrift are subject to national bank branching restrictions.

The need for FSLIC assistance for troubled mutual institutions will be reduced by a provision authorizing FSLIC to permit any mutual thrift to obtain a Federal stock charter, notwithstanding any other law, as long as that institution is in receivership, has contracted to receive FSLIC financial assistance or is under threat of instability because of severe economic conditions.

Another provision allows the Bank Board to waive the requirement that institutions set aside a portion of net earnings to a reserve account. FSLIC is also permitted to use its secondary reserve exactly in the manner it uses the primary reserve.

The Bank Board is allowed to appoint the FSLIC as conservator or receiver of a State chartered insured institution regardless of any state action, upon a determination that the institution is in an unsafe or unsound condition to transact business, has substantially dissipated its assets, or had assets less than its obligations. The Bank Board must seek written approval from the relevant state official prior to exercising its receivership authority, but may act without such approval if the state fails to act in a timely manner or FSLIC is appointed receiver by a public authority of an institution in default.

Part C—National Credit Union Administration amendments

The National Credit Union Administration is given flexibility and authority to handle certain emergency situations. NCUA Board can approve mergers or purchase and assumption transactions between two insured credit unions if one of the credit unions is insolvent or in danger of becoming so, if an emergency is found to exist, and if other reasonable alternatives are not available. The Board may also authorize a purchase and assumption arrangement between a failing insured credit union and any federally-insured financial institution. This authority exists without any restrictions as to field of membership or geographic area and permits other federally-insured financial institutions to purchase or assume the assets of a federally-insured credit union.

Additionally the NCUA Board is authorized to act as a conservator of an insured credit union in order to protect the interests of the members, the assets of the credit union, and the share insurance fund. In the case of federally-insured state chartered credit unions, the state credit union supervisor must be consulted at least 24 hours prior to NCUA's exercise of this authority.

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[1] As defined in Section 47(6) of the Arms Export Control Act.

Part D—Sunset provision

The emergency provisions contained in Title I sunset 5 years after the date of enactment.

TITLE II—CAPITAL ASSISTANCE

This title establishes a program whereby Federally-insured financial institutions may exchange capital notes with the Federal insurance agencies to buoy up their net worth.

To qualify, institutions must (1) have net worth of less than 3 percent, (2) have incurred losses during the two previous quarters, (3) comply with the terms established by the insuring agencies (although no merger resolution may be required from an institution which after receipt of assistance will have positive net worth for at least nine months), (4) be solvent for at least six months, and (5) have at least 20 percent of their assets invested in residential mortgages or mortgage backed securities.

State consultation, as well as consultation with the appropriate Federal banking agency in the case of a commercial bank, will be required.

The initial formula will be as follows:

Net worth	*Level of assistance*
Less than 3 percent	30 percent of period loss.
Less than 2 percent	40 percent of period loss.
Less than 1 percent	50 percent of period loss.

The insuring agencies may change the formula but cannot provide more than 100 percent of period loss.

State law overrides (1) One provision ensures that the capital notes will be treated as net worth and that State chartered institutions can continue to operate and pay dividends. (2) As long as a qualified institution has notes outstanding, it will not be liable for any State or local franchise tax.

Statutory net worth for savings and loans is amended by deleting statutory minimum and requiring institutions to hold adequate reserves in a form satisfactory to the Federal Home Loan Bank Board.

TITLE III—DEPOSITORY INSTITUTIONS INSURANCE AND SERVICES

Part A.—Form of charter: demand accounts

Under this section, the Federal Home Loan Bank Board is authorized to charter Federal associations known as Federal Savings and Loan Associations or Federal Savings Banks. Their purpose shall be to provide thrift institutions for the deposit or investment of funds, and for the extension of credit for homes, and other goods and services. Existing limitations on the chartering of Federal Mutual Savings Banks and distinctions among Federal associations' investment authority are eliminated. Additionally, any institution that is a Federal Home Loan Bank member (or is eligible to become a member) is permitted to convert to a Federal Savings and Loan, a Federal Savings Bank, or a Federal Mutual Savings Bank. Conversion from stock to mutual form or mutual to stock form is also liberalized for institutions eligible to become Federal Home Loan Bank members.

Federal Associations are also given the authority to accept demand accounts from persons or organizations with an established business relationship. Additionally, the statutory 30-day notice-of-withdrawal period for savings accounts (including NOW accounts) is eliminated in order to enable S. & L.'s to be more competitive with commercial banks with respect to this account.

Finally, the existing prohibition against the issuance of capital stock by Federal S. & L.'s is deleted, and an explicit grant of authority to issue such stock is substituted. This will permit the Bank Board to authorize Federal stock S. & L.'s on a de nova basis.

Part B—Investments

Federal associations' investment authority is expanded as follows:

Overdrafts.—Overdraft loans could be issued with respect to any transactions account, rather than only NOW accounts.

Real property loans.—Existing loan-to-value ratios are deleted for residential property. Non-residential real estate lending is increased from 20 percent of assets to 40 percent of assets.

Time deposits.—Permits associations to invest in each other's time and savings deposits.

State securities.—Permits investment up to 100 percent of assets in state and local obligations.

Consumer loans.—Authorizes investment up to 30 percent of assets in consumer loans, including inventory and floor planning loans.

Personal equipment.—Invest up to 10 percent of assets in tangible personal property to engage in leasing activities.

Education loans.—Maintain 5 percent of assets limitation but broadens scope to include all educational loans.

Small Business Investment Corporations.—Restores investment authority up to 1 percent of assets.

Commercial loans.—Are phased in as follows: (1) for direct loans, up to 5 percent of assets of an S. & L. (7½ percent of assets of a savings bank) prior to January 1, 1984 and 7½ percent of assets of an S. & L. or savings bank thereafter; (2) for participations or purchases, 5 percent of assets of an S. & L. or savings bank prior to January 1, 1984 and 7½ percent thereafter.

Federal thrifts are made subject to antitying restrictions comparable to those applicable to bank holding companies. These provisions prohibit an association from conditioning and extension of credit on the purchase of a product from the association and authorize private law suits. With some limitations and grandfathering, interstate branching of Federal Associations is limited to those associations who qualify for the bad debt deduction. Further, the activities of single S. & L. holding companies would be restricted to only those permitted multiple S. & L. holding companies if the company's S. & L. subsidiary does not qualify for the bad debt deduction.

All interest rate differentials are to be phased out no later than January 1, 1985. However, any differential established after July 1, 1982 must be eliminated no later than January 1, 1984. The Depository Institutions Deregulation Committee is required to authorize a new account that effectively competes with money market funds not later than 60 days from enactment. Such account shall not be subject to transaction account reserves even though no minimum maturity is required if all transfers to third parties are prohibited and other transfers in excess of three per month are prohibited.

Part C—Preemption of due-on-sale prohibitions

Under this subsection, lenders could enforce due-on-sale clauses in real property loan contracts, notwithstanding state law, except for loans originated or assumed during a "window period". The "window period" begins on the date the state acted to restrict enforcement of due-on-sale clauses and ends on the date the federal preemption becomes effective. These "window period" loans would be subject to applicable state law for three years, and after three years the due-on-sale clauses would become enforceable, unless the state legislature acted to otherwise regulate such loans. The Comptroller of the Currency and the National Credit Union Administration would similarly be able to regulate "window period" loans originated by national banks or federal credit unions. Federal savings and loan associations and federal savings banks would be exempt from this "window period" restriction because they have had a due-on-sale regulation since 1976 whose application, in the face of inconsistent state law, was recently upheld by the Supreme Court. Nonbinding language would encourage lenders and borrowers to negotiate blended rates upon assumption of mortgages.

Nine circumstances are listed which restrict the lenders ability to enforce due-on-sale clauses. The Federal Home Loan Bank Board, in consultation with the Office of the Comptroller of the Currency, has the authority to write rules and regulations, and issue interpretations.

Part D—Miscellaneous

These provisions are largely technical. The Bank Board is given the authority to determine the appropriate security for advances, and it is made clear that courts may only assess attorneys' fees against the Bank Board when the agency loses the case. Obsolete requirements are deleted and authority is granted to compensate members of the Federal Savings and Loan Advisory Council.

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

Part A—General Provisions

The amendments to the laws governing national banks replace some of the rigid limitations imposed on national banks. They provide greater flexibility and the opportunity for more effective competition with less regulated institutions.

The lending and borrowing limits are amended. The amount a bank is permitted to lend to a single borrower is raised from 10 percent of unimpaired capital and surplus to 15 percent, plus 10 percent if the loan is fully secured. Real estate lending provisions are simplified. Rigid funding restraints are eliminated.

The bill provides for federal chartering of bankers' banks. Bankers' banks are limited charter institutions which provide services to, and are exclusively owned by, depository institutions.

There is a mechanism for the orderly disposition of unclaimed property in the possession of the Comptroller of the Currency. This property was acquired from receivers of national banks closed during the Depression and consists of the contents of safe deposit boxes. It also allows state unclaimed property administrators to examine National bank records.

Formal approval for a bank name change or relocation of headquarters to any already approved branch within the same city, town or village is eliminated. Any other move

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would still require agency and shareholder approval, and would remain subject to a 30-mile limitation.

The special venue provision for national banks which permits a national bank to be sued only in the district in which its headquarters is located, is deleted, except with respect to closed banks or banks in receivership.

The bill increases the maximum allowable bankers' acceptances to 100 percent, or 150 percent if approved by the Fed. It also rewrites section 23A of the Federal Reserve Act in order to simplify it, close some loopholes and exempt transactions among sister banks.

The bill provides an exemption from reserve requirements for institutions with deposits of less than $5 million.

Part B—Financial Institutions Regulatory Act (FIRA) amendments

The Federal Financial Institutions Examination Council (FFIEC) has suggested that Congress amend certain provisions of FIRA. The agencies' several years of experience in implementing the requirements of FIRA have led them to recommend minor modifications to the law.

To provide greater flexibility, the dollar limitations on loans to executive officers for real estate and education are deleted. The $10,000 ceiling on loans for other purposes is replaced with a provision authorizing the bank agencies to determine an appropriate limit. The agencies are also authorized to set the threshold amount above which approval is required for insider loans. Certain reporting requirements are eliminated.

The bill permits a management official to be removed for a violation of the interlock prohibitions without the agency's having to prove financial loss or personal dishonesty. It also provides the Justice Department with a procedural mechanism for carrying out its responsibilities under the Interlocks Act.

The bill extends the prohibition against preferential loans to insiders of banks which maintain correspondent relationships to include the related interest of these insiders. The annual reporting requirement is also eliminated.

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

A large number of the credit union amendments in the bill relate to the internal operations of credit unions. As such, they are largely non-controversial and simply designed to afford credit unions and their boards of directors greater flexibility and authority in day-to-day operations.

Some amendments in this category would simplify the organizational process for credit unions by eliminating a requirement that subscribers gather collectively in order to certify their desire to form a credit union. Other amendments permit Federal credit unions to schedule annual meetings at any time during the year, chose their own titles for board officers, and convert from Federal to state charter based on a majority of those voting, rather than a majority of members.

A few amendments are designed to clarify and somewhat broaden the authority of credit unions to handle their own affairs. Boards of directors would be empowered to establish the par value of shares (although another amendment would protect consumers by insuring that the credit union pay dividends on all dollars over $5). The amount which directors and committee members can borrow without board approval is raised from $5,000 to $10,000.

Other amendments relating to internal credit union operations would make the establishment of a separate Credit Committee an option of the elected Board of Directors and would more clearly enumerate the powers of the Board of Directors.

Minor changes and clarifications in the real estate provisions of the Federal Credit Union Act account for five amendments in the legislation. These would give NCUA authority to allow first mortgage loans of more than 30 years, remove the "150 percent of media sales price" requirement, clarify the ability of a Federal credit union to refinance a mortgage, allow greater flexibility in second mortgage lending, and permit technical accounting changes in the way mortgage payments are collected.

Several amendments are aimed at clarifying or slightly modifying existing authority for credit unions. For example, one amendment makes clear that the definition of "member account" includes custodial accounts for insurance purposes and another clearly allows Federal credit unions to invest in investment funds whose portfolios are limited to permissible credit union investments.

In other provisions, credit unions are granted similar authority to savings and loans to invest in state and local Government obligation and to issue mortgage-backed securities. They also are given needed business flexibility by authorizing them to make deposits in any Federally insured, state chartered bank, rather than just state chartered banks located in the same state in which the credit union does business.

National Credit Union Administration activities and operations are addressed through a number of amendments. For instance, NCUA would be permitted to invest and receive the income from its operating fees. Another section would result in a GAO audit of NCUA on a fiscal year, rather than a calendar year, basis. This change is consistent with audits of other government agencies and has been supported by the General Accounting Office.

An amendment would provide for equal insurance treatment of state and Federal credit unions when both have funds deposited in a Federally insured credit union. Complex computations would be ended by another amendment eliminating partial year NCUA insurance premiums and rebates. Additionally the Board would be permitted to differentiate its regulatory treatment of corporate central credit unions (i.e. credit unions for credit unions) versus natural person credit unions.

The Central Liquidity Facility also would be granted the status of Agent of the Federal Reserve System. Lastly, the NCUA Share Insurance Fund would acquire the ability to borrow from the Central Liquidity Facility if necessary.

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

This title amends Section 4(c)(8) of the Bank Holding Company Act of 1956 to generally prohibit a bank holding company from providing insurance as a principal, agent, or broker. There are six exemptions to this general prohibition, resulting in the prohibition being principally applicable to the underwriting or sale of property and casualty insurance products. The exemptions establish a grandfather date (October 7, 1981) for the continuation of previously authorized insurance activities, such as selling credit related property and casualty coverages, and permit bank holding companies to engage in, among other things, credit life, disability, and involuntary unemployment insurance activities and general insurance agency activities in towns of less than 5,000 people.

TITLE VII—MISCELLANEOUS

This title contains two amendments to the Truth in Lending Act. One title exempts student loans from truth in lending. The other excludes "arrangers of credit" in order that the Act will not apply to real estate brokers.

This title makes industrial banks eligible for FDIC insurance and also qualifies state and local governments for NOW accounts. In addition, the bill resolves three specific situations that have arisen under the grandfather provisions of the Bank Holding Company Act and the International Banking Act.

FNMA is authorized to issue preferred stock and its statutory debt to equity requirements are eliminated. The grandfather date for phasing in reserve requirements is changed from July 1, 1979 to March 20, 1980.●

A COMMENTARY ON THE ADMINISTRATION'S PUBLIC LANDS POLICY

● **Mr. LEAHY.** Mr. President, I submit for the Record an excellent commentary on the Reagan administration's public lands policy by Senator Edward M. Kennedy.

I commend the Senator for his superb statement.

The commentary follows:

[From the Christian Science Monitor, July 30, 1982]

A Leading Democrat on Republicans and the 'Land Ethic'

(By Edward M. Kennedy)

As I travel in Massachusetts and the nation, I hear more and more complaints that the Reagan administration is selling America's common heritage of natural resources to a few powerful special interests. The founders of the Republic resisted such concentrations of power. The pioneers, homesteaders, and sodbusters of the last century recognized that America's greatest treasures are a free political system and a remarkable natural inheritance.

It is time to reaffirm their view and weave what has been called the "land ethic" into US national policy. That ethic reaffirms the self-evident truth that our natural resources are as much a shared inheritance as the right to vote.

The values that underlie the land ethic have always been part of our history. They have moved Americans to develop a unique treasure of national parks, wilderness areas, and urban parks in our cities. We have sought to preserve natural wonders and to conserve the bounty of our soil, waters, and coasts for our children's children and for generations of Americans to come.

Our success or failure in this continuing challenge is a measure of our democratic vitality. For democracy is strong only when citizens are willing to sacrifice some private gain for the greater good of the whole society. Democracy works best when our eyes are on the future and when we weigh our decisions on a scale that counts more than narrow and transitory advantages of the moment.

But at the center of national power today there prevails a fundamentally undemocratic ethic of selfishness directly opposed to the community spirit of the land ethic. Secretary of the Interior James Watt and Environmental Protection Agency Director Ann Gorsuch have put irreplaceable ecological resources on the auction block to be bought by the highest bidder. Their extremist and ideological version of private enterprise leaves very little, if any, room for a public morality of conservation and a priority on sound environmental management.

The President and Secretary Watt are now putting 50 million acres of public lands up for sale. This sale represents the biggest land grab in modern history; acreage as large as the entire state of Iowa will be gaveled over the exploitation. In a depressed market, it is likely the land will go cheap. In a recent sale of mineral rights to a billion tons of Wyoming coal, only 3 of 13 available tracts attracted more than one bidder.

It is a national tragedy that a Republican administration is abandoning the historic commitment of the Republican Party to the land ethic. Theodore Roosevelt would never have surrendered our natural legacy for a budgetary quick fix, let alone one as strikingly modest as this—a few million dollars to apply against hundred-billion-dollar deficits. President Reagan should know—and care—that the damage once done will be irreversible and that the stakes here are as lasting as the earth itself. The President says he wants an America in which everyone can be rich, but at the same time he is stripping away the natural riches which belong to all Americans.

Instead, we should remember and represent the Americans of the future when we make choices which will have ecological consequences that will reach far into the future. In this democracy, we cannot consign such major decisions exclusively to any elite group. Even our best experts cannot be certain that nuclear power is safe enough. Even our best scientists cannot predict the exact degree to which toxic wastes will damage our health and that of our grandchildren. There is no solution yet to the ecological disasters we are causing by the aclerating erosion of Midwestern farmland, the clearcutting of national forests, or the disappearance of three species a day from the face of the earth.

As citizens of this country, we should feel a special concern because America the beautiful is inextricably bound up with America the free. The first of our people determined, in the preamble of the Constitution, "to secure the blessings of liberty for ourselves and our posterity"—and the environment was part of that legacy of liberty which they fought and died to defend. In 1792, Thomas Paine wrote:

"As America was the only spot in the political world where the principles of universal reformation could begin, so also was it the best in the natural world. . . . The scene which the country presents to the eye of the spectator has something in it which generated and enlarges great ideas. Nature appears to him in magnitude. The mighty objects he beholds act upon the mind by enlarging it and he partakes of the greatness he contemplates."

Our heritage requires us to secure for posterity a natural legacy which nurtures liberty of thought and guarantees the clean air, water, and soils necessary for real long-term productivity.

There are Americans who will never have the opportunity to explore the Brooks Range in the Alaskan Rockies. Many others may never see Yellowstone or the Grand Canyon or experience the peace of a Cape Cod sunrise with sails full of the western wind. And yet I believe that these natural legacies, which are heritage of all Americans, expand the American spirit and give breath and life to our continuing experiment in democracy and equality. Before nature, we are all equal, and the wilderness and seashores and public lands we preserve remind us of this truth. "Such is the irresistible nature of truth," Thomas Paine said, "that all it wants and all it asks is the liberty of appearing."

Now as much as ever, and with the same dedication that the first Americans brought to their Revolution, we must defend the land ethic against special interests determined to convert our natural wealth into the coin of their own heedless profits. We must insist that our posterity, too, shall be able to see and sing of an America where "God shed his grace on thee—from sea to shining sea."●

SALUTE TO WALLACE R. GRAY

● Mr. **SARBANES**. Mr. President, it is particularly appropriate at this time, in the light of the debate which has taken place in this Chamber in recent days with respect to reform of our immigration laws, to bring to your attention to the outstanding record of achievement of Wallace R. Gray, who is retiring as Baltimore District Director of the U.S. Immigration and Naturalization Service. For more than 25 years with INS, he has served the citizens of this Nation with distinction. His career has reflected his commitment to service as an instrument for improving the public welfare.

A native of Springfield, Mo., Mr. Gray entered the Service in 1956 as a patrol inspector trainee with the Border Patrol at Yuma, Ariz. In 1960, he moved to Homestead, Fla., to assume responsibilities as a patrol inspector. Between 1966 and 1975 he devoted his energies toward similar duties at such diverse locations as Texarkana, Ark.; San Juan, Puerto Rico; Miami, Fla.; and Cincinnati, Ohio. For the last 7 years Mr. Gray has demonstrated thoughtful and vigorous leadership as Baltimore District Director.

As District Director, Wally Gray effectively steered the Baltimore office, which serves all of Maryland, through a period in which there was a dramatic rise in the number of applications for immigration benefits, at the same time as public attention was increasingly directed at the Service's administration and enforcement of our immigration laws. Marylanders have been extremely well served by his efficient management and his sensitivity in administering the law fairly and in a spirit of compassion.

Mr. President, Marylanders will soon be honoring Wallace Gray as he steps down as District Director. His friends and associates have organized a retirement dinner September 11 to recognize his distinguished record of public service. I ask my colleagues to join me in saluting this outstanding citizen.●

SEVEN VIEWS ON TAX REFORM

● Mr. **GRASSLEY**. Mr. President, despite wild and varied opinions on what is necessary to accomplish meaningful tax reform, the consensus is that major surgery is needed on the Tax Code.

Mr. President, I shall submit for the RECORD a series of articles from this week's U.S. News & World Report on seven different concepts of how to reform our tax system. These alternative tax systems range from a flat rate tax to a gross income tax to a value-added tax. Each of these systems seeks to add simplicity, lower tax rates, and a broader tax base to our present Tax Code.

The merits and drawbacks of these differing ideas should be understood and debated thoroughly. Although these articles only scratch the surface of the debate on tax reform, they serve as a good general overview of each concept.

Mr. President, I introduced a bill, S. 2376, earlier this year which would direct the Secretary of the Treasury or his delegate to conduct a study of the advisability of replacing the current Federal income tax system with an alternative broad-based, low-rate tax system.

I intend to offer this bill as an amendment to the debt extension bill, House Joint Resolution 520, currently pending before the Senate.

The bill was originally included in the tax reform package reported by the Senate Finance Committee to the full Senate on July 12. And then on July 23 it was included in the Tax Equity and Fiscal Responsibility Act of 1982, which passed the full Senate. But the measure was later taken out in the Senate-House conference.

I hope, Mr. President, that this body will once again display prudence by passing this act. As tax reform debate has progressed over the recent months, it has become increasingly evident to all those participating that any attempt at major tax reform will cause complications, dislocations, and transitional problems. These potential hazards must be identified, addressed, and overcome if we are to deal with this massive problem in a pragmatic way. Thorough and abundant analysis of the impact of tax reform is needed before we can begin to tackle the issue. That is what this amendment would provide.

Since tax reform is needed at once, we can lose no time in establishing the framework for reform, a job best handled by the Treasury Department. Secretary Donald Regan, testifying before the Budget Committee on August 4, indicated to me that a Janu-

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ary reporting date is not unreasonable. I would urge my colleagues to support my amendment so that the Treasury can get on with this important task.

The articles follow:

WHAT TO DO ABOUT OUR TAX SYSTEM—SEVEN IDEAS

"A LOW, FLAT RATE" TO "REWARD" WORKERS

(By Robert E. Hall, Economist, Hoover Institution, Stanford University)

High income-tax rates are diverting economic resources from productive areas into maneuvers to pay less tax. A simpler income tax, levied at a low, flat rate but with few deductions, would reward people who work hard and don't worry too much about tax consequences.

It would eliminate almost all the incentive to engage in wasteful tax shelters. Many wealthy people who now pay little or not tax because of deductions and shelters would be forced to bear their share of the tax burden. At the same time, a low flat-rate tax gives relief to hardworking, straightforward taxpayers.

The plan proposed by Hoover Institution political scientist Alvin Rabushka and myself envisions an income tax that would be imposed only on employment earnings—wages and salaries. Other income, including interest, dividends and capital gains, aren't taxed when they are received by individuals. Instead, they are taxed as part of the business tax I will talk about in a minute.

Tax returns could be postcard-size. You list your compensation in the past year, and then subtract from that a personal allowance based on your marital status and family size. Currently, such an allowance might be about $6,200 for a couple filing a joint return and about $3,800 for a single person. In addition, there would be an exemption of about $750 for each dependent. The levels would be adjusted each year to reflect changes in the cost of living.

There are no other deductions. State and local taxes, interest, charitable donations—none would any longer be used as itemized deductions to reduce taxes.

A common tax rate of 19 percent would be imposed, regardless of income. Since that rate is applied after the family allowance, its impact is less for lower-income persons. The very poor end up paying no tax. Because of the substantially reduced tax rate, most middle-income people stand to come out ahead even though they have to give up a lot of deductions they can now take. But taxpayers who have been avoiding taxes, such as by aggressively using tax shelters, would pay more.

One complaint about a flat-rate tax is that it departs from the practice of imposing progressively higher rates on people as their income goes up. The fact is, we only pretend that we tax high-income people at very high rates. A family making $120,000 a year, for example, is typically paying nowhere near as much tax as the law says it should. These people have figured out ways to get large deductions and shelter income from tax. We reward people who are willing to spend the most time figuring out clever ways to avoid paying tax. I prefer a system that says, "We'll tax people at a fairly low rate, but then we'll really make them pay it."

People worry about removing the deductibility of home-mortgage interest, but remember, we also propose to exempt interest income from tax. Savers will thus demand a smaller return, and the resulting fall in interest and home-mortgage rates will offset the loss of the interest deduction.

A flat rate solves many problems. The marriage penalty, for instance, is cut to a minor amount because the tax rate is the same for everyone. Two working people are no longer bumped into a higher tax bracket when they get married.

The income tax on businesses can be simplified, too.

Our suggestion is to levy a flat 19 percent rate on all the earnings of a company after is expenses. The firm would list the value of its sales, then subtract such items as the compensation it has paid to its workers and the cost of the materials it has purchased. It also could deduct the cost of investments it made in the year. There's no stretched-out depreciation deduction; an entire investment is immediately deducted in the first year. The complexities of depreciation are eliminated, along with the investment tax credit.

This means a lower corporate tax rate than the current 46 percent; but the base upon which it is imposed would be larger. Interest payments, for example, aren't deductible.

Our overall personal-and-business-tax proposal generates more revenue than is now collected. Based on current assumptions about the federal budget and economic outlook, the plan could balance the budget in 1985. In addition, its simplicity will cut down the time needed to check returns and decide tax questions.

TAX ALL INCOME BUT "REDUCE TAX RATES"

(By Joseph Pechman, Director, Economic Studies, Brookings Institution)

Our tax system is today riddled with inequities and full of provisions that lead to economic distortions.

We should adopt a simplified comprehensive tax base under which all income is taxed and most deductions eliminated. We could then reduce tax rates across the board in all tax brackets, providing extra incentive to work and save and still raise the same revenues.

Because of deductions and exemptions, people with the same total income now pay vastly different amounts of tax, depending on the sources of their income and the expenses they can write off. I see no reason why people with the same income and family responsibilities should pay different taxes.

We create financial distortions by encouraging people to put savings in one form rather than another and by giving special breaks to certain economic activities. Tax-exempt industrial-development bonds, for example, funnel money into the particular forms of favored investment as against having the savings available for all enterprise. Likewise, the law encourages people to invest in tax shelters rather than in investments that yield ordinary incomes.

Special provisions complicate the tax law and the tax return to the point where most people can't understand them. That's an atrocity in a democratic society.

There are not many deductions that I favor retaining. I would keep a deduction for unusual medical expenses and casualty losses—say outlays in excess of 10 percent of income, compared with the 3 percent threshold for medical expenses under the law now.

I also back a deduction for state income taxes. Those rates vary a great deal, and a federal-tax deduction has the desirable impact of moderating the differences among states with respect to total tax burden.

If we want to encourage charitable giving, we could do it better in most cases by a subsidy rather than muddying the tax system with deductions. Nevertheless, I support a deduction for those who make an unusual effort—say people who donate more than 3 or 5 percent of their income.

For businesses, I'd allow deductions for actual expenses but would end the percentage depletion allowance, deferral of tax on export earnings, and investment credits. Depreciation write-offs that more closely reflect wear and tear on equipment would replace the overly generous rapid write-offs now allowed. As a result of all of this, the basic corporate tax rate could be lowered substantially.

On the income side, I want to eliminate all tax-exempt interest. I don't see why we should subsidize state and local governments through the tax system. If we want to subsidize them, we should do it directly.

Capital gains, under my plan, would be subject to the same rates as regular income.

I would include in the tax base all unemployment-compensation benefits, though the lowest-income people would be exempt. In addition, I would include a least half of Social Security benefits in the tax base. Though workers pay tax on their half of Social Security contributions, the half that is paid by employers now escapes tax.

My purpose is not to favor any particular income group. I want to broaden the tax base for all taxpayers and use the extra revenue to reduce tax rates at all income levels. My objective is to get rates down to a range of about 8 percent at the bottom to 28 or 30 percent at the top.

Though rates must come down, they should stay progressive. I am against a single flat rate for all income levels, because a flat rate would reduce the taxes of those in the highest income classes and raise them for low and middle-income taxpayers. Most people, I believe, support some degree of progression as appropriate. Paying an extra dollar of income as tax is clearly less of a burden for a millionaire than for a wage earner on the assembly line.

I propose generous personal exemptions and a big zero-bracket amount, commonly thought of as a standard deduction. These provisions protect people with incomes below the poverty line from being taxed. If this plan were in effect now, the amount of income excludable for a family of four would be close to $10,000—$2,600 higher than it is under present law.

Over all, taxpayers would end up about the same as now. The total tax take will not increase. Even the tax taken in each income class can remain the same, though how the burden is allocated in each class will shift. People won't be able to get away with murder because of big deductions, loopholes and a lot of tax-exempt income. People who now pay too much tax, including higher-income people with few deductions, will pay lower tax.

TAX CONSUMPTION, NOT SAVING OR INVESTING

(By David F. Bradford, Professor of Economics And Public Affairs, Princeton University)

Attempts to levy a tax based on income are causing unfair treatment of taxpayers and immense complications. One result is that people who save and invest are penalized. That's especially so in a time of infaltion, when, for example, savings may lose real buying power but still be taxed on their apparent growth.

Switching to a consumption-based tax would end the unfair and economically harmful traits of our current system. A consumption tax is closely related to an income tax with a big difference—it excludes from taxation all income put into savings and investment.

A deposit to a savings account, for example, is deducted from income subject to tax. A withdrawal is added to your taxable base. In a similar manner, investment in stocks and bonds is deducted; receipts from stocks and bonds are added.

There is flexibility as to the tax's structure. It could generally follow the current system's form or be different.

The levy, for example, could be at a single rate or at a series of progressively higher rates, as we now have. Personal exemptions, similar to the $1,000 allowed today, would presumably be retained, and, if desired, many of the present deductions could be kept. Deductions for charitable donations and state and local taxes, for example, are compatible with a consumption tax. But since money going into savings and investment isn't taxed, it wouldn't be appropriate to give deductions for interest expenses on borrowing.

By adusting rates, a consumption-based tax can be devised so that different income groups bear the same tax burden as they do now. What changes, however, is how the burden is distributed within each group. Within each class of people, savers are benefited and consumers are relatively more burdened. For instance, high earners who are saving for their children's education come out ahead. Those who are consuming heavily out of borrowed money come out worse.

The same consumption approach can be used for business. All purchases of assets would be deducted from the tax base, and all sales of assets or returns from assets would be included. Purchase of items for inventory, for example, are deducted; sales out of inventory are included. Businesses would immediately deduct the full cost of an investment in new machinery. It is written-off all at once, instead of over a number of years.

One of the most important reasons for a consumption-based tax is that it simplifies the determination of tax liability. It's stunning how many smart people are involved in working out the complicated features of the tax code, most of which arise from an effort to define, measure and tax income instead of consumption.

Capital gains account for tremendous complexity. It's simple with a consumption tax—you don't tax them. Depreciation is also no problem—you don't have it.

A consumption tax eliminates the problem of levying a tax on income and profits that have been puffed up by inflation but haven't increased in real terms.

Some supporters of a consumption-based tax argue that it will increase savings and investment, but that's not the strongest argument for it. Simplicity and equity are the most important factors in its favor.

If we enact this sort of tax, revenue collections could fall because of the lack of tax on funds going into savings and investment. But it is wrong to regard that as a loss in tax liability. While every dollar put into savings or investment reduced current tax liability, a future tax liability is created for the time when the savings and investment are taken out for spending.

From an overall economic view, a consumption tax doesn't really penalize spending or promote savings. What's important is that it is neutral toward savings. It lets you decide whether you want to consume now or in the future.

ELIMINATE MUCH OF PERSONAL INCOME TAX

(By Jim Jones, Texas Businessman, Founder, J. H. Jones Company, Supplier of Industrial Equipment)

Many of the bookkeeping, enforcement and other problems in our tax system can be ended by doing away with much of the personal income tax and relying instead on a tax levied on the gross income of business firms. Such a gross-income tax, or GIT, would be imposed on a firm's revenue after deductions only for the cost of goods bought by the firm. A firm couldn't deduct labor or other operating expenses, and there are no depreciation write-offs or investment credits.

A shoe store, for example, deducts only the cost of the shoes it buys for resale. An auto maker deducts the cost of materials used in car making, as well as the cost of components bought from suppliers. Service firms, which generally buy little, may get no deductions. The tax will be at a single low rate between 4½ and 7½ percent, depending on how much revenue we want it to yield. These low rates would eliminate the need for deductions.

A GIT is levied on a company whether it makes a profit or not. Loss companies now don't pay income tax and can even sell the tax-saving benefits of their losses to profitable firms or carry over the losses to offset future profits. That increases the tax burden on profitable companies, who thus subsidize money-losing firms.

Individuals would be exempt from tax on wages up to $50,000 a year. Someone with compensation over $50,000, though, is treated as a business entity for that excess. There will have to be a transition period, but eventually wage levels would adjust to reflect the fact that the first $50,000 is tax-free.

Investment income will be taxed as gross business income, though for the sake of efficiency, I would exempt amounts under a certain level, maybe $5,000 a year. Deducted from the total subject to tax is the cost of the investment.

If you buy $10,000 of stock and sell it for $15,000, your gross taxable income is $5,000. Interest and dividends are fully taxed since there is no cost to deduct.

Behind my proposal is the view that business activity is the real generator of taxable revenue. By switching to a GIT, we levy tax closer to the source of that revenue.

A simple GIT, moreover, allows companies to make economic decisions rather than worry about the tax consequences of a move. Instead of maneuvering for tax purposes, firms ought to be figuring out how to make more money, sell more goods and increase their output.

“A Value-Added Tax” on All Transactions

(By Al Ullman, consultant, former chairman, House Ways and Means Committee)

The present high-rate income tax if offering the wrong economic incentives. The income tax penalizes additional work effort. It rewards spending and discourages saving.

The only reason our society can struggle along with high interest rates is because they are tax deductible, and high tax rates make those deductions more valuable. For people who pay tax at the top rate of 50 percent, the government, in effect, pays half of their borrowing cost.

To turn the incentive around, I would favor a significant reduction in income-tax rates. To make up the shortfall in revenue, I propose imposing a business-transaction tax imposed on added value. Although differing from the European version, most people would call it a value-added tax.

Under such a VAT, every business transaction is taxed. The tax is imposed on the value that a firm adds to the product or service it sells. A manufacturer is taxed on the difference in value between the raw materials it buys and the value of the manufactured product it sells. In the case of a firm providing a service, where there is no value at the start, the tax is levied on the total value of the service.

A VAT differs from a sales tax because a VAT is spread throughout the economy. A fabric maker pays tax on the difference in value between the raw materials used and the finished cloth. A dress manufacturer then pays tax on the value added when the cloth is turned into a garment. Later, a wholesaler pays tax on the difference between what it pays for the dress and what it sells it for. A retailer pays tax on the difference between the wholesale cost and the final consumer selling price.

It is an equitable tax that is easily collected.

My last formal proposal, in 1980, included a 10 percent rate with exemptions for food, shelter and medical care. By exempting necessities, you counter the claim that a VAT is a regressive tax that ultimately lands on the poor because of higher prices for the items such people buy most.

Higher-income people who spend a lot on nonnecessities would bear more of the burden. Of course, the more you save or invest, the less value-added tax you face.

Remember, I don't want to levy a VAT on top of the existing income tax, but rather as a supplement to a simpler and much lower income tax, preferably with few deductions and with only a few steps of increasing rates as income rises.

An important benefit of a VAT is that, under international agreement, firms exporting goods could get a rebate of the value-added tax on the items they export, while goods entering the U.S. would be subject to the VAT. That's what is done now in Europe, but because we don't have a VAT, our exports are penalized and imports to the U.S. get a break.

A VAT can also replace the existing corporate income tax, thus moving away from the concept of taxing a company based on its profits. Efficient companies are now penalized with higher taxes, and inefficient companies usually benefit from lower taxes.

You would clean up all the deductions companies now get and eliminate the economic distortions created by firms making business decisions with an eye on the tax law.

A company that produces with a minimum of added cost will pay the least amount of taxes. Or, if a company with low production costs adds in a large profit, that will be taxed as part of the value added to the product.

A VAT is geared to encourage efficiency. High-profit companies shoulder a relatively greater share of the burden. So do less efficient companies. It's the efficient companies that maintain a narrow profit margin on each sale that benefit the most.

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CHANGE LONG-TERM CAPITAL-GAINS RULES

(By Samuel J. Foosaner, Federal-Tax Attorney, New Jersey)

Because of the way capital gains are taxed, millions of investors are now disposed to hold on to securities and other assets for longer than they otherwise would. That can mean missed opportunities if decisions are based on tax consequences rather than on economic and business factors. By changing the rules, we can encourage investing, stimulate the stock market and raise extra tax revenue.

Rather than requiring someone to hold an asset for more than a year to qualify for favorable long-term capital-gain rates, I propose letting them sell out earlier in exchange for paying a higher tax rate, though still less than the ordinary rate applied to regular income.

Under current law, which may change, if you hold an asset for more than a year and then sell it, 60 percent of the profit is not taxed. This means that the maximum tax rate on capital gains is 20 percent, instead of the 50 percent maximum tax rate which applies to ordinary income.

Being taxed at ordinary-income rates instead of at the long-term capital-gain rate discourages many taxpayers from selling or exchanging capital assets held short term, even where large gains may be involved.

What I am proposing is that we retain a 60 percent tax exemption for assets held longer than 360 days, but also allow lesser exclusions for shorter holding periods: 55 percent for from 271 through 360 days, 50 percent for from 181 through 270 days, 45 percent for from 91 through 180 days, and 40 percent for up through 90 days. For someone in the 50 percent bracket, these additional exclusions would translate into top effective rates of 22½, 25, 27½ and 30 percent, respectively. For people in lower brackets, their effective capital-gains rates change in a similar way.

This change in capital-gains treatment will encourage turnover of money and give the economy a shot in the arm. Americans like action. They like to buy and sell at a profit. This will satisfy their speculative desire. And, of course, if someone elects to sell out earlier at the higher rate, that means a bigger tax take for the government.

This is better than retaining the present tax and simply shortening the holding period for capital gains. That's a tax cut that will generate opposition. My plan is a tax-raising measure and, thus, should face less resistance.

"PAY OFF PUBLIC DEBT" WITH A TEMPORARY TAX

(By Charles W. Steadman, Chairman, Steadman Security Corporation, Washington, D.C.)

High interest rates are strangling the country, but rates are not going to come down until we do something about the national debt. Therefore, I propose levying a temporary 5 percent excise tax on the sales of manufacturers and on imported goods, with the revenue earmarked to pay off the public debt. Such a simple and easy-to-administer tax would be imposed at the final level of manufacture, with no exemptions whatsoever.

This arrangement would be similar to the Federal Highway Trust Fund, which collects gasoline and other taxes from users and spends revenue solely for development and maintenance of the nation's highway system.

As things now stand, the federal government is simply taking too much of the country's available savings for its own credit needs, forcing up interest rates. Businesses, as a result, face stiff competition for the capital they need, and consumers can't afford the loan rates charged to buy a house or a car. The strains on the federal budget are enormous. Interest on the public debt is the third largest item in the budget and, at the rate it is growing, will double in the next five years.

A special tax to repay the debt, now just over a trillion dollars, will reverse the trend. Based on 1981 figures, a 5 percent excise tax would yield about 113 billion dollars a year.

Of course, the yearly deficits themselves will have to decline, too, or it will be like pouring money into a bottomless hole. Thus, this plan ties in well with the various proposals to require a balanced budget and to put a cap on federal spending.

Though prices might rise as a result of the new tax, that impact will be more than offset by the benefits people gain from the reduction in interest rates.

I want to emphasize that this is a single-purpose tax. When the debt has been retired, the tax will self-destruct.

I think I'm addressing a popular desire. The country is in a no-growth pattern, and we won't change that until we can finance new plant and equipment. Taking understandable steps to deal with the public-debt problem will have a galvanizing effect on national psychology because people will see that something positive is being accomplished.●

RADIO MARTI

● Mr. JACKSON. Mr. President, to help clarify key issues in the current discussion of Radio Marti, I want to bring to the attention of my colleagues an editorial in today's Washington Post. This editorial evaluates a number of questions that have been raised as to the wisdom of establishing a station for broadcast to Cuba and concludes that "an effective Radio Marti could be of value to American foreign policy."

I ask that this editorial be printed in the RECORD.

The editorial follows:

RADIO MARTI'S HOUR

The administration-proposed Radio Marti, which would broadcast news of Cuba to Cubans, faces an evident do-or-die mark-up session in the Senate Foreign Relations Committee; it has already been approved in the House. For lack of an enthusiastic champion in the committee, the station could conceivably succumb to the prevalent atmosphere of doubt. This would be, we think, regrettable. An effective Radio Marti could be of value to American foreign policy.

The principal doubt about the station is that it represents a hard, intrusive line when the real need is for a moderate negotiating line. But broadcasts are not inconsistent with negotiations. Why not conduct both? Anyway, there need be no apology for a hard line if by that is meant offering Cubans an American-style alternative to the material put before them by their government-controlled media—as Radio Free Europe and Radio Liberty do for East Europe and the Soviet Union. Certainly, open broadcasts are a more acceptable expression of administration hostility to Fidel Castro than, say, another Bay of Pigs. In this administration there is undeniably a danger of the broadcasts' becoming propaganda broadsides; the experience with RFE and RL and the certainty of failing to gain or keep an audience constitute the best guarantees against such a turn.

The second area of doubt about Radio Marti concerns Cuban radio interference with domestic broadcasts in the United States and other countries of the hemisphere. The Cubans are threatening to step up the number and power of their international broadcasts if Radio Marti goes on the air. But wait a minute: Cuba is a mouse of a country with, already, an elephant's radio roar. Its radio interference and its refusal to be a good neighbor of the air waves long predated the announcement of Radio Marti. The latest Cuban threats recycle familiar and ambitious international broadcast proposals that Havana may or may not have the resources to deliver on. The correct response for the United States is to keep on insisting, with similarly aggrieved Latins, that Cuba accept the standard procedures for working out disputes over radio broadcasts.

The administration has misadvertised and over-sold Radio Marti as something like the beginning of the end for Fidel Castro. That's foolish. It is enough that it is a modest and potentially useful step to make available to interested Cubans a flow of information and opinion that Americans have routinely provided to other communist-controlled countries for decades and that Americans rightly take for granted for themselves.●

JOHN CHAMBERLAIN

● Mr. D'AMATO. Mr. President, nearly 35 years ago Henry Luce, founder and editor in chief of a publishing empire that included Time magazine and Life magazine, sent one of his top writers to New Haven to find out if it was true that the chairman and editor of the Yale Daily News was a conservative. Mr. Luce, a Yale grad himself, found this hard to believe, and in the context of the times his disbelief is understandable. But it was true. The editor was William F. Buckley, Jr., and the Luce journalist was his chief editorial writer, John Chamberlain.

That episode and many more are described in the foreword to "A Life With the Printed Word" by John Chamberlain to be published in mid-October by Regnery/Gateway. Interestingly, the foreword, preprinted in the August 20 issue of National Review, is by the same William F. Buckley, Jr., now editor of National Review, author, columnist, television personality, and a journalist of some note.

Because the man, John Chamberlain, is so unique in the world of journalism, I would like to insert Mr. Buckley's foreword in the RECORD. While John Chamberlain's biography modestly describes him merely as a staff writer, John Renssalaer Chamberlain is an editor, columnist, author, book reviewer, tennis buff, skier, snorkler, family man, and for many years keeper of the conservative faith. His career spans more than 50 years going back to 1926 as a reporter for the New York Times and his work as book review editor for the Times in the late 1920's. He later edited Fortune magazine, taught news writing at the Columbia School of Journalism in the early 1940's—where his students included Marguerite Higgins, Edith Efron, and Elie Abel—was chief editorial writer for Henry Luce at Life magazine in the 1950's, helped give birth to the Freeman and National Review, wrote for Barron's and the Wall Street Journal, and for the past 20 years, he has commented on national affairs in his popular column, "These Days," syndicated by King Features Syndicate to nearly 175 daily newspapers. His book, "The Enterprising Americans: A Business History of the U.S.," is a classic and required reading in most university economics departments and schools of business administration.

I ask that the world of John Chamberlain as described by Bill Buckley in the August 20 issue of National Review be printed in the RECORD as a testament to a truly enterprising American.

The article follows:

Introducing John Chamberlain and His World

(By William F. Buckley, Jr.)

Late one afternoon in the fall of 1955, on the eve of the appearance of the first issue of National Review, something people more loftily situated would have called a "summit conference" was set in New York City, for which purpose a tiny suite in the Commodore Hotel was engaged. Tensions—ideological and personal—had arisen, and the fleeting presence in New York of Whittaker Chambers, who had dangled before us in an altogether self-effacing way the prospect that he might come out of retirement to join the fledgling enterprise, prompted me to bring the principals together for a meeting which had no specific agenda, being designed primarily to reaffirm the common purpose.

As I think back on it, two of the five people present at the outset were born troublemakers. To say this about someone is not to dimiss him as merely that: Socrates was a troublemaker, so was Thomas Edison. But troublemaking was not what was primarily needed to distill unity, and so things were not going smoothly, one half hour after the meeting began. And then, when it was nearly six o'clock and I thought I detected in Chambers a look of terminal exasperation, John Chamberlain came in, a briefcase in one hand, a pair of figure skates in the other. He mumbled (he usually mumbles) his apology . . . He had booked the practice time at the ice rink for himself and his daughters . . . The early afternoon editorial meeting had been protracted . . . the traffic difficult . . . No thanks, he didn't want anything to drink—was there any iced tea? He stole a second or two to catch up on Whittaker's family, and than sat back to participate in a conference—which had been transformed by his presence at it. When a few days later Chambers wrote, he remarked the sheer "goodness" of John Chamberlain, a quality in him that no man or woman, living or dead, has ever to my knowledge disputed.

At the time a sharp difference had arisen, not between me and John, but between Willi Schlamm and John's wife, Peggy (RIP). Schlamm viewed the projected magazine as a magnetic field, professional affiliation with which could no more be denied by the few to whom the call was tendered, than a call to serve as one of the Twelve Apostles. Poor Peggy would not stand for it: John was serving then as editor of Barron's magazine. Before that he had been with The Freeman, before that with Life, before that the Wall Street Journal, before that Fortune, before that the New York Times. In each of these enterprises he had achieved singularity. He had two daughters not yet grown up. How could anyone reasonably ask that now, in middle age, he detach himself from a secure position to throw in with an enterprise whose working capital would not have seen Time magazine through a single issue, or Barron's through a dozen, and whose editor-in-chief was not long out of school?

I like to remind myself that I did not figure even indirectly in the protracted negotiation, respecting, as I did, not only the eminence of John Chamberlain, but also the altogether understandable desire of his wife for just a little economic security. But Willi was very nearly (nothing ever proved that conclusively shocking to Willi) struck dumb with shock. That was one of the clouds that hung over that late afternoon discussion, in which Willmoore Kendall exploited every opportunity to add duel to the fire, principally by the device of suggesting that for some people security means everything; the kind of thing John did not wish to hear, among other things because it so inexactly reflected his own priorities—he was concerned not with security, but with domestic peace.

So it went, and in one form or another the tensions continued, though they never proved crippling. John settled the problem by moonlighting—as lead reviewer for National Review. But I learned then, during that tense afternoon, the joy of a definitively pacific presence. Ours might have been a meeting to discuss whether to dump the bomb on Hiroshima; and John Chamberlain's presence would have brought to such a meeting, whatever its outcome, a sense of inner peace, manliness, and self-confidence.

There are stories he does not tell, in this engrossing autobiography; stories about himself, and this is characteristic. Bertrand de Jouvenel once told me, in a luncheon devoted to discussing our common friend Willmoore Kendall, that any subject at all is more interesting than oneself. Actually, I am not sure that this is so, because some people know no subject thoroughly other than themselves, but with John Chamberlain self-neglect is not an attribute of manners, but of personality. When National Review started up, he would come in to the office every week (it was then a weekly) and, sitting down in whatever cubicle was empty, type out the lead review, with that quiet confidence exhibited by sea captains when they extricate their huge liners from their hectic municipal slips to begin an ocean voyage. After 45 minutes or so a definitive book review was done; and he would, quietly, leave, lest he disrupt the office.

In those days "the office" consisted of six or seven cubicles, each one with desk and typewriter. Most of NR's top editorial staffers, from the beginning on, have served only part-time—James Burnham, Willi Schlamm, Willmoore Kendall, Whittaker Chambers, Frank Meyer—so that although they would, week after week, always use the same office, at any given moment at least one cubicle was unoccupied, though seldom the same one. A young graduate of Smith, age 24, four or five months into the magazine's life complained to her classmate, my sister, that the repairman who came once a week to check the typewriters had not once serviced her own. No one was more amused on hearing this than John Chamberlain, the delinquent typewriter repairman, who that week, servicing the typewriter, had written a marvelously illuminating review of the entire fictional work of Mary McCarthy.

I never saw him, during the Thirties, slide into his chair at the New York Times to write his daily book reviews, many of them masterpieces of the form. Nor at Fortune, returning from two weeks on the road to write what he here calls a "long piece," which would prove the definitive article on this or that intricate problem of management or labor. Or at Life, presiding over the editorial page which was Henry Luce's personal cockpit, from which he spoke out, through John, to God and man in authoritative, not to say authoritarian, accents: but I decline to believe that in any of these roles, or in any of the myriad others—as professor at Columbia, as dean at the University of Alabama, as book writer, or columnist—John Chamberlain ever did anything more disruptive than merely to greet whoever stood in the way, and amble over to wherever the nearest typewriter was, there to execute his craft: maintaining standards as high as any set by any critical contemporary. Because John Chamberlain could not ever sing off key. And the combination of a gentle nature, and a hard Yankee mind, brought forth prose of which this book gives a representative sample. The voice of reason, from an affable man, unacquainted with affectation, deeply committed to the cause of his country, which he believes to be co-extensive with that of civilization; and certainly, with that of his two girls by his first marriage, and his son—a budding young poet—by his second, with the enchanting Ernestine, to whom he went soon after Peggy's untimely death.

In this book Chamberlain seeks to bring the reader quiety along, that he might re-experience the author's odyssey. He does this, characteristically, without pushing or shoving; as if to say that if—at any point—the reader desires to hew to a different turn in the road, why that is all right by Chamberlain; although the probability is that, if the reader will reflect substantially on the data, he will in due course come around.

The data!

We are all familiar with autobiographical accounts of ideological explorations, some of them wonderfully exciting. John Chamberlain's is surely the most soft-throated in the literature. As a young man who had demonstrated his prowess as a critic (William Lyon Phelps called him the "finest critic of his generation"), as a political thinker manifestly addicted to progress, he wrote his book Farewell to Reform, in which he seemed to give up on organic change, suggesting the advantages of radical alternatives. But his idealism was never superordinated to his intelligence, and in the balance of that decade of the Thirties, and following that of the Forties, Chamberlain never ceased to look at the data, which carefully he integrated in his productive mind. Along the line (he tells us) he read three books, so to speak at one gulp (how many books has he read, reviewed, during his career? Or better, Has anyone read, and manifestly digested, more books than John Chamberlain?)—and the refractory little tumblers closed, after which he became what is now denominated a "conservative," though Chamberlain prefers the world "voluntarist." The books in question, by the three furies of modern libertarianism—Rose Wilder Lane, Isabel Paterson, Ayn Rand—provided the loose cement. After that, as he shows us here, he ceased to be surprised by evidence, now become redundant; evidence that the marketplace really works, really performs social functions, really helps live human beings with live problems.

This book is a story of that journey. Its calmness and lucidity, its acquiescent handling of experience, free of ideological entanglement, provokes in the reader the kind of confidence that John Chamberlain throughout his life has provoked in his friends; that he is that to them—a friend—but that in no circumstances are the claims of friendship so to be put forward as to run any risk of corrupting the purity of his ongoing search, through poetry, fiction, economic texts, corporate reports—and, yes, seed catalogues—for just the right formulation of what may be acknowledged as the American proposition, by which an equilibrium of forces breeds the best that can be got out of the jealous, contentious, self-indulgent, uproarious breed of men and women that have made so exciting a world here, giving issue, in one of America's finest moments, to a splendid son, who here has given us his invaluable memoirs.●

ORGANIZED LABOR: "BUSY BEING BORN"

● Mr. KENNEDY. Mr. President, the eminent historian Henry Steele Commager once observed that Americans have customarily regarded change and reform as part of the natural order of things.

In the 1980's, the United States is entering a new economic epoch which will test once again the ability of the American people to adjust in new ways as our society continues to evolve.

No segment of our society will be more affected by these changing conditions than will the American labor movement. Fortunately, organized labor is keenly aware of the dramatic challenge that it faces.

I recently read a stimulating and perceptive article which discusses some of the ways in which the labor movement is already adjusting to these rapidly changing times. The article which was coauthored by Glenn E. Watts, president of the Communications Workers of America, is entitled "Organized Labor: 'Busy Being Born.'" It is also included in a new book, "Making It Happen: A Positive Guide to the Future," published by the U.S. Association for the Club of Rome.

President Watts' insightful article provides a wealth of information on the changing composition of the work force and emerging employment patterns which ought to be examined by anyone interested in finding a long term solution to our unemployment problems.

I ask that the text of the article be printed in the RECORD.

The article follows:

ORGANIZED LABOR: "BUSY BEING BORN"

(By Glenn E. Watts and Lou Gerber)

A period of reordering our priorities: The United States is entering a new economic epoch, and the American labor movement is alert to that fact. In the decades ahead, mastery over the physical environment will no longer guarantee growth in productivity and in employment.

We are already seeing a heightened interplay between technological development, the availability of vital resources, and changes in human values. The evolving recombination of these forces will form the DNA "building block" that will determine organized labor's role in the United States and in the world.

The traditional image of America has been of a cornucopia endlessly able to satisfy consumer appetites. But because of the transition that is now under way, that image is giving way to a new reality. As a consequence, the United States will now endure a period of painful readjustment, as we seek to cope with natural resources that are shrinking and a slower pace of economic expansion.

As America enters a post-affluent period of reordered priorities, this process of transformation will stand in marked contrast to the unparalleled economic uplift experienced by our nation's wage earners since the end of World War 2. Indeed, as working people in the decades ahead contend with what Buckminster Fuller has described as "more with less," they will experience a series of austere challenges.

One outcome will be a new ethic, which will significantly alter the landscape of human values. It will extol the virtues of recycling and conservation. It will rein in the impulse that drives us to acquire and consume material goods.

TECHNOLOGY AND JOBS

As new technologies flourish and others gradually disappear, the jobs of many wage earners are going to be eliminated or radically altered. And our country will confront the perplexing problem of providing these displaced wage earners with employment opportunities and suitable working conditions.

The development of efficient new machines may constitute "progress." But the evolution of useful inanimate devices can also be accompanied by the dark prospects of unemployment, personal alienation, and economic upheaval. It is understandable that workers dread and resist being simply cast aside as social driftwood before the onrush of technology.

Yet without the improved productivity that comes with the development or more efficient machines, America and the world may not be able to meet essential human needs. So, like Solomon, we face a dilemma as we try to balance adverse arguments, a dilemma that will demand our most creative thinking.

The telecommunications industry and its patterns of technological development are a case study of all this. New devices are rapidly coming into use which will significantly transform the composition of the telephone industry's labor force in the coming decades. In fact, massive changes are already altering job content and skill requirements. In particular, efficient electronic switching systems and broad-based computerization of operations are causing a decrease in labor requirements throughout the industry.

Examples of new instrumentalities of telecommunication that are being developed, with portentous potential impact on jobs, are glass fiber cables and a contrivance known as a millimeter wave guide. The glass fiber cables will transmit pulses of light in place of the electrical signals and radio waves now in use. The millimeter wave guide is an underground tube through which radio signals are transmitted.

It is not yet clear which of these evolving systems, waveguide technology or fiber optics, will be the primary telecommunications transmission medium of the future. But what is becoming unmistakably evident is that either or both could profoundly alter the composition of the industry's basic workforce.

Telephone operators have already been enormously affected by indoor developments in telecommunications. The switchboard, for example, has been replaced by an electronic console that automates most of the switching and billing tasks on previously operator-assisted and long-distance calls.

Intercept operators, who handle calls to disconnected or other nonworking numbers, are being supplanted by a machine that automatically handles such calls. This is done by means of computer-assembled voice reponse, explaining the cause of the interception and providing new number information.

An automatic coin telephone soon to be tried involves a further threat to telephone operators' jobs. This machine can monitor and compute charges on coin phone calls without any operator contact at all.

Jobs traditionally held by women have been adversely affected by these recent innovations and impending changes more than jobs traditionally held by men. Male employees in the industry have been engaged largely in construction, installation, and telephone maintenance occupations. In the future, however, technological change will also affect a wider variety of telecommunications employment, including the highly skilled craft positions that have been dominated by men.

A possible solution to this and similar problems in other American industries would be to require, as a component of technological advancement, careful examination of the implications of proposed industrial advances for job dislocation. Such an examination could be made a mandatory part of an overall assessment of a new product's value to society.

In any case, if the United States and other nations are to avoid creating a large class of dissident unemployed former wage earners, there will need to be a heightened awareness of the job dislocation prospects inherent in technological development. And it will be essential to have available job retraining programs and, if necessary, adjustment assistance to help displaced workers overcome job dislocation.

More generally, when a technological development threatens the well-being of large numbers of workers in any industry, the government should be required to conduct a human dignity or social impact study. This would parallel the requirement under the National Environmental Policy Act of 1969 that an environmental impact statement (EIS) be prepared before major public projects are undertaken.

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Just as today the design of proposed bridges or dams must include an EIS about impacts and alternative ways to less endanger the environment, the effect of the implementation of technological changes on human dignity and social well-being should be an integral part of our technological progress and rational economic planning.

Technological change and job-induced stress: The notion of a human dignity impact study would also be relevant in another challenging area, that of the relationship between technological change and job-induced stress. Most research in this area has been centered on the "stress of success," the workaholic pattern among middle and upper-level management in business. In 1979, however, the Communications Workers of America (CWA) conducted a national "job pressures" day to sensitize the public to the stresses that workers are currently experiencing in coping with the modern worksite, impassive supervisors, and mechanization.

In the future, labor will emphasize the need for close scrutiny of the stress of adjusting to changing work roles. Examples of the many facets of this problem are compulsory overtime work in a leisure-oriented society, entrapment in dead-end jobs, and the feeling of many workers that they are treated like "machines" rather than people. Negative feelings arising from such work-related problems directly contribute to job dissatisfaction, absenteeism, and stress-related illnesses.

Technology affects working people not only by reducing the need for their services and by producing job-related stress, but also by changing the patterns of activity at the workplace. To assess the implications of technological change for working people, the Communications Workers of America recently held the first national conference sponsored by an American labor union to focus exclusively on helping workers adjust to new patterns of work.

A theme repeatedly emphasized by union delegates attending this conference was the need for continuing education and retraining to enable employees to keep abreast of new techniques and equipment. This need for the enhancement of old skills and the acquisition of new ones contrasted sharply with the situation in the past, when workers went to school or enrolled in apprenticeship and training programs that were expected to prepare them for lifelong careers.

To analyze further the present awkward relationship between the technology of tomorrow and future employment, the labor movement must continue to monitor all new developments and their potential impact on workers.

THE CHANGING WORKFORCE

Burgeoning technological developments may well revolutionize the way in which Americans live in the future, but human energy and skill will continue to be the United States'—and the world's—most precious resource. The nature of our national workforce is rapidly changing, however, and will soon bear little resemblance to the employment picture we know as recently as a decade ago.

In the coming years, the rate of growth of the domestic workforce will decline drastically as a result of the slowing increase in the number of working-age individuals. The Congressional Joint Economic Committee has projected the expansion of the labor force to be only two-fifths as rapid in the next decade as it was in the last one.

Moreover, as the post-World War 2 baby-boom generation approaches middle age, a major transformation will occur in the age of American jobholders. Persons in the 25-54 age group in the United States constituted 61 percent of the total workforce in the middle of the 1970s, but they will amount to almost 90 percent in 1990. Teenages and young adults (ages 16-24), who comprised 27 percent of the labor froce in 1975, will make up only 18.5 percent by 1990.

Despite the slowdown in the rate of growth of the workforce, the labor movement anticipates more and more young workers of both sexes will choose to benefit from collective representation. It is especially interesting for the future of the labor movement to note that the majority of union members today are under 40 years of age, and a substantial part of the majority consists of those under 30. The average age of union members is expected to decrease in the coming years.

Women in the workforce: This slowdown in the growth of the labor force will be somewhat offset by a continuing increase in employment participation rates among women. In 1970, 43 percent of women held jobs. Nine years later, a clear majority, 51.4 percent of women were employed.

Similarly, the actual number of women in America's workforce leaped in the same period by almost 40 percent, from 31.5 million to 44 million. The women who have entered the labor force in recent years were not, by and large, "liberated" women in quest of self-fulfillment. Instead, they were bringing home an essential second income necessary to put food on the table, buy shoes for their children, and pay the rent or make a mortgage payment.

As a result of the changing male/female composition of the workforce, only a small percentage of the country's 58 million families today consist of a father who works and a mother who remains at home, the pattern of a generation ago.

As a sidelight of this new social situation, one of the most illuminating statistics of our time is the fact that 8.5 million American families are now solely supported by women breadwinners.

Despite the growing number of working women, and the existence of equal pay laws, female workers earned only 59¢ for every dollar male employees were paid in 1979. By comparison, 40 years ago, in 1939, wages of female workers comprised 58 percent of male salaries, meaning that despite the recent emphasis on equal rights and affirmative action in the workplace, there has been a change of only one percent in four decades.

The low pay of these workers has resulted largely from the fact that women have been segregated into female job ghettos. For example:

80 percent of women in the workforce are found in the lowest-paying, least-skilled, least-unionized occupations.

One-third of all female employees are in clerical occupations, the same proportion as a decade ago.

98.6 percent of all secretary-typists, 97 percent of nurses, 91.5 percent of bank tellers, 90.7 percent of bookkeepers, and 86 percent of file clerks are women.

Despite the increase in the number of women in the American workforce, only 6.7 percent of all female wage earners carried a union card as of 1979. Between 1976 and 1978, however, the labor movement gained one-half million new female workers. Because of this sudden upsurge, women now constitute 27.4 percent of all organized American workers.

Eleven million more women are expected to enter the workforce by 1990. Many of these new women workers, along with those currently employed, will be motivated to join unions if the deplorable disparity between the pay of female and male wage earners is not corrected.

In the coming period, the labor movement will redouble its efforts to organize women, especially those in clerical, retail, and other traditionally female jobs. Labor unions will seek to raise women's consciousness so that they will become aware that there is no better road to economic equality in the workplace than via a union contract.

A related trend involving female members of the labor force is the goal of "equal pay for comparable work." Recently, with this goal in mind, the Equal Employment Opportunity Commission launched a study to determine whether procedures exist or can be developed to measure and evaluate women's jobs according to their "real worth."

The purpose of the study is to devise a means of ensuring that real progress will be made toward seeing that wages paid all workers reflect skill, effort, responsibility, and working conditions—without regard to the sex of the jobholder. Promotion of the concept of equal pay for comparable work was urged in a resolution adopted unanimously by the 105 affiliated unions at the AFL–CIO's convention in November, 1979.

College graduates entering the labor force: In addition to women, the number of college graduates entering the labor force will expand in the near future.

The National Planning Association projects that, by 1985, there will be an annual surplus of 700,000 college graduates relative to professional and technical jobs available. Estimates of the total oversupply of recent degree recipients in comparison to the positions open to them range as high as 6–8 million by 1990.

This gloomy prospect contrasts sharply with the expectations of college students, 68 percent of whom, according to a recent poll, will be seeking jobs in which they can express themselves and 77 percent of whom will be looking for a challenge in their employment.

The predictable clash of high hopes with harsh reality may trigger a traumatic reversal of the historical pattern in which successive generations of college graduates have obtained employment in work of a higher status than that in which their parents were engaged. Instead, many degree holders may be forced to accept jobs of lower status, although they will have received more education.

Disillusionment from this experience could result in a rise of alienation and the development in the United States of a class of dissident, underutilized intellectuals similar to those who form a chief ingredient in the seething cauldron of frustration that often erupts in emerging nations. A "Coxey's Army" of unemployed college graduates, however, could be avoided through the development of programs similar to the Federal Writers and Artists Projects undertaken in the 1930s.

Continuing shift to a "service economy": An additional prominent feature of the labor force in the years to come will be the continuing shift in the United States to a "service economy." America first became a service economy in the early 1950s, when more than half of the labor force became

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employed in non-goods-producing industries. Indeed, during the quarter-century from 1950 through 1974, only a little over one million of 27 million new jobs added were in goods-related industries.

Early in the 20th century 3 out of every 10 jobs were in service industries. But by 1970 it was 6 out of 10. And by the mid-1980s, only 20 percent of the labor force will produce all of our agricultural and manufactured goods, while the remaining workforce will be concentrated in services.

WORKERS' VALUES CHANGING

As its physical resources dwindle, America is beginning to experience a stunning revival of neglected human values. Reflecting this humanistic reawakening, the range of workers' values in undergoing a rapid transformation.

Employees are placing a growing emphasis on attaining self-fulfillment at the worksite as a basic human need. As we approach the third millennium, "being rather than having" may become the ultimate value at the workplace as well as in other phases of life.

Because of this development, "self-actualization" may well be the psychological watchword of the future in labor-management relations and in industrial psychology. This term connotes improving one's opportunities for individual development, autonomy, and choice.

The United Auto Workers has pioneered in the emerging trend toward emphasis on the "quality of worklife." The UAW signed an agreement in 1973 with General Motors, which urged local management and employee groups to cooperate in experiments and projects designed to augment humanization of the workplace.

There are more than 50 such UAWGM programs under way. They have resulted in improvements in discipline and product quality as well as a diminution of absenteeism and worker turnover. CWA has also been active in the quality-of-worklife movement.

The principal achievements, however, have been the enhancement of human dignity, the strengthening of self-esteem, and the promotion of self-fulfillment at work. These have been the fundamental objectives of the trade union movement since the 19th century when it was in the forefront of the effort to humanize the workplace by fighting for restrictions on child labor.

Another idea that is part of the new thinking on the quality of worklife is a program of sabbatical educational and advanced training for all members of the workforce. Under such a program, employees would take leave from their jobs one year out of every seven, to go back to school, acquire new skills, improve existing skills, or pursue public service.

Some companies, in fact, have established a system of "Fulbright Fellowships," for people who want to take a year or two away from their jobs and engage in public service. Expanded implementation of this idea and similar plans would not only assist workers in preparing to develop new skills, but also improve the outlook and performance of those who have grown stale on the job.

Employers themselves would benefit from such a program. Among the rewards reaped by employers would be a reduction in job-hopping and the providing of management with a more stable, interested, and regularly upgraded workforce.

Reappraisal of material success: One of the most interesting examples of the revolution in values taking place in the workforce is the growing conviction among both white-collar and blue-collar employees that the "nose to the grindstone" way of life is too high a price to pay for material success.

This appraisal entails a dilution of the Puritan ethic, with its spartan precepts of hard work, unflinching loyalty to employers, and suppression of desires that conflict with "duty."

The drive to reach the top is being replaced by the need to keep one's life on a satisfying and relatively even keel. Success is defined in relative terms, achieving a rational balance between commitment to making a living and enjoyment of an enriched lifestyle.

In a development closely related to this, young workers especially evidence a preoccupation with finding a way of life that expresses the unique individuality of each wage earner. Indeed, the compelling appeal of the "human potential" movement is shown in a Yankelovich poll of workers under age 30. According to the survey, young workers—male and female, white and black, white collar and blue collar—want jobs that contribute to others or society, are challenging, and offer the opportunity to learn and grow.

Beyond GNP: One of the most striking ideas with regard to worker values is the notion that the gross national product will soon outlive—or may have already outlived—its usefulness and the basic index of America's national progress. To replace GNP, Dr. Preston Cloud of the University of California at Santa Barbara has proposed a new barometer of national well-being which he calls the Enhancement of the Human Condition [EHC]. Other efforts with a similar goal are being pursued elsewhere.

Dr. Cloud's formula for measuring the EHC involves adding together the positive indicators that reflect improvement in the quality of life, such as the number of jobholders, advanced educational degrees, protected land, and other desirable attributes, and subtracting such negative factors as joblessness, crime, poverty, unrecycled waste, and other components of the "misery index" in our society.

Work as self-expression: Finally, of special interest to social theorists, the growing emphasis placed on "quality of work" may even compel a sharp modification of the age-old assumption of manpower economists that people work to make money. This, in turn, may result in a redefinition of what we mean by the word "work."

The next generation may come to think of work as an essential human need for self-expression in the spirit reflected by Robert Frost in his poem "The Road Not Taken," in which he explained how he decided to make his avocation his vocation and why "that has made all the difference."

COLLECTIVE BARGAINING AGENDA

During the next 20 years, organized labor will expand its collective bargaining agenda to include several pathbreaking trends that are beginning to be evident.

One evolving practice provides hope for workers to satisfy their need for personal participation in the shaping of a world of proliferating complexity. This is the process of codetermination, the joint labor-management planning of a company's future. Already embraced in Western Europe, this concept may take hold in other nations as a means of giving wage earners a greater sense of partnership in guiding a business' destiny.

The Chrysler loan guarantee legislation signed into law by President Carter, for example, contains a provision requiring representation of the United Auto Workers on the board of the auto company. The results of this pioneering development will be closely scrutinized.

Akin to codetermination is another idea that gives working people an incentive to achieve prosperity for their employer. This concept involves the increased use of employee stock ownership plans, intended to give workers a direct stake in their company's financial health. The goal of these plans is to improve productivity in the workplace. This idea also would benefit business by providing much needed capital, the "mother's milk" of economic expansion in the private sector.

CWA and the American Telephone and Telegraph Company have recognized the rewards that this new idea promises for both management and working people. They have cooperated in the establishment of employee stock ownership plans.

Another emerging idea is the policy of indexing workers' wages in relation to the cost of living. The indexing concept as a means of fighting inflation has been endorsed by political economists spanning the spectrum from the late English Fabianist John Maynard Keynes to the contemporary University of Chicago conservative Milton Friedman.

Automatic inflation adjustment is a principal feature of the federal government's budget policy. Virtually all federal retirement and disability programs are indexed, as are many welfare benefits, including food stamps, child nutrition assistance, and supplementary security income payments. In the private sector, cost-of-living provisions were included in 26 percent of union contracts negotiated in 1979.

Along a different line, we may see a workweek shortened to 32 hours. Moreover, "flextime" programs, which are found in a number of collective bargaining contracts in European nations, may become more prevalent. Under "flextime," employees are permitted to select work hours that meet job requirements but also enable them to fulfill their varied life activities more conveniently.

Perhaps the most difficult conflict in the collective bargaining arena in the coming years will be the struggle for the control of workers' pension fund assets. Indeed, the late Senator Philip Hart (Democrat, of Michigan), who chaired the Senate Antitrust Subcommittee, prophesied that the future battle for control of pension capital will "be the central structural and policy problem of America's economy for years to come."

Pension fund assets—the deferred wages of 50 million American workers—are now the largest source of investment money in the American capitalist system. They are now worth over $600 billion.

The pervasiveness of pension funds is reflected in the fact that they own an estimated 20–25 percent of equity in American corporations and 40 percent of corporate bonds. By the way of comparison, the total accumulation of workers' retirement assets in the United States is larger than the combined GNP of the United Kingdom and France. Given the present growth rate of pensions, which is about 10 percent a year, these assets will be worth $1.3 trillion by the end of this decade.

While retirement money represents the deferred wages of millions of workers, many large pension funds are not directly controlled by the workers who are their intended beneficiaries. Instead, management in such cases acts as the sole executor of workers' pension money rather than sharing the administration with employee representatives.

To many unions, management's exclusive control of workers' pension capital represents "investment without representation." To the labor movement, this calls to mind the similar slogan of America's founding fathers 200 years ago.

Ironically, the managers of pension funds sometimes invest workers' prospective retirement income in blantantly anti-union companies. In this way, they provide an invigorating transfusion of economic assistance to union-busting employers.

Moreover, such pension fund managers are not attuned to good investments that are also socially valuable. As a result, unions are now reexamining the current policy of management control of pension funds, with an eye toward attaining joint administration of this vast pool of venture capital.

TRANSNATIONAL UNIONS

Labor unions in the United States have observed with concern the unprecedented growth of U.S. companies with foreign affiliates or subsidiaries. During the last 10 years, such international corporations have grown so fast that their combined sales exceed the gross national product of every industrial country in the world except the United States and the Soviet Union. Several years ago, General Motors alone had annual sales that exceeded Switzerland's gross national product.

Many foreign nations provide a bountiful, cheap labor supply that will work under substandard conditions at less than American wage levels. For example, in Hong Kong alone, 60 percent of the adults work a seven-day week, and 40,000 children aged 14 or younger work at least 14 hours a day.

Taking advantage of these concentrations of low-priced labor, large multinational companies in effect have exported the jobs of millions of American workers. Furthermore, employment of foreign nationals in plants of U.S. companies abroad is predicted to increase at a rate more rapid than the employment of American wage earners at these companies' plants in the United States.

To cope with the problem of runaway plants and other vexing issues, American labor unions may well turn increasingly to existing international organizations, such as the ILO [International Labor Organization] and the 16 international trade secretariats composed of national unions from different countries with members working in related industries or occupations.

These structures may be utilized more in the future than they have been in the past. They can provide the institutional framework for promoting cooperation among unions of many nations seeking to counter the global threat of businesses that exploit employees.

FORGING NEW COALITIONS

Organized labor has long been an active participant and an agent for progressive change on our national legislative-political scene. Although the traditional emphasis of labor's trust was on bread and butter issues, unions are becoming more cognizant of the need to maintain an ecological balance and to preserve the environment from the ravages of pollution. Reflecting this awareness, they are more and more joining forces with other thoughtful groups in pursuit of a sustainable world.

To this end, the labor movement worked alongside environmentalists to obtain enactment of a landmark federal law outlawing strip mining. Similarly, environmentalists have joined with labor to defend the Occupational Safety and Health Administration, to demand the removal of carcinogens and other toxic substances from the workplace, and to protest the continued operation of textile plants in which workers have been stricken with brown lung disease.

Along the same line, an organization, Environmentalists for Full Employment, lobbied for the establishment of federal programs to achieve the purposes of the Humphrey-Hawkins Full Employment and Balanced Growth Act.

The emerging resolution of former differences between the labor and environmental movements is a hopeful sign of recognition that the human species is riding a precarious vehicle in its voyage on spaceship Earth, and that the planet's "supply depot" must be carefully utilized.

AN EVOLVING SOCIETY

Two hundred years ago the English statesman Edmund Burke wrote that "a nation without means of reform is without means of survival."

While America (plagued by high unemployment in the early 1980s) is not on the verge of becoming an economic paradise, neither does it appear about to fulfill the negative threat of Burke's warning by plunging into a national collapse. Instead, just as President Franklin Delano Roosevelt forecast in the 1930s that his generation of Americans had a "rendezvous with destiny," so the current generation of Americans appears fated to confront a dramatic challenge and a propitious opportunity to build a new and better world.

Organized labor has long perceived the American Revolution not as a finished product or a priceless antique to be polished and admired every July 4th and then placed back on the shelf, but as a dynamic, ongoing process, involving a never-ending drive toward improving the quality of life. The evolutionary character of our society will require unions to continue to put their shoulders to the wheel of history and provide a more fulfilling life for working people and their families.

Trade unionists are congenital optimists. We firmly believe in our ability to effect change for the better by facing up to the challenges and opportunities as we approach new frontiers of the future. The American labor movement is in step with a sentiment expressed by the contemporary poet Bob Dylan who, in a way different from that of Robert Frost, is in tune with the temper of his times. Dylan has written that "those who are not busy being born are busy dying."

The labor movement, along with other flourishing segments of our diverse, pluralistic society, is "busy being born" as it confronts an array of stimulating options. We see the future as a chance to seize the initiative for improving the quality of the life that was given to us and for ensuring that it will be lived with dignity in a sustainable world.●

POWER FOR ISABELLE

● Mr. D'AMATO. Mr. President, I rise to continue my efforts to educate my colleagues concerning the merits of the intersecting particle accelerator called Isabelle which is now under construction at Brookhaven National Laboratory on Long Island, N.Y. This particle accelerator is a vitally necessary scientific tool which will allow our high energy physics community to expand the boundaries of human knowledge about the way the universe works.

Contrary to public statements by officials of the Office of Science and Technology Policy, earlier difficulties with superconducting magnet design have been resolved. The new magnet design has been extensively tested and it works. OSTP officials have further stated that they anticipate difficulties in manufacturing these magnets on a production line basis. That argument is disingenuous and without merit. There are no unique or unexplored problems associated with establishing a magnet-manufacturing process. Personnel working on the Isabelle project at Brookhaven have had extensive experience with other particle accelerator construction projects. They have converted other products of research and development efforts to production line manufacturing processes. They will be successful again converting superconducting magnets from research and development products to production line products.

Recently, the development of the accelerator's power supply took a major step forward. The Isabelle Power Supply Group moved into the accelerator tunnel. They became the first people to be assigned to the facility on a regular basis. They are preparing for a major test of magnets and power supplies scheduled for next spring.

Anita Cohen, writing for the August 13, 1982, edition of the Brookhaven Bulletin, described their activities in a story entitled "Tunnel Has Powerful Tenants." I comment that article to my colleagues' attention.

Mr. President, I ask that the article be printed in the Record.

The article follows:

Tunnel Has Powerful Tenants

The Power Supply Group of Project ISABELLE moved recently. And with that move, technical associate John Dunning, engineer Bob Edwards and technical supervisor Mike Iwantschuk became the first people to be assigned to the accelerator tunnel on a regular basis. "Lots of people are working out there," Edwards said, "but we're the only ones living out there."

The group moved to the Wide Angle Hall in order to facilitate completion of the power supply system needed for the full cell test scheduled for the spring. At that time, a string of prototype superconducting magnets—six dipoles and two quadrupoles—will be tested, along with many of their support systems.

Some of the power supplies that will be used in the full cell test are prototypes of those that will eventually be installed at 19 locations around the accelerator tunnel to provide two types of power for the superconducting magnets. First, the main magnet power supplies must be capable of ramping the magnet current up to 4,200 amperes at 600 volts dc (over 2.5 megawatts). When ramping is completed and the magnets level

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off to steady-state operation, the supplies must hold the current to less than 10 parts per million. To prevent excessive ripple current, a phenomenon which can result in an undesirable increase in beam size, the main magnet power supply system has been designed for a maximum ripple current of one part in 10^7.

Overall, these specifications require a precision which, Edwards said, "is at least an order of magnitude tighter than the magnet power supplies at the ISR [intersecting storage rings] at CERN." These tight tolerances are necessary to control the working line and higher level resonances associated with a proton-proton colliding beam accelerator.

Early testing has shown that the main magnet power supply is reliable and stable over the short term to approximately one part in 10^6. Two of these supplies are being used to test superconducting magnets. While operating for the past 24 months and running 50 hours a week, these supplies are producing impressive performance statistics—averaging over 5000 hours without a failure.

In addition, the accelerator will require over 400 magnet correction coil power supplies with power ratings from 1000 to 50,000 watts, some with precision specifications similar to those of the main supplies.

By the time these power supplies are completed, the Group will have been joined in their headquarters in the Service Building by many other groups. But for now they are alone in the tunnel. With only a pocket pager for one-way communication with other parts of the Lab, they are looking forward to the day when telephones are installed and a real road winds its way to the Wide Angle Hall.

Still, the group members feel that being in the tunnel has many compensations. Dunning calls their unique setting "a new frontier" and finds that working at the accelerator site is "an adventure."

On the practical side, Edwards explained that moving the group to the tunnel "solved a space problem. Since we were preparing to set up the power supply system, it was a natural thing to move out here." Then he added, "And we wanted to be the first ones here anyway."●

GORDON RULE

● Mr. **WARNER.** Mr. President, Gordon Rule, dead at the age of 75, will be remembered as a husband, friend, a dedicated public servant, a watchdog who courageously pursued and identified waste in the Government—especially in the Department of Defense. His efforts often reached legendary proportions.

As Chief of the Navy's Procurement Control, Gordon dedicated himself to the implementation of sound procurement practices. With a keen vision he worked to insure that Government funds were not wasted. Oftentimes, his was the lone voice raised in opposition to procurement waste.

Gordon was not afraid to sound the alarm irrespective of the ramifications to him personally.

Moreover, Gordon was evenhanded. He was equally concerned about contractors doing business with the Government. He scorned the practice of Government officials supplying rosy cost estimates to Congress only later to admit that the costs would indeed exceed the estimates. He tried to insure that industry did not get bulldozed into signing contracts with hidden cost overruns.

Gordon earned his reputation of courage and honesty. This reputation was well-known to Members of Congress. They recognized and respected his expertise in and his opinion of Government procurement practices. He was called upon often to testify before congressional committees and to share his perspective on an issue with Members of Congress even after his retirement.

The Commonwealth of Virginia has lost an honorable citizen and our country has lost a dedicated patriot. Gordon Rule was a giant in our times. We all shall miss him and we will always remember him.●

HOW THE SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM IS ADMINISTERED

● Mr. **GRASSLEY.** Mr. President, in recent weeks both Houses of Congress have passed resolutions endorsing the senior community services employment program, that part of the Older Americans Act known as title V. These resolutions provided a sense of Congress regarding the continued funding of this program within H.R. 6863, the general supplemental appropriations bill.

During the many laudatory floor statements submitted during the resolution colloquy, no mention was made of the way this significant program is administered.

The senior community services employment program is administered partially through State governments and partially through national contractors. This is specified in the 1978 amendments to the Older Americans Act and is reemphasized in the conference report on the 1981 amendments. It is important that this specific structure be maintained despite the report language of H.R. 6863 conferees; the efficient management of the program and the continued employment of older workers being served by the program is too important to do otherwise.●

INSTITUTE FOR DEMOCRACY

● Mr. **MOYNIHAN.** Mr. President, I would like, if I may, to bring to the attention of the Senate an important essay by the distinguished journalist William Safire, published just this morning in the New York Times. It concerns the proposal made by President Reagan, in the course of his celebrated address to members of the British Parliament on June 8, that the United States establish a nongovernmental Institute for Democracy to propogate democratic principles and practices abroad.

As Mr. Safire notes, informal discussions are now underway between various officials in the administration and certain officers of both the Republican and Democratic National Committees with respect to how the institute should be organized and what exactly its mandate should be. Senators will recall that it was agreed at the outset that the two National Committees would be the principal sponsors of the institute, in order that it might become an enterprise devoted to proselytizing American-style democratic practices rather than the particular policies of any given administration. It has been hoped that an institution designed to explain and demonstrate in the Third World the actual workings of modern democracy—party organization, trade unionism, a free press—might be established as an enterprise largely independent of government, even if it were to be financed in part by public moneys.

That this initiative will be most effective if separated from the usual bureaucratic process of government is explained by Mr. Safire in these words:

> * * * (T)he organizers do not agree on the center of power: Is this to be primarily a State Department operation? That would guarantee incoherence; State's inclination is traditionally to soothe rather than upset foreign countries. A CIA front? That would get shot down here even before it had a chance to be discredited abroad. A foundation effort? That usually leads to philanthropoid mush.
>
> It would be a mistake to center this much-needed activity in government, since that would invite constant hectoring about "destabilization" from overseas and from isolationists. The trick is to put the power of encouraging foreign party competition in the hands of the two American parties.

Certainly this should be the work of the two principal American political parties. Moreover, their respective chairmen, and their staffs, have demonstrated more than their willingness to handle the task; they have already demonstrated their aptitude and competence for this immense responsibility in the conduct of the informal negotiations to this point.

Charles Manatt, for the Democratic National Committee, and Richard Richards, for its Republican counterpart, have done an outstanding job in accommodating a broad range of views and interests relating to the Institute for Democracy, as they have moved the discussion ever closer to a consensus with respect to the vital questions involved. They have consulted with distinguished political scientists, accomplished organizers of free trade unions abroad, and elected officials of both parties.

I can state with particular knowledge that in my own Democratic Party, which earlier this year adopted rules allowing greater participation by elected officials in our most major party decisions, Chairman Manatt's forthright and early solicitation of elected individuals' views on this matter has been greatly appreciated.

It is, of course, only proper that Federal legislators be consulted about a project of such magnitude. Later, when it comes time for appropriating an operating budget for the institute, their support will surely be needed. At the outset, their experience in foreign affairs and in American politics may enable them to offer constructive advice. Chairman Manatt understands this as few others would, and has masterfully engaged the cooperation of a broad range of Democrats—as I trust Chairman Richards has done among Republicans.

I am confident that this process of consultation will continue, and will be fruitful. I am grateful to William Safire for bringing the matter to the attention of a wider audience than as heretofore been able to witness these deliberations, for the publication of his column has provided this opportunity for me to reiterate my own belief that the Institute for Democracy can and should be a matter of the highest priority to this body. I look forward to further, more detailed discussion of it in the Senate and in the Congress.

Mr. President, I ask that the full text of William Safire's column in this morning's New York Times be printed at this point in the RECORD.

The column follows:

[From the New York Times, Aug. 19, 1982]

ORGANIZING "WORLD PAC"

(By William Safire)

WASHINGTON, Aug. 18.—Why aren't the world's television screens filled with protests about the way Communist East Berlin has expelled the organizers of the June 27 "peace workshop," and has called up peace activists for military duty—jailing those who refuse to serve?

Why hasn't the Vietnamese artillery captain who defected two months ago been brought back to a suitable communications center and asked about the chemical weapons supplied by the Soviet Union—being used as "yellow rain" by Vietnamese units in Laos even today?

And why has no campaign been mounted to publicize and condemn the war of slander and blackmail being waged by the Communists running Nicaragua against individual priests who refuse to cooperate—a war in which the Sandinists censor pastoral letters from the Pope?

Why no sustained counterattack on these offenses against humanity and its institutions? Not so much because the press is biased, or the offenses are not of top rank, or the democracies lack the capacity for outrage.

The reason is that we are not organized, as Communists usually are, to strike back in the field of mass persuasion. The invaders of Afghanistan sponsor nuclear freezes; the crushers of Polish freedom identify themselves with the "peace movement" around the world. The forces of tyranny get away with condemning the forces of freedom for supporting the right of the people of El Salvador to choose their own government.

To set this straight—to find a means to encourage democracy actively and to shine a light on the wrongs of totalitarianism—a speech writer in the State Department, Mark Palmer, came up with an idea that President Reagan expounded in his address to the British Parliament this summer.

The idea is to engage in an open political struggle with all those who seek to subvert the basic freedoms human beings tend to seek. The West Germans, through federally funded political institututes affiliated with their political parties, have led the way: in some third-world countries, they conduct political training and give money to democratic candidates. In Portugal, West German help made the difference when that country's democracy was in the balance.

Americans should stop being embarrassed about sharing our political know-how—money, mimeo machines and political action plans—with leaders and parties and institutions in beleaguered democracies; more than that, we should carry the banner of political consciousness-raising to third-world and even Communist countries. The A.F.L.-C.I.O. has been promoting a free labor movement abroad, as much as one organization could, for years. "This is not cultural imperialism," said Mr. Reagan, "it is providing the means for genuine self-determination and protection for diversity."

A group is now being organized to put the U.S. into organized political competition around the world. Not surprisingly, since it deals with politics, the embryonic "World PAC" has become embroiled in its own politics.

The Democratic and Republican national chairmen are working together fairly well on this, along with the American Political Foundation, a group brought in by Mr. Reagan's trade negotiator, Bill Brock. The N.S.C.'s Walter Raymond, I.C.A.'s Scott Thompson, Defense's Richard Stilwell, with State's Mr. Palmer, are the Government "honchos." All have agreed to offer the key part-time slot to a neo-conservative Democrat, Ben Wattenberg.

However, Mr. Brock and Under Secretary of State Larry Eagleburger also want the staff headed full time by a former Brzezinski aide. Alfred Friendly Jr.; Republicans advised by Richard Allen prefer Allen Weinstein, of the Georgetown Center for Strategic Studies. That impasse can be worked out in the textbook way, balancing the staff to reflect shades of opinion and party coloration.

More important, the organizers do not agree on the center of power: is this to be primarily a State Department operation? That would guarantee incoherence; State's inclination is traditionally to soothe rather than upset foreign countries. A C.I.A. front? That would get it shot down here even before it had a chance to be discredited abroad. A foundation effort? That usually leads to philanthropoid mush.

To get the politics out of Political Action, we must rely on politicians. It would be a mistake to center this much-needed activity in government, since that would invite constant hectoring about "destabilization" from overseas and from isolationists. The trick is to put the power of encouraging foreign party competition in the hands of the two American parties.

The time for this World PAC idea has come; the best way to avert military competition is to turn to economic and political competition. And in party politics, we should turn to the pols and labor skates: the public should fund international political competition, but the Government should not be in the driver's seat.●

PROGRAM

Mr. BAKER. Mr. President, so that I may state the program for tomorrow, may I say the Senate will convene at 9 a.m. After the recognition of the two leaders under the standing order, it is anticipated that the leadership will ask the Senate to proceed to the consideration of the supplemental appropriations conference report.

Mr. President, after that matter is disposed of, it is anticipated the Senate will resume consideration of the debt limit bill. I wish to say that I anticipate as well that a cloture motion will be filed tomorrow, and I will have a further statement to make on this and other developments in the course of the day.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Can he indicate to the Senator what the cloture motion will be filed on?

Mr. BAKER. Mr. President, at this time the cloture motion will be filed against further debate, to limit debate, on the Helms amendment.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. The Helms abortion amendment.

Mr. LEVIN. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. That amendment is in the second degree.

Mr. BAKER. I yield to the Senator from Michigan.

Mr. LEVIN. Does the majority leader intend to propound any unanimous-consent request tonight relative to the supplemental?

Mr. BAKER. Relative to the supplemental?

Mr. LEVIN. Yes.

Mr. BAKER. I do not. I am advised it would be the better part of discretion to wait until tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I am prepared to take the Senate out unless some other Senator is seeking recognition.

Mr. President, does any other Senator seek recognition? If not, then, Mr. President, I move, in accordance with the order previously entered that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and the Senate, at 10:17 p.m. recessed until Friday, August 20, 1982, at 9 a.m.

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CONFIRMATIONS

Executive nominations confirmed by the Senate August 19, 1982:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance programs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8036, to be Surgeon General of the Air Force:

To be surgeon general, USAF

Maj. Gen. Max B. Bralliar, 410-64-2170FR, U.S. Air Force, Medical.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, 378-28-6898FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast, 498-34-9821FR, U.S. Air Force.

ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, 427-28-9186, Army National Guard of the United States.

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., 557-32-7721.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., 495-28-6662. U.S. Army..

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, 516-28-8461, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Emmett H. Walker, Jr., 427-28-9186, Army National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. LaVern E. Weber, 445-16-0506, Army of the United States.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Hillman Dickinson, 495-20-6943, (Age 56), U.S. Army.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

SECURITIES AND EXCHANGE COMMISSION

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1987.

IN THE AIR FORCE

Air Force nominations beginning Clayton B. Anderson, and ending Terrence P. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Air Force nominations beginning John S. Adams, Jr., and ending Allan V. Wexler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE ARMY

Army nominations beginning Robert O. Porter, and ending Robert A. Sharp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Army nominations beginning Enrique Del Campo, and ending Richard Hagle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Crops Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

Marine Corps nominations beginning Robert L. Peterson, and ending Michael L. Zanotti, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE NAVY

Navy nominations beginning Michael L. Arture, and ending Charles E. Johnston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Navy nominations beginning Javier Arquimedes Arzola, and ending Patricia James Watson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Navy nominations beginning Bruce P. Dyer, and ending Joseph C. Wiley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 17, 1982.

DEPARTMENT OF ENERGY

Oliver G. Richard III, of Louisiana, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

AMERICA'S SPACE PROGRAM SPURS EDUCATIONAL EFFORTS TO TRAIN MORE SCIENTISTS, ENGINEERS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, August 19, 1982

● Mr. RANDOLPH. Mr. President, Americans pride themselves in our scientific advances, in the acquisition of high technology which produces everything from wristwatch television to Space Shuttles. A quarter-century ago, jarred by the launching of the Soviet's Sputnik, America entered the space race through our academic and scientific community. Scholarships produced today's achievers in technology.

But in recent years, the public interest in space exploration has lagged; The flights of Space Shuttles become "routine," the planned November 11 launch of the *Columbia's* first operational mission will provide temporary public distraction operation from everyday problems.

This attitude presents a danger to space operation and to every facet of our scientific endeavors. Educators today are concerned that the apparent lack of public interest in science reflects the feeling of many young people who choose not to study engineering and the hard sciences.

Dr. James M. Beggs, Administrator of the National Air and Space Administration, pinpointed this concern recently by comparing our educational effort with other nations. He said:

> The United States is turning out 60,000 engineering graduates a year. This is far fewer than some of our most powerful rivals in many high-technology fields. For example, the Soviet Union graduates 300,000 engineers annually, five times the number of the United States. And Japan, with less than half our population, graduates 75,000 engineers a year.

Mr. President, last month my alma mater, Salem College, awarded honorary degrees to Dr. Beggs and Thomas G. Pownall, president and chief executive officer of Martin-Marietta Corp. Mr. Pownall, a native West Virginian, was the principal speaker at our second annual Festival of Flight. We also honored aviation and space pioneers Senator HARRISON H. SCHMITT, Michael Collins, Arthur Hyde, another West Virginian, and ABC Science Editor Jules Bergman.

The following day, Dr. Beggs addressed the annual luncheon of the National Youth Science Camp on Capitol Hill. He urged the NYSC delegates—two of the outstanding high school science students from each State—to continue their study in science and space, and to turn their dreams into reality.

Mr. President, I submit for the RECORD the addresses of Dr. Beggs and Mr. Pownall, both of whom focus on the question of America's future in science, and whose remarks will provide enlightened insights for my colleagues and many others.

The material follows:

REMARKS BY JAMES M. BEGGS

I am delighted to be here and extremely pleased to be introduced for the second time in 2 days by my good friend, Senator Jennings Randolph, your host. Yesterday, I was privileged to receive an honorary degree from Salem College, the Senator's alma mater. So I feel it is a special privilege to have been invited to speak to you today and look forward to your questions following this brief talk.

First, let me congratulate you all on having been chosen by your respective States to attend this 20th Annual National Youth Science Camp. You are a star-studded group and your leadership and scholastic achievements are overwhelmingly impressive. Having read your biographies, I am reminded of President Kennedy's remarks back in 1972 at a White House dinner honoring nobel laureates. He said: "I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone."

No doubt some of you may well be White House guests at some future dinner for nobel laureates. But as we look to the future, I think we need to remind ourselves that past achievements are no guarantee of future performance. Indeed, in government, in industry and in the cases of individuals, it is clear that what we can do tomorrow depends on how we replenish our working capital today.

Our Nation's working capital rests in the potential of young people like yourselves. You are the high achievers of today and will be the leading scientists and engineers of tomorrow. And there is no question that the United States needs your talents and skills if we are to maintain our technological edge in the world.

Twenty years ago, when the youth science camp program began, the United States was the leading technological power in the world. We had come from behind the Russians and were leading in space. We were first in aeronautical and other high-technology development projects and we led the world in scientific achievements. But today, although we still lead in many areas of high technology, our supremacy is being increasingly challenged by foreign competitors.

We are feeling the pinch in every major industry, as the competition in Japan and Europe, using our methods and the technology we developed, is beating us at our own game. Whereas, just 10 years ago, the U.S. would capture all nobel prizes in the hard sciences, this is no longer so. Indeed, the signs of strain are such that it is no exaggeration to say that our accustomed preeminence in science and technology—on which a large part of our security and economic power depends—is so fragile that it is seriously endangered.

A few statistics help tell the story. The United States is turning out some 60,000 engineering graduates a year. This is far fewer than some of our most powerful rivals in many high-technology fields. For example, the Soviet Union graduates 300,000 engineers annually, five times the number of the United States. And Japan, with less than half our population, graduates 75,000 engineers a year.

Moreover, for more than a decade, secondary school curriculum requirements and achievement in this country have fallen sharply in science and mathematics, while there has been an opposite trend in most other developed countries. The result has been a shortage in the United States of well-trained scientists and engineers that affects adversely our scientific and industrial productivity.

This is a serious problem. It is serious because a vigorous scientific research and high-technology base are the key to a nation's productivity, economic growth, national security and high standard of living for its people. Over the past few decades we led the world in high technology. And during this period Americans enjoyed the highest standard of living ever known. We provided higher real income by raising productivity, and did that, to a large extent, through technological innovation.

We certainly are not the kind of people to sit idly by and let the rest of the world overtake us and leave us behind. We are a pioneer people, whose restless urge to explore the unknown and to excel built this Nation.

Our last quarter century in space has been magnificient.

We have sent 12 Americans to walk on the Moon. We have explored most of the solar system, and, we hope, by the decade will have explored all of the planets except Pluto and Neptune. We have built a new reusable space transportation system—the Space Shuttle—which will go into routine operation in October, opening unlimited opportunities in space for science, commerce and our national defense through the 1980's and beyond. So you are arriving on the scene at just the right time.

And the next 25 years hold the promise of so much more. Next year we will be flying the Space Lab, a gift from our European Space Agency friends, which will provide a shirt-sleeves environment for scientists and engineers to pursue their experiments in space. In 1985, we will fly the large Space Telescope, probably the most scientific instrument we have ever put into orbit. And in the future, we will be living and working in space on a permanent basis, building new structures for communications, Earth observations and many other purposes only limited by our imaginations.

Because any great civilization depends not on any particular knowldge, but on the continuing disposition to crave knowledge and know the unknown, we will continue to explore the vastness of space—simply because it is there.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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Theodore Roosevelt once said that "The best prize life has to offer is the chance to work at work worth doing." You have chosen to pursue that prize in science and technology and if our past experience is any judge, you will be well rewarded.

All of us at NASA, I believe, have won that prize and we hope that one day you will be joining us in this great adventure of building our Nation's future in space. And in the process, we will continue to gain new knowledge strengthen our economy, fuel a national sense of pride at home and prestige abroad, and I believe, inspire other young people, like yourselves, to dream great dreams and to transform them into reality.

And perhaps the most important reason for our work is a quote from a poem written by T. S. Eliot:

"We shall never cease from exploration and the end of all our exploring will be to arrive at where we started and to know the place for the first time." That says it all.

Thank you very much.

REMARKS OF THOMAS G. POWNALL

You have honored me on a plane far higher than I could have ever dreamed when I was a lad growing up in this remarkable State of West Virginia. Also, you have presented me—in your suggestion that I talk to you about space exploration—with an overwhelming topic. I say overwhelming because, in fact, I believe that mankind's future in space has no boundary lines. The subject and its implications are enormous beyond comprehension. Within less than three decades, within the lifetime of every one of us here, space exploration has changed forevermore the way we must think of our universe.

We have brushed back some, a few, of the curtains of natural ignorance that hung for all of prior history between Earth and the universe beyond. Who among us will ever forget the summer's Sunday in 1969—14 years ago—when one our kind set first one foot and then the other onto the Moon's surface. And since then we have peered further over the edge of the universe, to sample the surface of Mars and to look in awe at the wondrous realities of other planets.

And we have barely begun.

So splendid have been our technological, scientific, and engineering accomplishments in space that we have tended to devalue, or perhaps entirely overlook, an aspect of space exploration that has spiritual overtones. By that, I mean space exploration can be also viewed as adventure of the very highest order.

Think of it in your own, personal lives—the exhilaration that arises from the occasional opportunity presented to break some new ground. To do something different. To accomplish a personal "first." In this sense, I think it is proper to stand back and to strive for a special view. In doing so, I conclude that the exploration of space during the past quarter century—the time span from Sputnik to now—has been the spice of our national existence. Whether or not you choose to share my perspective, I believe it is beyond argument that in Projects Mercury, Gemini, and Apollo we were given dramatically uplifting and inspirational counterpoints to the cares and problems and complications of everyday living. Of our earthly society, I was reminded again of this aspect of space exploration on our independence day just past. When nearly a half-million proud Americans seized upon the moment to gather in the California desert. To watch in person the triumphant return from space of the Shuttle vehicle Columbia. I daresay most of the untold millions of others who looked in by television on that event shared vicariously in the emotion of the moment. It is not too much, I think, to place high value on the sense of national self-esteem and prestige that flowed from that event—and from other events in the sparkling sequence of accomplishments in Earth orbital and planetary ventures that we have undertaken since the enactment by Congress in 1958 of the National Space Act and the creation of the National Aeronautics and Space Administration.

Now, clearly that act and that agency were given to the country with larger ambitions than to lift up our spirits on occasions of high and intense drama. But let me say again that, personally, I feel this is a tremendously valuable collateral benefit. I just happen to feel this way because I think that whatever encourages us to have national pride and self-esteem is important in this complicated world. If we have no respect for ourselves, we surely will have none for our Nation—and we will neither earn nor merit the respect or admiration of other peoples or of other nations.

These simple truths, I am aware, are not by themselves alone enough to maintain the wide spread of support that has been required to bring us this far—or will be necessary to keep us as a nation on a coherent and logical course in the future. I am reasonably certain that Mr. Beggs and all of his predecessors in the Space Agency agree with that. I daresay also that everyone of us has heard in some context or another voice given to the plaintive question:

"If we can go to the Moon. why can't we. . . ?" And you can just about end the question with any subject, any problem imaginable.

One may be tempted to dismiss such a question as irrelevant. But what it really is, I think is evidence of frustration. Of a deep-down craving for equal progress in so many areas of material need.

In fact, there have been elemental and breath-taking leaps forward in the acquisition of fundamental knowledge through our space activities. And by no means have these been esoteric. Many have hard relevance to our earthly needs—better management of natural resources, mind-stretching improvements in communications, simply outstanding advances in weather monitoring and forecasting, to mention but a few.

An eminent panel of NASA's brightest minds, addressing the evidence of seeming public lassitude about space a few years ago, concluded that—in their words—"The most striking effects of the space experience are likely to come in the years just ahead, as humans who have lived entirely within the space age become adults." And to quote further briefly from their conclusion: "We do not know yet what kind of a society it will be in which space is regarded as a natural arena for human endeavor and for the solving of human problems."

This suggests—and I think it is true—that we as a people do not yet know how we should value space exploration and space development.

What are the terms on which we look at its future, apart from its embodiment of technological accomplishment and its contributions to our national sense of self-esteem and accomplishment on those occasions when we as citizens are all tuned in for high adventure?

In such a setting as this, dominated by academic thought and respect for knowledge and learning, it is quite appropriate to remind ourselves that sweeping societal benefits most often have not been evident until many years after a scientific discovery or a technological breakthrough. At this time, it can be left only to the most inspired human imaginations to conceive what may be the ultimate benefits from space science and space technology.

We cannot, we must not turn back. In fact what we need most to understand right now is that there is so much we do not know—and then go for it! We are in good shape to do that.

The allocation of national treasure to attain these ends will, I recognize, involve hard decisions. Hard tradeoffs, uneasy accommodations with large societal segments that feel a need for immediate improvement of the human condition should flow from all sizeable expenditures for any large goal.

The finest arts of political diplomacy, nevertheless, should be mustered, and promptly, I think for a broad-based action program that would encompass, among others, such goals as these:

A firm commitment to a specific plan for the remainder of this century. It should cover expansion and operation of the Shuttle system. It should assure a vigorous program of civil and national security operations in Earth orbit. It should incorporate a stable program, with a firm sense of continuity, for planetary exploration in the interest of pure scientific knowledge. It should commit the basic support for long-range new technology, not only in Federal laboratories but in those of universities and of industry, as well. Some of the fertile evident fields for exploration include propulsion, materials, large structures, robotics, and life-support systems.

Such a program for the remainder of this century also should, it seems to me, encourage the private sector to invest in applied research and development of space technologies, with proper incentives for introducing beneficial space results into commercial marketplaces.

There is more, but the foregoing is sufficient to illustrate the character and the size of the challenge to our national processes—indeed, to our national will.

To accept the challenge is to declare ourselves a great and confident people, not afraid of the future but ready to embrace it.

Thank you.●

TRIBUTE TO ALYCE JONES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROUSSELOT. Mr. Speaker, I would like to take this opportunity to honor an outstanding resident of the 26th District of California on the occasion of her retirement as official hostess of the Chamber of Commerce of Arcadia—Alyce Jones.

For 27 years, Alyce has selflessly served as Arcadia's official hostess. Her enthusiasm, gracious manner, and sunny smile have welcomed many newcomers to the city.

Alyce urges them to get to know their community by becoming involving with various clubs, civic groups, and, above all, by registering to vote. It is exceedingly important, she believes, for new families to have a strong feeling of belonging to their new community. Services she has performed for newcomers range the gamut from babysitting to mending clothes to helping a new family pull weeds. She many times lends an ear to those who just need to talk with a sympathetic listener.

Prior to being tapped by the chamber for the duties of official hostess, Alyce had been an active member of the local PTA, holding many positions including that of President. She and her husband, Charles, have lived in the same home in Arcadia for 44 years. They have three children living in the area, and eight grandchildren who frequently drop by just for a chat.

Concurrent with her myriad duties as official hostess, Alyce has been an active member of the Church of Jesus Christ of Latter Day Saints. When approached 27 years ago to assume the office of official hostess, Alyce was asked to stay a year.

Today, 27 years later, I would like my colleagues to join with me in saluting Alyce Jones, a truly remarkable American who has served her community cheerfully, selflessly, and always with a smile.●

OPPOSITION TO AID FOR EL SALVADOR

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FRANK. Mr. Speaker, I recently received a copy of a statement in opposition to the certification of El Salvador as eligible for continued U.S. aid, forwarded to me by the Boston Committee for Medical Aid to El Salvador. The members of this committee ask that their statement be shared with those who will have to make a decision on the legitimacy of the President's certification. I believe that the President erred in certifying that El Salvador has met the conditions set down by Congress last year. By their refusal still to take any serious action to find those who murdered four American women in El Salvador well over a year ago, by their retreat from the principles of land reform, and in many other ways, the current rulers of El Salvador have shown themselves unwilling to comply with the minimal conditions set down by Congress for the continuation of aid.

The statement from the Boston Committee is an important one that makes a significant contribution to the debate on this issue and I wish to share it here with my colleagues.

BOSTON, MASS., *July 30, 1982.*

Hon. BARNEY FRANK,
U.S. House of Representatives
Washington, D.C.

DEAR REPRESENTATIVE FRANK: We have prepared the attached statement on our opposition to the recertification made by the Reagan Administration that human rights in El Salvador are "improving." We request that our statement and supporting documentation be entered into the record of the recertification hearings.

Yours truly,
THE BOSTON COMMITTEE FOR
MEDICAL AID TO EL SALVADOR.

Enclosures.

STATEMENT OF THE BOSTON COMMITTEE FOR MEDICAL AID TO EL SALVADOR IN OPPOSITION TO RECERTIFYING THE CONTINUATION OF U.S. AID TO EL SALVADOR

Once again, the Reagan Administration has certified before Congress that human rights conditions in El Salvador are improving. To document this "improving" situtation, the Reagan Administration has submitted "data" from the government-censored Salvadoran press to show that the number of people killed by violence has abated during the past six months, thereby suggesting that "less" people murdered is equivalent to "less" human rights violations.

Contrary to the assertion of the Reagan Administration, our information indicates that the human rights situation is not improving. Human rights associations in El Salvador (the Legal Aid Office of the Archdiocese of San Salvador and the Human Rights Commission of El Salvador) and other groups such as the Center for Information and Documentation at the University of Central America, Amnesty International, Americas Watch and the Washington Office on Latin America indicate that the assassination of innocent civilians continues—unabated.

It is estimated that since October of 1979, close to 40,000 civilians—1 of every 118 people—have been murdered, most by the Salvadoran military and security forces. Those dead include infants, children, old people, and whole families as described in the enclosed materials in Appendix A. Violence and murder, perpetrated by Salvadoran government and security forces upon the civilians in the countryside, has also created an estimated 600,000 refugees, almost 13 percent of the population, according to the United Nations High Commission on Refugees. Dislocated Salvadoran refugees are now in all countries of Central America, as well as in Mexico and the United States. A recent report from the Center for Information and Documentation of the University of Central America indicates that in one refugee center outside the capital where there are approximately 7,000 children, each day from 4 to 7 children die from a ravaging disease. The situation has deteriorated to such an extent that recently, the International Red Cross threatened to withdraw from the country. In a news account (The Washington Post, July 3, 1982), Andre Balmar, a Red Cross delegate said: ". . . we are to provide humanitarian aid in a zone of conflict. It is not our role to protest; we never make public condemnations. . . . On the other hand, we do not intend to allow our presence here to become a label that governments can point to to demonstrate its compliance with humanitarian norms." Murder by government hands continues to be the leading cause of death in El Salvador, far surpassing death by disease or natural causes.

The institutionalized violence in El Salvador, perpetrated through the structures of a feudal society and bolstered by a government which acts on behalf of oligarchic interests, must be measured not only in terms of innocent people slaughtered, but also in terms of the daily violence of hunger, poverty and malnutrition which has produced in El Salvador, the highest child mortality rate of 24 Western Hemisphere areas surveyed by the Pan American Health Association. (See Appendix B.) Even now, the health sector continues to be repressed and militarized as documented by an American Public Health Commission to El Salvador which reported on conditions from the country during July 1980. (See Appendix C). The medical school, closed since June 1980 by the Salvadoran Army, remains to this day occupied by government forces. The military continues to retain control over the distribution of drugs, medical supplies and blood for transfusions. And rural hospitals, health posts and pharmacies continue to be under seige. Health workers provide services in an atmosphere of constant threat to their own survival, mindful of the fact that many of their co-workers have already been murdered, kidnapped or "disappeared." A recent Washington Post news report (July 26, 1982) indicates that the Salvadoran police tortured a volunteer from the Salvadoran Green Cross, a medical relief agency based in the country.

We would like it known that as doctors, nurses and other health workers, we oppose any aid to a government that wantonly abuses the human rights, including the health rights, of its own citizens. We want to emphasize the point that the recertification process should not depend upon a debate over the monthly variation in the number of those murdered, tortured or disappeared. There is no numerical level below which mass murder becomes acceptable. To suggest that "less" murder is better than "more" murder or to hold to a standard of violence as a criteria from which to assess improving human rights conditions defies rational understandings.

We observe with dismay that the Reagan Administration, with the approval of Congress, continues to make unprecedented cutbacks in health, education and welfare programs at the expense of the most disadvantaged of U.S. citizens. On the other hand, it increases, also at unprecedented levels, military aid to countries such as El Salvador. (See Appendix D). In essence, while it is willing to spend hundreds of millions of tax dollars funding the brutal activities of the Salvadoran government, the Reagan Administration refuses to maintain adequate funding for immunization programs for our own children, as recently revealed by the Center for Disease Control in Atlanta.

This viewpoint is not our opinion only, but is shared by many members of the U.S. health care community. Our Committee has been circulating a petition amongst health care workers nationwide, calling for a cessa-

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tion of all aid to the Salvadoran government. (See Appendix E). Hundreds of signatures that represent not only individual health care workers such as doctors, nurses, social workers, physical and occupational therapists, medical amd nursing students and others, but health related associations as well are being forwarded to us weekly. The following are representative of the groups who have also endorsed our petition drive: the American Medical Student Association, OXFAM AMERICA, the Nurses' Network, the Maine State Nurses Association, the Massachusetts Nurses Association, the New York Committee for Medical Aid to El Salvador, the Milwaukee Medical Aid Committee to El Salvador, the Asian Caucus of the American Public Health Association, the Hispanic Task Force of the American Orthopsychiatric Association.

We ask Congress to reject the Reagan Administration certification that the human rights situation in El Salvador is "improving." We urge Congress to discontinue all aid to the present government of El Salvador. We urge that Congress support all efforts toward a negotiated political solution to the conflict and that it defend the rights of all nations to self-determination.

TERESA CHOPOORIAN R.N.,
M.S.,
ALAN MEYERS M.D.,
KAREN WOLF R.N., M.S.,
For the Committee.

COMMITTEE MEMBERS

Steve Anderson-Hermann M. Div., Naomi Bock M.D., Melanie Brunt M.D., Teresa Chopoorian R.N., Adrienne Epstein R.N., Paul Epstein M.D., Andrea Fox M.D., Jonathon Fox, Nancy Greenleaf R.N., D.N.Sc., Steve Hagan, Maurice Lemon M.D., Alan Meyers M.D., Kenneth Thompson M.D., Karen Wolf R.N.●

THE PORT OF LOS ANGELES TO CELEBRATE ITS 75TH BIRTHDAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, 300 years or so after San Pedro Bay was discovered in 1542 by the Portuguese navigator, Juan Rodrigues Cabrillo, Richard Henry Dana described the swampy shores of this shallow bay in his great adventure "Two Years Before the Mast" with little sense of the future promise of the bay. Today, however, I doubt that Dana would recognize San Pedro Bay.

San Pedro Bay became the home of the Port of Los Angeles 75 years ago and thus began its conversion to one of the largest manmade ports in the world. Over the past century the bay's tideflats have been dredged to serve as deep-draft channels, Terminal Island has been created from the dredge spoils, and 9 miles of breakwater extending across the mouth of the bay has been built. In all, 7,000 acres of land and sheltered water and 28 miles of waterfront are now encompassed within the Port of Los Angeles.

In Congress I have watched with pride the growth of one of my largest constituents, the Port of Los Angeles. It gives me great pleasure, therefore, to announce that the 75th anniversary of the foundation of the port will be celebrated on the 11th of next month.

For the port the past 75 years have been marked by continued success and expansion. From the Federal construction of the breakwater in 1899 to the opening of the Panama Canal, to the expansion necessitated by World War II, to the container revolution of the sixties, to the present main channel deepening project—to 45 feet—the Port of Los Angeles has secured and maintained its position as a preeminent world-class port.

The importance of the port to the Nation is becoming more evident every year. Los Angeles is a major coal exporting port—3 million tons per year—with plans to expand its coal handling facilities and further deepen its main channel. From the port's five major container handling facilities, container boxes move across the country via truck and rail. To speed the transfer of containerized cargo, and more efficiently use precious waterfront space, the Port of Los Angeles, along with the Port of Long Beach and the Southern Pacific Railway, is building an intermodal container transfer facility 2½ miles north of the port waterfront area.

Besides being a national asset, the Port of Los Angeles is a vital component of the local and regional economies. It is estimated that over 200,000 jobs in the Los Angeles area are created either directly, or indirectly by port operations. These jobs generate $500 million each year. The businesses operating within the port provide jobs for one-third of the total work force in the communities adjacent to the port.

The Port of Los Angeles is a public port created in order to promote the public good. As such, the port has a strong commitment to enhancing the quality of life for its constituents. This means that the port engages in such undertakings as the construction and operation of public yacht basins, fishing harbors, sportfish landings, and tourist attractions like the ports of call.

One final note: The Port of Los Angeles has been, and remains, a thoroughly modern and contemporary institution. There is no better illustration of this fact than the selection several years ago of a lady, Gene Kaplan, to be a harbor commissioner, and her elevation this year to the presidency of the Los Angeles Board of Harbor Commissioners.

Mr. Speaker, while I rise today to pay tribute to the Port of Los Angeles on the occasion of its 75th anniversary, I am confident that the port will welcome the 21st century with even greater stature as one of the world's greatest ports.●

DESPITE CANADIAN CONCERN ABOUT AMERICAN ACID RAIN, CANADIAN UTILITY SHELVES PLANS FOR ADDING SCRUBBERS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. CORCORAN. Mr. Speaker, the Canadian Government has on many occasions and through many forums expressed its concern about acid rain that supposedly emanates in the United States, especially the Midwest, and ends up in Canada. The Canadians have been quite adept in communicating their views during the 97th Congress as the Senate and House committees of jurisdiction consider possible amendments to the Clean Air Act. As a Member from a Midwestern State, and as a member of the House Energy and Commerce Committee, I am particularly aware of the Canadian efforts.

Particularly in view of these Canadian efforts, Mr. Speaker, I find it interesting that Ontario Hydro, Canada's largest utility, recently announced plans to shelve construction of sulfur dioxide scrubbers which had been touted as Canada's good-faith effort to control acid rain. While I recognize the existence of the acid rain phenomenon, I remain unconvinced that it would be proper at this time for the Congress to mandate an expensive acid rain control program. I do support thorough study of the acid rain issue, and I supported the accelerated study amendment to the Clean Air Act that my colleague ED MADIGAN offered during Energy and Commerce Committee consideration of Clean Air Act legislation. That amendment passed in committee, and I continue to support its final approval.

Mr. Speaker, for the benefit of our colleagues, I would like to include in the RECORD at this point a page 1 article regarding this matter from the August 16 issue of Coal News, published by the National Coal Association.

The article follows:

CANADIAN UTILITY SHELVES PLANS FOR ADDING SCRUBBERS

Two days before the Senate Environment Committee okayed its acid rain control plan, Ontario Hydro, Canada's largest utility, announced plans to shelve construction of sulfur dioxide scrubbers which had been touted as Canada's good faith effort to control acid rain.

The announcement touched off a flap on the floor of the Canadian parliament and likely served as an embarrassment to Canadian officials who had offered the plan as a response to American criticism of Canada's less-stringent air-quality standards.

In a press statement on the issue, Ontario Hydro President Milan Nastich said, the scrubbers were included in the program to reduce "acid gas emissions" 18 months ago when Hydro expected to sell large amounts of electricity to General Public Utilities of New Jersey, and when growth of electric demand, in both Ontario and the U.S. eastern seaboard, warranted the estimated $240 million outlay.

"Since that time, economic conditions have worsened and Hydro believes it is essential to review again the timing and amount of its capital expenditures," he said. Unstated in the release was the fact that Ontario Hydro lost the export sale to General Public Utilities (GPU).

Canadian press reports quoted Adele Hurley of the Canadian Coalition on Acid Rain as saying the utility's action was "pulling back on a commitment . . . Scrubbers were a symbol of good faith by the people of Ontario in dealings with the United States." The press reports also stated that Miss Hurley has been lobbying for a year in Washington to get together U.S. pollution controls.

Ontario Hydro, a provincial government utility, is reportedly planning to meet sulfur dioxide air quality standards by switching from "high sulfur" Pennsylvania coal to low sulfur western Canadian coal, according to transcriptions of the Parliament's debate.

The head of the utility's air quality control program was also quoted as saying, "One of the reasons the scrubbers were there, the major reason, was for GPU."

Canadian newspapers reported that last winter when Ontario Hydro expected to make the export deal with the U.S., an official of the utility said in hearings, "From a cost-benefit analysis, you'll wonder why we're adding scrubbers. One reason is we hope to have a multiple effect."●

1982 CAPTIVE NATIONS RALLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, recently a declaration was made at the 1982 Captive Nations Rally in Taiwan which summed up most clearly and succinctly the attitude men and women everywhere should embody in the anti-Communist fight being waged in the world today. Mindful of the inroads which this enslaving force of communism has made throughout the world in this century, I would suggest that the message proclaimed in this document is something Americans should take to heart. I commend it to the attention of my colleagues.

Declaration—1982 Captive Nations Week Meeting of the Republic of China

An epochal torrent against Marxist-Leninist forces of enslavement has been formed by captive peoples and others waging a global campaign for freedom and democracy. Man's future is radiantly bright. Representatives of the Republic of China's various circles have, along with freedom-fighters from all world regions, gathered in Taipei for a 1982 Captive Nations Week Meeting to demonstrate the unity and surge of free democratic forces.

Freedom being indivisible, we remain staunchly opposed to the Chinese Communists for their tyrannical crimes against the 1 billion captive people on the Chinese mainland. We strongly support President Reagan's Captive Nations Week Proclamation of July 19 this year, in which he calls for reaffirmation of "our faith over the rule of force and coercion which denies human rights to so many other parts of the world today." We will restore freedom to all those held captive under Communism, and assure that freedom will never be trampled on or threatened.

Democracy is never to be infringed upon. We remain resolutely opposed to all the Marxist-Leninists for their totalitarian rule and deprivation of rights. We are vehemently opposed to all the Red infiltrators and expansionists for their wicked designs against democracies. We therefore enthusiastically respond to President Reagan's righteous call for a global campaign for democracy. By thus expanding the quest for freedom and self-determination, we will destroy totalitarianism and consign Marxism-Leninism to the ash heap of history.

World peace must be promoted by all means. We remain firmly opposed to Soviet Russia and the Chinese Communists for their armed expansion, infiltration, and subversion. We also are opposed to all free world attempts to work with one Red regime against another. We strongly urge all the free nations to see unequivocally that all Communists are enemies of free world security and peace. For the promotion of genuine security and peace throughout the world, all free nations should unite closely together and strike decisively at Marxism-Leninism.

The confrontation between the Red bloc and the free world is growingly intense. No peace talk attempt can resolve the conflicts between the two diametrically different sets of ideologies and political systems. Negotiation can only make people oblivious of Communist designs.

The Soviet Union is pushing strategic arms development and nuclear blackmail, attempting at the same time to create and aggravate rifts among free nations. Moscow is determined to profit from global turmoil and attain its goals of aggression and expansion.

Taking advantage of America's wishful thinking about them, the Chinese Communists are applying pressures on Washington, hoping that they can obstruct the implementation of Taiwan Relations Act and cut the United States off the Republic of China. When the time comes, they will try to use force against Taiwan. To consolidate their rule, these Communists have to do away with all the Chinese forces of freedom at home and abroad.

This 1982 Captive Nations Week Meeting of the Republic of China has erected an important milestone for the victory of freedom. Having reviewed the current situation, we the participants hereby issue the following calls for stepped-up struggle against slavery and for freedom:

We urge the masses of freedom-fighters in the Soviet Union, the 1 billion enslaved compatriots on the Chinese mainland, and all those in Communist chains elsewhere to understand clearly that the Communists will never change their tyrannical Marxist-Leninist color, that there absolutely is no future for Communist rule, and that all those who want freedom must rise as one to break through the Red stronghold from within.

We urge all those of Communist-ruled lands, regardless of regions, to wage vehement anti-Communist struggle for freedom and democracy, defeat Marxist-Leninist colonialism, get rid of the satellite yoke, regain full independence in freedom, and restore their national cultures to full bloom.

We urge all the free nations of the world to understand once and for all that the Communists, be they Russian or Chinese or others, are bent on world communization and human enslavement. Instead of attempting to pit one Red group against another, we all must establish a global anti-Communist strategy, revitalize all the regional security and common defense systems, and bring forth pooled strength for the enhancement of national security and world peace in freedom.

We urge strong free world support to the struggle for freedom waged by the masses of people on the Chinese mainland, to the campaign for liberalization pushed by people within the Soviet Union and its satellite states, to the fight against aggression and enslavement staged by the Afghans, Salvadoreans, and the Poles, and to the efforts of Africans against Red inroads. We urge steps to make these anti-Communist campaigns growth with positive action against Red aggression and expansion.

We strongly support President Reagan's call for a global campaign for democracy. We similarly support his 1982 Captive Nations Week Proclamation, which fully reflects his confidence and righteous stand. We urge immediate response and support by all free nations. We furthermore urge that a conference of free nations be convened to work out ways and means to counter Marxism-Leninism and to promote a democracy campaign throughout the world.

We urge the U.S. Government to translate into action President Reagan's political ideals of "peace through strength." To do so, the United States must stop risking the dangers that will surely result from assistance to the Chinese Communists, faithfully implement the Taiwan Relations Act, speed up defensive weapons sale to the Republic of China, and blast all the Communist designs of international united front.

Fellow countrymen and friends: The freedom front is expanding strongly; the anti-Communist situation is growing. This is history's turning point. All those who love freedom will now start forceful efforts, behind the Iron Curtain and in the free world. Let us crush Marxism-Leninism, and win the final victory of freedom and democracy.●

RETIRED PAY CHANGES—THE CAMEL'S NOSE UNDER THE TENT

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. NICHOLS. Mr. Speaker, I had to vote against the conference report on H.R. 6955, the Omnibus Budget Reconciliation Act for fiscal year 1983. I take this opportunity to explain my reasons for that vote and to express my concern regarding some of the changes that were adopted in that conference report.

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By adopting the conference report on this legislation, we have made significant changes to the system of adjustments of Federal Government annuities. Although these changes are limited to the next 3 fiscal years, they could lead to an eventual decision to make these changes permanent.

This is not the way to adopt permanent changes to existing, important law.

Two provisions are particularly bothersome to me. The first provision would provide only half of the cost-of-living adjustment to military and civilian retirees who are under the age of 62. This provision would only apply for 3 years, but I think we must understand that even in this limited form it applies unequally to military and civilian retirees. Approximately 70 percent of the individuals affected are military retirees—the majority are enlisted members. Placing a disproportionate burden on service members—who, I believe, are willing to share equally the burden of .reducing the Federal budget—could easily lead to a reversal in the improvements in retention we have recently experienced as a result of positive congressional action on military pay and benefits. I do not want to return to the decade of deterioration.

The other provision that I am particularly concerned about would deny increased military retired pay to individuals who are employed in the Federal Government. Why these types of changes are suggested, penalizing individuals who have served a full career and who continue to serve their Nation in a civilian capacity, is beyond my comprehension. This provision will provide an undesirable incentive for qualified military retirees to seek employment in the private sector where they will receive their full cost-of-living adjustment in military retired pay. The net result will be no savings and the loss of qualified civil service employees.

Mr. Speaker, I would like to conclude by saying that I am extremely concerned with the procedures that have been employed in the last 2 years to effect substantial budget savings. I strongly agree that we need to reduce Federal spending. But I feel even stronger that these reductions should be recommended by the authorizing committees that have jurisdiction over these areas. Hasty, ill-conceived changes lead to bad law, and I am concerned that we will be a long time rectifying the unintended effects of the actions we are taking at this time. We may spend more money correcting the ill effect created than we have saved in retirement outlays.●

THE CRISIS IN LEBANON

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEYSER. Mr. Speaker, when a crisis occurs, there is always a risk that one will prejudge, jump to conclusions, and form opinions in haste.

Over the last several weeks, Mr. Speaker, some people have been too quick to jump to conclusions over the strife in Lebanon. Each day they have watched the situation deteriorate in that desperate country, and based upon daily television and newspaper reports, one could conclude that the State of Israel has been a transgressor, has invaded a neighboring country, and should be condemned for continuing acts of war.

We must resist this effort to blame Israel for the situation in Lebanon, Mr. Speaker.

We should remember that this so-called invasion is really an act of self-defense—that Israel for years has been subjected to attacks from Lebanon, including rocket attacks, shellings, and terroristic bombings. Scores of innocent civilians in northern Israel have been killed or wounded.

And we should also remember that Israel has not attacked the nation of Lebanon itself, but rather the PLO which for over 7 years has occupied that country. Since being expelled from Jordan, the PLO has subjected the Christians and Moslems in Lebanon to a reign of terror, totally subverting authority in that country. There is no question that the Lebanese want the PLO—and the Syrians—and all their weapons and Soviet-supplied tanks and artillery out of their country.

The confrontation in Lebanon is not between the Lebanese and the Israelis, but rather between the PLO and Syrians there and the Israelis. The PLO has been in effect using the Lebanese people as hostages. When the PLO and the Syrians are out of Lebanon, Israel has pledged to leave as well, and Lebanon itself, thanks to the Isrealis will be in a position to reassert its own sovereignty. That will be an important step toward peace in the Middle East, Mr. Speaker, and a factor we should not forget.

Israel's commitment to withdraw from Lebanon upon departure of the occupying forces of the PLO brings to mind the Camp David agreement. Israel promised to withdraw from the Sinai at Camp David, and on April 25 of this year, Israel completed its final withdrawal. This step demonstrated Israel's commitment to peace.

It is ironic that in spite of Israel's dedication to implementation of the Camp David agreement with Egypt, the surrounding Arab States have done all they could to scuttle the peace process. The terrorist actions of the PLO against Israel and its border settlements continued, and attacks against Israeli citizens occurred in other places around the world.

Israel's appeals to the world to secure her sovereignty and the safety of her citizens have been largely ignored. Her efforts to establish peace with her neighbors have been frustrated. The recent outbreak of hostilities is a tragedy which could have been avoided had other governments—including some of the principal Arab States in the region whom we have sought to befriend—moved more forcefully to terminate terrorist activities and to finally recognize Israel's right to exist.

These are things to bear in mind, Mr. Speaker, as we size up the tragic situation in Lebanon. We should recall the past, Mr. Speaker, and Israel's demonstrated commitment to peace, and to the future, and to where the best hope for peace lies, before we hastily leap to conclusions based upon last evening's news or this morning's front page photo. Our best hope for peace lies with a strong and secure Israel.●

JAMES WATT IS HITCHED TO AN EVIL STAR

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. STARK. Mr. Speaker, I would like to include in the Record a copy of a letter to the editors of the San Francisco Chronicle from world famous photographer Ansel Adams.

The letter, printed in the July 30, 1982, edition, expresses the reaction of the world's most famous naturalist photographer to Secretary Watt's decision to open up all our coastal lands to oil drilling.

The overwhelming number of my constituents and I agree with the sentiments expressed by Mr. Adams:

An Evil Star

Editor: The announcement by Secretary of the Interior James Watt to open all of our American coasts to oil leasing is disastrous. He made his decision painfully clear to the American public on July 21 during a televised interview on the excellent MacNeil/Lehrer show on PBS. Watt never spoke of the spiritual values we gain from our environment, but he did speak strongly of the immediate material gain. He has no consideration of the future conditions under which our children and their children will be obliged to live if the greed for development and quick profit that he champions, is not controlled in our time.

His continuing statements clearly reveal the catastrophe he is inviting on our country: squandering our resources, and in the process, polluting the oceans and beaches, smogging the air and stripping the land.

It is imperative that we, the citizens, gather for concerted political action and not allow the destruction of our American earth. We should all ponder John Muir's statement, "Everything in the Universe is hitched to everything else." James Watt is hitched to an evil star.

Ansel Adams,
Carmel.●

SLAVE LABOR ON SOVIET PIPELINE: INTEGRITY VERSUS PROFIT

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, Last week the House Foreign Affairs Committee voted 22 to 12 to require the President to revoke his restrictions on the sale of U.S. parts for the Soviet Union's natural gas pipeline to Western Europe. Defending this action, one of the critics of the President's policy said that all the sanctions have done is to anger the Europeans and to deprive U.S. companies of business.

In spite of these criticisms, solid practical reasons do exist in support of the President's decision to oppose construction of the pipeline. If completed, the pipeline would make America's European allies dangerously dependent on Soviet energy and would give the Soviet Union billions of dollars in annual hard currency earnings with which to help its defense buildup.

Transcending this debate, however, is another concern that is emerging, a concern that is moral in nature and obliging of human conduct.

Reports are circulating once again that the Soviet Union is using slave labor to build the Siberian natural gas pipeline. France and West Germany have launched official probes into these charges and a West German human rights organization has appealed to both Germany and France to halt the project.

In a recent interview, Dr. Reinhard Gnauck, a physician at the German Diagnostic Clinic in Wiesbaden, West Germany, and head of the International Society for Human Rights, said:

> After World War II, German officers were convicted of war crimes on the basis of their participation in slave labor camps. Now, Western countries would share moral responsibility for Soviet labor camps through their financial and technical aid to the natural gas pipeline. If people in Western Europe are going to warm their feet or cook their food with that natural gas, they should know that others had to die, work, go hungry, or freeze to get the gas from there to here.

While attention to the slave labor issue is beginning to mount, the issue is not new. Last September, in connection with the construction of the pipeline, I charged that the Soviet Union and Vietnam had come to an agreement that over 500,000 Vietnamese were destined to work in the Siberian projects as a means for Vietnam to repay its debt to the USSR. The Vietnamese workers, according to the reported agreement, were to receive 40 percent of their wages in local currency and the remaining 60 percent would be credited against Vietnam's trading debts with the Comecon countries.

In short, the question of slave labor relative to the construction of the Soviet natural gas pipeline has been around for at least 1 year. And yet, the House Foreign Affairs Committee chose last week to overlook these facts, oppose the President, and callously disregard the fate to which hundreds of thousands of innocent victims would be condemned.

Mr. Speaker, in view of the concern which the members of the Foreign Affairs Committee have expressed on other occasions for human rights, it is somewhat startling that so little concern could be expressed over a violation which makes other injustices pale in comparison.

To direct attention to this matter once again, I am submitting two articles into the Congressional Record. One treats the large numbers of Vietnamese "guest workers" who are destined to work on the pipeline unless it is stopped. The other is a statement released on June 25, 1982, by the International Society for Human Rights based in Frankfurt, Germany. This statement charges that the Soviet Union has set up seven forced labor camps on construction stretches along the 3,000-mile pipeline route and that political and religious prisoners are being used for labor.

I urge my colleagues to read and reflect on the significance of these two statements. After a year of growing concern, can the House continue to neglect an issue of so basic importance? Let us remember, it is not only our conscience and the fundamental moral integrity of this deliberative body which is at stake. Standing in the balance are also the lives and fortunes of those who will perish if the pipeline is constructed.

In the final analysis, this body can choose either profit or principle. If we should choose profit at the expense of principle, the human costs will be awesome. But, If we stand on our time-honored principles, we can only gain.

These two articles are as follows:

"GUEST WORKERS" IN THE SOVIET UNION

The secretary-general of Vietnam's Communist party, Le Duan, and the deputy prime minister, To Huu, visited Moscow last week. They met President Brezhnev and other Soviet leaders and discussed their growing economic difficulties, including the high cost of supporting an army of over 1m men, one fifth of them based in Cambodia. Vietnam is increasingly dependent on the Soviet Union.

Le Duan informed the Russians that the monthly food ration has dropped from 13 kilos of rice to eight kilos of rice, sweet potatoes or maize. For meat, 100 grams is the monthly norm. One kilo of meat of the black market costs about two weeks' wages.

Brezhnev promised Le Duan to increase Soviet economic support as well as military aid to Vietnam. Within the next five years the Russians will support 40 more industrial projects and will intensify oil exploration. The leaders may also have talked about a new means by which the Vietnamese government is planning to offset its massive debts to the Soviet block: the provision of large numbers of Vietnamese "guest workers".

Estimates of numbers vary, but authoritative east European sources say that up to 500,000 Vietnamese may work in eastern Europe between 1981 and 1985. Most are destined for the Soviet Union, where they will live in segregated communities with little contact with the local population. This scheme, quite separate from the training of party cadres, was hatched at the 34th session of the Communist world's trade grouping Comecon in Prague last year. The Vietnamese workers are due to receive 40 percent of their wages in local currency and the remaining 60 percent would be credited against Vietnam's trading debts with the Comecon countries.

Since the Vietnamese cannot afford to send skilled labour or technicians, the "guest workers" are unskilled labourers who are expected to work in remote development projects in Siberia and elsewhere. According to official Soviet statements, there were around 2m unfilled job vacancies in the Soviet Union last November and Brezhnev has said that up to 400,000 additional workers will be needed in the next few years to develop new oil and gas fields in western Siberia.

This is the background for the Soviet and Vietnamese decision in July to sign an agreement "on the movement of citizens of Vietnam and the Soviet Union between the two countries". Scheduled air services from Hanoi to Prague began in June. A regular service from Hanoi to Sofia will start in October. Since some 15,000 Vietnamese are expected to travel to Bulgaria for periods of between three and five years from 1981 to 1985, the new air service can expect to be busy. There are already regular flights between Hanoi and Moscow.

The Comecon countries have struck a hard bargain but the Vietnamese had little choice. Indentured labour will help to offset the country's debts and reduce unemployment, which the chairman of the state planning commission, Nguyen Lam, admitted in February was around 1m. The total external debt, according to previously unpublished Vietnamese government figures, is now $3 billion of which some $1.4 billion is in convertible currencies and $1.6 billion is in non-convertible currencies like roubles. Debt servicing cost $25m in 1976 and has grown to about $240m this year. In 1980, debt servicing amounted to 57 percent of Vietnamese exports.

The Soviet Union pumps the equivalent of $6m a day into Vietnam's economy but it is tied to the provision of Soviet goods and services. Soviet wool arrives in Hanoi for the manufacture of carpets which are exported back to the Soviet Union. Russian influence over the Vietnamese economy is growing steadily.

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PRISONERS SENTENCED TO HARD LABOR FORCED TO CONSTRUCT SIBERIAN NATURAL GAS PIPELINE

We have received reports from various locations in the Soviet Union that more and more prisoners sentenced to hard labor are being used to construct the Siberian natural gas pipeline. The number of prisoners actually working on the pipeline is estimated at 100,000. Of this number, at least 10,000 are actually sentenced to hard labor because of their political stance, religious beliefs, or actual criminal offenses. The remainder is comprised of prisoners in various other categories as well as persons who have been exiled. Included among this number are women and children.

A number of well known political prisoners have likewise been forced into laboring on the Siberian pipeline. Among these are Semjon Glusman, a psychiatrist accused of misusing his psychiatric practice for political purposes, the Ukranian writer Sinovi Krassivski, the Lithuanian architect and civil rights activist Julius Sasnauskas, the Soviet German civil rights activist Yuri Grimm, and the Baptist ministers Vladmir Marmus and Alexander Ussatjuk.

During the past two years, many more hard labor camps have been set up along the route of the Siberian pipeline. In Ustj-Ischim alone 8 such camps exist. Other camps are located in Urengoi, Surgut, Tavda, Tjumen, Irbit and Lysva.

Prisoners are housed neither in houses or barracks but in scanty wagons which offer no protection from the elements, with winter temperatures reaching lows of −30-−40C.

Those workers sentenced to exile are also minimally provided for. The few shops in the exiled worker colonies are almost always empty. The only shipments which the workers receive are packages of food supplies which are sent by relatives in other parts of the Soviet Union. Vitamin deficiencies cause dental disease and other severe health problems.

Since almost no heavy construction equipment has been provided for construction of the pipeline, workers are forced to perform most of the heavy manual labor. Work related injuries are daily occurrences. Women who work with the asbestos and fiberglass which cover the pipeline suffer severe blistering of their hands, as they are only issued worker's gloves twice a year. In the hard labor camps where prisoners also work with the asbestos, eczema is common. Prisoners who work regularly with fiberglass suffer an unusually high rate of lung collapse.

Those companies which are supplying materials for the construction of the pipeline are also making use of the labor of prisoners and exiles. Some psychiatric prisons are using their "patients" in the production of working clothes and gloves.

The prisoners, who live in camps surrounded by barbed wire, are transported daily to the construction sights under the watch of guard dogs.

After the initial construction work, such as the movement of the earth and other preliminary work, is completed, volunteer workers are brought in to continue construction of the pipeline. These workers include Comsomol-brigades. Also at this stage of construction, Western journalists are allowed to view the progress for the first time and report what they see.

The engineers who have been brought in from West Germany are cut off from all contact with the workers. In Borovski, for example, the skilled West German workers are housed in a hotel and are under the constant watch of the KGB.

A PROMINENT POLITICAL PRISONER REPORTS

When I first arrived at the construction sight, the other workers said to me: "You are one of those which the West is making so much alarm about. You have the chance one day to live in the West, but we must stay here forever. Life is good in West Germany. The unemployed there live better than our engineers here in the USSR. We see this with our own eyes in the skilled workers here from West Germany."●

ADMINISTRATION SHOULD SUPPORT H.R. 5540

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. MARKEY. Mr. Speaker, one of the long-neglected aspects of our Nation's defense posture has been its base—that is, its defense industrial base. This is the foundation upon which the credibility of our defense ultimately stands. But I think, as all Members realize, that the foundation is weak. Simply put, our defense industrial base is in trouble.

Our plants are aging. Our skilled workers in key defense industries are retiring and there are too few people to replace them. More and more, the United States is becoming dependent on foreign countries for strategic and critical materials.

None of us want to see unilateral disarmament by the United States. But if we do not do something about our weak defense industrial base, that is indeed what we might face. We might face unilateral disarmament because there will simply be no workers and no factories to build the arms.

That is why I support H.R. 5540, the Defense Industrial Base Revitalization Act.

Mr. Speaker, this bill offers a sound pragmatic program to modernize and strengthen our defense industrial base. It would provide more jobs in skills that are critical to our national defense. It would reduce our dependence on foreign sources for critical materials.

And most important, from my perspective, H.R. 5540 would lower the cost of defense. By improving productivity, by making key defense materials and equipment more available, and by helping more businesses participate in defense-industrial activities, we will be increasing competition in this sector of the economy.

And, as we all know, increased competition means lower prices.

I have been astounded by the Reagan administration's opposition to this very important measure. This administration wants to launch a massive military buildup. Yet it appears to have given little thought to who is going to build these arms. Tanks and planes do not grow on trees. Unskilled, unemployed workers cannot be turned into weapons manufacturers overnight.

This bill will provide financial assistance through loans, loan guarantees, and purchase agreements to small- and medium-sized businesses that manufacture or supply defense materials.

It will provide grants to States for training workers in skills necessary for defense. It will provide grants to colleges and universities to train students who will be needed in priority industries.

As any military leader will agree, the next war will be a come-as-you-are war. There will not be time to retrain our workers or upgrade our factories.

H.R. 5540 offers an important first step in insuring that our defense industrial base remains strong and our Nation remains secure.●

THE 600TH ANNIVERSARY OF OUR LADY OF CZESTOCHOWA

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GUARINI. Mr. Speaker, on August 26, 1982, the 600th anniversary of the arrival of the renowned image of Our Lady of Czestochowa in Poland will be solemnly observed.

The sacred icon of the Black Madonna has been enshrined at the fortress monastery of Jasna Gora, Czestochowa, Poland, in the custody of the Pauline Fathers since 1382.

Legend has it that the Black Madonna was painted by St. Luke the Evangelist on the top of a table built by St. Joseph for use in the Holy Family's Nazareth home. It remained there until Our Lady's Assumption, then was taken by St. Luke to St. John's home at Ephesus. In the fourth century, while searching in that region for relics of the Holy Family and the apostles, St. Helena came upon the painting. Her son, the Emperor Constantine, erected a church for it at Constantinople, where it remained until the ninth century.

According to Most Rev. Frank J. Rodimer, bishop of Paterson,

> The picture is one of the oldest of the Blessed Virgin in the world. It portrays the Holy Mother pensive in sufferings, with deep sorrow reflected in Her eyes and clouded brow. On the face of Our Lady are two distinctive scars, made by the sword of a Hussite soldier in 1430.
>
> The present precious crown on the icon is a gift of St. Pius X. The coronation took place in 1910 in the presence of a half million people.
>
> Jasna Gora is unique in history, since it was the scene of signing vows between human beings and their Queen to live an in-

dividual, family and national life in conformity with the laws of God.

The sacred icon at Jasna Gora is held in the highest esteem by Roman Catholics and others, along with the shrines at Lourdes, Fatima, Guadalupe, Knock, and La Salette.

What is this magic power, this unique charm of the Black Madonna, the Queen of Poland, that has endured for centuries? Polish writers, poets, composers, and artists have enriched the world's culture with their melodious praises and creations of the Mother of Jesus. Every Polish emigrant departing his native land carried with him a medallion or a picture of "nasza Pani—our Lady," as a sacred memento of his dedication. Even today, throughout the world, rare is the Polish home without a painting of a symbol of Czestochowa's Madonna.

According to the Marian Helpers Bulletin of Stockbridge, Mass., Rev. Walter F. Pelczynski, M.I.C., editor, "The shrine (which persons who had been favored through recourse to Our Lady had decorated with precious metals and jewels), suffered the first of many acts of banditry" during the years.

> The robbers had looted the shrine and were rushing from the town when their horses stopped short and could not be prodded into continuing the escape. One of the thieves, sure that the theft of the painting accounted for the animals' obstinacy, hurled it from the cart (a spring, over which a chapel has been built, is said to have erupted at the spot where it struck the ground). It split, and another of the robbers, angered because it had slowed their escape, marred it with his sword. He was struck dead; his frightened companions fled, and the townspeople returned the damaged painting to its shrine. The sword-inflicted scars can still be seen in the Virgin's face; since then no combination of paints has successfully covered them.
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> Through the centuries, the Blessed Virgin has continued to exhibit love for the Polish people, for whom Our Lady of Czestochowa (venerated since 1656 as the "Queen of Poland") is the symbol of national survival.
>
> And Our Lady has manifested her love for the Poles in more modern times.
>
> In 1920, for instance, on the feast of Our Lady of Sorrows, Russian forces were gathered at the Vistula River, awaiting a signal to invade Warsaw. As they were accustomed to do in times of trouble, the Polish people prayed to Our Lady of Czestochowa. Her image appeared over the city. The Russians retreated, and Warsaw was spared.
>
> We are told of Polish soldiers who, during World War II, escaped to England, where they joined the Allied Army. One of them, having been told of the shrine of Our Lady of Walsingham, organized the Polish exiles into a group. Carrying a banner of the Black Madonna, which they had smuggled from their homeland, they made a pilgrimage to that English shrine, where they vowed to fight oppression until their land was fully free, and to protect their national shrine against any attack.
>
> On Assumption Day, 1948, despite Communist attempts to play down the role of religion in the national life of Poland, more than 800,000 people went in a group to Jasna Gora. Although Red soldiers and police patrolled the streets of Czestochowa, they were powerless to stop the beautifully defiant demonstration of faith.
>
> Visitors to Jasna Gora see the Black Madonna (three and one-half by five feet) exhibited above an ebony, silver, and gold altar. Pilgrims arrive early, often before dawn, to be present at the six o'clock drawing aside of the curtain, which, at night, covers the painting. A trumpet flourish announces that Our Lady of Czestochowa has been revealed to her faithful and loving children for another day.

Pope John Paul II, in his multilanguage addresses to the world following his elevation as head of our church in 1979, was tremulous as he spoke of the inspired Polish bards who sang praises in honor of the mother of God: "She who reigns at Jasna Gora and guards the Pointed Gate in Wilno." The Pope's simple words, powerful yet poignant, drew tears from millions of Poles and Slavics all over the world as they observed the historic events in St. Peter's Square.

Just last Sunday, August 15, while celebrating the feast of the Assumption at his summer home, Castel Gondolfo, Italy, Pope John sent a special Polish language greeting to the "120,000 pilgrims going on foot to the shrine of the monastery of Jasna Gora (Hill of Light) overlooking Czestochowa, Poland."

No doubt his heartfelt thoughts were with 300,000 pilgrims visiting his native Poland which he was scheduled to visit this year, but had to postpone because of a disagreement with government authorities.

I recall on January 18 of this year, when I visited with Pope John Paul II, his expression for the people of Poland, who must be protected by the Black Madonna, the Queen of Poland.

Religious leaders of the predominantly Polish parishes in my district are joined to celebrate this 600th anniversary with special Masses. The church leaders include: Our Lady of Czestochowa Church, Jersey City, Rev. Walter Niedzwiecki, pastor, Rev. Francis Knutowicz, assistant pastor, and Rev. Joseph Gajda, assistant pastor;

St. Ann's Polish R.C. Church, Jersey City, Rev. Stanley Urbanik, pastor, Rev. Rudolph Zubik, assistant pastor, and Rev. Leonard A. Miodowski, assistant pastor;

St. Anthony's R.C. Church, Rev. Marion Walichowski, pastor, and Rev. Edward Gubernat, assistant pastor;

Our Lady of Mt. Carmel Church, Bayonne, Rev. Thaddeus Zaorski, pastor, Rev. Eugene Kasper, Rev. Eugene Diurczak and Rev. Richard Kwiatkowski, assistant pastors;

Sacred Heart R.C. Church, North Bergen, Rev. John A. Ryzner, pastor, Rev. Anthony Berchmanz, assistant pastor;

Our Lady of Czestochowa R.C. Church, Harrison, Rev. Sigismund Zajkowski, Ph. D., Pastor Emeritus, Rev. John S. Olszewski, pastor, and Rev. Joseph Weligala, assistant pastor.

In my correspondence with Lech Walesa, the imprisoned Polish Solidarity leader, who is now in his ninth month of detention by military rule in Poland, there is an expression for international prayer to Our Lady of Czestochowa, "The cause of peace, justice, and freedom for freedom of all the people," not only in Poland but also in other countries.

This expression was contained in a letter, dated October 7, 1981, from Lech Walesa, chairman of NSZZ "Solidarnosn", mailed from Gdansk.

Polish community leaders, including Col. Anthony K. Podbielski, historian, Polish American Heritage Festival Committee, and William Kowalski, both of Bayonne, plus Bayonne City Councilman Richard Rutkowski, and Jersey City Councilman Harold P. Zielaznicki, have asked me to have my colleagues here in the Congress join in this 600th anniversary celebration to Our Lady of Czestochowa, the outstanding example of Polish faith, devotion, and dedication.●

SOVIET GAS PIPELINE SHOWDOWN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BONKER. Mr. Speaker, I am introducing in the Record today a thoughtful editorial from the Christian Science Monitor, which calls on the President to end the confrontation with our allies over the Soviet gas pipeline.

In this context, I want to bring to the attention of my colleagues, H.R. 6838, sponsored by myself and my distinguished colleague from Illinois, Paul Findley.

H.R. 6838—which last week was approved by the full House Foreign Affairs Committee by a vote of 22 to 12—would lift the unilateral U.S. export controls imposed last December 30 on oil and gas equipment and technical data destined for the Soviet Union. The legislation also ends the extraterritorial sanctions the United States imposed on June 22, 1982, on American subsidiaries overseas and U.S.-licensed data related to oil and gas equipment. The bill ends the broad sanctions, but does not prevent the President from blocking individual exports to the Soviets on the grounds of national security.

Unilateral export controls on goods which are widely available from other nations have no impact on Soviet behavior. They merely send U.S. business and jobs overseas. The United States should not rely on the crutch of

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unilateral export sanctions to demonstrate that it is reacting to events in Poland but should devise more effective strategies for influencing global events.

American companies and workers should not be punished by misguided foreign policy efforts. The answer to influencing Soviet behavior in Poland is a multilateral allied effort. Yet these sanctions have created deep division within the Atlantic alliance; they were imposed without consulting our allies and will make it difficult to obtain European agreement on effective ways to influence Soviet behavior in Poland and elsewhere.

Some $1.2 billion in immediate U.S. contracts and billions of dollars in follow-on contracts have been lost to overseas competitors such as Komatsu of Japan. Thousands of American workers have lost their jobs.

We should not impose sanctions on U.S. goods while Japanese and European sales of the very same goods to the U.S.S.R. remain unfettered. President Reagan lifted the grain embargo because he said it was creating the image of the United States as an unreliable trading partner. The same applies to these pipeline sanctions.

I would urge my colleagues to vote for H.R. 6838 when it reaches the House floor. The reasons for ending these sanctions are spelled out quite convincingly in the following Christian Science Monitor editorial.

THE PIPELINE SHOWDOWN

It does not cheer anyone but the Russians that the Western alliance is in such turmoil. Indeed the front-page news that the European Economic Community has officially protested the American ban on sales of pipeline equipment to the Soviet Union as "unacceptable interference" evokes sadness. Allies are not expected to march in step at every twist and turn, but when a falling out reaches the point of formal protest notes it concerns all who value allied cooperation as a strong bulwark against Sovietism. President Reagan will want to find a way out of the uncomfortable position in which the United States now finds itself.

As he takes up the EC protest, a number of questions need to be addressed:

Will the U.S. sanctions delay the natural gas pipeline as hoped? The Europeans assert it is "unlikely" construction will be materially delayed. So the U.S., if it persists in its ban, would be making a cause célère of something that is bound to occur anyway.

Is the ban legal? The administration claims that it is, but the EC says it violates international law and possibly some "rules and principles" of U.S. law. Only international lawyers can argue out this complex subject but, even if the U.S. decides it has a solid legal case, it will have to ask whether pursuing the ban is worth the political cost.

What will the U.S. sanctions do to the credibility of American business? One worrisome fallout of the ban is that West European firms are questioning the reliability of deals with U.S. firms when political considerations are permitted to intrude so strongly.

Will Siberian gas create a dangerous West European dependency on the Soviet Union? The issue is not minor. But the EC argues that, even when flowing at the maximum rate in 1990, it will account for less than 4 percent of the EC's total consumption of energy from all sources.

Will the U.S. ban appreciably hurt the Soviet economy? The West Europeans contend it will only spur the Soviets to accelerate development of their own technology, a view for which there is an historical precedent. In the mid-'60's, when the U.S. successfully blocked West German sales of wide-diameter pipe to the Soviet Union following the Cuban missile crisis, the Russians proceeded to develop their own—and even larger—pipe.

Most important of all, will the pipeline sanctions really affect the situation in Poland? This is Mr. Reagan's principal argument, yet it is a weak one. It is naive to think that the Soviet leadership will let Western economic arm-twisting dictate its policy in Poland, where it has overriding strategic and political interests. Martial law will be lifted only when the Polish military leaders and their Soviet patrons feel the communist system is no longer threatened.

There can be no benefit in a U.S.-European showdown. If the administration persists in its course, it may find future American exhortations being ignored when they concern matters of far more strategic importance. It will not be easy politically for Mr. Reagan to reverse course and cancel the pipeline ban, but the fact that the Polish authorities have eased some martial law restrictions provides him an out.

For the sake of allied harmony, the U.S. must end the pipeline confrontation—and then proceed with its partners to work out new and stronger guidelines for East-West trade. The pipeline controversy is not the cause of disunity in the alliance but only a symptom of it. The need is to get quickly to the larger question of the rules by which the West conducts business with the Soviet Union.●

SOVIET SLAVE LABOR HELPS BUILD PIPELINE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROOMFIELD. Mr. Speaker, the wisdom of President Reagan's opposition to the Soviet Union's European gas pipeline is clearer each day.

The President's ban on the use of American technology and equipment for pipeline construction was conceived as a protest against Soviet repression and human rights violations in Poland.

Now, ironically, it turns out the building of the pipeline itself has spawned an entirely new human rights tragedy of major proportions.

Day-by-day reports are filtering out of the Soviet Union confirming the use of thousands of political prisoners to construct the 3,600-mile pipeline under slave-labor conditions.

The International Society for Human Rights estimates as many as 100,000 prisoners, including political, civil rights, and religious dissidents, are being used as Gulag forced labor.

Other estimates predict that as many as 500,000 Vietnamese and others in 2,000 slave-labor camps across the Soviet Union will be pressed into the pipeline work force.

So serious are the charges, Mr. Speaker, that responsible members of the French and German Governments have called for an investigation by impartial, independent international organizations.

Yet I am amazed, Mr. Speaker, that anyone is surprised by these charges.

As the West German news magazine, Der Spiegel, commented, Soviet industry has been built "on the bones of millions of forced laborers."

What is surprising is that so many are able to turn a blind eye to these massive human rights atrocities to accommodate their own parochial economic interests.

Mr. Speaker, the President is right in his decision to ban U.S. participation in the pipeline project, and he deserves our support.

The Soviet record of repression in Poland, in Afghanistan, and of its own political and religious dissidents demands that we do no less.●

HONORING JOHN M. ASHBROOK

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SMITH of New Jersey. Mr. Speaker, the memory of John Ashbrook—his spirit and his love for life—continues to inspire those who have known him.

By his fellow Members of Congress, John has been remembered as a great patriot who never gave up his deep belief in old-fashioned American values. To those in the prolife movement, John is remembered as a champion of human rights—a dedicated spokesman for the innocent victims of abortion on demand.

In recognition of his strong devotion to respect for human life, the Board of Directors of the National Right to Life Committee, Inc., passed a resolution honoring John Ashbrook last month. The resolution also passed during the July 17 general session of the National Right to Life Convention in Cherry Hill, N.J.

On behalf of the millions of Americans who feel so strongly for this brave man and his family, I am submitting this resolution into the CONGRESSIONAL RECORD. We know that John rests in peace with the Lord. He will not be forgotten by the Members of this body, or by those who have long admired his service to our Nation.

National Right to Life Committee, Inc., In Convention—July 17, 1982

RESOLUTION

Whereas John Ashbrook has served with great distinction in the United States Congress for 18 years; and

Whereas his term of office was marked by high moral caliber and devotion to pro-life and pro-family efforts; and

Whereas he was prime sponsor of a major pro-life amendment to the Constitution as well as being co-sponsor to numerous other pro-life measures; and

Whereas in sorrow, we note that in the prime of his career, he was taken from this life, now, therefore be it

Resolved, that we the National Right to Life Committee wish to honor his memory, express our condolences to Mrs. Jean Ashbrook and his children, and note that he will be remembered in the pro-life movement as one of its authentic heroes.●

SOMALIA: AN ALLY IN NEED OF HELP

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. McDONALD. Mr. Speaker, the recent attacks upon our ally, Somalia, from Ethiopia, a Soviet surrogate, have refocused attention on the Horn of Africa, an area of vital concern to continued Western security. Ambassador Marion Smoak, former Chief of Protocol during the Nixon administration, has written an excellent analysis of the situation and on America's lack of commitment to its ally. Entitled "Correcting Mistakes in the Horn of Africa" and appearing in the August 16, 1982, Christian Science Monitor, Ambassador Smoak notes that "Somalia and tiny Djibouti are the only remaining pieces of territory on the Horn of Africa not in Communist hands and that, from Somalia, control of the Gulf of Aden and the Red Sea is easy." I strongly commend Ambassador Smoak's article to my colleagues.

The article follows:

[From the Christian Science Monitor, Aug. 16, 1982]

CORRECTING MISTAKES IN THE HORN OF AFRICA

(By Marion H. Smoak)

The recent incursions by military forces from Ethiopia into the territory of Somalia on the Horn of Africa have again focused attention on that area.

Predictable reaction and some posturing by those perceiving an interest in the area were immediate: Moscow announced its support of the invasions and warned the United States not to interfere. Ethiopia claimed that it had nothing to do with attacks although they were launched from its territory (40,000 troops, according to the Somali government, with tanks and aircraft). Kenya voiced concern for the breach of peace in the area, and the US responded with shipments of jeeps and small arms that had been promised to the Somalis two years before.

From those quarters in the US that usually oppose any action designed to help friendly nations in trouble as a result of communist aggression, there were protests that by all means we should avoid any move helpful to Somalia.

Rep. Howard Wolpe, chairman of the Subcommittee on Africa of the House of Representatives, obtained the signature of the senior Republican on the committee, Rep. William F. Goodling, and fired off a letter to Secretary of State Shultz, which asked exactly what the State Department always pursues as a matter of course: a diplomatic solution.

The arguments from these writers have a familiar ring:

America's real interest should be expressed in "human rights, economic development," and any other approach indicates "the lack of any real policy toward" the Horn.

The present government in Somalia is weak anyway and if outside forces overthrow it, then it is only getting what it deserves.

Only "cronies of President Barre" are appointed to government positions where they practice "corrupt and inefficient administration," justifying military action to overthrow them.

If Somali bases are important to the US, "elementary wisdom" dictates that we should hasten the overthrow of the friendly government and let someone else (Russians and Cubans) install one of their choosing which we can always "do business with" anyway.

The attacking forces are not Ethiopian, or Cuban, nor are they receiving help from the Russians, they are just Somali insurgents trying to overthrow a rotten government that keeps the people under the iron thumb of oppression, all of this with weapons they "obtained themselves."

How often have we heard these arguments where communist aggression is in open conflict with an existing regime? Cuba, Angola, Nicaragua, Afghanistan, Namibia, Ethiopia all come to mind. It would seem that these tired accusations would have long ago lost their claim to any credibility.

One doesn't need to know very much about the history and geography of Somalia to understand what is going on and what the US should be doing. It is only necessary to remember that Somalia and tiny Djiubouti are the only remaining pieces of territory on the Horn of Africa not in communist hands and that, from Somalia, control of the Gulf of Aden and the Red Sea is easy.

Beyond that, it should be known that Somalia threw out its former allies, the Russians, with only 48 hours notice and turned to the West for help. The Somalis are friends who have nowhere else to go, and they are pleading with the U.S. to make some tangible show of support. That we should help appears obvious and so does the indication that the recent probes into Somali territory were conducted for the precise purpose of testing the will of the Reagan administration.

US strategic interest in this territory is enormous and it is begging for us to pick it up at fantastically little cost.

The Somalis are courageous and determined fighters. In the war over the Ogaden region they gave excellent account of themselves and probably would have defeated Ethiopia, which is several times larger, except for the introduction of Cuban and East German soldiers. Russian officers to train and command, and $3.5 billion in military aid.

The Somalis maintain that they can take care of themselves and that they will also protect US installations as well as the US interest. They only ask a reasonable amount of modern weapons with which to defend themselves.

Will we respond?

We will never have a better opportunity to blunt the world communist movement under circumstances where vital interests are at stake.

It is time that our policymakers begin following the direction of the President that US national interest must come first. We must stop making feeble excuses for the failure to deliver on agreements for arms (as we did in this case) and, further, we must put into the Somalis' hands weapons adequate to the task ahead. Red herrings from some members of the Congress and those of a defeatest belief must be recognized for what they are.

No territory has been dragged behind the iron curtain thus far in this administration. Somalia must not be the first.●

SOVIET ANTISEMITISM

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, the effects of Soviet antisemitism have been well chronicled in the pages of this journal. With some luck, the authors of this documentation will be instrumental in prompting the Soviet Union to relax the stifling campaign of personal repression that it has waged.

With that in mind, I would like to draw attention to the plight of Naum and Lea Prestina-Akkerman, a refusenik couple that since 1978 has repeatedly been denied permission to emigrate from the U.S.S.R. to Israel. Their requests to leave have been denied on the basis of Naum's alleged access to secret information during his years of employment as a physicist, but Naum and Lea have not given up hope of one day being allowed to leave the Soviet Union in order to openly and freely celebrate their Jewish faith and to enjoy the isurance of the basic human rights protection that the U.S.S.R. denies them.

As Dr. William Korey, quoting from a U.N. study on the significance of emigration rights has observed,

> Deprivation of the right (of emigration) for racial, ethnic, or religious minorities . . . can have cataclysmic psychiatric consequences. . . .

It is my hope, particularly given the drop in June's emigration level, that Soviet officials will both relax their emigration restrictions in general and their prohibition on the Akkerman's exit in specific.●

MORE DIRTY AIR IN OUR FUTURE?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROWN of California. Mr. Speaker, last night the Energy and Commerce Committee completed consideration of the automobile emissions standards provisions of the Clean Air Act. I am distressed to say that although automobile manufacturers are already meeting the current standards, a majority of the committee, chaired by our colleague from Michigan Mr. DINGELL, saw fit to relax these standards. This will have a devastating effect on air quality if it is approved by Congress when the bill is taken up for consideration pending final committee action. I am particularly distressed with this action since the district I represent suffers from severe air pollution. The Riverside-San Bernardino area which I represent was cited in the most recent Council on Environmental Quality yearly report as one of the top three air polluted regions in the country.

On a related front, an amendment will be offered to the Environmental Protection Agency's (EPA) appropriations bill when it is considered by the House, prohibiting EPA from enforcing implementation of the inspection and maintenance (I. & M.) provisions of the Clean Air Act. I. & M. has been shown to work in reducing pollution from cars, a major source of pollution in my area. I. & M. repairs that might be required have generally cost between $18 and $30 and have been shown to result in greater fuel efficiency.

Mr. Speaker, these two actions pose a significant threat to the progress we have already made in achieving cleaner air and certainly leave in doubt any progress we might make. I would like to insert for the RECORD an article from California Business on the subject which I commend to all my colleagues whether they are from California or not.

The article follows:

[From the California Business, August 1982]

CLEANING UP THE AIR: HOW MUCH MORE WILL IT COST US?

(By Marty Olmstead)

If you're concerned about the quality of the air you breathe, avoid downtown San Jose on Friday nights in September. In recent years, that's been the time, and the place, where some of the highest concentrations of carbon monoxide and ozone have been measured in the Bay Area. In Southern California, the place not to be is Riverside.

Although the quality of California's air seems to be improving in general, the worst pollution is not necessarily found at the source but frequently in areas like San Jose and Riverside where weather and topography combine to aggravate airborne pollutants.

The good news is that many air experts express cautious optimism about the future.

The majority of the state's pollution is caused by motor vehicles and industrial sources, each accounting for nearly 50 percent of the total pollutant mix. Viewed another way, more than 90 percent of California's current air pollution problems are associated in one way or another with the use of oil. Fuels refined from oil produce hydrocarbon, carbon monoxide, oxides of nitrogen, sulfur dioxide and particulate matter when they are burned in motor vehicles electric power plants and industrial facilities. These same pollutants are produced during the refining of the oil. The hydrocarbon evaporation from gasoline can also be added to the list. California currently has ambient air quality standards for: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter, sulfates, lead, hydrogen sulfide, hydrocarbons, vinyl chloride, ethylene and visibility-reducing particles.

Clearly, the state's pollution is not caused by one major source but by a combination of many small sources, making the problem harder to solve. The solution lies in technology, better land use planning, changes in societal attitudes and behavior, and the proper enforcement of regulations already on the books. In some instances, such as diesel emissions, the appropriate technology to deal with the problem is not yet available. By and large, the remainder of the cleanup job will become increasingly expensive for each increment of pollution that is removed from the air. Naturally, efforts to reduce pollution were first aimed at sources and materials where the smallest investment netted the largest gains. Now the state must get down to brass tacks—or tactics.

The responsibility for getting our air clean and keeping it that way is spread among a network of federal, state and local agencies. By extension, industries, automobiles, gas stations, public transportation systems—and, to a smaller extent, each Californian—also play a part.

Headquartered in San Francisco and headed by a 39-year-old lawyer named Sonia F. Crow, the Region 9 office of the federal Environmental Protection Agency (EPA) oversees air and water quality in California, Arisona, Nevada, Hawaii and the Pacific Territories. EPA has the authority to issue or deny permits to businesses and industries on the basis of their pollutant potential. The agency also conducts research and acts as a watchdog over polluters.

On the state level, the Air Resources Board (ARB) in Sacramento was created by the Legislature to control air pollutant emissions and to improve air quality throughout the state. The board bears the primary responsibility to control pollutants from motor vehicles and oversees the activities of local air pollution control districts, which are primarily responsible for controlling emissions from all non-vehicular sources. There are 46 such districts in the state.

All these groups are working to meet the standards of the Clean Air Act by 1987, a five-year deadline extension that gives several districts time to clean up their act. Notable exceptions will include Los Angeles and Lake Tahoe (in at least one pollutant category). Normally these two areas are rarely mentioned in the same breath in terms of pollution, but they share common problems such as a bowl shape that traps air and the pollutants in it. Bounded by mountains on three sides and pushed by ocean breezes, the Los Angeles air mass is trapped and thus exposed to sunlight much longer than normally. Sunlight causes chemical changes, and it is those changes that really produce most pollution.

Like many other areas of the state, the Los Angeles basin also commonly suffers from temperature inversions that warm the air as it rises (whereas in most places the ground air cools as it goes up). This, too, stagnates the air and leads to chemical interractions between polluting substances, resulting in "photochemical oxidants"—what we call smog.

Tahoe has more stringent carbon monoxide standards than any other California region. "The attitude and the bowl shape of the basin aggravate environmental problems," explains Bill Sessa of the ARB. "The casinos attract auto traffic, leading to an oxidant buildup that develops a haze which cuts down on visibility, one of the major features of the area."

Air quality standards elsewhere are based on the presumption that adverse health effects are created at a certain level of pollution from various sources. (Pollution also hurts crops; it is said to cost the state $1 billion annually in agricultural losses.) The Clean Air Act requires states to meet its standards or at least to take reasonable measures to meet the 1987 deadline.

Already, California's failure to pass legislation requiring periodic vehicle inspection has resulted in severe federal sanctions, including a withholding of federal funds for highway construction and sewage treatment facilities. Until such a law is passed here, the state bears another burden: No new major industrial sources of pollution can be constructed in any district until the standards for the district are met.

Like so many laws, this sanction has loopholes and exceptions. A company wishing to modify or expand existing facilities within the state may do so by "offsetting"—making certain, by reducing air pollution in other parts of the plant or by closing outmoded facilities, that there is a net reduction in pollutants emitted. For instance, the Chevron USA refinery in Richmond received authorization in April from the Bay Area AQMD to construct a new $613 million lubricating oil plant. An existing plant at the complex will be shut down when the new plant goes into operation sometime in 1984. Required to apply the best available pollution control technology to the project, Chevron claims there will be a net decrease in air pollutants.

Other exceptions include funds for highway construction—such as the Hoffmann Freeway in the East Bay and the Century Freeway in Los Angeles—that result in air quality benefits, mass transit gains or an improvement in highway safety.

Research by EPA indicates that these sanctions have cost the state some $1.6 billion in new construction and lost funds since they went into effect two years ago.

The California Council for Environmental and Economic Balance (CEEB), a trade organization that lobbies on behalf of industry and labor, isn't too happy with either the sanctions themselves or the doggedness with which they are imposed at the state level.

"Things are relatively better than they've been in the past," concedes CEEB Vice President Peter Fearey. "That's partially a function of better relations between state and local districts and industry. And it's partly a function of the fact that hardly anyone is trying to build anything. It's a serious problem in all areas of air pollution in the state that the state continues to insert itself and intervene in areas where it has no authority."

Fearey says that under state law it's the responsibility of the local AQMD to control stationary sources, and he argues that the ARB has intervened in industrial siting and in the regulation of oil from the outer continental shelf and of airborne toxic substances such as asbestos that are produced in the course of "modern living."

"The ARB is trying to peddle a sweetness-and-love theme, saying that everything's hunky-dory, but it's not," he says. "The state will continue to press for their version of what is reasonable air quality management in California, which we think is unreasonable. It varies from specific to specific. In some cases, it costs industry more money. In others, industry is prevented from locating or expanding."

As for the expense of exceeding violation limits, EPA, ARB or local districts have the responsibility of notifying the source of its violation and possibly following up with a fine or with legal proceedings. Rarely if ever is a facility completely shut down.

Last year, Pacific Refining, a large independent oil company in Contra Costa County, agreed to a $100,000 penalty for selling gasoline that exceeded state standards on vapor pressure. And in May of this year, Chevron USA's oil refinery at Point Richmond was fined a $1,000 nuisance violation (a typical fine) and was liable for additional $1,000 fines for violating emission limits for hydrogen sulfide gas and sulfur dioxide gas.

In the opinion of Sonia Crow, however, such excesses and fines are "exceedingly rare" with major industries.

"They have no interest in being viewed as major sources of pollution. They want to keep their public image in good shape. There is occasionally a major problem, but it's a business decision as to whether to invest money in putting control equipment on older plants or to shut down instead of spending millions.

"We have no problem enforcing the law. No one's under the illusion we're looking the other way. We're not.

"This [the Reagan] administration does not have the built-in assumption that business is greedy. We think business is capable of acting responsibly. There is now more room for discussion, communication and negotiation. That's the appropriate method for government in dealing with the regulatory community. We assume good intentions, but if bad intentions are shown . . . Look out!"

As for the ARB, "We hear few charges now about how environmental regulations are stifling business," says Bill Sessa. "We have found a lot of ways of tailoring our obligation to clean up the air with industry's goal of productivity. As long as they come up with the amount of pollution reductions they agree to, we don't care how they do it."

The EPA has followed California's lead in at least one policy designed to give industries a voice in how they handle their overall pollution emissions, by offering the option of offsetting.

In addition, through an emissions trading policy, a company that has reduced emissions below required levels can "bank" these credits. The credits can be set aside for future use or sold at whatever market value is appropriate.

Since, as Sessa points out, most of the easy gains have been made in cleaning up pollution, industry may have some steep bills before long. EPA studies indicate that the cost of additional industrial controls will range from $500 to $20,000 a ton, with most costing from $5,000 to $10,000 a ton. Compared to vehicle inspection programs that cost $2,400 to $3,200 per ton of hydrocarbon emissions removed, these controls do look expensive.

A statewide mandatory vehicle inspection program would not only help clean the air but should result in an easing of the sanctions. Currently, such inspections are conducted only when a car changes hands. (Most states have such laws, though a few have not yet implemented them.) Local governments tend to favor such a bill, but it is still a long way from passage, let alone implementation. Sonia Crow refuses to admit a bias but does say her agency's research shows that a checkup every two years would attain 80 percent of the results of an annual inspection, if carried out under strict guidelines.

While diesel-powered automobiles use less fuel than gasoline-powered cars, they emit 50 to 100 times more particulates, primarily carbon soot, and produce even more nitrogen oxides. With diesels on the increase, visibility could be correspondingly diminished.

So far, technology has not found a way to burn the pollutants trapped in diesel emission-control mechanisms, but it is hoped the problem will be solved in time for the 1986 or 1987 model year.

Meanwhile, California's use of leaded gasolines is on the decline, and new anti-smog nozzles required at service stations prevent tons of smogforming gasoline vapor from getting into the air.

On a regional level, the biggest problem in the South Coast AQMD (Los Angeles, Orange, Riverside and San Bernardino counties) is ozone. In fact, the chances of meeting the Clean Air Act deadline for ozone are, says Crow, "zero."

"Ozone is tough and elusive" to reduce, says Jim Birakos of the district office. "We're taking a very realistic approach. It will require changes in lifestyle and societal options to reach those standards even by the turn of the century." With nearly 11 million people, 6.5 million cars and the largest petrochemical operations in the world, the South Coast will be hard-pressed to clean up either ozone or carbon monoxide by the year 2000.

Birakos says the AQMD has "gotten rid of the big chucks" of pollutants but must rely on breakthroughs in terms of control strategies to improve the remaining problems.

The AQMD in San Diego has already attained some standards, such as those for nitrogen dioxide, and expects to attain standards for carbon monoxide sometime in 1983 or 1984. As for ozone, spokesman Rick Sommerville isn't sure the district will make the 1987 deadline. Still, he thinks it will be a close race in other categories, based on modeling programs that take into account the likelihood of high growth for the area.

Kern County is grappling with a major problem of nitrogen dioxide emitted by the steam generators used to get heavy crude oil out of the ground, says the ARB, but the local AQMD isn't keen on making predictions.

In the Bay Area, the air is better than it was 15 or 20 years ago, says Paul Brand of the Bay Area AQMD. "That surprises some people. Pollution peaked here in 1967," and now the BAAQMD is anxious to hold onto the gains it has made in the interim. The nine Bay Area counties collectively enjoyed better air in 1981 than they had in the previous two decades, thanks to emission controls and to favorable weather conditions in the fall and winter. Except for carbon monoxide and ozone, pollution levels of major contaminants were below Clean Air Act goals.

Still, the fact that much of the region's housing is being built farther from work sites could put more cars on the road, perhaps a 17 percent increase between 1979 and 1987, according to studies by the Metropolitan Transportation Committee and the Association of Bay Area Governments.

On the national level, efforts to revise the Clean Air Act have become so politicized that some Senate and House leaders say it's unlikely a bill will be passed this session. In March, a House subcommittee on health and environment chaired by Rep. Henry Waxman (D-Los Angeles) sent a bill to the full committee, a package posing a clear threat to the progress California has made in cleaning up the air. John Dingell (D-Michigan), chairman of the House Energy and Commerce Committee, advocates loosening the standards and delaying the deadlines written into the Clean Air Act. Such a measure would double the auto emission standards for carbon monoxide and nitrogen oxides, set the deadline for attainment back to 1993, remove the requirement for offsets for new construction in non-attainment areas, and would not require action on acid rain or toxic air pollution.

Organized labor is divided in its support for and opposition to the act. A bright spot is provided in a recent joint statement put out by six industrial unions, including the United Steelworkers of America:

"Claims that weakening the Clean Air Act is necessitated by the present economic situation and the need to promote job security are simply false. Pollution abatement and job security go hand in hand—environmental regulations have not been the primary cause of even one job shutdown. It is a fact that deteriorating and obsolete facilities, which are obsolete polluters, are vulnerable to economic collapse and plant closings."●

TRIBUTE TO PAUL HORVAT, OUTSTANDING CITIZEN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PORTER. Mr. Speaker, I would like to call to the attention of my distinguished colleagues the many contributions of an outstanding individual from my 10th District in Illinois, Mr. Paul Horvat. Among Mr. Horvat's many notable achievements has been his initiation of a self-help plan in the Chicago metropolitan area in which farmers come to sell their products directly to senior citizens and the needy, making a profit for themselves but allowing others to buy products at substantially less cost than they pay in conventional marketplace.

M. Horvat was born in 1898 in Slovenia, now a part of Yugoslavia. It was there, at an early age, that he first became aware of drawbacks in the society in which he lived and began devising methods of improving it. His idea for the self-help program originated in his work experience on his father's farm in Slovenia. There he observed—to his dismay—that his family, though extremely hard working, never seemed to get anywhere.

This Horvat eventually attributed to the fact that, as long as the government was involved, market prices remained too low for any profit to be made. Mr. Horvat's realization led to the organization of his "Family Farmers' New Economic Rescue Plan," whereby farmers were able to derive a profit by bypassing the government to sell their products—at a low cost—directly to the poor.

From before World War I to the time of his exile by the Communist government after World War II, Mr. Horvat organized many different private enterprise, self-help organizations that proved effective in overcoming excessive governmental regulation and interference. He then came to the United States to begin a new life, settled in Wilmette, Ill., and along with his family opened a landscaping business. He showed that his concern for others had not stopped upon arriving in this country. Before long he was directing his energies toward the poor and hungry of the Chicago metropolitan area.

After watching a television program showing farmers in the Midwest protesting low farm prices by killing their livestock, burning their crops, and pouring out their milk, Mr. Horvat visited these farmers and explained to them his self-help plan.

His program's success has led to the establishment of a national self-help action center food program. Ten States are now organizing their own food programs based on the Horvat model and many farmers and consumers organizations are following the Horvat lead. As a result, many needy people all over the country are able to receive this low-cost institutional assistance.

As an indication of how successful this program has been, in 1981 alone, there were 3,857 food shows where farmers sold their products directly to the needy; 975,575 low-income families participated in these shows where they were able to save 70 percent or more.

Mr. Speaker, I am proud to bring to the attention of my colleagues this distinguished citizen and to commend his many contributions to our Nation. Mr. Horvat has demonstrated through his self-help plan a method which helps preserve the small family farmers that have been the backbone of this country and, in turn, aids the needy in obtaining food at lower prices. Mr. Paul Horvat has proven himself a tireless worker in devising solutions for people to better help themselves.●

ELECTIONS IN LEBANON

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WYDEN. Mr. Speaker, tomorrow will mark the date of elections in Lebanon. Dr. Ralph Nurnberger of the Georgetown Institute on Strategic Studies and the American Israel Public Affairs Committee has authored a very helpful article on the subject which has appeared in the Near East Report.

Dr. Nurnberger gives an interesting look at this multifactioned nation and I recommend his article to my colleagues.

RECONSTRUCTING LEBANON

(By Ralph D. Nurnberger)

The Lebanese elections provide a vehicle for the reconstruction of Lebanon. President Elias Sarkis has indicated that he will not serve any longer than his prescribed term, which ends on September 23. Kamal Assaad, the speaker of the parliament, has now formally called for the elections to replace Sarkis. This move also implies a growing alliance among the Shiite Moslems and Maronite Christians that is essential if the new government is to succeed.

Some critics have already declared that the elections should be considered invalid as long as any foreign troops remain in Lebanon, particularly those from Israel. These critics, however, ignore the fact that two recent Lebanese Presidents were also elected while the country was occupied when Fuad Chehab was elected in 1958, U.S. Marines sent by President Dwight Eisenhower patrolled Labanon, and Syrian troops were the dominant force in Lebanon, when Sarkis was elected in 1976. In addition, elder statesman Camille Chamoun, the 82-year-old former president, who is still one of the few Lebanese respected by both Christians and Moslems, has advocated proceeding with the elections even if the Israelis are still in the country, provided the PLO are removed from West Beirut.

There is little national cohesion. After seven years without an effective government, the only thing the various Lebanese factions can agree upon is their eagerness to see the departure of all foreign forces—the PLO, Syria and Israel. In light of past chaos, this is not too surprising.

HORROR STORIES

Moslems and Christians alike have told innumerable horror stories of their existence during the recent years. The PLO massacred Lebanese citizens, destroyed their homes and occupied such cities as Damour and Nabatiyah. The Syrians had been in control of eastern Lebanon since their "peace-keeping forces" arrived in 1975. According to the American Lebanese League, nearly 100,000 people were killed during and after the civil war in Lebanon—long before the current strife. The PLO and Syrian presence flourished as the weak Lebanese Government collapsed.

THE DELICATE BALANCE

Unfortunately, the Lebanese government was always a delicately balanced mechanism. The constitution, the unwritten Covenant of 1943, was a system of proportional representation which ensured Maronite Christian control. It was based on the census of 1932, which established the Maronite Christian community as the predominant sectarian group in Lebanon. This was the last census ever taken.

Under this arrangement, the Maronite Christians always hold the Presidency the Speaker of the House is always a Shiite Moslem and the Prime Minister is always a Sunni Moslem. Lower posts are also assigned on a sectarian basis.

This balance was upset when a flood of PLO terrorists entered the country in the late 1960's and early 1970's. They established their own state-within-a-state, created armed strongholds and administered their own law, breaking repeated agreements with the Lebanese government.

The Israeli operation has now destroyed the infrastructure by which the PLO held the country hostage. The August elections have the potential to resurrect the old system—or even to create a new one.

MOST LIKELY WINNER

Bashir Gemayel, the 35-year-old commander of the Christian militia and a leading opponent of the PLO and other radical leftist elements in Lebanon is the most likely winner. Gemayel has promised to rebuild Lebanon and establish a strong central government in Beirut. For Gemayel to succeed, either of two courses of action must be pursued.

First, and most preferable, the Lebanese people must develop a nationalistic spirit to rally behind whomever is elected President. By removing the PLO and Syrians as potent military factors and by pledging to leave as soon as the fighting is ended, the Israelis have established the minimal military conditions in which a free Lebanon can finally emerge. Unfortunately, critical elements of the Lebanese political spectrum remain unenthusiastic. Not surprisingly leftist Moslem leader Walid Jumblatt has resurrected old differences and rejected Gemayel's leadership. The important large Druze population has not yet indicated substantial support for Gemayel. Lebanese nationalism should grasp the opportunity presented by the Israelis.

CONSTITUTIONAL CONVENTION

Second, if the Lebanese prove incapable of developing their own leadership, the United States and its western allies should seek to convene a constitutional conference to help create an independent, sovereign state in Lebanon. This convention should consider such diverse alternatives as reviewing the Covenant of 1943 or establishing a federal system similar to the cantons in Switzerland or possibly even ceding some territory to Syria.

Regardless of the approach, Lebanon must take advantage of current conditions if it is to emerge from today's conflict with a strong government able to prevent future uses of its territory by outside forces. This alone would allow the nation to be restored as a cultural and financial center and hub for trade in the Middle East.●

AN ALL-OUT CAMPAIGN TO CUT ENTITLEMENTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. AuCOIN. Mr. Speaker, a front page news story in the Washington Post shows the administration admitting that it intends to cut entitlement programs to support its runaway defense buildup and irresponsible tax cuts. According to the news story, a senior administration official promises "an all-out campaign to cut entitlements" next year.

The President is faced with a budget deficit the likes of which has never been seen before in this country. Yet, a 3-year tax cut is on the schedule, as are massive weapons expenditures. With all this money pouring out of the Treasury, now money has to be brought in. The administration is saying social security cuts are the way to do it.

But, Mr. Speaker, our Government has a longstanding commitment to workers who paid and are paying social security taxes. The Government promised them they would receive certain benefits, and now the administration's budget experts want to break that promise.

There are other entitlement programs which have been cut—food stamps, housing assistance, medicare, and medicaid. But even this has not done the job of balancing our troubled budget.

Social security cuts to both current and future recipients have been proposed by administration officials even while the White House reaffirms its determination to build up the defense budget.

All this from the man who pushed a 3-year tax cut through Congress against the best judgment of most economists; the man who submitted a budget for 1983 with a deficit of $160 billion and now calls for a constitutional amendment to balance the budget; the man who held a press conference to say he would do nothing to hurt current social security beneficiaries. According to President Reagan, all this was possible and there would still be enough left over to double defense spending.

Well, as so many of us feared, the President's economic package has hurt our country. Our Nation is more than $100 billion deeper in debt, our people are out of work, and our families can not afford housing. Now, instead of trimming the fat on defense spending, the administration chooses to assault our senior citizens, our disabled workers, our "truly needy."

Well, Mr. Speaker, this is not how America wants to balance the budget. It is in everyone's interest to preserve social security. It is in everyone's interest to be able to look forward to secure senior years. The social security system needs help, no one can deny it. But, it is unfair to punish those who depend on social security. We should not break the promise made by our Government to all those who contributed a portion of each paycheck to the social security system with the notion that if they were disabled or retired, they would receive the insurance they paid for.

That would be wrong. There are ways to shore up the social security system without affecting current beneficiaries or those almost set for retirement and I intend to fight to see that the social security system is saved in a way that keeps our promises to the senior citizens of the Nation, to whom we owe so much.●

PAUL GROSSINGER

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEYSER. Mr. Speaker, it is my pleasure to join with the scores of individuals who will be honoring Mr. Paul Grossinger tonight at the Concord Hotel in Sullivan County, N.Y.

Mr. Grossinger, who is the president of the Grossinger Hotel and Country Club, has long been a strong and outspoken advocate for protecting the civil rights of minorities in this country. For many years Paul has led the fight against discrimination that Jews, blacks, and others have encountered through the years.

The Anti-Defamation League of B'nai B'rith, which is awarding their 1982 Torch of Liberty Award to Mr. Grossinger, was founded in 1913 to secure justice and fair treatment for all citizens. A recognized leader in its field, the ADL is dedicated to insure that civil rights laws are enforced in this country as well as to expose and denounce radical extremist groups who have an affinity for antisemitism.

Shortly after the end of World War II Paul hosted the annual meeting of the ADL at his hotel and, aside from being an active participant in this organization, has held this event at Grossinger's each year since that time.

I can think of no man who deserves this tribute more than Paul Grossinger. May we all be influenced by the unwavering support he has given to the Anti-Defamation League and by his fight to obtain justice and end discrimination to all citizens of this country.●

NURSING HOMES PROTECTIONS IN JEOPARDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ROSENTHAL. Mr. Speaker, I would like to call attention to the critical problems posed by the new nursing home regulations proposed this past May by the Secretary of the Department of Health and Human Services, Richard Schweiker. These proposals include: Biannual, rather than annual, facility inspections; inspections performed over the phone, rather than in person at the facility site; the termination of mandatory 90-day resurveys for facilities in which violations have been discovered; and the elimination of a mandatory cancellation clause when facility violations have not been corrected quickly enough.

Secretary Schweiker claims these proposals would reduce waste in the nursing home bureaucracy. This position is one of the most disingenuous claims I have yet heard from the present administration. No one can really believe that nursing home care will remain what it is today if inspections of homes are made less frequent and less public, as these new proposals would effectively provide.

Mr. Schweiker's plan would affect the most vulnerable segment of our population: the elderly and the disabled. A nursing facility is often the last home its residents know; moreover, the average stay of a resident is approximately 2 years. The "deregulation" that Secretary Schweiker proposes must be seen for what it really is: a euphemism for destroying the protection of nursing home residents.

No one supports waste in government; no one endorses inefficiency. Secretary Schweiker claims his intention is to wipe out waste and inefficiency in the nursing home industry. These are laudable objectives. But I am hard pressed to see how these goals are furthered by this new "deregulation scheme." Rather, this plan is a remarkably ill-conceived one because it concerns an industry whose history has been plagued by numerous and severe violations of law and of ethical conduct. Deregulation will return the nursing home industry to the spotty, exploitative, and wholly inadequate conditions which were all too prevalent before proper regulation took hold.

That is why I have been working with several of my congressional colleagues on legislation to stop Secretary Schweiker from turning back the clock on nursing home protection.

H.R. 6916, the Nursing Home Standards Act of 1982, would safeguard nursing homes for 2 years by disallow-

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ing deregulation during that time. These 2 years could be a time of examination and recommendations by a committee established for that purpose.

Some time has been gained by the actions last week of the House-Senate conference on the tax bill which put a 6-month moratorium on nursing home deregulation. But ultimately we must develop an effective system which will safeguard the health and dignity of nursing home residents. H.R. 6916 is an extremely necessary and constructive step in assuring these residents the quality care they so much deserve.●

HUMAN RIGHTS IN ROMANIA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEASE. Mr. Speaker, I would like to take this opportunity to express my opposition to House Resolution 521, to disapprove the President's recommenation to extend MFN waiver authority to Romania and my support for the the motion to postpone consideration.

For many years, I have worked both as a member of the Foreign Affairs Committee and the Ways and Means Committee to establish policy incentives to improve the human rights records of many countries around the world. Although I believe the human rights record of Romania clearly demonstrates violation of basic human freedoms, I do not believe the resolution before us will serve to stimulate any improvement on the part of the Romanian Government in their human rights position.

Withdrawal of MFN status and the trade benefits associated with it would only leave the United States with no leverage to influence the Romanian Government's actions toward its citizens wishing to emigrate.

Although I do not support House Resolution 521, I worked as a member of the Subcommittee on Trade to strengthen the committee report language to impress upon the Romanian Government the seriousness with which the committee members view human rights in their country. The committee has added specific goals to the report language to be met by the Romanians. We emphasized that committee consideration of next year's waiver will depend on the success of the Romanian Government in reducing the emigration application backlog and not obstructing the departure of those waiting 9 months or more. The committee will also examine the Romanian Government's success in simplifying and shortening emigration procedures including reduction of waiting time and repeal or removal of unreasonable preapplication procedures and maintaining a consistent and steady consideration and approval of emigration applications to the United States and to Israel.

The Romanian Government has agreed to sit down with U.S. officials in September to discuss ways to improve their emigration procedures. I cannot emphasize too strongly the committee's dissatisfaction with the current status of human rights in Romania and our intention to view the results of these talks as a major factor in committee review of MFN status for Romania next year. It is my understanding from discussions with the Romanian Ambassador and from correspondence that I received from the Ambassador that it is the position of the Romanian Government to improve emigration procedures and eliminate bureaucratic delays and that it is the firm desire of the Romanian Government to make further progress in improving emigration procedures including the question of reducing the processing time for applications. The Government has reaffirmed its position of not subjecting applications to discrimination.

On June 2, 1982, the President recommended to the Congress and additional 1-year extension of waiver authority to Romania. However, he expressed dissatisfaction with Romanian emigration procedures and threatened to discontinue Romania's MFN status for 1983 if this trend continues. I am pleased to see complementary points of view emanating from the White House and Congress on this critical issue.

Every year around the time that Romania's MFN waiver authority is up for renewal, the Congress expresses its dissatisfaction with Romania's emigration levels, particularly with respect to Israel. Every year we receive assurances that their human rights record will improve. I, personally, can say that my willingness to negotiate in good faith with the Romanian Government will be matched by their track record during the next year. I am interested in the rate of approval of applications and, also, in removing the time lag between this approval and the actual date during which the emigrants leave the country for their new homes.

I ask my colleagues to disapprove this resolution in recognition of the committee's strengthened report language and to extend 1 last year to the Romanian Government to fulfill the obligations it has made to this Congress and to its own citizens.●

SUPPORT FOR RADIO MARTI

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GUARINI. Mr. Speaker, the House passage of H.R. 5427, legislation establishing Radio Marti to transmit propaganda-free news to the citizens of Cuba, on August 10 was most gratifying. The final vote of 250 to 134 shows the firm and vital support of the House of Representatives for this effort.

As a cosponsor of this legislation, I appreciated the efforts of Chairman Dingell and Chairman Zablocki in guiding this measure through their respective committees. I especially want to thank Mr. Fascell, chairman of the Subcommittee on International Operations, for the service he performed in guiding this legislation through the House of Representatives.

Tomorrow, the Senate Committee on Foreign Relations meets to consider Radio Marti. I strongly urge my colleagues on the Senate committee to approve this measure without adding any weakening amendments during committee debate. Firm action by the Senate Foreign Relations Committee on S. 1853 tomorrow will allow for early full Senate consideration of this bill, while sending a message to Cuba that the United States will not be blackmailed into giving up this much needed project.

Radio Marti will play an essential role in properly informing the people of Cuba about news of interest to them. For this reason, it is imperative that the Senate not delay on this important issue.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982, H.R. 6514, has received support from a wide range of respected organizations.

Recently, I was very pleased to learn that two very well respected and broadly representative business groups, the National Association of Manufacturers and the Business Roundtable, have come out in support of the Simpson/Mazzoli bill.

I am also pleased to report that Mr. Albert Shanker, president of the American Federation of Teachers, and one of the most widely respected union leaders in this country, has endorsed this immigration reform bill.

As Mr. Shanker points out in his recent piece in the New York Times, the legislation Senator ALAN SIMPSON and I are sponsoring addresses the immigration problem in a rational, humane, and effective way.

Receiving support for the Simpson/Mazzoli bill from both union leaders, such as Mr. Shanker, and the business leaders, such as the members of the National Association of Manufacturers and the Business Roundtable, is very gratifying. It indicates the balanced approach that this Congress is taking toward immigration reform.

For the benefit of my colleagues, I am including a copy of Mr. Shanker's article from the New York Times of August 15, 1982, at the conclusion of my remarks.

[From the New York Times, Aug. 15, 1982]

CONGRESS SHOULD ACT ON FAIR, HUMANE MEASURE

(By Albert Shanker)

For the first time in 30 years, the Congress is now considering major changes in the nation's immigration laws. As I write, the Senate is voting on a bill authored by Sen. Alan K. Simpson, Wyoming Republican, and Rep. Roman L. Mazzoli, Democrat of Kentucky. The measure seems likely to pass the Senate, where strong support for it emerged in votes on amendments last Thursday. Then it will be the House's turn. There should be no delay in moving ahead with this measure. It is long overdue, and the bill incorporates most of the recommendations made by thoughtful business-labor-citizen groups which have studied immigration problems over a number of years.

The major problem the bill addresses is illegal immigration. There are millions of illegal aliens in the United States. No one knows just how many, but some suspect the number is between 10 million and 15 million. This huge population, here unlawfully and without the full protection of U.S. laws, creates enormous problems, for itself and for American citizens.

First of all, the illegal aliens themselves are targets for exploitation. Employers know who they are and can threaten to report them to immigration authorities if they demand the minimum wage, overtime pay, protection under health and safety laws. Of 2,100 garment shops surveyed in Los Angeles County, 79% were found to have minimum wage and overtime violations—as did 63% of 2,500 restaurants surveyed. To many employers illegal aliens are the ideal workers—employees who work hard for very little and can never complain.

For many unscrupulous employers, in fact, illegals are preferable to American citizens as employees. In a healthy economy where there are plenty of jobs, this might not result in too much displacement of American workers, although studies have indicated that illegal aliens are nearly always in competition for unskilled or low-skilled jobs with young American black and Hispanic workers. But with 10 million Americans unemployed, and with unemployment among blacks and especially black youth far higher than the national 9.8% rate, it is pretty clear that citizens who would demand the protection of U.S. labor laws are losing out to illegals who cannot demand it, at least in some industries and some areas of the country. There is debate about the extent to which this is happening, but on one question there's very little doubt. A report of the Immigration Policy Panel of the Economic Policy Council, a business-labor-academic offshoot of the United Nations Association of the U.S.A., states: "There is almost universal agreement that illegals depress the wages and working conditions in these low-wage jobs." In other words, not only do illegals displace American workers, but where Americans have such jobs, the presence or threat of illegals tends to keep wages and conditions down.

What to do? It would be unconscionable to deport these hordes of people. Many have been here for years; their children have been born here and are therefore American citizens. There is overwhelming support for amnesty for those who are already here and have been here for a substantial period of time, and the Simpson-Mazzoli bill includes it, although an amendment adopted in the Senate makes the provision somewhat more restrictive.

Second and very important, there have to be stiff sanctions against employers who knowingly hire illegal aliens. The bill includes a fine of $1,000 per illegal worker for such employers—a tab that could be very costly for persistent violators. But employers also have to be able to tell who is an American citizen or legal resident and who is an illegal alien. Some system of permanent identification is needed for workers such as most other democratic countries have. The bill has identification provisions.

There are, of course, other parts of the bill which continue legal immigration to the United States at its present level, 425,000, and which limit immigration from all countries except Canada and Mexico to 20,000 per year. Our two neighbors are permitted double that number.

We are a nation of immigrants, of course, and there are few Americans who want policies that totally restrict immigration to the United States. But the problem is real. Jacob Sheinkman, Secretary-Treasurer of the Amalgamated Clothing and Textile Workers Union and chairman of the Immigration Policy Panel, wrote in the preface to the panel's report: "Net immigration (legal and illegal, immigrants and refugees) is now well in excess of 1 million per year, which means that the U.S. accepts twice as many immigrants and refugees as the rest of the world put together. This rate of inflow is at the highest level in the nation's history. It is usually not recognized that the country's largest number of immigrants came not in 1833 or 1911, but in 1980. . . .

"Can the United States successfully integrate the newcomers, or will it find, particularly in times of rising unemployment, that xenophobic impulses and racial and ethnic tensions become more pronounced as citizen workers feel increasingly threatened by immigrants? Perhaps the most sobering factor in these calculations is that unless a restrictive policy is put into place, the rate of inflow in the future is likely to accelerate rather than to stabilize or diminish, generating even greater domestic problems."

The bill the Congress is considering begins to address the problem in a rational, humane, effective way.●

WOMEN'S EQUALITY DAY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DAUB. Mr. Speaker, next week, on August 26, the Nation will recognize Women's Equality Day. This is an appropriate time to honor the achievements and contributions of women to American society and to consider the implications of their changing role in our society.

The most recent and dramatic change is surely women's participation in the work force. In 1948 women accounted for 28 percent of the American labor force. Today, that figure has grown to 43 percent.

Women under 45 years of age have shown the sharpest acceleration in their participation rate over the past decades, and for women ages 25 to 34, their participation rate advanced from 42 percent in 1968 to 62 percent in 1978. In 1981 this figure had reached 67 percent and is projected to be over 80 percent by 1990.

These changes are not limited to women without children or to women with grown children. As a matter of fact, the U.S. Census Bureau reports that in 1980, 45 percent of mothers with preschool children were working at jobs away from home—up fourfold from three decades before. With the majority of American college students now being women, these trends can be expected to continue.

All of this greatly increases the economic value of the American homemaker. According to one study that calculated the costs of hiring an individual to serve as housekeeper, tutor, nurse, cook, chauffeur, and so forth, the yearly value of the homemaker comes to $51,029. In truth, the value of work done inside the home is incalculable, and the contributions of the homemaker are immeasurable.

The changing role of women has changed the way we work and the way we live. It has sharpened our focus on problems that still challenge us as a nation—problems such as assuring equal pay for equal work, obtaining the equal credit that is guaranteed by law, and having access to quality child care services.

We must recommit ourselves to meeting the challenge and encouraging all Americans in their progress toward full participation in American society.●

"TAKE ACTION"—LETTER TO CONGRESS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HUBBARD. Mr. Speaker, as the House and Senate are continuing to work with the budget and tax bills, I would like to share a letter from a constituent of mine, Patricia Shade of Grand River, Ky., who has written me a strong letter urging the Congress to take action and help the country.

Her letter follows:

Grand Rivers, Ky.,
July 12, 1982.

Dear Congressman Hubbard: I am just wondering what Congress is doing in Washington. Isn't it about time that President Reagan is stopped? He has got this country in such bad shape. Is there nothing that can be done?

The people in this country are hurting and hurting badly. It just cannot go on. What is Congress to do? Are they just going to continue to let the President go ahead and hurt all the poeple who aren't rich? It just doesn't seem fair.

Congress is going to have to act now, to get America back on her feet.

The American people are waiting to see Congress take some kind of action. Where is the American dream? The people in this country have no dream any more.

Sincerely,

Patricia Shade. ●

PORTER QUESTIONS NEUTRALITY DRIFT IN WEST GERMANY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PORTER. Mr. Speaker, crucial to a strong Western alliance and NATO is the political stance of West Germany. Solidly pro-West since the end of the Second World War, recent political trends and disturbing shifts in public opinion within West Germany raise the specter of a serious radicalization of German electoral politics, possibly resulting in withdrawal from NATO and greater German neutrality toward the East-West power blocs. These German political trends were underscored in a recent New York Times news report filed by Times German correspondent, John Vinocur. For the Members' attention, I insert this article in today's Congressional Record:

Signs of Instability Cloud Germany's Future

(By John Vinocur)

Bonn, July 30.—West Germany's strength and political stability, standard assumptions in the post-World War II balance of power between East and West, are now increasingly uncertain matters.

The strong economy, the strong Parliament, the strong army and the strong labor unions are unmistakably less vigorous, less confident than they were 5, 10 or 20 years ago. The country's involvement with the future of Western Europe has become more hesitant, and Common Market polls show the West Germans of 1982 are the most anxious, the least self-assured and perhaps the most self-involved people in the 10 member countries.

Chancellor Helmut Schmidt, traveling privately in the western United States last week, complained frequently about what he thought were American cliché notions about his country. But the real clichés about West Germany—that it is immune to political adventure and social upheaval, that its future is irrevocably joined to that of the West—are being obliterated by events.

On some days, 37 years after the end of World War II, it appears that a third Germany has developed here alongside the Soviet-dominated German Democratic Republic and the West Germany of the 1960's and 70's.

This third Germany is a country that is losing its sense of tolerance, a place where 79 percent of the adults feel there are too many foreigners around. It is a country that lives well but morosely, that talks about its victimization. Its leaders in the last 12 months have spoken of serving as "translators" between the United States and the Soviet Union and of desiring a "security partnership" between Bonn and Moscow.

It is a country where the Green Party, the political force with the greatest momentum and appeal to young people, questions the worth of the parliamentary system, advocates zero economic growth and likes the idea of defending the homeland with the rough equivalent of guerrilla units.

The signs of change are clear in every aspect of German life but most importantly in the economy, because throughout its postwar history West Germany's political stability has been based on its strong economic performance.

Now that relationship has been undermined. Although still intact in many areas, the West German economy is severely weakened in its structure. It is not just a question of ebbing demand due to a world recession but a situation in which West Germany has lost competitiveness in central areas. After becoming a diminished presence in the textile, shipbuilding and ball-bearing markets, the country also declined in machine tools, a traditional area of German dominance. In the sectors of highest technological innovation, such as computers and electronics, West German products stand well behing the leaders.

FASTEST GROWTH IN UNEMPLOYMENT

Where West German industrial investment remains constant, it is in labor-saving equipment. The graph describing new product development heads downwards. This creates a framework of basic problems that go well beyond current figures that show West Germany has the fastest growing unemployment rate in Europe and a 50 percent rise in bankruptcies and in business collapses in the last year.

Over the last decade, the composition of the economy has changed. Although West Germany continues to be associated with capitalist enterprise and private ownership, the fact is that Government spending as a percentage of gross national product grew faster here from 1980 to 1981 than in any other major industrialized nation.

In terms of the next decade, the possibilities of full economic recovery are limited. For a country whose social peace has always been linked to unusual prospertiy, this creates a sense of strain and even threat. Mr. Schmidt has pointed this out himself.

The country is not seething with unrest, but the Interior Ministry reported nonetheless that there was a political demonstration that degenerated into violence for every day in the year—357 incidents altogether—in 1981.

The political changes accompanying the economic changes also confront the standard operating assumptions about postwar West Germany.

At present, the three-party system that has functioned since the birth of the country in 1949 is under siege. According to a poll taken this week by the Allensbach Institute, the most respected German public opinion research organization, the Green Party has become the country's third political force, indicating that the Free Democrats, the Social Democrats' coalition partner, have fallen back to a precarious level.

CHALLENGE TO THE BASIC COURSE

The poll suggests that a traditionally moderate, Western-oriented element of West German political life, personified by the Free Democratic Party chairman, Foreign Minister Hans-Dietrich Genscher, has been overtaken by a group challenging the country's basic postwar course.

There is a parallel development in Mr. Schmidt's party, which now rates about 31 percent of the vote. For the first time, Mr. Schmidt is being attacked publicly by the Social Democratic left wing. The Chancellor, with other party moderates, is in an increasingly isolated position, and the temptation is to make some gesture, perhaps a softening of support for NATO's medium-range missile program, to hold the left from rebellion for the rest of his term.

The same polls show that opposition Christian Democrats hold about 53 percent of the vote. A Christian Democratic government would represent a broad band of moderate opinion, but it probably would be confronted with a radicalized opposition of Social Democrats and Greens.

This appears to signify a polarized, constantly tense political environment. Without strong economic recovery and faced with the possibility of violent attempts to block deployment of new American missiles, the Christian Democrats would be attracted to compromise and unwilling to offer the Western alliance much more than a minimal version of the policy outlines established by Helmut Schmidt.

OTHER SHIFTS FROM STABILITY

The difficult political prospects are complicated by and reflected in shifts in other previously stable aspects of West German life.

One of the most significant involves the loss of prestige and influence of the labor unions through a series of scandals in which leaders of related organizations were exposed as speculators and profiteers. The union leadership, closely involved with the West and traditionally supporting a strong West German military, has lost much of its moral prestige.

There is no way to measure the effect, but the problems facing the unions hindered their efforts to fight the widely acknowledged increase in discrimination against foreigners, particularly the 1.5 million Turks who live largely in the big cities.

The situation has a kind of symbolic quality amid the rest of the fluctuations. Of all

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the sources of pride in postwar germany, one of the most genuine had been its success in banishing present-day associations with prejudice. Now that walls are covered with "Turks Out" graffiti and audits tell vicious racist jokes about the Turkish immigrants, there is a sense of lost compassion.

This has had an unpleasant confirmation in a canvass by the Common Market's polling organization, which found that Germans regard human rights and the struggle against misery as less important "great causes for Europeans" than did any other of the 10 nationalities questioned.

GERMAN ROLE IN NATO

Of all the assumptions West Germany's allies have made about their relationships to bonn, a central consideration has been the west German involvement in the North Atlantic Treaty Organization and the excellence of its armed forces. There are no suggestions from the established parties that West Germany ought to turn its back on the alliance, but the country's military effort has slackened.

After two decades of growth, the federal military budget for this year and next, as currently projected, will have little or no growth. Some officers have warned of a loss in effectiveness. Whatever the degree, it is indisputable that the character of the military commitment has changed. The Government is willing to trim programs, which would have been difficult to conceive of only a few years ago.

The same kind of problems concern German-American relations. Their quality has deteriorated. Three years ago, when reporters began writing about the trend, the development was denied. Now it is confirmed by the creation, at West German urging, of an intergovernmental commission to improve ties.

The West German press and many West German politicians blame the policies of the Reagan Administration for the situation. However, the first serious difficulties, involving conflicting attitudes on the spread of nuclear weapons, then differences in evaluating the Soviet intervention in Afghanistan and Soviet pressure on Poland, came while Jimmy Carter was President.

TIES TO THE EAST

West Germany has shown reluctance to take action that would complicate its relationship with the Soviet Union or East Germany. This reluctance was emphasized in the last week after East Germany refused to admit Bernhard Vogel, the Minister President of the state of Rhineland-Palatinate, for a private visit.

West Germany has many ways to press East Germany, including extensive credit arrangements, but it responded to the action against Mr. Vogel with only a protest.

For some people, these events were emblematic of two other now vanishing constants in West Germany's postwar development that have survived the rush of change—avoidance of confrontation at any cost and unwillingness to begin a serious debate about its relationship with East Germany and the possibilities of reunification.

None of the changes now taking place appear to have made anyone happier here in a country historically inclined toward pessimism.

Johannes Gross, one of West Germany's best political essayists, caught the mood of slippage and dissatisfaction in an essay last year. His view was of a peevish society, bored with reforms and hollow arguments over school curriculum changes and debates about mandatory tax deductions that support the country's churches.

Although Mr. Gross did not say it directly, he seemed to be suggesting that West Germany was in the right frame of mind for an existential crisis, one that would pose excruciating questions about where it was going.

In many respects, that crisis is already under way.●

TARGETED DEVELOPMENT AID

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ERDAHL. Mr. Speaker, the United States has a long and outstanding record of providing assistance to the undeveloped and developing nations of the world. Our foreign aid is used to achieve worthwhile goals such as alleviating starvation, establishing schools, and constructing water and sanitation projects. I was heartened to read the most recent report of the World Bank which states that agricultural growth in the Third World has exceeded expectations. U.S. assistance, in part, deserves credit for these improvements.

Many significant problems remain, however, especially in the area of agricultural development. Indeed, the same World Bank report concludes that the overall economic outlook for poor nations has actually worsened. Assistance for the absolute poor of undeveloped nations is considered to be of paramount importance. I believe the most effective way to promote development is to specifically target U.S. assistance to the absolute poor.

As a member of the Subcommittees on Africa and on International Economic Policy and Trade, I am pleased to lend my support to draft legislation submitted today by the distinguished gentleman from Illinois, Mr. SIMON. This legislation would target U.S. development assistance to the world's poorest people—approximately 40 percent of the population of developing countries.

The draft language submitted today is similar to H.R. 4588, the Hunger Prevention and African Food Security Act, which has over 130 cosponsors. In May, the Senate Foreign Relations Committee passed similar legislation without dissent. It is now incumbent upon the House to debate this vital issue.

This legislation would not prohibit development aid from going to the nonpoor, but it would give higher priority to aid for the absolute poor. The proposal would not affect AID's $2.5 billion economic support fund or any aid channeled through international financial institutions. Most importantly, the proposal would not require any additional spending.

I urge my colleagues to lend their support for this draft legislation. If adopted by Congress, such legislation would go far in maintaining and improving U.S. developmental assistance for the poor and needy of the world.●

VOTING RECORD

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, on Tuesday, August 17, 1982, because I was flying back from North Dakota, I missed two votes in the morning. Had I been present, my votes on the two suspensions would have been cast as follows:

H.R. 1489: Puerto Rican passenger service. "Yea."

H.R. 5618: Organic Farming Act of 1982. "Yea."●

REAL NUCLEAR ARMS CONTROL NEEDS A COMPREHENSIVE TEST BAN TREATY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROWN of California. Mr. Speaker, one of the worst decisions by the Reagan administration has been its opposition to a Comprehensive Test Ban Treaty. The arguments made against such a treaty included concerns about verification, and the fact that bomb-builders in the United States want to go on testing new warheads.

Twenty years ago, similar arguments were made against the ban on atmospheric testing of nuclear weapons. Since the early 1960's the arms race has gotten out of control in every conceivable way, which is why a nuclear freeze is so popular. The sad truth is that our weapon makers operate, with their civilian counterparts, on a technological imperative—if we can make it, we have to make it. Another imperative associated with war comes to mind, which is—if we have it, we will use it.

The concerns about verification are real, and serious. I share them. Perhaps this is why I see the comprehensive nuclear test ban as something far easier to verify than a treaty limiting weapons design, or yield. When the proposition is all or nothing, it is easier to identify.

I recently came upon an essay on this subject by the director of the 1983 International Student Pugwash Conference. As a recent participant with the Student Pugwash, I found this ar-

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ticle of special interest. At this time, I wish to share it with my colleagues by inserting it in the CONGRESSIONAL RECORD.

[From the Christian Science Monitor, Aug. 13, 1982]

N-BOMB TESTS: IT'S EASIER TO VERIFY A TOTAL BAN

(By Michael B. Berger)

The Reagan administration recently announced its intention to postpone talks on the Comprehensive Nuclear Test Ban Treaty (CTBT) until verification problems related to nuclear test limitation treaties can be resolved. The administration has failed to recognize, in public, that a complete test ban and test limitations are two different propositions. It is much easier to monitor compliance with a total test ban than with test limitations. Thus the argument that a test ban treaty must await solutions to the problems of verifying test limitations is spurious.

In truth, the administration's espoused concern about verification is a subterfuge, meant to deflect attention from the fact that nuclear testing is an integral component of the President's arms buildup.

Any arms control treaty or agreement involves the risk that signatories might choose to violate the treaty clandestinely, and succeed. In order to minimize another country's incentives and opportunities to violate an arms control agreement secretly, the United States employs a variety of means: satellite surveillance, radar, seismic sensors, electronic monitors, and human intelligence collection. These verification capabilities are designed to detect actual violations and, more important, deter potential violators by increasing the probability that noncompliance will be detected.

Each party to an arms control agreement must consider the trade-off between risks and benefits: Do the risks of undetected noncompliance outweigh the benefits of compliance? A recent Congressional Research Service report states ". . . it is generally held that no . . . agreement is completely verifiable. The question becomes how much uncertainty can be accepted in exchange for an agreement, as opposed to demanding complete verifiability, which would preclude any agreement."

When examined in terms of risks and benefits, the increase in our national security that the CTBT offers far outweighs the very limited risk of failing to detect noncompliance

The risks associated with a test ban agreement are smaller than those associated with other types of proposed arms control treaties, i.e., START, chemical weapons, etc. There is general agreement that modern seismic verification capabilities permit the detection of even very low yield nuclear test explosions. The problem is to distinguish between seismic signals from smaller tests and those of natural seismic events, and thus to identify a particular seismic event as either man-made or natural. The CTBT would require the Soviets to explain all ambiguous seismic occurences, thereby resolving the identification problem. As the size of a test exceeds five to ten kilotons, the probability of detecting and identifying nuclear explosions dramatically increases.

The most recent round of CTBT negotiations (completed in November 1980) made considerable progress on verification issues. Britain, the US, and the USSR agreed to place ten tamperproof seismic sensors on the territory of both the US and the Soviet Union. (The number to be located in the United Kingdom was not decided.) Data from these stations would be monitored by all parties to the treaty, and by an independent panel of international seismic experts.

The three countries also agreed on a framework for resolving disputed seismic and surveillance data, including onsite inspection in disputes which cannot be satisfactorily settled through additional data exchange and discussion.

What would be the consequences of Soviet testing if our verification measures failed? The yields of clandestine tests would have to be small, below approximately five kilotons, to avoid seismic detection. Five kilotons is one-thirtieth the size of the smallest Russian warhead currently deployed, and one-hundredth the size of the standard Soviet strategic warhead. Clearly, such tests would provide the Russians with little useful information about full-size weapons.

In addition, because significant military results are likely to be achieved only from a series of tests, rather than from a single test, multiple tests would substantially increase the likelihood of detection.

In sum, the chances of failing to detect Soviet violations of comprehensive test ban are very small.

The benefits of the CTBT are threefold.

First, the CTBT would severely inhibit the proliferation of nuclear weapons to the "near nuclear" countries (Argentina, Brazil, India, Israel, Pakistan, and South Africa). An agreement signed by the three nuclear superpowers would put heavy domestic and international pressure on these states to refrain from testing. Since all countries that have developed nuclear weapons have found it necessary to test prior to reaching full nuclear capability, the CTBT, by inhibiting testing, would curb the "horizontal proliferation" of nuclear weapons.

Second, concluding the CTBT would increase America's credibility in the world political community. In the Limited Test Ban Treaty of 1963, the US, USSR, and Great Britain pledged to "achieve the discontinuance of all test explosions of nuclear weapons for all time" and stated that the parties were "determined to continue negotiations to this end." Therefore, a test ban treaty would redeem an American promise that has been outstanding for 19 years.

Third, the CTBT would halt the momentum of the arms race in both the US and Russia. A ban on all testing would prevent further improvements in warheads that might be used in future weapons systems. It would also establish a better climate for the current Strategic Arms Reduction Talks (START) and Intermediate Range Nuclear Forces (INF) negotiations.

By dropping the comprehensive test ban negotiations, the administration has discarded its most useful tool for checking nuclear proliferation. President Reagan would demonstrate true statesmanship by reversing his position and calling for an early resumption of them.

Michael B. Berger is director of the 1983 International Student Pugwash Conference and staff assoicate at the Committee for National Security's Comprehensive Test Ban Task Force.●

THE PLIGHT OF ISAAK KHAIMCHAYEV

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LOWERY of California. Mr. Speaker, it is no secret that the number of Jews permitted to leave the Soviet Union—with Israeli visas—has reached its lowest point in many years. This drastic cut in the number of exits has been accompanied by a wave of harassments and imprisonments among those seeking to leave.

Such unconscionable treatment has especially plagued refuseniks like Isaak Khaimchayev. Mr. Khaimchayev, a scientist, applied for permission to emigrate to Israel in 1973. He was refused with no reason given and immediately fired from his job at a research institute. His wife, Raisa, also lost her job. Consequently, Isaak has been supporting his wife and two children by doing menial labor.

In October 1973, Isaak's elderly father emigrated to Israel. Now 76 and ill, Shmuel Khaimchayev has repeatedly appealed to Soviet authorities to allow his son to be reunited with him in Israel.

Following the arrest of Viktor Brailovsky, refusenik scientists began experiencing extremely difficult times in the Soviet Union. Many were brought into the KGB's orbit and placed under intensive surveillance. They were continually threatened by the KGB "with the fate of Brailovsky" if they continued with their activities.

To be a refusenik scientist often means being fired, as in the case of Isaak Khaimchayev, or forced to resign from employment, the rescinding of certificates for scientific degrees, a ban on lecturing and publications, a deterioration in scientific qualifications, and becoming outcasts in Soviet society. Increasingly, Soviet Jews see themselves as locked into a world where the few remaining freedoms dwindle and their security as Jews seems dimmer than it has in the past.

Mr. Speaker, Soviet Jewry must remain a priority issue in this country. Only with the strong support of the U.S. Congress will the plight of Isaak Khaimchayev and his family be resolved. Our help is vital to the release of Isaak and to the fate of over 2 million Soviet Jews.●

OFFSET NEEDED FOR MEDIA DISTORTIONS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, I have been presented an interesting treatise on media distortion and corrective proposals authored by a Virginia resident, Edward D. Valentine, which should be shared with everyone concerned with a balanced application of first amendment rights.

RULERS IN DISGUISE—THE LIBERAL MEDIA

(By Edward D. Valentine)

FOREWORD

Their axes and daggers freshly sharpened, the liberal media are once again on the attack. Their latest victims, the President, and through him their detested adversary, conservatism, are being discredited.

They denounce the "Reagan deficit" even though liberals created the trillion dollar debt and the programs responsible for the deficit. Each attempt to reduce the enormous social spending schemes (over two-thirds of the budget) is met with an avalanche of stories designed to show cruelty and widespread suffering. Distortion, emotion, negative emphasis and exaggeration are the media weapons. The effect is real and devastating. The resulting public pressure and outcry are too much to withstand.

How Americans survived, indeed prospered, before the massive social programs is not mentioned. Most money earmarked for the truly poor does not reach the target as its substance is usurped by politicians, bureaucrats, lawyers, think tanks, consultants and other feeding at the trough labeled "compassion". Generous eligibility levels further victimize the most needy. All of this the media ignore.

The media have successfully diverted the issues to (1) cutting defense spending and (2) raising taxes. Never mind that defense is less than one-third of the budget. Conveniently forget the consensus of just one year ago that defense spending must be substantially increased due to years of neglect. Above all don't let the people know that government already devours 40 percent of their income and that liberals want to raise their taxes even more during a recession.

In the last two decades the media have bloodied free enterprise and businessmen, the FBI, CIA, our military, traditional education, anti-communists and various other sound policies, traditions and entities. Conversly, liberal hogwash and failed programs escape the magnifying glass. The tyranny and carnage of the left have been ignored or glossed over, while communist revolutionaries and leftist demonstrators receive sympathy and even glorification.

So it is today. The media blitz of Reagan and conservatism continues. They say he misspeaks but quite the contrary, it is the media that misinform.

The liberal media decide what is news and how it will be presented. They determine the issues and subjects for public reflection and debate. As Austin Ranney recently observed, "The media in general and TV in particular, make it tougher for presidents to succeed. They accelerate political consciousness and feed on impatience for quick results, no matter how complex the problems. They want things solved in 60 minutes—less commercials".

As a direct result of media transgressions America once again is being divided. The sickness of spirit continues to grow. Attempts to govern fail due to manipulation of public opinion. America is drifting and unfortunately the direction is leftward.

Winning elections and Supreme Court appointments will not change the course. Clearly, the solution is to win the information war and vanquish the liberal media juggernaut.

As the President said, "If not us, who? If not now, when?"

OUR PROBLEM

1. Public opinion has drifted leftward rather steadily since early in the presidency of Franklin D. Roosevelt. Political oratory was only partially responsible. More important was the infiltration of campus faculties and the news media by clever, persistent leftists. This trend developed into a juggeranut. It rode roughshod over traditionalists using emotionalism, ridicule, demagoguery and glorification of change in the name of progress. As a result outrageous, liberal policies and nonsense permeate our society.

2. The 1980 election was a dramatic conservative victory. The people were clearly fed up with massive social spending programs, busing and other social engineering schemes. They disliked a wishy-washy foreign policy that created disrespect and even loathing of America. Most Americans were worried about our weakended defenses while communism had marched from nothing in 1917 to its current level of world dominance. People were agitated by the educational system's declining achievement scores, discipline and moral values and with the indocrinations of liberalism. These were only a few of the concerns of 1980 voters.

3. The afterglow of 1980 finds conservatives back where they usually are—on the defensive. President Reagan's efforts to trim giant spending programs are being discredited. His tax cut goals to encourage investments are being discredited. His attempts to stop communism's growth—especially in El Salvador—are being discredited. His program for peace through military strength is being discredited. Why? Why is a president—conceded by his adversaries to be an effective, personable communicator—having these difficulties? Why is victorious conservatism—with truth, facts and logic on its side—being discredited?

4. Retaliation by the media juggernaut is the answer. The press, TV and radio incessantly bombard us with liberal emotion and nonsense. Attempted economies generate sensational, tear-jerking and distorted media images of poor people freezing, starving and being deprived of necessities.

5. El Salvadorian Marxists and their naive supporters are portrayed on TV as the good guys. On parade, in dress uniforms, goose-stepping like Nazis of yesteryear and portrayed as the villains are the government troops. A parallel is drawn between El Salvador and Viet Nam involvement by Americans. No parallel is hinted as to how communist blood baths and tyranny in Viet Nam, Laos and Cambodia might follow a communist victory in El Salvador. Charges of revolutionary support by Nicaragua, Cuba and the Soviets are ridiculed. But communist propaganda is picked up, amplified and dramatized with heart rending views of the poor and of weeping widows and orphans.

6. That most tax cuts go to people who paid most of the taxes—workers and the middle class—is ignored by the juggernaut. They choose to zero in on tax savings by the wealthy who pay a small percentage of all taxes.

7. Unemployment in the spring of 1982 is less than half the percentage existing after several years of peacetime liberal efforts to relieve it by Franklin Roosevelt. (Roosevelt's unemployment was conquered only by World War II—not by liberal nostrums). Only a small part of Reagan's program started taking effect in October, 1981. Yet the media juggernaut charms us with tales of Roosevelt's compassionate successes and pronounces Reagan's approach a dismal failure. Indeed, they declared it a failure even before it took effect. How absurd to expect that 5 decades of mismanaged, step by step travel down the wrong road can be reversed in several months. But such absurdities escape the juggernaut.

8. Reagan's "misstatements" excite the media no end. However, in the major cases cited, Reagan was right and the media wrong.

Example: They charged him with a press conference distortion of the unemployment percentage. In fact he was right. He cited the average percentage for 1981 versus 1980—a standard practice by economists. The juggernaut chose differing year-end percentages, hoping to discredit him with the public.

Example: Reagan said no law authorized IRS to deny tax exemption to otherwise qualified private schools. The media said he was mistaken but have never cited such a law.

Example: Reagan correctly stated that the communists opposed free elections in Viet Nam. However, the juggernaut disagreed and media criticisms were headlined. The media acknowledgements of their numerous errors rate little more than a footnote—if anything.

9. The defense budget is about 25 to 30 percent of the total budget. Therefore, major spending cuts would have to focus to a great extent on the 70 to 75 percent nondefense portion of the budget. Ignoring mounting threats to our freedom, the juggernaut shrilly demands cuts in defense spending and slight or no cuts in massive social programs.

10. Self-styled conservatives—politicians and businessmen—are moving away from Reagan and toward the left as a result of this constant media drum fire. Recently some Business Roundtable leaders indicated disagreement with the president and endorsed some liberal concepts. Conservative politicians now talk of reversing some of the tax cuts and propose other retreats. The effect of the propaganda juggernaut is persuasive and devastating.

11. Dripping water—prolonged and uninterrupted—erods rocks and drives victims mad in torture chambers. Likewise, widespread, continuous, repetitive, near-unanimous hammering away with the liberal message brain washes the irresolute and softens the resolve of stalwart men. Thus, conservatives are forced on the defensive and are overwhelmed by the juggernaut. Voters make decisions based on information they receive. Legislators vote with their constituents in mind. Conservatives, therefore, are having little impact.

12. Dedicated conservative activists raise and spend huge sums to elect other conservatives. We have the presidency, an improved Congress and a supposed Supreme Court majority. We buy conservative books, magazines and newsletters. But our audience is

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primarily ourselves. We commiserate and communicate with one another while the juggernaut molds public opinion. How can this process be altered? Reversed?

13. Stemming the liberal tide will not occur until we learn, accept and act on this maxim: Leaders act and react from public pressure. The media creates, orchestrates and applies this pressure. Conservatives will act as liberals and liberals as Conservatives, depending on the pressure stimulus. The liberal media juggernaut is presently ruling America unofficially, without being elected to any office, simply by directing the public pressure. We have lost for decades and are losing today because we try to win elections without a fundamental reshaping of public opinion. Public opinion can be reshaped only by reshaping the media. With truth, facts and logic on our side the advantage is ours.

THE STRATEGY—A CONSERVATIVE TV SHOW LATER A NETWORK NEWS SERVICE

1. Major influences on public opinion are: Educational institutions, TV, the press and radio. Most people rely on TV for news and information. TV has a major impact on lifestyles and attitudes. This condition can only increase due to: (a) FCC's recent approval of low power TV stations; (b) growth of cable TV; and (c) technological improvements in home reception from satellites. Presently America relies on the Washington-New York based libereal media for national and world news. Any hope of fairness or objectivity is utterly futile

2. A conservative TV news-information show is the first step toward reshaping public opinion. It should start as a one hour, weekly program. Later, the schedule would be expanded as appropriate. Features would be:

(a) Serious news items often with interpretive comment.

(b) Conservative viewpoints by articulate experts such as Patrick Buchanan, Petr Beckmann, Marva Collins, Milton Friedman, William Simon, Aleksandre Solzhenitsyn, Thomas Sowell, Ben Wattenberg and Walter Williams.

(c) Views of Mr. and Mrs. America—blue collar, white collar, rural, urban, all races, ages and interests—to show widespread agreement with and support of conservatism. Mainstream America is basically conservative and this point must be clearly demonstrated.

(d) Attacks on liberal bias of the media and liberalism generally. By using fact, logic, reason, wit, satire and sarcasm our offensive would be effective and convincing. The objective is to totally discredit the liberal media and liberal dogma. Until liberalism becomes unfashionable and in utterely demolished, the attacks must be repetitive and relentless—even to the point of redundancy.

Liberal targets on this conservative TV show would be legion.

Example: Replay comments of liberals when they advocated lowering the legal drinking age. Then dramatize the increases in highway deaths and property damage by intoxicated drivers—particularly the young. Dwell on the agony of the crippled and suffering of loved ones as the products of liberalism.

Example: Replay assurances by well known liberals during the Viet Nam war that it was only a civil war between oppressed revolutionaries on the one side, versus the reactionary capitalists; that there would be no retaliatory blood bath if the communists won; that the domino theory was ridiculous; that a communist victory was no concern of ours. Then document with pathetic pictures and statements, the sufferings of the "boat people"; the mass exterminations in Cambodia; the chemical and germ weapons used on resisting survivors; anguished escapees whose spouses and children remain in slavery under the communist oppressors. Draw parallels between Viet Nam, Laos and Cambodia yesterday and Nicaragua, Guatemala and El Salvador today.

Example: Cite liberal affinity for socialism and excuses for communism; then show conditions under those systems. Quote Jane Fonda's "pray on their knees" pro-communist remarks; then show pictures of fleets of Cuban escapees with their comments about communism. Contrast conditions in socialist nations with those practicing free enterprise. Play back Andrew Young's "stabilizing" effect of communism remark followed by dead bodies, bloated bellies of starving children and incredibly primitive conditions in these "stabilized" places.

Example: Quote views of leading liberals on student rights, permissiveness, relevant courses, open classrooms, progressive education and similar concepts. Intersperse evidence of classroom violence, declining test scores, teen pregnancies, reading deficiencies, functional illiteracy and like results.

Example: Offer quotes of Chief Justice Earl Warren, Ramsey Clark and various liberals on criminal rights, rehabilitation, contributing guilt of society and the resulting coddling of and sympathy for criminals. Correlate these with soaring crime statistics, pictures of murdered and crippled victims, stories of orphans and other suffering relatives and survivors, plus monetary costs to victims and society. Show current fears and restricted living of poor and aged compared with earlier days.

Example: Replay leading liberal rhetoric on oppression and human rights violations by the Shah of Iran, Batista in Cuba and Somoza in Nicaragua. Follow each, respectively, with evidence of Iranian treatment of U.S. hostages, subsequent butchery and madness of the post Shah era; Castro's firing squads, political prisoners rotting in Cuban jails and "volunteer labor" for communism; and Sandinista suppression of elections, newspapers, radio, unions and free migration that were allowed under the "tyrant" Somoza.

Examples ad infinitum can be created showing how bubble-headed, fuzzy liberal "progress" almost always makes matters worse and at colossal cost in wealth, lives and suffering. Being "soft on communism" has lost East Germany, Poland, Czechoslovakia, Romania, Hungary, Yugoslavia, Albania, China (with perhaps 50 million Chinese murdered in a few months), Viet Nam, Laos, Cambodia (more millions exterminated), Angola, South Yemen, Ethiopia, Cuba and Nicaragua. Who will be added to the list? How many more must die or be enslaved before we can reverse public opinion?

4. Dissolving old liberal coalitions to acquire new conservative allies is another major objective of this conservative TV show.

Example: Most workers—including union members—have strong, conservative instincts. they are led or forced down the primrose path of liberalisim with media assistance. Some union members reluctantly pay dues to support candidates and causes they oppose. Many would never willingly join a union. The working many would fare better under conservatism. These points should be emphasized repeatedly.

Example: Blacks have been exploited on a vast scale by liberals. "Minimum" wages have inflated black unemployment—especially for the young. Black English and African Studies have wasted latent talents. Welfare careerists, social workers and bureaucrats have stifled natural desires to break out of the poverty rut. Liberal busing advocates have their own children in mostly white public, or exclusive private schools. Let's demonstrate the liberal hypocrisy and exploitation.

Example: Jewish voters have generally supported the liberal-leftist movement. Yet leftists in the U.S., Russia, Libya, Syria, etc., as well as prominent U.S. leftists, constantly castigate and plot against Israel. Clearly, leftists are the deadly enemies of Israel. Liberal laws and regulations afflict Jewish professionals and businessmen.

5. Attacking the media juggernaut directly would be a regular, important feature of the conservative TV show. The approach would be to embarrass and cast doubt on liberal media credibility in general and their leading characters specifically. Each week we would critique and expose the latest examples of media bias and distortion.

Example: If a New York Times or Washington Post news story, through distortion, falsely charges the President with a misstatement, cite the occasion, then follow immediately with the truth. Simultaneously question their motives. Are they uninformed? Are they inept? Are they biased by an editorial dislike of the President, or a basic prejudice against conservatism?

Example: When reporters sneer at conservative affluence or cost of new White House dishes, replay this, accompanied by footage on how the Roosevelts, Kennedys and Johnsons lavished money on both their personal estates and the White House; and how they were praised by the media for this elegance and good taste. Ask why this double standard? Is affluence a virtue for liberals but a vice for conservatives? Are reporters biased? Are their views dependable? Do they have a liberal axe to grind?

Example: When media personalities criticize the mink coats and Cadillacs of conservatives while shedding crocodile tears for the poor—counter with shots of these critics entering or leaving their chauffeured limousines, Cronkite boarding his yacht, or news reports of Rather's $8 million contract. Show shots of their palatial dwellings. Ask whether people who live in glass houses should be throwing stones with such abandon. As if such double standards permit impartial newscasts. Does their prejudice color all of their work?

Example: A study of the "media elite" by Professors S. Robert Lichter and Stanley Rothman revealed these alarming facts:

(a) "Much of the medial elite upholds the cosmopolitan or anti-bourgeois social perspective."

(b) "Exactly 50 percent eschew any religious affiliation. Very few are regular church goers."

(c) In presidential elections between 1964 and 1976, 81 to 94 percent voted for the more liberal candidate.

(d) Their "presidential" choices are consistent with the media elite's liberal views on a wide range of social and political issues.

(e) Most "agree that American economic exploitation has contributed to Third World poverty."

(f) In rating leadership groups as to the influence they should have, "Emerging at the top of the heap, as the group most favored to direct American society, are the media."!!

(g) The media elite is far to the left of and out of step with the general public on a wide range of issues and questions.

This explosive material rates minimal exposure by the juggernaut. So it is we who must drive the point home that the extremist views of the media are far to the left of most Americans. And we must constantly remind the people that this leftist juggernaut manages the news and information they receive.

6. Publicizing secret inner workings and skelteons of the juggernaut would also be a regular segment of the conservation TV show. Liberal investigative reporters demolished the Nixon presidency by inducing personnel within his administration to furnish leads and to betray one another. So we must do with the liberal juggernaut. Surely at the Times, Post, CBS. etc., there are or were numerous disgruntled editors, reporters, cameramen, producers, et al, who might "tell all". We might uncover illegal handling or pilfering of news material, or deliberate cover-ups, distortion, twisting—even falsifying—the news. Imagine both the public's anticipation and the sweaty-palmed anxiety of media villains as they speculate on who will be zapped next! We could add insult to injury by using their own "ambush" technique on them. For example, when a media star leaves for work, shove the microphone in his face, start the cameras and ask embarrassing questions or demand an ad lib statement.

7. Expected impact and growth of the conservative TV show would be dramatic if produced aggressively, creatively and with generous doses of wit and variety. Credibility would be established and maintained by truth, facts and logic. Emphasis would be on attack rather than defense. As ratings and revenues rise, the show should be expanded from weekly to eventually several nights per week. A major result would be improved balance, fairness and honesty by the media once liberalism is discredited and media distortions exposed.

8. Finally, a conservative news network must be created and offered as quickly as possible. This network would provide news feeds, stories and program service to the press, radio and TV outlets or the world. Presently these outlets depend on the biased products of the liberal media juggernaut such as the Associated Press, New York Times, Washington Post—Los Angeles Times news services and major TV networks. A vast number of local outlet owners, editors and managers would leap at our fresh, new conservative orientation. Ultimately, we should penetrate the educational complex at all levels, starting with scholarships for graduate and undergraduate schools with conservative journalism and economics courses and schools where patriotism and morality are encouraged.

FUNDING AND ORGANIZATION

1. The foregoing is utterly worthless unless there is enough money to fund these enterprises. Eventually, revenue will come principally from advertisers currently funding the media juggernaut to the detriment of these same advertisers. But before the program hits the airwaves and receipts from advertising flow in, cash is essential for cadre, space, equipment and making contracts. This need calls for contributions to the tune of millions of dollars from like-minded financiers.

2. A tax exempt non-profit corporation should be the organizational structure of the enterprise. This status will induce contributions and enable us to effectively use all of the revenue instead of sharing it with the government.

3. Promotional brochures should be composed. They must be personally delivered and explained to trusted, sympathetic, business leaders and wealthy prospects by articulate funds seekers. Prospective donors must be persuaded: (a) they have the most to lose if the liberal juggernaut is not vanquished: (b) their very survival is at stake; (c) that past efforts failed by attacking the surface instead of the heart of the problem; and (c) that our strategy will succeed. They should encourage others to divert advertising from the liberal media to the conservative TV show.

4. Appropriate advertising and solicitation by mail will raise funds, stimulate wider interest and demonstrate widespread support. Once on the air, periodic fund raising from the public would provide more income and deflect charges the enterprise is a creature of the wealthy and powerful.

5. A top flight legal department is essential for defending the enterprise against the onslaught of litigation that will develop and continue as we increasingly damage the juggernaut in particular and liberalism in general. Going on the legal offensive to attack liberal media bias before the FCC, other regulatory bodies and the courts will be the other major responsibility of the legal group.

6. Proper location of the headquarters and major centers of operation is extremely important. They should be rural, conservative areas to:

(a) Avoid metropolitan area high taxes, high living costs and salaries, distractions, crime, vandalism and disloyal personnel.

(c) Provide a more favorable legal climate for expected litigation than would exist in New York or Washington, D.C., for example. Conservative judges are more likely to render favorable decisions.

7. Volunteer personnel such as retired people and bored housewives and others should be sought and used to the maximum extent. They could be recruited all over the country as reporters, reseachers, speakers, writers, lawyers, typists, fund solicitors, librarians, etc., especially for the news network service. Pressure should be applied constantly to economize, conserve resources and strive for efficiency in the best conservative manner. Also, this would be another indication of grass roots support.

8. An informational library would be indispensable. It would obtain (or identify in other libraries), classify and catalog for instant use by computer retrieval; radio and TV programs; newspapers; magazines; books; speeches; biographical facts and so on. It would have an invaluable role in factual, dramatic attacks on and defenses of controversial issues and concepts.

SUMMARY

Public opinion has trended leftward for 5 decades. Conservative election victories were surface phenomena but did not alter basic thought tendencies in America. Currently, liberalism is effectively attacking conservatives in the White House, Congress and the States, preparing for a return to power. Vast sums spent to elect conservatives are exciting but have slight and brief effect on the overall liberal trend. The crucial need is to achieve a major, permanent reversal in public opinion. This can best be done (a) by a regular conservative TV show that mercilessly exposes, ridicules, discredits and destroys the bias in the liberal media and eventually, liberalism itself, and (b) as soon as possible by creating a conservative news network service to ensure the permanence of the victory. Millions of dollars will be required until advertising revenues develop. The TV show and news network service should be owned by nonprofit, tax exempt corporations. They should be headquartered in rural, conservative areas for reasons of economy and safety. Such locations would provide access to more conservative judges and juries to pass on inevitable litigation. Volunteer talent should be encouraged. Conservatives have spent billions in 5 decades to stem the liberal tide with minimal results

Lenin indicated we would provide the rope to hang ourselves and the liberal domination of the news and information our people receive is surely fashioning the noose. But, instead of cowering before the media, shouldn't we fight back? Shouldn't we take to the air waves and expose the juggernaut and slam dunk leftist dogma?●

TARGETED DEVELOPMENT ASSISTANCE AMENDMENT

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JAMES K. COYNE. Mr. Speaker, I would like to speak in favor of the targeted development assistance amendment. It provides us with the opportunity to, at no cost, increase the self-sufficiency and productivity of poor people in developing countries. Too much of AID funding has been squandered by government bureaucracies and not enough has been focused on training and education to help people help themselves.

The targeted development assistance amendment would require 50 percent of AID development aid to finance projects such as irrigation facilities, and health facilities which will directly benefit poor people. Such goods and services will enable the poor to provide for their own families as well as contribute to a stronger national economy. This aid strategy emphasizes small loans and credit to enable rural businesses, thereby creating increased employment opportunities and encouraging private sector development.

One way of directly benefiting the poor is through the private voluntary organizations. Such organizations as CARE and Save the Children carry out many of AID's most effective people-to-people projects. These are the types of projects the 50-percent requirement would stress.

The targeted development assistance amendment is similar to the central provision of H.R. 4588, introduced by BENJAMIN GILMAN of New York and of which I am a cosponsor. I have been glad to note that over 100 Representatives have joined me in cosponsorship. The companion legislation in the Senate has been cosponsored by 38

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Senators. An amendment similar to the targeted development assistance amendment has passed the Senate Foreign Relations Committee with administration approval. I urge your support of this amendment which will put our foreign aid funds to productive and efficient use.●

PROTECTING CONSUMER IN USED CAR MARKET

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SWIFT. Mr. Speaker, this body and the Federal Trade Commission have struggled for years with the problems of how to protect the consumer in the used car market. Frankly, the struggle has not resulted in any particularly impressive action.

The House recently voted down an FTC rule which was, in the judgment of this Member, more loophole than law and would have been, quite literally, worse than no rule at all.

There have been some other suggestions—all of which require dealers to measure, test, check, and report. These are onerous to dealers and, frankly, are not very helpful to most consumers.

As I said in the floor debate on the FTC rule:

> Most American men will not admit they do not know anything about a car. Most consumers, men and women, in fact, are a little hesitant, particularly facing a good strong salesman. They are hesitant about saying: "Can I have the car so I can take it down the street and have it checked?"

I think there is an approach to this thing, however, that deals with that reality, that keeps Government involvement to the barest minimum, that requires no FTC or other bureaucratic involvement, that gives the consumer the ability to protect himself and which accomplishes all of this in the marketplace.

I am today introducing legislation to establish a 3 day 200 mile cooling off period for the purchase of used cars. This will give consumers the ability to protect themselves by giving them time, away from the pressure of the sales arena, to check a car, or have someone with expertise evaluate the vehicle for him. It does not require the dealer to jump through hoops, make evaluations or be jeopardized by potential Government prosecution for failure to meet complex requirements.

One big advantage is that it permits the consumer to get the kind of expert subjective advice that no law, rule or Government agency can provide. For example, a skilled mechanic can comment on the value of the car, as well as tell you it's condition. He can say, "All these things are wrong with it, but at that price, it's a good deal." Or he can say, "That car is in very good condition, but I think it's way over priced." That is information that can be very useful to a buyer—but which no set of rules can provide. A cooling off period, however, gives the consumer time to seek such input to his decision.

Here are more specifics about the bill.

The bill will offer both consumer and dealer rights of legal action that can be used when either feels he is being taken advantage of in the used car marketplace.

Under this bill, the purchaser of a vehicle bought from a used car dealer may return the vehicle to the dealer if the following conditions are met:

First, the used car is returned within 3 days of the date of sale;

Second, the purchaser states in writing that the car has been driven less than 200 miles since the date of sale, and has not sustained any damage during this period of possession; and

Third, the dealer may request upon return of the used car, a $100 deductable or 10 percent of the purchase price (whichever is less) to cover dealer costs and depreciation.

Upon the sale of the used car, any known mechanical defects and any exterior damage to the car would be noted in writing and signed off to by both purchaser and the dealer. The purchaser would have liability for the used car in his possession, and could only return the car if it were in the same condition as sold. Both dealer and purchaser would have the right to legal action if these conditions were not met. Any person who makes a false statement or violates the conditions of this legislation would be liable for three times the amount of legal damages or $1,500 (whichever is greater) and reasonable attorney fees.

ADVANTAGES FOR CONSUMERS

First, allows purchaser to get the best expertise available in order to make an informed judgment in the purchase of a used car.

Second, creates an incentive for dealers to be very frank about the conditions of used cars they offer for sale.

ADVANTAGES FOR DEALERS

First, having these guarantees gives the consumer more incentive to shop at a used car dealership.

Second, allows for legal action against consumers who abuse used cars taken off the dealer's lot.

Third, avoids complicated listing and testing required by other suggested approaches.

I do not expect action on this bill in this Congress. Time is too short. Further, I think we should hold sufficient hearings to be sure that we know of all State laws and practices that might be affected by this bill. Once we have worked out such complexities, and I am sure we can, I think we can pass legislation early in the next Congress that will actually serve the consuming public in a manner that causes minimal inconvenience to dealers and which leaves the basic enforcement, not to a Government agency, but to consumers who, with this help, are perfectly capable of protecting themselves.

I hope in the interim the used car industry, consumer organizations, and the Members of this body will consider carefully the merits of this approach to the matter that has so long been before us.●

THE MIDDLE EAST—A QUEST FOR PEACE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Ms. OAKAR. Mr. Speaker, in the near future, I intend to discuss in detail our fact-finding mission to the Middle East. Our delegation consisted of Codel leader Nick Rahall, Elliott Levitas, Paul McCloskey, Mervyn Dymally, Dave Bonior, and myself. Most of us went from Syria to Lebanon to Israel to Egypt to Saudi Arabia to Jordan. We toured Lebanon, not under the auspices of a private group or the Israeli Army, but solely with American personnel and the Lebanese Central Government. We attempted to be fair and objective. Not all of us shared the same views or conclusions, but all of us were searching for peace—peace for the sake of the innocent peoples of that troubled region—the cradle of civilization.

I am deeply dismayed that the media, in general, chose to isolate our discussion with Yasser Arafat and not report on much else. This was extremely enlightening to me considering the fact that we were the first public officials to witness the devastation of West Beirut and considering the fact that we met with every conceivable leader, from Prime Minister Begin to President Mubarak—see the list of meetings and places.

The media did not choose to report on our trip through Lebanon or talks with most leaders of this region. This was surprising to me since on our tour of Lebanon, members of Time magazine, Gannett News, CBS, et cetera, accompanied us. In addition, after every meeting in every country, there was a press conference. Still there was nothing or little in the American press, with the exception of our visit with Mr. Arafat. Why this suppression of news? Our full story was never told. Nonetheless, our trip was invaluable. The following is a copy of my press release concerning our Middle East trip and a copy of our agenda:

[News release, Aug. 2, 1982]

Oakar Summarizes Fact-Finding Trip to Middle East

Cong. Mary Rose Oakar, D-Ohio, a member of the fact-finding mission to assess the conflict in the Middle East, especially the crisis in Lebanon, and to investigate whether there are peaceful solutions, made the following statement:

"I undertook this assignment to see first-hand the impact of the Israeli invasion on the country of Lebanon, to meet with all leaders who may play a role in this crisis and the future of the Middle East, to talk to the people themselves, to evaluate the chances of an end to this destruction and loss of lives, and to evaluate the opportunities for peace.

"It should be noted that we were the first delegation to go through war-torn Lebanon under the guidance of the Lebanese Central Government and our own American personnel. Although this meant possible danger to us, we felt it was the only way to be objective.

"In addition, the majority of members felt that in order to view the situation as comprehensively as possible, we had to view West Beirut first-hand and to meet with every leader including Pres. Sarkis, Chairman Arafat, Prime Minister Begin, Gen. Sharon, Bashir Genayel, Pres. Hassad, Crown Prince Hassan of Jordan, King Faud, and President Mubarak. (See attached list of meetings and activities in various countries.)

"In addition, I felt it necessary to evaluate whether tax-payers' money as part of our foreign aid program was abused, and to determine whether it was at all possible for my Country to make a contribution for peace since we play such a vital role in that area of the world.

"Some of my conclusions are:

"(1) Lebanon is a devastated country. There is massive destruction of buildings and the countryside; thousands have been killed and wounded; many people are innocent civilians. The bloodshed must stop. Pres. Sarkis believes that more Lebanese have been killed than Palestinians. Estimates are that 300;000 Lebanese and 83,000 Palestinians need help in terms of shelter, and medical care, nutrition and water.

"(2) Every Middle Eastern country has similar fears: possible loss of their territorial integrity and fear of violence to their people.

"(3) The Arab countries disagree on various issues and have varying relationships with each other. Most agreed, however, that a long-range solution is necessary to:

"(a) end the immediate crisis, the military arm of the PLO must leave West Beirut.

"(b) The departure of the Palestinians must be linked to a long-term solution of a homeland for the Palestinian people. If the Palestinians are given no hope and only are dispersed, they will become even more militant.

"(c) There are varying degrees of attitudes toward Israel. I believe the Arab countries we visited want to deal with Israel. One even suggested a "common market" once peace is achieved.

"(4) In Israel we met with members of the Cabinet, Gen. Sharon, Prime Minister Begin, three West Bank mayors, Shimon Peres, Shulamit Aloni, members of the Knesset, and members of the "Peace Now" movement.

"(a) My view is that Gen. Sharon and Prime Minister Begin are looking for military solutions to this problem, inflexible in dealing with the PLO, and fearful of a future homeland for the Palestinians/PLO on the West Bank and Gaza.

"(b) The West Bank mayors want the PLO to acknowledge U.N. Resolution #242 and believe they are being repressed. They believe their plight on the West Bank is forgotten.

"(c) There is a movement, however, in Israel, reminiscent of the anti-Vietnam era—Peace Now. The people involved are a growing minority. Shulamit Aloni is a leading advocate of the position that military solutions are not the answer, and the Palestinian people must be dealt with for a peaceful solution. The movement is comprised also of non-politicians. Most are men; three out of four are in the military.

"My conclusions: The people of the Middle East are exhausted by war the psychological apprehension of war, particularly in Lebanon and Israel. There is a waste of human resources. The people desire to rise above the goals of their leaders and live together. Most leaders have a difficult time forgetting past grievances. They must look to the future as Anwar Sadat did when he and Golda Meir talked about making peace for the sake of their grandchildren.

"There is another principle in which our country can play a role. It is the adage of John F. Kennedy when he said, 'never negotiate out of fear, but never fear to negotiate.'

"There are signals that the parties want to negotiate—it is the only solution. The bloodshed must stop.

"In addition, I do not believe American troops should be sent into Lebanon; it should be an objective military—possibly under the auspices of the U.N. This group should oversee all foreign Military Forces' exodus from Lebanon."

Meeting Schedule During Mideast Mission

FRIDAY 7/23—SATURDAY 7/24—DAMASCUS, SYRIA

Mr. Muhsin Bilal, Chairman of Peoples' Council Foreign Council;

Mr. Abu Farris, Ministry of Foreign Affairs;

Deputy Prime Minister and Minister of Foreign Affairs, Abd al-Halim Khaddam;

President Hafez al-Assad;

Deputy Foreign Minister Nasir Qaddour.

SUNDAY 7/25—LEBANON

Sa'b Salam, Former Prime Minister;

Walid Jumblatt, Minister Marwan Hammada, and Nabih Barri at Parliament;

President of National Assembly Kamal al-Assad;

Amin and Bashir Gemayel;

Camille Chamoun, former President;

Yassar Arafat, Chairman of PLO;

Foreign Minister Fuad Boutros.

Toured West Beirut and Palestinian camps north of Tripoli—1. Al-Beddawi; 2. El-Bared.

MONDAY 7/26—LEBANON

President Elias Sarkis;

Governor of South Lebanon;

Mayor of Sidon.

Toured South Lebanon including Sidon and Tyre.

MONDAY 7/26—TUESDAY 7/27—JERUSALEM, ISRAEL

Ambassador Philip Habib;

Honorable Elias Freij, Mayor of Bethlehem;

Honorable Mustafa Abdul Nabi Annalche, Acting Mayor of Hebron;

Samir Khathe, Chairman, West Bank Doctors' Union, Administrative Director, West Bank Council on Higher Education;

Foreign Minister Yitzhak Shamir;

Prime Minister Menachem Begin;

Defense Minister Ariel Sharon;

MK (Member of Knesset) Shimon Peres, Labor Party Leader;

MK (Member of Knesset) Shulamit Aloni, and others;

Peace Now Leaders Prof. Galia Golan; Mr. Benvenisti (former Jerusalem Deputy Mayor).

WEDNESDAY 7/28—CAIRO

President Hosni Mubarak;

Speaker of the People Assembly Soufy Abou-Taleb;

Minister of State for Foreign Affairs Boutros Ghali;

Foreign Relations Committee Chairman Muhammad Abdellah.

THURSDAY 7/29—CAIRO

Minister of Defense Field Marshall Abou-Ghazala.

THURSDAY 7/29—AMMAN, JORDAN

Crown Prince Hassan (brother of King);

Minister of Information Adnan Abu Odeb.

FRIDAY 7/30—DHAHRAN, SAUDI ARABIA

Aramco Group;

Hugh H. Goerner, President;

Ali I. Naimi, Executive Vice President;

Faisal Al Bassam, Vice President, Public Affairs;

Muhammad Mughamis, Manager, Public Relations;

James P. Mandaville, Administrator, Government Affairs Policy and Planning Staff;

David D. Bosch, Member, Government Affairs Policy and Planning Staff;

Lee C. Carson, General Supervisor, Petroleum Engineering;

Acting Principal Officer Bill Polik.

FRIDAY 7/30—JIDDA, SAUDI ARABIA

Foreign Minister Prince Saud al-Faysal;

King Fahd bin Abdul Aziz al-Saud;

Defense Minister Sultan bin Abdul Aziz al-Saud.●

SALUTE TO HILDA CZULEGER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, on Thursday, September 30, 1982, the American Legion Auxiliary—South Bay Unit No. 184, will host a dinner at their American Legion Hall in honor of Hilda Czuleger for her many years of service to the community.

Born in Pennsylvania, Hilda left in 1934 with her husband, Bill, and settled in Redondo Beach, Calif. Upon her arrival, Hilda began working at the Redondo Trading Post.

To her many friends in Redondo and the entire South Bay community, Hilda Czuleger is known as a person always willing to lend a helping hand. The numerous positions she has held on citizen boards and committees is evidence of her never ending generosity and concern for others. In the past, she has served as a member of the City of Hope's South Bay Chapter;

president of the American Legion's Women's Club of Redondo Beach; president of the B.P.O. Deers (Lady Elks); president of the Pocahontas; member of the Eagles; and the Redondo Beach Sister City Committee.

Her dedication toward positive community work continues in preparing meals for various worthwhile functions. For example, this year Hilda cooked and furnished all the food for a dinner which netted the City of Hope over $2,000. Annually, she cooks and furnishes the "Lasagna Dinner" for an estimated 250 people in which all proceeds go toward a scholarship fund in the South Bay Union High School District. Also, she prepares the annual dinner for the B.P.O. Deer's fashion show—their major fundraiser of the year.

Mr. Speaker, I am very proud of the great spirit of involvement and voluntarism that exists throughout the South Bay area. I am especially proud to give recognition to one person who symbolizes this special trait. Hilda's career of community service is a true model of citizenship. She has extended herself, working tirelessly as few people have for the benefit of others. She can certainly reflect with pride and satisfaction upon the many accomplishments of her life and her dedicated involvement on behalf of the people of Redondo Beach.

My wife, Lee, joins me in congratulating Hilda Czuleger for her devotion to the community. We are fortunate to share a fond friendship that goes back to the years when her husband, Bill, was mayor of Redondo Beach. Her past accomplishments will be long remembered, and you can be sure that we will continue to see the Czuleger tradition of service continue for many more years.●

WAUKESHA PROGRAM WORKS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ZABLOCKI. Mr. Speaker, last week I had the privilege of bringing to the attention of my colleagues an excellent example of business and labor concerns working together for the unemployed workers in Waukesha, Wis. As I pointed out, the Waukesha people for unemployed people unemployed discount program, was started in my own area of Waukesha, soon to become part of the Fourth District of Wisconsin which I have the honor of representing. It is an excellent program.

The PUP unemployed discount program is successfully offering discounts to unemployed workes while helping Waukesha merchants attract business. It is my understanding that over 60 merchants are presently offering discounts to workers who show verifications of unemployment in businesses ranging from food stores to barber shops to auto repair shops.

Mr. Speaker, everyone is struggling to make ends meet in these unfortunate times. Workers and small businesses alike are faltering because of our recessionary economy and economic ills. That is why I am heartened to see programs like the unemployed discount program working in a smooth fashion. I believe that the Waukesha business community and the labor unions alike deserve our commendation for endorsing this very worthwhile program.

Mr. Speaker, I hope other communities can learn from the Waukesha experience. I am inserting in the CONGRESSIONAL RECORD several excellent articles which recently appeared in the Waukesha Freeman, written by Mr. Gary D. Miller and Ms. Karen Litscher.

SUPER VALU STORE—SUPER JOHN'S OFFERS DISCOUNT TO JOBLESS

(By Gary D. Miller)

With Waukesha County's unemployment rate at a record high and layoffs mounting, a Waukesha supermarket is offering a 5 percent discount to customers who have lost their jobs.

The three Super John's Super Valu stores are giving a 5 percent discount through May 1 to people who have been laid off.

"We're trying to help out the community as best we can," Bob Rake, assistant manager of Super John's at 2132 E. Moreland Blvd., said today. The discount program began Monday.

The discount is the idea of Super John's owner, Neil C. Lofberg of Beaver Dam, and was based on similar programs in Iowa. Lofberg decided two weeks ago to offer the program, Rake said.

"We thought with the growing unemployment in the Waukesha area, we'd give it a try," he said.

To qualify for the discount, a customer must present an unemployment compensation check and two forms of identification. Super Value cannot offer the discount to a customer without an unemployment check to verify he is out of work, Rake said.

Unemployment in Waukesha County rose to 7.6 percent in January, topping December's record 7.3 percent unemployment rate. And Job Service officials in Madison have predicted the February unemployment rate will be higher.

Layoffs and shutdowns have affected some of the area's biggest employers including International Harvester, RTE Corp., Waukesha Engine Division and Quality Aluminum Casting Co. in recent months.

Besides the Moreland Boulevard store, the discount is available at Super John stores at 1600 Summit Ave. and 300 Delafield St. Although the stores are open 24 hours, the discount is available only from 6 a.m. to 10 p.m. daily.

Local Kohl's, Sentry and Pick 'N Save food store spokesmen said they were unaware of any plans to offer similar discounts at their stores.

LABOR COUNCIL BACKS DISCOUNTS FOR JOBLESS

(By Gary D. Miller)

The Waukesha County Labor Council gave its approval Wednesday night to a plan that would establish a program to give unemployed workers discounts on purchases from local merchants.

Allen Levie, chairman of the unemployment committee for the machinists union, said today the council established a steering committee to help put together a system of identifying unemployed workers—whether union members or not—in Waukesha.

Levie, who is on layoff from Waukesha Engine Division of Dresser Industries, said the idea got its start from a program being offered by the Super Valu stores. Abel Garcia, president of Local 1377 of the International Association of Machinists and Aerospace Workers suggested the Labor Council seek support for an expanded program.

The council is now seeking the support of other local merchants in offering discount programs to the unemployed.

Super Valu's three Waukesha stores offer a 5 percent discount on merchandise, excluding minimum mark-up items. The stores use an unemployment check to verify that a customer is out of work.

The program was scheduled to run through Saturday, but Levie said the Labor Council would ask Super Valu to extend the discount.

He added that Brian Lofberg, who operates the three Waukesha Super Valu stores, has worked closely with the Labor Council in establishing the program community-wide.

"He helped us explore the idea and showed us where merchants feel good about some things," Levie said.

The Labor Council is trying to set up a procedure to identify people either on unemployment compensation or those who are no longer eligible but are still unemployed.

The council wants to develop that procedure before actively seeking merchants to offer the discount, but already there has been some support for the program, he said.

The Waukesha Chamber of Commerce, without specifically endorsing the Labor Council project, last week urged local businesses to "seriously consider various ways of aiding those currently in desperate need."

As a result of the chamber's support, Levie said, the program has generated "tremendous interest from people who feel positive about it. The chamber has been more than cooperative."

DISCOUNTS SOUGHT FOR JOBLESS

(By Gary D. Miller)

At a time when Waukesha County's growing population of unemployed workers has very little to look forward to, local labor leaders are trying to band together with merchants to help one another out.

"The people who are unemployed are the same ones who make business prosperous" in times of full employment, said Al Levie, laid off from his Waukesha Engine job. "Now we're hurt, and we're asking merchants to help us out."

Levie was one of a group of laborers in the area who have been trying to expand on one grocer's promotion to give people who have lost their jobs a small discount on their purchases.

This week, the last detail was ironed out and, starting Tuesday, businesses in the area will be approached about offering discounts to the unemployed.

Levie, a member of International Machinists and Aerospace Workers Local 1377, outlined the program Friday at the Labor Temple. The intent is to offer discounts and price reductions to unemployed customers—union and non-union alike.

One supermarket, Super John's Super Valu store, is offering a 5 percent discount to shoppers who present an unemployment compensation check.

But many workers have been unemployed so long they no longer receive those checks. So Levie and members of a special steering committee have developed an identification card system.

The card would be issued to anyone who was working in Waukesha County or lived in Waukesha County when he was laid off. To establish proof, the unemployed worker must produce one of three forms:

A Wisconsin Job Service card.

An unemployment card.

Employer verification from the last place of employment.

To ensure that people do not take advantage of the discount unfairly, unemployed workers have to register for the card every two months.

The key to making the program work now, said Levie, is to enlist the cooperation of merchants. The Waukesha Chamber of Commerce, which is prohibited from making endorsements, has given the plan a great deal of publicity in its newsletters.

"We have open communications with the Chamber," Levie said. "They've been more than cooperative in helping (draft) guidelines that are acceptable to merchants."

Although the Super Valu promotion offers 5 percent discounts, Levie said the size of the discount would be up to the participating business. For example, a barber may want to offer 50 cents or $1 off the price of a haircut.

The focus now, he said, is on essential services: food, car repairs, pharmacies and the like.

With time and luck, said Doug Stone of the Coalition of Organized Labor—which is administering the program—the discount could expand to include health services.

Stone is also on indefinite layoff from Waukesha Engine and a member of Local 1377, as is Al Bethke.

Bethke said until the program gains momentum, there will be some difficulty recruiting merchants to get involved.

"Some people, they don't give a hoot," Bethke said. "When things are bad, they should bend the rules. Help the community out."

From June 1-7, members of the coalition will be canvassing businesses seeking their help. Levie said merchants interested should write him at 1726 S. West Ave. or call 542-7395 to find out more about the program.

During the sign-up week, a group of volunteers and unemployed workers will be working a bank of telephones to take registrations and answer questions.

The discount program is expected to begin in earnest June 7.

DISCOUNT PROGRAM FOR JOBLESS GROWS

(By Karen K. Litscher)

About 34 businesses have agreed to offer discounts to Waukesha County's unemployed according to the program's coordinator.

"We are thrilled with the response," said Al Levie of the Unemployed Discount Program. "Some businesses have even called us and asked to take part in the program."

Levie said the group had contacted about 140 businesses between Tuesday morning and Thursday night.

"We have received very few hard and fast no's," said Levie, who is laid off from his Waukesha Engine job.

"Some businesses had more of a 'wait and see' attitude because, understandably, they are strapped financially too and they want to see how well the program is received by other merchants."

Levie said the goal of the program is to provide discounts for as many services as possible. Organizers this week have focused on businesses that provide essential services, but other businesses and professionals will be approached as the program continues.

Businesses that have agreed to participate in the discount program include groceries, clothing stores, shoe stores, pharmacies, doctors, hardware and lumber stores, auto repair and parts stores, a barber shop, a beauty salon, a major appliance store and the *Freeman*.

Discounts offered by businesses will range from 5 percent to 20 percent, Levie said.

"Just because we haven't approached a business doesn't mean we don't want their participation. We'll be soliciting (for participants) as long as the program continues," he added.

Levie said labor and church groups in Racine and Milwaukee have called him for advice on starting similar discount programs in those areas.

To receive the discount, the unemployed person must obtain an identification card. Anyone who was working in Waukesha County or lived in Waukesha County when he was laid off is eligible for the card.

Cards are available at 1726 S. West Ave., located next to the International Machinists and Aerospace Workers Local 1377 office.

To obtain a card, the jobless person must establish proof by presenting one of the following: a Wisconsin Job Service card, an unemployment card or some type of employer verification, such as a layoff notice, from the last place of employment.

A sign with the program's new symbol will be posted in the window of each participating business.

To decrease the possibility of people unfairly taking advantage of the discount, the unemployed person must reapply for the card every two months.

The color of the cards and the signs in business windows will also be changed every two months.

The office of the Unemployed Discount Program will be open from 10 a.m. to 4 p.m. Monday through next Friday. Starting June 15, the office will be open 10 a.m. to 2 p.m. Tuesdays, Wednesdays and Thursdays.●

PLIGHT OF TATYANA ULANOVSKY

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JAMES K. COYNE. Mr. Speaker, I would like to call to your attention, and to the attention of my colleagues, the plight of Tatyana Ulanovsky, a 55-year-old woman, and her ailing mother, Raisa Cherches. These women have been denied permission to leave Russia and be reunited with their only living relative, Tatyana's son Lev, in Israel. An electronic engineer, Tatyana has been unemployed since she applied to emigrate in December 1980. Suffering from chronic ulcers of both legs, her 81-year-old mother requires constant care and lives with Tatyana. They have no more living relatives in the U.S.S.R. but were refused permission for lack of "any sufficient reason to emigrate."

Tatyana Ulanovsky and her mother have a clear reason and desire to emigrate and join Lev Ulanovsky in Israel. We, as free individuals, must speak out for those less fortunate individuals suffering senseless harassment and bureaucratic persecution in the Soviet Union. Not only are those who apply to emigrate denied permission to leave the Soviet Union, but upon application, they lose jobs, opportunities for education and housing, and must face personal indignities, arrests, and often imprisonment.

We are currently witnessing the sharpest decline in Jewish emigration from the Soviet Union since it effectively began in 1971. A comparison of today's emigration statistics with those from 3 years ago reveals a shocking 96-percent decline in Jewish emigration from the Soviet Union. Only 9,447 Soviet Jews were permitted to emigrate last year as compared to 51,320 in 1979. Last month alone, a mere 86 Soviet Jews arrived in Vienna with Israeli visas compared to the 4,068 who received visas in July of 1979. Hebrew teachers and Jewish activists have been experiencing an increased number of searches, seizures, and arrests—systematic harassment aimed at the eventual breakdown of the Jewish community in the Soviet Union.

We, as free individuals, cannot tolerate such violations of others human rights and personal freedoms.●

PROBLEM IN STUDENT AID

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SIMON. Mr. Speaker, Members of the House, today I am introducing a bill to resolve a longstanding problem in the student aid area. The basic problem is the failure of the Department of Education (DOE) and its predecessor the Department of Health, Education, and Welfare (HEW) to timely publish the Pell Grant Family Contribution Schedule. The Pell Grant Family Contribution Schedule

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is the essential regulation governing the Pell grant (or basic grant) program. It establishes the mechanism for evaluating family income and assets to determine student eligibility and size of the award. Without an "approved" family contribution schedule, the processing systems cannot function and awards cannot be made to eligible low- and middle-income students. In addition, in Illinois our State scholarships are tied into the same processing system as the Pell grant program. When the Pell grant processing does not function in a timely fashion, low-income Illinois students pay twice.

The problem of delays in submitting the family contribution schedule has existed throughout my service in the House as a member on the Subcommittee on Postsecondary Education. Despite a series of legislative attempts to allow time for publication of a proposed rule for public comment on the proposal for Secretarial review of the comments and publication of a final regulation, followed by congressional review—the Department has consistently failed to comply with the law. This year is no exception.

On August 2, 1982, the Department of Education published (in alternate form) two schedules in the Federal Register. The August 2 publication date comes 4 months (or 124 days) after the statutory deadline for submission of a proposed rule, and 33 days after the final rule was due to be published. This year's experience is not atypical, however, for example:

The 1981-82 schedule, which should have been published as a proposed rule on July 1, 1980, and finalized on October 1, 1980, was not published as a final rule until January 19, 1981, by the Carter administration. The Reagan administration withdrew the final rule, modified it, and republished it on March 13, 1981. The resulting impasse over the modified schedule delayed Pell grant awards to more than 1 million students for up to 3 months.

The Department also failed to meet the July 1, 1981, publication date last year. In light of the pending budget reconciliation bill, it was agreed that the Secretary could delay submission of an academic year 1982–83 schedule until 30 days after Congress completed work on the Omnibus Budget Reconciliation Act. The Department still failed to keep its commitment to Congress and to needy students. A schedule was published on October 16, 1981, more than 1 month late. The Senate rejected that schedule on December 10, 1981, and the Secretary transmitted a revised schedule on December 30, 1981—90 days after the statutory deadline and 110 days after the date agreed upon with the chairman and ranking minority members of the responsible authorizing committees.

The family contribution schedule was, in the 1970's routinely published for public comment and submitted for congressional review. Although the subcommittee has frequently concerned itself with policy differences with the Department, the timely submission of the proposed and final schedules was not a problem. This is no longer the case and the Congress has found it necessary to advance the date for public comment and congressional review, and specify Congress role in insuring that the intent of Congress and not that of Department regulation writers or OMB budget cutters are carried out.

The legislation I am introducing today is necessary in order to provide a failsafe mechanism for providing Pell grants when the Department fails to abide by the law. The bill provides for a statutory family contribution schedule for 1983–84, similar to the 1982–83 schedule. It also provides for use of an updated 1983–84 schedule in academic year 1984–85, if the Secretary fails to timely publish the 1984–85 family contribution schedule. This legislation, which is supported by all members of the subcommittee—Republican and Democratic—is justified because:

First. The repeated failure of the Department of Education to establish Pell grant family contribution schedules under title IV of the Higher Education Act of 1965 in a timely and lawful manner has resulted in serious disruption to planning by families for financing higher education;

Second. Repeated delays by the Department of Education in submitting such schedules have substantially impaired the ability of Congress to conduct, in a timely manner, necessary oversight of the operation of affected education programs and to take appropriate action to insure that the laws concerned are faithfully executed in a manner consistent with congressional intent;

Third. The schedule most recently proposed as it would apply to the Pell grant program conflicts with the statute from which it derives its authority; and

Fourth. It is necessary for the Congress, by law, to fix the terms and content of the family contribution schedule for academic year 1983–84, and, if the Department again fails to prescribe such schedules in a timely and lawful fashion, for academic year 1984–85.

I hope that many of my colleagues in the House will study this bill carefully, understand the need for its enactment and join me and my colleagues on the subcommittee in sponsoring this legislation.●

COLA REDUCTIONS

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROBERT W. DANIEL, JR. Mr. Speaker, while I did support the conference report on H.R. 6955, the omnibus reconciliation bill, I want to make known my strong objections to the provisions of this legislation which affect cost-of-living adjustments for Federal retirees.

Breaking promises to individuals who spent their careers in public service does not constitute the sort of entitlement reform necessary to make significant reductions in Federal spending. We must maintain our commitment to Federal retirees both out of fairness to them and in order to be able to continue to recruit able people into civil service.●

THE REVEREND PHILIP MAJKA

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEE. Mr. Speaker and honored colleagues, I would like to bring to your attention the following article, written by the Reverend Philip Majka. The subject of this paper is a painting entitled "The Polish Madonna, Our Lady of Czestochowa," whose 600th anniversary will be observed this August 26.

The danger-filled and miraculous history of this painting has made it an important symbol for the Pauline Fathers, who administer to the Madonna. But, there is a much greater significance. This picture has become the focus of adoration for Poles everywhere. I propose today that we give this painting's fascinating story the recognition it so greatly deserves.

I know the substantial Polish constituency in my own central New York district share our interest in this story. I offer it today to the RECORD on behalf of all Americans of Polish ancestry.

BRIGHT MOUNTAIN MADONNA

(By Rev. Philip S. Majka)

The history and legend of Our Lady of Czestochowa, a highly venerated image of the Madonna at the Pauline Fathers' monastery on top of "Bright Mountain" (Jasna Gora) in Poland has a tradition reaching into the early ages of Christianity.

There are many legends mixed with facts concerning this Madonna's fate prior to its appearance on Polish soil in the Fourteenth century, when Prince Wladyslaw of Opole brought it to its present site. When legends get mixed with facts, truth is extremely difficult to unravel. People like to believe in legends. Yet the human mind also desires facts.

Legends are passed from father to son and through the details and words change, there stays a common denominator. According to Polish legend, the Madonna of Czestochowa was painted by St. Luke, the Evangelist. Historians shake their heads. Where then lies the truth?

Christian tradition says that after the death of Christ, Mary, His mother, lived among the Christians in Jerusalem. At that time St. Luke frequented the home of Mary to gather information for his Gospel narrative. Luke was a physician by vocation, and, like St. Paul, became a Christian and disciple of Christ after His death on the cross. The mode of Luke's scriptural writings shows that he was a well educated man, and his highly descriptive literary style indicates that he could also have been an artist or painter. For this reason, the Church in the thirteenth century made him the patron of artists. However, some modern biblical scholars dispute that Luke was a painter.

Legend has it that one day, while visiting Mary's home, St. Luke painted his impression of Mary and Child using a table top for lack of proper canvas. This is supposed to be the first picture of Mary with Child ever painted. The table is said to have been of linden wood by Jesus Himself while still a carpenter, and to have remained in the family home after Jesus' and Josephs' death. After Mary's Assumption the painting supposedly remained in the possession of Christians in Jerusalem until the early part of the Fourth century.

Historians confirm that there did exist a picture of the Virgin with Child in Jerusalem, since Canisius writes that people's desires were satisfied by looking at this image of Mary more so, when unable to visit Her."

It is also an historical fact that in 326 A.D., St. Helena, mother of Constantine the Great, made a pilgrimage to Jerusalem. She returned with many relics from the Holy Land, and among them a picture of the Virgin with Child. The Emperor, after his conversion to Christianity, not only built up the Byzantine Empire, but also erected places of worship for his people.

He also built a church in honor of Mary in his capital city. There, the image his mother brought from the Holy Land was enshrined, and shortly began to be highly venerated.

This was "the Spring of Christianity." The devotions of the people were just starting to form, and the only serious and popular devotion besides the Eucharist Meal was that to Mary, the Mother of God.

Ever since then the veneration of Mary has always ranked high among the faithful. No doubt pious pilgrims from many lands who heard of or saw this image of Mary in Constantinople during those first centuries wanted a replica of it for their own places of worship.

Byzantine art began to develop a century or so after the founding of the Byzantine Empire, and in time icon reproduction (in the East pictures of saints were called "icons") became rather intensive. There were some very rigid rules governing the size, color and figure of the icon. In fact, the actual image of the subject was traced carefully from a master, and then painted. There were many icons uniform in appearance.

Many visitors to Constantinople experienced intense devotion to the Mother of God. She did protect the city in times of civil unrest and war, and both the visitors and enemies found profound meaning in Marian worship. Copies of some variants of this original Constantinople icon were to be found in all sections of Byzantium.

Later, in the Ninth Century, many missionaries carried the Gospel of Christ to the northern regions. No doubt some icons of Mary with Child accompanied them on their journeys.

On Polish soil the devotion to the Holy Virgin is ages old. Historians have established the date of arrival of the image of Mary and Child at "Bright Mountain" near Czestochowa, as August 26, 1382. But the very first religious song of the Poles, "Bogu Rodzica Dziewica" (God's Mother Virgin) has been traced to the early part of the Thirteenth Century—a good hundred years earlier.

Is the image brought to Czestochowa in 1382 the one painted by St. Luke in early Christian times? Could this image have survived the elements of time, wars, invasions, civil unrest, and the Iconoclastic heresy which destroyed many Byzantine icons? This is open to profound thought and maybe Faith.

It has been historically ascertained that an image of Mary and Child was brought from Byzantium to Russia, and that by the middle of the Fourteenth Century it was found highly venerated at the castle of Belź (Belz) near Lwow.

In early 1382 Tartars attacked the castle. A Tartar arrow pierced the Madonna's neck leaving a scar on her throat. Prince Wladyslaw of Opole, who was fighting off the invaders, decided to take the holy painting for safekeeping to his own home at Opole in Upper Silesia. He set off toward the West by carriage.

His journey took him near the town of Czestochowa where he camped overnight on a nearby hill. The next day he intended to resume his journey, but his horses for some reason refused to move. Wladyslaw prayed for Divine guidance and came to the conclusion that it was the Lord's will for the painting to remain there—on "Bright Mountain." It was August 26, 1382.

Soon, the Pauline Fathers who had fled from Hungary also to escape the Tartars, erected on this spot a Shrine to house the Madonna's image and a monastery. Each year, on August 26, the day the horses refused to move with the Madonna, there is a solemn Feast of Our Lady of Czestochowa at Jasna Góra, and hundreds of thousands of pilgrims venerate the Virgin.

A comparative calm settled over "Bright Mountain" Monastery and the Madonna grew in fame. The many worshippers bestowed gifts of silver, gold and precious stones and the painting was encased in an ornate bejeweled metal dress.

In 1430 the calm was broken when the Hussites attacked the area. On the morning of Easter Sunday, April 16, Polish Hussite sympathizers broke into the monastery looking for money. Finding none, the took precious religious art objects. Among these was the famous Madonna. When the men tried to hack the jeweled dress away from the image it fell to the ground and broke into three pieces. Angered at not having found more valuables, they slashed the face of the Madonna twice on the cheek with their swords.

Restoration had to be made and the Pauline monks in 1434 asked King Jagiello for help. The damage was so extensive that the painting had to undergo complete renovation. Tradition claims that it was impossible to remove the scars on the cheek. Perhaps the gashes were too deep and the artists did not know how to repair them, or maybe they were left on purpose.

Pilgrims to the Shrine brought more gifts and jewels to adorn the new dress of the Madonna and Child. It is said that the Polish Queen Jadwiga, Jagiello's wife, herself made Her a gown embroidered with precious stones and gold.

The Monastery was attacked again in the Seventeenth Century by Swedish invaders. After a 40 day seige, the Shrine was saved by a handful of monks led by their heroic Abbot, Augustine Kordecki. (In the Eighteenth Century once more Jasna Góra was attacked, this time by Cossacks. It was successfully defended by Kazimierz Pulaski who later, as a cavalry general, gave his life for American freedom in the Revolutionary War). The 1655 victory over the Swedes at Czestochowa was reguarded by the people as a miracle. And in 1665 King John Casimir proclaimed Mary as Queen of Poland.

A crown was donated by Pope Clement XI in 1717 and that same year Bishop Jan Krzysztof Szembek officiated at the coronation ceremony. In 1909 the priceless crown and dress were stolen and Pope Pius X sent another crown, and a new dress was made by the faithful. In 1910 the Madonna was crowned for the second time by Bishop Stanislaw Zdzitowiecki of Wroclaw.

Devotion to Our Lady of Czestochowa, as the image came to be called, has for centuries given spiritual and moral comfort to the Polish Nation. Jasna Góra, the "Bright Mountain" became the very soul of Poland.

The first miracles connected with this image were recorded in 1430. In a letter to Pope Martin V, King Wladyslaw Jagiello stated that seven miracles had occurred at Jasna Góra, the earliest in 1402. Between that date and the year 1948 there were 1,300 miracles recorded at the Shrine.

Inspecting closely the picture, we see two sets of scars. One at the neck, made by the Tartar arrow in 1382, and two on the face caused by sword slashes in 1440. The face and hands of the Madonna and Child are the only original features showing, and these are dark in color. The dark color was caused by time, changes in paint pigments, varnishes, and smoke from the everburning candles. Thus the painting is often called "The Black Madonna."

The adornments of the painting, such as the crown and dresses, are works of many artisans from many periods and are of great artistic value.

In the United States we now have a counterpart of "Bright Mountain"—the National Shrine of Our Lady of Czestochowa at Doylestown, Pa. near Philadelphia. There, on a high hill overlooking the countryside, stands a Pauline monastery and a modern spired church housing a faithful replica of the Madonna of Czestochowa. Just as in Poland, the Shrine was initiated and is administrated by Pauline Fathers. Every year thousands of Polish Americans visit the New World center of devotion to their beloved Madonna.

What is the significance of Marian devotion? To many of God's children it gives consolation in troubled times. The material image has never been said to have effected miracles. It is only the fervent belief of the people and their prayers to the Mother of God in Heaven that cause their wishes to be answered.

Every Catholic nation has a beloved Shrine to worship at. To us Poles it is the visage of Our Lady of Czestochowa, Queen of Poland.●

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SPEAKER'S COMMISSION ON PAGES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Ms. OAKAR. Mr. Speaker, I wish to commend Representative Bill Alexander, members of the Speaker's commission, and the fine staff for the thoughtful report and recommendations concerning our page system.

There is no question that a page system is valuable—there is also no question that there is a need for reform in many areas including supervision.

My only hope is that we follow through with legislation to implement the fine recommendations of the commission.●

KNOXVILLE HONORS A GOOD SAMARITAN

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DUNCAN. Mr. Speaker, the Volunteer State had long been known for its dedication to the notion of helping one's neighbor. This is how it has built its volunteer reputation throughout the world. Volunteers, however, first need a cause to sign on to, and it takes a special kind of person to provide that cause and give the leadership to encourage others to participate.

Knoxvillians will honor just such a person Sunday night. Mrs. Jessica Bloom is known as "the woman who started just about everything good in Knoxville." Her work over the past 40 years has been to serve her neighbors. She began by founding the Knox County chapter of the American Cancer Society in 1940. Since that time, she has been a founder and active participant in dozens of other organizations.

Sunday night, the Cancer Society will host "A Night To Bloom." This is a fitting tribute to the efforts and warm heart of this woman. Proceeds from this event will go to the American Cancer Society as an indication of the role Mrs. Bloom has played in promoting the Cancer Society in Knox County.

I believe Jessie Bloom has done more good than any other single person in Knoxville. She has been both a Good Samaritan, and dedicated leader in a variety of causes. Her work has prompted an awareness of these causes in Knoxville and prompted the concern of her fellow citizens in cancer and arthritis research, historic preservation, interdenominational cooperation, and the rehabilitation of handicapped and disabled children. Without her work, the people of Knoxville would not be as likely to fulfill their obligation to their brothers in need.

A true Samaritan is one who continues to perform good deeds long after they have taken that first step of charity. Mrs. Bloom has taken that step again and again, and with each new step, she has brought more followers to the aid of the charity. Her organizing abilities and network of aides have made her the premier fundraiser in the area.

Besides the Cancer Society, she has devoted her time and efforts to the Arthritis Foundation, East Tennessee Children's Rehabilitation Center, Pan American League for Christians and Jews, Blount Mansion, and Ramsey House historic sites. Mrs. Bloom was chosen First Lady of Knoxville by Beta Sigma Phi in 1965. She was listed in the Who's Who of American Women in 1967. The Treasury Department has honored her for her role in promoting the sale of U.S. Savings Bonds in Tennessee. Jessica Bloom is an honorary member of the State board for the American Cancer Society. And in recognition of her good works, she has been named a Good Samaritan of Holy Land Christian Mission in Bethlehem. A good deal more could be said of the contributions Mrs. Malcolm Bloom had made, but I think you can see why Knoxvillians have chosen to honor her.

The date of this event has been chosen to coincide with her birthday, August 24, when Jessie Bloom will be 88. This small reward for a lifetime of service, reflects only a portion of the great respect her neighbors hold for her. It does show, however, the unselfish nature of Mrs. Bloom in giving of herself for a cause she supports. I would like to join my neighbors in thanking this dedicated woman for her efforts. She has been a true Samaritan, and a real volunteer.

A FEW FACTS ABOUT GSL'S

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ERLENBORN. Mr. Speaker, on August 4 my good friend from New York, Mr. Peyser, came to this floor to describe the effects of what he called the devastating attack made on students in last year's Budget Reconciliation Act. Mr. Peyser noted, and I quote:

> That attack is having an impact today as estimated by the Congressional Budget Office that over 1 million students in college who were receiving guaranteed student loans are now out of that program and for the lower middle income and poor students, probably over a half million this September will not be able to attend school.

I have tried to verify Mr. Peyser's figures, but have been unable to do so. The Congressional Budget Office was unable to locate a document giving the estimates referred to in Mr. Peyser's speech. Similarly, CBO estimates in my possession flatly disagree with Mr. Peyser's statement.

Mr. Peyser said 1 million students who were receiving guaranteed student loans are now out of the program. CBO figures show that 3.522 million loans were made in the program in fiscal year 1981, which is the fiscal year before last year's changes became effective, and estimates that 3 million loans will be made during fiscal year 1982. Thus the reduction in the number of borrowers between 1981 and 1982 is only 522,000, all of which can be attributed to the requirement that students with adjusted family incomes above $30,000 per year are subjected to a need test for a loan.

Congress enacted GSL changes in 1981 to repeal certain liberalizations made to the program in 1978 which could not be justified either by students' need or in light of the resulting Federal costs. The legislation, enacted in 1978, was the Middle Income Student Assistance Act, or MISAA, which qualified all guaranteed student loans for a Federal interest subsidy, regardless of family income or resources.

At the time the Middle Income Student Assistance Act was considered before the House in 1978, I was concerned that the removal of all income-related criteria for participation in the program was a grave mistake. To correct the overkill in MISAA, I offered an amendment which would have capped program eligibility at $40,000 of adjusted gross family income. Unfortunately, this reasonable and sound amendment was not adopted.

We are now paying the price for the lack of foresight that led to the enactment of MISAA. Congress should have never enacted this extravagant and excessive legislation. Our mistake in passing MISAA is now directly the cause of the continued pressure for legislative changes in the guaranteed student loan program. I submit that if Congress had not enacted MISAA, we would not have before us today the wide variety of proposals to reduce the cost of student loans.

We are now reaping the fruit of the seeds we so recklessly sowed in 1978. Let me review a few of the effects MISAA has had on the program. Simply put, the enactement of MISAA led to an immediate and dramatic expansion of the size of the program. During the period between 1977—immediately before MISAA—and 1981—immediately before the changes made in the Omnibus Reconciliation Act became effective—cumulative outstanding loan volume rose by over 400 percent, and the number of borrowers rose by over 250 percent. Coupled with these increases in participation rates was a steep increase in the interest subsidy paid to lenders resulting from the high cost of money. As a result, Federal program costs rose by over 600 percent from 1977 to 1981—from $357 million to $2.535 billion.

The students who primarily benefited from MISAA and whose eligibility for loans was also either reduced or eliminated by the 1981 amendments were students whose families have annual adjusted gross incomes over $30,000 per year. These students were not made ineligible for GSL's in 1981, but were only required to undergo a need analysis to determine whether a need for a loan existed at all. Thus, as Mr. Peyser fails to point out, those students made ineligible by the 1981 changes are those students who are unable to show any need under this need analysis. These students are predominantly middle to upper income class students attending low to average cost institutions.

Mr. Peyser's figures appear to have come from CBO memorandum issued in letter form to a number of Members. This memorandum includes the estimate that, if no changes had been made in the 1981 Reconciliation Act, the number of GSL borrowers would have risen from the 3.522 million in 1981 to 4 million. The figure of 1 million students can be derived by subtracting the estimated number of 1982 borrowers from the 4 million borrower estimate based on the assumption that no changes were made in the program. This figure of 1 million students is thus something quite different from the "1 million students in college who were receiving guaranteed student loans" that Mr. Peyser has cited.

Regarding Mr. Peyser's other assertion that CBO has estimated that the changes made in student assistance last year will result in over a half million students not being able to attend school, I am told flatly by CBO that no such estimate was made by them. CBO apparently believes such an estimate to be too speculative to make.

Mr. Speaker, I believe all of us have to be cautious in quoting statistics before this body. In a program as important to our country as guaranteed student loans, I believe it is our responsibility not to be spreading misleading or incorrect information.●

THE HONORABLE EDWARD LAUCKERN

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEE. Mr. Speaker, it gives me great pleasure to call to the attention of this House the work of the Honorable Edward Lauckern of Auburn, N.Y.—a man whose accomplishments are many, and a man whose record of service to his community is unparalleled.

During the last 4 years I have had the pleasure of representing the city of Auburn in the Congress of the United States. Throughout those years I was fortunate to have had the pleasure of working with Ed Lauckern on a number of projects in his roles as city councilman, as Cayuga County's deputy director of veterans services, and as a major figure in the Auburn Industrial Development Authority.

Ed has been a tremendously strong advocate on behalf of hundreds of veterans throughout central New York, and I was proud to have worked with him to insure the vets of our area received the benefits they justly deserve.

Ed is active in countless community organizations, and has given long hours to the Easter Seals Society.

Above all, Ed is a man devoted to his family. As the loving father of two children he has the ability to mesh his active community service with his family responsibilities.

It is with great pride that I ask this Congress to recognize the Easter Seals' Citizen of the Year—a fine man and dear friend—Edward Lauckern.●

INFORMATICS IN THE 1980'S: SOME SUGGESTIONS FOR A CONSTRUCTIVE DIALOG

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WIRTH. Mr. Speaker, as chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance, I have argued that the Congress must address the economic and social impacts of the information revolution, and craft public policies that allow these emerging technologies to contribute to greater diversity and accessibility of information.

It is apparent that our current vehicle for dealing with this changing environment, the Communications Act of 1934, is hopelessly obsolete. Legislation I introduced, H.R. 5158, was an attempt at a comprehensive reform of this law.

Mr. Matthew Nimetz, who as Under Secretary of State for Security Assistance, Science and Technology coordinated U.S. international communications policy, recognizes the important public policy consequences of technological advances in the information field. I commend his address before the International Information Industry Conference, "Informatics in the 1980's: Some Suggestions for a Constructive Dialogue", to my colleagues.

It is now commonplace to recognize the so-called "information revolution" not only as an important technological advance, but also as a development with profound economic and social ramifications. This audience needs no lecture on the vast impact of new information systems on our public and private institutions. Yet despite this progress, we have been dilatory on an important front. I want to use this opportunity to call your attention to what I perceive as a serious failure to date: our neglect in educating our political and governmental leaders about these technological advances and in initiating a serious dialogue on their public policy consequences. Rectifying this failure, in my opinion, poses a critical challenge to the private sector.

The scope of the information revolution is vast, as you well know. The development and widespread use of computer technology, combined with the capacity to link computers worldwide through a network of rapid, reliable and inexpensive telecommunication facilities, has touched every facet of our economic, social, political and psychological existence. This development, which we often call international information flow, or informatics, is transforming our industrial methods, financial systems, trading patterns and the structure of transnational companies.

In assessing the effects of informatics, we should look not only at the changes in economic structures, although these are the most obvious, but at social and political developments as well. Modern systems of telecommunications have over the past decades transformed the public media, allowing every family to witness would events firsthand. And now two-way cable systems, which can link our homes with offices, shops, polling booths, universities, data banks or hospitals, will introduce new opportunities, and doubtless new frustrations, into our lives.

World politics have already been transformed by this technology. While the revolution in Iran was based on traditional Islamic principles, its most important weapon was the not-so-traditional cassette tape, on which the exiled Ayatollah's message was recorded, duplicated and widely distributed. The hostage crisis was to a significant extent a media event, and its negotiated resolution would have been impossible without a highly computerized and interlinked banking system able to inventory the relevant accounts and, within minutes, transmit billions of dollars from the U.S. to London to Algiers to effect the agreement.

Although the importance of informatics in daily life is quite extraordinary, most Americans would not recognize the word. Only now are the issues beginning to be understood. A good test of the importance of any subject in American life is the amount of interest taken in it by our elected representatives. In our Congress, communications and information policy was rarely a matter of concern until very recently. As late as 1980, when I supervised this issue within the State Department, with a few notable exceptions, one could scarcely secure 10 minutes of a Congressman's time to discuss U.S. or international communications. This year, however, one of the major bills before Congress is a Telecommunications Bill. And whenever a major policy matter must be resolved in the American system, all three branches of government get involved—our

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Executive develops a policy, our Congress holds hearings and enacts legislation, and our courts decide major cases. This upsurge in popular attention already has contributed to the major restructuring of our largest corporation, AT&T, which promises a restructuring of our entire informatics industry and injects a new issue into our politics. Indeed, one leading Senator has even called for a constitutional amendment addressing electronic communications—the definitive test that an issue is politically "in."

Along with the AT&T settlement and the debate over the Telecommunications Bill, another "event" of the past year should be mentioned—the popularization of the computer. The most sought-after Christmas gift in 1981 was the computer game: Americans paid $1 billion for home video-game consoles. Affluent parents now almost routinely buy their children home computers. At Harvard Law School, a major issue this year is whether computers can be brought into the examination room during an open-book exam. Today a significant percentage of young people learn, enjoy and feel comfortable with computer technology.

Where in New York City do people tend to congregate these days? The traditional gathering places—the church, club, cafe or dance hall—find themselves under increasing competition from computer related establishments. The young people—and some not so young—meet at the growing number of computer-game arcades, spending $5 billion in the process. We should recognize that these arcades are offering a new form of entertainment, perhaps a new addiction, whatever we might think of their social or moral qualities. More serious adults, for their part, can go, not to computer-game arcades but to money-dispensing machines, convenient and efficient computer-driven instruments that are blossoming in our cities and transforming daily life. Not only do they permit one to perform financial transactions almost anywhere 24 hours a day, but the local dispensing machine often becomes a mini-community center to meet a friend, make a new acquaintance, affix a notice, or pick up neighborhood news. And for some users the bank's computer itself can have a therapeutic effect as well: in a large and often forbidding city, it welcomes you, recognizes you, knows a great deal about you, and is generally responsive.

Each of you can readily name a dozen or more additional changes in our daily routine caused by this technology. And I have purposely not mentioned the most obvious transformation of all—because you know it so well—the introduction of advanced information systems into the office, factory, retail establishment and other place of work.

I have of course exaggerated somewhat in my remarks—and dwelled perhaps too long on these maters—because I think it clear that the informatics revolution is an important one, affecting all aspects of economic and social life—even the very concept of literacy. Despite this pervasive impact, however, our policymakers know little about it. Whether out of indifference, intellectual fear or plain ignorance, they at best only dimly understand the current level of technology, much less where the technology is headed. Most of our governmental officials in positions to make decisions are of a generation whose education was untouched by computers and information technology. And yet these same policymakers are being asked to address fundamental issues with important consequences:

Which industries are being strengthened and which weakened by the growth of information technology? How will our universities be affected, indeed how will our primary and secondary schools, and libraries, be transformed? Does this technology make economic centralization inevitable, or will the flexibility and low cost of micro-computers lead in many cases to a greater ability to decentralize? Will informatics cause certain regions—or countries—to prosper at the expense of others? Will it further entrench the dominance of the largest cultures and languages—particularly English—or can its very neutrality, universality and versatility help to bolster the cultures and economies of dynamic but smaller nations with unique languages and alphabets? Will the establishment of a world information network assist the developing countries by making them active participants in the world economy, or will it risk widening the gap between the developed and less developed nations? Are countries rendered more vulnerable if data about their citizens is stored or processed abroad, or is this fear the product of fantasies about an autarkic world that could not exist even in medieval days, let alone today. Does informatics harbor real social risks, or is the technology essentially benign? Are decisions made in the informatics area likely to undermine protections for free speech and press? As we move to digitalization of all communications, how can we distinguish between different types of communications, and should we even contemplate making such distinctions even if technically possible? What will be the effect of informatics on traditional concepts of property rights and other legal relationships? How can our trading regime under the GATT cope with non-tariff barriers in this field as they affect services as well as goods? Is the procedure for developing technical standards something traditionally left to professional experts likely to foster undue rigidity which will effectively limit advances in the state of the art and impose a set of troublesome trade barriers?

How do we begin to answer these questions? Are our political leaders sufficiently informed even to understand the questions, let alone to deal with them substantively on a timely basis? Based on several years experience in both the public and private sectors, I come to four basic conclusions:

First, information based technology not only is here to stay, but is developing so fast and in so many ways, and its current uses are so varied and incipient, that even the wisest among us cannot foresee with any detail the path its future will take.

Second, government will have to play a major role in shaping the development of informatics. But sound policies must be cautious and flexible, not dogmatic. Some people think government is weak when it admits inadequate knowledge and a lack of clear direction. But when benefits and burdens are not capable of adequate analysis, much less precise balancing, it is an act of statesmanship to exercise self-restraint and permit positions to modify in light of experience.

Third, the private sector in the U.S. and other nations must devote greater efforts to educate and work with officials responsible for public policy affecting informatics. As a former government official with responsibilities in this field, I can attest to our lack of information, the inadequcy of our governmental structures, and the sporadic and unstructured nature of consultations between government and the private sector. The situation may be somewhat different in countries where the government operates telecommunications facilities and has a tradition of giving stronger direction to industry, but even there I suspect that policymakers are not adequately exposed to the breadth of these issues. Remedying this deficiency of knowledge is made more difficult by the lack of direct exposure to the world of informatics in even its simpler forms on the part of most government policymakers. This inexperience with informatics leaves many public servants uncomfortable with what they fear will be an abstruse, technical exercise, or, at the other extreme, encourages them to seek prematurely to expound and implement comprehensive theories after only superficial exposure.

Fourth, at the international level, we must commence a serious, long-term dialogue on these subjects, paying particular attention that both the substance and form of the dialogue remains flexible. I cannot accept the view that the principle of "free flow" is the beginning and end of discussion. As an advocate of "free flow," I take it to be a guiding principle, an important and basic presumption, but not a magic incantation that by itself establishes policies. Neither do I believe that information-flow and telecommunications issues should be debated, as we do the law of the sea, in one comprehensive negotiation. Information flow is not a single subject, but a set of related issues, a cluster of topics. For the foreseeable future, I believe we would do better to address on a formal governmental level only the parts that are more maturely developed and more susceptible of at least tentative solution.

Since the need for dialogue is perhaps the most important challenge we face, let me elaborate on the main elements of this dialogue, as I see it developing.

First, within each of our countries, the information industry must make a greater effort to discuss these issues with academic thinkers, government officials and other concerned members of the private sector. I want to highlight the inadequacy of dialogue within the private sector itself, particularly between the information industry, which concerns itself with "data-flow," the telecommunications industry, which concerns itself with "communications," the mass media, which concerns itself with "free press issues," and users, who rely on all this but rarely reflect on the threats and impediments to the development of a sound informatics system. A dialogue among these and other private sector groups, together with interested parties in universities and government officials, would do a great deal in each of our countries to prevent adoption of unworkable or perverse policies.

Second, an international dialogue is required among the industrialized states, perhaps centered in the OECD, but also in the GATT, WIPO, ITU, CCITT and to some extent in NATO. Here the private sector should also play an active and constructive role. Those of us who value a free society and an advanced market economy should find ways to humanize basic policies in informatics. The trade issues involved in particular are not easy to solve, given the perceived risks of harm that mark today's jittery economic and political structure. Witness as an example the misconceived provisions on "reciprocity" that were proposed for the telecommunications and information industries in our Congress a few months ago, and are still being pursued in our country.

Third, a serious dialogue between the industrialized states and the less developed states is overdue in this field. I do not consider the rhetorical duels that take place under the UNESCO umbrella to be a serious endeavor. All sides must bear some responsibility for the present situation. It should be clear that the Western countries are not going to debate our commitment to free press principles in an international forum. But we would be foolish if we believed that, beneath the grandiose and often offensive rhetoric, there are no legitimate issues to be addressed. Moreover, no single group of nations has a monopoly on foolish and self-defeating policies. The United States' development assistance programs put almost no resources into this vital field; when I tried to promote a change in orientation a few years ago, I was told that our AID programs focus exclusively on basic human needs, and that communications is not considered to fit under that heading.

A final word about the type of national and international dialogue I am advocating. I envision this process as one to be pursued over years, even decades. Discussions will take place in a variety of forums, from international organizations to trade associations to less formal groupings. I am not concerned about the passage of time, because for the most part I believe that time and greater familiarity will be conducive to sounder policies. It will be important not only to recognize interconnections between issues, but also to distinguish differences, and to separate out when possible those issues that are more amendable to initial consensus. Finally, a dialogue is not the same thing as a negotiation. There is often a need for negotiation—bilateral or multilateral—and we should not shrink from such negotiations when issues are ripe and participants and forums are defined. But just now I believe that self-education, and the education of our political leaders, about the dimensions and development of our information-based societies is the paramount challenge facing us. Those of us in the private sector concerned with this issue would be well served to use greater initiative in pursuing this long-term strategy.●

COAST TO COAST IN AN ANTIQUE CAR POINTS OUT NEED FOR ROAD IMPROVEMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEHMAN. Mr. Speaker, one of my constituents, Mr. Bob Lewin, recently completed a coast-to-coast automobile trip in a 1914 Buick.

It seems that more and more people are yearning for the good old days when life was less complicated, but most people do not actually live out an experience in the past as Bob Lewin has done. Traveling with a group of fellow antique carowners, Bob drove through mountains and deserts from Pebble Beach, Calif., to Jekyll Island, Ga.

While he knew that old-fashioned cars would not be as comfortable as modern vehicles, Bob was amazed by the poor condition of many of our secondary roads. He has told me of some of his experiences and confirmed my strong belief that we have got to improve our Nation's infrastructure. We cannot allow all the roads and bridges, that we worked so hard to build, to become unsafe and unusable.

Mr. Speaker, I would like to include in the RECORD an article that appeared in the Neighbors section of the Miami Herald about Bob Lewin's trip.

The article follows:

[From the Miami Herald]

1914 BUICK GOES COAST TO COAST

(By Lisa Getter)

Robert Lewin—the 66-year-old owner of a 68-year-old Buick—has returned from his recent road rally for relics.

Not only did he finish the 3,600-mile trip in one piece, but he ended with a perfect score and a plaque to prove it.

The 32-day transcontinental trek from Pebble Beach, Calif., to Jekyll Island, Ga., ended July 23.

Sponsored by the Veteran Motor Club Cars of America, the group of 56 antique car owners hobbled at speeds of 35 miles per hour through mountains, deserts, oil fields and small towns.

Lewin, also known by his CB radio handle as Rapid Robert, was one of 13 car-owners to chug into every checkpoint on time.

"We knew it would be an adventure," said the Miami Shores real estate appraiser. "It was more of a pleasure because the car ran so well. That's the bottom line."

Each car was awarded 1,000 points to start. Drivers earned an additional 100 points for each year their car was older than 1914, the minimum year for eligibility.

They lost 100 points each time the car was pulled, pushed, trailered, towed, or late to a checkpoint.

Lewin's 1914 Buick, nicknamed Flintstone after the television show about the stone-age family, never lost a point. The car used only a half gallon of water and no extra oil.

"All the other cars boiled. They looked like steam engines," he said. "It never even got to normal. Everyone marveled. A lot of people looked to see if I had a hidden radiator."

The Buick wasn't without its problems. But mechanics along the route repaired whatever problems he ran into—and the fees were usually free. A ride in the car, a peek at the engine, a request for a postcard—that was payment.

Going down 10,000 feet by Tioga Pass in California was the trip's most terrifying drive. Lewin's car hit 40 miles per hour, the high speed breaking its ignition points. Another car lost a wheel; another lost its brakes.

The first half of the trip was so cold that Lewin had to buy two pairs of thermal underwear and gloves. He picnicked by the side of the road in Yosemite Park, washing his hands with water and snow.

But restoration hour, otherwise known as happy hour, saved the days. "We restored ourselves," Lewin said.

He said the trip taught him one thing: "The United States has its priorities and our roads are going to hell. They were horrible."

The trip, including shipping the car to California, motels, food and entry fees, cost Lewin about $14,000. "That's a lot of money to win a $50 plaque," he said.●

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Friday, August 20, 1982*

(Legislative day of Tuesday, August 17, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JAMES ABDNOR, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Father in Heaven, the Senators and their staffs have come through a very difficult period physically and emotionally. Their bodies and minds need refreshing and renewal. Their families need to have time with them and they need time with their families. May the Labor Day recess provide the respite required to prepare them for the work remaining when they return to finish this session.

Some will be busy in their campaigns for reelection. Others will be responding to various requests and needs of their constituents. Give them wisdom in allocating time for their families, rest and play. Some will be traveling. Protect them as they go and return them safely to home and work. We ask this in the name of Him who promises to keep our "going out and coming in from this time forth and forever."—Psalm 121: 8. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 20, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JAMES ABDNOR, a Senator from the State of South Dakota, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. **ABDNOR** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the Journal of the Proceedings of the Senate be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. **STEVENS**. Mr. President, it is the intention of the leadership to turn as quickly as possible to the supplemental appropriations bill conference report. We are hopeful that a time agreement will be worked out so that all Members will know how long it will be before this matter is disposed of.

After the disposition of the conference report, we will then resume consideration of the debt ceiling bill.

EXPRESSION OF APPRECIATION

On behalf of the leadership, I wish to thank all Members of the Senate for their cooperation in disposing of the items on the must list that was presented to the Senate by the majority leader some weeks ago. We have completed the constitutional amendment to balance the budget, the tax bill, the reconciliation bill, and the immigration bill.

Today we hope to dispose of the supplemental appropriations conference report. That will complete the work on the list set forth as a prerequisite to our being able to recess simultaneously with the House. The House will go out today. We hope to take up the recess resolution today.

It is my intention, Mr. President, to be on board a plane on its way to Alaska by at least 5:40 this evening. So I hope all Members would understand that those of us who are going far away have probably one plane to make today that would allow us to make it home. That is the case with me, and I know that other Members from the West would appreciate the cooperation of the rest of the Senate in allowing us to make the reservations we have because they are very difficult to get.

We have a lot of work to do when we come back in September. We have to discover how to dispose of 13 separate appropriations bills in a period of 3½ weeks and complete the work of the Senate on other matters. It will be a very busy period.

Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. **STEVENS**. Mr. President, I ask unanimous consent that the time of the two leaders be reserved for their personal use through the remainder of the day.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

A TRIBUTE TO DEDICATED PUBLIC SERVANTS

Mr. **BAKER**. Mr. President, in 1972, a member of the U.S. Olympic Team remarked to a reporter that one of the most rewarding aspects of his involvement in the Olympic games was the opportunity to compete along side, instead of against, fellow Americans from colleges across the country. Ath-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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letes that were once the opposition had become teammates, and it was that transition that reminded him of the fact that despite circumstances that occasionally necessitated divisiveness, Americans are actually always on the same team, working for the same ideals and fighting for the same dreams.

I thought about that observation yesterday evening as I watched and listened to Speaker O'NEILL's Remarks to his colleagues before the vote on the tax bill conference report. Mr. President, the Speaker's words yesterday were words that could only be delivered by an astute politician and a dedicated public servant. It was a speech divorced from traditionally partisan ploys, and one that embraced the very essence of legislative craftmanship.

Speaker O'NEILL and I do not always play along side each other, but I believe that we never forget that we are on the same team. He gave a forceful and historic speech, and I want to once again thank him for his essential support in getting the conference report adopted.

I would also like to take this opportunity to commend the Republican leader in the House, Congressman MICHEL for is efforts and leadership throughout the tax debate. Congressman MICHEL has become an architect of numerous impressive victories in the House, and he is above all, a trusted partner in bicameral relations.

Here in the Senate, it is obvious to me, as it should be to everyone, that the distinguished chairman of the Finance Committee, Senator DOLE, proved to be invaluable to this new chapter in economic policy. His tireless devotion, throughout seemingly endless hours of committee and conference work, provided both Chambers with one of the most important pieces of legislation we have considered all year.

Congress approval of the Tax Equity and Fiscal Responsibility Act completes an important stage of the budget cycle. I am confident that our experiences from this cycle will benefit our deliberations during the following one. As always, the distinguished chairman of the Budget Committee, Senator DOMENICI, will be at the fulcrum of Senate action. Senator DOMENICI, has constructed a most impressive track record with regard to the overall budget process, and I am sure that I speak for my colleagues when I say we are fortunate to have his expertise.

UNEMPLOYMENT COMPENSATION

Mr. ROBERT C. BYRD. Mr. President, the conference committee agreement on the supplemental appropriations bill, H.R. 6863, permits funding of additional unemployment compensation supplemental benefits for those workers who have exhausted their rights to any extended unemployment compensation under the Federal-State Extended Compensation Act of 1977.

I introduced legislation, S. 2542, to provide for an extended unemployment benefits program, and I testified before the Senate Finance Committee in support of extending these benefits.

The Senate agreed to an amendment to the Omnibus Budget Reconciliation Act to urge the Senate conferees on the tax bill to include in their conference report, language creating a supplemental unemployment benefits program for those who have exhausted all other such benefits for which they are eligible and to insure that those States which have triggered off the extended benefits program will be reinstated.

Unemployment is at an alltime high since World War II. In July, 9.8 percent of the work force was unemployed; this translates to approximately 10.8 million people looking for work.

I have heard from many West Virginians who are now unemployed and have exhausted their benefits under the existing extended compensation program. These people have worked continuously through their adult working years and are struggling to raise families. Unemployment is not a respecter of age or background—it has affected the young married man just getting started, the middle-aged worker with growing children, as well as the man who has a few short years for retirement. These people have worked hard and in the American tradition have contributed to America's productivity. These unemployed workers are now finding themselves, because they are unable to find employment, in a position of having to sell or lose everything they have worked to achieve over the years. They are not unemployed because they are afraid of hard work or because they do not want to work—they are unemployed because of the recession and because they cannot find other jobs.

They are not asking for a handout, they are looking for work. In the depressed labor market, we are finding more and more instances of people looking for work and being turned away.

This is what is happening in West Virginia—I am sure that every Senator here whose State is experiencing high rates of unemployment will have a similar story to tell. Through no fault of their own, many American workers are without a job and have no immediate chance of finding another.

The funding provided in the supplemental appropriations bill will help these individuals during this time of recession. This is not a new approach. It has been done before in periods of recession—in 1971 and in 1974. Unemployment rates are even higher now than then.

Mr. President, clearly we must provide these benefits now. To do less would not be in the best interest of the country or its workers.

THE SETTLEMENT IN LEBANON

Mr. ROBERT C. BYRD. Mr. President, it is with a sense of relief that we all welcome the agreement in Lebanon leading to the withdrawal of the PLO from Beirut. This has been a most welcome development.

It is also a time to pay special tribute to Philip Habib, whose patient and skillful negotiations made this all possible. Called out of retirement from the Foreign Service by President Reagan last year to defuse an earlier crisis in Lebanon, Phil Habib has rendered yeoman service on behalf of his country.

The negotiations were among the most difficult and complex ever undertaken by a diplomat. But Phil Habib persevered. What is particularly impressive about Ambassador Habib's efforts is the fact that he retired from the Foreign Service after suffering a serious heart attack. Yet, even though there were physical risks facing him, he still refused to give up.

This is just the first step in returning Lebanon to the Lebanese. But it is an important first step. Both Phil Habib, and President Reagan who gave his special negotiator his full backing, deserve our gratitude and appreciation for accomplishing this impressive diplomatic breakthrough.

Mr. President, I ask unanimous consent that the editorial in today's New York Times commending the efforts of Phil Habib be printed in the RECORD.

[From the New York Times, Aug. 20, 1982]

THE P.L.O., UNDER THE RUG

Last May the Foreign Service presented Philip Habib with its Director General's Cup, an engraved bowl celebrating his rough-hewn tenacity and accomplishment as a diplomat. Today the world owes him at least as much. Two momentous accomplishments are at hand.

After almost 11 weeks, the bloody battering of Lebanon can now stop. Starting Saturday, the P.L.O. fighters who have held west Beirut hostage will finally evacuate without goading the Israeli attackers into ferocious house-to-house fighting that would have vastly increased the carnage.

After seven years Lebanon can have its capital back, just as its presidential selection process begins. Parts of Beirut are rubble. Armed Syrian, Israeli and even P.L.O. forces remain in other parts of the country. A peacekeeping force of Americans, Italians and French will be around for perhaps a few months. But the capital city will be wholly in Lebanese hands.

Full credit belongs to Mr. Habib and to the President who backed him. The P.L.O. seems to be withdrawing without having won any more formal acceptance from the United States. Further, the outcome shows that Ariel Sharon, the blunt Israeli Defense Minister, was wrong and President Reagan right to see that lifting the siege of west Beirut required a reliable cease-fire and not more divebombers. Some credit belongs to the Israeli Cabinet for belatedly recognizing the point and holding General Sharon back.

There is no question that the Israeli offensive has gutted the P.L.O. for years as a military force. There is also no question that the P.L.O. received a devastating political blow from its Arab brothers: not one Arab country offered to help. It took weeks even to arrange haven for the departing P.L.O. fighters. What remains unclear is how heavy a political price Israel will pay for its military gains.

That question must now be asked in the context of the bitter problems that remain. How, for instance, can the withdrawal of all foreign forces—Syrian, Israeli and P.L.O. outside Beirut—be negotiated? What can be done to reconstitute the Lebanese Government? Above all, how can Israel be brought to accept the reality of the Palestinians? Force of arms can, for the moment, sweep the P.L.O. under rugs in Jordan, Tunisia or Syria. But Palestinian aspirations, now more intense than ever, will not be so readily quenched.

There will be time enough to wrestle with such longer, larger torments. For the moment, it is enough to celebrate the peace already seeping back through the broken streets of west Beirut.

EDUCATION FOR THE HANDICAPPED

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the conference committee agreement on the supplemental appropriations bill for fiscal year 1982 retains the language adopted by the Senate, which I supported, to prohibit the Department of Education from implementing changes in the existing regulations for the education for all Handicapped Children Act of 1975, until 45 days after the 97th Congress reconvenes sine die or until the 98th Congress convenes in January.

Earlier this year I joined with a number of my Senate colleagues in sending a letter to the President to urge full funding for Public Law 94-142 and to urge that no changes be made in the statute which would dilute the effectiveness of the existing law. Despite this action, the Department of Education has issued proposed regulations which would weaken existing law.

Prior to the enactment of Public Law 94-142, educational opportunities for the handicapped were not provided in many States. Many times parents of special children met with a brick wall in trying to find an appropriate education for their child. The choices were limited—institutionalization or if you were fortunate enough to find a private school or institution, the cost was prohibitive.

With the enactment of Public Law 94-142 in 1975, a Federal mandate was provided for a free appropriate public education for the handicapped. Since enactment of this law, handicapped children have been brought into the mainstream of American life and have been provided with an opportunity to become self-sufficient. Only those who have borne the responsiblitity of caring for a handicapped child can truly know the frustration and joys of these children. The courage of the handicapped should be an example to us all. They struggle against great odds—their battles are hard fought and hard won. Great strides have been made in recent years, and I do not feel that any changes should be made in existing law until the Congress has had an opportunity to review proposals to insure that these educational opportunities remain available. Adoption of this language by the Senate and the conferees sends a message to the President and the Department of Education that Congress remains firm on this issue.

SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on H.R. 6863 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 13, 1982, page H5912).

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GOLDWATER. Is the conference report now open to amendment?

The ACTING PRESIDENT pro tempore. The conference report is not open for amendment.

Mr. STEVENS. Mr. President, if I may state to my good friend from Arizona, we are waiting for the managers of the bill. When they arrive, the Senate will proceed, I believe, to approve the conference report. After that time, matters such as the Senator from Arizona has could be raised in connection with an amendment in disagreement.

Mr. GOLDWATER. Can the Senator give me some idea of what time these people might get to work?

Mr. STEVENS. Well, they live on Yankee time. We cannot keep up with them. They are from the East and from the West. There is a little difference in the time. I could not answer the question directly. I am sorry.

Mr. GOLDWATER. We were told that the Senate would open at 9 a.m. and that there was great anxiety on the part of both the majority and the minority leaders to get out of here. Consequently, I got up quite early, prepared myself for the day, and got down here. Now I find there are bankers' hours being kept. I could have slept another hour.

I would like to know when the Senate is going to get to work on time. I am going to have to start running on Greenwich time because we do not do things in the morning that we say we are going to do the night before. Maybe Members are so busy that they cannot get here on time. I have my doubts. I would like to know sometime that I could get here at the opening hour and things would be ready to go. It used to be that way, but it has not been for a long time.

I do not say I am tired of it. I am just getting upset. If 9 o'clock means 10 o'clock, I will set my clock back. We will get on Alaska time. That is even better.

Mr. STEVENS. I might point out to my good friend that in Alaska it is 20 minutes after 4 in the morning.

Mr. GOLDWATER. Well, we might as well go in at that time, knowing that we are open at 10. Then we will all have a good idea. I have been waiting around here with a little old amendment for a long time.

Mr. STEVENS. That is one of the reasons I would like to get on that plane this afternoon because when I get up tomorrow morning to go to a State park dedication at 7 o'clock, it is going to be a little difficult. I would like to see us finish our work.

I agree with the Senator, I might say, but why do we not finish this dialog over a cup of coffee and save the taxpayers some money.

Mr. GOLDWATER. I do not drink coffee and it is too early in the day for what I do drink. [Laughter.]

Mr. STEVENS. I might say to the distinguished Senator he has talked me out of drinking coffee.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending matter be temporarily set aside for the purpose of having routine morning business during which Senators may speak, not to extend beyond the hour of 10 a.m. or at the time when the distinguished chairman of the Appropriations Committee, the senior Senator from Oregon, wishes to commence consideration of this conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO FORMER U.S. SENATOR THRUSTON B. MORTON OF KENTUCKY

Mr. THURMOND. Mr. President, on Saturday, August 14, 1982, Thruston B. Morton, a former Assistant Secretary of State, Congressman, and colleague in the U.S. Senate, passed away at the age of 74 at his home in Louisville, Ky. To his devoted wife, children, family, and friends I extend my deepest sympathy.

Without question, the State of Kentucky and our Nation has experienced a great loss in the passing of this man.

His contributions have made their mark in both Houses of Congress, as well as in the administrative branch of Government. His 6 years of dedicated service in the U.S. House of Representatives was a springboard from which Thruston would begin an effective political career. Following his service in the House, he served as a valuable member of the Eisenhower administration as Assistant Secretary of State for Congressional Affairs. Upon completing his duties at the State Department, he was elected to the U.S. Senate, where he served his State and country well in that post for 12 years.

Mr. President, Thruston Morton was a master of parliamentary procedure, which proved to be an important asset for him in his dealings on the Senate floor. He was known as an articulate and well-respected gentleman, whose vast knowledge earned him the admiration of his colleagues, not only within the Republican Party, but in other circles as well.

Thruston was dedicated to serving others. He had a deep love for his country and a strong belief in the good of its people. Though a man with deeply rooted convictions, Thruston Morton remained openminded, and was always fair to those whose beliefs were contrary to his own.

After his political career, Thruston returned to his Kentucky homeland where he became a successful banker. There, in the Bluegrass State, he was able to devote some of his energy to one of his favorite pastimes—horses. His special fondness of horses led him to become involved in the American Horse Council, where he served as president.

Mr. President, when Thruston Morton retired from the Senate in 1969, he was truly missed on Capitol Hill. Now, that sense of loss has been multiplied beyond measure as we mourn his untimely death. He was a dedicated colleague, a skillful diplomat, and a trusted friend. Thruston was a courageous American; a man of great ability and integrity; and an asset to the State of Kentucky and to our Nation. We are saddened by his passing. Yet, we are comforted in knowing that his invaluable contributions will live on.

Mr. President, I ask unanimous consent that an article about Thruston Morton from the August 15, 1982, edition of the Washington Post appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THRUSTON B. MORTON DIES AT 74

Thruston B. Morton, 74, a Kentuckian who was a former assistant secretary of State, congressman, and chairman of the Republican National Committee and served in the Senate from 1957 to 1969, died yesterday in his home in Louisville. He had cancer.

He was a member of the House of Representatives from 1947 to 1953, then spent three years as assistant secretary of State for congressional affairs during the Eisenhower administration. He won the first of two Senate elections in 1956. He retired from the Senate in 1969. He was GOP national chairman from 1959 to 1961.

During his years in Washington, Sen. Morton became a leader of his party's moderate wing. He became better known for his concern about international affairs than as an advocate of the interests of his state. He represented a rural, border state, yet called on the Republican Party not to ally itself with the forces of racial segregation in the South. He attacked leaders in both parties during the urban riots of the late 1960s, saying much of the debate on the riots was "irresponsible."

Urbane, wealthy, and Yale-educated, Sen. Morton could play the patrician or could become a blunt-talking, blunt-acting politician. He gained widespread respect for his parliamentary skills, his party leadership, and his political courage. In 1967, when most persons of his party and state probably supported the war in Southeast Asia, Sen. Morton came out against the Johnson administration's policies. A year later, Sen. Morton called for a halt to our policy of "high-handed interventionism."

Yet his power within his party in the Senate was formidable. He led a rebellion against the then-Senate Republican leader, Everett M. Dirksen of Illinois, urging approval of a U.S.-Soviet consular treaty that Dirksen sought to defeat. Dirksen eventually reversed his stand. He joined Sen. Morton, and a majority of the Senate Republicans in voting for the treaty. The treaty received the two-thirds majority it needed and passed.

By the end of his second term, Sen. Morton was being touted as either the next Republican Senate leader or its 1968 vice-presidential nominee. And although he had faced stiff Senate races in 1956 and again in 1962, he was expected by leaders of both parties to be unbeatable in his 1968 reelection race. It thus came as shock when Sen. Morton announced in February 1968 that he would not seek reelection and was leaving public life.

In a press conference in Louisville on Feb. 23, 1968 officially announcing his retirement, he said he was quitting "for very compelling personal reasons. To use an old Kentucky expression, I suppose I am just plain track sore."

The next day, an editorial in The Post deplored his decision. It said that "At 60, he is alert, vigorous and apparently in tune with the problems of the day. His decision to retire will entail severe losses to the Senate, the country, and the Republican Party. Congress has great need of well-informed men of moderate views who are still capable of vigorous activity."

During his last year in office, Sen. Morton served as cochairman of Nelson A. Rockefeller's unsuccessful bid for the 1968 Republican Presidential nomination. He campaigned for Richard M. Nixon, the party's nominee, during the 1968 general election. Since leaving office, Sen. Morton had been a Louisville Banker and president of the American Horse Council, an association formed to promote the horse industry.

Sen. Morton was a native of Louisville and a 1929 graduate of Yale University. He served with the Navy aboard mine-sweepers and destroyers in the Pacific during World War II. He then became president of the family grain and milling firm. It was sold to Pillsbury in 1951.

He was elected to Congress in 1946, and twice won reelection. He declined to run for reelection in 1952. During his years in the House, he voted for Greek-Turkish aid and the anti-poll tax bill, and opposed cuts in foreign aid. He also opposed the shrill anti-communist cliches that pervaded much of the political dialogue of the time.

He once said, "I think we have a rather myopic view of communism that doesn't help the cause of world peace. I hate communism. I deplore its atheistic qualities and all about it, But I think that if the Russians and ourselves could sit down together like grown men and say we're going to stop wars, why we could do it."

In 1956, he challenged Earle C. Clements for the Senate. Clements was a former governor, the incumbent senator, and was acting Democratic Senate leader at the time of the race. Sen. Morton beat him by a thin margin of 506,903 votes to 499,922.

Sen. Morton was the brother of Rogers C.B. Morton, a former Maryland congressman, secretary of the Interior under President Richard Nixon, and Republican National Chairman, who died in 1979.

Sen. Morton's survivors include his wife, Belle Clay Lyons Morton, two sons, Clay Lyons Morton and T. Ballard Morton Jr., and a sister, Jane Morton Norton, all of Louisville, and five grandchildren.

TRIBUTE TO MARGARET CLAIRE KELLY HAMRICK OF CHARLESTON, SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mrs. Margaret Claire Kelly Hamrick, a fine lady from my home State of South Carolina, who recently passed away. Mrs. Hamrick participated in a wide range of civic and church activities, which helped to make her State a better place in which to live. I want to formally recognize those accomplishments at this time.

Margaret Hamrick, wife of Dr. John Hamrick, president and founder of Baptist College in Charleston, S.C., was often referred to as "the first lady" of Baptist College. She exemplified charm and grace in her role as first lady of the College. She was never far from the center of activities of her husband's ministry, and she played an important role in the founding of Baptist College.

For many years, Mrs. Hamrick taught English and Bible in the First Baptist Church Day School, an institution she was instrumental in founding. Because of her devotion to others and her dedicated work, Margaret Hamrick was the 1974 recipient of the Charleston Federation of Womens Club's Hall of Fame recognition.

Mrs. Hamrick has been recognized by many to have been "gifted with vision, leadership, and, most importantly, the ability to teach." The education brought to others by this extraordinary lady was more than common book knowledge. She taught people the meaning of courage, faith, loyalty, and love. Her service to others was exceeded only by her service to God.

Those who were fortunate enough to know Margaret Hamrick say,

> She was a flame that has always burned high, and her indomitable courage has been an inspiration to every person who knew her.

Mr. President, I concur wholeheartedly in that assessment, and I ask unanimous consent that a brief biographical sketch of Mrs. Hamrick be included in the RECORD.

There being no objection, the sketch was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF MARGARET CLAIRE KELLY HAMRICK

Gifted in vision, leadership, organizational ability, writing and teaching, Margaret Hamrick was never far from the center of activities that have marked her husband's ministry. She was instrumental in the founding of Charleston's First Baptist Church Day School, and she was at her husband's side at the founding of Baptist College at Charleston.

For many years she taught English and Bible in the day school and since then organized and directed countless Bible studies, both in the church, the school and in her own home.

She wrote many devotional materials, religious pageants, and skits for special events. At the time of her husband's inauguration as president of Baptist College, Margaret's fine planning was at the helm of the intricate and detailed matters surrounding massive guest lists and decisions as to appropriate handling of social aspects of the event.

She was a member of Delta Kappa Gamma, honorary organization for teachers, and in 1974, was recipient of the Charleston Federation of Women's Club's Hall of Fame recognition.

Members of First Baptist Church, Charleston, have sought in many ways to show their affection for Margaret Hamrick. Last year they gave symbolic recognition through the publishing of a "Margaret Hamrick Cookbook" released at the time of the dedication of the church's John A. Hamrick Activities Building.

But the imprint of her personality goes far beyond the written word or the pages in a book. The constancy of her prayers, the hours she spent in teaching, leading, writing and the example she set in a Gibraltar kind of faith all converge as a monument to the testimony of her life.

Her interest in others was a flame that always burned high, and her indomitable courage was an inspiration to every person who knew her. Even after many months of illness she was still saying, "Everyone suffers, in some way . . . I am still praising God!"

Her attitude toward life was consistent—a combination of enthusiasm, patience in the face of all difficulties, and unshakable faith. Her example won for her the love and loyal following of countless individuals from all walks of life. During her life her mail was flooded with letters from former students, and from individuals whose lives had been touched by her spirit.

In Charleston, as Baptist College's First Lady, she had for seventeen years presided at the institution's regular social and official events with charm and graciousness. With her husband, she lent inspiration to the yearly Christmas reception. This festivity bore her special touch each year as she created its theme of color and direction, making each one distinctively hers; and always she managed to greet and touch the hand of every guest and worker. The guest list of this event is counted in the thousands. The strength of Margaret Hamrick's love, the depth of her faith in God, and the unfailing evidence of the joy with which she served Him, are a testimony that has made impressions yet to be fully grasped.

TRIBUTE TO NORMAN A. CARLSON, DIRECTOR OF THE FEDERAL BUREAU OF PRISONS

Mr. HOLLINGS. Mr. President, over the years I have met and observed thousands of public service employees at the local, State, and Federal levels. By far the large majority of them have been good, hard-working, and dedicated people. Within that large group there are many that stand out because of their extraordinary talents to manage this great enterprise we call Government.

For more than 10 years, I have been associated with the State-Justice-Commerce Appropriations Subcommittee. Hundreds of witnesses have testified before us, but none has impressed me more than the outstanding Director of the Federal Bureau of Prisons, Norman A. Carlson. His presentations to the subcommittee are a model of succinctness and clarity that should be a model for all witnesses before the Appropriations Committee. During his brief annual visits to the committee, we can sense the warmth of this giant of a man and know that firm compassion is the watchword of the Federal prison system.

Those that know the inner working of the Bureau of Prisons realize that it is much like a large family. That good atmosphere is maintained by the Director who travels extensively to all the facilities, rises early in the morning to eat breakfast with the inmates, and seems to know all of the employees as he walks through the facilities to assure his high standards of care.

Last week Mr. Carlson completed 25 years of Federal service, a further milestone in a brilliant career that has been marked by many justly deserved awards. This is fitting moment to briefly recite the highlights of Mr. Carlson's career with the Bureau.

Norman A. Carlson has been Director of the Federal Bureau of Prisons since 1970. Like his three predecessors—Sanford Bates (1930-37) James V. Bennett (1937-64) and Myrl E. Alexander (1964-1970)—he is a career public administrator with the Department of Justice.

Mr. Carlson began his career as a Correctional Officer at the Iowa State Penitentiary, Fort Madison, Iowa, in 1956 while attending graduate school at the University of Iowa. He entered the Federal Prison System the following year as a parole officer at the U.S. Penitentiary, Leavenworth, Kansas. His next assignment was as a Supervisor at the Federal Correctional Institution, Ashland, Kentucky, from 1958 to 1960.

He came to Washington in 1960 when he was promoted to Assistant Supervisor of the Division of Institutional Programs. Beginning the following year, he served a four-year assignment as project director for the developing Community Treatment Center (halfway house) program.

Mr. Carlson was one of the Federal career executives chosen in 1965 to spend a year at the Woodrow Wilson School of Public and International Affairs, Princeton University, as a National Institute of Public Affairs fellow. He was named a delegate to the United Nations Committee on Crime Prevention and Control in 1971 and was co-chairman of the U.S. delegation to the United Nations Congress on the Prevention of Crime and Treatment of Offenders held in Geneva during 1975, and co-chairman of a similar delegation at Caracas, Venezuela, in 1980.

In 1966, Mr. Carlson became Executive Assistant to Bureau Director Myrl E. Alexander until his retirement in January, 1970. Mr. Carlson was named Director March 25, 1970.

He received the Arthur S. Flemming Award in February, 1972, honoring him as one of 10 outstanding men and women in the Federal government. In May, 1978, Mr. Carlson received the Roger W. Jones Award for Executive Leadership from the American University, Washington, D.C.

In July, 1981, he received the Attorney General's Award for Exceptional Service, the highest award granted by the Department of Justice. In August, 1981, he was given the E. R. Cass Award, an award made annually by the American Correctional Association. On Nov. 4, 1981, he received the Presidential Rank Award of Meritorious Executive in the Senior Executive Service. The Department of Justice honored him at its Fifth Annual Special Recognition Program Feb. 25, 1982, for establishing in the Bureau of Prisons one of the leading Equal Employment Opportunity Programs in the Department.

In February, 1982, Mr. Carlson was named an Advisor to the College of Public and International Affairs of the American University, Washington, D.C. He has been a member of the Advisory Committee of the Center for Criminal Justice of Harvard Law School and of the visiting committee of the School of Criminal Justice, State University

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of New York at Albany. Mr. Carlson has also served on the Advisory Board of the Institute of Criminal Justice and Criminology at the University of Maryland.

Mr. Carlson was President of the American Correctional Association in 1978-1980 and is now a member of its Executive Committee. In 1971, he was elected to membership in the National Academy of Public Administration.

Mr. Carlson was born in Sioux City, Iowa on August 10, 1933. He received a B. A. degree from Gustavus Adolphus College, St. Peter, Minnesota in Sociology in 1955 and a Master's degree in Criminology from the University of Iowa in 1957.

Mr. WEICKER. Mr. President, I want to join my distinguished colleagues in noting this milestone in the career of Norman A. Carlson, the Director of the Bureau of Prisons.

Outstanding, indeed, are Mr. Carlson's contributions to the Nation. A member of the career service since 1956, he became Director in 1970 of the Bureau of Prisons. His service is distinguished by a genuine dedication to high standards of care, advances in corrections, and a true understanding of the needs of the employees of the prison system, as well as the inmates.

Mr. Carlson appears each year before the Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies which I chair. He is a forthright witness who speaks frankly of the needs of the prisons.

I wish him well and look forward to continuing to work with him in the future.

THE CAPITOL HILL HASSLE

Mr. RUDMAN. Mr. President, I ask unanimous consent to have printed in the Record an editorial comment appearing in the August 23 edition of Newsweek written by James A. Miller, special assistant to the majority leader.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Capitol Hill Hassle

(By James A. Miller)

After a year of working in the United States Senate, I am intrigued less by who votes for what than by why all these "whos" are even here. Recently, serving in Congress has turned into such an aggravating, exhausting and generally exasperating hassle, it's a wonder anybody wants to do it. Perhaps never before in political history have so many sacrificed so much for so little that was supposed to be so much.

A wise man once said, "Person who climb ladder of success too far, may hit head on ceiling." Running for Congress is chancy and perilous enough, but serving there has become nothing less than an endurance test. The Hays Scandal, the Mills Scandal, Koreagate and Abscam weren't enough; now there's talk of Pagescam or Sexscam or Dopescam, or whatever one wants to call the current flurry. It really doesn't matter if a legislator is personally involved or not; citizens assimilate and stereotype at the drop of an innuendo.

If people are starting to feel squeamish about running for Congress, who can blame them? It's not that they can't stand the heat and are getting out of the kitchen; it's that nobody in his or her right mind rushes into a kitchen that's already a blazing inferno.

FUND RAISING

Congress, lacking miracle cures, keeps falling short of national dreams, and politicans keep falling short of public expectations. The combination of financial sacrifices, wrenching family traumas, media aggressiveness and endless fund raising is driving smart members home and smart potential candidates away.

The sad fact is, the inducements to run for Congress aren't all that glorious to begin with. In fact, they may never before have been so paltry. An individual graduating with honors from a top-ranked law school may earn more after a few years than does a representative or a senator. In addition, lawyers in the private sector do not have to maintain two houses or comply with restrictions on income or publish their tax returns for all the world to see.

Whatever a representative or senator might choose to do instead of serving in Congress would, almost unquestionably, be a great deal more lucrative and rewarding than public office. After all, if these people could convince an entire district, or an entire state, that they were capable of leading and legislating the affairs of those who elected them, and if they had the financial resources to launch a successful drive to office, chances are that they are capable of getting a great many other jobs that would be regarded as darn good.

Congressmen are more than legislators, they are executives who must manage large staffs; they are businessmen as well. It is ironic that they could be more finanically successful selling used cars back home.

Republican Sen. Jake Garn of Utah, chairman of the Senate Banking Committee, goes from lunch with bank executives who make hundreds of thousands of dollars a year to the Senate floor where he must fight to lift the limitation on honorariums that senators can accept. Senator Garn has seven children, a mortgage in Washington and a mortgage in Utah.

But there is a much more profound frustration than money that he makes serving in Congress more and more of an ordeal. There is a perceived decline in the number of qualified and committed people who serve there—because the positions of senators or representative are not as attractive as they should be, or as they once were. Perhaps this is why Senator Garn, in a speech on the Senate floor in May, during the debate on the budget, cried out, "I am angry. I am angry at this body. I am angry at Congress—and I do not care which party, Republicans or Democrats—because there are weak-kneed, gutless politicians on both sides who will not face up to the issues . . ."

In Congress today one is expected to have the intellectual credentials of a Rhodes scholar, the oratorical skills of a Ted Koppel, the godlike trustworthiness of a Walter Cronkite and the sense of humor of a Johnny Carson. Americans may expect too much of the people they choose to represent them. After all, these aren't extraterrestrials. They're people who grew up next door, people who are just as capable of failure and indecisive as anybody else.

When those folks next door get to Washington, they will have to adapt to a life without privacy. They must endure constant intrusions from aggressive reporters and countless interest groups, nonstop fund raising to sustain their political and financial survival, exhausting plane travel, the disruption of normal family life and a growing fear that all this may just be too much trouble for too little satisfaction. From a great distance, serving in Congress sounds like fun—lots of power, money and great tables at French restaurants. When you see it up close, you realise it's more like tuna fish sandwiches from carryouts. The glamour disappears and people who should know better start regarding you as some lower form of life.

The cost-benefit ratio for many in Congress has fallen to a new low. The usual reasons for retirement—age, political vulnerability, redistricting and new political aims—are being replaced as quickly as one can say, "It's not worth it." In fact, they are being replaced by "It's not worth it."

RISK

It's hard to forget the smile of the wife of former Rep. John Cavanaugh, a Nebraska Democrat, as he announced his retirement from Congress at 35. Or the rhetorical question Texas Democratic Rep. Joe Wyatt Jr. put to a reporter a couple of years ago: "Why stay and take the grief?"

Certainly we should hold the people we elect to high standards—but not impossible ones. If they check all their frailties and vulnerabilities at the door of Congress, might they not be checking their humanity as well? "Nobody's perfect" is a pretty feeble excuse for wrongdoing, malfeasance and willful deceit, but the fact remains that nobody is perfect. If we wait around for perfect beings to elect to Congress, we risk frightening the imperfect but damned good people away. As for those who are currently serving, as long as they are masochistic enough to stay, we might as well take advantage of their talents.

Mr. RUDMAN. Mr. President, this is a very appropriate, precise comment that I think more people should read.

CONCLUSION OF MORNING BUSINESS

Mr. HATFIELD. What is the pending business, Mr. President?

The **ACTING PRESIDENT** pro tempore. Morning business is now closed.

SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

The **ACTING PRESIDENT** pro tempore. The Senate will resume consideration of the conference report on the supplemental appropriations bill.

Mr. HATFIELD. Mr. President, has the conference report been laid down?

The **ACTING PRESIDENT** pro tempore. The conference report has been reported.

Mr. HATFIELD. I thank the Chair.

The Senate continued with consideration of the conference report.

Mr. HATFIELD. Mr. President, we now have before us the conference report on H.R. 6863, the fiscal year 1982 supplemental. The conference agreement recommends a total of $14,117,265,924 in budget authority. Of that amount, $5,000,000,000 is for borrowing authority for the Commodity Credit Corporation, requested by the administration and provided by both Houses. Of the remaining amount, $6,145,002,640 is for increased pay costs due to last October's cost-of-living increase. The remainder, or $3,032,263,284, is for program supplementals in agencies throughout the Government.

Mr. President, the total amount of spending recommended in this conference agreement is $1,878,918,076 below the President's request. Officials in the Office of Management and Budget have attempted to characterize this bill as a "budget-buster" through the representation that it provides spending for certain domestic programs $918,000,000 in excess of the President's request. That sum provides funding for such programs as community service employment for older Americans, $211,000,000; compensatory education for the disadvantaged, $148,000,000; student financial assistance, $217,000,000; Coast Guard operating expenses, $30,000,000; payment to the Postal Service fund, $39,000,000; Federal highways, $112,500,000; and education for the handicapped, $26,000,000, among others.

I make no apology for the provision of these funds. These are important and useful programs, and it is manifestly apparent that a majority of both Houses strongly supports them. I do disagree vehemently with OMB's analysis of this bill, for several reasons.

First, OMB's bean counters have added up only the congressional increases in funding for certain domestic programs, and have not subtracted the congressional reductions.

Excluding the defense foreign operations and military construction chapters for consideration, this measure is $565 million over the request, not $918 million. I do not know what school of business finance they went to, but they obviously have not learned some elementary lessons about adding and subtracting; either that or it is a deliberate misrepresentation of the accuracy of this budget.

Second, OMB has chosen to look only at so-called nondefense spending, and ignore the substantial savings made in the defense area, savings which were not disputed in either committee, on either floor, or in conference.

Third, and most important, OMB's characterization of this bill as a budget buster because it exceeds the President's request for certain programs strikes at the heart of the constitutional role of Congress in determining spending priorities.

The Constitution is quite clear on this. No funds can be drawn from the Treasury except by act of Congress, and the Budget Act emphasizes that the President may not tamper heedlessly with appropriated funds. When it comes to budget matters, the President may propose, but the Congress disposes. So if Congress wishes to appropriate more funds for a certain program than the President has requested, and less for another, so be it. Of course, the President may always veto the legislation, but in this instance I feel very strongly that he would be most ill-advised to do so.

I repeat, Mr. President, that this bill recommends spending $1,878,918.076 below the President's request. This is not a budget buster, it is a deficit reduction measure. And, Mr. President, it is not only substantially below the President's request, it is even farther below the existing congressional budget resolution. As Chairman DOMENICI will confirm in his statement on this measure, total spending after enactment of this bill will be $8.1 billion in budget authority and $1.1 billion in outlays below the ceilings of the budget resolution.

So, Mr. President, I commend this conference report to my colleagues as a fine example of spending restraint. I trust the President will sign the bill. If for some reason he does not, I will urge my colleagues in the House to override his veto, and will certainly do so here in this body.

I think, Mr. President, we might as well draw the line here, today, as it relates to the imperial mentality of the Office of Management and Budget. This is a congressional prerogative, constitutionally established, and to be defended by every Member of this body on both sides of the aisle.

I yield to my good friend and colleague from the State of Wisconsin.

Mr. PROXMIRE. Mr. President, the conferees on the supplemental appropriation bill for fiscal year 1983 have recommended a reduction in the President's supplemental budget requests by almost $1.9 billion including the rescission of $113 million more than the total rescissions requested by the President. It is true that the bill as it comes out of conference contains $186.6 million more than the Senate-passed bill. There was a tendency to go for the higher of the House or Senate figure in conference. Nonetheless a budget reduction of approximately $2.4 billion in defense spending has more than offset increases in domestic spending above the President's budget of $566 million.

I wish it had been possible to meet the President's domestic marks as well. This would have meant the bill produced savings of about $3 billion. Personally, I would strongly favor that. Nonetheless, I find it difficult to object to congressional action that has made a cut of 17 percent in the President's overall supplemental requests and at the same time provided a whopping $5.7 billion—over 60 percent of the total budget authority included in the bill—for the Defense Department.

Let me repeat that: 60 percent of the money in this bill is for the Defense Department. It is less than the President requested, but nevertheless, it is very largely a defense supplemental bill. I think the Congress has done a competent and responsible job of restraining Federal spending in acting on this supplemental bill.

I congratulate my good friend from Oregon on the fine job he has done, as he always does.

Mr. HATFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Wisconsin. I will take a back seat to no one in this Senate as to review of spending by the Defense Department and every other department, but I point out that the money that is in this supplemental, which is set aside for the Defense Department, is primarily for military pay. That is the fulfillment of a commitment made by the Congress in terms of military pay increments to keep a comparability of military pay to civilian pay.

I think it is very significant that that has had a great impact on our ability to recruit and to retain personnel in our Armed forces.

In fact, to make the record specific, of that total amount for military, $5.5 billion is for pay increase for the military.

I have supported military pay. I feel it is not only an equitable matter to pay comparable compensation for those serving in the armed services to that which they might earn in civilian capacities, but I also think that maintaining comparability is the best answer to those who want to restore the draft. If we can retain the comparability standards that we have set, we are getting the volunteers. and so it is not only a matter of equity and fairness, but it is the best counteraction for those who would advocate the restoration of the draft, which I know others as well heartily oppose.

Mr. STEVENS. Will the Senator yield? Adding to what the distinguished chairman has said, the items that were deleted from this bill were deleted in the defense area. The Department of Defense items were not deleted because they were unneeded; they were deleted because of the impact of the 1983 budget outlay ceilings that our subcommittee must work under for the 1983 bill. It was my determination that if we had included those items in this supplemental, it would have limited our flexibility in dealing with the 1983 bill because of the budget ceiling in terms of budgetary outlays. I hope that the chairman of the committee and other members realize that some of the items that we have deleted may well come back into the 1983 bill, but they will come back

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within the budget ceiling since that is where they would have impacted. This bill, having come up so late in the year, will not actually become law until most likely just before the last month of the fiscal year. The outlays of necessity would have taken place during 1983 and would have impacted our 1983 outlay ceiling.

In order to maintain maximum flexibility in dealing with the 1983 appropriations request for the Department of Defense, we have deleted those items with the understanding that all of them will be reviewed in connection with the full bill for 1983. I hope the Senator from Oregon and the Senator from Wisconsin understand that.

Mr. President, I must emphasize again the urgency of enacting this supplemental as quickly as possible. Time is running out on many programs requiring this additional funding, and there is separate justification for quick action to support those programs simply to avoid disruptions and cost increases. But the real urgency lies with the pay cost supplemental, particularly with the military pay requirements.

I am not exaggerating, Mr. President, when I state that time has already run out on military pay. There is no additional funding available for payrolls, and even the Pentagon's transfer authority is running out. The Secretary of Defense has warned that all appropriated funds for a military payroll have been exhausted. By law, the Department can neither obligate nor expend additional funds in the absence of supplemental appropriations.

These funds were exhausted on August 18, Mr. President—2 days ago. If the Department is to pay the troops, there is only $164 million in unused transfer authority and—as a desperate stretch out tactic—the so-called food and forage authority available to the military.

The transfer authority is not sufficient to get the Department through the next full payday. It would not even come close. Food and forage authority, a long standing permanent appropriation designed many years ago to cover urgent military needs for basic supplies, can be used to cover other costs so that funds appropriated for operation and maintenance needs could be diverted to pay.

Use of the food and forage authority in this manner is questionable at best. Congress has no business putting the military in a situation that even suggests using a measure with such dubious legality.

Mr. HATFIELD. Mr. President, I concur with the observations made by the Senator from Alaska, who is the chairman of the Defense Subcommittee of the Appropriations Committee, and he has stated the case very accurately. I concur with his general observations.

Mr. PROXMIRE. If the Senator will yield, it is also my understanding that the Defense Department asked for these increases in the regular bill. They were turned down.

Mr. HATFIELD. That is correct.

Mr. PROXMIRE. They were turned down by the House and by the Senate. This is a supplemental bill, and therefore we were simply following a policy that the House and Senate previously established.

I might point out to my good friend from Oregon that not only is this pay increase important in persuading volunteers to enlist in the military, but I think all of us recognize, if we have learned any lesson in the past few years, it is that military strength depends primarily on the quality of the people, their motivation, their desire to be there, their pride in their unit, their leadership. Of course, there are other ingredients that are important, too, but pay is vitally important if you are going to get competent people to stay in the military; you get what you pay for. I think that this part of the military appropriation is absolutely right and I support my chairman on this. I think he is making the right argument.

Mr. HATFIELD. I thank the Senator very much.

Mr. President, a parliamentary inquiry.

Mr. President, there are, I believe, two amendments in disagreement that have to be handled on this conference report?

The ACTING PRESIDENT pro tempore. There are many more than that.

Mr. HATFIELD. I am extrapolating from the amendments en bloc two amendments, one having to do with the pay commission, one having to do with a copper amendment by the Senator from New Mexico. I believe that they have to be handled separately from the ones that we would possibly agree to en bloc; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HATFIELD. I order to then get to those amendments, Mr. President, what is the appropriate motion to make at this time?

The ACTING PRESIDENT pro tempore. The Senate will have to dispose of the conference report.

Mr. HATFIELD. Mr. President, I move the adoption——

The ACTING PRESIDENT pro tempore. And the House-added amendments.

Mr. HATFIELD. Mr. President, I move adoption of the conference report.

Mr. SCHMITT. Will the Senator yield?

Mr. HATFIELD. I move the adoption of the conference report.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. There is no such motion to move to adopt the conference report until the end. Then the question will be put. When the Senators have ceased to debate, then the question on the conference report will be put.

Mr. HATFIELD. I understand the Chair to say in order to get to the business before the Senate today we have to move the adoption of the conference report in order to take up the amendments. Is that correct?

The ACTING PRESIDENT pro tempore. Yes. The Chair assumes that there are other Senators seeking the floor to discuss the conference report.

Mr. HATFIELD. Does the Senator wish to speak to the conference report?

Mr. SCHMITT. The Senator from Oregon is correct.

Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. SCHMITT. I am happy to recommend to the Senate the adoption of the Labor, Health and Human Services, and Education chapter, chapter IX, of this regular fiscal year 1982 supplemental conference report. The conference agreement on the bill takes account of longstanding concerns in health, education, and other programs, many of which were deferred in our consideration of the urgent supplemental.

As a result of the recent conference, chapter IX is $230 million above the request level but some $9 million below the recommendations of the House. Two hundred and ten million dollars, however, of that increase is a sincere disagreement with the administration on the mandate of current law relative to senior citizens programs. I do not think there is any question that we must provide that money as advance funding for those programs. I am still surprised that we hear noises from the administration that that is one of the items that they disagree with. There really is no choice.

Most importantly, our conference bill provides enabling language to fund and administer the supplemental benefits program automatically upon enactment of authorizing legislation. By acting now on the appropriations, language, we avoid delay in getting the benefits out to the long-term jobless in every State, including New Mexico. Last night's action on the tax increase measure, the conference report containing those tax increases, did, as one beneficial item, contain the authorizing language necessary to begin to make available an extension of unemployment benefits. This conference report will clear the deck so that can take place in an expeditious manner.

The final supplemental bill also includes additional funds for older workers programs; as I indicated earlier, for important disease prevention activities, particularly those that deal with the research into this extraordinary new disease as yet undefined that has cropped up in recent months in New York and now in other cities. It is my hope that the $500,000 additional research funds here will enable us to crack this mystery and avoid any significant national consequences.

In addition, Mr. President, the conference report includes funds for compensatory, handicapped, and vocational education. In addition, we provide some further financial assistance, significant financial assistance, for college students from low-income families.

The conferees, I am glad to say, agreed to my amendment to begin targeting more institutional aid, in the developing institutions programs, to schools with large enrollments of Hispanic and native American students. Heretofore, the assistance to these groups has been far too limited and random to really take care of their special programs.

I am pleased with the conference result on chapter 9, and I believe that the Members can give it strong support.

My only major disappointment in this measure is with one of the amendments in disagreement. The House declined to concur and recede to the Senate in a very important matter dealing with the copper stockpile. That, I think, is unfortunate, in that the workers in that industry as well as the industry itself are going to be the losers.

I thank the chairman for yielding.

Mr. HATFIELD. I thank the chairman of the Subcommittee on HHS.

Mr. President, this is probably one of the most difficult of all committees on our Appropriations Committee, especially in light of the current fiscal restraints and problems we face. The Senator from New Mexico carries that burden and that responsibility with great character and great skill, and I thank him again for an extraordinary piece of workmanship.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. STEVENS. Mr. President, I should like to make an inquiry, on behalf of the leadership, as to whether it is possible for us to adopt this conference report so that debate may start on the series of amendments in disagreement. These amendments are debatable. There is no time limit. However, it is not possible for some Members to offer amendments on other matters, amendments in disagreement, until we dispose of the conference report.

I inquire of the Senator from Michigan whether it is possible for us to go to the conference report so that that debate may start. The Senator from Arizona has an amendment. The alternative, of course, is that the Senator from Michigan could debate the conference report on into the night, and other Senators would not be able to get to the matters they have in mind.

I might say that if the Senator has in mind keeping the Senate's attention on this issue, he might be able to rest his voice a little while the others talk for a few hours this morning. But they cannot commence their items until the conference report is adopted.

Mr. LEVIN. Mr. President, I think the Senator from Alaska knows that I want to accommodate every other Member of the Senate, including the Senator from Oregon.

Let there be no misunderstanding as to my goal. I want to accommodate everybody. I have been accommodating everybody for the last 2 months in an effort to get a vote on a critical matter involving students who want to begin school in September.

The leadership on both sides of the aisle have assured me that they would work with me in order to get such a vote. I think they have made good faith efforts to get such a vote. But I must use whatever tools are available to me to try to obtain a vote on my amendment before we go out.

I am not trying to add it to the conference report. There may be some misunderstanding between us from a prior conversation on that matter. What I am seeking is for the leadership to propound a unanimous-consent request that once this conference report is disposed of and we return to this debt limit bill, the pending amendment on the debt limit bill, which is not going to be disposed of this week, be set aside temporarily, so that my amendment can be considered under a strict time limit, disposed of, and then we would return to the other amendment.

There are 22 cosponsors of this amendment. If it is not voted on in August, it will have a lot less effect, because these students are awaiting some signal from us as to whether they can return to school in September.

If I may have the attention of my friend from Oregon for one more moment, there are 300,000 students out there who need this; 50,000 are children of soldiers who were killed in Vietnam. We promised these men before they left that their children would receive this benefit through college. I am trying to preserve that benefit for 1 more year, and all I want is a vote in August. All I want is someone in the leadership to propound the unanimous-consent request so that I can see if I can get a vote.

I will repeat this for the Senator from Oregon: The students we are talking about, in many instances, are the children of soldiers who went to Vietnam, who were promised that if they were killed in Vietnam, their children would receive that social security benefit through college.

This amendment has great meaning in August. It has less meaning in September.

I am trying to find a way, and I have been trying for 2 months, and the leadership has assured me they would help me get a vote. I am trying to find a way to get a vote on this matter before we leave today. I am not trying to add it to this conference report. What I am trying to do is to get the leadership to propound a unanimous-consent request that when we are done with this conference report, we will then set aside the pending amendment on the debt ceiling, take up this amendment, which has 22 cosponsors, for 40 minutes or an hour, get a vote on it, and then return to the Helms amendment.

Mr. STEVENS. Mr. President, I say to the Senator from Michigan that the majority leader is at a meeting downtown, and subsequently there will be a meeting at 10:30 to start planning the program for the Senate when we return.

The Senator's leverage is just as good against the matter before the Senate after the adoption of the conference report as it is before, because we cannot leave this matter until we handle the amendments in disagreement.

All we are asking is that the Senator allow this conference report to be adopted and allow the Senator from Arizona and the Senator from New Mexico and others to discuss the items in disagreement. I can assure the Senator from Michigan that we are not going to leave this matter until the Senator from Michigan has exhausted his statements to the Senate.

I will urge the majority leader to consider the request of the Senator from Michigan, and we will do our best to see what we can do to accommodate him. I am sure the Senator realizes the serious complications in handling the schedule with respect to getting to the debt ceiling bill in the past week. We did not anticipate that the time would be completely exhausted, as it has been, on other matters during this week.

It is possible, for example, that we may be able to consider the Senator's matter as a sense of the Senate resolution, separate from the debt ceiling bill. An amendment to the debt ceiling bill, I can tell the Senator, will not become law until about September 30, in any event. So if he is looking for a vehicle that will become law before September 30, this debt ceiling bill is not the vehicle to which he should address himself, in my opinion.

I urge the Senator again: Let us proceed with the debate on the matters that the other Senators are waiting to debate, and as soon as the majority

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leader returns, we will confer with the Senator from Michigan to see what can be worked out about his matter.

In any event, the matter of the conference report amendments in disagreement will still be before the Senate, and the Senator will have his opportunity to call the attention of the Senate to the problem he has in mind, after these Senators have presented their discussions on the amendments in disagreement.

Will the Senator from Michigan allow us now to complete action on the conference report and go to the amendments in disagreement?

Mr. LEVIN. I appreciate the words of my friend from Alaska. I want to just go back for one more moment to a prior debt ceiling limit extension. It was a temporary extension in July. At that time I wanted to offer my amendment and did offer my amendment and was persuaded by the majority leader to withdraw my amendment at that time because the permanent debt ceiling limit was going to be coming up soon. I did that.

We now have this bill in front of us. I was assured 2 weeks ago by the majority leader that the debt ceiling bill would be resolved before recess and that my amendment could be voted on during the debt ceiling debate. Obviously that has not been possible and I understand that.

Last night we had discussions on this matter and so the background does become important.

Now, before I can answer the question which the Senator from Alaska has propounded I wish to check with the Parliamentarian, and I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unimous consent that the order for the quorum call be rescinded.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. PROXMIRE. Mr. President, I ask unanimous consent to be allowed to proceed for not more than 1 minute as if in morning business.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

SOVIETS USING PROHIBITED BIOLOGICAL WARFARE

Mr. PROXMIRE. Mr. President, for several years I have been exploring and offering legislation dealing with the issue of Soviet violations of the Biological Warfare Convention. One resolution has passed the Senate and House of Representatives on the subject of the Sverdlovsk incident in 1979. A second resolution passed this year on the fiscal year 1983 Defense authorization bill. This called on the President to reopen the Biological Warfare Convention and renegotiate provisions for verification and compliance—features missing from the original text.

The evidence of the use of biological agents in violation of this convention is compelling. And now a new source of convincing data has opened up for Western review and from an unusual source.

That source of new information is the People's Republic of China. They indicate that Chinese troops have died from booby traps dispensing agents that fit the description of the biological materials used in Cambodia.

According to an article in the Boston Globe, the Chinese have shared their information about these incidents with the United States. All signs point toward the use of mycotoxins by the Vietnamese. Mycotoxins probably only can be produced in military quantities in the U.S.S.R.—the Vietnamese ally in battles against Cambodia and the People's Republic of China.

Mr. President, this makes for several conclusions. The first, and most important, is that the U.S.S.R. probably, and I stress the word probably, has broken the Biological Warfare Convention. Second, it indicates the futility of agreeing to treaties that do not contain verification and compliance clauses.

Mr. President, I ask unanimous consent that an article from the Boston Globe be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, July 30, 1982]

TOXIC WEAPON USED ON CHINESE?

(By William Beecher)

WASHINGTON—Now comes word that the Vietnamese used deadly chemical warfare agents in 1979 against the invading forces of China.

Diplomatic sources say the use was not widespread but came in an unusual manner. Chinese troops moving down jungle trails in northern Vietnam stumbled over ankle-high tripwires which detonated booby traps hung in overhanging branches. Many of those exposed reportedly got extremely sick and died within a day or two.

The report is potentially significant in two respects.

First off, all previous allegations of banned chemical and biological agents being employed have come from Western, mostly American, officials based in large part on hearsay evidence from illiterate refugees—from Laos, Cambodia and Afghanistan—not from a government whose scientists could analyze what they found used against their army in battle.

And secondly, the description of the type of weapon used to dispense the agents fits with reports of similar devices used against antigovernment forces in Cambodia and supplied, by the Soviet Union, to Cuba more than 10 years ago. That raises the question whether Moscow regards chemical and biological weapons as just another form of conventional weaponry, to be employed when more effective than other standard arms, international agreements to the contrary notwithstanding.

Details are hard to come by since the Chinese have not yet gone public with their evidence and since information about the special booby traps is being closely held in the intelligence community.

But well placed sources say China has discussed its findings with American chemical warfare specialists, in part to compare notes about analytical techniques to identify the agent used. The sources say it appears to have been a deadly mycotoxin called T2 which derives from a fungus known as fusarium.

US sources say two Khmer Rouge guerrillas emerged from a firefight with Vietnamese troops in Cambodia not long ago reporting that the Vietnamese had slipped behind their position and strung up booby traps in the trees. When the Khmer Rouge fell back, they triggered the weapons and became very ill. Blood samples from survivors are said to have contained traces of T2.

The US has publicly alleged that mycotoxins used in Laos and Cambodia by Vietnamese forces are not produced naturally in jungle climates and must have been supplied by the Russians, who have written extensively of research on toxins from fusarium.

Furthermore, some Vietnamese military defectors have told U.S. intelligence they carried Soviet-manufactured chemical munitions toward the China border during the 1979 fight: they said they were told the weapons would be used it China initiated chemical warfare.

Finaly, a Cuban military defector said the identical type of booby trap was supplied by Moscow to Havana in 1970. He did not know what the traps were armed with or whether they were actually employed, for instance, in Angola or Ethiopia by Cuban forces there.

In response to inquiries from a United Nations team investigating alleged use of banned agents, the Soviet Union has provided a report conceding that T2 and other mycotoxins have shown up in Indochina, but they charge the United States is responsible.

The United States, the Russians said, deviously cleared and sterilized large areas of Vietnamese jungle with herbicides and napalm, then seeded the soil with elephant grass, knowing it would provide the breeding ground for fursarium. The spores from the fungi were windblown into Laos and Cambodia, they concluded, causing the deaths blamed on Soviet-supplied weapons.

It is long past due that an independent body of internationally respected scientists conduct a well publicized investigation whose conclusions will not be suspected of ideological bias. Otherwise some of the most repugnant weapons known to man could indeed become widely used "conventional arms."

IN MEMORY OF GORDON RULE

Mr. PROXMIRE. Mr. President, it is with sorrow and personal regret that I note the death of Gordon Rule, one of our Nation's most respected and authoritative experts on procurement.

I can speak with considerable personal experience about the qualities of Gordon Rule for he appeared several times before me as chairman of the Joint Economic Committee or one of its subcommittees.

I always found Mr. Rule to be an articulate and forceful proponent of the taxpaying public. Often he said things without regard to the political or bureaucratic consequences and this is a characteristic that few in Washington have. Perhaps his comment about Roy L. Ash's nomination to be head of the Nixon administration's Office of Management and Budget makes this most clear. He told my committee that President Eisenhower must be twitching in his grave as a result of the cost overruns which were incurred under Mr. Ash's leadership at Litton Industries. I can tell you that comment caused quite a stir that day but once again he had put truth ahead of personal safety.

Let me say that from time to time I ran afoul of Mr. Rule's perceptions of the right policies to pursue in naval shipbuilding. He used to criticize some of my opinions with the same vigor that he took on the bureaucracy. And that is just one more reason why I respected him so highly. He spoke out. He was not afraid of the consequences. He was a true patriot in that he fought for efficiency in Government and did not tolerate anything less than that total goal of cost-effectiveness at every level of Government.

We need more men and women in Government with the capacity for analysis and the personal courage to speak out like Gordon Rule. The Government has suffered a loss and so too the American taxpayer.

THE PARIS RESTAURANT KILLINGS: CONFRONTING THE ASSUMPTIONS OF HATRED

Mr. PROXMIRE. Mr. President, recently, four French citizens and two Americans were killed in a Jewish restaurant in Paris. The world has expressed its strong condemnation of this atrocious act. I would like to add my voice to that chorus of outrage.

Murder, in itself the most heinous of crimes, takes on one of its ugliest aspects in circumstances like these. The six victims were selected at random as the terrorists fired into the crowd. These six people had injured no one. They were not killed because they, as individuals, had harmed any person or any group. They were killed because they were patronizing a Jewish restaurant. They were killed because they were thought to be either Jewish or sympathetic to the Jewish people.

Let us look for a moment at the assumptions behind these killings. First and foremost is the assumption that the taking of life is an appropriate means of expressing a point of view. This assumption is patently wrong and utterly abhorrent. Any individual or group that has feelings to vent may do so through peaceful means. There are no circumstances which would permit the use of violence for that purpose.

Also underlying this crime is the assumption that a commonality of national and religious heritage implies a commonality of political intent. French officials believe that current tensions in France concerning the Middle East crisis are linked to this and other recent anti-Semitic incidents there. The basic mechanism of prejudice is evident in such transferrals of anger from those at its original source to other, uninvolved persons who happen to be of the same race, religion, or nationality. The notion that a shared cultural and religious heritage allows French Jews to be held responsible for the actions of the Israeli Government is repugnant to any civilized conception of equity and fairness.

But the assumptions involved in this ugly crime run deeper than a reaction to current political developments. Apparent in this action is the poisonous idea that cultural differences are somehow more important than the bond of a common humanity, and that such differences are grounds for fear, hatred, and enmity. This idea, so completely irrational and so terribly tragic, is nevertheless widespread, strong, and dangerous. It is and always will be a reality.

These assumptions are not confined to one terrorist organization, nor to one nation, one point in time, or one group of victims. These beliefs are everywhere; they are hidden in the dark recesses of all human minds. They may be dormant, they may be deeply buried, but in times of great tension they can be stirred to life. We must recognize this fact, we must confront it, and we must control it.

That is why we need the Genocide Convention. Because the same assumptions, the same beliefs that led to six deaths in a Paris restaurant also led to 6 million deaths in Nazi concentration camps. The difference is not one of substance, but of degree. Those who are willing to kill even one member of a group merely because of his/her membership in that group, may well be willing to kill a great many.

The U.S. Senate should not wait for that to happen. Six deaths is six too many; let us take every step, no matter how small, to see that the killing stops there. I urge the Senate to add the support of the United States to the treaty that seeks to prevent such killing: the International Genocide Convention.

I yield the floor.

The **ACTING PRESIDENT** pro tempore. The Senator from Arizona is recognized.

DR. LOYAL DAVIS

Mr. GOLDWATER. Mr. President, yesterday, unfortunately, Dr. Loyal Davis, the father of Mrs. Reagan, passed away in my hometown where he and his dear wife Edie have lived for many, many years.

Dr. Loyal Davis is one of the most eminent neurologists who has ever lived, the first neurologist to practice in the city of Chicago, and a man dedicated to the improvement of surgery not only in his own specialised field but in the whole gamut of surgery as practiced around the world.

He was a wonderful man, a wonderful father, and I just wish to say to the Senate that this country has lost one of its most outstanding citizens, not that he happened to be the stepfather or father, as I call him, of Mrs. Reagan, but a man whose qualities have been known to me for many, many, many years, and the country is going to miss him.

I wish to express the condolences of my family and my entire State to Mrs. Reagan and to Mrs. Loyal Davis.

Mr. PROXMIRE. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield.

Mr. PROXMIRE. Mr. President, I am delighted to join in tribute to Dr. Davis. My father was a doctor in the Chicago area and knew Dr. Davis and had the greatest admiration and respect for his great skill as a doctor, fine personality, and great integrity.

LABOR DEPARTMENT STUDY GIVES REASONS FOR FAILURE TO ENFORCE ERISA EFFECTIVELY

Mr. NUNN. Mr. President, for the past several years, first as chairman of the Permanent Subcommittee on Investigations and now as its ranking minority member, I have criticized the U.S. Department of Labor for the manner in which it has carried out its duties under the Employee Retirement Income Security Act, ERISA.

It has been my view, as well as the view of other members of the subcommittee, that the Labor Department has not been diligent in protecting the rights of union members who belong to, or are beneficiaries of, pension and welfare plans.

The subcommittee has had special interest in the Central States Pension Fund of the Teamsters Union. The subcommittee, in its report of August 3, 1981, accused the Labor Department of poor management and mistaken judgment in the Government's 6-year, $8 million investigation of alleged questionable conduct by trustees and administrators of the Central States fund.

An important criticism leveled at the Labor Department was that it had

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failed to examine properly the allegation that organized crime figures and their surrogates had influenced management of the fund and that the result of organized crime's control was that large amounts of money had been looted through questionable and illegal loans and other transactions.

The subcommittee found that instead of directing a professional, procedurally sound investigation of allegations of questionable and illegal conduct, the Labor Department deliberately ignored evidence of criminal wrongdoing and rushed into a civil suit against fund trustees, thereby eliminating the possibility that recipients of fund loans and other culpable third parties would be brought to justice for the alleged widespread looting of the fund. The civil suit against former trustees of the fund is still in the court.

The U.S. General Accounting Office, asked by the subcommittee to evaluate the Department's investigation, came to conclusions similar to those reached by the subcommittee. In certain areas, GAO's criticism was more hard hitting than the subcommittee's. GAO also took a close look at the actuarial soundness of the fund and concluded that, because of past management practices, the fund's financial condition was not as good as it might have been. "Thinly funded" was the way GAO characterized the $3.4 billion corpus, one of the largest multiemployer pension plans in the Nation. The fund's unfunded liability as of January 1, 1980 was $6.05 billion.

A point of contention between the subcommittee and the Labor Department had to do with the mandate ERISA gave the Department to pursue criminal violations. The Department claimed it had very limited responsibility to investigate criminal activity in pension and welfare plans. The subcommittee disagreed, contending that ERISA intended for the Department to move against criminal violations with the same intensity that it was to attack civil infractions of the pension reform statute.

GAO, the Justice Department and the Library of Congress sided with the subcommittee in the debate over the Labor Department's obligation under ERISA to detect, investigate and make proper referral to Federal prosecuters of criminal violations in pension and welfare plans.

Finally, after several years of dispute over this point, Raymond J. Donovan, who took over as Secretary of Labor in 1981, testified before the subcommittee that his department did have the duty to detect, investigate and make proper referral of allegations of criminal activity in pension plans.

I have commended Secretary Donovan and his aides for their recognition of the proper role of the Department as directed by ERISA.

I also commend Secretary Donovan for commissioning a study within the Labor Department which examined the effectiveness of the Department in enforcing ERISA.

The May 1, 1982, study, entitled, "Evaluation and Recommendations, ERISA Enforcement," was sponsored jointly by the Department's Office of the Inspector General and the Labor Management Services Administration. The study was made available to the subcommittee. It is an important document for two reasons. First, it reveals in precise language why the Department has not been able to enforce ERISA effectively. Second, it offers practical and sensible recommendations on how the Department can enforce ERISA as Congress intended.

The study's recommendations include proposals to improve communication between the Washington headquarters of the Labor Department and its regional and area offices; devote more investigative resources to detecting and making inquiry into reported ERISA and title 18 violations; make more efficient the Department's use of information filed in annual reports by pension and welfare plans; improve training of investigators; and develop a better system for litigating alleged ERISA violations.

The Labor Department study, the result of a 3-month, 10-person inquiry, notes that ERISA cites six criminal acts for which it provides penalties. They are first, the embezzlement and theft of pension fund moneys; second, false reporting; third, kickbacks; fourth, criminals serving in fiduciary positions; fifth, violations of ERISA-mandated reporting and disclosure rules; and sixth, unlawful efforts to deny fund beneficiaries or participants their rights by force or violence. The new Labor Department study then goes on to say:

> The legislative history of ERISA indicates that Congress considered the six criminal acts specified to be so threatening and so dangerous to the rights of participants and beneficiaries that it prohibited them under threat of fines, imprisonment and debarment. Civil remedies only were provided for the other prohibited transactions and for breaches of fiduciary duty.
>
> The legislative history of ERISA also indicates that Congress considered the six criminal acts so threatening and so dangerous that it expected that plans, programs and strategy would be devised to seek out instances where theft, embezzlement, false statements, bribery, kickbacks, etc. existed. DOL (Department of Labor) was given broad powers under the Act: it was given the power to specify and require reports; to examine books and records; to call witnesses; to hold hearings and much more. Congress expected DOL to exercise a leadership role, acting alone and with other government agencies, to develop on a continuing basis the plans, programs and strategies to detect, investigate, litigate and prosecute not only prohibited transactions and fiduciary violations covered by civil remedies in the Act, but also the criminal acts punishable by fines, imprisonment and debarment.

With the above statement setting out in no uncertain terms the responsibilities of the Labor Department in criminal matters under ERISA, the May 1, 1982, study then details the organizational, procedural, and professional shortcomings in the Department that rendered it incapable of enforcing ERISA properly.

The study found that:

First. Since 1978, the number of personnel assigned to the ERISA program declined 29 percent, raising questions as to the adequacy of available resources.

Second. Investigating agents, working under the Labor Department's pension welfare benefit program, are hired, fired, transferred, promoted, and disciplined by another section of the Department. This causes an organizationally confusing situation in which the officials vested with responsibility to enforce criminal and civil law regarding pension and welfare plans have limited authority over the agents in the field who carry out the enforcement.

Third. Too many levels of review are imposed between the agent in the field investigating the alleged violations and Labor Department officials who are responsible for action. In the field, the agent's report of investigation is reviewed, in this order, by his "Track Supervisor," the Deputy Area Administrator, the Area Administrator, the Deputy Assistant Regional Administrator, the Assistant Regional Administrator and the Regional Administrator. Then, once those six levels of officers have reviewed the report of investigation, it is sent to Washington where it is read, in this order, by an analyst, the Regional Coordinator, the Chief of Fiduciary Standards and Investigations, the Assistant Administrator for the Office of Enforcement and the Solicitor's Office. In many cases, years have gone by before the Labor Department completed its review process and decided how to respond to reported ERISA violations.

Fourth. Labor Department policy, as spelled out in official publications, is that criminal violations in pension and welfare funds are to have the lowest priority in allocation of investigative resources. A January 1978 Labor Department manual, entitled, "PWBP (pension welfare benefit program) Compliance Strategy Document," stated:

> Criminal investigation cannot be allowed to displace the civil investigative efforts required under ERISA.

The manual added:

> Criminal investigations by PWBP personnel (agent) are to be minimized.

In addition, agents were directed to spend 85 percent of their time investigating a limited range of alleged civil violations. Agents were discouraged from working with U.S. attorneys in the investigation of criminal cases. The study found that most Labor Department agents believed that the Department's enforcement policy discouraged or sought to prevent them from detecting and investigating criminal violations of ERISA and title 18. Because of the inordinate focus on civil inquiry, the study concluded:

> Based on the field interviews and the documents reviewed, the (reviewing) committee has concluded that no federal agency including DOL is presently conducting a program to find ERISA criminal violations. With the emphasis on noncriminal cases in the present ERISA enforcement policy, the committee is of the opinion that the Department is not fulfilling its responsibility under ERISA to provide a balanced enforcement program. . . . The committee believes that the present enforcement resources are grossly inadequate.

Fifth. ERIAS violation cases, along with title 18 criminal cases in the pension and welfare fund field, are managed poorly. Leads uncovered by agents' investigations are not developed fully. Preliminary information indicating criminal wrongdoing is not pursued or referred to the Justice Department promptly. The study cited delays of 18 months and longer from the time an agent's report of investigation is filed until the Solicitor's Office makes a judgment as to how the Department should proceed. Inadequate attention is paid to the "Statute of Limitation" on both criminal and civil cases. The following cases were used as examples of poor case management:

In May of 1980, evidence was developed indicating that an investment advisor to a pension plan was receiving kickbacks. The possibility of using the Federal kickback statute (18 U.S.C. 664) was not raised at all levels of review of the case. A local district attorney now has the case under investigation.

In December 1977, information was developed indicating that a plan administrator might have embezzled funds in violation of 18 U.S.C. 664. The case was not brought to the attention of the Justice Department for 18 months.

In July of 1975, an agent found evidence that employees of a firm were being fired to prevent them from participating in a pension and profit-sharing plan. This is a potential violation of section 510 of ERISA. In that same month, the case was referred to the Solicitor's Office in the Labor Department in Washington. Today—6½ years later—the case is still pending in the Solicitor's Office. The Solicitor still has not decided what to do with it.

In March of 1980, it was alleged that a plan administrator had misappropriated more than $40,000 in plan funds. Civil action was initiated by a plan participant. A judgment was entered against the administrator in October of 1980 as a result of the civil action. But the criminal aspect of the case—the alleged embezzlement of plan funds—was not referred to the Justice Department until February of 1981.

In June of 1979, the Labor Department received a complaint that the total assets of a pension plan had been loaned to the plan sponsor to pay off a bank loan. The bank was a trustee of the plan. Nine months later—in March of 1980—an agent was assigned to investigate. Seventeen months later—in August of 1981—the agent's report of investigation was transmitted to the Office of Enforcement. The report recommended removal of the trustees; repayment of the loan with interest; and distribution to participants. In August of 1981, the Solicitor's Office, which now had the file, requested additional inquiry. In the field, the Regional Administrator objected to further inquiry, saying that Washington officials would never do anything on the case anyway and that the best that could be hoped for was voluntary corrective action by the fund trustees. In September of 1981, the Solicitor's Office initiated additional investigation. Subpenas were served for records. Depositions were taken. The case file does not reveal what documents the subpenas produced or copies of the depositions. By February of 1982, the Solicitor's Office had decided not to take legal action against the plan's trustees but to send them a letter proposing voluntary corrective steps. No further action was taken by the Department.

In March of 1978, the Labor Department received information that a welfare fund had made imprudent loans and that the fund had not filed reports with the Department as required by ERISA. In October of 1980, a report of investigation was filed in the Department of Labor's regional office setting forth evidence of improper loans amounting to $1.5 million. The report of investigation made its way to Washington where it was referred to the Solicitor's Office early in 1981. The Solicitor's Office has taken no action. The case file indicates that first, a private suit has been filed against the fund and the trustees; second, allegations were received of possible criminal acts by the former fund administrator; and third, there is no documentation that any of this information was referred formally to the Justice Department, only the undocumented "understanding" that the matter was sent to the Federal Bureau of Investigation in an "informal" manner.

In June of 1970, Labor Department investigators opened a case in which pension fund irregularities were alleged. In June of 1980, a report of investigation was filed indicating that fund trustees purchased stock of the sponsor company at a price in excess of market value; that life insurance was purchased on the company president, with the beneficiary being his estate and not the plan; that the trustees failed to keep minutes of their meetings; and that the plan was bonded inadequately. It was recommended to the Solicitor's Office in October of 1980 that litigation be initiated. Seven months later—in May of 1981—the Solicitor's Office rejected the recommendation, saying:

> We concur with a finding that certain ERISA violations have occurred. However, we believe the matter should be referred to IRS.

Sixth. Agents and other Labor Department officials outside Washington said litigation based on ERISA is not initiated in a timely fashion. This is regrettable because litigation is considered an effective means to protect fund assets and recover assets already diverted. In several cases, however, assets were not protected or were jeopardized because of the Labor Department's failure to have a more aggressive and comprehensive litigation strategy. Frequently, the assets which are not protected and placed in jeopardy involve relatively small plans. Because cases are litigated infrequently, several Labor Department officials said they had settled cases for less financial compensation than the plans were entitled to since this was the best deal they could get for the plans.

Seventh. The ability of the Labor Department to detect ERISA violations was called into question. Labor Department officials said there was no nationwide Department program to detect cases of deliberate failure to submit reports, or the willful submission of false reports. Also noted is the failure of the Department to detect other ERISA violations, as well as title 18 violations.

Eighth. There is general agreement among agents and other field officials involved in ERISA enforcement that investigative personnel are trained insufficiently. The Labor Department's policy regarding agents' training requirements is unclear and there appears to be no organized approach to training.

Ninth. In five of the six Labor Department Regional Offices, strong criticism was leveled at the Solicitor's Office. The Solicitor was faulted for first, excessive delays, sometimes of 2 and 3 years' duration, in deciding on whether to bring litigation; second, giving self-serving or illogical reasons for refusing to litigate; third, intervening in on-going cases and negotiating settlements unilaterally without consulting with the pension welfare benefit program; fourth, showing no interest in cases which had required long periods of investigation by agents; fifth, having no interest in litigating

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reporting violations; and sixth, failing to furnish guidance on statute of limitation problems.

Tenth. The Labor Department has not organized itself in such a way as to make efficient use of pension and welfare fund annual reports. Computerized data from reports is not used efficiently to detect ERISA violations. The Department has no program to flag delinquent reports. When it did try to install such a program, it failed, sending out hundreds of thousands of letters falsely accusing plans of reporting violations, only to learn that the notices went to plans which were in compliance. The study notes:

> A serious question can be raised as to how DOL can be expected to enforce the other provisions of ERISA if it cannot enforce its basic requirement on plans to file annual reports.

The last major violation detection effort made by the Labor Department was in March of 1981 when the data reviewed was 1978 annual reports. When this effort was made, 40,000 pension plans were reviewed and more than 14,000 possible violations were found. But when the results of the "targeting run" were sent to the field for inquiry, they were rejected by agents and officials on the grounds that the data was 3 years old.

In summary, Mr. President, this Labor Department internal report demonstrates the fact that for the last 7 years—the entire life of the historic 1974 pension reform statute—the Department of Labor has fallen far short of proper enforcement of the law.

The internal report makes clear what the Senate Permanent Subcommittee on Investigations has been saying—namely, that the Labor Department has not met its responsiblity to protect pension and welfare funds against criminal exploitation. Unfortunately, it has taken the Department 7 years to realize the full extent of what Congress intended. Pension and welfare funds have been exposed needlessly to the threat of looting. Now, having recognized previous failures, the Labor Department should take steps to carry out corrective action.

This new report indicates that the Labor Department is coming to recognize its own important role in enforcing ERISA. This is a detailed and frank appraisal of the problems the Department must correct if it is to improve its enforcement of ERISA. This is an encouraging document because it shows that, finally, the Department is facing up to its responsibilities in regard to pension and welfare funds and that it is prepared to initiate the necessary corrective action. I commend Secretary Donovan and his aides associated with the preparation of this report.

CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

(By request of Mr. Nunn, the following statement was ordered to be printed in the Record:)

● Mr. CHILES. Mr. President, we are now entering the fourth month that Senator Nunn and I have come to the floor of the Senate each day to urge our colleagues to pass legislation to fight crime and to reform our criminal justice system. We have two crime fighting bills on the Senate Calendar right now, and by passing either one of those proposals, the Senate would be taking an important step forward in the battle to make our communities safe for law abiding citizens. I am encouraged by the fact that both bills have received broad bipartisan support. But I am dismayed because, despite this support, and despite the fact that the bills have been on the Senate Calendar for almost 3 months, the Senate has not yet acted to pass them. In the meantime, the end of this session draws closer and closer. In fact, we have as few as 22 days remaining in this session of Congress, which makes it imperative that we act promptly on crime fighting measures if we are to have any chance of putting tough new laws on the books this year.

Mr. President, a recent poll disclosed that over 70 percent of the American people have little or no confidence in the ability of our courts to convict and sentence criminals. I believe that this lack of public confidence in our criminal justice system is well founded, and that reform of our courts is essential to the fight against crime. One important aspect of this court reform must be establishing more finality in our criminal justice system, and that means doing something about the endless number of appeals a prisoner is able to file under today's. Federal habeas corpus statutes. Once again, we have the opportunity to reform our habeas laws, and to establish more finality in our criminal justice by acting on either one of two habeas reform proposals now pending on the Senate Calendar. Title 4 of S. 2543, a bill that Senator Nunn and I introduced, contains habeas reform measures. Another habeas reform bill, S. 2838, was introduced by Senator Thurmond and was placed on the Senate Calendar this past Tuesday. Both Senator Nunn and myself are cosponsors of that reform proposal.

Mr. President, the movement to reform our inadequate habeas laws continues to grow and to gain momentum. Recently, Mr. Frank Kelley, the attorney general of the State of Michigan, sent a letter of support for habeas corpus reform. He joins the many others involved in our criminal justice system who have called on us to act to restore the writ of habeas corpus to its original purpose. I would like to share some of the points Attorney General Kelley raised in his letter with my colleagues. He stated and I quote:

> An overview of federal habeas corpus litigation in Michigan reveals that the majority of petitions . . . are frivolous in nature. I am informed that of the twelve hundred habeas applications filed in Michigan since 1977, only seven have required issuance of the Great Writ. Another troubling fact is that many of the petitions seek review of issues already examined in detail and rejected by Michigan's corrective tribunals. The all too frequent result, therefore, is duplication of effort and unnecessary expenditure of state and federal funds. For these reasons, I have become convinced that the statute under which habeas actions are brought should be modified so as to promote the state's interests in finality in the criminal process and the preservation of limited state economic resources. These interests must, of course, be balanced against the vital individual interests historically protected by habeas corpus. It is my view that the administration's [habeas reform] proposals adequately protect and promote these essential interests.

I agree with Attorney General Kelley that the present habeas system creates an unnecessary and unwarranted burden on both our Federal and our State court systems. I also agree with another point that he makes in his letter, and that concerns the need for Federal courts to give recognition to the competence of our State courts to examine and determine constitutional issues. It is my belief that our State courts are fully capable of assuring that each individual who is on trial receives the constitutional protections he is guaranteed. In fact, as Attorney General Kelley points out, some State courts, like the Michigan courts, actually give criminal defendants rights that are in excess of those mandated by the Constitution. Nevertheless, under our present habeas laws, we end up with a system in which the Federal courts review practically each and every aspect of the State court criminal trial.

Mr. President, the Senate has an opportunity to heed the calls for reform which have been raised by persons from across the country, and to reform our habeas corpus laws. We can do that, but only if we act promptly to pass the habeas reform legislation which is now ready to be considered by the Senate. There is no reason for further delay. I urge my colleagues to act now.●

SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

Mr. ANDREWS. Mr. President, I ask unanimous consent that the Senate return to the consideration of the conference report on S. 6863.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate resumed consideration of the conference report.

Mr. ANDREWS. Mr. President, I would first like to thank the distinguished ranking member of the Transportation Subcommittee, Senator Chiles, for his help with this bill. His support and cooperation has been outstanding.

Mr. President, I recommend this bill to my colleagues for passage as a responsible and essential mechanism addressing the supplemental funding needs for the 1982 fiscal year. This bill is nearly $2 billion under the President's request and provides the necessary pay and operations funding to keep the Government operational through the end of the fiscal year.

Included in the transportation portion of this bill is $111 million for the Coast Guard and $203 million for the FAA. I have been told by the Department of Transportation that if this money is not made available, Coast Guard facilities will have to be curtailed and in some cases closed around the first week in September.

Mr. President, I point out to you and my colleagues that we all anticipate being back in our States over the Labor Day weekend. I say as chairman of the Transportation Subcommittee there are few, if any, Coast Guard facilities in North Dakota but there are many Coast Guard facilities in the States of our colleagues. I can imagine the number of telephone calls and concerned inquiries Senators are going to get if those search and rescue stations and other Coast Guard facilities are shut down over the Labor Day weekend.

In the case of the FAA, furloughs would be required across the country at all levels of operations. These events would both come during the increase in recreation and travel activity which occurs around the Labor Day weekend.

Mr. President, the only other major program which needs to be highlighted in these brief remarks is the interstate transfer grant program for highways. Although the conference agreement includes $112.5 million for this program, let me say that we have not even begun to meet the $1 billion need for ready-to-go highway construction projects to be funded out of this account, nor the $5.7 billion total outstanding commitment the Federal Government has to the States and local jurisdictions through this program.

Mr. President, the legislative process is one of compromise and the administration must also participate in this compromise. I know the administration has some reservation about the way funds in this bill have been distributed, but its passage is essential to keep vital transportation safety components working. I am, therefore, not only recommending to my colleagues that they pass this bill, but I am also announcing my support for it, to the point of committing my vote to override any possible veto of this bill because I think it is extremely important that we have it passed and on the books before we move into this Labor Day weekend.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, now may I address the question to the distinguished Senator from Michigan as to whether it would be possible to proceed to adopt the conference report so that we might have the discussion on the amendment in disagreement?

Mr. LEVIN. Before I answer the inquiry, I do wish to make sure that there is no misunderstanding about one thing that I said before. The majority leader as always has kept his word on this matter but what the majority leader told me and what I think I indicated before is that he would attempt to get a vote on this amendment prior to the August recess.

The majority leader has certainly made that attempt and is now making that attempt, I presume. The majority leader has in all respects carried out his word. He also indicated to me it was his hope and belief that we could complete the debt ceiling bill prior to going out in August, and there is no doubt that that was his belief at the time he so expressed it.a

So let there be no misunderstanding, the majority leader has certainly carried out his commitment in all respects and is now attempting to continue to do so.

I am unable to have the conference report voted on because I believe it would lose the opportunity for me to make some extensive remarks on what I believe is a matter which must be resolved in a timely fashion.

What I am asking for is that a unanimous-consent request be propounded to allow me to bring up this amendment after the disposition of the conference report. That is all I seek. I am not seeking to hold up this conference report. I am seeking to have another urgent matter voted on today. So I am unable to agree with the request from the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Michigan.

Mr. President, did the Senator from Vermont have a colloquy he wished to pursue?

Mr. STAFFORD. Mr. President, if the Senator from Alaska will yield, the Senator from Vermont wants to have a colloquy with the manager of the bill, Senator Hatfield, within 2 or 3 minutes, as soon as the Senator comes on the floor. It will be a short colloquy.

Mr. STEVENS. I thank the Senator. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hayakawa). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe my colleague from the State of Vermont, Mr. Stafford, has some questions.

Mr. STAFFORD. Mr. President, I do have a question and some observations to address to the distinguished Senator from Oregon (Mr. Hatfield).

Mr. President, I would like to discuss with my good friend from Oregon, the distinguished chairman of the Appropriations Committee, one of the provisions of the conference agreement on the supplemental appropriations bill. Senator Hatfield, as you are aware, the conferees agreed to an amendment offered by myself and Senator Leahy which would have provided $300,000 for two Vermont institutions of higher education. I want to clarify with you the intent of my amendment, which was offered because of new authorizing language contained in H.R. 6863 changing the distribution formula for the $5.2 million provided in supplemental funds for the title III program. Two Vermont institutions, the Community College of Vermont and Castleton State College, were already ranked on a list of title III eligible institutions and could have qualified for funding if the supplemental bill had been approved without restrictive language that had been added by the committee.

Mr. HATFIELD. The Senator from Vermont is correct in his statement.

Mr. STAFFORD. I understand the reason why the committee inserted the new language, in order to insure that institutions which serve large numbers of Hispanic and native American students receive adequate funding under title III. In order to insure equity for my Vermont institutions, however, I offered my amendment to make certain that these two Vermont institutions—Castleton State College and the Community College of Vermont—will receive funding as designated in my amendment.

I am hopeful that the compromise which was worked out by the conferees is one which pleases all involved, and I especially want to thank both the distinguished chairman of the full Appropriations Committee, Senator HATFIELD, and my friend from New Mexico, Senator SCHMITT, the chairman of the subcommittee, for their invaluable assistance in this effort.

Mr. HATFIELD. I am delighted to be able to clarify the amendment with the Senator from Vermont. I want to assure him we will pursue it, and I appreciate his leadership on the subject.

Mr. STAFFORD. I am very grateful to the distinguished chairman of the Appropriations Committee for his cooperation.

Mr. HATFIELD. I thank the Senator.

Mr. STEVENS. Mr. President, before we complete action on the conference report on the regular supplemental appropriations bill, H.R. 6863, I would like to clarify the purpose of the $11.1 million that is provided in this bill for the transfer of the BIA day schools to the State of Alaska.

Alaska has been working with the Bureau since statehood in accepting the transfer of BIA schools at the rate of two or three a year. Our State has already assumed $80 million in construction costs alone associated with the transfer of these schools over the years.

I would point out to the Senate that Alaska is the only State that is proceeding to carry out its commitment to provide quality education for its children and not rely upon the Federal Government through the BIA program, to provide educational opportunities for our native children.

The purpose of the funding in this bill is to help the State meet the substantial repair and renovation costs associated with the transfer of these schools.

A long time ago, the beginning of our period of statehood, the Federal Government agreed to bring the schools up to total standards before they were transferred to the State. Now the schools will be opening in less than 3 weeks and many of the schools being transferred do not meet the uniform building, fire, and sanitary code requirements for public buildings. Our State schools do meet these requirements but the Federal Government has not complied with them. This funding will assist or will help assist the State in opening the schools on time and in a safe condition, and primarily in meeting the fire and safety codes that I think ought to be at least bare minimum for the operation of schools in the remote areas such as these are.

In providing funds to Alaska, it is not the intention of Congress to effect the legal rights of one of the schools, Goodnews Bay, to contest the Department of Interior's decision to transfer this school to the State.

This act does not mandate the transfer of those schools. It provides the funds to assist in the transfer. The problems related to the transfer must be worked out by the Bureau of Indian Affairs, the State of Alaska, and the village involved.

I thank the Chair and I suggest the absence of a quorum. I withhold that.

Mr. ABDNOR addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, chapter 13 of the supplemental appropriations bill for 1982 is the responsibility of my subcommittee. In the opinion of my ranking minority member and myself, we have provided the absolute necessities required by the agencies during the remaining balance of this fiscal year. Senator DECONCINI and I were as frugal as possible. However, it must be remembered that the two biggest items in our chapter are mandatory. We had to provide $303,257,000 for the civil service retirement and disability fund. Additionally, we had to provide $303,806,000 for the annuitants and Federal employees health benefits plan.

Mr. President, I have heard rumors that the President might veto this bill. A veto would be the height of folly because if his health benefit money is not available by August 20, the health insurance carriers can declare their insurance plans void and refuse medical coverage to over 9 million people. Such an event would prove catastrophic and be a breach of faith for those individuals who presumed they were covered by health insurance.

Mr. President, there is money in my chapter of this bill for the personal security of the President and security of the White House office complex. This consideration alone makes it absolutely imperative this supplemental be enacted as soon as possible.

Mr. President, this legislation is not, I repeat and emphasize not, budget-busting legislation. It is far below the President's own budget. We in Congress have kept the faith. We have held down spending in this bill. It is now time for the executive branch to keep faith with Congress and insure that this bill becomes law immediately.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the status of the pending measure?

The PRESIDING OFFICER. The pending question is the conference report on H.R. 6863.

Mr. HATFIELD. Is the matter open for further discussion or debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this conference report contains many needed items. I intend to vote for this conference report when it is put before the Senate.

There is another critical question which we have to resolve before we leave today. It is a question which we delayed resolving for month after month in the U.S. Senate. It is a matter which is time critical. The matter will appear very different to us in September than it does in August. Unlike some of the other matters which we have been debating in recent days, unlike the amendment on the debt ceiling bill relative to abortion, relative to prayer, which we cannot resolve and will not resolve before we leave today, there is a matter which we should resolve before we leave today.

It is a matter that I want to bring to the attention of the Senate and hope that a way can be found that we can vote on this today after we dispose of the conference report. And that is a matter involving about a quarter of a million students in this country whose parents, for the most part, are no longer here to fight for their rights because they are gone. These are parents that were promised that if they died, whether here or in the war in Vietnam, that their children would receive the social security benefit promised to them through college. That was a solemn promise that we made to people who are no longer here to remind us of it. And unless we have an opportunity to vote and to preserve the social security student benefits for this year, that is a promise which this Government will break. And again we will be breaking it to people who are no longer here to fight back.

Forty-five thousand of these students are orphans of soldiers who were killed in Vietnam. When they went to Vietnam, they were assured that if they did not come back, that this social security benefit would be there for their children in the decades ahead. They had a right to rely on that commitment of this Government, and I presume that many or most of them did rely on that commitment.

About 200,000 of these students are the children of other persons who made contributions to our social security system with the same assurance; that if they died or became disabled, that the survivor benefit or the social security benefit to which they were entitled would continue for their children through college.

Mr. President, there are a lot of needs that are contained in this conference report. The Senator from Oregon and the Senator from Wisconsin have worked hard on this conference report and I want to commend them on it. I think my relationship with both of them is such that they know that it would be a fairly significant moral question which would be involved for me to raise it in this fashion. But there is a significant moral question which is involved, and that is whether or not we are going to have an opportunity to vote—just to vote—on the question of whether we preserve a benefit for these students, these quarter of a million students who are out there waiting for some kind of guidance from this Congress.

Hearings have been held on this matter in both Houses. Extensive hearings have shown over and over and over again the kind of reliance that was placed on this student benefit. And I believe that this Senate can keep this commitment to at least vote, vote before school starts in September, as to whether or not we want to keep this commitment for 1 additional year.

I wish to read to you the testimony of Mrs. Alice James, of Chestertown, Md., before the House Subcommittee on Post-Secondary Education. She testified as follows:

> Mr. Chairman and members of the subcommittee. I am Alice James.
>
> I appreciate the opportunity to appear before you to discuss the impact of the elimination of survivor benefits for college students. I shall read my testimony.
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> I teach in Chestertown, Md.—English to the Kent School, and writing at Washington College, and am the widow of a scholar who taught at Washington College for 25 years. But it is not as an educator that I am here today; it is as the parent of four students aged 15 to 21. As a widowed parent I must convey to you the plight of not just my own children, but of thousands like them who may be unjustly deprived of the benefits their dead parents earned for them; the benefits which would enable them to contribute their talents and skills to our society.
>
> Let me explain the impact of the cuts on my own family. My oldest child will graduate from college in May. Until recently she had expected to go on to graduate school, preparing herself for a career in teaching or a related field. As a result of the extraordinary stress the cuts will impose on our family, she is shelving her plans and looking for a job. I pray that she will find one. Her father earned his Ph. D. I have an M.A. You can imagine how I feel about this derailment of her professional goals.
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> My second child is in her second year of college; she too wants to be a teacher. In the next year her annual income from social security will be reduced 50 percent. This year she received 12 checks for $238. During her junior year she will receive eight checks for $178. Her financial planning was predicated on the continued availability of both social security benefits and guaranteed student loans. She is to lose $1,900 in social security, and perhaps $2,000 in loans. How shall we compensate for the loss of $3,900? Which of the other programs will cover our loss?
>
> When she returned to college after Christmas she thought her funding would only be reduced by 25 percent of her annual total. I am ashamed to admit that although I have talked to her since this document arrived on Wednesday, January 27, I have not told her the enormity of her loss. We talked on her 20th birthday. She told me that she missed her father, that she needed him to give her a hug and say, "Your old man is proud of you." Which of you could have delivered another blow? What do you think I should say to her now?
>
> My son is 17. He would be a senior in high school but for a back injury sustained in the spring of his sophomore year. It was misdiagnosed and mistreated for 4 weeks. Finally, he was hospitalized. After another week of painful testing and anxiety, the doctors discovered that their 15-year-old patient had ruptured a disc in his lower back. Summer study was not possible because of lingering pain and the distracting discomfort of a heavy brace. He needed to repeat his sophomore year. Consequently he is not among the high school seniors scrambling to enroll in college program before May 1.
>
> Extend the deadline. Do all you can to help the multitude of youngsters who cannot help themselves. But even if the deadline is extended to June 1, my boy will be deprived of social security benefits for his college education. On the PSAT he scored in the 94th percentile. Which of you wants to tell him that his education is jeopardised by these cuts?
>
> I must add that his hero is the late David K. E. Bruce, envoy to China, ambassador to many European countries, negotiator at the Paris peace talks. He wants to emulate that distinguished career of service to this country. Which of you wants to tell him that his country does not need his services?
>
> And now my youngest daughter, at 15 an enthusiastic sophomore in a stiff college preparatory program. I worry that she will lose her motivation to excel. On the one hand, she knows that her father and I would want her to work as hard as she could to go on to the best college that would take her; on the other hand, she sees what the financial stress is doing to me. What can I do to assure her that somehow we will find a way for her to pursue a career in architecture?
>
> There are thousands of children like mine around the country. There are students who are asking for the benefits their dead parents earned for them. They are asking for help with their education in order that they may contribute to society, not become a drain on it. I wish their mothers could join me here, for I am a weak spokesman for a group of citizens with so few votes. I wish these students themselves could march on Washington and demonstrate outside your doors. But the administration has picked on a silent minority devoid of political clout.
>
> Must I remind you that the G.I. bill and other educational programs have proved that they are a wise investment that pays dividends through the increased productivity and wage-earning capacity of the recipient?
>
> Must I remind you that responsible parents like my husband took the social security program into consideration when they examined their life insurance coverage? And just as they expected their insurance companies to honor their commitment to a prearranged program, so too they expected the government of their country to honor its commitment. Because my husband and his employer were compelled to contribute to the social security program, he could not afford the additional life insurance that would otherwise compensate us for the loss of social security coverage.
>
> Congress has robbed these children of the educational opportunities their parents earned for them. It has also robbed them of faith in their government. I beg of you—restore their funding; restore their faith in their country.

Mr. President, there was a double error made this year.

Mr. PROXMIRE. Will the Senator yield?

Mr. LEVIN. I would be happy to yield if I can get unanimous consent that I can yield without losing my right to the floor and it will not count as a second speech when I return.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. PROXMIRE. I will simply ask, if in the event he secures his wish and the majority leader should get unanimous consent for a vote today on the Senator's amendment on the debt limit bill, and if that amendment should prevail, what is the Senator's answer to the expectation on the part of all of us that we will not act on the debt limit bill until we come back, that then it has to go to conference with the House, that the House could easily strip off this amendment, or that it could be vetoed by the President even if the House passed it and we pass the conference report? At any rate, there is no way that these students would be able to receive these benefits until September in any event, and probably not until October. Therefore, getting a vote on it today would not advance their interests. Why, in these circumstances, not wait until we come back to vote on this?

Mr. LEVIN. For two reasons. One, we will have done everything we can do before they have to make a decision as to whether to try to go to college this fall.

No. 2, there are many people who have to make a decision as to whether or not to borrow money to go to college. That decision can be affected in August by whether or not the Senate decides in August that it wants to continue this benefit for an additional year.

Mr. PROXMIRE. That decision would still be conditioned on acceptance by the House and on the President signing the debt limit bill into law. As we all know, it is likely to be amended with amendments that might not be acceptable at all to the President. Under these circumstances, it would simply provide maybe a modest, very limited hope for these students that they might be able to get this support. Is that right?

Mr. LEVIN. Exactly. It is such a modest, limited hope, but it is important.

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No. 3, this matter will appear differently in September to us than it will in August.

Mr. PROXMIRE. Does the Senator not see——

Mr. LEVIN. If I could finish my thought, this matter will appear differently to us in September when the school year has already started than it will in August when the school year has not begun,

Mr. PROXMIRE. But it would have a cruel effect on students if we pass it now, today, with the expectation of the Senate having acted on it it would become law and they go ahead and make commitments and then it does fall in conference, or it does not get the approval of the President. Under those circumstances, they will be in the position of having made commitments and they are not able to realize the benefits,

Mr. LEVIN. I have talked to enough Members of the House who are very confident that if the Senate passes this bill, it will be passed by the House.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. PROXMIRE. Will the Senator permit me to follow this up just a little bit more? I am also concerned about what might happen in these cases. We now have quite a different situation than we had 5 or 10 years ago. We have guaranteed student loans and we have other opportunities for students to finance their education. If a student, in the expectation that he would be able to get this social security assistance the Senator is pursuing so vigorously, forgoes getting a guaranteed student loan or forgoes using some of the other opportunities that he might have to advance his education, would that not disserve him?

Mr. LEVIN. I do not presume that anybody would forgo seeking all alternatives because it is still an uncertainty. Of course, there is enough uncertainlty so that I presume these students would seek all other options in any event.

Let me just add a double injustice of this year, not just the underlying injustice that we are taking away a commitment that we made to students whose parents are gone, 50,000 of whom were killed in Vietnam. This year there is a double injustice because the Social Security Administration sent out the wrong information. Two of the six offices of the Social Security Administration sent out erroneous information as to whether or not these benefits would be available to these students. They sent out information to these high school seniors that this program had been terminated. In fact, the student had to matriculate in college by May 1 in order for the student to continue to get the benefit of this program.

So there was a double mistake. There is the underlying inequity which this amendment, which now has 23 sponsors, would correct for 1 year, in a limited way, but there is a double inequity this year. The Government erred and misled the high school seniors in one out of three cases into believing that they could enroll in the fall and still be eligible. This amendment would correct that inequity as well.

Let me just repeat something which I said in the CONGRESSIONAL RECORD in May of this year.

> During a February 3, 1982, joint hearing of the Subcommittee on Post-secondary Education, and Elementary, Secondary, and Vocational Education on the effects of the cutback in social security benefits on the student aid programs, Social Security Associate Commissioner Sandy Crank said the following:
>
> "We did not discover it until after it had gone on for some time . . . Unfortunnately, through an error, the old stock of pamphlets were not destroyed . . . and unfortunately some of the old stock was used in notices of children after August 1981. We have no way of identifying which children received the incorrect pamphlet."

Many, many parents and students have testified before committees on this Hill that the issue here has been examined at great length in the hearing process. I am not trying to get a vote on the floor today on something which is new. This is ground which has been plowed at great length and many organizations in this country have become involved in the cause to restore this benefit for this additional year. These organizations are the American Association of State Colleges and Universities, the American Council on Education, the Association of Catholic Colleges and Universities; the American Association of Community and Junior Colleges, the American Association of Admissions Officers and Collegiate Registrars, the Council of Independent Colleges, the Jesuit Colleges of America, the National Association for Equal Opportunity in Higher Education, the National Association of Independent Colleges and Universities, the National Association of State Universities and Land Grant Colleges, and the Committee of Urban Program Universities.

The amendment which I hope to be able to offer at some point and have voted on prior to our leaving in August would preserve for 1 year most of the social security student benefits for children of deceased and disabled workers and children of soldiers killed in Vietnam. The cost of this partial and temporary restoration of this program would be offset by crediting to the social security trust fund instead of to the general fund uncashed social security checks.

The amendment would extend the date by which this year's college-bound children must matriculate in order to continue receiving benefits.

The amendment is intended to redress the double injustice done to thousands of recipients whose college education plans may be thwarted because they were either misinformed or not informed at all by the Social Security Administration of the changes made in the 1981 Omnibus Reconciliation Act until only months prior to their graduation this spring—certainly not sufficient time to allow for these young people to investigate and apply for alternative resources.

The changes enacted last year eliminated social security student benefits for new beneficiaries not enrolled in a college or other post-secondary educational institution by May 1982. My amendment sets the enrollment deadline back from May to October 1982, allowing this year's high school seniors and hopefully, this year's fall college entrants to complete their education with the aid of social security benefits they had every expectation they would continue to receive. The program would phase out as scheduled, 1985—no benefits would be paid during this year's freshman or senior year in college. The student would enter his or her freshman year at a 25 percent reduction in benefits, as scheduled under present law for persons already covered. Additionally, there would be no benefit payments during the summer months—May through August—as under current law.

Mr. President, this amendment is somewhat different from legislation I introduced earlier this year. My original legislation, S. 2512, cosponsored by 23 Members in this body, would have allowed the students about whom I speak to receive benefits during their full 4 years in college by delaying the 25 percent reduction in benefits for 1 year, thereby extending the phaseout to 1986 rather than the scheduled 1985. Because it did that and because it would have delayed the scheduled 25 percent reduction for 1 year for all students, that bill cost almost four times what this amendment will cost. The cost of this scaled-down amendment is totally offset by crediting to the social security trust fund what belongs to that trust fund, uncashed social security checks.

It is estimated that 250,000 to 300,000 high school graduated seniors would benefit from this amendment. As many as 75,000 to 100,000 of these young people received erroneous information relative to their eligibility for future benefits. Thousands of incorrect brochures went out from the social security Kansas City and Birmingham regional offices—two out of six centers nationwide—from August 1981 to January 1982. Social security "mistakenly" sent out its old brochures, containing previous law guidelines, which clearly stated beneficiaries would continue to be eligible for benefits upon attending college.

Mr. President, these young men and women made their educational plans based on the Social Security Administration's reassurance that promised benefits would continue to be available to them.

Not only did high school seniors receive erroneous information by mail—erroneous information was also given out by phone when parents and students called their local social security offices with questions about the program.

It is only fair that this Government accept the responsibility of its own errors and its own actions. These young people should not have their future educational plans suddenly disrupted, if not destroyed, through no fault of their own.

Most of the young people affected are from marginal income families. In 1981, over 60 percent were survivors of deceased workers and soldiers. A sizable number were from families where both parents are deceased. Seventy-one percent of the beneficiaries were from families with incomes of under $15,000; 53 percent from families with incomes under $8,000.

Mr. President, about 45,000 of these young people are orphans of Vietnam soldiers, our soldiers in Vietnam who never came back, who were promised that if they went to Vietnam and died that their children would receive the social security benefits through college.

Eleven thousand three hundred young people, by the way, in my own depressed State of Michigan are depending on these promised benefits to aid them through college.

Mr. President, I want to share with my colleagues one more paragraph from the remarks of Mrs. Alice James, the widowed parent of four children affected by the changes in the social security student benefit program. Her remarks were made on February 3 of this year before the Post-Secondary Education Subcommittee in the House:

> Congress has robbed these children of the educational opportunities their parents earned for them. It has also robbed them of faith in their government. I beg of you—restore their funding; restore their faith in their country.

As I indicated, Mr. President, the cost of this amendment, over the 3-year period affected, is $245 million. The second part of this amendment addresses the question of how to pay for the benefit by addressing the issue of the uncashed social security benefit checks. This amendment would offset the cost of this partial restoration of the program immediately, 1983 fiscal year, in the following way:

Hundreds of millions of unnegotiated social security checks remain in the general fund rather than being recredited to the social security trust funds. According to the Social Security Administration the accumulated total of uncashed benefits is now up to an estimated $255 million. Each year over $20 million is added. These funds can offset the 3-year cost of partially restoring the student benefit for this year's high school graduated seniors. They also will make a contribution toward preserving the solvency of the social security system.

For the past several years, the Social Security Administration has been negotiating with the Treasury Department to arrange for a change in the administrative procedure used in handling these outstanding checks, but to no avail. In response to this need for a legislative remedy, Senator Hollings and I introduced this legislation on March 1 of this year. To date, the bill, S. 2150, has been cosponsored by Senators Chiles, Cranston, Dixon, Dodd, Hatfield, Hawkins, Heflin, Hollings, Humphrey, Inouye, Matsunaga, Melcher, and Zorinsky.

The legislation provides procedures for crediting the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund with the amounts of social security checks which have not been negotiated within 12 months. The legislation also applies retroactively, transferring the $255 million accumulation to date of unnegotiated checks to the social security trust funds.

Let me explain how the uncashed benefit checks have accumulated. When payment is made to a social security beneficiary a voucher is submitted by the Social Security Administration to the Treasury Department for the amount of the benefit. This amount is then withdrawn from the social security trust fund and the payment is sent to the beneficiary. For any number of reasons some benefit checks may not be cashed. In many instances the checks are lost, stolen, burned, or saved for later use. In some cases the beneficiary of the check is deceased. Under present procedure, regardless of why the check is not cashed, the money has technically been spent by Social Security. The Treasury Department holds these funds until the checks are cashed. If the check is never negotiated, this money is added to the Treasury's general fund. The social security trust funds not only lose the initial amount, but also the interest obtainable by proper investment of the trust funds.

Mr. President, I ask unanimous consent that I may yield to my colleague from Arkansas for purposes of debate only without losing my right to the floor and without this being counted as an interruption of my speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I want to refer to a very personal experience I had when I was Governor. I think the distinguished floor manager on the majority side, Senator Hatfield, as a former Governor, can relate to this.

I remember one night about 10 o'clock in the evening, a very stormy night, the president of Texas International—at that time it was called Trans-Texas—called me at the Governor's mansion and told me he thought that Texas International had a plane down in southwest Arkansas. The plane had apparently been lost in a storm and crashed into a mountain in the Ouachitas. I immediately called the National Guard and told them I wanted to send out helicopter search teams at the very earliest possible time. They checked the weather between Little Rock and Texarkana, which was the vicinity of the crash and said they did not think that helicopters could make it because of fog. I said, "Well, at the earliest possible moment that you think the weather will permit you to go, I want you to go. The relatives of all the people on that plane are not going to have a moment's rest until we find the plane."

So about 3 o'clock in the morning they decided that the weather was good enough to allow the plane to go, and two helicopters took off with three men on board each helicopter so they would arrive at the break of dawn to start looking for the plane. Unhappily, and tragically, about halfway to Texarkana, they ran into fog. It was later determined that one of the pilots apparently got vertigo in the fog, and one of the helicopters crashed killing all three crewmen.

That may seem like a strange story in the context of this debate, but I can tell you that it was the most traumatic thing that happened to me while I was Governor. I felt a great sense of responsibility for those three crewmen and certainly for their families. Two of the men who died left widows and children. I tried to keep up with their families.

About 1 year and 3 months ago, one of the wives called me and said, "Senator Bumpers, you got a bill passed when you were Governor so that my children could go to any State-supported school tuition free." I said, "Yes, I remember that."

She said, "Well, I just saw in the paper that the President is suggesting that they take student benefits away from children." She said, "I have one in school right now that could not be there if it were not for the social security he is drawing on his father, and I have another one who will start to school in the fall of 1982."

I said, "Well, do not worry about it. This President, I know, wants to cut the budget; he wants to do a lot of

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things, but I do not think he would ever suggest that students who are in school on social security, or those who are about to enter, would ever be deprived of those social security benefits."

Well, the rest is history. The President made such a proposal and it passed. This is just one isolated case of the terrible burden and the terrible inequity that has been imposed on people who thought they had a sacred contract with the U.S. Government.

I am not going to defend against the argument that social security was never intended to send children to college. I agree that it was not. It was never intended to be the sole source of income for retirees either. It was always considered a supplemental benefit for old age.

Mr. President, you are listening to a Senator who would not be here right now if it had not been for the GI bill of rights. I went to law school in one of the best schools in the country. I guess my father would have stolen to see that his children received a good education. I know he could not have sent his two sons to expensive schools if it had not been for the GI bill of rights.

To follow that up, while I was in law school, my father, who had paid the maximum on social security since the program began, was killed in a car wreck, instantly. And his widow, my mother, could not have drawn because she was killed in the same car wreck. My father had paid maximum social security all of his life and his family drew not one penny.

I think in a case like that you might say the family should have at least gotten something back for the 20 years he paid social security. I think we received a $200 death benefit to help bury them. That was all.

Mr. President, one of the things I learned at my father's feet was that some people are very fortunate. They have good minds, they have good bodies, they are brought up in good families, they have plenty of income, they have the best of everything, and they have the choice of their schools. Unfortunately, that is not the case with about 90 percent of the people in this country.

Look at the statistics. Eighty percent of the children going to school on social security come from families with incomes of less than $15,000 a year.

This is not exactly a great, big grab by the wealthy. This program is designed to help people get an education.

Mr. President, I do not want to become absolutely maudlin about this, but, after all, what the Senator from Michigan is proposing is not all that draconian. First of all, he is taking care of the objection that his amendment is a budget buster. It is not, and he has told the Senate how it can be funded.

No. 2, he said, correctly, that if we are going to cut people off social security who want to go to college, for Pete's sake, give them a little notice, and do not try the underhanded tactic of saying, "If you're not enrolled in a college by May of 1982, you're out."

Is that fair? Was that really an open, honest, and above board proposal by this administration, to say, "If you are not entered by May, you are out"?

Kids do not enroll in college in May, Kids enroll in college in August and September.

I met with all the State-supported school presidents in my office one day, and the next day I met with all the presidents of the private colleges in Arkansas. They all said, "We are going across this State, combing it as best we can, to get the word out that these people are going to have to make a very early decision." I can tell you that they were upset about what we did last year with this program.

This President, Ronald Reagan, has had one of the greatest opportunities to do some things that should be done in this country, and he has done some of them. He has proposed a lot of budgetary cuts that were perfectly legitimate. He has tried to control spending in a lot of areas, and he is trying to cut down on the unnecessary regulation of business and average citizens. But when he talks about cutting back on student financial aid, to deprive youngsters of a college education—youngsters who have no chance otherwise—it betrays the very finest instincts of the people of this country.

How are we going to compete against Germany and Japan technologically if we do not educate our youngsters? Did you see the article in the newspaper a couple of days ago which stated that Harvard has always prided itself on the fact that about 25 percent of the freshman class come from families which have never had anybody attend college before?

I had the No. 1 student at Harvard intern in my office this summer, a youngster from Nashville, Ark.—one of the finest youngsters I have ever known. He just happened to be a brilliant lad who received a fine scholarship. I do not know whether his folks could have sent him to Harvard without financial help, but he finished No. 1 in his class last spring.

We talked about this, and he talked about what a great cross-section of students are there. But Harvard announced the other day that the figure of 25 percent in the freshman class who have been coming from families which have never had a soul go to college is now down to 15 percent or 16 percent. Do you know what that translates into? That translates into more and more of Harvard's students are coming from the affluent sections because the others simply cannot afford to go there, no matter how deserving they are. Harvard is upset about it, and rightly they should be.

Mr. President, as I said, I know that I have a tendency to be a populist when it comes to health and education; and if I were not a product of the GI bill and if my father had not taught me, and taught all three of his children, that we had good minds and good bodies and therefore owed society more, I would not be standing here.

I am always amazed, incidentally, to find a lot of people who grew up poor and probably made it more by luck, or by having sensible parents, or maybe just some kind of economic luck, always saying, "Why can't everybody pull themselves up by their bootstraps, like I did?"

Here is a minimal proposal to keep faith with about 250,000 youngsters who thought they were going to go to school this fall because their parents, one or more, are dead, and they have no other source of income. The fathers of some of them were killed in Vietnam, and their fathers thought they had a contract with the Government that if anything happened to them in Vietnam, their children would be educated.

So unless this amendment by Senator LEVIN passes, we are saying, "No. We have changed the rules in the middle of the game."

I applaud the tenacity and the dedication of the Senator from Michigan. He has never deviated once since he started on this crusade to try to take care of these youngsters this fall. I have always said that if I had CARL LEVIN's tenacity, I would run for king. I applaud him, and we all ought to, and I support him strongly in this effort to bring up this amendment.

Mr. President, I yield back to the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Arkansas, not just for the eloquence of his defense of this amendment but also for his personal comments. I want him to know that I will vote for him for king, anytime he wants to run.

Mr. President, the Senator from Arkansas reminded us that what is involved here is not just correction of the underlying injustice of what we are doing to 250,000 students this fall, but also, we are talking about correcting the mistake our Government made in notifying them, when they were seniors in high school, about what their rights were. It was a double mistake, I hope an unusual mistake, because I hope Government does not often do what the Social Security Administration did this spring.

Representative PEYSER, the sponsor of one of the bills in the House to correct this problem, said the following about this problem in one of the hearings in the House:

> I think that the actions that we have seen, Mr. Chairman, and have been witnessing for the past few months by the Social Security Administration, can justifiably be described as deception by omission by not informing the students throughout the country that their education benefits will be lost unless they are enrolling and attending college by May of 1982. The Social Security Administration, in my opinion, is cheating nearly 200,000 eligible students out of their potential rights.
>
> Mr. Chairman, the gentleman representing the Social Security Administration used the words "making extraordinary efforts to get the public the information." Well, I have gotten some copies of what those extraordinary efforts were in dealing with, for instance, the newspapers. This is a copy of what was sent out by the Social Security Administration on this subject matter and what it says, "As a result of legislation enacted in mid-1981, social security student benefits will be phased out for those attending postsecondary schools. When student benefits first began in 1965 the rationale was that young people 18 to 22 who were full-time students were as much dependent on their parents for support as children under 18. However, benefits were not related to any education costs involved or to school performance." That was the end of the release dealing with changes on social security that went out in December of 1981.
>
> We have another one that deals with changes, and they say "There are changes in the social security benefits under the student programs. If you have any questions, contact your regional office." That was another news release that went out.

Representative Peyser went on to say the following at this hearing, on this disastrous, precipitate, erroneous, false cutoff of social security benefits for a quarter of a million of our students, our children:

> It seems to me that these news releases which are copies from the public service announcements of the Social Security Administration certainly do nothing that would tell the students we are talking about what the story is. It has reached such a point, and for once I am pleased—not for once—I am pleased with my colleagues for quick action on this. Many Members of Congress have been reaching out in their districts trying to get this message out. I took the liberty a month and a half ago of mailing out to nearly 6,000 guidance teachers in high schools all over the country exactly what the situation was. We have received countless calls and letters from people, and I selected one or two.

Mr. HATFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. LEVIN. I am happy to yield.

Mr. HATFIELD. I am grateful to the Senator for letting me interrupt.

I inform the Senator that I just received word that there will be an objection raised to adopting the amendments en bloc which will require, therefore, that we act on each amendment separately. That means about 35 amendments will have to be acted on separately.

The Senator from Michigan will, of course, have an opportunity to retain his posture on this bill on any one of these amendments in terms of denying the Senate to move on to completion of this, and I understand the Senator's tactic and he is certainly within his rights. I know he feels very deeply about this subject. I do in no way want to be critical but rather merely perhaps to inform the Senator that I wish very much, if there is any possibility at all to move on these amendments, to get the conference report adopted in order that we can move on these amendments and to make certain that in no way we prevent the Senator or in any way foreclose the Senator from carrying on his effort here in the strategy that he has employed.

There are two amendments, one each from the Senators from Alaska and New Mexico, 115 and 150, which are not included in the motion to adopt the amendments en bloc but that no longer really means a great deal because of the fact we cannot adopt them en bloc.

I know the Senator from Michigan realizes, too, that we have to complete this supplemental appropriation before the recess commences. I have just also spoken to the majority leader, and the majority leader indicated to me that if we cannot finish this bill today, we will have to work until tomorrow to finish it.

So with those various forces at play here, I pose a question again to the Senator that has been posed a short while ago by the Senator from Wisconsin (Mr. Proxmire). Is the Senator willing at least to move ahead on the housekeeping activity that relates to this bill and not substantive matters in any way and at the same time not adopting all the amendments but rather adopt the major number that we can under the one-by-one routine and thereby preserving his same rights that exist now to delay final action on the bill until he has received some satisfactory resolution to his cause?

Mr. LEVIN. I thank my friend from Oregon. I wish to take that request under advisement. We are checking out a couple of technical aspects on it. I may be able to agree to that but I wish to take it under advisement at this point.

Mr. HATFIELD. Then I shall make a unanimous-consent request. Mr. President, I ask unanimous consent at this time that the Senator from Michigan, if he is willing, may yield the floor without losing his right to the floor for the purpose of some statements only by the chairmen of the subcommittees of the Appropriations Committee in support of this bill.

Mr. LEVIN. I am happy to yield.

The PRESIDING OFFICER (Mr. Rudman). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield for that purpose under this situation now to the Senator from Connecticut.

Mr. WEICKER. I thank both the distinguished chairman of the committee and also my good friend, the distinguished Senator from Michigan.

Mr. President, I rise in support of the conference agreement on H.R. 6863 and urge my colleagues to expeditiously approve it so that it can be submitted to the President for his signature.

For the agencies funded under the provisions of chapter II of this bill, the President requested $171,384,000 in program increases. As chairman of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, I am pleased to report that the conference agreement provides $149,951,000 in new budget authority and $6,250,000 by transfer. In addition, the conference report rescinds $2,000,000 in foreign currency gain excess to the program requirements of the Board for International Broadcasting. Thus, Mr. President, the recommendation of the conference for chapter II is $17,103,000 less than the program supplemental submitted to the Congress. Yet, it contains funds necessary to support the on-going activities of a number of Departments and agencies.

For the Department of Justice, this agreement provides $71,711,000 and includes funds to finance the activities of the South Florida Anticrime Task Force comprised of U.S. attorneys, marshals, the FBI, and DEA agents. In addition, the conference agreement contains $17,000,000 for the construction of one facility for the detention of aliens and provides $22,000,000 critically necessary for construction of a new Federal prison.

For the Department of State, the conference report provides $60,587,000 including $40,000,000 requested by the President to provide additional security for the protection of our diplomatic personnel abroad. Also included in this report is $1,600,000 for preparation and presentation of the U.S. claim in the Gulf of Maine boundary dispute before the International Court of Justice. The Gulf of Maine dispute concerns a 12,000 square mile area off New England which contains mineral and living resources of immense value. The preservation of the rights of the United States, which have long been exercised in this area, is of great importance to New England and to the rest of the country. While the conferees expressed concern regarding numerous irregularities in the presentation of the budget justification for this request, it is clear that there is every expectation that the case presented by the United States will not be inferior to the Canadian Government's presentation of its case.

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For the Department of Commerce, the conference recommends $15,663,000 in new budget authority and $3,000,000 by transfer to fund the first year of New York's coastal zone management program. In addition, $10,000,000 is provided for U.S. participation in the World Exposition to be held in New Orleans in 1984. These funds are contingent upon enactment of an authorization.

Mr. President, I would like to say a few words about the conference agreement as a whole. The Senator from Oregon (Mr. HATFIELD) who is chairman of the Appropriations Committee should be congratulated for his leadership on this legislation. This is not a budget busting bill. The President submitted supplemental requests totaling $16.1 billion. This bill provides $14.2 billion. Thus, we are well within the budget request.

However, the programmatic priorities of the budget have been rearranged. The Defense Department did not get all it wanted in this supplemental. Congress has exercised its discretion and determined that other programs—programs directly benefiting the aged, the handicapped, the disadvantaged, and students are more deserving.

Let us review the list. We are $1.9 billion under the budget request. We have reduced the amount available for Defense programs and we have reduced military aid programs. We have added $210 million for older Americans; $148 million for compensatory education for the disadvantaged; $217 million for student financial assistance; and $26.5 million for education for the handicapped.

We have exercised our prerogatives to assure that Congress has an opportunity to address regulations governing the education of the handicapped and we have expressed ourselves with respect to the necessary level of resources to carry out energy conservation programs. We have language in the bill regarding the expenditure of funds for subsidized housing programs.

The issue at hand is not whether this bill is over the budget. The issue is over the details of the budget and whether those details are acceptable to the President.

The issue is whether we accept the budget as presented by the President or whether the Congress establishes different priorities.

In the opinion of this Senator, the conference agreement before the Senate today has set our priorities straight. It is a good conference agreement. It is one we should adopt and send to the White House.

Mr. HATFIELD. Mr. President, I would like to thank the Senator from Connecticut (Mr. WEICKER). He is immeasurably valuable to our committee. He is the chairman of the Subcommittee on State, Justice and Commerce, and he carries a major load in our committee, and I appreciate his statement of support.

Mr. McCLURE. Mr. President, I rise today in support of H.R. 6863, the 1982 Supplemental Appropriations Act. As chairman of the Department of the Interior and Related Agencies Subcommittee, I can say without hesitation that this bill represents tremendous fiscal restraint and responsibility on the part of the Congress, while at the same time providing necessary funds for numerous programs desirable to most legislators and, indeed, desirable to most Americans.

Specifically with respect to the Interior and Related Agencies chapter of the bill, we have included funds for firefighting costs in our national forests and on other public lands, we have provided money to pay citizens for lands condemned by the Government, and have finally made full payment to the people of Bikini on whose island we detonated nuclear weapons in the late 1950's.

Moreover, we have provided money to reclaim 45 high priority strip mine areas throughout the country, have included funds for necessary sanitation facilities in thousands of Indian homes, have taken steps to reduce duplication and waste in the Nation's coal mining research and development activities, and have made an effort to prevent further deterioration of several of this country's necessary energy programs.

Mr. President, while this bill—like every other—represents a compromise between the House and the Senate, I firmly believe it is a fair and balanced compromise. Perhaps, more important, I do not believe this measure can be considered a budget buster in any sense of the imagination. Therefore, Mr. President, I ask of my colleagues to join me and overwhelmingly approve the conference report on this 1982 Supplemental Appropriations Act.

Mr. D'AMATO. Mr. President, I am pleased to report that the District of Columbia's chapter that emerged from the conference is identical to the Senate version of H.R. 6863. This agreement provided for a net $60.3 million in new budget authority in District of Columbia funds. This is made up of $63.9 million in added authority for the operations of the city government and $10.6 million in capital project costs and $774,000 for costs associated with the new convention center. These increases are partially offset by the rescission of nearly $15 million in authority previously appropriated.

One key point should be made. This chapter contains no increased Federal funds to the District, and in fact rescinds the city's authority to spend some Federal funds which will no longer be available to them. This request is offset by additional local revenue being realized. There trends began nearly a year ago and results primarily from increased collection techniques.

Mr. President, these funds are critical to the District's ability to provide for the public safety and health. A third of this increase is needed as the local share of increased medicaid costs. We have also increased the funds available to the police chief to fight crime, to add 90 more correctional officers in order to increase security at the city's central prison facility, and authority for the courts to provide a speedier trial and reduce its staggering felony case backlog.

This chapter provides additional resources to address circumstances that could not have been foreseen at the beginning of the fiscal year. These allowances are prudent and necessary and I urge Senators to adopt them.

Mr. DOMENICI. Mr. President, I rise today in strong support of the conference report on H.R. 6863, the fiscal 1982 supplemental appropriations bill. This bill remains well within the budget ceilings of the Revised Second Budget Resolution for Fiscal Year 1982.

Mr. President, this conference agreement continues the fiscal restraint that was evident in the bill as it passed the Senate. I want to offer my congratulations to the distinguished chairman of the Appropriations Committee, Senator HATFIELD, and to all the other conferees on this bill for a job well done.

H.R. 6863, as reported by the committee of conference, provides $9.2 billion in budget authority and $7.5 billion in outlays in fiscal year 1982 for supplemental appropriations. If this conference report is enacted, Federal spending will still be below the fiscal year 1982 budget ceilings by $8.1 billion in budget authority and $1.1 billion in outlays.

H.R. 6863 provides $6.1 billion in budget authority and $5.9 billion in outlays for costs associated with the October 1981 pay raise for Federal employees. That is by far the largest item in this bill. The remainder provides supplemental appropriations for individual programs, including economic assistance funds for the President's Caribbean Basin Initiative, employment, education, and transportation items.

The conference report on H.R. 6863 is $1.5 billion in budget authority and $1.4 billion in outlays below the President's request. The major reason for this is that the conference agreement is $1.8 billion in budget authority and $1 billion in outlays below the President's request for defense programs.

Mr. President, I know that some have raised questions about the balance between defense and nondefense programs in this bill. I am sure that each of us has his own opinion about the priorities in this bill. I would remind everyone, however, that under the congressional budget process, the determination of these priorities within the overall budget totals is the responsibility of the Appropriations Committees. In this regard, I would once again point out that the Appropriations Committees have brought us a bill that is well within the overall budget totals we have established.

In closing, Mr. President, let me once again congratulate the Appropriations Committee, and particularly the distinguished chairman of the committee, for their work on this bill. I urge adoption of the conference report.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the fiscal year 1982 Revised Second Budget Resolution be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 6863—FISCAL YEAR 1982 SUPPLEMENTAL

[In billions of dollars]

	Budget authority	Outlays
Revised Second Budget Resolution	777.7	734.1
Current level	766.9	732.1
CBO technical adjustment to current level	−0.1	−0.1
Action underway (H.R. 4961)	0.4	0.2
Amount remaining	10.3	[illegible]
H.R. 6863, conference report [1]	9.2	7.5
Less items already in current level	−6.7	−6.4
Less offsetting receipts affected by appropriations action	−0.3	−0.3
Net impact of H.R. 6863	2.2	0.8
Amount remaining	8.1	1.1
President's request [1]	10.7	8.9
House-passed [1]	8.8	7.3
Senate-passed [1]	9.0	7.5

[1] Reflects Senate Budget Committee scoring of CCC borrowing authority.

Note: Details may not add to totals due to rounding.

Mr. DODD. Mr. President, this conference report appropriates absolutely necessary funding for one of our most efficient, most productive programs: the community service employment for older Americans program. This program, authorized under title V of the Older Americans Act, allows some 54,000 low-income senior citizens to work part time in their communities.

Mr. President, those who oversee title V employees throughout my State of Connecticut have told me that such employees are the hardest working, most dedicated people they have ever met. Title V employees have gone a long way toward improving the educational, health, welfare, and social services in communities across the Nation. It is imperative that we continue to provide full funding for this outstanding program.

I must express my deep concern, however, over a provision in this conference report which changes the formula for allocating title V funds. The Senate voted to appropriate the supplemental funds for title V according to the formula mandated by the Older Americans Act reauthorization of 1981, giving 76 percent to national contractors and 24 percent to State programs. The House version of H.R. 6863, however, changed that statutory formula, allocating 80 percent of the funds to national contractors and only 20 percent to State programs. A compromise was reached in conference, giving 78 percent to national contractors and 22 percent to State programs.

I commend my colleagues in the Senate who refused to recede to the House on this point during conference. Nevertheless, I view the compromise reached as a dangerous precedent, one which may undermine the State programs.

Mr. President, there is no reason to change the existing statutory formula for distributing title V funds. The State-administered programs are efficient and effective, as recognized during the debate on the reauthorization of the Older Americans Act last year. Moreover, State programs provide a wide geographic distribution of title V jobs, reaching senior citizens in areas not served by the national contractors.

Thus, although I support wholeheartedly the appropriation in this conference report for title V, I would have far preferred to see such funds distributed according to the statutorily mandated formula.

● Mr. COCHRAN. Mr. President, I want to emphasize the importance of the agriculture chapter of this supplemental appropriations bill, and to add my support for passage of the conference report.

The major item in the agriculture chapter is a badly needed increase of $5 billion in the borrowing authority of the Commodity Credit Corporation (CCC). This increase will permit the CCC to continue funding the price support and commodity purchase programs authorized by law—programs that are very important to our farmers. Without this additional authority, CCC may be unable to meet its obligations. Our farm economy is unable to withstand any breakdown in the administration of farm programs, so I urge my colleagues to vote for the conference report.●

● Mr. MATTINGLY. Mr. President, the Appropriations Committee conferees on H.R. 6863 have agreed upon a final product which deserves the support of Members of the Senate, and deserves the signature of the President. Resuming its traditional role of appropriating funds under the level requested by the President, the committee's final product is nearly $2 billion under the President's request. The President requested $11.056 billion in supplemental funds for fiscal year 1982, most of which is for increased pay costs in the Department of Defense. The conferees have been able to reduce this request to $9.177 billion, a savings of over 15 percent. In addition, we should not overlook the conference committee's performance regarding rescissions of fiscal year 1982 budget authority. Whereas the President recommended $287 million in rescissions, the conferees delivered slightly over $400 million, an increase in savings of nearly 40 percent over the President's proposals.

Mr. President, it is my privilege to head the Appropriations Subcommittee on the legislative branch. I want to be sure my colleagues are aware of the reductions made by our subcommittee in this bill. The President's budget included $35,629,000 in program supplementals for the legislative branch. The conferees, anxious to stress that the legislative branch is making the same sacrifices it is calling upon others to make, cut that request to only $8,597,325, a mere 24 percent of the requested amount. We were also able to make savings in pay supplementals. In title II of H.R. 6863, $35,233,000 is provided for the legislative branch, rather than the full request of $40,256,000. The total appropriated for the legislative branch in this bill is just 58 percent of the President's budget.

Mr. President, returning to the entire bill, how many times in the past year have we been able to say that we recommend appropriations of only 83 percent of the President's request? I hope the committee's performance on this bill is a harbinger of the committee's action on fiscal year 1983 appropriation bills. I would call to the attention of the Senate that the only fiscal year 1983 bill upon which committee action has been completed, for HUD and independent agencies, is nearly $9 billion under that subcommittee's allocation. So I think we are making progress in holding down spending. This is a good bill, and I urge my colleagues to support it, and the President to sign it.●

● Mr. SYMMS. During consideration of H.R. 6863 on the House floor, a colloquy took place between the distinquished chairmen of the House Public Works and Transportation Committee and the House Transportation Appropriations Subcommittee regarding a letter the Senator from North Dakota had received from the Federal Highway Administration on the subject of geometric design standards for 3R work. I wonder if the Senator from North Dakota, Senator ANDREWS, is familiar with that colloquy and the letter?

Mr. ANDREWS. Yes, I am familiar with the letter and the discussion in the other body. I am in agreement with the conclusion reached in that discussion. To be specific it reiterates Congress' intent that the 3R program continue and that reimbursements for

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projects authorized after July 12, 1982, be made.

Mr. SYMMS. So it is the understanding of the chairman of the Senate Transportation Appropriations Subcommittee that rehabilitation work could continue to be carried out without disruption and delay using the standards and procedures in effect and being utilized by the States immediately prior to July 12, 1982?

Mr. ANDREWS. That is correct.

Mr. SYMMS. Is it also the understanding of the distinguished Senator that the limitation on the use of funds applies only to the Federal Highway Administration's rule "Design standards for highways, resurfacing, restoration, and rehabilitation of streets and highways other than freeways," and that this limitation is in force only until September 30, 1982?

Mr. ANDREWS. The distinguished chairman of the Transportation Subcommittee is correct.

Mr. SYMMS. I thank the distinguished chairman of the Senate Transportation Appropriations Subcommittee for this clarification. This has been a difficult issue and I believe that it must be resolved so that the critical 3R program is not put in jeopardy. I believe the States have been moving forward with this program as quickly as they can with the limited funds available to them.●

SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM

Mr. EAGLETON. Mr. President, I am very pleased that the conference report on H.R. 6863, the fiscal year 1982 supplemental appropriations bill, includes $210.6 million for the senior community services employment program authorized under title V of the Older Americans Act. This funding is essential to continued operation of the program beyond September 30 without disruption.

The Senate has repeatedly affirmed its overwhelming support for title V. Last year, it passed unanimously a 3 year reauthorization of the program, as part of the Older Americans Act amendments of 1981.

On July 1 of this year, the Senate passed by a vote of 89 to 6 a resolution expressing the sense of the Senate that no action be taken to terminate or weaken this program for older workers. The House of Representatives, on July 20, adopted a similar resolution of support for the title V program, by an overwhelming vote of 407 to 4.

It is clear that both the Senate and the House, Democrats and Republicans alike, recognize that failure to continue categorical funding for title V will seriously jeopardize a program which has proven effective in providing jobs and services to senior citizens and to communities across the Nation.

Testimony before Congress earlier this year revealed that a title V program in Alabama, at a cost of approximately $160,000, has saved the State roughly $1.35 million annually by enabling frail elderly persons to remain in their own homes. A title V worker in Illinois opened a communal meal center in an underutilized Federal building, and is now serving 25 meals per week to senior citizens. Leaders of community after community, have testified that title V program participants make important contributions to the quality of life in their towns and cities.

In strict dollar terms, studies show that title V jobs return to the taxpayers $1.15 for every dollar spent on the program; that SSI and food stamp costs were reduced an average of $24 a month whenever a new person joined the title V program; and that FICA contributions of title V participants alone amount to $1,575,639 per year. By any measure, the program is a valuable investment in communities and people.

In spite of the overwhelming evidence of this program's worth, the Reagan administration requested zero funding for title V for fiscal year 1983. The administration opposed the inclusion in the urgent supplemental appropriations bills of the $210.6 million to keep title V going, twice vetoing the bill. And now, in relation to the conference report on the regular supplemental which is before us, Budget Director Stockman has written to the Appropriations Committee complaining of the "unwarranted" increases in domestic spending, specifically citing the community service employment program for older Americans.

Mr. President, as I have said, Congress has repeatedly rejected the administration's efforts to terminate the title V programs. Through reauthorization legislation, resolutions of intent, and most significantly, through the first budget resolution for fiscal year 1983, which provides for continued funding at the 1982 level, Congress has affirmed congressional support for the future employment of the 54,200 senior citizens who work in title V programs. However, if the program is to continue without disruption this year, the funds in the supplemental bill before us must be approved to send a real signal to the administration of our determination to keep the title V program alive and well at present operating levels.

TITLE V OF THE OLDER AMERICANS ACT

● **Mr. D'AMATO.** Mr. President, I support H.R. 6863; however, I feel compelled to address the provision in the bill which appropriates $210.572 million for title V of the Older Americans Act. I fully support these additional funds which will permit this vital program to be operated on a forward-funded basis as required by the authorizing legislation. Failure to allocate these funds might well cause programs throughout the Nation to cease operations until which time the money becomes available.

As my colleagues in the Senate know, title V funds provide employment opportunities to over 54,000 older Americans. These hard-working citizens are employed in a variety of jobs which permit the delivery of important community services. The program has received an overwhelming endorsement by the Congress. Last year, the Older Americans Act was reauthorized for another 3 years. In addition, this body, by a vote of 89 to 6, reaffirmed its strong support for title V.

Under the formula for allocating funds for title V as set forth in the authorizing legislation, 76 percent of the appropriated moneys are directed toward national contractors and 24 percent go to State offices for the aging. Although the report which accompanies the reauthorization explicitly states that "efforts to distort this formula through other legislative vehicles clearly violate the letter and spirit of this Act," efforts have been made in the House to change the funding split to 80 percent for national contractors and 20 percent for State offices for the aging. This change in the funding allocation would have caused over 2,000 older Americans to lose their jobs.

Despite efforts by Representative BIAGGI and others in the House to return to the authorized funding splits, the House came to conference on the supplemental appropriations bill with a funding allocation which clearly contravenes law. In conference, I fought to have the House recede to the Senate position which followed the authorizing legislation. The merits are clearly on our side. As I have already indicated, the report language on the authorizing legislation states that any changes in the funding splits would be inappropriate. Moreover, several national contractors have written to Senator SCHMITT, chairman of the Senate Subcommittee on Labor, Health and Human Services, Education and Related Agencies Appropriations that they feel honorbound to accept the funding formula which they helped draft and which was agreed upon in the authorizing legislation.

In the spirit of compromise and in an effort not to stall passage of the supplemental appropriations conference report which contains other important items such as title I funds for the educationally disadvantaged and interstate transfer-highway funds, I agreed to a 78–22 split between national contractors and State offices for the aging. I thank my colleagues from New York, Representatives KEMP and ADDABBO, for their assistance in the conference on this matter. I support the conference report, but I did want to indicate my opposition to attempts to change that formula set forth in the authorizing legislation.●

● Mr. LAXALT. Mr. President, I stand and join with my colleagues on the Appropriations Committee to endorse the conference agreement to H.R. 6863, the supplemental appropriations bill for fiscal year 1982.

Mr. President, the military construction chapter in the supplemental, which was considered by the subcommittee I chair, appropriates $45 million for various military facilities' projects. The $45 million was the same amount recommended by the House, and represents a decrease from the President's request of $153.7 million. As in the past, the Military Construction Subcommittee recommends funding in a supplemental only for those items of an urgent or unusual nature. The decrease from the budget request was made because authorization was lacking on some projects, but mainly because the money just was not necessary at this time. It is interesting to note that throughout the action in committee and on the Senate floor there was not even one question concerning the reduction in military construction funding. This certainly indicates to me the strong support of my colleagues.

Mr. President, the military construction chapter of this bill is minor in total dollars and was not even a part of the conference. However, the bill as a whole is back before us today, and I understand that within the administration there is discussion of a Presidential veto.

Let me say just a few words on the total bill at this point—

The bill is nearly $2 billion under the President's request, and granted, a sizable decrease was made in the defense-related chapters of the bill.

However, it is my understanding that the so-called, "must pay," defense items have been taken care of.

Mr. President, I, for one, have certainly gone on record for a strong national defense as has the distinguished Senator from Alaska, Mr. Stevens, who chairs the Defense Appropriations Subcommittee. But, in considering both the defense and military construction chapters of this bill, the Congress has indicated its support for funding only the most urgent or unusual requirements in this supplemental.

As part of our constitutional responsibilities, Mr. President, this body oversees the budget. It is within this responsibility that the Congress makes changes to the President's request.

H.R. 6863, the supplemental for fiscal year 1982 now before us, contains differences from the budget request; and I must say that I do not agree with every aspect of the bill. However, as a whole, I believe that the bill is fair and warrants the careful consideration of all parties involved.

Mr. President, I endorse and support the conference agreement to H.R. 6863, the fiscal year 1982 supplemental appropriations bill; and I urge my colleagues to do the same.●

TITLE V, OLDER AMERICANS ACT

Mr. ROBERT C. BYRD. Mr. President, I am pleased that forward funding in the amount of $210,572,000 for title V of the Older Americans Act is included in the supplemental appropriations bill for fiscal year 1982. The Senate expressed its support of the senior jobs program under title V by passing Senate Resolution 340, a resolution which I introduced, to express the sense of the Senate that no action be taken to terminate or otherwise weaken title V and by twice including forward funding in the urgent supplemental appropriations bills, which were later vetoed by the President.

I want to thank the distinguished Senator from Oregon, Mr. Hatfield, for his support of forward funding of title V.

THE SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM TITLE V OF THE OLDER AMERICANS ACT

Mr. HEINZ. Mr. President, I rise in support of the conference report on H.R. 6863, the supplemental appropriations bill of 1982. In particular, I would like to voice my strong support for the restoration of funding for the senior community services employment program. As chairman of the Special Committee on Aging, I commend the members of the Appropriations Committee, especially Senator Hatfield and Senator Schmitt, for their work on behalf of the over 54,000 older persons who are employed under the title V program of the Older Americans Act. The inclusion of $211 million in the supplemental appropriations bill will restore forward funding to this program and guarantee continued employment for these older workers through June 30, 1983.

When the Congress passed the 1981 amendments to the Older Americans Act in December 1981, it made clear its intent that this vital and successful program be continued. Moreover, on July 1, 1982, the Senate again reaffirmed its strong support for title V when it voted 89 to 6 in support of Senate Resolution 340—a sense of the Senate resolution stating that no action be taken to terminate or otherwise weaken the community services employment program under the Older Americans Act.

The success of this program over the years cannot be disputed. Although the present appropriations provide job opportunities for 54,200 elderly persons, many more older men and women are able to participate in the program, because thousands are transitioned into positions with private business concerns or other public service agencies. It is estimated that over 80,000 older workers are served each year under this program.

Mr. President, title V now faces a critical need for funding. If we do not act immediately, 54,200 economically needy older workers, now working in a variety of community service jobs, will find themselves joining the ranks of the unemployed. In my own State of Pennsylvania, over 3,000 workers will be effected. This will not only be a serious blow to the individual, it will also have a damaging impact on the ability of aging programs to continue to serve older Americans. It is estimated that about half of the current enrollees are serving in jobs that promote the general well-being of other older persons funded by the Older Americans Act moneys.

In addition to these damaging facts, it is a serious human problem to neglect the importance of employment opportunities to the economic security, the health, and the personal fulfillment of older Americans. Virtually every survey of older men and women indicates that a majority want to have the opportunity to continue some form of work. One of the major benefits of this program is its demonstration of the significant contribution older workers can and do make to our society.

Mr. President, appropriations of funds for title V continue only to September 30, 1982. I have been informed that many States and national sponsors have already begun to send layoff notices to thousands of older enrollees. I am gravely concerned about the serious emotional consequences that these notices will have to the majority of these workers. To avert further damage and provide reassurance to these enrollees, I urge my colleagues to vote in favor of the conference report on H.R. 6863.

In conclusion, I would only like to make one additional observation, and that relates to the agreement reached in the conference concerning the formula distribution of the title V moneys. I am concerned that this new formula will shift as many as 1,000 jobs from older Americans employed by State and local agencies on aging to national contractors. This could result in many elderly enrollees losing their jobs due to geographic considerations. I am aware that this change originated in the House, and that the Senate conferees generally opposed it.

I would like to take this opportunity to thank those conferees and especially Senator D'Amato for their efforts to retain the formula distribution as mandated in the 1981 amendments to the Older Americans Act.

Mr. President, the title V program is truly a working program. It has helped countless of thousands of older persons to stay in the mainstream of com-

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munity life by making meaningful and productive contributions to our society. I urge my colleagues to continue their strong support for this extraordinarily important program.

TUG FORK FLOOD CONTROL PROJECT

Mr. ROBERT C. BYRD. Mr. President, this supplemental appropriations bill, H.R. 6863, contains language in chapter V which would require that the administration proceed with flood control work in the Williamson, W. Va., area and certain neighboring locations as specified by Congress in the statement of the managers accompanying the conference report on the fiscal year 1982 Energy and Water Development Appropriation Act. The managers clearly indicated that $7.5 million is to be made available for flood control projects authorized by section 202 which is the basis for the Tug Fork flood control project.

During the spring of 1982, I had serious concerns regarding the Department of the Army's willingness to follow congressional intent with respect to the Tug Fork flood control project. I met with Assistant Secretary of the Army for Civil Works, William R. Gianelli, in my office on February 18, 1982, to discuss these concerns; and, I have had a continuing dialog with Mr. Gianelli since that time. In early July, Mr. Gianelli indicated a willingness to proceed with certain flood control measures in the Williamson area beginning with the fiscal year 1984 budget request to Congress. However, the Congress has already directed in the fiscal year 1982 Energy and Water Development Appropriation Act legislative history that this work proceed immediately. In order to insure that the Corps of Engineers proceeds immediately as intended by Congress, I had language included in this supplemental appropriations bill requiring that the congressional intent as expressed last November, be followed explicitly.

Mr. HATFIELD. Mr. President, I am willing to yield back to the Senator from Michigan, and I appreciate the interlude here for these other activities.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend. I will take his request under advisement. We are trying to check out a number of things.

Mr. President, what I am doing at this point is reading from the record of the hearing where Mr. PEYSER, Congressman PEYSER, the sponsor of one of the bills in the House to extend this deadline so that these students can go to college with their promised benefits, is speaking.

Before I continue, just to set the context for this, the amendment we are talking about would continue a promised benefit to the children of workers who are now dead, who were promised if they died before their kids became 18 that the survivor's benefit would continue through college, the social security survivor's benefit.

There are about a quarter of a million this year. About 50,000 are children of soldiers who went to Vietnam and who were told that if they did not come back, if they gave their lives in Vietnam, that their kids would have this social security benefit. The other 200,000 are other Americans, just as equally American, who are also, for the most part, gone. Some of them are still with us and are disabled, but most of them are deceased, and who were told if they contributed to the social security system they could count on that benefit going to their kids through going to college. They could count in their life insurance plans and other plans for living on the social security benefit, and it was not just that we precipitately terminated this last year. That is the underlying problem, the underlying injustice. I am afraid this admendment does not cure that because this only would continue the benefits for 1 year. But what it does cure is a second injustice, and that is about a third of these kids were given false information from the Social Security Administration last year as to whether or not that benefit would be available to them this fall. They were sent information which stated that the social security student benefit program would continue when, in fact, it was terminated as of May of this year. About one out of three of these high school seniors were sent the wrong information.

Congressman PEYSER in this hearing I am quoting from is saying that he did his best to inform as many high school counselors as he could personally of what the correct facts were so at least some students would get the correct information, those who had been given false information, and they could, as many as possible, try to get into college by last May so that they would continue to qualify before the deadline was reached.

He sent out about 6,000 letters to high school counselors around the country and he got some letters back, and that is what he is describing in this hearing record. Congressman PEYSER says:

> Here is a letter from Spring, Texas and it says: "Thank you for taking the time to inform the counselors of the change is social security benefits. As a counselor and as a widow with a young daughter, this information was vital to me."
>
> That the Social Security Administration, who normally sends out tons of paperwork, has been so quiet on this issue is deplorable. And there are numerous letters of this nature.
>
> Now all this has reached such a volume, Mr. Chairman, that on the 14th of January—this is just a couple of weeks ago now—the Social Security Administration has sent out a special telegraphic message that I have gotten a copy of to all of its offices. It says, the thrust of it, it goes to the regional offices, special offices, and so forth, the purpose of this is to insure that inquiries regarding the student phaseout provisions of the 1981 Omnibus Budget Reconciliation Act are answered correctly. Now, it is very obvious to me that the only reason this was ever sent out, and then they detail the whole thing in great detail, covering it quite correctly as to when the benefits end, is because of the constant complaints that have come from all over the country on people not being notified.
>
> I talked with Commissioner Svahn the other day and he allowed as how there may be some of these students who were not given the correct information. The process, and I would like to ask if this is correct, normally you notify a student 5 months before he is 18 years of age that he will be eligible for these programs?
>
> Mr. CRANK. We explain to him at that time what the conditions are for continued receipt of benefits under the status of a student.
>
> Mr. PEYSER. Do you allow that there were a great many 18-year-olds that were notified that they were eligible for the full benefits after the Act had been changed? Because we have—in other words, that 5-month period, you are still mailing out eligibility, your notices that said they were eligible, and you still had a number of offices, first your Kansas City regional office as late as December was sending out your bulletins saying that these students were eligible, with no statement about your new bulletin that came out that is corrected. And these were sent out from that Kansas City regional office, which covered a very broad area of the country as late as December, letting people believe they were fully eligible. Obviously I guess that is what necessitated this kind of a telegraphic message to all of your units.
>
> Mr. CRANK. Mr. Peyser, what happened, we did not discover it until after it had gone on for some time, is that we did print up new leaflets explaining the new provisions as enacted in August 1981. Those leaflets were put into stock supplies in social security installations around the country, in particular our large processing centers where most of the notices are released to go to children 17½, use those leaflets to stuff into and to send out to people that age. Unfortunately, through an error, the old stock of pamphlets was not destroyed at the time the new stock of pamphlets was received, and unfortunately some of the old stock was used in notices to children after August 1981. We have corrected that problem. We have destroyed all that old stock.
>
> Mr. PEYSER. But the question is all of those who received the wrong information, they did not get another mailing, because there is nothing in the system I understand to allow for that up to this point.
>
> Mr. CRANK. That is correct. We had no way of identifying which children received the incorrect pamphlet.

So we have a double injustice where not only were these benefits precipitately cut off from students whose parents were not able to fight back, were not able to knock on our doors, because most of them are in their graves, but we have the double injustice of where the Social Security Administration to a large number of these students sent out the wrong information and was not able to correct that erroneous information.

We believe that as an absolute maximum this amendment would cost $245 million over the 3-year period. It is more likely it will cost somewhere between $100 million and $150 million, and I will get to that in a moment. But at this point I would like to explain how we have an offset in this amendment to pay for the maximum cost of this benefit, the continuation, 1-year continuation, of this benefit to the Social Security Administration.

As I have indicated, the Social Security Administration sends out hundreds of thousands of checks over a period of years which are not cashed, they are not negotiated, and according to the Social Security Administration the accumulated total of uncashed benefits is now up to an estimated $255 million.

Each year, over $20 million is added. These funds can offset the 3-year cost of partially restoring the student benefit for this year's high school graduated seniors. And if we apply the uncashed checks to the social security fund where it belongs, we also will make a contribution toward preserving the solvency of the social security system in the future.

For the past several years, the Social Security Administration has been trying to work out this arrangement with the Treasury Department, to arrange for a change in the administrative procedures used in handling these uncashed, unnegotiated checks, but to no avail. A legislative remedy appears to be needed. And, as I indicated before, Senator Hollings and I introduced Senate bill 2150 which would correct it and it has been cosponsored on a bipartisan basis by about a dozen Senators to date.

The legislation provides procedures for crediting the Federal old age and survivors insurance trust fund and the Federal disability insurance trust fund with the amounts of social security checks which have not been negotiated within 12 months. The legislation also applies retroactively, transferring the $255 million accumulation to date of unnegotiated checks to the social security trust fund.

Let me explain now just for one moment how the uncashed benefit checks have accumulated. When payment is made to a social security beneficiary, a voucher is submitted by the Social Security Administration to the Treasury Department for the amount of the benefit. This amount is then withdrawn from the social security trust fund and the payment is sent to the beneficiary.

For any number of reasons, some benefit checks may not be cashed. In many instances the checks are lost, stolen, burned, or saved for later use. In some cases, the beneficiary of the check is deceased. Under present procedure, regardless of why the check is not cashed, the money has technically been spent by the Social Security Administration. And the Treasury Department holds these funds until the checks are cashed. If the checks are never negotiated, this money is added to the Treasury's general fund.

The social security trust fund not only loses the initial amount but also the interest obtainable by proper investment of the trust fund.

Mr. President, a moment ago I indicated that the maximum cost of this amendment, if we can get the vote on it, would be, assuming it is adopted, $245 million. And I have just indicated how it would be paid for in terms of the Social Security Administration being credited with about $255 million that have accumulated in uncashed social security checks. And that accumulation is added to at a rate of about $20 million a year. But I also indicated that $245 million is the maximum cost of this amendment, that the actual cost is probably somewhat in the area of half of that amount.

I would like here to quote from another Congressman who was at a hearing on the House side on this issue relative to the cost of restoring this benefit for 1 year.

This is Congressman Solomon of New York, who has introduced legislation which would extend the deadline for students to matriculate in college until this fall to accomplish the same purpose as my amendment would accomplish. Congressman Solomon said the following:

> Bewildered parents and students all across the United States, from California to Maine, from Florida to Minnesota, have called to voice their support for this legislation and to report that they also learned of these important changes only very recently and through unofficial channels.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUS REGULATORY REFORM ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, there is a conference report which will require a rollcall vote, but, I think, little or no debate.

I ask unanimous consent, Mr. President, that the Senate temporarily set aside the pending business and proceed now to the consideration of the conference report on H.R. 3663, the Bus Regulatory Reform Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of today, August 19, 1982.)

Mr. ROBERT C. BYRD. Mr. President, I do not mean to be the leadoff speaker on this measure. The managers have that right. I will be very brief when I do speak. I will take less than 2 minutes.

At this time I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. PACKWOOD. Mr. President, the conference report has addressed, to the satisfaction of all of the conferees in the House and the Senate, the possibility of small towns losing service. This bill passed overwhelmingly and passed the conference report in 10 minutes in the House last night.

I think I can assure all of those who are concerned that this bill will not leave small towns without any service at all. I do not know of any other possible objections to the bill. Like all others, I come from a State that has hundreds of small towns. The best testimony we had in all of the hearings involving bus deregulation was probably that from Florida, which 1½ years ago, totally deregulated their truck and bus industry.

Florida, as you are aware, has a sunset law on most of their statutes. The sunset ran out on truck and bus regulation and has since never been renewed. In the almost now year and a half they have been operating under deregulation, small towns have been continued to be served. They are not served by 80-passenger buses when they pick up two people in a town. They are served by smaller buses.

I can assure the Senate that there will not be any great dislocation by the passage of this bill.

Mr. ROBERT C. BYRD. Mr. President, earlier this summer the Senate voted to pass legislation to deregulate the bus transportation industry. I voted against that legislation because I thought that it was not in the best interests of the thousands of citizens who live in small rural communities in

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my State of West Virginia. For many of these people, especially the elderly, bus transportation is the only way to get from one place to another.

Because of the information and advice that I received from the head of the West Virginia Public Service Commission, I opposed bus deregulation by speaking against the bill at the time and voting against it.

I continue to be concerned that this legislation, if passed, would mean that bus transportation service to rural communities would be reduced or eliminated, and the quality of life for those people would be diminished.

I have seen little to no evidence to suggest that my original concerns were unfounded. In fact, a recent Wall Street Journal article has given weight to my convictions on this issue. The article discusses the experience of some States that have already taken the initiative to deregulate the bus industry. It is reported that in Florida, where deregulation was put into effect 2 years ago, "numerous tiny Florida towns * * * have lost bus service entirely through deregulation."

Mr. President, I think many of my colleagues will find this article of interest, especially since we are considering the bus regulatory reform conference report. I ask unanimous consent that the article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUS DEREGULATION GAINS FAVOR, WORRYING SMALL TOWNS, SMALL OPERATIONS AND ELDERLY

(By Luis Ubinas)

Several Greyhound buses a day once stopped in tiny Bushnell, Fla. Now only one express bus arrives each day, and it doesn't stop in surrounding towns. "We used to take Greyhound to visit old friends and family," says Pauline Graham, a 62-year-old resident, "Now we're stuck here. I guess it really isn't too bad—we have television and the chickens out back. But we feel so much more alone now."

Soon, lots of people in other states may share Mrs. Graham's gripe. Bus deregulation is picking up steam—and so is the controversy surrounding it. Some operators see a chance to make more money than ever while others see a chance to go broke. Many towns fear deregulation will deprive them of any bus service at all.

"We're going to see a boom for the big companies—the ones with the money—but the little old lady in Humboldt, S.D., isn't going to be able to get on a bus," says Sen. Larry Pressler of South Dakota.

CAUGHT IN THE MIDDLE

Intrastate bus deregulation went into effect in Arizona on July 1. It becomes effective in Ohio August 30 and in Wisconsin this fall. Both houses of Congress recently passed bills deregulating interstate bus service nationwide. Differences between the two bills could be resolved this month.

Like airline deregulation earlier, bus deregulation gives operators far greater freedom to start serving new markets, dump old routes that don't pay and revise fares. Advocates say increased competion could bring lower fares and improved fares and improved service, at least on the heavily traveled routes.

Big operators with lots of capital are adding such routes. Tiny cut-rate operators with low overhead costs are springing up by the dozen. But established small companies say they are caught in the middle because their overhead costs are high and they don't have the capital to start more service between big cities.

FLORIDA'S EXPERIENCE

"Under deregulation, small operators don't stand a chance," says Bernard Pollack, executive vice president of Sun Valley Bus Lines, Phoneix, Ariz. Many worried operators in Arizona and elsewhere look to what happened in Florida, which deregulated bus service two years ago.

Harold Slaughter, president of the Florida Motor Transport Association says that once the state deregulated, "Northern bus companies brought their bus companies down here during the winter and mom and pop operations sprang up." As a result, numerous members of his organization are "in some kind of financial trouble," he says.

One Florida operator complains of a former driver's buying a van, pulling up to bus stops five minutes before his old company's bus arrived and picking up all the passengers. Three days later, the established operator abandoned the route.

Even some newcomers complain. Paul Keeshin, president of Keeshin Bus Lines, Chicago, which opened an operation in Florida a year ago, says: "There are four times as many bus companies now as when I started. Three of my former employees have opened up companies. They drive themselves and park their buses at home."

Mr. Keeshin says his company started with 10 buses in Fort Lauderdale, planning to concentrate on charter service. He says he charged less than the established competitors, but found that low-overhead competitors charged even lower rates. By now he has cut his Florida fleet to five buses and says he is considering pulling out of the market entirely. "I hope what happened in Florida doesn't happen everywhere else," he says.

Of course, some newcomers with low costs are delighted with the opportunity deregulation has offered. David Spencer, who used to be a Greyhound driver, opened his own company in Clearwater, Fla. Now he runs three buses. He says he has grown because he charges 10% to 15% less than the competition. "My equipment isn't new, so my cost factor isn't as high" as his competitors', Mr. Spencer says. "Competition is always good," he says.

After 23 years of driving buses for a New Jersey concern, Frank Surace heard that Florida had deregulated bus service, quit his job and opened a bus company in Orlando. He has one bus, which he drives himself, His wife, Barbara, runs the office out of the family living room. "It's been great for us," Says Mrs. Surace. "It's a great feeling working for yourself."

What isn't a great feeling, though, is being without a car in any of the numerous tiny Florida towns that have lost bus service entirely through deregulation. "In Florida, we were able to cut out 90–95% of our small towns," says Frank Nageotte, vice chairman of Greyhound Corp. He says many of the stops were moved to nearby highways producing more efficient routes. But some small towns lost service entirely.

The 867 citizens of Mayo, Fla., haven't had any bus service since Greyhound pulled out nearly two years ago. "We have a lot of elderly people who don't have any cars," says Mayor Peter Wilson. "They depended on the buses for transportation. Now if their families can't do for them, they do without."

Clifford Carlstedt, president of the Sarasota, Fla., chapter of the Grey Panthers, which campaigns for older peoples' interests, says: "Deregulation will have a very detrimental effect on older people. A lot of older people can no longer drive or can't afford a car."

William Clark, an official of the South Central Florida Agency on Aging, says: "The main complaint we get from elderly people in rural areas where they've lost bus service is that they've lost independence. For these people, a loss of independence means a loss of dignity and pride."

For many, lack of bus service means a serious loss of hard cash too. "I need to go to the doctor right now, and there is no bus to take me," says Mattie-Lou Stewart, a retired nurse in Webster, Fla. Transportation to her doctor costs $20 round trip. "It takes all the money I have to eat," she says. She receives a monthly Social Security payment of $126.

Though the national deregulation bill contains some safeguards against loss of service, many still worry. "Iowa will certainly lose service," says Joanne Short, director of public transit for the Iowa Department of Transportation. "The quality of life here will definitely be diminished."

SHORT-LIVED FARE CUTS

Though advocates say deregulation can result in lower fares, as happened in many Florida situations, critics say the fare cuts don't always last long. After Florida's deregulation, one operator cut $6 from the Miami-to-Tampa fare. Two months later, it rescinded the cut. Speaking of Arizona operations, a Greyhound spokesman concedes, "I expect fare reductions to be short-lived."

The big operators, who lobbied hard for deregulation in most areas, are moving fast to capitalize on it. Trailways Inc. says it will cut some smaller lines in Arizona. But it has announced 14 new routes in the state, including one between Phoenix and Tucson. Greyhound has started runs linking Phoenix, Tucson and Flagstaff, the state's three biggest cities. It says it has also started a service on the "highly profitable" route linking Phoenix and the Grand Canyon.

Meanwhile, small established operators in Arizona worry a lot. Mark Godwin, general manager of Arizona Bus Lines, fears that deregulation could bring a price war at any time. As a result, he says, "everything we do is very tentative. We don't know what's going to happen."

Mr. ROBERT C. BYRD. Mr. President, the West Virginia Public Service Commission has just informed me that it is still opposed to the bus deregulation measure.

I am ready to vote and I realize there were only 10 votes cast against the bill on Senate passage, including my own vote, and that a vote on this conference report will be overwhelmingly in favor of its adoption, but I wish to register my opposition to the measure again because of the adverse effect it could have on rural communities in West Virginia.

● **Mr. DANFORTH.** Mr. President, we are now considering the conference report to H.R. 3663, the Bus Regulatory Reform Act of 1982.

I believe this legislation, which reduces the burdensome and outdated regulation the intercity bus industry functions under, is necessary and timely. The provisions of the bill are very similar to those contained in the bus deregulation bill which passed the Senate 85 to 10 on June 30, 1982. The language agreed to by the conferees addresses the concerns of the bus industry by opening the door to increased competition. The bill gives the industry greater ability to adjust its operations to meet the demands of its passengers.

The bill also pays special attention to the small and rural communities across the country. Much time and consideration went into the provisions which will affect these towns and cities.

I believe both passengers and the industry will benefit from the provisions of this bill. The President is eager to sign this legislation and I urge you to join me now in supporting the conference report.●

● **Mr. WARNER.** Mr. President, H.R. 3663, the Bus Regulatory Reform Act of 1982, will substantially lessen Federal and State regulation of interstate and intrastate bus service and operations. We all hope that improved service to the public and a healthier bus industry will result.

Among other changes, the Bus Regulatory Reform Act of 1982 will make it much easier for bus companies to terminate both interstate and intrastate service. This legislation will also significantly reduce the regulatory oversight of bus tour operations.

These changes have prompted numerous expressions of concern to me by organizations representing the traveling public. The concerns expressed have been that the substantially eased exit from service and greatly reduced regulation of tour operations could result in problems arising from termination of service to communities throughout our country and also problems of bus availability for tour operations.

Because of these concerns, when the bill was reported out by the Senate Committee on Commerce, Science, and Transportation, I asked for a recorded vote by the Senate so as to insure close attention to these questions.

Discussions carried on between the American Bus Association, the United Bus Owners of America—both passenger motor carrier industry associations—and the National Tour Brokers Association, and the National Association of Passenger Brokers who organize and operate bus tours, has led to the formation of an intercity bus and passenger tour broker regulatory reform liaison group. This liaison group is being formed to promote constructive implementation of the Bus Regulatory Reform Act and to explore joint solutions to any problems which may arise.

This liaison group will afford a mechanism whereby common concerns of the traveling public, bus operators, and tour brokers can be addressed. Later, I would like to insert in the RECORD a copy of the June 9, 1982, statement by the American Bus Association, the United Bus Owners of America, and the National Tour Brokers Association announcing the formation of this group and explaining its purpose.

I am reassured by the formation of this group that the concerns which have been expressed to me can be addressed if problems arise. Accordingly, I will support the conference report.

As this legislation is implemented, we will all want to make sure that the communities across the country, particularly those in outlying areas, and all the traveling public, in particular the elderly, who perhaps more than any other group depend upon bus service, have their needs for bus service and bus tour availability reasonably met.●

Mr. PACKWOOD. Mr. President, I am ready to vote.

Mr. ROBERT C. BYRD. Mr. President, perhaps we should have a brief quorum call to advise our colleagues that a rollcall vote is imminent. I will put in a brief quorum call to alert them to that fact. I will try to call it off in 5 minutes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the adoption of the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BUMPERS (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. ABDNOR), the Senator from Idaho (Mr. McCLURE), and the Senator from Idaho (Mr. SYMMS) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), and the Senator from California (Mr. CRANSTON) are necessarily absent.

I also announce that the Senator from Florida (Mr. CHILES) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 84, nays 8, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—84

Andrews
Armstrong
Baker
Boren
Bradley
Brady
Burdick
Byrd,
 Harry F., Jr.
Cannon
Chafee
Cochran
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—8

Baucus
Boschwitz
Byrd, Robert C.
Cohen
Melcher
Mitchell
Pressler
Randolph

ANSWERED "PRESENT"—1

Bumpers

NOT VOTING—7

Abdnor
Bentsen
Biden
Chiles
Cranston
McClure
Symms

So the conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order. The Senate cannot return to its business until the Senate is in order. Senators will please retire from the well.

SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will resume consideration of the conference report on H.R. 6863.

Mr. FORD. Mr. President, I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. Senators will please retire from the well.

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SENATE SCHEDULE

Mr. **ROBERT C. BYRD**. Mr. President, will the Senator yield?

Mr. **HATFIELD**. I am happy to yield.

Mr. **ROBERT C. BYRD**. I thank the Senator from Oregon.

Mr. President, for the edification of Members on both sides of the aisle, I ask the distinguished majority leader what he may see as the program for the remainder of the day, whether there will be any rollcall votes and if he can at this moment indicate what the situation may be when the Senate returns on September 8.

Mr. **BAKER**. Mr. President, I thank the majority leader.

Mr. President, today I hope and trust that we can finish action on the supplemental appropriations conference report. I expect perhaps more than one vote on that measure.

After that, I do not anticipate that we will transact any other business except the most routine sort of business that might be cleared for action by unanimous consent.

Mr. President, I also expect that after the supplemental is disposed of we will adopt the adjournment resolution which is at the desk and has not yet been acted upon.

Mr. President, when we return on September 8, it is the intention of the leadership to ask the Senate to proceed to the consideration of the Hatch constitutional amendment on abortion. I will, of course, seek unanimous consent to do that.

Senators should know, however, that if it is necessary to do that, I will move to consideration of that item.

I also wish to say that, while we came within a hair's breadth of getting unanimous-consent agreement on the whole abortion issue and it fell through for a variety of reasons, I still hope that we can get a unanimous-consent agreement to limit debate to 8 hours as provided in that original request on the Hatch amendment as well as the provision that no amendment to the Hatch amendment will be in order.

If that were the case, then we would debate Hatch on Wednesday and then for a while on Thursday and perhaps dispose of that issue, that is, the constitutional amendment on abortion on Wednesday and Thursday, September 8 and 9.

INTENTION TO FILE CLOTURE MOTION

Mr. President, I intend today later, assuming that the debt limit bill recurs as the pending business, to file a cloture motion which will be a cloture motion to end debate on amendment No. 2038 which amendment amends amendment No. 2031, as modified.

Then, assuming that it is filed today, and I expect to do that, the vote on cloture on that amendment would occur on Thursday.

So if that plan holds, we would have the Hatch debate on Wednesday and Thursday, until the time arrives for the cloture vote on the Helms amendment on Thursday.

I anticipate that Friday of that week, which is September 10, will also be devoted to debate on the debt limit bill.

Mr. **ROBERT C. BYRD**. Mr. President, will the majority leader yield?

Mr. **BAKER**. I yield.

Mr. **ROBERT C. BYRD**. Mr. President, will the majority leader be amenable to attempting to get consent that the Senate in voting on the cloture motion on Thursday, September 9 would vote at a certain hour, hopefully an hour, let us say, 2 p.m. in the afternoon or later, because I wish to have a caucus on that day? Since we will not be in on Tuesday, I wish to have a caucus on Thursday.

Mr. **BAKER**. Yes; I think that point is well made. I am entirely agreeable with that.

Let me check with my clearance staff, and I wish to make that request a little later today.

Mr. **ROBERT C. BYRD**. I thank the majority leader.

Mr. **METZENBAUM**. Mr. President, will the majority leader yield for a question?

Mr. **BAKER**. I yield.

SUPPLEMENTAL APPROPRIATIONS—CONFERENCE REPORT

Mr. **METZENBAUM**. I am a little bit unclear about the program for the remainder of the day. The majority leader has indicated that he expects to complete the supplemental appropriations bill, which is fine with me, and I have no special concerns about it. However, it is my understanding that we not only have the conference committee report before us but we have 35 amendments that are in disagreement and that amendments thereto are in order, and knowing this body and its propensity, including myself, to offer amendments of that kind, I am curious to know how the majority leader intends to proceed. As the majority leader knows, I, yesterday, spoke to the effect about bringing up an amendment concerning extending unemployment benefits. Will he be good enough to clarify that? I heard that there are other amendments coming from that side. Many of us wish to know how he will handle that.

Mr. **BAKER**. Mr. President, assuming that the conference report itself is adopted, and I truly hope we will do that very promptly, of course, under the rule any item in disagreement will be amendable. The nature of the amendment might or might not be subject to a point of order and any Senator is within his right to offer amendments as he may wish. I do not encourage Senators to do that, certainly, but I recognize their right to offer amendments to any item in disagreement that is brought to us from the House of Representatives.

Mr. President, I still hope that we can finish this conference report and the items in disagreement this afternoon. The hope may be a vain hope and in that case our alternatives are either to stay late today and come back tomorrow or to take the bill down.

Taking the conference report down will be very difficult because I have in my hand a communication from the administration indicating that while it will be possible under the Food and Forage Act to obligate expenditure for the military and civilian payrolls of the Goverment of the United States it should not make expenditures. I am not certain that is the last word on that subject. But that would pose a nice problem, that is, the problem of whether or not we could issue paychecks for the military and civilian employees of the Government of the United States at the end of August.

So I think we owe the obligation to try to finish that if we can and if we cannot we cannot. I cannot force Senators to stay here, and I cannot force them to enter into agreements, but the answer to the Senator's question is if we adopt the conference report then items in disagreement, as I understand it, would be subject to amendment, and in the regular course of affairs I would observe with great interest how the Senate chose to dispose of that matter.

Mr. **METZENBAUM**. I thank the Senator.

Mr. **LEVIN**. Mr. President, will the majority leader yield?

Mr. **BAKER**. I yield to the Senator from Michigan.

Mr. **LEVIN**. First of all, I thank the majority leader for his efforts in helping me to try to get the vote on my matter over the past few months. He has been consistently true to his word in that regard, and I am hoping to achieve that today by offering my amendment to preserve the social security benefits for an additional year as an amendment to one of these amendments in disagreement.

We had a lengthy debate this morning on it, and there may be others of my cosponsors who wish to speak on it. But my intention now is, after the conference report is adopted, to offer my amendment as an amendment to one in disagreement and hope that we can have an up-and-down vote at that point without a point of order being raised against it.

Again, I thank the majority leader for his efforts to make this possible.

Mr. **BAKER**. I thank the Senator from Michigan.

Mr. President, I am advised now that I can clear the request suggested by the minority leader.

ORDER FOR VOTE ON CLOTURE MOTION AT 2 P.M., THURSDAY, SEPTEMBER 9, 1982

Mr. President, I ask unanimous consent that if a cloture motion is filed, which would be presented to the Senate for a vote on Thursday, September 9, under the provisions of rule XXII, that vote occur at 2 p.m.

Mr. HEFLIN. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Could the Chair put the request first? And then I will be happy to yield.

Mr. DECONCINI. Mr. President, reserving the right to object, is there any magic about 2 p.m.? What about 5 p.m.?

Mr. BAKER. No.

Mr. ROBERT C. BYRD. There is considerable magic about the hour of 2 p.m., according to a Senator who is sitting not very far from where I now stand. He prefers it at 2 p.m. inasmuch as he has to be in other places outside the city after 2 p.m.

Mr. DECONCINI. My own problem is I will not be here. I will be in other places at 2 p.m. I would be here at 5 p.m. I realize the problem.

Mr. BAKER. Which is one of the institutional problems of pluralism.

Mr. ROBERT C. BYRD. I hope the Senator sitting not very far from where I now stand will express his appreciation to the distinguished Senator from Arizona, and I am sure he will.

Mr. BAKER. Mr. President, I add to my request—no, Mr. President, I started to say that I add to my request that we waive the mandatory live quorum. I think it might just as well be for us to have that quorum at that time.

Mr. President, let me modify the request so that the live quorum provided for under rule XXII will begin at 2 p.m.

Mr. ROBERT C. BYRD. Mr. President, I would hope the vote itself would begin at 2 p.m.

Mr. BAKER. Mr. President, I have no problem with that. I will rephrase the request so that the vote itself will occur at 2 p.m., and the mandatory quorum under rule XXII will be waived.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Mr. President, will the Senator yield for a question? In reciting what the cloture vote will be on, the Senator used numbers, and I generally consider that the last stages of Potomac swamp fever when we refer to numbers and we do not have an explanation of the bill without numbers.

Would the Senator be so kind as to tell us what the modifications and what the amendments would be pertaining to abortion or school prayer with an explanation beyond just numbers?

Mr. BAKER. Yes, Mr. President. So far as I can tell, and I have to say to the Senator I never have understood the substance of this debate very well anyway, but as far as I can tell what we are doing is applying the provisions of rule XXII to an amendment to limit debate on the abortion amendment.

Mr. HEFLIN. Is that on the modified amendment, is it modified by Helms or modified by Baucus?

Mr. BAKER. No, it is Helms modified by Helms.

Mr. HEFLIN. Helms modified by Helms

Mr. BAKER. Modified and amended by Helms.

Mr. PACKWOOD. Mr. President, I think what the Senator from Alabama is asking, if I understand it, is cloture on the abortion portion of the Helms amendment, and abortion alone; is that correct?

Mr. BAKER. That is correct.

Mr. ROBERT C. BYRD. The amendment has already been modified.

Mr. BAKER. The amendment has been modified, and the second-degree amendment to the amendment has been offered, and the cloture motion is against the abortion amendment which, I believe, is the second degree—Mr. President, the first-degree amendment, which was the prayer amendment, has been modified as a matter of right by the Senator from North Carolina. Then an amendment was offered to the first-degree prayer amendment, which is the abortion amendment. The abortion amendment, the second-degree amendment, has not been modified, but the yeas and nays have been granted.

Mr. President, the cloture motion is against the second-degree amendment, which is the abortion amendment alone.

Mr. ROBERT C. BYRD. And which cannot be modified except by unanimous consent.

Mr. BAKER. I agree with the minority leader. It cannot under the rules be modified absent unanimous consent.

I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, would a motion to table be in order in the event cloture is voted? Would a motion to table the Helms amendment be in order?

Mr. BAKER. Mr. President, let me yield so that the Senator may propound that as a parliamentary inquiry.

The PRESIDING OFFICER. The motion to table may be made against the matter on which cloture has been invoked.

Mr. BUMPERS. Either before or after cloture?

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the unanimous-consent request of the majority leader? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished majority leader, is there any word from the White House as to whether or not the veto of the supplemental might occur? We have heard rumors that there might be a veto.

Mr. BAKER. Mr. President, I thank the Senator for his inquiry. I cannot answer the question. I too have heard those rumors. I have made my recommendations on the bill to the President. The President has not indicated to me, I believe he has not indicated to anyone else, what his final disposition of this measure will be.

Mr. ROBERT C. BYRD. Mr. President, if the majority leader will further indulge me, may I ask does the majority leader intend to adopt a pro forma resolution or if he can tell us how does he intend to adjourn so as to preclude a pocket veto of the measure should the President do so?

Mr. BAKER. Mr. President, I do not believe the President will choose that. I cannot assure the Senator that that is absolutely impossible, but having inquired into that it is my distinct impression the President will choose either to sign or veto the measure. I do not anticipate a pocket veto, and the resolution sent to us by the House is an adjournment resolution.

Mr. ROBERT C. BYRD. If the President should veto the supplemental while the Senate is out what would be the plans of the President to call us back or what would be the plans of the majority leader?

Mr. BAKER. It would not be my plan to ask the Senate to return. I have made no provision for that in the adjournment resolution, which is the only authority I believe the leadership would have in this respect if it were to be granted by the Senate. I do not believe, however, that the President would entertain a call for the Senate or the House of Representatives to return.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield further, as I heard the majority leader a few moments ago, failure of passage of this measure would create some problems. If the President were to veto the measure those same problems would be created. I personally would like to express the hope that if the President vetoes this measure that the adjournment resolution will allow the leader to call us back, if necessary, so that the Senate will be here in the event a veto should take place. I am concerned about the Senate being out if the President is going to veto the measure, and I think he should let us know now, I personally feel he should let us know now, whether he is going to veto the bill. The majority leader is in no position to extract that from the President, but I think the President should let the Congress know before we go out on this break what his intentions are, else Congress could be blamed for

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being away at a time when a veto occurred on a measure which, from what I understood the majority leader correctly to say, could create some problems if it is not enacted before the break.

Mr. BAKER. Mr. President, I thank the Senator. I assure him I will continue to recommend to the President and state my own views and to solicit from him his intentions. I understand the Senator's concern, the minority leader's concern.

I point out that in this particular case the House of Representatives orginated the adjournment resolution, and I believe they would act on a veto if indeed the bill were vetoed before the bill reached us. In order to change that I suppose we would have to, if we wanted to, amend the House-passed resolution and send it back to them. But I think, Mr. President, we may have some further views on that in the course of the day. I hope so.

Mr. ROBERT C. BYRD. I would hope so and I hope, may I say with much respect to the majority leader, if we cannot get that answer out of the White House if we are going to pass this measure, I hope the adjournment resolution will be so amended so that the leadership will be in position to act if necessary to keep these problems from occurring and the Congress to be criticized for being out and unable to act.

Mr. BAKER. I thank the Senator.

Mr. THURMOND. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. THURMOND. As I understand it, we will be on the abortion question when we come back and, as I understand, we would then go, after we finish that, to the crime package, S. 995, is that correct?

Mr. BAKER. Mr. President, I have discussed with the distinguished President pro tempore both of those measures, and it is my intention to proceed to both of those measures when we return, at some point and do so promptly. But I must say to the Senator from South Carolina that both of those measures will draw objection to their consideration by unanimous consent and we will have to negotiate a little on how we schedule them and when we schedule them.

Mr. THURMOND. I wish to remind the majority leader that we have already gotten unanimous consent to take up the crime package.

Mr. BAKER. No; I think we have a limitation on the crime package but we do not yet have unanimous consent to proceed to its consideration. In any event, I will confer with the distinguished Senator and we will do the best we can. But he should know that I do intend to deal with both of those measures and to do so promptly after we return in September.

Mr. THURMOND. I thank the Senator very much.

Mr. BUMPERS. Will the majority leader yield just for an observation?

Mr. BAKER. Yes.

Mr. BUMPERS. I know of three amendments that are probably going to be offered on the amendments to this conference report. The majority leader may know of more. But if we are going to get out of here today, it seems to me we are going to have to have some kind of agreement.

I was just wondering if the majority leader might consider making those three amendments the only ones in order on this, unless he knows of others, and get maybe a 30-minute time agreement. I feel certain the Senator from Michigan, maybe the Senator from Ohio, and the Senator from Arizona will all agree. Then we would have some more definitive idea of when we will get out of here today.

Mr. BAKER. The Senator's point is well taken. I will pursue that, as they say, with vigor, and I hope to make a request at a later time.

Mr. SARBANES. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. SARBANES. Mr. President, I wish to underscore what the minority leader said; that if there is a real danger that the supplemental will be vetoed that the adjournment resolution ought to provide in it the opportunity for the leaders of the Senate or the Congress to call the Congress back in if that is necessary.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

SUPPLEMENTAL APPROPRIATIONS, 1982—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATFIELD. Mr. President, I have worked out with the Senator from Michigan (Mr. LEVIN) and the Senator from Colorado (Mr. ARMSTRONG) an agreement that we are ready to move to the adoption of the conference report in order to bring the amendment before the body and begin the debate on the amendments that may be offered by the Members.

Therefore, I move the adoption of the conference report on H.R. 6863.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report on H.R. 6863 was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, this is also a request that has been worked out with the interested parties. Let me first of all make an observation.

The committee amendments are amendable. There are two amendments that are in disagreement, amendments 115 and 150, which are not amendable. So, in order to expedite the process here, I ask unanimous consent that we adopt the committee amendments Nos. 2 through 177 en bloc.

What that does it to leave available for Members to offer amendments from the floor on three committee amendments that are available. We only need one, for that matter, I thought, to make sure everyone felt that we had plenty of opportunity for handling amendments, that we would exclude from the committee amendments en bloc Nos. 180, 182, and 183, and that we would exclude from this unanimous-consent agreement the two nonamendable amendments, amendments No. 115 and No. 150.

Mr. METZENBAUM. Will the Senator from Oregon yield for a question?

Mr. HATFIELD. Yes.

Mr. METZENBAUM. Is it not a fact that to proceed in that manner that certain amendments which might be germane might become nongermane by reason of the exclusion of all of the amendments that are now being proposed?

Mr. HATFIELD. Mr. President, I would like to have the Senator address that question to the Chair. My understanding is the germaneness goes to the total bill rather than to a single amendment.

The PRESIDING OFFICER. In connection with an appropriations bill, it is the ruling of the Chair that it is the action of the Senate itself which determines the germaneness.

Is there objection?

Mr. LEVIN. Will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Will the Senator from Oregon yield to me?

Mr. HATFIELD. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, unless a Senator who has the floor yields for the purpose of calling a quorum, another Senator cannot suggest the absence of a quorum. I have noted recently that this has happened too many times. Someone suggested the absence of a quorum yesterday when the majority leader had the floor and made a unanimous-consent request. The majority leader did not lose the floor by virtue of his making the unanimous-consent request, but another Senator just said, "I suggest the absence of a quorum." That cannot be done unless the Senator who has the floor yields for that purpose

I hope that Senators would be more cognizant of their rights and I also hope that the Chair would protect Senators in that regard. I have no criticism of the Chair in this instance or of the Parliamentarian. It is just something that is sort of automatic when a Senator suggests the absence of a quorum, that the Chair will say, "The clerk will call the roll."

But I say again and again, that the Senator holding the floor, in this instance, Mr. HATFIELD, must yield for that purpose. Yesterday, the majority leader had the floor and put a unanimous-consent request, yet a Senator suggested the absence of a quorum and the quorum was called without the majority leader being asked if he yielded for that purpose. I hope that we all would be more cognizant of the rules.

The PRESIDING OFFICER. The minority leader is correct.

The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I wish to first of all thank the minority leader. He is extraordinarily expert in parliamentary procedure. I appreciate his observation. He has helped me, as one individual Senator, to recognize my rights a little more precisely than I understood them before.

Mr. ROBERT C. BYRD. In this instance, no harm was done. But it could be to great disadvantage of a Senator who had the floor if such a practice is allowed to continue.

The PRESIDING OFFICER. The question before the Senate is the unanimous-consent request of the Senator from Oregon to concur in certain House amendments en bloc.

The Chair would like to point out that amendment No. 182, is an amendment to strike and would not be further amendable.

Mr. HATFIELD. Mr. President, one is sufficient for the purpose of our procedures, so I would eliminate that from my exclusion so we would still have Nos. 180 and 183 to hang amendments on.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The committee amendments, Nos. 2 through 177 (except Nos. 115 and 150), and committee amendment No. 182, agreed to en bloc, are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"FOOD AND NUTRITION SERVICE

"CHILD NUTRITION PROGRAMS

"If the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"OPERATIONS, RESEARCH, AND FACILITIES

"For an additional amount for "Operations, research, and facilities", $2,163,000, to remain available until expended: *Provided*, That of the funds appropriated under this head, $200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982."

Resolved, That the house recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided further*, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation Acts."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

"RESEARCH AND STATISTICS

(TRANSFER OF FUNDS)

"For an additional amount for "Research and statistics", $450,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 41 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Aircraft procurement, Air Force

"For an additional amount for 'Aircraft procurement, Air Force', $120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$19,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$6,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$800,000,000".

Resolved, That the House recede from it disagreement to the amendment of the Senate numbered 58 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"ECONOMIC SUPPORT FUND

"CARIBBEAN BASIN INITIATIVE

"For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than $20,000,000 for the Eastern Caribbean; not less than $41,000,000 for the Dominican Republic; not less than $10,000,000 for Haiti; not less than $50,000,000 for Jamaica; not less than $10,000,000 for Belize; not less than $70,000,000 for Costa Rica; not more than $10,000,000 for Guatemala; not less than $35,000,000 for Honduras; not more than $75,000,000 for El Salvador; not less than $2,000,000 for the American Institute for Free Labor Development; not less than $2,000,000 for the Inter-American Foundation; and $25,000,000 unallocated: *Provided further*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner in-

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consistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"MILITARY ASSISTANCE PROGRAM

"For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $2,000,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and $25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: $10,000,000 shall be available only for Honduras; $5,000,000 shall be available only for Somalia; $2,000,000 shall be available only for Costa Rica; and, $10,000,000 shall be available only for Portugal."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, '$50,000,000, which sum shall be available only for Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "foreign Military Credit Sales" of Public Law 97-121, there many be made $50,000,000 of such gross obligations during such fiscal year.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concure therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Special Defense Acquisition Fund

("Limitation on Obligations)

"There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, $125,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Department of State

"MIGRATION AND REFUGEE ASSISTANCE

"The funds appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1982, for resettlement services and facilities for refugees and displaced persons in Africa shall remain available until expended."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"HOUSING PROGRAMS

"Annual Contributions for Assisted Housing

"The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further*, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: *Provided further*, That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Selective Service System

"SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $150,000: *Provided*, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"LAND ACQUISITION

"For an additional amount for "Land acquisition", $700,000: *Provided*, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with $1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided further*, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "INDIAN AFFAIRS" in the paragraph headed "TRIBAL TRUST FUNDS" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:

"No funds shall be deposited in such 'Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided further*, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further*, That $2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further*, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: *Provided further*, That of the remaining funds, $2,500,000 shall be transferred to the "Administration of territories" account for technical assistance activities, to remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"FOSSIL ENERGY CONSTRUCTION

"(Deferral)

"Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, $28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the termination costs of SRC-I; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforesaid activities.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the afore said bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ": *Provided*, That not more than $46,325,840 shall be for grants to States under paragraph (3) of section 506(a) of the Older Americans Act of 1965, as amended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

"For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

"ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

"Funds appropriated under this head shall be available for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, $10,000,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which $5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided*, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further*, That the remaining $5,000,000 shall enable the Secretary to award grants under parts A and B of title III of the Act to eligible instructions which had an application approved, but did not receive a grant in fiscal year 1982: *Provided further*, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further*, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 117 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert:

"ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

"Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogrammed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 119 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: "$93,200,000, of which $57,500,000 shall remain available until September 30, 1983,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants; advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "*Provided*, That none of the funds appropriated by this Act shall be used to impose or assess any tax due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

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"NATIONAL ARCHIVES AND RECORDS SERVICE

"OPERATING EXPENSES

"For an additional amount for 'Operating expenses', $4,100,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $600,000 shall be for the preservation of House and Senate historical records".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 161 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: ", $10,000,000 shall be derived by transfer from 'Missile procurement, Air Force, 1982/1984', $12,000,000 shall be derived by transfer from 'Aircraft procurement, Air Force, 1982/1984', and $17,626,000 shall be derived by transfer from 'Research, development, test, and evaluation, Navy, 1982/1983'."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: "and an additional $500,000 to be derived by transfer from "Emergency planning and assistance", for a total available by transfer of $2,584,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) The Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) The Energy Information Administration, 490 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further,* That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which such special message was transmitted with respect to such rescission, reservation, or deferral; *Provided further,* That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriation Acts to programs or activities funded in Interior and Related Agencies Appropriation Acts or vice versa."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default".

Mr. HATFIELD. Mr. President, I thank the Senator for letting us proceed to this point in order to at least get as many of the preliminaries out of the way so we get down to the basic issues which confront us.

Mr. President, I would like to yield at this time to the Senator from Michigan.

AMENDMENT IN DISAGREEMENT NO. 180

The PRESIDING OFFICER. The clerk will state amendment in disagreement No. 180.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: 305.

UP AMENDMENT NO 1256 TO AMENDMENT IN DISAGREEMENT NO. 180

(Purpose: To extend the deadline for enrolling in college in order to qualify for student benefits under the Social Security Act, to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment number 1256 to amendment No. 180 in disagreement.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new sections:

SEC. . (a) Subsection (c) of section 2210 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35) (relating to elimination of child's insurance benefits in the case of children aged 18 through 22 who attend postsecondary schools) is amended in paragraph (1)(D), by striking out "May 1982" and inserting in lieu thereof "October 1982".

(b) The Secretary of Health and Human Services shall notify all individuals who are entitled to child's benefits under title II of the Social Security Act for the month in which this Joint Resolution is enacted of the changes made in the eligibility for, and amount of, such benefits by reason of the provisions of section 2210 of the Omnibus Budget Reconciliation Act of 1981 and the provisions of this Joint Resolution. The notification shall be made as soon as possible after the date of the enactment of this Joint Resolution, but not later than 90 days after such date of enactment.

SEC. . (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(m)(1) The Secretary of the Treasury shall implement procedures to permit the identification of each check for benefits issued under this title that has not been presented for payment by the close of the twelfth month following the month of its issuance.

"(2) The Secretary of the Treasury shall, on a monthly basis, credit whichever of the Trust Funds is appropriate for the amount of all benefit checks drawn on such Trust Fund more than 12 months previously but not presented for payment and not previously credited to the Trust Fund.

"(3) If a benefit check is presented for payment to the Treasury and the amount thereof has been previously credited pursuant to paragraph (2) to one of the Trust Funds, the Secretary of the Treasury shall nevertheless pay such check, if otherwise proper, recharge such Trust Fund, and notify the Secretary of Health and Human Services.

"(4) A benefit check bearing a current date may be issued to an individual who did not negotiate the original benefit check and who surrenders such check for cancellation if the Secretary of the Treasury determines it is necessary to effect proper payment of benefits.".

(b) The amendment made by subsection (a) shall apply with respect to all benefit checks issued under title II of the Social Security Act on or after the date of the enactment of this Joint Resolution.

(c)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all unnegotiated benefit checks. After the amounts authorized by this subsection have been transferred to the Trust Funds, the provisions of paragraphs (3) and (4) of section 201(m) of the Social Security Act (as added by subsection (a)) shall be applicable to unnegotiated benefit checks.

(2) As used in paragraph (1), the term "unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Joint Resolution, which remain unnegotiated after the twelfth month following the date on which they were issued.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. LEVIN. I yield.

Mr. HATFIELD. Would the Senator be agreeable to a time agreement on this particular amendment, perhaps a half hour equally divided?

Mr. LEVIN. That will be satisfactory.

Mr. HATFIELD. Mr. President, I make that request, a half hour equally divided on this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair.

Mr. LEVIN. Mr. President, this amendment would preserve for 1 year most of the social security student benefits for children of deceased or disabled workers and children of soldiers killed in Vietnam.

The cost of this partial, temporary restoration of this program would be offset by crediting to the social security trust fund, instead of the general fund, uncashed social security checks.

Mr. President, I offer this amendment on my behalf and on behalf of Senator Weicker and 23 other Senators. I ask unanimous consent that they be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cosponsors are as follows: Messrs. Bumpers, Burdick, Cranston, Cannon, Dodd, Ford, Heflin, Huddleston, Inouye, Kennedy, Matsunaga, Melcher, Metzenbaum, Mitchell, Weicker, Biden, Bradley, Sasser, Sarbanes, Riegle, Randolph, Pell, Tsongas, and Stennis.

Mr. LEVIN. Mr. President, we have had a lengthy discussion of this amendment this morning.

By the way, I yield myself so much time as I may consume.

This amendment is absolutely essential if we are going to correct for 1 year two very basic adjustments which we have perpetrated. One was the precipitous discontinuation of a social security benefit to children whose parents are deceased or disabled, approximately 250,000 high school students this year being in that situation.

Many of these children, about 50,000 of these children, are the children of soldiers who went to Vietnam with the promise that if they did not return, their children would be given survivor's benefits through college. Forty-five thousand of these children are children of soldiers who went to their graves believing that that promise would be kept.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. LEVIN. I yield.

Mr. ROBERT C. BYRD. I hope that promise will be kept. I ask unanimous consent that I may be added as cosponsor to this amendment.

Mr. LEVIN. I ask that the Senator be added as a cosponsor, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The name of Mr. Zorinsky was added as a cosponsor, by unanimous consent.)

Mr LEVIN. Mr. President, we now come to a point where we are going to decide whether, for 1 more year, a solemn commitment of this Government, to people who, for the most part, cannot fight back, will be kept. Sixty percent of the parents are deceased; 30 percent of the parents of these children are disabled. The question is whether or not for 1 more year this promise is going to be kept.

The 1981 Omnibus Reconciliation Act phased out this benefit. We decided to reduce it by one-quarter for each of the next 4 years. This amendment does not change that phaseout. All this amendment does is to permit this year's seniors in high school to participate in the program at the reduced level.

As a result, the cost of this amendment has been dramatically reduced. Instead of being the approximately $900 million for the 4 years that these children would have gone to college if we had delayed the entire program for 1 year, the total cost is about $245 million because we do not change the phaseout which has been adopted as part of that Reconciliation Act.

Now the question comes, How do you pay for it? That is a question which we should be very conscious of.

The way this amendment pays for this is to credit to the social security account uncashed social security checks. Instead of those uncashed checks, which now total about $250 million, being credited to the general fund, those checks will be credited, if this amendment is agreed to, to the social security trust fund.

As a result, there is a total offset for the cost of this amendment, and we would be able to have all of these children go to college if they so wished without harming the social security trust fund.

I have read to this body this morning testimony of parents who do survive these children, in many cases the widow of a deceased soldier. I have read statements from many Members of the House of Representatives who have introduced similar legislation. I am not going to repeat all of that testimony and all of those statements. I simply want to urge my colleagues to give these students a chance to do what we promised them they could do, and that is to go to college.

I started out by saying there was a double injustice this year. The first injustice is that we deprive these students precipitously of a benefit that they were promised. Again, about 50,000 of these are children of soldiers who were lost in Vietnam.

But there was a second injustice this year. That is that the Social Security Administration in two out of six regional areas sent out the wrong information, and that error was not corrected in time for all of these students who got the wrong information to take necessary steps to matriculate in time so that their benefit could be preserved.

So the double injustice that exists this year is now before us. This amendment will correct that double injustice. It is a double injustice which I hope will never be repeated because if this phaseout continues, I would hope that the Social Security Administration would send out correct information so that we do not have a repetition of the mistake that took place this year. That is what is unique about this year. That is why I pleaded with the members of the Finance Committee to support this amendment, because it is offset by money being credited to the social security fund for uncashed checks, as it should be credited, and again because of the mistake which took place this year, which I again assume will not be repeated in future years.

Mr. President, I believe there are others who may want to speak on this amendment. At this point I will yield the floor.

Mr. FORD. Mr. President, will the distinguished Senator from Michigan yield me some time?

Mr. LEVIN. I am happy to yield 3 minutes to my friend from Kentucky.

Mr. FORD. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. Seven minutes and thirteen seconds.

Mr. FORD. Mr. President, I support the amendment of the Senator from Michigan. Over the last few months he has brought to our attention a serious situation—a situation that should

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be of concern to all of us in the Senate who care about good government and maintaining public trust.

Let me underscore maintaining public trust. We have diluted that here in the last few years and I think we ought to restore it.

We have an overriding objective in this, the 97th Congress, to reduce the size of the Federal deficit in order to diminish the Federal Government's intrusion into the credit markets and free the economy from the shakles of high interest rates. In our zeal to reduce spending and control deficits, we sometimes move too fast and lose sight of our basic responsibilities as elected officials to honor and maintain Government commitments and preserve the integrity of out institutions.

Last year in the 1981 Budget Reconciliation Act, we reneged—I underscore, we reneged—on a Government commitment. We broke an agreement with the social security covered worker that provided that, in the event of his death, disability, or retirement, his children would receive Government assistance in obtaining a college education. Then we compounded this mistake by failing to give notice to last year's high school seniors that their social security student benefits were being terminated.

Suddenly, last spring, without prior warning, over 250,000 high school seniors who were making plans to attend college this fall had their social security benefits terminated. Their plans for a college education—an education their parents were led to believe would be affordable with Government assistance—were disrupted.

Whom are we talking about here? The great majority of these students come from families with gross income below $20,000. Approximately 80 percent of these students have at least one parent deceased or disabled. These students, because of the death, disability, or retirement of their income-earning parent, cannot otherwise afford a college education without some Government assistance. They are people in need and they were told all along that Government assistance would be there. But, in last year's reconciliation bill, Congress broke that promise.

In 1965, Congress enacted the social security student benefit program because it felt the underlying policy of the social security system to provide income security to America's workers and their families required an extension of the existing social security child benefits program to include children who were in college. No matter what one thinks about the merits of the social security benefit program, and whether it should have ever been established to begin with, expanded, or eliminated, the important point is that these families made financial plans based on that Government benefit. When the parents made a decision on buying life insurance, or putting money away for a college degree, they took into account that the social security student benefit assistance would be there in the event of the wage earner's death, disability, or retirement.

If Congress, in its wisdom, decided that the social security student benefit program no longer merited existence, then some mechanism should be provided for phasing out the program so that people could make financial plans based on that change in benefits. However, just the opposite happened. When we passed the 1981 Reconciliation Act, we did provide a phaseout for students currently in school, but all high school students were left high and dry. Benefits were immediately terminated with little notice. In fact, some students had no notice until the May 1 effective date. To top it all off, many students were given erroneous information when at least two Social Security Administration district offices mailed outdated student benefit brochures spelling out the previous law's guidelines that these students were eligible to continue to receive benefits when they entered college this fall.

Mr. President, I would like to preserve the social security student benefit program for a longer time to give families who have relied on this program a chance to adjust their financial plans. However, I realize that the Federal Government has serious budgetary problems and there is little sentiment in this Congress for reinstating the full social security student benefit program. The amendment of the Senator from Michigan does much less that that; in fact, it does less than legislation he introduced earlier this year. The Senator from Michigan is mindful of the budgetary problems we face. His amendment has a 3-year cost of $245 million but will not impose any further burdens on the social security trust funds. This year's high school seniors would be eligible for benefits but would not receive the full social security benefits; instead, the benefits would be reduced 25 percent and then completely phased out by 1985, as current law provides.

An important element of this amendment is that it does not increase the burden to the social security trust funds. All added costs arising from the extension of the social security student benefits to this year's high school seniors are picked up by the provisions of the second part of this amendment which transfers uncashed social security benefit checks from the general fund to the social security trust funds.

When social security benefit checks are written, there is a transfer of funds from the social security trust funds to the general fund in the Department of Treasury. However, over the life of the social security system, $255 million has accumulated in the Treasury in uncashed checks. These Treasury obligations remain a charge on the general fund, but have not been cashed. As a result, the general fund has been enriched by the amount of $255 million taken from the social security trust funds.

Mr. President, while I am a cosponsor of, and support the Senator from Michigan's amendment, I recognize that this is only a temporary solution to an immediate problem and does not address the full problem of a broken Government promise. I still believe the Federal Government owes more to these families. Congress should maintain and honor the Government commitment that was made to the social security-covered worker. It is not right for the Government to make a promise encouraging families to change their financial plans and then, literally overnight, turn around and break that promise.

That is why I have introduced legislation to provide loan assistance to students who are impacted by the termination of the social security student benefit program. My legislation expands the guaranteed student loan program to allow children who would otherwise have been eligible for social security student benefits, if not for last year's Budget Reconciliation Act, to receive a supplemental loan. S. 2655, the Student Loan Assistance Amendments of 1982, which I introduced on June 22, is a modest, low-cost program that seeks to assist only those social security-covered students who have been truly impacted by these hasty changes. The bill provides for a needs test that limits the additional guaranteed student loan funds to only those students who have a demonstrated need. I think it is a modest proposal in light of the jeopardy present and future social security child beneficiaries are placed in with respect to obtaining a college education. S. 2655 does not restore the social security student benefit program, but it does honor a Government promise and at a very small cost relative to the social security student benefit program.

I do not intend to bring up this amendment at this time. Senator STAFFORD, chairman of the Subcommittee on Education, Arts, and Humanities, has graciously agreed to hold hearings on this bill next month. I thank the chairman for his courteous accommodation in this respect and I urge my colleagues to consider cosponsoring this legislation.

In the meantime, I support the amendment of the Senator from Michigan. It is a good amendment; it corrects an injustice and will serve to restore some measure of faith in our Government while meeting the urgent need for financial assistance which these students face this fall. We have all heard the stories from our own State of the last-minute, frantic scrambling by high school seniors and colleges, universities, and other postsecondary institutions, trying to somehow get these students enrolled by last May 1 in a full-time curriculum so that they would continue to be eligible for reduced benefits during the 4-year phaseout. There were many students who were not fortunate enough to have been able to meet this deadline. For these students and their families, the dream of a college education has been postponed or eliminated. These students will not be in the 1982 freshman class without the amendment of the Senator from Michigan. They will not be there because may of them received notification of benefit termination too late, or received misinformation from the Social Security Administration. The amendment of the Senator from Michigan attempts to correct this injustice by allowing these students to enroll in a postsecondary institution until October of this year. However, it does not provide full benefits, but integrates them into the current funding phaseout by reducing their benefits by 25 percent this year, and each succeeding year, completely eliminating their benefits, as scheduled, in 1985.

I urge acceptance of this amendment by the Senate and commend the Senator from Michigan for his efforts.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield to the Senator from Kansas 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I oppose the amendment. We have been trying to figure out, first of all, what equities were on the side of the amendment. We met as recently as yesterday with Mr. Schweiker, Secretary of HHS, and with social security representatives. We have been on the phone with them, in fact, as late as 9 or 10 o'clock last night and again this morning. I want to explain my reasons for opposition to the amendment.

It seems to me that the Senator from Michigan has correctly described what the amendment would do. It would delay the effective date of the social security student benefit eliminaton enacted in the 1981 Reconciliation Act, as pointed out by both the Senator from Michigan and the Senator from Kentucky. If the 25-percent reduction in benefits proceeds as under current law and only the effective date is delayed, the 5-year cost would total about $245 million.

Mr. President, we have gone through a rather difficult experience in the past several days, trying not only to reduce spending but also to raise revenues. Already we are back to the same old ways, a day after that experience—which caused a great deal of anguish for some Members who supported it—trying to spend Federal money we do not have and increase the burden on many Americans who would like to see us slow the growth of spending.

Mr. President, we had this amendment offered in the Senate Finance Committee and the vote was 12 to 6 against. There are 20 members on our committee, 11 Republicans, 9 Democrats. It would seem to me to be untimely to modify the student benefit law again at this late date—already 3½ months after the elimination became effective. Students who "double-enrolled" to take advantage of the May 1 loophole have already borne the inconveniences in order to extend the duration of their benefits. Students who missed the May 1 date have, by now, made alternative financial plans for this fall.

The amendment would allow another entire class of students on the benefit rolls. I assume next year, we would have someone else trying to make another exception. Pretty soon, we would unravel all we did last year in trying to get a grip on the size of the Federal debt.

The elimination of the student benefit was broadly supported. It was recommended by GAO and proposed not only by President Reagan, but also by Presidents Carter and Ford. The last three Presidents have tried to eliminate the student benefit. The student benefit was recognized to be a poorly targeted, duplicative Federal payment. Benefits were paid regardless of academic performance or need. The student benefit was created in 1965 at a time when there was a shortage of Federal aid for higher education and the social security trust funds were in considerably better financial shape. The benefit is a recent add-on, not essential to the program's basic mission.

Help is available to students through specifically targeted educational assistance programs and other public assistance programs. Since 1965, non-social-security Federal student assistance has risen from $272 million a year to over $7 billion. In addition, several billion more is available for students from State-sponsored scholarships and low-income supplements as well as from private lending institutions.

Since the student benefit has been payable even to children of well-to-do parents and to students performing poorly in school, it is an expensive and inefficient way of providing financial assistance.

The timing of the phaseout was a matter of concern to the administration last year and to Congress, so Congress changed it. The Finance Committee delayed the effective date to protect students who were high school seniors graduating in 1981. It was the consensus of the Finance Committee and the Congress that students graduating after 1981 would have adequate time to adjust to the new law.

Mr. President, there has been some talk about how there is equity in this amendment because a third of the offices sent out incorrect notices. But they did not continue to send out the wrong notice. It is my understanding that about 8 to 12 percent of the students may have received an improper notice, but that was immediately corrected. By April, 800,000 pamphlets had been mailed to all student beneficiaries aged 18 to 22.

The amendment offered by Senator Levin would also require that the social security trust funds be reimbursed for the amount of unnegotiated benefit checks—checks that have not been cashed after a year.

There has been some claim that we are going to pay for this restoration. The sponsor of the amendment claims that it does not cost anything. We are going to take all the unnegotiated social security checks that are currently credited to the Federal Treasury and shift that sum into the social security trust fund. We are taking the money out of one pocket and putting it into another. As I understand it, this is not new money. We are just saying, if the checks are not cashed, instead of giving them to the Treasury, we will take the proceeds from those social security checks and put it into the trust fund.

If that works, Mr. President, our problems are over. We can solve the deficit just by juggling money from one fund to another and say, "Oh, we are paying for it, it does not cost the taxpayers any money." I suggest that all we would be doing is creating additional administrative costs and not saving any money at all. There is no saving.

According to the social security actuaries, the total amount of past unnegotiated checks is about $280 to $300 million. Under this amendment Treasury would have to reimburse the trust funds for this amount. The transfer to the trust fund in the future would be about $30 million a year.

I do not know where the Treasury is going to get the $300 million to reimburse the social security trust fund, but in any event there is other legislation pending with a lot of sponsors on both sides to deal with this particular problem.

The Social Security Administration, and Treasury agree that legislation is needed to enable the trust fund to be credited for uncashed checks. That legislation is being considered separately. However, it never occurred to anybody in the administration that that is a savings; that somehow we can just take what has been done in the

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past and push it into another fund and claim we paid for the cost of this program change.

I am also told by those who have been working with this program that students who would have their benefits restored under this amendment have already made college plans for the fall, probably applying for college this spring and registering this summer. According to the administration, it could take until December to locate these students and restore benefits.

As I understand it, the amendment requires that we notify all the beneficiaries of such a change. There are more than 4 million child beneficiaries and only about 200,000 affected by this amendment. That would be an administrative nightmare and a large cost. If we are merely trying to spend Federal money, then this may be a good amendment. But I again remind my colleagues who voted for the balanced budget amendment 2 weeks ago—here we are with business as usual: Vote for the balanced budget amendment and later try to figure a way to spend more money.

I would like to put in the RECORD at a later time a list of those who made great speeches on the Senate floor for a balanced budget amendment, because here is another test. Certainly we can say, "Oh, yes, it is too bad that somebody got the wrong notice, 8 to 12 percent of the student beneficiaries." The mistake should not have been made. I apologize for whichever agency may have made the mistake, but that does not suggest that we are to come in and take care of a whole class because somebody received the wrong notice.

I say to those who are concerned about fiscal integrity, a balanced budget, reducing the size of the Federal Government, the size of the Federal debt and Federal spending, here is a chance to strike a blow for freedom.

Mr. President, we discussed this matter with the Secretary of Health and Human Services to see if there were some way to accommodate the distinguished Senator from Michigan. I know that he has a more expensive amendment and that this is a fallback position. But I believe this is much like the minimum benefit struggle we had last year. We went through the agony of trying to eliminate the minimum benefit and then the stalwarts on the House side decided there was too much heat, so they tried to restore the minimum benefit. We ended up with a partial restoration of something the Congress had already done. And here we are, months later, trying to undo what we did last year as far as student benefits are concerned.

The elimination of these benefits was supported by President Ford, by President Carter, and by President Reagan. The benefit elimination was supported by the General Accounting Office because there was no relationship between the benefit and need or anything else that the General Accounting Office could determine.

I hope my colleagues, notwithstanding the eloquent argument by the distinguished Senator from Michigan and his sincere concern about these students, will not adopt this amendment.

I am pleased that the Senator from Michigan has been able to get this vote, because I know it is very important to him.

I have been trying to cooperate with the leadership and others so that the Senator might have this vote. The reason for having the vote now ostensibly was so that students might be notified. As I understand it, most of the students who are going to school this fall are starting this week. They probably enrolled this summer or this spring. It would take until December to find those who may not have made other plans.

My colleagues might appreciate having some background on the social security student benefit. When this benefit was added in 1965, student assistance from other sources was in the millions and now it is $7 billion. There are all kinds of opportunities for students. We do not need to add the student benefit back on to the social security system. I think we properly eliminated it last summer. That does not mean we are not concerned about poor students, but why should some well-to-do student get this benefit. I think the other educational assistance programs work better.

(Mr. EAST assumed the chair.)

Mr. LONG. Will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

Mr. LONG. Mr. President, I ask the Senator, is it not true that while we would like to have accorded the Senator an opportunity to vote on his amendment at an earlier date, the fact remains that we are now at August 20, the Senate is about to take a recess and the House is going to take a recess, and we will not be back until September? If the bill is amended, does that mean that the House is going to be able to vote on that amendment before we get back?

Mr. DOLE. I do not think so. I tried to reach the Speaker this morning to thank him for his help on the tax bill, and he had already left for Boston. It is my understanding the House will be gone until September 8 and they would not act on this conference report until at least September 8.

Mr. LONG. So no one could feel any assurance that the benefit proposed will be available until after the House has an opportunity to act on it; is that correct?

Mr. DOLE. That is the understanding of the Senator from Kansas. In fact, if the amendment succeeds, it goes back to the House. The House is empty. There is no one there to do anything.

Whether they want to come back to take care of this amendment, the Senator from Kansas does not know.

Mr. LONG. The point I have in mind is that it would be impossible to do anything before, let us say, the second week of September, and by that time the people affected would have been further along in making their plans for the fall. Whatever school they are going to go to, they would have made their plans to attend or planned to do something else.

Mr. DOLE. I might say to the Senator from Louisiana that we are advised by administration officials who have checked that for us that most students have already made their plans for this school year. They indicate that if the amendment were passed today, not in the middle of September, but if it were passed today and signed by the President, it would take a considerable time—a couple of months in any event—even to locate the students.

Now, maybe that is no excuse, but it is a practical fact that we must face. School has started.

Mr. LONG. Of course, it will be even further along by the second week of September, and even then the Social Security Administration would still have to send out the letters through the mail. If the person receiving the letter wants to do something about it, that will take even more time. So it is a late date at which to try to move. That is the point.

Mr. DOLE. I have asked HHS if they could determine how many students are being disadvantaged by the elimination of this program. It is my understanding that if in fact the students are low income, other provisions can be made. If in fact we find that a great number of students cannot go to school because of the loss of this benefit, maybe we ought to change some of the other student loan or Pell grant programs. But let us try to keep social security for social security. As a matter of fact, the National Commission on Social Security is meeting today trying to figure a way to keep social security afloat. Are we prepared to spend this much money when the system is in so much trouble?

The savings the Senator claims for the transfer of unnegotiated checks to the trust fund are not real savings.

The PRESIDING OFFICER. The Chair advises that all of the time of the opponents of the amendment has expired. The Senator from Michigan has 4 minutes and 39 seconds remaining.

Mr. DOLE. The proponents' time has expired, too?

The PRESIDING OFFICER. No; they have 4 minutes 39 seconds. The opponents' time has expired.

Mr. HEFLIN addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. LEVIN. Mr. President, I yield 1 minute to the Senator from Alabama.

The **PRESIDING OFFICER.** The Senator from Alabama.

Mr. HEFLIN. Mr. President, it is estimated that 250,000 to 300,000 high school graduated seniors would benefit from this amendment. As many as 75,000 to 100,000 of these young people received erroneous information relative to their eligibility for future benefits.

Thousands of incorrect brochures went out from the social security headquarters, regional offices in Kansas City, and in Birmingham, as well as from two out of six centers nationwide. So a lot of mistaken information was sent out, and it was sent out in my area of Alabama, which causes me particular concern.

There have been some remarks concerning the fact that rich college students would be receiving the social security benefits under the Levin amendment. But according to a 1979 GAO report, the percentage of college students receiving social security, by family income, was as follows: first, 29 percent of the students had family income under $6,000; second, 53 percent of the students had family income under $8,000; third, 71 percent of the students had family income under $15,000.

The **PRESIDING OFFICER.** The Chair advises that the Senator's 1 minute has expired.

Mr. LEVIN. I thank the Senator from Alabama.

I yield myself the remainder of my time.

Mr. President, first, on the question of the House of Representatives, the problem is not in the House of Representatives, I say to the Senator from Louisiana. The problem is in the U.S. Senate, which has been unable to bring this matter to a vote.

There are eight bills in the House of Representatives to extend this deadline, with 250 sponsors; and we have assurance that it this amendment is agreed to by the Senate, it will be agreed to by the House.

The problem has been in the Senate, in getting this matter to a vote. I am glad we have brought it to a vote today, because we face the argument, "Look how late it is." If we had waited until September, that argument would have been much more telling. But it is still August, and there is still time to do justice.

We have hundreds of thousands of students out there who are waiting for word from the U.S. Congress as to whether or not we are going to keep this commitment at these reduced levels for 1 additional year.

Again I emphasize: 50,000 of these children are the children of soldiers who went to Vietnam, having been promised that if they did not come back, their kids would have this social security benefit through college. Now it is up to us to redeem that pledge. The House will redeem it. They will do their business. They have 250 sponsors on a bill. It is up to us to redeem this pledge now to these soldiers who are now in their graves.

The testimony before the House was eloquent. Mrs. James from New Jersey:

> Congress has robbed these children of the educational opportunities that their parents earned for them. It also has robbed them of their faith in their Government. I beg of you, restore their funding. Restore their faith in their country.

Mr. President, the chairman correctly talks about fiscal integrity. He has led the battle for it, and I give him great credit, and the Senator from Louisiana has joined in that. This is a matter of integrity, but it is not just fiscal integrity. It is governmental integrity that we are talking about, as to whether or not commitments that are made are going to be kept.

Finally, if I may conclude in this way, there was a double injustice this year, and this amendment will correct the second part of the injustice as well as the first.

The false information that was sent out this year was not corrected for all these students. The Associate Commissioner of Social Security, Mr. Sandy Krenk, testified before the House that they had no way of identifying which children received the incorrect pamphlet.

Mr. President, we can correct a double injustice with a relatively small outlay of funds for 1 additional year without doing violence to the changes which the chairman of the Finance Committee and others worked so hard to incorporate into the social security bill.

Mr. DOLE. Mr. President, will the Senator yield for an observation?

The **PRESIDING OFFICER.** The Senator's time has expired.

Mr. DOLE. I ask unanimous consent to proceed for 30 seconds.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. DOLE. I just want to indicate that there is a bill being considered now—I think by Senator QUAYLE and others—to take care of the problems suggested about Vietnam veterans, but not making it a part of the social security system. That is the basic difference, and I want the record to indicate that.

Mr. STENNIS. Mr. President, I am pleased to join with the distinguished Senator from Michigan (Mr. LEVIN) in the amendment which has been proposed to H.R. 6863, supplemental appropriations, 1982 conference report, which will preserve for 1 year most of the social security student benefits for children of deceased and disabled workers and children of soldiers who were killed in Vietnam.

The amendments enacted in 1981 eliminated social security student benefits for new beneficiaries not enrolled in a postsecondary institution by May 1982. I believe that this works an unfair and unnecessary hardship on the children of deceased and disabled workers and on the children of military personnel killed in Vietnam.

The amendment which I have cosponsored sets the enrollment deadline back from May to October 1982, which would allow this fall's college entrants to complete their education with the aid of social security benefits which they had every expectation that they would continue to receive.

Most of the children which would be affected by my amendment come from families with marginal income. About 45,000 of these young people are children of deceased military personnel who lost their lives in Vietnam. As the law existed at that time there was a commitment that, if they were sent to Vietnam and lost their lives there, their children would receive the social security benefits through college.

The cost of this amendment over a 3-year period is only $245 million. However, another part of the amendment requires that the cost of partially restoring the program as proposed by the amendment would be offset by crediting to the social security fund instead of to the general fund uncashed social security checks.

Mr. President, I believe that this is a fair and just amendment and it would correct an injustice which resulted from the legislation the Congress adopted last year. It will give the students in question relief that they urgently need and require. I hope that the amendment will be adopted by the Congress.

Mr. SASSER. Mr. President, I rise today to support the amendment of the Senator from Michigan (Mr. Levin). This amendment addresses a matter of crucial importance to some 250,000 high school seniors planning to further their educations this fall.

These students are dependent on social security benefits to supplement their postsecondary education. Last year, the administration was successful in pushing through changes in social security affecting student benefits. The changes contained in the Omnibus Reconciliation Act of 1981 included the elimination of social security benefits for new student beneficiaries not enrolled in college full time before May 1, 1982. For current recipients, beginning this month the amount of benefits will be reduced each year by 25 percent of the August 1981 amount.

I would like to point out to my colleagues that these benefits are not a

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handout. They are directly related to the amount of earnings lost due to the death, disability, or retirement of the parent and are not related to the costs incurred in attending school. According to a report by the Congressional Research Service, these benefits are much more than a form of educational assistance, they also serve as basic income support to replace a part of the lost earnings of the parent upon which the student depended up until the time the parent either retired, became disabled, or died.

To further compound this injustice, the Social Security Administration failed to officially notify last year's high school seniors of the eligibility changes, phaseout and subsequent elimination of the benefits under the Reconciliation Act. And an undetermined number of students received erroneous information about their eligibility for future benefits.

This amendment attempts to rectify the unfair treatment accorded these high school seniors, 84 percent of which come from families with income below $20,000. In my own State of Tennessee, some 4,700 students will be affected. Without these benefits, it will be impossible for many of these students to continue their education.

I also support the return of some $255 million in unnegotiated social security checks to the social security trust funds where they rightfully belong. At a time when the social security system is facing both short- and long-term financial difficulties, the return of this money is at least a step in the right direction.

Mr. MITCHELL. Mr. President, I rise in support of this amendment redressing a major inequity that followed enactment of the phaseout of social security student benefits last year. Many recipients were either misinformed or not informed at all of the effects of this change until just before their graduation last spring. This left most students and their families without sufficient time to evaluate and apply for other sources of financial aid.

In the 1981 Omnibus Reconciliation Act, Congress phased out student benefits over a 4-year period. However, to be eligible for the reduced levels of benefits, students had to be enrolled in a postsecondary educational institution by May 1982. Although some high school seniors were able to adjust their plans so that they were enrolled in college by that date, the vast majority of college-bound children of deceased and disabled workers did not receive adequate notice. Thus, they will be denied the financial assistance that they had been counting on to help meet the ever rising costs of a college education.

It is estimated that 300,000 seniors were affected by this abrupt cutoff. Furthermore, as many as 75,000 to 100,000 were actually misinformed regarding their eligibility for student benefits. This is because two of the regional social security offices mistakenly sent out old brochures that included guidelines based on prior law.

The amendment offered by Senator Levin is a responsible one. It does not alter the phaseout of benefits, as defined in last year's reconciliation bill. It merely enables those high school seniors who graduated last spring to qualify for the reduced level of payments. I believe that this is simply a matter of fairness. Those graduated seniors who did not have the flexibility in their schedules to take advantage of the May 1982 deadline should not have their education plans disrupted by this abrupt termination of benefits.

This partial restoration of benefits is done in a responsible manner. Rather than cause a drain from the already fiscally strained trust funds, this amendment includes a partial offset for the increase in outlays. It does so by providing that uncashed social security checks, which currently remain in the general fund, will be returned to the social security trust funds. The Social Security Administration estimates that the accumulated total of unnegotiated checks is $255 million. This amount is expected to grow by $50 million annually. This simple accounting change can help pay for this worthwhile reform.

Mr. President, this amendment restores equity in a fiscally sound manner. I urge its adoption.

Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by Senator Levin. This amendment is intended to right a very serious wrong. The action taken last summer in reconciliation jeopardized the future of hundreds of thousands of students across this country who are depending on social security benefits to fulfill their dreams of a college education.

The action we took last summer will mean an end to that dream for many of these youngsters and their families.

When the administration proposed eliminating student benefits last year it justified the action on grounds that this program violates the real purpose of social security. They argued that just because someone is old, or disabled, or dies, does not mean we have any responsibility to educate their children. After all, there are other programs to assist those who want to go on to college. Never mind that this year alone the Reagan administration would cut Pell grants by $800 million, guaranteed student loans by $912 million, and eliminate virtually all campus based aid.

In order to put this issue in perspective, it may help to know more about these 300,000 students who face having their benefits cut off. These young people live in cities and towns all across the country. Over 80 percent of these students have one or both parents who are deceased or disabled; 70 percent come from families with incomes below $15,000; over half have incomes under $8,000.

The Washington Post told Debbie Davis' story a few months ago. Her plight was brought to President Reagan's attention. Debbie is a cheerleader and honor student from Winder, Ga. Her father is dead and her mother has moved away. She's on her own, without the social security benefit she cannot go to college. The President was moved by her story and wants to help.

But Debbie Davis is only one of 300,000 seniors across the country whose future is in doubt.

There are the children of Evelyn Grubb, Madeline Van Wagenen, and Clair Leaver. All of these women are widows of the Vietnam war. Their husbands undertook dangerous missions, believing that the Government would provide for their wives and children if they did not return. They were wrong. Their widows are organizing others like themselves into a group called "Survivors for Sacrifice" to fight for their children's benefits.

The Veterans' Administration estimates 46,000 sons and daughters of those who gave their lives for their country will be affected by the cutoff of benefits.

The 7,000 high school seniors in my own State will have the benefits they were counting on taken away.

Gary Cooper is 18 and lives in East Sandwich, Mass. He has been partially blind since he was 5. Four years ago his father died. His mother is raising Gary and his brother on $12,000 a year.

Despite his handicap and the loss of his father he is an honor student, a musician, and a leader in his class. He dreams of a career in astronomy and a future with NASA. Student benefits are the only way Gary's dream will come true.

And the worst part is that the Social Security Administration never bothered to tell Gary and most of the other students that the benefits they were counting on would not be there.

Imagine the surprise and shock of these students and their families when they learned through the media that the Reagan adminstration had no intention of honoring the commitments these families thought they had from their Government.

As late as last December, the Social Security Administration was still sending out thousands of brochures to this year's seniors informing them that they would continue to receive their benefits if they enrolled in college next year. Students all around the country made their plans on this advice.

The Department of Defense has yet to notify servicemen on active duty that these benefits will be cut off. When asked how long notification would take a spokesman for the Department indicated it could take 18 months to publish a new pamphlet.

In 1939, the Social Security Act was amended to provide benefits to dependent children until their 17th birthday if they were attending school full time. In 1946, the age was extended to 18. In 1965, the age was extended to 22. Members of the Ways and Means Committee and Senate Finance Committee argued then that a child over 18 attending school full time is just as dependent as one under 18. They pointed out that a child who cannot look to a father for support—because their father has died, is disabled, or is retired—is at a disadvantage in completing his education:

> Not only may the child be prevented from going to college by loss of parental support and loss of his benefits; he may even be prevented from finishing high school or going to vocational school.

The arguments made in this body in 1965 are as valid today as they were then.

The Levin amendment will give these young people the time they need to plan their education.

I urge its adoption.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Michigan, Mr. Levin.

The Social Security Administration never properly informed student beneficiaries, parents, or guidance counselors of the change in the law. Furthermore, high school seniors received erroneous information by mail and by phone when they and their parents made inquiries to their local social security offices. In the absence of clear notification of changes in the law—changes that have a dramatic impact on the futures of youngsters depending on this benefit to help finance higher education—it is simply unfair to penalize students who have been misinformed by the Government.

Mr. President, nearly 84 percent of the students receiving benefits come from parents earning less than $20,000 annually. Many students could not attend college without this aid. Cuts in other forms of student aid coupled with the ambiguous information supplied by the Social Security Administration concerning the status of the student benefit have already jeopardized the higher education plans of many. These students deserve more consideration than has been provided in the inept way the notification of this change has been handled. About 80 percent of these students have one or both parents deceased or disabled. Many of these young people have no spokesperson to plead their case.

I commend Senator Levin for his persistence in bringing this issue to the Senate floor, and I urge my colleagues to join me in support for the Levin amendment.

Mr. BRADLEY. Mr. President, I am pleased to join my colleague, Senator Levin, in an effort to preserve for an additional year most of the social security student benefits for children of deceased and disabled workers and children of soldiers killed in Vietnam.

In New Jersey, as elsewhere, a large proportion of the students whose college assistance was taken away from them had no opportunity to avoid this loss solely because the Social Security Administration failed to provide timely information.

Last year's change in the law apparently did not filter down to local staff in the Social Security Administration until after thousands of old brochures detailing the old guidelines were sent out to recipients. The information those high school seniors received flatly told them they were eligible for student benefits if they went to college in the fall. Still more students and parents were given that same erroneous information over the telephone by local social security offices. And guidance counselors who were not on top of congressional action were not advised of the change in eligibility standards for assistance until it was too late to benefit most high school seniors.

A letter from a constituent from Pennsauken, N.J., to President Reagan illustrates the impact of that action in very personal terms. She wrote:

> I have been a widow since 1972 and unemployed. I am now 60 years old. I have been raising 2 children on our Social Security benefits since the death of my husband with absolutely no help from anyone. The student benefits have helped to keep us together as a family in our own home. I feel that was the purpose of the survivor and student benefits because even welfare gets that benefit. Their benefit checks, they had turned over to me with their checks and mine. I would pay Mortgage, Utilities, Food, Medical, Blue Cross and Blue Shield, and so forth, and it has not been easy.
>
> When my husband died, his Company dropped us from the Company Pension Program and medical plans, now our Government has dropped us. My husband worked over 36 years and payed Social Security taxes to protect his family: These cuts are depriving young people of an education, a home, family togetherness. While inflation is continuing to consume us.
>
> My son has been an excellent student all through these years. He has always been an "A" Honor Roll Student. His teachers and guidance counsellors have said all along he is college material. My son will be 18 years old January 8, 1982, he will graduate from High School June 1982. We visited our Social Security Office, according to the new rules he will no longer be eligible for benefits once he graduates from High School. He would have had to start Post Secondary before May 1982. It's a shame because he only wanted 2 years of county college. We needed those student benefits to keep our home together while my son went to college.
>
> My son was heavy into education and now cannot finish what he started out to do. He now will have to find full-time work to pay our household expenses to keep a home together for us. * * *
>
> Never, since my husband's death have I been so full of fear and bitterness, so insecure, worrying all the time, depressed, so that now I cannot even function properly the way I used to, this has been since March 1981.

It is estimated that 250,000 to 300,000 high school graduated seniors would benefit from this amendment. Based on the 1981 data, over 60 percent of those are children of deceased workers. Seventy-one percent of the beneficiaries were from families with incomes of under $15,000; fifty-three percent of the students have family incomes under $8,000.

A letter from a mother from Rockaway, N.J., is typical of many hundreds I received last year. She wrote, in part:

> Both of my children are recipients of survivors benefits. When my husband was alive we often discussed the children's education, and he would say "if anything happens to me you will have Social Security to help you through." Since he was only 36 years old when he died, we certainly did not have the time to save for our daughters' college education. Needless to say, with the high cost of college tuition and all of the other proposed college aid cuts, it would be impossible for my children to receive the education which they want and deserve. To me, this would be a betrayal of my husbands faith in the system to which he paid, as security for himself and his family.
>
> I would like you to consider these young people, who have the capacity and potential of making a positive contribution to our society, when making your decision on how to vote. These people need your backing; don't close the doors of education to them.

While the cost of this amendment over a 3-year period is $245 million, the second half of the amendment would more than offset these costs. Currently, unnegotiated social security checks remain in the general fund. The Social Security Administration estimates that those uncashed checks add up to $255 million and each year $20 million more goes into that general pool. If those moneys were instead returned to the social security system the entire 3-year cost of this amendment would be more than offset. And the moneys would be put where they properly belong.

While the amendment does not go as far as I would like, it does rectify a severe hardship caused by lack of proper notice. It will change from May 1982 to October 1982 the date by which a student must be enrolled in a postsecondary educational institution in order to receive student benefits.

I strongly urge my colleagues to support this amendment.

● Mr. HUDDLESTON. Mr. President, I rise in support of Senator Levin's efforts today to address a situation which I believe is grossly unfair to

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many thousands of young people in this country. I, for one, have endorsed and will continue to endorse reasonable and appropriate efforts to restore the financial stability of the social security system, and recognize that this may require some painful decisions.

I cannot support, however, drastic, virtually unannounced reductions that render thousands of young Americans unable to obtain the education they are entitled to.

This is why I support my distinguished colleague from Michigan's amendment to restore social security student benefits to high school seniors who recently graduated and who, due to misinformation or no information at all, had no time to seek out alternate means of financing the education they had for so long hoped for.

It is important to note, Mr. President, that this amendment, which would extend the final enrollment deadline from May to October 1982 for students to continue receiving their benefits, would allow the administration's phaseout of social security benefits to continue as scheduled in the 1981 Reconciliation Act.

It would, however, allow up to 300,000 high school seniors, one-third of whom received outdated brochures about their benefits that SSA mistakenly sent out, to continue their education with the assistance they have been counting on.

Mr. President, all of us recognize the need to reduce spending in so many Federal programs which have grown beyond their original anticipated size.

But I cannot stand idly by when changes are proposed which are not only drastic in nature, but which are executed in an inexcusable manner.

Young people, children of deceased and disabled workers, children of soldiers killed in Vietnam, have been for years counting on survivor's benefits to aid them through college. Most of them were told only weeks before the deadline that they were being cut off from these benefits, and what occurred then was a hysterical scrambling by parents, high school counselors, and friends to enroll these children in any college that would take them before the May deadline.

That any legislative or governmental decision should cause such widespread panic is abhorrent.

I, therefore, wholeheartedly support my colleague from Michigan's unwavering commitment to the restoration of these benefits, and urge my colleagues to join him in this vital effort.●

Mr. ROBERT C. BYRD. Mr. President, changes enacted in the administration's budget-cutting bill last year eliminated social security student benefits for eligible young people who had not enrolled in a postsecondary educational institution by May of this year. The pending amendment would extend the cutoff deadline for 4 additional months, to October 1982.

This is an action the Congress should have taken before May's cutoff. All of us here can recall the tragic stories reported in the press last spring, as high school seniors missed their own graduations to enroll in college in order to recieve benefits. All of us here can remember the confusion that ensued when two of the six social security regional offices sent out benefit brochures by mistake, clearly telling students that their benefits would continue in full.

The Levin amendment is a compromise. Under its terms, student benefits would still be reduced by 25 precent, and phased out according to the provisions of last year's budget-cutting bill. However, the amendment would aid 250,000 to 300,000 high school graduated seniors in pursuing a higher education. Most of these young people are from lower income families. Last year, 71 percent of the young people aided under the program were from families with annual incomes below $15,000; 53 percent from families with yearly incomes below $8,000.

While funding for other Federal educational programs has been cut back, we must remember our commitment to our Nation's deceased workers and to our soldiers who never came back from Vietnam. We cannot unfairly desert their children.

The Levin amendment includes provisions to offset the amendment's cost to the social security system. I commend the Senator from Michigan for the many hours of work devoted to developing this legislation.

SOCIAL SECURITY STUDENT BENEFITS

● **Mr. SARBANES.** Mr. President, I am pleased to be able to join the distinguished Senator from Michigan (Mr. LEVIN) as a cosponsor of this important amendment to retain social security student benefits for those students who have graduated from high school this past spring. Many of these students have had their education plans disrupted or derailed by the failure of the Social Security Administration to provide them with adequate information about changes in the 1981 Omnibus Reconciliation Act affecting their eligibility for future benefits. As many as 75,000 to 100,000 of these young people received erroneous information that they would continue to be eligible for benefits upon attending a postsecondary school when two regional social security offices sent out old, outdated brochures. Others received incorrect information when they called their local social security offices with questions about the student assistance program. Many students and their families received no information at all, and were shocked to later find out they would not be eligible for benefits when they enrolled in the fall.

A college education and how to finance it is something that a family plans over its lifetime, and cannot be altered in a matter of months. The phaseout of student benefits has caused disruption in education institutions and heartache in families, who are faced with the prospect of making life-determining decisions almost overnight. Many families pulled their children out of their last year of high school and enrolled them in college early in order to meet the May 1 deadline. Other families that had carefully and responsibly planned for their children's education discovered that a college education might not be possible.

I am deeply concerned about these problems confronting students and their families, and have long questioned the wisdom of terminating the social security student assistance program. The administration's justification for the termination of this program was that other student assistance programs were more appropriate in providing financial help to college students. Yet these other programs have been severely cut or terminated on the insistance of the administration in both the 1981 and 1982 budgets. Recipients of social security student benefits are among those students most in need of financial assistance, often coming from families with marginal incomes. Over 53 percent are from families with annual incomes over under $8,000. They are more likely than other students to hold full- or part-time jobs while attending college. And many receive very limited help from their families in paying the cost of attending college.

Our Nation has a commitment to providing quality education for all of our citizens. I opposed the termination of the social security student benefit program, as well as other cuts in education program, when they were before the Senate last year, and earlier this year joined with the Senator from Michigan (Mr. LEVIN) in cosponsoring legislation to enable a partial restoration of this invaluable program. The amendment pending before the Senate would correct this serious inequity imposed on thousands of young people, and add to the ability of our Nation to insure an educated citizens. The amendment also requires that uncashed social security checks be recredited to the social security trust funds instead of to the general fund. These additional funds would insure that this partial restoration of student benefits would be at no additional cost to the social security trust funds. I commend my colleague from Michigan for offering this amendment, and urge my other colleagues to join in supporting it.

In order to illustrate the seriousness of the situation which is currently affecting students, their families, and educational institutions in Maryland, I ask that testimony presented by several Marylanders before the House of Representatives Committee on Education and Labor this past February be included in the RECORD.

The testimony follows:

Statement of Alice James, Chestertown, Md.

Mr. Chairman and members of the subcommittee, I am Alice James.

I appreciate the opportunity to appear before you to discuss the impact of the elimination of survivor benefits for college students. I shall read my testimony.

I teach in Chestertown, Md. English to the Kent School, and writing at Washington College, and am the widow of a scholar who taught at Washington College for 25 years. But it is not as an educator that I am here today; it is as the parent of four students aged 15 to 21. As a widowed parent I must convey to you the plight of not just my own children, but of thousands like them who may be unjustly deprived of the benefits their dead parents earned for them, the benefits which would enable them to contribute their talents and skills to our society.

Let me explain the impact of the cuts on my own family. My oldest child will graduate from college in May. Until recently she had expected to go on to graduate school, preparing herself for a career in teaching or a related field. As a result of the extraordinary stress the cuts will impose on our family, she is shelving her plans and looking for a job. I pray that she will find one. Her father earned his Ph. D. I have an M.A. You can imagine how I feel about this derailment of her professional goals.

My second child is in her second year of college; she too wants to be a teacher. In the next year her annual income from social security will be reduced 50 percent. This year she received 12 checks for $238. During her junior year she will receive eight checks for $178. Her financial planning was predicated on the continued availability of both social security benefits and guaranteed student loans. She is to lose $1,900 in social security, and perhaps $2,000 in loans. How shall we compensate for the loss of $3,900? Which of the other programs will cover our loss?

When she returned to college after Christmas she thought her funding would only be reduced by 25 percent of her annual total. I am ashamed to admit that although I have talked to her since this document arrived on Wednesday, January 27, I have not told her the enormity of her loss. We talked on her 20th birthday. She told me that she missed her father, that she needed him to give her a hug and say, "Your old man is proud of you." Which of you could have delivered another blow? What do you think I should say to her now?

My son is 17. He would be a senior in high school but for a back injury sustained in the spring of his sophomore year. It was misdiagnosed and mistreated for 4 weeks. Finally, he was hospitalized. After another week of painful testing and anxiety, the doctor discovered that their 15-year-old patient had ruptured a disc in his lower back. Summer study was not possible because of lingering pain and the distracting discomfort of a heavy brace. He needed to repeat his sophomore year. Consequently he is not among the high school seniors scrambling to enroll in college program before May 1.

Extend the deadline. Do all you can to help the multitude of youngsters who cannot help themselves. But even if the deadline is extended to June 1, my boy will be deprived of social security benefits for his college education. On the PSAT he scored in the 94 percentile. Which of you wants to tell him that his education is jeopardized by these cuts?

I must add this his hero is the late David K. E. Bruce, envoy to China, ambassador to many European countries, negotiator at the Paris peace talks. He wants to emulate that distinguished career of service to this country. Which of you wants to tell him that his country does not need his services?

And now my youngest daughter, at 15 an enthusiastic sophomore in a stiff college preparatory program. I worry that she will lose her motivation to excel. On the one hand, she knows that her father and I would want her to work as hard as she could to go on to the best college that would take her; on the other hand, she sees what the financial stress is doing to me. What can I do to assure her that somehow we will find a way for her to pursue a career in architecture?

There are thousands of children like mine around the country. There are students who are asking for the benefits their dead parents earned for them. They are asking for help with their education in order that they may contribute to society, not become a drain on it. I wish their mothers could join me here, for I am a weak spokesman for a group of citizens with so few votes. I wish these students themselves could march on Washington and demonstrate outside your doors. But the administration has picked on a silent minority devoid of political clout.

Must I remind you that the GI bill and other educational programs have proved that they are a wise investment that pays dividends through the increased productivity and wage-earning capacity of the recipient?

Must I remind you that responsible parents like my husband took the social security program into consideration when they examined their life insurance coverage? And just as they expected their insurance companies to honor their commitment to a prearranged program, so too they expected the Government of their country to honor its commitment. Because my husband and his employer were compelled to contribute to the social security program, he could not afford the additional life insurance that would otherwise compensate us for the loss of social security coverage.

Congress has robbed these children of the educational opportunities their parents earned for them. It has also robbed them of faith in their Government. I beg of you—restore their funding; restore their faith in their country.

Prepared Statement of Dr. Hoke L. Smith, President, Towson State University, Towson, Md.

My name is Hoke Smith; I am President of Towson State University in Towson, Maryland. Towson is a public comprehensive university enrolling approximately 15,000 students.

I am pleased to have the opportunity to present my views concerning the recently mandated cuts in social security benefits for students attending institutions of higher education. To provide continued access for these students typifies the serious problem which confronts the higher educational system and which seriously threatens the twin goals of accesss and choice which we as a society have worked long to establish. Although my institution is less dependent upon federally-funded financial aid than most other institutions in our state, both our students and the institution itself will be seriously damaged by cuts in their social security benefits.

This year we have approximately 370 students receiving social security benefits. Of these approximately thirty percent receive some other type of federal aid. In addition, we made 1683 Pell Grants, 194 College Work-Study Grants, 706 NDSL Loans, 557 SEOG Grants, and 2200 GSL/FISL Loans. With the exception of College Work-Study and NDSL Loans, all of these were slightly smaller than the preceding year. In the view of our Director of Financial Aid, we did not have adequate funds in relation to the need in any of these programs and had a great deal less than needed in College Work-Study and SEOG.

We estimate that approximately 100 new students would attend Towson State University utilizing social security benefits in the coming year. As a result of publicity in or area, approximately 17 high school students have already enrolled this semester under our early admissions policy in anticipation of social security cuts. Depending upon the economic needs of the balance of the incoming students, we obviously are not in a position to supplement or replace these cuts by other federally-funded financial aid programs. A 25 percent cut in Pell funds would affect 420 students; 25 percent in CWS would affect 48; 35 percent in new NDSL funds would affect 247; while a cut of 42 percent in SEOG funds would affect 233 students.

In summary, the social security cuts coupled with other projected cuts in financial aid may affect slightly over 1,000 students. At this point, I cannot say whether this would keep these students from attending college. I can tell this committee that I am anticipating that we will have approximately 400 fewer students on campus due to cuts in financial aid.

Current federal policy is threatening the concept of access to higher education which has been developed since World War II. It is truly a counter-revolution which affects the educational and research basis of our nation's economy. It seems to me counter-productive to advocate economic development while wiping out the technological and education base which we have seen undergirds our technological and democratic society. Not only does higher education foster economic competence, but it also fosters support of the democratic ideals. I think that the works of Howard R. Bowen and Alexander Astin have demonstrated these accomplishments.

I wish to add a few words, as a parent of a high school senior. I have attempted to plan for the education of my children. My last one is graduating from high school this year. As a part of that planning, I have combined insurance with the coverage offered through the social security program. If I were to die now, the portion of my son's education which I had planned to have paid by social security would not be available to him. In other words, the government has without any warning changed the basis upon which I, and I believe other prudent citizens, have planned their lives. It has done so without offering any opportunity for adjustment of personal financial plans. Personally, I can adjust by taking extra insurance, if I am still insurable, or by some other means. However, if I were dead, it would not be possible.

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I believe that one of the highest values in all of culture is the promise made by the living to the dead to care for their children and to see that they are raised to a position of adulthood in society. This is what we collectively have covenanted with each other through the social security program. Now, the federal government unilaterally, suddenly, and without any apparent concern for the violation of this covenant, has broken this collective promise to those who have died. Their children will no longer receive the support which was promised. And the parents obviously are in no position to do anything about it.

I believe that this action mocks the rhetoric of a return to traditional American values. It violates our political contract for the mutual benefit of society and the maintenance of domestic security and tranquility. It provides little assurance that our government will abide by its promises to its citizens—promises upon which they plan their lives. If our government violates its contract in this way, what assurance do we have that it will honor its commitments for disability payments under social security, or, indeed, that social security, which is built in as as essential element of many pension plans, will fulfill its promises.

Therefore, I recommend this committee give serious consideration to attempting to influence the form which the cut off of social security takes. I say this as a parent and as a citizen, not as a college president. I would suggest that instead of cutting off benefits for dependents entering institutions this year, the eligibility for benefits instead be geared to the time of the death of the covered individual. If this were to be made effective next January, it would mean that we would not achieve the instant cuts in social security which this approach will accomplish but that eventually we will have eliminated this drain on the budget. But more important, we will have kept faith with our fellow citizens.

If in view of the extreme financial problems facing the federal government it is deemed that this cannot be done, I would suggest that a low interest loan fund be created to equal the amounts which recipients would have otherwise achieved. This will have a long-term effect of not increasing the national debt significantly while honoring the commitment to provide financial support for these students.

I recognize, along with many of my fellow citizens, that steps must be taken to minimize and control federal expenditures. Perhaps from an institutional viewpoint, social security is not as effective as the basic opportunity grants or other need-based programs.

However, as I thought about this problem, I became convinced that, as important as access to education is, it is of secondary importance to that of honoring our national commitment to our people in the event of the death of a supporting parent, for this commitment was made to those who no longer can take any action of protest or repudiation of our promise.

Statement of Jacqueline Arrington, Student, Towson State University

I expected to receive social security throughout my college education. My father expected it before he died. He paid into it like many men and women today and expected his daughter to be able to continue her education.

Instead of receiving social security I thought I could get the basic opportunity grant. But now that seems to be getting cut. So I am just going to have to find a job during the winter which I don't want to do because I did it last winter and my grades fell. I really think that I want to direct myself totally to my education.

I discussed the whole situation with my mom, who I live with, and she is going to have to find some extra work somewhere or work overtime at her job.

I just feel it is totally unfair to a student whose parents died and the parents that died who expected their children to be taken care of by the Government, I don't know how I am going to be able to continue school. It is going to be hard because I am going to have to cut a lot of expenses.

As was said previously, I did not receive any notification. I did not know about the cuts until last month. A news reporter called me and informed me. I heard bits and pieces from different people and I thought I should have been notified before so I could have made plans to try to save a little bit more or put a little more away for college for my education, for books and so forth.

I also feel that it should be reexamined so students can continue school.

I just want to say that thank goodness I live with my mother. For the students that don't live with parents they cannot continue school and I just hope they find other ways to do it.

Prepared Statement Presented by Herm Davis, Director of Financial Aid, Montgomery College, Montgomery County, Md.

Mr. Chairman and members of the subcommittee, I appreciate this opportunity to present the views of the American Association of Community and Junior Colleges (AACJC) regarding the payment of Social Security benefits to students attending postsecondary institutions. I am Herm Davis, Director of Financial Aid at Montgomery College in Montgomery County, Maryland.

This testimony is submitted regarding the cancellation of social security benefits for individuals who would normally receive these benefits as college students beginning in the fall of 1982. It is restricted to discussing the limited information and the communication process that the Social Security Administration failed to use.

As you are aware, we are addressing the college educational needs of over 100,000 students who are now completing their senior year in high school. As of this date, unless these students were nearing their 18th birthday, they have not been notified officially regarding the status of the elimination of their benefits. As a matter of fact, there have been no bulletins submitted to high school counselors or college representatives regarding this problem. For example, at Montgomery College the only official documentation we have received is one that we requested that turned out to be a Social Security Administration paper dated November, 1981 that we received in the middle of December. This document clarifies the issue but the question remains, why was a document of this nature not submitted earlier to the 100,000 plus students that its instructions ultimately affect? This is the main question being asked by students as well as their parents. They feel that there was only limited time to react to the elimination of Social Security benifits and this time was not used to promptly and properly notify them.

Inquiries were made at regional offices of the Social Security Administration to ascertain when notifications to the students and their parents would be sent. The response that we received indicated the students would be notified by the middle of late February of the new guidelines and restrictions. Because of this a large number of these students will not only lose their Social Security benefits, it will be too late for them to apply for institutional and state aid programs.

College officials throughout the United States have been besieged with inquiries regarding the loss of benefits. Unfortunately, the few press releases that were printed stated that students "enrolled" in college by May 1982 would be eligible for Social Security benefits for the fall of 1982. "Enrolled" was interpreted by many people to mean "admitted" to an institution but not necessarily in attendance by May 1. The meaning of the word "enrolled", has created problems for the colleges and students because Social Security officials are now interpreting this to mean "admitted and in full-time attendance." It is probable that many high school students are still making plans with this incorrect definition in mind.

To complicate the problem further, some high school recipients of Social Security benefits who will start college classes in the fall of 1982 believe they are automatically eligible to attend college and receive Social Security benefits because they will not be 18 until after the fall term begins.

To help resolve these issues in a fair and equitable manner to students and their parents who have invested in Social Security, and through no fault of their own are losing this important benefit, it is the recommendation of the American Association of Community and Junior Colleges that the May 1982 deadline be moved back to September 30, 1982 and that the Social Security Administration be instructed to notify all eligible students and their parents immediately.

Mr. Chairman, thank you for the opportunity to testify before this Subcommittee.●

Mr. BRADLEY addressed the Chair.

Mr. DOLE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. All time has expired.

The yeas and nays have not been ordered.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. Abdnor), the Senator from Minnesota (Mr. Durenberger), the Senator from Arizona (Mr. Goldwater), the Senator from Idaho (Mr. McClure), the Senator from South Dakota (Mr. Pressler), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from California (Mr. Cranston), and the Senator from Arizona (Mr. DeConcini) are necessarily absent.

I also announce that the Senator from Florida (Mr. Chiles) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—42

Baucus
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Dixon
Dodd
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Johnston
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Stennis
Tsongas
Weicker
Zorinsky

NAYS—47

Andrews
Armstrong
Baker
Boschwitz
Brady
Byrd,
Harry F., Jr.
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
East
Garn
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
Murkowski
Nickles
Nunn
Packwood
Percy
Proxmire
Quayle
Roth
Rudman
Schmitt
Simpson
Stafford
Stevens
Symms
Thurmond
Tower
Warner

NOT VOTING—11

Abdnor
Bentsen
Biden
Chiles
Cranston
DeConcini
Durenberger
Goldwater
McClure
Pressler
Wallop

So Mr. Levin's amendment (UP No. 1256) was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT IN DISAGREEMENT 180

Mr. HATFIELD. Mr. President, I move that the Senate recede from its disagreement to the amendment to the Senate numbered 180, as amended by the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon.

The motion was agreed to.

AMENDMENT IN DISAGREEMENT NO. 183

The amendment is as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 183 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 'An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes', unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Mr. HATFIELD. Mr. President, I move that the Senate recede from its disagreement to the amendment of the Senate numbered 183, as amended by the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon.

The motion was agreed to.

AMENDMENTS IN DISAGREEMENT NOS. 115 AND 150

Mr. HATFIELD. I move that the Senate recede from its disagreement with the House to amendments numbered 115 and 150.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I would like to yield for 15 seconds to the Senator from New York for a unanimous-consent request.

Mr. President, have all amendments been disposed of?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I know of no other amendments. I wish to thank again the ranking minority member of the committee and the staff for their excellent job.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 2 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

PEARL STREET CENTENNIAL DAY

Mr. MOYNIHAN. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 117) expressing the sense of the Congress that September 4, 1982, the one hundredth anniversary of Thomas Edison's Pearl Street central power station, should be commemorated as "Pearl Street Centennial Day".

Mr. MOYNIHAN. Mr. President, I thought this was cleared. There are 26 Members——

Mr. BAKER. Mr. President, I was not aware of that, and I am sure we can clear it, but I cannot clear it at this point. I would have to object.

Mr. MOYNIHAN. Mr. President, I believe no objection was heard, but I am asking to withdraw——

Mr. BAKER. I think the Chair had simply put the matter before the Senate, and the next request is for unanimous consent to proceed to its immediate consideration, is that correct?

The PRESIDING OFFICER. That is the next request, which has not been made.

Mr. BAKER. Mr. President, I really do not want to object, and if the Senator will withdraw it——

Mr. MOYNIHAN. I would be happy to withdraw, I so stated. Mr. President, I had thought this had been cleared. The distinguished chairman of the Appropriations Committee is a cosponsor and it is a simple misunderstanding.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR PLAY FOR SOCIAL SECURITY ACT OF 1982

Mr. STENNIS. Mr. President, on June 17, 1982, I introduced S. 2638, which I termed the Fair Play for Social Security Act of 1982. The purpose of that bill was to require that the social security trust funds be reimbursed from the general funds of the Treasury the amount which the social security trust funds have been shortchanged since January 1, 1970, because such trust funds have been invested in Government securities which have provided a lesser rate of return than was available on other Government securities.

In the statement which I made in connection with the introduction of S. 2638, I said that I made no charge of wrongdoing or malfeasance but assert-

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ed that it appeared there was a custom or practice of investing social security trust funds in Government securities with a lesser yield than was otherwise available. I stated that this reduced the interest paid by the general fund and thereby unjustly enriched the general fund at the expense of the social security trust funds and social security beneficiaries.

I stated at the time that I could not fix the exact amount involved but that it was literally in the billions. I also told the Senate that at my request the General Accounting Office was working on this problem for the purpose of determining the amount of interest earned by the trust funds and the amount of interest which could have been earned if the trust funds were invested in other Government securities. I have now received a report from the General Accounting Office on this matter and am taking this opportunity to share it with the Senate.

I should make it clear at the outset that the action of the General Accounting Office was to make an effort to estimate what might have happened to social security trust funds under different investment policies. Specifically the General Accounting Office advised me that the data which it furnished was a "ball park" estimate of how much additional interest the trust funds would have earned over the past 12 years—1970-81—if the assets had been invested in short-term yields—6-month securities and 3-year securities—rather than under the actual investment practices.

The calculations of the General Accounting Office which they furnished me showed that at the end of fiscal year 1981 the combined old age and survivors insurance and disability insurance trust funds could have been about $4.8 billion higher and the hospital insurance trust fund about $1 billion higher under the 3-year investment policy. This means that for the combined old age and survivors insurance, disability insurance, and hospital insurance trust funds there could have been an increase of $5.8 billion if the money had been invested in 3-year securities.

The General Accounting Office calculations also show that, if the trust funds had been invested in 6-month securities, the combined old age and survivors insurance and the disability insurance trust funds could have been about $3.6 billion higher, and the hospital insurance trust fund for the same period could have been $1.6 billion higher. This is a difference for the three funds combined of $5.2 billion.

I ask that the report of the General Accounting Office, together with the covering letter and the tables attached thereto, be printed in the RECORD at the conclusion of my remarks.

I have mentioned this before but I want to point out again that in a hearing held by the Subcommittee on Social Security of the Committee on Ways and Means of the House of Representatives last October information was furnished by the Treasury Department relative to the additional interest income to the old age and survivors insurance and disability insurance trust funds under a revised investment policy. As I pointed out in my floor statement of June 17, 1982, this Treasury estimate showed that, if during the 1960-80 period the special issues held by the trust funds on June 30 of each year that carried an interest rate lower than the interest rate for the new issues in June had been reinvested or rolled over in special issues carrying the newer and higher rate, the assets of the old age and survivors insurance and disability insurance trust funds would have been increased by about $13.5 billion. I emphasize again, as I did on June 17, that this estimate does not include any possible increase in the hospital insurance trust fund.

I do not want to belabor the question, Mr. President, but the facts which I have laid out show conclusively that the social security trust funds were shortchanged by a minimum of $5.2 billion because such trust funds were invested in Government securities providing a lesser rate of return than was otherwise available on Government securities. This was a loss to the trust funds and a gain for the general fund of the U.S. Treasury.

I point out again, Mr. President, that these trust funds are dedicated for the payment of social security benefits. Those who hold and invest them act in a fiduciary relationship of the highest nature. It is therefore essential, in my judgment, that the funds be invested in Government securities that will earn the maximum return commensurate with the safety of the investment. This has not been done in the past and I am of the opinion that this has unjustly enriched the general fund of the Treasury at the expense of the social security trust funds.

If S. 2638 is enacted into law an injustice will be corrected by requiring that the social security trust funds be reimbursed for the difference in the interest actually earned and that which could have been earned by investing the trust funds in other Government securities. It would be a significant step in restoring and maintaining the solvency of the social security trust funds.

In closing, I want to urge that the Senate Committee on Finance, to which S. 2638 has been referred, give careful consideration to this matter and schedule hearings for the purpose of inquiring into it. If such hearings are held I would hope that appropriate legislation would be reported to the Senate.

Mr. President, I ask unanimous consent that a letter addressed to me from the U.S. General Accounting Office, dated August 6, 1982, with enclosures, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., August 6, 1982.
Hon. JOHN C. STENNIS,
U.S. Senate

DEAR SENATOR STENNIS: Pursuant to your request we are providing the enclosed Statement of Facts which discusses our efforts to estimate what might have happened to the Social Security trust funds under different investment policies. The data show a "ball park" estimate of how much additional interest the trust funds could have earned over the past 12 years (1970-1981) if the assets had been invested in short-term yields (6-month securities and 3-year securities) rather than under the current investment practice.

Our calculations show that at the end of fiscal year 1981 the combined Old-Age and Survivors Insurance and Disability Insurance trust funds could have been about $3.6 billion higher under the 6-month investment policy and $4.8 billion higher under the 3-year investment policy. The Hospital Insurance trust fund for the same period could have been $1.6 billion higher under the 6-month investment policy and about $1.0 billion higher under the 3-year investment policy.

Our Institute for Program Evaluation designed the methodology and performed the calculations. Because of the frequency of the daily investment activities we applied actuarial techniques. Also, as discussed with your office we made certain assumptions relating to investment practices. However, we believe the data give a reasonable picture of what could have happened. The data do not show what the effect of future changes in the investment policy would be because future interest rate differentials could be very different from past differentials.

Sincerely yours,
EDWARD A. DENSMORE
(For Gregory J. Ahart,
Director).

Enclosure.

STATEMENT OF FACTS—INVESTMENT OF SOCIAL SECURITY ASSETS IN SHORT TERM GOVERNMENT SECURITIES

Under the Social Security Act, amounts in the social security trust funds not needed to meet current benefit payments and administrative expenses may be invested in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Act authorizes the Secretary of the Treasury to issue special, non-marketable public debt obligations to the trust funds and provides that the funds be invested in these special non-marketable issues unless the public interest indicates otherwise. Under a 1960 amendment, these special obligations bear interest determined by a statutory formula which seeks to approximate the interest rates the Treasury would pay in the market for borrowing for a period of four or more years.

Since 1960, the investment policy has been to invest daily trust fund receipts in special non-market Treasury obligations which mature on the upcoming June 30. On June 30, these maturing securities are redeemed and reinvested in longer term securities. The maturities of these longer term investments are determined by the projected cash needs of the funds.

The criticism has, at times, been levied that the Social Security trust funds should be invested in short-term Government obligations, rather than long-term ones. This paper provides "ball park" estimates of how much the trust funds could have earned over the past 12 years (1970–1981) if assets had been invested at short-term yields (6-month securities and 3-year securities) rather than under the current investment policy. Certain guidelines, assumptions, and data sources were used in developing the estimates. (See app. I.)

The estimates show what might have happened under different investment policies. Because of the frequency of transactions short cuts were taken (i.e., we did not attempt to show what the day-to-day results would have been). However, we believe the data give a reasonable picture of what could have happened. (See app. II.)

The data do not show what the effect of future changes in the investigation policy would be because future interest rate differentials could be very different from past differentials.

In the 1970's the yield of the 6-month securities fluctuated and sometimes was less than the yield of the actual investments of the three trust funds. As a result, the assets of the Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) funds would have been lower at the end of several fiscal years under short-term investment than under actual investment policy. (See app. II—Tables 1 and 2.) However, the yields started to increase rapidly in the late 1970's and early 1980's. By the end of fiscal year 1981, under this investment policy the OASI fund could have been $2.8 billion higher, and the DI fund $0.8 billion higher, than under the present policy.

Using 3-year investments, the assets would have been higher for both funds at the end of each year for the period under consideration. Assets could have been $3.7 billion higher for the OASI fund and $1.1 billion higher for the DI fund at the end of fiscal year 1981.

At the end of fiscal year 1981, the combined OASDI [1] trust funds (see app. II-Table 3) could have been $3.6 billion higher under the 6-month investment policy and $4.8 billion higher under the 3-year investment policy.

The same assumptions were applied to the Hospital Insurance (HI) trust fund. (See app. II—Table 4.) Investing in 6-month securities, the annual trust fund balances would have been slightly less than the actual balances until the end of fiscal year 1978, since the average yields of the actual investments wee slightly higher. Beginning in 1979, short-term interest rates increased repidly. By the end of fiscal year 1981, the balance in the HI fund could have been $1.6 billion higher than the actual balance.

If the assets of the HI fund had been invested in 3-year securities, the end-of-fiscal-year balances would have been slightly larger than actual balances for every year during the period under consideration. At the end of fiscal year 1981, the balance could have been about $1.0 billion over the actual balance.

The results for the OASDI and HI funds differ slightly, probably because the OASDI funds declined substantially between 1970 and 1981 while the HI fund increased over the same period. However, it can be seen for all three funds that investing in short-term securities under the stated assumptions would have resulted in higher trust fund balances at the end of fiscal year 1981.

Tables 5 and 6 of app. II show that the investment income under the two hypothetical investment policies would have been higher for all years (except for some of the early years, when investing in 6-month securities) than under the present policy.

Table 7 of app. II shows the average yield rates on 6-month and 3-year U.S. Government securities for the periods under consideration.

APPENDIX I—APPROACH, ASSUMPTIONS, AND DATA SOURCES USED IN PREPARING CALCULATIONS

Data were developed based on investing in two separate types of short-term Government securities (6-month securities and 3-year securities).

Daily income into the funds from tax receipts or other sources continued to be invested in "certificates of indebtedness".

Starting with 1970, special issue bonds were converted to short-term securities only if the short-term yield was greater than the special issue yield.

Benefits were paid from certificates of indebtedness first, then from the redemption of the short-term securities as necessary.

The assets of each fund invested in special issues on June 30, 1970, were rolled over into 6-month and 3-year securities respectively, if the yield was greater than the special issue yield. Otherwise they were invested at a later date.

Investments not in special issues were rolled over on their maturity date.

Interest earned every six months was also invested, unless needed for benefit payments.

Assets invested at the 6-month or 3-year rates could be redeemed only on the maturity date. Therefore, enough funds were assumed to have been kept in cash or certificates of indebtedness (earning interest on a short-term basis) to meet monthly benefit payments and other expenses.

Whenever income exceeded outgo substantially, the excess was invested. Conversely, when outgo exceeded income, securities were redeemed.

The following information was obtained from the Department of the Treasury and the Social Security Administration:

1. Monthly statements showing income outgo, investments, and balances of the trust funds from 1970 up to September 30, 1981.
2. Annual yields for 6-month and 3-year Government securities for each month from 1970 to 1981.

TABLE 1—BALANCE IN OASI TRUST FUND

[In millions of dollars]

End of fiscal year	Actual	Hypothetical	
		6 mo	3 yr
1970	32,616	32,616	32,616
1971	34,330	34,675	34,543
1972	36,399	36,614	36,863
1973	36,415	36,492	37,057
1974	37,867	38,257	38,577
1975	39,948	39,731	41,034
June 1976	37,799	37,608	39,397
September 1976 [1]	37,055	36,988	39,063
1977	35,372	34,970	37,754
1978	30,978	30,526	33,422
1979	27,743	27,928	30,388
1980	24,566	26,266	27,371
1981	23,834	26,636	27,564

[1] This 3-mo period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

Note: End of fiscal years June 1970–September 1981, if investments had been made in 6 mo. securities or 3-yr securities.

TABLE 2—BALANCE IN DI TRUST FUND

[Dollars in millions]

End of fiscal year	Actual	Hypothetical	
		6 mo	3 yr
1970	5,104	5,104	5,104
1971	6,408	6,418	6,474
1972	7,390	7,361	7,536
1973	7,869	7,812	8,099
1974	8,253	8,250	8,519
1975	8,191	8,302	8,499
June 1976	6,939	6,979	7,265
September 1976 [1]	6,459	6,579	6,906
1977	4,243	4,237	4,739
1978	4,372	4,384	4,946
1979	5,624	5,707	6,279
1980	7,681	8,108	8,483
1981	3,392	4,161	4,467

[1] This 3-mo period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

Note: End of fiscal years June 1970–September 1981, if investments had been made in 6-mo securities or 3-yr securities.

TABLE 3—BALANCE IN COMBINED OASDI TRUST FUNDS

[Dollars in millions]

End of fiscal year	Actual	Hypothetical	
		6 mo	3 yr
1970	$37,720	$37,720	$37,720
1971	40,738	41,093	41,017
1972	43,789	43,975	44,399
1973	44,284	44,304	45,156
1974	46,120	46,507	47,096
1975	48,139	48,033	49,533
June 1976	44,738	44,587	46,662
September 1976 [1]	43,514	43,567	45,969
1977	39,615	39,207	42,493
1978	35,350	34,910	38,368
1979	33,367	33,635	36,667
1980	32,247	34,374	35,854
1981	27,226	30,797	32,031

[1] This 3 mo. period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

Note.—End of fiscal years June 1970–September 1981, if investments had been made in 6 mo. securities of 3 yr. securities.

TABLE 4.—BALANCE IN HI TRUST FUNDS

[In millions of dollars]

End of fiscal year	Actual	Hypothetical	
		6-mo	3-yr
1970	2,677	2,677	2,677
1971	3,103	3,097	3,133
1972	2,859	2,848	2,913
1973	4,369	4,351	4,451
1974	7,914	7,880	7,958
1975	9,870	9,899	9,943
June 1976	10,836	10,738	10,951
Setember 1976 [1]	10,948	11,003	11,263
1977	11,115	10,964	11,472
1978	11,796	11,604	12,157
1979	13,363	13,392	13,771
1980	14,490	15,362	15,010
1981	18,093	19,721	19,056

[1] This 3-mo period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

NOTE.—End of fiscal years June 1970 and September 1981, if investments had been made in 6-mo securities or 3-yr securities.

TABLE 5.—INVESTMENT INCOME OF OASDI TRUST FUNDS

[In millions of dollars]

Fiscal year	Actual	Hypothetical	
		6-mo	3-yr
1970	1,572	1,572	1,572
1971	1,943	2,298	2,222
1972	2,107	1,938	2,438
1973	2,283	2,117	2,545
1974	2,518	2,885	2,622
1975	2,804	2,311	3,222
June 1976	2,815	2,770	3,345
September 1976 [1]	94	298	625
1977	2,659	2,198	3,082
1978	2,403	2,371	2,543
1979	2,205	2,913	2,487

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[1] Represents the Old-Age and Survivors Insurance Fund and Disability Insurance Fund.

TABLE 5.—INVESTMENT INCOME OF OASDI TRUST FUNDS—Continued

[In millions of dollars]

Fiscal year	Actual	Hypothetical	
		6-mo	3-yr
1980	2,339	4,198	2,646
1981	2,289	3,733	3,487

[1] This 3-mo period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

Note.—During fiscal years 1970–81, if investments had been made in 6-mo securities or 3-yr securities.

TABLE 6.—INVESTMENT INCOME OF HI TRUST FUND

[In millions of dollars]

Fiscal year	Actual	Hypothetical	
		6-mo	3-yr
1970	137	137	137
1971	180	174	210
1972	188	183	212
1973	196	189	224
1974	405	389	367
1975	609	672	638
June 1976	709	582	751
September 1976 [1]	5	158	205
1977	770	564	812
1978	780	739	784
1979	868	1,089	915
1980	1,039	1,882	1,161
1981	1,307	2,063	1,740

[1] This 3-mo period was caused by the changing of the start of the Federal fiscal year 1977 from July 1, 1976, to Oct. 1, 1976.

Note.—During fiscal years 1970–81, if investments had been made in 6-mo securities or 3-yr securities.

TABLE 7.—AVERAGE YIELD RATES ON U.S. GOVERNMENT SECURITIES

[In percent]

	6-mo. securities	3-yr. securities
June 1970	7.26	7.84
June 1971	5.08	6.32
June 1972	4.44	5.64
June 1973	7.61	6.83
June 1974	8.71	8.15
June 1975	5.70	7.17
June 1976	6.06	7.32
September 1976	5.55	6.66
September 1977	6.26	6.84
September 1978	8.40	8.41
September 1979	10.82	9.69
September 1980	11.33	11.57
September 1981	16.52	16.22

[Memorandum]

From: Harry C. Ballantyne.

Subject: Additional Interest Income to the OASI and DI Trust Funds Under a Revised Investment Policy.

We have determined the amount of additional interest income that would have been received by the Old-Age and Survivors Insurance and Disability Insurance Trust Funds during 1960–80 if the policies and procedures governing the investments of the trust funds had been changed as described below.

Under the revised policies and procedures, the special issues held by the trust funds on June 30 of each year, that carry an interest rate which is lower than the interest rate for new issues in June, would be reinvested (or rolled over) in special issues carrying the new issue rate for June, but with no change in the maturity date. If this revised procedure had been in effect since June 30, 1960, the assets of the OASI and DI Trust Funds would have been increased by the amounts shown in the following table:

INCREASE IN ASSETS

[In billions of dollars]

	OASDI	OASI	DI
Assets as of:			
Dec. 31, 1980	12.9	11.5	1.4
June 30, 1981	13.5	12.1	1.5

Harry C. Ballantyne,
Acting Chief Actuary.

Mr. STENNIS. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, time for morning business will expire, under the present order, in 3 minutes. I ask unanimous consent that the time be extended for 15 minutes under the same terms as previously stated.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection it is so ordered.

ORDERS FOR CERTAIN ACTIONS DURING ADJOURNMENT AND ORDER OF PROCEDURE ON WEDNESDAY, SEPTEMBER 8, 1982

Mr. BAKER. Mr. President, there is an adjournment resolution at the desk. I would shortly like to ask the Senate to consider it. First, I wish to put a unanimous-consent request for the consideration of the minority leader and all the Members.

I ask unanimous consent that during the adjournment of the Senate until Wednesday, September 8, messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred; and that the Vice President, the President pro tempore, and the acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

I further ask unanimous consent that during the adjournment of the Senate until Wednesday, September 8, committees may be authorized to file reports on September 3 between the hours of 9 a.m. and 3 p.m.

I ask unanimous consent that when the Senate reconvenes on Wednesday, September 8, the reading of the Journal be dispensed with and following the time allocated to the two leaders under the standing order, there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not more than 5 minutes each.

The **PRESIDING OFFICER.** Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished majority leader change the routine morning business request to 1 hour instead of 30 minutes.

Mr. BAKER. Mr. President, I am pleased to amend the request to that effect.

The **PRESIDING OFFICER.** Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, further reserving the right to object, this request has to do, in part, with messages from the President of the United States. I ask this question in the spirit in which I know the majority leader will not misunderstand.

I wonder if the majority leader can tell us anything further with regard to the possibility of a veto message from the President of the United States anent the supplemental appropriations conference report that we just voted on by voice to day.

Mr. BAKER. Mr. President, I thank the minority leader.

I regret to say that I cannot give the minority leader any more information than I could earlier. It is my impression that the President has not made a decision on what disposition he will make of this measure now that it has been adopted by the Senate for transmission to him for his consideration.

That is not to say he has not decided. It does mean he has not told me nor, I believe, has he indicated to anyone else—perhaps his own staff, but I doubt that—what he intends to do.

I do not know is the simple answer. I have made a recommendation to the President. I have no idea what he will do. My inclination is to think that the President will either sign or veto the bill. I do not expect that he will exercise a pocket veto. Since we are out of session for 10 days, that might be a possible choice, but I do not think that likely.

Mr. President, all I can say is that I do not believe the President would call us back into session. I do believe that were he to veto the bill, urgent matters that must be attended to by the Government could be attended to until we return.

The only new piece of information I can add to that which I gave to the minority leader this morning is that I have now talked to the Secretary of the Treasury, who, I believe, also does not know what the President intends to do. He indicated that in the event there were a veto—he does not predict that, but if there were a veto, he is convinced that temporary and interim measures could be undertaken on an emergency basis to provide for the needs of the Government until he returns.

Mr. ROBERT C. BYRD. So the majority leader does not believe a veto of this measure would put the Congress is a position where it could be criticized for being out for the length of time which is set forth in the adjournment resolution.

Mr. BAKER. Mr. President, I believe not. I think that the opinion of the Secretary of the Treasury, which I have asked him to reduce to writing in a letter to me, helps alleviate my fears, at least, in that respect.

Mr. ROBERT C. BYRD. I have one further question. I know that many Senators on the majority side of the aisle walked the plank on the Caribbean Basin provisions that are in this bill. The President very much supported those provisions. I suppose the question answers itself. Those same Caribbean Basin provisions in this piece of legislation for which the President fought and which he supported and for which many Senators on the majority leader's side of the aisle—as a matter of fact, most of them—voted, are in this legislation, are they not?

Mr. BAKER. Indeed they are, Mr. President. I am sure that must be a matter that the President will take account of as he considers this matter.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader for his usual courtesy and indulgence. I have no objection to the request.

The PRESIDING OFFICER (Mr. DANFORTH). Without objection, it is so ordered.

Mr. BAKER. I thank the minority leader.

ADJOURNMENT OF HOUSE AND SENATE

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate House Concurrent Resolution 399.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 399) providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20 or August 21 to September 8, 1982.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

UP AMENDMENT NO. 1257

(Purpose: To provide for the adjournment of the House of Representatives on Friday, August 20, 1982)

Mr. BAKER. Mr. President, there is an amendment at the desk, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1257.

Strike "when the House adjourns on Thursday, August 19" and insert "when the House adjourns on Friday, August 20".

Amend the title so as to read "Providing for an adjournment of the two Houses for more than three days".

Mr. BAKER. Mr. President, I may say for the benefit of Senators that I discussed this matter with the leadership of the House. This accords with their wishes on how this matter would be dealt with procedurally.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1257) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 399), as amended, was agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Friday, August 20, 1982, and that when the Senate adjourns on Thursday, August 19, 1982, or on Friday, August 20, 1982, or on Saturday, August 21, 1982, pursuant to a motion made by the majority leader in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Wednesday, September 8, 1982.

Amend the title so as to read:

Providing for an adjournment of the two Houses for more than three days.

Mr. BAKER. I move to reconsider the vote by which the concurrent resolution, as amended, was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, there are a number of items on the calendar on my side of the aisle that are available for unanimous consent. I invite the attention of the minority leader to those nominations beginning on page 4, under "New Reports," through page 5, and inquire of the minority leader if he is prepared to consider those items.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side of the aisle.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering those nominations at this time.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. I ask unanimous consent that the nominations I referred to be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Harry W. Wellford, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

VETERANS' ADMINISTRATION

Everett Alvares, Jr., of Maryland, to be Deputy Administrator of Veterans' Affairs.

EXECUTIVE OFFICE OF THE PRESIDENT

Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF STATE

James L. Buckley, of Connecticut, to be Counselor of the Department of State.

SECURITIES AND EXCHANGE COMMISSION

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission.

MERIT SYSTEMS PROTECTION BOARD

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board.

Mr. BAKER. I move to reconsider the vote by which the nominations were considered and confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATION OF EVERETT ALVAREZ, JR., TO BE DEPUTY ADMINISTRATOR OF VETERANS' AFFAIRS

● Mr. SIMPSON. Mr. President, I am pleased to report that the Committee on Veterans' Affairs has completed its consideration of the qualifications of Everett Alvarez, Jr., the President's nominee to be Deputy Administrator of Veterans' Affairs, and the committee, by unanimous vote, recommends that the nomination be confirmed.

The position of Deputy Administrator of Veterans' Affairs is a most important assignment—especially at this time in the history of the Veterans' Administration. The Deputy Administrator is a vital part of the leadership team for the VA. The Deputy will be working with the Administrator in carrying out the many responsibilities of the agency which serves over 30 million living veterans through 172 medical centers, 226 outpatient clinics, 96 nursing home care units, and 58 regional offices. The Veterans' Administration operates the National Cemetery System and the Nation's largest medical system.

On July 1, 1982, President Reagan announced his intention to nominate

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Everett Alvarez, Jr., to succeed Charles T. Hagle as Deputy Administrator for Veterans' Affairs. The nomination was made on July 26, 1982, and on that date, the nomination was referred to the Senate Committee on Veterans' Affairs.

Since July 27, 1981, Mr. Alvarez has been serving as Deputy Director of the Peace Corps. So, twice within approximately a year, this nominee has gone through the process of confirmation.

Everett Alvarez is a Vietnam combat veteran. He was a Navy pilot from 1967 to 1973. For 8½ years he was held prisoner in and around Hanoi, and was the longest held prisoner of war in North Vietnam. The former Navy pilot received his bachelor's degree in electrical engineering from the University of Santa Clara in California in 1960. From college he entered the Navy where he served for 20 years. He received his master's degree in operations research and systems analysis in 1976 and in December of this year will be receiving a J.D. degree from George Washington University National Law Center.

From November 1976 to July 1980, Alvarez served as assistant program manager for the U.S. Naval Air Production Management Project Office in Washington, D.C., where he managed the Navy's $200 million A-4 aircraft program, accounting for the management of development, testing, evaluation, and production of A-4 systems.

Mr. Alvarez was appointed as the Deputy Director of the Peace Corps in April 1981. As Deputy Director he managed the day-to-day business of the Peace Corps, an agency with more 5,000 volunteers serving in more than 60 countries of the world.

Mr. President, it is the view of members of our Senate Committee on Veterans' Affairs that Everett Alvarez, Jr. will perform the tasks assigned to him by the VA Administrator with skill, competence, and dependability, and that he will continue to unselfishly serve the people of the Nation just as he has in the past in the many responsibilities he has undertaken. I am impressed by him. I urge the Senate to support and likewise cast a fine vote on Mr. Alvarez—just as the Committee on Veterans' Affairs did in confirming this nomination.

At our committee's public hearing on August 5, 1982, Everett Alvarez was introduced to the committee by California's two Senators—CRANSTON and HAYAKAWA and by Senator DENTON of Alabama, who was a prisoner of war in North Vietnam with the nominee. I want to share with all of my colleagues Senator DENTON's introductory remarks. Following his remarks, I stated that in my 3½ years in the Senate, I had not heard a more beautiful statement made on anyone's behalf in any forum. Here is the truly remarkable introduction for Everett Alvarez, Jr.'s nomination to be Deputy Director of the VA as delivered by our fine colleague, Senator JEREMIAH DENTON of Alabama:

The statement referred to follows:

STATEMENT OF SENATOR DENTON

I believe my friend and brother on my right here is as sensitive as I that there has been perhaps too much said about Vietnam P.O.W.'s as opposed to other Vietnam veterans about whom not enough was said, not enough credit was given, and to veterans in general.

But this is a very special day for a special man and rather than go over what has been appropriately presented in introduction of this special man, I would like to say something special to Ev in a special way, which means "Happy Anniversary".

That is today, the 5th of August 1982 is the 18th anniversary of Ev having been shot down in 1964. And every morning in the camps in which we happened to be serving at the time, if someone had an anniversary, we all knew what date he was shot down and we would give that H.A. as an abbreviation to him and followed by his initials.

So it is kind of a dream that we never would have even dreamed, Ev, that I would be wishing you a happy anniversary in such happy circumstances.

Ev was flying an A-4 off the U.S.S. Constellation on a fateful day in U.S. history and therefore he should and will go down in history, perhaps more than any of us who are here extrolling his merits today.

The United States had just responded to the Tonkin Gulf incidents and President Johnson had ordered the launching of a retaliatory strike, and Ev was shot down on an attack on Hun Gay on that date of 5th of August.

Many of us have a long time alone. I happened to be the first person to get four years in solitary confinement, but my solitary confinement was somewhat ameliorated by the fact that occasionally I would be able to communicate with someone by tapping or other means.

Ev Alvarez was in North Vietnam alone at the military prison. There was no other American in the entire country with whom he could have possibly been in contact from 5 August 1964 until February 1965, when Bob Shoemaker happened to be shot down, who is still here also performing very well.

He has now been made a commodore in the Navy and I know that Ev and Bob and I would all like to be known by what we did before we were prisoners and after we were prisoners, rather than that which we just happen to be, because I know the chairman of the subcommittee or this committee would have been at least as staunch and certainly as much of a source of good morale to his comrades were he to have been there, and that is entirely true, and that applies to any other good American.

Ev was all alone. He in his loneliness would write messages, which I later saw as the 13th prisoner shot down in North Vietnam when I was introduced to little courtyards, perhaps half as big as this room where he had been permitted occasionally to exercise, and it is quite touching to read what he had left on the walls.

Let's see, he was shot down in August. He would have had certainly "Happy Thanksgiving Day" written on the walls just in case someone else would see it. There was no one to see it. You didn't know but there was no one there.

I don't know whether I can say this without emotion, but he had written in one place "Lord, I am not worthy, but only say the word, and my soul shall be healed."

A great many of us who were not particularly pious came to such thoughts very deeply during the years that we were there. I am sure none of us more deeply than Ev who was there longer than the rest.

He wrote "Merry Christmas". There was no one there. So when I saw those things and realized from the dates who had to have written them, I had been there a few months so I knew Ev was there, and I knew he had been there from reading about it in the newspapers and hearing about it in the P.O.W. school. It was quite touching, and I was extemely moved.

Later I got direct contact with Ev and learned that, from him and from his captors, that he had held up alone against the bombardment of propaganda, and at that time psychological pressure, then he held up extremely well under the torture which they began to apply in October 1965 and continued until October 1969. That is why he got many of those decorations.

He participated in the Hanoi March, which some day when we look back upon the Vietnam War with a bit more objectivity, I think it will be an event which goes down in American history.

They wanted to disgrace Americans in front of their citizens who they had dashed to fanaticism and hatred by propaganda reports for the past two weeks of how we ate little children for breakfast and destroyed old women for entertainment with our bombs and Ev participated in that March with great honor and courage, holding his head up despite being beaten as he marched through the streets of Hanoi.

I have the utmost respect for him from those days and affection.

Since those days he has shown, unlike the man about whom I had heard in the movie, I didn't see the movie, but I heard the man went nuts because he was in jail for eight years and it finally got to him. He kept saying "eight years, eight years, eight years" of things that he had missed. Well, Ev missed eight years. Came back, went to work, got those degrees you heard about and made those achievements that you have heard about and I can't think of a man who has more demonstrated patriotism, compassion, effectiveness, understanding of what it means to be an American, a man who will appreciate veterans more, a man who will deal with them with the understanding and appreciation which the chairman of this committee—with which he has dealt.

So, with those words, I wish to register for the Record and for my colleagues my welcome to Everett Alvarez.

God bless you.●

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRETRIAL SERVICES ACT—CONFERENCE REPORT

Mr. **BAKER.** Mr. President, I submit a report of the committee of conference on S. 923 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The **PRESIDING OFFICER.** The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. **BAKER.** Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **ROBERT C. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUFFALO BILL DAM AND RESERVOIR

Mr. **BAKER.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1409.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 1409) entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Udall, Mr. Kazen, Mr. Phillip Burton, Mr. Seiberling, Mr. Miller of California, Mr. Coelho, Mr. Lujan, Mr. Clausen, and Mr. Pashayan be the managers of the conference on the part of the House.

Mr. **BAKER.** Mr. President, I move that the Senate concur in the House amendment with further Senate amendments which I send to the desk on behalf of Senators MCCLURE and JACKSON in the nature of a substitute.

The **PRESIDING OFFICER.** The amendment will be stated.

UP AMENDMENT NO. 1258

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MCCLURE and Mr. JACKSON, proposes an unprinted amendment in the nature of a substitute numbered 1258.

Mr. **BAKER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following:

TITLE I

SEC. 101. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat, 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservoir shall include raising the height of the existing Buffalo Bill Reservoir by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided*, That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 102. The conservation and development of the fish and wildlife reseources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 103. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 7 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 104. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this Act to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 106. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided*, That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 7 of this Act.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this Act, together with such sums as may be required for operation and maintenance of the works authorized by section 104(a).

SEC. 107. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

TITLE II

That this Act shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as the "Federal reclamation law".

DEFINITIONS

SEC. 201. As used in this Act—

(a) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(b) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the construction costs properly allocable to irrigation facilities in service, plus all operations and maintenance deficits funded, less payments, over such periods as may be required under reclamation

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law or applicable contract provisions, with interest on both accruing from the date of enactment on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment. The interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of (1) the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and (2) the weighted average of market yields on all new, publicly held, interest-bearing, marketable issues sold during the fiscal year preceding the fiscal year in which the expenditures are made or the date of enactment of this Act, whichever is later: *Provided*, That normal operation, maintenance, and replacement charges will be collected in addition to the full cost charge.

(c) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(e) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(f) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five such individuals or less.

(g) The term "limited recipient" means any legal entity established under State or Federal law benefiting more that twenty-five individuals.

(h) The term "Secretary" means the Secretary of the Interior.

Sec. 202. (a) The provisions of the Federal reclamation laws shall remain in full force and effect, except to the extent such laws are amended by, or are inconsistent with, this Act.

(b) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation of the Federal reclamation law.

ACREAGE LIMITATION

Sec. 203. (a)(1) Notwithstanding any other provisions of law to the contrary, irrigation water may be delivered to a qualified or limited recipient for use in the irrigation of a landholding of not more than one thousand two hundred and eighty acres of class I lands, or the equivalent thereof: Provided, That not more than six hundred and forty acres of such landholding may be owned by a limited recipient.

(2) Lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) Irrigation water may be delivered to lands leased in excess of a landholding of one thousand two hundred and eighty acres or the equivalent thereof as described in subsection (a), only if full cost as defined in subsection 201(b) of this Act is paid for such water as is assignable to those lands leased in excess of a landholding of one thousand two hundred and eighty acres in the case of a qualified recipient or lands leased in excess of a landholding of six hundred and forty acres in the case of a limited recipient: *Provided*, That "full cost" shall not be applied to excess lands under recordable contract.

(c) In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that owner in proportion to that ownership.

EQUIVALENCY

Sec. 204. Wherever an acreage limitation is imposed by the Federal reclamation law, including this Act, the Secretary, upon the request of a contracting entity, shall designate lands under the applicable acreage limitation within a district classified as having class I productive potential or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RESIDENCY NOT REQUIRED

Sec. 205. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

RECORDABLE CONTRACTS

Sec. 206. (a)(1) Irrigation water made available in the operation of reclamation project facilities constructed after the enactment of this Act may not be delivered for use in the irrigation of lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, unless and until the owners thereof shall have executed a recordable contract with the Secretary.

(2) Lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, which on the date of enactment of this Act are or are capable of receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only: (i) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or (ii) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(b) The recordable contracts referred to in subsection (a) shall require the disposal of interests in excess lands within a reasonable time to be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with terms and conditions required by the Federal reclamation law generally, except that the aforementioned time in years shall be five years for a recordable contract entered into after the date of enactment of this Act.

(c) Recordable contracts existing on the date of enactment shall be amended at the request of the landowner to conform with the acreage limitations contained in this Act: *Provided*, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) All recordable contracts covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: *Provided*, That the Secretary shall recover for the owner the fair market value of the land and improvements thereon unrelated to irrigation water deliveries.

(e) The period of time for which the disposal of excess lands may have been required under recordable contracts executed under the Federal reclamation law, including this Act, are hereby, and in the future shall be, extended for the period of time in which the Secretary shall have withheld the processing or approval of the disposition of such lands, whether he may have been compelled to do so by court order or whether he may have declined to do so for other reasons.

(f) Excess lands which have been or may be disposed of in compliance with the Federal reclamation law, including this Act, shall not be considered eligible to receive irrigation water unless—

(1) they held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation law, including this Act, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 432e of title 43, United States Code.

CORPS OF ENGINEERS PROJECTS

Sec. 207. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation provisions nor the other provisions of the Federal reclamation laws, including this act, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provisions of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

REPAYMENT OF CONSTRUCTION CHARGES

Sec. 208. (a) The acreage limitation provisions of the Federal reclamation law shall cease to apply to any part of a landholding upon completion of the repayment by any contracting entity of the amount of any construction costs required to be repaid by such contracting entity (of by a person within the district pursuant to a contract existing on the date of enactment of this Act) by the terms of any contracts with the Secretary relating to the delivery of water supplies to such part of a landholding for agricultural use: Provided, That where any such contract may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1949, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal reclamation law shall not apply solely as a result of the indebtedenss under such contract.

(b) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acAny certificate issued prior to the date of enactment of this Act is hereby ratified.

(c) Nothing in this Act shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district or except as provided in subsection (d) of this section.

(d) The Secretary is authorized to negotiate with such contracting entity to conform the terms of any such contract to permit lump sum or accelerated repayment if the Secretary finds that the amount of outstanding indebtedness is less than 5 per centum of the total repayment obligation associated with such contract and that a pattern of family farming has been established in the project service area.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 209. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as a person under the provisions of this Act regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(a) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(b) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(c) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

EXEMPTIONS

SEC. 210. Neither the limitations and restrictions imposed by this Act nor any other provision of the Federal reclamation law shall prohibit the delivery of irrigation water—

(a) so long as the lands are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the limits imposed by the Federal reclamation law, including this Act;

(b) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(c) when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, of deed of trust), by inheritance, by devise: *Provided*, That if after acquisition, such lands are not qualified under the Federal reclamation law, including this Act, they shall be furnished temporarily with a water supply for a period not exceeding ten years from the effective date of such acquisition;

(d) to isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the acreage limitations of the Federal reclamation law, including this Act;

(e) to lands which will receive a substitute water supply and will be required by the Secretary in his contract with the district to reduce ground water pumping in equal quantity from aquifers in the project area as a condition of receiving substitute water from a Federal reclamation project.

CONTRACT REQUIRED

SEC. 211. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws: *Provided, however*, That the Secretary shall have the authority to waive such payments for water delivered in section 210(b)(2).

VALIDATION

SEC. 212. Any non-Federal party to a repayment contract with the Secretary relating to a reclamation project may apply for validation of any provisions of such contract relating to the acreage limitation available to such party pursuant to such contract or under the Federal reclamation law by making application therefor to the Secretary in writing within three years from the date of enactment of this Act. The Secretary shall review each such application and shall determine whether to validate the contract provisions taking into account the circumstances surrounding the execution of the contract. The Secretary shall transmit the application along with his determination to validate or not to validate such contract to the Congress within ninety days from the date he receives such application. Unless the Congress by concurrent resolution disapproves the determination of the Secretary within ninety days from the date on which it receives the Secretary's transmittal, the determination of the Secretary shall be final and binding.

WAIVER OF SOVEREIGN IMMUNITY

SEC. 213. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgements, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated. The court, if it determines it appropriate based on the evidence, including written representations concerning the application of the Federal reclamation law, may reform the contract.

ADMINISTRATIVE PROVISIONS

SEC. 214. (a) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this Act and other provisions of the Federal reclamation law.

(b) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(c) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this Act or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e): *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(d) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(e) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act but only at the request of said other party.

(f) The Act of May 26, 1926, appointment of Commissioner of Reclamation (44 Stat. 657) is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

LEASING REQUIREMENTS

SEC. 215. (a) Notwithstanding any other provision of the Federal reclamation law, including this Act, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: *Provided, however*, That with the prior approval of

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the Secretary, leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years. In addition, the Secretary shall be provided with a certificate signed by the lessee which contains a legal description of the leased land, including a statement of the number of acres leased, the term of the lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

(b) Any lease in effect as of January 1, 1982, shall be required to comply with the provisions of this Act within ten years of enactment of this Act.

(c) Lessees holding lands in excess of the acreage limitation of this Act or of any other provisions of the Federal reclamation law under the provisions of a valid written lease effective as of January 1, 1982, shall be required to comply with the appropriate acreage limitation within ten years of enactment of this Act.

REPORTING

SEC. 216. Any contracting entity subject to the acreage limitation of the Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this Act and the Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

REPORT TO CONGRESS ON THE PRODUCTION OF SURPLUS CROPS ON ACREAGE SERVED BY IRRIGATION WATERS

SEC. 217. Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation waters. The report shall include—

(1) data delineating the production of surplus crops on lands served by irrigation waters;

(2) the percentage of participation of farms served by irrigation waters in set-aside programs, by acreage, crop, and State;

(3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation waters and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

ENCOURAGEMENT OF RESPONSIBLE WATER CONSERVATION MEASURES

SEC. 218. The Secretary shall, pursuant to his authorities under otherwise existing Federal reclamation laws, encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.

TITLE III

CONGRESSIONAL FINDINGS

SEC. 301. The Congress finds that—

(1) water rights claims of the Papago Tribe with respect to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Papago Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attempted to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Papago Indian Tribe, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Papago Indians respecting certain portions of the Papago Reservation; and

(5) the settlement contained in this title will—

(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

(B) insure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Papago Tribe.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) The term "acre-foot" means the amount of water necessary to cover one acre of land to a depth of one foot.

(2) The term "Central Arizona Project" means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(3) The term "Papago Tribe" means the Papago Tribe of Arizona organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "subjugate" means to prepare land for the growing of crops through irrigation.

(6) The term "Tucson Active Management Area" means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(7) The term "December 11, 1980, agreement" means the Central Arizona Project water delivery contract between the United States and the Papago Tribe.

(8) The term "replacement costs" means the cost of acquiring and delivering water from sources within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area. Such costs shall include costs of necessary construction amortized in accordance with standard Bureau of Reclamation Procedures.

(9) The term "value" means the value attributed to the water based on the Tribe's anticipated or actual use of the water, or its fair market value, whichever is greater.

WATER DELIVERIES TO TRIBE FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH TRIBE

SEC. 303. (a) As soon as is possible but not later than ten years after the enactment of this title, if the Papago Tribe has agreed to the conditions set forth in section 306, the Secretary, acting through the Bureau of Reclamation, shall—

(1) in the case of the San Xavier Reservation—

(A) deliver annually from the main project works of the Central Arizona Project twenty-seven thousand acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) improve and extend the existing irrigation system on the San Xavier Reservation and design and construct within the reservation such additional canals, lateral, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(2) in the case of the Schuk Toak District of the Sells Papago Reservation—

(A) deliver annually from the main project works of the Central Arizona Project ten thousand eight hundred acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) design and construct an irrigation system in the Eastern Schuk Toak District of the Sells Papago Reservation, including such canals, laterals, farm ditches, and irrigation works, as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(3) establish a water management plan for the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as any management plan developed under Arizona law.

(4) there are authorized to be appropriated up to $3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved. For those features of the irrigation system described in paragraph (1)(B) or (2)(B) of section 303(a) which are not authorized to be constructed under any other provision of law.

(b)(1) In order to encourage the Papago Tribe to develop sources of water on the Sells Papago Reservation, the Secretary shall, if so requested by the tribe, carry out a study to determine the availability and suitability of water resources within the Sells Papago Reservation but outside the Tucson Active management Area and that part of the Upper Santa Cruz Basin not within that area.

(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

(A) the availability of energy and the energy requirements which result from the enactment of the provisions of this title, and

(B) the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

(c) The Papago Tribe shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Schuk

Toak District of the Sells Papago Reservation subject to the limitations of section 306(a).

(d) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Papago Tribe under the December 11, 1980, agreement.

(e) Nothing contained in sections 303(c) and 306(c) shall be construed to establish whether or not the Federal reserve rights doctrine applies, or does, not supply, to ground water.

DELIVERIES UNDER EXISTING CONTRACT: ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

SEC. 304. (a) The Water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Schuk Toak District of the Sells Papago Reservation as provided in section 303(a), shall be delivered in such amount, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, except as otherwise provided under this section.

(b) Where the Secretary, pursuant to the terms and conditions of the agreement referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(2)(A), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof:

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water:

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within the area in the State of Arizona:

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (2)(A) of section 303(a), he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where the delivery system is completed.

(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

(e)(1) To meet the obligation referred to in paragraphs (1)(A) and (2)(A) of section 303(a), the Secretary is authorized, acting through the Bureau of Reclamation, as part of the main project works of the Central Arizona Project to—

(A) design, construct and, without cost to the Papago Tribe, operate, maintain, and replace such facilities as are appropriate including any aqueduct and appurtenant pumping facilities, treatment plants, powerplants, and electric power transmission facilities which may be necessary for such purposes; and

(B) deliver the water to the southern boundary of the San Xavier Reservation, and to the boundary of the Schuk Toak District of the Sells Papago Reservation, at points agreed to by the Secretary and the tribe which are suitable for delivery to the reservation distribution systems.

(2) there is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A) and (B) of

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(f) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where a delivery system is completed.

(g) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Papago Tribe agrees to—

(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than ten thousand acre-feet per year;

(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981; and

(3) comply with the management plan established by the Secretary under section 303(a)(3).

Nothing contained in paragraph (1) shall restrict the tribe from drilling wells and withdrawing ground water therefrom on the San Xavier Reservation if such wells have a capacity of less than fifty-five gallons per minute and are used only for domestic and livestock purposes. Nothing contained in paragraph (2) shall restrict the tribe from drilling wells and withdrawing ground water therefrom in the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area if such wells have a capacity of less than thirty-five gallons per minute and which are used only for domestic and livestock purposes.

(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (1)(B) and (2)(B) of section 303(a) only if the Papago Tribe agrees to—

(1) subjugate, at no cost to the United States, the land for which those distribution systems are to be planned, designed, and constructed by the Secretary; and

(2) assume responsibility, through the tribe or its members or an entity designated by the tribe, as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and replacement of these systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

(c)(1) The Papago Tribe shall have the right to devote all water supplies under this title, whether delivered by the Secretary or pumped by the tribe, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the Papago Reservation so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within such area.

(2) The Papago Tribe may sell, exchange, or temporarily dispose of water, but the tribe may not permanently alienate any water right. In the event of the tribe sells, exchanges, or temporarily disposes of water, such sale, exchange, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Papago Tribal Council and approved and executed by the Secretary as agent and trustee for the tribe. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The net proceeds from any sale, exchange, or disposition of water by the Papago Tribe shall be

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used for social or economic programs or for tribal administrative purposes which benefit the Papago Tribe.

(d) Nothing in section 106(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off of any reservation to which reserved water rights attach.

OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER; DISMISSAL AND WAIVER OR CLAIMS OF PAPAGO TRIBE AND ALLOTTEES

SEC. 307. (a) The Secretary shall be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 105 only if—

(1) within one year of the date of enactment of this Act—

(A) the City of Tucson and the Secretary agree that the city will make immediately available, without payment to the city, such quantity of reclaimed water treated to secondary standards as is adequate, after evaporative, additional treatment, or land filtration losses, to deliver annually, as contemplated in section 305(a), twenty-eight thousand two hundred acre-feet of water for the Secretary to dispose of as he sees fit; such agreement may provide terms and conditions under which the Secretary may relinquish to the City of Tucson such quantities of water as are not needed to satisfy the Secretary's obligations under this title:

(B) the Secretary and the City of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company agree that funds will be contributed, in accordance with the paragraphs (1)(B) and (2) of subsection (b) of section 313, to the Cooperative Fund established under subsection (a) of such section;

(C) the Papago Tribe agrees to file with the United States District Court for the District of Arizona a stipulation for voluntary dismissal with prejudice, in which the Attorney General is authorized and directed to join on behalf of the United States, and the allottee class representatives' petition for dismissal of the class action with prejudice in the United States, the Papago Indian Tribe, and others against the city of Tucson, and others, civil numbered 75-39 TUC (JAW); and

(D) the Papago Tribe executes a waiver and release in a manner satisfactory to the Secretary of—

(i) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of the execution by the tribe of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(ii) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of execution of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, under the laws of the United States or the State of Arizona; and

(2) the suit referred to in paragraph (1)(B) is finally dismissed.

(b) After the conditions referred to in subsection (a) have been met the Secretary shall be authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the contract required in subsection (a)(1)(A) it is possible to deliver the quantities of water required in section 305(a).

(c) Nothing in this section shall be construed as a waiver or release by the Papago Tribe of any claim where such claim arises under this title.

(d) The waiver and release referred to in this section shall not take effect until such time as the trust fund referred to in section 309 is in existence, the conditions set forth in subsection (a) have been met, and the full amount authorized to be appropriated to the trust fund under section 309 has been appropriated by the Congress.

(e) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (included water rights in both ground water and surface water) of all individual members of the Papago Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District of the Sells Reservation located within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, as of the date the waiver and release referred to in this section take effect. Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title.

STUDY OF LANDS WITHIN THE GILA BEND RESERVATION; EXCHANGE OF LANDS AND ADDITION OF LANDS TO THE RESERVATION; AUTHORIZED APPROPRIATIONS

SEC. 308. (a) The Secretary is hereby authorized and directed to carry out such studies and analysis as he deems necessary to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. Such study and analysis shall be completed within one year after the date of the enactment of this title.

(b) If, on the basis of the study and analysis conducted under subsection (a), the Secretary determines that lands have been rendered unsuitable for agriculture for the reasons set forth in subsection (a), and if the Papago Tribe consents, the Secretary is authorized to exchange such lands for an equivalent acreage of land under his jurisdiction which are within the Federal public domain and which, but for their suitability for agriculture, are of like quality.

(c) The lands exchanged under this section shall be held in trust for the Papago Tribe and shall be part of the Gila Bend Reservation for all purposes. Such lands shall be deemed to have been reserved as of the date of the reservation of the lands for which they are exchanged.

(d) Land exchanged under this section which, prior to the exchange, were part of the Gila Bend Reservation, shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(e) The Secretary may require the Papago Tribe to reimburse the United States for moneys paid, if any, by the Federal Government for flood easements on lands which the Secretary replaces by exchange under subsection (b).

ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

SEC. 309. (a) To the extent provided by an appropriation enacted pursuant to the authorization contained in section 314, the Secretary of the Treasury shall pay to the authorized governing body of the Papago Tribe the sum of $15,000,000 to be held in trust for the benefit of such Tribe and invested in interest bearing deposits and securities including deposits and securities of the United States.

(b) The authorized governing body of the Papago Tribe, as trustee for such Tribe, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Pagago Tribe for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related faciiities on the Papago Reservation which are not the obligation of the United States under this or any other Act of Congress.

APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 310. The functions of the Bureau of Reclamation under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

EXTENSION OF STATUTE OF LIMITATIONS

SEC. 311. Except as otherwise provided in section 107 of this title, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Papago Indian Tribe or any member of such tribe brought by the United States for, or on behalf of, such tribe or member of such tribe, or by such tribe on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

ARID LAND RENEWABLE RESOURCE ASSISTANCE

SEC. 312. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Papago Tribe in providing such assistance. Such entity shall make available to the Papago Tribe—

(1) price guarantees, loan guarantees, or purchase agreements.

(2) loans, and

(3) joint venture projects.

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Papago Tribe.

COOPERATIVE FUND

SEC. 313. (a) There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

(A) operation maintenance, and repair costs related to the delivery of water under sections 303, 304, 305;

(B) any costs of acquisition and delivery of water from alternative sources under sections 304(b) and 305(c); and

(C) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

(b)(1) The Cooperative Fund shall consist of—

(A) amounts appropriated to the Fund under paragraph (3) of this subsection;

(B) $5,250,000 to be contributed as follows:

(i) $2,750,000 (adjusted as provided in paragraph (2)) contributed by the State of Arizona;

(ii) $1,500,000 (adjusted as provided in paragraph (2)) contributed by the City of Tucson; and

(iii) $1,000,000 (adjusted as provided in paragraph (2)) contributed jointly by the Anamax Mining Company, the Cyprus-Pine Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

(2) The amounts referred to in subparagraph (B) of paragraph (1) shall be contributed before the expiration of the 3-year period beginning on the date of the enactment of this title. To the extent that any portion of such amounts is contributed after the 1-year period beginning on the date of the enactment of this title, the contribution shall include an adjustment representing the additional interest which would have been earned by the Cooperative Fund if that portion had been contributed before the end of the 1-year period.

SEC. 313(b)(3) There are hereby authorized to be appropriated to the Cooperative Fund the following:

A. $5,250,000; and

(B) such sums up to $16,000,000 (adjusted as provided in paragraph 2) which the Secretary determines, by notice to the Congress, are necessary to meet his obligations under this title; and

C. Such additional sums as may be provided by Act of Congress.

(c)(1) Only interest accruing to the Cooperative Fund may be expended and no such interest may be expended prior to the earlier of—

(A) 10 years after the date of the enactment of this title; or

(B) the date of completion of the main project works of the Central Arizona Project.

(2) Interest accruing to the Fund during the 12-month period before the date determined under paragraph (1) and interest accruing to Fund thereafter shall, without further appropriation, be available for expenditure after the date determined under paragraph (1).

(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(e) If, before the date three years after the date of the enactment of this title—

(1) the waiver and release referred to in section 307 does not take effect by reason of section 307(d); or

(2) the suit referred to in Section 307(a)(1)(B) is not finally dismissed,

the Cooperative Fund under this section shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of accrued interest) to the respective contributors. Upon such termination, the share contributed by the United States under subsection (b)(3) shall be deposited in the General Fund of the Treasury.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313(f) Payments for damages arising under 304(c) and 305(d) shall not exceed in any given year the amounts available for expenditure in any given year from the cooperative fund established under this section.

COMPLIANCE WITH BUDGET ACT

SEC. 314 No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

SHORT TITLE

SEC. 315 This title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982".

● Mr. McCLURE. Mr. President, the amendment I am proposing on behalf of myself and Senator JACKSON, is intended to provide the legislative basis for a Senate-House conference on the reclamation bills passed by the respective houses. H.R. 5539, the Reclamation Reform Act of 1982, was passed by the House on May 6, 1982. The companion bill was passed by the Senate on July 16, 1982, and its text was substituted for the House test in H.R. 5539. The Senate insisted on its substitute amendment, asked for conference, and appointed the following conferees: Senators McCLURE, HATFIELD, DOMENICI, WALLOP, WARNER, JACKSON, JOHNSTON, FORD, and METZENBAUM. As of this date, the House has not agreed to the requested conference on H.R. 5539. I believe it is general knowledge that the House has not acted because of the continued negotiations between the administration and members of the House Interior and Insular Affairs Committee regarding the Papago Indian Water bill, H.R. 5518, which was vetoed by the President on June 1, 1982. Further action by the House on the reclamation reform bill has been delayed pending successful resolution of the Papago Indian water issue.

Mr. President, S. 1409 is a bill to authorize the Secretary of the Interior to construct, operate and maintain modifications at the existing Buffalo Bill Dam and Reservoir, and for other purposes. S. 1409 passed the Senate on June 22, 1982. Earlier this week, on August 17, 1982, the House passed S. 1409 with an amendment in the nature of a substitute. The substitute included three separate titles. Title I is the exact text of S. 1409 as it passed the Senate. Title II is the exact text of H.R. 5539, the reclamation reform bill, as it passed the House. Title III is the text of a House proposal for the modified Papago Indian bill. After passage of S. 1409, the House insisted on its amendments, asked for a conference, and appointed conferees.

This Senator and other Members of the Senate were particularly pleased that the House has not taken action to send the extremely important reclamation reform bill to conference. Unfortunately, however, the House-requested conference on S. 1409 would accomplish that objective without including the Senate-passed reclamation bill as matter committed to the conference. Also, there would be no companion Senate provision for the Papago Indian bill included in the House-passed title III. Consequently, it is now necessary for the Senate to act to amend the bill to include the necessary companion textual matter for full conference consideration of these issues.

The pending amendment is an amendment in the nature of a substitute with three companion titles to the House substitute. Title I is the Senate Buffalo Bill legislation as passed on June 22. It would be the same text as included in title I of the House amendment, and therefore would be nonconferenceable.

Title II of the pending amendment is the text of the reclamation bill as passed by the Senate on July 16. It would be the companion provision for the text of the House-passed reclamation bill in title II of the House amendment. The conference, therefore, would proceed on the normal basis of the differences in the two reclamation reform bills as passed by the House and Senate. Consequently, this action would have the same parliamentary result as the Senate action of July 16, 1982, asking for a conference directly on H.R. 5539, the reclamation reform bill.

Title III of the pending amendment is the text of the agreement on the Papago Indian water matter negotiated between the House Interior Committee, the Senate delegation from Arizona, and the Secretary of the Interior. It would be the companion text for the earlier House proposal in title III of the House amendment. The chairman and ranking minority member of the House Interior Committee, Congressman UDALL and Congressman LUJAN, have assured the parties involved in that negotiation and Senator JACKSON and myself, that the House will recede on title III and accept the Senate text incorporating the new agreement. This action would be taken without any further negotiation on the differences between the earlier House proposal and the text of the Senate title III. Consequently, it is not intended by either the House or the

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Senate that title III will be the subject of any conference action other than the prearranged agreement of the House to recede to the Senate. It is important to note also that the Papago Indian water bill was within the jurisdiction of the Senate Select Committee on Indian Affairs and not the jurisdiction of the Senate Committee on Energy and Natural Resources. This discussion of the Papago Indian water matter and the actions on title III appropriately have been the subject of prior consultation and agreement with the chairman and ranking minority member of the Select Committee on Indian Affairs, Senator Cohen and Senator Melcher, as well as the members of the Arizona delegation, Senator Goldwater and Senator DeConcini.

The net intended effect of this somewhat complicated proceeding would be to place the Senate and House in a regular conference on the differences in their respective reclamation reform bills included in title II of S. 1409. Title I, the text of the Buffalo Bill legislation, will be nonconferenceable. Title III of the bill will only involve the House receding, and the resulting adoption of the Senate text.

In light of all these circumstances, it only appears necessary at this time for the Senate upon passage of S. 1409 with this amendment in the nature of a substitute as I have described, to appoint conferees with responsibility for the reclamation reform bill in title II. Those conferees have already been identified in the Senate action of July 16. There does not appear to be any need for any conferees from the Select Committee on Indian Affairs. If, for some totally unforeseen circumstance, there would be the necessity for the Conference Committee to take any action on title III other than the House directly receding it then would be appropriate and necessary for conferees from the Select Committee on Indian Affairs to be appointed to represent the Senate in any negotiation on the Papago Indian water matter. Such action does not appear to be necessary at this time, as I have discussed with Senator Cohen and Senator Melcher, as well as the Arizona delegation.

Mr. President, these procedures should allow the conferees on the reclamation reform bill to proceed to conference immediately following the pending recess. It is the fond hope of the Senator from Idaho and the other Senate conferees, as well as all interested parties in the reclamation community, to obtain swift action to resolve the modest differences between the House and Senate bills, and then proceed expeditiously to obtain enactment before the adjournment of this Congress. I certainly appreciate the good faith and continued efforts of our colleagues in the House and Secretary Watt and their respective excellent staffs in arriving at this point in the process. I urge all interested parties as we go forward into conference to cooperate as fully as possible in seeking enactment of this critical legislation in this Congress. I also wish to thank the leadership of the Senate for its assistance and support in fashioning this procedure to place the two bodies in conference on these important issues.●

The motion to concur in the House amendment with further Senate amendments was agreed to.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. McClure, Mr. Hatfield, Mr. Domenici, Mr. Wallop, Mr. Warner, Mr. Jackson, Mr. Johnston, Mr. Ford, and Mr. Metzenbaum conferees on the part of the Senate.

INTERNATIONAL SAFE CONTAINER ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 6732, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6732) to amend the International Safe Container Act.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6732) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN ENTERPRISE DAY

Mr. BAKER. Mr. President, I ask that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 226 and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 226) to authorize and request the President to designate October 1, 1982, as American Enterprise Day.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

The joint resolution (S.J. Res. 226) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 226

Whereas the American enterprise system is a cornerstone in our society; and

Whereas that system has produced the highest standard of living in the world; and

Whereas that system depends on and rewards individual initiative and innovation; and

Whereas American productivity is vital to the world economy and must be encouraged; and

Whereas the continuance and growth of our enterprise system depends in large part on the education of young men and women concerning that system: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating October 1, 1982, as "American Enterprise Day" and encouraging appropriate government agencies to foster the recognition of the significance of the American enterprise system on that day.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move that the motion to reconsider be postponed until tomorrow.

Mr. President, I move to lay the motion on the table.

Mr. BAKER. Mr. President, in the event of such motion, the minority leader should give me notice so I can gather my wits.

The motion to lay on the table was agreed to.

NATIONAL FIREFIGHTERS' WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 227, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 227) to establish National Firefighters' Week.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

The joint resolution (S. J. Res. 227) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 227

Whereas firefighters have provided fire protection for millions of Americans;

Whereas firefighters have performed their duties with distinction;

Whereas many firefighters are volunteers, risking themselves for others without remuneration; and

Whereas firefighters have lost their lives in heroic services to their communities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning Monday, September 20, 1982, is designated as "National Firefighters' Week" and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ADULT DAY CARE CENTER WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 209, and I ask for its immediate consideration.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 209) designating the week beginning September 5, 1982, as "National Adult Day Care Center Week."

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

The joint resolution (S.J. Res. 209) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 209

Whereas there are nearly eight hundred adult day care centers nationwide, some of which serve adults starting at age eighteen and others which serve primarily senior citizens, providing a safe and positive environment to partially disabled individuals in need of daytime assistance and supervision;

Whereas adult day care centers provide necessary health maintenance functions and medical care, including medication monitoring, therapies, and health education, and are operated by professional staffs who identify the need for additional health services and make appropriate referrals;

Whereas adult day care centers provide opportunities for social interactions to otherwise isolated individuals and assist them in attaining and maintaining a maximum level of independence; and

Whereas these centers offer relief to families who otherwise must care for disabled elderly persons on a twenty-four-hour-per-day basis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 5, 1982, is designated "National Adult Day Care Center Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MONEY AND FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 6128, and I ask for its immediate consideration.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6128), an act to revise, codify, and enact without substantive change certain general and permanent laws, relating to money and finance, as title 31, United States Code, "Money And Finance".

The **PRESIDING OFFICER.** The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6128) was ordered to a third reading, was read the third time, and passed.

EXTENSION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business may be extended until 2:30 p.m. under the same terms and conditions.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

TECHNICAL AND CONFORMING CHANGES IN PATENT AND TRADEMARK LAWS AND IN THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 3345, and I ask for its immediate consideration.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3345) to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act.

The **PRESIDING OFFICER.** The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3345) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCHANGE OF CERTAIN LANDS HELD BY NAVAJO TRIBE AND THE BUREAU OF LAND MANAGEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 3589.

The **PRESIDING OFFICER.** The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3589) to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1259

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Maine (Mr. Cohen) in the nature of a substitute and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. Baker) on behalf of Mr. Cohen, proposes an unprinted amendment in the nature of a substitute numbered 1259.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause of H.R. 3589 and insert in lieu thereof the following:

That (a) subject to the approval of the Secretary of the Interior and to the provisions of this Act, the Navajo Tribe is authorized to exchange any surface interests of such Tribe in the lands described in subsection (b) for surface interests of the United States in lands described in subsection (c) which are approximately equal in value to such tribal interests.

(b) Lands located within the following New Mexico principal meridian townships are described in this subsection:

Township 8 north, range 12 west;
Township 8 north, range 11 west;
Township 7 north, range 12 west;
Township 7 north, range 11 west;
Township 6 north, range 12 west;
Township 7 north, range 5 west;
Township 6 north, range 5 west;
Township 6 north, range 4 west;
Township 6 north, range 3 west; and
Township 7 north, range 3 west.

(c) The lands described in this subsection are the lands withdrawn for exchange by Public Land Order 5721 (Federal Register, May 2, 1980, pages 29295–29297) other than the following lands:

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28, southwest quarter;

Township 16 north, range 10 west, New Mexico principal meridian: section 6, southeast quarter; and section 18, northeast quarter; and

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter.

SEC. 2. Any interests in lands acquired by the Navajo Tribe under section 1(a) shall be held by the Secretary of the Interior in trust for the benefit and use of the Navajo Tribe.

SEC. 3. (a) Lands received by the Navajo Tribe in an exchange under section 1(a) shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe with regard to the location, scope, and use of such easement or right-of-way.

(b) Nothing in this Act shall affect—

(1) the mineral interests of any person, or

(2) any easement or other rights of any person (other than the United States or the Navajo Tribe),

in lands exchanged under section 1(a) which existed prior to the enactment of this Act. The development of such interests and the exercise of such rights may only be controlled by the Navajo Tribe or the Secretary of the Interior to the same extent that such development or exercise could have been controlled by the Secretary of the Interior prior to the enactment of this Act.

SEC. 4. (a) No exchange shall be made under section 1(a) if, at the time such exchange is proposed, the value of the interests in lands described in section 1(b) which are proposed to be exchanged exceeds an amount equal to 125 percent of the value of interests in lands described in section 1(c) which are proposed to be exchanged.

(b)(1) If, at the time of an exchange under section 1(a), the value of the interests in lands described in section 1(b) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(c) which are exchanged under section 1(a), the Secretary of the Interior shall pay to the Navajo Tribe an amount equal to such excess value.

(2) If, at the time of any exchange under section 1(a), the value of the interests in lands described in section 1(c) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(b) which are exchanged under section 1(a), the Navajo Tribe shall pay to the United States an amount equal to such excess value.

SEC. 5. There are hereby authorised to be appropriated such sums as are necessary to carry out the provisions of section 4(b)(1)

The amendment (Up No. 1259) was agreed to.

The **PRESIDING OFFICER.** The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time and passed.

Mr. **BAKER.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS IMPROVEMENT AND EXTENSION ACT OF 1982

Mr. **BAKER.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6350.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 6350) entitled "An Act to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two twelve-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes", with the following amendments:

In lieu of the matter proposed to be inserted by the amendment to the text of the bill, insert:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

"(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

"(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.".

(b) Section 4107(f) is amended by striking out "paragraphs (2) through (8) of".

(c) Section 4107 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans' Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

"(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

"(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

"(4) The Administrator shall prescribe regulations for the implementation of this subsection.".

(d)(1) Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

(2) Not later than 300 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

(1) in subsection (a)—

(A) by striking out "full-time" in clause (1); and

(B) by adding below clause (4) the following new sentences:

"To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a 'part-time student'.)";

(2) in subsection (e)(1)(A)(i), by inserting "(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as the result of such extension)" after "years";

(3) in subsection (e)(1)(B)—

(A) by inserting "(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)" in division (iv)(I) after "Scholarship Program";

(B) by striking out "years; and" in division (iv)(II) and inserting in lieu thereof "years (or, in the case of a participant who is a part-time student, one calendar year);";

(C) by inserting "and" at the end of division (v); and

(D) by adding at the end the following new division:

"(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health care facility;";

(3) in subsection (f)—

(A) by inserting a comma and "except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section" before the period at the end of paragraph (1)(B); and

(B) by inserting "maximum" after "The" in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

"(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States."; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting "by virtue of their participation in such program (1)" after "Program shall not";

(B) by striking out "and shall not" and inserting in lieu thereof a comma and "or (2)";

(C) by striking out "employment" and inserting in lieu thereof "personnel"; and

(D) by striking out "while they" and all that follows through "clinical training".

(b)(1) Section 4143(b) is amended—

(A) by inserting "who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student" in paragraph (1) after "Scholarship Program";

(B) by amending paragraph (2) to read as follows:

"(2) As soon as possible after the applicable date described n paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

'(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.";

(C) in paragraph (3)(B) by inserting "the later of (i) the date upon which the participant completes such participant's course of training, or (ii)" after "is"; and

(D) by adding at the end the following new paragraph:

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.".

(2) Section 4143(c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligates service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholar-

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ship Program completes such participant's course of training under the program.".

(c) Section 4144(b) is amended—

(1) in clauses (1) and (2), by striking out the semicolon at the end and inserting in lieu thereof a comma;

(2) by striking out the semicolon and "or" at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and "or"; and

(4) by inserting after clause (4) the following new clause:

"(5) in the case of a participant who is a parttime student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility,".

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,"

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOTS PROGRAM

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983,", respectively.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

SEC. 7. Section 643 is amended by striking out "of any war".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorized to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years.".

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans' Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.".

● Mr. **SIMPSON**. Mr. President, this measure is before the Senate now as a privileged matter in lieu of the formal conference report.

Mr. President, I strongly urge final passage of H.R. 6350, the Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982. The legislation pending before us today is the result of a compromise reached by the House and Senate Veterans' Affairs Committees in an excellent bipartisan effort that reflects our important commitment to meeting the needs of our Nation's veterans, especially through the provision of quality medical care. I greatly enjoy working with the House's "Mr. Chairman," SONNY MONTGOMERY. The various provisions of the bill are designed to improve the quality, scope, and efficiency of the Veterans' Administration's health-care system.

On April 15, 1982, as chairman of the Senate Committee on Veterans' Affairs, I introduced S. 2385. As introduced, S. 2385 would have amended the Veterans' Administration's health professional scholarship program to provide scholarship assistance to VA-employed nurses attending school on a part-time basis, and to permit funds appropriated for the health scholarship program for fiscal year 1982 to be used until expended.

On April 15, 1982, at the request of the administration, I also introduced S. 2383 and S. 2384. As introduced, S. 2383 would have extended, for 4 years, the VA's authority to provide construction grants to State veterans' homes. S. 2384 would have extended, for 1 year, the VA's authority to provide contract hospital care for certain veterans in Puerto Rico and the Virgin Islands.

On April 21, 1982, the committee held a hearing on these bills and a number of other measures and, on May 28, 1982, the committee voted to report favorably S. 2385, with an amendment in the nature of a committee substitute and a title amendment. S. 2385, as reported, consists of provisions derived with modifications from S. 2383, S. 2384, S. 2385, and S. 2389.

I am most pleased that the compromise agreement, H.R. 6350, contains all of the major provisions of S. 2385, with some modifications. A number of these provisions are targeted toward improving the recruitment and retention of VA nurses.

The compromise agreement modifies the VA health professional scholarship program to allow VA nurses who are employed full time at the time of their application and notification of their acceptance, to participate in the scholarship program on a part-time basis. This provision was designed to reward those VA employees whose dedication and commitment to the agency have been established by providing an alternative to attending school full time. Many VA nurses have expressed a strong desire for this program extension, noting that due to a financial need or family responsibility, going to school full time would result in a hardship, which in many instances, would result in an inability to participate in the scholarship program. The nurses who are currently VA employees deserve this added incentive to improve their educational and career opportunities.

Other provisions in this bill are intended to provide added recruitment incentives for registered nurses in the VA's Department of Medicine and Surgery. These incentives are greatly needed in order for the VA to be able to compete with private sector hospitals in the hiring and retention of nursing personnel. The ratio of nurses to patients has a direct impact on the quality of patient care in VA hospitals. Over the past several years the nursing shortage and other factors have caused some hospital wards to be closed. It has also resulted in poor morale among many VA nurses who have tried to remain loyal throughout this difficult period of shortages of professional nursing staff.

These various improvements designed to spur recruitment include provisions that would give the Administrator discretionary authority to extend, on a nationwide, local or other geographic basis, the period for which additional pay may be paid—to include some or all of a tour that begins or ends on a Saturday. They would also authorize the Administrator—but only when absolutely necessary to recruit nurses—within specific limitations, to provide that a nurse may work two regularly scheduled 12-hour tours of duty during a weekend, and have such service be considered as a full 40-hour workweek. This is referred to in some contexts as the "Baylor plan."

Mr. President, I look forward to the implementation of the provisions of this legislation which are designed to aid in the recruitment and retention of VA health-care personnel. The provision of quality health care, especially to veterans suffering from service-connected disabilities, is one of the most important missions of the VA.

A description of other provisions in this bill, as well as a more detailed explanation of the provisions I have just described, will follow in the text of the explanatory statement. I ask that this explanatory statement be printed at the end of my remarks.

Mr. SIMPSON. In conclusion, Mr. President, I wish to sincerely thank the distinguished ranking member from California, Senator Cranston, for his usual patient and invaluable assistance throughout the entire process of drafting this bill and reaching a very equitable compromise, and all other members of the committee, who are cosponsors of this measure, as are Senators Cohen and Burdick.

In addition, I should like to recognize and thank the very able members of the majority staff for their efforts: Tom Harvey, chief counsel and staff director; Julie Susman; Koreen Kelleher, a valuable former member of the staff; Laurie Altemose, Becky Hucks, and Kay Eckhardt; our editorial director, Harold Carter; as well as the capable members of the minority staff: Jonathan Steinberg, Ed Scott, Bill Brew, Katy Burdick, and Ingrid Post. The hard work and cooperation of my most capable and effective counterpart on the House Veterans' Affairs Committee, G. V. "Sonny" Montgomery, and his hard-working, capable staff, headed by Mack Fleming, were essential to the achievement of what I feel to be an equitable compromise.

Mr. President, at this time I would urge that my colleagues join me in assuring the Senate's favorable consideration of this bill.

The explanatory statement follows:

Explanatory Statement on House Bill, Senate Amendment (S. 2385), and Compromise Agreement on H.R. 6350, the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982"

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

Both the House bill (section 1) and the Senate amendment (section 3) would amend subsection (e) of present section 4107 of title 38, United States Code, relating to rates of additional pay for registered nurses and (by virtue of subsection (f)) certain other health-care personnel employed in VA facilities under title 38, to give the Administrator discretionary authority, under paragraph (3) of that subsection, to extend on a nationwide, local, or other geographic basis the period for which additional pay is paid under that paragraph for certain work on a weekend—presently limited to a period of work that occurs at least in part on a Sunday.

The House bill would have amended present paragraph (3) to authorise the Administrator to provide additional pay, at a rate of up to 25 percent of the applicable basic hourly rate, for each hour of service on a tour any part of which is on a Saturday. Under the House bill, the Administrator would set the rate of such additional pay within a geographic area at a percentage, up to 25 percent, that the Administrator considers necessary to retain and recruit adequate nursing staff in that area.

The Senate amendment would have amended present paragraph (10), relating to the Administrator's authority to modify rates of additional pay, to authorize the Administrator to provide additional pay—at a rate of 25 percent of the applicable basic hourly rate, the rate set forth in present paragraph (3)—for some or all of a tour that occurs on a Saturday. Under the Senate amendment, the authority would be available when its use is justified on the basis of a review of the need for it.

The compromise agreement (section 2(a)) contains a provision that would amend paragraph (10) of present subsection (e) to provide the Administrator with discretionary authority to extend, on a nationwide, local, or other geographic basis, the period for which additional pay is paid under paragraph (3) to include some or all of a tour that occurs at least in part on a Saturday. The authority would be available if the Administrator has determined that its use is necessary for recruitment and retention purposes and that the extension is justified on the basis of a review of the need for it in the geographic area involved. The rate of such additional pay for "Saturday" work would be set at a rate determined necessary for recruitment and retention purposes but not in excess of the percentage rate specified in paragraph (3)—25 percent under current law. As noted above, the Administrator has discretionary authority under paragraph (10) to increase that percentage. Such increase may be made where necessary for recruitment and retention purposes, and where the percentage has been increased, the higher percentage would replace the 25-percent limitation on additional pay for "Saturday" work.

The Senate amendment (section 3(1)), but not the House bill, would have further amended paragraph (10) to provide that any discretionary increase under that paragraph in rates of additional pay may be made on a nationwide, local, or other geographic basis, provided that the increase is justified by a specified review of the need for it.

The compromise agreement (section 2(a)) contains this provision and a provision (section 2(b)) amending subsection (f) of section 4107, relating to the general applicability of the additional-pay provisions in subsection (e) to physician assistants or expanded-function dental auxiliaries or both, to clarify that the provisions of subsection (e)(10) are applicable to these categories of personnel (that is, may be applied, as a matterng to the pay of VA Department of Medicine and Surgery (DM&S) personnel employed under the DM&S title 38 personnel system, to authorize the Administrator, when necessary to recruit or retain registered nurses in DM&S, subject to specified limitations relating to rates of pay and computations of leave, to provide that a nurse may work two regularly-scheduled twelve-hour tours of duty during a weekend and have such service be considered a full forty-hour workweek.

The compromise agreement (section 2(c)) contains a provision derived from these provisions.

The House bill would have limited eligibility for participation in the "Baylor plan" program to VA nurses appointed under section 4104 of title 38, all of whom are permanent VA employees. The Senate amendment would have permitted all nurses appointed under subchapter I of chapter 73 to participate in the program, thereby making possible the participation of temporary as well as permanent VA employees.

The compromise agreement would allow all VA nurses appointed under subchapter I to participate in the program. In adopting this approach, the Committee stress that they intend and expect that, to the extent that the use of this authority for weekend scheduling is necessary, the "Baylor plan" opportunity will first be offered to permanent employees and that it will be offered to temporary employees only as a last resort in order to obtain adequate nurse staffing.

Under the House bill, a nurse working such a weekend schedule—a so-called "Baylor plan" Schedule—would be entitled to additional pay under subsection (e)(5) of present section 4107, relating to additional pay for overtime service, when the nurse's total officially ordered or approved services is in excess of either fifty-two hours during his or her administrative workweek (the period from Sunday to Saturday), eight hours on a day other than a Saturday or Sunday, or twelve hours on a Saturday or Sunday. Under the Senate amendment, such a nurse would be entitled to additional pay under subsection (e)(5) when the total officially ordered or approved service is in excess of either forty hours during the nurse's administrative workweek, eight hours on a day other than a Saturday or Sunday, or twenty-four hours within the weekend period during which the two regularly-scheduled twelve hour tours of duty are worked.

The compromise agreement would specify that additional pay for "Baylor-plan" nurses would, with certain exceptions, be paid in accordance with the provisions of current law—section 4107(e) for permanent employees and, for temporary employees, section 4114(a), which authorizes temporary and part-time appointments and the administrative establishment of pay rates for those with such appointments. Thus, a "Baylor-plan" nurse would generally be entitled to overtime pay only for officially ordered or approved service that is in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours on a weekend, and would not be eligible for "night differential" pay (under section 4107(e)(2)) for tours beginning during the period between 6 P.M. and 6 A.M. on a Saturday or Sunday, for "holiday" pay (under section 4107(e)(4)) when a holiday occurs on a Saturday or Sunday, or—except as described in the next sentence of this discussion—for overtime pay (under section 4107(e)(5)) for work in excess of forty hours in an administrative workweek. However, if the Administrator determines it to be further necessary in order to obtain or retain the services of nurses so as to obtain adequate staffing at a particular facility, a "Baylor-plan" nurse may be paid additional pay for service in excess of forty hours—or in excess of such number of hours over 40 that the Administrator determines with respect to that facility—in an administrative workweek.

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REGULATIONS FOR IMPLEMENTATION OF CERTAIN SPECIAL PERSONNEL AUTHORITIES

The Senate amendment (section 10), but not the House bill, would require the Administrator, within 90 days after the date of enactment, to publish in the Federal Register, for a 60-day public-review and comment period, proposed regulations for the implementation of the discretionary authorities in section 4107(e)(10) (as proposed to be amended in part by section 2 of the compromise agreement) to increase rates of additional pay and (as proposed to be added by section 2 of the compromise agreement) to extend the period for which additional pay is paid for certain weekend work and the authority in present section 4107(g) to increase rates of basic pay for certain health-care personnel. The Administrator would be required to publish final regulations within 210 days after the date of enactment.

The compromise agreement (section 2(d)) contains this provisions with amendments making this requirement applicable also to the "Baylor plan" regulations under new subsection (h) of section 4107 (as provided to be added by section 2 of the compromise agreement) and extending to 300 days the post-enactment deadline for publication of final regulations to implement all of these authorities.

The Committees note that the deadline for final regulations is extended, upon the VA's request, to ensure that adequate time is provided for the agency fully to take into account the views of all parties. Also, the Committees emphasize that this 300-day period is only a maximum. Thus, the Committees urge that every effort be made to publish final regulations in a lesser period of time.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

The Senate amendment (section 2), but not the House bill, would amend various provisions in subchapter IV of chapter 73 of title 38, relating to the VA's Health Professional Scholarship Program, to authorize the Administrator to provide scholarship assistance to VA health-care employees attending school on a part-time basis; to clarify that the amount of the stipend to be paid to a participant under the program may be modified so that the Administrator may limit, to tuition reimbursement and a nominal stipend, its payments to a VA employee participating in the scholarship program as a part-time student; to authorize, in the case of part-time students, an up-to-2-year extension of the 4-year limit on scholarships if the extension is in the best interest of the United States and the student maintains an acceptable level of academic standing; and to provide that sums appropriated for the purpose of making payments under the Scholarship Program shall remain available for that purpose until expended.

The compromise agreement (section 3) contains a provision derived from this provision with modifications—to limit the VA employees eligible for scholarship assistance for part-time study to those who are full-time employees when they apply for and are awarded a scholarship; to make a part-time student's scholarship contingent upon continued employment in a VA health-care facility and make the scholarship pay-back requirement (in section 4144(b) of title 38) applicable to a part-time student who fails to maintain such employment; to specify that no stipend may be paid to a full-time VA employee participating in the Scholarship Program; and to delete the provision extending the availability of appropriated funds.

The compromise agreement also contains certain conforming and clarifying amendments. These include amendments that would clarify the Administrator's responsibility (under section 4143(b)(2)) to act promptly with respect to the appointment and assignment of scholarship recipients after they have completed their training (where such action is necessary) so that they may begin to discharge their service obligations without undue delay; would clarify the provision (section 4142(c)) regarding the date on which a period of obligated service begins so as to specify, in the case of a scholarship recipient who is also a VA employee, that the period begins as soon as that individual has completed training and is appointed or assigned as a full-time employee in the Department of Medicine and Surgery in a position for which the training prepared him or her; and would make certain conforming changes in the provisions (section 4142(e)) specifying what must be included in the written contract between the Administrator and a scholarship recipient.

With respect to VA employee participation in the Scholarship Program, the Committees note their view that the first preference should be given to those VA employees who, by the length and quality of their VA service, have demonstrated their commitment to the agency. In this way, the Scholarship Program can promote retention not only through the requirement of a period of obligated service in return for scholarship assistance but also through the use of such assistance as a reward for continuity of service to the agency.

With reference to the requirement that VA employees be working on a full-time basis at the time of application and award, the Committees note that this requirement is intended to allow a full-time employee the option to apply to the VA for conversion to part-time service after being notified of the award of a scholarship and beginning the training course. As to the possibility of making the program available to applicants who are working in the VA on a part-time basis, the Committees note that the Scholarship Program is just now about to be implemented and that they intend to follow closely the award of scholarships to full-time employees. After experience has been gained in that regard, the Committees will give further consideration to the need for and desirability of legislation authorizing the award of scholarships to part-time VA employees.

With respect to the provision that would make funds appropriated for the program available until expended, this provision was not included in the compromise agreement in response to the request of the Appropriations Committees. In this connection, the VA has assured the Veterans' Affairs Committees that the $4 million appropriated for this program for fiscal year 1982 in the VA's medical administration and miscellaneous operating expenses (MAMOE) account will be fully obligated by September 30, 1982. With respect to future appropriations, the Veterans' Affairs Committees understand, as a result of staff discussions, that the Appropriations Committees will specifically take into account the need for the extended availability, beyond a single fiscal year, of funds made available for this program.

The Veterans' Affairs Committees are satisfied that, with these understandings, the duration of the availability of funding for the Scholarship Program will receive appropriate attention and that there is, therefore, no need to amend title 38 to extend the availability of appropriated funds for the program.

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 2) and the Senate amendment (section 4(2)) would amend present section 601(4)(C)(v) of title 38, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for one year—from September 30, 1982, until September 30, 1983—the VA's contract authority, in Puerto Rico and the Virgin Islands and other Territories and possessions of the United States, to provide hospital care for non-service-connected disabilities and such medical-care services as will obviate the need for hospital admission for such disabilities.

The compromise agreement (section 4) contains this provision.

The Committees note that this is the second, consecutive short-term extension—the first having been enacted on November 3, 1981, in Public Law 97-72—of this authority to provide certain fee-for-service care in Puerto Rico and the Virgin Islands, and that it is likely that further extension will be required before a permanent approach to providing appropriate and cost-effective health care to veterans in those locations can be developed. In order to move toward such an approach as quickly as is possible, the Committees consider it imperative that the VA take immediate steps to develop a comprehensive plan for providing such care and, to the extent that new construction is involved, prepare the needed project or projects for inclusion in the President's budget.

In order to be able to evaluate the VA's proposal in this regard prior to the time that a further, short-term extension of the fee-basis authority is required, the Committees direct that by December 1, 1982, the agency provide them with a specific, detailed proposal, including any construction project that the VA considers necessary, pertaining to health care for eligible veterans in Puerto Rico and the Virgin Islands and, most particularly, for meeting the health-care needs of those veterans included in that population who have service-connected disabilities.

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

The Senate amendment (section 5), but not the House bill, would amend present section 613 of title 38, relating to eligibility for medical care through the CHAMPVA program for the survivors and dependents of certain severely disabled service-connected disabled veterans, to provide for a reinstatement of CHAMPVA eligibility if an individual, after losing CHAMPVA eligibility by virtue of becoming eligible for hospital insurance benefits under part A of Medicare, exhausts some or all such Medicare eligibility.

The compromise agreement (section 5) contains this provision.

The Committees note that an amendment was enacted last year in Public Law 97-72 (section 105) to section 613(b) to facilitate the treatment in VA facilities of individuals eligible for health care through the CHAMPVA program where the use of those facilities for CHAMPVA beneficiaries would not interfere with the care or treatment of any eligible veteran. In this regard, the

Committees urge that, to the extent feasible and with a view toward optimal utilization of VA health-care facilities, the VA use this authority as much as possible with respect to those whose eligibility would be restored under the compromise agreement as well as current CHAMPVA beneficiaries.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

The Senate amendment (section 6), but not the House bill, would amend subsection (f) of present section 620A of title 38, relating to the Administrator's report to the Committees on the pilot program of alcohol and drug treatment and rehabilitation being conducted under that section, to extend by one year both the due date of the report—from March 31, 1983, to March 31, 1984—and the end date of the period of pilot program operations to be covered in the report—from September 30, 1982, to September 30, 1983.

The compromise agreement (section 6) contains this provision.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

The Senate amendment (section 7), but not the House bill, would amend present section 643 of title 38, relating to payments to State veterans' homes for care provided to eligible veterans, to strike an anachronistic reference to service during a period of war as an eligibility factor for such payments. This would conform section 643 to section 641, which sets forth the operative criteria for payments by the VA to State veterans' homes.

The compromise agreement (section 7) contains this provision.

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

Both the House bill (section 3) and the Senate amendment (section 8) would amend present section 5033(a) of title 38, relating to the authorization of appropriations for matching-fund grants to States for the construction of State veterans' home domiciliary and nursing-home facilities and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing-home, or hospital care in State veterans' homes, to extend the current authorization of appropriations (at a level of "such sums as may be necessary"). The House bill would extend the authorization for three years (through fiscal year 1985); the Senate amendment would extend the authorization for four years (through fiscal year 1986).

The compromise agreement (section 8) contains a provision to extend the authorization for four years, through fiscal year 1986.

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

The Senate amendment (section 9), but not the House bill, would amend present section 5054(b) of title 38, relating to the discretionary authority to make available to non-VA medical facilities, particularly those near VA facilities in remote areas, VA educational facilities and programs and the VA electronic communications capability linking such VA facilities to major medical centers and to charge a fee for such services, to include an express reference to State veterans' homes as part of the surrounding medical community eligible to participate in such reimbursable medical information programs.

The compromise agreement (section 9) contains this provision.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

The Senate amendment (section 3(2)), but not the House bill, would have further amended section 4107 (see the first part of this statement for discussion of the other amendments), to authorize the Administrator, upon a determination that it is necessary in order to recruit or retain certain specified categories of health-care personnel in DM&S, to permit the use by such personnel, on a nationwide, local, or other geographic basis, of the flexible and compressed work schedules that were described in regulations and guidelines issued by the Office of Personnel Management in order to carry out the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390. This authority would have been available through fiscal year 1987, and the Administrator would have been required to report to the Congress, not later than four years after the date of enactment, on the results of the use by the VA of such alternative work schedules, both as authorized by this provision and otherwise. The mandated report would include an evaluation of the effects of the use of such schedules on the recruitment and retention of health-care personnel, together with recommendations for administrative or legislative action, or both, based on the VA's use of and need for such schedules.

The compromise agreement does not contain the provision authorizing the VA to utilize such alternative work schedules. In light of recent enactment of Public Law 97-221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which provides government-wide authority to utilize alternative work schedules until July 23, 1985, the Committees do not believe that the VA-specific authority proposed in the Senate amendment is needed at this time.

However, because of the Committees' strong interest in the results of the VA's use of this authority, the compromise agreement (section 10) contains a provision, derived from the Senate provision, requiring the Administrator to submit a report—not later than July 1, 1985, one year prior to the expiration of the new government-wide authority—on the VA's experience under that authority. The Committees intend to study that report carefully so that they will be able to assess the VA's use of that authority and to consider again, prior to the expiration of the government-wide authority, the desirability of providing the VA with agency-specific authority.

CONTRACT CARE FOR WOMEN VETERANS

The Senate amendment (section 4(1)), but not the House bill, would amend present section 601(4)(C)(iv) of title 38, relating to the Administrator's authority to provide contract hospital care to women veterans, to expand that authority so as to allow the Administrator to provide, on a fee basis, such outpatient medical services as are needed pre- or post-hospitalization or that would obviate the need for hospital admission for non-service-connected, gender-related disabilities of a woman veteran that the VA itself is not able to treat.

The compromise agreement does not contain this provision. Rather, in light of the expected increase in demand for VA medical services from women veterans in the coming years, the Committees believe that it would be preferable for the agency to build up its in-house staff capacity to meet the gender-related needs of these veterans for outpatient care and are concerned that the new fee-for-services authority proposed in the Senate amendment might discourage that result if enacted. The Committees note that, in those cases in which a particular VA facility does not have the capacity directly to provide such care to an otherwise eligible woman veteran, authorities under two provisions of title 38—section 4117 (authority to contract for service medical specialist services) and section 5053 (authority to enter into agreements for sharing of specialized medical resources)—are available to and should be used by the VA to arrange for furnishing the needed care.

The Committees intend to monitor closely the VA's efforts to meet the health-care needs of the growing population of women veterans and will consider legislative action in the future if that appears necessary.

HOUSE AMENDMENTS TO THE SENATE AMENDMENTS TO H.R. 6350

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

"(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

"(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.".

(b) Section 4107(f) is amended by striking out "paragraphs (2) through (8) of".

(c) Section 4107 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans' Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

"(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

"(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

"(4) The Administrator shall prescribe regulations for the implementation of this subsection.".

(d)(1) Not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

(2) Not later than 210 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

(1) in subsection (a)—

(A) by striking out "full-time" in clause (1); and

(B) by adding below clause (4) the following new sentences:

"To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a 'part-time student'.)";

(2) in subsection (e)(1)(A)(i), by inserting "(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as the result of such extension)" after "years";

(3) in subsection (e)(1)(B)—

(A) by inserting "(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)" in division (iv)(I) after "Scholarship Program";

(B) by striking out "years; and" in division (iv)(II) and inserting in lieu thereof "years (or, in the case of a participant who is a part-time student, one calendar year);";

(C) by inserting "and" at the end of division (v); and

(D) by adding at the end the following new division:

"(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility;";

(3) in subsection (f)—

(A) by inserting a comma and "except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section" before the period at the end of paragraph (1)(B); and

(B) by inserting "maximum" after "The" in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

"(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

"(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

"(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States."; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting "by virtue of their participation in such program (1)" after "Program shall not";

(B) by striking out "and shall not" and inserting in lieu thereof a comma and "or (2)";

(C) by striking out "employment" and inserting in lieu thereof "personnel"; and

(D) by striking out "while they" and all that follows through "clinical training".

(b)(1) Section 4143(b) is amended—

(A) by inserting "who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student" in paragraph (1) after "Scholarship Program";

(B) by amending paragraph (2) to read as follows:

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.";

(C) in paragraph (3)(B) by inserting "the later of (i) the date upon which the participant completes such participant's course of training, or (ii)" after "is"; and

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(D) by adding at the end the following new paragraph:

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall be as similar as practicable to the terms set forth in paragraph (3) of this subsection.".

(2) Section 4143(c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date after such participant's course completion date on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant was a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date after such course completion date on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.".

(c) Section 4144(b) is amended—

(1) by striking out the semicolons at the end of clauses (1) and (2) and inserting in lieu thereof a comma;

(2) by striking out the semicolon and "or" at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and "or"; and

(4) by inserting after clause (4) the following new clause:

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility,".

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,".

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983,", respectively.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

SEC. 7. Section 643 is amended by striking out "of any war".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorised to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necesary for fiscal year 1981 and for each of the five succeeding fiscal years.".

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans' Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.".●

● **Mr. CRANSTON.** Mr. President, as the ranking minority member of the committee on Veterans' Affairs, I am very pleased to join with the committee chairman, my good friend from Wyoming (Mr. SIMPSON), in urging the Senate to concur in the House amendment to the Senate amendment to H.R. 6350. The House amendment is a compromise agreed to between the two Veterans' Affairs Committees after extensive discussion and negotiations. This is an important measure that will improve various aspects of the Veterans' Administration's health-care programs, primarily by enhancing the agency's ability to recruit and retain registered nurses and other health-care personnel.

BACKGROUND

Mr. President, H.R. 6350 was first passed by the House on June 15, 1982. On June 21, 1982, the Senate took up S. 2385, the proposed "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982," as reported by the Committee on Veterans' Affairs on June 8. The Senate substituted the provisions of that measure in lieu of the provisions of H.R. 6350 as passed by the House and then passed H.R. 6350, returning it to the House. On August 19, the House of Representatives amended the bill with a substitute which represents a compromise agreement reached by the Veterans' Affairs Committees.

I believe that the measure before the Senate represents an equitable resolution of the differences between the two Houses and fairly vindicates the basic position of the Senate on the various matters addressed by the legislation.

In addition, I am pleased that the compromise agreement includes several provisions that I proposed in S. 2389, legislation that I introduced on April 15, 1982. I am very grateful to our committee chairman (Mr. SIMPSON) and the chairman (Mr. MONTGOMERY), and ranking minority member (Mr. HAMMERSCHMIDT) of our counterpart committee in the House for their cooperation and assistance as we have developed the compromise agreement.

NURSE AND OTHER HEALTH-CARE PERSONNEL

Mr. President, the compromise agreement as it is before the Senate today has a number of provisions that, if enacted, will enable the VA to improve its ability to attract and retain health-care personnel, most particularly nurses.

Mr. President, it is vital that the VA be able to compete effectively in the marketplace with other health-care providers for the services of qualified health-care personnel. The heart of the VA's health-care system is the agency's cadre of trained and motivated health-care personnel. Without sufficient, qualified personnel, the VA cannot provide the quality or quantity of health-care services needed by eligible veterans. At present, the greatest problem that the agency is facing in this regard is in the area of registered nurses.

The factual record developed in Veterans' Affairs Committee hearings is clear: There is a genuine shortage of registered nurses across the country and, as non-Federal health-care providers develop and implement innovative approaches to attract nurses, the

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VA is at a significant competitive disadvantage. Provisions in the compromise agreement—specifically those providing new flexibility to the agency in areas of pay and scheduling for nurses and other health-care personnel and those making improvements to the VA's health professional scholarship program—should help address the agency's recruitment and retention problems.

According to the VA, as of June 30, 1982, there are nearly 400 beds that are out of use because of the nursing shortage. The agency, which had 987 RN vacancies as of that date, would need to hire at least 228 nurses to put the closed beds back into circulation. This legislation will help the VA fill those nurse vacancies and get those beds back into operation.

PAY AND WORK SCHEDULES

Mr. President, the compromise agreement contains two provisions—based on provisions included in the Senate amendment and derived from my bill, S. 2389—that would give the VA greater flexibility to compete in the areas of pay and work scheduling. First, the VA would be given authority to extend the period for which additional pay is paid for service on a weekend so as to include service on a Saturday. Second, the VA would be given authority to use the so-called "Baylor Plan," under which nurses could work two 12-hour shifts during a weekend and generally receive pay and benefits on the same basis as if they had worked 40 hours.

With reference to the new weekend pay authority, the provision in the compromise agreement, if enacted, will enable the agency to be more competitive with non-VA health-care facilities that currently offer additional pay to nurses for the entire weekend. Under the provision in the compromise agreement, the Administrator will have maximum flexibility in terms of specifying the hours on a Saturday for which such additional pay could be paid and the rate of such pay, up to the rate specified in law for work on a Sunday—which is currently a rate of 25 percent of base pay.

I want to emphasize that the exercise of both of these new authorities is discretionary with the Administrator. Neither would be required to be exercised and, in fact, the authorities could be utilized only when determined necessary to improve the agency's ability to recruit or retain needed personnel. Thus, even though the VA is experiencing serious nursing shortages at various locations in the system, it seems likely that neither of these authorities would be used immediately throughout the system. Rather, it is contemplated that the Administrator authorize the use of one or both authorities, as appropriate, at those locations where there are recruitment or retention difficulties because of competitive pressures from non-VA facilities in the same geographic area.

Mr. President, in addition to the provisions I have just outlined relating to new pay and work-scheduling authorities, there are several provisions in the compromise agreement—derived from the Senate amendment and S. 2389—relating to certain VA health-care personnel pay authorities enacted in Public Law 96-330 in 1980. Under those authorities, the Administrator may, when necessary to recruit or retain certain health-care personnel, modify statutorty rates of additional pay—such as for overtime work or work on a Sunday or holiday—for nurses on a facility-by-facility basis and modify rates of basic pay for nurses and other VA direct health-care personnel on a local, regional, or nationwide basis. Provisions in the compromise agreement would extend the first authority—the additional-pay authority for nurses—so as to permit modifications to be made on an other-than-local basis.

Also, as to both these authorities, as well as the new authority to utilize "Baylor Plan" scheduling, the Administrator would be required, within 120 days after the date of enactment of the bill, to publish for public review and comment proposed regulations to implement those authorities and, within 300 days after the date of enactment, to publish final regulations. This latter requirement is included in order to promote full and effective use of the various authorities which, in turn, should enhance the agency's ability to compete with private sector health-care facilities. The deadlines for these regulations were 90 and 210 days, respectively, in the Senate amendment. The additional time provided in the compromise agreement is for the purpose of enabling the VA to develop proposed regulations and fully to take into account the views of all parties before publishing final regulations. The committees have made clear, however, that they expect the VA to work to promulgate the implementing regulations as quickly as possible and not take the full period allowed.

One provision in H.R. 6350 as passed by the Senate relating to pay and scheduling flexibility is not included in the compromise agreement. Under the Senate amendment, as proposed in S. 2389, the Administrator would have been authorized to use flexitime or compressed work schedules, as described in regulations and guidelines that were issued under the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390, for nurses and other direct health-care personnel. This provision is not included in the compromise agreement. The reason for this deletion—as is discussed more fully in the "Explanatory Statement" that the chairman of the committee (Mr. Simpson) has printed in the Record as part of his remarks and which was printed in the Record in identical form by the chairman of the House Veterans' Affairs Committee, Representative Montgomery, during the debate on the compromise agreement in the other body—is the recent enactment of Public Law 97-221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which provides Government-wide authority to utilize alternative work schedules. However, because of the committees' strong interest in the results of the VA's use of this authority on the agency's recruitment and retention efforts, the compromise agreement includes the Senate provision requiring the Administrator to report, not later than July 1, 1985, on the VA's experience of the Government-wide authority.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Mr. President, as I noted earlier, the other aspect of the compromise agreement that should enhance the VA's ability to recruit and retain qualified health-care personnel pertains to the agency's health professional scholarship program.

This program, established in 1980 by Public Law 96-330, is available for use by the VA for physicians, nurses, and certain other health-care personnel, but has been used by the agency thus far only for nurses. Provisions in the compromise agreement, derived from the Senate amendment and S. 2389 as well as S. 2385 as introduced by our distinguished chairman (Mr. Simpson), would enable the VA to permit current full-time employees to participate in the program while continuing to work for the agency on either a full- or part-time basis. This change would allow the program to be used by VA registered nurses who are desirous of pursuing training for a baccalaureate or advanced degree or by other VA health-care personnel, such as licensed practical or vocational nurses, who are interested in pursuing training to become RN's. Such current employees would thus be made eligible for financial assistance from the VA—tuition and stipend assistance for those working on a part-time basis—while pursuing part-time training. At the completion of their training—which would have to be on at least a half-time basis—these employees would be obligated to remain with the VA for further periods.

The legislation as passed by the Senate included a provision that would have provided that funds appropriated for making payments to scholarship program participants would remain available until expended, which would have had the effect of enabling the VA to enter multi-year commitments with program participants and thereby make the scholarship program more attractive to prospective applicants. As is explained in more detail in the "Explanatory Statement" I mentioned earlier, this provision is not included in the compromise agreement. I am satisfied, however, that as a result of the discussions involving staff from the Veterans' Affairs and Appropriations Committees, the need for program stability has been fully recognized by the Appropriations Committees and will be addressed by those committees in future appropriations activity.

CHAMPVA ELIGIBILITY RESTORATION

Mr. President, the compromise agreement contains a provision to ensure continuing Federal health-care eligibility for CHAMPVA beneficiaries—the spouses and children of veterans with total, permanent service-connected disabilities and of those who die from service-connected disabilities or who, at the time of death, had total, permanent service connected disabilities. Under current law, these family members and survivors lose their CHAMPVA eligibility when they become eligible for medicare and generally lose needed Federal health-care assistance when they exhaust any part of their medicare coverage. Under the compromise agreement, as provided in the Senate amendment and S. 2389, when a former CHAMPVA beneficiary exhausts any of his or her medicare benefits, he or she would again become eligible for CHAMPVA benefits and would not thereafter lose CHAMPVA eligibility by reacquiring medicare eligibility. As a result of this change, such a spouse, surviving spouse, or child previously eligible for medical care under CHAMPVA would no longer be confronted with the present inequitable situation in which he or she has no Federal health-care coverage.

EXTENSIONS OF CERTAIN EXPIRING AUTHORITIES

Mr. President, the compromise agreement includes provisions to extend two expiring authorities.

These provisions would:

First, extend by 4 years as proposed in the Senate amendment—through fiscal year 1986—the authorization of appropriations for the VA program of matching grants to States to construct, expand, remodel, or alter State veterans' home health-care facilities. State veterans' homes provide a cost-effective alternative to VA facilities for the provision of long-term care to veterans, and I thus consider this extension highly desirable. With further reference to the State veterans' home program, a provision in the compromise agreement includes, as provided in the Senate amendment an express reference to State veterans' homes as part of the surrounding medical community eligible to participate with the VA in programs through which VA facilities, particularly in remote areas, make available to others in the local medical community, for a fee, VA educational resources and VA electronic communications capability linking such VA facilities to major medical centers.

Second, extend for 1 year—until September 30, 1983—the VA's authority to provide, on a contract basis in Puerto Rico, the Virgin Islands, and other territories of the United States, hospital care for non-service-connected disabilities and outpatient treatment to obviate the need for hospitalization for such disabilities. With reference to this extension of the VA's authority to provide medical care on a contract basis to certain veterans in Puerto Rico and the Virgin Islands, I want to underscore the point made in the "Explanatory Statement" that this extension is a stop-gap action and that it is important that a permanent approach to the VA's providing appropriate and cost-effective health care in these two locations be developed expeditiously. The "Explanatory Statement" specifies a December 1, 1982, deadline for the VA to provide the committees with a comprehensive plan on this matter. I will be giving the proposed plan careful consideration as soon as it is submitted.

CONTRACT CARE FOR WOMEN VETERANS

Mr. President, the compromise agreement does not contain a provision that was included in the measure as passed by the Senate that would have authorized the VA to provide certain outpatient care—pre- or post-hospitalization care and care necessary to obviate the need for hospitalization—on a fee-for-service basis for a non-service-connected, gender-related disability of a woman veteran when the VA is unable to provide appropriate care. As is discussed in more detail in the "Explanatory Statement," this provision is not included in the compromise agreement because of a concern that providing fee-for-service authority might prove counterproductive to the need for the agency to enhance its in-house staff capacity to meet the gender-related needs of women veterans. I want to stress my concern that the existing authorities discussed in the "Explanatory Statement" that an individual VA facility can rely on at present when it does not have a current capacity to provide needed care to an otherwise eligible woman veteran—specifically the authorities in sections 4117 and 5053 of title 38—may result in long delays in certain instances in the provision of needed care to women veterans. In this regard, I will insert in the RECORD a letter, with deletions so as to respect the veteran's privacy interests, which describes the difficulties one woman veteran had in getting care from the VA for what was later discovered to be a serious gynecological disorder. I urge the VA's Chief Medical Director to look into the efforts undertaken around the VA system at present to meet the health-care needs of women veterans so as to insure that otherwise eligible women veterans receive appropriate care for gender-related disabilities on a timely basis.

Mr. President, I ask that the expurgated text of the letter I just mentioned be printed in the RECORD at this point.

The letter referred to follows:

JULY 15, 1982.

HON. ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I am writing this letter in the hopes that your office may be able to shed some light on the problems of women who have served in the Armed Forces, and are currently residing at the California Veterans Home, in Yountville. The problem can best be explained by pointing up one particular case, that was experiencing what she thought were serious gynecological disorders, and went to the Veterans Home medical facility, requesting a doctor's attention. She was told that there were no Gynecologists on staff and it would benefit her to see a physician at the Veterans Administration Medical Center. She then pursued that avenue and found there were no GYN's in any VA facility in all of Northern California. Palo Alto VAMC did say that they had a GYN on consultation, but it would be months of getting nowhere, the administration at the Veterans Home told her to go to a private doctor in town at her own expense. Fortunately, being retired from the Army, she was entitled to be seen and treated at Letterman Army Hospital. They discovered Cancer, and operated to remove most of it on June 15, 1982. Whether or not the cancer could have been treated if detected earlier may never be known. My concern, as well as is what about the thousands of women in Northern California who may have gynecological problems but do not have the advantage of being retired from the service? Those women who served their country when needed and now may need their country? The women residents of the California Veterans Home, who are being told to wait for the VAMC to get a GYN or go to a Doctor at their own expense, when they barely can afford the essentials?

It is my hope that you may be able to get answers to these questions, answers that might give hope to those veterans who are already feeling rejected by their country, state and Veterans Administration.

As a veteran myself, I have always been pleased with the work and dedication you have shown the veterans of California and the country, and I thank you.

Sincerely,

—— ——,
Assistant,
Veteran Service Officer.

CONCLUSION

Mr. CRANSTON. Mr. President, as I noted earlier, I believe that the compromise agreement represents a fair resolution of the differences between the two measures passed by the two bodies and will contribute substantially to the provision of quality VA health-care services. Thus, I commend this compromise to the Senate and urge my colleagues to give it their full support.

In closing, I would like to express my appreciation to the chairman (Mr. SIMPSON) and the other members of the committee for their cooperation and assistance as we have worked to develop this measure. I also want to thank my good friends on the House committee, the chairman, Representative MONTGOMERY, and ranking minority member, Representative HAMMERSCHMIDT, for their usual fine work and cooperation. It has been, as always, a pleasure working with them. The compromise measure has true bipartisan support in both Houses.

Mr. President, I also want to express my thanks to the staff members of the House Committee who played key roles in the development of the compromise agreement, Mack Fleming, Rufus Wilson, Ralph Casteel, and Jack McDonell; to Robert Cover, assistant counsel, House Legislative Counsel's office, and to the members of our committee staff; Tom Harvey, Julie Susman, and Koreen Kelleher, who left the staff in July, on the majority side, for their excellent work and cooperation on this measure, committee editorial director, Harold Carter and his assistant, James MacRae, who so ably provide editorial support to the committee, and, on the minority side, Bill Brew, Ed Scott, Jon Steinberg, Katy Burdick, Charlotte Hughes, and Ingrid Post.

Mr. President, I urge my colleagues to support the compromise agreement.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

VA'S CHIEF MEDICAL DIRECTOR MAKES GOOD SENSE ON VETERANS' HEALTH CARE

Mr. CRANSTON. Mr. President, at the recent national convention of the Disabled American Veterans in Las Vegas, Nev., the Veterans' Administration's Chief Medical Director, Dr. Donald L. Custis, delivered a very instructive speech to the convention about the VA health-care system. I believe that Dr. Custis' views deserve the serious attention of my colleagues and others concerned about health care in the VA and in the United States generally.

Mr. President, so that my colleagues may have the benefit of Dr. Custis' views, I ask that a verbatim transcript of Dr. Custis' remarks to the DAV National Convention be printed in the RECORD at this point.

The transcript as follows:

REMARKS OF DR. DONALD L. CUSTIS

Thank you, Sherman, and my congratulations to you for your outstanding accomplishments as national commander. And Congressman Edgar, if I had any sense after that outstanding address, I would sit down.

Distinguished guests, members of the DAV and Auxiliary, yesterday while flying to Las Vegas, I read the July issue of the DAV Magazine, and from the tenor and the temper of some of the articles there, I was persuaded to open my remarks with the story of the African hunter. The hunter got separated from his safari, and he wandered through the jungle for several days until hungry and enervated, he began to realize that he was lost.

He became hysterical, and he said, "Oh, Lord, hear me; oh, Lord, save me; oh, Lord, lead me out of the jungle." Whereupon, he came face to face with a roaring lion. Now, can you give us a roar? (Laughter) Not as ferocious as I thought. The hunter fell to his knees and shouted, "Oh, Lord, make me a Christian," and the lion roared and shouted, 'Oh, Lord, bless this food I'm about to eat." (Laughter)

Last year I spent a lot of time writing what I thought was a very good speech, which I read to you. I think the measure of its merit was attested to by the fact that I lost you in the first ten minutes. I won't perpetrate that again. What I would like to do instead is spend a few minutes talking to you extemporaneously and from the heart.

And speaking of heart, I would up front commend a man who is heavily endowed with heart, our own Gabby Hartnett. (Applause) Believe me, it is a pleasure to work with Gabby and his staff. They have got class. They know their work, and they have got it all together, and I am sure that you are as proud of them as they are of the DAV.

Their concern for veterans is a reflection of the empathy which pervades the DAV. You show it day after day in the unselfish volunteer service you provide to our veterans in our hospitals.

Both Commander Roodsant and Gabby, writing in that issue of DAV Magazine, have reminded you that veterans' benefits are under attack. I lift the following sentence out of Gabby's article, quote: "The danger is real, very real. You must fight to save your benefits. And to that I say amen.

And I would like to focus down on the threats to that particular benefit called the veterans' health care delivery system. You have stood sentinel over that system for years, and you are very good at it. Your interest in the veterans' health care system is more than that of a consumer; you are also a proprietor.

The system is largely what you have made it. You have created not only an outstanding health care system for your fellow veterans, but you have also provided the nation with an outstanding asset. The veterans' health care system, to my mind, is a critical element in national security. It is today the most on-line contingency backup to military medicine that exists.

The veterans' health care system today is the nation's main resource for health manpower production. There is no substitute for that function. I know there are flaws in the system. We work on them every day, but let me tell you something. I also know firsthand the many elements that go to make up the pluralistic, public, private, voluntary health care delivery systems that have made American medicine the envy of the world.

I have practiced in the private sector. I have worked in community hospitals. I have worked in university hospitals. I have served in military hospitals, and now I work in the VA, and by comparison, let me tell you that your health care system is damn good. (Applause)

And I can only admonish you to cherish it and defend it and hang on to that dogged conviction that it is worth saving.

What are these dangers, these threats besetting VA medicine? I think first and foremost the threat stems from the fact that we are an integral part of the American health care scene, a $260- to $270 billion industry that is economically out of control. It has over a period of the last several years had an inflation rate sometimes double that of the Consumer Price Index.

If some means is not found to bring under control this escalating cost of medical care, it more than anything else is going to compromise our ability to provide the quantity and the quality of care that the veteran so richly deserves. So far the Congress has found no incentives, has written no legislation providing incentives for cost control.

Instead, they have reverted once more to caps, cuts, and pending capitation vouchering for Medicare, all of this cost shifting in the guise of cost containment. But the promise continues that the system will be redesigned, and there will be a new financial base provided.

Whatever form that takes, and right now all of these systems are in turmoil, in search of that redesign, you can be sure that veterans who have never before used our system are no longer going to be able to afford the increased differentials and surcharges that will be attendant upon Medicare and Medicaid.

The impact on the system will be more demand, aggravating the dilemma we have been struggling with for five or six years; namely, of increased demand in the face of ever-diminishing resources. There will be another impact—we are seeing it already—as federal subsidy to medical schools declines, our affiliate hospitals and universities will be the more dependent upon the VA system as a teaching base.

As we undergo this redesign, beware, beware of these danger signs: The threat for mainstreaming. We have seen it surface in the last two years in Portland, in Minneapolis, in Baltimore, all cities where there is an oversupply of physicians, the vanguard of a situation where there will be a glut of physicians in the country by the year 1990.

They are hungry and they would like nothing better than to see the high profit, acute care bled from the VA system. They are in no position, they are not interested, they are not capable of providing the full continuum of care, just that acute care. Should that ever happen, it would so disturb our patient mix that our ability to continue to provide a teaching base for health manpower would be gone, and with it our ability to attract quality health professionals into the system and retain them would be gone. It would be the beginning of a reversion to an old soldiers' and sailors' home system so well remembered from the 1930s.

Beware of mandated contracting out. Medical care, if it is to have quality, must be a team effort, and those who would fragment the management authority over that team would destroy the system. Just two weeks ago, I heard, of all places, an outstanding geriatrician from Philadelphia testifying before the House VA Committee, recommending that because the VA health care system was so manifestly good at providing extended care, they should exclusively, we should exclusively concern ourselves with extended care and let the acute care pass to the private sector.

Those who would advocate this are either ignorant of the implication or they know it full well and have the ulterior motive to destroy your health care system.

Beware of attacks on affiliation. I tell you that our affiliation program is our chief guarantor of continued quality.

Beware of slander in the media. Never has a health care system suffered from so much inaccurate, unfair, lousy press.

And beware of the specious argument that somehow the nonservice-connected veteran, the needy, medically needy nonservice-connected veteran somehow is not entitled to care in the system. This system cannot exist caring only for service-connected.

Ladies and gentlemen, the best answer to competition is not just a defensive stance, but also an aggressive pursuit of improving what we do, and that is what our Medical District Initiated Program Planning—MEDIPP—is all about, our grass-roots planning effort. It is an effort to control change, to identify where improvement in care and facilities for care are needed, based on an updated demography of the veteran.

We need to identify a better resource distribution methodology. We need to improve our productivity. We need to step up our preparation for the aging veteran. Let me digress a minute and tell you the magnitude of that impact. During the 20th century, life expectancy in these United States has been increased from 48 years to 73 years. If everyone who ever lived beyond the age of 65 since the birth of Christ—let me repeat that: Of all human beings since the birth of Christ, whoever lived beyond the age of 65, one-half of them are alive today.

During the 20th century the incidence of over-65 has increased from three percent to 12 percent. By the year 1990, 35 percent of all veterans will be over the age of 65, and in 1990 of all living males over the age of 65, 60 percent of them will be veterans. We are talking about you and me down the road. And our needs at that time for acute care will be three times the need we ever experienced before.

We need clearly to regain our role in, leading role in rehabilitation, and we will. We need to find the ultimate answer to Agent Orange, and we will. We need to keep pace with the exploding technology in medicine, with automation of clinical services, with facility replacement and renovation, and all of this is going to take money, lots, of money.

The point is, we can and we will do it more economically than our competition. (Applause) As Sherm Roodzant would say, we have promises to keep. Working together, I have no doubt as to the continued integrity and durability of the VA health care system, just as I have no doubt of the continuous advancement of medicine itself.

Never has there been a period in medicine when the future looked so bright. There is within medicine somewhere, beneath the pessimism and discouragement resulting from the disarray of our health care systems and their stupendous costs, an undercurrent of almost outrageous optimism about what may lie ahead for the eradication of human disease, if not indeed an understanding of the nature and the meaning of life itself.

I thank you, and God bless the DAV.●

EXCHANGE OF CERTAIN INDIAN LANDS

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Chair lay before the Senate S. 503, Calendar Order No. 725.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 503) to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, North Dakota, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members, and

(B) prevent further loss of trust land.

SEC. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) Any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

SEC. 3. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

SEC. 4. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this Act shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

SEC. 5. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this Act shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

SEC. 6. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this Act of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this Act and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

SEC. 7. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

SEC. 8. (a)(1) A person who is not an enrolled member of the Devils Lake Sioux Tribe shall not be entitled to receive by devise or descent any interest in trust or restricted land located within the Devils Lake Sioux Reservation, if—

(A) the Devils Lake Sioux Tribe files with the Secretary notice of intent to purchase such interest, and

(B) while the decedent's estate is pending before the administrative law judge, the Devils Lake Sioux Tribe purchases such interest by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(b)(1) Notwithstanding subsection (a), if—

(A) the spouse of the decedent is not an enrolled member of the Devils Lake Sioux Tribe, and

(B) such spouse would, but for this section, acquire by devise or descent an interest in trust or restricted land located within the Devils Lake Sioux Reservation, and

(C) the Devils Lake Sioux Tribe files with the Secretary notice of intent to purchase such interest, and

(D) the spouse of the decedent elects the application of this subsection.

the spouse shall have a life estate in such interest and the remainder of such interest shall pass to the heirs of the decedent who are alive on the date of death of the spouse of the decedent (on a per capita basis).

(2) The passing of any remainder interest under paragraph (1) shall be subject to the provisions of subsection (a).

(c) On request of the Devils Lake Sioux Tribe, the administrative law judge shall

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keep an estate pending for not less than two years from the date of the decendent's death.

(d) In any case in which the Devils Lake Sioux Tribe acts under subsection (a) to purchase an interest in trust or restricted land and such interest is encumbered by a spousal life estate, the value of such life estate shall be reflected in the appraisal of the Secretary made under subsection (a)(1).

(e) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this Act.

Sec. 9. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

Sec. 10. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this Act.

Mr. COHEN. Mr. President, S. 503 was introduced by the senior Senator from North Dakota, Senator Burdick. The purpose of S. 503 is to permit consolidation of landholdings on the reservation, reduce instances of fractionated heirship in trust lands, and to provide lands for tribal programs designed to improve the economy of the tribe. S. 503 authorizes the Secretary of the Interior to acquire land or improvements within the reservation for the tribe or individual members and also authorizes the Secretary to sell any trust land, provided that new trust land is acquired at the time of such sale. It also authorizes the exchange of trust land for other lands within the reservation.

S. 503 tracks many of the provisions of the Indian Reorganization Act of 1934. However, this legislation is required because the Devils Lake Sioux Tribe, many years ago, voted to exclude itself from the application of that act. A unique feature of S. 503, however, is a limitation placed upon the right of inheritance of trust property within the reservation by persons who are not members of the Devils Lake Sioux Tribe. This limitation is conditioned on the payment by the tribe to the heir or devisee of the fair market value of property.

Mr. BURDICK. Mr. President, a major feature of this legislation is a restriction on the right of nonmembers of the Devils Lake Sioux Tribe to inherit trust lands of deceased tribal members. Under the provisions of section 8 of the bill the tribe is given the right to purchase the trust lands of a deceased member if such lands would otherwise be acquired by a nonmember by devise or inheritance. However, this right of acquisition is modified to the extent that if the nonmember is the surviving spouse, then such nonmember is given the right to elect a life estate in the property and the remainder interest in the property shall descend by operation of law to the heirs of the decedent who are members of the tribe on a per capita basis.

Since this bill was reported out of the Select Committee on Indian Affairs the Devils Lake Sioux Tribe has requested a minor modification in the provisions of this section. I am therefore offering an amendment by way of a substitute for the bill reported out of the select committee. This amendment alters the provisions of section 8 of the bill to provide that in those situations where the tribe notifies a surviving nonmember spouse that it desires to exercise its right to purchase, the surviving spouse may elect a life estate and may convey the remainder interest to any heir of the decedent who is a member of the tribe. I believe this amendment will provide additional protection against further fractionation of these land holdings and also greater protection to surviving nonmember spouses.

In addition, there is a technical amendment to section 2 of the bill to make clear that nothing in this bill authorizes any new appropriation or expenditure of funds other than is presently authorized by law.

Mr. COHEN. Mr. President, I have reviewed the amendment offered by my distinguished colleague and I recommend that it be adopted by the Senate.

Mr. BAKER. Mr. President, is there a committee substitute at the desk?

The PRESIDING OFFICER. There is a committee substitute.

Mr. BAKER. Will the Chair put the question?

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was rejected.

UP AMENDMENT NO. 1260

(Purpose: To provide a committee substitute making technical amendments)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Burdick, I send an amendment in the nature of a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), on behalf of Mr. Burdick, proposes an unprinted amendment in the nature of a substitute numbered 1260.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Section 1. The Congress finds that—

(1) the Devils Lake Sioux Tribe, of the Devils Lake Sioux Reservation, North Dakota, is vigorously pursuing its goal of self-determination through development of manufacturing and farming enterprises; and

(2) the continued existence of the Devils Lake Sioux Reservation, North Dakota, as a permanent homeland of the Devils Lake Sioux Tribe and as a necessary foundation for continued self-determination requires that the Secretary of the Interior have authority to—

(A) consolidate and increase the trust land base in the reservation for the tribe and individual tribal members; and

(B) prevent further loss of trust land.

Sec. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to—

(1) purchase with any funds held by the Secretary in trust for the benefit of the Devils Lake Sioux Tribe or appropriated for the purpose, or acquire by gift, exchange, or relinquishment, any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation for the benefit of the Devils Lake Sioux Tribe or individual members of such tribe;

(2) sell or approve sales of any interest in tribal trust or tribal restricted land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation but only if additional tribal trust or tribal restricted land which is approximately equal in acreage or value to the interest sold is acquired by the Secretary at the time of such sale; and

(3) exchange any interest in tribal or individual trust land or tribal or individual restricted land (or any improvements thereon) for any land located within the Devils Lake Sioux Reservation but only if the values of the interests in land involved in such an exchange are equal or are equalized by the payment of money.

(b) any purchase of Federal lands under subsection (a)(1) shall be made in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2744).

Sec. 3. The Secretary shall accept any transfer of title from the Devils Lake Sioux Tribe, or from any individual member of such tribe, for any interest in land (or any improvements thereon) located within the boundaries of the Devils Lake Sioux Reservation, and shall take title to such property in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe, or for such individual member.

Sec. 4. Any acquisition, sale, or exchange of lands for the Devils Lake Sioux Tribe which is made under this Act shall be made only upon the request of the authorized governing body of the Devils Lake Sioux Tribe, subject to the limitations and procedures of the tribal constitution.

Sec. 5. Notwithstanding any other provision of applicable law, the title to any interest in land, or any improvements thereon, acquired by the Secretary under this Act shall be acquired in the name of the United States in trust for the benefit of the Devils Lake Sioux Tribe or an individual member of such tribe, as the case may be, and such property shall be held and treated in the same manner as other trust or restricted Indian lands are held and treated under Federal law.

Sec. 6. Money or amounts credited to the Devils Lake Sioux Tribe from the sale or exchange under this Act of any interest in trust or restricted land (or any improvements thereon) may be used only for the purpose of purchasing or acquiring property under this Act and shall be deposited in a special account under the control of the Secretary or his duly authorized representative.

Sec. 7. Subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415), as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Agua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases to the Devils Lake Sioux Tribe, or any organization of such tribe, of land on the Devils Lake Sioux Reservation,".

Sec. 8. (a)(1) The devise or descent of any interest in trust or restricted land located within the Devils Lake Sioux Reservation to any person who is not a member of the Devils Lake Sioux Tribe shall be subject to the right of such tribe to purchase such interest within 2 years of the date of death of the decedent by paying to the Secretary for the benefit of such person an amount equal to the fair market value of such interest on the date of such purchase (as determined by the Secretary after appraisal).

(2) Within ninety days after the date on which the Secretary receives payment of an amount for the benefit of a person under paragraph (1), the Secretary shall pay such amount to such person.

(3) The Devils Lake Sioux Tribe may exercise its right under paragraph (1) to purchase the interest of a person only if the governing body of such tribe notifies such person and the Secretary of the intent of such tribe to purchase such interest at least 90 days prior to the date of such purchase.

(b)(1) Subsection (a) shall not apply to any interest in land acquired by the spouse of a decedent if—

(A) the spouse elects the application of this subsection prior to the date which is 90 days after the date on which the governing body of the Devils Lake Sioux Tribe notifies the spouse of its intent to acquire such interest, and

(B) prior to such date, the spouse retains a life estate in such interest and conveys the remainder of such interest to any heir of the decendent who is a member of such tribe.

(2) If the spouse of a decedent elects the application of this subsection with respect to any interest in land which was trust or restricted land immediately prior to the death of the decedent, the life estate and the remainder of such interest created by the conveyance described in paragraph (1)(B) shall acquire such trust or restricted status.

(c) This section shall only apply to interests included in the estates of decedents dying on or after the date of enactment of this Act.

Sec. 9. The Devils Lake Sioux Reservation, North Dakota, is hereby declared the permanent homeland of the Devils Lake Sioux Tribe.

Sec. 10. The Secretary is authorized to take such action as may be necessary to carry out the purposes of this Act.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (UP No. 1260) was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIRGIN ISLANDS NONIMMIGRANT ALIEN ADJUSTMENT ACT

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3517, Calendar No. 766.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3517) to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin islands of the United States, and for other purposes.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment:

On page 7, line 2, strike "States.", and insert the following: States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.

Mr. **THURMOND**. Mr. President, the Congressional Budget Office estimates that the Immigration and Naturalization Service will incur costs of $100,000 in fiscal year 1983 as a result of the enactment of this bill. H.R. 3517 might appear to require the provision of new budget authority to cover these costs. This is not the intent of the Judiciary Committee; the committee intends that the costs of implementing H.R. 3517 be absorbed by the Immigration and Naturalization Service. Also, H.R. 3517 is not intended to "drive up" the agency's future budget request to cover these costs.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MIGRATORY-BIRD HUNTING AND CONSERVATION STAMP CONTEST

Mr. **BAKER**. Mr. President, I send to the desk a bill, S. 2874, on behalf of the Senator from Rhode Island (Mr. Chafee), and ask for its immediate consideration.

The **PRESIDING OFFICER**. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill (S. 2874) to amend the act of March 16, 1934, as amended, to credit entrance fees for the migratory-bird hunting and conservation stamp contest to the account which pays for the administration of the contest, which was read the first time by title and the second time at length.

The **PRESIDING OFFICER**. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2874) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of March 16, 1934, as amended (16 U.S.C. 718, et seq.) is amended by adding at the end thereof the following section:

"Sec. 10. Notwithstanding any other provision of law, moneys received by the U.S. Fish and Wildlife Service in the form of fees for entering the migratory-bird hunting and conservation stamp contest shall be credited first to the appropriation account from which expenditures for the administration of such contest are made, and second, to the extent such moneys exceed the expenditures for administration of the contest, to the migratory-bird conservation fund.".

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. **BAKER**. Mr. President, I have four nominations that have been reported by the Committee on the Judiciary earlier today which I believe have been cleared on both sides.

Mr. **ROBERT C. BYRD**. Yes; they have, Mr. President. Under great pressure, I reluctantly agreed to clear them on this side; but I found great difficulty in withstanding the pressure upon me, especially the pressure that came from the Senator from South Carolina (Mr. Thurmond).

Mr. **BAKER**. Mr. President, I am more familiar with that than perhaps any other Member in the Chamber.

Mr. **ROBERT C. BYRD**. God save the King and Senator Baker, along with the King. [Laughter.]

Mr. BAKER. I thank the Senator.

Mr. President, after that colloquy, which perhaps only Members of the Senate will understand and, more especially, only Members of the leadership will appreciate, I ask unanimous consent that the Senate go into executive session for the purpose of considering the four nominations, which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Thomas F. Hogan, of Maryland, to the U.S. district judge for the District of Columbia.

Alex Kozinski, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years.

Ross T. Roberts, of Missouri, to be U.S. district judge for the Western District of Missouri.

DEPARTMENT OF JUSTICE

Raymond J. Dearie, of New York, to be U.S. attorney for the Eastern District of New York for the term of 4 years.

Mr. BAKER. Mr. President, I move to reconsider en bloc the votes by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE CRISIS IN POLAND

Mr. MURKOWSKI. Mr. President, today I should again like to speak to my distinguished colleagues on the crisis in Poland and on some of the profound effects on the people of that country. Poland's economy, political climate, and human rights situation have deteriorated drastically since the imposition of martial law on December 13 of last year.

In large part, the first half of this year in Poland may be characterized as the economy's reaction to import curbs and economic restrictions. Overall imports from the West to Poland are down 42.3 percent from last year. Industrial production under martial law is suffering, especially in those industries depending on imports from the West. Martial law has had a notable effect on the working population. Production per worker has dropped 2.7 percent in the last 6 months. One can expect this figure to increase if the conditions many Poles are forced to work under are taken into account. Close to half the 16 million work force labor under unsafe conditions and some 300,000 of these work in conditions that are very harmful to their health.

According to the Polish Government's central statistics office, real personal income has fallen by 26 percent and the inflation rate is up over 100 percent so far this year. The difficulties created by martial law have caused the supply of goods to dwindle and have even compelled the ruling junta to begin rationing items such as footwear and socks.

The agricultural picture is no better under General Jaruzelski's government. With their stockpile of fodder steadily deteriorating there will soon be a reduction in the livestock herd. The rationing of meat has been in effect for some time. Agriculture received 50 percent less fodder this year than last. Hog and chicken breeding and large-scale egg production have nearly come to a halt. The procurement of these items has dropped by 60 percent.

Poland consumes 6 million tons of grain annually. At best, they will produce 1.8 million tons this year. If it were not for the many humanitarian assistance programs originating in the United States the basic needs of 4 to 5 million Poles would very likely go unattended at the hands of the military government and many would face possible starvation. The Catholic Relief Service, Care, and Project Hope have been directly responsible for the continued well-being of this segment of the population. I cannot stress enough the need for this aid or the importance of it continuing to reach the Polish people.

The Soviet Union must be held accountable for their role in creating the martial law conditions in Poland. The sanctions imposed by President Reagan on Poland and the Soviet Union have in large part helped to create a net financial flow from Poland to the West. This has forced the Soviet Union to transfer significant amounts of real resources to Poland in an attempt to head off further deterioration of the Polish economy and avoid a popular uprising against the junta.

The Soviet Union has now put their own people to work in Polish factories to keep an eye on operations. This is obviously a tool that has been implemented by the Soviets in an attempt to deter Solidarity or any union activity. At the same time many Solidarity members are being pressured to emigrate. Large numbers have been fired from their jobs after having been released from detention camps. According to Polish press reports, several have been repeatedly beaten by police. In one such related incident, when a former Solidarity regional leadership member refused to work as an informer for the political police he was told that he could meet with an accident. Eventually he was pressured into emigrating. Many of those who stood up to the pressure have simply been sent back to prison. Furthermore, the Catholic church in Poland has been warned by authorities to cut their ties with Solidarity or face the possibility of raids which will uncover evidence implicating them in a "conspiracy" with Solidarity leaders.

The 31st of this month marks the second anniversary of the Gdansk Agreements whereby the Polish Government recognized the independent trade union's right to exist. As my distinguished colleagues know, this right was suspended on the 13th of December with the imposition of martial law. Solidarity has called for nationwide demonstrations on this day. Already this week we have seen numerous outbursts of public discontent in Poland's major cities.

For the coming weeks and months, this Congress must watch events closely and with great interest, as I hope all Americans will. I believe my colleagues should support President Reagan in this area until there is an abrogation of martial law, a readmission of Solidarity into the decisionmaking process, and persons sentenced or interned because of their relationship to Solidarity are released.

I support the President's policy of sanctions because I feel it represents the most credible means of letting the Soviets, and the Polish Government, know of our concern and interest in the welfare of the Polish people and their right to form independent trade unions. I call on my colleagues to do the same.

THE UNITED STATES-CHINA JOINT COMMUNIQUE

Mr. MURKOWSKI. Mr. President, many of us in the Senate are concerned about the United States-Mainland China communique which was issued earlier this week.

I have always believed that international peace and stability could be enhanced by improved relations between the United States and Mainland China. However, I also feel that this cannot occur at the expense of our

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long-term friendship with Taiwan and that nation's legitimate defense concerns. After a careful study of the communique, the President's accompanying statement, and meeting personally with the President, some of my concerns have been alleviated while others have not.

The communique states that the United States "appreciates Mainland China's recent reunification proposals and contends that they have created a "new situation." I am strongly in favor of encouraging a decrease in tensions between Taiwan and China, and I believe the communique could serve a constructive role in convincing Beijing and Taipei that they should begin to talk seriously about their differences. Nevertheless, I feel we should not laud the Chinese position on reunification while ignoring the Taiwanese side.

The communique also states that the "U.S. Government does not seek to carry out a long-term policy of arms sales to Taiwan," and that it does intend "to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." This crucial U.S. concession to a long-standing Chinese demand has been made in return for Chinese agreement to language saying that "striving for peaceful reunification" is a "fundamental policy" of their government. It is important that the Chinese have publically stated their desire to settle their problems with Taiwan peacefully. However, I fear we have now unwisely raised Chinese hopes for an eventual arms cut off and probably altered the Chinese demand from if arms will be cut off to when we will stop selling arms to Taiwan.

The assurances President Reagan made in his statement and the meeting I attended concerning our moral commitment to Taiwan were reassuring to my concerns about Taiwan's security. I applaud the agreement on the continued coproduction of the F5E fighter plane which President Reagan sent to Congress this week. The President personally assured me that if the PRC develops and deploys fighter planes with all-weather offensive capability, we will be morally obligated to provide Taiwan with the same capability. I feel it would be ideal if these statements and the six assurances U.S. Ambassador Lilly gave to the Chiang Ching-Kuo, the President of Taiwan, in July would be issued in a single written statement.

It is obvious that this communique will not be totally satisfactory to the interested parties. In future times of tension, each nation will interpret it as they wish. Unfortunately, there seems to be little alternative to the ambiguity of this communique when one is dealing with such a sensitive diplomatic matter.

I am confident that the President will hold steadfastly to our obligations to Taiwan and to the Taiwan Relation Act. I, for one, will be closely following U.S. policy in this region of the globe to assure that this administration and future ones do just that.

COMMEMORATION OF PEARL STREET CENTENNIAL DAY

Mr. BAKER. Mr. President, I send to the desk Senate Concurrent Resolution 117, which I offer on behalf of the two Senators from New York (Mr. MOYNIHAN and Mr. D'AMATO).

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Con. Res. 117) expressing the sense of the Congress that September 4, 1982, the 100th anniversary of Thomas Edison's Pearl Street Central Power Station, should be commemorated as "Pearl Street Centennial Day."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. MOYNIHAN. Mr. President, I rise today to speak in behalf of a concurrent resolution expressing the sense of the Congress that September 4, 1982, the 100th anniversary of Thomas Edison's Pearl Street central power station, be commemorated as "Pearl Street Centennial Day."

On September 4, 1882, Thomas Edison began the operation of the Pearl Street Generating Station in New York's lower Manhattan giving birth to the electrical generation and distribution technology in America. On that day at exactly 3 p.m., electrician John Lieb closed the circuit breaker at the Pearl Street powerplant energizing the underground system. At the same moment, a half mile away, Edison himself turned on the lights at the Wall Street office of J. Pierpont Morgan. A soft steady glow filled the room. It was a momentous event in history. The age of incandescent lighting was inaugurated. Edison's Pearl Street station was the prototype of every central electrical generating station in the world today.

Thomas Edison's Pearl Street Station no longer exists, but its operation began New York's transformation into the leading modern metropolitan area in the United States, and signaled the birth of the electric power industry in this country and abroad. It has been said that no other man of the 19th century did as much as Thomas Edison to create the wealth of America and to improve the living standards of the Nation. Edison's vision and genius illuminated our lives, our cities, and our world. It is therefore fitting for us to commemorate one of his greatest accomplishments by recognizing September 4, 1982, as "Pearl Street Centennial Day."

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 117) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 117

Whereas on September 4, 1882, Thomas Alva Edison's historic Pearl Street powerplant began supplying electricity in New York City; and

Whereas this event signaled the birth of the electric power industry in this country and abroad; and

Whereas the Pearl Street powerplant became the model for every central electric generating station in the world today; and

Whereas the Pearl Street station, and the many central stations built thereafter, made possible a higher standard of living for all the world; and

Whereas September 4, 1982, marks the one hundredth anniversary of the Pearl Street station: Now, therefore be it

Resolved by the Senate (the House of Representatives Concurring), That the Congress urges the people of the United States to commemorate September 4, 1982, the one hundredth anniversary of Thomas Edison's Pearl Street central power station, as "Pearl Street Centennial Day".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTITRUST EQUAL ENFORCEMENT ACT

Mr. KENNEDY. Mr. President, I am pleased to support the amendment introduced by Senator GORTON to S. 995, the Antitrust Equal Enforcement Act. This amendment would reverse in part the holding of the Supreme Court in the well-known case of Illinois Brick Co. versus Illinois by conferring antitrust standing on certain indirect purchasers and sellers who are the victims of antitrust violations.

The Illinois Brick decision has been the subject of extensive criticism and debate in the Congress, because it frequently bars relief to parties who are injured by antitrust violators. I feel that the amendment offered by Senator GORTON would go far toward resolving the problems caused by Illinois Brick, and therefore I urge that the Senate give it serious consideration.

Mr. President, if the Senate is to act on any antitrust legislation, it is important that we also address the numerous problems that have arisen from the Illinois Brick decision. The issue has been carefully considered by the past two Congresses. Senator GORTON's proposal deserves to be enacted and I hope the Senate will accept it.

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COSTA RICA PRESIDENT MONGE SUPPORTS CARIBBEAN BASIN INITIATIVE

Mr. PERCY. Mr. President, earlier this summer, President Luis Alberto Monge of Costa Rica visited the Congress and spoke with eloquence and emotion before the Foreign Relations Committee. President Monge noted that he had come to the United States to talk about Costa Rica and about the importance of the Caribbean Basin Initiative to his country.

All of us who were able to speak with President Monge were impressed at the tremendous efforts his administration is making to bring Costa Rica's present difficult economic situation under control. President Monge spoke of "draconian" measures such as an 80-percent increase in the price of petroleum products, a 70-percent increase in electricity rates, and a 100-percent increase in charges for water and public transportation. He described sharp increases in tax rates that are being imposed and noted that subsidies to a number of basic industries and commodities are being withdrawn. Clearly, with so many measures undertaken all at once, Costa Rica is going to experience serious difficulties in the near term.

President Monge asked that during this time the United States be generous in its support. He urged the Committee on Foreign Relations to support the Caribbean Basin Initiative in all of its aspects, noting that Costa Rica will depend heavily on the supplemental assistance this year to cover its balance-of-payments gap.

He also spoke strongly in favor of the trade component of the CBI, saying that the opportunity for one-way free trade with the United States would be extremely important for Costa Rica. He argued that this trade opportunity is one that Costa Rica and other Central Americans have been urging for more than 30 years.

Mr. President, I would like to share President Monge's comments before the committee with my colleagues, and I ask unanimous consent that the text be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY PRESIDENT LUIS ALBERTO MONGE OF COSTA RICA

During some 160 years of independence, Costa Rica has been an object of attention, sympathy, and solidarity for both the citizens and the Government of the United States. The history of the relations between our two countries is nothing less than exemplary, in that our tensions have been the exception, and our friendship and cooperation the rule. I recall at this moment the many North Americans who settled in my country since the very dawn of our independence and who made an outstanding contribution to its progress, and its material and spiritual development. At present, thousands of citizens of the United States live in Costa Rica, where they have found a land suitable to their own development within the framework of respect, peace, and freedom.

However, it is not difficult to discover that we are living under very extraordinary circumstances. The region of the American Continent from which I come is undergoing the gravest and deepest crisis of its history. This crisis extends to all aspects of human life.

This is precisely what transforms today's events into something more than a mere diplomatic gesture or another act of mutual reassurance of friendship. What happens in Latin Americans unavoidably affects relations between Latin Americans and the United States and involves the very fate of this Continent, which makes it difficult for all of us to enjoy harmonious relations on the basis of justice and liberty. Central America is a source of tension for the Western World; it is undeniably a region torn by conflict.

Its economic problems, its lack of development in social and political areas, and the constant resistance to change on the part of the more powerful social sectors are the source of frustration to the point that many people have lost all hope of finding and adequate solution to the problems. Many Central Americans have found refuge in the elusory path of revolution, which we know well only bring additional damage and suffering. Mutual respect within the framework of freedom and civil rule for more realistic approaches, but while we keep searching for them the situation continues to worsen due to violent confrontation and the acute economic crisis which is affecting us all, and which is particularly merciless to Central America and the Caribbean area.

The falling prices of our exports and the exorbitant rise in the price of imported oil add critically to the already endemic problems in the area. This situation sprung up after years of apparent stability which many of us feared would inevitably culminate in social violence. For a long time, Central America was not really on the map of the great powers' vital strategic and political concerns, until perhaps today.

For many North Americans, Central America may have appeared peaceful and secured from the perception of elements loyal to the international status quo. Informed Americans, and even the Governments of this country, for a long time, could afford ignoring Central America. Occasional skirmishes in Central America suggested instability, but nevertheless things would tend to remain normal for long periods of time. Solutions were wholly superficial, and the root of the evil was never treated properly, causing an abrupt break in the status quo. Things have changed now, obviously, in Central America, and Costa Rica is very perplexed because the alternatives offered to the majority of the people are not necessarily compatible with their aspirations of political and economic freedom, justice and peace.

Under present circumstances, for Central Americans who love liberty and who are firmly allied to the democratic principles, and who are identified with the great ideals of social justice, two avenues seem to be open. The solutions to the problems can be viewed as purely political and military in nature; or as matters to be solved by medium and long term economic and social development efforts.

On the one hand, we feel that the fall of democratic forces in this part of the hemisphere can bring about a general diseqilibrium which may prove harmful to the interests of the United States. It may appear logical for some to think of halting the advance of these destabilizing forces by military means only. This solution, unfortunately, implies other types of problems, that under most circumstances would unavoidably disrupt harmonious relations among nations of the hemisphere. The deprivation caused by war makes subversive activity an end in itself, and thus those from the extremes may succumb to the temptation of making war instead of working for peace which is needed to provide justice, freedom and well-being for all people. Because Costa Rica has committed herself for decades, particularly since the abolition of her army as a permanent institution, to principles of peace, freedom, and justice, it is essential for us to engage in a maximum effort to avoid bellicose confrontation was the way to solve future problems.

On the other hand, a second approach to the problems of Central America through peaceful means requires immediate support from the United States and the International Organizations to seek medium and long term solutions which, no doubt, will affect the economic interests of the more conservative groups within the countries themselves.

The setting up of the integral process to bring forth our countries more effectively towards justice and freedom will not be accepted by groups occupying an extremist position.

The present Costa Rican situation demands immediate solutions from us with the support from our friends if these solutions are to have a chance, given the prevailing friction, and the growing confrontation.

As I said before, until recently the Central American countries were not on the map of the strategic and political concern of the more developed countries. Now, I must point out that my country, Costa Rica, barely appears at some level of concern in the minds of those who analyse the strategic and political problems of Central America and the Caribbean, and who only show us the evils that happen in nations which are torn by violence.

It would be unfortunate if the same policies applied with respect to other countries in the area will be followed in the case of Costa Rica, a country whose political maturity and social behavior makes it different from the typical neighbor. However, any comparison among countries and problems in Central America results so much in our favor that frequently the grave problems affecting us are underestimated. Moreover, from the political viewpoint, and from that of our alliance with those countries committed to freedom, Costa Rica offers no problems. Our solidarity with the United States and with other democratic nations is not based on a policy designed by a transitional government, but on the deep democratic convictions felt by our people, who, as in your case, have committed themselves to liberty and respect for one another as the foundation for a more equitable society.

As history can show the stability of our democratic institutions has been put to the test only twice in this century, and both times we have ultimately emerged strengthened from the crisis. We have in our favor three and a half decades of exemplary democratic life. Few countries can offer a similar record of respect for the rights of its citizens, as Costa Rica. These things prompted the great Peruvian political leader Victor Raúl Haya de la Torre, to refuse to accept Costa Rica as a country of the Third World. He would have it as a Western Democracy, equal to those which have reached the highest levels of political development.

For the resolution of our internal conflicts, we have resorted to the effective support of the Inter-American System, in which we reiterate our faith, and we believe it still has the potential to aid each and every country in the future.

Our social development, so misunderstood at times, has been the guarantee of our political equilibrium, and it has brought about low mortality rates as well as the rise in the average life expectancy, which, if added to surprisingly low illiteracy rates, confers upon our people a wholly respected set of qualities.

It is because of what we have attained that we now claim our rightful place on the list of concerns of our more powerful friends, particularly the United States since the present economic crisis is affecting us most severely. The consequences of this crisis for the life of the country, as well as the worrisome repercussions of the country's financial commitments, might very well erase our long standing achievements.

The financial crisis faced by Costa Rica is worse than that suffered by other countries in the area, for there is a great deal to be lost. We are talking about a real financial and economic crisis different from any other faced by a Latin American country since 1930. The total external debt is on the order of $4 billion, of which nearly $3 billion is owed by the public sector. The annual per capita income enjoyed by Costa Ricans reached some $1.200 in recent years. It has since fallen considerably, and will, in real terms, possibly drop as low as $200 before the current year ends. The external debt per capita of Costa Rica is approximately $1.780, a figure which contracts sharply with the real per capita income figure of $200.

We are conducting negotiations with the International Monetary Fund. Whatever our success there, it will only be a starting point, a catalyst for the revitalizing force of other external help which we must receive from friendly countries. To conclude successful negotiations with respect to our external debt we need the help of the United States, as well as its support before the International Agencies.

Under our national policy to put the house in order, we have taken strong economic measures. We are eliminating subsidies to allow public services to raise to levels of present cost. We are striving to contain the expansion of the public sector, even at the expense of social stability and growing unemployment. In taking the strong measures outlined, we are very much aware of the serious effects of unemployment in a country lacking unemployment insurance, since open unemployment brings about hunger and malnutrition and other ills which could turn themselves into a powder keg.

Even when patience has been exceptional, and when love and respect for liberty and democratic institutions have firmly upheld, people can eventually act uncharacteristically if they are faced with hunger. If Costa Rica's democracy should fall and follow the same path of its neighbors, let us all be aware that this could mean the end to consolidate a Western democratic system in Latin America, under the present circumstances.

Inflation in Costa Rica has increased tremendously, and it could reach disastrous proportions in the near future. Our currency was devalued in 1981 by 60% and during that period, the previous administration stopped payment on the public external debt. This is very important to keep in mind, since Costa Rica has traditionally enjoyed substantial monetary stability.

As might be assumed, the effects of devaluation were disastrous, resulting in a total inmobility of new sources of private capital into our economy. The productive capacity of our country diminished and the private sector is going bankrupt. In 1977, our GNP's growth rate was 8.9%. It is negative at present. It is clear that a situation such as this will tend to generate political problems. However, if these problems grow for the worse, our democracy may soon face chaos, our alliance with the free and democratic countries could very well collapse. In addition, the deterioration of our situation resulted in a general credibility crisis, and a tarnished image abroad as well. Internally, lack of credibility could bring about disastrous social consequences. Our Government has embarked on serious efforts to forge a new image abroad. The extraordinary opportunity which you have given me to explain these problems will contribute to our reaching that goal.

All these years, we have demonstrated that democracy is viable in a tropical country. We have had the most positive experience of progress with freedom and of respect to the individual that had ever existed in a small, poor country. If this democratic experience is destroyed by natural economic forces, it would frustrate hopes which transcend our own aspirations, in places beyond our borders, as a bad testimonial for many others.

In order to address our more acute problems, we are undertaking a general mobilization—as if we were at war—and we have found that the average Costa Rican is, more than ever, ready to make a sacrifice. This very fact gives us the moral backing to solicit help and it would be very comforting to know that our friends are with us. We have been at the side of the Western democratic powers during their most difficult times. Ours has been a modest contribution in comparison with the total sacrifice which the involved nations endured, for example, during World War II. However, from our internal perspective, and measured by the standards of our own poverty and deprivation, it was an extraordinary and important effort.

When we have been needed, we have been present, and we have brought our moral support which is, plainly speaking, our best asset. This is why our people find it quite urgent that we explore all possibilities to obtain economic aid which will lessen the enormity of the sacrifice expected of them, and that can help to rescue our nation.

I could, of course, mention strategic factors to the essence of my argument and note, for example, how important it is for the United States to maintain a good, solid and reliable ally in the Caribbean Basin, an ally that should be saved for the cause of liberty. I would stress also, and very logically indeed, that we need economic help now so that in the future military aid will not be required. But I prefer to build on those other aspects which are relevant to our common convictions, such as love of liberty and solidarity between two democratic nations. We urgently need help now, as if we were at war, and it would be most regrettable if it did not come in time for us to utilize it effectively for the sake of democracy.

There is an additional subject that I would like to address directly. Some sectors of the North American press have criticized Costa Rica for having invested so heavily in social welfare policies. It is surprising to notice that, on the other hand, even stronger criticism is leveled against our neighboring countries for not having invested sufficiently in the betterment of their people's social environment. We are proud that we cannot deny that we have made great efforts to better the life of the average Costa Rican, that we have improved his health and his education, that we have provided him with decent housing, and that we have improved our country's infrastructure. The results of this policy represent our best hope for being able to partially absorb the crisis which we currently face.

We also recognize our defects and errors. This is a normal aspect of democratic life, which demands constant adjustment and corections. But what we have done is precisely what makes us different from other countries politically less fortunate than ours. If we have invested in education and in public health while others have invested in weapons, we are proud of this difference. This is not the cause of our crisis. The internal economic problems, not properly handled in the past, the fact that entire harvests have had to be used to pay for oil imports—these are disproportionately new elements—which could have not been foreseen in a time of expansion such as that known by our society in recent years. It is possible that if we were to live the past again, we would take the same course of action. We understand, of course, that, faced with new circumstances, new approaches are imperative. Together with our people, we are looking for new ways to cope with difficult times.

The situation which I have attempted to describe today may appear somewhat pessimistic. Eugene O'Neil once said, "There is an underlying optimism, not apparent on the surface, which is often taken by pessimism".

Our optimism contains within itself the seed of optimism which gives us the hope and the strength to fight for a better day.

Our new Government's action is deeply committed to raising production, since peace without food is difficult to achieve. We have made a commitment to social justice, in particular to attaining tranquillity by eliminating abject poverty. We have renewed the great commitment of our people to democracy, since only through liberty can we build a hopeful and promising future.

Our Government is totally committed to those fundamental values which are to be respected to the utmost. These commitments form the framework of our actions and our life. We hope to be able to secure help in order to carry on our program of social, economic and political progress for our people.

The Costa Rican nation has conducted an intensive self-examination in the past few months, and has decided to unite in order to foster a better society. We are undertaking the first steps to realize better our great agricultural potential, that God-given resource which we must fully develop if we are to enjoy and sustain economic growth and provide a better life for our people.

Ladies and gentlemen of this great country, you have spent a great portion of your history pursuing a dream—the American dream—That is why you should be able to

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understand the same type of dream as it exists in a small country like mine. You should know that we, too, dream of a better future.

We are only too aware that the dream we have described cannot come true unless we attempt to eliminate poverty, unrest, social injustice, and other scourges that plague my part of the world. In order to realize this dream we need to feel that we are not alone, that you are marching at our side as we begin this great crusade to save a nation!

PREPARATION FOR OCS HEARING

Mr. JACKSON. Mr. President, I am delighted to learn that Senator WEICKER, the chairman of the Subcommittee on Energy Conservation and Supply of the Committee on Energy and Natural Resources, has scheduled a hearing for September 8, 1982, on the Department of Interior's 5-year Outer Continental Shelf oil and gas leasing program. I understand that Senator WEICKER invited Secretary Watt to testify personally and that he has accepted the invitation to appear before the subcommittee. I know that the minority members of the subcommittee are also pleased to learn of this hearing as they had all requested that such a hearing be scheduled to consider this most important subject.

It is difficult to overstate the importance of the administration's plans to promote development of the oil and gas resources of the Outer Continental Shelf. Extending as far as 500 miles in some places from the shoreline, the OCS lies under the open sea on the coasts of the United States, including Alaska. The U.S. Geological Survey has estimated that the OCS may contain from 20 to 40 percent of the Nation's remaining deposits of conventionally recoverable crude oil. The administration estimates of revenues in fiscal year 1983 from the OCS declined from an initial figure of $18 billion to $15.7 billion in the April 10 budget update, but OCS receipts are still the second largest revenue source to the U.S. Treasury.

The administration's proposal to offer for lease 1 billion acres of the OCS in a 5-year period with substantial changes in the current procedures for evaluating potential environmental impact is a matter that deserves careful congressional review. Other legislation such as the proposals for sharing OCS receipts with the coastal States will, of course, be affected by this 5-year plan.

Under the OCS Lands Act Amendments of 1978, the Secretary of the Interior is required to submit to Congress a proposed leasing program at least 60 days prior to the Secretary's approval of the program. As the final proposed program was submitted to Congress on May 11, the 60-day waiting period ran out on July 10. On July 21 Secretary Watt approved the new program.

The attention of the Congress in recent months has been consumed by budgetary matters. While it would have been preferable to have begun committee oversight of the OCS program during this period, the OCS leasing is so important for so many reasons, including efforts to balance the budget, and the need to protect the ocean, its resources, and our coasts, that there should be constant congressional attention during its implementation.

I have submitted to the Department of Interior a series of questions on the 5-year plan and received their responses. These questions and answers have in turn raised more questions which I intend to put to the Department. I hope that these questions and answers which are available now will be of assistance to others in the preparation for the hearing on September 8.

There are some general issues which still trouble me. Some of these issues are:

First. Will the magnitude of the proposed leasing program overwhelm the ability of the States, local communities, and the public to analyze the social, economic, and environmental effects of proposed lease sales and provide substantive comments to the Department of Interior?

Second. Is the Department of Interior's determination of "net social value" firmly grounded on accurate assumptions, such as the resource estimates and the costs of ecological damage?

Third. Has the Department appropriately considered the "equitable sharing of developmental benefits and environmental risks?"

Fourth. Are the Department's estimates of revenues from OCS lands realistic? They have been revised downward once and GAO and other industry analysts still question the projected revenues.

Fifth. Will the public obtain the fair market value for these tracts given the generally depressed state of the industry, the difficulty of capital formation, and the enormous number of leases being offered?

There is, I believe, a danger that unless these issues are properly addressed in the 5-year program that the result will be endless litigation by States and environmental groups seeking to enjoin the lease sales. This delay could cost the Treasury dearly as OCS revenues are either foregone, delayed or greatly reduced.

I ask unanimous consent that my questions to the Department of Interior and their responses be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, D.C., April 30, 1982.

HON. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: We are pleased to respond to your request of April 19 regarding questions about the tentative proposed final 5-year OCS leasing program.

Because several of your questions involve complex matters and considerable detail of budget estimates, we have been unable to provide answers to all 13 of your questions in this letter by your requested date of April 30. I have enclosed answers to questions number 1, 2, 3, 7, 9, 10, and 11.

As soon as answers to the remaining questions are prepared, we will forward them to you. We believe this will be next week.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.

Question 1. There have been suggestions that the proposed streamlining of the OCS leasing process, coupled with the changed substantive approach regarding the composition of sales will provide greater opportunities for smaller firms to participate in OCS lease sales. Have you performed any studies relating to the effects on competition that this proposed program will have, or have there been any positive expressions of intent to compete for OCS leases by firms that, to date, have not participated in OCS lease sales?

Question 2. What are the anticipated effects of the proposed leasing program on the ability of small firms to participate in OCS lease sales?

Response. While we have not prepared a separate, specific study of the potential effects of the program on small companies, a variety of comments have been received on the effects of the proposed 5-year OCS leasing program on participation by smaller firms and competition. These comments have been analysed and considered in the process of formulating the program.

We have not received any expressions of interest by firms who have not previously participated in OCS leasing. This is due in large part, no doubt, because over 500 firms are currently on the list of qualified bidders. One would expect additional interest to emerge after the availability of good opportunities is evident in the leasing market, rather than at this early stage.

We look for increased participation by those small companies that are now interested in OCS leasing. With the areawide leasing approach, we believe unique exploration strategies can be used by smaller companies in determining the real hydrocarbon worth of an area. Moving away from government tract selection could foster innovative thinking by all companies and give them a chance to use their approach rather than be "outvoted" in a nomination and tract selection process. We also believe that joint bidding among small companies will continue to be used to acquire leases.

An illustration of some of the thinking involved is provided by the following testimony of Roger Stoneburner, Senior Vice President for Exploration, Union Texas Petroleum Corp. on January 21, 1982, before the House Subcommittee on Panama Canal/Outer Continental Shelf:

"No single company's exploration department has a monopoly on exploration knowhow. All of our experience tells us that multiple imaginative strategies, by multiple companies, in successive repeated exploration efforts result in more oil and gas discoveries in a shorter period of time. This concept justifies a broader nominating process.

". . . Our company believes more acreage of higher quality will allow companies like Union Texas to bid more often. The additional higher quality acreage will increase participation and the level of exploration but, in all probability, not to the point that the most promising areas will receive diminished bids."

Question 3. Were studies performed prior to proposing the expanded leasing program with respect to the capability of the industry to accommodate the increased acreage that is to be made available for lease? Did you evaluate the constraints on the industry that may limit their ability to participate effectively in OCS lease sales? Were any of the following factors that may adversely affect the ability of the industry to respond to the proposed program, taken into consideration: (1) capital availability, (2) rig and equipment availability, (3) engineering, technical support, and skilled labor availability?

Response. There have been a number of comments on the adequacy of capital, equipment and labor. The International Association of Drilling Contractors, for example, has submitted an analysis that shows adequate availability of rigs for exploratory drilling. Nevertheless, the expansion in lease offerings is not predicated on a one-to-one expansion in leases issued or wells drilled. It is primarily a means of assuring that OCS exploration can move forward at as rapid a pace as firms think is efficient. In this approach, rather than having the government's leasing program act as a bottleneck restricting our Nation's exploration of the OCS, the market system can allocate capital, rigs, and skilled labor in the way that gives the greatest payoff for firms as well as the national economy. If the potential for payoffs from discovery of OCS oil and gas are judged to warrant an expansion in the capital, equipment and labor allocated to the OCS, then that will be the result of the investments made by firms. If the government were to continue restricting the availability of leases, industry would have no reason to expand its offshore investments and capabilities, even if the geology is promising. It is possible however, that the potential payoffs on the OCS are not sufficiently promising. In this case, leasing and exploration investments will not increase. The expansion in lease offerings will have yielded disappointing results, but not resulted in any significant costs. It will not be damaging to the Nation to have offered tracts that drew no bidding or exploration. In summary, the pace of leasing and exploratory drilling should be determined primarily by the market's response to the opportunities provided by the resources of the OCS, not by the government's estimate of industry capabilities or assessment of the best prospects.

We would also point out that, as one illustration of industry's capacity, there are currently 260 new mobile offshore drilling rigs under construction worldwide to join the 254 now in operation in U.S. waters or the 529 rigs worldwide.

Question 7. The tentative proposed final OCS lease sale schedule contains 40 sales, 4 more than the June 1980 sale schedule. In addition, a substantial number of the sales have had their proposed sale dates advanced. How was the ability of the various State governments to respond to the expanded/accelerated OCS leasing program taken into consideration? What assurances are there, particularly in the case of Alaska, which is scheduled for 16 of the 40 sales, that the States will be able to respond to and participate in the process in a timely fashion and will not be an impediment to the program moving forward on schedule?

Response. The ability of the States to respond to accelerated leasing should not be a problem. The same decision points and opportunities to provide comments are provided in the new leasing program as in the past.

The refinement of the area-wide offering approach announced in March responds in large measure to the concern that offering entire planning areas will affect the ability of State and local governments to effectively participate in the pre-lease sale process.

The streamlined approach to EIS's should enhance contributions from State and local agencies and the public. Once an EIS has been prepared which considers an entire planning area, subsequent NEPA documents can focus on newly developed information, such as results of environmental studies of actual drilling. This should result in a reduced administrative burden for all reviewers and in more effective and efficient participation.

In addition, in the areas off Alaska, there have been several refinements that allow the State and local governments to respond easier to the program during the next few years. Changes in the March 1982 tentative proposed final program, as compared to the final program of June 1980 issued by former Secretary Andrus, reflect several adjustments that will allow Alaska more time to respond to the leasing program. These include the cancellation of sales 61 (Kodiak) and 75 (N. Aleutian Shelf) and the delay by 2 months of sales 57 (Norton) and 70 (St. George).

Question 9. Detail your assumptions, on a sale-by-sale basis, that formed the basis for the $13.2 billion estimate of receipts to be obtained from OCS lease sales scheduled in FY 1983. This estimate was contained in the President's budget request for the Department of the Interior for FY 1983.

Response. The assumptions on which the $13.2 billion estimate of bonuses was based are shown on Table 1 attached. The column headed "Reserves Equivalent Barrels (Millions)" shows the amount of resources expected to be offered in each sale. The column headed "Mean Range of Values per Barrel" shows the maximum value per barrel that we could expect to be bid. That estimate is based on our calculation of the value of the oil to companies after deducting all of the costs of lease acquisitions, exploration, production, transportation, and taxes from the price per barrel of oil which ranged from $30 to $35 per barrel when the estimate was made. The key is not the price of oil at the time of the estimate or when the sale is held, but the expected price over the expected production life of the field. The column headed "Discounted Receipts Factor" shows an adjustment factor to discount for possible risks and uncertainties, such as the chance that the sales won't take place as scheduled, that all resources in the area may not be offered for lease, that all resources won't be bid on, or the chance that accelerated leasing may increase the firms' cost of borrowing.

Subsequent to the preparation of the original estimates, the Secretary announced his tentative proposed final 5-year leasing schedule on March 15. Under that schedule, one sale, sale 73, will be postponed until September, and another, sale 75, will be deleted. Those changes are footnoted on the table.

On April 10, OMB submitted to the Congress its current budget estimates which indicated that the $13.2 billion estimate of receipts from sales had declined to $10.9 billion. Of the $2.3 billion decline, $400 million was attributed to the rescheduling of sale 73 and dropping of sale 75. An additional $1.9 billion decline in the overall estimate was also made by OMB to reflect the greater uncertainty about capital availablity due to lower oil prices.

Question 10. The recent decline in oil firm profitability may well affect the industry's ability to bid the amounts that you have projected as revenue in your FY 1983 budget request. This decline in profitability may affect a firm by both reducing their cash availability and by potentially reducing the availability of credit. The reduced availability of capital may affect firm bidding behavior in either one of two ways. First, they may not be able to bid on all of their top prospects, or they may, in order to bid on the full range of their prospects, reduce their bids. If either of the two situations obtain, it may lead to an absolute reduction in the amount of revenue raised by the lease sales. Have you taken into account the softening of the crude oil prices and its possible near-term effects on the FY 1983 OCS lease sales and revenue projections?

Response. The original estimate of $13.2 billion in bonuses to be received from lease sales in FY 1983 was discounted for the difficulty that oil companies might have in obtaining the capital required to bid on the larger offerings scheduled for FY 1983. The recent drop in crude oil prices also has caused further reduction in OMB's estimate of bonuses to be received in FY 1983 by $1.9 billion. This reduction was made in the document "Current Budget Estimates" issued on April 10 by the Office of Management and Budget. It reflects greater uncertainty about capital availability due to lower oil prices.

We would point out, however, that it is the long-term price of crude oil which should be the principal determinant of the amounts that will be bid for these tracts since no production can be expected from them for 5 to 10 years and a discovery may have a production life of 25 or more years.

We do not believe that the recent softness in the crude oil market will significantly affect the long-term price of oil.

Recent trends in the financial condition of the oil industry will undoubtedly have an effect on the market's response to expanded lease offerings. While this may affect revenue estimates, it does not mean that the basic policy of offering much more acreage for lease is inappropriate. Investments in any sector of the economy depend on financial and economic conditions and they may decline as prices decline. From the viewpoint of the economy, there is no more reason to restrict OCS lease offerings in times of declining prices than there is to restrict the availability of other basic resources such as agricultural land or iron ore. Restricting the availability of basic resources, including opportunities for offshore oil and gas exploration, would tend to slow economic recovery.

Question 11. In view of the recent decreasing demand for oil and the resultant softening in the price for oil, have you reviewed and revised your revenue estimates to be derived from the royalty from OCS produc-

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tion? I understand that the assumption behind the $3.3 billion projection for OCS royalty receipts was a wellhead price of $37.26 per barrel. Given that the current price barrel is substantially less than that, I request that a revised estimate as to royalty receipts be provided.

Response. The Administration has not changed it's economic assumptions since the publication of the January budget, and therefore no new projections of oil prices and royalties have been made. However, sensitivity analyses which have been done indicate that royalty payments are not significantly affected by reduced prices because the reduction in revenue occurs in the amount paid in windfall profit tax, not in the amount paid as royalty. What we call royalties should really be called net royalties. Net royalties are calculated as follows:

Quantity produced × price = value.

Value × 16⅔% = gross royalties.

Gross royalties minus windfall profits tax = net royalties.

When oil prices drop, value drops and gross royalties are reduced. But the formula for calculating the windfall profits tax, which is too complicated to explain here, causes the amount paid as a windfall profits tax to decline in about the same proportion as gross royalties. Therefore, the amount which we call royalties (net royalties) remains about the same.

TABLE 2.—DEPARTMENT OF THE INTERIOR ESTIMATION OF FISCAL YEAR 1983 RECEIPTS

Date	Sale	Area	Reserves equivalent barrels (millions)	Mean range of values per barrel	Discounted receipts factor	October 1981 dollars (millions)			Current dollars (millions)	
						Total sale Bonuses	Escrow	Budget	Escrow	Budget
August 1982	¹52	North Atlantic	1,067	$3.33	.5603	1,991		¹696		¹740
September 1982	²71	Diapir Field (Alaska)	2,679	2.00	.5603	3,002	881	²921	²935	²978
October 1982	69	Gulf of Mexico	137	9.375	.788	1,012	255	757	268	798
November 1982	57	Norton Basin (Alaska)	161	2.00	.5603	180		180		192
November 1983³	73	C. & N. Calif.	1,429	4.15	.0777	461	158	303	171	328
December 1983	70	St. George Basin (Alaska)	555	1.78	.1749	173		173		188
March 1983	76	Mid-Atlantic	5,579	2.07	.0777	897		897		979
April 1983⁴	75	North Aleutian Basin	199	1.78	.1749	62		62		68
May 1983	72	Gulf of Mexico	9,357	7.40	.0777	5,382	258	5,124	284	5,646
July 1983	⁵78	South Atlantic	1,656	1.78	.0777	229		160		178
August 1983	⁵74	Gulf of Mexico	9,357	7.40	.0777	5,382	280	2,755	312	3,074
Rents										38
Royalties										⁶3,299
Escrow payout										1,494
Total										⁷18,000
1982										

[1] Sale to be held in fiscal year 1982 but 35 percent of receipts assumed to accrue in 1983.
[2] Sale to be held in fiscal year 1982 but 60 percent of receipts assumed to accrue in 1983.
[3] Sale delayed until September. Assumes no receipts in fiscal year 1983.
[4] Sale deleted.
[5] Assumes that bonuses will be credited as follows—Post sale time as cumulative percent of total: 7 days, 10; 21 days, 14; 22 days, 54; 35 days, 70; 90 days, 76; and 105 days, 100.
[6] Assumes oil and condensate production of 255 million barrels and average price of $37.26 per barrel. Assumes gas production of 5,200 MCF and average price of $2.71.
[7] Because of schedule changes noted in footnotes³ and ⁴ total bonus estimate would be $17,604 billion.

Note.—Does not reflect April 10 adjustment by OMB.

Source: Office of Budget Feb. 6, 1982 (revised Apr. 28, 1982).

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C.

Hon Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: This supplements our response of April 30 regarding the questions you asked in your letter of April 19 on the tentative proposed final 5-year OCS leasing program.

In the April 30 response, we provided answers to questions 1, 2, 3, 7, 9, 10 and 11. Enclosed are responses to questions 4, 5, 6, 8, 12 and 13.

Sincerely,

Donald Paul Hodel,
Under Secretary.

Enclosure.

Question. 4. The Outer Continental Shelf Lands Act Amendments of 1978 (P.L. 95-372) required the Department of the Interior to experiment with alternative bidding systems for a period of five years from the date of enactment. Bidding systems, other than cash bonus with a royalty fixed at not less than 12½ percent, are to be applied to not less than 20 percent and not more than 60 percent of the total area offered for lease each year, unless the Secretary of the Department of the Interior makes a determination that the use of such bidding systems is "inconsistent with the purposes and policies" of the Amendments. Which alternative bidding systems are scheduled to be utilized in the OCS lease sales in fiscal year 1983? This should be presented on a sale-by-sale basis.

Response. Bidding systems are designed on a sale-by-sale basis. To date, the Department of the Interior has developed bidding systems for proposed sales through August 1982. Bidding system designs for sales in FY 1983 have not yet been developed for each individual sale. Table 1 which indicates sale-by-sale the bidding systems used for sales in FY 1982. DOI has experimented with alternative systems in 22 sales starting in 1974 and in 19 since the enactment of the 1978 Amendments. Alternative bidding systems that have been tested are royalty bidding with a fixed cash bonus, cash bonus bidding with a sliding scale royalty, and cash bonus bidding with a fixed net profit share.

In the January 26, 1982, Federal Register, the Department requested comments on a proposed matrix of bidding systems for OCS sales consistent with the new concept of offering larger areas for lease. A copy of the request is attached. The proposed matrix provides a streamlined approach to future bidding systems' use by designating the types of bidding systems that might be used according to broad geographic area and water depth. Final decisions on the use of the bidding system matrix have not yet been made.

The results of our previous tests are presently being analyzed. We recognize the need to direct future tests towards those systems which offer the greatest promise to meet the goals of the OCS Lands Act.

TABLE I.—BIDDING SYSTEMS FOR FISCAL YEAR 1982 OCS SALES

Sale (status)	Tract offered—	
	Total	With alternative bidding system
66—Gulf of Mexico (sale held)	209	65 (31.1 percent) FNPS.¹
59—Mid-Atlantic (sale held)	253	83 (32.8 percent) FNPS.
67—Gulf of Mexico (sale held)	234	13 (5.5 percent) FNPS.
68—Southern California (final notice issued.	172	0.
RS-2—Reoffering (proposed notice issued).	564	17 (3 percent) S.S.², 166 (29 percent) FNPS.
52—North Atlantic (proposed notice issued).	540	36 (6.6 percent) S.S.
71—Diapir Field (no decision)		

[1] FNPS—Fixed net profit share with a variable cash bonus.
[2] S.S.—Sliding scale royalty with a variable cash bonus.

Question 5. As was mentioned previously, the Outer Continental Shelf Lands Act Amendments requires that the alternative bidding systems be used for a period of five years from the date of enactment. What plans does the Department of the Interior have, at this time, for continued use of bidding systems, other than cash bonus bid, in FY 1984 through FY 1987?

Response. No specific plans have been developed for these years. However, the matrix concept discussed in Question 4 could be applied if it is adopted. The Department will review the analysis of the previous experiments and select those systems deemed to best achieve the goals prescribed by the OCSLA. It should be noted that the 5-year period mandated by Congress that requires testing of alternative systems ends in September 1983.

Question 6. Provide a detailed analysis showing the expected efficiencies that will result from the implementation of various streamlining proposals. This should be compared to the manner in which OCS leasing activities were conducted prior to the proposed streamlining initiatives. Estimates should be quantified insofar as possible (i.e., man-years, funding requirements, workload indicators, etc.). This should be done for the following areas: (1) environmental impact analysis and EIS preparation, (2) activities associated with pre-sale and sale of leases, (3) determination of fair market value, and (4) post-lease management.

Response. (1) and (2). Environmental analysis and pre-sale and sale activities.

For your information, we are enclosing a table of budget estimates recently submitted as part of our proposed final leasing program. See Table II.

Streamlining is anticipated to result in an acceleration in the issuance of OCS leases which would, in turn, reduce the administrative costs per lease issued including: (1) environmental impact analysis and EIS preparation, (2) activities associated with pre-sale and sale of leases.

This increased efficiency is described in the Bureau of Land Management's budget justification for FY 83 (pp. 48-50), copy attached. From this material, it is evident that the July 1981 proposed schedule implementing streamlining was estimated to result in an increase over the June 1980 schedule (prestreamlining) of 400 leases issued for FY 1982 and thus a reduction of $41,000 in estimated average cost per lease issued. For FY 1983, the July 1981 proposed schedule was estimated to result in an increase over the June 1980 schedule of 920 leases issued, and thus a reduction of $21,000 in the estimated average cost of each lease issued.

As one example of the potential decrease in EIS workload, the March 1982 tentative proposed final schedule called for 40 sales. Of that total, there were six sales that already had a final or draft EIS completed by the end of April 1982. Of the remaining 34 sales, only 28 NEPA documents would have to be prepared as a result of multi-sale EIS's in the Gulf of Mexico. Of these 28 EIS's to be done, only 11 would be a first generation EIS (first-time basic analysis of the area). The other 17 would either be a second generation EIS, which are presumably shorter and add only the changes necessary to update the initial EIS, or would be another, shorter, NEPA type document. This would be a considerable reduction in EIS expenses and manpower.

Pre-lease site specific geohazard studies are being phased out under streamlining. Industry will be required, as it has been in the past, to perform detailed post-lease site-specific surveys. The results of the surveys will be reviewed by MMS (Minerals Management Service) as will drilling and production plans to make sure that proposed operations will be safe. MMS will do pre-sale regional (broad reconnaissance) and topical geohazard studies. Savings resulting from these changes will be offset by increased data requirements associated with large sale areas.

(3). Determination of fair market value.

Currently, a Government established pre-sale evaluation on every tract offered for sale is used as the primary means of assuring receipt of fair market value. The most logical way to reduce the number of tracts evaluated is to perform evaluations post-sale only on tracts receiving bids. For all sales except the reoffering sale, during the period December 1979 through February 1982, only 48 percent of the tracts offered for sale received bids. This percentage is anticipated to decrease considerably under areawide offerings.

The streamlined procedures provide for post-sale evaluation of only a certain portion of tracts receiving bids. In frontier areas a sample of about 35 percent of only those tracts receiving bids will be evaluated postsale as compared to the present system of evaluating all tracts offered (30 percent on predetermined criteria and another 5 percent random). In mature areas, in addition to the 35 percent sample mentioned above, all structures containing proven, drainage, or developed tracts would also be evaluated. (See the discussion in response to question 8.)

For the last five Gulf of Mexico OCS sales (A62, 62, A66, 66, and 67), utilizing the proposed streamlining procedures for fair market value determinations, MMS would have, at the most, had to evaluate 370 tracts as compared to the 928 tracts actually evaluated. The savings could be even greater in a frontier area where historically a lower percentage of tracts receive bids. The proposed procedures are intended to allow MMS to handle larger sale offerings with minimal increases in budget and personnel resources. Thus, for example, the FY 1983 request is 9.3 percent higher than the appropriated amount for FY 1982. The number of sales being held will increase from seven to nine.

(4). Post-lease Management.

The various streamlining proposals initiated by the MMS in the year 1981 were intended to reduce the paperwork burden on the industry. Any resulting benefits to MMS were welcome, but such benefits were not primary to initiating the effort. Only two of the streamlining proposals would produce a savings for MMS. These are the repeal of FIRS (Failure Inventory Reporting System) and the repeal of a requirement to set a maximum efficient production rate for all reservoirs.

The FIRS program has been unduly burdensome to industry. Its purpose was to make OCS waters safer against spills by tracking the performance of some 19 safety devices on all producing platforms. However, FIRS was not cost effective. In order to maintain the intent of the program, the MMS is incorporating the safety aspects of FIRS into its Safety Information Program (SIP). Through this program, safety device performance is tracked by periodic inspection. The program includes data from the Events File, accident investigations, alleged violations, and lessee reports on fires, accidents, spills, and injuries. SIP is an automated system designed to be sensitive to safety-device incidents of noncompliance. We estimate an annual savings to industry of about $6.25 million and to MMS of about ¾ million dollars. This change was published as a final rule in the Federal Register of April 30, 1982.

With the proposed revision to OCS Order No. 11, lessees of approximately 90 percent of the 3800 currently producing reservoirs will no longer be required to submit an application to MMS to set a maximum efficient rate of production. If approved, this will mean a workload reduction to the MMS of no more than 30 percent because of the many other requirements involving MMS monitoring.

Question 8. With regard to the Fair Market Value issue, the Department of the Interior has indicated that it is proposing to use a three-phase screening process to evaluate FMV after the sales have taken place. In your submission of the five-year leasing program to Congress, it was stated that this is an effort to more efficiently FMV. The system relies to a significant degree on competition in the marketplace to arrive at a FMV determination. Your proposal indicates that if a tract receives three or more bids, unless the tract is selected for FMV evaluation under different criteria, that the high bid would be accepted. Historically, 60 percent of all tracts leased have received fewer than two bids, and would, therefore, require you to perform at a minimum a FMV analysis for those leases prior to accepting or rejecting the bid.

Your budget indicates that you expect to issue 1800 leases in fiscal year 1983. Of those 1800, 1080 may receive fewer than the three-bid minimum and require a case-by-case FMV analysis. In fiscal year 1981, DOI offered for lease 1227 tracts for which FMV evaluations were performed. Given the emphasis, as reflected in several legal actions in recent years, that has been placed on the Fair Market Value being received by the government, this issue is of concern to me. Provide a detailed explanation of the procedures that the Department of the Interior will utilize in determining FMV. Included should be your estimate of the number of tracts that will have a FMV analysis performed on them in the fiscal year 1983-fiscal year 1987 time span. The resources (personnel and funding) that will be applied to this activity should also be submitted.

Answer. In recent leasing history, the past 13 OCS sales, only 38 percent of all tracts leased have received one bid and approximately 58 percent have received two or fewer bids. However, under the streamlined procedures, not all one- and two-bid tracts would be evaluated.

The process involves the following: 1. Post-sale rather than pre-sale evaluation has been adopted in order to save the effort expended on evaluating tracts not receiving bids. In advance of the sale, MMS efforts will be concentrated on preparation of geological maps using selected geological and geophysical data and information for the entire area offered for lease. Increased emphasis will be placed on competition to establish fair market value.

2. Evaluation of specific tracts will be limited to a post-sale period following the sale and will rely primarily on prospect and/or structure maps prepared pre-sale utilizing industry geological and geophysical data acquired under permits.

3. Only tracts which receive bids (historically about 50 percent of the acreage offered—probably less with increased sale sizes or offering of entire areas) will be evaluated post-sale.

Within 3 days after preparation of the bid recap, MMS will analyze the sale in light of predetermined criteria to select structures to be evaluated. The sample of tracts to be evaluated will include:

(a) 100 percent of structures containing proven, drainage, or development tracts,

(b) an appropriate number of tracts selected on the basis of predetermined criteria, generally in the range of 30 percent of tracts receiving bids.

(c) a random sample of tracts selected on a structure basis regardless of the number of bids received to yield a sample of 5 percent of the tracts receiving bids.

5. MMS will provide evaluation for the selected tracts as they become available. Structures containing highest dollar bids, where practical, will be cleared first.

MMS may provide a comparative evaluation screen first, the details of which are currently being developed and validated. It is envisioned that this phase will be completed within 3 weeks following the sale. If MMS is not able to detect prospects with re-

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source potential, these tracts will be assigned a "minimum" value and high bids on them will be immediately recommended for acceptance (i.e., because by definition a company would have already offered at least the minimum bid). The remaining tracts would then be tested for comparable values against acceptable bids on other tracts which share the same geological structure, or against hypothetical or actual analogs with similar characteristics of structural size, water depths, distance from shore, drilling depths, and geological characteristics. If this evaluation is favorable in terms of values offered, the tracts will be recommended for acceptance. It is proposed that tracts recommended for acceptance under this phase will not have a dollar value assigned. MMS will provide a statement outlining the basis for recommending acceptance of the high bid.

6. If the high bids do not pass the comparative screen the tracts will receive a quantitative evaluation to be completed within 90 days following the sale. These tracts remaining to be evaluated are those where there is sufficient concern that the high bid might not represent fair market value. The procedures for the evaluation of selected tracts are the same as those presently employed in pre-sale tract specific evaluations, i.e., conventional petroleum resource evaluation methods. Geophysical and geological data will be correlated and mapped, stratigraphic thickness and reservoir be correlated and mapped, stratigraphic thickness and reservoir volumes estimated, and the likelihood of hydrocarbon occurrence evaluated. Geophysical and geological evaluation will be followed by as assessment of petroleum engineering parameters, infrastructure requirements, and all economic parameters which influence the revenues and costs of production. Resource, engineering, and economic parameters will be represented in the evaluation as probability distributions and will be incorporated into the calculations using a probabilistic computer simulation method. The resource economic value calculations will be a straight-forward discounted cast flow procedure.

The output from the calculation will be a distribution of resource economic values which represent the collective uncertainties of the inputs. For all tracts for which a detailed Monte Carlo discounted cash flow evaluation is made, MMS will continue to provide a mean (MROV), discounted mean (DMROV), and the range of values with associated probability estimates. This will allow decisionmakers to consider not only whether the high bid exceeds the MMS mean tract value, but also to consider the probability of the high bid representing the actual tract value. Although the recommendation to accept or reject bids on tracts so evaluated will be submitted within 3 months of the sale date, accept/reject recommendations will be made as soon as they are determined. In general, structures with the highest bid tracts will be analyzed first to allow early acceptance/rejection decisions on those tracts.

7. Current post-scale bid adequacy criteria will be applied, including use of the MROV, DMROV, and the AEOT. In certain anomalous situations, a geometric mean may be used to calculate the AEOT instead of an arithmetic mean as in the past.

The projection of acreage to be leased and the number of leases issued for the period FY 1983-1987 is shown in the following tabulation. The tabulation also includes estimates based upon historical data of the number of tracts likely to receive bids and under the proposed streamlining procedures the number of tracts likely to require a specific determination of fair market value (FMV). It should be emphasized that these are very rough estimates and because of the lack of comparable historical data, they may vary considerably from actual results. These estimates are the mean numbers in calculations that developed a low-high range. The 1800 leases estimate for FY 1983 previously mentioned was the high estimate for that year.

	Fiscal year—				
	1983	1984	1985	1986	1987
Millions of acres leased	7.4	6.8	7.3	5.6	5.0
Leases	1,300	1,190	1,280	980	875
Tracts receiving bids	1,445	1,320	1,420	1,090	970
Tracts requiring FMV determination	550	500	540	415	370

The sources (personnel and funding) estimated to be required to conduct these FMV determinations are as follows:

	Fiscal year—				
	1983	1984	1985	1986	1987
Funds (millions)	29.8	31.0	32.0	33.0	33.0
Personnel (full-time equivalent total)	350	381	381	381	381

Question 12. Provide data relating to production from OCS leases for FY 1981 and the first two quarters of FY 1982. Provide the OCS royalty receipts and the average wellhead price per barrel for OCS oil for the same time periods.

Response. Production and sales figures for fiscal year 1981 are available which can be compared as requested. There are as follows:

Production:	
Oil and condensate (bbl).	278,344,949
Gas (mcf)	4,900,654,703
Sales:	
Oil and condensate:	
Quantity sold (bbl)	283,865,810
Royalty value	$1,432,141,685
Average price per bbl	$31.07
Gas:	
Quantity sold (mcf)	4,879,242,071
Royalty value	$1,624,317,759
Average price per mcf	$2.04

Sales figures usually are slightly less than production figures because of the lag time inherent with measurement and delivery. However, for the year 1981, sales figures are slightly higher. Most likely this means that the continuing auditing process resulted in a credit carryover from the year 1980 or perhaps even earlier.

For fiscal year 1982, only first quarter production figures are available and these estimate the amount of production for the first 2 months from production off California. First quarter production was 71.374 million barrels and 1.225 trillion cubic feet.

Question 13. What indication do you have that the Department of Transportation, U.S. Coast Guard, has the ability to fulfill their responsibilities relating to safety and environmental protection given the expanded OCS leasing program and the probability, therefore, of an increase in the number of drilling and production rigs? Do you know if the Coast Guard took this into consideration in estimating their staffing and funding requirements for fiscal year 1983 and beyond?

Response. We have kept the Department of Transportation, U.S. Coast Guard, advised of the proposals to accelerate OCS leasing. We have received no indication from them that they will be unable to fulfill their responsibilities for safety and environmental protection. It should be noted that the potential increase in Coast Guard needs would only come after leasing and with increases in drilling rigs and production. This will not occur until after fiscal year 1983. The Coast Guard should thus have ample time to plan for and budget these needs. Further information can be obtained from the U.S. Coast Guard.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C. June 16, 1982.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Enclosed are responses to the questions you transmitted on May 5. I hope these responses fully address your concerns.

Sincerely,

DON HODEL,
Under Secretary.

Enclosures.

RESPONSES TO QUESTIONS RAISED BY SENATOR HENRY M. JACKSON ON MAY 5, 1982

Question 1. It appears that DOI is still not giving equal weight to the purposes of the OCSLAA. It seems clear that DOI has emphasized the expediting of exploration and development on the OCS to achieve national economic goals at the expense of most of the other purposes of the Act such as, (1) the preservation, protection, and development of the oil and natural gas resources in a manner that is consistent with the need to make resources available to meet the Nation's energy needs, (2) balancing the development with protection of the human, marine, and coastal environments, (3) insuring the public a fair and equitable return on the resources of the OCS, (4) preserving and maintaining free enterprise competition, (5) providing States and local governments with comprehensive assistance in order to plan for any impact resulting from OCS development, and (6) assuring States will have adequate time and opportunity to fully participate in policy and planning decisions as they relate to the management of the OCS resources. As a result, I am concerned that the OCS leasing program, as it is presently constituted, will be the subject of litigation which will delay it unnecessarily. Appropriate steps could be taken at this time to more fully accommodate the concerns of many of the interested parties that would mitigate this possibility. What is your response?

Response. We believe that the purposes of the OCS Lands Act, including applicable ones paraphrased in your question from Sections 102(2)(A-D), and (4), have been fully met as a result of considering and balancing all of the specific factors which Sections 18(a)(2), 18(a)(3), and 18(a)(4) require be considered.

The proposed final program will meet the Nation's energy needs by expediting the inventorying and production of our offshore oil and gas resources. Two features of the program are especially important in this regard. First, the program emphasizes early and frequent entry into high potential areas, to the extent consistent with environmental and other Section 18 considerations. Second, the area-wide offering concept will result in consideration of entire planning areas and offering of broad areas that have potential for commercial quantities of oil and gas resources. This will allow testing of various exploration strategies and result in improved efficiency of exploration and development investments and earlier discoveries.

Balancing the development with protection of the human, marine and coastal environments was an important element of the overall Section 18 balancing. In preparation of the tentative proposed final program, transmitted to Congress in March 1982, the Department undertook a lengthy and detailed analysis to develop a program which would balance environmental and other factors included in Section 18. Some of the factors were quantified or partially quantified, to allow quantitative comparisons of OCS planning areas as an aid in achieving the required balancing. Other factors could only be considered qualitatively, and the overall balancing of quantitative and qualitative factors required that judgments be made, including judgments about how much relative weight each factor should receive. The U.S. Court of Appeals for the District of Columbia Circuit recognized that the Secretary has discretion as to the weight assigned for oil and gas exploration, development and production, environmental damage, and coastal zone impact in his balancing, and thus, his decision is of necessity a highly judgmental one, with some factors receiving more weight than others, as he considers necessary, to best meet national energy needs.

Based on the comments received on the tentative proposed final program, the Department reviewed the previously prepared comparative analysis of OCS planning areas to determine whether any changes were required. We then reviewed the judgments we had made and balancing we had done in developing the tentative proposed final program, also in light of comments received.

In response to State comments several changes were made.

In response to comments about the size of potential sale areas and the potential adverse effect on the ability of State and local governments to participate in pre-lease activities and plan for sale-related development, we divided the North Atlantic into two planning areas, and we divided sale 100—South Alaska, into three separate offerings. Additionally, we had responded earlier to comments from State and local governments by refining the original area-wide offering concept when we released the tentative proposed final program in March. Several States commented favorably on the refined area-wide approach in their comments on the tentative proposed final program.

Off Alaska, we have also slowed the pace of leasing in Norton Basin and deferred leasing in Hope Basin beyond the 5 years covered by the schedule. This is in addition to our earlier decisions to hold only one sale in the North Aleutian Basin in the 5-year period, and to consult with the Alaska Land Use Council before proceeding with the first sale in St. George Basin.

We believe the proposed final program represents a careful and appropriate balancing of all of the Section 18 factors and of the concerns and recommendations of State and local governments. The consideration given to Section 18 factors is more fully discussed in Enclosure 6 of the proposed final program transmitted to the Congress on May 11, 1982.

A fair and equitable return to the public on resources of the OCS will be insured by assuring receipt of fair market value, as required by Section 18(a)(4). This will be achieved by a system which relies more extensively than in the past on competition in the lease market. This system will also result in more efficient tract evaluation procedures. Procedures for assuring receipt of fair market value were improved by (1) providing for a reconsideration of the $150 per acre minimum bid based on experience and, (2) by deferring implementation of a rule which would have resulted in acceptance of all the high bids for all tracts on a geologic structure if the sum of the high bids exceeded the Department's estimate of the structure's value or the mean of the range of values for these tracts. The system developed to assure fair market value is flexible enough to allow development and validation of new evaluation techniques and adjustments of tract evaluation efforts in response to emerging patterns of competition and bidding.

The proposed final program will also help to preserve and maintain free enterprise competition through the area-wide offering concept. The lessening of government restrictions will provide increased opportunities for firms to compete using a variety of exploration strategies.

While Title I of the OCS Lands Act Amendments includes as a purpose providing States and local governments with comprehensive assistance to plan for OCS development impacts, we believe this purpose was intended to be fulfilled primarily by Title V of the Act, Amendments to the Coastal Zone Management Act of 1972, rather than by the 5-year leasing program. However, to the extent that assistance in planning includes the opportunity for States and local governments to fully participate in the leasing program, we believe that the proposed final program will provide appropriate participation. As discussed above, a number of changes were made to address State and local government comments when Section 18 balancing was reviewed. These changes were made in response to comments that the size of sale offerings would preclude effective participation.

The 5-year program we propose meets the legislative goal of assuring that States have adequate opportunity to participate in OCS policy and planning decisions. Several of those opportunities are established in the OCS Lands Act—Section 19, for example. Several result from the regulations implementing the National Environmental Policy Act. In addition, we plan to continue the operations of the Policy Committee of the ODS Advisory Board, the OCS Referral Center, and other coordination mechanisms.

The proposed final program represents a sound determination of the best balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse effects on the coastal zone, as required by Section 18(a)(3). However, as recognized by the U.S. Court of Appeals for the District of Columbia Circuit, the Secretary has discretion as to the weight to assign various factors in his balancing, and the various factors need not receive equal weight. As a result, his decision is necessarily judgmental.

Regardless of the balance achieved, there will always be parties who believe that the factors of most concern to them have not received enough weight. We do not believe that it is possible to make the program or individual sales litigation proof. We expect that the program transmitted to the President and Congress on May 11 will be litigated once it is approved in mid-July of this year. The June 1980 program was litigated and that litigation will likely be extended to the new program.

Litigation or the threat of litigation will always be a factor in the OCS program. It would be a mistake to proceed with a strategy of litigation avoidance as a major guiding principle in this important energy program. The best public policy is an honest effort to comply with the OCS Lands Act and other applicable legislation. Such compliance has been achieved in the proposed final program.

Question 2. In your response to the question relating to the effect that the proposed leasing schedule would have on the ability of the various State governments' ability to respond to the program, you indicated that there "should not be a problem." This seems to be a rather cavalier attitude to take in light of the fact that both California and Alaska on April 12 and 16, respectively, submitted extensive comments to DOI specifically pointing out areas of concern that DOI had not addressed despite the U.S. Court of Appeals for the District of Columbia's October 6, 1981, opinion.

Does DOI plan to make any further modifications to the OCS leasing program as a result of either comments received or additional internal analyses?

Response. As indicated in response to your first question, we have divided the North Atlantic planning area into two areas, and have divided sale 100—South Alaska into three separate areas, both in response to State recommendations stemming from concerns about the ability to participate in pre-lease activities for potentially large sale areas. These changes, and the earlier decision to refine the area-wide offering concept to narrow the focus of pre-sale planning and analysis early in the process, respond to the major concern of States about ability to participate, i.e., that sale areas would be too large to enable State and local government to meaningfully participate in pre-lease decision or to plan for sale-related activities.

The proposed final program will result in one to four sales per year off Alaska (compared to one to three per year in the June 1980 program) which will require a substantial amount of State/Federal coordination. However, beyond the issue of the size of the sale areas involved, addressed above, and the timing of sales, which is based on a balancing of Section 18 factors, the proposed final program does nothing to diminish in any way the existing opportunities for State participation in the OCS leasing process for individual sales. We continue to believe that under the streamlined procedures and the new proposed final program, the States will continue to participate fully in the leasing process.

Question 3. As I am sure you are aware, there still exists a tremendous amount of concern regarding the balancing of interests as required by the OCSLAA. In terms of environmental protection, the State of Alaska has repeatedly provided DOI with comments that suggest that those concerns have not been properly and fully addressed. DOI, however, despite those concerns, notes that ". . . the excellent environmental record of the U.S. OCS oil and gas program, including the opportunity for mitigation specially tailored to individual situations . . ." indicates that no modifications to the program were in order and that environmental considerations have been appropriately considered. Please provide me with the number of exploratory wells drilled in

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extreme frontier regions in either Alaska or Canada where pack ice has been encountered. Indicate whether a sand and gravel island or a drilling rig was utilized. Please provide me with information relating to the opportunities for mitigating an oil spill in such an environment.

Response.

EXPLORATORY WELLS DRILLED IN EXTREME FRONTIER AREAS WHERE SEVERE ICE CONDITIONS HAVE BEEN ENCOUNTERED

	Number of wells [1]	Drilled from
Beaufort Sea	22	Artificial islands.
Offshore Canada	24	Ice islands.
	34	Drill ships.[2]
Beaufort Sea	1	Ice island.
Offshore Alaska	10	Artificial islands.[2]
(State waters)	18	Natural islands.
Beaufort Sea	2	Artificial islands.[2]
Offshore Alaska		
(OCS waters)		
Total	111	

[1] All wells were drilled under landfast or fast floating ice conditions except for an estimated two to five wells drilled by the Canadians under true pack ice conditions.

[2] Includes sand, gravel, silt, and shell materials.

To date, the oil spill record for federally leased activities offshore Alaska has been a good one. As a result of exploration in three sale areas (Gulf of Alaska, Cook Inlet and the Beaufort Sea) and production of 730 million barrels of oil from Cook Inlet leases, no large oil spills (greater than 1,000 barrels) have occurred. Additionally, there have been no large spills from platforms during production of over 1.8 billion barrels of oil at Prudhoe Bay, which presents similar conditions as drilling and production from gravel islands such as those being used in the shallow areas of the Beaufort Sea.

However, in the event a spill does occur, there are several opportunities for mitigating an oilspill in such an environment. During the period when flow ice is frozen solid, oil which is spilled will be trapped beneath the ice with varying amounts of oil absorbed by the ice pack depending on ice type, oil type, and other factors. The oil is trapped by natural mechanisms and may be recovered by melting through the ice pockets and then recovering or burning the oil trapped in the pockets.

A similar situation exists for oil spilled on pack ice. It is trapped by natural conditions and may be recovered or burned. Either method in either situation is labor and time intensive.

An oilspill which occurs during open water conditions would be handled in the same fashion as a spill in other open water areas; recovery by any of several skimmers or other pickup devices, or dispersed, or coagulated by chemicals and recovered.

The worst possible situation that may be anticipated would be for an oilspill to occur during the periods of freeze-up or break-up, approximately 2 to 3 weeks each during a year. The effectiveness of any clean-up technology during either of these periods is severely restricted due to the presence of large amounts of floating ice.

The recovery of spilled oil by these various techniques ranges from about 10 to 50 percent. The most effective recovery method for subice spills demonstrated in one experiment was quite simply to wait until spring thaw and burn the oil as soon as it was freed. The recovery rate in this experiment was estimated at 90 percent. The Department, through the Mineral Management Service's Environmental Studies Program, is contributing funding to research concerning the fate of spilled oil in the Arctic and the most successful and safest methods for controlling these spills. The results of this and other research can be used in post-sale permitting decisions to ensure appropriate technology is employed to prevent and control oil spills.

Question 4. According to DOI's Oil and Gas Leasing and Production Program Annual Report for FY 1981, 374 leases were issued for a total of approximately 2,021,000 acres. Bonuses in the amount of $6,516,637,794 were received for those leases. In FY 1983, DOI is estmating that 1800 leases will be issued for approximately 10,260,000 acres. Estimated bonuses, contained in the April 10 update of the budget, total $10,900,000,000. That will yield an average of only $1,062 per acre. It has been repeatedly suggested that by making available 200 million acres of the OCS on an annual basis, that DOI is establishing a set of preconditions that will not permit the public to achieve true fair market value because you are creating an over supply situation at a time when demand is depressed. It appears that, from your own estimates, you are admitting that this situation will obtain. What is your response?

Response. Fair market value for a property right, such as that conveyed by an OCS lease, is clearly to be determined by reference to the market. Increasing the supply of tracts available for lease by the Federal Government may lower the average bonus per tract or per acre, but not in ways that prevent the government from receiving fair market value. One reason for the decrease in the average bonus is that many of the additional tracts leased will have poorer resource prospects and higher costs and risks than the tracts leased under previous, more restrictive leasing programs. The use of the average bonus for before and after comparison tends to obscure this change. Such a trend does not indicate failure to receive fair market value for the additional, lower value tracts leased.

It is also possible that the increased supply of tracts could result in lower bonuses even on tracts that may have been offered and leased under a more restrictive program. With regard to these tracts, the question is whether there is a way to determine the overall pace of leasing such that "true fair market value" would be recieved. On the one hand, it is possible to extract higher and higher average bonuses by offering fewer and fewer tracts for lease. The bonuses on some set of tracts can be increased by offering acreage at a slower pace. This practice would result in the government exercising its power as a monopolists in OCS leasing, causing the same net loss to the economy that exercise of private monoply would cause.

On the other hand, supply is one of the primary determinants of value in any market. From this perspective, whether or not transactions yield fair market value, depends less on the consideration that changes hands and more on the process by which that consideration is agreed upon. Thus, while average bonuses may be lower on some tracts because they are offered along with so many others, the lower bonuses can constitute fair market value, given that supply and other conditions of the bidding process meet the requirements of a fair market. The issue in this case is not that there is a change in the market, but whether it is still a fair market. The combination of the competitive, sealed bidding process and the Department's tract evaluation procedures will assure that the lease market yields fair transactions.

Aside from these general concepts, it is instructive to compare the "only $1,062 per acre" projected for FY 1983. In the 10 sales in 1980 and 1981, the average per acre received in any sale ranged from $29.95 per acre in sale RS-1 to $6,975.66 per acre in sale 53. The average per acre in 1960 and 1981 Gulf of Mexico sales ranged from $2,446.32 to $4,852.54 per acre. Clearly, what this demonstrates is the variability of bonuses, depending upon the perceived geologic potential, the degree of certainty, the relative costs of exploration, development and transportation, and other factors.

In FY 1983, there are scheduled two first-time frontier sales off Alaska, in addition to a repeat sale off Alaska. The risks and high costs associated with these sales would lead to an expectation of lower bonuses than in proven and less costly areas.

Finally, the 1800 leases-issued figure is a high estimate for FY 1983. Using the mean estimate of 1300 leases, the average would be $1471 per acre.

Question 5. The General Accounting Office, in testimony before the Subcommittee on the Panama Canal/Outer Continental Shelf on April 22, indicated that they were still concerned about the issue of the fair market evaluation of tracts after OCS lease sales have taken place. How much time, on a sale-by-sale basis, is going to be required to perform the evaluations?

Response. A substantial portion of the geological and geophysical data analysis and mapping of general engineering and economic data will be completed and updated on a continuing basis. Therefore, the groundwork for the post-sale evaluation will have been laid before the sale takes place.

Recommendations of tracts for further evaluation, and recommendations for acceptance of high bids on all other tracts—Phase I of the evaluation process—will take place within 3 days of the sale. We anticipate that 35-40 percent of the tracts receiving bids will be recommended for further evaluation and 60-65 percent will initially be recommended for acceptance. Consequently, we expect the majority of the tracts which received bids to be accepted within a matter of a few days after the sale.

The Phase II comparative evaluation, when and if validated, is to be completed within 3 weeks of the sale. It is envisioned that the majority of the high bids on the sampled tracts could be recommended, if found adequate, for acceptance within this period.

Those tracts for which a sufficient concern remains regarding receipt of fair-market value will then enter Phase III, consisting of a detailed resource economic value determination. Structures containing highest dollar bids, where practical, will be evaluated first. This phase is to be completed within 90 days of the sale. Recommendations on bid acceptance/rejection will be made as soon as the evaluations are completed; therefore, if the Phase II evaluation is used, very few tracts will require the entire 90 days for evaluation—probably no more than 20 percent of the tracts receiving bids.

In the event that the Phase II comparative evaluation is not implemented, the tracts selected for evaluation will receive the Phase III quantitative evaluation.

Question 6. DOI's OCS regulations (43 CFR 3316.5(e)) contain a provision that relates to the amount of time that DOI has to

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either accept or reject bids for OCS leases. At this time, DOI is required to make such a decision within 60 days after the lease sale. Is this amount of time sufficient in view of the anticipated workload relating to the fair market value evaluations? Under the existing leasing system, what was the average amount of time required to perform a fair market value evaluation?

Response. Under the current OCS leasing system, all decisions concerning bid acceptance or rejection have to be made within 60 days after the lease sale. This process is usually completed within 10 to 14 days. Under streamlined OCS leasing, 60 days will not be sufficient time to complete the three-phase post-sale analysis process required for a small percentage of the tracts. Ninety days will be necessary. Proposed revisions to the 43 CFR regulations were published in the Federal Register in Novemer 1981, including a proposal to extend this period. We expect to publish final regulations shortly. We cannot calculate what was the average time used to perform an evaluation. Work began on individual tracts sometimes 6 months prior to a sale with updating (because of new information) or completion just prior to a sale.

Question 7. Please provide a detailed explanation as to the factors that were considered by either OMB or DOI, in revising the OCS revenue estimates downwards. Please distribute the reductions over the individual lease sales scheduled for FY 1983.

Response. We have been advised by OMB that it has adjusted the estimates for OCS receipts for Fiscal Years 1982 thru 1985 as follows:

FY 1982—Increased estimated bonuses to reflect the results of sale 67 (about $300 million).

FY 1983—Lowered estimated bonuses to reflect the cancellation and postponement of sale 75 and sale 73 ($400 million).

—Lowered estimated bonuses because of uncertainty ($1.9 billion).

FY 1984—Increased estimated bonuses to reflect postponement of sale 73 ($400 million).

—Lowered estimated bonuses because of uncertainty ($1.6 billion).

FY 1985—Lowered estimated bonuses because of uncertainty ($0.8 billion).

The adjustments for uncertainty provide for uncertainty in the crude oil and capital markets and were not distributed by sale by OMB.

Question 8. Several major financial institutions engaged in financing OCS operations have taken issue with the estimated receipts for the FY 1983 proposed sales. They have indicated that the following factors have contributed to lower their expectations as to the bonuses that they believe the oil and gas industry is either willing or able to pay in FY 1983: (1) flattening of industry profits resulting in decreased cash flow, (2) high interest rates, (3) high risk and high cost of operations in frontier regions, and (4) decreased credit availability. Has DOI had any recent contact with financial institutions that will either confirm or refute those positions? Please provide a brief narrative as to the content of any discussions that have been held relating to this subject.

Response. Department staff have met with representatives of a number of financial institutions to discuss the relationship between financial conditions in the oil industry and the overall rate of investment in lease acquisitions and exploraton. These discussions have confirmed the view that these investments are financed primarily from earnings rather than outside financial sources. It is apparent that the oil industry will spend more money acquiring OCS leases and drilling exploratory wells when its profits are high than when its profits are low. It is less clear, however, how to determine what might be the amount of bonuses in a given year on the basis of financial statistics or economic forecasts. In the end, companies bid in response to their perceptions of specific prospects, shifting funds from one area of investment to another if the payoff appears to be sufficiently attractive. If the pre-sale evaluation of some of the OCS areas that will be offered turns out to indicate high promise, then firms would be able to bid more by foregoing investments in other areas, both OCS, onshore and foreign. While some general adjustment of receipt estimates for FY 1983 was warranted by financial conditions in the oil industry, sales in coming months will provide a better indication of these effects.

It is important to recognize that, while it is useful for Federal budgeting to consider the effects of financial conditions on bonus receipts, the current downswing in the oil industry is not reason to alter the leasing program for the next 5 years, leading to resource development stretching over decades. The proposed 5-Year Leasing Program will allow the oil industry to invest in OCS development in much the same fashion as in other sectors of the economy. During periods of economic decline, investment also declines, only to increase when economic growth resurges. The 5-Year Leasing Program will make leases available over a period of time so that firms will know that opportunities will be there when the investment funds are available.

Question 9. It appears as if the assumptions that were used to develop your sale-by-sale revenue estimates were based on the mean estimate of the undiscovered recoverable resources made by the United States Geological Survey. What has been the historical accuracy of the initial USGS resource estimates when compared to actual discoveries and proven reserves?

Response. The USGS only began developing resource estimates in a systematic way in 1975. Estimates are developed and reported in a probability distribution—that is, a range of values associated with a given probability of occurrence. The resource estimates are for the total undiscovered recoverable resources that may be discovered in a given area through time. Extensive exploration and delineation drilling is required before the amount of proven reserves in one find can be determined, and this requires several years. In conclusion, it is too early to evaluate the success of USGS undiscovered resource estimates in predicting ultimate discovered reserves.

We believe that, taken as a whole, the assumptions we used in making sale-by-sale revenue estimates were reasonable and conservative. The problem we face in estimating bonuses in FY 1983 and beyond is not only uncertainty about actual resources, but that very large areas will be offered for sale, and we must estimate how much of the area will actually receive bids. We believe that the revenue estimates are sound, since they are based on reasonable assumptions, taking into account uncertainties.

Question 10. Please provide me with a list of State submerged lands sales and their location in relation to DOI's planned OCS sales. Were these sales taken into consideration in developing DOI's 5-year plan? If not, why not? Also provide, if available, revenue estimates from those sales. Does DOI view those sales as being in competition with DOI's planned OCS lease sales? What were the anticipated effects on bonus revenue to DOI and was that taken into consideration in developing your revenue projections?

Response. To date, leases have been issued in State waters off of Texas, Louisiana, and Alabama; off of California in the Santa Barbara Channel and in the San Pedro area off of Los Angeles; and in the Upper Cook Inlet and Beaufort Sea off of Alaska.

In many cases, these State leases have directly influenced Federal lease sales. For example, leases in the Upper Cook Inlet had a direct influence on the evaluation of tracts offered in sale CI (1977). Mobil Oil's gas discovery on a State lease in Mobile Bay, Alabama, had a direct effect on sale 67, Gulf of Mexico (1980), in that the adjacent tract in Federal waters received the highest bid for that sale. In the State/Federal Beaufort Sea Sale (1979), 62 State tracts with a high bonus of $567 million were leased as compared to 24 Federal tracts with a high bonus of $589 million. These effects, however, are dependent upon drilling results and cannot be meaningfully estimated in advance. Therefore, effects of planned or potential State leasing on Federal revenues were not considered.

Regarding future State offshore lease sales, no lease sales are known to be planned for the east coast States. Although Delaware has expressed an interest in future offerings, no plans have been announced. All of the Gulf of Mexico States which have leased in the past intend to continue offshore leasing, as far as we know. In the past, Louisiana has had the most aggressive schedule, usually holding sales each month. Texas has periodic sales of both onshore and offshore leases. Alaska has a lease sale schedule which is attached. California has roughly 360,000 acres under lease in the Santa Barbara Channel and off Ventura and Huntington Beach. It is also studying a proposal to lease 40,000 acres offshore Santa Maria in Central California.

With the exception of Alaska and Louisiana, no State provided us with an indication of its offshore leasing plans when requested to provide the Department with its laws, goals and policies which should be considered in formulating the 5-year leasing program. Louisiana was concerned about possible adverse effects of Federal leasing on its own leasing. Alaska recommended that Federal and State sale schedules be consistent.

State offshore leasing was not explicitly considered in developing the proposed final program (however, cumulative environmental and socioeconomic effects of Federal and State leasing activities were considered in the supplement to the Final EIS covering the proposed final program). As long as we expect to continue importing oil, it is in the national interest to make Federal and State acreage available for exploration at a rapid pace. More rapid State leasing is not reason for slower Federal leasing. Additionally, there are significant differences in resource potential between State and Federal waters in many cases, and different pre-lease planning requirements. These lead to different conclusions about the appropriate location and timing of sales in State and Federal waters. Also, leasing programs of States may not have the same goals and objectives as those of the Federal OCS program which were established by the 1978 amendments to the OCS Lands Act. For these reasons, we

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do not view State sales as in competition with Federal sales.

Question 11. Have your assumptions regarding either the acreage to be leased or the resources necessary for the management of the program changed as a result of the April 10, reestimation of the receipts to be derived from the accelerated OCS leasing program? If so, please provide the revised estimates.

Response. The basis for the reestimate is explained in the response to question 7. These changes do not affect workload or other resource needs. As a practical matter, it is the expected results of leasing programs that lead to receipt estimates, not the other way around, as this question might suggest.

Question 12. There exists a concern on the part of some major firms that are active participants in OCS exploration and development that the tentative proposed final OCS leasing schedule will present a set of problems to the industry that may not be easily overcome. For example, a recent criticism of the schedule is that it will overload the industry's capabilities to properly evaluate, explore and subsequently develop the vast amount of acreage that is to be offered by DOI. What is your response to this?

Response. See the response to question No. 3 of your April 19, 1982, letter. In general, the offshore oil industry has been supportive of the proposed 5-Year OCS Leasing Program. There is no doubt that it will provide a challenge, particularly to individual firms. On the other hand, it is neither necessary or likely for industry to "evaluate, explore, and subsequently develop the vast amount of acreage that is to be offered." The intent of the revised program is to make available a wide range of opportunities for investment in evaluating and exploring the OCS. Firms may decide within their individual financial and technical capabilities where, when and how much to invest. The resulting process of inventorying and developing our OCS resources will be more efficient and expeditious than one that depended on the government's ability to evaluate and anticipate industry's "capabilities" and to plan a leasing program that is constrained by those estimated capabilities. The proposed 5-Year Program harnesses the strength of the free enterprise system to the potential of the OCS.

Question 13. In preparing the tentative proposed final 5-year leasing schedule did DOI take into account the world-wide exploration activities of those firms thought most likely to participate in OCS lease sales? Was any consideration given to the possibility that firms may be constrained from participating by other commitments in other OCS areas of interest?

Response. The program is based on the principle that firms should decide how to invest, on the basis of their commitments and resources, rather than having the government restrict the availability of opportunities for investment in inventorying the OCS on the basis of questionable estimates of commitments and capabilities. A resource development program limited by past "commitments" would never provide the opportunities for rapid deployment of our Nation's economic resources in response to potentially great pay-off. The marketplace, rather than the government planner's office, is the best place for decisions on commitments to be made. See also the response to question #3 of your April 19, 1982, letter.

Question 14. How many rigs and what type (i.e., jack-up, semisubmersibles, etc.,) will be required over the course of the full 5-year leasing schedule should it fully meet your projections as to the amount of acreage leased? How many exploration wells are you projecting will be drilled and in which planning areas?

Response. The Final Supplement to the EIS on the 5-year program estimates a total of over 1500 exploration wells. This number is based on conditional resource estimates (assuming commercial discoveries in each area) and could be reduced if early exploration efforts in some planning areas are not successful. All types of drilling rigs are expected to be required, but total number of rigs and number of each type was not estimated. Comments from support industries indicated that drilling equipment should not constrain OCS development. (See response to question #3 of your April 19, 1982, letter.) The program has been developed on the assumption that equipment will be built and manufactured to meet whatever demands result from leasing activity under the schedule. Increases in the supply of the rigs, etc. over the past few years have indicated that this assumption is well founded.

Question 15. It appears as if, at this time, the construction of the Alaskan Natural Gas Transportation System (ANGTS), is uncertain. In your ranking of the Diapir field, you assumed 14.8 TCF of gas could be produced, and one assumes, transported through the ANGTS pipeline. Is it not appropriate to review the placement of the Diapir field on your leasing schedule in view of the fact that the net economic value of the field may be substantially reduced because of the unavailability of the means to transport the gas to the marketplace? Your views on this would be appreciated.

Response. The effect on net economic value of not producing gas discovered in the Diapir field was examined in response to comments received on the tentative proposed Final 5-year OCS Leasing Program. While its net economic value would be reduced from $47 billion to $25 billion, the Diapir Field's ranking among OCS planning areas would drop only from fourth to sixth. This would not substantially alter the placement of the area in the leasing schedule. Early exploration is warranted by the potential oil discoveries. Discoveries of gas during this process could be considered in investment decisions concerning the Alaskan Natural Gas Transportation System.

Question 16. In your response to a question contained in my letter of April 19, regarding the effects that DOI's tentative proposed final leasing schedule would have on competition, you indicated that no study had been performed relating to this issue. How did you propose to balance the various policy considerations contained in the OCSLAA without any information upon which to base decisions? You indicated that you analysed and "considered" a variety of comments in formulating the program. Generally, what was the substance of the comments? How did you take them into consideration in formulating the program?

Response. The fact that no study had been done on the effects of the leasing program on competition does not mean that there was no information on that subject upon which to base decisions. In fact, a substantial discussion of the role of competition and the effect of the role of leasing on competition was provided in the Secretarial Issue Document of March 1, 1982 (see Appendix 3 to that document).

Comments received on the effects of the proposed program on competition fell generaly into two sets. One view was that competition has been inadequate and would be decreased by offering OCS acreage more rapidly. The other view was that competition has been intense, particularly on better prospects and will continue to be an adequate basis for assuring receipt of fair market value. Consideration of these comments is reflected in the Secretary's decision to move forward with an aggressive leasing program, placing greater reliance on the competitive bidding process to assure receipt of fair market value, while retaining procedures for government evaluation of a significant portion of the tracts receiving bids.

Question 17. Please provide a synopsis of comments received to date relating to the tentative proposed final OCS oil and gas leasing schedule.

Response. Enclosure 9B of the letter sending the proposed final program to the President of the Senate contains a synopsis of comments received on the tentative proposed final program. A copy is attached.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I would like to take this opportunity to discuss my reasons for voting against the 1982 tax bill passed by the Senate yesterday. This was not an easy vote because the bill contained several provisions, such as those affecting multinational oil companies and mergers, which I believe were meaningful attempts at tax reform. It was also not an easy vote because I am fully aware of the need to reduce the Federal deficit in fiscal year 1983 and beyond. On Wednesday I voted for the reconciliation bill which will cut spending in important programs by over $13 billion over the next 3 years. On Tuesday I voted against the defense authorization bill for fiscal year 1983 because it called for more spending than a secure national defense required or a struggling economy could stand. And yesterday one part of me would have liked to vote for another deficit reduction measure.

But after carefully analyzing all of the individual provisions of the tax bill, I came to the conclusion that it was too high of a price to pay. Many aspects of the bill were troubling to me. Three of them were as follows:

First, the provision on additional weeks of unemployment compensation was a stopgap measure which would carry the politicians, and, incidentally, the unemployed through the election. It will take the wind out of the sails of a movement for more basic reform of the unemployment compensation system which would have benefited Michigan and similar States with high unemployment more than the one in the tax bill. The basic reform stood a reasonably good chance of passage this year.

The unemployment benefits provision creates the illusion that high unemployment States have nothing more to worry about, when in reality it will, I am afraid, foreclose the possibility of meaningful reform. On paper it may look like the bill gives Michigan 10 additional weeks of unemployment benefits. But actually, within 2 months, when it is likely that Michigan will trigger off extended benefits, it will give many of the unemployed in Michigan fewer weeks of extended unemployment compensation than they would have been eligible for if the mistakes in last year's reconciliation bill had never taken place or had been corrected this year. In last year's bill not only did the Congress schedule an increase in the trigger for extended unemployment benefits for weeks beginning after September 25, 1982, but it also modified the formula by which a State determines whether it reaches that new and higher trigger. This modification took the form of excluding individuals who have exhausted their extended benefits—weeks 27 through 39—from the calculation of the insured unemployment rate. For a State like Michigan, which has endured over 30 months of double-digit unemployment, this change in the formula can be devastating. What it says, in a sense, is that too many people in Michigan have been unemployed for too long to be eligible for long-term benefits. Such illogic demands fundamental reform, and what the Congress did in passing the tax bill was to create a smokescreen obscuring the need for reform and what will make less likely that otherwise very likely reform.

The practical impact of the unemployment provisions of the tax bill is that unemployed individuals in Michigan who exhaust their first 26 weeks of benefits in October will probably only be eligible for 10 weeks of benefits on top of the basic 26 weeks because Michigan will not be able to reach the new higher triggers for the normal 13-week extended benefit program. Basically, it comes down to this: If we had engaged in meaningful reform, States such as Michigan would have been eligible for 39 weeks of unemployment benefits in October, whereas the tax bill, in effect, sets a limit of 36 weeks. Furthermore, after March 31, 1983, when the tax bill's provisions expire, there is the very real possibility that States will still be enduring historically high rates of unemployment without being eligible for an extended benefits program. And if I might be cynical for just a brief moment, at that time there will not be the pressure of an oncoming election for the passage of even a stopgap program for additional unemployment benefits.

Second, I was opposed to both the substance and the process of the provision which would have imposed upon restaurants reporting requirements with respect to tip income. These complex and burdensome requirements defy the imagination. Let me pose just a few of the questions which come to mind: In light of the fact that in many restaurants the turnover rate of tipped employees is quite high, will this requirement place an undue regulatory burden on some employers? Will the distinction required between table or carryout service place additional burdens on employers by requiring separate cash registers or tape computerization systems? Will the system of allocating 8 percent of gross receipts allow employers to practice favoritism, harass, pressure, or otherwise place unreasonable demands on employees? I cannot really believe that people who have for years urged that the Federal Government get out of the marketplace and out of the lives of individuals, are really proposing this bureaucratic nightmare.

Further, when there was a separate vote on the tip provision at the time the Senate first considered this bill, the tip provision was overwhelmingly defeated. But, nevertheless, the will of the Senate was ignored, after the will of the House had never even been tested, and this provision was added back in the bill in an eye-blurring marathon conference session. This arbitrary procedure is no way to enact a provision which could have such an intrusive impact on the lives of individuals.

Third, I was greatly concerned that the conference committee gutted an amendment which I offered to the withholding provision of the Senate version of the tax bill. This amendment would have required the Treasury to issue regulations to exempt financial institutions which could not comply with the withholding requirement without an undue burden. The original Senate bill, before my amendment, had a similar provision, but it only applied to small financial institutions and was open ended with respect to time. My amendment did not make any distinction with respect to the size of the financial institution and was still open ended. However, the conference committee agreement put a 6-month time limit on this provision. That change went a long way in watering down my original intent and hoped-for effect.

I believe that there was a better tax bill alternative. During the consideration of the Finance Committee version, Senator BRADLEY offered a substitute which would have preserved the benefits of the third year of the administration's tax cut for 85 percent of our taxpayers by asking for sacrifice from the most advantaged members of our country. The President said that the tax bill he was supporting this year would not harm the average working person. And nor would have Senator BRADLEY's. The difference was the Senator BRADLEY's amendment removed the need to impose regressive excise taxes as a way of making up additional revenue. The country would have been better served, in terms of basic equity, the Bradley proposal had been adopted in the place of the bill the Senate passed yesterday.

In conclusion, Mr. President, the tax bill which the Senate voted on yesterday had many good elements to it, but in my view, they could not outweigh the bad or questionable.

ANNIVERSARY OF SOVIET INVASION OF CZECHOSLOVAKIA

Mr. PERCY. Mr. President, August 21 is the 14th anniversary of the Soviet invasion of Czechoslovakia, a day of sorrow for freedom-loving peoples everywhere.

The Czechoslovak people have set an outstanding example for all the captive nations. They have never accepted the Soviet occupation, and in 1977 more than 1,000 courageous Czechoslovak citizens signed Charter 1977, which petitioned the authorities to adhere to the Helsinki Final Act which both Czechoslovakia and the Soviet Union had signed 2 years earlier.

The Charter 77 movement has persisted in Czechoslovakia despite severe repression. Last month, our own U.S. Helsinki Commission published a compilation of Charter 77 petitions which are testimony to the indomitable spirit of the people of Czechoslovakia.

CONFERENCE REPORT ON TAX BILL

Mr. CANNON. Mr. President, I rise in opposition to the tax conference report of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Mr. President, this has been a difficult vote for many of my colleagues because this measure includes both positive and negative features. I could not, however, support this conference report because of several provisions which affect low- and middle-income taxpayers.

For example, Mr. President, I am deeply disappointed in the ruling of the Chair concerning the germaneness of the tip-reporting provision in the conference report. This part of the conference report was stricken from the Senate bill, and there was no such provision in the House bill. I am opposed to the tip-reporting provision, particularly, because of its dramatic impact on employees and employers in my State of Nevada. The reporting requirements represent an onerous burden to employers and to tipped food and beverage employees.

In addition, I could not support the adoption of a 10-percent withholding on interest and dividends. This means

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yet another burden on the already-beleagured savings and loan institutions, and I believe that the cost of administering this provision will greatly outweigh the projected revenue to be gained from its adoption. I am thankful, however, that exemptions were provided, at least, for the elderly and those with very low incomes.

While I am glad that an airport and airway development bill was approved because it is important to our Nation's airport development, I am gravely dismayed that there were increases in general aviation taxes. I could not support the 8-cent-per-gallon increase in aircraft gasoline fuels, or the 3-percent increase in the air passenger ticket tax, or the reimposition of the international departure ticket tax. This is such a high amount for operation and maintenance, particularly when there is a substantial balance in the existing trust fund of some $2 billion.

Another provision I could not support, Mr. President, is the telephone excise tax increase which rises from 1 percent to 3 percent from 1983 through 1985. This is yet another burden on low- and middle-income taxpayers who are already shouldering a heavy tax burden, while working to make ends meet.

I also object to the medical expense deduction provision which limits the amount of medical expenses that taxpayers can deduct. Here, especially, Mr. President, is an area that is so vital to Americans—health. Each year, with rising health costs, it becomes harder and harder for the average American to afford adequate health care.

While I am pleased to see the additional weeks of unemployment benefits added in the conference report, I do not think that the conferrees went far enough in modifying the law with regard to extended benefits. With this Nation's unemployment rate at such a peak, I think this is one of our most urgent priorities.

And finally, Mr. President, I am concerned about the affect that the medicare cuts will have on its beneficiaries.

I should say, Mr. President, that I am pleased that this bill has taken steps to remedy the tax situation with respect to safe harbor leasing. I have advocated the repeal of at least half of the tax benefits approved in last summer's tax bill.

Nevertheless, Mr. President, there are too many provisions in this conference report that I could simply not support. I have enumerated the key ones for the record. For this reason, and at the urging of the majority of my constituency, I could not vote for this $98.3 billion tax increase bill—the largest in history.

JAPAN'S LATEST DEFENSE BUDGET DECISIONS FAIL TO MEET COMMITMENTS; DESPITE HEADLINES, PROGRAM THREATENS UNITED STATES-JAPAN MUTUAL SECURITY; CONGRESS MUST APPLY PRESSURE BY PASSING SENATE CONCURRENT RESOLUTION 46

Mr. LEVIN. Mr. President, earlier this week, the Senate approved the conference report on the Fiscal 1983 Defense Authorization Act.

This defense budget, which contains many programs needed to maintain and improve our national security, and several which are not, imposes substantial burdens on the American taxpayers.

Out taxpayers are becoming increasingly concerned about these burdens, expecially while the Federal Government is drastically reducing its commitment to important domestic programs.

As this concern mounts, I think it is instructive for the Congress to keep uppermost in mind the contrasts between our own efforts to defend ourselves and our allies in NATO Europe and Japan, and the contributions these other nations make to the common security.

I have spoken out may times on this issue, because as a member of the Armed Services Committee, I am confronted almost daily with the growing magnitude of American defense budgets and the insufficient military efforts of many of our allies.

While several of our NATO allies are contributing far less than their fair shares to the common defense, the prime offender—the nation which has contributed the least to our mutual security but which has the capability to contribute the most—is Japan.

I would like to focus the attention of the Senate on Japan's meager self-defense efforts at this time for two reasons.

First, in 10 days in Honolulu, Hawaii, senior American and Japanese defense and foreign affairs officials will meet to discuss mutual defense needs and each nation's contributions to satisfy them. This group, known as the Security Subcommittee of the United States-Japan Security Consultative Committee, was established to help implement the Treaty of Mutual Cooperation and Security between our two countries.

I want to urge the American members of this subcommittee, as strongly as I can, to candidly inform their Japanese counterparts that their nation continues its failure to meet its common defense commitments, that the recent defense budget decisions in Tokyo—by their many inadequacies—threaten United States-Japan security, and that Japan must rid itself of the complacency which marks its self-defense efforts.

The American representatives should determine to the Japanese that their business as usual attitudes toward their own self-defense needs and their commitments to our mutual security are becoming more and more unacceptable to the American people. Our officials should deliver this message loudly and clearly, without any of the diplomatic niceties which usually obscure such discussions, and they should prevail upon the Japanese representatives that Japan must increase its defense spending.

Second, I want to present further troubling evidence why our representatives should adopt this determined position at the Security Subcommittee sessions, and why the Senate should pass—as soon as possible after the Labor Day recess—Senate Concurrent Resolution 46, my resolution calling upon Japan to meet its mutual security commitments by significantly increasing its annual defense spending, as it has promised to do.

Senate Concurrent Resolution 46 is cosponsored by a majority of the Senate—53 of us to be exact. It reflects a dissatisfaction with Japanese defense contributions held by Americans throughout our Nation, not just by those who are experiencing hard economic times due to Japan's discriminatory trade policies. The cosponsors represent all regions of the United States, both parties and all positions on the political spectrum.

Senate Concurrent Resolution 46 is a moderate measure, Mr. President. In fact, some of my colleagues consider it too modest in its tone. But is sends a clear signal to the people of Japan from the people of the United States. I shall insert its text into the RECORD at the conclusion of my statment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. The Foreign Relations Committee already has held hearings on this legislation, and I want to express my thanks to Chairman PERCY and Senators HAYAKAWA and GLENN for their cooperation in expeditiously considering Senate Concurrent Resolution 46.

The Senate should overwhelmingly endorse Senate Concurrent Resolution 46, Mr. President.

Not to do so would demonstrate incredible insensitivity to the American taxpayers and would undermine the efforts of the executive branch to urge the Japanese to increase their defense spending annually.

The executive branch is not being aggressive enough as it is in such endeavors. Congress needs to push it further, as well as to show the Japanese that there is no division within the U.S. Government on this issue. Passage of Senate Concurrent Resolution 46 would apply reasonable and appropriate pressure on both the executive branch and on the Japanese Government.

The requirement for passage of Senate Concurrent Resolution 46 has become even more pressing in light of the Japanese Government's decisions late last month about its 1983-87 defense program.

The press greeted Japan's decisions to nominally increase defense spending in 1983, and to increase military hardware procurement between 1983-87, as a positive step.

Upon close examination, however, these decisions are a further set back to American efforts to convince Japan to increase defense spending and a further widening of the growing gap between Japanese rhetoric and actions about how they will expand their efforts to meet their common security commitments.

Just 1 year ago, in May 1981, Japan's Prime Minister Suzuki made such a commitment after his summit meeting with President Reagan. He promised Japan would make "even greater efforts" to improve its self-defense capabilities. More importantly, he declared it was Japan's policy to defend the sea space for several hundred miles around the home islands and the sea lanes of communication out to 1,000 nautical miles from Japan.

Japan is now unable to accomplish this mission, and it has been calculated it would require between 10 and 12 percent annual growth in defense spending, after inflation, between 1983 and 1987 for that nation to achieve these capabilities by the end of this decade, if then.

Japan's 1983 increase over 1982 represents only about $760 million, which will not even buy one capable destroyer these days. Since it will be spread around the entire defense budget, its impact on improving the self-defense forces will be even further diluted.

The nominal increase is also well below the nominal 11 percent growth recommended by Japan's own defense agency, the reported 10 percent real growth suggested by the United States, and the calculations by Japanese experts of the annual growth needed to meet the 1,000-mile sealane defense commitment.

Detailed analysis of the increase also shows that most of it does not embody new efforts to improve Japan's self-defense forces but instead represents present funding of past limited initiatives. One Japanese Defense Agency official has stated that almost all of the 1983 increase consists of outlays for previously obligated programs. To take credit for these programs now would be a form of double counting, and the Japanese deserve no credit for such an exercise.

It has been calculated by knowledgeable sources that just to meet these past obligations and to finance the normal operations and maintenance of Japan's existing forces would have required a 9.1 to 9.7 percent nominal increase in 1983. Thus, there may well be a real decline in Japan's military capabilities because of its insufficiency.

This low growth in 1983, coupled with the inadequate program planned for the following 4 years, insures that Japan's promised improvements to meet its policy commitments, especially the 1,000 nautical miles pledge, will be delayed even further beyond 1990. The Director General of the Defense Bureau of the Japanese Defense Agency even admitted this at a press conference after the 1983-87 plan was announced.

Our own defense plan maintains an average 6.5 percent annual real growth in 1983-87.

Furthermore, the 1983-87 projections will postpone, even longer, completion of Japan's military improvement program established in 1976—a program now recognized as outdated and deficient by the Japanese themselves in light of expanded Soviet military capabilities in the Far East.

Much has been reported about how the 1983-87 midterm defense program increases the number of aircraft and ships to be purchased for Japan's arsenal. Unfortunately, careful scrutiny discloses that this program still buys far fewer P-3C antisubmarine patrol aircraft, F-15 air defense interceptors, submarines and ships than are necessary to carry out the 1,000 mile sea lane defense policy.

Most shocking is that this 5-year program makes only marginal improvements in the defense budget area acknowledged to be the weakest link in Japan's self-defense chain—logistics and sustainability. Even the limited numbers of aircraft and ships being purchased will do little good if the pilots and sailors aboard them run out of ammunition and fuel. All three self-defense forces—Army, Maritime, and Air Force—suffer from this condition.

The Executive Director of Tokyo's Research Institute for Peace and Security, Seiichiro Onishi, recently was reported to conclude: "The priority is on mainstay items, but in logistical support, there is a shortage." Despite U.S. requests that Japan stockpile a 3-month supply of ammunition, for example, the Nation continues to maintain only a half-month's supply, it has been reported.

Mr. President, with our own defense concerns in the Persian Gulf and Pacific Ocean regions I do not think we should have to worry about our Japanese ally running out of bullets, bombs, aircraft missiles, spare parts, and gasoline.

Finally, much will be made in the near future about how Japan's annual defense spending soon will approach or exceed 1 percent of its gross national product (GNP), a statistic which has been the magic ceiling beyond which no Japanese Government has recently dared to go for fear of public rejection. The 1983-87 program will be given credit for reaching this milestone, which many of us have been urging for several years.

Americans should not be deceived by this occurrence, because it will be much more a product of slower-than-expected growth in Japan's GNP than it will be due to substantial increases in defense spending. Breaking the 1 percent of GNP barrier will be a statistical event. It will not mean Japan is meeting its self-defense and mutual security commitments by devoting sufficient national resources to improving its military.

Until Japan meets these commitments with adequate budget resources, the Japanese should understand that breaking the 1 percent of GNP barrier will not be praised in the United States. They should understand that the sophisticated observers in the Congress, the executive branch and the American public will not stop urging Japan to increase its self-defense capabilities and budget in substantial, meaningful ways.

Mr. President, Japan's new 5-year defense program is a major disappointment, not a cause for celebration. At the end of this program, with the Japanese forces which are to be purchased and maintained between 1983-87, if the Soviets were to try to sever Japan's sea lines of communication out to 1,000 miles from the home islands, Japan's economy probably would collapse and its freedom would be threatened.

I hope our representatives underscore this conclusion to their Japanese counterparts at the Security Subcommittee meeting. I hope they also urge them to reconsider the present 1983-87 program with the goal of expanding it to develop Japanese capabilities for a sustainable self-defense out to 1,000 miles by 1990. I also hope they ask the Japanese to increase their contributions to the support of U.S. forces based in Japan, in light of these present inadequacies in Japan's defense efforts.

Japan can accomplish all this during its final budget deliberations later this year.

The American people are united in urging this reversal of Japan's present, inadequate self-defense course. I am confident that the Senate will reflect this sentiment by adopting Senate Concurrent Resolution 46 by a resounding vote. I urge my colleagues to do so, and I hope the Japanese Government will be paying attention.

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EXHIBIT 1

SENATE CONCURRENT RESOLUTION 46—Concurrent Resolution Relating to Mutual Security Efforts of the United States and Japan

Mr. LEVIN submitted the following concurrent resolutoin: which was referred to the Committee on Foreign Relations:

"S. CON. RES. 46

"Whereas current international developments indicate the need for greater efforts on the part of the United States and is allies in defending democratic values and ideals;

"Whereas the joint communique recently signed by Japan's Prime Minister Suzuki and President Reagan recognizes that the alliance between the United States and Japan is built upon shared values of democracy and liberty;

"Whereas the United States-Japan Treaty of Mutual Cooperation and Security states that the parties will maintain and develop their capacities to resist armed attack;

"Whereas, in the joint communique signed by Prime Minister Suzuki and President Reagan, the Prime Minister stated that Japan will seek to make even greater efforts for improving its defense capabilities; and

"Whereas Japan has demonstrable economic strength and yet contributes less of its national resources for defense expenditures than any country of comparable economic base: Now, therefore, be it

"*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that both the United States and Japan should exert maximum efforts to resist Soviet challenges to security and democracy in Asia.

"SEC. 2. It is further the sense of the Congress that Japan should make a greater contribution to its own defense so that a full partnership and closer cooperation in sharing the burden of common defense can be achieved, thereby enhancing the combined effectiveness of Japanese and United States defense forces in preserving peace and security in Asia.

"SEC. 3. It is further the sense of the Congress that, as a tangible sign of commitment to these aims, the Government of Japan should increase its defense expenditures to the level of at least 1 per centum of that country's gross national product."

SOVIET DAY OF SHAME

Mr. LEVIN. Mr. President, today marks the 14th anniversary of the Soviet-led invasion of Czechoslovakia, now known as the "Soviet Day of Shame." It is important that the United States—a country dedicated to national self-determination and democratic and humanitarian ideals—commemorate this day by honoring those brave Czechs who refuse to relinquish their pursuit of political and civil liberties and of fundamental human rights. In observing the "Soviet Day of Shame" we not only honor the Czechs, but we rebuke Soviet intervention and repression in a land whose people yearn to live in a more democratic society.

The struggle to establish a freer society predates 1968. In 1918, Czechoslovakia was the first among Eastern European countries to become a liberal democratic polity. A Communist coup in 1948 negated strides taken toward democracy. Yet it did not diminish the freedom-loving spirit of the Czechoslovakian people.

In 1968, for a regrettably brief period, Czechoslovakia enjoyed the reinstitution of a more liberal society. Under the rule of Alexander Dubcek, a program entitled the action program was introduced. Although it maintained the primacy of the Central Party, it substantially reduced the party's role in national life, while calling for expanded political and civil liberties and lifting of restrictions on media, cultural events, education, and religious practices. No sooner had the Communist-imposed bans been lifted, than the Soviets (fearing a diminution of control) invaded the small country, squelched the democratic advances and reimposed a government sympathetic to Moscow.

On the pretext that the Czechs had violated the Warsaw Pact, the Soviets ordered a "normalization process." The so-called "normalization" resulted in abnormalities in the political, cultural, and religious lives of the Czechs. "Normalization" gave rise to a society where party dogma determined and permeated every aspect of Czechoslovakian life. Czechoslovakian resistance to Soviet sanctions, to this day, leads to imprisonment and persecution. A particularly noteworthy and courageous group of citizens signed two documents, "Charter 77" and "Petition 78", which reveal the atrocities their fellow countrymen suffered and continue to suffer at the hands of the Soviets.

After 14 years, the situation in Czechoslovakia remains grim. It is appropriate that we denounce Soviet transgression of international accords and subjugation of the Czechoslovakian people today, as we did in 1968. In recognizing this day, in some small measure, we may help alleviate their suffering and let them know that we support their struggle to achieve a state where the Czechs will determine the political future of Czechoslovakia.

THE SOVIET DAY OF SHAME

Mr. PELL. Mr. President, August 21 marks the 14th anniversary of that day in 1968 when the Soviet Union, in blatant violation of the United Nations Charter, brutally invaded Czechoslovakia with 600,000 Soviet and Warsaw Pact troops, thereby extinguishing the flames of freedom and liberty which had begun to burn so brightly in Prague that spring.

During 1968, the Czech and Slovak peoples began an unprecedented experiment in "socialism with a human face." Acting in accordance with the principle of "sovereign equality" of all members of the United Nations, Czech and Slovak reformers set out to combine socialism with democracy and economic security with civil liberties. The role of the Communist Party, which had ruled Czechoslovakia for 20 years with an iron fist, was weakened. Censorship was abolished and, as a result, the press, radio, and television became "schools of democracy." The despicable acts of the Communist Party—the purges, trials, tortures, executions, denial of human rights—were being brought to light, publicly discussed and criticized. The people of Czechoslovakia, who had had a tradition of pluralist democracy before the imposition of communism in February 1948, soon began to discredit the system of one-party rule by the Communist Party. Civil liberties were restored; political prisoners were rehabilitated. The people of Czechoslovakia began to enjoy some of the freedoms which we, in the West, so often take for granted.

As a Foreign Service officer who had established our Consulate Consul at Bratislava, in Czechoslovakia, shortly after the Communist coup of 1948, I saw firsthand how the Czech and Slovak peoples were robbed of fundamental freedoms and basic human rights. In 1968, these brave people made great strides toward regaining these rights and humanizing the Communist system under which they had lived for 20 years. In fact, Czechoslovakia became the most liberalized state in Eastern Europe. One can imagine how high the flames of freedom and liberty would have risen had not Soviet-led tanks and troops stormed into Czechoslovakia on that fateful day of shame in August. The Soviet invasion of Czechoslovakia under the banner of "proletarian internationalism" abruptly ended the Czechoslovakian experiment in "socialism with a human face" and forcibly prevented the people of Czechoslovakia from shaping their own future.

I have been deeply interested in Czechoslovakia since serving there 35 years ago. Since then I have followed events in Czechoslovakia with particular concern and visited there as often as I could, including just before and just after the Soviet invasion of 1968. In addition, as a member and former cochairman of the Commission on Security and Cooperation in Europe, I have continued to be involved with affairs in Eastern Europe.

I was encouraged for a short time in the mid-1970's after the Soviet Union signed the Helsinki Final Act. By signing that document, the Soviets agreed that "no consideration may be invoked to serve to warrant resort to the threat or use of force." However, the Soviet invasion of Afghanistan in December 1979 shows that the Soviet Union has not abandoned aggression as a means of undermining the political independence and sovereignty of its neighbors. In addition, Soviet involvement in the situation in Poland and support for the Polish Government, which has waged an excessive and heinous campaign of repression against the Polish people since the imposition of martial law in December 1981, demonstrates that the Soviet Union has wanton disregard for the fundamental freedoms and the rights of the individual.

Similarly, the present government of Czechoslovakia has failed to fulfill obligations undertaken in the Helsinki Final Act, especially in the area of human rights. The continued imprisonment of Vaclav Havel and other leaders of the Charter 77 movement and of the committee for the Defense of the Unjustly Persecuted and increased pressure on religious activists make a mockery of the human rights provisions of the Final Act.

As we commemorate the 14th anniversary of the Soviet Day of Shame, it is fitting and proper that we remind the Soviet Union and the present regime in Czechoslovakia that the world is watching to see how they live up to obligations assumed in the United Nations Charter, the Helsinki Final Act, and other international covenants. Continued failure to fulfill the letter and the spirit of these agreements will have a major impact on future relations with the West. In particular, both governments must start respecting the human rights of people living within their borders, and the sovereign rights of nations along their borders. The tragic events of August 21, 1968, must not be repeated yet again.

"A MILESTONE FOR RHODE ISLAND'S FEDERAL JUDGES"

Mr. PELL. Mr. President, last month the Federal District Court for the District of Rhode Island marked an important watershed. After 16 years of outstanding service on the Federal court, including the past 11 years as chief judge for the Rhode Island District, Raymond J. Pettine attained his 70th birthday and assumed the role of senior judge. Replacing him as chief judge is Francis J. Boyle, who for the past 5 years has served excellently and ably as a district judge. Simultaneously, President Reagan, at the recommendation of my colleague Senator CHAFEE, nominated Bruce J. Selya to fill the vacancy created by Judge Pettine's assumption of senior status. Mr. Selya's nomination has just been confirmed by the Senate this week, and he will shortly take his place alongside Chief Judge Boyle on our Federal court.

Raymond J. Pettine has been one of our Nation's most hard-working and scholarly Federal judges. His remarkable diligence and conscientious legal research produced opinions noted for their depth and scholarship. His decisions in many areas of law are of truly national significance, and have been referred to time and time again in other judicial decisions as well as legal publications and law school textbooks (Judge Pettine once told an interviewer that one of his proudest moments came when his son-in-law studied several of his decisions in law school).

Most notably, Judge Pettine's decisions reflect his sense of fairness and deeply felt concern for the human condition. His record on the Federal court is a tribute to his compassion and genuine humanitarian instincts. Many, many landmark Pettine decisions have opened the door to greater opportunity and a better life for the citizens who came into his courtroom.

Rhode Island is fortunate to have as fine a judge as Francis J. Boyle to succeed Raymond Pettine in the important role of chief judge. I have been privileged to know Frank Boyle as an attorney and leading citizen of my State for over three decades. Before his nomination to the Federal court, he was a highly respected trial attorney for 25 years, and a leading member of numerous civic, educational, religious, and professional organizations.

In his 5 years of service as a Federal judge, Judge Boyle has greatly distinguished himself and earned the respect of his fellow judges and the Federal court bar in Rhode Island. His workload has been an arduous one, and he has presided over a number of complex trials covering a wide range of legal issues. He possesses every quality of integrity, diligence, and professional excellence that a Federal judge should possess, and I know he will be a superb chief judge.

Bruce M. Selya is a welcome addition to our Federal court. He has been a leading trial attorney in Rhode Island for many years, and is a man of demonstrated professional achievement. I would point out that Mr. Selya is badly needed on the Rhode Island district court at this time. Our judges are among the very busiest in the Nation in terms of the number of civil and criminal cases handled by each judge. As of June 30, 1981, the Rhode Island district ranked sixth out of the Nation's 95 judicial districts in the number of pending cases per judge.

Rhode Island has been extremely fortunate to be served by a succession of outstanding Federal judges. Chief Judge Boyle, Senior Judge Pettine, and judge-designate Selya are very much a part of that tradition, and as their careers enter this new phase, it is appropriate that we recognize this important milestone for the district court in Rhode Island.

THE A.T. & T. SETTLEMENT

Mr. DANFORTH. Mr. President, yesterday the American Telephone & Telegraph Co., and the Department of Justice announced that they have agreed to terms which will settle their 8-year-old antitrust case. The results of this settlement are truly unprecedented. It will dramatically restructure the largest corporation in the world. And, it will help to assure America's leadership in telecommunications, perhaps the most dynamic sector of our economy, by bringing to the marketplace an A.T. & T. able to become a more vigorous competitor.

At the same time, the settlement contains safeguards absolutely essential to prevent anticompetitive conduct and to protect and promote the public interest. These safeguards would not be a part of the settlement were it not for modifications insisted upon by U.S. District Court Judge Harold Greene, modifications which Judge Greene realized were necessary after reviewing the proposed consent decree under the procedures and duties established by Congress in the Tunney Act.

United States against American Telephone & Telegraph Co., was one of the largest and perhaps most significant cases in the history of our antitrust laws. And, its settlement was the first time a case of this magnitude had been reviewed in light of the Tunney Act. The crucial protections that Judge Greene insisted upon and that the parties accepted are proof the act works as Congress intended. More importantly, they are a major victory for the American people.

With the Tunney Act, Congress ordered the process of approving antitrust settlements opened to public scrutiny and input. Too often, before the Tunney Act, consent decrees seemed to appear from nowhere. Too often, they seemed sweetheart deals between the Government and the defendants. So in the Tunney Act, Congress ordered all proposed settlements to be made public. Interested parties were to be given opportunity to comment. Judges were instructed to look beyond antitrust laws and the party litigants to determine whether a decree was equitable; they were instructed to accept only those decrees which were in the public interest.

Judge Greene, in reviewing the A.T. & T. settlement, has demonstrated the importance of the public's role in major antitrust cases. Some 600 comments concerning the settlement were filed with his court. Extensive oral arguments were heard. In exercising the powers Congress gave the Federal courts to identify and protect the public interest, Judge Greene went beyond the arguments of lawyers and took into account other factors, including the clear will of Congress on some important issues.

The result of Judge Greene's Herculian efforts: A settlement that strikes a judicious balance of antitrust remedy and larger public interest concerns.

Mr. President, I am particularly heartened by one of the changes found necessary by Judge Greene and accepted by the parties. It addresses an issue I have cared about deeply for a long time. Furthermore, it ratifies action taken by the Senate last October—courageous action that was taken by this body in a highly charged political atmosphere. That issue, Mr. President, is whether A.T. & T. should be prohibited from the provision of electronic information publishing services so long as it possesses monopoly power in the provision of the transmission facilities upon which electronic publishing services are dependent.

Advances in telecommunications technologies are making possible the rapid development of this important new medium of mass communication. Electronic publishing services will provide Americans at home and at work with access to vast amounts of computer-stored news and information which can be called up on demand on home terminals and specially adapted television screens. For the immediate future the key link between these repositories of information and the public they serve will be the telephone lines.

I have long believed that first amendment principles require that this new medium of electronic publishing, which is now in the developmental stage, should be characterized by the same competition and diversity that characterizes our other information sources. And, I have long believed that such competition and such diversity would not develop if an unregulated A.T. & T. were allowed to enter this fledgling industry when it controlled access to the conduit through which electronic information must flow.

This issue was squarely before the Senate last year in S. 898, the Telecommunications Competition and Deregulation Act of 1981. My colleague from Kentucky, Senator Ford, and I perfected an amendment in committee which we believe established the proper public policy on this issue. In order to allow electronic publishing to develop into a viable and competitive medium, A.T. & T. was prohibited from electronically publishing information over its monopoly facilities. This amendment had the unanimous support of the Commerce Committee, and S. 898 passed the Senate overwhelmingly. Essentially the same policy was contained in House legislation this year where again there was broad, bipartisan support for the policy we established.

Part of that policy was reflected in the initial antitrust settlement proposal offered last January by A.T. & T. and the Department of Justice. Under that proposal, the divested local telephone companies would be prohibited from becoming electronic publishers over their monopoly telephone lines. Last week, Judge Greene found this arrangement to be in the public interest.

However, another aspect of the settlement proposal concerned me. A.T. & T., which will retain a virtual monopoly over all intercity lines, would have been freed to become an electronic publisher over those lines. But, Judge Greene, noting the clear will of Congress and the comments of many parties, found this unacceptable. Allow me to quote from his opinion.

> Electronic publishing, which is still in its infancy, holds promise to become an important provider of information—such as news, entertainment, and advertising—in competition with the traditional print, television, and radio media; indeed, it has the potential, in time, for actually replacing some of these methods of disseminating information.
>
> Traditionally, the Bell system has simply distributed information provided by others; it has not been involved in the business of generating its own information. The proposed decree would, for the first time, allow A.T. & T. to do both, and it would do so at a time when the electronic publishing industry is still in a fragile state of experimentation and growth and when electronic information can still most efficiently and most economically be distributed over A.T. & T.'s long distance network. If, under these circumstances, A.T. & T. were permitted to engage both in the transmission and the generation of information, there would be a substantial risk not only that it would stifle the efforts of other electronic publishers but that it would acquire a substantial monopoly over the generation of news in a more general sense. Such a development would strike at a principle which lies at the heart of the First Amendment: that the American people are entitled to a diversity of sources of information. In order to prevent this from occurring the Court will require, as a condition of its approval of the proposed decree, that it be modified to preclude A.T. & T. from entering the field of electronic publishing until the risk of its domination of that field has abated.

Mr. President, I commend Judge Greene on his insight and judicial fortitude in requiring this modification.

In summary, Mr. President, were it not for the procedures and powers given the Federal court by Congress in the Tunney Act, and the direction given by this body in the area of electronic publishing, this decision might not have been reached. But because of these actions, Judge Greene has been able to craft a decision which protects more than the parochial interests of the two litigants involved. Judge Greene has charted a wise course for the future of a dynamic industry. A.T. & T. and the Justice Department have been exemplary in their cooperation with the court throughout this suit, and have agreed to the imposed modifications. The American people can take pride in their Congress, pride in their court, and pride in the conduct of their fellow citizens, who fought this battle with a loyalty to the American system of justice that was nothing short of noble. Our country—its economy, its constitutional system, its people—will be the beneficiary of this historic case.

SENATE APPROVED CONFERENCE REPORT ON S. 2248

Mr. MITCHELL. Mr. President, on Tuesday, the Senate approved the conference report on S. 2248, the Department of Defense authorization bill for fiscal year 1983, I supported this conference report because I concluded that the report's benefits outweighed its deficiencies. For the record, I will take this opportunity to touch upon what I consider some of those benefits and deficiencies to be.

I was extremely pleased that the conferees, in their wisdom, saw fit to defer—for at least 1 year—the U.S. production of binary chemical weapons. I have voted on numerous occasions against the resumption of production of such weapons by all nations. I believe that our Government's emphasis should be on diplomatic efforts to prevent the manufacture and use of chemical and biological weapons. I do not accept the contention that such negotiations will only yield fruit if the United States races ahead and stockpiles more and more of these destabilizing tools of destruction. Though the debate on this subject clearly is not over, I applaud the conference for having deferred production for 1 more year.

The conference decision to retain the Inspector General provision added to the bill by the Senate is also noteworthy. Members of the House and Senate Armed Services Committees in the past have opposed efforts to establish an Inspector General's Office at the Pentagon. This year, the conference agreed that it will be beneficial to have, within the Department of Defense, an office the primary purpose of which will be to identify mismanagement, abuse, fraud, and waste, and to insist that actions be taken to remedy these problems when identified. It is clear there is no Government department which needs an Inspector General's Office more than the Department of Defense.

The conference acted responsibly when it decided to retain the provision in S. 2248 which authorizes for appropriations two nuclear aircraft carriers. These highly capable vessels are urgently required if our country's Naval strength is to be maintained at the level necessitated by our international reponsibilities and commitments.

Furthermore, I agree fully with the conferees' decision to insure that the National Guard and Reserve Forces receive the funds they require to replace aging equipment now in their inventories. The conference recommended a $200 million authorization for the Guard and Reserve Forces. We often forget the very important role played by the Guard and Reserve in the overall national defense effort. Currently, 33 percent of the Army's combat division strength is provided by the Army National Guard, and over 25 percent of the Air Force's fighter fleet is provided by the Air National Guard. The conference report acknowledges how vital these components are to our security.

Mr. President, recently, I shared with my colleagues my views on the issue of equity for former spouses. Although the full Senate never had the opportunity to debate this issue, many Members had expressed at various times the view that Federal law should permit the direct payment of retirement benefits to former spouses of members of the military. The conference report addresses this subject, and makes such payments possible as long as specific conditions prevail. The conference decision on this issue will permit service Secretaries to abide by the decrees of States courts relative to the distribution of military retirement benefits in divorce proceedings.

Lastly, Mr. President, the conference saw fit to cut from S. 2248 $100 million for civil defense crisis relocation. I have learned a great deal about this effort in recent months and am convinced that we are moving ahead much too quickly in this area. More thinking needs to be done and frankly, I believe we need to determine just how this relocation planning affects our strategic policy and the theory of deterrence on which this policy ostensibly is based.

Let me now turn to two of the major deficiencies of the bill covered by the conference report.

The Senate-passed bill struck the President's request for $1.5 billion to pay for the purchase of nine MX missiles. The conference decided not to adopt the Senate provision but instead to authorize $830 million for the purchase of five MX missiles. I continue to question the logic of financing the procurement of missiles the basing mode for which remains undecided.

The conference report also contains some $400 million for the B-1 bomber, which will most certainly be overcome by the technology of the Soviet Union in the early 1990's. The B-1 is a waste of money, and the funds intended for the B-1 program in my view should be devoted to an accelerated program for production of a more capable, longer lasting Stealth bomber.

Mr. President, fortunately the conference report bill is an authorization for appropriations, and does not provide budget authority which will be forthcoming later in an appropriations measure. I am hopeful that some of the deficiencies regarding MX, the B-1, and other weapons systems of questionable value, can be corrected when the Department of Defense appropriations bill comes before us

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:26 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House passed the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes, with an amendment; it insists upon its amendment, asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. Udall, Mr. Kazen, Mr. Phillip Burton, Mr. Seiberling, Mr. Miller of California, Mr. Cohelo, Mr. Lujan, Mr. Clausen, and Mr. Pashayan as managers of the conference on the part of the House.

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on August 20, 1982, received a message from the House of Representatives, announcing that the House agrees to the amendments of the Senate to the following concurrent resolution:

H. Con. Res. 399. Concurrent resolution providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20 or August 21 to September 8, 1982.

The message also announced that the Honorable Melvin Price, a Representative from the State of Illinois, is elected Speaker pro tempore during the absence of the Speaker.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6968. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker pro tempore has signed the following enrolled bill:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6968. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 20, 1982, he had presented to the President of the United States the following enrolled bill:

S. 167. An act for the relief of Juan Esteban Ramires.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4109. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report on certain transfers of funds appropriated to the Department of Defense; to the Committee on Appropriations.

EC-4110. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Spain; to the Committee on Armed Services.

EC-4111. A communication from the Director of Facility Requirements and Resources, Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, a report on certain military construction projects for the Air National Guard; to the Committee on Armed Services.

EC-4112. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Bank Merger Process Should be Modernized and Simplified"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4113. A communication from the Secretary of Transportation transmitting, pursuant to law, the report of the Urban Mass Transportation Administration's second quarter report for fiscal year 1982; to the

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Committee on Banking, Housing, and Urban Affairs.

EC-4114. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Impact of Congressional Review on Federal Trade Commission Decisionmaking and Rulemaking Processes"; to the Committee on Commerce, Science, and Transportation.

EC-4115. A communication from the Assistant Secretary of the Treasury for Legislative Affairs transmitting, pursuant to law, a report for 1981 on Fishery Allocations, Permits, and Foreign Import Barriers; to the Committee on Commerce, Science, and Transportation.

EC-4116. A communication from the Chairman of the Council on Environmental Quality transmitting, pursuant to law, the 1981 Annual , Report on Environmental Quality; to the Committee on Environment and Public Works.

EC-4117. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1982 program in Ecuador; to the Committee on Foreign Relations.

EC-4118. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a justification of an increase on the funding level of the proposed fiscal year 1982 program in Malawi; to the Committee on Foreign Relations.

EC-4119. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1982 program in Morocco; to the Committee on Foreign Relations.

EC-4120. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1982 program in Peru; to the Committee on Foreign Relations.

EC-4121. A communication from the Register of Copyrights, Library of Congress, transmitting, pursuant to law, a report on the revision of a Privacy Act system of records and the report on the policies and procedures of the Copyright Office under the Privacy Act; to the Committee on Governmental Affairs.

EC-4122. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4123. A communication from the Director of ACTION, transmitting, pursuant to law, copy of the Final Notice of Guidelines for Mini-Grants; to the Committee on Labor and Human Resources.

EC-4124. A communication from the Chairman of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, transmitting, pursuant to law, the annual report of the John F. Kennedy Center for the Performing Arts for fiscal year 1981; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1138. Resolution adopted by the medical staff of St. Anne General Hospital, Raceland, La., supporting the administration's proposed repeal of PSRO and the repeal of Federal UR requirements, and opposing S. 2142 and S. 1250, bills for PSRO repeal and focus review profiles; to the Committee on Finance.

POM-1139. Resolution adopted by the Borough Council of Brentwood, Allegheny County, Pa., urging Congress to impose steel import limitations under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-1140. Resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas the case of Raoul Wallenberg has been one of the most tragic, unresolved issues of the Holocaust; and

"Whereas as an agent of the government of Sweden, acting at the request of the American War Refugee Board, Mr. Wallenberg was responsible for saving the lives of tens of thousands of Hungarian Jews between July, 1944 and January, 1945; and

"Whereas on January seventeenth, nineteen hundred forty-five, Mr. Wallenberg was arrested by Soviet authorities and imprisoned; and

"Whereas although the Soviet government announced in nineteen hundred fifty-seven that Mr. Wallenberg had died in prison in nineteen hundred forty-seven, reports from former prisoners have provided evidence demonstrating that he has been alive as recently as nineteen hundred seventy-nine; and

"Whereas on October fifth, nineteen hundred eighty-one, with the signing of Public Law 97-54, the President of the United States, the Honorable Ronald W. Reagan, proclaimed Raoul Wallenberg an honorary citizen of the United States and endorsed the call that the United States government take all steps necessary to secure from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom; and

"Whereas the United States government has pressed this effort on behalf of Raoul Wallenberg on both a bilateral basis and at international forums, such as the United Nations Human Rights Commission in which the Soviet Union has been urged to make a humanitarian gesture, which may lay questions to rest; or else, in the best of all possible outcomes, result in the discovery of the whereabouts of a man who stands among the heroes of our time; and

"Whereas Raoul Wallenberg has now been imprisoned for more than thirty-six years and is now more than seventy years old, it is important that all efforts on his behalf be continued without delay by the United States government until the fate of this brave man has finally been ascertained: Now, therefore, be it

"*Resolved*, That this Legislative Body of the State of New York respectfully memorialize the Honorable members of the United States Congress, the Honorable Ronald W. Reagan, President of the United States and the Secretary of State of United States to use all appropriate diplomatic means to secure information from the government of the Union of the Soviet Socialist Republic concerning the fate of Raoul Wallenberg and that these efforts be concerning Raoul Wallenberg; and be it further

"*Resolved*, That copies of this Resolution, suitably engrossed, be transmitted to the Speaker of the House of Representatives, the Honorable Thomas P. O'Neill, to the President of the Senate of the United States, the Honorable Vice-President George Bush, to the Honorable Ronald W. Reagan, President of the United States and the Secretary of State of the United States."

POM-1141. Resolution adopted by the National Federation of Business and Professional Women's Clubs urging congressional support and ratification of the U.S. convention on the elimination of all forms of discrimination against women; to the Committee on Foreign Relations.

POM-1142. A Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 78

"Whereas doctors and hospitals in California have in the past treated children from Mexico not covered by Medi-Cal or other health insurance; and

"Whereas hospitals have lost hundreds of thousands of dollars in uncollected fees to indigent Mexican patients; and

"Whereas rising medical costs, diminishing funds, and lack of space are putting greater limits on the amount of health care for children that can be given to nonpaying Mexican citizens in California hospitals and clinics, which could result in Mexican children being unable to obtain necessary care which cannot be obtained in Mexico; and

"Whereas some of the services being provided to children in California facilities could be done effectively in Mexican facilities; and

"Whereas this is an international problem which reaches to all levels of government, and involves the health, and the lives of children; and

"Whereas the health care of children is an area which is of concern to both Mexico and the United States: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to initiate discussions on the issue of border health care for children with the government of mexico for the purpose of establishing a child health care coordination policy agreement between the United States and Mexico; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1143. Resolution adopted by the board of supervisors of the County of Los Angeles, Calif., supporting House Joint Resolution 350, which will make a balanced budget requirement part of the U.S. Constitution; to the Committee on the Judiciary.

POM-1144. Resolution adopted by the National Federation of Business and Professional Women's Clubs supporting laws which help women achieve equity; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 2671. A bill to provide for the establishment of a Commission on the Bicentennial of the Constitution (Rept. No. 97-535).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Thomas F. Hogan, of Maryland, to be U.S. district judge for the District of Columbia;

Alex Kozinski, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years;

Ross T. Roberts, of Missouri, to be U.S. district judge for the western district of Missouri; and

Raymond J. Dearie, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Edward A. Knapp, of New Mexico, to be an Assistant Director of the National Science Foundation.

The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

MODIFICATION OF REFERRAL OF S. 2805

Mr. HATFIELD. Mr. President, on August 3, I introduced S. 2805, a bill on timber contract problems, and it was referred jointly to the Committee on Agriculture and the Committee on Energy and Natural Resources with a 30-day requirement to report back or the bill would be discharged. The 30-day requirement was previously lifted as it related to the Energy and Natural Resources Committee. Because of the complexity of this, I now ask unanimous consent that the 30-day requirement be lifted as it refers to the Agriculture, Nutrition, and Forestry Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 2869. A bill to modify the navigation project for Lynnhaven Inlet, Bay, and connecting waters, Virginia; to the Committee on Environnment and Public Works.

By Mr. D'AMATO:

S. 2870. A bill for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. Heinz):

S. 2871. A bill to provide that the moratorium on fringe benefit taxation Public Law 95-427) applies to the value of certain campus housing furnished by educational institutions to their employees; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2872. A bill to amend the Internal Revenue Code to clarify the exclusion from income for the value of lodging located in the proximity of an educational institution and furnished by such institution to its employees; to the Committee on Finance.

By Mr. MATHIAS:

S. 2873. A bill to amend the National Housing Act to provide for a mortgage and loan interest reduction program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CHAFEE:

S. 2874. A bill to amend the act of March 16, 1934, as amended, to credit entrance fees for the migratory—bird hunting and conservation stamp contest to the account which pays for the administration of the contest; considered and passed.

By Mr. MURKOWSKI (for himself and Mr. Stevens):

S. 2875. A bill to authorize the Secretary of the Air Force to enter into long-term contracts for the lease of a limited number of housing units at or near not more than five Air Force installations for the purpose of providing badly needed family housing for Air Force personnel, and for other purposes; to the Committee on Armed Services.

By Mr. NUNN (for himself, Mr. Tsongas, and Mr. Burdick):

S. 2876. A bill to amend the Small Business Investment Act of 1958 to provide debentures for State development companies; to the Committee on Small Business.

By Mr. HATFIELD (for himself, Mr. Huddleston, Mrs. Hawkins, Mr. Chiles, and Mr. Heflin):

S. 2877. A bill to amend the Internal Revenue Code of 1954 to provide an additional exclusion of interest and dividends for individuals 65 or over, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. Metzenbaum):

S. 2878. A bill to improve worker training under the Trade Act of 1974, and for other purposes; to the Committee on Finance.

By Mr. NUNN (for Mr. Chiles (for himself and Mr. Nunn)):

S.J. Res. 237. Joint resolution designating November 14, 1982, as "National Retired Teachers Day"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. Abdnor, Mr. Baucus, Mr. Cochran, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dole, Mr. Durenberger, Mr. East, Mr. Goldwater, Mr. Gorton, Mr. Helms, Mr. Hollings, Mr. Johnston, Mr. Laxalt, Mr. Lugar, Mr. Proxmire, Mr. Pryor, Mr. Randolph, Mr. Riegle, Mr. Tsongas, Mr. Kasten, Mr. Grassley, and Mr. Chafee):

S.J. Res. 238. Joint resolution to designate October 9, 1982, as "National Running and Fitness Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself, Mr. Cannon, and Mr. Inouye):

S. Res. 454. A resolution to promote the public safety and to prevent deterioration of aviation commerce by urging the President of the United States to take action to make the Nation's air traffic control system fully operational; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Gorton, Mr. Hatfield, and Mr. Jackson):

S. Res. 455. A resolution instructing the Secretary of Commerce to strengthen and define his position regarding the status of Pacific salmon stocks; to the Committee on Commerce, Science, and Transportation.

By Mr. SPECTER:

S. Res. 456. A resolution opposing plans for nuclear war fighting; to the Committee on Armed Services.

By Mr. MOYNIHAN (for himself, Mr. D'Amato, Mr. Bradley, Mr. Brady, Mr. DeConcini, Mr. Domenici, Mr. Ford, Mr. Garn, Mr. Hatfield, Mr. Helms, Mr. Huddleston, Mr. Jackson, Mrs. Kassebaum, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Riegle, Mr. Stafford, Mr. Sarbanes, Mr. Stevens, Mr. Stennis, Mr. Tsongas, Mr. Chafee, Mr. Baucus, Mr. Cranston, Mr. Robert C. Byrd, Mr. Johnston, and Mr. Mathias):

S. Con. Res. 117. A concurrent resolution expressing the sense of the Congress that September 4, 1982, the 100th anniversary of Thomas Edison's Pearl Street central power station, should be commemorated as "Pearl Street Centennial Day"; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 2869. A bill to modify the navigation project for Lynnhaven Inlet, Bay, and connecting waters, Virginia; to the Committee on Environment and Public Works.

MODIFICATION OF LONG CREEK CANAL PROJECT

Mr. WARNER. Mr. President, I am introducing legislation to modify the Long Creek Canal Project in Virgina Beach, Va. The purpose of the legislation is to authorize the Secretary of the Army to reimburse the city of Virginia Beach $1.63 million for remedial work done on the Long Creek Canal project. The city was required to carry out the work as a result of a Federal navigation project performed by the Army Corps of Engineers in 1965.

The Corps of Engineers acknowledges its responsibility in creating the need for this remedial work. Since 1977, the city of Virginia Beach has tried unsuccessfully to obtain these funds. In my judgment, the city is clearly entitled to Federal reimbursement of the city funds expended.

I hope my colleagues will join me in support of this legislation.

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By Mr. MOYNIHAN (for himself and Mr. Heinz):

S. 2871. A bill to provide that the moratorium on fringe benefit taxation (Public Law 95-427) applies to the value of certain campus housing furnished by educational institutions to their employees; to the Committee on Finance.

TAXATION OF CERTAIN CAMPUS HOUSING

● Mr. MOYNIHAN. Mr. President, the bill I am introducing today is of immediate concern to four New England colleges: Amherst, Wesleyan, Smith, and Wellesley. It is also of interest to other institutions.

The Senator from Pennsylvania (Mr. Heinz) joins me as a cosponsor.

Wesleyan owns a number of houses and apartment buildings just off campus. The university purchased these to provide room for possible future expansion and to create a buffer zone around the campus. The dwellings are rented at cost to faculty members. They are unfurnished. The university pays the utility bills and has the snow shoveled in the winter, but offers no other services. It says its rental program is aimed at keeping faculty members near campus so that they have more contact with students. The rent is set so that the university recovers its costs. Wesleyan is not out to make a profit.

On December 8, 1981, the Internal Revenue Service issued a "technical advice memorandum" which states that the difference between the rent Wesleyan charges and the market rent it could collect is income to the faculty who live in the houses. Thus, Wesleyan should be withholding taxes based on that income. It also owes extra social security taxes. The ruling is retroactive. Wesleyan has been ordered to pay up for the last 3 years. The IRS cannot reach farther back than 3 years because of the statute of limitations.

Amherst, Smith, and Wellesley are in the same position.

In 1975, the IRS issued a discussion draft of regulations it was planning to publish on fringe benefits. The draft set off a furor. Members of Congress were deluged with mail from airline employees, who were upset about possibly having to pay taxes on their discounts on airline tickets, and from college professors who did not want to be taxed on tuition remissions that colleges offer children of university faculty. The IRS discussion draft was quickly withdrawn.

In 1978, Congress imposed a moratorium on fringe benefit regulations. The moratorium has been extended twice. The last time was in the 1981 tax bill. It expires at the end of 1983. According to the Joint Committee on Taxation:

> Although the [moratorium] relates only to the issuance of regulations, it is the intent of the Congress that the [IRS] will not in any significant way alter, or deviate from, the historical treatment of traditional fringe benefits through the issuance of revenue rulings or revenue procedures, etc.

The IRS insists that this moratorium does not affect its decisions in the Wesleyan and other cases. That is because those decisions do not change the historical treatment of faculty housing. The colleges say that is not so.

My bill makes clear the moratorium applies to housing that is on or near campus and that is supplied at cost to the faculty members who occupy it. I am not asking the Senate to settle the underlying controversy over whether the rental discounts on the housing are income. Rather, this fringe benefit issue ought to be settled at the same time as the other fringe benefit issues. The bill also requires that any decisions on faculty housing be applied prospectively.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record, along with the text of another bill on a similar subject.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 2871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act entitled "An Act of prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes," approved October 7, 1978 (Public Law 95-427), as amended by Public Law 96-167 and Public Law 97-34, is amended by adding at the end thereof the following new subsection:

"(c) Application of Section to the Value of Certain Faculty Housing.—This section shall be construed to preclude the assessment, for taxable years or periods beginning prior to January 1, 1984, of Federal employment taxes (imposed by subtitle C) or Federal income taxes with respect to the value of lodging furnished by or on behalf of an educational institution described in section 170(b)(1)(A)(ii) to an employee (or his spouse or any of his dependents) of such institution if—

"(i) the lodging is located on a campus of, or in the proximity of, such institution, and

"(ii) such institution had a reasonable basis for not treating the value of lodging described in paragraph (i) as subject to such taxes.

For purposes of paragraph (ii), an educational institution shall be treated as having a reasonable basis for not treating the value of such lodging as subject to such taxes if such institution charged a reasonable rental amount for such lodging (even if such reasonable rental amount is less than the fair rental value of such lodging), taking into account such factors as the necessary direct costs of such institution in furnishing the lodging, the value of the lodging to the employee to whom the lodging is furnished, and any educational purposes of the institution in furnishing such lodging."

S. 2872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) Section 119 of the Internal Revenue Code of 1954 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(d) Lodging Furnished by Certain Educational Institutions to Employees.—

"(1) In general.—There shall be excluded from the gross income of an employee of an educational institution described in section 170(b)(1)(A)(ii) the value of lodging—

"(A) located on a campus of, or in the proximity of, such institution, and

"(B) furnished to the employee, his spouse, or any of his dependents by or on behalf of such institution.

"(2) Rent must not be less than direct cost of lodging.—Paragraph (1) shall not apply to the value of any lodging to the extent that the direct cost of such lodging to the educational institution exceeds amounts paid by the employee for the use of such lodging.

"(3) Employees residing in university housing must not receive reduced compensation.—Paragraph (1) shall not apply to employees of an educational institution whose compensation is reduced because of their residence in lodging furnished by such institution."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(c)(1) For purposes of the employment taxes, subsection (d) of section 119 of the Internal Revenue Code of 1954 (other than paragraph (2) thereof), as added by this Act, shall apply to all open taxable years beginning before January 1, 1982, if the educational institution had a reasonable basis for not treating the value of lodging described in paragraph (1) of such subsection as being subject to such taxes.

(2) For purposes of paragraph (1), an educational institution shall in any case be treated as having a reasonable basis for not treating the value of lodging as subject to the employment taxes if the educational institution charged a reasonable rental amount for such lodging, taking into account such factors as—

(A) the necessary direct costs of such institution in furnishing the lodging,

(B) the value of the lodging to the employees to whom the lodging is furnished, and

(C) the institution's educational purposes in furnishing such lodging.

The reasonableness of the rental amount shall not be affected by the fact that the fair rental value of the lodging may have exceeded the rental amount.

(3) For purposes of this subsection—

(A) the term "open taxable year" means any taxable year for which the assessment of a deficiency, or the allowance of any credit or refund, with respect to the employment tax involved is not barred by any law or rule of law, and

(B) the term "employment taxes" means the taxes imposed by subtitle C of the Internal Revenue Code of 1954.●

By Mr. MATHIAS:

S. 2873. A bill to amend the National Housing Act to provide for a mortgage and loan interest reduction program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MORTGAGE AND LOAN INTEREST REDUCTION PROGRAM

● Mr. MATHIAS. Mr. President, I am introducing today legislation to aid first-time home buyers in acquiring a home that they can afford.

The Home Buyers' Assistance Act seeks to reduce the cost of high mortgage interest rates by deferring part of the cost to later years as the homeowner's income increases or upon resale or refinancing of the home.

The vehicle I have chosen to do this is a below-market interest rate section 203 program. Section 203 is the basic FHA-insured conventinal 30-year mortgage. It has proven over the years to be a workable program for financing home purchases for many Americans. But even this program, in today's high mortgage interest rate environment, carries a 15-percent interest rate. Such a high rate of interest is simply intolerable for the vast majority of home buyers. So I have structured a mortgage interest reduction program to reduce that interest rate to a more affordable level.

My bill provides for the interest rate to be "brought down" by HUD through the Government National Mortgage Association to as low as 7 percent, depending on the home buyer's income and ability to pay. The Secretary of Housing and Urban Development would have the discretion to determine how deep the interest reduction should be within certain parameters spelled out in the bill.

First of all, the maximum annual household income would be limited to $30,000. That income limit could be increased to $37,000 where the HUD Secretary determines that a higher cost market exists.

The interest rate reduction payments would accumulate as a second lien against the property for up to 12 years or upon resale or refinancing of the property, whichever occurs first.

The home buyer would repay this second lien in gradually increasing payments which would increase by at least 5 percent each year. The home buyer's payment would be adjusted annually based on the home buyer's income and ability to pay. The monthly principal, interest, and mortgage insurance would, at all times, have to equal at least 25 percent of the home buyer's monthly income. So this bill is a self-financing one where the home buyer ultimately repays the interest reduction payments to the Federal Government. The ultimate cost to the Government of this home financing proposal is zero.

The interest rate reduction payments would accumulate as a second lien for up to 12 years repayable by the homeowner as I have just described.

Both the Federal National Mortgage Association (FNMA) and the Mortgage Corporation (Freddie Mac) are authorized to purchase these section 203 BMIR mortgages from Ginnie Mae. The bill requires an annual report to the Congress by the HUD Secretary on the number of households assisted, their income ranges, acceptability of the mortgages by the secondary market, and the general impact of the program on the housing market.

In order to insure sufficient equity in the home, the bill provides for a minimum down payment of 5 percent which may be increased in the discretion of the Secretary.

The initial capitalization for this program is the bill's $5 billion authorization over the next 5 years. This is a number my colleagues on the Banking Committee unanimously approved in May as a reasonable program level for a modest housing stimulus, crafted by the distinguished chairman of the Housing Subcommittee, Senator LUGAR. And I would note that the revised second concurrent budget resolution passed by the Congress anticipated at $3 billion program of this nature.

So the Congress is on record having recognized the severe housing crisis in which this Nation finds itself and having budgeted a sum to address this problem. All that is lacking is a program to obligate those funds in an expeditious manner. My bill would do this.

In structuring this bill, I have tried to avoid setting up new mechanisms or Government machinery and I have left as much discretion as possible with the HUD Secretary and the FHA underwriters in administering this program.

People know what the 203 program is. Buyers, sellers, builders, realtors, and mortgage finance institutions are familiar with what is commonly called the FHA program. So I have chosen to build on this tried and proven program which has been so successful in housing so many Americans over the years.

The bill does not specify the housing type which may be purchased, leaving that choice to the home buyers. The section 203 program is available to finance the purchase of both new and existing homes, in condominium form or fee simple. It is also available for townhouses, owner apartments, and mobile homes.

So a broad range of housing types and ownership forms are possible under my bill. It provides for freedom of choice in the marketplace by the consumer.

The American dream of a home of one's own has become more and more elusive for those who do not already own one.

The U.S. League of Savings Associations, in its publication Homeownership: The American Dream Adrift, reports that of all the 1981 home buyers, 13.5 percent were first-time purchasers, compared to 36 percent first-timers in 1977. The median purchase price paid by those first-time home buyers was $58,900. And more and more of them were buying condominiums—25.6 percent of all first-time purchases in 1981. Fifty-three percent of them made less than a 20-percent downpayment, while their median monthly housing expense (mortgage, taxes, insurance, utilities) totaled $721.

And shelter costs were eating up more and more of the first-time home buyer's income. In 1981, almost half (47 percent) of all first-time home buyers spent more than one-fourth of their household income on housing expenses.

Mr. President, I ask unanimous consent that a statistical profile table on repurchasers and first-time home buyers appear at the conclusion of my remarks.

Mr. President, even more disturbing is the shrinking percentage of home buyers able to afford a newly constructed home. The National Association of Homebuilders reports that only 11.2 percent of all families could afford the median-priced $70,000 new home in 1981, assuming they limited their housing expenses to one-fourth of their income. Mr. President, I ask unanimous consent that an NAHB table titled "Income and Expenses Needed to Purchase a New Single Family Home 1973–1981" appear at the conclusion of my remarks.

Mr. President, I would hope our Nation's homebuilders could take advantage of this bill's home financing technique for their unsold inventory and for additional new homes which they might bring to market within the affordability range of the first-time home buyer.

The national statistical profile of the first-time home buyer shows he or she is between the ages of 24 and 34 with a median household income of $34,000. More and more of these home buyers are single and, therefore, have less than the median income I have just cited which more often reflects the income of a two-earner household. Furthermore, their income is relatively high because so few first-time buyers can afford to buy in today's market.

To demonstrate what the $30,000 income home buyer can afford in today's market I ask that a table prepared by the Congressional Research Service appear at the conclusion of my remarks.

As one can readily see, the point at which a home buyer with a $30,000 income can afford the median-priced home cited by the National Association of Homebuilders is at a 13-percent interest rate, 2 points below the current FHA rate, assuming they have the cash for a 20-percent downpayment. The National Association of Realtors tells me that, in order to buy down the current FHA rate to 12 percent, it would cost $1,800 per mortgage per year or $16,273 for the 12-year life of the second lien, taking into account the minimum 5-percent annual increase in homeowner payments. At year 12, however, the home would have appreciated in value and with resale or refinancing at that time, the second lien could be repaid leaving a balance in net equity for the homeowner.

Mr. President, this program promises immediate relief from the burden of high mortgage interest rates for not only the home buyer, but for others in the real estate chain including existing home sellers, new homebuilders, realtors, and mortgage finance institutions. These are extraordinary times for the housing sector of our Nation requiring extraordinary measures.

My Home Buyers Assistance Act promises such extraordinary help using existing, workable mortgage programs at modest initial outlays. I must emphasize again, however, that all of the initial Federal outlays are recaptured over time or upon resale or refinancing. It is a minimal price to pay to open the door of the American home to so many families.

I urge speedy consideration of this measure by my colleagues on the Banking Committee.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—REPURCHASERS AND FIRST-TIME HOME BUYERS, 1981 AND 1979—STATISTICAL PROFILE AT A GLANCE

	1981		1979	
	Repurchasers	First-time home buyers	Repurchasers	First-time home buyers
WHO THEY WERE				
A demographic profile:				
Median age (years)	34	28	34	27
Unmarried (percent)	27.9	40.6	20.6	30.7
One- and two-person households (percent)	54.4	76.2	48.1	60.8
An economic profile:				
Median household income	$40,197	$34,083	$28,796	$25,230
Importance of second income (percent)[1]	45.9	58.0	51.6	65.5
Median household net worth	$81,374	$30,514	$61,463	$22,617
Median equity from sale of previous residence	$38,900	$0	$30,077	$0

TABLE 1.—REPURCHASERS AND FIRST-TIME HOME BUYERS, 1981 AND 1979—STATISTICAL PROFILE AT A GLANCE—Continued

	1981		1979	
	Repurchasers	First-time home buyers	Repurchasers	First-time home buyers
WHAT THEY PURCHASED				
Condominiums (percent)	20.8	25.6	10.8	11.8
New homes (percent)	26.8	20.7	32.3	23.6
Homes 25 or more years old (percent)	28.5	36.2	25.7	35.5
Median size of home (square feet)	1,400	1,204	NA	NA
AND ITS COST				
Median purchase price	$75,000	$58,900	$60,500	$48,950
Median downpayment	18,000	8,600	13,958	6,811
Median total monthly housing expense	834	721	563	501
Mortgage payment	639	565	411	366
Real estate taxes	75	58	60	50
Utilities	100	80	75	70
Hazard insurance	20	18	17	15
HOW THEY AFFORDED THEIR PURCHASE				
Less than 20 percent downpayment (percent)	27.3%	53.0%	38.7%	62.0%
Housing expenses exceeding 25 percent of household income (percent)	44.0%	47.1%	45.0%	45.1%

[1] Percentage of households with two adults in which income contributed by a second earner accounted for 10 percent or more of total household income.

Source: U.S. League of Savings Associations.

TABLE 2.—INCOME AND EXPENSES NEEDED TO PURCHASE A NEW SINGLE FAMILY HOME 1973–81

	1973	1974	1975	1976	1977	1978	1979	1980	Mid-year 1981
Median sales price	$32,500	$35,900	$39,300	$44,200	$48,800	$55,700	$62,900	$64,500	$70,000
Median square feet	1,525	1,560	1,535	1,590		1,655	1,645	1,595	1,600
Price per square foot	$21.31	$23.01	$25.60	$27.80	$30.31	$33.66	$38.24	$40.44	$43.75
Loan-to-value ratio	78.6	77.3	78.5	77.3	77.8	77.1	76.9	77.6	78.0
Mortgage amount	$25,547	$27,744	$30,869	$34,145	$37,950	$42,935	$48,360	$50,077	$54,600
Length of mortgage (years)	26.6	26.7	27.3	27.5	28.1	28.2	28.7	28.6	29.0
Contract interest rate (percent)	7.76	8.72	8.75	8.73	8.75	[illegible]	10.43	12.29	15.00
Monthly mortgage payment	$245.59	$287.23	$316.63	$350.94	$387.75	$454.14	$551.77	$644.47	$816.67
Principal and interest	189.44	223.65	248.15	273.41	302.90	358.56	442.89	528.92	691.67
Interest (1st yr)	164.32	200.70	224.14	247.38	275.64	330.87	419.22	511.93	681.84
Real estate taxes	48.75	53.85	58.95	66.30	73.20	83.55	94.35	96.75	105.00
Hazard insurance	7.40	9.73	9.53	11.23	11.65	12.03	14.53	18.80	20.00
Other monthly expenses	$62.11	$68.87	$74.35	$83.51	$96.53	$112.05	$119.05	$129.51	$141.00
Maintenance and repairs	21.91	24.14	25.49	28.64	30.13	33.90	35.38	37.61	41.00
Heat and utilities	40.20	44.73	48.86	54.87	66.40	78.15	83.67	91.90	100.00
Monthly housing expenses	$307.70	$356.10	$390.98	$434.45	$484.28	$566.19	$670.82	$773.98	$957.67
Annual mortgage payment	$2,947.08	$3,446.76	$3,799.56	$4,211.28	$4,653.00	$5,449.68	$6,621.24	$7,733.64	$9,800.04
Principal and interest	2,273.28	2,683.80	2,977.80	3,280.92	3,634.80	4,302.72	5,314.64	6,347.04	8,300.04
Interest (1st yr)	1,971.88	2,408.40	2,689.68	2,968.56	3,307.68	3,970.44	5,030.64	6,143.16	8,182.08
Real estate taxes	585.00	646.20	707.40	795.60	878.40	1,002.60	1,132.20	1,161.00	1,260.00
Hazard insurance	88.80	116.76	114.36	134.76	139.80	144.36	174.36	225.60	240.00
Other annual expenses	$745.32	$826.44	$892.20	$1,002.12	$1,158.36	$1,344.60	$1,428.60	$1,554.12	$1,692.00
Maintenance and repairs	262.92	289.68	305.88	343.68	361.56	406.80	424.56	451.32	492.00
Heat and utilities	482.40	536.76	586.32	658.44	796.80	937.80	1,004.04	1,102.80	1,200.00
Annual housing expenses	$3,692.40	$4,273.20	$4,691.76	5,213.40	$5,811.36	$6,794.28	$8,049.84	$9,287.76	$11,492.04
Income needed to afford:									
Expenses times 4	$14,769.60	$17,092.80	$18,767.04	20,853.60	$23,245.44	$27,177.12	$32,199.36	$37,151.04	$45,968.16
Expenses times 3	11,077.20	12,819.60	14,075.28	15,640.20	17,434.08	20,382.84	24,149.52	27,863.28	34,476.12
Median family income	$12,051.00	$12,902.00	$13,719.00	14,958.00	$16,000.00	$17,640.00	$19,684.00	$21,666.00	$23,513.00
Percent of families with income needed to afford:									
Expenses times 4	36.6	32.9	30.3	28.5	27.3	24.1	20.9	16.5	11.2
Expenses times 3	54.9	50.4	48.8	47.4	45.4	41.3	37.1	33.8	23.0

Source: Department of Housing and Urban Development, Federal Home Loan Bank Board, Bureau of the Census. Compilation, analysis and estimates by NAHB Economics Division.

TABLE 3.—MAXIMUM MORTGAGE AMOUNTS AND HOUSE PRICES BY INTEREST RATES FOR $30,000 ANNUAL INCOME[1]

	Maximum mortgage amount	House price
Interest rate—percentage:		
16	$46,400	$58,000
15	49,400	61,750
14	52,700	65,875
13	56,500	70,625
12	60,700	75,875
11	65,600	82,000
10	71,200	89,000
9	77,600	97,000
8	85,100	106,375
7	93,900	117,400

[1] Assumptions: Monthly payments to principal and interest do not exceed 25 percent of monthly income ($625); downpayment equals 20 percent of house price; term of mortgage is 30 years.

Note.—Mortgage amounts rounded to next lower $100.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2875. A bill to authorize the Secretary of the Air Force to enter into long term contracts for the lease of a limited number of housing units at or near not more than five Air Force installations for the purpose of providing badly needed family housing for Air Force personnel, and for other purposes; to the Committee on Armed Services.

THE AIR FORCE FAMILY HOUSING BUILD-LEASE ACT OF 1982

Mr. MURKOWSKI. Mr. President, today I am introducing, along with Senator STEVENS, legislation to permit the Air Force to undertake a new military housing pilot program in several locations around the country.

In recent years, military construction budgets have been slashed in an attempt to reduce short-term outlays. Serious family housing shortages have occurred as a result in several locations around the nation.

At Eielson Air Force Base near Fairbanks, Alaska, a critical housing need is resulting in lower morale and higher turnover than would otherwise be the case. At Eielson there will be 2150 families requiring housing by the end of 1982, but there are only 1247 housing units on base. We expect that 258 out of the 903 families unable to acquire on-base housing will also be unable to find housing in the Fairbanks area due to the low availability of housing locally.

As a result of this housing shortage, the Air Force must deny 62 percent of the requests of newly assigned personnel desiring to bring their families with them to Eielson. The average waiting time for on base housing is 4 months, but some eligible personnel have waited over 6 months—and the problem is getting worse. As you would expect, lower morale, lower retention, lower on-the-job performance, and higher turnover all take a toll on mission capability.

Mr. President, the Alaskan Air Command has made requests for new housing through Air Force channels. If the Air Force passes the request along to Congress in their regular budget submittal next year, and if Congress approves that request, we may see 100 new housing units built in Eielson in fiscal year 1984 followed by 100 new units in fiscal year 1986. However, the problem exists today and it will literally take years to correct using the conventional military construction program.

I believe there is a need for a new approach to respond to these situations with greater speed and flexibility than is possible under the existing military construction budgeting process. Today, I do not propose to replace that process, but I suggest we take a look at a new approach to complement that process. In two of the locations where the housing situation is critical—Fairbanks, Alaska, and Abeline, Tex.—concerned citizens have gotten together with base commanders to work out an alternative means of constructing family housing. The legislation I am introducing today embodies the fruits of their labor.

The Alaskan proposal—Operation Cool Hope—and the Texas proposal—Operation Ad Hope—envision private developers building housing to military specifications on land leased to them on the base. The developers would then lease the housing back to the Air Force. After a specified number of years the housing would revert back to the Air Force as would the land on which the housing was built. Instead of a single, "up front" construction expenditure, the Federal Government would spread its expenditures for leasing out several years.

Similar leasing arrangements are in successful use by the military in overseas installations. Current law allows the Air Force to enter into 10-year leasing arrangements overseas. My bill gives authority for the Air Force to undertake a limited pilot program where 30-year leases could be entered into. Under this program, the Air Force would pay no more than $1,000 per month per unit in "shelter rent" during the first year of the contract. "Shelter rent" is compensation to the developers for the fixed cost of the project, and does not include utilities and maintenance. This legislation also contains provisions to allow existing private housing to be provided in lieu of building new housing if it exists, and there is a provision requiring the Air Force to submit a report of the facts concerning a proposed contract to the House and Senate Armed Services Committees prior to the signing of the contract.

This approach is attractive to me for several reasons. First, it encourages the involvement of local communities in the development of a mutually beneficial working relationship with the Federal Government. This type of relationship exemplifies "New Federalism" at its best. Second, this program can be used to lower short-term construction outlays while providing badly needed family housing that would otherwise not be built for several years down the line. We already use multiyear arrangements for military procurement and entitlements—but unlike those areas where future Federal indebtedness cannot always be accurately projected, Federal indebtedness accruing from those construction contracts would be predictable on even fixed amounts. In a leasing contract like the ones which would be entered into using this approach, we know in advance what our future outlays will be. Clearly, the same cannot be said about procurement contracts or military retirement benefits. Finally, Mr. President, it has been frustrating for me to be made aware of housing situations that exist at Air Force Bases such as Eielson only to learn that the problem will take years to correct using the conventional military construction program. The Milcon program is a valuable, prudent manner to handle routine construction at our military bases around the world. However, it is clear that there is a need for a secondary, flexible approach to take care of urgent needs. I believe this legislation lays the groundwork for a pilot program to give us the experience and the data to determine whether to make this method of financing widely available for the construction of military housing.

I ask unanimous consent that the text of the bill appear following these remarks.

There being no objection, the bill was orderd to be printed in the RECORD, as follows:

S. 2875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Air Force Family Housing Build-Lease Act of 1982.

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of the Air Force may enter into contracts for the lease of housing facilities, existing or to be constructed, at or near Air Force installations in the United States for assignment of such facilities, without rental charge, as public quarters to members of the Armed Forces, including enlisted members in the grade of E-4 and below. Such contracts may be made through negotiation.

(b)(1) A contract for leases of housing facilities uNot more than 300 housing units may be leased under this Act at any one location.

(c) Expenditures for the rental of housing facilities under a contract under this Act (exclusive of any costs for utilities, maintenance, and operation) may not exceed $1,000 per month for any unit for the first year of the contract.

(d) A contract may not be made under this Act until (1) the Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a written report of the facts concerning the proposed contract, and (2) a period of 21 days elapses after the report is received by the committees.●

Mr. STEVENS. Mr. President, I am pleased to join with my colleague from Alaska in cosponsoring legislation authorizing the Air Force to enter into contracts for the long-term lease of privately built housing on or near Air Force bases.

The initiation of this type of program comes at an opportune time. We are in the process of rebuilding and restructuring our defenses. This process is causing problems at some military installations where the demand for housing is outstripping the supply. The shortage places burdens on the families of our military personnel. Families are being delayed in joining the service member at their new duty stations because suitable and affordable housing is not available. This causes morale problems which hurts the performance of the individuals involved. That in turn adversely impacts on the readiness of our armed services. It also hurts the rate of retention which has been improving lately—particularly among the skilled career personnel with families who are considering whether to remain in the service. It would be unfortunate if we lost some of these people because the shortage of decent affordable housing separates them from their families for unacceptably long periods of time.

Mr. President, my colleague from Alaska and I have a particular interest in seeing this type of pilot program tried. There is a serious shortage of family housing at Eielson Air Force Base near Fairbanks. It will be several years before adequate Government housing can be built. Not only is there a shortage of military housing, but

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there is a shortage of civilian housing as well. This places strains on the whole community which obviously impacts on the service members and their families.

If this pilot project works—and I think it will—then these people's housing needs can be met without having to wait for regularly constructed military housing to be authorized, funded and constructed.

We should keep in mind that this is a pilot project. By making it a pilot project we will be able to test out the concept and make changes before applying it to the entire Department of Defense. At the same time, we can alleviate serious housing shortages facing Air Force families at several Air Force bases.

By Mr. NUNN (for himself, Mr. TSONGAS, and Mr. BURDICK):

S. 2876. A bill to amend the Small Business Investment Act of 1958 to provide debentures for State development companies; to the Committee on Small Business.

SMALL BUSINESS ADMINISTRATION STATE DEVELOPMENT COMPANY PROGRAM AMENDMENTS OF 1982

● Mr. NUNN. Mr. President, along with Senators TSONGAS and BURDICK, I am pleased to introduce the Small Business Administration State Development Company Program Amendments of 1982. The purpose of this legislation is to insure the continued Federal/State/private sector partnership that has existed through the Small Business Administration's State Development Company, or so-called 501 program, as a source of reasonable financing for small business.

This program is an integral part of the congressional policy to assist the small business community in meeting its financing needs by establishing a program to stimulate the flow of private equity capital and long-term loans to the business.

Under current Federal law, and pursuant to the laws of individual jurisdictions, a State economic development authority, or business development corporation, may be formed. The Small Business Administration is given explicit statutory authority to make long-term direct loans to these State business development companies. The proceeds of loans made to these companies may be used by these companies only to provide equity capital or long-term loans to small businesses. These companies typically derive their private capital by borrowing funds from financial institutions. They may then borrow directly from the Small Business Administration, up to the amount of its non-Federal capital.

In 1981, there were 24 State development corporations, although 16 States are most active. Nationwide, a total of 191 loans have been approved by the BDC's in 1981, with over $31 million being disbursed to the small business community. As an illustration of the Federal/State/private sector partnership in this program, bank financings to small businesses made in conjunction with "501" company loans totaled over $71 million. Almost one-half of these firms were in manufacturing. In addition, the program has cumulatively made almost 750 loans to small businesses, for a total loan volume of almost $106 million. Georgia has had a very active State development company program for several years.

Furthermore, to the best of my knowledge, there has never been a loss by the U.S. Small Business Administration on any loan to any State business development company, nor has the agency, or the Congress, found any significant programmatic problems.

Despite the apparent success of the program, one area where there is a potential problem is in the ability of the Federal Government to remain as an active partner in this program. As I indicated earlier, the current statute limits the Small Business Administration's participation with the State development companies to direct Government loans only. With the necessary budget reductions taking place, and the Small Business Administration's direct loans being the first area to be significantly reduced, it is imperative that the "501" program have an alternative funding vehicle.

This legislation will provide that alternative. Simply the bill provides that, in addition to the direct loan route which the Small Business Administration may use to participate in the "501" program, the SBA will be able to purchase or guarantee debentures issued by the State development company. This authority to purchase or guarantee debentures is similar to the existing authority that SBA has in its SBIC program, and in the "503" Certified Development Company program.

Furthermore, to insure that no additional budgetary requirements would be necessary to accommodate this "501" program change, the legislation provides that debentures issued under the "501" program shall be taken from the total authority already made available by Congress for debentures for the "503" Certified Development Company program.

Mr. President, to insure that there is no misconception about the regulatory authority which this legislation gives to the Small Business Administration, I want to clarify two points. First, there is nothing in this legislation that changes either the current relationship between SBA and the "501" companies, or between the "501" companies and their portfolio investments. The bill merely provides an alternative funding mechanism. Second, the legislation provides authority to the SBA to determine an overall regulatory scheme for deciding general appropriate uses of funds by the BDC's derived from the purchase or guarantee of the debentures. But this authority does not mean that the agency is given any authority to "approve" any specific investment, or individual use of proceeds. Currently, the agency's regulations (13 CFR 108.501-1(e)) establish a scheme for the permissible use of "501" direct loan proceeds. This authority is being extended only to permit the agency to provide the same guidance for use of proceeds derived from debenture purchases or guarantees.

Mr. President, this legislation has been endorsed by the Business Development Corp. of Georgia, and the National Association of business Development Corps. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2876

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Small Business Administration State Development Company Program Amendments of 1982".

SEC. 2. Section 501 of the Small Business Investment Act of 1958 is amended—

(1) by inserting in the first sentence of subsection (a), after the phrase "make loans to" the phrase ", or to purchase or guarantee debentures issued by,";

(3) by adding at the end of subsection (a) the following: "Any purchases or guarantees of debentures made under this section shall be subject to the provisions of subsection (c) of this section, but shall be made without regard to the use and investment by the development company of funds secured by it from other sources."; and

(4) by adding at the end thereof the following:

"(c)(1) The Administration may purchase, or guarantee the timely payment of all principal and interest scheduled on, any debenture issued by any qualified State development company.

"(2) Such purchases or guarantees may be made by the Administration on such terms and conditions as the Administration may by regulation determine to be appropriate. The Administration may impose an additional charge for administrative expenses with respect to each debenture purchases or guaranteed under this section.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this section.

"(4) Debentures purchased or guaranteed by the Administration under this section shall be subordinate to any other debenture bonds, promissory notes, or other debts and obligations of such companies, unless the Administration in its exercise of reasonable investment prudence and in considering the financial soundness of such company determines otherwise.

"(5) The interest rate on any such debenture shall be the rate of interest determined by the Secretary of the Treasury pursuant to section 303(b).

"(6) The proceeds of any such financing shall be used solely to assist an identifiable small business concern and for a sound business purpose as determined by the Administration.".

Sec. 3. (a) Section 20(n)(2) of the Small Business Act is amended by striking "section 503" each time it appears and inserting in lieu thereof "sections 501 and 503".

(b) Section 20(q)(2) of the Small Business Act is amended by striking "section 503" each time it appears and inserting in lieu thereof "section 501 and 503".●

● **Mr. BURDICK.** Mr. President, I am pleased to join Senator Nunn as a sponsor of this legislation. It is critical to the continued activities of State development corporations, which make an important contribution to the growth of our small business sector.

Last year, State development companies across the country disbursed over $31 million in loan money to firms employing more than 400,000 people. In North Dakota, this program has succeeded in creating or preserving jobs which might otherwise not exist. In fact, I am very proud to not that the North Dakota State Development Credit Corp.—NDSDCC—was recognized at the recent national convention of State development corporations as the most improved business corporation in the United States for 1981-82. Under the able leadership of its executive vice-president, W. C. Smith, the NDSDCC is helping farm equipment manufacturers, implement dealers, and other small businessmen to get on their feet and prosper in today's very competitive economy.

This bill will allow State development corporations to issue debentures guaranteed by the Small Business Administration, which in turn can be sold to private buyers or the Federal Financing Bank. With the likely curtailment of the SBA's direct loan program, this additional source of Federal funding is badly needed to supplement the financial backing that State development corporatons obtain from State banks and other investors. I appreciate the work done by my distinguished colleague from Georgia in putting this bill together, and I hope it will receive prompt consideration by the Small Business Committee, and the Congress.●

By Mr. HATFIELD (for himself, Mr. Huddleston, Mrs. Hawkins, Mr. Chiles, and Mr. Heflin):

S. 2877. A bill to amend the Internal Revenue Code of 1954 to provide an additional exclusion of interest and dividends for individuals 65 and over; and for other purposes; to the Committee on Finance.

ADDITIONAL EXCLUSION OF INTERESTS AND DIVIDENDS

● **Mr. HATFIELD.** Mr. President, today Senators Huddleston, Hawkins, Chiles, Heflin and I are introducing legislation that exempts 50 percent of net interest and dividend income from taxation for individuals age 65 or over. The proposal has two limitations: First, the exclusion is limited to $2,500 in interest for single and head of household returns—$5,000 in interest for joint return—and second, is available only to those who have an adjusted gross income (AGI) less than $15,000 for single returns ($17,500) for joint returns.

The partial exemption of interest income of persons over the age of 65 will benefit more than 93 percent of all people over age 65 who paid Federal income taxes. The Joint Committee on Taxation estimates that 1 million elderly taxpayes would be relieved from having to pay any Federal income taxes. About 4 out of the total 7 million elderly returns would receive an average reduction of $215.

In the 96th Congress a $200/$400 interest exclusion was enacted in order to encourage saving and in 1981 the Congress enacted the all-savers certificate and new retirement incentives that furthered the capital formation goals of the Congress. the Economic Recovery Tax Act of 1981 also enacted a 15 percent net interest exclusion that will begin in 1985 but is subject to a ceiling of $3,000 per person—$6,000 on a joint return. Unfortunately, ERTA also repealed the $200/$400 interest exclusion and in effect, leaves us without an effective incentive for the small saver. This mistake, unfortunately, will especially affect the fixed income elderly who earn interest income on savings accounts.

In my visits across the State of Oregon I have noticed that the elderly are frustrated, disappointed and outraged at the Congress for its policies that affect the aging. Budget cuts in medicare, housing assistance, and food stamps, to name a few, when combined with pending tax proposals to raise the floor on medical deductions as well as impose withholding on interest and dividend income have created a perception that the aging are bearing a disproprotionate burden. Even the popular IRA incentives are viewed by some of my elderly constituents as unfairly biased against the retired citizen.

Mr. President, the elderly need a tax incentive that recognized the contribution of their savings to the economy. When we consider the fact that many of the elderly taxpayers put their money into taxable pass book accounts, the double digit inflation rates that we have recently experienced virtually assures that their savings accounts are losing their original value. For example, a $100 a month private pension when faced with a 10-percent inflation rate, would lease 50 percent of its value in just 12 years. Since the income of our retired citizens has been taxed once already, should we tax it again when interest is earned on their little nest egg?

The elderly in our society have saved a lifetime to get what they have. Their nest egg for retirement is quickly losing its value in these inflationary times. When the all-savers certificates expire, these elderly savers will be in worse shape than they were prior to enacting the Economic Recovery Tax Act of 1981. Because the elimination of the $200/$400 exclusion provided a means for financing the all-savers certificates, we should reenact a targeted saving incentive for our elderly. Thus, the effective date of this bill corresponds to the expiration of the all-savers certificate.

Mr. President, in the past few years there have been dozens of savings bills introduced in the Congress. These bills have been based on three key assumptions that economists have made:

First, the savings rate is lower in the United States than in other industrial countries;

Second, the amount of savings is tied closely to changes in income; and

Third, saving is closely related to the life cycle—more saving is done in preretirement years while it is consumed after retirement.

According to a remarkable study conducted by Dr. F. Thomas Juster for the Institute for Social Research at the University of Michigan, these assumptions may be seriously flawed. In Dr. Juster's words,

> The principal reason for the fact that the U.S. has a very low national savings rate is not because those who are positive savers tend to save less than people in other countries, but rather because an unusually large proportion of the U.S. population dissaves every year (about one-third of the total 1972-1973).

In essence, by excessively utilizing credit we have diminished the amount of savings that is available to reindustrialize our economy and rebuild our infrastructure. Our current tax structure encourages this result by rewarding consumption and debt financing, but taxing harshly savings income.

The other surprise in the conclusions reached by Dr. Juster is the fact that those over the age of 65 do not seem to sharply reduce their savings. The data seems to indicate that the elderly save more than the average working adult. Moreover, Dr. Juster makes a strong argument that the existence of a pension plan or the availability of social security income at retirement actually intensifies the amount of saving for people reaching the retirement age.

Mr. President, I ask unanimous consent that these tables from Dr. Juster's study as well as an article written by Dr. Juster for the Economic Outlook be printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

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SAVING INCOME RATIOS 1972-73, FOR AGE-INCOME GROUPS: SAVING DEFINED AS AFTER TAX INCOME MINUS CONSUMPTION

Household income quintile	Under 45	45 to 54	55 to 64	65 or more
A. Households with positive savings:				
1	.21 (100)	.20 (41)	.22 (121)	.22 (535)
2	.22 (610)	.22 (206)	.26 (332)	.29 (708)
3	.23 (1,195)	.25 (368)	.28 (417)	.32 (333)
4	.24 (1,538)	.27 (533)	.31 (453)	.37 (175)
5	.28 (1,408)	.30 (944)	.36 (492)	.42 (106)
B. Households with negative savings:				
1	−1.27 (686)	−.81 (143)	−.68 (247)	−.59 (746)
2	−.46 (852)	−.39 (192)	−.42 (253)	−.38 (401)
3	−.29 (830)	−.26 (185)	−.31 (139)	−.37 (76)
4	−.21 (634)	−.24 (209)	−.22 (101)	−.23 (26)
5	−.17 (290)	−.18 (176)	−.17 (53)	−.63 (13)
C. All households:				
1	−1.08 (786)	−.58 (184)	−.38 (368)	−.25 (1,281)
2	−.18 (1,462)	−.07 (398)	−.04 (575)	.05 (1,109)
3	.02 (2,025)	.08 (553)	.13 (556)	.19 (409)
4	.11 (2,172)	.13 (742)	.21 (554)	.29 (201)
5	.20 (1,698)	.22 (1,122)	.31 (545)	.31 (119)

Asset income	Percent of all elderly families	Cumulative percent: Asset income equal to or less than	Percentage of families in asset income group having:		
			Income 50 percent or more above the poverty level	Income $10,000 or more	House equity $50,000 or more
0	37.2	37.2	32	21	6
1 to 99	2.3	39.5	50	31	1
100 to 199	3.1	42.6	51	35	29
200 to 499	8.8	51.4	56	40	30
500 to 999	6.9	58.3	59	40	13
1,000 to 2,499	15.7	74.0	68	44	24
2,500 to 4,999	11.1	85.1	91	58	22
5,000 to 9,999	8.3	93.4	100	85	39
10,000 or more	6.7	100.0	100	100	55
Total	100.0				

Money income	Percent of all elderly families	Cumulative percent: Money income equal to or less than	Percent of families in money income group having:	
			No asset income	$1,000 or more asset income
0 to 2,499	3.0	3.0	91	0
2,500 to 4,999	23.8	26.8	70	0
5,000 to 7,499	18.1	44.9	35	15
7,500 to 9,999	13.7	58.6	25	31
1,000 to 12,499	9.4	68.0	27	37
12,500 to 14,999	7.8	75.8	24	43
15,000 to 24,999	14.1	89.9	17	44
25,000 or more	10.1	100.0	7	71
Total	100.0			

[From Economic Outlook, Summer 1981]

SAVING, ECONOMIC GROWTH, AND ECONOMIC POLICY

(By F. Thomas Juster, Director, Institute for Social Research, Professor of Economics, University of Michigan)

[Charts herein referred to not reproduced in the RECORD]

INTRODUCTION AND BACKGROUND

It is widely believed by economists, policymakers, and perhaps even the general public that a significant part of the current problem faced by the U.S. economy lies in a shortage of savings, a shortage which has lowered the rate of capital formation and is thus partly or mainly responsible for the poor productivity performance of the economy during recent years. The sources of that concern are easy to identify: personal saving rates in the U.S. have tended to be around the 6–7 percent zone for many years, while comparable estimates of personal saving rates in Western European countries and Japan tend to be at least twice and sometimes three times as high. The resulting differential in savings is seen as a principal reason for differential economic performance. That general perception has been made more visible during the last several years by U.S. saving rates which, as initially reported, were as low as 3 or 4 percent in contrast to the customary 6 or 7 percent, allegedly driven down by consumers' unwillingness to save in the face of high inflation rates.

At the same time as many have perceived a gap between actual U.S. saving rates and what would be desirable to restore economic vigor and competitiveness, concerns have also been voiced about the longer term consequences for saving and investment of the predictable aging of the U.S. population. The issue here has little or nothing to do with inflation. Rather, it concerns the widely believed proposition that saving has a "life-cycle" character to it, that older people are typically dissavers who spend more than they receive in current income, and that a rise in the proportion of older people would have a perceptible impact on the total flow of saving available for productive investment.

These concerns have brought to the surface a number of issues, which the Reagan administration's economic policy proposals are designed to deal with. For example, the administration's proposal for tax reduction is clearly designed to have a significant impact on the rate of personal savings as well as on investment incentives. The attempt to pare down the rate of growth of the public sector and to reduce the deficit are in part designed to reduce the inflation rate, with the hope that it will have a positive impact on saving behavior. And finally, discussions about possible modification of the Social Security program to increase the retirement age are presumably designed not only with the object of maintaining solvency of the Social Security trust fund, but also with an eye to its possibly favorable impact on the saving behavior of the elderly population.

SAVING BEHAVIOR IN HISTORICAL PERSPECTIVE

Some of these concerns represent old problems that are being taken more seriously, others represent relatively new problems that have not been faced by previous administration, while still others represent the application of the new "supply-side" economics to analysis of saving behavior. But before any of them can be carefully examined or assessed, a few basic facts about saving behavior need to be understood.

In general terms, saving is the difference between disposable income and current outlays by consumers; alternatively, it is the difference between change in assets and change in liabilities—the change in net worth excluding changes due to capital gains or losses. If all the data were perfect and all the definitions were consistent, either income minus outlays or asset change minus liability change would come out with the same number. But that doesn't usually happen, and the discrepancy is sometimes pretty large. Given the difficulty of measuring asset levels accurately, to say nothing of measuring changes in asset holdings, most analyses of saving focus on the income less outlay definition.

The postwar trajectories of a number of series relevant to saving are shown below in Chart 1. The solid line in the lower panel shows the ratio of saving to disposable income as conventionally measured. The thick line in the upper panel shows the financial asset change component of saving, the dashed line shows the liability or debt change component, and the thin line shows an important component of debt—the change in housing mortgage debt.

What kind of story is shown by the data in Chart 1? First, a dominant characteristic of the saving/income ratio is that it appears to have no trend at all over the entire postwar period. Saving rates were relatively low during the late 1940s, as consumers were spending a relatively large fraction of income to replenish and replace stocks of durables depleted during World War II. During the 1950s saving rated were typically between 6 and 7 percent, averaging a little under 7, while during the 1960s saving rates averaged a bit lower, although they were usually between 6 and 7 percent than as well. And during the 1970s, saving rates actually averaged over 7 percent, although during the last several years they have been much lower.

An interesting perspective on the allegation that saving rates during the last few years of the 1970s were driven down to historically low levels by inflation-induced spending is provided by the fact that saving rates during that period were not much if any lower than they were during the early part of the 1960s—the halcyon days when inflation rates were in the one or two percent zone!

If data relating to a longer span of time had been plotted in Chart 1, they would show about the same story—not much evidence of any secular trend in saving behavior. The historical studies of Goldsmith, for example, which take saving back into the late nineteenth century, can be summarized by saying that there was no evidence of a secular trend in saving behavior all the way from the late 1800s to the 1920s and on to the late 1940s. Thus we have no persuasive evidence at all that saving rates have been significantly different, measured in a secular trend sense, for the last century.

The second thing Chart 1 tells us is that simple theories relating saving behavior to inflation rates—will not hold water. We have had four periods in the United States when inflation rates either reached high levels or accelerated dramatically: in 1950-51, we reached inflation rates of close to 6 percent after a couple of years when prices were roughly constant; in 1967-1970, inflation rates went up to the 6 percent level after a relatively long period of stability in the 1-2 percent range; in 1973-74, inflation rates went from the 3 percent range to as high as 12 percent; and in 1978-80 inflation rates went from a low of 5 percent to a high of over 13 percent. The corresponding behavior of saving rates during this period cannot be generalized: in 1950-51, rates of personal saving appeared to increase with inflation; in 1967-70, saving rates were high and erratic; in 1973-74, saving rates increased substantially; and in 1978-80, saving rates were low by historical standards, and lower than in the previous several years.

The third thing that Chart 1 shows is that movements in saving rates associated with economic expansions and contractions are much more easily identified in the debt change component of total savings than in the asset change component. Changes in debt are clearly a more volatile series than changes in assets, and the nature and direction of changes are easily predictable from knowledge of the peak and through dates of cyclical expansions and contractions. Thus, in a cyclical sense, most of the action in saving behavior shows up in terms of changes in debt, while in a secular trend sense, there doesn't appear to by any action at all.

Finally, the reader should note the big differences between total saving and the asset and debt change components. As an illustration, the saving-to-income ratio was 5.6 percent in 1977; but that figure resulted from the combination of an asset change-to-income ratio of roughly 18 percent and a debt change-to-income ratio of roughly 13 percent. Thus, while the U.S. saving rate is low by comparison with Western Europe or Japan, the reason is not that conventional saving (increases in savings or checking accounts, CDs, etc.) is that much lower, but that consumer debt changes are so much larger. The way to impact most effectively on total saving may well be to affect the debt component rather than the asset component.

WHAT DETERMINES SAVING BEHAVIOR?

There is an enormous professional literature on the determinants of saving. This is in part a consequence of the fact that we have a lot of data of various sorts that relate to consumption and saving behavior, and there are lots of fascinating puzzles in those data. For example, once Kuznets and Goldsmith discovered that the long-term saving/income ratio was trendless, that appeared at odds with the consistent finding that rich people seemed to save a higher proportion of their income than poor people. If rich people save more than poor ones, why didn't everybody save more when they all got richer? Various theories have been developed to explain this and other puzzles, but the two that attracted most attention were the permanent income hypothesis (attributable to Friedman) and the life cycle hypothesis (attributable to Modigliani, Ando, and Brumberg).

The two theories are really quite similar, and differ only in their subtleties. Both are based on standard assumptions of economic theory: that people live in a world characterised by perfect certainty and perfect foresight; that there are long-term income, consumption, labor supply, and bequest plans; that changes in family circumstances and in the general economy are foreseen and embedded in the plans; and that all consumers are busily making small adjustments in their consumption and saving behavior as new information and different circumstances occur over their lifetimes. The conventional theory has a static flavor—it assumes fixed expectations and goals and does not provide for much in the way of learning, adaptation, or other dynamic processes. To many people, including this writer, models of this sort are not very plausible representations of how people actually make consumption and saving decisions, given the uncertainties and vicissitudes of the real world.

Theory has a powerful influence on policy. For example, the widespread belief in the life cycle view of saving is the basis for the current debate about the implications of an aging population structure for the Social Security system. The idea is that younger people tend to save little or dissave because they are in the process of acquiring durable goods and are thus expanding debt of one kind or another, older people are using up the assets they have accumulated during their working lifetimes and are thus either saving little or dissaving, while middle-aged people whose children have grown and whose durable goods stocks are adequate for their needs are relieved from expenditure pressures, are looking toward retirement, and are saving at relatively high rates. As a rational way of acting in a perfectly certain world, that picture has a lot to recommend it. But does it accord with the way people actually behave?

Most of the evidence used to test saving theory is based on time-series analysis of aggregate data. For well-known technical reasons, all such attempts to estimate savings functions are unstable and, in my judgment, unpersuasive. One would like to find evidence, at the level of individual behavior, which either confirms or refutes the theory, especially one with such potent policy implications as suggesting that "we may need to revamp the Social Security system because of its negative impact on private saving.

Although good data on individual saving behavior are hard to come by, and most of them are subject to serious potential biases arising from measurement errors, it is instructive to look at the most recent data with an eye to its match with the life cycle theory. Chart 2, based on data from the 1971-73 Consumers Expenditure Survey, takes the 20,000-odd households covered by that survey, divides them into 20 groups based on income quintile and age, and then computes aggregate savings/income ratios for each of the 20 groups.

If the life cycle hypothesis is valid, we ought to find it reflected in the relationship of saving to age in any given income class. In general, saving ought to be lower in the under 45 and over 65 groups, higher in the other two groups, and highest in the 55-64 group where people are accumulating assets with the expectation of retiring. The data show no such patterns. In each income quintile, the saving rate rises monotonically with age. Not only do the elderly not dissave, they apparently don't even save less than the near elderly! As a generalization, these data are consistent with the behavioral view that saving gets to be a habit which people acquire with circumstances and then retain, even in the face of dramatic changes in life circumstances.

Similar patterns can be found for life cycle savings patterns in other countries, and for other cross-sectional data from the United States for earlier periods. For example, data on wealth holdings, which are scarce and also subject to significant measurement error problems, are also inconsistent with the life cycle view: if people dissaved when they retired, older people who die should have fewer assets than younger people who die, and that seems generally not to be the case.

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CURRENT POLICY ISSUES: HOW CAN WE INCREASE SAVING?

Virtually everyone agrees that it would be good for the economy if saving rates were to increase. The implicit theory behind the proposals advanced by the administration, as reflected by the public comments of various economic spokesmen, is that the way to get saving up is to get the inflation rate down, provide a greater reward to savers, and legislate a tax cut with relatively favorable treatment of upper income groups who do most of the saving.

Before examining the likelihood that those effects will be observed, it might be well to remind ourselves that there is another view of the best way to increase saving, which might be called the conventional demand-side view. According to that theory, the way to increase saving is to initiate policies that have the effect of pushing up real income, and higher saving would follow along. If one attempted to push up saving without worrying about pushing up real income, the demand-side theory says that the saving would be dissipated—it wouldn't necessarily be matched by any demand for investment, and would simply take the form (temporarily) of investment in undesirably high inventories and (subsequently) of reduced rates of income growth, with the end result of actually reducing both saving and investment. That view has lots of problems with it, although it continues to retain a kernel of truth that ought not to be ignored.

But what about the "new" views of how to get the saving rate up? To begin with, there is absolutely no evidence that a cut in taxes will produce more than a temporary bulge in the saving rate. One can expect with some confidence that the bulk—perhaps three-quarters—of any tax cut would end up in saving during the quarter in which the tax cut was enacted. But one can expect with equal confidence that, over the next several years, the tax cut would result in the "normal" proportions of the increased income being spent and saved, with no permanent effect on saving rates. The absolute level of saving would of course be higher, simply because under the right conditions a tax cut would increase the level of real income. And if real income rose fast enough, there would be a longer though still temporary bulge in saving.

Secondly, there is little evidence that whether the taxes of the rich are cut more or less than the taxes of the poor makes much difference to the impact of a tax cut on saving. The argument being made by the administration—that the rich save more and therefore the tax cut would benefit saving if it favored the rich—has a curious political as well as economic history. In reverse, it is the same argument that used to be made by liberals—that tax cuts ought to favor the poor because they were more likely to spend it, and what the economy needed was a boost in spending that would pull income and subequently saving along with it. But after long and careful examination of the data, it turned out that there really wasn't much difference between what the poor did with an extra dollar of income and what the rich did with it—they were likely to spend it on different things, and the rich might be more likely to save by adding to assets while the poor saved by paying off debt, but they apparently didn't have very different propensities to spend. If that was true when liberals were arguing for tax cuts which favored the poor in order to stimulate consumption, it ought to be equally true now when conservatives are arguing for high-income tax cuts in order to stimulate saving.

Finally, the argument which says that saving incentives in the form of higher real rates of return would make a difference is also one that will not stand up on the evidence, as I read it. At least one study has found such an effect, but no one has been able to reproduce it. The studies in which I have most confidence show that real interest rates have no detectable effect on saving behavior. And that conclusion is eminently plausible on theoretical grounds: an increase in the rate of return on saving certainly provides an incentive to shift toward saving and away from spending, since saving has become more attractive. But at the same time, the higher rate of return to saving means that consumers need less assets to generate the same income return, and if the object is an income return, people can save less because they can get the target return more easily. Finding that these two effects seem to cancel out should not come as a great surprise.

Although the evidence clearly points in the direction of suggesting that neither tax cuts, income redistribution, nor higher real rates of return would do much to increase the saving rate, there still might be some impact of a supply-side type coming out of the program. If taxes are reduced substantially for high income households, investment incentives might be improved enough to warrant entrepreneurial individuals taking a more positive view of the rewards from investment. But here, it isn't so much that relatively high income entrepreneurial types would save more of their income in order to invest, but that they would see the future as more favorable, see themselves as being able to keep more of any return from investment, and be encouraged to borrow in order to expand their business. Whether the policy succeeds or fails may depend more on whether the administration can create an environment that encourages borrowing on the part of small entrepreneurs: seen in that light, prime interest rates in the neighborhood of 20 percent will not be particularly helpful.

If the policies espoused by the administration are unlikely to do much by way of increasing saving, are there other policies that might? If I were to set out to boost saving, I think I would rather work on the debt side than on the asset side. The data displayed in Chart 1, and all of our historical experience, suggest that it is very difficult to fashion policies that will have a large and permanent effect on the rate of personal saving—after all, that rate has been more or less stable for about a century, in the face of demographic and other changes far more potent than any of the proposed changes in public policy.

On the other hand, there are policies that could make for temporary improvement in the saving rate, but many of those seem to be ones that would cause consumers to change their debt behavior rather than their asset belicy of choice for an administration that wants more, not less, reliance on the free market.

An alternative, which is compatible with the general philosophy of conservatives, might be to try to affect saving by way of changing the current set of subsidies that have created an enormous demand for mortgage debt. As Chart 1 shows, the drop in the saving rate in the late 1970's seems due almost entirely to an explosion of mortgage debt. What happened is simple enough: high inflation rates, coupled with rapidly rising housing prices and interest rates that were little if any higher than the inflation rate, induced large numbers of people to "monetize" some of the capital gains they accrued when housing prices rose rapidly. Getting as much house as possible, with as much mortgage debt as possible, seemed to be a pretty good way to cope with the combination of high inflation rates and rising housing prices, provided people didn't have to undertake such transactions with mortgage interest rates in the middle or high teens. Thus getting the inflation rate down would have some impact on consumers' willingness to incur housing and other debt. Perhaps more to the point, reducing some of the subsidies associated with owner-occupied housing might well do some good. The chief subsidy here is the tax deductibility of mortgage interest and property taxes, for those who itemize income tax deductions.

Such a policy might well make sense. In earlier times, the subsidy to homeowners was a conscious national policy. It was widely thought that homeownership was a good thing, and that the government should encourage people to own their own homes rather than rent. Thus a significant subsidy to homeowners became national policy. As a result, close to 70 percent of American households now own their own homes, and the policy can be regarded as an outstanding success. But at the present time the attractive subsidies (especially for high income people) that accrue to homeownership may be serving the purpose of attractive speculative resources into the homebuilding industry, at the very time when we need to have more resources going into industrial investment. Cutting back on the deductibility of either mortgage interest or property taxes or both seems a reasonable way to do that, and would tend to balance the administration's policy of reducing the availability of subsidized housing for low income families. More importantly, perhaps, it has some prospect of causing at least a temporary bump in the saving rate that might last a few years.

Mr. HATFIELD, Mr. President, the Institute for Social Research at the University of Michigan has also conducted some extensive research into the savings behavior of those 65 or over that indicates the breakdown of savings rates among the elderly may be more dispersed than present assumptions. For example, 58 percent of all elderly families have less than $1,000 in asset income, and 75 percent have asset income of less than $3,000 a year. Even in those families earnings less than $10,000 a year, some 31 percent have interest and dividend income of over $1,000 a year.

Mr. President, the bill we introduce today is targeted to the elderly who earn less than $15,000 per year, and will relieve 1 million elderly citizens from having to pay any Federal income taxes.

We also should recognize that there is widespread agreement on the need to provide supplemental income to our senior citizens. By the year 2010, the elderly population is expected to be 50 percent larger, both relative to the total population and relative to our working population. Even more significant is the growing numbers of elderly who will be 85 or over. As a percentage of the total number of people over the age 65, those 85 and other made up 4.8 percent of total in 1960. By the year 2050, they will make up over 10 percent of the total.

Because of these trends, our private pension plans, social security, and medicare programs may be seriously underfunded. Both the White House Conference on the Aging and the final report of the President's Commission on Pension Policy concluded that new incentives need to be enacted to increase the supplemental income of our aged.

In summary, the pressure on our retired citizens is going to increase as we approach the 21st century. Pressures on the budget and entitlement programs will only increase and we must necessarily rely to a greater extent on individual saving to finance our retirement years. This bill will provide an important incentive for the elderly saver and is structured in a way to keep the revenue losses at a minimum. The Joint Committee on Taxation estimates that the revenue loss will be $400 million in 1983, $1.2 billion in 1984, and $1.3 billion in 1985.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this time.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) Paragraph (2) of section 16(a) of the Internal Revenue Code of 1954 (relating to maximum dollar amount) is amended to read as follows:

"(2) Maximum dollar amount.—

"(A) In general.—the aggregate amount excluded under paragraph (1) for any taxable year shall not exceed the greater of—

"(i) $100 ($200 in the case of a joint return under section 6013), or

"(ii) in the case of qualified elderly individual, the lesser of—

"(I) 50 percent of the amount determined under paragraph (1), or

"(II) $2,500 ($5,000 in the case of a joint return under section 6013).

"(B) Qualified elderly individual.—For purposes of this paragraph, the term 'qualified elderly individual' means an individual who—

"(i) has attained the age of 65 before the close of the taxable year, and

"(ii) has an adjusted gross income for the taxable year of $15,000 or less ($17,500 or less in the case of a joint return under section 6013).

In the case of a joint return where either spouse has attained the age of 65 before the close of the taxable year, both spouses shall be treated as having attained such age.".

(b) The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

Sec. 2. (a) Section 128(b) of such Code (relating to maximum dollar amount of partical exclusion of interest), as in effect subject to section 3 of this Act, is amended to read as follows:

"(b) Maximum Dollar Amount.—

"(1) In General.—The aggregate amount excludable under subsection (a) for any taxable year shall not exceed 15 percent of the lesser of—

"(A) $3,000 ($6,000 in the case of a joint return under section 6013), or

"(B) the excess of the amount of interest received by the taxpayer during such taxable year (less the amount of any deduction under section 62 (12)) over the amount of qualified interest expenses of such taxpayer for the taxable year.

"(2) Individuals 65 and over.—In the case of a qualified elderly individual (within the meaning of section 116(a)(2)(B)) the aggregate amount excludable under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) 50 percent of the amount determined under paragraph (1)(B), or

"(B) $2,500 ($5,000 in the case of a joint return under section 6013).".

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1982.

Sec. 3. Section 302 of the Economic Recovery Tax Act of 1981 (26 U.S.C. 128 note) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1983".●

By Mr. MOYNIHAN (for himself and Mr. Metzenbaum):

S. 2878. A bill to improve worker training under the Trade Act of 1974, and for other purposes; to the Committee on Finance.

WORKER TRAINING IMPROVEMENT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce for myself and my distinguished colleague from Ohio, Mr. Metzenbaum, legislation to reform and improve the trade adjustment assistance program. Our bill is identical to one introduced in the House by Congressman Pease of Ohio and similar to S. 1868, legislation that I introduced last November 19.

I should remind this Chamber that trade adjustment assistance represents a commitment made by this Government to the American labor movement two decades ago. In exchange for labor support of trade liberalization, we created a program designed to help those workers who lost their jobs as a direct result of this liberalization. The program was called trade adjustment assistance, and it has remained a cornerstone of our trade policy for some 20 years.

I regret that this administration has shown little interest in the trade adjustment assistance program, and in fact has succeeded in altering it so that few of those for whom TAA was intended are able to benefit from it. This legislation would correct the damage done to trade adjustment assistance last year and will improve the program, emphasizing worker retraining.

Let me explain what our bill does. First, it would restore permanently the "contributed importantly" standard for determining whether or not imports resulted in job loss.

Second, it makes training an entitlement, as presently it is not. TAA is too important an element of our trade policy to be subject to indiscriminate budget cuts.

Third, the bill changes the work test to a "comparable standard" from a "suitable work test." The current standard defeats the purpose of TAA by forcing workers to accept temporary, low-paying jobs rather than long-term, skilled employment.

Fourth, our legislation creates an adjustment assistance trust fund, financed by customs duties, to fund the program.

Finally, the bill will retroactively qualify any worker who has participated in the TAA program since July 1, 1979.

A healthy trade adjustment assistance program is especially critical at a time when 10.8 million Americans are out of work, many of them for long periods of time. Our legislation will strengthen the commitment we made to labor two decades ago, and it is deserving of broad, bipartisan support.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GROUP ELIGIBILITY REQUIREMENTS.

Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by amending paragraph (3) by striking out "were a substantial cause of" and inserting in lieu thereof "contributed importantly to", and by striking out "of such decline" and inserting in lieu thereof "to such decline"; and

(2) by amending the last sentence to read as follows: "For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

SEC. 2. WORKER TRAINING.

(a) Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out "may approve" in the first sentence of subsection (a)(1) and inserting in lieu thereof "shall approve";

(2) by adding at the end of subsection (a)(1) the following new sentence: "For purposes of applying subparagraph (C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon his completing training under this section."; and

(3) by adding at the end thereof the following new subsection:

"(d) The Secretary shall pay to any worker who—

"(1) begins approved training under this section after the date of the enactment of this subsection; and

"(2) is not eligible for trade readjustment allowances during any or all of the period of such training;

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a supplemental assistance benefit of $15 for each day during which the worker participates in such training but for which he is not eligible for such allowances."

(b) Any individual who—

(1) after July 1, 1979 and before the date of the enactment of this Act participated in approved training under section 236 of the Trade Act of 1974; and

(2) personally financed all or part of the tuition costs for such training;

shall be entitled to be reimbursed for such costs by the Secretary of Labor if application therefor is made to the Secretary during the 180-period beginning on such date of enactment.

SEC. 3. JOB SEARCH AND RELOCATION ALLOWANCES.

(a) Section 237(a)(1) of the Trade Act of 1974 (19 U.S.C. 2297(a)(1)) is amended by striking out "$600" and inserting in lieu thereof "$800".

(b) Section 238(d)(2) of the Trade Act of 1974 (19 U.S.C. 2298(d)(2)) is amended by striking out "$600" and inserting in lieu thereof "$800".

(c) Any adversely affected worker who—

(1) was covered by a certification that was issued under subchapter A of chapter 2 of title II of the Trade Act of 1974 after June 30, 1979 and before the date of the enactment of this Act; and

(2) as of such date of enactment is not eligible for either job search allowances or relocation allowances, or both such allowances, under sections 237 and 238 of such Act by reason of failing to make timely application thereof;

may apply to the Secretary of Labor for either or both such allowances (computed on the basis of the amounts that would have been payable under such sections if a timely application referred to in paragraph (2) had been made) within the 180-day period beginning on the date of the enactment of this Act and an application filed within such period shall be deemed by the Secretary to have been timely made for purposes of such sections 237 and 238.

SEC. 4. TRUST FUND AND AUTHORIZATION OF APPROPRIATIONS.

The text of section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"(a) There is hereby established on the books of the Treasury of the United States a trust fund to be known as the 'Adjustment Assistance Trust Fund' (hereinafter referred to in this section as the 'Trust Fund'). The Trust Fund shall consist of such amounts as may be deposited in it pursuant to the authorization contained in subsection (b) of this section. Amounts in the Trust Fund may be used only to carry out the provisions of this part. The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than March 1 of each year on the operation and status of the Trust Fund during the preceding fiscal year.

"(b) There are hereby authorized to be appropriated to the Trust Fund, out of amounts in the general fund of the Treasury attributable to the collection of customs duties not otherwise appropriated, for each fiscal year ending after October 1, 1981, such sums as may be necessary to carry out the provisions of this part."

SEC. 5. DEFINITION OF SUITABLE EMPLOYMENT.

(a) Section 202(a)(3)(C) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) by striking out "(C) For purposes" and inserting in lieu thereof "(C)(i) Except as provided in clause (ii), for purposes"; and

(2) by adding at the end thereof the following new clause: "(ii) For purposes of this paragraph, the term 'suitable work' means, with respect to any worker who would be eligible for a trade readjustment allowance under the Trade Act of 1974 but for the fact that he is eligible for extended compensation under this Act, work of a substantially equal or higher skill level than the worker's past adversely affected employment (as determined for purposes of such Act of 1974), and wages for such work at not less than 80 percent of the individual's average weekly wage for his most recent base period.".

(b) Section 231(a)(4) of the Trade Act of 1974 (19 U.S.C 2291(a)(4)) is amended by striking out '202(a)(3)" and inserting in lieu thereof "202(a)(3)(ii)".

SEC. 6 EFFECTIVE DATES.

(a) The amendments made by section 1 shall apply with respect to all petitions for certification filed under section 221 of the Trade Act of 1974 on or after the 180th-day after the date of the enactment of the Omnibus Budget Reconciliation Act of 1981.

(b) The amendments made by section 2(a) and 3 (a) and (b) shall apply with respect to determinations regarding training and applications for allowances under sections 236, 237, and 238 of such Act that are made or filed after September 30, 1982.

(c) The amendments made by sections 2(b), 3(c) and 4 shall take effect on the date of the enactment of this Act.

(d) The amendments made by section 5 shall take effect with respect to weeks of unemployment beginning on or after the date of the enactment of this Act.●

● **Mr. METZENBAUM.** Mr. President, millions of industrial workers are today without jobs. This is through no fault of their own. Caught in the midst of a domestic recession and the victims of unfair foreign competition, these jobless Americans want to work but cannot.

The steel, automobile, and rubber factories, where they once labored long and hard, no longer need their services. Yet, because they are unemployed, they lack the means to reequip themselves to find new jobs in new fields.

It is a vicious cycle. But it is also a cycle that Congress can break.

That is why Senator MOYNIHAN and I are today introducing a bill to provide a meaningful training program for industrial workers displaced by foreign imports.

For too long this Nation has sat idly by and watched countries like Japan, Korea, and Taiwan use unfair trading methods to chip away at our fundamental industries. But with more than 10 million unemployed, however, the message is beginning to hit home that it is high time to act before more American industries are destroyed and more American jobs lost. It is time for us to make sure that free trade is first and foremost fair trade.

But, Mr. President, as we strive to revitalize basic American industries, we must keep in mind the fact that we cannot put things back the way they once were. No matter what trade bills Congress enacts, no matter what import quotas we establish, no matter how much money we pour into ailing firms, many of the unemployed will not be able to return to their original jobs.

Market demands have changed. So, too, have production techniques. Many industrial jobs are gone forever. Those are plain and simple truths.

New jobs, however, do exist. Indeed, despite record high levels of unemployment, there are an estimated 1 million job openings going unfilled. But without proper training, industrial workers are precluded from obtaining them. Without some type of Federal training program, thousands upon thousands of otherwise capable workers will have no choice but to remain permanently unemployed.

The country cannot afford to let that happen.

Yet this is precisely the course upon which the current administration is embarked. And where workers displaced by foreign imports are concerned, the administration's response to the urgent needs of thousands of Americans is to terminate the cash benefit part of the trade adjustment program and transfer its training aspects to a larger centralized function with very limited funding within the Department of Labor.

This must not happen. The Nation has a responsibility to help give displaced industrial workers a fresh start. We must encourage, not discourage, any person with the ambition and desire to learn a new skill. The legislation we are introducing today recognizes this by providing to these workers a one-time opportunity to reequip and retrain themselves so that they may find new employment in different lines of work.

This is prudent policy. It will cost us far less in the long run to retrain workers so that they can reenter the work force than it will to pay for unemployment compensation, welfare, and food stamp benefits. Furthermore, retraining workers will help America develop a work force with those skills needed to remain competitive in the 21st century.

The bill is relatively simple. It amends the Trade Act of 1974 to provide training benefits to more workers who lose their jobs because of foreign imports. And it will be financed from customs duties levied on foreign imports, not from new taxes.

Today, what little funding exists for Federal job training programs is almost exclusively targeted to the structurally unemployed and to disadvantaged youth. These programs are essential. However, we should also provide meaningful job training for displaced industrial workers. The bill we are introducing today will help us accomplish this goal.●

By Mr. NUNN (for Mr. Chiles) (for himself and Mr. Nunn):

S.J. Res. 237. Joint resolution designating November 14, 1982, as "National Retired Teachers Day"; to the Committee on the Judiciary.

NATIONAL RETIRED TEACHERS DAY

● Mr. CHILES. Mr. President, it is a privilege to introduce this joint resolution in the Senate designating November 14, 1982, as "National Retired Teachers Day." We owe a debt of gratitude to all retired teachers in America for what they have contributed to the education and character of our young people. No other individual, outside the family, exerts so much influence on young citizens as the classroom teacher. It is only fitting that we set aside a day to honor teachers who have devoted their careers to serving our children and communities.

Education is the key to employment and success in America. Education makes possible the continuation of our democratic process through an informed electorate. Education is the means by which we compete with foreign markets, increase our productivity, and develop the high technology skills for defense and commercial industries. Education plays a crucial role in our citizens' ability to choose healthy lifestyles, positive attitudes, and humane values. And study after study has shown that the critical element in the educational process is not the textbook, the curriculum, the size of the classroom, or the audiovisual aides, but rather, the skills and character of the teacher.

Today there are many disincentives to the young man or woman who is thinking of choosing teaching as a career. Public education is often criticized or even blamed for our Nation's ills. Teacher salaries are low in relation to what can be earned in private industry or government. Paperwork and redtape, discipline problems, and administrative duties drain time and energy from the task of teaching. It is no wonder that many enthusiastic, dedicated educators leave the profession long before retirement.

Let us show our appreciation and our understanding of the devotion shown by teachers who remain in the classroom to retirement by setting aside a day in their honor. Most of us, when asked why we chose a profession or achieved a worthy goal or adopted a positive value, can name a particular teacher who influenced us early in life. I hope we all take the opportunity on November 14 to say a word of thanks to the teachers who have meant a lot to us.

Let us also use November 14 as a day to show educators who are still in the classroom that we support them in their efforts and are willing to do our part to strengthen the schools. The future of education in this country is not only in the hands of educators, but also rests in the commitment of parents, students, and communities to maintain the finest free education system in the world.●

By Mr. THURMOND (for himself, Mr. Abdnor, Mr. Baucus, Mr. Cochran, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. DeConcini, Mr. Denton, Mr. Dole, Mr. Durenberger, Mr. East, Mr. Goldwater, Mr. Gorton, Mr. Helms, Mr. Hollings, Mr. Johnston, Mr. Laxalt, Mr. Lugar, Mr. Proxmire, Mr. Pryor, Mr. Randolph, Mr. Riegle, Mr. Tsongas, Mr. Kasten, Mr. Grassley, and Mr. Chafee):

S.J. Res. 238. A joint resolution to designate October 9, 1982, as "National Running and Fitness Day"; to the Committee on the Judiciary.

NATIONAL RUNNING AND FITNESS DAY

Mr. THURMOND. Mr. President, I am introducing today a Senate resolution which would request the President to declare October 9, 1982, "National Running and Fitness Day."

National Running and Fitness Day began as National Jogging Day in 1971 in an effort to encourage Americans to actively pursue some form of exercise and to especially encourage jogging as a way to stay physically fit. The purpose of this day is to encourage people to make safe, enjoyable exercise a part of their daily activity.

The primary sponsor of this annual event is the American Running and Fitness Association, formerly the National Jogging Association, which is in its second decade of service. In the opinion of the association, its new name more clearly defines their commitment as an independent voluntary association of individuals dedicated to the promotion of aerobic health through safe and enjoyable exercise, especially running. The members of this nonprofit educational organization number more than 35,000 people, all of whom realize that physical fitness and good health go hand-in-hand.

This year, National Running and Fitness Day is being sponsored by the American Running and Fitness Association, in cooperation with the President's Council on Physical Fitness and Sports, the Governors' Councils on Physical Fitness and Sports, the National Recreation and Park Association, the YMCA, the American Podiatry Association, the American Academy of Podiatric Sports Medicine, and the American Medical Joggers Association.

National Running and Fitness Day is a proven success in getting the American people actively involved in the pursuit of improved physical fitness and a healthier way of life.

I hope my fellow Senators will give this resolution, which requires no expenditure of Government funds, their full support.

Mr. President, I ask unanimous consent that this resolution be printed in the Record following these remarks.

There being no objection, the joint resolution was ordered to be printed in the Record: as follows:

S.J. Res. 238

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly evident;

Whereas jogging is an excellent, convenient, and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to weight-reducing or weight-control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life; and

Whereas an estimated thirty million persons all across America jog or run as a recreation activity which is beneficial and enjoyable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 9, 1982, as "National Running and Fitness Day", and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars, and other events throughout the United States and to incorporate regular exercise into their everyday lives.

ADDITIONAL COSPONSORS

S. 1215

At the request of Mr. Proxmire, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1956

At the request of Mr. Thurmond, the names of the Senator from California (Mr. Cranston), and the Senator from Wyoming (Mr. Simpson) were added as cosponsors of S. 1956, a bill to amend title 38, United States Code, to authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans.

S. 2420

At the request of Mr. Heinz, the name of the Senator from Georgia (Mr. Nunn) was added as a cosponsor of S. 2420, a bill to protect victims of crime.

S. 2676

At the request of Mr. Dodd, the name of the Senator from Alaska (Mr.

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Murkowski) was added as a cosponsor of S. 2676, a bill to establish a National Hostel System Plan, and for other purposes.

S. 2751

At the request of Mr. Inouye, the name of the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of S. 2751, a bill to authorize the sale of certain fish in the State of Hawaii.

S. 2788

At the request of Mr. Grassley, the names of the Senator from Georgia (Mr. Nunn), and the Senator from Oklahoma (Mr. Nickles) were added as cosponsors of S. 2788, a bill to restrict the distribution of material involving the sexual exploitation of minors.

S. 2851

At the request of Mr. Gorton, the name of the Senator from North Dakota (Mr. Andrews) was added as a cosponsor of S. 2851, a bill relating to compelling governmental interests.

SENATE JOINT RESOLUTION 193

At the request of Mrs. Kassebaum, the name of the Senator from New Hampshire (Mr. Humphrey) was added as a cosponsor of Senate Joint Resolution 193, a joint resolution designating the week of November 7 through November 13, 1982 as "National Respiratory Therapy Week."

SENATE JOINT RESOLUTION 202

At the request of Mr. Danforth, the names of the Senator from South Dakota (Mr. Abdnor), the Senator from Washington (Mr. Gorton), the Senator from Alabama (Mr. Heflin), the Senator from Wisconsin (Mr. Kasten), the Senator from New Mexico (Mr. Schmitt), the Senator from New York (Mr. D'Amato), the Senator from Idaho (Mr. Symms), the Senator from Minnesota (Mr. Boschwitz), the Senator from Alaska (Mr. Stevens), and the Senator from Missouri (Mr. Eagleton) were added as cosponsors of Senate Joint Resolution 202, a joint resolution to express the sense of the Congress of the United States that the Nation reaffirm its commitment to the expeditious development of magnetic fusion energy.

SENATE JOINT RESOLUTION 218

At the request of Mr. Robert C. Byrd, the names of the Senator from South Carolina (Mr. Hollings), the Senator from New York (Mr. Moynihan), the Senator from Maryland (Mr. Sarbanes), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Arkansas (Mr. Bumpers) were added as cosponsors of Senate Joint Resolution 218, a joint resolution to authorize and request the President to designate the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day."

SENATE JOINT RESOLUTION 233

At the request of Mr. Durenberger, the name of the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of Senate Joint Resolution 233, a joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Heinz, the name of the Senator from Montana (Mr. Baucus), was added as cosponsor of Senate Concurrent Resolution 73, a concurrent resolution to condemn the Iranian persecution of the Bahai community.

SENATE RESOLUTION 444

At the request of Mr. Danforth, the names of the Senator from California (Mr. Cranston), and the Senator from Delaware (Mr. Roth) were added as cosponsors of Senate Resolution 444, a resolution expressing the sense of the Senate that President Reagan should submit to the United States Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war.

SENATE RESOLUTION 449

At the request of Mr. Armstrong, the names of the Senator from Oklahoma (Mr. Nickles), and the Senator from North Carolina (Mr. East) were added as cosponsor of Senate Resolution 449, a resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

AMENDMENT NO. 2006

At the request of Mr. Grassley, the names of the Senator from Georgia (Mr. Nunn), and the Senator from Oklahoma (Mr. Nickles) were added as cosponsors of amendment No. 2006 intended to be proposed to S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

SENATE RESOLUTION 454—RESOLUTION RELATING TO THE AIR TRAFFIC CONTROL SITUATION

Mrs. KASSEBAUM (for herself, Mr. Cannon, and Mr. Inouye) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 454

Whereas, Since August 3, 1981, the Nation's air traffic control system has been operated by a reduced air traffic controller workforce that is severely below the level considered by the Federal Aviation Administration to be fully operational;

Whereas, replacement of the diminished workforce at the current rate of training and employment being implemented by the Federal Aviation Administration will not result in a fully operational air traffic controller workforce until 1988, at the earliest;

Whereas, the airline industry has been restricted severely by the reduced capacity of the air traffic system which has created inequities and distorted the competitive process;

Whereas, the airline industry has beep one of the most severely affected by the recessions of 1980 and 1981 and by additional unique problems such as a $6,000,000,000 increase in fuel costs since 1979 and pricing challenges created by the ongoing transition to complete deregulation; and

Whereas, there exists a substantial number of dismissed controllers who may be eligible for reinstatement, and other qualified individuals barred by the age 30 hiring rule: Now, therefore, be it *Resolved*, That it is the sense of the Senate that the Department of Transportation has not utilised fully the human resources available to restore the capacity of the air traffic control system; and that immediate steps should be taken to waive the age 30 hiring rule and to expedite the processing of appeals of former traffic controllers seeking reinstatement.

SENATE RESOLUTION 455—RELATIVE TO THE STATUS OF PACIFIC SALMON STOCKS

Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Gorton, Mr. Hatfield, and Mr. Jackson) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. Res. 455

Whereas Pacific Salmon orginating in the waters of Washington, Oregon, British Columbia, and Alaska wander freely across boundaries, both as rearing juveniles and maturing fish bound for their spawning streams;

Whereas as a result of this migratory pattern, fish of one country are caught in the fisheries of the other country both as an incidental harvest to domestic salmon fisheries and, in some cases, in targeted fisheries;

Whereas the mixed stock nature of Chinook (King Salmon) fisheries which harvest fish both as immatures and matures (due to their long life history at sea) complicates the management of this species, which must also take into account attempts to harvest both healthy stocks and hatchery stocks, as well providing for the conservation needs of depressed stocks, and not neglecting that this species also enters many different forms of fishery and is taken by a number of different user groups: commercial, recreational, and personal use in the United States and Canada;

Whereas severe conservation problems have been identified with most Chinook stocks from the Columbia River to Southeastern Alaska and recent work by scientists of both nations has highlighted stock problems in British Columbia, where those stocks are estimated to be reaching only one-third of their optimum escapement requirements;

Whereas Chinook salmon fisheries in British Columbia harvest well over one million Chinook salmon annually compared to a harvest of slightly more than 250,000 fish in Southeast Alaska as a result of the adoption by the State of Alaska of a 15-year rebuilding program designed to return natural Chinook runs in major rivers in Southeast Alaska to their historical levels of abundance;

Whereas the realization that neither country will be able to optimize production from its salmon stocks without an agreed upon set of management ground rules governing intercepting fisheries on both sides of the border and recognizing that unregulated escalation of interceptions and intercepting fisheries in British Columbia can only aggravate the allocation and conservation problems currently being faced by both nations;

Resolved, That it is the sense of the Senate that the Secretary Commerce should take all appropriate steps necessary to strengthen and define a United States position that will ensure: (1) That our anadromous fish stocks are perpetuated at productive levels, (2) That our fishermen are treated in an equitable manner in terms of sacrifices necessary to achieve conservation goals, (3) That interception problems are addressed in a manner having minimum impact on our user groups; and report back to Congress on at least a semiannual basis progress in these areas.

Mr. MURKOWSKI. Mr. President, today I have submitted a resolution instructing the Secretary of Commerce to strengthen and define his position regarding the status of Pacific salmon stocks. The problem we have with this west coast fishery is extremely serious and deserves immediate, priority attention. Should ongoing negotiations with Canada fail to produce a substantive cooperative management plan and should the status quo continue, we—the United States—and Canada can expect the demise of this important industry and valuable food resource in the Pacific Northwest.

Severe conservation problems have been identified with most Chinook (king salmon) stocks from Oregon to southeastern Alaska. However, scientific research conducted by both the United States and Canada has also highlighted severe stock problems in British Columbia, where stocks are estimated to be reaching only one-third of their optimum escapement requirements.

Canadian Fisheries and Ocean Ministry statistics indicate that the total coastwide catch of Canadian Chinook salmon by Canadian and United States commercial, sports, and native food fisheries for the period 1976–80 averaged 1,176,000 fish, while the average escapement during the same period was only 194,000 fish. In other words, it indicates a fishing mortality of nearly 86 percent of the total stocks. It is generally believed that Chinook stocks cannot withstand a fishing pressure of more than 70 percent. It is our opinion, buttressed by scientific research, that Canadian overfishing in British Columbian waters, on both United States and Canadian stocks is primarily responsible for these high mortality and low escapement figures.

Canadian Fisheries and Ocean Minister Romeo LeBlanc has stated that:

> Despite the substantial salmon enhancement work and conservation restrictions introduced in 1981 and previous years, escapements of wild Chinook to British Columbia coastal streams and rivers is less then 50 percent of that required for optimum production. This situation means that to save the stock we must impose more strict catch restrictions * * *.

Canadian fishery management actions proposed for implementation this year are designed to increase 1982 British Columbia Chinook spawning escapements by 20,000 fish. This reduction in take seems inconsequential given the fact that Chinook harvest by British Columbia fishermen is expected to be well over 1 million fish. Their conservation measures over recent years have been aimed principally at the commercial net fisheries whose catch of Chinook salmon currently represents only 16 percent of the total catch of Canadian Chinooks. Not enough has been done to curtail harvests in the troll fishery.

Southeast Alaska catches of Chinook for the period 1970–80 have averaged 301,000. This year, despite strong opposition from our fishermen, we set our quota at 255,500 fish, a 15-percent reduction over our 10-year historical catch level. This was done to protect stocks and to insure productive harvest levels in the future. Similar Canadian conservation efforts to increase 1982 British Columbia spawning escapements by 20,000 fish will amount to a 2-percent reduction in quota assuming a harvest of at least 1 million fish. It seems obvious that any actions taken in southeast Alaska to conserve Chinook stocks will be doomed to failure unless other jurisdictions also take significant conservatory actions.

I have submitted this resolution today to bring to the attention of my colleagues and the the administration the severity of this problem and to impress upon all concerned that action taken too late or not at all will entail significant costs in terms of a declining industry and fishery.

To my colleagues here today I urge the consideration and passage of this resolution. To the administration and related individuals, I ask that an accord with the Canadians be reached expeditiously that will insure the proper, cooperative management of all salmon stocks for the benefit of all citizens in the Pacific Northwest.

PACIFIC FISHERIES

Mr. STEVENS. Mr. President, I support the resolution offered by my good friend Senator Murkowski. The salmon stocks of the Northwest are in grave condition, Mr. President, and while the Department of State is aware of the problem, we have not been able to apply uniform conservation principles along the entire north Pacific coast. Meanwhile, chinook salmon stocks are being depleted because of inconsistent management regimes between the United States and Canada.

The unfortunate result from this inconsistent management between our two nations is an ever increasing burden that is being placed on troll fishermen in southeast Alaska and in Washington and Oregon. This burden of ever more extreme reductions in harvest levels on the U.S. side are not resulting in greater escapement for conservation purposes because of increased interceptions by Canadian fishermen on these stocks. The end result, if it is not dealt with immediately, will be to further deplete these stocks down the line, and to injure all of the participants in the fishery—United States and Canadian fishermen.

The United States-Canada salmon negotiations are well into a third decade of discussions, and the opportunity to work out a management regime may come as early as this fall. However, that agreement must contain a fair apportionment of responsibility to meet the conservation needs of the fishery, or it will crumble as soon as it is completed. The plight of the west coast chinook salmon has not been fully addressed to date, and I hope that the Secretaries of State and Commerce will take note of congressional concern in this matter, and undertake a fundamental reexamination of the chinook salmon problem prior to the continuation of the discussions this fall.

Several months ago I wrote to Secretary Baldrige on this problem. I am pleased that he understands that we cannot continue to make unilateral sacrifices without cooperation from the other user groups. A copy of his letter to me on this problem is attached.

Mr. President, I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Secretary of Commerce,
Washington, D.C., June 11, 1982.

Hon. Ted Stevens,
U.S. Senate,
Washington, D.C.

Dear Ted: Thank you for your letter and enclosed correspondence from B. F. Thompson, concerning harvest reductions in the Alaska troll salmon fishery.

I support the North Pacific Fishery Management Council's decision to limit the 1982 harvest of chinook salmon to 255,500 and to use in-season closures in the management of the 1982 high seas salmon troll fishery off Southeast Alaska (47 F.R. 20830) to achieve that goal. This strategy is appropriate and consistent with the Magnuson Fishery Conservation and Management Act. Because the Council is operating under an approved fishery management plan within an optimum yield range of 243,000-272,000, Secretarial approval of the Council action is not required. I am, however, reviewing the Council's overall fishery management plan for high seas salmon in light of continuing litigation; that is, *Confederated Tribes* v. *Baldrige*.

I recognize the sacrifices that have been made in the interest of conservation and management by the Alaska salmon fisher-

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men and rural communities that are heavily dependent on the troll fishery for their economic well-being. Continued sacrifices cannot be justified, however, if all the chinook salmon saved in Alaska are caught in fisheries outside Alaska or mysteriously disappear after entering their spawing rivers. While this Department has limited jurisdiction over the factors contributing to salmon loss within the rivers, I am working with Federal and State agencies and with other organizations, including Indian groups, to identify and alleviate the problem. If the Pacific Northwest States make conservation efforts that result in increased spawning in the upper Columbia River, and if Canada's actions result in a potential for greater savings of fish to the spawning grounds in 1983, the Council and the Alaska Board of Fisheries have agreed to reduce the Southeast Alaska chinook harvest to 243,000 in 1983. The need for reduction of inter-dam losses and improved migrant passage was pointed out in this Department's response to the minority report on the North Pacific Council's action, submitted by Rolland Schmitten of the Washington State Department of Fisheries.

Thank you for your State's support in salmon management, and the willingness of individuals directly affected to abide by the Council's decision. Unfortunately, there is no practical, simplistic, and immediate resolution to the problem of depressed chinook stocks or the multiplicity of problems involved in the fisheries management of all five Pacific salmon species.

Sincerely,

MAC,
Secretary of Commerce.

SENATE RESOLUTION 456—RESOLUTION OPPOSING PLANS FOR WAGING AND WINNING NUCLEAR WAR

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 456

Whereas the policy of the United States has been to maintain strategic nuclear forces solely for the purpose of deterring war;

Whereas a nuclear war cannot be "won" in any meaningful sense of the word because the resulting destruction would be so extensive;

Whereas substantial unease has developed within the United States and abroad regarding current American policy on the role of nuclear weapons in our defense;

Whereas uncertainty regarding U.S. nuclear doctrine and forces has already resulted in the stalemate, since 1976, of the arms control process designed to reduce reliance upon nuclear weapons and to minimize the risks of accidental war;

Whereas the risks of nuclear war appear greater today than ever before; and

Whereas planning to enable the United States to win a nuclear war may make nuclear war more likely: Now, therefore be it

Resolved, That it is the sense of the Senate that the United States should not engage in planning for nuclear forces and strategies whose objective is to enable the United States to wage and win a nuclear war.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. SPECTER. Mr. President, I am today submitting a sense of the Senate resolution declaring that the Senate is opposed to any plan to wage and win a nuclear war. This sense of the Senate resolution follows a floor statement which I made 3 days ago on August 17, 1982, when the Senate was considering the Department of Defense authorization conference report.

While I have contemporaneously wrote to appropriate officials in the executive branch on this and related subjects, I consider it important to proceed at this time with the submission of this resolution so that its consideration may move ahead, including referral to the Subcommittee on Arms Control of the Committee on Foreign Relations.

I firmly believe that it is absolute folly to plan to wage and win a nuclear war, because a nuclear war cannot be won. The consequences would be devastating, the destruction unimaginable. My concern is that any such plans and preparations will, in and of themselves, increase the likelihood of a nuclear war, which we should instead be working to avoid. The wish is father to the thought; the plan is father to the act.

Recent news accounts have reported that the U.S. Government is in the process of revising its long-standing strategy of deterrence to focus instead on developing the capabilities and strategies to prepare us to, so to speak, win a prolonged nuclear conflict. "Win" is, however, a hollow word here.

I do not know if these assertions and their implications are accurate. However, the very fact that such articles appear creates undue apprehension among our own people, among our allies, and in the minds of potential adversaries.

Recently, I returned from a trip to the Soviet Union terribly concerned by the confusion in the minds of Soviet officials responsible for policies toward the United States and its allies. It is dangerous and unwise if American officials think they enhance our own security by keeping the Soviets as confused about our nuclear war policies as the U.S. Government sometimes seeks to be. Confusion can lead to miscalculation and miscalculation to devastation that no rational person would ever intentionally, willingly accept.

I believe that, to deter war, America must be strong and that improving our strategic forces can promote the important goal of concluding arms control agreements that will restrain and, I hope, someday end the nuclear arms race and the delusions of governments throughout the world that nuclear weapons can be tolerated. Even the existence of nuclear weapons, and the nuclear stockpiles which support them, pose substantial risks to the well-being of people everywhere, since, as the people in my own State of Pennsylvania learned not too long ago, all forms of nuclear energy—peaceful or military—involve some degree of risk.

I support and have been encouraged by the President's arms control initiatives, particularly his proposals at the START and INF negotiations in Geneva. I have also supported the President's initiatives regarding nuclear arms modernization, such as the B-1 bomber and improvements in our command, control, and communications systems.

It is important not to increase the risks of accidental nuclear war by failing to improve these systems to warn our country against a possible attack and not to interpret these programs as themselves signals that the Government is more concerned with being able to conduct prolonged nuclear war than with preventing nuclear holocaust. By contrast, massive spending on civil defense programs that planners seem to suggest would effectively protect Americans from the effects of nuclear attack does make me wonder what is being contemplated by officials who propose such programing. The purpose of nuclear weapons and strategy should be to deter nuclear war, not to wage it.

If the weapons are ever used, then our policy will have monumentally failed. In order to clarify for everyone what our nuclear policy is, and to declare opposition to any planning, whether ongoing or proposed, that might make nuclear war more likely, I offer this resolution.

When I made my statement on August 17, 1982, I referred to a press report in the Philadelphia Inquirer of August 17. The report concluded with the notation that:

> They [those who advocate planning to win a nuclear war] specified that 20 million U.S. fatalities would represent a compatible level.

Twenty million U.S. fatalities, in my judgment, is totally incompatible with any rational approach. To prevent such a catastrophe and to stop any such planning, I urge my colleagues to adopt this resolution.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, as chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I wish to advise the Senate that committee markup of legislation to reauthorize the Federal Insecticide, Fungicide, and Rodenticide (FIFRA) program has been scheduled for September 15 and 16. The markup sessions will begin at 10 a.m. and 2 p.m., respectively, in room 324, Russell Senate Office Building.

CANCELLATION OF HEARINGS—SUBCOMMITTEE ON LABOR

Mr. NICKLES. Mr. President, the Labor Subcommittee of the Labor and Human Resources Committee has an oversight hearing scheduled on the Federal Mine Safety and Health Act of 1977 for September 14, 1982. That hearing is cancelled due to the limited amount of time remaining for the 97th Congress and the workload still pending.

I am encouraged that in the past 7 weeks since the hearing was announced, meaningful discussions have commenced between those directly concerned with the health and safety conditions in out Nation's mines. I am hopeful that such exchanges will continue in the months ahead so that together we may work toward a consensus bill for introduction in the 98th Congress.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to receive testimony on S. 2061, to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes; and H.R. 4861, to en statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

ADDITIONAL STATEMENTS

EXPLANATION OF VOTE ON CONFERENCE REPORT ON TAX BILL

● Mr. PRESSLER. Mr. President, I would like to explain my vote for the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act.

Quite frankly, there are many things I do not like about this legislation. Although it is fortunate that the bill preserves the individual tax cuts passed last year, it contains provisions which I fought against on the Senate floor including withholding on dividends and interest and tip reporting requirements. In addition, the conferees chose not to include my amendment to H.R. 4961 which would have allowed an investment tax credit for farmers for soil and water conservation expenses. I believe this amendment would have proved very helpful to our hard-pressed farmers and I will continue to fight for adoption of the conservation tax credit.

Therefore, my decision to support the conference report was not an easy one. I voted for H.R. 4961 only because I believe its passage is absolutely necessary if we are to address satisfactorily the serious budget problem facing our Government. This legislation, which will raise $98.3 billion over the next 3 years, will help alleviate the budget problem.

The real solution, of course, is to put strict controls on Government spending. I would have preferred to see Congress reduce spending further; however, in the absence of sufficient budget cuts, we must raise the revenues necessary to decrease the unacceptably high deficits projected for the coming years. This Nation cannot tolerate the $200 billion deficits that would otherwise occur.

Recently, we have seen some very encouraging economic developments. Many banks have lowered their prime interest rate to 14 percent and Wall Street is enjoying a period of vigorous trading.

These are good signs, but if we wish the economy to continue to improve, we must make some very difficult choices. I have heard repeatedly from South Dakota farmers, small business people and consumers that they simply cannot survive with the high interest rates that have prevailed over the last 2 years. The Congress must face the fact that we cannot expect interest rates to come down further and to stay down if we do not pass this kind of legislation. The inhibitions I have about specific provisions of this bill have been overcome by the concern that the national economic recovery might be threatened unless the revenue package is adopted.

Mr. President, attached is a letter of today from Senator Dole regarding my amendment on the farm 10 percent investment tax credit on tree-planting, soil and sector conservation.

The letter follows:

U.S. Senate,
August 19, 1982

Hon. Larry Pressler,
U.S. Senate,
Washington, D.C.

Dear Larry: I want to assure you that the Senate Conferees fought hard for your amendment to H.R. 4961 permitting farmers to elect a 10 percent investment tax credit for those soil and water conservation expenditures that are not expensed. As you recall I supported the provision on the Senate floor and agreed with you that it would be very beneficial for our farmers. Unfortunately, the House Conferees would not agree to the amendment.

I expect that the Finance Committee will consider the soil and water conservation credit as well as several other tax matters that do not involve a substantial revenue loss at an early time.

Sincerely yours,

Bob Dole.●

NOMINATION OF OLIVER G. RICHARD III, TO THE FEDERAL ENERGY REGULATORY COMMISSION

● Mr. JEPSEN. Mr. President, earlier the Senate confirmed the nomination of Olvier G. Richard III to the Federal Energy Regulatory Commission (FERC).

This is an important nomination to a commission that touches the lives of every American. Because of the significance of this position, I feel I must express my opposition to the Richard nomination.

First and foremost, my opposition to this nomination is in no way related to Mr. Richard's character or qualifications. On the contrary, I understand he is a person of fine character and possesses the highest qualifications to serve on the Commission. Rather my objection lies in the general and marked imbalance that would be created within the Commission should Mr. Richard be confirmed.

Let me explain. Of the Commission's present membership, two individuals are from the State of Texas, a major energy producer, one is from Virginia, and another is from Hawaii, a State far removed from the natural gas distribution system.

As we can see, energy-producing States are well represented. Mr. Richard, who is from the State of Louisiana, would add another voice from these States. Thus, this nomination would further the imbalance between energy-producing States and energy-dependent States, such as those in the Midwest and Northeast.

Mr. President, the decisions of the Commission impact every American in every State. In order to increase public confidence we need a board member who geographically provides representation for States that are energy dependent.

For this reason I object to this nomination and would have voted no had there been a rollcall vote.●

NATIONAL DEFENSE EDUCATION ACT

● Mr. DODD. Mr. President, the Soviet launch of Sputnik in 1957 placed our Nation on notice that we could no longer take technological superiority for granted. In response, Congress passed the National Defense Education Act (NDEA). This $1 billion education program was geared basically to science, mathematics, and foreign languages.

The NDEA was a great success. Its most dramatic result, of course, was the man-on-the-Moon landing in 1969. Unfortunately, however, our commitment to science education has lapsed since then.

That is unfortunate. For a Federal commitment to science education is

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not a commitment to an isolated special interest group. On the contrary, it is a commitment to the future of our Nation.

The public recognizes this and wants Federal support for science education. A 1980 poll of the general public asked, To which areas would it be most beneficial to assign public science and technology dollars? Among the 14 priorities listed, education ranked third, finishing ahead of such priorities as developing or improving weapons for national defense, reducing crime, or reducing and controlling pollution.

In spite of the public consensus that science education is vital, the quality of teaching science and mathematics has greatly deteriorated. The National Academy of Sciences has emphasized that the state of high school science and mathematics teaching is "scandalous."

Many secondary school science and mathematics teachers are unqualified to teach. They continue to teach nonetheless on an emergency basis due to a critical shortage of qualified science and mathematics teachers. The shocking fact is that at least 30 percent of the Nation's high school students who graduated last year did not have a qualified teacher in either science or mathematics.

This lack of basic science and mathematics training will have a profound effect on the Nation's future. Recent evidence proves this to be true.

One example is the declining growth rate in manufacturing productivity. Many factors obviously play a role in this situation. But it is relevant that Japan, France, West Germany, and the Soviet Union, all of which have witnessed substantial growth in manufacturing productivity, unlike the United States, are producing the manpower and skilled labor force necessary for high-technology industries.

In addition, while the United States is experiencing a decline in the standards of secondary education, these same countries are raising the standards of secondary education. Not surprisingly, they are placing greater emphasis on science and mathematics at all levels of education than is the United States.

This deterioration of the Nation's secondary school education must not be allowed to continue. Congress must take the necessary steps to insure a qualified science and mathematics faculty in secondary schools. In the near future, I plan to introduce legislation that will address the secondary school science and mathematics teaching problem.

Mr. President, to illustrate the seriousness of the decline in science and mathematics education, I ask consent that the following article from the August 8 issue of the Washington Post be inserted in the RECORD.

The article follows:

EQUATION FOR A TEACHING CRISIS

(By Donna Hilts)

At a recent convocation of the National Academy of Sciences, a group not easily pushed to overstatement, scientists and educators called the state of high school science and mathematics teaching in this country "scandalous." What's more, they agreed, most students graduating from high school are "scientifically illiterate."

The shortage of teachers is critical: In New York and Minnesota last year, according to Academy president Frank Press, not one university graduate qualified to teach high school science actually did so. In the Washington area, universities are graduating only a handful of high school math and science teachers, a trickle not large enough to supply the major school districts in Maryland, Virginia, and the District.

Pirating teachers has become a national way of life. Hightech industries, desperate for engineers and other technically skilled workers, are not only raiding college faculties but offering new graduates $10,000 more to start than the $14,000 they could get teaching in area high schools. Colleges and industry in turn are stealing teachers from high schools, according to area educators. As a result, those left behind to teach the young in the public schools are often neither sufficiently competent nor enthusiastic to inspire their students to the wonder of the quark or the beauty of an equation.

The crisis looms at a time when America's economic future depends on the expansion of its high technology industries—computers, robotics, laser optics, genetic engineering. And yet not nearly enough people are being trained to fill these jobs. In Massachusetts, Itek Corporation chairman Robert P. Henderson recently told a congressional hearing, the inability of these industries to find enough technically trained workers to fully staff their facilities had lost the state half a billion dollars in personal income revenue.

No one is quite sure why or how this crisis in science education happened. Television, Vietnam and the upheaval of the '60s, which forced lower school standards across the board, are commonly blamed. But it is certain, as Dr. Wade Gilley at George Manson University puts it, that while the high technology express rumbled into America, "We as a nation were asleep at the switch."

As a result, we have begun a national scramble to catch up. The National Science Board, which directs the National Science Foundation, has set up a panel of experts to find some answers, fast. And the Department of Education has put its own National Commission on Excellence in Education in place. Meanwhile local schools and industries have been left to assemble their own patchwork solutions.

The decline, some would even call it disgrace, of a nation that has long prized its technological ingenuity, can be read in recent statistics from the National Science Foundation:

In 1981, half the newly hired math and science teachers in high school were not qualified to teach those subjects. Forty-three states reported shortages of math teachers; nearly as many lacked enough physics teachers. More alarming, the average education major today scores significantly lower on standardized aptitude and achievement tests than other college students.

The performance of students, not unexpectedly, is equally dismal. The number of college freshmen needing remedial help in math jumped 72 percent from 1975 to 1980. On SATs and national assessment tests administered by the U.S. department of education during the past 10 years, 17-year-olds have scored increasingly badly in math and science. Many give up entirely by senior high: one half of all high school graduates in the United States take no math or science beyond 10th grade.

What is more, many experts are beginning to worry, not only about the quantity of science and math education, but also the quality. Henry Pollak, head of math and statistics research for Bell Laboratories, the nation's premier industrial lab, said recently, "Since 1940 the amount of math known has doubled every 10 years so that we now know about 16 times more math than we did then, but none of it has found its way into the schools."

In the Washington-area, public school systems, although admittedly better off than many places, have already begun to feel the crisis. "We're in a state of mild panic right now," admits James Shinn, director of employment services for Fairfax County schools. Despite the system being one of the most affluent and most highly regarded in the nation, Shinn expects to open this fall with uncertified substitutes filling several math and earth science teaching slots. The county's saving grace, he says, is that the quality of their substitutes is so high. Most are quite proficient in their fields, but lack the necessary teaching credentials for state certification.

In Montgomery county, where dwindling enrollments have caused massive school closings, there is a temporary surplus of math and science teachers, according to John Pancella, coordinator of secondary science for the schools. In Prince George's, the school system's recent $30 million budget cut forced the firing of more than 500 teachers, 16 high school math and science teachers among them. Those with provisional certificates were the first to be laid off.

"I don't want to imply there isn't a problem," said Carl McMillen, director of personnel for the Prince George's system. "There has been for the past several years. . . . As time goes on, if the student population increases, there will be a continuing and worsening shortage in math and science teachers, particularly in physics and chemistry."

Conard Seeboth, supervisor of mathematics for Prince George's is equally pessimistic: "In the junior high, middle school, and elementary levels, we definitely need to beef up the competence of some of our teachers." Already, the system is trying to retrain some of its teachers by offering courses in algebra and geometry. "Many of them haven't had those subjects since high school," he said. "They're very rusty."

In the District, officials have sent a desperate appeal to area universities to fill several math and physics teaching posts before school begins. Although exact figures are not available, Mary B. Harbeck, supervising director of science, said she recently lost two "excellent teachers," one to industry, the other to a college. "The shortage really exists in good teachers," she said. "There are people available who are certified, but not qualified."

To ease the problem, most area school districts are pushing to find teachers within their own systems who are near certification in the critical fields and help them become qualified. In Montgomery and Fairfax, this includes some financial help for teachers' course work at area universities.

Even in Montgomery, where the school system's reputation, prime location, and relatively high salaries make it attractive to teachers, school officals worry about the near future. "I have an aged faculty," said Pancella. "My concern is in four or five years." Fairfax director Shinn agrees. In five years, shortages will be really severe, he said. "The supply will shrink, and we're frightening people out when we say there is an [overall] surplus of teachers."

The recent graduating classes of area universities indicate the kind of future shortage Shinn fears. At George Washington University, there were no graduates in secondary math and science education. At the University of Maryland, one of the largest teaching institutions in the area, out of 179 secondary education graduates, seven were qualified in math, only four in science, whild 43 majored in early-childhood education, and 19 in art.

George Mason University vice president Gilley estimates that half the jobs in Fairfax County are in high-tech industries. Yet people to teach youngsters to fill those jobs are not being trained in sufficient numbers. At George Mason only two students graduated in secondary math education last year, none in physics or chemistry.

George Mason, however, recently has begun a new partnership with county industries, which it hopes will "build a critical mass of first-rate faculty," said Gilley.

The new Institute of Science and Technology at George Mason will attempt to tap the highly paid talent, and expensive equipment, of the county's 424 high tech firms, those specializing in computers, software, and research and development among them.

Executives will be offered part-time teaching posts and help develop the university's science curriculum; they will in turn have access to the university's pool of manpower, professors and students, to carry out understaffed projects, said Gilley.

Such a solution, however, may do little to ease the drain of teaching talent below the college level. Gilley points out that in the past decade the number of technological companies in Fairfax has jumped from 135 to 424, and the number of jobs in these industries has more than doubled. "Firms are locating here now almost weekly," he said.

So where does that leave the coming generation of young people, who cannot possibly compete in the marketplace of microchips and robots if they are not somehow encouraged in science early on? The Washington area reflects what is happening nationally. There is a growing gap of information between rich and poor, the educated haves and have nots. In Montgomery County, for instance, more students than ever before are enrolling in advanced science courses and entering science fairs. While in the District's inner city, said science director Harbeck, "We have some young people—and some adults—who think the landing on the moon was a big science fiction extravaganza on T.V. They just don't believe it happened."

"The danger," wrote Academy of Sciences president Frank Press recently, "is not in failing to train the gifted who wish to be scientists and engineers; they still seem to receive the requisite education and opportunities. Rather, it is in raising a generation of Americans who lack the education to participate in a technological age; in failing to assure the scientific literacy of Americans, whatever their future vocations."

How America can be so tranformed, it is hoped by many, will be outlined by the National Science Board's new Commission on Precollege Education in Mathematics, Science and Technology. The 20 men and women on the panel were chosen for their credentials in industry, defense, science and education. They consider their mandate, according to commission executive director Richard S. Nicholson, to write a national science education policy.

Some believe not only the economic health, but the safety of America's future depends on it. In West Germany and Japan, where the governments have persuaded their citizens of the importance of technology and encouraged increasing numbers of young people to enter engineering and other technical fields, industrial productivity has increased far more rapidly than it has in the United States.

America's lag in technological education has perhaps more frightening implications in the state of the country's defense—not missiles and bombs, but the people who will control them.

"We can't compete with a driver of a tank from the Soviet Union who has two years of calculus when we have to write our manuals at the sixth-grade level in comic book style," Nicholson said.

SCIENCE AND MATH EDUCATION: HOW AMERICA COMPARES

These facts about science and math education in America, the Soviet Union, East Germany, the People's Republic of China, and Japan were assembled by the National Academy of Sciences:

The school year abroad averages 240 days: minimal time is lost to absences. Ours averages 180 days with a loss of one month on the average due to absences. Their school week is 5.5 or six days and includes a six to eight hour school day; we have a five day week and an average school day of four to five hours.

Specially trained science and mathematics teachers take over in grade four abroad, not until grade seven in our schools.

Courses in mathematics (other than arithmetic or general math), biology, chemistry, physics, and geography start in grade six and are required of all students.

The time spent on these subjects, based on class hours, is about three times that of even the most science-oriented U.S. students, i.e., those that select four years of science and mathematics in secondary school.

Other subjects are not slighted at the expense of science and mathematics. Language study is encouraged, partly to make contact with scientific and technology information in other languages. More students and adults are learning English in China than there are English-speaking people in the U.S.

In addition, the Soviet Union has just instituted a reform of its school system which makes it the most advanced in the world, according to the National Science Foundation. The number of high school students taking calculus each year in the Soviet Union has reached 5 million. For the United States the comparable number in 1977 was 105,000. In addition to two years of calculus, all youngsters in the Soviet Union are required to complete 5 years of physics, four years of chemistry, four years of biology and five years of algebra.●

UPPER MISSISSIPPI RIVER

● Mr. KASTEN. Mr. President, I am proud to announce that I am cosponsoring legislation which will provide for enhanced environmental management of the upper Mississippi River.

This legislation, introduced by Senator DANFORTH with 11 Senators from States along the Mississippi, not only provides for the needs of commercial navigation but recognizes that the environmental concerns of the upper Mississippi are equally important.

The Mississippi River is the only waterway in the United States that has been designated as part of both the National Wildlife Refuge System and the National Waterway Transportation System. As a result, there are differing interests competing for the river's resources which must be recognized in the management policy of this river.

Past management of the upper Mississippi has been dominated by commercial interests. This imbalance threatens many of the most significant natural amenities of the river. S. 2861, while providing for the continued commercial use of this waterway, orders the Federal Government to work with the States to give greater priority to the environmental health of the river.

The importance of protecting the environmental quality of this area is twofold. First, the upper Mississippi, a key element of the Mississippi flyway, is a vital link in the life cycle of nearly three-fourths of the Nation's migratory waterfowl. The river is important to the viability of other forms of wildlife as well. S. 2861 recognizes this fact, and establishes a long-term environmental management program for the river and its tributaries.

In addition, the recreational uses of this river make substantial contributions to local economies. In Wisconsin alone, over $234 million can be directly attributed to the recreational use of this waterway each year. In fact, the recreational uses of the river play a greater role in the local economy in Wisconsin than does commercial navigation.

While shipping along the upper Mississippi is overshadowed by other uses in Wisconsin, I recognize the key role of this transportation artery to other States. The adoption of this legislation will eliminate the bottleneck currently restraining navigation on the Mississippi River.

For these compelling reasons, we must act to correct the errors of past management practices. We can no longer stand by and watch the deterioration of this resource. For this reason, I am pleased to join with 11 of my colleagues in support of S. 2861.●

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THE FBI'S RELUCTANCE TO COOPERATE WITH DEPARTMENT OF JUSTICE AUDITORS

● Mr. BAUCUS, Mr. President, I would like to bring to the attention of the Senate a sad story. It is the story of how, even though the years pass, administrations change and Attorneys General come and go, the Department of Justice continues to strive to operate under the veil of secrecy.

I firmly believe that the citizens of this Nation are the best judges of Government actions. And for the public to act in their role as judges, they must have access to information about their Government. Access to information is a right that has been used effectively in this country for centuries to improve Government operations as well as society in general. Unfortunately, this view is apparently not shared by too many top officials at the Department of Justice.

As an example of this reluctance to let the people of this Nation know about the Government they pay for, I ask that a series of letters between myself and the Department of Justice be inserted in the Record at this point.

The letter follows:

Subcommittee on
Separation of Powers,
February 1, 1982.

Hon. William French Smith,
Attorney General, Department of Justice, Washington, D.C.

Dear Mr. Attorney General: I would appreciate receiving a copy of the audit report entitled, "Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation" completed by the audit staff of the Department of Justice. In addition, please provide me with copies of all written determinations made on the audit findings by the Federal Bureau of Investigation.

Thank you for your attention to this request.

With best personal regards, I am
Sincerely,
Max Baucus,
Ranking Minority Member.

U.S. Department of Justice,
Washington, D.C. March 23, 1982 .

Hon. Max Baucus,
Ranking Minority Member, Subcommittee on Separation of Powers, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Baucus: The audit report "Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation" that you requested in your February 1, 1982 letter to the Attorney General is enclosed.

You will recall that I responded by letter of March 3, 1982, explaining that the audit report would be sent to you as soon as it was issued.

Thank you for your interest in the Department of Justice.

Sincerely,
Kevin D. Rooney,
Assistant Attorney General for Administration.

Subcommittee on Separation
of Powers,
April 2, 1982

Hon. Kevin D. Rooney,
Assistant Attorney General for Administration, U.S. Department of Justice, Washington, D.C.

Dear Mr. Rooney: Thank you for providing me with a copy of the audit report, "Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation." I note, however, in Appendix A of the report, pages 7 through 15 were deleted from the final report. I would appreciate receiving copies of those pages from the draft report.

Thank you for your attention to this matter.

With best personal regard, I am
Sincerely,
Max Baucus,
Ranking Minority Member.

U.S. Department of Justice,
April 22, 1982, Washington, D.C.

Hon. Max Baucus,
Ranking Minority Member, Committee on the Judiciary, Subcommittee on Separation of Powers, U.S. Senate, Washington, D.C.

Dear Senator Baucus: Your letter of April 2, 1982 acknowledges receipt of the audit report, "Acquisition, Control and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation," provided in response to your earlier request. Your letter also requests copies of the deleted pages 7–15 referenced in the Federal Bureau of Investigation's (FBI) response to the working draft report (Appendix A of the final report).

The Department's Audit Staff customarily submits all "working draft" reports pertaining to the FBI to the appropriate FBI officials for a "sensitivity review" before the draft audit report is prepared for distribution and comment. This review process ensures that the auditors have not inadvertently revealed classified or other sensitive investigative information, and allows the FBI officials and the auditors to discuss and clarify any misunderstandings that may be relevant to the audit findings. Subsequent to this review, necessary changes are made and the draft audit report is issued for formal review and comment.

In the case of the audit you referenced, the FBI formally responded to the "working draft" report rather than waiting for the draft report to be issued. The other respondees (Appendices B, C, D and E) commented on the draft report. It is the position of the Audit Staff that working papers and draft reports should not be released, for to do so would undermine the willingness of auditees to be candid and forthright with the auditors. You can be assured, however, that all appropriate audit findings were included in the final audit report.

For these reasons, it would be inappropriate for the Department to release copies of the "working draft." If you would like to discuss this matter further, the Director of the Audit Staff, Guy K. Zimmerman, and I would be available to meet with you to explain the circumstances and actions taken as a result of the "sensitivity review" with the FBI. Your staff may also contact Mr. Zimmerman directly on this matter.

Thank you for your continued interest in the Department of Justice.

Sincerely,
Kevin D. Rooney,
Assistant Attorney General for Administration.

Subcommittee on
Separation of Powers,
May 11, 1982.

Hon. Kevin D. Rooney,
Assistant Attorney General for Administration, Department of Justice, Washington D.C.

Dear Mr. Rooney: I am in receipt of your letter of April 22, 1982 concerning my request for copies of the deleted pages of the audit report, "Acquisition, Control and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation." I am troubled by the Department of Justice's continuing reluctance to cooperate with members of Congress.

As you may know, I have been a strong supporter for an active and independent audit program at the Department of Justice in the past and am a cosponsor of legislation that would establish an Inspector General at the Department of Justice. Your Audit Staff Director, Mr. Guy Zimmerman, informed my staff that the deleted pages deal directly with the FBI's reluctance to cooperate with Department of Justice auditors. I therefore request, once again, that you provide me with copies of the deleted pages. In addition, I understand that a management communication was sent by you to FBI Director Webster concerning the FBI's reluctance to cooperate with the auditors. I would appreciate receiving from you a copy of that communication also. If you decide not to provide me with copies of the deleted pages of the management communication, please provide me with your specific legal reasons for denying my request.

With best personal regards, I am
Sincerely,
Max Baucus,
Ranking Minority Member.

U.S. Department of Justice,
Office of Legislative Affairs,
Washington, D.C., July 7, 1982.

Hon. Max Baucus,
Ranking Minority Member, Subcommittee on Separation of Powers, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Senator Baucus: This is in further response to your letter of May 11, 1982 concerning the audit report the Department recently provided you on "Acquisition, Control and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation." Your letter requests: (1) copies of the deleted pages of the audit report, and (2) the management communication that was sent to Director Webster concerning this audit.

It is important to note that no pages were deleted from the audit report. As explained by the Assistant Attorney General for Administration, Kevin D. Rooney, in his letter of April 22, 1982, the pages to which you refer were in the "working draft report" that was submitted to the Federal Bureau of Investigation (FBI) for sensitivity review and comment.

This review process ensures that the auditors have not inadvertently revealed classified or other sensitive investigative information, and allows the FBI officials and the auditors to discuss and clarify any misunderstandings that may be relevant to the audit findings. Obtaining advance review and comments by officials of the audited entity is a requirement included in the General Accounting Office "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

Subsequent to the FBI review, necessary changes were made and the audit report was issued. In addition, a management communication was sent to Director Webster to clarify several misunderstandings that existed but, which were adequately addressed during the review process.

You will recall that Assistant Attorney General Rooney pointed out that it is the position of the Audit Staff that audit working papers and draft reports should not be released, for to do so would undermine the willingness of auditees to be candid and forthright with the auditors. Likewise, it is the Audit Staff's position that the release of the management communication to Director Webster would be detrimental to the audit process in the Department. I understand that the Audit Staff Director, Guy K. Zimmerman, discussed this matter at length with your staff trying to explain the situation, why it was handled the way it was, and why the Audit Staff opposes the release of these materials.

Please be assured that the Department very much wishes to cooperate with Members of Congress and, frankly I am unaware of any continuing reluctance to cooperate with Members. However, your request for pages from a working draft audit report that had not been completely reviewed for accuracy and adequacy of support, convincingness, objectivity, clarity and simplicity, conciseness, completeness, and constructiveness of tone must be denied. Likewise, it would serve no appropriate and constructive purpose to provide you with the communication between management officials clarifying misunderstandings that were addressed and resolved in the audit review process. To do otherwise could be detrimental to the necessary, appropriate and candid communications that must take place between the Department's auditors and management officials.

Therefore, the Department respectfully asks your understanding of why we are unable to furnish these internal deliberative materials.

Sincerely,

Robert A. McConnell,
Assistant Attorney General.

Mr. BAUCUS. As my colleagues will note from reading this correspondence, on February 1, 1982, I wrote attorney General Smith and requested a copy of a DOJ audit report entitled, "Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation." Mr. Kevin Rooney, Assistant Attorney General for Administration, provided me with a copy of the final report on March 23, 1982.

In reviewing the report, I noticed that nine pages had been deleted from appendix A. On April 2, 1982, I requested that Mr. Rooney provide me with a copy of those deleted pages.

Mr. Rooney, by letter dated April 22, 1982, saw fit to deny my request. In his letter, the Assistant Attorney General for Administration stated,

> It is the position of the Audit Staff that working papers and draft reports should not be released, for to do so would undermine the willingness of auditees to be candid and forthright with the auditors.

After a telephone conversation between a member of my staff and Mr. Guy Zimmerman, Director of the Audit Staff, I once again requested, by letter dated May 11, 1982, that I be provided copies of the deleted pages.

On July 7, 1982, Assistant Attorney General Robert McConnell responded to my request by stating,

> * * * your request for pages from a working draft audit report that had not been completely reviewed for accuracy and adequacy of support, convincingness, objectivity, clarity and simplicity, conciseness, completeness, and constructiveness of tone must be denied.-

Mr. President, I am sure that many of my colleagues would have shared my interest in knowing what the auditors had said in those nine pages that was either so inaccurate or so sensitive that a Member of the U.S. Senate could not review it let alone the general public.

First, my colleagues should know that the audit itself was fairly innocuous. I ask that the Executive Digest of the audit be placed in the Record at this point.

The Executive Digest follows:

Audit Report on the Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation

EXECUTIVE DIGEST

The Audit Staff, Justice Management Division, has completed an audit of the Acquisition, Control, and Disposition of Seized and Recovered Property in the Federal Bureau of Investigation (FBI).

The purpose of the audit was to ascertain whether the FBI was in compliance with Federal Property Management Regulations and had established an efficient and effective system of accountability to ensure:

1. Compliance with Federal policies and procedures regarding seized and recovered property.
2. There were effective procedures and records pertaining to acquisitions.
3. There were effective custodial procedures prescribed and practiced.
4. There is effective property accountability verification.
5. Compliance with Federal policies and legal requirements respecting the disposition of seized and recovered property.

Our review covered all seized and recovered property for which the FBI was accountable whether evidentiary in nature or not, on hand, or of record, at the time of our audit.

We found that improvements are needed in:

1. Program management controls in connection with: manual guidance; accounting for seals for valuable exhibits; supervision; training; the position description of the bulky exhibit clerk; and management inspections.
2. Acquisition controls in connection with documenting acquisitions, categories of exhibits, and the packaging of, and receipting for, exhibits.
3. Custodial controls in the areas of: responsibilities of bailees; inventory records; chain of custody records; and physical inventories.
4. Elimination of storage problems created by a court order prohibiting disposition of records.
5. Dispositions in the areas of: nonevidentiary property; improperly handled dispositions; and inadequately documented dispositions.
6. The file system in connection with numbering, status, and closing of files.
7. Relationships with U.S. Attorneys.
8. Relationships with U.S. Marshals.

Our recommendations are intended to strengthen the handling of seized and recovered property in the FBI through improvements in management and procedures to provide full documentation, strong chains of custody, effective property management practices and timely, appropriate, disposals of seized and recovered property for which the FBI is accountable.

Prior to issuance of this report, copies of the draft report were forwarded to the FBI, the Property Management and Procurement Staff (PMPS) and the Personnel and Training Staff (PTS), JMD, the Executive Office for U.S. Attorneys (EOUSA) and the U.S. Marshals Service for comment. Responses were received and have been included at the appropriate places in the final report with our comments which are primarily directed to FBI. The full texts of these responses are appended.

Mr. BAUCUS. As my colleagues will note, the auditors examined the FBI's compliance with Federal property management regulations with regards to seized and recovered property. Certainly not a subject that would make the FBI's list of 10 most controversial subjects. But it is a subject of importance to the many thousands of Americans who have had property either seized or recovered by the FBI and certainly of importance to the general and efficient operation of the FBI and our court systems.

And as I suppose could be surmised by any Member of this body, the auditors found that the FBI needs to strengthen their management of their property system. Not an earth-shattering finding, but one of importance to those of us who believe constant and aggressive oversight will lead to a more efficient and less costly Government.

But what was in the nine pages denied to me by the Department of Justice after months of deliberation and two written requests? I do not suppose I would have ever found out if it had not been for what I suspect was the conscious of a dedicated public servant who anonymously provided me with the deleted pages.

I ask that these pages be inserted in the Record at this point.

The pages follow:

Conditions and Recommendations, Management Responses, and Internal Audit Staff Comments

I. AGENCY COOPERATION

In general, FBI Headquarters liaison and field offices visited in this audit proved to be less than fully cooperative. In part, we attribute this to the failure of Headquarters to provide the field offices with information as to our role and the level of cooperation expected. Also, the conduct of the audit was affected by the fact that, in a field division, the Special Agent in Charge (SAC) has a great deal of autonomy and can limit the

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extent of cooperation with instructions received from Headquarters.

On numerous occasions throughout this review we attempted telephonic contact with our designated liaison agent. Rarely did we make immediate contact. Usually we were informed he had "stepped out," and would call back. Seldom was our call returned. We understand this was often due to an additional assignment which required him to absent himself from the office, sometimes for extended periods. However, this seriously affected his role as our liaison and caused unnecessary delays in the audit.

We also, as soon as practicable, provided our liaison with memoranda showing our planned field visits, the probable times of our visits and duration of our stay so the field sites could be informed. We also forwarded a memorandum designating those records to which access would be needed. While we note that those field divisions we proposed to visit were usually apprised of our coming, in no case were we given access to all the records we had identified and we have serious doubts that the field had been instructed to make them available. In our opinion, a liaison officer should be generally available, prompt in returning calls, and make every effort to provide the maximum level of cooperation. We do not now have such a liaison.

We also noted that field offices were apparently unaware that we were visiting as duly delegted representatives of the Attorney General serving under appropriate clearance levels and carrying out his mandates.

Title 28, Code of Federal Regulations states:

"§ 0.75 Policy functions. The Assistant Attorney General for Administration shall head the Justice Management Division and shall provide advice relating to basic Department policy for budget, financial management, auditing, personnel management and training, automatic data processing and telecommunications, security and for all matters pertaining to organization, management, and administration. Subject to the general supervision of the Attorney General and under the direction of the Associate Attorney General, the following described matters are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General for Administration:

"(h) Supervise and direct independent and comprehensive internal audits, including examinations authorized by 28 U.S.C. 526, of all organizations, programs, and functions of the Department to assure that the programs and functions of the Department are being carried out efficiently and economically."

Pursuant to these authorities the Assistant Attorney General for Administration issued and approved DOJ Order 2900.1C, dated March 24, 1980, delegating to the Director, Internal Audit Staff, the responsibility for carrying out internal audits in DOJ organizations.

In no FBI office were we accorded the freedom of movement and access to records that our status warranted. For example:

In Philadelphia, we were told at the outset that we would be denied access to Grand Jury material and investigative files. We were assigned an agent supervisor to assist us in any file review and serve as liaison. Although we were not so instructed, it was tacitly understood that we were expected to stay in our work area and the Bulky Exhibit Room. On one occasion, a request for information from a file was flatly refused as was a request for access to so-called "work box" rooms where we had reason to believe we would find unrecorded seized property.

In San Francisco, we were assigned a work area adjacent to the bulky exhibits clerk and were escorted by her wherever necessary within the office as well as from the reception area to the work site in the morning, at lunch, and back in the evening. When we sought information from the files it took two special agents to assist us in locating the information we needed.

Detroit was also uncooperative. We were assigned an inteview room off the reception area for a work area and an agent for liaison. We were escorted everywhere we went, including to the rest room, and as usual, routinely denied access to investigative files. There was even an initial denial of the local Federal Telecommunication System incoming number later rectified by our liaison but the denial was unwarranted because there is nothing secret about these numbers.

We asked to see some vehicles which that office had acquired to determine if they were properly stored and appropriate documentation was present. Personnel flatly refused to let us visit the storage site (a military post), on the grounds that there were sensitive materials stored there. We were also unable to review more than 600 bulky exhibit records on the grounds that they too were sensitive. The issue of sensitivity was, in our opinion, used as a method to prevent our effectively carrying out our assignment.

In Dallas we were permitted to move freely within the office and our liaison, the SAC, and Assistant Special Agent in charge (ASAC) were helpful. Again, though, we were denied access to investigative files and, as a result, tied up our agent liaison for the better part of a day researching the information we needed.

At Los Angeles, the pattern was the same. Access to investigative files was denied and where information from the file was needed an agent was designated to assist which interfered with the performance of the regular duties of the agent.

In the Atlanta Office we were well received. We were provided full cooperation by all personnel in that office and had access, after careful screening by the appointed liaison, to investigative case files which facilitated effective accomplishment of our mission.

The conduct of this audit has been hampered and made more costly by the general lack of cooperation. Not only was it necessary to devote more man days to the audit effort while waiting for return of telephone calls, or for files to be searched out and reviewed, but the removal of agents from their investigative duties to perform work which we could have done was costly to the FBI. Moreover, these agents, working with investigative files with which they were unfamiliar, all too often could not locate information which adequately answered the question we asked.

We have been carrying out audits in FBI under the terms of an agreement between the former Director and the Assistant Attorney General for Administration signed October 14, 1976. Contained in this agreement is the following:

The names of all informants, confidential sources, and other appropriate individuals will be excised from all FBI documents provided OMF. Additionally, if information obtained in certain instances would identify the informant, the FBI and OMF staff will discuss the matter and work out a procedure so such information is not presented in a way that could result in identifying the informant.

The field offices visited opted to deny us access to the files rather than carry out the procedures provided by the agreement. The option exercised did not facilitate our carrying out the audit.

The secretive attitude of the FBI toward its investigative files is, on our opinion, unwarranted. With the possible exceptions of Grand Jury material and informant names, (which should, in our opinion, be coded into the file) there should be nothing so unique or different with respect to FBI investigations, as to justify this attitude which proves costly both to us and to them. Accordingly, we include here certain recommendations to rectify this situation.

* * * * *

Prior to issuance of this draft report, the Supervisory Auditor addressed a memorandum to our liaison requesting that a close-out conference with appropriate FBI personnel be arranged. The memorandum also contained the suggestion that the report be reviewed for sensitive information and any concerns raised at the conference. Copies of a draft report indicating the report was for discussion purposes were also furnished.

The liaison officer telephonically informed the Supervisory Auditor that he would not arrange the requested conference nor route the drafts for sensitivity review because they had not been transmitted by the Director and because the FBI considered the draft report furnished a final draft.

The purpose of the requested conference was to provide FBI with an informal opportunity to comment on the possible report and raise any concerns as to content, recommendations, and sensitivity. Our regular practice is to hold close-out conferences with auditees before the final draft report is issued. With respect to the issue of sensitive matters, the requested conference could have addressed them as well. The agreement with FBI provides that we will give FBI an opportunity to review draft reports for sensitive information but does not stipulate who shall provide the draft submission. We consider this another instance of the obstructionist tactics regularly used by FBI in their dealings with IAS.

RECOMMENDATIONS

The Director should:

1. Order that all FBI Divisions provide the Audit Staff with unrestricted access to their offices, personnel, equipment, and all records of whatever type and wherever situated in accordance with the terms of the 1976 agreement.

2. Establish a readily available liaison point at an organizational level high enough to facilitate in every possible way audits initiated by this Staff.

Mr. BAUCUS. For my colleagues who take the time to review these pages, they will find than during the course of the audit, the FBI was "less than fully cooperative." The FBI apparently used every opportunity to delay or hinder the auditors. The FBI actions ranged from annoying—not returning phone calls promptly—to the more serious—denial of access to needed records. The auditors concluded:

The conduct of this audit has been hampered and made more costly by the general lack of cooperation . . . . We consider this another instance of the obstructionist tactics regularly used by FBI in their dealings with IAS (Internal Audit Staff.)

Mr. President, I find this situation intolerable. On the one hand you have the Assistant Attorney General for Administration stating that the release of the deleted pages would "undermine the willingness of auditees to be candid and forthright with the auditors" and on the other hand you have those very same pages detailing the lack of candor and forthrightness of the FBI.

We have a problem here. Not only have I been hindered in performing my oversight duties as a member of the Judiciary Committee, but the taxpayer has had to shell out additional tax dollars to pay for what appears to be an institutional refusal to cooperate.

Has the situation been corrected? I suspect not, but who knows for sure? Certainly if the Department of Justice had had its way, we would never have known a problem existed.

I have brought this entire matter to the attention of the distinguished chairman and ranking minority member of the Judiciary Committee and have asked them to review the matter at public hearings at their earliest convience. It is evident that this body should at long last consider legislation that would elevate the audit staff within the Department of Justice to a position of direct supervision by the Attorney General. During the 96th Congress, I introduced legislation that would have established an Office of Professional Responsibility and Audit under the Attorney General. I did so with the belief that the Department of Justice and the American people would best be served by a permanent, independent and respected investigative and audit office similar to Inspector General offices in other agencies.

It now appears that we need this office more than ever. At a time of severe budget constraints, we cannot afford costly institutional badgerings. Auditors in the Department of Justice, as well as throughout the Government, perform on a daily basis service that leads to more efficient Government. Yet to do their work, auditors need the clout to overcome obstructionist tactics. Evidently such is not the case with the Department of Justice and the FBI.

Finally Mr. President, I have received an advance copy of the August 21, 1982, issue of Washington Merry-Go-Round written by Columnist Jack Anderson in which Mr. Anderson discusses this same matter. I believe his insight into this situation is most revealing and ask that his column be inserted in the RECORD at this point.

The column follows:

WASHINGTON MERRY-GO-ROUND

EMBARRASSING REPORT LEADS TO JUSTICE-FBI STONEWALLING

(By Jack Anderson)

WASHINGTON.—Like most presidents before him, Ronald Reagan has tried to draw a curtain of secrecy between the government's internal operations and the outside world. He doesn't want the acts and policies of his administration to reach the people through what he considers the distorting prism of the press.

Some of his subalterns have carried the coverup to a ludicrous degree. Perhaps the most celebrated example was Interior Secretary James Watt's claim of "executive privilege" for some documents of surpassing unimportance that a House committee wanted to see. Under threat of a contempt citation, Watt finally turned them over; they turned out to be hardly worth hiding.

Now the Justice Department has tried to stonewall requests for seven pages of an internal audit report that is mildly embarrassing to the FBI. The department refused a Freedom of Information Act request from my associate Tony Capaccio. The reason: "To protect the decision-making processes of the government," explained Justice official Kevin D. Rooney.

Sen. Max Baucus, D-Mont., was similarly rebuffed. He noticed seven pages missing from the Justice Department report and asked for them. The department turned him down, explaining that the pages were deleted "as a result of a sensitivity review with the FBI."

As part of a "working draft," the Justice Department told Baucus, release of the pages "could be detrimental to the necessary, appropriate and candid communications that must take place" in the course of a government audit. In other words, the department was trying to add auditor-bureaucrat to the sanctified relationships of lawyer-client, doctor-patient, priest-confessor and president-adviser.

I have now obtained the seven missing pages by other means. What was the material that was important enough to cause the Justice Department to defy a United States senator and invoke a loophole in the Freedom of Information Act?

Simply this: Rooney had written to FBI Director William Webster that "the auditors reported that the FBI was generally less than cooperative," and added: "The draft audit report was prepared with this cooperation problem as the first finding."

In a nutshell, the FBI had given the auditors a hard time, and the auditors were miffed. The republic apparently would be in peril if Congress and the American people learned that government employees don't always get along.

The purpose of the audit was to check the efficiency, or lack of same, in the performance of what is probably the most boring task FBI agents ever get stuck with: the handling of confiscated property for use as evidence in prosecutions.

Maybe the G-men thought the chore was bad enough, without having efficiency experts from Washington second-guessing them. At any rate, the auditors reported huffily:

"In general, FBI headquarters liaison and field offices visited in this audit proved to be less than fully cooperative. In no FBI offices were we accorded the freedom of movement and access to records that our status warranted."

This lack of respect to the Rodney Dangerfields of the audit branch was manifested in Philadelphia, San Francisco, Detroit and Los Angeles. In Detroit, the investigators were "unable to review more than 600 bulky exhibit records on the grounds that they were too sensitive."

The auditors concluded darkly: "The issue of sensitivity was, in our opinion, used as a method to prevent our effectively carrying out our assignment. We consider this another instance of the obstructionist tactics regularly used by the FBI in their dealings with internal audit staff."

This was the teapot tempest the Justice Department insists is too sensitive for the public to learn about.

Footnote: Baucus now plans to insert the seven deleted pages in the Congressional Record to demonstrate just how silly the bureaucrats' claim of privilege is.●

SOVIET DAY OF SHAME

● Mr. DOLE. Mr. President, on August 21, many people throughout the world, and particularly Americans of Czech and Slovak descent, will mark the Soviet day of shame, the day in 1968 when the Soviet Union sent troops in a brutal invasion of Czechoslovakia, crushing the reform minded government of Alexander Dubcek. Dubcek's liberal regime had been trying to introduce a humane and progressive element into the Communist way of life, the first major deviation from Iron Curtain rule since the Hungarian rebellion in 1956. This cruel act of aggression, in direct contravention to the United Nations Charter, was provoked by a movement to liberalize and democratize Czechoslovakia—to institute socialism with a human face.

The invasion of Czechoslovakia was the prototype of a Russian policy later called the Brezhnev doctrine, which seeks to justify Soviet military intervention whenever and wherever the interest of socialism, as defined by the Kremlin ideologues, are threatened. The fact that the people of Czechoslovakia were enjoying a period of relative freedom and, even more significantly, prospering under its influence, was an intolerable affront to the basic philosophy of the Soviet rulers.

The attempt by the Czechoslovak people to humanize the Communist system was clearly an internal matter. The Soviet infringement upon the rights of a sovereign country was an obvious violation of the recognized rights of self determination and nonintervention in the domestic affairs of an independent state. The continued presence of Soviet troops serves as a testament to the Soviet Union's contempt for international agreements and universally acknowledged principles. However, the presence of these troops is even more revealing in that it shows us how the Soviet Union is forced to use its military might to continue its domination of Czechoslovakia, Poland, and other nations when the system of communism has all too obviously failed.

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STILL YEARNING FOR FREEDOM

Soviet control has failed to extinguish the yearning for freedom among the people. In 1977, more than 1,000 Czechoslovak citizens from all walks of life signed Charter '77, petitioning their Government to honor its commitments under the Helsinki Final Act,. signed by Czechoslovakia, the United States, the Soviet Union and 32 other European nations in 1975 and which guaranteed basic human rights. Now, in strict adherence with the wishes of the Soviet ruling elite, the Czechoslovak Government, unwilling to accept the legitimacy of this movement, has detained, imprisoned, and otherwise persecuted its members. The authorities continue, as well, to curtail the activities of the Catholic church, and have even arrested or imprisoned several members of the clergy in the past few years. Intellectuals and dissidents protesting oppression and discrimination have been harassed, persecuted, or imprisoned.

The Commission on Security and Cooperation in Europe, on which I serve as cochairman, will continue to raise the issue of Soviet and Czechoslovak noncompliance with the Helsinki Final Act. Both the Soviet and Czechoslovak Government must be made aware that the world watches to see how they comply with their obligations under the Helsinki accords, and what this will mean for future strategic agreements. These governments must start respecting the sovereign rights of nations and the human rights of citizens living within their own borders, and complying with international agreements they have pledged to honor.

I would like to note, Mr. President, that the Commission has recently published a book entitled "Human Rights in Czechoslovakia: the Documents of Charter '77 (1977-1982)." the documents in this publication reflect the efforts of Czechoslovak citizens to express their views on rights guaranteed to them under Czechoslovak law, the Helsinki Final Act, and other international agreements.

It is essential that we encourage the Czechoslovak people in their quest for sovereignty and their efforts to secure basic rights. We must do this both in word and in deed. Continuing support for human rights, combined with our determination to remain strong and resolute, represents the most meaningful action we can undertake.●

NATIONAL SERVICE: AN ISSUE OF IMPORTANCE

● Mr. TSONGAS. Mr. President, I would like to share with my colleagues a speech on national service delivered by the Reverend William J. Byron, president of the University of Scranton, at the May 23, 1982, commencement of Anna Maria College in Paxton, Mass.

Father Byron's address is a thoughtful, eloquent, and penetrating analysis of the lack of purpose felt by many young Americans today. His recommendations on national service are well-stated and raise important issues. I have long advocated a program of voluntary national service, and I find Father Byron's remarks to be of great interest. While I do not favor a mandatory national service program as suggested by Father Byron, I believe that his insights enrich the debates on this important issue.

Mr. President, I ask that Father Byron's speech be printed in the RECORD.

ADDRESS BY WILLIAM J. BYRON, S.J.

It is a privilege to have the opportunity to come to Massachusetts, a State where ideas are generated and exchanged more readily than in most other parts of our nation, and share an idea with the graduating sons and daughters of Anna Maria. This college serves both the Commonwealth of Massachusetts and the nation by cultivating an appetite for ideas in those who come here to teach and learn. The teaching-learning transaction began here in 1946. It continues today with the evident life and vigor represented in this assembly. And it will prosper into an uncertain future so long as ideas continue to be taken seriously by competent parties to the teaching-learning transaction whose dedication and spirit of sacrifice remain sufficiently strong to forge the bonds that hold this academic community together.

I said I have an idea to share with you. It is not particularly original, nor lofty, nor new. Its is an idea that has engaged the interest of your junior senator from Massachusetts, Paul Tsongas, who has encouraged its discussion in our national Congress. It is the idea of national service. I want to discuss it with you now in the context of what I will refer to as drift and the draft—the drift of purposelessness besetting so many of our young, and the military draft for which our young men are now required to register.

When I first thought about becoming a Jesuit. I had to think as well about the military draft. It was just two years before the founding of Anna Maria. I was a senior in high school. I was quite uncertain about what I wanted to do in life. My situation was not exactly one of purposelessness, but I was not clear, in those late teenage years, about which of several purposes I wanted to pursue. The immediate decision was made for me by the military draft. It put me into uniform, opened up an interesting range of developmental experiences, sent me overseas to Germany, and returned me home in 1946 just a little older, considerably more mature, and anxious to take advantage of the educational benefits included in the G.I. Bill of Rights.

After three years of college, I had a much clearer sense of purpose. Subject then to neither drift nor draft, I decided to join the Jesuits. It was a free choice, a mature choice, made after careful consideration of the alternatives. I had a sense of purpose strong enough to overcome the doubts and ambiguities that surround any serious human choice into an unknown future.

The point of this brief autobiographic excursion is to set the stage for a discussion of two urgent contemporary issues. The first is the problem of purposelessness in America, particularly as it affects the young. The second is the potential remedy for the problem of purposelessness implied in a program of national service.

I think the U.S. is now in a state of national emergency. It is not a military emergency. I do not define it in terms of the presence of an external enemy. The enemy resides within. Specifically, it lies within the youth of the nation. It is a crisis of purposelessness. It is evident on inner-city street corners, in the youth unemployment rates, in the problems of drug abuse, vandalism, violence and crime. It resides in the suburbs as well, and populates our college campuses too. Several weeks ago, a psychiatrist remarked to me that he is seeing an epidemic growth of depression and suicide in adolescents.

The affluent young are not immune to drift. Alienation from their families and themselves may run deeper in the privileged young than does purposelessness in the poor who are trying to climb higher on the economic ladder.

It has been said that failure to plan means planning to fail. Absence of purpose encourages failure to plan which, in turn, contributes to the further diminution of purpose. In the wake of purposelessness, angry frustrations rise for awhile then dissolve into drift and destructive dependencies.

Four decades ago, "Remember Pearl Harbor" echoed back and forth across the nation as a call to arms. Today, we have no rallying cry, no focal point, no central project. But we do have a crisis.

Perhaps Chicago '68 and Woodstock '69 sent up the first signals that a new emergency was taking on national proportions. Was the "first shot" the one fired at Kent State in 1970? Both shots and shocks emanating from Jonestown in 1979 unsettled the nation but not sufficiently to bring us to a realization that we have a crisis on our hands. We remain unmoved, without the will to declare a war on purposelessness.

Lesser known events—personal tragedies which crippled the emotional development or shortened the lives of many of our young—have found their way into countless family histories. But American families have not yet come to a consensus that there is present in the nation a crisis of purposelessness episodically evident in bursts of violence, organized outrage, individual and communal withdrawal, self-denigration and self-destruction. There at the crossroads of our crisis are our generally well-educated but undisciplined young, most of them quite healthy, many relatively well off. Virtually all of them are "unnecessary" on the production side of our economy (they are in school or unemployed drop-outs, in the main), but they are quite active and "necessary" for the vitality of the consumption side of our economy. They constitute the largest collection of unemployed consumers in the world. And I think they resent it, deep down. They would prefer being on their own to being on the dole, even though the dole is from the family. Where are they going? What are they going to do? Many of them just don't know. Too many don't care. You, the purposeful young (and not so young) graduates of Anna Maria, are going to have to address yourselves to their problem since their problem is developing into a crisis for your nation.

Whenever goals are unclear, anxieties abound. Our youngsters are anxious. They are not simply uneasy and unclear about which of several purposes they might pursue; many see no purpose at all in their lives. They have no goals. They are fatalistic about the future.

If the nation were to compel all 18 year olds, both the purposeless and the purposeful, to devote a year or two of their young adulthood to meeting, in some organised way, unattended human needs at home and abroad, it is just possible that the purposeless might find direction for their lives and the purposeful might gain further maturity without intolerable delay or deflection from their intended goals. What are these unattended or, at least, unmet human needs? World hunger, neglect of the elderly, the decay of U.S. cities, widespread disease and illiteracy in the developing countries, day-care and child-care needs. We also have an urgent need for conservation and environmental protection. The list of needs is endless. And we suffer from a shortage of both will and skill to meet these needs.

In cataloguing the needs, I am not arguing that they constitute a national emergency. I am suggesting that widespread purposelessness among our young is a fact of sufficient proportions to constitute a national emergency. I am also prepared to suggest that this emergency might be addressed by enlisting our young in national service that goes far beyond a military draft. To the extent that preparedness and national defense require military manpower, the military option would remain one form of national service open to those called up by the draft. To the extent that draftees objected in conscience to military involvement, their service would be directed toward nonmilitary national needs.

In the service scenario I am sketching here, all 18-year-olds, male and female, would be subject to the draft. If this raises several constitutional questions, let them be settled by the Supreme Court. If conscientious objection to enforced service of any kind emerges, provision would have to be made that would respect freedom of conscience. Compulsory national service plainly involves the use of force. Since any use of force poses a threat to the rule of reason, only a true national emergency can justify compulsion of service for the common good. In my judgment, such an emergency exists today. I realise, however, that there is no national consensus, no "Remember Pearl Harbor," in support of my position.

Nor do we have a socio-psychological index calibrated to measure rising or falling degrees of purposelessness in so many of our young whom we view more wishfully than wisely as our hope for the future. Moreover, there is no organisation, governmental or private, sufficiently well-organised to manage a system of national service. We have no mechanism capable of channeling productive young energies into meaningful contact with national needs and a wider range of human needs.

Should the sponsorship and management of full national service be a federal responsibility exclusively? Or should it be shared with states, counties, cities and, indeed, with the private sector as well? Private sector participation, in my view, would be essential. Such participation could range from the provision of apprenticeship and training opportunities for draftees to transportation and recreation benefits for all service men and women. The private sector could also provide actual employment, at national service rates of pay, in service-rendering jobs.

Without a national consensus in support of my position, I have to conclude that voluntary, not compulsory national service, ought to be discussed, encouraged and even attempted now. It would be useful, I think, if the nation's political leadership began taking this issue seriously. Unattended purposelessness can have nothing but bad consequences for the nation.

My argument falls apart, of course, if there is in fact more purpose than drift in the nation's young. Anyone willing to assert the preponderance of purpose and the relative insignificance of drift among the young has to manage a fairly substantial burden of proof. On both sides of the question there is a dearth of data. We are also virtually without tools for measurement of the problem.

The prospect of compulsory national service raises hopes and fears, often in the same persons. When I wear my university president's cap and speak of national service, I have to be careful about a potential conflict of interest. Such a program would probably carry with it a post-service G.I. Bill-type of educational benefit. College administrators worried about rising costs, shrinking enrollments and vanishing student-aid funds would find this feature of a national service program immensely attractive. I share their enthusiasm on those understandable self-interested grounds. As a citizen, I share a concern voiced by those who fear that a system of registration and draft for national service will be abused by a government capable of using its war powers unwisely, even immorally, I further fear the possibility of an executive order which would mobilise for military training everyone on the national service register. Presidential power has been abused before; it could convert national service into an entrapment device to bring not only the unsuspecting but the conscientiously unwilling into the military manpower pool. Safeguards against that kind of abuse would have to be guaranteed before a national service program would have my full support. And finally, the notion of compulsion—the use of force—carries with it the caveat that it could provoke a resentful, counterproductive response from the young people I want most to help.

As one who benefitted from a service opportunity at age 18 and received a free college education as a result, I look at today's young and can't help but wonder whether they and their nation would not be better off if we had a new idea of national service. If it is going to work, it will exact opportunity costs from the better educated, better motivated young and financial outlays from an already strained Federal Treasury. On the benefit side, I would expect to see a significant strengthening of personal and national purpose along with a measurable reduction of some vexing social needs.

Well, that's the idea I wanted to share with you. Not a particularly great idea, nor is it altogether new. And perhaps its time has not yet come. But think about it.

You have purpose; pursue it now with confidence. You have enormous potential just waiting to be released. And you have the power that only knowledge can provide. Use it to help your nation to halt a harmful drift among others in your generation less fortunate, but no less valuable as persons, than yourselves.●

HAPPY BIRTHDAY TO COL. JOE MONTGOMERY

● Mr. **BAUCUS**. Mr. President, I would like to pay special tribute to one of my constituents, Col. Joe Montgomery, who will be celebrating a unique milestone, his 106th birthday, on August 23.

Born in Iowa in 1876, Colonel Joe has shared in the growth of the Nation and has added much to the spirit and character of Montana and the West. He has run a stagecoach line of 500 head of horses, politicked with the Rankins, and fought with Teddy Roosevelt in the Spanish American War. He knew all the first families of Montana, knew the Custer family, and remembers the Nex Perce and Gros Ventre, the Sioux and Blackfoot, the bear and buffalo of days long gone.

Claudia Brownlee has written a book of Colonel Joe's stories, called "Colonel Joe, The Last of the Rough Riders," and it is well worth reading. I know that I have enjoyed them, and I know that our future generations will appreciate the chance to see into a way of life that is such a colorful part of our heritage.

Happy birthday, Colonel Joe.●

DR. RICHARD HALVERSON, SENATE CHAPLAIN

● Mr. **HATFIELD**. Mr. President, it is true for me, as I am sure it is for each one in this Chamber, that there is one person in my experience who always speaks directly to my need and gives my spirit a lift. As long as I have been in this city, our Chaplain, Dr. Richard Halverson, has been that person in my life.

Senators may not be aware that he was proclaimed by the Presbyterian Church, U.S.A., as the Minister of the Year. In this capacity, he delivered a remarkable sermon in the National Presbyterian Church on Sunday, May 16, 1982. This message, "The Man, Christ Jesus," is an outstanding statement on the historic nature of Christ and His continuing impact on our lives as individuals and a nation.

Because we do not often have the opportunity to hear Dr. Halverson preach and to know more fully his heart on different subjects of concern to all Americans, I take this opportunity to make this truly compelling document available.

Mr. President, I ask that the full text of Dr. Halverson's sermon be printed in the Record.

The sermon follows:

The Man, Christ Jesus

(By Dr. Richard C. Halverson, Chaplain, U.S. Senate)

At the time when President Kennedy and Khrushchev were in confrontation over Cuba, I was scheduled for a retreat in a ranch near Yellowstone Park. In Billings I was met at the airport by a friend, City Attorney Willis Jones, who had the reputation of being very enthusiastic for President Kennedy. After the amenities, I said to Willis, "How would you like to be in the White House right now?" Expecting him to say, there's no place that I'd rather not be, to my amazement he said, "I'd like to be in

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the White House right now!" We picked up my baggage and started for the ranch. "Willis", I asked, "why would you like to be in the White House right now?" He said, "Because that's where history is being made."

After a moment, I asked, "Willis, who do you remember from the first century?" He did not respond immediately so I continued. "Can you remember the name of a Roman emperor from the first century?" He knew he was called Caesar, but he couldn't remember a name. So I said, "Rome had a very powerful senate in those days, can you name any of the Roman senators?" He couldn't. "How about the Greek city fathers in Athens? He couldn't remember any. "Who do you remember, Willis?" "I remember Jesus." "You remember a Jewish carpenter, who at thirty years of age became an itinerant rabbi". "Who else do you remember?" "I remember Pilate". "Why Pilate?" "Because he tried Jesus.". "Who else?" "James and John". "Who were they?" "Fishermen", and so on. After 2,000 years of empire builders, empires and civilizations the one remembered is Jesus . . . except for those who were influnced by his life in one way or another.

Consider this: Jesus, virtually unnoticed by the important and powerful of his day as well as the historians. He began with twelve men; spent three years with them; and generated a movement which has reached the whole world . . . numbers into the hundreds of millions and today, 2,000 years later, is going stronger than ever. Can you think of anything equivalent in human history?

He was a man, but what a man!

How do you explain this man; unnoticed by his contemporaries—remembered by the whole earth 2,000 years later? He confounded those around him. You will recall one occasion. He was in a boat on the Sea of Gallilee with his desciples, most of whom were seasoned fishermen who knew those waters like the palms of their hands. A great storm came up suddenly, as it often does on the Sea of Galilee, and the fishermen were terrified. Jesus was asleep. In their fear they awakened him, rebuked him and said, "Don't you care that we are perishing?" The record reports, "Jesus rose, rebuked the winds, and the waves. The storm subsided and there was a great calm. The record indicates that the men were amazed . . ." They marvelled and said, "What sort of man is this that even the wind and sea obey him?" When he was teaching in his hometown synagogue according to the record "They were astonished and said, 'Where dues this man get his wisdon and these mighty works?' " The apostle, John, reports that the "Jews marvelled saying, 'How is it that this man has such learning when he has never studied?' " An when the officers refused to arrest Jesus and were explaining their failure, they said, "Never a man spoke like this man." What an explanation for failing to make an arrest!

Peter, in his sermon on the Day of Pentecost, declared, "Men of Israel, hear these words. Jesus of Nazareth, a man attested to you by God with mighty works and wonders and signs which God has done through him in your midst, as you yourselves know . . . this same Jesus delivered up according to the definite plan and foreknowledge of God, you crucified and killed by the hands of lawless men." Paul said, "For there is one God and on mediator between God and man . . . the man, Christ Jesus."

How do you explain this man? His credentials are interesting. He is in his hometown synagogue in Nazareth. The Scriptures are brought to him. He opens them to the 61st chapter of Isaiah and reads: "The Spirit of the Lord is upon me because he has anointed me to preach good news to the poor; he has sent me to proclaim release to the captives and the recovering of sight to the blind; to set at liberty those who are oppressed; to proclaim the acceptable year of the Lord." He closed the book. It was taken from him. He sat down and to the astonishment of his hometown people, he said, "Today, this Scripture is fulfilled." Now, think about this. This man Jesus, the carpenter, this traveling rabbi said to his hometown people, "This prophecy which Isaiah wrote 700 years ago, I fulfill today."

His credentials were amazing! Think about his teaching. In the Sermon on the Mount, Jesus says something very significant in Matthew 5. He says, "Think not that I have come to abolish the law and the prophets. I have come not to abolish, but to fulfill them, for truly I say to you 'til Heaven and earth pass away . . . not an iota or a dot will pass from the law until all is accomplished." This man, Jesus, had profound respect for the law of Moses and yet as He continued teaching, he said over and over again . . . Verse 21 of Matthew 5, "You have heard that it was said to the men of old, but I say; Verse 27, "You have heard that it was said, but I say"; Verse 31, "It was also said, but I say"; Verse 33, "Again you have heard that it was said to the men of old, but I say"; Verse 38, "You have heard that it was said, but I say"; Verse 41, "You have heard that it was said, but I say." To paraphrase, this is what Jesus said, "Not one jot or tittle of the law of Moses shall pass until all is accomplished" and you have heard what the law of Moses said, but now I say, and he spoke words that transcended the law of Moses.

The record says that when Jesus finished these sayings, the crowds were astonished at his teaching, for he taught them as one who had authority . . . not as a scribe.

Consider his self-awareness. Who did he think he was? What did he think about himself? In Matthew 16, Jesus says to the disciples, "Whom do men say that the Son of Man is?" and a little later when they have answered that question and he asked, "Who do you say that I am?" He is identifying himself with the Son of Man—which was an Old Testament concept of the one who should come to fulfill a promise made to Abraham 2,000 years before. Peter answered, "Thou art the Christ (the Messiah) the Son of the Living God." Jesus accepted the identity and commends Peter for his remarks, "Blessed are you Simon Bar-Jona," you have not discovered this by a logical or rational process, this has been revealed to you by my Father in Heaven, following which makes this amazing claim: "I will build my Church and the gates of hell shall not prevail against it. "The powers of death shall not defeat it."

In the first chapter of Genesis, we read these words, "In the beginning, God", in the third chapter of Genesis, we read these words, "Now the serpent, Satan." In those three chapters; in those two statements; seven words; we are introduced to the cosmic conflict in history: the conflict between truth and error—between light and darkness—between order and chaos—between God and Satan. Whether it be the conflict between a man and his wife; or a parent and a child; or neighbor with neighbor or friend with friend, or management with labor or black with white; or nation with nation—every conflict derives from this transcendent conflict and Satan has won conflict after conflict after conflict in human history. Now Jesus says, "This one I am going to win" . . . and He will and He is! Notice also the remarkable authority He transmits: "I, Jesus, the Jewish rabbi, the carpenter, I give to you the keys to the Kingdom. Whatever you bind on earth shall be bound in Heaven; whatever you loose on earth shall be loosed in Heaven."

The Jews had profound respect for the Sabbath. They wanted to stone Jesus for breaking it. He responded by saying, "I am the Lord of the Sabbath."

He said that obedience to his word constituted the entrance into the Kingdom and the only secure foundation for building a life. At the end of the Sermon on the Mount he said, "Not everyone who says unto me, 'Lord, Lord' shall enter the Kingdom of Heaven, but he who does the will of my Father which is in Heaven", by which he is equating what he has just taught in the Sermon on the Mount with the will of the Father in Heaven. "In that day, Many will say unto me 'Lord, Lord did we not do many wonderful works in your name? We prophesied in your name, we cast out demons in your name'. I will say to them 'Depart from me you evildoers, I never knew you.'" Then he goes on to say, "He that hears my sayings and does them is a wise man that builds his house upon the rock and the rain falls and the winds blow and the floods come and beat against that house and it does not fall because it was founded upon a rock. He that hears my sayings and does not do them is a foolish man who builds his house on the sand and the rain falls, and the winds blow and floods come and beat against that house and great is its ruin." This amazing man, Jesus, the Jewish carpenter and rabbi, said, "Obeying me is the only sure foundation for life."

John reports that Jesus said, "If anyone keeps my words, he will never see death," He said that he had power over life and death as far as he was concerned. "No one takes my life from me; I lay it down of myself; I take it up again. I have the power to lay it down and I have the power to take it up again." He said that he was going to be crucified and rise again from the dead. "This generation seeks a sign, there shall one sign be given it, the sign of the prophet, Jonah. As Jonah was three days in the belly of the fish; so will the Son of Man be three days in the heart of the earth. He said, when they brought to him the paralyzed man let down through the roof, "Thy sins be forgiven thee." They said to him, "Only God can forgive sin." He said, "Whether it is easier to say to this man 'take up thy bed and walk' or 'thy sins be forgiven'—you decide, but know this, I have the power to forgive sin."

But most of all, His incredible "I ams". Jesus Christ was the incarnation of virtue—the supreme manifestation of humility, yet he used the personal pronoun "I" continually and connected with it, absolutely incredible claims concerning himself! Take any of these claims, put them on the lips of the greatest person you can remember and they are simply unbelievable. For example, imagine Abraham Lincoln saying, "I am the light of the world." Jesus said, he was! He said "I am the living bread which came from Heaven, if anyone eats of this bread he will live forever." Jesus said, "I am the bread of life, he who comes to me shall not hunger and he who believes in me shall never thirst." Jesus said, "You are from below, I am from above. You are of this world I am not of this world." Jesus said, "I am the door." Jesus said, "I am the good shepherd." Put that in the context of the twenty-third Psalm, "The Lord is my shepherd . . .". Jesus said, "I am the resurrection and the life. He that believes in me, though he were dead, (though one has already died, which would include Abraham and Noah and Adam and Eve) whosoever believes in me, even though he has already died, shall live again and whoever lives and believes in me shall never die." He said, "You call me teacher and Lord and you say right, for so I am." He said, "I am the way, the truth and the light. No one comes to the Father but by me." He said, "I am the true vine."

But the supreme statement came in another encounter with the pharisees, when Jesus said, "Abraham rejoices to see my day." They said, "You are not yet 50 years old and Abraham has been dead for 2,000 years." Jesus answered, "Before Abraham was, I am." The record says they took up stones to stone him for blasphemy. "I am" was the sacred name for God and a devout Jew would not think of pronouncing it. It was given to Moses when he said to God on Mount Sinai, "Who shall I say is sending me when I go to get the people of Israel out of Egypt?" And God said, "I Am that I Am. Tell them I AM hath sent thee." That is Yahweh in Hebrew, and would never be pronounced by a devout Jew. Now Jesus says, "Before Abraham was I AM." And when they took up stones to stone him for blasphemy, he did not try to explain and say, "Wait a minute, you don't understand, I didn't mean that." No, he just disappeared. It was not yet his time.

When he was accused of blasphemy he never denied it. He accepted worship. Peter and Paul rejected worship but Jesus accepted worship. In fact, on Palm Sunday when the Pharisees told Jesus to rebuke his disciples for crying out "Blessed is the King who comes in the name of the Lord," Jesus said, "If these were silent the very stones would cry." This amazing man said, "If these people did not worship me today, inanimate life would recognize me as the Kings of Kings and the Lord of Lords". And when accused of being the King, he did not deny it.

What about this man? Was he insane? Was he pathological, an egomanic with a Messianic complex, or was he speaking the truth? C. S. Lewis writes: "Either this man Jesus was or is the son of God or else a mad man or something worse! You can shut him up for a fool; you can spit at him and kill him as a demon or you can fall at his feet and call him Lord and God. But let us not come with any patronizing nonsense about his being a great human teacher. He has not left that open to us, he did not intend to."

Charles Malik, who in the days when he was President of the General Assembly of the United Nations was known as the conscience of the world, calls Jesus Christ the hinge of history. Every time you date a letter you testify to his existence—1982 A.D. He divides history into B.C. and A.D.

One tactic of those who simply will not believe in Jesus Christ, do not want to believe in Jesus Christ, and therefore look for some way to justify their refusal to believe in Him, is to discredit the gospel record. You can't trust gospel history.

Let me read a few quotations:

Dr. James P. Shotwell, formerly Professor of History at Columbia in his book, "History of History" which J. Wilbur Smith said was the most important work of his time in the English language wrote: "Luke, as the 'Acts of the Apostles' show, was an educated man who compiled his history out of various sources, was accurate in geography and painstaking in his work, stands easily along side the best pagan history of his time."

Dr. John A. Scott, Professor of Greek at Northwestern University for forty years, one of the great Greek scholars of his day said: "Luke was not only a doctor, and an historian, but he was one of the world's greatest men of letters. He wrote the clearest and the best Greek written in his century. Without Luke, we never could have had a report from a competent man of science on the birth of Jesus from a virgin. If Jesus had two human parents, why did this shrewd Gentile physician never suspect the fact? Since the arguments were sufficient to convince Dr. Luke, we know that we are dealing with no ignorant childish fancy."

The late Professor Edward Meyer, recognized in his day as the greatest authority on ancient history and not a professing Christian, says this of the gospel. "It is evident that for our history of Jesus we have by no means to reckon merely with representations of the records of the second sub-apostolic generation, but are taken back far behind that into the midst of the first generation. People who personally had known Jesus intimately and still preserved a lively recollection of him and these old recollections lie 'under our eyes in manifold form.' There is no ground at all for refusing to accept these oldest traditions as historically trustworthy in all essentials and in their chronological ordering of the history."

Rousseau, the famous unbeliever and rationalist of two centuries ago asked this question: "Shall we say that the Gospel story is a work of the imagination? Friends, that is not how one invents. The facts about Socrates, which no one doubts, are not so well attested as those about Jesus Christ. It would be more incredible that four men should have agreed to manufacture this book than that there was a single man who supplied the subject matter for it. No Jew could have hit upon its tone and morality. The Gospel has notes of reality which are so great—so striking—so absolutely inimitable that their inventor would be a more astonishing person than their hero."

The record can be trusted. Jesus really said those things about himself.

Will you consider this important fact, that through history, and as never before in our day, men and women, when they put their trust in Jesus Christ as Saviour and Lord find their lives absolutely transformed by the power of his death and resurrection? Millions and millions and millions throughout human history of race and language and culture have been changed when they open their hearts to this amazing man! In this day, when our world so desperately languished for a leader who can be trusted, can you think of anybody more worthy of following, or trusting or of giving your life to? I invite you to give your life to this Man, this very God of very God, Jesus Christ, and follow him—eternally.

I want to close with a very familiar statement that so far as we know is anonymous:

"Here is a young man who was born in an obscure village, a child of a peasant woman; he grew up in another village; he worked in a carpenter's shop until he was thirty and then for three years he was an itinerant preacher. He never wrote a book; he never held an office; he never owned a home; he never had a family; he never went to college; he never put his foot inside a big city; he never traveled two hundred miles from the place where he was born; he never did any of the things that usually accompany greatness; he had no credentials, but himself.

"When he was still a young man the tide of public opinion turned against him; his friends ran away; he was turned over to his enemies; he went through the mockery of a trial; he was nailed to a cross between two thieves; while he was dying his executioners gambled for the only piece of property he had on earth—his coat. When he was dead he was laid in a borrowed grave through the pity of a friend.

"Nineteen wide centuries have come and gone and today he is the central figure of the human race and the leader of the column of progress. I am far within the mark, when I say that all the armies that ever marched and all the navies that were ever built and all the parliaments that ever sat and all the kings that ever reigned put together—have not affected the life of one man upon this earth as has this one solitary life."

Ladies and gentleman, I commend to you, Jesus Christ, Lord! Amen.●

THE CRITICAL CONDITION OF THE TIMBER INDUSTRY

● Mr. BAUCUS. Mr. President, the Senate Energy and Natural Resources Committee recently held hearings on S. 2805.

All of us from timber producing States recognize the critical condition of the timber industry, nationwide. While the diagnosis is clear, however, the remedy is not.

S. 2805 would authorize the Agriculture and Interior Secretaries to alter or terminate timber sales contracts with private companies that have been devasted by the depression in the housing industry.

There is no doubt that timber companies need relief from the hardships caused by high interest rates and the virtual standstill in timber sales. But S. 2805 is not the perfect vehicle for such aid.

For example, S. 2805 overlooks the effect of unrestricted timber contract termination on inland operators in States such as Montana. Montana businessmen view proposals like S. 2805 as a threat to their ability to maintain their share of an emaciated market. While S. 2805 may provide relief for west coast timber operators, its treatment of other regions is less fair.

The interests of timber companies outside the west coast must be taken into consideration. An estimated 80 percent of the benefits of S. 2805 potentially would go to the west coast. That means a greater share of the burden of the industry-wide depression would be shifted to inland businesses.

I do not know a single Montana businessman who wants timber companies in Washington or Oregon to be dragged down as a result of unrealistic contracts with the Forest Service. By

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the same token, however, equitable relief cannot include any provision that would flood the market with west coast timber and undercut operators in the interior regions and other sections of the country.

I commend my colleague, Senator McClure, chairman of the Energy and Natural Resources Committee, for introducing S. 2818. This bill provides significant relief for west coast operators by allowing the Interior and Agriculture secretaries to adjust the terms of pre-1982 contracts for a period of up to 5 years. In doing so, this measure would relieve the affected companies of any type of penalty or interest payment during the extension period.

S. 2818 also would ease the massive backlog of uncut timber into the marketplace rather than unleasing a flood of timber. In addition, the measure would allow administrative flexibility in adjusting these contracts, which is certainly desirable.

I hope that as a result of the Energy and Natural Resources Committee hearings, the committee will be able to draft a compromise measure. To be successful, any bill must address the very important concerns of timber operators but without any regional bias.●

PAY INCREASE FOR FEDERAL EMPLOYEES

● Mr. HELMS. Mr. President, this is the time of year when Government employees begin to look forward to a pay raise. Every October, whether they deserve it or not, Federal employees get a pay raise. Everyone gets the same raise, as a percentage of salary, regardless of merit. If you are a Federal employee, and you can hang on until October, you will get a raise, as sure as the sun will rise tomorrow.

Private sector workers should have it so good. But they do not. Many U.S. workers will not get a raise this year. In fact, a good number will actually take a pay cut for the first time. But Federal employees, protected by their unions and insulated from concerns for economy, will get theirs.

I know of not one single private sector employee who is entitled to an automatic pay increase every year. I know of not one single private sector employee who has a "COLA." But workers in the private sector are paying the raises of Government employees.

I recently received a letter from Mr. Steven B. McBrayer, of Spindale, N.C. Mr. McBrayer calls my attention to a recent publication by the Chamber of Commerce of the United States, which compares salaries and benefits of Federal employees with those of workers in the private sector. Mr. McBrayer points out that the average private sector worker in North Carolina earns 51 percent less than the average Federal employee. I am not surprised that he is shocked and enraged by this fact.

I have obtained a copy of the Chamber's publication, which is entitled, incidentally, "The Case for Freezing Federal Pay and Pensions." It also contains a number of other interesting facts. Are Senators aware, Mr. President, that civilian personnel costs will amount to an estimated 10.8 percent of this year's Federal budget? Do they know that the pay and pension expenses of present and retired Government employees cost more than the medicare and medicaid programs combined, and almost five times the amount spent on food stamps?

Are any of my colleagues aware of how the pay for the average private employee in their State compares with the average pay for Federal employees? These and other statistics are contained in the Chamber article, and I invite my colleagues to study them closely.

I ask that Mr. McBrayer's letter be printed in the Record at the conclusion of my remarks, followed by the Chamber article.

The material follows:

Spindale Mills, Inc.,
Spindale, N.C., August 4, 1982.

Hon. Jesse A. Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: I am very concerned about the state of our economy and the apparent unwillingness of Congress to balance the federal budget. We can wait no longer for a return to reasonable financial management of our country.

Recently the Chamber of Commerce of the United States of America published a collection of data illustrating a comparison, by state, of federal government employees and private sector employees. The information is shocking and, frankly, sickening. In North Carolina we in the private sector earn 51.6% less than federal government employees on the average. This is ridiculous. But even more ridiculous is the fact that Congress continues to propose increases in federal salaries, benefits, and pensions, not to mention the "entitlement" programs. This must stop.

As a lifelong citizen of the State of North Carolina, I'm asking you as her representative to vote *NO* for any increase in federal expenditures, except military, until the budget is balanced. Also, please use your influence with other members of the Congress to cut expenditures and balance the budget.

Thank you for your concern and work for your state and country in Congress.

Sincerely yours,
Stephen B. McBrayer,

The Case for Freezing Federal Pay and Pensions

[Chamber of Commerce of the United States, Economic Policy Division]

Federal pay for the more than 2 million civilian employees of the federal government will cost the U.S. taxpayers $58.7 billion this fiscal year. Combined with the $19.4 billion in pension and disability payments to former federal workers, civilian personnel costs will amount to an estimated 10.8 percent of this year's federal budget. These pay and pension expenses exceed the combined costs of the medicare and medicaid programs and are almost five times the amount spent on food stamps.

The Senate Budget Committee proposes that federal pay be frozen for FY 1983 and limited to 4 percent increases in the two subsequent years. The Senate Budget Committee also recommends a freeze on COLAs for all federal retirees. The U.S. Chamber supports these two proposals and urges Congress to adopt them as part of the FY 1983 budget. Given current deficit projections and the documented overcompensation in both pay and benefits, such a freeze is both necessary and equitable. Even with such a freeze, federal pay and pensions will still remain well above private sector levels.

Presented below are a number of facts and figures which support the Senate Budget Committee's proposal for a federal pay and pension freeze.

Because of poor management practices, benefits in excess of those received in the private sector and serious flaws in the pay comparability system, federal personnel costs are far higher than they should be to attract and keep competent workers.

On average, federal workers receive salaries that are 35.5 percent higher than private sector salaries, 45 percent higher than those of state and local workers, and 52 percent higher than pay in the manufacturing sector.

Federal pay excesses have widened over the past decade. In 1967, the federal premium over state and local salaries was 25 percent compared to the current 45 percent. Over the same period, the federal pay premium over manufacturing wages rose from 35 percent to 52 percent.

Similarly, federal benefits, including pensions, are considerably higher than those available in the private sector. Consider the following important differences:

Most federal workers, but few private workers, may retire at age 55 if they have thirty years of service. About half of all civil service retirees are under 60 compared to only 7 percent in the private sector. Further, private sector retirees do not receive full Social Security benefits until age 65.

Federal retirees have had their pensions fully indexed to the consumer price index (CPI). Only 3 percent of private sector retirees have this protection. Moreover, flaws in the CPI have led to overcompensation for inflation since the mid-1970's.

According to the Office of Personnel Management, if pension practices representative of the private sector were adopted by the Federal government, the cost to the taxpayer would drop from 28.2 percent of payroll to 16.7 percent.

Federal worker's compensation benefits can go as high as $829 per week compared to a typical private sector maximum of two-thirds of take-home pay—often capped at $250. Further, CBO estimates that the probability of receiving disability benefits is 50 percent greater for federal workers than for private workers.

Federal workers receive more generous vacation leave. They get 13 days of paid leave after one year of service. Only 6 percent of the private workforce does as well. After three years of service, federal workers get 4 weeks of vacation. Only about 2 percent of private workers get 3 or more weeks of vacation after three years.

In contrast to the popular perception of extensive federal layoffs, the fact is that only 7,592 employees out of a workforce of 2,717,000 have been laid off. Representing only three-tenths of one percent of all federal civilian workers, these layoffs are minor compared to the employment loss in the private sector.

COMPARISON OF PRIVATE SECTOR AND FEDERAL GOVERNMENT AVERAGE ANNUAL PAY IN 1980

	Average annual pay (in dollars) [1] private sector	Average annual pay rate Federal Gov't [2]	Federal pay comp. to private pay
United States	$14,363	$19,465	+35.5
Alabama	12,902	19,858	+53.9
Alaska	23,125	22,442	−3.0
Arizona	13,803	18,118	+31.3
Arkansas	11,705	17,878	+52.7
California	15,365	19,206	+25.0
Colorado	14,561	19,769	+35.8
Connecticut	14,821	19,123	+29.0
Delaware	15,255	18,660	+22.3
District of Columbia	18,930	23,302	+23.1
Florida	12,660	19,218	+51.8
Georgia	12,918	18,942	+46.6
Hawaii	13,507	20,526	+52.0
Idaho	12,769	19,433	+52.2
Illinois	15,664	18,999	+21.3
Indiana	14,222	18,692	+31.4
Iowa	13,110	18,668	+42.4
Kansas	13,091	18,607	+42.1
Kentucky	13,346	17,513	+31.2
Louisiana	14,342	17,974	+25.3
Maine	11,747	18,187	+54.8
Maryland	13,900	21,182	+52.4
Massachusetts	13,798	18,967	+37.5
Michigan	16,825	18,912	+12.4
Minnesota	13,896	19,197	+38.1
Mississippi	11,363	18,535	+63.1
Missouri	13,750	18,608	+35.3
Montana	12,729	19,435	+52.7
Nebraska	12,201	19,094	+56.5
Nevada	14,161	19,183	+35.5
New Hampshire	12,228	18,634	+52.4
New Jersey	15,194	20,491	+34.9
New Mexico	13,302	18,574	+39.6
New York	15,687	18,542	+18.2
North Carolina	11,989	18,179	+51.6
North Dakota	12,226	18,347	+50.1
Ohio	15,009	19,921	+32.7
Oklahoma	13,787	18,427	+33.7
Oregon	14,277	19,518	+36.7
Pennsylvania	14,373	18,295	+27.3
Rhode Island	12,527	19,183	+53.1
South Carolina	11,939	18,050	+51.2
South Dakota	11,097	17,927	+61.5
Tennessee	12,674	19,184	+51.4
Texas	14,583	18,438	+26.4
Utah	13,574	17,987	+32.5
Vermont	11,838	18,740	+58.3
Virginia	13,242	19,934	+50.5
Washington	15,638	19,806	+26.7
West Virginia	14,466	18,229	+26.0
Wisconsin	13,677	18,490	+35.2
Wyoming	15,629	18,750	+20.0

[1] Preliminary.

[2] Annual pay rates as of March 31, 1980.

Sources: Private Sector Pay U.S. Department of Labor, Bureau of Labor Statistics, News Release USDC 81–593 January 8, 1982.

Federal Pay—"Federal Civilian Workforce Statistics"—Pay Structure of the Federal Civil Service.●

STEALING FROM THE MIND

● **Mr. MOYNIHAN.** Mr. President, recent allegations about the theft of IBM computer secrets are but the latest reminders of an increasingly serious problem: The violation across borders of intellectual-property rights, which in many cases can no longer be protected adequately by patents.

A number of countries, in fact, are engaged in the practice of actually helping domestic companies produce and market products that rightfully belong to inventors outside those countries who hold lawful patents. The World Intellectual Property Organization of the United Nations is even considering rules that would further encourage, by legitimizing, the abrogation of patents.

In an essay that appeared in the New York Times recently, Mr. Barry MacTaggert, chairman and president of Pfizer International Inc., persuasively argued that the United States must take steps to oppose this stealing from the mind. It undermines international trade by eliminating a crucial incentive for technological innovation and research—the prospect that individuals might profit fairly from their enterprise. Moreover, violation of patent rights threatens American business and American jobs; most of this intellectual theft occurs in the area of high technology products, where American concerns have most often taken the lead.

Mr. President, this matter demands the attention of the Senate. I ask that Mr. MacTaggert's thoughtful and compelling article be printed in the RECORD.

The article follows:

[From the New York Times, July 9, 1982]

STEALING FROM THE MIND

(By Barry MacTaggart)

In recent days many people have been shocked that Japanese businessmen might have stolen computer secrets from I.B.M. The allegations are the latest twist in the tense worldwide struggle for technological supremacy, but few businessmen, especially those involved in high-technological, research-based industries, can be very surprised.

Their inventions have been "legally" taken in country after country by governments' violation of intellectual-property rights, especially patents. It has been going on for some time, and it is getting worse. Through political and legal dealings, many governments, including Brazil, Canada, Mexico, India, Taiwan, South Korea, Italy and Spain, to name a few, have provided their domestic companies with ways to make and sell products that under proper enforcement and honorable treatment of patents would be considered the property of the inventors. And now, the United Nations, through its World Intellectual Property Organization, is trying to grab high-technology inventions for underdeveloped countries.

As more and more countries yearn for industrialization, it is ironic that less and less respect is given those laws and principles that have attended industrialization in the last hundred years. This is nowhere more true than in the area of patent protection for high technology, where learning how to manufacture a product requires enormous resources but actually manufacturing it sometimes turns out to be quite simple. It is in acquiring the knowledge to make new products—computers, pharmaceuticals, telecommunications equipment, chemicals and others—that American companies have been so good. And it is this knowledge that is being stolen by the denial of patent rights.

For example, India has denied Pfizer the right to exercise its own patent covering doxycycline, an antibiotic used widely around the world. It reserves to Indian companies the right to manufacture and sell that drug, even though the result has been that far less of it is available in India than is needed. Another illustration is Canada's compulsory licensing law, which has obliged Smith, Kline & French to grant patent rights on its antiulcer drug, Tagamet, to a local company that invested nothing in its research and development. The royalty in such a transaction is a meager 4 percent.

Patents are a vital stimulus to technological innovation and a vital part of doing business. In 1883, Western nations met in Paris to write a treaty that firmly conferred international legitimacy on intellectual-property rights—patents and trademarks—and asserted their critical relation to technological innovation. The thought then, which is still valid, was that the enormous human and financial costs attending technological innovation are worth the risks only if the invention is protected from duplication for a period of years in which the inventor can reasonably hope to recoup his costs. Under this arrangement, the inventor is then free to disseminate the technology.

Many developing countries, and some that are clearly developed, do not respect this arrangement. In many cases, however, their laws give the impression that they do, thereby encouraging inventors to place their products on the market. Once a product is on the market, the information issued with a patent makes it easy to steal the technology unless its protection is enforced.

The irony is that by eroding patent protection, governments are likely to accomplish the opposite of their professed intentions. They may appear to benefit from the inventions they take, but these gains are made at the expense of the system that nourishes industrial creativity.

What's more, the revisions to the Paris treaty being considered by delegates to the United Nations organization would confer international legitimacy on the abrogation of patents. The principle the World Intellectual Property Organization seeks to introduce would enable a nation to deny the inventor the protection of a patent or, worse still, prevent him from exercising his own invention if the product is not made from scratch in that nation.

So far, the United States has opposed such a theft of American technology. Unfortunately, European nations have failed to insist on the respect of these principles of international law and of the international economic system. Canada, Australia and New Zealand have gone even further and argue that for these purposes their nations should be considered developing countries! The competition for world markets and international business is becoming ever more tense, and that is the very reason the United States should insist more than ever that the principle underlying the international economic system be respected and upheld.●

HAWAII OBSERVES 23D ANNIVERSARY OF STATEHOOD

● **Mr. MATSUNAGA.** Mr. President, on August 21, 1959, Hawaii was admitted to the Union. Admissions Day, a State holiday, is celebrated annually by the people of the Island State on the third Friday in August.

I well remember the day in March 1959 when the statehood resolution won final congressional approval. I was serving then as a member of the territorial legislature and, on March 12, all the members of the legislature had gathered in the Throne Room of Iolani Palace—then the capitol building of the territory—to await a long-

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distance telephone call from our delegate to Congress, John A. Burns. His announcement of the favorable action taken by the Congress was greeted with a deafening cheer, followed immediately by an almost mystical silence, as if all those present had joined in silent prayer to thank God for the blessings of statehood, and to ask for His guidance in their new and heavier responsibilities.

In 1959, Hawaii had a population of about 600,000 people. The new State's economy was predominantly rural and agricultural, but, even then, it was the headquarters of the Pacific Fleet and the Pacific forces of the U.S. Army and Air Force as well. The racial and cultural ancestry of its people was diverse. Indeed, the ethnic diversity of Hawaii's people and the islands' geographical distance from the continental United States were among the principal arguments advanced by opponents of statehood.

The rightness of Congress in admitting Hawaii into the Union of States was never more appropriately recognized than by President John F. Kennedy in June 1963, when in his first major civil rights address before the National Conference of Mayors, assembled in Honolulu, he said he had chosen Hawaii as the platform for his speech because "Hawaii is what the United States is striving to be."

Today, Hawaii's population is approaching 1 million and, if anything, it is even more cosmopolitan than it was in 1959. The first 23 years of statehood have also brought unparalleled economic growth and diversification. While agriculture remains an important component in Hawaii's economy, it has been overtaken by the visitor industry. In 1959, visitors to Hawaii were numbered in the hundred thousands. Today, nearly 4 million tourists from all over the world visit Hawaii annually.

Hawaii has also become an important "gateway" to the nations of Asia and the Pacific Basin as the United States expands its trade in these areas. The Island State's strategic location in the Pacific has made it a natural "bridge" between East and West, a fact which was recognized by the Federal Government in the early 1960's when the East-West Center for Technical and Cultural Exchange was established in Honolulu.

During its first 23 years of statehood, Hawaii has also become a Pacific center of scientific research and education. Although it has no indigenous sources of fossil fuels, the Island State has become a leader in the development and commercialization of alternative forms of energy—solar energy, ocean thermal energy, wind energy, biomass, and hydroelectric power, among others. It is a pioneer in the field of aquaculture and tropical agricultural research, both promising fields which may eventually help alleviate the world food shortage. Research in Hawaii will also help unlock the remaining secrets of the universe. The exceptionally clear atmosphere atop Hawaii's tallest mountain, Mauna Kea, has led scientists from all over the world to select it as the site of a major observatory.

Despite the many changes which have occurred since 1959, Hawaii remains, in the words of Mark Twain, "The loveliest fleet of islands anchored in any ocean." I ask my colleagues in the Senate and House, and Americans throughout this country to join the people of Hawaii in celebrating its 23d anniversary of statehood.●

BLEAK OUTLOOK FOR AMERICAN AGRICULTURE

● Mr. HUDDLESTON. Mr. President, an article in today's Wall Street Journal graphically describes the bleak outlook for American agriculture. The article underscores how important it is for the Secretary of Agriculture first, to implement as quickly as possible the provisions in the Omnibus Reconciliation Act of 1982 relating to the Nation's farm programs, and second, use the broad discretionary authorities available to him under current law to immediately stabilize farm prices and provide credit assistance to farmers.

I ask that the article be printed in the Record.

The article follows:

U.S. Farmers This Year Have Reason To Dread A Bountiful Harvest

(By Sue Shellenbarger and Meg Cox)

Shabbona, Ill.—To U.S. farmers this year, a bountiful harvest is not something to rejoice over.

So the news last week that the Agriculture Department is predicting a mammoth fall crop exceeding previous expectations was a shock to this farmland hamlet. Trading ceased at the local grain elevator as corn prices plunged. The decline immediately reduced the value of farmer Eilert Goken's corn harvest by $20,000. A farm-implement dealer prepared to cancel orders for combines, while local bankers braced themselves for an increase in loan delinquencies. Farm-supply stores were without customers.

And at the Kountry Kitchen Restaurant, depressed farmers crowded around tables to deplore the news: a predicted corn crop of 8.32 billion bushels, up 1% from the 1981 record; a larger-than-expected soybean crop of 2.29 billion bushels, up 13% from last year; and a wheat harvest of 2.77 billion bushels, down 1% from last year's record yield, but resulting nonetheless in a large surplus.

"This crop report is a disaster for a lot of farmers, including me," says Stanley Boehne, who now has no hope for repaying his bank debt this fall.

EXPECTING THE WORST

In a farm-belt economy already reeling from three years of bad news, the crop report may have been the worst news since the 1980 embargo on grain sales to the Soviet Union. Unless an early frost or other damage in the next several weeks reduces the harvest drastically, the grain glut will have far-reaching consequences.

Already, farm economists are scrambling to revise their forecasts to reflect what the chief agricultural economist of Chase Econometrics, Raymond Daniel, calls "absolutely the worst-case scenario."

The long-term outlook, experts say, is getting bleaker. Already-depressed farm prices will sink to even lower levels, thus shrinking farm income and land values. Farm-equipment makers, farm suppliers and rural banks aren't likely to fare better. Farm groups will certainly step up pressure on the Reagan administration to pay farmers directly to idle some of their land for the first time in several years. Pressure for a new grain treaty with the Soviet Union will also increase as the government is forced to spend billions of dollars managing huge surpluses.

Reduced farm income could also accelerate the deterioration of land quality, as farmers neglect soil conservation in order to pay their most pressing bills. Worsening that problem, federal budget proposals include cutbacks in federal aid for conservation.

COMPANY FOR MISERY

There are scattered bright spots. A mammoth surplus would mean business for storage operations, and lower feed-grain prices should reduce costs for livestock growers and, eventually, for consumers at retail meat markets. But for most, the latest USDA crop forecast brought a growing sense of despair. "This is the last nail in the coffin of the crop farmer," says Terry Francl, an agricultural economist at Continental Illinois National Bank & Trust Co. in Chicago. At the Hi-Way-Lounge on Route 30 here, a farmer couldn't agree more. Sipping a beer and contemplating fields bursting with corn, he says: "What the hell, I might as well burn it."

Farmers elsewhere have reason to feel the same way. Wharton Econometric Forecasting Associates predicts a sharp drop in farmers' cash receipts in 1983, reflecting a 9% drop in corn prices and a 10% drop in soybean prices. Since the USDA corn crop report, Wharton's chief agricultural economist John Urbanchuk has trimmed his forecast of 1983 net farm income by more than 10% to between $21 billion and $23 billion.

Low returns will depress Midwestern farm prices, already in their longest slide in 20 years. (Around Shabbona, land prices dropped more than 25% in the past 18 months to about $2,500 an acre.) That in turn will reduce farmers' equity and borrowing power, putting many in a severe cash squeeze. "This is affecting good farmers, not just people who are poor managers," says Robert Keil, a vice president of First National Bank in De Kalb, Ill. The result, experts say, will be more bankruptcies, foreclosures and forced liquidations.

FOREIGN-MARKET PROBLEMS

"Farmers who have hung on by their fingernails the last few years will have to let go," says James Anderson, a farm lender at First National Bank in Baltic, S.D. "We took second mortgages on a dozen farmers, so they could hang on one more year. But the way it looks now, this year won't allow them to turn around."

Foreign grain-buyers won't rescue farmers, either. "We think agricultural-export growth will be limited over the next four years," says Richard Pottorff, an economist with Data Resources Inc. In part that is because "there are economic problems with our key growth-markets like Eastern Europe and Mexico." Mexico, which has become the best U.S. grain buyer after Japan, because of recent peso devaluations will find U.S. grain less affordable.

The Agriculture Department expects a surplus of 125 million metric tons of all grains next year, after exports. And even if the Soviet harvest is meager, as expected, and Soviet purchases exceed predictions, U.S. farmers can't expect too much help there. Soviet grain purchases from the U.S. peaked at only 15.2 million metric tons in 1979.

The burden of that expected surplus will weigh heavily on farm suppliers and agribusiness. Highly competitive seed-corn sellers, just starting their season, expect farmers to cut back orders in anticipation of a new government set-aside program next year.

Some small seed-companies won't survive, predicts Frank Thorp, whose Clinton, Ill., seed business sells a modest 100,000 bags a year. "One of my distributors in Indiana is scared that as many as 40% of his farmer-clients won't survive until next planting season" because of low farm prices.

Effective government inducements to farmers to let land lie fallow would also hurt pesticide and agricultural-chemical sales, says Dave Anderson, the director of marketing for Brayton Chemicals Inc., a Burlington, Iowa-based pesticide distributor. "I don't think people realize how bad things are," he says. "We'll have to be aggressive just to stay even."

Fertilizer sales will be hit hard again after a 10% decline—the steepest in seven years—in the year ended June 30. "I was predicting an increase in fertilizer use by farmers in 1983, until I saw the crop report," says Agriculture Department economist Paul Andrilenas. "Even if farmers use more fertilizer per acre, a set-aside may still mean lower fertilizer use."

Already suffering farm-equipment dealers worry about spending another winter trying to decide how many more mechanics to lay off. In De Kalb, after a six- to eight-month slump, Forster Implement Co.'s sales of Deere & Co. farm equipment started to pick up in recent weeks. But last week's crop report has stopped the tentative recovery cold, manager Max Heide says. He is considering canceling orders he placed for winter delivery of combines.

Two of the most troubled farm-equipment makers, International Harvester Co. and Massey-Ferguson, say their already conservative forecasts anticipated another depressed year in the farm economy in 1983. But some analysts say the crop report portends even greater pressures on a severely distressed industry. "In my opinion, the manufacturers haven't cut production enough, and we'll see additional cutbacks in the near future," says Larry Hollis, an analyst with Robert W. Baird & Co. "This big a crop will mean additional strains on balance sheets for both manufacturers and dealers."

DEPLETED SOIL

A longer-range problem exacerbated by the pending harvest, some say, is declining farm land quality. "We're already losing six billion tons of topsoil a year, and this crop will make it worse," says Barbara MacKenzie, the president of a new nonprofit group seeking to raise money for farm conservation.

The liquidity squeeze brought on by lower prices will make it difficult for farmers to build terraces, drainage ditches and dams and to take other measures to steward their land. And a proposed cut in federal conservation financing will add to those woes. "I don't think I'll be able to afford conservation projects for another two years," says Yuma, Colo., farmer Milton Mekelburg, the president of the National Association of Conservation Districts.

The expected grain surplus also will plague the federal budget. With corn stockpiles alone expected to mount from one-fourth of a year's production this fall to one-third by next fall, government programs to manage surpluses could cost the U.S. as much as $4 billion next year, estimates Abner Womack, a University of Missouri economist.

The Reagan administration tried to hold down this year's crop by offering low-cost operating loans and other benefits to farmers who idled 10% to 15% of their land. To get a loan, the farmer also must hold his surplus grain off the market, thus supporting prices. But prices are sinking so low that farmers are expected in the next few months to default on loans covering hundreds of millions of the 1.25 billion bushels of corn in storage under the program. Then, they will simply have to turn the corn over to the government. "A (storage) crisis could develop," an Agriculture Department official says. The department has scheduled emergency meetings throughout the farm belt this week to ask grain concerns for help in locating storage space.

A LOSING GAMBLE

Clearly, the government's farm policy failed: about 75% of U.S. corn growers spurned government help and gambled on prices holding up. Now, they're at the mercy of the market.

To avoid a similar farm-policy failure next year, farm groups are pressing the government to pay farmers directly to idle acres. Indeed, a spokesman for Agriculture Secretary John Block says that Mr. Block has changed his position and "won't oppose" such a subsidy next year.

Certainly, the glut is a boon to storage operations. As farmers prepare for the huge harvest, the wait to buy a grain bin has already grown from a week to a month. The agri-products division of Butler Manufacturing Co. has been making bins, at capacity for 60 days. "We could't produce many more than we are, and I think that's true of the industry," says Werner Eugster, the president of the division.

The glut should have at least some effect on consumer food-prices. Low-cost grain is supposed to result in a rapid increase in the numbers of hogs and chickens, thus reducing retail meat prices within six months to a year.

ONLY SLIGHTLY LOWER

But that food-price relief probably will be slight. Dennis Steadman, an agricultural economist at Chase Econometrics, says he lowered his estimate of the consumer price index for food next year by only 0.2% because of the USDA crop report.

Moreover, low-priced corn doesn't particularly excite livestock farmers. John Goeller, a Pilger, Neb., hog and cattle raiser, fears that cheap corn will lead to bigger and fatter hog herds and lower profits for him. "If every farmer raising hogs right now puts an extra 20 pounds on every hog, that would mean a 10% jump in the pork supply," he says. "Cheap grain makes cheap livestock. That's a rule as old as agriculture."

Suppliers to livestock farmers are similarly unenthralled. Despite a recent surge in profits after several money-losing years, hog raisers are still short of money for new equipment, says Tim Cumberland of Sand Livestock Systems Inc., a maker of livestock confinement buildings. "It may be another year before we see more orders from this (increased crop estimate) and then it depends on farmers getting financing."

In rural communities throughout the Midwest, even nonfarmers greeted the crop report with despair. "I haven't translated the latest grain report into the number of cars I won't sell, but things don't look good," says Harry Schlapia, a Ford dealer in Creston, Iowa. "Less than half our customers are farmers, but when they quit buying, so do the businessmen downtown."

In downtown Shabbona, closed storefronts reflect the damage already done by the sagging farm economy. Remaining merchants say additional crop-price declines will multiply the damage. "A lot of merchants are ready to go out of business," says Elizabeth Weber, whose antique shop rarely opens these days. "They're just hanging by a thread."

A few miles outside town, Mr. Boehne, the farmer, and his wife scratch their heads over the household budget. Since last week's crop report was released, they have been trying to cut spending on personal and farm needs. To Mr. Boehne, the report portends the loss of several thousand dollars in harvest income and dashes hopes of modestly reducing his bank debt this fall. The day the report was released, he joked to his banker: "Give me notice before you shut me down."

Walking across his farmyard near his lush fields of ripening corn, Mr. Boehne talks about hope. "You just can't lay down and die," he says. "But it's hard when you're so deep in debt. I just hope the bank goes along with me." On paper, Mr. Boehne says, his net worth is $1 million. "But when times get tough," he adds, "you can't eat the land." ●

THE NOMINATION OF OLIVER RICHARD TO THE FEDERAL ENERGY REGULATORY COMMISSION

● Mr. **BRADLEY**. Mr. President, I am sorry that the Reagan administration has once again rejected an opportunity to show sensitivity to issues of real concern to those who live in the Northeast and Midwest. There are real regional differences in energy demands and problems. Consumers should have confidence that those concerns will be heard and understood. One way to instill such confidence would be to establish some balance on the Federal Energy Regulatory Commission.

Of immediate concern is our natural gas policy. Unfortunately, instead of a reasoned and careful debate in Congress about possible changes to the National Gas Policy Act, we are likely to get a confused and emotional debate at the Federal Energy Regulatory Commission. The notice of inquiry now being conducted by the Commission has not inspired confidence that the fairness issues bound up in the natural gas pricing question

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will be carefully treated. Even if it had the will, the FERC does not have the capacity to deal with these issues. Only the Congress has the capability to cushion for consumers the effects of any changes in the NGPA that might be contemplated. For this reason, I cosponsored the resolution offered by the distinguished Senator from Rhode Island, Mr. CHAFEE, opposing FERC's administrative control of natural gas.

The function of the Senate, however, is not to choose among nominees for FERC commissioners, but rather to review the qualifications of the nominees chosen by the President. But we do have an obligation to insure that those who seek confirmation are competent, honest individuals who can perform the job they are undertaking. In this regard, the members of the Energy and Natural Resources Committee are better able than usual to report on this nominee's qualifications. We have all worked with Rick Richard while he served on Senator JOHNSTON's staff. I, for one, know Rick to be an able, competent, and objective person.

Even still, I have taken extensive steps to make clear to Rick my concerns about FERC gas policy and their responsibility to follow congressional direction. I am reassured both from private meetings and his testimony at his confirmation hearing that he has an open mind on natural gas pricing issues.

No one knows exactly what is going on in the natural gas market today. As recently as 10 months ago, many people thought changes to the Natural Gas Policy Act were absolutely necessary; although no two people agreed on exactly what changes should be made, many wanted changes. The natural gas market is changing dramatically, however, and now there are many more questions to be answered before serious proposals can be made to change the NGPA. If the notice of inquiry sheds light on these questions, perhaps it will be worthwhile. Prices for deep gas are falling from their earlier, incredible heights—$10 per 1,000 cubic feet, the equivalent of $60 per barrel oil—back down to $5 or $6 per 1,000 cubic feet, more in line with $30 to $35 per barrel oil. Will this trend continue? Will supplies be sufficient to keep natural gas prices in line with oil prices in 1985 when more of the price controls come off of natural gas? We certainly need to know the answers to these and other questions before coming to any conclusions about changes to natural gas pricing policy. I am satisfied that Rick Richard will not advocate any precipitate action and that he will undertake to insure that consumer interests have a prominent place in reaching natural gas pricing decisions.

Perhaps along with others, the Senate Energy Committee will figure prominently in any review of natural gas policy. I for one intend to insist that Congress uses its full powers in this matter.

Although I lament the fact that the President has chosen to forego regional balance on the Commission, I believe that Rick Richard will serve ably on the Commission and I am happy to have voted for his nomination.●

PAID DIVERSION UNDER THE OMNIBUS RECONCILIATION ACT

● **Mr. HUDDLESTON.** Mr. President, today U.S. farmers face disastrously low prices stemming from oversupplies of commodities and weak demand.

In adopting the conference report on the Omnibus Reconciliation Act of 1982, Congress provided the administration with an important tool to use in assisting U.S. farmers. The reconciliation bill requires the Secretary of Agriculture to implement paid land diversion programs in 1983 for wheat, feed grain, and rice farmers. The bill requires that the paid diversion programs provide for the diversion of at least 5 percent of each participating farmer's acreage base. However, under the conference report, the Secretary could provide for a higher percentage of paid diversion for these commodities.

In the past several days, commodity prices have fallen drastically as the markets reacted to recent estimates of exceptionally large harvests in 1982. In light of these recent developments, Secretary Block should seriously consider going beyond the minimum 5-percent paid diversion to programs larger in scope. The commodity programs for 1983 must be responsive to the needs of farmers, and it now appears that 5-percent paid diversions might not be sufficient to strengthen farm prices adequately.

Also, the Secretary should rapidly implement the provisions of the 1981 farm bill providing for storage facility loans to farmers in storage deficient areas. The very large grain crop now being harvested and the near record carryover stocks of grain have produced serious storage deficits in many areas and increases in storage charges in other areas.

Mr. President, I ask to have printed the RECORD a summary of the provisions of the conference report on the Omnibus Reconciliation Act of 1982 concerning the agricultural paid land diversion programs and the related agricultural and nutrition provisions of the report.

The summary referred to follows:

SUMMARY OF THE PROVISIONS OF TITLE I—AGRICULTURAL, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—DAIRY PRICE SUPPORT PROGRAM

(SEC. 101)

The Conference Report will revise the milk price support program for fiscal years 1983 through 1985.

Price support levels

Effective for fiscal years 1983 and 1984, the price of milk will be supported at not less than $13.10 per hundredweight of milk containing 3.67 percent milkfat. During fiscal year 1985, the price of milk will be supported at not less than the percentage of the parity price for milk that $13.10 per hundredweight represents as of October 1, 1983.

Deductions

The Conference Report will also authorize deductions from the proceeds of all commercial sales of milk by dairy farmers, as follows:

(1) During fiscal years 1983 through 1985, the Secretary of Agriculture will be authorized to provide for a deduction of 50 cents per hundredweight of milk (the deductions to be remitted to the Commodity Credit Corporation) if the Secretary estimates that, during the fiscal year involved, net price support purchases will be 5 billion pounds milk equivalent or more. The deductions collected would be applied to offset costs incurred under the milk price support program.

(2) During fiscal years 1984 and 1985, the Secretary will be authorized to provide for the deduction of an additional 50 cents per hundredweight of milk (the deductions to be remitted to the Commodity Credit Corporation) if the Secretary estimates that, during the fiscal year involved, net price support purchases will be 7.5 billion pounds milk equivalent or more. If this second deduction is implemented, the Secretary must establish a program under which dairy farmers can obtain refund of the second deduction if they reduce their marketings of milk. The deductions collected that are not refunded will be applied to offset costs incurred under the milk price support program. For the purposes of determining refunds for reduced marketings, each dairy farmer will be assigned a base, which will be equal to the marketings made by the dairy farmer during fiscal year 1982 or, at the option of the Secretary, the average annual marketings during fiscal years 1982 or, at the option of the Secretary, the average annual marketings during fiscal years 1981 and 1982. The Secretary could make adjustments in individual bases as the Secretary determines necessary to correct for abnormal factors affecting milk production and to reflect other factors that the Secretary determines should be considered in establishing a fair and equitable base. This authority will permit the Secretary, in appropriate circumstances, to establish bases for dairy farmers who did not produce milk, or had reduced production of milk, during the base calculation period. A dairy farmer could qualify for a refund of the entire amount of the second deduction for a fiscal year by reducing his marketings during the year by an amount that bears the same ratio to his base marketings as the national surplus milk production bears to overall production for the year. For dairy farmers who do not reduce marketings enough to receive a full refund, the Secretary could, nonetheless, provide for the refund of a portion of each

50-cent deduction proportionate to the amount of reduction achieved by the dairy farmer.

The Conference Report also contains provisions to facilitate compliance with, and administration of, the deduction program.

[In millions of dollars]

	1983	1984	1985
Savings:			
Price support operations	409	694	652
Savings from deductions (at first 50 cents level)	1,073	667	659
Total	1,482	1,361	1,311

SUBTITLE B—DONATION OF DAIRY PRODUCTS (SEC. 110)

The Conference Report will amend section 416 of the Agricultural Act of 1949, which authorizes the Commodity Credit Corporation to donate dairy products (acquired by the Corporation through price support operations) for use in the United States in nonprofit school lunch and child feeding programs, to assist needy persons, and in charitable institutions (including hospitals).

Under the Conference Report, additional language will be added to section 416 also to permit the donation of the dairy products to needy households in the United States, to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965, and (through foreign governments and humanitarian organizations) to assist needy persons outside the United States. The Corporation will be authorized to pay reprocessing and handling costs (including the cost of overseas delivery) involved in donations to persons outside the United States; and such donations will be coordinated with similar foreign aid programs, as provided under Public Law 480, and will be in addition to assistance provided under Public Law 480.

SUBTITLE C—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Advance deficiency payments (sec. 120)

The Conference Report will amend the Agricultural Act of 1949 to add a new section 107C providing for advance deficiency payments on the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice. Under new section 107C, advance deficiency payments could be made to producers of these commodities who participate in a voluntary acreage reduction program for the crop involved if the Secretary of Agriculture determines it likely that deficiency payments will be made.

The Secretary will be required to make advance deficiency payments available to producers who participate in the acreage limitation programs for the 1983 crops of these commodities. Advance payments will equal 70 percent of the projected final payment and will be made as soon as practicable after October 1, 1982. The Secretary will be able to adjust the amount of the advance deficiency payment to any producer who has received a disaster payment on the commodity involved.

For the 1983 crops, the Secretary will be required—and for the 1984 and 1985 crops, the Secretary will have the authority—to make advance deficiency payments to producers who agree to participate in an acreage limitation or set-aside program for the crop involved. Payments will be made available to producers as soon as practicable after they file notices of intention to participate in the program. Payment would be provided in an amount determined by the Secretary as appropriate to encourage participation in the program, but not to exceed 50 percent of the projected final payment due the producer.

Producers will be required to refund any overpayment under new section 107C at the end of the marketing year for the crop involved. And, if the producer fails to comply with requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the paid land diversion program involved) after receiving an advance deficiency payment, the producer will be required to repay the advance, with interest, immediately.

1983 wheat loans (sec. 121)

The Conference Report will amend the Agricultural Act of 1949 to increase the minimum price support loan and purchase rate for the 1983 crop of wheat (by 10 cents) to $3.65 per bushel.

1983 wheat acreage reduction and diversion programs (sec. 122)

The Conference Report will amend the Agricultural Act of 1949 to require an acreage limitation program and a paid land diversion program for the 1983 crop of wheat. Under the provisions of the Conference Report, a wheat farmer who agrees to participate in the 1983 wheat program will be required to reduce his wheat acreage base for the farm in 1983 (i.e., plant to wheat for harvest in 1983 a number of acres on the farm equal to his wheat acreage base minus the required reduction) by 15 percent under the acreage limitation program, and an additional 5 percent under the paid land diversion program, as a condition of eligibility for loans, purchases, and payments under the program for the 1983 crop of wheat.

The Secretary of Agriculture could implement a program requiring wheat farmers to make reductions in production on the wheat acreage base in 1983 greater than the 20 percent provided for in the Conference Report. The Secretary could accomplish this by increasing the scope of the paid land diversion program to require a paid diversion of more than 5 percent, or by increasing the scope of the acreage limitation program to require that the wheat acreage base be reduced by more than 15 percent. To the extent that the Secretary expands the scope of the wheat acreage limitation program, he must increase the scope of the paid land diversion program so that the paid diversion percentage retains the same proportion to the acreage limitation percentage as that specified in the provisions of the Conference Report—5:15.

The Conference Report provides that the wheat acreage base for a farm for the 1983 crop (for purposes of calculating the reduction of planted acreage required to meet the specifications of the wheat acreage limitation and paid land diversion programs) will be the wheat acreage base applicable to the farm under the acreage limitation program for the 1982 crop of wheat, adjusted to reflect established crop rotation practices and other factors that the Secretary determines should be considered in determining a fair and equitable base. In making adjustments to a base, the Secretary is expected to consider the special problems of farmers who follow a normal summer-fallow crop rotational practice.

Under the paid land diversion program, a wheat farmer will be eligible for payment in an amount equal to the product obtained by miltiplying the additional acreage diverted from production under the program, by the 1983 wheat program payment yield for the farm, by the diversion program payment rate. This payment rate will be established by the Secretary but cannot be less than $3.00 per bushel of wheat, except that the Secretary could reduce the payment rate by as much as 10 percent—or to $2.70 per bushel—if the Secretary determines that the objective of the program could be achieved with the lower rate. The Secretary will be required to make not less than half of any payment due a wheat farmer under the paid land diversion program to the farmer in advance of any determination of performance and as soon as practicable in fiscal year 1983 after the farmer enters into the land diversion contract. Farmers who receive advance payments but fail to comply with the terms of the land diversion contract after receiving an advance payment will be required to repay the advance, with interest, immediately.

[In millions of dollars]

	Fiscal year—		
	1983	1984	1985
Savings (or costs)	(4)	191	33

Note: Numbers in parentheses indicate a net outlay.

1983 feed grain loans (Sec. 123)

The Conference Report will amend the Agricultural Act of 1949 to increase the minimum price support loan and purchase rate for the 1983 crop of corn (by 10 cents) to $2.65 per bushel. (The price support loan rates for the other feed grains will be set, under current law, at levels that the Secretary determines fair and equitable in relation to the level set for corn.)

1983 feed grain acreage reduction and diversion programs (sec. 124)

The Conference Report will amend the Agricultural Act of 1949 to require an acreage limitation (or set-aside) program and a paid land diversion program for the 1983 crop of feed grains. Under the provisions of the Conference Report, a feed grain farmer who agrees to participate in the 1983 feed grain program will be required to reduce his feed grain acreage base for the farm in 1983 (i.e., plant to feed grains for harvest in 1983 a number of acres on the farm equal to his feed grain acreage base minus the required reduction) by 10 percent under the acreage limitation (or set-aside) program, and an additional 5 percent under the paid land diversion program, as a condition of eligibility for loans, purchases, and payments under the program for the 1983 crop of feed grains.

The Secretary of Agriculture could implement a program requiring feed grain farmers to make reductions in production on the feed grain acreage base in 1983 greater than the 15 percent provided for in the Conference Report. The Secretary could accomplish this by increasing the scope of the paid land diversion program to require a paid land diversion of more than 5 percent, or by increasing the scope of the acreage limitation (or set-aside) program to require that the feed grain acreage base be reduced by more than 10 percent. To the extent that the Secretary expands the scope of the feed grain acreage limitation (or set-aside) program, he must also increase the scope of the

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paid land diversion program so that the paid diversion percentage retains the same proportion to the acreage limitation (or set-aside) percentage as that specified in the provisions of the Conference Report—5:10.

The Conference Report provides that the feed grain acreage base for a farm for the 1983 crop (for purposes of calculating the reduction of planted acreage required to meet the specifications of the feed grain acreage limitation (or set-aside) and paid land diversion programs) will be the feed grain acreage base applicable to the farm under the acreage limitation program for the 1982 crop of feed grains, adjusted to reflect established crop rotation practices and other factors that the Secretary determines should be considered in determining a fair and equitable base. In making adjustments to a base, the Secretary is expected to consider the special problems of farmers who follow a normal summer-fallow crop rotational practice.

Under the paid land diversion program, a feed grain farmer will be eligible for payment in an amount equal to the product obtained by multiplying the additional acreage diverted from production under the program, by the 1983 feed grain program payment yield for the farm, by the diversion payment rate. This payment rate will be established by the Secretary but cannot be less than $1.50 per bushel of corn, except that the Secretary could reduce the payment rate for corn by as much as 10 percent—or to $1.35 per bushel—if the Secretary determines that the objective of the program could be achieved with the lower rate. The payment rates for grain sorghums, oats, and, if designated by the Secretary, barley will be set by the Secretary at levels the Secretary determines are fair and reasonable in relation to the rate for corn. The Secretary will be required to make not less than half of any payment due a feed grain farmer under the paid land diversion program to the farmer in advance of any determination of performance and as soon as practicable in fiscal year 1983 after the farmer enters into the land diversion contract. Farmers who receive advance payments but fail to comply with the terms of the land diversion contract after receiving an advance payment will be required to repay the advance, with interest, immediately.

[In millions of dollars]

	Fiscal year—		
	1983	1984	1985
Savings (or costs)	(178)	142	96

Note.—Numbers in parentheses indicate a net outlay.

1983 rice acreage reduction and diversion programs (sec. 125)

The Conference Report will amend the Agricultural Act of 1949 to require an acreage limitation program and a paid land diversion program for the 1983 crop of rice. Under the provisions of the Conference Report, a rice farmer who agrees to participate in the 1983 rice program will be required to reduce his rice acreage base for the farm in 1983 (i.e., plant to rice for harvest in 1983 a number of acres on the farm equal to his rice acreage base minus the required reduction) by 15 percent under the acreage limitation program and an additional 5 percent under the paid land diversion program, as a condition of eligibility for loans, purchases, and payments under the program for the 1983 crop of rice.

The Secretary of Agriculture could implement a program requiring rice farmers to make reductions in production on the rice acreage base in 1983 greater than the 20 percent provided for in the Conference Report. The Secretary could accomplish this by increasing the scope of the paid land diversion program to require a paid diversion of more than 5 percent, or by increasing the scope of the acreage limitation program to require that the rice acreage base be reduced by more than 15 percent. To the extent that the Secretary expands the scope of the rice acreage limitation program, he must also increase the scope of the paid land diversion program so that the paid diversion percentage retains the same proportion to the acreage limitation percentage as that specified in the provisions of the Conference Report—5:15.

The Conference Report provides that the rice acreage base for a farm for the 1983 crop (for purposes of calculating the reduction of planted acreage required to meet the specifications of the rice acreage limitation and paid land diversion programs) will be the rice acreage base applicable to the farm under the acreage limitation program for the 1982 crop of rice, adjusted to reflect established crop rotation practices and other factors that the Secretary determines should be considered in determining a fair and equitable base.

Under the paid land diversion program, a rice farmer will be eligible for payment in an amount equal to the product obtained by multiplying the additional acreage diverted from production under the program, by the 1983 rice program payment yield for the farm, by the diversion payment rate. This payment rate will be established by the Secretary but cannot be less than $3.00 per hundredweight, except that the Secretary could reduce the payment rate by as much as 10 percent—to $2.70 per hundredweight—if the Secretary determines that the objective of the program could be achieved with the lower rate. The Secretary will be required to make not less than half of any payment due a rice farmer under the paid land diversion program to the farmer in advance of any determination of performance and as soon as possible in fiscal year 1983 after the farmer enters into the land diversion contract. Farmers who receive advance payments but fail to comply with the terms of the land diversion contract after receiving an advance payment will be required to repay the advance, with interest, immediately.

[In millions of dollars]

	Fiscal year—		
	1983	1984	1985
Savings (or costs)	(10)	34	.....

Note.—Numbers in parentheses indicate a net outlay.

SUBTITLE D—AGRICULTURE EXPORT PROMOTION (SEC. 135)

The Conference Report will require the Secretary of Agriculture, in each of the 1983 through 1985 fiscal years, to use not less than $175 million, nor more than $190 million, of the funds of the Commodity Credit Corporation for agricultural export development activities authorized under current law. The program authorized under this subtitle will be carried out through the Commodity Credit Corporation. Activities that could be financed under this subtitle include "buy-down" plans to reduce interest rates on export loans, loan guarantees on "buy-down" loans, direct loans to finance export transactions, and export subsidy programs (where appropriate to counter unfair trade practices of other countries).

[In millions of dollars]

	Fiscal year—		
	1983	1984	1985
Savings	116	64	8

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

Definition of "household" (sec. 142)

The Conference Report will require that all parents and children or siblings who live together be treated as a single household for purposes of the food stamp program, unless one of the parents or siblings is elderly or disabled.

The Conference Report also provides that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a disability, will be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the poverty line.

[In millions of dollars]

	1983	1984	1985
Savings	38	40	42

Rounding of computations (sec. 143)

The Conference Report will revise the rounding rules for annual adjustments to the cost of the thrifty food plan under the food stamp program to provide that rounding will occur only after the thrifty food plan amounts for all household sizes have been calculated, and that the amounts will then be rounded down to the nearest whole dollar.

Also, each household's food stamp allotment and (after adjustment for inflation) both the standard deduction and the excess shelter/dependent care deduction under the food stamp program will be rounded down to the nearest whole dollar increment.

[In millions of dollars]

	1983	1984	1985
Savings	68	93	93

Thrifty food plan adjustments (sec. 144)

The Conference Report provides that, in the next three fiscal years, the October 1 adjustment of the thrifty food plan under the food stamp program will be based on the cost of the plan through the preceding June 30, minus one percent. Allotments will be computed by taking the unrounded cost of the thrifty food plan as of the prior June, reducing this number by one percent, making the appropriate household size adjustments, and then rounding the resulting figure for each household size down to the nearest lower dollar. In fiscal year 1986, the October 1 adjustment of the thrifty food plan will return to being based on the cost of the food plan through the preceding June 30 without the one percent reduction.

[In millions of dollars]

	1983	1984	1985
Savings	180	170	160

Disabled veterans (sec. 145)

The Conference Report will revise the Food Stamp Act of 1977 so as to cause certain disabled veterans and disabled survivors of veterans to be treated in the same manner under the Act as disabled persons who received supplemental security income benefits or who receive disability or blindness benefits under the Social Security Act.

[In millions of dollars]

	1983	1984	1985
(Cost)	(5)	(5)	(5)

Income standards of eligibility (sec. 146)

The Conference Report will revise the food stamp income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes below 100 percent of the poverty line, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

[In millions of dollars]

	1983	1984	1985
Savings	5	5	5

Cost-of-living adjustments to Federal benefits (sec. 147)

The Conference Report will require that the July cost-of-living increases in Social Security, SSI, veterans, and railroad retirement benefits not be counted as income for food stamp purposes until October of the same year, when the indexing of food stamp allotment levels occur.

[In millions of dollars]

	1983	1984	1985
(Cost)	(19)	(21)	(23)

Adjustment of deductions (sec. 148)

The Conference Report will delay the July 1, 1983, adjustment of the standard deduction and the excess shelter/dependent care deduction under the food stamp program until October 1, 1983.

[In millions of dollars]

	1983	1984	1985
Savings	42		

Standard utility allowance (sec. 149)

The Conference Report will specifically permit a State food stamp agency to use a standard utility allowance in computing a food stamp household's excess shelter expense deduction. An allowance that does not fluctuate within a year to reflect seasonal variations will be permitted, but a standard allowance for a heating or cooling expense could not be used for a household that does not incur a heating or cooling expense or for households in public housing units with central utility meters. States could use a separate standard utility allowance for households without heating or cooling expenses as long as these allowances are reflective of the utility costs incurred by these households. Prorating of the allowance will be required in the case of households sharing a residential unit.

[In millions of dollars]

	1983	1984	1985
Savings	90	93	97

Migrant farmworkers (sec. 150)

The Conference Report will preclude the Secretary of Agriculture from waiving the current requirement of the Food Stamp Act of 1977 that the calculation of household income for migrant farmworkers for purposes of the food stamp program occur on a prospective basis.

Financial resources (sec. 151)

The Conference Report will preclude the Secretary of Agriculture, with some exceptions, from altering the food stamp financial resources limitations that were in effect as of June 1, 1982. The Conference Report also will require that accessible savings or retirement accounts be counted in determining whether the financial resources limitation under the food stamp program has been exceeded.

Studies (sec. 152)

The Conference Report will delete the requirement for three studies that have been completed and deletes a requirement for an annual report to Congress on the effect of elimination of the purchase requirement under the food stamp program.

Categorical eligibility (sec. 153)

The Conference Report will permit States to consider households in which all members receive aid to families with dependent children and whose gross income does not exceed 130 percent of the poverty line to have satisfied the resource limitation requirements under the food stamp program.

Wavier of reporting requirements; cost-effectiveness of monthly reporting systems (secs. 154 and 156)

The Conference Report provides that a State food stamp agency can, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households that can report at less frequent intervals.

The Conference Report will permit the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extent necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the Aid to Families with Dependent Children program.

The Conference Report will also exclude from food stamp monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

Approval of periodic reporting forms (sec. 155)

The Conference Report will remove the requirement that the Secretary of Agriculture design or approve the forms used by the States for nonperiodic reporting of changes in household circumstances under the food stamp program.

Employment and job search requirements; voluntary quit (secs. 157 and 158)

The Conference Report provides that, at the option of the State, job search requirements under the food stamp program could be imposed on applicants for food stamps, as well as recipients.

[In millions of dollars]

	1983	1984	1985
Savings	5	6	7

The Conference Report will permit the Secretary to fix the starting point of the disqualification period for participants in the food stamp program when the participant has voluntarily quit a job, and increase the disqualification period for voluntarily quitting a job from 60 to 90 days.

The Conference Report will extend the definition of voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved.

Parents and caretakers of children (sec. 159)

The Conference Report will eliminate the exemption from work registration under the food stamp program for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches the age of 6. If, however, the youngest child is less than the age of 12, the second parent can decline employment if adequate child care is unavailable.

Joint employment regulations (sec. 160)

The Conference Report will remove the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor, and remove the requirement that these regulations be patterned after those for the work incentive program.

College students (sec. 161)

The Conference Report will revise food stamp eligibility requirements for post-secondary students by limiting participation by students with dependents to those with dependent children under the age of 6 and students who are receiving aid to families with dependent children, unless the college student is the parent of a dependent child above the age of 5 and under the age of 1 for whom adequate child care is not available.

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[In millions of dollars]

	1983	1984	1985
Savings	10	10	11

Issuance procedures (sec. 162)

The Conference Report will authorize the Secretary of Agriculture to require State food stamp agencies to use alternative issuance systems or to issue, in lieu of food stamps, reusable documents to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or documents is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

Initial allotments (sec. 163)

The Conference Report will eliminate any prorated food stamp benefits of less than $10.

[In millions of dollars]

	1983	1984	1985
Savings	15	15	15

The Conference Report will also require food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

[In millions of dollars]

	1983	1984	1985
Savings	2	2	2

Effect of noncompliance with other programs (sec. 164)

The Conference Report will prohibit any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

[In millions of dollars]

	1983	1984	1985
Savings	2	2	2

House-to-house trade routes (sec. 165)

The Conference Report will authorize the Secretary of Agriculture to limit the operation of house-to-house trade routes under the food stamp program to those that are reasonably necessary to provide households with adequate access to food if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes in a given area damages the integrity of the food stamp program.

Approval of State agency materials (sec. 166)

The Conference Report will prohibit the Secretary of Agriculture from requiring that the States submit, for prior approval, State food stamp agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

Points and hours of certification and issuance (sec. 167)

The Conference Report will eliminate the requirement that State food stamp agencies comply with Federal standards with regard to points and hours of certification and issuance.

Authorized representatives (sec. 168)

The Conference Report will permit the Secretary of Agriculture to (1) restrict the number of households for which one individual may serve as an authorized representative under the food stamp program and (2) establish criteria and verification standards for representatives and for households that may be represented. The Secretary could not, however, exclude categories of households from using authorized representatives on the basis of age, household composition, or employment status unless necessary to control a documented pattern of abuse.

Disclosure of information (sec. 169)

The Conference Report will allow the disclosure of information obtained from food stamp households to persons connected with the administration or enforcement of Federal assistance programs and federally-assisted State programs other than the food stamp program.

Expedited service (sec. 170)

The Conference Report will revise expedited service requirements under the Food Stamp Act of 1977 to require that expedited service be provided within 5 calendar days to households (1) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farmworker households in accordance with the regulations governing such households in effect July 1, 1982, and (2) having liquid resources that do not exceed $100. The State food stamp agency will also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

[In millions of dollars]

	1983	1984	1985
Savings	15	15	15

Notice of benefit reduction or termination (sec. 171)

The Conference Report will permit State food stamp agencies to immediately reduce benefits or terminate a household from the food stamp program when a written notice is received from the household that clearly equires such a reduction or termination.

[In millions of dollars]

	1983	1984	1985
Savings	10	10	10

Duplicate receipt of food stamps (sec. 172)

The Conference Report will require State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

Certification systems (sec. 173)

The Conference Report will permit each State to choose whether (1) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, and (2) food stamp applicants must be certified eligible based on information in the AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

Assurance of nonduplication with "cashed out" benefits (sec. 174)

The Conference Report will require the Secretary of Agriculture to require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

Disqualification and penalties for food stores (sec. 175)

The Conference Report will raise the maximum civil money penalty for each violation of the Food Stamp Act of 1977 or its regulations committed by a retail food store or wholesale food concern from $5,000 to $10,000. The Conference Report will also establish periods of disqualification applicable to such entities. The disqualification period for the first violation will be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation will be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern will be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

Bonding for food stores (sec. 176)

The Conference Report will permit the Secretary of Agriculture to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty under the Food Stamp Act of 1977 to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary will prescribe the amount and other terms and conditions of such bond by regulation.

Alternative means for collection of overissuances and States' share of recovered moneys (secs. 177 and 179)

The Conference Report will permit States to use other means of collection for fraudulent and nonfraudulent overissuances of food stamps besides cash repayment and benefit offset.

The Conference Report provides that States can retain 50 percent of the recovered overissuances arising from fraud and 25 percent of recovered nonfraudulent overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

Fraud claims collection procedure (sec. 178)

The Conference Report provides that the household of a person disqualified from participation in the food stamp program will have 30 days after a demand to choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamps.

State liability for errors (sec. 180)

The Conference Report will revise the provisions of the Food Stamp Act of 1977 governing State liability for errors. The Federal share of a State's administrative costs will be reduced for States with payment error rates exceeding nine percent in fiscal year 1983, seven percent in fiscal year 1984, and five percent in fiscal year 1985, except that States will not be sanctioned for fiscal year 1983 if their payment error rates are reduced by a third of the difference between a base period rate and five percent, and will not be sanctioned for fiscal year 1984 if their payment error rates are reduced by two thirds of the difference between the base rate and five percent. States will continue to be liable to the Secretary of Agriculture for certification losses due to negligence or fraud.

[In millions of dollars]

	1983	1984	1985
Savings	90	200	235

Employment requirement pilot project (sec. 181)

The Conference Report will authorize the Secretary of Agriculture to conduct 4 pilot projects to determine the effect of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program. Persons demonstrating a willingness to work could not lose benefits.

Benefit impact study (sec. 182)

The Conference Report will require the Secretary of Agriculture to study and report to the House and Senate agriculture committees (an interim report by February 1, 1984, and final report by March 1, 1985) on the effect of reductions in food stamp benefits provided under the Omnibus Budget Reconciliation Act of 1981, the Agriculture and Food Act of 1981, and any other laws enacted by the 97th Congress that affect the food stamp program.

Appropriation authorization (sec. 183)

The Conference Report will extend the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

Puerto Rico block grant (sec. 184)

The Conference Report will require that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico under the Food Stamp Act of 1977 be made available in forms other than cash.

The Conference Report will also require the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the effect of the program on the nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate agriculture committees not later than six months after the effective date of the Conference Report.

Similar workfare programs (sec. 185)

The Conference Report will require the Secretary of Agriculture to promulgate guidelines for food stamp workfare programs that will enable political subdivisions to operate the programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision will be able to comply with food stamp workfare requirements by operating (1) a workfare program under the Aid to Families with Dependent Children program or (2) any other workfare program that the Secretary determines meets the provisions and protections contained in the food stamp program.

Exemption of WIN participants from workfare (sec. 186)

The Conference Report will revise the workfare provisions of the Food Stamp Act of 1977 to provide that a State may, at its option, exempt work incentive (WIN) program participants involved at least 20 hours a week in the program from workfare requirements under the food stamp program.

Hours of workfare (sec. 187)

The Conference Report will change the maximum number of hours that an agency operating a workfare program under the Food Stamp Act of 1977 can require of a participating person. Under the revision, a workfare participant will not be required to work more hours than those equal to the value of the food stamp allotment to which the household is entitled divided by the applicable minimum wage, or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

Reimbursement for workfare administrative expenses (sec. 188)

The Conference Report will require the Secretary of Agriculture to reimburse agencies operating workfare projects under the Food Stamp Act of 1977, for administrative expenses not otherwise reimbursable, from one half of the funds saved from employment of persons who have participated in workfare programs. Such savings will be considered to be the amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment that commences while a person is participating in a workfare program for the first time or in the 30-day period immediately following the termination of the person's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

Distribution of surplus commodities (sec. 191)

The Conference Report states the sense of Congress that the Federal Government should take steps to distribute surplus food, or food that would otherwise be discarded, to hungry people of the United States; that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people; and that food distribution and shipping entities should work with organizations to make food that would otherwise be wasted or discarded available for distribution to the hungry.

Effective dates (secs. 192 and 193)

The Conference Report provides that all the food stamp provisions will be effective on date of enactment, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The Conference Report will also make the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the food stamp provisions of the 1981 Farm Bill effective on the date of enactment, unless already effective.

[In millions of dollars]

	1983	1984	1985
Total food stamp savings	548	635	756

●

STATES AND THE BALANCED BUDGET

● **Mr. GRASSLEY.** Mr. President, in its "States and the Balanced Budget" editorial of Wednesday, August 4, 1982, in which it urged Senators to vote against Senate Joint Resolution 58, the proposed constitutional amendment altering Federal budget procedure, the Washington Post offered a compelling argument of impending economic doom. Unfortunately, the major assumptions of this argument were based upon serious errors of fact which undermine the conclusions of that editorial. As a member of the Senate Judiciary Subcommittee on the Constitution and an original cosponsor of Senate Joint Resolution 58 I feel obligated to set the record straight.

The editorial warned Senators that the amendment would ultimately force the Federal Government to shift its responsibilities to the States without Federal money to pay for them, thereby creating a fiscal dilemma. The Post substantiated this claim by suggesting that the drafters of Senate Joint Resolution 58 acknowledged this "necessity" by deleting the section 4 provision which stated that:

> The Congress may not require that the States engage in additional activities without compensation equal to the additional costs.

The record indicates that this is a gross distortion of the circumstances by which this provision was deleted.

Contrary to the editorial no such burden-shifting prohibition was included in Senate Joint Resolution 58 as originally drafted. This section was added without objection, and without discussion, as an amendment offered by Senator HATCH at the May 7, 1981 markup of the Senate Judiciary Subcommittee on the Constitution.

At the May 19, 1981 executive session of the Senate Judiciary Committee, I expressed my concerns that this section 4 language would repeal the federalist principles articulated in the 10th amendment. By stating that: "The Congress may not require that the States engage in additional activities without compensation equal to the additional costs." The section implies that the Congress could require that the States engage in additional activities so long as they were adequately compensated.

Notwithstanding the Post's inferences otherwise, the Supreme Court has ruled in numerous decisions that the 10th amendment denies any such plenary power to the Federal Government. In Penhurst State School against Halderman, an April 20, 1981,

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decision regarding Federal grant-in-aid programs for the education of the handicapped—an example erroneously depicted in the editiorial—the court ruled that participation in such Federal programs "is voluntary and the States are given the choice of complying with the conditions set forth in the act or forgoing the benefits of Federal funding."

A discussion between Senator HATCH and myself brought to provisions similar to section 4 are often included in spending limitations to State constitutions in order to protect local governments from undue cost shifting. This is because State legislatures may force their subdivisions to engage in additional activities without compensation, as these subdivisions are wholly creatures of the States. State governments, however, need no such protection, as they are not creatures of the Federal Government. All powers not specifically delegated to the Federal Government are reserved to the States by the 10th amendment.

Senators DOLE and HEFLIN concurred in my analysis and expressed their reservations about the probable impact of this provision. Senator HATCH, who shared these reservations, maintained that in including this section it was not his intention to repeal the 10th amendment in part or in whole. He suggested that the committee study this language to determine whether it needed revision or deletion. After extensive investigation the principal sponsors concluded that section 4 was unnecessary and threatening to the integrity of the federalist principles enunciated in the 10th amendment. At the Judiciary Committee executive session of July 20, 1981, my motion to delete section 4 was approved without objection.

Nowhere in the public record on this matter is there to be found any suggestion that the Judiciary Committee's motive in deleting this section was to allow for any form of burden-shifting. In fact, the committee's purpose was to prevent that which the Post fictitiously asserts that the committee was advocating. The extensive committee record, as well as a colloquy offered on the Senate floor by Senators HATCH and DURENBERGER on July 29, 1982 (C.R. S. 9408), leaves little doubt as to the true intentions of the sponsors of this amendment.

In light of this extensive record, that the Post would attribute the very opposite motive to our actions indicates a clear case of insufficient research. What is most troubling is that this misrepresentation would be the justification for attacking a very sound legislative proposal.

The editorial borders on the irresponsible by asserting that if the proposed amendment were currently effective, it would prohibit States from borrowing from the Federal Government to cover excessive unemployment compensation costs. This assertion is blatantly incorrect. Nothing in the terms of this amendment would prevent the Federal Government from granting such assistance. The beauty of this proposal is that it allows for fiscal flexibility. Congress is free to determine the substance of any spending programs. The amendment only requires that Congress may not adopt a planned budget deficit unless approved by a three-fifths vote of both Houses. Without the approval of three-fifths of Congress, legislators must go on record in favor of raising the taxes necessary to cover these costs. The amendment is simply designed to correct the strong institutional bias that leads to greater governmental spending that is desired by either the general populace or its elected representatives.

What is most ironic about the Post editorial is the contention that "State governments have been little consulted in the process thus far." In making this assertion the Post chooses to ignore the fact that much of the impetus for passage of this amendment comes from State legislators who reflect the will of the 80 percent of Americans who support this concept. At this time 31 State legislatures, only 3 short of the required 34, have petitioned Congress to call a constitutional convention to consider a balanced budget amendment. Additionally 42 States incorporate some form of a balanced budget or spending limitation requirement in their constitutions. In drafting the amendment embodied by Senate Joint Resolution 58 its sponsors drew largely upon similar measures which have been successfully implemented at the State level. I would suggest that in any further critique of this amendment, the Post pay due respect to the wisdom and experience of our State legislatures; the laboratories for democratic self-government in the United States.●

HUNTINGTON WOODS, MICH. CELEBRATES 50 YEARS

● Mr. LEVIN. Mr. President, on August 22, 1982, Huntington Woods, Mich., celebrates its 50th anniversary.

On this date in 1932, Huntington Woods was incorporated as a city, and since that date, it has continued to flourish as an ideal community.

The city of Huntington Woods truly embodies the best qualities of a community. It learns from its history while it prepares for its future. Throughout the more than 2,000 homes which line the quiet tree-lined streets and boulevards, there exist diverse, interested people. This is a community of keen community awareness and involvement.

Governmentally, Huntington Woods instituted, with its charter, the commissioner/manager plan for local government. This fine community can also boast of a highly successful public safety department, which is a combined police and fire department. This is but one branch of Huntington Woods' superb city services.

I am pleased to salute Huntington Woods, Mich., on this momentous occasion in its history and wish the community and its people the very best as they enter into the next 50 years.

A NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

● Mr. HATCH. Mr. President, today, I am pleased to add my name to the list of cosponsors of S. 1939, a bill to establish a new National Institute of Arthritis and Musculoskeletal Diseases at the National Institutes of Health. This bill was introduced by my colleagues, Senator GOLDWATER and Senator CRANSTON, in December of last year, and has gained remarkable support over the recent months.

As chairman of the Labor and Human Resources Committee, I have had the opportunity to learn a great deal about the National Institutes of Health. In March of this year, I introduced Senate bill 2311, the Biomedical Research, Training, and Medical Library Assistance Act Amendments. This bill reauthorizes the two largest Institutes at NIH—the National Cancer Institute and the National Heart, Lung, and Blood Institute. The other nine Institutes, including the National Institute of Arthritis, Diabetes, Digestive, and Kidney Diseases, operate under the general authority of section 301 of the Public Health Service Act. In preparing for hearings on this bill, I learned of many successes and accomplishments of our biomedical research scientists at NIH and at the research institutions and medical schools funded by NIH grants and contracts. There is no doubt that the collective research effort conducted by NIH is unparalleled in the world. They have become firmly established as the premier research institute and their work has benefited not only our citizens, but also people throughout the world.

However, in preparing for this legislation, I also learned of many problems associated with NIH. As the budget for NIH has grown to almost $3.8 billion, the complexities and difficulties associated with efficient management have also increased. Unfortunately, some important areas of research seem to be insufficiently researched. One of the most obvious problems to me was that research devoted to the prevention, treatment, and cure of arthritis and musculoskeletal diseases has been insufficient and inadequate. I cited this in the introductory statement to hearings on S. 2311 in March of this year. When one considers the prevalence of these painful diseases and the economic loss due to disability, I believe it is imperative we improve our research effort in this area. At Senator GOLDWATER's request, I held hearings on S. 1939 on July 20th. During these hearings, we had ample opportunity to learn about the reasons for the proposed institute as well as concerns of research scientists and the administration regarding excessive administrative costs and the possibility of other requests to establish new Institutes at NIH.

This is a complex issue, and there are good arguments on both sides of the proposal. However, after spending months of gathering information related to this, and listening to the pros and cons, I support Senate bill 1939 and the establishment of the new Institute of Arthritis and Musculoskeletal Diseases. I believe this will be the most effective means of giving the visibility and energy needed to find answers to the many kinds of arthritis and musculoskeletal disorders which afflict millions of Americans. However, to address the very legitimate concerns raised by opponents of this legislation, and the administration, that the administrative costs of establishing this new institute might actually diminish the current research effort, I strongly encourage that a $5 million sum be appropriated specifically for the establishment of this new Institute. I will be conveying this to my colleagues on the Senate Appropriations Committee and do everything I can to convince them that this relatively small additional appropriation is essential for a strong beginning of this new Institute. And I encourage all my colleagues who have joined in supporting S. 1939 to join with me to insure these necessary administrative costs are appropriated.

In addition to concerns about the administrative costs of a new Institute, the administration and other research scientists have made clear that to establish several other new Institutes may have a counterproductive effect on the overall research effort at NIH. Many have stated that the floodgates will be opened, and that special interest groups will devote considerable efforts encouraging Congress to restructure NIH by legislative mandate in the hopes that specific diseases or organ system research might be highlighted. I wish to insure that future changes at NIH are in the best interest of the overall research effort and the most efficient use of our taxpayers' dollars. Accordingly, when S. 2311 comes to the floor, I will propose to amend it by requiring a study be conducted over the next 18 months regarding any future administrative changes at NIH. I am proposing that the President's Health Council, which is authorized in S. 2311, conduct this study. This President's Health Council has been authorized for a one-time 18-month period in order that we might obtain a fresh look at NIH and for some external direction as to how we might prioritize our research and get the most out of our financial investment. It is timely that this panel address how we might better structure NIH in order to obtain the efficiency we all desire. At present, there is considerable disagreement and friction among research scientists' and voluntary organizations representing patients with specific diseases regarding how NIH determines research priorities. In fact, much of the concern expressed to me and my staff was from individuals currently represented in the NIADDK Institute.

We have already learned of proposals to establish a new Diabetes Institute, recommendations on improving the research effort in digestive disorders, and of great concern that skin research is inadequate and poorly coordinated. Although the Federal dollar devoted to biomedical research has increased, the NIH budget has been constrained when compared to previous funding. Therefore, when competition for the Federal dollar is so intense, and is fueled by perceived inequities, it is imperative that we step back and thoughtfully consider how we might manage the biomedical research conducted at NIH in the most efficient and economic manner. Therefore, I will propose that any administrative changes other than S. 1939 be prohibited until the study is completed, within 18 months of enactment of this legislation. The results of the study will be made available to Congress and provide the basis for any future restructuring of the NIH. I believe this will provide a fair method of addressing concerns of multiple interest groups and insure equitable distribution of our Federal health dollar.

Now is the time to act on the mandate conveyed by the Arthritis Foundation—it is time we take arthritis seriously. The Institute proposed in S. 1939 will demonstrate that Congress has heard the concerns expressed by the millions of Americans who suffer from arthritis. I will do everything I can as chairman of the Labor and Human Resources Committee, to insure that we find answers which will relieve pain, diminish disability, and hopefully cure these dreadful diseases.●

NEED FOR COMPREHENSIVE REPORT ON ADMINISTRATION'S STRATEGIC POLICIES

● Mr. BUMPERS. Mr. President, I strongly support this resolution which calls on the President to provide the Senate with a comprehensive report on the administration's strategic policies and its commitment to abide by existing arms control agreements.

It is a sad day when a resolution such as this is necessary. However, over the course of more than a year-and-a-half in office, the President has been unwilling or unable to describe in any coherent fashion what he plans to do to reduce the possibility of a nuclear holocaust. Instead, we have seen emanating from the White House a string of illogical and dangerous assertions. For example, the President has argued that before we can agree to meaningful arms reductions we must gain clear strategic superiority over the Soviet Union. The key assumptions appear to be that a dramatic increase in our nuclear arsenal will somehow scare the Russians into freezing the development and deployment of new weapons and bargaining in good faith. Unfortunately, there is no historical basis for either contention. Rather, the history of the nuclear arms race is replete with examples of one side finding out that the only result of its attempt to gain a marginal strategic disadvantage is to spur its opponent to produce even more sophisticated and lethal weapons, thereby locking both into yet another round of this mindless and self-destructive game. The United States-Soviet nuclear arms spiral is, as Herbert York noted years ago, a race to oblivion. Those who argue that we will enhance our security by adding to the existing American and Russian stockpiles of 16,000 strategic and 34,000 tactical nuclear weapons are deluding themselves, the American people, and the citizens of the world. And yet that is exactly the line we have been hearing from senior administration officials since inauguration day of 1981.

This resolution provides the President with the opportunity to respond to the legitimate concerns that have been raised concerning all aspects of the administration's nuclear arms policy. Does the administration still contend that SALT II is "fatally flawed"? Is the President prepared to abrogate the ABM Treaty in order to pursue a ballistic missile defense scheme? Does the administration really believe dense pack is a viable basing mode for the MX that will increase nuclear stability? Why does the President want to renegotiate the limited test ban and peaceful nuclear explosion treaties? Does the President agree with those senior officials in the Defense Department who argue that a nuclear exchange would not necessarily have devastating effects on our physical and social environment, or on our political and economic systems? We deserve answer to these and other fundamental questions affecting the fate of this Nation and the world. I hope the President will respond positively to this resolution, and that in

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the process of drafting the report to the Senate he and his senior advisers will ponder the enormity and gravity of the consequences of the nuclear policy decisions they will make during their tenure.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 20, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229, Dirksen Building.

The letter of notification follows:

Defense Security Assistance Agency,
Washington, D.C., August 20, 1982.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

Walter B. Ligon,
Acting Director.●

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, while 4 minutes remain for the time allocated to the transaction of routine morning business, unless the minority leader has another matter to deal with, I ask the Chair to inquire if there is further morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, what is the business now pending before the Senate?

The PRESIDING OFFICER. The clerk will report the unfinished business.

The bill clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Howard Baker, Jesse Helms, Roger Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, Nancy Landon Kassebaum, John P. East, Steven Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, Robert Dole.

Mr. BAKER. Mr. President, there is a unanimous-consent request which has been granted by the Senate earlier today providing that the vote on this cloture motion will occur at 2 p.m. on Thursday, the 9th day of September. The mandatory quorum, as provided for under rule XXII, has been waived, according to the provisions of that order.

Mr. President, I have no other matter to bring up.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BAKER. Mr. President, I ask unaimous consent that the Record may remain open today until 5 p.m. for the introduction of bills and the insertion of statements or introduction of resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL WEDNESDAY, SEPTEMBER 8, 1982

Mr. BAKER. Mr. President, if no other Senator now seeks recognition, I move that the Senate now adjourn, in accordance with the provisions of House Concurrent Resolution 399, as amended, until Wednesday, September 8, 1982, at 12 noon.

The motion was agreed to; and at 2:28 p.m., the Senate adjourned until Wednesday, September 8, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate August 20, 1982:

Department of State

William Alexander Hewitt, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Theodore C. Maino, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Fernando E. Rondon, of Virginia, a Career Member of the Senior Foreign Service, class of Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

National Council on Educational Research

Paul Copperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice Joseph J. Davies, Jr.

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice Timothy S. Healy.

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982, vice John S. Shipp, Jr.

Paul Copperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985 (reappointmemt).

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985 (reappointment).

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985 (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate August 20, 1982:

Executive Office of the President

Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF STATE

James L. Buckley, of Connecticut, to be Counselor of the Department of State.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constitued committee of the Senate.

SECURITIES AND EXCHANGE COMMISSION

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1984.

VETERANS' ADMINISTRATION

Everett Alvarez, Jr., of Maryland, to be Deputy Administrator of Veterans' Affairs.

THE JUDICIARY

Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the sixth circuit.

DEPARTMENT OF JUSTICE

Raymond J. Dearie, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

THE JUDICIARY

Ross T. Roberts, of Missouri, to be U.S. district judge for the western district of Missouri.

MERIT SYSTEMS PROTECTION BOARD

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board for a term expiring March 1, 1988.

THE JUDICIARY

Thomas F. Hogan, of Maryland, to be U.S. district judge for the District of Columbia.

Alex Kozinski, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years.

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HOUSE OF REPRESENTATIVES—*Friday, August 20, 1982*

(Legislative day of Thursday, August 19, 1982)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, Heavenly King, may Your providence continue to bless our land and may your counsel guide our people. We raise our voices in praise for the wonderful gifts by which we have been blessed—the gifts of liberty and opportunity, the gifts of freedom and security. May those of us who share in this heritage not lose sight of Your presence in our history nor fail to see how people of destiny and courage have been strengthened by Your word and heed Your voice of peace. Give grace and dignity and righteousness to all your people this day and every day. Amen.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 398. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4946) entitled "An act to make miscellaneous changes in the tax laws, and for other purposes."

AUTHORIZING SPEAKER PRO TEMPORE TO DECLARE RECESSES TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Speaker pro tempore be authorized to declare recesses at any time today subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT, MONDAY, AUGUST 23, 1982, TO FILE REPORT ON H.R. 6457

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight on Monday, August 23, 1982, to file a report on the bill, H.R. 6457, reauthorization for the National Institutes of Health.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE FEDERAL RESERVE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I continue the pursuance of the resolution I have introduced seeking the impeachment of the Chairman of the Federal Reserve Board, Mr. Paul Volcker. As I have said before, I have been denied any kind of acceptance on the part of the Committee on the Judiciary for looking into this matter of the resolution. I had no alternative but to then present the case to the full House. The rules of the House consider this resolution as a highly privileged one, and, of course, a very, very responsible and historic and awesome one. It is one of those resolutions going back to the mother parliament, steeped in the deepest and most ancient of history and precedent, and so, therefore, I certainly do this only after a great deal of very sober consideration over the course of years. This is not a sudden and abrupt decision.

As I have pointed out, and I do so now briefly by way of explanation, since I came to the Congress 20½ years ago, I was assigned to the Committee on Banking, and, therefore, have served my entire period as a Representative from the 20th District of Texas as a member of the standing committee known now as the Committee on Banking, Finance and Urban Affairs, but which historically had been known as the Committee on Banking and Currency.

At this point I would like to kind of bring up something that is very timely because of the action yesterday in the approval of the tax bill. The President urged, and the leaders of the Congress accepted, the argument that this tax bill was absolutely necessary in order to prevent the catastrophe of a record deficit for the Government and the people; and that therefore it would be a necessary implementation to reduce interest rates. We were told repeatedly all during yesterday's debate and before that through television, radio, through Presidential lobbying, through leadership of both parties lobbying, that the adoption of the tax bill would lead to lower interest rates. This is nothing but pure, undiluted hokum.

Interest rates started climbing before the tax bill, and there were two basic reasons which I have ad nauseam repeated. One, business conditions, economic conditions are simply horrible. They are terrible. Second, the Federal Reserve modified, changed its policy.

I must recall to the Members that I have said for years that I was completely demoralized by the lack of knowledge both on the congressional level as well as out generally, the lack of perception on the part of the leading, main economists that paraded before the committee as witnesses, the lack of accountability and also the enshroudment in obfuscation, double talk, on the part of the Federal Reserve Chairman and Board members that have appeared through the course of these 20½ years before the committee, everyone acting as if it was an act of God. "Why, it is the profligate Congesses, the spenders, that have brought us to this pass, and that is why interest rates are high."

But all of a sudden they find this as the most plausible reason for high interest rates when all along they have said, "Oh, no, there is nothing you can do about it, nothing the Fed can do about it, nothing the Government can do about it. It is kind of like an act of God."

Interestingly enough, in a big lead article in the Washington Post in the Outlook section of Sunday last, August 15, there is a lead article by the eminent economist, James Tobin, and it is entitled "Stop Volcker From Killing the Economy."

Now, when I said that for years I was labeled as sort of a kook or somebody that had a dagger out for the banking system and the Federal Reserve, and all the time all I was trying to say was that such things as interest rates, such things as monetary policy, were not acts of God; they were deci-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

sions made by men and problems created by men, and therefore certainly susceptible to solutions made by men and women. Now comes this eminent economist, and look at the words he uses. For the first time they borrow a phrase I have been using for 20 years when I said interest rates are not an act of God, and that is exactly what Mr. Tobin says. He says, "Interest rates are not acts of God. They are the direct result of the Federal Reserve monetary policy."

I would like to offer that article for the Record at this point, because I think it is unfortunately too late.

Stop Volcker From Killing the Economy—A Less Stingy Fed Wouldn't Bring a Surge of Inflation

(By James Tobin)

The hour is late, the situation is critial. The president, the Congress, and the Federal Reserve Board can no longer postpone a basic reappraisal of their economic policies.

The summer's dismal business news makes it vividly clear that under current policies, significant and sustained economic recovery in 1982 and 1983 is improbable. Maybe the recession trough has been reached, maybe not. But a second dip is quite possible, or stagnation with minor wiggles, or at best a limping and fragile expansion. Responsible policymakers and rational politicians cannot afford to remain complacent.

As the prevalent gloom of business managers is confirmed by events, their pessimistic expectations reinforce high interest rates and other obstacles to recovery. Plant and equipment investment, whose stimulus was the principal objective of the "economic recovery" tax act of 1981, is a disaster; even projects already scheduled and budgeted are being cut back.

The seven previous post-war recessions were pretty short, averaging 10 months. They were reversed when inventory liquidation ran its course. Federal monetary and fiscal policies helped turn the tide. Widespread belief that recessions were only brief interruptions of normal growth sustained investment, home building, and consumer spending.

The current recession has severely shaken that faith, coming only 12 months after the previous trough in July 1980. And the significance of such faith should not be underestimated. When faith in recovery was destroyed in 1931, recession turned into depression.

Nevertheless, powerful voices within the administration and the Federal Reserve Board and on the outside oppose any significant change of policy.

Doctrinaire monetarists still contend that the way to pilot the U.S. economy is to hold the helm and engine revolutions steady, ignoring the actual course and speed. Anti-inflation hawks are not terribly dissatisfied with the economy's path anyway. Their overriding goal is conquest of inflation, which has indeed been reduced somewhat. Several years of economic distress, perhaps even a full presidential term, are just the regrettable but inescapable cost of beating inflation, they reckon. Under the redoubtable Margaret Thatcher, Britain has been paying the cost for three years; the promised benefits have yet to materialize.

Thatcherism may be American policy, too, but its author is not Ronald Reagan. It is Fed Chairman Paul Volcker. The president has never told the American people that recovery and prosperity must wait until inflation is expunged. Nor has the Congress, for sure. Maybe the president and Congress didn't understand the consequences when they blithely assigned the task of disinflation wholly to the Fed and went off on their "supply-side" spree. Now the consequences are clear for all to see, and elected officials cannot responsibly leave to the Federal Reserve alone policy choices so crucial to the economic health of the country and the world for years to come.

The Federal Reserve holds the key to recovery. High interest rates, above the inflation rate by unprecedented margins, are the source of the recession and remain the insurmountable barrier to recovery and prosperity. They are not an act of God. They are not the natural equilibrium of investment opportunities and saving propensities in America today—if they were, investment and economic activity would not be so depressed.

The Fed's money supply targets are just too stingy to finance a growing, prosperous economy. Bank deposits are the major constituent of "money." Banks, and now other depository institutions, are required to hold, in currency or on deposit in Federal Reserve Banks, reserves proportional to their own deposit liabilities. The Fed controls the aggregate supply of such reserves. The Fed keeps reserves in scarce supply, and banks pay high rates to obtain or borrow reserves. Consequently they charge high rates on business loans, consumer credit, and mortgages.

It really is that simple. And so is the antidote. The Fed can bring interest rates down by providing more reserves, letting bank credit and money supply expand faster than its present targets allow. Otherwise the prospects for recovery will remain dismal.

Yet a potent taboo inhibits adoption, indeed even consideration, of this obvious remedy. Even officials, politicians, and commentators who reject Thatcherism shy away from its antidote. They will the ends—lower interest rates and recovery—but not the means—easing of monetary policy.

The governing cliche is that easier monetary policy is a recipe for high inflation. Well, prices will almost surely be higher in 1984 if the next two years bring recovery than if the economy remains depressed. Prices do move with business activity; recovery would reverse many of the declines in the prices of goods that are particularly sensitive to a downturn in the economy, like foods, metals and oil. Those price reductions made for pleasant inflation statistics earlier this year, although they were produced by unpleasant developments like higher unemployment and interest rates and lower production. To say that some price increases in conjunction with a recovery are unacceptable is just to say that Volcker should continue to be cast as Thatcher, and recovery should be postponed indefinitely.

But there is no reason to expect a great new surge of inflation if we do get a real recovery. With 9.8 percent of the labor force and 30 percent of industrial capacity now idle, there is plenty of room and time for expansion without unleashing the classic inflationary pressures of excess demand—"too much money chasing too few goods"—throughout the economy. In circumstances like the present most new monetary spending will be absorbed in added production rather than in prices. Monetary expansion is not invariably and arithmetically inflationary.

To be sure, a change of course would involve the Fed in some awkward problems of public communication, mostly of its own making. In the Fed's more eclectic and pragmatic days, before it was so tightly locked in the monetarist vise, easing controls on the money supply in response to financial and economic crisis would not have surprised or alarmed anyone. Now the Fed has tied its own hands by committing itself to achieving specific money supply outcomes, regardless of what may happen to unemployment, production, etc.

The Fed's targets for growth in the money supply are set in terms of two basic measurements, called M-1 and M-2. M-1 measures cash in circulation, traveler's checks and all checking accounts at banks and other financial institutions. M-2 is broader. It adds to M-1 the deposits in money market funds, small-denomination time deposits and all deposits in savings accounts, and a few other categories.

The current Fed targets—announced last fall and reaffirmed in February—set target ranges for percentage growth in monetary aggregates for 1982 of 2.5 to 5.5 percent for M_1, 6 to 9 percent for M_2. However, in today's rapidly changing environment of financial technologies and regulations, the relation of these aggregates to national spending and income is quite variable.

This year, as the Fed itself has recognized, the spread of interest-bearing checking accounts (included in M_1 as well as M_2) and the precautionary psychology of the public have slowed the rise in turnover of M_1. That means the Fed's targets for growth in M_1, do not support as large a level in dollar spending as had been expected.

Evidently the monetary medicine has been more painful and debilitating than the Fed itself intended. Yet the targets remain sacrosanct. The only relief Volcker feels free to offer is to aim at the top of the range of targeted growth, to tolerate temporary overshoots if they are offset before year's end, and to refrain, tentatively, from setting 1983 targets below those of this year. But doctor, those are bandaids—the patient needs a transfusion!

The Fed has also limited its own flexibility by acquiescing in the monetarist convention of describing policy always in terms of money supply *growth rates*. This habit of thought could lead skeptical Fed-watchers to extrapolate to the long future a one-shot corrective burst of reserves and money creation, if there were one. Growth of M_1 at, say, 8 percent a year would indeed mean permanent inflation if continued indefinitely. But over the coming 12 to 18 months it would be no more than needed to bring interest rates down and to allow total spending and income in dollars to grow at 10 to 13 percent per year.

This would permit real GNP ro recover at a modest 4-6 percent annual rate, no more than reduce unemployment by 1-2 points, given ongoing inflation of 6 or 7 percent a year. Thereafter, as and when circumstances warrant, the Fed could again tighten up on money supply growth to prevent a resurgence of inflation.

The most constructive thing the Fed could do right now is to indicate its willingness and determination to support growth of GNP measured in current dollars of 10 to 13 percent per year through 1983, whatever this may imply for bank reserves, money supplies and interest rates. It is surely not beyond the wit of Paul Volcker to explain, or beyond the wit of his constituency to understand, that the Fed can rescue the economy and the financial markets now without abandoning its longer-run determination to

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> limit monetary growth to non-inflationary rates.
>
> It is often said that news of easier monetary policy would lead bond dealers, bond buyers, and lenders generally to raise interest rates in anticipation of higher inflation. In present circumstances this would be an irrational response to the kind of policy change envisaged.
>
> Even if bond dealers and lenders were obtuse, they could not raise rates for long. Additional reserves supplied by the Fed would increase the lending capacities of banks and the public. They will not hold idle cash. They will find borrowers only at lower rates. Like the price of any commodity in oversupply, the cost of borrowing money would have to drop. The Catch-22 scenario by which interest rates rise whichever direction the Fed moves is a fairy tale designed to justify doing nothing.
>
> Likewise, anyone so bewitched by primitive monetarism as to believe that new money will be wholly absorbed in higher prices and wages given the slack product and labor markets of 1982–83 would find these expectations refuted by events.
>
> But what about those whopping budget deficits for the next several years? Isn't excessive federal borrowing the culprit for high interests rates and the obstacle to recovery?
>
> Clarity on this question requires a moderate degree of subtlety, in particular distinction between deficits now and in 1983 and those in prospect for later and, one hopes, prosperous fiscal years.
>
> This year's deficit is largely the result, not the cause, of the recession and of the high interest rates that have depressed the economy.
>
> Every extra point of unemployment raises the deficit some $30 billion, by losses of tax revenues and automatic increases of outlays. Moreover, high interest rates directly raise the deficit by adding to the cost of federal debt service about $7 billion per point.
>
> Defense spending and the tax cuts enacted in 1981 begin to be significant sources of deficit in the coming fiscal year. But recent upward revisions of the estimated FY 1983 deficit, by the Congressional Budget Office and other forecasters, reflect mainly more pessimistic projections of economic activity and interest rates.
>
> Deficit-reducing measures, whether tax increases or expenditure cuts, might indeed lower interest rates. But in present circumstances, with monetary policy unchanged, they would do so only by making a weak economy still weaker. There is no way to enjoy both lower interest rates and economic recovery without an easing of monetary policy.
>
> The large deficits in prospect for 1984, 1985 and subsequent years, even if the economy is prospering, are a different matter. Anticipation that they will crowd out private borrowers or that the Fed will be forced to monetize them may be raising longer-term interest rates today. That is why I and others urged earlier this year an "Accord of 1982," under which easing of monetary policy today and correction of future budgets would be simulataneously agreed and announced. That is still a good idea.
>
> Can nothing be done to relieve the paralyzing fear that recovery supported by accommodative monetary policy will reignite inflation? As this risk inhibits policy for recovery today, so it will tomorrow and tomorrow. It will continue to do so even though inflation subsides further in a depressed and stagnant economy. Something can be done, and now is the right time.
>
> Price and wage guideposts could assure continued disinflation even while employment and production improve. Given the dismal markets they now face, both business and labor should find a package combining guideposts with expansionary policy an attractive bargain. From 1961 to 1965, after two recessions back to back in 1957–58 and 1960, such a package brought a strong and durable recovery free of inflation. Today compliance with guideposts could be induced by tax credits for workers and employes—so-called tax-based incomes policy, TIP. Incomes policies do entail costs, inefficiencies and inequities; but these are small compared to the massive economic damage of protracted stagnation. The first requirement of a guide-post policy is presidential leadership in building the supportive consensus, and that of course is an unlikely departure from the administration's ideology.
>
> The hardships we are suffering are not inevitable. They are made in Washington. Better policies are at hand. Those who reject them should not be allowed to take refuge in the plea that they have no choice.

What would I have given if Professor Tobin had come out with this even a year ago? It would have made a big difference. But what more would I have given if he had come out 10 years ago, 15 years ago, in 1965, when I first wrote President Johnson and could not get any kind of interest whatsoever.

So, I think the RECORD should reflect this article because it is analyzing correctly, but for the first time officially from an economist from that level, the top level. Economists have always intrigued me. Experts, I learned after I left the city council of San Antonio to go to the State Senate, and especially after I got up here, experts are the ones that you least must trust. They turn out to be, in most cases, amazingly, abysmally wrong and ignorant.

As a matter of fact, the first year that I was assigned to the Banking Committee, things were so easygoing then that the entire Banking Committee had only three full meetings during that whole year. But the second year, in 1963, we had the preeminent Secretary of the Treasury, Mr. Dillon, who was supposed to be an expert, and he came before us to ask that we repeal the Silver Transactions Tax. Nobody seemed to much care to ask what it was all about, but since Chairman Patman had just assumed the chairmanship, I was able to be recognized as a sort of a lowly freshman to ask a few questions. I asked Mr. Dillon if it was not true that the reason we had the Silver Transactions Tax was that it was put in there particularly at the inception of World War II in order to control or avoid speculation. He answered in a namby pamby way and said, well, the history of the tax was that it was a wartime tax and that it was long overdue to be done away with.

I said, "Well, then why do you wait until this point in time to ask for it?"

So, then he came out and for the first time admitted that the silver market had pressures because, he said, of industrial use, a highly exponential rise in the volume of use of silver for industrial purposes. But then I asked him what impact that would have on our currency, fractional currency that had as a monetary base of silver.

He said, "Oh, no, we have enough as far as the Treasury is concerned."

I said, "Well, what would you consider enough? If you say these tremendous pressures are building up, you have got to do away with the tax. What I see is that you are going to open the speculative market in silver first, and second, it must be in obedience to the fact that you want a desire to increase the availability and the flow of that metal."

I said, "But I can't see how that will fail from having an impact on our coinage."

He denied it strongly. His recommendation went through. I believe I was the only one voting negative, at least on the committee level. He came in less than 2 years later, in 1965, in April, to ask that we demonetize our coinage, removing silver and providing for what we now see as the clad coinage.

So, you can see why, when anybody points out an expert, that I am very, very skeptical, and you would think I was from Missouri. I say, "Show me."

Coming back to this question that has been raised because of the big argument on the tax matter, which was directly tied into this question of interest rates and the question of solvency and balancing of budgets and deficits and the like, the deficit of the Federal Government will not go down because of this tax bill. As a matter of fact, it will rise, and it will rise to more than $150 billion in fiscal year 1983, which begins October 1.

□ 1215

The tax bill merely made a little dent in what is surely and certainly a catastrophe, as I tried my best to evoke and define last week.

If we are talking about the relationship of Federal financing needs, that is to interest rates and their rise or fall, then this argument about the deficit is false. There is not an economist in the country who says that the economy is looking forward to a strong recovery.

Why do they say this? The reason is interest rates, under almost any forecast will remain at historically high levels.

What do we mean by historically high levels? It depends on the point of view.

According to the President, who is now taking credit for having had the prime interest rate dropped to 14 percent, and the Federal Reserve takes credit for that also, and clearly admits then that it does have control of that policy.

You see, it is very human. I think President Kennedy said defeat is an orphan, victory has a thousand fathers.

So here they are trying to take credit for what, 14 percent? That is a gift to the American people? It is still usurious, it is still extortionate, it is still criminal to impose that kind of ordeal on the engines of commerce and business and the little taxpayer who is trying to save money, which incidentally this tax bill will tax.

So we are going around in circles again, all because both the President and the leaders and those majority Members of the Congress do not want the responsibility, they do not want the responsibility of what I call the sacrament of decision. As I have said repeatedly since last year, that sacrament of decision can no longer be avoided.

The only thing is that it will be brought only under an environment of crisis, of chaos, and as everybody knows, that is the worst time in which to soberly legislate or use judicious and knowledgeable discretion.

What is the sacrament of decision that I speak of? Given the importance, given the greatness of our country, given what is at stake in our country today, I parallel it to the decision that we read about in the scriptures with the prophet Elijah. If you recall, when he asked the Hebrews, who were beginning to worship a false god, he said, "Who is the true God, yours or mine, the One, the Ancient?" They said, "Well, let us test it. We will make a decision."

Elijah said, "Let us test it." He summoned forth, he asked the worshipers of the false god to summon their god, to do something on a sacrificial altar. They called forth and nothing happened.

Then the scripture says that Elijah called forth and said, "You, the true God, I summon." And he did, with fire and a flash of fire and burned that sacrificial matter on the altar.

"That is a true God." And all the Hebrews said, "Yes, that is a true God."

Today what is the true issue? The issue is whether we are going to be reaffirming the basic tenants of our creed of government as envisioned in the first words in the preamble of the Constitution. This is the issue. The issue is whether or not the American people are going to continue to let the bankers, the predatory, the self-seeking, the greedy, the insatiable interests control the economic welfare, the fiscal and monetary policies of this great Nation and great people, or whether the people are going to do it as it is envisioned and has been all along, and was carefully protected by those men who were serving in the Continental Congress. The issue goes back to the very beginning. This was an issue in the first Continental Congress.

Governments are what pass for governments, and those were the first efforts for a national government in our history. They had to have bankers, and that was a big issue. So they finally chartered a bank in Philadelphia and called it the Bank of North America, and that immediately became the issue.

Who is going to issue the people's money? What are going to be the terms? What are going to be the interest rates?

Do you not know that the bankers then were like the bankers today and the bankers have been all along and always will be, except that today we are in the hands of such tremendous forces that they transcend the power of any national government on Earth to control them.

More decisions are made by those 20 meeting in Brussels every year, privately—they decide such fate as what is going to be the standard of living of Americans—than are made in this Congress or made by the President. This is all because the people have let go control of what the Constitution says is their sovereignty.

After all, as I have said ad nauseum, the first words of our Constitution are the most radical, even today. What do they say? They say we, the people of the United States, in order to form a more perfect union, et cetera. It does not say we, the Congress, I, the President, we, the judges, the three branches of our Government. It says we, the people. That is where the sovereignty is. This is where we all come from. This is what we must account to.

But you have not had it because of what has been done since the adoption of the Federal Reserve Act of 1913.

I am not going to go into that because I have gone into that already in the past, and I think it would be repetitious. But that is our decision. That is the sacrament of this decision, whether we are going to reaffirm our faith in the people's ability to govern themselves or whether we are going to believe like this present President, that the Government is something separate and is to be distrusted, and is to be dismantled, and that that is the source of our problem. We are the source of our problems, in effect. This is what our President said in his inaugural speech when he said the enemy is the Government. I cannot believe it. We have Congressmen saying the same thing.

This misses the fundamental premise about what we are all about in America, and nowhere are we at a greater crisis than the fact that we are now prostrate. I think, as I have said before, that when we reach a sorry stage where such issues as war and peace are being decided by these bankers, every single issue that has come up and is coming up now.

Look what is happening down in Mexico right now. It has the potential for catastrophe. Today's papers bring out the fact, and I made a speech on this last week when it had just broken out and nobody has reflected that up here. But today's paper shows that the U.S. Treasury, the taxpayers had to ante up $1 billion to try to shore up Mexico.

I am not saying that is wrong. I am saying what caused it? The bankers. These $1 billion are going down there to shore the Mexican Government so that they will not default to the Chase Manhattan Bank, First City National, and the rest, and a few others outside of the United States. They are the ones that have bankrolled what everybody has boasted about, this tremendous development of gas and oil in Mexico.

That was all bankrolled with an initial $2.1 billion loan by Chase Manhattan and a few others. They are so squeamish that the Mexican Government, and I have said that I was the only one bringing this out just a couple of months ago, came out and purchased two of our destroyers as scrap, even though they came off of the active duty list of the destroyers that we have.

Why? Mexico has always prided itself in not seeking a standing army of any consequence.

Why? We made a secret deal, which I exposed for the first time last December, even though the deal had been made earlier than that, and we let Mexico have about a dozen or more F-5's. We are going to let Venezuela have about 14 F-16's.

Why? What is the reason?

It seems to me, in view of what happened in the Falklands, that if a repetiton of that happens further north, elsewhere, are we going to be facing those planes, those destroyers?

☐ 1230

I raised a question. I said, "What does Mexico want the destroyers for? Is it so that they can get more of our shrimp boats when the time comes?"

And, of course, nobody has answered that. Why? Well, the reason comes back to this, just like the case of Poland. Same thing. The bankers made the decision, and they continue to. Just like the deal that finally, under great pressure, Mr. Reagan made with Mr. Volcker. In exchange for yesterday's tax bill, the Feds would modify their policy, in order to see if the day could be saved, if the thing could be patched, at least to let it limp until the election in November.

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I think this is a sorry way. It is a lamentable way for a great and noble people, a great country, the greatest on the Earth. There is no more humanitarian people or Government in this whole Earth than the American Government, notwithstanding all of the critics to the contrary, I think the people deserve better than that.

There are things, of course, little by little coming out. I wanted to offer another article that appeared Friday, today, August 20, page D2 of the New York Times, by Leonard Silk, who is an economist but also a writer on economics and financial matters. It is entitled "A Reappraisal After the Binge." The binge he refers to is the fluctuations of the stock market. But among other things he says, and I want to quote from that:

A Reappraisal After the Binge

Wall Street's explosion this week has raised hopes that, if stocks are rising the resurgence of the national economy cannot lag far behind.

But there is wild irony in the picture: The forecasts of lower interest rates that triggered the stock market's upsurge were based on gloomy analyses of the overall business outlook.

For example, Henry Kaufman of Salomon Brothers said the economy was "straitjacketed by financial blockages and fear of international competition." Albert M. Wojnilower of the First Boston Corporation said flatly that "the business outlook has deteriorated"—capital spending plans had been slashed again, consumption had fallen and inventories had resumed piling up, both at wholesale and retail. The July 1 tax cut, he said was more like a life preserver thrown to a struggling swimmer than extra stimulus to an economy already at the point of lift-off.

Yet Wall Street cheered wildly, focusing only on the prediction of declining interest rates. Secretary of the Treasury Donald T. Regan, a Wall Streeter transported to Washington, was exuberant too: He refused to look a gift horse in the mouth. A rally was a rally and an enormous rally was an enormous rally. He expressed his appreciation to Mr. Kaufman for his help, but said he was right for the wrong reason: The real cause for Wall Street's upsurge was its recognition that the Reagan Administration had restored stability to the economy, Mr. Regan contended.

Yesterday, waking up after its two-day binge, Wall Street seemed less sure, wondering whether it had not overdone things. The gloomy economic forecasts—and the current reality of weak business conditions, declining profits and high unemployment—were still staring it in the face.

It was not, after all, just Mr. Kaufman and Mr. Wojnilower who had turned sour on the recovery just before the stock market exploded, but the vast majority of other economists as well. Robert J. Eggert, president and chief economist of Eggert Economic Enterprises, had reported on Aug. 10 that the earlier, modestly exuberant outlook for the "after-the-tax-cut" third quarter had faded among the 44 economists polled for his Blue Chip composite forecast. They expected interest rates to continue to decline. (It is curious how Wall Street tends to disparage the consensus of economists while preferring to follow one bellwether sheep, a role in which Mr. Kaufman has been cast.)

Alan Greenspan, president of Townsend-Greenspan and a frequent White House adviser, had just declared, on Aug. 13, that "The recovery is still not here," noting that the outlook for 1982-83 "has continued to deteriorate since our last forecast." Builders, he said, were holding out little hope for any significant near-term recovery; business orders for capital equipment were falling; consumer confidence was low and bankruptcies, already at a post-Depression record, were becoming "a problem rather than just a risk in the outlook."

Albert H. Cox, Jr., the president of Merrill Lynch Economics Inc., a subsidiary of Treasury Secretary Regan's old firm, had just warned that the Reagan Administration and Reaganomics might be headed for a major setback in the November elections because "too little has been accomplished thus far, and strategic errors have been made."

Hope springs on a moment's notice in Wall Street, but there is good reason to wonder whether the resurgence of the stock market earlier this week (even if it was overdone) does not mark an important turning point in the course of the economy. There has been a drawing back from the brink just before the economy crashed over it. And belief is rising that the economy will survive the mistakes of the past, now that they are being repaired.

Lower interest rates, brought on not just by weak loan demand but by significant changes in the Administration's fiscal policy and the Federal Reserve's monetary policy, should provide major support for economic recovery.

The decline in long-term rates as well as short rates should help lift housing out of its deep slump. The strengthening bond market should help arrest the fall in business investment in plant and equipment, although, given the heavy hangover of excess capacity, it will take months before capital spending recovers. High unemployment will still be a drag on consumer spending, but gains in take-home pay from the net tax cut (even if the tax-increase bill before Congress passes), higher Social Security benefits and, most important, a gradual rise in output and income as inventory cutting fades will put more money into consumers' pockets and increase their outlays.

Strengthening financial markets are likely to give a psychological lift not only to Wall Street and Washington but to many consumers and businesses around the country.

All the economy's woes have not vanished overnight. The international financial picture, with Mexico now rising to the top of the worry list, remains especially serious.

But Wall Street's burst of action this week suggests that the new Great Crash is not at hand. And if Congress supports the White House move to produce a more prudent fiscal policy and the Fed continues to work for lower interest rates, the recovery may soon get under way.

"Lower interest rates, brought on not just by weak loan demand"—meaning that business is rotten—"but by significant changes in the administration's fiscal policy and the Federal Reserve's monetary policy"—that is, the administration's tax, it is $99 billion, and the Fed's change of policy—"should provide major support for economic recovery."

On the other hand, nobody takes note—Tobin, Silk, all of the experts you read about—that what has happened is irreparable. I do not care if interest rates go down to 6 percent. We are in a mess we cannot reverse now. I was hopeful a year ago, when I first started talking, that maybe, just maybe, we could get some attention. Not action—I know better than to expect that—but just some attention which in turn would bring some, a little bit, recognition of what ultimately is going to have to be faced and resolved.

But I must admit I failed until a week ago, 10 days ago, when finally the pressure came up and the Fed had to make a deal and the President had to beg for a deal. And the Fed, as usual, said, "Well, you get a tax measure, and we will modify." Because also their banking system is going under.

You know, the Federal Reserve is not a governmental entity. It is called Federal, but it is not. It is, essentially, the private bankers of the country, but who in turn are really responsive to just a handful. No more than about five or six superbanks actually determine what the Federal policy is going to be, and particularly since the creation of the Open Market Committee, the biggest gimmick ever known to man.

No European wants to believe that Americans conduct and continue to conduct their fiscal and monetary policies the way we do. We are the only ones, as I said, in the world, industrial nation or otherwise, that handle our money the way we do, the people's money, the Treasury.

The legal title of the Federal Reserve is that it is the fiscal agent of the U.S. Treasury. That is what it is. We do not have the equivalent of what these other governments call a central bank. The nearest we have to it is the Federal Reserve. But it does not mean that it is a Government entity. But it is a creature of the Congress, though. That is why I said these things are not acts of God. The Federal Reserve Board is not an autonomous Government superior to the Presidency and the legislative branch, the first branch of the Government under the Constitution. It should be amenable. It is a creature of the Congress. Congress created it. But it is not. It does not respond to Congress.

I have brought out in my specific charges in my bill of particulars on the bill of impeachment, in the last one last week when I placed in the RECORD the complete report by the firm of Fulbright and Jaworski and the counsel, Alan B. Levenson, that was called in to do an inhouse investigation of what I had charged was a leak from the Federal Reserve Open Market Committee that resulted in tons of dollars of windfall, illegal profit, because they got that through the manipulation of their moneys by having advance notice of what that decision was, which would not be announced for several weeks by the Open Market Committee, and that was the Hanover Manufacturers Trust Bank of New York.

So I finally had enough saliva—there is an old Mexican saying, "El que mas saliva tiene mas pinole trag"—he who has the most saliva is the one that can eat the most pinole. Pinole is a crushed powder like candy from the seeds of a certain palm tree that grows in Mexico. You cannot eat much of it because it drys up your saliva. So the saying coming from the people is that he who has the most saliva will eat the most pinole.

So finally, by just trying to bring pressure and yelling, the chairman of our committee finally summoned forth Mr. Volcker, and we said, "How about these rumors, what about these leaks?"

He said, "Oh, no such thing."

I tried to get a question in, "Do you have an Inspector General?" Nobody knows.

The Congress cannot get the General Accounting Office to go and look at the Feds. They are independent. They do not allow that. We have tried to get a bill through our committee. For years Chairman Patman, may his soul rest in peace, struggled. I was one of those who staunchly supported him. We found ourselves almost isolated. We tried to command an independent audit of the Federal Reserve Board. To this day, you cannot get it. They said, "Oh, we audit ourselves. We have sufficient audits."

So they brought in a special counsel. But from where? From the law firm of Fulbright and Jaworski. Mr. Levenson. You know, there is nothing like having a friendly counsel. He came to the conclusion that you can read in the RECORD of last week, because I placed a full report in here, and you can see, you do not have to be an expert, you do not have to be a lawyer, you do not have to be a financier, you do not have to be a Ph. D., you can see that it was one of the most thoroughgoing whitewash jobs that we have any record of.

The funny thing is that I did not even know they had prepared a report until I started raising the question months ago. And finally I got it, just a couple of weeks ago. But it is in the RECORD, and I think the citizens can see. That is part of the bill of particulars with which I am charging Mr. Volcker specifically as being not only susceptible but long overdue for impeachment. After all, that is the reason for such a legislative process, is impeachment—unfortunately. The common opinion is, even among Congressmen, that it is something you reserve for Presidents, or that it is a quasi-judicial or criminal procedure. Well, of course, it has the trappings of some judicial function inasmuch as you have a recital of facts that must be interpreted.

Now, I certainly think that I have raised, up to now, three very specific charges besides the general charges, which ought to satisfy the requirements of the Constitution as to impeachment and a resolution seeking impeachment. Impeachment means charges. It does not mean judgment or conviction or trying. And I think that I cannot regret too much and constantly the fact that the Judiciary Committee, which is the proper committee—I believe in going through channels, and this is why I am speaking today, because the Federal Reserve Board is arrogant, it denies any accountability to either the Congress or the President, and yet it has this fateful power. They now admit "Oh, yes, there is a cause and effect between Federal policy and interest rates."

Now, you know, when they want to take credit. But what is it they are trying to make us feel grateful for? We still have a problem.

If interest rates were to go below 10 percent, the problem remains unsolved, and you cannot build the destruction that has occurred in the last 1½ years. Businesses have been going out at a record every week in the last 6 months. More businesses have been going out; that is, bankrupt, than even during the Depression.

The banking system. The other day Mr. Volcker appeared, and he appeared only because we passed the so-called monetary policy assessment requirement, a little old sort of Milquetoast resolution. This was a compromise that we finally got on our efforts to get accountability from the Federal Reserve a few years ago. The big compromise was that the Federal Reserve chairman would come before us periodically to report on monetary policy and goals. And then they use all of this jargon, all of this jiggery pokery about M-1, M-2, and M-3, and all of that ridiculous talk, just to obfuscate, no other purpose. So he came in the other day under the requirements of that act. The big issue was the failure, the first complete collapse, of a bank since the Federal Deposit Insurance Corporation, in Oklahoma, the Penn Square. And we had known and we have known for a year, when we brought the regulators, who also refused to give us specifics—and there is no way we can make them. The Comptroller of the Currency, for example, who is supposed to oversee the banks, issues the charters, and the like, he is not accountable to the Congress. Believe it or not. Now, how many people know that the U.S. Comptroller of the Currency is really not a U.S. Comptroller of the Currency? He is financed. The Congress, the Government, does not appropriate money for the purposes of the Comptroller of the Currency's office. Rather, he operates his office from the fees he gets from the banks. So who is he looking after? The banks, of course. Just like the Federal Reserve Board.

One of the charges, by the way, and parenthetically speaking, that I have, the second one, in the bill of particulars, was the secret meeting that the Chairman, Paul Volcker, had with the president of the First City National, Walter Wrisdon, and that great Nelson Bunker Hunt of Texas, the multibillionaire speculator of silver, secretly in Florida.

Now, what Congressman can arrange a secret meeting with the Chairman of the Federal Reserve Board? Not even the committee. What little ordinary banker can arrange to consult? But Mr. Wrisdon had no problems with Nelson Bunker Hunt, who had just collapsed over $15 to $20 billion of bank credit in trying to corner what? The silver market.

Remember what I told you about the history of the abolition or the repeal of the silver transaction tax? You see, it all ties in. And I feel a great responsibility because I am charged with knowledge. I have had some letters from people as far away as Oregon. Incidentally, the people are there. This has brought the greatest reaction that I have ever had to any action or activity I have participated in in my history as a publicly elected official, whether city councilman, State senator, or U.S. Congressman. And people know. Politicians up here and Presidents underestimate people. The American people are way ahead. They are way ahead of us all. And they know. The only thing they feel is that there is not much they can do about it. They are frustrated. But they know. And they are there.

All we have to do is give them the opportunity and do what the whole theory of our system says that we ought to do.

But when I asked Mr. Volcker, I said, how many Penn Squares do you have out there in that wild blue banking yonder?

He always had a cigar. He paused, blew smoke, smiled, and said he did not know. This is your chief regulator, the Comptroller of the Currency. As I said, he does not feel he has to answer; none of them have. Every Comptroller, like every Chairman of the Federal Reserve that I have ever seen or heard come before the committee, in fact we had one that openly defied the committee in the sixties and he was a fellow Texan. He said, "You all don't pay us. The Congress doesn't appropriate the money. The bankers pay their fees for us to audit them or oversee them, so that is where our money comes from."

Well, you know, as ancient as mankind is the fundamental saying, it is

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still true today more than ever in these Congresses since the advent of the Political Action Committees, and that is that he who pays the fiddler calls the tune; so if the Comptroller knows that his bread is being buttered by the private bankers that he is supposed to be looking to and regulating, you know what is going to happen. Let us not kid ourselves. Who is kidding whom?

Now, the Penn Square thing revealed clearly the abysmal failure of our regulatory system and accountability; but at no time did these regulators ever come and say, well, you know, this is the number.

I would ask, "What is the number of your problem banks or problem S. & L.'s?"

They would not say, but we know and I have good reason to know.

I do not care if this interest rate goes to 10 percent. It is too late.

There is also another saying that is so true, "golpe dado ni dios lo quita," "A blow once struck even God cannot remove." You are hit, and this is unfortunately the tragedy. These big experts are talking as if this kind of thing, extortionate, usurious interest rates, are something that you can flagellate a country with and then turn it off and turn it on at will, and that is such a fatal error because you cannot repair that which has already gone under. There is no way you can resurrect the thousands of businesses that have gone under just in the last 6 months, no way. They are gone. You have people unemployed. There will not be one more person employed today. In fact, you will have more unemployment than before the passage of the tax bill, the reduction temporarily of the prime interest rate to 14 percent, and to think that these big shots, Roosevelt called these malefactors of great wealth, should think that the American people are so gullible, that the Members of Congress are so ignorant and helpless that they do know they are being insulted when they say, "You ought to be grateful. Look what we have done. We have reduced this to 14 percent."

What an infamy. What a sorry day of shame.

For this reason, at this point, I would like to offer for the RECORD a news item in the New York Times of Thursday, August 12, this year, entitled "Business Failures Rise." It says, "Business failures last week rose 44.6 percent."

BUSINESS FAILURES RISE

Business failures last week rose 44.6 percent from a year ago, reversing a brief decline and remaining at a 50-year high, a private credit-information service reported today.

The corporate casualty count of 512 in the week ended Aug. 5 compared with 354 failures in the corresponding week a year ago. the Dun & Bradstreet Corporation reported.

Failures were also up sharply from the previous week, when the 343 failures reported were off slightly from the 346 of a year earlier.

Businesses have been failing at an average of 454 a week so far this year, compared with an average 316 a week in the same period of 1981, and the highest since the weekly average of 612 in 1932.

Dun & Bradstreet said 14,067 businesses failed through Aug. 5, up from 9,808 in the same 1981 period.

Previous to that, even Leonard Silk says because of the administration's policy, the administration has gone along. The President did not protest high interest rates. Just like his predecessor, President Carter, he did not say anything until October 1980 on the eve of the election.

Well, you know, the American people know better. I am just telling you, the American people are smart. They are not that dumb. They know who is for and who is against.

Anyway, from time to time in trying to contradict that there was something that could be done, you had the Secretary of the Treasury first coming out and saying, "I'm coming out and reviewing plans to restrict the Federal Reserve because of high interest rates." That was on Sunday, June 20 in the New York Times; but then, lo and behold, there is a follow up story on Tuesday, June 22, 1982, and it says Regan—I think he pronounced it Reagan—"Secretary Regan softens his call for review of the Fed":

REGAN SOFTENS HIS CALL FOR REVIEW OF THE FED

WASHINGTON, June 21.—Treasury Secretary Donald T. Regan, while continuing to criticize the Federal Reserve Board's handling of the nation's money supply, said today that he sees little need now to bring the Fed under more direct control of the Administration.

Mr. Regan, in a speech to the National Association of Accountants and in comments later, acknowledged that the Treasury is studying options for limiting the independence of the Fed, including bringing the Fed within the Treasury or putting the Treasury Secretary on the Federal Reserve Board. But he immediately sought to soften the impact of his remarks.

"I'm studying these things," he said. "I have no preconceived notions. I don't think there probably is much need for change in the Fed." Then, in a later news conference, he said: "At this point, I think the Fed's independence is a good thing."

Mr. Regan's remarks came after Treasury officials over the weekend said that the Secretary was seeking review of proposals to limit the independence of the Fed because of his continued annoyance with what he calls its "erratic" money policy. Mr. Regan has contended that this erratic growth contributed to high interest rates.

Mr. Regan's backtracking today is another example of a pattern within the Administration of attacking the Fed one day, only to retreat soon afterward. Officials at the Treasury suggested that the purpose of such attacks was to put pressure on the Fed to work harder to smooth out the weekly and monthly fluctuations in the money supply.

At the same time today, Mr. Regan sought to play down the importance of his announcement that the Administration is reviewing various economic policy options in case the hoped-for recovery does not get under way.

"I've always felt that you should be ready for any contingency," Mr. Regan said in the afternoon news conference. And in his speech, he said, "We are not advocating any new initiatives by virtue of undertaking this study." He added later, "You may find the best course is to do nothing."

David A. Stockman, the director of the Office of Management and Budget, in comments to reporters, also sought to minimize the importance of any review.

"No fundamental revision of policy is at all likely," Mr. Stockman said. "Any basic revision is not in the cards at all."

But while Mr. Regan sounded conciliatory, he continued to criticize the Fed.

"We like the policies but not the way the policies have been carried out," he said. "We believe that smoother growth of the money supply will lead to lower interest rates."

And in his speech he said: "The Fed's money growth has been anything but steady. The ups and downs have bred uncertainty in every quarter. And it's time we started asking some hard questions about just how the Fed implementation of policy os working."

In his news conference, Mr. Regan mentioned the same changes in Fed operations that the Administration has been pushing and the Fed has been resisting, including contemporaneous reserve accounting, a floating discount rate and more attention to the monetary base growth rate.

Now, who is trying to kid whom?

So we come back to the fundamental question and the reasons underlying the efforts I am making. I am going to continue to make the case of the impeachment resolution on the House floor. At the proper time, I will be summoning it forth.

As I told you before, this is a privileged resolution. In other words, I am not just kidding. I am not doing this just for effect. I had a letter from a person I think in Oregon saying, "Oh, you are very courageous." I do not think so.

I mean, I have gotten into some real good fights in my career back home, probably meaner than anyone else. I have even been shot at. I have been assaulted. I was almost killed in Boulder, Colo., for nothing else than trying to exercise free speech at a peaceful assembly.

I did not see any of the civil right groups or anybody protesting. I think I am the only American that has ever had storm trooper tactics used against him to prevent him from speaking under the threat to serious bodily injury or death.

Yes, during the Vietnam era you had a lot of people heckled and then they withdrew, but none were physically prevented; but I was on August 8, 1973, in Boulder, Colo; so that I do not think it is a particular mark of courage.

What would take courage, what would take gall and nerve would be for me to remain silent, because I have had the privilege to serve on this committee for 20 years. This is what I am saying. This is the way it looks to me. I am coming out and saying it.

I thought that I would be entitled to have the processes work and have the Committee on the Judiciary do it thoroughly and expertly because they have the staff and they have the resources. I do not. I do not have any staff available to me to handle this matter. I have been doing this alone and with some help that has been forthcoming from one of my greatest staff members, the best I could ever have, but who is so bogged down with the work that he is responsible for that I cannot delegate him to this. It would not be right; but it is not because I think that it is a way to get publicity. I have never had any reason to lack publicity. This would not be the way I would choose to try to get it. It is because I consider this to be the inescapable No. 1 issue, the $64 question, as my generation used to say in the days of radio with old Colonel Bowes or Major Bowes.

I think that there is so much here that goes to the heart of the continuing thing that we call the American way, that it would take nerve and I would think that it would really be cowardice not to speak out. If I am wrong, I can be judged. I am speaking out. If I am right, then I have all the more reason why I should continue.

I will continue with the bill of particulars on future occasions and when I have fully rounded out the bill of particulars and the general provisions of my resolution of impeachment, I fully intend to bring it up and the reason I am going into all this is so that the Members will have an opportunity to analyze for themselves just as if they had been members of the Committee on the Judiciary.

The **SPEAKER** pro tempore (Mr. GONZALEZ). The Chair recognizes the gentleman from Maryland, Mr. DYSON.

THE PRESIDENT'S BEIRUT DECISION DESERVES OUR SUPPORT

(Mr. DYSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, just this morning President Reagan announced his decision to commit 800 U.S. Marines to West Beirut. This major foreign policy decision comes in the wake of many weeks of tragic conflict—a conflict which has brought incalculable damage to this region of the world and to the families who once occupied it. Somehow we must end the senseless tragedy which continues to devastate the Middle East.

The President's decision deserves our support. Undertaken together with the French and Italian nations, this action follows complex and forthright negotiations of all parties to bring about a peaceful solution to the evacuation of the PLO.

The President is sending American troops for the sole purpose of assisting in the evacuation of the PLO in accordance with the final agreement worked out by Mr. Habib. These troops will be stationed in the Port of West Beirut, outside of the battle-torn areas in Lebanon.

The peaceful evacuation of the PLO is critical to any future attempts to achieve a broader peace in the Middle East. Some fear we may find ourselves in a deeper entanglement by sending these American troops. I do not think we can refrain from taking this absolutely necessary step which offers the best hope for a peaceful solution to this most recent chapter in this volatile region.

CONGRESSMAN HUGHES INTRODUCES TAX REFORM LEGISLATION

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, today I am introducing a measure that I believe will greatly simplify the Nation's tax laws and bring them closer to the national interest.

I and a majority of my colleagues supported the Tax Equity and Fiscal Responsibility Act of 1982 yesterday because I felt it was in the best interest of the country. The Nation urgently needs the reduced deficit that will result from increased revenues, and I believe the bill eliminates many of the loopholes created by last year's tax package.

Despite the much-needed tax reforms addressed by the Tax Equity and Fiscal Responsibility Act, however, the withholding provisions are troublesome. I believe they will only result in unnecessary cost and paperwork burdens on financial institutions and corporations. It is not withholding that is needed to insure taxpayer compliance, but better use of information on interest and dividends, much of which is already provided on 1099 forms. Taxpayer compliance in reporting interest and dividend income is already remarkably high, at a 96.7 percent compliance rate. The provisions outlined in the tax package will result in a nominal increase in compliance, but at the same time will require millions of new forms to be processed. This paperwork is clearly unreasonable.

I regret that the real impact of the 10-percent withholding provisions will not come from better compliance but rather from speeding up collections by the IRS. Many taxpayers have more than their fair share of taxes withheld from income during the tax year. Requiring withholding on dividends and interest will only complicate this matter further, resulting in the Federal Government holding more than its fair share from taxpayers and requiring larger refund to individuals at the end of the year. Clearly, the projected revenue gain resulting from this provision is overstated and illusory.

In conclusion, the interest and dividend withholding provisions are an extremely costly way to improve compliance from a very small group of individuals. There are far less burdensome ways to achieve this same goal.

My bill will maintain the many progressive reforms of the tax package while eliminating this troublesome provision, which has raised the deepest concern of many Members.

RECESS

The **SPEAKER** pro tempore (Mr. GONZALEZ). The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1430

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PRICE) at 2 o'clock and 30 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House of Representatives to the amendments of the Senate numbered 2, 6, 17, 24, 41, 42, 43, 45, 58, 60, 62, 63, 64, 65, 66, 69, 84, 86, 91, 97, 98, 112, 117, 119, 132, 138, 149, 161, 172, 177, 180, 182, and 183 to the above-entitled bill.

The message also announced that the Senate recedes from its amendments numbered 115 and 150 to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the

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bill (H.R. 3663) entitled "An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 399. Concurrent Resolution Providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20 or August 21 to September 8, 1982.

MESSAGE FROM THE SENATE

The **SPEAKER** pro tempore. laid before the House the following message from the Senate:

The Clerk read as follows:

Resolved, That the concurrent resolution from the House of Representatives (H. Con. Res. 399) entitled "Concurrent resolution providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20 or August 21, to September 8, 1982," do pass with the following amendments:

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "when the House adjourns on Thursday, August 19" and insert "when the House adjourns on Friday, August 20".

Amend the title so as to read: "Concurrent resolution providing for an adjournment of the two Houses for more than three days."

The **SPEAKER** pro tempore. The question is on the Senate amendments.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ADJOURNMENT

Mr. DYSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The **SPEAKER** pro tempore. Pursuant to the provisions of House Concurrent Resolution 399, 97th Congress, the House stands adjourned until 12 o'clock meridian, Wednesday, September 8, 1982.

Thereupon (at 2 o'clock and 32 minutes p.m.), pursuant to House Concurrent Resolution 399, the House adjourned until Wednesday, September 8, 1982 at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4638. A letter from the Comptroller of the United States, transmitting his review of two proposed rescissions, and a revision of one deferral, contained in the message of July 16, 1982 (H. Doc. No. 97-210), pursuant to sections 1012(a) and 1013(a) of Public Law 93-344 (H. Doc. No. 97-229); to the Committee on Appropriations and ordered to be printed.

4639. A letter from the Secretary of Transportation, transmitting the annual report on the "Effect of the Airline Deregulation Act on the Level of Air Safety," pursuant to section 107 of Public Law 95-504; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6173. A bill to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning; with an amendment (Rept. No. 97-784). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6598. A bill to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes; with an amendment (Rept. No. 97-785, Pt. I). Ordered to be printed.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. Report on monetary policy for 1982 (Rept. No. 97-786). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUGHES:

H.R. 7055. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. JACOBS:

H. Res. 578. Resolution to honor Mohammed Sedik Benyahia; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 7056. A bill for the relief of Shirley Lee a.k.a. Wu Shao Wei; to the Committee on the Judiciary.

By Mr. WAXMAN:

H.R. 7057. A bill for the relief of Arturo, Maria Luisa, and Rosa Posadas de Flores; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2500: Mrs. Kennelly.

H.R. 3632: Mr. Hertel.

H.R. 4066: Mr. Kildee and Mr. Peyser.

H.R. 5687: Mr. Lagomarsino.

H.R. 6239: Mr. Downey.

H.R. 6565: Mrs. Kennelly, Mr. Evans of Indiana, Mr. Benjamin, Mr. Jacobs, Mr. Frank, Mr. Moffett, Mr. Blanchard, Mr. Crockett, Mr. McHugh, Mr. Fish, and Mr. LaFalce.

H.R. 6789: Mrs. Snowe and Mr. Whitley.

H.R. 6866: Mr. Patterson, Mr. D'Amours, Mr. Alexander, and Mr. Ratchford.

H.R. 6938: Mr. Napier and Mr. Dannemeyer.

H.J. Res. 381: Mr. Bailey of Pennsylvania.

H.J. Res. 507: Mr. Frenzel.

H. Con. Res. 275: Mr. Quillen.

REGULATION OF LOBBYING ACT

In compliance with Public Law 601, 79th Congress, title III, Regulation of Lobbying Act, section 308(b), which provides as follows:

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the CONGRESSIONAL RECORD.

The Clerk of the House of Representatives and the Secretary of the Senate jointly submit their report of the compilation required by said law and have included all registrations and quarterly reports received.

REGISTRATIONS

The following registrations were submitted for the second calendar quarter 1982:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19.......... ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House".—§ 302(e).

(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) Description, (*b*) quantity distributed; (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.◆

AFFIDAVIT

[Omitted in printing]

PAGE 1◆

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Organization or Individual Filing	Employer/Client
A & S TRANSPORTATION COMPANY 75 JACOBUS AVENUE SOUTH KEARNY NJ 07032	
ADVANCE COAL MANAGEMENT CORPORATION 805 NEWTOWN CIRCLE LEXINGTON KY 40511	RSV MINING EQUIPMENT B.V.
ADVOCATION, INC. #925, 1127 11TH ST., SACRAMENTO, CA 95814	FAIR CONGRESSIONAL TASK FORCE OF THE FEDERATION FOR AMERICAN IMMIGRATION REFORM
AKIN, GUMP, STRAUSS, HAUER & FELD SUITE 400 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AIR FREIGHT ASSOCIATION
Do	AMERICAN QUASAR PETROLEUM COMPANY
Do	BEACON OIL CO
Do	BENEFICIAL CORPORATION
Do	CAPITAL BANK
Do	COALITION OF SERVICE INDUSTRIES, INC
Do	CONTINENTAL AIRLINES
Do	DAMSON OIL CORP
Do	EQUITABLE BANK
Do	HEMISPHERE NATIONAL BANK
Do	MURPHY OIL CORP
Do	NEW YORK AIR
Do	NORTON SIMON, INC
Do	SOUTH HAMPTON, INC
Do	SOUTHLAND ROYALTY CO
Do	U.S. COMPANIES, INC
Do	WAGNER & BROWN
ALCALDE, HENDERSON & O'BANNON 1901 N. FT. MYER DR. SUITE 1204 ROSSLYN VA 22209	AMERICANS FOR THE NATIONAL DIVIDEND ACT, INC
DONALD C. ALEXANDER, MORGAN LEWIS & BOCKIUS 1800 M ST., NW, #800 NORTH WASHINGTON DC 20036	BALDWIN-UNITED CORPORATION
Do	DISABLED AMERICAN VETERANS
Do	EASTERN AIR LINES, INC
Do	SEQUOIA VENTURES, INC
ALLIANCE FOR IMMIGRATION REFORM SUITE 103 1000 POTOMAC STREET, NW WASHINGTON DC 20007	
CHARLES L. ALMOND 3300 FIRST CITY TOWER, HOUSTON TX 77002	VINSON & ELKINS (FOR: MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT CORP.)
Do	VINSON & ELKINS (FOR: GALVESTON WHARVES OF THE CITY OF GALVESTON, TEXAS)
Do	VINSON & ELKINS (FOR: GUADELUPE BLANCO RIVER AUTHORITY)
AMERICAN ASSN OF EQUIPMENT LESSORS SUITE 1010 1300 NORTH 17TH STREET ARLINGTON VA 22209	
AMERICAN CHAMBER OF COMMERCE OF THE DOMINICAN REPUBLIC HOTEL SANTO DOMINGO DOMINICAN REPUBLIC	
AMERICAN GENERAL LIFE INSURANCE COMPANY 2727 ALLEN PARKWAY HOUSTON TX 77001	
AMERICAN NATL INSURANCE COMPANY ONE MOODY PLAZA GALVESTON TX 75201	
MORRIS J. AMITAY SUITE 168 400 N. CAPITOL ST., NW WASHINGTON DC 20001	NATIONAL SATELLITE CABLE ASSN
M. KENT ANDERSON BOX 300 TULSA OK 74102	CITIES SERVICE COMPANY
ANDERSON, HIBEY, NAUHEIM & BLAIR 1605 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	MARRIOTT CORPORATION
L. J. ANDOLSEK 1533 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES
J. KNOX ARGO, ARGO & ENSLEN, P.C. P.O. BOX 1550 MONTGOMERY AL 36102	MOTION PICTURE ASSN OF AMERICA, INC
ARKANSAS 2000, INC P.O. BOX 1776 RUSSELLVILLE AR 72801	
ARMOUR HANDCRAFTS, INC. 230 5TH AVENUE NEW YORK NY 10001	
ARNOLD & PORTER 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AHMANSON FOUNDATION
Do	TABLE GRAPE GROWERS ASSN. OF SONORA, MEXICO
THOMAS LUDLOW ASHLEY, P.C. 1730 PENNSYLVANIA AVENUE, N.W. SUITE 1050 WASHINGTON DC 20006	
Do	LOCKHEED CORPORATION
DAVID AUSTERN 918 16TH STREET, NW WASHINGTON DC 20006	AMERICAN LOGISTICS ASSN
AVENEL ASSOCIATES, INC BOX 53131 WASHINGTON DC 20009	BROWARD FEDERAL SAVINGS & LOAN ASSN
PAMELA S. AYCOCK 2601 WOODLEY PL., NW WASHINGTON DC 20008	O'BRIEN, FIERCE & EBERLE (FOR HUNTON & WILLIAMS)
BALLARD, SPAHR, ANDREWS & INGERSOLL SUITE 1100 1850 K STREET, NW WASHINGTON DC 20006	PORT OF WILMINGTON, DELAWARE
Do	SOUTH JERSEY PORT CORPORATION
Do	U.S. COMMITTEE FOR UNICEF
SAMUEL J. BAPTISTA SUITE 603 1620 EYE STREET, NW WASHINGTON DC 20006	VISA U.S.A., INC.
BARNES RICHARDSON & COLBURN SUITE 400 1819 H ST., NW WASHINGTON DC 20006	FLORIDA CITRUS MUTUAL
Do	WOODHOUSE, DRAKE & CAREY (TRADING), INC.
Do	WORLD CARRIER, INC
BARNETT & ALAGIA 1627 K ST., NW, #900 WASHINGTON DC 20006	ASBESTOS COMPENSATION COALITION
BARRETT SMITH SCHAPIRO SIMON & ARMSTRONG SUITE 1400 26 BROADWAY NEW YORK NY 10004	METROPOLITAN TRANSPORTATION AUTHORITY
JOHN BARRY 715 EIGHTH STREET, NW WASHINGTON DC 20003	NATIONAL VICTIMS OF CRIME
DIANE BATEMAN, DAVIS & MCLEOD 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	AMERICAN ASSN OF CROP INSURERS
FRANK V. BATTLE JR., SIDLEY & AUSTIN ONE FIRST NATIONAL PLAZA CHICAGO IL 60603	HEINHOLD COMMODITIES, INC
BAYH, TABBERT & CAPEHART SUITE 1025 1575 I STREET, NW WASHINGTON DC 20005	WARNER COMMUNICATIONS, INC
DANIEL P. BEARD, BEARD AND ASSOCIATES P.O. BOX 2394 COLUMBIA MD 21045	AMERICAN RIVERS CONSERVATION COUNCIL
THERESA E. BEARMAN 9TH FLOOR 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE
EDWARD A. BECK III 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.
ROBERT G. BECKEL 609 G STREET, SE WASHINGTON DC 20003	NATIONAL BROADCASTING CORP
LOUIS BEER, KEMP, KLEIN, ENDELMAN & BEER 1320 19TH ST., NW, #200 WASHINGTON DC 20036	M.A.N. TRUCK & BUS CORP
BENESCH, FRIEDLANDER, COPLAN & ARONOFF 1100 CITIZENS BUILDING CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING
ROBERT B. BETZ SUITE 320 1200 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	ROBERT BETZ ASSOCIATES, INC
BEVERIDGE & DIAMOND, P.C. 1333 NEW HAMPSHIRE AVE, NW WASHINGTON DC 20036	UNION CAMP CORPORATION
BILLIG SHER & JONES 2033 K ST., NW WASHINGTON DC 20006	ADHERENCE GROUP, INC
BINGHAM, DANA & GOULD 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	FEDERATION FOR AMERICAN IMMIGRATION REFORM
BIRCH HORTON BITTNER & MONROE SUITE 1100 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALASKA NATIONAL BANK OF THE NORTH
Do	CHUGACH NATIVES, INC
Do	FIRST FEDERAL SAVINGS & LOAN ASSN
BLACK, MANAFORT & STONE, INC. 435 NORTH LEE ST. ALEXANDRIA VA 22314	NATIONAL SECURITIES CLEARING CORP
BLATCHFORD, EPSTEIN & BRADY 1000 POTOMAC ST., NW WASHINGTON DC 20007	ARMOUR HANDCRAFTS, INC.
Do	CARON INTERNATIONAL/COLUMBIA MINERVA
Do	DIMENSIONS, INC.
Do	SUNSET DESIGNS
SAMUEL A. BLEECHER, BLANK, ROME, COMISKY & MCCAULEY 1700 K STREET, NW, #404 WASHINGTON DC 20006	A & S TRANSPORTATION COMPANY
Do	RADNOR CORPORATION
RICHARD W. BLISS, BLISS & CRAFT 1050 THOMAS JEFFERSON ST., NW, 6TH FL. WASHINGTON DC 20036	FLUOR CORP
Do	MARLINE OIL CORP
STEPHEN F. BOTSFORD SUITE 1424 6805 MAYFIELD ROAD - BLDG. 8 MAYFIELD HEIGHTS OH 44124	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING
MARVIN C. BOWLING JR. 6630 WEST BROAD STREET RICHMOND VA 23230	LAWYERS TITLE INSURANCE CORP
THURMAN L. BOYKIN 1799 SWANN STREET, NW WASHINGTON DC 20009	ARKANSAS 2000, INC
BRACEWELL & PATTERSON SUITE 1200 1825 EYE STREET, NW WASHINGTON DC 20006	DRESSER INDUSTRIES
Do	HOUSTON NATURAL GAS CORP
BREGMAN, ABELL & KAY SUITE 610 1900 L ST., NW WASHINGTON DC 20036	AFL-CIO
JAMES R. BRIDGES, THELEN, MARRIN, JOHNSON & BRIDGES TWO EMBARCADERO CENTER SAN FRANCISCO CA 94111	SEQUOIA VENTURES, INC
PHILLIP J. BROMAN SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC
BEN JARRATT BROWN SUITE 103 1000 POTOMAC STREET, NW WASHINGTON DC 20007	CORPORATION FOR GOVERNMENT ACTION, INC
DONALD T. BROWNE 205 EAST 42ND STREET NEW YORK NY 10017	RISK & INSURANCE MANAGEMENT SOCIETY, INC
BROWNSTEIN ZEIDMAN & SCHOMER SUITE 900 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS
BUCKLEY SECURITY INTERNATIONAL, INC. P.O. BOX 2415 SATELLITE BEACH FL 32937	WACKENHUT CORPORATION
NICHOLAS J. BUSH SUITE 402 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATURAL GAS SUPPLY ASSN
BUSINESS COUNCIL FOR IMPROVED TRANSPORT POLICIES 1000 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	
BUTLER BINION RICE COOK & KNAPP 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	BROWARD COUNTY, FLORIDA
Do	PENNSYLVANIA SHIPBUILDING CO
C & B ASSOCIATES 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	CARL M. FREEMAN ASSOCIATES, INC
Do	LOCKHEED CORPORATION
FRANK W. CALHOUN 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC
CAMP, CARMOUCHE, PALMER, BARSH & HUNTER 2550 M ST., NW, #275 WASHINGTON DC 20037	COALITION FOR AN EFFECTIVE ENERGY INVESTMENT TAX CREDIT
Do	TEXACO, INC.
ANGELA CAMPBELL 600 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	INSTITUTE FOR PUBLIC REPRESENTATION
CAPITOL ADVOCATES, 1127 11TH ST., #950, SACRAMENTO, CA 95814	PACIFIC MERCHANT SHIPPING ASSN.
GERALD M. CAPLAN 733 15TH STREET, NW WASHINGTON DC 20005	LEGAL SERVICES CORP
CARON INTERNATIONAL/COLUMBIA MINERVA 230 5TH AVENUE NEW YORK NY 10001	
JANET B. CARROLL SUITE 402 419 7TH STREET, NW WASHINGTON DC 20004	NATIONAL RIGHT TO LIFE COMMITTEE
ROBERT J. CASEY 10TH FLOOR 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY
J. WARREN CASSIDY 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN
WALTON M. CHALMERS II 6815 GEORGIA STREET CHEVY CHASE MD 20815	CITIZENS FOR A NUCLEAR FREEZE
CHAMBERS ASSOCIATES SUITE 1000 1100 17TH STREET, NW WASHINGTON DC 20036	AMERICAN POSTAL WORKERS UNION

Organization or Individual Filing	Employer/Client
Do	COMMISSIONED OFFICERS ASSN OF THE PUBLIC HEALTH SERVICE
Do	FACET, CORP
J. WILLIAM CHARRIER JR. 2828 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20007	DELTA STEAMSHIP LINES, INC.
BRUCE L. CHRISTENSEN 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS
CHWAT/WEIGEND ASSOCIATES 226 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	AMERICAN HOME SEWING ASSN, INC
Do	LONG ISLAND UNIVERSITY
Do	MORSE TYPEWRITER CO., INC
Do	NATIONAL ASSN. OF TOBACCO DISTRIBUTORS
CIVIL PILOTS FOR REGULATORY REFORM 2819 NORDHAM DRIVE AUSTIN TX 78745	
CLEARY, GOTTLIEB, STEEN & HAMILTON SUITE 400 1250 CONNECTICUT AVE., NW WASHINGTON DC 20036	SALOMON BROTHERS, INC
CLIFFORD & WARNKE 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	INGERSOLL-RAND COMPANY
COAN, COUTURE, LYONS & MOORHEAD SUITE 1015 1625 EYE ST., NW WASHINGTON DC 20006	FOREST CITY DILLON, INC
COHEN AND URETZ 4TH FLOOR 1775 K ST., NW WASHINGTON DC 20006	ITT CORPORATION
COLE & CORETTE, P.C. 1200 17TH ST., NW WASHINGTON DC 20036	GRAHAM-WHITE MANUFACTURING CO
Do	MEDTRONIC, INC.
Do	MILLIPORE CORPORATION
Do	MOHAWK DATA SCIENCES CORP.
JEFFREY B. CONLEY, NEDA/CAAP 605 14TH STREET, NW WASHINGTON DC 20005	E. BRUCE HARRISON COMPANY, INC
JOHN B. CONNALLY SUITE 900 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: TRAVELERS INSURANCE COMPANY)
GERALD R. CONNOR 6500 WISCONSIN AVENUE CHEVY CHASE MD 20015	AMERICAN PUBLIC HEALTH ASSN
Do	THOMAS E. BRYANT
Do	CONGRESS OF ADVOCATES FOR THE RETARDED, INC
CONSERVATIVES FOR IMMIGRATION REFORM, INC SUITE 321 227 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	
CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS SUITE 300 1755 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	
COOK, PURCELL, HANSEN & HENDERSON 11TH FLOOR 1015 18TH ST., NW WASHINGTON DC 20036	CNA INSURANCE CO OF CHICAGO, ILLINOIS
Do	HOME RECORDING RIGHTS COALITION
Do	NATIONAL ASSN OF GOVERNMENT EMPLOYEES
Do	NATIONAL FOOTBALL LEAGUE
PAUL E. COONEY 1775 PENNSYLVANIA AVE., NW, #1000 WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: CITY OF MINNEAPOLIS)
Do	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP.)
C. WILLIAM COOPER 159 TOWN HALL SQUARE FALMOUTH MA 02540	UNITED DISTRIBUTION COMPANIES
CORNELL, PELCOVITS & BRENNER ECONOMISTS, INC. SUITE 712 1211 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SONY CORP OF AMERICA
CORPORATION FOR GOVERNMENT ACTION SUITE 103 1000 POTOMAC STREET, NW WASHINGTON DC 20007	
MARY ALICE COTTER 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL
COURSEN & COMPANY 910 17TH STREET, NW WASHINGTON DC 20006	ESTATE OF HELEN HALBACH
COVINGTON & BURLING P.O. BOX 7566 WASHINGTON DC 20044	ANCHOR NATL LIFE INSURANCE CO
Do	MIDWEST TELEVISION, INC
DONALD J. CRONIN SUITE 1100 1511 K STREET, NW WASHINGTON DC 20005	FRANK G. KINGSLEY
Do	MILLIKEN & COMPANY
AARON W. CROSS 1801 K STREET, NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP
CROWELL & MORING 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	COMMUNICATIONS SATELLITE CORPORATION
SCOTT S. CUNNINGHAM 1100 15TH STREET, NW WASHINGTON DC 20005	UNION CARBIDE CORP
PATRICK R. CURREN 2008 NORTH DANIEL STREET ARLINGTON VA 22201	CONSERVATIVES AGAINST LIBERAL LEGISLATION
LYNN M. DAFT 1339 WISCONSIN AVENUE, NW WASHINGTON DC 20007	AMERICAN BAKERS ASSOCIATION
ELWYN LABAUVE DARDEN 1224 S. GEORGE MASON DR., APT. 21 ARLINGTON VA 22204	H. H. TIFFANY
M. DENNIS DAUGHERTY 733 15TH STREET, NW WASHINGTON DC 20005	LEGAL SERVICES CORP
EARL F. DAVID SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM CO
DAVIS, WRIGHT, TODD, RIESE & JONES 6TH FLOOR 1050 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007	NATIONAL INDEPENDENT DAIRY FOODS ASSN
ROBERT C. DAWSON 6630 WEST BROAD STREET RICHMOND VA 23230	LAWYERS TITLE INSURANCE CORP
THOMAS C. DAWSON #1200 1730 RHODE ISLAND AVE NW WASHINGTON DC 20036	SMITH DAWSON ASSOCIATES, INC.
THOMAS DEBEVOISE 1200 17TH STREET, NW WASHINGTON DC 20036	GPU SERVCIE CORPORATION
BARBARA JOAN DEFURIA SUITE 502 1500 WILSON BOULEVARD ARLINGTON VA 22209	ROUNDTABLE ISSUES & ANSWERS
GEORGE H. DENISON 4837 DEL RAY AVE. WASHINGTON DC 20814	NATIONAL OFFICE PRODUCTS ASSN
LLOYD J. DERRICKSON SUITE 906 1828 L STREET, NW WASHINGTON DC 20036	MERRILL LYNCH & CO., INC.
DGA INTERNATIONAL INC 1225 19TH ST., NW WASHINGTON DC 20036	DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS
LOUIS H. DIAMOND 10TH FLOOR 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY
DICKSTEIN SHAPIRO & MORIN 2101 L ST., NW WASHINGTON DC 20037	CORAL PETROLEUM, INC
Do	GILBANE BUILDING CO
Do	HOME HEALTH SERVICES & STAFFING ASSN
Do	HVIDE SHIPPING, INC
Do	METROPOLITAN TRANSPORTATION AUTHORITY
DIMENSIONS, INC. 641 MCKNIGHT STREET READING PA 19601	
DOW LOHNES & ALBERTSON 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	EASTERN MICROWAVE, INC
Do	PALMER COMMUNICATIONS, INC
JOHN H. DOWNS JR. 1101 16TH STREET, NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN
DANIEL A. DUTKO SUITE 214 412 FIRST STREET, SE WASHINGTON DC 20003	CALIFORNIA WESTSIDE FARMERS
Do	DOUGLAS OIL PURCHASING CORP
EDITH W. DYLAN SUITE 906 1828 L STREET, NW WASHINGTON DC 20036	MERRILL LYNCH & CO., INC.
GEORGE H. EATMAN SUITE 3210 490 L'ENFANT PLAZA, SW WASHINGTON DC 20024	SLURRY TRANSPORT ASSN
DANIEL J. EDELMAN, INC. SUITE 460 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ROSES, INC
Do	SONY CORP OF AMERICA
EPSTEIN, BECKER, BORSODY & GREEN SUITE 900 1140 19TH ST., NW WASHINGTON DC 20036	TRANSIT ADVERTISERS ASSN
PAUL A. EQUALE SUITE 503 1120 19TH ST., NW WASHINGTON DC 20036	INDEPENDENT INSURANCE AGENTS OF AMERICA, INC
INGOLF G. ESDERS, 815 16TH ST., NW WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSN., AFL-CIO
BROCK EVANS 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY
RAE FORKER EVANS SUITE 210 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	HALLMARK CARDS, INC
CONRAD H. C. EVERHARD WALL STREET PLAZA NEW YORK NY 10005	AMERICAN GLOBAL LINE, INC.
KY P. EWING JR. 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: TRAVELERS INSURANCE CO.)
F/P RESEARCH ASSOCIATES SUITE 303 1700 K STREET, NW WASHINGTON DC 20006	NATIONAL CABLE TELEVISION ASSN.
FARMERS FOR FAIRNESS P.O. BOX 6288 CAMILLA GA 31730	
MICHAEL FEINSTEIN 1319 F STREET, NW WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS
JANICE A. FENBERG SUITE 602 1155 15TH STREET, NW WASHINGTON DC 20005	PENNZOIL CO
ALLEN R. FERGUSON 1525 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	PUBLIC INTEREST ECONOMICS FOUNDATION
E. JAY FINKEL SUITE 1200 1133 15TH STREET, NW WASHINGTON DC 20005	PORTER WRIGHT MORRIS & ARTHUR (FOR: J. ROYAL PARKER ASSOCS.)
FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY 10TH FLOOR 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	
MICHAEL FLEMING SUITE 1010 1300 NORTH 17TH STREET ARLINGTON VA 22209	AMERICAN ASSN OF EQUIPMENT LESSORS
FLORIDA BUSINESS ASSOCIATES SUITE 200 2000 L STREET, NW WASHINGTON DC 20036	WESTINGHOUSE ELECTRIC CORP
FOLEY LARDNER HOLLABAUGH & JACOBS 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	LAWYERS TITLE INSURANCE CORP
NANCY E. FOSTER SUITE 510 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN SOYBEAN ASSN
PETER M. FRANK SUITE 906 1625 K STREET, NW WASHINGTON DC 20006	KERR-MCGEE CORP.
FULBRIGHT & JAWORSKI 1150 CONNECTICUT AVE., NW, #400 WASHINGTON DC 20036	ALAMO RENT A CAR.
Do	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS
JAMES E. GAFFIGAN SUITE 607 1899 L STREET, NW WASHINGTON DC 20036	TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL
LARRY GALLO 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	CHEMICAL SPECIALTIES MANUFACTURERS ASSN
GARDNER, CARTON & DOUGLAS 1875 I ST., NW WASHINGTON DC 20006	K-A COMPANY
JOHN C. GARTLAND 1019 19TH STREET, NW WASHINGTON DC 20036	AMWAY CORPORATION
GARVEY, SCHUBERT, ADAMS & BARER 1000 POTOMAC ST., NW WASHINGTON DC 20006	PORT OF TILLAMOOK BAY & TILLAMOOK COUNTY
JOSE A. GEMEIL SUITE 302 1100 17TH STREET, NW WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: INSTITUTO BRASILEIRO DO CAFE)
RICHARD GILBERT 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PUBLIC HEALTH ASSN
FLOYD H. GILKEY 2111 HARBOR DRIVE ANNAPOLIS MD 21401	CHESAPEAKE INDUSTRIES, INC
DAVID S. GILROY 715 EIGHTH STREET, NW WASHINGTON DC 20003	NATIONAL VICTIMS OF CRIME
SAMUEL P. GINDER 2361 S. JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	PRESEARCH, INC
DAVID B. GLANCEY 2600 THE FIDELITY BUILDING PHILADELPHIA PA 19109	
JERE W. GLOVER SUITE 1201 1001 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	NATIONAL COUNCIL FOR INDUSTRIAL INNOVATION
MARTIN B. GOLD THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)
Do	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC.)
Do	GRAY AND COMPANY (FOR: NEW CHANNELS CORP)
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS, INC)
HOWARD S. GOLDBERG 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL, INC. (FOR: SOFREAVIA)
MILLICENT GORHAM SUITE 400E 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN
ROBERT K. GRAY THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)
Do	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC)
Do	GRAY AND COMPANY (FOR: NEW CHANNELS CORP.)

Organization or Individual Filing	Employer/Client
JOHN F. GRAYBEAL SUITE 1000 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP)
KATHLENE H. GREEN SUITE 225 2550 M STREET, NW WASHINGTON DC 20037	CONGOLEUM CORP
JANE E. GREENBAUM 25TH & MCGEE KANSAS CITY MO 64108	HALLMARK CARDS, INC
GROOM & NORDBERG 1775 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	GOLDMAN, SACHS & COMPANY
JOHN T. GRUPENHOFF SUITE 306 10,000 FALLS ROAD POTOMAC MD 20854	AMERICAN SOCIETY FOR GASTROINTESTINAL ENDOSCOPY
CLARK J. GUILD JR., GUILD, HAGEN & CLARK, LTD. 102 ROFF WAY RENO NV 89505	MOTION PICTURE ASSN OF AMERICA, INC
JAMES L. GYORY SUITE 709 2021 K STREET, NW WASHINGTON DC 20006	
CRAIG HACKLER 412 FIRST ST., SE SUITE 214 WASHINGTON DC 20003	HILLCREST EQUITIES, INC
RANDOLPH M. HALE 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS
SEYMOUR HALPERN 540 MADISON AVE. NEW YORK NY 10022	BARON/CANNING AND CO, INC (FOR: NATIONAL PASSENGER TRAFFIC ASSN, INC)
HAMEL PARK MCCABE & SAUNDERS 888 16TH STREET, NW WASHINGTON DC 20006	ESTATE OF HELEN WODELL HALBACH
Do	GOVERNMENT OF THE U.S. VIRGIN ISLANDS
Do	VIRGIN ISLANDS TRADE & ECONOMIC DEVELOPMENT INSTITUTE
HANSELL, POST, BRANDON & DORSEY, 1915 I ST., NW WASHINGTON DC 20006	EASTERN AIR LINES, INC
MARGARET K. HARDING 1000 WILSON BLVD. ARLINGTON VA 22209	KIMBERLY-CLARK CORP
JUDY L. HARRIS SUITE 409 444 NORTH CAPITOL ST., NW WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC
WILLIAM H. HARSHA 1102 DELF DRIVE MCLEAN VA 22101	WM. H. HARSHA & ASSOC., INC. (FOR: AIRLINE PILOTS' ASSN)
ARTHUR W. HARTMANN 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN
JULIANE B. HARVEY SUITE 220 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN CYANAMID CO
JANET HATHAWAY 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	CONGRESS WATCH
ROBERT A. HAYNOS 4711 HUNT CIRCLE HARRISBURG PA 17112	HARSCO CORPORATION
MARY CONNELL HEDBERG SUITE 321 227 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	CONSERVATIVES FOR IMMIGRATION REFORM, INC
PATTI HEDGE 278 POST STREET SAN FRANCISCO CA 94108	WILDERNESS SOCIETY
STEVEN B. HELLEM NEDA/CAAP 605 14TH STREET, NW WASHINGTON DC 20005	E. BRUCE HARRISON COMPANY, INC
HERRICK & SMITH 100 FEDERAL STREET BOSTON MA 02110	SMITH COLLEGE
CAROL M. HERRINGTON 1235 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	EMERSON ELECTRIC CO
PAT L. HETH SUITE 906 1625 K STREET, NW WASHINGTON DC 20006	KERR-MCGEE CORPORATION
STEPHEN HITCHNER 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE
HOGAN & HARTSON 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	DESIGN PROFESSIONS GROUP
Do	GLENDALE FEDERAL SAVINGS & LOAN ASSN
Do	NATIONAL HOSPICE EDUCATION PROJECT
HOLLAND & KNIGHT 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	RSV MINING EQUIPMENT B.V.
HOPKINS & SUTTER THREE FIRST NATIONAL PLAZA, #4200 CHICAGO IL 60602	CBI INDUSTRIES, INC
Do	CONGOLEUM CORPORATION
Do	MANAGEMENT INSIGHTS, INC
JOHN A. HOWES SUITE 290 1050 17TH STREET, NW WASHINGTON DC 20036	CONSUMERS POWER CO
HUGHES HUBBARD & REED SUITE 300 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	CONTINENTAL AIR LINES, INC
Do	GROCERY MANUFACTURERS OF AMERICA, INC
VESTER T. HUGHES JR. HUGHES & HILL 1000 MERCANTILE DALLAS BUILDING DALLAS TX 75201	AMERICAN GENERAL LIFE INSURANCE CO
Do	AMERICAN NATIONAL INSURANCE COMPANY
Do	REPUBLIC NATIONAL LIFE INSURANCE COMPANY
MARGOT SMILEY HUMPHREY 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)
GARY HYMEL THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)
FRANK N. IKARD TENTH FLOOR 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY
JOHN H. INGRAM NICKERSON-INGRAM & ASSOCIATES, INC 1150 17TH STREET, NW, #607 WASHINGTON DC 20036	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
IVINS, PHILLIPS & BARKER, CHTD., 1700 PENNSYLVANIA AVE NW WASHINGTON DC	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION
CHARLES L. JACKSON 1850 K STREET, NW WASHINGTON DC 20006	SHOOSHAN & JACKSON, INC (FOR: U.S. CABLESYSTEMS, INC.)
DOUGLAS F. JOHN, MCDERMOTT, WILL & EMERY 1850 K STREET, NW, #500 WASHINGTON DC 20006	MEDINA ELECTRIC COOPERATIVE, INC
Do	SOUTH TEXAS ELECTRIC COOPERATIVE, INC
CLIFFORD T. JOHNSON 1700 NORTH MOORE STREET ROSSLYN VA 22209	BOEING MILITARY AIRPLANE COMPANY
GEORGE DEAN JOHNSON JR., JOHNSON SMITH & HIBBARD P.O. BOX 5524 SPARTANBURG SC 29304	WASTE MANAGEMENT, INC
LAWRENCE D. JOHNSON 800 NORTH HIGHLAND AVENUE ORLANDO FL 32803	UNION NAVIGATION CORP, LTD (HONGKONG CORP)
PAULA JOHNSON 4789 POTOMAC AVENUE, NW WASHINGTON DC 20007	NATIONAL ASSN OF STEVEDORES
JONES & WINBURN SUITE 1040 1101 15TH STREET, NW WASHINGTON DC 20005	CITY OF BATON ROUGE
THEODORE L. JONES 3081 TEDDY DRIVE, BATON ROUGE LA 70809	INSURANCE ASSN OF CONNECTICUT
JONES, DAY, REAVIS & POGUE 1735 I ST., NW WASHINGTON DC 20006	MISSISSIPPI CHEMICAL CORP
DAVID W. JOYNER 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN
LINDA HELLER KAMM 1775 PENNSYLVANIA AVE., NW SUITE 1000 WASHINGTON DC 20006	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP)
KAPLAN RUSSIN & VECCHI 1218 16TH STREET, NW WASHINGTON DC 20036	AMERICAN CHAMBER OF COMMERCE OF THE DOMINICAN REPUBLIC
Do	TADIRAN ISRAEL ELECTRONICS INDUSTRIES, LTD
ALAN C. KAUFFMAN 2600 FIDELITY BUILDING PHILADELPHIA PA 19109	
JOSEPH D. KEEFER SUITE 1050 1825 EYE STREET, NW WASHINGTON DC 20006	NATIONAL COUNCIL ON SYNTHETIC FUELS PRODUCTION
JOHN D. KELLY 1875 EYE STREET, NW WASHINGTON DC 20006	TOBACCO INSTITUTE
ART KENNEDY P.O. BOX 3576 ECB ANCHORAGE AK 99501	ALASKA RESOURCE ANALYSTS, INC
JOHN E. KENNEDY VINSON & ELKINS 3300 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES
EDWARD B. KENNEY & ASSOCIATES, INC SUITE 1610 1700 NORTH MOORE STREET ARLINGTON VA 22209	LOCKHEED-GEORGIA
KING & SPALDING 1915 I STREET, NW WASHINGTON DC 20006	
JANIE A. KINNEY #408 1015 18TH ST., NW WASHINGTON DC 20036	MERCK & CO, INC
PAUL G. KIRK JR. SULLIVAN & WORCESTER 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL FOOTBALL LEAGUE
KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS 1900 M ST., NW WASHINGTON DC 20036	AMERICAN STOCK EXCHANGE
KIRLIN, CAMPBELL & KEATING SUITE 800 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN
RICHARD L. KLASS 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL. INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMAMENTS)
KOMINERS, FORT, SCHLEFER & BOYER 1776 F ST., NW WASHINGTON DC 20006	COUNCIL OF EDUCATIONAL SHIPOWNERS
JAMES C. KRONE 1152 HASLETT ROAD P.O. BOX 99 HASLETT MI 48840	ROSES, INC
KUTAK, ROCK & HUIE 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	NATIONAL ASSN OF INDUSTRIAL & OFFICE PARKS
Do	RONALD E. ROBINSON
BRUCE C. LADD JR. 1776 K STREET, NW WASHINGTON DC 20006	MOTOROLA, INC
ROBERT A. LADIG, SCOTT PLAZA PHILADELPHIA PA 19113	SCOTT PAPER COMPANY
JAMES H. LAKE SUITE 420 1280 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	AMERICAN BAKERS ASSN
Do	RSV MINING CO.
V. KIM LAMB SUITE 515 1835 K STREET, NW WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES
STEPHEN K. LAMBRIGHT 1211 CONNECTICUT AVE., NW, #502 WASHINGTON DC 20036	ANHEUSER-BUSCH COMPANIES, INC.
LANGHAM PETROLEUM EXPLORATION CORP. SUITE 3100 11 GREENWAY PLAZA HOUSTON TX 77046	
LATHAM, WATKINS, & HILLS SUITE 1200 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	IRVINE COMPANY
Do	THOMAS SAFRAN & ASSOCIATES
JOAN H. LAVOR 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA
CORNELIUS J. LEARY 2113 COUNTRYSIDE DRIVE SILVER SPRING MD 20904	AMERICAN COUNCIL OF INTERNATIONAL PERSONNEL, INC
ELIZABETH LEMOND 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE
JOHN LENGEL, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)
ANN LENTS, VINSON & ELKINS 3000 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES
LEVA HAWES SYMINGTON MARTIN & OPPENHEIMER SUITE 1001 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN
Do	FINNIGAN CORPORATION
LESLIE LEVY 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE
LEWIS AND ROCA 100 WEST WASHINGTON PHOENIX AZ 85003	INSPIRATION CONSOLIDATED COPPER COMPANY
LILLICK MCHOSE & CHARLES 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	JOHNSON SCANSTAR
Do	KAISER STEEL CORP
RON M. LINTON SUITE 200 1015 18TH ST., NW WASHINGTON DC 20036	DENVER TECHNOLOGICAL CENTER
CHARLES B. LIPSEN 1826 CALVERT STREET, NW WASHINGTON DC 20006	KEMP, KLEIN, ENDELMEN & BEER
LOOMIS OWEN FELLMAN & HOWE 2020 K ST., NW WASHINGTON DC 20006	BOOK MANUFACTURERS' INSTITUTE, INC
RODNEY W. LOWMAN SUITE 700 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	GULF OIL CORPORATION
SUSAN LUEPERSBECK 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE
THOMAS L. MACK 12808 BRUSHWOOD TERRACE POTOMAC MD 20854	BECHTEL POWER CORPORATION
J. LYNN MADDOX SUITE 1204 1700 K STREET, NW WASHINGTON DC 20006	CHEVRON U.S.A., INC
FRANCIS E. MAGUIRE JR. 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN
MANATT, PHELPS, ROTHENBERG & TUNNEY SUITE 200 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	JMB REALTY CORPORATION
Do	MARLINE OIL CORP
Do	MID ATLANTIC NEPHROLOGY CENTER, LTD
THOMAS P. MARINIS JR. 3300 FIRST CITY TOWER HOUSTON TX 77002	VINSON & ELKINS (FOR: GALVESTON WHARVES OF THE CITY OF GALVESTON, TEXAS)
Do	VINSON & ELKINS (FOR: GUADALUPE BLANCO RIVER AUTHORITY)
Do	VINSON & ELKINS (FOR: MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT CORP
LUTHER A. MARKWART SUITE 1019 1156 15TH STREET, NW WASHINGTON DC 20005	AMERICAN SUGARBEET GROWERS ASSN
JOHN M. MARTIN JR. 6009 FORT HUNT ROAD ALEXANDRIA VA 22307	JEWELRY INDUSTRY COORDINATING COMMITTEE

Organization or Individual Filing	Employer/Client
COLIN D. MATHEWS 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: TRAVELERS INSURANCE COMPANY)
RICHARD D. MATHIAS SUITE 901 1660 L STREET, NW WASHINGTON DC 20036	PAN AMERICAN WORLD AIRWAYS, INC
MARSHALL L. MATZ, BARNETT & ALAGIA 1627 K STREET, NW WASHINGTON DC 20006	AFFILIATED FOOD PROCESSORS, INC
Do	AMERICAN BAKERS ASSOCIATION
JEFFREY G. MAYS SUITE 400E 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN
JOHN C. MCCARTHY BOX 1300 MCLEAN VA 22102	MELAMINE CHEMICALS, INC
Do	STATE OF LOUISIANA
MARK T. MCDERMOTT, JOSEPH, POWELL, MCDERMOTT & REINER, P.C. 1300 19TH STREET, NW, #400 WASHINGTON DC 20036	CIVIL PILOTS FOR REGULATORY REFORM
MCKENNA, CONNER & CUNEO 3435 WILSHIRE BOULEVARD LOS ANGELES CA 90010	AHMANSON FOUNDATION
MICHAEL R. MCLEOD, DAVIS & MCLEOD 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	LEAF TOBACCO EXPORTERS ASSN
MCNAIR GLENN KONDUROS CORLEY SINGLETARY PORTER & DIBBLE 1155 15TH STREET, NW WASHINGTON DC 20005	DAVIS POLK & WARDWELL
Do	NATIONAL OFFICE MACHINE DEALERS ASSN
MEEHAN & STOELKER 2200 TWO GIRARD PLAZA PHILADELPHIA PA 19102	MILLIKEN RESEARCH CORP
MERRILL LYNCH & CO., INC. SUITE 906 1818 L STREET, NW WASHINGTON DC 20036	
BRIAN M. MEYER 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN
LARRY D. MEYERS SUITE 214 412 FIRST STREET, SE WASHINGTON DC 20003	CALIFORNIA WESTSIDE FARMERS
Do	NATIONAL PEANUT GROWERS GROUP
Do	NORTH CAROLINA FARM BUREAU
MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING 1520 OHIO SAVINGS PLAZA CLEVELAND OH 44114	
S. F. MIERS JR. BOX 300 TULSA OK 74102	CITIES SERVICE COMPANY
JOE D. MILLER 535 NORTH DEARBORN ST. CHICAGO IL 60610	AMERICAN MEDICAL ASSN
ROBERTA BALSTAD MILLER SUITE 300 1755 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	CONSORTIUM OF SOCIAL SCIENCE ASSNS
CHARLES A. MONFORT SUITE 1101 1346 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	UNION OF CONCERNED SCIENTISTS
JEANNE MORIN 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.
MORRISON & FOERSTER, #800, 1920 N STREET, NW WASHINGTON DC 20036	CITY AND COUNTY OF SAN FRANCISCO
FRANK DOMINIC MUSICA 1625 EYE STREET, NW WASHINGTON DC 20006	AMERICAN SOCIETY OF CIVIL ENGINEERS
CLIFFORD M. NAEVE SUITE 503 1919 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	MID-CONTINENT OIL & GAS ASSN
ALAN Y. NAFTALIN 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)
LOUIS NAGY BOND COURT BUILDING CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING
NATIONAL ASSN OF INSURANCE BROKERS, INC SUITE 700 311 FIRST STREET, NW WASHINGTON DC 20001	
NATIONAL ASSN OF PENSION FUNDS 1150 CONNECTICUT AVE., NW WASHINGTON DC 20036	
NATIONAL ASSN OF STEVEDORES SUITE 705 1899 L STREET, NW WASHINGTON DC 20036	
NATIONAL VICTIMS OF CRIME 715 EIGHTH STREET, NW WASHINGTON DC 20003	
NEILL & COMPANY, INC SUITE 410 1100 17TH STREET, NW WASHINGTON DC 20036	GOVERNMENT OF EL SALVADOR
NEILL & MULLENHOLZ SUITE 410 1100 17TH STREET, NW WASHINGTON DC 20036	GOVERNMENT OF EL SALVADOR
E. COLETTE NELSON SUITE 540 8401 CORPORATE DRIVE LANDOVER MD 20785	AMERICAN SUBCONTRACTORS ASSN, INC
NOSSAMAN, KRUEGER & MARSH 1140 19TH ST., NW, #600 WASHINGTON DC 20036	FOOD MARKETING INSTITUTE
Do	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS, INC
Do	MOBIL OIL CORP
MICHAEL NOVELLI 3012 CAMBRIDGE PLACE, NW WASHINGTON DC 20007	PACIFIC POTOMAC SERVICES
O'CONNOR & HANNAN 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	BERENERGY CORPORATION
Do	BLYTH EASTMAN PAINE WEBBER HEALTH CARE FUNDING, INC
Do	CLAIBORNE GASOLINE COMPANY
Do	CNA INSURANCE
Do	CRINCO INVESTMENTS, INC
Do	GOLDEN GATEWAY CENTER
Do	GOLDMAN SACHS & CO.
Do	INSURANCE ECONOMICS SOCIETY OF AMERICA
Do	LORD, BISSELL & BROOK
Do	MERRILL LYNCH WHITE WELD CAPITAL MARKETS GROUP
Do	MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY
Do	PADDOCK PUBLICATIONS, INC
Do	WORLD BOOK LIFE INSURANCE COMPANY
O'MELVENY & MYERS 1800 M ST., NW WASHINGTON DC 20036	LOCKHEED CORPORATION
Do	WARNER COMMUNICATIONS, INC.
O'NEILL AND HAASE, P.C. SUITE 1110 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	MARRIOTT CORPORATION
PATRICIA M. O'TOOLE SUITE 800 1100 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	UNION OIL COMPANY OF CALIFORNIA
R.Q. OLD AND ASSOCIATES, INC. 205 THE STRAND ALEXANDRIA VA 22314	FORD AEROSPACE & COMMUNICATIONS CORP
OREGON STEEL MILLS C/O GOVERNMENT RELATIONS ASSOCIATES, INC 1629 K STREET, NW, #401 WASHINGTON DC 20006	
ELVIRA J. ORLY 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	GETTY OIL COMPANY
JOSE A. ORTIZ-DALIOT SUITE 410 1522 K STREET, NW WASHINGTON DC 20005	HOUSE OF REPRESENTATIVES - P.R.
HIDEAKI OTAKA SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC
JACK W. OWEN SUITE 500 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN
PARRISH & CHAMBERS, INC. SUITE 1510 1300 17TH ST., NW ARLINGTON VA 22209	FORUM COMMUNICATIONS
Do	WESTINGHOUSE ELECTRIC CORP
PATTON BOGGS & BLOW SUITE 800 2550 M ST., NW WASHINGTON DC 20037	AMERICAN COLLEGE OF MORTGAGE ATTORNEYS
Do	CITY NATIONAL BANK OF BEVERLY HILLS, CA
Do	COUPON BOND TAX COMMITTEE
Do	E.F. HUTTON LIFE INSURANCE COMPANY
Do	INDECO, INC
Do	LOCKHEED AIRCRAFT
Do	NATIONAL COALITION FOR PORT PROGRESS
PAUL, HASTINGS, JANOFSKY & WALKER 6TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	AMERICAN TELEPHONE & TELEGRAPH CO
PAUL WEISS RIFKIND WHARTON & GARRISON 345 PARK AVE. NEW YORK NY 10022	CHRIS-CRAFT INDUSTRIES, INC
Do	COLT INDUSTRIES, INC
PEABODY, LAMBERT & MEYERS 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	GOVERNMENT OF THE VIRGIN ISLANDS
Do	VIRGIN ISLANDS TRADE & ECONOMIC DEVELOPMENT INSTITUTE
ANDREW PENN 918 16TH STREET, NW WASHINGTON DC 20006	AMERICAN LOGISTICS ASSN
PERKINS COIE STONE OLSEN & WILLIAMS SUITE 1200 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	BOEING COMPANY
WILLIAM G. PHILLIPS, D.C. ASSOCIATES, INC. 402 THIRD STREET, SE WASHINGTON DC 20003	AMERICAN VOCATIONAL ASSN
Do	ASSOCIATION OF UNIVERSITY ENVIRONMENTAL HEALTH CENTERS
PIERSON BALL & DOWD 1200 18TH ST., NW WASHINGTON DC 20036	BOEING COMPANY
RICHARD POLLACK 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN
MARK POWDEN SUITE 408 815 16TH STREET, NW WASHINGTON DC 20006	FOOD AND BEVERAGE TRADES DEPT., AFL-CIO
POWELL GOLDSTEIN FRAZER & MURPHY SUITE 1050 1110 VERMONT AVE., NW WASHINGTON DC 20005	COMMITTEE AGAINST REGULATION OF VIDEO ENTERPRISES
Do	RUBBER MANUFACTURERS ASSN
PRESTON THORGRIMSON ELLIS & HOLMAN 1776 G ST., NW, #500 WASHINGTON DC 20006	BELLINGHAM COLD STORAGE
Do	BOEING COMPANY
Do	PORT OF TACOMA
BARBARA J. PRICE SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY
R/A AND ASSOCIATES SUITE 801 1100 17TH STREET, NW WASHINGTON DC 20036	WAGNER & BAROODY
RADNOR CORPORATION P.O. BOX 1308 JUPITER FL 33458	
RAGAN & MASON 900 17TH ST., NW WASHINGTON DC 20006	CURTISS-WRIGHT CORP
LAW OFFICES OF JOHN SUITE 429 1800 K STREET, NW WASHINGTON DC 20006	BOARD OF TRADE CLEARING CORP
ROBERT A. RAPOZA SUITE #6 1016 16TH STREET, NW WASHINGTON DC 20036	CAMPAIGN FOR COMMUNITY ECONOMIC DEVELOPMENT
Do	NATIONAL FEDERATION OF HOUSING COUNSELLORS
Do	NATIONAL RURAL HOUSING COALITION
HARRY M. REASONER, VINSON & ELKINS 3000 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES
REID & PRIEST 1111 19TH ST., NW WASHINGTON DC 20036	CSX CORP
Do	KAMEHAMEH SCHOOLS/BERNICE P. BISHOP ESTATE
Do	TUCSON ELECTRIC POWER CO
REID & RIEGE, P.C. ONE CONSTITUTION PLAZA HARTFORD CT 06103	WESLEYAN UNIVERSITY
REPUBLIC NATIONAL LIFE INSURANCE COMPANY 3988 N. CENTRAL EXPRESSWAY DALLAS TX 75204	
JAMES E. RICH JR. SUITE 200 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SHELL OIL COMPANY
STACY RICHARDS SUITE 802 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL
E. GEORGE RIEDEL SUITE 200 1707 L STREET, NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORP
PATRICIA L. ROBERTS SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM CO
JOHN S. ROBERTSON THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)
Do	GRAY AND COMPANY (FOR: MULTI-FAMILY ACTION COUNCIL)
ROGERS & WELLS 1666 K ST., NW WASHINGTON DC 20006	WILLIAM ANTHONY HOGAN
AL ROGERS 3000 TOWN CENTER SOUTHFIELD MI 48075	M.A.N. TRUCK & BUS CORP
ROGOVIN, HUGE & LENZNER, P.C. 1730 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	SHOSHONE AND ARAPAHOE INDIAN TRIBES

Organization or Individual Filing	Employer/Client
TENO RONCALIO P.O. BOX 1707 CHEYENNE WY 82001	ENERGY FUELS CORP
FRED B. ROONEY 1300 19TH ST., NW, #404 WASHINGTON DC 20036	PAUL, HASTINGS, JANOFSKY & WALKER (FOR: SECURITY LIFE OF DENVER)
ROPES & GRAY SUITE 360 1200 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	AMHERST COLLEGE; WELLESLEY COLLEGE
ROSES, INC. 1152 HASLETT ROAD P.O. BOX 99 HASLETT MI 48840	
TOBI Z. ROZEN 910 17TH STREET, NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION
DEBORAH K. RUDOLPH 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN PUBLIC TRANSIT ASSN
WILLIAM J. RUMSEY 6630 WEST BROAD STREET RICHMOND VA 23230	LAWYERS TITLE INSURANCE COMPANY
RANDALL M. RUSSELL PILLSBURY CENTER MINNEAPOLIS MN 55402	PILLSBURY COMPANY
JAMES H. SAMMONS 535 NORTH DEARBORN STREET CHICAGO IL 60610	AMERICAN MEDICAL ASSOCIATION
KLARA B. SAUER 9 VASSAR STREET POUGHKEEPSIE NY 12601	SCENIC HUDSON, INC
MARK S. SCHACHT SUITE 600 806 15TH STREET, NW WASHINGTON DC 20005	FARMWORKER JUSTICE FUND, INC
MARC J. SCHEINESON 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY
BARI SCHWARTZ, 1625 K STREET, NW WASHINGTON DC 20006	COALITION FOR LEGAL SERVICES
SCOTT COMPANY 8 JACANA ROAD HILTON HEAD SC 29928	BLACK ISLAND PLANTATION
Do	CHARLOTTE HARBOR LAND CO, INC
Do	DAUFUSKIE ISLAND LAND TRUST
Do	FLORIDA LAND COMPANY
Do	GREENWOOD DEVELOPMENT CORP
Do	HARBOR ISLAND DEVELOPMENT CO
Do	ISLAND DUNES
Do	KIAWAH ISLAND COMPANY
Do	LEISURE PROPERTIES, LTD
Do	MILAM & WILBUR
Do	NEW SEABURY
Do	RDC, INC
Do	SEABROOK ISLAND CO
Do	STOCKMAN WHATLEY DAVIN & CO
SCRIBNER HALL & THOMPSON SUITE 700 1875 EYE STREET, NW WASHINGTON DC 20006	PHILADELPHIA LIFE INSURANCE CO
CHARLES M. SEEGER III SUITE 802 2000 L STREET, NW WASHINGTON DC 20036	POPHAM, HAIK ET AL. (FOR NEWCOMB COMMODITIES CORP)
STUART D. SERKIN SUITE 3210 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	SLURRY TRANSPORT ASSN
SEWARD & KISSEL 919 18TH ST., NW WASHINGTON DC 20006	A. I. LEASING CORP
SHAW PITTMAN POTTS & TROWBRIDGE 1800 M ST., NW, #900-S WASHINGTON DC 20036	AKAI AMERICA, LTD
Do	HITACHI SALES CORP OF AMERICA
Do	MATSUSHITA ELECTRIC CORP OF AMERICA
Do	MITSUBISHI ELECTRIC SALES OF AMERICA, INC
Do	NEC ELECTRONICS (USA) INC
Do	SANSUI ELECTRONICS CORPORATION
Do	SANYO ELECTRIC, INC
Do	SHARP ELECTRONICS CORPORATION
Do	SONY CORP OF AMERICA
Do	TOSHIBA AMERICA, INC
Do	US JVC CORP
SHEA & GOULD 330 MADISON AVE. NEW YORK NY 10017	DANVILLE RESOURCES, INC
Do	HOSPITAL CORP OF AMERICA
JAY SHERMAN 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE
ROBERT VERNON SHIRLEY 35 E STREET, NW WASHINGTON DC 20001	PELTON RESEARCH CENTER
SHOOSHAN & JACKSON, INC 1850 K STREET, NW WASHINGTON DC 20006	
HARRY M. SHOOSHAN III 1850 K STREET, NW WASHINGTON DC 20006	SHOOSHAN & JACKSON, INC (FOR: U.S. CABLESYSTEMS, INC)
MARK A. SIEGEL & ASSOC., INC., 400 N. CAPITOL ST. #368, WASHINGTON DC 20001	NESTLE COORDINATION CENTER FOR NUTRITION, INC.
BARBARA L. SIMON 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY
WILLIAM G. SIMPSON SUITE 424 1155 15TH STREET, NW WASHINGTON DC 20005	J.R. SCRIBNER ENTERPRISES
GREGG P. SKALL BLUM & NASH 1015 18TH STREET, NW WASHINGTON DC 20036	UNIDEN CORP OF AMERICA
BETH SUSAN SLAVET ROOM 164 1776 PENNSYLVANIA AVE., NW WASHINGTON DC 20547	AMERICAN FED OF GOVERNMENT EMPLOYEES, LOCAL 1812
CATHERINE REISS SLOAN 1850 K STREET, NW WASHINGTON DC 20006	SHOOSHAN & JACKSON, INC (FOR: U.S. CABLESYSTEMS, INC)
PETER SMALL 400 MADISON AVENUE NEW YORK NY 10017	PETER SMALL & ASSOCIATES, INC. (FOR: WILLIAM M. MERCER, INC.)
SMATHERS SYMINGTON & HERLONG SUITE 400 1700 K ST., NW WASHINGTON DC 20006	NATIONAL HOCKEY LEAGUE
JEFFREY A. SMITH SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC
KERN SMITH BOX 24200 SW STATION WASHINGTON DC 20024	AMERICAN HEALTH INDUSTRIES
WILLIAM L. SOLLEE 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	PUBLIC SERVICE ELECTRIC & GAS CO.
CHARLES R. SONNIER, SONNIER & HEBERT P.O. BOX 1101 ABBEVILLE LA 70510	
PHILIP SPESER 1755 MASSACHUSETTS AVE, NW #300 WASHINGTON DC 20036	CONSORTIUM OF SOCIAL SCIENCE ASSNS
DAVID P. STANG, P.C. SUITE 601 1629 K ST., NW WASHINGTON DC 20006	EMPLOYEE STOCK OWNERSHIP ASSN
STATE & FEDERAL ASSOCS, INC SUITE 204 1101 15TH ST., NW WASHINGTON DC 20005	WASTE MANAGEMENT, INC
SAMUEL E. STAVISKY & ASSOCIATES, INC SUITE 302 1100 17TH STREET, NW WASHINGTON DC 20036	INSTITUTO BRASILEIRO DO CAFE
SAMUEL E. STAVISKY 1100 17TH ST., NW, #302 WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: INSTITUTO BRASILEIRO DO CAFE)
J. C. STEEN 406 FIRST STREET, SE WASHINGTON DC 20003	FORD AEROSPACE & COMMUNICATIONS CORP
Do	GENERAL MOTORS CORPORATION
MARCY STEPHENS 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE
MICHAEL K. STEPHENSON ONE WASHINGTON CIRCLE, NW WASHINGTON DC 20006	BECHTEL POWER CORP
WILLIAM P. STEPONKUS, STEPONKUS & ASSOCIATES 815 CONNECTICUT AVE., NW, #810 WASHINGTON DC 20006	UNITED SERVICES AUTOMOBILE ASSN
STEPTOE & JOHNSON 1250 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALLIANCE FOR CANNABIS THERAPEUTICS
Do	MASSACHUSETTS MUTUAL LIFE INSURANCE CO., ET AL.
RICHARD H. STERN 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	INTEL CORPORATION
EUGENE L. STEWART 1001 CONNECTICUT AVE., NW, #910 WASHINGTON DC 20036	ROSES, INC.
PATTI A. STOLL 100 FEDERAL STREET BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON
JOHN C. STONE BOX 1300 MCLEAN VA 22102	MELAMINE CHEMICALS, INC
Do	STATE OF LOUISIANA
KAREN PELTZ STRAUSS 600 NEW JERSEY AVENUE, NW WASHINGTON DC 20001	INSTITUTE FOR PUBLIC REPRESENTATION
SULLIVAN & CROMWELL 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	INCO UNITED STATES, INC
Do	INTERCONTINENTAL HOTELS CORPORATION
Do	LIGGETT GROUP, INC
Do	MERRILL LYNCH PIERCE FENNER & SMITH, INC.
SUNSET DESIGNS 3401 CROW CANYON ROAD SAN RAMON CA 94583	
SURREY & MORSE 1156 15TH ST., NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN
SUTHERLAND ASBILL & BRENNAN 1666 K ST., NW WASHINGTON DC 20006	BAKER INTERNATIONAL
Do	HOLLYWOOD, INC
Do	MACCABEES MUTUAL LIFE INSURANCE CO
Do	NESTLE COORDINATION CENTER FOR NUTRITION, INC
DEBORAH SWARTZ 644 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20515	FOOTWEAR INDUSTRIES OF AMERICA
ALBERT S. TABOR JR., VINSON & ELKINS 3300 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES
ROBERT TAFT JR 1000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	TAFT STETTINIUS & HOLLISTER (FOR: STORER BROADCASTING COMPANY)
TALCOTT MCCABE & BOWSER SUITE 302, WEST WING 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	HOLIDAY INNS, INC
Do	NATIONAL ASSN OF HOMES FOR CHILDREN
Do	SERVICEMASTER INDUSTRIES, INC
Do	UNITED STATES INDUSTRIAL COUNCIL
MARY LOU TANTON 2028 P STREET, NW WASHINGTON DC 20036	FAIR CONGRESSIONAL TASK FORCE
JOHN F. TATE 8428 AUBREY DRIVE MANASSAS VA 22111	U.S. DEFENSE COMMITTEE
MARGO THORNING 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION
TIMMONS & CO, INC 1850 K ST., NW, #850 WASHINGTON DC 20006	AMERICAN BROADCASTING COS., INC
Do	ANHEUSER-BUSCH COS., INC
WILLIAM J. TOBIN SUITE 600 1523 L STREET, NW WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE
DAVID R. TOLL 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	WESTERN UTILITIES CLEAN AIR GROUP
ANN TONJES 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS
JOHN B. TOONE P.O. BOX 970 FORT WORTH TX 76101	TEXAS ELECTRIC SERVICE CO
JOHN G. TOTH 11935 BARREL COOPER CT. RESTON VA 22091	RESTON ADVISER COMMITTEE
JEFFREY B. TRAMMELL 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC)
Do	GRAY AND COMPANY (FOR: NEW CHANNELS CORP)
TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL SUITE 607 1899 L STREET, NW WASHINGTON DC 20036	
LAURENCE H. TRIBE, P.C. 1525 MASSACHUSETTS AVENUE CAMBRIDGE MA 02138	MOTION PICTURE ASSN OF AMERICA, INC
THOMAS TRUAX 1401 21ST STREET SACRAMENTO CA 95814	AMERICAN HEALTH CARE ASSN
ANH TU SUITE 501 800 25TH STREET, NW WASHINGTON DC 20037	PROJECT ADVISORY GROUP
MARY TUCKER 1771 CHURCH ST., NW WASHINGTON DC 20036	NUCLEAR INFORMATION & RESOURCE SERVICE
WILLIAM J. TURENNE 1901 L STREET, NW WASHINGTON DC 20036	ELI LILLY AND COMPANY

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Organization or Individual Filing	Employer/Client
JOSEPH D. TYDINGS 10TH FLOOR 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	PLAINTIFF CLASS, CORRUGATED CONTAINER ANTITRUST LITIGATION
Do	PLAINTIFF CLASS, PLYWOOD ANTITRUST LITIGATION
U.S. DEFENSE COMMITTEE 3238 WYNFORD DRIVE FAIRFAX VA 22031	
U.S. INDUSTRIAL COUNCIL 3RD FLOOR, REALTORS BUILDING 306 GAY ST. NASHVILLE TN 37219	
ULLMAN CONSULTANTS, INC. 1000 POTOMAC ST., N.W. SUITE 302 WASHINGTON DC 20007	INTERNATIONAL TITANIUM, INC.
Do	OREGON METALLURGICAL CORP
CHARLES K. UNGER SUITE 601 307 YOAKUM PARKWAY ALEXANDRIA VA 22304	NATIONAL ASSN OF STEVEDORES
UNITED IRISH & AMERICAN SOCIETY OF ILLINOIS BOX 219 3400 W. 111TH STREET CHICAGO IL 60655	
YOSHINORI USUI SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC
RONALD D. UTT 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.
VAN NESS, FELDMAN, SUTCLIFFE, CURTIS & LEVENBERG 7TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	HAWAIIAN ELECTRIC COMPANY
Do	NATOMAS COMPANY
Do	PEABODY COAL COMPANY
Do	STATE OF ALASKA
JAY N. VARON SUITE 1000 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORPORATION)
BILLY F. VAUGHN 6630 WEST BROAD STREET RICHMOND VA 23230	LAWYERS TITLE INSURANCE CORPORATION
VENABLE, BAETJER, HOWARD & CIVILETTI SUITE 704 1301 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	PHARMACEUTICAL MANUFACTURERS ASSN
VOLPE, BOSKEY & LYONS SUITE 602 918 16TH STREET, NW WASHINGTON DC 20006	AMERICAN ASSN OF EQUIPMENT LESSORS
VORYS, SATER, SEYMOUR & PEASE SUITE 1111 1828 L ST., NW WASHINGTON DC 20036	DOMINION-CONSOLIDATED TRUCK LINES, LTD.
WALD, HARKRADER & ROSS 1300 19TH ST., NW WASHINGTON DC 20036	HARTFORD STEAM BOILER INSPECTION & INSURANCE CO
CHARLS E. WALKER ASSOCIATES, INC. 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	IDEAL BASIC INDUSTRIES
Do	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION
Do	LONE STAR INDUSTRIES, INC
HENRY L. WALTHER 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE
WELLFORD, WEGMAN, KRULWICH, GOLD & HOFF SUITE 802 1015 18TH STREET, NW WASHINGTON DC 20036	DEPARTMENT OF NATURAL RESOURCES, PROVINCE OF MANITOBA
DOUGLAS P. WENDEL 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BUS ASSN
WEXLER AND ASSOCIATES, INC SUITE 400 1616 H STREET, NW WASHINGTON DC 20006	BENENSON REALITY COMPANY
WILKINSON, CRAGUN & BARKER 1735 NEW YORK AVE., NW WASHINGTON DC 20006	THOMAS L. ASHLEY, P.C.
Do	WICHITA & AFFILIATED TRIBES
WILLIAMS & CONNOLLY 839 17TH ST., NW WASHINGTON DC 20006	BENENSON REALTY COMPANY
WILLIAMS & JENSEN, P.C. 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	THOMAS L. ASHLEY, P.C.
Do	CIGNA
Do	COMM. FOR THE IMPROVE. OF THE TAX LAWS ON ANNUITY TAXATION
Do	COMMITTEE FOR EMPLOYMENT OPPORTUNITIES
Do	CONNECTICUT GENERAL INSURANCE CORP
Do	ESTEE LAUDER, INC
Do	FEDERATION FOR AMERICAN IMMIGRATION REFORM
Do	GENERAL ELECTRIC CREDIT CORP
Do	HOUSTON ENDOWMENT, INC
Do	PFIZER, INC
Do	UNIVERSAL FOODS , INC.
Do	NATIONAL CABLE TELEVISION ASSN
WILMER, CUTLER & PICKERING 1666 K ST., NW WASHINGTON DC 20006	CBS, INC
Do	HAPAG-LLOYD, A.G.
JOHN R. WILSON 1520 OHIO SAVINGS PLAZA CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING
JOHN P. WINBURN SUITE 1040 1101 15TH STREET, NW WASHINGTON DC 20005	AMERICAN COUNCIL OF LIFE INSURERS
WINSTON & STRAWN #500 2550 M ST., NW WASHINGTON DC 20037	LEASE MANAGEMENT CORP
WITKOWSKI, WEINER, MCCAFFREY & BRODSKY SUITE 350 1575 I ST., NW WASHINGTON DC 20006	COMMERCIAL CREDIT CORP
HUGH A. WOOD P.O. BOX 7598 SAN FRANCISCO CA 94120	ETSI PIPELINE PROJECT
M. ALAN WOODS 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL. INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS)
WORLDWIDE INFORMATION RESOURCES, LTD SUITE 304 1101 30TH STREET, NW WASHINGTON DC 20007	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S.
Do	HEUBLEIN, INC
Do	PAN AMERICAN WORLD AIRWAYS, INC
Do	STATE OF MONTANA
Do	TOYOTA MOTOR SALES U.S.A., INC
WYATT, SALTZSTEIN, LIPSEN & HAMBERGER 8TH FLOOR 1725 DESALES STREET, NW WASHINGTON DC 20036	GREATER PHILADELPHIA CHAMBER OF COMMERCE
Do	MHO INDUSTRIAL FORUM
Do	OLIVETTI CORP OF AMERICA
Do	STONE & WEBSTER ENGINEERING CORP
ZUCKERT, SCOUTT & RASENBERGER 888 17TH ST., NW WASHINGTON DC 20006	HAZARDOUS WASTE TREATMENT COUNCIL
Do	WORLD AIRWAYS, INC.

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QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following quarterly reports were submitted for the second calendar quarter 1982:

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19........ ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (a) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (b) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(a) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§302(e).

(b) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(c) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (a) Short titles of statutes and bills; (b) House and Senate numbers of bills, where known; (c) citations of statutes, where known; (d) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (a) Description, (b) quantity distributed; (c) date of distribution, (d) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report.◆

AFFIDAVIT

[Omitted in printing]

PAGE 1◆

Note on Item "D."—(*a*) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(*b*) **If This Report Is for an Employer.**—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(*c*) **If This Report Is for an Agent or Employee.**—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. Receipts (Including Contributions and Loans):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $..............Dues and assessments
2. $..............Gifts of money or anything of value
3. $..............Printed or duplicated matter received as a gift
4. $..............Receipts from sale of printed or duplicated matter
5. $..............Received for services (e.g., salary, fee, etc.)

6. $..............Total for this Quarter (Add items "1" through "5")
7. $..............Received during previous Quarters of calendar year

8. $..............Total from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $..............Total now owed to others on account of loans
10. $..............Borrowed from others during this Quarter
11. $..............Repaid to others during this Quarter

12. $..............“Expense money” and Reimbursements received this Quarter

Contributors of $500 or more
(from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": ....

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and address of Contributor*
	(*"Period"* from Jan. 1 through.............................., 19.......)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	Total

Note on Item "E".—(*a*) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(*b*) **If This Report Is for an Agent or Employee.** In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. Expenditures (Including Loans) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $..............Public relations and advertising services
2. $..............Wages, salaries, fees, commissions (other than item "1")
3. $..............Gifts or contributions made during Quarter
4. $..............Printed or duplicated matter, including distribution cost
5. $..............Office overhead (rent, supplies, utilities, etc.)
6. $..............Telephone and telegraph
7. $..............Travel, food, lodging, and entertainment
8. $..............All other expenditures

9. $..............Total for this Quarter (Add "1" through "8")
10. $..............Expended during previous Quarters of calendar year

11. $..............Total from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $..............Total now owed to person filing
13. $..............Lent to others during this Quarter
14. $..............Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	Total

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
A & S TRANSPORTATION COMPANY 75 JACOBUS AVENUE SOUTH KEARNY NJ 07032			
ROBERT J. AAGRE 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	1,147.00	174.05
ABADIE AND HUDSON P.O. BOX 2787 BATON ROUGE LA 70821	COASTAL CORPORATION		
Do	MILLER COAL SYSTEMS, INC.		
JOHN P. ABBADESSA 727 SOUTH 23RD STREET SUITE 100 ARLINGTON VA 22202	ASSOCIATION OF GOVERNMENT ACCOUNTANTS		
PAUL C. ABENANTE SUITE 850 2020 K ST., NW WASHINGTON DC 20006	AMERICAN BAKERS ASSN	1,073.25	3.75
THOMAS G. ABERNETHY SR 3973 STUART PLACE JACKSON MS 39211	U.S. CANE SUGAR REFINERS' ASSN.	1,000.00	120.80
ALBERT E. ABRAHAMS 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	8,000.00	466.61
SHERMAN ABRAHAMSON 1201 PENNSYLVANIA AVE, NW #370 DC 20004	CONTROL DATA CORPORATION	45.00	19.73
ACLI INTERNATIONAL, INC 717 WESTCHESTER AVE. WHITE PLAINS NY 10604			
ACTION FOR CHILDREN'S TELEVISION 46 AUSTIN ST. NEWTONVILLE MA 02160		44,089.21	751.04
ACTION, INC. 713 D STREET, S.E. WASHINGTON DC 20003	AMERICAN HOME ECONOMICS ASSN.		
Do	AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM	1,875.00	2,065.03
Do	NATIONAL CONGRESS OF AMERICAN INDIANS	500.00	277.79
JOHN J. ADAMS 1919 PENNSYLVANIA AVE, NW, #700 WASHINGTON DC 20036	ETHYL CORPORATION		
Do	VEPCO	1,632.06	
KENNETH R. ADAMS #2450 475 L'ENFANT PLAZA, SW WASHINGTON DC 20024	VOLKSWAGEN OF AMERICA, INC	300.00	
THOMAS L. ADAMS JR 1101 15TH STREET, NW WASHINGTON DC 20005	REPUBLIC STEEL CORP		
HOBSON H. ADCOCK ANDERSON HILL RD, PURCHASE, NY 10577			
V. J. ADDUCI 1909 K ST., NW, #300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.		
ADVANCE COAL MANAGEMENT CORPORATION 805 NEWTOWN CIRCLE LEXINGTON KY 40511	RSV MINING EQUIPMENT B.V.		
ADVOCATES TO SAVE LEGAL SERVICES, INC. 1625 K ST. NW WASHINGTON, DC		25.00	196.60
AEROSPACE INDUSTRIES ASSN OF AMER, INC 1725 DESALES ST., NW WASHINGTON DC 20036		26,799.85	26,799.85
AFL-CIO MARITIME COMM 100 INDIANA AVE., NW WASHINGTON DC 20001		4,020.00	3,975.70
ELIZABETH AGLE 530 7TH ST., SE WASHINGTON DC 20003	NATIONAL CLEAN AIR COALITION, INC.	8,485.77	414.94
ROBERT S. AGMAN 100 INDIANA AVE., NW WASHINGTON DC 20001	LABOR-MANAGEMENT MARITIME COMMITTEE	1,302.60	5.11
HERBERT ALLEN AILSWORTH SUITE 1101 1050 17TH STREET, NW WASHINGTON DC 20036	SANDOZ, INC		47.50
AIR CONDITIONING & REFRIGERATION INSTITUTE 1815 N. FT. MYER DR. ARLINGTON VA 22209		21,000.00	15,500.00
AIR PRODUCTS & CHEMICALS, INC 1800 K ST., NW SUITE 1016 WASHINGTON DC 20006			175.00
AIR TRANSPORT ASSN OF AMER 1709 NEW YORK AVE., NW WASHINGTON DC 20006		37,857.00	37,857.00
RANDOLF H. AIRES 1211 CONNECTICUT AVE., NW, #802 WASHINGTON DC 20036	SEARS, ROEBUCK AND CO	3,300.00	120.33
G. COLBURN AIKEN 1201 PENNSYLVANIA AVE, NW, SUITE 700 WASHINGTON DC 20004	HILL & KNOWLTON, INC.		
Do	HILL AND KNOWLTON, INC. (FOR: THERAPEDIC)		
AKIN, GUMP, STRAUSS, HAUER & FELD SUITE 400 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AG - ENERGY RESOURCES, INC.	125.00	
Do	AIR FREIGHT ASSOCIATION	500.00	
Do	ALASKA INTERSTATE CO.		
Do	AMERADA HESS CORPORATION		
Do	AMERICAN QUASAR PETROLEUM COMPANY	225.00	
Do	AMERICAN TELEPHONE & TELEGRAPH CO.	4,000.00	
Do	ARCHER DANIELS MIDLAND COMPANY	500.00	
Do	BEACON OIL CO	750.00	
Do	BENEFICIAL CORPORATION	2,500.00	
Do	CAPITAL BANK		
Do	CITY OF HOUSTON		
Do	COALITION OF SERVICE INDUSTRIES, INC.	3,000.00	
Do	COASTAL CORPORATION	2,500.00	
Do	CONTINENTAL AIRLINES	1,350.00	
Do	DAMSON OIL CORP	225.00	
Do	DESERT GRAPE GROWERS LEAGUE OF CALIFORNIA	7,200.00	
Do	E & J GALLO WINERY	3,000.00	
Do	EQUITABLE BANK		
Do	HEMISPHERE NATIONAL BANK		
Do	LONE STAR INDUSTRIES, INC.		
Do	LOUISIANA ALCOHOL FUEL COMPANY		
Do	MAPCO INC.	1,500.00	
Do	MARLEX PETROLEUM, INC.	1,250.00	
Do	METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY	7,000.00	
Do	MILITARY ACCESSORIES SERVICE ASSN., INC.		
Do	MISSOURI TERMINAL OIL CO., INC.		
Do	MOTION PICTURE ASSN OF AMERICA, INC	24,500.00	6,511.38
Do	MURPHY OIL CORP	225.00	
Do	NATIONAL FOOTBALL LEAGUE	10,000.00	242.37
Do	NEW ENERGY CORPORATION OF INDIANA		
Do	NEW YORK AIR		
Do	NORTHWEST PIPELINE CO		
Do	RINGLING BROS. BARNUM AND BAILEY		
Do	SHEARSON, LOEB RHOADES		
Do	SOUTHLAND ROYALTY CO	225.00	
Do	SUN CO, INC		
Do	TEXAS AIR CORPORATION	5,500.00	
Do	TEXAS INSTRUMENTS INC.		
Do	U.S. COMPANIES, INC.	225.00	
Do	VALERO ENERGY CORPORATION	225.00	
Do	WAGNER & BROWN	225.00	
JAMES J. ALBERTINE 1660 L ST., NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA	300.00	
JOHN M. ALBERTINE SUITE 209 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE	1,562.50	281.80
ALCALDE, HENDERSON & O'BANNON 1901 N. FT. MYER DR. SUITE 1204 ROSSLYN VA 22209	AMERICAN FISHING TACKLE MFRS ASSN	1,500.00	
Do	ASSOCIATED INDUSTRIES OF FLORIDA	600.00	
Do	BRUNSWICK CORP	3,000.00	
Do	COALITION FOR ENERGY EFFICIENT TRANSPORTATION		
Do	COMPUTER SCIENCES CORP	1,500.00	
Do	CONTINENTAL GROUP, INC.		
Do	DADE COUNTY AVIATION DEPARTMENT	1,500.00	
Do	DADE COUNTY SEAPORT AUTHORITY	1,500.00	
Do	JIM WALTER CORP	3,000.00	
Do	NEWSPAPER-BROADCASTER COMMITTEE	15,000.00	
Do	PAN AMERICAN WORLD AIRWAYS, INC		
Do	TAMPA ELECTRIC CO.	1,500.00	
Do	TAMPA PORT AUTHORITY	3,600.00	
Do	WILDLIFE LEGISLATIVE FUND OF AM.		
H. MEADE ALCORN JR. ALCORN, BAKEWELL & SMITH ONE AMERICAN ROW HARTFORD CT 06103	HELEN WODELL HALBACH ESTATE		
CLAUDE D. ALEXANDER SUITE 801 2000 L ST., NW WASHINGTON DC 20036	RALSTON PURINA GOVERNMENT AFFAIRS, INC.	400.00	165.00
DONALD C. ALEXANDER, MORGAN LEWIS & BOCKIUS 1800 M ST., NW, #800 NORTH WASHINGTON DC 20036	ASSOCIATED TELEPHONE ANSWERING EXCHANGES, INC		
Do	BALDWIN-UNITED CORPORATION	110.00	
Do	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT	330.00	
Do	DISABLED AMERICAN VETERANS	20.00	
Do	EASTERN AIR LINES, INC	130.00	
Do	MERRILL LYNCH LIFE AGENCY, INC	70.00	
Do	SEQUOIA VENTURES, INC.	40.00	
WILLIS W. ALEXANDER 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	2,500.00	46.41
ALL UNIONS COMMITTEE TO SHORTEN THE WORK WEEK 4300 MICHIGAN AVE. DETROIT MI 48210			
MAXTON ALLCOX 400 FIRST ST., NW, RM 801 WASHINGTON DC 20001	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES	11,403.24	
JOSEPH P. ALLEN 1899 L ST., N.W. SUITE 400 WASHINGTON DC 20036	INTELLECTUAL PROPERTY OWNERS, INC.	12,282.75	302.47
LORETTA E. ALLEN P.O. BOX 364 ORLEANS CA 95556	D.Q. UNIVERSITY		
ROBERT G. ALLEN 511 C STREET, NE WASHINGTON DC 20002	CONTINENTAL ASSN OF RESOLUTE EMPLOYERS (C.A.R.E.)		
ALLIANCE FOR CANNABIS THERAPEUTICS PO BOX 23691 L'ENFANT PLAZA STATION WASHINGTON DC 20024		1,647.50	721.21
ALLIANCE OF AMERICAN INSURERS 20 NORTH WACKER DR. CHICAGO IL 60606			4,744.35
ALLIANCE TO SAVE ENERGY 1925 K ST., NW SUITE 507 WASHINGTON DC 20006			655.92
PETER ALLSTROM 815 16TH ST., NW WASHINGTON DC 20006	FOOD AND BEVERAGE TRADES DEPARTMENT, AFL-CIO	2,406.24	
JOSEPH C. ALLWARDEN DANIEL WEBSTER HIGHWAY SOUTH MERRIMACK NH 03054	KOLLSMAN INSTRUMENT CO.		
HARVEY ALTER 1615 H STREET., N.W. WASHINGTON DC 20062	U.S. CHAMBER OF COMMERCE	200.00	
RICHARD M. ALTMAN 444 NORTH CAPITOL ST., NW, #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM.	1,260.00	
RICARDO R. ALVARADO 6108 FORT HUNT RD. ALEXANDRIA VA 22307	LOCKHEED CORPORATION	940.00	346.20

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
AMALGAMATED TRANSIT UNION, AFL-CIO 5151 WISCONSIN AVE., NW WASHINGTON DC 20210			
AMALGAMATED TRANSIT UNION, NATL CAP DIV. 689 100 INDIANA AVE., NW, #403 WASHINGTON DC 20001			
AMERICAN ACADEMY OF FAMILY PHYSICIANS 1740 WEST 92ND ST. KANSAS CITY MO 64114		7,141.11	7,141.11
AMERICAN ADVERTISING FEDERATION 1225 CONNECTICUT AVE., NW #401 WASHINGTON DC 20036			295.04
AMERICAN ARTS ALLIANCE 424 C ST., NE WASHINGTON DC 20002		48,311.48	72,434.20
AMERICAN ASSN OF BLOOD BANKS SUITE 600 1117 NORTH 19TH STREET ARLINGTON VA 22209			
AMERICAN ASSN OF CROP INSURERS 209 W. JACKSON BLVD. CHICAGO IL 60606		6,000.00	6,000.00
AMERICAN ASSN OF EQUIPMENT LESSURS 1300 N. 17TH ST, #1010 ARLINGTON, VA 22209			
AMERICAN ASSN OF FOUNDATIONS FOR MEDICAL CARE SUITE 210 5410 GROSVENOR LANE BETHESDA MD 20814			54.94
AMERICAN ASSN OF HOMES FOR THE AGING SUITE 770 1050 17TH ST,. NW WASHINGTON DC 20036		3,410.00	3,410.00
AMERICAN ASSN OF MEAT PROCESSORS P.O. BOX 269 ELIZABETHTOWN PA 17022		76.48	4,190.02
AMERICAN ASSN OF PORT AUTHORITIES, INC 1612 K ST., NW WASHINGTON DC 20006			20,612.67
AMERICAN ASSN OF PROFESSIONAL STANDARDS REVIEW ORGS 5410 GROSVENOR LA, SUITE 210, BETHESDA, MD 20814			73.68
AMERICAN ASSN OF UNIVERSITY WOMEN 2401 VIRGINIA AVE., NW WASHINGTON DC 20037			513.23
AMERICAN AUTOMOBILE ASSN 8111 GATEHOUSE RD. FALLS CHURCH VA 22047			
AMERICAN BANKERS ASSN 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036		34,324.64	34,324.64
AMERICAN BUSINESS CONFERENCE 1025 CONNECTICUT AVENUE, N.W. SUITE 209 WASHINGTON DC 20036		1,100.00	2,088.20
AMERICAN COUNCIL FOR CAPITAL FORMATION SUITE 520 1850 K ST., NW WASHINGTON DC 20006		5,973.00	8,722.00
AMERICAN COUNCIL OF LIFE INSURANCE, INC 1850 K ST., NW WASHINGTON DC 20006			50,349.08
AMERICAN FARM BUREAU FED 225 TOUHY AVE PARK RIDGE IL 60068		118,991.00	118,991.00
AMERICAN FED OF LABOR AND CONG OF INDUSTRIAL ORGANIZATIONS 815 16TH ST., NW WASHINGTON DC 20006			146,584.22
AMERICAN FEED MFRS ASSN 1701 N. FT. MYER DR. ARLINGTON VA 22209		3,000.00	3,000.00
AMERICAN FROZEN FOOD INST 1700 OLD MEADOW ROAD MCLEAN VA 22102			7,970.65
AMERICAN GENERAL LIFE INSURANCE COMPANY 2727 ALLEN PARKWAY HOUSTON TX 77001			596.15
AMERICAN HELLENIC INSTITUTE PUBLIC AFFAIRS COMMITTEE 1730 K ST., NW WASHINGTON DC 20006			
AMERICAN HONEY PRODUCERS ASSN PO BOX 368 MINCO OK 73059			
AMERICAN HOTEL & MOTEL ASSN 888 SEVENTH AVE. NEW YORK NY 10019		15,805.63	7,303.05
AMERICAN INST OF MERCHANT SHIPPING SUITE 1000 1625 K ST,. NW WASHINGTON DC 20006			1,419.50
AMERICAN INSURANCE ASSN 85 JOHN ST. NEW YORK NY 10038		2,052.00	2,052.00
AMERICAN ISRAEL PUBLIC AFFAIRS COMM #412 444 N. CAPITOL ST., NW WASHINGTON DC 20001		81,282.00	99,248.87
AMERICAN LAND TITLE ASSN 1828 L ST., NW WASHINGTON DC 20036			6,104.00
AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE #4400 475 L'ENFANT PLAZA, SW WASHINGTON DC 20024		23,799.82	23,799.82
AMERICAN LIBRARY ASSN 50 E. HURON ST. CHICAGO IL 60611		1,159.07	-7,792.57
AMERICAN MARITIME ASSN 17 BATTERY PLACE-NORTH NEW YORK NY 10004			250.00
AMERICAN MEAT INSTITUTE PO BOX 3556 WASHINGTON DC 20007		11,744.26	11,744.26
AMERICAN MEDICAL ASSN 535 NORTH DEARBORN ST. CHICAGO IL 60610		1,045.00	31,793.10
AMERICAN MOVERS CONFERENCE 400 ARMY-NAVY DR. ARLINGTON, VA 22202			2,469.68
AMERICAN NATL INSURANCE COMPANY ONE MOODY PLAZA GALVESTON TX 77550			796.15
AMERICAN NEWSPAPER PUBLISHERS ASSN BOX 17407 DULLES INTERNATIONAL AIRPORT WASHINGTON DC 20041		20,117.11	20,117.11
AMERICAN NUCLEAR ENERGY COUNCIL 410 1ST ST., SE WASHINGTON DC 20003		253,607.70	57,073.84
AMERICAN NURSES' ASSN 2420 PERSHING RD KANSAS CITY MO 64108		14,968.73	14,968.73
AMERICAN OPTOMETRIC ASSN 600 MARYLAND AVE., SW, SUITE 400E WASH. DC 20024		446.97	446.97
AMERICAN ORTHOTIC AND PROSTHETIC ASSN. 717 PENDLETON ST. ALEXANDRIA VA 22314			
AMERICAN PAPER INST, INC 260 MADISON AVE. NEW YORK NY 10016			
AMERICAN PARATRANSIT INSTITUTE P.O. BOX 340276 CORAL GABLES FL 33134			1,200.00
AMERICAN PERSONNEL & GUIDANCE ASSOCIATION 5203 LEESBURG PIKE FALLS CHURCH VA 22041		20,353.44	18,978.69
AMERICAN PETROLEUM INST 2101 L ST., NW WASHINGTON DC 20037		200,270.00	233,666.00
AMERICAN PHYSICAL THERAPY ASSN 1156 15TH ST., NW WASHINGTON DC 20005		5,021.41	5,021.41
AMERICAN PODIATRY ASSN 20 CHEVY CHASE CIRCLE WASHINGTON DC 20015			21,307.82
AMERICAN POSTAL WORKERS UNION, AFL-CIO 817 14TH ST., NW WASHINGTON DC 20005		4,529,610.04	300,562.82
AMERICAN PUBLIC TRANSIT ASSN 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036		17,063.00	17,063.00
AMERICAN PULPWOOD ASSN 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			
AMERICAN SEED TRADE ASSN SUITE 964 1030 15TH ST., NW WASHINGTON DC 20005			11,350.00
AMERICAN SHORT LINE RAILROAD ASSN 2000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			
AMERICAN SOYBEAN ASSOCIATION SUITE 510 600 MARYLAND AVE., S.W. WASHINGTON DC 20024		4,125.00	-2,418.16
AMERICAN SURVEYS EMBASSY SQUARE (SUITE 901) 2000 N ST., NW WASHINGTON DC 20036	NATIONAL CUSTOMS BROKERS & FORWARDERS ASSN OF AMERICA	512.25	322.98
AMERICAN TEXTILE MFRS INST SUITE 300 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036		42,169.23	42,169.23
AMERICAN TRUCKING ASSNS, INC 1616 P ST., NW WASHINGTON DC 20036		10,290.06	76,955.85
AMERICAN VETERINARY MEDICAL ASSN SUITE 828 1522 K ST., NW WASHINGTON DC 20005			55.00
AMERICAN WATERWAYS OPERATORS, INC SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209		9,510.00	6,874.85
MORRIS J. AMITAY SUITE 168 400 N. CAPITOL ST., NW WASHINGTON DC 20001	EMI COMPANIES	5,000.00	
Do	HICKORY ASSOCIATION	500.00	
Do	NORTHROP CORP	3,000.00	
Do	PAN AMERICAN WORLD AIRWAYS, INC	3,500.00	
EDWARD ANDERSEN 1616 H ST., NW WASHINGTON DC 20006	NATIONAL GRANGE	785.00	
ANDERSON & PENDLETON SUITE 707 1000 CONNECTICUT AVE, NW WASHINGTON DC 20036	MILITARY MISSION OF CHILE		
ANTHONY L. ANDERSON 1800 K ST., NW, SUITE 820 WASHINGTON DC 20006	SUN CO, INC	4,934.00	182.90
ARNE ANDERSON 1325 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20005	AMERICAN FEDERATION OF GOVERNMENT EMPOLOYEES	7,604.31	
BETTE B. ANDERSON THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: QUIXOTE CORPORATION)		
J. LEM ANDERSON 888 16TH ST., NW WASHINGTON DC 20006	TIME INC	2,500.00	7.19
N. KENT ANDERSON BOX 300 TULSA OK 74102	CITIES SERVICE COMPANY	1,800.00	1,806.78
ROBERT L. ANDERSON JOHN DEERE RD. MOLINE IL 61265	DEERE & COMPANY		
STEVEN C. ANDERSON 1700 OLD MEADOW RD. MCLEAN, VA 22102	AMERICAN FROZEN FOOD INST	5,000.00	
WAYNE C. ANDERSON 1629 K ST., NW WASHINGTON DC 20006	NABISCO, INC	5,000.00	1,273.07
WILLIAM C. ANDERSON 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		62.50
JACK O. ANDRESEN 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ANDREWS & KURTH 1747 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	SPACE SERVICES INC. OF AMERICA		
ROBERT ANGEL 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA	300.00	
JACK R. ANGELL 1101 17TH ST., NW SUITE 704 WASHINGTON DC 20036	UNITED GAS PIPE LINE CO		
JAY ANGOFF 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	CONGRESS WATCH	3,749.99	
J. DONALD ANNETT 1050 17TH ST., NW, #580 WASHINGTON DC 20036	TEXACO, INC	500.00	
TOBIAS ANTHONY 1612 K ST., NW, #706 WASHINGTON DC 20006	RESEARCH-COTTRELL, INC	3,000.00	184.00
APARTMENT & OFFICE BUILDING ASSOC. OF METROPOLITAN WASH. D.C. 1413 K STREET., NW SUITE 600 WASHINGTON DC 20005			
JOHN D. AQUILINO JR 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER		
JOHN CHRISTIAN ARCHER 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
JOHN ARCHER 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
ROY A. ARCHIBALD 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
ARENT, FOX, KINTNER, PLOTKIN & KAHN 1815 H ST., NW WASHINGTON DC 20006	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS	58,408.65	3,779.52
Do	INTELSAT	7,751.40	51.68
Do	MOTOR & EQUIPMENT MANUFACTURERS ASSN	7,500.00	
Do	URANERZBERGBAU-GMBH		1,169.41
J. KNOX ARGO, ARGO & ENSLEN, P.C. P.O. BOX 1550 MONTGOMERY AL 36102	MOTION PICTURE ASSN OF AMERICA, INC		
ARKANSAS 2000, INC P.O. BOX 1776 RUSSELLVILLE AR 72801			
ARNOLD & PORTER 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FEDERATION OF APPAREL MANUFACTURERS		19.65
Do	NATIONAL COORDINATING COMM FOR MULTIEMPLOYER PLANS	2,200.00	75.00
Do	SHELTER INSURANCE COS	250.00	4.95
Do	TABLE GRAPE GROWERS ASSN. OF SONORA, MEXICO	960.00	55.90
CARL F. ARNOLD 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN FAMILY CORP	480.00	
Do	AMERICAN IRON & STEEL INSTITUTE	750.00	
Do	AMERICAN PETROLEUM INST	11,250.00	
Do	CORPORATE PROPERTY INVESTORS	500.00	
Do	MORTGAGE GUARANTY INSURANCE CORP	350.00	
Do	NATIONAL REALTY COMMITTEE	1,000.00	
Do	QUINTANA PETROLEUM CORP	375.00	
Do	QUINTANA REFINING COMPANY	375.00	
Do	SECURITIES INDUSTRY ASSN	350.00	
Do	SECURITY FIRST GROUP, INC	500.00	
ASBILL & JUNKIN SUITE 401 419 7TH STREET, NW WASHINGTON DC 20004	COALITION ON SMOKING OR HEALTH	18,976.25	11,173.00
THOMAS LUDLOW ASHLEY, P.C. 1730 PENNSYLVANIA AVENUE, N.W. SUITE 1050 WASHINGTON DC 20006	AMERICAN INTERNATIONAL GROUP, INC		
Do	FEDERAL HOME LOAN MORTGAGE CORP	18,725.00	
Do	GENERAL PUBLIC UTILITIES, INC	5,000.00	13,418.52
Do	IRVING TRUST CO		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	TELEDYNE CAE		
Do	TOLEO-LUCAS COUNTY PORT AUTHORITY		
JOSEPH ASHOON 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ASPHALT ROOFING MANUFACTURERS ASSOCIATION 1800 MASSACHUSETTS AVE., NW WASHINGTON, DC 20036			
ASSOCIATED BUILDERS & CONTRACTORS, INC SUITE 409 444 N. CAPITOL ST., NW WASHINGTON DC 20001		13,500.00	
ASSOCIATED CREDIT BUREAUS, INC 16211 PARK-TEN PLACE P.O. BOX 218300 HOUSTON TX 77084			171.64
ASSOCIATED EMPLOYERS, INC 1222 N. MAIN SUITE 315A SAN ANTONIO TX 78212			
ASSOCIATED GENERAL CONTRACTORS OF AMERICA 1957 E ST., NW WASHINGTON DC 20006			
ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER 10 BROADWAY ST.LOUIS MO 63102			7,500.00
ASSOCIATION OF AMERICAN FOREIGN SERVICE WOMEN, P O BOX 8068 WASHINGTON, DC 20024			1,346.42
ASSOCIATION OF AMERICAN PUBLISHERS 2005 MASS. AVE, NW WASHINGTON DC 20036		7,976.55	7,976.55
ASSOCIATION OF AMERICAN RAILROADS AMERICAN RAILROADS BLDG., SUITE 720 1920 L ST., NW WASHINGTON DC 20036		36,853.83	36,853.83
ASSOCIATION OF AMERICAN VETERINARY MEDICAL COLLEGES SUITE 828 1522 K ST., NW WASHINGTON DC 20005			
ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS 1300 NORTH 17TH ST. SUITE 300 ARLINGTON VA 22209			1,219.00
ASSOCIATION OF GOVERNMENT ACCOUNTANTS SUITE 100 727 SOUTH 23RD ST. ARLINGTON VA 22202			
ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC 1735 DESALES ST., NW WASHINGTON DC 20036			4,387.26
ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC. 1201 PA. AVE NW SUITE 340, WASH. DC 20004		29,353.36	4,111.29
ASSOCIATION OF TRIAL LAWYERS OF AMERICA 1050 31ST ST., NW WASHINGTON DC 20007		23,835.00	23,835.00
GEORGE J. ASTE 1825 K ST., NW, #607 WASHINGTON DC 20006	UNITED AIRLINES	500.00	
CARL E. ATKINSON 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	U.S. STEEL CORPORATION	240.00	41.00
ATLANTIC RICHFIELD CO SUITE 1001 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036			2,237.16
LLOYD G. ATOR JR. 1120 CONNECTICUT AVE., NW WASHINGTON, DC 20036	AMERICAN BANKERS ASSN	1,500.00	511.96
FRITZ E. ATTAWAY 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMER, INC.	52.45	
GEORGE L. ATWOOD SUITE 500 700 S. COLORADO BLVD. DENVER CO 80222	MONSANTO CO.		
FRANK M. AULT 17 EATON AVENUE NORWICH NY 13815	NORWICH-EATON PHARMACEUTICALS		
CLAUDIA MANSFIELD AUSTIN 1801 N. MOORE STREET ARLINGTON VA 22209	AMERICAN ASSN OF SCHOOL ADMINISTRATORS		25.00
JOHN D. AUSTIN JR 1920 N STREET, N.W. WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
RONALD R. AUSTIN 1201 16TH STREET, NW WASHINGTON DC 20036	OVERSEAS EDUCATION ASSN & NATIONAL EDUCATION ASSN		
AUTOMOTIVE PARTS REBUILDERS ASSN 6849 OLD DOMINION DRIVE MCLEAN VA 22101		4,425.00	4,424.01
JOHN S. AUTRY SUITE 810 2000 L ST., NW WASHINGTON DC 20036	SPERRY CORPORATION	4,000.00	6,000.00
AVENEL ASSOCIATES, INC BOX 53131 WASHINGTON DC 20009	BROWARD FEDERAL SAVINGS & LOAN ASSN	8,300.00	108.75
AVIATION CONSUMER ACTION PROJECT PO BOX 19029 WASHINGTON DC 20036			
AVON PRODUCTS, INC 9 WEST 57TH ST. NEW YORK NY 10019			1,072.40
WILLIAM H AXTMAN RM. 160 950 N. GLEBE RD. ARLINGTON VA 22203	AMERICAN BOILER MANUFACTURERS	24.03	6.30
PAMELA S. AYCOCK, 2601 WOODLEY PL. NW, WASHINGTON, DC 20008	O'BRIEN FIERCE & EBERLE (FOR: HUNTON & WILLIAMS)		
WALTER C. AYERS VIRGINIA PETROLEUM COUNCIL 1809 STAPLES MILL RD. RICHMOND VA 23230	AMERICAN PETROLEUM INST	600.00	276.70
CRAIG H. BAAB 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	147.10
JED L. BABBIN 4910 NORTH 27TH STREET ARLINGTON VA 22207	SHIPBUILDERS COUNCIL OF AMERICA	13,750.00	63.77
PATTI JO BABER 919 18TH ST. SUITE 400, N.W. WASHINGTON DC 20006	DIAMOND SHAMROCK CORPORATION	1,500.00	
DALE R. BABIONE 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	338.00	
BACHE, HALSEY, STUART, SHIELDS INC. 100 GOLD ST. NEW YORK NY 10038			750.00
WILLIAM DOUGLAS BADGER 12695 CASTILE CT. WOODBRIDGE VA 22192	CHRISTIAN ACTION COUNCIL, INC.	5,162.50	7,061.98
BAER MARKS & UPHAM 299 PARK AVE. NEW YORK NY 10171	COMMODITY EXCHANGE, INC.		
CARL E. BAGGE COAL BUILDING WASHINGTON DC 20036	NATIONAL COAL ASSN	3,050.00	
JOAN M. BAGGETT 815 15TH ST., NW WASHINGTON DC 20005	INTERNATIONAL UNION OF BRICKLAYERS AND ALLIED CRAFTSMEN	3,000.00	312.27
GEORGE F. BAILEY JR P.O. BOX 21 MONTGOMERY AL 36101	ALABAMA RAILROAD ASSN		
PAUL C. BAILEY JR. 1545 18TH STREET, NW WASHINGTON DC 20036	SOUTHERN COMPANY SERVICES, INC.	157.50	184.98
WILLIAM W. BAILEY 1050 17TH ST., NW SUITE 1050 WASHINGTON DC 20036	MERCK & CO., INC.	1,000.00	302.57
JOHN M. BAINES 4707 CONNECTICUT AVE., N.W. WASHINGTON DC 20008	JOHNSON OIL CO.,INC. AND SILVER EAGLE OIL CO., INC.		
JUDITH L. BAIRD 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	250.00	
JOHN BAIZE CAPITOL GALLERY BLDG., #510 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN SOYBEAN ASSOCIATION	1,125.02	301.60
EDWARD R. BAJER 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	450.00	
BAKER & BOTTS 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	HOUSTON LIGHTING & POWER COMPANY		
Do	PENNZOIL CO.		1,851.01
Do	ROTAN MOSLE, INC.		
Do	TEXAS INTERNATIONAL AIRLINES, INC.		
Do	TEXASGULF, INC.		
BAKER & DANIELS SUITE 600 1920 N ST.,NW WASHINGTON DC 20036	ROCK ISLAND REFINING CORP.	750.00	
BAKER & HOSTETLER 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	CLEVELAND INSTITUTE OF ELECTRONICS		
EMIL F. BAKER 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FLEET RESERVE ASSN		
JAMES JAY BAKER 1600 RHODE ISLAND AVENUE, N.W. WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	675.00	149.71
WALDON L. BAKER SUITE 802 1015 15TH STREET, NW WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	100.00	
BARBARA J. BALCH 2350 5TH STREET ROCK ISLAND IL 61201	THER-A-PEDIC MIDWEST, INC		
ALBERT L. BALDOCK 1050 17TH ST., NW WASHINGTON DC 20036	RICHARDSON-VICKS INC.	140,000.00	
DONALD BALE 7436 CHUMMLEY COURT FALLS CHURCH VA 22043	CENTER TO PROTECT WORKERS' RIGHTS	9,999.99	345.55
H.R. BALIKOV THORNALL STREET EDISON NJ 08837	J. M. HUBER CORP.		
JACQUELINE BALK-TUSA 1625 EYE ST., NW, #809 WASHINGTON DC 20006	BOISE CASCADE CORP.	14,375.00	
W. ALLEN BALL P.O. BOX 12910 CHARLESTON SC 29142	KIAWAH ISLAND COMPANY	847.50	985.03
BALLARD, SPAHR, ANDREWS & INGERSOLL SUITE 1100 1850 K STREET, NW WASHINGTON DC 20006	ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY	10,000.00	5,190.75
Do	AMERICAN CAN COMPANY		1,732.00
Do	DELAWARE RIVER PORT AUTHORITY	5,200.34	8,796.34
Do	PENNSYLVANIA ASSN OF INDUSTRIAL DEVELOPMENT AUTHORITIES		
Do	PHILADELPHIA PORT CORPORATION	4,187.20	6,825.15
Do	PORT OF WILMINGTON, DELAWARE	523.40	853.14
Do	SOUTH JERSEY PORT CORP.	523.40	853.14
Do	U.S. COMMITTEE FOR UNICEF		106.84
Do	WEST VIRGINIA INDUSTRIAL DEVELOPMENT ASSN		2,035.53
MICHAEL BALY III 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	4,000.00	
SAMUEL J. BAPTISTA SUITE 603 1620 EYE STREET, NW WASHINGTON DC 20006	VISA U.S.A., INC.	1,000.00	
BARAFF, KOERNER, OLENDER & HOCHBERG, P.C. SUITE 203 2033 M STREET, NW WASHINGTON DC 20036	NATIONAL BASKETBALL ASSN		
Do	NORTH AMERICAN SOCCER LEAGUE		
WILLIAM BARCLIFT 923 15TH ST., N.W. WASHINGTON DC 20005	TRANSPORTATION INSTITUTE	4,500.00	679.51
JUDY BARDACKE 11 DUPONT CIRCLE,NW WASHINGTON DC 20036	AMERICAN FED OF TEACHERS		
ROBERT Q. BARKER 801 NORTHLAND TOWERS WEST SOUTHFIELD MI 48075	NATIONAL ASSN OF MANUFACTURERS	1,500.00	19.50
THOMAS H. BARKSDALE JR 2101 L ST., NW WASHINGTON DC 20036	AMERICAN PETROLEUM INST	5,300.00	461.65
BARLEY AND MALT INSTITUTE 733 N. VAN BUREN ST. SUITE 610 MILWAUKEE WI 53202		32,443.65	5,350.00
DONNA R. BARNARD 2600 VIRGINIA AVE., NW SUITE 915 WASHINGTON DC 20037	NATIONAL COUNCIL OF HEALTH CENTERS	1,062.00	143.75
JOHN H. BARNARD JR 50 BEALE ST., PO BOX 3965 SAN FRANCISCO CA 94119	BECHTEL CORP		
J. REYNOLDS BARNES 621 S.W. MORRISON ST. PORTLAND OR 97205	ELEANOR A. CLARK		
BARNES RICHARDSON & COLBURN SUITE 400 1819 H ST., NW WASHINGTON DC 20006	INDUSTRIAS QUIMICAS Y TARTARICAS, S.A.		10.54
Do	TARTARIC CHEMICALS CORPORATION		4.50
Do	WOODHOUSE, DRAKE & CAREY (TRADING), INC.	805.00	37.50
Do	WORLD CARRIER, INC		59.00
Do	STRATTON HATS, INC		17.15
Do	U.S. CANTALOUPE GROWERS & IMPORTERS ASSN	4,370.00	207.39
ROBERT F. BARNES P.O. BOX 366, HIDALGO TX 78557	UNITED STATES CANALOUPE GROWERS & IMPORTERS ASSN	3,500.00	
BARNETT & ALAGIA 1627 K ST., NW, #900 WASHINGTON DC 20006	AMERICAN SCHOOL FOOD SERVICE ASSN	12,194.64	1,926.90
Do	ASBESTOS COMPENSATION COALITION	4,970.00	
Do	DADE COUNTY FARM BUREAU	1,020.00	
Do	FLORDIA FRUIT AND VEGETABLE	9,000.00	
Do	FLORIDA TOMATO EXCHANGE	3,000.00	
Do	PUBLICKER INDUSTRIES, INC.	10,000.00	
Do	SECURITIES GROUPS (FOR HEDGED PORTFOLIO ADVISORS)		
LARRY P. BARNETT 1709 NEW YORK AVE., NW WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMER	7,000.00	
PAMELA H. BARNETT 100 MARYLAND AVE., N.E. WASHINGTON DC 20002	RELIGIOUS COALITION FOR ABORTION RIGHTS, INC.	4,999.98	
BARNETT, YINGLING, & SHAY SUITE 810 1090 VERMONT AVE., NW WASHINGTON DC 20005	CITIBANK, N.A.	1,740.00	4.00
Do	CROCKER NATIONAL BANK		
NEIL D. BARON, BOOTH & BARON 122 EAST 42ND ST. NEW YORK NY 10168	STANDARD & POOR'S CORPORATION		
JAMES C. BARR 1730 RHODE ISLAND AVE., NW, #810 WASHINGTON DC 20036	CREDIT UNION NATL ASSN, INC.	300.00	205.72
DAVID M. BARRETT, BARRETT, HANNA, DALY & GASPAR 2550 M STREET, NW, #475 WASHINGTON DC 20037	ENERGY CONSUMERS AND PRODUCERS ASSN	6,000.00	2,436.87
Do	NATIONAL MEDICAL ENTERPRISES, INC.	2,450.00	796.09
BARRETT SMITH SCHAPIRO SIMON & ARMSTRONG SUITE 1400 26 BROADWAY NEW YORK NY 10004	COFFEE, SUGAR & COCOA EXCHANGE, INC.	7,200.00	228.57
Do	CSC CLEARING CORP.		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	HUGO NEU & SONS, INC		
Do	IRVING TRUST COMPANY		
Do	METROPOLITAN TRANSPORTATION AUTHORITY		149.50
ROBERT W. BARRIE 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO	2,500.00	
HARVEY BARRISON 291 BROADWAY NEW YORK NY 10007	C. A. SHEA & COMPANY, INC		
THEA ROSSI BARRON 150 LITTLE FALLS ST. FALLS CHURCH VA 22046	RIGHT TO LIFE CRUSADE	1,500.00	30.89
LINDA LEIGH BARTLETT 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
RICHARD A. BARTON 1730 K ST., NW, #905 WASHINGTON DC 20006	DIRECT MAIL/MARKETING ASSN	1,400.00	
JAMES P. BASS 1101 17TH ST., NW WASHINGTON DC 20036	AMERICAN AIRLINES, INC	475.00	
DIANE BATEMAN DAVIS & MCLEOD 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	AMERICAN ASSN OF CROP INSURERS		
ROBERT E. BATES JR 1100 CONNECTICUT AVE, NW WASHINGTON DC 20036	MOBIL OIL CORP	1,125.00	
DAVIS M. BATSON 1155 15TH ST., NW SUITE 611 WASHINGTON DC 20005	ETHYL CORPORATION	1,200.00	
LAURIE C. BATTLE 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	3,250.00	
LYNNE D. BATTLE 1101 CONNECTICUT AVE., NW, #705 WASHINGTON DC 20036	COLLEGE PLACEMENT COUNCIL, INC		
JOHN F. BATTLES, MASSACHUSETTS PETROLEUM COUNCIL 11 BEACON ST., #515 BOSTON MA 02108	AMERICAN PETROLEUM INST		552.87
BATZELL NUNN & BODE 1015 15TH ST., NW WASHINGTON DC 20005	INDEPENDENT TERMINAL OPERATORS ASSN	500.00	
RICHARD H. BAUER SUITE 600S 1120 20TH ST., NW WASHINGTON DC 20036	UNION PACIFIC CORPORATION	500.00	79.94
ROBERT J. BAUGHMAN 717 PENDLETON ST. ALEXANDRIA VA 22314	AMERICAN ORTHOTIC AND PROSTHETIC ASSN.		
JAMES R. BAXTER 2033 K ST., NW, #200 WASHINGTON DC 20006	NATIONAL CONSTRUCTION EMPLOYERS COUNCIL		
BAYH, TABBERT & CAPEHART SUITE 1025 1575 I STREET, NW WASHINGTON DC 20005	ALLIED FIDELITY CORP.	1,000.00	100.00
Do	AMERICAN CANCER SOCIETY	13,000.00	1,700.00
Do	CUMMINS ENGINE CO	5,000.00	550.00
Do	GEORGIA-PACIFIC	25,000.00	2,400.00
Do	MAYFLOWER CORPORATION		
Do	WARNER COMMUNICATIONS, INC		
TINA MARTS BEACH 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO	84.00	
BRUCE A. BEAM SUITE 1041 1801 K ST., NW WASHINGTON DC 20006	AMERICAN ELECTRIC POWER CORP	312.48	468.16
MICHAEL K. BEARD 100 MARYLAND AVE., NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS		
THERESA E. BEARMAN 9TH FLOOR 1111 19TH STREET, NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	90.00	
DONALD S. BEATTIE 400 FIRST ST., NW WASHINGTON DC 20001	RAILWAY LABOR EXECUTIVES' ASSN	2,891.95	
CHRISTINE T. BEATTY 1730 RHODE ISLAND AVE., NW, #612 WASHINGTON DC 20036	ST. JOE MINERALS CORP	6,000.00	56.51
HUBERT BEATTY 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
LAURA L. BEATY 806 N. JEFFERSON ST. ARLINGTON VA 22205	NATIONAL PARKS & CONSERVATION ASSOCIATION	428.40	15.00
ROBERT G. BECKEL, BECKEL, FINCHEM, TORRICELLI & ASSOCIATES, 1731 21ST ST., NW, WASHINGTON DC 20009	NATIONAL BROADCASTING CORP	4,000.00	
Do	NATIONAL COALITION OF TELECOMMUNICATIONS USERS & PROVIDERS	30,000.00	
WILLIAM W. BEDDOW 1101 15TH ST., NW WASHINGTON DC 20005	NATIONAL CONSTRUCTORS ASSOCIATION	925.00	
JON CHARLES BEDNERIK 499 SOUTH CAPITOL ST., S.W. SUITE 417 WASHINGTON DC 20003	INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS	1,200.00	
EDWIN L. BEHRENS 1801 K ST., NW, #230 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	135.00	
MAX J. BEILKE 5535 HEMPSTEAD WAY P.O. BOX 1406 SPRINGFIELD VA 22151	NATIONAL ASSN FOR UNIFORMED SERVICES	1,298.50	
JAMES BEIZER 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS	900.00	
ALEXANDER B. BELL 9618 COTTRELL TERRACE SILVER SPRING MD 20903	UNITED ASSN OF JNYMEN & APPREN. OF PLMBG & PIPEFTG INDUSTRY	3,750.00	267.96
BELL BOYD & LLOYD THREE FIRST NATIONAL PLAZA 70 WEST MADISON STREET CHICAGO IL 60602	BOISE CASCADE CORP		
HOWARD H. BELL 1225 CONNECTICUT AVE., NW, #401 WASHINGTON DC 20036	AMERICAN ADVERTISING FEDERATION		
WINSTON EVERETT BELL P.O. BOX 26543 LAS VEGAS NV 89126			
BENCO, INC. 1625 EYE ST., NW WASHINGTON DC 20006			
C. THOMAS BENDORF 3615 OVERCREEK DR. COLUMBUS SC 29206	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	5,000.00	950.00
BENEFICIAL MANAGEMENT CORPORATION OF AMERICA 1100 CARR RD WILMINGTON DE 19899			
BRUCE BENEFIELD SUITE 2600 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC	1,000.00	
BENESCH, FRIEDLANDER, COPLAN & ARONOFF 1100 CITIZENS BUILDING CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING		
KENNETH U. BENJAMIN JR 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	2,887.00	142.00
W. M. BENKERT 1625 K ST., NW, #1000 WASHINGTON DC 20006	AMERICAN INST OF MERCHANT SHIPPING	1,250.00	
DOUGLAS P. BENNETT 3238 PROSPECT ST., NW WASHINGTON DC 20007	ASSOCIATION OF EXECUTIVE RECRUITING CONSULTANTS, INC		
JAMES M. BENNETT 235 W. GALENA ST. MILWAUKEE WI 53201	JOS. SCHLITZ BREWING CO		
TRISHA BENNETT 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	BURLINGTON NORTHERN, INC	1,750.00	1,457.42
WILLIAM C. BENNETT JR 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	375.00	
JOHN C. BENNISON 1300 19TH [illegible], NW, #230 WASHINGTON DC 20036	AMERICAN SOCIETY OF TRAVEL AGENTS	6,300.00	
FREDERICK S. BENSON III 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
NANCY C. BENSON 1575 EYE ST., NW, #220 WASHINGTON DC 20005	AMERICAN CYANAMID CO	490.00	100.30
JAMES E. BENTON N. J. PETROLEUM COUNCIL 170 W. STATE ST. TRENTON NJ 08608	AMERICAN PETROLEUM INST	185.00	244.00
DAVID A. BEREN 910 17TH ST., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		
REBECCA J. BERG 2550 M ST., NW SUITE 770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	400.00	301.03
O. M. BERGE 12050 WOODWARD AVE. DETROIT MI 48203	BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES		
EDWIN M. BERGSMARK THREE SEAGATE TOLEDO OH 43603	TOLEDO TRUST COMPANY	37.00	
PAUL C. BERGSON 2550 M ST., NW WASHINGTON DC 20037	RJR INDUSTRIES, INC	2,356.00	62.00
ELLEN BERMAN SUITE 320 2000 L ST., NW WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
JASON S. BERMAN 2020 K ST., #250 NW WASHINGTON DC 20006	WARNER COMMUNICATIONS INC	15,000.00	108,665.50
RICHARD B. BERMAN 6606 LBJ FREEWAY DALLAS TX 75240	STEAK & ALE RESTAURANTS OF AMERICA, INC		
WILLIAM R. BERMAN 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
MARY E. BERNHARD 1090 VERMONT AVENUE, N.W. SUITE 500 WASHINGTON DC 20005	FLEXIBLE PACKAGING ASSOCIATION		
CHARLES BERNHARDT 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	36.23	
ROBERT E. BERNIER 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORP		
GEORGE K. BERNSTEIN 1730 K ST., NW WASHINGTON DC 20006	AMERICAN INSURANCE ASSN		
Do	CRUM & FORSTER INSURANCE COS		
MAX N. BERRY 3213 O ST., NW WASHINGTON DC 20007	CENTRE NATIONAL INTERPROFESSIONNEL DE L'ECONOMIC LAITIERE		
Do	COMMITTEE TO ASSURE THE AVAILABILITY OF CASEIN		
Do	MEAT PRODUCTS GROUP, AMERICAN IMPORTERS ASSN		
FRANK S. BESSON III 1129 20TH STREET, NW WASHINGTON DC 20036	AM GENERAL CORPORATION	1,450.00	
ROBERT A. BEST SUITE 4400 475 L'ENFANT PLAZA, SW WASHINGTON DC 20024	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE	5,000.00	
Do	ARCHER-DANIELS-MIDLAND COMPANY	500.00	
ROBERT L. BEVAN 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,750.00	328.97
BEVERIDGE & DIAMOND, P.C. 1333 NEW HAMPSHIRE AVE, NW WASHINGTON DC 20036	DOW CHEMICAL COMPANY		
Do	EDISON ELECTRIC INSTITUTE		
Do	NEW ENGLAND ELECTRIC SYSTEM	261.25	12.00
Do	UNION CAMP CORPORATION	32.50	4.00
Do	UNION MINES		
BARBARA L. BEZDEK 1223 DUPONT CIRCLE BUILDING WASHINGTON DC 20036	CENTER FOR AUTO SAFETY		
JAMES N. BIERMAN 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSN OF AMER).		
MOE BILLER 817 14TH ST., NW WASHINGTON DC 20005	AMERICAN POSTAL WORKERS UNION, AFL-CIO	8,114.28	
BILLIG SHER & JONES 2033 K ST., NW WASHINGTON DC 20006	ADHERENCE GROUP, INC		5.50
Do	SOUTH DAKOTA DEPT. OF TRANSPORTATION, DIV. OF RAILROADS	3,895.00	11.93
Do	STEAMSHIP CONFERENCES	5,400.00	1,132.21
LEON G. BILLINGS, INC. SUITE 713 1660 L STREET, NW WASHINGTON DC 20036	STATE OF MONTANA	9,750.00	
BINGHAM, DANA & GOULD 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	CONSUMER BANKERS ASSOCIATION	4,665.93	24.80
Do	FEDERATION FOR AMERICAN IMMIGRATION REFORM		
BIRCH HORTON BITTNER & MONROE SUITE 1100 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	ALASKA POWER AUTHORITY		
Do	CALISTA CORP		
Do	COASTAL CORPORATION		
Do	COOK INLET REGION, INC		
Do	MAPCO, INC.		
Do	SEALASKA CORP		
Do	ST. GEORGE TANAQ CORP		
Do	TEAMSTERS LOCAL 959		
Do	WESTINGHOUSE ELECTRIC CORP		
Do	WIEN AIR ALASKA		
Do	JIM JONES, GOV'T RESEARCH & DEVELOPMENT CORP		
BONNIE G. BIRD 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
WILLIAM J. BIRKHOFER 1015 - 15TH STREET, N.W. # 802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	875.00	
WILLIAM H. BIRTCIL JR. SUITE 2700 1000 WILSON BOULEVARD ARLINGTON VA 22209	TRW, INC	1,000.00	
H. RADFORD BISHOP SUITE 230 THE EXCHANGE ATLANTA GA 30339	NATIONAL HEALTH CARE FINANCING ASSN	20,000.00	17,980.00
BISON & WENNING 1625 I ST., NW WASHINGTON DC 20006	NATIONAL FOOD BROKERS ASSN		
PHIL M. BITTER 1700 K STREET N W. SUITE 1204 WASHINGTON DC 20006	CHEVRON USA, INC	480.00	
NEAL R. BJORNSON 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED	2,950.00	57.42

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
TOM G. BLACK 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
BLACK, MANAFORT, & STONE, INC. 435 NORTH LEE ST. ALEXANDRIA VA 22314	NATIONAL SECURITIES CLEARING CORP	10,000.00	
Do	AMERICAN NEWSPAPER PUBLISHERS ASSN	15,000.00	10.85
Do	TOSCO CORPORATION	10,000.00	
BEV D. BLACKWOOD #1100, 1899 L ST., NW WASHINGTON DC 20036	EXXON CORPORATION		
BARBARA S. BLAINE, P.C. 910 16TH STREET, NW WASHINGTON DC 20006	PHARMACEUTICAL MANUFACTURERS ASSN	6,700.00	289.65
HELEN BLANK 1520 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	CHILDREN'S DEFENSE FUND	1,551.87	286.17
BLATCHFORD, EPSTEIN & BRADY 1000 POTOMAC ST., NW WASHINGTON DC 20007	CONSTRUCTORA NACIONAL de CAROS de FERROCARRIL, SA		
Do	NATIONAL ASSN OF PRIVATE ENTERPRISE		
KENNETH T. BLAYLOCK 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	21,850.57	3,772.81
SAMUEL A. BLEICHER, BLANK, ROME, COMISKY & MCCAULEY 1700 K STREET, NW, #404 WASHINGTON DC 20006	A & S TRANSPORTATION COMPANY		27.50
GERALD BLIZIN 1201 PENNSYLVANIA AVE., N.W. WASHINGTON DC 20004	HILL & KNOWLTON, INC		
ELLEN BLOCK 3RD FLOOR 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	825.00	
L. THOMAS BLOCK ONE WALL STREET NEW YORK NY 10015	IRVING TRUST CO	1,000.00	250.00
PETER L. BLOCKLIN 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	600.00	
HOLTON E. BLOMGREN SUITE 745 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	NATIONAL MANUFACTURED HOUSING FEDERATION	12,501.81	
DOUGLAS M. BLOOMFIELD 444 NORTH CAPITOL ST, NW #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	14,454.96	
MARK BLOOMFIELD 1850 K ST., NW, #520 WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION	875.00	
BLUM & NASH SUITE 400 1015 18TH ST., NW WASHINGTON DC 20036	GENERAL ELECTRIC CO	300.00	
Do	MERCK & CO., INC	1,986.25	8.00
Do	NATIONAL ASSN OF TRUCKSTOP OPERATORS		
Do	TIME, INC		
Do	TWIN COAST NEWSPAPERS, INC		
JACK A. BLUM 1015 18TH ST., NW WASHINGTON DC 20036	INDEPENDENT GASOLINE MARKETERS COUNCIL	25,000.00	690.00
JARED O. BLUM 1730 M ST., NW, #610 WASHINGTON DC 20036	DIRECT SELLING ASSOCIATION	300.00	149.18
WAYNE F. BOAN 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	1,300.00	
BOAT OWNERS ASSOCIATION OF THE U.S. 800 S. PICKETT ST. ALEXANDRIA VA 22304		20,000.00	18,989.00
DAVID A. BOCKORNY 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	612.87
ROBERT Z. BOHAN 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN	27.40	
CHRISTIE K. BOHNER 1629 K ST., NW, #401 WASHINGTON DC 20006	GOVERNMENT RELATIONS ASSOCIATE, INC	695.00	
PATRICIA BONSKI 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO		
ROBERT J. BOLGER P.O. BOX 1417-D49 ALEXANDRIA VA 22313	NATIONAL ASSN OF CHAIN DRUG STORES, INC	1,650.00	
BERNADETTE BOLTON 400 FIRST ST., NW SUITE 800 WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	300.00	
M. WARREN BOLTON 2500 DEKALB PIKE NORRISTOWN PA 19404	PROVIDENT INDEMNITY LIFE INSURANCE CO		
A. DEWEY BOND P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	500.00	
JAY BONITT 300 MARYLAND AVE., NE WASHINGTON DC 20002	BENDIX CORP	610.00	105.00
SHARON LEE BONITT 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL CO	500.00	
BONSIB, INC P.O. BOX 1807 WASHINGTON DC 20013			
GAYLON B. BOOKER 1918 N. PARKWAY MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMERICA		
EDWARD T. BORDA 1625 EYE ST., NW, #1023 WASHINGTON DC 20006	ASSOCIATION OF GENERAL MERCHANDISE CHAINS	4,000.00	
CHARLES E. BOSWELL 100 INDIANA AVE., NW, #403 WASHINGTON DC 20001	AMALGAMATED TRANSIT UNION, NATL CAP DIV. 689		
G. STEWART BOSWELL 1611 NORTH KENT ST., #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC	6,199.99	101.86
CHARLES G. BOTSFORD SUITE 515 1730 M ST., NW WASHINGTON DC 20036		1,500.00	165.00
STEPHEN F. BOTSFORD SUITE 1424 6805 MAYFIELD ROAD - BLDG. B MAYFIELD HEIGHTS OH 44124	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING		
ALBERT D. BOURLAND 1660 L ST., NW, #800 WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,100.14
FRANK J. BOWDEN JR ASSOC PETROLEUM INDUSTRIES OF PA P.O. BOX 925 HARRISBURG PA 17108	AMERICAN PETROLEUM INST		
M. STEPHANIE BOWER 102 LYNNMOOR DRIVE SILVER SPRING MD 20901	UNITED FARM WORKERS OF AMERICA, AFL-CIO	2,250.00	641.72
RODNEY A. BOWER SUITE 702 818 ROEDER RD. SILVER SPRING MD 20920	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
DAVID W. BOWERS 1801 K ST., NW, #1201 WASHINGTON DC 20006	U.S. INDEPENDENT TELEPHONE ASSN	1,000.00	
ROBERT R. BOWERS WEST VIRGINIA PETROLEUM COUNCIL SUITE 714 ATLAS BLDG. CHARLESTON WV 25301	AMERICAN PETROLEUM INST	400.00	278.93
BOWMAN, CONNER, TOUHEY & THORNTON, PC 2828 PENNSYLVANIA AVE., NW WASHINGTON, DC	NATIONAL ASSN OF AIRCRAFT & COMMUNICATIONS SUPPLIERS, INC	14,475.00	2054.00
BOWMER COURTNEY BURLESON & PEMBERTON P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LA		19.00
JIM D. BOWMER P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LOUISIANA		
JOAN COSTAIN BOWYER 1015 15TH ST., NW WASHINGTON DC 20005	PHELPS DODGE CORP	150.00	
ELISA BOYD 1221 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	BOMA INTERNATIONAL		
JOHN G. BOYD 1801 K ST., NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP	332.30	9.50
ROBERT K. BOYD 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	3,500.00	633.13
VAN R. BOYETTE 1200 18TH STREET, N. W. SUITE 607 WASHINGTON DC 20036	AMERICAN PETROLEUM REFINERS ASSOCIATION	75.00	
THURMAN L. BOYKIN 2772 S. RANDOLPH ST., #202 ARLINGTON VA 22206	ARKANSAS 2000, INC		
J. PATRICK BOYLE NORTH WASHINGTON AT MADISON ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN	950.00	19.90
STEPHEN S. BOYNTON SUITE 1204 1901 N. FT. MYER DRIVE ARLINGTON VA 22209	AMERICAN FUR RESOURCES INSTITUTE	500.00	10.00
BRACEWELL & PATTERSON SUITE 1200 1825 EYE STREET, NW WASHINGTON DC 20006	CLC OF AMERICA, INC		
Do	SOUTHDOWN/PELTO OIL COMPANY	540.90	359.10
Do	VALERO ENERGY CORPORATION	450.75	299.25
BRACY WILLIAMS & COMPANY SUITE 1200 1730 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	CALIFORNIA NICKEL CORP	24,000.00	27,933.00
Do	CITY OF TUCSON	7,000.00	7,366.00
Do	EMPLOYEE OWNED AIRLINES		
Do	HUMANA, INC	1,000.00	1,000.00
Do	NIKE INTERNATIONAL LTD		
Do	PRATT & WHITNEY AIRCRAFT GROUP	10,000.00	10,441.00
Do	QUIXOTE CORPORATION	3,000.00	3,427.00
DENNIS R. BRADDOCK SUITE 1018 4660 KENMORE AVE. ALEXANDRIA VA 22304	LIVESTOCK MARKETING ASSOCIATION	7,500.00	250.00
FRANK W. BRADLEY 1700 K ST., NW WASHINGTON DC 20006	CHEVRON USA, INC	2,000.00	
GENE M. BRADLEY 1700 NORTH MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	680.00	126.00
MITCHELL H. BRADLEY 2029 K ST., NW WASHINGTON DC 20006	AMERICAN SOCIETY OF MECHANICAL ENGINEERS		
WAYNE W. BRADLEY 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	625.00	235.64
DENNIS M. BRADSHAW 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
CHARLES H. BRADY 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
CHARLES G. BRAGG P.O. BOX 12285 MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	1,000.00	176.99
KENNETH M. BRAGG 105 E STREET, SE WASHINGTON DC 20003	HOLY LAND STATE COMMITTEE		
RAYMOND F. BRAGG JR 1200 18TH ST., NW, #607 WASHINGTON DC 20036	AMERICAN PETROLEUM REFINERS ASSOCIATION	100.00	
STUART J. BRAHS 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	3,008.20	1,273.40
DAVID C. BRANAND 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS	26.67	5.60
MARK BRAND SUITE 905 1625 K ST., NW WASHINGTON DC 20006	CREAMER DICKSON BASFORD, INC		
Do	KANSAS CITY, MISSOURI		
GERARD M. BRANNON 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	270.00	
THOMAS EDWARD BRASWELL, CORCORAN, YOUNGMAN & ROWE 888 17TH ST., NW, SUITE 600 WASHINGTON DC 20006	NEWPORT NEWS SHIPBUILDING & DRYDOCK CO		
ROY BRAUNSTEIN 817 14TH ST., NW WASHINGTON DC 20005	AMERICAN POSTAL WORKERS UNION, AFL-CIO	12,115.36	1,239.38
PETER ELLIOT BRAVEMAN 500 NEWPORT CENTER DRIVE SUITE 555 NEWPORT BEACH CA 92660	LOEB AND LOEB (FOR: JOAN IRVINE SMITH)	15,750.00	320.00
NOEL BRAZIL 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
EDWARD T. BREATHITT 920 15TH ST., NW WASHINGTON DC	SOUTHERN RAILWAY CO	1,000.00	
JOHN HENRY BREBBIA ALSTON MILLER & GAINES 1800 M ST., NW, #1000 WASHINGTON DC 20036	RCA GLOBAL COMMUNICATIONS, INC		
Do	BOARD OF TRADE CLEARING CORP		
ROY S. BREDDER SUITE 1004 1101 17TH ST., NW WASHINGTON DC 20036	AMERICAN DENTAL ASSN	1,000.00	
GEORGE W. BREECE 2133 WISCONSIN AVE., NW WASHINGTON DC 20007	TURNER BROADCASTING SYSTEM, INC		
BREED, ABBOTT & MORGAN 1875 EYE ST., NW, #1000 WASHINGTON DC 20006	ASSOCIATED HOSPITAL SERVICE OF NEW YORK		
Do	DAVID H. MCCONNELL	20,000.00	
Do	DONALD C. LUBICK (FOR: TALISMAN FUND)		10.50
Do	HANDY AND HARMAN	8,200.00	7.00
Do	PANHANDLE EASTERN PIPE LINE COMPANY		12.00
BRENDA L. BREGMAN 100 MARYLAND AVENUE, N.E. WASHINGTON DC 20002	RELIGIOUS COALITION FOR ABORTION RIGHTS, INC	3,150.00	
BREGMAN, ABELL & KAY SUITE 610 1900 L ST., NW WASHINGTON DC 20036	AIR TRANSPORT ASSN OF AMER	800.00	
Do	AMERICAN CAR RENTAL ASSN	1,250.00	
Do	COMMITTEE FOR EFFECTIVE TAX INCENTIVES		
Do	CONSOLIDATED FREIGHTWAY CORP		
Do	HILTON INTERNATIONAL, INC		
Do	NORTON SIMON, INC	5,000.00	
Do	ROADWAY EXPRESS, INC		
Do	RYDER SYSTEMS, INC	2,000.00	
Do	TRANS WORLD AIRLINES, INC	2,000.00	
Do	TRANS WORLD CORPORATION		
Do	TRUCK RENTING & LEASING ASSN	1,250.00	
MICHAEL J. BRENNAN 1750 NEW YORK AVE., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF BRIDGE, STRUCT. & ORNAMENTAL IRON WKRS	10,000.00	612.42

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RICHARD M. BRENNAN 1100 15TH ST., NW WASHINGTON DC 20005	UNION CARBIDE CORP		
MILES H. BRESEE JR 50 BEALE ST., P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
JOHN B. BREWER 400 ARMY-NAVY DR (P.O. BOX 2303) ARLINGTON VA 22202	AMERICAN MOVERS CONFERENCE		
ALAN E. BRIAN P.O. BOX 130 LEVIS, QUEBEC, CANADA	DAVIE SHIPBUILDING LIMITED		
CLAUDE S. BRINEGAR 461 S. BOYLSTON ST. LOS ANGELES CA 90017	UNION OIL CO OF CALIFORNIA	142.00	
DELVA B. BRISSETT 1771 N ST., NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	372.00
ELIZABETH Y. BRITTON 2550 M STREET, N.W. WASHINGTON DC 20037	RJR INDUSTRIES, INC	230.44	156.56
ELLEN BROADMAN 1511 K ST., NW SUITE 1033 WASHINGTON DC 20005	CONSUMERS UNION OF U.S., INC	60.00	4.00
DAVID A. BRODY 1640 RHODE ISLAND AVE., NW WASHINGTON DC 20036	ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH	1,920.00	
PHILLIP J. BROMAN SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC		
MICHAEL D. BROMBERG 1111 19TH ST., NW, #402 WASHINGTON DC 20036	FEDERATION OF AMERICAN HOSPITALS	4,500.00	
MICHAEL R. BROMWICH 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSOCIATION OF AMERICA).		
E. R. BROOKS P. O. BOX 841 ABILENE TX 79604	WEST TEXAS UTILITIES CO	600.00	806.00
PHILLIP W. BROOKS VOLUNTEER STATE OIL COMM 18TH FLOOR, THIRD NATL BANK BLDG. NASHVILLE TN 37219	AMERICAN PETROLEUM INST	525.00	745.56
DAVID W. BROOME 1800 M ST., NW, #870-S WASHINGTON DC 20036	BURLINGTON INDUSTRIES, INC	2,500.00	11,560.00
CAROL L. BROS SUITE 1110 1411 K ST., NW WASHINGTON DC 20005	NATIONAL WOMEN'S POLITICAL CAUCUS	1,750.00	337.78
DANIEL T. BROSS 1101 17TH ST., NW SUITE 704 WASHINGTON DC 20036	UNITED GAS PIPE LINE CO	950.00	600.03
MARIO BROSSI SUITE 610 1730 M STREET, NW WASHINGTON DC 20036	DIRECT SELLING ASSN		550.00
DONALD G. BROTZMAN 1901 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	RUBBER MFGRS ASSN	10,000.00	
BROWN & ROADY 1333 NEW HAMPSHIRE AVE., NW SUITE 1270 WASHINGTON DC 20036	DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION		
Do	KANSAS CITY SOUTHERN RAILWAY	7,655.00	853.41
Do	LOUISVILLE & NASHVILLE RAILROAD		
Do	METROPOLITAN TRANSIT AUTHORITY	4,875.00	925.56
TERRENCE J. BROWN ASSOCIATES SUITE 700 1331 H ST., NW WASHINGTON DC 20005	EASTERN BAND OF CHEROKEE INDIANS		
Do	RED LAKE BAND OF CHIPPEWA INDIANS		
Do	SENECA NATION OF INDIANS OF NEW YORK		
Do	UNITED SOUTH AND EASTERN TRIBES		
CHARLES B. BROWN 900 17TH ST., NW WASHINGTON DC 20006	KAISER ALUMINUM & CHEMICAL CORP	350.00	8.00
CHARLES T. BROWN BOX 100 MIAMI AZ 85539	CITIES SERVICE CO		96.00
DAVID S. J. BROWN 1101 17TH ST., NW, #604 WASHINGTON DC 20036	MONSANTO CO	450.00	92.40
ELLEN B. BROWN SUITE 400 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS		
ELLEN S. BROWN SUITE 310 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	COUNCIL OF ENERGY RESOURCE TRIBES		
HOWARD C. BROWN JR 1919 PENNSYLVANIA AVE., NW, #702 WASHINGTON DC 20006	CENTAR ASSOCIATES		
Do	NATIONAL ASSN OF LIFE SCIENCE INDUSTRIES, INC		
JAMES F. BROWN 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	287.50	
JESSE B. BROWN 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	100.60	
JESSE P. BROWN JR. 1918 N. PARKWAY MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMERICA	1,329.23	
MARY ELIZABETH BROWN 1201 16TH ST., NW WASHINGTON, DC 20036	NATIONAL EDUCATION ASSN	1,930.00	86.94
BROWN TODD & HEYBURN 1600 CITIZENS PLAZA LOUISVILLE KY 40202	BROWN & WILLIAMSON TOBACCO CORP	5,000.00	505.00
VINCENT D. BROWN NEBRASKA PETROLEUM COUNCIL 334 S. 13TH ST. - P.O. BOX 95063 LINCOLN NE 68508	AMERICAN PETROLEUM INST	1,000.00	1,552.73
WILLIAM E. BROWN 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	63.70	152.00
WILLIAM R. BROWN 499 SOUTH CAPITOL STREET, S.W. SUITE 412 WASHINGTON DC 20003	COUNCIL OF STATE CHAMBERS OF COMMERCE	366.56	
STANLEY R. BROWNE SUITE 1120 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO		
BROWNSTEIN ZEIDMAN & SCHOMER SUITE 900 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	INTERNATIONAL FOODSERVICE MANUFACTURERS ASSOCIATION		
Do	INTERNATIONAL FRANCHISE ASSN		
Do	MORTGAGE GUARANTY INSURANCE CORP		
Do	NATIONAL HOUSING REHABILITATION ASSOCIATION		
Do	NEW YORK STATE URBAN DEVELOPMENT CORP		
DAVID BRUBAKER 8136 OLD KEENE MILL RD. B-110 SPRINGFIELD VA 22152	NATIONAL REHABILITATION COUNSELING ASSN		
JOHN R. BRUCH P.O. BOX 5000 CLEVELAND OH 44101	CLEVELAND ELECTRIC ILLUMINATING CO		
JAMES W. BRUNER JR 2197 LAKE TAHOE BLVD. P.O. BOX 10110 SOUTH LAKE TAHOE CA 95731	LEAGUE TO SAVE LAKE TAHOE	9,000.00	474.03
KATHRYNE M. BRUNER 2021 K ST., NW, #700 WASHINGTON DC 20006	GENERAL ATOMIC CO	725.00	101.82
WILLIAM K. BRUNETTE 1909 K STREET, NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN-AMER ASSN OF RETIRED PERSONS	363.50	233.00
ROBERT O. BRUNNER 1909 K ST., NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMERICAN ASSN OF RET PERSONS	363.45	7.00
J. CHARLES BRUSE SUITE 750 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ALLSTATE ENTERPRISES, INC		
Do	ALLSTATE INSURANCE COS		
HARVEY F. BRUSH 50 BEALE ST., PO BOX 3965 SAN FRANCISCO CA 94119	BECHTEL INC		
SUSAN BUCK 106 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC	12,000.00	10,000.00
JOHN S. BUCKLEY SUITE 600 1523 L STREET, NW WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE	4,000.00	60.00
ROBERT D. BUEHLER 1800 K ST., NW, #929 WASHINGTON DC 20006	BF GOODRICH CO	400.00	
SUSAN M. BUFFONE 3804 34TH STREET, NW WASHINGTON DC 20008	NATIONAL PARKS AND CONSERVATION ASSN	1,000.00	
DOUGLAS W. BULCAO 1101 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MFRS INST	1,500.00	14.40
DARREL D. BUNGE MINNESOTA PETROLEUM COUNCIL 300 NORTHERN FEDERAL BUILDING ST. PAUL MN 55102	AMERICAN PETROLEUM INSTITUTE	725.00	871.00
DAVID A. BUNN SUITE 405 1211 CONNECTICUT AVE., NW WASHINGTON DC 20036	HEARST CORPORATION	900.00	
Do	MAGAZINE PUBLISHERS ASSN, INC	4,000.00	
Do	PARCEL SHIPPERS ASSN	1,000.00	
LAWRENCE E. BURCH 1735 JEFFERSON DAVIS HWY, #903 ARLINGTON VA 22202	POTATO CHIP/SNACK FOOD ASSOCIATION		
NORMAN D. BURCH SUITE 401 1101 VERMONT AVENUE, NW WASHINGTON DC 20005	COLLEGE OF AMER PATHOLOGISTS	5,220.00	37.70
DAVID G. BURDEN 200 E. RANDOLPH DR. CHICAGO IL 60601	STANDARD OIL CO		
PAUL F. BURDETT 10 EMERSON COURT SEVERNA PARK MD 21146	MERRELL DOW PHARMACEUTICALS INC		43.00
HARRIET HUNT BURGESS 82 2ND ST. SAN FRANCISCO CA 94105	TRUST FOR PUBLIC LAND	1,615.38	3,100.56
QUENTIN L. BURGESS 733 15TH ST., NW WASHINGTON DC 20005	LEGAL SERVICES CORP		
WILLIAM J. BURHOP 1709 NEW YORK AVE., NW WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMER	10,000.00	
GERARD P. BURKE SUITE 1009 1625 I STREET, NW WASHINGTON DC 20006	INTERNATIONAL AIR LEASES, INC		
J.J. BURKE JR 40 E. BROADWAY BUTTE MT 59701	MONTANA POWER CO		257.34
FRANCIS X. BURKHARDT 1750 NEW YORK AVE., NW WASHINGTON DC 20006	INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES		
BURLEY & DARK LEAF TOBACCO EXPORT ASSN 1100 17TH ST., NW WASHINGTON DC 20036		56,886.47	1,800.47
BILL D. BURLISON 400 SOUTH CAPITOL STREET, S.W. SUITE 102 WASHINGTON DC 20003	EMERSON ELECTRIC CO	3,750.00	77.25
Do	MCDONNELL DOUGLAS CORPORATION	8,750.00	154.50
Do	PLANNING RESEARCH CORPORATION	2,500.00	77.25
DAVID G. BURNEY 2040 HARBOR ISLAND DR., #208 SAN DIEGO CA 92101	U.S. TUNA FOUNDATION	6,000.00	3,000.00
CHARLES S. BURNS 1015 15TH ST., NW WASHINGTON DC 20005	PHELPS DODGE CORP	1,200.00	
GERRIE BJORNSON BURNS 1800 K ST., NW, #929 WASHINGTON DC 20006	B.F. GOODRICH CO	100.00	
TIMOTHY F. BURNS 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC	300.00	
BURR, PEASE & KURTZ 810 N ST., ANCHORAGE, AK 99501	EKLUTNA		
B. KENT BURTON 1616 P ST., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC	8,000.00	
BUSBY, REHM & LEONARD 1629 K ST., NW, #1100 WASHINGTON DC 20006	UNIVERSAL LEAF TOBACCO CO., INC		
BUSINESS EXECUTIVES MOVE FOR NEW NATL PRIORITIES 901 N. HOWARD ST. BALTIMORE MD 21201		2,865.00	971.03
JAMES J. BUTERA 1709 NEW YORK AVE., NW SUITE 200 WASHINGTON DC 20006	NATIONAL ASSN OF MUTUAL SAVINGS BANKS	3,503.75	
BUTLER BINION RICE COOK & KNAPP 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	BROWARD COUNTY, FLORIDA	150.00	
Do	CITY OF HOUSTON/DEPT. OF AVIATION	10,904.00	500.00
Do	CITY OF PHILADELPHIA		
Do	INEXCO OIL CO		
Do	PENNSYLVANIA SHIPBUILDING CO	330.00	9.00
Do	PEOPLE EXPRESS AIRLINES, INC		
JOHN W. BUTLER SUITE 310 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	COUNCIL OF ENERGY RESOURCE TRIBES		
WILLIAM A. BUTLER 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	5,000.00	150.00
THOMAS D. BYRNE 2111 JEFFERSON DAVIS HIGHWAY, 917 NORTH ARLINGTON VA 22202	STONE CONTAINER CORP		
JOHN W. BYRNES 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY,LARDNER,HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSOCIATION OF AMERICA).		
Do	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: INSURANCE ASSOCIATION OF CONNECTICUT).		
JOHN F. BYSET 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,500.00	35.00
C & B ASSOCIATES 1750 NEW YORK AVENUE, NW WASHINGTON DC 20006	CLADOUHOS & BRASHARES (FOR: TOYOTA MOTOR SALES,USA)	500.00	
Do	CLADOUHOS & BRASHARES (FOR SECURITIES GROUP)		
Do	CLADOUHOS & BRASHARES (FOR SMITH, BARNEY, HARRIS & UPHAM CO)	300.00	
Do	CARL M. FREEMAN ASSOCIATES, INC	200.00	
Do	LOCKHEED CORPORATION	400.00	
Do	WASHINGTON PSYCHIATRIC SOCIETY		
Do	WORLDWIDE INFORMATION RESOURCES (FOR STATE OF MONTANA)		
CADWALADER, WICKERSHAM & TAFT 7TH FLOOR 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ASPHALT ROOFING MANUFACTURERS ASSOCIATION		
Do	KWAJALEIN ATOLL CORP		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	MOCATTA METALS CORP	546.00	164.00
Do	PHILADELPHIA STOCK EXCHANGE, INC	728.00	
ROY C. CAHOON 6100 KNOLLWOOD DR. FALLS CHURCH VA 22041	NATIONAL AUTOMATIC MERCHANDISING ASSN		
CAIN & SMITH 402 SCARBROUGH BUILDING AUSTIN TX 78701	STATE BAR OF TEXAS, JUDICIAL SECTION		52.16
MORRISON G. CAIN 1625 I ST., NW, #1023 WASHINGTON DC 20006	ASSOCIATION OF GENERAL MERCHANDISE CHAINS	6,250.00	
ALAN CALDWELL SUITE 770 2550 M STREET, NW WASHINGTON DC 20037	RJR INDUSTRIES, INC	1,200.00	115.10
FRANK W. CALHOUN 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC		1,505.85
CALIFANO, ROSS & HEINEMAN 1575 I ST., NW SUITE 600 WASHINGTON DC 20005	COCA-COLA COMPANY		
Do	FEDERAL NATIONAL MORTGAGE ASSOCIATION	1,365.00	
Do	FLUOR CORPORATION	1,500.00	
Do	GENERAL TIRE & RUBBER CO		
Do	NATIONAL ASSN OF PUBLIC HOSPITALS	1,170.00	
Do	SENIOR CORP		
PETER E. CALLANAN 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	HONEYWELL, INC	300.00	425.00
JOHN C. CALLIHAN 295 PARK AVENUE NEW YORK NY 10171	WESTVACO CORP		
CALORIE CONTROL COUNCIL #500-D 5775 PEACHTREE-DUNWOODY RD. ATLANTA GA 30342			1,831.00
GORDON L. CALVERT BOX 34-531 WASHINGTON DC 20034	COMMERCIAL LAW LEAGUE OF AMER, COMM COLL AGENCY SECTION		
ARTHUR E. CAMERON SUITE 110 499 S. CAPITOL ST., SW WASHINGTON DC 20001	AMERICAN GREYHOUND TRACK OPERATORS ASSN	4,500.00	
Do	FERRO CORPORATION, CATAPHOTE DIVISION	1,500.00	
Do	GULF & WESTERN INDUSTRIES, INC	4,000.00	
Do	PRISMO UNIVERSAL CORP, ET AL	6,562.00	
Do	SAFETRAN SYSTEMS CORPORATION	7,238.00	
CAMP, CARMOUCHE, PALMER, BARSH & HUNTER 2550 M ST., NW, #275 WASHINGTON DC 20037	WHEAT FIRST SECURITIES, INC	600.00	
Do	GEORGE K. BAUM & CO	600.00	
Do	BLYTH EASTMAN PAINE WEBBER, INC	600.00	
Do	CHAPMAN & CUTLER	600.00	
Do	CUMBERLAND SECURITIES	600.00	
Do	EASTERN CENTRAL MOTOR CARRIERS ASSN	150.00	
Do	ESSEX	600.00	
Do	FRAZER LANIER CO	600.00	
Do	GOLDMAN SACHS & CO	600.00	
Do	KIDDER, PEABODY	600.00	
Do	KING & SPAULDING	600.00	
Do	LEHMAN BROTHERS	600.00	
Do	MCDONALD & CO	600.00	
Do	MOBIL OIL CORP	1,050.00	
Do	NATURAL GAS SUPPLY ASSN		
Do	NORTH, HASKELL, SLAUGHTER, YOUNG AND LEWIS	600.00	
Do	PENNZOIL CO	225.00	
Do	PPG INDUSTRIES, INC	975.00	
Do	RAUSCHER PIERCE REFSNES	600.00	
Do	STERN, AGEE & LEACH	600.00	
Do	TEXACO, INC		
Do	THORNTON, FARISH & GAUNTT	1,875.00	
Do	U.S. LEAGUE OF SAVINGS ASSOCIATIONS		
Do	UNION PACIFIC RAILROAD	75.00	
Do	COALITION FOR AN EFFECTIVE ENERGY INVESTMENT TAX CREDIT		
C. R. CAMPBELL JR SUITE 980 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	GENERAL TELEPHONE & ELECTRONICS	3,000.00	
CARL C. CAMPBELL 1030 15TH ST., NW, SUITE 700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMER	461.54	
CHARLES ARGYLL CAMPBELL 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
JERRY L. CAMPBELL 831 CHESTNUT ST. CHATTANOOGA TN 37402	TENNESSEE VALLEY PUBLIC POWER ASSN		
KEVIN B. CAMPBELL 101 CONSTITUTION AVENUE, N.W. WASHINGTON DC 20001	UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA	5,525.00	2,740.70
THOMAS D. CAMPBELL SUITE 500 1000 16TH ST., NW WASHINGTON DC 20036	STANDARD OIL CO (INDIANA)	1,500.00	
ALYCE D. CANADAY 918 16TH ST., NW WASHINGTON DC 20006	PACIFIC POWER AND LIGHT CO	740.00	750.78
CANADIAN COALITION ON ACID RAIN SUITE 201 105 DAVENPORT ROAD TORONTO, ONTARIO M5R-1H6		6,677.50	20,250.78
ROBERT P. CANAVAN 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,123.45	185.00
SHARON M. CANAVAN 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA	4,800.00	
CANDLELIGHTERS 123 C ST., SE WASHINGTON DC 20003		80.00	40.00
PAUL W. CANE 50 BEALE ST., P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
W. DEAN CANNON JR 9800 S. SEPULVEDA BLVD. SUITE 500 LOS ANGELES CA 90045	CALIFORNIA SAVINGS & LOAN LEAGUE	3,000.00	4,574.62
DAVID L. CANTOR SUITE 1200 1133 15TH STREET, NW WASHINGTON DC 20005	COALITION FOR ENVIRONMENTAL ENERGY BALANCE (CEEB)	295.00	60.25
CAPITAL COUNSELORS, INC. 1700 K STREET, N.W. WASHINGTON DC 20006	ELECTRONIC DATA SYSTEMS CORPORATION		
GERALD M. CAPLAN 733 15TH STREET, NW WASHINGTON DC 20005	LEGAL SERVICES CORP		
CAPLIN & DRYSDALE SUITE 1100 1101 17TH ST., NW WASHINGTON DC 20036	AETNA LIFE & CASUALTY	3,327.50	127.75
Do	AMERICAN FAMILY LIFE ASSURANCE CO OF GA	390.00	10.00
ARNOLD P. CAPUTO 2302 HORSE PEN RD. P.O. BOX 781 HERNDON VA 22070	NATIONAL CONCRETE MASONRY ASSN	60.00	30.25
CONSTANTINE G. CARAS 2344 S. ROLFE ST. ARLINGTON VA 22202	OGDEN CORPORATION	1,000.00	
DENISE A. CARDMAN 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
NORVAL E. CAREY 2021 K ST., NW, SUITE 709 WASHINGTON DC 20006	GENERAL ATOMIC CO	4,905.00	541.68
CAROLE R. CARLIN 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
CARMODY, SYRDAL, DANELO & KLEIN, P.S. 24TH FLOOR FOURTH & BLANCHARD BLDG. SEATTLE WA 98121	WASHINGTON STATE CHARTER BOAT ASSN		
GEORGE D. CARPENTER 7162 READING ROAD CINCINNATI OH 45222	PROCTER & GAMBLE COMPANY	61.49	
JACK CARPENTER 1920 N ST. NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS	80.00	15.35
LAWRENCE W. CARROLL 100 N.E. ADAMS STREET PEORIA IL 61629	CATERPILLAR TRACTOR CO	1,050.00	2,532.64
PATRICIA CARROLL 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	312.50	
JOHN R. CARSON 20 CHEVY CHASE CIRCLE WASHINGTON DC 20015	AMERICAN PODIATRY ASSN	16,000.00	
HANS L. CARSTENSEN 1625 EYE STREET N.W. #902 WASHINGTON DC 20006	WEYERHAEUSER CO	3,013.50	203.50
DAVID C. CARTER 1156 15TH ST., NW SUITE 1019 WASHINGTON DC 20005	U.S. BEET SUGAR ASSN		
HARLON B. CARTER 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	1,875.00	
JOHN R. CARTER 1000 WILSON BOULEVARD SUITE 2600 ARLINGTON VA 22209	TRW, INC	1,000.00	
JOSEPH L. CARTER JR 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	682.50	155.77
JAMES P. CARTY 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	500.00	
DONATO CARUSO, LORENZ, FINN, GIARDINO & LAMBOS 29 BROADWAY, 9TH FL. NEW YORK NY 10006	NEW YORK SHIPPING ASSN, INC		
SUSAN B. CARVER 1130 17TH STREET, NW WASHINGTON DC 20036	NATIONAL COAL ASSN	232.00	2,197.04
JIM CASEY 3470 MILDRED DR. FALLS CHURCH VA 22042	AMFAC GARDEN PRODUCTS, INC		
Do	BELLE FOURCHE IRRIGATION DISTRICT		
Do	COMMITTEE OF POWER FOR THE SOUTHWEST, INC		
Do	GARRISON DIVERSION CONSERVANCY DISTRICT		
Do	LEAFFER COMPANY, INC		
Do	SALT RIVER VALLEY WATER USERS ASSN		
JOHN S. CASEY P.O. BOX 266 HEFLIN AL 36264	ALABAMA RAILROAD ASSN		
ROBERT J. CASEY 10TH FLOOR 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY	250.00	
JAMES B. CASH JR 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	2,000.00	
ALLEN R. CASKIE 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
EUGENE I. CASRAISS JR 1757 N ST., NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	9,045.14	130.42
DANIEL J. CASSIDY SUITE 600 1117 NORTH 19TH STREET ARLINGTON VA 22209	AMERICAN ASSN OF BLOOD BANKS		
J. WARREN CASSIDY 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN	1,575.00	
JOHN J. CASTELLANI 27TH FLOOR 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC	1,000.00	
RITA L. CASTLE 100 NE ADAMS PEORIA IL 61629	CATERPILLAR TRACTOR CO	2,000.00	1,430.00
G. THOMAS CATOR 1050 17TH STREET, NW WASHINGTON DC 20036	GOVERNMENT GUARANTEED LOAN COMMITTEE	2,000.00	2,000.00
Do	NATIONAL ASSN OF DEVELOPMENT COMPANIES (NADCO)	200.00	200.00
Do	NEECE, CATOR & ASSOCIATES, INC (FOR: SOUTHEASTERN LUMBER MANUFACTURERS ASSN).	1,800.00	1,800.00
JOSEPH E. CAVANAGH 1125 15TH ST., NW WASHINGTON DC 20005	INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO-CLC	2,675.00	
DOROTHY D. CECELSKI 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	4,125.00	
CEDERBERG & ASSOCIATES 7100 SUSSEX PLACE ALEXANDRIA VA 22307	GRUMMAN CORPORATION	200.00	
Do	MARTIN MARIETTA CORP	200.00	
Do	RCA	150.00	
Do	UNITED TECHNOLOGIES CORPORATION	150.00	
CENTER FOR ENVIRONMENTAL EDUCATION, INC SUITE 500 624 9TH STREET, NW WASHINGTON DC 20001		567,600.00	11,131.52
CF INDUSTRIES, INC. SALEM LAKE DR. LONG GROVE IL 60047			500.00
CHARLES M. CHAFER SUITE 300 2550 M ST., NW WASHINGTON DC 20037	SPACE SERVICES, INC		
CHAIN SAW MFGRS ASSN SUITE 1008 4340 EAST-WEST HIGHWAY BETHESDA MD 20014			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
DURWOOD CHALKER 2700 ONE MAIN PLACE DALLAS TX 75250	CENTRAL AND SOUTH WEST CORP		134.00
ELIZABETH PREWITT CHALMERS 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	750.00	
WALTON M CHALMERS II 6815 GEORGIA STREET CHEVY CHASE MD 20815	CITIZENS FOR A NUCLEAR FREEZE	600.00	
CHARLES E CHAMBERLAIN 1747 PENNSYLVANIA AVENUE, N.W. WASHINGTON DC 20006	COMMITTEE FOR 806.30 AND 807, INC	750.00	
CHAMBERS ASSOCIATES SUITE 1000 1100 17TH STREET, NW WASHINGTON DC 20036	AMERICAN POSTAL WORKERS UNION	5,691.25	935.96
Do	COMMISSIONED OFFICERS ASSN OF THE PUBLIC HEALTH SERVICE	1,542.50	20.00
Do	FACET, CORP	4,200.00	42.02
ED CHANDLER 7901 WESTPARK DR. MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	7,623.00	580.00
J. W. CHANDLER 1575 I ST., NW WASHINGTON DC 20005	YORK DIV., BORG-WARNER CORP		18.50
DONALD E. CHANNELL 6407 CROSSWOODS DR. FALLS CHURCH, VA 22044	SOCIETY OF MILITARY WIDOWS		
Do	SOUTHERN FURNITURE MFGRS ASSN		
WILLIAM C. CHAPMAN 1600 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	3,709.92
RICHARD M CHARLTON 229 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	ELECTRONIC DATA SYSTEMS CORPORATION	202.00	130.61
J. WILLIAM CHARRIER JR. 2828 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20007	DELTA STEAMSHIP LINES, INC.	1,200.00	147.65
LESLIE CHEEK III 1120 CONNECTICUT AVE., NW #1142 WASHINGTON DC 20036	CRUM & FOSTER CORP	16,250.00	941.61
JANE CHEEVER 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BOSTON CORPORATION		
Do	FIRST NATIONAL BANK OF BOSTON		
CHEMICAL MANUFACTURERS ASSOCIATION, INC 2501 M ST.,NW WASHINGTON DC 20037		5,000.00	3,000.00
CHEMICAL SPECIALTIES MFGRS ASSN 1001 CONNECTICUT AVENUE, NW WASHINGTON DC 20036			3,264.16
WILLIAM B CHERKASKY SUITE 1005 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	INTERNATIONAL FRANCHISE ASSN		
B. H. CHERRY 100 INTERPACE PARKWAY PARSIPPANY NJ 07054	GPU SERVICE CORPORATION	2,255.00	335.00
HOWARD P. CHESTER 218 NORTH LEE ST., ALEXANDRIA VA 22314	STONE, GLASS & CLAY COORDINATING COMM		
BLAIR G CHILDS P.O. BOX 7610, BF STATION WASHINGTON DC 20044	SENIOR EXECUTIVES ASSN	545.00	390.00
BRUCE L. CHRISTENSEN 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS	600.00	150.00
WILLIAM T. CHRISTIAN 1333 NEW HAMPSHIRE AVENUE,N.W. WASHINGTON, DC 20036	ATLANTIC RICHFIELD CO	250.00	
JACK E. CHRISTY 1909 K STREET, NW WASHINGTON DC 20049	AMER ASSN OF RETIRED PERSONS	346.15	139.05
CHUGACH ELECTRIC ASSN. INC PO BOX 3518 ANCHORAGE AK 99501			3,749.23
DONALD T. CHUNN ROUTE 2, BOX 89 COLUMBIA TN 38401	TITLE ASSOCIATES, INC.		
CHWAT/WEIGEND ASSOCIATES 226 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	AMERICAN HOME SEWING ASSN, INC	500.00	500.00
Do	LONG ISLAND UNIVERSITY	500.00	500.00
Do	MORSE TYPEWRITER CO., INC	1,500.00	1,500.00
CIGAR ASSN OF AMERICA, INC SUITE 1201 1100 17TH STREET, NW WASHINGTON DC 20036			561.75
CITIZEN VICTIMS OF CHRYSLER 934 CALLIE AVENUE TAHLEQUAH OK 74464			
CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS #151 1601 114TH SE BELLEVUE WA 98004		632,122.77	130,822.18
CITIZENS FOR GOVERNMENT FAIRNESS PO BOX 1336 BRAWLEY CA 92227			28.50
CIVIL PILOTS FOR REGULATORY REFORM 2819 NORDHAM DRIVE AUSTIN TX 78745			
CLADOUHOS & BRASHARES 1750 NEW YORK AVE., NW WASHINGTON DC 20006	CROWN CENTRAL PETROLEUM CORP		
Do	INTERNATIONAL PROCESSORS		
Do	SEAVIEW PETROLEUM CO		
Do	SECURITIES GROUP		
Do	SMITH, BARNEY, HARRIS, UPHAM & CO	1,500.00	
BOB CLARK & ASSOCIATES SUITE 1908 400 MADISON ST. ALEXANDRIA VA 22314	RYDER SYSTEMS, INC.		
ANNE HARRISON CLARK 110 MARYLAND AVE., NE WASHINGTON DC 20002	POPULATION RESOURCE CENTER, INC	8,322.00	
GILBERT M. CLARK 1117 N 19TH ST., SUITE 600, ARLINGTON VA 22209	AMERICAN ASSN OF BLOOD BANKS		
JAMES W. CLARK JR 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
JOSEPH J. F. CLARK 1750 K ST., NW, #260 WASHINGTON DC 20006	EATON ASSOCIATES, INC.		
JULIE CLARK 1625 K ST., NW EIGHTH FLOOR WASHINGTON DC 20006	NATIONAL LEGAL AID & DEFENDERS ASSN	9,000.00	457.37
KIMBALL CLARK 412 FIRST ST., SE, #200 WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	634.51	352.43
MARK A. CLARK 511 CENTRAL AVENUE GREAT FALLS MT 59403	IFG LEASING COMPANY		
VERNON A. CLARK 1899 L ST., NW, #403 WASHINGTON DC 20036	OUTDOOR ADVERTISING ASSOCIATION OF AMERICA, INC.	1,613.00	6,057.00
DONALD M. CLARKE COLLINS & SMITH ASSOCIATES, INC 6269 FRANCONIA ROAD ALEXANDRIA VA 22310	INTERNATIONAL HARVESTER	2,250.00	
WADE P. CLARKE JR JOHN DEERE RD MOLINE IL 61265	DEERE & COMPANY	150.00	
SCOTT CHARLES CLARKSON SUITE 607 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	WASTE MANAGEMENT, INC	1,000.00	411.98
JOAN CLAYBROOK SUITE 605 2000 P ST., NW WASHINGTON DC 20036	PUBLIC CITIZEN, INC.	55.00	
CLEARY, GOTTLIEB, STEEN & HAMILTON SUITE 450 1250 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN INDUSTRIAL HEALTH COUNCIL		
Do	NATIONAL SECURITIES CLEARING CORP	310.00	
Do	SPORTING ARMS AND AMMUNITION MANUFACTURERS INSTITUTE		
JACQUELINE W. CLEMENTS SUITE 900 1015 15TH STREET, NW WASHINGTON DC 20005	INTERNORTH	1,500.00	
RONALD D. CLEMENTS 1111 19TH ST., NW, 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,900.00	520.00
CLEVELAND ELECTRIC ILLUMINATING CO. 55 PUBLIC SQUARE P.O BOX 5000 CLEVELAND OH 44101			1,428.00
CLIFFORD & WARNKE 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AUSTRALIAN MEAT & LIVE-STOCK CORP		
Do	GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA		
Do	JOINT CORPORATE COMM ON CUBAN CLAIMS	600.00	180.00
Do	WARNER-LAMBERT CO.		
DEXANNE CLOHAN 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	3,700.00	18.77
CHRISTOPHER E. CLOUSER 25TH & MCGEE KANSAS CITY MO 64108	HALLMARK CARDS, INC.		
COALITION FOR UNIFORM PRODUCT LIABILITY LAW SUITE 303 1901 L STREET, NW WASHINGTON DC 20036		3,885.17	3,885.17
COAN, COUTURE, LYONS & MOORHEAD SUITE 1015 1625 EYE ST., NW WASHINGTON DC 20006	A - C VALLEY CORPORATION		
Do	TOSCO		
Do	WESTINGHOUSE ELECTRIC CORPORATION	2,300.00	
THOMAS B. COATES CONNECTICUT PETROLEUM COUNCIL 410 ASYLUM ST. HARTFORD CT 06103	AMERICAN PETROLEUM INST		
JOE COBB COBB GREEN & ASSOCIATES, LTD. P.O. BOX 974 LAS VEGAS NV 89125			
RICHARD B. COBB PETROLEUM COUNCIL OF GA 230 PEACHTREE ST., NW, #1500 ATLANTA GA 30303	AMERICAN PETROLEUM INST		
JOHN J. COFFEY 1700 K ST., NW WASHINGTON DC 20006	CHEVRON USA, INC	650.00	
DON V. COGMAN 1100 CONNECTICUT AVE., NW SUITE 820 WASHINGTON DC 20036	MAPCO INC.	3,750.00	358.56
COHEN & WHITE 1218 16TH STREET, NW WASHINGTON DC 20036	COMPUTER & COMMUNICATIONS INDUSTRY ASSN		
COHEN AND URETZ 4TH FLOOR 1775 K ST., NW WASHINGTON DC 20006	ITT CORPORATION		100.45
Do	NORTHWEST ENERGY COMPANY	14,708.75	290.14
MICHAEL J. COHEN 1225 CONNECTICUT AVE, NW WASHINGTON DC 20036	AMERICAN INTERNATIONAL GROUP		
HERBERT B. COHN, MORGAN, LEWIS, & BOCKIUS 1800 M ST., NW WASHINGTON DC 20036	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT	147.00	
ELIZABETH A. COKER 815 16TH STREET, N.W. RM. 510 WASHINGTON DC 20006	SEAFARERS INTERNATIONAL UNION	3,000.00	282.93
COLE & CORETTE, P.C. 1200 17TH ST., NW WASHINGTON DC 20036	AMERICAN EXPRESS CO.		
Do	AMERICAN PETROLEUM REFINERS ASSOCIATION		12.00
Do	CHASE MANHATTAN BANK, N.A.		8.00
Do	DOW CHEMICAL COMPANY		32.00
Do	GOVERNMENT OF THE NETHERLANDS ANTILLES		
Do	GRAHAM-WHITE MANUFACTURING CO		8.00
Do	MINPECO S.A.		34.40
ANN COLE 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSOCIATION		
E. WILLIAM COLE 1100 CONNECTICUT AVE., NW SUITE 800 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA	600.00	76.00
STACEY W. COLE NEW HAMPSHIRE PETROLEUM COUNCIL 23 SCHOOL ST. CONCORD NH 03301	AMERICAN PETROLEUM INST		
JOHN M. COLLIER 4436 PERRIER ST. NEW ORLEANS LA 70115	SOUTHERN FOREST PRODUCTS ASSN	10,232.52	
COLLIER, SHANNON, RILL, & SCOTT SUITE 308 1055 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	AMERICAN TEXTILE MACHINERY ASSN		
Do	CSX CORPORATION	1,000.00	50.00
Do	AMERICAN FROZEN FOOD INST		
Do	AMERICAN MEAT INSTITUTE	1,000.00	
Do	CROP INSURANCE RESEARCH BUREAU		
Do	CYLINDERS MANUFACTURERS ASSOCIATION		
Do	FERROS SCRAP CONSUMERS COALITION		
Do	FOOD MARKETING INSTITUTE		
Do	INDEPENDENT LUBRICANT MANUFACTURERS ASSN		
Do	NATIONAL ASSN OF CONVENIENCE STORES		
Do	NATIONAL BROILER COUNCIL		
Do	NORRIS INDUSTRIES	3,000.00	109.30
Do	OUTDOOR POWER EQUIPMENT INSTITUTE		
Do	SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA	2,000.00	
Do	TOOL AND STAINLESS STEEL INDUSTRY COMM		
Do	WEST TEXAS LAND & ROYALTY OWNERS ASSN		
GEORGE COLLINS 1126 16TH ST., NW WASHINGTON DC 20036	INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS	600.00	300.00
MARVIN COLLINS 1850 K STREET,N.W. WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC.	3,385.00	18.00
MARY M. COLLINS 1025 CONNECTICUT AVE., NW SUITE 200 WASHINGTON DC 20036	SHELL OIL CO.	500.00	
STEPHEN J. COLLINS 1909 K STREET, N.W. SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.		
WILLIAM P. COLLINS 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
COLORADO RAILROAD ASSN 420 DENVER CLUB BLDG DENVER CO 80202			
COLORADO SKI COUNTRY USA, INC. SUITE A-201 1410 GRANT STREET DENVER CO 80203		300.00	
W. KENT COMBS 1801 K ST., NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP.	1,404.00	106.00
COMMERCIAL UNION INSURANCE COMPANIES ONE BEACON STREET BOSTON MA 02108			
COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT C/O HERBERT COHN 1800 M ST., NW, #800 NORTH WASHINGTON DC 20036		900.00	900.00
COMMITTEE FOR DO-IT-YOURSELF HOUSEHOLD MOVING SUITE 1000 1100 17TH ST., NW WASHINGTON DC 20036			
COMMITTEE FOR EFFECTIVE CAPITAL RECOVERY SUITE 303 1901 L ST., NW WASHINGTON DC 20036		9,265.00	9,265.00
COMMITTEE FOR EFFECTIVE TAX INCENTIVES SUITE 303 1901 L ST., NW WASHINGTON DC 20036			
COMMITTEE FOR EQUALITY OF CITIZENS BEFORE THE COURTS 3401 WEST DIVISION ST. CHICAGO IL 60651			
COMMITTEE FOR HUMANE LEGISLATION, INC 11 WEST 60TH ST. NEW YORK NY 10023		16,142.77	2,746.93
COMMITTEE FOR PROPOSITION THIRTY P.O. BOX 915 HARTSELLE AL 35640			
COMMITTEE OF URBAN PROGRAM UNIVERSITIES SUITE 228 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036		7,000.00	11,460.38
COMMITTEE TO ASSURE THE AVAILABILITY OF CASEIN 3213 O ST., NW WASHINGTON DC 20007		28,000.00	
COMMON CAUSE 2030 M ST., NW WASHINGTON DC 20036		1,306,960.55	347,351.61
COMMUNITY NUTRITION INSTITUTE RM. 300 1146 19TH ST., NW WASHINGTON DC 20036			804.60
LANCE COMPA 1411 K ST., NW, #410 WASHINGTON DC 20005	UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMER	4,877.42	
COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION 2334 M ST., NW WASHINGTON DC 20007			
EDWARD C. CONE P.O. BOX 1788 FOREST PARK GA 30050	SOUTHEASTERN LUMBER MANUFACTURERS ASSN		
CAROLE N. CONES SUITE 301 1515 N. COURTHOUSE ROAD ARLINGTON VA 22201	DCM GROUP (FOR: AD HOC COMMITTEE FOR AMERICAN SILVER)	7,125.00	117.85
CONGRESS WATCH 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003		40,818.30	40,341.58
CONGRESSIONAL DIST ACTION COMM, DIST 7 C/O JOE TOMAINO 2735 IVY ST. TAMPA FL 33607		50.00	
RAYMOND F. CONKLING 1050 17TH ST., NW WASHINGTON DC 20036	TEXACO, INC.	300.00	15.75
JAMES T. CONNER SUITE 500 1025 VERMONT AVE., NW WASHINGTON DC 20005	MOBAY CHEMICAL CORP		
ROBERT J. CONNER JR 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	CHRYSLER CORPORATION	500.00	1,331.27
STEPHEN M. CONNER THE WILLOWS ROUTE L, BOX 165 EASTON MD 21601	FOREIGN MINISTRY OF KINGDOM OF SAUDI ARABIA		507.73
JOHN J. CONNOLLY SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	2,000.00	
JOHN P. CONNOLLY SUITE 802 2000 L STREET, NW WASHINGTON DC 20036	POPHAM, HAIK, ET AL (FOR CHICAGO MERCANTILE EXCHANGE)		
Do	POPHAM, HAIK, ET AL (FOR NEWCOMB SECURITIES CO)		
RICHARD J. CONNOR JR 1300 PENNSYLVANIA BUILDING WASHINGTON DC 20004	DISTILLED SPIRITS COUNCIL OF THE U.S., INC.	1,725.00	150.00
JERRY C. CONNORS 8111 GATEHOUSE RD. FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
GREGORY E. CONRAD 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
CONSOLIDATED NATURAL GAS SERVICE CO., INC FOUR GATEWAY CENTER PITTSBURGH PA 15222		4,000.00	
CONSTRUCTORA NACIONAL DE CARROS DE FERROCARRIL, S.A. SAN LORENZO NO. 925, 5 PISO MEXICO, D.F., MEXICO			
CONSUMER ENERGY COUNCIL OF AMERICA SUITE 320 2000 L ST., NW WASHINGTON DC 20036			243.82
CONSUMERS UNION OF U.S., INC. 256 WASHINGTON ST. MOUNT VERNON NY 10550			10,580.58
CONTINENTAL ASSN OF RESOLUTE EMPLOYERS (C.A.R.E.) 511 C STREET, NE WASHINGTON DC 20002			
JOHN J. CONTNEY 1250 E. HOLLANDALE BEACH BLVD. HOLLANDALE FL 33009	TEXTILE RENTAL SERVICES ASSN OF AMERICA		
CONTRACT CARRIER CONFERENCE 1730 RHODE ISLAND AVE., NW SUITE 801 WASHINGTON DC 20036			
JOHN A. CONWAY 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
JOHN T. CONWAY 410 1ST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	7,875.00	916.93
EMERY S. CONYERS P.O. BOX 1706 MIDLAND MI 48640	DOW CHEMICAL CO	250.00	85.00
ALEXANDRA W. COOK 229 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	ELECTRONIC DATA SYSTEMS CORPORATION	632.00	568.74
CHARLES F. COOK JR 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS	140.00	8.00
FREDERICK H. COOK VERMONT PETROLEUM ASSOCIATION P.O. BOX 566 MONTPELIER VT 05602	AMERICAN PETROLEUM INST	750.00	460.00
HARRY N. COOK 1130 17TH ST., NW WASHINGTON DC 20036	NATIONAL WATER CONFERENCE, INC.		
K. RICHARD COOK 777 14TH ST., NW, SUITE 700 WASHINGTON DC 20005	GENERAL ELECTRIC CO	425.00	
THOMAS M. COOK SUITE 1020 425 13TH STREET, NW WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN	1,000.00	
COOK, PURCELL, HANSEN & HENDERSON 11TH FLOOR 1015 18TH ST., NW WASHINGTON DC 20036	GUAM AIRPORT AUTHORITY	3,500.00	
EILEEN D. COOKE 110 MARYLAND AVE., NE, SUITE 101, BOX 54 WASHINGTON DC 20002	AMERICAN LIBRARY ASSN	1,131.00	
BERNARD J. COONEY SUITE 900 1730 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	CATERPILLAR TRACTOR CO.		
PAUL E. COONEY 1775 PENNSYLVANIA AVE., NW, #1000 WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: CITY OF MINNEAPOLIS)		
Do	FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE		
Do	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP)		
Do	PHOSPHATE ROCK EXPORT ASSOCIATION		
BENJAMIN Y. COOPER JR 1730 NORTH LYNN ST. ARLINGTON VA 22209	PRINTING INDUSTRIES OF AMER, INC	7,500.00	
JESSE D. COOPER SUITE 314 1155 15TH ST., NW WASHINGTON DC 20005	ROCKY MOUNTAIN OIL & GAS ASSN	1,100.00	811.25
JOSHUA W. COOPER 626 S. LEE ST. ALEXANDRIA VA 22314	PORTSMOUTH-KITTERY ARMED SERVICES COMM, INC	1,400.00	1,158.61
KATHY J. COOPER SUITE 1204 1700 K STREET, NW WASHINGTON DC 20006	CHEVRON USA, INC.	200.00	
MARK N. COOPER 2000 L STREET, N.W. SUITE 320 WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
MITCHELL J. COOPER 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	COUNCIL OF FOREST INDUSTRIES	4,250.00	
Do	FOOTWEAR DIV., RUBBER MFGRS ASSN	11,500.00	20.00
COOPERATIVE LEAGUE OF THE USA SUITE 1100 1828 L ST., NW WASHINGTON DC 20036		219,767.28	5,028.33
DARRELL COOVER 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	2,000.00	427.00
JAMES M. COPELAND SUITE 801 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	CHICAGO MERCANTILE EXCHANGE	6,999.00	
CONSTANCE E.R. CORBINO 1015 15TH ST., N.W. # 802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	375.00	
JOHN F. CORCORAN 920 15TH ST., NW WASHINGTON DC 20005	SOUTHERN RAILWAY CO.	1,000.00	
PATRICK H. CORCORAN SUITE 1205 1725 K ST., NW WASHINGTON DC 20006	ASSOCIATION OF OIL PIPE LINES		
CORCORAN, YOUNGMAN & ROWE SUITE 1100 1511 K ST., NW WASHINGTON DC 20005	FRANK G. KINGSLEY		
Do	MILLIKEN & COMPANY		
ALFRED C. CORDON GORDON & JACOBS 2000 L ST., NW, #616 WASHINGTON DC 20036	BUFFALO BROADCASTING CO., INC.		
SAMUEL C. COREY JR 2500 DEKALB PIKE NORRISTOWN PA 19404	PROVIDENT INDEMNITY LIFE INSURANCE CO		
SAMUEL C. COREY SR 2500 DEKALB PIKE NORRISTOWN PA 19404	PROVIDENT INDEMNITY LIFE INSURANCE CO		
BENNETT J. CORN FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
CORN REFINERS ASSOCIATION, INC. 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036		2,218.00	1,467.00
CORNELL, PELCOVITS & BRENNER ECONOMISTS, INC. SUITE 708 1211 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SONY CORP OF AMERICA	2,500.00	
ERNEST J. CORRADO SUITE 1000 1625 K STREET, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF MERCHANT SHIPPING	165.00	4.50
MARY MARCOTTE CORRIGAN 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER		
RICHARD L. CORRIGAN SUITE 560 1090 VERMONT AVENUE, NW WASHINGTON DC 20005	CH2M HILL, INC.	1,200.00	
ALLAN D. CORS 1800 K ST., NW, SUITE 1104 WASHINGTON DC 20006	CORNING GLASS WORKS	450.00	
GLEN S. CORSO 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA	6,840.00	705.00
R. H. CORY 1510 AMERICAN BANK TOWER AUSTIN TX 78701	CENTRAL AND SOUTH WEST SERVICES, INC.	605.00	300.86
TOM COSGROVE 530 7TH ST., S.E. WASHINGTON DC 20003	NATIONAL CLEAN AIR COALITION, INC.	3,706.95	
COSMETIC, TOILETRY & FRAGRANCE ASSN, INC SUITE 800 1110 VERMONT AVE., NW WASHINGTON DC 20005			
CLARK R. COSSE III 2900 INDIANA AVE., KENNER, LA 70062	SOUTHERN FOREST PRODUCTS ASSN	7,674.99	
JAMES R. COSTELLO JR 1101 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MFRS INST.	500.00	69.50
MICHAEL E. COSTELLO SUITE 600 1090 VERMONT AVE., NW WASHINGTON DC 20005	TEXAS EASTERN TRANSMISSION CORP		263.20
MARY ALICE COTTER 410 FIRST STREET, SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	400.00	
COTTON FARMERS ASSOCIATION 700 TEXAS CENTER 900 WASHINGTON WACO TX 76703			
COUDERT BROTHERS ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	U.S. TELPHONE COMMUNICATIONS, INC.	73,733.63	2,030.01
DANIEL T. COUGHLIN 235 W. GALENA ST. MILWAUKEE WI 53212	JOS. SCHLITZ BREWING CO.		
J. BARRY COUGHLIN 815 CONNECTICUT AVE.,N.W. WASHINGTON DC 20006	FORD MOTOR CO.	1,530.00	1,056.91
CRAIG A. COULTER 1660 L ST., NW SUITE 207 WASHINGTON DC 20036	CITIES SERVICE CO	1,015.00	
COUNCIL FOR A LIVABLE WORLD 11 BEACON ST. BOSTON MA 02108			27,064.75
COUNCIL FOR LANGUAGES AND OTHER INT'L STUDIES SUITE 210 11 DUPONT CIRCLE, NW WASHINGTON DC 20036		3,308.29	7,255.85
COUNCIL OF STATE CHAMBERS OF COMMERCE SUITE 412 499 S. CAPITOL ST., SW WASHINGTON DC 20003		1,034.50	5,247.26
COURSEN & COMPANY 910 17TH STREET, NW WASHINGTON DC 20006	ESTATE OF HELEN HALBACH	12,675.00	373.00
COURTNEY & ASSOCIATES 632 F STREET, NE WASHINGTON DC 20002			
WILLIAM R. COURTNEY P.O. BOX 844 TEMPLE TX 76503	TRIBAL COUNCIL OF THE COUSHATTA TRIBE OF LOUISIANA		
JAMES COUSINS 1101 15TH ST., NW, #400 WASHINGTON DC 20005	NATIONAL SAVINGS & LOAN LEAGUE	4,000.00	
JOHN F. COVE 918 16TH ST., N.W. WASHINGTON DC 20006	COVE ASSOCIATES (FOR: AEROSPACE OPTICAL DIV. ITT)		
Do	COVE ASSOCIATES (FOR: ASSOC. OF U.S. NIGHT VISION MFRS.)		
COVINGTON & BURLING 1201 PENNSYLVANIA AVE, NW. P.O. BOX 7566 WASHINGTON DC 20044	AMERICAN ASSN OF ORAL & MAXILLOFACIAL SURGEONS	2,925.00	6.00
Do	AMERICAN WATCH ASSN	500.00	37.75
Do	ANCHOR NATL LIFE INSURANCE CO		
Do	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC	3,198.75	
Do	FACET ENTERPRISES, INC.	10,000.00	91.10
Do	INVESTMENT COMPANY INSTITUTE	9,000.00	86.97
Do	IRVING TRUST CO		
Do	NATIONAL FOOTBALL LEAGUE		14.65
Do	NEW YORK STATE URBAN DEVELOPMENT CORP		
Do	REICHHOLD ENERGY CORP	2,500.00	38.76
Do	SECURITIES INDUSTRY ASSN		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
EUGENE S. COWEN 2759 UNICORN LN., NW WASHINGTON DC 20015	AMERICAN BROADCASTING CO		
ARCHIBALD COX 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	4,492.50	1,448.52
C. BRYAN COX PO BOX 139 KANSAS CITY MO 64141	KANSAS CITY LIFE INSURANCE CO		
KENNETH A. COX 1133 19TH ST., NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP	504.75	10.30
CRAMER HOFFMAN & HABER 1320 19TH ST., NW SUITE 200 WASHINGTON DC 20036	CANAVERAL PORT AUTHORITY	13,500.00	143.62
Do	CITY OF MIAMI	4,000.00	673.65
Do	DADE COUNTY	2,000.00	1,475.12
Do	GLOBAL EXPLORATION & DEVELOPMENT CORP		
Do	HOBBS CONSTRUCTION & DEVELOPMENT CO., INC	10,000.00	307.90
WILLIAM C. CRAMER 1320 19TH ST., NW, #200 WASHINGTON DC 20036	CRAMER HOFFMAN & HABER (FOR: CANAVERAL PORT AUTHORITY)		
Do	CRAMER HOFFMAN & HABER (FOR: CITY OF MIAMI)		
Do	CRAMER HOFFMAN & HABER (FOR: DADE COUNTY)		
Do	CRAMER HOFFMAN & HABER (FOR: HOBBS CONSTRUCTION & DEVELOPMENT CO., INC.).		
Do	HOFFMAN, HENDRY, ET AL. (FOR: GLOBAL EXP. & DEV. CORP.)		
CRAMER, HOFFMAN & HABER, ORLANDO, P.A. 215 E. CENTRAL BLVD. ORLANDO FL 32801	GLOBAL EXPLORATION & DEVELOPMENT CORPORATION		283.05
JOSEPH S. CRANE 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INSTITUTE OF ARCHITECTS	437.50	
CHARLES S. CRAWFORD THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON & STEEL INSTITUTE)		
Do	GRAY AND COMPANY (FOR: AMERICAN MARITIME ASSN)	85.00	
Do	GRAY AND COMPANY (FOR: AVIS ENTERPRISES)		
Do	GRAY AND COMPANY (FOR: HTB CORPORATION)		
Do	GRAY AND COMPANY (FOR: JOINT MARITIME CONGRESS)		
Do	GRAY AND COMPANY (FOR: TERA CORPORATION)		
CREDIT UNION NATL ASSN, INC SUITE 810 1730 RHODE ISLAND AVE. WASHINGTON DC 20036		300.00	1,104.75
RICHARD C. CREIGHTON 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	5,000.00	500.00
JOSEPH M. CRIBBEN 6900 VALLEY BROOK DR. FALLS CHURCH VA 22042	UNITED ASSN OF JNYMEN & APPREN. OF PLMBG & PIPEFTG INDUSTRY	1,750.00	30.00
RICHARD E. CRISTOL 5775 PEACHTREE-DUNWOODY RD., #5000 ATLANTA GA 30342	ROBERT H. KELLEN CO (FOR: CALORIE CONTROL COUNCIL)		
P. H. CROFT 2000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN SHORT LINE RAILROAD ASSN		
ROBERT W. CROMARTIE 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	300.00	
CHARLES H. CROMWELL, INC. 6709 GEORGIA ST. CHEVY CHASE MD 20815	GENERAL ELECTRIC CO		
Do	HUGHES HELICOPTERS		
Do	MOTOROLA, INC		
Do	NORTHROP CORP		
RAE CROMWILLER SUITE 300 1920 N STREET, NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
DONALD A. CROSIER NEBRASKA PETROLEUM COUNCIL 334 S. 13TH ST., PO BOX 95063 LINCOLN NB 68509	AMERICAN PETROLEUM INST		
BOBBY E. CROW PO BOX 683 HOUSTON TX 77001	COLUMBIA GULF TRANSMISSION CO		
CROWELL & MORING 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	ASARCO, INC	905.00	10.00
Do	ASSOCIATED GAS DISTRIBUTORS		
Do	AVON PRODUCTS, INC	972.00	20.00
Do	BROOKLYN UNION GAS CO	576.00	20.00
Do	COMMUNICATIONS SATELLITE CORPORATION		10.00
Do	CONTROL DATA CORPORATION		
Do	ELI LILLY AND COMPANY	6,035.00	10.00
Do	HELICOPTER ASSOCIATION INTERNATIONAL		
Do	NATIONAL ASSN OF WHOLESALER-DISTRIBUTORS	11,602.50	10.00
Do	REGIONAL AIRLINE ASSOCIATION		2.50
Do	SIERRA PACIFIC POWER COMPANY		
Do	ZIMPRO, INC		
DAVID C. CROWLEY 1050 17TH ST., NW SUITE 770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING		
CUBA CLAIMS ASSOCIATION PO BOX 014004 MIAMI FL 33101			
CHARLES T. CUDLIP 1100 CONNECTICUT AVENUE, N.W. WASHINGTON DC 20036	CHRYSLER CORPORATION	2,000.00	90.00
BARRY M. CULLEN 1620 EYE ST., NW, #700 WASHINGTON DC 20006	INTERNATIONAL PAPER CO	125.00	
JOHN C. CULVER 1815 H STREET, NW WASHINGTON DC 20006	ARENT, FOX, KINTNER, PLOTKIN, & KAHN (FOR: CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS).		
Do	ARENT, FOX, KINTNER, PLOTKIN & KAHN (FOR: INTELSAT)		
Do	ARENT, FOX, KINTNER, PLOTKIN & KAHN (FOR: URANERZBERGBAU-GMBH)		
WILLIAM E. CUMBERLAND 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA		
RICHARD C. CUNAN 3100 FERRY BUILDING SAN FRANCISCO CA 94111	CALIFORNIA CANNERS & GROWERS	5,000.00	872.22
JOHN T. CURRAN 905 16TH ST., NW WASHINGTON DC 20006	LABORERS' INTL UNION OF NORTH AMERICA, AFL-CIO	13,282.50	416.85
Do	NATIONAL COORDINATING COMM FOR MULTIEMPLOYER PLANS		
SHARON ALLEN CURRENS 1735 NEW YORK AVE,NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	1400.00	
CARL T. CURTIS 1101 CONNECTICUT AVE., NW SUITE 800 WASHINGTON DC 20036	DON RICH COMPANY		
EDWARD P. CURTIS JR. 36 WEST MAIN STREET ROCHESTER NY 14614	MINISTRY OF THE ENVIRONMENT PROVINCE OF ONTARIO, CANADA	5,750.00	2,861.77
CURTIS, MALLET-PREVOST, COLT & MOSLE 100 WALL ST. NEW YORK NY 10005	AIR TRANSPORT ASSN OF AMERICA		
M. RUPERT CUTLER 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY	300.00	130.00
EVERETT E. CUTTER 620 SW FIFTH AVENUE BLDG., SUITE 912 PORTLAND OR 97204	OREGON RAILROAD ASSN		
TERESE C. D'ALESSIO 2020 NORTH SUITE 402 14TH ST. ARLINGTON VA 22201	AMERICAN NEWSPAPER PUBLISHERS ASSN	3,335.00	121.26
Do	MEDIA GENERAL, INC	715.00	81.00
WILLIAM D. D'ONOFRIO 1800 W. 8TH ST. WILMINGTON DE 19805	NATIONAL ASSOCIATION FOR NEIGHBORHOOD SCHOOLS, INC		
LYNN M. DAFT 1339 WISCONSIN AVENUE, NW WASHINGTON DC 20007	AMERICAN BAKERS ASSOCIATION	955.56	978.76
WILLIAM KAY DAINES 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	780.00	50.20
LEWIS I. DALE SUITE 1016 1800 K STREET, NW WASHINGTON DC 20006	AIR PRODUCTS & CHEMICALS, INC	90.00	20.00
DONALD W. DALRYMPLE SUITE 220 1575 I ST., NW WASHINGTON DC 20005	AMERICAN CYNAMID COMPANY (FOR: LEDERLE LABORATORIES)	1,920.00	320.45
JAMES G. DALTON 2029 K ST., NW WASHINGTON DC 20006	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	2,500.00	
JOHN M. DAMGARD 1735 I ST., NW SUITE 716 WASHINGTON DC 20006	ACLI INTERNATIONAL, INC		
DAMRELL, DAMRELL & NELSON, P.C. 911 13TH STREET P.O. BOX 3489 MODESTO CA 94353	COASTAL CORPORATION	988.50	341.70
Do	DESERT GRAPE GROWERS LEAGUE OF CALIFORNIA	3,376.08	1,502.06
TRACY DANESE P.O. BOX 14000 JUNO BEACH, FL 33408	FLORIDA POWER & LIGHT CO		
ALICE DANIEL 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	412.50	
DAVID S. DANIELSON 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
DAN DANNER 1747 PENNYSLVANIA AVE., SUITE 702 NW WASHINGTON DC 20006	ARMCO INC	300.00	210.00
ELWYN LABAUVE DARDEN 1224 S. GEORGE MASON DR., APT. 21 ARLINGTON VA 22204	H. H. TIFFANY	1,600.00	20.00
WILLIAM H. DARDEN SUITE 200 412 FIRST STREET, SE WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	630.00	
THOMAS ROGER DART ALABAMA PETROLEUM COUNCIL P.O. BOX 4440 MONTGOMERY AL 36195	AMERICAN PETROLEUM INST		
DATAPOINT CORPORATION 9725 DATAPOINT DRIVE SAN ANTONIO TX 78284			
M. DENNIS DAUGHERTY 733 15TH STREET, NW WASHINGTON DC 20005	LEGAL SERVICES CORP	358.72	29.56
PHILLIP DAUGHERTY 815 16TH ST., NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	7,329.00	317.99
JOHN B. DAVENPORT JR 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	115.35	
LARRY C. DAVENPORT 5775 PEACHTREE-DUNWOODY RD. SUITE 500-D ATLANTA GA 30342	ROBERT H. KELLEN CO (FOR: CALORIE CONTROL COUNCIL)	35.00	
EARL F. DAVID SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM CO		
DANIEL I. DAVIDSON 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	SPIEGEL & MCDIARMID (FOR: NORTHERN CALIFORNIA POWER AGENCY)		
CHRISTOPHER L. DAVIS SUITE 650 1920 N STREET, NW WASHINGTON DC 20036	DIEBOLD, MILLONZI, RAISER, & ROBSHAW (FOR: AMERICAN BUREAU OF COLLECTIONS, INC).		
Do	DIEBOLD, MILLONZI, RAISER, & ROBSHAW (FOR: ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY).		
Do	DIEBOLD, MILLONZI, RAISER, & ROBSHAW (FOR: NATIONAL SKEET SHOOTING ASSN.		
Do	DIEBOLD, MILLONZI, RAISER, & ROBSHAW (FOR: TECHNOLOGY CENTER, INC		
DAVID R. DAVIS INDIANA PETROLEUM COUNCIL 714 HARRISON BLDG. INDIANAPOLIS IN 46204	AMERICAN PETROLEUM INST	1,046.16	651.23
DREW M DAVIS 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN	212.87	
EDWARD M. DAVIS 410 FIRST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	4,080.01	542.62
EDWIN I. DAVIS 1510 FIRST CITY EAST BUILDING HOUSTON TX 77002	COASTAL CORP		
FRED G. DAVIS 1111 19TH STREET, N.W. WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,450.00	610.57
DAVIS GRAHAM & STUBBS SUITE 810 1920 N STREET, NW WASHINGTON DC 20036	INTEGRITY OIL & GAS COMPANY	635.50	534.74
Do	NORTHERN COLORADO WATER CONSERVANCY DISTRICT	15,093.85	15,093.85
Do	SNYDER OIL COMPANY	666.50	560.83
Do	TENNECO OIL COMPANY	961.00	808.64
KENNETH E. DAVIS 1434 NEW YORK AVE., NW SUITE 743 WASHINGTON DC 20005	ROHM & HAAS CO	500.00	22.04
OVID R. DAVIS P.O. DRAWER 1734 ATLANTA GA 30301	COCA-COLA COMPANY		
DAVIS POLK & WARDWELL 1575 EYE ST., NW WASHINGTON DC 20005	INTERNATIONAL PAPER CO	76.25	161.75
Do	MORGAN GUARANTY TRUST CO OF NEW YORK		
Do	SOCIETE GENERALE (FOR: HUDSON SECURITIES, INC)		
R. HILTON DAVIS 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	900.00	
ROBERT DAVIS 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	492.00	287.00

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
WILLIAM LEE DAVIS 299 PARK AVE. NEW YORK NY 10171	WESTVACO CORP	4,250.00	3,297.37
DAVIS, WRIGHT, TODD, RIESE & JONES 6TH FLOOR 1050 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007	SOUTHERN PACIFIC COMMUNICATIONS CO.	5,225.00	292.78
P. W. DAVISON JR 418 E. ROSSER AVE. P.O. BOX 938 BISMARCK ND 58501	NORTH DAKOTA RAILWAY LINES		
DONALD S. DAWSON 723 WASHINGTON BLDG. WASHINGTON DC 20005	OPTICIANS ASSN OF AMER		
Do	U.S. BREWERS ASSOCIATION, INC.		
Do	VIRGIN ISLANDS GIFT & FASHION SHOP ASSN		
Do	VIRGIN ISLANDS MERCHANTS ASSOCIATION	25,000.00	335.81
J. EDWARD DAY 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	ELECTRONIC INDUSTRIES ASSN	300.00	
Do	THIRD CLASS MAIL ASSOCIATION		
DCM GROUP SUITE 301 1515 N. COURTHOUSE ROAD ARLINGTON VA 22201	AD HOC COMMITTEE FOR AMERICAN SILVER	12,375.00	12,739.52
O. MARK DE MICHELE 411 N. CENTRAL P.O. BOX 21666 PHOENIX AZ 85036	ARIZONA PUBLIC SERVICE COMPANY		
JOHN RUSSELL DEANE III 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	AMERICAN METAL DETECTORS MFRS., INC.		
Do	COALITION OF AUTOMOTIVE ASSNS		
Do	NATIONAL OUTDOOR COALITION		
Do	SPECIALTY EQUIPMENT MARKET ASSN.	8,710.00	5,196.07
GASTON DEBEARN 1775 K ST., NW SUITE 300 WASHINGTON DC 20006	HOFFMANN-LA ROCHE INC.		
THOMAS DEBEVOISE 1200 17TH STREET, NW WASHINGTON DC 20036	GPU SERVICE CORPORATION		198.59
ROBERT L. DEBO MISSOURI OIL COUNCIL 428 E. CAPITOL, #203 JEFFERSON CITY MO 65101	AMERICAN PETROLEUM INST		
EDWARD S. DEBOLT SUITE 301 1515 N. COURTHOUSE ROAD ARLINGTON VA 22201	DCM GROUP (FOR: AD HOC COMMITTEE FOR AMERICAN SILVER)	5,250.00	
MARK Q. DECKER SUITE 1100 1707 H STREET, NW WASHINGTON DC 20006	NATIONAL OIL JOBBERS COUNCIL	230.00	
WINSTON M. DECKER SUITE 928 1522 K ST., NW WASHINGTON DC 20005	AMERICAN VETERINARY MEDICAL ASSN	40.00	
Do	ASSOCIATION OF AMERICAN VETERINARY MEDICAL COLLEGES		
BRIAN DEERY 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
DONALD H. DEFOE 100 N.E. ADAMS STREET PEORIA IL 61629	CATERPILLAR TRACTOR CO.	99.88	167.90
GEORGE K. DEGNON ASSOCIATES, INC. SUITE 3A 1311-A DOLLEY MADISON BLDG. MCLEAN VA 22101	ASSOCIATION OF STATE & TERRITORIAL HEALTH OFFICIALS		
Do	NATIONAL ASSN OF CHILDREN'S HOSPITALS & RELATED INSTITUTIONS		
DEHART ASSOCIATES, INC 1505 22ND ST., NW WASHINGTON DC 20037	RECORDING INDUSTRY ASSN OF AMER, INC	4,015.00	901.87
JOHN P. DEKANY SUITE 823 201 I STREET, SW WASHINGTON DC 20024	MANUFACTURERS OF EMISSION CONTROLS ASSN		
STEPHEN T. DELAMATER 2500 SOUTHLAND CENTER DALLAS TX 75201	HALLIBURTON CO		
JOHN W. DELANEY 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
Do	FIRST NATIONAL BOSTON CORPORATION		
JOHN L. DELANO BOX 1172 HELENA MT 59624	MONTANA RAILROAD ASSN		815.80
ROBERT B. DELANO 225 TOUHY AVE. PARK RIDGE IL 60068	AMERICAN FARM BUREAU FED	2,500.00	
DELL, CRAIGHILL, FENTRESS & BENTON 888 17TH ST., NW SUITE 1200 WASHINGTON DC 20006	CONSEJO ESTATAL DE DESAROLLO		
Do	GOVERNOR ROBERTO DE LA MADRID		
CARTHA D. DELOACH 700 ANDERSON HILL ROAD PURCHASE NY 10577	PEPSICO, INC.	600.00	256.80
SUSAN C. DEMARR 1615 H ST., N.W. WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,500.00	
TANIA DEMCHUK 499 SOUTH CAPITOL ST., SW SUITE 401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	100.00	
BRADFORD T. DEMPSEY 512 W. MAPLE AVE. SUITE 210 VIENNA VA 22180			
GEORGE H. DENISON 4837 DEL RAY AVE. WASHINGTON DC 20814	NATIONAL OFFICE PRODUCTS ASSN	350.00	
Do	WESTINGHOUSE ELECTRIC CORP	1,275.00	
RAY DENISON 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	15,201.29	483.[illegible]
JOHN H. DENMAN MISSOURI OIL COUNCIL 428 E. CAPITAL ST., #203 JEFFERSON CITY MO 65101	AMERICAN PETROLEUM INST	400.00	537.20
WELLS DENYES 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	EASTMAN CHEMICAL PRODUCTS, INC.	750.00	112.02
DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO 815 16TH ST., NW WASHINGTON DC 20006		9,149.69	9,149.69
DERREL BLAURETT DEPASSE 1100 CONNECTICUT AVE., NW, #540 WASHINGTON DC 20036	CONTAINER CORP OF AMERICA	9,750.00	4,350.00
ALPHONSE DEROSSO SUITE 1100 1899 L STREET, NW WASHINGTON DC 20036	EXXON CORPORATION		
HELEN B. DESAI 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	375.00	
CLAUDE J. DESAUTELS APT. 617 2401 CALVERT ST., NW WASHINGTON DC 20008	CARL BYOIR & ASSOCIATES		
Do	FLAVOR AND EXTRACT MFGRS.		
SAMUEL L. DEVINE 1301 PENNSYLVANIA AVENUE, N.W. SUITE 1150 WASHINGTON DC 20004	AMERICAN SMALL AND RURAL HOSPITAL ASSOCIATION, OHIO CHAPTER		
Do	DILWORTH, PAXSON, KALISH & LEVY		
Do	GROCERY MANUFACTURERS OF AMERICA, INC.	552.50	
Do	O'CONNOR & HANNAN	412.50	
Do	OCCIDENTAL PETROLEUM CORP	19,399.38	
Do	PAYCO AMERICAN CORPORATION		
Do	PEPSICO, INC.	5,000.00	30.57
R. DANIEL DEVLIN 1000 16TH ST., NW WASHINGTON DC 20036	TRANS WORLD AIRLINES, INC.	350.00	
RALPH B. DEWEY 1050 17TH ST., NW, #1180 WASHINGTON DC 20036-5574	PACIFIC GAS & ELECTRIC CO.	992.30	1,054.56
DORIS J. DEWTON 1025 CONNECTICUT AVENUE, NW SUITE 507 WASHINGTON DC 20036	ASHLAND OIL, INC.	2,000.00	
KENDALL P. DEXTER 9 COUNTRY CLUB ROAD MOBILE AL 36608	MACMILLAN BLOEDEL INC.	1,750.00	1,584.00
DGA INTERNATIONAL INC 1225 19TH ST., NW WASHINGTON DC 20036	AIRBUS INDUSTRIE	3,238.40	391.80
Do	DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS		
Do	SOFREAVIA	155.00	32.30
LOUIS H. DIAMOND 10TH FLOOR 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY	3,000.00	
DIAMOND SHAMROCK CORPORATION 717 N. HARWOOD STREET DALLAS TX 75201			1,212.51
CHARLES J. DIBONA 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	1,875.00	
JOHN M. DICKERMAN JOHN DICKERMAN & ASSOCIATES, INC. 1730 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL LUMBER & BUILDING MATERIAL DEALERS ASSN	1,333.32	278.99
CHESTER T. DICKERSON JR. 1101 17TH STREET, N.W. SUITE 604 WASHINGTON DC 20036	MONSANTO CO.		169.79
ANN SANDERS DICKEY 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	7,192.00	65.00
WILLIAM E. DICKINSON SUITE 300 206 N. WASHINGTON STREET ALEXANDRIA VA 22314	SALT INSTITUTE	3,000.00	250.00
DICKINSON, WRIGHT, MOON, VAN DUSEN & FREEMAN 1901 L ST., NW SUITE 801 WASHINGTON DC 20036	GENERAL MOTORS CORP	12,720.00	1,449.07
Do	K MART CORP		
Do	OAKLAND COUNTY D.P.W.		
Do	ROYAL HAWAIIAN CRUISES, INC.		
DICKSTEIN SHAPIRO & MORIN 2101 L ST., NW WASHINGTON DC 20037	CUSTOM AUTOMOTIVE SOUND ASSN, INC	1,000.00	
Do	FEDERATED CASH MANAGEMENT SYSTEMS		
Do	MARINE ENGINEERS' BENEFICIAL ASSN		
Do	NATIONAL FEDERATION OF SOCIETIES FOR CLINICAL SOCIAL WORK	500.00	
Do	ROCKPORT YACHT & SUPPLY CO		
Do	SHRIMP HARVESTERS COAL. OF THE GULF COAST & S. ATLANTIC STS.		
Do	TENNESSEE GAS TRANSMISSION CO		
JOHN R. DIERKER 1150 17TH ST., NW WASHINGTON DC 20036	MCDONNELL DOUGLAS CORPORATION		
NANCY DIETZ 45 EVERETT ST. NEWTON CENTER MA 02159	ACTION FOR CHILDREN'S TELEVISION	500.00	
TIMOTHY V. A. DILLON 1850 K ST., NW, #380 WASHIONGTON DC 20006	WESTLANDS WATER DISTRICT	2,379.62	129.62
THOMAS A. DINE 444 NORTH CAPITOL ST. NW, #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	11,388.50	
MICHAEL F. DINEEN 600 PENNSYLVANIA AVE., SE, #206 WASHINGTON DC 20003	LUMBERMENS MUTUAL CASUALTY COMPANY	1,900.00	
HARLEY M. DIRKS STANTON SQUARE 420 C ST., NE WASHINGTON DC 20002	HEALTH AND MEDICINE COUNSEL OF WASHINGTON	199.00	
Do	PROFESSIONAL SERVICES COUNCIL	189.00	
DISABLED AMERICAN VETERANS 3725 ALEXANDRIA PIKE COLD SPRING KY 41076		73,364.12	73,364.12
DENNIS C. DIX 1901 L ST., N.W. WASHINGTON DC 20036	OUTDOOR POWER EQUIPMENT INSTITUTE		
PATSY B. DIX 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	1,660.10	50.00
D. L. DIXON III P.O. BOX 1151 PENSACOLA FL 32520	GULF POWER COMPANY	1,105.00	1,140.53
WILLIAM H. DODDS 1757 N STREET, NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	11,588.32	28.20
STEVEN P. DOEHLER SUITE 1405 1725 K ST., NW WASHINGTON DC 20006	MORTGAGE INSURANCE COMPANIES OF AMERICA	2,500.00	46.15
WILLIAM BARROWS DOGGETT SUITE 600 1001 22ND STREET, NW WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	800.00	148.77
JOHN D. DOHERTY JR 900 17TH ST., NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	337.50	31.38
JULIE DOMENICK 1775 K STREET, NW WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE	550.00	494.96
DOMESTIC WILDCATTERS ASSN P.O. BOX 4394, HOUSTON TX 77210		112,000.00	106,829.24
BRIAN J. DONADIO SUITE 104 499 SOUTH CAPITOL STREET, NW WASHINGTON DC 20003	AMERICAN OSTEOPATHIC ASSN		
MICHAEL DONAGHUE 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	400.00	
LEO J. DONAHUE 230 SOUTHERN BLDG. WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
MARLA M. DONAHUE 1625 K STREET, NW WASHINGTON DC 20006	COUNCIL OF AMRICAN-FLAG SHIP OPERATORS	1,250.00	2.50
RICHARD M. DONALDSON 1738 GUILDHALL BLDG. CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
THOMAS J. DONOHUE 1615 H ST., NW WASHINGTON DC 20062	CITIZENS' CHOICE, INC	5,000.10	
JACK C. DONOVAN P. O. BOX 5000, #612 CLEVELAND OH 44101	CLEVELAND ELECTRIC ILLUMINATING CO.		276.44
WILLIAM DONOVAN 1111 N. 19TH ST, #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	2,500.00	34.50
FRANCIS X. DOOLEY 525 SCHOOL ST., SW WASHINGTON DC 20024	AMERICAN ROAD & TRANSPORTATION BLDRS ASSN	6,000.00	530.00
IRA DORFMAN SUITE 850 2020 K STREET, NW WASHINGTON DC 20006	AMERICAN BAKERS ASSN	721.88	7.30
MAY DEL RIO DORFMAN 380 SECOND AVENUE NEW YORK NY 10010	PLANNED PARENTHOOD OF NEW YORK CITY, INC	282.00	
JAMES A. DORSCH 1750 K ST., NW WASHINGTON DC 20006	HEALTH INSURANCE ASSOCIATION OF AMERICA, INC	39.50	4.65
DEAN R. DORT II SUITE 808 910 17TH ST., NW WASHINGTON DC 20006	DEERE & COMPANY	358.75	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
THEODORE DOUGLAS 2501 59TH ST. ST. LOUIS MO 63110	PAINTERS DISTRICT COUNCIL NO.2 (FOR: MISSOURI STATE CONFERENCE OF PAINTERS & ALLIED TRADES).		
GORDON JACK DOVER 1718 DOGWOOD DRIVE ALEXANDRIA VA 22302	RENDON COMPANY		
DOW LOHNES & ALBERTSON 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	ADVANCE PUBLICATIONS, INC; PALMER COMMUNICATIONS, INC	2,393.00	
Do	CENTRAL CALIFORNIA EDUCATIONAL TELEVISION ET AL	18,585.00	
Do	EASTERN MICROWAVE, INC		656.75
Do	HAMPTON ROADS ENERGY CO.,ET AL		
CHARLES P. DOWNER 7901 WESTPARK DRIVE MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	866.66	250.00
JANE LIND DOWNEY 400 ARMY NAVY DRIVE, P.O. BOX 2303 ARLINGTON VA 22202	AMERICAN MOVERS CONFERENCE	1,644.00	
JOHN P. DOYLE SUITE 1100 1090 VERMONT AVE., NW WASHINGTON DC 20005	BELL HELICOPTER TEXTRON	3,479.62	1,867.18
PATRICK L. DOYLE SUITE A-3 210 SEVENTH STREET, SE WASHINGTON DC 20003	FEDERAL EMPLOYEES POLITICAL ACTION COMM (FEDPAC)		
ROBERT H. DOYLE SUITE 230 1130 17TH STREET, NW WASHINGTON DC 20036	WATER QUALITY ASSN	7,315.00	
NANCY DRABBLE 215 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	CONGRESS WATCH	4,250.00	
JAMES E. DRAKE 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	4,300.00	
JOAN ALBERT DREUX 600 PENNSYLVANIA AVE., SE #211 WASHINGTON DC 20003	NATIONAL ASSN. OF CASUALTY & SURELY AGENTS	1,875.00	828.63
JEROME L. DREYER 1300 N. 17TH ST. SUITE 300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
STEPHEN D. DRIESLER SUITE 1150 17TH ST., NW #306 WASHINGTON DC 20036	NATIONAL MULTI HOUSING COUNCIL		
DRINKER BIDDLE & REATH 1815 H ST., NW WASHINGTON DC 20006	PHOENIX STEEL CORP.		
KEVIN J. DRISCOLL 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
W.H. DRUSHEL JR 3500 FIRST CITY TOWER, HOUSTON TX 77002	VINSON & ELKINS (FOR: QUINTANA PETROLEUM CORP)		
Do	VINSON & ELKINS (FOR: QINTANA REFINERY CO.)		
EDWIN JASON DRYER 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY,LARDNER,HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSOCIATION OF AMERICA).		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
EVELYN DUBROW 1710 BROADWAY NEW YORK NY 10019	INTERNATIONAL LADIES' GARMENT WORKERS UNION	8,916.00	4,020.82
MORGAN D. DUBROW 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	125.00	
BARBARA S. DUDECK 955 L'ENFANT PLAZA, SW # 905 WASHINGTON DC 20024	AMERICAN HONDA MOTOR CO, INC	200.00	47.15
JANE MCPIKE DUDLEY 1101 15TH STREET, N.W. WASHINGTON DC 20005	NATIONAL CONSTRUCTORS ASSOCIATION	375.00	
DOUGLAS F. DUERR 1730 RHODE ISLAND AVE. SUITE 810 WASHINGTON DC 20036	CREDIT UNION NATL ASSN, INC	300.00	290.96
ANN ANDERSON DUFF 222 S. PROSPECT AVE. PARK RIDGE IL 60068	NATIONAL ASSOCIATION OF MANUFACTURERS	1,200.00	
MICHAEL F. DUFFY 1920 N ST. NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
FRANCIS J. DUGGAN 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	518.50	937.15
LAURIE DUKER 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	4,950.00	75.75
EVELYN DUKOVIC 3 EAST 86TH STREET, NEW YORK NY 10028	MORALITY IN MEDIA, INC	18.19	
MERVIN E. DULLUM 1629 K ST., NW, #204 WASHINGTON DC 20006	DELTA AIR LINES, INC	200.00	42.10
DON R. DUNCAN 1825 K ST.,NW SUITE 1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY		
DUNCAN, WEINBERG, & MILLER SUITE 1200 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ADOLPH KIZAS		
Do	EAST BAY REGIONAL PARK DISTRICT		
Do	IVA MAY HARVEY		
Do	HURON-CLINTON METROPOLITAN AUTHORITY		
Do	KONIAG, INC	250.00	6.50
Do	MID WEST ELECTRIC CONSUMERS' ASSN, INC		
Do	STATE OF NORTH DAKOTA		
Do	WESTERN FUELS ASSOCIATION, INC		
JAMES W. DUNLOP 195 MONTAGUE ST. BROOKLYN NY 11201	BROOKLYN UNION GAS CO		
MARI LEE DUNN 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION	375.00	
JOHN H. DUNNE 818 ROEDER ROAD SUITE 702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
JAMES A. DUPREE 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	3,650.00	2,156.00
JOSEPH L. DURAN 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
DANIEL A. DUTKO SUITE 214 412 FIRST STREET, SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP OF AMERICA	2,499.00	
Do	CALIFORNIA WESTSIDE FARMERS	833.33	
Do	DOUGLAS OIL PURCHASING CORP		
HENRY I. DWORSHAK 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
DENIS J. DWYER 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INST	342.00	
RODERICK T. DWYER 1920 N STREET,N.W. WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
DENNIS J. EARNHART 1753 EUCLID AVE., NW WASHINGTON DC 20009	BONNEVILLE ASSOCIATES, INC. (FOR: WESTERN REGIONAL COUNCIL)	362.95	
JACK D. EARLY 1155 15TH ST., NW, #514 WASHINGTON DC 20005	NATIONAL AGRICULTURAL CHEMICALS ASSN	140.00	28.50
ROY W. EASLEY 1735 DE SALES ST., NW WASHINGTON DC 20036	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC		
EATON ASSOCIATES, INC 1750 K ST., NW, SUITE 260 WASHINGTON DC 20006			
CHARLES H. S. EATON SUITE 260 1750 K STREET, NW WASHINGTON DC 20006	EATON ASSOCIATES, INC		
ROBERT E. L. EATON 1750 K ST., NW, SUITE 260 WASHINGTON DC 20006	EATON ASSOCIATES, INC		
ROBERT E. EBEL 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	1,450.00	847.00
HAROLD F. EBERLE O'BRIEN, FIERCE & EBERLE 1828 L STREET, NW, #201 WASHINGTON DC 20036	AMERICAN ELECTRONICS ASSN	3,300.00	50.00
Do	COMMITTEE FOR TITLE XI VESSEL FINANCING	12,000.00	150.00
WILLIAM ECHOLS 1920 N STREET, SUITE 300 NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
N. BOYD ECKER 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBIL OIL CORP	1,500.00	117.20
ROBERT C. ECKHARDT 1750 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	CONSOLIDATED NATURAL GAS CO	6,666.67	
Do	CONSUMER FEDERATION OF AMERICA		
Do	INVESTMENT COMPANY INSTITUTE	3,333.34	
PATRICIA K. ECONOMOS 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
EDELMAN INTERNATIONAL CORP 1730 PENNSYLVANIA AVE., NW, #460 WASHINGTON DC 20006	ELECTRONIC INDUSTRIES ASSN OF JAPAN		24.00
PETER B. EDELMAN 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: CITY OF MINNEAPOLIS)		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSOCIATION OF AMERICA).		
DANIEL J. EDELMAN, INC. SUITE 460 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN SEAT BELT COUNCIL		
Do	ROSES, INC	4,000.00	508.21
Do	SONY CORP OF AMERICA	100.00	
WILLIAM R. EDGAR SUITE 401 815 CONNECTICUT AVENUE, NW WASHINGTON DC 20006	GATES LEARJET CORPORATION		
HELEN H. EDGE 700 N. FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INST	391.25	
ARTHUR B. EDGEWORTH JR 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	3,750.00	
EDISON ELECTRIC INSTITUTE 9TH FLOOR 1111 19TH ST., NW WASHINGTON DC 20036		61,188.10	120,643.13
V. ANNE EDLUND 1909 K ST., NW, #300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC		
STEPHEN L. EDMISTON 807 MAINE AVE., SW WASHINGTON DC 20024	DISABLED AMERICAN VETERANS	9,825.60	2,046.41
ED EDMONDSON BOX 11 MUSKOGEE OK 74401	AMERICAN INLAND WATERWAYS COMMITTEE		
Do	CHEROKEE NATION		
Do	DOSS AVIATION, INC		
Do	IU INTERNATIONAL MANAGEMENT CORP		
Do	OKLAHOMA ASSN. OF ELECTRIC CO		
Do	U.S. MARITIME COMMITTEE, INC		
EDS CORPORATION 229 PENNSYLVANIA AVE., SE WASHINGTON DC 20003			2,336.02
EDWARDS ASSOCIATES 507 SECOND ST., NE WASHINGTON DC 20002	CONFEDERATED TRIBES OF WARM SPRINGS		
Do	PORTLAND GENERAL ELECTRIC CO		
CHRISTINE A. EDWARDS 1211 CONNECTICUT AVE., N.W. SUITE 802 WASHINGTON DC 20036	SEARS, ROEBUCK AND CO	323.50	71.12
J. RODNEY EDWARDS 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INST, INC		
MACON T. EDWARDS 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMER	2,100.00	45.08
MICHAEL D. EDWARDS 1201 16TH STREET, NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	1,891.80	120.00
WILLIAM A. EDWARDS 250 OLD COUNTRY ROAD MINEOLA NY 11501	LONG ISLAND LIGHTING CO	1,925.00	985.19
PAUL S. EGAN 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	5,532.00	181.11
EGGERS & GREENE 1407 MAIN ST. SUITE 335 DALLAS TX 75202	LTV CORPORATION	3,000.00	735.48
CHARLES E. EHRHART SUITE 801 2000 L ST., NW WASHINGTON DC 20036	RALSTON PURINA CO	500.00	165.00
SARA EHRMAN 444 NORTH CAPITOL ST., NW, #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	1,764.66	
MARY ANN EICHENBERGER 1735 NEW YORK AVE., NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	2,800.00	15.00
CARL W. EK SUITE 600 1012 14TH ST., NW WASHINGTON DC 20005	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	4,038.47	176.75
H. J. ELAM III 1201 MAPLE ST. GREENSBORO NC 27405	CONE MILLS CORPORATION		
JOSEPH J. ELEY 1700 K ST., NW SUITE 601 WASHINGTON DC 20006	SQUIBB CORP		
GEORGE K. ELIADES 1401 WILSON BLVD., #205 ARLINGTON VA 22209	SOCIETY OF AMERICAN WOOD PRESERVERS, INC	200.00	280.00
J. BURTON ELLER JR 425 13TH ST., NW, #1032 WASHINGTON DC 20004-1886	NATIONAL CATTLEMEN'S ASSN	1,000.00	
CHARLES W. ELLIOTT WISCONSIN PETROLEUM COUNCIL 25 W. MAIN ST., #703 MADISON WI 53703	AMERICAN PETROLEUM INST	7.20	
JOHN DOYLE ELLIOTT 5500 QUINCY ST. HYATTSVILLE MD 20784			277.24
STEVE ELLIOTT 765 BROAD ST NEWARK NJ 07101	FIDELITY UNION TRUST CO		
JOHN ELLIS 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
DOROTHY A. ELLSWORTH 1300 CONNECTICUT AVE., NW WASHINGTON DC 20036	INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS	11,747.18	136.95
PERRY R. ELLSWORTH 435 SOUTHERN BLDG. 1425 H STREET, NW WASHINGTON DC 20005	NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS	1,500.00	27.00

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOSEPH T. ELVOVE 54 SURFWATCH DRIVE KIAWAH ISLAND SC 29455	PUBLICKER INDUSTRIES, INC.		4,433.71
ELY, GUESS & RUDD 1090 VERMONT AVENUE, N. W. WASHINGTON DC 20005			
CARL F. EMDE 1800 K ST., NW, #1016 WASHINGTON DC 20006	AIR PRODUCTS & CHEMICALS, INC.	50.00	
EMERGENCY COMMITTEE FOR AMERICAN TRADE 1211 CONNECTICUT AVE. WASHINGTON DC 20036		72,675.88	63,854.96
EMERSON ELECTRIC CO 8000 W. FLORISSANT ST. LOUIS MO 63136			1,423.11
EMPLOYEE RELOCATION COUNCIL SUITE 600 1627 K ST., NW WASHINGTON DC 20006			2,394.78
EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006		937.49	1,434.45
IRENE R. EMSELLEM 1800 M STREET, NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
LOWELL J. ENDAHL 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	175.00	
ENERGY CONSUMERS & PRODUCERS ASSN BOX 1726 PETROLEUM PLAZA SEMINOLE OK 74868		37,476.65	27,169.79
GERTRUDE ENGEL 2450 VIRGINIA AVE., NW WASHINGTON DC 20037	NATIONAL HEALTH FEDERATION	3,000.00	
RALPH ENGEL 1001 CONNECTICUT AVE., NW, #1120 WASHINGTON DC 20036	CHEMICAL SPECIALTIES MFGRS ASSN	346.14	44.25
STEVEN L. ENGELBERG 2033 M ST., NW, #404 WASHINGTON DC 20036	AMERICAN ASSN FOR MARRIAGE & FAMILY THERAPY		
LEWIS A. ENGMAN 1155 15TH ST., NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	2,500.00	
PATRICIA HANAHAN ENGMAN 1155 15TH ST., NW WASHINGTON DC 20005	BRISTOL-MYERS CO	2,500.00	
CHRISTOPHER ENGQUIST 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
M. DALE ENSIGN 1100 17TH ST., NW SUITE 406 WASHINGTON DC 20036	SINCLAIR OIL CORPORATION	500.00	170.81
VICKIE L. ERICKSON SUITE 514 900 17TH STREET, NW WASHINGTON DC 20006	NATIONAL HOME FURNISHINGS ASSN	1,000.00	
JOHN M. ERSKINE JR 1108 LAVACA, SUITE 400 AUSTIN TX 78701	STANDARD OIL CO (INDIANA)	134.24	12.00
JERRY M. ERVIN P. O. BOX 3331 HOUSTON TX 77253	QUINTANA REFINERY COMPANY		
SAM J. ERVIN JR. P.O. BOX 69 MORGANTON NC 28655	MEAD CORP., ANHEUSER-BUSCH & WESTVACO	30,000.00	52.00
GEORGE T. ESHERICK 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	U.S. STEEL CORPORATION	355.00	
JANE B. ESTERLY 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	255.00	135.45
ETHYL CORPORATION SUITE 611 1155 15TH ST., NW WASHINGTON DC 20005			4,200.00
STEPHEN E. EURE P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	2,000.00	550.45
DONALD C. EVANS P.O. BOX 1496 SARASOTA FL 33578			
JOHN FORD EVANS JR. O'CONNOR & HANNAN 1919 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	R.M. SINGER & ASSOCIATES, INC.		
Do	TRANSPORT MUTUAL SERVICES, INC.		
Do	UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSN (BERMUDA)	17,214.23	
Do	WEST OF ENGLAND SHIP OWNERS MUTUAL PROTECTIONS & INDEMNITY ASSN.		
O. MEISTER EVANS 417 N. LEE STREET, P.O. BOX 1308 ALEXANDRIA VA 22313	IMPORTED HARDWOOD PRODUCTS ASSN, INC.		
RAE FORKER EVANS SUITE 210 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	HALLMARK CARDS, INC.		
ROBERT D. EVANS 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	400.00	50.00
WILLIAM J. EVANS JR SUITE 901 1660 L ST., NW WASHINGTON DC 20036	PAN AMERICAN WORLD AIRWAYS, INC	550.00	715.59
ELLEN E. EVES NEW MURPHY RD. AND CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC.		
JEFFREY P. EVES SCOTT PLAZA PHILADELPHIA PA 19113	SCOTT PAPER COMPANY	1,500.00	1,111.96
KY P. EWING JR. 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: AMERICAN GENERAL CORPORATION)		721.17
Do	VINSON & ELKINS (FOR: GATX TERMINALS CORP)	7,380.00	16.00
Do	VINSON & ELKINS (FOR: TRAVELERS INSURANCE CO)		661.24
ROBBIE G. EXLEY 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	19.92	7.80
F/P RESEARCH ASSOCIATES SUITE 303 1700 K STREET, NW WASHINGTON DC 20006	SLURRY TRANSPORT ASSN	1,500.00	214.20
Do	WAGNER & BAROODY (FOR AMERICAN BUS ASSN)	1,170.00	37.20
MICHAEL FADEN 1346 CONNECTICUT AVE., NW SUITE 1101 WASHINGTON DC 20036	UNION OF CONCERNED SCIENTISTS	6,300.00	
THOMAS L. FAGAN 777 - 14TH STREET, N.W. WASHINGTON DC 20003	GENERAL ELECTRIC CO	250.00	
ROBERT R. FAHS 1101 15TH ST., NW SUITE 205 WASHINGTON DC 20005	CARGILL INC	2,500.00	80.00
DALE W. FALLAT FIRST FEDERAL BUILDING 5740 SOUTHWYCK BLVD. TOLEDO OH 43614	ANDERSONS		
ROBERT C FARBER 6712 OLD MCLEAN VILLAGE DR. MCLEAN VA 22101	TOSCO CORPORATION	17,850.00	1,186.62
THOMAS B. FARLEY II 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	7,130.00	136.50
FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA P.O. BOX 2251 DENVER CO 80251		160,902.27	78,689.68
JOHN W. FARQUHAR 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	300.00	
DAGMAR T. FARR 1750 K STREET, N.W. WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
DOLORES L. FARR 1101 14TH ST., NW SUITE 200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	4,051.36	517.73
MICHAEL FARRAR 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
PENELOPE S. FARTHING SUITE 415 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN INSURANCE ASSN	200.00	
MARCUS G. FAUST SUITE 200 2000 L STREET, NW WASHINGTON DC 20036	KENNECOTT CORPORATION	9,000.00	
Do	KIRTON, MCCONKIE AND BUSHNELL	6,056.25	125.43
CLINTON B. FAWCETT NINE GREENWAY PLAZA HOUSTON TX 77046	COASTAL CORPORATION		
JANE FAWCETT-HOOVER 1801 K ST., NW, #230 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	6.25	
KEVIN J. FAY 1815 N. FORT MYER DRIVE ARLINGTON VA 22209	AIR CONDITIONING & REFRIGERATION INSTITUTE	2,000.00	800.00
FEDERAL EXPRESS CORP BOX 727 MEMPHIS TN 38194			21,309.60
FEDERATION OF AMERICAN CONTROLLED SHIPPING 50 BROADWAY NEW YORK NY 10004		1,622.04	1,622.04
FEDERATION OF AMERICAN HOSPITALS SUITE 402 1111 19TH ST., NW WASHINGTON DC 20036		9,000.00	9,000.00
FEDERATION OF AMERICAN SCIENTISTS 307 MASSACHUSETTS AVE., NE WASHINGTON DC 20002			1,466.43
ARTHUR S. FEFFERMAN 1850 K ST., NW WASHINGTON DC 20037	AMERICAN COUNCIL OF LIFE INSURANCE, INC.		
JOHN W. FEIST SUITE 401 1629 K ST., NW WASHINGTON DC 20006	GOVERNMENT RELATIONS ASSOCIATES, INC.	695.00	
KENNETH E. FELTMAN 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	400.00	
JANICE A. FENBERG SUITE 602 1155 15TH STREET, NW WASHINGTON DC 20005	PENNZOIL CO.	45.00	
C. WELLES FENDRICH P. O. BOX 1500 SOMERVILLE NJ 08876	RESEARCH-COTTRELL, INC.		
BERNARD FENSTERWALD JR 1000 WILSON BLVD., SUITE 900 ARLINGTON, VA 22209	NATIONAL NUTRITIONAL FOODS ASSOCIATION	4,374.99	376.71
EDWARD T. FERGUS 100 GOLD ST. NEW YORK NY 10272	BACHE, HALSEY, STUART, SHIELDS INC	750.00	
JACK FERGUSON ASSOCIATES 203 MARYLAND AVE., NE WASHINGTON DC 20002	ALASCOM, INC.	2,900.00	675.00
Do	ALASKA INTERNATIONAL INDUSTRIES		675.00
Do	FOSS LAUNCH & TUG COMPANY; FOSS ALASKA LINE	1,300.00	675.00
Do	NORTHWEST ALASKAN PIPELINE CO	7,050.00	675.00
Do	U.S. BORAX	7,500.00	675.00
Do	WESTERN AIRLINES		
BETSY FERGUSON 1875 EYE STREET,N.W. SUITE 1110 WASHINGTON DC 20006	TIMES MIRROR COMPANY		
JAMES H. FERGUSON 1140 CONNECTICUT AVE., NW, #609 WASHINGTON DC 20036	AMERICAN SOCIETY FOR PERSONNEL ADMINISTRATION	7,500.00	4,483.00
JOHN T. FERGUSON II 1875 EYE STREET, NW WASHINGTON DC 20006	GEORGIA-PACIFIC CORP	975.00	15.00
JOHN L. FESTA 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
BLAINE FIELDING 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
FRED C. FIELDING 1129 20TH STREET, NW WASHINGTON DC 20036	AM GENERAL CORPORATION	2,400.00	368.00
GARY W. FIELDS 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	600.00	550.00
HERBERT A. FIERST 610 RING BLDG. 1200 18TH ST., NW WASHINGTON DC 20036	COUNCIL OF FOREST INDUSTRIES OF B.C.	13,125.00	400.00
MATTHEW P. FINK 1775 K ST., NW WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE	248.00	26.00
E. JAY FINKEL SUITE 1200 1133 15TH STREET, NW WASHINGTON DC 20005	PORTER WRIGHT MORRIS & ARTHUR (FOR: J. ROYAL PARKER ASSOCS.)	1,800.00	225.00
MARK FINKELSTEIN 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO		
CHRISTINE M. B. FISHKIN SUITE 200, 1707 L ST., NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORP		100.00
FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY 10TH FLOOR 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036.	COMMITTEE FOR HUMANE LEGISLATION, INC.	380.00	
Do	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY	4,000.00	4,000.00
Do	GOVERNMENT OF ANTIGUA & BARBUDA	1,560.00	
Do	PLAINTIFF CLASS, PLYWOOD ANTITRUST LITIGATION	750.00	
Do	POPULATION CRISIS COMMITTEE	249.00	
Do	STEWART ENVIRONMENTAL SYSTEMS, INC.		
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER 1775 K STREET, NW WASHINGTON DC 20006	INTERNATIONAL COMMUNICATIONS ASSN	4,000.00	800.00
THOMAS D. FINNIGAN OLD RIDGEBURY ROAD SECTION D228 DANBURY CT 06817	UNION CARBIDE CORP.		
JILL FINSEN 923 15TH ST., N.W. WASHINGTON DC 20005	TRANSPORTATION INSTITUTE	3,000.00	605.00
M. J. FIOCCO 1090 VERMONT AVE., NW WASHINGTON DC 20005	NATIONAL INDUSTRIAL TRAFFIC LEAGUE	3,000.00	25.00
LAURIE A. FIORI 1909 K ST., NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMERICAN ASSN OF RET PERSONS	400.40	294.18
RICHARD J. FIORINI 986 ATHERTON DR. SALT LAKE CITY UT 84107	NORANDA MINING INC.		
FIRST CLASS MAILERS ASSN, INC SUITE 107 1101 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037			94.00
FIRST NATIONAL BANK OF BOSTON 100 FEDERAL ST. BOSTON MA 02110			6,969.46
FIRST NATIONAL BOSTON CORPORATION 100 FEDERAL ST. BOSTON MA 02110			
RICHARD L. FISCHER 1000 16TH ST., NW WASHINGTON DC 20036	STANDARD OIL CO (INDIANA)	677.00	
FISHER & SIMICK, P.C. SUITE 440 2020 K ST. NW WASHINGTON DC 20006	LEAGUE OF NEW YORK THEATRES & PRODUCERS, INC.		
DONALD W. FISHER 3814 IVANHOE LANE ALEXANDRIA VA 22310	AMERICAN GROUP PRACTICE ASSN, INC	3,382.00	177.00
JOHN H. FITCH JR. 1725 K STREET, NW SUITE 1200 WASHINGTON DC 20006	NATIONAL ASSN. OF WHOLESALER-DISTRIBUTORS		
MARK FITZGERALD 15TH & M ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
MARY CLARE FITZGERALD 900 17TH ST., NW, #706 WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	112.50	18.46
VICTOR E. FITZMAURICE 1100 CONNECTICUT AVE., NW SUITE 800 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		
REV. MSGR. JAMES H. FITZPATRICK 15 COMPUTER DRIVE WEST ALBANY NY 12205	HOSPITAL ASSOCIATION OF NEW YORK STATE	913.00	221.00
HILLIARD J. FJORD 602 MAIN ST., #600 CINCINNATI OH 45202	OHIO RIVER CO	1,500.00	883.85

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
SUSAN G. FLACK 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	2,000.00	30.00
DANIEL V. FLANAGAN JR. SUITE 900 1776 K STREET, NW WASHINGTON DC 20006	DANIEL V. FLANAGAN		
JAMES J. FLANAGAN 25 RESEARCH DR. WESTBOROUGH MA 01581	NEW ENGLAND POWER SERVICE CO	450.72	126.65
MICHAEL FLEMING SUITE 1010 1300 NORTH 17TH STREET ARLINGTON VA 22209	AMERICAN ASSN OF EQUIPMENT LESSORS		
FLORIDA BUSINESS ASSOCIATES SUITE 200 2000 L STREET, NW WASHINGTON DC 20036	WESTINGHOUSE ELECTRIC CORP	9,400.00	32.00
DAVID H. FOERSTER 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
WILLIAM J. FOGARTY 2029 K STREET, NW WASHINGTON DC 20006	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	2,000.00	
HOWARD W. FOGT JR. FOLEY, LARDNER, HOLLABAUGH & JACOBS 1775 PENNSYLVANIA AVE., NW, SUITE 1000 WASHINGTON DC 20006.	PHOSPHATE ROCK EXPORT ASSOCIATION		
FOLEY LARDNER HOLLABAUGH & JACOBS 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	CITY OF MINNEAPOLIS	7,065.00	79.91
Do	FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE		
Do	INDEPENDENT REFINERS ASSOCIATION OF AMERICA	11,578.50	413.45
Do	INSURANCE ASSOCIATION OF CONNECTICUT	2,620.00	16.49
Do	LAWYERS TITLE INSURANCE CORP		235.47
Do	NATIONAL GYPSUM CO./CEMENT DIV	10,180.00	230.10
Do	PHOSPHATE ROCK EXPORT ASSOCIATION	225.00	
Do	VGS CORPORATION		
LEANDER J. FOLEY III 267 CAPE ST. JOHN RD. CAPE ST. JOHN MD 21401	NATIONAL FED OF COMMUNITY DEVELOPMENT CREDIT UNIONS		
Do	NATIONAL RURAL DEVELOPMENT & FINANCE CORP		
RAYMOND J. FOLEY 1430 K ST., NW, #1000 WASHINGTON DC 20005	NATIONAL CANDY WHOLESALERS ASSN, INC		
FOOD AND BEVERAGE TRADES DEPARTMENT, AFL-CIO 815 16TH ST., NW WASHINGTON DC 20006		11,501.93	11,501.93
FOOD MARKETING INSTITUTE 1750 K ST., NW WASHINGTON DC 20006			4,750.00
FOODSERVICE & LODGING INST 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006			
GORDON FORBES 303 HANOVER BLDG., 480 CEDAR ST. ST. PAUL MN 55101	MINNESOTA RAILROADS	650.00	1,241.01
CHARLES A. FORD 1909 K STREET, N.W. SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC		
LAURENCE S. FORDHAM FOLEY, HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	C & S WHOLESALE GROCERS, INC	5,000.00	
DONALD D. FOREMAN SUITE 329 4600 W. 77TH MINNEAPOLIS MN 55437	STANDARD OIL CO (INDIANA)	1,050.00	
FOREST FARMERS ASSOCIATION P.O. BOX 95385 ATLANTA GA 30347		266.62	266.62
FOREST INDUSTRIES COMMITTEE ON TIMBER VALUATION & TAXATION 1250 CONNECTICUT AVE., NW WASHINGTON DC 20036.			
EDWARD H. FORGOTSON 1627 K ST., NW 10TH FLOOR WASHINGTON DC 20006	TEXAS OIL & GAS CORP		
MARK A. FORMAN SUITE 600 S 1120 20TH STREET, NW WASHINGTON DC 20036	UNION PACIFIC CORP	925.00	
SALLIE H. FORMAN 1825 K ST., NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC	1,100.00	29.40
ROBERT U. FOSTER SUITE 1250 1110 VERMONT AVE., NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA		
EBERT E. FOURNACE 3706 EATON RD., NW CANTON OH 44708	AMERICAN ELECTRIC POWER SERVICE CORP.		
ERIC R. FOX 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	APPLE COMPUTER CORP		328.20
Do	EMPLOYEE RELOCATION COUNCIL		
WILLIAM C. FRANCE 1701 K ST., NW, #1204 WASHINGTON DC 20006	NATIONAL MOTORSPORTS COMM OF ACCUS		
WILLIAM H. G. FRANCE 1701 K ST., NW SUITE 1204 WASHINGTON DC 20006	NATIONAL MOTORSPORTS COMM OF ACCUS		
DOUGLAS L. FRANCISCO 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		84.00
ALFRED S. FRANK, JR. SUITE 320 1140 19TH ST., NW WASHINGTON DC 20036	NCR CORPORATION		
WALTER L. FRANKLAND JR 1717 K ST., NW WASHINGTON DC 20006	SILVER USERS ASSN, INC	1,390.40	127.63
THOMAS C. FRANKS 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	1,500.00	982.46
CHARLES W. FRANZ 1133 19TH STREET, NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP	2,000.00	224.72
CHARLES L. FRAZIER 475 L'ENFANT PLAZA, SW, #2250 WASHINGTON DC 20024	NATIONAL FARMERS ORGANIZATION	4,708.33	2,307.50
DONALD A. FREDERICK 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	233.00	
ROBERT M. FREDERICK 1616 H ST., NW WASHINGTON DC 20006	NATIONAL GRANGE	4,625.00	
JAMES O. FREEMAN 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	3,575.00	41.15
LINDA J. FREEMAN 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	353.08	512.45
PAMELA B. FREER 1710 BROADWAY NEW YORK CITY NY 10019	INTERNATIONAL LADIES' GARMENT WORKERS UNION	3,600.00	81.68
PAULA D. FREER 1800 M ST., NW, #975 WASHINGTON DC 20036	MARATHON OIL CO		
ROBERT E. FREER JR. SUITE 2200 1000 WILSON BLVD. ARLINGTON VA 22209	KIMBERLY-CLARK CORP	100.00	
RONNA FREIBERG THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: ASARCO)		
Do	GRAY AND COMPANY (FOR: BUDD COMPANY)		
Do	GRAY AND COMPANY (FOR: GENERAL TELEPHONE & ELECTRONICS)		
Do	GRAY AND COMPANY (FOR: GROUP W)		
Do	GRAY AND COMPANY (FOR: HAMBROS BANK LIMITED)	28.75	5.00
Do	GRAY AND COMPANY (FOR: MOTOROLA)		
Do	GRAY AND COMPANY (FOR: SHARPS, PIXLEY & COMPANY, LTD.)	28.75	5.00
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS)	57.50	6.00
VERRICK O. FRENCH 1000 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	550.00	15.00
GEORGE L. FRICK C/O DELAWARE OIL MEN'S ASSN 20 E. DIVISION ST. DOVER DE 19901	AMERICAN PETROLEUM INST		
SUSAN FRIDY 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED	2,490.00	36.00
FRIED FRANK HARRIS SHRIVER & KAMPELMAN SUITE 1000 600 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037	AGRIGENETICS CORPORATION	9,329.45	509.77
Do	CHEYENNE RIVER SIOUX TRIBE	1,305.00	12.00
Do	CZECHOSLAVAK CLAIMANTS		37.74
Do	DIAMOND DEALERS CLUB, INC		15.85
Do	DOYON, LIMITED		
Do	MAKAH INDIAN TRIBE		
Do	METLAKATLA INDIAN COMMUNITY	1,309.00	15.00
Do	MICCOSUKEE TRIBE OF INDIANS OF FLORIDA	504.00	11.00
Do	NATIONAL ASSN OF PENSION FUNDS		6.00
Do	NEZ PERCE TRIBE		10.20
Do	NORTON SOUND HEALTH CORPORATION		
Do	OGLALA SIOUX TRIBE OF THE PINE RIDGE RES		
Do	PUEBLO OF LAGUNA	2,820.00	14.10
Do	ROSEBUD SIOUX TRIBE		
Do	SCHENLEY INDUSTRIES, INC		178.93
Do	SENECA NATION OF INDIANS	2,329.00	15.40
PHILIP P. FRIEDLANDER JR 1343 L ST., NW WASHINGTON DC 20005	NATIONAL TIRE DEALERS & RETREADERS ASSN	5,500.00	10.00
FRIEDMAN & MANN, P.C. 810 18TH ST., NW WASHINGTON DC 20006	COUSHATTA TRIBE OF LOUISIANA		
BARRY A. FRIEDMAN WILNER & SCHEINER 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AMERICAN SOCIETY OF TRAVEL AGENTS		
JAMES M. FRIEDMAN 700 TERMINAL TOWER CLEVELAND OH 44113	CLEVELAND ELECTRIC ILLUMINATING CO	3,165.61	665.61
GAY H. FRIEDMANN 1150 CONNECTICUT AVE., NW, #717 WASHINGTON DC 20036	SOUTHERN CALIFORNIA GAS CO	7,075.00	50.90
FRIENDS OF THE COLUMBIA GORGE ROOM 303 519 SW THIRD PORTLAND OR 97204		12,979.00	1,891.00
OWEN V. FRISBY 900 17TH ST., NW WASHINGTON DC 20006	CHASE MANHATTAN BANK, N.A.	900.00	191.26
GUSTAVE FRITSCHE 1101 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	NATIONAL FISHERIES INST	6,000.00	75.00
CHARLES H. FRITTS 2009 NORTH 14TH ST. SUITE 600 ARLINGTON VA 22201	NEW BEDFORD SEAFOOD COUNCIL, INC	6,600.00	410.28
CHARLES H. FRITZEL 499 S. CAPITOL ST., SE, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	300.00	350.00
JEFFREY FRITZLEN 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO INC	1,000.00	
ROBERT F. FROEHLKE 1850 K STREET, N.W. WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	8,500.00	50.00
RICHARD B. FROH SUITE 1014 900 17TH STREET, NW WASHINGTON DC 20006	KAISER FOUNDATION HEALTH PLAN	15,500.00	2,207.94
RICH FRUCHTERMAN III 108 S. AKARD STREET, DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC	4,500.00	
GORDON H. FRY 1100 17TH ST., NW #1201 WASHINGTON DC 20036	CIGAR ASSOCIATION OF AMERICA, INC		
FULBRIGHT & JAWORSKI 1150 CONNECTICUT AVE., NW, #400 WASHINGTON DC 20036	CRYSTAL OIL COMPANY		
Do	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS	6,772.50	8.00
Do	PETRO LEWIS CORP	17,241.25	170.64
Do	UNDERWOOD NEUHAUS		
Do	UNITED STATES LEASING INTERNATIONAL, INC		
FULL EMPLOYMENT ACTION COUNCIL 707 D ST., SE WASHINGTON DC 20003		9,555.00	7,172.00
RONALD K. FULLER 1150 CONNECTICUT AVE., NW, #517 WASHINGTON DC 20036	SAN DIEGO GAS & ELECTRIC	1,256.00	1,437.85
CLAUDIA R. FUQUAY 1133 20TH ST., NW WASHINGTON DC 20036	NATIONAL FOOD PROCESSORS ASSN	500.00	29.93
DAVID H. FYOCK SUITE 520 600 MARYLAND AVE., SW WASHINGTON DC 20024	GPU SERVICE CORPORATION	6,845.00	979.50
MARC P. GABOR 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		302.23
TERRY GABRIELSON 490 L'ENFANT PLAZA, SW, #3202 WASHINGTON DC 20024	TRANSCONTINENTAL GAS PIPELINE CORP	450.00	
GADSBY & HANNAH SUITE 511 1129 20TH STREET, NW WASHINGTON DC 20036	GOVERNMENT OF BELIZE		37.18
Do	GOVERNMENT OF REPUBLIC OF PANAMA	9,000.00	44.95
Do	SUGAR ASSN OF THE CARIBBEAN	11,300.00	57.71
JAMES E. GAFFIGAN 1101 CONNECTICUT AVE., NW SUITE 1006 WASHINGTON DC 20036	AMERICAN HOTEL & MOTEL ASSN	837.69	
Do	TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL	750.00	
NORMAN S. GAMES 2550 M ST., NW, #770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	2,200.54	342.50
MICHAEL R. GALE 444 NORTH CAPITOL ST., NW #412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	8,744.79	
JOE H. GALIS P.O. BOX 1100 SLOT 1455 AVON PARK FL 33825			

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
LAWRENCE H. GALL P.O. BOX 1396 HOUSTON TX 77251	TRANSCO ENERGY CO.		
ANN E. GALLAGHER 1111 NORTH 19TH STREET, SUITE 700 ARLINGTON, VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	500.00	
LINDA P. GALLAGHER 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
GALLAND, KHARASCH, CALKINS & SHORT 1054 31ST ST., NW WASHINGTON DC 20007	ATLANTIC CONTAINER LINE	7,523.60	397.81
HARRY GANDERSON P.O. BOX 3351 UNIV. STATION, CHARLOTTESVILLE VA 22903			
WILLIAM R. GANSER JR 4804 FOLSE DR. METAIRIE LA 70002	SOUTHERN FOREST PRODUCTS ASSN	2,006.25	
NICOLE GARA SUITE 700 2341 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	AMERICAN ACADEMY OF PHYSICIAN ASSISTANTS	4,384.56	231.89
SHERWIN GARDNER 1010 WISCONSIN AVE., NW SUITE 900 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC.		
GARDNER, CARTON & DOUGLAS 1875 I ST., SUITE 1050 NW WASHINGTON DC 20006	FTC COMMUNICATIONS, INC.		
Do	K-A COMPANY		
Do	MIDCON CORP		
Do	SEALED POWER CORP		
EDWARD A. GARMATZ 2210 LAKE AVE. BALTIMORE MD 21213	BALTIMORE GAS & ELECTRIC CO.		
NICHOLAS P. GARNETT SUITE 410 1025 VERMONT AVE., NW WASHINGTON DC 20005	NATIONAL INSULATION CONTRACTORS ASSN		
JAMES J. GARRY 4TH FLOOR FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
GARVEY, SCHUBERT, ADAMS & BARER 1000 POTOMAC ST., NW WASHINGTON DC 20007	AMERICAN PYROTECHNICS ASSN		
Do	COMINCO AMERICAN, INC.		
Do	COMMITTEE FOR PROTECTION OF AMERICAN TRADE		
Do	GTE SERVICE CORPORATION	2,850.00	
Do	JAPAN FISHERIES ASSN	12,115.00	63.49
Do	NORANDA MINING INC.	7,325.00	
Do	NORTHWEST MARINE IRON WORKS	722.00	18.00
Do	PACCAR, INC.		
Do	PACIFIC RIM TRADE ASSN		
Do	TOTEM OCEAN TRAILER EXPRESS, INC.	4,215.00	
Do	TRAILWAYS, INC.	1,305.00	
Do	WASHINGTON CITIZENS FOR WORLD TRADE	312.50	
E. JUNE GARVIN OHIO PETROLEUM COUNCIL 88 E. BROAD SUITE 1960 COLUMBUS OH 43215	AMERICAN PETROLEUM INST	2,500.00	387.93
GAS APPLIANCE MFGRS ASSN, INC 1901 NORTH FORT MYER DR. ARLINGTON VA 22209			31.30
LILLIAN B. GASION 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN	900.00	50.00
PHILIP GASTEYER 1709 NEW YORK AVE., NW SUITE 901 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	2,350.00	
JOHN GAUTHIER 923 15TH STREET, N.W. WASHINGTON DC 20005	TRANSPORTATION INSTITUTE	3,000.00	240.00
JOHN R. GEIGER SUITE 506 1660 L ST., NW WASHINGTON DC 20036	GOULDS PUMPS, INC.	300.00	
ROBERT C. GELARDI 5775 PEACHTREE-DUNWOODY RD. #500-D ATLANTA GA 30342	ROBERT H. KELLEN CO (FOR: CALORIE CONTROL COUNCIL)	240.00	
MORTON A. GELLER 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
JOSE A. GEMEIL SUITE 302 1100 17TH STREET, NW WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: INSTITUTO BRASILEIRO DO CAFE)		
GENERAL AVIATION MANUFACTURERS ASSOCIATION SUITE 517 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036			5,584.00
GENERAL INSTRUMENT CORPORATION 1775 BROADWAY NEW YORK NY 10019		3,186.46	221.70
GENERIC PHARMACEUTICAL INDUSTRY ASSN. 18TH FLOOR 500 THIRD AVENUE NEW YORK NY 10016		19,426.00	19,426.00
JOHN GENTILLE 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
GEORGE AND GEORGE 409 SOUTH CAPITOL ST., SW SUITE 400 WASHINGTON DC 20003	PEPSICO, INC.		
Do	RISS INTERNATIONAL		
GEORGIA ASSN. OF PETROLEUM RETAILERS, INC. 315 W PONCE DE LEON AVE. 933 FIRST NATIONAL BANK BLDG. P.O. BOX 789 DECATUR GA 30031	SERVICE STATION DEALERS OF AMERICA, INC.		85.62
JOSEPH G. GERARD 918 16TH ST., N.W. # 402 WASHINGTON DC 20006	SOUTHERN FURNITURE MFGRS ASSN	1,500.00	1,257.40
LOUIS GERBER 1925 K ST., NW WASHINGTON DC 20006	COMMUNICATIONS WORKERS OF AMERICA	3,967.88	111.30
LLEWELLYN H. GERSON 425 13TH STREET, NW WASHINGTON DC 20004	DISTILLED SPIRITS COUNCIL OF THE U.S., INC	2,000.00	300.00
PHYLLIS H. GERSTELL 1850 K ST., NW WASHINGTON DC 20037	AMERICAN COUNCIL OF LIFE INSURANCE, INC.		
DOROTHY F. GEVINSON 1801 K ST., NW SUITE 230 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	27.33	
ROBERT N. GIAIMO 499 SOUTH CAPITOL ST., S.W. SUITE 110 WASHINGTON DC 20003	INSURANCE ASSOCIATION OF CONNECTICUT	11,500.00	
WAYNE GIBBENS 1919 PENNSYLVANIA AVE., NW, #503 WASHINGTON DC 20006	MID-CONTINENT OIL & GAS ASSN	7,500.00	118.85
ANNE MARIE GIBBONS THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
CLIFFORD S. GIBBONS 1010 WISCONSIN AVENUE, N.W. SUITE 300 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC.		
WILLIAM G. GIERY 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOODSERVICE & LODGING INST.		
NORMA J. GILBERT 1776 K ST., NW, #200 WASHINGTON DC 20006	MOTOROLA, INC	1,500.00	294.24
SUSAN GILBERT 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
ARTHUR P. GILDEA 274 GLENFIELD CT. CINCINNATI OH 45238	BREWERY & SOFT DRINK WORKERS, NATIONAL CONFERENCE		
MICHAEL GILDEA 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	13,370.58	
JOHN E. GILES 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMER, INC.	1,450.00	754.81
MARK W. GILLASPIE P.O. BOX 1188 HOUSTON TX 77001	HOUSTON NATURAL GAS CORP		
WILLIAM GILMARTIN SUITE 303 1220 19TH STREET, NW WASHINGTON DC 20036	PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.	209.64	
JOE L GILMORE 1745 JEFF DAVIS HWY., ARLINGTON VA 22202	GENERAL DYNAMICS LAND SYS.		
MARLA F. GILSON 444 NORTH CAPITOL STREET, N.W. # 412 WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	718.75	
SAMUEL P. GINDER 2361 S. JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	PRESEARCH, INC		
GINSBURG, FELDMAN WEIL AND BRESS 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	COAL OIL PRODUCERS ASSOCIATION	750.00	82.68
Do	BELCHER TOWING COMPANY	414.98	106.48
GERARD GIOVANIELLO 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	507.20
MICHAEL K. GIRE BRICKER & ECKLER 100 E. BROAD ST. COLUMBUS OH 43215	AMERICAN SMALL AND RURAL HOSPITAL ASSOCIATION, OHIO CHAPTER		
BRENDA M. GIRTON 1211 CONNECTICUT AVENUE, N.W. # 802 WASHINGTON DC 20036	SEARS, ROEBUCK AND CO	90.00	74.08
JONAH GITLITZ SUITE 905 1730 K ST., NW WASHINGTON DC 20006	DIRECT MAIL MARKETING ASSOCIATION		
MICHAEL J. GIUFFRIDA 600 MARYLAND AVE., SW SUITE 450 WASHINGTON DC 20024	NATIONAL FROZEN FOOD ASSOCIATION	2,092.70	
JAY W. GLASMANN 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	EMPLOYEE RELOCATION COUNCIL		
SOL GLASNER SUITE 810 2000 L ST., NW WASHINGTON DC 20036	SPERRY CORPORATION		
GEORGE L. GLEASON 410 1ST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	6,625.10	380.73
JOHN P. GLEASON 1750 OLD MEADOW RD. MCLEAN VA 22102	BRICK INSTITUTE OF AMERICA		
LAW OFFICES OF THOMAS W. GLEASON ONE STATE STREET PLAZA NEW YORK NY 10004	INTERNATIONAL LONGSHOREMAN'S ASSOCIATION, AFL-CIO		
ROBERT GLEASON 815 SIXTEENTH STREET, N.W. WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	5,105.60	1,484.58
JAMES T. GLENN 840 WASHINGTON BUIDING 15TH STREET & NEW YORK AVE., NW WASHINGTON DC 20005	CSX CORPORATION	3,000.00	1,154.27
JUDITH M. GOFF 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	347.87	
HARVEY S. GOLD 1015 15TH ST., NW, #909 WASHINGTON DC 20005	VELSICOL CHEMICAL CORP	6,625.00	192.83
MARTIN B. GOLD THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
Do	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC)		
Do	GRAY AND COMPANY (FOR: NEWCHANNELS CORP)		
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS, INC)	825.00	28.00
HOWARD S. GOLDBERG 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL, INC (FOR: AIRBUS INDUSTRIE)		
Do	DGA INTL, INC. (FOR: SOFREAVIA)		
JANE A. GOLDEN 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: NATIONAL GYPSUM CO./CEMENT DIV.)		
JACK GOLODNER 815 16TH ST., N.W. WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	3,086.86	
JOHN GONELLA SUITE 200 412 FIRST STREET, SE WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	396.71	228.00
RUTH GONZE THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
CHARLES E. GOODELL 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL, INC. (FOR: SOFREAVIA)		
VANCE V. GOODFELLOW 307 4TH AVE., SOUTH, P.O. BOX 15047 MINNEAPOLIS MN 55415	CROP QUALITY COUNCIL	10,201.29	
ROBERT F. GOODWIN 1850 K ST., NW, SUITE 275 WASHINGTON DC 20006	MEREDITH CORP	40.00	29.75
BENJAMIN GORDON 2000 P ST., NW, #708 WASHINGTON DC 20036	HEALTH RESEARCH GROUP		
BETH GORDON SUITE 1016 1800 K STREET, NW WASHINGTON DC 20006	AIR PRODUCTS & CHEMICALS, INC.	15.00	
DOUGLAS GORDON 1133 20TH STREET, N.W. WASHINGTON DC 20036	NATIONAL FOOD PROCESSORS ASSN	375.00	47.77
IRMGARD GORDOS RT. 7, BOX 34 JEFFERSON CITY MO 65101	AMERICAN SECURITY COUNCIL		
BRENDA J. GORE SUITE 2600 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC.	1,080.00	
JAMES M. GORMAN 1 WORLD TRADE CENTER, NEW YORK NY 10048	C. A. SHEA & COMPANY, INC.		
JAMES D. GORMLEY 1025 CONNECTICUT AVENUE, N.W. SUITE 517 WASHINGTON DC 20036	GENERAL AVIATION MANUFACTURERS ASSOCIATION	2,186.00	
ANN M. GOSIER 1920 N ST., SUITE 300 NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
PETER GOSSENS 1717 MASSACHUSETTS AVE., NW. #503 WASHINGTON DC 20036	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	10,500.00	579.04
JOHN T. GOULD JR. SUITE 805 1625 EYE STREET, NW WASHINGTON DC 20006	ST. REGIS PAPER CO	500.00	700.00
GOVERNMENT RELATIONS ASSOCIATES, INC. SUITE 401 1629 K STREET, NW WASHINGTON DC 20006		2,346.00	2,346.00
EDMOND GRABER 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
JOHN R. GRAFF SUITE 330 1025 VERMONT AVE., NW WASHINGTON DC 20005	INTERNATIONAL ASSN OF AMUSEMENT PARKS AND ATTRACTIONS	66.00	292.15
DONALD E. GRAHAM 1800 MASSACHUSETTS AVE., NW, #604 WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	2,287.50	
LAWRENCE T. GRAHAM 1101 CONNECTICUT AVE., NW, #1006 WASHINGTON DC 20036	AMERICAN HOTEL & MOTEL ASSN	1,247.07	
JOHN K. GRAM 714 OREGON BANK BLDG. PORTLAND OR 97204	PUBLIC TIMBER PURCHASERS GROUP	1,781.25	623.62
LUIS L. GRANADOS 1725 DESALES STREET, NW SUITE 400 WASHINGTON, DC 20036	ESOP ASSOCIATION OF AMERICA	7,300.00	6,168.03
WILLIAM W. GRANT SUITE 710 1150 CONNECTICUT AVE., NW WASHINGTON DC 20036	UTAH INTL, INC		1,043.31
JAMES L. GRANUM 920 15TH ST., NW WASHINGTON DC 20011	SOUTHERN RAILWAY CO	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MICHAEL R. GRAUL 1725 DESALES ST., NW SUITE 401 WASHINGTON DC 20036	AMERICAN HARDWARE MANUFACTURERS ASSN	1,000.00	
Do	CUTTING TOOL MANUFACTURERS ASSN & METAL CUTTING TOOL INST	1,200.00	
JAMES A. GRAY 7901 WESTPARK DR. MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	725.00	25.00
ROBERT K. GRAY THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON AND STEEL INSTITUTE)		
Do	GRAY AND COMPANY (FOR: AMERICAN MARITIME ASSN)		
Do	GRAY AND COMPANY (FOR: AMERICAN TRUCKING ASSN)		
Do	GRAY AND COMPANY (FOR: ASARCO)		
Do	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)	350.00	
Do	GRAY AND COMPANY (FOR: COUNCIL OF STATE HOUSING AGENCIES)		
Do	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC)		
Do	GRAY AND COMPANY (FOR: EL PASO NATURAL GAS)		
Do	GENERAL TELEPHONE & ELECTRONICS		
Do	GRAY AND COMPANY		
Do	GRAY AND COMPANY (FOR: GROUP W)		
Do	GRAY AND COMPANY (FOR: HAMBROS BANK LIMITED)		
Do	GRAY AND COMPANY (FOR: HEALTH INSURANCE ASSN OF AMERICA)		
Do	GRAY AND COMPANY (FOR: HTB CORPORATION)		
Do	GRAY AND COMPANY (FOR: MINIMUM TAX COALITION)	175.00	
Do	GRAY AND COMPANY (FOR: MOTOROLA)		
Do	GRAY AND COMPANY (FOR: NEW CHANNELS CORP)		
Do	GRAY AND COMPANY (FOR: QUIXOTE CORPORATION)		
Do	GRAY AND COMPANY (FOR: REPUBLIC AIRLINES)		
Do	GRAY AND COMPANY (FOR: SHARPS, PIXLEY & CO., LTD.)		
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS)	525.00	
JOHN F. GRAYBEAL SUITE 1000 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP)		
MARK E. GRAYSON 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	HILL & KNOWLTON, INC		
SAMUEL A. GRAYSON P.O. BOX 1745 BOISE ID 83701	UNION PACIFIC RAILROAD		
JAMES R. GRECO P.O. BOX 3151 HOUSTON TX 77001	BROWNING-FERRIS INDUSTRIES, INC		
DONALD R. GREELEY 1101 17TH ST., NW, #307 WASHINGTON DC 20036	CELANESE CORP	1,000.00	348.38
EDWARD M. GREEN 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
GEORGE R. GREEN 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
JAMES W. GREEN 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,536.20	377.50
JOHN K. GREEN 800 NEBRASKA SAVINGS BLDG. 1623 FARNAM, OMAHA NB 68102	PAPILLION NEBRASKA SCHOOL DISTRICT	2,863.00	356.50
KATHLENE H. GREEN SUITE 225 2550 M STREET, NW WASHINGTON DC 20037	CONGOLEUM CORP	210.00	63.15
MICAH S. GREEN 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	436.05
WAYNE GREEN 80 PINE ST. PETERBOROUGH NH 03458	WAYNE GREEN, INC		
JANE E. GREENBAUM 25TH & MCGEE KANSAS CITY MO 64108	HALLMARK CARDS, INC		
ALLEN GREENBERG SUITE 708 2000 P STREET, NW WASHINGTON DC 20036	HEALTH RESEARCH GROUP		
CALVIN REGINALD GREENE JR. 1434 DUNCAN STREET, NE WASHINGTON DC 20003	NATIONAL COALITION OF TELECOMMUNICATIONS USERS & PROVIDERS	3,000.00	
ROBERT GREENSTEIN 236 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	CENTER ON BUDGET & POLICY PRIORITIES	1,475.83	663.38
DALE W. GREENWOOD 612 HOGE BLDG. SEATTLE WA 98104	WASHINGTON RAILROAD ASSN	454.80	1,375.17
SAUNDERS GREGG PO BOX 2628 HOUSTON TX 77001	ENTEX, INC		
CHELLIS O. GREGORY 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	HILL & KNOWLTON, INC (FOR: MOTION PICTURE ASSN OF AMERICA)	1,725.00	94.00
WILLIAM G. GREIF 1155 15TH ST., NW WASHINGTON DC 20005	BRISTOL-MYERS CO	35,000.00	
ELLEN GRIFFEE SUITE 1048 425 13TH STREET, NW WASHINGTON DC 20004	NATIONAL ORGANIZATION FOR WOMEN	2,575.00	71.45
L. GEORGE GRIFFIN 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,000.00	130.98
MARK N. GRIFFITHS 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	200.00	
JACK GRIMES 8100 OAK STREET, DUNN LORING VA 22027	NATIONAL PEST CONTROL ASSN		
OLGA GRKAVAC 1300 NORTH 17TH STREET SUITE 300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		59.95
GROCERY MANUFACTURERS OF AMERICA, INC. SUITE 800 1010 WISCONSIN AVE., NW WASHINGTON DC 20007			652.50
GROOM & NORDBERG 1775 PENNSYLVANIA AVE., NW, #450 WASHINGTON DC 20006	AD HOC GROUP ON LIFE INSURANCE CO. TAXATION OF PENSION FUNDS	100.00	4.00
Do	AETNA LIFE & CASUALTY		
Do	BALLY MANUFACTURING CORP		
Do	CONNECTICUT GENERAL LIFE INSURANCE COMPANY		
Do	ELI LILLY AND COMPANY		
Do	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S.		
Do	GULF OIL CORP	500.00	8.00
Do	JOHN HANCOCK MUTUAL LIFE INSURANCE CO.		
Do	PHILLIPS PETROLEUM COMPANY		
Do	PHOENIX MUTUAL LIFE INSURANCE COMPANY		
Do	PRUDENTIAL INSURANCE COMPANY OF AMERICA	1,000.00	50.00
Do	TRAVELERS		
Do	WESTERN CONFERENCE OF TEAMSTERS PENSION TRUST FUND	100.00	4.00
Do	WESTINGHOUSE ELECTRIC CORP		
CHESTER A. GROSECLOSE JR. P.O. BOX 1030 ABERDEEN SD 57401	SOUTH DAKOTA RAILROADS ASSN		
DAVID B. GROSS 7490 BROMPTON #108, HOUSTON TX 77025	SHELL OIL CO		
NINA G. GROSS 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	600.00	119.76
STANLEY C. GROSS 249 MAITLAND AVENUE ALTAMONTE SPRINGS FL 32701	INSTITUTE OF INTERNAL AUDITORS, INC		
FRANK N. GROSSMAN SUITE 840 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	SANTA FE INDUSTRIES, INC	1,500.00	
JEROME GROSSMAN 11 BEACON ST. BOSTON MA 02108	COUNCIL FOR A LIVABLE WORLD	6,105.43	
JOHN T. GRUPENHOFF SUITE 306 10,000 FALLS ROAD POTOMAC MD 20854	AMERICAN ACADEMY OF DERMATOLOGY	1,020.00	517.00
Do	AMERICAN GASTROENTEROLOGICAL ASSN	500.00	548.00
Do	AMERICAN SOCIETY FOR GASTROINTESTINAL ENDOSCOPY	600.00	596.20
Do	NATIONAL ASSN. FOR HOSPITAL DEVELOPMENT		
RICHARD F. GUAY 1101 15TH ST., NW WASHINGTON DC 20005	NATIONAL CONSTRUCTORS ASSOCIATION	3,375.00	
CLARK J. GUILD JR. GUILD, HAGEN & CLARK, LTD. 102 ROFF WAY RENO NV 89505	MOTION PICTURE ASSN OF AMERICA, INC	4,521.25	1,033.97
JEROME R. GULAN 1604 K ST., NW WASHINGTON DC 20006	NATIONAL SMALL BUSINESS ASSN	4,500.00	
Do	SMALL BUSINESS LEGISLATIVE COUNCIL	2,500.00	
GUN OWNERS OF AMERICA, INC. 101 S. WHITING ST. ALEXANDRIA VA 22304		247,485.69	245,572.18
THOMAS M. GUNN PO BOX 516 ST. LOUIS MO 63166	MCDONNELL DOUGLAS CORPORATION		
DAVID GUSKY 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	9,235.56	
SUSAN L. GUSTAFSON 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN		
NED H. GUTHRIE 209 HAYES AVENUE CHARLESTON WV 25314	AMERICAN FEDERATION OF MUSICIANS	815.00	1,527.02
ROBERT F. GUTHRIE #608 815 16TH ST., NW WASHINGTON DC 20006	DEPARTMENT FOR PROFESSIONAL EMPLOYEES, AFL-CIO	4,468.76	
TIMOTHY M. HAAKE BIRCH, HORTON, BITTNER & MONROE 1140 CONNECTICUT AVE., NW, #1100 WASHINGTON DC 20036	JIM JONES, GOV'T RESEARCH & DEVELOPMENT CORP		
Do	TEAMSTERS LOCAL 959		
Do	WIEN AIR ALASKA		
C. JAMES HACKETT P.O. BOX 11700 TACOMA WA 98411	AMERICAN PLYWOOD ASSN		
JAMES M. HACKING 1909 K ST., NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMERICAN ASSN OF RET PERSONS	553.84	479.00
CRAIG HACKLER 412 FIRST ST., SE SUITE 214 WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA	1,000.00	
Do	CADILLAC FAIRVIEW U.S., INC		
Do	CALIFORNIA WESTSIDE FARMERS	833.33	
Do	GUAM OIL & REFINING CO		
Do	NATIONAL LIVING CENTERS	2,000.00	
Do	STICHTING PHILIPS PENSIONENFONDS A AND B		
LOYD HACKLER 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	2,000.00	48.50
CHARLES W. HACKNEY JR 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
WILLIAM F. HADDAD 322 W. 57TH ST., NEW YORK NY 10019	GENERIC PHARMACEUTICAL INDUSTRY ASSN	4,320.00	189.00
THOMAS M. HAGAN 1510 AMERICAN BANK TOWER AUSTIN TX 78701	CENTRAL AND SOUTH WEST SERVICES, INC	1,377.00	2,699.25
ANN HAGEMANN 1150 17TH ST., NW WASHINGTON DC 20036	AMERICAN BROADCASTING CO		
WILLIAM D. HAGER 1835 K ST., NW, #515 WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES		
BRUCE N. HAHN 9300 LIVINGSTON RD. WASHINGTON DC 20744	NATIONAL TOOLING & MACHINING ASSOCIATION	8,769.24	1,689.98
DONALD M. HAINES 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	8,619.10	28.40
THOMAS F. HAIRSTON 1100 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA	4,000.00	654.57
HALE AND DORR SUITE 807 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	GHK COMPANIES	24,365.16	5,307.94
BEVERLY HALEM 414 HIGH POINT DR., #206 COCOA FL 32922	HALEM INDUSTRIES, INC		
HALEY BADER & POTTS SUITE 700 1730 M ST., NW WASHINGTON DC 20036	PILOTS RIGHTS ASSOCIATION	344.00	118.19
MARTIN HALEY COMPANIES 1015 15TH ST., NW WASHINGTON DC 20005	AGRI-BUSINESS INC		
Do	AMERICAN ENERGY INC		
Do	CENTRAL TEXAS GRAIN PRODUCTS MARKETING COOPERATIVE		
Do	GRAIN PRODUCTS ALCOHOL COOPERATIVES		
Do	HIGH PLAINS GRAIN PRODUCTS COOPERATIVE		
Do	LOUIS DREYFUS CORP		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	M&M/MARS		
Do	MARION LABORATORIES, INC.		
Do	NEW ENGLAND MUTUAL LIFE INSURANCE CO.		
Do	NORTH PLAINS GRAIN PRODUCTS COOPERATIVE		
Do	NORTHWEST TEXAS GRAIN PRODUCTS COOPERATIVE		
Do	POWER AUTHORITY OF THE STATE OF NEW YORK		
Do	TELEPHONE & DATA SYSTEMS, INC.		
HALL ESTILL HARDWICK GABLE COLLINGSWORTH & NELSON SUITE 350 1750 K ST., NW WASHINGTON DC 20006	WILLIAMS COMPANIES	100.00	
HARRY L. HALL SUITE S-520 1120 20TH ST., NW WASHINGTON DC 20036	NATIONAL MULTIPLE SCLEROSIS SOCIETY	4,500.00	
JOHN F. HALL 1619 MASSACHUSETTS AVE., N.W. WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	600.00	
RICHARD F. HALL SUITE 800 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA	2,000.00	2,049.96
JOSEPH HALOW SUITE 610-N 1800 M ST., NW WASHINGTON DC 20036	NORTH AMERICAN EXPORT GRAIN ASSN, INC.		
MAURICE E. HALSEY SUITE 202 1627 K ST., NW WASHINGTON DC 20006	NORTHERN ILLINOIS GAS COMPANY	2,500.00	
PAUL T. HALUZA SUITE 333 1120 19TH STREET, NW WASHINGTON DC 20036	MOTOR AND EQUIPMENT MANUFACTURERS ASSOCIATION	3,000.00	889.71
JERALD V. HALVORSEN COAL BUILDING WASHINGTON DC 20036	NATIONAL COAL ASSOCIATION	7,000.00	2,735.87
HAMEL PARK MCCABE & SAUNDERS 888 16TH STREET, NW WASHINGTON DC 20006	BENEFICIAL FOUNDATION		
Do	ESTATE OF HELEN WODELL HALBACH		
Do	STATE OF ALASKA		
Do	TANDY CORPORATION	830.00	
Do	UNITED STUDENT AID FUNDS, INC		
Do	GRAEPER-VAN HOY-WAGNER, INC.		
BRUCE HAMILTON BOX 1078 LANDER WY 82520	SIERRA CLUB	3,330.00	1,057.70
JAMES L. HAMILTON III 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	U.S. STEEL CORPORATION	525.00	181.96
J. LEE HAMILTON 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	146.23	40.00
PHILIP W. HAMILTON 1901 L ST., NW, #711 WASHINGTON DC 20036	HAMILTON & (FOR: NATIONAL LABOR-MANAGEMENT FOUNDATION)		
STANLEY HAMILTON 1616 P ST., NW, #204 WASHINGTON DC 20036	COMMON CARRIER CONFERENCE-IRREGULAR ROUTE	500.00	50.00
WILLIAM W. HAMILTON JR. SUITE 303 1220 19TH STREET, NW WASHINGTON DC 20036	PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.	239.66	93.95
SUSAN W. HAMLIN 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
AMY R. HAMMER SUITE 1100 1899 L STREET, NW WASHINGTON DC 20036	EXXON CORPORATION		1,175.76
ROBERT E. HAMPTON NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC.		
ROBERT N. HAMPTON 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	843.75	
SARA HAMRIC 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INST, INC		
NOLAN W. HANCOCK 1126 16TH ST., NW WASHINGTON DC 20036	OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION	4,787.50	
TED HANDEL THIRD FLOOR 2301 M STREET, NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	500.00	
DONALD K. HANES 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	150.25	
GEORGE J. HANKS JR 1100 FIFTEENTH STREET, NW 12TH FL WASHINGTON DC 20005	UNION CARBIDE CORP.		
JAMES M. HANLEY JAMES M. HANLEY AND ASSOCIATES 1301 PENNSYLVANIA AVENUE, NW, #1150 WASHINGTON DC 20004.	ALLIANCE OF THIRD CLASS NON-PROFIT MAILERS	15,000.00	900.00
ELIZABETH HANLIN SUITE 810 2000 L ST., NW WASHINGTON DC 20036	SPERRY CORPORATION		
HANNAFORD CO., INC. SUITE 750 1225 19TH STREET, NW WASHINGTON DC 20036	AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS		
Do	BALTIC AMERICAN FREEDOM LEAGUE	9,300.00	3,307.42
Do	CENTURY 21	2,250.00	75.44
Do	CHINA EXTERNAL TRADE DEVELOPMENT COUNCIL	1,500.00	51.50
Do	FIREMAN'S FUND INSURANCE COS		
Do	GENERAL MOTORS CORP		
Do	HUBBARD BROADCASTING COMPANY		
Do	NATIONAL VENTURE CAPITAL ASSOCIATION	8,400.00	942.62
Do	NORTHWEST ALASKAN PIPELINE CO.		
Do	TOSCO OIL CORPORATION		
Do	TRANS WORLD AIRLINES, INC.		
HANNAFORD INTERNATIONAL, INC SUITE 207 905 16TH STREET, NW WASHINGTON DC 20006	STABLEX CORPORATION	2,700.00	137.07
HANSELL POST BRANDON & DORSEY 1915 I ST, NW WASHINGTON, DC 20006	EASTERN AIR LINES, INC.		
Do	ASSOCIATED BUILDERS & CONTRACTORS, INC.	460.46	
Do	ROCKWELL INTERNATIONAL CORP		
Do	PORTMAN PROPERTIES	20,000.00	
ERLING HANSEN 624 9TH ST., NW, 7TH FL. WASHINGTON DC 20001	GROUP HEALTH ASSOCIATION OF AMERICA, INC.		
J. E. HANSEN 400 1ST ST., NW WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	350.00	
PETER J. HAPWORTH 1511 K ST., NW WASHINGTON DC 20005	SUGAR ASSOCIATION, INC.	500.00	150.00
HARBISON FORD, INC. ROUTE 1 MORRISVILLE PA 19067			
MARGARET K. HARDING 1000 WILSON BLVD. ARLINGTON VA 22209	KIMBERLY-CLARK CORP		
RALPH R. HARDING 305 HEARTHSTONE DR. BOISE ID 83702	AMPCO FOODS, INC.		
WILLIAM E. HARDMAN 9300 LIVINGSTON ROAD FT WASHINGTON DC 20744	NATIONAL TOOLING & MACHINING ASSN.		
EUGENE J. HARDY SUITE 1000 1100 17TH ST., NW WASHINGTON DC 20036	GERBER PRODUCTS COMPANY	500.00	12.25
HELEN S. HARGADON 1155 15TH STREET, NW SUITE 900 WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	14.15
CHARLES N. HARKEY 1700 NORTH MOORE ST. 1925 ROSSLYN CENTER BUILDING ARLINGTON VA 22209	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA		
WILLIAM G. HARLEY SUITE 606 1235 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		
DAN R. HARLOW 919 18TH STREET, N.W. WASHINGTON DC 20006	DIAMOND SHAMROCK CORPORATION	3,000.00	
DONALD L. HARLOW 310 RILEY ST. FALLS CHURCH VA 22046	AIR FORCE SERGEANTS ASSN, INC		
CHARLES E. HARMAN JR. PETROLEUM COUNCIL OF GEORGIA 230 PEACHTREE ST., NW, #1500 ATLANTA GA 30303	AMERICAN PETROLEUM INSTITUTE	301.43	754.37
JOHN L. HARMER 50 SOUTH MAIN ST. SUITE 1560 SALT LAKE CITY UT 84144		15,080.00	2,344.98
ROBERT L. HARNESS 1101 17TH ST., NW SUITE 604 WASHINGTON DC 20036	MONSANTO CO.	450.00	72.60
WILEY C. HARRELL JR 1211 CONNECTICUT AVE., NW, #502 WASHINGTON DC 20036	ANHEUSER-BUSCH COMPANIES, INC.		
MICHAEL T. HARRIGAN 421 KING ST., #214 ALEXANDRIA VA 22314	U.S. OLYMPIC COMMITTEE		
TONI HARRINGTON 955 L'ENFANT PLAZA NORTH, SW, #905 WASHINGTON DC 20024	AMERICAN HONDA MOTOR CO, INC	200.00	130.10
HARRIS COMMUNICATIONS, INC 80 TROWBRIDGE STREET CAMBRIDGE MA 02138	ALARM DEVICE MANUFACTURING COMPANY		
HUBERT L. HARRIS 444 NORTH CAPITOL STREET, N.W. SUITE 409 WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
JUDY L. HARRIS SUITE 409 444 NORTH CAPITOL ST., NW WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
ROBERT L. HARRIS 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	ALUMINUM ASSN		50.00
HARRIS, BERG & CRESHOFF 1100 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF FOOD INDUSTRIES, INC.	850.00	30.00
Do	COMMITTEE OF DOMESTIC STEEL WIRE ROPE & SPECIALTY CABLE MFRS		
Do	P.L. THOMAS & CO., INC.	250.00	6.45
JIM HARRISON 1346 CONNECTICUT AVE., NW #228 WASHINGTON DC 20036	COMMITTEE OF URBAN PROGRAM UNIVERSITIES	6,250.00	137.67
WILLIAM H. HARSHA 1102 DELF DRIVE MCLEAN VA 22101	WILLIAM H. HARSHA & ASSOCIATES, INC. (FOR: AMERICAN TRUCKING ASSNS, INC)	7,500.00	49.63
Do	WM. H. HARSHA & ASSOCIATES, INC (FOR: APPALACHIAN REGIONAL COMMISSION).	4,000.00	103.66
Do	WM. H. HARSHA & ASSOC., INC. (FOR: COMMUTER AIRLINE ASSOCIATION OF AMERICA).	3,000.00	
Do	WM. H. HARSHA & ASSOC., INC. (FOR: GRUMMAN FLXIBLE)	4,500.00	
Do	WM. H. HARSHA & ASSOC., INC. (FOR: SLURRY TRANSPORT ASSN)	12,000.00	
JEFF R. HART 1201 PENNSYLVANIA AVE., NW SUITE 340 WASHINGTON DC 20004	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	1,875.00	
RICHARD HART 601 N. VERMONT AVENUE LOS ANGELES CA 90004	NATIONAL ASSN OF MANUFACTURERS		
HARTKE & HARTKE 7637 LEESBURG PIKE FALLS CHURCH VA 22043	NATIONAL CULTURAL LIBERATION MOVEMENT & S.A. BLACK ALLIANCE		
CHARLES D. HARTMAN 1050 17TH ST., NW, SUITE 500 WASHINGTON DC 20036	TEXACO, INC.	1,068.00	
MARY L. HARTMAN 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN.		
NORMAN B. HARTNETT 807 MAINE AVE., SW WASHINGTON DC 20024	DISABLED AMERICAN VETERANS	19,156.80	3,472.38
EDWIN HAROLD HARVEY 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
CLIFFORD J. HARVISON 1616 P ST., NW WASHINGTON DC 20036	NATIONAL TANK TRUCK CARRIERS, INC.		
HOLLY HASSETT SUITE 801 1629 K STREET, NW WASHINGTON DC 20006	HERSHEY FOODS CORP.		
LEWIS B. HASTINGS 1776 K ST., NW, #200 WASHINGTON DC 20006	MOTOROLA, INC.	1,000.00	248.35
WALTER A. HASTY JR SUITE 230 1801 K ST., NW WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	320.25	
L. ANDREA HATFIELD 618 WASHINGTON BUILDING WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS.	1,000.00	
GARY R. HATTAL 818 ROEDER ROAD SUITE 702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
BARBARA J. HAUGH SUITE 800 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		1,660.00
RODNEY E. HAUGH SUITE 903 1735 JEFFERSON DAVIS HWY. ARLINGTON, VA 22202	POTATO CHIP/SNACK FOOD ASSOCIATION	600.00	
MARY W. HAUGHT 1800 K ST., NW, #820 WASHINGTON DC 20006	SUN CO, INC	700.00	50.40
CHARLES W. HAVENS III 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	LEBOEUF, LAMB, LEIBY & MACRAE		
KATHRYN JOANN HAWES SUITE 702 818 ROEDER RD. SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
SIDNEY G. HAWKES 1900 CONNECTICUT AVE., NW WASHINGTON DC 20036	MEAD CORPORATION	3,000.00	165.00
DAVID G. HAWKINS 1725 I ST., NW WASHINGTON DC 20006	NATURAL RESOURCES DEFENSE COUNCIL, INC.	5,691.60	29.55
JOHN N. HAWKINS JR 600 N. 18TH ST. BIRMINGHAM AL 35291	ALABAMA POWER CO.	12,058.00	405.16
WESLEY F. HAYDEN 5224 CHEROKEE AVE. ALEXANDRIA VA 22312	INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES	7,125.00	60.65
ROBERT A. HAYNOS 4711 HUNT CIRCLE HARRISBURG PA 17112	HARSCO CORPORATION		
HEALTH INSURANCE ASSOCIATION OF AMERICA, INC. 1750 K ST., NW WASHINGTON DC 20006		514.35	514.35

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
HEALTH RESEARCH GROUP SUITE 708 2000 P ST., NW WASHINGTON DC 20036			
PATRICK B. HEALY 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED	543.75	
ROBERT L. HEALY 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	300.00	
CHARLES L. HEBNER NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC		
MARY CONNELL HEDBERG SUITE 321 227 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	CONSERVATIVES FOR IMMIGRATION REFORM, INC	360.00	
JAMES B. HEDLUND 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	3,200.00	
JAY HEDLUND 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	7,500.00	217.70
EDWARD D. HEFFERNAN 1875 EYE ST., NW, # 1025 WASHINGTON DC 20006	DUCTILE IRON PIPE RESEARCH ASSN		
Do	SOUTHERN CALIFORNIA GAS CO	15,000.00	6.40
JOHN HEFFNER 1957 E STREET, N.W. WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ROBERT E. HEGGESTAD CASEY, SCOTT & CANFIELD 1435 G ST., NW WASHINGTON DC 20005	MANUFACTURED HOUSING INST		
JOHN F. HEILMAN 807 MAINE AVE., SW WASHINGTON DC 20024	DISABLED AMERICAN VETERANS	13,430.40	1,866.00
JOHN R. HEISSE II SUITE 900 1828 L STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF DEMOLITION CONTRACTORS		4,486.45
HELICOPTER ASSOCIATION INTERNATIONAL 1110 VERMONT AVE., NW SUITE 430 WASHINGTON DC 20005			15,148.88
RICHARD L. HELLWEGE 1911 JEFFERSON DAVIS HIGHWAY, #1002 ARLINGTON VA 22202	LEAR SIEGLER, INC		
NOEL HEMMENDINGER 1919 PENNSYLVANIA AVE., NW, #400 WASHINGTON DC 20006	ARTER HADDEN & HEMMENDINGER (FOR: JAPAN IRON & STEEL EXPORTERS ASSN & BANCO DO BRASIL).		
THOMAS R. HENDERSHOT BARNETT, & ALAGIA 1627 K ST., NW, #900 WASHINGTON DC 20006	PARTNERSHIP PLACEMENTS, INC		
Do	PETROLEUM HEAT AND POWER CO		
Do	PHILADELPHIA GAS WORKS	6,045.00	
Do	PHILADELPHIA STOCK EXCHANGE	7,038.43	
Do	SLURRY TRANSPORT ASSN		
CAROL C. HENDERSON 110 MARYLAND AVE., NE, #101, BOX 54 WASHINGTON DC 20002	AMERICAN LIBRARY ASSN	666.00	
JOHN B. HENDERSON SUITE 1100 1090 VERMONT AVE., NW WASHINGTON DC 20005	TEXTRON, INC	1,980.00	295.00
RICHARD DEAN HENDERSON SUITE 310 1101 17TH ST., NW WASHINGTON DC 20036	PRIVATE TRUCK COUNCIL OF AMER, INC		40.00
TOM HENDERSON 108 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC	15,000.00	7,627.10
C. DAYLE HENINGTON 1101 CONNECTICUT AVE., NW, #801 WASHINGTON DC 20036	CHICAGO MERCANTILE EXCHANGE		
EDMUND P. HENNELLY 150 E. 42ND ST. NEW YORK NY 10017	MOBIL OIL CORP	1,500.00	
GEORGE F. HENRIKUS JR 201 N. WASHINGTON ST. ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	4,744.00	
LEANN HENSCHE 2550 M STREET, NW SUITE 770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	263.74	152.83
BRUCE HEPPEN 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
LYLA M. HERNANDEZ 5410 GROSVENOR LANE, SUITE 210, BETHESDA, MD 20814	AMERICAN ASSN OF PROFESSIONAL STANDARDS REVIEW ORGS		73.68
HERRICK & SMITH 100 FEDERAL ST. BOSTON MA 02110	SMITH COLLEGE	144.00	
CAROL M. HERRINGTON 1235 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	EMERSON ELECTRIC CO		
WILLIAM G. HERROLD SUITE 608 1111 19TH ST., NW WASHINGTON DC 20036	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS		
FRED HERVEY P.O. BOX 20230, 4500 SOUTH 40TH ST. PHOENIX AZ 85036	CIRCLE K CORPORATION		
Do	REDUCE OUR DEBT FOUNDATION	10.00	6,814.47
HEUBLEIN, INC. C/O MAUREEN BRIGGS MUNSON RD. FARMINGTON CT 06032			22,314.01
TED ALLEN HEYDINGER 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	3,176.25	304.93
G. BROCKWEL HEYLIN 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ANDREW L. HICKEY JR 3900 WISCONSIN AVE., NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN	15,750.00	924.73
PAUL T. HICKS RHODE ISLAND PETROLEUM ASSN 154 FRANCIS ST. PROVIDENCE RI 02903	AMERICAN PETROLEUM INST		
J. THOMAS HIGGINBOTHAM MELLON BANK, N.A. PITTSBURGH PA 15230	MELLON BANK, N.A. & MELLON NATL CORP	2,000.00	1,441.04
CLIFTON T. HILDERLEY JR. SUITE 507 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	U.S. FILTER CORPORATION	1,000.00	
HILL AND KNOWLTON, INC SUITE 700 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	FLORISTS' TRANSWORLD DELIVERY ASSN	8,250.00	
GERALD 'JERRY' HILL 6 EXECUTIVE PARK DRIVE ATLANTA GA 30329	STANDARD OIL CO (INDIANA)		
J. ELDRED HILL JR SUITE 603, 600 MARYLAND AVE., SW WASHINGTON DC 20024	UBA, INC	2,000.00	
MORTON A. HILL 980 PARK AVE. NEW YORK, NY 10028	MORALITY IN MEDIA, INC	10.00	
PATRICIA HILL 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE, INC		
ROBERT B. HILL 2501 M STREET, N.W. WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC	300.00	
HINES & KETCHEY, P.A. 100 TWIGGS STREET 301 FOUNDERS LIFE BUILDING TAMPA FL 33602	PHH GROUP, INC		
CORNISH F. HITCHCOCK 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036	AVIATION CONSUMER ACTION PROJECT		
STEPHEN HITCHNER 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	7,846.05	252.00
SHEILA K. HIXSON 1101 17TH ST., NW WASHINGTON DC 20036	AMERICAN DENTAL ASSN	1,000.00	
LAWRENCE S. HOBART 2301 M ST., NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	1,000.00	
CLAUDE E. HOBBS 1801 K ST., NW WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	3,700.00	115.00
ROBERT J. HOBBS 11 BEACON ST. BOSTON MA 02108	NATIONAL CONSUMER LAW CENTER		
JERALD E. HOBSON 1775 K ST., NW SUITE 310 WASHINGTON DC 20006	EL PASO COMPANY	2,500.00	273.38
HODGSON, RUSS, ANDREWS, WOODS & GOODYEAR 1776 F STREET, NW WASHINGTON DC 20006	J. C. BROCK CORP	850.00	
HOWARD E. HOELTER ILLINOIS PETROLEUM COUNCIL P.O. BOX 5034 SPRINGFIELD IL 62705	AMERICAN PETROLEUM INST		
GLEN D. HOFER 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	1,080.00	
IRVIN A. HOFF 20 N. LIVE OAK RD. HILTON HEAD ISLAND SC 29928	U.S. CANE SUGAR REFINERS' ASSN		
ELLEN S. HOFFMAN 1520 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	CHILDREN'S DEFENSE FUND OF THE WASH RESEARCH PROJECT, INC	5,180.50	629.02
ELMO R. HOFFMAN 215 EAST CENTRAL BOULEVARD ORLANDO FL 32801	CRAMER, HOFFMAN & HABER (FOR: GLOBAL EXPLORATION & DEVELOPMENT CORPORATION).		
WILLIAM H. HOFFMAN 1000 16TH ST., NW WASHINGTON DC 20036	AMERICAN IRON & STEEL INSTITUTE		
WILLIAM L. HOFFMAN 516 FIRST ST., S.E. WASHINGTON DC 20003	AMERICAN UNIVERSITY OF BEIRUT	8,300.00	777.08
F. NORDY HOFFMANN AND ASSOC., INC SUITE 327 400 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	ARCHER DANIELS MIDLAND COMPANY	500.00	
Do	EPIC	400.00	
Do	INTERNATIONAL TELEPHONE & TELEGRAPH	800.00	
Do	MARINE ENGINEERS BENEFICIAL ASSN	500.00	
Do	O'CONNOR & HANNAN	400.00	
Do	PAGE AIRWAYS	400.00	
Do	WESTINGHOUSE ELECTRIC	300.00	
HOGAN & HARTSON 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	AMERICAN ELECTRONICS ASSN	2,612.50	35.19
Do	COMPUTER & BUSINESS EQUIPMENT MANUFACTURERS ASSN	1,050.00	35.19
Do	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN		
Do	DIRECT SELLING ASSOCIATION	6,760.00	
Do	ETSI PIPELINE PROJECT		
Do	FLORIDA STATE HOSPICE ORGANIZATION, INC		122.30
Do	GLENDALE FEDERAL SAVINGS & LOAN ASSN		25.00
Do	MOTORCYCLE INDUSTRY COUNCIL, INC		
Do	NATIONAL FARMERS ORGANIZATION		4.25
Do	NATIONAL SOFT DRINK ASSN	2,525.00	68.82
Do	NEWSPAPER-BROADCASTER COMMITTEE	75.00	
Do	SCIENTIFIC APPARATUS MAKERS ASSN	1,050.00	35.19
Do	SEMICONDUCTOR INDUSTRY ASSOCIATION		35.19
Do	TOYOTA MOTOR SALES, U.S.A., INC	4,512.50	162.94
JAMES F. HOGG 8100-34TH AVE. SOUTH (MAILING P.O.B. 0) MINNEAPOLIS, MN. 55440	CONTROL DATA CORPORATION		
RICHARD F. HOHLT 1709 NEW YORK AVE., NW SUITE 801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	4,312.50	100.00
WALTER HOLAN 20 NORTH WACKER DRIVE CHICAGO IL 60606	PROFIT SHARING COUNCIL OF AMER		
WILLIAM J. HOLAYTER 1300 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS	6,460.87	
BRUCE E. HOLBEIN 111 POWDERMILL RD. (B79) MAYNARD MA 01754	DIGITAL EQUIPMENT CORPORATION	10,750.00	
MICHELE O'DONNELL HOLBROOK 10 LAFAYETTE SQUARE ROOM 900 BUFFALO NY 14203	NATIONAL FUEL GAS DISTRIBUTION CORP., ET AL	800.00	3,977.72
NIELS HOLCH THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON & STEEL INSTITUTE)		
Do	GRAY AND COMPANY (FOR: AMERICAN MARITIME ASSN)		
Do	GRAY AND COMPANY (FOR: MINIMUM TAX COALITION)	979.50	36.00
MARCUS A. HOLLABAUGH 1775 PENNSYLVANIA AVE., NW, #1000 WASHINGTON DC 20006	PHOSPHATE ROCK EXPORT ASSOCIATION		
HOLLAND & KNIGHT 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	RSV MINING EQUIPMENT B.V.		
Do	WACKENHUT CORP		
WENDELL M. HOLLOWAY 815 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20006	FORD MOTOR CO	2,490.00	1,838.34
HOLME, ROBERTS & OWEN 1700 BROADWAY DENVER CO 80290	PARAHO DEVELOPMENT CORP	15,191.25	516.91
LEE B. HOLMES 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	5,000.00	87.72
MOSES D. HOLMES JR 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,239.20	203.05
PETER E. HOLMES 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO	1,250.00	
E.Y. HOLT JR 1111 NORTH 19TH ST., #700 ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS		
A. LINWOOD HOLTON JR 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	600.00	
JOHN W. HOLTON 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN		
LOIS HOLWERDA - HOYT SUITE 104 499 SOUTH CAPITOL STREET, NW, WASHINGTON DC 20003	AMERICAN OSTEOPATHIC ASSN	1,500.00	
HOME RECORDING RIGHTS COALITION SUITE 1025 1015 15TH STREET, NW WASHINGTON DC 20005		182,053.12	228,980.15
KAREN C. HONTZ 600 NEW HAMPSHIRE AVENUE, N.W. SUITE 920 WASHINGTON DC 20037	GULF & WESTERN MANAGEMENT COMPANY	1,656.00	283.64
VIRGINIA E. HOPKINS 1800 MASSACHUSETTS AVENUE, N.W. WASHINGTON DC 20036	TAFT, STETTINIUS & HOLLISTER (FOR: MACHINERY DEALERS NATIONAL ASSOCIATION).		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	TAFT, STETTINIUS & HOLLISTER (FOR: MIAMI CONSERVANCY DISTRICT)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: NATIONAL ASSN FOR ASSN POLITICAL ACTION COMMITTEES).		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: TAFT BROADCASTING COMPANY)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: TELEPHONE AND DATA SYSTEMS, INC.)		
WILLIAM B. HOPKINS P.O. BOX 13366 ROANOKE VA 24033	TULARE LAKE WATER USERS COMMITTEE	9,450.00	3,150.06
BETTY CAROLYN HORN SUITE 505 700 N. FAIRFAX ST. ALEXANDRIA VA 22314	NATIONAL ASSN OF TRUCK STOP OPERATORS		
ALISON HORTON 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	4,250.00	2,100.00
SANFORD D. HORWITT 5935 N. 5TH ROAD ARLINGTON VA 22203	COMMITTEE FOR HUMANE LEGISLATION		
Do	FRIENDS OF ANIMALS, INC	2,333.33	26.36
HOSPITAL ASSOCIATION OF NEW YORK STATE 15 COMPUTER DRIVE WEST ALBANY NY 12205		1,695.00	1,695.00
WILLIAM J. HOTES 919 18TH ST., N.W. #400 WASHINGTON DC 20006	DIAMOND SHAMROCK CORPORATION	1,000.00	455.76
THOMAS B. HOUSE 1700 OLD MEADOW RD. SUITE 100 MCLEAN VA 22102	AMERICAN FROZEN FOOD INST	1,000.00	
HOUSLEY, GOLDBERG & KANTARIAN, P.C. 2301 M STREET, NW SUITE 500 WASHINGTON DC 20037			
JACK W. HOUSTON 315 W. PONCE DE LEON AVENUE DECATUR GA 30031	GEORGIA ASSOCIATION OF PETROLEUM RETAILERS, INC.		
HOUSTON NATURAL GAS CORP P.O. BOX 1188 HOUSTON TX 77001			163.45
DONALD L. HOWELL FIRST CITY NATIONAL BANK BLDG. HOUSTON TX 77002	VINSON & ELKINS (FOR: SLURRY TRANSPORT ASSN)		
J. WILLIAM HOWELL 1801 K ST., NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP.	2,565.30	151.00
JAMES P. HOWELL 1800 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	915.00	
JOE L. HOWELL SUITE 750 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ALLSTATE ENTERPRISES, INC.		
Do	ALLSTATE INSURANCE COS.		
MARY J. LYNCH HOWELL 1090 VERMONT AVE., NW, SUITE 1100 WASHINGTON DC 20005	TEXTRON, INC.	1,500.00	280.00
JOHN B. HOWERTON 1730 RHODE ISLAND AVE., NW, #209 WASHINGTON DC 20036	ASARCO INC	2,000.00	
JOANNE MASSEY HOWES SUITE 303 1220 19TH STREET, NW WASHINGTON DC 20036	PLANNED PARENTHOOD FEDERATION OF AMERICA, INC.	943.37	117.00
MARY HOYER P.O. BOX 7610, BF STATION WASHINGTON DC 20044	SENIOR EXECUTIVES ASSN		
KARL T. HOYLE SUITE 810 1730 RHODE ISLAND AVE., NW WASHINGTON DC 20036	CREDIT UNION NATL ASSN, INC.	300.00	400.75
JOHN S. HOYT 400 N. WASHINGTON STREET ALEXANDRIA VA 22314	PROFESSIONAL INSURANCE AGENTS	250.00	200.00
PAUL R. HUARD 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	2,250.00	
MARGARET RENKEN HUDSON 2550 M ST., NW SUITE 450 WASHINGTON DC 20037	KORF INDUSTRIES, INC.	1,000.00	
HUDSON, CREYKE, KOEHLER & TACKE 1744 R STREET, NW WASHINGTON DC 20009	JAMES P. PURVIS		155.77
DAVID EMERY HUGHES 2211 CONGRESS ST. PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO	80.00	363.75
GARY E. HUGHES 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC.		
HUGHES HUBBARD & REED SUITE 380 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	BUSINESS ROUNDTABLE	600.00	8.00
Do	CONTINENTAL AIR LINES, INC.		
Do	FORD MOTOR COMPANY	450.00	149.49
Do	GROCERY MANUFACTURERS OF AMERICA, INC.		
Do	PFIZER, INC.		
PETER W. HUGHES 1909 K ST., NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMERICAN ASSN OF RET PERSONS	920.80	
VESTER T. HUGHES JR. HUGHES & HILL 1000 MERCANTILE DALLAS BUILDING DALLAS TX 75201	AMERICAN GENERAL LIFE INSURANCE CO.	200.00	596.15
Do	AMERICAN NATIONAL INSURANCE COMPANY	200.00	596.15
Do	REPUBLIC NATIONAL LIFE INSURANCE COMPANY	200.00	596.15
Do	SAMMONS ENTERPRISES, INC.		
WILLIAM HUGHES 1522 K ST., NW, #836 WASHINGTON DC 20005	NATIONAL ASSN OF FEDERAL VETERINARIANS	34.92	
EDWARD L. HUIE WHEATON PLAZA NORTH, #415 WHEATON MD 20902	NATIONAL ASSN OF AIR TRAFFIC SPECIALISTS	8,612.80	1,424.30
CORDELL W. HULL 50 BEALE ST., P O BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
DAVID C. HULL 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMER	291.00	4.20
GREGORY A. HUMPHREY 11 DUPONT CIRCLE, NW WASHINGTON DC 20036	AMERICAN FED OF TEACHERS	11,648.34	240.00
MARGOT SMILEY HUMPHREY 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)	1,575.00	22.00
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)		60.15
A. TRUMAN HUNT JR MISSISSIPPI PETROLEUM COUNCIL P.O. BOX 42 JACKSON MS 39205	AMERICAN PETROLEUM INST	850.00	1,476.14
DAVID A. HUNT 1815 NORTH FORT MEYER DRIVE ARLINGTON VA 22209	AIR CONDITIONING & REFRIGERATION INSTITUTE	4,000.00	1,200.00
FREDERICK D. HUNT JR 1800 M ST., NW SUITE 1030N WASHINGTON DC 20036	SOCIETY OF PROFESSIONAL BENEFIT ADMINISTRATORS		
LAWRENCE H. HUNT JR SIDLEY & AUSTIN ONE FIRST NATL PLAZA CHICAGO IL 60603	HEINOLD COMMODITIES, INC & CONTI COMMODITY SERVICES, INC.		
HUNT OIL COMPANY 2900 FIRST NATIONAL BANK BLDG. DALLAS TX 75202			18.00
PETER C. HUNT 195 MONTAGUE ST. BROOKLYN NY 11201	BROOKLYN UNION GAS CO.		
RICHARD M. HUNT 1150 CONNECTICUT AVE., NW, #1009 WASHINGTON DC 20036	NL INDUSTRIES, INC		
HARRY HUNTER SUITE 809 3 SKYLINE PLACE 5201 LEESBURG PIKE FALLS CHURCH VA 22041	NATIONAL ASSN OF CONVENIENCE STORES		
JAMES C. HUNTER SUITE 207 1660 L STREET, NW WASHINGTON DC 20036	CITIES SERVICE COMPANY	2,481.00	
MICHAEL M. HUNTER 1707 L ST., NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	3,000.00	100.00
WILLIAM J. HUNTER JR SUITE 900 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	MEAD CORPORATION	7,750.00	354.56
MILTON F. HUNTINGTON MAINE PETROLEUM ASSN 283 WATER ST. AUGUSTA ME 04330	AMERICAN PETROLEUM INST	250.00	597.96
HUNTON & WILLIAMS P.O. BOX 1535 RICHMOND VA 23212	EDISON ELECTRIC INSTITUTE	18,910.00	589.73
J. JAMES HUR 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	ATLANTIC RICHFIELD COMPANY		
ADELE M. HURLEY SUITE 206 1825 K ST., NW WASHINGTON DC 20006	CANADIAN COALITION ON ACID RAIN	1,316.18	200.00
GERARD F. HURLEY 1625 I ST., NW, #609 WASHINGTON DC 20006	NATIONAL CLUB ASSOCIATION	400.00	25.00
JOHN EDWARD HURLEY SUITE 107 1101 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037			
Do	NATIONAL ASSN FOR FREE ENTERPRISE		
ROBERT R. HURT 1050 17TH ST., NW SUITE 1050 WASH DC 20036	MERCK & CO., INC.		
BENJAMIN MELVIN HURWITZ 1925 K ST., NW SUITE 200 WASHINGTON DC 20006	MITCHELL ENERGY & DEVELOPMENT CORP.		
GEOFFREY B. HURWITZ SUITE 743 WASHINGTON BLDG. 1434 NEW YORK AVE. WASHINGTON DC 20005	ROHM AND HAAS COMPANY	500.00	40.00
DEWEY M. HUTCHINS 1919 PENNSYLVANIA AVE., NW, # 705 WASHINGTON DC 20006	EASTMAN KODAK CO	450.00	190.00
PHILIP A. HUTCHINSON SUITE 2450 475 L'ENFANT PLAZA, SW WASHINGTON DC 20024	VOLKSWAGEN OF AMERICA, INC	250.00	
ROBERT E. HUTCHINSON P.O. BOX 20230 4500 SOUTH 40TH ST. PHOENIX AZ 85036	CIRCLE K CORPORATION		
Do	REDUCE OUR DEBT FOUNDATION	10.00	6,814.47
RANDY HUWA 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	7,500.00	65.55
GARY HYMEL THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON & STEEL INSTITUTE)	900.00	
Do	GRAY AND COMPANY (FOR: ASARCO)		
Do	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
Do	GRAY AND COMPANY (FOR: COUNCIL OF STATE HOUSING AGENCIES)	172.50	18.00
Do	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, INC)	850.00	48.00
Do	GRAY AND COMPANY (FOR: GENERAL TELEPHONE & ELECTRONICS)		
Do	GRAY AND COMPANY (FOR: GROUP W)		
Do	GRAY AND COMPANY (FOR: HAMBROS BANK LIMITED)	50.00	6.00
Do	GRAY AND COMPANY (FOR: HEALTH INSURANCE ASSN OF AMERICA)		
Do	GRAY AND COMPANY (FOR: HTB CORPORATION)		
Do	GRAY AND COMPANY (FOR: MINIMUM TAX COALITION)	172.50	18.00
Do	GRAY AND COMPANY (FOR: MOTOROLA)		
Do	NEW CHANNELS CORP		
Do	GRAY AND COMPANY (FOR: QUIXOTE CORPORATION)		
Do	GRAY AND COMPANY (FOR: REPUBLIC AIRLINES)	350.00	42.00
Do	GRAY AND COMPANY (FOR: SHARPS, PIXLEY & COMPANY, LTD.)	50.00	6.00
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS/FRANKLIN MINT)		
ROBERT D. HYNES JR SUITE 807 1825 K ST., NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC.	500.00	83.27
RICHARD H. ICHORD SUITE 201 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	EMERSON ELECTRIC CO	262.50	58.45
Do	MAGNAVOX GOVERNMENT & INDUSTRIAL ELECTRONICS CO	312.50	
Do	WASHINGTON INDUSTRIAL TEAM, INC.	600.00	
FRANK H. IKARD 1120 CONNECTICUT AVE., NW, 10TH FL. WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY	250.00	
RONALD K. IKEJIRI 1730 RHODE ISLAND AVE., NW, #204 WASHINGTON DC 20036	JAPANESE AMERICAN CITIZENS LEAGUE	3,729.00	46.00
BERNARD J IMMING 727 N. WASHINGTON ST. ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN		
INDEPENDENT INSURANCE AGENTS OF AMERICA, INC. 100 CHURCH ST. NEW YORK NY 10007		16,618.03	16,618.03
INDEPENDENT LOCAL NEWSPAPER ASSN 1050 17TH ST., NW WASHINGTON DC 20036			
INDEPENDENT LUBRICANT MANUFACTURERS ASSN 1055 THOMAS JEFFERSON STREET, NW WASHINGTON DC 20007			
INDEPENDENT TELECOMMUNICATIONS SUPPLIERS' COUNCIL C/O PIERSON, BALL & DOWD 1200 18TH ST., NW WASHINGTON DC 20036.		48,000.00	66,557.72
INDUSTRIAL UNION DEPARTMENT, AFL-CIO 815 16TH ST., NW WASHINGTON DC 20006		20,969.08	20,969.08
NANCY J. INGALSBEE SUITE 300 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	U. S. SKI ASSOCIATION	96.00	
ANDREA L. INNES COAL BUILDING WASHINGTON DC 20036	NATIONAL COAL ASSN	4,625.00	371.27
INSURANCE ECONOMICS SOCIETY OF AMERICA SUITE 590 1700 PENNSYLVANIA AVE., NW WASHINGTON, DC 20006		62,508.54	
INTER-AMERICAN SERVICES, INC SUITE 102 1804 N.E. LOOP 410 SAN ANTONIO TX 78217			
INTERNATIONAL ASSN OF BRIDGE, STRUCT. & ORNAMENTAL IRON WKRS 1750 NEW YORK AVE., NW WASHINGTON DC 20006.			10,800.00
INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS 1300 CONNECTICUT AVE., NW WASHINGTON DC 20036			23,092.06
INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES 1750 NEW YORK AVE., NW WASHINGTON DC 20006			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
INTERNATIONAL BROTHERHOOD OF TEAMSTERS 25 LOUISIANA AVE., NW WASHINGTON DC 20001			37,125.91
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO 17 BATTERY PLACE SUITE 1500 NEW YORK NY 10004			36,873.57
INTERNATIONAL UNION OF BRICKLAYERS & ALLIED CRAFTSMEN 815 15TH ST., NW WASHINGTON DC 20005			3,312.27
INVESTMENT COMPANY INSTITUTE 1775 K ST., NW WASHINGTON DC 20006			12,475.73
INVESTMENT COUNSEL ASSN OF AMERICA, INC. 50 BROAD ST. NEW YORK NY 10004			
CHARLES C. IRONS 400 ARMY NAVY DRIVE P.O. BOX 2303 ARLINGTON VA 22202	AMERICAN MOVERS CONFERENCE	107.68	
IRON ORE LESSORS ASSN, INC 1500 FIRST NATL BANK BLDG. SAINT PAUL MN 55101		15,611.53	11,666.68
JOHN ISAACS 100 MARYLAND AVE., NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	6,126.18	
ITEL CORPORATION, CONTAINER DIVISION #2 EMBARCADERO CENTER 24TH FLOOR SAN FRANCISCO CA 94111			274.50
JOSEPH S IVES 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	115.00	
IVINS, PHILLIPS & BARKER, CHTD. 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	EMPLOYERS COUNCIL ON FLEXIBLE COMPENSATION	1,428.75	
ROBERT A. JABLON SPIEGAL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	FT. PIERCE UTILITIES AUTH OF THE CITY OF FT. PIERCE, ET AL.		
BENJAMIN R. JACKSON 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	NORMAN D. SHUTLER	3,000.00	
CHARLES L. JACKSON 1850 K STREET, NW WASHINGTON DC 20006	SHOOSHAN & JACKSON, INC (FOR: U.S. CABLESYSTEMS, INC)		
MERCER L. JACKSON 1101 17TH ST., NW SUITE 700 WASHINGTON DC 20036	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS, INC.	200.00	
ROBERT S. JACKSON 1133 19TH STREET, NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP	2,500.00	83,525.41
WALTER X. JAENICKE 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	4,500.00	
E. A. JAENKE & ASSOCIATES, INC 1575 EYE ST., NW, SUITE 230 WASHINGTON DC 20005	FARMLAND INDUSTRIES	500.00	
Do	UNIVERSITY OF KANSAS	250.00	
DANIEL L. JAFFE 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN ADVERTISING FEDERATION	120.88	
MARGO L. JAMES 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	5,000.00	371.33
JAPAN ECONOMIC INSTITUTE OF AMERICA 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036		1,969.95	1,969.95
JOSEPH J. JAQUAY 5025 WISCONSIN AVE., NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION , AFL-CIO		
T. DESTRY JARVIS 529 TENNESSEE AVE. ALEXANDRIA VA 22305	NATIONAL PARKS & CONSERVATION ASSOCIATION	1,071.00	73.15
EVELYN JARVIS-FERRIS 444 MARKET STREET SAN FRANCISCO CA 94111	SHAKLEE CORPORATION	1,000.00	2,890.18
JERRY J. JASINOWSKI 1776 F STREET, N.W. WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	2,000.00	
PATRICIA A. JEFFERS SUITE 209 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE	65.00	25.00
JOSEPH A. JEFFREY 1920 N STREET,N.W. SUITE 300 WASHINGTON DC 20036	AMERICAN MINING CONGRESS	400.00	
JOSEPH S. JENCKES 1730 M ST., NW, #808 WASHINGTON DC 20036	ABBOTT LABORATORIES	6,000.00	42.80
LINDA JENCKES 1750 K ST., NW WASHINGTON DC 20006	HEALTH INSURANCE ASSOCIATION OF AMERICA, INC.	280.00	30.50
JENKENS & GILCHRIST 2200 FIRST NATIONAL BANK BLDG. DALLAS TX 75202	AMERICAN COLLEGE OF EMERGENCY PHYSICIANS	67.50	23.20
JENNINGS, STROUSS & SALMON 111 WEST MONROE PHOENIX AZ 85003	SHAMROCK FOODS CO	90.00	
CHRIS L. JENSEN FLORIDA PETROLEUM COUNCIL 111 NORTH GADSDEN ST. TALLAHASSEE FL 32301	AMERICAN PETROLEUM INST	1,518.00	1,660.20
JENSEN, SANDERS & MCCONNELL SUITE 1875 1875 EYE ST., NW WASHINGTON DC 20006	CARMA-SANDLING GROUP	1,500.00	
Do	COUNTY OF ORANGE	9,500.00	750.00
Do	ORANGE COUNTY TRANSPORTATION COMMISSION	6,500.00	307.00
Do	SANTA ANA RIVER FLOOD PROTECTION AGENCY	300.00	
Do	SANTA ANA VALLEY IRRIGATION CO.		
NANCY H. JESSICK 425 13TH STREET, NW SUITE 1220 WASHINGTON DC 20004	HIRAM WALKER & SONS, INC.		
A. W. JESSUP 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION		381.17
GUY E. JESTER 2150 KIENLEN AVE. ST. LOUIS MO 63121	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER		
CHARLES E. JOECKEL JR 807 MAINE AVE., SW WASHINGTON DC 20024	DISABLED AMERICAN VETERANS	10,862.40	2,319.30
JOHNSON & SWANSON 4700 FIRST INTERNATIONAL BLDG. DALLAS TX 75270	HARBISON FORD, INC.		
Do	HUNT OIL COMPANY		45.66
CARL T. JOHNSON SUITE 1104 1800 K STREET, NW WASHINGTON DC 20006	CORNING GLASS WORKS	400.00	
DAVID H. JOHNSON MISSISSIPPI PETROLEUM COUNCIL 215 LAMAR LIFE BLDG., P.O. BOX 42 JACKSON MS 39205	AMERICAN PETROLEUM INST	100.00	435.15
EDWARD JOHNSON 1920 N STREET, NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
GEORGE DEAN JOHNSON JR. 220 NORTH CHURCH STREET P.O. BOX 5524 SPARTANBURG SC 29304	MILLIKEN & COMPANY	1,200.00	1,547.47
Do	WASTE MANAGEMENT, INC	1,000.00	324.05
H. BRADLEY JOHNSON 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
JESS JOHNSON JR SUITE 200 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	SHELL OIL CO	500.00	
JOHN B. JOHNSON ALABAMA PETROLEUM COUNCIL P.O. BOX 4220 MONTGOMERY AL 36195	AMERICAN PETROLEUM INST	587.50	
JOHN D. JOHNSON SUITE 1014 900 17TH STREET, NW WASHINGTON DC 20006	KAISER PERMANENTE MEDICAL GROUP	15,500.00	2,207.94
LINDA MEYER JOHNSON 7700 LITTLE RIVER TURNPIKE ANNANDALE VA 22003	ROLM CORPORATION	8,750.00	2,984.17
RADY A. JOHNSON 1000 16TH ST., #500 NW WASHINGTON DC 20036	STANDARD OIL CO (INDIANA)	1,500.00	176.97
RICHARD W. JOHNSON JR 110 MARYLAND AVE., NE, BOX 43 WASHINGTON DC 20002	NON COMMISSIONED OFFICERS ASSN OF THE USA	3,153.15	126.49
SPENCER A. JOHNSON 1101 VERMONT AVE., SUITE 411 WASHINGTON DC 20005	PAPERBOARD PACKAGING COUNCIL		
STANLEY L. JOHNSON 1050 17TH ST., NW WASHINGTON DC 20036	TEXACO, INC.	185.00	
WILLIAM L. JOHNSON SUITE 301 1050 17TH STREET, NW WASHINGTON DC 20036	MICHIGAN CONSOLIDATED GAS CO	1,000.00	
BARBARA W. JOHNSTON 1150 CONNECTICUT AVE. NW #710 WASHINGTON DC 20036	UTAH INTERNATIONAL INC.		
DAVID JOHNSTON 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
JAMES D. JOHNSTON 1660 L ST., SUITE 801 NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,600.00	3,060.25
T. GLENN JOHNSTON SUITE 500 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	STEPHENS OVERSEAS SERVICES, INC.		
JOINT CORPORATE COMM ON CUBAN CLAIMS C/O LONE STAR INDUSTRIES, INC PO BOX 5050 GREENWICH CT 06830		600.00	180.00
JOINT TASK FORCE ON FEDERAL FINANCIAL ASSIST. FOR STUDENTS C/O LAW SCHOOL ADMISSION COUNCIL 11 DUPONT CIRCLE, NW WASHINGTON DC 20036.			
MARY KAAREN JOLLY 1600 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	750.00	518.70
ALLAN R. JONES 1616 P ST., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC.	9,000.00	1,124.75
CHARLIE W. JONES SUITE 310 1150 17TH ST., NW WASHINGTON DC 20036	MAN-MADE FIBER PRODUCERS ASSN, INC.	300.00	100.00
ERNEST W. JONES 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
GERALD R. JONES SUITE 810 2000 L STREET, NW WASHINGTON DC 20036	SPERRY CORPORATION		
JAMES E. JONES JR 1110 VERMONT AVE., NW WASHINGTON DC 20005	ALLIANCE OF AMERICAN INSURERS	195.00	45.00
JAMES E. JONES 40 FRANKLIN RD., SW P.O. BOX 2021 ROANOKE VA 24022	APPALACHAN POWER COMPANY		
JONES JONES BELL CLOSE & BROWN, LTD. 700 VALLEY BANK PLAZA 300 S. 4TH ST. LAS VEGAS, NEVADA 89101	MEAD CORPORATION	2,228.38	446.10
NORVILL JONES 1620 EYE ST., NW WASHINGTON DC 20006	REYNOLDS METALS CO	250.00	
RANDALL T. JONES 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMER	945.00	37.65
GREGORY M. JONSSON 1629 K ST., NW WASHINGTON DC 20006	UNITED STATES INDUSTRIAL COUNCIL		
DE SOTO JORDAN 229 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	ELECTRONIC DATA SYSTEMS CORPORATION	154.00	128.67
JAMES V. JORDAN III PO BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO		
JEFFREY H. JOSEPH 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	1,365.00	65.00
ELLEN JOSEPHSON 1625 K ST., NW 8TH FLOOR WASHINGTON DC 20006	NATIONAL LEGAL AID & DEFENDERS ASSN.	9,000.00	58.30
ARDON B. JUDD JR 1100 CONNECTICUT AVE., NW, #310 WASHINGTON DC 20036	DRESSER INDUSTRIES, INC.		
ROBERT E. JULIANO 1875 I ST., NW, #450 WASHINGTON DC 20006	HOTEL & RESTAURANT EMPLOYEES & BARTENDERS INTL UNION	16,238.52	1,001.91
BYRON E. KABOT LEGAL DEPARTMENT 77 WEST 45TH ST. NEW YORK NY 10036	INTERNATIONAL PAPER COMPANY	2,500.00	360.95
GEZA KADAR 1750 K STREET, N.W. WASHINGTON DC 20006	HEALTH INSURANCE ASSOCIATION OF AMERICA, INC.	46.50	17.25
HANS KAEHLER P.O. BOX 118 COLD SPRING HARBOR NY 11724			
KAISER STEEL CORPORATION SUITE 401 1629 K STREET, NW WASHINGTON DC 20006			7,878.54
VICTOR S. KAMBER SUITE 800 1899 L STREET, NW WASHINGTON DC 20036	KAMBER GROUP (FOR: NATIONAL FOOTBALL LEAGUE PLAYERS ASSN)	4,500.00	1,076.12
LINDA HELLER KAMM 1775 PENNSYLVANIA AVE., NW SUITE 1000 WASHINGTON DC 20006	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: CITY OF MINNEAPOLIS)		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSOCIATION OF AMERICA).		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORP).		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: NATIONAL GYPSUM CO./CEMENT DIV.).		
Do	PHOSPHATE ROCK EXPORT ASSOCIATION		
Do	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: VGS CORPORATION)		
DONALD J. KANIEWSKI 905 16TH ST., NW WASHINGTON DC 20006	LABORERS' INTL UNION OF NORTH AMERICA, AFL-CIO	5,747.49	130.10
KAPLAN RUSSIN & VECCHI 1218 16TH STREET, NW WASHINGTON DC 20036	TADIRAN ISRAEL ELECTRONICS INDUSTRIES, LTD		1,154.80
CHARLES W. KARCHER MIDLAND BLDG, ROOM 850 CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
FRED G. KAREM SHUFFETT, KENTON, CURRY & KAREM 109 NORTH MILL STREET LEXINGTON KY 40507	LINCOLN PROPERTY CO	1,500.00	
Do	NATIONAL MULTI HOUSING COUNCIL		
JOSEPH E. KARTH 102 W. BOCA RATON RD. PHOENIX AZ 85023	ARCHER-DANIELS-MIDLAND COMPANY	3,000.00	
Do	KBS ASSOCIATES, INC.		
MARYANN M. KASWELL SUITE 1200 1300 NORTH 17TH STREET ARLINGTON VA 22209	CONSUMER BANKERS ASSN	1,300.00	592.22
HOWARD C. KATZ 160 WATER ST. NEW YORK NY 10038	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
LAWRENCE W. KATZ 8283 GREENSBORO DR. MCLEAN VA 22102	SATELLITE BUSINESS SYSTEMS	1,500.00	15.00
LINDA EILEEN KATZ 1111 19TH ST., NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	964.29	668.47
EVERETT E. KAVANAUGH SUITE 800 1110 VERMONT AVE., NW WASHINGTON DC 20005	COSMETIC, TOILETRY & FRAGRANCE ASSN, INC.		
KAYE, SCHOLER, FIERMAN, HAYS & HANDLER 1575 I ST., NW SUITE 1150 WASHINGTON DC 20005	AMERICAN PSYCHOANALYTIC ASSOCIATION		
RICHARD F. KEATING SUITE 502 1211 CONNECTICUT AVE., NW WASHINGTON DC 20036	ANHEUSER-BUSCH COMPANIES		
WILLIAM J. KEATING 725 15TH ST., NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN		
HOWARD B. KECK 555 S. FLOWER ST. SUITE 4750 LOS ANGELES CA 90071	SUPERIOR OIL CO		300.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
W. M. KECK JR 1801 AVENUE OF THE STARS SUITE 1110 LOS ANGELES CA 90067			
TERESA A. KEEFE 1730 M ST., NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	2,861.00	12.00
JOSEPH D. KEEFER SUITE 1050 1825 EYE STREET, NW WASHINGTON DC 20006	NATIONAL COUNCIL ON SYNTHETIC FUELS PRODUCTION		
DAVID A. KEENE 919 PRINCE ST. ALEX. VA 22314	NATIONAL TAX LIMITATION COMMITTEE	500.00	10.00
KEITH KEENEY SUITE 500-D 5775 PEACHTREE-DUNWOODY RD. ATLANTA GA 30342	ROBERT H. KELLEN CO (FOR: CALORIE CONTROL COUNCIL)	140.00	
ROBERT C. KEENEY 727 N. WASHINGTON ST ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN	927.34	141.50
JEFFERSON D. KEITH 8100 OAK STREET, DUNN LORING, VA 22027	NATIONAL PEST CONTROL ASSN		
ROBERT H. KELLEN 5775 PEACHTREE-DUNWOODY RD., #500-D ATLANTA GA 30342	ROBERT H. KELLEN CO (FOR: CALORIE CONTROL COUNCIL)	180.00	
KELLER & HECKMAN 1150 17TH ST., NW WASHINGTON DC 20036	SPECIALTY ADVERTISING ASSN. INT'L	8,500.00	150.00
DONALD W. KELLER 601 JEFFERSON HOUSTON TX 77002	QUINTANA PETROLEUM CORP		
Do	QUINTANA REFINERY CO.		
JOHN G. KELLER 1899 L STREET, N.W. SUITE 1100 WASHINGTON DC 20036	EXXON CORPORATION		452.04
DONALD KELLERMANN SUITE 1110 1875 EYE ST., NW WASHINGTON DC 20006	TIMES MIRROR COMPANY		
JOHN B. KELLEY 1025 CONNECTICUT AVE., NW, #1200 WASHINGTON DC 20036	AVCO CORP	2,500.00	
PAUL J. KELLEY 2727 NORTH CENTRAL AVE. PHOENIX AZ 85004	U-HAUL INTL, INC	5,000.00	
TY KELLEY P.O. BOX 1417-D49 ALEXANDRIA VA 22313	NATIONAL ASSN OF CHAIN DRUG STORES, INC	1,500.00	
STEPHEN G. KELLISON 1835 K ST., NW, #515 WASHINGTON DC 20006	AMERICAN ACADEMY OF ACTUARIES		
STEPHEN S. KELLNER 1001 CONNECTICUT AVE., NW, #1120 WASHINGTON DC 20036	CHEMICAL SPECIALTIES MFGRS ASSN	349.93	80.01
BRIAN F. KELLY 1211 CONNECTICUT AVENUE, N.W. SUITE 802 WASHINGTON DC 20036	SEARS, ROEBUCK AND CO		105.86
ERNEST B. KELLY III 1301 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	COMMUNICATIONS SATELLITE CORPORATION	1,000.00	162.90
HAROLD V. KELLY 1101 15TH ST., NW WASHINGTON DC 20005	REPUBLIC STEEL CORP		
MICHAEL J. KELLY 1775 PENNSYLVANIA AVE. NW WASHINGTON DC 20006	FOLEY & LARDNER (FOR: NATIONAL GYPSUM CO./CEMENT DIV.)		
RICHARD B. KELLY 770 LEXINGTON AVENUE NEW YORK NY 10021	NATIONAL ASSN OF CATALOG SHOWROOM MERCHANDISE		
MARK L. KEMMER 1660 L STREET, N.W. WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	1,115.65
WILLIAM T. KENDALL 1750 N.Y. AVE. NW SUITE 210 WASHINGTON DC 20006	ALLIANCE FOR FREE ENTERPRISE		
ANN KENKEL 1201 PENNSYLVANIA AVE., NW #340 WASHINGTON DC 20004	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	1,750.00	
JOSEPH W. KENNEBECK 475 L'ENFANT PLAZA, S.W. SUITE 2450 WASHINGTON DC 20024	VOLKSWAGEN OF AMERICA, INC	300.00	
ART KENNEDY P.O. BOX 3576 ECB ANCHORAGE AK 99501	ALASKA RESOURCE ANALYSTS, INC		
JOHN E. KENNEDY VINSON & ELKINS 3300 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES		7,970.49
MICHAEL E. KENNEDY 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
EDWARD B. KENNEY & ASSOCIATES, INC SUITE 1610 1700 NORTH MOORE STREET ARLINGTON VA 22209	LOCKHEED-GEORGIA	156.25	18.62
JEREMIAH J. KENNEY JR 1100 15TH ST., NW (12TH FLOOR) WASHINGTON DC 20005	UNION CARBIDE CORP		285.70
PETER B. KENNEY 1825 K ST., NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO, INC	2,200.00	747.54
WILLIAM J. KENNEY SUITE 400 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	BAY STATE GAS CO		
BRENDAN KENNY 1709 NEW YORK AVE., N.W. WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMER	5,500.00	
J. H. KENT KENT & O'CONNOR 1919 PENNSYLVANIA AVE., NW SUITE 300 WASHINGTON DC 20006	AMERICAN SUPPLY ASSOCIATION	4,283.14	2,080.05
Do	AMERICAN WAREHOUSEMEN'S ASSOCIATION		
Do	MOTOR CARRIER LAWYERS ASSN		
PHIL KENT SUITE 321 227 MASSACHUSETTS AVENUE, NE WASHINGTON DC 20002	CONSERVATIVES FOR IMMIGRATION REFORM	495.00	
VYTAUTAS KERBELIS 69 COTTAGE ST. BAR HARBOR ME 04609	ARAS		
PAUL A. KERSCHNER 1909 K STREET, NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMER ASSN OF RETIRED PERSONS	680.77	103.70
ROBERT M. KETCHEL 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO		
GILBERT W. KEYES PO BOX 3999 M/S 84-07 SEATTLE WA 98124	BOEING COMPANY		
EARLINE A. KEYSER 1620 I ST., NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORPORATION		
KIAWAH ISLAND COMPANY P.O. BOX 12910 CHARLESTON SC 29412			
RICHARD F. KIBBEN 200 PARK AVE. NEW YORK NY 10166	BUSINESS ROUNDTABLE		
EDWARD J. KIERNAN 422 1ST ST., SE WASHINGTON DC 20003	INTERNATIONAL UNION OF POLICE ASSOCIATIONS		
ROBERT W. KIERNAN 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
WILLIAM S. KIES 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
MARYANN KILDUFF 923 15TH ST., N.W. WASHINGTON DC 20005	TRANSPORTATION INSTITUTE	3,000.00	176.07
DANIEL L. KILEY 8 NORTH JEFFERSON ST. ROANOKE VA 24042	NORFOLK & WESTERN RAILWAY CO		
MARGARET A. KIMBALL 1620 I ST., NW, #703 WASHINGTON DC 20006	BECHTEL POWER CORPORATION		
RICHARD H. KIMBERLY 1000 WILSON BOULEVARD SUITE 2200 ARLINGTON VA 22209	KIMBERLY-CLARK CORP	283.13	1,855.18
KIMBERLY-CLARK CORP 401 NORTH LAKE ST. NEENAH WI 54956			2,158.31
GENE KIMMELMAN 215 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	CONGRESS WATCH	3,000.00	
KING & SPALDING 1915 I STREET, NW WASHINGTON DC 20006	CAPITAL HOLDING CORP		477.70
Do	GEORGIA-PACIFIC CORP	255,383.01	9,374.57
Do	KING & SPALDING		4,011.45
CHARLES L. KING 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	240.00	
EDWARD H. KING 200 WILMOT RD. DEERFIELD IL 60015	WALGREEN CO		
G. JACK KING WASHINGTON NATIONAL AIRPORT WASHINGTON DC 20001	U.S. AIR, INC	1,000.00	
W. RUSSELL KING SUITE 400 1730 RHODE ISLAND AVE., NW WASHINGTON DC 20036	FREEPORT-MCMORAN INC	300.00	92.75
ROGER P. KINGSLEY 10801 ROCKVILLE PIKE ROCKVILLE MD 20852	AMERICAN SPEECH-LANGUAGE-HEARING ASSN		
JANE A. KINNEY #408 1015 18TH ST., NW WASHINGTON DC 20036	TWIN COAST NEWSPAPERS, INC		
Do	MERCK & CO, INC		
KIRBY & GILLICK SUITE 303 600 MARYLAND AVENUE, S.W. WASHINGTON DC 20024	AMERICAN BUS ASSN	700.00	
Do	COMMUNITIES FOR AN EFFECTIVE AIR TRANSPORTATION SYSTEM		
Do	NATIONAL COUNCIL OF FARMER COOPERATIVES		
Do	SLURRY TRANSPORT ASSN	6,996.00	123.00
CAROL KIRCHNER 4598A SW CALDEW PORTLAND OR 97219	FRIENDS OF THE COLUMBIA GORGE	301.00	
ALAN G. KIRK II 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO	17.24	
JOHN R. KIRK BINGHAM, DANA & GOULD 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
KIRKLAND & ELLIS 1776 K ST., NW WASHINGTON DC 20006	AMERICAN NEWSPAPER PUBLISHERS ASSN	368.00	
SALLY ANN KIRKPATRICK 1110 VERMONT AVE., NW WASHINGTON DC 20005	ALLIANCE OF AMERICAN INSURERS	568.00	
KIRKPATRICK, LOCKHART, HILL, CHRISTOPHER & PHILLIPS 1900 M ST., NW SUITE 800 WASHINGTON DC 20036	AMERICAN STOCK EXCHANGE		
Do	COLUMBIA PICTURES INDUSTRIES, INC		325.00
Do	COUNCIL OF STATE HOUSING AGENCIES	450.00	
Do	GROCERY MANUFACTURERS OF AMERICA		
Do	MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY		
Do	MORGAN GUARANTY TRUST CO OF NEW YORK		
Do	REPUBLIC NATIONAL BANK OF NEW YORK		
Do	SEARCH GROUP, INC		
Do	SOUTHERN SHIPBUILDING CORP		
Do	WHITNEY NATIONAL BANK OF NEW ORLEANS	360.00	
SAUL B. KLAMAN 200 PARK AVE. NEW YORK NY 10166	NATIONAL ASSN OF MUTUAL SAVINGS BANKS	1,476.91	
RICHARD L. KLASS 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL. INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMEMENTS)		
RICHARD P. KLEEMAN 2005 MASS. AVE., NW, WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS		
MARK KLEINMAN 2007 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			
ALLIE C. KLEINPETER JR 666 NORTH ST., PO BOX 2811 BATON ROUGE LA 70802	LOUISIANA BANKERS ASSN		
RICHARD A. KLINE 650 INDEPENDENCE AVE., SE WASHINGTON DC 20003	COUNCIL OF ACTIVE INDEPENDENT OIL & GAS PRODUCERS	7,629.00	
KLINE, KNOPF & WOJDAK, INC. 111 STATE STREET HARRISBURG PA 17101	GENERAL PUBLIC UTILITIES CORPORATION		
WILLIAM J. KLINEFELTER 815 16TH ST., NW SUITE 706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	9,549.52	
JOHN J. KLOCKO III 1701 PENNSYLVANIA AVE., NW SUITE 1120 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO		
GLENN KNAPP 773 DARTMOUTH AVE. SAN CARLOS CA 94070			
JAMES E. KNEALE 2335 SOUTH MEADE ST. ARLINGTON VA 22202	LOCKHEED CORPORATION	710.00	264.62
DANIEL F. KNISE 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
KEITH R. KNOBLOCK 1920 N ST., NW SUITE 300 WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
C EUGENE KNODER 645 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	AUDUBON SOCIETY		
JOHN C. KNOTT 6800 POWDERHOUSE RD. CHEYENNE WY 82001	BURLINGTON NORTHERN INC	365.91	891.84
ROBERT L. KNOUS JR. SUITE A-201 1410 GRANT STREET DENVER CO 80203	COLORADO SKI COUNTRY USA		
RUTH E. KOBELL 1012 14TH ST. SUITE 600 WASHINGTON DC 20005	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	5,472.94	301.00
THOMAS G. KOBUS 2000 K ST., NW, #350 WASHINGTON DC 20036	NATIONAL PARKING ASSOCIATION	14,849.96	
BRADLEY R. KOCH 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	137.35	
GEORGE W. KOCH 1010 WISCONSIN AVE., NW, #800 WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
PATRICK C. KOCH 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	800.00	
STANLEY E. KOLBE JR 1735 NEW YORK AVE., NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	3,000.00	
MICHAEL S. KOLEDA 1825 I ST., N.W. SUITE 1050 WASHINGTON DC 20006	NATIONAL COUNCIL ON SYNTHETIC FUELS PRODUCTION		
KOMINERS, FORT, SCHLEFER & BOYER 1776 F ST., NW WASHINGTON DC 20006	AERON MARINE SHIPPING CO., ET AL		
Do	AMERICAN TANKSHIPS, INC. & INGRAM TANKSHIPS, INC		
Do	COMMITTEE FOR TITLE XI VESSEL FINANCING	18,500.00	37,738.76
Do	COUNCIL OF EDUCATIONAL SHIPOWNERS		
Do	SOUTHERN OVERSEAS CORPORATION		
NICHOLAS KOMINUS 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036	U.S. CANE SUGAR REFINERS' ASSN	1,342.00	80.15

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
STEPHEN KOPLAN 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	14,189.83	293.00
EUGENE P. KOPP SUITE 600 SOUTH 1120 20TH STREET, NW WASHINGTON DC 20036	UNION PACIFIC CORP	1,250.00	
STEVEN KOPPERUD 1701 N. FT. MYER DRIVE ARLINGTON VA 22209	AMERICAN FEED MANUFACTURERS ASSN	3,000.00	
HORACE R. KORNEGAY 1875 I ST., NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE	375.00	20.00
CHARLES B. KORNMANN P.O. BOX 1030 ABERDEEN SD 57401	SOUTH DAKOTA RAILROADS ASSN		
PETER H. KOSTMAYER 1825 K STREET, NW WASHINGTON DC 20006	JOHN ADAMS ASSOCIATES		
KENNETH S. KOVACK 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	9,549.52	
E. J. KRABACHER 4701 MARBURG AVE. CINCINNATI OH 45209	CINCINNATI MILACRON INC	2,400.00	600.00
WYLIO S. KRAJA 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	10,338.00	257.45
THOMAS G. KRAJEWSKI SUITE 1100 1828 L STREET, NW WASHINGTON DC 20036	COOPERATIVE LEGAUE OF THE USA	75.00	
AMOS KRAMER KANSAS PETROLEUM COUNCIL SUITE 1414 MERCHANTS BANK BLDG. 8TH & JACKSON STS. TOPEKA KS 66612	AMERICAN PETROLEUM INST	583.75	722.70
JOSEPH H. KRAMER III THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: HTB INC.)		
RAYMOND ROGER KRAUSE 1000 WILSON BLVD. SUITE 2700 ARLINGTON VA 22209	TRW, INC	1,000.00	
C. EUGENE KNODER 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY		
KROGER COMPANY 1014 VINE ST. CINCINNATI OH			6,664.99
JAMES C. KRONE 1152 HASLETT ROAD P.O. BOX 98 HASLETT MI 48840	ROSES, INC	1,500.00	438.14
ARTHUR J. KROPP 2029 K STREET, NW WASHINGTON DC 20006	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,250.00	
NEIL B. KRUGMAN SUITE 320 1050 17TH STREET, NW WASHINGTON DC 20036	FAMILY HEALTH PROGRAM, INC	2,500.00	140.23
JAMES S. KRZYMINSKI 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	782.50	
ANTHONY J. KUCERA 1600 WILSON BLVD., #1101 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	600.00	
LLOYD R. KUHN 1725 DESALES ST., NW WASHINGTON DC 20036	AEROSPACE INDUSTRIES ASSN OF AMER, INC	15,484.00	
THOMAS R. KUHN 410 FIRST ST., SE WASHINGTON DC	AMERICAN NUCLEAR ENERGY COUNCIL	4,875.01	314.87
JUDITH KUNOFSKY 530 BUSH STREET SAN FRANCISCO CA 94108	SIERRA CLUB	1,880.25	
ESTER KURZ SUITE 412 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMM	9,999.96	
DANIEL M. KUSH 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	500.00	340.00
E.J. KUSHAN SUITE 500, 1828 L St., NW WASHINGTON DC 20036	SOUTHERN PACIFIC COMMUNICATIONS CO.	1,500.00	24,741.53
KUTAK, ROCK & HUIE 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	HAYES, INC	4,422.11	137.05
Do	RONALD E. ROBINSON		20.80
KWAJALEIN ATOLL CORP P.O. BOX 5220 KWAJALEIN EBEYE MARSHALL ISLANDS 96970			
LABOR BUREAU, INC. 1200 15TH ST., NW SUITE 505 WASHINGTON DC 20005			
LABOR-MANAGEMENT MARITIME COMMITTEE 100 INDIANA AVE., NW WASHINGTON DC 20001		7,873.00	7,017.00
LABORERS' INTL UNION OF NORTH AMERICA, AFL-CIO 905 16TH ST., NW WASHINGTON DC 20006			19,501.04
PHILLIP RAY LACKEY 823 15TH ST., NW SUITE 1001 WASHINGTON DC 20005	INTERNATIONAL MASONRY INSTITUTE	1,362.00	
JOHN D. LACOPO 229 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	EDS CORPORATION	128.00	
BRUCE C. LADD JR. 1776 K STREET, NW WASHINGTON DC 20006	MOTOROLA, INC	1,500.00	12.00
ROBERT A. LADIG SCOTT PLAZA PHILADELPHIA PA 19113	SCOTT PAPER COMPANY	750.00	524.74
WALTER LAESSIG 1115 MASSACHUSETTS AVE. SUITE 6 WASHINGTON DC 20005	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS, INC	4,165.00	24.00
SANDRA L. LAFEVRE 1000 CONNECTICUT AVE., NW, #304 WASHINGTON DC 20036	NATIONWIDE INSURANCE COMPANIES	500.00	
JACK L. LAHR 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: INDEPENDENT REFINERS ASSN OF AMERICA).		
RALPH D. B. LAIME 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
SARAH M. LAIRD 1730 M ST., NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	4,280.00	103.00
LAKE CARRIERS' ASSN 1411 ROCKEFELLER BLDG. CLEVELAND OH 44113			
JAMES H. LAKE SUITE 420 1200 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	AMERICAN BAKERS ASSN	3,050.00	
Do	NATIONAL POTATO COUNCIL		
Do	RSV MINING CO.	125.00	
Do	SUNMAID RAISIN GROWERS OF CALIFORNIA		
Do	WESTERN COTTON GROWERS ASSN		
Do	NELSON & HARDING (FOR: WESTERN GROWERS ASSOCIATION)		
ROBERT LAMB 2101 L STREET, N.W. WASHINGTON DC 20037	AMERICAN PETROLEUM INST	5,000.00	381.91
DAVID F. LAMBERT III 2001 JEFFERSON DAVIS HWY. SUITE 1101 ARLINGTON VA 22202	AUTOMOTIVE OCCUPANT PROTECTION ASSN	3,750.00	
DAVID R. LAMBERT 1030 15TH ST., NW SUITE 964 WASHINGTON DC 20005	AMERICAN SEED TRADE ASSN	5,000.00	
STEPHEN K. LAMBRIGHT ONE BOSCH PLACE ST. LOUIS, MISSOURI 63118	ANHEUSER-BUSCH COMPANIES, INC		
LAMON, ELROD & HARKLEROAD, P.C. SUITE 2500 229 PEACHTREE STREET, NE ATLANTA GA 30043	NATIONAL ASSN OF PENSION CONSULTANTS & ADMINISTRATORS, INC	5,000.00	2,734.76
CONSTANCE M. LAMONICA 1410 N. THIRD STREET P.O. BOX 25489 PHOENIX AZ 85007	SAMARITAN HEALTH SERVICE		
L. CHARLES LANDGRAF 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	LEBOEUF, LAMB, LEIBY & MACRAE	94.82	
THOMAS M. LANDIN 1500 SPRING GARDEN ST. PHILADELPHIA PA 19101	SMITHKLINE BECKMAN CORP		
LANDIS, COHEN, SINGMAN AND RAUH 1019 19TH STREET, N.W. # 500 WASHINGTON DC 20036	AMERICAN SOCIETY OF COMPOSERS, AUTHORS & PUBLISHERS	1,500.00	
Do	COUNCIL OF CREATIVE ARTISTS, LIBRARIES AND MUSEUMS	1,000.00	
Do	NATIONAL FOOTBALL LEAGUE PLAYERS ASSN	2,000.00	
MOON LANDRIEU SUITE 1007 1625 EYE STREET, NW WASHINGTON DC 20006	BENCO, INC		
KARL S. LANDSTROM 510 N. EDISON ST. ARLINGTON VA 22203	GEOTHERMAL RESOURCES INTL, INC	750.00	8.00
BRUCE ALAN LANDY 2700 VIRGINIA AVE., NW WASHINGTON DC 20037	B.A.I. CO.		
Do	CRYOGENIC VACUUM TECHNOLOGY CO.		
Do	BRUCE ALAN LANDY		
LANE & EDSON SUITE 400 SOUTH 1800 M ST., NW WASHINGTON DC 20036	CITY OF BALTIMORE	2,500.00	
Do	NATIONAL LEASED HOUSING ASSN	450.00	
ALBERT E. LANE 1377 K STREET, N.W. SUITE 537 WASHINGTON DC 20005	PEOPLE OPPOSED TO ENERGY LOBBY - POTEL		
LAURENCE F. LANE 1050 17TH ST., NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	1,352.00	50.00
RICHARD F. LANE 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
LANIER & COMPANY, INC. 1625 K STREET, NW SUITE 501 WASHINGTON DC 20006	SHELLFISH INSTITUTE OF NORTH AMERICA	9,000.00	6,900.00
R. JOSH LANIER 1625 K STREET, NW SUITE 501 WASHINGTON DC 20006	LANIER & COMPANY, INC. (FOR: SHELLFISH INSTITUTE OF NORTH AMERICA)	4,500.00	
ROBIN W. LANIER 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	100.00	5.00
WAYNE R. LAPIERRE JR 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	1,125.00	358.86
REED E. LARSON 8001 BRADDOCK ROAD, #600 SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMM		
JAMES LASALA 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
LASALLE NATIONAL BANK 135 SOUTH LASALLE ST. CHICAGO IL 60690			
MICHAEL LASHBROOK 1600 RHODE ISLAND AVENUE,NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	925.00	
LATHAM, WATKINS, & HILLS SUITE 1200 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	WILSHIRE TERRACE COOPERATIVE HOUSING CORP	2,315.00	63.32
THEODORE A. LATTANZIO 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	750.00	
LOUIS F. LAUN 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INST, INC		
KATHRYN M. LAVRIHA 1730 M ST., NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	2,412.00	103.00
GEORGE H. LAWRENCE 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	415.00	
HENRY J. LAWRENCE 1735 NEW YORK AVENUE,NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	2,500.00	
LINDA L. LAWRENCE 1730 RHODE ISLAND AVE., NW, #213 WASHINGTON DC 20036	BROWN & ROOT, INC		
JOHN L. LE BERRE 900 17TH ST., NW WASHINGTON DC 20006	KAISER ALUMINUM & CHEMICAL CORP	210.00	45.00
ERNEST M. LE SUEUR 1700 NORTH MOORE ST. 1925 ROSSLYN CENTER BUILDING ARLINGTON VA 22209	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA		
LEAGUE OF NEW YORK THEATRES & PRODUCERS, INC. 226 WEST 47TH STREET NEW YORK NY 10036			
LEAGUE OF WOMEN VOTERS OF THE U.S. 1730 M ST., NW WASHINGTON DC 20036		36,228.00	37,228.00
LEAGUE TO SAVE LAKE TAHOE 2197 LAKE TAHOE BLVD. P.O. BOX 10110 SOUTH LAKE TAHOE CA 95731		9,000.00	474.00
CORNELIUS J. LEARY 2113 COUNTRYSIDE DRIVE SILVER SPRING MD 20904	AMERICAN COUNCIL OF INTERNATIONAL PERSONNEL, INC	1,000.00	
RICHARD J. LEASE 2145 BOISE DRIVE LAS CRUCES NM 88001			
KERLEY LEBOEUF SUITE 809 THREE SKYLINE PLACE 5201 LEESSBURG PIKE FALLS CHURCH VA 22041	NATIONAL ASSN OF CONVENIENCE STORES		
LEBOEUF LAMB LEIBY & MACRAE 1333 NEW HAMPSHIRE AVE., NW, #1100 WASHINGTON DC 20036	SHIPPING CORP. OF INDIA, LTD.		62.75
Do	UNDERWRITERS AT LLOYD'S LONDON	342.00	94.82
LECHNER & BUTSAVAGE, P.C. 3101 SOUTH STREET, NW WASHINGTON DC 20007	NATIONAL ASSN OF POLICE ORGANIZATIONS, INC	13,500.00	150.58
LECHNER & BUTSAVAGE, P.C. 3101 SOUTH ST., NW WASHINGTON DC 20007	UNITED FOOD & COMMERCIAL WORKERS INTL UNION		
ANNE H. LECLAIR 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	700.00	80.75
ROBERT F. LEDERER 230 SOUTHERN BLDG. WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
THOMAS J. LEE JR. P.O. BOX 2628 HOUSTON TX 77001	ENTEX, INC		
RICHARD A. LEGATSKI SUITE 700 1050 17TH ST., NW WASHINGTON DC 20036	NATIONAL OCEAN INDUSTRIES ASSN		
CAROLINE MILLS LEGETTE 215 PENNSYLVANIA AVE., S.E. WASHINGTON DC 20003	CONGRESS WATCH	4,000.00	
LEIGHTON CONKLIN LEMOV JACOBS & BUCKLEY SUITE 800 2033 M ST., NW WASHINGTON DC 20036	ADHESIVE & SEALANT COUNCIL, INC		
Do	AMERICAN ASSN OF NURSE ANESTHETISTS		
Do	CLOROX COMPANY		
Do	GENERAL INSTRUMENT CORPORATION		
Do	GREATER BOSTON REAL ESTATE BOARD		
Do	GROCERY MANUFACTURERS OF AMERICA, INC		
Do	MUTUAL SAVINGS CENTRAL FUND, INC	5,000.00	75.00
Do	NATIONAL CABLE TELEVISION ASSN, INC		
Do	NATIONAL GLASS DEALERS ASSN		
Do	PROFESSIONAL AIR TRAFFIC CONTROLLERS ORGANIZATION		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	SAVINGS BANKS ASSN. OF MASSACHUSETTS	2,000.00	150.00
Do	TURNER BROADCASTING SYSTEM, INC.		
Do	WHEY PRODUCTS INST.		
JOSEPH L. LEITZINGER 900 4TH AVE. SEATTLE WA 98164	SIMPSON TIMBER CO.	1,023.00	221.00
GILBERT LEKANDER SUITE 801 1629 K ST., NW WASHINGTON DC 20006	MONTANA POWER CO & WASHINGTON WATER POWER CO.	600.00	
LYNETTE B. LENARD 1800 M STREET, NW, #700S WASHINGTON DC 20036	DOW CHEMICAL CO	125.00	62.50
JOHN LENGEL THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
ANN LENTS VINSON & ELKINS 3000 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES		7,978.49
BETTY JANE LEONARD P.O. BOX 21368 GREENSBORO NC 27420	UNIFI, INC.	4,072.86	399.60
EARL T. LEONARD JR P.O. DRAWER 1734 ATLANTA GA 30301	COCA-COLA COMPANY	382.00	2,020.76
KAYE CONNIFF LEONARD SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	144.00	
LLOYD LEONARD 1730 M ST., NW WASHINGTON DC 20036	LEAGUE OF WOMEN VOTERS OF THE U.S.	3,185.00	80.00
RODNEY E. LEONARD 1146 19TH ST., NW, #300 WASHINGTON DC 20036	COMMUNITY NUTRITION INSTITUTE		
LEONARD, KOEHN, ROSE AND HURT, P.C. SUITE 317 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036			
CHARLES LEPPERT JR 1801 K ST., NW, #230 WASHINGTON DC 20006	PROCTER & GAMBLE MANUFACTURING CO	56.70	
RICHARD L. LESHER 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	800.00	
DALE LESTINA 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	2,239.20	237.76
JOSEPH A. LETORNEY 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	953.00	437.25
LEVA HAWES SYMINGTON MARTIN & OPPENHEIMER SUITE 1001 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	BOSTON EDISON, ET AL.	2,410.00	11.00
Do	BUSINESS ROUNDTABLE	1,130.00	
Do	COMMERZBANK AG.		
Do	COOPERATIVE FOR AMERICAN RELIEF EVERYWHERE, INC. (CARE)		
Do	GK TECHNOLOGIES, INC.		
Do	HOLY CROSS HOSPITAL		
Do	SONY CORPORATION OF AMERICA	12,180.00	8,064.28
Do	U.S. INDUSTRIES, INC.		
Do	UNION INVESTMENT GMBH		
ROBERT JOHN LEVERING 1730 M ST., NW, #610 WASHINGTON DC 20036	DIRECT SELLING ASSOCIATION		1,065.00
S.R. LEVERING 100 MARYLAND AVENUE, N.E. WASHINGTON DC 20002	U.S. COMMITTEE FOR THE OCEANS	15.00	100.00
MORRIS J. LEVIN 1050 17TH ST., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN RAILROADS	2,500.00	
Do	INDEPENDENT LOCAL NEWSPAPER ASSN		
KENNETH S. LEVINE SUITE 220 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	JOSEPH SEAGRAM & SONS, INC.	896.25	
LESLIE LEVY 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE	3,249.99	
CHARLES L. LEWIS 5203 LEESBURG PIKE, SUITE 400 FALLS CHURCH VA 22041	AMERICAN PERSONNEL & GUIDANCE ASSOCIATION	214.00	
DAVID LEWIS 600 MARYLAND AVE., SW SUITE 400 E WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN	89.40	136.57
E. DAVID LEWIS 1401 WILSON BLVD., #205 ARLINGTON VA 22209	SOCIETY OF AMERICAN WOOD PRESERVERS, INC.	175.00	285.00
MICHAEL R. LEWIS 1133 15TH ST., NW SUITE 640 WASHINGTON DC 20005	INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION	9,086.00	756.14
STUART A. LEWIS SUITE 300 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	MANUFACTURERS HANOVER CORP.	400.00	
Do	NATIONAL BANK OF DETROIT	400.00	
Do	SEATTLE FIRST NATIONAL BANK	400.00	
JOHN F. LEYDEN 815 - 16TH ST., N.W. SUITE 308 WASHINGTON DC 20006	PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO	3,631.67	
WILLIAM J. LHOTA 301 CLEVELAND AVE., SW CANTON OH 44702	OHIO POWER CO	876.80	703.48
HERBERT LIEBENSON 1604 K ST., NW WASHINGTON DC 20006	NATIONAL SMALL BUSINESS ASSN	5,625.00	
Do	SMALL BUSINESS LEGISLATIVE COUNCIL		
WILLIAM C. LIENESCH 238 10TH ST., SE WASHINGTON DC 20003	NATIONAL PARKS & CONSERVATION ASSOCIATION	765.00	22.35
SYLVESTER LIGSUKIS SUITE 200 1320 19TH STREET, NW WASHINGTON DC 20036	CRAMER, HOFFMAN & HABER (FOR: CANAVERAL PORT AUTHORITY)		
Do	CRAMER, HOFFMAN & HABER (FOR: CITY OF MIAMI)		
Do	CRAMER, HOFFMAN & HABER (FOR: DADE COUNTY)		
Do	CRAMER, HOFFMAN & HABER, P.C. (FOR: GLOBAL EXP. & DEV. CORP.)		
Do	CRAMER, HOFFMAN & HABER, P.C. (FOR: HOBBS CONSTRUCTION & DEVELOPMENT CO., INC.).		
ROSS W. LILLARD 2100 CHARTERBANK CENTER KANSAS CITY MO 64105	STINSON, MAG & FIZZELL (FOR: FARMLAND INDUSTRIES, INC)		
RICHARD A. LILLQUIST SUITE 500 1090 VERMONT AVE., NW WASHINGTON DC 20005	FLEXIBLE PACKAGING ASSOCIATION		
EDWARD J. LINCOLN 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA	100.00	
KATHLEEN M. LINEHAN 1025 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	GULF OIL CORP.	345.00	150.00
ELENA LINTHICUM 1150 CONNECTICUT AVE., NW SUITE 700 WASHINGTON DC 20036	ALLIED CHEMICAL CORP		
RON M. LINTON SUITE 200 1015 18TH ST., NW WASHINGTON DC 20036	DENVER TECHNOLOGICAL CENTER	3,957.00	
THOMAS LINTON L. 1700 K STREET, NW #1204 WASHINGTON DC 20006	CHEVRON USA, INC	475.00	
LINTON, MIELDS, REISLER & COTTONE, LTD. SUITE 200 1015 18TH ST., NW WASHINGTON DC 20036	AMBASSADOR BRIDGE CO.	3,000.00	
Do	COUNCIL OF POLLUTION CONTROL FINANCING AGENCIES	3,000.00	
Do	LAKE SUPERIOR DISTRICT POWER CO	476.00	
Do	MADISON GAS & ELECTRIC CO	1,058.00	
Do	METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO	4,073.00	
Do	NATIONAL ASSN OF URBAN FLOOD MANAGEMENT AGENCIES	1,800.00	
Do	NORTHERN STATES POWER CO	1,430.00	
Do	OREGON DEPT OF TRANSPORTATION	3,000.00	
Do	STATE OF IL, DEPT OF TRANS, DIV OF WATER RES	2,880.00	
Do	STATE OF IL, DEPT OF TRANSPORTATION	7,632.00	44.00
Do	SUPERIOR WATER, LIGHT & POWER CO	286.00	
Do	WISCONSIN ELECTRIC POWER CO	4,642.00	41.00
Do	WISCONSIN POWER & LIGHT CO	1,986.00	
Do	WISCONSIN PUBLIC SERVICE CORP	1,438.00	
THOMAS A. LISK 1600 RHODE ISLAND AVENUE,NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	637.50	
ROBERT G. LITSCHERT 1111 19TH ST., NW, 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	727.27	128.63
BARBARA A. LITTLE SUITE 611 1155 15TH STREET, NW WASHINGTON DC 20005	ETHYL CORPORATION	1,000.00	
CHARLES B. LITTLE SUITE 603 600 MARYLAND AVE, SW WASHINGTON DC 20024	UBA, INC	1,000.00	
WILLIAM F. LITTLE 815 CONNECTICUT AVE, NW WASHINGTON DC 20006	FORD MOTOR CO.	362.50	389.60
ROY LITTLEFIELD 1343 L ST., NW WASHINGTON DC 20005	NATIONAL TIRE DEALERS & RETREADERS ASSN	6,000.00	260.00
THEODORE M. LITTMAN 12214 LAKEWOOD BLVD. DOWNEY CA 90241	ROCKWELL INTL	50.92	53.80
DAVID A. LITVIN 1001 22ND ST., NW, SUITE 600 WASHINGTON DC 20037	STANDARD OIL COMPANY (OHIO)	925.00	153.84
E.F. LIVAUDAIS JR 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	350.00	9.85
LIVESTOCK MARKETING ASSOCIATION 301 E. ARMOUR BLVD. KANSAS CITY MO 64111			4,804.17
JACKIE LLOYD P.O. BOX 943 3240 WHITEBIRCH DRIVE WEST COVINA CA 91793	U.S. CANE SUGAR REFINERS' ASSN		
JIM LLOYD 1325 18TH ST., NW WASHINGTON DC 20036	COMMUTER AIRLINE ASSN OF AMERICA		
Do	NORTHROP CORPORATION		
LOBEL NOVINS & LAMONT 1523 L ST., NW SUITE 200 WASHINGTON DC 20005	GENERIC PHARMACEUTICAL INDUSTRY ASSN	12,570.00	314.87
CHARLES H. LOCKWOOD II 300 NEW CENTER BUILDING DETROIT MI 48202	MOTOR VEHICLE MANUFACTURERS ASSN OF THE U.S., INC.	960.00	472.93
HAROLD D. LODEN 1030 15TH ST., NW, #964 WASHINGTON DC 20005	AMERICAN SEED ASSN	4,000.00	
NILS LOFGREN 1909 K ST., NW SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.	25.00	
LAW OFCS OF SHELDON I. LONDON SUITE 401 1725 DESALES ST., NW WASHINGTON DC 20006	AMERICAN HARDWARE MANUFACTURERS ASSN	1,500.00	
ROBERT W. LONG 1920 N ST., NW SUITE 300 WASHINGTON DC 20036	AMERICAN MINING CONGRESS	40.00	
THOMAS R. LONG 299 PARK AVENUE NEW YORK NY 10171	WESTVACO CORPORATION	900.00	1,214.00
JOHN H. LONNQUIST, JR. #214, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	MANVILLE CORPORATION	100.00	100.00
LOOMIS OWEN FELLMAN & HOWE 2020 K ST., NW WASHINGTON DC 20006	ASSOCIATION OF BITUMINOUS CONTRACTORS		
Do	BOOK MANUFACTURERS' INSTITUTE, INC		
Do	CLASSROOM PUBLISHERS ASSN		
Do	INDUSTRIAL DIAMOND ASSN		
Do	OPTICAL MFGRS ASSN		
Do	TEXTILE RENTAL SERVICES ASSN OF AMERICA		
SUSAN J. LOOMIS 1957 E STREET, N.W. WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	2,000.00	500.00
KENNETH T. LOPATKA FOLEY, HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109	C & S WHOLESALE GROCERS, INC.	5,000.00	
LORD, DAY & LORD 25 BROADWAY NEW YORK, N.Y. 10004	BOWATER NORTH AMERICA CORPORATION	3,285.88	
Do	CARGILL, INC.	2,762.02	
Do	CONTINENTAL GRAIN COMPANY	2,044.01	
Do	ORGANIZATION OF HEATER MANUFACTURERS	707.36	
Do	PHOSPHATE CHEMICALS EXPORT ASSN, INC.		
PHILIP J. LOREE 50 BROADWAY NEW YORK NY 10004	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
ROBERT E. LOSCH 1716 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	AMERICAN DREDGING CO., ET AL	17,500.00	3,078.38
Do	PELICAN TERMINAL CORP & PORT OF GALVESTON	10,000.00	2,051.30
DAVID S. LOTT 1775 PENNSYLVANIA AVE. WASHINGTON DC 20006	FOLEY & LARDNER (FOR: NATIONAL GYPSUM CO./CEMENT DIV.)		
CLAUDIA J. LOUIS 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN	59.60	
JAMES F. LOVETT 1801 K ST., NW WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	500.00	200.00
RICHARD J. LOVETT 1200 NORTHWESTERN BANK BLDG. MINNEAPOLIS MN 55480	NORTHWEST BANCORPORATION	1,000.00	937.56

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MATTHEW A. LOW 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	NORMAN D. SHUTLER	3,000.00	
ROBERT C. LOWER ALSTON MILLER & GAINES 35 BROAD ST., #1200 ATLANTA GA 30335	BOARD OF TRADE CLEARING CORP		
RODNEY W. LOWMAN SUITE 700 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	GULF OIL CORPORATION		
WILLIAM C. LOWREY 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL CO	500.00	
GERALD M. LOWRIE 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	6,000.00	
DONALD C. LUBICK 1776 F STREET, NW WASHINGTON DC 20006	TALISMAN FUND	855.00	
MRS. FREDDIE H. LUCAS 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	447.12
CHARLES EMMET LUCEY SUITE 500 1850 K ST., NW WASHINGTON DC 20006	CATHOLIC PRESS ASSN		
WILLIAM F. LUDLAM SR P.O. BOX 5282 VIRGINIA BEACH VA 23455	ARBA LICENSEES ASSN		425.50
SUSAN LUIPERSBECK 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	3,400.03	
RANDOLPH C. LUMB SUITE 1200 1801 K STREET, NW WASHINGTON DC 20006	INTERNATIONAL BUSINESS MACHINES CORP	825.00	247.00
LUMBERMENS MUTUAL CASUALTY COMPANY LONG GROVE IL 60049			2,845.00
MILTON F. LUNCH 2029 K ST., NW WASHINGTON DC 20006	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,000.00	
LUND, LEVIN & O'BRIEN 1625 EYE ST., NW WASHINGTON DC 20006	FEDERATION OF AMERICAN CONTROLLED SHIPPING	600.00	33.31
Do	NATIONAL PRODUCT LIABILITY COUNCIL	800.00	95.82
Do	PENNSYLVANIA POWER & LIGHT CO	2,500.00	219.32
W. FLETCHER LUTZ SUITE 100 727 SOUTH 23RD STREET ARLINGTON VA 22202	ASSOCIATION OF GOVERNMENT ACCOUNTANTS		
EDWARD LYLE 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
TIMOTHY P. LYNCH SUITE 910 1510 WILSON BLVD. ARLINGTON VA 22209	ROADWAY EXPRESS, INC	400.00	200.00
WILLIAM F. LYONS SUITE 700 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	CIBA-GEIGY CORP.	3,892.30	3,478.00
M.O.A./AIOA & SUBS, INC SUITE 107 701 S. 22ND OMAHA NB 68102			
JOSEPH H. MACAULAY SUITE 810 2000 L STREET, NW WASHINGTON DC 20036	SPERRY CORPORATION		
TIMOTHY MACCARTHY 1909 K ST., NW, #300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC	1,300.00	
RUSSELL MACCLEERY 1343 L ST., NW WASHINGTON DC 20005	NATIONAL TIRE DEALERS & RETREADERS ASSN	4,600.00	125.00
JACK A. MACDONALD SUITE 915 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	NATIONAL COUNCIL OF HEALTH CARE SERVICES	1,125.00	112.06
JAMES E. MACK SUITE 504 5101 WISCONSIN AVE., NW WASHINGTON DC 20016	NATIONAL ASSN OF MIRROR MFGRS		
Do	NATIONAL CONFECTIONERS ASSN		
Do	PEANUT BUTTER & NUT PROCESSORS ASSN		
JAMES H. MACK 7901 WESTPARK DR. MCLEAN VA 22101	NATIONAL MACHINE TOOL BUILDERS' ASSN	12,375.00	500.00
WILLIAM M. MACKENZIE SUITE 101 5908 COLUMBIA PIKE FALLS CHURCH VA 22041			
CURTIS T. MACKEY 1005 VERMONT AVE., NW, WASHINGTON DC 20005	NATIONAL INSULATION CONTRACTORS ASSN		
JOHN P. MACKEY 505 14TH ST., NW SUITE 302 WASHINGTON DC 20005	AD HOC COMM IN DEFENSE OF LIFE, INC	11,660.00	3,875.05
MARK J. MACKEY 1775 K STREET, NW WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE		
J. LYNN MADDOX SUITE 1204 1700 K STREET, NW WASHINGTON DC 20006	CHEVRON U.S.A., INC.	106.00	
LEE G. MAGNUSSEN 250 S. WACKER DR. CHICAGO IL 60604	HEINOLD COMMODITIES, INC		
FRANCIS E. MAGUIRE JR. 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	700.00	
W. TERRY MAGUIRE BOX 17407 DULLES INTERNATIONAL AIRPORT WASHINGTON DC 20041	AMERICAN NEWSPAPER PUBLISHERS ASSN	1,500.00	
DAVID L. MAHAN 1225 19TH STREET, NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC. (FOR: AIRBUS INDUSTRIE)	475.00	
Do	DGA INTERNATIONAL, INC. (FOR: SOFREAVIA)		
THOMAS D. MAHER 1775 K STREET N.W. WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE		
JOHN F. MAHONEY 1101 VERMONT AVE., NW WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	4,400.00	250.83
ROBERT L. MAIER SUITE 1000 900 17TH ST., NW WASHINGTON DC 20006	KAISER ALUMINUM & CHEMICAL CORP		
F. ANTHONY MAIO FOLEY, LARDNER, HOLLABAUGH & JACOBS 1775 PENNSYLVANIA AVE., NW, SUITE 1000 WASHINGTON DC 20006.	FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE		
ANDRE MAISONPIERRE 1110 VERMONT AVE., NW WASHINGTON DC 20005	ALLIANCE OF AMERICAN INSURERS	765.00	
DAVID L. MALLINO 815 15TH ST., NW SUITE 706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	9,549.52	
J. WILSON MALLOY JR 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	EASTMAN CHEMICAL PRODUCTS, INC	775.00	42.00
MARY JO MALONE 1735 NEW YORK AVE., NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	1,875.00	3,195.00
BARRY L. MALTER SUITE 900 1730 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	CATERPILLAR TRACTOR CO		
MAN-MADE FIBER PRODUCERS ASSN, INC SUITE 310 1150 17TH ST., NW WASHINGTON DC 20036			550.00
CARTER MANASCO 5932 CHESTERBROOK RD. MCLEAN VA 22101	NATIONAL COAL ASSN	6,774.01	101.55
MANATT, PHELPS, ROTHENBERG & TUNNEY SUITE 200 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AMERICAN PACIFIC INTERNATIONAL, INC		
Do	CSL ENERGY CONTROLS, INC		
Do	GATX CORP	16,056.25	81.35
Do	GENERAL TELEPHONE CO. OF CALIFORNIA	3,637.50	
Do	IBAR	8,000.00	
Do	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS		
Do	JMB REALTY CORPORATION	6,675.00	
Do	LATHAM, WATKINS & HILLS	5,725.00	
Do	LUZ INTERNATIONAL LTD.		
Do	MAGANA, CATHCART, ET AL (FOR: MARINE & SHPBLDG WKRS AFL-CIO)	1,837.50	
Do	MARLINE OIL CORP	7,137.00	
Do	MID ATLANTIC NEPHROLOGY CENTER, LTD	1,750.00	
Do	MUSIC CORPORATION OF AMERICA, INC	6,300.00	
Do	NATIONAL INVESTMENT DEVELOPMENT CORPORATION		
Do	NATIONAL RESTAURANT ASSN	125.00	
Do	NORTHROP CORP	20,797.50	
Do	NORTHWEST ALASKAN PIPELINE CO	15,106.25	52.81
Do	PENNCORP FINANCIAL, INC		
Do	PHARMACEUTICAL MANUFACTURERS ASSN	2,625.00	
Do	TEXAS AIR CORPORATION		
MANCHESTER ASSOCIATES, LTD. 1155 15TH ST.,NW. SUITE 1010 WASHINGTON, DC 20005	NISSAN MOTOR COMPANY, LTD.	1,742.31	2,199.28
FORBES MANN 1155 15TH ST., NW, #1004 WASHINGTON DC 20005	LTV CORPORATION	500.00	20.00
TED R. MANNEN 1030 15TH STREET, N.W. SUITE 1100 WASHINGTON DC 20005	HEALTH INDUSTRY MANUFACTURERS ASSOCIATION		
MICHAEL J. MANNING 1150 CONNECTICUT AVE., NW WASHINGTON DC 20036	PETRO-LEWIS CORPORATION	17,241.25	170.64
CYNTHIA MANSFIELD SUITE 520 500 MARYLAND AVE., SW WASHINGTON DC 20024	GPU SERVICE CORPORATION	3,092.91	567.72
ARMAND G MANSON 1090 VERMONT AVE. N.W. STE 1100 WASHINGTON DC 20006	BELL AEROSPACE TEXTRON	2,760.30	
MANUFACTURERS OF EMISSION CONTROLS ASSN SUITE 1104 1800 K STREET, NW WASHINGTON DC 20006		2,700.00	2,700.00
MILTON C. MAPES SUITE 409 110 MARYLAND AVE., NE WASHINGTON DC 20002	NATIONAL PEACE ACADEMY CAMPAIGN	7,500.00	
JOHN V. MARANEY 324 EAST CAPITOL ST., NE WASHINGTON DC 20003	NATIONAL STAR ROUTE MAIL CARRIERS' ASSN		
MARCH FOR LIFE, INC PO BOX 2950 WASHINGTON DC 20013		2,428.40	4,518.03
CHARLES T. MARCK 1800 M ST., NW, SUITE 700 SOUTH WASHINGTON DC 20036	DOW CHEMICAL CO	1,000.00	250.00
THOMAS P. MARINIS JR. 3300 FIRST CITY TOWER HOUSTON TX 77002	MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT CORP		1,147.72
Do	VINSON & ELKINS (FOR: GALVESTON WHARVES OF THE CITY OF GALVESTON, TX)		1,147.72
Do	VINSON & ELKINS (FOR: GUADALUPE BLANCO RIVER AUTHORITY)		1,147.72
Do	VINSON & ELKINS (FOR: WATERWOOD IMPROVEMENT ASSN)		1,147.72
MARITIME INSTITUTE FOR RESEARCH & INDUSTRIAL DEVELOPMENT SUITE 600 1133 15TH STREET, NW WASHINGTON DC 20005.			
RICHARD MARK 3RD FLOOR 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	5,500.02	1,185.74
PATRICIA MARKEY SUITE 505 1899 L STREET, NW WASHINGTON DC 20036	UNITED DISTRIBUTION COMPANIES		
RICHARD P. MARKEY 444 NORTH CAPITOL ST. N.W. SUITE 409 WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC		
E. VERNON MARKHAM III SUITE 500 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	STEPHENS OVERSEAS SERVICES, INC	20.70	
LAWRENCE D. MARKLEY PO BOX 3518 ANCHORAGE AK 99501	CHUGACH ELECTRIC ASSN, INC	1,800.00	1,659.23
NATHAN FRED MARKS 685 N.W. 8TH STREET GRESHAM OR 97030			
PATRICIA MARKS SUITE 1110 1411 K STREET, NW WASHINGTON DC 20005	NATIONAL WOMEN'S POLITICAL CAUCUS	3,000.00	94.00
RONALD ANTHONY MARKS 685 N.W. 8TH ST. GRESHAM OR 97030			
HOWARD MARLOWE 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	12,701.45	707.19
CHALMERS H. MARQUIS SUITE 7200 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN FOR PUBLIC TELEVISION STATIONS	600.00	150.00
C. TRAVIS MARSHALL 1776 K ST., NW WASHINGTON DC 20006	MOTOROLA, INC	1,500.00	12.00
DAVID S. MARSHALL 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMERICA	637.50	
DAVID O. MARTIN NORTH LAKE ST. NEENAH WI 54956	KIMBERLY-CLARK CORP		
JOHN M. MARTIN JR. 6909 FORT HUNT ROAD ALEXANDRIA VA 22307	FOOD MARKETING INSTITUTE	100.00	
Do	TENNECO, INC	100.00	5.00
KATHERINE E. MARTIN 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	203.13	165.14
LARRY K. MARTIN 1150 17TH ST., NW WASHINGTON DC 20036	MAN-MADE FIBER PRODUCERS ASSN, INC	150.00	
THOMAS A. MARTIN 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	225.00	
ERNEST MARTY 85 RIDGE ST. NORTH SIDNEY, NSW 2060 AUSTRALIA			
JUDITH MARTY 85 RIDGE ST. NORTH SYDNEY, NSW 2060 AUSTRALIA			
JOSEPH J. MARTYAK 1100 15TH ST., NW (12TH FLOOR) WASHINGTON DC 20005	UNION CARBIDE CORP		
MARYLAND SAVINGS-SHARE INSURANCE CORP. 901 NORTH HOWARD ST. BALTIMORE MD 21201			163.29
MIKE M. MASAOKA SUITE 520, THE FARRAGUT BLDG. 900 17TH ST., NW WASHINGTON DC 20006	AMERICAN JAPANESE TRADE COMM		
Do	MATSUSHITA ELECTRIC CORP OF AMERICA	650.00	
Do	NISEI LOBBY		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	TOYOTA MOTOR SALES, U.S.A., INC.	750.00	
Do	WEST MEXICO VEGETABLE DISTRIBUTORS ASSN	500.00	
SCOTT A. MASON SUITE 320 4260 GREENSBORO DRIVE MCLEAN VA 22102	NATIONAL HEALTH ADVISORS, LTD.		
W. A. MASON P.O. BOX 21106 SHREVEPORT LA 71156	SOUTHWESTERN ELECTRIC POWER CO	129.94	
JAMES D. MASSIE 1015 - 18TH STREET, N.W. WASHINGTON DC 20036	FERTILIZER INSTITUTE	5,000.00	2,500.62
WILLIAM F. MASSMANN PO BOX 225006 DALLAS TX 75265	DR PEPPER CO		
COLIN D. MATHEWS 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	VINSON & ELKINS (FOR: GATX TERMINALS CORP)		50.00
Do	VINSON & ELKINS (FOR: TRAVELERS INSURANCE COMPANY)		50.00
ROBERT A. MATTHEWS 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314	RAILWAY PROGRESS INST	937.50	
JOANNE E. MATTIACE 1211 CONNECTICUT AVE., NW, #802 WASHINGTON DC 20036	SEARS, ROEBUCK AND CO	756.25	108.75
MARSHALL L. MATZ BARNETT & ALAGIA 1627 K STREET, NW WASHINGTON DC 20006	AFFILIATED FOOD PROCESSORS, INC.		
Do	AMERICAN BAKERS ASSOCIATION	2,805.00	
C.V. & R.V. MAUDLIN 1334 G ST., NW WASHINGTON DC 20005	BRASS AND BRONZE INGOT INSTITUTE		
ANTHONY F. MAURIELLO NY STATE PETROLEUM COUNCIL 551 FIFTH AVE., RM. 718 NEW YORK NY 10176	AMERICAN PETROLEUM INST	1,009.96	630.71
SAMUEL L. MAURY SUITE 402 1828 L STREET, NW WASHINGTON DC 20036	BUSINESS ROUNDTABLE	300.00	6.00
CHARLES N. MAUZY 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
THOMAS N. MAXEDON KENTUCKY PETROLEUM COUNCIL 612-A SHELBY STREET FRANKFORT KY 40601	AMERICAN PETROLEUM INST		
ALBERT E. MAY 1625 K ST., NW WASHINGTON DC 20006	COUNCIL OF AMERICAN-FLAG SHIP OPERATORS	4,112.50	7.60
WALTER R. MAY 7004 PARK TERRACE DRIVE ALEXANDRIA VA 22307	YELLOW FREIGHT SYSTEM, INC	9,750.00	707.87
ARNOLD MAYER 1775 K ST., NW WASHINGTON DC 20006	UNITED FOOD & COMMERCIAL WORKERS INTL UNION	16,153.80	539.56
MAYER, BROWN & PLATT 888 17TH ST., NW WASHINGTON DC 20006	AEROSPACE INDUSTRIES ASSN OF AMER, INC.		
Do	BRUNSWICK CORP		
Do	COMDISCO, INC.		
Do	ERISA INDUSTRY COMMITTEE	1,255.50	
Do	GATX CORPORATION		
Do	GENERAL TELEPHONE & ELECTRONICS CORP.		
Do	JMB REALTY CORP	400.00	
Do	NATIONAL ASSOCIATION OF MANUFACTURERS' FTC-ANTITRUST SUBCMTE		
Do	NORTHWEST ALASKAN PIPELINE CO.	777.70	
C. H. MAYER, INC. SUITE 901 3421 NORTH CAUSEWAY BLVD. METAIRIE LA 70002	L.P. MANAGEMENT CORPORATION		1,514.42
JERRY MCANDREWS 108 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC.	7,500.00	236.44
WILLIAM J. MCAULIFFE JR 1828 L ST., NW WASHINGTON DC 20036	AMERICAN LAND TITLE ASSN	223.00	
LARRY D. MCBENNETT 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
ANN MCBRIDE 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	10,750.00	28.00
MARTHA MCCABE 1828 L ST., N.W. SUITE 1100 WASHINGTON DC 20036	COOPERATIVE LEAGUE OF THE USA	2,083.33	
MICHAEL J. MCCABE ALLSTATE PLAZA NORTHBROOK IL 60062	ALLSTATE ENTERPRISES, INC.		
Do	ALLSTATE INSURANCE CO.		
JOHN A. MCCAHILL 1250 CONNECTICUT AVE, NW WASHINGTON DC 20036	U.S. OLYMPIC COMMITTEE		
JULIE P. MCCAHILL SUITE 715 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	MEAD CORPORATION	275.00	
A.R. MCCAMMON TENNESSEE RAILROAD ASSN 916 NASHVILLE TRUST BLDG NASHVILLE TN 37201	CLASS I RAILROADS		
LAW OFFICES OF R. C. MCCANDLESS 1707 H ST., NW WASHINGTON DC 20006	INTERNATIONAL PAPER CO.		
Do	MILLER & SCHROEDER MUNICIPALS, INC.	30,315.00	12,450.70
Do	TRANSAMERICA CORPORATION		
Do	TRANSAMERICA-OCCIDENTAL INSURANCE CORP.	61,936.50	16,562.24
CAROLYN KIM MCCARTHY 7901 WESTPARK DRIVE MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN	925.01	500.00
JAMES R. MCCARTHY 2101 L STREET, NW WASHINGTON DC 20037	AMERICAN PETROLEUM INSTITUTE	200.00	
JAMES W MCCARTHY 1515 WILSON BLVD ARLINGTON VA 22209	AMERICAN GAS ASSN.	3,000.00	1,471.15
JOHN C. MCCARTHY BOX 1300 MCLEAN VA 22102	MELAMINE CHEMICALS, INC	1,000.00	800.00
Do	STATE OF LOUISIANA	20,000.00	7,250.00
MCCARTY MOORE & WILLIAMS SUITE 3306 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	AMERICAN MEDICAL TECHNOLOGISTS	225.00	18.16
MCCLURE & TROTTER SUITE 600 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	CITIES SERVICE CO		10.50
Do	COCA-COLA COMPANY		12.25
Do	GULF & WESTERN INDUSTRIES, INC		110.15
Do	GULF RESOURCES & CHEMICAL CORP		
Do	MOBIL OIL CORP	1,575.00	30.15
Do	TRACOR, INC.		
ROBERT S. MCCONNAUGHEY 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC.		
MOLLY MCCORMICK 2301 MARKET ST., S23-1 PHILADELPHIA PA 19101	PHILADELPHIA ELECTRIC COMPANY	1,875.00	156.30
SALLY MCCORMICK 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	6,000.00	
REUBEN MCCORNACK 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	6,000.00	
E. L. MCCULLOCH 819 RAILWAY LABOR BLDG., 400 1ST ST., NW WASHINGTON DC 20001	BROTHERHOOD OF LOCOMOTIVE ENGINEERS	284.60	1,510.69
DAVID F. MCDERMITT SUITE 606 1235 JEFFERSON-DAVIS HIGHWAY ARLINGTON VA 22202	NATIONAL UTILITY CONTRACTORS ASSN		155.93
ALBERT L. MCDERMOTT 1101 CONNECTICUT AVE., NW, #1006 WASHINGTON DC 20036	AMERICAN HOTEL & MOTEL ASSN	2,151.40	
MARIANNE MCDERMOTT 1201 PENNSYLVANIA AVE., N.W. WASHINGTON DC 20004	HILL & KNOWLTON, INC		
MARK T. MCDERMOTT JOSEPH, POWELL, MCDERMOTT & REINER, P.C. 1300 19TH STREET, NW, #400 WASHINGTON DC 20036	CIVIL PILOTS FOR REGULATORY REFORM		
JAMES MCDONALD 9311 WOODLAND DR. SILVER SPRING, MD 20910	JACK MCDONALD ASSOCIATES (FOR: NORTHROP CORP)		
MICHAEL E. MCDONALD MARYLAND PETROLEUM ASSN 60 WEST ST. SUITE 403 ANNAPOLIS MD 21401	AMERICAN PETROLEUM INST	368.00	308.18
PATRICK J. MCDONOUGH 5203 LEESBURG PIKE, SUITE 400 FALLS CHURCH VA 22041	AMERICAN PERSONNEL & GUIDANCE ASSOCIATION	3,483.00	
DINAH D. MCELFRESH SUITE 1030N 1800 M ST., NW WASHINGTON DC 20036	HAUCK & ASSOCIATES (FOR: NATIONAL ASSN OF CHILD CARE MANAGEMENT)		
DARRYL D. MCEWEN 901 N. WASHINGTON ST. ALEXANDRIA VA 22134	SOCIETY OF AMERICAN FLORISTS & ORNAMENTAL HORTICULTURISTS		
ROBERT H. MCFADDEN 1909 K ST., NW SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC	200.00	
JAMES M. MCGARRY JR 1750 K ST., NW WASHINGTON DC 20006	EATON ASSOCIATES, INC.		
PAUL J. MCGEADY 27 HAMPTON PL. NUTLEY NJ 07110	MORALITY IN MEDIA, INC	10.00	
GALE W. MCGEE ASSOCIATES SUITE 700 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	DGA INTERNATIONAL, INC.		
DONNA LEE MCGEE 1800 M STREET,N.W. #870-S WASHINGTON DC 20036	BURLINGTON INDUSTRIES, INC	2,200.00	65.00
W. CURT MCGEE 1620 I ST., NW, SUITE 703 WASHINGTON DC 20006	BECHTEL NATIONAL, INC.		
P. ANNE MCGHEE 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
JOHN E. MCGILL SUITE 200 1221 S.W. YAMHILL PORTLAND OR 97205	PACIFIC TELECOM, INC.		
ROBERT M. MCGLOTTEN 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	16,439.83	912.49
CHRISTOPHER C. MCGRATH N. Y. S. PETROLEUM COUNCIL 551 5TH AVE., #718 NEW YORK NY 10176	AMERICAN PETROLEUM INST		
JEROME J. MCGRATH 1660 L ST., NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA	500.00	
TERRENCE G. MCGREEVY FIRST CITY TOWER HOUSTON TX 77002	VINSON & ELKINS (FOR: PELICAN TERMINAL)		
JOSEPH M. MCGUIRE 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
PETER E. MCGUIRE 400 FIRST ST., NW WASHINGTON DC 20001	NATIONAL ASSN OF RETIRED & VETERAN RAILWAY EMPLOYEES	5,999.98	
WILLIAM P. MCGUIRE 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER.	600.00	
CLARENCE M. MCINTOSH JR 400 FIRST ST., NW WASHINGTON DC 20001	RAILWAY LABOR EXECUTIVES' ASSN.	1,254.08	
LYN R. MCINTOSH 410 1ST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL		
ROBERT MCINTYRE ROOM 200 2020 K ST., NW WASHINGTON DC 20006	CITIZENS FOR TAX JUSTICE	6,663.46	15.00
CHRISTINE E. MCKECHNIE 2550 M ST., NW SUITE 770 WASHINGTON DC 20037	RJR INDUSTRIES, INC	250.00	190.18
WILLIAM F. MCKENNA SUITE 500 2301 M ST., NW WASHINGTON DC 20037	HOUSLEY, GOLDBERG & KANTARIAN		
MCKENNA, CONNER & CUNEO 3435 WILSHIRE BOULEVARD LOS ANGELES CA 90010	AHMANSON FOUNDATION	48,841.00	217.00
JAN E. MCKENZIE 1111 19TH ST., NW SUITE 702 WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,920.00	229.69
ROBERT T. MCKERNAN 1619 MASSACHUSETTS AVENUE, N.W. WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
WILLIAM COLM MCKEVENY 30 ROCKEFELLER PLAZA NEW YORK NY 10112	AMERICAN PULPWOOD ASSN.		
JAMES D. MCKEVITT SUITE 695 600 MARYLAND AVE. SW WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	3,500.00	150.00
C. A. "MACK" MCKINNEY BOX 43 110 MARYLAND AVE. SUITE 304, NE WASHINGTON DC 20002	NON COMMISSIONED OFFICERS ASSN OF THE USA	7,123.14	8,569.04
JAMES D. MCLAUGHLIN 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,100.00	177.30
WILLIAM F. MCMANUS 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO.	650.00	
JANE PIERSON MCMICHAEL 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	13,179.04	54,301.06
JAMES D. MCMILLAN 1899 L ST., NW, #1100 WASHINGTON DC	EXXON CORPORATION		
ROBERT R. MCMILLAN 9 WEST 57TH STREET NEW YORK NY 10019	AVON PRODUCTS, INC.		
MCNAIR GLENN KONDUROS CORLEY SINGLETARY PORTER & DIBBLE 1155 15TH STREET, NW WASHINGTON DC 20005	AMERICAN PETROLEUM INSTITUTE	500.00	61.80
Do	BUSINESS ROUNDTABLE		806.52
Do	GENERAL TELEPHONE & ELECTRONICS CORP	6,706.00	406.91
Do	GEORGIA PACIFIC CORP	7,328.00	458.74
Do	KLINE IRON & STEEL CO	165.00	119.00
Do	NATIONAL ASSN OF REALTORS	1,000.00	8.23
Do	NATIONAL OFFICE MACHINE DEALERS ASSN		57.32
Do	PHARMACEUTICAL MANUFACTURERS' ASSN	3,195.25	148.93
Do	SONY CORP OF AMERICA	12,657.25	465.15
Do	WESTINGHOUSE ELECTRIC CORP	1,273.00	108.50
LARAINE FAITH MCNAMARA SUITE 2700 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC.	1,000.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PETER F. MCNEISH 618 WASHINGTON BUILDING WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS.	2,000.00	
ROBERT MCVICKER 2001 JEFFERSON DAVIS HWY. ARLINGTON VA 22202	KOLLSMAN INSTRUMENT CO.		
RONALD E. MCWILLIAMS 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY		
GEORGE G. MEAD 430 FIRST ST. SE WASHINGTON DC 20003	AMERICAN TRUCKING ASSNS, INC	10,000.00	
JOHN K. MEAGHER 1155 15TH ST.,N.W. SUITE 1004 WASHINGTON DC 20005	LTV CORPORATION	2,580.00	610.00
JOSEPH J. MEDER SUITE 1100 1050 17TH ST., NW WASHINGTON DC 20036	INTERLAKE, INC	9,000.00	
MEEHAN & STOELKER 2200 TWO GIRARD PLAZA, PHILADELPHIA, PA 19102	MILLIKEN RESEARCH CORP	8,135.00	148.56
DAVID O. MEEKER 1735 NEW YORK AVE., NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	1,500.00	
WILLIAM H. MEGONNELL 1111 19TH ST., NW, 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,324.67	70.45
RICHARD A. MEHLER 1742 N STREET NW WASHINGTON DC 20036	AUTOMOTIVE PARTS REBUILDERS ASSN		
R. OTTO MELETZKE 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
PATRICK L. MELLON 1724 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	312.50	
STEPHEN J. MELMAN 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
JACK MENACHE 7900 CALLAGHAN ROAD SAN ANTONIO TX 78229	DATAPOINT CORPORATION		
HOWARD N. MENAKER 600 MARYLAND AVE., SW SUITE 400E WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
MARILEE MENARD P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	2,000.00	
MENDELSOHN ASSOCIATES, INC. 1826 JEFFERSON PLACE, NW WASHINGTON DC 20036	AMERICAN PRESIDENT LINES		
Do	WOLF TRAP FOUNDATION FOR THE PERFORMING ARTS	6,000.00	181.83
EDWARD L. MENNING 1522 K STREET N.W. SUITE 836 WASHINGTON DC 20005	ASSOCIATION OF FEDERAL VETERINARIANS	15.41	
ELLIS E. MEREDITH 1611 NORTH KENT ST. ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC		
EDWARD L. MERRIGAN 6000 CONNECTICUT AVE., NW WASHINGTON DC 20015	CENTRAL GULF LINES, INC.		
Do	NATIONAL ASSN OF RECYCLING INDUSTRIES, INC	11,250.00	872.50
METZGER, SHADYAC & SCHWARZ ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	MELEX USA, INC		
Do	MOLDOW DUST CONTROL, INC	3,147.50	172.45
BRIAN M. MEYER 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	300.00	
M. BARRY MEYER 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	ALUMINUM ASSN		
LARRY D. MEYERS SUITE 214 412 FIRST STREET, SE WASHINGTON DC 20003	BENEFICIAL MANAGEMENT CORP. OF AMERICA	2,499.00	
Do	INDEPENDENT CATTLEMEN ASSOCIATION	4,500.00	
Do	NATIONAL PEANUT GROWERS GROUP	1,500.00	
Do	NORTH CAROLINA FARM BUREAU		
Do	CALIFORNIA WESTSIDE FARMERS	833.33	
ANDRICE J. MICHAELS 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
BRENDA J. MICHAUD SUITE A-201 1410 GRANT STREET DENVER CO 80203	COLORADO SKI COUNTRY USA		
JAMES G. MICHAUX 1801 K ST., NW, #903 WASHINGTON DC 20006	FEDERATED DEPT STORES, INC	500.00	
LAURIE L. MICHEL 1629 K STREET, N.W. WASHINGTON DC 20006	NABISCO, INC.		
RONALD A. MICHELI SUITE 1020 425 13TH ST., NW WASHINGTON DC 20004	NATIONAL CATTLEMEN'S ASSN	1,000.00	
MID CONTINENT WILDCATTERS ASSN. 200 DOUGLAS BLDG. WICHITA KS 67202		116,435.34	7,729.00
MID-CONTINENT OIL & GAS ASSN 711 ADAMS OFFICE BLDG. TULSA OK 74103		26,179.36	10,665.76
JOY MIDMAN 1319 F ST., NW WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS	250.00	
MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING 1520 OHIO SAVINGS PLAZA CLEVELAND OH 44114			
S. F. MIERS JR. BOX 300 TULSA OK 74102	CITIES SERVICE COMPANY	1,800.00	2,340.46
PAUL J. MIGNINI SR. 815 16TH STREET, NW WASHINGTON DC 20006	AMALGAMATED CLOTHING & TEXTILE WORKERS UNION	2,585.00	61.30
MILBANK, TWEED, HADLEY & MCCLOY 1825 EYE ST., NW WASHINGTON DC 20006	CHASE MANHATTAN BANK		
Do	JOINT TASK FORCE ON FEDERAL FINAN. ASSIST. FOR LAW STUDENTS		
Do	LASALLE NATIONAL BANK		
MILES & STOCKBRIDGE SUITE 500 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	PEPSICO, INC	1,000.00	120.00
Do	PIZZA HUT, INC	500.00	50.00
ROY H. MILLENSON 2005 MASS. AVE., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	2,215.00	52.11
MILLER & CHEVALIER, CHARTERED 1700 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	AEROSPACE INDUSTRIES ASSOCIATION	28,658.12	
Do	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC	486.29	
Do	HERCULES INC		
Do	INVESTORS DIVERSIFIED SERVICES, INC		
Do	LOCKHEED CORPORATION	1,312.50	
Do	NUCLEAR FUEL SERVICES, INC	150.00	
Do	WHEELABRATOR-FRYE, INC	150.00	
A. STANLEY MILLER, 50 BROADWAY NEW YORK NY 10004	FEDERATION OF AMERICAN CONTROLLED SHIPPING		
MILLER ASSOCIATES, INC. 2500 QUE ST.,NW WASHINGTON DC 20007	TOSCO CORPORATION	500.00	66.45
DALE MILLER 1200 16TH ST., NW, #305 WASHINGTON DC 20036	GULF INTRACOASTAL CANAL ASSN		
Do	TEXASGULF, INC		
DANIEL R. MILLER 1020 PRINCESS ST. ALEX. VA 22314	TRUCK TRAILER MANUFACTURERS ASSN	700.00	16.45
DEBORAH MALE MILLER 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
JAMES C. MILLER 1616 H ST, NW WASHINGTON DC 20006	NATIONAL GRANGE	3,250.00	
JOHN R. MILLER 1750 MIDLAND BUILDING CLEVELAND OH 44115	STANDARD OIL CO.		
PAUL J. MILLER 8000 SEARS TOWER CHICAGO IL 60606	INVESTMENT COUNSEL ASSN OF AMERICA, INC.		
ROBERT H. MILLER 490 L'ENFANT PLAZA EAST, SW, #2202 WASHINGTON DC 20024	TENNECO INC		
ROBIN MILLER 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY	379.85	
W. KIRK MILLER 733 N. VAN BUREN ST. SUITE 610 MILWAUKEE WI 53202	BARLEY AND MALT INSTITUTE	4,250.00	
MILLER, CANFIELD, PADDOCK & STONE SUITE 300 2555 M ST., NW WASHINGTON DC 20037	INTERNATIONAL PAPER CO.	5,935.95	1,135.95
MILLER, CASSIDY, LARROCA & LEWIN SUITE 500 2555 M ST., NW WASHINGTON DC 20037	NATIONAL PUBLIC RADIO	135.00	12.75
MILLER, HAMILTON, SNIDER & ODOM P.O. BOX 46 MOBILE AL 36601	THORNTON, FARISH & GAUNTT		718.04
C.G. PETE MILLIGAN 4360 N.E. JOE'S POINT STUART FL 33494	ILLINOIS BELL TELEPHONE COMPANY	1,740.00	127.68
CHRISTINE TOPPING MILLIKEN 1717 MASSACHUSETTS AVE., #503 WASHINGTON DC 20036	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	8,880.00	315.54
JOHN C. MILLINER P.O. BOX 1788 FOREST PARK GA 30051	SOUTHEASTERN LUMBER MANUFACTURERS ASSN		
RICHARD M. MILLMAN, P.C. SUITE 900 1730 M STREET, NW WASHINGTON DC 20036	HOUSE OF REPRESENTATIVES, SAN JUAN, PR	41,715.75	
Do	SENATE OF PUERTO RICO	8,000.00	4,078.06
JOHN F. MILLS 1875 I ST., NW WASHINGTON DC 20006	TOBACCO INSTITUTE	900.00	86.90
EDWARD J. MILNE JR 1111 19TH ST., NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	187.00	194.27
RICHARD V. MINCK 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC	1,500.00	
MINERALS EXPLORATION COALITION, INC. 790 WEST TENNESSEE AVE. SUITE 103 DENVER CO 80223		35,800.00	2,385.00
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO SUITE 1025 1015 15TH STREET, NW WASHINGTON DC 20005	WNET/13		
Do	HOME RECORDING RIGHTS COALITION	35,015.00	2,463.00
Do	GENERAL TELEPHONE & ELECTRONICS CORP	2,000.00	
Do	SCA SERVICES, INC	3,500.00	64.00
THOMAS B. MIRANDA 410 FIRST ST., SE WASHINGTON DC 20003	AMERICAN NUCLEAR ENERGY COUNCIL	2,187.51	85.25
STAFFORD MICHAEL MISHOE 499 S. CAPITOL ST., S.W. SUITE 102 WASHINGTON DC 20003	NATIONAL PORK PRODUCERS COUNCIL	225.00	870.00
MARK R. MISIOROWSKI 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
THOMAS F. MITCHELL 1875 I ST., NW WASHINGTON DC 20006	GEORGIA-PACIFIC CORP		680.00
STACEY J. MOBLEY 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO		
MICHAEL S. MOE 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO INC		
ROBERT M. MOLITER 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO		147.00
JOHN V. MOLLER 1155 15TH ST., NW SUITE 1010 WASHINGTON DC 20006	MANCHESTER ASSOCIATES, LTD. (FOR: NISSAN MOTOR COMPANY, LTD.)	1,192.50	64.00
ROBERT A. MOLOFSKY 5025 WISCONSIN AVENUE, NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		294.13
MICHAEL J. MOLONEY 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	80.00	
C. MANLY MOLPUS P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	1,000.00	
HERMAN J. MOLZAHN 1600 WILSON BLVD., #1101 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC		
CHRISTOPHER MONEK 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
CHARLES A. MONFORT SUITE 1101 1346 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	UNION OF CONCERNED SCIENTISTS	1,104.17	2,165.52
JOHN M. MONLEY SUITE 600 1090 VERMONT AVENUE, NW WASHINGTON DC 20005	TEXAS EASTERN TRANSMISSION CORP.		36.48
ELIZABETH R. MONRO 1709 NEW YORK AVE., NW WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMER.	5,000.00	
MICHAEL MONRONEY SUITE 2700 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC.	1,000.00	
JOHN C. MONSUL 923 RIVA RIDGE DRIVE GREAT FALLS VA 22066			
STEVEN M. MOODIE 910 16TH STREET ROOM 302 WASHINGTON DC 20006	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
G. MERRILL MOODY 412 FIRST ST., SE, #200 WASHINGTON DC 20003	ASSOCIATION OF AMERICAN RAILROADS	22.44	15.65
JAMES P. MOONEY 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	5,700.00	
ALAN J. MOORE SUITE 840, 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	ATCHISON, TOPEKA & SANTA FE RAILWAY CO	1,000.00	
JANIS E. MOORE 1776 F ST., NW WASHINGTON, DC 20006	NATIONAL ASSN OF MANUFACTURERS	250.00	
MORALITY IN MEDIA, INC. 475 RIVERSIDE DRIVE SUITE 239 NEW YORK NY 10115		709.84	709.84
RICHARD D. MORAN 444 NORTH CAPITOL STREET, N.W. SUITE 409 WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	1,000.00	
VINCENT L. MORELLI 2550 M ST., NW SUITE 225 WASHINGTON DC 20037	CONGOLEUM CORPORATION	300.00	450.93
E. JOYCE MORGAN 1920 N ST., NW SUITE 300 WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
MORGAN, LEWIS & BOCKIUS SUITE 800 NORTH 1800 M ST., NW WASHINGTON DC 20036	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT	908.00	477.00
Do	CONSOLIDATED NATURAL GAS CO	275.00	
Do	KNOLL FINE CHEMICALS, INC		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ROBERT E. MORIN 2600 VIRGINIA AVE., NW #901 WASHINGTON DC 20037	SOCIETY OF REAL ESTATE APPRAISERS		
JAMES A. MORRILL SCOTT PLAZA I PHILADELPHIA PA 19113	SCOTT PAPER COMPANY	2,250.00	2,260.37
MARGARET M. MORRIS 1750 OLD MEADOW ROAD MCLEAN VA 22102	BRICK INSTITUTE OF AMERICA		
MARTIN S. MORRIS 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
MORRISON & FOERSTER 1920 N STREET, N.W. WASHINGTON DC 20036	CITY AND COUNTY OF SAN FRANCISCO	1,365.00	70.50
WILLIAM C. MORRISON 2001 NORTH ADAMS ST. ARLINGTON VA 20001	MEAT IMPORTERS COUNCIL OF AMERICA, INC	875.00	
RUSSELL N. MOSHER SUITE 160 950 N. GLEBE RD. ARLINGTON VA 22203	AMERICAN BOILER MANUFACTURERS ASSOCIATION, INC.	21.70	1.30
BERNARD MOSS 2440 VIRGINIA AVE., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS	900.00	
LYNN E. MOTE 1015 15TH ST., NW, #900 WASHINGTON DC 20005	INTERNORTH	2,000.00	
MOTION PICTURE ASSN OF AMERICA, INC 1600 EYE STREET, NW WASHINGTON DC 20006		34,000.00	34,167.74
JOHN J. MOTLEY 600 MARYLAND AVE., SW, SUITE 695, WASHINGTON, D.C. 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC. 300 NEW CENTER BLDG. DETROIT MI 48202		6,685.47	6,685.47
KELLY HOLLEY MOUNTAIN 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
MOUNTAIN WEST ASSOCIATES 2000 L ST., NW # 200 WASHINGTON DC 20036	FINLINSON AND FINLINSON		
Do	GREAT NATIONAL CORPORATION	6,400.00	105.96
Do	UTAH POWER & LIGHT CO.	29,689.00	5,235.76
HAROLD P. MUELLER III P.O. BOX 7755 PHILADELPHIA PA 19101	TAXPAYERS FOR FEDERAL PENSION REFORM	8,750.00	
WILLIAM G. MULLEN 1725 K ST., NW, #607 WASHINGTON DC 20006	THIRD CLASS MAIL ASSOCIATION	600.00	
RICHARD J. MULLER 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	CHRYSLER CORPORATION	2,000.00	105.00
JOHN P. MULLIGAN 1101 17TH ST., NW WASHINGTON DC 20036	TUNA RESEARCH FOUNDATION	1,590.00	
ALBERT E. MULLIN JR 111 POWDERMILL RD. (B79) MAYNARD MA 01754	DIGITAL EQUIPMENT CORPORATION	4,000.00	
TRACY MULLIN 1000 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	NATIONAL RETAIL MERCHANTS ASSN	100.00	15.00
ROBERT J. MULLINS 1012-14TH ST., N.W., #600 WASHINGTON, D.C. 20005	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	8,374.13	121.45
DANIEL J. MUNDY 815 16TH ST., NW, #603 WASHINGTON DC 20006	BUILDING & CONSTRUCTION TRADES DEPT	14,481.87	3,587.56
MUNICIPAL LABOR COMMITTEE 140 PARK PLACE NEW YORK NY 10007		16,897.40	16,897.40
K. R. MURPHY 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	GULF OIL CORPORATION	1,000.00	15.00
RICHARD E. MURPHY 2020 K ST., NW, #200 WASHINGTON DC 20006	SERVICE EMPLOYEES INTL UNION, AFL-CIO	1,000.00	133.00
RICHARD W. MURPHY 1133 20TH ST., NW WASHINGTON DC 20036	NATIONAL FOOD PROCESSORS ASSN	500.00	61.05
D. MICHAEL MURRAY 2550 M STREET, N.W., #695, WASHINGTON, D.C. 20037	CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RRS	500.00	
Do	CLEVELAND CLIFFS IRON CO	250.00	
Do	FREEPORT MINERALS CO	200.00	
Do	IRON ORE LESSORS ASSN, INC	250.00	
Do	LTV CORPORATION	500.00	
GORDON L. MURRAY SUITE 1002 1911 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	LEAR SIEGLER, INC./ENERGY PRODUCTS DIV		72.54
WILLIAM E. MURRAY 1800 MASS. AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	179.50	
FRANK DOMINIC MUSICA 1735 NEW YORK AVE., N.W. WASHINGTON, D.C. 20006	AMERICAN INST OF ARCHITECTS	2,750.00	
HAROLD D. MUTH 1600 WILSON BLVD., #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	300.00	
ROBERT J. MUTH 120 BROADWAY NEW YORK NY 10271	ASARCO INC	300.00	117.00
LAWRENCE P. MUTTER 6849 OLD DOMINION DR. MCLEAN VA 22101	AUTOMOTIVE PARTS REBUILDERS ASSN		
FRED J. MUTZ 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	3,000.00	
PAUL J. MYER 1150 17TH ST., NW, 11TH FLOOR WASHINGTON DC 20036	AMERICAN BROADCASTING CO		
GARY D. MYERS 1015 18TH ST., NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	500.00	1,533.14
J. WALTER MYERS JR P.O. BOX 95385 ATLANTA GA 30347	FOREST FARMERS ASSOCIATION		
KENNETH NADEN 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES		
CLIFFORD M. NAEVE 2550 M STREET, NW., #770, WASHINGTON, D.C. 20037	RJR INDUSTRIES, INC	115.25	40.00
ALAN Y. NAFTALIN 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	KOTEEN & NAFTALIN (FOR: ALASCOM, INC)	1,550.00	
Do	KOTEEN & NAFTALIN (FOR: TELEPHONE & DATA SYSTEMS, INC)		
GERALD P. NAGY 900 17TH ST., NW, #514 WASHINGTON DC 20006	NATIONAL HOME FURNISHINGS ASSN	1,000.00	
LOUIS NAGY BOND COURT BUILDING CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RSTRUCTURING		
NANCY A. NAGY SUITE 209 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE	62.50	25.00
LINDA K. NAIDA 1616 H STREET, NW WASHINGTON DC 20006	NATIONAL GRANGE	812.50	
NAMAN, HOWELL & SMITH, LEE 700 TEXAS CENTER 900 WASHINGTON WACO TX 76703	COTTON FARMERS ASSOCIATION		
BERNARD NASH 1015 18TH ST., NW SUITE 408 WASHINGTON DC 20036	GENERAL ELECTRIC CO		
Do	MERCK & CO., INC.		
Do	TIME, INC.		
NATA SUITE 1200 1000 CONNECTICUT AVE., NW WASHINGTON DC 20006			
FRANCES E NATHAN 455 FIFTH AVENUE NEW YORK NY 10016	NEW YORK PUBLIC LIBRARY	4,305.00	
HARDY L. NATHAN 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	900.00	
RAYMOND NATHAN 4242 EAST-WEST HWY CHEVY CHASE MD 20815	AMERICAN ETHICAL UNION	555.00	418.80
NATIONAL AGRICULTURAL CHEMICALS ASSN 1155 15TH ST., NW WASHINGTON DC 20005		5,850.00	5,850.00
NATIONAL AIR CARRIER ASSN SUITE 710 1730 M ST., NW WASHINGTON DC 20036			
NATIONAL ASSN FOR FREE ENTERPRISE SUITE 107 1101 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037			
NATIONAL ASSN FOR HUMANE LEGISLATION, INC PO BOX 11675 ST. PETERSBURG FL 33733		11.51	20.00
NATIONAL ASSN FOR NEIGHBORHOOD SCHOOLS, INC P.O. BOX 14887 COLUMBUS OH 43214		8,552.79	8,527.40
NATIONAL ASSN FOR UNIFORMED SERVICES P.O. BOX 1406 5535 HEMPSTEAD WAY SPRINGFIELD VA 22151		2,151.44	1,998.98
NATIONAL ASSN OF AIR TRAFFIC SPECIALISTS SUITE 415 WHEATON PLAZA NORTH WHEATON MD 20902		96,320.82	10,037.19
NATIONAL ASSN OF CATALOG SHOWROOM MERCHANDISE 276 FIFTH AVENUE NEW YORK NY 10010			
NATIONAL ASSN OF CHAIN DRUG STORES, INC. P.O. BOX 1417-D49 ALEXANDRIA VA 22313			7,126.80
NATIONAL ASSN OF CONVENIENCE STORES SUITE 809 THREE SKYLINE PLACE 5201 LEESBURG PIKE FALLS CHURCH VA 22041.			2,500.00
NATIONAL ASSN OF FEDERAL VETERINARIANS SUITE 836 1522 K ST., NW WASHINGTON DC 20005			50.33
NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES SUITE 503 1717 MASSACHUSETTS AVE., NW WASHINGTON DC 20036.		4,373.00	100,793.55
NATIONAL ASSN OF MANUFACTURERS 1776 F ST., NW WASHINGTON DC 20006		59,881.00	59,881.00
NATIONAL ASSN OF MUTUAL INSURANCE COS. 3707 WOODVIEW TRACE P.O. BOX 68700 INDIANAPOLIS IN 46268			
NATIONAL ASSN OF MUTUAL SAVINGS BANKS 200 PARK AVE. NEW YORK NY 10166		15,993.26	15,993.26
NATIONAL ASSN OF PENSION CONSULTANTS & ADMINISTRATORS, INC SUITE 300 3 PIEDMONT CENTER ATLANTA GA 30305		8,955.50	5,856.66
NATIONAL ASSN OF PERSONNEL CONSULTANTS 1432 DUKE ST., ALEXANDRIA, VA. 22314		5,254.43	6,100.00
NATIONAL ASSN OF PRIVATE ENTERPRISE ALAMEDA ROOSEVELT 2827 SAN SALVADOR, EL SALVADOR			
NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUSTS, INC. 1101 17TH ST., NW SUITE 700 WASHINGTON DC 20036		8,000.00	11,535.50
NATIONAL ASSN OF STEVEDORES SUITE 705 1899 L STREET, NW WASHINGTON DC 20036		15,500.00	12,882.00
NATIONAL ASSN OF TRUCK STOP OPERATORS, INC SUITE 505 700 N. FAIRFAX ST. ALEXANDRIA VA 22314			127.74
NATIONAL BAIL BOND INFORMATION CENTER P.O. BOX 010781 MIAMI FL 33101	COTTON BELT INSURANCE CO.		
NATIONAL BROILER COUNCIL 1155 15TH ST., NW WASHINGTON DC 20005		1,750.00	1,750.00
NATIONAL BUSINESS AIRCRAFT ASSN ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006			
NATIONAL CABLE TELEVISION ASSN, INC 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036		13,002.83	13,515.28
NATIONAL CATTLEMEN'S ASSN 5420 SOUTH QUEBEC ST., P.O. BOX 3469, ENGLEWOOD, CO. 80155			3,000.00
NATIONAL CLEAN AIR COALITION, INC 530 7TH ST., SE WASHINGTON DC 20003		74,089.11	40,798.53
NATIONAL CLUB ASSOCIATION 1625 EYE ST., NW, #609 WASHINGTON DC 20006		400.00	25.00
NATIONAL COAL ASSN COAL BLDG. WASHINGTON DC 20036		1,369,351.19	27,111.00
NATIONAL COAL CONSUMERS ALLIANCE SUITE 800 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006		625.68	625.66
NATIONAL COALITION FOR MARINE CONSERVATION, INC. P.O. BOX 23298 SAVANNAH GA 31403		11,527.50	17,103.31
NATIONAL COALITION OF TELECOMMUNICATIONS USERS & PROVIDERS SUITE 108 115 D STREET, SE WASHINGTON DC 20003.		140,000.00	191,122.00
NATIONAL COALITION TO BAN HANDGUNS 100 MARYLAND AVE., NE WASHINGTON DC 20002			
NATIONAL COMM ON SMALL ISSUE INDUSTRIAL DEVELOPMENT BONDS BOX 1, 900 SOUTH 1800 M ST., NW WASHINGTON DC 20036.		8,438.25	8,438.25
NATIONAL CONSUMER FINANCE ASSN 1101 14TH ST., NW. WASHINGTON, D.C. 20005			2,600.00
NATIONAL COTTON COUNCIL OF AMER P.O. BOX 12285 MEMPHIS TN 38112		13,453.95	13,453.95
NATIONAL COUNCIL FOR RESPONSIBLE FIREARMS POLICY, INC 7216 STAFFORD RD. ALEXANDRIA VA 22307			
NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS 435 SOUTHERN BLDG. 1425 H ST., NW WASHINGTON DC 20005		8,817.00	1,877.00
NATIONAL COUNCIL OF FARMER COOPERATIVES 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036		35,659.57	44,262.03
NATIONAL COUNCIL OF HEALTH CENTERS SUITE 1100 2600 VIRGINIA AVE., NW WASHINGTON DC 20037		5,027.65	3,604.02
NATIONAL COUNCIL OF TECHNICAL SERVICE INDUSTRIES SUITE 1190 1850 K STREET, NW WASHINGTON DC 20006		1,841.55	925.67
NATIONAL COUNCIL ON SYNTHETIC FUELS PRODUCTION SUITE 1050 1875 EYE ST., NW WASHINGTON DC 20006			
NATIONAL COUNSEL ASSOCS, INC 421 NEW JERSEY AVE., SE WASHINGTON DC 20003	GENEVA PACIFIC CORP.	1,680.00	
Do	HEUBLEIN, INC.	20,450.00	2,464.01
Do	SOUTHERN RAILWAY SYSTEM	3,600.00	787.36
Do	TOSCO	9,000.00	1,509.85
NATIONAL ELECTRICAL MFGRS ASSN 2101 L ST., NW WASHINGTON DC 20037		141.62	141.62
NATIONAL FAMILY FARM COALITION 918 F ST., NW WASHINGTON DC 20004			
NATIONAL FEDERATION OF FEDERAL EMPLOYEES 1016 16TH ST., NW WASHINGTON DC 20036		32,427.84	32,427.84
NATIONAL FEDERATION OF INDEPENDENT BUSINESS 150 W. 20TH AVE. SAN MATEO CA 94403		13,450.00	13,450.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
NATIONAL FERTILIZER SOLUTIONS ASSN 8823 NORTH INDUSTRIAL ROAD PEORIA IL 61615		380.00	380.00
NATIONAL FOOD PROCESSORS ASSN. 1133 20TH ST., NW WASHINGTON DC 20036		5,000.00	2,525.46
NATIONAL GRAIN & FEED ASSN 725 15TH ST., NW WASHINGTON DC 20005			
NATIONAL GRANGE 1616 H ST., NW WASHINGTON DC 20006		12,500.00	9,472.50
NATIONAL GUARD ASSN OF THE U.S. ONE MASSACHUSETTS AVE., NW WASHINGTON DC 20001		11,782.00	2,751.76
NATIONAL HOME FURNISHINGS ASSN 405 MERCHANDISE MART CHICAGO, ILLINOIS 60654			3,383.62
NATIONAL INDUSTRIAL TRAFFIC LEAGUE SUITE 410 1090 VERMONT AVE., NW WASHINGTON DC 20005		4,125.00	3,660.00
NATIONAL LEASED HOUSING ASSN SUITE 400 SOUTH 1800 M ST., NW WASHINGTON DC 20036		450.00	450.00
NATIONAL MARITIME COUNCIL 1748 N ST., NW WASHINGTON DC 20036		144,000.30	389.61
NATIONAL MILITARY WIVES ASSN., INC. 2666 MILITARY RD. ARLINGTON VA 22207		4,634.50	147.38
NATIONAL MILK PRODUCERS FED 30 F ST., NW WASHINGTON DC 20001		8,694.46	8,694.46
NATIONAL MOTORSPORTS COMM OF ACCUS SUITE 1204 1701 K ST., NW WASHINGTON DC 20006			
NATIONAL OFFICE MACHINE DEALERS ASSOCIATION 910 LIVELY BOULEVARD, P.O. BOX 707 WOOD DALE, ILLINOIS 60191		108.00	3.73
NATIONAL OIL JOBBERS COUNCIL, INC. 1707 H ST., NW 11TH FLOOR WASHINGTON DC 20006		214,284.00	17,183.17
NATIONAL ORGANIZATION FOR WOMEN SUITE 1048 425 13TH ST., NW WASHINGTON DC 20004			3,055.45
NATIONAL PARKING ASSOCIATION 2000 K ST., NW, #350 WASHINGTON DC 20006			47,094.33
NATIONAL PEACE ACADEMY CAMPAIGN SUITE 409 110 MARYLAND AVE., NE WASHINGTON DC 20002		95,471.83	81,901.84
NATIONAL PEST CONTROL ASSN 8100 OAK STREET DUNN LORING, VA 22027			
NATIONAL PRODUCT LIABILITY COUNCIL 20 N. WACKER DR. CHICAGO IL 50606			895.82
NATIONAL PUBLIC AFFAIRS CORP. 1 FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	WESTINGHOUSE ELECTRIC CORP	300.00	
NATIONAL REALTY COMMITTEE 2033 M ST., NW WASHINGTON DC 20036		2,971.00	2,971.00
NATIONAL REHABILITATION ASSN 533 S. WASHINGTON ST. ALEXANDRIA VA 22314			4,500.00
NATIONAL RETAIL MERCHANTS ASSN 100 W. 31ST ST. NEW YORK NY 10001			4,285.00
NATIONAL RIGHT TO WORK COMM SUITE 600 8001 BRADDOCK RD. SPRINGFIELD VA 22160		5,170.96	5,170.96
NATIONAL RURAL ELECTRIC COOPERATIVE ASSN 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036			4,017.18
NATIONAL SAVINGS & LOAN LEAGUE SUITE 400 1101 15TH ST., NW WASHINGTON DC 20005		45,577.25	
NATIONAL SECURITY TRADERS ASSN, INC SUITE 8511 ONE WORLD TRADE CENTER NEW YORK NY 10048			3,540.33
NATIONAL SMALL BUSINESS ASSN 1604 K ST., NW WASHINGTON DC 20006		5,000.00	1,448.32
NATIONAL SMALL BUSINESS INDEX R.R. #1 AITKIN MN 56431			
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS 2029 K ST., NW WASHINGTON DC 20006		12,500.00	15,450.00
NATIONAL SOFT DRINK ASSN 1101 16TH ST., NW WASHINGTON DC 20036			33,200.68
NATIONAL SOLID WASTES MANAGEMENT ASSN SUITE 930 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036			
NATIONAL TAX EQUALITY ASSN SUITE 615 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036		5,451.30	7,119.02
NATIONAL TAX LIMITATION COMMITTEE SUITE 600 1523 L STREET, NW WASHINGTON DC 20005		23,000.00	22,705.00
NATIONAL TIRE DEALERS & RETREADERS ASSN 1343 L ST., NW WASHINGTON DC 20005		16,495.00	16,495.00
NATIONAL YOUTH PRO-LIFE COALITION P.O. BOX 57 NEWPORT KY 41072			
SUSAN BINGHAM NEAL 490 L'ENFANT PLAZA EAST, S.W. SUITE 3206 WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	280.00
KAREN J. NEALE 2501 M STREET N.W. WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC.	300.00	
ALAN M. NEDRY 1111 19TH ST., NW, #303 WASHINGTON DC 20036	SOUTHERN CALIFORNIA EDISON CO	50.00	50.00
ALLEN NEECE JR. 1050 17TH STREET, NW WASHINGTON DC 20036	NEECE, CATOR & ASSOCIATES, INC (FOR: NATIONAL VENTURE CAPITAL ASSN)	2,500.00	2,500.00
Do	NEECE, CATOR & ASSOCIATES, INC (FOR: SMALL BUSINESS DEVELOPMENT CENTER DIRECTORS ASSN).	1,400.00	1,400.00
Do	NEECE, CATOR & ASSOCIATES, INC (FOR: SMALL BUSINESS UNITED)	1,500.00	1,500.00
NEECE, CATOR & ASSOCIATES, INC 1050 17TH STREET, NW WASHINGTON DC 20036	GOVERNMENT GUARANTEED LOAN COMMITTEE	2,000.00	2,000.00
Do	NATIONAL ASSN OF DEVELOPMENT COMPANIES (NADCO)	200.00	200.00
Do	NATIONAL VENTURE CAPITAL ASSOCIATION	2,500.00	2,500.00
Do	SMALL BUSINESS DEVELOPMENT CENTER DIRECTORS ASSN	1,400.00	1,400.00
Do	SMALL BUSINESS UNITED	1,500.00	1,500.00
Do	SOUTHEASTERN LUMBER MANUFACTURERS ASSN (SLMA)	1,800.00	1,800.00
C. B. NEELY JR. P.O. BOX 929 RALEIGH NC 27602	BENEFICIAL MANAGEMENT CORP OF AMERICA		
MARY ELIZABETH NEESE 1101 15TH ST., NW, #400 WASHINGTON DC 20005	NATIONAL SAVINGS & LOAN LEAGUE	1,000.00	
STANLEY NEHMER 1320 19TH ST., NW WASHINGTON DC 20036	LEAD-ZINC PRODUCERS COMMITTEE	500.00	350.00
GORDON E. NELSON 12005 MILLSTREAM DR. BOWIE MD 20715	FARM WATER ALLIANCE	21,600.00	2,680.81
MARK D. NELSON SUITE 1120 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO		
PETER M. NELSON SUITE 920 1800 K STREET, NW WASHINGTON DC 20006	BANKAMERICA CORPORATION	30.48	27.36
ROBERT W. NELSON 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN		
MICHAEL A. NEMEROFF SIDLEY & AUSTIN 1722 EYE STREET, N.W. WASHINGTON DC 20006	DEKALB AGRESEARCH, INC		
Do	STERN ELECTRONICS, INC.	5,000.00	799.80
WILLIAM D. NESBEITT SUITE 150 2655 VILLA CREEK DRIVE DALLAS TX 75234	UNI-BELL PLASTIC PIPE ASSN		
WILTON E. NESHEK THE GODFREY BLDG. 11 N. WISCONSIN ST. ELKHORN WI 53121	KIKKOMAN FOODS, INC.		
HAL NESTLERODE SUITE 700 1111 NORTH 19TH STREET ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	1,400.00	
NETWORK 806 RHODE ISLAND AVE., NE WASHINGTON DC 20018		28,709.42	22,704.93
CARLA NEUSCHEL 1101 VERMONT AVE., NW. WASHINGTON DC 20005	AMERICAN MEDICAL ASSN	2,400.00	38.92
ROBERT B. NEVILLE 311 1ST ST., NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		4,975.00
LOUIS H. NEVINS 1709 NEW YORK AVE., NW, #200 WASHINGTON DC 20006	NATIONAL ASSN OF MUTUAL SAVINGS BANKS	5,218.75	
NEW YORK COMM OF INTL COMM OF PASSENGER LINES 25 BROADWAY NEW YORK NY 10004			
BILL NEWBOLD #204, 1510 NORTH 12TH STREET ARLINGTON VA 22209	BILL NEWBOLD AND ASSOCIATES (FOR: AMERICAN PROTESTANT HOSPITAL ASSN.)	11,250.00	
Do	BILL NEWBOLD & ASSOCIATES (FOR: TEXAS HOSPITAL, ET AL)	4,500.00	
LESLIE F. NEWCOMER PNB BUILDING, BROAD & CHESTNUT STREETS PHILADELPHIA PA 19101	PHILADELPHIA NATIONAL BANK		
KATHRYN L. NEWMAN 1101 15TH ST., NW WASHINGTON DC 20005	REPUBLIC STEEL CORP		
THOMAS E. NEWMAN 1719 ROUTE 10 PARSIPPANY NJ 07054	NATIONAL ASSN OF MANUFACTURERS	600.00	365.22
JANET G. NEWPORT 1707 H ST., NW, SUITE 1100 WASHINGTON DC 20006	NATIONAL OIL JOBBERS COUNCIL	5,000.00	575.48
CHARLES E. NICHOLS 101 CONSTITUTION AVE., NW WASHINGTON DC 20001	UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA	21,125.00	1,396.80
NICHOLAS JOHN NICHOLS 1620 EYE ST., NW WASHINGTON DC 20006	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS	1,000.00	9,773.40
ROBERT W. NICHOLS 1511 K STREET, N.W. SUITE 1033 WASHINGTON DC 20005	CONSUMERS UNION OF U.S., INC.	7,500.00	33.00
DONALD R. NIEMI 100 NE ADAMS ST. PEORIA IL 61629	CATERPILLAR TRACTOR CO		
PATRICK J. NILAN 817 14TH ST., NW WASHINGTON DC 20005	AMERICAN POSTAL WORKERS UNION, AFL-CIO	11,946.52	6,755.86
STEWART E. NILES 225 BARONNE ST. NEW ORLEANS LA 70112	SHIPBUILDERS COUNCIL OF AMERICA		
NISSAN MOTOR COMPANY, LTD. P.O. BOX 1506 560 SYLVAN AVENUE ENGLEWOOD CLIFFS NJ 07632			2,461.28
ROBERT W. NOLAN 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FLEET RESERVE ASSN	100.00	
WALKER F. NOLAN 1111-19TH STREET,N.W. 9TH FLOOR WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	2,600.00	493.44
H. CHRISTOPHER NOLDE 2501 M ST.,NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC.	300.00	
NOOLEY REINHEARDT & ASSOCIATES 5712 OLD MCLEAN VILLAGE DR., MCLEAN VA 22101	RURAL BUILDERS COUNCIL OF CALIFORNIA		
CHARLES M. NOONE 490 L'ENFANT PLAZA EAST SUITE 3306 WASHINGTON DC 20024	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS.	1,900.00	230.24
M. KATHRYN NORDSTROM SUITE 725 1575 EYE ST., NW WASHINGTON DC 20005	PACIFIC SEAFOOD PROCESSORS ASSN	3,750.00	171.26
JULIA J. NORRELL 1850 K ST., NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC.	357.00	147.48
NORTH AMERICAN EXPORT GRAIN ASSN., INC. 1800 M ST., NW, SUITE 510-N WASHINGTON DC 20036			
NORTHEAST UTILITIES SERVICE CO SELDEN ST. BERLIN CT 06037			1,824.91
CLIFFORD R. NORTHUP 1730 RHODE ISLAND AVE., NW, #310 WASHINGTON DC 20036	CREDIT UNION NATL ASSN, INC.	300.00	207.32
JOE M. NORTON JR. SUITE 1605 400 MADISON STREET ALEXANDRIA VA 22314	NATIONAL COALITION OF TELECOMMUNICATION USERS & PROVIDERS	9,000.00	
MORGAN NORVAL 1202 S. WASHINGTON ST. #2 ALEXANDRIA, VA 22314	CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS	300.00	
NOSSAMAN, KRUEGER & MARSH 1140 19TH ST., NW, #600 WASHINGTON DC 20036	FOOD MARKETING INSTITUTE		166.90
Do	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS, INC		8.55
Do	BURLINGTON NORTHERN	2,640.00	
Do	MISSION RESOURCES	330.00	
RALPH D. NURNBERGER SUITE 412 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE	9,296.70	
FRANKLIN W. NUTTER 1025 CONNECTICUT AVE., NW, #512 WASHINGTON DC 20036	REINSURANCE ASSN OF AMER		26.00
MARK J. NUZZACO 7901 WESTPARK DR. MCLEAN VA 22102	NATIONAL MACHINE TOOL BUILDERS' ASSN		
C.D. NYBERG P.O. BOX 800 AUSTIN MN 55912	GEO. A. HORMEL & CO		
PHILIP S. NYBORG 1133 19TH STREET, NW WASHINGTON DC 20036	MCI COMMUNICATIONS CORP	4,400.00	
GEORGE O'BEA JR 815 16TH ST., NW, #304 WASHINGTON DC 20006	UNITED PAPERWORKERS INT'L UNION		
COLEMAN C. O'BRIEN 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	4,593.75	71.90
DAVID O'BRIEN, O'BRIEN, PIERCE & EBERLE, INC. 1828 L ST., NW. SUITE 201, WASHINGTON DC 20036	THE UTILITY GROUP	10,780.000	52.30
JOHN F. O'BRIEN CONNECTICUT PETROLEUM COUNCIL 410 ASYLUM ST. HARTFORD CT 06103	AMERICAN PETROLEUM INST		
LAWRENCE J. O'BRIEN JR. 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	AT-SEA INCINERATION, INC.	5,300.00	
Do	NEW YORK CITY PARTNERSHIP	6,000.00	
MARY EILEEN O'BRIEN 1800 M ST., NW, SUITE 7905 SOUTH WASHINGTON DC 20036	DOW CORNING CORPORATION		
RAYMOND V. O'BRIEN 1707 L ST., NW, #200 WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	1,600.00	100.00
ROSEMARY L. O'BRIEN 2550 M STREET, N.W., #640 WASHINGTON, D.C. 20037	CF INDUSTRIES, INC/ENERGY COOPERATIVE, INC	500.00	540.57
DAVID S. O'BRYON 1915 WILSON BLVD. ARLINGTON VA 22201	AMERICAN CHIROPRACTIC ASSN	450.00	122.50
JAMES J. O'CONNELL 1201 PENNSYLVANIA AVENUE, #370 NW WASHINGTON DC 20004	CONTROL DATA CORPORATION	478.00	133.96
WILLIAM B. O'CONNELL 111 EAST WACKER DR. CHICAGO IL 60601	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	10,312.00	2,890.02
O'CONNOR & HANNAN 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	AMERICAN ASSN OF ADVERTISING AGENCIES		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	AMERICAN CLINICAL LABORATORY ASSN	1,750.00	
Do	AMERICAN FAMILY LIFE ASSURANCE CO		
Do	AMERICAN INST OF CERTIFIED PUBLIC ACCOUNTANTS		
Do	AMERICAN INVSCO CORPORATION		
Do	AUTOMOTIVE PARTS & ACCESSORIES ASSN		
Do	BLYTH EASTMAN PAINE WEBBER		
Do	BORDEN, INC.		
Do	CHARLES RIVER BREEDING LABORATORIES, INC		
Do	CKLW RADIO BROADCASTING, LTD.	1,000.00	
Do	CLAIBORNE GASOLINE COMPANY	3,145.00	
Do	COMPETITIVE TELECOMMUNICATIONS COALITION	120.00	
Do	ELECTRONIC DATA SYSTEMS CORP	3,658.00	
Do	FIRST NATIONAL MONETARY CORPORATION		
Do	GLASS PACKAGING INSTITUTE	700.00	
Do	GOVERNMENT OF THE COMMONWEALTH OF PUERTO RICO		
Do	HEALTH CARE FINANCING STUDY GROUP		
Do	HENNEPIN COUNTY		
Do	INVESTMENT COMPANY INSTITUTE		
Do	INVESTORS DIVERSIFIED SERVICES, INC.		
Do	J. C. PENNEY CO, INC.	709.00	
Do	JOHN NUVEEN & CO, INC		
Do	JOSEPH E. SEAGRAM & SONS, INC.		
Do	KIMBERLY-CLARK CORP	570.00	
Do	NATIONAL ASSN OF NUMISMATIC PROFESSIONALS		
Do	NATIONAL COAL CONSUMERS ALLIANCE	500.00	
Do	NATIONAL COMM FOR QUALITY HEALTH CARE		
Do	NEIGHBORHOOD TV COMPANY, INC.	1,846.00	
Do	PFIZER, INC.		
Do	SECURITIES INDUSTRY ASSN	13,398.00	
Do	TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY	1,873.00	
Do	WESTINGHOUSE ELECTRIC CORP		
LEONARD F. O'CONNOR 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON		
PATRICK C. O'CONNOR KENT & O'CONNOR 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	AMERICAN SUPPLY ASSOCIATION	4,283.14	1,534.29
Do	AMERICAN WAREHOUSEMEN'S ASSOCIATION	4,070.83	1,007.51
Do	MOTOR CARRIER LAWYERS ASSN	10,328.60	2,753.46
JOHN B. O'DAY SUITE 590 1700 PENNSYLVANIA AVE., NW WASHINGTON, DC 20006	INSURANCE ECONOMICS SOCIETY OF AMERICA		
THOMAS A. O'DAY 1110 VERMONT AVE., NW WASHINGTON DC 20005	ALLIANCE OF AMERICAN INSURERS	500.00	416.35
ASHTON J. O'DONNELL 50 BEALE ST., PO BOX 3965 SAN FRANCISCO CA 94119	BECHTEL INC		
JANE O'GRADY 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	14,189.83	54.97
BARBARA E. O'HARA 1300 19TH ST., NW WASHINGTON DC 20036	AMERICAN SOCIETY OF TRAVEL AGENTS	100.00	
BARTLEY O'HARA 25 LOUISIANA AVE., NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS	11,409.57	
O'KEEFE, ASHENDEN & LYONS ONE FIRST NATIONAL PLAZA - SUITE 5100 CHICAGO IL 60603	AMERICAN INVSCO CORPORATION		
HAROLD E. O'KELLEY 7900 CALLAGHAN ROAD SAN ANTONIO TX 78229	DATAPOINT CORPORATION		
KATHLEEN O'LEARY 1625 EYE ST., N. W. ROOM 301 WASHINGTON DC 20006	COLUMBIA GAS DISTRIBUTION COMPANIES	3,500.00	179.19
O'MELVENY & MYERS 1800 M ST., NW WASHINGTON DC 20036	AIR TRANSPORT ASSN OF AMERICA		
O'NEILL AND HAASE, P.C. SUITE 1110 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ALLEGHENY COUNTY COMMISSION		
Do	CHICAGO BOARD OF TRADE CLEARING CORP		
Do	COMMERCIAL UNION ASSURANCE COMPANIES		
Do	GLASS PACKAGING INSTITUTE		
Do	HOLLY CORP		
Do	HOUSTON NATURAL GAS CORP		
Do	LEGISLATIVE ALLIANCE OF PHILATELISTS, HRD ASSET DLRS & CLTRS		
Do	MAHONING VALLEY ECONOMIC DEVELOPMENT CORP.		
Do	MASSACHUSETTS HOSPITAL ASSOCIATION		
Do	PANHANDLE PRODUCING CO		
Do	SANTERELLI AND GIMER		
Do	SUGAR USERS GROUP		
Do	TEXAS UTILITIES SERVICES, INC.		
Do	WESTERN UNION TELEGRAPH CO.		
Do	WESTINGHOUSE ELECTRIC CORP		
DONALD K. O'NEILL SUITE 2600 1000 WILSON BLVD. ARLINGTON VA 22209	TRW, INC.	1,000.00	
KATHLEEN A. O'NEILL 1208-F, NORTH WAYNE STREET ARLINGTON VA 22201	NATIONAL COALITION OF TELECOMMUNICATIONS USERS & PROVIDERS	9,000.00	
J. DENIS O'TOOLE 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,500.00	
PATRICIA M. O'TOOLE SUITE 800 1100 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	UNION OIL COMPANY OF CALIFORNIA	600.00	197.20
STEPHEN E. O'TOOLE 1660 L STREET, N.W. WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	2,044.13
G. H. OCHENRIDER 1000 WILSON BLVD. ARLINGTON VA 22209	GRUMMAN AEROSPACE CORPORATION	2,500.00	509.38
T. J. ODEN 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	4,500.00	
BRADFORD C. OELMAN 900 17TH ST., NW WASHINGTON DC 20006	OWENS-CORNING FIBERGLAS CORPORATION		
OIL INVESTMENT INST PO BOX 8293 WASHINGTON DC 20024			
R.Q. OLD AND ASSOCIATES, INC. 205 THE STRAND ALEXANDRIA VA 22314	GENERAL ELECTRIC CO	15.00	55.00
Do	GOULD, INC.		129.00
Do	GRUMMAN AEROSPACE CORPORATION	189.00	303.97
Do	SPERRY DIVISION	28.00	78.05
ROBERT A. OLEXY P.O. BOX 3151 HOUSTON TX 77001	BROWNING-FERRIS INDUSTRIES, INC.	10,500.00	419.80
ALVIN E. OLIVER 725 15TH ST., NW WASHINGTON DC 20005	NATIONAL GRAIN & FEED ASSN		
AUSTIN P. OLNEY 1333 NEW HAMPSHIRE AVE., NW, #1100 WASHINGTON DC 20036	LEBOEUF, LAMB, LEIBY & MACRAE (FOR: SHIPPING CORP OF INDIA, INC)	7.25	18.75
DENNIS M. OLSEN 485 E STREET IDAHO FALLS ID 83402	AETNA INSURANCE CO	16.36	1.26
Do	AMERICAN BANKER'S INSURANCE CO OF FLORIA	103.90	8.10
Do	CENTENNIAL INSURANCE COMPANY	7.80	.61
Do	CHARTER OAK INSURANCE	7.90	.61
Do	FLORISTS' MUTUAL INSURANCE CO	38.89	3.03
Do	FOREMOST INSURANCE CO	207.26	16.23
Do	GREAT AMERICAN INSURANCE COMPANY	22.21	1.72
Do	MINNEHOMA INSURANCE COMPANY	7.15	.56
Do	MONSANTO CO	1,160.50	424.03
Do	NATIONAL FARMERS UNION PROPERTY & CASUALTY INSURANCE CO	36.32	2.86
Do	STATE FARM FIRE AND CASUALTY CO	17.98	1.38
Do	STATE FARM INSURANCE COMPANY	149.40	11.70
Do	STATE FARM MUTUAL AUTOMOBILE INSURANCE CO	243.01	19.03
Do	TRAVELER'S INDEMNITY OF RHODE ISLAND	9.64	.72
Do	TRAVELERS	215.38	16.85
VAN R. OLSEN 1156 15TH ST., NW, #1019 WASHINGTON DC 20005	U.S. BEET SUGAR ASSN		
GERALD L. OLSON 200 S. 5TH ST. MINNEAPOLIS MN 55402	PILLSBURY COMPANY		
ROY E. OLSON 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INST, INC		
ALAN M. OLSZEWSKI 1608 K STREET, NW WASHINGTON DC 20006	AMERICAN LEGION	4,920.00	22.10
PHILIP C. ONSTAD 500 WEST PUTNAM AVE. GREENWICH CT 06830	CONTROL DATA CORPORATION	50.00	946.40
MICHEL ORBAN 1700 K ST., NW WASHINGTON DC 20006	AMERICAN EXPRESS CO.		
OREGON STEEL MILLS C/O GOVERNMENT RELATIONS ASSOCIATES, INC 1629 K STREET, NW, #401 WASHINGTON DC 20006			115.00
ABRAHAM ORLOFSKY 1016 16TH STREET, NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,025.48	
JOHN L. OSHINSKI 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	9,605.77	
JOHN J. OSICK SUITE 700 SOUTH 1800 M STREET, NW WASHINGTON DC 20036	DOW CHEMICAL U.S.A.		
HIDEAKI OTAKA SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC.		
ROLAND A. OUELLETTE 1660 L ST., NW, #501 WASHINGTON DC 20036	GENERAL MOTORS CORP	3,600.00	2,238.00
CLIFFHOUSE 1800 MASSACHUSETTS AVE., N.W. WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	37.50	
OUTDOOR POWER EQUIPMENT INSTITUTE SUITE 700 1901 L ST., NW WASHINGTON DC 20036			
JOSEPH A. OVERTON III 1000 WILSON BLVD. #2600 ARLINGTON, VA 22209	TRW, INC.	1,000.00	
THOMAS J. OWENS P.O. BOX 12266 SEATTLE WA 98102	DOLLAR SAVINGS BANK AND WASHINGTON MUTUAL SAVINGS BANK	11,850.00	7,048.74
WILLIAM H. OWENS JR SUITE 1004 1101 17TH ST., NW WASHINGTON DC 20036	AMERICAN DENTAL ASSN.	1,000.00	
R. RAY PAABO SUITE 840 1100 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SANTA FE INDUSTRIES, INC	1,000.00	
LEE W. PADEN P.O. BOX 201 TULSA OK 74102	PUBLIC SERVICE COMPANY OF OKLAHOMA		
GERI PALAST SUITE 200 2020 K STREET, NW WASHINGTON DC 20006	SERVICE EMPLOYEES INTL UNION, AFL-CIO, CLC	5,000.00	155.05
JOHN M. PALATIELLO 210 LITTLE FALLS STREET FALLS CHURCH VA 22046	AMERICAN CONGRESS ON SURVEYING & MAPPING	4,495.30	26,249.73

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
HENRY S. PALAU 201 N WASHINGTON ST. ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	754.00	
DIANE M. PALMER 1200 NORTHWESTERN BANK BLDG. MINNEAPOLIS MN 55480	NORTHWEST BANCORPORATION		
FRED PANZER 1875 EYE ST., NW, #800 WASHINGTON DC 20006	TOBACCO INSTITUTE	125.00	35.00
PAPERBOARD PACKAGING COUNCIL SUITE 411 1101 VERMONT AVE, NW WASHINGTON DC 20005			
G. OLIVER PAPPS N.J. PETROLEUM COUNCIL 170 W. STATE ST. TRENTON NJ 08608	AMERICAN PETROLEUM INST	20.00	
PARAHO DEVELOPMENT CORPORATION 101 SOUTH THIRD STREET, #300 GRAND JUNCTION CO 81501			15,700.16
STEVEN JAY PARCELLS 12 WEBB RD. CABIN JOHN MD 20818	SAVE THE TALLGRASS PRAIRIE, INC.		
HERSCHELL E. PARENT ARKANSAS PETROLEUM COUNCIL 302 COMMERCIAL NATL. BANK BLDG. LITTLE ROCK AR 72201	AMERICAN PETROLEUM INST.	497.00	678.93
NANCY L. PARKE 1919 PENNSYLVANIA AVE., N.W. SUITE 300 WASHINGTON DC 20036	LONE STAR INDUSTRIES, INC.	600.00	200.00
DOUGLAS L. PARKER 600 NEW JERSEY AVE., NW WASHINGTON DC 20001	INSTITUTE FOR PUBLIC REPRESENTATION		
JOHN N. PARKER 1100 CONNECTICUT AVE., NW SUITE 620 WASHINGTON DC 20036	MOBIL OIL CORP	375.00	
KIMBERLY C. PARKER 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	7,858.13	68.00
PRUDENCE H. PARKS 1100 H STREET, NW WASHINGTON DC 20080	WASHINGTON GAS LIGHT CO.	43.18	61.65
KEN PARMELEE 1155 15TH ST., NW SUITE 611 WASHINGTON DC 20005	ETHYL CORPORATION	2,080.00	
TOM E. PARO 1735 DESALES ST., NW WASHINGTON DC 20036	ASSOCIATION OF MAXIMUM SERVICE TELECASTERS, INC.	2,432.00	
PARRISH & CHAMBERS, INC. SUITE 1510 1300 17TH ST., NW ARLINGTON VA 22209	AEROSPATIALE HELICOPTER CORP.	11,130.00	2,734.68
Do	ASSOCIATION OF NIGHT VISION MANUFACTURERS	1,000.00	1,047.80
Do	BANGOR & AROOSTOOK RAILROAD	3,600.00	2,489.62
Do	BOSTON & MAINE RAILROAD	4,749.00	2,560.94
Do	DELAWARE OTSEGO SYSTEM	4,200.00	2,550.08
Do	FORUM COMMUNICATIONS		1,479.31
Do	GENESEE & WYOMING INDUSTRIES	2,250.00	2,489.62
Do	OY WARTSILA AB	26,666.66	2,489.62
Do	PITTSBURG & SHAWMUT	2,100.00	2,489.62
Do	WESTINGHOUSE ELECTRIC CORP	1,960.00	1,603.40
JACK PARTRIDGE 1014 VINE ST. CINCINNATI OH 45201	KROGER COMPANY	2,000.00	479.70
ROBERT D. PARTRIDGE 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	465.00	
ALAN K. PARVER 1050 17TH ST., NW, #770 WASHINGTON DC 20036	AMERICAN ASSN OF HOMES FOR THE AGING	1,308.00	58.00
PASKUS, GORDON & HYMAN 2005 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL MUSIC PUBLISHERS' ASSN	200.00	
RICHARD M. PATTERSON 1800 M ST., NW, #700 SOUTH WASHINGTON DC 20036	DOW CHEMICAL CO	500.00	230.50
THOMAS PATTERSON 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC.	231.00	
DAVID J. PATTISON 1750 K ST., NW WASHINGTON DC 20006	HEALTH INSURANCE ASSOCIATION OF AMERICA, INC.		
EDWARD W. PATTISON 22 FIRST STREET TROY NY 12180	NATIONAL MUSIC PUBLISHERS ASSN, INC.	3,700.00	1,213.42
PATTON BOGGS & BLOW SUITE 800 2550 M ST., NW WASHINGTON DC 20037	AKAI AMERICA, LTD.	804.82	11.17
Do	AMERICAN COLLEGE OF MORTGAGE ATTORNEYS	2,955.00	8.00
Do	AMERICAN CONGRESS OF SURVEYORS AND MAPPERS	361.25	
Do	AMERICAN EXPRESS COMPANY	5,130.00	160.54
Do	AMERICAN INTERNATIONAL AUTOMOBILE DEALERS ASSN	250.00	
Do	AMERICAN MARITIME ASSN.		
Do	AMERICAN MOVERS CONFERENCE	1,150.00	30.00
Do	AMERICAN PRESIDENT LINES	940.00	
Do	AMERICAN RETAIL FEDERATION		
Do	AMERICAN SOCIETY OF ASSN EXECUTIVES		
Do	ARMCO INC.		
Do	ASOCIACION DE AMIGOS DEL PAIS		
Do	ASOCIACION DE AZUCAREROS DE GUATEMALA		
Do	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	15,510.00	30.00
Do	BURLINGTON INDUSTRIES, INC.	23,658.75	353.75
Do	BUSINESS ROUNDTABLE	200.00	
Do	CALIFORNIA WESTSIDE FARMERS	7,450.00	100.00
Do	CASTLE & COOKE, INC.		
Do	CHRYSLER CORPORATION	4,835.00	230.00
Do	CITY NATIONAL BANK OF BEVERLY HILLS, CA	1,880.00	5.00
Do	COUNCIL OF STATE CHAMBERS OF COMMERCE	117.50	
Do	DONALDSON, LUFKIN & JENRETT, INC.		
Do	DREDGING INDUSTRY SIZE STANDARDS COMMITTEE (DISSC)		
Do	DUTY FREE SHOPPERS, LTD.	2,075.00	40.00
Do	E.G.G. INDUSTRIES & THE ESSEX CO.		
Do	ENERGY RESEARCH CORPORATION	3,202.50	
Do	HAMPTON-WINSOR CORP		
Do	HITACHI SALES CORP OF AMERICA	3,163.78	44.07
Do	HOBBY INDUSTRY OF AMER.		
Do	E.F. HUTTON LIFE INSURANCE COMPANY	3,465.00	
Do	INDECO, INC.	2,285.00	10.00
Do	INSTITUTE OF SCRAP IRON & STEEL, INC.		
Do	LASCO SHIPPING COMPANY	400.00	8.00
Do	LITTON INDUSTRIES, INC.		
Do	LOCKHEED AIRCRAFT	200.00	
Do	LOOP, INC.		
Do	LOS ANGELES OLYMPIC COMMEMORATIVE COIN COMMITTEE	4,700.00	70.00
Do	LOS ANGELES OLYMPIC ORGANIZING COMMITTEE		
Do	LOSS RESERVE DEDUCTION COMMITTEE	460.00	16.00
Do	MARATHON OIL CO.	2,827.50	
Do	MARS, INC.	1,100.00	
Do	MCI TELECOMMUNICATIONS, INC.	6,730.00	40.00
Do	MITSUBISHI ELECTRIC SALES AMERICA, INC.	3,163.78	44.07
Do	MITSUSHITA ELECTRIC CORP OF AMERICA	3,163.78	44.07
Do	MOCATTA METALS CORP		
Do	MULTI MINERAL CORP.	4,160.00	13.00
Do	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS.	3,500.00	
Do	NATIONAL CABLE TELEVISION ASSN., INC.	1,400.00	
Do	NATIONAL COALITION FOR PORT PROGRESS	230.00	
Do	NATIONAL MARINE MFRS ASSN		
Do	NATIONAL MULTI HOUSING COUNCIL		
Do	NATIONAL SOFT DRINK ASSN		
Do	NEC ELECTRONICS (USA) INC	1,637.40	22.77
Do	NEW PROCESS CO		
Do	NORTHWEST ENERGY COMPANY		
Do	OCEAN MINERALS CO.	705.00	
Do	OPTIONS CLEARING CORP.		
Do	OSG BULK SHIPS, INC.		
Do	PENN CENTRAL CORPORATION	705.00	
Do	PEPSICO, INC.		
Do	READER'S DIGEST ASSN, INC.	2,000.00	
Do	REDWOOD INDUSTRY PARK COMM.	1,200.00	
Do	RETAIL TAX COMMITTEE	927.50	70.00
Do	ROCKWELL INTERNATIONAL CORP		
Do	SANSUI ELECTRONICS CORP		
Do	SANYO ELECTRIC INC	3,163.79	44.07
Do	SHARP ELECTRONICS CORP	3,163.78	44.07
Do	SHERIDAN-KALORAMA NEIGHBORHOOD COUNCIL	1,700.00	
Do	SONY CORPORATION OF AMERICA	3,163.79	44.07
Do	ST. JOE MINERALS CORP	407.50	
Do	STATE OF LA, DEPT OF CONSERVATION	6,730.00	40.00
Do	SULTANATE OF OMAN	3,000.00	
Do	TOSHIBA AMERICAN, INC.	3,163.79	44.07
Do	US JVC CORPORATION	3,163.79	44.07
Do	WILSHIRE OIL COMPANY OF TEXAS	3,290.00	
ANDREW R. PAUL 600 NEW HAMPSHIRE AVE., NW, #920 WASHINGTON DC 20037	GULF & WESTERN INDUSTRIES, INC.	1,250.00	97.63
PAUL, HASTINGS, JANOFSKY & WALKER 6TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	AMERICAN TELEPHONE & TELEGRAPH CO.		
Do	BEST EMPLOYERS ASSOCIATION		
Do	ENSERCH CORPORATION		
Do	SECURITY LIFE OF DENVER	18,500.00	6,122.36

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
PAUL WEISS RIFKIND WHARTON & GARRISON 345 PARK AVE., NY, NY 10022	CHRIS-CRAFT INDUSTRIES, INC		
Do	NIPPON ELECTRIC CO., LTD	38,000.00	1,581.41
LARRY E. PAULICK 2000 K ST., NW WASHINGTON DC 20006	NATIONAL SPA & POOL INSTITUTE		
RICHARD A. PAYSOR SUITE 135 1415 ELBRIDGE PAYNE RD. ST. LOUIS MO 63017	FIRST CAPITOL ASSOCIATES - GATEWAY, INC		
PEABODY, LAMBERT & MEYERS 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	ASSOCIATION OF MEDIA PRODUCERS		
Do	TUNA RESEARCH FOUNDATION		
RONALD W PEARSON 103 W. CEDAR STREET ALEXANDRIA VA 22301	CONSERVATIVES AGAINST LIBERAL LEGISLATION		
FRANK PECQUEX 815 16TH ST., NW #510 WASHINGTON DC 20006	SEAFARERS INTERNATIONAL UNION	3,000.00	200.41
JAMES M. PEIRCE JR 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,551.22	
PELTON RESEARCH CENTER 1400 S JOYCE STREET ARLINGTON VA 22202	HELP, INC		
HUMBERTO R. PENA 1155 15TH ST., NW WASHINGTON DC 20005	BRISTOL-MYERS CO	1,000.00	
PENNSYLVANIA POWER & LIGHT CO 2 N 9TH ST. ALLENTOWN PA 18101			2,719.32
DONALD PENNY 2020 K ST., N.W. SUITE 250 WASHINGTON DC 20006	WARNER COMMUNICATIONS INC	3,000.00	1,510.67
DOMINIC V. PENSABENE 1700 K ST., NW WASHINGTON DC 20006	CHEVRON USA, INC	1,000.00	
GREGORY M. PENSABENE 1100 CONNECTICUT AVE., NW #840 WASHINGTON DC 20036	SANTA FE INDUSTRIES, INC	1,875.00	
PEPPER & CORAZZINI PEPPER & CORAZZINI 1776 K ST.,NW #700 WASHINGTON DC 20006	SOUTHERN SATELITE SYSTEMS INC	1,420.00	26.00
PEPPER HAMILTON & SCHEETZ 1777 F ST., NW WASHINGTON DC 20006	ALARM DEVICE MANUFACTURING CO		
Do	ALARM IND TELECOMM COMM OF NATL BURGLAR & FIRE ALARM ASSN	2,190.00	
Do	FOCUS		
Do	GLENMEDE TRUST CO		
Do	MILLICOM INCORPORATED	436.50	
Do	NATIONAL ASSN OF RETAIL DRUGGISTS		
Do	SOUTHERN PACIFIC COMMUNICATION CO		
Do	SUN SHIPBUILDING & DRY DOCK CO	5,143.00	50.00
Do	TRT TELECOMMUNICATIONS CORPORATION		
Do	TURNER BROADCASTING SYSTEM, INC	1,255.00	
Do	DIRECT BROADCAST SATELLITE CORP	184.00	
Do	GENERAL DYNAMICS CORP	760.00	
BARBARA K. PEQUET 1921 KALORAMA RD., NW, #103 WASHINGTON DC 20009	NATIONAL CONSUMERS LEAGUE	787.50	9.00
VICTOR J. PERINI JR 1776 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	HIGHWAY USERS FEDERATION FOR SAFETY & MOBILITY		
PERITO, DUERK, CARLSON & PINCO, P.C. 1140 CONNECTICUT AVE., NW #400 WASHINGTON DC 20036	ADVANCED HEALTH SYSTEMS, INC		
Do	AMERICAN COLLEGE OF NEUROPSYCHOPHARMACOLOGY	60.00	524.40
Do	NATIONAL ASSN OF ALCOHOLISM TREATMENT PROGRAMS INC	192.75	3.95
Do	SOCIETY OF REAL ESTATE APPRAISERS		
PERKINS COIE STONE OLSEN & WILLIAMS SUITE 1200 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	BOEING COMPANY	13,181.50	76.20
Do	GENERAL PUBLIC UTILITIES CORP	900.00	
TONY PERKINS 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	100.00	
GARY J. PERKINSON 1700 NORTH MOORE STREET 1925 ROSSYLN CENTER BUILDING ARLINGTON VA 22209	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA		
ERNEST MICHAEL PERLEY SUITE 201 105 DAVENPORT ROAD TORONTO, ONTARIO M5R 1H6	CANADIAN COALITION ON ACID RAIN	2,112.00	200.00
JEFFRY L. PERLMAN 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,420.00	258.47
LEONARD PERLMAN SUITE 400 5203 LEESBURG PIKE FALLS CHURCH VA 22041	AMERICAN PERSONNEL & GUIDANCE ASSN	4,050.00	255.[illegible]
MARK PERMAR P.O. BOX 12910 CHARLESTON SC 29142	KIAWAH ISLAND COMPANY	880.00	1,292.59
JOHN P. PERRIN 499 SOUTH CAPITOL ST., SW SUITE 104 WASHINGTON DC 20003	AMERICAN OSTEOPATHIC ASSN	3,412.50	18.50
RICHARD J. PERRY 1575 I. ST NW. WASHINGTON DC 20005	CALIFORNIA SAVING & LOAN LEAGUE	13,125.00	526.47
SUSAN PERRY 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUS ASSN	2,687.50	75.00
JOHN J. PESCH 3422 STONEBRAE DR. FALLS CHURCH, VA 22044	NORTHROP CORPORATION		
EDWARD B. PETERSEN SUITE 700 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	GULF OIL CORP	50.00	16.50
GEOFFREY G. PETERSON SUITE 1300 425 13TH ST., NW WASHINGTON DC 20004	DISTILLED SPIRITS COUNCIL OF THE U.S.	2,000.00	400.00
KENNETH PETERSON 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	16,439.83	212.87
LARS E. PETERSON 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	450.00	
MARY B. PETERSON 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	870.97
RUSSELL W. PETERSON 950 THIRD AVENUE NEW YORK NY 10022	NATIONAL AUDUBON SOCIETY	1,000.00	576.10
PETERSON, ENGBERG & PETERSON SUITE 907 1730 M ST., NW WASHINGTON DC 20036	FEDERATED RESEARCH CORP	16,660.00	382.65
SUSAN E. PETNIUNAS, #214, 1025 CONNECTICUT AVE., NW WASHINGTON, DC 20036	MANVILLE CORPORATION	100.00	100.00
SUSAN J. PETRICK SUITE 300 1919 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	GATX CORPORATION		
MICHAEL J. PETRINA JR 1155 15TH ST., NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	44.10
PAUL F. PETRUS 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBIL OIL CORP	1,200.00	
JAMES R. PHALEN 1100 CONNECTICUT AVE., NW SUITE 820 WASHINGTON DC 20036	MAPCO INC	2,500.00	91.00
PHARMACEUTICAL MANUFACTURERS ASSN., 1155 15TH ST., NW WASHINGTON DC 20005		52,791.13	52,791.13
GWEN PHARO 1101 S. ARLINGTON RIDGE RD., #1213 ARLINGTON VA 22202	OILFIELD INDUSTRIAL LINES, INC		
MARSHALL A. PHARR 6103 ADIRONDACK, AMARILLO TX 79106	SOUTHWESTERN PUBLIC SERVICE CO.	877.20	148.16
JOHN P. PHILBIN 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBIL OIL CORP	1,500.00	
DEBORAH M. PHILLIPS SUITE 320 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	GENERAL INSTRUMENT CORP		
JOHN D. PHILLIPS SUITE 503 1717 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF INDEPENDENT COLLEGES & UNIVERSITIES	13,500.00	763.63
RICHARD F. PHILLIPS 1825 K STREET,N.W. SUITE 1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY		
SUSAN L. PHILLIPS 815 16TH ST., NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	3,056.00	22.95
WILLIAM G. PHILLIPS D.C. ASSOCIATES, INC. 402 THIRD STREET, SE WASHINGTON DC 20003	AMERICAN VOCATIONAL ASSN	4,000.00	227.83
Do	ASSOCIATION OF UNIV. PROGRAMS IN OCCUPA HEALTH & SAFETY	2,400.00	275.17
Do	ASSOCIATION OF UNIVERSITY ENVIRONMENTAL HEALTH CENTERS	6,000.00	102.03
PHOSPHATE CHEMICALS EXPORT ASSN., INC. 8410 WEST BRYN MAWR AVE. CHICAGO, IL 60631			
SAM PICKARD 1101 17TH ST., NW, #604 WASHINGTON DC 20036	MONSANTO CO.	500.00	193.14
BILL PICKENS 1111 19TH ST., NW SUITE 900 WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	1,698.00	410.91
W.D. PICKETT 400 FIRST ST. WASHINGTON DC 20001	BROTHERHOOD OF RAILROAD SIGNALMEN	350.00	
M. M. PIERCE 1001 22ND ST., SUITE 600 WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	175.00	
PIERSON BALL & DOWD 1200 18TH ST., NW WASHINGTON DC 20036	COMMUNITY PSYCHIATRIC CENTERS	10,159.18	
Do	COMPETITIVE TELECOMMUNICATIONS COALITION	5,032.66	
Do	DUN & BRADSTREET CORP.		
Do	GENENTECH, INC	17,091.85	
Do	GENERAL TIRE & RUBBER COMPANY	1,750.00	
Do	INDEPENDENT TELECOMMUNICATIONS SUPPLIERS COUNCIL	66,557.72	
Do	INFECTIOUS DISEASES SOCIETY OF AMERICA	4,564.90	
Do	INTERNATIONAL FUTURES EXCHANGE (BERMUDA) LTD	3,200.00	
Do	INTEX HOLDINGS (BERMUDA) LTD		
Do	NATIONAL ASSN OF CASUALTY & SURETY AGENTS	4,696.64	
Do	NATIONAL MUSIC PUBLISHERS ASSN	7,317.24	
Do	PHARMACEUTICAL MANUFACTURERS ASSN	10,617.63	
Do	SATELLITE BUSINESS SYSTEMS	2,500.00	
ELIZABETH W. PIERSON SUITE 810 2000 L STREET, NW WASHINGTON DC 20036	SPERRY CORPORATION		
PIERSON SEMMES CROLIUS & FINLEY 1054 31ST ST., NW WASHINGTON DC 20007	AMERICAN LAND TITLE ASSN	3,803.00	195.88
STUART F. PIERSON VERNER, LIIPFERT, BERNHARD, & MCPHERSON 1660 L ST., NW, #1100 WASHINGTON DC 20036	PAN AM, ET AL		
PILOTS RIGHTS ASSOCIATION P.O. BOX 7000-367 REDONDO BEACH CA 90277		3,975.00	6,249.02
PINEAPPLE GROWERS ASSN OF HAWAII 1902 FINANCIAL PLAZA OF THE PACIFIC HONOLULU HI 96813			
LINDA PINEGAR 1709 NEW YORK AVE., NW WASHINGTON DC 20006	AIR TRANSPORT ASSN OF AMER	3,000.00	
PIPER & MARBURY 888 16TH STREET, NW FIFTH FLOOR WASHINGTON DC 20006	PHH GROUP, INC	7,160.00	7,169.26
Do	RYDER SYSTEMS, INC		
Do	U.S. AIR, INC		
LILLIAN M.S. PITCAITHLY SUITE 209 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE	100.00	25.00
PITNEY BOWES 69 WHEELER DR. STAMFORD CT 06926			
ERNEST M. PITT JR. P.O. BOX 1264 ASHLAND KY 41101	REYNOLDS & PITT (FOR: DR. ROBERT LANG)		
PLAINS COTTON GROWERS, INC PO BOX 3640 LUBBOCK TX 79452			
PLANNED PARENTHOOD FEDERATION OF AMERICA, INC. SUITE 303 1220 19TH STREET, NW WASHINGTON DC 20036		2,217.75	2,217.75
PLANNED PARENTHOOD OF NEW YORK CITY, INC 380 SECOND AVENUE NEW YORK NY 10010			1,028.00
RONALD L. PLATT P.O. BOX 520783 GENERAL MAIL FACILITY MIAMI FL 33152	BURGER KING CORP		
WYLL W. PLEGER 1730 RHODE ISLAND AVENUE, N.W. # 213 WASHINGTON DC 20036	BROWN & ROOT, INC		
RONALD L. PLESSER BLUM & NASH 1015 18TH ST., NW, #408 WASHINGTON DC 20036	TWIN COASTS NEWSPAPER, INC		
ROBERT PLETT ASSOCIATES 1200 18TH ST., NW WASHINGTON DC 20036			
JAMES W. PLUMB SUITE 1225 19TH ST., NW WASHINGTON DC 20036	HARSHE-ROTMAN & DRUCK, INC		
SHERMAN S. POLAND ROSS, MARSH & FOSTER 888 16TH STREET, NW WASHINGTON DC 20006	DORCHESTER GAS PRODUCING CO.	5,305.00	149.00
MICHAEL A. POLING 1920 N ST., NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS	23.20	9.65
RICHARD POLLACK 1101 14TH ST. NW. SUITE 200 WASHINGTON DC 20005	AMERICAN NURSES' ASSN	3,330.83	491.99
FRANCES A. POLLAK SUITE 390 1850 K STREET, NW WASHINGTON DC 20006	UNION CAMP CORPORATION	1,269.00	77.05
ALFRED M. POLLARD SUITE 702 1901 L STREET, NW WASHINGTON DC 20036	SECURITY PACIFIC NATIONAL BANK	66.00	135.00
HENRY E. POOLE 9 WEST 57TH ST. NEW YORK NY 10019	AVON PRODUCTS, INC		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RAYMOND K. POPE 1639 K ST., NW, #800 WASHINGTON DC 20006	AMFAC, INC.	3,145.00	431.36
JAMES J. POPHAM 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	2,000.00	250.00
POPULATION RESOURCE CENTER, INC 622 THIRD AVE. NEW YORK NY 10017		2,537.00	11,490.00
PAULA D. PORPILIA 1120 CONNECTICUT AVENUE, N.W. SEVENTH FLOOR WASHINGTON DC 20036	AMERICAN BANKERS ASSN	850.00	161.38
PORT OF SEATTLE P.O. BOX 1209 SEATTLE WA 98111		119.91	80.50
PHILLIP PORTE & ASSOCS., INC. SUITE 208 1301 S. ARLINGTON RIDGE RD. ARLINGTON VA 22202	AMERICAN ASSN FOR RESPIRATORY THERAPY	6,500.00	
Do	NATIONAL ASSN. OF MEDICAL DIRECTORS OF RESPIRATORY	3,000.00	
PORTER, WRIGHT, MORRIS & ARTHUR 37 WEST BROAD STREET COLUMBUS OH 43215	COALITION FOR ENVIRONMENTAL-ENERGY BALANCE		5,138.24
PORTMAN PROPERTIES 1800 PEACHTREE CENTER SOUTH 225 PEACHTREE STREET, N.E. ATLANTA GA 30303			20,000.00
JOHN POST SUITE 402 1828 L ST., NW WASHINGTON DC 20036	BUSINESS ROUNDTABLE	200.00	40.00
MARY E. POST 5203 LEESBURG PIKE, SUITE 400 FALLS CHURCH VA 22041	AMERICAN PERSONNEL & GUIDANCE ASSOCIATION	3,486.95	
MARK POWDEN SUITE 408 815 16TH STREET, NW WASHINGTON DC 20006	FOOD AND BEVERAGE TRADES DEPT., AFL-CIO	358.27	
JOHN MICHAEL POWDERLY 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	9,549.52	
POWELL GOLDSTEIN FRAZER & MURPHY SUITE 1050 1110 VERMONT AVE., NW WASHINGTON DC 20005	AHRENS AIRCRAFT, INC		
Do	COALITION FOR EMPLOYMENT THROUGH EXPORTS		
Do	COMMITTEE AGAINST REGULATION OF VIDEO ENTERPRISES		
Do	COUNCIL OF STATE HOUSING AGENCIES	1,512.00	
Do	FEDERAL NATIONAL MORTGAGE ASSN	4,462.00	
Do	GATX CORP		
Do	GOVERNMENT OF NICARAGUA		
Do	INTERGRAPH CORPORATION		
Do	INTERNATIONAL PAPER COMPANY		
Do	JACQUES BOREL ENTERPRISES, INC		
Do	LINCOLN PROPERTY COMPANY		
Do	MARYLAND SAVINGS-SHARE INSURANCE CORP.		
Do	NATIONAL ASSN OF REAL ESTATE DEVELOPERS		
Do	NATIONAL COUNCIL FOR INDUSTRIAL INNOVATION		
Do	NATIONAL MULTI HOUSING COUNCIL	3,240.00	
Do	WESTINGHOUSE ELECTRIC CORP		
RICHARD M. POWELL 7315 WISCONSIN AVE. WASHINGTON DC 20014	INTERNATIONAL ASSN OF REFRIGERATED WAREHOUSES		
ROBERT D. POWELL SUITE 400 1300 NINETEENTH ST NW WASHINGTON DC 20036	NATIONAL BUSINESS AIRCRAFT ASSN		
JANET POWER 1620 I ST., NW WASHINGTON DC 20006	VISA USA, INC		
JOHN J. POWER 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	12,937.92	
GRAYDON R. POWERS JR 1101 16TH ST., NW WASHINGTON DC 20036	SCIENTIFIC APPARATUS MAKERS ASSN		
BRAINARD E. PRESCOTT 670 MAIN ST. EAST AURORA NY 14052	SECURITY NEW YORK STATE CORPORATION		674.65
LLOYD T. PRESLAR 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL, INC (FOR: AIRBUS INDUSTRIE)		
Do	DGA INTERNATIONAL, INC. (FOR: SOFREAVIA)		
PRESTON THORGRIMSON ELLIS & HOLMAN 1776 G ST., NW, #500 WASHINGTON DC 20006	AMERICAN PRESIDENT LINES	6,415.50	
Do	AMERICAN WATERWAYS SHIPYARD CONFERENCE		
Do	BELLINGHAM COLD STORAGE		
Do	BOEING COMPANY	18,183.00	221.45
Do	BPA INDUSTRIAL CUSTOMERS		
Do	CALISTA CORP		
Do	CHUGACH NATIVES, INC		
Do	COMMERCIAL UNION ASSURANCE COMPANIES		
Do	CROWLEY MARITIME CORPORATION	850.00	
Do	DRAVO CORPORATION		
Do	EMPLOYERS REINSURANCE CORP.		
Do	MOORE MCCORMACK RESOURCES, INC	6,069.50	
Do	NORTHERN TIER PIPELINE CO.		
Do	PORT OF SEATTLE	312.50	
Do	ST. JOE MINERALS CORP		
Do	STATE OF ALASKA		
Do	TENNESSEE GAS PIPELINE CO.	345.50	
Do	TRANSPORTATION INSTITUTE		
Do	U.S. CRUISES, INC		
Do	WASHINGTON NATURAL GAS		
Do	WESTERN RESOURCE ALLIANCE		
Do	WOMETCO ENTERPRISES, INC	6,542.50	245.30
Do	YARDARM KNOT CORPORATION	2,350.00	
KEITH A. PRETTY 322 W. OTTAWA LANSING MI 48933	STANDARD OIL CO (INDIANA)		
FORREST J. PRETTYMAN 730 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS.	962.50	
BARBARA J. PRICE SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY		
WOODRUFF M. PRICE 840 WASHINGTON BLDG. 15TH ST. & NEW YORK AVE. WASHINGTON DC 20005	CSX CORPORATION	3,000.00	629.55
PATRICIA PRIDE 1129 20TH ST., NW WASHINGTON DC 20036	FINANCIAL ACCOUNTING STANDARDS BOARD	227.47	42.53
BEVERLY HINES PRINCE 1620 EYE STREET N.W. WASHINGTON DC 20006	VISA USA, INC		
GWENYTH PRITCHARD 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
JERRY C. PRITCHETT 5530 WISCONSIN AVE., NW CHEVY CHASE, MD 20815	MECHANICAL CONTRACTORS ASSN OF AMER, INC		
PRO-LIFE CDAC 12 P.O. BOX 7145 MENLO PARK CA 94025		299.00	1,308.41
PRO-LIFE CONGRESSIONAL DIST ACTION COMM, IN/2 208 TINKLER LAFAYETTE IN 47901			
PROFIT SHARING COUNCIL OF AMER 20 N. WACKER DRIVE CHICAGO IL 60606			
PROJECT ADVISORY GROUP 1029 VERMONT AVE., NW SUITE 860 WASHINGTON DC 20005			3,477.00
PROPRIETARY ASSN 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006			2,687.50
PROVIDENT INDEMNITY LIFE INSURANCE CO 2500 DEKALB PIKE NORRISTOWN PA 19404			
JAMES C. PRUITT SUITE 500 1050 17TH STREET, NW WASHINGTON DC 20036	TEXACO, INC	83.00	
STEVEN L. PRUITT SUITE 308 815 16TH STREET, NW WASHINGTON DC 20006	PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO	9,999.99	
PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO 815 16TH ST., NW WASHINGTON DC 20006		37,093.45	23,845.71
PUBLIC TIMBER PURCHASERS GROUP 714 OREGON BANK BLDG. 319 S.W. WASHINGTON ST. PORTLAND OR 97204		24,000.00	6,561.60
GERALD H. PUGH 707 SKOKIE BLVD. NORTHBROOK IL 60062	COMBINED INSURANCE CO OF AMERICA		
DAVID E. PULLEN #214, 1025 CONNECTICUT AVE., NW WASHINGTON, DC 20036	AMVO::E CORPORATION	600.00	
F. EUGENE PURCELL 1919 PENNSYLVANIA AVE., N.W. SUITE 300 WASHINGTON DC 20006	LONE STAR INDUSTRIES, INC	1,000.00	205.00
WILLIAM E. PURSLEY 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SHELL OIL COMPANY	500.00	
EARLE W. PUTNAM 5025 WISCONSIN AVE., NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
HOWARD PYLE III 4930 QUEBEC ST., NW WASHINGTON DC 20016	HOUSTON LIGHTING & POWER COMPANY	3,600.00	
ROBERT N. PYLE P.O. BOX 3731 WASHINGTON DC 20007	INDEPENDENT BAKERS ASSN	3,000.00	
JOHN R. QUARLES JR MORGAN, LEWIS & BOCKIUS 1800 M ST., NW WASHINGTON DC 20036	NATIONAL ENVIRONMENTAL DEVELOPMENT ASSN CLEAN AIR ACT PROJ.	1,000.00	50.00
JAMES M. QUIGLEY SUITE 540 1875 EYE STREET, NW WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
WILLIAM A. QUINLAN 3045 RIVA RD. RIVA MD 21140	NATIONAL CANDY WHOLESALERS ASSN, INC		
Do	RETAIL BAKERS OF AMERICA		
QUINTANA REFINERY COMPANY P.O. BOX 3331 HOUSTON TX 77253			
R/A AND ASSOCIATES SUITE 801 1100 17TH STREET, NW WASHINGTON DC 20036	WAGNER & BAROODY	3,393.75	
CLIFFORD RABER ONE MCDONALD'S PLAZA OAK BROOK IL 60521	MCDONALD'S SYSTEMS, INC	462.50	284.77
ALEX RADIN 2301 M ST., NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	653.76	
TESS A. RAE 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE		
ROBERT A. RAGLAND 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	200.00	
RICHARD W. RAHN 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.		
RAILWAY LABOR EXECUTIVES' ASSN 400 FIRST ST., NW SUITE 804 WASHINGTON DC 20001		48,250.00	100,942.31
RAILWAY PROGRESS INST 700 NORTH FAIRFAX ST. ALEXANDRIA VA 22314			
RANDALL & BANGERT 1625 K ST., NW WASHINGTON DC 20006	BUSINESS ROUNDTABLE	3,900.00	
Do	NATIONAL INDEPENDENT DAIRY-FOODS ASSN	2,200.00	
Do	PHARMACEUTICAL MANUFACTURERS ASSN	1,070.00	
DONALD A. RANDALL SUITE 1205 1625 K ST., NW WASHINGTON DC 20006	AUTOMOTIVE SERVICE COUNCILS, INC	4,585.91	
Do	NATIONAL INDEPENDENT DAIRY-FOODS ASSN	2,200.00	
GARY B. RANDALL 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	125.00	
ROBERT RANDALL P.O. BOX 23691 WASHINGTON DC 20024	ALLIANCE FOR CANNABIS THERAPEUTICS		
CAROL RANDLES 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN. OF BROADCASTERS	1,500.00	694.00
R. RAY RANDLETT 1150 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	ALLIED CORP.	390.00	
ARTHUR G. RANDOL III 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION		175.74
GAYLE RANDOL 1828 L STREET, N.W. SUITE 402 WASHINGTON DC 20036	BUSINESS ROUNDTABLE	200.00	40.00
RARE ANIMAL RELIEF EFFORT, INC C/O NATIONAL AUDUBON SOC 950 THIRD AVE. NEW YORK NY 10022			
ROBERT RAUCH SUITE 1000 1150 CONNECTICUT AVE., NW WASHINGTON DC 20036	KOTEEN & BURT (FOR: CSL ENERGY CONTROLS, INC)		
CAROL L. RAULSTON 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
G. DAVID RAVENCRAFT SUITE 507 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
W. LEE RAWLS 1155 15TH ST., NW SUITE 802 WASHINGTON DC 20005	PENNZOIL CO.	750.00	21.82
RAY ROBERTS & ASSOCIATES 400 SOUTH CAPITOL ST., SW SUITE 102 WASHINGTON DC 20003	CENTEX CORP.	3,000.00	500.46
Do	GUAM OIL & REFINING CO., INC.	9,000.00	2,505.28
Do	NORTH TEXAS MUNICIPAL WATER DISTRICT	3,000.00	789.01
Do	TEXAS UTILITIES SERVICES, INC.	3,000.00	758.31
J. GENE RAYMOND 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,001.52	
JULIAN O. READ 1011 CONGRESS AVE., #400 AUSTIN TX 78701	CENTRAL AND SOUTH WEST CORP		
SYDNEY C. REAGAN NO. 10 DUNCANNON CT. DALLAS TX 75225	SOUTHWESTERN PEANUT SHELLERS ASSN	300.00	
DENNIS M. REARDON SUITE A-3 210 SEVENTH STREET, SE WASHINGTON DC 20003	FEDERAL EMPLOYEES POLITICAL ACTION COMM (FEDPAC)		
LINDA S. REARICK 1707 H STREET, NW SUITE 1100 WASHINGTON DC 20006	NATIONAL OIL JOBBERS COUNCIL	3,100.00	172.19
HARRY M. REASONER VINSON & ELKINS 3000 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES		7,978.40
JOHN DANIEL REAVES 910 16TH STREET, NW WASHINGTON DC 20006	PHARMACEUTICAL MANUFACTURERS ASSN	9,550.00	444.30
SUSAN E. RECCE 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	875.00	37.20
JOHN M. RECTOR 205 DAINGERFIELD RD. ALEXANDRIA, VA 22314	NATIONAL ASSN OF RETAIL DRUGGISTS	700.00	150.00
ROBERT E REDDING 425 13TH STREET N.W. SUITE 915 WASHINGTON DC 20004	SHIPPERS NATIONAL FREIGHT CLAIM		
TIMOTHY J. REDMON 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
CHARLOTTE REED 200 NORTH PICKETT ST., ALEXANDRIA VA 22304	MOTOROLA, INC.	3,000.00	
DWIGHT C. REED 1101 16TH ST., NW WASHINGTON DC 20036	NATIONAL SOFT DRINK ASSN	336.52	
JANET S. REED SUITE 501 100 MARYLAND AVE., SE WASHINGTON DC 20002	PARALYSIS CURE RESEARCH FOUNDATION		
JD REED 1909 K STREET, NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN-AMER ASSN OF RETIRED PERSONS	281.92	64.65
PAULINE B. REEPING 1750 NEW YORK AVENUE, NW SUITE 815 WASHINGTON DC 20006	NEW YORK SHIPPING ASSN, INC.		
MARTHA L. REES 1701 PENNSYLVANIA AVE., NW SUITE 1120 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO	37.00	2.00
THOMAS M. REES SUITE 403 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	FLUOR CORP		
JOSEPH H. REESE JR. 2500 DEKALB PIKE NORRISTOWN PA 19404	PROVIDENT INDEMNITY LIFE INSURANCE COMPANY		
ROBERT S. REESE JR 1616 P ST., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC.	9,000.00	2,015.07
J. RONALD REEVES WASHINGTON NATIONAL AIRPORT WASHINGTON DC 20001	U.S. AIR, INC.	2,000.00	220.52
JOHN T. REGGITTS JR 95 BOONTON AVE PO BOX 470 BOONTON NJ 07005			
FRANK D. REGISTER 1825 SAMUEL MORSE DR. RESTON VA 22090	NATIONAL ASSN OF RETAIL GROCERS OF THE U.S.	50.00	
REID & PRIEST 1111 19TH ST.,NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	57.00	2.00
Do	SOUTH CAROLINA ELECTRIC & GAS COMPANY		
Do	TUCSON ELECTRIC POWER CO		
Do	UTILITY GROUP		80,042.96
CHARLOTTE REID 200 NORTH PICKETT ST., ALEXANDRIA, VA 22304	MOTOROLA, INC.	3,000.00	
MICHAEL W. REID SUITE 507 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
JERRY E. REIDER 1235 JEFFERSON DAVIS HWY., #305 ARLINGTON VA 22202	EMERSON ELECTRIC CO.		
MARK REIHL 815 16TH STREET, N.W. RM 510 WASHINGTON DC 20006	SEAFARERS INTERNATIONAL UNION	3,000.00	438.74
GARY B. REIMER 1800 K ST., NW SUITE 600 WASHINGTON DC 20006	TIGER INTERNATIONAL, INC.	1,410.00	346.95
WILLIAM W. REINERTSON 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
HOOLEY REINHEARDT, HOOLEY REINHEARDT & ASSOC. 6712 OLD MCLEAN VILLAGE DRIVE, MCLEAN, VA 22101	RURAL BUILDERS COUNCIL OF CALIFORNIA		
HARRY O. REINSCH 50 BEALE ST. P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
MURRAY P. REISER 73 TREMONT ST. BOSTON MA 02108	EDWARD BLANKSTEIN, INC		
JACK REITER 1800 K STREET, N.W. SUITE 600 WASHINGTON DC 20006	TIGER INTERNATIONAL, INC.	2,100.00	156.00
RELIGIOUS COALITION FOR ABORTION RIGHTS, INC. 100 MARYLAND AVENUE, N.E. WASHINGTON DC 20002		6,936.11	10,618.15
JOHN W. RENDON JR. 1321 PENNSYLVANIA AVE SE WASHINGTON DC 20003	RENDON COMPANY		
W. W. RENFROE 69 FOUNTAIN PL. FRANKFORT KY 40602	KENTUCKY RAILROAD ASSN		
DIANE RENNERT 2005 MASSACHUSETTS AVE NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	3,300.00	347.44
REPUBLIC NATIONAL LIFE INSURANCE COMPANY 3988 N. CENTRAL EXPRESSWAY DALLAS TX 75204			396.15
RESEARCH-COTTRELL, INC P.O. BOX 1500 SOMERVILLE NJ 08876			3,104.00
RESOURCES FUND, INC. 810 18TH ST., NW, 3804 WASHINGTON DC 20006			
RETIRED OFFICERS ASSN 201 N. WASHINGTON ST. ALEXANDRIA VA 22314		7,055.00	
FORREST L. RETTGERS 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN. OF MANUFACTURERS		
JOHN H. REURS 25 BROADWAY NEW YORK NY 10004	NEW YORK COMM OF INTL COMM OF PASSENGER LINES		
ALLAN R. REXINGER 1700 PENNSYLVANIA AVE., NW, #700 WASHINGTON DC 20006	PROPRIETARY ASSN	2,687.50	150.00
NANCY C. REYNOLDS 300 MARYLAND AVE., NE WASHINGTON DC 20002	BENDIX CORP	475.00	80.00
AUSTIN T. RHOADS 910 17TH ST., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		162.95
ROBIN ALAN RHODES 2000 K ST., NW, #350 WASHINGTON DC 20006	NATIONAL PARKING ASSOCIATION	6,711.42	
LOIS D. RICE 1201 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	CONTROL DATA CORPORATION		
THERON J. RICE 1025 CONNECTICUT AVE., NW, #1000 WASHINGTON DC 20036	CONOCO		
JAMES E. RICH JR. SUITE 200 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SHELL OIL COMPANY	300.00	
R. PAUL RICHARD 1 DUPONT CIRCLE, NW SUITE 370 WASHINGTON DC 20036	ASSOCIATION OF AMERICAN LAW SCHOOLS		
ALAN H. RICHARDSON 2301 M ST., NW WASHINGTON DC 20037	AMERICAN PUBLIC POWER ASSN	2,000.00	
JOHN G. RICHARDSON 2774 NORTH HILLS DRIVE, NE ATLANTA GA 30305	GEORGIA POWER COMPANY	14,087.00	7,442.41
LLOYD C. RICHARDSON JR. P.O. BOX 1030 ABERDEEN SD 57401	SOUTH DAKOTA RAILROADS ASSN		
RUSSELL W. RICHARDSON 201 GRAYSON COURT SUN CITY CENTER FL 33570	LEAR SIEGLER, INC.		
JUDY NOEL RIDDLE 6630 W. BROAD STREET RICHMOND VA 23230	LAWYERS TITLE INSURANCE CORP		1,247.03
KEVIN RIDENOUR 1155 15TH STREET, NW WASHINGTON DC 20005	NATIONAL BROILER COUNCIL	750.00	
LOWELL J. RIDGEWAY NORTH DAKOTA PETROLEUM COUNCIL 418 EAST ROSSER, P.O. BOX 1395 BISMARCK ND 58502	AMERICAN PETROLEUM INST	512.00	1,404.59
E. GEORGE RIEDEL SUITE 200 1707 L STREET, NW WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORP	1,650.00	60.00
MARK J. RIEDY 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA		
E. PHILIP RIGGIN 1608 K ST., NW WASHINGTON DC 20006	AMERICAN LEGION	8,070.00	395.03
VALERIE M. RIGGINS 1700 NORTH MOORE STREET 1925 ROSSYLN CENTER BUILDING ARLINGTON VA 22209	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA		
R. SCOTT RINN 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC.		
KEVIN J. RIORDAN 1025 CONNECTICUTAVENUE, N.W. # 700 WASHINGTON DC 20036	GULF OIL CORP	335.00	125.00
JOHN S. RIPPEY 730 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS.	875.00	38.00
CAROL A. RISHER 2005 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	ASSOCIATION OF AMERICAN PUBLISHERS	1,200.00	
ROBIN RISSO 511 C STREET, NE WASHINGTON DC 20002	CONTINENTAL ASSN OF RESOLUTE EMPLOYERS (C.A.R.E.)		
JAMES E. RITCHIE & ASSOCIATES SUITE 400 400 S. CAPITOL ST., SW WASHINGTON DC 20003	GAMING INDUSTRY ASSN OF NEVADA, INC.	3,200.00	674.45
Do	NATIONAL ASSN OF OFF-TRACK BETTING	2,000.00	1,230.52
Do	NATIONAL ASSN OF OPTOMETRISTS & OPTICIANS, INC		
Do	NEVADA RESORT ASSN	4,800.00	1,011.00
STARK RITCHIE 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST		
RIVKIN, SHERMAN AND LEVY 900 17TH STREET, NW #1100 WASHINGTON DC 20006	TOYOTA MOTOR CORPORATION	2,725.00	110.00
NICHOLAS A. RIZZO JR. SUITE 1007 1625 EYE STREET, NW WASHINGTON DC 20006	BENCO, INC.		
WALTER BRUCE ROBB 527 LANDER STREET RENO NV 89509	DATAPOINT CORPORATION		
ELIZABETH JANE ROBBINS 43 D STREET, S.E. WASHINGTON DC 20003	NATIONAL MUSIC PUBLISHERS ASSN, INC.	16,168.00	
Do	SCHOLASTIC MAGAZINES, INC.	3,705.00	
Do	SHEARSON/AMERICAN EXPRESS, INC.	3,900.00	
GEORGE ROBERTS 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
PATRICIA L. ROBERTS SUITE 1107 1825 K STREET, NW WASHINGTON DC 20006	PHILLIPS PETROLEUM CO		
PERRY A. ROBERTS 8000 W FLORISSANT ST. LOUIS MO 63136	EMERSON ELECTRIC CO		1,241.44
RICHARD R. ROBERTS 1899 L STREET, N.W. SUTIE 403 WASHINGTON DC 20036	OUTDOOR ADVERTISING ASSOCIATION OF AMERICA, INC.	289.00	265.00
JOHN S. ROBERTSON THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)	1,260.00	42.00
Do	GRAY AND COMPANY (FOR: MULTI-FAMILY ACTION COUNCIL)	1,953.00	96.00
BETTY S. ROBINSON 1757 N ST., NW WASHINGTON DC 20036	UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS	9,045.14	150.50
CHARLES A. ROBINSON JR 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	173.42	
RONN ROBINSON 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
THOMAS E. ROBINSON SUITE 700 1101 17TH STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF REAL ESTATE INVESTMENT TRUST, INC	374.00	14.00
ROBINSON, SILVERMAN, PEARCE, ARONSOHN & BERMAN 230 PARK AVE. NEW YORK NY 10169	NATIONAL REALTY COMMITTEE		
ANTOINETTE K. ROCHE 2021 K ST., NW, SUITE 709 WASHINGTON DC 20006	GENERAL ATOMIC CO	1,000.00	200.00
THOMAS G. RODERICK 1101 16TH ST., NW, #400 WASHINGTON DC 20036	CONSOLIDATED NATURAL GAS SERVICE CO., INC	4,080.00	
RODEY, DICKASON, SLOAN, AKIN & ROBB P.O. BOX 1888 ALBURQERQUE NM 87103	NAVAJO TRIBE		555.60
QUINCY RODGERS 1200 NEW HAMPSHIRE AVE., NW SUITE 320 WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION		48.24
WILLI ROELLI FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
ROGERS & WELLS 1666 K ST., NW WASHINGTON DC 20006	A. JOHNSON & CO, INC.		
Do	DESERT PALACE, INC.		
Do	MAGIC PANTRY FOODS, INC.	95.00	
Do	MERRILL LYNCH COMMODITIES, INC.	285.00	
Do	MERRILL LYNCH INTERNATIONAL INC.		
Do	MERRILL LYNCH LEASING, INC.		
Do	NATIONAL COAL CONSUMERS ALLIANCE		
Do	PAN AMERICAN WORLD AIRWAYS, INC		
Do	SQUIBB CORP		
Do	TEACHERS INSURANCE & ANNUITY ASSN/COLLEGE RET. EQUITIES FUND		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	20TH CENTURY FOX FILM CORPORATION		
BRUCE M. ROGERS 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	2,255.95
DONALD L. ROGERS 730 15TH ST., NW WASHINGTON DC 20005	ASSOCIATION OF BANK HOLDING COS	1,900.00	
ROGERS HOGE & HILLS SUITE 301 1111 19TH STREET, NW WASHINGTON DC 20036	FORMALDEHYDE INSTITUTE		
Do	NATIONAL ASSN OF CHAIN DRUG STORES		
JAMES T. ROGERS 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		
MARGARET ROGERS 1730 NORTH LYNN ST. ARLINGTON VA 22209	PRINTING INDUSTRIES OF AMER, INC	2,000.00	
SUSAN M. ROGERS 1600 RHODE ISLAND AVE.,NW WASHINGTON DC 20036	NATIONAL RIFLE ASSN OF AMER	612.50	
TERRENCE L. ROGERS 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES	9,343.81	132.50
CAROLE M. ROGIN 1800 M ST., NW, #1030 #1030 WASHINGTON DC 20036	HAUCK & ASSOCIATES, INC (FOR: HEARING INDUSTRIES ASSN)		
Do	HAUCK & ASSOCIATES, INC. (FOR: NATIONAL ASSN FOR CHILD CARE MANAGEMENT).		
MARTIN ROGOL 200 EAST 90TH STREET NEW YORK NY 10028	NATIONAL COALITION OF TELECOMMUNICATIONS USERS & PROVIDERS	12,000.00	
RICHARD A. ROHRBACH 1625 I ST., NW SUITE 809 WASHINGTON DC 20006	BOISE CASCADE CORP	22,250.00	3,136.00
JACK ROLLINS 1201 16TH STREET, NW WASHINGTON DC 20036	OVERSEAS EDUCATION ASSN & NATIONAL EDUCATION ASSN		
JOHN F. ROLPH III SUITE 350 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	CITIBANK, N.A.	1,500.00	
KENNETH S. ROLSTON JR 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PULPWOOD ASSN		
EMIL A. ROMAGNOLI 120 BROADWAY NEW YORK NY 10271	ASARCO INC	600.00	746.00
TENO RONCALIO P.O. BOX 1707 CHEYENNE WY 82001	ENERGY FUELS CORP	2,500.00	
Do	NORTHWEST ALASKAN PIPELINE CO & COLORADO INTERSTATE GAS CO		
TATIANA ROODKOWSKY 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	2,500.00	35.00
NICHOLAS ROOMY JR P.O. BOX 1986 CHARLESTON WV 25327	APPALACHIAN POWER COMPANY	403.80	717.00
FRED B. ROONEY 1050 THOMAS JEFFERSON ST., NW SIXTH FL WASHINGTON DC 20007	PAUL, HASTINGS, JANOFSKY & WALKER (FOR: AM GENERAL CORPORATION)	200.00	
Do	AMERICAN IRON AND STEEL INSTITUTE	150.00	
Do	ASSOCIATION OF AMERICAN RAILROADS	350.00	
Do	CALIFORNIA PORTLAND CEMENT COMPANY	100.00	
Do	PAUL, HASTINGS, JANOFSKY & WALKER (FOR: SECURITY LIFE OF DENVER)	300.00	
JOHN C. ROOTS SUITE 1001 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	202.31	
ROPES & GRAY SUITE 300 1200 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	AMHERST COLLEGE; WELLESLEY COLLEGE		
Do	DOW CORNING CORP	115.00	115.00
LOUISE L. ROSEMAN SUITE 603 1620 I STREET, NW WASHINGTON DC 20006	VISA U.S.A., INC		
RICHARD ROSEN SUITE 118 5010 WISCONSIN AVENUE, NW WASHINGTON DC 20016			
ALBERT B. ROSENBAUM III 1616 P ST., NW WASHINGTON DC 20036	NATIONAL TANK TRUCK CARRIERS, INC		
SARA ROSENBAUM 1520 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	CHILDREN'S DEFENSE FUND	750.00	772.00
FRANCIS C. ROSENBERGER 6809 MELROSE DRIVE MCLEAN VA 22101	NATIONAL CONFERENCE OF BANKRUPTCY JUDGES	3,750.00	
PETER ROSENSTEIN SUITE 700 2341 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	AMERICAN ACADEMY OF PHYSICIAN ASSISTANTS	692.30	
ROGER C. ROSENTHAL SUITE 600 806 15TH STREET, NW WASHINGTON DC 20005	MIGRANT LEGAL ACTION PROGRAM, INC	72.23	
ROSES, INC. 1152 HASLETT ROAD P.O. BOX 99 HASLETT MI 48840		9,792.21	7,808.14
JOE ROSS 927 DONAGHEY BLDG. LITTLE ROCK AR 72201			
WILLIAM F. ROSS SOUTH CAROLINA PETROLEUM COUNCIL 716 KEENAN BLDG. COLUMBIA SC 29201	AMERICAN PETROLEUM INST		
GARY W. ROSSOW 1909 K ST., NW SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC	400.00	
ALAN J. ROTH SPIEGEL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	FT. PIERCE UTILITIES AUTH OF THE CITY OF FT. PIERCE, ET AL		
BARRY N. ROTH 1750 K ST., NW, #350 WASHINGTON DC 20006	WILLIAMS COMPANIES	100.00	
DONALD D. ROUNDS SOUTH DAKOTA PETROLEUM COUNCIL P.O. BOX 669 PIERRE SD 57501	AMERICAN PETROLEUM INST	500.00	813.00
WILLIAM C. ROUNTREE 1001 22ND ST., NW SUITE 600 WASHINGTON DC 20037	STANDARD OIL CO (OHIO)		
MICHAEL O. ROUSH 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
ROUSS & O'ROURKE 231 E. VERMIJO COLORADO SPRINGS CO 80903	UNION NACIONAL DE PRODUCTORES DE AZUCAR	2,725.00	4,063.48
MARK ROVNER 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	4,180.03	
EUGENE F. ROWAN 1156 15TH ST., NW WASHINGTON DC 20005	J. C. PENNEY CO, INC		
JAMES C. ROWLAND JR 1100 15TH STREET NW WASHINGTON DC 20005	UNION CARBIDE CORP		
JOHN W. ROWLAND 5025 WISCONSIN AVE.,NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
KEVIN P. ROWLAND 511 C STREET, NE WASHINGTON DC 20002	CONTINENTAL ASSN OF RESOLUTE EMPLOYERS (C.A.R.E.)		
TOBI Z. ROZEN 910 17TH STREET, NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		
JAMES S. RUBIN 1150 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	ALLIED CHEMICAL CORP	306.00	
PAUL M. RUDEN WILNER & SCHEINER 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	AMERICAN SOCIETY OF TRAVEL AGENTS		
DEBORAH K. RUDOLPH 1225 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN PUBLIC TRANSIT ASSN	3,500.00	70.00
JOHN C. RUNYAN 444 NORTH CAPITOL STREET, N. W. SUITE 409 WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
CLARKE RUPERT 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS	1,416.66	28.90
LEONARD H. RUPPERT NEW JERSEY PETROLEUM COUNCIL 170 W. STATE ST. TRENTON NJ 08608	AMERICAN PETROLEUM INST	255.00	
CHARLOTTE RUSH SUITE 700 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	GULF OIL CORP	75.00	28.50
ALBERT R. RUSSELL PO BOX 12285 MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	398.23	
BARRY RUSSELL 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		50.00
CHRISTINE ANNE RUSSELL 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	7,300.00	293.14
JOHN R. RUSSELL JOHNSON, SMITH & HIBBARD 220 N. CHURCH STREET, SUITE 6 P.O. BOX 5524 SPARTANBURG SC 29304.	MILLIKEN & COMPANY		
RANDALL M. RUSSELL PILLSBURY CENTER MINNEAPOLIS MN 55402	PILLSBURY COMPANY		
ROBERT M. RUSSELL 2170 PIEDMONT RD., NE ATLANTA GA 30324	ORKIN EXTERMINATING CO	264.00	701.00
WALLY RUSTAD 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	50.00	
HERMAN MAX RUTH BOX 1000 OTISVILLE, NY 10963			
J. T. RUTHERFORD & ASSOCIATES, INC. SUITE 514 1800 L ST., NW WASHINGTON DC 20036	AMERICAN ASSN OF BIOANALYSTS/INTL SOC OF CLINICAL LAB TECHS		123.40
Do	AMERICAN COLLEGE OF RADIOLOGY		75.30
Do	AMERICAN OPTOMETRIC ASSN		101.20
SHERYL P. RUTLEDGE 1100 N ST., NW WASHINGTON DC 20009	WASHINGTON GAS LIGHT CO		
ELLA MARICE RYAN 1156 15TH ST., NW WASHINGTON DC 20005	J. C. PENNEY CO, INC	100.00	
FRANK T. RYAN 1901 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	RUBBER MANUFACTURERS ASSN	2,500.00	
JOHN F. RYAN 1707 L ST., NW, #200 WASHINGTON DC 20036	INTERNATIONAL TELEPHONE & TELEGRAPH CORPORATION	114.00	20.00
JOHN G. RYAN 1700 K STREET, NW WASHINGTON DC 20006	SQUIBB CORP		
JOSEPH RYAN SUITE 800 1725 DESALES STREET, NW WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION	3,186.46	173.46
VINCENT J. RYAN 300 INDEPENDENCE AVENUE, SE WASHINGTON DC 20003	LIBERTY LOBBY, INC		
PAUL R. SACIA 101214TH ST.,NW WASHINGTON DC 20005	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	4,038.47	103.38
THOMAS L. SAGER 1701 PENNSYLVANIA AVE., NW SUITE 1120 WASHINGTON DC 20006	E. I. DU PONT DE NEMOURS & CO	42.00	
SAMARITAN HEALTH SERVICE 1410 NORTH 3RD ST. P.O. BOX 25489 PHOENIX AZ 85002			2,640.00
SAMMONS ENTERPRISES, INC. 403 SOUTH AKARD ST. DALLAS TX 75202			
FRANK P. SANDERS 1575 I ST, NW WASHINGTON DC 20005	SIGNAL COMPANIES, INC	1,000.00	
CHARLES W. SANDFORD 15740 SHADY GROVE RD. GAITHERSBURG MD 20877	BECHTEL POWER CORP		
CHARLES E. SANDLER 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	5,000.00	
PETER G. SANDLUND 1725 EYE ST., NW, #315 WASHINGTON DC 20006	COUNCIL OF EUROPEAN & JAPANESE NATIONAL SHIPOWNERS' ASSN	300.00	
CHARLES SAPP 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC		1,900.32
KLARA B. SAUER 9 VASSAR STREET POUGHKEEPSIE NY 12601	SCENIC HUDSON, INC	385.00	
ALBERT C. SAUNDERS 1155 15TH ST., NW SUITE 900 WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	45.85
SAVE OUR SECURITY SUITE 222 1201 16TH STREET, NW WASHINGTON DC 20036		30,319.75	19,070.74
HENRY SCHACHT 3100 FERRY BLDG. SAN FRANCISCO CA 94106	CALIFORNIA CANNERS & GROWERS		
VICTORIA V. SCHAFF SUITE 1014 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	ENSERCH CORPORATION	1,875.00	1,376.50
MARK L. SCHAFFER ASHCRAFT & GEREL 2000 L STREET, NW, #700 WASHINGTON DC 20036	AMERICAN FED OF LABOR & CONGRESS OF INDUSTRIAL ORGANIZATIONS	5,919.00	35.00
HAROLD A. SCHAITBERGER 1750 NEW YORK AVE. WASHINGTON DC 20006	INTERNATIONAL ASSN OF FIRE FIGHTERS	11,486.28	
JEROME D. SCHALLER 1101 15TH ST., NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO	10,000.00	
HERBERT Y. SCHANDLER 475 L'ENFANT PLAZA, SW, #4400 WASHINGTON DC 20024	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE	2,000.00	28.45
JAY T. SCHECK JR. SUITE 802 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN HOECHST CORPORATION		
MARC J. SCHEINESON 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	FINLEY KUMBLE WAGNER HEINE UNDERBERG & CASEY	500.00	
DALE E. SCHELL 1919 PENNSYLVANIA AVE., NW, #300 WASHINGTON DC 20006	GATX CORP		
JANE N. SCHERER SUITE 1204 1700 K STREET, NW WASHINGTON DC 20006	CHEVRON U.S.A., INC	100.00	
JACQUES T. SCHLENGER 1800 MERCANTILE BANK & TRUST BLDG. 2 HOPKINS PLAZA BALTIMORE MD 21201	MARYLAND SAVINGS SHARE INSURANCE CORP		163.29
JAMES P. SCHLICHT 444 NORTH CAPITOL STREET, N.W. SUITE 409 WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
KENNETH D. SCHLOMAN 1600 RHODE ISLAND AVENUE, N.W. WASHINGTON DC 20036	NATIONAL RIFLE ASSOCIATION OF AMERICA	875.00	58.95
SCHLOSSBERG-CASSIDY & ASSOCIATES,INC. 955 L'ENFANT PLAZA, S.W. SUITE 1401 WASHINGTON DC 20024	BOSTON UNIVERSITY	2,125.00	162.00
Do	OCEAN SPRAY CRANBERRIES, INC	625.00	5.00
Do	TUFTS UNIVERSITY	1,250.00	15.00
FOREST S. SCHMELING 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	500.00	83.00
RICHARD M. SCHMIDT JR SUITE 600 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	COHN AND MARKS	500.00	
ARTHUR L. SCHMUHL 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
FRANK SCHMELLER 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
MICHAEL M. SCHOOR SUITE 409 444 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC	2,500.00	
SCHRADER-LAUTH & ASSOCIATES, INC. 1600 WILSON BOULEVARD ARLINGTON VA 22209	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER	15,000.00	6,587.71

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JACK J. SCHRAMM SUITE 607 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	WASTE MANAGEMENT, INC	2,000.00	
ROBERT L SCHRAMM 1725 K ST., NW, #909 WASHINGTON DC 20006	SUPERIOR OIL CO & SUPERIOR FARMING CO		
N. DONALD SCHROEDER MARYLAND PETROLEUM ASSN 60 WEST ST. ANNAPOLIS MD 21401	AMERICAN PETROLEUM INST	256.00	386.60
STANLEY W. SCHROEDER 1901 N. FT. MYER DRIVE ARLINGTON VA 22209	GAS APPLIANCE MFGRS ASSN, INC		91.30
MARK SCHULTZ 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	5,000.00	90.60
WILLIAM B. SCHULTZ SUITE 700 2000 P ST., NW WASHINGTON DC 20036	PUBLIC CITIZEN, INC		
ROBERT L. SCHULZ C/O IOWA PETROLEUM COUNCIL 1012 FLEMING BLDG. DES MOINES IA 50309	AMERICAN PETROLEUM INST	562.50	638.75
WALTER A. SCHUMANN III 1511 NATALIE JOY LN. MCLEAN VA 22101	POTOMAC OVERLOOK ASSOCIATES		
JAMES H SCHUYLER 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
DONALD H. SCHWAB 200 MARYLAND AVE., NE WASHINGTON DC 20002	VETERANS OF FOREIGN WARS OF THE U.S.	5,000.00	781.90
SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS 1200 STANDARD PLAZA PORTLAND OR 97204	NATIONAL FOREST PRODUCTS ASSN		1,648.20
Do	NORTHWEST INLAND WATERWAYS COMMITTEE	7,824.37	28.23
HARRY K. SCHWARTZ 1800 M ST., NW SUITE 400 SOUTH WASHINGTON DC 20036	TOSCO CORPORATION	2,500.00	
RICHARD SCHWARTZ 880 S. PICKETT ST. ALEXANDRIA VA 22304	BOAT OWNERS ASSOCIATION OF THE U.S.	4,000.00	
STEVE AARON SCHWARTZ 818 ROEDER ROAD SUITE 702 SILVER SPRING MD 20910	INTERNATIONAL FED OF PROFESSIONAL & TECHNICAL ENGINEERS		
CARL W. SCHWARZ ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	METZGER, SHADYAC & SCHWARZ (FOR: MOLDOW DUST CONTROL, INC)		
SCIENTIFIC APPARATUS MAKERS ASSN 1101 16TH ST., NW WASHINGTON DC 20036		6,798.57	4,452.15
MICHAEL SCIULLA 880 S. PICKETT ST. ALEXANDRIA VA 22304	BOAT OWNERS ASSOCIATION OF THE U.S.	4,000.00	
HAROLD B. SCOGGINS 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		40.80
SCRIBNER HALL & THOMPSON SUITE 700 1875 EYE STREET, NW WASHINGTON DC 20006	OCCIDENTAL LIFE INSURANCE CO OF CALIFORNIA	7,500.00	
Do	SECURITY LIFE & ACCIDENT INSURANCE CO.		
EARL W. SEARS P.O. BOX 12285 MEMPHIS TN 38112	NATIONAL COTTON COUNCIL OF AMER	1,205.00	40.50
SANDY SEDACCA 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	763.93	
JOSEPH E. SEAGRAM & SONS, INC. 375 PARK AVE., NEW YORK, NY 10152		896.25	
CHARLES M. SEEGER III SUITE 802 2000 L STREET, NW WASHINGTON DC 20036	POPHAM, HAIK ET AL (FOR: CHICAGO MERCANTILE EXCHANGE)		
Do	POPHAM, HAIK ET AL. (FOR NEWCOMB SECURITIES CO)		
H. RICHARD SEIBERT JR 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	407.00	
PAUL J. SEIDMAN 5201 LEESBURG PIKE 9TH FLOOR FALLS CHURCH, VA 22041	JOSEPH J. PETRILLO, P.C. (FOR: NATIONAL ASSN OF AIRCRAFT & COMMUNICATIONS SUPPLIERS, INC).	1,220.00	
SEIFMAN, SEMO & SLEVIN P.C., 1000 POTOMAC ST., NW WASHINGTON D.C. 20007	UNITED FOOD & COMMERICIAL WORKERS' INT'L. UNION		
GEORGE M. SEITTS SUITE 900 1015 15TH STREET, NW WASHINGTON DC 20005	NORTHERN PLAINS NATURAL GAS CO	1,300.00	
ARMSTEAD I. SELDEN SUITE 4400 475 L'ENFANT PLAZA, SW WASHINGTON, DC 20024	AMERICAN LEAGUE FOR EXPORTS & SECURITY ASSISTANCE	15,000.00	49.25
STANTON P. SENDER 1211 CONNECTICUT AVE., NW WASHINGTON DC 20036	SEARS, ROEBUCK AND CO	2,025.00	38.70
DAVID SENTER 100 MARYLAND AVENUE, N.E. SUITE 500A, BOX 69 WASHINGTON DC 20002	AMERICAN AGRICULTURE MOVEMENT, INC	4,500.00	
STUART D. SERKIN SUITE 3210 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	SLURRY TRANSPORT ASSN	1,000.00	
SARAH SETTON 1511 K ST., NW WASHINGTON DC 20005	SUGAR ASSOCIATION, INC.	115.00	54.90
SEVEN MONTHS SESSION FOR CONGRESS 3306 YELLOWSHIRE TERRACE AUSTIN TX 78757			557.00
SEWARD & KISSEL 919 18TH ST., NW WASHINGTON DC 20006	HALLAC ASSOCIATES, INC.		
Do	MERRILL LYNCH MONEY MARKETS, INC.		
Do	SEWARD & KISSEL		
J. RICHARD SEWELL 1111 19TH ST., NW, #1102 WASHINGTON DC 20036	FLORIDA POWER & LIGHT CO	1,540.00	589.30
SEYFARTH SHAW FAIRWEATHER & GERALDSON 1111 19TH ST., NW WASHINGTON DC 20036	AGRICULTURAL PRODUCERS	13,240.04	
Do	NATIONAL MULTI HOUSING COUNCIL		
Do	SHIPBUILDERS COUNCIL OF AMERICA		
CLIVE SEYMOUR P.O. BOX 2511 1010 MILAM, RM. 1657-B HOUSTON TX 77001	TENNESSEE GAS PIPELINE CO	143.83	10.00
SHACK & KIMBALL, P.C. 1129 20TH ST., NW SUITE 500 WASHINGTON DC 20036	EAZOR EXPRESS, INC		
Do	FIVE TRIBES CONFEDERACY OF NORTH CENTRAL OKLAHOMA		
Do	KIOWA-COMANCHE-APACHE INTERTRIBAL LAND USE COMMITTEE		
Do	KOOTZNOOWOO, INC		
Do	SENECA-CAYUGA TRIBE OF OKLAHOMA		
Do	UKPEAGVIK INUPIAT CORPORATION		
YVONNE L. SHAFER 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN		
BARBARA J. SHAILOR 1300 CONNECTICUT AVE., NW WASHINGTON DC 20036	INTERNATIONAL ASSN OF MACHINISTS & AEROSPACE WORKERS		
WILLIAM H. SHAKER SUITE 600 1523 L STREET, NW WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE	5,000.00	45.00
JAMES M. SHAMBERGER 1025 CONNECTICUT AVE., NW, #512 WASHINGTON DC 20036	REINSURANCE ASSN OF AMER		
SHAMROCK FOODS CO. 2228 N. BLACK CANYON PHOENIX AZ 85009			90.00
LLOYD D. SHAND 1101 [illegible] ST., NW WASHINGTON DC 20036	MONSANTO CO	400.00	91.60
SHANK, IRWIN, CONANT & WILLIAMSON SUITE 210 1300 19TH STREET, NW WASHINGTON DC 20036	ASSOCIATION FOR EQUAL ACCESS TO NATURAL GAS MRKTS & SUPPLIES	12,449.50	8.80
Do	DOW CHEMICAL CO	1,890.00	103 67
DEBBIE SHANNON 5TH FLOOR 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	293.21
DAVID LEWIS SHAPIRO SUITE 409 444 N. CAPITOL ST., NW WASHINGTON DC 20001	ASSOCIATED BUILDERS & CONTRACTORS, INC		
HARRY D. SHAPIRO 1800 MERCANTILE BANK & TRUST BLDG. TWO HOPKINS PLAZA BALTIMORE MD 21201	MARYLAND SAVINGS-SHARE INSURANCE CORP.		163.29
NORMAN F. SHARP 1100 17TH ST., NW SUITE 1201 WASHINGTON DC 20036	CIGAR ASSN OF AMERICA, INC.		
G. JERRY SHAW P.O. BOX 7610, BEN FRANKLIN STATION WASHINGTON DC 20044	SENIOR EXECUTIVES ASSOCIATION	415.36	
LUTHER W. SHAW SUITE 514 1155 15TH ST., NW WASHINGTON DC 20005	NATIONAL AGRICULTURAL CHEMICALS ASSN	5,625.00	56.50
SHAW PITTMAN POTTS & TROWBRIDGE 1800 M ST., NW, #900-S WASHINGTON DC 20036	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER		
Do	ATLAS MINERALS DIVISION	639.00	
Do	CAYMAN TURTLE FARM, LTD.		
Do	CONSOLIDATED GRAIN & BARGE CO.		
Do	EMERSON ELECTRIC CO		
Do	INSTITUTE OF FOREIGN BANKERS	4,000.00	
Do	INVESTMENT COMPANY INSTITUTE	1,200.00	
Do	INVESTMENT COUNSEL ASSN OF AMERICA, INC.		
Do	NATIONAL COMM ON SMALL ISSUE INDUSTRIAL DEVELOPMENT BONDS	8,401.00	37.25
Do	UTILITY NUCLEAR WASTE MANAGEMENT GROUP	2,070.88	54.37
Do	FARMERS FOR FAIRNESS		
SHEA & GOULD 330 MADISON AVE. NEW YORK NY 10017	CHAMPION INTERNATIONAL CORP		
Do	CINCINNATI MILACRON		
Do	ELEANOR A. CLARK	14,845.41	53.33
Do	NABISCO, INC.	35,000.00	97.80
MAUREEN SHEA 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	8,250.00	165.45
JOHN J. SHEEHAN 815 16TH ST., NW, #706 WASHINGTON DC 20006	UNITED STEELWORKERS OF AMER	12,360.52	
KATHLEEN SHEEKEY 3RD FLOOR 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	7,500.00	674.29
JOHN P. SHEFFEY P.O. BOX 1406 5535 HEMPSTEAD WAY SPRINGFIELD VA 22151	NATIONAL ASSN FOR UNIFORMED SERVICES	586.20	
DEBRA K. SHELTON SUITE 1300, 425 13TH STREET, NW WASHINGTON DC 20004	DISTILLED SPIRITS COUNCIL OF THE U.S., INC.	500.00	42.00
LOIS BURKE SHEPARD 8602 HIDDEN HILL LANE POTOMAC MD 20854	REPUBLICANS ABROAD		
SEYMOUR SHERIFF 1126 WOODWARD BLDG. WASHINGTON DC 20005	MAN-MADE FIBER PRODUCERS ASSN, INC		
JAY SHERMAN 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	4,145.60	1,025.78
DALE SHERWIN 1735 I ST., NW, #717 WASHINGTON DC 20006	A.E. STALEY MFGR CO	1,500.00	210.00
Do	ALABAMA FARM BUREAU FEDERATION	1,500.00	210.00
RUSSELL L. SHIPLEY JR 1430 K ST., NW, #1000 WASHINGTON DC 20005	NATIONAL CANDY WHOLESALERS ASSN, INC		
SHIPLEY SMOAK & HENRY SUITE 820 910 17TH ST., NW WASHINGTON DC 20006	BLUEJAY OIL COMPANY		
Do	FEDERATED DEPARTMENT STORES, INC.	3,000.00	
Do	FLANIGAN'S ENTERPRISES, INC.		
Do	FORT SILL GARDENS, INC.		
Do	NATIONAL COMMITTEE OF DISCOUNT SECURITIES BROKERS		
Do	STEADMAN MUTUAL FUNDS		
Do	STEADMAN SECURITY CORPORATION		
Do	U.S.-NAMIBIA/SWA TRADE & CULTURAL COUNCIL, INC.	5,000.00	
Do	WBNO RADIO AND WLKM RADIO		
HARVEY A. SHIPMAN 1776 G ST., NW, #502 WASHINGTON DC 20006	PENN CENTRAL CORPORATION	50.00	160.00
FRED B. SHIPPEE 1611 N. KENT ST., #800 ARLINGTON VA 22209	AMERICAN APPAREL MANUFACTURERS ASSN, INC		
SHIPPERS NATIONAL FREIGHT CLAIM COUNCIL, INC 425 13TH STREET N.W. SUITE 915 WASHINGTON DC 20004			
MARY FRANCES SHLAGEL 1100 CONNECTICUT AVE., NW, #800 WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		
W. RAY SHOCKLEY 1101 CONNECTICUT AVE., NW, #300 WASHINGTON DC 20036	AMERICAN TEXTILE MFRS INST	2,550.00	11.00
DEBBIE LEILANI SHON 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	1,891.80	29.55
SCOTT SHOTWELL 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	2,475.00	
RICHARD G. SHOUP SUITE 600 SOUTH 1120 20TH ST. NW WASHINGTON DC 20036	UNION PACIFIC CORPORATION	2,850.00	1,594.71
A. Z. SHOWS 1801 COLUMBIA RD., NW, ROOM 203, WASHINGTON DC 20009		2,815.00	2,815.00
JOHN SHUEY P.O. BOX 3151, HOUSTON TX 77007	BROWNING-FERRIS INDUSTRIES, INC.	7,500.00	374.17
NORMAN D. SHUTLER 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20009	CLAYTON MFRG CO.	6,000.00	3,500.00
CANDICE J. SHY 1025 CONNECTICUT AVE., NW, #1014 WASHINGTON DC 20036	ENSERCH CORPORATION	3,625.00	1,264.99
SARA SIBLEY SUITE 1104 1800 K STREET, NW WASHINGTON DC 20006	MANUFACTURER'S OF EMISSION CONTROLS ASSN	2,500.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
MARK A. SIEGEL & ASSOCIATES SUITE 368 400 NORTH CAPITOL STREET, NW WASHINGTON DC 20001	ARCHER DANIELS MIDLAND CO	6,000.00	
Do	CAN-AMERICAN CORP		
Do	COUZENS DISTRIBUTION SYSTEM	1,500.00	
Do	TWIN CITY BARGE, INC	4,000.00	
BERNARD H. SIERACKI ILLINOIS PETROLEUM COUNCIL 79 W. MONROE ST., #514 CHICAGO IL 60603	AMERICAN PETROLEUM INST	500.00	445.30
MARK SILBERGELD 1511 K ST., NW SUITE 1033 WASHINGTON DC 20005	CONSUMERS UNION OF U.S., INC	2,200.00	12.50
DAVID SILVER 1775 K ST., NW WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE	308.70	9.00
SILVER USERS ASSN, INC 1717 K ST., NW WASHINGTON DC 20006		969.00	2,657.36
BRUCE A. SILVERGLADE 1755 S STREET, NW WASHINGTON DC 20009	CENTER FOR SCIENCE IN THE PUBLIC INTEREST	2,000.00	15.00
BARBARA ANN SILVERMAN 2500 DEKALP PIKE NORRISTOWN PA 19404	PROVIDENT INDEMNITY LIFE INSURANCE CO		
SILVERSTEIN & MULLENS 1776 K ST., NW WASHINGTON DC 20006	AMERICAN STOCK EXCHANGE		
Do	ASSOCIATION FOR ADVANCED LIFE UNDERWRITING	15,000.00	
Do	CHAMPION INTL CORP		
Do	FEDERAL NATIONAL MORTGAGE ASSN		
Do	HWL PROPERTIES	1,500.00	
Do	MUSIC CORP OF AMER, INC		
Do	NATIONAL SAVINGS & LOAN LEAGUE		
GARY D. SIMMS 1957 E STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
DON SIMON 3RD FLOOR 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	725.00	
SIMON, DEITCH, SIEFMAN, TUCKER & FRIEDMAN, PC SUITE 1500 4000 TOWN CENTER SOUTHFIELD MI 48075	FIRST NATIONAL MONETARY CORP		
TALMAGE E. SIMPKINS 100 INDIANA AVE., NW WASHINGTON DC 20001	AFL-CIO MARITIME COMM	300.00	262.91
Do	LABOR-MANAGEMENT MARITIME COMMITTEE	1,302.60	153.07
C. KYLE SIMPSON 1515 WILSON BLVD. ARLINGTON VA 22209	AMERICAN GAS ASSN	3,250.00	1,852.81
JEAN SINDAB 2480 16TH ST., NW, #610 WASHINGTON DC 20009	WASHINGTON OFFICE ON AFRICA	4,280.01	
ROBERT C. SINGER 475 PARK AVE., SO. AT 32ND ST. NEW YORK NY 10016	SOAP & DETERGENT ASSN		
MARGOT A. SINGLETON SUITE 600 1523 L STREET, NW WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE	3,500.00	50.00
GREGG P. SKALL, BLUM & NASH 1015 18TH STREET, NW WASHINGTON DC 20036	DAYTIME BROADCASTERS ASSN		8.00
Do	GENERAL ELECTRIC COMPANY		8.00
Do	TIME, INC		8.00
ANGELA G. SKELTON N.C. PETROLEUM COUNCIL P.O. BOX 167 RALEIGH NC 27602	AMERICAN PETROLEUM INSTITUTE		
WILLIAM J. SKINNER 815 15TH ST., NW WASHINGTON DC 20005	U.S. PHARMACOPEIAL CONVENTION, INC	1,261.36	50.37
BARNEY J. SKLADANY JR 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBIL OIL CORP	1,125.00	
RUTH L. SKY 2211 CONGRESS ST. PORTLAND ME 04122	UNION MUTUAL LIFE INSURANCE CO	48.00	368.75
CARSTENS SLACK 1825 K ST., NW SUITE 1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY		
SLADE, PELLMAN & BIEHL 850 THIRD AVENUE NEW YORK NY 10022	LAURA H. BEER, ET AL	5,000.00	425.20
F. SLATINSHEK & ASSOCIATES, INC. 1102 BELLE VISTA DR. ALEXANDRIA VA 22307	GRUMMAN AEROSPACE, D.L. LYNCH & ASSOC & GULFSTREAM AMERICAN	400.00	
BETH SUSAN SLAVET, RM 164, 1776 PENNSYLVANIA AVE., NW WASHINGTON DC 20547	AMERICAN FED. OF GOV'T. EMPLOYEES, LOCAL 1812		
JOHN H. SLAYTON ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	METZGER, SHADYAC & SCHWARZ (FOR: MOLDOW DUST CONTROL, INC)		
MATTHEW B. SLEPIN SUITE 1100 1828 L STREET, NW WASHINGTON DC 20036	COOPERATIVE LEAGUE OF THE USA	230.00	
CATHERINE REISS SLOAN 1850 K STREET, NW WASHINGTON DC 20006	SHOOSHAN & JACKSON, INC (FOR: U.S. CABLESYSTEMS, INC)	90.00	10.00
SMALL BUSINESS LEGISLATIVE COUNCIL 1604 K ST., NW WASHINGTON DC 20006		3,000.00	1,437.64
DONALD E. SMILEY 1899 L ST., NW, #1100 WASHINGTON DC 20036	EXXON CORPORATION		307.78
JAMES R. SMIRCINA P.O. BOX 5000 CLEVELAND OH 44101	CLEVELAND ELECTRIC ILLUMINATING CO	717.50	434.86
ARTHUR J. SMITH 1025 CONNECTICUT AVE., NW, #200 WASHINGTON DC 20036	SHELL OIL CO	500.00	
CATHERINE S. SMITH 1025 CONNECTICUT AVENUE, N.W. SUITE 209 WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE	112.50	25.00
CHARLES R. SMITH 919 18TH ST., NW, #400 WASHINGTON DC 20006	DIAMOND SHAMROCK CORPORATION		
SMITH DAWSON ASSOCIATES, INC SUITE 1200 1730 RHODE ISLAND AVENUE, NW WASHINGTON DC 20036	METROPOLITAN TRANSPORTATION AUTHORITY	4,875.00	5,390.00
ELIZABETH M. SMITH 815 16TH ST., NW, #310 WASHINGTON DC 20006	AMALGAMATED CLOTHING & TEXTILE WORKERS UNION	4,744.48	7,461.60
GORDON L. SMITH 1201 PENNSYLVANIA AVE., NW, #70 WASHINGTON DC 20004	HILL & KNOWLTON, INC (FOR: FLORISTS' TRANSWORLD DELIVERY ASSN)	8,250.00	
GRACE H. SMITH 1800 M STREET, NW WASHINGTON DC 20036	TELOCATOR NETWORK OF AMERICA	8,077.00	411.98
JEFFREY A. SMITH SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC	50.00	29.00
JULIAN H. SMITH JR. 600 NORTH 18TH STREET BIRMINGHAM AL 35291	ALABAMA POWER COMPANY	10,070.97	7,020.78
KERN SMITH BOX 24200 SW STATION WASHINGTON DC 20024	AMERICAN HEALTH INDUSTRIES	2,250.00	
MICHAEL P. SMITH 485 LEXINGTON AVE. NEW YORK NY 10017	NEW YORK STATE BANKERS ASSN	1,140.00	1,785.00
ROBERT BLAND SMITH JR 1155 15TH ST., NW WASHINGTON DC 20005	PHARMACEUTICAL MANUFACTURERS ASSN	4,000.00	54.15
ROBERT N. SMITH SUITE 210 255 EAST BROWN STREET, BIRMINGHAM MI 48011	UNITED DISTRIBUTION CO		
ROBERT T. SMITH 1625 EYE STREET NW #902 WASHINGTON DC 20006	WEYERHAEUSER CO	500.00	49.65
THOMAS BLAISDELL SMITH 1146 19TH STREET, N.W. WASHINGTON DC 20036	COMMUNITY NUTRITION INSTITUTE		
WILLIAM H. SMITH 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN		
WAYNE H. SMITHEY 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	FORD MOTOR CO	1,125.00	849.30
ARTHUR V. SMYTH 1625 EYE ST., NW, #902 WASHINGTON DC 20006	WEYERHAEUSER CO	300.00	10.50
THOMAS M. SNEERINGER 1050 31ST STREET, NW WASHINGTON DC 20007	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	2,000.00	100.00
FRANK B. SNODGRASS 1100 17TH ST., NW, #306 WASHINGTON DC 20036	BURLEY & DARK LEAF TOBACCO EXPORT ASSN	1,000.47	
LARRY S. SNOWHITE 1015 15TH ST., N.W. WASHINGTON DC 20005	MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO (FOR: LION LINES, LTD.)		
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: MASS. CONSTRUCTION INDUS. COUNCIL TRUCK WEIGHT COMM)	6,670.00	
Do	MINTZ, LEVIN, COHN, GLOVSKY AND POPEO (FOR: SCA SERVICES)	3,500.00	64.00
Do	MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO (FOR: SECURITIES INDUSTRY ASSN)		
SNYDER & BALL ASSOCS, INC SUITE 1610 1700 N. MOORE ST. ARLINGTON VA 22209	DSP, INC	245.00	
Do	GOULD, INC		
J. R. SNYDER 400 1ST ST., NW, #704 WASHINGTON DC 20001	UNITED TRANSPORTATION UNION		1,800.00
JOHN M. SNYDER 600 PENNSYLVANIA AVE., S.E. SUITE 205 WASHINGTON DC 20003	CITIZENS COMM FOR THE RIGHT TO KEEP & BEAR ARMS	8,000.00	
SOCIETY FOR ANIMAL PROTECTIVE LEGISLATION P.O. BOX 3719 GEORGETOWN STATION WASHINGTON DC 20007		13,365.04	13,276.55
STEVEN EDWARD SOME SUITE 205 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	COASTAL CORPORATION	300.00	35.15
EDMUND T. SOMMER JR 1625 K ST., NW, #1200 WASHINGTON DC 20006	COUNCIL OF AMERICAN-FLAG SHIP OPERATORS	400.00	9.25
S. L. SOMMER & ASSOCIATES, INC. 3129 WORTHINGTON ST., NW WASHINGTON DC 20015	NORTHROP CORPORATION	1,500.00	1,936.00
SOUTH DAKOTA RAILROADS ASSN P.O. BOX 1030 ABERDEEN SD 57401			
JAMES L. SOUTH 8607 DIXIE PLACE MCLEAN VA 22102	PENN CENTRAL CORPORATION	300.00	
SOUTHERN FOREST PRODUCTS ASSN P.O. BOX 52468 NEW ORLEANS LA 70152		31,003.64	31,003.64
SOUTHWESTERN PEANUT SHELLERS ASSN 10 DUNCANNON CT. DALLAS TX 75225		300.00	300.00
WILLIAM A. SPEARY JR P.O. BOX 3151 HOUSTON TX 77001	BROWNING-FERRIS INDUSTRIES, INC		
FRANK J. SPECHT 1725 DESALES ST., NW WASHINGTON DC 20036	SCHENLEY DISTILLERS, INC		
SPECIALIZED CARRIERS & RIGGING ASSOCIATION 1155 16TH ST., NW WASHINGTON DC 20036			
JOHN F. SPEER JR 910 17TH ST., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		150.00
SPEISER, KRAUSE & MADOLE 1216 16TH ST., NW WASHINGTON DC 20036	MRS. VERA C. CLEMENTE, ET AL		
WILLIAM C. SPENCE 3805 W. ALABAMA HOUSTON TX 77027	COLUMBIA GULF TRANSMISSION CO		
PHILIP SPESER 110 SOUTHWOOD AVENUE SILVER SPRING MD 20901	EMERGENCY COMM TO PASS THE SMALL BUS INNOVATION RESEARCH ACT	1,500.00	222.41
SPIEGEL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	NORTHERN CALIFORNIA POWER AGENCY, ET AL		
GEORGE SPIEGEL, SPIEGEL & MCDIARMID 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	NORTHERN CALIFORNIA POWER AGENCY		
NICHOLAS J. SPIEZIO 3900 WISCONSIN AVENUE, NW WASHINGTON DC 20016	FEDERAL NATIONAL MORTGAGE ASSN	10,000.00	282.55
LARRY N. SPILLER 1015 15TH ST., NW, #802 WASHINGTON DC 20005	AMERICAN CONSULTING ENGINEERS COUNCIL	900.00	
JOSEPH L. SPILMAN JR 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	200.00	
WILLIAM LINCOLN SPOOR 1010 WISCONSIN AVENUE, NW WASHINGTON DC 20007	GROCERY MANUFACTURERS OF AMERICA, INC		
FREDERICK C. SPREYER SUITE 540 2501 M ST., NW WASHINGTON DC 20007	PACIFIC RESOURCES, INC	500.00	
EARL C. SPURRIER 1101 17TH ST., NW, #604 WASHINGTON DC 20036	MONSANTO CO		
ELISABETH A. SQUEGLIA, BRICKER & ECKLER 1301 PENNSYLVANIA AVENUE, N.W. SUITE 1150 WASHINGTON DC 20515	AMERICAN SMALL AND RURAL HOSPITAL ASSOCIATION, OHIO CHAPTER		
SQUIRE, SANDERS & DEMPSEY 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	AMERICAN CHAMBER OF COMMERCE IN EUROPE & THE MEDITERRANEAN		
Do	AMERICAN CHAMBER OF COMMERCE IN ITALY, INC		
Do	AMERICAN CHAMBER OF COMMERCE IN SPAIN, INC		
Do	AMERICAN SOCIETY OF ANESTHESIOLOGISTS		
Do	NATIONAL COLLEGIATE ATHLETIC ASSN		52.84
Do	PUBLIC SECURITIES ASSN		
Do	U.S. WRESTLING FEDERATION		
JOHN W. SROKA 1957 E ST., NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
ROBERT P. ST. LOUIS 2550 M ST., NW, #225 WASHINGTON DC 20037	CONGOLEUM CORPORATION	1,000.00	243.42
DAVID E. STAHL 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
LYNN E. STALBAUM 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED	2,610.00	7.29
STANDARD OIL CO (OHIO) MIDLAND BLDG. CLEVELAND OH 44115			7,256.68
MITCHEL STANFIELD 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	COASTAL CORPORATION	400.00	26.70
DAVID P. STANG, P.C. SUITE 601 1629 K ST., NW WASHINGTON DC 20006	AMERICAN TRUCK DEALERS	18.50	
Do	EMPLOYEE STOCK OWNERSHIP ASSN	9.10	
Do	INTERNATIONAL ASSN OF DRILLING CONTRACTORS	60.05	
Do	OCEAN MINERALS CO	352.81	

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	OFFSHORE INDUSTRY COMMITTEE	110.45	
Do	ROWAN COMPANIES, INC.	32.88	
Do	ZAPATA CORP.	29.93	
MICHAEL J. STANTON 1909 K ST., NW, #300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.	1,406.00	
MELVIN L. STARK SUITE 321 1707 L ST., NW WASHINGTON DC 20036	HARTFORD FIRE INSURANCE CO.	6,000.00	
WALTER M. STARKE P.O. BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO.		
STATE & FEDERAL ASSOCS, INC SUITE 204 1101 15TH ST., NW WASHINGTON DC 20005	SCHERING-PLOUGH CORP.		
ROBERT R. STATHAM, ROBERT R. STATHAM & ASSOCIATES 1000 VERMONT AVENUE, NW WASHINGTON DC 20005	COMMITTEE FOR COMMERCIAL ENERGY CONSERVATION		
JEAN C. STATLER 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	3,835.00	382.21
CHARLES D. STATTON 50 BEALE ST., P.O. BOX 3965 SAN FRANCISCO CA 94119	BECHTEL POWER CORPORATION		
SAMUEL E. STAVISKY & ASSOCIATES, INC SUITE 302 1100 17TH STREET, NW WASHINGTON DC 20036	BROADCAST MUSIC INC. (BMI)	300.00	30.00
Do	INSTITUTO BRASILEIRO DO CAFE		
SAMUEL E. STAVISKY 1100 17TH ST., NW, #302 WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES INC. (FOR: BROADCAST MUSIC INC. (BMI))		15.00
Do	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: INSTITUTO BRASILEIRO DO CAFE)		
RANDOLPH J. STAYIN 1800 MASSACHUSETTS AVE., NW, #700 WASHINGTON DC 20036	TAFT, STETTINIUS & HOLLISTER (FOR: AMERICAN HOT DIP GALVANIZERS ASSN.)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: MACHINERY DEALERS NATIONAL ASSOCIATION).	275.00	
Do	TAFT, STETTINIUS & HOLLISTER (FOR: NATIONAL ASSN FOR ASSN POLITICAL ACTION COMMITTEES).		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: NATIONAL BARREL AND DRUM ASSN)		
Do	TAFT STETTINIUS & HOLLISTER (FOR: SPECIAL COMM FOR WORKPLACE PRODUCT LIABILITY REFORM).		
ROBERT H. STEEL 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN SOCIETY OF ASSN EXECUTIVES		
JOHN L. STEELE 888 16TH ST., NW WASHINGTON DC 20006	TIME INC	2,200.00	
WILLIAM H. STEELE 1700 NORTH MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	707.12	591.63
J. C. STEEN 406 FIRST STREET, SE WASHINGTON DC 20003	FORD AEROSPACE & COMMUNICATIONS CORP	300.00	41.17
Do	GENERAL MOTORS CORPORATION	416.60	41.17
DAVID J. STEINBERG 7216 STAFFORD RD. ALEXANDRIA VA 22307	NATIONAL COUNCIL FOR A RESPONSIBLE FIREARMS POLICY, INC.		
MARCY STEPHENS 2030 M STREET, NW WASHINGTON DC 20036	COMMON CAUSE	3,584.02	310.99
STEPHENS OVERSEAS SERVICES, INC. SUITE 500 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL OFFICE MACHINE DEALERS ASSN.	8.95	8.82
Do	STEPHENS OVERSEAS SERVICES, INC.	98.95	116.87
MICHAEL K. STEPHENSON 1620 EYE ST., NW, #703, WASHINGTON DC 20006	BECHTEL POWER CORP		
WILLIAM P. STEPONKUS, STEPONKUS & ASSOCIATES 815 CONNECTICUT AVE., NW, #810 WASHINGTON DC 20006	UNITED SERVICES AUTOMOBILE ASSN.	8,280.00	226.27
STEPTOE & JOHNSON 1250 CONNECTICUT AVE., NW WASHINGTON DC 20036	COALITION FOR UNIFORM PRODUCT LIABILITY LAW		3,885.17
Do	COMMITTEE FOR EFFECTIVE CAPITAL RECOVERY		9,265.88
Do	FOREST INDUSTRIES COMMITTEE ON TIMBER VALUATION & TAXATION		266.62
Do	INTERNATIONAL PAPER CO.	2,600.00	40.00
Do	RULE OF LAW COMMITTE		
RICHARD H. STERN 2555 M ST., NW WASHINGTON DC 20037	INTEL CORPORATION		
RICHARD W. STERNBERG 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN.	120.00	
MICHAEL E. STEWARD 7957 REVENNA LANE SPRINGFIELD VA 22153	PUGET SOUND POWER & LIGHT CO.	7,500.00	1,033.93
Do	VITRO ENGINEERING CORP.	100.00	28.90
EUGENE L. STEWART 1001 CONNECTICUT AVE., NW, #910 WASHINGTON DC 20036	ROSES, INC.	1,200.00	1,362.95
TRAVIS B. STEWART 1775 K ST., NW WASHINGTON DC 20006	HOFFMANN-LA ROCHE INC		
WALTER J. STEWART SUITE 1225 1133 15TH STREET, NW WASHINGTON DC 20005	SONAT, INC.		
WARREN E. STICKLE SUITE 1120 1001 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	CHEMICAL SPECIALITIES MANUFACTURERS ASSN	2,075.00	368.83
LAVERNE STILL 1030 15TH ST., NW, #700 WASHINGTON DC 20005	NATIONAL COTTON COUNCIL OF AMER	680.00	38.57
JOHN W. STILLWAGGON 8TH FLOOR FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
EDWARD W. STIMPSON 1025 CONNECTICUT AVE., NW, #517 WASHINGTON DC 20036	GENERAL AVIATION MANUFACTURERS ASSOCIATION	1,156.00	
KENNETH F. STINGER 1616 P ST., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC.	9,000.00	587.88
STOCKHOLDERS OF AMERICA, INC. 1625 EYE ST., N.W. # 724A WASHINGTON DC 20006		13,000.00	1,636.60
STEVEN F. STOCKMEYER 1771 N STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	3,000.00	207.00
LISA STOLP 1101 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	VINSON & ELKINS (FOR: CONTINENTAL RESOURCES COMPANY)		
Do	VINSON & ELKINS (FOR: SLURRY TRANSPORT ASSN)	1,260.00	55.00
ADAM D. STOLPEN SUITE 203 1101 30TH ST., NW WASHINGTON DC 20007	PITNEY BOWES		
GEORGE W. STONE 12025 EAST 45TH AVE. DENVER CO 80251	FARMERS' EDUCATIONAL & CO-OPERATIVE UNION OF AMERICA	8,750.00	90.65
JOHN C. STONE BOX 1300 MCLEAN VA 22102	MELAMINE CHEMICALS, INC.	1,000.00	800.00
Do	STATE OF LOUISIANA	20,000.00	7,250.00
RICHARD BOYLE STOREY 455-B CARLISLE DR. HERNDON VA 22070	INTERNATIONAL MILITARY CLUB EXECUTIVES' ASSN.		
ALAN STOVER 1735 NEW YORK AVENUE, NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	2,500.00	
WILLIAM M. STOVER 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC.	1,000.00	
DAVID E. STRACHAN 1432 DUKE STREET, ALEXANDRIA VA 22314	NATIONAL ASSN OF PERSONNAL CONSULTANTS	4,500.00	
STRADLEY, RONON, STEVENS & YOUNG 1100 ONE FRANKLIN PLAZA PHILADELPHIA PA 19102	MILLIKEN RESEARCH CORP	5,618.00	1,617.61
TERRENCE D. STRAUB 818 CONNECTICUT AVENUE, N.W. WASHINGTON DC 20006	U.S. STEEL CORPORATION	825.00	418.40
ROGER J. STROH 727 N. WASHINGTON ALEXANDRIA VA 22314	UNITED FRESH FRUIT & VEGETABLE ASSN.		
JOEL B. STROMBERG 1750 OLD MEADOW ROAD MCLEAN VA 22102	BRICK INSTITUTE OF AMERICA		
GEORGE W. STRONG 1211 HYDE PARK HOUSTON TX 77006	HOUSTON NATURAL GAS CORP		
STROOCK STROOCK & LAVAN 1150 17TH ST., NW WASHINGTON DC 20036	CHEMOLIMPEX		
Do	CHINOIN		
Do	J. ARON & CO, INC.	2,000.00	190.00
Do	PUERTO RICO FEDERAL AFFAIRS ADMINISTRATION	4,500.00	150.00
Do	SHEARSON/AMERICAN EXPRESS INC.	465.00	25.00
Do	TENANT-OWNED APARTMENT ASSN., INC.	1,200.00	75.00
Do	WARNER COMMUNICATIONS, INC	1,500.00	300.00
GEORGE STRUMPH 624 9TH ST., NW, 7TH FL. WASHINGTON DC 20001	GROUP HEALTH ASSOCIATION OF AMERICA, INC.		
NORMAN STRUNK 111 E. WACKER DRIVE CHICAGO IL 60601	U.S. LEAGUE OF SAVINGS ASSOCIATIONS		
WALTER B. STULTS 618 WASHINGTON BLDG. WASHINGTON DC 20005	NATIONAL ASSN OF SMALL BUSINESS INVESTMENT COS.	3,000.00	
EUGENE F. STURGEON 182 CRATER LANE KENSINGTON CT 06037	NORTHEAST UTILITIES SERVICE CO.	1,073.38	751.53
SUBSCRIPTION TELEVISION ASSN 1425 21ST STREET, NW WASHINGTON DC 20036			
SULLIVAN & CROMWELL 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN INTERNATIONAL GROUP, INC.		
Do	GOLDMAN SACHS & CO.		
Do	INCO, LTD.		
Do	SECURITY LIFE OF DENVER		8.00
SULLIVAN & WORCESTER 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	DOLLAR SAVINGS BANK & WASHINGTON MUTUAL SAVINGS BANK	1,242.50	126.06
Do	MARION LABORATORIES, INC.	15,613.75	407.74
AUSTIN P. SULLIVAN JR P.O. BOX 1113 MINNEAPOLIS MN 55440	GENERAL MILLS, INC		
GAEL M. SULLIVAN SUITE 1004 1155 15TH STREET, NW WASHINGTON DC 20005	LTV CORPORATION	2,344.00	610.00
HAROLD R. SULLIVAN 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	900.00	
JUDY M. SULLIVAN SUITE S-700 1120 20TH STREET, NW WASHINGTON DC 20036	NORTHWEST PIPELINE CORP		
MARCIA Z. SULLIVAN SUITE 1200 1300 N. 17TH STREET ARLINGTON VA 22209	CONSUMER BANKERS ASSN	825.00	559.14
MARGARET COX SULLIVAN 1625 EYE ST., N.W. # 724A WASHINGTON DC 20006	STOCKHOLDERS OF AMERICA, INC.		
MARY BETH SULLIVAN 923 15TH ST., N.W. WASHINGTON DC 20005	TRANSPORTATION INSTITUTE	3,000.00	872.64
PATRICK J. SULLIVAN 815 SIXTEENTH STREET, N.W. WASHINGTON DC 20006	INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO	6,930.00	1,719.13
RICHARD C. SULLIVAN SUITE 409 110 MARYLAND AVE., N.E. WASHINGTON DC 20002	NATIONAL PEACE ACADEMY CAMPAIGN	4,500.00	
GARY R. SUMMERS SUITE 1014 900 17TH STREET, NW WASHINGTON DC 20006	KAISER FOUNDATION HEALTH PLAN	10,750.00	2,207.94
J. MITCHELL SUMMERS 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ARMCO INC	1,170.00	217.50
PETER B. SUMMERVILLE 1133 20TH ST., NW WASHINGTON DC 20036	NATIONAL FOOD PROCESSORS ASSN	500.00	108.50
SUNMAID RAISIN GROWERS OF CALIFORNIA SUITE 420 1200 NEW HAMPSHIRE AVE. WASHINGTON DC 20036			
SURREY & MORSE 1156 15TH ST., NW WASHINGTON DC 20005	BENCH AD COMPANY		
Do	GOVERNMENT OF THE REPUBLIC OF ZAIRE		
Do	PHARMACEUTICAL MANUFACTURERS ASSN	375.00	
Do	PIETRO BERETTA, S.P.A.	270.00	7.95
THOMAS M. SUSMAN 1200 NEW HAMPSHIRE AVENUE, N.W. SUITE 380 WASHINGTON DC 20036	WILLIAM CARTER COMPANY		
SUTHERLAND ASBILL & BRENNAN 1666 K ST., NW WASHINGTON DC 20006	AMERICAN INDUSTRIAL CLAY & GEORGIA KAOLIN	1,947.25	41.29
Do	ANGLO-AMERICAN CLAYS CORP	1,947.25	41.29
Do	CONSUMER CREDIT INSURANCE ASSOCIATION		
Do	ENGELHARD MINERALS & CHEMICALS CORP	1,947.25	41.29
Do	EQUIFAX, INC.		
Do	FREEPORT KAOLIN	1,947.25	41.29
Do	J. M. HUBER CORP	1,947.25	41.29
Do	KANSAS FARM BUREAU LIFE INS CO; FARM BUREAU MUTUAL INS CO.		
Do	KENTUCKY FARM BUREAU MUTUAL INSURANCE CO; FARM BUREAU INS CO		
Do	LIFETIME COMMUNITIES, INC.	650.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	MACCABEES MUTUAL LIFE INSURANCE CO.		5.50
Do	MASSACHUSETTS MUTUAL LIFE INSURANCE CO.		
Do	MULLITE CO OF AMER.	1,947.25	41.29
Do	MUTUAL OF OMAHA INSURANCE CO.		
Do	NATIONAL ASSN OF LIFE COS.	1,600.00	5,055.50
Do	NATIONAL HOME LIFE ASSURANCE COMPANY	1,320.00	23.30
Do	NORD RESOURCES CORP.	1,947.25	41.29
Do	STOCK INFORMATION GROUP	33,150.00	2,413.00
Do	SOUTHERN FARM BUREAU LIFE INS. CO., ET AL.		
Do	THIELE KAOLIN CO.	1,947.25	41.29
Do	UNITED FARM BUREAU FAMILY LIFE INS. CO. & UNITED FARM BUREAU MUTUAL INS. CO.		
WILLIAM F. SUTHERLAND 1750 K STREET, NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	300.00	
SUTIN, THAYER & BROWNE P.O. BOX 1945 ALBUQUERQUE NM 87103	TAXATION & REVENUE DEPARTMENT		
W. THOMAS SUTTLE 1755 WILLARD ST., NW, #4 WASHINGTON DC 20009	INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS	2,000.00	1,575.00
WILLIAM W. SUTTLE 1025 CONNECTICUT AVE., NW SUITE 415 WASHINGTON DC 20036	AMERICAN INSURANCE ASSN.		
IRVING W. SWANSON 2600 VIRGINIA AVE., NW WASHINGTON DC 20037	HARRIS CORPORATION		
DAVID A. SWEENEY 25 LOUISIANA AVE., NW WASHINGTON DC 20001	INTERNATIONAL BROTHERHOOD OF TEAMSTERS	15,378.90	
JOHN R. SWEENEY 800 SOLAR BLDG. 1000 16TH ST., NW WASHINGTON DC 20036	BETHLEHEM STEEL CORP.		
TRICIA L. SWIFT 1619 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN.	1,200.00	
A. B. SWINDELL IV P.O. BOX 2635 RALEIGH NC 27602	NORTH CAROLINA RAILROAD ASSOCIATION		
RUSSELL A. SWINDELL P.O. BOX 2635 RALEIGH NC 27602	NORTH CAROLINA RAILROAD ASSOCIATION		
MERRIBEL SYMINGTON SUITE 540 1875 EYE STREET, NW WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
GERALD M. SYRKETT 617 HAMLIN STREET, NE WASHINGTON DC 20017			
ALBERT S. TABOR JR., VINSON & ELKINS 3300 FIRST CITY TOWER HOUSTON TX 77002	ASSOCIATION OF OIL PIPELINES		7,578.49
ROBERT TAFT JR 1000 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	TAFT, STETTINIUS & HOLLISTER (FOR: STORER BROADCASTING COMPANY)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: AMERICAN HOSPITAL ASSN)	500.00	11.00
Do	TAFT, STETTINIUS & HOLLISTER (FOR: AMERICAN HOT DIP GALVANIZERS ASSN.)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: CINCINNATI STOCK EXCHANGE)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: HANNA-BARBERA PRODUCTIONS, INC.)		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: MACHINERY DEALERS NATIONAL ASSOCIATION).		
Do	TAFT, STETTINIUS & HOLLISTER (FOR: MIAMI CONSERVANCY DISTRICT)	1,650.00	17.38
Do	TAFT, STETTINIUS & HOLLISTER (FOR: OHIO ASSN OF COMMUNITY ACTION AGENCIES).	5,000.00	242.44
Do	TAFT, STETTINIUS & HOLLISTER (FOR: SPECIAL COMM FOR WORKPLACE PRODUCT LIABILITY REFORM).	12,000.00	430.38
Do	TAFT, STETTINIUS & HOLLISTER (FOR: TAFT BROADCASTING COMPANY)	3,700.00	8.00
Do	TAFT, STETTINIUS & HOLLISTER (FOR: TELEPHONE & DATA SYSTEMS, INC.)		1,942.14
WALTER G. TALAREK 1651 OLD MEADOW ROAD MCLEAN VA 22102	AMERICAN WOOD PRESERVERS INSTITUTE		
JOE TALLAKSON SUITE 421 1010 VERMONT AVE., NW WASHINGTON DC 20005	SENSE, INC (FOR: ONEIDA TRIBE OF WISCONSIN)		339.50
Do	SENSE, INC. (FOR: QUINAULT INDIAN NATION)	2,153.63	2,875.23
ELINOR D. TALMADGE 2501 M ST., NW WASHINGTON DC 20037	TANNERS' COUNCIL OF AMERICA		
TANAKA WALDERS & RITGER 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	BRIDGESTONE TIRE CO., LTD.		35.25
Do	ELECTRONIC INDUSTRIES ASSN OF JAPAN		
SUSAN TANNENBAUM 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	4,743.70	84.85
MARY LOU TANTON 2028 P STREET, NW WASHINGTON DC 20036	FEDERATION FOR AMERICAN IMMIGRATION REFORM	1,200.00	25.00
LINDA TARR-WHELAN 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN	1,375.00	83.00
WILLIAM M. TARTIKOFF 1775 K ST., NW WASHINGTON DC 20006	INVESTMENT COMPANY INSTITUTE	222.00	180.10
DAN C. TATE 1825 K STREET, NW WASHINGTON DC 20006	NATIONAL BROADCASTING CO., INC.		
JOHN F. TATE 8428 AUBREY DRIVE MANASSAS VA 22111	U.S. DEFENSE COMMITTEE	175.00	72.00
GRACA DA SILVA TAVARES 17 PERKINS STREET WEST NEWTON MA 02165			
TAXPAYERS FOR FEDERAL PENSION REFORM P.O. BOX 7755 PHILADELPHIA PA 19101		2.00	8,531.47
CHARLES A. TAYLOR III 499 SOUTH CAPITOL ST., SW, #401 WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS	1,000.00	
DENNIS J. TAYLOR SUITE 650 1000 VERMONT AVE., NW WASHINGTON DC 20005	CENTRAL STATES HEALTH & LIFE CO OF OMAHA	700.00	
Do	MULTI-STATE COMMUNICATIONS, INC.		
Do	ST. JOE MINERALS CORP.		
FRANK A. TAYLOR 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
PEGGY TAYLOR 815 16TH ST., NW WASHINGTON DC 20006	AFL-CIO	13,017.47	577.45
R. WILLIAM TAYLOR 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN SOCIETY OF ASSN EXECUTIVES		
SID TAYLOR 325 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	NATIONAL TAXPAYERS UNION		
B. W. TEAGUE P.O. BOX 2121 CORPUS CHRISTI TX 78403	CENTRAL POWER AND LIGHT COMPANY		
ELAYNE L. TEMPEL 1016 16TH STREET, NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
PAUL TENDLER 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	PAUL TENDLER ASSOCIATES, INC. (FOR: NATIONAL FED. OF LICENSED PRACTICAL NURSES, INC.).	2,500.00	370.00
Do	PAUL TENDLER ASSOCIATES (FOR: RASCH ELEKTRONIK)		
Do	PAUL TENDLER ASSOCIATES, INC (FOR: SCHOENEMAN, INC)		
BETTY-GRACE TERPSTRA 918 16TH ST., NW, #402 WASHINGTON DC 20006	SOUTHERN FURNITURE MFGRS ASSN.	750.00	756.06
EDWARD F. TERRAR JR. 499 SOUTH CAPITOL ST., S.W. ROOM 400 WASHINGTON DC 20003	WASHINGTON INDUSTRIAL TEAM, INC.	600.00	
TEXTRON, INC. 40 WESTMINSTER ST. PROVIDENCE RI 02903			12,321.00
THER-A-PEDIC MIDWEST, INC 2350 5TH STREET ROCK ISLAND IL 61201			
BRUCE D. THEVENOT 1155 15TH ST., NW, #424 WASHINGTON DC 20005	CASSON, CALLIGARO & MUTRYN (FOR: HUMANA,INC.)	1,500.00	
Do	OKLAHOMA STATE NURSING HOME ASSN.	2,340.00	
Do	SPECTRUM EMERGENCY CARE, INC.	1,668.00	
THEVENOT, MURRAY & SCHEER SUITE 605, 2550 M ST., NW WASHINGTON DC 20037	AMERICAN INST OF ARCHITECTS	1,750.00	
Do	FEDERAL EXPRESS		
Do	NATIONAL BUSINESS AIRCRAFT ASSN	520.00	
Do	JOSEPH SEAGRAM & SONS, INC.		
Do	SWAZILAND SUGAR ASSN		
BARBARA BRENDES THIES, 1500 PLANNING RESEARCH DR., MCLEAN VA 22102	PLANNING RESEARCH CORP.		600.00
THIRD CLASS MAIL ASSOCIATION SUITE 607 1725 K ST., NW WASHINGTON DC 20006		600.00	600.00
EDLU J. THOM 1619 MASSACHUSETTS AVENUE, N.W. WASHINGTON DC 20036	NATIONAL FOREST PRODUCTS ASSN	1,350.00	35.50
DORIS L. THOMAS 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
JOHN W. THOMAS SUITE 828 1522 K ST., NW WASHINGTON DC 20005	AMERICAN VETERINARY MEDICAL ASSN	15.00	
Do	ASSOCIATION OF AMERICAN VETERINARY MEDICAL COLLEGES		
PATRICIA THOMAS 1016 16TH STREET, NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES	1,963.94	
ROBERT L. THOMAS 1319 F ST., NW WASHINGTON DC 20004	NATIONAL ASSN OF PRIVATE PSYCHIATRIC HOSPITALS	100.00	
THOMPSON & CRAWFORD SUITE 325 1575 EYE STREET, NW WASHINGTON DC 20005	CABLE AMERICA, INC.	1,764.71	
Do	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS	15,224.00	
Do	U.S. CABLESYSTEMS, INC.	1,764.71	
Do	WESTINGHOUSE ELECTRIC CORP	6,242.50	
THOMPSON & MITCHELL SUITE 3400 ONE MERCANTILE CENTER ST. LOUIS MO 63101	AMERICAN INLAND WATERWAYS COMMITTEE	600.00	
Do	MIDLAND ENTERPRISES, INC.		
Do	VALLEY LINE COMPANY		
BOYD THOMPSON 5410 GROSVENOR LANE, #210 BETHESDA MD 20814	AMERICAN ASSN OF FOUNDATIONS FOR MEDICAL CARE		54.94
Do	AMERICAN ASSN OF PROFESSIONAL STANDARDS REVIEW ORGS.		
CHARLES P. THOMPSON P.O. BOX 21666 PHOENIX AZ 85036	ARIZONA PUBLIC SERVICE COMPANY	1,000.00	3,403.22
GARY C. THOMPSON 1126-16TH ST., N.W. WASHINGTON DC 20036	OIL, CHEMICAL & ATOMIC WORKERS INTERNATIONAL UNION	4,111.25	
JAMES F. THOMPSON JR. 1957 E STREET, N.W. WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA		
KENNETH W. THOMPSON 1660 L ST., NW, #601 WASHINGTON DC 20036	INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA	300.00	
NANCY THOMPSON 1600 EYE STREET, NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA, INC	180.00	
RICHARD L THOMPSON 1730 M ST., NW, #808 WASHINGTON DC 20036	ABBOTT LABORATORIES	4,500.00	
ROGER G. THOMPSON 1701 CENTRAL AVE. ASHLAND KY 41101	KENTUCKY POWER CO.	1,300.00	1,864.26
VICKI THOMPSON SUITE 517 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	SAN DIEGO GAS & ELECTRIC CO.	550.00	
W. REID THOMPSON 1900 PENNSYLVANIA AVE., NW WASHINGTON DC 20068	POTOMAC ELECTRIC POWER CO		
WILLIAM D. THOMPSON 1001 CONNECTICUT AVE., NW, #601 WASHINGTON DC 20036	LEAR SIEGLER, INC.	3,000.00	333.42
TERENCE N. THORN SUITE 919 1700 NORTH MOORE STREET ARLINGTON VA 22209	HOUSTON NATURAL GAS CORP.	163.45	15.00
CYNTHIA L. THORNBURG P.O. BOX 3556 WASHINGTON DC 20007	AMERICAN MEAT INSTITUTE	1,500.00	193.81
RICHARD B. THORNBURG SUITE 505 5205 LEESBURG PIKE FALLS CHURCH VA 22041	NATIONAL BEER WHOLESALERS' ASSN.	324.30	324.30
WILLIAM R. THORNHILL P.O. BOX 2511 HOUSTON TX 77001	TENNESSEE GAS PIPELINE CO.		
MARGO THORNING 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL FOR CAPITAL FORMATION	263.00	
D. WHITNEY THORNTON II SUITE 203, 2828 PENNSYLVANIA AVE., NW WASHINGTON DC 20007	FLYER INDUSTRIES LTD.	1,436.25	70.92
SAMUEL THURM 1725 K ST., NW WASHINGTON DC 20006	ASSOCIATION OF NATL ADVERTISERS		

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
CYRUS C. TICHENOR III 1050 17TH ST., NW, #1104 WASHINGTON DC 20036	A. H. ROBINS CO, INC	785.00	67.00
DREW V. TIDWELL 1300 N. 17TH ST., #1200 ARLINGTON VA 22209	CONSUMER BANKERS ASSN	2,250.00	21,093.18
ROBERT O. TIERNAN 1015 18TH ST., NE #601 WASHINGTON DC 20036	PENN CENTRAL CORP		12,449.20
ROGER TILLES SUITE 1050 1111 19TH ST., NW WASHINGTON DC 20036	CITIES IN SCHOOLS, INC	2,000.00	78.52
Do	MICHIGAN DEPT OF EDUCATION		1,082.10
Do	NATIONAL CON-SERV, INC	4,000.00	134.38
Do	WASHINGTON PSYCHIATRIC SOCIETY	19,195.00	11,087.58
WALLACE TILLMAN 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	150.00	
MARTIN R. TILSON JR PO BOX 2563 BIRMINGHAM AL 35202	SOUTHERN NATURAL GAS CO		
PATTI A. TILSON SUITE 520 900 17TH STREET, NW WASHINGTON DC 20006	MATSUSHITA ELECTRIC CORP OF AMERICA	400.00	
Do	TOYOTA MOTOR SALES, U.S.A., INC	500.00	
C. N. TIMBERLAKE 1825 K ST., NW, #1107 WASHINGTON DC 20006	PHILLIPS PETROLEUM COMPANY		
TIMMONS & CO, INC 1850 K ST., NW, #850 WASHINGTON DC 20006	AMERICAN BROADCASTING COS., INC	431.25	
Do	AMERICAN INLAND WATERWAYS COMM	862.50	
Do	AMERICAN PETROLEUM INST	431.25	
Do	ASSOCIATION OF TRIAL LAWYERS OF AMERICA	825.00	
Do	CHRYSLER CORPORATION	750.00	
Do	EASTERN AIR LINES, INC	1,293.75	
Do	FILMWAYS, INC	431.25	
Do	G. D. SEARLE & CO	1,293.75	
Do	H. J. HEINZ CO	431.25	
Do	LOS ANGELES OLYMPIC ORGANIZING COMMITTEE, ET AL	5,250.00	
Do	MAJOR LEAGUE BASEBALL	1,875.00	
Do	MIDDLE SOUTH SERVICES	1,293.75	
Do	NATIONAL RIFLE ASSN OF AMER	431.25	
Do	NORTHROP CORP	437.50	
Do	OFFICE OF THE GOVERNOR OF THE STATE OF AK	862.50	
Do	STANDARD OIL CO (INDIANA)	862.50	
MICHAEL L. TINER 1775 K ST., NW WASHINGTON DC 20006	UNITED FOOD & COMMERCIAL WORKERS INTL UNION	9,000.00	672.83
E. LINWOOD TIPTON 910 17TH ST., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		162.95
EBEN S. TISDALE 1101 16TH ST., NW WASHINGTON DC 20036	SCIENTIFIC APPARATUS MAKERS ASSN	1,450.00	324.53
TITLE ASSOCIATES, INC. RT.2, BOX 89 COLUMBIA TN 38401			
TOBACCO ASSOCIATES, INC SUITE 912 1101 17TH ST., NW WASHINGTON DC 20036			2,069.49
JAMES R. TOBIN MACK CENTRE DR. PARAMUS NJ 07652	BECTON, DICKINSON & CO	2,000.00	
WILLIAM J. TOBIN SUITE 600 1523 L STREET, NW WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE	1,000.00	25.00
DAVID G. TODD 1025 CONNECTICUT AVE., NW, #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
DAVID R. TOLL 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	WESTERN UTILITIES CLEAN AIR GROUP		
WILLIAM R. TOLLEY JR PO BOX 37 MELBOURNE FL 32919	HARRIS CORPORATION		543.73
SALLY AUSTEN TOM SUITE 1120 1522 K STREET, NW WASHINGTON DC 20005	AMERICAN COLLEGE OF NURSE-MIDWIVES		
EDWARD TONAT 6723 BRIGADOON DRIVE BETHESDA MD 20034	ROBERT GOFF & ASSOCIATES, INC		
ANN TONJES 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN OF PUBLIC TELEVISION STATIONS	600.00	115.00
WILLIAM D. TOOHEY 1899 L ST., NW, #600 WASHINGTON DC 20036	TRAVEL INDUSTRY ASSOCIATION OF AMERICA		
JOHN B. TOONE P.O. BOX 970 FORT WORTH TX 76101	TEXAS ELECTRIC SERVICE CO	138.46	45.50
WANDA TOWNSEND 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	318.75	
JOHN P. TRACEY 1801 K ST., NW, #1201 WASHINGTON DC 20006	U.S. INDEPENDENT TELEPHONE ASSN	1,000.00	
JEFFREY B. TRAMMELL 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: EASTERN MICROWAVE, ICN)		
Do	GRAY AND COMPANY (FOR: GENERAL TELEPHONE & ELECTRONICS)		
Do	GRAY AND COMPANY		
Do	GRAY AND COMPANY (FOR: GROUP W)		
Do	GRAY AND COMPANY (FOR: HEALTH INSURANCE ASSN OF AMERICA)		
Do	GRAY AND COMPANY (FOR: MOTOROLA)		
Do	GRAY AND COMPANY (FOR: NEW CHANNELS CORP)		
Do	GRAY AND COMPANY (FOR: REPUBLIC AIRLINES)	210.00	42.00
TRANSPORTATION ASSN OF AMER SUITE 1107 1100 17TH ST., NW WASHINGTON DC 20036		845.00	550.00
TRANSPORTATION INSTITUTE 923 15TH ST., NW WASHINGTON DC 20005			22,267.24
HUBERT TRAVAILLE SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	2,000.00	
TRAVEL & TOURISM GOVERNMENT AFFAIRS POLICY COUNCIL SUITE 607 1899 L STREET, NW WASHINGTON DC 20036		779.00	779.00
TRAVEL INDUSTRY ASSOCIATION OF AMERICA 1899 L ST., NW WASHINGTON DC 20036			
ERNEST B. TREMMEL, INC. 5908 ROSSMORE DRIVE BETHESDA MD 20014	BURNS AND ROE, INC	1,051.00	182.86
R. S. TRIBBE 1000 16TH ST., NW WASHINGTON DC 20036	TRANS WORLD AIRLINES, INC	235.00	
LAURENCE H. TRIBE, P.C. 1525 MASSACHUSETTS AVENUE CAMBRIDGE MA 02138	MOTION PICTURE ASSN OF AMERICA, INC	9,050.00	844.73
DAVID A. TRICK SUITE A-3 210 SEVENTH STREET, SE WASHINGTON DC 20003	FEDERAL EMPLOYEES POLITICAL ACTION COMM (FEDPAC)		
PAUL E. TRIMBLE 1411 ROCKEFELLER BLDG. CLEVELAND OH 44113	LAKE CARRIERS' ASSN		
SALLY A. TRIPLETT SUITE 302 1100 17TH STREET, NW WASHINGTON DC 20036	SAMUEL E. STAVISKY & ASSOCIATES, INC (FOR: BROADCAST MUSIC, INC)		15.00
EUGENE M. TRISKO 9817 ROSENSTEEL AVENUE SILVER SPRING MD 20910	STERN BROS., INC	11,810.00	2,641.00
GLENWOOD S. TROOP JR 1709 NEW YORK AVE., NW, #801 WASHINGTON DC 20006	U.S. LEAGUE OF SAVINGS ASSOCIATIONS	17,500.00	252.00
MICHAEL G. TROOP SUITE 700 1111 NORTH 19TH STREET, NW ARLINGTON VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS	1,300.00	53.65
ROBERT C. TROUP 730 SMITH RIDGE RD NEW CANAAN CT 06840			
GEORGE G. TROUTMAN SUITE 1100 1090 VERMONT AVE., NW WASHINGTON DC 20005	BELL HELICOPTER TEXTRON	150.00	
ALEXANDER B. TROWBRIDGE 1776 F STREET, NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS	1,148.00	
THOMAS L. TRUEBLOOD 401 NORTH MICHIGAN AVE. CHICAGO IL 60611	INTERNATIONAL HARVESTER	1,000.00	1,162.35
TRUST FOR PUBLIC LAND 82 SECOND ST. SAN FRANCISCO CA 94105			5,315.82
ANH TU SUITE 501 800 25TH STREET, NW WASHINGTON DC 20037	PROJECT ADVISORY GROUP		3,477.00
TUCKER & BROWN SUITE 2330 WESTERN FEDERAL SAVINGS BLDG. DENVER CO 80202	JOHNS-MANVILLE CORP.		
Do	PETRO-LEWIS CORPORATION	1,125.00	
TUNA RESEARCH FOUNDATION 1101 17TH ST., NW WASHINGTON DC 20036		2,647.63	4,173.43
BRIAN TURNER 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	9,330.00	113.14
RICHARD F. TURNEY 1725 K ST., NW WASHINGTON DC 20006	COURTNEY, MCCAMANT & TURNEY	300.00	
ST. CLAIR J. TWEEDIE SUITE 220 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN CYANAMID COMPANY	3,750.00	157.04
EDGAR H. TWINE 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	ATLANTIC RICHFIELD CO	500.00	
JOSEPH D. TYDINGS 10TH FLOOR 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	PLAINTIFF CLASS, CORRUGATED CONTAINER ANTITRUST LITIGATION	390.00	
Do	PLAINTIFF CLASS, PLYWOOD ANTITRUST LITIGATION	750.00	
U.S. CANE SUGAR REFINERS' ASSN 1001 CONNECTICUT AVE., NW WASHINGTON DC 20036		5,134.00	5,436.50
U.S. CANTALOUPE GROWERS & IMPORTERS ASSN P.O. BOX 366 HIDALGO TX 78557		3,500.00	
U.S. COMMITTEE FOR THE OCEANS 100 MARYLAND AVE., NE WASHINGTON DC 20002		15.00	100.00
U.S. DEFENSE COMMITTEE 3238 WYNFORD DRIVE FAIRFAX VA 22031		542.90	542.90
U.S. LEAGUE OF SAVINGS ASSOCIATIONS 111 E. WACKER DR. CHICAGO IL 60601			106,580.56
U.S. SKI ASSOCIATION SUITE 300 1919 PENNSYLVANIA AVE., NW WASHINGTON DC 20006			173.00
JERRY G. UDELL 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	200.00	65.00
LEWIS K. UHLER 1523 L STREET, NW #600 WASHINGTON DC 20005	NATIONAL TAX LIMITATION COMMITTEE	2,000.00	35.00
ULLMAN CONSULTANTS, INC. 1000 POTOMAC ST., N.W. SUITE 302 WASHINGTON DC 20007	CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION	1,300.00	
Do	INTERNATIONAL TITANIUM, INC	4,500.00	
Do	MERCK & CO., INC	7,500.00	28.30
Do	OREGON METALLURGICAL CORP		
Do	PUBLIC UTILITY TAX COMMITTEE	15,000.00	
Do	SPRUELL DEVELOPMENT CORPORATION	4,500.00	
Do	WESTERN FOREST INDUSTRIES ASSOCIATION		
MANYA S. UNGAR 10 BRANDYWINE COURT SCOTCH PLAINS NJ 07076	NATIONAL CONGRESS OF PARENTS & TEACHERS		1,200.19
CHARLES K. UNGER SUITE 601 307 YOAKUM PARKWAY ALEXANDRIA VA 22304	NATIONAL ASSN OF STEVEDORES	2,500.00	232.00
UNIFI, INC. P.O. BOX 21368 GREENSBORO NC 27420			4,472.46
UNION MUTUAL LIFE INSURANCE CO 2211 CONGRESS ST. PORTLAND ME 04122			981.50
UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS WORKERS OF AMERICA (UAW) 8000 E. JEFFERSON DETROIT MI 48214		93,827.57	93,827.57
UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA 101 CONSTITUTION AVE., NW WASHINGTON DC 20001			30,787.50
UNITED FOOD & COMMERCIAL WORKERS INTL UNION 1775 K ST., NW WASHINGTON DC 20006		89,348.56	42,841.85
UNITED FRESH FRUIT & VEGETABLE ASSN 727 N. WASHINGTON ST. ALEXANDRIA VA 22314		2,398.76	2,398.76
UNITED GAS PIPE LINE CO PO BOX 1478 HOUSTON TX 77001			2,258.31
UNITED SERVICES AUTOMOBILE ASSOCIATION 9800 FREDERICKSBURG RD., SAN ANTONIO TX 78288			
LLOYD N. UNSELL 1101 16TH ST., NW WASHINGTON DC 20036	INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA		27.00
DREW A. UPTON 1100 16TH ST., NW WASHINGTON DC 20036	SCIENTIFIC APPARATUS MAKERS ASSN		
MARIAN S. URINKOS 1120 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN		
YOSHINORI USUI SUITE 600 919 18TH STREET, NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, USA, INC	80.00	88.78

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
UTILITY NUCLEAR WASTE MANAGEMENT GROUP C/O EDISON ELECTRIC INSTITUTE 1111 19TH ST., NW WASHINGTON DC 20036.		2,125.25	2,125.25
RONALD D. UTT 1615 H STREET, NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S.	288.00	85.13
JACK J. VALENTI 1600 EYE ST., NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMER, INC.	1,080.00	
R. THOMAS VAN ARSDALL 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	1,362.50	
DAVID T. VAN CAMP 1700 K ST., NW SUITE 1204 WASHINGTON DC 20006	CHEVRON USA, INC	225.00	
VAN FLEET ASSOCIATES SUITE 102 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	MARCONI ELECTRONICS	4,500.00	17.25
Do	CADILLAC GAGE	11,250.00	900.35
C. D. VAN HOUWELING P.O. BOX 69 CENTREVILLE VA 22020	NATIONAL PORK PRODUCERS COUNCIL	157.50	
NICK L. VAN NELSON SUITE 540 1875 EYE STREET, NW WASHINGTON DC 20006	CHAMPION INTERNATIONAL CORPORATION		
VAN NESS, FELDMAN, SUTCLIFFE, CURTIS & LEVENBERG 7TH FLOOR 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007.	NATOMAS COMPANY	312.50	
Do	ALLIED-GENERAL NUCLEAR SERVICES	300.00	6.00
Do	AMERICAN ELECTRIC POWER CO., INC., ET AL	5,756.00	157.42
Do	AMERICAN INST FOR CERTIFIED PUBLIC ACCOUNTANTS	450.00	
Do	AMERICAN PRESIDENT LINES, LTD.	1,085.00	36.00
Do	ARCTIC SLOPE REGIONAL CORP		
Do	ASHLEY, THOMAS LUDLOW (FOR GENERAL PUBLIC UTILIES)	705.00	
Do	COMMITTEE ON STATUS AND TRANSITION		
Do	FLORIDA AGRICULTURE COALITION, INC.		
Do	HAWAIIAN ELECTRIC COMPANY	312.50	
Do	METROPOLITAN DISTRICT COMMISSION		
Do	NORTH SLOPE BOROUGH	175.00	6.00
Do	PACIFIC GAS & ELECTRIC CO.		
Do	PALM BEACH-BROWARD FARMERS COMM. FOR LEGISLATIVE ACTION		
Do	PUBLIC UTILITY HOLDING COS.	5,756.00	157.42
Do	REPUBLIC GEOTHERMAL, INC.	187.50	131.04
Do	REPUBLIC OF PALAU		
Do	JOSEPH SEAGRAM & SONS, INC.		
Do	SLURRY TRANSPORT ASSN.	2,612.50	206.26
Do	SOUTH FLORIDA TOMATO & VEGETABLE GROWERS ASSN.		
Do	SOUTH WEST WINTER VEGETABLE GROWERS ASSN.		
Do	STANDARD OIL CO (INDIANA)		
Do	STATE OF ALASKA	187.50	
Do	U.S. ETHANOL CORPORATION		
Do	UNION CARBIDE CORP.	125.00	5.00
Do	WHEELABRATOR-FRYE, INC	1,412.50	6.00
Do	WINDFARMS, LTD.		
GLENN R. VAN SCHOONEVELD SUITE 702 1747 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	ARMCO	1,464.65	275.75
R. DICK VANDER WOUDE 1201 16TH ST., NW WASHINGTON DC 20036	NATIONAL EDUCATION ASSN.		
DANIEL W. VANNOY 1776 F ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF MANUFACTURERS		
JAY N. VARON SUITE 1000 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	FOLEY LARDNER HOLLABAUGH & JACOBS (FOR: LAWYERS TITLE INSURANCE CORPORATION).		
JENNIFER VASILOFF 530 7TH STREET, SE WASHINGTON DC 20003	NATIONAL CLEAN AIR COALITION	3,146.36	90.46
MURLE L. VAUGHAN 1700 NORTH MOORE ST. 1925 ROSSLYN CENTER BUILDING ARLINGTON VA 22209	BENEFICIAL MANAGEMENT CORPORATION OF AMERICA		
A. RANDALL VEHAR 900 15TH ST., NW WASHINGTON DC 20005	UNITED MINE WORKERS OF AMERICA		
VELSICOL CHEMICAL CORP 341 EAST OHIO ST. CHICAGO IL 60611			6,817.83
VENABLE, BAETJER, HOWARD & CIVILETTI SUITE 704 1301 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20004	PHARMACEUTICAL MANUFACTURERS ASSN		
Do	WESTVACO CORPORATION		732.43
VENTURE ENTREPRENEURS, INC. SUITE 206 1201 SAN MARCO BLVD. JACKSONVILLE FL 32207			
C. JOHN VERMILYE 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	U.S. STEEL CORPORATION		
VERNER, LIIPFERT, BERNHARD & MCPHERSON 1660 L ST., NW WASHINGTON DC 20036	COALITION OF U.S. CIT. AWARD-HOLDERS AGAINST CZECHOSLOVAKIA	68,499.12	
Do	LABOR-INDUSTRY COALITION FOR INTERNATIONAL TRADE	350.00	2,404.00
Do	PAN AMERICAN WORLD AIRWAYS, INC		
Do	SEMICONDUCTOR INDUSTRY ASSN.	13,700.00	1,000.00
Do	TRANS-LUX CORP.		
Do	TRAVELERS CORP		193.75
Do	TOSCO CORPORATION		
FRANK VERRASTRO SUITE 702 2000 L STREET, NW WASHINGTON DC 20036	NATIONAL ASSN OF CROP INSURANCE AGENTS	6,500.00	
LINDA VICKERS 1735 EYE ST., NW WASHINGTON DC 20006	AMERICAN INSURANCE ASSN.		80.75
BRENDA R. VIEHE-NAESS 1025 CONNECTICUT AVE., NW, #415 WASHINGTON DC 20036	CITIES SERVICE CO	375.00	
R. ERIC VIGE 1660 L ST., NW, #207 WASHINGTON DC 20036	STANDARD OIL CO (OHIO)	550.00	100.00
STEVE A. VILLAS 1001 22ND ST., NW SUITE 600 WASHINGTON DC 20037	NATIONAL ASSN OF MANUFACTURERS	400.00	
HOWARD A. VINE 1776 F ST., NW WASHINGTON DC 20006	CONTINENTAL INSURANCE COMPANIES	4,000.00	
WALTER D. VINYARD JR, ALSTON MILLER & GAINES 1800 M ST., NW WASHINGTON DC 20036	HARTFORD INSURANCE GROUP	3,000.00	
Do		106.10	94.63
VIRGINIA ASSOCIATION OF RAILWAY PATRONS P.O.BOX 867 RICHMOND VA 23207	ROISMAN, RENO & CAVANAUGH (FOR: NATIONAL HOUSING LAW PROJECT)	7,487.00	20.00
CHRISTOPHER N. VISHER SUITE 800 1016 16TH STREET, NW WASHINGTON DC 20036	AMERICAN PETROLEUM INST	6,000.00	
ANDREW VITALI JR 2101 L ST., NW WASHINGTON DC 20037			2,130.90
VOLKSWAGEN OF AMERICA, INC SUITE 2450 475 L'ENFANT PLAZA, SW WASHINGTON DC 20024	AMERICAN ASSN OF EQUIPMENT LESSORS		
VOLPE, BOSKEY & LYONS SUITE 602 918 16TH STREET, NW WASHINGTON DC 20006	ASSOCIATED GENERAL CONTRACTORS OF AMERICA	2,000.00	500.00
INGRID A. VOORHEES 1957 E ST., NW WASHINGTON DC 20006	NATIONAL RADIO BROADCASTERS ASSOCIATION	1,975.00	2,225.00
ABE J. VORON 6204 WHITE OAK LANE TAMARAC FL 33319	AMERICAN LIFE & CASUALTY		
VORYS, SATER, SEYMOUR & PEASE SUITE 1111 1828 L ST., NW WASHINGTON DC 20036	BOWERY SAVINGS BANK		
Do	CABOT CORPORATION	6,000.38	242.40
Do	COMMITTEE OF PUBLICLY OWNED COMPANIES		
Do	GROCERY MANUFACTURES OF AMERICA, INC.		
Do	OHIO MFRS ASSN.	1,666.25	182.34
Do	MOWSAFE PRODUCTS INC.		
Do	SMALL BUSINESS COALITION FOR POLLUTION CONTROL	27,635.15	2,548.27
Do	TOLEDO TRUST COMPANY	14,560.95	980.37
Do	WAGNALLS MEMORIAL		
W.A.W. WAR AGAINST WOMEN 1710 GILES ROSEBURG OR 97470			
REX B. WACKERLE 8001 BRADDOCK RD. SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMMITTEE	461.00	126.00
SADAMI WADA 9 WEST 57TH STREET NEW YORK NY 10019	SONY CORPORATION OF AMERICA	1,500.00	2,524.04
CATHERINE WAELDER 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
ROBERT J. WAGER 2020 K ST., NW, #850 WASHINGTON DC 20006	AMERICAN BAKERS ASSN	1,653.75	6.75
HOWARD W. WAHL 777 E. EISENHOWER PKWY P.O. BOX 1000 ANN ARBOR MI 48106	BECHTEL POWER CORPORATION		
CHRISTINE M. WAISANEN NEW MURPHY ROAD & CONCORD PIKE WILMINGTON DE 19897	ICI AMERICAS, INC.		
HERBERT R. WAITE 100 FEDERAL ST. BOSTON MA 02110	FIRST NATIONAL BANK OF BOSTON	4,000.00	2,900.46
Do	FIRST NATIONAL BOSTON CORPORATION		
WALD, HARKRADER & ROSS 1300 19TH ST., NW WASHINGTON DC 20036	AMERICAN PAPER INSTITUTE		
Do	HILLSDALE COUNTY RAILWAY COMPANY		
Do	LIFELINE SYSTEMS, INC.		
ROBERT E. WALDRON ASSOCIATED PETROLEUM INDUSTRIES OF MICH 930 MICHIGAN NATL TOWER, PO BOX 10070 LANSING MI 48901.	AMERICAN PETROLEUM INST	700.00	518.50
CHARLS E. WALKER ASSOCIATES, INC. 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AEROSPACE INDUSTRIES ASSN OF AMERICA	10,000.00	
Do	AMERICAN GUILD OF AUTHORS & COMPOSERS	3,000.00	
Do	HAMPSHIRE ENERGY	750.00	
Do	INLAND STEEL CORP.		
Do	POTLATCH CORPORATION	625.00	
Do	REPUBLIC STEEL CORP.		
Do	AGRICO CHEMICAL COMPANY, ET AL	1,500.00	
Do	AIR TRANSPORT ASSN OF AMER.	2,500.00	
Do	ALUMINUM CO OF AMER.	775.00	
Do	AMERICAN AIRLINES, INC.		
Do	AMERICAN TELEPHONE & TELEGRAPH CO	4,475.00	
Do	ASHLAND CHEMICAL	150.00	
Do	BECHTEL CORP	625.00	
Do	BETHLEHEM STEEL CORP.	625.00	
Do	CIGAR ASSOCIATION OF AMERICA, INC.		
Do	CSX CORPORATION	2,500.00	
Do	DEALER BANK ASSN.	2,500.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	DEERE & COMPANY	625.00	
Do	DRESSER INDUSTRIES, INC.	625.00	
Do	EASTERN AIR LINES, INC.		
Do	FEDERAL NATIONAL MORTGAGE ASSN.	1,250.00	
Do	FIRST CHICAGO CORP.		
Do	FORD MOTOR CO.	2,000.00	
Do	GENERAL ELECTRIC CO.	625.00	
Do	GENERAL PUBLIC UTILITIES CORPORATION	8,000.00	
Do	GENERAL TELEPHONE & ELECTRONICS	625.00	
Do	GOODYEAR TIRE & RUBBER CO	625.00	
Do	IDEAL BASIC INDUSTRIES	1,080.00	
Do	INTERNATIONAL PAPER CO.	625.00	
Do	KAISER ALUMINUM & CHEMICAL CORP	300.00	
Do	LONE STAR INDUSTRIES, INC.	2,000.00	
Do	LONE STAR STEEL CO	150.00	
Do	MEAD CORPORATION	3,525.00	
Do	NATIONAL STEEL CORPORATION		
Do	NATIONAL TAX LIMITATION COMMITTEE	3,060.00	
Do	NORTHWESTERN MUTUAL LIFE INSURANCE CO	1,875.00	
Do	OWENS-ILLINOIS	1,250.00	
Do	PHELPS DODGE CORP	1,250.00	
Do	PROCTER & GAMBLE MANUFACTURING CO	625.00	
Do	SCOTT PAPER COMPANY	625.00	
Do	UNION CARBIDE CORP.	775.00	
Do	UNITED AIRLINES	1,250.00	
Do	WEYERHAEUSER CO.		
CHARLES W. WALKER 1125 15TH ST., NW WASHINGTON DC 20005	INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS	9,987.50	
WARREN W. WALKLEY 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO.		
MARTIN A. WALL 643 PENN. AVE., SE WASHINGTON DC 20003	AMERICAN OSTEOPATHIC HOSPITAL ASSN.		
R. DUFFY WALL SUITE 400 1730 RHODE ISLAND AVE., NW WASHINGTON DC 20036	FREEPORT-MCMORAN INC.	350.00	73.90
DON WALLACE ASSOCIATES, INC. 232 E. CAPITOL ST. WASHINGTON DC 20003	AMERICAN SUGAR CANE LEAGUE OF THE USA, INC.	6,000.00	2,211.25
Do	COTTON WAREHOUSE ASSOCIATION OF AMERICA	11,000.00	1,081.61
RAYMOND C. WALLACE 5151 WISCONSIN AVE., NW WASHINGTON DC 20016	AMALGAMATED TRANSIT UNION, AFL-CIO		
LIONEL L. WALLENROD 260 MADISON AVE. NEW YORK NY 10016	AMERICAN PAPER INST, INC		
R. DOUGLAS WALLIN JR 1235 JEFFERSON DAVIS HWY. ARLINGTON VA 22202	EMERSON ELECTRIC CO		181.67
CHARLES S. WALSH FLEISCHMANN & WALSH 1725 N ST., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC.		
JAMES P. WALSH 1050 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	AMERICAN TUNABOAT ASSN.	7,500.00	447.47
HENRY L. WALTHER 3238 WYNFORD DRIVE FAIRFAX VA 22031	U.S. DEFENSE COMMITTEE	250.00	
JOHN F. WANAMAKER 201 N. WASHINGTON, ST. ALEXANDRIA VA 22314	RETIRED OFFICERS ASSN	1,557.00	
JAMES WANKO 901 N. WASHINGTON ST. ALEXANDRIA VA 22314	SOCIETY OF AMERICAN FLORISTS & ORNAMENTAL HORTICULTURISTS		
BARBARA WANNER 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036	JAPAN ECONOMIC INSTITUTE OF AMERICA	300.00	
ALAN S. WARD 818 CONNECTICUT AVE., NW WASHINGTON DC 20006	BAKER & HOSTETLER (FOR: SOAP & DETERGENT ASSN)		
JOHN E. WARD 182 SOUNDVIEW AVE. WHITE PLAINS NY 10606	MEAT IMPORTERS COUNCIL OF AMERICA, INC.		
RICHARD D. WARDEN 1757 N ST., NW WASHINGTON DC 20036	INTERNATIONAL UNION, UNITED AUTO, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA	14,463.12	284.70
JACK WARE 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	8,870.00	221.83
MICHAEL D. WARE 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	CONOCO	1,200.00	
PETER F. WARKER SUITE 2700 1000 WILSON BOULEVARD ARLINGTON VA 22209	TRW, INC.	1,250.00	
ERNEST R. WARNER JR 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTERNATIONAL, INC. (FOR: AIRBUS INDUSTRIE)	516.80	434.92
Do	DGA INTERNATIONAL INC. (FOR: SOFREAVIA)	32.30	31.79
CHRISTINE M. WARNKE SUITE 300 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN TEXTILE MANUFACTURERS INSTITUTE	400.00	248.80
WASHINGTON GAS LIGHT CO 1100 H ST., NW WASHINGTON DC 20080			1,706.83
WASHINGTON INDUSTRIAL TEAM, INC. 400 SOUTH CAPITOL ST.,S.W. ROOM 440 WASHINGTON DC 20003	BOEING COMPANY	450.00	370.07
Do	GENERAL DYNAMICS CORPORATION	450.00	370.07
Do	HUGHES AIRCRAFT COMPANY	450.00	370.07
Do	MCDONNELL DOUGLAS CORPORATION	450.00	370.07
Do	RAYTHEON COMPANY	450.00	370.07
Do	ROCKWELL INTL	450.00	370.07
Do	TRW, INC.	450.00	370.07
Do	UNITED TECHNOLOGIES CORPORATION	450.00	370.07
Do	WESTINGHOUSE ELECTRIC CORP.	450.00	370.07
WASHINGTON OFFICE ON AFRICA 110 MARYLAND AVE., NE WASHINGTON DC 20002		12,733.71	19,003.94
WASHINGTON STATE NAVAL ROOM 610 909 FOURTH AVENUE SEATTLE WA 98104			
ROBERT E. WATKINS 1909 K STREET, N.W. SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.		
CLARKE R. WATSON 1722 LAFAYETTE ST., DENVER CO. 80218	WESTLAND COMPANIES, INC.		
RALPH J. WATSON 1745 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202	ROCKWELL INTL	485.00	171.20
CAROLYN HERR WATTS 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN.	75.00	
GEORGE B. WATTS 1155 15TH ST., NW WASHINGTON DC 20005	NATIONAL BROILER COUNCIL	1,000.00	
BRUCE H. WATZMAN 1130 17TH STREET, N.W. WASHINGTON DC 20036	NATIONAL COAL ASSN.	4,750.00	543.96
JUDITH G. WAXMAN 1424 16TH ST., NW SUITE 304 WASHINGTON DC 20036	NATIONAL HEALTH LAW PROGRAM	2,107.78	2,223.78
WILLIAM J. WAY 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	1,225.00
WILLIAM H. WEATHERSPOON NORTH CAROLINA PETROLEUM COUNCIL PO BOX 167 RALEIGH NC 27602	AMERICAN PETROLEUM INST		
VERNON WEAVER SUITE 500 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	STEPHENS OVERSEAS SERVICES, INC.	78.25	
DOUGLAS M. WEBB 1001 22ND ST., NW WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	500.00	21.45
HORACE S. WEBB P.O. BOX 351 CEDAR RAPIDS IA 52406	IOWA ELECTRIC LIGHT AND POWER COMPANY		
FREDERICK L. WEBBER 1111 19TH ST., NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	5,193.75	45.85
WEBSTER AND SHEFFIELD 1200 NEW HAMPSHIRE AVE., NW, #350 WASHINGTON DC 20036	ADAMS COUNTY, COLORADO	50,295.00	5,404.63
Do	PENOBSCOT NATION	5,000.00	209.03
Do	SKANSKA (U.S.A.), INC.	5,570.00	32.74
WEBSTER, CHAMBERLAIN & BEAN 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	AMERICAN PARATRANSIT INSTITUTE	1,200.00	
Do	AMERICAN SOCIETY OF RADIOLOGIC TECHNOLOGISTS		
LEE J. WEDDIG SUITE 700 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATIONAL FISHERIES INST.	4,000.00	20.00
CHARLES W. WEGNER JR. 600 PENNSYLVANIA AVE., S.E. SUITE 203 WASHINGTON DC 20003	PROFESSIONAL INSURANCE AGENTS	425.00	275.00
JACK R. WEHRLY 1800 M ST., NW SUITE 710 SOUTH WASHINGTON DC 20036	DOW CORNING CORPORATION		
WEIL, GOTSHAL & MANGES 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	CONTINENTAL GROUP		
Do	NATIONAL RETAIL MERCHANTS ASSN.		
NANCY WEINBERG SUITE 743, 1434 N.Y. AVE., NW WASHINGTON DC 20005	ROHM AND HAAS COMPANY	500.00	86.50
DONALD G. WEINERT 2029 K ST., NW WASHINGTON DC 20006	NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS	1,500.00	
JOEL A. WEISS 1730 N. LYNN ST. # 400 ROSSLYN VA 22209	ACUREX SOLAR CORPORATION	3,182.16	347.16
MICHAEL A. WEISS 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO INC		150.00
MORTON H. WEISS SUITE 4511 ONE WORLD TRADE CENTER NEW YORK NY 10048	NATIONAL SECURITY TRADERS ASSN, INC.	3,125.00	415.33
JUDITH H. WEITZ 1520 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	CHILDREN'S DEFENSE FUND	832.11	28.00
DON WELCH P.O. BOX 841 ABILENE TX 79604	WEST TEXAS UTILITIES CO.	400.00	700.00
PAUL S. WELLER JR 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL COUNCIL OF FARMER COOPERATIVES	1,925.00	
WELLFORD, WEGMAN, KRULWICH, GOLD & HOFF SUITE 802 1015 18TH STREET, NW WASHINGTON DC 20036	CANADIAN EMBASSY	950.00	
Do	DEPARTMENT OF NATURAL RESOURCES, PROVINCE OF MANITOBA	4,800.00	
Do	JOHNS-MANVILLE		
Do	PETRO-LEWIS CORPORATION		
L. N. WELLS SUITE 200, 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	SHELL OIL CO.	500.00	
DOUGLAS P. WENDEL 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	AMERICAN BUS ASSN.	3,000.00	316.00
THOMAS F. WENNING BISON AND WENNING 1625 I ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF RETAIL GROCERS OF THE U.S.		
W. R. WERNER, P.O. BOX 860, VALLEY FORGE, PA. 19482	CERTAINTEED CORP		
FRED WERTHEIMER 2030 M ST., NW WASHINGTON DC 20036	COMMON CAUSE	13,475.04	1,905.73
FRANK WEST 777 14TH STREET, NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	476.75
WEST MEXICO VEGETABLE DISTRIBUTORS ASSN PO BOX 848 NOGALES AZ 85621			1,000.00
WEST TEXAS LAND & ROYALTY OWNERS ASSN. 4302 AIRPORT BLVD. AUSTIN TX 78722			
W. P. WEST 1629 K ST., NW ROOM 204 WASHINGTON DC 20006	DELTA AIR LINES, INC.	273.00	157.37
HARRY H. WESTBAY III SUITE 805 1625 EYE ST., NW WASHINGTON DC 20006	ST. REGIS PAPER CO	1,650.00	
WESTERN COTTON GROWERS ASSN 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036			
WESTERN GROWERS ASSOCIATION 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036			
JOHN F. WETZEL 1235 JEFFERSON DAVIS HIGHWAY, ARLINGTON, VA 22202	MOTORCYCLE INDUSTRY COUNCIL, INC.	1,000.00	36.00
WEXLER AND ASSOCIATES, INC SUITE 400 1616 H STREET, NW WASHINGTON DC 20006	MOTION PICTURE ASSN OF AMERICA	1,650.00	
Do	GMK COMPANIES	1,290.00	

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	NATIONAL FOOTBALL LEAGUE	3,545.00	
Do	ARMCO INC.		
Do	BENEFICIAL MANAGEMENT CORP OF AMERICA	1,840.00	
Do	BENENSON REALTY COMPANY	900.00	
Do	NATIONAL RADIO BROADCASTERS ASSOCIATION	3,480.00	
Do	TOSCO CORPORATION	150.00	
Do	INDEPENDENT GAS PRODUCERS COMMITTEE (IGPC)		
ROBERT G. WEYMUELLER SUITE 401 1629 K STREET, NW WASHINGTON DC 20006	AMERICAN LUNG ASSOCIATION	3,600.00	1,955.00
BRIAN B. WHALEN JR 401 N. MICHIGAN AVE. CHICAGO IL 60611	INTERNATIONAL HARVESTER	1,250.00	599.12
CURTIS E. WHALEN P.O. BOX 44 WINTER PARK FL 32790	CONTINENTAL RESOURCES COMPANY	3,300.00	1,645.97
CLYDE A. WHEELER JR SUITE 820 1800 K ST., NW WASHINGTON DC 20006	SUN CO, INC	15,000.00	464.90
DALE J. WHEELER 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
EDWIN M. WHEELER 1015 18TH ST., NW WASHINGTON DC 20036	FERTILIZER INSTITUTE		25.00
THOMAS E. WHEELER 1724 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL CABLE TELEVISION ASSN, INC	1,375.00	
JUNE M. WHELAN SUITE 600 S 1120 20TH ST., NW WASHINGTON DC 20036	UNION PACIFIC CORPORATION	1,250.00	134.30
WILLIAM WHICHARD JR 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	UNION OIL CO OF CALIFORNIA		
WHITE & CASE 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	COMMERCIAL UNION LEASING CORP		
Do	REPUBLIC OF INDONESIA	112.50	5.50
BRENDA WHITE ROOM 807 140 PARK PLACE NEW YORK NY 10007	MUNICIPAL LABOR COMMITTEE	14,296.14	1,100.28
DONALD F. WHITE 1616 H ST., NW WASHINGTON DC 20006	AMERICAN RETAIL FEDERATION	1,500.00	90.00
JOHN C. WHITE SUITE 207 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	COASTAL CORP & CHICAGO MERCANTILE EXCHANGE		
JOHN S. WHITE 1800 M ST., NW, #975 WASHINGTON DC 20036	MARATHON OIL CO		
JOHN THOMAS WHITE II SUITE 2202 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	TENNECO INC		
ALTON W. WHITEHOUSE JR 1750 MIDLAND BLDG. CLEVELAND OH 44115	STANDARD OIL CO (OHIO)		
MARSHALL E. WHITENTON 1001 22ND STREET, NW, SUITE 600, WASHINGTON DC 20037	STANDARD OIL CO (OHIO)	712.50	170.53
W. EDWARD WHITFIELD 840 WASHINGTON BUILDING 15TH STREET & NEW YORK AVENUE, NW WASHINGTON DC 20005	CSX CORPORATION	3,000.00	347.98
BENNETT C. WHITLOCK JR 1616 P ST., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC	7,500.00	100.00
WHITMAN & RANSOM 1333 NEW HAMPSHIRE AVE., NW, #650 WASHINGTON DC 20036	AMERICAN FRIENDS OF KIRYAT SANZ LANIADO HOSPITAL		
Do	BELZ INSTITUTE OF ISRAEL		
JAMES A. WHITMAN P.O. BOX 1417-D49 ALEXANDRIA VA 22313	NATIONAL ASSN OF CHAIN DRUG STORES, INC	500.00	
WILLIAM F. WHITSITT 1800 K ST., NW SUITE 820 WASHINGTON DC 20006	SUN CO, INC	2,000.00	461.66
DAVID E. WHITTEN 1015 18TH ST., NW WASHINGTON DC 20036	FERTILIZER INSTITUTE	5,000.00	4,422.38
STEPHANIE WHYCHE 600 MARYLAND AVE., SW SUITE 400 WASHINGTON DC 20024	AMERICAN OPTOMETRIC ASSN		
WICKWIRE, LEWIS, GOLDMARK, & SCHOOR 500 MAYNARD BLDG. SEATTLE WA 98104	ARCTIC SLOPE REGIONAL CORP, ET AL		
RICHARD J. WIECHMANN 1619 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
HARRY G. WILES II 499 S. CAPITOL ST., SW SUITE 40L WASHINGTON DC 20003	NATIONAL ASSN OF INDEPENDENT INSURERS		118.00
GUENTHER O. WILHELM SUITE 1100 1899 L STREET, NW WASHINGTON DC 20036	EXXON CORPORATION		
CARL B. WILKERSON 1850 K STREET, NW WASHINGTON DC 20006	AMERICAN COUNCIL OF LIFE INSURANCE, INC		
JERRY C. WILKERSON 1025 CONNECTICUT AVE., NW, #1005 WASHINGTON DC 20036	INTERNATIONAL FRANCHISE ASSN	1,950.00	2,650.00
WILKINSON, CRAGUN & BARKER 1735 NEW YORK AVE., NW WASHINGTON DC 20006	ARAPAHOE TRIBE OF INDIANS		66.24
Do	THOMAS L. ASHLEY, P.C.	1,305.00	
Do	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS	1,129.50	30.45
Do	CONFEDERATED SALISH & KOOTENAI TRIBES OF THE FLATHEAD RES.		9.26
Do	INDEPENDENT DATA COMMUNICATIONS MANUFACTURERS ASSOCIATION	8,061.50	145.70
Do	INDEPENDENT INSURANCE AGENTS OF AMERICA, INC.	1,005.00	
Do	LOUISIANA PACIFIC CORP	2,401.50	4.00
Do	MARATHON OIL CO		
Do	NATIONAL CONGRESS OF AMERICAN INDIANS, INC.		
Do	PUEBLO DE COCHITI	165.00	16.75
Do	SHEE ATIKA, INC.		
Do	STATE OF HAWAII, DEPT OF REGULATORY AGENCIES		
Do	THREE AFFILIATED TRIBES OF THE FT. BERTHOLD RESERVATION		16.45
Do	WICHITA & AFFILIATED TRIBES	2,670.00	10.20
SANDRA L. WILLETT 624 C ST., SE WASHINGTON DC 20003	NATIONAL CONSUMERS LEAGUE	750.00	5.00
RALPH E. WILLHAM 1750 NEW YORK AVE., NW WASHINGTON DC 20006	SHEET METAL WORKERS' INTL ASSN	8,977.50	
WILLIAMS & CONNOLLY 839 1000 HILL BUILDING, WASHINGTON DC 20006	BENENSON REALTY CO	675.00	
Do	COUNCIL OF STATE HOSPITAL FINANCE AUTHORITIES	2,936.25	
Do	TWENTIETH CENTURY-FOX FILM CORP		
WILLIAMS & JENSEN, P.C. 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN TRUCKING ASSNS, INC		
Do	C. BREWER & CO, LTD.		
Do	CONNECTICUT GENERAL INSURANCE CORP		
Do	DOMESTIC PETROLEUM COUNCIL, INC		
Do	LOUISIANA LAND AND EXPLORATION CO.		
Do	LLOYD HAYES		
Do	PILLSBURY COMPANY		
LAWRENCE F. WILLIAMS 330 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	SIERRA CLUB	6,093.75	30.00
LUCINDA WILLIAMS 1111 19TH ST., NW, #402 ARLINGTON VA 20036	FEDERATION OF AMERICAN HOSPITALS	4,500.00	
ROBERT E. WILLIAMS 1825 K ST., NW, #607 WASHINGTON DC 20006	UNITED AIRLINES	1,500	
W.G. WILLIAMS 1100 SEVENTEETH STREET, N.W. SUITE 1000 WASHINGTON DC 20036			
WILLIAMS, MYERS & QUIGGLE 888 17TH ST., NW WASHINGTON DC 20006	CHURCH ALLIANCE FOR CLARIFICATION OF ERISA	10,055.99	746.63
JOHN C. WILLIAMSON SUITE 1402 1725 K ST., NW WASHINGTON DC 20006	MORTGAGE INSURANCE COMPANIES OF AMERICA	2,700.00	81.15
DAVID K. WILLIS 1909 K ST., NW SUITE 300 WASHINGTON DC 20006	MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.		
CHARLOTTE M. WILMER 1800 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	NATIONAL RURAL ELECTRIC COOPERATIVE ASSN	175.00	
WILMER, CUTLER & PICKERING 1666 K ST., NW WASHINGTON DC 20006	BUSINESS ROUNDTABLE		33.95
Do	CBS, INC	5,155.00	199.18
Do	CPC INTERNATIONAL, INC.	21,731.25	166.29
Do	DEALER BANK ASSN		
Do	FORD MOTOR CO	12,664.00	189.06
Do	G-4 CHILDREN'S COALITION	34,342.75	92.87
Do	HANDGUN CONTROL, INC.		66.35
Do	HAPAG-LLOYD, A.G.		55.20
Do	MORGAN GUARANTY TRUST CO		
Do	NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS		
Do	OWENS-ILLINOIS	1,320.00	35.05
CHARLES D. WILSON 1850 K ST., NW, #390 WASHINGTON DC 20006	UNION CAMP CORP	2,062.50	423.46
DENA L. WILSON 1600 WILSON BLVD., #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	3,000.00	174.05
DONNIE E. WILSON 1800 M ST., NW, #295 WASHINGTON DC 20036	HUSKY OIL COMPANY	250.00	
DOROTHY WILSON 4201 CATHEDRAL AVE., NW SUITE 1205E WASHINGTON DC 20016	COALITION OF CONCERNED CHARITIES		
JAMES E. WILSON JR 1150 17TH ST., NW, #500 WASHINGTON DC 20036	MCDONNELL DOUGLAS CORPORATION		
JOHN R. WILSON 1520 OHIO SAVINGS PLAZA CLEVELAND OH 44114	MIDWEST ALLIANCE FOR INDUSTRIAL FINANCING & RESTRUCTURING		
MRS. BJORG OPDAHL WILSON 110 MARYLAND AVE., NE WASHINGTON DC 20002	U.S. COMMITTEE FOR UNICEF		
ROBERT C. WILSON ROOM 400, 499 SO. CAPITAL ST., SW WASHINGTON DC 20003	RMI, INC.	550.00	
Do	SOUTHWEST MARINE, INC.	320.00	
Do	WASHINGTON INDUSTRIAL TEAM, INC.	600.00	
WILLIAM A. WILSON III 8001 BRADDOCK ROAD SUITE 500 SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMM	400.00	
JUDITH A. WINCHESTER 1620 I ST., NW WASHINGTON DC 20036	CITY OF PHILADELPHIA		
WINDELS, MARX, DAVIES & IVES SUITE 940 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	SOLITRON DEVICES, INC		
Do	WATERMAN STEAMSHIP CORP		
JOSEPH B. WINKELMANN 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	2,500.00	521.24
KATHLEEN J. WINN 1155 15TH ST., NW SUITE 602 WASHINGTON DC 20005	PENNZOIL CO.	475.00	
JAMES R. WINNIE PO BOX 25128 OKLAHOMA CITY OK 73125	CITIES SERVICE GAS CO		
WINSTON & STRAWN #500 2550 M ST., NW WASHINGTON DC 20037	AMERICAN ASSN OF MUSEUMS	180.00	
Do	ANTAEUS ENTERPRISES, INC.		
Do	BUILDING OWNERS & MANAGERS ASSN INC.	400.00	
Do	CUMMINS ENGINE CO., INC.		
Do	GIC FINANCIAL SERVICES CORP	287.50	
Do	GOULD, INC.		
Do	INTERNATIONAL COUNCIL OF SHOPPING CENTERS	447.50	
Do	LEASE MANAGEMENT CORP	878.75	
MARK E. WINTER 1828 L ST., NW WASHINGTON DC 20036	AMERICAN LAND TITLE ASSN	3,000.00	
ANN R. WISE 112 WASHINGTON ST. EAST WALPOLE MA 02032	HOLLINGSWORTH & VOSE CO.	450.00	3,062.00
ALAN M. WISEMAN SUITE 900 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	MEAD CORPORATION	3,552.50	166.78
ROBERT V. WITECK THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: MINIMUM TAX COALITION)	900.00	70.00

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RICHARD F. WITHERALL 420 DENVER CLUB BLDG. DENVER CO 80202	COLORADO RAILROAD ASSN		
WITKOWSKI, WEINER, MCCAFFREY & BRODSKY SUITE 350 1575 I ST., NW WASHINGTON DC 20005	COMMERCIAL CREDIT CORP	1,318.15	17.67
Do	COORDINATING COUNCIL ON MANUFACTURED HOUSING FINANCE	4,576.50	4,644.87
Do	NATIONAL MANUFACTURED HOUSING FINANCE ASSN		
Do	NATIONAL TRUCK EQUIPMENT ASSN		
Do	TASK FORCE ON CREATIVE FINANCE FOR MANUFACTURED HOUSING	14,889.60	15,380.76
Do	WILMORE CITY DEVELOPMENT, INC & SILVERCREST INDUSTRIES, INC		
GLENN P. WITTE 910 17TH ST., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF ICE CREAM MFRS & MILK IND. FOUNDATION		
HERMAN C. WITTHAUS 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	3,000.00	1,528.83
JAMES E. WOLF 2020 14TH ST., NORTH ARLINGTON VA 22201	TRANE COMPANY	2,500.00	
JAMES WOLF 1925 K STREET, NW WASHINGTON DC 20006	ALLIANCE TO SAVE ENERGY		
SIDNEY M. WOLFE 2000 P ST., NW, #708 WASHINGTON DC 20036	HEALTH RESEARCH GROUP		
BENJAMIN WOLFF 1730 P ST. N.W WASHINGTON DC 20036	U.S. WINDPOWER ASSOC.		
BRUCE WOLPE 2025 M STREET, NW WASHINGTON DC 20036	NATIONAL PUBLIC RADIO	6,333.00	73.34
RONALD WOLSEY ONE NORTH CHARLES ST., SUITE 1115, BALTIMORE, MARYLAND 21201	AMOCO OIL COMPANY		
DON WOMACK SUITE 303 1825 K ST., NW WASHINGTON DC 20006	TEXAS UTILITIES SERVICES, INC	2,356.00	210.45
BURTON C. WOOD 1125 15TH ST., NW WASHINGTON DC 20005	MORTGAGE BANKERS ASSOCIATION OF AMERICA	10,950.00	2,052.00
CHARLES A. WOOD 10 LAFAYETTE SQUARE BUFFALO NY 14203	NATIONAL FUEL GAS DISTRIBUTION CORP., ET AL	357.20	2,112.95
JOHN L. WOOD 2700 1 MAIN PLACE, DALLAS, TEXAS 75202	CENTRAL AND SOUTH WEST CORP	197.00	
Do	EDISON ELECTRIC INSTITUTE		35.70
W. ALAN WOODFORD 2501 M ST., NW WASHINGTON DC 20037	CHEMICAL MANUFACTURERS ASSOCIATION, INC	300.00	
DIANE WOODRUFF 1349 CONNECTICUT AVE. NW #228, WASHINGTON DC 20036	COMMITTEE OF URBAN PROGRAM UNIVERSITIES	3,250.00	
M. ALAN WOODS 1225 19TH ST., NW WASHINGTON DC 20036	DGA INTL, INC (FOR: AIRBUS INDUSTRIE)		
Do	DGA INTL, INC (FOR: DIR INTL AFF OF THE GEN DEL FOR ARMAMENTS)		
Do	DGA INTL, INC. (FOR: SOFREAVIA)		
RICHARD P. WOODS 2501 M ST., N.W. SUITE 540 WASHINGTON DC 20037	PACIFIC RESOURCES, INC	500.00	
WILLIAM E. WOODS 205 DAINGERFIELD RD., ALEXANDRIA, VIRGINIA 22314	NATIONAL ASSN OF RETAIL DRUGGISTS	1,500.00	300.00
PERRY W. WOOFTER SUITE 530 1800 K ST., NW WASHINGTON DC 20006	TESORO PETROLEUM CORP	2,500.00	
EDWARD A. WOOLLEY BEDFORD CONSULTANTS BUILDING P.O. BOX 605 BEDFORD NY 10506	CTI-CONTAINER TRANSPORT INTL., INC., ET AL	136.06	46.07
LINDA ANZALONE WOOLLEY 1615 H ST., NW WASHINGTON DC 20062	CHAMBER OF COMMERCE OF THE U.S	2,500.00	
RONALD L. WOOTEN #1000 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	CONSOLIDATION COAL CO	625.00	120.00
GEORGE M. WORDEN 1201 PENNSYLVANIA AVE., NW SUITE 700, WASHINGTON DC 20004	HILL AND KNOWLTON, INC. (FOR: DISTILLED SPIRITS COUNCIL OF THE US, INC)		
DEE WORKMAN VALKYRIE ENTERPRISES, INC 405 LEXINGTON AVE., NEW YORK, NEW YORK 10017	MOBIL OIL CORPORATION	18,750.00	1,600.00
WORLD FEDERALIST POLITICAL EDUCATION COMM 600 VALLEY RD. WAYNE NJ 07470		11,105.65	10,476.10
WORLDWIDE INFORMATION RESOURCES, LTD SUITE 304 1101 30TH STREET, NW WASHINGTON DC 20007	EQUITABLE LIFE ASSURANCE SOCIETY OF THE U.S		
Do	HEUBLEIN, INC		
Do	PAN AMERICAN WORLD AIRWAYS, INC		
Do	STATE OF MONTANA		
Do	TOYOTA MOTOR SALES U.S.A., INC		
W. ROBERT WORLEY 1736 CREEK CROSSING ROAD VIENNA VA 22180	SOUTHERN COMPANY SERVICES, INC	88.00	982.30
STEVEN M. WORTH 3255 GRACE ST., NW THE POWER HOUSE WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN MARITIME ASSN)		
Do	GRAY AND COMPANY (FOR: JOINT MARITIME CONGRESS)		
Do	GRAY AND COMPANY (FOR: REPUBLIC AIRLINES)		
Do	GRAY AND COMPANY (FOR: THYSSEN NORDSEEWERKE GMBH)	380.00	114.00
FRANKLIN L. WRIGHT JR 1709 NEW YORK AVE., NW, #200 WASHINGTON DC 20006	NATIONAL ASSN OF MUTUAL SAVINGS BANKS	2,968.75	
WILLIAM L. WRIGHT 1901 L STREET, N.W. WASHINGTON DC 20036	ELI LILLY AND COMPANY	3,000.00	59.30
RICHARD E. WYCKOFF 1771 N ST., NW WASHINGTON DC 20036	NATIONAL ASSN OF BROADCASTERS	1,500.00	527.00
WYMAN, BAUTZER, ROTHMAN, KUCHEL & SILBERT SUITE 500, THE WATERGATE 600 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037.	AMERICAN BOILER MANUFACTURERS ASSOCIATION, INC		
Do	AUTOMOTIVE DISMANTLERS & RECYCLERS ASSN		
Do	BRISTOL BAY NATIVE CORP		
Do	CARL M. FREEMAN ASSOCIATES		
Do	EKLUTNA, INC		
Do	FILMWAYS, INC		
MARC D. YACKER 1619 MASSACHUSETTS AVENUE, N.W. WASHINGTON DC 20036	AMERICAN PAPER INST, INC		
T. ALBERT YAMADA SUITE 520 900 17TH ST., NW WASHINGTON DC 20006	MATSUSHITA ELECTRIC CORP OF AMERICA	500.00	
Do	TOYOTA MOTOR SALES, U.S.A., INC	500.00	
Do	WEST MEXICO VEGETABLE DISTRIBUTORS ASSN	500.00	
EDWARD R. YAWN 1111 19TH ST., NW WASHINGTON DC 20036	EDISON ELECTRIC INSTITUTE	857.00	318.48
KIM YELTON 8120 FENTON ST. SILVER SPRING MD 20910	AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE	4,482.72	2,501.13
JACK YELVERTON 1303 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FLEET RESERVE ASSN		
PATRICIA D. YODER SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC		
D. SCOTT YONE 1629 K ST., NW, #204 WASHINGTON DC 20006	DELTA AIR LINES, INC	300.00	114.80
EDWARD A. YOPP P.O. BOX 1072 EL PASO TX 79958	STATE NATIONAL BANK OF EL PASO		
G. REYNOLDS YOUNG 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	1,000.00	
HUGH F. YOUNG JR 1500 RHODE ISLAND AVE., NW WASHINGTON DC 20005	NATIONAL PAINT & COATINGS ASSN, INC	3,000.00	20.00
JOHN ANDREW YOUNG 1333 NEW HAMPSHIRE AVE., NW, #207 WASHINGTON DC 20036	COASTAL CORPORATION	1,000.00	
THANE YOUNG 777 14TH STREET, N.W. WASHINGTON DC 20005	NATIONAL ASSOCIATION OF REALTORS	1,500.00	291.04
BETSY YOUNKINS SUITE 600 2101 L ST., NW WASHINGTON DC 20037	AMERICAN PETROLEUM INST	6,000.00	83.44
EUGENE A. YOURCH 50 BROADWAY NEW YORK NY 10004	FEDERATION OF AMERICAN CONTROLLED SHIPPING	200.00	
HARRY M ZACHEM 1025 CONNECTICUT AVE., #507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
MICHAEL ZAGORAC P.O. BOX 4689 CLEARWATER FL 33518	JACK ECKERD CORPORATION		
DONALD ZAHN 8001 BRADDOCK RD., #600 SPRINGFIELD VA 22160	NATIONAL RIGHT TO WORK COMM	528.00	206.76
LYNN ZAKUPOWSKY 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO	750.00	
STEVEN S. ZALEZNICK 1909 K ST., NW WASHINGTON DC 20049	NATIONAL RETIRED TEACHERS ASSN/AMERICAN ASSN OF RET PERSONS	340.40	61.50
BARNABY W. ZALL 2028 P ST., NW WASHINGTON DC 20036	FEDERATION FOR AMERICAN IMMIGRATION REFORM	3,677.00	245.00
BARRY W. ZANDER 6113 AMHURST ST. METAIRIE LA 70003	SOUTHERN FOREST PRODUCTS ASSN	7,062.54	
JOHN S. ZAPP 1101 VERMONT AVENUE, NW WASHINGTON, DC 20005	AMERICAN MEDICAL ASSN	4,500.00	141.26
JANICE ZARRO 1660 L STREET NW, SUITE 715-16, WASHINGTON, DC 20036	AVON PRODUCTS, INC	60.40	20.00
THOMAS K. ZAUCHA 1910 K ST., NW SUITE 700 WASHINGTON DC 20006	COOPERATIVE FOOD DISTRIBUTORS OF AMERICA		
L. ANDREW ZAUSNER 1155 15TH ST., NW, #602 WASHINGTON DC 20005	PENNZOIL CO	1,000.00	30.00
PHILIP F. ZEIDMAN 1025 CONNECTICUT AVE., NW, #900 # 900 WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE		
JEROME M. ZEIFMAN 1424 16TH ST., NW SUITE 300 WASHINGTON DC 20036	NATIONAL SENIOR CITIZENS LAW CENTER	1,932.50	2,322.00
DON J. ZELLER SUITE 503 1000 16TH STREET, NW WASHINGTON DC 20036	STANDARD OIL CO (INDIANA)	1,500.00	147.92
RONALD L. ZIEGLER 700 N. FAIRFAX STREET, SUITE 505, ALEXANDRIA, VA 22314	NATIONAL ASSN OF TRUCK STOP OPERATORS		
KENNETH ZINN 1720 Q STREET, NW WASHINGTON DC 20009	WASHINGTON OFFICE ON AFRICA	2,749.98	
JOHN L. ZORACK COOK, PURCELL, HANSEN, & HENDERSON SUITE 1100, 1015 18TH ST., NW WASHINGTON DC 20036	FEDERAL EXPRESS CORP	9,500.00	
ZUCKERT, SCOUTT & RASENBERGER 888 17TH ST., NW WASHINGTON DC 20006	ANTAEUS ENTERPRISES, INC		29.23
Do	HARCOURT BRACE JOVANOVICH	11,004.66	468.28
Do	HAZARDOUS WASTE TREATMENT COUNCIL	3,950.00	1,601.29
Do	REPUBLIC AIRLINES, INC	8,062.00	144.70
Do	WORLD AIRWAYS, INC	1,651.00	66.23
LEIGH ANN ZONKE 1133 20TH STREET, NW WASHINGTON DC 20036	NATIONAL FOOD PROCESSORS ASSN	375.00	28.21
CHARLES D. ZUVER 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN BANKERS ASSN	3,000.00	
CARL E. ZWISLER III 1025 CONNECTICUT AVE., NW, #1005 WASHINGTON DC 20036	INTERNATIONAL FRANCHISE ASSN		
1ST PRO-LIFE CONG DISTRICT ACTION COMM (RI) 6 MAXFIELD CT. BARRINGTON RI 02806		1,000.00	956.94
23RD CONGRESSIONAL DISTRICT ACTION COMM. 575 CHARLES ST. ST. MARYS PA 15857			
36TH CONGRESSIONAL DISTRICT ACTION COMM. 129 BELMONT AVE. BUFFALO NY 14223			44.13
38TH PRO-LIFE CONGRESSIONAL DISTRICT ACTION COMM 8654 BONVIEW TERRACE WILLIAMSVILLE NY 14221			
39TH CONGRESSIONAL DISTRICT ACTION COMM RD 2 ALLEGANY NY 14706			20.00
5TH PRO-LIFE CONG DISTRICT ACTION COMM (FL) C/O MR. JOHN KELLEY 1120 MICHIGAN BLVD. DUNEDIN FL 33528			87.25
6TH PRO-LIFE CONG DISTRICT ACTION COMM (FL) #1 PLAZA PLACE, NE, SUITE 1003 ST. PETERSBURG FL 33701			

QUARTERLY REPORTS*

*All alphanumeric characters and monetary amounts refer to receipts and expenditures on page 2, paragraphs D and E of the Quarterly Report Form.

The following reports for the first calendar quarter of 1982 were received too late to be included in the published reports for that quarter:

(NOTE.—The form used for report is reproduced below. In the interest of economy in the RECORD, questions are not repeated, only the essential answers are printed, and are indicated by their respective letter and number.)

FILE ONE COPY WITH THE SECRETARY OF THE SENATE AND FILE TWO COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

This page (page 1) is designed to supply identifying data; and page 2 (on the back of this page) deals with financial data.

PLACE AN "X" BELOW THE APPROPRIATE LETTER OR FIGURE IN THE BOX AT THE RIGHT OF THE "REPORT" HEADING BELOW:

"PRELIMINARY" REPORT ("Registration"): To "register," place an "X" below the letter "P" and fill out page 1 only.

"QUARTERLY" REPORT: To indicate which one of the four calendar quarters is covered by this Report, place an "X" below the appropriate figure. Fill out both page 1 and page 2 and as many additional pages as may be required. The first additional page should be numbered as page "3," and the rest of such pages should be "4," "5," "6," etc. Preparation and filing in accordance with instructions will accomplish compliance with all quarterly reporting requirements of the Act.

Year: 19.......... ◆

REPORT

PURSUANT TO FEDERAL REGULATION OF LOBBYING ACT

P	QUARTER			
	1st	2d	3d	4th
(Mark one square only)				

NOTE ON ITEM "A".—(a) IN GENERAL. This "Report" form may be used by either an organization or an individual, as follows:

(i) "Employee".—To file as an "employee", state (in Item "B") the name, address, and nature of business of the "employer". (If the "employee" is a firm [such as a law firm or public relations firm], partners and salaried staff members of such firm may join in filing a Report as an "employee".)

(ii) "Employer".—To file as an "employer", write "None" in answer to Item "B".

(b) SEPARATE REPORTS. An agent or employee should not attempt to combine his Report with the employer's Report:

(i) Employers subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their agents or employees.

(ii) Employees subject to the Act must file separate Reports and are not relieved of this requirement merely because Reports are filed by their employers.

A. ORGANIZATION OR INDIVIDUAL FILING:

1. State name, address, and nature of business.

2. If this Report is for an Employer, list names of agents or employees who will file Reports for this Quarter.

NOTE ON ITEM "B".—*Reports by Agents or Employees.* An employee is to file, each quarter, as many Reports as he has employers, except that: (*a*) If a particular undertaking is jointly financed by a group of employers, the group is to be considered as one employer, but all members of the group are to be named, and the contribution of each member is to be specified; (*b*) if the work is done in the interest of one person but payment therefor is made by another, a single Report—naming both persons as "employers"—is to be filed each quarter.

B. EMPLOYER.—State name, address, and nature of business. If there is no employer, write "None."

NOTE ON ITEM "C".—(*a*) The expression "in connection with legislative interests," as used in this Report, means "in connection with attempting, directly or indirectly, to influence the passage or defeat of legislation." "The term 'legislation' means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House"—§302(e).

(*b*) Before undertaking any activities in connection with legislative interests, organizations and individuals subject to the Lobbying Act are required to file a "Preliminary" Report (Registration).

(*c*) After beginning such activities, they must file a "Quarterly" Report at the end of each calendar quarter in which they have either received or expended anything of value in connection with legislative interests.

C. LEGISLATIVE INTERESTS, AND PUBLICATIONS in connection therewith:

1. State approximately how long legislative interests are to continue. If receipts and expenditures in connection with legislative interests have terminated, ☐ place an "X" in the box at the left, so that this Office will no longer expect to receive Reports.

2. State the general legislative interests of the person filing and set forth the *specific* legislative interests by reciting: (*a*) Short titles of statutes and bills; (*b*) House and Senate numbers of bills, where known; (*c*) citations of statutes, where known; (*d*) whether for or against such statutes and bills.

3. In the case of those publications which the person filing has caused to be issued or distributed in connection with legislative interests, set forth: (*a*) Description, (*b*) quantity distributed; (*c*) date of distribution, (*d*) name of printer or publisher (if publications were paid for by person filing) or name of donor (if publications were received as a gift).

(Answer items 1, 2, and 3 in the space below. Attach additional pages if more space is needed)

4. If this is a "Preliminary" Report (Registration) rather than a "Quarterly" Report, state below what the nature and amount of anticipated expenses will be; and if for an agent or employee, state also what the daily, monthly, or annual rate of compensation is to be. If this is a "Quarterly" Report, disregard this item "C4" and fill out item "D" and "E" on the back of this page. Do not attempt to combine a "Preliminary" Report (Registration) with a "Quarterly" Report. ◆

AFFIDAVIT

[Omitted in printing]

PAGE 1 ◆

COPIES WITH THE CLERK OF THE HOUSE OF REPRESENTATIVES:

NOTE ON ITEM "D."—(*a*) *In General.* The term "contribution" includes *anything of value.* When an organization or individual uses printed or duplicated matter in a campaign attempting to influence legislation, money received by such organization or individual—for such printed or duplicated matter—is a "contribution." "The term 'contribution' includes a gift, subscription, loan, advance, or deposit of money, or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution"—Section 302(a) of the Lobbying Act.

(*b*) IF THIS REPORT IS FOR AN EMPLOYER.—(i) *In General.* Item "D" is designed for the reporting of all receipts from which expenditures are made, or will be made, in accordance with legislative interests.

(ii) *Receipts of Business Firms and Individuals.*—A business firm (or individual) which is subject to the Lobbying Act by reason of expenditures which it makes in attempting to influence legislation—but which has no funds to expend except those which are available in the ordinary course of operating a business not connected in any way with the influencing of legislation—will have no receipts to report, even though it does have expenditures to report.

(iii) *Receipts of Multipurpose Organizations.*—Some organizations do not receive any funds which are to be expended solely for the purpose of attempting to influence legislation. Such organizations make such expenditures out of a general fund raised by dues, assessments, or other contributions. The percentage of the general fund which is used for such expenditures indicates the percentage of dues, assessments, or other contributions which may be considered to have been paid for that purpose. Therefore, in reporting receipts, such organizations may specify what that percentage is, and report their dues, assessments, and other contributions on that basis. However, each contributor of $500 or more is to be listed, regardless of whether the contribution was made solely for legislative purposes.

(*c*) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE.—(i) *In General.* In the case of many employees, all receipts will come under Items "D 5" (received for services) and "D 12" (expense money and reimbursements). In the absence of a clear statement to the contrary, it will be presumed that your employer is to reimburse you for all expenditures which you make in connection with legislative interests.

(ii) *Employer as Contributor of $500 or More.*—When your contribution from your employer (in the form of salary, fee, etc.) amounts to $500 or more, it is not necessary to report such contribution under "D 13" and "D 14," since the amount has already been reported under "D 5," and the name of the "employer" has been given under Item "B" on page 1 of this report.

D. RECEIPTS (INCLUDING CONTRIBUTIONS AND LOANS):

Fill in every blank. If the answer to any numbered item is "None," write "None" in the space following the number.

Receipts (other than loans)

1. $..............Dues and assessments
2. $..............Gifts of money or anything of value
3. $..............Printed or duplicated matter received as a gift
4. $..............Receipts from sale of printed or duplicated matter
5. $..............Received for services (e.g., salary, fee, etc.)
6. $..............TOTAL for this Quarter (Add items "1" through "5")
7. $..............Received during previous Quarters of calendar year
8. $..............TOTAL from Jan. 1 through this Quarter (Add "6" and "7")

Loans Received

"The term 'contribution' includes a . . . *loan* . . ."—Sec. 302(a).

9. $..............TOTAL now owed to others on account of loans
10. $..............Borrowed from others during this Quarter
11. $..............Repaid to others during this Quarter

12. $..............."Expense money" and Reimbursements received this Quarter

Contributors of $500 or more
(from Jan. 1 through this Quarter)

13. Have there been such contributors?

Please answer "yes" or "no": ....

14. In the case of each contributor whose contributions (including loans) during the "period" from January 1 through the last days of this Quarter total $500 or more:

Attach hereto plain sheets of paper, approximately the size of this page, tabulate data under the headings "Amount" and "Name and Address of Contributor"; and indicate whether the last day of the period is March 31, June 30, September 30, or December 31. Prepare such tabulation in accordance with the following example:

Amount	*Name and address of Contributor* (*"Period"* from Jan. 1 through..............................., 19.......)
$1,500.00	John Doe, 1621 Blank Bldg., New York, N.Y.
$1,785.00	The Roe Corporation, 2511 Doe Bldg., Chicago, Ill.
$3,285.00	TOTAL

NOTE ON ITEM "E".—(*a*) *In General.* "The term 'expenditure' includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure"—Section 302(b) of the Lobbying Act.

(*b*) IF THIS REPORT IS FOR AN AGENT OR EMPLOYEE. In the case of many employees, all expenditures will come under telephone and telegraph (Item "E 6") and travel, food, lodging, and entertainment (Item "E 7").

E. EXPENDITURES (INCLUDING LOANS) in connection with legislative interests:

Fill in every blank. If the answer to any numbered item is "None," write "None" in the spaces following the number.

Expenditures (other than loans)

1. $..............Public relations and advertising services
2. $..............Wages, salaries, fees, commissions (other than item "1")
3. $..............Gifts or contributions made during Quarter
4. $..............Printed or duplicated matter, including distribution cost
5. $..............Office overhead (rent, supplies, utilities, etc.)
6. $..............Telephone and telegraph
7. $..............Travel, food, lodging, and entertainment
8. $..............All other expenditures
9. $..............TOTAL for this Quarter (Add "1" through "8")
10. $..............Expended during previous Quarters of calendar year
11. $..............TOTAL from January 1 through this Quarter (Add "9" and "10")

Loans Made to Others

"The term 'expenditure' includes a . . . *loan* . . ."—Sec. 302(b).

12. $..............TOTAL now owed to person filing
13. $..............Lent to others during this Quarter
14. $..............Repayment received during this Quarter

15. Recipients of Expenditures of $10 or More

In the case of expenditures made during this Quarter by, or on behalf of the person filing: Attach plain sheets of paper approximately the size of this page and tabulate data as to expenditures under the following heading: "Amount," "Date or Dates," "Name and Address of Recipient," "Purpose." Prepare such tabulation in accordance with the following example:

Amount	*Date or Dates—Name and Address of Recipient—Purpose*
$1,750.00	7-11: Roe Printing Co., 3214 Blank Ave., St. Louis, Mo.—Printing and mailing circulars on the "Marshbanks Bill."
$2,400.00	7-15, 8-15, 9-15: Britten & Blaten, 3127 Gremlin Bldg., Washington, D.C.—Public relations service at $800.00 per month.
$4,150.00	TOTAL

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
A-K ASSOCIATES,INC. 1225 8TH STREET, STE 590 SACRAMENTO, CA 95814	CALIFORNIA AIR TANKER OPERATORS ASSN	6,999.98	
Do	CALIFORNIA SOCIETY OF PATHOLOGISTS	8,750.01	13,145.43
Do	CITY OF SOUTH LAKE TAHOE	18,000.00	7,240.83
Do	PATHOLOGIST PRACTICE ASSOCIATION	11,666.67	40.00
Do	SISKIYOU COUNTY SUPERINTENDENT OF SCHOOLS	1,000.00	
ABADIE AND HUDSON P.O. BOX 2787 BATON ROUGE LA 70821	COASTAL CORPORATION	1,000.00	3,451.34
Do	MILLER COAL SYSTEMS, INC.	1,125.00	350.00
GEORGIA ABRAHAM 1825 CONNECTICUT AVENUE, NW WASHINGTON DC 20009	NATIONAL ASSN OF ARAB AMERICANS	8,000.00	
ALBERT E. ABRAHAMS 777 14TH ST., NW WASHINGTON DC 20005	NATIONAL ASSN OF REALTORS	36,149.97	36,149.97
AD HOC COMM FOR COMPETITIVE TELECOMMUNICATIONS 415 SECOND ST., NE WASHINGTON DC 20003		8,750.00	
MICHAEL A. AISENBERG 8300 PROFESSIONAL PLACE LANDOVER MD 20785	DIGITAL EQUIPMENT CORP		
ALL UNIONS COMMITTEE TO SHORTEN THE WORK WEEK 4300 MICHIGAN AVE. DETROIT MI 48210			
LORETTA E. ALLEN P.O. BOX 364 ORLEANS CA 95556	D.Q. UNIVERSITY		213.95
JEROME A. AMBRO ASSOCIATES 2301 SOUTH JEFFERSON DAVIS DRIVE ARLINGTON VA 22202	ASSOCIATED UNIVERSITIES	2,250.00	1,981.21
Do	COUNTY OF SUFFOLK	4,750.00	3,279.07
Do	NEW YORK STATE DEPARTMENT OF TRANSPORTATION	17,527.49	18,011.58
AMERICAN ASSN FOR RESPIRATORY THERAPY 1720 REGAL ROW DALLAS TX 75235		6,000.00	6,000.00
AMERICAN ASSN OF CROP INSURERS 209 W. JACKSON BLVD. CHICAGO IL 60606			477.85
AMERICAN ASSN OF UNIVERSITY WOMEN 2401 VIRGINIA AVE., NW WASHINGTON DC 20037			14,775.00
AMERICAN CANCER SOCIETY 777 THIRD AVE. NEW YORK NY 10017		13,839.81	13,839.81
AMERICAN DENTAL ASSN 211 E. CHICAGO AVE. CHICAGO IL 60611			66,389.28
AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES 1625 L ST., NW WASHINGTON DC 20036		246,002.83	5,576.74
AMERICAN HEALTH PLANNING ASSN SUITE 700 1601 CONNECTICUT AVE., NW WASHINGTON DC 20036			
AMERICAN HONEY PRODUCERS ASSN PO BOX 368 MINCO OK 73059		14,233.62	14,233.62
AMERICAN HOSPITAL ASSN 840 N. LAKE SHORE DR. CHICAGO IL 60611		1,500.00	1,500.00
AMERICAN LOGISTICS ASSOCIATION SUITE 1213 5205 LEESBURG PIKE FALLS CHURCH VA 22401		4,675.75	4,406.32
AMERICAN SOCIETY FOR MEDICAL TECHNOLOGY 1725 DESALES ST., NW, #403 WASHINGTON DC 20036			
AMERICAN SUBCONTRACTORS ASSN SUITE 540 8401 CORPORATE DR. LANDOVER MD 20785		39,701.88	39,701.88
AMERICAN TEXTILE MFRS INST SUITE 300 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036		14,016.43	13,934.93
AMERICAN TUNA ACTION COMMITTEE R-58 MERRIMAC STREET NEWBURYPORT MA 01950		6,400.65	4,904.65
AMERICAN WATERWAYS OPERATORS, INC SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209			
AMERICAN WAY SUITE 600 915 15TH ST., NW WASHINGTON DC 20005			
AMERICANS FOR NUCLEAR ENERGY P.O. BOX 28371 WASHINGTON DC 20005			
NANCY AMIDEI SUITE 500 1319 F ST., NW WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER	1,500.00	178.06
MORRIS J. AMITAY SUITE 168 400 N. CAPITOL ST., NW WASHINGTON DC 20001	PAN AMERICAN WORLD AIRWAYS, INC.	3,750.00	23.85
ANDERSON & PENDLETON SUITE 707 1000 CONNECTICUT AVE, NW WASHINGTON DC 20036	MILITARY MISSION OF CHILE	1,900.00	1,536.45
SCOTT G. ANDERSON 600 MARYLAND AVE., SW WASHINGTON DC 20024	BURLINGTON NORTHERN INC.	3,400.00	
ANDERSON, HIBEY, NAUHEIM & BLAIR 1605 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	BAY AREA RAPID TRANSIT DISTRICT		
Do	BURLINGTON INDUSTRIES, INC.	20,000.00	729.31
Do	COMMUNICATION INDUSTRIES ASSN OF JAPAN	1,800.00	28.00
Do	KUTAK ROCK & HUIE (FOR METRO. ATLANTA RAPID TRANSIT AUTH.)	9,200.00	
Do	MORGAN GUARANTY TRUST CO OF NEW YORK	1,000.00	
Do	REPUBLIC OF HAITI EMBASSY	250.00	
Do	TEXAS AIR CORP (FOR N.Y. AIR & TEXAS INT'L AIRWAYS)	442.00	
L. J. ANDOLSEK 1533 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES		
ARENT, FOX, KINTNER, PLOTKIN & KAHN 1815 H ST., NW WASHINGTON DC 20006	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS	7,500.00	
Do	MOTOR & EQUIPMENT MANUFACTURERS ASSN		
RODNEY ARMSTRONG 1825 CONNECTICUT AVE., NW SUITE 428 WASHINGTON DC 20009	ARMSTRONG, BYRD & ASSOCIATES (FOR: TOYOTA MOTOR SALES (USA), INC.)		
ARNOLD & PORTER 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	FEDERATION SUISSE DES ASSNS DE FABRICANTS D'HORLOGERIE	1,417.00	3.10
Do	HAMILTON BROTHERS OIL & GAS CORP		208.24
Do	LONDON COMMODITY EXCHANGE COMPANY, LTD		
Do	LONDON GOLD FUTURES MARKET		288.24
Do	LONDON INTERNATIONAL FINANCIAL FUTURES EXCHANGE, LTD.	275.00	1,081.00
Do	LONE STAR INDUSTRIES, INC.		
Do	METAL MARKET & EXCHANGE CO., LTD	1,361.31	6.37
Do	SECURITIES INDUSTRY ASSN	625.00	
CARL F. ARNOLD 1100 CONNECTICUT AVE., NW WASHINGTON DC 20036	CORPORATE PROPERTY INVESTORS		
ASPHALT ROOFING MANUFACTURERS ASSOCIATION 1800 MASSACHUSETTS AVE., NW WASHINGTON, DC 20036		7,126.10	
ASSOCIATION OF AMERICAN FOREIGN SERVICE WOMEN P.O. BOX 8068 WASHINGTON DC 20024		37,562.50	9,264.43
ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC. 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004			
FRANK M. AULT 17 EATON AVENUE NORWICH NY 13815	NORWICH-EATON PHARMACEUTICALS		
CLAUDIA MANSFIELD AUSTIN 1801 N. MOORE STREET ARLINGTON VA 22209	AMERICAN ASSN OF SCHOOL ADMINISTRATORS	1,250.00	
ROBERT A. BACHA 1625 MASSACHUSETTS AVE., NW, #505 WASHINGTON DC 20036	KEEFE COMPANY (FOR: AMERICAN FAMILY LIFE ASSURANCE CO)	2,500.00	450.55
Do	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)		
Do	KEEFE COMPANY (FOR: YOUNGS DRUG PRODUCTS CORP.)		
JAMES D. BACHMAN 1899 L ST., N.W. SUITE 1200 WASHINGTON DC 20036	OASIS PETROLEUM CO.	5,162.50	6,100.30
WILLIAM DOUGLAS BADGER 12695 CASTILE CT. WOODBRIDGE VA 22192	CHRISTIAN ACTION COUNCIL, INC.	3,050.00	
CARL E. BAGGE COAL BUILDING WASHINGTON DC 20036	NATIONAL COAL ASSN	700.00	
BAKER & DANIELS SUITE 600 1920 N ST., NW WASHINGTON DC 20036	ROCK ISLAND REFINING CORP.		
BAKER & MCKENZIE 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	DAILY EXPRESS, INC.		
Do	GEOSOURCE, INC.	140,000.00	73.78
ALBERT L. BALDOCK 1050 17TH ST., NW WASHINGTON DC 20036	RICHARDSON-VICKS INC.		
BALLY MANUFACTURING CORP 2640 BELMONT AVE. CHICAGO IL 60618		250.00	
PATTY BANKSON SUETE 408 1725 K STREET, NW WASHINGTON DC 20006	NATIONAL BOARD OF YOUNG MEN'S CHRISTIAN ASSNS	15,576.83	82.90
ROBERT D. BANNISTER 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S		
BARAFF, KOERNER, OLENDER & HOCHBERG, P.C. SUITE 203 2033 M STREET, NW WASHINGTON DC 20036	NATIONAL BASKETBALL ASSN.		
Do	NORTH AMERICAN SOCCER LEAGUE		
JUDY BARDACKE 11 DUPONT CIRCLE, NW WASHINGTON DC 20036	AMERICAN FED OF TEACHERS	12,500.00	323.06
BARNETT & ALAGIA 1627 K ST., NW, #900 WASHINGTON DC 20006	NATIONAL MILK PRODUCERS FEDERATION	1,500.00	544.56
BARRETT SMITH SCHAPIRO SIMON & ARMSTRONG SUITE 1400 26 BROADWAY NEW YORK NY 10004	COFFEE, SUGAR & COCOA EXCHANGE, INC.	1,500.00	
Do	HUGO NEU & SONS, INC.		
Do	IRVING TRUST COMPANY		
Do	NEW YORK COCOA CLEARING ASSN, INC.		
DIANE BATEMAN, DAVIS & MCLEOD 499 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	AMERICAN ASSN OF CROP INSURERS		
REGINALD E. BEAME 205 EAST 42ND STREET NEW YORK NY 10017	RISK AND INSURANCE MANAGEMENT SOCIETY, INC.	1,286.63	
BEATTY & MCNAMEE 4316 HAMILTON STREET HYATTSVILLE MD 20781	CELP		
BOB BECKEL 108 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC.	1,500.00	115.00
BECKEL, FINCHEM, TORRICELLI & ASSOCIATES, INC 1731 21ST STREET, NW WASHINGTON DC 20009	WESTINGHOUSE ELECTRIC	14,918.76	446.00
JOSIAH BEEMAN 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES		
BELL BOYD & LLOYD THREE FIRST NATIONAL PLAZA 70 WEST MADISON STREET CHICAGO IL 60602	BOISE CASCADE CORP	4,950.00	8.00
GEORGE L. BERG JR. 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	1,055.04	28.00
ELLEN BERMAN SUITE 320 2000 L ST., NW WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA		
ROBERT E. BERNER 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORP		
GEORGE K. BERNSTEIN 1730 K ST., NW WASHINGTON DC 20006	AMERICAN INSURANCE ASSN		
Do	CRUM & FORSTER INSURANCE COS	827.24	
ROBERT B. BETZ 444 N. CAPITOL ST. WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN		
WILLIAM M. BEUTE 25 BROADWAY CLARK NJ 07066			28,624.51
RALPH A. BIEDERMANN ONE BRUNSWICK PLAZA SKOKIE IL 60077	BRUNSWICK CORPORATION	2,500.00	60.00
NEAL R. BJORNSON 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED		
BLACK, MANAFORT, & STONE, INC. 435 NORTH LEE ST. ALEXANDRIA VA 22314	AIR TRANSPORT ASSN OF AMER	18,000.00	
NEAL B. BLAIR SUITE 1400 1875 SOUTH STATE STREET OREM UT 84057	FREE THE EAGLE & TARGET, INC	602.00	
SMITH BLAIR 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	18,729.06	2,850.11
KENNETH T. BLAYLOCK 1325 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	AMERICAN FED OF GOVERNMENT EMPLOYEES		
RICHARD W. BLISS BLISS & CRAFT 1050 THOMAS JEFFERSON ST., NW, 6TH FL. WASHINGTON DC 20007	GOVERNMENT OF AMERICAN SAMOA	1,800.00	122.85
Do	SUNEDCO	1,619.95	134.78
Do	WESTWOOD ENERGY, INC	1,387.50	8.00
Do	ST. JOE MINERALS CORPORATION	2,475.00	8.00
BLUM & NASH SUITE 400 1015 18TH ST., NW WASHINGTON DC 20036	GENERAL ELECTRIC CO		
Do	MERCK & CO., INC.		
Do	TIME, INC.	8,064.19	
BOASBERG FINKLESTEIN KLORES & TUCKER 2101 L ST., NW WASHINGTON DC 20037	COMMITTEE FOR FARMWORKER PROGRAMS	500.00	120.00
JAY BONITT 300 MARYLAND AVE., NE WASHINGTON DC 20002	BENDIX CORP	806.00	1,795.00
BONNEVILLE ASSOCIATES SUITE 300 200 E. SOUTH TEMPLE SALT LAKE CITY UT 84102	WESTERN REGIONAL COUNCIL		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ROBERT N. BORENS 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	GETTY OIL COMPANY	805.50	289.49
CONNIE BORKEN-HAGEN 29 CAMBRIDGE STREET LONDON SWIV 4PR, ENGLAND	AMERICAN CHAMBER OF COMMERCE (UNITED KINGDOM)	9,000.00	1,025.16
BOWERY SAVINGS BANK 110 EAST 42ND STREET NEW YORK NY 10017			1,948.72
ELISA BOYD 1221 MASSACHUSETTS AVE., NW WASHINGTON DC 20005	BOMA INTERNATIONAL		
MARGUERITE BRACY 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES	7,631.10	127.67
ROBERT E. BRADFORD 311 FIRST STREET, NW WASHINGTON DC 20001	NATIONAL RESTAURANT ASSN		
DAVID A. BRADLEY SUITE 906 2101 L ST., NW WASHINGTON DC 20037	NATIONAL COMMUNITY ACTION FOUNDATION, INC.	12,000.00	900.00
THOMAS EDWARD BRASWELL, CORCORAN, YOUNGMAN & ROWE 888 17TH ST., NW, SUITE 800 WASHINGTON DC 20006	NEWPORT NEWS SHIPBUILDING & DRYDOCK CO	1,200.00	
MICHAEL J. BRENNAN 1750 NEW YORK AVE., NW WASHINGTON DC 20006	INTERNATIONAL ASSN OF BRIDGE, STRUCT. & ORNAMENTAL IRON WKRS.	10,800.00	370.00
ALBERT E. BREWSTER SUITE 2300 1000 WILSON BLVD. ARLINGTON VA 22209	NORTHROP CORP		1,409.15
ALAN E. BRIAN P.O. BOX 130 LEVIS, QUEBEC, CANADA	DAVIE SHIPBUILDING LIMITED		
CAROLYN BRICKEY SUITE 500 1319 F STREET, NW WASHINGTON DC 20004	CONGRESS WATCH		
Do	FOOD RESEARCH AND ACTION CENTER	901.80	11.00
BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS FREIGHT HANDLERS, EXPRESS & STATION EMPL 815 16TH ST., NW WASHINGTON DC 20006.		23,235.70	23,235.70
JOSEPH BROWDER 1015 18TH ST., N.W. WASHINGTON DC 20036	TOLEDO MINING COMPANY	500.00	
BROWN & ROADY 1333 NEW HAMPSHIRE AVE., NW SUITE 1270 WASHINGTON DC 20036	AMAX, INC.		
Do	DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION	1,117.13	217.13
Do	KANSAS CITY SOUTHERN RAILWAY	10,690.00	36.23
Do	LOUISVILLE & NASHVILLE RAILROAD		400.85
Do	METROPOLITAN TRANSIT AUTHORITY	1,153.24	
DIANE V. BROWN 1620 EYE ST., NW, #700 WASHINGTON DC 20006	INTERNATIONAL PAPER CO.	2,000.00	275.00
DONALD K. BROWN 1127 11TH ST., #544 SACRAMENTO CA 95814	CROWLEY MARITIME CORPORATION		
Do	SUMMA CORPORATION	998.00	
HOWARD C. BROWN JR 1919 PENNSYLVANIA AVE., NW, #702 WASHINGTON DC 20006	CENTAR ASSOCIATES		
Do	NATIONAL ASSN OF LIFE SCIENCE INDUSTRIES, INC.		
JOHN J. BROWN 1125 17TH ST., NW WASHINGTON DC 20036	INTERNATIONAL UNION OF OPERATING ENGINEERS	8,500.00	574.00
WALTER W. BRUDNO 1800 FIRST NATIONAL BANK BLDG. DALLAS TX 75202	DEMINEX U.S. OIL CO	12,083.32	
Do	TEXASGULF, INC.	12,083.32	
MARGARET H. BRYANT 1899 L ST., NW, #500 WASHINGTON DC 20036	AMERICAN NATURAL SERVICE CO.	190.00	35.00
BUCHANAN, INGERSOLL, RODEWALD, KYLE & BUERGER, P.C. 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	INTERNATIONAL DISTRICT HEATING ASSN		
SUSAN BUCK 108 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC.	16,000.00	10,000.00
SUSAN M. BUFFONE 3604 34TH STREET, NW WASHINGTON DC 20008	NATIONAL PARKS AND CONSERVATION ASSN	1,000.00	
BUILDING OWNERS & MANAGERS ASSN INTL 1221 MASSACHUSETTS AVE.,N.W. WASHINGTON DC 20005			
DAVID A. BUNN SUITE 406 1211 CONNECTICUT AVE., NW WASHINGTON DC 20036	HEARST CORPORATION	900.00	
Do	MAGAZINE PUBLISHERS ASSN, INC	4,000.00	
Do	PARCEL SHIPPERS ASSN	1,000.00	
CHRISTINNE CAPITO BURCH 1625 L STREET, N.W. WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES	8,022.00	261.99
QUENTIN L. BURGESS 733 15TH ST., NW WASHINGTON DC 20005	LEGAL SERVICES CORP		
FRANCIS X. BURKHARDT 1750 NEW YORK AVE., NW WASHINGTON DC 20006	INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES		
NICHOLAS J. BUSH SUITE 402 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATURAL GAS SUPPLY ASSN	6,000.00	770.43
ROBERT W. BUSHA 6811 KENILWORTH AVE. RIVERDALE MD 20737	NATIONAL ASPHALT PAVEMENT ASSN		
CAIN & SMITH 402 SCARBROUGH BUILDING AUSTIN TX 78701	STATE BAR OF TEXAS, JUDICIAL SECTION		718.91
HARRY P. CAIN SUITE 700 1601 CONNECTICUT AVE., NW WASHINGTON DC 20009	AMERICAN HEALTH PLANNING ASSN	4,187.52	280.71
FRANK W. CALHOUN 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC		1,131.00
GORDON L. CALVERT BOX 34-531 WASHINGTON DC 20034	COMMERICIAL LAW LEAGUE OF AMER, COMM COLL AGENCY SECTION		
VICTORIA R. CALVERT, THE CAPITAL GALLERY, EAST WING 600 MARYLAND AVENUE, SW, #450 WASHINGTON DC 20025	NATIONAL FROZEN FOOD ASSN		
CAMPAIGN FOR COMMUNITY - BASED ECONOMIC DEVELOPMENT 734 15TH ST., NW WASHINGTON DC 20005		9,750.00	9,923.00
ALYCE D. CANADAY 918 16TH ST., NW WASHINGTON DC 20006	PACIFIC POWER AND LIGHT CO	740.00	927.91
CANDLELIGHTERS 123 C ST., SE WASHINGTON DC 20003			
CAPITAL COUNSELORS, INC. 1700 K STREET, N.W. WASHINGTON DC 20006	ELECTRONIC DATA SYSTEMS CORPORATION		
CAPITOL ADVOCATES 1127 11TH ST., SUITE 605 SACRAMENTO CA 95814	CROWLEY ADVOCATES		424.00
Do	DISTILLED SPIRITS COUNCIL OF THE U.S.		
Do	PACIFIC MERCHANT SHIPPING ASSN	300.00	173.00
Do	SUMMA CORPORATION	7,071.00	173.00
MARVIN H. CAPLAN 815 16TH ST., NW WASHINGTON DC 20006	LEADERSHIP CONFERENCE ON CIVIL RIGHTS		
CAPLIN & DRYSDALE SUITE 1100 1101 17TH ST., NW WASHINGTON DC 20036	AETNA LIFE & CASUALTY		265.63
DAVID CARLEY 955 L'ENFANT PLAZA, SW, #7200 WASHINGTON DC 20024	NATIONAL ASSN FOR PUBLIC TELEVISION STATIONS		
DAVID C. CARTER 1156 15TH ST., NW SUITE 1019 WASHINGTON DC 20005	U.S. BEET SUGAR ASSN		
DONATO CARUSO, LORENZ, FINN, GIARDINO & LAMBOS 29 BROADWAYU, 9TH FL. NEW YORK NY 10006	NEW YORK SHIPPING ASSN., INC.		
JIM CASEY 3470 MILDRED DR. FALLS CHURCH VA 22042	AMFAC GARDEN PRODUCTS, INC.	2,000.00	72.00
Do	BELLE FOURCHE IRRIGATION DISTRICT	2,000.00	72.00
Do	COMMITTEE OF POWER FOR THE SOUTHWEST, INC.	1,000.00	49.00
Do	GARRISON DIVERSION CONSERVANCY DISTRICT	3,000.00	95.00
Do	LEAFFER COMPANY, INC.		
Do	SALT RIVER VALLEY WATER USERS ASSN.	3,000.00	96.00
GORDON CAVANAUGH SUITE 800 1016 16TH STREET, NW WASHINGTON DC 20036	ROISMAN, RENO & CAVANAUGH (FOR: COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES).	300.00	160.00
ELIZABETH PREWITT CHALMERS 1735 NEW YORK AVENUE,NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	750.00	
CHAMBERS ASSOCIATES SUITE 1000 1100 17TH STREET, NW WASHINGTON DC 20036	AMERICAN POSTAL WORKERS UNION	2,680.00	46.00
Do	COMMISSIONED OFFICERS ASSN OF THE PUBLIC HEALTH SERVICE	300.00	3.50
Do	FACET, CORP	240.00	7.50
LARRY E. CHRISTENSEN 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	BUCHANAN, INGERSOLL, RODEWALD, KYLE & BUERGER, P.C. (FOR: INTERNATIONAL DISTRICT HEATING ASSN).		
CLADOUHOS & BRASHARES 1750 NEW YORK AVE., NW WASHINGTON DC 20006	TOYOTA MOTOR SALES, U.S.A., INC.		
MARK A. CLARK 511 CENTRAL AVENUE GREAT FALLS MT 59403	IFG LEASING COMPANY		
CLIFFORD & WARNKE 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA		
Do	NATIONAL TOUR BROKERS ASSOCIATION, INC.	6,400.00	2,270.00
Do	PHILLIPS PETROLEUM COMPANY	20,000.00	7,000.00
COALITION FOR LEGAL SERVICES, INC. 1625 K STREET, N.W. ROOM 908 WASHINGTON DC 20006		32,545.27	16,540.25
COAN, COUTURE, LYONS & MOORHEAD SUITE 1015 1625 EYE ST., NW WASHINGTON DC 20006	INTERNATIO, INC.		
Do	WESTINGHOUSE ELECTRIC CORPORATION	2,850.00	
COHEN & WHITE 1218 16TH STREET, NW WASHINGTON DC 20036	COMPUTER & COMMUNICATIONS INDUSTRY ASSN	525.00	5.50
COHEN AND URETZ 4TH FLOOR 1775 K ST., NW WASHINGTON DC 20006	STICHTING PHILIPS PENSIOENFONDS A AND B	20,117.50	43.01
DAVID COHEN 810 18TH STREET, NW WASHINGTON DC 20006	HANDGUN CONTROL, INC.	6,000.00	662.49
DIANE B. COHN SUITE 700 2000 P STREET, NW WASHINGTON DC 20036	PUBLIC CITIZEN, INC.	1,667.00	118.60
COLE & CORETTE, P.C. 1200 17TH ST., NW WASHINGTON DC 20036	AMERICAN EXPRESS CO.		
COLLIER, SHANNON, RILL, & SCOTT SUITE 308 1055 THOMAS JEFFERSON ST., NW WASHINGTON DC 20007	NATIONAL ASSN OF CONVENIENCE STORES		
COLORADO SKI COUNTRY USA, INC. SUITE A-201 1410 GRANT STREET DENVER CO 80203		300.00	48.00
COMMITTEE FOR DO-IT-YOURSELF HOUSEHOLD MOVING SUITE 1000 1100 17TH ST., NW WASHINGTON DC 20036			
COMMITTEE FOR EQUALITY OF CITIZENS BEFORE THE COURTS 3401 WEST DIVISION ST. CHICAGO IL 60651			
COMMITTEE FOR FARMWORKER PROGRAMS SUITE 906 2101 L STREET, NW WASHINGTON DC 20037			8,064.19
COMMUNITY SERVICE SOCIETY OF NEW YORK 105 EAST 22ND STREET NEW YORK NY 10010			2,822.00
STEPHEN R. CONAFAY 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	PFIZER, INC.	500.00	881.50
ROBERT J. CONLAN 2001 S STREET, NW WASHINGTON DC 20009	NATIONAL CONSUMER COOPERATIVE BANK	9,347.84	
JAMES T. CONNER SUITE 604 1140 CONNECTICUT AVE., NW WASHINGTON DC 20036	MOBAY CHEMICAL CORP		
STEPHEN M. CONNER THE WILLOWS ROUTE 1, BOX 165 EASTON MD 21601	FOREIGN MINISTRY OF KINGDOM OF SAUDI ARABIA	10,000.00	680.91
JOHN J. CONNOLLY SUITE 1000 1600 WILSON BLVD. ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	2,200.00	
GERALD R. CONNOR 6500 WISCONSIN AVENUE CHEVY CHASE MD 20015	VOLUNTEER TRUSTEES OF NOT-FOR-PROFIT HOSPITALS	3,000.00	1,074.86
DAVID CONRAD 530 7TH STREET, SE WASHINGTON DC 20003	FRIENDS OF THE EARTH, INC	945.00	
CONSOLIDATED EDISON CO OF NEW YORK, INC 4 IRVING PLACE NEW YORK NY 10003			512.50
JAY CONSTANTINE SUITE 700 1775 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	STATE OF CALIFORNIA		
CONSUMER ENERGY COUNCIL OF AMERICA SUITE 320 2000 L ST., NW WASHINGTON DC 20036			2,624.45
CONTINENTAL RESOURCES COMPANY P. O. BOX 44 WINTER PARK FL 32790			38,634.71
COOK, PURCELL, HANSEN & HENDERSON 11TH FLOOR 1015 18TH ST., NW WASHINGTON DC 20036	ALEUT CORPORATION	4,000.00	
Do	AMERICAN ACADEMY OF OPHTHALMOLOGY		
Do	AMERICAN RICE, INC.	29,270.82	
Do	ASHLAND OIL, INC.		
Do	BOARD OF TRADE OF KANSAS CITY, MO., INC.	9,431.66	
Do	CITIZENS DEPOSIT BANK		
Do	CNA INSURANCE CO OF CHICAGO, ILLINOIS		
Do	COMPREHENSIVE CARE CORP		
Do	CONGRESS OF COUNTY MEDICAL SOCIETIES		

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	CONSOLIDATED NATURAL GAS CO.	1,000.00	
Do	FIRST BANK AND TRUST COMPANY	1,500.00	
Do	HOME RECORDING RIGHTS COALITION		
Do	IOWA BEEF PROCESSORS, INC	26,137.50	
Do	N. C. MACHINERY		
Do	NATIONAL ASSN OF GOVERNMENT EMPLOYEES		
Do	NATIONAL FOOTBALL LEAGUE	5,250.00	
Do	OHIO VALLEY IMPROVEMENT ASSN, INC	6,000.00	
Do	PLANTERS PEANUTS	25,037.50	
Do	ROADWAY EXPRESS, INC	3,100.00	
Do	ST. GEORGE TANAQ CORP		
Do	TANADGUSIX CORPORATION	5,000.00	
Do	TEXACO, INC	5,000.00	
Do	TEXAS GAS TRANSMISSION CORP.		
Do	TOBACCO INSTITUTE	12,000.00	72.25
Do	WESTERN UNION TELEGRAPH COMPANY		
EDWARD COONEY SUITE 500 1319 F ST., NW WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER	2,023.50	
MARK N. COOPER 2000 L STREET, N.W. SUITE 320 WASHINGTON DC 20036	CONSUMER ENERGY COUNCIL OF AMERICA	211.50	15.75
COOPERATIVE LEAGUE OF THE USA SUITE 1100 1828 L ST., NW WASHINGTON DC 20036		8,851.74	19,085.90
BENNETT J. CORN FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC	1,000.00	6,747.46
WILLIAM R. CORSON 1707 H ST., NW WASHINGTON DC 20006	PENTHOUSE INTL LTD	10,500.00	7,450.00
PHILIP S. CORWIN SUITE 202 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	INDEPENDENT BANKERS ASSN OF AMERICA	10,750.00	500.04
COTTON FARMERS ASSOCIATION 700 TEXAS CENTER 900 WASHINGTON WACO TX 76703			
COUNCIL FOR A COMPETITIVE ECONOMY, INC. 410 FIRST ST., SE WASHINGTON DC 20003		3,411.85	7,962.26
COUNCIL FOR A LIVABLE WORLD 11 BEACON ST. BOSTON MA 02108			21,618.51
COUNCIL OF ENERGY RESOURCE TRIBES 1140 CONNECTICUT AVE.,NW SUITE 310 WASHINGTON DC 20036		87,000	897.64
COUNCIL OF INDUSTRIAL BOILER OWNERS 11222 SILVERLEAF DR. FAIRFAX STATION VA 22039			1,347.53
JEAN ANNE COUREY 1825 CONNECTICUT AVE., NW WASHINGTON DC 20009	NATIONAL ASSN OF ARAB AMERICANS	2,125.00	425.00
ERIC COX SUITE W-219 1011 ARLINGTON BLVD. ARLINGTON VA 22209	WORLD FEDERALIST POLITICAL EDUCATION COMM	850.96	
JOHN C. CULVER 1815 H STREET, NW WASHINGTON DC 20006	CENTRAL STATES SE & SW AREAS HEALTH, WELFARE & PENSION FUNDS		
RUDOLPH N. D'AGARIS 15 W. MONTGOMERY AVENUE ROCKVILLE MD 20850			
LESLIE DACH 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	5,625.00	10,074.73
FRED L. DAHL 1620 I ST., NW SUITE 703 WASHINGTON DC 20006	BECHTEL POWER CORPORATION		
DANIELS, HOULIHAN & PALMETER, P.C. 1819 H ST., NW WASHINGTON DC 20006	AMERICAN ASSN OF EXPORTERS AND IMPORTERS	3,000.00	211.32
DAN DANNER 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ARMCO INC.	300.00	203.55
JOHN C. DATT 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED.	4,687.50	
JOHN L. DAVIDSON JR 510 LOCUST ST. ST. LOUIS MO 63188	ST. LOUIS MERCANTILE LIBRARY ASSN.		
CHERYL C. DAVIS 510 C ST.,N.E. WASHINGTON DC 20002	NATIONAL ASSN OF CREDIT MANAGEMENT	50.00	
DEMINEX U.S. OIL COMPANY SUITE 840, LOCK BOX 340 PLAZA OF THE AMERICAS, NORTH TOWER DALLAS TX 75201			60,214.96
CATHERINE B. DESIBOUR 1700 PENNSYLVANIA AVE., NW, #730 WASHINGTON DC 20006	PFIZER, INC	150.00	58.55
MARCIA L. DESMOND 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	456.84	5.50
SAMUEL L. DEVINE 1301 PENNSYLVANIA AVENUE, N.W. SUITE 1150 WASHINGTON DC 20004	OCCIDENTAL PETROLEUM CORP	19,900.00	
DEWEY BALLANTINE BUSHBY PALMER & WOOD 1775 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	GENERAL ELECTRIC PENSION TRUST		
DORIS J. DEWTON 1025 CONNECTICUT AVENUE, NW SUITE 507 WASHINGTON DC 20036	ASHLAND OIL, INC	2,000.00	
DICKINSON, WRIGHT, MOON, VAN DUSEN & FREEMAN 1901 L ST., NW SUITE 801 WASHINGTON DC 20036	OAKLAND COUNTY D.P.W.		
JAMES J. DICKMAN 12TH FLOOR 80 BROAD STREET NEW YORK NY 10004	NEW YORK SHIPPING ASSN, INC		170.00
DIRECT SELLING ASSOCIATION 1730 M ST., NW WASHINGTON DC 20036			4,417.83
DMA ASSOCIATES 6712 OLD MCLEAN VILLAGE DRIVE MCLEAN VA 22101	AMERICAN CYANAMID CO		
Do	GEORGIA AGRICULTURAL COMMODITY COMMISSION FOR PEANUTS		
Do	REFRIGERATED TRANSPORT, INC		
Do	SAFT AMERICA, INC		
DOMESTIC PETROLEUM COUNCIL TRADE ASSOCIATION 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036			
LEO J. DONAHUE 230 SOUTHERN BLDG. WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
JOHN C. L. DONALDSON THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: DEFENSE LOGISTICS SUPPLY CORP)		
Do	GRAY AND COMPANY (FOR: TERA CORPORATION)		
FRANCIS X. DOOLEY 525 SCHOOL ST., SW WASHINGTON DC 20024	AMERICAN ROAD & TRANSPORTATION BLDRS ASSN	6,000.00	450.00
CHARLENE DOUGHERTY 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	4,500.00	3,035.00
EARL C. DUDLEY JR., NUSSBAUM & OWEN 1800 M STREET, NW WASHINGTON DC 20036	PLAINTIFFS' ANTI-TRUST LIAISON SOCIETY	3,210.00	471.30
MICHAEL F. DUFFY 1920 N ST. NW WASHINGTON DC 20036	AMERICAN MINING CONGRESS		
C. R. DUGGAN 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS		
MICHAEL V. DURANDO 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	2,475.00	12.00
DENNIS J. EARHART 1753 EUCLID AVE., NW WASHINGTON DC 20009	BONNEVILLE ASSOCIATES, INC. (FOR: WESTERN REGIONAL COUNCIL)	528.41	
GEORGE N. EATMAN SUITE 3210 490 L'ENFANT PLAZA, SW WASHINGTON DC 20024	SLURRY TRANSPORT ASSN.	800.00	
DONALD R. EBE 1800 K ST., NW, #800 WASHINGTON DC 20006	GOODYEAR TIRE & RUBBER CO	3,125.00	
HAROLD F. EBERLE O'BRIEN & FIERCE 1828 L STREET, NW, #201 WASHINGTON DC 20036	INDEPENDENT INSURANCE AGENTS OF AMERICA, INC		
ECONOMIC SERVICE CONSORTIUM P.O. BOX 2009 ARLINGTON VA 22202			
DANIEL J. EDELMAN, INC. SUITE 460 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	WHITTAKER CORPORATION	750.00	
PHYLLIS EISEN 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036	ZERO POPULATION GROWTH, INC	1,386.00	72.00
TIMOTHY L. ELDER 1850 K ST., NW SUITE 925 WASHINGTON DC 20006	CATERPILLAR TRACTOR CO	2,500.00	2,356.04
C. M. ELKINS ASSOCIATES SUITE 310 1100 17TH ST., NW WASHINGTON DC 20036	DELAWARE & HUDSON RAILWAY CO		
Do	MISSOURI KANSAS TEXAS RAILROAD		
Do	PITTSBURGH & LAKE ERIE RAILROAD		
LAW OFC OF NORTHCUTT ELY SUITE 915 WATERGATE 600 BLDG. WASHINGTON DC 20037	OCEAN MINING ASSOCS		
GERTRUDE ENGEL 2450 VIRGINIA AVE., NW WASHINGTON DC 20037	NATIONAL HEALTH FEDERATION	3,000.00	
AMOS S. ENO 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY		
EPSTEIN, BECKER, BORSODY & GREEN SUITE 900 1140 19TH ST., NW WASHINGTON DC 20036	AMERICAN ASSN OF FOUNDATIONS FOR MEDICAL CARE		
Do	AMERICAN ASSN OF PROFESSIONAL STANDARDS REVIEW ORGS		
Do	TDI/WINSTON NETWORK, INC		
JERRY N. ERVIN P. O. BOX 3331 HOUSTON TX 77001	QUINTANA REFINERY COMPANY		
CECILIA D. ESQUER P.O. BOX 27907 TEMPE AZ 85281	LEGAL SERVICES CORP		
JOHN T. ESTES 1150 CONNECTICUT AVE., NW #700 WASHINGTON DC 20036	ALLIED CHEMICAL CORP	250.00	25.00
BROCK EVANS 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	1,500.00	35.00
JOHN FORD EVANS, JR., O'CONNOR & HANNAN 1919 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSN.		
O. KEISTER EVANS P.O. BOX 1308 ALEXANDRIA VA 22313	IMPORTED HARDWOOD PRODUCTS ASSN, INC		
WILLIAM J. EVANS JR SUITE 901 1660 L ST., NW WASHINGTON DC 20036	PAN AMERICAN WORLD AIRWAYS, INC	300.00	240.71
GEORGE W. FALLTRICK 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS		
FARMERS FOR FAIRNESS P.O. BOX 6288 CAMILLA GA 31730		15,000.00	15,036.00
GEORGE L. FARNHAM 530 8TH ST., SE WASHINGTON DC 20003	NATIONAL ORGANIZATION FOR THE REFORM OF MARIJUANA LAWS		
JEFFREY L. FARROW 5161 MACOMB ST., NW WASHINGTON DC 20012	LISBOA ASSOCIATES, INC	5,596.40	
MARCUS G. FAUST SUITE 200 2000 L STREET, NW WASHINGTON DC 20036	KENNECOTT CORPORATION	9,000.00	
Do	KIRTON, MCCONKIE AND BUSHNELL	7,125.00	432.06
FEDERATION FOR AMERICAN IMMIGRATION REFORM 2028 P STREET, NW WASHINGTON DC 20036			2,918.77
FENSTERWALD & ASSOCIATES 1000 WILSON BLVD SUITE 900 ARLINGTON VA 22209	NATIONAL NUTRITIONAL FOODS ASSOCIATION	9,424.50	5,262.30
JACK FERGUSON ASSOCIATES 203 MARYLAND AVE., NE WASHINGTON DC 20002	ALASCOM, INC	5,500.00	675.00
Do	ALASKA INTERNATIONAL INDUSTRIES		675.00
Do	FOSS LAUNCH & TUG COMPANY; FOSS ALASKA LINE	2,350.00	675.00
Do	NORTHWEST ALASKAN PIPELINE CO	15,800.00	675.00
Do	U.S. BORAX	3,600.00	675.00
Do	WESTERN AIRLINES		
C. H. FIELDS 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	4,450.01	37.00
SAMUEL STEPHEN FIELDS 100 MARYLAND AVE., NE WASHINGTON DC 20002	NATIONAL COALITION TO BAN HANDGUNS		
MANUEL D. FIERRO SUITE 800 2101 L STREET, NW WASHINGTON DC 20037	PHARMACEUTICAL MANUFACTURERS ASSN		
THOMAS D. FINNIGAN OLD RIDGEBURY ROAD SECTION D228 DANBURY CT 06817	UNION CARBIDE CORP		56.97
M. J. FIOCCO 1090 VERMONT AVE., NW WASHINGTON DC 20005	NATIONAL INDUSTRIAL TRAFFIC LEAGUE	3,000.00	40.00
DAVID M. FITZGERALD 206 KING ST. ALEXANDRIA VA 22314	GOODYEAR AEROSPACE CORPORATION	950.00	
Do	LITTON DATA SYSTEMS	1,000.00	
REV. MSGR. JAMES H. 15 COMPUTER DRIVE WEST ALBANY NY 12205	HOSPITAL ASSOCIATION OF NEW YORK STATE	351.00	1,300.00
FLORIDA BUSINESS ASSOCIATES SUITE 200 2000 L STREET, NW WASHINGTON DC 20036	WESTINGHOUSE ELECTRIC CORP	1,500.00	
JOHN J. FLYNN 1125 17TH STREET, NW WASHINGTON DC 20036	INTERNATIONAL UNION OF OPERATING ENGINEERS	7,500.00	317.00
FOOD RESEARCH & ACTION CENTER C/O HELAINE COHEN SUITE 500 1319 F ST. NW WASHINGTON DC 20004		5,000.00	6,030.75
DAVID H. FOSTER SUITE 402 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATURAL GAS SUPPLY COMM	1,783.34	254.30
ROBERT U. FOSTER SUITE 1250 1110 VERMONT AVE., NW WASHINGTON DC 20005	SHIPBUILDERS COUNCIL OF AMERICA		
ALBERT A. FOX JR 1150 CONNECTICUT AVE., NW, #700 WASHINGTON DC 20036	ALLIED CHEMICAL CORP	200.00	25.00

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
ERIC R. FOX 1700 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	APPLE COMPUTER CORP.		
DONALD FRAHER 810 18TH ST., NW WASHINGTON DC 20006	HANDGUN CONTROL, INC.	6,700.23	119.55
JOSEPH L. FRAITES 4 WORLD TRADE CENTER NEW YORK NY 10048	RIONDA DE PASS LTD. (FOR: COFFEE, SUGAR & COCOA EXCHANGE, INC.)		
WILLIAM C. FRANCE 1701 K ST., NW, #1204 WASHINGTON DC 20006	NATIONAL MOTORSPORTS COMM OF ACCUS.		
WILLIAM H. G. FRANCE 1701 K ST., NW SUITE 1204 WASHINGTON DC 20006	NATIONAL MOTORSPORTS COMM OF ACCUS.		
GREGORY W. FRAZIER P.O. BOX 427 ENGLEWOOD CO 80151	INTERNATIONAL ENERGY BROKERS, INC.		
FREE THE EAGLE 1875 S. STATE ST., SUITE 1400 OREM UT 84057		113,471.00	128,616.92
DAVID W. FREER 1050 17TH ST., NW 1050 17TH ST., NW WASHINGTON DC 20036	WESTERN OIL AND GAS ASSOCIATION	825.00	
SUSAN FRIDY 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED.	1,825.00	
CHARLOTTE FRIEDMAN 1801 NORTH MOORE ST. ARLINGTON VA 22209	AMERICAN ASSN OF SCHOOL ADMINISTRATORS		
FRIENDS OF THE EARTH 530 7TH ST., SE WASHINGTON DC 20003		70,190.00	46,624.24
ROBERT D. FRITZ 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	2,000.00	2,000.00
FULBRIGHT & JAWORSKI 1150 CONNECTICUT AVE., NW, #400 WASHINGTON DC 20036	CRYSTAL OIL COMPANY	11,858.68	84.07
Do	UNDERWOOD NEUHAUS		
Do	UNITED STATES LEASING INTERNATIONAL, INC.		
FULL EMPLOYMENT ACTION COUNCIL 707 D ST., SE WASHINGTON DC 20003		14,405.00	5,866.00
NANCY H. FUSSELL 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	863.75	264.45
ANN E. GALLAGHER 1111 NORTH 19TH STREET, SUITE 700 ARLINGTON, VA 22209	NATIONAL ASSN OF FEDERAL CREDIT UNIONS		
GALLAND, KHARASCH, CALKINS & SHORT 1054 31ST ST., NW WASHINGTON DC 20007	ATLANTIC CONTAINER LINE	883.40	89.91
JAMES J. GARRY 4TH FLOOR FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		275.20
GARVEY, SCHUBERT, ADAMS & BARER 1000 POTOMAC ST., NW WASHINGTON DC 20006	WASHINGTON CITIZENS FOR WORLD TRADE	2,660.00	
DWIGHT M. GEDULDIG 444 NORTH CAPITOL ST. N.W. #500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	2,667.85	819.51
GENERAL INSTRUMENT CORPORATION 1775 BROADWAY NEW YORK NY 10019			
CLAIRE M. GEOGHEGAN 415 2ND ST., NE WASHINGTON DC 20002	AD HOC COMM FOR COMPETITIVE TELECOMMUNICATIONS	7,794.22	
GEORGE W. GEPHART 1412 GAS & ELECTRIC BLDG., P.O. BOX 1475 BALTIMORE MD 21203	BALTIMORE GAS & ELECTRIC CO.		
GERARD, BYLER & ASSOCIATES, INC. 1100 17TH ST., NW, #1100 WASHINGTON DC 20036	AK CHIN INDIAN COMMUNITY	418.96	
Do	COLVILLE INDIAN TRIBE	463.72	
Do	COMMISSIONED OFFICERS ASSN OF THE U.S. PUBLIC HEALTH SERVICE	507.27	
Do	DAMSON OIL CORPORATION		
Do	MINNESOTA CHIPPEWA TRIBE	206.00	
Do	PAPAGO TRIBE OF ARIZONA	5,795.41	77.95
Do	TULALIP TRIBES	302.40	19.80
GETTY OIL COMPANY 3810 WILSHIRE BLVD. LOS ANGELES CA 90010			9,643.80
THERESA M. GIBSON 1700 K ST., NW WASHINGTON DC 20006	AMERICAN EXPRESS CO.		
SUSAN GILBERT 1016 16TH ST., NW WASHINGTON DC 20036	NATIONAL FEDERATION OF FEDERAL EMPLOYEES		
VERNIE R. GLASSON 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED.	216.67	
CLAUDE R. GLAZE 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	500.00	500.00
JAMES T. GLENN 840 WASHINGTON BUIDING 15TH STREET & NEW YORK AVE., NW WASHINGTON DC 20005	CSX CORPORATION	3,000.00	538.24
JERE W. GLOVER, PRICE & GLOVER 1001 CONNECTICUT AVE., NW., #1201 WASHINGTON DC 20036	SERVICE STATION DEALERS OF AMERICAN		30.95
NEIL B. GOLDSTEIN 228 E. 45TH ST. NEW YORK NY 10017	SIERRA CLUB	1,950.00	3,721.00
WILLIAM M. GOLDSTEIN, DRINKER, BIDDLE & REATH 1100 PHILADELPHIA NATIONAL BANK BLDG., BROAD & CHESTNUT STS. PHILADELPHIA PA 19107	COMMITTEE FOR CAP FORMATION THROUGH DIVIDEND REINVESTMENT		
ALFONSO J. GONZALEZ 1425 H ST., NW, SUITE 600 WASHINGTON DC 20005	NATIONAL ASSN OF SOCIAL WORKERS	10,000.00	720.00
JOHN K. GRAM 714 OREGON BANK BLDG. PORTLAND OR 97204	PUBLIC TIMBER PURCHASERS GROUP	1,781.25	390.00
RUTH P. GRAVES SUITE 500 600 MARYLAND AVE. SW WASHINGTON DC 20560	READING IS FUNDAMENTAL, INC.	30.00	12.00
ROBERT K. GRAY THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: NTB CORPORATION)		
Do	GRAY AND COMPANY (FOR: REPUBLIC AIRLINES)		
GREAT WESTERN SUGAR CO P.O. BOX 5308 DENVER CO 80217			13,170.97
EDWARD F. GREISSING JR 1660 L ST., NW, #205 WASHINGTON DC 20036	UPJOHN COMPANY		
OLGA GRKAVAC 1300 NORTH 17TH STREET SUITE 300 ARLINGTON VA 22209	ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS		
JEROME GROSSMAN 11 BEACON ST. BOSTON MA 02108	COUNCIL FOR A LIVABLE WORLD	6,259.26	
KENNETH A. GUENTHER 1625 MASSACHUAETTS AVE., #202 WASHINGTON DC 20036	INDEPENDENT BANKERS ASSOCIATION OF AMERICA	15,000.00	77.00
DAN A. GUNDERSON 608 SECOND AVE. SOUTH MINNEAPOLIS MN 55402	PILLSBURY COMPANY		
TIMOTHY M. HAAKE, BIRCH, HORTON, BITTNER & MONROE 1140 CONNECTICUT AVE., NW, #1100 WASHINGTON DC 20036	TEAMSTERS LOCAL 959		
WILLIAM F. HALL P.O. BOX 16241 ST. LOUIS MO 63105	WILLIAM HALL & ASSOCIATES, INC.		
SEYMOUR HALPERN 540 MADISON AVE. NEW YORK NY 10022	BARON/CANNING & CO., INC. (FOR: AMERICAN CAN CO)		
Do	BARON/CANNING & CO., INC. (FOR: COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS)		
Do	BARON/CANNING & CO., INC. (FOR: ELECTRONIC INDUSTRY ASSN OF JAPAN)	1,000.00	812.17
Do	BARON/CANNING AND COMPANY, INC (FOR: EMBASSY OF INDIA)		
HALT, INC SUITE 319 201 MASSACHUSETTS AVE., NE WASHINGTON DC 20002			
HANDGUN CONTROL, INC. 810 18TH ST., NW WASHINGTON DC 20006		561,015.34	258,679.36
MICHAEL T. HARRIGAN 421 KING ST., ALEXANDRIA VA 22314	U.S. OLYMPIC COMMITTEE		
ALLEN HARRIS SUITE 316 1330 CLASSEN BUILDING OKLAHOMA CITY OK 73106	SOUTHWEST KANSAS IRRIGATION ASSN		2,174.23
Do	TEXAS COUNTY IRRIGATION & WATER RESOURCES ASSN		
JEFF R. HART SUITE 340 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	ASSOCIATION OF PRIVATE PENSION & WELFARE PLANS, INC.	1,875.00	
LYNN S. HART 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	254.37	254.37
PAUL T. HASSE 201 MASSACHUSETTS AVE., NE, #319 WASHINGTON DC 20002	HALT, INC.		
LEWIS B. HASTINGS 1776 K ST., NW, #200 WASHINGTON DC 20006	MOTOROLA, INC.	1,000.00	238.39
BRUCE R. HAWLEY 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED.	6,390.00	13.00
PATRICK B. HEALY 30 F ST., NW WASHINGTON DC 20001	NATIONAL MILK PRODUCERS FED.	543.75	
HELICOPTER ASSOCIATION INTERNATIONAL 1110 VERMONT AVE., NW SUITE 430 WASHINGTON DC 20005			13,814.85
THOMAS R. HENDERSHOT, BARNETT, ALAGIA, & CAREY 1627 K ST., NW, #900 WASHINGTON DC 20006	PARTNERSHIP PLACEMENTS, INC.	3,568.50	
Do	PETROLEUM HEAT AND POWER CO		
Do	PHILADELPHIA GAS WORKS	600.00	
Do	PHILADELPHIA STOCK EXCHANGE		
Do	SLURRY TRANSPORT ASSN		
TOM HENDERSON 108 S. AKARD STREET DALLAS TX 75202	U.S. TELEPHONE COMMUNICATIONS, INC	13,500.00	8,986.79
THOMAS M. HENNESSY 1701 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	GETTY OIL COMPANY	1,375.00	640.21
HERCULES INC 910 MARKET ST. WILMINGTON DE 19899			7,140.00
SHARON L. HILDEBRANDT 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,972.46	100.63
HILL AND KNOWLTON, INC SUITE 1000 1425 K ST., NW WASHINGTON DC 20005	FLORISTS' TRANSWORLD DELIVERY ASSN	8,250.00	
E. JOSEPH HILLINGS P.O. BOX 44 WINTER PARK FL 32790	CONTINENTAL RESOURCES COMPANY	1,666.00	395.50
HILLSDALE COUNTY RAILWAY CO 50 MONROE STREET HILLSDALE MI 49242			2,916.70
MAUREEN K. HINKLE 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY	1,260.00	617.65
J.D. HITTLE 3137 S. 14TH ST. ARLINGTON VA	VOUGHT CORP	2,460.00	522.55
SHEILA K. HIXSON 1101 17TH ST., NW WASHINGTON DC 20036	AMERICAN DENTAL ASSN	1,000.00	
LAWRENCE S. HOFFHEIMER SUITE 520 1120 20TH STREET, NW WASHINGTON DC 20037	AMERICAN ASSN OF HOMES FOR THE AGING	1,500.00	
Do	BRAZOS RIVER HARBOR NAVIGATION DISTRICT	10,500.00	866.00
Do	NATIONAL MULTIPLE SCLEROSIS SOCIETY	5,100.00	149.00
HERBERT E. HOFFMAN 1800 M ST., NW WASHINGTON DC 20036	AMERICAN BAR ASSN		
NIELS HOLCH, THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON & STEEL INSTITUTE)		
Do	GRAY AND COMPANY (FOR: AMERICAN MARITIME ASSN)		
HOLIDAY INNS, INC 3742 LAMAR AVE. MEMPHIS TN 38195			1,500.00
HOPKINS & SUTTER THREE FIRST NATIONAL PLAZA RM. 4200 CHICAGO IL 60602	CHICAGO BOARD OF TRADE CLEARING CORP.	1,562.50	686.00
Do	COMMONWEALTH EDISON CO		
Do	FIRST CHICAGO CORP		
Do	INLAND STEEL COMPANY		
Do	NATIONAL ASSN OF INDEPENDENT INSURERS	1,500.00	
Do	NORTHWEST INDUSTRIES, INC		
Do	PEOPLES ENERGY CORPORATION		
Do	SEARS, ROEBUCK AND CO		
Do	TRANS UNION CORP		
WILLIAM B. HOPKINS P.O. BOX 13366 ROANOKE VA 24033	TULARE LAKE WATER USERS COMMITTEE	7,575.00	2,224.15
JOHN F. HORTY 1735 I ST., NW SUITE 716 WASHINGTON DC 20006	NATIONAL COUNCIL OF COMMUNITY HOSPITALS		
SANFORD D. HORWITT 5835 N. 5TH ROAD ARLINGTON VA 22203	COMMITTEE FOR HUMANE LEGISLATION		
Do	FRIENDS OF ANIMALS, INC	6,999.99	8,648.00
HOSPITAL ASSOCIATION OF NEW YORK STATE 15 COMPUTER DRIVE WEST ALBANY NY 12205		5,116.00	5,116.00
C.T. HOVERSTEN 6850 S. HARLEM AVE., ARGO P.O. BEDFORD PARK IL 60501	NATIONAL ADVERTISING CO.		
HOWELL CORP 1010 LAMAR SUITE 1800 HOUSTON TX 77002			
STEVEN K. HOWELL SUITE 1800 1010 LAMAR HOUSTON TX 77002	HOWELL CORP.		
GREGORY A. HUMPHREY 11 DUPONT CIRCLE, NW WASHINGTON DC 20036	AMERICAN FED OF TEACHERS, AFL-CIO	11,648.34	126.00
ROBERT BRUCE HUNTER 1621 RIPON PLACE ALEXANDRIA VA 22302	AMERICAN ASSN OF SCHOOL ADMINISTRATORS		79.60

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
WILLIAM J. HUNTER JR SUITE 900 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	MEAD CORPORATION	575.00	679.10
F. H. HUTCHISON & CO. 1744 R STREET, NW WASHINGTON DC 20009	GEOPRODUCTS CORPORATION	801.67	341.30
Do	HYDROTHERMAL ENERGY CORPORATION	383.83	226.81
Do	RENEWABLE ENERGY, INC.		155.15
Do	WESTEC SERVICES, INC.	910.20	
ISABEL E. HYDE 1800 K STREET, NW WASHINGTON DC 20006	GOODYEAR TIRE AND RUBBER CO.	1,750.00	
GARY HYMEL THE POWER HOUSE 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY (FOR: AMERICAN IRON & STEEL INSTITUTE)	168.75	
Do	GRAY AND COMPANY (FOR: COUNCIL OF STATE HOUSING AGENCIES)	281.25	2.00
Do	GRAY AND COMPANY (FOR: WARNER COMMUNICATIONS/FRANKLIN MINT)	56.25	
INDEPENDENT BANKERS ASSOCIATION OF AMERICA 1625 MASSACHUSETTS AVE., NW, #202 WASHINGTON DC 20036		157,018.00	100,662.20
JOHN H. INGRAM, HICKERSON-INGRAM & ASSOCIATES, INC 1150 17TH STREET, NW, #607 WASHINGTON DC 20036	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY	13,350.00	2,733.14
INSTITUTE OF FOREIGN BANKERS SUITE 303 EAST, RM. 23 200 PARK AVE. NEW YORK NY 10017		2,000.00	2,000.00
INSURANCE ECONOMICS SOCIETY OF AMERICA SUITE 590 1700 PENNSYLVANIA AVE., NW WASHINGTON, DC 20006		528.04	
INTER-AMERICAN SERVICES, INC SUITE 102 1804 N.E. LOOP 410 SAN ANTONIO TX 78217			
INTERNATIONAL ASSN OF BRIDGE, STRUCT. & ORNAMENTAL IRON WKRS 1750 NEW YORK AVE., NW WASHINGTON DC 20006.			10,800.00
INTERNATIONAL BROTHERHOOD OF PAINTERS & ALLIED TRADES 1750 NEW YORK AVE., NW WASHINGTON DC 20006			
INTERNATIONAL UNION OF OPERATING ENGINEERS 1125 17TH ST., NW WASHINGTON DC 20036		16,000.00	801.00
JOHN ISAACS 100 MARYLAND AVE., NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	6,532.47	
BENJAMIN R. JACKSON 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	NORMAN D. SHUTLER	3,000.00	
E. A. JAENKE & ASSOCIATES, INC 1575 EYE ST., NW, SUITE 230 WASHINGTON DC 20005	FARMLAND INDUSTRIES	500.00	
Do	UNIVERSITY OF KANSAS	250.00	
JAFFE SQUIRES & FOOTE 1000 POTOMAC STREET, NW WASHINGTON DC 20007	U.S. & OVERSEAS TAX FAIRNESS COMMITTEE		
CLARENCE L. JAMES JR. SUITE 505 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	KEEFE COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
Do	KEEFE COMPANY (FOR: PUBLIC EMPLOYEES BENEFIT SERVICES CO)		
Do	KEEFE COMPANY (FOR: RIVIANA FOODS)		
Do	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)		
HERBERT N. JASPER 415 2ND ST., NE WASHINGTON DC 20002	AD HOC COMM FOR COMPETITIVE TELECOMMUNICATIONS	22,596.15	
PHILIP F. JEHLE 1150 CONNECTICUT AVE., NW, #310 WASHINGTON DC 20036	SMITHKLINE CORP	1,500.00	
KEMPTON B. JENKINS SUITE 702 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	ARMCO	600.00	205.00
WALTER W. JOHN RM. 1414 SOUTH BUILDING USDA WASHINGTON DC 20250	ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA	756.00	
CALVIN P. JOHNSON, HOFFHEIMER & JOHNSON 1120 20TH STREET, NW, #520 WASHINGTON DC 20036	COMPUTER SCIENCES CORPORATION	18,000.00	2,123.00
DOUGLAS JOHNSON SUITE 402 419 7TH STREET, NW WASHINGTON DC 20004	NATIONAL RIGHT TO LIFE COMMITTEE, INC.	4,999.98	414.46
JOHN PAUL JOHNSON 1025 CONNECTICUT AVE., NW WASHINGTON DC 20036	NATURAL GAS SUPPLY ASSN	4,250.02	548.90
JONES & WINBURN SUITE 1040 1101 15TH STREET, NW WASHINGTON DC 20005	AMERICAN ASSN OF EQUIPMENT LESSORS	16,728.98	
LINDA WOLF JONES 105 E. 22 STREET NEW YORK NY 10010	COMMUNITY SERVICE SOCIETY	665.00	
JONES, DAY, REAVIS & POGUE 1735 I ST., NW WASHINGTON DC 20006	FOOD POLICY CENTER		
RUTH E. JURMAN 2000 L ST., NW, #815 WASHINGTON DC 20036	GLASS PACKAGING INSTITUTE		
HANS KAEHLER P.O. BOX 118 COLD SPRING HARBOR NY 11724			
LAUREL B. KAMEN SUITE 702 1700 K STREET, NW WASHINGTON DC 20006	AMERICAN EXPRESS CO.		
LINDA HELLER KAMM 1775 PENNSYLVANIA AVE., NW SUITE 1000 WASHINGTON DC 20006	FOLEY, LARDNER, HOLLABAUGH & JACOBS (FOR: CITY OF MINNEAPOLIS)		
ELIZABETH R. KAPLAN 530 7TH ST., SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	2,150.00	
FRED G. KAREM, SHUFFETT, KENTON, CURRY & KAREM 109 NORTH MILL STREET LEXINGTON KY 40507	NATIONAL MULTI HOUSING COUNCIL		
KARL F. FUNKE & ASSOCIATES 729 2ND STREET, N.E. WASHINGTON DC 20002	KEWEENAW BAY CHIPPEWA TRIBE		
HOWARD C. KATZ 160 WATER ST. NEW YORK NY 10038	COFFEE, SUGAR & COCOA EXCHANGE, INC.		
DAVID L. KEATING 325 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	NATIONAL TAXPAYERS UNION	1,750.00	
W. M. KECK JR 1801 AVENUE OF THE STARS SUITE 1110 LOS ANGELES CA 90067			
ROBERT J. KEEFE 1625 MASSACHUSETTS AVE., NW WASHINGTON DC 20036	KEEFE COMPANY (FOR: ALVIN NEDERLANDER ASSOCIATES, INC.)		
Do	KEEFE COMPANY (FOR: AMERICAN FAMILY LIFE ASSURANCE CO)	1,250.00	
Do	KEEFE COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
Do	KEEFE COMPANY (FOR: CORDAGE INSTITUTE)	1,250.00	
Do	KEEFE COMPANY (FOR: KNOXVILLE INTERNATIONAL ENERGY EXPOSITION)	1,250.00	
Do	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)	1,250.00	
DONALD W. KELLER P.O. BOX 3331 HOUSTON TX 77001	QUINTANA PETROLEUM CORP		
Do	QUINTANA REFINERY COMPANY		
PAUL J. KELLEY 2727 NORTH CENTRAL AVE. PHOENIX AZ 85004	U-HAUL INTL, INC	5,000.00	
EARL KELLY 4350 EAST-WEST HWY., #300 WASHINGTON DC 20014	PARALYZED VETERANS OF AMERICA	7,104.48	
RICHARD B. KELLY 770 LEXINGTON AVENUE NEW YORK NY 10021	NATIONAL ASSN OF CATALOG SHOWROOM MERCHANDISE		
JAMES J. KENNEDY JR 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	1,200.00	500.00
ROSALIE K. KESSLER 1825 CONNECTICUT AVE., NW WASHINGTON DC 20006	ARMSTRONG, BYRD, & ASSOCIATES, INC. (FOR: TOYOTA MOTOR SALES, U.S.A., INC.).		
KIAWAH ISLAND COMPANY P.O. BOX 12910 CHARLESTON SC 29142			
PAUL A. KIEFER, KIEFER & MORRISON 805 15TH STREET, NW, #524 WASHINGTON DC 20005	AMERICAN FUR INDUSTRY, INC; FUR CONSERVATION INST OF AMER		75.00
KIKKOMAN FOODS, INC P.O. BOX 69 WALWORTH WI 53184			
KILGORE & KILGORE, INC 1800 FIRST NATIONAL BANK BLDG. DALLAS TX 75202	DEMINEX U.S. OIL CO	20,636.00	23,330.88
Do	TEXASGULF, INC.		20,415.38
FRANK J. KINNEY 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,181.55	336.93
DONALD R. KIRTLEY 910 MARKET ST. WILMINGTON DE 19899	HERCULES INC.		
LAURENCE KLEIN 105 EAST 22ND STREET NEW YORK NY 10010	COMMUNITY SERVICE SOCIETY	650.00	
JAMES E. KNEALE 2335 SOUTH MEADE ST. ARLINGTON VA 22202	LOCKHEED CORPORATION	550.00	255.44
ROBERT L. KNOUS JR. SUITE A-201 1410 GRANT STREET DENVER CO 80203	COLORADO SKI COUNTRY USA	48.00	
LEONARD THOMAS KOCH 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORPORATION		
PAUL E. KOHL 1301 AVENUE OF THE AMERICAS NEW YORK NY 10019	18TH CONG. DIST. FOR PRO-LIFE ACTIVITIES		
KOMINERS, FORT, SCHLEFER & BOYER 1776 F ST., NW WASHINGTON DC 20006	COMMITTEE FOR TITLE XI VESSEL FINANCING	87,250.00	56,501.00
THOMAS G. KRAJEWSKI SUITE 1100 1828 L STREET, NW WASHINGTON DC 20036	COOPERATIVE LEGAUE OF THE USA	10,150.00	
C. EUGENE KRODER 645 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	NATIONAL AUDUBON SOCIETY		
ANTHONY J. KUCERA 1600 WILSON BLVD., #1101 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	1,000.00	
JOSEPH A. KUCHLER 444 N. CAPITOL ST., WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,001.01	93.82
LABOR BUREAU, INC. 1200 15TH ST., NW SUITE 505 WASHINGTON DC 20005			
BRUCE C. LADD JR. 1776 K STREET, NW WASHINGTON DC 20006	LACLEDE GAS COMPANY		
PETER M. LAFEN 530 7TH ST., SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	2,895.13	
ERIC T. LAITY 1800 FIRST NATIONAL BANK BLDG. DALLAS TX 75202	DEMINEX U.S. OIL CO	7,333.34	
Do	TEXASGULF, INC.	7,333.34	
JAMES N. LAKE SUITE 420 1200 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	NATIONAL POTATO COUNCIL	200.00	
Do	SUNMAID RAISIN GROWERS OF CALIFORNIA		
Do	WESTERN COTTON GROWERS ASSN	1,000.00	
Do	NELSON & HARDING (FOR: WESTERN GROWERS ASSOCIATION)	1,000.00	
C. P. LAMBOS 29 BROADWAY NEW YORK NY 10006	NEW YORK SHIPPING ASSN., INC.		170.00
LANE & EDSON SUITE 400 SOUTH 1800 M ST., NW WASHINGTON DC 20036	NATIONAL LEASED HOUSING ASSN	450.00	
GLENN T. LASHLEY 8111 GATEHOUSE ROAD FALLS CHURCH VA 22047	AMERICAN AUTOMOBILE ASSN.		
DENNIS LAVALLEE 1016 20TH ST., NW WASHINGTON DC 20036	NATIONAL ASSN OF PLUMBING-HEATING-COOLING CONTRACTORS	500.00	97.05
JOHN H. LEACH II P.O. BOX 11125 SANTA ANA CA 92711	LET THE PEOPLE BE HEARD COMM		
LEAGUE OF CALIFORNIA MILK PRODUCERS 1225 8TH ST. SACRAMENTO CA 95814			2,693.00
LECHNER & BUTSAVAGE, P.C. 3101 SOUTH ST., NW WASHINGTON DC 20007	MASSACHUSETTS ASSN OF CONTRIBUTORY RETIREMENT SYSTEMS, INC		
Do	NATIONAL ASSN OF POLICE ORGANIZATIONS	13,500.00	2,704.45
Do	UNITED FOOD & COMMERCIAL WORKERS INTL UNION		
ROBERT F. LEDERER 230 SOUTHERN BLDG. WASHINGTON DC 20005	AMERICAN ASSN OF NURSERYMEN		
LEIGHTON CONKLIN LEMOV JACOBS & BUCKLEY SUITE 800 2033 M ST., NW WASHINGTON DC 20036	ADHESIVE & SEALANT COUNCIL, INC		
Do	AMERICAN ASSN OF NURSE ANESTHETISTS		
Do	INTRAOCULAR LENS MFRS ASSN		
Do	NATIONAL GLASS DEALERS ASSN		
GILBERT LEKANDER SUITE 801 1629 K ST., NW WASHINGTON DC 20006	MONTANA POWER CO & WASHINGTON WATER POWER CO	300.00	
KAYE CONNIFF LEONARD SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	152.55	
LEONARD, KOEHN, ROSE AND HURT, P.C. SUITE 317 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036			
LEVA HAWES SYMINGTON MARTIN & OPPENHEIMER SUITE 1001 815 CONNECTICUT AVE., NW WASHINGTON DC 20006	COMMERZBANK AG		
Do	COMMONWEALTH EDISON COMPANY	82.00	
Do	GK TECHNOLOGIES, INC.		
Do	UNION INVESTMENT GMBH		
KENNETH S. LEVINE SUITE 220 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	JOSEPH SEAGRAM & SONS, INC.	806.25	
LEWIS AND ROCA 100 WEST WASHINGTON PHOENIX AZ 85003	INSPIRATION CONSOLIDATED COPPER COMPANY		
LEWIS RICE TUCKER ALLEN & CHUBB SUITE 1400 611 OLIVE ST. ST. LOUIS MO 63101	SPECTRUM EMERGENCY CARE, INC.	2,748.17	42.00
Do	ST. LOUIS MERCANTILE LIBRARY ASSN.	712.11	24.94
JAN PITTMAN LIEBMAN 1120 20TH ST., NW SUITE 520 WASHINGTON DC 20036	NATIONAL COMM FOR RES IN NEUROLOGIC & COMMUNICATIVE DISEASES	6,000.00	30.00

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
RUSSELL B. LIGHT 1700 NORTH MOORE ST. ARLINGTON VA 22209	BOEING COMPANY		
ROSS W. LILLARD 2100 CHARTERBANK CENTER KANSAS CITY MO 64105	STINSON, MAG & FIZZELL (FOR: FARMLAND INDUSTRIES, INC)		
LILLICK MCHOSE & CHARLES 21 DUPONT CIRCLE, NW WASHINGTON DC 20036	FAR EAST CONFERENCE	11,440.00	306.47
Do	JONES, LOYD & WEBSTER, INC.		
Do	PACIFIC WESTBOUND CONFERENCE	11,385.00	480.63
LINTON, MIELDS, REISLER & COTTONE, LTD. SUITE 200 1015 18TH ST., NW WASHINGTON DC 20036	AMBASSADOR BRIDGE CO.	3,000.00	
Do	COUNCIL OF POLLUTION CONTROL FINANCING AGENCIES	3,000.00	
Do	LAKE SUPERIOR DISTRICT POWER CO	577.00	
Do	MADISON GAS & ELECTRIC CO	1,171.00	
Do	METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO	3,965.00	
Do	NATIONAL ASSN OF URBAN FLOOD MANAGEMENT AGENCIES	1,800.00	
Do	NORTHERN STATES POWER CO	1,583.00	
Do	OREGON DEPT OF TRANSPORTATION	3,000.00	
Do	STATE OF IL, DEPT OF TRANS, DIV OF WATER RES	2,527.00	
Do	STATE OF IL, DEPT OF TRANSPORTATION	5,019.00	
Do	SUPERIOR WATER, LIGHT & POWER CO	317.00	
Do	WISCONSIN ELECTRIC POWER CO	5,137.00	
Do	WISCONSIN POWER & LIGHT CO	2,198.00	
Do	WISCONSIN PUBLIC SERVICE CORP	2,125.00	
JANICE C. LIPSEN 900 17TH ST., NW, #504 WASHINGTON DC 20006	INDEPENDENT ZINC ALLOYERS ASSN (FOR: COUNSELORS FOR MANAGEMENT, INC.)		
LISBOA ASSOCIATES, INC. 3600 M ST., NW WASHINGTON DC 20007		20,500.00	1,511.86
THEODORE M. LITTMAN 12214 LAKEWOOD BLVD. DOWNEY CA 90241	ROCKWELL INTL		
LORD, DAY & LORD 1120 20TH STREET, NW WASHINGTON DC 20036	CARGILL, INC.	6,276.71	
Do	CONTINENTAL GRAIN COMPANY	3,365.88	
Do	LESLIE SALT COMPANY	3,105.31	
Do	ORGANIZATION OF HEATER MANUFACTURERS	5,631.01	
CHARLES M. LOVELESS 1625 L STREET, NW WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO	7,819.56	160.57
MATTHEW A. LOW 1607 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20009	NORMAN D. SHUTLER	3,000.00	
SAMUEL A. MABRY 1800 K ST., NW WASHINGTON DC 20006	HERCULES INC.	2,250.00	1,765.00
MARION M. MACRAE 1800 K ST., NW, #920 WASHINGTON DC 20006	BANKAMERICA CORPORATION		
EDWARD MAGUIRE 1333 NEW HAMPSHIRE AVENUE, NW WASHINGTON DC 20036	BUCHANAN, INGERSOLL, RODEWALD, KYLE & BUERGER (FOR: INTERNATIONAL DISTRICT HEATING ASSN).		
MARY JO MALONE 1735 NEW YORK AVE., NW WASHINGTON DC 20006	AMERICAN INST OF ARCHITECTS	1,875.00	
TED R. MANNEN 1030 15TH STREET, N.W. SUITE 1100 WASHINGTON DC 20005	HEALTH INDUSTRY MANUFACTURERS ASSOCIATION		
ALLEN J. MANZANO 444 NORTH CAPITOL ST., NW SUITE 500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN		
MILTON C. MAPES SUITE 409 110 MARYLAND AVE., NE WASHINGTON DC 20002	NATIONAL PEACE ACADEMY CAMPAIGN	7,500.00	
JOHN V. MARANEY 324 EAST CAPITOL ST., NE WASHINGTON DC 20003	NATIONAL STAR ROUTE MAIL CARRIERS' ASSN		
R. V. MARIANI 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	700.00	700.00
PATRICIA MARKEY SUITE 505 1899 L STREET, NW WASHINGTON DC 20036	UNITED DISTRIBUTION COMPANIES	682.00	80.50
CHALMERS H. MARQUIS SUITE 7200 955 L'ENFANT PLAZA, SW WASHINGTON DC 20024	NATIONAL ASSN FOR PUBLIC TELEVISION STATIONS	600.00	150.00
ELEANOR MARSHALL 105 EAST 22ND STREET NEW YORK NY 10010	COMMUNITY SERVICE SOCIETY	598.00	
MARSHALL, BRATTER, GREENE, ALLISON & TUCKER 1140 CONNECTICUT AVE, NW WASHINGTON DC 20036	DREXEL BURNHAM LAMBERT, INC.		131.40
JAMES D. MARTIN 4600 72ND AVENUE LANDOVER HILLS MD 20784	COMMUNICATIONS SATELLITE CORP	2,000.00	133.00
ERNEST MARTY 85 RIDGE ST. NORTH SIDNEY, NSW 2060 AUSTRALIA			
JUDITH MARTY 85 RIDGE ST. NORTH SYDNEY, NSW 2060 AUSTRALIA			
SCOTT A. MASON SUITE 320 4260 GREENSBORO DRIVE MCLEAN VA 22102	NATIONAL HEALTH ADVISORS, LTD.		
HERBERT S. MATTHEWS BOX 72 MECHANICSVILLE MD 20659	MARTIN-MARIETTA AEROSPACE	6,025.00	666.19
H. WESLEY MCADEN SUITE 424 1155 15TH ST., NW WASHINGTON DC 20005	J. G. BOSWELL CO	9,000.00	2,440.00
MICHAEL J. MCCABE ALLSTATE PLAZA NORTHBROOK IL 60062	ALLSTATE INSURANCE COS.		
WILLIAM C. MCCAMANT 1725 K ST., NW WASHINGTON DC 20006			
LAW OFFICES OF R. C. MCCANDLESS 1707 H ST., NW WASHINGTON DC 20006	INTERNATIONAL PAPER CO.	97.50	
Do	MILLER & SCHROEDER MUNICIPALS, INC.	7,374.10	2,166.80
Do	TRANSAMERICA-OCCIDENTAL INSURANCE CORP.	50,387.40	8,267.53
Do	TRANSAMERICA CORPORATION	4,539.00	1,031.34
REUBEN MCCORNACK 100 MARYLAND AVENUE, NE WASHINGTON DC 20002	COUNCIL FOR A LIVABLE WORLD	2,000.00	
MARIA S. MCCREA 1825 CONNECTICUT AVE., NW WASHINGTON DC 20009	NATIONAL ASSN OF ARAB AMERICANS	1,187.00	400.00
E. T. MCDONALD 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	500.00	500.00
CHRISTOPHER C. MCGRATH, N. Y. S. PETROLEUM COUNCIL 551 5TH AVE., #718 NEW YORK NY 10176	AMERICAN PETROLEUM INST.		
PHIL A. MCKEANEY 11 DUPONT CIRCLE, NW WASHINGTON DC 20036	AMERICAN FED OF TEACHERS	8,258.64	156.00
MICHAEL R. MCLEOD DAVIS & MCLEOD 400 SOUTH CAPITOL ST., SW WASHINGTON DC 20003	AMERICAN ASSN OF CROP INSURERS	6,000.00	
Do	FLORIDA SUGAR CANE LEAGUE, INC.		
Do	NATIONAL CATTLEMEN'S ASSN		
Do	OLD REPUBLIC COMPANIES		
Do	RENEWABLE FUELS ASSOCIATION		
Do	SOCIETY OF AMERICAN FLORISTS		
Do	UNITED EGG PRODUCERS		
WILLIAM G. MCMURTRIE 8150 LEESBURG PIKE VIENNA VA 22180	WILLIAM H. SULLIVAN JR.	2,000.00	
ROBERT MCVICKER 2001 JEFFERSON DAVIS HWY. ARLINGTON VA 22202	KOLLSMAN INSTRUMENT CO.		
FRANCIS X. MEANEY ONE CENTER PLAZA BOSTON MA 02108	MINTZ, LEVIN, COHN, FERRIS, GLOVSKY, AND POPEO (FOR: GOLDMAN SACHS & CO).		
Do	MINTZ, LEVIN, COHN, FERRIS, GLOVSKY, AND POPEO (FOR: NORTHERN ENERGY CORPORATION).		
Do	MINTZ, LEVIN, COHN, FERRIS, GLOVSKY, AND POPEO (FOR: SCA SERVICES)		
Do	MINTZ, LEVIN, COHN, FERRIS, GLOVSKY, AND POPEO (FOR: SECURITIES INDUSTRY ASSN).		1,125.00
LOUIS L. MEIER JR 1625 I ST., NW WASHINGTON DC 20006	AMERICAN SOCIETY OF CIVIL ENGINEERS	1,120.00	1,403.00
NANINE MEIKLEJOHN 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES	9,493.74	100.25
EDWARD L. MERRIGAN 6000 CONNECTICUT AVE., NW WASHINGTON DC 20015	COALITION OF U.S. CIT. AWARD-HOLDERS AGAINST CZECHOSLOVAKIA		
METZGER, SHADYAC & SCHWARZ ONE FARRAGUT SQUARE SOUTH WASHINGTON DC 20006	PHILADELPHIA NATIONAL BANK	15,466.86	15,466.86
KATHERINE A. MEYER SUITE 700 2000 P STREET, NW WASHINGTON DC 20036	PUBILC CITIZEN, INC.	1,503.00	118.60
BRENDA J. MICHAUD SUITE A-201 1410 GRANT STREET DENVER CO 80203	COLORADO SKI COUNTRY USA		
JAMES G. MICHAUX 1801 K ST., NW, #903 WASHINGTON DC 20006	FEDERATED DEPT STORES, INC.	500.00	
MIGRANT LEGAL ACTION PROGRAM, INC. 806 15TH ST., NW WASHINGTON DC 20005		28,958.55	28,958.55
A. STANLEY MILLER 910 16TH ST., NW, #402 WASHINGTON DC 20006	FEDERATION OF AMERICAN CONTROLLED SHIPPING		
CLINTON R. MILLER 212 W. FOOTHILL BLVD. MONROVIA CA 91016	NATIONAL HEALTH FEDERATION	1,477.20	465.36
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO SUITE 1025 1015 15TH STREET, NW WASHINGTON DC 20005	MASS. CONSTRUCTION INDUSTRY COUNCIL TRUCK WEIGHT COMMITTEE	6,670.00	
LUIS MIRANDA 105 EAST 22ND STREET NEW YORK NY 10010	COMMUNITY SERVICE SOCIETY	644.00	12.20
MITCHELL ENERGY & DEVELOPMENT CORP. SUITE 200 1925 K STREET, NW WASHINGTON DC 20006			
JOSEPH A. MITCHELL HOFFHEIMER, JOHNSON & PETERSON 1120 20TH STREET, NW, #520 WASHINGTON DC 20036	CHURCH WORLD SERVICE		
GERALD A. MORRIS 11 DUPONT CIRCLE WASHINGTON DC 20036	AMERICAN FEDERATION OF TEACHERS/AFL-CIO	9,215.00	54.00
JOHN J. MOTLEY 490 L'ENFANT PLAZA EAST, SW, #3206 WASHINGTON DC 20024	NATIONAL FEDERATION OF INDEPENDENT BUSINESS	2,250.00	200.00
FAREED A. MUHAMMAD P.O. BOX 41 MICHIGAN CITY IN 46360	PRISONERS OF THE STATE OF INDIANA, ET AL.		
JAMES MULAR 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	700.00	700.00
MUNICIPAL LABOR COMMITTEE 140 PARK PLACE NEW YORK NY 10007		16,632.97	16,632.97
JEANNE MARIE MURPHY 1625 MASSACHUSETTS AVE., N.W. # 202 WASHINGTON DC 20036	INDEPENDENT BANKERS ASSOCIATION OF AMERICA	7,500.00	157.42
WILLIAM T. MURPHY JR 1899 L ST., NW, #500 WASHINGTON DC 20036	AMERICAN NATURAL SERVICE CO.	1,080.00	37.50
HAROLD D. MUTH 1600 WILSON BLVD., #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	300.00	
NAMAN, HOWELL, SMITH, LEE & MULDROW 700 TEXAS CENTER 900 WASHINGTON WACO TX 76703	COTTON FARMERS ASSOCIATION		
BERNARD NASH 1015 18TH ST., NW SUITE 400 WASHINGTON DC 20036	ASSOCIATION OF INDEPENDENT CORRUGATED CONVERTERS		
Do	GENERAL ELECTRIC CO.		
Do	MERCK & CO., INC.		
Do	TIME, INC.		
NATA SUITE 1200 1800 CONNECTICUT AVE., NW WASHINGTON DC 20006			
HARDY L. NATHAN 1750 K ST., NW WASHINGTON DC 20006	FOOD MARKETING INSTITUTE	900.00	
NATIONAL ASSN FOR HUMANE LEGISLATION, INC PO BOX 11675 ST. PETERSBURG FL 33733		6.35	10.00
NATIONAL ASSN OF CATALOG SHOWROOM MERCHANDISE 276 FIFTH AVENUE NEW YORK NY 10021			
NATIONAL ASSN OF FEDERALLY LICENSED FIREARMS DEALERS 2801 E. OAKLAND PARK BLVD. FT. LAUDERDALE FL 33306			
NATIONAL ASSN OF HOME BUILDERS OF THE U.S. 15TH & M STS., NW WASHINGTON DC 20005		19,801.67	55,136.71
NATIONAL ASSN OF HOMES FOR CHILDREN 104 EAST 35TH ST. NEW YORK NY 10016			1,050.00
NATIONAL ASSN OF LATINO ELECTED & APPOINTED OFFICIALS, INC. 109 SECOND ST., NE WASHINGTON DC 20002		17,290.00	27,106.23
NATIONAL ASSN OF PLUMBING-HEATING-COOLING CONTRACTORS 1016 20TH ST., NW WASHINGTON DC 20036		3,107.82	3,107.82
NATIONAL ASSN OF REALTORS 777 14TH ST., NW WASHINGTON DC 20005			43,662.55
NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036		3,086.04	2,471.06

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
NATIONAL COMMITTEE FOR CITIZENS IN EDUCATION 410 WILDE LAKE VILLAGE GREEN, COLUMBIA MD 21044		2,433.90	3,372.52
NATIONAL COMMUNITY ACTION FOUNDATION, INC. 2101 L STREET, N.W. SUITE 906 WASHINGTON DC 20037		41,583.00	31,191.00
NATIONAL COUNCIL FOR RESPONSIBLE FIREARMS POLICY, INC 7216 STAFFORD RD. ALEXANDRIA VA 22307			
NATIONAL COUNSEL ASSOCS, INC 421 NEW JERSEY AVE., SE WASHINGTON DC 20003	AMERICAN PARATRANSIT INSTITUTE	16,175.00	977.03
Do	INTERNATIONAL RECTIFIER	7,500.00	779.67
NATIONAL EDUCATION ASSN 1201 16TH ST., NW WASHINGTON DC 20036		78,074.30	78,074.30
NATIONAL EMPLOYEE BENEFITS INST SUITE 300 2550 M ST., NW WASHINGTON DC 20037		3,000.00	668.00
NATIONAL FAMILY PLANNING & REPRODUCTIVE HEALTH ASSN, INC 1110 VERMONT AVENUE, N.W. SUITE 950 WASHINGTON DC 20005.		83,451.00	3,174.65
NATIONAL FEDERATION OF COMMUNITY DEVELOPMENT CREDIT UNIONS SUITE 1004 16 COURT STREET BROOKLYN NY 11201.			
NATIONAL FEDERATION OF LICENSED PRACTICAL NURSES 214 SOUTH DRIVER DURHAM NC 27703		2,870.00	2,870.00
NATIONAL LEASED HOUSING ASSN SUITE 400 SOUTH 1800 M ST., NW WASHINGTON DC 20036		450.00	450.00
NATIONAL MILK PRODUCERS FED 30 F ST., NW WASHINGTON DC 20001		7,517.95	7,368.95
NATIONAL NEWSPAPER ASSN SUITE 400 1627 K ST., NW WASHINGTON DC 20006		71,258.57	6,634.00
NATIONAL ORGANIZATION FOR THE REFORM OF MARIJUANA LAWS 530 8TH ST., S.E. WASHINGTON DC 20003			
NATIONAL PEACE ACADEMY CAMPAIGN SUITE 409 110 MARYLAND AVE., NE WASHINGTON DC 20002		71,508.44	90,935.00
NATIONAL POTATO COUNCIL SUITE 420 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036			1,000.00
NATIONAL RESEARCH CENTER FOR CONSUMERS OF LEGAL SERVICES 1302 18TH ST., NW, #303 WASHINGTON DC 20036			
NATIONAL RIFLE ASSN OF AMER 1600 RHODE ISLAND AVE., NW WASHINGTON DC 20036		61,545.63	117,177.49
NATIONAL RIGHT TO LIFE COMM, INC SUITE 402 419 7TH ST., NW WASHINGTON DC 20004		400,875.26	51,903.55
NATIONAL RURAL DEVELOPMENT & FINANCE CORP. SUITE 360 1300 19TH STREET, NW WASHINGTON DC 20036			
NATIONAL SOLID WASTES MANAGEMENT ASSN SUITE 930 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036			
NATIONAL TAX EQUALITY ASSN 1000 CONNECTICUT AVE., NW WASHINGTON DC 20036		5,610.75	6,374.32
NATIONAL TAXPAYERS UNION 324 PENNSYLVANIA AVE., SE WASHINGTON DC 20003		13,725.15	13,227.00
NATIONAL TOUR BROKERS ASSOCIATION, INC. 120 KENTUCKY AVE. LEXINGTON KY 40502		21,153.00	21,153.00
NATIONAL YOUTH PRO-LIFE COALITION P.O. BOX 67 NEWPORT KY 41072			
NATURAL GAS SUPPLY ASSN. 1025 CONNECTICUT AVE., NW, #402 WASHINGTON DC 20036		1,126,788.00	37,163.19
STANLEY NEHMER 1320 19TH ST., NW WASHINGTON DC 20036	LEAD-ZINC PRODUCERS COMMITTEE	500.00	350.00
NEILL & MULLENHOLZ SUITE 410 1100 17TH STREET, NW WASHINGTON DC 20036	NATIONAL FARM & POWER EQUIPMENT DEALERS ASSN	1,000.00	
CAROLYN B. NELSON #2 METROPLEX DR., SUITE 500 BIRMINGHAM AL 35209	METROPOLITAN PROPERTIES, INC.		
PETER M. NELSON SUITE 920 1800 K STREET, NW WASHINGTON DC 20006	BANKAMERICA CORPORATION	17.36	101.88
NEW YORK SHIPPING ASSN 80 BROAD ST. NEW YORK NY 10004			360.00
NICKERSON INGRAM & ASSOCIATES, INC. SUITE 404 2030 M STREET, NW WASHINGTON DC 20036	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY	13,350.00	2,733.14
WILLIAM W. NICKERSON SUITE 404 2030 M ST., NW WASHINGTON DC 20036	MASSACHUSETTS BAY TRANSIT AUTHORITY		
STEWART E. NILES 225 BARONNE ST. NEW ORLEANS LA 70112	SHIPBUILDERS COUNCIL OF AMERICA		
NORFOLK & WESTERN RAILWAY CO. 8 NORTH JEFFERSON ST. ROANOKE VA 24042			519.00
NORTH AMERICAN TELEPHONE ASSOCIATION 511 2ND ST., NE WASHINGTON DC 20002		54,737.50	54,737.50
J. HALLOCK NORTHCOTT 1101 15TH ST., NW WASHINGTON DC 20005	MINNESOTA MINING & MANUFACTURING CO.	2,000.00	
C. D. NYBERG P.O. BOX 800 AUSTIN MN 55912	GEO. A. HORMEL & CO.		
DAVID D. O'BRIEN O'BRIEN & FIERCE 1828 L STREET, NW, #201 WASHINGTON DC 20036	COMMITTEE FOR TITLE XI VESSEL FINANCING		
TERRENCE M. O'CONNELL II SUITE 505 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	KEEFE AND COMPANY (FOR: AMERICAN FAMILY LIFE ASSURANCE CO)		
Do	KEEFE AND COMPANY (FOR: COMMONWEALTH OF PUERTO RICO)		
Do	KEEFE COMPANY (FOR: KNOXVILLE INTERNATIONAL ENERGY EXPO)		
Do	KEEFE COMPANY (FOR: PUBLIC EMPLOYEES BENEFIT SERVICES CO)		
Do	KEEFE COMPANY (FOR: RIVIANA FOODS)		
Do	KEEFE COMPANY (FOR: TENNESSEE VALLEY AUTHORITY)		
Do	KEEFE COMPANY (FOR: WESTINGHOUSE ELECTRIC CORP)	2,500.00	
O'CONNOR & HANNAN 1919 PENNSYLVANIA AVE., NW, #800 WASHINGTON DC 20006	NATIONAL ASSN OF NUMISMATIC PROFESSIONALS		
JOHN B. O'DAY SUITE 590 1700 PENNSYLVANIA AVE., NW WASHINGTON, DC 20006	INSURANCE ECONOMICS SOCIETY OF AMERICA		
O'NEAL & CLAASSEN, CHTD. SUITE 952 600 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037	COMMODITY EXCHANGE, INC.	262.50	
Do	INTERNATIONAL PRECIOUS METALS CORP	2,000.00	
Do	NATIONAL AIR TANKERS ASSN	4,000.00	186.46
Do	NATIONAL REA TELEPHONE ASSN		
M. DIANE O'TOOLE SUITE 2300 1000 WILSON BLVD. ARLINGTON VA 22209	NORTHROP CORP		47.50
MARY E. OAKES 1800 K ST., NW WASHINGTON DC 20006	HERCULES INC	634.00	109.00
NEIL N. OFFEN 1730 M ST., NW WASHINGTON DC 20036	DIRECT SELLING ASSOCIATION	1,000.00	253.46
VAN R. OLSEN 1156 15TH ST., NW, #1019 WASHINGTON DC 20005	U.S. BEET SUGAR ASSN		
WILLIAM J. OLSON 1819 H ST., NW WASHINGTON DC 20006	MARCH OF DIMES BIRTH DEFECTS FOUNDATION	5,600.00	454.83
CHARLES J. ORASIN 810 18TH ST., NW WASHINGTON DC 20006	HANDGUN CONTROL, INC.	7,134.61	103.18
ORGANIZATION OF PROFESSIONAL EMPLOYEES OF USDA RM. 1414 S. BUILDING U.S. DEPT OF AGRICULTURE WASHINGTON DC 20250.		2,663.90	1,544.22
ELVIRA J. ORLY 1701 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006			
Do	GETTY OIL COMPANY	143.76	195.96
GERARD PAUL PANARO 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	RETAIL BAKERS OF AMERICA	900.00	
JUDY E. PARK 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	9,544.00	20.25
SARA LYNN PARKER 1319 F. ST., NW SUITE 500 WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER	184.32	
RENEE PARSONS 530 7TH ST., SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	2,246.51	
WILLIAM H. PATTERSON 777 14TH ST., NW WASHINGTON DC 20005	GENERAL ELECTRIC CO.	95.00	
PAUL WEISS RIFKIND WHARTON & GARRISON 345 PARK AVE. NEW YORK NY 10022	NEW YORK STATE TAX COMMISSION	1,000.00	90.00
PEABODY, LAMBERT & MEYERS 1150 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	COUNCIL OF ENERGY RESOURCE TRIBES	1,505.50	
Do	GOVERNMENT OF THE VIRGIN ISLANDS	2,361.65	173.35
Do	INTERNATIONAL COMMUNICATIONS ASSOCIATION		
Do	MICHIGAN KNIFE CO	485.00	
Do	VIRGIN ISLANDS TRADE & ECONOMIC DEVELOPMENT INSTITUTE	1,742.50	55.20
Do	GUARDIAN AD LITEM, AIR CRASH DISASTER NEAR SAIGON		
JAMES B. PEARSON #1100, 1333 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	MOBIL CORPORATION	400.00	
DONALD PENNY 2020 K STREET, N. W. SUITE 250 WASHINGTON DC 20006	WARNER COMMUNICATIONS INC.	3,000.00	11,550.00
PENNY, OHLMANN, NEIMAN, INC. 1605 NORTH MAIN STREET DAYTON OH 45405	NATIONAL MANAGEMENT ASSOCIATION	500.00	117.76
PENSION RIGHTS CENTER 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036		280.00	1,129.35
PERKINS COIE STONE OLSEN & WILLIAMS SUITE 1200 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	BURLINGTON NORTHERN, INC.	1,800.00	125.00
Do	GENERAL PUBLIC UTILITIES CORP.	900.00	
JOHN J. PESCH SUITE 2300 1000 WILSON BLVD. FALLS CHURCH VA 22042	NORTHROP CORPORATION		
A. HAROLD PETERSON 715 CARGILL BLDG. MINNEAPOLIS MN 55402	NATIONAL R.E.A. TELEPHONE ASSN	1,500.00	733.10
LORRAINE PETTI 2817 18TH ST., NW WASHINGTON DC 20009	NATIONAL COMM AGAINST REPRESSIVE LEGISLATION	3,510.00	
DEBORAH M. PHILLIPS SUITE 320 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	GENERAL INSTRUMENT CORP		
JOAN PICCOLO SUITE 435 2020 K ST., NW WASHINGTON DC 20006	COMMODITY EXCHANGE, INC.	600.00	
PIERSON BALL & DOWD 1200 18TH ST., NW WASHINGTON DC 20036	NEIGHBORHOOD SCHOOL COUNCIL, TURNER ELEMEN SCHOOL		
STUART F. PIERSON VERNER, LIIPFERT, BERNHARD, & MCPHERSON 1660 L ST., NW, #1100 WASHINGTON DC 20036	PAN AM, ET AL		
RENA S. PIES 1611 N. KENT ST., #900 ARLINGTON VA 22209	AMERICAN FOOTWEAR INDUSTRIES ASSN		
DANIEL J. PILIERO II 1750 PENNSYLVANIA AVENUE, NW WASHINGTON DC 20006	AD HOC COMMITTEE OF MUTUAL FUND MANAGERS		11,612.00
ROBERT PLETT ASSOCIATES 1200 18TH ST., NW WASHINGTON DC 20036			
RAFE POMERANCE 530 7TH ST., SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	6,350.13	
PORT OF SEATTLE P.O. BOX 1209 SEATTLE WA 98111		64.29	112.97
ROBERT W. PORTER SUITE 420 1200 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	NATIONAL POTATO COUNCIL	800.00	
Do	WESTERN GROWERS ASSN	500.00	
POWELL GOLDSTEIN FRAZER & MURPHY SUITE 1050 1110 VERMONT AVE., NW WASHINGTON DC 20005	NATIONAL MULTI HOUSING COUNCIL		
PRATHER SEEGER DOOLITTLE & FARMER 1101 16TH ST., NW WASHINGTON DC 20036	BANKERS' ASSN FOR FOREIGN TRADE	1,000.00	
WOODRUFF M. PRICE 840 WASHINGTON BLDG. 15TH ST. & NEW YORK AVE. WASHINGTON DC 20005	CSX CORPORATION	3,000.00	1,159.83
PRO/LIFE CONGRESSIONAL DISTRICT 11 P.O. BOX 727 SAN CARLOS CA 94070		91.50	507.25
STUART PROCTOR 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	4,875.00	49.00
PROJECT ADVISORY GROUP 1029 VERMONT AVE., NW SUITE 860 WASHINGTON DC 20005			4,043.00
PUBLIC TIMBER PURCHASERS GROUP 714 OREGON BANK BLDG. 319 S.W. WASHINGTON ST. PORTLAND OR 97204		25,500.00	3,697.63
GERALD H. PUGH 707 SKOKIE BLVD. NORTHBROOK IL 60062	COMBINED INSURANCE CO OF AMERICA		
JACK I. PULLEY P.O. BOX 1592 MIDLAND MI 48640	DOW CORNING CORPORATION		
QUINTANA REFINERY COMPANY P.O. BOX 3331 HOUSTON TX 77001			
LANI HUMMEL RALEIGH 950 L'ENFANT PLAZA, SW WASHINGTON DC 20024	COMMUNICATIONS SATELLITE CORP	2,000.00	130.00
CRAIG J. RANCOURT SUITE 503, 1825 K STREET, NW WASHINGTON DC 20006	AMERICAN ASSN OF CLASSIFIED SCHOOL EMPLOYEES	3,522.18	3,522.18
HOWARD W. RANDOLPH JR 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	1,000.00	1,400.00
MAGDA RATAJSKI P.O. BOX 23652 WASHINGTON DC 20024	NORFOLK & WESTERN RAILWAY CO	519.00	
READING IS FUNDAMENTAL, INC. 600 MARYLAND AVE., SW RM 500 WASHINGTON DC 20560			53.26
REAVIS & MCGRATH 1776 F ST., NW WASHINGTON DC 20006	BUSINESS ROUNDTABLE		
JOHN M. RECTOR 1750 K ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF RETAIL DRUGGISTS	700.00	150.00

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Organization or Individual Filing	Employer/Client	Receipts	Expenditures
JOSEPH M. REES SUITE 505 1625 MASSACHUSETTS AVENUE, NW WASHINGTON DC 20036	KEEFE COMPANY (FOR: YOUNG DRUG PRODUCTS)		
Do	KEEFE COMPANY (FOR: CORDAGE INSTITUTE)	1,250.00	
Do	DELTA DENTAL PLANS ASSOCIATION	1,500.00	30.00
WOLFGANG REINECKE SUITE 940, LOCK BOX 340 PLAZA OF THE AMERICAS, NORTH TOWER DALLAS TX 75201	DEMINEX U.S. OIL COMPANY	37,125.00	
REID & PRIEST SUITE 1100, 1111 19TH ST., NW WASHINGTON, DC 20036	KAMEHAMEHA SCHOOLS/BERNICE P. BISHOP ESTATE	16,554.00	1,534.00
J. E. REINKE 1030 15TH ST., NW WASHINGTON DC 20005	EASTERN AIR LINES, INC.		1,721.00
MURRAY P. REISER 73 TREMONT ST. BOSTON MA 02108	EDWARD BLANKSTEIN, INC.		
RESERVE OFFICERS ASSN OF THE US 1 CONSTITUTION AVE., NE WASHINGTON DC 20002		1,118.61	9,708.10
NANCY C. REYNOLDS 300 MARYLAND AVE., NE WASHINGTON DC 20002	BENDIX CORP	1,000.00	133.49
EDMUND B. RICE 444 NORTH CAPITOL ST., NW, #500 WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	1,253.94	89.10
GRACE ELLEN RICE 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	4,449.99	40.00
JOHN G. RICHARDSON 2774 NORTH HILLS DRIVE, NE ATLANTA GA 30305	GEORGIA POWER COMPANY	14,097.00	
N. O. RICHARDSON 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	900.00	900.00
LEONARD I. RIPPA 325 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	NATIONAL TAXPAYERS UNION	3,125.00	
SELINA RUSSELL SUITE 301 415 SECOND ST., NE WASHINGTON DC 20002	AD HOC COMM FOR COMPETITIVE TELECOMMUNICATIONS	5,759.60	
ELIZABETH JANE ROBBINS 43 D STREET, S.E. WASHINGTON DC 20003	NATIONAL MUSIC PUBLISHERS ASSN, INC.	30,836.78	
Do	SCHOLASTIC MAGAZINES, INC.	8,000.00	
Do	SHEARSON/AMERICAN EXPRESS, INC.	7,560.00	
JEROME ROBINSON 1065 N. E. 125TH ST. SUITE 409 MIAMI FL 33161	FLORIDA RESTAURANT ASSN		
ROBINSON, SILVERMAN, PEARCE, ARONSOHN & BERMAN 230 PARK AVE. NEW YORK NY 10169	NATIONAL REALTY COMMITTEE		
QUINCY RODGERS 1200 NEW HAMPSHIRE AVE., NW SUITE 320 WASHINGTON DC 20036	GENERAL INSTRUMENT CORPORATION		
WILLI ROELLI FOUR WORLD TRADE CENTER NEW YORK NY 10005	COFFEE, SUGAR & COCOA EXCHANGE, INC.		250.50
ROGERS & WELLS 1666 K ST., NW WASHINGTON DC 20006	PAN AMERICAN WORLD AIRWAYS, INC.		
BRUCE N. ROGERS 1660 L ST., NW WASHINGTON DC 20036	GENERAL MOTORS CORP	2,500.00	2,600.36
TENO RONCALIO P.O. BOX 1707 CHEYENNE WY 82001	NORTHWEST ALASKAN PIPELINE CO & COLORADO INTERSTATE GAS CO.		
ROSE, SCHMIDT, DIXON, HASLEY, WHYTE & HARDESTY SUITE 300 818 CONNECTICUT AVENUE, NW WASHINGTON DC 20006			
ERIC M. RUBIN 4TH FLOOR 1737 H ST., NW WASHINGTON DC 20006	OUTDOOR ADVERTISING ASSOCIATION OF AMERICA, INC.		
JOHN G. RYAN 1700 K STREET, NW WASHINGTON DC 20006	SQUIBB CORP.		
ARTHUR B. SACKLER 1627 K ST., NW, #400 WASHINGTON DC 20006	NATIONAL NEWSPAPER ASSN	5,000.00	184.00
DANIEL SALTZMAN 317 PENNSYLVANIA AVE., SE WASHINGTON DC 20003	ENVIRONMENTAL POLICY CENTER		
SAMARITAN HEALTH SERVICE 1410 N. 3RD ST., P.O. BOX 25489 PHOENIX AZ 85002			5,681.21
WILLIAM SAMUEL 1730 K ST., NW SUITE 1101 WASHINGTON DC 20006	NATIONAL TREASURY EMPLOYEES UNION	7,061.25	
MARK ROY SANDSTROM, THOMPSON, HINE AND FLORY 1920 N STREET, NW WASHINGTON DC 20036	GREAT WESTERN SUGAR COMANY	12,913.50	
Do	ORKIN EXTERMINATING CO., INC.		
DONALD E. SANTARELLI SUITE 700 2033 M ST., NW WASHINGTON DC 20036	EMPRESA BRASILEIRA DE AERONAUTICA, S.A.	250.00	235.00
Do	KINGS RIVER WATER USERS COMM	3,000.00	620.00
Do	SAFARI CLUB INTERNATIONAL	2,500.00	595.00
Do	STURM, RUGER COMPANY, INC.	500.00	275.00
CHARLES SAPP 3400 TEXAS COMMERCE TOWER HOUSTON TX 77002	HOUSTON ENDOWMENT, INC.		1,736.00
MARK S. SCHACHT SUITE 600 806 15TH STREET, NW WASHINGTON DC 20005	MIGRANT LEGAL ACTION PROGRAM, INC.	12,975.86	1,220.00
HAROLD A. SCHAITBERGER 1750 NEW YORK AVE. WASHINGTON DC 20006	INTERNATIONAL ASSN OF FIRE FIGHTERS	11,486.28	
SCHRADER-LAUTH & ASSOCIATES, INC. 1600 WILSON BOULEVARD ARLINGTON VA 22209	ASSOCIATION FOR THE IMPROVEMENT OF THE MISSISSIPPI RIVER	12,500.00	9,923.60
MARSHA SCHRAMM 1101 CONNECTICUT AVE., NW, #406 WASHINGTON DC 20036	DOMESTIC PETROLEUM COUNCIL, INC.		
ROBERT I. SCHRAMM 1725 K ST., NW, #909 WASHINGTON DC 20006	SUPERIOR OIL CO & SUPERIOR FARMING CO.		
WILLIAM B. SCHULTZ SUITE 700 2000 P ST., NW WASHINGTON DC 20036	PUBLIC CITIZEN, INC.	500.00	10.00
BARI SCHWARTZ 1625 K STREET, NW SUITE 700 WASHINGTON DC 20006	COALITION FOR LEGAL SERVICES	6,068.99	1,461.02
ELIZABETH NASH SCHWARTZ 1700 N. MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	720.00	704.49
WILLIAM E. SEALE SUITE 435 2020 K ST., NW WASHINGTON DC 20006	COMMODITY EXCHANGE, INC.	3,000.00	
DAVID SENTER 100 MARYLAND AVENUE, N.E. SUITE 500A, BOX 69 WASHINGTON DC 20002	AMERICAN AGRICULTURE MOVEMENT, INC.	4,500.00	118.00
STUART D. SERKIN SUITE 3210 490 L'ENFANT PLAZA EAST, SW WASHINGTON DC 20024	SLURRY TRANSPORT ASSN	1,000.00	
SERVICE MASTER INDUSTRIES, INC 2300 WARRENVILLE ROAD DOWNERS GROVE IL 60515			1,200.00
KAREN DOLMATCH SHAW SUITE 920 1800 K ST., NW WASHINGTON DC 20006	BANKAMERICA CORPORATION	441.10	1,227.16
SHAW PITTMAN POTTS & TROWBRIDGE 1800 M ST., NW, #900-S WASHINGTON DC 20036	DATAPOINT CORPORATION		
RUSSELL H. SHAY 6014 COLLEGE AVE. OAKLAND CA 94618	SIERRA CLUB	1,264.36	974.40
SHEARMAN & STERLING 53 WALL ST. NEW YORK NY 10005	AMORY HOUGHTON, SR., ET AL.		4,050.00
JONATHAN R. SHEINER 410 FIRST ST., SE WASHINGTON DC 20003	CONSOLIDATED EDISON CO OF NEW YORK, INC.	512.50	
LOIS BURKE SHEPARD 8602 HIDDEN HILL LANE POTOMAC MD 20854	REPUBLICANS ABROAD		
DALE SHERMAN 1735 I ST., NW, #717 WASHINGTON DC 20006	A.E. STALEY MFGR CO	1,500.00	210.00
Do	ALABAMA FARM BUREAU FEDERATION	1,500.00	210.00
NELSON T. SHIELDS 810 18TH ST., NW WASHINGTON DC 20006	HANDGUN CONTROL, INC.	5,750.93	
ELIZABETH SHIPLEY-MOSES 1107 JACKSON COURT FALLS CHURCH VA 22046	SOCIETY FOR NUTRITION EDUCATION	100.00	16.52
RICHARD G. SHOUP SUITE 600 SOUTH 1120 20TH ST. NW WASHINGTON DC 20036	UNION PACIFIC CORPORATION	2,850.00	1,802.39
NORMAN D. SHUTLER 1607 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20006	CLAYTON MFRG CO.	6,000.00	3,500.00
SIERRA CLUB 530 BUSH ST. SAN FRANCISCO CA 94108		210,028.23	210,028.23
STEPHEN SILBIGER 1625 L ST., NW WASHINGTON DC 20036	AMERICAN FED OF STATE, COUNTY & MUNICIPAL EMPLOYEES	11,528.28	411.40
MARK SIMON 815 16TH ST., NW WASHINGTON DC 20006	FOOD AND BEVERAGE TRADES DEPARTMENT, AFL-CIO	419.56	
WILLIAM G. SIMPSON SUITE 424 1155 15TH STREET, NW WASHINGTON DC 20005	FIRST MISSISSIPPI CORPORATION	2,000.00	
Do	FIRST MISSISSIPPI NATIONAL BANK	2,000.00	
Do	MISSISSIPPI POWER & LIGHT COMPANY	2,000.00	
Do	STATE OF MISSISSIPPI	4,000.00	
GREGG P. SKALL, BLUM & NASH 1015 18TH STREET, NW WASHINGTON DC 20036	DAYTIME BROADCASTERS ASSN		8.00
Do	GENERAL ELECTRIC COMPANY		8.00
Do	TIME, INC.		8.00
STEPHEN L. SKARDON JR 1533 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20036	NATIONAL ASSN OF RETIRED FEDERAL EMPLOYEES	8,442.00	
SLURRY TRANSPORT ASSN., 490 L'ENFANT PLAZA, SW, #3210 WASHINGTON DC 20024		1,000.00	
SL SOMMER & ASSOCIATES,INC. 3129 WORTHINGTON ST., NW WASHINGTON DC 20015	NORTHROP CORP.	1,000.00	1,448.46
ROBERT SLAUGHTER SUITE 402 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	NATURAL GAS SUPPLY ASSN	8,531.26	393.47
SCOTT L. SLESINGER 15TH & M STREETS, NW WASHINGTON DC 20005	NATIONAL APARTMENT ASSN		
SMALL BUSINESS COUNCIL OF AMERICA, INC P.O. BOX 4299 COLUMBUS GA 31904		30,510.00	11,300.56
SMATHERS SYMINGTON & HERLONG SUITE 400 1700 K ST., NW WASHINGTON DC 20006	AMERICAN HORSE COUNCIL	3,666.00	
Do	AMERICAN INLAND WATERWAYS COMM	3,500.00	
Do	GOLDMAN SACHS & CO.	1,500.00	
Do	PENNZOIL CO.	6,000.00	
Do	REPUBLIC OF SOUTH AFRICA	7,500.00	99.40
Do	FLORISTS' TRANSWORLD DELIVERY ASSN (FOR: HILL & KNOWLTON, INC)		
GORDON L. SMITH 1425 K ST., NW, #1000 WASHINGTON DC 20005	AMERICAN HEALTH INDUSTRIES		
KERN SMITH BOX 2420 SW STATION, WASHINGTON DC 20024	UNITED DISTRIBUTION CO.	260.00	234.50
ROBERT N. SMITH SUITE 210 255 EAST BROWN ST., BIRMINGHAM MI 48011	NATIONAL ASSN OF CREDIT MANAGEMENT	1,050.00	
LEIGH SNELL 510 C ST.,NE WASHINGTON DC 20002		137.00	16.52
SOCIETY FOR NUTRITION EDUCATION 1736 FRANKLIN STREET OAKLAND CA 94612	AMERICAN ACADEMY OF OPHTHALMOLOGY		2,371.46
CHARLES B. SONNEBORN SUITE 300, 1101 VERMONT AVE., NW WASHINGTON DC 20005			
SOUTH DAKOTA DEPT. OF TRANSPORTATION, DIV. OF RAILROADS PIERRE SD 57501	PENN CENTRAL CORPORATION		
JAMES L. SOUTH 8607 DIXIE PLACE MCLEAN VA 22102			
SOUTHERN FOREST PRODUCTS ASSN P.O. BOX 52468 NEW ORLEANS LA 70152		32,434.29	32,434.29
ST. LOUIS MERCANTILE LIBRARY ASSN. 510 LOCUST ST. ST. LOUIS MO 63101		712.11	24.94
DAVID E. STAHL 15TH & M STS., NW WASHINGTON DC 20005	NATIONAL ASSN OF HOME BUILDERS OF THE U.S.		
WILLIAM N. STEELE 1700 NORTH MOORE ST. ROSSLYN VA 22209	BOEING COMPANY	565.13	514.40
MICHAEL STIENTJES 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	2,737.40	10.00
JOHN W. STILLWAGGON 8TH FLOOR FOUR WORLD TRADE CENTER NEW YORK NY 10048	COFFEE, SUGAR & COCOA EXCHANGE, INC.		717.70
JACK MARK STOLIER SUITE 500 1319 F STREET, NW WASHINGTON DC 20004	FOOD RESEARCH & ACTION CENTER		
W. MELVIN STREET SUITE 400 1627 K STREET, NW WASHINGTON DC 20006	NATIONAL NEWSPAPER ASSN		
RICHARD H. STREETER 1729 H STREET, NW WASHINGTON DC 20006	CAST NORTH AMERICA LTD.	3,000.00	12.00
SUNMAID RAISIN GROWERS OF CALIFORNIA SUITE 420 1200 NEW HAMPSHIRE AVE. WASHINGTON DC 20036			
SUTHERLAND ASBILL & BRENNAN 1666 K ST., NW WASHINGTON DC 20006	COUNCIL OF INDUSTRIAL BOILER OWNERS		
Do	INDUSTRIAL OIL CONSUMERS GROUP		
Do	LIFETIME COMMUNITIES, INC.	10,144.62	115.42
Do	LOYAL TRUST	500.00	7.00
Do	MUTUAL OF OMAHA INSURANCE CO.	2,823.00	41.50
Do	NATIONAL ASSN OF MANUFACTURERS		
DONNAE SUTHERLIN SUITE 502 17 W. MARKET STREET INDIANAPOLIS IN 46204	AMERICAN ACADEMY OF FAMILY PHYSICIANS	1,875.00	639.81
ROSEMARIE SWEENEY 475 L'ENFANT PLAZA WEST, SW #2970 WASHINGTON DC 20024	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	5,000.00	1,015.25
DONALD R. SWEITZER 815 16TH ST., NW WASHINGTON DC 20006	NATIONAL FAMILY PLANNING AND REPRODUCTIVE HEALTH ASSOC., INC	2,607.00	
SCOTT R. SWIRLING SUITE 950 1110 VERMONT AVENUE, NW WASHINGTON DC 20005	EMBASSY OF THE DEMOCRATIC REPUBLIC OF SOMALIA	500.00	
Z. MICHAEL SZAZ 6819 SUPREME COURT SPRINGFIELD VA 22150	NATIONAL ASSN OF HOMES FOR CHILDREN	1,050.00	
TALCOTT MCCABE & BOWSER SUITE 302, WEST WING 600 MARYLAND AVENUE, SW WASHINGTON DC 20024			

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
Do	HOLIDAY INNS, INC.	1,500.00	
Do	SERVICEMASTER INDUSTRIES, INC.	1,200.00	
Do	UNITED STATES INDUSTRIAL COUNCIL	750.00	
ELINOR D. TALMADGE 2501 M ST., NW WASHINGTON DC 20037	TANNERS' COUNCIL OF AMERICA		
MARY LOU TANTON 2028 P STREET, NW WASHINGTON DC 20036	FEDERATION FOR AMERICAN IMMIGRATION REFORM	1,200.00	25.00
TARGET, INC. 2411 OLD CROW CANYON ROAD SAN RAMON CA 94583			6,000.00
C. MICHAEL TARDINE 2033 M ST., NW, #700 WASHINGTON DC 20036	EMPRESA BRASILEIRA DE AERONAUTICA, S.A.		
Do	SANTARELLI & GIMER (FOR: KINGS RIVER WATER USERS COMM)		
LLOYD V. TEMME SUITE 600 915 15TH STREET, NW WASHINGTON DC 20005			
JAY D. TERRY SUITE 317 1025 CONNECTICUT AVENUE, NW WASHINGTON DC 20036	LEONARD, KOEHN, ROSE AND HURT, P.C.		
TEXASGULF, INC. HIGH RIDGE PARK STAMFORD CT 06904			
MARY KAY THATCHER 600 MARYLAND AVENUE, SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FEDERATION	4,442.31	22.00
THEVENOT, MURRAY & SCHEER SUITE 1120 1120 CONNECTICUT AVE., NW WASHINGTON DC 20036	FEDERAL EXPRESS		
Do	JOSEPH SEAGRAM & SONS, INC.		
CHARLES P. THOMPSON P.O. BOX 21666 PHOENIX AZ 85036	ARIZONA PUBLIC SERVICE COMPANY	1,000.00	1,902.34
ROBERT N. THOMSON ONE LANDMARK SQ. STAMFORD CT 06901	MOORE MCCORMACK RESOURCES, INC.	5,000.00	210.04
TERENCE N. THORN SUITE 919 1700 NORTH MOORE STREET ARLINGTON VA 22209	HOUSTON NATURAL GAS CORP		
SAMUEL THURM 1725 K ST., NW WASHINGTON DC 20006	ASSOCIATION OF NATL ADVERTISERS		
TIETZ & O'CONNELL 107 WEST JEFFERSON STREET ROCKVILLE MD 20850	Y & M STEEL CONTRACTORS, INC.	450.00	
M. DOUGLAS TODD SUITE 2300 1000 WILSON BOULEVARD ARLINGTON VA 22209	NORTHROP CORPORATION		
JOSEPH P. TRAINOR 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS	3,000.00	920.45
JEFFREY B. TRAMMELL 3255 GRACE STREET, NW WASHINGTON DC 20007	GRAY AND COMPANY		
HUBERT TRAVAILLE SUITE 510 1090 VERMONT AVE., NW WASHINGTON DC 20005	POTLATCH CORPORATION	1,000.00	
PAULA C. TREAT 900 17TH ST., NW, #514 WASHINGTON DC 20006	NATIONAL HOME FURNISHINGS ASSN		
THOMAS TRUAX 1401 21ST STREET SACRAMENTO CA 95814	AMERICAN HEALTH CARE ASSN	3,000.00	110.40
ANH TU SUITE 501 800 25TH STREET, NW WASHINGTON DC 20037	PROJECT ADVISORY GROUP		4,043.00
TUCKER & BROWN SUITE 2330 WESTERN FEDERAL SAVINGS BLDG. DENVER CO 80202	JOHNS-MANVILLE CORP.	500.00	
Do	PETRO-LEWIS CORPORATION	200.00	
BRIAN TURNER 815 16TH STREET, NW WASHINGTON DC 20006	INDUSTRIAL UNION DEPARTMENT, AFL-CIO	8,000.00	
W. GLENN TUSSEY 600 MARYLAND AVE., SW WASHINGTON DC 20024	AMERICAN FARM BUREAU FED	6,474.99	21.00
ST. CLAIR J. TWEEDIE SUITE 220 1575 EYE STREET, NW WASHINGTON DC 20005	AMERICAN CYANAMID COMPANY		
JOSEPH R. TYLER 101 S. MAIN ST. DELPHOS OH 45833	U.S. FIBER CORPORATION		
U.S. INDUSTRIAL COUNCIL 3RD FLOOR, REALTORS BUILDING 306 GAY ST. NASHVILLE TN 37219			750.00
UNITED FOOD & COMMERCIAL WORKERS INTL UNION 1775 K ST., NW WASHINGTON DC 20006		46,506.71	46,506.71
UNITED VAN LINES, INC. ONE UNITED DR. FENTON MO 63026			
RICHARD A. VAN DEUREN, REINHART, BOERNER, VAN DEUREN, ET AL. 111 E. WISCONSIN AVE., SUITE 1800 MILWAUKEE WI 53202.	NATIONAL EMPLOYEE BENEFITS INST		
JOHN A. VANCE 1050 17TH ST., NW, #1180 WASHINGTON DC 20036	PACIFIC GAS & ELECTRIC CO.	3,102.00	1,944.18
VERNER, LIIPFERT, BERNHARD & MCPHERSON 1660 L ST., NW WASHINGTON DC 20036			
Do	TRAVELERS CORP	193.75	193.75
JOHN C. VICKERMAN 1210 CONNECTICUT AVE., NW WASHINGTON DC 20036	INTERNATIONAL CONFERENCE INDUSTRY ASSN		
DAVID VIENNA 510 C ST., NE WASHINGTON DC 20005	NATIONAL ASSN OF CREDIT MANAGEMENT	1,475.00	
RUDOLPH A. VIGNONE 1800 K ST., NW, #800 WASHINGTON DC 20006	GOODYEAR TIRE & RUBBER CO	3,500.00	
CHRISTOPHER N. VISHER SUITE 800 1016 16TH STREET, NW WASHINGTON DC 20036	ROISMAN, RENO & CAVANAUGH (FOR: NATIONAL HOUSING LAW PROJECT)	7,487.00	20.00
DOUGLAS K. VOLLMER 4350 EAST WEST HIGHWAY, SUITE 900 WASHINGTON DC 20814	PARALYZED VETERANS OF AMERICA	8,505.00	
MARTIN A. WALL 444 N. CAPITOL STREET, NW WASHINGTON DC 20001	AMERICAN HOSPITAL ASSN	398.82	103.25
DON WALLACE ASSOCIATES, INC. 232 E. CAPITOL ST. WASHINGTON DC 20003	AMERICAN SUGAR CANE LEAGUE OF THE USA, INC.	6,000.00	2,866.30
Do	COTTON WAREHOUSE ASSN. OF AMERICA	11,000.00	2,196.10
ROB WALLACE 203 MARYLAND AVENUE, N.E. WASHINGTON DC 20002	WESTERN SOLAR UTILIZATION NETWORK		
JOHN X. WARD 2001 S STREET, NW WASHINGTON DC 20009	NATIONAL CONSUMER COOPERATIVE BANK	9,960.64	
GEOFFREY WEBB 530 7TH STREET, SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	990.00	
WEBSTER AND SHEFFIELD 1200 NEW HAMPSHIRE AVE., NW, #350 WASHINGTON DC 20036	NATIONAL CONFERENCE OF BANKRUPTCY JUDGES	6,570.00	
WEIL, GOTSHAL & MANGES 1101 CONNECTICUT AVENUE, NW WASHINGTON DC 20036			
Do	NATIONAL RETAIL MERCHANTS ASSN		
WELLFORD, WEGMAN, KRULWICH, GOLD & HOFF SUITE 802 1015 18TH STREET, NW WASHINGTON DC 20036	CANADIAN EMBASSY	720.00	
JOY CHERIE WEST 806 15TH ST., NW WASHINGTON DC 20005	MIGRANT LEGAL ACTION PROGRAM, INC.	4,158.57	1,221.35
WESTERN COTTON GROWERS ASSN SUITE 705 1101 17TH STREET, NW WASHINGTON DC 20036			
WESTERN GROWERS ASSOCIATION SUITE 420 1200 NEW HAMPSHIRE AVE., NW, WASHINGTON DC 20036			1,000.00
JOSEPH J. WESTWATER 10140 LINN STATION ROAD LOUISVILLE KY 40223	DAIRYMEN, INC.	8,750.00	3,202.22
WEXLER AND ASSOCIATES, INC SUITE 400 1616 H STREET, NW WASHINGTON DC 20006	TOSCO CORPORATION		
CURTIS E. WHALEN P.O. BOX 44 WINTER PARK FL 32790	CONTINENTAL RESOURCES COMPANY	3,300.00	1,158.33
STEPHEN M. WHEELER 530 7TH STREET, SE WASHINGTON DC 20003	FRIENDS OF THE EARTH	615.00	
WHITE & CASE 1747 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	REPUBLIC OF INDONESIA	742.50	8.75
BRENDA WHITE ROOM 807 140 PARK PLACE NEW YORK NY 10007	MUNICIPAL LABOR COMMITTEE	7,966.14	2,157.08
BRYAN K. WHITEHEAD 815 16TH ST., NW WASHINGTON DC 20006	BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS		
W. EDWARD WHITFIELD 840 WASHINGTON BUILDING 15TH STREET & NEW YORK AVENUE, NW WASHINGTON DC 20005	CSX CORPORATION	3,000.00	466.13
WILKINSON, CRAGUN & BARKER 1735 NEW YORK AVE., NW WASHINGTON DC 20006	MARATHON OIL CO.		15.50
RALPH E. WILLHAM 1750 NEW YORK AVE., NW WASHINGTON DC 20006	SHEET METAL WORKERS' INTL ASSN	8,977.50	
WILLIAMS & JENSEN, P.C. 1101 CONNECTICUT AVE., NW WASHINGTON DC 20036	AMERICAN PHYSICAL THERAPY ASSN	50.00	13.26
Do	AMERICAN TRUCKING ASSNS, INC.		
Do	BURGER KING CORP	1,462.50	154.16
Do	C. BREWER & CO, LTD.		
Do	CENTURY 21 REAL ESTATE CORP	795.00	64.22
Do	COMPETITIVE TELECOMMUNICATION COALITION	1,800.00	154.16
Do	CONNECTICUT GENERAL INSURANCE CORP		12.84
Do	CONSOLIDATED FOODS CORP		12.84
Do	DOMESTIC PETROLEUM COUNCIL, INC.		
Do	FIRST BOSTON CORP	52.50	12.84
Do	HIGHER EDUATION ASSISTANCE FOUNDATION		
Do	IU INTERNATIONAL MANAGEMENT CORP.	1,002.50	89.92
Do	KELLOGG COMPANY	227.50	25.60
Do	KRAUSE MILLING CO.	20.00	12.84
Do	LLOYD HAYES		
Do	LOUISIANA LAND & EXPLORATION CO.		
Do	MUSTANG FUEL CORPORATION		
Do	NATIONAL ASSN OF WATER COS	980.00	102.77
Do	NATIONAL SOFT DRINK ASSN	1,032.50	79.57
Do	NATIONWIDE INSURANCE COMPANIES	40.00	12.84
Do	OLYMPIA & YORK DEVELOPMENTS LTD.		
Do	OLYMPIA & YORK EQUITY CORP.		
Do	PARALYZED VETERANS OF AMERICA		
Do	PILLSBURY COMPANY		
Do	RECORDING INDUSTRY OF AMERICA, INC.	9,235.00	655.17
Do	SOUTHERN RAILWAY SYSTEM		
Do	STUDENT LOAN MARKETING ASSN	1,062.50	89.92
LAWRENCE F. WILLIAMS 330 PENNSYLVANIA AVENUE, SE WASHINGTON DC 20003	SIERRA CLUB	6,500.00	7.50
THOMAS C. WILLIAMS, STANFORD, WILLIAMS & BRIGGS 1025 K STREET, NW, #703 WASHINGTON DC 20006	NATIONAL ASSN OF INDUSTRIAL & OFFICE PARKS		
Do	NATIONAL FOOTBALL LEAGUE		125.00
DENA L. WILSON 1600 WILSON BLVD., #1000 ARLINGTON VA 22209	AMERICAN WATERWAYS OPERATORS, INC	1,400.00	94.65
ALAN M. WISEMAN SUITE 900 1730 PENNSYLVANIA AVE., NW WASHINGTON DC 20006	MEAD CORPORATION	2,851.25	467.90
WILLIAM E. WOODS 1750 K ST., NW WASHINGTON DC 20006	NATIONAL ASSN OF RETAIL DRUGGISTS	1,500.00	380.00
GEORGE M. WORDEN 1201 PENNSYLVANIA AVE., NW WASHINGTON DC 20004	HILL & KNOWLTON, INC. (FOR: DISTILLED SPIRITS COUNCIL)		
WYATT, SALTZSTEIN, LIPSEN & HAMBERGER 8TH FLOOR 1725 DESALES STREET, NW WASHINGTON DC 20036	DRAVO CORP	625.00	
Do	AMERICAN BUSINESS PRESS, INC.	3,000.00	
Do	AMERICAN WATERWAYS OPERATORS, INC	3,900.00	150.00
Do	WESTINGHOUSE ELECTRIC CORP	5,210.00	210.00
FREDERICK S. WYLE 3 GREENWOOD COMMON BERKELEY CA 94708	FEDERATED STATES OF MICRONESIA		
WYMAN, BAUTZER, ROTHMAN, KUCHEL & SILBERT SUITE 500, THE WATERGATE 600 600 NEW HAMPSHIRE AVE., NW WASHINGTON DC 20037.	AMERICAN BOILER MANUFACTURERS ASSOCIATION, INC.		
Do	BRISTOL BAY NATIVE CORP.		
Do	EKLUTNA, INC.		
Do	FILMWAYS, INC.		
[illegible] YELTON 8120 FENTON ST. SILVER SPRING MD 20910	AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE	4,482.72	212.45

Organization or Individual Filing	Employer/Client	Receipts	Expenditures
HARRY M ZACHEM 1025 CONNECTICUT AVE., #507 WASHINGTON DC 20036	ASHLAND OIL, INC.	2,000.00	
MICHAEL ZAGORAC P.O. BOX 4689 CLEARWATER FL 33518	JACK ECKERD CORPORATION		472.00
JANICE ZARRO 1660 L ST., NW, SUITE 715-16 WASHINGTON DC 20036	AVON PRODUCTS, INC.	38.20	10.00
THOMAS K. ZAUCHA 1910 K ST., NW SUITE 700 WASHINGTON DC 20006	COOPERATIVE FOOD DISTRIBUTORS OF AMERICA		
KEVIN B. ZEESE 530 8TH ST., SE WASHINGTON DC 20003	NATIONAL ORGANIZATION FOR THE REFORM OF MARIJUANA LAWS		
PHILIP F. ZEIDMAN 1025 CONNECTICUT AVE., NW, #900 WASHINGTON DC 20036	AMERICAN BUSINESS CONFERENCE		
MYRON ZEITZ 1146 19TH STREET, N.W. ROOM 300 WASHINGTON DC 20036	COMMUNITY NUTRITION INSTITUTE		
ZERO POPULATION GROWTH, INC 1346 CONNECTICUT AVE., NW WASHINGTON DC 20036		3,474.00	3,144.00
13TH CONGRESSIONAL DISTRICT ACTION COMM 986 VICAR LANE SAN JOSE CA 95117		83.75	164.28
5TH PRO-LIFE CONG DISTRICT ACTION COMM (FL) C/O MR. JOHN KELLEY 1120 MICHIGAN BLVD. DUNEDIN FL 33528			342.84

EXTENSIONS OF REMARKS

A TRIBUTE TO MISS KATHY MITCHELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SKELTON. Mr. Speaker, I would like to bring to the attention of this body the achievements of a young lady from Lexington Mo., Miss Kathy Mitchell.

Kathy Mitchell was crowned the new Miss Lafayette County for 1983, enabling her to represent Lafayette County next year in the Miss Missouri Pageant. Miss Mitchell, an accounting major at the University of Missouri, is the daughter of Mr. and Mrs. William D. Buchanan, also of Lexington, Mo.

Beauty pageants are nothing new to Miss Mitchell. In 1980, she was the second runner-up in the Miss Lafayette County contest, first runner-up in the Missouri Show-Me Pageant and, in 1982, she was the first runner-up in the Miss Trenton Pageant.

I take this opportunity to congratulate Kathy Mitchell for her outstanding achievements and to wish her every success in her future endeavors.●

THE PLIGHT OF SOVIET JEWRY

HON. HANK BROWN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. BROWN of Colorado. Mr. Speaker, I rise today to tell my colleagues about the plight of two courageous people, Vladimir and Efim Feldman. These two brothers first applied to leave the Soviet Union 10 years ago. Today, they still remain there, yearning for the chance to live in freedom.

The situation for those of the Jewish faith in the Soviet Union has deteriorated in the last few years. Vladimir and Efim Feldman are only two of the many who are being subjected to a virulent, government-sponsored, anti-Semetic campaign. Jews are being denied the opportunity to study at Soviet universities or secure decent employment. Those bold enough to ask to leave the Soviet Union often are ostracized, losing jobs and friends.

The case of Vladimir and Efim Feldman, unfortunately, is characteristic of this treatment. Along with their mother, Riva Feldman, the two brothers made their first emigration application in October 1972. They were refused, and Efim was drafted into the army. He completed his duty in 1975. That same year, Vladimir was drafted, but was demobilized in 1976.

Riva Feldman, an active member of the Moscow Women's Refusenik Group, finally was permitted to emigrate in April 1980. Her sons, however, have repeatedly been denied permission to emigrate on the grounds that their military service made them privy to "state secrets," even though Efim had been out of the military for 7 years and Vladimir only served 1 year as a guard for a construction unit.

The world must not remain silent while these people and others are denied the opportunity to live in freedom. The National Conference on Soviet Jewry estimates that only 182 Soviet Jews were allowed to emigrate in June of this year—the lowest monthly figure in over 10 years and a 96-percent decrease from comparable figures in June 1979.

Mr. Speaker, I hope my colleagues will continue to speak out for the Feldmans and others seeking to emigrate from the Soviet Union.●

OPPOSITION TO HEALTH AND HUMAN SERVICES PROPOSAL

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WEISS. Mr. Speaker, today I am introducing a resolution, cosponsored by 53 of my colleagues, which expresses congressional, opposition to Health and Human Services Secretary Schweiker's recent attempt to silence public opinion through radical changes in the Department's policy of giving notice and soliciting comments on proposed regulations. This constitutes one more example in a long list of this administration's efforts to reverse decades of progress in expanding citizen participation in Government decisionmaking. It is an affront to the American people and should be promptly withdrawn.

My opposition to the Department's ill-advised proposal to exempt itself from any legal obligation to follow notice and comment procedures stems from a strong conviction that public input is essential to the development of just and sound policy. Experience has taught us that open rulemaking strengthens participatory democracy and thereby mitigates the possibility of arbitrary, harmful, and irresponsible regulations.

Notice and comment procedures are essential because they afford Government agencies the opportunity to receive important data, diverse perspectives, and suggestions for alternative approaches before promulgating regulations. Such an exchange of information between the public and decisionmakers has led to improved regulations and increased Government responsiveness and accountability to those affected by its actions. It is quite clear that the public benefit from citizen involvement far outweighs any administrative delay or burden that may result from open rulemaking procedures.

The Administrative Procedure Act requires that Government agencies publish notice of proposed rulemaking, provide the public with an opportunity to comment on such proposals, and consider the comments before promulgating final rules. These procedures were carefully constructed to provide flexibility for Government agencies and guarantee protection for the public. The act permits Government agencies to waive notice and comment procedures for "good cause," but this discretion is subject to public and judicial review. If the Secretary's proposal were to be implemented, the courts would be stripped of their right to review the validity of the Department's decision to forego these procedures.

Unfortunately, there is an exemption in the Administrative Procedure Act for rules relating to loans, grants, benefits, or contracts. Most of the Department's major programs, including social security, medicare, medicaid, AFDC, and SSI fall within this loophole. However, 12 years ago, former HEW Secretary Elliott Richardson waived this exemption because he recognized the importance of public access to information and participation in the Department's policy development.

Moreover, the Administrative Conference of the United States has recommended elimination of the so-called proprietary exemption in the APA because, and I quote, "the potential damage to sound policy formulation and private rights is great in any case where (public) participation is not assured." Both the full Senate and the House Judiciary Committee recently heeded this recommendation by adopting legislation to eliminate this technicality in the APA. In contrast to the Department of Health and Human Services, the Congress intends to increase public involvement in the regulatory process.

I am particularly disturbed by the Department's exclusionary stance be-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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cause of the broad scope of grant and benefit programs that fall within its jurisdiction. Many of these programs affect the health and security of millions of Americans. The Schweiker proposal would not only negatively affect program beneficiaries, but it would also exclude hospitals, human service providers, doctors, unions, State and local governments, businesses, and nursing homes from the rulemaking process. Without their important contribution, program administration and service delivery would likely deteriorate, causing needless hardships among those dependent on these programs.

It is critical that the Department reconsider this move to close itself off from the public as quickly as possible. During the next few months, many important and far-reaching regulations will be issued as a result of the 1982 reconciliation bill and the administration's own agenda for reforming health and human services programs. The public must have the opportunity to comment on these upcoming changes.

Apparently many people serving in this administration prefer to ignore the fact that our Government belongs to the people. Despite its rhetoric, the administration continues to sabotage established practices of open government and to suppress public participation. In doing so, they have furthered the perception of the Federal bureaucracy as closed, exclusive and indifferent to the concerns of the people it is supposed to be serving.

I invite my colleagues to join with me in urging the withdrawal of this Health and Human Services proposal and affirming the American people's right to be involved in their Government's policy decisions.

The text of the resolution follows:

H. Con. Res. —

Whereas public participation in the regulatory process is essential to the formulation of fair and sound policy;

Whereas open rulemaking mitigates the possibility of arbitrary, harmful, and ill-advised rulemaking;

Whereas the Department of Health and Human Services has successfully adhered to Administrative Procedure Act notice and comment period procedures for twelve years;

Whereas the daily lives of millions of Americans are profoundly affected by the regulations that are issued by the Department of Health and Human Services; and

Whereas it is critical that program beneficiaries, State and local governments, human services providers, and organizations continue to be afforded the opportunity for input whenever Health and Human Services regulatory changes are proposed: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Secretary of Health and Human Services should withdraw proposed rules published in the Federal Register on June 22, 1982 (pp. 26860-61) that would reduce public notice and comment opportunities, and affirm current practices which involve the public in rulemaking procedures.●

A TRIBUTE TO ANDREW GLICK

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. COELHO. Mr. Speaker, I would like to take this opportunity to recognize the outstanding work done for all of us by a former page, Andrew Glick. After having spent the last 2 years as a page, Andy recently left his job in the Democratic cloakroom to begin college at Brandeis University. His knowledge of the House of Representatives and his willingness to be helpful made Andy invaluable to all the Members. No request was ever too great or too small for him. He accepted his responsibilities cheerfully and always did his best to make our lives easier.

Now that Andy has moved on to bigger things, I know my colleagues will join me in expressing our deep appreciation for all his help. I consider Andy Glick a close personal friend and shall miss seeing him on a daily basis. However, I know that, with his love of politics and of the House, Andy will be back—perhaps as a Member of Congress himself. Under any circumstances, I know Andy will go far in life. He will certainly be hard to replace.●

TARGETED DEVELOPMENT AID AMENDMENT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SIMON. Mr. Speaker, yesterday, I introduced the "targeted development aid amendment." In my statement, I inadvertently left out the name of one of my colleagues as a cosponsor of this legislation, a Member of this body who has provided solid and consistent leadership on world food and hunger problems. Mr. Speaker, I would like to add the name of my colleague Tom Daschle as a cosponsor of H.R. 7012.●

DIVERSION OF DRUGS FROM FLORIDA TO NEW YORK

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ZEFERETTI. Mr. Speaker, yesterday there appeared in the New York Times a front page story entitled, "Drug Seizures Rising in New York as Navy Blocks Florida Route." I read this story with great concern but with little surprise. Since the creation of the Vice President's Task Force on Violent Crime in South Florida, I have consistently warned the administration that the massive concentration of Federal enforcement personnel and equipment in south Florida strips other narcotics entry ports, as New York, of needed defenses against drug traffickers. I cautioned then—as I do now—a concentrated drug interdiction effort in one area of the country will only force traffickers to channel their efforts elsewhere.

In what is turning out to be a prophetic event, the Select Committee on Narcotics Abuse and Control held a hearing on narcotics law enforcement in the New York area on April 30, 1982. A major issue was the impact of the transfer of Coast Guard, Customs, DEA, and other Federal manpower and equipment to south Florida. We were warned then as to what would happen—any lessening of our narcotics enforcement efforts in the Northeast would leave the Long Island, New Jersey, and New England coasts and area airports severely vulnerable to narcotics trafficking. This sadly has come true. The Times reported record seizures of cocaine and marihuana in the Northeast in recent months.

The administration has failed to give the problem of drug trafficking the budgetary priority and resources it deserves. Instead of insuring that all areas of major narcotics importation are able to sustain successful interdiction efforts, the administration has acted with a crisis management approach, shifting rather than increasing resources. In a recent meeting with Vice President Bush, I vigorously pointed out the need for a balanced enforcement policy.

Let no one be mistaken, I fully support the activities of the south Florida task force. These resources cannot be withdrawn. It was my action in the Rules Committee that placed in the urgent supplemental the operational funds needed by the Coast Guard and Customs to participate in the south Florida effort. I applaud the successes of the task force. However, its achievements highlight the failure of the administration to develop a national comprehensive narcotics control program. If we are to have any hope of significantly reducing the drug trade, our drug law enforcement agencies must be provided with the resources needed to maintain a balanced enforcement posture in all threatened areas.●

THE COOPERATIVE STATE FORESTRY RESEARCH AND EXTENSION AMENDMENTS OF 1982

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WAMPLER. Mr. Speaker, today I am introducing legislation to require a substantial policy shift in funding agricultural forestry research and extension.

From every quarter of our society and abroad conditions are occurring which place increasing demands on American agriculture to produce more and better wood products at cheaper prices. The General Accounting Office in a report to Congress in January 1981, "New Means of Analysis Required for Policy Decisions Affecting Private Forestry Sector," stated "that consumption of timber product in terms of roundwood volume could double by the year 2030." The U.S. Forest Service in the same report projects a timber shortage of 15.8 billion cubic feet of timber by 1990. And the GAO further stated in its report that the wholesale price index for timber escalated from 6.4 in 1900 to 127.4 in 1976. GAO further indicated that prices for timber have climbed at a much faster rate since 1900, especially since 1946 when the price index rose from about 71 to 127.4 in 1976.

Obviously, if this Nation is to build or improve homes for its citizens, supply a growing body of Americans with furniture and other products for homes and businesses, provide pulp for paper products, meet the demands for boxes, cartons, and bags to protect other products from damage in transportation or to increase shelf life, and supply wood and wood residues to supplement or replace our dwindling supplies of primary fossil fuels, we must take action to improve wood supplies and cut costs of production. Since trees in a forest take years to reach a size when they can be harvested for the use of mankind, the sooner we take action to correct this pressing problem, the sooner we will have a chance to prevent serious wood shortages and halt price escalations of wood products.

Today the U.S. timber supply comes from three sources, that owned by the public in our national and State forests, that held by the forest industry, and that owned by nonindustrial owners in relatively small private holdings. Of the total 737 million acres of forests in the Nation, about 428 million acres, or about 66 percent of our total forested areas, are classified as "commercial land," that is, each acre is capable of producing at least 20 cubic feet of wood each year and the acreage is not reserved for other uses such as parks and wilderness areas. Ownership of commercial timberland is as follows:

OWNERSHIP OF COMMERCIAL TIMBERLAND, JANUARY 1977

Owner	Million acres	Percentage
Public	135.7	28
Industrial	68.7	14
Nonindustrial	277.9	58
Total	482.3	100

Source: U.S. Forest Service.

Timber is a renewable resource but one which requires a long wait between investment and maturity. Thus, while it is profitable to harvest current forests, there may be reluctance to invest in the production of future supplies. To deal with this problem, the Congress has established long-term objectives for the national forests, stipulated in the National Forest Management Act of 1976. It also has provided tax incentives and other forms of assistance to encourage private timber production.

But, the actions Congress has taken and the research efforts we have taken have not sufficiently answered the problem of meeting expected wood products shortfalls of the all too near future.

There are three pressing reasons that exists for my bill. They are:

First, timber replacement and improved utilization technology must be developed if we are to meet these known expanding demands for the future.

Second, if we are to have the necessary quality and quantity of wood to meet future demands and to protect the environment we must begin today to plant the types of trees we will need to replace what we are cutting today and tomorrow, this means better management of our existing forests.

Third, current forestry research and education policy favors the public and industrial forces resources over our nonindustrial resources by a ratio of about 10 to 1. Yet over 58 percent of our total forest potential lies in nonindustrial forest area largely owned by millions of small landholders. Moreover, the greatest return toward meeting the demands for the future and reducing the cost of wood products lies in improving and better utilizing these nonindustrial forest lands. I might add Mr. Speaker, that these privately held nonindustrial lands are not held by the Weyerhausers or the Georgia-Pacifics of this land as we are often led to believe, to the contrary, nonindustrial private lands are held by millions of small landholders, averaging about 25 to 50 acres in size.

My State of Virginia is a prime example of conditions in a majority of the wood producing States of this Nation.

First, nonindustrial private forest landowners own 77 percent of the commercial forest land of the State. Second, there are some alarming trends for Virginia's forest lands: One, the acreage of pine timberland is decreasing due to increasing urbanization and conversion of timber to other uses, and two, the composition of Virginia's forest are shifting from commercially valuable pine to low-valued hardwoods. Third, it is estimated that investments in better forest management activities capable of earning a 10-percent return would yield approximately 341 million additional cubic feet per year, a 41-percent increase over the current net annual growth of 823 million cubic feet. At current average stumpage prices, the value of the increased annual yield would be approximately $150-170 million.

I have become increasingly concerned that we have not engaged in sufficient study of forestry conditions nor have we developed the best ways to help the several million forest landowners apply knowledge gained from research so that they can secure the best set of benefits from their forest that they would desire to have.

We are a nation that has been strong on efficiency and progress in manufacturing techniques, but we have been far less progressive in devising ways to assure a constant and effective flow of raw materials, especially renewable resources such as our trees.

To have forests for tomorrow of the kind we will need and use, we have to act today. Ideally forest research should be a private endeavor funded with private money. However, there are several practical reasons why this has not been the situation and is not likely to be the situation in the future. Private firms are of necessity profit-oriented.

We would have to, in effect, grant a 100-percent tax credit for much of the forest land research that needs to be done for a private corporation to expend money that would not benefit it and its shareholders directly and almost solely. Such grants would then have to be supervised by the State or Federal Government granting this preferential tax treatment, and the likely cost and redtape that would result from this supervision would be greater than if the States and Federal Government performed the research directly with appropriated State or Federal funds.

Research of the type needed, then, is a public service with a public benefit and thus it ought to be directly publicly funded. And this is especially true of forest research, where long-term commitments are needed and research and development takes time to complete and distribute.

The forest industry, for many reasons which make sense to it, does not engage in extensive research that will

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benefit all private landowners. Most of its efforts are product and internally oriented rather than land and resource and publicly oriented.

We have in place a modest and useful system capable of the type of research that is needed in our forestry schools at our land grant colleges and universities and the Forest Service.

We have also developed a system of research grants under the McIntire-Stennis Act, which authorizes the Secretary of Agriculture to award formula-based research grants to qualified State forestry schools, such as the Forestry School at Virginia Tech. But, despite the enactment of a law sponsored by an eminent Senator from Mississippi and an illustrious former Member of the House from Maine, these institutions are only receiving in total about $12 million annually under this program.

This amount does not come close to meeting the public benefits that would be secured from adequate funding. We find this especially true when we consider that the total amount of funds expended by the U.S. Forest Service for the Federal Government-owned forests consisted of the bulk of $130 million in the current fiscal year. To me the disparity between funding for Federal-owned forests and privately owned forests is completely out of balance.

I have discussed this with a number of people, not only in Virginia, but also throughout the South, and the inescapable conclusion is that measured against what ought to be done to upgrade our private forest, which I believe is in the national interest, we as a Nation find ourselves woefully deficient. This is a situation that deserves to be changed and one that I am, as the ranking minority member of the committee on Agriculture, endeavoring to change.

The reductions planned in the fiscal year 1983 budget for all forms of forest research are in my view not going to produce public benefits, but rather will work against building a long-term stronger economy that will yield better forests, better income for the millions of small landowners, more reasonably priced products for consumers, and a balanced budget for the States and Federal Government.

It is not my purpose to write that program. This is the task that ought to be carried forward by those with good technical knowledge of the sorts of forest research that will meet the most critical needs. However, I shall identify, as examples, some of the types of things that I am persuaded, after considerable discussion with the people of Virginia, deserve far greater attention and funding.

The Federal Government, in my opinion, should have the same cooperative partnership with the States to improve our private forests that it has long had and developed over the years with respect to our farmers and ranchers in the production of food and fiber. This cooperative partnership has made our country first in the world in producing, processing, and marketing the most abundant, safest, and most reasonably priced food and fiber products the world has ever seen. Our people deserve no less when it comes to helping landowners grow forest products.

The forests of this Nation are not a single environmental or economic unit. While we share much in common, even in Virginia the situation and the needs are different in our tidal counties, where softwood lands are more dominant, and in our uplands and mountains, where the hardwood forests have become the major force.

I would cite two principal areas for immediate attention from the standpoint of Virginia: First, pine forest regeneration, and second, utilization of existing hardwood forests.

I have selected for citation just two of the numerous areas where we need to accelerate research and to improve our forest extension service. In my view there are a number of areas where we need to make useful examinations and devise ways to get the results to landowners. Forests are influenced by the effects of weather and natural events. Trees are afflicted by attacks from insects and diseases.

The way the land is managed and the timber harvested has impacts. The soil, the water, the wildlife and the uses man makes of the land affect and interact with each other. The techniques used to harvest trees and convert them to products affect the utility of the forest. The economics of all of these elements, along with the economics of the forest resource infrastructure, are of vital interest.

What is needed then is legislation which accomplishes the following: An increase in funding of State forestry research and renewable resources extension to insure that we increase the productive capability and usability of our millions of acres of private forests held by millions of small landholders; a formula for these funding increases that places the bulk of these funds in the States which grow, harvest and add value to timber in the form of needed and improved wood products; a formula that also provides for improving the best conservation aspects of all our forests, improves the recreational capability of our forests, and the environment of our whole Nation; and finally a provision that enables the Nation to conduct high priority forestry research on a competitive basis by our best forestry researchers.

The bill I am introducing today is conceptual in nature. In my judgment and the judgment of others these concepts are valid. However, mine is not an inflexible position. It is my intention to develop a dialog on this legislation by submitting my bill to the deans of forestry and the directors of extension in every State. I also need the views of the wood products industry, the forestry associations, State foresters, public interest groups and the executive branch. It is my hope after reviewing their comments to incorporate them into an improved bill.

A brief explanation of the bill follows:

EXPLANATION OF LEGISLATION

Short Title: "The Cooperative State Forestry Research and Extension Amendments of 1982."

1. The bill amends the McIntire-Stennis act, the principle Act that authorizes fund for cooperative State Forestry research at State designated forestry schools, by:

a. Increasing the eligibility requirements for receipt of Federal funds by requiring higher graduate level training in forestry for institutional recipients.

b. Increasing the level of funding for the McIntire-Stennis Act from $12,500,000 annually to approximately $30,000,000, by requiring McIntire-Stennis appropriations to be made at an amount equal to 25 per centum of the aggregate amount of all research appropriated for the conduct of research by the U.S. Forest Service and Cooperative State Forestry Research in each fiscal year beginning October 1, 1982. Such appropriations are to be apportioned by a formula that gives the first 4 per centum to the Federal government for administration of the program; apportions 10 per centum of the remainder equally among eligible institutions; and the remaining 86 per centum is apportioned among eligible state forestry institutions based upon a formula which weighs the ratio each state bears to all states in each of the following categories: as to the volume of growing timber on private and Federal forest lands; the volume of growing timber on private forest lands; the volume of timber cut on private and Federal forest lands; the volume of timber cut on private forest lands; and the value added to timber manufactured from timber grown or imported into a State.

c. The apportionment duties of the council appointed under the McIntire-Stennis Act are eliminated and in its stead the Council is required to recommend high priority research areas to improve forestry resources in the United States to the Secretary of Agriculture.

2. The McIntire-Stennis Act is further amended to allow the Secretary of Agriculture to establish a new competitive grants program for high-priority forestry research for all colleges, meeting the requirements of the McIntire-Stennis Act and for other institutions, organizations and persons having a capacity to carry out high priority forestry research. The Secretary is required to establish a peer review system for evaluating competing proposals, and $10 million is authorized annually to support this new program.

3. The bill also amends the Smith-Lever Act, which authorizes the Extension Service and the Renewable Resources Extension Act, so as to permit an expansion of forestry extension under the Renewable Resources Extension Act. This program is expanded from approximately $2,000,000 annually to $15,000,000. This is accomplished in the same manner as the previous action described above to upgrade the McIntire-Sten-

nis program, except that the percentage of appropriations of the aggregate of all extension under the Smith-Lever Act and the Renewable Resources Extension Act made under this provision are only 5 per centum instead of the 25 per centum cited in the previous McIntire-Stennis amendment. Additionally, the apportionment of funds equally among states is at 20 per centum of the funds. The remaining 76 per centum of the funds to be apportioned follow the same formula between states as in the early cited McIntire-Stennis Act amendments.

4. This bill is effective October 1, 1984.●

JONATHAN BINGHAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. PEYSER. Mr. Speaker, I would like to take this opportunity to pay tribute to Jonathan Bingham, an outstanding Member of Congress who is retiring at the end of this session.

Jack is leaving the Congress after 18 years of exemplary service to his constituents and to his country. His unyielding devotion to those principles in which he believed made him one of the most respected Members of Congress that this body has seen.

Jack's service on the House Foreign Affairs Committee and his depth of knowledge on foreign affairs has been a constant source of strength to this country. As one of the leading supporters for the State of Israel he was chiefly responsible for antiboycott legislation that prohibited U.S. complicity in the Arab boycott of Israel. His commitment to that Nation served as an inspiration to all of us and to democratic nations around the world.

Jack was also one of the main authors of the Nuclear Non-Proliferation Act, one of the most important pieces of legislation produced by the House Foreign Affairs Committee. He became the pioneer of the nuclear freeze movement in this country and it was my pleasure to join with him in cosponsoring this resolution.

Since our congressional districts in the Bronx shared the same boundaries, I had the pleasure of working on many projects with him. His dedicated commitment and service that brought better housing, health care and services to the residents of the Bronx will always be remembered by the people whose lives were touched by knowing him.

Since I first came to this Congress, in 1971 Jack Bingham has been one of the most forthright, honest, and intelligent Members of Congress that I have met. He has represented the people of his district and this country with great skill and devotion. He will be truly missed by all of us.●

IMPLICATIONS OF THE LAW OF THE SEA TREATY FOR OCEAN MINING

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEACH of Iowa. Mr. Speaker, an emerging focal point of the political controversy surrounding the Law of the Sea Convention centers on the implications of that treaty for future U.S. ocean mining and other commercial interests. The President took one point of view when he announced July 9 that the United States would refuse to sign the treaty because of remaining imperfections in the deep seabed mining provisions of the text. An article in the August 23, 1982, issue of Fortune magazine provides a different perspective on the future prospects for U.S. business outside the international Law of the Sea Treaty. I commend it to the attention of my colleagues:

The Reaganites' Misadventure at Sea

(By Tom Alexander)

Several American companies have been captivated for years now by the lure of manganese nodules—those black, potato-shaped, metal-rich objects that litter some mid-ocean floors. These companies have spent around $350 million prospecting the seas and developing the impressive equipment required to raise the nodules and process them into refined metals. But as a result of recent decisions by the U.S. government, it is likely that when nodule harvesting eventually starts, the companies doing it won't be American. The U.S. outfits will probably have either fled to foreign shores or sold off their technology and dropped the mining idea entirely.

What's oddest about this imminent demise of American-flag ocean mining is that it amounts to a complex form of corporate suicide. Climaxing a long and successful lobbying campaign by the industry and its supporters in government, the Reagan Administration recently announced that it won't sign the international Law of the Sea Treaty, which has been under negotiation for 14 years. That pretty much sank any prospects that U.S. companies will be able to mine nodules in international waters.

In the short run, it's true, the dissolution of U.S. ocean mining is no big deal. Given the high cost of operations and the current dismal market for metals, nodule gathering may not prove profitable for decades. But the Administration's decision threatens more immediate national interests, notably freedom of navigation for ships and aircraft and political and commercial relations with the world at large. In the longer run it may impede U.S. access to strategic metals.

Were the implications less disquieting, the affair would be notable mainly for its quality of farce. For the U.S. was a prime instigator of the Law of the Sea Treaty—now widely referred to as LOST. What's more, the treaty accomplished practically everything the U.S. had hoped it would. But by withdrawing, the U.S. may deny itself the benefits. The turnabout on the treaty also reinforces the country's international reputation for inconstancy and unreliability.

WALLS IN THE OCEAN

The American interest in securing a treaty on maritime law dates back to the 1950s and the emerging problem of "creeping jurisdiction"—coastal nations extending their seaward boundaries beyond the traditional three-mile limit. Many countries began adopting 12-mile limits; several Latin American countries claimed 200 miles. In the face of these claims, U.S. defense planners—and their counterparts in the Soviet Union—wanted to pin down their rights to navigate freely. Widely adopted and strictly exercised, the extended jurisdiction could close some 116 international straits to shipping and large expanses of ocean to aircraft. As it was, some countries were demanding that foreign warships provide 24-hour notice before entering their new territorial waters and that nuclear submarines passing through straits—perhaps on their way to secret stations—travel on the surface.

Looking for ways to induce other countries to guarantee unimpeded navigation, the U.S. hit on the idea of bringing in marine natural resources-notably manganese nodules. Oceanographic research had revealed the abundance of the nodules, particularly the rich deposits in the international waters of the eastern Pacific. In the Sixties, enthusiastic scientists and would-be mining entrepreneurs portrayed those seafloors as being paved with trillions of dollars' worth of fairly high-grade sources of manganese, copper, nickel, and cobalt. Metal prices were high and climbing; grades of ores from onshore mines were declining. U.S. companies—familiar corporate names such as Kennecott and Lockheed and less familiar ones such as Sedco and Deepsea Ventures—surveyed prospective seabed claims and developed techniques for lifting nodules from their three-mile-deep resting places and refining them. To help raise capital and spread financial and political risk, the companies acquired partners abroad.

THE 77 SAW AN OPPORTUNITY

At first everyone presumed that the nodules fell under the centuries-old doctrine of freedom of the seas—that, like fish, they were free for the taking. But in 1966, President Johnson, in a burst of 1960s-style openhandedness and sentimentality, characterized the nodules as belonging to all nations. In 1970 the U.N. declared them to be the "common heritage of mankind"—L.B.J.'s very words. The U.S. voted in favor of the declaration. A clause in it said that no country could exercise rights over the international seabed except in accordance with a new treaty.

In authorising the U.S. vote, President Nixon saw the proposed treaty as an opportunity to obtain worldwide agreements to keep straits open, assure U.S. rights of navigation and marine research within 200-mile waters, provide mechanisms for settling disputes, and resolve other troublesome issues associated with the oceans.

These expectations failed to anticipate torpedoes from two directions. At the U.N., the newly militant Third World voting bloc known as the Group of 77 saw law-of-the-sea negotiations as an opportunity to advance its New International Economic Order, aimed at obtaining a more equal distribution of the world's wealth. The Group of 77 drove a hard bargain on seabed mining. Among other things, it insisted that all mining be carried out under contract to an International Seabed Authority, which would divert part of the profits to the Third World. Some members of the Group of 77,

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joined by some developed mining countries like Canada, Australia, and New Zealand, also demanded limits on seabed production to protect their metal prices.

The other main source of trouble was the embryonic U.S. ocean-mining industry itself. It did not care for Nixon's scheme, and its friends in Congress strongly opposed the Group of 77's demands.

VERGING ON THE BIZARRE

Deadlocked over seabed mining, the treaty negotiations dragged out until 1976, when Secretary of State Henry Kissinger put forward a package of compromises, which were adopted. He proposed a dual system that would allow mining both by private operators and by an internationally owned entity, which came to be referred to as the Enterprise. Kissinger suggested that the Enterprise might get help from its private competitors—not only capital but also access to proprietary mining and processing technology. One provision carried international generosity to an almost bizarre extreme: before a private company could obtain a permit to mine a new seabed site, it would first have to prospect two sites, and then the Enterprise would be allowed to pick the one it wanted.

By 1980 it finally looked as though a treaty was within reach, a treaty that would effect many changes in international law. It would grant coastal nations 12-mile territorial seas plus the rights to natural resources in a 200-mile "economic zone." But it would also guarantee freedom of passage for ships and aircraft of signatory nations. It would establish standards covering marine pollution and set up an international tribunal to resolve disputes. A final conference to iron out a few remaining differences was scheduled for the spring of 1981.

WASHED-AWAY MEMORY

Then Reagan was elected. The new Administration paid little attention to the formidably complex sea-law issues until shortly before the final session was to begin, two months after Reagan took office. By that time, government had little institutional memory about such issues as navigation, which had prompted the U.S. to initiate the LOST process to begin with. Instead the Defense Department suddenly became preoccupied with strategic metals, notably manganese and cobalt, which the U.S. imports largely from Communist or unstable Third World countries. And the Administration became preoccupied with questions of precedent and free-enterprise ideology.

A few days before the conference the Administration abruptly fired the old Carter delegation's leaders and demanded a year's delay in the negotiations while it studied the whole treaty with a fresh team. The year-long study turned into a bitter and confused affair. Badly divided, the various government agencies argued their narrow concerns with little regard for the overall package of U.S. maritime interests. Many of the bureaucrats most knowledgeable about the history of LOST were either transferred or intimidated into silence. Some of them contend that middle-level political appointees deliberately kept their Cabinet and White House superiors in the dark about the complex web of U.S. interests and options.

The intellectual vacuum was filled by lobbyists from the mining companies and by people like Secretary of the Interior James Watt and Theodore Kronmiller, a deputy assistant secretary at State, who were outraged by the thought that private U.S. enterprises would put up the capital and take the risks for the benefit of a centrally planned international regime. Some of the Third World's other demands seemed designed to inflame this reaction—the insistence, for example, that part of the seabed-mining proceeds should go to movements like the Palestine Liberation Organization.

Some of those involved in the U.S. deliberations say that Kronmiller and others really sought to sabotage the LOST negotiations by imposing demands they were fairly sure the other side would never accept. For instance, they demanded that all ceilings on seabed production be eliminated, even though the ceilings actually negotiated appear to be so liberal as to have no practical effect.

More moderate members of the U.S. delegation, including the chief negotiator, Washington lawyer Leigh Ratiner, agreed that some of the treaty's features were unacceptable. These included the absence of guarantees that the international seabed authority would actually authorize a private company to mine once it had spent, say, $200 million on exploration and equipment. The moderates also objected to a provision for a future review conference, in which arduously negotiated compromises might be changed by a vote of the member nations. And they didn't like the requirement that mining companies sell their technology to the Enterprise.

Ratiner probably knows more about the law of the sea and Third World attitudes toward it than anybody else in the U.S., having spent some 16 years as a government sea-law functionary, chief negotiator in several sessions, and lobbyist for Kennecott and various other outfits interested in ocean industries. From that seasoned perspective, he believes that all the substantive objections could have been removed in the recent negotiations. Agreeing with that estimate is Elliot Richardson, who headed the U.S. law-of-the-sea delegation in the Carter Administration. Ratiner contends that the U.S. negotiating position was undermined by the hardliners' rigid and unrealistic demands, which convinced the Group of 77 that the U.S. wasn't negotiating in good faith.

This conviction was bolstered by a strategy the U.S. delegation has been energetically pursuing: an attempt to persuade other Western countries and Japan to join the U.S. in a "reciprocating states agreement" or "mini-treaty" independent of LOST. Each country would pledge to recognize the mining rights and claims of all the others. The U.S. hoped that by the sheer weight of economic power represented in the mini-treaty it could prevent the maxi-treaty from supplanting the freedom-of-the-seas principle in international law.

Unfortunately the scheme probably won't succeed. Given the choice between joining a legally dubious mini-treaty to mine an economically marginal resource and joining a maxi-treaty with multiple benefits, the other industrial countries seem to prefer the later. For one thing, most to them are more sensitive than the U.S. to trade relations and goodwill in the Third World. In April, to be sure, several of these countries abstained on a vote to adopt a treaty draft, but odds are that most will eventually ratify the treaty.

The Group of 77 cleverly helped spike the mini-treaty scheme this spring by sweetening the mining provisions. In effect, they agreed to create for the first generation of mining consortia a worldwide cartel guaranteeing them exclusive access to the seabed for 30 to 50 years, while protecting prices by controlling production. This "prior investment protection" clause for miners has driven a wedge between the U.S. and its allies. Moreover, it will probably either break up the mining consortia or cause their American participants to move abroad. The American companies have acquired connections with sophisticated foreign outfits, including oil companies, which not only tend to be tolerant of such arrangements but also have larger interests to protect. (See table.)

A SORT OF SMORGASBORD

Despite the Administration's recent denouncement of LOST, based on its mining provisions, the U.S. is still trying to keep a hand in the proceedings that deal with navigation and the scores of other provisions that it would like to see become international law. The delegates are scheduled to meet in Caracas in December to sign the "final act," one step short of the actual treaty. Some officials say the U.S. plans to sign this non-binding document, which will permit it to participate as an observer in some of the technical sessions dealing with various issues. But the U.S. says it will not participate in the seabed-mining sessions, nor sign the treaty when it is ready in January. In effect, the Administration seems to regard the treaty not as a give-and-take bargain but as a smorgasbord from which it can pick items it likes.

Some American mining companies and their supporters in government claim, for example, that seabed mining is still covered by the doctrine of freedom of the seas. But the U.S. itself acknowledged doubts about that doctrine years ago when it invited the rest of the world to sit down and clarify the matter. LOST is the outcome of that process, and it will soon become part of international law. It will, among other things, deny a go-it-alone miner's right to stake out a seabed-mining claim. And without a widely recognised claim, no company can prudently invest the kind of money it will take to harvest manganese modules. Surveys by the General Accounting Office and the Department of Commerce support the unsurprising conclusion that banks will not lend the $1.2 billion or more required to equip a mining venture when the claim is disputed. So for all their free-enterprise rhetoric, some of the companies have been counting on the U.S. government to subsidise them or insure them against the risk of mining outside the treaty. Few Washington observers give those hopes much chance.

At any rate, government's preoccupation with the mining issues in LOST seems misplaced. Based on current metal prices and anticipated mining costs, an MIT model projects a rate of return to mining companies of only 9.5%—too low to trigger investment. Someday, no doubt, as onshore mines are depleted, seabed mining will make economic sense. Depending on whose projections you believe, that could be anywhere from ten to about 25 years from now. Whenever the time comes, mining outside the treaty will be riskier than mining within it.

WHALES, FOR EXAMPLE

Right now, nobody in authority in Washington seems to have any clear ideas about what the U.S. should do that doesn't sacrifice the very benefits the U.S. originally sought to preserve. The Administration has been preoccupied with the precedents the treaty would establish, such as the "common heritage" and seabed-authority concepts, which they hold to be antithetical to American concepts of private property and of rewarding those who make efforts and take risks. But it's hard to find much practical substance in these concerns. As for precedents, U.S. governments and corporations have long dealt with all kinds of alien, sometimes absurd, regimes and institutions. And there's nothing novel about international regulation of common resources. Radio frequencies are one example. Whales are another.

Something else that bothered the Administration about the treaty was the application of the one-nation, one-vote principle to control of seabed resources. Opponents of the treaty feared that the huge voting majorities of the Communist and Third World countries might swamp Western interests. Initially, changes could be made only by unanimous consent. But 20 years after mining starts, changes could be imposed by three-quarters of the countries voting. Like the other Administration fears, this one appears to be exaggerated. At the very worst, the U.S. could always withdraw from the treaty.

Some oil company representatives and others in the mining consortia privately acknowledge that the treaty really isn't all that bad compared with many business deals in the Third World. "A good thing about the treaty," one man observes, "is that if the seabed authority tries to screw you, it's not just an expropriation, it's a treaty violation."

The fees and taxes to be paid to the authority are comparable to those some countries impose on mining enterprises ashore. And given the nation's interest in access to strategic materials, there is a fair likelihood that the federal government would credit the imposts against U.S. taxes, as is usually the case with foreign taxes now. Moreover, an analysis by the Bureau of Mines discounts the seriousness of the technology-transfer provisions. A company has to transfer only technology that the Enterprise can't find anywhere else, and the bureau says there are at least four manufacturers for every component of seabed-mining hardware. In any case, the Enterprise would have to pay a fair price, arrived at by commercial arbitration. Finally the treaty's prior-investment-protection clause, with its cartel-like protections against new entrants and overproduction, would make life more relaxed for the companies that qualify—though that, to be sure, would not necessarily serve the public interest.

As matters are shaping up, the question of whether seabed mining—when it eventually comes about—will be a good deal under LOST scarcely matters since no American company is likely to mine outside the treaty anyway. What matters more is the cost to the U.S. of going its own way. It could be argued that the U.S. would be better off if there were no LOST at all. But that option doesn't exist. Whether the U.S. ratifies or not, the treaty will come into force one year after at least 60 countries ratify, possibly as soon as 1984.

HERE COME THE GUNBOATS

The LOST process has already begun to affect the behavior of coastal nations. Unlike national law, international law has traditionally been determined primarily by custom. LOST amounts to an explicit program to fix law by international agreement instead, but custom—that is, what countries are allowed to get away with—will continue to exert a shaping force on the treaty's actual effects. Since the treaty amounts to a delicate bargain between countries with widely diverse interests, adherents will have an incentive to prevent other countries from getting away with much.

An analogous instance was the U.S. challenge last year to Libya's unilateral claims in the Gulf of Sidra, a challenge that took the form of downing two Libyan fighter planes. It's conceivable that some countries will be prepared to challenge any unilateral moves by non-signatories to mine oceans or even to traverse straits. Some states, Indonesia, Malaysia, Algeria, and Morocco among them, are already arming themselves with Exocet missiles, torpedoes, and gunboats to enforce the sovereignty authorized by LOST. Retaliatory expropriation or sabotage of American commerical interests abroad cannot be ruled out.

But even these consequences of the Reagan policy are less disquieting than the habits of mind it represents. It's the kind of policy that incurs considerable costs but no commensurate gains, that is better suited to raising ideological fervor in think tanks than to furthering national interests—the kind of policy that was a trademark of the Carter Administration in its worse days.

Consortium/ participants	Country	Percent share
Kennecott Consortium:		
Sohio	United States	40
Rio Tinto-Zinc	United Kingdom	12
Consolidated Gold Fields	do	11
British Petroleum	do	12
Noranda	Canada	12
Mitsubishi, Mitsubishi Metal, Mitsubishi Heavy Industries.	Japan	12
Ocean Mining Associates:		
U.S. Steel	United States	25
Union Miniere	Belgium	25
Sun	United States	25
Ente Nazionale Idrocarburi (ENI)	Italy	25
Ocean Management Inc.:		
Inco	Canada	25
Metallgesellschaft, Preussag, Salzgitter	West Germany	25
Sedco	United States	25
Domco	Japan	25
Ocean Minerals Co.:		
Standard Oil (Indiana)	United States	30.7
Lockheed	do	30.7
Royal Dutch Petroleum	Netherlands	30.7
Royal Bos Kalis Westminster	do	7.9
Afernod:		
Societe Metallurgique Le Nickel	France	NA
Chantiers de France-Dunkerque	do	NA
Two French government agencies.		
Deep Ocean Minerals Association: Mitsubishi Heavy Industries, Kawasaki Heavy Industries, Kobe Steel, Nippon Steel, 34 other companies.	Japan	NA

OCEAN MINERS IN STORMY WEATHER

So far, six consortia have been set up to mine seabed managanese nodules when politics and economics permit. But four of the six are already undergoing a lot of strain because of the Reagan Administration's rejection of the Law of the Sea Treaty. Under that treaty, companies from non-signatory countries won't be granted mining rights. U.S. companies will probaby either move abroad or give up on seabed mining.

Kennecott, a founding member of one consortium, has been absorbed by Sohio, which in turn is controlled by British Petroleum. So Kennecott's ocean-mining arm could probably find a haven in Britain—assuming that Britain ratifies the treaty. Some U.S. participants are trying to induce Latin American governments to provide a home, offering to locate nodule-refining plants in the domicile countries.

Conflicting attitudes toward the treaty have created tensions among consortium members. Lockheed, for example, has stirred up uneasiness in its Dutch partners with its tough anti-treaty stance. Like BP, Royal Dutch has oil-drilling, shipping, and marketing interests that might be endangered by ill will in the Third World.

Sedco, a specialist in offshore oil drilling, has developed mining technology for its consortium partners, but is now disenchanted with nodules, having ideological objections to the treaty and better things to do with its money. But Sedco's partner Inco, which produces 30% of the non-Communist world's nickel, is still interested in seabed mining even though some of its onshore mines are shut down. It has nightmarish visions of big oil companies cutting into its share of the nickel market.●

NIAGARA GAZETTE OPPOSES BALANCED BUDGET AMENDMENT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LaFALCE. Mr. Speaker, the Niagara Gazette published a very thoughtful editorial last week that raised serious questions about including the proposed balanced budget amendment in the U.S. Constitution.

Let me quote from the editorial:

> There is no question about the desirability of a balanced budget, but there are serious questions about making it a requirement in the Constitution. Why, for example, should economic theory be written into the Constitution. That document's amendments, save for the Prohibition amendment, have dealt with basic rights and responsibilities, not budgetary choices and certainly not legislative ones. And we know what happened to the Prohibition amendment. It was repealed.
>
> Budget policy is part and parcel of a political philosophy and it should remain there where it is subject to recall by the people. The amendment, basically, is a way around responsibility for political leaders.

These are very important points that I feel Members of Congress must consider as we address this drastic proposal. As I have stated in the past, amending the Constitution is not something that is approached lightly. The Constitution is, as the editorial correctly points out, a document of basic rights and responsibilities. That is why it has served this Nation so well for almost 200 years. The full ramifications and implications of any proposed amendment to that document must be thoroughly understood and debated. The Niagara Gazette contributes to this debate and raises points that must be considered.

Following is the text of the editorial that appeared on August 12, 1982:

CONSTITUTION DOESN'T NEED BALANCED BUDGET PROVISO

One has to wonder about the merits of an amendment to the U.S. Constitution that contains within itself a way around it. But that is just one of the many questions raised by the proposal for a constitutional amendment requiring a balanced national budget.

A balanced budget certainly is something desirable, but it is by no means an absolute requirement. A balanced budget would indicate a government living within its means.

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In the current state of economic affairs, it would lead to lower interest rates for everyone because it would curb the government's insatiable appetite for credit. The availability of an added $100 billion (the budget for the next fiscal year will be in excess of $100 billion) in credit certainly would help stimulate the economy by providing funds for industrial growth.

There is no question about the desirability of a balanced budget, but there are serious questions about making it a requirement in the constitution. Why, for example, should economic theory be written into the Constitution. That document's amendments, save for the Prohibition amendment, have dealt with basic rights and responsibilities, not budgetary choices and certainly not legislative ones. And we know what happended to the Prohibition amendment. It was repealed.

Budget policy is part and parcel of a political philosophy and it should remain there where it is subject to recall by the people. The amendment, basically, is a way around responsibility for political leaders.

David Broder best expressed that sentiment in a recent column:

"When we were a shaky seaboard society but recently liberated from colonial status, men of influence were prepared to risk 'their lives, their fortunes and their sacred honor' to fight for the ratification of the charter of this nation's being.

"Today, this vast, rich and powerful nation is governed by people who, reducing their status to clerkships, are prepared—against their better judgment—to forward, for inclusion in that charter, any kind of simple-minded scheme they think commands a popular majority.

The amendment would allow for spending to exceed income if approved by a three-fifths vote of the House and Senate and in time of war. Which gets back to the original premise: What good is an amendment that recognises the need to get around it?●

REIMBURSEMENT OF FEDERAL EMPLOYEES' RELOCATION EXPENSES

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WOLF. Mr. Speaker, today, I am introducing legislation which would correct some of the inequities which currently exist when Federal employees are transferred from one geographic area to another to meet the needs of their Government agencies. I believe an unfair burden is placed on Federal employees who are relocated in their Government service jobs.

As a former Federal employee, I am sensitive to the special problems of our civil servants. But I also want to point out that that experience has given me a broader understanding of where productivity can take place. For example, I believe that the legislation I am introducing today, patterned after private sector moving practices, will force a reexamination of what moves are truly necessary expense. When the Government is required to meet its responsibility in this area, I predict the ultimate result will be a more accountable response to the American taxpayer who provides the funds for these decisions.

My interest in this legislation arises from a letter I recently received from a constituent faced with exorbitant moving expenses whose costs would go largely unreimbursed and yet whose option to move was mandated by the Government agency he served. This is not an uncommon occurrence. For example, the FBI, the Drug Enforcement Administration, Secret Service, IRS, Bureau of Customs, and many of the Department of Defense agencies must move their best middle and higher grade employees in order to staff their field offices with the best possible managers and executives. When reassignments are made to fill management needs, though, these agencies have found that many of these vital employees have chosen to leave Government service rather than accept moves they cannot afford. Government, these employees, and the American taxpayers are losers in this situation. We cannot afford to lose the best managers, executives, and employees in our law enforcement and DOD agencies at a time when it is crucial that we have continuity and stability in Government to improve productivity and efficiency.

To rectify this longstanding problem, I am introducing this bill which I believe will serve two purposes. First, it can help to alleviate the hardship faced by these employees and their families. Second, it should provide the necessary disincentive to agencies in transferring these personnel and thereby eliminate wasteful and unnecessary Government spending.

Specifically, this legislation would:

Place a flat rate limitation on the amount of expenses which could be reimbursed by the Government to 10 percent on the sale of a residence and 5 percent on the purchase of a residence.

Currently, these percentages are limited by a dollar figure, and thus because of the rising average cost of homes and of real estate fees, do not fully reimburse employees for their costs. My bill would retain the percentage limitations so that excess real estate fees and other fees would not become the norm.

Reimburse the transferred employees for the Federal, State, and city income taxes incurred as a result of reimbursements received.

Currently, when an employee does receive reimbursement, that amount is taxable income. The Internal Revenue Code currently limits the maximum amount of deductions that are available to employees to $3,000 for moving costs. Thus, when an employee who moves at the request of the Government, pays $16,000 in expenses, is reimbursed by the Government $8,000, and then can only deduct $3,000 of the $8,000 reimbursement, and then is required to pay tax on the $5,000. This results in the employee losing $8,000 initially on unreimbursed expenses, and then paying up to $2,500 taxes on the majority of the reimbursement received—$5,000. This $5,000 reimbursement often pushes the employee into a higher tax bracket and forces payment of a higher tax rate than on ordinary income from salary and wages. It is not unusual for an employee to end up paying $10,000 or more out of his or her own pocket for the move.

Allow the Government to reimburse the employee for the additional taxes incurred because of moving cost reimbursement. Studies available indicate that approximately 85 percent of private sector companies provide this assistance to employees—according to an August 1980 survey by the Employee Relocation Council. The Employee Relocation Council is a national association that reports on relocation trends and practices in private industry to other companies and to the press.

Reimburse transferred employees occupying temporary quarters at a new duty station for up to 60 days and at the discretion of the agency head for an additional 60 days.

Currently, the reimbursement limitation is for 30 days. This has proved inadequate in the current housing market because of the difficulty of finding a home in today's housing market and because of the difficulty in selling former residences. This has required employees to leave their families at their former duty station for an extended period of time until that residence is sold. The hardship of separation from the family is, in my opinion, too great a sacrifice to ask of these employees. The asking these employees to pay double expenses without reimbursement inflicts still greater unnecessary hardships.

Increase the weight of household goods which the Government would pay for moving from 11,000 to 18,000 pounds. The 11,000-pound limit was established in the 1960's and has not been changed since. It is grossly inadequate for the average family of today. This has caused Government employees to personally pay the substantial amount just to move their furniture.

I would point out that this legislation would carry no increased cost for the Government. A recent survey of agency heads conducted by the General Services Administration indicated that every Federal agency head except two would voluntarily absorb the increased cost resulting from employee transfer within their agency's total appropriations. Obviously the agency head recognized the absolute necessity to correct the inequities which result from present law and are willing to end the practice of forcing Government employees to subsidize their employer on geographic reassignments.

I am firmly committed to this concept and feel that for too long Government employees who have been transferred at the Government's request have been forced to subsidize the Government through paying much of the moving costs, and paying taxes on the minimal reimbursement which they do currently receive. Information provided to me indicates that in many instances these employees are forced to pay anywhere from $500 to $10,000 or more out of their own pockets to make these moves. In a letter dated December 22, 1981, to Mr. Gerald Carmen, Administrator of the General Services Administration, William H. Webster, the Director of the FBI, stated:

> Results of studies have shown that an employee and family relocating from one geographical area to another under today's economic conditions will spend several thousand dollars of their personal funds in connection with the transfer . . . In discussions with my agents during the past year, the personal and financial problems facing them as a result of the government's inadequate employee relocation allowances has repeatedly been presented as one of the areas of most concern to them.

In a letter to David Stockman, the Director of the Office of Personnel Management, on May 22, 1981, Attorney General William French Smith noted in discussing moving cost reimbursements:

> It is not unusual for such transferred employees to incur in excess of $10,000 of reimbursed expenses. Although this is a government-wide problem, the hardships which result from these inadequate reimbursements have presented especially significant problems for the federal law enforcement agencies such as the FBI, the DEA and the U.S. Secret Service, inasmuch as these agencies must transfer their agents more often than most agencies in order to meet their investigative responsibilities.

In addition, I have been informed by the Internal Revenue Service that while on the average employees are reimbursed approximately $8,000 for moving cost expenses, an additional $8,000 is the average cost to an employee who is not reimbursed by the agency.

This bill would only apply to moves that were certified to be in the interest of the Government and would not apply to voluntary moves sought by the employee. It would also bring Government employees more in line with their private sector counterparts. Government employeees would still be receiving far short of what many private sector companies do for their employees, such as subsidizing interest rates in the purchase of new homes and purchasing old homes from the employees who are unable to sell their residences. While these are desirable benefits in these times of austerity, I do not believe it is appropriate to expend Government funds for those purposes. But I do believe this legislation could provide fair and equitable reimbursement.

By bringing Federal executives in line with private sector employees, and by forcing agencies to absorb the costs for transferring employees, I believe great cost savings can be achieved. This bill will benefit the affected Federal employees and the taxpayers and could successfully end the dilemma faced by many of our agencies as well. I urge support for this legislation.

SECTION ANALYSIS OF AMENDMENT

1. (a) Maintains the same percentage limitation for reimbursement of expenses in buying and selling a home, but abolishes the current $8,000 and $4,000 limitation.

(b) Reimburses employees for tax liabilities incurred because of moving cost reimbursements. This would bring Federal practice into line with the great majority of private sector companies.

(c) Increase from 30 to 60 days the period in which an agency can reimburse an employee and his family for temporary quarters. Would allow an agency head to extend for another 60 days in hardship cases.

(d) Increases the household goods weight limit from 11,000 lbs. to 18,000 lbs. maximum. The old limit is unrealistic and creates a hardship, requiring employees to sell their family furniture or pay excess charges for moving it. 2. Requires that any additional costs incurred by the agencies from this amendment must be borne by the agency out of their total appropriations. Every agency head but two volunteered to do this in a survey conducted by GSA, because the need was so great.

These increased allowances would only apply to moves certified by agencies to be in the interest of the government. Would not apply to moves voluntarily sought by an employee for his convenience.

H.R. 7064

A bill to provide for the reimbursement of certain moving expenses incurred by Federal civil service employees who are transferred in the interest of the Government from one official station or agency to another for permanent duty

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of any provisions of law generally applicable to Federal civil service employees an agency may make the expenditures described in section 2 in the case of any employee who is transferred in the interest of the Government from one official station or agency to another for permanent duty.

SEC. 2. (a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available to provide, by reimbursement or otherwise, for all or part of the following expenses of an employee who is transferred as described in the first section of this Act:

(1)(A) Expenses incurred in connection with the sale of the residence of the employee at the old official station, not to exceed 10 percent of the sale price or $15,000, whichever is the lesser amount.

(B) Expenses incurred in connection with the purchase of a residence at the new official station, not to exceed 5 percent of the purchase price or $7,500, whichever is the lesser amount.

(C)(i) Effective October 1 of each year, the respective dollar amounts applicable under subparagraphs (A) and (B) shall be increased by the precent change, if any, in the Consumer Price Index published for December of the preceding year over that published for December of the second preceding year, adjusted to the nearest 1/10 of 1 percent.

(ii) For the purpose of clause (i), the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers, U.S. City Average, Housing Component (1967=100), prepared by the Bureau of Labor Statistics, Department of Labor.

(D) Reimbursement for brokerage fees on the sale of the residence and other expenses under this paragraph may not exceed those customarily charged in the locality where the residence is located, and reimbursement may not be made for losses on the sale of the residence. This paragraph applies regardless of whether title to the residence is in the name of the employee and a member of his immediate family, or in the name of a member of his immediate family alone. Nothing in this paragraph shall be construed to prohibit reimbursements with respect to the settlement of an unexpired lease.

(2) Subsistence expenses of the employee and his immediate family for a period of 60 days while occupying temporary quarters when the new official station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979). The period of residence in temporary quarters may be extended for an additional 60 days if the head of the agency concerned or his designee determines that there are compelling reasons for the continued occupany of termporary quarters. The regulations shall prescribe average daily rates for subsistence expenses per individual, not in excess of the maximum per diem rates prescribed by or under section 5702 of title 5, United States Code, for the location in which the temporary quarters are located.

(3)(A) Federal, State, or city income taxes incurred by the employee, or by the employee and such employee's spouse (if filing jointly), for any relocation expenses furnished in kind, or for which reimbursement or an allowance is provided by the Government (but only to the extent of the expenses paid or incurred), under paragraph (1), (2), or (4) of this subsection.

(B) Any reimbursement under subparagraph (A) shall be adjusted so as to compensate fully for any additional taxes for which the employee, or the employee and spouse, would be liable due to such reimbursement.

(4) Expenses of transporting, packing, crating, temporarily storing, draying, and unpacking the household goods and personal effects of the employee and his immediate family, not in excess of 18,000 pounds net weight.

(b) an agency may pay the expenses described in subsection (a) only after the employee agrees in writing to remain in the Government service for 12 months after his transfer, unless separated for reasons beyond his control that are acceptable to the agency concerned. If the employee vio-

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lates the agreement, the money spent by the United States for such expenses is recoverable from the employee as a debt due the United States.

SEC. 3. The provisions of this Act shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. No additional funds are authorized to be appropriated by this Act.

SEC. 4. (a) This Act shall take effect beginning on the date of the enactment of this Act.

(b) The President shall, not later than 30 days after the date of the enactment of this Act, prescribe the regulations required under this Act, and such regulations shall be made effective as of such date of enactment.●

RELIGIOUS LIBERTY AND THE TAX EXEMPT STATUS OF CHURCHES

HON. ALBERT LEE SMITH, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SMITH of Alabama. Mr. Speaker, I recently came across two excellent articles which appeared in the Chalcedon Report, Post Office Box 158, Vallecito, Calif. The articles are concerned with two very timely subjects, religious liberty and the tax-exempt status of churches. So often we address subjects here in Congress from a perspective of limited historical understanding. This shallow historical appreciation often leads to misinterpretation and misunderstanding of many of the principles upon which the Founding Fathers created our constitutional system. One must understand the social and political historical development of these principles to be able to correctly interpret the relationship of our law to them today.

At this time I insert in the RECORD, the following articles.

RELIGIOUS LIBERTY VERSUS RELIGIOUS TOLERATION

One of the areas of profound ignorance today is religious liberty and the meaning thereof. The common pattern throughout history, including in the Roman Empire, has been religious toleration, a very different thing.

In religious toleration, the state is paramount, and, in every sphere, its powers are totalitarian. The state is the sovereign or lord, the supreme religious entity and power. The state decrees what and who can exist, and it establishes the terms of existence. The state reserves the power to license and tolerate one or more religions upon its own conditions and subject to state controls, regulation, and supervision.

The Roman Empire believed in religious toleration. It regarded religion as good for public morale and morals, and it therefore had a system of licensure and regulation. New religions were ordered to appear before a magistrate, affirm the lordship or sovereignty of Caesar, and walk away with a license to post in their meeting-place.

The early church refused licensure, because it meant the lordship of Caesar over Christ and His church. The early church refused toleration, because it denied the right of the state to say whether or not Christ's church could exist, or to set the conditions of its existence. The early church rejected religious toleration for religious liberty.

Over the centuries, both Catholics and then Protestants often fought for religious liberty. Over the centuries also, the churches too often capitulated to religious toleration, with very evil results. Toleration was productive of fearful evils. First, one church was tolerated and established by the state, not by Christ, as the "privileged" or state-tolerated institution. This "privilege" called for concessions to the state.

These took a variety of forms. It could mean that the state appointed or controlled the bishops (Protestant of Catholic). It meant that only the state could give permission for a meeting of the church's national convention or general assembly. In a variety of ways, establishment meant an establishment under the state's control. At its best, the church was turned into a privileged house-slave; at its worst, the church was simply a part of the bureaucracy, and the working pastors were rare and alone. Sooner or later, an establishment meant subservience and bondage to the state.

Second, the tolerated church became a parasite, because it was dependent too often on state aid to collect its tithes and dues. It lived, not because of the faith of the people, but because of the state's subsidy. As a result, the state church served the state, not the Lord, nor the Lord's people. (When the states turned humanistic and, losing interest in their captive churches, began to cut their "privileges" and subsidies, revivals broke out in many established churches as a result!)

Third, the tolerated or established church became a persecuting church. It could not compete with its now illegal rivals in faith, and so it used the state to persecute its competitors. Both Catholic and Protestant establishments built up an ugly record in this respect. Meanwhile, their humanist foes could criticize their intolerance and speak of this inhumanity as a necessary aspect of Christianity!

Fourth, religious toleration leads to intolerance, as it should now be apparent. Toleration is licensure; it is a state subsidy, and those prossessing it want a monopoly. Hence, intoleration of competitors results, and the church becomes blind to all issues save monopoly. In 17th century England, for example, the blindness of the Church of England under Archbishop Laud, as he fought the Puritans, was staggering. However, when Cromwell came to power, the Presbyterians became a one-issue party, the issue being the control and possession of the Church of England. Had they triumphed, the evils of Laud would have been reproduced. Cromwell balked them; later, the Presbyterians undermined the Commonwealth and helped bring in the depraved Charles II, who quickly ejected them from the Church of England.

In Colonial America, uneasy semi-establishments existed. Technically, the Church of England was the established church for all the crown realms, including Catholic Ireland. (Ireland was never more Catholic than after England imposed an alien church on the land!) Carl Bridenbaugh, in "Mitre and Sceptre" (1962), showed how the fear and threat of a full-scale establishment with American bishops alarmed Americans and led to the War of Independence. Meanwhile, in the colonies, men began to oppose religious toleration in favor of religious liberty. Here, the Baptists were most important, especially Isaac Backus.

Backus declared, "We view it to be our incumbent duty to render unto Caesar the things that are his but also that it is of as much importance not to render unto him anything that belongs only to God, who is to be obeyed rather than any man. And as it is evident that God always claimed it as his sole prerogative to determine by his own laws what his worship shall be, who shall minister in it, and how they shall be supported, so it is evident that this prerogative has been, and still is, encroached upon in our land." (Wm. J. McLounglin, editor: Isaac Backus on Church, State, and Calvinism, Pamphlets, 1754-1789, p. 317. Harvard University Press, 1956.) The defenders of establishment or toleration became, Backus said, "Caesar's friend," citing the Pharisees who said to Rome's magistrates about Jesus, "If thou let this man go, thou art not Caesar's friend" (John 19:12). We cannot make the state the definer of man's duty to God, as the establishment-toleration position does. This position, Backus held, takes matters of faith from the conscience of man to the councils of state and thus undermines true faith. Backus saw that the new country would have no unity if establishment and toleration became lawful in the Federal Union. Backus quoted Cotton Mather, who said, "Violences may bring the erroneous to be hypocrites, but they will never bring them to be believers." The heart of Baukus' position was this: "Religion (meaning Biblical religion) was prior to all states and kingdoms in the world and therefore could not in its nature be subject to human laws" (p. 432).

The First Amendment to the U.S. Constitution, replacing religious toleration and establishment with religious liberty, was the result of the work of Backus and many other churchmen. It represented a great and key victory in church history.

Now, however, religious liberty is dead in the United States. It only exists if you confine it to the area between your two ears. Instead of religious liberty, we have religious toleration. Now, religious toleration is the reality of the situation in Red China and Red Russia. In both cases, the toleration is very, very limited. In the United States, the toleration is still extensive, and most churchmen fail to recognize that the states and the federal government are insisting that only toleration, not liberty, exists, and the limits of that toleration are being narrowed steadily.

Thus, Senator Ernest F. Hollings of South Carolina has given expression to the position of the regulators and tolerationists, writing (2-19-82), "Tax exemption is a privilege, not a right. It is not only proper but Constitutional that the government condition that privilege on the Constitutional requirement of nondiscrimination. Religious freedom is a priceless heritage that must be jealously guarded. But when religious belief is contrary to the law of the land then it is the law, not religion, that must be sustained. The 1964 Civil Rights Act provided there be no discrimination in institutions receiving Federal financial assistance and the courts have interpreted this to mean that no public monies be appropriated directly or indirectly through tax exemption to those institutions that discriminate" (Letter by Hollings, re: the Reagan bill S2024, to control Christian Schools).

Sen. Hollings has, with many, many other members of Congress, first, replaced religious liberty with state toleration. Tax exemption originally meant no jurisdiction by the state over the church, because the power to tax is the power to control and destroy. Now, these humanistic statists tell us it is a subsidy! Tax exemption is called "Federal financial assistance," and the courts hold that controls must follow assistance from the civil treasury. This means a mandate to control churches, and every facet of their existence, including Christian Schools, colleges, seminaries, employees, etc., in the name of controlling federal grants!

Second, Hollings (and others, including many judges) hold that this means that the Civil Rights Act of 1964 must take priority over the First Amendment. The Civil Rights laws forbid descrimination in terms of race, and also a number of other things, including creed. The evidence is accumulating that federal authorities believe that they have now the legal right to require churches to ordain women, and homosexuals; on January 26, 1982, to a group of us meeting with Edwin Meese and 8 or 10 Justice Department lawyers in the White House, Meese (a Lutheran layman!) said flatly that this was within the legitimate power of the federal government. This means that the church, in terms of the same laws, can be forbidden to discriminate with respect to creed! This would mean equal time for all creeds, including humanism and atheism, in every church. In the Worldwide Church of God case, the court held that a church and its assets belongs, not to the members thereof, but to all people, all citizens!

Third, the position of Hollings; Reagan; before him, Carter; the Justice Department; the Internal Revenue Service; the Labor Department; the Treasury Department; and the several states is that the only "freedom" that the church can have is that activity which the state chooses to tolerate. Toleration on any and all activities is subject to regulation, controls, and oversight.

This is, of course, totalitarianism. The fact is that religious liberty is dead and buried; it needs to be resurrected. We cannot begin to cope with our present crisis until we recognize that religious liberty has been replaced with religious toleration. The limits of that toleration are being steadily narrowed. If Christians are silent today, the Lord will not be silent towards them when they face the judgment of His Supreme Court. There is a war against Biblical faith, against the Lord, and the men waging that war masquerade it behind the facade of non-discrimination, subsidies, legitimate public interest, and so on.

All this done in the name of one of the most evil doctrines of our time: public policy. Nothing contrary to public policy should have tax exemption, and, some hold, any right to exist. Today, public policy includes homosexual "rights," abortion, an established humanism, and much, much more. The implication is plain and, with some, it is a manifesto: No one opposing public policy has any rights. The public policy doctrine is the new face of totalitarianism. It has all the echoes of tyrannies old and new, and with more muscles.

What is increasingly apparent is that the triune God of Scripture, the Bible itself, and all faith grounded thereon, are contrary to public policy. Christianity has no place in our state schools and universities; it does not inform the councils of state; every effort by Christians to affect the political process is called a violation of the First Amendment and "the separation of church and state." Our freedom of religion is something to be tolerated only if we keep it between our two ears. A war has been declared against us, and we had better know it, and we had better stand and fight before it is too late.

We may be able to live under religious toleration, but it will beget all the ancient evils of compromise, hypocrisy, and a purely or largely public religion. It will replace conscience with a state license, and freedom with a state-endowed cell of narrow limits. This is the best that toleration may afford us in the days ahead.

But the Lord alone is God, and He does not share His throne with the state. If we surrender to Caesar, we will share in Caesar's judgment and fall. If we stand with the Lord, we shall stand in His Spirit and power. "Stand fast therefore in the liberty wherewith Christ hath made us free, and be not entangled again with the yoke of bondage" (Gal. 5:1). At the heart of that yoke of bondage is the belief and fear that the powers of man (and the state) are greater than the power of God. It is bondage to believe that man can prevail, or that man can frustrate God's sovereign and holy purpose. The only real question is this: will we be a part of the world's defeat and judgment, or a part of the Lord's Kingdom and victory?

WHO MAKES CHURCHES TAX-EXEMPT?

(By Dr. Douglas F. Kelly)

The Tax exempt status of Churches is becoming a major controversy in the United States. Many are asking the question: What right does the Church have to be exempt from taxation anyway?

Of course a matter such as taxation or exemption of the Church is first of all an historical question. One has to look at the historical context in order to give a proper interpretation of our present status. It is clear that religiously, culturally, legally, politically, etc. the American colonies are the direct extension of Medieval, Christian Europe—particularly as this tradition was mediated through the Protestant Reformation of the 16th century and the Puritan movement of the late 16th and 17th centuries.

An illustration of this relationship is the fact that English Common Law precedents are binding in American practice unless they are specifically set aside by American Law. For instance, the Federal Courts claimed treasure that one Mr. Fisher had found in a sunken Spanish Galleon off the coast of Florida belonged to the Federal Government on the basis of British precedent. Supposedly, the Federal Government is an heir to the rights of King George III over all treasure found in coastal waters. We may not agree with this particular interpretation, but it is an illustration of the fact that American jurisprudence cannot be understood without the European and English background.

Now to come specifically to tax exemption of the Christian Church. In the Roman Empire, when the Church first came into prominence, it was treated by the Roman civil authorities as a legitimate Jewish sect, and as such, the Church (like the Jewish religion) was (in the equivalent of that day) fully "tax exempt." However after the Fall of Jerusalem in A.D. 70, Judaism for a time was no longer a "religio licita" and this brought Christianity as well as Judaism into serious trouble legally. The real problem was not that the Roman government wanted to tax the Church (they apparently did not), but rather that they (from time to time) wanted Christians to swear by the genius of the Emperor: i.e. to sacrifice to him as being the world's center of unity and final Lord over all (including the Church). Rome was perfectly happy for the Church to exist as long as the Church recognized that Caesar is final Lord over the Church: the one who makes it "licita" or licensed. Most Christians refused to do so and accepted persecution and death in order to acknowledge Christ as Lord over all (including Caesar).

This situation of conflict radically changed with the Christian Emperor Constantine, who made Christianity the official state religion. Under the Constantinian settlement (and this was thoroughly backed up the later influential Theodosian and Justinian Codes, which had so much authority in shaping legislation in all the Christian countries of Medieval Europe), the civil government had absolutely no authority to tax churches. They did not actually make churches tax exempt: they rather recognized that they already were such by virtue of the fact that churches paid taxes (tithes and offerings) to their head: Jesus Christ, while the state paid taxes to its temporal head: Caesar and his successors.

Sometimes tithes were collected for the Church by the civil authorities (as is still the case in West Germany), but these tithes went to the local churches and/or to the Pope in Rome. In these cases therefore the civil government collected taxes (tithes) not from the Church, but from the populace, and then gave the tithes to the Church.

Now there was an exception in Medieval Europe during the Crusades, in which the Church itself asked the civil authorities to tax Church income in order to finance this movement. This was known as the "Saladin Tithe." C. W. Previte-Orton in "The Shorter Cambridge Medieval History" (Cambridge: At The University Press, 1971), p. 618, explains:

"The Crusades, on which depended so much of the moral leadership of the West assumed by the Papacy, were financed in two ways: by indulgences, which were commutations of the vow to go on a crusade in return for money payment, a measure productive of perilous extension and abuse in all directions, and by the taxation of ecclesiastical income by kings with the consent of the Papacy, begun by Louis VI of France (1146) and repeated in England and France by the Saladin Tithe (1188), which under Innocent III developed into the claim to dispose of all Church property and to tax it at will (i.e. the will of the Pope), while excluding the lay powers (i.e. the kings) from like behaviour. Further expedients by the Papacy to pay its way were to be devised in the next century.

In other words, with the exception of the Saladin Tithe, the problems and struggles over taxation of local and national Churches during the Middle Ages was an inter-Church battle to a major degree: between an increasingly strong Papacy, and local Bishops. Civil governments at this point had no thought of attempting to interfere and 'put their hands in the till'. (Civil governments were intensely involved in struggles with the Papacy over matters such as lay investiture, but this is on a different level, for powerful church officials who were to be 'invested' were often also powerful temporal lords).

In England, just before the Reformation, King Henry VIII did forcibly close down monasteries and confiscate their lands and wealth: on the supposed basis that the monasteries were dens of corruption and a

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hazard to the well being of the nation. The same thing happened in France after the French Revolution. However, the civil authorities still did not attempt to tax the Churches: closing the monasteries (as they saw it) was a police act, and, at least in England, was not used as a precedent to claim state authority to levy taxes on the remaining Church property and revenues.

At the time the American colonies were settled, the same Medieval situation still obtained between Church and State (even after the Reformation and Puritan movement): the Church was universally understood to owe its taxes (tithes) to its spiritual head, Christ, and thus was by definition free from civil control at this point since it was the spiritual realm or Kingdom of God on earth.

Therefore when we speak of tax exemption today, it is not a matter of trying to find some ancient obscure law that specifically states the Church has been declared (or made) tax exempt by the state: all history presupposes the independent financial status of the Church. Such was the accepted procedure of all Europe for a millenium and a half. The burden of proof is on the other side: let those who want to tax the Church find substantial historical or legal precedents for doing so. To use a rather silly illustration, who needs to prove that the public has the right to breathe free air without paying the civil government fo doing so? Our right to do so is presupposed by all history and common sense. To claim we must have specific legislative action to make legal all we do is ridiculous: in most cases, to determine what is right, rather than researching volumes of statute legislation, one has to look at the whole human, moral, and historical situation.

Up until the Enlightenment, civil states knew that passing legislation for something like tax exemption of Churches would be as superfluous as voting to allow Christ to be Lord in his own realm. What the state did was to recognize Christ as Lord over his Church: they did not legislate to make him so: they simply accepted that as a previously existing situation. With the late 18th century, secular humanist Enlightenment, some states (such as France after 1789) did indeed begin to claim sovereignty (including financial control) over the Church: but America was already a free country by this time with its own constitution, rooted—not in the humanist Enlightenment—but in the earlier Medieval, Reformation Christian order. We had no problems along these lines in this country until this same secular humanist Enlightenment reached these shores in the late 19th century. The Enlightenment attempts to cut ties with the past under the very modern pretense that every legitimate situation must rest upon specific statute legislation by the contemporary state or its legislative predecessors. They however are clearly the innovators and cannot be supported under American and British Common Law jurisprudence taken in its easy-to-understand historical context.

RESCUE AT SEA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. STUDDS. Mr. Speaker, last week Mr. Peter Ford, harbormaster of the town of Chatham, brought to my attention an editorial appearing in the Cape Cod Chronicle which describes the valiant efforts of our Coast Guard to secure the rescue of five fishermen from their foundering vessel. I want to share with my colleagues this fine editorial because it describes so clearly the Coast Guard's value to those of us residing in coastal areas.

RESCUE AT SEA

It's days like Monday of this week when we wince to think of the politicians noodling around with Coast Guard appropriations. On that day, five middled-aged New Bedford fishermen were taken off their foundering vessel near Chatham by an efficient and highly skilled Coast Guard search and rescue crew. The ease with which this rescue was accomplished belies the difficulty involved.

A hard-nosed and unknowing pencil-pusher might argue the men could have made it to shore on their own, without Coast Guard assistance—their fast-filling vessel was only a half-mile offshore and in comparatively shoal water. We would ask that pencil-pusher to look at the very condition of the water that rolled between the stricken vessel and the nearest shore, the tip of North Beach. Even with a serviceable smallboat, the fishermen would have been hard put to have made it to shore on their own. As well, the famous tidal patterns at the entrance to Chatham Harbor would have worked against the men. Another inexperienced politician might have argued that any one of several passing Chatham fishing vessels could have effected the rescue. Certainly, these local seamen have years of boathandling experience and could have maneuvered, as did the Coast Guard, under the lee of the fishing vessel and brought the men aboard. While we do not question the courage or expertise of local skippers, we doubt any would have attempted the rescue because of the legal ramifications in this litigious age if anything were to have gone wrong.

Instead, it was—as it should always be—the Coast Guard which provided the lifesaving service. The money we, as taxpayers, spend on the Coast Guard is for just this purpose—to save lives and property at sea, whenever and wherever possible. our money is being spent to train these seafaring technicians and to equip them. While the equipment isn't as much as it used to be and while budgetary cutbacks have crippled the effectiveness of some of the Coast Guard's floating stock, dedicated maintenance by ingenious personnel is keeping more of this fleet in workable condition than the nation has any right to expect.

Certainly ours is a regional point of view, and we can understand why it might not be supported by taxpayers in the landlocked mid-West. But the exhausted relief etched on the faces of those five fishermen Monday bears testimony to public monies wisely and humanely spent.●

AMENDING THE BANKRUPTCY ACT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SEIBERLING. Mr. Speaker, I am introducing legislation today amending the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged.

The need for this legislation was recently brought to my attention by a heart-rending situation involving a family in my district whose daughter was fatally injured 4 years ago by a drunk driver. My constituents filed a civil suit against the driver, which was finally heard in March of this year. The court awarded them $110,000 for "wrongful death" and survivor's compensation. However, the defendant is now attempting to file for bankruptcy, trying to have his judgment debt discharged by using Federal bankruptcy law.

Mr. Speaker, my constituents must now face the reality that the man who tragically ended their daughter's life may be excused from the judgment debt by using Federal bankruptcy laws. But it is not the money involved that has shattered their faith in our judicial system; rather, it is the principle that the man that recklessly killed their daughter might be able to use the bankruptcy law to escape punishment.

This case is distinctly different from regular bankruptcy cases, since my constituents certainly did not extend credit or ask payment for services rendered. The legislation I am introducing today will provide victims and their families with an assurance that if they win civil damages against a drunk driver, the driver will not be able to use Federal law to avoid paying his debt.

Current bankruptcy law does contain a provision (11 U.S.C. 523(a)(6)) which prohibits a debtor from discharging any debt he owes for willful and malicious injury. However, the problem is that some bankruptcy judges have concluded that drunk driving is not "willful and malicious." In a recently decided bankruptcy case, In re Joseph Anthony Cooney, it was held that this provision rendered a defendant's judgment debt to a plaintiff nondischargeable.

In the case, the plaintiff was accosted by a defendant who was intoxicated. The plaintiff obtained a judgment for $50,000 in actual damages which she alleged was not a dischargeable debt because it was the result of a willful and malicious injury. The debtor's defense that he suffered an alcoholic blackout, and as a result did not remember the incident. The court held that he had acted with malicious intent at the time of the incident. While that case involves an assault rather than a car accident, it seems to highlight the need to take swift action to classify tortious acts committed while intoxicated as willful and malicious acts.

This legislation was originally introduced by Senator DANFORTH as S. 2159, and I commend him for his action to help remedy this tragic abuse of Federal bankruptcy law.

Mr. Speaker, I believe that drunk driving is a problem which we cannot ignore and which desperately deserves prompt Federal attention. While I am aware that this legislation will not put a stop to the grim tragedies taking place on our Nation's highways, I hope that it will be effective as one method to deter drunk drivers.●

BALANCED MONETARY POLICY ACT OF 1982 (H.R. 6967)

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. HANCE. Mr. Speaker, I rise today in support of H.R. 6967, the Balanced Monetary Policy Act of 1982.

For the past 34 months, the Federal Reserve Board's policy of tight money has strangled the economy and prohibited any economic recovery. Under the Fed's tight money grip, interest rates have grown dramatically. And with each interest rate increase, we see more businesses failing, more jobs lost, more people unable to realize their dream of homeownership, and the inevitable pain and suffering associated with such actions.

This bill would require the Fed to set interest rate targets—targets that businesses and families can use in their long-range planning and decisionmaking. Congress needs to send the signal to the Federal Reserve that interest rates must be taken into consideration by that body for the good of all Americans.

It is high time for the Federal Reserve Board to look past just counting the money supply and start looking at the dismal impact its policies have had on every individual in this Nation.

The Balanced Monetary Policy Act of 1982 will force the Fed to take interest rates into consideration and report to Congress accordingly. I support the bill and urge my colleagues to join me.●

THE CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ALBOSTA. Mr. Speaker, yesterday I introduced the Crime Control and Victims' Compensation Act of 1982, H.R. 7001.

This legislation addresses several basic problems in the criminal justice system by providing a sure sentence for certain types of serious offenders; by providing that these offenders work to pay for their keep and to compensate their victims for the harm they have suffered; and by helping States to care for victims of crimes not specifically covered in this bill.

We hear over and over about crimes committed by repeat offenders who are out on parole or released after light sentences. We hear that this is due in part to a lack of prison space and in part to a lack of clear and direct guidance from those who write the laws. We also know that the poor and the elderly, those who can least afford to be victims of crime, are its most frequent victims. The impact of crime is not just local and not just personal. Crime raises insurance rates and the prices of goods for all of us. It raises the overall costs of Government at every level. The longer we fail to deal with serious and repeating offenders, the more they are encouraged to strike again. Yet it is not enough just to lock the door and throw away the key. Unless we provide for the innocent victims of crime, then justice is not done even if we punish for past crimes and prevent future crimes.

In light of these concerns and the increasingly interstate nature of crime and its impact, I believe it is time for the Congress to take the initiative. The Crime Control and Victims' Compensation Act would create a Federal mandatory life sentence for three of the most serious classes of offenders. These are: Persons who commit first degree murder with a weapon, those who commit three felonies while carrying a gun, and those who sell $500 or more worth of controlled substances. This sentence would be applied to those who violate either State or Federal law.

The bill requires that these offenders work to pay for their keep and to compensate victims. A recent poll of my district shows that of those responding, 93 percent favor requiring criminals to pay back victims of crime and to perform public service jobs.

In order to provide facilities for housing and employing these prisoners, my bill authorizes the Attorney General to issue bonds to pay for any construction needed. This section completes title I, concerning Federal prisons and criminal law.

Title II was approved by the Judiciary Committee of the House in February of 1980. It provides grants to States with programs to compensate victims. This would cover most crimes not covered by title I.

This is a criminal justice bill that offers greater protection for every citizen.

A summary and a section-by-section review follow:

H.R. 7001—CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982

SUMMARY

In light of the fact that serious and repeated offenses have an impact on every sector of society, including interstate commerce, through increased insurance rates, public health expenditures, judicial time and expense, and the general mental and physical well-being of the victims, the community, and the nation, I have drafted legislation to correct some of the most basic problems in our criminal justice system.

The key elements of my bill are provisions to:

(1) Sentence 1st Degree murderers and certain 3-time felons to life imprisonment without parole;

(2) Compensate victims or their families for harm done; and

(3) Make the guilty persons work to pay for their keep and for victims' compensation.

SECTION-BY-SECTION SUMMARY

TITLE I—FEDERAL SENTENCES

SEC. 101. Whoever commits a homicide with a weapon, if that homicide is punishable by life imprisonment under State or Federal law, then that person shall be subject to a mandatory life sentence in a Federal prison without parole.

SEC. 102. Whoever carries a firearm while committing each of three felonies shall be imprisoned for life in Federal prison without parole.

SEC. 103. Whoever sells on three or more occasions $500 worth of controlled substances shall be imprisoned for life without parole.

SEC. 104. (a) Each person imprisoned under the terms of this Act shall be employed for pay with half of the pay going to the victim(s), and half going to cover the costs of imprisoning the offender. After the victims are compensated, that half of the prisoner's pay shall be deposited in a fund to compensate victims who would otherwise not be compensated.

(b) The Attorney General is authorized to issue bonds to finance the construction of facilities necessary to provide suitable employment for convicted persons.

TITLE II—VICTIM COMPENSATION

SEC. 201. This title may be cited as the "Victims of Crime Act of 1982".

SEC. 202. The Attorney General shall make annual grants to states with qualifying programs for compensation of victims of crime.

Sec. 203. There is established an Advisory Committee of state officials appointed by the Attorney General which shall advise the Attorney General with respect to the compensation of victims.

Sec. 204. Criteria for qualifying for grants—State programs must include the following:

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(1) Compensation for personal injury or death;

(2) Applicant victims must cooperate with the law; enforcement authorities with respect to the crime;

(3) Conviction is not necessary for compensation from the fund;

(4) Proceeds from books or interviews about the crime are deposited in compensation fund until victim is compensated.

Sec. 205. Federal Grants limited to actual cost of compensation for injuries or death and directly related expenses.

Sec. 206. Attorney General to report on progress of program to Congress.

Sec. 207. Definitions.

Sec. 208. Authorizes 15, 25, and 35 million dollars for grants to states over the next three years.●

REAFFIRM OUR COMMITMENT TO HANDICAPPED CITIZENS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WEISS. Mr. Speaker, I believe that this Congress must act to reaffirm our commitment to handicapped citizens. It is imperative that we oppose this administration's attacks on legislative support for handicapped Americans.,

When the Rehabilitation Act was passed in 1973, section 504 became the cornerstone of legislation for the handicapped. Its passage helped promote equal opportunity for handicapped persons in such areas as public transportation, education, building accessibility, and employment. Since then, new statutes and regulations have reflected a new public consciousness and sense of responsibility toward those whose potential had been wasted for so long due to widespread ignorance and misconceptions. Section 504 has fostered a more enlightened and respectful approach to the handicapped.

For some time now, the Reagan administration has been working to dilute these guarantees. It has pushed the Department of Justice and the Office of Management and Budget to revise section 504 regulations to permit the Federal Government to escape from its responsibilities to the handicapped. In addition, the administration has targeted preschool incentive programs, the vocational rehabilitation program, and the developmental disabilities program with funding reductions and weakening regulatory changes. The cumulative effect of the administration's proposals would be to render major handicapped legislation meaningless and inoperative.

In a particularly odious move, the Department of Education has proposed changes for the Education for All Handicapped Children Act, Public Law 94-142. since this law was enacted in 1977, millions of children have received the education necessary to become self-sufficient and self-respecting members of society. Not only would the regulations virtually eliminate any standards for the Government and school boards to follow when evaluating and educating handicapped children, but they would also alienate parents from these same processes. In the belief that handicapped education is no place for the laissez-faire doctrine, I have cosponsored an emergency resolution opposing the Department of Education's proposals.

The cost/benefit analysis that the administration has applied in evaluating these regulations for the handicapped is economically as well as morally irresponsible, for it fails to appreciate the reciprocity inherent in handicapped programs. Educational and employment opportunities will shape what any citizen can offer the larger community in return. Our society is committed to providing all its members with access to these avenues of development. We had learned that handicapped programs can foster the independence necessary for handicapped persons to become productive citizens. In many instances, our expectations of the handicapped need be no less than those made of other citizens. We must not go back on a promise which has given us the opportunity to discover this. Miscalculating our real gains from these programs traps us into a self-fulfilling prophesy: The less we invest in the handicapped, the less we will receive from them in return.

I urge my colleagues to oppose these moves to betray our handicapped citizens. Instead, we should encourage a healthier and more reciprocal relationship between these individuals and the communities in which they live.●

RETURNING PRAYER TO PUBLIC SCHOOLS WITHOUT AMENDING THE CONSTITUTION

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. NEAL. Mr. Speaker, there is considerable enthusiasm at this time for a constitutional amendment that would return prayer to the public schools. According to the poll results that I have seen, about 75 percent of the people of America are for putting prayer back in the classroom, and from conversations with my own constituents and mail from them, I would say that at least that percentage of them would favor it also.

If a constitutional amendment were the only way to accomplish this purpose, I certainly would be obligated to vote to send it to the States for ratification. I do not believe, however, that a constitutional amendment for this purpose is necessary. I think, Mr. Speaker, that there is another way, a better way. I testified earlier this week on this subject before the Senate Committee on the Judiciary, and at this point would like to place in the RECORD the testimony I presented to this distinguished committee. A copy of my proposed legislation, House Concurrent Resolution 1, is also included.

TESTIMONY OF THE HONORABLE STEPHEN L. NEAL

Mr. Chairman, I appreciate the opportunity to appear before the Committee to discuss the issue of voluntary prayer in the public schools—and, specifically, my resolution (H. Con. Res. 1) dealing with that subject.

I have followed the proceedings of the Committee and the previous hearings in the House with intense interest because of both my personal concern about the school prayer controversy, and that of my constituency in North Carolina. It is an issue that is very much alive in the press and much alive in the minds and hearts of the people in North Carolina.

There are a number of proposals pending that attempt to return prayer to the public schools. The Committee is considering a proposed constitutional amendment which supporters feel would remove the bar against individual and group prayer. Legislation has also been introduced that would strip the federal courts of the authority to hear cases involving voluntary prayer. You have indeed heard eloquent and reasonable arguments from advocates and opponents of both approaches. Those who would formalize prayer in the classroom have pursued their objective with vigor; those who oppose it, with equal conviction. I say, Mr. Chairman, that there is a third approach wherein we may find an accommodation of the other two—that is, those who say we cannot, and those who say we must, pray in the public schools. The answer, contained in my resolution—which I will discuss at some length later—is that we can if we want to.

First, it is necessary, I believe, to clear up some of the misconceptions that exist concerning the Supreme Court's decision regarding prayer in the schools.

We know, of course, that the Court has not ruled out voluntary prayer in the schools. It has stated only that such prayer cannot be required, written, or supervised by the state or its representative—that is, the administrators or the faculties of the public schools. Yet, while voluntary prayer is permissible, there has been great difficulty in formulating a recitative prayer, and a prayer period, that do not exceed the limits set by the court.

Second, this misunderstanding of the Court's rulings has created in the minds of many people the idea that the Supreme Court banned prayer in the schools, and in so doing has denied, rather than protected, their rights under the First Amendment. The misconception has led to the widespread belief that "God has been expelled from the classroom."

The result has been both understandable and predictable. I have seen poll data which indicate that some 80 percent of Americans believe prayer in the schools should be permitted. That implies, of course, that 80 percent believe it is not permissible. The idea that one is not free to pray wherever and whenever one chooses is offensive to all Americans who cherish our fundamental freedoms, and especially to those who find in our religious tradition a course of great comfort and pride.

This concern has led, I firmly believe, to suggested solutions which are unnecessary, and if carried to fruition could be intolerable. I have in mind the proposed constitutional amendment under consideration today. The Committee has heard much testimony about this amendment, but I would beg your indulgence of some further thoughts on the subject.

The proposed constitutional amendment strikes at the very foundation of our constitutional form of government. It would compromise that most basic guaranty of our individual rights—the First Amendment—which was appended by men of clear vision and noble purpose. That purpose, simply stated, was to guarantee that government shall in no way control religious thought, speech, or practice. Further, it also guarantees that religion shall not control the state, and through government impose the religious preferences of one persuasion upon a lesser number who do not completely agree with it. This we call the separation of church and state. It has served both constituencies extremely well.

Mr. Chairman, this constitutional doctrine was not established either easily or by chance. Powerful forces argued against it. I think we have to thank Thomas Jefferson and James Madison for insisting that it be part of our Constitution. Especially Mr. Jefferson, who fought this battle in the Virginia House of Burgesses, which ultimately established his Bill of Establishing Religious Freedom. It should be noted that only three accomplishments adorn the grave marker of Mr. Jefferson. That statute is one of them. He asked, also, to be remembered as author of the Declaration of Independence and founder of the University of Virginia.

Permit me to quote from Mr. Jefferson, and from his biographers, some of his observations about freedom and separation of church and state:

From Saul K. Padover's "Jefferson: A Great American's Life and Ideas":

"In few things was Jefferson more consistent than in his advocacy of religious liberty, or more resolute than in his hatred of religious tyranny. He went farther than those who merely believed in toleration. Mere toleration. was a lazy man's creed; it meant indifference toward the political problems involved in the religious question. Toleration, therefore, was not enough. What Jefferson wanted, and ultimately achieved, was liberty—liberty fully protected by the law, to believe or not to believe whatever a man saw fit; liberty of the genuine Protestant variety, for a man and his conscience to care for his soul in his own fashion."

And from Mr. Jefferson's "Notes on Religion," penned shortly after he wrote the Declaration of Independence:

"The care of every man's soul belongs to himself. . . . God himself will not save men against their wills. . . . I cannot give up my guidance to the magistrates, because he knows no more of the way to heaven than I do, and is less concerned to direct me right than I am to go right."

Mr. Jefferson in that instance was concerned about the state being in charge of religion. He was equally if not more concerned about the church being in charge of the state. Assailed by the stinging criticism of some members of the clergy, he wrote to a friend:

"They (the clergy) believe that any portion of power confided to me, will be exerted in opposition to their schemes. And they believe rightly; for I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man."

The last clause of that immortal statement is familiar to everyone who visits the Jefferson Memorial, for it is engraved in the marble there. The basic issue in his time, as in ours, was separation of church and state.

I would not contend, Mr. Chairman, that conditions have not changed since Mr. Jefferson's day. I would submit, however, that our need to be free has not changed; that it took many more years after the First Amendment was ratified to establish religious freedom uniformly throughout the states; and that we ought not to surrender one inch of the ground which our forebears struggled to gain for themselves and their posterity.

Former Senator Sam J. Ervin, Jr., a distinguished Constitutional scholar, felt just as strongly as did the Founding Fathers that the separation of church and state must remain absolute, and in 1966 he argued forcefully and long against the Dirksen and Bayh proposals to amend the Constitution so as to reestablish prayer in the classroom. A telling point in Senator Ervin's argument was his observation that the Supreme Court's opinions, as he interpreted them, did not deal with the subject of voluntary prayer. "All they do is to hold that under the establishment of religion clause, the State cannot require religious exercises to be conducted in the public schools," he said.

Mr. Chairman, these distinguished Americans were absolutely right. If the state were to be given power to make us pray, it would have equal power to stop us from praying. The Constitution declares that the state does not have the power to make us do either.

But the problem remains. The people of America want prayer in the schools, and they believe their government is prohibiting it.

I would argue that my resolution (H. Con. Res. 1) would solve the problem. This resolution confirms, (1) that the Supreme Court decisions did not prohibit periods of silence for the purpose of private prayer, meditation, contemplation, or introspection; and (2) that local school authorities can now provide such periods of silence under the law. I respectfully urge the Committee to consider this approach for the following reasons:

(1) It would clear up the misconception that the Supreme Court decision of 1962 prohibits prayer in the public schools, and that government (the Supreme Court) has expelled God from the classroom. The lack of a clear expression on the permissibility of voluntary prayer has had a "chilling" effect on local school boards which, upon passage of the resolution, would receive both guidance and encouragement to provide the opportunity for voluntary prayer in the schools.

(2) It would help restore the public's trust in government, and in the democractic process, which many have come to doubt as concerns the issue of prayer in the public schools.

(3) It would inspire widespread discussions between students, their parents, and religious leaders of all religions and all denominations as to how the "periods of silence" suggested in House Con. Res. 1 should be filled. In my opinion, such healthy discussion among all Americans contains, at the very least, the possibility of an understanding that reaches beyond the temporal and the transitory. Perhaps it would result in a heightened spirit of unity, while maintaining diversity; perhaps a higher awareness of man's relationship to this Creator and to his fellowman; perhaps a higher level of trust, tolerance, and understanding among ourselves.

(4) Finally, the passage of this resolution would restore truly voluntary prayer to the public schools, by which the majority might confirm, with no threat to or infringement of the rights of the minority, our Nation's motto, "In God We Trust."

H. CON. RES. 1

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress—

(1) that the Constitution of the United States does not preclude periods of silence to be used, solely at the discretion of the individual student in public schools, for quiet and private prayer, meditation, contemplation, or introspection, even if these moments are supervised by a school official; and

(2) that public school authorities should recognize the historic importance of religion to our civilization by encouraging such periods of silence.●

YAKOV AND TATIANA KOGAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. MATSUI. Mr. Speaker, I would like to call your attention to the plight of Yakov and Tatiana Kogan, two Soviet refusniks who have been denied permission to emigrate to Israel for the past 6 years. Yakov and Tatiana are of special concern to me because they have been adopted by the Jewish community in my district of Sacramento, Calif.

Yakov Kogan was a member of the Soviet Army until 1969 when he completed his service. Because of this security clearance, Yakov agreed to sign a document stating he would be unable to go abroad for 5 years. Six years later when he applied for permission to emigrate, however, Yakov was refused on the basis of his army service. His application was turned down again 6 months later.

Yakov's wife, Tatiana, lost her job when it was learned that she and her husband had applied for emigration visas.

It is my hope that through our efforts here in Congress and through concern shown by communities across the Nation, the Kogans and other Soviet Jews will finally be given permission to leave the Soviet Union.●

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TRIBUTE TO JOHN SONNEBORN, JR.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ANDERSON. Mr. Speaker, only once in a great while is a community blessed with having a rare individual who not only devotes full time to the job at which he earns his living, but who devotes equally of his talents and energy to his community. San Pedro has been blessed by such a man in John G. Sonneborn, Jr.

John Sonneborn is a man of restless, dynamic energy. If he sees something wrong, he wants to correct it. If he sees something that can be done better, he wants to assist in doing it better. If he sees a fellow citizen not as fortunate as himself in need, he is the one who steps forward and wants to help him.

John was originally an easterner, having graduated from Germantown Friends School in Philadelphia, Pa. He then attended Swarthmore College and Temple University before coming to USC in Los Angeles. Not content with baccalaureate diplomas, he went on to the UCLA Graduate School of Business, and has taken courses at the Los Angeles Harbor College. He holds a Los Angeles college teaching credential.

After service in World War II as a major in the U.S. Air Force, he spent a short time with Consolidated Steel and the Union Bank, settling with Pacific Telephone Co. in July of 1949. Except for a period of time when he again donned his country's uniform in the Korean war, John remained with Pacific Telephone & Telegraph, for many years as district manager for the South Bay area, from July 1949 until July 1981, when he went on a year's leave of absence to be foreman of the Los Angeles County grand jury. Those of you who have kept up with the local and national news on TV and in the press have heard and seen John's exploits as the foreman of the jury, as several sensational cases attracting nationwide attention were handled under his foremanship.

I mentioned his involvement in community activities; John has been a past president of no less than six such organizations. They are the Los Angeles Civitan Club, San Pedro Lions Club, San Pedro Chamber of Commerce, Los Angeles County Probation Commission, Los Angeles Harbor College Foundation, and, for almost 10 years, the San Pedro Peninsula Hospital Foundation. He is an active member of the Los Angeles Police Foundation, continues as a board member of the San Pedro Peninsula Hospital, is first vice president of the Los Angeles County Affairs of Aging, and is on the executive committee of the Affiliated Committees on Aging, Inc. He works as an active consultant for the Small Business Administration. And on top of all that, until reaching retirement age, he remained active in the Air Force Reserve.

Mr. Speaker, to list the numerous commendations, awards, and recognitions that John has received will demand too much of your time and those of my colleagues. Suffice to say they are many.

This past month John completed his year's tour as foreman of the Grand Jury, and on the 27th of this month will officially retire from the Pacific Telephone Telegraph Co., but John will never retire. I know that the organizations in which he serves will continue to receive the benefit of his advice. I know he will continue doing many fine things for his community. And, above all, I know John will continue looking for more things to do.

My wife Lee joins me in congratulating John Sonneborn for his many achievements and we thank him for all he has contributed to his community. We wish John and his wife Barbara, and their two sons, John III, and Paul Sonneborn, all the best in the years ahead.●

SOVIET DAY OF SHAME

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. RITTER. Mr. Speaker, I join with members of the American-Czech and Slovak communities in observance of the 14th anniversary of the ruthless Soviet invasion of Czechoslovakia, commonly known as the "Soviet Day of Shame." The consequences of this Soviet action 14 years ago are still being felt and certainly have not left our memories.

On August 21, 1968, the world witnessed a brutal and unprovoked act of military aggression on the Czech nation under the leadership of Alexander Dubcek. Prior to the invasion, Czechoslovakia was making substantial economic strides compared to the other nations dominated by the Soviet Union. Restricted by all the inefficiencies inherent in a centrally planned economy as is the case in all communist countries, Alexander Dubcek attempted to liberalize the nation's overbureaucratized economy by moving toward a free-market system. This attempt at liberalization is commonly known of as "Prague Spring." All hopes of political and economic reform were destroyed when Warsaw Pact forces under Soviet instigation and leadership invaded Czechoslovakia and replaced the Dubcek government with a puppet regime, manipulated from Moscow.

In the 14 years since the invasion, opposition to Soviet domination has never ended. Charter 77, a movement led by Czech intellectuals and other brave citizens, champions the cause of human rights in Czechoslovakia even though the price they must pay for their beliefs are harassment, beatings, and imprisonment. August 21, 1968, shall long be remembered to Czechs and people everywhere as the "Soviet Day of Shame."

The Soviet Union's inexcusable and unlawful intervention into the domestic affairs of other nations represents a gross violation of international law and human decency. We now know that the Soviet Union will not permit deviations from Soviet policy and Communist doctrine among its captive neighbors. The Breznev doctrine, which guarantees Soviet domination over Eastern Europe, is the policy that dictates Soviet actions in the area. Any nation which must bear the presence of the Soviet Red army faces the grim specter of having that powerful force thrust against it at the whim of Moscow. Whenever a captive nation attempts to better the lot of its people or seeks greater independence, the Red army is the instrument used to decimate the hopes of the millions who long for justice and freedom. The day will come when the Soviet Union no longer will be able to use their Red army to depose progressive regimes which are not capable of Soviet-style oppression. No Soviet tank or missile can douse the burning flame for independence and freedom that the Czech people so anxiously desire. Each Czech who has fallen as a victim to Soviet tyranny has not done so in vain, but has made a priceless sacrifice for the Czech people, which will not be forgotten by posterity.

In a country which enjoys freedom and justice, we cannot be blind to the plight of the Czech people who long to live in a democratic and independent society, without the fear of reprisals or internment for advancing the cause of human rights. As Congressman from the Lehigh Valley where many people of eastern European extraction live, I condemn the 1968 Soviet invasion of Czechoslovakia and pray for the day when the Czech and Slovak peoples can determine their own destiny, free from outside intervention. Thank you.●

THE ROLE OF COOPERATIVES IN FOSTERING DEMOCRACY IN THE CARIBBEAN BASIN

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. McHUGH. Mr. Speaker, as you know, the current situation in the Caribbean and Central America is complex, with each country in the region facing distinctly different challenges. However, one of the most basic challenges we face is whether it is possible to channel legitimate aspirations for change through democratic political institutions, and thus I do not think it is inappropriate to suggest that what is at stake is the future of democracy in Central America and the Caribbean.

Yesterday the House voted to approve the conference report on H.R. 6863, which included funds to implement the President's Caribbean Basin Initiative. Much of the money contained in H.R. 6863 will be directed to democratic allies, such as Costa Rica, the Dominican Republic, and Jamaica. It is our hope that funds for the remainder of the countries that would benefit under this legislation will bolster democratic forces, and thus I supported the bill, Mr. Speaker.

At the same time, I want to stress once again my own view that the root causes of the crisis in this region is the growing aspirations of its people for economic progress and well-being. There can be little doubt that economic stagnation, whether caused by purely economic circumstances such as lower sugar or coffee prices and depressed markets, or by disruptive military and political actions, breeds antidemocratic pressures.

The response from the extreme right is to clamp down on programs, such as land reform, which are essential for economic prosperity for the poor majority. The extreme right argues that the large landholdings of the rich must be maintained for export production. The response from the extreme left is precisely the opposite. They point to continuing poverty and blame capitalism for the ever widening gap between the rich and the poor. They appeal to the landless and the exploited, playing upon the desire of the poor majority to own their own land and the means of production.

As you know, Mr. Speaker, history has shown that the forces of the extreme left can be as antidemocratic as those of the extreme right. When some leftist revolutions succeed, all too often the promises for land evaporate in favor of state farms or other coercive economic instruments. At the same time, the extreme right tends to wait too long as the pressure for land redistribution builds and fuels revolutionary unrest.

The peasant is the person caught in the middle of all of this, Mr. Speaker. While disagreeing with the forces of the extreme right, he typically resists the appeals of the extreme left as long as his situation falls short of being intolerable. He wants his own land, and to be left alone to make a modest living in peace.

Mr. Speaker, I am firmly convinced that there is a unique type of organization which is well suited the meeting the economic needs of the peasant and fits in well with his basic attitudes. I am speaking of cooperatives. Cooperatives and credit unions have been a great success in the United States and a growing phenomena in the developing world. These institutions are geared to the needs of the owners, most often farmers, who own and control them. Each member, no matter what his wealth, has one vote in cooperative decisionmaking and, rather than distribute profits to shareholders, cooperatives put earnings back into operations or into patronage refunds based on individual usage of services or goods purchased from the cooperative. Thus, they are democratic, nongovernmental and nonideological economic businesses which fit the needs of the peasant.

In 1962, an amendment to the Foreign Assistance Act directed the Agency for International Development to promote cooperatives and credit unions overseas. As a result, six cooperative development organizations were created. They are: Agricultural Cooperative Development International, Cooperative Housing Foundation, Cooperative League of the U.S.A., Credit Union National Association (whose global office recently merged with the World Council of Credit Unions), National Rural Electric Cooperative Association, and Volunteer Development Corps.

Each of these organizations began its programs in Latin America in the early 1960's and have created networks of indigenous cooperative structures. In over 20 years of providing U.S. technical assistance, they have helped build a variety of cooperative businesses.

In the new directions legislation of 1974, Congress changed the mission of the Agency for International Development from capital projects to those more directly benefiting the poor. As a result, the focus of cooperative development, and of all development assistance for that matter, shifted from Latin America to Asia and Africa where the vast majority of the desperately poor live. As a result, funds to assist cooperative development in Latin America have dwindled. Fortunately, strong cooperative roots have been started there which, with the additional resources in H.R. 6863, can be made to flourish.

H.R. 6863 represents an opportunity to reinvigorate cooperatives and credit unions in the Caribbean and Central America. U.S. cooperative development organizations have identified over $40 million in immediate needs for training, technical assistance and capital requirements. Cooperatives can directly increase agricultural productivity, the underpinning to the economies of the region. They are a means by which small farmers can pool their resources in purchasing fertiliser, seeds, farm implements, and other inputs; and expand their markets through regional and national cooperatives. In credit unions, farmers and urban residents can save, with the pooled savings available to members for productive uses such as farm credit. Cooperatives make possible adequate housing or electricity which otherwise would not be possible.

The Agricultural Cooperative Development International (ACDI) is now completing over 10 years of assistance to the Federation of Regional Agricultural Cooperatives (FECOAR) in Guatemala. Through FECOAR, ACDI cooperative technicians have helped highland Indians form agricultural cooperatives to make possible their entry into the market economy. While these cooperatives are now endangered by fighting in the countryside, the Indians are holding tenaciously to their own independent cooperatives despite threats and killings of their leaders.

Another FECOAR project, with ACDI help, provides for cooperative colonization in northern Guatemala. In this development project, landless tenants are now being given land and the opportunity to eke out an economic existence in very harsh jungle environments. This region was recently closed because of rebel activity.

Mr. Speaker, these are two examples of where cooperatives remain beacons of democracy and hope. But, like other public institutions, they are threatened by political and military violence. The United States can help sustain these cooperatives and encourage their continued growth through the funds in H.R. 6863 and I hope we will do so.

ACDI is also helping to organize two regional agricultural service cooperatives in Honduras, the poorest Central America country. These cooperatives provide agricultural supplies, short- and medium-term credit, marketing assistance, custom machine work, and technical assistance. ACDI has also been asked to help form cooperatives in support of El Salvador's land reform, but is holding back because of the violence in that nation.

Mr. Speaker, Haiti is the poorest country in our hemisphere. The Cooperative Housing Foundation (CHF) could use funds in H.R. 6863 to expand its 5-year urban self-help shelter and slum upgrading program there for the very-low-income population of Port-au-Prince. CHF could also work with the Haitian Development Foundation to provide cooperative housing in urban areas for its employees. In addition, CHF is interested in developing a cooperative block making enterprise in Haiti for building materials production and distribution. These types of programs can have the positive effect of building democratic institutions which

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respond to the harsh realities of poverty in Haiti.

Costa Rica is a democratic oasis threatened by violence, Mr. Speaker, and by an economy which is nearly bankrupt. Its new President, Luis Alberto Monge, has called for restructing the Costa Rican economy, especially its agriculture sector. His program is focused on the small farmer through the provision of technical assistance and an expansion of cooperatives. The Cooperative League of the U.S.A. assisted the conversion of the Cooperative Department of the National Bank of Costa Rica into an autonomous agency, the National Institute for Cooperative Development (INFOCOOP). The Cooperative League provided technical assistance to INFOCOOP in organization and administration, marketing, credit operations, and education and training. This has resulted in INFOCOOP providing technical assistance for cooperative projects in dairying, fish marketing, livestock marketing, taxi cooperatives and agricultural marketing operations. INFOCOOP is critical to President Monge's program and funds from H.R. 6863 can play an important role in strengthening this independent cooperative structure.

The National Rural Electric Cooperative Association (NRECA) has built rural power systems in Nicaragua, Costa Rica, Honduras, Panama, and Guatemala as well as in the Dominican Republic, Jamaica, Haiti, and other Caribbean countries. One of the casualties of the revolution in Nicaragua was the nationalization of five successful rural electric cooperatives serving over 60,000 farm families. This indicates why cooperatives must not be too closely identified with the government, in this case with former President Somoza.

NRECA-assisted rural cooperatives are serving the electric needs of 30,000 families in Costa Rica. In the Caribbean, there are 22 small utilities, mostly government-controlled and originally started with European investors. All of these systems need help. They are deficit operations needing U.S. training, better audit systems and technical assistance for capital planning and loan applications.

Whether NRECA activities are directed to cooperatives or national electric authorities, their operations are quite similar to U.S. cooperatively run systems. The areas are primarily rural and their scale of operation is quite similar. For example, NRECA has used specialists from the Blue Ridge Electric Cooperative to work in Jamaica for the improvement of the physical plant, a plant almost identical to one in the United States. H.R. 6863 can help bring power to rural areas or address second generation problems of existing systems which must deal with skyrocketing oil prices.

As a result of the Credit Union National Association (CUNA) activities of the 1960's, credit unions have been established throughout Latin America and the Caribbean. National movements in these countries have formed two confederations: The Confederation of Latin American Credit Unions (COLAC) and the Caribbean Confederation of Credit Unions (CCCU). Approximately 700,000 individuals are credit union members in the Caribbean Basin, with nearly $200 million in savings.

This success is largely attributable to the ability of credit unions to provide access to credit. Credit unions help mobilize domestic savings, particularly among those often considered too poor to save and thus frequently denied credit from traditional financial institutions. The resulting credit is often then used for productive or income generating purposes of small farmers, entrepreneurs, and tradesmen. In the Caribbean, credit is extensively used for housing.

Mr. Speaker, credit unions adhere to cooperative principles of self-help and democratic control. They deserve our encouragement and support, and H.R. 6863 would provide the funds through which our government can demonstrate concretely that we support them.

Finally, H.R. 6863 could help to send highly qualified cooperative volunteers to the region through the Volunteer Development Corps. In Costa Rica, volunteers are needed to advise the Union Regional de Cooperatives on processing and marketing potatoes and other vegetables; and to help consumer cooperatives create a central purchasing federation. In Jamaica, short-term volunteers can help the Ministry of Agriculture open the island's first cheese processing plant; work with the Pan American Development Foundation and Jamaica Cooperative Union in training fishermen to operate their own 76-foot mother ship and a 48-foot carrier ship; and to help Christiana Potato Growers Cooperative Association participate in an AID integrated rural development project involving marketing and storage of potatoes and other vegetables. VDC is highly cost effective in that the volunteer is not paid for his services. Thus, very modest dollars can expand this small but efficient program.

Most people do not realize that the C in CARE stands for cooperative. CARE's full name is Cooperative for American Relief Everywhere. CARE was created by the cooperative movement after World War II for relief to Europe. While it continues relief programs, CARE has over the years moved into development work. H.R. 6863 could help create five deep-sea fishing cooperatives in Belize; help a Costa Rican agricultural cooperative in soybean production and processing; provide for cooperative fish ponds in the Dominican Republic; and assist a Guatemalan cooperative in bean production. CARE is also encouraging cooperatives for crafts in Haiti; planting trees in Honduras; and assisting in a cooperative credit program for small landholders in Panama.

In short, Mr. Speaker, cooperatives can play a significant role in helping our neighbors to the south. As democratic business enterprises, they are the types of assistance programs all Americans can be proud of. Thus, I commend my colleagues for joining with me yesterday in supporting the funds contained in H.R. 6863 needed to implement the Caribbean Basin Initiative. I hope that the President will sign the bill into law and direct the State Department to make extensive use of the skills and talents of cooperatives in meeting the challenge to democracy that our neighbors to the south face.●

CONGRESSIONAL STEEL CAUCUS FINANCIAL REPORT

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Ms. MIKULSKI. Mr. Speaker, as executive secretary of the Congressional Steel Caucus I am submitting, in accordance with the regulations of the Budget Committee, the Congressional Steel Caucus financial report for the first quarter of 1982. The report contains a fund balance statement of expenses through the first quarter of 1982, a cumulative statement of expenses through the first quarter of 1982, and a listing of Congressional Steel Caucus members who had paid their dues as of May 11, 1982

Quarterly report, fund balance statement, U.S. House of Representatives, Congressional Steel Caucus

Balance remaining (as of Dec. 31, 1981)	$9,606.71
Total revenues (clerk hire, membership dues and donations)	28,405.63
Total	38,012.34
Less expenses:	
January 1982	3,916.03
February 1982	4,247.15
March 1982	5,907.67
	14,070.85
Remainder	23,941.49
Total unexpended revenues (as of March 31, 1982)	23,941.49

Quarterly report, cumulative statement of expenses, U.S. House of Representatives, Congressional Steel Caucus

Salaries	$11,873.61
Travel	0
Stationery	132.02
Postage	0
Telephone	178.98
Publications	123.95

Equipment	504.33
Printing	941.25
Miscellaneous	316.71
Total, expenses as of March 31, 1982	14,070.85

CONGRESSIONAL STEEL CAUCUS, 97TH CONGRESS STEEL CAUCUS MEMBERSHIP (AS OF MAY 11, 1982)

Joseph Addabbo, Douglas Applegate, Don Bailey, Adam Benjamin, Jr., Tom Bevill, Clarence Brown, George Brown, Don Clausen, William Clay, William Clinger, Cardiss Collins, John Conyers, Baltasar Corrada, Lawrence Coughlin, William J. Coyne, Robert David, Edward Derwinski, John Dingell, Dennis E. Eckart, Allen Ertel, John G. Fary, Vic Fazio, Jack Fields, Floyd Fithian, William Ford, L. H. Fountain, Joseph Gaydos, William Goodling, Sam Hall, Jr., James V. Hansen, Elwood Hillis, Ken Holland, Thomas Kindness, Ray Kogovsek, Stanley Lundine, Joseph McDade, Bob McEwen, Marc Marks, Dan Marriott, James Martin, Clarence Miller, George Miller.

Barbara Mikulski, Robert Mollohan, G. V. Montgomery, Ronald Mottl, John Murtha, William Natcher, James Nelligan, Bill Nichols, Henry Nowak, Mary Rose Oakar, James Oberstar, George O'Brien, Donald Pease, Melvin Price, Nick Joe Rahall, Ralph Regula, Don Ritter, Robert Roe, Marty Russo, Gus Savage, Richard Schulze, John Seiberling, Richard Shelby, Bud Shuster, Albert Lee Smith, Joseph Smith, J. William Stanton, David M. Staton, Bruce Vento, Doug Walgren, Robert Walker, Richard White, Lyle Williams, Ron Wyden, Gus Yatron, C. W. Young, Clement Zablocki, Leo Zeferetti.●

TRIBUTE TO ITALIAN TRIBUNE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. RODINO. Mr. Speaker, over the past half century the Italian Tribune has established a long and rich tradition of service to New Jersey's Italian American community. I am proud to join with my colleagues in recognition of this respected Newark publication, which is the largest Italian American picture newspaper printed in English.

The Italian Tribune provides a lively source of news and culture for its readers. The spirit of the journal is perhaps best reflected in its publisher, my good friend Ace Alagna.

I have never considered the Tribune to be my paper,

He states:

ownership and viability of the paper rests with the people for whom it was designed.

Ace Alagna has involved the paper directly with the Italian American community. He used the paper to marshall the energies of the Italian American community to provide emergency relief for the earthquake victims of Italy in 1976 and 1980.

The paper has grown in size and importance, and has laid strong foundations for making an impressive contribution to American readers over the next 50 years. This is a prospect that Italian Americans can view with satisfaction and pride, and I know my colleagues will join me in commending the Italian Tribune and its publisher, Ace Alagna, on this milestone occasion.●

CONSUMERS MUST HAVE A ROLE IN U.S. TRADE POLICIES

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ANNUNZIO. Mr. Speaker, it is with pleasure that I draw to the attention of my colleagues and others, inside and outside the Government who are concerned with various aspects of international trade, two articles, "Consumers Group Seeking Larger Role in Trade Policy," and "Trade Policy 'Pros' Praise Doreen Brown," by Richard Lawrence, that appeared in the August 5 issue of the Journal of Commerce. At a time when domestic economic crises and discontent with our trading partners are fueling legislative reactions which threaten our open trading system, I urge consideration of the views and valuable services rendered by the Consumers for World Trade (CWT).

As chairman of the House Subcommittee on Consumer Affairs and Coinage, I read these two articles with particular interest. It is my understanding that the CWT is a national nonprofit membership organization established in 1978 and is the only consumer organization concerned exclusively with international trade policy. As stressed in the first article, "CWT fulfills a necessary mission no other U.S. consumer group has undertaken—the consistent promotion of consumer interests through U.S. trade policy."

Objectives of CWT include efforts to help insure that the American economy regain a healthy growth momentum, at stable prices, with high employment; that the competitiveness of American industry is maintained in both domestic and world markets; and that choices in the marketplace are provided for consumers of this country. In order to achieve these goals, CWT supports expanded world trade—both imports and exports—and believes in the importance of increasing productivity through the efficient utilization of human and capital resources.

Mr. Speaker, in view of the timeliness of these two articles and the significance of the work of the Consumers for World Trade for the American economy, I ask unanimous consent that these informative articles be printed in the RECORD.

CONSUMERS GROUP SEEKING LARGER ROLE IN TRADE POLICY

(By Richard Lawrence)

WASHINGTON.—The nation's only consumer group exclusively concerned with U.S. international trade policy is striving to make itself more of a force in the halls of government.

The four-year-old Consumers for World Trade, said its president, Doreen L. Brown, plans to develop closer ties with local consumer and other "public interest" groups around the country as one way to mobilize more active "grass-roots" support for a freer trade policy in Washington.

Many members of Congress, she said, may instinctively favor freer trade, but often they face strong protectionist pressures from industry.

"They want to hear from their constituents," she said in an interview, "and CWT, by working with 'back home' groups, can help generate the kind of pro-consumer mail and phone calls they want and need."

Early next year, for example, CWT and the Center for Public Representation in Madison, Wis., are due to launch an 18-month project to "involve consumer organizations in the trade policy debate," as CWT describes it.

The project will involve leaders of 30 to 50 local, state and national consumer organizations, who after briefings in Washington on international trade issues will prepare policy positions for their respective groups. They would then state a convention here to "draw attention to the consumer's stake in world trade policy."

CWT was founded in 1978 by Mrs. Brown and others with the Consumer Education Council for World Trade to actively lobby for freer trade.

The council had represented an ad hoc coalition of 20 non-profit organizations seeking to defeat the Burke-Hartke bill, a controversial protectionist proposal of the early 1970s.

CWT, Mrs. Brown said, fulfills a necessary mission no other U.S. consumer group has undertaken—the consistent promotion of consumer interests through U.S. trade policy.

Other national groups such as the Consumer Federation of America and the National Consumers League only occasionally speak out on trade policy, and, Mrs. Brown contended, sometimes they take stands not in the consumers' interest.

As an example, she cited the federation and league's support of legislation to require a prescribed level of domestic content in any car sold in the United States.

The legislation, she said, is "the most protectionist and anti-consumer" bill being considered in this session of Congress; it is likely to boost imported car prices by at least $3,000 a car.

CWT, in the midst of a membership drive (it welcomes individuals, corporations and other organizations, but only individuals have a direct voice in CWT policy), lobbies the administration and Congress not only against protectionist import restrictions but also for programs that help expand U.S. exports.

Two pending bills the group supports are the Export Trading Company Act and amendments to clarify the Foreign Corrupt Practices Act. "Exports create jobs and increase our foreign exchange earnings; they make protectionism less likely," Mrs. Brown said.

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Still, she makes it plain that CWT will not back any kind of export promotion measure. For instance, she said, CWT opposes a bigger budget for the Export-Import Bank because of the bank's government-subsidized financing.

In principle, Mrs. Brown said, CWT opposes trade subsidies, either by the United States or foreign governments.

In the four years of CWT's life, the group, like almost any organization, has "won some and lost some," she acknowledges. The "wins" Mrs. Brown counts include the administration's lifting of import restrictions on footwear and TV sets and an administration decision against import quotas on casein. She counts as a "modified success" the Senate Finance Committee's "watering down" of the pending trade reciprocity bill.

Among CWT's "losses" are the administration's fixing import quotas on sugar, its negotiation of another restrictive international textile and apparel agreement, and its "acquiescence" to Japanese car export curbs.

Despite its "freer trade" rhetoric, Mrs. Brown reported she has been at times "disappointed" with the Reagan administration. The way it first espoused free trade, "we thought we might go out of business," for lack of issues, she said.

But the administration's restrictive actions on textiles, sugar and autos have changed her thinking sharply. She also believes that the administration makes excessive use of "foreign policy" controls on exports. Those controls, she explained, amount to international trade barriers.

CWT's current top priorities are to defeat the domestic content auto bill, help move President Reagan's Caribbean Basin Initiative through Congress without protectionist amendments, enact liberalizing changes to the Foreign Corrupt Practices Act, and help make sure Congress approves a meaningful export trading company bill.

CWT continues to withhold support from trade reciprocity legislation, even the Senate Finance Committee's new version of it, which the administration and a number of business groups endorse. The bill, argued Mrs. Brown, still places too much "emphasis on unilateral decisions and retaliatory measures."

For more information on Consumers for World Trade, write to the group at 1346 Connecticut Ave., N.W., Washington, D.C. 20036.

TRADE POLICY "PROS" PRAISE DOREEN BROWN

Doreen L. Brown, the Consumers for World Trade president, gets high marks for her work from trade policy "pros" both in and out of government.

"She and her organization," said one government official, "are one of the few we can rely on in the fight for freer trade." He lauded the Consumers for World Trade bimonthly newsletter as "one of the best ways in town for keeping abreast of U.S. foreign trade policy."

A major business group representative called CWT a "very helpful" advocate on international trade policy. CWT gives a larger dimension to business pleadings for a more open trade policy in Washington, he said. Mrs. Brown, in his view, is both an "unusually quick study" and "very articulate."

French-born, Mrs. Brown came to Washington just before World War II. In a sense, she has been in foreign trade since childhood. Her father was an executive with a Baltimore-based export-import company. Besides English, she speaks fluent French, Italian and Spanish.

After graduating from Bryn Mawr College in 1947, she went almost at once into international work with the United Nations Food and Agriculture Organization. She then married and raised two children, now in their 20s.

Mr. Brown became active in international trade policy in the early 1970s as chairwoman of the Consumer Education Council on World Trade.

She serves on two government trade panels: the U.S. Trade Representative's international steel policy advisory committee and the Commerce Department's importers and retailers textile advisory committee, where she is trying to persuade the department to reform the way it goes about limiting textile and apparel imports.

Mrs. Brown's goal is to broaden CWT's membership beyond "sophisticated" consumers to the kind of large "grass-roots" organization labor unions boast. The more CWT members, the more clout consumers will have in Washington, she reasons.

CWT members not only get a voice on Capitol Hill and into the administration but also a bimonthly newsletter, access to a speakers bureau, and the possibility of trade seminars and conferences. CWT's 12-member board includes a number of high government officials, some of who have turned to academia or private business. They take turns speaking out for consumers in CWT testimony in Congress.●

EXPRESSION OF GRATITUDE TO ENVOY PHILIP HABIB

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. BROOMFIELD. Mr. Speaker, as the Congress prepares to recess, I want to express my gratitude for the courageous efforts of Special Envoy Philip C. Habib to bring about an end to the tragic bloodshed in Lebanon.

On many occasions, he has been called upon to serve his country in resolving the most difficult and challenging problems in this particularly volatile region. His prowess in diplomacy and his negotiating skills are legend among his colleagues and foreign government officials. His successes are noteworthy.

Once again, in furtherance of the national interests of his country, he has carried out with dedication the extremely complex negotiations to end this horrible bloodshed and destruction in Beirut.

In the midst of the bitter fighting, Envoy Habib traveled to war-torn Beirut and deftly worked with the many concerned parties to effect a rapid cease-fire. He displayed not only personal courage, but incredible stamina in pursuing the long-term negotiating efforts. When a resolution of the problems appeared to be slipping away, his determination and professionalism prevailed; he resolved differences by urging compromise when necessary, and displayed sensitivity to the vital interests of the concerned factions. He brought together men with varying backgrounds and political positions, and urged them to stop the carnage. When personal meetings with high-ranking officials were critical to maintain momentum, he seized the moment and shuttled off to distant capitals in his quest for peace.

He is more than a man with a mission; I believe that because of his personal commitment and involvement with the Middle East, he has truly devoted his life to resolving the long-standing troubles in this strategic area of the world. It is perhaps fitting that a son of Lebanon should return to bring peace to his ancestral land.

As we approach the day for the implementation of the Habib plan to bring about an end to the siege of West Beirut and the removal of all foreign forces from Lebanon, I encourage my colleagues to join me in expressing our sincere appreciation for Mr. Habib's distinguished service and historic accomplishments in working to bring peace to the Middle East.●

AMEND SECTION 513 OF TAX CODE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. GUARINI. Mr. Speaker, today, my distinguished colleague from the State of Tennessee, Mr. DUNCAN, is introducing a bill to exempt from taxation income earned by tax-exempt organizations through exchanging, renting, or selling the names and addresses from donor or membership lists. I am pleased to cosponsor this legislation.

Under current law, income earned by an exempt organization from a trade or business which is regularly carried on and is not substantially related to the activities constituting the basis for the organization's tax exemption, is considered to be unrelated business income subject to taxation. This provision, first enacted in 1950, was designed to prevent exempt groups from having an unfair competitive edge over taxable businesses engaged in similar activities.

Recently, the Court of Claims and the Internal Revenue Service have taken the position that income earned by groups from the rental or exchange of donor lists constitutes unrelated business income subject to taxation. While these rulings are a highly questionable interpretation of present law, legislation is the appropriate solution. Our bill addresses those rulings, and adds to section 513 of the Internal Revenue Code a specific exemption from taxation for income earned through the exchange, sale, or rental of names and addresses from donor or membership lists.

Tax-exempt organizations provide a wide range of services and programs for needy individuals. Many of these services and programs assist particular groups of people who otherwise would go unaided. For example, through its national service program the Disabled American Veterans offers free assistance to veterans in penetrating the bureaucratic maze and obtaining the benefits to which they are entitled.

Funds for the services and programs provided by tax-exempt groups come primarily from tax-deductible contributions. Contributions are solicited generally by direct mail from individuals whose names are maintained on donor or member lists. To keep the lists current, names of individuals who have died, moved or no longer contribute are removed. The name attrition rate can be high. In the case of the Disabled American Veterans, for example, the attrition rate runs about 12 percent per year.

To maintain donor lists large enough to provide organizations with the contributions required to sustain their programs, these names must be replaced. Replacement is best accomplished through the rental, sale, or exchange of names from an organization's donor list to and with other organizations. Not only does the acquisition of new names through these means help maintain a list large enough to sustain an organization's program in these difficult economic times, but also income from the rental, sale, or exchange of lists helps defray the high costs of acquisition of names and maintenance of a donor list.

Since its enactment in 1950, section 513 of the Code has been amended frequently to provide exceptions to the taxation of unrelated business income. Public entertainment activities at agricultural fairs, certain convention and trade show activities, billing and data processing services rendered for hospitals by hospital service organizations, bingo games, and certain telephone and electric pole rentals have been exempted. In enacting these exemptions, Congress found that the benefit to the exempt entity through relief from unrelated business tax outweighed any detriment to competing commercial enterprises. Such is the case here. Exempt organizations that rent, sell, or exchange their own mailing lists do not directly compete with commercial mailing organizations. Each donor or membership list is unique. Exempt groups do not act as a clearinghouse for other interested parties and do not engage in direct mail activities for groups other than themselves. Thus, they do not compete with commercial groups that offer a full range of direct mail services.

We are now calling on the private sector to provide more than ever before to meet our national needs ranging from education and the arts to health and the preservation of rights. The proposed amendment to section 513 will materially assist exempt organizations in their efforts to solicit needed funds from the public and at minimal loss of revenue. I hope that the Congress will act on this legislation quickly and favorably.●

HIGHER EDUCATION INVESTMENT PLAN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Ms. MIKULSKI. Mr. Speaker, time and time again, I hear my constituents ask about education funds. The cost of tution at a decent college these days for 1 year is more than I paid for my house 12 years ago. Just as owning a home is an integral part of the American dream, an even more important part is the belief that every citizen has the fundamental right to learn, to make a better life for him or her self. I see that dream fading with the rising cost of higher education.

There are more than 12 million Americans from all income brackets, all ages, and all walks of life who today are students at our colleges and universities. Those numbers must not be diminished because of lack of funds.

Every democratic society needs a literate population. Our greatest threat is ignorance. Our greatest defense is a population that can read and make decisions for themselves. Our greatest defense is a people that can go beyond their own personal experience for information. Colleges and universities give people those skills. It is the responsiblity of this Government to make sure that the funds will be there to teach those skills.

For these reasons, today I have introduced a bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts.

This bill is the result of a study done by the Citizens League of Baltimore to determine additional ways to help students and their families pay for higher education. The Citizens League has recommended a higher education investment plan that is practical, administratively simple, and economically sound. Today, I am pleased to introduce this companion legislation to a Senate bill introduced by Senator MATHIAS on June 30 of this year.

Essentially, this legislation would amend the IRS Code to permit individuals to set aside for educational purposes up to $2,000 per year per student beneficiary and be allowed a corresponding income tax deduction. The funds would not be taxed until after the student has graduated and then the funds would be taxed as income to the beneficiary over a 10-year period in 10 equal parts. The legislation also sets aside 5 percent of the money placed in these accounts for a State scholarship fund.

Such legislation could only be beneficial to all our attempts to make this country one where education is a right, not a gift to the wealthy. Education is the greatest gift we can give our children, and our country.●

MILITARY AID TO HONDURAS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. STUDDS. Mr. Speaker, I strongly support the newly elected civilian government of Honduran President Roberto Suazo Cordova, and I support a generous U.S. development assistance program to that impoverished nation. However, I am extremely disturbed by the tremendous escalation of military aid to that country, and by the emerging U.S. policy of using Honduras as a pawn in our conflicts with other nations in the region. I believe the United States should be doing all it can to help isolate Honduras from the violence in the Central American isthmus; instead we appear to be doing all we can to throw it further into the fray. A recent editorial from the Boston Globe analyzed this trend, and pointed out the dangers inherent in such a policy. I would like to include this in the RECORD now for the benefit of my colleagues.

[From the Boston Globe, Aug. 12, 1982]

HONDURAS ON THE BRINK

For months, friends of Honduras have feared that its weak civilian government would be undermined by the US policy of "using" Honduras as a staging area and an agent in the widening Central American war.

Those fears are now coming true. A number of recent signs suggest that the Reagan Administration's insistence on a military victory in El Salvador, and on a continued war of nerves with Nicaragua, is beginning to spill the violence over into Honduras. There is a trend toward bombings, bank robberies and other guerrilla operations that are clearly acts of retribution.

Honduras could and ought to be an innocent bystander. It is the third poorest country in the western hemisphere and has a small, wealthy oligarchy typical of the region. Class differences are more muted than in Salvador or Guatemala, however. The Honduran upper classes have not shared the vicious repressive instincts that provoked revolution elsewhere.

During the 1960s, under a moderate military dictatorship, Honduras embraced the goals of John Kennedy's Alliance for Progress and initiated significant land and

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labor reform. Allowed to stand aside from the troubles outside its borders—and provided sufficient economic assistance—Honduras could avoid the cycle of bloodshed and pull itself up.

It appears that Honduras will not have that opportunity. Although a civilian government took over last year, the power of the Honduran military is growing. US military aid is being poured in, along with numerous overt and covert US military advisers and CIA personnel, and even some Argentine troops brought in to disguise the American presence. As always happens when civilian governments are not well established, this aid gives the military a disproprotionate influence.

Honduras faces no threat that would justify all the aid. It is simply a payoff for doing the Administration's dirty work. For months, Honduran forces have allowed exiled National Guardsmen of the former Nicaraguan dictator Anastasio Somoza, and some counterrevolutionary factions of Miskito Indians, to launch counterrevolutionary raids cross the Nicaraguan border.

Now, tense relations with Nicaragua are reportedly building toward war hysteria. Honduras could have eased those tensions months ago by accepting a Nicaraguan offer of joint border patrols, but, probably on a signal from Washington, it has turned a deaf ear. Meanwhile, to the west, Honduran forces have been cooperating with Salvadoran troops in a series of secret hammer-and-anvil operations to trap Salvadoran guerrillas along the border.

The cost of being a spear carrier for the Reagan Administration was breathtakingly evident in the earnest words of a Honduran officer in a recent radio interview: "The US will supply all the arms, equipment and body bags that we need, and all we have to do is supply the bodies."●

FINANCIAL IRREGULARITIES IN ELECTIONS IN DISTRICT OF COLUMBIA

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DICKINSON. Mr. Speaker, yesterday, I brought to the attention of my colleagues, an article from the Washington Post dealing with financing of local elections in the District of Columbia and possible violations of the Hatch Act. I would like to submit that article for the RECORD, along with additional information relating to this matter.

[From the Washington Post, Aug. 18, 1982]

HATCH PROBE—D.C. EMPLOYES' VIOLATIONS ALLEGED

(By Juan Williams)

The federal Merit Systems Protection Board is investigating possible violations of the Hatch Act by D.C. government employes who are alleged to have done work for Mayor Marion Barry's reelection campaign, officials of the board said yesterday.

James Sugiyama, associate special counsel for investigations of the board's Office of Special Counsel, confirmed that an investigation is taking place and that the Hatch Act violations are alleged to have been committed by members of the American Federation of Government Employes (AFGE), which has endorsed Barry's reelection bid.

The Hatch Act prohibits federal and D.C. government workers from active participation in partisan political campaigns. The board has legal authority to impose penalties, including firing and suspending employes, for Hatch Act violations.

"There were some union activities involving District employes and the campaign that have been brought to our attention, and we are trying to find out the process at this point to determine exactly what happened," said Sugiyama. He declined to further detail the allegations. Sugiyama declined to say how many persons were under investigation or when the investigation will be completed. He said the investigation had been launched after the board received several complaints, but would not disclose the source of the complaints. "I don't want to leave any implication that we are after Barry or the AFGE," said Sugiyama.

Ivanhoe Donaldson, Barry's campaign manager, questioned whether the federal merit board has the right to investigate possible Hatch Act violations by District of Columbia workers.

"That's garbage," said Donaldson. "They don't have jurisdiction. A local agency would have to handle that, probably the [D.C. government's] Office of Employee Appeals." Sugiyama said that the merit board is the body with jurisdiction in this instance.

A spokeswoman for AFGE said Kenneth Blaylock, head of the union, is in New York for a convention and declined immediate comment in his absence.

In addition to its inquiry into possible Hatch Act violations, according to a knowledgeable merit board source, the board also is collecting information on whether AFGE might be in violation of the District of Columbia's campaign finance laws by paying the salary of political organizer Jane Danowitz.

Danowitz is in charge of a union-sponsored phone bank operation and efforts to gain union support for Barry. Her operation is in a suite of offices on the same floor of the same building as Barry's reelection headquarters. Her union job description, obtained from a source, states that she works "under instructions of the manager of the campaign" to reelect Barry.

Danowitz said yesterday that she reports directly to the director of the union's Legislative and Political Affairs Department, but acknowledged that the union political director may consult with Donaldson in setting out Danowitz's tasks.

Under D.C. law, AFGE can give only $2,000 to Barry's campaign. The union has given $500 thus far. If Danowitz's work—for which, she said she is being paid at a yearly rate of $25,000 for a period of 90 days, or a total of more than $6,000—were judged to be a political contribution, AFGE could be determined to have contributed more than the maximum amount.

While the merit board is looking into this situation, the final determination would rest with the D.C. Office of Campaign Finance, which has not launched any probe of the Barry campaign.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Washington, D.C., June 18, 1982.

Memorandum: 10/vacancy—staff.
To: All employees, national office.
From: Kenneth T. Blaylock, national president.
Subject: Ninety-day temporary vacancy: political organizer GS-301-11.

There is now a vacancy for the position of Political Organizer, in the Legislative and Political Affairs Department, effective immediately, a ninety-day temporary vacancy. Selection to fill this vacancy will be made in accordance with the AFGE/OPEIU #2 contract and the NEC's policy on hiring.

The attached position description outlines the duties, responsibilities, and qualifications of the position.

All interested applicants must apply in writing to Samuel E. Widger, Director, Personnel Department, not later than the close of business on Monday, June 28, 1982.

Attachment.

I. INTRODUCTION

The Legislative and Political Affairs Department (LPAD) serves as the political action/fund raising arm of the American Federation of Government Employees. It fosters development of District, Council and Local political activities; administers the AFGE-PAC; raises, distributes and reports funds used for political campaigns and candidates; generates grass roots support of AFGE political and legislative goals; and assures effective political communication throughout AFGE, develops and maintains membership education and training programs in the area of political and legislative affairs, supervises a field political and legislative staff to work with local leadership members. This is the position of Political Organizer in the LPAD.

II. MAJOR DUTIES AND RESPONSIBILITIES

Under the general supervision of the Director LPAD and the direct instructions of the manager of the campaign to reelect District of Columbia Mayor Marion Barry perform the following wide variety of complex duties and responsibilities.

A. Plans, builds and manages communications structure within AFGE and with other public employees in Federal, District of Columbia, and other governments.

B. Plans, initiates, develops and administers such activities as political fundraisers, rallies, phone banks, news conferences, candidate appearances and other similar political support efforts.

C. Plans and conducts out-reach activities to other organizations and works on the building of coalitions.

D. Develops groups of professional and volunteers to work on such activities as voter registration, get-out-the-vote, and manning of stations near polls.

E. Performs related duties as assigned.

III. CONTROLS

Under the general supervision of the Director LPAD and under instructions of the manager of the campaign to reelect District of Columbia Mayor Marion Barry, incumbent will be expected to work independently and with latitude for the exercise of independent judgment.

IV. QUALIFICATIONS

Applicants must have at least four years of experience which will have demonstrated ability to work effectively with others as the leader of professionals and volunteers; ability to write a wide variety of campaign materials, leaflets, brochures, mailing pieces, etc.; ability to debate and explain complex issues regarding governmental operations and to speak effectively before groups; ability to enlist, encourage, and direct the support of individuals and organizations.

Preference may be given to applicants who reside in the District of Columbia, who are knowledgeable of D.C. governmental affairs and activities; and those candidates who have had political activists experience with labor organizations. Preference may also be given to applicants who have had experience in responsible administrative assignments in connection with four political campaigns, aggregating one year of such experience.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Memorandum: 6d.

To: Jane P. McMichael, director, Legislative and Political Affairs.

From: Donald M. Haines, Legislative Attorney.

Subject: Election law restrictions and prohibitions for D.C. elections.

In view of AFGE's increased involvement in District of Columbia elections, I thought it would be helpful to review some of the pertinent provisions of the D.C. election law. Although D.C. law parallels the Federal Election Campaign Act in many ways, it also includes some notable differences. (The law is found in chapter 14 of title 1 of the District of Columbia Code.) This discussion will focus on three aspects of the law: sources of funding and election support, limitations on contributions, and recordkeeping and reporting requirements.

SOURCES OF FUNDING AND ELECTION SUPPORT

Unlike the Federal Election Campaign Act, D.C. law contains no prohibition on the use of general treasury funds to make political contributions to candidates for District office. In fact, the law's definition of contribution expressly includes "any assessment, fee, or membership dues." [1] Therefore, any contribution made by AFGE-PAC to candidates for District office (mayor, city council, school board, but not including the Delegate to Congress, which is a Federal office covered by the Federal Election Campaign Act) should not be made from scarce AFGE-PAC voluntary contributions but from the administrative account using general treasury money.

Using treasury money may have certain tax consequences for AFGE, however, and we should be careful to follow the advice from National COPE on how to minimize or eliminate those consequences. The COPE Handbook provides:

"By having an AFGE-PAC administrative account, we are fortunate in having already established a "separate segregated fund" for treasury monies to be used in political expenditures. We should take care, however, that whatever funds go into this account do not come from interest-bearing accounts."

Thus, if transfers are going to be made from National AFGE's general treasury finds, to the AFGE-PAC account, then AFGE should use a non-interest bearing holding account to receive funds with the funds then being split, part of the AFGE-PAC administrative account and the bulk to AFGE's general account. Both the AFGE-PAC administrative account and the AFGE general treasury account may be interest bearing. (COPE recommends that per capita payments be made from the holding account, not the general treasury account.)

In addition, we should make sure that all "political expenditures", is IRS terms, using treasury money are made from the AFGE-PAC administrative account. This is important to avoid tax liability (and possible other consequences) for AFGE's general treasury funds. IRS includes in its definition of political expenditure, opposition or support to an appointment or nomination, so expenses relating to Senate Confirmation, for example, should be paid out of the AFGE-PAC administrative account. The reason for these actions is to avoid tax liability since taxes are owed only if there are both investment income and a political expenditure from the same fund.

It may also be advisable to establish a separate AFGE-PAC administrative account to handle general treasury funds which are to be used in D.C. or state elections allowing treasury funds to be spent for political purposes. If we pursue this course, our reporting situations change.

In addition, District law parallels the Federal Election Campaign Act in exempting certain activities from the definition of contribution and thereby allowing AFGE to make certain expenditures which would not be counted toward the limit on how much AFGE may legally contribute to a particular candidate.

The cost of direct communications to AFGE members and their families, on any subject including outright endorsement of particular candidates, is not included within the definition of contributions.

The District Office of Campaign Finance interprets this exclusion to require that the communications not be done in conjunction with or after consultation with a candidate or his campaign. If such consultation is involved, then the cost is a contribution.

Subject to other requirements such as the Hatch Act (which is discussed in a separate memorandum), individuals may provide personal services on a voluntary basis so long as they are not compensated for those services or their time.

LIMITATIONS ON CONTRIBUTIONS

District law limits the total amount of contributions to a particular candidate. The limits are determined by the office which the candidate seeks. The limits are:

Mayor	$2,000
Council chairman	1,500
At-large council member	1,000
Ward council member or at-large school board member	400
Ward school board member	200
Advisory neighborhood commission member	25

Unlike the Federal law, this limitation is on all contributions "including both the primary and general or special election" and applies to all contributions aggregated together.[5]

AFGE-PAC may make an independent expenditure advocating the election or defeat of a candidate for office. So long as that expenditure is not made at the request or suggestion of the candidate or his agents, the expenditure is not included in the contribution effort. If, however, the expenditure is made in coordination or consultation with the candidate or his agents, then according to the Office of Campaign Finance, the expenditure would be subject to the limitation.[6]

District law requires that the limitation apply to "all contributions made . . . directly or indirectly to or for the benefit of a particular candidate."

District law also prohibits the making or receiving cash contributions of $50 or more.

Applying these restrictions to our apparent activities, AFGE has already made in-kind contributions to Mayor Barry's campaign in at least two situations and possibly in a third. The amounts involved in these situations should be deducted from the $2,000 limit before any monetary contribution is made, and that contribution—together with the in-kind contributions should not exceed $2,000.

Obviously, AFGE is free to communicate with its members about the campaign. The difficulty arises in doing this in coordination or consultation with campaign personnel. Bernard's working relationship with the Barry campaign, including advising them on how to address certain issues in public forums, does not fall within the "member communication" category and AFGE's payment of his salary and benefits for the time spent on campaign work is a contribution subject to the $2,000 limit. The same is true for any other staff member. Although discussion with other AFL-CIO unions about promoting the Barry campaign conceivably falls within the definition of contribution, I would argue that contacts with other AFL-CIO affiliates falls within internal membership communications of the AFL-CIO and so, at least initially, the cost associated with such discussions should not be included as part of AFGE's contribution.

When selling tickets to AFGE staff for the Barry breakfast, Mildred was clearly not instructed to limit herself to AFGE members. Thus, Mildred's salary and benefits for the time spent on the Barry breakfast or other campaign activity must also be included in the $2,000 limit on contributions. The same is true for the costs of the breakfast itself (because it was not limited to AFGE members), although AFGE may be able to deduct the income from ticket sales from the cost in order to determine the net contribution value of the event.

The third situation which involves a possible contribution is the press conference endorsing Barry. That conference was "for the benefit of" the Mayor's campaign, so it would seem to fall within the definition of contribution. On the other hand, the conference was a press event which may not be a contribution if AFGE did not work out arrangements (such as timing and things to say) with the Mayor's campaign.

The 90-day temporary political organizer position also constitutes a contribution to the Mayor's campaign. The position description notes that the organizer will be working "under the direct instructions of the manager of the campaign." In this situation, the organizer would be a contribution even if his activities were limited to contacting only AFGE members and their families because there is express consultation and coordination with the Mayor's campaign.●

PUBLIC HOUSING TENANT PROTECTION BILL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. RANGEL. Mr. Speaker, the situation in the Nation's public housing has never been graver. Low-income tenants are being asked to contribute a higher and higher portion of their income as rent in public housing projects. At the same time, rumors are rampant that the Reagan administration is planning to sell these projects around the country. The administration has indeed already taken actions to dispose of low-income housing built under the 236 program.

This is happening at a time when life has never been harder for low-

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income citizens. Reaganomics has crippled the economy, making it virtually impossible for those without specialized skills to find a job. Health benefits are being restricted, food stamps are being cut back, unemployment training programs have been slashed, and education money is being cut. Reaganomics has cut the ability of those with low incomes to survive and to provide for themselves and their families.

To counter at least one aspect of this, I am introducing the Rangel Public Housing Tenant Protection Act. This legislation would rollback the tenant contribution from 30 to 25 percent of adjusted income and establish numerous exclusions to be taken before that 25 percent is calculated, but it would also prohibit the demolition, sale, or other disposal of public housing and section 236 projects except under the most stringent of conditions.

Among the exclusions provided for in the bill are—the value of food stamps; all medical and dental expenses (including prescription drugs); income from any member of the family earned while in school; income from any member of the family earned during during the course of a summer job, if that person is 18 or below; $500 for each minor, disabled or handicapped person, student, elderly person; all child care expenses related to working; all educational expenses including book, school supplies, tuition, and room and board at any accredited school, college, trade school, or university.

In addition to provisions which deal with tenant rent contribution, the Rangel bill would prohibit the demolition of public housing projects and section 236 projects except when the following stringent provisions are met: The project is substantially unoccupied; there is no waiting list for public housing units for the area in which the project is located; the Department of Housing and Urban Development, the Public Housing Authority involved, and the local government approve of the disposal; the Department of Housing and Urban Development and the Public Housing Authority have entered into agreements with any displaced tenants guaranteeing them actual, reasonable expenses for moving himself and his family, actual reasonable expenses incurred in searching for a new home (including the cost of wages foregone in order to search for new home), and a lump payment of $200 per person to help allay the psychological and emotional disruptions caused by the displacement.●

CONGRATULATIONS SUNDAY GLOBE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. RITTER. Mr. Speaker, I would like to bring to the attention of my colleagues an ambitious endeavor which has just been launched by the Globe-Times, a daily newspaper which serves the people of the 15th District. In Bethlehem, nearly everybody reads the Globe; for decades, 6 days a week, the Globe-Times has reached into many households in Bethlehem, touching people's lives at every level—be it work or recreation, local or international news, sports, arts, or social activities.

As is pointed out in a Globe editorial of August 15, 1982, however, the 6-day-a-week newspaper has become inadequate to report on the times. Hence, as of that date, the Globe-Times has launched a Sunday newspaper—the Sunday Globe.

The editorial traces the growth of the Globe-Times; its origins in the Daily Times, which premiered on February 4, 1867; its merger with the Daily Globe on October 19, 1925; its philosophy of publishing the news without fear or favor; and its impact on the community. The Globe-Times has fearlessly covered the happenings and the people in its hometown, and—in a sense—has helped to make it a real community.

I commend the Globe-Times staff and management for its faith in the Lehigh Valley, for making it a better place in which to live and grow, and for creating the Sunday Globe. I am confident that the Sunday Globe will continue to honor the fine Globe-Times tradition of "maintaining the people's right to know."

The editorial follows:

[From the Sunday Globe, Aug. 15, 1982]

A HISTORIC MORNING

The first Sunday newspaper in Bethlehem's 240-year history is launched by The Globe-Times with this issue.

While the founding Moravian brethren who huddled in that log cabin on the banks of the Monocacy Creek probably never conceived a 100-page edition with photographs in full color serving their settlement. I believe they could have readily understood the purpose.

Bethlehem, their communal camp, is today a mature community, the heart of a budding metropolitan area. Maturity brought an explosion of interests—and a complexity of problems. Just as the colonial presses of John Bradmueller long ago become inadequate to report on the times, so has the six-day-a-week newspaper.

The Sunday Globe is a logical extension of a tradition of service. We first pledged to serve and protect the interests of our hometown more than a century ago. An editorial in our parent paper stated in that founding issue on Feb. 4, 1867: "The Daily Times will be neutral in politics and will strive to be a welcome daily visitor . . . We have nothing to complain of in the past, and hope for as good, and will strive to merit still better support in the future."

The Times survived challenges from a number of competing publications and become the voice of North Bethlehem. With a foot on two bridges, it reported this community's first historic transition—the borough breaking away from the church-controlled mold where for a century the Moravian heirarchy was also the political law.

While developments in the Moravian Church continued to be big news, the paper started reporting such activities as meetings of the Friends of Ireland, which clearly recognized interests of immigrants. It also disclosed the presence of "illicit whiskey establishments," which was news to everyone.

Our second parent arrived in September, 1894, with the founding of the Daily Globe of South Bethlehem. It, too, was born of mission. Streams of people from foreign countries came to feed belching furnaces of the developing steel industry. No single religion or even a common language unified them. This fed suspicion and distrust. Is there any wonder the new voice of South Bethlehem started serving readers with this front page disclaimer: "The Daily Globe is not the Organ of any Party."

The borough papers were couriers and advocates in the consolidation of Bethlehem as a city in 1917. While the coming of World War I and growth of Bethlehem Steel helped consummate the consolidation, the completion of the Hill-to-Hill bridge in 1924 made it a reality.

However, factionalism plagued the city, and there was little hope of ending it as long as each side had its own newspaper. On Oct. 19, 1925, the Daily Times of Bethlehem and the Daily Globe of South Bethlehem merged into the Bethlehem Globe-Times. Our files hold no intimate insights on how that was achieved. We suspect civic leaders took turns twisting arms until they persuaded the two rival newspaper factions to get together for the good of the community.

The merger did not go smoothly, and the Great Depression of the 1930s periled the paper's existence. Rolland L. Adams, a young bank examiner hired by the E. P. Wilbut Trust, was brought in to run the business affairs. He saved the paper from financial distress, built it into one of the state's most viable and respected dailies, and prepared an orderly transition to members of his family, who are building on that legacy with the debut of The Sunday Globe today.

And why a Sunday? For more than a half a century, The Globe-Times has been a six-day courier of news for Bethlehem, Hellertown, Fountain Hill and the townships and boroughs around us. With the folding of the Evening Chronicle in Allentown two years ago, we filled the afternoon void there by opening a Lehigh County news office at 933 Turner St., now computer linked and staffed by a half dozen reporters and photographers.

It was time for a Sunday paper. Our neighbors in Easton, Stroudsburg, and Bucks County all recently started Sunday editions. When marketing surveys showed that the Bethlehem area readers, now served principally by Allentown, would support their own Sunday paper, Globe-Times President Donald S. Taylor made the recommendation and the board gave him the green light.

Thus, at a time when newspapers in the metropolitan areas are dying, when even healthy papers in the regions feel increased competition from electronic media, and when ominous forecasts abound about the printed word, we're investing. We have added nine newsroom staff members (from a pool of more than 100 applicants), other departments have expanded similarly, and much additional computer equipment, including a substantial portion from the defunct Philadelphia Bulletin, has been purchased.

We are looking beyond the present economic gloom. We're confident in the future of this area. And we're confident that the Sunday Globe has a mission for today's readers as important as any in our 115-year-history.

We will look fatter, more colorful, and filled with new features, but our philosophy will continue to be the statement of policy first issued to the staff 40 years ago:

"Our joint objective is to publish all the news without fear or favor; to evaluate it as honestly and objectively as is humanly possible to do so; to respect the rights of all groups and individuals; to support city, school, county, state and national governments when they operate in the public's interests, and forthrightly to criticize them when, in our studied opinion, they subvert the public welfare."

And we feel the same way the first editor did when he wrote in first Daily Times in 1867: "We have nothing to complain of in the past, and hope for as good, and will strive to merit still greater support in the future."●

A TIME FOR REAL REFORM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. GUNDERSON. Mr. Speaker, there is a lot of talk around this Congress about taxes. And the tax bill that will be considered this week is referred to by our President as "tax reform."

A study released this week by Tax Analysts, a non-profit research organization, reveals a real need in this country to get some profit-making companies to start paying taxes. This is so basic, I am not sure it can even be called reform.

We all like to talk about how this Government takes pride in enacting and administering laws in an equal and fair manner. I would like to share with you some interesting statistics in this regard. According to the study, Anheuser-Busch earned $310.5 million on U.S. sales in 1981. Yet, it did not pay one cent in Federal corporate income taxes to our Government.

Now in 1981, Anheuser-Busch produced 54.5 million barrels of beer, leading all beer producers in the country with 30.3 percent of the market. I happen to have a beer producer in my district, G. Heileman Brewing Co., of La Crosse, Wis. In 1981, they produced 14 million barrels, considerably less than the leader, constituting only 7.8 percent of the total market. Yet, they did their part as American corporate citizens, paying some $13.6 million in Federal corporate income taxes.

Perhaps you have also heard that many times during the past year Heilemans sought Justice Department approval to merge with other beer companies in an attempt to compete with Anheuser-Busch on a fair and competitive manner. Every time they have been turned down.

Seems to me there is a need for more reform in our Government.●

CZECHOSLOVAKIA'S OBLIGATION

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. BARNES. Mr. Speaker, I am concerned that the Government of Czechoslovakia is not meeting its obligations. Under a 1968 agreement, the United States and Czechoslovakia agreed to make reciprocal payments of social security benefits to residents of the two countries. This means that both the United States and Czechoslovakia are supposed to pay benefits to individuals who are entitled, regardless of where they live.

However, during the last year, it has come to my attention that there are significant problems with this arrangement. There are a number of American citizens who are not receiving the benefits to which they are entitled from Czechoslovakia. In an effort to address this situation, when Congress reviewed the proposed settlement of claims between the United States and Czechoslovakia under the Czechoslovakian Claims Settlement Act of 1981, I proposed an amendment to require the Secretary of State to conduct a detailed assessment. In particular, the law mandated a review to assess the extent to which Czechoslovakia is complying with the spirit and provisions of the agreement, a comparison of benefits realized by residents of Czechoslovakia and the United States, and an evaluation of the basis of the differences in such benefits. In addition, the law required an assessment of the feasibility, likely effects and advisability of terminating the U.S. payments in response to inequities and incomparabilities of benefits payments.

The Secretary of State has recently submitted the report, and I believe that my colleagues will find the results of interest. In brief, the report concludes the following:

First, at present the United States pays about $480,000 per month to about 1,500 social security beneficiaries in Czechoslovakia, of whom about 400 are U.S. citizens. Czechoslovakia pays about $32,000 per month to about 200 U.S. citizen beneficiaries in the United States.

Second, Czechoslovakia probably pays few, if any, social security benefits to non-U.S. citizen residents of the United States.

Third, the number of U.S. citizen claimants against the Czechoslovak system appears to be substantially lower than the number of Czechoslovak resident claimants against the U.S. system.

Fourth, it is considerably more difficult to qualify for benefits under the Czechoslovak social security system than under the U.S. system.

Fifth, the benefits realized even by U.S. citizens who qualify under the Czechoslovak system are substantially smaller—on an individual basis—than those the United States pays to social security beneficiaries in Czechoslovakia.

In total, it means that while equality of payments between the two countries is not a realistic objective, the United States should seek better treatment of its citizens under the Czechoslovak system. There is also a strong case to be made for liberalization of certain Czechoslovak qualification criteria—as applied to U.S. claimants—particularly in view of the relative case with which the Czechoslovak claimants are able to qualify for benefits under the U.S. system.

I believe that the U.S. Government has a responsibility and a duty to pursue this matter promptly. The Department of State is now engaged in negotiations with Czechoslovakia to resolve this unfair situation. I hope that the results of these negotiations will correct the current problem and make additional legislative action unnecessary.

REPORT TO THE CONGRESS

In Compliance With Public Law 97-127, Section 11—On the 1968 Exchange of Letters Between the United States and Czechoslovakia on Reciprocal Payment of Social Security Benefits

Section 11 of the Czechoslovakian Claims Settlement Act of 1981 (PL 97-127, December 29, 1981) requires the Secretary of State to conduct a detailed review of the 1968 exchange of letters between the U.S. and Czechoslovakia on reciprocal payment of social security benefits and, in consultation with the Secretary of Health and Human Services, to report to the Congress on the results of the review, together with recommendations for achieving greater equity for residents of the two countries. The following report is submitted in compliance with Section 11.

I. THE 1968 EXCHANGE OF LETTERS

The complete texts of the letters exchanged in 1968 by the Czechoslovak Ambassador to the United States and the Assistant Secretary of State for European Affairs are at Attachment 1. In this exchange of letters the Czechoslovak Government affirmed that it would pay social security benefits "to otherwise qualified United States citizens and nationals without regard to their residence or its duration . . ." The U.S

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confirmed that the social insurance system of Czechoslovakia thereby met the requirements of Section 202(t)(2) of the Social Security Act, and that the U.S. could lawfully pay social security benefits to citizens of Czechoslovakia outside the U.S. Based on the assurances provided by the Czechoslovak Government, and following U.S. Government removal of Czechoslovakia from Treasury Department Circular 655 listing, the U.S. began making Social Security and other benefit payments in Czechoslovakia as soon as individual claims could be verified.

To reiterate, Czechoslovakia informed the U.S. Government through its letter that it would pay benefits to U.S. citizens living anywhere in the world who established entitlement to annuities from the Czechoslovak social security system. The U.S. acknowledged that, this being the case, the U.S. would no longer be barred from paying social security benefits to residents of Czechoslovakia. This understanding need not have been reduced to writing, nor was the legal effect of this understanding altered in any way by its having been spelled out in an exchange of letters. It was the Czechoslovak Government which requested a written exchange of letters on this subject; such an exchange, or other formal agreement, was not and is not a requirement of U.S. law for foreign social security systems to be found in compliance with Section 202(t)(2) of the Social Security Act.

Under Section 202(t)(2), the U.S. has been concerned only with ensuring payment of U.S. citizens who establish entitlement to benefits under foreign social security systems. The understanding expressed in the exchange of letters with Czechoslovakia is similar to those which the U.S. has reached—in various forms—with numerous other foreign countries to whose citizens the U.S. pays social security benefits outside the U.S.

There was no U.S. presumption in 1968, nor has there been to date, that the benefits each country would pay to residents of the other would be equal or nearly equal. Indeed, a "balance" of social security benefit payments is not required to satisfy the provisions of Section 202(t)(2) of the Social Security Act.

While it is not clear existing records precisely what motivated the U.S. and Czechoslovakia to address the social security issue when and in the manner they did, it would have been reasonable to assume in 1968—given the differences in the two systems which then existed—that U.S. benefits to residents of Czechoslovakia would be substantially greater than Czechoslovak benefits to residents of the U.S. (In this regard, it is important to note that Czechoslovakia made no commitment with regard to payment of benefits to non-U.S. citizens residents of the U.S., nor is Czechoslovakia required to do so to comply with Section 202(t)(2).)

Not only has there been no requirement that social security benefit payments "balance", there also has been no requirement or intent under U.S. law that qualification criteria under foreign social security systems be similar to those under the U.S. system. It was not (and is not) relevant to a Section 202(t)(2) determination that Czechoslovak qualification criteria were (and still are) far more restrictive than those of the United States.

It should be emphasized, however, that even in 1968 there was a clear U.S. presumption that all U.S. citizen claimants under the Czechoslovak social security system would receive fair and equitable consideration of their claims.

II. COMPARISON OF BENEFITS PAID SINCE 1968

Detailed charts showing amounts paid by the U.S. to residents of Czechoslovakia, and by Czechoslovakia to citizens of the U.S., are at Attachment 2.

U.S. social security benefits payments[1] to residents of Czechoslovakia in 1969 were approximately $85,000 per month. The monthly benefits total in 1981 was approximately $480,000. The current annual total, therefore, is about $6,000,000. The number of beneficiaries in Czechoslovakia, once over 2,000 (1973–74), is now about 1,500, of whom about 20–25 percent are U.S. citizens. While the number of beneficiaries in Czechoslovakia has declines steadily since 1974, the total annual amount paid by the U.S. to beneficiaries in Czechoslovakia has risen steadily since 1968. This apparent inconsistency is explained largely by the substantial increases individual U.S. social security beneficiaries have realized in recent years.

Czechoslovak social security benefits payments[2] to U.S. citizens in 1970 were approximately $1,520 per month. The monthly benefits total (paid to U.S. citizens) in 1981 was approximately $32,000. The current annual total, therefore, is about $381,000. The number of U.S. citizen beneficiaries of the Czechoslovak social security system, as low as 14 in 1970, has risen to a reported 198.

Czechoslovak authorities reportedly believe that, given U.S. and Czechoslovak emigration/immigration trends, the number of U.S. citizens qualifying under the Czechoslovak system is likely to continue to increase, with a concomitant increase in Czechoslovak social security payments to U.S. citizens in this country. (We doubt this would prove to be the case unless Czechoslovak eligibility criteria were eased.) At the same Czechoslovak authorities reportedly anticipate that in the coming years only a small number of persons who qualify under the U.S. social security system will take up residence in Czechoslovakia. In view of this projection, and the advanced age of many of the current U.S. social security beneficiaries in Czechoslovakia authorities reportedly believe that U.S. benefits payments to residents of Czechoslovakia are likely to decline in the coming years. In our view, whether U.S. payments to residents of Czechoslovakia decline in the foreseeable future is likely to depend most importantly on the rate of increase in individual benefits under the U.S. system.

III. EVALUATION OF "IMBALANCE" IN BENEFITS PAYMENTS

There are various reasons why the U.S. has consistently paid substantially more benefits to residents of Czechoslovakia than Czechoslovakia has paid to residents of the U.S.

(a) *Czechoslovakia probably pays few, if any, social security benefits to non-U.S. citizen residents of the U.S.*, although this is a matter on which the Czechoslovak Government has provided us no information. As noted earlier, the exchange of letters relates solely to U.S. and Czechoslovak social security payments to citizens of the other country. The Czechoslovak Government has never acknowledged or assumed an obligation, vis-a-vis the U.S. Government, with regard to payment of social security benefits to non-U.S. citizens residents in the U.S. The U.S. has had no authority to intercede on behalf of Czechoslovaks or other non-U.S. citizen residents of the U.S. who may have applied for and been denied Czechoslovak benefits.

(b) *The number of U.S. citizen claimants against the Czechoslovak system appears to be substantially lower than the number of Czechoslovak resident claimants against the U.S. system.* This comparison is difficult to make, however, since the number of Czechoslovak resident claimants who fail to qualify under the U.S. system is unknown, as is the number of U.S. citizen claimants who fail to qualify under the Czechoslovak system.

(c) *It is considerably more difficult to qualify for benefits under the Czechoslovak social security system than under the U.S. system.* As noted above, this disparity in qualification criteria was not relevant to the Section 202(t)(2) finding, for which the two governments exchanged letters in 1968. U.S. social security qualification criteria are quite liberal compared to those of Czechoslovakia. For example, to obtain benefits under the U.S. system, a person who reaches age 62 in 1982 needs to have accumulated only 31 quarters (7 and ¾ years) of qualifying work. To obtain benefits under the Czechoslovak system, by contrast, most persons must work a minimum of 25 years and must have worked within the 2 years preceding the normal age of entitlement to benefits, i.e., age 60. While most persons who work under the Czechoslovak system and reside in Czechoslovakia throughout their lives probably have little difficulty qualifying, persons who, for example, emigrate to the U.S. in their 50's, even after having worked 20–30 years, normally would not qualify.

(d) *The benefits realized even by U.S. citizens who qualify under the Czechoslovak system are substantially smaller—on an individual basis—than those the U.S. pays to social security beneficiaries in Czechoslovakia.* Difference in per capita income and wage levels contribute to differences in levels of benefits realized by beneficiaries under the two systems. We have seen no evidence that U.S. citizens who qualify for Czechoslovak benefits (and are paid in dollars) receive less per month or per annum than their counterparts living in Czechoslovakia (who are paid in crowns).

IV. EVALUATION OF CZECHOSLOVAK BENEFIT PAYMENTS PERFORMANCE

Section 11 of PL 97-127 requests a determination of the extent to which Czechoslovakia "is complying with the spirit and provisions of the letters". It is difficult to differentiate Czechoslovak "compliance" as between the "spirit" and the "provisions" of the letters.

Several facts seem indisputable:

(a) The Czechoslovak Government has been making payments to U.S. citizens—regardless of their place of residence—whom it has found qualified to receive benefits under the Czechoslovak social security system.

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[1] Statistics maintained by the Social Security Administration do not permit identification of U.S. social security benefits paid to Czechoslovak citizens living outside Czechoslovakia. It is reasonable to assume, however, that the amount of such U.S. benefits, if any, would be small.

[2] The U.S. does not maintain records on, and cannot verify, numbers of beneficiaries in the U.S. paid under the social security systems of foreign governments, or the amounts these beneficiaries receive. This information on Czechoslovak payments to U.S. citizens was provided by Czechoslovak eligibility criteria were eased.) At the same time Czechoslovak authorities in response to a U.S. request.

(b) There was no understanding between the two governments in 1968, nor has there been since then, that benefits paid by each government to residents of the other country were to be equal or nearly equal, or, indeed, that the "balance" of benefit payments was relevant to either party's meeting the commitment it expressed in the exchange of letters.

(c) There was no understanding between the two governments in 1968, nor has there been since then, that benefit payments qualification criteria under the two social security systems were to be similar, or nearly similar, or that differences in such criteria were relevant to either party's meeting the commitment it expressed in the exchange of letters.

(d) The Czechoslovak qualification criteria which most U.S. citizen claimants have failed to meet (and because of which their claims have been denied) have not changed since 1968.

The above considerations might suggest that Czechoslovakia has been complying with the commitments it expressed in the exchange of letters. However, Czechoslovakia appears to have been implementing its restrictive social security law—at least in the cases of U.S. citizen claimants—in a severely restrictive manner. The effect of Czechoslovakia's implementation of its law has been to make it virtually impossible for all but a relatively few U.S. citizen claimants to qualify. For example:

In the social security law of the U.S., as well as that of Czechoslovakia, there is room for some judgment in determining whether certain periods of work or other activity meet legal requirements to be counted in calculating whether a claimant has completed the requisite period of work under the system to qualify for benefits. In some cases, U.S. citizens who had nearly the requisite number of work years in Czechoslovakia nevertheless were denied benefits by a discretionary finding that all or part of normally credited non-work activity (e.g., wartime resistance, etc.) was not creditable. Some lacked only a very short period of creditable activity to qualify.

Czechoslovak authorities exercise similar discretion in determining whether a claimant's activities were covered activities within the requisite two years of the normal age of entitlement to benefits. Again, based on discretionary findings, Czechoslovak authorities have determined in some cases that U.S. citizens, who had acquired the requisite number of years of qualifying work under the Czechoslovak system, nonetheless failed to qualify for benefits because their work or other normally creditable activity during the two-year period before age 60 was not recognized as creditable.

A review of specific cases suggests a strong predisposition by Czechoslovak authorities to reach a negative decision on claims by U.S. citizens where any defensibly credible grounds therefor can be found. One case has been brought to our attention involving the extremely rare occurrence of a Czechoslovak court's having overturned the denial by Czechoslovak social security officials of a U.S. citizen's claim. Rather than to comply with the ruling and pay the claim, Czechoslovak social security officials, after prolonged delay, resorted to extraordinary procedures to appeal the court's ruling. The grounds of the appeal involved, again, a discretionary determination about a period of qualifying activity. The social security authorities were sustained, as anticipated, by a higher court.

In conclusion, the Czechoslovak Government expressed a commitment in the 1968 exchange of letters to pay U.S. citizens who "qualified" under the Czechoslovak system. They have done so. However, as a result of Czechoslovak law and/or practice, the number of U.S. claimants who "qualify" obviously has been kept to a minimum.

V. HOW TO OBTAIN BETTER TREATMENT FOR U.S. CLAIMANTS

Section 11 refers to achieving "greater comparability and equity of benefits for the residents of the two countries". We know of no precedent in the field of social security for seeking to obtain equality or near equality of social security payments between the U.S. and a foreign country. There will continue to be different and constantly varying numbers of claimants in the U.S. and Czechoslovakia against the social security system of the other country, and there will continue to be substantial differences in levels of individual benefits paid by the two systems.

While we believe that equality of payments between the two countries is not a realistic objective, we also believe that the U.S. should seek better treatment for its citizens under the Czechoslovak system. While there is no need for the two social security systems to be comparable in every respect, there is a strong case to be made for a liberalization of certain Czechoslovak qualification criteria—as applied to U.S. claimants—particularly in view of the relative ease with which Czechoslovak claimants are able to qualify for benefits under the U.S. system.

DIPLOMATIC OPTION

The U.S. has proposed negotiations with Czechoslovakia to resolve this issue. We have informed the Czechoslovak Government:

of the seriousness of the Congress' concern over the treatment afforded numerous U.S. citizen claimants under the Czechoslovak social security system; and

that we seek immediate negotiations aimed at:

(1) amending or supplementing the 1968 exchange of letters so as to modify, in law and/or in practice, certain Czechoslovak pension requirements which have had the effect of denying all but a relatively few claims by U.S. citizens; and

(2) satisfying existing claims which appear to have been dealt with in an inequitable manner.

We shall consult closely with the Congress as we seek to resolve these issues expeditiously through diplomatic channels.

Legislative options

Section 11 raises the possibility of a legislative approach to ensuring greater "comparability and equity of benefits for the residents of the two countries." Section 11 also raises the possibility of terminating U.S. benefit payments to residents of Czechoslovakia in response to existing "inequities and incomparabilities". We believe that resort to such a legislative approach would be premature at this time in view of the proposed negotiations. However, we provide the following information in response to the request in Section 11 that we address the "feasibility, likely effects, and advisability" of terminating benefits to residents of Czechoslovakia:

Congress obviously has the authority to legislate a termination of benefits to all residents of Czechoslovakia, and such legislation could be implemented.

The effects of a termination of benefits are difficult to calculate. The effects of a U.S. cutoff on beneficiaries in Czechoslovakia obviously would depend on the alternate sources of income available to each, but one might presume that the impact on the standard of living of most of these beneficiaries would be severe. One "likely effect" of a U.S. termination of benefits would be a cutoff of Czechoslovak benefits to those U.S. citizens who now receive them. Czechoslovakia might, in addition, seek to respond in other areas, but discussion of any Czechoslovak response (or U.S. counter-response) beyond social security benefits would be highly speculative.

In view of the proposed negotiations between the U.S. and Czechoslovakia to resolve this issue, we do not believe it is now advisable to exercise the legislative option of terminating U.S. social security benefits to residents of Czechoslovakia.

Legislative options may merit further consideration should a diplomatic effort prove unsuccessful in resolving this issue within a reasonable period of time. In that context, we would be prepared to discuss how we believe such legislation might best be drafted.●

LOVE YOUR FARM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to share with my colleagues in the House the reprint of an article written by Dr. Clarence Poe, a respected journalist and former editor in chief of the Progressive Farmer magazine. The name of this article is "Love Your Farm."

I want to share with all of the Congress this article because I think it captures magnificently the tradition and the rationale for the love of farming that so many of us in the agriculture profession feel. It captures so well the essence of the farmer's role as a steward of the Earth and his responsibility to this Earth.

More important, it reminds all of us—farmers and manufacturers, urban and rural, young and old, rich and poor—of our own individual obligation to the natural resources that our land has been blessed with.

The article follows:

LOVE YOUR FARM

Love your farm. Every farmer should not only love his work as the artist loves his work, but in this spirit, too, every farmer should love his farm itself as he would love a favorite horse or dog.

He should know every rod of the ground, should know just what each acre is best adapted to, should feel a joy and pride in having every hill and valley look its best, and he should be as much ashamed to have a field scarred with gullies as he would to have a beautiful colt marked with lashes; as much ashamed to have a piece of ground worn out from ill treatment as to have a horst gaunt and bony from neglect; as much hurt from seeing his acres sick from wretch-

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ed management as he would be to see his cows half-starving from the same cause.

Love your ground—that piece of God's creation which you hold in fee simple. Fatten its poorer parts as carefully as you would an ailing collie. Heal the washed, torn places in the hillsides as you would the barb-scars on your pony. Feed with legumes and soiling crops and fertilizers the barren and gullied patch that needs special attention; nurse it back to life and beauty and fruitfulness.

Make a meadow of the bottom that is inclined to wash; watch it and care for it until the kindly root-masses heal every gaping wound, and in one unbroken surface the "tides of grass break into foam of flowers" upon the outer edges.

Don't forget even the forest lands. See that every acre of woodland has enough trees on it to make it profitable: "a good stand" of the timber crop as well as of every other crop. Have an eye to the beautiful in laying off the cleared fields—a tree here and there, but no wretched beggar's-coat mixture of little patches and little rents; rather broad fields fully tended and of as nearly uniform fertility as possible, making of your growing crops, as it were, a beautiful garment, whole and unbroken, to clothe the fruitful acres God has given you to keep and tend.

And so again we say, love your farm. Make it a place of beauty, a place of joyous fruitfulness, an example for your neighbors, a heritage for your children! Make improvements on it that will last beyond your day.

Make an ample yard about it with all the old-fashioned flowers that your grandmother knew; set a great orchard near it, bearing many manner of fruits, lay off roads and walks leading to it and keep them up; plant hedges along the approaches, and flowering bulbs and shrubs—crape myrtle and spirea and privet and roses—so that your grandchildren will someday speak of their grandsire, who cared enough for the beautiful and loved the farm well enough to leave for them this abiding glory of tree and shrub and flower.

Name the farm, too; treasure up its history; preserve the traditions of all the romance and adventure and humor and pathos that are in any way connected with it; and if some of the young folks must leave it, let them look back to it with happy memories of beauty and worthy ideals and of well ordered industry.

Love your farm. If you cannot be proud of it now, begin today to make it a thing you can be proud of.

Much dignity has come to you in that you are owner and caretaker for a part of God's footstool; show yourself worthy of that dignity. Watch earnestly over every acre. Let no day go by that you do not add something of comeliness and potential fertility to its fields.

And finally, leave some spot beneath the shade of some giant tree where at last, "like as a shock of corn cometh in his season," you can lay down your weary body, leaving the world a little better for your having lived in it, and earning the approval of the Great Father (Who made the care of the fields and gardens the first task given man): "Well done thou good and faithful servant; enter into the joy of Thy Lord."—Clarence Poe.●

REFUGEE ASSISTANCE AMENDMENTS OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. MAZZOLI. Mr. Speaker, the Subcommittee on Immigration, Refugees, and International Law, which I have had the privilege to chair since the start of this Congress, has been very diligent in its efforts to examine the United States refugee program. This careful oversight has been carried on in addition to the tremendous workload attendant to the long-overdue reform of our Nation's immigration and naturalization laws.

I want to commend my six able subcommittee colleagues—Sam Hall, Barney Frank, George Crockett, Ham Fish, Dan Lungren, and Bill McCollum—for the devoted and high caliber work they have given to the complex and sensitive refugee issue. My colleagues on the subcommittee have approached refugee issues with compassion such issues deserve but also with the hard-headedness befitting any program costing several billions of tax dollars.

One of our concerns from the start has been with the health screening and subsequent health treatment of refugees admitted to this country. My subcommittee took a close look at refugee health-related matters in August 1981 when we traveled through the refugee camps in Hong Kong and Thailand.

Because of our concerns, I requested the General Accounting Office (GAO) to do a study on the overseas medical examinations and treatment administered to Indochinese refugees about to enter the United States for resettlement. The study, entitled "Improved Overseas Medical Examinations and Treatment Can Reduce Serious Diseases in Indochinese Refugees Entering the United States," was issued on August 5, 1982. GAO found that the incidence of disease among Indochinese refugees is a costly public health problem. In a careful and objective manner, the GAO investigators established that State and local governments sustain today—and will face in the future—severe public health and financial problem stemming from the presence of infectious and communicable diseases among such refugees.

GAO also reached the conclusion that overseas medical examinations and treatment could be substantially improved and that this would be a less expensive, more effective way to treat the refugee population than waiting to screen and treat them after they enter.

The GAO concludes that treatment abroad of ill and diseased refugees lessen the public health hazard here in the United States as compared to screening and treatment here.

The GAO report strongly underscores two provisions which my subcommittee included in H.R. 5879, the Refugee Assistance Amendments of 1982, the bill which this House passed overwhelmingly on June 22, 1982.

The first provision is an authorization of $14 million to defray costs to State and local health departments for medical screening and treatment of resettled refugees. It is not appropriate, in my judgment, for State and local taxpayers to bear the costs of initial health screening and treatment of refugees. This is a Federal responsibility.

The second important provision the subcommittee placed in the measure is an instruction to the Department of Health and Human Services, the State Department, and to the Justice Department—through the Immigration and Naturalization Service—to improve and tighten today's rather loose system of overseas medical screening and treatment of refugees headed for the United States.

I am extremely pleased that the House supported my subcommittee in its efforts to improve our important and needed refugee program.

My subcommittee will continue to examine the refugee program in the Next Congress. We will continue to pay close attention to the health questions which have such broad potential impact on the American people.

For the benefit of my colleagues, I am including the executive summary of the GAO report and some of its recommendations at the conclusion of these remarks.

Improved Overseas Medical Examinations and Treatment Can Reduce Serious Diseases in Indochinese Refugees Entering the United States

DIGEST

From April 1975 through February 1982, about 1.4 million Indochinese refugees fled their homelands, and about 580,000 (40 percent) resettled in the United States. The United States has set an admission level of 100,000 for fiscal year 1982.

Before persons can be admitted to the United States, they must be eligible under the terms of the Immigration and Nationality Act. The act denies persons, including refugees, the right to enter this country if they have certain mental or physical conditions, including several specified contagious diseases (active tuberculosis, infectious leprosy, and certain venereal diseases).

Because refugees had difficulty meeting the act's medical eligibility requirements, many were being detained in overseas camps. To expedite their movement, the medical requirements were relaxed in April 1980, and refugees were routinely granted medical waivers. About 21,000 refugees diagnosed as having certain health problems, such as active (but noninfectious) tuberculosis, were granted medical waivers and permitted to come to the United States. The Surgeon General concluded that this would not pose a problem to the health of the American public because refugees were to receive follow-on care by local health departments in the United States.

At the request of the Chairman, Subcommittee on Immigration, Refugees and International Law, House Committee on the Judiciary, GAO evaluated the medical procedures used to screen Indochinese refugees overseas and followup procedures in the United States to see if they were adequate to protect the American public health.

INCIDENCE OF DISEASE IN INDOCHINESE REFUGEES: A COSTLY PUBLIC HEALTH PROBLEM

The incidence of several serious and contagious diseases in Indochinese refugees far exceeds that found in the U.S. population. Among these diseases are active tuberculosis, serious parasitic diseases, hepatitis B, malaria, and leprosy.

For example, in 1980, the incidence of tuberculosis was 12 cases per 100,000 in the United States but 407 cases per 100,000 in Indochinese refugees. Refugee children had particularly high rates of tuberculosis.

Because these diseases could spread to others, some State and local health officials believe a potential public health problem exists. Although the Department of Health and Human Services (HHS) has maintained that there is no public health problem, it has encouraged health departments to make special efforts to monitor and treat refugees.

The Federal Government provided about $173 million in fiscal year 1981 and will provide about $217 million in 1982 for medical services to refugees in the United States—about 77 percent of whom are Indochinese.

Several State and local health departments said that refugees pose more of a financial burden than a public health problem and that their diseases could be controlled provided adequate funding was provided. The health departments also said that providing services to Indochinese refugees has proven costly and hindered their efforts to provide services to the general population.

IMPROVED OVERSEAS MEDICAL EXAMINATIONS AND TREATMENT NEEDED

To determine refugees' medical conditions, physicians of the Intergovernmental Committee for Migration conduct medical examinations overseas using Public Health Service criteria. However, these medical examinations were—

Cursory and not in conformance with medical procedures commonly used in the United States or by other countries admitting refugees and

Inadequate to detect and treat certain diseases and health conditions.

As a result, serious contagious diseases, as well as other medical problems, went undetected and untreated overseas. These problems became difficult to deal with once refugees were dispersed into the U.S. population. Moreover, Immigration and Naturalization Service authorities made their decisions to admit refugees before medical examinations were performed; therefore, the examinations' results were not considered in the decisionmaking process.

While local health departments had succeeded in making initial contact with most refugees, a number of barriers (such as refugees' movement within the United States) hindered their ability to provide follow-on care.

GAO believes that the overseas medical examination and treatment procedures for refugees should be improved to preclude many of the difficulties confronting U.S. health departments in dealing with refugees' health problems. These improvements would result in granting medical waivers only for compelling reasons in contrast to the current procedure of routinely granting such waivers.

GAO estimates that adequate overseas medical examinations for an expected 100,000 refugees could be accomplished for about $5.8 million in fiscal year 1982. This would represent a $3.1 million increase over the $2.7 million now expected to be spent on overseas medical examinations—a modest increase in cost compared to the $217 million the United States will spend to take care of refugees' medical problems in 1982.

GAO also believes that the results of the medical examinations should be made available to immigration officers for use in making final determinations concerning whether refugees are eligible for admission into the United States.

RECOMMENDATIONS

GAO is making several recommendations to the Secretaries of State and HHS to improve the Government's overseas capability for detecting and treating refugees' health problems and minimize the potential of communicable diseases being transmitted to the U.S. population.

Also, several recommendations are being made to the Attorney General to (1) assure that refugees are not admitted to this country until the medical requirements of the Immigration and Nationality Act are met and (2) grant refugee medical waivers only when there are compelling reasons to do so.

AGENCY COMMENTS AND GAO'S EVALUATION

Federal, State, and local agencies made numerous comments on the issues and recommendations discussed in GAO's report. HHS and the State Department took action to improve the usefulness of refugees' medical records and medical examinations to both the Immigration and Naturalization Service and health departments. However, HHS—the lead agency responsible for setting health admissions criteria for Indochinese refugees—generally disagreed with GAO's recommendations to improve the medical procedures used in Southeast Asia.

HHS said that GAO's report generally overstated the public health risk posed by diseases in refugees. HHS cited several factors, such as sanitary conditions and medical care in the United States, which it believed rendered such diseases to be personal health problems and of minimal public health importance. HHS believed the American public's health was adequately protected by the current medical system.

Many State and local health departments said that the overseas medical process should be improved but saw some difficulties in doing this. Some believed the overseas medical work would be unreliable. Some said that the chronic nature of refugees' diseases would necessitate reexamining them after arrival in the United States.

The seriousness of refugees' diseases and the protection afforded to the American public is a matter of judgment; however, GAO believes that it would be more prudent to prevent the introduction of diseases into the United States rather than attempt to deal with them afterward. Therefore, GAO believes that the overseas medical examination and treatment procedures should be improved.

In May 1982, the House Committee on the Judiciary, in a report on pending refugee assistance legislation (H.R. 5879), authorized $14 million in fiscal year 1983 to defray costs to health departments for medical screening and treatment of refugees. The Committee also instructed HHS, State, and Justice to improve the overseas medical processing of refugees. The Committee's dual approach of increasing medical care to refugees both overseas and in the United States should help improve the health of refugees and protect the American public.

RECOMMENDATIONS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES

We recommend that the Secretary of HHS arrange with the Secretary of State to change the procedures for giving overseas medical examinations to Indochinese refugees destined for the United States and request that a medical history and examination for each refugee be performed by a physician using medical procedures commonly used in the United States. This examination should include:

An examination for diseases commonly found in Southeast Asia—tuberculosis, leprosy, parasites, hepatitis B, and malaria. The examination for tuberculosis should include analyses of sputum cultures to further verify the presence or absence of the disease.

An evaluation for mental illness.

An examination of body systems to help the physician determine if the refugee is suffering from a health problem which may affect his or her ability to earn a living in the United States.

Because of the high incidence of tuberculosis in refugees under age 15 and the significant number of cases undetected overseas in this group, we recommend that the Secretary require that all refugees under age 15 be tested for tuberculosis.

We also recommend that treatment be initiated and completed in Southeast Asia for refugees with active tuberculosis, malaria, amebiasis, or giardiasis before they are cleared to enter the United States. In the case of leprosy, the treatment should be sufficient to render the patient noninfectious.

In addition, we recommend that the Secretary transmit to the State or local health department at the refugee's destination all pertinent medical information available on the refugee.

RECOMMENDATIONS TO THE SECRETARIES OF STATE AND HEALTH AND HUMAN SERVICES

We recommend that the Secretaries ensure that medical records developed and maintained while refugees in overseas camps are under the care of the U.N. High Commissioner for Refugees are transferred to the overseas physicians before they perform the medical admissions examinations.

We also recommend that the Secretaries require that the results of overseas medical examinations be provided to INS officials for use in INS' final determinations of eligibility of refugees for entry into the United States.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

We recommend that the Attorney General:

Not admit refugees into the United States until they have received a thorough medical examination to diagnose health conditions specified in the Immigration and Nationality Act.

Require that the results of medical examinations be used in making final determinations concerning the eligibility of refugees for admission.

Not admit refugees with active tuberculosis, infectious leprosy, amebiasis, giardiasis, and malaria until treatment for these dis-

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eases has been completed, unless compelling reasons exist to justify a medical waiver.●

THE HIDDEN EFFECTS OF UNEMPLOYMENT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROYBAL. Mr. Speaker, yesterday, our Committee on Appropriations reported out House Joint Resolution 562, the urgent jobs supplemental bill. The resolution specifies that 85 percent of the funds will provide temporary employment to thousands of jobless to work on essential public works and public health and safety activities in communities experiencing high unemployment. This legislation is badly needed given the impact of this current recession on unemployment. The unemployment rate has climbed from 7.2 percent in July 1981 to 9.8 percent in July 1982, which means that almost 10.8 million persons are currently jobless. The Congressional Budget Office estimates that each 1-percent increase in unemployment adds $25–30 billion to the Federal deficit because of lost tax revenues and increased costs for unemployment compensation, welfare payments, and other forms of public assistance.

We have heard countless stories about the hardships endured by the jobless, the hopelessness facing the unskilled, the obstacles encountered by minority jobseekers, the dashed dreams of those who fled to another region of the country in search of employment. But do we fully understand the depth of frustration felt by the jobless, of the emotions with which he or she is forced to cope?

According to the National Institute of Mental Health, a series of studies underway since 1977 have found that declines in the work force are significantly related to reported child abuse. Other studies have demonstrated that increases in unemployment are usually followed by increases in the rates of suicide and other health problems. As early as 1976, a study presented to the Joint Economic Committee contained some shocking correlations between unemployment and health problems. When enemployment rises 1 percent, the study indicated, 4.3 percent more men and 2.3 percent more women are admitted to State mental hospitals for the first time; 4.1 percent more people commit suicide; 5.7 percent more people are murdered; 4 percent more wind up in State prisons; and over a 6-year period, 1.9 percent more people die from heart disease, cirrhosis of the liver and other stress-related chronic ailments. The study estimated that the economic slump of 1970, with its 1.4-percent rise in unemployment, was linked to 51,570 additional deaths by 1975 and cost our society nearly $7 billion in lost income due to illness and mortality, and in added States prison and mental hospital outlays.

These problems will exist even after our economy begins to recover, a terrible price to society. Lives are being thrown into turmoil, more each day, and I am very concerned that we in Congress are not responding appropriately.

Apparently lured by the administration's promises of prosperity, the Congress has given President Reagan everything he has asked for. And what have the working men and women received in return? Certainly not the 13 million new jobs the President promised his program would create. Nor the period of economic growth his tax policies were supposed to stimulate. Instead, we are faced with 3 million additional unemployed workers, 400,000 more discouraged workers who have given up looking for jobs, and the worst rate of business failures since 1933. In short, we are experiencing the worst recession in 40 years.

The facts clearly show that for many of the 10½ million unemployed persons in this country, as well as their family and friends, Reaganomics has created an environment of deep frustration and lost hope. For the sake of this country, for the sake of all those faceless statistics, it is time we adopt a new course based on full employment. I urge all of you to join with me in support of such efforts.●

THE DAY THE BUBBLE BURSTS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. PAUL. Mr. Speaker, Time recently quoted an officer of the Chase Manhattan Bank as saying that: "If Latin America goes into default, it will bring down all the major banks in this country."

William Quirk argues the present insolvency of the Nation's second largest bank, Citibank, and the pending insolvency of still others in "Busted Flat on Wall Street" from The New Republic. His analysis of the situation is extremely important, and I hope my colleagues will attend to it.

BUSTED FLAT ON WALL STREET

(By William J. Quirk)

The mattress doesn't pay interest, but it's probably safer.

Is Citibank bust? Do its liabilities exceed the value of its assets? It sure looks that way.

The specter of major bank failures was first raised by the banks themselves when they were pressuring the Reagan Administration for the $400-million midnight bailout of the Polish grain loans. The banks persuaded the Administration not to declare Poland in default because it would set off other default declarations, and, as a New York Times account put it, "no one was sure where it might end." Presidential counselor Ed Meese explained: "If we should require these banks to exercise the default clause in the contracts, this could plunge a number of banks, particularly in Europe, into bankruptcy."

The Meese explanation conjures up a picture of Western banks swooping and exploding like alien creatures in a game of Space Invaders. The savings and loans and savings banks are already popping spectacularly: more than four hundred have been merged out of existence in the last eighteen months. The commercial banks are now failing at the highest rate since 1942. The chairman of the Federal Deposit Insurance Corporation, William Isaac, explains why: "A combination of the recession and a prolonged period of high interest rates are finally having an effect on the ability of borrowers to repay loans." When the Penn Square Bank of Oklahoma City went under, it took $190 million of uninsured deposits with it. For the first time since the Depression a large number of uninsured depositors will take a loss. It's beginning to look a bit like 1933, when Senator Carter Class of Virginia, author of the Federal Reserve Act, described the banks as falling "like the leaves in Vallambrosa."

The chairman of Citibank, Walter Wriston, has certainly shown the shortness of temper of someone who believes himself put upon. Early this year The New York Times got hold of a ton of leaked documents and ran a front-page story on the 3-to-1 vote of the Securities and Exchange Commission to kill the recommendation of its staff that enforcement proceedings be brought against Citibank. The issue was whether Citibank had cooked the books to shift foriegn profits from foggy London to the sunny Cayman Islands, a favorite tax haven. "Thousands of false documents," said the staff reports, were used to make things appear other than they were. There was also no question that Citibank had fired an employee who reported the fancy bookwork to the SEC.

Was this anything for Chairman Wriston to get excited about? The SEC staff should not be that big an irritant to the head of New York's largest bank, the second largest in the United States, with $119 billion of assets and fifty-eight thousand employees. Yet Mr. Wriston wrote the Times on February 23:

> Gentlemen:
>
> Joseph McCarthy in his "best days" could not improve on your caption under my picture in your paper. Finely crafted by some libel lawyer, it quotes some unnamed source that I "authorized disguised foreign exchange transactions."
>
> I don't know what a disguised FX [the abbreviation is apparently Wriston's] transaction is, but if you imply that I ever authorized any illegal transaction, you are wrong. My memory is that the Times thought McCarty's methods were reprehensible, but now you have apparently adopted these as a model. It is a shame to see a great newspaper stoop to these methods.

The Wriston letter is notable for its clear and direct use of language. Normally, bankers use euphemisms as reflexively as preachers use analogies. A poor country is a "less developed country," and that gets abbreviated to "LDC"; a default is a "rescheduling"; a second default is a "re-rescheduling"; and "fund availability risk" is the possibility that tomorrow you won't have any money because the Arabs have pulled out their deposits. A sour loan is a "nonperforming loan," which gives the impression of a James Thurber seal who, when a ball is tossed at him, just lies there and looks quizically at it.

Last fall, in what was to become one of the best-kept secrets on Wall Street, Standard & Poor's dropped the AA rating of Citibank's parent, Citicorp, to AAA. The rating agency cited "reduced profitability levels" during the past two years. Specifically, it noted a management strategy to offer fixed-rate consumer loans and mortgages, installment loans, and credit cards in the hope of funding the loans with low-interest deposits. Citicorp has over $22 billion of such loans outstanding. Instead of profiting, Citicorp has had to cover by borrowing funds at very high interest rates, causing what the industry calls a negative spread.

Moody's followed suit on Citicorp in January, and in March issued an extensive report dropping the rating on nine major bank holding companies, including Bank of America, Chase Manhattan, Chemical New York, Manufacturers Hanover, Mellon National, and Continental Illinois. In a roaring understatement, the bank analyst John Ward observed: "Everyone's concerned about the banks."

Some of Citibank's business is as profitable as the dreams of greed could imagine. For example, it holds $2 billion in savings accounts. It pays the hapless depositors 5 percent and relends their money at an average rate of 17.8 percent. All by itself, this scam produced half the bank's total profit for 1981: $260 million out of $530 million. This source of easy money will diminish as time goes by, since, as the S&Ls have discovered, the old low-interest savings-account pigeons are getting smarter and flying to money market funds. Even better than the savings accounts are domestic demand deposits, $7.5 billion, on which Citicorp pays zero percent and and relends at 17.8. There's a flight problem here, too—checking accounts and other demand deposits were $10 billion a year earlier, a drop of $2.5 billion in one year. In 1960 half the funds of U.S. commerical banks came from demand deposits; in 1980 the figure was 17 percent.

Even so, it shouldn't be too hard to make money under these circumstances. As Walter Bagehot pointed out in his book Lombard Street, published in 1873, banking "ought to be simple; if it is hard, it is wrong." Certainly that was the view of William Rockefeller, brother of John D. and a co-founder of Standard Oil, who was a major figure in the history of Citibank.

Lately, however, Citibank has fostered a reputation for brilliant complexity. Its managers have been acclaimed as geniuses. The 1960s were smashing. In 1961 Wriston invented the Certificate of Deposit, a deposit with a time limit; in 1968 came Citicorp, the first-ever bank holding company, which permitted diversification and added more borrowing power. Both of these innovations would later cause trouble, but at the time seemed brilliant. Citibank staffed its branches aboard with, as Martin Mayer writes, the "same hard-driving, bright, vain people" who ran the bank at home. But the 1970s brought hard times: the foreign loans became a bad joke. The bank's foreign operations contributed two-thirds of total earnings, but it was increasingly clear that the principal of the loans would never be paid. Domestically, the bank's main strategy—increasing consumer business—had proved, as Standard & Poor's said, "more successful in generating consumer assets [loans] than consumer liabilities [deposits]." The effort at consumer business had also led to some spectaculars; in 1976 Citibank blanketed the country with twenty-six million unsolicited blue-and-white plastic credit cards. Naturally, people with credit problems accepted the offer. Consumer operations cost the bank $225 million in 1980 and 1981.

By 1981 earnings were hard to come by. Moody's reported that the bank was repurchasing debt—a "new and visible method of maximizing reported profits." The phony profit comes from retiring old low-interest debt (say an 8 percent note with a market value about half of its face value) and issuing a new obligation at market rates. The reduction in outstanding liabilities is technically a gain, although you are obviously no richer after than before. In 1981 Citicorp issued two million shares of common stock in exchange for $88-million face value of Citicorp notes paying 8.5 percent and due in 2007. The notes were held by First Boston and Goldman Sachs. At current interest rates the $88 million of notes were worth only $47 million, so Citicorp could report a $41 million gain. These phantom profits, together with a $61 million gain from the sale of real estate, accounted for almost 25 percent of its bank's total profit.

We have all been told it was our patriotic duty to pay absurd interest rates, formerly the province of the tommy-gun and cement-booties set, because it was part of the fight against inflation. Many were confused when the rates stayed up as inflation went down. Milton Friedman, who was recently questioned about this, said: "It's simple, the banks are getting even." All those years of listening to fixed-interest debtors brag around the barbecue about how the bank had financed their beach house and how they were repaying it with dollars worth 33 cents had taken a toll. In any case, with Citibank, the need for stratospheric interest is clear. In 1981, charging an average interest rate of 17.8 percent, the bank earned $13 billion on total loans of $72 billion. Since each 1 percent of interest was worth $720 million, a 1 percent drop in the rate—all the way down to 16.8 percent—would have reduced earnings by $720 million. Instead of a gain for the year, a reported $531 million, the bank would have had to report a large loss, $189 million.

Citicorp's 1981 annual report lists $1.1 billion of "nonperforming loans," an increase of 30 percent over 1980. Even though such problem loans do not pay interest, the bank leaves them on the balance sheet as assets, taking the position that they will ultimately be good. The bank won't specify the companies or industries involved, but the airlines, International Harvester, the S&Ls, and Poland are likely. If the loans were written off, as they should be, it would wipe out Citibank's earning for the next two years.

In the summer of 1980, Citibank laid down a big bet that interest rates would go down—and lost. Barron's reports that Don Howard, a Citibank executive vice president, brought $3 billion of intermediate-term government bonds paying 11 percent. He paid for the purchase with the shortest of short-term money—what bankers call "federal funds." These have nothing to do with government spending; they're the funds that banks lend to each other overnight, in order to meet federal reserve requirements. The price changes daily. At one point Citibank was paying 21 percent to fund an investment paying 11 percent. Even geniuses falter at times.

Citibank is so short of cash (what the bankers call liquidity) that it must borrow $5 billion of "federal funds" from other banks each night so it can open its doors the next morning. Citicorp owes $22.4 billion of short-term debt, "federal funds," and commercial paper due within a year. In 1981 it paid an average of 19 percent interest on these funds.

Citibank has done so badly in the banking business that it is now trying to become a fee collector. In the future it expects to live on fee income and service charges rather than on its interest revenue. Savings accounts, in addition to receiving their generous 5 percent interest, are now charged $1.50 per month if the balance is under $500. In 1981, the bank's fee income was 39 percent of net interest revenue. Fees are the coming thing in banking. One bank customer opened an account with $500 and left it undisturbed for a month. His statemeent showed a charge of $8.32, which was designated "EOM." The small print explained that EOM meant End-of-the-Month Charge, whatever that might be.

The market's judgment on Citicorp's troubles has been harsh. In 1973 Citicorp stock sold for $51.50—twenty-five times earnings. Today it sells for around $26—five times earnings. The bank is earning less, when adjusted for inflation, than it did five years ago. In the last few years, earnings have dropped severely: 1979, $614 million; 1980, $486 million; 1981, $465 million. This is not a lot to show for $119 billion of assets. Of course, $119 billion is a bit of an exaggeration; Citicorp holds a lot of fixed-interest mortgages and bonds, which are worth substantially less than their face value. If the assets were "marked to market," the bank would be instantly insolvent.

But all these gloomy facts are just prelude. The real trouble was that the geniuses didn't believe Lord Palmerston. In 1848 Palmerston said that, historically, the British government had thought it "undesirable that British subjects should invest their capital in loans to foreign governments instead of employing it on profitable undertaking at home." Her Majesty's government, "with a view to discouraging hazardous loans to foreign governments who may be unable or unwilling to pay the stipulated interest thereupon," had therefore abstained from taking up as international questions the complaints of British subjects against foreign governments that failed to pay. Finally, said Palmerston, in words designed to ruin Walter Wriston's next cocktail hour, the British Government has considered that the losses of imprudent men who have placed mistaken confidence in the good faith of foreign governments would prove a salutary warning to others, and would prevent any other foreign loans being raised in Great Britain, except by Governments of known good faith and ascertained solvency.

For governments of "known good faith," read $80 billion of loans to Communist bloc countries. For governments of "ascertained solvency," read $200 billion of commercial bank loans to poor countries such as Zaire, Zambia, and Malawi, sometimes referred to as non-oil-exporting developing countries. The main thing these countries have been developing lately is debt. When loans to them by international agencies and western governments are counted in, they owe a stunning $500 billion. Since they have run trade deficits for as long as anyone can remember, and will for as long as anyone can foresee, the prospects for repayment are nil. U.S. banks have loaned $83 billion to these poor countries, and are contractually committed to loan another $25 billion. Neither the Federal Reserve Board nor Citibank will disclose its share of these disastrous loans already made. A reasonable guess is $8 billion to $10 billion—which is about 200 percent of the bank's reserves, or enough to wipe out the shareholders twice over. Citibank's stated capital is $4.9 billion. U.S. banks have loaned $7 billion to the Communist countries, of which Citibank's share is probably around $1 billion.

The commercial banks accelerated their lending to the LDCs even after it was clear that repayment was impossible. Some time ago ("The Bankers' Dilemma," TNR, January 27, 1979) I wrote: "The problem seems to be that the American banks have loaned $37.7 billion which will probably not be repaid. Default on this much money would bust the banks which in turn would bust the country which in turn would bust the world." Undismayed, in 1980 and 1981, Western commercial banks loaned the LDCs a new $90 billion (over and above net of "refinancing" repayments). Now the banks say they are getting worried.

Mexico's public- and private-sector foreign debt is $75 billion. It says it needs at least $25 billion more this year, while running a trade deficit of $4 billion. The bankers bet on the oil bubble to pull Mexico out of centuries of poverty. Many Americans will be surprised to learn that Mexico has a line of credit with Mr. Volcker's Federal Reserve Bank. In April Mexico was so hard up for cash that it had to draw down $600 million of its $700-million line. About 40 percent of its people are under 16 years of age; when they grow up they may understandably, decide they are not responsible for their parents' debts.

Citibank is reported to have over 4 percent of its total assets in Brasil and earns 15 percent of its worldwide profit there; Brasil owes $63 billion of long-term debt and needs at least $14 billion more this year. Argentina owes $32 billion, which you could buy up cheap. Argentina had to reschedule its bank debt in 1976; at the time it only owed $2 billion. The U.S. banks probably have a greater stake in these countries than their own people do. Venezuela, previously considered a blue-chip credit, has $14 billion due within a year, and is having trouble coming to terms with the bankers.

At no point has Citibank claimed that its loans to Communists and dictators were intended to support U.S. policy or add to the measure of freedom in the world. Quite the contrary. The head of the bank's international division, Thomas C. Theobald, will go down in history for this statement: "Who knows which political system works? The only test we care about is: can they pay their bills?"

On July 12 the world's central bankers met at the Bank for International Settlement in Basel, Switzerland, to assess the degree to which international lending poses a threat to the world's banking system. A group of the central bankers, identified by the Financial Times as "the pessimists," estimated "that more than $200 billion of outstanding international debt is of doubtful or potentially dubious quality." Leading the doubtful list is the $80 billion of Communist loans, but there is also "growing concern" about the $210 billion Latin America owes. Most of the central bankers concede that high interest and recession are squeezing the poor countries. Others would not say so publicly, the F.T. goes on, "for fear of undermining the already fragile confidence of the marketplace."

The old "recycling" scam is coming to a bitter end. From 1974 on, the banks borrowed from oil-soaked Arabs, loaned to LDCs, and lived comfortably on the spread. At times, to add to the excitement, the banks would engage in currency speculation: borrowing deutsch marks at 9.5 percent and converting them to dollars to be loaned to Brasil at 17 percent. Now the scheme is unraveling at both ends. The LDCs are still so poor they can never pay back what they already owe, let alone the new funds they must have. At the other end the Arabs, having induced a worldwide recession, now need money themselves; in 1980 OPEC ran a $105-billion surplus, but is expected to show a deficit this year. The Arabs will have to pull out their short-term deposits, busting the banks, which cannot recall their loans so quickly—if at all.

Recently, Mr. Kit MacMahon, deputy governor of the Bank of England, recalled that the central bankers had promised, in the mid-1970s, to act as lenders of last resort to provide liquidity for the Euromarkets if needed. This means the central bankers will print up enough money to hold off a run on the international banks—maybe. The central bankers at the Basel meeting failed to renew this promise.

As far as Citibank is concerned, the foreign loans fall into two distinct periods: the original, or They Always Pay, period was based on the observation that countries don't disappear. Mr. George J. Clark, an executive vice president of Citibank, is a vestige of this early period. He recently said Citibank's new policy is to discourage reschedulings: "If governments set their priorities and rearrange their financial affairs, virtually all of them can meet their obligations. I can envision the day when we do only a few, if any, reschedulings."

Chairman Wriston demonstrates the current, or They Never Pay, period. He was asked on "Face The Nation" last January 24 how Poland could possibly pay any interest—much less principal—due in the future. He replied: "As far as paying off debt is concerned, there are very few instances in history when any government has ever paid off debt. . . . What we are talking about is access to a marketplace." "Market access," of course, is another euphemism for more borrowing.

The rest of the year is sure to have its moments. One unnamed U.S. official recently told the Wall Street Journal that 45 percent of the $300 billion in international loans is due this year: "There's an increasing concern just about getting through the next year or so. If there's a panic reaction anywhere, it could lead to an implosion of the system." The bank's bad loans have created the purchasing power which has given the world the greatest inflation since Roman times. The banks manufactured the money to escape one reality after another. The LDC deficit is still rolling along, and the banks are left with only two choices. They can loan more money if they can get it. Or they can stop and watch the LDCs go off like a string of Chinese firecrackers, with the banks as the cherry bomb on the end.

Along with other commercial banks, Citibank, in apparent recognition of its big problems, has silently latched on to an S&L bailout now rolling through Congress. Under the bailout, the taxpayer will get to put money into failed banks to keep them floating along. Euphemistically called a "capital infusion" plan, the bailout is supposedly to help out the poor S&Ls, but the commercial banks will be the main beneficiaries.

The reality is that Citibank is bust. The true value of what it owns is less than what it owes. It has made a lot of stupid loans that are not going to be repaid. Once the bankruptcy of Citibank is established, there is not much more to say. Except perhaps that when you're dead you're not supposed to be walking around.●

KREMLIN USES BILLY GRAHAM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● **Mr. McDONALD.** Mr. Speaker, Billy Graham's recent trip to the Soviet Union was a propaganda triumph for the Soviet Union. The Soviets succeeded in getting Billy Graham to say things about the freedom of the churches in the Soviet Union that they themselves hesitate to say in their own propaganda. They gave him an officially conducted tour through the state approved churches, with state approved ministers, and they even went so far as to stack the congregations with KGB members to insure that everything went according to the script. The State Committee for Religous Affairs attached to the Soviet Council of Ministers, (also overseen by the KGB), saw to it that Billy Graham saw and did only the correct things. Billy Graham, instead of chaffing at this treatment, did even better than they expected. Billy Graham saw none of the suffering Christians and Jews in the forced labor camps. He saw none of the true church in the Soviet Union that has to meet furtively in people's homes or in the forests for services. He, evidently, knows nothing of a young Soviet citizen, who while serving in the Red Army, was beaten to death for his beliefs. He knows nothing of children taken away from their parents for teaching belief in God at home. He appears to be unaware of the fact that smuggling a Bible into the U.S.S.R. is a crime against the state, but the traffic flourishes. He did a disservice to his calling and the cause of religious freedom the world over by his visit to the U.S.S.R. This whole, sad affair, was recently summed up in the Birch Log by John F. McManus in the July 8, 1982, issue of that publication. The item follows:

[From the Birch Log, July 8, 1982]

KREMLIN USES BILLY GRAHAM

(By John F. McManus)

BELMONT, MASS.—It must be a constant delight for the leaders of world Communism to note that the people whom they are working to enslave have so little appreciation of what Communism is all about.

The world should be well aware that Communism's fundamental premise is a denial of God and the supplanting of His law with rule of all by a few ruthless criminals. Communist morality is, of course, no morality, a tenet confirmed by Lenin as follows: "Our morality is entirely subordinated to the interests of the class struggle."

For most of the Twentieth Century, Communist leaders translated their words into actions by murdering churchmen and closing their churches. But when they either found or trained clergymen who would overlook Red crimes and preach socialism from pulpits, they began a working relationship with religion, not only in conquered nations but in the United States and elsewhere. Far from being a contradiction of Communism's real attitude about religion and morality, the use of churchmen to preach Communist goals or to foster a belief that it has mellowed has helped immeasurably to spread Red terror.

BILLY GRAHAM CHANGES TUNE

Twenty-five years ago, Rev. Billy Graham clearly understood all of this. But the man who then declared that Communism was "inspired, directed and motivated by the Devil himself" has softened his attitudes tremendously. Years ago, he condemned America's leaders for "silence during the 1956 Hungarian rebellion" and for "failing to aid the Cuban freedom fighters at the Bay of Pigs." As late as 1965, he declared: "Communist China is the most dangerous enemy of freedom in the world."

By 1970, however, Graham was refusing to condemn Communism, saying instead: "I cannot go around the world and say who is right and who is not right." In 1972, he defended Richard Nixon's announced plan to visit Red China's bloody tyrants. One year later while in Japan, he proclaimed: "Mao Tse-tung's eight precepts are basically the same as the Ten Commandments." He then promptly denied that he had uttered such a blasphemy, but the journalist who reported it impressively stood by her story.

NOW WELCOME IN RED TERRITORY

In 1977, Graham conducted a religious crusade in Communist Hungary where Cardinal Mindzenty and so many others had been persecuted. There he admitted: "During the last five years, my heart has been expanding and changing to take in all the churches of the world." But as far back as 1966, his World Congress on Evangelism had endorsed the World Council of Churches, whose membership included the KGB-directed Orthodox Churches of Russia, Romania, Bulgaria and Poland.

Earlier this year, many Americans who have been unaware of Billy Graham's strange conversion were shocked to read that during his trip to Moscow in May, he praised "religious freedom" in the Soviet Union. He also stated that the Orthodox Churches he visited "were jammed to capacity" and that "you would never get that in Charlotte, North Carolina." Even if he chooses to overlook the known fact that these churches in Russia are led by Kremlin-approved KGB functionaries in clergymen's garb, he ought to acknowledge that the few churches are full precisely because there are so few. Charlotte Pastor Charles Page responded by saying that his church was full and added: "I find it hard to believe that they (the Russian people) are not experiencing a great deal of suffering over there in order to worship."

Not in Russia on purely church business, Graham was there to take part in a Soviet-sponsored conference on nuclear weapons. Vice President Bush, acting in the name of President Reagan, had sought to persuade him to stay home. Their fear was that he would be used to promote Soviet aims. Perhaps they did not know that what they tried to prevent has been going on for a long time.

WHISTLE BLOWER FIGHTS FORCED TRANSFER ATTEMPT

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. BROOKS. Mr. Speaker, I would like to take this opportunity to share with my colleagues two recent newspaper articles from the Washington Times written by Clark R. Mollenhoff. These articles point out yet another area where DOD is wasting hundreds of millions of dollars in weapons contracts.

According to the articles, Air Force Secretary Verne Orr issued a directive aimed at cutting back on excessive contractor costs. Secretary Orr should be complimented for the decisive action he has taken to eliminate these abuses. I commend these articles to my colleagues and urge all Members to support the Secretary in this matter.

[From the Washington Times, Aug. 19, 1982]

WHISTLE BLOWER FIGHTS FORCED TRANSFER ATTEMPT

(By Clark R. Mollenhoff)

A veteran audit chief for the Defense Contract Audit Agency (DCAA) is being pressured to accept an unwanted transfer or resign after disputes with superiors over the need for agency-wide audits of labor union contracts that add millions in "excessive costs" to major military weapons systems.

George R. Spanton, a 30-year veteran of military contract auditing, filed a controversial report last March 13 pinpointing at least $150 million in "this unwarranted waste of public funds" caused by "excessive wage escalations" in the labor agreements of one major defense contractor.

Spanton, in an appeal filed with the special counsel at the U.S. Merit Systems Protection Board, claimed his transfer from Palm Beach, Fla., to Los Angleles, Calif., was an illegal retaliation for pointing out the laxity and compromises of DCAA superiors during inadequate and ineffective audits of major defense contractors.

Spanton had no objection to The Washington Times reviewing the papers he filed with the special counsel's office, established to protect whistle-blowers on fraud and corruption from retaliation by superiors.

Harold Lamb, special assistant to DCAA Director Charles Starrett, said the DCAA was "not prepared to comment" on the charges of an illegal retaliatory transfer of Spanton.

Lamb said the DCAA would comment "tomorrow" on Spanton's request for an agency-wide audit of excessive wage escalations in defense contracts.

The DCAA also will review Air Secretary Verne Orr's directive on the need for tighter policies on excessive wage hikes involving defense contractors.

Ironically, Orr's policy directive to Air Force contract negotiators sets out essentially the same line as Spanton's controversial report.

Orr's directive on the millions being lost through defense contract labor agreements was the result of his thoughtful observation after more than a year as Air Force secretary.

He said his disputes with superiors involved instances where he believed "the DCAA mission was being compromised by timidity in dealing with defense contractors who barred direct access to records and expected us to be satisfied with summaries or partial access to records."

"A half audit is no audit," Spanton said.

Spanton was pleased to find, he said, that Orr's directive to Air Force contract officials "was totally consistent with my thinking."

Several months ago he tried to get his DCAA superiors in the Atlanta regional office and Washington to approve an agency-wide audit of major defense contractors by arguing that billions probably were being lost annually through uncontrolled labor agreements that boosted wages from 15 to 18 percent a year while federal salary raises are restricted to from 4 to 8 percent.

When Spanton persisted in his campaign for an audit of all major contractors on labor, he received a cold shoulder and notice that he was being transferred because he could not get along with his superior in Atlanta.

When Spanton attempted to get the Washington office to examine his report, he learned that he still was being transferred to Los Angeles despite his protests.

"It is necessary for us to relocate you by no later that 15 September 1982," wrote James R. Brown, deputy director of DCAA on May 11. "Your failure to relocate by that date will be grounds for possible disciplinary action including removal."

In late May, Spanton made one more attempt in a report on waste in labor costs.

Fearful the Atlanta office would delay forwarding the controversial report, Spanton simultaneously sent the report to DCAA headquarters in Washington.

Washington DCAA officials asked the Atlanta office to call Spanton's attention to the proper chain of command for filing such documents and they ignored the substance of the special report.

They were no longer ignoring the Spanton reports Wednesday when they had a special request for them from Air Force Secretary Orr's office and from the House Government operations subcommittee headed by Rep. Jack Brooks, D-Texas, an outspoken critic on Pentagon waste and mismanagement.

Brooks' subcommittee staff has received the two Spanton reports on "excessive costs" resulting from uncontrolled labor union contracts. The subcommittee has oversight responsibilities over military spending and over the manner in which the auditing policies of DCAA control and expose unwarranted military costs.

[From the Washington Times, Aug. 18, 1982]

AF CHIEF ACTS TO CURB WAGE RISES FOR LABOR FORCES BUILDING WEAPONS

(By Clark R. Mollenhoff)

Air Force Secretary Verne Orr has directed Air Force contract negotiators not to buy labor peace with contract settlements containing wage agreements that are excessive when compared with federal government pay guidelines.

"I am fully prepared to accept work stoppages in some of our weapons acquisition programs, if that is what it takes to bring inflation under control and to bring wage settlements down to the level which the federal government deems adequate for its own people," Orr wrote on April 15.

Orr acknowledged Monday that he personally wrote the tough internal directive "to try to stiffen the backs" of Air Force contracting officers on negotiated contracts that are not now controlled by the government pay lids imposed by the Reagan administration in its fight against inflation.

"It makes no sense to have pay lids on government salaries at 5 to 8 percent and have these procurement officers come in here on negotiated contracts and explain that the best they could do was to limit the wage boosts to 16 or 18 percent," Orr said.

The eight-paragraph policy directive was addressed to Russell Hale, deputy assistant secretary in charge of financial management. It said: "Will you see that this policy is distributed widely to the civilian and military members who negotiate with our contractors. It should be made available to the contractors before they complete labor negotiations and not after."

He noted in the first paragraph of the directive that when President Reagan's budget is submitted to Congress "there is a 5 percent cost-of-living raise for civilian personnel and 8 percent for military."

"I think it is absolutely ludicrous to expect all elements of government and all retirees and pensioners from government to undergo strict limitation of their receipts from our federal government while at the same time, through our contracts, we pay substantially larger increases to labor forces building our weapons systems," he wrote.

In asking contract negotiators to "make every effort to see that we do not pay negotiated wage settlements to weapons producers which are greater than" federal pay policies, he added:

"This may involve insisting that some contractors take the excess negotiated payments out of their profits. It could even involve a case where there are work stoppages."

Orr said he had no idea of how much defense money is lost through excessive wage boosts for labor unions or other defense contract or employees. He estimated it could run into the hundreds of millions of dollars and perhaps more.

Orr said he was not aware of any studies the Pentagon has done on the subject, and had not heard of a detailed 15-page report by George R. Spanton, a Defense Contract Audit Agency accounting chief in Florida.

Spanton drew on his 30 years experience as a defense contract auditor to write the report. It is accompanied by charts on "excessive labor escalation" resulting from firms with government contracts making agreements with labor unions and boosts to other employees far above the government pay lids.

The defense firm "granted raises which were 178 percent higher than federal employee escalation and 108 percent higher than all private industry (nonsupervisory, nonagricultural) workers," the report said.

Orr told The Washington Times he is interested in reviewing the Spanton report and will take steps immediately to obtain a copy from the Defense Contract Audit Agency.

"Obviously, there is a limited amount of good any Air Force secretary can do on some of these matters because of long-term contracts—many months before I got here," Orr said.●

SUPER NOW ACCOUNT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DASCHLE. Mr. Speaker, Newsweek magazine columnist Jane Bryant Quinn recently noted, "Banking institutions are mad as hell and they're not going to take it any more."

The object of the wrath of depository institutions is the Depository Institutions Deregulation Committee—which is not in the opinion of a substantial and ever-increasing number of banking officials.

Recently the DIDC again confirmed the opinion of banking officials by effectively saying "no" to the Super NOW account which had been proposed by the South Dakota State Banking Commission. The Super NOW account, which had been approved earlier this year by the South Dakota Banking Commission, is identical to the existing NOW account with the exception of no interest rate ceiling on balances over $5,000.

The Super NOW account is a reasonable step in the right direction. The Super NOW account would further interest rate deregulation mandated by Congress and enable federally insured depository institutions to become more competitive.

The DIDC, unfortunately, has not been willing to move its feet or even wiggle its toes in the direction of the Super NOW account. To the detriment of consumers and increased competition, the DIDC has instead chosen to ignore the Super NOW account proposal. The DIDC pocket veto of the Super NOW account is not a step in the right direction.

Mr. Speaker, to facilitate needed competition and in the interest of consumers, I am today introducing legislation which will permit federally insured depository institutions to offer the Super NOW account. I invite my colleagues to join with me in support of this legislation.

Mr. Speaker, I request the text of the measure I am introducing today be printed in the RECORD at this point as well as a letter which I recently received from Mr. C. P. "Buck" Moore, president of the Northwestern National Bank of Sioux Falls, S. Dak., and the recent Newsweek article which I referred to earlier.

H.R. 7021

A bill to remove the limitation on the maximum rate of interest which may be paid on certain balances maintained in a negotiable order of withdrawal account

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, after the date of the enactment of this Act, no provision of Federal law shall regulate the amount of interest which federally insured depository institutions may pay on balances in excess of $5,000 which are maintained in a negotiable order of withdrawal account.

NORTHWESTERN BANK,
Sioux Falls, S.D., July 27, 1982.

Hon. THOMAS DASCHLE,
Cannon House Office Building,
Washington, D.C.

DEAR TOM: This letter expresses my complete frustration at the inadequate action taken by the DIDC at its June 29th meeting.

When the Depository Institutions Deregulation Act was passed in 1980, Congress gave the DIDC as a directive:

". . . provide for orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be payed on deposit in accounts as rapidly as economic conditions warrant."

At its recent meeting, the DIDC once again failed to fulfill its responsibility in the deregulating of interest rates on deposits. The account authorized by the DIDC falls far short of a short-term, low denomination, deregulated transaction account which the banking industry so desperately needs in order to continue to finance local communities.

At the meeting, the opening statement made by the DIDC Chairman, Treasury Secretary Donald Regan, evidences my frustration in watching the actions of the DIDC. Secretary Regan noted that:

". . . after legislation has passed and the asset powers for thrifts are expanded further so these institutions (thrifts) can generate the earnings needed to pay for additional market rate deposits, I will urge the Committee (DIDC) to consider authorizing a truly competitive market rate, transaction type account."

What is abundantly clear from this statement is that the DIDC is not about to be responsible for the task of unravelling the structure of deposit rate interest ceilings, but is content to throw the deregulation question back at Congress. When the Depository Institutions Deregulation Act was passed in 1980, it was a consensus among many points of view and as such a compromise. Congress decided to turn the actual process of dismantling the rate structure to the Committee rather than involving itself in the daily push and shove of the deregulation process. I believed at that time this was a sound decision.

Intense lobbying by the various affected parties to delay the phase-out of interest rate ceilings is well documented. The Committee was expected to be able to reaffirm the need for deregulation of depository institutions without political repercussions, thereby assuring that an orderly process could continue uninterrupted by political machinations.

However, the statement by Treasury Secretary Regan shows that the DIDC is not going to fulfill its mandate, but instead would return to Congress the daily push and shove of the deregulation process. It seems ironic that Congress would create a committee and charge it with responsiblity, only to have the committee in turn charge Congress with a task before the committee will act.

I urge you as a member of Congress to instruct the DIDC to begin to do its duty. As a member of Congress, you can exert influence on DIDC to take positive action now, or in the alternative, pass legislation authorizing us to offer a competitive account.

Yours truly,

C. P. MOORE, *President*.

THE BANKS STRIKE BACK

(By Jane Bryant Quinn)

Banking institutions are mad as hell and they're not going to take it anymore.

For 10 years they have stood like pitiful, helpless giants while depositors pulled their savings out of banks and S&L's and reinvested in high-interest money-market mutual funds. Money funds now hold $216 billion in assets, and the bankers want it back. To get it, they're starting to fight the money funds on their own turf.

Where the law allows, they are starting a variety of money-fund look-alikes, combining high interest with ready access to your savings. Where the law does not allow, frustrated bankers are starting to rebel.

"Super NOW." The civil-disobedience campaign began last month in South Dakota. The state banking commission unilaterally eliminated all interest-rate ceilings on checking deposits larger than $5,000 and called this new account the "Super NOW."

Under federal regulations, the interest paid on insured checking accounts cannot exceed 5¼ percent. But two defiant banks in South Dakota started offering rates linked to those on 91-day treasury bills. Both banks backed down after the Federal Reserve threatened them with heavy fines. Last week, however, the state attorney general's office decided to sue the Federal Depository Institutions Deregulation Committee for failing to decide about the Super NOW and for dragging its heels on interest-rate deregulation.

Several other states are raising mutinies of their own. The Super NOW's are being considered in North Dakota, New Jersey and Ohio. Similar raids on federal rate ceilings are being planned in Utah and Georgia.

The savings banks and savings and loan associations already hold a potent—and legal—weapon against money-market funds. Since May the thrifts have been able to offer an automatically renewable, daily retail repurchase agreement, or repo for short. It's an uninsured investment, paying high and variable interest rates. You may withdraw your money from daily repos at any time without penalty. Some S&L's even advertise them as money-fund accounts.

Repos are often linked to interest-paying checking accounts. The first $2,000 or so of your deposit goes into an insured NOW account earning 5¼ percent; everything above the minimum balance is swept into a repo, currently paying around 14 percent. When you write a check for, say, $25, a similar sum will be removed from your repo to keep the NOW account at $2,000.

Repos are backed by U.S. government securities, which makes them safer than other uninsured deposits. But on a daily basis the value of the underlying securities may not match your actual investment. If the S&L suddenly folded you could take a loss. The risk is small, but it's there.

Only a few thrifts offer money-fund accounts, but they're bound to spread. Some commercial banks are tying NOW accounts to regular money-market mutual funds. By fall the banks should be authorized to give automatically renewable repos of their own.

Credit Unions: The only money-fund lookalikes legally covered by federal deposit insurance are the few begun by deregulated credit unions, among them the Monsanto Community Credit Union in St. Louis and the McGuire-Public Employees Federal Credit Union in Wrightstown, N.J. Both accept deposits from the public, but only credit-union members are insured. Unlike true money funds, these accounts pay no interest on balances of less than $5,000.

A handful of S&L's in Maryland and Ohio offer money-fund look-alikes that are privately insured. Private insurance is state regulated but carries no state or federal guarantee. Depositors rely entirely on the ability of the insuring institutions to meet their obligations. It's probably a good bet. The Maryland Savings-Share Insurance Corp. is backed by 102 S&L's. In 20 years it has suffered only one liquidation (in 1964) and one merger (1979). But there is no certainty outside of government insurance.

The Boston Five Cents Savings Bank hopes to attract deposits by starting its own money-market mutual fund. This makes the Investment Company Institute see red. The ICI, representing mutual funds, says it's illegal for banks and money funds to mix and is suing the Federal Deposit Insurance Corp. for doing nothing to prevent it.

Last year banks tried—and failed—to stifle competition by shackling money funds with legislation. With any luck the ICI's return match will fail, too. If the funds can't live with interest-rate deregulation, they should find something else to do.●

EFFECTS OF AGENT ORANGE

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mrs. HECKLER. Mr. Speaker, as the Veterans' Administration continues to grapple with the still unknown effects of the herbicide agent orange on those men and women who served their country in Vietnam, the discussion continues on the best method to test for the after effects of exposure to the chemical.

I would like to insert in the RECORD today an article which appeared in today's Boston Globe and which outlines the continued questions regarding the effects of agent orange. Those troubling concerns—the current lack of adequate testing and the still unfinished comparisons between soldiers exposed to the herbicide and control groups—should lead us to double our efforts to seek expedited yet complete answers to the hundreds of questions that remain.

As the second ranking Member of the House Veterans Affairs Committee I have long fought for VA recognition of the effects of exposure to agent orange suffered by some Vietnam veterans. I will continue to do so and welcome the efforts of my colleagues to bring recognition to the problem and thus find the answer—if there is one, or many—more quickly.

AGENT ORANGE TESTS CALLED INADEQUATE

PHILADELPHIA.—Two doctors told the first national convention of United Vietnam Veteran's Organization yesterday that current tests are often not good enough to give an accurate diagnosis for ailment that may have been caused by exposure to the herbicide Agent Orange.

"It's entirely possible that none is going to come with an answer," said Doctor James Erwin of the Veteran's Administration.

Doctor Ron Codario, a Philadelphia physician, who has studied 278 Vietnam veterans who think they were exposed to Agent Orange, said he understands Veterans' frustrations when doctors cannot tell them what is wrong.

But he said it takes time for the proper tests to be developed.

"Just because you have a battery of tests and the tests turn out normal doesn't mean there is nothing wrong with you," said Codario.

Edmund Miller of Buffalo, who served in Vietnam in 1970-1971, said repeated examinations have not discovered the cause of the heartburn and stomach disorders he has had since he returned from the war.

"They'll tell me what I don't have," he said, "they won't tell me what I have. I'd like to feel good again one day, but I need some help. They're treating my symptoms and not my cause."

Erwin said it still has not been determined what effect herbicides have on human beings who are exposed to them.

"The major group of people interested in herbicides have been environmentalists," Erwin said, "but even that group has yet to come up with a clear cut picture of what herbicide poisoning in humans is."●

MEDICAL DEVICE AMENDMENTS OF 1982

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WAXMAN. Mr. Speaker, today I have introduced H.R. 7052, the Medical Device Amendments of 1982. This legislation, which amends the Food, Drug and Cosmetic Act, incorporates three changes requested by the Department of Health and Human Services. These amendments would improve the rulemaking procedures for developing safety standards for medical devices. They would also permit manufacturers of drugs and devices to disclose in labeling or advertising that the product has been approved by the Food and Drug Administration (FDA). Further, they would repeal the unconstitutional Filled Milk Act.

In addition, I have included a provision which would require the manufacturer of a medical device to notify FDA when it learns of a defect in a device that presents an unreasonable risk of substantial harm. Once notified of the potential hazard, FDA could then investigate and determine whether corrective action (recall of the device, replacement of the defective part, and so forth), is required under its existing authority.

FDA has similar authority with respect to electronic products that emit radiation under the Radiation Control for Health and Safety Act and infant formula under the Infant Formula Act of 1981. The agency also generally im-

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poses reporting requirements upon drug makers with respect to adverse drug reactions. Even agencies which deal with products less critical than medical devices have such authority. For example, the Consumer Product Safety Commission has statutory reporting authority with respect to most consumer products (for example, toys, irons, hair dryers, bicycles) that pose substantial product hazards. Certainly, FDA should have comparable statutory authority over medical devices which may be implanted in the human body or support bodily functions during an operation.

The following is a section-by-section analysis of the legislation.

MEDICAL DEVICE AMENDMENTS OF 1982

SECTION 1: SHORT TITLE

Section 1 provides that the short title of the bill is the "Medical Device Amendments of 1982."

SECTION 2: PROCEDURES FOR ESTABLISHING PERFORMANCE STANDARDS FOR MEDICAL DEVICES

Section 2 amends Section 514 of the Food, Drug and Cosmetic Act (FDCA) to substitute informal rulemaking procedures for existing law. Currently, the Secretary must use a novel form of rulemaking called the offeror process which requires third parties, rather than the Secretary, to develop proposed rules. In lieu of the offeror process, Section 2 requires the Secretary to comply with the notice and comment rulemaking procedures of the Administrative Procedures Act. In promulgating regulations under this section, the Secretary must consult with the advisory panel expert in that field of medical devices.

SECTION 3: INFORMATION FROM MEDICAL DEVICE MANUFACTURERS

Section 3 amends Section 518(a) of FDCA to require a manufacturer of medical devices intended for human use who obtains information that a device presents an unreasonable risk of substantial harm to the public health to notify the Secretary immediately of the defect. The manufacturer need not report if he has actual knowledge that the Secretary has been informed of the risk. An unreasonable risk of substantial harm exists when: (1) a medical device fails to comply with an applicable performance standard creating a substantial risk of death or serious injury to the public; or (2) a defect in a medical device creates a substantial risk of death or serious injury to the public. Failure to report a defect is a prohibited act under Section 301(q) of FDCA.

SECTION 4: REPEAL OF PROHIBITION ON USE IN LABELING OR ADVERTISING OF REPRESENTATIONS CONCERNING DRUG OR DEVICE APPROVALS UNDER THE ACT

Section 4 repeals the ban in Section 301(1) of FDCA against the use of representations regarding FDA approval in the labeling or advertising of any drug or device. The effect of this provision is to permit the inclusion of accurate statements concerning FDA approval in labeling or advertising for drugs or devices. False or misleading statements are prohibited under Section 301(b) of FDCA.

SECTION 5: REPEAL OF THE FILLED MILK ACT

Section 5 is a technical amendment. It repeals the Filled Milk Act which was declared unconstitutional in *Milnot Co.* v. *Richardson*, 350 F. Supp. 221 (S.D. Ill. 1972). The Act banned the shipment in interstate commerce of milk, cream or skimmed milk containing added fat or oil other than milk fat.●

MICHIGAN SHOULD RETAIN WATERWAY CONTROL

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DAVIS. Mr. Speaker, on June 24, I was joined by Congressmen Traxler, Sawyer, and Blanchard—and on August 4, Congressmen Dunn and Brodhead—in introducing legislation which would block efforts by the Army Corps of Engineers to gain control of nearly 4,700 miles of Michigan rivers and streams.

Utilizing previously dormant authority granted under section 10 of the Rivers and Harbors Act of 1899, the Corps of Engineers' Detroit district office has proposed to expand its jurisdiction from 571 miles of "navigable" waters to a total of 5,227 miles—a seven-fold increase. These inland lakes and streams, not previously considered navigable by the corps, are already protected by strong Michigan environmental laws such as the Wetlands Protection Act of 1979 and the Inland Lakes and Streams Act of 1972. This unnecessary assertion of Federal jurisdiction runs counter to clear congressional intent that States should be responsible for the management of their water resources.

If the Corps of Engineers is successful, this change would result in a wasteful duplication of State and Federal regulation, and would seriously interfere with Michigan's efforts to assume full regulatory control of its wetlands under section 404 of the Clean Water Act. In a period of deregulation and administrative streamlining, it seems odd that the Army Corps of Engineers would seek to expand its jurisdiction and add another layer of Federal bureaucracy.

Mr. Speaker, I include here the text of a letter to Vice President George Bush from Michigan Lt. Gov. James H. Brickley, who has been the leader in this campaign against this expansion of corps authority in his capacity as chairman of Michigan Regulatory Review Task Force. I also include a letter from myself and a number of my Michigan colleagues to William Gianelli, Assistant Secretary of Defense for Civil Works.

STATE OF MICHIGAN,
OFFICE OF THE LIEUTENANT GOVERNOR,
Lansing, Mich., March 12, 1982.

Hon. GEORGE BUSH,
Vice President of the United States,
Washington, D.C.

DEAR VICE PRESIDENT BUSH: Because of our respective efforts to reduce unnecessary governmental regulations, I want to bring to your attention recent actions of the United States Corps of Engineers to expand their regulatory responsibilities over waters in Michigan. I am concerned by these actions, find them an unnecessary assertion of federal jurisdiction, and request that the Presidential Regulatory Relief Task Force review the Army Corps of Engineers' regulations.

Under Section 10 of the 1899 River and Harbor Appropriation Act, the Detroit office of the Corps has conducted widespread navigability studies, and the result of these studies may lead to an expansion of the Corps' jurisdiction over approximately 4,500 miles of streams in Michigan. Legal interpretations of the term "navigable" water have led to the possibility of this expanded role for the Corps in our state.

Michigan's concerns are further magnified in that we have actively pursued assumption of the Clean Water Act (Section 404) regulatory program. Assertion of Section 10 jurisdiction could not only prevent the state from assuming this regulatory authority but would dramatically expand the scope of the undesired duplication of state/federal regulation of the same waters.

I am quite sure that your task force will find this situation to be an unnecessary assertion of federal jurisdiction. Additionally, we believe that the regulations should be revised to prevent this occurrence in states like Michigan having adequate regulatory programs.

I appreciate your attention to this important issue. It was good seeing you in Green Bay.

Sincerely,

JAMES H. BRICKLEY,
Lieutenant Governor.

THE VICE PRESIDENT,
Washington, March 22, 1982.

Hon. JAMES H. BRICKLEY,
Lieutenant Governor of the State of Michigan, Lansing, Mich.

DEAR JIM: Many thanks for your letter concerning the Corps of Engineers' expansion of its jurisdiction over waters in Michigan.

The Presidential Task Force on Regulatory Relief designated the Corps' Section 404 regulatory program for thorough review last August. The Corps has now developed its proposal for change, a copy of which is enclosed. One of the Corps' recommendations is to provide the states with greater responsibility for running their own programs. There is broad agreement on the need to eliminate unnecessary duplication of state/federal regulation of the same waters and to streamline the permit approval process. While it is unlikely that the Administration will act on all of the Corps' proposals, the state/federal issue will be one of the Task Force's highest priorities. Any comments you might have on the Corps' recommendations would be greatly appreciated, especially since you have focussed on an issue—Section 10 jurisdiction—that we may not have sufficiently addressed. In the meantime, I will make sure your comments are fully taken into account in our review, and I will keep you informed of our progress.

Again, thank you for your letter and for your help in the effort to reduce unnecessary government regulations.

Sincerely,

GEORGE BUSH.

STATE OF MICHIGAN,
OFFICE OF THE LIEUTENANT GOVERNOR,
Lansing, May 18, 1982.
Hon. GEORGE BUSH,
Vice President of the United States, the White House, Washington, D.C.

DEAR VICE PRESIDENT BUSH: Thank you for sharing with me a copy of the Presidential Regulatory Relief Task Force's report on the U.S. Corps of Engineers permit programs. As you know, I had previously written to express my concern that the Corps, under Section 10 of the 1899 Rivers and Harbors Act, was planning to expand federal jurisdiction over an additional 4,700 miles of Michigan waters. While I support many of the changes proposed by the task force concerning the Corps' 404 authority, I nevertheless want to again express deep concern with the Corps' Section 10 jurisdictional expansion. In fact, we are most concerned that the reforms in the Section 404 process may well be lost through the proposed Section 10 expansion.

The enclosed report is Michigan's detailed response to the Corps reform proposal. In addition to supporting your efforts to streamline and reduce the bureaucratic processes of the Corps, we offer the following recommendations to resolve the navigable waters issue:

(1) The definition of "navigable waters in the United States" must be limited to what is commonly referred to as the "traditional, navigable waters of the U.S." This would require a change in 33 CFR 329, the regulations of the U.S. Corps of Engineers.

(2) Legislation should be introduced in the US Congress to prohibit the expansion of Section 10 jurisdiction by the Corps "solely on the basis of historical use in interstate commerce." A draft bill is enclosed in our report to accomplish this change.

I continue to believe that any expansion of Corps Section 10 authority over Michigan waterways is unnecessary and duplicative of existing state programs. I urge you to give careful consideration to the enclosed proposals.

Your continued interest is most appreciated as we both strive to improve governmental regulations.

My continued best wishes.

Sincerely,

JAMES H. BRICKLEY,
Lieutenant Governor.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 2, 1982.
Mr. WILLIAM R. GIANELLI,
Assistant Secretary for Civil Works, Department of the Army, the Pentagon, Washington, D.C.

DEAR MR. GIANELLI: It recently has come to our attention that the United States Army Corps of Engineers is taking action to expand its regulatory jurisdiction over several thousand miles of Michigan's waters. As U.S. Representatives from Michigan we are deeply concerned over this proposed change. We urge the Corps of Engineers to reconsider its position.

By changing the definition of "navigability" under Section 10 of the 1899 River and Habor Appropriation Act, the Corps would assume "supreme federal jurisdiction" over some 4,500 miles of Michigan's inland streams and lakes. In light of the lack of any demonstrated need for increased federal involvement in our state-regulated waterways, we view this action as being both unwarranted and unnecessary. Contrary to the President's goal of lessening the federal regulatory burden at the state level, this proposal would only lead to needless duplication of effort and resources between state and federal government.

We are concerned that this assertion of Section 10 jurisdiction would seriously hamper the efforts of our state to assume the direction of the wetlands regulatory program under Section 404 of the Clean Water Act. your proposed action would negate the state's progress in this area and would result in additional duplication of effort in a program which is now being assumed by our state Department of Natural Resources.

It is our sincere hope that the Section 10 regulations can be revised in a manner which will both simplify the oversight of Michigan's waters and protect the clear state role in the management of our natural resources. We would be pleased to lend whatever assistance you may require in achieving these ends.

Thank you for your consideration of this important matter.

Sincerely,

Robert W. Davis, James J. Blanchard, Harold S. Sawyer, Bob Traxler, Guy Vander Jagt, Dale E. Kildee, Howard Wolpe, William D. Ford, David E. Bonior, Carl D. Pursell, Jim Dunn.
Members of Congress.●

OPPORTUNITIES FOR A MIDDLE EAST PEACE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEHMAN. Mr. Speaker, when the evacuation of the PLO from Beirut is completed, attention can then be directed toward achieving a total withdrawal of PLO and Syrian forces from Lebanon. Once that is accomplished, an independent Lebanon with a central authority can become a reality.

It seems ironic that the defeat of the PLO was a necessary condition for a potentially peaceful settlement of the Palestinian issue. The PLO had brought nothing but despair to the people it claims to represent. Now, for the first time, Palestinians will have an opportunity to choose negotiation, and peace.

I have written to President Reagan, joined by colleagues on the Foreign Operations Subcommittee of Appropriations, urging the President to allow the true Palestinian voice to be heard, and to also press the Government of Jordan to join us in seeking autonomy. Surely those Arab nations who claim to be our moderate friends, and who wish U.S. arms, should be willing to participate in the Camp David peace process. The letter follows:

President RONALD REAGAN,
The White House,
Washington, D.C. 20500

DEAR MR. PRESIDENT: We applaud the efforts of Ambassador Philip Habib in bringing to a successful conclusion negotiations to remove the PLO from Beirut. We are hopeful that the evacuation will be carried out without incident and that subsequent steps can then be taken to ensure the withdrawal of PLO and Syrian forces from Lebanon and to guarantee a return to Lebanon's sovereignty.

With the removal of the PLO from Palestinian civilian populations, the development of free political expression can become possible. Palestinians have never before had the opportunity to choose peaceful negotiation. The emergence of free political expression will enable a resolution of the Palestinian issue that PLO involvement could never achieve.

It would be a grievous error to allow the PLO to achieve politically what it could not attain militarily. Future reconstitution of the PLO and its possible acceptance of United Nations Resolution 242 does not mean that the ultimate aims of the PLO would be abandoned. PLO spokesmen have unambiguously stated on numerous occasions that they will exploit any means, including political or diplomatic means, to achieve the ends so clearly spelled out in the PLO covenant.

We must begin to seize the opportunities before us. Israel has pledged, in the Camp David Peace Treaty, and reiterated in recent days, to proceed toward a peaceful settlement of the Palestinian issue. We urge your administration to encourage non-PLO Palestinian involvement in the autonomy talks, and to urge the government of Jordan to participate in the Camp David peace process.

Sincerely,

●

DEDICATION FOR ST. JOSEPH MEDICAL CENTER

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. MOORHEAD. Mr. Speaker, I would like to add my name to the long list of persons who will be honoring St. Joseph Medical Center in Burbank on September 17.

On this special date, a dedication ceremony will be held for the opening of the hospital's new emergency rooms and cardiac care facilities.

St. Joe's as the hospital is affectionately known to many, has been providing the San Fernando Valley with skillful, caring medical service since its establishment in 1942.

At that time there was no health care facility in the valley so the business and entertainment community, led by Bob and Delores Hope, Walt and Roy Disney, Bud Abbott and Lou Costello, Ozzie and Harriet Nelson, joined together and seek a solution.

The Catholic Archbishop of Los Angeles and the Sisters of Providence responded to the call and began construction of a 100-bed facility on land located across the street from Disney Studios and given to the hospital by Lockheed.

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Now St. Joseph is the largest hospital in the San Fernando Valley. It operates a 498-bed acute care facility and the 149-bed Esther Pariseau Pavilion for Rehabilitative Care.

It is recognized throughout the State and medical community as an excellent institution. It is recognized by the people of the community as a great benefactor and an entity they point to with pride.

St. Joseph Medical Center deserves this credit as its history is a distinguished one, full of outstanding achievements and significant contributions.●

IN MEMORY OF ART SARRIS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

Mr. MATSUI. Mr. Speaker, with the defense bill now on its way to the President, I would like to make a statement on behalf of Mr. Hansen of Utah, Mr. Fazio, Mr. McCurdy, myself, and several staff people in the Congress.

Among the many items in the conference report is a section which will put a stop to the consolidation of critical supply and logistics functions away from the armed services. This may not seem like an important issue to Members who are not familiar with it. To those of us who have studied the problem and have worked to maintain the ability of the services to control supplies necessary to do their job, it is an issue with far-reaching implications.

The gravity of these consolidations was also apparent to Mr. Aristides Sarris, one of the finest civil servants it has ever been our privilege to know. We would like to dedicate our successful efforts of the last year on this issue to Art Sarris.

Whenever I hear anyone denigrating Federal civil service employees, I need only think of Art Sarris to appreciate how wrong the critics can be. Our country was never served by a more talented and dedicated individual.

For more than 30 years, he worked in the logistics field for the Air Force. He was in the best position of anyone to witness the steady accretion of power to a central agency which was strangling the Air Force's ability to perform its mission and which was increasingly wasting taxpayers' money. It appalled and outraged him. And rage was not a common emotion to this quiet, gentle man.

I first met him when he was one of about 20 Air Force officials to give short briefings which several Congressmen had requested. I was so impressed that shortly afterward I asked him to educate my staff and me on the issue of supply centralization. That turned out to be one of the warmest and most rewarding associations of my public career.

Consolidation of supply and logistics is such an apparently esoteric and mundane issue that Art Sarris found it difficult to get an audience. In 1980, he was given a $10,000 award for his work in the Senior Executive Service. In 1981, he offered to return the entire award to demonstrate the depth of his concern, just to be able to get some sort of airing of the issue in a fair and open forum. His dedication was also evidenced by his constant refusal to take the retirement that he became eligible for several years ago.

Finally in March of this year, the Armed Services Subcommittee on Readiness, led by our very distinguished friend from Virginia, Dan Daniel, held 2 days of hearings on the consolidation of management of consumable repair parts. Art Sarris sat eagerly through those hearings and was called to testify and made his unique contribution to the public record. The issue was being exposed to the light of day; and from the merits, the conclusions were inevitable.

I do not believe it is melodramatic to say that Art had been to the mountaintop. That is about how he felt. Alas, he did not complete the journey down to the land he had viewed.

On June 19, Art Sarris suffered a fatal heart attack. The disappointment was acute in each of us, because this is a day we all wanted to share with him.

But, in much more than the transient moment of success, we will miss him. He set an example and standard which we will carry through our lives. The proof of the existence of any of us is not written in certificates of birth, death, or in any other documents. It is inscribed in the hearts of those whose lives we touch. So, Art will continue to live in each of us.

Tonight, we will quietly drink a toast to him. Here's to you, Art Sarris. We won; but the victory isn't nearly as sweet without you.

MOST FAVORED NATION STATUS FOR COMMUNIST ROMANIA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. McDONALD. Mr. Speaker, it was with considerable dismay and anguish that I observed the House yesterday postpone action or even vote on the resolution of disapproval of continuation of Most Favored Nation status for Romania—H. Res. 521. This to me was a cowardly action that avoided facing up to the problem of the human rights of Christians, Jews, and minorities being persecuted in Romania. In that connection, I just learned that M. Traian Dorz, a well-known Romanian Christian poet, has just been sentenced to 2 years in prison after having served 14 years on previous occasions for his beliefs. Two other Romanians, Mr. Basil Riosheanu and Mr. Nucian Rusu have both been sentenced to 2 years each in prison for distributing the poems of Mr. Dorz. We mock our Christian-Judaic heritage by our lack of action. This body should be ashamed.●

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WOLF. Mr. Speaker, I want to make it clear that my vote against H.R. 4961 should not be interpreted as a vote against lower deficits.

One of the greatest strengths our country has is the freedom to disagree and I believe that is the situation with the responsible men and women of this body on both sides of the issue. After studying this legislation and weighing the evidence carefully, I simply do not agree that this is the most appropriate or best way to raise needed revenues—and certainly not the best way during this time of economic recession.

I submit, however, that the House of Representatives must share a large part of the burden for the flaws in this legislation. I objected at the time to the way the bill was maneuvered through the House of Representatives and sent directly to conference without consideration by this body—without even holding hearings on whether or not this bill could in fact raise the required revenues and whether or not the economy could withstand the impact of this measure. I believe this action violated the basic tenets of the Constitution and has resulted in a serious omission of creativity, fairness and fact in developing this legislation.

There are many examples of unfairness in the legislation but among the most troublesome are proposed changes to eliminate small-issue industrial development bonds after 1986. This would pose an unfair and unnecessary hardship on areas like Loudoun and Fairfax Counties in Virginia which depend on this program to attract new business and encourage economic development.

In addition, the proposed withholding of dividends and interest represents a costly and cumbersome way to improve taxpayer compliance. While we should all work to improve collection practices, this proposal would take money from savers and give it to the large financial institutions for a 30-day "float." In turn, all the administrative costs encountered by these financial institutions in complying with this new Federal regulation would, most likely, be written off as a legitimate business expense and the U.S. Treasury will not realize any appreciable increase in revenue.

Finally, one of the most glaring examples of the unfairness inherent in this bill is the imposition of a 1.3 percent medicare tax on Federal employees. Imposition of a 1.3 percent medicare tax on these employees coupled with an expected 4 percent cost-of-living increase, and the 10 percent individual tax cut, adjusted to 1982 dollars, will not only result in most employees having their entire pay increase and tax cut wiped out, but will also translate into an additional 3 percent average real loss in net salary for these employees in 1983 compared with 1982 levels.

While I represent probably more Federal employees than any other Member, I argue that not only this measure unfair to Federal employees, it offends the sense of fairness in each of us.

The people who are dedicating their lives to Government, should not be singled out to bear an unfair burden in this effort to raise revenues. I know of no other segment of society that will have virtually its entire tax cut eroded by this legislation.

I also recognize that there are many good features of this legislation. It is intended to close certain tax loopholes and that is an honorable and desirable goal.

On balance, however, this legislation falls short of its goal and our goal of helping the country and therefore I cannot support it in this form.●

HIGH TECHNOLOGY NIGHTMARE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, a major aspect of the tax bill, which may have escaped the attention of my colleagues in this less than responsible procedure under which the tax bill was considered today, deals with high technology. Essentially the bill will decimate future research and development in this area. Gregory Fossedal explained this clearly in an article he wrote in today's Washington Times. It is just another reason why the bill in question is so fully unacceptable. I commend this article to the attention of my colleagues.

[From the Washington Times, Thursday, Aug. 19, 1982]

REAGAN TAX HIKE A HIGH TECH DISASTER

(By Gregory Fossedal)

A little-known aspect of the President's tax hike proposal is its potential impact on high technology industry.

The firms that dominate the high risk, high tech field are small and largely invisible. Total investment in research and development accounts for only 2.5 percent of America's gross national product.

That small component, however, will generate roughly 50 percent of the country's 1990 GNP. A major story in the Aug. 9 Newsweek outlines the importance of this dynamic sector of the economy:

"The stakes are enormous. Technology will set the economic agenda in the developed countries for the remainder of this century and beyond. Unless U.S. and European firms rally to the challenge, the prosperity and the jobs that flow from this new industrial revolution will almost certainly go to (Japan)."

And the Reagan tax bill, as it now stands, would be a disaster for the high tech sector.

Here's how the tax system works now for a small entrepreneur hoping to sell his promising invention:

The inventor seeks out a broker to sell his product to investors. He submits an estimate of the product's potential revenues, based upon its application to current industries.

Using that estimate, the broker is allowed to lease out shares of the technology to interested investors, based on its projected value. It's risky stuff, but investors know they have a sizeable tax writeoff if the project fails. Since the product being sold is an idea, something intangible, the entrepreneur can claim a large value for his product—and the IRS gives brokers and inventors a lot of leeway in this gray area of U.S. tax law.

Under the Reagan tax hike, two changes would occur.

First, estimates would be limited to a strict 2-to-1 ratio of cost. If an investor discovers a chemical that changes lead into gold, he can only lease out-shares in that technology equal to twice what he actually spent on lab materials producing it.

Second, brokers become liable for obtaining a strict estimate from the inventor as to the value of the new technology.

The effect on chancy investments would be chilling.

Investors would lose most of the tax advantages they can now claim from a failed project. Where the IRS has allowed leasing provisions of up to 10-to-1 for high tech sales, the cap would be 2-to-1.

And brokers, now legally responsible for any over-estimate on the part of the inventor, would be reluctant to handle high tech projects in their portfolios.

Winfred Savory is just such a high technology pioneer. Among Savory's new products is a bacteria that doubles the yield of oil wells pumped using "water flooding" techniques. The technology, if applied to all existing water flood wells, will produce an extra 5 million barrels of oil a day in the United States—roughly what we now import from the Arab countries.

When I asked Mr. Savory what the Reagan tax bill will do to high technology investment in this country, he responded:

"There would be no research and development carried on at all by small entrepreneurs. Large corporate research would remain pretty much the same—their work is internal, and carries easily-documented costs and benefits."

What would have become of projects like Mr. Savory's, or of Apple Computer, or of Texas Instruments, which all obtained initial financing partly through the current tax benefits?

"They would never have gotten off the ground."

The American Council for Technological Growth, which recently analyzed the bill's impact on high tech industries, agrees: "At a time when American investment in research and development is falling relative to previous levels and to foreign competition, any additional hinderance of capital formation in high-tech would have disastrous long-term impact on economic growth."

Contacted for their comment on these arguments, both the White House press office and the office of Sen. Robert Dole, the bill's main sponsor, expressed surprise.

"No specific study has been performed on the question of high tech investment," the White House said. "The changes in leasing are considered a matter of tax equity and loophole closing."

"No, we haven't heard those arguments," a Dole press aide admitted.

And no wonder. The Tax Equity and Fiscal Responsibility Act of 1982, as it is called, was a committee compromise tossed together in an atmosphere of political panic.

If indeed it is a tax reform bill, as the president argued Monday night, it is ill-considered reform: No hearings even addressed the question of the bill's impact on high-tech and other highly sensitive, highly important areas of the economy. It hits at small risk-takers in a dynamic industry.

If the Reagan-Dole measure passes, we had all better learn to speak Japanese.●

SOVIET DAY OF SHAME

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mrs. HOLT. Mr. Speaker, 14 years ago Soviet tanks and troops rolled into Czechoslovakia to crush a movement for liberalizing reform of the harsh Communist rule the people had endured. The Soviet Army continues to occupy that country to maintain totalitarian control.

A brave people oriented toward Western ideals of freedom and democracy, the Czechs and Slovaks have suffered more than 40 years of totalitarian rule, first by the Nazis and then by the Russians and their puppets. They have never lost their hope of freedom. Even today, Czech and Slovak patriots are organized within their captive nation and tell the world about the nature of totalitarian rule.

It was on August 21, 1968, that the Soviet Army moved into Czechoslovakia to destroy the liberalization movement, but it was not a new example of how the Soviet Union deals with its neighbors. In 1956, we watched a Soviet invasion of Hungary to crush a revolt against the police state. Today we have the example of Poland being

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oppressed by a cruel military regime taking orders from Moscow to suppress the workers' Solidarity movement for more freedom.

Mr. Speaker, the prayer and hope of all of us is that resistance to Soviet rule will someday bring freedom to the people who long for deliverance from the Kremlin's empire.

Let us never shrug our shoulders and say that their plight is not our concern. Their concern is ours, because the Soviet leaders consider our freedom as an infectious disease that threatens their dominion. The Soviet leaders regard as enemies all those parts of the world they do not control.

That is the nature of the force that the people of Czechoslovakia, Poland, Hungary, and others have endured. This is the nature of the force that confronts us in the world.●

SECOND ANNIVERSARY OF JAMMING OF WESTERN RADIO BROADCASTS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. FASCELL. Mr. Speaker, Friday, marks the second, sad anniversary of the most serious violation of the Basket III provisions of the Helsinki Final Act on the free flow of information. On August 20, 1980, the Soviet Union resumed massive jamming of the broadcasts of Voice of America, jamming which had been suspended for nearly 7 years.

Ironically, this clear violation of the letter and the spirit of the final act—which calls for "the dissemination of information by radio to meet the interest of mutual understanding among people"—occurred just 3 weeks prior to the opening of the Madrid CSCE preparatory meeting.

The Voice of America has been jammed intermittently by the Soviet Union since 1948. The jamming ceased, for the first lengthy period, on September 10, 1973—1 month before the opening of the Geneva CSCE meeting, whose deliberations led to the adoption of the final act in Helsinki in 1975. That action, which was publicly welcomed by the United States, was clearly a positive factor in the negotiations which led to the adoption of the final act. Just as clearly, the resumption of jamming on August 20, 1980, was a portent of the impending stalemate at Madrid. Jamming of the BBC and Deutsche Welle—which also ceased on 1973—was resumed at the same time.

What in August 1980 led the Soviets and their allies to return to the practice of jamming? The Soviets were attempting to keep from their own citizens the facts regarding the increasing toll of casualties resulting from their armed invasion of neighboring Afghanistan. There was also great fear that the developing situation in Poland—as the Poles sought a breath of freedom through the evolution of Solidarity—would "infect" their own citizenry and that of their allies. The truth about the successful development of the first truly independent trade union in the Warsaw Pact was deemed too dangerous to spread.

The Voice of America attempts to fill a gap between the final act's goal of "freer and wider dissemination of information of all kinds" and the present situation in the U.S.S.R., Poland, Czechoslovakia, and Bulgaria, where only information approved by those governments can be published and broadcast. The purpose of the Voice and other Western broadcasts is to restore some balance to these censored and distorted versions of national and international events, normally the only information available in these countries.

I might point out, by the way, that Radio Moscow broadcasting in English to the United States averages more than 87 hours per week. It has never been, and never will be, jammed.

The negotiations at the Madrid review meeting of the Conference on Security and Cooperation in Europe are scheduled to resume on November 9. In recent weeks, the Soviet Union has reiterated that it will approach that meeting from the premise "that to follow the Helsinki spirit means successfully concluding the Madrid meeting." There is no stronger impetus that could be given to that goal than for the Soviets to immediately cease, once again, their electronic jamming of Western radio broadcasts—in accordance with the spirit and the letter of the Helsinki Final Act.

I challenge them to do so.●

A TRIBUTE TO MR. CONRAD E. RAHME

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. FLORIO. Mr. Speaker, it is uncommon in these times to find an individual who has found a worthy cause and dedicated much of his adult life to it.

Yet, it is my privilege to ask this House to join me in recognizing and paying tribute to Mr. Conrad E. Rahme of Haddon Heights in my district for just such a reason.

Mr. Rahme is retiring this year on October 8 after dedicating 28 years of his life toward providing, improving, and administering a unique brand of education to the schoolchildren of Mount Ephraim, N.J.

For a great many of those 28 years, Mr. Rahme was viewed by all as a responsible source of stability in the school system. One who had the rare ability to have a positive affect not just on the teachers that worked with him, but also the children and school board members of the Mount Ephraim system. This illustrates the most admirable blend in this man of the teacher and leader.

But Mr. Rahme's devotion to education went beyond his employment. He served on the Mount Ephraim ambulance squad for 10 years, he was a 25-year member of the PTA, and for 18 years he served as secretary of the tri-community scholarship committee. He has served as the president of the Mount Ephraim Rotary Club and received a Paul Harris Fellow, the highest honor in the Rotary.

Mr. Speaker, Conrad E. Rahme is a rare individual who deserves this recognition and praise for his steadfast devotion, and for the example of leadership and humanitarianism he has provided to the children and adults of Mount Ephraim. Thank you Mr. Speaker.●

LEGISLATION TO REPEAL EXTENSION OF MEDICARE TAXES TO FEDERAL EMPLOYEES

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DICKS. Mr. Speaker, imposing the medicare tax on Federal employees is, I believe, a mistaken decision made by the House and Senate conferees on H.R. 4961, and intrudes into a broad range of issues far beyond the stated purpose of the tax bill to raise revenues and reduce the Federal deficit.

It prejudges the recommendations of the Presidential commission which is scheduled to report next year on the status of social security.

It represents a decision by the conferees to further impact millions of Federal workers who have in the 97th Congress already endured pay caps, a freeze in health benefits, furloughs, reduction-in-force, and cuts in retirement benefits.

This week alone the tax bill, H.R. 4961, combined with the Omnibus Budget Reconciliation Act, subjects Federal employees to a 4-percent salary cap in each of the next 3 years—far below the level of comparability with the private sector—and would then reduce that down to 2.7 percent.

The medicare tax provision also puts serious pressures on the operations of many existing Federal agencies. They will have to pay the matching share contribution of each Federal employee's tax, but the bill provides no funds for that purpose. In effect, agencies will have to absorb the cost of the medicare tax in addition to the already-scheduled 49 percent absorption of the October pay raise.

I believe that the conferees did not fully realize the ramifications of their action in approving the medicare tax. A decision of this kind should be made by an informed vote of the House of Representatives, not treated as a minor appendage to a major revenue bill. If this proposal was considered as separate legislation, the House would surely spend many hours debating and amending it under the normal legislative processes. That is why I am today introducing legislation to repeal the extension of the medicare tax, to provide a vehicle to allow the Congress to debate the issue on its own merits.

My colleagues on the Federal Government Service Task Force have attempted with me on repeated occasions to gain a chance to consider the medicare tax issue on its own merits. We wrote to Chairman ROSTENKOWSKI on July 19 and July 29 outlining the reasons that the medicare tax was unwarranted, and urged its deletion from the conference report.

We attempted to have a separate vote on the issue allowed under the rule, but our request was denied.

I reluctantly supported the tax bill, because I believe it is critical to address the deficit problem we face and it was the only vehicle available. If it had failed, I fear that pressures to make further drastic and immediate reductions in domestic programs and in particular Federal employee compensation and benefits, would have been overwhelming. We could have seen a renewed call for a pay freeze and even more restrictions on cost-of-living adjustments.

I sincerely hope the Ways and Means Committee will see fit to allow the House to consider the implications of the extension of the medicare tax conducting comprehensive hearings and reporting the legislation my colleagues and I have introduced.

FEDERAL GOVERNMENT
SERVICE TASK FORCE,
Washington, D.C., July 19, 1982.

Representative DAN ROSTENKOWSKI,
Chairman, House Committee on Ways and Means, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN ROSTENKOWSKI: As Members of the Federal Government Service Task Force, a group of House and Senate Members concerned about the quality of Federal service, we believe that steps taken on July 16th by your committee to levy a 1.3 percent Medicare tax on Federal employees are inappropriate and unfair for many important reasons.

1. *Overlapping Coverage.*—The Medicare tax is slated to increase to 1.35 percent in 1985, 1.45 percent in 1986. Federal employees will pay, under your proposal, $421, $460, $507, $571 and $667 of pay over the next five years. For this increasing burden, they will either face shrinking coverage under Medicare as deductibles increase and copayments decrease or they will prefer to remain covered under their Federal Employee Health Benefit (FEHB) plans.

Since most Federal annuitants would retain their health benefits under the FEHB Program, Medicare coverage provided under your proposal simply means double coverage at an extremely high cost to government. Typically, the FEHB coverage costs the Federal government far less than Medicare. In 1982, the government paid an average of $451.32 per Federal annuitant covered by FEHB, but $1,548 for each Medicare recipient.

2. *Medicare Tax in Context.*—The proposed tax reduces the maximum comparability pay increase assumed by the FY 83 budget (4 percent) to 2.7 percent. The 4 percent cap heavily contributes to the widening gap between private and Federal pay—even when expanded comparability standards proposed by the Reagan Administration are taken into account. Eroding comparability, together with reductions in force, furloughs, last year's reductions in retirement and health benefits, and the threat that similar actions will continue, impair government's ability to retain and attract the quality of talent sorely needed during a period of recession and expanding defense responsibilities. We have begun to force the wrong people out of Federal service and this exodus may well cost many times the anticipated revenue gain.

3. *Stabilizing Medicare Funding.*—Expanding the numbers of employees served by Medicare can create more problems for the system than a short-term savings of $600 million warrants, Increasing medical costs in future years will more than offset the fiscal year 1983 savings projected by the Committee. In our view, the Committee's cost-containment approach to the Medicare system's problems has far greater potential. Such approaches should be expanded as quickly as possible.

4. *The Need to Stabilize FEHBP.*—Serious after-effects from last year's turmoil in the FEHB programs (resulting from actions taken by the Office of Personnel Management) have prompted the Post Office and Civil Service Committee of the House to examine the relationship of FEHBP to Medicare. Rep. Mary Rose Oakar's Compensation and Benefits Subcommittee has been hard at work for months on a comprehensive effort to reform and stabilize the FEHBP. Last week's decision to tax Federal employees and bring them under Medicare does not appear to dovetail with the Oakar initiative despite the fact that identical constituencies are impacted. We find this piecemeal approach to Federal employee compensation, as we have said, particularly unfortunate. We also believe that any effort to restructure the relationship between Medicare and FEHBP requires extensive review in order to determine the long-term impact upon both programs.

For these reasons, we urge you to initiate and support steps to delete provisions levying the 1.3 percent Medicare tax as your Committee continues its present work. If you or your staff have any questions about the information we have provided, please do not hesitate to contact the Task Force staff at ext. No. 62494.

We hope that once you have had a chance to review the ramifications of the Medicare tax fully, you will agree that it is both precipitous, poor policy, and unwarranted.

Sincerely,
Robert T. Matsui, Vic Fazio, Frank R. Wolf, James J. Howard, Norman D. Dicks, Michael D. Barnes, Steny H. Hoyer, Toby Moffett, and Fortney H. (Pete) Stark.●

SISTER FLORA MARY MacDONALD

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. MOORHEAD. Mr. Speaker, Sister Flora Mary MacDonald is among that very special class of women, long lauded by history, who has spent their lives ministering, with energy, skill, and love, to the sick and infirm.

For 60 of her 80 years, she has eased the pain of those with pain; she has sustained, encouraged, and strengthened those in need of sustenance, courage, and strength. She is the paradigm of the caring, devoted nurse.

In recognition of her dedication and faith, her grace and warmth, St. Joseph Medical Center will honor her on September 17.

Sister Flora Mary has played an important role in the history of St. Joseph's. She was the hospital's first administrator from 1944 until 1950. She returned as administrator in 1962 and held that position until 1972. Today, at the age of 80, she remains a caring, active hospital administrator in Washington State.

Mr. Speaker, it is a pleasure for me to be able to take part in honoring this very special woman.●

COMPETTTIVE SHIPPING AND SHIPBUILDING REVITALIZATION ACT OF 1982

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ZEFERETTI. Mr. Speaker, I rise in support of a very important and timely piece of legislation—H.R. 6979, the Competitive Shipping and Shipbuilding Revitalization Act of 1982. I would also like to take this opportunity to thank my colleague, Congresswoman LINDY BOGGS, for introducing such essential legislation and spearheading the efforts to bring it before the House.

At a time when our maritime industry is suffering great losses, both economic and manpower, we must take a very serious look at what can be done to support and maintain our merchant marine and shipbuilding mobilization base. H.R. 6979 is a sound bill, which

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will give this Nation's two most valuable assets the shot-in-the-arm it so desperately needs.

Essentially, the bill would decrease this country's dependence on foreign shipping for strategic materials; help rebuild the bulk component of the U.S.-flag merchant fleet engaged in international commerce; provide needed work for the commercial shipyards located throughout the Nation; and provide substantial work for support industries such as mining, steel mills, and foundries, as well as manufacturers of fabricated metals/alloys, pipes and valves, propulsions and machines, and other materials and equipment.

Today, our U.S.-flag bulk fleet numbers only a mere 48 ships. In 1970, that fleet engaged in international commerce totaled 81. That is quite a decline and a decline we, as a nation and world power, cannot afford. If provisions are not made for replacement—such as this bill would entail—we can most assuredly expect this Nation's shipping capacity and defense base to be put in serious jeopardy.

I firmly believe, as my esteemed colleague, LINDY BOGGS, so rightly stressed, that the U.S. merchant fleet and shipbuilding industry can be revitalized through this legislation to meet the national requirements for an efficient and well-equipped merchant fleet. H.R. 6979 will give this country the capacity of fulfilling national requirements during peace and war and a U.S.-flag merchant marine capable of giving the United States independence from foreign shipping. Let me also point out that H.R. 6979 does not represent any additional cost to the U.S. Treasury—and only a very low-percentage increase in costs to bulk commodity exporters and importers. This is a very small price tag for stimulating vital industrial segments of the economy, increasing employment, aiding our balance of payments, adding tax dollars to the U.S. Treasury and fostering the growth of the U.S.-flag merchant fleet.

Mr. Speaker, I wholeheartedly urge my colleagues to stand in support of H.R. 6979 and our merchant marine and shipbuilding mobilization base.●

THE LEBANESE CRISIS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DOUGHERTY. Mr. Speaker, during this time of trouble in the Middle East, I would like to bring to the attention of my colleagues a statement on Lebanon recently issued by 18 prominent Christian and Jewish leaders of the Philadelphia area. I think it brings to the forefront the major concern of many Americans in the settlement of this crisis in Lebanon.

STATEMENT ON THE CRISIS IN LEBANON

All sensitive people are troubled by the violence and bloodshed in Lebanon and Northern Israel in recent days. As Christian and Jewish Americans, we share a special concern for the Christian minorities, Muslims and Jews who have paid a great price in conflicts that originated with armed intruders to the region.

We believe the situation in Lebanon must be resolved within a framework that both restores genuine sovereignty to the people and government of Lebanon and provides permanent security for people living near the Israeli-Lebanon border.

Therefore, in order to be of lasting benefit, any Israeli withdrawal from Lebanon must be related to firm guarantees for the withdrawal of Syrian and PLO military forces.

Ernesta D. Ballard, Civic Leader; Stephen Board, Executive Editor, Eternity Magazine; Dr. Dennis J. Clark, Historian; Alvin H. Clemens, President and Chairman, Executive Committee of Academy Insurance Group; Father Louis El Farek, Father Antoine El Maghariki, Assistant Pastors of St. Maron's Church; John M. Elliott, Senior Partner, Dilworth, Paxson, Kalish & Kauffman, Board of Directors Irish Society of Philadelphia; Dr. Murray Friedman, Middle Atlantic States Regional Director, American Jewish Committee.

Robert A. Fox, Chairman of the Board, Philadelphia Chapter, American Jewish Committee; Richard G. Gilmore, Banker; Matthew R. Giuffrida, Director, Parish Witness Program, American Baptist Church; Reverend John F. Hardwick, Episcopal Priest; Patricia B. Levine, Director, National Conference of Christians and Jews; Dr. Peter J. Liacouras, President, Temple University; Father Sharbel Lischaa, Pastor of St. Maron's Church; W. Thacher Longstreth, Philadelphia Quaker, President, Philadelphia Chamber of Commerce; Frank C. P. McGlinn, Businessman; Eugene Pasymowski, President, Polish-American Affairs Council of Pennsylvania; and Honorable James J. Tayoun, Councilman of the City of Philadelphia.

CHARLES F. DOUGHERTY.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. CORCORAN. Mr. Speaker, due to a series of meetings with the President regarding the pending tax bill, I was unavoidably detained during part of the House proceedings on Wednesday and today. Had I been present yesterday, I would have voted in favor of the motion that the House resolve itself into the Committee of the Whole House for the consideration of the bill H.R. 5540, to amend the Defense Production Act of 1950.

Earlier today I was absent for the vote on agreeing to the House Journal of yesterday's proceedings. Had I been present, I would have voted for this motion. I would have voted against the motion of the gentleman from Illinois (Mr. ROSTENKOWSKI) to table House consideration of House Resolution 571, which dealt with the constitutionality of the conference report on the tax bill.●

AUGUST 27—HAPPY BIRTHDAY, PRESIDENT LYNDON JOHNSON

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. PICKLE. Mr. Speaker, a week from tomorrow the Congress will be at recess as the Nation celebrates August 27 as the 74th birthday of Lyndon Baines Johnson, our beloved 36th President. Since Congress will not be in session, we should take care to think back, collectively and individually, and remember L. B. J.

L. B. J. was one of our strongest and most effective Presidents, and the long shadow he cast can still be seen in the Halls of this great Capitol. Clearly, he was "the education President." Just as clearly, he was a brilliant tactician and an effective administrator, as evidenced by his legislative accomplishments in both the 88th and 89th Congresses.

His legend grows larger each year, and in each Congress there are more and more stories told about L. B. J.—about his uncanny knack for knowing what to do in a legislative battle, about how to do it, and when. His Presidency meant more to the poor, the oppressed, and the dispossessed in this country than any other Presidency this century, with the possible exception of F. D. R., Lyndon Johnson genuinely cared about the poor, about minority cultures, about his fellow man—and he wanted to help. He wanted the Government to help. Finally, he wanted to be a part of the Government, and to grab that unwieldly instrument and make it work for people, make it help lift people up and give them dignity.

We do not yet know how historians, with the full benefit of hindsight, will rate Lyndon Johnson and his Presidency. Those of us who worked on his staff or served in his administration, we know that he earned a niche in history never to be diminished. And those of us who served in Congress during his years in the White House, and who knew and worked with him, increasingly we talk among ourselves about how much we enjoyed that time, and we still wonder at his mastery of the office.

He knew this House backward and forward, as he knew his allies and his opponents. Though he might have done some outlandish things, he did them with style and flourish. He was an immense man, full of complexities and driving ambitions, but, at his core, always a caring and thoughtful individual. L. B. J. was the consummate President; there may never be another like him. He was a man born to greatness. And we miss him.●

TO HONOR THE 40TH ANNIVERSARY YEAR OF THE 8TH AIR FORCE

HON. JACK KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. KEMP. Mr. Speaker, I would like to take this opportunity to honor a request from one of my constituents, Mr. Don Keohane. Mr. Keohane was a member of the 8th Air Force, which flew heavy bombing missions over Europe during World War II. The 8th Air Force consisted of the bulk of the American airmen in England during the war. At least 300,000 U.S. airmen served in the 8th Air Force by the end of the war, yielding it the nickname. "The Mighty Eighth."

American airpower was greatly responsible for our victories in Europe during the course of World War II. Some of our Nation's bravest men were the crews of the B-17 and B-24 bombers who flew on complicated raids over Germany. Losses were high and each crewmember risked his life many times for his country, and for the cause of freedom.

Mr. Keohane was attached to the 390th Bomb Group of the 8th Air Force. For his service, we owe him a great honor, as we owe all members of World War II aircrews who courageously served their country. Therefore, I would like to add this "Resolution to Honor the 8th Air Force in its 40th Anniversary Year" to the record of this Congress.

RESOLUTION TO HONOR THE 8TH AIR FORCE IN ITS 40TH ANNIVERSARY YEAR

The Eighth Air Force was activated as a part of the U.S. Army Air Force on 28 January 1942, at Hunter Field, Savannah, Ga. Col. Asa N. Duncan was named the first Commander of the 8th Air Force (it was only a paper organization at that time—soon afterward the 8th Air Force Command was given to the famous "Tooey" Spaatz).

On 20 February 1942, Brig. Gen. Ira C. Eaker (Lt. Gen. (Ret.), now living in the Washington, D.C. area—he was awarded the Congressional Gold Medal on 17 December 1979) took the 8th Air Force Bomber Command Headquarters to High Wycombe, England. On 24 April 1972, Maj. Gen. Carl Spaatz arrived in England. He established the Headquarters of the 8th Air Force at Bushy Park, 15 miles WSW of London.

On 26 June 1942, a crew of the 15th Bomb Squadron flew in RAF Boston aircraft on the first operation of the 8th Air Force. On 14 July the 15th Bomb Squadron flew the first combat mission of the 8th Air Force with six aircraft (Bostons) flying in a RAF formation to hit airfields in Holland. Two crews were lost on this night mission.

On 17 August 1942, 12 B-17's of the 97th Bomb Group flew the first 8th Air Force heavy bomber raid of the 8th Air Force. The target was Rouen, France. Col. Frank A. Armstrong commanded the mission. The lead pilot was Paul Tibbetts (of "Enola Gay" fame, he dropped the first atomic bomb). General Eaker was in the lead aircraft of the second flight.

Lt. Gen. Ira Eaker took command of the 8th Air Force on 1 December 1942 (Spaatz went to North Africa to command the air forces there under General Eisenhower). Lt. Gen. Jimmy Doolittle took command of the 8th Air Force on 6 January 1944 (General Eaker moved to command the air forces in the Mediterranian area). Maj. Gen. William E. Kepner took command on 10 May 1945 (General Doolittle moved to the United States to begin setting up the B-29 units that would become the 8th Air Force in Okinawa). On 16 July the flag of the 8th Air Force was moved to Okinawa, with Jimmy Doolittle assuming command once again. The war ended before the B-29 groups in the 8th Air Force could become operational.

The 8th Air Force has continued in active service since its inception, serving in every armed conflict the United States has engaged in ever since. It presently consists of most of the SAC units east of the Mississippi River with headquarters at Barksdale Air Force Base, Shreveport, Lt. Gen. Robert T. Herres presently commands the 8th Air Force.

In World War Two, the 8th Air Force became the greatest single air arm of any country in any war, reaching a total strength of 200,000 persons by Mid-1944 (it is estimated that more than 300,000 Americans served in the 8th Air Force in the 3 years of war in Europe). At peak strength it could put up 2,000 four-engined bombers and more than 1,000 fighters on a mission. For these reasons the 8th Air Force has become known as "The Mighty Eighth."

Half of the USAAF casualties in World War Two were suffered by the 8th Air Force (over 47,000 killed). Half of the Medals of Honor awarded to airmen in WWII went to 8th AFers. Of the 406,000 Americans reported to have died in WWII, 11.3 percent were in the 8th Air Force.

In 1975 the 8th Air Force Historical Society was born. The function of this nonprofit organization is to provide for opportunities for 8th Air Force War Veterans to get together. It also has the mission of perpetuating the history of the 8th Air Force. This historical function is carried out by the sister organization of the 8th AFHS, the Eighth Air Force Memorial Museum Foundation, Inc. New members are signing up with the 8th AFHS at the rate of 140 per month at the present time.

To commemorate the 40th Anniversary, the 8th AFHS is sponsoring the 8th Air Force Reunion at Cincinnati, 6-10 October 1982. Lt. Gen. Jimmy Doolittle and Lt. Gen. Robert T. Herres are expected to attend, along with a number of former group commanders. Highpoints will include an Air-War Symposium (on Escape & Evasion and POW topics) on 6 October and the dedication of the 8th Air Force Dayton Memorial on the grounds of the Air Force Museum, Wright-Patterson Air Force Base, Ohio, at 11:00 a.m. on 9 October 1982.●

DEATH OF FORMER HOUSE MEMBER JAMES J. GEELAN

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DENARDIS. Mr. Speaker, it is my sad duty to inform the House that one of its former Members has passed away.

James J. Geelan, U.S. Representative in the Third District of Connecticut from 1944 to 1946, died Sunday, August 8, 1982, at Yale-New Haven Hospital at the age of 80.

The Geelans are an outstanding family in the district, and Jim was a popular and well-liked individual. His son, James, is a friend of mine, and his brother, Bernard, who lives in New Haven, was a friend of my recently deceased father.

A Democrat and a labor leader, he won three straight elections to the State senate starting in 1938, before winning the Third District seat.

Mr. Geelan was born in New Haven, August 11, 1901, son of the late Thomas and Mary McDonnell Geelan, and was a resident of New Haven before moving to Branford 15 years ago. He was the husband of Elizabeth Doll Geelan.

A graduate of St. Anthony's College in San Antonio, Tex., he was elected vice president of the New Haven Central Labor Council in 1942. He lived at 52 Beckett Avenue and owned and operated Jim Geelan's Package Store in New Haven for 7 years until his retirement 10 years ago. He had leased five gas stations on the Wilbur Cross and Merritt Parkways for more than 20 years.

Jim Geelan will be missed by many people. He was a very important part of the political scene in my area for many years.●

REPLACEMENT MOTOR FUELS ACT OF 1982

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. JEFFORDS. Mr. Speaker, yesterday I participated in a special order arranged by the gentleman from Pennsylvania (Mr. EDGAR) which I believe should serve as a reminder to the Members of this House that the energy crisis is not over. We are overly dependent on expensive and unreliable supplies of liquid fuel from abroad. I am encouraged that there seems to be an interest in innovative ways of easing our dependence on foreign oil.

Today, I am approaching legislation that I believe is the type of approach

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that can make a significant contribution to the development of new sources of liquid fuel without high Government subsidies. I urge my colleagues to cosponsor this bill, the text of which is reprinted below.

The Replacement Motor Fuels Act of 1982 would require that, by 1990, 10 percent of each gallon of motor fuel sold in the United States must be a replacement fuel. The term "replacement fuel" is defined as alcohol, or other liquid produced from coal, oil shale, tar sands or other substance for the purpose of mixing with gasoline to be used as a motor fuel. The ultimate goal, by 1995, is to replace 20 percent or more, by volume, of the nationally projected consumption of motor fuel.

Without a doubt, the United States has the technical capability to produce fossil fuels from grains, garbage, coal, oil shale, tar sands, and other sources. However, Government research in these areas has been cut back and even with massive subsidies, synthetic fuels plants have had to be closed. It is clear that the United States will fall short of the goal of producing 500,000 barrels a day of synthetic fuel by 1987, and 2 million barrels a day by 1992, as spelled out in the Energy Security Act that Congress passed just 2 years ago.

My approach is to mandate a market for these products in order to create a certainty for the private sector in its efforts to develop these new sources of domestic liquid fuel. It is a concept built on the model of successful program of mandating fuel efficiency in motor cars. In spite of the sorry condition of the U.S. auto industry today, I believe we can safely say that it would be in worse shape if it were not for mandated fuel efficiency.

Best of all, this approach can make a contribution to energy security without increasing Federal spending or adding to the Federal bureaucracy. It puts the choice of process, product, and price in the marketplace where the working of competitive forces will give the public the most suitable products at the lowest price. In addition, it can be implemented quickly without elaborate contracts and complicated administration.

In the last Congress, the Replacement Motor Fuels Act had over 135 consponsors. Testimony on the bill was overwhelmingly favorable, indicating that this program could save about 700,000 barrels of imported oil each day by 1990.

Mr. Speaker, I urge my colleagues to study this bill and join me in support of the approach of guaranteed market.

H.R. 7037

A bill to establish a program for replacing, by 1990, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from coal and renewable resources.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Replacement Motor Fuels Act of 1982".

FINDINGS

SEC. 2. The Congress finds that—

(1) the United States is currently importing significant quantities of the crude oil needs of the United States;

(2) a substantial portion of such crude oil is needed for the production of gasoline sold in commerce; and

(3) renewable resources, coal, and other substances can provide a sufficient source of replacement fuels suitable for blending with gasoline to decrease the need for imported crude oil.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources or coal and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(2) the term "replacement fuel" means alcohol or other liquid produced from coal, oil, shale, or other substance as may be determined by the Secretary, for the purpose of mixing with gasoline to be used as a motor fuel;

(3) the term "replacement motor fuel" means any fuel described in paragraph (2) mixed with gasoline for use as a motor fuel;

(4) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, road, and highways;

(6) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of gasoline for use as a motor fuel;

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "United States" means each State of the several States and the District of Columbia; and

(9) the term "renewable" means any source of energy which is available in an inexhaustible supply in the foreseeable future.

REPLACEMENT FUEL PROGRAM

SEC. 4. The Secretary shall establish, pursuant to this Act, a program to promote the development and use of replacement fuels in the United States. Such program shall be designed to promote the replacement of gasoline to be used as a motor fuel with replacement motor fuel containing the maximum percentage of replacement fuel as is economically and technically feasible for use as a motor fuel.

DEVELOPMENT PLAN AND PRODUCTION GOALS

SEC. 5. (a) Under the program established under section 4, the Secretary, in consultation with the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and determine—

(1) the most suitable raw materials, other than petroleum or natural gas, for the production of replacement fuels;

(2) the nature of the replacement motor fuel distribution systems, and the various production processes which use feedstock other than petroleum and natural gas, necessary for the rapid development of a replacement motor fuel industry, including a proposed timetable for the development of such systems and processes;

(3) the technical and economic feasibility of including liquids extracted from oil shale and coal as part of the replacement fuels program; and

(4) the technical and economic feasibility of producing sufficient replacement fuels, by the calendar year 1995, in order to replace 20 percent or more, by volume, of the projected consumption of gasoline used as a motor fuel in the United States for that year.

The Secretary shall prescribe by rule, a substitute percentage goal for purposes of paragraph (4) if he determines that 20 percent is inappropriate.

(b) The Secretary shall, by rule, establish production goals for the optimal production of replacement fuel in the United States in each of calendar years 1984 through 1990. In establishing such goals, the Secretary shall—

(1) take into account the availability of reliable sources of replacement fuel produced from renewable resources, coal, and substances other than petroleum and natural gas; and

(2) provide that the production goal for replacement fuel for calendar year 1990 and thereafter shall be not less than 10 percent by volume of the projected consumption of gasoline used as a motor fuel in the United stated for each year.

(c) In carrying out subsection (a), the Secretary shall—

(1) identify ways to encourage the development of a reliable replacement fuel industry, and the technical, economic, and institutional barriers to such development, and

(2) include an estimation of the production capacity of replacement fuel needed to implement the provisions of this Act.

(d) Not later than one hundred and eighty days after the date of the enactment of this Act, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

REPLACEMENT FUEL REQUIREMENTS

SEC. 6. (a) Of the total quantity of gasoline and replacement fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel shall constitute the minimum percentage determined in accordance with the following table:

In the calendar year:	The minimum percentage of that volume which replacement fuel constitutes, shall be—
1984, 1985, 1986, 1987, 1988, and 1989.	Determined by the Secretary under subsection (b) of this subsection.
1990, 1991, and 1992.........	10 percent.
1993, and each year thereafter.	The percentage determined feasible under section 5(a)(4).

(b) Not later than July 1, 1983, the Secretary shall prescribe, by rule, the minimum percentage replacement fuel, by volume, required to be contained in the total quantity of gasoline sold each year in commerce in the United States in calendar years 1984 through 1989 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1990.

(c) Each refiner shall report annually to the Secretary the percentage replacement fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that refiner sold during the preceding calendar year.

(d) The requirements under subsection (a) on any refiner may be satisfied directly with replacement fuel and gasoline refined and blended by the refiner or indirectly pursuant to any contract or other arrangement with replacement fuel and gasoline refined or blended by others.

(e) The Secretary may, on the application of any person, make adjustments to reduce the minimum percentage requirement as it applies to that person, but only if and to the extent that such adjustments are consistent with the purposes of this Act.

ENFORCEMENT BY THE SECRETARY

SEC. 7. (a) Any person who violates any requirement of section 6(a) is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with section 6(a). Such penalties shall be assessed by the Secretary.

(b)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within thirty days after the date of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

PROCEDURES FOR RULEMAKING

SEC. 8. Section 501 of the Department of Energy Organization Act of 1977 shall apply to any rule, regulation, or order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code) prescribed or issued under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated to the Secretary to carry out section 5 not to exceed $1,000,000 for the fiscal year ending September 30, 1983.●

GEORGE WASHINGTON SILVER COIN NOW AVAILABLE OVER THE COUNTER

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. ANNUNZIO. Mr. Speaker, the George Washington 90-percent silver commemorative half dollar is now available for over-the-counter purchase at the U.S. mints in Philadelphia, Denver, and San Francisco and at the Main Treasury Building in Washington, D.C.

In addition, the coins are also available at all branches of the Wright Patman Congressional Federal Credit Union. The House credit union is the first credit union in the Nation to have the coins available, and your visiting constituents may want to take advantage of the opportunity to buy a coin while they are at the Nation's Capital.

Up to this week, the coins were only available by mail from the Bureau of the Mint. The Mint had sold 3.8 million of the popular coins by mail in less than 7 weeks, and Mint Director Donna Pope has wisely decided to make the coins available over the counter as well.

The coin is one of the most beautiful coins ever produced in America. It features Washington in uniform mounted on a horse on the front and a view of Mount Vernon on the reverse.

It is available in two versions. The proof version is struck twice on highly polished dies, and is $10.50 each. The uncirculated version is $8.50 each. Cash and personal checks are accepted. Check purchases over $250 require a cashier's or certified check.

There is no limit on the number of uncirculated coins that can be purchased over the counter, but there is a limit of five proof coins per purchaser. The limitation on proof purchases is dictated by the time-consuming and intricate process of proof coin production. There is no limit on the number of coins that can be ordered by mail.

The coins can be purchased by mail. They can be ordered by check or money order from the Bureau of the Mint, 55 Mint Street, San Francisco, Calif. 94175.

Mr. Speaker, these coins are beautiful mementos of our Nation's first President. In addition, 20 percent of the proceeds are to be used solely to reduce the national debt. I urge my colleagues to inform their constituents who visit our Nation's Capitol or mints that these coins are available to them in person.●

JERRY SCHAFFER HONORED

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. COELHO. Mr. Speaker, I would like to take this opportunity to recognize the many outstanding contributions to the community by Mr. Jerry Schaffer, dean of community services at Merced College in Merced, Calif.

On September 11, Jerry Schaffer will be honored by the North San Joaquin Valley Health Systems Agency as their Volunteer of the Year, and a better choice for this award could not have been found. Jerry's commitment to the improvement of community health services is most obvious in his willingness to give of his time and energy in the pursuit of the goals of the agency. He has served as chairperson of the agency's governing body and has been an active participant in all aspects of its affairs.

I am pleased that Jerry's colleagues have seen fit to honor him in this way. His concern for our community and for his fellow man should serve as an example to us all, and I join with his many friends in saying thanks to Jerry Schaffer for a job well done.●

SANTO LOGUASTO: AN "AMERICAN"

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. RITTER. Mr. Speaker, too often we do not recognize that a giant walks among us until that giant disappears from the scene.

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Such is the case in the Lehigh Valley that I represent. On August 12, 1982 Santo (Sandy) Loguasto of Easton, Pa., died after many years of enduring constant pain of a terminal illness. He was a loving father, a successful salesman, a veteran who knew the horror of combat. Yet he preferred to describe himself simply only as "an American."

We can all learn a lesson from this "American."

Sandy came from a big family and persevered the hardships of growing up and working in the anthracite coal mines in northeastern Pennsylvania.

He knew what he wanted out of life and set about achieving it, shifting from the mines to a career as a hair stylist. World War II, however, interrupted his life as it did millions of other young men.

Sandy entered the Army in 1942 and saw service in Africa and Sicily before volunteering for the Rangers to make the Normandy invasion. As a soldier, he suffered along with his fellow GI's. He knew the hell he underwent in being pinned down in a foxhole for a week, unable even to raise his head because of murderous enemy fire. He knew the hell of being cut off and isolated in the Battle of the Bulge. He did not complain. He had a job to do.

During the latter stages of the war, he was attached to a European civil affairs division, helping in the seizure of some Nazi war criminals and helping to set up civil governments in captured towns.

He did not boast of his ribbons and medals. He insisted he was an "American" and just did his job to help bring peace to the world.

Returning to civilian life, he embarked on a new career as a salesman-manager of stainless steel cookware. Twice he led the Nation in sales for his company and paved the way to open up new markets in Europe and Canada.

Fate dealt him another blow in the mid-1970's when he fell victim to a terminal illness. Constant pain became a way of life. Enormous doses of medication became a way of life.

Forced into retirement by the illness, he reassessed what he would do with the time left for him. He thought of the 11 men out of 180 still surviving from his wartime Ranger outfit. As a symbol to them, he decided to fly 11 flags on his lawn every day in their honor.

He also realized that many veterans, for one reason or another, were not receiving benefits they were entitled to. He busily engaged, his health permitting, in filling out their reports for compensation or admission to veterans hospitals. He listened to all, helping in whatever measure he could.

The community took note of his unselfish efforts. He was honored by Easton VFW Post 1290 on memorial Day in 1976 for community service, in 1979 by Easton AmVets Post 17 with a National Service Award for patriotism, and in 1980 he was named the community's "Veteran of the Year."

His wife Evelyn never faltered in helping him to help others. His three sons remember him as a loving father.

Sandy's final wish was a simple military funeral. He was accorded that honor. The veterans and closest friends at the graveside service will never forget Sandy's youngest son. Led to the car after the service, he halted, turned around and saluted his father's casket.

Ironic as it may seem, an American flagpole stands at the foot of Sandy's grave—a silent tribute to a great American.

I feel honored for having been able to know him as a personal friend. I will never forget this "American."●

SENATOR THRUSTON BALLARD MORTON

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROGERS. Mr. Speaker, allow me first to express my gratitude to Congressman CARL PERKINS for taking out this special order today so that we who revere the late Senator Thruston Ballard Morton may honor him.

We all know Senator Morton's singular achievements. He was educated at Yale University and was an officer of the Navy in World War II. Elected to the House of Representatives in 1947, he remained there for 6 years, served as Assistant Secretary of State under President Eisenhower for 3 years, and then went on to the Senate where he remained for 12 years. During his two terms there, he also served as the national chairman of the G.O.P. and as head of the Senate Campaign Committee.

But what makes Thruston Morton special is not what he has done, but the courage with which he did it. A leader of moderate Republicans and a strong supporter of civil rights, he sometimes disagreed with popular conservative views. Known as an internationalist in foreign policy, Senator Morton advocated negotiating with the Soviet Union in the midst of the cold war scare. He dissented openly with popular sentiment by calling for our withdrawal from the Vietnam war in 1968. But these stands only inspired respect among his colleagues who referred to him as a "Kentucky Republican." His retirement from the Senate in 1969 was met with great dismay by all who knew him.

I am honored to represent the State that Thruston Morton served so faithfully and hope to continue the fine traditions he established throughout his entire career.●

ELLIS BULLOCK—FRIEND OF "CLOSE UP"

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. FRENZEL. Mr. Speaker, I rise today to bring to the attention of my colleagues the work of an outstanding Minnesotan for a program that many of us consider most important—the Close Up program.

Since the inception of the program in Minnesota in 1972, the Close Up program has benefited from the active interest and support of the Twin Cities business community. Area companies have not only been generous in their financial support but they have also given time and personal energy to the program.

The embodiment of this spirit of cooperation has been the evolution and work of the Minnesota Close Up Committee which has served as the backbone of the Minnesota Close Up program—lending its expertise and support to the program. The chairman of this effort has been Ellis F. Bullock, Jr., director of the Jostens Foundation. For the past several years, Ellis has given generously of his time and his enthusiasm to help raise the necessary corporate funds to make the program possible for the young people of my State. His efforts have not only been appreciated by the thousands of young people who have been reached but have also been welcomed by the Minnesota delegation who have worked with him on this worthwhile effort.

He is to be commended on his public spirit and his excellent work.●

BURNING FLESH

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. FINDLEY. Mr. Speaker, war is never pretty, but the conflict in Lebanon reached great ugliness inflicting new measures of misery upon civilians as well as guerrillas.

Reports to the Christian Science Monitor and the Washington Post state that phosphorous bombs have been used by Israeli forces, causing terrible injury to civilians as well as military units.

These bombs burn flesh for as long as 24 hours, and according to the Monitor article, medical resources in Lebanon were so limited that the only way to stop the burning was for physicians to cut away the burning flesh or amputate.

I call this information to your attention, Mr. Speaker, because these dreadful weapons were supplied to the Israeli forces by the U.S. Government. Where are the shouts of moral outrage, of protest? Are we indifferent to this engulfing human tragedy? We cannot escape responsibility.

The articles follow:

[From the Christian Science Monitor]

PHOSPHOROUS BOMBS HAVE BECOME THE NAPALM OF THE WAR IN LEBANON

U.S.-SUPPLIED BOMBS THAT BURN FOR UP TO 24 HOURS ARE SAID TO HAVE HIT MANY CIVILIANS

(By T. Elaine Carey)

BEIRUT.—What napalm was to the Vietnam war phosphorus is to the war in Lebanon, particularly in Beirut.

And the use of phosphorous bombs against human targets—civilians as well as soldiers—has begun to raise new questions about the United States arms trade to the Middle East. It does so, ironically, even as the siege of Beirut seems near an end.

Earlier in the war a muted crisis arose between President Reagan and Israeli Prime Minister Begin over Israeli use of US-supplied cluster bombs. That dispute ended in a temporary cutoff of shipments of the bombs to Israel.

Diplomats and hospital personnel here are beginning to go public with evidence of the widespread human damage caused by the phosphorous explosives. The result is likely to be renewed questioning as to why Washington fails to enforce the defensive-only restriction it places on use of such exported weapons.

"Phosphorous is a more sophisticated kind of napalm. It is designed to strike military installations like fuel depots. . . . It is antipersonnel," said Dr. Amir Salam, a urologist working at the American University Hospital.

In west Beirut, phosphorous shells and bombs have crashed onto the main street, Hamra, hitting banks, local newspapers, and foreign news offices. They have plowed into two hospitals, a Red Cross building, and hundreds of apartments.

The Palestinians do not have phosphorous weapons. Those used in the city have crashed into areas where Palestinian civilians had taken refuge, such as Hamra.

There are no precise, reliable figures for any aspect of the war yet, including the number of burn cases. But doctors said they have treated hundreds—at the very least.

Dr. Salam said neither he nor any of his colleagues here are burn specialists.

"Unfortunately we are guessing on the treatment. We don't have time to research it. We rarely have time to do much more than amputate.," Dr. Troy Rusli said. Dr. Rusli, who worked in Cambodia but lives in Norway, said he treated about 50 cases in five weeks. His "hospital" is the basement garage of the Near East School of Theology.

The use of phosphorous bombs by the Israeli Army has been condemned by relief workers in Lebanon who have seen its effects. They say that without the proper supplies, the only way to stop the burning is either to cut the burning tissue away or amputate. No one here has the supplies.

Relief workers are reporting an unusually high incidence of amputations in west Beirut, particularly, they say, among civilians. Phosphorous reportedly continues to burn for up to 24 hours unless treated.

The American University Hospital, Beiruts' best, said it had received hundreds of burn cases. Staff in the emergency room estimated 80 percent were civilians and 20 percent guerrillas. One Palestinian Red Crescent Society field hospital said its phosphorous cases were split 50–50 between guerrillas and civilians. Several other hospitals said their breakdown was about 70 percent civilian and 30 percent guerrilla.

Ahmad Abdisaleh, an elderly Palestinian porter who lived in Borj el Barajneh, was eating breakfast when a phosphorous shell smashed through his house.

Phosphorus, a yellowish powder, sprays out of the shell casing, igniting instantly when it hits air. Mr. Abdisaleh's body and clothing went up in flames.

At first glance, Mohammed Halil, another patient who is a PLO guerrilla, looked Sudanese or Ethiopian. His face was black. But when a doctor pulled back the sheet, his chest skin was white. His face had been charred black.

"Industrialized countries don't have burn centers to care for these people, but they have the weapons to use in the third world," Dr. Rusli lamented.

One of the last groups he cared for was a family of seven. The hair on their heads had been singed off and the features on each of their faces were no longer discernible.

"I never experienced anything like this in Cambodia," Dr. Rusli said.

"The difference here is the weapons and their velocity. In Cambodia we didn't have the small fragmentation of shrapnel."

The shrapnel has phosphorous on it, so it begins burning the minute it imbeds in the body, he explained.

"When we took a big piece of shrapnel out of one man's ankle, we opened the bandages on the operating table and smoke came out. The man was wounded 10 hours before. The leg had burned for 10 hours."

"Usually war is on the battlefield," Dr. Rusli said. "Seventy percent of my patients are civilians. Women and children aren't in the army."

[From the Washington Post]

VICTIMS BURNED BY PHOSPHOROUS IN WEST BEIRUT

(By Loren Jenkins)

BEIRUT, August 19—Her lips are swollen and blackened, her thin frame swathed in ointment-soaked gauze. From her bed in a makeshift hospital at International College here, she recalls when the shell hit the underground garage where she and her family were hiding a week ago.

"Everything suddenly went dark," says 17-year-old Fatmeh Aytawi, "and then I remember a brilliant white flame, and I felt I was suddenly on fire."

Hours later, when rescue workers finally dug the Aytawi family out of the rubble and rushed them to the hospital, doctors recall that their bodies were still smoldering. Fatmeh's mother died last Monday, while her father remains in serious condition. Four sisters and a brother also are hospitalized.

Doctors here and at hospitals throughout West Beirut say they are seeing an increasing number of burn patients like Aytawi and her seven family members, who they say are victims of Israeli phosphorous shells that were part of the intense bombardment that rained down on the Lebanese capital in recent weeks.

The wounds are distinctive and much harder to treat than ordinary burns, the doctors say, in part because phosphorus sticks to the skin and can burn for hours. It cannot be extinguished by water, which causes a chemical reaction that makes the wound burn more. Like the Aytawi family, victims often arrivr at the hospital with smoke still pouring out of their bodies from internal burns as well as skin injuries.

Israeli authorities say they only use the shells as "markers" to guide artillery because the smoke the shells give off helps gunners zero in on their targets. The Israelis say phosphorous shells traditionally have been used in this fashion since World War II and blame civilian injuries on Palestinian guerrillas who chose to make their stand in civilian-occupied parts of the city.

With the chaos that the two-month Israeli siege and bombardment has produced here, it is impossible to determine exactly how many civilians have been killed, maimed or, like Aytawi, disfigured by Israeli phosphorous shells. Still, many doctors say the number of burn cases they have seen has increased markedly this month, which corresponds with the first physical evidence of heavy use of phosphorous shells.

"Most of the serious injuries we were getting [during] the early part of the war were from bullets and shrapnel," said Sameer Shehadi, chief of surgery at the American University of Beirut's teaching hospital here. "In the last two or three weeks, though, we have been getting a number of serious burn patients."

Dr. Amal Shamma, the U.S.-trained, Lebanese director of the now-closed and shell-battered Barbir Hospital, recalled when one couple brought in three small children—two dead, 5-day-old baby girls and a badly burned 3-year-old boy, all of whose bodies were still smoldering. The boy died the next day.

Troy Rusli, a Cambodian-born, Norwegian doctor who is a volunteer surgeon at the makeshift Lahout Hospital at West Beirut's Near East Theological Center, described a man, about 60, who was brought in with a piece of phosphorous-coated shrapnel lodged in his chest.

"Smoke from the burning phosphorus inside him was coming out his nose and mouth with every painful breath," recalled Rusli. "We had to cut the shrapnel out of him before we could finally stop the burning by cutting away the scorched tissues."

"No weapon is a good weapon," said John Barton, an Illinois University professor of medicine who is working as a volunteer at the same hospital. "But this one, the phosphorous bomb, is one of the worst."

Shamma said most hospitals lacked both the supplies and the expertise to treat phosphorous victims properly. She said doctors were relying mostly on printed information compiled by U.S. military doctors in Vietnam and on a handbook of war surgery published by the North Atlantic Treaty Organization.

There is no way to determine accurately how many phosphorous shells have been dropped on this city. But dozens of 155-mm artillery shells dug from the rubble of the main Palestinian neighborhoods on Beirut's southern fringes have hollowed interiors coated with yellowish-orange oxide, and the pungent odor of phosphorous is unmistakable.

Other phosphorous shells have hit the city's center in the vicinity of the Hamra Street business district. One gutted the offices of Newsweek and the Los Angeles Times in the An Nahar newspaper building minutes after the correspondents had left to seek refuge in the building's basement. At

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least two of the city's 10 hospitals also have reported being hit with the shells.

Some doctors, especially those who have not treated phosphorous-burn patients firsthand, are reluctant to estimate their number, saying pressure on hospital laboratories have made chemical analyses impossible. All burn victims generally are treated alike here after surgery, and medical records often do not distinguish phosphorous victims from other burn patients.

Joseph Ayyad, a Palestinian of Spanish citizenship who is Aytawi's doctor, said he is treating 17 phosphorous-burn patients, 11 of them civilians.

[It was unclear Thursday whether the shells are Israeli- or American-made. Benjamin Abileh, an Israeli Embassy spokesman in Washington, said he would not provide an answer, but noted that the shells "have been made all over the world for many years and used in all the armies of the world for many, many years."

[Abileh acknowledged that the phosphorous shells could cause severe injuries but said they were less deadly than regular artillery shells. "People can get burned, but with another kind of shell they would die, so in this sense it's a less dangerous weapon," he said.

[A Department of Defense spokesman said the Pentagon was checking to determine whether U.S.-made phosphorous shells had been sold to Israel. He said that unlike the special, classified restrictions on Israeli use of U.S. cluster bombs, the only restriction on phosphorous-shell use would be the provisions of the Arms Export Control Act that require that American-made weapons by used only for defensive purposes. Israel has argued that its invasion of Lebanon was undertaken in self-defense.] ●

TAX REFORM DECISION DIFFICULT, BUT NECESSARY

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. McCOLLUM. Mr. Speaker, yesterday I made the toughest vote I have had to make since coming to Congress. I voted for the conference report to H.R. 4961—the 1982 Tax Reform Act—endorsed by President Reagan.

It is absolutely essential to the economic recovery of our Nation that we lower interest rates substantially below where they are at the present and that we keep them there while also keeping inflation under control. To accomplish this, we must dramatically reduce the runaway deficits created by the reckless spending policies of past Congresses. Ideally, this should be done totally by spending cuts, but it is clear there are not enough Members in this Congress who feel as I do to make the necessary cuts. However, we did manage to pass a budget resolution earlier this year reducing the deficit $380 billion over the next 3 years, of which $280 billion is in spending cuts. The price we had to pay to the liberal leadership which still controls the House was $99 billion in added revenues over the same period of time. The Tax Reform Act fulfills the revenue commitment of this budget resolution, and now our job is to see to it that the spending cuts are actually produced.

Like President Reagan, I had to "swallow hard" to support any revenue increases, and there are specific provisions in this tax bill, such as interest and dividend withholding, which I do not like. But, on the whole, for a revenue-raising measure, this is far better for the average American than one might expect. Under this measure, three-fourths of these additional revenues will come from closing loopholes and collecting taxes which are not now being collected. Less than one-fourth of the $98.3 billion in revenues covered by this bill are in the form of actual tax increases.

For most individual taxpayers, the bill will have little impact, and because of the indexing of tax rates and the rate reductions passed last summer, even with this new bill's increased revenues, the tax burden on Americans will be $334 billion less over the next 3 years than if the tax cuts of last year had never been enacted or had been repealed, as some suggested. The typical family will pay almost $400 less in taxes this year than if prior rates still applied. Next year, even with the passage of this bill, that family will pay $788 less.

Contrary to some common rumors, there are no new taxes on interest and dividend income. This type of income becomes subject to withholding of estimated taxes due under present law just as in the case of wages. The purpose is to collect from those not now paying what they owe, and most senior citizens and the poor are exempted from the provisions. Nearly 80 percent of people over 65—those who make less than $14,450, or $24,214 for a joint return—and low-income people of any age who owed $600 or less in taxes the prior year—$1,000 on a joint return—are exempt from the dividend and interest withholding. All interest payments of less than $150 are totally exempt from the withholding requirement. Even so I strongly opposed this part of the bill and will continue to work hard for passage of the Senior Citizens Savings Protection Act which I introduced last year to eliminate all taxes on interest and dividends for persons age 62 and older.

It is vital that we give our economic recovery program the chance to succeed. The goals our Nation endorsed last year promise to bring to an end 40 years of uncontrolled tax and spend policies and to bring us a future of growth, employment, and stability. To achieve this end, this tax bill is necessary and for that reason alone it is a step well worth taking.●

THRUSTON B. MORTON

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. CORRADA. Mr. Speaker, I rise to pay tribute to a great public servant, the late Hon. Thruston B. Morton, whose presence will be sorely missed both here in Washington and in his home State of Kentucky. Although I did not have the privilege of serving with him in the House of Representatives, I know well of his reputation as an outstanding leader and hard-working lawmaker.

Senator Morton lived a life dedicated to improving the public good—not only did he serve in the House and the Senate for 12 years, but he held the post of Assistant Secretary of State under Dwight D. Eisenhower for over 3 years. As a Representative for the people of Kentucky, he provided a moderate voice in the public policy and a strong supporter of the Republican Party. After leaving Washington in 1969, Senator Morton continued to influence national politics by actively campaigning for Presidential candidates, despite the fact that he was falling into progressively poorer health.

Senator Morton will be remembered not only as a dedicated public servant, but also for his performance in the Navy, as commander in the Pacific during World War II. In addition, his many accomplishments as chairman of Churchill Downs and president of the American Horse Council will never be forgotten by the people of Louisville, Ky.

Mr. Speaker, it is with great sadness that I remark the passing of this great man, remembering his contribution to our Nation.●

PROTECTING THE RIGHTS OF THE HANDICAPPED

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. McKINNEY. Mr. Speaker, the regulations promulgated under section 504 of the Rehabilitation Act are the cornerstone of the Federal Government's effort to encourage the integration of the handicapped into the mainstream of American society. After decades of second-class status, institutionalization, and prejudice, the disabled won a guarantee from Congress that their rights as citizens would be protected.

In the 5 years since the first of these regulations went into effect, the handicapped have greatly benefited from the vastly expanded opportunities available to them. Yet despite the unqualified success of these regulations in insuring the civil rights of the disabled, a number of changes have recently been proposed. Today I want to applaud the efforts of those in Connecticut and around the Nation who have rallied to preserve these rights, and to once again add my voice to theirs.

In the worthy interest of trimming the Federal budget and simplifying regulatory procedure, several discussion drafts proposing modifications in section 504 have been circulated. Unfortunately these drafts have included changes which would reduce the protections afforded the civil rights of the handicapped under the existing language. Changes which would serve as a step back in the fight to insure that the disabled have access to the same wide range of services available to every other citizen cannot be accepted. Civil rights cannot tolerate cost/benefit analysis. Recently discussed changes could limit the programs covered by section 504 from those benefiting from Federal funding to those directly receiving funding. This would have a significant impact on the educational opportunities open to the disabled.

Proposed modifications could shift the burden of proof in demonstrating discrimination on to the handicapped person. An additional change expands the undue hardship waiver to cover many areas not currently affected. I feel that these changes are not in the best interest of those the regulations were designed to protect, nor are they in the best interest of the Nation. In limiting the self-improvement opportunities open to the disabled we pave the road for Federal assistance to undereducated, untrained, unemployable individuals. Section 504 represents an investment in the future, not only for the handicapped but for the Nation as a whole.

Like the proposed changes in section 504, alterations have been suggested for Public Law 94-142, the Education for All Handicapped Children Act, which would weaken these fundamental protections. I stand by the current Public Law 94-142 language as a commitment to all handicapped children to an appropriate, free public education. The proposed modifications would weaken the rights of parents to involve themselves in their child's educational program as active advocates. The proposal would limit the evaluation process which is designed to seek out children in need of special education and would give over to the States the power to set certain deadlines and requirements. I believe that these changes would take an unacceptable toll in limiting the educational opportunities open to this Nation's disabled children.

While I am committed to guaranteeing the rights of the disabled in the most cost-effective way, I cannot support short-sighted, near-term savings which will ultimately cost both the handicapped and the country more than will be saved. I stand firmly opposed to any weakening of the protections contained in section 504 and Public Law 94-142.●

TRIBUTE TO RICH DEVOS

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 20, 1982

● Mr. SAWYER. Mr. Speaker, today I would like to express my praise for the great contribution that Mr. Rich DeVos, cofounder of Amway Corp. in Ada, Mich., made as finance chairman of the Republican Party. During his term as chairman, Mr. DeVos spent many long hours traveling throughout the country encouraging more party members to donate than ever before. He coordinated grassroots support among young Republicans and the numbers have grown to a total of 1.6 million people involved with the party. Contributions have increased 50 percent over those pledged in 1980, and by midyear 1982, contributions are up 11.6 percent ahead of 1981 totals. All of this can be attributed to the hard work and dedication of Mr. Rich DeVos. He has encouraged participation by all members of the party and has given innumerable talks extolling the virtues of the Republican principle. I would like to thank Mr. DeVos for bringing greater prosperity to the Republican Party and for a job well done. I am personally proud to know him.●

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SENATE—*Wednesday, September 8, 1982*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

O praise the Lord, all ye nations: praise him, all ye people.

For his merciful kindness is great toward us: and the truth of the Lord endureth forever. Praise ye the Lord.—Psalm 117.

Thou art worthy, O Lord, to receive honor and glory and adoration and worship and praise. Thou dost not need our worship, but we need to worship Thee. Our humanness depends on it and we diminish our humanness when we refuse. It is to the benefit of our Nation to worship Thee. "Blessed is that nation whose God is the Lord."

May we be a worshipful people in deed as well as in word. May our lives honor and exhalt Thee. We love Thee, Lord. Grant that the work done here—the decisions made, the laws passed, and the conduct of our private lives individually and as families will manifest our devotion to Thee. In the name of the Father and the Son and the Holy Spirit. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I believe the reading of the Journal of the proceedings has been dispensed with under the previous order. Is that correct?

The PRESIDENT pro tempore. The majority leader is correct.

ORDER THAT NO RESOLUTIONS COME OVER UNDER THE RULE AND THE CALL OF THE CALENDAR BE DISPENSED WITH

Mr. BAKER. Mr. President, I ask unanimous consent that no resolutions come over under the rule and the call of the calendar be dispensed with on this legislative day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DEATH OF CONGRESSMAN ADAM BENJAMIN, JR.

Mr. BAKER. Mr. President, yesterday, it was learned that Congressman ADAM BENJAMIN died over the Labor Day weekend at the age of 47 from natural causes. Representative BENJAMIN was serving in his third term, and was chairman of the Congressional Steel Caucus, and a member of the House Appropriation and Budget Committees.

All of us, in both Chambers, and in both parties, send our deepest sympathies to the Benjamin family. ADAM BENJAMIN's death is a tragic loss, not only to the members of his district, but to the whole of Congress.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I rise to extend my deep sympathies to the family of ADAM BENJAMIN, and to the people of Indiana he served so well.

His early and tragic death takes from us a quiet leader, a man with an absolute commitment to public service. His was a style that never sought the limelight, never sought personal gain; that focused on the hard, substantive, behind the scenes work so fundamentally necessary to the functioning of our democracy. His honesty and integrity were known to all. When ADAM BENJAMIN gave you his word, or his commitment to assist you in any way, you could put the matter out of your mind.

For his honesty, his commitment to hard work, and for his ideals he will be greatly missed. Again, I extend my deepest sympathies to his wife and children.

BRUSH UP YOUR SHAKESPEARE

Mr. BAKER. Mr. President, it is a miserable thing to return to work without poetry, and I ask unanimous consent that this week's poem, "Brush Up Your Shakespeare," by Cole Porter be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

BRUSH UP YOUR SHAKESPEARE

The girls today in society
Go for classical poetry
So to win their hearts one must quote with ease
Aeschylus and Euripides.
One must know Homer and, b'lieve me, bo,
Sophocles, also Sappho-ho.
Unless you know Shelley and Keats and Pope,
Dainty debbies will call you a dope.
But the poet of them all
Who will start 'em simply ravin'
Is the poet people call
"The bard of Stratford-on-Avon."

Brush up your Shakespeare,
Start quoting him now,
Brush up your Shakespeare
And the women you will wow.
Just declaim a few lines from "Othella"
And they'll think you're a helluva fella,
If your blonde won't respond when you flatter'er
Tell her what Tony told Cleopaterer,
If she fights when her clothes you are mussing,
What are clothes? "Much Ado About Nussing."
Brush up your Shakespeare
And they'll all kowtow.

Brush up your shakespeare,
Start quoting him now,
Brush up your Shakespeare
And the women you will wow.
With the wife of the British embessida
Try a crack out of "Troilus and Cressida,"
If she says she won't buy it or tike it
Make her tike it, what's more, "As You Like It."
If she says your behavior is heinous
Kick her right in the "Coriolanus,"
Brush up your Shakespeare
And they'll all kowtow.

Brush up your Shakespeare,
Start quoting him now,
Brush up your Shakespeare
And the women you will wow.
If you can't be a ham and do "Hamlet"
They will not give a damn or a damnlet,
Just recite an occasional sonnet
And your lap'll have "Honey" upon it,
When you baby is pleading for pleasure
Let her sample your "Measure for Measure,"
Brush up your Shakespeare
And they'll all kowtow.

Brush up your Shakespeare,
Start quoting him now,
Brush up your Shakespeare
And the women you will wow.
Better mention "The Merchant of Venice"
When her sweet pound o'flesh you would menace,
If her virtue, at first, she defends—well,
Just remind her that "All's Well That Ends Well,"
And if still she won't give you a bonus
You know what Venus got from Adonis!
Brush up your Shakespeare
And they'll all kowtow.

Brush up your Shakespeare
Start quoting him now,
Brush up your Shakespeare
And the women you will wow.
If your goil is a Washington Heights dream
Treat the kid to "A Midsummer Night's Dream,"
If she then wants an all-by-herself night
Let her rest ev'ry 'leventh or "Twelfth Night,"
If because of your heat she gets huffy
Simply play on and "Lay on, Macduffy!"
Brush up your Shakespeare
And they'll all kowtow.

Brush up your Shakespeare,
Start quoting him now,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Brush up your Shakespeare
And the women you will wow.
So tonight just recite to your matey
"Kiss me, Kate, Kiss me, Kate, Kiss me,
Katey."
Brush up your Shakespeare
And they'll all kowtow.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, there will be a period for the transaction of routine morning business, not to exceed 1 hour in length, in which Senators may speak for not more than 5 minutes each, under the order entered prior to our adjournment for the August break.

After the expiration of the period for the transaction of routine morning business, the Senate will resume consideration of the unfinished business, House Joint Resolution 520, the debt limit measure.

Mr. President, it is not my intention to ask the Senate today to deviate from the regular course of procedure. As was indicated in the press this morning, there is the possibility that we might temporarily lay aside the Helms amendment to take up the Hatch amendment. May I say that I am working on the possibility of a unanimous-consent agreement to limit the time for debate on the Hatch amendment. For the time being it is not my intention to ask the Senate to proceed to the consideration of the Hatch amendment to the Constitution. I do intend to do that at some point.

Mr. President, I anticipate that debate on the Helms amendment will continue through this day. I do not anticipate that it will be a late day.

Debate will continue on that measure tomorrow when at the hour of 2 p.m., under the order previously entered, the Senate will vote under the provisions of rule XXII on the cloture motion filed against further debate on the Helms second-degree amendment.

Mr. President, I call the attention of Members to the fact that the House of Representatives will focus its attention, I assume, on the veto message from the President related to the supplemental appropriations bill, and I am advised that that will occur some time tomorrow. Members should be on notice of the fact that if that veto is sustained, it will become necessary to promptly act on a new supplemental bill which must originate in the House of Representatives.

If the veto is overridden, it is my intention to bring it up in the Senate as soon as it is received here, within a reasonably short period of time.

So Senators should not assume that this week will be an idle week. Indeed, I have encouraged Senators who are out of town to return to deal with the matter at hand, that is, the debt limit and the debate on the Helms amendment, but also to be prepared to deal with the veto message if the Senate is faced with that message or with the supplemental appropriations bill in the alternative.

So Senators in making their plans should not assume that they will have a light week this week. We may indeed have very important measures that must be dealt with before this week is out.

Mr. President, I am happy to be back, I say in more ritual than in sincerity, but in any event I wish to extend my greetings to all my colleagues and particularly to my friend and colleague, the distinguished minority leader, who looks hale and hearty, appears to thrive on what I am sure must have been an extensive tour of his home State of West Virginia.

Mr. President, I have no further need for my time under the standing order, and I am prepared now to yield it to any Senator who requires time now or to yield it to the minority leader if he wishes additional time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader for his kind remarks. He is always courteous, gracious, affable, congenial, amicable, and all the pleasant adjectives that are in Webster's dictionary.

Mr. President, does the distinguished Senator from Wisconsin need any time yielded to him?

Mr. PROXMIRE. Mr. President, I wish to have 2 minutes yielded to me.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

LEARNING ABOUT THE BOMB

Mr. PROXMIRE. Mr. President, on August 25, the Milwaukee Journal carried a compelling article by Victoria Bissell Brown—a historian at the University of California in San Diego. The subject was what does a mother tell her daughter about the bomb?

No one argues that raising a child is easy. There are so many difficult problems to explain. There are complexities to life that defy easy description. The reasons "why" and the justification for life's seemingly unfair occurrences make answers to a child's questions far from an easy task.

But what do you say to a son or daughter when explaining the stark possibility that mankind one day may simply just blow itself up? How do you tell the innocent that countries spend enormous sums on armaments for the purpose of more efficiently destroying millions of people?

Victoria Bissell Brown describes it this way:

> Maybe if I tell her about the bomb I can soften the blow. Maybe I can talk about nationalism and politics and defense capabilities. Maybe I can tell her that it's just something that we have to scare people with, that no one would ever use it. I know her, thought. She'll ask: "But what if somebody does use it? Will we all die? Will everything on Earth die forever?"

Maybe. Maybe we will blow ourselves up. Maybe someone else will do it for us.

Or maybe the world will come to its senses and find some way to achieve arms limitations and reductions. Our children are waiting for the anwser.

Mr. President, I ask unanimous consent that the article from the Milwaukee Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOMMY, WILL YOU TELL ME ABOUT THE BOMB?

(By Victoria Bissell Brown)

My daughter is 6, and knows the facts of life. She knows how babies are made and why women menstruate and why mommies and daddies like to sleep alone together. She knows, from her grandmother's death, that all living things will die.

We talk about these things; they are part of the image of this world and this life that she is constructing for herself.

But there is something that she doesn't know about yet, and I don't know how to tell her: She doesn't know about The Bomb. She doesn't know that some members of life's community have taken a detour—some would say a shortcut—off the slow path of evolution. She doesn't know that the "highest" form of life has evolved to the point where it can now destroy all its yesterdays and all its tomorrows.

How can I explain this to her? Should I? Of course I should. I must. The bomb is, for us, what sex was to parents in the 19th century. If I don't tell her, she'll hear it from some kid on the corner who'll tell it all wrong. He'll tell her about our eyes melting out of their sockets and our skin burning off the melting bones, about whole cities destroyed in seconds and neighboring cities where millions will run in panic from the inevitable. He'll tell her that the survivors will envy the dead and that radiation-caused mutations will make evolution (a concept that she has struggled so hard to grasp) go haywire.

Maybe if I tell her about the bomb I can soften the blow. Maybe I can talk about nationalism and politics and defense capabilities. Maybe I can tell her that it's just something that we have to scare people with, that no one would ever use it. I know her, though. She'll ask: "But what if somebody does use it? Will we all die? Will everything on Earth die forever?"

The world is a slippery place for children. They hold onto two precious certainties: that adults know what they're doing; and that life follows a certain predictable course. Whether the child is raised to be a creationist or an evolutionist, those basic

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certainties are what rock our children to sleep at night. The mere existence of the bomb blows those certainties to kingdom-come. If we never, ever use it on another country, we will, by countenancing its existence, have used it every day on our children.

We attended a peace rally not long ago—an anti-nuke rally, of course. As far as my daughter was concerned it was just a rally against war. She played in the rows of empty seats and up into the grassy hillside with the other children for most of the evening. But at one point, when a speaker was being particularly graphic about the dangers of nuclear war, I noticed that she had stopped playing and was leaning, chin in hands, against a rail, listening. Was this it, I wondered. Would she ask me about this man's words later? In a moment, she'd been tagged by a playmate and was off, up into the trees. She never asked me about the speech.

My days are numbered, though. I'll have to tell her soon. And I know that I'll have to tell her the truth: that, if this bomb explodes, the continuous stream of life that I've worked so hard to make real to her will be destroyed. There's only one thing in the world that can soften the blow: that the two adults she trusts most in the world are doing something to stop it. If she knows that we're working on it, she may rest easier.

That's why I'm writing this. I must tell my daughter the truth soon, and when I do I want to be able to say that I'm doing something. This is my first effort; I don't yet know what I'll do next.

WHO REMEMBERS THE ARMENIANS?

Mr. PROXMIRE. Mr. President, I have recently received a letter from an Armenian American who is distressed over the world's amnesia regarding the first genocide of the 20th century, that against the Armenians of the Ottoman Empire. This terrible episode has become the "forgotten genocide" of modern times. History records that it began in April 1915, when the Empire uprooted the Armenian inhabitants and forced them to migrate on foot. The letter recounts what happend:

> The Armenian people . . . were . . . deported from every city, town, and village of Asia Minor and Turkish Armenia. In most instances during the death marches, the men were quickly separated and executed soon after leaving town. The women and children were marched for weeks into the Syrian desert; thousands were seized along the way, forcibly converted to Islam, and raised in Turkish homes and harems. The majority of the deportees died of starvation and disease during the forced marches. Many others were murdered brutally. During the years 1915–1922, 1,500,000 Armenians were killed and more than 500,000 exiled from the Ottoman (Turkish) Empire. Thus, the Armenian Community of the Ottoman Empire was virtually eliminated as a result of a carefully executed government plan of genocide.

Eyewitness accounts alerted a horrified world to these massacres immediately. On May 24, 1915, the Triple Entante nations of Britain, France, and Russia declared that they would hold all the members of the Ottoman government personally responsible for the fate of the Armenian people.

Yet only two decades later, the slaughter of the Armenians had faded from the memory of the world. Adolf Hitler scoffed at the notion that he would go down in infamy for perpetrating the Holocaust. He would ask: "Who remembers the Armenians?" Just as popular wisdom had it, history forgotten is history repeated. How many times must men vow, "never again?" We can never stop learning the lessons from the "final solutions" of the past. We should never let anyone ask of the Armenians, or of the Jews, or of any others, "Who remembers?" Nor should anyone ask "Who cares?" or "Who would bring me to justice?" If only the U.S. Senate would ratify the Genocide Convention, we could announce with conviction that we will remember, we will care, and we will bring the guilty to justice. Let us insure that the horror of genocide stays alive in our collective conscience, that those who may consider such a crime will be shamed and deterred, and that no future Hitler shall shrug off the prospect of a judgment day.

I thank the distinguished Democratic leader and I yield the floor.

Mr. BAKER. Mr. President, I yield back my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HAYAKAWA). There will now be a period for the transaction of routine morning business.

LEBANON'S PRESIDENT-ELECT

Mr. PERCY. Mr. President, during the recess, I briefly visited Lebanon at the invitation of Ambassador Dillon and Ambassador Habib. Although I had been there only 7 months earlier, the differences I saw were remarkable. I was particularly pleased that the Lebanese now appear to look toward the future with expectation of major changes for the better in their country.

The man upon whom the future of Lebanon rests is President-elect Bashir Gemayel. During the past 8 years of conflict, Bashir Gemayel, as commander of the Phalange militia and the Lebanese forces, has been viewed as the savior of the nation in the eyes of a substantial portion of the population, but others consider him a right-wing militarist. Now the task falls upon him to bind the national wounds. In my conversation with him, the young, 34-year-old President-elect displayed considerable sensitivity to the problems he faces, including the need to reach out to all segments of Lebanese society. I was impressed by his determination to act as President of all Lebanese and to put aside the differences of the past.

He indicated he intended to go down and actually spend several days in southern Lebanon and be a part of the country down there, a part of the people, and to better understand its problems.

In an op-ed article published in the Washington Post on August 23, the day of his election to the Presidency, Bashir Gemayel discussed in general terms the course necessary to bind the wounds of his troubled land. I believe he showed a commendable approach, and I urged him to press forward along the path of reconciliation and moderation that he presented. I recommend to my colleagues this thoughtful article and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 23, 1982]

REBUILDING LEBANON: WHAT WE MUST DO NOW—AND WHY IT MATTERS

(By Bashir Gemayel)

Lebanon, a country that has occupied much space in the international and American press recently, holds its presidential election today. Few people seem to have paid much attention to the future of our small country, concerning themselves solely with its present. As a candidate for the presidency, however, I have devoted substantial consideration to my country's future, and I should like to share these ideas with the American people.

Much of the press seems to see Lebanon in terms of its parts, like a permanently divided political entity. It is certainly true that the Lebanese people is formed of diverse social and cultural stocks. But it is not true that we are internally divided. Indeed, despite divisions imposed by the occupation of Lebanon by three foreign forces, in some ways, in many ways really, the people of Lebanon are united as never before—united in our determination to recover and safeguard our sovereignty, united in our opposition to the use of violence in our country to resolve others' problems, united in our demand to return to our own historic traditions of democracy, pluralism, and moderation.

What many outside Lebanon do not appreciate is how much the Lebanese—all Lebanese in all religious, ethnic, social and economic groups—have learned from more than seven tragic years of violence. What we learned first and foremost, frankly, was that we had taken Lebanon and its way of life for granted. All of us know today—and what a price we paid for this knowledge—that we can no longer allow others to drag us into their quarrels. And we know, too, that we ourselves must take conscious, tangible and effective steps to restore the unique experience that is Lebanon's historic way of life.

Lebanon is a country of minorities. No single group can claim majority status for itself. Yet, the next president of Lebanon will not be a minority president, because all the many groups that make up our small but culturally rich country and have contributed to its unique traditions treasure the Lebanese way of life and Lebanon. This nation of minorities has, as few other countries in the developing world have, a majority political culture.

Should I be elected president, my program will recognize that highest priority must be given to the healing of wounds caused by the painful years of conflict. At the same time, one of the most effective ways of healing wounds over the long term is to revitalize the institutions of Lebanese democracy. We must ensure the continued security and liberty for the diverse cultural communities of Lebanon, defining equitably the rights and the obligations of citizens based on the unique characteristics of our country, our values and our customs. The people of Lebanon have always known, and the history of our country has been founded on the belief, that a thriving democracy is the best way for each community and, in fact, each individual to realize his potential and pursue his dreams.

At the same time, any Lebanese president must recognize that much of our national territory is still occupied by Israel, Syria and the PLO. Certainly, it is imperative that this tripartite occupation, the legacy of earlier attempts to partition Lebanon, must be terminated. If Syria considers the Bekaa Valley in eastern Lebanon a Syrian security zone, then of course Israel will treat the south as an Israeli security zone. The Bekaa is at once on the frontiers of both countries. Should this valley be included in the security strategy of either, it will in fact become less secure for both. Re-Lebanization of the north, the east and the south of Lebanon is the best guarantee for all parties and is certainly the only principle congruent with the unity and sovereignty of Lebanon. As long as Lebanon is not stabilized, its land not completely liberated from foreign occupiers, its territory still used by some to threaten others, a regional settlement will remain impossible to achieve. We assert that a strong, independent and prosperous Lebanon is undoubtedly the best security guarantee for all.

As our internal society must return to its traditional pluralism, so our regional relations must also assume a character befitting relations between sovereign countries. For too long have the neighbors of Lebanon and the other regional powers treated our country as a playground for their games of intrigue and violence. Too long have we permitted seditious behavior directly funded by other governments who send men, weapons, and money in our midst. We look forward to a new era now in which we will treat with other countries in the region as our friends and neighbors—but on the firm basis of sovereign equality.

Lebanon's international role must certainly be reasserted. We have always seen ourselves as a cultural and commercial crossroads of East and West. We value the Western traditions of democracy and free enterprise, we reject totalitarian ideologies wherever promulgated. At the same time we also value the cultural traditions and holism of the East, and try not to lose sight of the interrelationship between values and actions.

The West in general, and the United States (as the leader of the free world) in particular, have significant interests in the Middle East. At the same time, the Middle East has a great interest in a regional American presence, and in the maintenance of cooperative and interdependent relations with the United States. Lebanon used to maintain an active role as a friend and interlocutor of both Arab moderates, on the one hand, and the West, on the other. Following its total liberation, Lebanon should be prepared to resume that role which has been sorely missed in recent years.

Therefore, the new Labanon, given another chance to pursue its destiny by the admirable and tireless efforts of Ambassador Philip Habib and the United States as a whole, must follow several fundamental principles in the days ahead:

First, any solution to the Lebanese crisis must be based on recovery of Lebanese sovereignty over the entirety of the national territory and the restoration to the Lebanese state of its full powers.

Second, Israeli and Syrian forces must return to their own countries. Within the framework of Lebanese sovereignty there must be a Lebanese army strong enough to preserve the territorial integrity of our nation and thereby reassure and undergird the security of Israel and Syria.

Third, the hundreds of thousands of Palestinians remaining in Lebanon must submit to and respect the authority of the Lebanese government in Lebanon. There must be a transformation of Lebanese-Palestinian relations that reflects both the historic relationship of the two peoples and the transitory character of the Palestinian presence in Lebanon.

Fourth, most important, and most widely recognized, the people of Lebanon must agree that force has no place in the inevitable disagreements that arise within any country. Lebanese pluralism, which has tended in its self-assuredness to overlook occasional resort to violence, must evolve to place a new emphasis on the peaceful settlement of disputes. At the same time, the character of that pluralism must remain based upon the unity of Lebanon; the uniqueness of the Lebanese experience; and liberty, security, and justice for all Lebanese within a democratic government that guarantees all citizens' basic freedom.

Mr. PERCY. Mr. President, I ask unanimous consent that the comments I made on the departure from Beirut be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CHARLES H. PERCY—AUGUST 27, 1982

I have just received my copy of the President's report to the Senate on the 800-man U.S. contingent that arrived in Beirut two days ago under the war power authority granted to the President. In consultations with the President before leaving the United States I fully supported this action and wish to commend not only U.S. Marines with whom I have met today but also the French and Italian military members of the Multi-National Force with whom I have also consulted. I assured the President of my support for this effort as an essential part of the peace-making process in Lebanon and the Middle East and have assured myself that every precaution is being taken to see that such Multi-National Forces do not become engaged in hostilities. Without their presence, however, the evacuation of military forces from West Beirut could not have taken place.

I have witnessed today and discussed with United States Marine Col. Meade, Col. Sehulster, his Italian counterpart, Senior Col. Gueli, and French Col. Coullon details of today's largest and most successful evacuation to date involving 1,351 personnel and 200 vehicles transported by motor vehicles on the Damascus Road to Syria plus more than 600 by sea making a total successful evacuation from Beirut in excess of 2,000 people.

I am confident that the evacuation will be completed more rapidly and with fewer difficulties than was anticipated.

I have met again today as I did last January with President Elias Sarkis. We discussed today his own future role in the private sector helping to restore Beirut as a business, commercial and banking center in the Middle East and I assured him of my full cooperation and support in this regard. He is to be commended for his distinguished service to his country under the most difficult circumstances.

It was a pleasure to meet once again Sheikh Bashir Gemayel. This time he has assumed his role as President-elect. We discussed the three challenging tasks that he faces: one, develop a strong central government; two, reconciliating all political factions within his country; and three, freeing Lebanon at the earliest possible time from foreign forces.

I commend him on the forward looking moderate and creative statements that he made to me and publicly as to his intentions as President; statements that he reiterated with conviction and deep feeling. We discussed in particular the way he will reach out to Lebanese Muslims in addressing their concerns and to the Palestinians, particularly the families of those that have left Lebanon. I intend to indicate to my colleagues in the Senate and to the leadership of the Executive Branch of Government my confidence in his political and humanitarian intentions and his desire to bring order, peace and stability to Lebanon for the first time in many years.

I have sent messages of appreciation to leaders of the Lebanese Muslim community, for without their assistance in the search for peace no agreement on Palestinian withdrawal could have been reached. As an individual Senator having met and talked with Muslim Lebanese leaders in the past, I can appreciate their concerns about the Presidential election just completed. I would urge, as President-elect Bashir Gemayel reaches out, that they themselves reach out to achieve a moderate forward-looking course for a united Lebanon. If Lebanon is to be successfully reunited, as we all hope and pray, all factions will be called upon to make difficult compromises and practice moderation. All should agree that the earliest possible withdrawal of foreign forces is a common goal.

I return now to my study of the problems of Cyprus and highly commend the contribution made by the Cypriots to the Lebanese peace-making effort.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE ACHIEVEMENTS OF U.S. SPECIAL NEGOTIATOR PHILIP C. HABIB

Mr. BAKER. Mr. President, the distinguished Senator from Kansas (Mr. DOLE) proposes a concurrent resolution which I am pleased to cosponsor, along with the distinguished minority leader and the distinguished chairman of the Committee on Foreign Relations, Mr. PERCY, and the distinguished ranking minority member of the Committee on Foreign Relations, Mr. PELL.

It deals with a commendation for Ambassador Philip C. Habib, recently the recipient of the Medal of Freedom.

Mr. President, I send the concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 118) expressing the sense of the Congress commending the achievements of U.S. Special Negotiator Philip C. Habib.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, today I would like to introduce a resolution commending U.S. Special Negotiator Philip C. Habib for his outstanding achievements during the recent crisis in Lebanon.

In an area that has been torn by conflict for many years, the Lebanese conflict seemed to many of us one more long and discouraging step away from the peace settlement we have sought for so long. The suspicions and resentments that were aroused in the course of the crisis caused concern, as well, that the United States might risk losing a significant part of its ability to influence events throughout the entire region of the Middle East.

But, despite these exceedingly difficult circumstances, Mr. Habib undertook the task of serving as a special negotiator in the crisis with the full commitment of his talent and his energies. Throughout the long weeks of painstaking negotiation on arrangements for evacuation of the Palestinian forces from Beirut, he carried on with a clear-eyed appreciation of the obstacles in his path but, at the same time, with a courageous determination to overcome them.

In winning agreement to terms for an orderly departure of Palestinian forces from Beirut, Mr. Habib also helped to renew the opportunity for progress toward a settlement of the wider differences that still afflict the region of the Middle East—an opportunity that President Reagan has seized with the presentation of his new peace initiative, for which we all hold great hopes and offer our support.

Yesterday, in recognition of Mr. Habib's dedication to his task and his high accomplishments, the President awarded him the Medal of Freedom. All of us here, in the name of the American people, wish to join with the President in expressing our highest praise and our most heartfelt gratitude for the noble contribution he has made toward peace in the Middle East and throughout the world.

Mr. BAKER. Mr. President, on behalf of my colleague from Kansas (Senator DOLE) and with the cosponsorship of Senators ROBERT C. BYRD, PERCY, and PELL, I have sent to the desk a resolution commending Ambassador Philip C. Habib for his efforts in negotiating an end to the crisis in Lebanon. I ask unanimous consent that the resolution remain open for additional cosponsors throughout the balance of the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the problems of Lebanon are not over, but through the efforts of Ambassador Habib there exists the opportunity for the central government to restore its authority and territorial integrity for the first time in a number of years. We can be hopeful, perhaps even optimistic, that the promise of that opportunity will be realized, that all foreign troops will be soon removed and that the process of rebuilding a once-prosperous Lebanon can begin. This opportunity has not come without tragic costs, but the costs make it even more imperative that the opportunity, created by the efforts of Ambassador Habib, not be lost.

As the Ambassador observed yesterday in receiving from the President the Nation's highest civilian award, the Medal of Freedom, the resolution of the crisis in Lebanon is an essential step toward resolution of the larger Arab-Israeli conflict in the region. The President's initiative to that end would not have been possible without the efforts of Ambassador Habib and for that too, we are grateful.

Mr. President, I would be remiss if I failed in this context to mention Morris Draper who accompanied Ambassador Habib on each step of the long, arduous and frequently hazardous mission. Mr. Draper, Ambassador Dillon and his staff in the Embassy in Beirut, exemplify the very finest of the diplomatic service of the United States and we are well-served by their efforts.

I commend the distinguished Senator from Kansas for taking this initiative and believe it a most fitting tribute to a man in whose debt we will long remain.

Mr. ROBERT C. BYRD. Mr. President, it is a privilege to join with the distinguished Senator from Kansas (Mr. DOLE), the distinguished majority leader (Mr. BAKER), the distinguished chairman of the Senate Committee on Foreign Relations (Mr. PERCY), and the distinguished ranking member of the Senate Committee on Foreign Relations (Mr. PELL) in sponsoring this resolution commending the achievements of U.S. Special Negotiator Philip C. Habib.

Just yesterday, President Reagan presented Philip Habib with the President's Medal of Freedom Award for his efforts in achieving a resolution of the Lebanon crisis. The President's Medal of Freedom Award is the highest civilian award that can be accorded an individual who has rendered extraordinary service to our Nation. In the case of Ambassador Habib it is well-deserved recognition of his tenacity, creativity, and undiminished faith that a greater tragedy needed to be averted in Lebanon. I am sure few people felt he could achieve a successful evacuation of the Palestinian forces from Beirut. However, with the President's full backing, Ambassador Habib persevered in the end.

I also think credit should be given to Ambassador Habib's special assistant during this task—Mr. Morris Draper, a career Foreign Service officer who is presently Deputy Assistant Secretary of State for Near Eastern Affairs. The accolades given Mr. Draper by Ambassador Habib during yesterday's ceremonies at the White House were well deserved.

The withdrawal of Palestinian and Syrian forces from Beirut is an impressive achievement and one which I think we in the Congress should pay tribute. The road ahead will be difficult as we pursue a broader peace in the Middle East. Nevertheless, I think the Ambassador Habib's efforts, and those of all the parties concerned which led to the evacuation of foreign forces from Beirut, should serve as an example of what men of good will can achieve.

I am proud to be a sponsor of this sense of the Congress resolution expressing our appreciation to an exceptional public servant—U.S. Special Negotiator Philip C. Habib.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 118) together with the preamble is as follows:

S. CON. RES. 118

Whereas it is in the national security interest of the United States to achieve an enduring settlement of the conflict that has afflicted the region of the Middle East for many years; and

Whereas the attainment of such a settlement depends on continuing efforts on the

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part of the United States to persuade all parties to the conflict to resolve their differences in a peaceful manner; and

Whereas the recent crisis in Lebanon made even more clear than before the critical need for a peace settlement in the region; and

Whereas the resolution of that crisis and the successful evacuation of the Palestinian forces from Beirut were brought about, in large measure, as a result of the activities of U.S. Special Negotiator Philip C. Habib: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), that (1) It is the sense of the Congress that Mr. Habib warrants the highest commendation for his extraordinary achievement in negotiating the terms under which Palestinian forces were peacefully evacuated from the city of Beirut; for his success in a difficult and delicate task that constituted an essential step toward resolution of the continuing political conflict in the Middle East; and for the model he has provided of the skill, commitment, and endurance that we must sustain in our continuing effort to reach that goal; and that

(2) the Congress extends not only its praise but also its thanks, on behalf of the American people, to Mr. Habib for his accomplishments and his dedicated service in the interests of the United States and of a lasting peace in the Middle East for all its peoples.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

GOV. WALTER MENGDEN

Mr. HELMS. Mr. President, this past Monday was Labor Day, but in Texas it was also "Walter Mengden Day"—a day set aside to honor one of Texas' most distinguished citizens—Walter Mengden.

Walter Mengden has been a member of the Texas Senate since first elected in 1972. He is now president pro tempore of that body. So, in keeping with a fine Texas tradition, Walter Mengden was made Governor for a day on September 6 with a formal ceremony beginning with his inauguration at the capitol on Monday morning and concluding with a luncheon at which 1,000 people paid their respects to this fine man and his lovely wife, June.

I had the privilege of attending this tribute to Senator Mengden. I used the occasion to tell him, in the presence of so many of his friends, that although he did not seek reelection to the Texas Senate this year I sincerely hope that the future will find him returning to government, either in Texas or in Washington. He is a great American.

Mr. President, Walter Mengden is a direct descendent of one of the pioneer families in Texas. His family settled near Caney Bayou in Matagorda County in 1842.

Governor Mengden is a native Houstonian, born in 1926, and is a graduate of the Kinkaid School. He received his law and doctor of jurisprudence degree from the University of Texas law school and also holds a BBA from the University of Texas. Walter Mengden is a veteran of both the U.S. Navy in World War II and the U.S. Army in the Korean war. He received three battle stars and a Presidential unit citation.

Governor Mengden first ran for the Texas House of Representatives in 1964 and 1968 before finally winning in 1970. He was then elected to the Texas Senate in 1972. He was reelected in 1976, receiving more votes for State senator than anyone else in the history of Texas. In 1980, he was reelected again—this time without opposition.

During his service in the senate, Governor Mengden has been able to play an extremely significant role in working for conservative solutions to the problems facing our State. Through his efforts in continually speaking out on the issues, and through his personal persuasion, he has succeeded in passing 91 conservative bills and resolutions into law.

Governor Mengden has been especially active in sponsoring anticrime legislation. He was designated as "law enforcement's strongest supporter in the senate" by the Texas District and County Attorneys' Association. He was also twice named as "the most outstanding member of the legislature" by the Sheriffs' Association of Texas. In addition, Governor Mengden has been given a leadership award from Ross Perot's war on drugs committee for his efforts in fighting drug abuse.

Among the many significant laws that he has sponsored. Governor Mengden is especially proud of the measure that established a State "crime stopper" program to provide rewards to citizens who furnish information leading to the arrest and indictment of criminals who commit serious felonies, with emphasis on drug traffic and organized crime, and to provide State assistance in the creation of local "crime stopper" operations throughout Texas.

Other honors that have been presented to Governor Mengden include leadership awards from the Dallas County Sheriffs' Association, the Houston Police Department, Texas Young Americans for Freedom, Texas Right-to-Life, San Antonio Right-to-Life, Dallas Right-to-Life, Congress of Houston Teachers, Accelerated Christian Education, Texas Public Community-Junior College Association, Texas Independent Colleges and Universities of Texas, Associated Builders and Contractors, Coalition for Peace Through Strength, and the Veterans of Foreign Wars.

In addition to his successful efforts in behalf of law-and-order legislation, Governor Mengden has been a leader in working for profamily legislation. He has passed the only antiabortion bills that have been enacted into law in Texas since the infamous 1973 U.S. Supreme Court ruling. And he sponsored the law giving all cities and counties the ordinance-making power to restrict the location of "massage parlors" and other sexually oriented commercial activities,

Other important laws that Governor Mengden has put on the statute books include numerous proposals to improve the operations of our State government and to make it more responsive to the people; to protect our senior citizens from abuse and neglect; and to conserve our natural resources.

These many accomplishments have helped to significantly move Texas government in a more conservative direction. Long after Governor Mengden has left office, his legacy of conservatism will remain as a tribute to all that he has done for our State.

It is fitting that his career in public service be concluded as president pro tempore of the senate and Governor of Texas.

Mr. President, following his inauguration, Governor Mengden issued several proclamations, three of which I particularly wish to share with my colleagues and with others who read the CONGRESSIONAL RECORD.

Therefore, Mr. President, I ask unanimous consent that the three resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

PROCLAMATION: GOVERNOR WALTER MENGDEN, SEPTEMBER 6, 1982

Whereas, the foundation of all human liberty is a forthright adherence to the principles of Divine Authority as taught in the Bible and as recognized by the Founding Fathers of the American Republic who wrote:

"The God who gave us life, gave us liberty at the same time . . ."

"We hold these truths to be self evident; that all men are created equal, that they are endowed by their creator with certain inalienable rights . . . life, liberty, and pursuit of happiness; " and

Whereas, all political, civil, religious and human rights, no matter how well guaranteed by a benevolent state, become mere pious fraud if innocent life may be arbitrarily taken by despotic action of the state; and

Whereas, society at large in this decade has exhibited a growing willingness to flout both God's laws and the historical laws of political liberty concerning the sanctity with which we many concerned Texans hold life—both preborn and born; and

Whereas, the right to life is the first and most basic right of all humankind;

Now, therefore, I, Walter Mengden, Governor of Texas, do hereby proclaim this day a day of memorial to those unborn millions

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of human beings whose right to live unhindered by tyrannical interference on the part of those no longer helpless within the womb has been irretrievably and tragically lost; and do hereby call upon the citizens of Texas to restore that lost right to life, that all may enjoy the blessings of God spread abroad in a land of responsibly self-governed men and women subject only to the righteous and just laws of both the civil state and the Kingdom of God.

Proclamation: Gov. Walter Mengden, September 6, 1982

Whereas, America's religious tradition is inseparable from it's heritage of liberty under the sovereignty of God; and

Whereas, prayer is that one efficacious means of both addressing and hearing the one, almighty God, Lord of both civil governments and individuals; and

Whereas, for some twenty years, the right of schoolchildren to pray publicly has been in question to the point of severely hindering the prayers of all religious sects desiring such voluntary, public prayer; and

Whereas, the people of Texas have repeatedly expressed a strong desire to reaffirm this basic right given to all by God and guaranteed by the First Amendment to the Constitution of the United States of America;

Now, therefore, I, Walter Mengden, Governor of Texas, do hereby offer felicitations, congratulations and God-speed to all who endeavor to restore voluntary prayer to public schools and all public institutions within the State of Texas.

Proclamation: Gov. Walter Mengden, September 6, 1982

Whereas, the fundamental concepts of individual justice, liberty, stewardship and independence beneath the authority and protection of Almighty God are inseparable from the concept of civil rule of the people, by the people and for the people; and

Whereas, stable and lasting government is historically seen to be a beneficient gift of God, given in just recompense to nations which reflect righteousness:

"Blessed is the nation whose God is the Lord."—Psalms 32: 12.

"Righteousness exalteth a nation: but sin is a reproach to any people."—Proverbs 14: 34.

"When the righteous are in authority, the people rejoice but when the wicked beareth rule, the people mourn."—Proverbs 29: 2.

Whereas, a growing concern for the direction and fate of the nation has evidenced itself by a renewed participation in both electing and assisting the stewards of God-ordained civil government by men of all Christian faiths desiring to hold fast the revered moral principles and tenets of the faith expoused by our forefathers;

Now, therefore, I, Walter Mengden, Governor of Texas, do hereby congratulate the individuals, churches and organizations working to restore a Biblical moral foundation for government and all of national life.

THE PRESIDENT'S VETO OF THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. PROXMIRE. Mr. President, as we all know, the President has vetoed the supplemental appropriations bill. I think that somehow in the country we have missed the significance of that veto. I think it was a very ill-advised action by the President of the United States, because that supplemental appropriation bill was $1.4 billion below—underneath, less than—President Reagan had requested. President Reagan asked for $15.6 billion. We passed a supplemental appropriation bill that provided for $14.2 billion.

When I was in second grade and we learned subtraction, we learned that 14 is less than 15 and certainly 14.2 is less than 15.6. And yet the President is saying that the bill we passed is a budget buster. If this is a budget buster, what was it the President proposed to us?

The difference, Mr. President, is not that our bill is more than the President's. It is less. People who believe in economy should vote for an override because they are voting for less than the President requested. We come in under the budget. The difference, Mr. President, is in priorities.

The fact is that the President asked for $2.1 billion more for military spending than the Congress provided. The President asked for $110 million more for foreign aid than the Congress provided. He asked for about $109 million more for a pay raise than the Congress provided.

The Congress cut every one of those. It cut military, it cut the pay raise, and it cut the foreign aid.

Now, it is true that the Congress added back $919 million—less than a billion dollars; far less than it cut. It added that money back for programs like grants for college students. What it added back for college students is interesting because the President made a cut of about 17 percent and we reduced that cut below 1981 to about 10 percent. So we still cut the funds available for students to go to college in absolute terms. And, of course, if you allow for inflation, the cut was probably closer to 15 or 20 percent. That was in the bill we passed.

We also provided somewhat more money for community service, a couple hundred million dollars more money that will provide for 55,000 jobs for the elderly—the elderly in this country, who, Mr. President, would otherwise go on welfare.

The argument that this is additional spending, I think, can be disputed. But, certainly, Mr. President, no one—no one—should miss the fact that the Congress passed a bill below what the President requested.

Now I remember, because I was managing that bill on the minority side for the Democrats, that at the time the Senate voted on this bill we put a hotline out and asked if any Member of our party opposed it. And there was no Member of our party who told us he opposed that bill as we passed it. We assured Democratic Senators that the bill was under the President's request, substantially under. I understand Senator **Mark Hatfield**, the chairman of the Appropriations Committee, also consulted with Republicans on his side and there was no expressed Republican opposition.

So while you cannot say that any voice vote is unanimous, nevertheless, it was obviously one that had no significant opposition and had very strong support.

In the Appropriations Committee, we went over this bill carefully. And there was no opposition to that bill when it came out of the Appropriations Committee. As you know, about a third of the Senators serve on the Appropriations Committee.

So, Mr. President, I hope that the people in this country would realize that that bill, was vetoed by the President of the United States and may or may not override the President in the House. So we may or may not have a chance in the Senate to act on it. But the bottom line is that that was an economy bill. And those who voted for that bill, either by voice vote or in the House by rollcall vote, voted for economy, and they voted for less spending. Oh, yes indeed, they voted for different priorities than the President.

Of course, the President has every right to veto a bill if it does not agree with his priorities. He should veto it if he thinks that the priorities are that much out of line.

But it is not a budget buster when we subtract far more money from the military than we put into community service and education and all other domestic programs. The answer on the effect of every spending bill that comes before us lies in the net effect: The final total amount.

The President, as I say, has every right to say we are spending too much on the domestic programs and to little on the military. I respect that. But I do not respect the argument that this supplemental appropriation bill is a budget buster or that it is excessive or that as compared with the President's bill it is anything other than an economy measure.

I hope that message—the true message—gets out as much as possible to Members in the House and in the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate on August 24, August 25, August 31, September 1, and September 2, 1982, received messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on August 24, August 25, August 31, September 1, and September 2, 1982, are printed at the end of the Senate proceedings.)

RESCISSION AND DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 165

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on August 23, 1982, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Veterans' Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new proposal to rescind a total of $2.3 million, a new deferral of $2.7 million, and revisions to two deferrals previously reported increasing the amounts deferred by $4.8 million.

The rescission proposal affects the Board for International Broadcasting. The deferrals affect the Veterans' Administration, Interstate Commerce Commission and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

The details of the rescission proposal and the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *August 23, 1982.*

ANNUAL REPORT ON PROGRESS IN SPACE AND AERONAUTICS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 166

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate on August 24, 1982, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to transmit this report of the nation's progress in space and aeronautics during 1981. The report is provided in accordance with Section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476).

In 1981, U.S. commercial and government-owned spacecraft brought important rewards from space. Particularly notable were *Voyager 2*, which sent closeup photographs of the Saturn planetary system, and new Explorer satellites that studied the sun's interactions with Earth's environment. Communications and weather satellites, both civil and military, furnished improved, ever-expanding daily service.

The reusable Space Shuttle *Columbia* made its maiden space-flight in 1981, opening a new era that will enable the nation to take full advantage of the ultimate frontier of space. With the fourth and final orbital test flight now completed, the next flights of *Columbia* and its sister ships will provide routine operational access to space for scientific exploration, commercial use for economic benefits, national security tasks, and the welfare of mankind.

We can all take pride in these and other accomplishments reported for 1981.

RONALD REAGAN.

THE WHITE HOUSE, *August 24, 1982.*

SEVENTH ANNUAL REPORT OF THE NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 167

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate on August 24, 1982, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I transmit herewith the Seventh Annual Report of the Nuclear Regulatory Commission as required by Section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877).

The report covers fiscal year 1981, with occasional treatment of events occurring after that period.

RONALD REAGAN.

THE WHITE HOUSE, *August 24, 1982.*

ANNUAL REPORT ON EAST-WEST TRADE—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 168

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate on August 24, 1982, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 411(c) of the Trade Act of 1974, I hereby transmit the East-West Trade Report for 1981, covering trade relations between the United States and the nonmarket economy countries.

I have reviewed the sanctions on the export of oil and gas equipment to the Soviet Union imposed on December 30, 1981 and decided on June 18, 1982 to extend those sanctions through adoption of new regulations to include equipment produced by subsidiaries of U.S. companies abroad as well as equipment produced abroad under licenses issued by U.S. companies.

The objective of the United States in imposing the sanctions has been and continues to be to advance reconciliation in Poland. Since December 30, 1981, little has changed concerning the situation in Poland; there has been no movement that would enable us to undertake positive reciprocal measures.

The decision taken to extend the sanctions will, I believe, advance our objectives of reconciliation in Poland.

RONALD REAGAN.

THE WHITE HOUSE, *August 24, 1982.*

ANNUAL REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 169

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on August 24, 1982, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 204(f) of the Older Americans Act of 1965, as amended, I hereby transmit the Annual Report for 1981 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

RONALD REAGAN.

THE WHITE HOUSE, *August 24, 1982.*

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MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on August 25, 1982, received a message from the House of Representatives announcing that the Speaker pro tempore has signed the following enrolled bills:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes;

S. 2248. An act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes;

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes;

H.R. 3126. An act to direct the Secretary of the department in which the United States is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes;

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 6350. An act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes;

H.R. 6732. An act to amend the International Safe Container Act; and

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-Seventh Congress).

Under the authority of the order of the Senate of August 20, 1982, the enrolled bills were signed on August 25, 1982, during the adjournment of the Senate, by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on August 26, 1982, received a message from the House of Representatives, announcing that the Speaker pro tempore had signed the following enrolled bills:

H.R. 3239. An act to amend the Communications Act of 1934, and for other purposes; and

H.R. 3663. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

Under the authority of the order of the Senate of August 20, 1982, the enrolled bill H.R. 3239 was signed on September 2, 1982, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

Under the authority of the order of the Senate of August 20, 1982, the enrolled bill H.R. 3663 was signed on September 8, 1982, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on September 1, 1982, received a message from the House of Representatives announcing that the Speaker pro tempore has signed the following enrolled bills:

H.R. 4961. An act to provide for tax equity and fiscal responsibility, and for other purposes; and

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, relating to money and finance as title 31, United States Code, "Money and Finance".

Under the authority of the order of the Senate of August 20, 1982, the enrolled bills were signed on September 2, 1982, during the adjournment of the Senate by the President pro tempore (Mr. THURMOND).

MESSAGE FROM THE HOUSE

At 2:36 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 579. Resolution relative to the death of the Honorable ADAM BENJAMIN, Jr., a Representative from the State of Indiana.

ENROLLED BILL SIGNED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 20, 1982, the following enrolled bill, which had previously been received from the House of Representatives, was signed by the President pro tempore (Mr. THURMOND) on August 23, 1982, during the adjournment of the Senate:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

ENROLLED BILLS PRESENTED DURING THE ADJOURNMENT

The Secretary of the Senate reported that on August 27, 1982, he had presented to the President of the United States the following enrolled bills:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes;

S. 2248. An act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurements, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4125. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report on two rescissions and a revision to one deferral previously reported; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Labor and Human Resources.

EC-4126. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale by the American Institute in Taiwan to the Coordination Council for North American Affairs; to the Committee on Armed Services.

EC-4127. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to study the conversion to contractor performance of various functions at different installations; to the Committee on Armed Services.

EC-4128. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Guard Service function at the Naval Construction Battalion Center, Davisville, RI to performance under contract; to the Committee on Armed Services.

EC-4129. A communication from the Acting Deputy Assistant Secretary of the Air Force for Logistics and Communications transmitting, pursuant to law, a report on a decision made to convert the food service mess attendants function at Port Austin Air Force Station, Michigan to performance under contract; to the Committee on Armed Services.

EC-4130. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Administrative Telephone Service function at the Navy Experimental Diving Unit, Panama City, FL to performance under contract; to the Committee on Armed Services.

EC-4131. A communication from the Secretary of the Treasury transmitting, pursuant to law, the fiscal year 1981 annual report of the Exchange Stabilization Fund; to the Committee on Banking, Housing, and Urban Affairs.

EC-4132. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Bank Merger Process Should be Modernized and Simplified"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4133. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the effect of airline deregulation on the level of airline safety; to the Committee on Commerce, Science, and Transportation.

EC-4134. A communication from the Secretary of the Interior transmitting, pursuant to law, the eleventh annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-4135. A communication from the Director of the Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Cities Service Company; to the Committee on Energy and Natural Resources.

EC-4136. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of excess royalty payment to Amoco Production Company; to the Committee on Energy and Natural Resources.

EC-4137. A communication from the Director of the Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Mobil Oil Co.; to the Committee on Energy and Natural Resources.

EC-4138. A communication from the Director of the Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Scurlock Oil Co.; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of August 20, 1982, the following reports of committees were filed on September 3, 1982, during the adjournment of the Senate:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2879. An original bill to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Supervisory Agencies to deal with financially distressed depository institutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes (with additional views) (Rept. No. 97-536).

ADJUSTMENT OF FEDERAL WHITE COLLAR PAY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 170

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate on August 26, 1982, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Under the Federal Pay Comparability Act of 1970, an adjustment in Federal white collar pay will be required in October, 1982.

The Act requires that calculations be made annually of the adjustments that would be required in Federal statutory pay systems to achieve comparability with private sector pay for the same levels of work. Using the calculation methods developed in the past, my pay advisers have indicated that an average 18.47 percent increase would be required to achieve comparability as that concept is presently defined.

The Comparability Act gives me authority to propose an alternative adjustment in lieu of comparability, if such action is appropriate because of economic conditions. Under that authority, in accordance with our economic recovery program, I am submitting to the Congress an Alternative Plan for a 4-percent increase in Federal white collar pay this October in lieu of the 18.47 percent increase indicated under current comparability calculation methods.

Current law governing military pay increases provides that the annual increase in military pay be the same as the average Federal white collar increase. However Congress is currently considering legislation dealing with military pay increases. If legislation is enacted, it will supersede the increase that military personnel would otherwise receive under this Alternative Plan.

RONALD REAGAN.

THE WHITE HOUSE, *August 26, 1982.*

EXCLUSION OF CERTAIN PAY UNDER THE MERIT PAY SYSTEM—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 171

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on September 1, 1982, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Supervisors and management officials in GS-13, 14, and 15 positions throughout the Federal Government are covered by the Merit Pay System as required by Chapter 54, Title 5, U.S. Code, unless otherwise excluded by law.

Upon proper application from the heads of affected agencies and upon the recommendation of the Director of the Office of Personnel Management, I have, pursuant to 5 U.S.C. 5401(b)(2)(B), excluded 9 agencies and units of agencies from coverage under the Merit Pay System.

Attached is my report describing the agency or unit to be excluded and the reasons therefor.

RONALD REAGAN.

THE WHITE HOUSE, *September 1, 1982.*

ANNUAL REPORT OF THE REHABILITATION SERVICES ADMINISTRATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM 172

Under the authority of the order of the Senate of August 20, 1982, the Secretary of the Senate, on September 1, 1982, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 12 of the Rehabilitation Act of 1973, as amended, I am pleased to transmit the enclosed report to Congress. The report, prepared by the Department of Education, covers activities supported under the Act in fiscal year 1981.

As we strive for control over the rising costs of government and sort out appropriate roles for the Federal, State and local governments, it is useful to document the gains already achieved by handicapped citizens and the role of these primarily State-administered programs in contributing to those gains.

RONALD REAGAN.

THE WHITE HOUSE, *September 1, 1982.*

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EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 20, 1982, the following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Frank J. Donatelli, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for a term expiring October 27, 1984; and

Edward Sulzberger, of New York, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for a term expiring October 27, 1983.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolution and Senate resolution were read, and acted upon, as indicated:

By Mr. DOLE (for himself, Mr. Baker, Mr. Robert C. Byrd, Mr. Percy, and Mr. Pell):

S. Con. Res. 118. Concurrent resolution expressing the sense of the Congress commending the achievements of U.S. Special Negotiator Philip C. Habib; considered and agreed to.

By Mr. BAKER, for Mr. Lugar (for himself and Mr. Quayle):

S. Res. 457. Resolution relative to the death of Representative Adam Benjamin, Jr., of the State of Indiana; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1939

At the request of Mr. Goldwater, the names of the Senator from Utah (Mr. Hatch), the Senator from Alabama (Mr. Heflin), the Senator from Ohio (Mr. Glenn), and the Senator from Iowa (Mr. Jepsen) were added as cosponsors of S. 1939, A bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2421

At the request of Mr. Glenn, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 2421, A bill to establish the National Coordinating Council on Technical, Engineering, and Scientific Manpower and Education, and for other purposes.

S. 2737

At the request of Mr. Glenn, the name of the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 2737, A bill to authorize an educational assistance program which will provide low cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes.

S. 2738

At the request of Mr. Glenn, the name of the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 2738, A bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours.

S. 2780

At the request of Mr. Cochran, the names of the Senator from Kentucky (Mr. Huddleston), and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of S. 2780, A bill to limit the insanity defense and to provide a procedure for commitment of defendants found guilty who are mentally ill.

S. 2857

At the request of Mr. Robert C. Byrd, the name of the Senator from Pennsylvania (Mr. Specter) was added as a cosponsor of S. 2857, a bill to establish a Customs Revenue Sharing Trust Fund for public works projects for the development and maintenance of the Nation's ports.

S. 2867

At the request of Mr. Chafee, the name of the Senator from New Jersey (Mr. Bradley) was added as a cosponsor of S. 2867, a bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

SENATE JOINT RESOLUTION 234

At the request of Mr. Goldwater, the names of the Senator from South Dakota (Mr. Pressler), the Senator from Iowa (Mr. Jepsen), the Senator from Hawaii (Mr. Inouye), the Senator from Pennsylvania (Mr. Heinz), and the Senator from New Hampshire (Mr. Rudman) were added as cosponsors of Senate Joint Resolution 234, a joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week."

SENATE RESOLUTION 331

At the request of Mr. Chafee, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of Senate Resolution 331, a resolution expressing the sense of the Senate that the Federal Energy Regulatory Commission should take no action to accelerate the decontrol of wellhead natural gas prices.

SENATE RESOLUTION 449

At the request of Mr. Armstrong, the names of the Senator from Idaho (Mr. McClure), and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of Senate Resolution 449, a resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

AMENDMENT NO. 2023

At the request of Mr. Cohen, the names of the Senator from Delaware (Mr. Biden), the Senator from North Dakota (Mr. Burdick), the Senator from Oklahoma (Mr. Boren), the Senator from Nevada (Mr. Cannon), the Senator from Rhode Island (Mr. Chafee), the Senator from Mississippi (Mr. Cochran), the Senator from Minnesota (Mr. Durenberger), the Senator from Pennsylvania (Mr. Heinz), the Senator from Vermont (Mr. Leahy), the Senator from Rhode Island (Mr. Pell), the Senator from Michigan (Mr. Riegle), the Senator from Tennessee (Mr. Sasser), and the Senator from Indiana (Mr. Quayle) were added as cosponsors of amendment No. 2023 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

SENATE CONCURRENT RESOLUTION 118—CONCURRENT RESOLUTION COMMENDING THE ACHIEVEMENTS OF PHILIP C. HABIB

Mr. DOLE (for himself, Mr. Baker, Mr. Robert C. Byrd, Mr. Percy, and Mr. Pell) submitted the following concurrent resolution; which was considered and agreed to:

Senate Concurrent Resolution 118

Whereas it is in the national security interest of the United States to achieve an enduring settlement of the conflict that has afflicted the region of the Middle East for many years; and

Whereas the attainment of such a settlement depends on continuing efforts on the part of the United States to persuade all parties to the conflict to resolve their differences in a peaceful manner; and

Whereas the recent crisis in Lebanon made even more clear than before the critical need for a peace settlement in the region; and

Whereas the resolution of that crisis and the successful evacuation of the Palestinian forces from Beirut were brought about, in large measure, as a result of the activities of U.S. Special Negotiator Philip C. Habib: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That:

(1) It is the sense of the Congress that Mr. Habib warrants the highest commendation for his extraordinary achievement in negotiating the terms under which Palestinian forces were peacefully evacuated from the city of Beirut; for his success in a difficult and delicate task that constituted an essential step toward resolution of the continuing political conflict in the Middle East; and for the model he has provided of the skill, commitment, and endurance that we must sustain in our continuing effort to reach that goal; and that

(2) the Congress extends not only its praise but also its thanks, on behalf of the American people, to Mr. Habib for his accomplishments and his dedicated service in the interests of the United States and of a lasting peace in the Middle East for all its peoples.

SENATE RESOLUTION 457—RESOLUTION RELATIVE TO THE DEATH OF REPRESENTATIVE ADAM BENJAMIN, JR.

Mr. BAKER (for Mr. Lugar, for himself and Mr. Quayle) submitted the following resolution; which was considered and agreed to:

S. Res. 457

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Adam Benjamin, Jr., late a Representative from the State of Indiana.

Resolved, That a committee be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representatives.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY EXTENSION OF PUBLIC DEBT LIMIT

AMENDMENT NOS. 2044 THROUGH 2059

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS submitted 16 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NOS. 2060 THROUGH 2062

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH submitted three amendments intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NOS. 2063 THROUGH 2111

Mr. WEICKER submitted 49 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NOS. 2112 THROUGH 2739

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted 628 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a joint hearing with the Senate Appropriations Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies on the Justice Department merger guidelines and its enforcement of antitrust laws, on Thursday, September 9, 1982, at 10 a.m., in room 424 of the Russell Senate Office Building. Senator Rudman will chair the hearing. For additional information, contact Brian Hartman at 224-8490 or Claudia Ingram at 224-7244.

Mr. President, I would like to announce that the Senate Small Business Committee will hold a hearing on Thursday, September 16, 1982, room 424 of the Russell Senate Office Building, at 10 a.m., to consider S. 2446, the Small Business Procurement Reform Act of 1982, and other small business procurement reforms. Senator S. I. Hayakawa will chair the hearing. For further information please contact Kimberly Elliott of the Small Business Committee staff at 224-3840.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold hearings next week on Budget Act reform. All hearings will be held in 6202 Dirksen Senate Office Building starting at 9:30 a.m.

The hearings are as follows:

Tuesday, September 14, 9:30-11:30 a.m.—The Honorable Henry Bellmon, cochairman, Committee for a Responsible Federal Budget; The Honorable Robert N. Giaimo, cochairman, Committee for a Responsible Federal Budget.

Thursday, September 16, 9:30-11 a.m.—Mr. George Gross, National League of Cities; Messrs. John McEvoy, Kutak, Rock, and Huie.

Thursday, September 16, 11-12:30 p.m.—Dr. Rudy Penner, American Enterprise Institute; Dr. Norman Ornstein, American Enterprise Institute.

ADDITIONAL STATEMENTS

LEGAL SERVICES CORPORATION

● Mr. KENNEDY. Mr. President, in the next few weeks the Senate will be asked to continue funding the Legal Services Corporation. President Reagan has wanted to kill the LSC and its predecessor, the Office of Legal Services in OEO since he was the Governor of California. He has consistently tried to kill it since becoming President. I have fought against the President on this issue because I believe that the LSC is too important to eliminate. Contrary to the claims of the opponents of LSC, there is no one to take its place.

I recently received a letter from Dean Richard Huber of the Boston College Law School on the subject of the LSC and its funding. Dean Huber eloquently explains the importance and continuing need for funding the LSC I would submit the letter for the Record.

The letter follows:

Boston College,
Newton, Mass., July 20, 1982.

Hon. Edward M. Kennedy,
U.S. Senator,
Washington, D.C.

Dear Senator Kennedy: I write to ask your support for full appropriation for the Legal Services Corporation, as requested at the $265 million level for this coming fiscal year. This amount represents at best level funding of the Corporation at a time when need is slowly increasing.

The provisions for legal services to the poor in our society has been one of the great efforts of the federal government over the past fifteen years or so, and particularly so since the LSC reached an adequate level of funding. In a society such as ours, in which law is so decisive in determining rights and obligations, it is necessary that each person have some meaningful access to whatever legal services are required to gain entitlements. Otherwise the concept that all are equal before the law loses effective meaning.

Of course, in any organization as large and diverse as the LSC, abuses do occur. But the level and extent of abuse seems to me to be remarkably limited. In fact what has sometimes been labeled abuse has been merely the forceful advocacy of rights that are set out in legislation but which before this time have not been enforced. We do, as a society, tend to legislate solutions fairly readily but are weaker in enforcing this legislation. The LSC has, no doubt, by seeking enforcement of rights that have been earlier established, seemed to some to be overly aggressive. But, as we know, a right without remedy is no right at all, and the LSC has done much to assure that legislation is enforced.

On another matter, the private bar cannot assume the entire level of legal services for poor people. Only so much time can be devoted to this service since office and other costs continue even if there is no fee. And it is not unfair to note that many lawyers do not practice in areas to which the LSC necessarily devotes its services to the poor. A good lawyer can probably handle most cases competently but he or she will handle them very slowly if they cover an area of law or a type of practice dissimilar to that in which the lawyer ordinarily practices. Law schools can and do bear some of the burden but, since our purpose must be primarily educational, we can do less for the same level of expenditure than the LSC, whose purpose is solely service. And our resources are very limited.

I appreciate your attention to this rather lengthy letter. The cause is, frankly, very important to me and I hope this will excuse the length. Thank you for any assistance you can give toward full funding of the Legal Service Corporation.

Sincerely,

Richard G. Huber,
Dean.

AMERICAN CONSERVATION CORPS

● Mr. MOYNIHAN. Mr. President, I am pleased that the Public Lands and Reserved Water Subcommittee has scheduled a hearing on September 22 to consider S. 2061, legislation that Senator Mathias and I have introduced to create an American Conservation Corps modeled after the Civilian Conservation Corps of the 1930's. Our bill enjoys the bipartisan cosponsorship of 17 Members of this Chamber and a companion bill, H.R. 4861, passed the House on June 9 by a vote of 291 to 102. I am confident that the

Senate will act expeditiously on this important legislation and will put thousands of unemployed young people to work conserving and rehabilitating our Nation's natural and cultural resources.

Mr. President, I would like to bring to my colleagues' attention a timely essay by Mr. Harry Goldsmith that appeared in the September 5 New York Times, and I ask that it be printed in the RECORD.

The essay follows:

[From the New York Times, Sept. 5, 1982]

CONSTRUCTED BY DAVIDS, OCCUPIED BY GOLIATHS

(By Harry Goldsmith)

UPPER MONTCLAIR, N.J.—Camp David, the Presidential retreat, has been very much in the news. We've see Ronald Reagan strolling through the woods with the Secretary of State, and Congressmen were invited there when the President wanted to persuade them of the soundness of his tax increase.

I wonder whether the President, as he walks in the cool mountain wilderness of Camp David or relaxes in one of its rustic log cabins, is aware that he is enjoying a facility that was built by unemployed youth of two generations ago—members of the Civilian Conservation Corps. One of the earliest New Deal programs, the C.C.C. was established by Congress in 1933 to combat unemployment during the Depression.

Until the C.C.C. was terminated in 1942, it provided useful work and vocational guidance for a total of three million unemployed single young men through conserving and developing our country's natural resources.

Even as President Reagan relaxes at Camp David, he cannot help but have on his mind the hundreds of thousands of youth who are unemployed today. Perhaps it may occur to him that an answer to this blight on our society is to revive the C.C.C. program.

Camp David was not always a Presidential retreat. In the summer of 1940, my family and I spent a glorious week's vacation in this wilderness wonderland. It was then called Camp Hi-Catoctin and operated as a low-cost vacation camp for Federal employees and their families. The cost was $14 per week per adult, $7 for children; meals, lodgings and all recreational facilities were included.

There was room for only 72 guests in the camp's 18 long cabins, nestled unobtrusively among the pines, so it did not take long for us to turn into one big family.

Life at Camp Hi-Catoctin began at 7 A.M. with the bong of a gong. Breakfast was served family-style at 8 in a large dining and recreation hall. Most campers were on time for meals because life in the woods developed quite an appetite. Those few who straggled in late were greeted with a hiss.

After breakfast, campers swam in a pool of crystal-clear continuously filtered spring water, hiked, rode horses or used the craft shop or dark room. Others played badminton, Ping-Pong or softball—or settled down to some serious loafing. In the evenings, campers gathered for dancing, movies, singing or lectures on nature and the stars that filled the night sky.

Camp David is a shining example of what unemployed youth can create when given the opportunity. Through forest and wildlife protection, flood control, soil conservation, development of new state parks and recreational areas, and similar activities, the C.C.C. added to the nation's material wealth and well-being, the benefits of which are being enjoyed to this very day, even by the President.

The C.C.C. not only conserved and enhanced our natural resources but also conserved and enhanced our youth at a time of severe unemployment.

There are hundreds of thousands of jobless youth today who would also benefit if Congress revived the C.C.C.●

BUSINESS AND ENVIRONMENTAL- ISTS: A PEACE PROPOSAL

● Mr. ARMSTRONG. Mr. President, I have seldom, if ever, read a more sensible article than Christopher Palmer's interesting essay in the August 8, Washington Post. Mr. Palmer calls for more tolerance and understanding between business and environmentalists. As one who cares about both, I think he has made a very significant and worthy statement. I commend it to my colleagues.

The essay follows:

[From the Washington Post, Aug. 8, 1982]

BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL

(By Christopher Palmer)

Environmental groups are not perfect. We have flaws, as does business. By candidly examining the flaws on both sides we may be able to defuse the destructive animosity and mutual misunderstanding, and even find areas where we can make common cause. Let me first focus on the weaknesses, both real and perceived, of environmentalists.

One of our problems is that we tend to assume a tone of arrogance when talking to business. When we environmentalists act as though we talk to God and as though we have all the answers, then industry, even those business people who are inclined to be sympathetic, will be irritated. We call ourselves "public interest" groups—the implication being that we look after the "public interest" while everyone else is pursuing his own selfish goals.

This tendency is matched by a tendency to be rigid, unwilling to compromise or negotiate. Environmentalists sometimes are afraid to bend and be flexible. We think the arguments made by industry are totally self-interested and exaggerated.

Too often environmentalists think of profits as dirty. We don't always appreciate the effectiveness of the free market. Too few of us have ever worked as entrepreneurs and, consequently, lack an appreciation of just how hard it is to succeed in business. We are much more expert at grantsmanship.

Some environmentalists are—like business people—probably not concerned enough about the harsh impact of high prices on poor people. Few of us know anything about the degradation and pain of poverty. While the image of us—in Michael Kinsley's words—as a "clique of rich people attempting to protect their backyard" is an exaggeration, nevertheless we are probably oversensitive to the desires of the upper and middle class and insufficiently sensitive to the desires of those less well off.

Environmental goals should not be pursued without regard to their consequences elsewhere. Preserving wilderness is important, but it is only one of a number of important national goals. For example, energy policy should not be based on environmental values alone. A clean environment is just one of many results we want in a energy policy, not the central driving force. Environmentalists have to accept the fact that occasionally—ideally, rarely—they may have to compromise some environmental goals for more important ones, such as jobs.

This brings me to economic growth and productivity. Too often environmentalists give the impression of wishing economic growth would somehow go away. But economic growth and increased productivity are needed to create new jobs, to increase our investments in energy efficient housing and our investments in new less-polluting industrial processes.

And finally, environmentalists, like other human beings, can suffer from parochialism. A recent issue of a major environmental magazine contained a long and detailed editorial on how domestic cats are not a threat to birds. We voraciously consume each other's newsletters but tend to neglect Business Week, Forbes and Fortune.

Let me now turn to steps that business could take to gain a better understanding of us and to help win our confidence and trust.

There should be a greater realization on the part of business of the extent to which future growth and profits depend on efforts to preserve land, air and water. Erosion control aims at maintaining the productivity of soils, essential to sustaining U.S. agricultural output. Forest conservation and reforestation are essential to the protection of soils and watersheds. Reduced pollution means fewer work days lost to environment-related illnesses. Thus, conservation and environmental protection make direct contributions to economic productivity.

Another step that business could take would be to show greater appreciation of the tremendous market opportunities in energy conservation, solar energy and pollution control. Business Week reported in its April 6, 1981, issue that the market for energy conservation investments was growing phenomanally fast and could reach $30 billion by 1985. An article in the November/December 1980 Harvard Business Review concluded that alert companies can turn pollution prevention into profit and make economic growth and environmental protection go hand in hand. There are now over 600 companies in the business of manufacturing air- and water-pollution-control equipment, including cooling towers, scrubbers, precipitators and catalytic converters. These firms constitute a multi-billion-dollar industry employing hundreds of thousand of people around the country.

There are three broad areas where we could form alliances with business. First is the area of lobbying. Recently, United Technologies and the Audubon Society formed a lobbying team to promote increased federal funding for fuel cells. Why can't we do this on other issues, such as adoption of user fees, establishment of unnecessary government bureaucracies like the Synthetic Fuels Corporation?

The second area is in defining public policy. The National Coal Policy Project, led by Larry Moss, a well-known environmentalist and former chairman of the Sierra Club, and Jerry Decker, of the Dow Chemical Company, is a good example of an attempt by both environmentalists and industry to explore common ground in their conflict over coal policy.

The third way environmentalists could form alliances with business is to enter into business partnerships. Is there any reason why environmental groups have to be limited to testifying, writing and lobbying? Why shouldn't they help to market pro-environmental products? Audubon has recently established an arrangement with an energy management company to promote energy efficiency in commercial buildings. We have just helped to sell a $100,000 system.

The opportunities for business partnerships are immense. Why shouldn't we, for example, work with manufacturers of water-heating heat pumps to develop a packet of information that would help our half million members—especially those in the South, who heat their homes with electricity—to become more familiar with this technology? Why shouldn't we produce an investment newsletter that contains information about profitable companies in solar, conservation and pollution-control equipment, which Audubon members could use in purchases and sales in their own portfolios? If we were to sit down with business and industry, we could probably come up with many more projects that could help both of us.

There is much on which we can make common cause, and business people should seek out those in the environmental movement with whom they can work. Environmentalists, in turn, should not treat industry as a monolith.

We should all be seeking the right kind of growth, growth that does not degrade the environment that others must share. Environmentalists are not opposed to business enterprises, nor to those who seek to return on invested capital. We are only opposed to mindless growth that demands a narrow advantage regardless of social costs.●

INTERGOVERNMENTAL COMMITTEE FOR MIGRATION

● **Mr. KENNEDY.** Mr. President, our newspaper headlines remind us daily of one of the most persistent and critical international problems—the plight of refugees and migrants around the world.

Over the years, one of the international community's most important tools for dealing with the problems of migration has been the Intergovernmental Committee for Migration—which the United States was instrumental in launching following World War II.

In the 30 years since, ICM has become a lifeline of hope for millions of refugees and migrants seeking new lives in new lands. Recently, the European and Asian editions of the Reader's Digest contained an excellent article describing ICM's humanitarian work, which I would like to share with my colleagues.

Mr. President, I ask that the Reader's Digest article on the ICM be printed at this point in the RECORD.

The article follows:

[From the Reader's Digest, September 1982]

LIFELINE TO HOPE FOR THE WORLD'S REFUGEES

(By Rudolph Chelminski)

In the ominous months preceding last December's military crackdown in Poland, an estimated 100,000 Poles fled to the West. Most are still scattered around Europe, lodged with friends or in refugee quarters in Austria and Germany, and the sad truth is that Europe, with its weakened economy and high unemployment, can do little to help.

For these Poles, the only solution is emigration to lands like the United States, Canada, Australia or perhaps South Africa. And their only hope for getting there is embodied in three letters: ICM.

ICM stands for the Intergovernmental Committee for Migration. It is one of the least known but most important—and most quietly efficient—of the world's many international organizations. ICM's primary job is moving people in distress—finding destinations for those who have nowhere to go, and then taking them there. "Extrication" was the way one ICM worker put it.

It was ICM that resettled the 300,000 Displaced Persons remaining in Western camps after the United Nations' postwar refugee operation ended in 1951; ICM that moved the 200,000 Hungarians who fled from Soviet tanks in 1956, the 20,000 Czechs who shared the same experience in 1968, the 250,000 Soviet Jews who have chosen voluntary exile over the last decade. In all, since its birth in 1951, ICM has "extricated" more than three million refugees and exiles.

Headquartered in Geneva, ICM is a curiosity amidst the jumble of United Nations agencies that fill the Swiss city: with 131 employees (and 186 more stationed around the world), it is the smallest intergovernmental organization in town. In fact, it is not even part of the UN, and for a good reason. ICM's 30 member states and 16 associates (including Britain) have agreed on a single precondition to membership: the principle of free circulation of peoples. As a result, ICM is composed essentially of the United States, Western Europe and most of Central and South America, whose nations share its present £77-million yearly budget.

"Of the 157 UN members," observes Karel Norsky, a former British journalist based in Geneva, "less than one-third can be called true democracies. So who's going to help those who flee totalitarianism? ICM can, because it is one of the few organizations where the countries of the free world have a decisive influence."

QUIET APPROACH

ICM is often compared to a fire brigade of humanitarianism but, notes Alain Modoux of the International Committee of the Red Cross, "their humanitarianism remains discreet." ICM keeps its mouth shut and leaves value judgements to others.

"The result is that we can get things done when others can't," says a highranking ICM officer in Geneva. Thanks to ICM, 30,000 supporters of Chile's late President Salvador Allende were able to leave after Pinochet came to power in 1973—but also thanks to ICM, several hundred opponents who had fled Allende's regime were able to return home.

To understand how ICM gets things done, I spent a day with Bill Anderson, who is in charge of ICM's South-East Asian operation in San Francisco. With 700,000 Indo-Chinese refugees moved so far—more than half through San Francisco—and 250,000 more to go, it is by far ICM's biggest operation ever. The Asian refugee problem began in 1975, with the fall of Saigon, when the first "boat people" began appearing in the West in large numbers. It swelled to catastrophic proportions in 1979 when the US and other Western countries vastly increased their Asian refugee allocations.

July 1979 found Anderson ridiculously understaffed and ill-equipped as wave after wave of jumbo jets descended upon him, spewing forth hundreds of confused and exhausted refugees. "Sometimes they were stuck for hours at the San Francisco airport with no facilities, waiting for re-routing to their sponsors," Anderson recalled. "At one time we had a thousand of them sleeping on the floor."

Faced with the threat of a caretakers' strike, rumours of disease and a hostile local press, Anderson told US State Department officials that he was taking the problem into his own hands. As a stopgap, he lodged the pregnant and sick in a motel near the airport, and sent out an emergency call for volunteers.

The crowding and chaos eased the following January when the ever-resourceful Anderson found three good barrack blocks at the sprawling, unused Hamilton Air Force Base, 25 miles north of San Francisco. He cleaned them up and borrowed a thousand cots and bedding from an army camp, while his volunteers scrounged playground equipment for the children. By February 10, 1980, his Hamilton transit camp was ready for customers, and it has been filled ever since.

WELCOME GIFTS

With Anderson, I watched as the first busloads arrived from that morning's flight and were checked in. Each person was issued a hooded parka as protection against the chilly November air, and a new set of warm clothing from a considerable stock donated by local charitable and church groups.

As important to ICM as donated clothing is donated time. Volunteers and part-time help are the main reasons ICM gets so much done with so little staff; its 317 full-time employees cost £6·3 million, just over eight percent of the total budget. The regulars are outnumbered by 444 temporary staff, who range from doctors on contract to students and retired people working for free. At Anderson's transit camp, one Cambodian family named Ken was so moved by the kindness of the volunteer staff that they named their first American-born son Hamilton. It was the finest compliment they could have paid ICM.

Anderson is the first to admit that little would be possible without team effort. "We've made it work with the help of a lot of dedicated people. ICM work is a calling, like the ministry—you get addicted to it."

Addicts of Anderson's ilk abound among full-time ICM officers. Margaret Steele of the refugee assistance division, one of the few Britons at the Geneva headquarters, has been with ICM for 25 years. So has 62-year-old Dane Soren Christensen, ICM's chief of operations and transport, whose quarter-century of service has included more than one act of heroism.

In 1970 he brought planeloads of Biafran children back to Nigeria from the Ivory Coast and Gabon where they had been sent during the civil war; two years later, he snatched 5,000 terrorised Ugandan Asians out of Kampala. In 1976, in the thick of battle in Beirut, he used every ruse in the book, from bribing sentries with whisky to pretending to be a corpse in a casualty pickup truck, in order to get through the lines and bring families to safety.

ON HER TOES

Improvisation is an ICM byword, as one steward of an American airline discovered in Los Angeles. Applying to the letter an airline rule that all passengers must wear foot covers, he refused to allow a bare-foot Vietnamese refugee boy on board his plane. The ICM agent on the spot immediately wrig-

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gled out of her tights, plonked the boy into them and sent him up the ramp, daring the steward to let out a squeak. He didn't.

Another master improviser is Joe Dvorak, a canny 62-year-old Viennese, whose near-miraculous solutions to apparently insoluble problems have made him something of a living legend among ICM professionals. Dovrak sums up his approach with a personal axiom that could well be the organization's motto: "Jump into the lake and swim."

With Dvorak and his boss, Henri van Werveke, a Luxenburger who runs the ICM office for Austria, I visited the refugee camp of Traiskirchen, some 15 miles south of Vienna, where nearly 3,000 Poles were awaiting resettlement. In addition, some 23,000—mostly young families—were housed in different camps, hotels, and boarding houses throughout the country, while another 20,000 were paying their own way:

Austria is the first-asylum country, but it can't absorb these people itself," said van Werveke. "We're the only ones who can get them out for settlement elsewhere."

The situation in Austria illustrates why ICM is not a part of the UN and never will be. The UN is bound by a 1951 convention, which defines a refugee as a person who has fled his country, and no longer has the protection of a government, for reasons of racial, religious or political persecution. This did not apply to Poles fleeing to Western Europe before martial law was established last December because no tangible persecution could be proved in most cases. For the UN they were only Polish tourists in the West.

Likewise, the 1951 convention does not permit refugee status for nationals within their own country, such as the 30,000 anti-Pinochet Chileans ICM moved out in 1973, or the luckless Asians in Idi Amin's Uganda. The United Nations High Commission for Refugees does praiseworthy work, but only ICM can negotiate the fate of "unofficial refugees." Said Karl Radek, director of the Traiskirchen camp, "Over the years we have found that when you can't reach anyone else, you can always reach ICM."

EXPANDING ROLE

This kind of humanitarianism, however, is not the whole picture. Over the years, ICM has branched out into the development business with three specific programmes.

The oldest is known as Selective Migration. In 1964, after receiving a joint request from Latin-American governments, ICM began recruiting in Europe and America the specialized talent they needed to help exploit natural resources and to develop new trades and businesses. Since then, ICM has settled nearly 30,000 technicians, farmers, architects and other professionals all over Central and South America.

In 1974, ICM inaugurated two corollary programmes: Integrated Experts and Return of Talent. The first is a kind of technical shopping service for developing nations. At Ecuador's request, for example, the ICM Mission in Bonn recruited a German mechanical engineer. As a supervisor at Quito University, he has organized training programmes and instructed graduate engineers in the design, manufacture and maintenance of machine tools.

The Return of Talent programme attacks one of the most vexing problems of the Third World: the brain drain. The goal of the programme is to convince and assist those who have been trained abroad to return home or to another country in the region, where their skills are desperately needed. Since 1974 some 2,000 of them—doctors, engineers, economists among others—have been repatriated through the good offices of ICM.

The future, then, will certainly witness an increased role for ICM as a tool and a channel for developing nations. But the original humanitarian mission will remain as long as there are refugees. And the world has never had so many—more than ten million, by most estimates. As US Senator Edward Kennedy put it, looking into a troubled future, "Through this century and into the next, migration is going to be a serious international issue. If we didn't already have an ICM to deal with it, we'd have to invent one."●

TRIBUTE TO NATHAN M. CARTER, JR.

● Mr. SARBANES. Mr. President, Baltimore and the State of Maryland are very proud of the extraordinary musical talents of the Morgan State University Choir and its outstanding director, Nathan M. Carter, Jr. This unique musical group has achieved international recognition and received numerous awards for its artistry.

This singular achievement has been accomplished through Mr. Carter's outstanding tutelage and leadership. He has inspired scores of young people to pursue active participation in the performing arts, and their contributions to the enhancement of our cultural life has been felt in Maryland and throughout the Nation.

A great musician and scholar, Mr. Carter has elevated the caliber of the choir to an enviable level of serious musicianship. The development of natural talent for artistic expression has been central to Mr. Carter's energetic and innovative direction, and the results have greatly benefited Morgan State University, the greater Baltimore community, and indeed the entire State of Maryland.

Mr. President, the friends and colleagues of Nathan Carter have reserved September 9 to recognize his outstanding record of accomplishments. I am proud to join my fellow Marylanders and ask my colleagues to join me in saluting this great Maryland citizen, whose musical achievements are deservedly recognized the world over.●

RECESS UNTIL 1 P.M.

Mr. BAKER. Mr. President, it does not appear that there will be any further morning business at the moment. Morning business does not expire by the terms of the agreement entered into earlier until 1:11 p.m.

In view of that, I ask unanimous consent that the Senate now stand in recess until the hour of 1 p.m., at which time the Senate will resume session and there will be not more than 11 minutes of further morning business, after which the Senate will resume consideration of the unfinished business.

There being no objection, the Senate, at 12:34 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Packwood).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Oregon, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Cochran). Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Chair now state the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Montana (Mr. Baucus).

Mr. BAKER. I thank the Chair.

Mr. President, it is my hope that at some time today or tomorrow we will be able to negotiate an agreement for an arrangement to temporarily lay aside the pending measure and proceed to the consideration of the Hatch amendment to the Constitution under a time agreement.

I think the parties are negotiating in good faith. I think it is not possible to get that agreement today.

I will examine that situation again tomorrow to see what the prospects are.

For the remainder of this day I anticipate that we will be on the debt limit bill and the pending question of the Baucus amendment as and until that matter is disposed of.

I remind Members of the Senate that under the order previously entered there will be a vote on cloture against further debate on the Helms second degree amendment to occur at 2 p.m. tomorrow.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, if I may ask the majority leader a quick question, what time would the majority leader envision he wishes to go out tonight?

Mr. BAKER. Mr. President, it is, of course, up to the managers of the bill and the manager of the pending question, but it would not be my expectation that we would be in very late today. There is a cloture vote tomorrow, and I do not see any particular reason to keep the Senate in late. I would anticipate something in the range of 5 p.m.

Mr. PACKWOOD. I thank the majority leader.

Mr. President, I ask unanimous consent that I may yield to the Senator from Montana (Mr. Baucus) for the purpose of debate only without losing my right to the floor and without this being considered the end of one speech for the purpose of the two-speech rule; and I further ask unanimous consent to be allowed to be seated during the period of time to be required by the Senator from Montana, Senator Baucus, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Montana.

AMENDMENT NO. 2040

Mr. BAUCUS. Mr. President, I thank the Chair and I also thank the Senator from Oregon for his industrious and persevering efforts with regard to the pending question as well as the pending business.

Mr. President, at an earlier stage I outlined some of the reasons why I am very much opposed to these court-stripping amendments that are introduced in the Congress in various forms. There are some 34 court-stripping amendments introduced in various bills, and certainly the amendments offered by the Senator from North Carolina (Mr. Helms) are court-stripping amendments, one to a greater degree than the other.

The amendment which would limit Supreme Court review of school prayer certainly is court-stripping in its purest form. The provisions of the other amendment offered by the Senator from North Carolina are of a court-stripping nature but not of the same pure form as the amendment offered with respect to the school prayer bill.

In an earlier time I outlined some of the reasons why I think it would be a tragedy for this body, for the Congress, to adopt these kinds of amendments, and at this point, Mr. President, I would like to summarize and conclude some remarks to those earlier statements I made.

Mr. President, the Helms amendment I think presents the Senate with—I said tragedy, and I think that is the word—also an overwhelming constitutional concern. The impact of this amendment on our judicial system and on Congress I think has been grossly underestimated, certainly by those who are proponents of the amendment. Although this body voted favorably on this language 3 years ago, I now ask that each and every Member reconsider his vote because it is my firm view when this body voted earlier it did not focus on the court-stripping aspects of the amendment, and had this body done so the result would have been much different.

In the time that has elapsed since the vote on the Helms amendment, public awareness and interest in these matters, I think, have very much increased. In August of 1981 the house of delegates of the American Bar Association, for example, overwhelmingly approved a resolution opposing the "legislative curtailment of the jurisdiction of the Supreme Court of the United States or the inferior Federal courts for the purpose of effecting changes in constitutional law." Let me repeat. That was in August of 1981. The house of delegates of the American Bar Association overwhelmingly approved a resolution opposing the "legislative curtailment of the jurisdiction of the Supreme Court of the United States or the inferior Federal courts for the purpose of effecting changes in constitutional law."

I think that is significant that the lawyers of America, men and women who understand our constitutional process, our legal process, are overwhelmingly against this kind of approach to attempt to change Federal constitutional law.

Since then the leadership of the organized bar has repeatedly spoken out and testified against the jurisdiction-removal proposals. The president of the ADA has described the court-stripping bills as posing "a possible constitutional crisis that could prove the most serious since the Civil War." Let me repeat that, this is the president of the ABA, American Bar Association, speaking. He said these court-stripping bills posed "a possible constitutional crisis that could prove the most serious since the Civil War."

The American College of Trial Lawyers has gone on record in opposition to the jurisdiction bills. They state:

> The doors of the Federal courts must remain open to litigants whose claims arise out of the Federal Constitution. This issue should not divide conservatives and liberals or Democrats and Republicans, nor should it divide those who support or disagree with one or another constitutional decision of the Supreme Court.

Those are the trial lawyers in addition to the American Bar Association. In fact, opposition to the court-stripping bills has been bipartisan and has crossed ideological lines. The Senator from Arizona, the senior Senator from Arizona, has recently spoken out eloquently against the jurisdiction-removal bills. Senator Goldwater has observed:

> I am strongly opposed to the breakup of neighborhood schools. I think the unborn baby is entitled to some protection. And I believe school children should be allowed a few moments of voluntary prayer. In my view, the Supreme Court has erred. But we should not meet judicial excesses with legislative excesses.

This is still the senior Senator from Arizona speaking:

> What particularly troubles me about trying to override constitutional decisions of the Supreme Court by a simple bill is that I see no limit to the practice.
>
> There is no clear and coherent standard to define why we shall control the Court in one area but not another. The only criteria seem to be that whenever a momentary majority can be brought together in disagreement with a judicial action it is fitting to control the Federal courts. Whether or not Congress possesses the power of curbing judicial authority, we should not invoke it. As sure as the sun will rise over the Arizona desert the precedent will return to oppress those who would weaken the courts. If there is no independent tribunal to check legislative or executive action, all of the written guarantees of rights in the world would amount to nothing.

As I mentioned, this issue should not divide Republicans and Democrats and should not divide liberals and conservatives. We should be unanimous and, as pointed out by the Senator from Arizona, if there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world will amount to absolutely nothing.

Unfortunately, the momentary majorities that Senator Goldwater speaks of are proceeding to exert enormous pressure on Congress. Certain constituencies are continuing to pursue the legislative end runs of the Constitution.

While the proponents of this amendment may represent a formidable political force, the Nation has previously faced and withstood challenges to the independence of the Federal judiciary. One such challenge occurred in 1937 when President Roosevelt proposed to increase the size of the Supreme Court. He felt that a series of Supreme Court decisions threatened the success of his national recovery program, and by proposing to alter the Court's composition he hoped to force the Court to uphold the constitutionality of his economic plan.

The people in Congress resoundingly defeated the Roosevelt plan. The court-packing plan was seen for what it was, a significant threat to the independence of the judicial branch.

As we now consider this amendment, we should keep in mind the wise words of those who successfully defended the Supreme Court in 1938. One such Senator was Senator Burton K. Wheeler from my own State of Montana, who delivered this warning which applies with equal force today. I quote Senator Wheeler:

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So I say it is morally wrong to do by indirection what cannot be done by direction. It is morally wrong to change the Constitution by coercive interpretation. Of course, Mr. President, there have been abuses in the court. I have been one who disagreed with them and I expect to disagree with them again. But I am unwilling on the basis of some specious argument or some subterfuge that denies the spirit of the Constitution to participate in setting one of the most dangerous precedents that has ever been conceived by this Congress or by any other.

I urge my colleagues to consider those wise words because I think they applied with tremendous force then in 1937 and they apply with equal force today. I urge my colleagues to oppose these court-stripping amendments that are pending before us today.

Mr. President, let me go through now a set of questions that are often asked concerning the court-stripping amendments offered in the main by the Senator from North Carolina, go through some of the questions and then attempt to answer them as best I possibly can.

The first question that is often asked is this: How does the Helms court-stripping amendment alter existing law?

Under current law, the U.S. district courts have jurisdiction to determine whether State or Federal courts violate any rights secured by the U.S. Constitution. In addition, the U.S. Supreme Court has jurisdiction to review any decision of a State or Federal court construing the U.S. Constitution.

The Helms amendment would alter existing law by precluding the U.S. district courts and the U.S. Supreme Court from considering whether State enforcement of any State law "which relates to voluntary prayers in public schools and public buildings" violates any provision of the U.S. Constitution or other Federal law. It would preclude the courts from considering any of those actions.

Question: Does the Helms amendment change the law regarding prayer in schools and other public buildings?

Answer: No. The bill only restricts the jurisdiction of the Federal courts. It does not alter the constitutional law governing the permissibility of prayer in public buildings.

Question: What is the legislative objective in support of eliminating Federal jurisdiction over cases pertaining to school prayer?

Answer: Some legislators disagree with decisions of the U.S. Supreme Court interpreting the first amendment to limit prayer in public schools. The sponsors of this amendment view the bill as one means of undermining those Supreme Court rulings by providing the State courts an opportunity to circumvent the Supreme Court and to permit prayer in the schools under circumstances where the U.S. Supreme Court has found it to be prohibited by the Constitution.

Let me emphasize one key point in that last question and answer. The question again: What is the legislative objective in support of eliminating Federal jurisdiction over cases pertaining to school prayer?

As I explained in the answer, essentially it is because some legislators disagree with decisions of the Supreme Court and they are attempting to, by legislation, undermine Supreme Court rulings. But in so doing, if we pass these court-stripping bills, we provide the State courts an opportunity to circumvent the Supreme Court and circumvent the Constitution.

What does that mean? That means we could have 50 separate decisions by 50 separate Supreme Courts interpreting the Federal Constitution and with no review by the U.S. Supreme Court or other Federal courts. Think of that. Fifty separate decisions interpreting Federal constitutional provisions. Where does it lead? Not only to school prayer, but free speech, freedom of press, freedom of religion, the right against self incrimination, the right to bear arms—you name it.

In my view, Mr. President, if that were to happen, we would not have a Confederacy. We would have 50 separate nations. We would have 50 separate jurisdictions fairly soon, very quickly at war with each other. And our national motto of e pluribus unum would be without the unum. It would be all pluribus. And I think that is not the direction we want to go in.

Another question that is asked: Would the Helms amendment accomplish that objective? The objective being overturning the Supreme Court decisions particularly with respect to school prayer.

The answer is, probably not. First, that objective could only be accomplished if State court judges are willing to violate their oath of office by refusing to enforce the U.S. Constitution, as interpreted by the U.S. Supreme Court in cases already decided. A critical point. The Helms objective would only be accomplished, if the statute passes, if State supreme courts violate their oath of office to uphold the U.S. Constitution by interpreting the Constitution in a way contrary to the last decisions by the U.S. Supreme Court on that issue. That is the only way that the Helms objective, ultimate objective, could be accomplished.

Second, there is no assurance that all States, for all time, would use this immunity from Federal judicial review to expand, reather than to restrict, the opportunity for prayer in public places.

Think of that. State supreme courts could restrict, they will not necessarily expand upon the latest decisions by the U.S. Supreme Court, which would not, by the statute, have authority to review those State supreme court decisions.

The Helms amendment would, for example, preclude Federal courts from invalidating a State law prohibiting individuals from participating in prayer in a public building under circumstances where the U.S. Supreme Court would have held that the law represented an unconstitutional infringement of the individual's first amendment rights to engage in the free exercise of religion.

Another question often asked: Does Congress have the power to enact the Helms amendment?

The answer is, No. Although Congress does have some power to regulate the jurisdiction of the U.S. Supreme Court, the Supreme Court has held that Congress cannot constitutionally use this power for the purpose of undermining the finality of Supreme Court decisions with which the Congress disagrees. There are various precedents, various opportunities, various times when the Court has spoken on this issue. One is the United States against Klein in 1872. And in the United States against O'Grady in 1875, the Court found that there is only one Supreme Court and "it is quite clear that Congress cannot subject the judgments of the Supreme Court to reexamination and revision of any other tribunal or any other department of the Government." Yet the only objective of the Helms amendment is to subject the judgments of the U.S. Supreme Court to review under a provision by other State tribunals.

As Justice Rehnquist recently stated: "It is not the province of Congress to judge the persuasiveness of the opinions of Federal courts—that is the judiciary's province alone." That was in United States against Sioux Nation, a 1980 case.

The American Bar Association have also adopted a resolution asserting its position that the Congress does not have constitutional authority to enact the Helms amendment.

The Constitution does provide Congress with the means to initiate a change in the constitutional school prayer doctrine—it very much does—not by the usurpation of judicial power, but by the amendment process established in article V of the Constitution. That is the only power which this Congress can constitutionally exercise to achieve the legislative objective advanced by the pending amendment.

To repeat, the only power that our forefathers and the framers provided to amend the Constitution or to overturn the Supreme Court decisions is through the constitutional amendment process.

Mr. President, we are not here today to debate whether to amend the Constitution. We are debating today only with respect to the court-stripping amendments that are now pending whether, by statute, to prohibit the Supreme Court from reviewing certain Federal constitutional questions.

Another question asked is: Is there any congressional precedent for removal of jurisdiction to review the constitutionality of State action?

The answer, again, is no. In the past, when Congress has disagreed with the wisdom of Supreme Court interpretations of the Constitution, Congress has initiated a change in the law by proposing a constitutional amendment. When legislators have attempted to short circuit the constitutionally established amendment process by proposing the removal of Federal jurisdiction, the Congress has adhered to its long and respected tradition of separation of powers and rejected these measures.

Another question is this: Are the issues removed from Federal court review by the Helms amendment limited to those concerning the scope of allowable prayer in public places?

Again, the answer is, no. The bill—and this is important—precludes review of any State action enforcing a law which "relates to voluntary prayer in public schools and public buildings." Thus the Federal courts would be precluded from a whole range of due process, equal protection, and other constitutional issues. For example, if a State enacted a statute allowing a school to fine and dismiss, without notice or any opportunity for a hearing, any teacher who allegedly failed to allow voluntary prayer in a classroom, the Federal courts would be precluded from determining not only whether the statute satisfied the first amendment, but also whether it satisfied due process. Nor could the Federal courts determine whether a black teacher allegedly fired on the basis of such a statute was in fact fired on the basis of race, in violation of the 14th amendment or the civil rights laws. A statute allowing Christians but not Jews to recite prayers in class would also not be subject to challenge in Federal court.

Another question sometimes asked with respect to the pending measure:

Would the removal of jurisdiction over school prayer cases under the Helms amendment impair the uniform administration of law in the State and Federal courts?

The obvious answer is yes. By removing Supreme Court jurisdiction, 51 different courts will have the final authority to interpret the Federal Constitution as it applies to prayer in public buildings. Thus despite a Federal Constitution granting rights equally to all the people of the United States, residents of Texas may not enjoy the same Federal constitutional rights as residents of New York, or vice versa. Just as the State courts should have final authority to interpret the State constitution, the Federal courts should have final authority to construe the Federal Constitution.

As a result of the Helms amendment the first amendment would also be applied differentially to State and Federal action. The constitutionality of prayer in Federal buildings and enclaves would be measured by the standards established by the Federal courts. The constitutionality of State laws would be measured by the standards established by that State.

The removal of Federal court jurisdiction is also a direct challenge to the independence of the judiciary's constitutional authority to render interpretations of the Supreme Court binding on the other branches of Government. Passage of the Helms amendment would represent an assertion by Congress that it does not feel bound by the decisions of the Supreme Court—an assertion which threatens our system of governance.

Mr. President, I think it would be appropriate now to enter into the RECORD a comment on a letter written by former officials of the Department of Justice in opposition to the Helms court-stripping proposal. I might note that while S. 481 is not exactly word for word identifical it is virtually identical to the amendment before us.

This letter is addressed to Hon. GEORGE BUSH, President of the U.S. Senate, Vice President of the United States. It is also addressed to Hon. HOWARD BAKER, the majority leader of the U.S. Senate, as well as to Hon. ROBERT C. BYRD, minority leader, U.S. Senate; Hon. STROM THURMOND, chairman of the Committee on the Judiciary, and Hon. JOSEPH BIDEN, the ranking minority member of the Committee on the Judiciary.

SIRS: As former officials of the United States Department of Justice, we are deeply concerned that the judicial system in the United States would be improperly and needlessly impaired by passage of S. 481, which would eliminate all federal court jurisdiction to determine the constitutionality of state laws relating to voluntary prayer in public schools and buildings. Before voting on S. 481, we urge you to consider the reasons why Congress has never before pursued such a legislative course.

As I said, S. 481 is virtually identical to the pending amendment by the Senator from North Carolina as it applies to school prayer.

Continuing on with the letter:

The Supreme Court of the United States was vested with the authority to render constitutional interpretations binding on the Congress, the Executive Branch and the fifty states. If the Members of Congress disagree with the wisdom of the Supreme Court's construction of any constitutional provision, such as the terms of the First Amendment governing the establishment and free exercise of religion, Article V of the Constitution provides Congress with the means to initiate a change in the law by amendment. To circumvent Article V by withdrawing all federal court jurisdiction would undermine the separate roles of Congress and the judiciary and destroy the uniform interpretation of federal constitutional rights in the fifty states.

We may differ among ourselves as the correctness of the Supreme Court's decisions concerning school prayer, but we are unanimous in our judgment that S. 481 is unconstitutional. We therefore urge you to oppose S. 481.

Very truly yours,

BENJAMIN R. CIVILETTI.
ERWIN N. GRISWOLD.
CARLA A. HILLS.
NICHOLAS DEB. KATZENBACH.
ELLIOT L. RICHARDSON.
HAROLD R. TYLER, JR.

I would now like to read a letter from Prof. Jesse Choper, now dean of Boalt Law School, University of California at Berkeley, concerning the constitutionality and wisdom of the Helms school prayer amendment. This letter is addressed to me, dated August 11, 1981.

DEAR SENATOR BAUCUS: I have your letter of July 27 concerning S. 481. Let me respond, albeit briefly, to the questions you put:

1. I profess no expertise as to whether, as a matter of original intent, the Fourteeth Amendment was meant to apply the Bill of Rights to the States.

2. Even if the Fourteenth Amendment was not intended to "incorporate" the Bill of Rights, the school prayer decisions are not "unconstitutional" because even those Justices like John M. Harlan—who argued vigorously that the Fourteenth Amendment did *not* apply the Bill of Rights to the States—believed that prayer and bible reading in the public schools violated the "fundamental fairness" guaranteed by the Due Process Clause of the Fourteenth Amendment. (Indeed, although Justice Frankfurter did not participate in the school prayer decisions, I am confident from his other relevant opinions that he agreed with the school prayer decisions despite his strongly stated opposition to the "incorporation" theory.)

3. Even if the school prayer decisions are "unconstitutional", I do not believe that Congress' proper course of action is to remove the Court's jurisdiction. In my view, if Congress disagrees with the Court's decisions, the honored remedy is a constitutional amendment.

4. The Supreme Court's decisions on the question of removing Supreme Court jurisdiction over an issue like school prayer are few and opaque. Therefore, there is no authoritative answer to your question. My personal view is that S. 481 would itself violate the First Amendment guarantees of religious freedom.

5. As I have indicated in my responses to questions 3 and 4 above, I think that it is not advisable, as a matter of public policy, for Congress to remove Supreme Court jurisdiction over constitutional issues generally or over the school prayer issue specifically.

One final point. S. 481 talks about "voluntary prayers in pubic schools." As I have argued at length elsewhere—in Volume 47 of the Minnesota Law Review—I do not believe that prayer and bible reading in public schools can be voluntary.

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> Please let me know if I can be of any service.
>
> Sincerely,
>
> Jesse Choper,
> *Professor of Law.*

Mr. President, I would now like to read a letter from law professor Louis Henkin, of Columbia University Law School, again on the constitutionality and wisdom of the Helms school prayer amendment. It is dated September 3, 1981.

> Dear Senator Baucus: I respond to the several questions in your letter of July 27 about S. 481.
>
> 1. It is intrinsic to our constitutional system that the Supreme Court is the final arbiter of what the Constitution means. The Supreme Court's decisions in the "school prayer cases" are not and cannot be unconstitutional.
>
> 2. Congressional disagreement with a constitutional interpretation by the Supreme Court on a particular issue is not in my view a sufficient cause for removing the Court's jurisdiction of cases involving that issue.
>
> 3. Whether Congress has the constitutional authority to remove the Supreme Court's jurisdiction of cases involving issues like school prayer has been sharply debated. Only the Supreme Court can decide that question authoritatively. But whatever the authority of Congress in theory, I am firmly convinced that for Congress to attempt it would not achieve the purposes of the authors and would do grave damage to our constitutional system. I am unalterably opposed to S. 481 and similar bills.
>
> Sincerely yours,
>
> Louis Henkin.

Now, Mr. President, I would like to read an excerpt from another letter I have received. This is a letter from Prof. Thomas Emerson, of Yale University Law School, again concerning the constitutionality and the wisdom of the Helms' court-stripping amendment.

Quoting from Professor Emerson's letter dated August 28, 1981:

> 1. There is a long-standing dispute as to whether the 14th Amendment was, as an original matter, intended to apply the Bill of Rights to the States. The issue is now, however, a purely academic one. For many years it has been settled through Supreme Court decisions that, with one minor exception, the Bill of Rights does apply to the States. The obligation of the States to observe the protections embodied in the First Amendment, including the prohibition against government establishment of religion, has been accepted law for over 50 years. Any reversal or modification of this basic constitutional doctrine would require an amendment to the Constitution and would amount to a revolutionary departure from our traditional structure of government.
>
> 2. Even if the 14th Amendment was not intended "to incorporate the Bill of Rights" the Supreme Court would probably have reached the same result by holding that freedom from government establishment of religion was a "privilege or immunity" of citizens of the United States and not subject to "abridgment" by the States under the 14th Amendment. Or possibly it would have come to the same conclusion under the due process clause of the 14th Amendment. The right to freedom of religion was a major factor in the settlement of the American colonies and remained a fundamental tenet of American constitutional faith.
>
> 3. The fact that Congress, the President, or others believe that the Supreme Court decisions in the school prayer cases are "unconstitutional", or wrongly decided, is not cause for Congress to remove the jurisdiction of the courts from that area. The appropriate remedy is a constitutional amendment. Any attempt to achieve a constitutional amendment by manipulating the jurisdiction of the Supreme Court or the lower courts, amounts to an overruling of the principle, established since Marbury v. Madison in 1803, that the ultimate decision on matters of constitutional law is entrusted to the courts, not to the legislature. In other words any such action by Congress would destroy the entire structure of judicial review upon which maintenance of our constitutional rights so largely depends.

Mr. President, I think that is an important point. Let me repeat it because I think Professor Emerson states it as well and succinctly as anyone can. I am quoting now from the letter dated August 28 from Professor Emerson of the Yale Law School to me.

> 3. The fact that Congress, the President, or others believe that the Supreme Court decisions in the school prayer cases are "unconstitutional", or wrongly decided, is not cause for Congress to remove the jurisdiction of the courts from that area. The appropriate remedy is a constitutional amendment. Any attempt to achieve a constitutional amendment by manipulating the jurisdiction of the Supreme Court or the lower courts, amounts to an overruling of the principle, established since Marbury v. Madison in 1803, that the ultimate decision on matters of constitutional law is entrusted to the courts, not to the legislature. In other words any such action by Congress would destroy the entire structure of judicial review upon which maintenance of our constitutional rights so largely depends.

To continue with the letter:

> 4. Congress does not have the authority to remove the jurisdiction of the Supreme Court over an issue like school prayer. The power of Congress under Article III, Section 2 of the Constitution to make "exceptions" to, or issue "regulations" regarding, the appellate jurisdiction of the Supreme Court was intended to apply to minor, mostly house-keeping or procedural, matters. It was not designed to allow Congress to emasculate the function of the Supreme Court by withdrawing jurisdiction in any area where a majority of Congress disagreed with a Supreme Court decision. There is nothing in the Supreme Court cases, including Ex Parte McCardle, which suggests the contrary.

Let me repeat that point, Mr. President, because it addresses a point which is often being raised, that Congress, under the exceptions clause, does have the authority to remove Court jurisdiction.

> 4. Congress does not have the authority to remove the jurisdiction of the Supreme Court over an issue like school prayer. The power of Congress under Article III, Section 2 of the Constitution to make "exceptions" to, or issue "regulations" regarding, the appellate jurisdiction of the Supreme Court was intended to apply to minor, mostly house-keeping or procedural, matters. It was not designed to allow Congress to emasculate the function of the Supreme Court by withdrawing jurisdiction in any area where a majority of Congress disagreed with a Supreme Court decision. There is nothing in the Supreme Court cases, including Ex Parte McCardle, which suggests the contrary.

Mr. President, that is an important point. It is an apparent point, an obvious point. If the framers intended Congress to have the right, through the exceptions clause, to remove, willy-nilly, by a bare civil majority vote, Supreme Court jurisdiction on any Federal constitutional issue, then the framers would necessarily want Congress to have the power to eliminate the Supreme Court and, at the same time, eliminate the Constitution. If the framers wanted Congress, through the exceptions clause, to have the power by a simple civil majority to prohibit Supreme Court review of any constitutional right—remember, now, we are talking about Federal constitutional rights, the Bill of Rights, for example—then the framers intended necessarily for Congress to have the constitutional authority to limit Supreme Court review over any constitutional issue and therefore eliminate the Constitution and eliminate one branch of our three branches of Government. In effect, what we would be doing is going back to the lack of rule of law that our Founding Fathers tried to get away from when they came to our country.

That is, they came to our country to avoid religious persecution, to avoid the tyranny of the monarchies of various European countries. That is why our Founding Fathers wrote a Constitution of Federal rights, so the whims of Government could not override basic Federal guarantees. If the framers, by the exceptions clause, did not intend regular procedural or housekeeping matters, those matters given to the authorities of the Congress, but rather, the Founding Fathers wanted Congress willy-nilly, through the exceptions clause, to eliminate Supreme Court appellate jurisdiction, then, necessarily, the Founding Fathers intended Congress as a matter of constitutional right to pass legislation removing limitations over any right and therefore eliminate the Supreme Court jurisdiction over procedural questions. I do not think that is what the Founding Fathers had in mind.

Continuing the letter from Professor Emerson:

> 5. Even if Congress had the authority to deprive the Supreme Court and other Federal courts of power to decide constitutional questions it would be reckless and irresponsible for Congress to do so. Our constitutional system has long operated under the principle that the maintenance of our system of individual rights rests in crucial part upon the power of the courts—institutions somewhat removed from the clashes of partisan politics—to guarantee adherence to

the Bill of Rights, including the right to freedom of religion. Abandonment of this structure would be a constitutional catastrophe.

The concluding paragraph of Professor Emerson states as follows:

> I have not attempted to buttress the foregoing statements by reference to court decisions, legal treatises, or similar materials because the propositions set forth are so elementary. I am sure they represent the views of the overwhelming majority of constitutional scholars. And I hope they will not be lost sight of or obscured in a maze of legal technicalities.

Again, Mr. President, the view of one man and one man only, Professor Emerson of Yale. He says that he has not buttressed his aforegoing statements by references to court decisions, legal treatises or similar materials because the propositions set forth are so elementary.

I might add, Mr. President, that sometimes in this body, because we are caught up too often in such detail, overwhelmed in many cases with trivia, it is easy for us to not see the forest for the trees. Too often we see only the trees and not the elementary provisions that are so obvious to all of us if we stand back a few steps and ask what we are doing, particularly if we adopt the pending amendments.

(Mr. GORTON assumed the chair.)

Mr. BAUCUS. Mr. President, I should now like to read excerpts of a letter from another law professor—this is Prof. Eugene Gressman of the University of North Carolina at Chapel Hill School of Law—concerning the constitutionality and wisdom of the court-stripping bills before us. Professor Gressman of the University of North Carolina is a noted expert on the Supreme Court.

This is a letter dated January 26 of this year to me:

> DEAR SENATOR: I regret that my involvement in preparing for the imminent Supreme Court argument in the *Chadha* "one-House veto" case, wherein I represent the House of Representatives, has prevented an earlier response to your August 12 letter. In that letter, you put forth five questions that your subcommittee will be examining in forthcoming hearings on S. 481, which would strip the Supreme Court and the lower Federal courts of jurisdiction over any case which relates to voluntary prayers in public schools and public buildings.
>
> I preface my answers to these questions with the remark that in recent weeks I have had occasion to review the entire problem of congressional power to revise and remove certain aspects of article III judicial power from the jurisdictional ambits of the Supreme Court and the lower Federal courts. The occasion has been thorough discussions of these matters in my courses in Constitutional Law and Federal Jurisdiction. And I am sure you are aware of the recent analysis of these jurisdictional problems by Professor Sager in last November's issue of the Harvard Law Review, "Foreword: Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts," 95 Harv. L. Rev. 17 (1981). I would say that I am in thorough agreement with Professor Sager's analysis, and with his conclusion (p. 89).

Professor Gressman now quotes Professor Sager, and I read that excerpt:

> Adoption of any of the bills that are part of the proposed assault on the federal judiciary would set a dangerous and tawdry precedent by sabotaging the integrity of the judicial process. The Constitution neither empowers Congress to enact legislation of this sort, nor prevents the Supreme Court from acting to restore the balance of governmental authority. But one must hope that constraints of conscience will make those of the Constitution unnecessary. . . . But these bills propose a gross breach of the institutional premises by which we have chosen to govern ourselves, and no legislator should succumb to their temptation.

I am now reading from the letter from Professor Gressman. The last quotation was from Professor Sager by Professor Gressman. This is now Professor Gressman in a letter to me dated January 26 of this year:

> If the school prayer decisions are unconstitutional, isn't that sufficient cause for the Congress to remove the Supreme Court's jurisdiction from that area?

Mr. President, that is the question that I posed to Mr. Gressman. The question is again, "If the school prayer decisions are unconstitutional, is that not sufficient cause for the Congress to remove the Court's jurisdiction from that area?" Logical question. This is Professor Gressman's response:

> No. As I have explained above, no decision of the Supreme Court can be considered unconstitutional, unless the Court is somehow acting beyond the scope of its vested judicial power. Whether outsiders agree or disagree with the Court's interpretation of the Constitution, the decision itself must be deemed constitutional. Under the basic theory of the Court's role in the interpretation and application of the Constitution, the Constitution has to mean what the Supreme Court declares it to mean. Thus a decision interpreting the Constitution as applied to public school prayers cannot be considered unconstitutional. Nor can it serve as "sufficient cause" to remove the Court's jurisdiction from that area.

This is the fourth question that I posed to various law professors around the country. The question is, Does the Congress have the constitutional authority to remove Supreme Court jurisdiction over an issue like school prayer? Professor Gressman's response:

> No, absolutely not. This question and answer, I know, are very controversial, and to explore all aspects of the problem would fill a fat volume. I content myself in this letter to a reference to the one Supreme Court decision that I believe makes a definitive negative answer to the question put. That decision is *United States* v. *Klein*, 13 Wall. (80 U.S.) 128 (1871).
>
> In the *Klein* case, Congress sought to remove the jurisdiction of the Supreme Court over a certain kind of case arising out of the Court of Claims. It did so in purported reliance on the power of Congress in Section 2 of Article III to make "such Exceptions" to the Supreme Court's appellate jurisdiction "as the Congress shall make." The Court invalidated this attempt to strip the Court of the designated appellate jurisdiction. The reason why the Court invalidated this purported "Exception" is what is now critically important.
>
> The kind of case that Congress sought to exclude from from the appellate jurisdiction involved suits to recover property confiscated by the Government "in insurrectionary districts" wherein the claimant introduced into evidence a Presidential pardon as to any rebellious actions; upon such proof of a pardon or amnesty, the claimant was entitled to recover his seized property. The Supreme Court had earlier held that proof of such a pardon would entitled the claimant to relief—a decision with which the Congress apparently disagreed. Thereafter, Congress expressed its displeasure with the earlier decision by providing that:
>
> "* * * in all cases where judgment shall have been heretofore rendered in the Court of Claims in favor of any claimant [wherein proof of loyalty was shown in the form of a Presidential pardon], the Supreme Court shall, on appeal, have no further jurisdiction of the cause, and shall dismiss the same for want of jurisdiction." 16 Stat. 235.

That was the attempted legislative action in response to the Court's action.

> The Court was unanimous in its determination that such an appellate jurisdiction "Exception" was impermissible. It did so after acknowledging that if the statute had "simply denied the right of appeal in a particular class of cases," it would be "our duty to give it effect" for there "could be no doubt that it must be regarded as an exercise of the power of Congress to make 'such exceptions from the appellate jurisdiction' as should seem to it expedient." 13 Wall. at 145.
>
> But, said the Court, this statute did something more than create an "Exception" to its appellate jurisdiction. The statutory language, said the Court, "shows plainly that it does not intend to withhold appellate jurisdiction *except as a means to an end.*" 13 Wall. at 145 (emphasis added). The impermissible end, the "great and controlling purpose is to deny to pardons granted by the President the effect which this court has adjudged them to have." *id.* The Court having earlier determined that pardons were to be taken as "equivalent to proof of loyalty," it follow that:
>
> "* * * the denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress. The court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dimiss the cause for want of jurisdiction.
>
> *"It seems to us that is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.*
>
> *"We must think that Congress has inadvertently passed the limit which separates the legislative from the judicial power . . .* Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? This question

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> seems to us to answer itself." 13 Wall. at 146–147 (emphasis added).
>
> In other words, Congress was found to have had two unconstitutional objectives in mind in passing this "Exception" statute: (1) an interference with the judicial function of deciding a particular kind of case or controversy in a particular way; and (2) an impairment of the constitutional power of the Executive to grant pardons and to have them respected by the judiciary. Such impermissible purposes drained the statute of its claim to be a mere "Exception" to the appellate jurisdiction of the Court. Congress, in short, cannot seek unconstitutional ends under the guise of creating an exception to the Court's appellate jurisdiction.
>
> It seems to me that the *Klein* decision and rationale constitute a complete negative answer to your Question 4.

I repeat Question 4:

> Does the Congress have the constitutional authority to remove Supreme Court jurisdiction over an issue like school prayer?

Again, Professor Gressman says:

> It seems to me that the *Klein* decision and rationale constitute a complete negative answer to your Question 4.
>
> The effort in S. 481 to make an exception to the Court's appellate jurisdiction stems from disagreement with the Court's earlier decisions in *Engel* V. *Vitale*, 370 U.S. 421 (1962), and *Abington School District* v. *Schempp*, 374 U.S. 203 (1963), invalidating state requirements respecting prayers and Bible readings in public schools. In like fashion, the jurisdictional legislation in the *Klein* case stemmed from Congressional disagreement with an earlier Supreme Court decision declaring that a Presidential pardon was the equivalent of proof of loyalty.
>
> When Congress expresses its disagreement with some Supreme Court decision by attempting to withdraw the Court's appellate jurisdiction over the subject matter of the disputed decision, the attempt seems to spawn a host of constitutional roadblocks. In *Klein*, once the effort was stripped of its "Exception" veneer, the Court found that the legislation was really aimed at invading the judicial decision-making function, as well as the Executive's vested pardoning power. In the case of S. 481, I suggest that the proposed "Exception" would run afoul of (1) the essential Supreme Court function of enforcing constitutional rights found to adhere to the school prayer situation; (2) the essential Supreme Court function of enforcing such rights on a nationally uniform basis, achieved through appellate review of the various state court decisions that deal with school prayers; and (3) the established constitutional rights of parents and children who wish not to participate in state sanctioned school prayers.
>
> In sum, I suggest that an effort to withhold appellate jurisdiction "as a means to an end," 13 Wall at 145, an end beyond that of controlling that jurisdiction in traditional ways, inevitably loses its status as an exercise of Congressional power to make exceptions to this jurisdiction. Put differently, legislation designed to make such an "Exception" is just as much subject to other provisions and limitations embedded in the Constitution as is any other kind of legislation. And with the *Klein* precedent in hand, the Supreme Court can be expected to peer through the patent "Exception" facade of S. 481 and to assess its constitutionality on the basis of the real ends sought to be achieved.
>
> If the Supreme Court were to attempt to answer your Question 4, I suspect it would answer as it did in *Klein*: "This question seems to us to answer itself." 13 Wall. at 147.

The fifth question posed to various law professors around the country is as follows:

> Even if the Congress has such authority, as a matter of public policy is it advisable for the Congress to remove Supreme Court jurisdiction over constitutional issues generally or over the school prayer issue specifically?

This is Professor Gressman's response to that question:

> It is certainly not advisable as a matter of public policy. I would assume that it is a matter of public policy to continue to have a constitutional form of government, with the Supreme Court performing the essential role of ultimate arbiter of the meaning and application of the Constitution. That at least was the policy laid down by the Framers and articulated by John Marshall. I see no reason to tear apart the very fabric of this great document by withdrawing the Court's appellate power to make the Constitution workable, uniform and sensitive to ever-changing public issues and concerns.
>
> If one starts tinkering with the Court's appellate jurisdiction merely to express disagreement with a particular kind of decision, the way is open, the precedent is established, for a wholesale disestablishment of constitutional rights and privileges. Freedom would then become a synonym for what current statehouse majorities are disposed to recognize.
>
> I would be happy to expand on these notions before your subcommittee, should you deem that appropriate.
>
> Sincerely,
>
> EUGENE GRESSMAN,
> WILLIAM RAND KENAN,
> *Professor of Law, Chapel Hill, N.C.*

Mr. President, at this point I should like to read into the RECORD a portion of a letter from Harvard law professor Archibald Cox, concerning the constitutionality and wisdom of the Helms court-stripping amendment. This is a letter from Professor Cox to me, dated August of last year, and I will read portions of that letter which are applicable. I begin with the third question I posed to Professor Cox:

> 3. If the school prayer decisions are unconstitutional, isn't that sufficient cause for the Congress to remove the Court's jurisdiction from that area?

This is the response of Professor Cox:

> The assumption we are asked to make in this question is either unqualifiedly false or ambiguous. The Supreme Court of the United States has final authority to interpret the Constitution; therefore, its interpretations cannot be "unconstitutional" in any legal sense.
>
> If we are being asked to assume that we think the school prayer decisions are inconsistent with what we think to be a "correct" interpretation of the Constitution—or with what the Congress thinks to be a "correct" interpretation—then the answer is that those suppositions are not sufficient cause for Congress to remove the Court's jurisdiction. The very purpose of the Constitution was to put its provisions and interpretation beyond the control of congressional majorities.

Mr. President, I think that states it very simply. To repeat:

> The very purpose of the Constitution was to put its provisions and interpretations beyond the control of congressional majorities.

Question No. 4 that I asked Professor Cox, as well as all the other law professors to whom we wrote, is this:

> 4. Does the Congress have the constitutional authority to remove Supreme Court jurisdiction over an issue like school prayer?

The answer of Professor Cox is as follows:

> It is impossible to give a categorical answer to this question, except as a statement of professional opinion. No precedents provide an authoritative answer one way or the other. It is my considered opinion that the so-called "exceptions clause" does not permit Congress to remove all federal court jurisdiction over a class of cases defined in terms of the constitutional right asserted, such as freedom of speech or the establishment of religion.

To repeat:

> It is my considered opinion that the so-called "exceptions clause" does not permit Congress to remove all Federal court jurisdiction over a class of cases defined in terms of the constitutional right asserted, such as freedom of speech or the establishment of religion.

Question No. 5:

> Even if the Congress has such authority, as a matter of public policy is it advisable for the Congress to remove Supreme Court jurisdiction over constitutional issues generally or over the school prayer issue specifically?

The answer of Professor Cox:

> I believe that the removal of jurisdiction would be a radical and unprincipled change in our form of government. Reasons are stated in testimony given last spring.

To repeat:

> I believe that the removal of jurisdiction would be a radical and unprincipled change in our form of government.

I conclude reading from Professor Cox's letter:

> I shall be glad to have you call upon me in the future if more hearings are scheduled.
>
> With personal regards,
>
> Sincerely,
>
> ARCHIBALD COX.

Mr. President, at this point I have another letter, and we have lots of letters because, as has been stated, in the opinion of the legal scholars in our country, it was overwhelming. It was not a bare majority. It is, I might say, a constitutional majority. It is clear that over two-thirds of the law professors in our country very definitely, very firmly believe that these efforts to remove the Supreme Court from jurisdiction are not only unconstitutional but are unwise.

The next letter which I have, from which I will read only a portion, is a letter from Harvard Law Professor Emeritus Paul Freund concerning the constitutionality and wisdom of these court stripping bills.

I will begin with question No. 4 again, the same question I asked the previous correspondents. The question relates to whether Congress may deprive the Supreme Court of jurisdiction to review decisions. This is Professor Freund's answer with respect to question four:

Whether Congress may deprive the Supreme Court of jurisdiction to review decisions, including those of state courts, that turn on Federal constitutional issues, has been the subject of considerable scholarly discussion, centering on the scope of the "regulations and exceptions" clause in Article III. An argument for a broad reading of that clause is advanced by Professor Wechsler in The Courts and the Constitution, 65 Colum. L. Rev. 1001 (1965), but with the warning that the "practical objections" to withdrawal of jurisdiction in constitutional cases "are often overlooked." Id. at 1006. A restrictive view of Congressional power is taken by Professor Hart in Exercise in Dialectic, 66 Harv. L. Rev. 1364–65, on the ground that withdrawal would "destroy the essential role of the Supreme Court in the constitutional plan." Id. at 1364–1365.

In support of a broad Congressional power, reliance is placed chiefly on Exparte McCardle, 7 Wall. 506 (1869), sustaining the Act of 1868 which removed Supreme Court jurisdiction over appeals (including the pending one) under a habeas corpus statute of 1867—a removal designed to save Reconstruction from an anticipated adverse decision of the Court. But several special features of that case caution against a broad reading of the decision. (1) The habeas corpus claim had been adjudicated in the Federal circuit court, and hence the case does not confront the problem of withdrawal of access to the Federal judiciary at any and all levels in specified classes of constitutional claims. (2) The withdrawal of Supreme Court jurisdiction was confined to cases arising under a particular jurisdictional statute; the withdrawal was not defined in terms of particular constitutional claims or the finding of particular facts. (3) Supreme Court review remained available by another route, apart from an appeal under the 1867 Act, and attention was pointedly directed at this fact at the close of the Court's opinion. Id. at See also Exparte Yerger, 8 Wall. 85 (1869). The scholarly debate can be considerably narrowed, indeed avoided, in the context of S. 481. Of central importance is the principle that the power under Article III to regulate the appellate jurisdiction must not be used as a device to regulate the substantive issues, the "merits", where Congress would otherwise have no legislative power over the subject.

This is virtually the same as one of the pending amendments offered by the Senator from North Carolina.

In this light, S. 481 is not a genuine exercise of Article III power. Its divestiture affects only prayers that are "voluntary" and are not officially composed. It thus draws lines ostensibly of jurisdiction but actually of constitutional protection. It would presumably be unacceptable politically, morally and constitutionally to withdraw Federal judicial protection against certain kinds of prayer exercises in the public schools, accordingly a "jurisdictional" line is drawn between permissible and impermissible school prayers. But this is a determination of what may and may not qualify for protection under section 1 of the 14th Amendment.

Consider how S. 481 would operate in a concrete case group of parents sue to enjoin the school board from carrying out a plan to require all pupils to recite an officially composed prayer. In this posture, the authority of the Federal courts is untouched by S.481.

As it is by the pending Helms amendment.

The 14th Amendment is available to protect the plaintiffs. Suppose now that the school board offers to stipulate that an officially composed prayer will not be used, and that objectors will be excused. At this point, may the Federal court proceed to decide whether such an arrangement is or is not an unconstitutional abridgment of the plaintiffs' free exercise of religion in light of the intrinsically coercive atmosphere of the classroom? Not at all. S. 481 would direct the district court or the Supreme Court to dismiss the case. If this is not a Congressional determination, a prescription, of the merits of the controversy it is hard to imagine what would be.

An exact parallel was presented in *U.S.* v. *Klein*, 13 Wall. 128 (1872). A Federal statute allowed recovery of abandoned property by owners who had never given aid or comfort to the enemy. The Supreme Court held that a presidential pardon entitled an owner to recover. Thereafter Congress enacted a proviso that evidence of a pardon should be conclusive evidence of ineligibility in a suit in the Court of Claims, and that the Supreme Court should have no jurisdiction to review a determination by the Court of Claims. Holding that the statute could not be sustained under Article III, the Supreme Court observed that the proviso "shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great controlling purpose is to deny to pardons granted by the President that effect which that court had adjudged them to have. . . . The court has jurisdiction of the cause to a given point, but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dismiss the case for want of jurisdiction. It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power."

This is Professor Freund in his letter.

In *Klein*, the statutory proviso was invalid under Article III because it prescribed a substantive rule of decision, and regarded in the latter light it was invalid because it conflicted with the President's pardoning power. Likewise, S. 481 cannot be sustained under Article III because it regulates prayers, not jurisdiction, and Congress, by hypothesis, possesses no substantive power over school prayers. S. 481 is governed not by *McCardle*, but by *Klein*.

Suppose, however, that a way out of the dilemma were sought by basing the legislation frankly on the enforcement provision, section 5, of the Fourteenth Amendment. This, of course, would mean an abandonment of the moral foundation advanced for S. 481 that the courts have made a fundamental error in regarding the 14th Amendment as having application to school prayers. More significantly, it would raise problems of transcendent importance regarding the balance of constitutional power in the safeguarding of basic rights.

Congress does have power under section 5 to identify specific liberties or entitlements to equality and to provide mechanisms for their vindication by appropriate legislation. See *Katzenback* v. *Morgan*, 348 U.S. 641 (1966); but cf. *Oregon* v. *Mitchell*, 400 U.S. 122 (1970). But does that power to "enforce" the Amendment extend to the power to supersede by simple legislation rights that have been adjudicated by Supreme Court decisions? So radical a realignment of power, so great an increase in the vulnerability of rights, has scarcely been proposed, much less adopted. Frequently dissatisfaction with decisions of the Court has led to proposals for giving Congress power to overcome decisions by subsequent legislation that is passed with an extraordinary majority. But even this very restricted plan of legislative overruling has always been thought to require a constitutional amendment. From every point of view, so fundamental a shift in the balance of forces that sustain our constitutional order would demand at least a submission to the American people for their fullest consideration.

It seems unnecessary to pursue further the question of reach of section 5 of the 14th Amendment, since S. 481 is not premised on that ground.

Question 5. The practical consequences of withdrawing Federal court jurisdiction over classes of constitutional issues are sufficiently serious to caution against such a move, even apart from its dubious constitutional validity.

It would invite fifty interpretations of our national Constitution, and leave them unresolvable.

A key point: To remove Supreme Court jurisdiction and exclude, preclude, prohibit the U.S. Supreme Court from reviewing Federal constitutional issues would invite 50, that is, separate State supreme courts, 50 interpretations of our national Constitution and leave them unresolvable, probably 50 separate Supreme Court decisions, State supreme court decisions, interpreting our Federal Constitution, and leave those 50 separate, distinct, contradictory opinions unresolvable.

It would prevent review of those state decisions that are too restrictive of local authority—e.g. if a state court were to strike down an enforced period of silent meditation in the schools.

It would leave state judges in a quandary about the binding effect of Supreme Court precedents in the field, presenting the judges with an intolerable moral dilemma.

On the one hand, State judges are sworn to uphold the Federal Constitution. They know what the latest Supreme Court decision has been on the issue before them, but if Congress prohibits Supreme Court review, that places those State court judges, as Professor Freund stated, in an intolerable dilemma of interpreting the Constitution as they see it or as the latest Supreme Court decision interpreted it, even though by definition we are hypothesizing that the Supreme Court would not have the power of review over those State court decisions.

It would deprive the Supreme Court of its normal opportunity to reconsider constitutional doctrine and alter it.

It would stimulate piecemeal erosion of Federal judicial safeguards in whatever fields a dominant majority might at any time be displeased by Supreme Court decisions. It was considerations of this kind that led Congress to reject resoundingly President Roosevelt's Court plan in 1937, despite the landslide election of 1936, the clear constitutional validity of the plan, and the weight of professional and popular criticism of crucial Court decisions.

What recourse then is available to overcome judicial decisions that prove to be insupportable?

That is really the bottom line question, what recourse is there when the public, the people, when Congress, believe that Supreme Court decisions are unsupportable, are wrong, incorrectly decided? Professor Freund's response to that question is as follows:

There is, of course, the resort to a constitutional amendment, as in the case of the Eleventh and Sixteenth Amendments. There is resort to the Court itself for reconsideration or modification of doctrine. And there is the possibility of altering the program in question to avoid the thrust of a decision. Thus a program of school prayers recited in union might be replaced by a period of silent meditation, in which each pupil might recite inaudibly whatever sacred or secular text was dictated by his or her upbringing and faith.

Mr. President, I would now like to refer to a letter and a paper of Prof. Paul Mishkin, of the Boalt School of Law at the University of California at Berkeley, concerning the constitutionality and wisdom of the Helms court-stripping proposal, a letter dated August 7 of last year to me:

University of California, Berkeley,
Berkeley, Calif, August 7, 1981

Hon. Max Baucus,
U.S. Senate,
Washington, D.C.

Dear Senator Baucus: This is in response to your letter of July 27th requesting my opinion regarding the proposals to limit lower federal court and Supreme Court jurisdiction over school prayer and other constitutional issues.

I have prepared a short paper on the subject of such efforts to limit federal court jurisdiction, which sets forth the key reasons why I believe such legislation would be inconsistent with the Rule of Law. I enclose a copy of that paper for whatever value it may be to you. I hope you will find it helpful.

Sincerely,

Paul J. Mishkin,
Heller Professor of Law.

Mr. President, let me read that paper, it is very brief, it is only four pages. It is entitled "On Efforts to Limit Federal Jurisdiction in Particular Constitutional Matters, Paul J. Mishkin:"

On Efforts to Limit Federal Jurisdiction in Particular Constitutional Matters

(By Paul J. Mishkin)

Bills being pressed in Congress would cut off the federal courts from cases having anything to do with school prayer, abortion laws, and school busing. Some of these proposals would abrogate all federal judicial power in the specified matters; others would apply only to lower courts, leaving intact Supreme Court review of state court cases. But they all aim to undo particular constitutional principles handed down by the Supreme Court.

It has been argued that these proposals are themselves unconstitutional, and pronouncements by some leading law professors support that position. That is certainly not beyond question. But there are other fundamental reasons, of a basic order that transcends the specific substantive issues, why these bills should be rejected.

On their face, these proposals would not purport to overrule existing Supreme Court decisions. They would merely withdraw from the federal courts jurisdiction to hear cases in the specified areas. For that reason, they can be adopted by a simple majority of Congress. And by that same token, the Court's existing decisions would remain the constitutional law of the nation, their binding force as precedents undiminished.

On their face also, these bills would not affect the state courts. Yet, cases involving the specified subjects clearly can come before state courts, and those courts undoubtedly have the power and the duty to enforce the Untied States Constitution. Those who support curtailing federal jurisdiction because they disagree with current Supreme Court rulings must be assuming that state court judges generally—or at least those who share their views—will disregard the law laid down in those rulings. They would seek to make such state decisions controlling by ruling out actions in the federal courts. They would seek to make such decisions invulnerable to reversal by cutting off Supreme Court review. (Even where such review is not explicitly barred, the already extreme overcrowding of that Court's dockets would often produce effectively the same result.)

The proponents may or may not be right about the extent that state judges will act in disregard of previous Supreme Court authority. But precisely to the extent that they are—precisely to the extent that these bills would work as intended—the effect would be to reinforce disrespect for law.

The rule of law depends fundamentally upon consistent near-universal acceptance of an obligation of obedience to the authority of courts. That in turn depends upon recognition and acceptance of the governing authority of higher courts over lower ones. Occasional, individual, repudiation of this obligation may be tolerable. Routine, or even frequent, repudiation by judges in their official capacity is not.

Yet, these proposals expect state courts to flout the law laid down by the Supreme Court because they disagree strongly with the substance of that law. Where the proponents of this legislation share that disagreement, they would have Congress back up the judges who act that way and, by that token, encourage others to do likewise. That would in turn produce a continual series of judges consciously and overtly disregarding legitimate higher authority and being officially protected in that defiance. The effect of that could only be further to weaken general respect for law.

The proponents' position can only make sense on the premise that effectuating one's strongly held beliefs outweighs the moral demands of fidelity to law—and the long-run harm to the stability of the legal system inflicted by the repetitive public acting-out of that thesis.

This is not to say that that is the conscious view of the supporters of these proposals. Indeed, they are most often persons who see themselves as seeking to preserve and promote stability of important values and institutions in a rapidly changing world. But that conception of self will not change the results of their proposals being enacted.

The hegemony of the rule of law is not fragile, but neither is it entirely invulnerable. It has been battered and, it seems fair to say, somewhat diminished in our times. Many of the attacks have been precisely in the name of strongly held views of moral right. But, while occasional attacks in extraordinary circumstances may be both justified and readily absorbed, routinization of such attacks—and, particularly, Congressional legitimation of them—can only generate and reinforce destabilizing of them—can only generate and reinforce destabilizing tendencies. That is reason enough to reject the proposed legislation.

Mr. President, I again wish to thank the Senator from Oregon for giving me the opportunity to address these basic points. We are taking the floor because we think it is extremely important that the public, the press, and even Members of the Senate fully realize the import of these provisions so that the action we take is wise and not unwise.

Mr. President, I again thank the Senator from Oregon for yielding the floor to me.

(During the remarks of Mr. Baucus the following occurred:)

Mr. HELMS. Mr. President, will the Senator yield without losing his right to the floor?

Mr. BAUCUS. I might in just a moment. There are a few more letters I would like to get into the Record at this point, I say to the Senator from North Carolina, and at the end I would be glad to yield but only for purposes of a question.

Mr. HELMS. It is not for a question. I would ask unanimous consent to insert in the Record a letter following the Senator's presentation.

Mr. BAUCUS. That would be fine.

The PRESIDING OFFICER. The Senator from Oregon has the floor and has yielded to the Senator from Montana.

Mr. PACKWOOD. What was the request of the Senator from North Carolina? I did not hear it.

Mr. HELMS. I wish to insert a Dear Colleague letter in the Record to appear following the presentation of the Senator from Montana.

Mr. PACKWOOD. I have no objection.

Mr. HELMS. Mr. President, in connection with the pending business, I ask unanimous consent to insert a Dear Colleague letter signed by the distinguished Senator from Alabama (Mr. Denton) and myself and have it printed in the Record, along with an explanation of amendment No. 2038.

The PRESIDING OFFICER. At the conclusion of the remarks of the Senator from Montana?

Mr. HELMS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Senator from Montana and the Senator from Oregon.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., September 7, 1982.

DEAR COLLEAGUE: On August 18 Amendment No. 2038 to the debt ceiling bill, H.J. Res. 520, was called up. This amendment is an amendment in the second degree and deals with abortion. A copy is enclosed. We want to take this opportunity to explain briefly its purposes.

The amendment accomplishes three basic goals. First, it makes permanent law the Hyde Amendment limitations on federal funding of abortion. It also extends this defunding principle so as to remove the federal government from the abortion business.

Second, the amendment gives broad protection against discrimination to medical personnel, working in institutions receiving federal funds, who have conscientious objections to abortion. In this regard, it expands the protection previously afforded in the Health Services Extension Act of 1973 and the Nurse Training Amendments of 1979.

Third, the amendment lays a congressional basis for state anti-abortion laws and provides for an orderly reconsideration of *Roe* v. *Wade* by the Supreme Court. In its findings, it expresses a congressional understanding of the Constitution and the right to life different from that articulated by the *Roe* majority. Further, it contains a provision for expedited Supreme Court review of any state statutes based on the findings. In this way, the Supreme Court itself will be assured an early opportunity to reconsider the *Roe* decision.

Enclosed is a more detailed explanation of the provisions of the abortion amendment. If you have questions concerning it, please contact us or our staffs.

Sincerely,
JESSE HELMS,
U.S. Senator.
JEREMIAH DENTON,
U.S. Senator.

EXPLANATION OF AMENDMENT NO. 2038 ON ABORTION TO HOUSE JOINT RESOLUTION 520

I. SECTIONS 202 THROUGH 205

Sections 202 and 203 basically make permanent law the Hyde Amendment funding limitations which in the past have been enacted piecemeal as riders to various appropriation bills. After enactment of this measure, such riders will not be necessary. Unless specific appropriations for abortion are made in the future, there will be no need for Congress to go through the annual Hyde Amendment battles on appropriations bills. This has obvious merit for the more efficient conduct of Senate business. The language in section 203 stopping federal funding of abortion referrals is a logical extension of Hyde and is based on the power of Congress to control the use of appropriated funds.

Section 204 extends the Hyde Amendment defunding principle to teaching abortion techniques, financing research on abortion, and financing experiments on aborted children. This provision will not prohibit use of federal funds to teach techniques that, while they can be used for abortion, are also generally used for non-abortion procedures. The ban here is on using tax money to teach the techniques of abortion or teaching procedures which can only be used to perform abortions. Likewise, the research language bans funding of research about how to perform abortions. It does not stop federal funding for compiling purely demographic data about abortions. Also, the language on experimentation prohibits federal funding for experiments on live babies after abortions but before death. Ordinary pathological and similar procedures are not within the scope of this language.

Section 205 is based on the so-called Ashbrook Amendment prohibiting the government from paying for abortions through employees' health insurance plans. Although not current law, it has passed the House and is generally in effect as a result of administrative action by the Office of Personnel Management.

II. SECTION 206

Section 206 affords medical personnel working in institutions receiving federal funds protection against discrimination on account of their objections to abortion. This is a freedom-of-conscience provision. It has antecedents in the Health Services Extension Act of 1973 and the Nurse Training Amendments of 1979,

III. SECTIONS 201, 207, AND 208

Section 201 lays a congressional basis for state antiabortion laws, and section 207 sets out the appellate procedure leading to an orderly reconsideration of *Roe v. Wade* by the Supreme Court. Taken together, these provisions assure that the Court itself will have an early opportunity to reconsider its much criticized decision in *Roe.* They do not constitute a reversal of the Court's order in *Roe,* but they do express a congressional understanding of the Constitution and the right to life different from that articulated by the *Roe* majority.

Some critics have suggested that even if *Roe v. Wade* was wrongly decided and ought to be overruled, Congress must always act in conformity with Supreme Court precedents until the Court itself chooses to overrule them. But the Subcommittee on Separation of Powers disagreed with this position and in its Report on S. 158 stated as follows:

"This criticism rests on a profound misapprehension of the doctrine of judicial review espoused in *Marbury v. Madison* 5 U.S. (1 Cranch) 137 (1803). Under *Marbury,* the Supreme Court, presented with a proper case, must rule in accordance with its own interpretation of the Constitution rather than with a contrary congressional interpretation, because the Justice have taken an oath to uphold the Constitution. As Chief Justice Marshall stated in *Marbury,* automatic judicial deference to a legislative interpretation of the Constitution would constitute an implicit violation of the Justices' oath of office; the Justices would thereby "close their eyes on the constitution, and see only the law." 5 U.S. (Cranch) at 178. It does not follow, however, that once the Court has interpreted a provision of the Constitution members of Congress must automatically defer to the judicial interpretation. Indeed, members of Congress take the same oath that the Justices take to uphold the Constitution. Confronted with a proposed law that is consistent with his own honest construction of the Constitution and with his view of sound policy, but that conflicts with what he regards as an erroneous Supreme Court decision, a member of Congress has at least the right and perhaps the duty to vote for the bill. To do otherwise would be to close his eyes on the Constitution and see only the case. Through its power to issue judgments that are binding on the parties to litigation, the Supreme Court will as a practical matter generally have the final word in any dispute over constitutional interpretation. But this does not preclude the possibility of a responsible dialogue between Congress and the Court.[11] (pp. 21-22; see also remarks of Senator Helms concerning "Separation of Powers," CONGRESSIONAL RECORD, August 18, 1982, S10739; and see generally Report on S. 158, Subcommittee on Separation of Powers of the Senate Judiciary Committee, December 1981.)

Section 207 provides for appeal as of right to the Supreme Court from lower court orders involving statutes based on this amendment. In addition, award of attorneys' fees under federal law is specifically prohibited in cases involving this bill in order to carry out the purpose of ending federal financial support in securing abortions.

Section 208 assures severability of this amendment in the event of some partial judicial invalidation.

Mr. PACKWOOD. Mr. President, I thank very much my distinguished colleague from Montana who has reviewed very well the law on this subject.

This is not an issue of do you like or do you not like school prayer or do you think that it should be written by the school board or written by the Governor's son, as it is in Alabama.

This is an issue as to whether or not we are going to strip the Supreme Court of jurisdiction to pass on fundamental issues of American civil liberties and to pass it, if we do—it would be unfortunate if we do—in the passing passion of the moment because some people are disgruntled with the constitutional decisions of the Supreme Court and do not want to take the trouble of trying to amend it by statute or by constitutional amendment.

So I again thank my colleague from Montana for his extraordinary review of the law on this subject.

Mr. President, there has been prepared by Leland E. Beck, a legislative attorney for the Legislative Reference Service, a memorandum entitled "Historic Proposals to Except Particular Cases from the Appellate Jurisdiction of the Supreme Court of the United States."

I would like to read that review for the benefit of the Senate.

This report reviews the major historical proposals to except particular cases from the Supreme Court's appellate jurisdiction. The Constitutional premise for these bills is the Exceptions and Regulations Clause of Article III, § 2, of the Constitution. After enumerating the types of jurisdiction contemplated in the Constitution and specifying when that jurisdiction is to be trial in nature, the Constitution provides: "In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Prior to 1956 there do not appear to have been any substantial proposals to except

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particular classes of cases from the Court's jurisdiction. The authority exercised by Congress was limited to the regulation of processes of review by the Court. Numerous calls were made in the early days of the Republic for the abolition of the Court's jurisdiction to review decisions of the State courts of last resort, but none of these proposals succeeded; on the contrary, there was a steady increase in the scope of both the Supreme and inferior federal courts' jurisdiction.

Beginning in 1956, numerous proposals have been introduced to except a particular specie of cases from the Court's jurisdiction. The purpose of these proposals has been to stop the Court from further elaborating particular areas of constitutional law. The proposals have included both generic rights and particular types of prospective legislative review, including: due process in subversive activities regulation, contempt of Congress, desegregation of schools, reapportionment of State legislative bodies, regulation of obscenity, prayer in public schools, abortion, gender discrimination in military conscription, and others. We will here review the proposals which have received serious Congressional attention.

The first bill to receive formidable consideration was introduced by Senator Jenner in 1957. S. 2646 proposed to except from the Court's jurisdiction "any case where there is drawn into question the validity of" five different areas of governmental regulation or activity. At the time of hearings, the bill provided:

"Notwithstanding the provisions of sections 1253, 1254, 1257 of this chapter, the Supreme Court shall have no jurisdiction to review, either by appeal, writ of certiorari, or otherwise, any case where there is drawn into question the validity of—

"(1) any function or practice of, or the jurisdiction of, any committee or subcommittee of the United States Congress, or any action or proceeding against a witness charged with contempt of Congress;

"(2) any action, function, or practice of, or the jurisdiction of, any officer or agency of the executive branch of the Federal Government in the Administration of any program established pursuant to an Act of Congress or otherwise for the elimination from service as employees in the executive branch of individuals whose retention may impair the security of the United States Government;

(3) any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State;

(4) any rule, bylaw, or regulation adopted by a school board, board of education, board of trustees, or similar body, concerning subversive activities in its teaching body; and

(5) any law, regulation of any State, or of any board of bar examiners or similar body, of any action or proceeding taken pursuant to any such law, rule, or regulation pertaining to the admission of persons to the practice of law within such State."

Mr. President, I am going to deviate from this report to comment especially on items (3), (4), and (5), to indicate the breadth of their effect.

Again, (3) reads:

> Any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State.

The other two following have similar language.

Mr. President, what does that mean? Does that mean that a State legislature or school board, or any other body in the State enumerated in the statute, can pass a law saying, "We regard as subversive activities the following:" and list whatever it is they wish to regard? In those days, of course, it was membership in the Communist Party, previous affiliation with the Communist Party, or Communist front organizations. But really, it could be anything that the school board wanted to define as subversive.

What Senator Jenner's bill said was no matter how broad that classification, define it as subversive and the court has no jurisdiction to review cases involving it.

I do not need to call to the attention of my fellow Senators the danger inherent in that kind of language. It is a bootstrap argument. It defines conduct you do not like or which offends your sensibilities. If you define it as subversive, you deny a person his or her rights because you have called them subversive and then you say they cannot have their rights reviewed in court.

By way of correlation, the first exception was founded on the authority of a Congressional Committee regarding witnesses and the power of contempt of Congress, and was in response to the Court's decision in *Watkins* v. *United States*. Second, the bill would have removed jurisdiction to review any program to assure the loyalty of government employees, in response to the court's decisions in *Service* v. *Dulles* and *Cole* v. *Young*. The third excision of jurisdiction centered on state "subversive activities" controls in response to, among other cases, *Pennsylvania* v. *Nelson*. A still more particular jurisdictional removal centered on rules or regulations of Boards of Education and like bodies concerning "subversive activities" by members of their teaching staff in response to the Court's decision in *Slochower* v. *Board of Higher Education*. Finally, the Jenner bill would have removed jurisdiction to review bar admissions practices and policies, a response to *Schware* v. *Board of Bar Examiners* and *Konigsberg* v. *State Bar of California*. All of these decisions were handed down during 1956 and 1957 and limited the Cold War loyalty and security programs. The bill was thus a major political response tuned to the perceived crisis of its time. The style of the bill, however, appears to be the first attempt to utilise in the strict linguistic sense the power of Congress to make "exceptions" to the Court's appellate jurisdiction.

Hearings were held on the bill and a substantially revised and more limited version was reported to the floor of the Senate. After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the federal courts. Both the new parent bill and the amendment, however, were laid on the table and were extinguished at adjournment sine die. Less problematic responses to another court decision were more successful.

A second major attempt to remove a particular subject matter from the Court's appellate jurisdiction was in response to the reapportionment decisions: *Baker* v. *Carr* and *Reynolds* v. *Simms*.

Mr. President, I ask unanimous consent that I might yield to the Senator from Connecticut (Mr. WEICKER) for the purpose of debate only without losing my right to the floor and without this being construed as the end of the speech for purposes of the two-speech rule, and I ask further unanimous consent that I might be seated during the time required by the Senator from Connecticut without losing my right to the floor.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I read into the RECORD at this point some very eloquent comments made by the distinguished Senator from Montana (Mr. BAUCUS), which comments appeared in the New York Times of September 7, 1982.

The Senate adjourned for Labor Day in the middle of what most people believed was a filibuster against an amendment that would reverse the Supreme Court's historic 1962 decision preventing states from requiring prayer in public schools. Nothing could be further from reality.

The amendment at issue, sponsored by Senator Jesse Helms, Republican of North Carolina, would not overturn the 1962 decision. What it would do is prevent the Supreme Court and other Federal courts from considering future school prayer cases, thereby threatening the Court's ability—and right—to interpret the Constitution.

If Congress can strip the Federal courts of jurisdiction over school prayer cases, there is no provision in the Constitution immune from Congressional tampering.

Senator Barry Goldwater, Republican of Arizona, says: "I see no limit to the practice. There is no clear and coherent standard to define why we shall control the Court in one area but not another. The only criteria seems [sic] to be that whenever a momentary majority can be brought together in disagreement with a judicial action, it is fitting to control the Federal Courts."

"Momentary majorities" can exert enormous pressure on Congress, as anyone who has tangled with the National Conservative Political Action Committee and the rest of the New Right knows.

But court-stripping bills pose "a possible constitutional crisis that could prove the most serious since the Civil War," according to the president of the American Bar Association, Morris Harrell.

Attorney General William French Smith shares that concern. He maintains that Congress's power over Federal court jurisdiction cannot interfere with the "core functions" of the Supreme Court, and argues that the "integrity of our system of Federal law depends upon a single court of last resort having a final say on the resolution of Federal questions."

Despite objections from people such as Attorney General Smith and Senator Goldwater and organizations such as the A.B.A., Senator Helms' court-stripping proposal has gained an alarming amount of support. Three years ago, the Senate voted, 51 to 40, for a proposal identical to this year's Helms amendment (that bill died in the House). Senators, the press and the public all thought that vote was a referendum on school prayer. I hope this perception has changed.

The Senate may vote on the Helms amendment soon. I hope a majority of Senators will reject this radical proposal. Those of us who realize the implications of this measure have an obligation to prevent it from passing. We will continue our filibuster until every avenue is closed.

The Founding Fathers provided a way to reverse unpopular Supreme Court decisions: a constitutional amendment. The Framers of the Constitution wisely understood that constitutional principles must not be sacrificed on the altar of political appeasement.

Court-stripping does an end-run around the constitutional-amendment process and thereby undermines the Constitution itself.

School prayer, abortion and school busing are indeed controversial issues. I doubt that there ever will be complete agreement on the public-policy questions they raise. But as those who support the filibuster in the Senate understand, Article V of the Constitution provides a means of resolving these disputes.

Let's not take the short cut offered by Senator Helms.

Mr. President, I commend in the most sincere terms my good friend, Senator BAUCUS, not just for his statement in the New York Times, but his efforts here, on the floor of the U.S. Senate, and his efforts within the Judiciary Committee. Senator BAUCUS has a record of which every American could, indeed, be proud. That is that, regardless of what his personal views might be on any one of the given issues that have been raised on the floor by Senators HELMS, JOHNSTON, THURMOND, et cetera. The fact is that he wants to maintain three separate but equal branches of government. It is just as simple as that.

Mr. President, when that division, that number, disappears, then the loser is not Senator BAUCUS or Senator PACKWOOD or myself. The loser becomes the American people.

Right now, the American people have three separate but equal branches of government. By the time Senator HELMS is through, if he has his way, they will only have two, or maybe even one.

That is what is at issue here, on the floor. It is not a matter of anybody's personal views on school prayer, busing, court stripping, whatever. What is at issue is whether or not the full force and effect of the Constitution as it exists today is going to be there tomorrow on behalf of every one of the citizens of this Nation. The Senator from Montana has spoken eloquently to this point and with great courage. I did not want to let this opportunity go by without saying so on the floor, without commending him while, at the same time, including his written words on this particular subject.

(Mr. HUMPHREY assumed the chair.)

Mr. WEICKER. Mr. President, once again, we are at it. I suspect we are going to be at it for quite a period of time on this business of stripping the courts of their jurisdiction and trying to bypass the amending provison of the Constitution of the United States. There are a lot of people I have talked to during the recess who have raised the question as to why it is we are occupying ourselves in this manner when the rest of the country is flat on its back economically; when we have 10.5 million people unemployed; when we have continued high interest rates; when we have all sorts of difficulty in the various manufacturing industries of this Nation selling our products; when we have no housing being built? Why are we talking about these social issues and why are you, Senator WEICKER, Senator PACKWOOD, Senator BAUCUS, and others, taking up the time of Congress when there are more pressing issues?

I think it is important to point out that we are not the ones who raised this on the Senate floor. That question is better directed at Senator HELMS. That question is better directed at Senator JOHNSTON, Senator THURMOND, Senator HATCH. They are the ones who have raised all these issues. There have been many times, certainly, on the floor when we have had time to engage in this very serious academic exercise. But this is not one of them. There are very urgent needs that have to be addressed.

Here we are. We have gone through a good portion of the summer and at this particular moment in time, many young people are going or trying to go back to school. They do not have the ability to do so. If you want to know what I would consider to be a relevant debate on the floor of the U.S. Senate, it is one that would address itself to the needs of the students of America. It would consider whether or not their opportunity for an education, in the college, graduate, or vocational sense, has been dented by virtue of Presidential and congressional action, and whether there is anything we can do about it to make sure that educational opportunity is there? That would be a proper matter for debate.

Or, when we have 10.5 million people unemployed, it seems to me we would want to address ourselves to what it is in our economic fabric that needs repair. Is it public service employment? Is it to try to encourage additional employment through the public sector? Is it the fact that we could restore homeowning, homebuilding, and jobs by investing in that particular industry?

Is it that maybe jobs can be created by proper attention to our transportation system? Certainly, the deteriorating highways and the deteriorating rail systems of this country are something that really do need rebuilding.

Maybe it is just that, instead of having meaningless public service employment, money should be directed toward our transportation system, and the jobs thus created would help alleviate the unemployment that exists in this Nation today. These are matters that would make sense. Instead, we find ourselves confronted by the great moral crusaders of our time, who feel that their point of view and their morals have to be imposed on this Nation regardless of the tragedy that exists around us at this time.

I suspect they also feel that if they do not have their point of view imposed right now, they never will. There is probably a lot of truth to that. That is the reason why some of us are on the floor. If they have a good idea, believe me, it will last until the next Congress. If, on the other hand, it is a will-o'-the-wisp, if it is something that only was fanned into reality by virtue of one election and the attitudes of our people during a short period of time, then it will not withstand the test of time.

So, Mr. President, this is a service which some of us are more than glad to provide to test the substance of what is being proposed. Is it real, solid? Is it made of the stuff that will survive time? Or is it a temporary passion that is finding expression and would best find its way into the garbage can? I suspect that latter categorization is exactly what we are confronted with here today and have been for several weeks and months.

Mr. President, I am not disposed personally toward having any votes on any of these matters. There is not much I can do about a cloture vote, but certainly, I do not feel that these are matters that should be addressed now, should be voted upon now. Let the new Congress in January 1983 come to grips with these issues.

The substance, it has been said time and time again, is what it is that is being done out here if the courts are stripped of their jurisdiction. I would like to address another aspect of the problem that might be somewhat new to the debate that has taken place heretofore. That is the matter of describing the courts as if they were truly something dropped from above or, I am sure in the minds of some of my colleagues, something ascended from below. I refer to the idea that they are something separate and apart from all of us. The fact is that these courts clearly come out of the political system. Indeed, my colleagues on the floor have their imprimatur upon every single Federal judge who sits. They were all subject to confirmation by the U.S. Senate, including the Supreme Court of the United States.

Indeed, most of those who are sitting at whatever level of the Federal judiciary were proposed by Members of this body to the then sitting executive. I have no one from the State of Connecticut who sits on the Supreme Court but certainly I can assure you that I know each member of the Fed-

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eral judiciary, whether it be Federal district court or the circuit court of appeals. I did not nominate them all. I nominated some of them. But I surely approved all of them and had the opportunity to block them.

My friends who propose this type of legislation not only want to nominate; they want to confirm, and then they want to have a leash on the subject of the confirmation. I do not think the American people want that sort of justice. I think they expect, once we have done our work, that the judiciary is independent of politics, that it is independent in philosophy, it is independent of religion. They expect the judiciary to blindly serve in the sense of impartiality, blind in the sense of impartiality in the cause of justice.

But this legislation, this court-stripping legislation, is in effect a senatorial leash law. We want our judges on a leash. If they do not say what we want them to say, if they do not believe what we want them to believe, then they no longer have their jobs or, indeed, they have their jobs but in name only.

Is that the justice that everybody wants regardless of their points of view on individual issues? Is that the kind of justice you want? Because, indeed, impartial justice is what we speak for, be it black schoolchildren or women or be it those youngsters that go to school—that pretty much covers the people I am talking about in the sense of school prayer, abortion, and busing. If you adopt this principle, then, believe me, the leash law is not restricted to those persons but, rather, it applies to all of us. Maybe it will come to pass that it is very onerous and expensive on the part of Government to take care of the elderly, and so there will be men and women on this floor to try to excuse Government of its obligations to that segment of our society. Maybe it will be very onerous and expensive to be disabled or retarded and there will be those on this floor who would try to excuse Government from its obligation to that segment of our society. Maybe it will be very expensive and very onerous to be a businessman and there will be those on this floor trying to excuse Government of its obligation to that segment of the society, and so on and so on.

There is no end to the mischief that is being proposed here. It does not relate simply to the discrimination against black schoolchildren which results in a court remedy. It is not simply a matter as to whether or not there is going to be a Christian society foisted upon schoolchildren. That is not the issue. The issue is not what the choice of women is going to be. The issue here today is whether or not the right of each of us to be ourselves and to live in freedom—that is truly the issue, freedom—is going to be diminished in any sense by a point of view held by either a minority or majority that happens to wield the power of a U.S. Senator.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. WEICKER. Without losing my right to the floor for the purpose of debate, I yield to the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the Senator may yield to me under those circumstances without his speech counting as a second speech and without prejudice to any rights that the Senator from Oregon may have in respect to recognition by the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is clear to me that we are not going to resolve this issue today, and given that circumstance and the fact that I, for the life of me, cannot find another Senator who wishes to speak at length on this subject other than the distinguished Senators from Oregon and Connecticut, I am inclined to suggest that we may fold our tent for this day.

Mr. PACKWOOD. Will the Senator include in the order that I would have the floor coming then onto the bill tomorrow?

Mr. BAKER. Yes.

DEATH OF REPRESENTATIVE ADAM BENJAMIN, JR., OF INDIANA

Mr. BAKER. Mr. President, as in morning business, I send to the desk a resolution, on behalf of the Senators from Indiana (Mr. Lugar and Mr. Quayle), and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. Res. 457

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Adam Benjamin, Jr., late a Representative from the State of Indiana.

Resolved, That a committee be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit and enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. LUGAR. Mr. President, Adam Benjamin was a distinguished Hoosier legislator whose mastery of detail and faithfulness to duty produced solid achievement.

He enjoyed bipartisan respect in the Indiana General Assembly and in the U.S. House of Representatives for his intelligence, his indefatigable work style, and his friendliness.

Adam was extraordinarily effective in obtaining favorable transportation issue results for Indiana. I will deeply miss him as a strong legislative ally and as a gracious friend throughout many good years of Hoosier political life.●

● Mr. QUAYLE. Mr. President, the sudden death of Congressman Adam Benjamin of the First District of Indiana this past weekend leaves a great void for those of us who had the privilege of knowing and working with this special person.

Adam Benjamin and I came to the U.S. House of Representatives together in 1977. We worked together for nearly 6 years. Even though our political parties were different, there were many areas of agreement, and our efforts in behalf of Indiana were harmonious and productive.

Adam was given a coveted seat on the House Appropriations Committee as a freshman Congressman, and he quickly mastered the intricacies of working with the Federal budget. He served as chairman of the Legislative Appropriations Subcommittee and in this Congress was chairman of the Transportation Appropriations Subcommittee.

He worked hard on economic development of his congressional district in northwest Indiana. He was a leader in steel industry revitalization and strived for improvement of transportation throughout Indiana.

Adam also served as a member of the Indiana House of Representatives and the State senate prior to his election to Congress in 1976.

Adam Benjamin's relatively short life was dedicated to helping people. He tackled every job with intensity, good humor, and skill.

Mr. President, I feel a deep personal loss over the passing of Adam Benjamin. He was a true friend and patriot. His loss will be sorely felt by his dear family, his constituency, and all of us in Indiana who valued his friendship and his leadership.

We convey to his beloved wife, Patricia, and to his children, Adam III, Alison, and Arianne our heartfelt sympathy. May God bless them and comfort them during this time of sorrow.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 457) was unanimously agreed to.

The PRESIDING OFFICER. Pursuant to the resolution just adopted, the Chair appoints the two Senators from Indiana (Mr. Lugar and Mr. Quayle) as the committee on the part of the

Senate to join the committee on the part of the House of Representatives.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, let me propound this series of requests.

First of all, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. I further ask unanimous consent, Mr. President, that after the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business to extend not past 12 noon, in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS ON THURSDAY FROM 12 NOON TO 1:50 P.M.

Mr. BAKER. Mr. President, it is my understanding, that there is a requirement for time for a caucus tomorrow, and I will discuss this further with the distinguished minority leader when he reaches the floor, but I ask unanimous consent then that the Senate stand in recess tomorrow from 12 noon until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, could I inquire, if the order in respect to the vote under rule XXII to invoke cloture provides for the waiving of the mandatory quorum call prior to the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. So there will not be a quorum call prior to the cloture vote, as I understand it, and the vote is ordered at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I think, under those circumstances, I will amend my previous request in respect to the recess.

CLOTURE VOTE AT 2 P.M.

I ask unanimous consent that the Senate stand in recess tomorrow from 12 noon until 1:50 p.m., and that at 1:50 p.m. the Senate resume consideration of the unfinished business, and that at 2 p.m. under the order previously entered the Senate proceed to vote on cloture as provided under the previous order.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PACKWOOD TOMORROW

Mr. BAKER. Mr. President, I further ask unanimous consent that at 1:50 p.m. when the Senate resumes consideration of the unfinished business, the Senator from Oregon (Mr. PACKWOOD) be recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. And once again, Mr. President, I ask unanimous consent that the interruption occasioned by the recess which has now been provided for not be deemed an interruption for the purpose of creating a second speech under the provisions of rule XIX.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECORD TO REMAIN OPEN UNTIL 4 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 p.m., for the insertion of statements and the introduction of bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, in accordance with the previous order, and pursuant to the provisions of Senate Resolution 457, as a further mark of respect to the memory of the deceased ADAM BENJAMIN, JR., late a Representative from the State of Indiana, I move that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and at 3:21 p.m. the Senate recessed until tomorrow, Thursday, September 9, 1982, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate August 24, 1982, under authority of the order of the Senate of August 20, 1982:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Jay F. Morris, of Maryland, to be Deputy Administrator of the Agency for International Development, vice Joseph C. Wheeler, resigned.

THE JUDICIARY

Edward Rafeedie, of California, to be U.S. district judge for the central district of California vice David W. Williams, retired.

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio vice Leroy J. Contie, elevated.

DEPARTMENT OF JUSTICE

Rufus W. Campbell, Jr., of Louisiana, to be U.S. marshal for the eastern district of Louisiana for the term of 4 years vice James V. Serio, Jr., term expired.

Max E. Wilson, of North Carolina, to be U.S. marshal for the western district of North Carolina for the term of 4 years vice Andrew E. Gardner, deceased.

Herbert M. Rutherford III, of New Jersey, to be U.S. marshal for the eastern district of Virginia for the term of 4 years, vice Isaac G. Hylton, retired.

IN THE AIR FORCE

Maj. Gen. William E. Brown, Jr., 137-22-1897FR, U.S. Air Force, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601, in the grade of lieutenant general.

Executive nomination received by the Secretary of the Senate August 25, 1982, under authority of the order of the Senate of August 20, 1982:

MERIT SYSTEMS PROTECTION BOARD

K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board for the remainder of the term expiring June, 3, 1986, vice Alex Kozinski, resigned.

Executive nominations received by the Secretary of the Senate, August 31, 1982, under authority of the order of the Senate of August 20, 1982:

DEPARTMENT OF STATE

Peter Dalton Constable, of New York, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Richard J. Fitzgerald, of Illinois, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985, vice Elliott D. Marshall, term expired.

Truman McGill Hobbs, of Alabama, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1985, vice Walter E. Craig, term expired.

Margaret Truman Daniel, of New York, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987, reappointment.

Gloria Ann Hay, of Alaska, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1987, vice John Portner Humes, term expired.

DEPARTMENT OF STATE

The following-named Career Members of the Foreign Service of the Department of Commerce for promotion into the Senior Foreign Service as indicated:

Career Members of the Senior Foreign Service of the United States of America, class of Counselor:

Herbert A. Cochran, of North Carolina.
Henry Y. McCown, Jr., of Texas.
Michael J. Mercurio, of California.

IN THE AIR FORCE

The following officers for appointment in the U.S. Air Force to the grade of brigadier general, under the provisions of chapter 36, title 10 of the United States Code:

Col. Diann A. Hale, 571-44-9381FR, Regular Air Force, Nurse Corps.

Col. Arthur J. Sachsel, 158-18-5115FR, Regular Air Force, Dental Corps.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grades and dates of rank to be determined by the Secretary of the Air Force.

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LINE OF THE AIR FORCE

Albin, James E., 498-50-1309
Allen, David E., 460-76-4468
Anderson, John M., 569-68-2447
Anna, John W., 203-40-3634
Arbeiter, Randolph G., 543-56-3522
Arnold, Eugene F., 389-50-5160
Atkinson, Delbert B., 236-74-5702
Backstrom, David W., 502-52-6337
Bacon, Joseph L., 213-44-0914
Bailey, Roger A., 392-44-4667
Bassett, Kenneth R., 490-48-1103
Bayless, Robert L., 497-54-0317
Bell, Raymond L., 535-42-8865
Berg, Thomas R., 325-44-9366
Bergquist, David E., 265-64-5938
Bettencourt, Manuel J., 252-70-0587
Bible, Richard W., 565-66-9894
Bischoff, Kenneth C., 518-60-6646
Black, Donald L., 459-82-6259
Blondin, James D., 041-42-3244
Boettcher, Jon H., 475-56-4605
Bofferding, Michael J., 502-54-8594
Booker, Elbert R., Jr., 226-66-1597
Borofsky, Clifford R., 022-36-4876
Bow, David M. H., 576-42-6555
Boyd, Thomas E., 533-42-9424
Boytim, William G., 200-36-8092
Brandon, John D., 560-74-6126
Breuhl, Timothy E., 397-54-6622
Bright, Thomas J., 001-36-8887
Brown, Christopher J., 271-40-1198
Brown, David J., 191-40-1169
Browne, Michael J., 266-74-5131
Bruckner, Linda G., 309-50-6375
Brungess, James R., 555-78-5398
Bruton, Patricia A., 140-42-6244
Bryant, William R., 256-76-8045
Buck, Richard J., Jr., 508-56-1245
Bukevicz, Ronald E., 206-40-5336
Burns, Robert D., 139-40-7219
Bush, Stephen J., 164-42-0910
Bys, Neil D., 481-52-4600
Cagle, Mervin J., 431-92-2898
Caldwell, John P., 492-46-1898
Call, Charles M., Jr., 245-66-4718
Carlson, Kenneth C., Jr., 465-68-4158
Carter, William M., Jr., 110-38-5456
Casteel, Gary E., 566-38-6399
Catalano, Charles F., 090-36-5146
Caulfield, Michael D., 510-46-1958
Chaklos, John, Jr., 210-30-6753
Chisholm, Robert K., 230-72-4995
Cleveland, Otis L., 412-74-3463
Cohen, Philip A., 094-38-7319
Cook, Darild J., 541-46-1585
Corrow, William B., 071-38-4796
Counts, Donald R., 241-78-6210
Courtheyn, Terry L., 298-42-6980
Cox, Michael H., 295-46-9641
Dalby, Jan F., 282-46-0324
Daniels, Courtney R., Jr., 449-76-0562
Davenport, David L., 284-40-9918
Delp, James H., 010-36-0003
Demetrio, James J., 041-44-5271
Demmel, Robert J., 178-40-2297
Demuth, Robert L., 301-46-0890
Derego, Gerald H., 571-74-2123
Dever, Dolores K., 445-48-8959
Dilda, Victor F., 280-42-3337
Douthit, William E., Jr., 255-68-3933
Dumont, Gary G., 116-38-6297
Dunlop, Roy W., 545-64-7007
Durning, Albert J., 177-40-9382
Duval, Philip R., 563-62-3332
Eastman, Kenneth D., 031-34-0750
Elam, Carl M., 401-64-3177
Elder, Eric C., 291-40-5651
Eldredge, Francis S., 423-58-4855
Elking, Gerald J., 285-48-2034
Elliot, Roger D., 450-82-1916
Erickson, Alan P., 326-38-6057
Evans, Kimmel K., 424-64-0081
Ferrua, George S., 561-72-3018
Fitzhugh, William J., Jr., 427-96-0272
Flickinger, Norman H., 570-68-8356
Foley, Richard S., 059-42-8924
Foley, Walter W., 316-46-3454
Ford, Geraldine C., 088-36-5478
Foster, Wilford L., 452-84-9664
Frederick, Mark N., 342-36-9187
Freund, Robin A., 328-42-0783
Funck, Victor A., 257-80-3091
Galligan, Michael K., 036-30-7550
Galloway, Samuel E., 408-80-0872
Gannon, John R., 380-50-0572
Garrigan, Kevin J., 015-36-5152
Gaskin, Lawrence W., 082-38-1882
Gates, Thomas E., 260-68-4349
Gaudreau, Raymond L., 025-30-3319
Gelwix, Randall C., 214-54-4009
Georg, Elden M., 219-46-1729
Gilbert, Charles H., 216-48-1346
Gilbert, Emmett R., 418-52-2512
Gilbertson, Keith G., 501-60-1138
Gillispie, James D., 512-50-2081
Godart, Richard J., 047-36-7297
Goetz, Thomas J., 141-38-3215
Gonzalez, Jaime A., 457-60-1427
Goodrich, David A., 383-48-5127
Gorczyca, Raymond F., 361-36-9001
Gore, Larry R., 244-74-1469
Gough, Michael J., 306-52-9364
Gower, Terry N., 216-52-1041
Greenberg, Irving E., 429-68-3545
Gregory, Joseph M., 420-60-6516
Grindel, Frank S., 185-42-8423
Gruber, Paul A., 212-46-2334
Haas, Kenneth M., 160-34-1748
Haas, Michael E., 550-64-2654
Hagler, Franklin H., Jr., 456-76-4546
Hall, Charles R., 406-62-8498
Hammond, Gary E., 291-46-2726
Hamon, Lawrence D., 560-64-3392
Harden, Ronald M., 208-38-2148
Haugen, James A., 391-48-0524
Hayes Michael R., 105-40-1506
Haygood, Hillis E., 243-78-7866
Heaberg, James H., Jr., 523-62-9777
Heinonen, Everett W., 158-40-9487
Hemingway, Lawrence T., 528-58-4008
Hermanson, Thomas W., 371-54-7891
Herrell, Dennis E., 437-62-4496
Herron, Robert L., 121-36-9954
Hitz, Gary L., 206-38-9494
Hoag, David M., 517-60-3084
Hoffman, Steven R., 454-80-4566
Holden, Richard L., 503-58-7198
Hott, Jack R., 285-46-6468
Howze, Richard S., 267-74-9632
Hughes, Frederick J., 269-44-5596
Humphrey, Warren M., 014-42-2264
Humphries, John E., 041-40-9282
Huneycutt, Carroll R., 243-72-5619
Hutto, John R., 461-82-7363
Ilardi, Richard C., 007-36-7151
Ingermanson, Leonard A., 515-44-2327
Jack, James E., 480-62-8714
Jacoby, Daniel H., 306-50-7458
Jaep, William F., Jr., 221-28-6932
Jauquet, David R., 399-34-8745
Jenkins, Richard W., 206-38-7369
Jenkins, Vincent M., 197-36-3611
Jermain, Clark A., 223-66-5496
Johnson, Martin H., 380-46-6491
Johnson, Richard K., 057-40-9582
Johnston, Larry A., 440-40-0880
Jolley, James B., 413-78-3655
Jones, Donald K., 308-52-6608
Jones, Donald R., 240-74-0496
Jones, Richard D., 466-68-6842
Jones, Robert L., 403-68-5910
Jones, Val B., 529-60-8576
Jordan, Jonathan G., 057-40-3112
Jordan, Philip T., Jr., 104-34-8662
Kallelis, Nicholas 136-40-1728
Kantrud, David J., 502-46-2853
Kendrick, Frank L., 265-78-1836
Kewer, Douglas C., 042-40-9423
Kidd, Bruce C., 235-78-5887
King Linda J., 118-38-4139
Kishler, Fred E., Jr., 285-38-3437
Klein, John D., 494-50-0937
Knauer, David A., 338-40-7578
Koehn, Kenneth L., 338-40-0750
Koth, Al R., 480-62-3642
Kreidler, Bruce E., 219-50-4494
Krzykowski, Michael T., 585-44-3156
Kunkle Sandra L., 468-50-5469
Kushin, Alan L., 262-96-7162
Lawrence, James J., 071-38-6889
Lemmermann, Rebecca 567-56-3126
Lemons, Michael W., 293-44-9948
Lester, Daniel W., 016-36-8562
Lewis, Stephen P., 244-74-5259
Liebold, William P., 119-38-4065
Lippincott, Robert L., Jr., 136-36-1924
Lizotte, Dennis T., 576-54-3928
Locher, Clara M., 342-38-9234
Loughran, Gregory A., 132-36-4355
Luckenbach, Michael G., 168-38-0540
Mahaun, Patricia F., 173-42-1363
Maloney, Patrick W., 493-52-8165
Marotta, Heather E., 363-44-1860
Mason, John B., III, 444-50-1018
Massey, John B., 419-66-0497
Matsumura, Ronald J., 529-64-7838
Matthews, Jerry R., 548-68-0747
Matthews, Norman W., Jr., 427-96-7721
Matthews, Wright W., 432-82-1765
May, Michael H., 408-82-2828
McCallum, James F., 426-88-9069
McCollum, James M., 240-80-6549
McGhee, Paul D., 263-96-3542
McGlasson, Larry W., 405-70-6996
McGowan, Robert W., 505-60-9794
McHale, Raymond E., 263-80-9505
McKenna, Ralph E. Jr., 248-84-6448
McKinnon, Angus M., 163-38-6100
McLain, Ralph J. Jr., 139-36-9248
Meadows, Robert J., 460-64-9089
Melton, Robert E., 496-52-3069
Messer, Robert D., 402-60-1361
Miller, Jacob P., 318-42-1195
Miller, James D. Jr., 558-70-8666
Miller, Jonathan G., 205-38-8239
Miller, Lee A., 419-62-9755
Mills, Gordon J., 558-72-9329
Mills, James W. Jr., 184-34-0610
Minner, Gordon L., 402-64-3324
Moe, Dennis L., 476-56-4779
Monceaux, Murphy J., 454-88-5477
Moore, William R., 309-56-8608
Morgan, William S., III, 263-96-4462
Motz Ernst, 103-36-5994
Moulds, Robert D., 482-58-5433
Mull, Paul L. Jr., 579-58-2703
Mulzer, Wayne J., 374-50-4621
Nikolai, Alberta M., 202-36-6481
Nova, Michael R., 313-50-7868
Ogle, Scott D., 527-58-1212
Okland, Ronald W., 480-48-9749
Olshaw, Leon B., 338-38-2426
Oppy, Ralph D., 357-38-5186
Ostrowski, David J., 190-38-6804
Packard, Arthur M., III, 028-36-2951
Paglialungo, James J., 262-82-7708
Painter, Larry J., 211-34-4322
Patterson, Terry A., 260-76-1548
Pederson, Steven C., 503-54-8166
Pence, Steven W., 516-46-2422
Pickering, Alan C., 005-44-6749
Pignataro, Philip J., 457-78-5341
Pitz, Joseph A., 398-48-3843
Poe, James A., 439-68-0865
Pothier, Vincent J., 031-34-9289
Poulsen, Pamela S., 422-68-1762
Pumphrey, Ronald E., 524-64-6604
Raimo, Matthew J., 205-38-0334
Raymond, Gary W., 031-34-3019
Read, Michael K., 514-52-9830
Rezac, George J. J., 257-76-4581

Rickerd, David M., 553-68-7833
Ridge, William M., 214-46-5499
Riverapena, Miguel A., 134-32-5319
Roberts, Robert C., 579-62-7330
Robinson, James S., 274-44-4530
Rodriguez, Hector, 449-78-0590
Rogers, Timothy A., 330-38-1553
Rogers, William G., 425-92-0969
Rohloff, Laurence F., 228-64-8863
Rolsen, Richard L., 280-46-5026
Rose, William C., 521-62-165
Rowe, Daniel A., 509-46-3115
Rowell, Robert F., 478-50-4164
Sanders, John R., Jr., 422-66-3619
Santi, Michael J., 470-58-0490
Sauerbrun, Gordon A., 137-36-9240
Saunders, Steven A., 242-80-9310
Schlatter, Michael H., 506-56-1432
Schmidt, Donald C., 100-36-9952
Schmidt, Gary B., 388-48-4690
Schnabel, Gilbert E., Jr., 139-40-8795
Schubring, Donald H., 387-50-5655
Schuller, John C., 349-38-0982
Schwemler, Paul E., 551-66-4738
Scott, James E., 444-50-9096
Seever, Orrin C., 498-42-1430
Sherman, John P., 366-54-9766
Shiely, Albert R., III, 026-38-8387
Shroy, Richard F., 223-62-2870
Sides, John C., 211-36-3889
Siegel, Richard A., 559-60-4218
Smith, Larry M., 458-74-6428
Smith, Phillip E., 263-68-9387
Snyder, John M., Jr., 196-36-0292
Sonntag, Jeffrey L., 532-50-8150
Souslly, Lester D., 537-42-9908
Spence, Kenneth L., 566-62-4278
Spratt, John E., Jr., 438-74-1829
Springer, Charles T., II, 422-62-6849
Stacy, Robert A., 526-60-3899
Stamm, David C., 225-72-4410
Steiner, John A., 475-50-8143
Stephens, John S., 101-40-9389
Stickler, David L., 557-56-4995
Stiklickas, Joseph J., 132-40-4350
Stone, William E., 585-12-0798
Straley, Michael L., 526-60-4673
Strickland, Cary L., 262-66-7734
Studdard, Warren E., 452-76-2710
Swain, Jerome W., 569-74-7838
Talbert, Michael D., 464-90-4135
Talleur, Raymond C., 051-40-0752
Talley, Robert K., 537-44-0079
Tayloe, Robert N., 241-76-7794
Teeter, Gary W., 238-72-1843
Thelen, Thomas J., 471-56-9739
Thomas, Richard P., 579-66-7527
Thompson, Larry J., 316-46-0837
Thompson, Robert A., 193-36-8234
Tibbs, Suzanne D., 427-92-2766
Timoskevich, Dennis J., 533-52-9534
Tinsley, Michael E., 453-84-7506
Tomczak, Robert J., 388-46-9216
Topliffe, John N., 001-38-8520
Torstrick, Stephen R., 400-62-3338
Trahan, Roy E., 438-70-1909
Traylor, Eddie K., 311-52-1507
Tree, James L., 421-66-7672
Turner, Billie E., 038-30-9429
Turney, Ronald B., 430-84-2485
Uecker, Carolyn O., 228-66-1020
Ulrich, Bruce E., 365-48-3527
Vallo, Louis, 272-42-4654
Volkman, Bryn E., 395-48-2170
Vonwerne, Warren A., 083-40-7866
Wagen, Thomas D., Sr., 398-50-1909
Wallace, Terry L., 494-56-6000
Wallin, John M., 475-50-8444
Ward, Joseph P., 524-56-3746
Watson, Frederick E., 155-34-2575
Waylett, Susanne M., 382-48-8299
Webb, Donald J., 355-34-5795
Webb, Robert L., 415-74-3458
Weikel, Gary L., 295-44-4716
Weinzierl, Thomas C., 474-48-1648
Weiss, Daniel A., 098-38-3199
Wells, Cecilia Salas, 586-03-2009
Wessels, Larry W., 460-70-4407
Wethe, Wallace K., 547-58-9292
Wetters, Ronald C., 521-60-3199
Wheeler, Patrick E., 514-48-1052
Whisenhunt, Jeffery W., 431-86-0334
Whitney, Wanda L., 425-88-6882
Widney, Christopher W., 003-40-5760
Wilkinson, John D., 243-76-2077
Williams, Kenneth A., 158-40-8278
Williams, Robert J., 505-58-8816
Winans, James R., 343-36-8338
Winters, Thomas C., 146-34-6360
Wood, Teddy G., 505-64-8931
Woolley, Donald F., 270-34-6780
Worden, Leslie C., 425-88-5454
Wortham, James O., Jr., 453-74-5962
Wydra, Edward J., 057-38-3276
Xiques, George M., Jr., 415-76-0097
Young, Ruth A., 362-48-2147
Zuck, Dale A., 481-54-0733

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10 United States Code, to perform the duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

CHAPLAIN CORPS

Aiello, William C., 154-30-5304
Baldwin, Mavis S., 431-62-2433
Beamon, Walter E., 428-78-4803
Bell, Gerald M., 426-82-6602
Brezna, Raymond G., 162-30-1441
Fahner, David W., 543-42-0736
Fedor, Leroy L., 585-94-1144
Johnston, Robert F., 167-30-9711
Krauss, Robert M., Jr., 191-34-5119
Milcetich, Paul P., Jr., 211-28-4154
Moffatt, Jack F., 293-28-6880
Plested, Robert W. H., 092-30-0790
Quinn, Lawrence T., 080-30-2081
Stryjewski, John J., 075-30-9025
Supa, Joseph, 128-32-8510
Tibus, Andrew J., 160-30-0135
Walsh, Andrew J., Jr., 106-26-9714
Yates, Edcort D., 410-62-9921
Zinzer, Walter W., 489-40-9718

JUDGE ADVOCATE CORPS

Allen, Ronald G., 455-78-7770
Eckhardt, Carl W., Jr., 539-46-3771
Jackson, Jerald W., 488-48-5425
Kuster, Robert L., 407-74-9860
Madsen, David W., 535-40-3799
Miniclier, Joseph E., 038-32-3957
Robinson, Donald L., 146-32-9572
Starr, Eddy M., 449-74-0995
Tudor, Thomas S. M., 003-36-6162
Weaver, Phillip A., 219-46-5025
Yee, Harry, 016-40-9992
Young, Roger L., 169-38-3328
Yount, Frank M., 298-44-7648

NURSE CORPS

Andrews, Mary F., 419-66-1377
Baker, Richard D., 524-62-7012
Beesinger, Carol J., 466-62-9474
Bennett, Walter A., Jr., 095-32-9085
Bohman, Richard C., 126-30-7565
Brown, Mary E., 317-54-0384
Burns, Paul A., 255-62-8263
Carbone, Christine J., 098-34-9644
Carver, Hazel I., 496-58-6184
Cherry, Rosalie D., 304-38-1961
Clemens, Mary L., 478-60-3047
Collins, Wendy S., 406-64-9653
Dalton, Catherine C., 071-38-1325
Darnold, Jana L., 521-68-8287
Deberg, Joellen, 464-70-7495
Donald, Linda K., 243-60-9533
Drake, Gene E., 211-36-9034
Edsen, Mary A., 251-74-9340
Eichenauer, Ronald J., 098-34-7129
Fullenkamp, Durelle B., 412-98-9165
Gemberling, George C., Jr., 162-32-1217
Gillespie, Mary C., 240-78-7488
Gonce, Cathy A., 545-80-8497
Harrington, Frances L., 557-70-9022
Hatfield, Denzell K., 515-40-3557
Hauck, Elaine M., 503-66-0043
Hollis, Rodney C., 423-54-6759
Howe, Mary A., 304-54-3904
Kunkel, Barbara A., 152-36-5128
Laurelanojulia Wilfredo, 580-82-3558
Mallory, Ronald R., 340-42-7839
McIntyre, Carol L., 012-40-9318
Minnicks, Joan, 276-42-2885
Mitterer, Daniel R., 189-34-6006
Nugent, Mary A., 192-38-7648
Oczkowski, Jane M., 031-32-1554
Reeves, Carla M., 545-78-9123
Robinson, Louise W., 466-72-8272
Rodie, Sandra M., 390-48-9276
Rumsey, Cheryl L., 387-54-5501
Stratford, Leslie C., 553-70-2318
Tryon, Kathryn J., 561-58-8764
Walker, Mary E., 061-34-0263
Walton, George A., 414-60-0623
Warner, James Jr., 150-28-9283
Whittaker, Robert Y., 123-26-2893
Winn, Mary Martha, 267-98-6381
Young, Carl A., 188-38-1333

MEDICAL SERVICE CORPS

Geis, Bruce A., 446-46-9920
Hosman, James V., 500-54-2326
Jenn, Donald A., 482-56-9839
Kurowski, Kenneth J., 379-44-8306
Middleton, Allen W., 012-40-1789
Milner, Gary W., 334-40-4050
Putnam, Patricia A., 225-66-4511
Seitz, Gary J., 508-62-6531
Yaege, Glen B., 460-78-6602

BIOMEDICAL SCIENCE CORPS

Cathcart, Alan M., 052-40-8002
Cooper, James R., 481-54-0934
Emmett, Frank E., Jr., 465-68-1947
Fodor, William J., 075-40-0004
Frank, Rex A., 330-40-8598
Gentry, Michael W., 227-60-1437
Greenamyer, Judith J., 280-46-7847
Harraghy, Donald M., 031-40-7610
Howard, Allen H., 267-92-1530
Hughes, Edward B., 012-30-8330
Hulse, Phillip M., 562-62-0877
Jordan, Dick T., Jr., 461-68-5115
Luehrs, Lewis G., 533-46-7719
Meinders, Marvin D., 258-78-1319
Nelson, John P., 438-70-8823
Tullio, Carl J., 207-38-0817
Uthe, Dennis G., 292-40-5990
Vierafernandez, Jorge, 580-74-6222
Vura, Ronald C., 270-42-5362
Waggaman, Lewis P., 263-58-7585
Wall, Robert M., 425-88-6929
Weiland, William C., 426-92-0705
West, George V., Jr., 015-40-8221
Whitney, Dale E., 528-70-3279
Young, James H., 257-72-6889

In the Air Force

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grades and dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

Bowles, David S., 271-40-1339
Clark, Jay L., 455-02-3890
Fallon, Thomas A., 154-30-6925
Hood, Barry K., 559-54-0063
Lindsay, Jon K., 219-48-1466
Michel, Howard E., 158-48-0068

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Pratt, Lawrence R., 549-70-8960
Roth, Mark A., 419-66-1569

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Bowles, David S., 271-40-1339
Boyd, Michael L., 436-58-4968
Carr, Michael L., 480-50-9662
Deer, Thomas E., 194-32-8474
Donnelly, John J., 127-32-7208
Ellis, Smokey F. C., 266-62-8843
Fallon, Thomas A., 154-30-6925
Foster, Leland C., Jr., 007-36-0540
Hood, Barry K., 559-54-0063
Jevcak, Joseph J., 130-30-7732
Jolly, Charles F., 265-62-3365
Kurinec, Ronald G., 182-34-1509
Stafford, Millard D., Jr., 248-72-0817
Tucker, Paul K., 549-42-6743
Updyke, Junius E., 262-66-0574
Vinkels, Gunars, 047-30-0454

CHAPLAIN

Clayton, Bennie H., 565-48-0264

LINE OF THE AIR FORCE

To be major

Davis, Ryan M., 373-46-0249
Ellis, Roger F., 287-38-0177
Lindsay, Jon K., 219-48-1466
Roth, Mark A., 419-66-1569

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be major

Aaron, Gregory J., 459-86-0865
Abadie, Peter J., 458-82-3077
Abrami, John R., 073-36-9053
Abravaya, Ralph I., 265-06-3218
Adams, Alan L., 258-72-5321
Adams, Terry R., 574-20-6674
Adams, Theodore D., 525-90-0787
Adamski, John, 199-32-3320
Adsit, Jay R., 072-44-8061
Agrella William, 012-40-8898
Aguirre, Ralph G., 509-52-3294
Ahmann, James, R., 476-56-6338
Aitkencade, Philip B., 454-86-9267
Albertazzie, Thomas E., 235-74-0630
Albin, James E., 498-50-1309
Albright, Robert E., 453-78-1265
Albritton, James E., 467-84-8171
Alchian, Allen A., 563-74-0004
Aldrich, David G., 045-42-6592
Alexander, Johnny D., 263-94-9040
Alford, Truman G., Jr., 449-68-9743
Alford, William L., 417-62-3488
Allen, David E., 460-76-4468
Allen, Michael D., 547-78-1965
Allgood, James E., 416-64-9107
Allison, Kenneth L., 442-34-1200
Allison, Lavoin K., 430-92-5407
Almassy, Richard J., 231-70-3587
Almond, Daniel L., 510-42-0512
Alston, Howard R., Jr., 230-70-1619
Alt, John J., 309-52-8118
Alves, Paul J., 035-32-2414
Alvey, Wallace R., 528-56-4991
Anarde, Russell J., 531-56-0781
Anderl, Robert S., 505-62-9797
Andersen, Leslie C., 512-54-3335
Andersen, Paul C., 323-38-6975
Anderson, Donald C., 517-52-7542
Anderson, Emery D., 528-70-9536
Anderson, Herbert K., Jr., 168-40-0335
Anderson, James R., 421-60-9305
Anderson, John M., 569-68-2447
Anderson, Kenneth R., 527-82-1460
Anderson, Stanley K., 330-44-6141
Anderson, Wayne J., 529-60-1583
Andrews, Steven H., 517-58-0448
Andrus, James C., 485-58-9082
Angle, George M., Jr., 229-68-3429
Anna, John W., 203-40-3634
Arbeiter, Randolph G., 543-56-3522
Arbogust, Harold O., Jr., 228-68-8989
Archer, Michael D., 313-54-0455
Armbrust, Gregory N., 284-44-4115
Armour, Robert W., 438-66-7328
Armstrong, George A., III, 148-42-7443
Armstrong, John M., 305-48-0323
Arndt, Linda J., 521-68-8535
Arnold, Brian A., 523-60-4452
Arnold, Eugene F., 389-50-5160
Artman, William D., 128-40-7502
Asbury, Clinton J., III, 266-88-3277
Ashbaugh, John B., 510-54-4205
Asher, Charles R., 264-04-6378
Asher, Michael D., 313-50-8279
Ashing, David W., 442-48-3273
Ashleman, Eddie F., Jr., 458-78-9177
Ashley, Charles W., 587-32-5938
Ashton, David J., 182-40-8999
Askins, Edward A., 419-62-2621
Atkinson, Delbert B., 236-74-5702
Atkinson, John M., 227-58-4364
Atwood, Eugene G., 104-28-1513
Aucoin, James S., 435-58-2618
Audley, David R., 052-38-0890
Augustine, Charles D., 273-42-7701
Austin, Robert A., 220-54-6500
Autry, Larry D., 254-74-1031
Avallone, Joseph A., 084-32-2641
Averitt, Donald W., 406-56-5731
Avery, Stephen E., 531-46-1208
Avon, Joseph G., 276-44-6012
Ayers, Louis M., Jr., 452-74-3995
Ayres, Harrison G., Jr., 273-42-9875
Babbitt, Harold L., 520-48-1549
Baccarella, Peter C., Jr., 522-66-5269
Bachman, Robert G., 265-58-3940
Backman, Stephen M., 134-34-3240
Backstrom, David W., 502-52-6337
Bacon, Joseph L., 213-44-0914
Baethge, Jonathan D., 461-78-2984
Bagley, Hollis R., 416-68-5010
Bailey, Burnell W., 177-42-8027
Bailey, Larry A., 484-60-4015
Bailey, Michael L., 409-80-6222
Bailey, Richard L., 220-52-0024
Bailey, Roger A., 392-44-4667
Bain, Keith E., 326-42-0568
Baird, Jay L., 511-50-9172
Baker, Francis J., Jr., 058-42-9085
Baker, Glenn F., 412-76-4001
Baker, Jack T., 272-42-8463
Baker, Robert D., 529-66-7109
Baker, Robert F., 246-62-3186
Baker, Rodney W., 424-58-5408
Baker, Stephen L., 308-50-1378
Baker, William P., 560-74-6649
Baldwin, Peter, Jr., 054-48-6120
Ball, George J., 314-50-0686
Ballard, Leroy D., 409-76-2121
Ballard, Robert L., 311-44-2482
Ballas, Richard D., 280-50-5438
Baltzer, Robert L., 292-46-7866
Bangs, Daniel P., 063-40-8052
Banister, John H., Jr., 460-86-5992
Banner, Clifden A., 033-38-5360
Bannon, Michael T., 535-50-5122
Bante, Thomas M., Jr., 336-42-9535
Banton, George R., 226-64-1197
Baptiste, Samuel J., 567-70-9092
Baptiste, Thomas L., 546-86-1125
Barber, Gary N., 465-78-9955
Barber, Ronald L., 106-38-5943
Bard, Nathan R., Jr., 263-86-6163
Barker, Kenneth R., Jr., 492-46-6238
Barker, Sheila M., 418-70-8723
Barlow, Robert A., 547-72-8256
Barnes, Gary I., 503-54-8512
Barnes, Michael R., 567-60-5792
Barnett, William H., Jr., 419-64-6434
Barnum, Gary E., 449-76-1314
Barrett, Ronald R., 284-44-2470
Barry, James R., Jr., 571-68-3415
Bartholomew, Donald F., Jr., 470-58-2451
Barton, Joseph S., 260-78-9385
Barton, William H., Jr., 220-42-9398
Bartsch, Thomas M., 569-80-4291
Baschab, Roger G., 424-54-0210
Basler, Nicholas J., 346-40-6403
Bassett, Kenneth R., 490-48-1103
Bates, Donald G., 309-40-4325
Bates, John W., 407-58-0659
Bates, Richard L., 474-50-1831
Bates, Rodney L., 523-64-9920
Bath, Thomas A., 454-74-3555
Batten, Albert L., 008-30-6956
Baughn, Lawrence E., Jr., 378-48-5538
Bauman, John V., 417-62-3378
Baxter, Tommy J., 435-62-5777
Bayless, Robert L., 497-54-0317
Beal, Thomas L., 423-62-6872
Beard, Richard E., Jr., 404-74-1844
Beat, Anthony M., 291-52-1275
Beck, Norman M., Jr., 201-38-2637
Becker, Donald J., 389-50-7465
Beckett, Richard A., 270-50-3426
Bedor, Wayne M., 008-30-6994
Beil, Thomas I., 215-56-2611
Beisner, Christopher C., 515-46-4008
Belisle, Thomas M., 229-66-8176
Bell, Dennis R., 538-46-5802
Bell, Glenn E., 248-82-0744
Bell, Raymond L., 535-42-8865
Bell, Stephen C., 585-28-4133
Belote, Frank L., Jr., 240-80-9549
Bender, Donald C., 503-58-4133
Bender, Richard L., 389-52-0721
Benedict, William P., 119-30-8079
Benefield, Horace, Jr., 532-38-4008
Bennett, Larry E., 458-76-0412
Bennett, Robert B., 222-34-9201
Bennett, William C., 536-46-6950
Benzel, Douglas A., 538-44-6713
Berardino, Joseph J., 267-66-7422
Berecek, Emil M., III, 323-44-6581
Berg, Harold E., 356-40-3899
Berg, Thomas R., 325-44-9366
Bergquist, David E., 265-64-5938
Bergquist, Timothy M., 544-52-8787
Berkland, David E., 504-58-0308
Berkshire, Ronald A., 585-20-2277
Berland, William L., 516-62-2426
Bernard, John E., 115-38-6306
Bernard, Richard E., 051-38-8612
Berry, Michael J., 529-58-3511
Berry, Thomas A., 024-34-4627
Berry, Thomas J., Jr., 494-54-5686
Bertran, Eldon E., 482-58-7215
Bess, Michael P., 424-66-1725
Bethel, Harry E., 411-80-9151
Betsch, Keith A., 120-40-8053
Bettencourt, Manuel J., 252-70-0587
Beulke, Linda M., 229-64-3237
Bevins, Barbara J., 493-54-4215
Bible, Richard W., 565-66-9894
Bickel, Larry E., 191-40-2223
Bienstock, Steven A., 256-74-7294
Bierle, John M., 478-62-9653
Biggs, Michael N., 513-44-0024
Bigum, Randall K., 292-46-5457
Billings, Lynn K., 016-38-8871
Bina, David A., 502-54-6983
Binder, Gregory A., 534-50-3214
Binnebose, James P., 481-56-3054
Birchak, Paul K., 176-40-6672
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Higgins, Richard B., 561-92-4875
Higgs, Gary L., Sr., 458-68-9043
Isenberg, Herbert L., 361-34-2093
Johnston, Robert F., 167-30-9711
Klein, Alan M., 467-82-3247
Krauss, Robert M., Jr., 191-34-5119
Milcetich, Paul P., Jr., 211-28-4154
Moffatt, Jack F., 293-28-6880
Plested, Robert W. H., 092-30-0790
Quinn, Lawrence T., 080-30-2081
Schwartzman, Joel R., 278-42-3942
Stryjewski, John J., 075-30-9025
Supa, Joseph, 128-32-8510
Tibus, Andrew J., 160-30-0135
Timm, Jeffrey T., 267-92-6699
Troik, Raymond A., 566-56-4355
Walsh, Andrew J., Jr., 106-26-9714
Wilborn, James A., Jr., 259-82-6800
Williamson, Jack D., 283-38-4058

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Wills, Larry E., 437-66-9267
Yates, Edcort D., 410-62-9921
Zinser, Walter W., 489-40-9718

JUDGE ADVOCATE

Abel, Bryce F., 436-76-8536
Allen, Ronald G., 455-78-7770
Ash, George W., 378-54-6311
Bentz, Curtis L., 290-50-2614
Blackwell, Paul H., Jr., 418-74-6169
Brennan, David R., 299-44-0754
Brupbacher, Emil D., Jr., 436-72-6704
Carter, Linda D., 567-80-7043
Cohen, Jay L., 107-38-3942
Cox, Donald A., Jr., 439-66-6535
Cox, James F., 511-54-8357
Curtin, Terence A., 213-56-1964
Dodge, Frank S., 439-72-4023
Donahue, Bernard E., 228-52-9137
Dunlap, Charles J., Jr., 222-30-5759
Eckhardt, Carl W., Jr., 539-46-3771
Gabig, Jerome S., Jr., 566-80-5303
Haggar, Jan G., 437-72-6789
Hannah, John S., 008-38-3432
Hass, Daniel P., 392-52-6494
Held, Peter R., 405-62-4993
Henderson, David C., 413-72-1176
Humphries, John G., 442-52-4025
Infelise, Jeffrey T., 477-52-4380
Jackson, Jerald W., 488-48-5425
Jayne, H. Martin, 492-56-0275
Kuckelman, David J., 512-56-5194
Kuster, Robert L., 407-74-9860
Lawler, Gerald M., 033-40-1909
Lozano, Gerry A., 264-96-0723
Madsen, David W., 535-40-3799
Mannix, Charles R., Jr., 147-44-5048
Marshall, James R., 216-58-1126
McAntee, Michael R., 515-56-4230
McDonald, Michael, 154-42-4151
McGrath, Michael D., 125-40-7621
Miniclier, Joseph E., 038-32-3957
Moran, Terrence J., 064-40-2196
Morgan, Chester H., II, 523-74-5396
Orton, John M., 523-62-9756
Pearson, Clinton C., 412-86-4506
Pellett, John M., 311-58-8040
Pennington, Clarence R., 512-56-5170
Pulis, Frank D., 101-42-9251
Quinn, Edward J., Jr., 040-40-1916
Rhaney, Mahlon C., Jr., 267-86-4757
Robinson, Donald L., 146-32-9572
Schafer, Bernard K., 378-48-5887
Schlabs, Michael W., 508-66-6934
Schlegel, Thomas E., 193-38-6373
Sharrar, Larry L., 537-52-9302
Singer, Patrick L., 461-82-0318
Smith, Jack W., 519-56-4654
Smith, Milton L., III, 136-42-1696
Starr, Eddy M., 449-74-0995
Suhar, John C., 255-84-4796
Sullivan, Thomas M., Jr., 524-62-3427
Taravella, Christopher A., 524-62-5269
Thomas, David L., 478-68-3196
Tudor, Thomas S. M., 003-36-6162
Weaver, Phillip A., 219-46-5025
Wickers, Rodney W., 549-82-0294
Winborn, Erik L., 479-62-8071
Yee, Harry, 016-40-9992
Young, Roger L., 169-38-3328
Yount, Frank M., 298-44-7648

NURSE CORPS

Althoetmar, Pamela A., 333-44-0868
Alvarez, Irene M., 041-38-7093
Anderson, Naomi J., 565-80-7593
Andrews, Mary F., 419-66-1377
Bach, Marian R., 234-82-2407
Baker, Richard D., 524-62-7012
Baniak, Thomas G., 091-38-8352
Beesinger, Carol J., 466-62-9474
Behl, Donna F., 161-40-1391
Behler, Naomi A., 354-40-0631
Bell, Susan M., 042-44-2933
Bennett, Walter A., Jr., 095-32-9085
Bennington, Karen R., 176-38-6271
Berreth, Elaine S., 501-58-1609
Bisping, Phyllis M., 503-64-9510
Blair, Laura, 004-50-0189
Bohman, Richard C., 126-30-7565
Bossley, Virginia C., 090-36-7699
Boucher, Donald A., 077-34-6833
Brady, Michele M., 585-38-9054
Brennan, Kathy E., 367-56-0059
Brosche, Linda T., 490-54-9317
Brown, Mary E., 317-54-0384
Bruce, Glennda L., 455-88-6680
Burns, Paul A., 255-62-8263
Bush, Marian A., 255-74-7619
Buttino, Mary, 452-94-5174
Cable, Damon W., 210-40-8529
Carbone, Christine J., 098-34-9644
Carver, Hazel I., 496-58-6184
Cherry, Rosalie D., 304-38-1961
Clark, David L., 120-40-8819
Clemens, Mary L., 478-60-3047
Collins, Wendy S., 406-64-6953
Corrow, Laura K., 341-40-1387
Creft, Brenda K., 433-84-4436
Dallemolle, Barbara A., 332-44-3604
Dalton, Catherine C., 071-38-1325
Darnold, Jana L., 521-68-8287
Davis, Richard L., 570-60-2252
Deberg, Joellen, 464-70-7495
Defend, Marcia M., 230-58-6961
Deniz, Gloria A., 560-86-9198
Dominik, Carolyn F., 085-42-8056
Donald, Linda K., 243-60-9533
Drake, Gene E., 211-36-9034
Duckett, Margo L., 566-60-0685
Edsen, Mary A., 251-74-9340
Eichenauer, Ronald J., 098-34-7129
Eros, Janice K., 526-66-1779
Ford, Marjel L., 432-84-0162
Forkner, Mary E., 249-88-1814
Fryman, Mary K., 464-76-8137
Fullenkamp, Durelle B., 412-98-9165
Gaberel, Carol A., 472-58-1737
Gambal, Cheryl R., 475-60-7635
Gemberling, George C., Jr., 162-32-1217
Gendron, Leo A., 002-32-3896
Gillespie, Mary C., 240-78-7488
Gonce, Cathy A., 545-80-8497
Goretski, Eileen M., 382-54-3192
Hall, Gay P., 149-30-9726
Hardy, Glendann, 187-42-4035
Harrington, Frances L., 557-70-9022
Harrington, Karen K., 329-44-9357
Hartleykeith, Elizabeth A., 262-72-8285
Hatfield, Denzell K., 515-40-3557
Hauck, Elaine M., 503-66-0043
Heffner, Bonita J., 171-40-5683
Herrick, Julia C., 147-42-1146
Hessberger, William G., 080-40-0288
Hight, Theodora A., 166-36-6392
Hollis, Rodney C., 423-54-6759
Howard, Illona W., 178-34-1390
Howe, John J., 134-40-3005
Howe, Mary A., 304-54-3904
Jayne, Gloria B., 432-92-0072
Johnson, Karen F., 493-50-7508
Johnston, Sherry K., 114-40-6975
Kunkel, Barbara A., 152-36-5128
Laureanojulia, Wilfredo, 580-82-3558
Lawrie, Barbara J., 370-38-8252
Love, Linda L., 235-80-7857
Mallory, Ronald R., 340-42-7839
Maras, Laurel A. McKeith, 262-86-7658
Marousky, Robert T., 168-36-2648
Martin, Shirley J., 424-64-9639
Massey, Vivian J., 179-38-7451
Maxse, Mary E., 281-46-3419
McIntyre, Carol L., 012-40-9318
McKay, Priscilla S., 083-38-6886
McKenna, Barbara M., 266-74-0895
Miller, Elizabeth A., 465-90-8070
Miller, Shirley A., 293-48-4141
Millwee, Mary H., 503-54-7417
Minnicks, Joan, 276-42-2885
Mitterer, Daniel R., 189-34-6006
Moore, Johnny, Jr., 522-46-1444
Myers, Joseph B., Jr., 358-42-1569
Neal, Cynthia L., 297-44-4976
Nicolao, Shirley A., 393-54-8598
Nolen, Judith A., 206-38-2669
Nugent, Mary A., 192-38-7648
Oczkowski, Jane M., 031-32-1554
O'Rourke, Marilyn L., 232-84-5793
Pease, Deborah S., 268-46-1420
Perry, Marilyn A., 201-42-0314
Preziosi, Nancy C., 146-38-9603
Price, Linda C., 256-86-1784
Reed, Charles E., 124-36-8187
Reeves, Carla M., 545-78-9123
Reilly, Linda A., 351-36-6634
Repaal, Lorena J., 449-78-6886
Rightmyer, Margaret A., 090-36-8048
Robinson, Louise W., 466-72-8272
Rodie, Sandra M., 390-48-9276
Rumsey, Cheryl L., 387-54-5501
Scannell, Elizabeth A., 154-42-7908
Schermerhorn, Jan B., 058-38-2676
Sheldon, Carolyn E., 029-36-6238
Smith, Cheryl A., 482-56-3883
Steen, Wanda M., 502-54-5208
Stratford, Leslie C., 553-70-2318
Striler, Marsha L., 484-68-2693
Sutterer, Wanda H., 244-84-6400
Temple, Barbara A., 227-72-3497
Thoman, Margaret A., 198-32-8792
Thompson, Carol D., 290-40-0134
Thompson, Esther A., 120-34-2577
Tryon, Kathryn J., 561-58-8764
Tubac, Gregory, 521-62-9263
Walker, Mary E., 061-34-0263
Walton, George A., 414-60-0623
Warner, James, Jr., 150-28-9283
Washington, Barbara J., 349-40-9387
Whittaker, Robert Y., 123-26-2893
Williams, Sarah J., 457-84-6450
Winn, Mary Martha, 267-98-6381
Wood, Peggy A., 535-52-3990
Yingling, Sue E., 312-46-7777
York, Theresa M., 435-72-9697
Young, Carl A., 188-38-1333
Yousey, Donald J., 063-36-9875
Zarate, Barbara S., 245-78-0320

MEDICAL SERVICE CORPS

Agler, William B., III, 548-68-9840
Camacho, David A., 571-50-2329
Chamberlain, Richard T., 359-38-7107
Csercsevits, Martin B., 140-38-9903
Deel, David I., 516-60-0893
Degracia, Daniel P., 568-70-0878
Devall, Richard A., 436-64-9846
Drees, Kenneth O., 293-42-9200
Dreifus, Douglas M., 334-38-8455
Evans, John E., 247-58-5111
Fescenmeyer, William K., 450-78-4732
Gein, Bruce A., 446-46-9920
Grabfelder, Michael T., 456-88-0932
Hendren, George R., 218-56-0272
Hosman, James V., 500-54-2326
Jenn, Donald A., 482-56-9839
Krause, William E., Jr., 450-78-3489
Kurowski, Kenneth J., 379-44-8306
Lamarine, David A., 033-30-9191
Liszewski, Richard S., 155-40-5039
Middleton, Allen W., 012-40-1789
Milner, Gary W., 334-40-4050
Myers, Robert H., 248-78-8354
Neuberger, Jeffrey L., 471-54-9829
Peedin, Floyd R., 237-84-8793
Putnam, Patricia A., 225-66-4511
Scheer, Robert H., 203-32-0208
Schroeder, Richard E., 002-38-1634
Seitz, Gary J., 508-62-6531
Sexton, William P., 340-42-7547
Shaw, William D., 528-66-7575
Snell, George C., 194-30-7960
Sutterer, Larry J., 491-50-5213
Yaege, Glen B., 460-78-6602

Young, Charles R., 530-34-4506

BIOMEDICAL SCIENCES CORPS

Artiolia, Edward W., 231-66-8306
Brothers, John E., 387-54-9093
Buch, Lee C., 283-42-6709
Burgoon, Charles C., 467-78-2341
Cathcart, Alan M., 052-40-8002
Childers, Louis, 104-32-6089
Cooper, James R., 481-54-0934
Crowder, Harvey R., 533-48-2562
Dehler, John H., 520-48-7801
Doane, Thomas R., 126-38-8744
Dunlap, James H., 437-48-3942
Emmett, Frank E., Jr., 465-68-1947
Fodor, William J., 075-40-0004
Frank, Rex A., 330-40-8598
Gentry, Michael W., 227-60-1437
Greenamyer, Judith J., 280-46-7847
Hagen, Carl H., 469-38-0459
Harraghy, Donald M., 031-40-7610
Hill, Ronald C., 245-84-9955
Howard, Allen H., 267-92-1530
Hughes, Edward B., 012-30-8330
Hulse, Phillip M., 562-62-0877
Hyatt, Thomas L., 240-46-4077
James, Viola S., 454-64-2331
Jordan, Dick T., Jr., 461-68-5115
Juhas, Andrew M., 221-32-1666
Kasa, Thomas J., 312-52-8912
Kelleher, William J., 051-38-5342
Keller, William C., 513-50-2560
Kiel, Johnathan L., 454-84-3112
Krogwold, Roger A., 390-52-2407
Luehrs, Lewis G., 533-46-7719
Maher, Edward F., 032-40-5503
Marcondooley, Royetta, 320-42-2753
McCloy, David L., 585-10-2771
McCullough, George D., 260-46-6808
McDade, Richard L., 360-28-7581
McNamee, Corinne K., 502-56-4291
Meinders, Marvin D., 258-78-1319
Merchant, Peter D., 024-34-0534
Nelson, John P., 438-70-8823
Ostraat, Randall C., 504-56-6667
Peacock, Joseph R., 255-52-7412
Perry, Robert G., 013-38-0611
Pratt, George K., 260-74-2177
Reed, Michael J., 217-54-7048
Riggs, Raleigh E., 553-56-6258
Rohrig, William L., 507-56-5024
Root, Charles F., Jr., 533-56-1120
Seignious, George W., IV, 250-82-2808
Shirtz, John J., 200-38-2741
Stanley, Marie E., 031-36-0370
Swindling, William S., 267-84-9777
Tillman, Dale W., 571-74-4761
Tullio, Carl J., 207-38-0817
Uthe, Dennis G., 292-40-5990
Varca, Philip F., 052-38-4741
Varmecky, James R., 196-34-7999
Vierafernandez, Jorge, 580-74-6222
Vura, Ronald C., 270-42-5362
Waggaman, Lewis P., 263-58-7585
Wall, Robert M., 425-88-6929
Weiland, William C., 426-92-0705
West, George V., Jr., 015-40-8221
Whitney, Dale E., 528-70-8279
Wilber, Russell H., 226-62-7866
Young, James H., 257-72-6889

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of lieutenant colonel under provisions of title 10, United States Code, section 5912, subject to qualification therefor as provided by law:

Adamson, James C., 9727
Allen, George F., Jr., 8614
Allen, James W., III, 6998
Allen, Charles R., Jr., 8622
Ande, Robert V., 1618
Anderson, Peder A., 3820
Anderson, Ralph C., 7924
Anderson, Delane E., Jr., 6410
Averitt, Richard G., III, 9101
Bacon, Paul C., 8127
Bailey, James R., Jr., 5083
Bailey, Jay R., 2841
Bailey, John C., III, 9150
Barrow, John C., 8038
Barrows, Frank P., III, 8321
Becker, James S., 6180
Beland, Carlton L., 2369
Bowman, Harry J., 8277
Bradstreet, Bernard F., 4408
Brahm, Russell N., 0409
Brahmstadt, Clifford A., 1871
Bromley, Ray P., 4827
Brooks, Kevin P., 9408
Brueckner, Martin F., 8383
Brzytwa, Edward J., Jr., 1404
Budinger, Charles J., 9181
Burg, William J., 3586
Burgemeister, Alvin H., 1557
Burgess, William V., 0451
Butler, Ronald V., 4012
Calkins, Gordon O., Jr., 9055
Campbell, Clarence A., Jr., 2518
Carey, Donald F., Jr. 7892
Casey, Maurice M., 1770
Cathey, Michael R., 0186
Cernick, Randolph F., 7216
Chapman, Joseph R., Jr., 8097
Charbonneau, Edwin T., 7484
Coats, James D., Jr., 0772
Colella, Anthony R., 6475
Cooper, William C., 1358
Costello, Michael J., 6499
Crawford, James F., 0989
Crews, Clifford J., 4305
Cripe, Daniel L., 9109
Curnow, Francis J., 9048
Dalton, James J., II, 7510
Danskin, John W., 9700
Dau, James E., 0927
Davis, Nancy A., 3101
Douglass, Robert C., 6626
Dowds, Charles J., 5727
Doyle, Kevin M., 8771
Duffy, David A., 3307
Dunlap, James V., 1791
Dyer, Glenn W., 9099
Easton, John O., 5063
Euler, John L., 2714
Favor, Joseph M., 9707
Feltner, Jonathan P., 1812
Ferland, James T., 4556
Finnegan, William J., 2356
Flaherty, Thomas J., 7347
Furbee, Charles W., III, 8193
Fergerson, James L., 2940
Galvin, Gerald T., 7837
Gardner, Robert G., 1309
Gill, James R., 7249
Gonzalez, Gabriel A., 2740
Grader, Dwight J., 6523
Graham, Kenneth D., 0829
Green, Michael J., 5276
Gregory, Willis M., 1581
Hale, Douglas A., 8808
Hamnquist, Richard A., 1064
Hare, Richard C., 2888
Harper, Wilmer K., 4720
Harris, Mary J. D., 1951
Heinemeyer, Klauspeter, 9764
Hill, Robert, III, 3151
Hill, Randle, Jr., 2901
Hill, Charles D., Jr., 4483
Hill, John W., 4394
Hilliard, Frank P., 4076
Himes, Harris D., 4998
Hitchcock, William T., Jr., 7284
Holland, Michael P., 9611
Howie, Robert G., Jr., 5221
Isbell, William P., 9402
James, Tommy L 0684
Johnnides, Victor 2589
Kaufman, Thomas W., 7230
Keir, Harold V., 1075
Keller, Robert P., Jr., 3494
Kern, Harold C., III, 7428
Kerr, William M., 4419
Kinsey, George H., 7683
Klocek, Joseph J., 9766
Kosinski, Ronald G., 7399
Kowalski, Michael V., Jr., 2251
Kroen, William C., Jr., 1660
Kropp, Edward H., 0530
Kruger, Lewis W., 8722
Lampo, Stephen F., 8474
Laterra, Joseph, 4285
Lemoine, Ned J., 8042
Lewis, Tyrone L., 9449
Lewis, Francis E., 9456
Ley, Andrew J., 1183
Loughman, Robert J., 7624
Lynch, Stephen J., 2279
MacNamee, John T., 0427
Mange, Gerald B., 6214
Martinazzi, Robert, 5176
Maxey, Richard D., 1091
McAninch, Thomas W., 9145
McGinty, James P., 3940
McGrath, Wayne J., 2988
McMullan, Thomas P., 0217
McNeill, Thomas P., 6446
Metschan, John A., 0333
Mills, John M., 3208
Monserrate, Lawrence C., 2717
Moore, James D., 4196
Morgan, Charles D., 2058
Morgan, Ronald B., Jr., 8939
Nemetz, Paul T., 0934
Nisewaner, Ken W., 5533
Nullmeyer, William M., 7049
Oberdorf, John G., 5758
O'Hare, Patrick A., 7022
Oleszycki, Charles R., 7357
Olson, Kenneth R., 4850
O'Neill, Charles W., 3928
O'Rourke, Robert J., 9301
Pardoe, Craig J., 1820
Parish, Mark D., 3319
Patrick, Carl W., 3874
Payne, John S., 8895
Perry, Larry E., 7602
Peterson, Jeffrey L., 7792
Poole, Henry J., 8036
Powell, Norris L., 1141
Powers, John C., 8182
Preston, James J., 7337
Reilly, Michael W., 2468
Remily, Daniel R., 4103
Remme, Michael J. W., 2544
Reynolds, David B., Jr., 9384
Richard, Lawrence G., 1580
Richards, Robert M., Jr., 8636
Robinson, Theodore C., III, 0079
Romanetz, Nicholas S., 6350
Rooth, Eric L., 5221
Rose, George D., 6875
Rossey, Paul W., 9859
Rottrup, Lowell C., 4918
Ruebenacker, Paul C., 6034
Ruzicska, Joseph G., 0201
Sanford, Steven R., 8737
Sawyer, David T., 4082
Scheer, Arthur L., Jr., 1818
Schultz, Frank A., III, 7021
Schwarz, William O., 4633
Scotten, William E., 3464
Shaw, Dennis R., 9026
Sinclair, James W., 5996
Skatoff, Leonard L., Jr., 9485
Smith, Donald D., 1996
Snipes, Douglas C., 8567
Souders, John E., 8332
Stabile, Michael A., 8165
Stacey, Wayne R., 1481
Steiner, Ted A., 1226
Stocker, Norman R., 5149

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Utley, Thomas R., 2519
Vogt, H. C., 5201
Vontagen, Karl E., 7914
Wallace, Paul H., 1914
Walters, Kenneth J., 2610
Weaver, Henry J., 1413
Weh, Allen E., 5804
Weiner, William J., 3145
Welch, Robert E., 9037
Wells, John D., Jr., 8598
Whitaker, Alexander W., 4386
White, David H., Jr., 6086
Whitworth, John R., 7643
Wiggins, Bruce E., 6688
Wilson, Eleanor M., 2794
Winters, William D., Jr., 9020
Wright, Broadus H., 0439
Wright, Robert B., 2825
Young, Walter R., 3220

Executive nomination received by the Secretary of the Senate September 1, 1982, under authority of the order of the Senate of August 20, 1982:

DEPARTMENT OF STATE

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State, vice Walter J. Stoessel, Jr.

Executive nominations received by the Secretary of the Senate September 2, 1982, under authority of the order of the Senate of August 20, 1982:

DEPARTMENT OF STATE

Henry Allen Holmes, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Rozanne L. Ridgway, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

DEPARTMENT OF EDUCATION

Lawrence F. Davenport, of Virginia, to be Assistant Secretary for Elementary and Secondary Education, Department of Education, vice Vincent E. Reed, resigned.

COPYRIGHT ROYALTY TRIBUNAL

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982, reappointment.

Executive nominations received by the Senate September 8, 1982:

DEPARTMENT OF STATE

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs, vice Myer Rashish, resigned.

DEPARTMENT OF EDUCATION

Gary L. Bauer, of Virginia, to be Deputy Under Secretary for Planning and Budget, Department of Education, vice Gary L. Jones.

Charles L. Heatherly, of Virginia, to be Deputy Under Secretary for Management, Department of Education, vice Kent Lloyd, resigned.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Alfred J. Fleischer, Sr., of Missouri, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1982, vice Kennon V. Rothschild, term expired.

Alfred J. Fleischer, Sr., of Missouri, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1985, reappointment.

PEACE CORPS

Edward A. Curran, of Maryland, to be Deputy Director of the Peace Corps, vice Everett Alvarez, Jr.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be lieutenant colonel

Rome, William J., 183-38-5130

To be major

Rogerson, John H., 144-34-6729

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

MEDICAL CORPS

Colonels

Berman, Irwin, 461-40-7817
Cadol, Donald E., 529-38-5986
Rasberry, James N., 427-50-1937

Lieutenant colonels

Brodie, Donald E., 221-20-2508
Brown, Tommy J., 436-44-0141
Kahn, Patricia J., 308-34-2889
Komes, Sermsook, 116-34-5518
Laneve, Ralph J., 233-42-6392
Lazarini, Jose A., 577-40-1065
McCreary, Maurice L., 270-32-6105
Milnor, William H., 425-90-2598
Osterholzer, Heinz O., 152-32-2759
Pierce, Edward V., 563-46-2255
Podgore, John K., 379-40-2694
Rhodes, Miller F., 156-34-0204
Rosen, Howard M., 119-24-4346
Sandri, William N., 148-20-4676
Shelton, Edward J., 516-26-9890
Theard, Franz C., 577-66-9759
Watanabe, Henry, 576-28-2930
Williamson, Gary B., 258-74-7534
York, Lester A., III, 007-42-4879

Majors

Flynn, Mary M., 476-42-0446
Gelnett, Mary J., 179-36-4357
Moss, Jesse, Jr., 462-60-3577
Parker, James W., 461-86-6693
Taveau, Horatio S., 065-34-0164

Captains

Andersen, Christian T., 021-46-2011
Castro, Timothy J., Jr., 252-94-9201
Davis, William H., 256-76-5233
Gordon, Wayne H., 451-76-6942
McLeod, John F., III, 247-84-7011
Pfaff, James A., 474-68-5483
Radents, William H., III, 404-88-2738
Rochon, Roy B., 457-13-6444
Roser, John F., Jr., 144-46-0396
Simon, Paul J., 166-46-1383
Smith, Robert G., 390-48-4621
Stuuy John W., 069-44-9495
Whitlock, Warren L., 237-94-4165
Wright, Jack L., 224-62-9209

ARMY NURSE CORPS

Lieutenant colonel

Taylor, Venorise M., 466-40-0534

Majors

Greenfield, Elizabeth, 213-54-3112
Vanhorne, Arlene M., 508-64-2316
Wiegand, Joyce L., 144-30-7005

Captains

Baxter, Roger D., 536-60-4527
Booth, Christine K., 575-54-5367
Connor, Susan G., 136-40-6865
Driggers, Karen R., 177-44-9196
Howell, Mary E., 548-66-6494
Kirby, Diana C., 479-68-7711
Perkins, Charles B., 440-46-4369
Silvers, Selah G., 150-36-0888

First lieutenants

Daly, Mary C., 120-50-6195
Sunshine, Mary M., 522-88-0777

MEDICAL SERVICE CORPS

Majors

Goodwin, Larry N., 261-76-5406
Lynn, David E., 222-28-6597
Macdonald, Edward A., 457-78-3087
Proctor, Michael I., 458-70-9900
Sheets, David L., 558-60-1939
Thompson, James W., 455-70-5169
Wells, Dawn, 396-52-0796

Captains

Baker, Nancy A., 510-52-0420
Bell, Clinton M., Jr., 415-68-1315
Bice, William S., 321-48-8072
Chapin, Mark G., 045-50-2908
Crook, Kenneth R., 326-46-7365
Hartley, Michael W., 558-58-8354
Kociscak, William M., 472-62-4763
Lord, Stephen E., 556-82-5452
Mack, Fred D., 587-56-5082
Mulligan, Gregory P., 466-76-9510
Perry, Randy 243-88-4041
Stanley, David L., 239-76-7061
Toelkes, David E., 246-74-7033
Treadway, Steven G., 414-92-1271
Williams, Dennis L., 521-68-5943
Zimmerman, Brian L., 220-46-9950

First lieutenants

Collier, Ann M., 367-74-1053
Hellman, Joseph P., Jr., 212-62-8194
Norris, Gary C., 254-96-5201
Sanford, Edward J., 217-60-9082

Second lieutenant

Palange, Valentina H., 006-60-6991

DENTAL CORPS

Majors

Lund, Douglas F., 572-56-3851
Stewart, Jack C., 410-72-5426
Stonerock, Robert L., 507-64-0463

Captains

Boice, Gregory W., 543-66-7128
Cook, Lawrence J., 470-62-3070
Foster, Newton H., IV, 545-84-9122
Nosal, Gregory, Jr., 143-40-1067
Powell, Douglas A., 257-88-4431
Quinones, Deogracia 584-80-2598
Smith, Milton L., 287-54-9009
Worthington, Roger C., 400-84-3906
Yard, Robert A., 497-54-6997

VETERINARY CORPS

Major

Slaytor, Michael V., 463-72-2508

Captains

Baxter, Nathan F., 334-46-6520
Bludau, Colin E., 463-70-4371
Long, Richard E., 492-62-2683
MacIntire, Jeffrey S., 131-38-5078
Martin, Dale G., 484-70-4679

IN THE NAVY

The following-named Naval Reserve Officers Training Corps candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law:

Batchelder, Craig D.
Beierl, John S.
Carlson, Christopher P.
Clark, Julia D.
David, Harold W., Jr.
Elliott, Wade B.
Greer, Gordon B., Jr.
Hanson, James C.
Harris, Michael W.
Mischke, John G.
Morse, Christopher A.
Perretta, David A.
Pfaff, Stephen H.
Plosay, James R.
Ramsey, Robert G., Jr.
Ruud, Paul E.
Souter, Charles R.
Stanford, Michael L.
Veto, Timothy A.
Vojvoda, Richard A., Jr.
Ward, Robert E., Jr.
Woodard, Charles W.

Luisito J. Arevalo, Enlisted Commissioning Program candidate, to be appointed a permanent ensign in the line or staff corps of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named Naval Reserve officers for permanent appointment in the line or staff corps of the U.S. Navy in the permanent grade of ensign, subject to qualification therefor as provided by law:

Allison, Douglas V.
Bergs, Ivars R.
Coy, Lawrence S.
Croy, Jeffrey S.
Dupree, Richard A.
Farquharson, Ian B.
Husemann, Christopher J.
Johnson, Alan F.
Kegley, Gary L.
Kirby, Stephen H.
Lasky, Larry W.
McCabbe, John C., II
McClure, Michael D.
Michaels, David S.
Piotrowski, David C.
Searight, David L.
Senteio, Stephen M.
Smith, Peter F.
Solohub, Roman T.
Stoffregen, James R.
Sullivan, Terence P.
White, William D.
Woodyard, Bruce L.

Capt. Lloyd B. Nichols, U.S. Navy, Retired, to be reappointed a permanent captain from the Temporary Disability Retired List, subject to qualification therefor as provided by law.

Commander Kermit R. Booher, Jr., Medical Corps, U.S. Navy, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

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HOUSE OF REPRESENTATIVES—*Wednesday, September 8, 1982*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. PRICE).

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for all the blessings of life and for Your continued providence to us. We thank You for Your grace which fills our lives with hope and for Your bountiful love which surrounds us and gives us faith for each new day.

At this time we are particularly thankful for the life of ADAM BENJAMIN and for his good works done for the people he represented. We are conscious of his dedication to his tasks, his friendliness, and openness to those he met, and his care and concern toward those in need. We ask Your special blessing upon his family and those who mourn his passing, that Your peace that passes all human understanding may be with them now and during all the days to come. In Your holy name, we pray. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last legislative day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **WALKER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER** pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 17, answered "present" 4, not voting 143, as follows:

[Roll No. 306]

YEAS—268

Akaka
Albosta
Alexander
Annunzio
Applegate
Archer
Ashbrook
AuCoin
Badham
Bailey (MO)
Bedell
Beilenson
Benedict
Bennett
Bethune
Bliley
Boner
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Courter
Coyne, James
Coyne, William
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dicks
Dixon
Dorgan
Dornan
Downey
Dreier
Duncan
Dunn
Dwyer
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fish
Fithian
Flippo
Ford (TN)
Fowler
Frank
Frenzel
Frost
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gradison
Gramm
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hightower
Hiler
Hillis
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Levitas
Lewis
Livingston
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Martin (NC)
Martin (NY)
Matsui
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Michel
Mikulski
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Obey
Oxley
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Pickle
Porter
Price
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Scheuer
Schneider
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shuster
Simon
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Volkmer
Walgren
Wampler
Watkins
Waxman
Weber (MN)
Weber (OH)
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)

NAYS—17

Barnes
Butler
Clay
Emerson
Evans (IA)
Forsythe
Goodling
Ireland
Jacobs
Johnston
Luken
Markey
Miller (OH)
Roemer
Schroeder
Smith (OR)
Walker

ANSWERED "PRESENT"—4

Bonior
Broomfield
Dymally
Ottinger

NOT VOTING—143

Addabbo
Anderson
Andrews
Anthony
Aspin
Atkinson
Bafalis
Bailey (PA)
Barnard
Beard
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonker
Breaux
Brown (OH)
Burton, John
Chappell
Chappie
Chisholm
Collins (TX)
Conyers
Coughlin
Craig
Crane, Daniel
Crane, Philip
Crockett
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dingell
Donnelly
Dougherty
Dowdy
Early
Emery
Erdahl
Erlenborn
Ertel
Evans (GA)
Evans (IN)
Fields
Findley
Florio
Foglietta
Foley
Ford (MI)
Fountain
Fuqua
Garcia
Gejdenson
Gephardt
Glickman
Goldwater
Gray
Gregg
Grisham
Hansen (ID)
Harkin
Hendon
Hertel
Holland
Holt
Jeffries
Kemp
Kennelly
Kogovsek
LeBoutillier
Lee
Lehman
Leland
Lent
Loeffler
Long (LA)
Lott
Marks
Marlenee
Marriott
Martin (IL)
Martinez
Mattox
Mavroules
McCloskey
McKinney
Mica
Miller (CA)
Mitchell (MD)
Moffett
Murtha
Napier
Nelligan
O'Brien
Oberstar
Pashayan
Patman
Paul
Petri
Peyser
Pritchard
Pursell
Rahall
Rangel
Roberts (KS)
Roberts (SD)
Rodino
Rosenthal
Rudd
Sabo
Santini
Savage
Sawyer
Schumer
Shelby
Shumway
Siljander
Smith (AL)
Smith (IA)
Spence
Stump
Tauke
Vento
Washington
Weaver
Weiss
White
Whitehurst
Whittaker
Williams (MT)
Winn
Wright
Young (AK)
Zablocki
Zeferetti

☐ 1215

Mr. **MOLLOHAN** changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) entitled "An act to amend

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

chapter 207 of title 18, United States Code, relating to pretrial services."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 1409. An act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.

The message also announced that the Senate insists upon its amendment to the amendment of the House to the bill (S. 1409) entitled "An act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri basin program, Wyoming, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. **McClure**, Mr. **Hatfield**, Mr. **Domenici**, Mr. **Wallop**, Mr. **Warner**, Mr. **Jackson**, Mr. **Johnston**, Mr. **Ford**, and Mr. **Metzenbaum** to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3517. An act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes; and

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes.

The message also announced that the Senate had passed bills, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S 503. An act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, North Dakota, and for other purposes;

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes;

S. 1940. An act to amend chapter 209 of title 18, United States Code, relating to extradition, and for other purposes;

S. 1986. An act to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the U.S. Court of Claims, and for other purposes;

S. 2222. An act to revise and reform the Immigration and Nationality Act, and for other purposes;

S. 2355. An act to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service;

S. 2874. An act to amend the Act of March 16, 1934, as amended, to credit entrance fees for the migratory-bird hunting and conservation stamp contest to the account which pays for the administration of the contest;

S.J. Res. 209. Joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week";

S.J. Res. 226. Joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day";

S.J. Res. 227. Joint resolution to establish "National Firefighters' Week";

S.J. Res. 233. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; and

S. Con. Res. 117. Concurrent resolution expressing the sense of the Congress that September 4, 1982, the one hundredth anniversary of Thomas Edison's Pearl Street central power station, should be commemorated as "Pearl Street Centennial Day."

COMMUNICATION FROM THE CLERK OF THE HOUSE

The **SPEAKER** pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
August 23, 1982.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received at 10:25 a.m. on Monday, August 23, 1982, the following messages from the Secretary of the Senate:

(1) That the Senate agree to the amendments of the House to the amendments of the Senate to the bill H.R. 6350.

(2) That the Senate passed without amendment H.R. 3345.

(3) That the Senate passed without amendment H.R. 6732.

(4) That the Senate passed without amendment H.R. 6128.

With kind regards, I am

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills on Friday, August 20, 1982:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The following enrolled bills on Tuesday, August 24, 1982:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes; and

S. 2248. An act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

The following enrolled bills on Wednesday, August 25, 1982:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes;

H.R. 3126. An act to direct the Secretary of the Department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes;

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 6350. An act to amend title 38, United States Code to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration health professional scholarship program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La. and for other purposes.

H.R. 6732. An act to amend the International Safe Container Act.

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

The following enrolled bills on Thursday, August 26, 1982:

H.R. 3239. An act to amend the Communications Act of 1934, and for other purpose; and

H.R. 3663. An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

And the following enrolled bills on Wednesday, September 1, 1982:

H.R. 4961. An act to provide for tax equity and fiscal responsibility, and for other purposes; and

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

CONFERENCE REPORT ON S. 923, PRETRIAL SERVICES ACT OF 1982

Mr. **HUGHES** submitted the following conference report and statement on the Senate bill (S. 923) to amend chapter 297 of title 18, United States Code, relating to pretrial services:

Conference Report (H. Rept. No. 97-792)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and

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agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Pretrial Services Act of 1982".

Sec. 2. Section 3152 of title 18, United States Code, is amended to read as follows:

"§ 3152. Establishment of pretrial services

"(a) On and after the date of the enactment of the Pretrial Services Act of 1982, the Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise (to such extent and in such amounts as are provided in appropriation Acts), for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by a chief pretrial services officer selected under subsection (c) of this section.

"(b) Beginning eighteen months after the date of the enactment of the Pretrial Services Act of 1982, if an appropriate United States district court and the circuit judicial council jointly recommend the establishment under this subsection of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title.".

Sec. 3. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services

"(a)(1) With the approval of the district court, the chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

"(2) The chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(b) The chief probation officer in all districts in which pretrial services are established under section 3152(a) of this title shall designate personnel appointed under chapter 231 of this title to perform pretrial services under this chapter.

"(c)(1) Except as provided in paragraph (2) of this subsection, information obtained in the course of performing pretrial services functions in relation to a particular accused shall be used only for the purposes of a bail determination and shall otherwise be confidential. Each pretrial services report shall be made available to the attorney for the accused and the attorney for the Government.

"(2) The Director shall issue regulations establishing the policy for release of information made confidential by paragraph (1) of this subsection. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information made confidential under paragraph (1) of this subsection is not admissible on the issue of guilt in a criminal judicial proceeding unless such proceeding is a prosecution for a crime committed in the course of obtaining pretrial release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial services were provided.".

Sec. 4. Section 3154 of title 18, United States Code, is amended to read as follows:

"§ 3154. Functions and powers relating to pretrial services

"Pretrial services functions shall include the following:

"(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other person or the community, and recommend appropriate release conditions for such individual.

"(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3146(e) or section 3147 of this chapter.

"(3) Supervise persons released into its custody under this chapter.

"(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released to the custody of providers of pretrial services or under the supervision of providers of pretrial services, and any danger that any such person may come to pose to any other person or the community, and recommend appropriate modifications of release conditions.

"(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

"(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

"(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

"(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(10) To the extent provided for in an agreement between a chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, or the chief probation officer in all other districts, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

"(12) Perform such other functions as specified under this chapter.".

Sec. 5. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports

"Each chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, and each chief probation officer in all other districts, shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28 a report on the administration and operation of the pretrial services for the previous year.".

Sec. 6. The table of sections for chapter 207 of title 18, United States Code, is amended by striking out the item relating to section 3152 and all that follows through the item relating to section 3155 and inserting in lieu thereof the following:

"3152. Establishment of pretrial services.
"3153. Organization and administration of pretrial services.
"3154. Functions and powers relating to pretrial services.
"3155. Annual reports.".

Sec. 7. Section 604(a) of title 28, United States Code, is amended by—

(1) striking out "agencies" in paragraph (9);

(2) striking out "for pretrial services agencies" and inserting in lieu thereof "providing pretrial services" in paragraph (10);

(3) striking out "pretrial service agencies" in paragraph (11) and inserting "offices providing pretrial services" in lieu thereof; and

(4) striking out "pretrial services agencies" in paragraph (12) and inserting "offices providing pretrial services" in lieu thereof.

Sec. 8. During the period beginning on the date of enactment of this Act and ending eighteen months after the date of the enactment of this Act, the pretrial services agencies established under section 3152 of title 18 *of the United States Code in effect before the date of enactment of this Act may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under chapter 207 of title 18 of the United States Code.*

Sec. 9. (a) There are authorized to be appropriated, for the fiscal year ending September 30, 1984, and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the functions and powers of pretrial services established under section 3152(b) of title 18, United States Code.

(b) There are authorized to be appropriated for the fiscal year ending September 30, 1983, and the fiscal year ending September 30, 1984, such sums as may be necessary to carry out the functions and powers of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this Act.

And the House agree to the same.

Peter W. Rodino,
Bill Hughes,
John Conyers,
Robert W. Kastenmeier,
Dan Glickman,
Robert McClory,
Harold S. Sawyer,
Hamilton Fish, Jr.,
Managers on the Part of the House.

Strom Thurmond,
Charles McC. Mathias,
Paul Laxalt,
Joseph R. Biden,
Patrick J. Leahy,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The Senate bill provides for the establishment of pretrial services in each judicial district. The House amendment provides for the establishment of pretrial services in those districts with respect to which the district court and the circuit council have so recommended.

The conference substitute adopts the Senate position.

The Senate bill provides that, for an 18-month period following enactment of the bill, any pretrial services beyond the existing demonstration districts—which are specifically authorized to continue their operation during the 18-month period—are to be provided under the supervision of the chief probation officers, utilizing existing resources, with no authority for additional appropriations. After this 18-month period, pretrial services may also be provided under the supervision of chief pretrial services officers, who must be individuals other than those serving as probation officers under the authority of section 3654 of title 18. When the district court and circuit counsel recommended the establishment of pretrial services in these special districts, authority is provided for additional appropriations to support pretrial services. The Senate bill also specifically authorises appropriations necessary to continue the demonstration projects in effect prior to the date of enactment, for a period ending 18 months after the date of enactment.

The House amendment provides that, based on the recommendation of the district court and the circuit council, pretrial services may be provided under the supervision of either chief probation officers or chief pretrial services officers. There is no delay period in the availability of either type of pretrial services supervision, and the authority for appropriations extends to both types of management.

The conference substitute adopts the Senate position. This delay period is, in the opinion of the conference managers, sufficient for the district courts, circuit councils, and the Administrative Office of the U.S. Courts to evaluate the needs for pretrial services and the resources available in each district. This evaluation process, as described in more detail at page 10 of Senate Report 97-77, should begin immediately upon enactment of S. 923, and should permit the United States courts to identify those districts which are capable of providing pretrial services within existing resources and those which will need additional resources and will therefore be required to utilize the special districts provision of this statute.

The Senate bill provides that chief pretrial services officers and chief probation officers shall appoint such other personnel as required, and that the position requirements and rate of compensation of the chief pretrial services officer, the chief probation officer, and other personnel are to be established by the Director of the Administrative Office. The House amendment provides for the chief pretrial services officer to appoint additional personnel, and for position requirements and compensation of these persons to be fixed by the Director for the Administrative Office.

The conference substitute provides for the appointment of additional personnel by the chief pretrial services officer, and authorizes the chief probation officer to designate existing probation personnel to perform pretrial services functions. Authority for the chief probation officer to "designate", rather than "appoint", is necessary to remain consistent with the determination of the Managers that additional personnel will be appointed only in special districts under the supervision of chief pretrial services officers. Similarly, since the position requirements and compensation of probation officers and other probation support personnel are provided for in Chapter 231 of title 18, reference to them here is deleted.

Both the Senate and House bills provide for the confidentiality of information collected in the course of providing pretrial services functions. The conference substitute adopts the position of both bills, with language taken from both bills. The conference substitute clarifies that the protected information is that "obtained in the course of performing pretrial services functions. . . ." This carries out the purpose of protecting the relationship between the pretrial services officer and the particular defendant. Defendants may be reluctant to cooperate with pretrial services officers unless assured of the confidentiality of the information they reveal to the officers. The courts, in turn, would receive only incomplete information. The conference substitute also makes clear that the information is protected unless it is to be revealed for the purposes of a bail hearing. Hearings to determine whether a defendant's bail should be revoked are, or course, considered bail hearings.

The conference substitute requires the Director to issue regulations establishing the confidentiality of the information referred to above, and not just information contained in pretrial services files. Otherwise, as suggested above, the purpose of furthering the relationship between the pretrial services officer and the defendant, and thus of gathering the most complete information for the court, would be threatened.

Finally, the conference substitute provides that such information is not admissible on the issue of guilt in a criminal judicial proceeding unless the proceeding is for a crime committed in the course of obtaining pretrial release, or for the defendant's failure to appear on the case for which pretrial services were provided. In this case, the conference substitute adopts a combination of exceptions set forth in the Senate and the House bills. As described above, the limitation on admissibility is necessary to further the objective of ensuring that the court receives the most complete information possible. However, the exceptions are provided to ensure that defendants cannot attempt to take advantage of the pretrial services process and then shield themselves behind the guarantee of confidentiality.

Both the Senate and the House bills set forth the functions of providers of pretrial services, including collecting, verifying, and reporting to the court information about the defendant's pretrial release. The House bill also requires providers of pretrial services to inform the court if the release of the defendant may pose a danger to any other person or the community.

The conference substitute adopts the House position.

Both the Senate and the House bills require the providers of pretrial services to inform the court and the United States attorney of all apparent violations of conditions of release, and arrests of persons under their supervision or released to their custody. The House bill also requires providers of pretrial services to inform the court and United States attorney that the person may come to pose a danger to any other person or the community.

The conference substitute adopts the House position.

Peter W. Rodino,
Bill Hughes,
John Conyers,
Robert W. Kastenmeier,
Dan Glickman,
Robert McClory,
Harold S. Sawyer,
Hamilton Fish, Jr.,
Managers on the Part of the House.

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Charles McC. Mathias,
Paul Laxalt,
Joseph R. Biden,
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Managers on the Part of the Senate.

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THE LATE ADAM BENJAMIN, JR.

(Mr. HAMILTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMILTON. Mr. Speaker, with deepest regret I inform the Members of this House of the death of our colleague, Adam Benjamin. I extend my most heartfelt condolences to his wife, Patricia, and his children, Adam, Alison, and Arianne.

All of us who knew him are grateful for his life and the contributions he made to his friends, community, State, and Nation. His life, from West Point to Congress, was in the highest, finest tradition of public service.

Adam was an extremely effective legislator. I know of no one who was so quick to master the procedures of the House and use them for the benefit of his constituents. He set a record by becoming the chairman of an appropriations subcommittee in his second term. There used to be a saying at the Indiana Statehouse that Adam Benjamin was the only member of the general assembly who read all the bills. That gives some indication of the respect his fellow legislators had for Adam's legislative skill. Adam's drive for self-improvement enabled him to study for a master of law degree to teach academic courses while carrying on his duties as a Member of Congress.

Adam believed in, and lived for, representative government. He came from his constituents; he was a part of them; and he worked hard for them. Their problems and hopes, troubles and ambitions were his as well. Their welfare was his primary concern. He thought constantly of how he might serve them better. Adam had pride in his work as a politician and legislator. He believed it was the politician's job to make the country work, to provide stability, to accomodate different points of view, to develop a consensus, and to meet the needs of people.

He believed that a politician's work is the chief means of achieving justice for all persons.

His death cut short a brilliant career in the House of Representatives. We will miss him as a friend, politician, and legislator. All of us who knew him will be able to hold our heads a little higher because he contributed, as few are able to do, to making this House, as well as representative government, work better. His loss will be deeply felt by all of us who knew and worked with him.

The funeral for Adam will be at 10 a.m. Friday, September 10. It will be held at the Sts. Constantine and Helen Greek Orthodox Cathedral, 8000 Madison Street, Merrillville, Ind. Visitation hours will be Thursday, September 9, from 12 noon to 10 p.m., at the funeral home of Stilinovich, Palmer, Wiatrolik, 4201 Broadway, Gary, Ind. A delegation will depart from the House steps at approximately 7:30 a.m. on Friday, September 10, for Gary, Ind., returning immediately upon conclusion of services in Indiana.

□ 1230

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Speaker, we all were shocked and saddened with the news yesterday morning of the loss of our dear friend, Adam Benjamin. We all learned to know him, some more recently than some of the rest of us from Indiana. Adam was one of the hardest working Members of Congress, as he had been a hard working State legislator. With his passing, he will be missed here in this House. We offer our condolences and our prayers to Pat and his children. The loss will be to our Nation to lose a very valuable, caring, and nice person that Adam was.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. JACOBS. Mr. Speaker, I thank the dean of our delegation for his contribution. Sadness and the understanding of death lie very heavily across this Chamber on this Wednesday. We had a colleague amongst us who was quick, alive, warm, friendly, and smiling just a few days ago. We are reminded that no person is an island. Particularly in this Chamber, we are a part of one another, and how childish our selfish tragedies seem at a time like this. Death ends a life, but it does not end a relationship, which will continue on in our hearts and in our minds. It does not make any difference whether it is a chamber of commerce person or a labor person in Indiana who speaks of Adam Benjamin. The regard is high and is immense for his scholarship, for his fairness and for his just plain friendliness.

There is an old advertisement that says, "Nobody doesn't like Sarah Lee." And, as you shall soon see by the remarks that are to follow, nobody didn't like Adam Benjamin.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Speaker, it was with great shock and with great sadness that I learned of this tragic event, the passing of our colleague. I had first gotten to know Adam when we went to the Indiana General Assembly together in 1967 and served in the house where we sponsored a good number of bills together. As I got to know Adam and worked with him we became quite good friends. He typified, as the gentleman said, everything that is good about politics and good about government. He was a symbol there. We used to call him Mr. Clean because of what he stood for and how he conducted himself. I would say in public service I have known many fine people and many great people. Adam is of that category, probably the most ethical man in politics that I have ever known.

Mr. HAMILTON. I thank the gentleman for his remarks.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. SHARP. I appreciate the gentleman yielding.

Mr. Speaker, I want to join my colleagues in recognizing our distinguished Hoosier colleague, who was a model, I think, for many of us as legislators. He certainly was an exceptional public servant who did honor to our people and honor to this Institution.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I want to join in mourning the passing of Adam Benjamin. There was no more dedicated or hardworking Member of this House.

He served as the chairman of the Transportation Appropriations Subcommittee, of which I am the ranking minority member. We sat shoulder to shoulder through countless hours of hearings, markups, and conferences with the other body.

Adam sought solutions, not contention. He sought results, not showmanship. He was a champion of his people in his district. He was a giant of a man, a block of granite.

The people of Indiana have lost a great Congressman; the Congress has lost a fine subcommittee chairman, and I have lost a friend.

Mr. HAMILTON. I thank the gentleman for his remarks.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. FITHIAN. I thank the gentleman for yielding.

Mr. Speaker, I had the privilege and the pleasure to share in the representation of Adam's home county, Lake County. I think the best way to describe Adam Benjamin is to say that he was a legislator's legislator. And the best phrase I know of to describe Adam's life's work is that "he got things done," a tremendously effective person who knew no hours limitations on himself. His long hours contributed to democracy and to this House. We shall all miss him in Indiana, and we shall miss him in this House. The Nation has lost a great legislator. I extend my heartfelt condolences to the family of our late and great colleague, Adam Benjamin, Jr.

Mr. HILER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. HILER. I thank the gentleman for yielding.

Mr. Speaker, I, too, was deeply shocked and saddened by Adam's passing. As first-term Congressman from the other party, quite often you do not know what kind of relationships that you will be able to develop over time. But having the opportunity to fly with Adam many, many times to and from Chicago I got to know Adam as a friend and as a fellow Congressman. I think in those trips to and from Washington I learned a great deal not only about his dedication to his family, whether it was the last time I talked to him and he was the next day going to a baseball game with his children, or whether it was on Sunday afternoons or Sunday evenings hurrying to catch a plane, when we had been at the same parade, or at the same function, so that he could be here first thing Monday morning to get the job done here. Indiana will certainly miss Adam Benjamin. The northwest Indiana sector had a fine Representative, and whoever follows him will have very large shoes to fill. I, as a new Member of Congress, will miss Adam as well.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding and I express my gratitude to him for taking this time to relate to one of the great friends I have had in the Congress.

Mr. Speaker, as was pointed out earlier, I, too, flew from Washington to Chicago, and I developed a truly wonderful friendship with Adam. I never thought that it would so suddenly end.

As a man, Adam was tough, he was generous and he was loving. As a Congressman, his achievements were as stunning as they were profound. Adam was shrewd, he was honest, and he was effective. The effectiveness of the man was that he defeated one of the most powerful Members of Congress for that seat in Indiana. His rise on the Appropriations Committee was nothing less than miraculous. Adam was a man certainly of national stature. Yet his dedication to his constituents ran very deep. Adam Benjamin won many, many battles for Gary, and I am just happy to say that in winning those battles some of the victory spilled over into Chicago. He was a de facto member of the South Side of the city of Chicago because what was good for Gary and Indiana and Illinois was also good for my city. He also expected and received support from the Illinois delegation. I am proud of that. Adam was a West Pointer and a marine. He was intensely proud of his family. He was a great storyteller and a magnificent person to share a martini with at week's end. Only in his death do we sadly recognize the national achievement and the personal wealth that were in one person, Adam Benjamin. I express to his family my deepest sympathy.

Mr. COATS. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Indiana.

Mr. COATS. I thank the gentleman for yielding.

Mr. Speaker, I think our colleagues are witnessing today the deep respect and admiration that both sides of the aisle have had for Adam Benjamin. His loss is tragic. My first reaction was that Adam is as close to irreplaceable in Congress as any person that I have known here. Even though I am a freshman from the party opposite of Adam's, that was no barrier to his taking me under his wing, putting his hand on my shoulder, helping me to understand the legislative process, and working with me together for the good of Indiana and for the good of this Nation. I will miss him greatly. My deep sympathies are extended to his family. Adam's loss is a loss to all of us.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, as a Congressman who has served on the Appropriations Committee and in the Steel Caucus and as one who was born in Indiana, I hope my colleagues will let me share their pride in Adam and their sorrow over his death. He had a penetrating, no-nonsense mind. In the words of the E. F. Hutton ads, when Adam spoke, people listened. We shall miss him very, very much.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I came to know Adam Benjamin because my son, who was a political consultant, was involved in his first campaign in which he was elected to the Congress. When I had my office over in the Cannon Office Building, it would not matter whether I went home at 7 or 11 o'clock at night; I went by Adam's office, and every time I went by his office, no matter how late it was, Adam was in there working. I never experienced anyone who spent the hours at night working that Adam did, for his constituents and for this House of Representatives. We will certainly miss him very much.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

Mr. MICHEL. I appreciate the gentleman yielding.

May I pick up on the remarks of the gentleman from Iowa, because I have known Adam Benjamin over the relatively short period of time that he served in this body. I can tell you that he lived to work. When I have been driving home in the immediate neighborhood, there was Adam at 8:30, 9 o'clock, just walking slowly back to his apartment. When I came back to work the next morning at 7:30, quarter to 8, there was Adam Benjamin walking more briskly back to his office again.

Having served with him on the Subcommittee on Appropriations, I can certainly attest to the industrious manner with which he approached any subject. If it was the Capitol Grounds around here that needed repair, he wanted to see it firsthand, to make absolutely sure that the expenditure of a few thousand dollars was justified. I did not know about the fact that he came from a legislature with the kind of a reputation for having read every bill that came before the legislature, but I can fully understand that, having served the brief period of time that I served with him.

I guess at this time there really is no center aisle because those of us on our side appreciate just as much as those of you on the majority side what a contribution Adam Benjamin has made to this House of Representatives. Seeing him operate, an "in-house" man at times, but also so well versed in the legislative ways, he brought credit to this House of Representatives. Each of us could take just a leaf from his book in how to conduct our lives on the floor of this House, on and off the floor. We are certainly going to miss Adam. I consider him one of those new-found friends, now lost, that I got to know in the House of Representatives, and I guess that is what makes this such a great place to have the opportunity to serve with people about whom we feel so strongly, and I certainly want to extend my unbounded sympathy to his wife and children in their hour of bereavement.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I believe the gentleman from Indiana has effectively summarized the characteristics of Adam Benjamin that made him so beloved to all of us who had the opportunity to work with him. I was particularly privileged to have served with Adam on the Budget Committee. Some of the traits that have been discussed already were the ones that stand out in my mind about Adam, particularly the hard worker attitude that he had.

When I first came to this institution, one of the oldtimers told me that

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around this place knowledge is power, which means that if you do your homework fairly and effectively, people will come to you to seek information. If you are honest with them, you gain a stature of power that is not measured by title or by office. Clearly Adam Benjamin was one of the most powerful people in this body because he was a prodigious worker who did his homework very effectively. And when you talked to him about an issue, he did not color the facts; he gave it to you straight. He was honest, he was independent. That made him a powerful and beloved individual. Another characteristic of Adam was his independence, the fact that he was a strong Democrat, and yet he crossed the aisle many times and voted for Republican amendments when he thought that was in the best interest of the country.

☐ 1245

Obviously, he had strong support from labor, organized labor, and working people, and yet a few months ago when I was in Gary at his request to speak to the chamber of commerce group there, it was obvious that he had very strong support and respect among management and the business community.

It is this honest and independence and hard work that made him stand out as a most effective legislator and a most effective national leader.

I will miss him very deeply as a friend. The Budget Committee and the whole process of the budget will miss him very deeply, because he did do his homework and he was effective.

I extend my very deepest sympathies to his family and friends.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, with a profound sense of shock and sorrow, I join my colleagues in paying a last tribute to Adam Benjamin. As a human being, and as a Member of this House, Adam embodied everything that was decent and good.

He was a caring person, with a deep sense of fairness and justice, and he was a warm personal friend of many Members of this House.

He was an exceptional legislator and public servant, who served with high distinction in the Indiana Legislature, and who in only three terms came to be recognized as one of the most respected and effective Members of the House. He was, in a word, a legislator's legislator, noted for his diligence, his knowledge of the procedures and the business of the House, and his skill in using the art of the possible to make good things happen.

In the House, there is no higher distinction than to be an effective chairman of an appropriations subcommittee. Adam earned that distinction on two appropriations subcommittees during his three terms on the committee.

It was my privilege to serve with Adam during his chairmanship of the Transportation Subcommittee. I served on that subcommittee for many years. I have a strong personal commitment to many of those programs, and I have had many deep and rewarding associations with members of that subcommittee.

Adam mastered the programs and the personalities of that subcommittee, and became one of the most effective members and chairman in its history. I am deeply grateful for the opportunity I had to serve with him, and to share his high abilities as a legislator, and his warmth and depth as a human being.

His ability and his depth and his warmth will be missed by this House and each of its Members. His public service will be missed by this country. I send my heartfelt condolences to Mrs. Benjamin and his family.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I thank the gentleman.

I certainly want to join the gentleman from Indiana in extending my sympathy to Adam's beautiful family. He was a wonderful father and husband and spoke of them very, very often.

Adam was a friend and classmate. I remember when we came in together to this fine body, he gave our class many innovative, creative ideas.

I think Adam was one of those public servants who very seldom would make headlines, but he was one of the most quietly effective and decent people for whom this country could hope.

In addition to that, he not only served Gary, Ind., so effectively and beautifully, and unselfishly, he also was very generous with his time for other constituencies. I know that the people of the city of Cleveland, Ohio, our mayor and Congressman Stokes, myself, and others, are especially grateful for the hard work that he performed on our behalf in terms of the supplemental bill that we will be taking up shortly.

So all of us will miss Adam tremendously, but we will remember him. I believe for me, anyway, he will always be a prototype and a model of what a public official should be.

Mr. FARY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

● Mr. FARY. Mr. Speaker, as Congress reconvened from the district work period, I am sure that our colleagues join me in the grief that I felt upon learning of the death of Adam Benjamin. He was a dear friend to all of those whose lives he touched, and he will be sorely missed.

Adam and I became close friends shortly after his arrival to Congress in 1976, traveling together frequently on Midway Airlines from Chicago's southside. I think the fact that we had many things in common enabled us to develop a quick and lasting friendship. We were both Democrats who represented a Midwestern district, and had a long record of public service in our respective State legislatures. We were both keenly interested in transportation issues, he as chairman of the Transportation Subcommittee of the House Appropriations Committee and I, as a member of the House Public Works and Transportation Committee.

The true testament to Adam, though, is that aside from any common interests, he could befriend anyone. Adam was an approachable, sensitive, warm person and genuinely liked people, regardless of their ideology or party affiliation. I am sure that is exactly how he became such a successful and respected leader in his community.

Coupled with his personal charm, Adam was also one of the most tireless, dedicated workers of this body. The stories of his late night and weekend work hours have almost become legend in his relatively short tenure here. The industry and commitment which he brought to his job will be hard to match for many years by those of us remaining. As if the role of a Congressman were not demanding enough, Adam still found the time and energy to better himself by attending Georgetown for a masters of law degree. I trust our House leaders and fellow Members recognized immediately this inherent perseverence and dependability, when Adam was awarded a seat on the powerful Appropriations Committee.

Mr. Speaker, this body is composed of a variety of Members who span a broad range of stature. I am sure, with time, it will become evident that Adam Benjamin made his mark as a giant amongst us. I offer my heartfelt condolences to his entire family.●

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, I thank the gentleman for yielding.

I learned about Adam Benjamin before he got here. He had the reputation in Indiana and in the Indiana Legislature for being the classic inside man. He was a real pleasure to work with. I had the privilege of working with from the very beginning and it was fascinating to watch him move in ways that most people do not, to get to the core of the House.

I doubt very much whether most people understand how potent he was in the first few months that he was here. He knew his way around in a way that was almost unbelievable in 6 months and he was a force and an influence in a year. His power and influence for good and for his State grew monthly. He was one of the most extraordinary Members I have ever seen in this institution and I doubt that even his close friends fully understand how much influence he had.

The country is going to miss ADAM BENJAMIN. The institution is going to miss ADAM BENJAMIN. The district and the State that he represented are going to miss him and I have nothing but the deepest sympathy for his family, because I know they will miss him, too.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman.

ADAM occupied the same corridor as I do in the Cannon Building, two offices down. No matter what time I left that office, 7 o'clock, 8 o'clock, 9 o'clock, 10 o'clock, ADAM's light was still on; no one in his office, just ADAM sitting at his desk poring over legislation, working on issues long after every other Member of Congress had gone home. He worked very, very hard. He worked too hard. He worked harder than any man I have ever met in any field of endeavor.

I am very sorry to see him pass, because he was one of the most honest, tough, ethical people that I have ever met. He was somebody who if he had worked a little less hard could have been with us another 20 or 25 years serving this institution and would have left a record that would have been unparalleled because of his ability to understand how this place worked and how to make it work for the issues and the beliefs that he held very dearly.

I will miss him very much, because he was a good friend of mine, and I believe the Congress and the people of this country will miss him just as much.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I subscribe to the many wonderful statements that have been made on the untimely passing of our friend, ADAM BENJAMIN.

On the Appropriations Committee, I do not know of anyone who applied himself more closely, who was more effective and who did it with as little fanfare as did ADAM BENJAMIN. Notwithstanding all the work that he did in so many fields, if ever there was a need for a volunteer, ADAM was willing to take that on, too.

So I say again that I subscribe to the many things said here and I add to it that his untimely passing leaves a void that is going to be difficult to fill and nobody will ever take his place, actually, but it will take two or three to take up the load that he carried.

I extend my deepest sympathy to his family. He leaves a monument and a mark here that all of us might well try to emulate.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I want to join my colleagues in paying tribute to ADAM BENJAMIN.

Our colleague, the chairman of the Appropriations Committee, summarized it well when he said that ADAM BENJAMIN did things with little fanfare. He was not a meteor out there. He was not doing things because it might make television tomorrow. He was a solid, substantial legislator, who contributed in a very meaningful way to what goes on in this body.

Our colleague, the gentleman from Missouri (Mr. BOLLING) was correct when he said this institution, this House, is going to miss him.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to join my colleague, the gentleman from Indiana, and my other friends and colleagues in expressing sympathy to the family of ADAM BENJAMIN.

We came to Congress together. He was a good friend, which of course was strengthened by the fact that he was educated in my district during his younger life.

He worked hard and he was what we call a real workhorse, as opposed to a show horse. This institution is all the finer because of it. This country is all the better off because of ADAM BENJAMIN.

I know that his memory will linger with us for many, many years.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, I thank the gentleman for taking this time to give those of us who knew and loved ADAM BENJAMIN the opportunity to express our deepest and sincerest sympathy to his family.

Late yesterday afternoon, having lost the governorship in my State, I boarded a plane in Atlanta to return to Washington to complete my career in the Congress. I picked up a paper and opened it up and first learned of ADAM's death.

It suddenly dawned on me that all I have lost was an election, but that ADAM's wife has lost a husband. His children have lost a great father. His district and his State have lost a tremendous Representative and this Congress and this country have lost, I think, one of the finest men who ever served in this body.

I was a fellow Appropriations Subcommittee chairman with ADAM. No Member, to my knowledge, did his work more effectively, as has been pointed out, with less fanfare, but with more dignity and effectiveness than did ADAM BENJAMIN.

I extend my deepest sympathy to his family and to his district and to his State.

I think the highest compliment I can pay ADAM BENJAMIN is to say that he will truly be missed. I am a better person in having known my friend, ADAM BENJAMIN.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman.

I would like to express my deepest sympathies to the family of ADAM BENJAMIN.

I was fortunate to get to know ADAM BENJAMIN as a member of the executive committee of the Steel Caucus and I watched him as a leader of that caucus. I listened and learned as he handled a wide variety of issues of critical importance to this Nation's steel industry. I grew to respect his ability and to admire him greatly.

It has been said that he operated without fanfare, that he was concerned with substance—that is so true. He was the kind of Congressman that we would hope for on both sides of the aisle—for the benefit of the body and for the benefit of the American people.

ADAM BENJAMIN was also a kind and affectionate human being. He did not seem to have, and if he had them, I never saw them—any partisan bones in his body. He would work with Members of this side of the aisle just as well as he would work with Members of his own party. Respect and friendship were in surplus from his fellow Members.

He will certainly be missed by his colleagues on the Steel Caucus and throughout this House. I heard some people talking the other day about what a Congressman has to do to achieve national recognition. You would think that national recognition would come to a Congressman who worked and achieved the way ADAM BENJAMIN did. That is not exactly the way things work out, but when people ask Members of Congress who they admire and who they respect and who they would like to emulate, certainly the name of ADAM BENJAMIN would

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stand tall before all of us as a name to remember.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding.

I join my colleagues in expressing my condolences to the family of my dear departed friend, Adam Benjamin, with whom I had the privilege of serving on the Appropriations Committee.

Like others who have expressed their admiration for Adam today, I respected Adam for his quiet courage and the dedicated manner in which he went about his work in service to his Nation.

I was taught as a child at my mother's knee that loyalty was the greatest virtue, and I believe that Adam demonstrated loyalty to the people that he worked for, to the Nation that he served, and to the family that he loved. He will be dearly missed in Congress. While his lights in the office in the Cannon Building will be darkened, the light that Adam Benjamin shone here in Washington will long be remembered.

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Mr. McDADE. Mr. Speaker, will the gentleman yield to me?

Mr. HAMILTON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank my colleague for yielding.

Mr. Speaker, I was shocked, as all of us were, to read of the untimely passing of our dear friend Adam Benjamin. I want to join my colleagues on both sides of the aisle in paying tribute to a distinguished and dedicated Member of this body. Adam's life will always stand as a great symbol for all of us to strive for in achieving excellence, in attempting to achieve excellence as we go about our legislative duties.

I do not know of a finer man than Adam. Adam was a marvelous man to deal with. He knew all the intricate details of every piece of legislation that he handled, and others.

Mr. Speaker, I used to enjoy talking with him about Hoosier hysteria and Hoosier mania and how all the teams were doing which represented that great part of this Nation, which he so ably represented. He was a fine gentleman.

I was doubly saddened to read that he had come back to town to put his son into school; to have it happen in such a way as that is the height of pain, I am sure, for he and his family.

The Nation is poorer for his loss. This House is poorer for his loss.

I want to extend my deepest condolences to his survivors and I thank the gentleman for taking the time to permit us to pause to pay tribute to a truly great American, the late Adam Benjamin.

● Mr. McCLORY. Mr. Speaker, joining in this final tribute to our colleague, Congressman Adam Benjamin, Jr., of the First District of Indiana, I must first indicate the deep shock which accompanied the report of his unexpected and abrupt passing.

Mr. Speaker, my association with Congressman Benjamin was far more intimate than that which I have experienced with most of my colleagues in this body. As a Representative in Congress from the great steel-producing area of Gary, Ind., Adam Benjamin and I worked closely together as members of the Steel Caucus. Adam's consideration of the views and interests of others and his ability to organize and apply the joint efforts of those of us who were having similar economic problems were among his special talents.

Mr. Speaker, Adam Benjamin has been one of the harder working Members of the Congress who earned the respect and enjoyed the friendship of those on both sides of the political aisle. In recalling his service and his useful life in our Nation, I take this occasion also to express my respect and deep sympathy to his widow, Patricia, and to all members of his family.●

● Mr. WIRTH. Mr. Speaker, I want to express my deep sorrow at the passing of our distinguished and well-loved colleague, Adam Benjamin. His sudden death is a great personal loss for me and a great loss as well for the Congress and the Nation it serves.

Adam was a legislator in every good sense of the word. His ability to move complex legislation through the House—building coalitions, crafting compromises, and giving all affected parties a fair say in the final product—exemplified the best in our democratic traditions and in our legislative process.

As we worked together closely on legislation, Adam and I developed a friendship that has ended too soon. My heart goes out to Adam's family and to the people of Indiana in this time of sorrow. I know that we in the House will not soon forget the contributions Adam Benjamin has made to our institution and to the American people.●

● Mr. ANNUNZIO. Mr. Speaker, like so many of my colleagues, I was stunned yesterday at the tragic news of the untimely death of my distinguished colleague and good friend from Indiana, Adam Benjamin.

During the last 6 years he served in the Congress, representing the First District of Indiana, I had the opportunity to work with him, to get to know him, and I became one of his great admirers.

He was a loyal, staunch, and dedicated Member of the House of Representatives. He reflected credit on the House, for he was a tireless worker in behalf of his constituents, his State, and his beloved America.

As chairman of the Congressional Steel Caucus, as a member of the House Budget and Transportation Committees, as a member of the Democratic Steering and Policy Committee and the Democratic Caucus Committee on Party Effectiveness, and later, as a member of the Appropriations Committee and chairman of the Subcommittee on Transportation of the Appropriations Committee, he gave inspired leadership to this body which will be remembered for years to come.

He was a 1958 graduate of the U.S. Military Academy, earned his law degree from Valparaiso University in 1968, and before coming to Congress, he served as a State senator in the Indiana Legislature from 1971 to 1977, and prior to that, he served as a State representative from 1967 to 1971.

Those of us who had the privilege of knowing Adam Benjamin as a friend and colleague deeply mourn his passing, and our hearts go out to his bereaved family. Mrs. Annunzio joins me in extending our heartfelt sympathy to Adam's devoted wife, Patricia, and his three children, Adam III, Alison, and Arianne, on their great loss.●

● Mr. O'BRIEN. Mr. Speaker, I knew Adam because we represented adjoining districts, we served together on the Steel Caucus, and we served together on the Appropriations Committee.

He was a model of what a Congressman should be.

No issue was too complex, nor constituent case too small, to escape his study. Everything that affected the lives of his constituents affected his life. He was totally dedicated to their service.

This was illustrated by his mastery of the problems of the steel industry. Adam had a knowledge of the workers, the management, the plants, and the equipment that would have made a Wall Street analyst envious.

Why did he know these things? Because in Adam's district the steel industry is the economic mainstay. And, to his great personal anguish, hundreds upon hundreds of steel workers are out of work.

Adam made their concern his own. He could have paid lipservice to their plight, and probably have been seen as doing enough. But that was not Adam. He had to learn the industry—top to bottom, inside and out—so that he would truly act in the best interests of those unemployed workers.

This is just one example of the kind of Congressman he was. There are many more.

What we have gained by his working among us is inestimable. What we have lost by his passing is clear: He was a voice of reason and conciliation, of compassion and responsibility.

I valued his counsel greatly. I will miss him every day.●

● Mr. CLAUSEN. Mr. Speaker, I would like to take this opportunity to pay tribute to the late Adam Benjamin, Jr., our colleague from Indiana. I know that many of the Members gathered here share my sadness at his sudden and untimely death.

Adam Banjamin will long be remembered by his colleagues in the House, Indiana State legislators and local elected officials, and by more than anyone else his constituents for his tireless efforts on their behalf. The words dedication and self-sacrifice come to the minds of his friends and associates when his name is mentioned. I was privileged to serve with Adam on the Congressional Steel Caucus, of which he was chairman—his leadership there will be sorely missed. Known for his mastery of detail and his in-depth knowledge of the problems facing steel and other heavy industries, he was an effective spokesman for the interests of the industrial Midwest.

Adam Banjamin earned an engineering degree from the U.S. Military Academy at West Point, and his law degree from Valparaiso University of Indiana. As well, he lectured on the social sciences and budget studies at Georgetown University, from which he was to have been awarded a master's degree in comparative and international law. He was first elected to the House of Representatives in 1976, and has served on the House Appropriations and Budget Committees, holding the chairmanship of the Subcommittee on Transportation of the Appropriations Committee.

Mr. Speaker, it is with great honor and respect that we mark the passing of Adam Benjamin, Jr. No words can fully express the emptiness we all feel and the void which he has left. Our prayers go out to his family, for we know what a loss they have suffered, and pray that God will give them strength.●

● Mr. de LUGO. Mr. Speaker, there was something in the character of our colleague from Gary, Ind., that reflected the burgeoning steel-mill communities of his district. Adam Benjamin was a man of steel when it came to making the difficult choices that we all must make in this body. He was a man of principle, of compassion, and a model of dedication for us all.

Many of us have our own special memories of this man, who I regarded as my friend. For me and for all the citizens of our country's territories, Adam Benjamin will be remembered as a man who remembered them. Time and again, when faced with the need to control Government spending, it was politically expedient to forget that the territories are actually a part of this country and to wipe out their share of a particular Federal program. Adam never saw things that way. His vision of the Nation was one of the whole rather than the overriding interest of a part.

We needed a man like Adam to be our conscience and we are at a great loss with his passing. As chairman of the Congressional Territorial Caucus, I would like to extend to his family the deepest sympathy of the representatives and the people of the U.S. territories on the passing of this great man, our friend. I know that all our thoughts are with his wife, Patricia, and his children in this time of need. Adam, we miss you.●

● Mr. DAUB. Mr. Speaker, as a freshman Republican Member of this House it may seem unlikely that I would have had the time or experiences to come to know Adam Benjamin but in fact my brief relationship with him was one of the most pleasant and surprising experiences I have had in this body.

Earlier this year I asked Adam Benjamin if a city official from Omaha and I might visit with him and his staff about a project that his subcommittee had jurisdiction over. He readily agreed and during that meeting you would have thought the public works director from Omaha and the freshman Republican Congressman were visiting dignitaries from Gary, Ind. He knowledgeably discussed the problem with us and explained the various priorities and problems that his committee faced. We received no assurances or promises during that meeting but when we left we were both supremely confident that whatever decision was made—it would be a fair one.

Later, I had an opportunity to thank Adam for his committee having agreed to appropriate funds for this project and he told me that the merits of the situation had made the decision for him—refusing my thanks.

Adam Benjamin showed me the kind of class that one would expect to see in Congress and more. Listening to the remembrances of those who knew him far better than I it is clear that his life must have been a continuing series of impressions such as mine. As long as I will serve in this body, I shall remember the fairness and kindness that Adam Benjamin showed me and I will recall how good he made me feel about this body. He was an example to all of us, not simply because he worked so hard, but because he did that work in a positive fashion, making friends all the while.

Mr. Speaker, I am proud that I had the opportunity to know Adam Benjamin during the short time that we served together in this body. It is a memory that I shall keep with me and treasure.●

● Mr. RODINO. Mr. Speaker, I join my colleagues in expressing my terrible shock and sadness at the sudden death of our colleague, Adam Benjamin.

It would be impossible to find a Member of Congress who worked harder than the soft-spoken gentleman from Indiana. Adam was a friendly and gentle man whose conscientious attitude earned him the admiration of his colleagues and the affection of his constituents.

A graduate of West Point Military Academy who served in Korea, Adam Benjamin was intensely dedicated to serving his country. In his third term as the Representative of Indiana's First District, he proved to be a skilled legislator who sought out some of the most difficult tasks in the House. His work on the Budget and Appropriations Committees, and on the Democratic Steering and Policy Committee and the Democratic Caucus Committee on Party Effectiveness, reflected a sincere commitment to good government.

He brought honor to this House, and he will be remembered as a man of integrity and distinguished service to the people of America. I offer my deepest sympathies to his wife and family.●

● Mr. GAYDOS. Mr. Speaker, as closely as I worked with our late colleague Adam Benjamin on the Steel Caucus, and as much as I respected him, there is much about him I did not know because his talk was of work and not of himself.

For example, he was relentless in his search for useful knowledge and he had an unquenchable curiosity about the way things work.

But I do not know if he read philosophy.

However, I do know his approach to public life matched to the letter a maxim of a 19th century French philosopher, who said, "you can only govern men by serving them. The rule is without exception."

Around Gary and northwest Indiania they were well governed when Adam Benjamin had a hand in it. And the same is true for the executive committee of the Congressional Steel Caucus, of which he was chairman.

I do not know if Adam Benjamin was a religious man.

But I do know his personal style matched word for word the admonition from Ecclesiastes in the Old Testament:

"Whatsoever thou findest to do, do it with thy might . . ."

Adam Benjamin's time in the House of Representatives was marked by considerable service given with his might, which was substantial.

As a founder of the Steel Caucus, and a sustaining force, Adam had an unspoken rule—never retreat, always advance. I do not know if he learned the rule in the Marines as an enlisted man or at West Point or as a young officer in the 101st Airborne; but he learned it well and he applied it with diligence as he moved from local government to State government to National Government and up in the National Government, always serving.

No meeting was too early for ADAM BENJAMIN and no crisis happened to late. He just was always there. It was never inconvenient for ADAM to drop what he was doing—and you never found him doing nothing—to go to the White House or the Department of Commerce or the International Trade Commission to work on a problem.

Unfailing is the only word to describe him.

One of his last official acts was to straighten out a punitive and discriminatory application to the steel industry of last month's tax bill.

He did it between 6 p.m. and 10 p.m. one hectic day before adjournment.

ADAM was never at a loss for long, and here he met and exceeded an ancient measure set down by the Roman historian Tacitus for judging the quality of a man:

"Reason and calm judgment are the qualities especially belonging to a leader."

ADAM BENJAMIN was a leader.

When you work day in and day out with a man, month in and month out, year in and year out, you come to understand his strength and his shortcomings.

ADAM BENJAMIN had very few flaws and they were all minor.

He had much strength, and as the Book of Proverbs says, "Iron sharpeneth iron; so a man sharpeneth the countenance of his friends."

The sharp edge of the steel caucus will be different because ADAM is not with us to apply his particular honing; so will that of the House; so will that of the Congress.

The highest tribute we can give him is to see that the edge is only different and not less sharp.

And most important in my mind is this: We must always advance, never retreat.●

● Mr. RUSSO. Mr. Speaker, it is with a deep and abiding sense of loss that I join with my colleagues in paying a final tribute to Representative ADAM BENJAMIN. Of course, with a man like ADAM, there is no "final" ending because his caring, his concern, and his hard work have left a lasting monument and living legacy.

The man got the job done. In a quiet and unassuming way he assured, for example, that the Midwest got a fair hearing always with the Federal Government when it came to dollars and cents. He got the job done of being a Member of Congress, and done well, because he understood not only practical matters like transportation needs, but he also understood the deeper needs of a citizenry for fair representation.

I counted ADAM as a personal friend and I will miss our discussion on the plane the many times we flew together to and from Washington, D.C. I will miss knowing he is not here. He was a fine and cooperative person with whom to work as well as a loyal friend.●

● Mr. OBERSTAR. Mr. Speaker, what word other than shocking can one use to describe the passing of ADAM BENJAMIN. The House has lost one of its most hard-working, decent, and principled Members—and I have lost a treasured and respected friend and colleague.

In only three terms, ADAM had already been chairman of two House Appropriations subcommittees. He was Chair of the Congressional Steel Caucus Executive Committee, where I worked closely with him, and to which he gave such forceful leadership.

He was a most effective representative of the people of his district. Despite a crowded schedule, ADAM somehow made time to work on a graduate degree in law and to lecture at the Georgetown University Law Center.

ADAM offered a most fitting example of the manner in which a Member should conduct himself—principled, competent, knowledgeable, unassuming, in touch with his constituents, responsive to the national interest.

My wife, Jo, and I join together to express to ADAM's wife and children our deepest sympathies. We can only imagine the great loss they feel. They and ADAM will be in our prayers.●

● Mr. ANDERSON. Mr. Speaker, earlier this week we were shocked to learn of the untimely death of one of this Chamber's most dedicated and hardest-working Members, the Honorable ADAM BENJAMIN, JR.

In the three short terms ADAM BENJAMIN served in Congress, he proved himself to be one of this body's most skilled and effective legislators. Members on both sides of the aisle will agree that ADAM was one who did not constantly strive for attention from the media when he tackled the many problems we face today. He simply worked diligently at his desk and quietly looked for results. ADAM was one who took a position on an issue—no matter what the press or anyone else thought about it—and kept pushing that idea along till it could go no further. Many here quickly learned that if you had ADAM BENJAMIN on your side it made your job much, much simpler.

Born in Gary, Ind., ADAM attended the public schools before graduating from Kemper Military School. From there, he entered the U.S. Marine Corps. In 1958, he earned an engineering degree from the U.S. Military Academy at West Point. Soon thereafter, he entered the Army and served through 1961. ADAM went on to receive a law degree in 1966 from Indiana's Valparaiso University. At the time of his death, ADAM was working on a masters degree in comparative international law at Georgetown University.

Prior to his work in Congress, ADAM first served in the Indiana House of Representatives from 1967 to 1971. After this, he continued to move up the ladder with his election to the State senate. He served in this capacity through 1977.

In November 1976, ADAM began the first of his three terms in the U.S. House of Representatives as the lawmaker of Indiana's First Congressional District. Those familiar with this tough, blue-collar, heavily industrialized area know that its residents made a wise decision when they sent ADAM to Washington to represent their views.

Upon his arrival in our Nation's Capitol, ADAM received two highly critical committee assignments: Appropriations and Budget. Also, he was chairman of both the executive committee of the Congressional Steel Caucus and the Transportation Appropriations Subcommittee. ADAM also found the time to sit on the Democratic Steering and Policy Committee and the Democratic Caucus' Committee on Party Effectiveness.

As chairman of the Surface Transportation Subcommittee, I have had the unique opportunity and privilege to work closely with ADAM on a number of projects in the field of public transit. Anyone the least bit familiar with his work in this area recognized that ADAM was an absolute champion in advocating the need for a strong national transit system. ADAM fought hard for many important transit projects, not only in Gary but also in the entire State of Indiana. At the same time, however, he had the foresight needed to look at the situation on a national scale and take appropriate action. His ability to comprehend the enormous problems which face our Nation's highways, bridges, and ports should not be overlooked. ADAM's insight, wisdom, and fortitude will sorely be missed through the end of this 97th Congress and beyond.

Mr. Speaker, my wife, Lee, joins me in expressing our heartfelt condolences to ADAM's wife, Patricia, and their three children, Adam III, Alison, and Arianne.●

● Mr. NOWAK. Mr. Speaker, it is with a sense of deep sadness that I join today in paying tribute to and mourning the loss of our hard-working, affable colleague from Indiana, Representative ADAM BENJAMIN, JR.

I had the opportunity to work closely with ADAM BENJAMIN in two major areas in recent years: Problems confronting our domestic steel industry and funding for mass transit systems.

As a member of the Executive Committee of the Congressional Steel

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Caucus, I had a firsthand view of ADAM's leadership abilities. While chairman of the Executive Committee he was relentless in efforts to probe the problems of this vital domestic industry and to seek remedial action by drawing attention to those problems in Executive Committee sessions and special orders here on the floor.

In his capacity as chairman of the House Appropriations Subcommittee on Transportation, ADAM was a strong supporter of mass transit improvements. On several occasions, he was most helpful to our efforts in Buffalo, N.Y., to provide sustained Federal funding for construction of a light rail transit line in our city.

While he was diligent in carrying out his leadership responsibilities. ADAM BENJAMIN wore the mantle of leadership lightly, never too busy to listen to a colleague or lend a hand if he possibly could. ADAM BENJAMIN's leadership and friendship will be missed in this Congress and I join in expressing sympathy to his family.●

Mr. HAMILTON. Mr. Speaker, I thank the Members for their several contributions.

Mr. Speaker, I offer a privileged resolution (H. Res. 579) on the death of the Honorable ADAM BENJAMIN, JR.

The Clerk read the resolution, as follows:

H. RES. 579

Resolved, That the House has heard with profound sorrow of the death of the Honorable Adam Benjamin, Jr., a Representative from the State of Indiana.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE LATE HONORABLE FRANK CHELF

(Mr. NATCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NATCHER. Mr. Speaker, our former colleague, Frank Chelf of Lebanon, Ky., died on Wednesday, September 1, in the nursing home of the Spring View Hospital. He was buried in Ryder Cemetery in Marion County, Ky.

Frank Chelf was born on a farm near Elizabethtown in Hardin County, Ky., on September 22, 1907. He attended the public schools in Elizabethtown and later attended Centre College at Danville, Ky., and St. Mary's College at St. Mary's, Ky. He was graduated from the Law School of Cumberland University in Lebanon, Tenn., in 1931 and was admitted to the bar the same year. He began the practice of law in Lebanon, Ky., and was elected to the office of county attorney of Marion County, Ky., and served from 1933 to 1944. Beginning on August 1, 1942, he was granted a leave of absence from his official duties to volunteer in the U.S. Army and later was commissioned a first lieutenant in the Air Corps and saw active service. He served as chief code designator, Intelligence Division, Air Transport Command, and later as executive officer of the Plans and Liaison Division and as assistant chief of air staff training. He was discharged on August 10, 1944, with a rank of major in the Air Corps. He was elected as a Democrat to the 79th and to the 10 succeeding Congresses, January 3, 1945, January 3, 1967. Frank Chelf returned to his home county to resume the practice of law following his service in the Congress of the United States.

Mr. Speaker, my friend, Frank Chelf, established an outstanding record in the House of Representatives. He served for 22 consecutive years as Representative of the old Fourth Congressional District and this is the alltime record. He served in the House of Representatives with distinction and honor. Frank Chelf loved the House of Representatives and he believed that our country is the greatest country in the world. His concept of public trust was without parallel and never did he hesitate to speak out against any proposal which he felt was not sound and not in the best interests of our people.

Mr. Speaker, words are inadequate to fully appraise Frank Chelf's tremendous capacity for loyalty and love of his country. In every position he held, either private or public, he achieved distinction. His service in all of his assignments was marked by a high sense of conscience and duty. He will have a high place in the history of our country and in the hearts of his countrymen. His character, his achievements, and his faithful service will be an inspiration to generations yet to come.

During his service in the House of Representatives, he succeeded in passing the Young American Medals for Bravery Act, which went into effect in 1950. Under this legislation, young people who demonstrate unusual bravery are awarded medals by the President. My friend, Frank Chelf, was very much concerned about the immigration laws in this country and he soon became one of the leading authorities on his Committee on the Judiciary on this subject. He was a self-made man and he was one of the Members of the House who enjoyed participating in debate on important legislation. His life exemplifies those virtues that make a great Congressman and those were fairness, generosity, willingness to listen, and unyielding devotion to the principles of his party and to all matters which were for the best interests of our country. He left his mark on Congress, not necessarily through legislation which he succeeded in having enacted, but instead through his character itself. He was always a gentleman and always a strong leader.

I have lost a true friend and this country has lost a great statesman. To his lovely wife and family, I extend my deepest sympathy in their bereavement.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to my friend, the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

I thank the gentleman very much for having taken this moment to remind the Members of our House of the passing of our distinguished colleague from the State of Kentucky, Frank Chelf.

Mr. Speaker, this is a very sad day, because of our dear friend, ADAM BENJAMIN, who died and has been eulogized earlier today. He was a young man with great promise.

I would like to mention to my friend from the Second District of Kentucky, the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education (Mr. NATCHER), that when I first came to the House 12 years ago I lived at the place which was then called the Coronet Hotel. As I walked back and forth to my office, which was then in the Longworth Building, I would see Frank Chelf, who was still in Washington following his distinguished service in the House of Representatives. Mr. Chelf, despite my own youth and newness to the Chamber and this body, and despite his senior status and great experience, never passed an opportunity to say hello to me, to welcome me, to try to make me feel comfortable, to give me the benefit of his years of wisdom.

Mr. Speaker, I have never forgotten that. In a short note to his bereaved widow the other day, I mentioned that. I think perhaps the way senior Members of this Chamber treat the junior Members of it is perhaps the best delineation and measurement of that individual's character. If I am correct in that analysis, I would say that our distinguished past Member, Mr. Chelf, had deep character.

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I thank the gentleman from Kentucky for taking this moment, I extend, with him, sympathies to the widow and to the family.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

Mr. NATCHER. I yield to the gentleman from Mississippi.

Mr. PERKINS. Mr. Speaker, those of us who knew and served with former Representative Frank L. Chelf of Kentucky are saddened by his death on September 1.

He had been ill for a long time, and death came in his hometown of Lebanon, Ky. He would have been 75 on the 22d of this month.

Congressman Chelf was first elected to the House in 1944, and served from January 3, 1945, until the expiration of his 11th term on January 3, 1967. He performed distinguished service on the Judiciary Committee for many years.

He was a stalwart fighter for more equitable immigration laws at a time when our immigration policies had not been changed for many years. His own background as an orphaned child was reflected in his efforts to liberalize the immigration laws to permit the entry into this country of children orphaned and displaced by World War II.

Frank was born in Elizabethtown, Ky., on September 22, 1907. After spending time in an orphanage, he was graduated from the Elizabethtown High School, and then went on to study at Centre College in Danville, Ky., and at St. Mary's College in Kentucky. He took his legal training at Cumberland University School of Law in Lebanon, Tenn., and began his practice in Lebanon, Ky., in 1931. For 11 years he was county attorney of Marion County.

In August 1942, he took leave from his official duties to volunteer in the Army Air Corps, and was discharged for physical disability in August 1944 with the rank of major.

But service was in Frank Chelf's blood. As a returned veteran, he sought and won his Democratic Party's nomination to Congress, and in November 1944, defeated the incumbent, Hon. Chester O. Carrier.

Frank was widely known and much liked in the Congress. He was a friendly, outgoing man, and did his best to be accommodating. Service to the people of his district was his guiding star, and they responded by reelecting him time after time.

After a difficult court-ordered redistricting of Kentucky as a result of the one-man, one-vote decision, Frank Chelf voluntarily retired and the legislature created a new Fourth District. The Democratic nominee in the newly drawn district died with less than 2 weeks to go before the election. The Democratic Party once more turned to Frank as its standard bearer, but it was then too late to mount an effective campaign. And so Frank's last campaign—an accident no one could foresee—was the only unsuccessful one in his political career. He retired to the practice of law in his home State.

He is survived by his wife, the former Louise Rash; two daughters, Mrs. John Collins Polk and Mrs. Tommy Simpson; a son, Frank L. Chelf, Jr.; a sister, Mary Ellen Gruber; and seven grandchildren, all of Lebanon, Ky.

Those of us who knew this kind and decent man are grieved by his passing.●

Mr. WHITTEN. Mr. Speaker, may I join with my colleague, the gentleman from Kentucky (Mr. NATCHER), in expressing our deep regret at the passing of our good friend, Frank Chelf.

As we pause here today in memory of two of our friends, may I say that Frank was a valuable and outstanding Member of Congress with another type of approach. I never saw him that he was not enthusiastic and outgoing, active and personable beyond average. There is room in this Congress for all types, each successful particularly in these cases where there was a real contribution to the well-being of the country.

Mr. Speaker, as has been pointed out, Frank was very much interested in all of his associates. We regretted to see him leave this body and we again join with our friends in expressing our sorrow at this untimely passing.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and public service of the late Honorable Frank Chelf of Kentucky.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

"TALKING POINTS" OF PRESIDENT REAGAN'S MIDDLE EAST PEACE PROPOSAL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, President Reagan's speech last week outlining major and fundamental changes in American policy toward Israel raises several disturbing questions.

I have read the President's speech, I have read carefully the letters exchanged between President Reagan and Israeli Prime Minister Begin, and the formal response from the Israeli Cabinet on September 2, 1982.

The Israeli Cabinet response of September 2, and I quote, states:

> The positions conveyed to the Prime Minister of Israel on behalf of the President of the United States consist of partial quotations from the Camp David Agreement or are nowhere mentioned in that agreement or contradict it entirely.

The Cabinet statement also says, "The following are the major positions of the United States:"

The Cabinet response then goes on to list seven major deviations from the letter and spirit of the Camp David accords.

Mr. Speaker, the fact that the positions enunciated by the President constitute major deviations from the Camp David peace process in that they fundamentally alter American policy in the Middle East are a matter of grave concern to me.

More importantly, however, is the matter of the details of the American position.

The language conveyed to the Israeli Government must come from some document.

Clearly the anguished response by our stauchest ally in the Middle East cannot be based on the fairly mild and vague statements contained in the President's speech.

Where does this language come from, which seems effectively to abrogate the Camp David agreements?

Mr. Speaker, highly respected sources in the Middle East and here in Washington have been saying for some days that the language comes from a detailed set of talking points which were included with the President's letter to Mr. Begin. Neither the President's letter to Prime Minister Begin, nor the accompanying documents, have been made public.

It is these so-called talking points that are the basis of the Israeli Cabinet's angry rejection of the Reagan plan.

One must also presume that these same talking points are the basis for the Arab States thus far warm reception to the Reagan plan.

Mr. Speaker, I have sent a letter to the President this morning in which I request him to make public the details of these talking points so that we in the Congress and the American people can make intelligent judgments with regard to the Reagan plan, once we are in possession of all the relevant facts.

It is essential for us to know exactly what are the elements of the President's peace plan.

The President and administration owe it to the American people to make the talking points a matter of public record.

Surely there can be no compromise to American security involved here since a number of Arab governments in the region had an advance look at the points before they were even shown to our ally, Israel.

AMBASSADOR PHILIP C. HABIB: A REWARD RICHLY DESERVED

(Mr. KAZEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KAZEN. Mr. Speaker, today, I want to extend my congratulations and my personal appreciation to Ambassador Philip C. Habib for the extraordinary work he has performed for this country and for the cause of peace in the world. Few people have the expertise, the tireless energy and the dedication to do what he has done in gaining the confidence of such diverse parties and bringing about a cease-fire and withdrawal of foreign forces in Lebanon.

I have known Philip Habib since the days when he served so well as our negotiator in Paris charged with the difficult job of dealing with the North Vietnamese, and it was obvious at that time that this country had been blessed with a truly remarkable person. It was characteristic of him to praise his own staff and others when, this week, he was presented with the Medal of Freedom, the highest honor a civilian can receive from a grateful Nation, for his untiring and successful efforts to end the bloodshed in the Middle East.

He has called himself a "chronic optimist," but he is also a caring person who is dedicated to the cause of peace. The Medal of Freedom is richly deserved for this fine man, this great American, this proud son of Lebanese immigrants, and I am pleased to extend my strongest support for his efforts and my warmest congratulations to him and his family.

THE LATE HONORABLE ADAM BENJAMIN

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, it is both ironic and significant that Adam Benjamin leaves us at this time, since the Steel Caucus is just 5 years old this month. The significance of it is that Adam Benjamin was one of the originators, one of the original organizers of the Steel Caucus. He took numerous trips personally with the executive committee which he headed during the last 3 years down to the White House, with the Secretary of Commerce, and held early morning meetings for years as chairman of the executive committee.

Mr. Speaker, these are the things we do not know and do not read of.

I knew Adam Benjamin personally and I do regret that I was not here when my remarks could have been made part of the Record with my colleagues in a longer timeframe.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the life, character, and public service of our friend and colleague, the Honorable Adam Benjamin, Jr.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1315

CONGRATULATIONS EXTENDED TO AMBASSADOR PHILIP HABIB

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, yesterday it was my privilege to attend the White House ceremonies honoring Ambassador Philip Habib for his dangerous and demanding mission to halt the bloodshed in Lebanon.

As President Reagan said in presenting the Medal of Freedom to him:

> His successful negotiation of the cease-fire in Lebanon and the resolution of the West Beirut crisis stands out as one of the unique feats of diplomacy in modern times.

Typical of his manner, Ambassador Habib responded by praising his talented deputy, Morris Draper, and Secretary of State George Shultz.

Yet, it was Phil Habib, the son of Lebanese parents, who almost singlehandedly was responsible for halting the war in Lebanon and enhancing the prospects for peace in the region.

As the Washington Post said so well this morning, "He had the imagination, toughness, and perseverance to see the game through."

Mr. Speaker, I know every Member joins me in extending congratulations to Phil Habib for his truly heroic work and in praying that the process he has begun will bring lasting peace to the Middle East.

THE LATE HONORABLE KEITH SEBELIUS OF KANSAS

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, it is with heavy heart that I address the House today because of the news of the death of my good friend, counselor, and the former colleague, the gentlemen from Kansas, the Honorable Keith G. Sebelius, from the First District of the great State of Kansas.

Even as I speak, his funeral, attended, by his family, by his Kansas colleagues in both the House and Senate as well as by other important officials of his State and region, and by many hundreds of other friends, is being held in Norton, his home town.

One of the saddest days since I became a Member of the Congress, was the day that I learned that Keith Sebelius was leaving the House for good after six terms of distinguished service and would not seek reelection in 1980.

From the moment that I came into the House back in 1974, I was advised to confer frequently with the gentleman from Kansas because he "always figured things out right." And I, and my colleagues, learned to have profound respect for his knowledge and for his judgment.

And from the beginning, he was my staunch and dependable friend—ever ready to back me up on the tough battles in committee and on the floor of the House. When campaign time came, he was always willing to leave his own election effort to travel to my district to help me—whenever I asked.

Keith Sebelius was a man of unshakable integrity. He had backbone. His convictions had stamina. His goals reflected the man and his district: To have a happy family; to leave agriculture better than he found it; and to see his country renewed in strength and leadership. Let us thank God for such men.

For his wife, Bette, and for his sons and their families, we realize the pain of his loss must be almost umbearable, because those of us who worked with him feel so bereft ourselves.

His legacy to us all is great, especially his astute and knowledgeable successor, my good friend and colleague, the gentleman from Kansas (Mr. Roberts) who has assumed the Sebelius mantle with such skill and distinction.

We will never forget Keith Sebelius. We will miss him beyond measure.

Mr. HAGEDORN. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I would like to join with my colleague in expressing our sympathy on the passing of our former colleague, Congressman Sebelius.

I have had the privilege of serving with him on the House Agriculture Committee as well as making some trips, one of them China, in our pursuit of expanded markets.

I share the expression of sorrow over his loss, and the fact of what a great American he was in serving the people and the Congress. It is a tremendous loss to his family as well as to the State of Kansas and the American people.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. FISH. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentlewoman for yielding. I would like

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to add that Keith Sebelius came to Congress 14 years ago as a freshman, the same year as I did. We were a small group and very close. Our class in Congress came to know Keith as a knowledgeable legislator and came to appreciate him as a true representative of his State and of agriculture.

I thank the gentlewoman.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. Speaker, I want to add that it is my understanding that there will be a special order in tribute to Keith Sebelius early next week.

LEGISLATION INTRODUCED TO REPEAL WITHHOLDING OF TAXES ON INTEREST AND DIVIDENDS

(Mr. HAGEDORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAGEDORN. Mr. Speaker, I am introducing legislation today to repeal the withholding of taxes on interest and dividends. This legislation is a direct result of the outcry from my constituents over the past 2 weeks. More than any other issue, as I traveled my district, my constituents were outraged over the Government using their dollars as an interest-free loan.

I believe we need to give this issue time for debate and time for a separate vote. Two years ago this House overwhelmingly defeated withholding and just 2 weeks ago the vote on a separate rule was 220 to 210. I believe that vote is close enough to warrant a direct vote on the provision itself.

I urge you to cosponsor my repeal bill and join those of us who will not settle for a hastily drafted bill. With the correct reporting information, there is a taxpayer compliance rate of 96.7 percent. I think that is pretty darn good.

Is it fair to burden the banks and interest recipients with much more paperwork and regulation to get at that small percentage who do not comply? This proposal will cost $1 billion to implement and $1 billion to administer annually. Is this consistent with less Government interference?

Of the $4.3 billion this provision will raise, only $1.3 billion comes from increased compliance; $3 billion is an interest-free loan from the people to Uncle Sam. The people in my district are a little outraged and I can see why. Let us take the time to reconsider this ill-conceived provision and repeal it before it begins.

AN ALTERNATIVE TO MASS AMNESTY FOR ILLEGAL ALIENS

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, many of us have grave reservations over the Immigration Reform and Control Act as passed recently by the other body, and the House Judiciary Committee will shortly be considering its version of this legislation, H.R. 6514.

Today, I am introducting an alternative to the amnesty provision contained in H.R. 6514, in the form of a registry date amendment. Our proposal would simply amend existing law by updating current methods for granting legal status to certain types of deserving illegal immigrants, and allow permanent residence for illegal aliens who entered the country prior to January 1, 1973.

Should H.R. 6514 be brought to the floor of the House prior to consideration of our alternative, we will be prepared to offer our alternative as an amendment to H.R. 6514. I urge my colleagues to join us in cosponsoring this more reasonable alternative.

VOTERS NO LONGER HAVE BOLD FAITH IN REAGANOMICS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, Labor Day 1981 picnics were filled with bold faith that Ronald Reagan's promises to reduce wasteful Government spending, cut taxes, and balance the Federal budget would solve the Nation's economic problems. A year later, that bold faith in the ability of the President's economic policy has faded and has been replaced by a sense of betrayal.

An Arkansas farmer, dressed in threadbare overalls, told me the other day that it is hard to see through the pain, but "I can now tell that I was tricked by Reaganomics."

While rhetoric oftentimes rolls in Washington, actions speak louder than words in farm country.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

House of Representatives,
Washington, D.C., August 25, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: It is with considerable and understandable regret and deep sadness that I submit my resignation as a Representative of the 14th Congressional District of New York. Copy of my statement is enclosed.

All good wishes.

Yours sincerely,

Fred Richmond.

House of Representatives,
Washington, D.C., August 25, 1982.

Hon. Hugh Carey,
Governor, State of New York,
New York, N.Y.

Dear Mr. Governor: It is with considerable and understandable regret and deep sadness that I submit my resignation as a Representative of the 14th Congressional District of New York. Copy of my statement is enclosed.

All good wishes.

Yours sincerely.

Fred Richmond.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit sealed envelopes received from The White House as follows:

(1) At 3:00 p.m. on Monday, August 23, 1982 and said to contain a message from the President wherein he transmits the seventeenth special message for FY 1982 under the Impoundment Control Act of 1974.

(2) At 1:50 p.m. on Tuesday, August 24, 1982 and said to contain a message from the President wherein he transmits the 1981 Annual Report of the Federal Council on the Aging.

(3) At 1:50 p.m. on Tuesday, August 24, 1982 and said to contain a message from the President wherein he transmits the Seventh Annual Report of the Nuclear Regulatory Commission.

(4) At 1:50 p.m. on Tuesday, August 24, 1982 and said to contain a message from the President wherein he transmits the 1981 Aeronautics and Space Report of the President.

(5) At 1:50 p.m. on Tuesday, August 24, 1982 and said to contain a message from the President wherein he transmits the East-West Trade Report for 1981.

(6) At 4:00 p.m. on Thursday, August 26, 1982 and said to contain a message from the President wherein he transmits an Alternative Plan under the Federal Pay Comparability Act of 1970.

(7) At 9:14 a.m. on Monday, August 30, 1982 and said to contain H.R. 6863, An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, with the President's veto message of August 28, 1982, thereon.

(8) At 10:50 a.m. on Wednesday, September 1, 1982 and said to contain a message from the President whereby he transmits the Fiscal Year 1981 Annual Report of the Rehabilitation Services Administration.

(9) At 10:50 a.m. on Wednesday, September 1, 1982 and said to contain a message from the President whereby he transmits a report on agencies and units of agencies excluded from the Federal Merit Pay System.

With kind regards, I am,

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-231)

The **SPEAKER** pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

A week ago, the Congress passed important legislation to reduce deficits through tax reform. I worked hard to help win that passage—and at the same time stressed that if we are to keep deficits down we must also keep Federal spending down. We can only do this if the Congress resists the temptation to slide back into old spendthrift habits. I will use every means in my power, including the veto, to prevent that from happening.

Accordingly, today I am returning to the House of Representatives, without my signature, the bill H.R. 6863, making supplemental appropriations for Federal programs and agencies for fiscal year 1982.

I do not take this step lightly. Delay in the adoption of this legislation poses serious problems for the Department of Defense and other Federal agenices in meeting prior commitments, including payroll, that are funded by this bill. In addition, the bill contains funds for important new programs, such as the Caribbean Basin Initiative, for which funds are needed prior to the beginning of the next fiscal year.

But this bill would bust the budget by nearly a billion dollars. It provides an unacceptable total of $918 million in unrequested and unwarranted increases in domestic spending programs. We have seen a positive reaction to last week's Congressional action in the Nation's securities markets and other areas. It is founded in large measure on a growing conviction that this Government has finally developed the will to set its fiscal house in order. This legislation flies in the face of that conviction. Unless amended to restrict its scope to only those funds that are urgently needed, it will undermine the confidence crucial to continued reductions in deficits and interest rates which we must achieve for sustained economic growth.

Increases in domestic spending include $367 million in funding for items contained in the urgent supplemental I vetoed in June that were subsequently deleted from the urgent supplemental bill I signed in July. Also restored is $892 million in funding that was cut by the Congress last fall. This simply is not tolerable in the face of triple-digit deficits, and I cannot endorse these unwarranted spending increases.

While the enrolled bill includes $918 million in unrequested domestic increases, it provides only $0.5 billion of the $2.6 billion defense program supplementals I requested, a reduction of 82 percent. The enrolled bill fails to provide required funding in virtually every major defense program—military personnel (reduced 52 percent), operation and maintenance (reduced 93 percent), procurement (reduced 86 percent), and military construction (reduced 77 percent).

The bill also unnecessarily restricts the Executive Branch from exercising its authority to allocate funds appropriated by the Congress. Most notable among these are provisions that would:

—prevent the planned consolidation of the Office of the Inspector General into the Department of the Treasury and thereby block improvements in administrative effectiveness and efficiency;

—require the expenditure of $1.75 billion in unexpended balances in 1982 for the Section 8 housing program. The Administration would achieve similar purposes by using budget authority available from program deobligations, rather than new appropriations;

—require the Department of Energy to maintain specified employment levels that are unnecessary for the effective management of the Department;

—require a minimum staffing level for the Railroad Retirement Board, blocking savings that could be achieved through improved management and administrative consolidation;

—direct 1982 Energy and Water funds be made available for a specific project (Tug Fork, West Virginia), that is expected to cost over $1 billion before it is completed; and

—extend, through 1983, the restrictions on the President's ability to deal with the Polish debt problem.

For these reasons, I am returning H.R. 6863 without approval. I urge the Congress to enact immediately a 1982 supplemental appropriations bill that does not contain excessive and unwarranted spending increases for domestic programs and that provides an acceptable balance of supplemental funding for those programs requiring additional money in fiscal year 1982.

Certain important provisions of the bill must be preserved, notably funding for the Caribbean Basin Initiative. This funding is designed to resolve an unprecedented economic crisis that affects a strategic region located at our doorstep. I hope the Congress will review and modify country funding levels to bring them closer in line with the Administration's original request. The Congress has also provided $50 million for special Lebanon emergency relief. This humanitarian assistance is essential for thousands of Lebanese civilians requiring aid. The funds provided for security assistance, while less than I requested, will help demonstrate that countries in pivotal regions of the world can count on American support when they need it. I strongly urge the Congress to continue to include these essential programs as they work on an acceptable alternative.

To bring the sustained recovery we all want we must not only rewrite this measure; we must also press forward in an all-out attack on wasteful and unnecessary spending. I look forward to prompt Congressional action on a revised bill that will assure continuity in the operations of Federal agencies and be consistent with continued progress toward economic recovery.

RONALD REAGAN.

THE WHITE HOUSE, *August 28, 1982.*

□ 1330

The **SPEAKER** pro tempore. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that further consideration of the veto message of the President on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, be postponed until tomorrow, Thursday, September 9, 1982.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

VIRGIN ISLANDS NONIMMIGRANT ALIEN ADJUSTMENT ACT OF 1981

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3517) to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Page 7, line 2, strike out "States." and insert "States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.".

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. FISH. Mr. Speaker, reserving the right to object, I do not have any intention to object, but I make this reservation in order to give an opportunity to the subcommittee chairman to explain to the House the nature of the Senate amendment that was added to our bill.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him publicly for his support in reaching today's events and the passage of the bill.

Essentially, as the gentleman knows, the bill regularizes the status of certain (H)(ii) temporary workers who came into the Virgin Islands around the time of the Second World War to make up for labor shortages. As part of the bill that we passed from the House, we suggested that there be a termination of the (H)(ii) program by which other temporary laboring people can come into the Virgin Islands.

It came to the attention of the Senate that that language would inadvertently bar from entering into the Virgin Islands temporary workers, for example, such as athletes and musicians. Of course, the Virgin Islands has a very lively tourist industry, and both of those are very important elements, so the Senate amendment which we are asking permission today for the House to adopt is simply to permit the short-term admission into the U.S. Virgin Islands of persons such as athletes and entertainers who would otherwise be barred by the House-passed bill.

The amendment conforms to the intent of the legislation, as the gentleman, who is a codraftsman of the bill, knows, the primary purpose of which is to prohibit the future admission into the U.S. Virgin Islands of large numbers of temporary agricultural or industrial workers but, again, not those workers or persons, for example, who are in the entertainment field or in athletics.

Mr. FISH. Mr. Speaker, I thank the gentleman from Kentucky (Mr. MAZZOLI).

Does the Delegate from the Virgin Islands (Mr. DE LUGO) wish me to yield to him?

Mr. DE LUGO. Yes; I do, Mr. Speaker.

Mr. FISH. I yield to the gentleman from the Virgin Islands.

Mr. DE LUGO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a very historic moment for the people of the U.S. Virgin Islands. The House of Representatives is about to take the final step in passing H.R. 3517, the Nonimmigrant Alien Adjustment Act. Years of work and development have gone into this bill and the hopes and aspirations of many people are riding on its passage. Many of these people who were invited into the U.S. Virgin Islands to assist us during the boom years of our development have been living as long as 20 years under the shadow of deportation. They have laid their roots there, and have become active and responsible members of our community. This bill will end their legal limbo and allow them to plan their future with dignity and assurance.

Mr. Speaker, I introduced this bill on May 12, 1981, and in its travels through the various House and Senate subcommittees and committees it has not received a single opposing vote. This legislation was passed by the House last fall with no opposing votes and on August 20 the Senate was unanimous in its passage and even willingly waived its rules to expedite this measure to the benefit of the people of the Virgin Islands.

However, its smooth passage through this Congress does not mean the waters were always calm for this legislation. On the contrary, stormy and frequently bitter debates rose up in our islands. I know from the 10 years I have been working on this that it was in fact one of the most divisive issues in our history. And many times during those years I was frequently the only political figure trying to tackle this issue. As little as a few months before this bill was introduced the storm was still raging. But, with the assistance of Gov. Juan Luis, a compromise solution was finally reached. It is reflected in the legislation before you, but it was not without pain, not without sacrifice, and not without years of development and debate.

The people of the Virgin Islands should be proud today, for this bill is an honorable and equitable solution to a very difficult and long-standing problem. It tugged at their conscience. They wrestled with it publicly and privately. And, in the end reached this compromise solution which is uniquely ours—a product of our community for our community. Credit must be given to them, and to the Governor of the Virgin Islands who worked with me in the development of this legislation, and to the people of the alien community for their patience, cooperation, and genuine concern for the community as a whole, and to the legislature for finally recognizing the community's support and passing a resolution in support of the bill.

All that remains today, Mr. Speaker, is for this House to concur with an amendment adopted by the Senate Immigration Subcommittee at my request which will allow athletes and entertainers to continue to enter the U.S. Virgin Islands under temporary visas. I urge my colleagues to concur on this, and I would like to take this opportunity to thank my colleagues in the House for their support, and Senator ALAN SIMPSON, the chairman of the Senate Immigration Subcommittee, for all his support and assistance, Senators DENNIS DECONCINI, TED KENNEDY, and Congressman HAMILTON FISH, and most especially, the chairman of the House Immigration Subcommittee, and my friend, Congressman RON MAZZOLI, whose unfailing commitment on this bill, and whose sympathy and concern for all the people of the U.S. Virgin Islands, have without a doubt been a major factor in this success.

Mr. FISH. Mr. Speaker, the minority has no objection to the Senate amendment or to concurring therein, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

A motion to reconsider was laid on the table.

RESOURCE CONSERVATION AND RECOVERY ACT REAUTHORIZATION ACT OF 1982

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 545

Resolved, That upon the adoption of this resolution it shall be in order, sections 402(a) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6307) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of section 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. In lieu of the amendments recommended by the Committee on Public Works and Transportation to said substitute now printed in boldface roman in the bill, it shall be in order to consider amendments to said substitute printed in the Congressional Record of August 3, 1982, by, and if offered by, Representative Roe of New Jersey. It shall also be in order to consider an amendment to said substitute printed in the Congressional Record of August 2, 1982, and if offered by, Representative Fithian of Indiana, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may

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have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. **MOAKLEY.** Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. Quillen), pending which I yield myself such time as I may consume.

Mr. **MOAKLEY.** Mr. Speaker, House Resolution 545 is the rule providing for the consideration of H.R. 6307, to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983–84, and for other purposes.

This is an open rule. It provides 1 hour of general debate, 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation. It makes in order consideration of the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule, and it also waives section 401(b)(1) against said substitute.

Section 401(b)(1) bars consideration of legislation which provides new entitlement authority to become effective before the beginning of the next fiscal year. The committee substitute provides new entitlement authority in the form of salaries to be paid to members of the National Groundwater Commission.

Mr. Speaker, I am advised, however, that the Committee on Energy and Commerce intends to offer an amendment which will change the entitlement authority into an authorization subject to an appropriations, thereby curing the violation and making the waiver technical in nature.

In lieu of the amendments recommended by the Committee on Public Works and Transportation now printed in the Energy and Commerce Committee substitute, the rule makes it in order to consider amendments to the substitute which are printed in the Congressional Record of August 3, by, and if offered by, Representative Roe of New Jersey.

An amendment to the substitute printed in the Congressional Record of August 2, by, and if offered by, Representative Fithian of Indiana, is also in order and points of order against the amendment for failure to comply with the provisions of clause 7, rule 16 which prohibits the consideration of nongermane amendments are waived. Mr. Fithian's amendment pertains to hazardous waste facilities owned by States or political subdivisions.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 6307 reauthorizes and amends the principal law governing the disposal of solid and hazardous wastes, the Solid Waste Disposal Act enacted in 1976, in order to assure adequate protection of public health and the environment. The bill authorizes $108.5 million for fiscal year 1983 and $111.5 million for fiscal year 1984. The bill also amends the act to set deadlines for issuance of permits for the coverage of the waste and creates a National Groundwater Commission.

Mr. Speaker, H.R. 6307 addresses several important and somewhat controversial issues regarding the disposal and management of hazardous wastes. I urge my colleagues to adopt this open rule, House Resolution 545, so that the House may proceed to debate and consider these important issues.

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Mr. **QUILLEN.** Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule has been ably explained; it is an open rule.

We need to get down to the business of discussing the measure on the floor of the House. There are controversial sections in this bill. There will be amendments offered which will be hotly debated. But it is time for action.

H.R. 6307 needs to be considered. The rule needs to be adopted.

Mr. Speaker, I have no requests for time and reserve the balance of my time.

Mr. **MOAKLEY.** Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. **FLORIO.** Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6307) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983–84, and for other purposes.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Florio).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6307, with Mr. Moakley in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN.** Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. Florio) will be recognized for 15 minutes, the gentleman from New York (Mr. Lent) will be recognized for 15 minutes, the gentleman from New Jersey (Mr. Roe) will be recognized for 15 minutes, and the gentleman from Arkansas (Mr. Hammerschmidt) will be recognized for 15 minutes.

The Chair recognizes the gentlemen from New Jersey (Mr. Florio).

Mr. **FLORIO.** Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Resource Conservation and Recovery Act (RCRA) was originally enacted in 1976 in response to the need for protection of public health and the environment from uncontrolled hazardous waste management practices.

In 1980, Congress established the Superfund program to initiate and fund the cleanup of thousands of inactive hazardous waste sites that were created by the uncontrolled waste management practices of the past. Together with the Superfund program, RCRA is intended to provide comprehensive prevention and cleanup of hazardous waste damage incidents.

In examining the operation of the RCRA program and its relationship to the Superfund and other environmental statutes, the committee discovered that the relationship is anything but complementary. In fact, the committee uncovered several major loopholes in RCRA coverage which allow as much hazardous waste to escape regulation as is presently covered by RCRA controls—40 million tons.

These loopholes have several damaging effects:

First, they cause substantial gaps in protection of public health and the environment;

Second, they compromise the occupational health of works in the waste management and related fields; and

Third, they create direct disincentives to investment in alternative treatment and ultimate disposal technologies. Without the necessary controls in place, the hazardous waste marketplace will never function in a way that is consistent with protection of health and the environment.

In this regard, I reference three recent reports:

First, Review of Activities of Major Firms in the Commercial Hazardous Waste Industry: 1981 Update, prepared for the EPA; and,

Second, Comparative Evaluation of Incinerators and Landfills for Hazardous Waste Management, prepared for the Chemical Manufacturers Association; and

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Third, Impact of Burning of Hazardous Waste in Boilers, prepared for SCA Services, Inc.

I would like to insert into the Record recent letters from SCA Services, Inc., Stablex Corporation, and the Hazardous Waste Treatment Council; firms and associations that have been at the forefront of the hazardous waste treatment field.

SCA Services, Inc.,
Boston, Mass, September 3, 1982.

Hon. James J. Florio,
Chairman, Subcommittee on Commerce, Transportation and Tourism, House Office Building, Annex II, Washington, D.C.

Dear Mr. Chairman: I am writing to endorse H.R. 6307, the "RCRA Reauthorization Act of 1982", and the amendments you will offer to it.

SCA Services, Inc. is the nation's technological leader in the recovery, treatment and disposal of hazardous wastes. These services are provided from waste processing centers in six states, with two additional facilities planned. SCA also provides solid waste services from 79 operating centers in 28 states and the District of Columbia.

EPA now allows significant amounts of hazardous wastes to be exempt from RCRA regulation. In particular, a facility is exempt if it burns hazardous wastes from the "primary purpose" of energy recovery. The public is exposed by this exemption to 1.2 million metric tons of hazardous pollutants emitted from unpermitted boilers burnining hazardous wastes. SCA's permitted incinerator will be 300 times more efficient in the destruction of hazardous wastes than uncontrolled commercial and residential boilers. H.R. 6307 will close this loophole. Your labeling amendment will also assure the end to the unknowing burning of hazardous wastes.

H.R. 6307, and the Florio amendments, also provide a reasonable and workable balance between the very real environmental and safety dangers posed by the present small quantity generator exemption and the legitimate concerns of small business. SCA speaks with experience of the problems posed by the present exemption. An SCA transfer station caught fire, sending a dozen people to the hospital, because of laboratory hazardous wastes dumped with the regular garbage by a school that had a small quantity generator exemption. SCA strongly opposes the Gramm Amendment to "study" the issue. Keeping the status quo allows a generator to dispose of 12 tons of hazardous wastes a year into sanitary landfills. The Gramm Amendment should be defeated.

SCA has made a major commitment in high technology hazardous waste treatment and to the future of the RCRA program. Enactment of H.R. 6307 and the Florio amendments will show that Congress is willing to keep its commitment to protect human health and the environment, and to foster the economic health of companies like SCA committed to protecting the environment.

Sincerely,

John T. Fox,
Chairman of the Board.

Stablex Corporation,
Radnor, Pa., August 20, 1982

Hon. James J. Florio,
Longworth House Office Building,
Washington, D.C.

Dear Mr. Florio: As Congress again takes up issues relating to hazardous wastes, I want to bring one crucial fact to the attention of all members of Congress. Since the passage of the Resource Conservation and Recovery Act in 1976, there have been no new advanced hazardous waste treatment and disposal facilities constructed and placed in operation in accordance with the detailed environmental protection guidelines developed in Congress. Companies engaged in high-technology solutions to the hazardous waste problem, such as Stablex Corporation, have spent millions of dollars to locate suitable sites, obtain federal, state, and local permits, and prepare for the construction and operation of the modern type-facilities Congress sought when it passed the Resource Conservation and Recovery Act. While the Resource Conservation and Recovery Act has, at last, finally resulted in a more complete regulatory program to halt some of the more outrageous dumping practices in the past, it has failed to formulate a policy and a direction to allow companies using their own funds to develop and institute modern technological solutions to treatment and disposal of toxic and hazardous waste.

Let us work together to halt the old practices and procedures that for too long have poisoned our environment. Let us work together to consider how to set the Resource Conservation and Recovery Act back on its original and true course to stimulate the construction and operation of new advanced waste treatment plants which can permanently eliminate the threat of chemicals leaching from landfills.

Sincerely yours,

Steven I. Taub,
Vice President.

Hazardous Waste
Treatment Council,
Washington, D.C. September 6, 1982.

Dear Congressman: We represent the Hazardous Waste Treatment Council, a trade association of companies engaged in the treatment, destruction, stabilization, recycling and detoxification of hazardous wastes. A basic objective of the Council is the development of more stringent laws on the management of hazardous waste. The Council lead a coalition of environmental organizations, states and grass-roots citizen groups earlier this year to successfully reverse EPA's suspension of the liquid-to-landfill ban.

The Council urges you to support the amendment being offered by Representative LaFalce to H.R. 6307—an amendment which would require EPA to begin restricting certain hazardous wastes from being landfilled. The philosophy of the amendment recognizes that some very persistent toxic wastes present problems for safe long-term containment in a landfill. Some waste destroy the liners which are designed to contain wastes and others are simply too toxic and persistent to be contained in perpetuity.

Several states have moved aggressively to restrict certain wastes from landfills and the Council believes that protection of public health and the environment mandate a uniform federal rule in this regard.

The amendment would require EPA to begin the process of determining which wastes need to be so restricted. We believe that this effort is long overdue. Every week the newspapers carry new stories of landfills that have developed problems of groundwater contamination. Prevention of further problems requires that Congress act favorably on this important amendment.

Sincerely,

Lawrence C. Mertham,
Marvin B. Durning,
Randy M. Mott,
Scott J. Schwarz,
Attorneys for the Hazardous
Waste Treatment Council.

Furthermore, unless these loopholes are closed, the RCRA program itself and the hazardous wastes it is supposed to control will be doing little more than sowing the seeds of future Superfund sites.

The present RCRA system allows wastes to escape controls through a varity of gaps:

Generators of up to 1 ton of hazardous wastes per month are virtually exempt from RCRA coverage and may dispose of their wastes into solid waste facilities and municipal dumps—a practice which has produced the majority of our present Superfund sites.

I would like to point out that the National Solid Waste Management Association has attempted to close this serious loophole ever since its inception in 1980, and should be commended for this effort.

There are virtually no categorical restrictions on the placement of wastes into domestic sewer systems, or their injection into the ground near areas that supply drinking water.

Hazardous waste recycling, including the burning of hazardous wastes in boilers, has been virtually ignored by RCRA despite the fact that 13 recycling operations are on the Superfund list and 20 million tons of waste are inefficiently burned in boilers each year.

The placement of liquid wastes into landfills must be further restricted.

The legislation addresses all of those loopholes by prescribing the appropriate restriction, prohibition, or assessment. In addition, the legislation:

Insures that the final permitting review of major hazardous waste facilities occurs in an expeditious fashion and that leaking facilities not be granted a final permit until there is some form of commitment to control the release;

Protects the right of citizens and States to seek redress for hazardous waste damages and releases under the existing common law;

Establishes a National Groundwater Commission to report to the Congress on the nature and scope of present and future groundwater pollution and to issue recommendations on direction of the future policy; and

The bill also provides a generous authorization under sections 3011 and 3012 for State hazardous waste programs, which are vital to a sound RCRA program. Equally important to the RCRA program operation and oversight are State hazardous waste management associations. In the RCRA area, this group is the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). ASTSWMO has greatly contributed to the Congress understanding of State RCRA programs and always with an emphasis on professionalism and thoroughness. I for one, speaking for the committee, believe it would be both appropriate and highly beneficial to fund ASTSWMO directly from the 3011 State grants authorization.

This legislation has been drafted through bipartisan cooperation with my distinguished colleague from New York (Mr. LENT) and his staff.

Since adoption of H.R. 6307 by the Energy and Commerce Committee, a number of concerns have been raised regarding several provisions of the bill. Mr. LENT and I have developed a substitute amendment which amends several of the bill's provisions in a manner consistent with the legitimate concerns that have been voiced. Specifically, the bill changes the present small generator exemption by explicitly modifying all of the administrative and managerial requirements prior to disposal, while maintaining the requirement that hazardous wastes must go to a hazardous waste facility when being treated or disposed of not to sanitary landfill municipal dumps.

The substitute bill reflects a shared consenus regarding the necessary measures for protection of public health and the need to accommodate the legitimate concerns of the regulated community. I strongly urge all of my colleagues to support H.R. 6307 and to oppose all amendments that would continue these loopholes.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the committee has under consideration H.R. 6307, the Resource Conservation and Recovery Act Amendments of 1982. This bill makes a number of important and necessary changes to RCRA, the law which governs the disposal of hazardous waste in this country. However, as reported from committee, H.R. 6307 was not, in my opinion, an acceptable bill. The minority views in the committee report reflected a number of my concerns with H.R. 6307 as reported.

Since that time, I have been working with my distinguished colleague from New Jersey, Subcommittee Chairman FLORIO, to make what I consider are necessary changes to H.R. 6307. I would indicate to my colleagues that Mr. FLORIO and I have been able to agree on several changes to H.R. 6307 which will be offered today as part of an amendment in the nature of a substitute to H.R. 6307. This amendment retains the beneficial provisions of H.R. 6307 while incorporating several desirable modifications to a number of other provisions of that measure. Unfortunately, we were unable to agree to delete section 10 of the bill relating to Federal common law remedies.

Before addressing some of the specifics of our substitute amendment, I would like to take a moment to commend the chairman of the subcommittee for his leadership in this area. The safe disposal of toxic waste should be one of this Nation's primary goals and the gentleman from New Jersey has done yeoman's duty to insure that this goal is met. I would also express my appreciation for the spirit of cooperation that Mr. FLORIO and his staff have exhibited in working out many of the troublesome provisions of H.R. 6307. I also want to commend my colleagues, Mr. ROE and Mr. HAMMERSCHMIDT for their contribution as well. I believe that the substitute that will be before this committee today is far superior to our original committee bill. If it is adopted along with a number of other meritorious amendments to be offered today, such as an amendment to strike section 10, I believe the Members of this body will have produced a well-considered and much-needed environmental measure.

Mr. Chairman, I would now like to take a moment to highlight what I consider to be several of the more important provisions of the amendment in the nature of a substitute to H.R. 6307 which will be offered shortly.

Section 3 of the substitute brings into the RCRA regulatory system for the first time a large number of small generators of hazardous waste. These small generators previously had been exempted from RCRA so the EPA could concentrate on regulating the larger generators which are producing the lion's share of hazardous waste in this country. Now that EPA has completed the regulations implementing RCRA, I am hopeful that the agency will have sufficient resources to adequately regulate these small generators. In addition, since compliance with RCRA will impose additional costs on these small businesses, I am pleased to point out that the substitute makes provision for regulatory variances for those businesses. For instance, section 3 of the substitute makes it clear that all the complicated RCRA testing procedures do not have to be followed by the small generators—identification of wastes to the level of process involved will be sufficient to satisfy the RCRA requirements. This variance provision will substantially lessen the financial and regulatory impacts of RCRA on small generators.

Another extremely important provision of the substitute is section 6. That section calls for a two-step approach to regulating the burning and blending of hazardous wastes as fuel, it is badly needed because the burning of hazardous wastes for purposes of energy recovery is totally exempt from RCRA regulation at this time. Even though energy recovery is a laudable goal and should be an important national priority, it should not, in my opinion, be achieved at the expense of our national health and environmental goals. Therefore, section 6 performs an important service in requiring notification to EPA by those who produce, distribute, and burn hazardous waste fuel. EPA is then required to regulate those production, distribution, and burning practices which are determined to be harmful to public health and the environment. Once these practices are regulated, a major gap in the RCRA regulatory program will be closed.

Mr. Chairman, I do not want to monopolize the time the minority has available on this measure but suffice it to say that sections 3 and 6 are only two of many worthwhile RCRA amendments contained in the substitute to be offered shortly. I believe it is our obligation as Members of Congress to support legislation which contributes to the long-term environmental well-being of our country. Today we are being given an opportunity to fulfill that obligation—I believe each of us should seize this opportunity and vote in favor of the bipartisan substitute.

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Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join with our colleagues today and particularly pay my deepest respect in regard to our chairman of the committee, the gentleman from New Jersey (Mr. FLORIO), the gentleman from New York (Mr. LENT) and also the gentleman from Arkansas (Mr. HAMMERSCHMIDT), and strongly support H.R. 6307, to which I know there will be an amendment in the nature of a substitute which will incorporate the amendments in the nature of a substitute of the Subcommittee on Water Resources of the Public Works Committee to sections 4 and 9. In my judgment, I think it is an extremely important environmental bill. As background, Mr. Chairman, this bill, after being reported by the Committee on Energy and Commerce, was sequentially referred to the Committee on Public Works and Transportation for consideration of section 4 and section 9. These sections direct a study by EPA of mixtures of sewage and hazardous wastes and establish a National Groundwater Commission to study and report on our ground water resources.

I might say at this point, Mr. Chairman, that the ground water of our Nation has been really neglected over the years in most of our legislation. I think that this bill is a monumental

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step forward in bringing into clear focus the policy developments that the Congress chooses to make to protect our ground water drinking water supply.

Our committee amended each of these provisions and our amendments will be incorporated in the substitute.

Section 4 directs the Administrator of the Environmental Protection Agency to submit a report to Congress on mixtures of sewage and hazardous wastes. These mixtures are presently regulated under the Federal Water Pollution Control Act. EPA would be directed to include recommendations as to whether regulations of these mixtures would be better accomplished under the Solid Waste Disposal Act.

The amendment to section 4 deletes the reference to the Solid Waste Disposal Act and calls, rather, for recommendations on whether existing law applicable to such mixtures is adequate to protect human health and environment.

The Subcommittee on Water Resources of the Committee on Public Works now has under review the pretreatment requirements under the Federal Water Pollution Control Act which relate directly to this amendment.

Section 9 of H.R. 6307 establishes a National Groundwater Commission composed of four Members of the House, four from the Senate, four appointed by the President from lists submitted by various groups and the Director of the Office of Technology Assessment.

The commission is charged with assessing a number of problems associated with contamination of ground water from hazardous wastes, together with that contamination coming from possible solid waste disposal, with a report to be submitted to Congress by October 30, 1986. The amendment to section 9 expands the scope of the study, Mr. Chairman, to include other aspects of the subject of ground water, including a general assessment of the amount, location and quality of the Nation's ground water resources; a general identification of the sources, extent and types of ground water contamination; an assessment of the relationship between surface water pollution and ground water pollution; an assessment of the extent of overdrafting of ground water resources and the adequacy of existing mechanisms for preventing such overdrafting; an assessment of the engineering and technological capability to recharge aquifers; an assessment of the methods for abatement of ground water contamination and a comparison of cleanup costs to the costs of substitute water supply methods; an assessment of the adequacy of existing standards for ground water quality under State and Federal law; an assessment of Federal and State monitoring methodology; an assessment of the adequacy of existing ground water research; and, finally, an assessment of the Federal, State, and local roles in managing ground water quality and quantity.

The amendment also changes the membership of the commission, as I previously mentioned. Of the four House Members, two would be from the Energy and Commerce, and two from Public Works and Transportation. Eight Members would be appointed by the President, four from a list submitted by the National Governors Association, and four from lists submitted by other organizations and groups.

The commission would be directed to utilize on a reimbursable basis personnel from the U.S. Geological Survey and from the Corps of Engineers.

Finally, Mr. Chairman, the date for submission of the report to Congress would be changed from October 30, 1986, to October 30, 1985, and the amount authorized to be appropriated for this indepth Commission review and study of the Nation's groundwaters will be $7 million.

The substitute includes an additional provision directing the Groundwater Commission to submit a separate preliminary study to Congress concerning ground-water contamination from solid and hazardous waste, and this study would be submitted within 1 year as an exigency to deal with this vitally important measure, as was mentioned by the subcommittee chairman (Mr. Florio).

In addition, the final conclusions and findings of this study would be incorporated in the Commission's report as a separate chapter.

May I conclude, Mr. Chairman, by complimenting the distinguished gentleman, my colleague, the gentleman from New Jersey (Mr. Florio), in having joined his subcommittee with our subcommittee in the two major elements of our concern and responsibility in this legislation, and also particularly compliment him on the joint work we did in the State of New Jersey—if our other colleagues will pardon us that provincial observation—coming out of the joint hearings we held in the county of Morris in the State of New Jersey, particularly Rockaway Borough, relating to solid waste and hazardous waste disposal in so-called dumps and land disposal of that nature, which brought forth many of the problems that our Nation is faced with in this vitally important issue.

Take into consideration, my colleagues, that 50 percent of the drinking water supply of this country is groundwater supply affecting the very life and health and safety of the people of our Nation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wish to associate myself with those remarks just made by our very able Chairman of the Water Resources Subcommittee, Mr. Roe of New Jersey.

Mr. Chairman, there are two provisions of H.R. 6307, As reported by the Committee on Energy and Commerce, which involve matters under the jurisdiction of the Public Works Committee. These two provisions relate to regulation of hazardous substances in publicly owned treatment works and creation of a national groundwater commission. The two committees have resolved their differences with respect to these two provisions, and I rise in support of this compromise on sections 4 and 9 of the bill.

Others have explained the process whereby H.R. 6307 was sequentially referred to the Committee on Public Works and Transportation. They have also summarized the provisions of the different versions reported by the two committees reporting this legislation.

I would like to emphasize just a few matters in my statement.

First, I would like to recognize and thank the leadership Chairman Florio and Mr. Lent of the Energy and Commerce Subcommittee and their staff for their willing cooperation in fashioning the compromise language that reconciles the differences in sections 4 and 9 between the bills reported by the two committees.

Second, the Public Works Committee received sequential referral of H.R. 6307 only for consideration of section 4 (dealing with publicly owned treatment works) and section 9 (dealing with the Groundwater Commission). In testimony received on the bill during the Water Resources Subcommittee's hearings, concerns were raised with respect to other sections but the committee limited its amendments only to those areas covered by the sequential referral. Two of the concerns expressed include the small generator provision and the Federal common law provision. The committee discusses these concerns in its committee report. Regarding section 3, the small generator provision, there was concern expressed that reducing the exemption for small generators from 1,000 to 100 kilograms per month would add significantly to the number of those people regulated without substantial benefit in control of hazardous wastes. Section 10 might, according to those testifying, subject those who are in full compliance with the act to additional undefined Federal liabilities and be an invitation to plaintiffs to reverse legitimate administrative determinations.

Third, Mr. Chairman, the Public Works Committee amendments to sections 4 and 9 of the bill reported by the Energy and Commerce Committee were designed to improve those provisions while maintaining the basic thrust and intent of the Energy and Commerce Committee. Our amendment to section 4 maintains the Clean Water Act focus of EPA's pretreatment study and calls for the results of the study in 1 year rather than 2 years. The shorter time frame is appropriate because much work has already been done and data collected concerning EPA's pretreatment program and because the 1-year period will better dovetail with future congressional legislative schedules. Our amendment to section 9 expands the scope of the Groundwater Commission's duties to deal with ground-water contamination of all types, not just that associated with hazardous waste, and to make a number of other changes to the structure and charter of the Commission. The compromise that has been agreed to by the two committees is identical to the Public Works Committee amendments, except that an additional paragraph has been added to subsection 9(f) of the bill calling for EPA to submit after 1 year a preliminary study concerning ground-water contamination from hazardous and other solid waste.

Finally, I think it is important to note that the amendments to section 4 and 9 of H.R. 6307 which were approved by the Public Works Committee were unanimously adopted by voice vote, with obvious support from both sides of the aisle.

In summary, then, I believe that sections 4 and 9 of H.R. 6307 are improved by actions taken in the Committee on Public Works and Transportation, and I urge my colleagues to support these provisions.

Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I am pleased to be able to join my colleagues in support of the compromise version of H.R. 6307's provisions relating to hazardous wastes entering publicly owned treatment works and formation of a National Groundwater Commission.

Our Committee on Public Works and Transportation received sequential referral of H.R. 6307 to consider sections 4 and 9 of the bill reported by the Energy and Commerce Committee. Section 4 required EPA to submit a report to Congress within 2 years of enactment, addressing whether hazardous wastes exempted from Solid Waste Disposal Act control when discharged to a sewer should be regulated under the Solid Waste Disposal Act. Section 9 established a 13-member National Groundwater Commission to conduct a 4-year study of ground water contamination by hazardous wastes and to report to Congress with recommendations for appropriate legislative and administrative actions.

The amendment reported by the Public Works Committee refined the study authorization contained in section 4, restructured the National Groundwater Commission authorized in section 9, and expanded the scope of the Commission's responsibilities. The 2-year section 4 study was shortened to 1 year, with a progress report due in 6 months, and the Solid Waste Disposal Act orientation of the study was broadened to an evaluation of adequacy of existing law generally.

Section 9's ground water commission charter was amended to call for an examination of all types of ground water contamination rather than just that resulting from hazardous wastes. In addition, the due date for the report was advanced from 1986 to 1985, the authorized funding reduced from $10 million to $7 million, a requirement added that the Chairman of the Commission will be selected from among the House-appointed Commission members, and a number of other changes made to improve the organization and effectiveness of the Commission.

After a number of discussions, the Public Works and Energy Committees have reached a consensus position concerning these provisions. Essentially, this compromise version is identical to the language reported by the Public Works Committee with the addition of a new requirement that the Commission submit an interim report within 1 year focusing on the narrower issue of ground water contamination resulting from hazardous wastes.

Mr. Chairman, I am persuaded that these two provisions will be valuable additions to our national effort to address the problems associated with safeguarding the quality of our ground water supplies and disposing of hazardous wastes in a safe and environmentally sound fashion.

Protecting our ground water is a matter of very special priority. Twenty-five percent of the fresh water used for all purposes in this country comes from ground water. Fifty percent of our population relies on ground water as its primary source of drinking water.

Despite these facts, it is only recently that we have begun to realize how remiss we have been in understanding and protecting this invaluable natural resource. The General Accounting Office reports that, in 25 States, private and public water supply wells have been capped as a result of contamination. Over 200 wells in California have been contaminated by toxic wastes. On Long Island, N.Y., where 100 percent of the population depends on ground water, 36 public water supplies and dozens of private wells have been closed because of contamination. The water supplies for nearly 2 million residents have been affected. Just this year, it was reported that contamination was only 900 feet from the well field that supplies Atlantic City, N.J.

These are just a few examples that illustrate how important our ground water supplies are and how necessary it is that we direct more national attention and resources to protecting this special national resource. Establishment of this ground water commission will significantly assist us in these efforts, and I complement the two committees for recognizing this fact and bringing this important legislation to the floor this afternoon.

Mr. Chairman, I commend these provisions to the attention of my colleagues here today and I urge you to join me in supporting their enactment.

Mr. FLORIO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Ms. MIKULSKI), a very valuable member of our subcommittee.

Ms. MIKULSKI. Mr. Chairman, the Resource Conservation and Recovery Act deals with one of the most serious health hazards facing this Nation, the hazard of toxic waste. It is a problem that knows no boundaries. It affects every person, every home, every farm and every neighborhood in this country. It is insidious and deadly.

The legislation we are asked to vote for today, the Resource Conservation and Recovery Act is the most important vehicle, the most critical tool we have to deal with hazardous waste—to contain its creeping power. RCRA, is the most effective shield we have to help protect our communities and our citizens.

Earlier this year I held extensive hearings on hazardous waste in my district. And I would like to take this opportunity to thank the chairman for allowing me to hold those hearings. They were invaluable.

As the hours went by I heard horror story after horror story about toxic and hazardous waste, not only in my community, but in communities throughout the State, and throughout the country.

I learned two very important facts from those hearings. First, I learned that the law must be enforced, that it must be enforced fairly and equitably, and that there must be some control over those who enforce it.

Second, I learned that there is no vehicle now for citizens to find redress for their grievances. I found that people were being treated as if they were the problem, when the problem was the poison of hazardous waste.

RCRA took important steps to tighten up loopholes that allowed improper disposal of toxic waste. We must pass and support funding for the legislation

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as our pledge toward a poison-free community.

What we are talking about in this legislation is the right of human beings to live without the fear of disease of impairment by chemical poisoning. We are talking about the responsibility of Government to protect its citizens, and we are talking about the ability of the Government to respond to the people—the people who have heard the warning of Rachel Carson, and who do not want to face a silent spring, or poisoned neighborhood.

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Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I would like to ask the gentleman from New Jersey, who is the author of this legislation and the chairman of the subcommittee from which it is reported, a few questions concerning the so-called small generator exemption now found in the Resource Conservation and Recovery Act. It is my understanding that facilities generating less than 1,000 kilograms per month of hazardous wastes currently are exempt from most RCRA regulation and may dispose of their wastes at sanitary landfills. Section 3 of H.R. 6307 would lower the threshold to 100 kilograms per month.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from New Jersey.

Mr. FLORIO. That is correct. Section 3 also provides, though, that the EPA may establish a different set of standards for generators in the 100- to 1,000-kilogram range than they have for those who produce more than 1,000 kilograms.

Mr. BEDELL. Those of us who serve on the Small Business Committee have advocated two-tier regulations for some time now, and that distinction in your legislation is welcome.

I also commend the gentleman for his floor amendment to clarify the present two-tiered nature of the small quantity generator provision by modifying the managerial and administrative requirements imposed on such generators prior to the actual disposal or treatment of the waste.

However, I still am troubled by the large number of small businesses that could be brought under RCRA's provisions who are now substantially exempt.

Clearly, there are certain hazardous substances that cannot be overlooked, no matter how small a quantity we are talking about. But there are other materials, which when properly recovered and recycled, do not endanger public health or the environment.

In particular, I am concerned about the tens of thousands of service stations where waste oil, used car batteries, and various solvents are collected. As the gentleman knows, the Small Business Subcommittee on Energy, Environment and Safety, which I chair, has been deeply involved in both motor fuel marketing issues and used motor oil recovery.

We have found that waste oil, in particular, has become an increasingly valuable commodity. Gasoline dealers, car care centers, and others are being paid up to 30 cents per gallon for the waste oil they collect. Similarly, there is a lucrative market for used batteries and solvents.

Mr. FLORIO. The gentleman is correct. Used motor oil is a recyclable product and this committee has sought to encourage the recovery of this resource through enactment of the Used Oil Recycling Act of 1980. We are disappointed that the Environmental Protection Agency has not yet issued regulations covering the recycling of waste oil. Section 3012 of RCRA mandates that such regulations should be promulgated promptly. I would also point out that it is the purpose of H.R. 6307 to serve as an additional impetus in this regard by bringing the appropriate incentives and control to this segment of the waste stream.

If I may digress, it should be noted that the gentleman from Iowa and his subcommittee have been very helpful in bringing the public's attention to the fact the EPA has not acted yet on this important matter. The Small Business Committee has correctly pointed out that EPA's failure in this regard has impeded development of the used oil recycling industry.

Mr. BEDELL. I thank the gentleman for his kind comments.

In regards to H.R. 6307, is it the gentleman's understanding that service stations which collect used motor oil would be considered hazardous waste storage facilities?

Mr. FLORIO. It is certainly not the committee's intention to categorically require that service stations become permitted hazardous waste storage facilities under RCRA, particularly when waste oil is the sole or primary component of their waste stream and when such material is properly recycled. Nor is it the committee's intent to categorically exempt all service stations from storage requirements irrespective of the nature and quantity of the waste stream and the manner of waste management. This will depend upon how much of what type of waste is generated, and upon the ultimate disposition of the waste material.

One of the RCRA's basic purposes is to insure that all forms of hazardous waste treatment, storage, and disposal are controlled as may be necessary to protect public health and the environment. It is the intent of this amendment to stem the disposal of hazardous wastes into solid waste landfills, a practice which has contributed to unparalleled environmental harm. In light of these concerns, and given the general nature of operations at service stations, however, the committee does not intend or expect that such facilities will be substantially affected for the following reasons.

First, waste oil is covered by the Used Oil Recycling Act of 1980 which directs the EPA to develop regulations that create incentives for used oil recycling. While some waste oil may ultimately be determined to be a hazardous waste, it is expected that the Agency will take into account the nature of the waste oil management practice and the need to encourage such recycling when implementing any waste oil standards.

Second, under current EPA regulations, car batteries are not included even in the 1,000 kilogram-month count, and would not be subject to regulations, or included in the monthly generator count prior to recycling. The committee believes this approach to be appropriate.

Third, with specific reference to potential permitting for hazardous waste storage at service stations and other previously exempt generators, the committee has included specific statutory language which allows the Agency to accommodate the particular storage needs of such facilities, where appropriate, including extension of the current 90-day limit.

And fourth, the committee has also clarified the recycling provision of the legislation such that certain recycling practices may not be regarded as hazardous waste management, or need not be subject to regulation where the Agency determines that such a distinction is appropriate and will not endanger public health and the environment. Recycling of hazardous wastes under RCRA, however, connotes much more than oil recycling. The use of hazardous wastes as landfill covers and the air emissions of hazardous wastes through boilers also constitute waste recycling. Such practices must be subject to the same health and environmental standard as all other forms of hazardous waste management.

In summary, used oil collected by service stations which is properly recycled, is not intended to be subject to substantial additional requirements under RCRA. However, if this same material or other hazardous waste generated by such facilities is discarded rather than recycled, the amendments should not be construed to allow the disposal of such wastes by generators of more than 100 kilograms per month to occur at facilities other than subtitle C hazardous waste facilities.

Mr. BEDELL. In fact, in many areas, including my home State of Iowa, service stations have actually added to the cleanup of environment by serving as collection points where do-it-yourselfers can bring in waste oil for proper disposal.

Mr. FLORIO. That is correct. This is an activity that is beneficial to all parties concerned.

Mr. BEDELL. RCRA requires those who generate hazardous wastes to keep various records regarding its disposal. If waste oil becomes listed as a hazardous waste, this could impose a significant burden on service station operators. They frequently sell used motor oil to several different, competing collectors who then transport it hundreds of miles to reprocessing facilities. It would be impractical for the service station operator to meet the present RCRA requirements in such cases.

Mr. FLORIO. The committee recognizes this problem. We have included specific instructions to EPA that smaller generators of hazardous wastes should be relieved of as much administrative burden as possible.

Is it our understanding that most States require waste oil collectors to be licensed to operate, and that this includes a showing that they are disposing of the product in an approved fashion. Consequently, we feel it would be sufficient for a service station operator to merely keep receipts from waste oil collectors, showing that particular quantities of specific substances were sold to properly licensed collectors for subsequent disposition.

Mr. BEDELL. That would place the primary burden on the waste oil collector or transporter, which I believe is where it properly belongs. Thus the transporter or collector would assume the bulk of the responsibility for the generator's manifesting requirements.

Would you envision a similar disposition of recordkeeping requirements for used batteries and solvents that are sold for reuse?

Mr. FLORIO. Yes, this type of arrangement is appropriate for waste oil and could be appropriate for slovents depending upon the type of recycling arrangements and degree of continuing control over spent solvent exercised by the generator. Solvents, however, are the architypical hazardous waste contaminant, which readily migrate and solubilize additional hazardous waste contaminants, particularly when placed into landfills. It is those type of wastes when so disposed that have been the specific focus of this legislation and much recent controversy.

The committee recognizes though, that certain arrangements regarding solvent recycling may well provide the necessary level of public health and environmental protection, while minimizing administrative burden to the generator. For instance, many automobile repair facilities employ commercial cleaning services that actually retain title to the materials they use and who remove and recycle used solvents, so that the shop owners are not functioning as generators in the usual sense of the word. The specifics of such complex determinations, however, require the exercise of Agency discretion.

These are all spent materials which have commercial resale value, and which are already being recycled. It is my feeling that service station operators are already behaving in a very responsible fashion. Imposing an added paperwork burden on them would not produce any further improvement in environmental protection.

Our concern is for what happens to the products after they have been sold for reuse, and I believe showing proof of sale to licensed collectors or reprocessors, and requiring the manifesting responsibility to be borne by the collector and/or transporter should be sufficient to satisfy the requirements of RCRA as it would be amended by H.R. 6307.

Mr. BEDELL. I thank the gentleman, and I commend him for his continuing awareness of this potential for energy savings and environmental protection from encouraging the recycling of used motor oil, and for his awareness of the special circumstances of the service station industry. I believe the gentleman seeks an appropriate balance between environmental protection and the needs of smaller generators in section 3 of this legislation.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Chairman, I rise in strong support of H.R. 6307 as substituted, the Resource Conservation and Recovery Act reauthorization before us this afternoon. I believe that the $113.5 million authorized by this legislation for fiscal year 1983 as well as the $11.5 million for fiscal year 1984 will go far in our Nation's fight against environmental degradation.

In 1976, Congress revised the Solid Waste Disposal Act to establish the RCRA program and provide for a basic national hazardous waste program. Since that time, we have made great progress in our ability to better control hazardous solid wastes.

Today, we have an opportunity to expand on that progress by voting in favor of this legislation as reported by the House Energy and Commerce Committee and amended by substitute. Based on an evaluation of the RCRA's performance to date, the Energy and Commerce Committee in conjunction with the Public Works Committee has proposed certain changes designed to improve the program's effectiveness through the closing of loopholes in the system of tracking hazardous waste and the streamlining of EPA disposal permit processing.

Finally, I favor the work done to narrow the hazardous waste exemption for small quantity generators. With about 10 percent of all hazardous wastes, about 8 billion pounds, the responsibility of small quantity generators, I think the need to control this waste is self-evident. Currently, I understand that these wastes are dumped into sanitary landfills or public sewage treatment systems—neither of which are designed to safely contain hazardous materials. I find this unacceptable.

I hope that my colleagues will join me in support of this legislation to help preserve our environmental quality of life.

Mr. ROE. Mr. Chairman, I yield 8 minutes to the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I rise in strong support of H.R. 6307 and commend the chairman of our subcommittee, the gentleman from New Jersey (Mr. ROE), on the Public Works and Transportation Committee; our chairman of the Commerce Committee, the gentleman from New Jersey (Mr. FLORIO); the ranking Republican members of both Commerce and Public Works, particularly the gentleman from Arkansas (Mr. JOHN PAUL HAMMERSCHMIDT), for their work in putting together this reauthorization of RCRA.

I commend all of these who have taken the time to look at the way in which resource recovery and its legislation has been put in place so that we can protect ourselves in the disposal of hazardous substances.

I could go into some great detail about the provisions of the legislation that deal with resource recovery, but I would like to take the few minutes I have been granted in general debate to talk about one section of the bill which I had something to do with and also a section which I think is important to the whole Nation, North, East, South, and West.

Mr. Chairman, I rise in support of H.R. 6307, the bill reauthorizing the Resource Conservation and Recovery Act.

As chairman of the Northeast-Midwest Congressional Coalition, I am aware that the proper management and disposal of hazardous wastes has to be one of the Northeast-Midwest region's top priorities. Due to the region's history of heavy industrialization, our States have been the sites of numerous horror stories about illegal or careless disposal of hazardous wastes. In fact, under the Superfund program, 57 percent of the priority cleanup sites that were both solid and hazardous waste facilities are located in the Northeast-Midwest region.

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The Resource Conservation and Recovery Act provides the public with important protections against the environmental and health impacts of hazardous substances. H.R. 6307 amends the 1976 act in ways that will serve to enhance that protection and close certain loopholes which otherwise may allow dangerous disposal practices to continue at many facilities. For example, H.R. 6307 phases out the current exemption for those which generate between 100 and 1,000 kilograms per month of hazardous wastes. Eight States in the Northeast-Midwest region already have regulations which establish a 100-kilogram cutoff, as does the committee bill, and some States have substantially lower cutoff points. Several other States in the region have imposed requirements that are significantly more stringent than EPA's current practice. It is possible that, due to a lack of uniformity in the treatment of small quantity waste generators by the States, certain areas will suffer a competitive disadvantage with businesses that are concerned about waste disposal requirements.

Other provisions of the bill which will help control one of the most serious threats to environmental quality—that is, the contamination of ground water with hazardous substances. These provisions will restrict the disposal of hazardous waste liquids in landfills and the injection of hazardous wastes into ground water.

Section 9 of H.R. 6307 authorizes the creation of the National Groundwater Commission. As an author of the original legislation to create the Commission included in Mr. FLORIO's bill and modified by the Public Works Committee amendments I want to underline the importance of this section.

A great deal of evidence has surfaced showing that contamination of our Nation's ground water supplies is increasing at a dangerous pace. When you consider the fact that over one-half of all Americans depend on ground water for drinking water, you can begin to realize the magnitude of this problem.

According to a survey published last year by the New York Public Interest Research Group, a sampling of 450 wells in Nassau County found traces of suspected carcinogens in 25 percent of the tested wells. Public water supplies have been found to be contaminated in 20 Massachusetts communities, 16 communities in Connecticut, 25 in Pennsylvania, and 22 in New York. About 100 drinking water wells surrounding a landfill in Jackson Township, N.J., have been closed because of organic contamination. Thirty square miles of the shallow aquifer under the Rocky Mountain Arsenal in Denver have been contaminated by chemical byproducts from the manufacture of pesticides and herbicides. A May 6, 1982 survey by the General Accounting Office points out as a major national issue impending water shortages in the West and Southwest caused by continual shifting of population to urban centers in the western region which are dependent on underground aquifers for water supply.

Congress has addressed ground water problems in the past—notably in the area of hazardous water control. The Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Superfund Act all address issues concerning ground water contamination and related health hazards. The Northeast Midwest Congressional Coalition held an informal field hearing on this subject last fall at Greenvale, L.I. At that hearing 11 witnesses told Senator PAT MOYNIHAN and Representatives LENT, FERRARO, and CARMAN of the need for a more concerted Federal and State attack on ground water contamination.

The idea for a Groundwater Commission grew out of that hearing on Long Island and a subsequent conference on water issues in January. At the Northeast-Midwest Coalition conference in January, which was attended by our distinguished subcommittee chairman, Mr. ROE, Prof. David Morrell of Princeton University strongly advocated the need for a high-level Commission to focus on ground water problems. Subsequently, Dr. Morrell wrote to me:

> While local areas already face serious dangers, at the national level we still have sufficient time (perhaps two or three years) to formulate responsible and effective public policy. Moreover, this is an area of public policy which, while national in scope, requires a great deal of action on the state and local level * * *. In addition, ground water policy remains highly ambiguous. Essentially, no one knows what we should be doing: not the government regulatory officials at EPA or in the states; not the academic experts; not the business executives; not the environmental community; and not the politicians. Frankly, all of us are still foundering in a morass of unclear scientific information, political and economic pressures, and regulatory confusion.

These are the words of an environmental engineer and one of America's top experts in this field. While much work and research is being conducted on ground water currently, there is no overall focus for these efforts. The bureaucracy at EPA has not helped substantially. Congressional committees have tried to find answers, but congressional jurisdiction is scattered and chaotic on this issue. Dr. Morrell went on to suggest to me that what we need is a congressionally charged commission, with specific duties.

The Water Resources Subcommittee examined the Groundwater Commission concert in hearings and heard no substantive objections to the legislation. Representatives of the EPA expressed concern that the formation of the Commission might somehow interfere with administrative activity now being undertaken on the groundwater issue, but were reassured that the formation of the committee would not preclude any near-term actions being taken by EPA or the administration. The Commission is, rather, a long-range effort to instill coherence in our knowledge and policy on a problem that is dealt with in several Federal statutes, dozens of State laws, and a handfull of committees of the House and Senate.

Membership on the Commission is equitably composed of Members of Congress and representatives of State government, public interest groups and industry. There is no prior bias as to the policies and directions the Commission may eventually recommend. I believe that this provision will put us on a firm path toward preserving a safe and adequate supply of ground water and is an important addition to the reauthorization of the RCRA program. I urge my colleagues to support this legislation.

I ask the Members as they think about this particular legislation to think about the many other experts throughout the Nation who have reminded us that we really are in a timeskip as we live in our society. We are the only generation in human history that has an opportunity to plan, not predict, its future, and I think that moving toward the establishment of a National Groundwater Commission gives us an opportunity to put handles on this very serious problem in time for us to address in an adequate way the solutions to that problem in the future.

Mr. ROE. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from New Jersey.

Mr. ROE. I thank the gentleman for yielding.

Mr. Chairman, I want to take this opportunity to identify myself with the gentleman's comments and also thank the gentleman for the extensive effort the gentleman has been putting forth in really spearheading the work that we are projecting in this legislation, in the ground water area.

I think it is an extremely important environmental issue that has been completely overlooked over the years. I think the gentleman is doing a superb job. I want to compliment the gentleman for his efforts.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would likewise like to recognize the initiative of the gentleman coming forward with this proposal and it is out of the gentleman's ideas that this whole situation of the bill has developed.

I thank the gentleman.

Mr. EDGAR. I thank the gentleman.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I would ask if the gentleman from New Jersey (Mr. FLORIO) would engage in a colloquy briefly.

Several oil refineries in my district inject refinery wastewater through class IV wells into an old oil and gas producing formation located several thousand feet underground, well below any current or even anticipated future sources of drinking water. Current EPA regulations define the term "underground source of drinking water" to allow such a formation to avoid designation as a USDW if it can be shown the aquifer does not now and cannot in the future serve as a source of drinking water.

Was it the gentleman's intention, in drafting section 5 of H.R. 6307, to incorporate the current EPA regulatory definition of the term "underground source of drinking water"?

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Mr. FLORIO. Mr. Chairman, if the gentleman will yield, the answer is "Yes."

Mr. THOMAS. I thank the gentleman. Therefore, this bill and the gentleman's substitute will not change the existing regulatory procedure for the designation as "exempted aquifers" of those formations which do not now, or cannot in the future, serve as underground sources of drinking water, as provided by the EPA regulations; is that correct?

Mr. FLORIO. If the gentleman will yield, the gentleman is correct.

Mr. THOMAS. I thank the gentleman very much.

Mr. HAMMERSCHMIDT. Mr. Chairman, at the moment I have no further requests for time, and I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. FLORIO. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE), who has been extremely helpful in developing this legislation.

Mr. LAFALCE. Mr. Chairman, I rise in strong support of the subcommittee's substitute being offered by both the gentleman from New Jersey (Mr. FLORIO) and the gentleman from New York (Mr. LENT).

I want to thank the gentleman from New Jersey and the gentleman from New York, and their staffs, for working with me and my staff to put together what I believe is a responsible approach to the hazardous wastes in landfills issue.

The amendment contained in the substitute embodies a fundamental principle with which all Members can agree: Hazardous waste management must fully protect human health and the environment.

The compromise amendment directs EPA to submit annual reports to Congress identifying those hazardous wastes for which landfill disposal may not be protective of human health and the environment based upon the toxicity, mobility, persistence, and the ability of the waste to bioaccumulate.

The amendment also directs EPA to also identify those hazardous wastes for which there exists one or more technologically feasible means of treatment, recover, or disposal, other than landfill disposal, which will protect human health and the environment. Most importantly, the compromise amendment directs EPA to promulgate regulations respecting those hazardous wastes for which landfill disposal may not be protective of human health and the environment. For the purposes of such regulations, the amendment directs EPA to consider the ability of landfill disposal facilities to contain hazardous wastes over time; to examine alternative treatment, recovery, and disposal technologies, and the actions taken by State governments in this regard; and to review, for possible regulatory action, all halogenated organics.

The compromise amendment is fully consistent with EPA policy. Yesterday, Rita Lavelle, Assistant Administrator for Solid Waste and Emergency Response, wrote to both the Speaker and the minority leader. Ms. Lavelle's letter notes:

> The Agency now plans to prohibit land disposal of hazardous wastes which are highly toxic, persistent and mobile, where alternative treatment or recovery technologies are reasonably available.

Mr. Chairman, the evidence continues to demonstrate that the unrestricted landfill disposal of hazardous wastes in secure landfills makes those landfills less than secure. Peter Montague, the administrator of Princeton University's hazardous waste research program, recently reported that four New Jersey landfills that employed state-of-the-art technology to prevent leakage actually leaked. These were not landfills constructed in the 1950's or 1960's; they were landfills that were less than 4 years old.

A recent report in Civil Engineering, the journal of the American Society of Civil Engineers, concludes that low permeability clay used to contain hazardous wastes can be rendered highly permeable by certain chemicals. And EPA, in the introduction to its regulations for hazardous waste landfills, notes, "any liner will begin to leak eventually * * *" EPA concludes, "thus it can be assumed that a hazardous waste land disposal unit presents some risks to groundwater well into the future * * *."

Secure hazardous waste landfill design features include: Liners to block or impede movement of leachate out of the waste containment area; subsurface and groundwater monitoring wells; caps which do not allow rainwater to infiltrate the landfill, yet remain sufficiently moist to support vegetation; drainage control facilities; and features to collect any leachate or gas produced in the waste disposal area.

These features minimize, but do not prevent, the escape of materials from secure landfills. Perpetual monitoring, maintenance, and cleanup are required even at the most modern, secure landfill.

The growing concern throughout the United States regarding the adequacy of landfills for the safe disposal of hazardous wastes reflects a belief, shared by EPA, that these requirements simply cannot be met.

Given these real problems, we must exercise care in the selection of hazardous wastes for landfill disposal. If the landfill disposal option is to remain viable—and I believe it will for the foreseeable future—we cannot allow the indiscriminate disposal of all hazardous wastes in landfill disposal facilities. It is this end, Mr. Chairman, which the compromise amendment is designed to achieve.

This Nation generates over 60 million metric tons of acids, corrosive materials, toxic chemicals, and other hazardous wastes annually. The volume of such wastes will grow at an annual rate of 3.5 percent, exceeding 80 million metric tons annually by 1990. I believe that the time has come to phase out the landfill disposal of hazardous wastes for which landfill disposal may not be protective of human health and the environment.

Several States have moved ahead aggressively to achieve just this end. California will, over the next several years, phase out the landfill disposal of priority hazardous wastes including PCB's, pesticides, toxic metals, cyanides, halogenated organics, and nonhalogenated volatile organics.

As the gentleman from New York, Mr. LENT, knows, the Department of Environmental Conservation has developed a plan to selectively ban landfilling of hazardous wastes. CECOS International and SCA Services, Inc., New York's two licensed hazardous waste disposal companies, are working with the State to phase in alternative treatment technologies.

Several other States, including Iowa, Kentucky, Maine, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Vermont, have or will implement plans to encourage the development and utilization of alternative technologies for the treatment, recovery, or disposal of hazardous wastes.

Mr. Chairman, in 1977, a small community in Niagara Falls, N.Y., in my congressional district, achieved nation-

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al prominence. Love Canal, a neat working class community, became synonymous with the problem of hazardous waste disposal. Today over 237 homes have been demolished, and dioxin, the most toxic substance known to man, still poisons area creeks and sewers.

Love Canal is but one of the thousands of toxic time bombs that dot the American landscape. The Congress has committed $1.6 billion to clean up these sites, and we are becoming painfully aware that billions more may be needed to complete the job. We will be paying for yesterday's mistakes tomorrow and for years to come.

Passage of RCRA 6 years ago marked the beginning of our commitment to insure that hazardous waste landfills are designed, operated, and maintained to fully protect human health and the environment. If we are to avoid a second generation of Love Canals, we must manage hazardous wastes with the same vigilance. Mr. Chairman, the compromise amendment is a first, necessary step toward that goal. I urge its adoption by the House.

The second necessary step is to insure that most, if not all, hazardous wastes generated in this country each year are disposed of in a manner which protects public health and the environment.

RCRA currently regulates generators that produce more than 1,000 kilograms of hazardous waste per month. The exemption afforded the so-called small quantity generators allows them to dispose of their hazardous wastes in solid waste landfills and municipal dumps.

There can be no doubt, Mr. Chairman, that this exemption poses a potentially serious threat to human health and the environment. Solid waste disposal facilities and municipal dumps are simply not designed to contain hazardous wastes. There are no facilities to monitor, control, or clean up hazardous wastes that might migrate from these nonsecure landfills.

According to EPA's own data, over one-half of the 115 Superfund priority sites identified by the Agency for cleanup were solid waste facilities or municipal dumps that accepted both hazardous and solid wastes.

The substitute being offered today by Mr. Florio and Mr. Lent includes a responsible solution to this serious problem. The substitute lowers the level of the exemption from 1,000 kilograms-per-month to 100 kilograms-per-month. It gives EPA the flexibility necessary to modify the administrative and managerial requirements on these smaller operations prior to actual disposal or treatment of the waste. And, the substitute requires that small generators take their waste to a proper hazardous waste management facility, and not a sanitary landfill or municipal dump.

Mr. Chairman, those of us who support this provision of the substitute, recognize that compliance with regulations that will be amended to take into account the particular conditions affecting small business will be costly. But we also recognize that the cost of noncompliance will be greater.

The subcommittee substitute being offered today by Mr. Florio and Mr. Lent moves us several steps closer to insuring that all hazardous wastes are properly managed.

Mr. Chairman, I urge adoption of the subcommittee substitute and the provisions therein to restrict the landfill disposal of hazardous wastes for which land disposal may not be protective of human health and the environment, and to bring most, if not all, of the 60 million metric tons of hazardous waste generated in this country each year under RCRA's regulatory umbrella.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for his support and I wish to pay recognition for the gentleman's role as an environmentally oriented person who is particularly concerned for small business.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Chairman, I rise in strong support of H.R. 6307 and I especially want to commend the efforts of the two gentlemen from New Jersey, Mr. Florio and Mr. Roe. I feel like I am reciting a Shakespeare play, but they have done a fine job in bringing this responsible and essential legislation to the floor.

Mr. Chairman, H.R. 6307 addresses a serious problem that deeply concerns many Americans, the problem of hazardous waste.

This legislation authorizes $109 million in fiscal year 1983 for EPA's program on hazardous waste and takes positive and essential steps in the management of hazardous waste.

I believe this funding level would allow for an effective hazardous waste program at the Environmental Protection Agency.

In addition, I wholeheartedly approve of the provisions in the bill that would tighten the management requirements for hazardous waste generated in this country.

Existing law has failed to address some very serious hazardous waste problems and I believe appropriate actions must now be taken.

Specifically, I refer to the handling of hazardous wastes from small generators, the disposal of hazardous wastes in municipal landfills, and the use of fuel that has been combined with hazardous waste materials.

Oversight activities conducted by the Subcommittee on Natural Resources, Agriculture Research and Environment, which I have the honor to chair, confirm the fact that these are all serious problems, not only in my State of New York but also in many other parts of the country.

We cannot ignore these problems and further jeopardize our environment and our citizens.

This legislation addresses these problems responsibly and I, therefore, strongly urge its adoption by the House.

● Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 6307, the Resource Conservation and Recovery Act reauthorization.

Hazardous waste management has become an issue of major national concern and one of great concern for both New York State and New York City. Since passage of the Resource Conservation and Recovery Act in 1976, the U.S. Environmental Protection Agency has been slow to implement this important law. The EPA did not issue its first major package of hazardous waste regulations until May 1980, and it had barely begun to implement them before the Reagan administration took office. Since then, EPA has been hit with severe budget reductions.

As approved by the Energy and Commerce Committee, the bill authorizes appropriations of $108.5 million in fiscal year 1983 and $111.5 million in fiscal year 1984. These figures are more than $30 million more than the President had originally requested for the Resource Conservation and Recovery Act (RCRA). In addition, the bill earmarks $109 million to enhance the enforcement activities of RCRA. H.R. 6307 will significantly expand the scope of the hazardous waste law and will force the EPA to meet new deadlines for issuing or denying disposal permits to the generators of hazardous wastes. Plus, this legislation will create a National Ground Water Commission to recommend ways of protecting ground water from contamination.

Specifically, Mr. Speaker, I support:

Restricting the disposal of bulk and containerized liquid hazardous wastes in landfills. Present EPA regulations are inadequate to protect the environment from contamination in that those regulations permit the free disposal of untreated bulk liquid wastes in landfills. The regulations ignore the fact that toxic chemicals can migrate through the ground and into the ground water.

Prohibiting the injection of hazardous wastes into underground sources of drinking water and restricting the injections above present and potential underground water supplies, pending the development of State programs to regulate this practice. EPA has vacillated on whether to regulate underground injection wells for the disposal of hazardous wastes under RCRA of the Safe Drinking Water Act. Thus the regulation of class IV underground injection wells used for the disposal of toxic and radioactive liquids into and above underground sources of drinking water has been sorely neglected.

Requiring the EPA to set standards for industrial boilers that burn hazardous wastes as fuel.

Requiring that interim status facilities wanting to expand by more than 10 percent obtain permits in accordance with the standards that apply to new facilities.

Establishing a timetable for the EPA to review permit applications to accelerate the issuance of final permits which spell out specific environmental protection measures for existing hazardous waste management facilities.

All of these issues—my concerns, the concerns of the Nation, the concerns of my congressional district, and the people of Staten Island—are addressed by H.R. 6307. The national hazardous waste problem has reached a crisis stage in many of our communities. If we fail to act now, we may very well lose the opportunity to develop a preventative approach to future hazardous waste problems. We need a strong Federal law now more than ever to restore public confidence. We need to put teeth in the Resource Conservation and Recovery Act. We need H.R. 6307, and I call upon my colleagues to give their wholehearted support to it.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6307, the RCRA Reauthorization Act of 1982. This legislation provides a 2-year reauthorization for a major law that established our Nation's basic hazardous waste system.

RCRA represented a milestone in our efforts to regulate and monitor the problem posed to the environment by the increasing amounts of hazardous wastes which are generated annually. If unchecked, these wastes would create enormous environmental and health problems for generations to come.

This legislation seeks to provide additional guidelines for the implementation of the law. The establishment of specific deadlines in the legislation dealing with the issuance of hazardous waste disposal permits is an additional step in the right direction and which will provide certainty in this complex regulatory area.

At the same time, I also support the amendment that will be offered by our colleague, Congressman Phil Gramm, dealing with small generators of hazardous wastes. I agree that there should be some consideration given to the regulation of generators of hazardous wastes in quantities of less than 1,000 kilograms per month. However, the immediate applicability of the RCRA regulations on small generators, as provided for in section 3 of the bill, will have a significant economic impact on those generators, the majority of which are small businesses such as gas stations, dry cleaners, auto repair shops, laboratories, and so forth. I favor the approach taken by Congressman Phil Gramm which directs the Environmental Protection Agency to conduct a comprehensive study on small generators to assess the problem they present and to analyze the regulatory alternatives available to deal with these hazards. In this way, different options can be studied that will achieve the desired purpose without being onerous on the small generators that will be regulated.

I urge my colleagues to vote in favor of the Gramm amendment and will also support the prompt enactment of this bill.●

● Mr. MOFFETT. Mr. Chairman, I rise in strong support of H.R. 6307. First, let me thank Mr. Florio and Mr. Roe for their leadership on this issue and congratulate them on this excellent reauthorization bill.

Over 80 billion pounds of hazardous wastes are dumped each year, creating a serious threat to the land, to drinking water supplies, and to the health and well-being of our citizens. H.R. 6307 is an important and essential step in providing a solution to this problem and in reaching the goal of protecting the public from significant environmental and health damage.

In particular, I would like to emphasize the importance of the creation of the National Ground Water Commission. The Subcommittee on Environment, Energy and Natural Resources, which I chair, undertook a year-long investigation into the ground water problem. Our investigation culminated in a report of the full Government Operations Committee which urged, in the strongest terms, the development of a national strategy to protect our ground water resources.

Over 100 million Americans depend on ground water. Over 40 percent of our citizens in my State of Connecticut obtain their water from wells. Ironically, as the dependence on ground water is growing, so is the destruction of precious underground drinking water supplies. In Connecticut alone, some 25 percent of the towns have suffered from hazardous waste and toxic chemical contamination of ground water.

Just last week, I visited the residential community of Montville, Conn., where toxic organic solvents had destroyed 13 private wells and pose a threat to dozens more. The problems faced by the citizens of Montville are being faced by residents of towns across the Nation.

Despite my pleasure at seeing the ground water issue addressed, I am disappointed that EPA's failure to act in this vital area has necessitated further congressional action. The Reagan administration has not used its authorities to address this issue and, by failing to act, is exposing our resources and our citizens to dangers which could be mitigated. As Mr. Florio noted in the full committee markup on this legislation, the establishment of this Commission should be viewed by the EPA as a signal that the Congress is not happy with its "go slow" approach, that Congress is frustrated by the EPA's meager efforts to prevent the destruction of ground water supplies. Thus, the creation of the Commission must be seen as a call to action.

I would also like to say that I believe Mr. Fithian's amendment is essential. Hearings held by my subcommittee in the field earlier this year clearly indicated that this amendment will correct wasteful and unnecessary ambiguity in the Superfund legislation. I believe this amendment clearly expresses the intent of the Congress that only municipally owned and operated sites should be forced to pay 50 percent of the cleanup costs.

I believe that H.R. 6307 deserves the full support of the House. I look forward to working with my colleagues in future efforts to protect our essential and irreplaceable underground drinking water supplies.●

● Mr. MATSUI. Mr. Chairman, I rise in support of H.R. 6307, legislation to reauthorize the Resource Conservation and Recovery Act. This statute has been most effective in addressing the hazardous waste question, and the protections it affords the public should be retained.

It is widely accepted that the mismanagement of hazardous wastes is one of the most serious public health and environmental problems before our country today. This fact is underscored by the large number of abandoned toxic dump sites littered across America, and the continued illegal dumping of wastes down sewers, storm drains, and in vacant lots. It is disconcerting to realize that the public still relies on land disposal facilities for the most deadly and persistent chemicals despite overwhelming evidence that most landfills eventually leak.

The Resource Conservation and Recovery Act of 1976, which sought to correct these egregious problems, was modeled on California's 1972 hazardous waste law. California, with one of the Nation's most serious waste problems and one of the most progressive programs to combat it, provides an interesting case to study during our consideration of RCRA's reauthorization.

Indeed, my State has assumed an important role in the debate surrounding the hazardous waste question, and a review of the relevant facts concerning California's current situation is appropriate. Given the Environmental Protection Agency's claims that California is the fourth largest producer of haz-

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ardous wastes in the country, a discussion of my State's problems will also be instructive to other industrial States faced with similar difficulties.

During the past several years, nearly 100 hazardous waste sites have been identified throughout California. The soil and water surrounding these areas has been contaminated with dangerous pollutants and are a profound threat to human health and the environment. Cleanup of these sites represents a long-term commitment of resources and time, as it will require hundreds of millions of dollars and many years to complete the task. These 100 sites are only the first to be discovered, and it is expected that numerous other hazardous dump sites will be located before California's county-by-county search is ended.

We cannot shirk our commitment to the eradication of dangerous wastes, as many of these sites have contaminated drinking wells with solvents, pesticides, and other possible carcinogenic materials. The existence of these tainted wells poses an unacceptable hazard to the public's well-being and as such, it becomes our responsibility to prevent such pollution from occurring. Once an aquifer is contaminated, the process of reclaiming it is a difficult and expensive one, and the natural rate of ground water recharge is on the order of decades. This problem needs to be addressed, as over half of all U.S. citizens rely on ground water aquifers for their drinking water. We cannot continue to threaten that water supply by relying on questionable land disposal practices.

Hazardous wastes of all types continue to be churned out at an alarming rate. In 1982, California discovered that the actual amount of waste generated within its borders is close to 18 million tons, rather than the 5 million tons previously estimated. Most recently, we have witnessed the Santa Clara Valley's citizens contend with a critical waste problem. This productive area, which is the capital of the State's electronics industry, has been plagued by a series of massive leaks in underground storage tanks containing toxic solvents. The event's potential for damaging the integrity of the area's ground water supplies was significant and is indicative of the need for society's greater vigilance in the disposition and long-term management of hazardous waste.

Notwithstanding the numerous hazardous waste problems encountered by the State, California has been in the vanguard of the battle to reclaim these poisoned sites. Our State's hazardous waste laws have been updated during each of the last 10 years as the extent of the problem becomes understood more fully. The Resource Conservation and Recovery Act, on the other hand, has not been modified to reflect the new changes in our knowledge about hazardous wastes. It is my firm belief that the adoption of H.R. 6307, as amended by the committee proposals, will allow our country to keep pace with the growing complexity of this problem. I urge my colleagues to support this measure.●

● Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 6307, the reauthorization of the Resource Conservation and Recovery Act and in support of strengthening amendments.

Mr. Chairman, I commend by colleagues on the Energy and Commerce Committee for the excellent work they have done in addressing the problem of hazardous waste management. In particular, I commend my colleague from New Jersey (Mr. FLORIO) for the leadership he has demonstrated. The Superfund legislation enacted in 1980, providing authority for clean up of abandoned hazardous waste sites, was guided through the committee by Mr. FLORIO and will benefit communities across the country suffering the results of poor or illegal dumping practices. The Resource Conservation and Recovery Act (RCRA) is designed to control current waste management practices so that ideally, Superfund would no longer be needed.

The problems of hazardous waste management describe by my colleagues and well known to most Members are very real. They certainly are found in my own State of California, long known for its aggressive efforts to protect its rich environmental resources. In my own district, the community of Glen Avon in the Jurupa hills has suffered years of turmoil and uncertainty regarding a liquid hazardous waste site leaching toxic chemicals into underground streams feeding the community. The Stringfellow Acid Pits, as the site is called, is listed as one of the 100 or so sites on the Federal Superfund list. I appreciate the provisions contained in Superfund which can help alleviate the problems of sites like Stringfellow across the country. But I am also interested in insuring that communities do not have to face problems like this in the future.

California's hazardous waste law was enacted in 1972. It was the first law in the country and provided the model for RCRA. California updated its statute during each of the last 10 years as the extent of the hazardous waste problem became more fully understood. I believe that a few points about California's program are relevant to our debate today.

NO SMALL GENERATOR EXEMPTION

California has never exempted smaller generators from hazardous waste controls. Many of the most poisonous wastes, such as cyanide, toxic metals, PCB's, and chlorinated solvents, are produced by smaller businesses. In practice, this has not been a burden for either the State or for industry. An Environmental Protection Agency (EPA) exemption can have serious results. Each small generator can send up to about 50 barrels per year of waste to the local municipal landfill. In any good size city you may have 100 smaller generators. That is 5,000 barrels per year of toxic wastes going into a landfill that was never engineered to accept hazardous wastes. The results are injured municipal trash collectors, combinations of incompatible wastes that can form toxic clouds that drift over residences, and continued contamination of ground water.

This situation must be changed and this bill does that by reducing the small-generator exemption.

NO EXEMPTION FOR BURNING WASTES IN BOILERS

EPA now allows generators to burn their hazardous wastes in their own boilers without a permit. Just because the waste is to be burned for the laudable goal of energy recovery does not mean that the hazards of such a practice can be ignored. The flagrant abuses of this exemption have become clear over the last year—the mixing of hazardous wastes with fuel oil. California has no such exemption—a permit is required no matter whether treatment, incineration, recycling, or landfilling is planned.

This bill addresses this problem.

BAN ON THE LAND DISPOSAL OF HIGHLY TOXIC WASTES

Despite EPA's ban on the landfilling of liquid wastes and new design and operating standards for disposal facilities, there is nothing to prevent many of the worst wastes from continuing to go to surface impoundments, injection wells, or land farms. EPA is taking the bandaid approach, patching the symptoms but not addressing the cause of the illness.

California has an aggressive new program that has received national attention. I will insert a Washington Post article for the record for those of my colleagues who may have missed it over the recess. The Governor's Office of Appropriate Technology has worked for a couple of years on alternatives to land disposal of toxic wastes. The Governor's office has identified wastestreams that are not suitable for land disposal, has set up a 3-year schedule to ban about 500,000 tons of the most toxic wastes from land disposal, and aggressively encouraged the construction of alternative management technologies that recycle, treat, or destroy these hazardous wastes. Technologies to treat, recycle, or destroy such toxic wastes are proven and in use in Europe or in other parts of the world. A future of safer waste management is possible today if we are willing to recognize it.

I understand that my colleague from New York (Mr. LAFALCE) will offer an amendment that will require EPA to promulgate regulations indentifying hazardous waste which would be banned from land disposal. I urge my colleagues to support this amendment. The State of California has shown that it can be done for the State. Let us show that we are committed to solving this problem for the Nation.

Mr. Chairman, I urge adoption of the bill.

At this point I include the following:

[From the Washington Post, Sept. 1, 1982]

California Unveils Strict New Toxic Waste Rules

(By Ward Sinclair)

The California state government yesterday announced details of a far-reaching new program to ban the land disposal of a variety of highly toxic chemical wastes identified as serious hazards to human health.

The program, which would require that toxic wastes be treated at new handling facilities, would be the most stringent in the nation when its first portions take effect, as expected, early next year.

Gov. Edmund G. (Jerry) Brown, Jr., who unveiled the program at a San Francisco press conference, said the program, an outgrowth of his executive order last year banning toxic waste land dumps, "will help prevent intolerable human suffering . . . and help end enormous cleanup costs that neither industry nor the taxpayer can afford."

Although the proposed regulations apply only to California, Brown's action yesterday carried a decidedly national slant.

Public concern over toxic waste disposal has been heightened by the Love Canal, N.Y., tragedy, involving sickness and land contamination, and disclosures that hundreds of unregulated toxic dumps may threaten public health across the country.

Brown, the Democratic candidate for the U.S. Senate from California is a frequent critic of Reagan administration environmental enforcement and a gubernatorial aide conceded yesterday that the state action is intended to spur the federal Environmental Protection Agency to take a more militant enforcement stand.

Brown was joined at his press conference by Sen. Gary Hart (D-Colo.), who has proposed amendments to the federal Resource Conservation and Recovery Act (RCRA), now awaiting congressional reauthorization, that parallel California's program.

The Hart proposals are pending before the Senate Environment and Public Works Committee. The House is expected to debate its own version of a RCRA extension, with amendments similar to Hart's offered by Reps. James J. Florio (D-N.J.), John J. LaFalce (D-N.Y.) and Norman F. Lent (R-N.Y.).

Brown said yesterday that he was "fully supportive" of the Hart proposals.

California officials estimate that their new regulations, although subject to final public comment and review before they take effect next March, would affect at least half a million tons of highly toxic chemical wastes now dumped in landfills.

Wastes that would be banned from landfill-dumping include cyanides, toxic metals, strong acids, PCBs, halogenated organic compounds such as the pesticides DDT, DBCP and Kepone, and all other wastes currently classified by the state as "extremely hazardous."

The proposed regulations carry a maximum fine of $25,000 per day for each violation of the land-dumping ban.

Compliance and enforcement, according to Kent Stoddard of the governor's Office of Appropriate Technology, will be keyed to a two-year timetable for construction of treatment facilities, beginning next March 31.

The facilities will be built by private enterprise, with low-interest state pollution-control loans available. The Brown program also calls for expedited state processing of applications for construction permits.

"We have identified the treatment and recycling technologies that could be used," Stoddard said, "and we know there are clear alternatives to land disposal of these wastes. We have worked closely with the chemical, petroleum and electronics industries in laying out these treatment timetables."

California's plan to phase out landfills as dumps for highly toxic wastes began last October when Brown issued an executive order banning such activity and increasing state monitoring and enforcement at all hazardous waste disposal sites.

State officials estimate that California, with perhaps the nation's fourth largest volume of toxic wastes, has at least 70 major dumping sites that need cleaning up, including some in the state's most populous counties.●

● Mr. **HOWARD.** Mr. Chairman, I rise in support of H.R. 6307, a bill to amend the Solid Waste Disposal Act and authorize appropriations for fiscal years 1983 and 1984.

This bill was sequentially referred to our Committee on Public Works and Transportation for consideration of sections 4 and 9 in recognition of our jurisdiction over water pollution and water resources management, conservation and development.

Section 4 directs the Environmental Protection Agency to submit a report to Congress with recommendations as to whether regulation of hazardous wastes mixed with domestic sewage under the Solid Waste Disposal Act is necessary to protect human health and the environment, or whether the existing provisions of law are adequate. Section 1004(27) of the Solid Waste Disposal Act provides that the term "solid waste" does not include solid or dissolved material in domestic sewage. Therefore, hazardous waste mixed with domestic sewage is currently exempt from regulation under the provisions of the Solid Waste Disposal Act. Instead, the pretreatment provisions of the Federal Water Pollution Control Act establish a program for the regulation of toxic pollutants which interfer with, pass through, or contaminate the sludge produced by municipal sewage treatment plants.

Section 9 establishes a National Ground Water Commission to investigate and assess a broad range of matters relating to ground water contamination by hazardous wastes and existing or needed mechanisms for the protection or rehabilitation of ground water resources. The Commission is directed to transmit a report along with recommendations for appropriate legislation and administrative actions to Congress and the President no later than October 30, 1986; $10 million is authorized to carry out the study.

Our committee adopted amendments to these sections, which will be explained in detail by Congressman Roe, chairman of our Water Resources Subcommittee. I would like, however, to discuss the National Ground Water Commission provision. Ground water is one of our most precious resources. It is used extensively for human consumption, irrigation of agricultural crops and industrial purposes. It is essential that it be protected and used wisely so that its availability for continued and future use will be assured.

We know that our ground water resources are threatened with contamination and depletion. Yet we lack comprehensive information on the nature and scope of these threats and possible remedial action which can be taken with regard to them.

So that this information will be available, the Commission is charged with the study of a broad range of matters relating to ground water, ranging from the extent and condition of available resources to measures which can be taken to restore and preserve them. This will enable us to determine what measures should be taken to insure that future generations will be able to enjoy the benefits of this vital resource.●

● Mr. **WALGREN.** Mr. Chairman, almost everyone recognizes that the careful disposal of the increasing volume of hazardous waste is one of the major problems society must face. I am pleased that yesterday the House acted to improve the way this Nation disposes of hazardous waste.

In western Pennsylvania, there are many sites, including abandoned strip mines and landfills, where all types of wastes are being dumped, some of which are hazardous. In the view of one citizens' group in my district, "We view these landfills as ticking time bombs." Citizens should not have to live in fear that their health will be imperiled and the value of their property decreased by unsafe disposal methods.

The Resource Conservation and Recovery Act, enacted in 1980, has provided a framework for the identification, transportation, treatment, storage, and disposal of hazardous waste. Yet there are major loopholes in present law that require us to improve regulation of these dangerous substances.

First, present law exempts the multitude of generators of smaller amounts of hazardous waste from the requirement that amounts under 1,000 kilograms be disposed of in sites that will effectively seal the waste from the surrounding environment. Although some argue that these wastes should contin-

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ue to be exempt, and although it is generally acceptable to exclude small parties from regulation, small amounts of hazardous waste often cause as much damage to our environment as larger concentrations. In view of the increasing size of this problem for our society, we should bring all such waste under some form of reasonable regulation to protect our environment in both the short and in the long run.

Second, the bill will sharply curtail two very damaging practices—the disposal of hazardous waste in landfills not designed for that purpose and the underground injection of hazardous wastes that may pollute drinking water.

Third, the bill will make a number of improvements in the administration of regulations including the requirement of action on permit applications on a strict schedule. The bill also provides for critical studies that will insure that we stay ahead of the hazardous waste problem.

Fourth, the bill provides increased money to enforce the disposal requirements so that we have an effective program to monitor and deal with this problem.

I am also pleased that we adopted an amendment, offered by Congressman LaFalce, to require that EPA submit an annual report on hazardous waste for which land disposal may be harmful to human health and the environment. This amendment would also prohibit the landfill disposal of hazardous wastes that EPA determines to be unsuitable for such disposal because they would be harmful to human health based on the toxicity, mobility, persistence, or ability of the waste to bioaccumulate. I believe that this amendment will go a long way toward protecting human health.

This is one of the most important problems for the longrun future of our environment. I urge my colleagues to support this measure that we must act on today.●

Mr. LENT. Mr. Chairman, I have no further requests for time.

Mr. HAMMERSCHMIDT. Mr. Chairman, I have no further requests for time.

Mr. FLORIO. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Chairman, I would like to commend the gentleman from New Jersey (Mr. Florio) for his leadership in this field of storage and disposal of toxic wastes. I commend and thank him, in particular, for taking time out of the recess last week to come out and spend a day in Ohio to look at a novel situation where PPG Industries is proposing to use a 2,000 foot deep abandoned limestone mine as a permanent disposal site and also a temporary storage site for hazardous wastes.

I would like to ask the gentleman from New Jersey, with respect to the study and the proposed regulations that the EPA is directed by this substitute to come up with, is it the gentleman's intent to the maximum extent feasible to require treatment or processing of wastes so that they are reduced to their least hazardous form before they are permanently stored or disposed of?

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, the gentleman is correct. That is the clear intent of this legislation, so as to discourage inappropriate disposal means. We saw at the gentleman's facility a good example of a hybrid system that was a combination storage and disposal facility for which there really is not a clear cut regulatory system that has been defined; so the gentleman is correct. Circumstances such as the proposed, underground mine site require separate standards for facility operation and specific restrictions on the types of wastes that can be placed in the facility.

Mr. SEIBERLING. I thank the gentleman and I commend him and also the other gentleman from New Jersey (Mr. Roe) for the work that he has done in connection with this legislation.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill shall be considered as an original bill for the purpose of amendment. It shall be in order to consider amendments to said substitute printed in the Congressional Record of August 3, 1982, by, and if offered by, Representative Roe of New Jersey in lieu of the amendments recommended by the Committee on Public Works and Transportation now printed in the reported bill.

The Clerk will read.

The Clerk read as follows:

H.R. 6307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1983 AND 1984

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Florio: Strike out all after the enacting clause and insert in lieu thereof:

SHORT TITLE

Section 1. This Act may be cited as the "Resource Conservation and Recovery Act Reauthorization Act of 1982".

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1983 AND 1984

Sec. 2. (a) General Authorization.—Section 2007(a) of the Solid Waste Disposal Act is amended by striking out "and $80,000,000 for the fiscal year ending September 30, 1982" and substituting "$80,000,000 for the fiscal year ending September 30, 1982, $44,520,000 for the fiscal year ending September 30, 1983, and $44,520,000 for the fiscal year ending September 30, 1984".

(b) State Hazardous Waste Programs.—Section 3011(a) of such Act is amended by striking out "and $40,000,000 for the fiscal year 1982" and substituting "$40,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, and $40,000,000 for the fiscal year 1984".

(c) Hazardous Waste Site Inventory.—Section 3012 of such Act (relating to the hazardous waste inventory) is amended by—

(1) redesignating such section (and the corresponding reference thereto in the table of contents) as "Section 3012A."; and

(2) by striking out "$20,000,000" in subsection (c)(2) and inserting in lieu thereof "$10,000,000 for the fiscal year 1983, and $10,000,000 for the fiscal year 1984".

(d) Development and Implementation Assistance.—Section 4008(a)(1) of such Act is amended by striking out "and $20,000,000 for fiscal year 1982" and substituting "$20,000,000 for the fiscal year 1982, $10,000,000 for fiscal year 1983, and $10,000,000 for fiscal year 1984".

(e) Implementation Assistance.—Section 4008(a)(2)(C) of such Act is amended by striking out "and $10,000,000 for fiscal year 1982" and substituting "$2,000,000 for the fiscal year 1982, $2,000,000 for fiscal year 1983, and $2,000,000 for fiscal year 1984".

(f) Special Communities.—Section 4008(e)(2) of such Act is amended by striking out "and $1,500,000 for each of the fiscal years 1981 and 1982" and substituting ", $1,500,000 for each of the fiscal years 1981 and 1982, $500,000 for the fiscal year 1983 and $500,000 for the fiscal year 1984".

(g) Assistance to States for Recycled Oil Programs.—Section 4008 of such Act is amended—

(1) by redesignating subsection (f) (relating to assistance to municipalities for energy and materials conservation and recovery planning activities) as subsection (g); and

(2) in paragraph (4) of subsection (f) (relating to assistance to States for discretionary programs for recycled oil) by striking out "and $5,000,000 for fiscal year 1983" and substituting "$5,000,000 for fiscal year 1983 and $3,000,000 for fiscal year 1984".

(h) Department of Commerce Functions.—Section 5006 of such Act is amended by inserting after "1982" the following "$1,500,000 for fiscal year 1983, and $1,500,000 for fiscal year 1984".

SMALL QUANTITY GENERATORS

Sec. 3. Section 3001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof:

"(d) Small Quantity Generator Waste.—(1) After the date twenty-four months after the date of the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, no hazardous waste which is generated by any generator in a quantity greater than one hundred kilograms during any calendar month shall be exempt, by reason of the small quantity generated, from standards under this subtitle.

"(2) Not later than twenty-four months after the date of the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, the Administrator, after opportunity for notice, comment, and public hearings, shall promulgate standards under sections 3002, 3003, and 3004 for hazardous waste which is generated during any calendar month by any generator in a quantity greater than one hundred kilograms but less than one thousand kilograms. Such standards may vary as provided in this paragraph from the standards applicable to hazardous waste generated in larger quantities to the extent that the Administrator deems such variation necessary by reason of the smaller capacity of the facilities concerned. The Administrator is directed to provide variances in such standards which—

"(A) in the case of standards under section 3002, provide that—

"(i) a determination concerning whether or not hazardous waste is being generated may be made through testing, or process identification, or applying knowledge of the characteristics of the waste based upon materials or processes used, or generic testing for an industry where waste streams of generators within the industry have the same or similar characteristics;

"(ii) requirements for waste identification on manifests may be modified so that such requirements may be satisfied on the basis of information obtained by testing, or process identification, or applying knowledge of the characteristics of the waste based upon materials or processes used, or generic testing for an industry where waste streams of generators within the industry have the same or similar characteristics;

"(iii) labeling requirements prior to waste shipments may be modified so that such requirements may be satisfied on the basis of information obtained through testing, or process identification, or applying knowledge of the characteristics of the waste based upon materials or processes used, or generic testing for an industry where waste streams of generators within the industry have the same or similar characteristics;

"(B) in the case of standards under section 3003, provide that transportation requirements for smaller quantities of hazardous wastes may vary from those applicable to hazardous waste generated in excess of one thousand kilograms during any calendar month, and

"(C) in the case of standards under section 3004, provide that storage requirements shall be modified to allow on-site waste storage for up to 180 days without the requirement of a permit.

The variances as specified in subparagraphs (A), (B), and (C) shall apply to all hazardous waste generated during any calendar month in a quantity of less than one thousand kilograms unless the Administrator demonstrates that other standards are necessary to protect human health and the environment. In addition, the Administrator is directed to examine the requirements in effect under section 3003 and, in cooperation with the Secretary of Transportation, modify regulations in effect on the date of the enactment of this paragraph to the extent appropriate to conform such requirements to the scale of the operations involved. The actions of the Administrator under this paragraph shall be treated as a nondiscretionary duty for purposes of section 7002.

"(3) The Administrator may promulgate regulations under this subtitle which established special standards for, or exempt from regulation, hazardous wastes which are generated by any generator in a quantity less than one hundred kilograms during any calendar month.

"(4) Nothing in this subsection shall be construed to affect or impair the validity of regulations of the Administrator promulgated prior to the date of the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982 with respect to hazardous waste generated by generators of less than one thousand kilograms per month of hazardous waste, except that after the date eighteen months after such date of enactment, such prior regulations shall not apply to hazardous waste generated by generators which generate more than minimal quantities (one hundred kilograms or less) of hazardous waste per month.".

HAZARDOUS WASTE MIXED WITH DOMESTIC SEWAGE

Sec. 4. The Administrator of the Environmental Protection Agency shall, not later than one year after the date of the enactment of this Act, submit a report to the Congress concerning hazardous wastes identified or listed under section 3001 of the Solid Waste Disposal Act which are excluded from regulation pursuant to subtitle C of the Solid Waste Disposal Act under regulations exempting mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works for treatment. Such report shall specify the types and quantities of such hazardous wastes which are exempted pursuant to such regulations and shall include recommendations respecting whether or not existing law applicable to such mixtures are adequate to protect human health and the environment from the hazards associated with such wastes. Not later than six months after the date of the enactment of this section, the Administrator shall submit to Congress a notice setting forth the progress made on the report required under this section.

HAZARDOUS WASTE INJECTION; LIQUIDS IN LANDFILLS

Sec. 5. Section 3004 of the Solid Waste Disposal Act is amended by inserting "(a) In General.—" after "3004." and by adding the following at the end thereof:

"(b) Hazardous Waste Injection.—(1) Eighteen months after the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, the disposal of hazardous waste by injection through a class IV well into an underground source of drinking water is prohibited. Twelve months after the date of enactment of the Resource Conservation and Recovery Reauthorization Act of 1982, disposal of hazardous waste by injection through a class IV well which is above an underground source of drinking water is prohibited until such practices are regulated by State programs or by the Administration pursuant to section 1422 of the Safe Drinking Water Act. In those States that have not undertaken administrative responsibility for the underground injection program with regard to injection into an underground source of drinking water by January 1, 1983, the Administrator shall assume such responsibility at that time. For purposes of this subsection, the terms 'underground source of drinking water' and 'class IV well' shall have the same meaning as provided in regulations of the Administrator under the Safe Drinking Water Act.

"(2) Nothing in paragraph (1) shall affect any well which injects fluids:

"(A) which are brought to the surface in connection with conventional oil or natural gas production;

"(B) which are brought to the surface in connection with the withdrawal of natural gas from underground storage reservoirs;

"(C) which are brought to the surface in connection with the production of geopressured methane;

"(D) for enhanced recovery of oil or natural gas;

"(E) for storage of hydrocarbons which are liquid or gases at standard temperature and pressure.

"(3) Nothing in paragraph (1) shall affect any well which injects fluids for extraction of minerals or energy, including, but not limited to:

"(A) mining of sulfur by the Frasch process;

"(B) solution mining of minerals;

"(C) in-situ combustion of fossil fuel; and

"(D) recovery of geothermal energy to produce electric power.

"(c) Liquids in Landfills.—Not later than one year after the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, the Administrator shall promulgate final regulations which minimize the disposal of liquid hazardous waste, and free liquids contained in hazardous waste, in landfills. Pending promulgation of such regulations, the Administrator shall maintain the current requirements in regulations under this section respecting the disposal in landfills of liquid hazardous waste and free liquids contained in hazardous waste.

"(d) Land Disposal Reports.—The Administrator shall, not later than one year after the date of the enactment of this subsection, and after notice and opportunity for public comment. publish and submit to the Congress a report listing those hazardous wastes for which one or more types of land disposal may not be protective of human health and the environment based upon the toxicity, mobility, persistence, and ability of the waste to bioaccumulate. The report shall also identify hazardous wastes for which there exists one or more technologically feasible means of treatment, recovery, or disposal (including incineration, neutralization, fixation, chemical destruction, or any other means of thermal, chemical, physical, or biological treatment, recovery, or disposal) other than land disposal which will protect human health and the environment. The report shall include an assessment of the costs of such other means of treatment, recovery, or disposal. The report shall also include an assessment of other hazardous wastes which are unsuitable for other means of waste treatment or disposal. The report under this subsection shall be modified and supplemented from time to time after its initial publication as new information becomes available.

"(e) Restrictions on Land Disposal.—Not later than 9 months after the date on which the report is required to be published under subsection (d), and from time to time thereafter, the Administrator shall promulgate regulations respecting those hazardous wastes for which land disposal may not be protective of human health and the environment based upon the toxicity, mobility, persistence, and ability of the waste to bioaccumulate. Such regulations shall contain effective dates that take into account the Administrator's best estimate of the amount of time necessary to install nationwide sufficient capacity of alternative treatment, recovery or disposal methods identified pursuant to section (d). After any effective date such prohibition shall not apply when it can be demonstrated on a case-by-case basis that capacity for such alternative means of disposition is not reasonably available. Factors to be considered in determining reasonable availability shall include, but shall not be limited to, geographic proximity and the nature of particular wastes. For purposes of such regulations, the Administrator shall—

"(1) consider the ability of land disposal facilities to contain hazardous wastes over time;

"(2) consider alternative treatment methods;

"(3) examine the actions taken by State governments with regard to such controls; and

"(4) review all halogenated organic wastes.".

Sec. 6. (a) Notice.—(1) Section 3010 of the Solid Waste Disposal Act is amended by inserting the following after the first sentence thereof: "Not later than twelve months after the date of the enactment of this sentence—

"(1) the owner or operator of any facility which produces a fuel (A) from any hazardous waste identified or listed under section 3001, (B) from such hazardous waste identified or listed under section 3001 and any other material, (C) from used oil, or (D) from used oil and any other material;

"(2) the owner or operator of any facility which burns for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001; and

"(3) any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001 shall file with the Administrator a notification stating the location and general description of the facility, together with a description of the identified or listed hazardous waste involved and, in the case of a facility referred to in paragraph (1) or (2), a description of the production or energy recovery activity carried out at the facility and such other information as the Administrator deems necessary. For purposes of the preceding sentence, the term 'hazardous waste listed under section 3001' also includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel. Notification shall not be required under this subsection in the case of facilities (such as residential boilers) where the Administrator determines that such notification is not necessary in order for the Administrator to obtain sufficient information respecting current practices of facilities using hazardous waste for energy recovery. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). Nothing in this subsection shall affect regulatory determinations under section 3012 (as amended by the Used Oil Recycling Act of 1980)."

(2) Section 3010 is amended by striking out "the preceding sentence" and substituting "the preceding provisions".

(b) Standards.—Section 3004 of such Act is amended by adding the following at the end thereof:

"(e) Hazardous Waste Used as Fuel.—Not later than two years after the date of the enactment of this subsection, and after notice and opportunity for public hearing, the Administrator shall promulgate regulations establishing such—

"(1) standards applicable to the owners and operators of facilities which produce a fuel (A) from any hazardous waste identified or listed under section 3001, or (B) from any hazardous waste identified or listed under section 3001 and any other material;

"(2) standards applicable to the owners and operators of facilities which burn for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001; and

"(3) standards applicable to any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001—

as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (7) of subsection (a) as may be appropriate. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). For purposes of this subsection, the term 'hazardous waste listed under section 3001' includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (A) produced for use as (or as a component of) a fuel, (B) distributed for use as a fuel, or (C) burned as a fuel.

"(f) Labeling.—Notwithstanding any other provision of law, it shall be unlawful for any person who is required to file a notification in accordance with paragraph (1) or (3) of section 3010 to distribute or market any fuel which is produced from any hazardous waste identified or listed under section 3001, or any fuel which otherwise contains any hazardous waste identified or listed under section 3001 if the invoice or the bill of sale fails—

"(1) to bear the following statement: "WARNING: THIS FUEL CONTAINS HAZARDOUS WASTES", and

"(2) to list the hazardous wastes contained therein.

Such statement shall be located in a conspicuous place on every such invoice or bill of sale and shall appear in conspicuous and legible type in contrast by typography, layouts, or color with other printed matter on the invoice or bill of sale.".

SECTION 3005 PERMITS

Sec. 7 (a) Final Permit.—Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(g) Releases.—Any permit (other than a permit treated as issued pursuant to subsection (e)) issued to a treatment, storage, or disposal facility under section 3005 (or under an authorized State hazardous waste program under section 3006) shall, in addition to other applicable requirements, address any release of hazardous waste from such facility which occurs prior to the date of issuance of such permit. Such permits shall include schedules and provide financial assurances for addressing such releases where the required action cannot be completed prior to permit issuance. The permit provisions required under this subsection shall not apply to any portion of the facility at which hazardous waste treatment, storage or disposal activities do not take place.

(b) Expansion During Interim Status.—Section 3005(e) of such Act is amended by adding the following at the end thereof: "The Administrator shall promulgate regulations under which any owner or operator of a treatment, storage, or disposal facility operating under interim status pursuant to this subsection who expands the capacity of the facility (except the capacity for storage or treatment in tanks or containers and enclosed waste piles) by an amount in excess of 10 per centum of the capacity specified in the permit application shall be required to obtain a permit under the provisions of this section prior to construction of such expansion. The regulations of the Administrator under this subsection may, in the discretion of the Administrator, contain standards for facilities which expand such capacity by 10 per centum or less and such standards may vary from the standards applicable to those facilities operating pursuant to a permit under this subsection which do not expand such capacity.".

TIMETABLE FOR REVIEW OF EPA PERMIT APPLICATIONS

Sec. 8. Section 3005(c) of the Solid Waste Disposal Act is amended by inserting "(1)" after "Permit Issuance.—" and by adding the following new paragraph at the end thereof:

"(2)(A) Not later than the date four years after the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, in the case of each application for a permit for a land disposal facility under this section which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(B) Not later than the date six years after the enactment of the Resource Conservation and Recovery Act Reauthorization Act of 1982, in the case of each application for a permit for any facility under this section (other than a facility referred to in subparagraph (A)) which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(C) The time periods specified in this paragraph shall not apply in the case of any State which is administering an authorized hazardous waste program under section 3006. Interim status under subsection (e) shall terminate for each facility referred to in subparagraph (A) or (B) on the expiration of the four- or six-year period referred to in subparagraph (A) or (B), whichever is applicable, unless an application is filed for a permit under other provisions of this subsection within such four-year or six-year period, as the case may be.".

NATIONAL GROUNDWATER COMMISSION

Sec. 9. (a) Establishment.—There is established a commission to be known as the National Groundwater Commission (hereinafter in this section referred to as the "Commission").

(b) Duties of Commission.—The duties of the Commission are to:

(1) Assess generally the amount, location, and quality of the Nation's groundwater resources.

(2) Identify generally the sources, extent, and types of groundwater contamination.

(3) Assess the scope and nature of relationship between groundwater contamination and groundwater withdrawal and develop projections of available, usable groundwater in future years on a nationwide basis.

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(4) Assess the relationship between surface water pollution and groundwater pollution.

(5) Assess the need for a policy to protect groundwater from degradation caused by contamination.

(6) Assess generally the extent of overdrafting of groundwater resources and the adequacy of existing mechanisms for preventing such overdrafting.

(7) Assess generally the engineering and technological capability to recharge aquifers.

(8) Assess the adequacy of the present understanding of groundwater recharge zones and sole source aquifers and assess the adequacy of knowledge regarding the interrelationship of designated aquifers and recharge zones.

(9) Assess the role of land-use patterns as these relate to protecting groundwater from contamination.

(10) Assess methods for remedial abatement of groundwater contamination as well as the costs and benefits of cleaning up polluted groundwater and compare cleanup costs to the costs of substitute water supply methods.

(11) Investigate policies and actions taken by foreign governments to protect groundwater from contamination.

(12) Assess the use and effectiveness of existing interstate compacts to address groundwater protection from contamination.

(13) Analyze existing legal rights and remedies regarding contamination of groundwater.

(14) Assess the adequacy of existing standards for groundwater quality under State and Federal law.

(15) Assess monitoring methodologies of the States and the Federal Government to achieve the level of protection of the resource as required by State and Federal law.

(16) Assess the relationship between groundwater flow systems (and associated recharge areas) and the control of sources of contamination.

(17) Assess the role of underground injection practices as a means of disposing of waste fluids while protecting groundwater from contamination.

(18) Assess methods for abatement and containment of groundwater contamination and for aquifer restoration including the costs and benefits of alternatives to abatement and containment.

(19) Assess State and Federal groundwater law and mechanisms with which to manage the quality and quantity of the groundwater resource.

(20) Assess the adequacy of existing groundwater research and determine future groundwater research needs.

(21) Assess the roles of State, local, and Federal Governments in managing goundwater quality and quantity.

(c) MEMBERSHIP.—(1) The Commission shall be composed of seventeen members as follows:

(A) Four appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives, two of whom shall be members of the Committee on Public Works and Transportation and two of whom shall be members of the Committee on Energy and Commerce;

(B) Four appointed by the majority leader of the United States Senate from among the Members of the United States Senate;

(C) Eight appointed by the President as follows:

(i) Four from among a list of nominations submitted to the President by the National Governors Association, two of whom shall be representatives of groundwater appropriation States and two of whom shall be representatives of groundwater riparian States;

(ii) One from among a list of nominations submitted to the President by the National League of Cities;

(iii) One from among a list of nominations submitted to the President by the National Academy of Sciences;

(iv) One from among a list of nominations submitted to the President by groups, organizations, or associations of industries the activities of which may affect groundwater; and

(v) One from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with polution and environmental issues and which have participated, at the State or Federal level, in studies, administrative proceedings, or litigation (or any combination thereof) relating to groundwater; and

(D) the Director of the Office of Technology Assessment.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than two of the four members appointed under subparagraph (A) and not more than two of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistance, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d) DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the Chief of Engineers and the Director of the Geological Survey are each authorised to detail, on a reimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section. Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) REPORT.—(1) The Commission shall transmit to the President and to each House of the Congress a report not later than October 30, 1985. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsection (b), together with its recommendations for such legislation; and administrative actions, as it considers appropriate.

(2) Not later than one year after the enactment of this Act, the Commission shall complete a preliminary study concerning groundwater contamination from hazardous and other solid waste and submit to the President and to the Congress a report containing the findings and conclusions of such preliminary study. The study shall be con-

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tinued thereafter, and final findings and conclusions shall be incorporated as a separate chapter in the report required under paragraph (1). The preliminary study shall include an analysis of the extent of groundwater contamination caused by hazardous and other solid waste, the regions and major water supplies most significantly affected by such contamination, and any recommendations of the Commission for preventive or remedial measures to protect human health and the environment from the effects of such contamination.

(g) TERMINATION.—The Commission shall cease to exist on October 30, 1985.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the fiscal years 1983 through 1985 not to exceed $7,000,000 to carry out this section.

PRESERVATION OF OTHER RIGHTS

SEC. 10. Section 7002(f) of the Solid Waste Disposal Act is amended by striking out "section" and substituting "Act".

SEC. 11. Section 1004(27) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "The Administrator shall promulgate such regulations as may be necessary to protect human health and environment ensuring that the use, reuse, recycling, and reclamation of hazardous waste identified or listed under section 3001 is conducted in a manner consistent with such protection.".

SIZE OF CERTAIN FACILITIES

SEC. 12. (a) Section 4001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In developing such comprehensive plans, it is the intention of this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

(b) Section 4003 of such Act is amended by adding the following new subsection (c) at the end thereof:

"(c) SIZE OF WASTE-TO-ENERGY FACILITIES.—Notwithstanding any of the above requirements, it is the intention of this Act and the planning process developed pursuant to this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

DEMONSTRATION PROJECT

SEC. 13. Section 4008 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(h) RECYCLING INTERMEDIATE PROCESSING CENTER.—(1) The Administrator is authorized to make grants to local government authorities to construct demonstration recycling intermediate processing centers. Such grants may also be used for the acquisition of lands necessary for such centers, notwithstanding subsection (a)(2)(A).

"(2) Grants under this subsection may be made only to a local government unit which demonstrates a successful past experience in multimaterial curbside source separation programs at the municipal level. Grants under this subsection may be made only to a local government unit which has approved, and expressed its intention to carry out, a plan for a recycling intermediate processing center which—

"(A) is part of a county-wide recycling program that includes curbside collection of recyclable material and central processing at the intermediate processing center;

"(B) projects commencement of operation of the center not later than October 1983; and

"(C) projects the processing at such center of an annual total of not less than 21,000 tons of recyclable material within 3 years after commencement of operation.

"(3) No grant may be made under this subsection to the local government of any political subdivision having a population of less than 175,000 or greater than 225,000. Not more than $900,000 of the funds made available under subsection (a)(3)(C) may be used to make grants under this subsection.

"(4) Section 8004 shall not apply to any grants made pursuant to this subsection.".

Mr. FLORIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Chairman, I would at the outset publicly express my appreciation to all who have been involved in fashioning this compromise proposal.

The substitute makes several technical and substantive changes to H.R. 6307:

Regarding small generators, the bill explicitly modifies the administrative and managerial requirements for these generators prior to the actual disposal or treatment of the wastes. However, when wastes are taken to be treated or disposed of, the wastes must go to a proper hazardous waste facility, and not a sanitary landfill or municipal dump. For example, the maximum storage period for smaller generators is extended to 180 days from 90. This means that smaller generators would only be required to dispose of their wastes twice a year, but that it be done properly.

In addition, the provision as amended by the substitute would allow smaller generators to identify their wastes at the more general level of process identification rather than individual chemical structure. Thus, for a generator who knows or believes his waste to be hazardous, he could identify it at a more general level for purposes of labeling, manifesting and waste identification on the condition that it was subsequently handled, transported, and treated or disposed of as a hazardous waste. In short, the provision allows such a generator to make a presumption of hazardousness in lieu of actual testing. At the same time, the provision does not allow a waste to be presumed nonhazardous without testing or some previous demonstration. The generation is still responsible for correctly identifying whether a waste is hazardous, and for knowing whether they generate sufficient quantities and types of hazardous waste to come under the requirements of this provision.

Section 4 of the substitute incorporates the Public Works Committee amendment on the disposal of hazardous wastes into sewer systems.

Section 5 makes a number of technical changes to the underground injection prohibitions, and incorporates a requirement to impose restrictions on the land disposal of certain hazardous wastes as may be necessary to protect human health and the environment. This latter amendment embodies the approach of the LaFalce amendment, and is a much needed addition to the bill.

Section 6 is amended to require that only hazardous wastes listed or identified under the regulations will be considered for controls when burned in boilers. This section also requires that 12 months postenactment, and the Agency will concurrently publish a notification requirement for those who burn, blend, or distribute fuels containing hazardous wastes, and that such fuels be labeled so that consumers are aware of the hazardous waste content of any fuels they may be buying.

For purposes of this provision, the term "distribute and market as a fuel" is not intended to encompass those operations which only collect used oil and in turn sell that material to collectors for purposes of recycling, such as many service stations currently do. The bill is concerned with hazardous waste and used oil collection facilities and operations, as these types of facilities have been involved in the practice of blending, distributing, and marketing waste containing fuels. However, it is the committee's belief that service stations which only collect used oil have not been a major source of concern.

Similarly, for purposes of notification the Agency is given the discretion to not require notification from certain operators that produce, burn, distribute or market a fuel derived from or which contains hazardous wastes on the basis of the smaller size of the operation. For example, residential boilers should not have to notify. With regard to service stations, the Agency may want to include such operations in the class of facilities that are not required to notify, however, this determination is left to Agency discretion based upon its evaluation of the nature of hazardous waste management at service stations and the need for such information in developing a complete and accurate picture of fuel production, distribution and burning from hazardous wastes.

Material which is released during the process of re-refining or reclaiming used oil is not intended to be considered as "production of a fuel" for purposes of this provision.

Regarding the standards for the burning of hazardous wastes in boilers, the committee believes that these requirements could take the form of facility standards and/or fuel content standards.

Section 7 is amended to clarify that permits can be issued prior to the completion of required actions on the condition that compliance schedules and financial assurances for such actions are specified in the permit.

Substantial demands are and will be made on the superfund for remedial action at abandoned and inactive sites. It is imperative that active sites, which seek a final permit, conduct or initiate the necessary cleanup or containment action prior to final permit issuance wherever possible and thereby prevent the transfer of responsibility for such action to the superfund program.

Section 9 incorporates the Public Works and Energy and Commerce Committee amendments to the National Ground Water Commission.

Section 11 requires the Agency to promulgate standards for hazardous waste recycling practices as necessary to protect public health and the environment.

Section 12 emphasizes that in the solid waste planning process, adequate provision should be given to both resource recovery and recycling technologies, and that these decisions remain at the local level.

AMENDMENT OFFERED BY MR. GRAMM TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. GRAMM. Mr. Speaker, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. GRAMM to the amendment in the nature of a substitute offered by Mr. FLORIO: Page 3, strike out line 22 and all that follows down through line 16 on page 7 and substitute:

The Administrator shall, not later than three years after the date of the enactment of the Resource Conservation and Recovery Reauthorization Act of 1982, complete a study and submit a report to the Congress concerning whether the provisions of regulations promulgated under this Act respecting hazardous waste generated by small generators in quantities of 1,000 kilograms or less per calendar month should be modified with respect to any class or category of hazardous waste.

"(2) The study required under this section shall include—

"(A) A profile of the generators, hazardous wastes, and waste management practices subject to such provisions;

"(B) an assessment of the hazards associated with such wastes and practices; and

"(C) an analysis of the regulatory alternatives to the exemption of such wastes from the standards under this subtitle, including an analysis of the cost-effectiveness of such alternatives.

"(3) At intervals of not more than one year, and not more than two years, after the date of the enactment of the Resource Conservation and Recovery Reauthorization Act of 1982, the Administrator shall submit an interim report to the Congress setting forth a detailed statement of the status of the study required under this subsection.".

Mr. GRAMM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

(By unanimous consent, Mr. GRAMM was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from Texas (Mr. GRAMM) is recognized for a total of 10 minutes.

Mr. GRAMM. Mr. Chairman, I would like first to begin by talking about how RCRA works today, about the cutoff in terms of the size of the generator.

I would like to talk about the restrictions imposed on the small generator under existing law and under existing regulations issued by the Environmental Protection Agency.

I would like to talk about the mountain of paperwork that they are currently exempt from under existing regulations at EPA.

I would like to talk about the confusion that exists concerning scientific data and its evaluation concerning the small generators, and I would like to argue for an amendment that sets up a study to get the facts before we begin the legislative process.

Currently under RCRA, we impose a mountain of regulations and redtape, and I believe rightly so, on those generators that produce more than 1,000 kilograms of hazardous waste a month. There are about 75,000 of those generators and, according to EPA, they generate about 99 percent of all the hazardous waste generated in the country.

Small generators that generate less than 1,000 kilograms per month are not burdened with the restrictions imposed under RCRA in terms of full reporting. It does not follow, however, that they do not face restrictions in the way that they dispose of hazardous wastes.

The existence of small and large generators, according to EPA, basically breaks down as follows:

Those that generate more than 1,000 kilograms a month make up about 9 percent of the total generators nationwide and they generate about 99 percent of the waste. Those that generate less than 1,000 kilograms per month compose about 91 percent of the generators and they generate about 1 percent of the waste.

Small generators are not exempt from regulations. Under existing procedures at EPA, they must determine if the waste they generate is classified as hazardous under RCRA. If the waste is so classified, they then must dispose of it either at an authorized hazardous waste management facility or at a facility approved by a State to receive municipal or industrial wastes.

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Small generators are subject to penalties if they do not comply with existing regulations.

I think it is also important to note that we are talking about hazardous waste, not acutely hazardous waste. Under existing procedures, acutely hazardous waste under RCRA is regulated and the full RCRA requirements are imposed on anyone who generates more than 1 kilogram of acutely hazardous waste.

Finally, the small generator is currently subject to regulation by the States which have the power under RCRA and under EPA regulations to go far beyond those regulations imposed by EPA.

Now, what is the small generator exempt from if he is not exempt from regulations concerning the deposition of hazardous waste?

He is exempt from an avalanche of paperwork—paperwork from cradle to grave, a paper trail in multiple copies, all signed, all returned, all reported, all kept for at least 3 years; storage permits if he holds the waste for over 90 days, labeling, ID numbers, manifests, and logs.

Under the Carter administration, EPA considered whether to lower the cutoff point for RCRA compliance from 1,000 to 100 kilogram generations per month. They rejected that proposal at least until 1986 for two reasons: First, the enormous number of small generators in the country, and second, the costs that the restrictions would impose on small business.

I think it is important to note that EPA has the power to lower the exclusion to 100 kilograms per month if and when they find it feasible to do so. H.R. 6307, however, mandates that the administration take action that was not taken under the Carter administration and that has not been taken under the Reagan administration.

What our amendment to this substitute does is, quite simply, seek to get the facts. It seeks a study by the Environmental Protection Agency to generate a profile of those hazardous waste generators that produce between 1,000 and 100 kilograms per month. It seeks a study of their waste management practices under existing procedure. It seeks a study of the hazardous waste associated with those practices.

It asks for an analysis of regulatory alternatives to full RCRA or partial RCRA implementation. And finally, and I think most importantly, it mandates an analysis of the cost effectiveness of various alternatives.

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It mandates that EPA report to the Congress at the end of 1 year, 2 years, and in a final study at the end of 3 years the results of this study and the answers to the questions posed in this substitute.

We do face genuine uncertainties. When the Office of Technology Assessment testified before the Florio subcommittee, they testified that 91 percent of small generators generated around 10 percent of the hazardous waste generated in the country. When they submitted their testimony in writing, they reduced that percentage to 6 percent. EPA concludes that the 91 percent currently exempt from RCRA generate less than 1 percent of the hazardous waste.

I would submit to this body that it behooves us, if we are going to impose regulations on hundreds of thousands of small businesses, that we do it knowing what the facts are; that we get data to allow us to determine: First, is there a problem; second, what the extent of the problem is; and third, what options we have in trying to deal with it.

I think it is also important to note that the Environmental Protection Agency supports the amendment that I offer with my colleague on the full committee, the gentleman from Virginia (Mr. Bliley).

I read from a letter to the Honorable Thomas P. O'Neill, Jr., dated August 1, from Mrs. Anne Gorsuch:

> The Environmental Protection Agency supports the amendment introduced by Representative Phil Gramm.
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>
> Mr. Gramm's substitute is a far more considered and careful approach to addressing the small quantity generator issue than section 3 of H.R. 6307. It would permit a careful assessment of what wastes from which small quantity generators should be regulated and how these wastes might best be controlled. It fits in well with the Agency's plans to analyze these issues in detail during the next few years.
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> Further abrupt and across-the-board regulation of a huge number of additional generators of hazardous waste is likely to encourage illegal disposal practices. The result could have a serious detrimental net impact on the environment.

Mr. Chairman, I think it is important to note that we are talking about a considerable amount of money in costs imposed on small business under the proposal made in H.R. 6307.

I have here a letter from the International Fabricators Institute, the trade association of the American dry cleaners, which indicates that their studies show that the full implementation of RCRA would impose a cost of $4,200 per laundry in the country, an amount roughly equivalent to the net profit after taxes earned by the family laundry last year.

I think it is also important, Mr. Chairman, to note that we are talking about support from American small business. We are not talking about an amendment that is going to benefit the petroleum industry or the chemical industry. We have had 72 trade, professional, and educational groups endorse this amendment, and I am not talking about just the Chamber of Commerce or the National Association of Manufacturers; I am talking about the American Hospital Association, the American Retail Federation, the Association of American Railroads, the Automobile Service Council, the Launderers, the American Association of Community and Junior Colleges, who would be affected and would bear the burden of costs from the adoption of H.R. 6307 unamended, the Association of Jesuit Colleges and Universities, the National Association of University and Land Grant Colleges, the National Odd Jobbers Council.

Mr. Chairman, we have proposed change in the amendment that is offered in the nature of a substitute. I have met with representatives of those groups who have endorsed my amendment. They do not believe that this substitute basically deals with the concerns of small business.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. Gramm was allowed to proceed for 1 additional minute.)

Mr. GRAMM. Mr. Chairman, I believe that we have here a compromise between existing law and practice under the Carter administration and the Reagan administration and a proposal made by the committee. It is a compromise that proposes a study to get the facts and, on the basis of those facts, to have EPA either act on its own or be mandated to act by the Congress.

I ask my colleagues to vote for this amendment.

Mr. FLORIO. Mr. Chairman, I rise in opposition to the amendment.

(By unanimous consent, Mr. Florio was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from New Jersey (Mr. Florio) is recognized for a total of 10 minutes.

Mr. FLORIO. Mr. Chairman, we have perhaps the most important element to date on this matter in this amendment.

The small generator loophole was the most serious deficiency in the existing RCRA system. Present EPA regulations, by the way, in opposition to the clear legislative language of the statute, have been drawn in such a way as to unequivocally exempt 92 percent of the Nation's hazardous waste generators from virtually all hazardous waste controls on the basis that they are small generators.

The net effect of this exemption is to explicitly allow generators of up to 2,200 pounds per month—that is, over a ton of hazardous waste per month—to dispose of their hazardous wastes into solid waste landfills or local dumps.

I distinguish between hazardous waste landfills and solid waste landfills that are not capable nor prepared to accept these types of materials.

These facilities are not designed to contain hazardous wastes, are incapable of protecting ground water supplies, and are the leading cause of the Nation's abandoned and leaking dumpsite problems.

According to EPA's own data, over 50 percent of the priority Superfund sites are such solid waste landfills or local dumps that have previously accepted hazardous waste materials.

The Office of Technology Assessment, the independent bipartisan arm of the Congress, estimates that this exemption allows up to 2.7 million tons, or 6 billion pounds per year of hazardous waste to be disposed of in sanitary solid waste landfills. This amount of waste is equivalent to 6.6 percent of the total waste stream in this Nation.

The Battelle Institute, a study that was also undertaken by EPA, has issued a similar estimate. They say it is 7 percent of the solid waste stream that goes under this exemption. The OTA report also states that "the scope and severity of the generation of hazardous wastes by small generators were greatly underestimated by the EPA."

While the gentleman from Texas emphasizes EPA's estimate, which has been criticized by OTA, is 1 percent of the national waste stream, the exact percentage, in my opinion, is irrelevant. Whatever percentage is put into the equation, we are still talking about billions of pounds of hazardous wastes potentially being put into our drinking water supplies.

Moreover, EPA in May of 1980 committed to a lowering of the small generator exemption based upon the very 1 percent estimate that the gentleman now refers to as the basis for his proposal of inaction.

The only thing that has really changed is EPA's policy on this very important issue. EPA now believes that the exemption is not a significant problem, despite the overwhelming additional evidence to the contrary.

EPA has even denied the waste disposal industry's petition to close this loophole. The agency also asserts that its previous study of the small generator exemption is sufficient, yet they support this amendment which does nothing more than to study the problem for an additional 3 years.

This is really a classic example of a calculated policy of inaction, groping around for a justification.

Earlier this year the public and the Congress were outraged, and appropriately so, when EPA lifted the ban on the disposal of containerized liquid hazardous wastes into hazardous waste landfills, that is, landfills that are supposed to be prepared to accept those materials.

Other provisions of this legislation deal with needed restrictions on the types of wastes that can be placed into hazardous waste landfills. However, unless similar restrictions are placed on hazardous waste disposal at solid waste landfills, the environmental consequences will be disastrous. This is because 92 percent of the hazardous waste generators can now freely dispose, under this exemption, of their hazardous wastes at local dumps, which are totally unsuited for receiving this type of material.

Consider the irony of the following situation: The current small generator exemption of 12 tons per year translates roughly into a volume of 60 drums. If a nonexempt big generator were to dispose of a load of 60 drums into a sanitary solid waste landfill, there would be public outrage. However, if a small generator, as defined by EPA, disposed of 60 drums of the same material, it is legal, although the fact of the matter is that the harm to the environment would be indistinguishable.

In devising a remedy for this serious loophole, the committee examined the report and the recommendations of OTA and the policies of 20 individual States that have already restricted or totally eliminated the small generator exemption.

I am going to, for a specific purpose, read the list of the States: Arkansas, California, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Vermont, and Washington. Parenthetically, I note that the State of Texas Department of Health is on the verge of lowering its own small generator exemption, according to information that we have from the Association of State and Territorial Solid Waste Management Officials.

I took the time to read this list for a very important reason: I do not know how any Congressperson from any of those States can support the amendment of the gentleman from Texas and then go home to his constituents and say that "We in our State have removed this exemption.

□ 1500

But I voted against making this a national standard such that State X, which is immediately adjacent to us, allows these 12 tons per year to be dumped in their landfill, infiltrating into the aquifer that knows nothing about State boundaries, which is now polluting our water."

This is a totally indefensible position. In addition, the Ashland Chemical Co., is already operating a small generator and waste collection and treatment service in 34 of its 60 major markets, many of which are in States that already restrict this loophole.

Let me deal finally with one of the arguments that I know is superfically very persuasive, the question about small business and the impact on small business of removing this loophole. The argument is that this is somehow antismall business. That is pure nonsense. I would ask any of the Congresspersons from those States that have already taken this action if they have had a whole lot of small business people beating down their doors, prior to the initial consideration of H.R. 6307, saying that retail cleaners are going out of business, gasoline stations are going out of business, because these 20 States have already taken that action. The answer is, they have not.

The reasoning is, we are not talking about "mom and pop" retail operations generating 12 tons a month of dioxin, of PCB's, or phosgene, or phenol. We are not talking about small businesses, average neighborhood stores. We are talking about relatively large generators of these wastes. Now is the time to act on this matter, and not to sanction, as the gentleman's amendment would, a fourth study on this issue, one that would take 3 years to boot.

The committee provision steers a moderate course based upon the experience of the States by lowering the level of the exemption within a 2-year period to one-tenth of a ton per month, while reducing the administrative and managerial requirements prior to disposal.

I would strongly urge support of the bill as presented, and opposition to the amendment of the gentleman from Texas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman. I rise in support of the amendment. There are many provisions of this legislation that I believe serve important environmental needs, and the Committee on Energy and Commerce is to be complimented for supporting many improvements in the legislation. Unfortunately, the provision before us on small generators creates more problems than it solves. By agreeing to the Gramm amendment, we will be able to answer some of the remaining questions on the extent of this problem.

Others will discuss in greater length the difficulties the provision presents to thousands of small retail and service establishments across the country. There will also be discussion, with widely differing claims by opponents and proponents of the provision, of the volumes of material involved. In fact, the potential problems with the existing provision were discussed in the report of the Committee on Public Works and Transportation. Although not an issue we could act on within the scope of our referral, the difficulties with the provision that came out during the public works hearings were important enough to be detailed in the report.

I would like to make just a couple of related points. First, the goal of this legislation is to protect the health of the American people and prevent abuse of waste disposal practices. The Committee on Energy and Commerce is to be commended for their efforts toward this goal. Everything reasonable should be done to go after the illegal dumper and those disposing of large volumes of material. The provision on small generators diverts us from this effort. We are all too aware of the fiscal limitations of the Federal Government, local and State governments, as well as private industry and the public. Let us put forth the funds and effort toward the major and illicit pollutors, rather than spending limited resources on creating additional bureaucratic redtape for the small businessman.

Second, there is still disagreement over the scope of the problem. There are claims that small generators may contribute anywhere from 1 to 10 percent of hazardous waste. When there is such a wide range of uncertainty, and so many thousands of companies affected, we had better make sure. The Gramm amendment does exactly this, by directing EPA to study and report on the scope of the problem and means for addressing it.

I want to close by again complimenting the Committee on Energy and Commerce for being willing to modify several provisions to improve the legislation. This small generator provision deserves similar modification. The changes made in the substitute offered today do not address the problem as well as the amendment. With the Gramm amendment language, I believe the legislation goes a long way toward meeting the Nation's environmental protection needs by improving the existing legislation without creating new bureaucratic complexities.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak against the amendment.

Mr. Chairman, I rise in opposition to the Gramm amendment. During the district work period, I used that opportunity to go into my congressional district and to talk to small generators. I visited an industrial laundry employing 100 minority personnel, jobs that we want to save and keep in our community. I went to another small gener-

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ator in my district that processes metal finishings, again an employer of 50 or 60 people, many of them women and other minorities, status people. There are jobs that both my mayor and I want to keep.

They raised substantial questions in terms of the disposal of hazardous and toxic wastes as contained in our original proposal, but the arguments that they raised about their own concerns I believe have been dealt with in the Florio substitute: The reduction of paperwork, the different form of storage, the whole range of other items that the chairman of the committee has outlined I believe substantially reduces their concerns.

However, one of the things that emerged, whether one talks to the community or whether one talks to the businessmen and women involved, was an issue that they want legislation on this matter now. They tell me they cannot organize themselves and make the appropriate investments or even seek those kinds of mechanisms if they do not know what the rules of the game are; whether it is the community that is affected by the potential of hazardous waste or the businessperson who wants to be a good corporate citizen, they want to know what the rules of the game are and they do not need another EPA study.

Right down the street from one of the manufacturers of hazardous and toxic wastes was a little landfill called Monument Street Landfill. It is in my district, and it has been used to improperly dispose of hazardous and toxic wastes. Much of the material that we are concerned with has come from small generators. These are called small generators; they have been unnoticed, unmonitored, and unregulated, and have caused in my own community substantial concern about pollution and poison, so much so that the people of that community organized to take their case to the Governor of the State of Maryland in order to have some type of resolution done. Because of the accumulation of the disposal of small generation we know might constitute a danger in that community, and if the studies indicate what we fear, we might even have to apply to Superfund for it, not because there is one big dirty that dumped in Monument Street, but because there were a lot of little dirties over a number of years. They have said to the people of the community, "Don't worry, it won't hurt a little bit."

Now, we are afraid it is going to hurt a lot. Rather than be engaged in Superfund cleanup, I believe that an ounce of prevention here and now in the regulation of the small generator issue will save us a lot of heartbreak and community concern in the future.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I certainly support what the gentlewoman has just said. During the recess a small generator of toxic waste in my district, who had gone bankrupt, sold some of the facilities that he had. The people who bought some of these facilities decided to open up a tank and find out what was in it. They turned one valve, and the fumes that came out nearly knocked them out. They managed to get away, but a toxic cloud of such magnitude ensued that the police had to evacuate 20 city blocks of a residential area.

□ 1510

Afterward when the toxic gas cloud had been dissipated by the wind so the people could come back to their homes the authorities found almost a hundred barrels of various types of toxic waste that had been accumulated over a period of time and stored on this man's property. EPA granted $50,000 in Superfund money to help clean it up because the generator was bankrupt and the city had no funds for that purpose.

The 100 kilograms of waste of some degree of toxicity might be enough to poison a whole city. So even the 100-kilogram limit is a compromise.

Mr. Chairman, I strongly commend the gentleman for introducing this 100-kilogram limit, and I concur in the statement the gentlewoman from Maryland (Ms. MIKULSKI) has just made.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there have been statements made to the effect that the bill before us merely fine tunes the basic RCRA law and that it represents a "delicate balance" between environmental and economic interests. That is simply not true. The bills as reported represent a major and even radical departure from the original act and from common respect for administrative and judicial decisions. In many ways it turns back the clock on the kind of reasonable regulatory reform that many of us have been working so hard to achieve.

We should recognize that the carefully crafted regulations which would be totally overturned without the pending amendment were not written by the much-maligned Reagan EPA, but by the Carter EPA which some of our colleagues hold up as a shining example of environmental sensitivity and concern.

The chairman of the subcommittee reporting the bill has charged that the EPA has now abandoned a commitment to regulate small generators within 2 to 5 years. Yet I have a copy of a letter from the EPA Assistant Administrator to the Speaker stating the Agency's intention to come up with a regulatory scheme for small generators within 3 years. Those plans fit very well with the pending amendments as offered by my colleague from Texas and myself.

So the question before us is whether we are to put the EPA in a legislative straitjacket or whether we are going to let reason and normal procedure prevail to come up with a workable approach to the problem of regulating small generators of hazardous waste.

If section 3 passes in its present form, a regulatory scheme designed for large manufacturers would be inflexibly applied to thousands of smaller businesses in vastly different circumstances. By any account, most of the waste generated is now fully regulated. The EPA says 99 percent, the OTA says 93.4 percent in their preliminary study. That is an important difference, but we need to nail it down to see the magitude of the problem. Our amendment would allow us to do that while continuing to regulate far over 90 percent of all hazardous wastes.

What kinds of effects would section 3 have if passed? According to the EPA 130,000 small businesses would be added to the program, tripling its present work load. Some proponents of section 3 have claimed that 700,000 businesses would be added. It is hard to believe that the supporters of a clean environment would choose to divert the EPA's resources from the 60,000 companies that produce over 90 percent of our waste to 10 times as many who cause less that one-twentieth of the problem.

EPA estimates that the businesses and groups that would be affected include: 56,000 gas stations, 14,000 auto repair garages, 6,000 dry cleaners and 2,000 hospitals as well as most high schools and virtually every college and university in the Nation.

Several of the Members of this body from time to time express a concern for small businesses. Well, there is nothing worse you could do for a small business than to add a minimum of $3,000 every year to their costs, yet that is what section 3 would do.

Finally, some proponents of section 3 have raised concerns about small quantities of toxic wastes. Yet the EPA already has a 1-kilogram limit for highly toxic wastes. I even read about threats of Kepone dumping in open landfills. Well, let me assure my colleagues speaking from the State that made Kepone a household word, it is no longer manufactured in the United States and its use has been banned for many years.

In short, section 3 represents a bludgeon approach against untold numbers of small businessmen and schools to solve a problem the magnitude of which we are not certain, but which, certainly, could be addressed in a more humane and cost-effective way.

I urge my colleagues to support the pending amendment.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Gramm amendment.

Mr. Chairman, I had not planned to get up and speak today, but I sat here throughout the debate listening to those who spoke for and against the various amendments, and it brought me back to about a month or so ago to a hearing that was held in New York City by the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation.

At that hearing, Mr. Chairman, the General Accounting Office was asked to estimate how many illegal toxic dumps there might be in this country, and the answer was 50,000. Now, if that answer is anywhere close to a ball park figure, if we were to appropriate all the money that we spend on defense each year, we would not have enough money to clean up the mess—the dangerous mess, I might add—that is occurring in this country.

We are not going to cure this problem by having more studies. We in this House are going to have to look at this problem seriously, knowing that almost every neighborhood in this country in almost every congressional district is being impacted by illegal toxic dumps that are poisoning the people and perhaps even taking the lives of many of our citizens.

So when we have on one hand the question of paperwork that is being created by the amendment offered by the gentleman from New Jersey (Mr. Florio) and the gentleman from New York (Mr. Lent) and, on the other hand, the serious question of public health, I think the decision is easy.

I do not want to see the matter studied any more, Mr. Chairman. I think it has been studied enough. I think we have to stop the dumping that is going on. I think the initial bill, with the amendment offered by the gentleman from New Jersey (Mr. Florio) and the gentleman from New York (Mr. Lent) will do the job, and I urge my colleagues to oppose the Gramm amendment.

Mr. FLORIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. Without objection, the gentleman from New Jersey (Mr. Florio) is recognized.

There was no objection.

Mr. FLORIO. Mr. Chairman, I rise just to correct a few of the points that have been made. One is the question, to put it in perspective, of the small quantity generator. We are talking about 12 tons a year qualifying as a small quantity generator by which someone is able to just randomly dump into a solid waste landfill, and that goes effectively unregulated. I think that is a serious point.

The question was asked, and the point was raised by one of the supporters of the Gramm amendment that we are talking about imposing upon the smaller people the full scope of RCRA regulations. We are not. We are specifically directing EPA to put together a second tier of regulations designed to take into account the unique problems associated with generating smaller amounts.

What we are saying is that they cannot dump it anywhere, but EPA has the discretion to come up with a lesser regulatory system. The provision in the bill is clear and unequivocal on this point. EPA has stated that that is what they committed to do prior to their change of policy.

I think it is also important to note that I heard someone say that by passage of this provision, that is, by nonpassage of the Gramm amendment, we are encouraging illegal dumping. I find this both specious and disingenious because what is happening now is that the equivalent of midnight dumping is taking place under full regulatory sanction. It is legal but inappropriate; it is legal but hazardous to the environment and the public health, and, therefore, we are going to try to prohibit that.

Does that make it illegal? I suppose, yes; it does.

□ 1520

But if you follow the logic of the proposal or suggestion about illegal dumping you might conclude that if we did not have a law against murder and we passed a law against murder one would say by virtue of passing that law we have converted ordinary citizens into lawbreakers; therefore, we should not have the law and we would have no lawbreakers.

I suppose we could get rid of crime by just repealing all of the criminal statutes and then we would have no violations of the Criminal Code.

I am stating that this is a serious environmental health problem. We are talking about massive amounts of waste. When you are talking about a few billion pounds versus a multiple of a billion pounds going into drinking water supplies, you are talking about a serious problem, a serious loophole that should be plugged.

Therefore I ask that we reject the Gramm amendment and go forward trying to plug these loopholes.

It is important to note that this country generates close to 100 million tons of hazardous wastes and 40 million tons of hazardous waste is regulated. About 40 million tons of hazardous wastes per year go through these loopholes. It is not regulated and is just scattered across the country.

This cannot continue.

Mrs. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentlewoman from Rhode Island.

Mrs. SCHNEIDER. I would just like to point out in the State I represent, the State of Rhode Island, we have no exemptions whatsoever for any amount of hazardous waste that is generated. Yet my district is the home of numerous small jewelry industries and chemical manufacturing plants.

We have a situation in the State of Rhode Island where we have the State department of environmental management implementing these laws and industry working hand in hand because industry has come to realize that it is only by following the laws of disposing of hazardous wastes that we are able to protect: No. 1, the jobs within our State and, No. 2, the public health.

So we have an example that is already working which is the kind of example that I think lends credence to the gentleman's argument.

Mr. FLORIO. I thank the gentlewoman for that contribution. I think it is very important that she be in a position, and I know she is, to verify the fact that even though you go far beyond what EPA has done, we do not have dry cleaners closing, we do not have gas stations going out of business. All of these horror stories that are being talked about are merely the figments of someone's imagination.

I thank the gentlewoman and would like to insert in the Record at this time a factsheet on the "small generator" issue, and a partial list of the bill's endorsers.

"Small Generator" Factsheet

PROBLEM

Present EPA regulations exempt so called "small generators" from virtually all requirements to properly manage and dispose of their wastes. A "small generator" is defined as anyone who generates up to one ton (100 kilograms) per month. 700,000 or 92% of the hazardous waste generators in the country presently qualify for this exemption (45 FR 33120).

This exemption means that 92% of the generators are not required to manifest their waste, keep any records, and most importantly are specifically allowed to dispose of their hazardous wastes at solid waste landfills and municipal dumps. These landfills and dumps are frequently nothing more than open pits which are incapable of containing hazardous wastes (particularly solvents). They have none of the design and monitoring safeguards for the protection of groundwater as would be found at a hazardous waste treatment or disposal facility.

In fact, according to EPA's own data submitted to the Congress, a majority of the priority sites that have been identified for cleanup under the "Superfund" program are solid waste facilities or municipal dumps that accepted hazardous wastes.

The Office of Technology Assessment (OTA), an independent, bi-partisan arm of the Congress, estimates that this exemption allows up to 2.7 million tons (6.0 billion

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pounds) of hazardous waste to be disposed of into sanitary landfills. This volume of waste is equal to 6.6% of the national hazardous waste stream.

REMEDY

The bill and its clarifying floor amendment will: lower the exemption level from one ton/month (1,000 kilograms) to one-tenth of that amount (100 kilograms); extend the provision's effective date to two years after enactment of the bill and concurrently provide self-implementing variances from administrative and managerial requirements prior to disposal; (i.e., extend the permissible storage period so that these generators could dispose of their hazardous waste only twice a year) and require that such generators dispose of their hazardous wastes at hazardous waste treatment or disposal facilities, not solid waste facilities or municipal dumps.

BASIS FOR COMMITTEE APPROACH

20 States had undertaken similar, or more stringent action to restrict this loophole including: Arkansas, California, Guam, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Vermont, and Washington.

In May, 1980 the EPA committed to reduce the exemption to 100 kilograms/month, the level sought by the provision. Moreover, EPA's commitment was based on its estimates that the volume of exempt wastes amounted to 1 percent of the national waste stream (45 FR 33103).

The OTA Report concluded that, "the scope and severity of the generation of hazardous wastes from small generators were greatly underestimated by the EPA." OTA goes on to recommend the precise remedy that is contained in H.R. 6307.

ENDORSERS

The following is a partial list of the associations and firms that endorse H.R. 6307 in its entirety or support the provisions of stated interest to them:

American Association of University Women.
American Public Health Association.
Association of Petroleum Rerefiners.
Association of State and Territorial Solid Waste.
Management Officials.
Association of State and Territorial Health Officials.
At-Sea-Incineration, Inc.
Audubon Society.
California Oil Recyclers, Inc.
Center for Urban Environmental Studies.
Chesapeake Bay Foundation.
Chicago and Suburban Refuse Disposal Association.
Citizens Clearinghouse for Hazardous Waste Information.
Coalition for Safe Waste (Boston, Massachusetts)
Colorado Greenpeace.
Concerned Citizens of Pennsylvania.
Connecticut Citizens Action Group.
Conservation Council of North Carolina.
EMPAC, Inc. (Texas).
Envirite, Inc. (Connecticut, Pennsylvania, Ohio, Illinois).
Environmental Action Foundation.
Environmental Defense Fund.
Environmental Information Center (Winter Park, Florida).
Environmental Policy Center.
Environmental Waste Removal (Connecticut).
The Fertilizer Institute.
Flowen Oil Recycling (Camden, New Jersey).
Garden State Paper Company, Inc.
Governmental Refuse Collection and Disposal Association.
Hazardous Waste Treatment Council.
Interstate Natural Gas Association.
Institute for Chemical Waste Management (NSWMA)
IT Corporation.
League of Cities.
League of Women Voters.
Legal-Environmental Assistance Foundation (Alabama, Tennessee, Florida).
Massachusetts Fair Share.
Michigan United Conservation Clubs.
National Association of Attorneys General.
National Association of Counties.
National Association of Oil Recycling Coordinators.
National Conference of Mayors.
National Solid Waste Management Association including the State chapters of Colorado, Indiana, Kentucky, Michigan, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Texas and Virginia.
National Wildlife Federation.
Natural Resources Defense Council.
Oil, Chemical and Atomic Workers Union.
Petrcon, Inc.
SCA Services, Inc.
Solid Tec, Inc. (Georgia).
Stablex Corporation.
Tennessee Environmental Council.
Tri-Country Alliance on Chemicals (Pittsboro, N.C.).
Urban Environment Conference.
Voting Ohioans Initiating a Clean Environment.

Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 6307 and in opposition to all weakening amendments. Rhode Islanders are acutely sensitive to the threat that hazardous wastes pose to the public health, and with good reason—our State has the unfortunate distinction of having 3 of the 114 worst dumpsites in the Nation.

The Resource Conservation and Recovery Act was established to protect the public safety by regulating the generation, transportation, and storage of hazardous wastes. H.R. 6307 would strengthen the act and help us make hazardous dumpsites—threatening our neighborhoods and destroying valuable residential property—a thing of the past.

I would particularly like to express my support of the provision in H.R. 6307 that would extend RCRA safety standards to companies generating between 200 and 2,000 pounds of hazardous wastes per month, which are now exempt under current law. I know that some have argued that small businesses would be subjected to an unreasonable burden of regulation by this requirement. I would ask that Members consider three points.

First, H.R. 6307 reduces the reporting burden for small businesses by allowing them to batch hazardous wastes for twice a year disposal. This is a reasonable compromise worked out by members of the committee, and it deserves our support.

Second, Members may be interested to know that my State of Rhode Island provides no exemption whatsoever from regulation for any amount of hazardous wastes. Whether you generate 10 pounds or 1,000, under Rhode Island law you are liable for the safe handling and disposal of hazardous wastes.

Has this forced our small businesses to shut down, or at least driven them out of the State? In fact, it has had no such effect.

Rhode Island is home to hundreds of small jewelry manufacturers and to large and small chemical processing firms. Both industries, which provide valuable employment in our State, have developed a positive working relationship with Rhode Island's Department of Environmental Management. In fact, the State reports no complaints. It seems that both industries are working responsibly under State laws to control a problem that everybody in Rhode Island—no matter where they are employed—recognizes as serious.

Finally, although the amount of hazardous waste that would be covered by the new requirement in H.R. 6307 may seem small—somewhere between 1 percent and 7 percent of the total volume, depending on whose statistics you care to believe—the consequences of exempting that volume of waste from any regulation can be very serious. After all, it only takes a few irresponsible individuals to create a dump site dangerous to the public's health, and requiring the expenditure of millions of dollars for decontamination. Existing law, without the modification proposed by H.R. 6307, would exempt up to 6 billion pounds of hazardous waste from any effective Federal regulation. Can we really afford a loophole of that size when the public's health is at stake? I hope not.

Two amendments that will be offered to H.R. 6307 today deserve special notice. The first would increase the criminal penalties for the violation of statutes pertaining to the safe handling and disposal of hazardous wastes. I strongly urge the adoption of this amendment. If the criminals who play with the public's health for profit do not think we are serious about cracking down on hazardous waste violations, it is time they learned.

The second amendment would make it virtually impossible for States, cities, and private citizens to sue the EPA for nonenforcement of hazardous waste statutes. This amendment needlessly restricts the individual's and State's rights, and deserves to be defeated. If a citizen or State contends that an agency is trying to sabotage a law through administrative means, the courts should be available to resolve the dispute. That is a basic right that we should be protecting, not trying to weaken.

I ask my colleagues to support H.R. 6307, and to reject all weakening amendments.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. Chairman, there have been arguments already made here with respect to the economic impact that these proposed changes in law are going to have on these small generators. I will not argue that fact at this time.

Most of these generators are small businesses, schools, dry cleaners, hospitals, retailers, gasoline stations, and so forth.

I must concede that bringing them under RCRA is going to mean a tremendous economic hardship. It is going to mean time-consuming paper work requirements, sophisticated testing procedures and so forth.

But I want to talk for just a moment, if I could, about the problem that this is going to bring to the agency itself that has been charged with the responsibility and the duty of regulating under the law.

The Environmental Protection Agency in a letter to Members of Congress has said that the lowering of the small generator exclusion to 100 kilograms per month would substantially dilute its efforts to insure that waste produced by large generators is handled and disposed of properly.

I do not think that is what we want to occur as a result of the amendments that are being considered here today. We must face the fact that the large generators account for 95 percent-plus of the hazardous waste generated annually in this country.

When we consider that fact then this statement by the EPA is not a statement that we would dismiss lightly.

The gentleman from New Jersey was talking about the argument that was made about this amendment passing and thus encouraging illegal disposal practices. I think what the gentleman was referring to who made that argument is that we are going to be giving the EPA such a tremendous regulatory burden that many of the activities here are going to escape whatever regulatory scheme the EPA may come up with.

What the gentleman from Texas (Mr. GRAMM) is suggesting is a more constructive and sensible way to approach this small generator problem, and that is let us step back from it for just a moderate period of time and let us take a look at it; let us study and determine the feasibility and the methods of regulating these small generators.

He would require a report to Congress on this study prior to the issuing of standards.

I might point out in conclusion, Mr. Chairman, that the EPA already has the authority to regulate under the law these small generators. They have not chosen to do so.

I might point out that should the EPA choose under the Administrative Procedures Act to regulate small generators, it would seem to me that the small generators at least would have more ample opportunity to come forward in a rulemaking process, to be heard, to state their side of the case as to how such a regulatory scheme should be designed and to bring whatever knowledge they have to bear on the particular problem.

It seems to me that would be a far better way to approach this problem than the language that is in the bill. That is why I support the amendment offered by the gentleman from Texas (Mr. GRAMM).

Mr. IRELAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. GRAMM), and would like to associate myself with the remarks of the gentleman from North Carolina (Mr. BROYHILL), who just spoke.

The small business community is overburdened by regulation. If there is a problem here, we need to take a look at it and study it.

As a very strong exponent of the small business community I would indicate one more time that the small business community had little or no opportunity to express itself in regard to this matter.

We support the amendment offered by the gentleman from Texas (Mr. GRAMM). We will have a considerable opportunity to study the issue and treat it in the way that it should be treated.

Mr. GRAMM. Mr. Chairman, will the gentleman yield?

Mr. IRELAND. I would indeed.

Mr. GRAMM. I thank my colleague from Florida for yielding.

I would like to answer two points that have been raised in the debate.

First is the point about State action, that somehow if one's State has taken or contemplates taking action to set different standards for that State than the Nation mandates, that somehow that binds the Member of Congress in question to vote for imposing the State standards as Federal standards. That is a fallacious argument. I reject that argument and, quite frankly, I, too, have done a survey of the States which have imposed restrictions beyond the national standard. Exactly what one would expect to be the case is the case.

Most States that have in fact set more stringent standards have done so to meet specific State needs and in the process have carefully crafted exemptions which vary greatly from State to State.

Second, the points raised about the deserted dump site in Ohio and the question raised about illegal dump sites are interesting but irrelevant.

□ 1530

What we are talking about here is how we are going to deal with waste generated by laundries, by filling stations, by colleges, and by garages, and whether or not we are going to put on them the very heavy burden of RCRA. That is the issue, and it has nothing to do with existing waste sites that came into existence in the past, before RCRA was ever law, and now pose problems which we are trying to clean up.

Mr. IRELAND. I thank the gentleman for his comments.

Mr. Chairman, I would conclude by urging the adoption of the amendment offered by the gentleman from Texas (Mr. GRAMM).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GRAMM) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and on a division (demanded by Mr. GRAMM) there were—ayes 11, noes 13.

Mr. GRAMM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

Mr. GRAMM. Mr. Chairman, I ask unanimous consent that I might demand a recorded vote.

The CHAIRMAN. The Chair will advise the gentleman that his request comes too late.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 307]

Akaka
Albosta
Anderson
Andrews
Annunzio
Applegate
Archer
Ashbrook
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chisholm
Clausen
Clay
Clinger
Coats

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Coelho
Coleman
Collins (IL)
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Crane, Daniel
Crockett
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Fuqua
Gaydos
Gejdenson
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gore
Gradison
Gramm
Green
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Perkins
Petri
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Savage
Schneider
Schroeder
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weber (MN)
Weber (OH)
Whitley
Whitten
Williams (OH)
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zeferetti

□ 1540

The CHAIRMAN. Three hundred nineteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas (Mr. GRAMM) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 148, noes 183, answered "present" 1, not voting 100, as follows:

[Roll No. 308]

AYES—148

Anderson
Applegate
Archer
Ashbrook
Badham
Bailey (MO)
Benedict
Bennett
Bereuter
Bethune
Bliley
Boggs
Bouquard
Bowen
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Byron
Campbell
Carman
Carney
Clinger
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dornan
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Fiedler
Fields
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gradison
Gramm
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (UT)
Hartnett
Hatcher
Hefner
Hightower
Holt
Hopkins
Huckaby
Hunter
Hutto
Hyde
Ireland
Johnston
Jones (NC)
Jones (OK)
Kazen
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lundine
Lungren
Martin (NC)
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
Michel
Miller (OH)
Mollohan
Montgomery
Moore
Moorhead
Morrison
Myers
Nichols
O'Brien
Oxley
Parris
Patman
Paul
Petri
Quillen
Rahall
Rhodes
Ritter
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Rousselot
Sensenbrenner
Shaw
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Snyder
Spence
Stangeland
Stanton
Staton
Stenholm
Tauke
Tauzin
Taylor
Thomas
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitley
Whitten
Wolf
Young (FL)
Young (MO)

NOES—183

Akaka
Albosta
Alexander
Andrews
Annunzio
Aspin
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Bingham
Boland
Bolling
Boner
Bonior
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clausen
Clay
Coats
Coelho
Coleman
Collins (IL)
Conte
Coughlin
Courter
Coyne, William
Crockett
D'Amours
Daschle
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Dorgan
Dowdy
Downey
Dwyer
Dymally
Eckart
Edgar
Edwards (CA)
Emery
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fithian
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Gaydos
Gejdenson
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gore
Green
Guarini
Hall (OH)
Hamilton
Harkin
Hawkins
Heckler
Heftel
Hertel
Hiler
Hillis
Hollenbeck
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (TN)
Kastenmeier
Kemp
Kennelly
Kildee
LaFalce
Lantos
Leach
Lent
Levitas
Long (MD)
Lowry (WA)
Luken
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McDade
McHugh
McKinney
Mikulski
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nowak
Oakar
Obey
Ottinger
Panetta
Patterson
Pease
Perkins
Porter
Price
Railsback
Rangel
Ratchford
Regula
Reuss
Roe
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Savage
Scheuer
Schneider
Schroeder
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (NJ)
Smith (PA)
Snowe
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Walgren
Waxman
Weber (MN)
Weber (OH)
Williams (MT)
Williams (OH)
Wirth
Wolpe
Wyden
Wylie
Yates
Yatron
Zeferetti

ANSWERED "PRESENT"—1

Coyne, James

NOT VOTING—100

Addabbo
Anthony
Atkinson
Bafalis
Barnard
Beard
Bevill
Biaggi
Blanchard
Bonker
Breaux
Brown (OH)
Burton, John
Butler
Chappell
Chappie
Cheney
Collins (TX)
Conable
Conyers
Craig
Crane, Philip
Davis
de la Garza
Derrick
Donnelly
Dougherty
Early
Erlenborn
Ertel
Evans (GA)
Findley
Foglietta
Garcia
Gephardt
Gibbons
Glickman
Goldwater
Gray
Gregg
Grisham
Hance
Hansen (ID)
Hendon
Holland
Hubbard
Jeffries
Jenkins
Kogovsek
Lee
Lehman
Leland
Marks
Marlenee
Marriott
Mattox
Mavroules
McCloskey
Mica
Miller (CA)
Mitchell (MD)
Moffett
Napier
Nelligan
Oberstar
Pashayan
Pepper
Peyser
Pickle
Pritchard
Pursell
Rinaldo
Roberts (KS)
Rodino
Rudd
Sabo
Santini
Sawyer
Schulze
Schumer
Shelby
Shumway
Smith (IA)
Solomon
Stump
Trible
Udall
Vento
Washington
Weaver
Weiss
White
Whitehurst
Whittaker
Wilson
Winn
Wortley
Wright
Young (AK)
Zablocki

□ 1550

The Clerk announced the following pairs:

On this vote:

Mr. Kogovsek for, with Mr. Pepper against.

Mr. Chappie for, with Mr. Rodino against.

Mr. Rudd for, with Mr. Addabbo against.

Mr. Hendon for, with Mr. Weiss against.

Mr. Philip M. Crane for, with Mr. Schumer against.

Mr. Goldwater for, with Mr. Moffett against.

Mr. Craig for, with Mr. Foglietta against.

Mr. Cheney for, with Mr. Gray against.

Mr. CARMAN changed his vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to the amendment in the nature of a substitute offered by Mr. FLORIO: Page 30, strike out lines 7 through 10.

Mr. DANNEMEYER. Mr. Chairman, to get an appreciation for the amendment now pending, it would be helpful, I think, for us to talk a little about how the law of nuisance, the common law of nuisance, developed in our country during its 200-plus years of history.

The law of nuisance says that you cannot use your property in such a way so as to interfere with your neighbor on his own land.

☐ 1600

The 50 States of the Union, through their own State court proceedings have developed this common law of nuisance. This is to be constrasted with the so-called Federal law of nuisance. Any lawyer in this Chamber will immediately recognize this case from law school: Erie Railroad against Tompkins, decided by the Supreme Court in 1938, established as a principle that there is no such thing as a Federal common law in this country; that we have State laws dealing with nuisance, but no Federal common law.

This distinction is important in understanding the amendment that I am now describing to the Committee. In 1976, Congress adopted the predecessor to the authorization bill that is now pending before the Committee dealing with hazardous wastes, and properly so.

We set forth in over a thousand pages a systematic method of dealing with the disposal of hazardous wastes by the 60,000 polluters in this country to which it is applicable. If you are in the business of disposing of waste, the one thing you want to know with certainty in the law is what you must do. Why? Because it is not going to be very profitable for your business if, after investing in the means of disposing of waste, the ground rules are changed. It just is not fair. This concept of fairness is at the foundation of the reason why I am offering this amendment because it says very simply that in the enforcement of this area of the law, the ground rules will come from the Federal law which we have adopted, the 1,000 pages plus, and the regulations adopted, by the EPA, and we will permit recourse, in addition, to the Federal law, a so-called Federal common law of nuisance.

Now, why is this important? It is important for the reason that businesses, cities, counties, disposing of waste, want certainty in their systems. For example, with respect to the city of Milwaukee, the State of Illinois got after the city in the last few years and took it to court, attempting to require that the city of Milwaukee follow certain procedures for disposing of municipal waste in a manner that was beyond the requirements of the existing Federal law.

The U.S. Supreme Court in that case, Milwaukee against Illinois, handed down a decision which said, in effect: "No, State of Illinois, you may not pursue relief based on any Federal common law that you may be able to find in our law. You will rely, State of Illinois, on the existing Federal statute. There is no Federal common law of nuisance. Thus reaffirming the decision of Erie Railroad v. Tompkins of 1938."

Incidentally, if the State of Illinois had been successful in that litigation, it would have cost the city of Milwaukee about an additional $1 billion for disposing of the wastes of that community beyond what they have already spent.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, what this legislation before the Committee will now do is, in effect, repeal the principle of the decision of Milwaukee against Illinois by, in effect, establishing the groundwork for people who make a living in the environmental community to contest whether or not what a city or county or State or a business does in the way of waste disposal or what a business has done in the way of waste disposal, whether it is in compliance with the Federal common law.

The thrust of the amendment is merely to say that in this effort, we will rely on what Congress has adopted and what the EPA has adopted in the way of regulations.

A plaintiff may not resort to a Federal common law of nuisance as a means of expanding the happy hunting grounds of litigation which they seek to pursue.

This is a fair amendment. The provision that I seek to delete in this legislation was adopted in the final moments of the committee deliberation on the representation that it was a technical amendment. It was far more than technical. I think we should adopt the amendment which would establish a fair basis for anybody disposing of waste in this country to know what the ground rules are.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from illinois.

Mr. PORTER. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman suggesting that the Milwaukee against Illinois case arose under this provision of Federal law? I thought that was under the Clean Water Act.

Mr. DANNEMEYER. Mr. Chairman, it was under the Clean Water Act; that is right.

Mr. PORTER. How would the gentleman's amendment affect that situation, the Milwaukee-Illinois situation, assuming the court had decided it the other way around?

Mr. DANNEMEYER. Well, the amendment that I am offering is merely to make clear that in this act, that any litigant who seeks to go to court would be limited to the provisions of the Resource Conservation Recovery Act, not be able to resort to any Federal common law. That is the applicability of the decision of the Milwaukee against Illinois case. Its principle is affirmed.

Mr. PORTER. Mr. Chairman, if the gentleman will yield further, it would not have an effect on interstate water pollution, is that correct, that is, the gentleman's amendment?

Mr. DANNEMEYER. Is the gentleman referring to the amendment that I am offering?

Mr. PORTER. Mr. Chairman, I do refer to that.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has again expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, I do not want to say to the gentleman that it would have no effect, but I cannot think of one that I can relate to the gentleman right now. I am not saying none exists; but I cannot think of one. Perhaps the gentleman from Illinois can.

Mr. PORTER. Mr. Chairman, if the gentleman will yield further, it would not affect the Milwaukee-Illinois situation, for example?

Mr. DANNEMEYER. It would not.

Mr. PORTER. The gentleman is using it as an example of common law that would be superseded.

Mr. DANNEMEYER. That is correct. That is exactly right.

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Mr. **FLORIO**. Mr. Chairman, I rise in opposition to the amendment.

Section 10 makes a simple technical change to clarify congressional intent, to spell out the rights of all parties to seek relief under State and Federal common law for problems caused by improper disposal of hazardous and solid wastes.

This provision, although it affects RCRA, in response to one of the previous questions, does have an impact upon the Clean Water Act in the sense that certainly RCRA and the Clean Water Act interact. Hence, we see the jurisdictional overlapping between the Committee on Public Works and Transportation and the Committee on Energy and Commerce.

Congress never intended that RCRA was designed to replace the Federal common law of nuisance. I wrote the provision of the law, and I can authoritatively assert that that was not the intention.

□ 1610

EPA's regulation could not possibly cover all potential waste management problems. The use of the Federal common law of nuisance is especially essential in the interstate pollution cases where State principles probably would not apply beyond State boundaries.

The National Association of Attorneys General, the State law enforcement officers, vigorously support the need for section 10. It is an essential tool in their arsenal of enforcement mechanisms designed to prevent and prosecute illegal and unsafe dumping of wastes.

The attorney general's office of the State of New York testified before Congress that "the Federal common law is a necessary and basic element of our system of environmental law."

To vote for this amendment would contradict the policy of this House expressed just last month when it voted overwhelmingly to preserve a private right of action to challenge pesticide permits. EPA's own regulations issued in May 1980 state that "issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or an infringement of State or local laws or regulations."

EPA itself has recognized that there is a need to preserve other legal remedies. I would just call to the attention of the gentleman from California (Mr. DANNEMEYER) that he may be interested in knowing that the single largest source of air pollution in the Southern California Basin as reported to us by officials of the State is the BKK Landfill in West Covina. The emissions from this landfill are several times greater than even the Chevron Refinery. Yet, presently there are absolutely no air emission standards for hazardous waste landfills. This landfill is adjacent to large population centers, and without the common law remedy that will be precluded by the gentleman's amendment there potentially will be no remedy to deal with this particular problem.

Mr. **SENSENBRENNER**. Mr. Chairman, will the gentleman yield?

Mr. **FLORIO**. I will be happy to yield.

Mr. **SENSENBRENNER**. Just so that I can get the argument of the gentleman from New Jersey straight, what the gentleman from New Jersey is proposing is that the body of law that is contained in RCRA is not the exclusive law, but someone can go into any one of the 400 Federal district courts around the country and attempt to have judge-made standards implemented by that particular court as a way of developing another body of law which may or may not be synchronized with RCRA?

Mr. **FLORIO**. That is not what I am advocating. What I am advocating is that there be a remedy and access to the courts to utilize the fully established body of Federal common law which is recognized throughout the courts of the United States.

Mr. **SENSENBRENNER**. In the case of Milwaukee against Illinois, which the gentleman from California (Mr. DANNEMEYER) referred to, there the district court decided that the Clean Water Act was not the exclusive law that applied in this particular lawsuit, and the judge thereupon ordered a remedy that was separate and apart from the Clean Air Act, that required one community to spend over a billion dollars to have its effluents six times purer than the effluent that was admitted by the plaintiffs. The Supreme Court of the United States reversed that decision, saying that the Clean Air Act was the exclusive remedy.

Does the gentleman realize that by renewing the Federal common law there may be as many as 401 separate bodies of law that arise out of section 10; one passed by Congress and 400 that are established by each Federal district court around the Nation.

Mr. **FLORIO**. The gentleman has talked about the Clean Air Act. That is not what we are dealing with today. The clear intention of the RCRA was that the Federal common law shall be an alternate remedy, and we are attempting to make that abundantly clear, that is to be distinguished from the situation in the Clean Air Act.

Section 10 makes a simple technical change to clarify congressional intent of the rights of all parties to seek relief under law for problems caused by improper disposal of hazardous and solid waste are preserved.

This provision effects RCRA only, and was congressional intent.

Congress never intended RCRA to displace the Federal common law of nuisance. RPA's regulation could not possibly cover all potential waste management problems.

The use of the Federal common law of nuisance is especially essential in interstate pollution cases where State principles probably would not apply.

The National Association of Attorneys General vigorously support the need for section 10. It is an essential tool in their arsenal of enforcement mechanisms to prevent illegal and unsafe dumping of wastes.

The attorney general's office of the State of New York testified before Congress that:

> The federal common law is a necessary and basic element of our system of environmental law.

To vote for this amendment would contradict the policy that this House expressed just last month when it voted overwhelmingly to preserve a private right of action to challenge pesticide permits.

EPA's own regulations issued in May 1980 state that "issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or an infringement of State or local laws or regulations." EPA itself has recognized that there is a need to preserve other legal remedies.

Mr. **SENSENBRENNER**. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment to delete section 10 from H.R. 6307.

Section 10 is a misguided effort to reverse the Supreme Court's argument in Milwaukee against Illinois in dealing with wastes covered by this act, when a reversal is neither necessary nor in the best interest of the environment. Adoption of section 10 would lead to greater confusion in an area where clarity and certainty are needed if the health and environment of this country is to be protected. It would be a serious and costly mistake for all concerned: businesses, property taxpayers, local governments, and environmentalists.

The Supreme Court, in Milwaukee against Illinois, did no more than apply a long established doctrine concerning the separation of powers between the Congress and the judiciary. The Court held that when an act of Congress, and the regulations issued under it, are so comprehensive, so as to occupy the field, there is no need or room for judge-made standards. Courts may not, therefore, interpose judge-made standards if the Congress has spoken.

Judge-made standards are just that, judge-made standards, even though they are embraced within a body of law which is referred to as the Federal common law. Federal common law is ad hoc. It is the aggregation of a body of individual judges' decisions responding to a series of individual problems. It is not a planned, cohesive, overall studied and consistent approach.

Section 10 would abrogate the planned and consistent statutory scheme of RCRA by permitting a Federal judge, under the guise of Federal common law, to impose different requirements than those found in the act and its regulations. In essence, section 10 would permit the courts to overrule Congress.

Thus, two sets of standard-making bodies would be established by section 10, Congress and the EPA on the one hand, and any one of the over 400 Federal judges on the other. To permit Federal judges, who lack the technical expertise in pollution issues, to take a crack at writing his or her own standards, would destroy the uniformity and certainty of the system. This would be catastrophic for all concerned: Businesses, property taxpayers, local governments, and environmentalists.

Businesses would be subject to different standards based entirely upon their location. A business located in a district where the Federal judge applied a lenient standard would obtain an economic advantage over its competitor, located in a district where the judge applied a strict standard, because the latter would have to pass along the higher compliance costs to their customers. Inconsistencies in standards could also lead to court shopping by businesses seeking to expand in regulatory favorable jurisdictions.

Local governments, after incurring million of dollars in designing and constructing pollution abatement facilities, would be forced to alter these facilities to conform to a judge's standard. Property taxpayers would have to bear the cost of this inefficiency. In the case of the city of Milwaukee, the local property taxpayers would have had to pay an additional $1 billion in taxes for the court-ordered improvements, which would not have been eligible for Federal aid since the EPA has ruled that the court-mandated standards were unnecessary and excessive.

Finally, environmentalists should also be concerned, for the litigation that section 10 invites, will not only delay but also kill badly needed pollution abatement projects.

If the proponents of section 10 desire stricter standards, they should seek enactment of those standards by the Congress, rather than giving each of the over 400 Federal judges a crack at drafting judge-made common law standards.

I, therefore, urge support of the amendment.

Mr. Chairman, I would like to respond to the argument raised by my friend from Illinois (Mr. PORTER) in his colloquy with the gentleman from California (Mr. DANNEMEYER).

□ 1620

I think that this would have an impact on Milwaukee versus Illinois and the Clean Water Act if substances that are controlled by RCRA find their way into a municipal pollution abatement treatment and end up having to be treated pursuant to the standards that the Clean Water Act imposes upon the municipality.

In response to the gentleman from New Jersey (Mr. FLORIO) I do believe that the lower court's decision in imposing a different body of law in Milwaukee versus Illinois will open a Pandora's box to different standards in different districts, with forum shopping either by environmentalists or by businessmen to secure the judge who is the most favorable to their own particular viewpoint, as well as causing delay in making the necessary improvement that protracted litigation requires.

Mr. Chairman, I urge support of the amendment.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been impressed by the arguments proposed by the able Members, both for and against the amendment offered by the gentleman from California (Mr. DANNEMEYER). I do not have the legal expertise to engage in debate with them over the effects of this particular amendment offered by the gentleman from California, and I merely want to offer a few comments based upon my own general experience with this kind of problem.

Many references have been made to the case of Illinois against Milwaukee. I think everyone is aware of the fact that this case was decided under the Clean Water Act, but perhaps some of the Members are not aware of the fact that there is a very real differences between the Clean Water Act and RCRA.

There is a much longer and more elaborate and detailed history of regulation of water in this country than there is of solid waste. While I have not researched it in preparation for this discussion, I know that regulation of the water supply, and pollution of the water supply in this country goes back more than 50 years, perhaps much longer than that, whereas regulation under RCRA is a relativley new field.

Now, what is the relevance of this? Basically, it would support the action of the judge in Illinois against Milwaukee in contending that there is a fully developed and very explicit set of standards under the Clean Water Act which would mitigate against use of the common law in making a decision on a matter involving water. Such is not the case with regard with solid waste disposal. We are not clear about all of the effects of improper practices in this field.

The gentleman from New Jersey made reference to a very well-known toxic waste dump in southern California, the BKK dump, which has features that affect the environment there in many different ways, and I personally am knowledgeable of other similar dumps which are operated in accordance with the provisions of RCRA and the appropriate State and local laws and yet which still create tremendous nuisance damages throughout the surrounding environment. I can take the Members to some of these and they can observe them, and I do not think there would be any question but what a legally operated dump can still create serious problems for which there need to be remedies.

Now, we had some discussion, as the gentleman from New Jersey again mentioned, of the appropriateness of various remedies under a similar act, FIFRA, just a few weeks ago, and this House by an overwhelming vote acted to adopt the principle that there should be private rights of action for damages which were not contemplated or spelled out in the act and which would be available to those who were affronted.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield on this point?

Mr. BROWN of California. I am happy to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I supported the amendment to allow a private right of action under FIFRA.

Mr. BROWN of California. And we appreciate that.

Mr. SENSENBRENNER. And we were successful in that. But I believe there is an essential difference between that amendment which allowed a private right of action under an established body of law that was passed by the Congress and this issue under RCRA which allows the judge in effect to go either above or below the body of law which was passed by the Congress and adopt his own standards for better or for worse.

Now, I certainly would have no objection to allowing a FIFRA type private right of action under this bill where an individual citizen could go in and sue to get the enforcement of the protections of RCRA. But that is not what we are talking about here. We are in effect turning a blank check over to the Federal judges. Perhaps the gentleman has more confidence in what they would come up with than I do. Even the trial judge in the Milwaukee versus Illinois case said he really did not know the technicalities of what he was talking about.

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Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from California (Mr. Brown) has expired.

(On request of Mr. Sensenbrenner, and by unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. Sensenbrenner) for his contribution. It is obvious that he has made a detailed study of this matter, and I think his points are very reasonable.

I do not agree with the conclusions that the gentleman has reached on this matter because, as I perceive it, what the gentleman is seeking to do is to limit the recourse available under a very new act in which there is a relatively limited amount of details in the law and in the regulations, as compared, for example, with the Clean Water Act under which the ruling in Milwaukee against Illinois was made.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman from California (Mr. Brown) has very succinctly stated the case for opposition to this amendment.

We are talking about a relatively new regulatory system in which all the potential problems have not yet even been divined, much less been appropriately regulated. We, therefore, are asking that there be some residual authority on the part of the State officials, and I think it is very significant that the State attorneys general, the chief law enforcement officials of the States have specifically asked that this section be preserved so they can have the maximum number of tools for dealing with the problem of illegal dumping of toxic wastes.

To support the gentleman's amendment is to take away one of those potential tools that those law enforcement officials need, they think—and I believe that they do need it—in fighting illegal dumpers and dumping of hazardous toxic waste.

So, Mr. Chairman, I thank the gentleman for his clarification.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman from New Jersey (Mr. Florio) for his comments.

I think the time may come—and it may be relatively soon—when we will have fully developed and well codified principles of law in this field just as we have in the water field, and it might be unnecessary to have recourse to the common law, in which case I would be happy to see that time develop and I might even be willing to support an amendment such as the gentleman from California is offering at this time.

However, Mr. Chairman, I do not think that the time is now, and I, therefore, am constrained to object to the amendment offered by the gentleman from California (Mr. Dannemeyer).

Mr. YOUNG of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. Dannemeyer).

Mr. Chairman, as a member of the Water Resources Subcommittee of Public Works and Transportation, I am very familiar with the problems associated with the Federal common law provision in section 10 of H.R. 6307.

Our committee has heard from representatives in industry and local sewer agencies of the severe negative impact that this provision will have on our Nation's cities.

In a recent Supreme Court decision concerning the Clean Water Act, the Court, in Milwaukee against Illinois, held that the comprehensive nature of the act preempted any Federal common law remedy that might have been available. The issue raised in section 10 with respect to the Solid Waste Disposal Act was considered in a pollution control context last year when I was a member of the conference committee on the Clean Water Act Amendments of 1981. The conferees agreed not to include the common law provision.

Section 10 would allow litigants to bring suit against owners and operators of hazardous waste facilities in Federal courts even though those operators may be operating in full compliance with the law and regulations. These owners and operators of hazardous waste disposal facilities that are in compliance with the law and regulations should not be subjected to the threat of Federal common law actions.

In its committee report, the Public Works and Transportation Committee expressed the deep concerns regarding section 10. In July, the Water Resources Subcommittee heard overwhelming testimony opposing the Federal common law provision during hearings on the reauthorization of the Clean Water Act.

In the final analysis, this amendment will prevent undue delays to our hazardous waste management program. I urge my colleagues to support the amendment and continue the progress in achieving a comprehensive and sound hazardous waste program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Dannemeyer) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. Florio).

The question was taken, and on a division (demanded by Mr. Dannemeyer) there were—ayes 15, noes 21.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will now record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 309]

ANSWERED "PRESENT"—338

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Applegate
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Crane, Daniel
Crockett
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Fuqua
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Ginn
Gonzales
Goodling
Gore
Gradison
Gramm
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine

Lungren
Madigan
Markey
Marks
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Perkins
Petri
Pickle
Porter
Price
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (SD)
Robinson
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Savage
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weber (MN)
Weber (OH)
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zeferetti

□ 1640

The CHAIRMAN. Three hundred and thirty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. Dannemeyer) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 255, not voting 92, as follows:

[Roll No. 310]

AYES—85

Archer
Ashbrook
Badham
Bailey (MO)
Benedict
Bliley
Broyhill
Burgener
Byron
Campbell
Carman
Clausen
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dreier
Emerson
Fields
Flippo
Forsythe
Gramm
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hightower
Hillis
Hubbard
Hyde
Ireland
Johnston
Leath
LeBoutillier
Lent
Lewis
Livingston
Loeffler
Lowery (CA)
Lungren
McDonald
Montgomery
Moore
Moorhead
Morrison
Myers
Parris
Patman
Paul
Petri
Quillen
Ritter
Roberts (SD)
Robinson
Roemer
Roth
Rousselot
Sensenbrenner
Shelby
Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Taylor
Thomas
Wampler
Weber (OH)
Wilson
Young (FL)
Young (MO)

NOES—255

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Applegate
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bingham
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burton, Phillip
Carney
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Coughlin
Courter
Coyne, James
Coyne, William
Crockett
Daschle
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Dorgan
Dornan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Eckart
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fenwick
Ferraro
Fiedler
Fish
Fithian
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Goodling
Gore
Gradison
Green
Guarini
Hagedorn
Hall (OH)
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Ottinger
Oxley
Panetta
Patterson
Pease
Perkins
Pickle
Porter
Price
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roe
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Savage
Schneider
Schroeder
Schulze
Seiberling
Shamansky
Shannon
Sharp
Shaw
Simon
Skelton
Smith (NJ)
Smith (PA)
Snowe
Solarz
St Germain
Stanton
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Waxman
Weber (MN)
Whitley
Williams (OH)
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Zeferetti

NOT VOTING—92

Addabbo
Anthony
Aspin
Bafalis
Barnard
Beard
Bevill
Biaggi
Blanchard
Bolling
Bonker
Breaux
Brown (OH)
Burton, John
Butler
Chappell
Chappie
Cheney
Chisholm
Collins (TX)
Conyers
Craig
Crane, Philip
D'Amours
Davis
de la Garza
Donnelly
Dougherty
Early
Edgar
Erlenborn
Ertel
Evans (GA)
Fazio
Findley
Foglietta
Garcia
Gephardt
Glickman
Goldwater
Gray
Gregg
Grisham
Hansen (ID)
Hendon
Jeffries
Kogovsek
Lee
Lehman
Leland
Lott
Marlenee
Marriott
Mattox
Mavroules
McCloskey
Mica
Miller (CA)
Moffett
Napier
Nelligan
Oberstar
Pashayan
Pepper
Peyser
Pritchard
Pursell
Roberts (KS)
Rodino
Rogers
Rudd
Sabo
Santini
Sawyer
Scheuer
Schumer
Shumway
Smith (IA)
Stump
Trible
Vento
Washington
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams (MT)
Winn
Young (AK)
Zablocki

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Chappie for, with Mr. Pursell against.

Mr. Philip M. Crane for, with Mr. Craig against.

Mrs. BOUQUARD changed her vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FITHIAN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. FITHIAN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mr. Florio: Page 32, after line 7, insert:

HAZARDOUS WASTE FACILITIES OWNED AND OPERATED BY STATES OR POLITICAL SUBDIVISIONS

Sec. 12. Section 104(c)(3)(C)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking out "owned" and substituting "owned and operated".

Mr. FITHIAN. Mr. Chairman, this is a very simple amendment.

There are dump sites in the country which are owned and operated by municipalities, by counties, by States, and in many cases for profit. Under the present law, the cleanup of any disaster or any threat to health would under those conditions be split 50 percent Federal and 50 percent State or local, as it should be.

There is a second category of dump sites around the country, however, which do not fall in that frame of reference.

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What I propose to do is clarify what I believe the committees of original jurisdiction intended when the Superfund law was drafted, for it seems clear to me that if a city or a county leases out—as one would do in an industrial park—leases land and then a private entity operates the dump site at a profit and subsequently, as in the case of the four dump sites which I cite in my discussion here, if they then operate it at a profit, go broke as in the case of Seymour, Ind., and disappear, they are leaving a city or a State tabbed with a 50-percent cleanup cost which was not the original intention of the law.

It is true that before the original passage of this act, that perhaps most of those operations were no violation of law nor were they violations of regulations because none existed. I think it is clear, however, that we should distinguish between a city or a county which operates a dump site at a profit and intentionally and now knowingly uses bad procedures and those which were not in any way knowingly at fault.

It is clear that we have dump sites in this category. We have located four. Our Committee on Government Operations had a hearing at one of the sites in Seymour, Ind. We believe sincerely that the EPA should have already moved to eliminate the threat to health.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from New Jersey.

□ 1700

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

I would say that I support this amendment as fully in accord with the intent of the legislation, the so-called Superfund, and I think it is a highly desirable piece of legislation.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to my colleague, the gentleman from Indiana (Mr. Hamilton).

Mr. HAMILTON. Mr. Chairman, first of all, let me express my appreciation to the gentleman from Indiana for offering this amendment and the initiative that the gentleman has displayed in bringing it as an amendment to this bill.

As I understand it, the State now pays 50 percent of the cleanup costs if the site is owned by the State or a subdivision of the State. Under the amendment of the gentleman, the State would pay 50 percent if the site is owned and operated by the State or a subdivision, but the State would pay 10 percent of the cost if the site was owned but not operated by the State or subdivision thereof; is that correct?

Mr. FITHIAN. The gentleman is correct.

Mr. HAMILTON. I think it is a very important amendment. It is the only way that I know that we can clean up the site at Seymour, Ind., at the present time. We have a very serious hazardous waste problem in that community now. It has stopped all economic development for a period of several years.

The State has not been able, or at least has been unwilling, to pick up its share of the tab; so is the case with the county and the city itself, and unless this amendment is adopted, I think it is unlikely that that site will be cleaned up. I am sure the same thing is true in a number of other sites in the country.

I commend the gentleman and I support his amendment.

Mr. LENT. Mr. Chairman, would the gentleman yield for a question?

Mr. FITHIAN. I would be happy to yield to the ranking Member.

Mr. LENT. Mr. Chairman, I am a little confused by the import of the amendment.

Is it a fact that under this amendment you would in effect have two classifications of municipal dumps, those municipal dump sites that are owned by the municipality and those dump sites that are owned and operated by a municipality?

Mr. FITHIAN. Yes; the gentleman is correct.

Mr. LENT. Under this amendment, if a municipality were to lease out, either at a profit or without a profit, the operation of the dump site to an independent operator, it could be relieved of much of the burden of the cost of a Superfund cleanup; is that not the case?

Mr. FITHIAN. Well, I will say to the gentleman, as the gentleman well knows, that we are now operating in an era when, thanks to the work of the gentleman and the gentleman from New Jersey, where regulations are being promulgated, this House and the other body have worked on it and we are operating in quite a different era.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. Fithian was allowed to proceed for 3 additional minutes.)

Mr. FITHIAN. But many of the dump sites which we are now having problems with were created 20 or 30 years ago, long before RCRA, long before we had any body of either law or regulation to take care of that, and it is that kind of retroactive activity that we are trying to get at here.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to the gentleman from Michigan.

Mr. ALBOSTA. Mr. Chairman, I thank the gentleman for yielding.

I totally agree with the chairman of the subcommittee, the author of the amendment, the gentleman from Indiana. In fact, during the discussions on the bill, the Superfund legislation, it was pointed out to me in discussions with the chairman, the gentleman from New Jersey (Mr. Florio), that definitely a site like the Gratiot County landfill, which was owned by the county and licensed by the State, but run by a private concern, was included in the intent of the legislation.

So I fully agree with the amendment of the gentleman and support his efforts.

Mr. FITHIAN. Mr. Chairman, I thank the gentleman.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I would be happy to yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Chairman, I would like to ask the gentleman if this amendment would permit land owned by a State or municipality on which hazardous waste was deposited by an entity other than that State or municipality, to qualify for a 90-percent share of cleanup costs under the Superfund program?

Mr. FITHIAN. That is correct.

Mr. SAM B. HALL, JR. Would it also specify that if the States or municipalities owned and operated these Superfund sites, they would qualify for a payment of only 50 percent of their costs?

Mr. FITHIAN. That is correct.

Mr. SAM B. HALL, JR. Mr. Chairman, I thank the gentleman.

Mr. LENT. Mr. Chairman, will the gentleman yield for a further question?

Mr. FITHIAN. I would be happy to yield.

Mr. LENT. If there are two municipalities side by side, they each own a dump site; one municipality leases that dump site out to an operator, the other municipality operates the dump site itself through its own employees: Is not the effect of this amendment to place a higher burden of financial responsibility on the part of that municipality which both owns and operates the dump site?

Mr. FITHIAN. Well, I think it is clear that if a municipality, now that the regulations are laid out, cuts corners, operates at a profit and then expects the Federal Government to clean up 90 percent of their city dump, that is not what RCRA was designed for in the first place; so clearly, there should be a distinction.

What we are trying to do here is to get at those dump sites which have been developed over the years when there were no regulations. We have seen it in at least four cases in the United States where that is the case; the company has then gone broke. It is not there. The State does not have the money.

The fundamental question at issue in this amendment is whether or not we are going to proceed with cleaning up the dump sites. That is the fundamental issue.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. I would simply say to my friend, who has worked long on this legislation, that my amendment has the support of the National League of Cities and the Governors of Michigan and New York, in States in which dump sites similar to the one at Seymour, Ind., is located. It clarifies and it confirms what I believe to have been the original intent of the law, and it has been confirmed by my colleague, the gentleman from Michigan.

I would urge support of this amendment.

Mr. LENT. Mr. Chairman, I move to strike the requisite number of words. I rise to state my opposition to the amendment.

Mr. Chairman, I am very sympathetic to the plight of my colleague, the gentleman from Indiana, with respect to this particular site that he is concerned about in his own State; but I did want to point out that this amendment pertains to a statute that is not presently under consideration. This applies, this amendment applies to the Superfund legislation, not the RCRA legislation.

This is a subject where we have had absolutely no hearings. We do not know with any degree of certainty what the impact of this amendment will be. We do not know how many of these sites that are owned, but not operated by municipality or a State, may exist. There may be scores of them. There may be hundreds of them.

Perhaps, most importantly, the effect of this amendment if it is adopted will be to dissipate the available funds in the Superfund and make less funds available for cleanup of other sites, privately owned sites, sites where no owner can be found or if the owner can be found, where the owner is insolvent.

Now, one of the gentlemen who spoke earlier mentioned the GAO. The GAO estimates that there may be as many as 50,000 illegal hazardous dump sites in this country; so I would say to my colleagues, before you vote "yes" on this amendment, you had better realize that it could have the effect of delaying the date on which some other dump site in your district or State will be eligible for cleanup under this Superfund program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. RINALDO TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. RINALDO. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. RINALDO to the amendment in the nature of a substitute offered by Mr. FLORIO: Page 33, after line 7, insert:

CRIMINAL PENALTIES

SEC. 12. (a) Subsection (d) of section 3008 of the Solid Waste Disposal Act is amended by striking out "two years" in each place it appears and substituting "five years".

(b) Subsection (e) of section 3008 of such Act is amended by striking out "2 years" and substituting "five years" and by striking out "5 years" and substituting "ten years".

Mr. RINALDO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RINALDO. Mr. Chairman, this amendment will strengthen the Resource Conservation and Recovery Act's criminal penalties for the illegal disposal of hazardous wastes.

Many of us know from problems in our districts the serious danger posed by illegal disposal of hazardous wastes to the public health and environment. We all know about Love Canal. In my district, the name Chemical Control calls forth the same dangers from improper disposal of hazardous wastes. I believe RCRA's criminal penalties should be strengthened and brought into line with other Federal felony penalties. Thus, the amendment increases the law's maximum felony penalty from the present 2 years to 5 years, which is, typically, the maximum Federal felony penalty. In addition, the amendment changes to 10 years from 5 years the maximum penalty for a violation that places another person in danger of death, provided the circumstances manifest an extreme indifference to human life.

We know from the experiences of Love Canal, Chemical Control and other now infamous names that felony violations of RCRA are more serious than many other crimes and should carry the same penalty.

This amendment has been endorsed by leading environmental groups, including the Environmental Defense Fund, the Sierra Club, and the Natural Resources Defense Council. It will improve the deterrent value of the law and thereby safeguard the public health. I urge its adoption to make the Resource Conservation and Recovery Act a more effective means of curbing the illegal disposal of hazardous wastes.

□ 1710

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I would be glad to yield to my friend, the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I am pleased to have worked with the gentleman on this amendment. It is a desirable amendment and I would accept it.

Mr. RINALDO. Mr. Chairman, I thank the gentleman.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO) to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. DANNEMEYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to the amendment in the nature of a substitute offered by Mr. FLORIO: Page 30, after line 6, insert:

ATTORNEY'S FEES

SEC. 11. Section 7002(e) of the Solid Waste Disposal Act is amended by striking out "to any party" and substituting in lieu thereof "to the prevailing or substantially prevailing party".

Renumber the following section accordingly.

Mr. DANNEMEYER. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I have reviewed this amendment with the gentleman from New York (Mr. LENT) and I would now offer a unanimous-consent request to modify it as follows, and it would then be acceptable, and it would be acceptable to the gentleman from California (Mr. DANNEMEYER) as well.

Page 30, after line 6, insert:

SEC. 11. Section 7003(e) is amended by inserting the following after the first sentence: "Nothing in the preceding sentence shall be construed to affect the power of any court to award costs or fees under any other authority of law."

With that provision, making that unanimous-consent request——

The CHAIRMAN. The Chair would insist that the gentleman submit the modification to the Clerk for its perusal.

Mr. FLORIO. Mr. Chairman, I would make that unanimous-consent request and then the gentleman's amendment, as so amended, is fine, de-

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sirable, and I think it is a healthy addition to this legislation.

The CHAIRMAN. The Clerk will now report the modification.

The Clerk read as follows:

Page 30, after line 6, insert:

SAVINGS PROVISION

SEC. 11. Section 7003(e) of the Solid Waste Disposal Act is amended by inserting the following after the first sentence: "Nothing in the preceding sentence shall be construed to affect the power of any court to award costs or fees under any other authority of law."

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey (Mr. FLORIO) to modify the amendment offered by the gentleman from California (Mr. DANNEMEYER)?

There was no objection.

Mr. LENT. Mr. Chairman, will the gentleman yield to me?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, we have examined the amendment. If the gentleman has no objection to the modification to the language of his amendment, it is certainly agreeable to the minority.

Mr. DANNEMEYER. Mr. Chairman, I have no objection to the language.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNEMEYER), as modified, to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO).

The amendment, as modified, to the amendment in the nature of a substitute, was agreed to.

The CHAIRMAN. Are there any other amendments to the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO)?

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so to take this opportunity to engage in a colloquy with the distinguished chairman of the subcommittee.

I serve as the chairman of the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation, which has joint jurisdiction in certain areas with the subcommittee that has presented this bill.

There is one area and one problem that recently has come to our attention that I would like to get some opinion and view of the distinguished subcommittee chairman on, and that is this: The Environmental Protection Agency, which has the responsibility of identifying certain sites which contain hazardous and toxic wastes, has the responsibility of trying to identify the generators of that material in these abandoned sites and require them, rather than the fund and the taxpayers, to pay for the cleanup. They created the problem; they have the responsibility of paying for it. Yet, based on preliminary information, it appears that the Environmental Protection Agency is not vigorously pursuing these types of identifications followup, and in many instances are letting the large generators string them along for periods of time, and in many instances end up with sweetheart-type settlements rather than full responsibility.

I wonder if the chairman of the subcommittee has any information or view on this problem.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct with regard to the responsibilities under the law. EPA, for any moneys that are paid out of this fund, is charged with the responsibility of pursuing those who cause the problem. As a matter of fact, Congress provided an easier standard for that pursuit, strict liability. EPA is charged with going after those people.

The gentleman is probably making reference to what it is I have been seeing in the newspaper, where, as EPA comes upon a site and finds a number of generators and it appears that some of the wealthier generators are allowed to enter into settlement contracts, thereby absolving them from any further responsibility, EPA then goes and expends its money and the residual number of generators that are left that EPA can pursue under strict liability may not have the wherewithal to provide for reimbursement, the result being that the fund is depleted.

So I am very concerned about that apparent initiative that is being pursued by EPA. It is my intention and my committee's intention to pursue and look into this practice that appears to be followed by EPA.

Mr. LEVITAS. I thank the distinguished chairman of the subcommittee.

Mr. LENT. Mr. Chairman, will the gentleman yield to me so that I may engage in a colloquy with the chairman of the subcommittee?

Mr. LEVITAS. Let me complete this one comment, and I would then be happy to yield to the gentleman.

I appreciate the chairman's response. I think it is a very, very serious problem because I think the American people, the American taxpayers and the American public may get jerked around to a very expensive tune if EPA does not vigorously go after the people who have created the problem and make those responsible pay for it.

Mr. Chairman, I would be happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the distinguished chairman of the subcommittee with respect to section 3 of the substitute, am I correct in my understanding that for purposes of satisfying waste identification, manifesting and labeling requirements, that it would be sufficient to make such identification on the basis of process identification such as dry cleaning solvents and metal plating wastes?

Mr. FLORIO. Yes, the gentleman is correct in his understanding. Generators may even make presumptions that their wastes are hazardous and treat them accordingly, thereby alleviating any requirement to test the waste. However, generators are responsible for knowing whether or not they are hazardous waste generators.

Mr. LENT. Mr. Chairman, if the gentleman will yield further, I have a question with respect to section 11, the recycling provision of this bill.

Mr. Chairman, is this provision intended to apply to recyclers who do not deal with hazardous waste?

Mr. FLORIO. The answer is no.

Mr. LENT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO), as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The question is now on the Energy and Commerce Committee amendment in the nature of a substitute, as amended.

The Energy and Commerce Committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PRICE) having assumed the Chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6307) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 545, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

□ 1720

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 32, not voting 83, as follows:

[Roll No. 311]

YEAS—317

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bingham
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burton, Phillip
Byron
Campbell
Carney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Crockett
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Ginn
Gonzales
Goodling
Gore
Gradison
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
LeBoutillier
Lent
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Michel
Mikulski
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Savage
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Shamansky
Sharp
Shaw
Shelby
Shuster
Siljander
Simon
Skelton
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weber (MN)
Weber (OH)
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zeferetti

NAYS—32

Archer
Ashbrook
Badham
Bailey (MO)
Bliley
Burgener
Carman
Crane, Daniel
Dannemeyer
Derwinski
Dickinson
Fields
Gramm
Hall, Ralph
Hall, Sam
Hance
Hansen (UT)
Hartnett
Ireland
Johnston
Leath
Loeffler
Lott
Lungren
McDonald
Miller (OH)
Paul
Sensenbrenner
Skeen
Smith (AL)
Smith (OR)
Stenholm

NOT VOTING—83

Addabbo
Anthony
Bafalis
Barnard
Beard
Bevill
Biaggi
Blanchard
Bonker
Breaux
Brown (OH)
Burton, John
Butler
Chappell
Chappie
Cheney
Collins (TX)
Conyers
Craig
Crane, Philip
D'Amours
Davis
de la Garza
Derrick
Donnelly
Dougherty
Erlenborn
Ertel
Evans (GA)
Fenwick
Foglietta
Garcia
Gephardt
Glickman
Goldwater
Gray
Gregg
Grisham
Hansen (ID)
Hendon
Jeffries
Kogovsek
Lee
Lehman
Leland
Marlenee
Marriott
Mattox
Mavroules
McCloskey
Mica
Miller (CA)
Moffett
Napier
Nelligan
Oberstar
Pashayan
Pepper
Pritchard
Pursell
Roberts (KS)
Rodino
Rudd
Sabo
Santini
Sawyer
Schumer
Shannon
Shumway
Smith (IA)
Stump
Trible
Vento
Washington
Weaver
Weiss
White
Whitehurst
Whittaker
Williams (MT)
Winn
Young (AK)
Zablocki

□ 1730

Mr. CARMAN changed his vote from "yea" to "nay."

Mrs. BOUQUARD, Mr. MOORE, and Mr. SILJANDER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 6307, RESOURCE CONSERVATION AND RECOVERY REAUTHORIZATION ACT OF 1982

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 6307, the Clerk be authorized to correct section numbers, punctuation, page and line numbers, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mrs. FENWICK. Mr. Speaker, referring to rollcall No. 311, the vote on H.R. 6307, the bill which just passed the House, I was unavoidably detained and could not be here in order to cast my vote in favor of it.

□ 1740

APPOINTMENT OF CONFEREES ON S. 1409, AUTHORIZING ENLARGEMENT OF BUFFALO BILL DAM AND RESERVOIR IN WYOMING

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes, with a Senate amendment to the House amendment thereto, disagree to the Senate amendment to the House amendment, and agree to the conference asked by the Senate.

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The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none and, without objection, appoints the following conferees: Messrs. Udall, Kazen, Phillip Burton, Seiberling, Miller of California, Coelho, Lujan, Clausen, and Pashayan.

There was no objection.

CONFERENCE REPORT ON H.R. 6068, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BOLAND. Mr. Speaker, I call up the conference report on the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 19, 1982.)

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. Boland) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Robinson) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Boland).

Mr. BOLAND. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this House has spent long hours in the consideration of next year's Defense budget. Issues resolved in the authorization process will be revisited in the Defense appropriation bill. There has been—and will be—full and lengthy debate on the state of the national defense—with one significant exception.

That exception, of course, is the intelligence budget, which is part of the overall Defense budget, but not publicly identified. It too has been the subject of congressional scrutiny and debate—but within the executive sessions of the Intelligence and Appropriations Committees. The procedures established by the Congress for this consideration require this closed door approach. They are essential to protect the viability of intelligence sources and methods. At the same time, however, such consideration does not occur in a vacuum.

President Reagan campaigned for office on a platform of rebuilding the intelligence community. Adm. Bob Inman, the former Deputy Director of Central Intelligence, recently characterized as "marginal" U.S. intelligence capabilities directed against a host of Third World and economic issues. While each of these positions is subject to qualification, they indicate real concern in the executive branch.

That concern has led to intelligence reappraisals not unlike those directed at the larger Defense Establishment. It has led to requests for a larger intelligence budget. More importantly, however, it has led to the beginnings of a planning process that can look ahead in 5-year spans instead of the traditional year-by-year approach.

The Congress has been receptive to many of the improvements developed in the process—both last year and in this year's intelligence authorization conference report. This year the intelligence committees have not adopted all of the budget proposals put forth for fiscal year 1983. Nonetheless, the committees encourage the forward looking aspects of intelligence planning and budgeting. While the committees will continue to require the provision of budget detail as in the past, they see the real value of a comprehensive, multiyear approach to intelligence community enhancement. The advantages of this system will increase as budgets are squeezed in the outyears and necessary adjustments are made.

Mr. Speaker, there is significant real growth in intelligence funding authorized by this conference report. If the intelligence community sticks to its future plans and commitments, the fiscal year 1983 intelligence budget can contribute significantly to improvements in intelligence capabilities. The Permanent Select Committee on Intelligence has played a role in bringing this comprehensive approach into being. We wish to see it retain and enhance its credibility in the future.

Mr. Speaker, the disposition of all budgetary matters at issue in conference are contained in the classified annex to the joint statement. The annex is available to all Members of the House during business hours. I urge Members to take the opportunity to review it.

Besides budgetary matters. The conference report retains the provisions of the House bill with the following three exceptions.

The House conferees accepted a Senate provision empowering the Director of Central Intelligence to authorize additional civilian personnel in fiscal year 1982 above the limit set by the Intelligence Authorization Act for fiscal year 1982 when he finds it necessary to the performance of important intelligence functions. This authority will be used to hire new employees in several critically important fields.

The House conferees accepted a Senate provision exempting the CIA from the Brooks Act, which provides for uniform Government coordination of purchases of advanced data processing equipment, maintenance and repair. The exemption is identical to that approved by the Congress last year for all Department of Defense intelligence ADP purchases.

Last, the conferees agreed on a modified version of provisions extending a retirement equity to former spouses of certain CIA employees. Although different in drafting style, the House and Senate versions were very similar. The conferees did agree to two Senate provisions which were not in the House bill. Coverage is provided to qualifying ex-spouses of CIA employees even if the employee eventually retires from another Federal agency, and any lump sum disbursement in lieu of retirement benefits made to retiring CIA employees requires the concurrence of the employee's spouse.

Mr. Speaker, this conference report makes important improvements in legislation and in intelligence funding. It deserves the approval of the House and that of the President. I urge its adoption.

Mr. ROBINSON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 6068.

It would authorize appropriations and establish personnel end strengths for the intelligence activities of the United States and is the result of many months of exhaustive examination of the intelligence needs of our Government.

With regard to the tactical intelligence activities of the Department of Defense covered in title I, conferees from both the Intelligence and Armed Services Committees worked together to resolve differences and where there is overlapping jursidiction, funding authorized by this bill is fully consistent with that provided in the Department of Defense Authorization Act for fiscal year 1983.

The Chairman has summarized the major differences between the remaining six titles of this report and the original House bill. I will not repeat them. Details of all of these matters are contained in the classified schedule of authorizations and a classified annex to the joint explanatory statement. These documents have been available for review by Members in the committee offices in the Capitol.

I have participated in consideration of every item contained in the conference report and I fully support it. Intelligence continues to receive the strong bipartisan support it needs and deserves.

This is not to say there were not some disagreements as to the proper resolution of some issues at conference. I can say, however, the conference recommendation is a compromise which I believe represents a fair and balanced reconciliation of the two authorization bills. Moreover, while slightly below the President's request, it provides for real growth in intelligence funding over last year's levels and some modest increases in personnel needed to support the intelligence programs and activities essential to our national security and foreign policy.

I urge Members of the House to adopt this conference report.

Mr. BOLAND. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. I thank the distinguished chairman.

Mr. Speaker, I rise only to raise a question that, for some reason or other, has been agitated. I have had some inquiries.

As I understand it, the original 1947 Security Act provided very explicitly that intelligence activities, particularly the Central Intelligence Agency, would not in any way provide domestic jurisdiction. Does that still hold true? Or does that in any way change or modify by virtue of this legislation?

Mr. BOLAND. If the gentleman will yield, the gentleman raises a good question. Let me indicate to the gentleman what he says is in the 1947 statute is still there—that is, that the CIA shall have "no police, subpena, law-enforcement powers or internal security functions"—and whatever action this committee has taken does not change that provision of the National Security Act at all.

Mr. GONZALEZ. I thank the distinguished chairman.

● Mr. DICKINSON. Mr. Speaker, I rise to join Chairman Price in urging that the intelligence activities conference report be adopted. The Armed Services Committee and the Intelligence Committee have worked closely to insure that both the Defense authorization bill and the intelligence authorization bill reflect consistent actions on matters of shared jurisdiction.

I, too, would like to congratulate the Intelligence Committee, its staff, Chairman Boland and Mr. Robinson, the ranking Republican member of the committee, for their excellent work on this most sensitive and critical piece of legislation.●

● Mr. PRICE. Mr. Speaker, I rise in support of the conference report on H.R. 6068, the fiscal year 1982 intelligence activities authorization bill. As the membership is aware, the Armed Services Committees over matters pertaining to intelligence related activities. In this regard, I would like to note that the fiscal year 1983 Defense authorization bill and intelligence activities authorization bill are in conformity as they relate to intelligence related activities.

I would like to congratulate the Intelligence Committee, its staff and Chairman Boland and Mr. Robinson, the ranking Republican member of the committee, on another job well done and I urge that the conference report be adopted.●

● Mr. MAZZOLI. Mr. Speaker, I rise in support of the conference report on the Intelligence Authorization Act for fiscal year 1983.

I would like to focus my remarks on one of the act's legislative provisions, title VI, which adopts for the CIA the same provisions concerning retirement and survivor benefits for spouses and former spouses of CIA officers who serve overseas as were established for their colleagues in the Foreign Service by the Foreign Service Act of 1980.

This provision was included in the authorization bill reported by the Intelligence Committee upon the unanimous recommendation of the members of the Subcommittee on Legislation—which I have the good fortune to chair.

The provision recognizes that CIA spouses who serve overseas do so under difficult and sometimes dangerous circumstances, perform valuable services for their country, contribute immensely to the success of the mission of the CIA officers to whom they are married—and, because of the unique circumstances of their service, are unable to acquire transferable job skills or vested pension rights of their own, and thus are often in financial peril when a divorce occurs after many years of marriage.

Too often, the financial difficulties are exacerbated by the spouse's unfamiliarity with State divorce laws and by the spouse's understandable reluctance, after years of CIA life, to reveal to a lawyer or judge all the circumstances which would aid in an equitable monetary settlement but which may involve classified information, or which may involve information which the employee spouse, for his own benefit, suggests should remain confidential.

Title VI attempts to bring some equity to this situation by treating CIA spouses similarly to Foreign Service spouses. It does this by establishing for the spouse a vested interest in the employee's retirement benefits by entitling the employee's former spouse to a pro rata share of the employee's retirement annuity, survivor's benefits, and lump-sum disbursements made from the retirement fund.

To qualify, the former spouse must have been married to the CIA employee for at least 10 years during the employee's CIA service and both parties must have served at least 5 years overseas.

To protect fully the interest of the employee, and to recognize that it is the local courts that should and do administer our domestic relations laws, title VI provides that the pro rata share it grants can be reviewed, modified, or rejected altogether by spousal agreement or by the State court granting the divorce.

As I noted when title VI passed the House last May, it will provide some assurance to dependent spouses who have served the CIA and their country well that they will not become impoverished in their retirement years following a divorce.

I urge adoption of the conference report.●

Mr. BOLAND. Mr. Speaker, I have no further requests for time.

Mr. ROBINSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOLAND. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOSCOW HELSINKI GROUP FORCED TO DISBAND

(Mr. FASCELL asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, it is with deep regret that I report the formal dissolution of the Moscow Helsinki Monitoring Group, announced this morning in Moscow by Elena Bonner, the wife of exiled Nobel Peace Prize laureate Andrei Sakharov.

Founded in May 1976 under the leadership of now imprisoned Prof. Yuri Orlov, the Moscow Public Group to Promote Observance of the Helsinki Agreements in the U.S.S.R., has come under seige since its inception. Referring to this cruel persecution of the monitors, Ms. Bonner cited the possible prosecution of 75-year-old group member Sofya Kalistratova as the reason for calling a final halt to the group's activities. Sofya Kalistratova, who suffers from a heart condition, was first informed by Soviet authorities on December 24, 1981, that she faces possible criminal charges of anti-Soviet slander. This Monday, she was again threatened with prosecution as part of an official campaign to pressure the three Moscow group members still at liberty into silence.

I deplore the Soviet repression which has forced an end to the noble

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work of the Moscow Helsinki Group. The Moscow group, however, lives on through its 200 documents—based on information from many Soviet citizens—which bear testimony to the Soviet people's desire to see their Government live up to its Helsinki human rights pledges. The Soviet Government has undertaken a systematic campaign of repression against the Moscow, Ukrainian, Lithuanian, Georgian, and Armenian Helsinki Groups: The 38 currently imprisoned members of these groups are serving a total of 355 years of imprisonment. Despite Soviet claims to have "wiped out" dissent in the U.S.S.R., I am confident that Soviet citizens will still speak out for their rights. We in the West will continue to defend their right to do so.

□ 1750

SOVIET VIOLATION OF HELSINKI ACCORDS

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, I would like to commend the gentleman from Florida on bringing this issue to the forefront of this Congress and to the American people. I think it is instructive to consider the relationship between the Soviet Government and their own history of having signed the Helsinki accords and the fact that they have consistently violated these accords time and again with their own citizens and citizens of countries that are directly under their jurisdiction.

I think it is instructive for the American people to understand how the Soviet Union has treated the Helsinki accords because these are signed treaties, treaties perhaps equivalent to treaties which we would engage in with the Soviet Union, the subject of arms controls and that without incentives and for sure it is hard to find incentives for the Soviets to live up to their Helsinki responsibilities without incentives, arms control can be like the Helsinki accords violated at every turn.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Florida.

Mr. FASCELL. The gentleman is correct. Of course, the Helsinki accords are not formal treaties between nations. They are certainly formal commitments of principles to the people of the countries who sign the Helsinki accords.

The Soviets have made it quite clear they are not going to give their citizens, any of them, any rights under those accords.

Mr. RITTER. I thank the gentleman for his point.

REPORT OF RESCISSION PROPOSAL AND DEFERRALS IN ACCORDANCE WITH IMPOUNDMENT CONTROL ACT OF 1974—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-232)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

EAST-WEST TRADE REPORT FOR 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

REPORT ON NATION'S PROGRESS IN SPACE AND AERONAUTICS IN 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

SEVENTH ANNUAL REPORT OF THE NUCLEAR REGULATORY COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

ANNUAL REPORT FOR 1981 OF THE FEDERAL COUNCIL ON THE AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

ALTERNATIVE PLAN FOR FEDERAL WHITE COLLAR PAY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-233)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, September 8, 1982.)

□ 1800

DEPARTMENT OF EDUCATION REPORT ON ACTIVITIES UNDER REHABILITATION ACT OF 1973 DURING FISCAL YEAR 1981—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today Wednesday, September 8, 1982.)

REPORT ON AGENCIES AND UNITS EXCLUDED FROM COVERAGE UNDER MERIT PAY SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

(For message, see proceedings of the Senate of today Wednesday, September 8, 1982.)

UNCONVINCING OPPOSITION TO H.R. 5252

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. LUKEN. Mr. Speaker and Members of the House, I would like to draw attention to a publication in which there is incorporated the remarks of one James Sheets of the Laborers International Union, as we resume our deliberations in the Committee on Energy and Commerce on the Clean Air Act amendments.

Mr. Sheets is one of two contributors to this publication, both of whom are labor union representatives. This emphasizes the fact that the Clean Air Act amendments are promoted primarily by those who are interested in jobs, whether they be on the labor or management side of the picture.

In the remarks, and I quote:

UNCONVINCING OPPOSITION TO H.R. 5252

(By James Sheets)

Both the intensity and the shrillness of opposition to H.R. 5252, proposed Clean Air Act amendments are, or should be, unconvincing to the public.

The nature of the bill, which is basically moderate, simply does not deserve the demagogic violence of reaction that has come from the environmental community.

Fortunately, the Auto Workers will address the complexities of Title II, the mobile source portions of the bill, so I will restrict my remarks here to the main elements of Title I and their effect on the construction of new stationary sources. Further, I will focus here on the two or three elements of Title I that have been most commented on by opponents of H.R. 5252. Examining the literature of opposition to the bill, it would seem that the key elements of opposition are against the extension of deadlines, the elimination of offsets in nonattainment areas, and the elimination of monitoring and modeling requirements in Prevention of Significant Deterioration (PSD) Class II and III Areas.

Much has been made of the so-called "unnecessary" extensions of deadlines in H.R. 5252. The argument itself is a canard since the bill, when passed, will not extend anyone's deadlines itself. Indeed, it is very specific that those areas that can meet the 1982 deadline for achievement of the National Ambient Air Quality Standards must do so. Instead, H.R. 5252 provides administrative means for extending deadlines in very specific areas where the magnitude of clean air problems has made it impossible to meet the 1982 date. In this element, H.R. 5252 squares exactly with the recommendations of the National Commission on Air Quality that uniform national deadlines be abandoned.

The original Clean Air Act and its 1977 successor were unrealistic on the question of deadlines in two regards. The designers of the bill underestimated the magnitude of air quality problems or, perhaps conversely, overestimated the resources society was willing to put into clean air. Those assumptions led them to set uniform deadlines of 1975 in the original bill and 1982 in the current Act. In simple fact, NCAQ and other objective observers have uniformly realized that there were a number of problem areas that were not amenable to such uniform deadlines and, indeed, some which would not, without the imposition of severe limitations, be able to meet the NAAQS within the foreseeable future.

The second fallacy was to write the Act so that states were the basic unit for judging compliance with the Act. Every state has both attainment and nonattainment areas, and the Environmental Protection Agency quickly realized in 1979 that it could not even administer the State Implementation Plan requirements on a state-wide basis. This led to a massive administrative amendment of the Act to allow the administrator to act on SIP's partially and conditionally, without specific authorization in the language of the Clean Air Act. Intransigent air problems in specific metropolitan areas will have to be met by site-specific actions. H.R. 5252 will allow planning on that basis.

Finally, the simple fact is that Congress must do something about the deadlines. If the Act is not amended by December 31, 1982, nonattainment areas will receive either relief from the deadlines or punishment for failure to meet them. It is doubtful that governors, mayors or congressmen are going to be willing to face the political prospect of widespread punishment. The real question is whether the relief should be in the form of general extensions of deadlines for a limited period, or an administrative procedure such as the one embodied in H.R. 5252.

Of the two, my choice would go to the administrative procedure. Congress has made the experiment of uniform deadlines twice now, and both times the experiment has failed. There is no reason to think a third attempt would be more successful, and there are more productive ways for Congress to spend its time than meeting every two or three years to debate a new and equally futile deadline for the Clean Air Act.

As an administrative tool, the idea of required offsets in nonattainment areas was another flawed notion in Clean Air Act administration. The flaws, in this case, were obscured for quite some time and, indeed, still are obscured in part by the delay in completion of the SIP process. The most important part of Clean Air Act administration, considering the number of sources involved, has always been the requirement for Reasonably Available Control Technology (RACT) on existing facilities. After all, existing facilities will always outnumber new ones by several orders of magnitude and, since most of them in this period of time were in operation prior to passage of the Clean Air Act, RACT obviously would attack the overwhelmingly greatest source of air pollution.

Unfortunately, the requirements of RACT depended in large part upon guidelines which were to be laid down in the state implementation plans. Since many states still do not have fully approved SIPs, their RACT requirements are, to some extent, speculative. However, most states have gone ahead with RACT regulation. As these regulations are implemented, they will quickly eat up any available supply of offsets.

But above all, as costly and inefficient as offsets are, they are not aimed at a significant air quality problem. In a number of states, studies show that the total contribution to air pollution inventories from new facilities—with installed Best Available Control Technology (BACT)—amounts to less than 1 percent of the total. Offsetting such emissions, sometimes at great cost, does not seem a significant contribution to the ultimate achievement of clear air.

The cost of this policy creates a situation directly opposed to other important policies of our economic society. Imposing a costly requirement such as offsets on new capital development can only increase the movement of our economy toward large units—to the detriment of our long-held policy of encouraging small business. There are enough tendencies toward economic concentration in this country without adding one through the Clean Air Act.

Elimination of Class II and III PSD areas was a basic recommendation, with some modifications, of the National Commission on Air Quality, and the reasons for that elimination seem quite sound.

PSD requirements arising from the Supreme Court's determination in Alabama Power v. Costle were, at best, a theoretical construct which experience has demonstrated to be unworkable. NCAQ's examination of PSD transactions found, with practically no exceptions, that the process of monitoring and modeling consumed a great deal of money and time, but did not produce any useful information to guide the permitting process. In fact, in the overwhelming majority of cases, permitting agencies merely fell back on BACT determinations which could have been made many months earlier and thousands of dollars cheaper.

The present PSD requirements of the Clean Air Act are a classic case of administrative overkill. So complex and demanding are these requirements for the administrators of the Act that few states have even attempted to win delegation of PSD authority. This flies in the face of the clear congressional intent to make the states partners in Clean Air Act administration. Not only that, it creates the ludicrous situation of making EPA—itself not a large federal agency—responsible for case-by-case determinations on economic decisions in something like 85 to 90 percent of the United States.

After 10 years experience, it has become clear that the protection and promotion of clean air has certain basic elements. Preservation of the National Ambient Air Quality Standards under federal jurisdiction is basic, as is the requirement that the Best Available Control Technology be installed on new and modified plants and that there be rigorous enforcement of the requirements of the Clean Air Act.

Leaving aside the question of what may be expected from this or subsequent Administrations, H.R. 5252 provides the legislative framework for a "lean and mean" Clean Air Act which will far better serve both our economy and the goals of clean air than the present administrative hogwallow of regulation for its own sweet sake.

BILL GREEN ON THE TAX BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 15 minutes.

● Mr. GREEN. Mr. Speaker, Congress recently completed action on the tax bill known as the Tax Equity and Fiscal Responsibility Act of 1982. This legislation is projected to raise $98.3 billion in new tax revenues and reduce spending by $17.5 billion over the next

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3 years. This was a difficult vote for me. The bill contained some tax provisions which I believe to be bad tax policy, because they discourage badly needed personal savings. In particular, I am disturbed about those provisions which mandate 10 percent withholding on interest and dividends, which I had voted against when it came up in the last Congress, and discourage contributions to pension funds, which have been a major source of investment capital. The bill also required spending cuts in the medicare and medicaid programs. In general, I believe that such spending reductions in social programs should not occur while the defense budget spirals upward uncontrollably.

However, with these serious reservations in mind, I did support the tax bill. Hanging over almost every action taken by Congress is an expanding Federal deficit, which is estimated to be in the range of $109 to $114 billion in fiscal year 1982 and which the Congressional Budget Office estimated September 1 to be $152 to $155 in each of the 1983-85 fiscal years. That deficit has a profound effect on interest rates, which have remained at record high levels over the past several years and which impede economic recovery from the current recession and stifle the growth of our economy. I might add, the large deficit was the reason given by Common Cause and the American Association of Retired Persons when both organizations urged me to support this bill. This tax bill will directly reduce the deficit by $115.8 billion over the next 3 years. There will be $98.3 billion in tax increases and $17.5 billion in spending cuts for medicare, medicaid, and other programs. By reducing the deficit, interest rates may come down, which in turn will reduce the deficit even further. The Office of Management and Budget estimates that for every 1 percent decrease in Treasury bill interest rates, which reduces the cost of Federal borrowing, budget outlays, and hence the Federal deficit, are reduced by $4 billion.

A major factor in my decision to support the tax bill was a real possibility that, if this bill were defeated, another would be drafted and presented to Congress which would almost certainly be worse. This is not idle speculation. The administration requests for reductions in medicaid and medicare were far higher than those contained in the tax bill. In all probability, an alternative tax bill would include an oil import fee that would be devastating to the Northeast section of the United States. I favored repealing the generous tax breaks granted oil companies last year. While this year's tax bill did not rid the tax code of those tax breaks, it did not impose this burdensome new tax on our region.

I should also add that, if this measure had been rejected and another submitted for a vote, several of the important and beneficial items which I supported and which were contained in last year's $749 billion tax cut, might have been repealed. In particular, I refer to the mass transit leasing provision which I got into last year's tax bill and is a major component in the Metropolitan Transportation Authority's subway car and bus purchase program—it will save the MTA approximately $500 million. There was a great deal of pressure to scrap this provision this year and I fought successfully to retain it. Had this bill gone down to defeat, another one almost certainly would have quickly been written, and the mass transit provision would have been a prime candidate for repeal.

A second concern was the third year of the personal income tax cut. Many Members of the House were on record as supporting the repeal of the final 10-percent tax cut that is scheduled to become effective July 1, 1983. I have stated publicly on numerous occasions that we need the full 25-percent tax cut in order to provide redress to middle-income taxpayers for the full effect of inflation which pushes them into higher brackets.

A further reason for supporting this year's bill was that it contains several sections that are good tax policy, which close loopholes and assist in collecting revenue. Individual income tax provisions totaled $6.5 billion ($18 billion if the withholding provision is included) while business tax provisions came to approximately $50 billion. Finally, specific tax issues that many New Yorkers were concerned about, such as tax policy toward restaurants and the public utility dividend reinvestment provision, were resolved in ways that were beneficial to New Yorkers.

HOUSE VOTE

On Thursday, August 19, the House approved the tax bill by a vote of 226 to 207. This was the only time the House had an opportunity to consider this tax bill. The Constitution requires that tax legislation originate in the House, where the Ways and Means Committee writes the bill, the full House acts upon that legislation, and it is then sent over to the Senate for consideration. Except for a minor tariff provision approved earlier by the House, this bill essentially originated in the Senate. The Senate Finance Committee wrote the legislation, the Senate adopted it and then sent it to the House. What should have occurred was an opportunity for the House Ways and Means Committee to consider the bill and alter it in any way it felt appropriate, and, of course, a chance for the full House to consider and amend the bill. If this had happened, it is quite possible that the House might have eliminated or drastically modified the interest and dividend withholding provision, or changed the medicaid and medicare provisions. However, in an unusual procedure, this bill bypassed consideration by the full House. By a vote of 208 to 197, the House voted to go directly to "conference" with the Senate. A "conference" is a meeting of the House and Senate committees with jurisdiction over the legislation to resolve differences between the House and Senate versions. In this case, the conference had to resolve differences between a minor tariff provision (the House version) and scores of major tax changes (the Senate version). I voted against going directly to conference because I thought it violated the spirit of sound legislative procedure, if not the letter of the Constitution. It denied the Members of the House their right to develop a bill which reflected their views.

When the House-Senate conference committee completed its work, there was another opportunity for House Members to change the bill. The guideline or rule under which the House was to consider the tax bill allowed for no amendments whatsoever. There was an attempt to change that rule so that amendments could be offered. Unfortunately, I was again on the losing side of a 220 to 210 vote to revise the rule, and, consequently, no amendments were allowed. From the debate that day, it was clear that an amendment to eliminate the interest and dividend withholding provision would have been offered if the rule had been changed.

MAJOR TAX PROVISIONS

The tax bill contains approximately 50 revenue provisions which will raise taxes and increase compliance as well as changes in the medicaid, medicare, aid to families with dependent children, SSI, and unemployment compensation programs. I want to take the opportunity to explain some of these elements of the bill.

MASS TRANSIT PROVISION

In the 1981 tax cut bill, I negotiated a provision which would assist the Metropolitan Transportation Authority (MTA) and other public mass transit agencies in their acquisition of new rolling stock. In the MTA's case, this provision allows it to save the taxpayers 25 percent of the cost of a subway car and 14 percent of the cost of a bus. Given that the MTA has a $7.2 billion capital improvement program planned for the next 5 years, one can see how this provision can mean $500 million in savings for the MTA.

The mass transit provision had been a part of the safe harbor leasing section of the 1981 tax bill. Safe harbor leasing as applied other than to mass transit had been criticized for various abuses and an effort was undertaken either to repeal or revise the law dramatically. While mass transit leasing had not been abused at all, there were critics of the provision, and it became a real possibility that this important section of the law might be repealed or changed so that it would be rendered useless to New York City. However, others and I were successful in urging retention of the mass transit leasing provision, while eliminating some of the abuses that had developed in safe harbor leasing. The fact that we were able to do this was a major reason for my support of the tax bill. As a practical matter, defeat of this bill would have made it impossible for the MTA to continue to use the mass transit provision, in view of Senator Dole's announcement that he favored repealing it retroactively. I had a phone call from the MTA on the day before the tax bill vote reinforcing this point.

10 PERCENT WITHHOLDING ON INTEREST AND DIVIDENDS

The bill requires withholding at a flat rate of 10 percent on payments to individuals of interest and dividends. This provision was put into the tax bill based on the proposition that some individuals were not paying their taxes on interest and dividends. I believe that the tax evasion problem is not large enough to warrant an imposition of a withholding tax and, in effect, penalizes those people who have paid their taxes religiously. Further, through information returns, the IRS has all the information it needs to determine who is an evader and should match interest and dividend statements with taxpayers returns. As mentioned earlier, I had voted against such a provision in the past.

This being said, the provision is now in the law, though it will not become effective until July 1, 1983. The law does provide for several exemptions. Persons with $150 or less in interest will be exempt, as will individuals with prior year tax liability of $600 or less—$1,000 on a joint return. This provision has a much more profound effect on those elderly persons who often depend on their interest and dividends for living expenses. For persons over 65 years of age, there is an exemption from this law if an individual's tax liability in the prior year was $1,500 or less—or $2,500 or less on a joint return. This is estimated to mean that a single person over 65 with an income of $13,323 or less—or a couple with an income of $22,214 or less—will be exempt. Social security need not be included when estimating this income. The Internal Revenue Service will make exemption forms available to file with those banks, corporations, and other institutions that issue interest and dividend payments.

PUBLIC UTILITY DIVIDEND REINVESTMENT PLAN

The 1981 tax cut bill added a provision which allows public utility corporations to set up reinvestment plans under which shareholders electing to receive distributions in the form of common stock, rather than money, may exclude from their income up to $750 per year or $1,500 in the case of a joint return. The Senate had repealed this provision. I felt that this abrupt repeal after only 1 year in effect was unfair to investors who had purchased public utility stocks and was therefore pleased when the conference committee dropped this provision from the tax bill.

RESTAURANT TIPS

This provision will require restaurants with more than 10 employees to take 8 percent of the restaurant's gross income and the restaurant must report for each employee a share of that amount under the employee's name to the Internal Revenue Service each year. The IRS would use the amount reported as a bench mark to measure the accuracy of the amount of tip income reported by the employee.

BUSINESS ENTERTAINMENT DEDUCTION

While the tips section of the tax bill will add to the recordkeeping and paperwork requirements of restaurants, it is far better than the Senate provision for which it was substituted, that would have limited deductions for business meals to 50 percent of the cost of food and beverages unless one was traveling away from home on business. That provision would have fallen unfairly and inequitably on New York City, which has thousands of restaurants that cater to a business clientele and would have cost New Yorkers many jobs, at a time when unemployment is very high. There is no question in my mind that the conference committee chose the better of the two alternatives from New York's point of view.

MEDICAL DEDUCTIONS

Under present law, a deduction is allowed for those itemizing their income taxes of one-half of health insurance premiums up to $150, medical expenses in excess of 3 percent of a taxpayer's adjusted gross income and for the cost of drugs in excess of 1 percent of a taxpayer's adjusted gross income. The tax bill eliminates, effective tax year 1983, the $150 health insurance deduction and raises the medical expense deduction to 5 percent. Beginning in tax year 1984, the 1-percent floor for drugs will be eliminated and drugs will be redefined to include only prescription drugs and insulin. The major change in this section is the 3-to-5 percent change. However, it should be noted that this is far better than the change from 3 to 10 percent that the Senate Finance Committee had approved. While not ideal, I certainly see this modification as less harmful than what the Senate Finance Committee had adopted.

EXCISE TAXES

The telephone excise tax is raised from 1 cent to 3 cents effective January 1, 1983, stays at that level for 3 years, and then drops to zero after 1985. The cigarette excise tax is doubled from 8 cents to 16 cents until October 1, 1985.

PENSIONS

The tax bill restricted deductions for contributions to corporate pension plans, while increasing the contribution limit on Keogh plans.

For corporate, defined contribution benefit plans the maximum limit on contributions would drop from $45,475 to $30,000. For defined benefit plans, the maximum would drop from $136,425 to $90,000. These provisions become effective after December 31, 1982. Under present law, reasonable loans from pension plans are permitted. Effective on loans made after August 13, 1982, loans will be limited to $10,000, plus those loans up to $50,000 that do not exceed half the present value of the employee's vested benefits. Repayment must be within 5 years.

The limit for deductions for those contributing to Keogh plans, that is, pension plans for the self-employed, is increased from $15,000 to $30,000 effective tax year 1984.

TAX LOOPHOLES

There are several tax loopholes or tax breaks that reform-minded Members of Congress have been attempting to end for some time. This bill addresses some of them and creates greater equality in our tax system. Among these changes, the bill repealed a tax break allowing oil and gas companies to shelter income through the use of credits and losses from foreign oil and gas extraction and reduced several business tax breaks by 15 percent including special deductions for mining exploration and development and for depletion for coal and iron ore reserves.

TAX COMPLIANCE

It has been stated many times that there are always certain taxpayers who fail to pay taxes or do not report all their income. The result of this is a higher deficit and ultimately the burden being carried by the honest taxpayer. This bill had added provisions which will beef up tax compliance through enforcement and collection procedures. The bill instituted or increased penalties for many situations, such as substantial understatement of taxes, for promoting abusive tax shelters, for aiding and abetting understatements of tax, for failure to furnish information returns to taxpayers, and for substantial underpayment of taxes. The bill also included a section on increased taxpayer rights, including increasing the amount of property exempt from levy; requiring prompt release of liens; extending the

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redemption period for real property; and reimbursing taxpayers for property wrongfully levied upon at fair market value.

UNEMPLOYMENT BENEFITS

Because the Federal unemployment law was changed last year, New York does not qualify at the present time for the extended benefit program that provides additional weeks of unemployment compensation beyond the basic 26 weeks of benefits. With an unemployment rate of 9.7 percent in New York City, many people are exhausting their benefits. The tax bill provides 8 weeks of extended benefits to workers in New York who have exhausted their 26 weeks of unemployment benefits. I supported a revision in the law to make New Yorkers eligible for additional benefits and I am pleased that this provision is in the bill. It will become effective September 12, 1982.

SPENDING PROVISIONS

As mentioned above, this bill also contained changes in guidelines governing certain programs which were made in order to reduce the amount of funds which would be spent in these programs. I shall describe some of these important modifications. I would add that I consulted a number of interested parties—Mayor Koch, the Washington office of Governor Carey, the Greater New York Hospital Association, the Democratic chairman of the House Subcommittee on Health and the Environment—about the medicare and medicaid changes. I found they were willing to accept this tax bill because they felt that, were the bill disapproved and sent back for revisions, the result would have been a bill imposing hardship to a greater extent than this bill would.

MEDICARE

Changes in medicare advocated by the Senate of which I disapproved included a provision seeking to impose a copayment requirement for home health services. I was pleased that this provision was rejected by the bill's conferees, as the elimination of this provision made the bill more attractive to me.

Desirable parts of the bill included provisions which will provide medicare coverage of hospice services, and allow medicare beneficiaries to participate in health maintenance organizations (HMO's). Savings were also made through changes in reimbursement and other procedures affecting providers rather than program participants. While I realize this will impose hardship on some institutions, I am glad that medicare beneficiaries will be spared from drastic changes in their coverage plans.

One new provision may result in increases in premium costs. The new law links the increase in premium charges to the rise in health care costs rather than the rise in the cost of living. As you may know, health care costs have been increasing rapidly than the general inflation rate. While this change does concern me, I do feel that other suggested modifications which were rejected would have had significantly more adverse effects. I felt that I should settle for this because more harsh ones could have been offered and I was pleased that in some cases it extended coverage.

MEDICAID

The bill also included some changes in the medicaid program aimed at making savings. Unfortunately, the new law permits States to require that beneficiaries make copayments for services. However, I am pleased that it also allows for outpatient treatment of disabled children. It also permits states to place liens on the property of permanently institutionalized beneficiaries in order to recover medical incurred on behalf of the beneficiary.

AID TO FAMILIES WITH DEPENDENT CHILDREN

The tax bill included changes in the formula used to determine benefit amount in this program which will result in additional limitations on benefit amounts. It addition, the new law permits States—which administer the program—to impose a work requirement on program participants, and charges them an increased penalty for high error rates. Although I take issue with these reductions at a time military spending is escalating, again, had this bill been rejected, the bill written and offered to replace it would have almost certainly imposed more harsh changes in these vital human service programs.

SUMMARY

While I continue to have serious concerns about various provisions of the tax bill, on balance I believe Congress took the right action in approving this legislation. I would have preferred a bill that did not contain reductions in spending for social programs, though I believe this legislation will have a minimal effect on the recipient and I am convinced that, if this bill had been defeated, the alternative offered would have been much worse. The mass transit provision is a similar case. Approximately $500 million in savings to the MTA and taxpayers of New York City would likely have been placed in jeopardy if this bill had been defeated. The possibility of an oil import fee being imposed in a redrafted bill was a factor that I had to consider. The overriding need to reduce the deficit was an issue with which I was concerned. Any burden this tax bill imposes must be considered in light of what could have been and the benefits to New Yorkers in law that were preserved.●

NAVY SAYS CHAUFFEURS NOT NEEDED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, during the congressional recess just completed, I had the opportunity to spend some time visiting the naval headquarters of our Pacific Fleet in San Diego, Calif. While there were many interesting and satisfying aspects about the condition of the U.S. Navy's operations at Miramar Base and other naval installations there, the thing that impressed me the most was the fact that many of the top officers, including Adm. George M. Furlong, drove their own cars on official business. Maybe "no chauffeur" is not everything, but it certainly is something. What I saw of the Navy in San Diego tells me that it is a lean, tough organization. That is what we need more of these days throughout our entire Armed Forces.

Mr. Speaker, as you know, in the 6 years I have been privileged to serve in this House of Representatives, I have voted to correct the neglect of our Armed Forces during the previous decade. Nonetheless, I would like to see a leaner, tougher and less top-heavy national defense program for the United States. I think it might be a very good thing for all top Government officials, including admirals, generals, and Members of Congress, to cut back on the so-called perks as we rearm this country's defenses and rebuild confidence in America in other ways as well.●

THE 43D ANNIVERSARY OF THE INVASION OF POLAND

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the month of September marks the 43d anniversary of the invasion of the country of Poland, and the beginning of one of the most tragic and destructive wars in recent history—World War II.

Throughout history, Poland has served as a bulwark of Christian civilization in Europe, restraining the Tartars and the Turks as they plundered and pillaged across the continent. But in the fall of 1939, the Polish homeland was divided between two barbaric and greedy conquerors.

On September 1, 1939, the forces of Hitler broke across the Polish border from the west. Sixteen days after this initial Nazi attack, Stalin saw that the Poles were fighting against overwhelming odds, and gave orders for a treacherous assault from the east. Although the Poles fought courageously and heroically against these brutal forces of nazism and communism, they were unable to prevent Poland from becoming a nation without a state, a tyrannized and persecuted country, deprived of half of its territory and millions of its people.

Thousands of Polish troops forced to flee the country joined the Allied Forces, and as the regular army slowly disintegrated, an underground movement was formed, directed by the Polish Government-in-exile. Polish soldiers joined together with civilian men, and women, and children in the fighting and destroying of enemy planes, ammunition dumps, bridges, and other military installations.

The members of the resistance movement and the Polish populace refused to betray their national honor by collaborating with the enemy. Instead, some were forced to survive for months, or even years, in the forest and mountains, and 6 million Poles preferred self-respect and death to capitulation. Millions of Poles suffered deportation and imprisonment in labor camps in Soviet Siberia and in Germany. The Polish nation lost close to one-quarter of her population, and the beautiful capital city of Warsaw was leveled to the ground.

Even after the end of the war, there was no peace for Poland, as the Soviets continued to attempt to systematically destroy the culture, religion, and national identity of the Polish people. Nevertheless, the Communists have been unable to completely crush the spirit and pride of the Poles, for the struggle to achieve self-determination continues today.

The protests and demonstrations which followed the recent second anniversary of the founding of the independent labor union Solidarity clearly indicates that the Polish desire for human rights, human dignity, and liberty can survive and overcome every threat of the Communists and every act of violence. The dedicated men and women of Poland daily face a dismal existence under Communist-imposed martial law, but nevertheless continue their fight against this oppression in an effort to achieve self-determination.

Mr. Speaker, I take this opportunity to join with Polish Americans who reside in the 11th District I am honored to represent, and Poles all over this Nation, in their hopes and prayers for the day when the people of Poland can live in personal and economic freedom with the right to choose the course of their own national destiny.●

"TICONDEROGA" PASSES SEA TRIALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, there have been press reports recently questioning the seaworthiness of the *Ticonderoga* class of guided missile cruisers being made at Ingalls Shipyard in Pascagoula, Miss. I want to share two letters with my colleagues on this subject. One letter is from Mr. Leonard Erb, president of Ingalls Shipbuilding, which effectively refutes the erroneous statements made about this ship.

As Mr. Erb points out the *Ticonderoga* underwent the most extensive sea trials ever conducted and passed every test successfully.

The other letter was sent to Members of Congress from Chief of Naval Operations, Adm. James D. Watkins. In it he reaffirms the Navy's support for this ship and called the *Ticonderoga* a "superbly capable ship" and a "quality product."

I am happy to share these letters with my colleagues in order to present a true balance against the misinformation which was made public earlier about this ship:

INGALLS SHIPBUILDING,
Pascagoula, Miss., August 23, 1982.

Hon. G. V. MONTGOMERY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MONTGOMERY: While the news media last week was repeating in print the inaccurate information and conclusions of an S&I report on the *Ticonderoga* class of guided missile cruisers, Ingalls and the Navy had the ship at sea on scheduled trials. Without exception, the trials were the most extensive, most successful ever conducted for a first-of-a-kind surface war ship. And that, too, is the opinion of the Navy which was represented on the trials by Vice Admiral E. B. Fowler, Jr., Commander, Naval Sea Systems Command, Vice Admiral John D. Johnson, Jr., Commander, Naval Surface Forces, Atlantic Fleet, and Rear Admiral Wayne E. Meyer, the Navy's Aegis Shipbuilding Project Manager.

Before I tell you how well *Ticonderoga* performed at sea on this, her second trials (the first conducted in May), let me tell you what the ship "is not"—contrary to the conclusions of the S&I report and the newspaper headlines:

It is not overweight, unstable and in danger of capsizing.

It is not sluggish and unable to keep up with the carrier battle group she is built to protect.

It is not ineffectual.

Last week's trials, as well as those in May, proved the S&I report "wrong" on every major issue:

Ticonderoga met every objective and demonstrated, without question, the capability to carry out its mission.

It meets, or exceeds, the required endurance, speed, survivability and combat capability originally established over six years ago.

It is the most extensively armed surface ship in the U.S. Navy Fleet and has achieved battle force speeds in excess of 30 knots.

It is not overweight, although the ship has increased in size in response to Congressional direction to build a truly multi-mission cruiser. At 9,600 tons she has margin for growth.

During last week's trials, *Ticonderoga* underwent an unprecedented testing of her weapons suit—tests that are normally scheduled after a ship is commissioned. This early firing of weapons is in step with the Navy's long-standing emphasis to get the new ships operational and into the Fleet as quickly and as cheaply as possible. In fact, *Ticonderoga* will deliver to the Navy in November—in budget and well ahead of her original delivery date established four years ago.

The highlights of the recent trials were the weapon firings and the first at-sea testing of a completed Aegis combat system. A total of 13 Standard missiles were fired from the ship's MK 26 launchers, including 11 "test" missiles and two "active" missiles. During the "active" missile firings, the Navy crew aboard *Ticonderoga* fully employed the Aegis system against an "attacking target" launched and controlled from Eglin Air Force Base. The "target" was successfully detected and tracked by the Aegis system—then "destroyed" by the Aegis directed and guided SM-1 missiles. In both "active" firings, *Ticonderoga's* missiles passed within five feet of the "target"—well within the range necessary for a "sure kill." The results may well have set first firing records.

The weapons test also included firing of anti-surface missiles from the ship's Harpoon launchers; firing of 140 rounds from the ship's 5-inch guns; and the firing of the Phalanx close in weapons system, radar controlled gatling guns which fire at the rate of 3,000 rounds per minute.

Rear Admiral Meyer, who has directed the Aegis program for the Navy since its inception more than a decade ago, described the trials as "extraordinary."

The enclosed color photographs were taken during the missile firings. The black and white photograph demonstrates the ship's maneuverability and stability during high speed turns.

At daybreak tomorrow, we take *Ticonderoga* to sea again for more previously scheduled trials and testing. We expect her to pass these tests, too, with equally high marks, in preparation for her Navy acceptance trials shortly.

Your support of the Aegis program and our shipyard's participation as the builder of the Aegis ships has been and continues to be vitally important. I wanted you to have this report so that you would know the "facts" about *Ticonderoga*. And know, too, that your support has resulted in the construction of the world's most capable cruiser.

Sincerely,

LEONARD ERB, *President.*

DEPARTMENT OF THE NAVY,
Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, a number of magazine and newspaper articles have publicized a report by the House Appropriations Committee's Surveys and Investigations Staff which questions the safety, stability and combat capability of *Ticonderoga* (CG 47). I recognize the concern these articles have created and want to assure you that *Ticonderoga* is a safe, seaworthy battle group combatant.

It is apparent that the exchange of technical data with the investigators for the House Appropriations Committee's Surveys and Investigations Staff was deficient, thus not permitting them to correctly judge sta-

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bility and mission effectiveness. Translation of highly technical data into overall performance criteria while maintaining a balanced perspective is difficult at best. However, the serious distortions of fact and conclusions resulting from the leak of this classified report to the press have been far more damaging than the report itself, thus creating erroneous impressions and serious allegations regarding the management of a very successful shipbuilding project. Therefore, I want to personally clarify some of the issues that have been raised regarding ship stability and mission capability.

Ticonderoga evolved from *Spruance* Class destroyer design. That design, by intent, had large displacement and stability margins for future use. Adapting the same hull to the more heavily armed *Kidd* Class DDG effectively utilized some of this margin. *Ticonderoga*, with her AEGIS Weapon System, continues this practice using an additional portion of the original *Spruance* margins. The utilization of this margin has been a conscious decision from the very start of CG 47 design. It was explicitly directed by my predecessors and endorsed by Congress. Careful and prudent naval architectural practices have permitted full realization of the combat potential of this hull. *Ticonderoga* will commission at 9600 tons displacement with 600 tons of service life margin. Well within her limiting displacement of 10,200 tons, she is both safe and stable, meets all speed and endurance requirements and still has some room for future expansion.

Ticonderoga was conceived, designed and built as a multimission capable ship and approved by Congress as such. She is fully capable of operating continuously with carrier battle groups and surface groups throughout the world in sea and weather conditions we design any major combatant to endure. In what we refer to as Battle Group capable ships, we design for and expect to achieve operational speeds of 30 knots or better; *Ticonderoga* has fully demonstrated speeds in excess of 30 knots on both of her sea trials. These trials have proved *Ticonderoga* to be a fully sea-worthy ship which is stable and responsive.

Allegations that we have done inadequate testing are preposterous. The Aegis cruiser is the most carefully considered and tested surface combatant ever built. Over 100,000 hours of successful land-based and at-sea testing of the Aegis Weapon System have been completed to date. *Ticonderoga* has completed two sea trials nearly six months prior to commissioning and has met or exceeded all operational requirements tested. She is well ahead of schedule and I can assure you she will deploy "war ready" in record time after her commissioning.

I am assured by Vice Admiral Fowler (Commander, Naval Sea Systems Command), Vice Admiral Johnson (Commander, Naval Surface Force, U.S. Atlantic Fleet) and Rear Admiral Meyer (Aegis Shipbuilding Project Manager), all of whom have sailed in her, that *Ticonderoga* is a superbly capable ship. It should be reiterated that the increase in displacement from 8,000 tons for the DD 963 Class to 9,200 tons for the DDG 993 Class and finally to 9,600 tons full load displacement for *Ticonderoga* has been a carefully planned and executed process. No rules of naval architecture have been breached nor has safety been sacrificed in building this ship. *Ticonderoga* is a quality product and her addition to the fleet will herald a new dimension in Battle Group Anti-Air Warfare capability.

I have sent identical letters to the other Committee Chairmen concerned and I am prepared to respond to any inquiries you may have.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy.●

EXPORT-IMPORT BANK FINANCING NOTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, I am informing the House today of an Export-Import Bank proposal for a direct credit of $292.5 million for the purchase of U.S. goods and services to expand an oil refinery in Indonesia.

The Eximbank proposes to grant the loan to the Republic of Indonesia for use by Pertamina, the national oil and gas company.

The total refinery expansion will cost $1.18 billion, of which $450 million would be paid to U.S. suppliers. Eximbank's financing would cover 65 percent, or $292.5 million, of the U.S. purchases. International competition for contracts on this project has been intense. Japanese suppliers offered financing at 7.5 percent.

Fluor Corp. and UOP, Inc., will each supply one-half of the U.S. goods and services. It is estimated that 3,007,000 man-years of employment for these U.S. firms would be created by this transaction.

This Eximbank financing notification was referred to me as chairman of the Banking Committee's Subcommittee on International Trade, Investment, and Monetary Policy. Under section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, the Eximbank must notify Congress of proposed loans or financial guarantees, or combinations thereof, of $100 million or more. Unless the Congress determines otherwise, the Eximbank may give final approval to the transaction after 25 days of continuous session of the Congress after notification.

I am submitting for the RECORD copies of the Eximbank proposal, including details about the Indonesian project and the financing arrangements. I would welcome any comments or questions my colleagues might have regarding this proposal. The Eximbank material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., August 11, 1982.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
The Speaker's Room, H-209, U.S. Capitol, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States House of Representatives with respect to the following transaction involving U.S. exports to Indonesia.

A. DESCRIPTION OF TRANSACTION

1. Purpose

Eximbank is prepared to extend a direct credit in the amount of $292,500,000 to the Republic of Indonesia ("ROI") to assist in financing the export from the United States of U.S. goods and services for the expansion of an oil refinery located in the town of Cilacap on the southern coast of Java. In conjunction with this financing, it is contemplated that commercial banks will extend an additional credit of $90,000,000, which will not be guaranteed by Eximbank.

Pertamina, the national oil company of the ROI, presently operates the oil refinery at Cilacap with a processing capacity of 100,000 barrels per stream day. The expansion will increase the capacity of this refinery to 300,000 barrels per stream day, and will include a fuel oils plant, lube oil plant, tankage and ship loading and support facilities.

The total costs of the project are estimated at $1.182 billion, not including working capital and construction interest. Non-local costs are estimated at $740 million, which include U.S. costs of $450 million for financing under the proposed Eximbank Credit. Mechanical completion is scheduled for December of 1983.

2. Background

The expansion of the Cilacap refinery is one of the projects in a national plan to reduce or eliminate Indonesia's import of middle distillate fuels which it must now import from countries such as Singapore and Kuwait, despite its position as a major supplier of crude oil, because it lacks sufficient refining capacity. The ROI also plans to expand other refineries at Dumai and Balikpapan.

Suppliers from Japan, Germany, France and Spain have competed with U.S. suppliers for the procurement on this project. The Japanese government export credit agency offered financing at a rate of 7.5 percent per annum, the minimum consensus interest rate for Indonesia when bids were submitted in July, 1980.

In response to this competition Eximbank issued a letter of interest on February 13, 1980, to the U.S. firm competing for this business. Subsequently, Eximbank issued a Preliminary Commitment on March 2, 1982 to the ROI indicating that Eximbank was prepared to consider financing of U.S. goods and services for the project. The ROI has now filed its application for an Eximbank Credit to assist in financing U.S. procurement of approximately $450 million.

3. Identity of the parties

The Republic of Indonesia, acting through its Minister of Finance, will be the borrower and will issue its unconditional full faith and credit obligation to repay the Eximbank Credit.

Perusahaan Pertambangan Minyak dan Gas Bumi Negara (Pertamina) is a wholly owned state enterprise which was established in 1971 to operate and manage Indonesia's oil and gas industry. While not a party to the Eximbank financing, Pertamina will have responsibility for the construction and operation of the project.

4. Nature and use of goods and services

Fluor Eastern Inc., a subsidiary of the Fluor Corporation of Irvine, California, will be the major U.S. supplier for this project, and will furnish engineering, construction, procurement, and operational assistance valued at approximately one-half of the total U.S. costs. Technology for the fuels plant will be supplied by UOP Inc., of Des Plaines, Illinois.

The fuel oils plant will be designed to process Indonesian crude oil into fuel gas, liquefied petroleum gas, gasoline, naphtha, kerosene, diesel oil and industrial fuel oil. The lube oils plant will further process products from the existing refinery into lube oil base, fuel oil and bitumen.

B. EXPLANATION OF FINANCING

1. Reasons

The proposed Eximbank Credit of $292.5 million will facilitate the export of $450 million of U.S. goods and services. The favorable impact on U.S. employment resulting from these exports would not be possible without the Eximbank financing terms offered to meet intensive foreign competition.

Fluor has estimated its portion of the project will generate 3,000,000 man-hours of U.S. employment in California. Since the remainder of the procurement involves over 150 different U.S. suppliers, the resulting effect on employment in the United States can only be estimated. Using U.S. Department of Commerce data on employment impact, Eximbank estimates that this procurement has the potential for maintaining over 7,000 man-years of employment throughout the United States. Since the output of the project will be consumed in Indonesia and U.S. petroleum sales to Indonesia are minimal, no adverse impact on the United States economy is anticipated.

2. The financing plan

The total cost of U.S. goods and services to be exported from the United States for the project is estimated to be $450 million, which will be financed as follows:

	Amount	Percent of U.S. costs
Cash payment	$67,500,000	15
Eximbank credit	292,500,000	65
Private financing	90,000,000	20
Total	450,000,000	100

(a) Eximbank Charges

The Eximbank Credit will bear interest at the rate of 11 percent per annum, payable semiannually. There will be a commitment fee of 0.5 percent per annum charged on the undisbursed portion of the Eximbank Credit and a credit application fee of 2 percent of the amount of the Eximbank Credit.

(b) Repayment Terms

Indebtedness incurred by the ROI under the Eximbank Credit and the Private Financing will be repaid in 20 semiannual installments of principal beginning June 30, 1984. This date is six months after the estimated completion date of the project. The Private Financing will be repaid from the early installments and the Eximbank Credit will be repaid from the later installments.

Attached is additional information on Eximbank activity in and economic data on Indonesia.

Sincerely,

WILLIAM H. DRAPER III.

ECONOMIC INDICATORS

Exchange Rate

[U.S. $1.00=625 rupiah [1]]

	1980	1981	Percent change (1980–81)	Estimate [1] 1982
	147	150	2.1	153
Population (million midyear)	17,526	18,896	7.8	19,293
GDP (millions of dollars in constant 1973 prices)	70,024	84,028	20.0	98,500
GDP (millions of dollars, current prices)	476	560	17.6	644
Per capita GDP dollars	168	180	7.1	205
Consumer Price Index	7,928	10,358	30.6	13,000
Money supply (millions of dollars, Dec. 31)	900	1,012	12.4	1,000
Foreign investment approvals (nonoil) (millions of dollars)	6,531	6,244	−4.3	5,000
Net official international reserves (millions of dollars—Dec. 31)	14,482	14,960	3.3	16,000
External official debt [2] disbursed—millions of dollars—Dec. 31	1,777	2,041	14.8	2,250
Debt service				

[1] At exchange rate of U.S. $1.00=625 rupiah for 1980 and 1981. Exchange rate of U.S. $1.00=650 rupiah used for 1982 estimates and fiscal year 1982/83 budget.

[2] Government debt, including debt of state corporations such as Pertamina.

GOVERNMENT BUDGET [1]

[Dollars in millions]

	Fiscal year 1980–81 (actual)	Fiscal year 1981–82 (actual)	Percent	Fiscal year 1982–83 [2]
	$9,280	$11,164	20.3	$10,777
Routine expenditure	9,465	11,104	17.3	13,077
Development expenditure	16,363	19,540	19.4	21,231
Domestic revenues	2,390	2,734	14.4	2,760
Development receipts (external assistance)				

[1] Indonesian fiscal year Apr. 1 to Mar. 31. (Source: Fiscal year 1982–83 budget.)

[2] At exchange rate of US $1.00=625 rupiah for 1980 and 1981. Exchange rate of US $1.00=650 rupiah used for 1982 estimates and fiscal year 1982–83 budget.

OFFICIAL BALANCE OF PAYMENTS

[Dollars in millions [1]]

	Fiscal year 1980–81	Fiscal year 1981–82 (estimate)	Percent	Fiscal year 1982–83 (forecast)
	2,736	−828	–	−1,191
Overall balance (change in official reserves)	482	−3,495	–	−4,576
Current account	22,470	23,716	5.5	26,446
Exports, merchandise	(16,883)	(19,516)	15.6	(21,352)
Oil and LNG (gross)	(5,587)	(4,200)	−24.8	(5,093)
Nonoil	17,125	21,587	26.1	24,647
Imports, merchandise	(5,255)	(6,840)	30.2	(7,671)
Oil and LNG	(11,870)	(14,747)	24.2	(16,976)
Nonoil				

[1] Indonesian fiscal year Apr. 1 to Mar. 31. (Source: Fiscal year 1982–83 budget.)

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UNITED STATES-INDONESIAN TRADE [1]

[Dollars in millions]

	1980	1981	Percent	1982 estimated
Indonesian exports to the United States	4,303	4,084	−5.1	6,200
U.S. share of Indonesian exports (percent)	19.6	18.3		20.0
Indonesian imports from the United States	1,409	1,795	27.4	1,800
U.S. share of Indonesian imports (percent)	13.0	13.5		14.0

[1] U.S. trade data for 1980 and 1981 is not consistent with that quoted above. According to U.S. Dept. of Commerce trade statistics, U.S. exports to Indonesia were $1.5 billion in 1980 and $1.3 billion in 1981. Indonesian exports to the U.S. were $5.3 billion and $6 billion during the same period.

(Source: Bank Indonesia, Central Bureau of Statistics, Ministry of Finance, Investment Coordinating Board, Embassy Estimates.)

Eximbank Exposure in the Republic of Indonesia as of June 30, 1982

	Thousands
Direct loans	$384,705
Financial guarantees	35,000
Bank guarantees and other	1,390
Insurance	10,530
Medium-term	(3,131)
Short-term	(7,399)
Total exposure	431,625

Repayment experience

Payment of principal, interest and fees due on Eximbank loans to Indonesian borrowers have usually been prompt.●

COMPETITIVE SHIPPING AND SHIPBUILDING REVITALIZATION ACT (H.R. 6979)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. BOGGS) is recognized for 5 minutes.

● Mrs. BOGGS. Mr. Speaker, I am pleased to request that the following Members be added as cosponsors of the Competitive Shipping and Shipbuilding Revitalization Act (H.R. 6979): Representatives ADDABBO, APPLEGATE, BEVILL, CLAY, COELHO, DYMALLY, DYSON, ECKART, EDGAR, FRANK, LANTOS, MITCHELL of Maryland, MONTGOMERY, MOTTL, NELLIGAN, PEPPER, and SWIFT. These additional cosponsors bring to a current total of 37 the number of Members actively supporting this important legislation.

This support, as well as the strong support of industry and labor, indicate recognition that H.R. 6979 could provide a means for effective regeneration of the shipbuilding industrial base and the creation of a new U.S.-flag bulk cargo fleet, both of which would be unquestioned as national security assets.

The industrial asset represented by our domestic shipyards is threatened by a number of external forces which are presently eroding the capability of the U.S. shipbuilding community to support our military forces in time of national emergency.

A recent administration analysis of this situation concluded:

> Shipyard capability to meet mobilization needs is the area of greatest concern . . . While there are great uncertainties over the course of future war, indicators of increased demand for mobilizable assets are apparent and argue against a drastic reduction in current shipyard capacity and capability. However, the general lack of demand for new commercial ships and recent contract awards by U.S. shipowners to foreign yards have increased the risk that some U.S. yards may be forced to close.

This administration study went on to conclude that a loss of even 10 percent of current shipyard capability would reduce the base to below the minimum required level for mobilization.

Against this background, H.R. 6979 is a clear expression of congressional concern with respect to the vitality and continued existence of critical U.S. shipyards and their ability to provide industrial support to the U.S. Navy and the Navy's auxiliary, the American Merchant Marine, in times of national emergency.

I would also like to call attention to expressions of support for the Shipbuilders Council of America and representatives of maritime labor unions for this legislation:

STATEMENT BY EDWIN M. HOOD, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA, AUGUST 19, 1982

Until the question of cargo generation is answered, there can be no meaningful U.S. maritime policy. Nor can there by any substantive improvement in the quantum of shipping resources under sovereign jurisdiction available to serve U.S. national security and mercantile objectives.

Absent a rational method of cargo reservation, such as has been in effect in other major trading countries for some while, there can be no meaningful impetus for bulk shipping under the American flag. Nor can there be any stable demand for merchant ship construction in the United States by American workers. Nor can the U.S. shipbuilding industrial base and supporting infrastructure be preserved for national security as President Reagan has said is "vitally important to the Nation."

With the introduction on Thursday (Aug. 12) of legislation to promote the transport of bulk commodities in U.S.-flag, U.S.-built ships by Congresswomen LINDY BOGGS of Louisiana, and cosponsored by a bi-partisan group of 18 other Members of the House of Representatives, a start can be made toward a reasonable solution to the enduring dilemma of how to develop an effective U.S.-flag, U.S.-built bulk fleet in the national interest.

The members of the Shipbuilders Council of America applaud Mrs. BOGGS' action, as well as that of her cosponsors, and we unanimously endorse the concept on which H.R.-6979 has been formulated.

Over the last ten years, the U.S.-flag, U.S.-built bulk fleet declined by 50 percent: from 81 to 40 ships. Total tonnage carried continued to drop and is today hovering at slightly less than four percent. HR–6979 is intended to reverse this trend in an orderly fashion in a manner which will result in no cost to the public treasury.

To paraphrase President Reagan's assessment of the economic impact of the pending tax increase legislation, the price of any minimal increase (and they would be minimal) in delivered costs is "worth paying" in the national interest.

HR–6979 also imposes a challenge to reduce domestic shipbuilding costs. Given the continuity of a 158-ship program, as envisioned by the bill, and the opportunity for economies of scale that are possible through series construction, this requirement is attainable. The accomplishments of U.S. shipbuilders during the early phases of the program authorized by the Merchant Marine Act of 1970 can well be recalled in these respects.

As the Administration proceeds with its on-going development of maritime policy, Mrs. Boggs' bill could well provide a mechanism for answering the question of cargo generation from the standpoint of national security. It surely merits the consideration of the Cabinet Council on Commerce and Trade. We commend her and her co-sponsors for their timely initiative and enthusiastically support HR–6979.

Frank Drozak, President of the Seafarers International Union of North America (SIU) and Ray McKay, President of District II, Marine Engineers Beneficial Association-American Maritime Officers, today commended the House of Representatives for its timely introduction last week (8/12/82) of H.R. 6979, legislation promoting American-flag bulk shipbuilding and ship operating more competitive with our foreign counterparts.

Frank Drozak and Ray McKay called the bill's introduction "an encouraging development." Drozak said that " 'The Competitive Shipping and Shipbuilding Revitalization Act of 1982' provides the formula which the Administration, the Congress and the industry itself have been looking for as an answer to developing an American-flag bulk shipping capability without the need for taxpayer subsidy. Aside from the impetus that this bill, authored by Congresswoman Lindy Boggs of Louisiana and eighteen co-sponsors, would give to a shrinking American industry, the bill will be of tremendous value in providing a badly needed transportation asset for the defense of this country. The sponsors of this legislation obviously are concerned that foreign-flag shipping carries more than 96 percent of the bulk commodities of America's foreign trade."

"According to the bill's prescription, reduction of at least 15 percent in the costs of building and operating bulk vessels in the United States would qualify U.S. bottoms to carry a minimal percentage of our exports and imports beginning with five percent in the year 1983," explained Drozak, who is also President of the AFL-CIO's 8½ million member Maritime Trades Department (MTD).

"The provision for a one percent increase each year in that participation up to a maximum of 20 percent is a powerful incentive, it appears in our judgment, to all of the shipping community that would be involved—shipbuilding and ship operation, labor and management, as well as the support industries, such as steel, electronics, machinery, etc."

Both labor leaders agree that there is now a means whereby a concerted movement toward greater efficiency and lesser costs can be achieved in the American maritime industry. Such a development could not come at a more critical moment both in terms of the problems of the shipping industry and of the state of our national economy. With unemployment nationwide reaching alarming levels, the proposed legislation could create tens of thousands of jobs.

Drozak and McKay said "we are sure that the membership of our organizations who man American-flag shipping will heartily endorse making the sacrifices that will be necessary to make the proposed program a successful one. Likewise, we are confident that all American workers who would gain employment under the proposal will welcome the opportunity to once again have purposeful jobs."

Drozak and McKay concluded their joint release by stating that "President Reagan has on a number of occasions expressed concern over the cargo policies by foreign countries and their impact on the U.S. maritime industry. This bill appears to deal with some of that concern and at the same time satisfies the President's additional concerns over making the industry more cost-efficient and competitive. We sincerely hope that the President will find it possible to work with the appropriate Members of Congress to enact the proposed legislation into law."

It is important that this legislation be considered, not only because it would help achieve President Reagan's goals of an adequate shipbuilding base for national defense needs, but it will also insure a merchant fleet capable of carrying a fair portion of our Nation's trade.●

PESO DEVALUATION LEGISLATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. **UDALL**. Mr. Speaker, I am introducing legislation today to restore the Small Business Administration's pre-1981 nonphysical disaster loan program and to make it specifically applicable to the type of economic dislocation now being experienced in the Southwest as a result of the Mexican peso devaluation.

This action is critically needed. The August 5 peso devaluation has brought as much economic devastation to this country as any recent natural disaster. The devaluation, which made U.S. goods nearly twice as expensive as Mexican goods sold along the border, has reduced the volume of sales for many businesses by as much as 50 percent. Heavy layoffs are being reported. Many small businesses will go bankrupt, particularly if their Mexican customers default on their obligations. We have a crisis on our hands. To meet that crisis, we should take appropriate action.

The Small Business Act Amendments of 1977 established a new nonphysical disaster loan program. The new program was designed to assist or help refinance the debts of small businesses located in areas subject to severe "economic dislocation." The conference report on that legislation stressed that loans should be made available to businesses suffering substantial economic injury due to a Mexican currency devaluation.

Last year, however, the President in his budget message to Congress requested the termination of the nonphysical disaster loan program. In congressional action, this body voted to restructure the nonphysical disaster program, while the other body voted to eliminate the program entirely. The final conference agreement accepted the restructuring provisions requested by this body, but barred any funding for the new program in fiscal years 1982, 1983, and 1984. Even if funded, however, the new nonphysical disaster loan program would not apply to economic dislocation arising from foreign currency devaluation.

The legislation that I am introducing today will reinstate the old, pre-1981 SBA nonphysical disaster loan program and make it specifically applicable to economic dislocation arising from a foreign currency devaluation. Under the terms of the bill I am introducing, small businesses in a qualified disaster area would be eligible for low-interest loans with rates as low as 8 percent, depending upon the availability of conventional financing. Businesses could borrow up to $100,000 and the payment of all interest and principal would be deferred for 1 year. The loans could be used for working capital and to pay financial obligations which the small business owner could have met had the disaster not occurred. Funding for the program would come from the existing revolving fund for SBA physical disaster loans and be subject to the availability of those funds. For fiscal year 1982, $640 million was appropriated for the SBA's physical disaster loan program. Through July 1 of this year, only $197 million of that amount has actually been used.

Let me add at this point that the $200 million "peso pack" unveiled by the Small Business Administration on August 31 differs substantially from the legislation that I am introducing today. The "peso pack" offers qualifying small businesses regular SBA direct loans and SBA loan guarantees. Businesses applying for such loans can expect to pay an interest rate as high as 14¾ percent or higher, depending on the prime rate. Also, payment of principal and interest on regular SBA business loans is generally deferred only 3 months. Because of these requirements, many hard-hit businesses will not seek and many will not qualify for SBA's "peso pack."

What is needed in this instance is disaster aid, not the type of SBA business loan that is given in the ordinary course of business. I urge my colleagues to assist in the swift passage of this legislation.●

INSIGHT/OUT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. **WIRTH**. Mr. Speaker, over the last months, national debate has arisen and is now increasing concerning the freedom of our scientific institutions to freely generate and exchange the results of scientific inquiry.

While it is easy to suggest that, in the name of national security, our basic freedoms should be compromised, this suggestion contains within it the seeds of the destruction of freedom and democracy as we know them.

The following article by Dr. Robert Rosenzweig, vice president of Stanford University, is a clear exposition of the issue, and I commend it to my colleagues in the House.

[From the Stanford magazine, Summer 1982]

Insight/Out

(By Robert M. Rosenzweig)

There is a great deal of quite understandable concern abroad these days about the fact that the United States no longer enjoys the wide margin of superiority in science and technology that was ours for more than a quarter of a century following World War II. Many people, myself included, believe that to lose this advantage over our adversaries would be a very substantial threat to our national security. It is, therefore, critically important that we understand the sources of our advantage and adopt policies to preserve it.

The extraordinary dominance enjoyed by American science and technology at the close of the war was a product of the exhaustion of our enemies and our allies and of the unprecedented influx of brilliant scientific talent fleeing from the totalitarian regimes of Europe. The recovery of Japan and the leading powers of Europe was to be expected; renewed application of the talent and energy that exists in those places was bound to reduce our advantage. Yet we have managed to sustain the edge over a broad range of scientific areas despite energetic and determined competition.

What are the sources of our continuing strength? I suggest that there are five major elements.

1. Working with new technology is inherently risky, and we have an economic system than rewards risk taking. Centrally directed, highly bureaucratized economies, in contrast, are risk-averse.

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2. Our educational system by and large makes it possible for talented people to go as far as their talents will take them. Comprehensive programs of student financial aid have enabled good students and good colleges to find one another. Thus, our pool of trained talent is large and diverse.

3. We have a tradition of higher education that connects it with the requirements of the society it serves while also protecting it from distortion by those same requirements. It is a tradition that is especially relevant to the health of science and technology, as shown by examples as diverse as the role of the Land Grant colleges and universities in the growth of American agriculture, the importance of the links between such universities as MIT and Stanford and the electronics and computer industries, and the emerging set of connections between universities and industry in the field of biotechnoloy.

4. In this country we link fundamental research and research training. They are done in the same place—universities—and by the same people—faculty and graduate students. Thus research is refreshed by the best young minds, and they in turn are trained by the best of our senior people.

5. We have a scientific structure that puts a high value on the free communication of scientific results. This means that intellectual talent is quickly and accurately assessed and that good results can be rapidly confirmed and quickly become the platform for further work.

In an effort to maintain our superiority, there is a call for strong efforts to stop technology leakage. Yet I believe any solution that does damage to the sources of our strength will produce results far worse than the problem it purports to solve. Let us look at two alleged causes of leakage.

The first is found in the exchange programs between the Soviet Union and the United States. It is true that the Russians derive more tangible benefits from them than we do, but while we have little to gain from their science and technology, we have much to lose from ignorance of Russian institutions, processes, motives, and purposes.

The balance must be struck by the government, which negotiates all exchange agreements. Currently, the State Department must approve the program of study of a Russian scientist before he can be assigned to an American university. If the program is sensitive, or closely connected to sensitive work, the remedy is to veto the application.

In the recent controversy involving Stanford, the State Department proposed to admit a Russian visitor and allow him to come to the University, but only if we would agree to prevent him from seeing and hearing things that are open to everyone else. That was bad policy. If work going on at Stanford is judged too sensitive to be exposed to a Russian visitor, the solution is to keep him away. Once an individual is admitted for study, the institution at which he is working should not be asked to become less open, more secretive.

The general problem of the ready availability of the results of American scientific research through open literature is far more difficult to deal with. Our scientific literature is freely available, enabling others to profit from our work and perhaps narrow our margin of superiority. But if this very openness is also an important factor in maintaining our advantage, we would tamper with it only at our own peril.

Surprisingly, perhaps, there is very substantial agreement on that point. Even those who would like to shut down the flow of certain kinds of information are usually quick to say that they do not propose programs of government censorship or extensive new classification of research projects. More commonly, the call is for some kind of voluntary self-regulation, a system of prepublication screening of research results so that findings with potential military application can be kept out of circulation.

I seriously doubt that this is a solution of very wide applicability. My sense is that the more widely agreements of that sort were to be extended, the more difficult they would be to enforce, the more frustrating the failure to abide by them would be, and the closer we would therefore be to the next steps—required prescreening and government control over the decision to publish. I don't know anyone who wants that result.

Our national security, health, and prosperity will be served best by adherence to the principles and practices that have been our main sources of strength. It has always seemed risky to run an open society; perhaps that is why there are so few of them. But when citizens and leaders alike have been willing to take the risk, as ours have done throughout our history, the most marvelous engine of creativity is set in motion. That is our real advantage. Why would we want to give it away?●

OVERRIDE THE VETO

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 10 minutes.

● Mr. **ALEXANDER**. Mr. Speaker, the majority leader has made a persuasive case for overriding the President's veto of the supplemental appropriations bill which was published today—September 8, 1982—in the Washington Post. I join the gentleman from Texas in the effort to override the President's veto.

His eloquently stated remarks point out that the issue is not spending, for the vetoed bill is under-budget. Congress is attempting to exercise its duty; setting national priorities within the funds budgeted. I commend his forceful logic to my colleagues and to the American people.

The article follows:

OVERRIDE THE VETO

(By JIM WRIGHT)

Congress should override President Reagan's veto of the supplemental appropriations bill.

A vote to override would provide funds sorely needed for education and older-American programs, obviate any disruption in orderly public services and restore a sense of balance to the tattered relationship between the executive and legislative branches of our government.

Ironically, a vote to override also would help Reagan fulfill his commitments to friendly nations in the Western Hemisphere. It might be the one means of salvaging his Caribbean Basin Initiative.

Contrary to presidential rhetoric, this bill is not a "budget-buster." In aggregate, it appropriates almost $2 billion less than the president officially requested for the particular items the bill covers.

It is a bipartisan bill embraced by legislators of both political parties who clearly understand the need for its provisions. In the Senate, Majority Leader Howard Baker, Appropriations Committee Chairman Mark Hatfield and Budget Committee Chairman Pete Domenici all urged Mr. Reagan to sign the bill. Rep. Silvio Conte, ranking House Republican on the Appropriations Committee, made his plea quite public. Experienced Republican lawmakers tried to explain that the old, shopworn shibboleth of "budget-busting" simply would not wash in this case.

Members presumably voted their convictions when they passed the bill with only a handful of dissenters. If they vote their personal convictions on the veto, it will be overridden.

Congress did add some $917 million that the president had not requested for such things as elderly employment, student loans, education for the handicapped and advances to state unemployment funds. But we reduced other programs by $2.8 billion below their budgeted figures.

It is disappointing that the president used this supplemental bill as an excuse to renew his war against Congress—and against the students, the handicapped and the elderly. If this veto is sustained, several hundred thousand young Americans will not be able to attend college this fall.

The veto and the president's shrill explanation for it are especially unfortunate following the conciliatory spirit that Congress exhibited on the tax bill last month, since they revive the spirit of confrontation and hostility that some of us had tried to put to rest.

What irony that only a week after the carefully choreographed embrace in the rose Garden and Reagan's high-sounding appeal for a show of "unity," he went out of his way to pick an unnecessary fight with Congress.

Some contend that the veto was a sop to his party's right wing, disaffected by the tax increases that its members' own excessive tax cutting of last year made necessary. Others, groping for an explanation, hark back to this revelation contained in the Atlantic Monthly story on David Stockman:

"Disappointed by events and confronted with potential failure, the Reagan White House was developing a new political strategy: wage war with Congress over the budget issues, and in 1982 blame the Democrats for whatever goes wrong."

Whatever the reasoning, the political advisers who won out on this highly political veto have done the president a disservice. Reagan would have done better to follow the advice of Secretary of State George Shultz and Defense Secretary Caspar Weinberger, who urged that he sign the bill.

As one who has worked hard to build effective bipartisan backing for the president's Caribbean Basin Initiative, I particularly regret the veto. I fear that it puts that program in jeopardy. Many of my colleagues are saying that if Reagan is unwilling to give needed help to the old, the poor and the handicapped in our own country, he scarcely can expect Congress to appropriate more money for such people in other countries.

If our hemispheric program should fall victim to a wounded sense of priorities and to the polarization exacerbated by this highly political veto, then that could be the greatest tragedy of all. Our friends in Latin America will not understand the political nuances. They will understand only that the United States went back on its word.

For all of these reasons the president, the Congress and the nation will be better served if the veto is overridden.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Young of Alaska (at the request of Mr. Michel), through September 17, on account of official business.

Mr. Weiss (at the request of Mr. Wright), for an indefinite period, on account of medical reasons.

Mr. Rudd (at the request of Mr. Michel), for today and the balance of the week on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Lowery of California) to revise and extend their remarks and include extraneous material:)

Mr. Green, for 15 minutes, today.

Ms. Fiedler, for 60 minutes, on September 14.

Mr. Corcoran, for 5 minutes, today.

(The following Members (at the request of Mr. de Lugo) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Montgomery, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Neal, for 5 minutes, today.

Mrs. Boggs, for 5 minutes, today.

Mr. Udall, for 5 minutes, today.

Mr. Wirth, for 5 minutes, today.

Mr. Alexander, for 10 minutes, today.

Mr. Simon, for 60 minutes, on September 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. Schneider, previous to last vote on Gramm amendment.

(The following Members (at the request of Mr. Lowery of California) and to include extraneous matter:)

Mr. Parris.

Mr. Dornan of California.

Mr. Hagedorn.

Mr. Daub.

Mr. Carman.

Mr. Rousselot in two instances.

Mr. Gradison.

Mr. McDade.

Mr. Skeen.

Mr. McClory.

(The following Members (at the request of Mr. de Lugo) and to include extraneous matter:)

Mr. Roemer.

Mr. Montgomery.

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Rosenthal in 10 instances.

Mrs. Bouquard in five instances.

Mr. Hamilton in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Stark.

Mr. Santini.

Mr. Mottl in three instances.

Mr. Jones of Oklahoma.

Mr. Skelton in two instances.

Mr. Florio.

Mr. Fascell.

Mrs. Boggs.

Mr. Phillip Burton.

Mr. Fauntroy.

Mr. Clay.

Mr. Foley.

Mr. Bennett in two instances.

Mr. Frank.

Mr. Simon in two instances.

Mr. Rodino.

Mr. McDonald.

Mr. Guarini.

SENATE BILLS AND JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills and joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 503. An act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N. Dak., and for other purposes; to the Committee on Interior and Insular Affairs.

S. 705. An act to authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes; to the Committee on Agriculture and Interior and Insular Affair.

S. 1986. An act to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250–A and 279–C by the U.S. Court of Claims, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2222. An act to revise and reform the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

S. 2355. An act to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service; to the Committee on Energy and Commerce.

S.J. Res. 209. Joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 226. Joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 227. Joint resolution to establish "National Firefighters' Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 233. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 117. Concurrent resolution expressing the sense of the Congress that September 4, 1982, the 100th anniversary of Thomas Edison's Pearl Street central power station, should be commemorated as "Pearl Street Centennial Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The **SPEAKER** pro tempore announced his signature to enrolled bills of the Senate of the following titles:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes; and

S. 2248. An act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

ENROLLED BILLS SIGNED

Mr. **HAWKINS**, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes;

H.R. 3126. An act to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes;

H.R. 3239. An act to amend the Communications Act of 1934, and for other purposes;

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 3363. An act to make subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers;

H.R. 4961. An act to provide for tax equity and fiscal responsibility, and for other purposes;

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance";

H.R. 6350. An act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration health professional scholarship program and certain aspects of other Veterans' Administration health-care programs,

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and to extend certain expiring Veterans' Administration health-care programs; and for other purposes;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes;

H.R. 6731. An act to amend the International Safe Container Act;

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; and

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On August 20, 1982:

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

On August 23, 1982:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

On August 27, 1982:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes;

H.R. 3126. An act to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes;

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 6350. An act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration health professional scholarship program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Expansion to be held in New Orleans, La., and for other purposes;

H.R. 6732. An act to amend the International Safe Container Act; and

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

On September 2, 1982:

H.R. 3239. An act to amend the Communications Act of 1934, and for other purposes;

H.R. 4961. An act to provide for tax equity and fiscal responsibility, and for other purposes; and

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

ADJOURNMENT

Mr. DE LUGO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to House Resolution 579, the House stands adjourned until 10 a.m. on Thursday, September 9, 1982, in memory of the late ADAM BENJAMIN, JR., of Indiana.

Thereupon (at 6 o'clock and 5 minutes p.m.), pursuant to House Resolution 579, the House adjourned until tomorrow, Thursday, September 9, 1982, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees, delegations traveling under an authorization from the Speaker, and miscellaneous reports filed with the Committee on House Administration, concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1982 in connection with foreign travel pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Clair Burgener	4/7	4/9	Morocco		150.00						150.00
	4/9	4/11	Egypt		150.00						150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman		138.00						138.00
	4/14	4/15	Kenya		75.00						75.00
	4/15	4/17	Mauritius		150.00						150.00
	4/17	4/18	South Africa		75.00						75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation (DOD)							13,409.00				13,409.00
Hon. Mickey Edwards	6/24	6/26	El Salvador		150.00						150.00
	6/26	6/28	Guatemala		150.00		[3] 673.00				823.00
Hon. Jerry Lewis	6/24	6/26	El Salvador		150.00						150.00
	6/26	6/28	Guatemala		150.00		[3] 673.00				823.00
Hon. Eldon Rudd	4/7	4/9	Morocco		150.00						150.00
	4/9	4/11	Egypt		150.00						150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman		138.00						138.00
	4/14	4/15	Kenya		75.00						75.00
	4/15	4/17	Mauritius		150.00						150.00
	4/17	4/18	South Africa		75.00						75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation (DOD)							13,409.00				13,409.00
Robert V. Davis	4/11	4/14	West Germany		360.00						360.00
	4/15	4/18	England		254.00		3,209.00				3,463.00
Jim Fairchild	4/3	4/5	France		269.00						269.00
	4/5	4/9	Zaire		540.00						540.00
	4/9	4/10	Switzerland		89.00		3,421.00				3,510.00
F. Michael Hugo	4/8	4/12	England		312.00						312.00
	4/12	4/14	West Germany		180.00						180.00
	4/14	4/17	Italy		106.00						106.00
	4/17	4/18	West Germany		158.00		1,974.00				2,132.00
Terry Peel	4/12	4/13	Belize		78.00						78.00
	4/13	4/15	Honduras		150.00						150.00
	4/15	4/17	Panama		150.00				10.00		160.00
	4/17		United States		22.00		943.00				965.00
Transportation (DOD)							993.00				993.00
Edwin F. Powers	4/3	4/5	France		269.00						269.00
	4/5	4/9	Zaire		540.00						540.00
	4/9	4/10	Switzerland		89.00		3,421.00				3,510.00
Edwin F. Powers	6/24	6/26	El Salvador		150.00						150.00
	6/26	6/28	Guatemala		150.00		[3] 673.00				823.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Austin G. Smith	4/11	4/15	West Germany		360.00						360.00
	4/15	4/18	England		254.00		3,209.00				3,463.00
Committee total					7,108.00		46,007.00		10.00		53,125.00

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Transportation provided by military aircraft. Cost shown is comparable 1st class commercial rate.

JAMES L. WHITTEN, Chairman, Aug. 2, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APRIL AND JUNE OF 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Nulty, Timothy	6/13	6/17	France		425.00		3,437.00		496.73		4,358.73
Sims, Stephen F.	5/24	5/28	Canada		300.00		242.00				542.00
Smith, Martin	5/11	5/16	Africa		450.00		2,118.00				2,568.00
Woo, Michael T.	6/14	6/18	France		425.00		660.00		496.73		1,581.73
Rogers, Harold	5/20	5/23	Spain		231.00		2,497.00		837.00		3,565.00
Committee total					1,831.00		8,954.00		1,830.46		12,615.46

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, STEPHEN I. JACOBS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 9, 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Stephen I. Jacobs	4/2	4/9	Belgium	24,597	540.00		997.00				1,537.00

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STEPHEN I. JACOBS, Apr. 21, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CENTRAL AMERICA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 7 AND APR. 16, 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jim Wright	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
Wiliam Lehman	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
George Miller	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/10	El Salvador	375	150.00		20.17		569.16		739.33
Charles Rangel	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
E. Clay Shaw	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
J. L. Bodiford	4/7	4/9	Costa Rica	7,035	150.00		52.05		28.24		230.29
J. F. Joyner	4/7	4/9	Costa Rica	7,035	150.00		52.05		28.24		230.29
J. P. Mack	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
A. M. Page	4/7	4/9	Costa Rica	7,035	150.00		52.05		28.24		230.29
R. Pena	4/7	4/8	Costa Rica	3,517.50	75.00		52.05		28.24		155.29
	4/8	4/9	El Salvador	187.50	75.00		20.17		11.16		106.33
Committee totals					1,575.00		661.68		918.52		3,155.21

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES WRIGHT, May 16, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. ROBERT E. BADHAM, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 31 AND JUNE 2, 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Congressman Robert E. Badham	5/31	6/2	Netherlands	443.75	172.00		[3] 1,250.00				1,422.00
Committee total					172.00		1,250.00				1,422.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Estimated pro rata share of military air travel.

ROBERT BADHAM.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ENGLAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 25 AND JUNE 29, 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
James M. Shannon	6/25	6/29	England	57.97	100.00					115.95	200.00
Werner Brandt	6/25	6/29	England	57.97	100.00					115.95	200.00
Committee totals					200.00						400.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NORTH ATLANTIC ASSEMBLY SUBCOMMITTEE ON EAST WEST ECONOMIC RELATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 14 AND APR. 21, 1982

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Elliott H. Levitas	4/15	4/16	England	59.25	104.00		[3] 2,768.00				2,872.00
	4/16	4/20	Belgium	14,791	324.00						324.00
Peter A. Abbruzzese	4/18	4/20	Belgium	7,395	162.00		[3] 2,584.00				2,746.00
	4/20	4/21	England	59.25	104.00						104.00
Committee totals					694.00		5,352.00				6,146.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Based on information available as of date of report.

ELLIOTT H. LEVITAS, May 13, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4640. A letter from the Secretary of Agriculture, transmitting the evaluation of the objectives, implementation, and effectiveness of the expanded food and nutrition program (EFNEP) of the cooperative extension system pursuant to Senate Report No. 96-246 on the Agriculture Appropriations Act for fiscal year 1980; to the Committee on Appropriations.

4641. A letter from the Secretary of State, transmitting a report, covering the month of July, on the manner in which the national interest of the United States has been served by the payments made by the Commodity Credit Corportion to the U.S. creditors on credits guaranteed by the CCC on which payments had not been received from the Polish People's Republic, pursuant to section 205 of Public Law 97-216; to the Committee on Appropriations.

4642. A letter from the Secretary of the Air Force, transmitting the required report to accompany the notice of July 30, 1982, that a weapon system had exceeded the baseline unit cost by more than 25 percent, pursuant to section 917(b)(2) of Public Law 97-86; to the Committee on Armed Services.

4643. A letter from the Assistant Secretary of Defense (Facility Requirements and Resources), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air Force Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4644. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to sell two naval vessels to the Coordination Council for North American Affairs representing the people of Taiwan, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

4645. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision of the base operating services function at the Naval Air Station, Whiting Field, Milton, Fla., from performance by the Department of Defense personnel to private contractors, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4646. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision of the grounds maintenance function at the Naval Station, Roosevelt Roads, Puerto Rico, from performance by the Department of Defense personnel to private contractors, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4647. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision to convert the air terminal operations function at the Naval Air Station, Jacksonville, Fla., from performance by the Department of Defense personnel to private contractors, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4648. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of plans to study the conversion from in-house operation to contractor performance of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4649. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision to convert the keypunch function at the Naval Air Station, Cecil Field, Fla., from performance by the Department of Defense personnel to private contractors, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4650. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision to convert the Servmart function at the Naval Supply Center, Puget Sound, Wash. from performance by the Department of Defense personnel to private contractors, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4651. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of a decision to convert the air-conditioning maintenance function at the Naval Training Center, Orlando, Fla., from performance by the Department of Defense personnel to private contractors, pursuant to section 520(b) of Public Law 96-342; to the Committee on Armed Services.

4652. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the keypunch function at the Aviation Supply Office, Philadelphia, Pa., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4653. A letter from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the proposed conversion to contractor performance of the transient aricraft services function at Robins Air Force Base, Ga., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4654. A letter from the Attorney General of the United States, transmitting notification that the Department of Justice does not intend to defend the constitutionality of the 90-day deferral provision of section 7(o)(3) of the Department of Housing and Urban Development Act; to the Committee on Banking, Finance and Urban Affairs.

4655. A letter from the Comptroller of the Currency, transmitting a notice of proposed reorganization of the Office's regional structure; to the Committee on Banking, Finance and Urban Affairs.

4656. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the exchange stabilization fund for fiscal year 1981, pursuant to section 10(a) of the Gold Reserve Act of 1934, as amended; to the Committee on Banking, Finance and Urban Affairs.

4657. A letter from the Chairman, District of Columbia Armory Board, transmitting the 33d annual report on the operation of the D.C. National Guard Armory, and the 23d annual report on the operation of the Robert F. Kennedy Memorial Stadium, covering calendar year 1980, pursuant to section 10 of the Armory Board Act of 1948, as amended, and section 10 of the District of Columbia Stadium Act of 1957, as amended, respectively; to the Committee on the District of Columbia.

4658. A letter from the Assistant Secretary for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate Fernando E. Rondon, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4659. A letter from the Secretary of Education, transmitting proposed final priorities for the National Institute of Handicapped research program, pursuant to section 431(d) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4660. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes; to the Committee on Education and Labor.

4661. A letter from the Deputy Director, Office of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting text of proposed final rule on the safety standard for omnidirectional citizens ban base station antennas, promulgated pursuant to section 9(a) of Public Law 92-573; to the Committee on Energy and Commerce.

4662. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of June 1982, on the number of passengers per day onboard each train operated, and the onetime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4663. A communication from the President of the United States, transmitting a report on the use of U.S. Armed Forces to facilitate the withdrawal of Palestine Liberation Organization personnel from Lebanon, pursuant to the War Powers Resolution Act of 1973 (Public Law 93-148) (H. Doc. No. 97-230); to the Committee on Foreign Affairs and ordered to be printed.

4664. A letter from the Secretary of State, transmitting the semiannual report for the periods October 1980 to March 1981, March 1981 to September 1981, and October 1981 to March 1982 on the disposition of voluntary contributions made by the U.S. Government to international organization as requested, pursuant to section 2 of Public Law 806, 81st Congress; to the Committee on Foreign Affairs.

4665. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4666. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4667. A letter from the Assistant Secretary for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate William A. Hewitt, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4668. A letter from the Vice President and General Counsel, Overseas Private Investment Corporation, transmitting a report on the issuance of civil strife insurance coverage, pursuant to section 9(b) of Public Law 97-65; to the Committee on Foreign Affairs.

4669. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Swaziland, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4670. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Rwanda, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4671. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Burundi, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4672. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting a report on the inventory of nonpurchased foreign currencies as of March 31, 1982, pursuant to section 613(c) of the Foreign Assistance Act of 1961; to the Committee on Foreign Affairs.

4673. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during July 1982, pursuant to section 234 of the Legislative Reorganization Act; to the Committee on Government Operations.

4674. A letter from the Administrator, General Services Administration, transmitting the fiscal year 1981 report on records disposition activities of the Federal Government, pursuant to 44 U.S.C. 3303a(*f*); to the Committee on Government Operations.

4675. A letter from the Inspector General, Department of Health and Human Services, transmitting the quarterly report covering the activities of the Office of Inspector General for the period April 1 to June 30, 1982, pursuant to section 204(a) of Public Law 94-505; to the Committee on Government Operations.

4676. A letter from the Inspector General, Department of Health and Human Services, transmitting notice of a proposed new records system for the Department's health care program violations, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4677. A letter from the Chief Judge, U.S. Tax Court, transmitting the annual report for the U.S. Tax Court judges' retirement and survivor annuity plans for the year ending December 31, 1981, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4678. A letter from the Chairman, Administrative Conference of the United States, transmitting copy of Recommendation 82-1, exemption (b)(4) of the Freedom of Information Act, adopted at the Conference's 24th Plenary Session, June 17, 1982, pursuant to 5 U.S.C. 575; to the Committee on Government Operations.

4679. A letter from the Deputy Director, Federal Mediation and Conciliation Service, transmitting a report on the agency's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4680. A letter from the Deputy Director, Office of Congressional Relations, U.S. Product Safety Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4681. A letter from the Secretary of the Interior, transmitting the 11th annual report on the operation of the Colorado River, pursuant to the Colorado River Basin Project Act of 1968, Public Law 90-537; to the Committee on Interior and Insular Affairs.

4682. A letter from the Acting Assistant Secretary of the Interior for Indian Affairs,

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transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Cheyenne-Arapaho Tribes of Oklahoma by the U.S. Court of Claims in Dockets Nos. 342-70 and 343-70, pursuant to section 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

4683. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $48,228.12 in excess royalty payments to the Superior Oil Co., pursuant to section 10(b) of the Outer Continental Lands Act of 1953, as amended; to the Committee on Interior and Insular Affairs.

4684. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $18,818.60 to the Phillips Petroleum Co., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4685. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $1,128.88 to the Cities Service Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4686. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $2,558.47 to the Scurlock Oil Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4687. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $796.31 to the Cities Service Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4688. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $15,000 to Mobil Oil Exploration & Producing Southeast, Inc., for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4689. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $8,746.67 to the Amoco Production Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4690. A letter from the Comptroller General of the United States, transmitting a report and recommendation concerning the claim of the Florida Times-Union and the Jacksonville Journal for advertising provided for the Army Division, Fort Stewart, Ga. pursuant to the Meritorious Claims Act of April 10, 1982, as amended; to the Committee on the Judiciary.

4691. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to implement the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, March 2, 1982; to the Committee on Merchant Marines and Fisheries.

4692. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final report on the national program of inspection of non-Federal dams, pursuant to section 5 of Public Law 92-367; to the Committee on Public Works and Transportation.

4693. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Pensacola-Tallahassee and other urban areas, Fla., in response to resolutions adopted by the U.S. Senate Committee on Public Works on June 19, 1971, and March 23, 1973, and by the Committee on Public Works and Transportation of the House of Representatives on June 14, 1972; to the Committee on Public Works and Transportation.

4694. A letter from the Chairman, Federal Election commission, Transmitting a copy of the commission's fiscal year 1984 budget request, pursuant to section 307(d)(1) of the Federal Election Campaign Act, as amended; jointly, to the Committees on Appropriations and House Administration.

4695. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's contingency plans regarding the supplemental appropriation funding of fiscal year 1982 pay raises, pursuant to section 304(b)(7) of Public Law 93-633; jointly, to the Committees on Appropriations, Energy and Commerce, and Public Works and Transportation.

4696. A letter from the Comptroller General of the United States, transmitting a report on 13 States early experiences in making the transition to the block grants authorized by the Omnibus Budget Reconciliation Act of 1981 (GAO/GGD-82-79), August 24, 1982; jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, Education and Labor, Energy and Commerce, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Aug. 19, 1982, the following reports were filed on Aug. 23, 1982]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6520. A bill to transfer the authority of the Secretary of Transportation under the act commonly known as the Truman-Hobbs Act to the Secretary of the Army; with an amendment (Rept. No. 97-787, Pt. I). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6580. A bill to reform the regulation of sailing school vessels; with an amendment (Rept. No. 97-788). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6804. A bill to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes; with amendments (Rept. No. 97-789). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6813. A bill to amend the Federal Boat Safety Act of 1971; with amendments (Rept. No. 97-790). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6457. A bill to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes; with amendments (Rept. No. 97-791). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Sept. 8, 1982]

Mr. HUGHES: Committee of conference. Conference report on S. 923 (Rept. No. 97-792). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6355. A bill to make technical corrections in health and other laws amended by the Omnibus Budget Reconciliation Act of 1981, and for other purposes; with amendments (Rept. No. 97-793). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6056. A bill to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980; with amendments (Rept. No. 97-794). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. Report on research programs conducted by the Nuclear Regulatory Commission. (Rept. No. 97-795). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AKAKA (for himself, Mr. Smith of Oregon, Mr. Morrison, Mr. Pritchard, Mr. Foley, Mr. Dicks, Mr. Weaver, and Mr. Heftel):

H.R. 7058. A bill to grant the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. DINGELL:

H.R. 7059. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the provisions requiring withholding on dividends and interest; to the Committee on Ways and Means.

By Mr. DAUB:

H.R. 7060. A bill to amend the Immigration and Nationality Act to extend the date of registry for permanent residence from June 30, 1948, to January 1, 1973; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 7061. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of general obligation bonds for certain purposes, to extend and alter the authority of the Secretary of the Treasury to make certain interim loans and advances to the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DELLUMS (for himself, Mr. Fauntroy, and Mr. McKinney):

H.R. 7062. A bill to amend the District of Columbia Stadium Act of 1957 to require the Secretary of the Interior to convey to the government of the District of Columbia all right, title, and interest to the Robert F. Kennedy Memorial Stadium vested in the United States; to the Committee on the District of Columbia.

By Mr. HAGEDORN:

H.R. 7063. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. HANSEN of Utah:

H.R. 7064. A bill to provide resource protection and administration contracting authority for the Bureau of Reclamation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MATSUI:

H.R. 7065. A bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes; to the Committee on Education and Labor.

By Mr. PARRIS (for himself and Mr. Wolf):

H.R. 7066. A bill to repeal section 301 of the Omnibus Reconciliation Act of 1982; to the Committee on Post Office and Civil Service.

By Mr. QUILLEN:

H.R. 7067. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of individuals who attain age 62 no penalty shall be imposed for failure to pay estimated income tax where taxable income for the taxable years is less than $20,000 ($30,000 in the case of a married couple filing a joint return), and more than 50 percent of such income is retirement income; to the Committee on Ways and Means.

By Mr. SKELTON:

H.R. 7068. A bill to amend the Natural Gas Policy Act to eliminate authority under such act to increase ceiling prices of natural gas higher than the maximum lawful price if just and reasonable; to the Committee on Energy and Commerce.

By Mr. STANGELAND:

H.R. 7069. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for investment in multipurpose agricultural structures or other buildings designed primarily for grain storage; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 7070. A bill to amend the Small Business Act to restore the authority to make loans for economic dislocation and to clarify that such dislocations include foreign currency devaluations; to the Committee on Small Business.

By Mr. RINALDO:

H. Con. Res. 402. Concurrent resolution expressing the sense of the Congress that any member of the United Nations that fails to pay its assessed contribution for 2 consecutive years should be denied the right to vote in the General Assembly, the Security Council, and any other organ or organization of the United Nations; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO:

H. Res. 580. Resolution expressing the sense of the House of Representatives with respect to recognition of the Red Shield of David of the Magen David Adom Society of Israel by the League of Red Cross Societies; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

460. By the SPEAKER: Memorial of the Legislature of the State of California, relative to rates of interest; to the Committee on Banking, Finance and Urban Affairs.

461. Also, memorial of the Legislature of the State of California, relative to natural gas decontrol; to the Committee on Energy and Commerce.

462. Also, memorial of the Third Northern Marianas Commonwealth Legislature, relative to an alternative tax system; to the Committee on Interior and Insular Affairs.

463. Also, memorial of the Legislature of the State of California, relative to agriculture exports; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. McDADE introduced a bill (H.R. 7071) to authorize the documentation of the vessel *Centurion* as a vessel of the United States with coastwise privileges; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1353: Mr. McCollum.

H.R. 1506: Mr. Biaggi.

H.R. 1595: Mr. Vander Jagt.

H.R. 2205: Mr. Stark.

H.R. 3300: Mr. Robinson and Mr. Young of Missouri.

H.R. 3361: Mr. Solarz.

H.R. 3921: Mr. Winn.

H.R. 3970: Mr. Dyson, Mr. Patman, Mr. Tauke, Mrs. Heckler, and Mr. Frank.

H.R. 4140: Mr. Ratchford.

H.R. 5084: Mr. Vento.

H.R. 5362: Mr. Daschle.

H.R. 5635: Mr. Nowak.

H.R. 5788: Mrs. Schroeder.

H.R. 5814: Mr. Emerson.

H.R. 6190: Mr. Lowry of Washington, Mr. Oberstar, Mr. Conte, and Mr. Harkin.

H.R. 6353: Mrs. Heckler, Mr. Heftel, Mr. Bailey of Pennsylvania, Mr. Brodhead, Mr. Gephardt, and Mr. Matsui.

H.R. 6386: Mr. Stark, Mr. Won Pat, Mr. Wortley, Mr. Roe, Mr. Bafalis, Mr. Porter, Mr. Chappie, Mr. Miller of Ohio, Mr. Solomon, Mr. Bedell, Mr. Simon, Mr. DeNardis, Mr. Mottl, Mr. Weaver, Mr. Dorgan of North Dakota, Mr. Coelho, and Mrs. Kennelly.

H.R. 6418: Mr. Archer.

H.R. 6467: Mr. Volkmer, Mr. Duncan, Mr. Boland, Mr. Oxley, Mr. Fithian, Mr. Myers, Mr. Petri, Mr. Boner of Tennessee, Mr. Hollenbeck, Mr. Coats, and Mr. Winn.

H.R. 6526: Mr. McKinney and Mr. Pepper.

H.R. 6527: Mr. Hance, Mr. Ralph M. Hall, Mr. Hansen of Idaho, Mr. Quillen, Mr. Lee, Mr. Forsythe, Mr. Donnelly, Mr. Smith of New Jersey, Mr. Sunia, Mr. Addabbo, Mr. Mattox, Mr. Trible, Mr. D'Amours, Mrs. Holt, Mr. Bowen, Mr. McCurdy, Mr. Brown of California, Mr. Smith of Alabama, Mr. McKinney, Mr. Chappell, Mr. Goodling, Mr. Pepper, Mr. Ottinger, Mr. Napier, and Mr. Leath of Texas.

H.R. 6578: Mrs. Heckler, Mr. Frank, and Mr. Guarini.

H.R. 6591: Mr. Petri and Mr. Seiberling.

H.R. 6746: Mr. Lee and Mr. Tauke.

H.R. 6764: Mr. John L. Burton and Mr. Jeffries.

H.R. 6774: Mr. Traxler.

H.R. 6775: Mr. Traxler.

H.R. 6781: Mr. Studds, Mr. McHugh, Mr. Archer, Mr. Snyder, Mrs. Fenwick, Mr. Gray, Mr. DeNnardis, Mr. Martin of New York, Mr. Hillis, Mr. Pickle, Mr. Tauke, Mr. Hefner, Mr. Howard, Mr. Winn, Mr. Roth, Mr. Whitehurst, Mr. Robinson, Mr. Hammerschmidt, Mr. Russo, Mr. Hollenbeck, Mr. Broomfield, and Mr. Reuss.

H.R. 6829: Mrs. Boggs.

H.R. 6901: Mr. Edgar and Mr. Nelligan.

H.R. 6941: Mr. Marlenee.

H.R. 6962: Mr. Gejdenson, Mr. McCloskey, and Mr. Rahall.

H.R. 6976: Mr. Anthony, Mr. AuCoin, Mr. Bedell, Mr. Bevill, Mrs. Boggs, Mr. Brown of California, Mr. John L. Burton, Mr. Coats, Mr. Coelho, Mr. Conte, Mr. Courter, Mr. Daschle, Mr. Crockett, Mr. Deckard, Mr. Dornan of California, Mr. Dougherty, Mr. Early, Mr. Emery, Mr. Ertel, Mr. Fary, Mrs. Fenwick, Mr. Flippo, Mr. Foley, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fuqua, Mr. Garcia, Mr. Gray, Mr. Hagedorn, Mr. Hamilton, Mr. Hansen of Idaho, Mr. Hertel, Mr. Kemp, Mr. Kildee, Mr. Lee, Mr. Levitas, Mr. Lewis, Mr. Lowry of Washington, Mr. Luken, Mr. Mitchell of New York, Mr. Mottl, Mr. Murphy, Mr. Pepper, Mr. Peyser, Mr. Rinaldo, Mr. Tauke, Mr. Rosenthal, Mrs. Roukema, Mr. Markey, Mr. Pursell, Mrs. Snowe, Mr. Young of Florida, Mr. Ireland, Mr. Scheuer, Mr. Seiberling, Mr. Skeen, Mr. Smith of Alabama, Mr. Smith of New Jersey, Mr. Stenholm, Mr. Studds, Mr. Weaver, Mr. Wolpe, Mr. Yates, Mr. Young of Missouri, Mr. Zeferetti, Mr. Yatron, Mr. Archer, Mr. Bingham, Mr. Bonior of Michigan, Mr. Coughlin, Mr. James K. Coyne, Mr. Daniel B. Crane, Mr. D'Amours, Mr. Corcoran, Mr. DeNardis, Mr. Dicks, Mr. Downey, Mr. Dunn, Mr. Lundine, Mr. McCollum, Mr. Marriott, Mr. Miller of Ohio, Mr. Morrison, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Patman, Mr. Petri, Mr. Porter, Mr. Rahall, Mr. Roberts of South Dakota, Mr. Sawyer, Mrs. Schroeder, Mr. Shamansky, Mr. Solarz, Mr. Swift, Mr. Waxman, Mr. Whitehurst, Mr. Whittaker, Mr. Wirth, Mr. Wolf, Mr. Hughes, Mr. Gregg, Mr. Ritter, Mr. Addabbo, Mr. Chappell, Mr. LaFalce, Mr. Minish, Mr. Hubbard, Mr. Hutto, Mr. Jacobs, Mr. Kogovsek, Mr. Lehman, Mr. Lujan, Mr. McKinney, Mr. Madigan, Mr. Matsui, Mr. Mavroules, Mr. Dwyer, Mr. Edgar, Mr. English, Mr. Fascell, Mr. Fazio, Ms. Ferraro, Mr. Foglietta, Mr. Frank, Mr. Gejdenson, Mr. Gibbons, Mr. Ginn, Mr. Gradison, Mr. Grisham, Mr. Guarini, Mr. Hopkins, and Mr. Howard.

H.R. 6979: Mr. Addabbo, Mr. Applegate, Mr. Bevill, Mr. Dymally, Mr. Dyson, Mr. Eckart, Mr. Lantos, Mr. Mitchell of Maryland, Mr. Mottl, Mr. Nelligan, Mr. Swift, Mr. Clay, Mr. Coelho, Mr. Pepper, Mr. Frank, Mr. Edgar, and Mr. Montgomery.

H.J. Res. 172: Mr. Hansen of Idaho, Mr. Petri, Mrs. Schneider, and Mr. Zablocki.

H.J. Res. 350: Mr. Young of Missouri, Mr. Albosta, and Mr. Emery.

H.J. Res. 436: Mr. Bennett.

H.J. Res. 456: Mr. Dyson, Mr. Hoyer, Mr. Archer, Mr. Bevill, Mr. Boland, Mr. Breaux, Mr. Burgener, Mr. John L. Burton, Mr. Chappie, Mr. Conyers, Mr. Dicks, Mr. Findley, Mr. Fuqua, Mr. Gray, Mr. Derwinski, Mr. Long of Maryland, Mr. Latta, Mr. Brodhead, Mr. Coughlin, Mr. Dymally, Mr. Skelton, Mr. Bailey of Missouri, Mr. Martin of North Carolina, Mr. Lowery of California, Mr. Mattox, Mr. Frost, Mr. Foley, Mr. Santini, Mr. Whitehurst, Mr. Gregg, Mr. Phillip Burton, Mr. Udall, Mr. Stokes, Mr. Molinari, Mr. Wirth, Mr. Yates, Mr. Napier, Mr. Bailey of Pennsylvania, Mr. Collins of Texas, Mr. Deckard, Mr. Minish, Mr. Fowler, Mr. Hollenbeck, Mr. Bolling, Mr. Barnes, Mr. Evans of Delaware, Mrs. Schneider, Mr. Yates, Mr. Philip M. Crane, Mr. Siljander, Mr. Cheney, Mr. Ratchford, Mr. Barnard, Mr. Wyden, Mr. English, Mr. Brown of Colorado, Mr. Hiler, Mr. Rhodes, Mr. Matsui, Mr. Patterson, Mr. Nichols, Mr. Smith of Iowa, Mr. Neal, Mr. Roberts of Kansas, Mr. Moakley, Mr. Hertel, Mr. Rosenthal, Mr. Peyser, Mr. Murphy, and Mr. Spence.

H.J. Res. 460: Mr. Simon, Mr. D'Amours, Mr. Dwyer, Mr. Dorgan of North Dakota, Mr. Boner of Tennessee, Mr. Lowery of California, Mr. Fascell, Mr. Lagomarsino, Mr. Hagedorn, Mr. Hansen of Idaho, Mr. LaFalce, Mr. McDade, Mr. Moakley, Mr. Napier, Mr. Lowry of Washington, Mr. Synar, Mr. Shumway, Mr. Russo, Mr. Myers, Mr. Goldwater, and Mr. White.

H.J. Res. 489: Mr. Ottinger, Mr. Edgar, Mr. Edwards of California, Mr. Washington, Mr. Stokes, Mr. Neal, Mr. McHugh, Mr. Ratchford, Mr. Crockett, Mr. de Lugo, and Mr. Petri.

H.J. Res. 496: Mr. Brooks, Mr. Conte, Mrs. Schneider, Mr. Ireland, Mrs. Roukema, Mr. Hutto, Mr. Lee, Mrs. Martin of Illinois, Mr. Early, Mr. Corcoran, Mr. Harkin, Mr. Russo, Mr. Dowdy, Mr. Vento, Mr. Pursell, Mrs. Snowe, Mr. Morrison, Mr. Hubbard, Mr. Roberts of Kansas, Mrs. Collins of Illinois, Mr. Mavroules, Mr. Philip M. Crane, Mr. Applegate, Mr. Hartnett, Mr. Jacobs, Mr. Smith of Alabama, Mr. Broyhill, Mr. Brown of Colorado, Mr. Rostenkowski, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Anderson, Mr. Brinkley, Mr. Dornan of California, Mrs. Bouquard, Mr. Long of Maryland, Mr. Hiler, Mr. Hall of Ohio, Mr. English, Mr. Pashayan, Mr. Oxley, Mr. Traxler, Mr. Bowen, Mr. Stenholm, Mr. Mitchell of New York, Mr. Emerson, Mr. AuCoin, Mr. Kogovsek, Mr. Zablocki, Mr. Skelton, Mr. Lott, Mr. Rose, Mr. Ford of Michigan, Mr. Hopkins, Mr. Regula, Mr. Sabo, Mr. Perkins, and Mrs. Byron.

H.J. Res. 524: Mr. Blanchard, Mrs. Boggs, Mr. Breaux, Mr. Coelho, Mr. Crockett, Mr. Dougherty, Mr. Erdahl, Mr. Fish, Mr. Florio, Mr. Frost, Mr. Gejdenson, Mr. Gilman, Mr. Ginn, Mr. Gonzalez, Mrs. Heckler, Mr. Hollenbeck, Mr. Kastenmeier, Mrs. Kennelly, Mr. LaFalce, Mr. Lewis, Mr. Mattox, Mr. Pritchard, Mr. Rosenthal, Mr. Rousselot, Mr. Shamansky, Mr. Snyder, Mr. Stark, Mr. Tauke, Mr. Weiss, Mr. Foley, Mr. Mitchell of New York, Mr. Patterson, Mr. Kramer, Mr. Ireland, Mrs. Roukema, Mr. Frost, Mr. Nelligan, Mr. Hall of Ohio, Mr. Pashayan, and Mr. Barnard.

H.J. Res. 532: Mr. Addabbo, Mr. Kindness, Mr. Frank, Mr. Gradison, Mr. O'Brien, Ms. Oakar, Mr. Stanton of Ohio, Mrs. Roukema, Mr. Rinaldo, Ms. Mikulski, Mr. Molinari, Mrs. Ashbrook, Mr. Mottl, and Mr. Waxman.

H.J. Res. 533: Mr. Zablocki.

H.J. Res. 551: Mr. Beilenson, Mr. Crockett, Mr. D'Amours, Mr. Foglietta, Mr. Frost, Mr. Gore, Mr. Guarini, Mr. Lundine, Mr. Santini, and Mr. Walgren.

H.J. Res. 567: Mrs. Collins of Illinois, Mr. William J. Coyne, Mr. Dwyer, Mr. Fazio, Mr. Fish, Mr. Goodling, Mr. Gray, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Rangel, Mr. Ratchford, and Mr. Williams of Montana.

H.J. Res. 568: Mr. Boland, Mr. Minish, Mr. Moakley, Mr. Hoyer, Mr. Evans of Georgia, Mr. Vento, Mr. Markey, Mr. Ford of Michigan, Mr. Shannon, Mr. Miller of California, Mr. Downey, Mrs. Kennelly, Mr. Mavroules, Mr. Brown of California, Mr. Leland, Mr. Weaver, Mr. Kildee, Mr. Lehman, Mr. Sabo, Mr. Hefner, Mrs. Boggs, Mr. Bevill, Mr. Dwyer, Mr. Hightower, Mr. Watkins, Mr. Fazio, Mr. Roybal, Mr. Dicks, Mr. Natcher, Mr. Smith of Iowa, Mr. Yates, Mr. Murtha, Mr. Traxler, Mr. Blanchard, Mr. Coelho, Mr. Harkin, Mr. Young of Alaska, Mr. Conte, Mr. Huckaby, Mr. Montgomery, Mr. Donnelly, Mr. Biaggi, Mr. Russo, Mr. Jenkins, Mr. Bailey of Pennsylvania, Mr. Matsui, Mr. McDade, Mr. D'Amours, Mr. Stark, Mr. Lowry of Washington, Mr. Rahall, Mr. Patterson, Mr. John L. Burton, Mr. Brinkley, and Mr. Zeferetti.

H.J. Res. 585: Mr. Regula, Mrs. Holt, Mr. McClory, Ms. Oakar, Mr. Winn, Mr. LeBoutillier, Mr. Dan Daniel, Mr. Nichols, Mr. Bailey of Pennsylvania, Mr. Young of Florida, Mr. Williams of Ohio, Mr. Barnes, Mr. Archer, Mr. Lewis, Mr. Hughes, Mr. Fish, and Mr. Zablocki.

H. Con. Res. 1: Mr. Donnelly.

H. Con. Res. 222: Mr. Studds.

H. Con. Res. 275: Mr. Edgar, Mr. Markey, and Mr. Wilson.

H. Con. Res. 293: Mr. Wyden.

H. Con. Res. 362: Mr. Coughlin.

H. Con. Res. 364: Mr. Kemp and Ms. Mikulski.

H. Con. Res. 401: Mr. Miller of California, Mr. Addabbo, Mr. Waxman, Mr. Gejdenson, Mr. Roberts of South Dakota, Mr. Edgar, Mrs. Collins of Illinois, Mr. Lundine, Mr. Skelton, Mr. Matsui, Mr. Stokes, Mrs. Chisholm, Mr. Santini, Mr. Barnes, Mr. Markey, Mrs. Fenwick, and Mr. Fascell.

H. Res. 406: Mr. Patterson.

H. Res. 421: Mr. Alexander, Mr. Boner of Tennessee, Mr. William J. Coyne, Mr. Dowdy, Mr. Findley, Mr. Guarini, Mr. Nelson, Mr. Nowak, and Mr. Price.

H. Res. 506: Mr. Fish and Mr. Waxman.

H. Res. 514: Mr. Panetta, Mr. Winn, Mr. Solarz, Mr. Fish, Mr. Rousselot, Mr. Rodino, Mr. Vander Jagt, Mr. Fary, Mr. Price, Mr. Pritchard, Mr. Emery, Mr. Murphy, Mr. Fountain, Mrs. Fenwick, Mr. Vento, Mr. Frank, Mr. Fascell, Mr. Gilman, and Mr. Roe.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

571. By the SPEAKER: Petition of the City Council of the city of Compton, Calif., relative to civil defense protection; to the Committee on Armed Services.

572. Also, petition of the National Coalition for U.S. Auto Content Law, Detroit, Mich., relative to the Fair Practices in Automotive Products Act (H.R. 5133 and S. 2300); to the Committee on Energy and Commerce.

573. Also, petition of the County Board of Commissioners, Yadkin County, N.C., relative to a freeze on Federal salaries and pensions; to the Committee on Post Office and Civil Service.

574. Also, petition of the City Council, Vineland, N.J., relative to the National Development Investment Act (H.R. 6100); to the Committee on Public Works and Transportation.

575. Also, petition of the City Council of Houston, Tex., relative to certain provisions of H.R. 4961; to the Committee on Ways and Means.

576. Also, petition of the Permanent Delegation of the National Peasant Party of Romania in Exile, Paris, France, relative to extension of the most favored nation status for Romania; to the Committee on Ways and Means.

577. Also, petition of United Retailers Association of Puerto Rico, Hato Rey, Puerto Rico, relative to section 936 of the Federal Internal Revenue Code; to the Committee on Ways and Means.

578. Also, petition of mayor and committee of the township of Greenwich, Stewartsville, N.J., relative to nuclear weapons freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

579. Also, petition of the Lawrence Township Council, Lawrenceville, N.J., relative to a nuclear weapons freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

580. Also, petition of the City Council, Highland Park, Ill., is relative to the Cable Telecommunications Act of 1982 (S. 2172); jointly, to the Committees on Energy and Commerce and the Judiciary.

581. Also, petition of the City Council of Philadelphia, Pa., relative to pending legislation enabling the creation of export trading companies; jointly, to the Committees on Foreign Affairs, the Judiciary, and Banking, Finance and Urban Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6838

By Mrs. BYRON:

—Strike out all after line 3, page 2, of the bill as reported, and insert in lieu thereof the following: "be effective on or after the thirtieth day following the enactment of this subsection: *Provided, however,* That selected export controls may remain in effect if the President, within the aforesaid thirty day period, certifies to Congress that, after review by appropriate Executive Departments including the Department of Defense, there is a reasonable expectation that particular technologies transferred as a result of terminating the above-mentioned export controls could be used by the Soviet Union or the Soviet Union's treaty allies to produce or improve military hardware, related military systems, or military-related manufacturing processes."

EXTENSIONS OF REMARKS

DISABILITY REVIEW CREATES HARDSHIPS THROUGHOUT NATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. FLORIO. Mr. Speaker, many of our colleagues have spoken out against the way the Department of Health and Human Services is conducting a congressionally mandated review of the social security disability program.

I have many constituents in my congressional district who have been unfairly and improperly dropped from the rolls of this important program. The Social Security Administration has been, to say the least, overzealous in their review of medical disability cases.

This fact was brought out in an article in yesterday's Washington Post. I think that all Members should be aware of this process. The article follows:

ELIGIBLE RECIPIENTS LOSING OUT—U.S. GETS TOUGH WITH DISABLED

(By Margaret Engel)

In 1973, after lupus, an incurable crippling disease, forced her to stop working as a nurse's attendant, Mary Williams of Capitol Heights began receiving $366 a month in disability payments from Social Security.

Last year, under a speeded-up review of disability recipients ordered by the Reagan administration, the payments to Williams were stopped, and she was told to get a job, despite the fact that three government doctors had said she was totally disabled.

In August, after Williams had struggled for a year to pay the $203 rent on the apartment she shares with her teen-age sons, an administrative law judge ruled that she was eligible for the payments after all.

Her experience was not unusual. Since federal officials tightened eligibility standards and began closer scrutiny of the $18 billion disability program in March 1981, 157,980 people nationwide have been dropped from the Social Security rolls.

Aimed at weeding out the undeserving, the new procedures have in many cases imposed an unnecessary burden on thousands of disabled people who do in fact meet the government's strict standards. According to figures compiled by the Senate Finance Committee, administrative judges have ruled in favor of recipients 67 percent of the time since the accelerated program began.

The review program has succeeded in trimming the rolls to fit its strict definition of disability, a standard that is much tougher than private disability insurance. "You must be unable to do any kind of work," noted Social Security spokesman John Trollinger. "It doesn't matter that you don't have any experience, or if there aren't any jobs there."

Dropping ineligible people from the program has saved the federal government $216 million for the fiscal year ending Sept. 30, and a projected $458 million for next year, according to Social Security figures. But the savings have been offset by the huge volume of complaints from the disabled, advocacy groups and Capitol Hill.

Many of those who have been dropped suffer extreme hardships and are forced onto state welfare rolls. If they are over 65, they also lose Medicare reimbursement for their health care costs. And for some, the consequences are worse.

On Nov. 5, 1981, Herbert Tuttle, a father of three who was active in civic organizations, killed himself with a 16-gauge shotgun outside the Social Security office in Lansing, Mich., after learning that he was no longer eligible for benefits. His suicide note read, "They cut my Social Security. They are playing God."

One month later, Harold Holtz, 45, of Council Bluffs, Ind., shot himself in the head after a year of attempts to win Social Security disability benefits, after diabetes and triple bypass heart surgery forced him to give up his job driving a truck.

Those who wait for an appeals decision face nine or more months without income. "An immense amount of unjustified, needless, unconscionable suffering takes place during that year," said Sen. Carl Levin (D-Mich.), who is pushing an amendment to the debt ceiling bill that would slow down the rate of reviews and pay benefits until appeals are heard.

Many congressmen say the pain and confusion the reviews have caused isn't what they had in mind when they asked the Social Security Administration in 1980 to improve the monitoring of the disability income program, and its welfare sister, Supplemental Security Income.

The requests, contained in amendments to the Social Security Act, were aimed at paring down the growing cost of the disability insurance program, which was added to Social Security in 1956, and SSI, which took the place of state welfare programs for the disabled in 1972.

When the Reagan administration came into office, it moved the starting date of the program up nine months. It also ordered that eligibility standards then on the books be strictly enforced.

In doing so, it was seeking changes in a vast system that cost nearly $18 billion and had nearly 4.4 million beneficiaries in the fiscal year ending last March.

In order to process benefits, there are federally-funded reviewing offices in every state and 800 administrative law judges. Disability cases appealed beyond the Social Security system account for almost 16 percent of all civil cases filed.

The congressional mandate to better monitor the program has had unexpected results. For one thing, overloaded reviewers are throwing out about 47 percent of all cases examined—many more people than the 10 to 20 percent found by the Government Accounting Office and Social Security studies to be improperly receiving benefits. Critics say pressure to dispose of cases and a new emphasis on stricter standards are responsible. For their part, Social Security officials say most of the misunderstanding is over the program's tough standards.

What is clear is that the special state offices, called disability determination units, which are financed by the federal government to handle the reviews, have been overwhelmed with cases.

"We're struggling," said Roland Owens, assistant commissioner of rehabilitative services for Virginia. Since the closer scrutiny began, the federal government has sent Virginia 13,971 cases, compared to 2,897 reviews handled by the state in fiscal 1980. Forty-two percent of those reviewed under the tougher regulations were dropped.

In Maryland, 1,595 people have been dropped from the rolls, or 39 percent of the cases reviewed. In the District of Columbia, 357 people have lost benefits, or nearly 41 percent of those reviewed.

Most of these cases have their own sad stories of economic struggles and tangles with the bureaucracy over lost files and confusing notices.

In Fairfax, McDonald Huffman, 56, is considering bankruptcy as a solution to the financial woes he and his wife face. He had been receiving $444 a month in disability income but was notified in July that he was dropped because he was fit to work. A coal miner for most of his life, Huffman uses an oxygen tank at night to aid his breathing. He last worked for the county as a truck driver in 1973, until his supervisor said he could no longer take responsibility for Huffman's poor health. "I earned this money and it makes me mad to have to fight for it," Huffman said.

In Hyattsville, Robert Larkins, 47, and his wife, Alpha, had to move in with with their daughter's family into a two-bedroom apartment after his $354 disability checks simply stopped coming in August 1981. Larkins, who cannot read or write, worked as a laborer until his kneecap was removed following a work related accident in 1973.

"We just ain't got no home to live in," said Larkins, who also was informed in July that he owes the government $17,038 because his disability was "terminated" in 1978, although, he says, this was the first he or his Legal Services lawyer have ever heard of it.

Most of those dropped by the state agencies never see an examiner, but have their case decided by a review of their files, which often does not include pertinent medical information. Nonetheless, Social Security Administration officials say state examiners make mistakes in only 3 percent of the cases. When the decisions are reversed, explained Trollinger, it is usually because of additional medical data that's been assembled during a later appeal.

Recent revisions of the desk manual examiners use have made it more difficult to win benefits, too. Several advocacy groups claim state agencies are cracking down through internal, unpublished standards on those suffering mental disabilities and chronic pain. This suspicion has prompted lawsuits against the review program in nine states.

Nationwide, 29 percent of those dropped in the program's first year are mentally disabled, according to the U.S. House Select Committee on Aging. In Maryland, the state attorney general has filed a Freedom of Information request with the Social Security

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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Administration to find out why the mentally disabled are being dropped from the rolls with much greater frequency.

"A staff member was told that only people who are literally climbing the walls can qualify for disability now on psychiatric claims," said Dr. Dennis Kutzer, a psychiatrist at the Springfield Hosptial in Sykesville, who said 72 percent of disability claims now are denied. Three years ago, the rate was about 30 percent. The denials are keeping patients in costly state mental hospitals, according to mental health experts. They say these patients cannot be released because they cannot support themselves without the federal disability income.

The uproar over the manner in which the disability caseload was trimmed has prompted some changes. The Social Security Administration already has scaled down the number of reviews it expects to send the states this year. And, in the next few weeks, Commissioner John Svahn will require that recipients be notified in person, rather than by letter, that their cases are going to be reviewed.●

DISTINGUISHED JOURNALIST HONORED BY VETERANS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. MOTTL. Mr. Speaker, I want to recognize the important contributions of a man with his pen to help those who have carried the sword for our Nation. Ronald J. Seman of Maple Heights, Ohio, a veteran of the Korean war, and longtime Cleveland communications specialist, has been named to receive the 1982 Americanism News Media Award of the Catholic War Veterans of the U.S.A. National Awards Committee Chairman Gus Gallo tells us Seman received the award during the CWV National Convention last month in Bal Harbour, Fla.

The award is given annually to a newspaper, radio, or television station or an individual in any of the three media for presenting an outstanding individual or continuing program supporting positive ideals of American tradition.

Seman was cited for his weekly veterans column in the Cleveland Press and for originating "The Cleveland Veteran" radio program which he hosts Sunday nights at 9:45 on WERE. The show went on the air August 12, 1979. It is the only continuing program on Cleveland radio which is devoted to veterans news and features. At Seman's request, entertainer Bob Hope recorded two promotional spots for the show. Hope appeared on the program on February 1, 1981.

Seman served 1 year, 1953, of his 4-year tour with the U.S. Air Force's 17th Bombardment Wing Light in Pusan, Korea. He is a public information specialist in the Public Affairs Office of the Defense Contract Administration Services Region (DCASR) Cleveland.

Prior to joining the Federal Government, Seman was an administrative assistant to Cleveland Mayor Ralph J. Perk, 1973-1977; was manager of public relations for the American Society for Metals for 11 years; and was an announcer, news writer, and program director for KCVH, KSYD, and KWFT-TV, Wichita Falls, Tex. Also, WERE, WJMO, WCUY-FM, KYW-TV, Cleveland, and WEOL, Elyria from 1954 to 1962.

Seman is a 1959 graduate of Kent State University where he majored in speech-radio and minored in journalism. He is currently serving his second term as commander of the Cuyahoga Chapter, CWV; is a member of CWV Post 1812, Garfield Heights, Veterans of Foreign Wars "Stars & Stripes" Post 1415, Cleveland, and American Legion Post 309, Maple Heights.

He and his wife, Mary, are the parents of Mark, 19; Eve, 17; Kelly, 15, and David, 11. The family resides at 5536 Elmwood Ave. They are members of St. Wenceslas Parish.●

THE IMPORT PROBLEM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 1, 1982, into the CONGRESSIONAL RECORD:

THE IMPORT PROBLEM

Hoosier workers and businessmen often express to me the view that the scales of foreign trade are weighted unfairly against the United States. Sometimes with anger in their voices, they cite surging imports as evidence for their belief. In 1981, we had the largest trade deficit in our history—more than $40 billion—some $18 billion of which was with Japan alone. Steel imports captured 20% of our market; imported automobiles grabbed 27.3%

The more I listen to these workers and businessmen, the more I share their frustration with the problem of imports. In part through our generosity, the countries that we defeated in World War II have become our major rivals in foreign trade. Japan and West Germany have invaded not only our overseas markets, but our domestic markets as well. They rely on us to defend them against their enemies, but while we devote more and more of our budget to defense, they use their resources both to subsidize civilian research and to boost exports. There is definitely something to the complaint that they protect their exporting industries while we still try to play the game by the rules of free trade. Hoosiers want to know why we support other nations in these ways, especially when our economy is in such need of assistance.

Although most of us feel strongly about the problem, we realize that we cannot just "slam the door" on imports. The world economy, of which the United States is an inseparable part, is much too complex for that. For one, much of our distress is due to interest rates which keep the value of the dollar up and the prices of imports low. We will make a good deal of progress against the trade deficit when interest rates come down. Also, America is a major exporter: we sell 40 percent of our farm production abroad; our exports of services were valued at $60 billion in 1981; one of every seven jobs in American manufacturing depends on the export sector; our foreign direct investment in other countries is triple that of all foreign companies here. We are vulnerable to retaliation if we crack down on imports. Moreover, if we take exports of services and foreign direct investment into account in assessing the impact of imports, we see that we are running a surplus, not a deficit, in our trading account. It is good for us to keep in mind that we do have an overall advantage. Then, too, the United States itself is not completely free of protectionism. Despite the fact that our markets are generally more open than others, we do protect chemical, textile, and some farm products. Finally, at least a few of the trading advantages enjoyed by other nations are due to a greater reliance on technology, a closer relationship between government and business, a simpler regulatory enviroment, or an increased emphasis on investment. If such explanations are valid, our case against imports is weakened.

Nonetheless, it is my impression that the system of trade is biased against the United States, sometimes in subtle ways and other times in ways that are not so subtle. I have the feeling that Hoosier workers and businessmen would not mind imports so much if they thought that the terms of competition were fair. They often tell me that they are prepared to compete head-to-head with anyone, provided that the rules are the same for everyone. The private sector can take important steps to better our trading position, and the government should help support that effort by doing the following things to ensure that we compete with other nations on a fair footing.

Large budget deficits and tight money have pushed interest rates up and kept the value of the dollar high. This makes imports cheap and exports expensive. We should alter the mix of fiscal and monetary policies so that interest rates fall.

Both in the Far East and in Western Europe, the United States carries more than its fair share of the burden of defense. This allows our allies to divert their resources to civilian and export sectors. We must demand from our allies a more equitable sharing of the burden of defense.

Export trading companies have figured in the expansion of export sectors in foreign countries. There are many small and medium-sized American firms which could compete worldwide if they had the expertise. We should legislate to encourage the formation of export trading companies.

Exports could be increased if we clarified our laws on foreign corrupt practices, cut taxes for Americans working abroad, and streamlined our export licensing procedures. We must trim costly and excessive legislative and administrative restrictions which we impose upon ourselves.

A larger lending authority is needed to counterbalance the aggressive, credit-based export strategies of other countries. We should increase the credit available to our exporters.

The United States has generally chosen to approach trade problems through bilateral talks, not by using the sanction-backed, international mechanisms that are available in cases of dispute. We must use these mechanisms as the need arises.

The United States does well in the export of services and in foreign direct investment. We should improve our advantage by bringing these aspects of trade under international procedures.

Trade policy influences and is influenced by foreign policy. We must give the President more power to make our trade and foreign policies more consistent and mutually supportive.

With direct subsidies and very low interest rates, other nations invade our markets. We must take a tough line against these unfair practices.

Standards, licenses, and special demands on companies are examples of non-tariff barriers which other nations use to exclude our exports. We should engage in hard-nosed bargaining to rid the trade system of such barriers.

Our import problem will recede, and our competitive edge will be maintained, if we insist on the same rules for all the players.●

AN ALTERNATIVE TO MASS AMNESTY FOR ILLEGAL ALIENS

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. DAUB. Mr. Speaker, many of us have grave reservations over the Immigration Reform and Control Act (S. 2222) as passed by the Senate recently. The House version of this legislation, H.R. 6514, offers no more reasonable approach to our immigration problems.

Frustration and outright opposition are growing over the "amnesty" provisions in this legislation, S. 2222 contained an amnesty provision which will provide eventual permanent residence for all illegal aliens who entered the United States prior to 1980. Those who entered between 1977 and 1980 will have to wait 3 years. H.R. 6514 also contains an amnesty provision which will provide permanent residence to illegal aliens who entered before 1980—although the wait for those who entered between 1978 and 1980 is only 2 years.

With the millions of illegal aliens in this country—estimates range from 3 to 10 million—I ask everyone to consider these points:

With nearly 11 million Americans out of work, and the attendant massive drain on Federal, State and local treasuries, can we afford to add to our work force and place an even greater burden on our social service programs?

Do we really want to set the dangerous precedent of such a liberal "legalization" policy, thereby encouraging more illegal immigration?

Have we considered that those allowed permanent residence will be bringing in their families, thereby compounding the numbers applying for residence?

What about those who have waited for years to gain permanent residence, legally—are we not rewarding those who violated the law, while ignoring those who abided by the law?

Today I have introduced an alternative to the amnesty provision of H.R. 6514—a registry date amendment—that would simply amend existing law, by updating current methods for granting legal status to certain types of deserving illegal immigrants. My proposal would allow permanent residence for illegal aliens who entered the country prior to January 1, 1973. Should H.R. 6514 be brought to the floor of the House prior to consideration of my proposal, I will be prepared to offer my alternative as an amendment to H.R. 6514.●

UNUSED INNER-CITY RICHES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. GARCIA. Mr. Speaker, earlier this year I spoke of the need to stimulate inner-city economic revival and the possibilities of its success while recognizing the unique and many times significant costs associated with depressed urban areas. One possible method to stimulate new development is the enterprise zone concept of targeting Federal tax incentives to areas where the poor and unemployed are living.

Throughout the debate on urban America, there have been those who have stated that the problems of the inner city are too entrenched and that there may never be any real revival nor for that matter any successful Government programs to assist them in a return to the economic mainstream. I reject this viewpoint and believe that we must continuously seek new and additional avenues to assist the low- and moderate-income families of our Nation. I am an even more fervent believer that there can be economic success in our Nation's cities.

One entreprenuer that has served to maintain my faith is John Mariotta and his Welbilt Electronic Die Corp. located in the South Bronx. The following article from Nation's Business speaks to Mr. Mariotta's success and determination and I recommend it to my colleagues.

[From Nation's Business, February 1982]

TAPPING UNUSED RICHES IN THE SLUMS

(By Gerson Goodman)

The English language is not exactly the forte of John Mariotta, founder of the Welbilt Electronic Die Corporation in New York City's notorious South Bronx. Born of Puerto Rican immigrants, he had little chance to polish his verbal skills. Still, his business has an annual sales volume of $12 million.

But this is a success story not so much about Welbilt's owner as about Welbilt's workers—ghetto youths and hard-core unemployed who learned a trade and discovered the work ethic.

Mariotta was 36 when in 1965 he set up Welbilt, his fourth attempt to go into business. Fred Neuberger, now vice president and part owner, was the needed extra ingredient, Mariotta says. An experienced sales engineer, Neuberger brought Welbilt its first big contract, for air filter assemblies for Bell helicopters.

Today, the Welbilt plant stands like a beacon in a sea of residential and industrial deterioration. While remaking society's castoffs into operators capable of running the latest in computerized metalworking machinery, it has become a respected supplier of precision parts and assemblies to the armed forces and the defense industry. The firm has won increasingly larger private and government contracts.

Teaching the unskilled was not a matter of choice, since getting machinists to commute to Welbilt was—and still is—impossible. Job hunters quickly lost interest when they found out where the factory was.

"How are you going to make machinists out of semi-illiterates?" parts buyers for the big corporations would ask him, Mariotta recalls. But he has done it, motivating his workers with the homilies of a Benjamin Franklin rather than the formulas of a Ph.D. in labor relations. Among the doubters that are now convinced are General Electric and TSARCOM (Troop Support and Aviation Readiness Command).

Mariotta still interviews every job applicant, "I tell them, 'You got to work hard, You got to learn.'"

Once he is convinced an applicant can be counted on, he hires on the spot. No effort is made to check references. "What do I care about the past?" he demands. A note of intensity colors his voice. "What if he did commit a crime? Today, right now, he wants to work. That's the only thing that counts."

Mariotta's unorthodox procedures stem from this conviction: Most people abhor idleness. But language and educational deficiencies, not to mention prejudice in hiring, bar some from decent opportunities, he contends.

"Everyone is saying, 'What are we going to do about the South Bronx?'" Mariotta growls. "Everyone is saying, 'You can't teach those so-and-so's anything. You can't get them to come to work on time.' Well, it's not so. I say to them, 'Maybe we have no education, maybe our manners aren't up to par, but this is where it's at between you and me: 'If you're willing to work, I'll increase your salary.'"

Chico is a good example, Mariotta says. "One morning, in walks Chico with a cigar box under one arm. He says he is working in a hotel, washing dishes. In Mexico he was a mechanic, but here no one will hire him because he doesn't speak English. I ask him what's in the box. He shows me a mike, a 4-inch caliper, two C-clamps and a 6-inch rule. They are all brand-new. I say to myself, if he spent half a week's pay to buy tools, he must really want to learn. So I put him on. When he came to the shop the next morning, he didn't even know how to turn the saw on. But day after day, we stood beside him at the bench till he learned."

The plant, which has never been struck, was organized by the Teamsters in 1974 after peaceful negotiations. "Our relations with the union are extremely cordial," Neuberger observes. "The attitude here is so good that the pilferage and vandalism that plague other industrial enterprises are nearly nonexistent."

Workers who have become supervisors have seen Mariotta fulfill his promises. A bonus arrangement instituted in 1980 pays $1,000 each to first-line supervisors for every $1 million the plant ships. The incentive plan, which added $10,000 to each supervisor's income last year, has also fostered interdepartmental cooperation, Mariotta says.

What the kids he recruited from the streets would have become had there been no Welbilt is a thought that stokes Mariotta's contempt for the nation's multibillion-dollar welfare system. "Everyplace in the U.S. where there is a South Bronx, we have more unused riches than all the Arab oil countries put together," he argues. "Our riches are in our people who want to work. Let the businessmen and the government put factories here where the people are, and you'll see how fast those billions will shrink."●

DR. JAMES ARCHER SMITH

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. FASCELL. Mr. Speaker, during our absence for the district work period, the city of Homestead, Fla., lost one of its most distinguished and beloved citizens. Dr. James Archer Smith passed away at the age of 91.

Dr. Smith was a general practitioner who came to Homestead in 1919 after serving as a frontline medic during World War I. During his long medical career he estimated that he delivered 3,500 of the 24,000 people living in the Homestead area. He was one of two staff doctors when a four-bed hospital opened in Homestead in 1940. The hospital, which today is the only city-owned hospital in the county, has grown to 120 beds and was named in his honor.

Dr. Smith was a pioneer in recognizing, and then working to meet, the medical needs of the community. He frequently treated patients knowing he would never be paid for his services and was eulogized by his friends for his love of mankind. According to his longtime friend and associate, Dr. Fred Vihlen,

> He had a great fondness in his heart for the people who were down and out. People who had had hard times and had lived hard times.

He is survived by his wife, Gene; a brother, Marion; a son, James Archer Smith III, four grandchildren and five great-grandchildren. I extend my deepest sympathies to his family. An editorial in the South Dade News Leader summed up Dr. Smith's life when it stated, "They don't make 'em like that anymore."

DR. SMITH'S PASSING: THE END OF AN ERA

Today the Homestead community mourns the loss of a physician, a pioneer, a patriot—Dr. James Archer Smith.

He came to the fledgling town early in this century and stayed, not only to minister to the sick, but to contribute to the city's growth and well-being.

His greatest contribution, many say, was the founding of the city's hospital.

But Dr. Smith did much more than that. He would pack his medical bag in the middle of the night and tend to the ill and needy whenever and wherever—often without any hope of ever receiving any kind of pay in return.

Dr. Smith not only tended to the sick but he served on the volunteer fire department in the city's early years, was a member of the city council, founder and charter member of the Rotary Club, chief of staff at both the old Dade County Hospital and the hospital he founded.

At one time, most of the citizens of Homestead could claim he had brought them into the world.

During his long years, he was honored many times. In 1967, the Florida Academy of General Practice named him "Man of the Year" and during the Bicentennial in 1976, he was named one of Florida's 76 Patriots.

Dr. Smith's passing marked an end to the era of the "old family doctor."

They don't make 'em like that anymore.●

INEQUITY IN COST-OF-LIVING ADJUSTMENTS

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. PARRIS. Mr. Speaker, today I am introducing legislation which would correct an inequity created by the budget reconciliation bill. Under the terms of the fiscal year 1983 budget bill which is now law, Federal civilian and military retirees under the age of 62 will only be receiving half of a cost-of-living adjustment. In addition, rather than those cost-of-living increases being received as scheduled next spring, they are going to be delayed 1 month for the next 3 years. Military retirees who are holding Government jobs will have their compensation reduced by a dollar amount equal to the cost-of-living adjustment increases in their military retired pay. My legislation would repeal this language from the 1983 budget and treat military and Federal civilian retirees in an equitable manner.

These retirees should not be treated any differently than those individuals receiving social security benefits. The Federal Government has a contractual and moral obligation to provide these earned retirement benefits in a timely manner. There should be no reductions in the amount and the increase should not be delayed by 1 month.

Federal civilian and military retirees do not object to making their contribution to society but they have already been required to sacrifice more than any other group of citizens. Their well-thought-out plans for retirement have been severely disrupted. Living on a fixed income is difficult enough but having that amount reduced at a time when the cost of living is escalating makes maintaining a decent standard of living even more difficult.

Aside from the injustice the COLA changes have placed upon retirees, there are also serious ramifications for the Federal Government. These changes in retirement benefits will make it hard for the Federal Government to attract and retain qualified people to serve in the military or civil service. As taxpayers, we will all lose out by having less qualified individuals providing less service.

In the best interest in Government and as a matter of equity, I urge my colleagues to join in cosponsoring this most important legislation.●

THE LAW OF THE SEA TREATY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my foreign affairs newsletter for August 1982 into the CONGRESSIONAL RECORD:

THE LAW OF THE SEA TREATY

When the United States voted against the Law of the Sea Treaty several weeks ago, the action hardly made a headline. Even though the treaty took more than a decade to complete and contained several important rules governing the uses of the seas, few Americans seemed worried about its rejection. Yet, the decision is a significant one for American foreign policy.

The seas have always been important in the scheme of things, and the ability of vessels to travel the seas freely has been of interest for hundreds of years. For the United States, one of the world's leading maritime powers, freedom of the seas is so vital that we fought wars to preserve it before our nation was a century old. Our trade depends heavily on the unimpeded movement of the merchant fleet. The value of our Navy would diminish if the seas were not open to our warships. History shows our strong commitment to the freedom of the seas—a commitment which we have honored in war and peace.

Since the 1700's, the only thing protecting the freedom of the seas has been its acceptance among nations. In this century that acceptance has been eroding. Many nations have different views of the seas and their uses. Oil and gas on the continental shelf and mineral-laden nodules on the seabed have caused conflict and may result in a division of the seas among the powerful nations.

In 1958 and 1960, the United Nations convened conferences to codify rules on the uses of the seas. The first conference produced agreements on the continental shelf, the high seas, and the conservation of marine wildlife. The second conference considered the width of territorial waters, but reached no agreement. The expansion of territorial waters (in some cases, up to 200 miles) and technological advances not anticipated by the 1958 agreement made fur-

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ther negotiations necessary, so the United Nations, with American support, again took up the question of the uses of the seas and called for a third conference. The conference convened in 1973 amid speculation that a consensus among nations could produce a treaty to cover all maritime activities. Presidents Nixon, Ford, and Carter pursued the negotiations with vigor. By the summer of 1980, all but three issues were decided. Tentative accords were reached on the width of territorial waters, passage through straits, responsibilities and rights of states in territorial waters, in economic resource zones, on the continental shelf, and on the high seas, conservation of fisheries, protection of the marine environment, marine research, and mining of minerals on the seabed. With regard to the last point, the treaty set up a body to regulate seabed mining so that the poor nations would have a role. The body would get its technology from the rich nations.

Critics of the treaty were found mainly among isolationists and among certain parts of the seabed mining industry. When President Reagan took office, however, these critics gained an influential ally. One of the President's first acts was to withdraw from the conference pending a full review of the American position. During the review, there was an intense battle within the bureaucracy between those who opposed the treaty outright and those who wanted certain changes, mainly in the provisions on seabed mining. In January of 1982, the President decided to return to the conference to pursue such changes.

The United States was unable to get all its changes at the 1982 session. Many delegates thought that the United States was inflexible in its view, pushing for changes but refusing to negotiate. Members of the American delegation said that their instructions, drafted largely by opponents of the treaty, were designed to prevent agreement. When a compromise was offered by some of our allies, we turned it down. The final session ended with the adoption of the treaty by 130 nations, but the United States, along with Israel, Venezuela, and Greece, cast negative votes. We said "no" despite some gains at the bargaining table, including the power to veto funding for national liberation movements and a guaranteed seat on the seabed mining authority. The President argued that the seabed mining provisions would not encourage investment and would not guarantee our access to minerals on the seabed. He hoped that other nations would recognize certain provisions as international law, not denying their benefits to the United States, but that the seabed mining provisions would not be accepted as international law because the United States, the major mining nation, would not follow them. He is now trying to get our friends to sign a separate "mini-treaty" on seabed mining.

Treaty supporters disagree. They think that the treaty protects our interests, and that we should try to change the provisions on seabed mining. They say that we will be unable to select the provisions of the treaty we like, and that we could lose our navigation rights. Since many of our friends appear unwilling to sign any mini-treaty, treaty supporters assert that we could jeopardize our own seabed mining industry and lose our assured access to minerals on the seabed.

I doubt that the Reagan Administration gave enough consideration to the implications of rejecting the treaty. Because the treaty also regulates territorial waters and navigation rights, treaty supporters are correct when they contend that any straits in the world could be closed to us in times of crisis. Also, any attempts by American companies to mine the seabed could be attacked by nations which have signed the treaty. These companies could then be forced to relocate abroad, and America could find itself with no means to reach minerals on the seabed. The President hopes to negotiate individual agreements if our interests are not adequately protected. The costs of such an approach could be high since we would be forced to make concessions to gain rights now protected under the treaty. Just as important, by rejecting the treaty we relinquish our leadership in the struggle to establish norms of behavior to guide nations.

The United States should not have given up on negotiations to change the treaty. I hope that we will reconsider sooner rather than later.●

KHJ RADIO—ON POLITICAL PROPAGANDA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. ANDERSON. Mr. Speaker, we are all only too aware of the growing importance of money in our political campaign. In the last 10 years costs of campaigning has increased astronomically. This is true not only in regard to candidates, but also, in States like California, in regards to propositions placed before voters for their consideration.

I recently received a copy of an editorial from KHJ radio, a station in the Los Angeles area. I would like to share their brief comments with my colleagues. We seem to see more and more public issues where one side has little or no funding for their campaign and the other side has great sums to spend. This problem challenges our basic belief that in a free election each side will be heard. I offer this piece to my colleagues:

ON BEATING POLITICAL PROPAGANDA

It's unfortunate—but true—that an election is often won by the guy who puts on the best show. That is the power of political propaganda. Politicians know that the money they invest in TV and Radio ads will pay off at the polls. The unfortunate result is that an election can virtually be bought by big money concerns. But we can beat the political propaganda trap. We can focus on the issues and the candidates, as they impact on us, and not fall prey to the campaign shows they put on.

A good example is Proposition 11, an initiative that would require deposits on all beverage containers. It is an anti-litter measure, supported by environmental groups, who are now running their campaign in the red. There's no big money behind the measure, so chances are you won't see many commercials urging you to vote for it. But you will hear a lot from the no on 11 people, because they have got the money to make you hear them. Soft drink and beer producers are opposed to Prop 11 because it will cost them money, so they are forking over hefty contributions to defeat it. And it is tough not to be swayed by a flashy campaign. Catchy radio and TV ads are a powerful political tool, used to influence public opinion. But we urge our listeners to look at Proposition 11—and every other measure and candidate on the November ballot—objectively. Look at the issues and the candidates—how they will impact on you. He who yells the loudest usually gets heard, but we do not have to listen to the screamers.

Let us challenge ourselves to beat the political propaganda trap in this election. Vote in your own best interests, not because of a clever ad on radio or TV. Remember we will have to live with the measures and candidates that win this election long after the curtain goes down on the campaign shows of 1982.●

HANDICAPPED AWARENESS WEEK IN ALAMEDA, CALIF.

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. STARK. Mr. Speaker, Mayor Chuck Corica has proclaimed September 5-11 as Handicapped Awareness Week, 1982. The theme this year is "Independence for the Handicapped." I applaud the Mayor's Committee for the Handicapped whose members have worked tirelessly to provide housing, resources and accessible facilities for disabled individuals in Alameda.

Their successes and progress is clearly evident in Alameda as the committee continues to meet the needs of the disabled and to make the entire city aware of the needs of the handicapped and to share their concerns and understand their priorities.

I join the citizens of Alameda in pausing to recognize Handicapped Awareness Week, 1982, and to offer my support and encouragement to the Mayor's Committee for the Handicapped as they continue to contribute to the well-being of the disabled.●

THE CLEAN AIR ACT IS WORKING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. BROWN of California. Mr. Speaker, I am pleased to report to the House that there is good news in the fight against air pollution. To put it simply, the Clear Air Act is beginning to work as designed.

Over the years, much has been made of the special air pollution problems of California, and the special leadership shown by the California State government, even while Ronald Reagan was Governor. Recently there was some doubt that California retained its com-

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mitment to cleaning up the air, as illustrated by the reluctance of the California State Legislature to enact an automobile inspection and maintenance program. As a representative of a typical southern California district dependent upon personal automobiles for virtually every transportation use, I am quite aware of the public resistance to a cumbersome inspection and maintenance program. But I am even more aware of the public demand for cleaner air, and its willingness to accept a new program to clean our air.

Now, at long last, the battle is over. California has an automobile emissions control program using inspection and maintenance. This victory for clean air doubly pleases me since the credit for its enactment goes to my good friend and my representative in the California State senate, Senator Robert Presley.

This was not the only good news in air pollution. The major air pollution control district in California has also finally adopted a new, more stringent stationary air pollution control program, which nicely supplements the new auto emission controls.

The only bad news for California's air is here in Washington. In spite of abundant evidence that the Federal Clean Air Act is working to clean up air everywhere, the House Energy and Commerce Committee still seems bent on repealing or delaying the good sections of the current law. Fortunately, the Senate Environment and Public Works does not have the same approach, and a growing number of House Members are having second thoughts on weakening this law.

The battle for clean air is not over. But it is starting to be won. The Congress should learn from the successes of the past, and follow the old adage, "if it ain't broke, don't fix it." Let's let the Clean Air Act continue working, unbroken.

Mr. Speaker, at this time I wish to share an editorial from the Los Angeles Times which further describes the situation in California with my colleagues.

[From the Los Angeles Times, Sept. 2, 1982]

It's Safe to Breathe Again

The policy-makers and technicians who are responsible for cleaning up the air over Los Angeles are breathing more easily than they have in years. They can even chuckle when they talk about the future.

Why this rare level of levity among a group that seemed ready to throw in the crying towel a few years ago? The list of reasons is impressive.

For one thing, nature and smog policy finally seem to be moving in the same direction this year.

Smog controls that have been imposed at great cost over many years are starting to pay off in lower levels of pollution. There was a time recently when it looked as though the hard work had been in vain.

At the same time, there have been more cool, cloudy mornings this year than usual, along with fewer inversion layers to trap smog close to the ground.

The result has been fewer smog alerts than in any year to this date since the South Coast Air Quality Management District began keeping hourly smog readings 12 years ago. And there have been no second-stage alerts at all—the kind that force power plants to throttle back and commuters to double up in cars or take buses.

Next on the list is legislation that will require periodic inspections of automobiles, starting in 1984, to keep their smog-control devices working and their engines running cleaner.

Local smog officials have pleaded with the Legislature for such a law since the 1970's in another case that looked as though the hard work would be in vain.

But a bill, sponsored by Sen. Robert B. Presley (D-Riverside), requiring inspections every other year, was passed and sent to the governor late in the session.

The program will reduce pollution by something less than half as much as would annual inspections, but it is a place to start. If the program goes smoothly—as we expect it will—the Legislature may be persuaded to move to annual testing, which would reduce key pollutants by 20 percent to 30 percent.

Then there is a proposal to tighten controls on new polluters and on old polluters who expand their operations.

In recent years, hydrocarbons over Southern California have increased by 66 tons a day because small new businesses could start operating without pollution controls.

The air quality district staff wants to require all new operations, regardless of size, to install control devices and to keep pollution levels from rising by balancing new operations with cutbacks or shutdowns in old operations.

Business and industry are likely to protest the proposal. The public will have chances to protest the protests at public hearings in Los Angeles, Orange, San Bernardino and Riverside counties starting Sept. 13.

Another smile-provoking development for clean-air professionals is a new district plan to cut pollution by as much as half over the next five years. The plan calls for measures ranging from synchronized traffic lights to reduce emissions from idling cars to major reductions in refinery and power-plant pollution.

The cost would be steep—an estimated $475 million each year through 1987, with the oil industry bearing about half the total.

The cost of failing to keep reaching for cleaner air most likely would be higher—not only in human health but also in economic stability and growth for the region.

The smog specialists have good cause to feel jaunty this month, but their own computer models tell them that their best efforts will reduce smog only until 1993. After that, the air will get dirtier unless a second generation of smog-control techniques is brought to bear.

Finally, even Washington has given the clean-air managers a break. After months of bitter infighting in committee, Rep. Henry A. Waxman (D-Los Angeles) turned back by a single vote an effort to weaken the federal Clean Air Act.

The result was a triumph only in that it is a stalemate that will prevent either Waxman and the environmentalists or a coalition of industry and the Reagan Administration from getting changes in the act for at least another year.

Granted that smog in Los Angeles can turn on you overnight, there is still an impressive amount of good news on clean air. And if the policymakers are breathing more easily, so can we all.●

NUCLEAR TEST BAN VERIFICATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. DORNAN of California. Mr. Speaker, an article that appeared recently by columnist Jack Anderson is cause for grave concern. Mr. Anderson contends that secret documents and intelligence sources disclose that the United States does not have the capability to verify Soviet compliance with a nuclear test ban. As a result, the President had no choice but to cancel the talks with the Soviet Union and the British on a comprehensive nuclear testing ban in 1980.

I would like at this time to submit Mr. Anderson's disturbing article for the Record.

The article follows:

[From the Washington Post, Aug. 10, 1982]

U.S. Can't Tell if Russia Cheats on Test Ban

(By Jack Anderson)

President Reagan decided at a July 19 National Security Council meeting that he didn't want to resume talks with the Soviet Union and the British on a comprehensive nuclear testing ban. The talks were suspended in 1980.

Secret documents and intelligence sources disclose the appalling reason for the president's decision: U.S. experts do not at present have adequate means to catch the Soviets in violations of a test ban.

Eight years ago the United States and Soviet Union agreed to limit underground nuclear tests—the only kind permitted—to 150 kilotons, or roughly 10 times the size of the Hiroshima bomb. The Threshold Test Ban Treaty was never ratified by the United States, but the 150-kiloton limit was observed by both powers.

Then, in 1978, U.S. scientists, unsure of their measurement system, secretly changed their methods of calibrating a kiloton, in effect doubling the size of permitted test explosions.

When the Soviets subsequently doubled the size of their blasts, intelligence experts were alarmed; they suspected a leak to the Kremlin at the highest levels.

Even with the new measuring method, the Soviets appear to have exceeded the 150-kiloton limit at least 11 times since 1978. One test—in September, 1980—was clocked at a likely size of 350 kilotons, according to my sources.

As recently as July 4, the Soviets set off a huge nuclear blast. It was estimated at a likely 260 kilotons, or at least 110 over the limit.

Reagan asked for the precise measurement of the Soviet explosion, so that he could lodge a vehement protest with the Kremlin. It was then that he learned such precision was impossible. A secret, highly technical Pentagon briefing disclosed that, in fact, the United States would not verify Soviet compliance with a test ban.

There was another, perhaps even more persuasive reason the president decided against a test ban treaty: U.S. scientists want to be able to test our nuclear weapons to make sure the stockpile is up to snuff.

A highly sensitive White House report shown to my associate Dale Van Atta states that the people in charge of U.S. nuclear weapons laboratories "insist that they must test up to approximately five kilotons in order to be able to verify performance of the weapons for stockpiling certification."

The report explains: "In the continued non-nuclear testing of weapons components, it turns out with some regularity that individual components fail or degrade. Even acceptable components may become unavailable as manufacturers shift product lines or go out of business."

This means that new components of different materials have to be used, and the resulting weapons may not work. As the report states:

"Developing weapons remains to a considerable extent an art rather than a science. Weapons designs which seem appropriate, based on computer models, fail to work as predicted when actually tested." In short, a test-ban treaty would leave the United States doubly in the dark—about the reliability of our own nuclear weapons and about any violations by the Soviet Union.●

JOHNNIE LEE WILLS CELEBRATES ANNIVERSARY

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. JONES of Oklahoma. Mr. Speaker, Johnnie Lee Wills, a legend in the field of country music and one of the creators of the western swing music turned 70 this past Thursday, September 2. He and the music he loves are still going strong in his 49th year in our beautiful city of Tulsa, and he has become as much an institution in our community as he is the pantheon of country music heroes.

It all began many, many years ago with the "Light Crust Doughboys," a group of men in love with music and especially taken with a certain sound. That special sound, and many of those men, soon evolved into "Bob Wills and the Texas Playboys"—the greatest western swing band in the world.

In 1934, the Texas Playboys and their mainstay, Johnnie Lee Wills, moved to Tulsa to begin broadcasts on radio station KVOO from the Cain's Academy in downtown Tulsa. For 10 years, the Playboys were on the radio for 5 nights every week! Their music was, and is, loved by the people of Oklahoma and by many throughout the Nation.

Later, Johnnie Lee Wills spun off into his own group and recorded two classic hits: "Rag Mop" and "Peter Cottontail." In fact, "Rag Mop" remains the biggest country hit ever put out by Bullet Records

Johnnie Lee Wills still performs from time to time, and is now a very successful businessman in Tulsa. We are proud of him, and we are very honored to have him still sharing his wonderful music with us. As one publication noted: "Tulsa was Johnnie Lee Wills' town * * * and Cain's Academy was where the dancing action took place in Tulsa."

We are still Johnnie Lee Wills' town.●

CHINESE TENNIS STAR DESERVES ASYLUM IN UNITED STATES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. DERWINSKI. Mr. Speaker, an issue that has sports as well as political overtones is the case of Hu Na, the 19-year-old Chinese tennis star, who wishes to obtain asylum in the United States. Her story was carried in an editorial commentary which appeared in the August 17 Southtown Economist, serving suburban Chicago.

The editorial calls for the granting of political asylum, a point to which I completely concur. It should be noted that there is a growing number of defections from mainland China which is quiet testimony to the lack of utopia under that Communist government. The editorial follows:

CHINESE TENNIS STAR DESERVES ASYLUM IN U.S.

One of the prices communist governments pay for oppressing their citizenry is the embarrassment caused whenever some of them defect to free countries. The price is double high when the defector is an especially talented or prominent person enjoying the best that life has to offer in your standard workers' paradise.

Now that the People's Republic of China is beginning to permit carefully selected citizens to travel to Western Europe or the United States, it is beginning to suffer the defections that have long plagued the Soviet Union.

A case in point is Hu Na, the 19-year-old Chinese tennis star who disappeared recently from a hotel in Santa Clara, Calif., where she had been staying for an international tennis tournament. A week later, she turned up in San Francisco and asked for political asylum in the United States.

The State Department has taken her petition under study. Peking has reacted by demanding that she be handed over to Chinese officials for shipment home and, presumably, an appropriate spell of "re-education" in some labor camp.

International Tennis Federation officials, who seem to care less about the moral issues involved than about keeping China on the tennis circuit, are charging that Hu Na may have been "lured" into defecting by some talent-hungry professional sports promoter. Even if this is true, what of it?

Shouldn't young Hu Na, said to be a potential world class player, have the right to be compensated in full for her talent and achievement? No one considered packing Martina Navratilova back to Czechoslovakia when she defected in 1975.

Chinese officials are threatening to curtail cultural and sports exchanges with the United States unless Hu Na is returned. Let them. Hu Na deserves asylum in the United States, and the State Department should grant it forthwith.●

KATE PETRUSKA

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. MOTTL. Mr. Speaker, I would like to call to the attention of my colleagues in the House, the achievements and enduring courage of Kate Petruska of my own hometown city of Parma, Ohio.

Born and raised in England, Kate served 3 years in the British Army during World War II in the Royal Corps of Signals with the Supreme Head of Allied Expeditionary Forces under Gen. Dwight D. Eisenhower.

She met her husband, John, while he was stationed in England and they were married 3 days before D-day, 1944. She became a U.S. citizen in 1950 and worked with PTA and church organizations while her children, David and Janice Kay, were growing up. Her husband became mayor of Parma in 1967 while her son was serving in Vietnam. Kate helped organize the Southwest Military Moms with the local Red Cross during this time. This was a group of mothers whose sons were fighting in Vietnam who were dedicated to helping support their morale in a variety of ways.

In 1976, she accepted the chairmanship of the Women's Health Day Committee in cooperation with the American Cancer Society Cuyahoga Unit and has served as such for 7 years. In this capacity, she organizes educational efforts to teach area women of the necessity of early detection of cancer.

Her daughter, Janice, was stricken with ovarian cancer and died at age 23 in 1978 after completing her second year of law school at Toledo University. Janice asked her mother to continue her efforts in the cause of cancer control.

Kate had a mastectomy of the right breast in 1981 after a biopsy revealed cancer, and she received several months of cobalt treatments. A malignant lymph node was also removed from the right clavicle and she was put on monthly chemotherapy treatments. In 1982, the left breast was removed.

She is presently serving on the board of directors of the American Cancer Society and the board of trustees of Parma Community General Hospital. She is also chairman of the health committee of the senior citizens advisory board. Other organizations to which she belongs are the

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Parma Women's Democratic Club, the Parma Democratic Club, the Parma Area Fine Arts Club, the Parma Junior Woman's League, and the Parma Historical Society.

Kate Petruska is a credit to her community of Parma, Ohio. Her voluntary contributions and years of service in the battle against cancer are to be commended. Her own family tragedy and personal fight against this disease have made her all the more committed to spurring the education and awareness of cancer to others. I am honored to have a woman of this caliber in my district and hometown. We need more outstanding citizens like Kate Petruska.●

A TRIBUTE TO SHANNON HUMPHREY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to inform Members of this body of the heroic actions of an Independence, Mo., high school senior, Shannon Humphrey.

Shannon Humphrey was on her way to the store when she saw a riding lawnmower overturn, pinning the rider underneath. With no thought for her own safety, she reacted immediately by pulling the man from underneath the lawn mower, just seconds before the mower exploded.

For her heroic actions, Miss Humphrey received several awards. She became only the second Missourian to ever receive the Kiwanis International Robert P. Connally Award. She received the key to the city, and Independence Mayor Barbara Potts even proclaimed a Shannon Humphrey Day in her honor. I join those who applaud Shannon Humphrey for her bravery and selfless actions and I want her to know how proud we are to have her as a Missourian.●

THE TAX BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, August 25, 1982, into the CONGRESSIONAL RECORD:

THE TAX BILL

In his most politically surprising move to date, President Reagan has called on Congress to increase taxes.

The President's bill raises $99 billion in revenue in a host of ways, largely by increasing taxpayers' compliance with the law ($32 billion), raising excise taxes on tobacco, telephone use, and air travel ($19 billion), and scaling back major tax breaks recently created for big business ($48 billion). These provisions soften the impact of last year's massive tax cut and help moderate the excesses of that cut, which heavily favored large corporations and rich individuals. The bill also includes cuts in spending totaling more than $15 billion in welfare, medicare, medicaid, and other programs, and it provides an additional six to ten weeks of compensation for jobless workers whose benefits have run out.

This bill represents a very important turning point for the President in at least two senses. Mr. James Baker, a chief White House advisor, acknowledges that the President's economic program has not worked. The President in shifting away from the "supply-side" theory he advocated for the first 18 months of his term and has begun to drift back toward traditional economic thinking. Also, the President is pushing major legislation without the unified support of his party for the first time. In order to get the bill passed, he has had to reach out to the Democrats in ways he never tried before.

It is not conventional policy to raise taxes in a recession, but these are not conventional times. This bill, in effect, cancels only about one fourth of the 1981 tax cut. Taken together, the 1981 act and this bill leave taxes much lower than they otherwise would have been. The tax increases and spending reductions in the bill must be seen as a package intended to slash deficits by $130 billion over the next three years. Indeed, the main argument for the bill is that it is a constructive and necessary step forward in restricting unfair tax preferences and in dealing with our serious budgetary and economic problems. The added revenues and savings should help reduce deficits and relieve the pressure on interest rates; the new reforms should help make the tax code a little fairer.

Some people argue that a better way to deal with our fiscal problems is to cut spending. This argument, appealing as it is, overlooks the events of the last year. The President and Congress have persistently combed through the budget, looking for places to cut. Both are now having difficulty finding the room to cut any more. The events of the last year make it clear that even with additional and necessary cuts in spending, the sharply increased military expenditures make it impossible for the President and Congress to agree on spending cuts of sufficient magnitude to keep deficits in check—much less bring them down. I am aware that the passage of this bill does not relieve us of the responsibility to cut spending vigorously. Deficits simply cannot be controlled without further reductions in spending.

This tax bill followed a short and quite unconventional route to enactment. It never went through the time-consuming procedures which are part of the legislative process. According to the Constitution, measures raising revenue must originate in the House of Representatives. This bill was fashioned in the Senate, attached to an obscure House-passed revenue bill there, and then passed. The House, refusing to develop its own bill, moved to take the Senate's bill directly to a joint conference. The conferees generally ignored the rules and included provisions that had cleared neither chamber. Then the conferees sent the bill back to each chamber under rules that allowed only a single vote, up or down; votes on separate provisions were barred. I opposed this procedure from beginning to end even though it was supported by the leadership of both political parties. It violated the spirit, if not the letter, of the Constitution and denied House members an opportunity to work their will on specific provisions of the bill.

To enact a tax increase in an election year, the political and economic reasons for it must be compelling. My fear is that mounting deficits will keep interest rates high and will eventually wreck the economic recovery. Also, I am fearful that if present trends continue, the financial structure of the economy will crack. I think that the President is right when he says that the taxes are needed for lower interest rates, stronger economic recovery, and more jobs. His point, however, must not be overstated. No one should suggest that our economic troubles are over because of the bill. Rather, we should only suggest that these troubles will be lessened because of it.

Like any complex bill, this bill contains a number of provisions with which I do not agree. I would have voted against these provisions had I been given the opportunity to vote separately on them. Among the provisions in question are increased contributions for beneficiaries of medicare and medicaid, a "medicare tax" on federal employees, a disproportionate increase in the tax on tobacco, and withholding of tax on interest and dividends. However, because of the restrictive procedures of debate I was not permitted to vote on separate provisions of the bill, but only for or against the entire 723-page measure.

The popular vote, I suspect, was against the tax increase. In a bill with hundreds of provisions, it is always easy and tempting to seize on one, or even several, unpopular provisions to justify a vote against the bill. But as I thought more and more about the bill, I kept coming back to one central point: the massive deficits must come down if we are to make the economy healthy again. I might prefer other ways of getting deficits down (by cutting spending or raising some other taxes, for example), but in the real world those other ways were never really alternatives. The reality of the situation is that if deficits are going to come down, the bill must be enacted. So I voted "yes".●

SAN BERNARDINO COMMUNITY SERVICES DEPARTMENT—A TRACK RECORD OF EXCELLENCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. BROWN of California. Mr. Speaker, in these times of fiscal restraint, creative programing and cost-effective initiatives are more than merely good administration, they are necessary. In the 36th Congressional District, we have an example of innovative programing in the San Bernardino County Community Services Department (CSD) that should be used as a role model for organizations seeking imagination and efficacy in administration.

The Community Services Department of San Bernardino County has been selected for national honors as a recipient of the National Association of Counties' (NACo) prestigious NACo Award for 1982, just recently announced.

CSD's transporation for seniors project and housing opportunities program were selected for 1982 NACo Awards. Furthermore, CSD has been awarded 10 NACo Awards in 5 years—a track record of excellence. It is for this reason that I commend CSD and its outstanding community action board. The members of the CSD Community Action Board are: Paul Treadway, chairman; Wanda Bethel; Camilla Herrera; George Gonzales; Venny Newman; Robbin Hawkins; Arturo Rios; Josephine Knopf; Dolores Kossman; James Hackleman; Dorothy Grant; Eloisa Zermeno; and John Jimenez.

I recommend the following article, which presents a more detailed account of the Community Services Department's achievements, to my colleagues. The article follows:

[From the El Chicano, July 29, 1982]

COMMUNITY SERVICES DEPARTMENT RECEIVES NATIONAL RECOGNITION

The National Association of Counties has announced its prestigious NACo Awards for 1982 and the Community Service Department (CSD) of San Bernardino County has been selected for national honors.

CSD's transportation for Seniors Project and Housing Opportunities Program received 1982 NACo Awards. "CSD has consistently received national recognition for creative programming and cost-effectiveness," stated Rodolfo H. Castro, Executive Director for the Community Service Department.

"The Transportation for Senior Projects provides for the unmet transportation needs of senior citizens, handicapped, and low-income clients in the largest county in the continental United States," states Herman Pena, Transportation Manager, for the award winning program. Sandra Brown, CSD Housing Coordinator, stated that her program provides service, advocacy and emergency housing assistance.

Pat Nickols, CSD Administrative Assistant, stated that Community Service Department has been awarded ten (10) NACo awards in five (5) years and they are: Housing Opportunities Program, Sandra Brown, Housing Coordinator (1982); Transportation for Seniors, Herman Pena, Transportation Manager (1982); Grassroots Women's Program, Sylvia Robles, Project Coordinator (1981); Mobil Home Energy Conservation, Kelly McQueen, Energy Program Manager (1981); Operation Alert, Polly Duncanson, Program Associate (1981); Roadrunner Transit Program, Susan Campos, Assistant Transportation Manager (1981); Ballet Folklorico de San Bernardino, Maria Juarez, Special Program Manager (1981); Access California, Jackie, McIntyre, Capabilities Coordinator (1979); Bon View Art Project (1979) and Energy Conservation Education, Dina Hunter, Program Manager (1978).

"A track record of excellence," stated Paul Treadway, CSD Board Chairman. John Jimenez, CSD Planning and Finance Committee Chairman, stated that the Mobile Home Energy Conservation Project awarded a NACo in 1981 also received the Presidential Energy Efficiency Award.●

TAXATION OF ANNUITIES

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. GRADISON. Mr. Speaker, as I understand it, section 267 of H.R. 4961 materially tightens the taxation of all annuities, both variable and fixed, by providing in general that distributions prior to annuitization are treated as coming first from income rather than principal, loans are treated as distributions, and a penalty tax is imposed on premature distributions. These significant changes would prevent a variable annuity from being a substitute for a mutual fund investment.

However, the scope of an adverse ruling issued last year by IRS regarding variable annuities still has not been defined. In particular, the IRS should reconsider its attitude toward variable annuities and the investment management practices of annuity funds. A variable annuity should be treated as an annuity regardless of whether its investment manager is affiliated with the life insurance company issuing the annuity, whether its investment policy or assets are similar to those of a mutual fund, and whether its investment manager manages a mutual fund. The IRS should resolve these questions promptly in view of the substantial changes in section 267 of H.R. 4961.●

RICHARD P. CHRISTIANSEN

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. ROUSSELOT. Mr. Speaker, the Nation's construction industry as well as his family and friends suffered a severe loss with the sudden and untimely death of Richard P. Christiansen of Arcadia, Calif.

He was respected throughout the field of industrial plant construction. Active in the affairs of the National Constructors Association, he was elected last year as its chairman. When his term ended early this year, he was appointed to head the association's policymaking group, the advisory committee.

Dick Christiansen joined the Jacobs organization in 1956 as a design engineer but his interests extended beyond the drawing board to encompass the complex world of men and machines where huge industrial process and manufacturing plants are constructed to meet the needs of the modern world.

His talents were recognized as he moved up from construction superintendent to construction manager and to vice president of construction for his company. He became president of Jacobs Constructors in 1976. His seniority within the Jacobs organization was second only to that of Joseph Jacobs, its founder and chairman.

He had a deep interest in the welfare of construction workers, carpenters, pipefitters, ironworkers, and all the other mechanics and laborers who came to work on projects of his company. He took a personal interest in developing project agreements with the building trades unions which spelled out jobsite working conditions. One international union, the United Association of Plumbers & Pipefitters, awarded him lifetime honorary membership. The California Central Labor Council chose him for the Council's Man-of-the-Year award, which was to have been presented to him at its forthcoming annual meeting.

Construction is a hazardous occupation and Dick Christiansen was concerned about the safety and health of the industry's workers. He played a role last year in eliminating Federal dual regulations for area projects located on the surface of mine property that are not considered mining activities. The jurisdictional change was from the Mine Safety and Health Administration (MSHA) to the Occupational Safety and Health Administration (OSHA). Since then MSHA has regained jurisdiction but Dick's efforts have built a strong base for our side when the matter is taken up by Congress again this year.

Dick Christiansen was a family man, devoted to his wife, Judith, and their two children. He was interested in his community and active in his church, Trinity Lutheran, in Arcadia.

He was respected in the construction industry as an achiever and as one who made it on his own. He will be missed.●

A TRIBUTE TO ROY WILKINS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. GUARINI. Mr. Speaker, I would like to pay tribute to one of the greatest civil rights leaders in our Nation's history, Mr. Roy Wilkins, who passed away 1 year ago today.

His life was an inspiration to all of us. Grandson of a Mississippi slave and son of a college graduate who was forced to earn a living tending a brick kiln. Roy Wilkins had the strength and determination to climb out of the ghetto and pursue social justice. He began his career as the crusading editor of a black weekly, the Call, in Kansas City, Mo. Within a few years he was asked to join the staff of NAACP. During his tenure of over 40

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years with the organization, he led the drive to enact antilynching laws, set the legal process in motion in Brown against Board of Education, organized the historic 1963 march on Washington, and helped President Johnson develop the Civil Rights Act of 1964. On the occasion of his retirement he promised "As long as there is breath in my body, I shall be with you in this fight." The very spirit of his commitment is still with us today.

To truly honor his memory we must complete his work. To truly walk in his footsteps we must be unselfish, patient, and committed to nonviolence. Picking up his banner may not be easy but if we could follow in his footsteps we would accomplish much to be proud of. There is still work to be done. The present administration has not been moving toward the goal of equality for all. The memory of Roy Wilkins should be an encouragement for all of us to continue the fight and bring about lasting change in America.●

H.R. 5250—COPYRIGHT LAW PERTAINING TO HOME TELEVISION

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. FOLEY. Mr. Speaker, last December, I introduced H.R. 5250, a bill which would exempt from copyright law the recording of television programs in the privacy of the home so long as the recording is not made either directly or indirectly for commercial advantage. This measure would protect consumers from the potential burden of a royalty tax on the purchase of video recorders and blank recording tapes.

Throughout the country strong support has been building for a copyright exemption on the home use of video recorders, and numerous editorials have appeared in the past year which underscore the importance of this issue to the public. Among those editorials which have come to my attention are those from the following newspapers and magazines:

1. Huntsville, Ala., Times.
2. Huntsville, Ala., News.
3. Florence, Ala., Times.
4. Alexander City, Ala., Outlook.
5. Talladega, Ala., Home.
6. Tucson, Ariz., Star.
7. Arizona Business Gazette, Phoenix, Ariz.
8. Eldorado, Ark., News-Times.
9. Magnolia, Ark., Banner-News.
10. Los Angeles, Calif., Daily Journal.
11. Pomona, Calif., Progress-Bulletin.
12. San Diego, Calif., Union.
13. Victorville, Calif., Daily Press.
14. Richmond, Calif., Independent & Gazette.
15. Indio, Calif., News.
16. Martinez, Calif., News-Gazette.
17. Los Angeles, Calif., Northeast Star-Review.
18. Fresno, Calif., Bee.
19. Los Angeles, Calif., Lincoln Heights Bulletin.
20. San Jose, Calif., News.
21. Turlock, Calif., Journal.
22. Ontario-Upland, Calif., Report.
23. Santa Ana, Calif., Register.
24. Clearwater, Fla., Sun.
25. Lake Wales, Fla., Highlander.
26. Vero, Beach, Fla., Press-Journal.
27. West Palm Beach, Fla., Times.
28. West Palm Beach, Fla., Post.
29. Rome, Ga., News-Tribune.
30. South Idaho Press, Burley, Idaho.
31. Caldwell, Idaho, Press-Tribune.
32. Boise, Idaho, Statesman.
33. Pocatello, Idaho, State Journal.
34. Chicago, Ill., Sun-Times.
35. Granite City, Ill., Press-Record.
36. Joliet, Ill., Herald-News.
37. Dixon, Ill., Telegraph.
38. Chicago, Ill., Calumet.
39. Ottawa, Ill., Times.
40. Southtown Economist, Chicago, Ill.
41. Mattoon, Ill., Journal-Gazette.
42. Oskaloosa, Iowa, Herald.
43. Lebanon, Ind., Reporter.
44. Evansville, Ind., Courier.
45. Wichita, Kans., Eagle-Beacon.
46. Atchison, Kansas, Globe.
47. Wellington, Kans., News.
48. Reflector-Chronicle, Abilene, Kans.
49. Colby, Kans., Free Press.
50. Maysville, Ky., Ledger-Independent.
51. Frankfort, Ky., State Journal.
52. Fulton, Ky., Leader.
53. Hammond, La., Daily Star.
54. Waterville, Maine, Sentinel.
55. Sun Chronicle, Attleboro, Mass.
56. Herald American, Boston, Mass.
57. Detroit, Mich., Free Press
58. Monroe, Mich., News.
59. Oakland Press, Pontiac, Mich.
60. Detroit, Mich., News.
61. Cadillac, Mich., News.
62. Republican Eagle, Red Wing, Minn.
63. Sandstone, Minn., Courier.
64. The Sun, Biloxi-Gulfport, Miss.
65. Boliver Commercial, Cleveland, Miss.
66. Capital News, Jefferson City, Mo.
67. York, Nebr., News-Times.
68. Shrewsbury, N.J., Register.
69. News Tribune, Woodbridge, N.J.
70. Las Vegas, N. Mex., Optic.
71. Popular Electronics, New York, N.Y.
72. Consumer Electronics, New York, N.Y.
73. The New York Times.
74. News World, New York, N.Y.
75. Utica, N.Y., Press.
76. Poughkeepsie, N.Y., Journal.
77. The Wall Street Journal.
78. Hornell, N.Y., Tribune.
79. Kinston, N.C., Free Press.
80. Jacksonville, N.C., News.
81. Burlington, N.C., Times News.
82. Columbus, Ohio, Dispatch.
83. Wapakoneta, Ohio, News.
84. Dayton, Ohio, Journal Herald.
85. Athens, Ohio, Messenger.
86. Willoughby, Ohio, News-Herald.
87. Oklahoman, Oklahoma City, Okla.
88. Corry, Pa., Journal.
89. Pottstown, Pa., Mercury.
90. Ridgway, Pa., Record.
91. Kane, Pa., Republican.
92. The State, Columbia, S.C.
93. Austin, Tex., Citizen.
94. Athens, Tex., Review.
95. Bryan, Tex., Eagle.
96. Kilgore, Tex., News-Herald.
97. Marshall, Tex., News Messenger.
98. Salt Lake City, Utah Deseret News.
99. Manassas, Va., Journal Messenger.
100. Harrisonburg, Va., News-Record.
101. Spokane, Wash., Spokesman-Review.
102. Bluefield, W. Va., Telegraph.
103. Morgantown, W. Va., Dominion-Post.

Mr. Speaker, I wish to submit for the RECORD a few of these editorials, including an editorial from one of my hometown papers, the Spokesman-Review. In the coming days and weeks, I will be introducing other editorials into the RECORD for the benefit of Members and Staff.

[From the Spokesman-Review (Spokane, Wash.) July 30, 1982]

IS TAPING AT HOME ILLEGAL?

The Supreme Court has agreed to rule on a case involving the legality or illegality of home video-taping. An estimated five million Americans have video-taping equipment, and the outcome of the case could have far-reaching ramifications.

The Ninth Circuit Court of Appeals in San Francisco ruled last October that videocassette taping of copyrighted television programs violates copyright law, even when done at home for non-commercial use. On one side of this confrontation are the producers of taping equipment, and on the other side are the producers of movies and other television shows. If the lower court ruling is upheld, the effect of the decision could spread to audio tape-recorders, and ultimately to ordinary copying machines that most offices have.

Sony Corp. is one of the major defendants. It is a major producer of taping equipment. Also included as defendants are distributors such as Sears, Roebuck and Company. The movie companies would like the video-cassette manufacturers to be ordered to pay a copyright royalty for each machine or tape they sell or distribute.

This raises some interesting questions. Makers of video-tape machines have done nothing illegal. They are not taping the copyrighted shows. And yet they are being asked to pay the costs of copyright infringement by someone else who might decide to use their products in an illegal way.

This is a whole new concept. A manufacturer could be liable if one of his products is used illegally. General Motors could be liable for overtime parking tickets given to GM cars. Haig and Haig could be liable if someone is convicted for driving while under the influence (assuming he had been drinking Haig and Haig). Eastman Kodak would be liable if photographs were illegally taken in court.

Obviously, the reason for picking on the manufacturer is because of the difficulty of going after the real villain, sitting in his living room with his video recorder turned on. There is no question it's much simpler to go after the manufacturer, but that doesn't mean it is justified.

If it is illegal to record your favorite TV program, it is just as illegal to record music from your favorite radio station. Therefore, anyone making old-fashioned audio recorders is equally liable. And for that matter, so is anyone making copying machines that can copy copyrighted publications. As we move into the electronic age, it turns out that nearly everyone is guilty.

This is more a matter for Congress than for our already-clogged courts. What two consenting adults do, or what one consenting adult with a home video-recorder does in the privacy of a home ought not to be illegal or subject to some royalty payment to some Hollywood producer.

[From the Wall Street Journal, Oct. 28, 1981]

TV TAPE AND RED TAPE

When we read the other day of a court ruling which, if upheld, could possibly result in putting Sony Betamax salesmen in jail, we decided that something misfired in the judicial process. How could it be that manufacturers, retailers and users of videotape recorders could be in violation of federal copyright law any more than sellers of photocopiers or audiotape recorders?

The dichotomy is the result of poorly written law, inconsistent court decisions and the legal challenges presented by the rapid advance in technology. Last week's ruling by the Ninth U.S. Circuit Court of Appeals in California, which declared that home use of videotape recorders violates the copyrights on movies and television programs, shows that Congress and the courts have yet to come to grips fully with the conflict between the use of modern technology and established copyright monopolies.

The quintessential law of copyright and patents—is contained in the Constitution: "To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right of their respective writings and discoveries." The Supreme Court has said, "The economic philisophy behind the clause . . . is the conviction that encouragement of individual effort by personal gain is the best way to advance public welfare."

The intent of the law is to help advance the public good and not to safeguard self-aggrandizement. To this end, however, the law recognizes that some amount of economic monopoly must be afforded to writers, artists and scientists if the public good is to be well served. Who would devote so much time, energy and money to art and science if the fruits of these labors could be freely exploited by someone else for personal gain?

The copyright laws written by Congress have often been ill-suited to achieve these joint goals. As a result, the courts have created a doctrine of "fair use," which basically permits a limited infringement on "exclusive rights" to copyrighted material for private, non-commercial use. From 1955 to 1976, Congress worked on new copyright legislation in the hopes of clarifying some of these conflicts between the copyright holder's rights and the rights of the public to use the material. The unsatisfactory results of Congress's work is a copyright law that is even more confusing than before and that still fails to keep up with the advances of technology. For instance, a special exemption is given for the recording of sound broadcasts and recorded material at home by audio-tape recorders. But Congress did not even mention videotape recorders in the legislation.

The Sony case will probably end up in the Supreme Court. We would hope the judges would ignore much of the legalese that now engulfs copyright law and reflect instead on the intent embodied in the Constitution. The development of videotape recorders certainly contributed to the public welfare. It is doubtful that their use by millions of Americans at home will somehow adversely affect the development of science and the arts.

[From the San Jose News, Apr. 5, 1982]

DON'T TAX THE BETAMAX

Rep. Don Edwards, D-San Jose, thinks filmmakers and songwriters are getting a raw deal. Unfortunately, the consumer is going to get burned by the little scheme he's cooked up.

The issue is recordings and royalties. Edwards believes that the proliferation of videotape recorders, cassette tape players and other home electronic gear infringes on artists' copyrights. So he's introduced a bill, H.R. 5705, to make sure these artists get their fair share of the revenues.

But will it? Edwards obviously is responding to last October's U.S. Court of Appeals ruling that said private, home use of videotape (VTR) recorders constitutes a copyright violation. The so-called "Betamax Case" (named after Sony's popular videotape recorder) is on appeal at the U.S. Supreme Court.

The congressman, recognizing the broad—not to mention bizarre—legal implications of outlawing in-home VTR use, wants to exempt this practice from copyright laws. This is fine, and Edwards should have stopped here. Yet H.R. 5705 goes on to empower the little-known federal Copyright Royalty Tribunal to impose a special tax on the machines and blank videotapes. The tax would be reviewed and revised every five years.

That's one helluva way to grant a copyright exemption.

There are two major flaws in this approach. First, there's the knotty procedural problems of how to set the fee and how to divide royalty revenue equitably. Edwards apparently thinks that the government can reliably predict the number of VTRs that will be used to tape particular broadcasts.

Second, and more fundamentally, H.R. 5705 embodies the misguided notion that television and motion picture producers must be compensated a second time for their work.

When used for personal non-commercial purposes, VTRs merely save programs that already have been purchased by cable or network television. Rep. Stan Parris, R-Va., and Sen. Dennis DeConcini, D-Ariz., who have authored competing VTR legislation, correctly liken such recording to the more widespread practice of taping record albums and radio shows.

Congress granted approval to this type of in-home taping when it specifically exempted personal non-commercial audio recordings from copyright laws back in 1976. Logically, Parris and DeConcini have now introduced H.R. 4808 and S. 1758 to extend this exemption to the relatively new videotape market.

Unfortunately, Edwards hasn't gotten the message. He not only wants to grant a sweeping royalty windfall to TV and motion-picture producers, but is proposing repeal of the audio rule by slapping new taxes on tape recorders and blank tapes, too.

With predictable backing from the film, TV and recording industries, Edwards has attracted 45 co-sponsors for his bill. But the Parris and DeConcini measures, which have won broader support, are cleaner and more realistic approaches. With nearly 4 million VTRs in use today, home video recording falls under the "fair use" doctrine—that is, a common practice falling outside royalty and copyright laws. Congress should leave it at that.

Unless specific damages can be proved and until an equitable compensation mechanism comes along—we're not holding our breath on either count—Edwards and his supporters ought to forget about H.R. 5705.

[From the Sun-Times (Chicago, Ill.), June 17, 1982]

DON'T PRE-EMPT BETAMAX VERDICT

Since 1976, Universal City Studios and Sony have been arguing whether a moviemaker's rights are violated because Sony sells equipment that lets viewers tape TV programs off the air and watch them later.

The question isn't direct damages: Universal and the rest of the motion picture industry have never been able to show how they have suffered specific financial loss. Rather, they seem to be trying to cash in on a huge new sector of the entertainment market.

In the six years since the suit started, the annual value of video recorders shipped from Sony's and other companies' factories has gone from about $34 million to more than $1.6 billion. Some 3.5 million U.S. homes already have the machines, and sales this year are expected to exceed 1.5 million units.

Universal lost in U.S. District Court and won in the Court of Appeals, which said Sony could be liable for damages, or sales of recorders could be forbidden. Now the Supreme Court has agreed to hear the case, and a decision should come in about a year.

Meanwhile, the Motion Picture Association of America wants Congress to tax both video and audio machines, plus their tapes—even if they aren't used for off-the-air recording, and even though broadcasters have already paid for the right to distribute programs. Proceeds would be split among copyright-holders.

We see little merit in the royalty plan, and even less in Hollywood's push for Congress to short-circuit the court. Let it speak.

[From the West Palm Beach (Fla.) Post, Nov. 4, 1981]

HOME TAPING

A federal appeals court in San Francisco was unlucky enough to hear a civil suit involving the new electronic technology and consequently rendered an opinion which raised more questions than it answered.

The court held that manufacturers of home video recorders and people who sell them are liable for damages if people use the equipment to violate the copyright laws.

The issue was a claim by Universal Studios and Walt Disney Productions that their copyrighted television shows were infringed upon by Sony, by stores which retailed Sony's Betamax video recorders and by a man who bought a Betamax and taped shows off network television.

Copyright laws should be diligently enforced, of course, but we wonder if it makes sense to hold liable the makers of devices which anyone may use illegally. What about the makers of office copying machines, for example, if those machines are used to reproduce copyrighted book pages? Or, reducing the point to absurdity, are the makers of typewriters and pencils to be held liable for the misuse of their products?

The real concern, it seems here, should be with the person misusing the equipment, and the question then becomes whether the maker of television shows is entitled to a royalty for the taping and replaying of his product. If he is, then someone must face the obvious problem of monitoring the usage and collecting the fee.

It has been suggested that a practical approach to that problem would be a flat roy-

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alty imposed upon the manufacturer or retailer, which of course would be passed on to the buyer.

We wonder, however, if the producers of TV shows are entitled to even that much compensation. Copyright laws are supposed to protect artistic creators from the commercial or public exploitation of their product.

The ordinary user of a home video recorder has no commercial purpose in mind. He saves a program for his and his family's occasional perusal, and it's hard to see why he should be charged a royalty for the private, noncommercial usage of a program that has been offered for public view.

[From the Herald American (Boston, Mass.), Nov. 1, 1981]

Is "Fair Use" Unfair?

Two years ago, a federal district judge in Los Angeles ruled that taping television shows on home videotape recorders is not an infringement of copyright laws. Recently, the 9th Circuit Court of Appeals ruled just the opposite.

Taping of televised movies and other programs is indeed unlawful, say the appellate judges. Moreover, they ruled that the manufacturers of videotape recorders are responsible for the infringement and should pay royalties to the owners of material recorded on the equipment they sell.

We think the district judge was right in the first place. Taping television shows for personal use is not substantially different from taping music from a radio. Congress and the courts have established in the past that audio recording in the home is a "fair use" of material otherwise protected by copyright.

The test, of course, is whether the tapes are used strictly for personal entertainment. If they were sold or exhibited in any commercial way it would be a clear infringement of copyright—but by the person using the tapes, not by the manufacturers of the equipment.

Old concepts of copyright protection are going to have to yield to advancing technology Video recorders are posing the same challenge to the entertainment industry that photocopiers have posed to the publishing industry. Policing the non-commercial reproduction of broadcast or published material under copyright is well nigh impossible, and an attempt to enforce copyright laws at that level would be at best a nuisance and at worst an infringement on personal freedom.

The videotape case, pitting producers of movies and television shows against equipment manufacturers, has been in the courts since 1976, and we probably have not heard the last of it. The manufacturers are expected to take the issue to the U.S. Supreme Court, where we can hope the "fair use" doctrine will be given broader interpretation than it received in the Court Appeals.

[From the Detroit (Mich.) News, Nov. 4, 1981]

Home Video Recorders

Life was once relatively simple for television producers. They hired actors, writers, and directors. They recruited sponsors and aired their shows.

Then along came syndication and endless reruns, and now video cassettes and home recording equipment. First the actors went on strike, claiming a piece of the new action. Then the writers did the same. After all, why settle for a flat payment when your work is going to be an ongoing source of revenue for the producer.

The studios vented their frustration in the only direction open to them—toward the perpetrators of this technological bonanza. They sued the manufacturers of home video equipment used to tape copyrighted television programs.

Univeral City Studios and Walt Disney Productions charged the use of a home video set to record a television show is an infringement of copyright, and as such should be prohibited.

Incredibly, the 9th U.S. Circuit Court of Appeals agreed with them.

Those liable, said the court, are the manufacturer of the equipment, the distributor, the store that sells the equipment, and, yes, the consumer who tapes a favorite show for later viewing.

However, the court said it has no desire to put all those manufacturers, distributors, and appliance stores out of business. A better solution, said the court, would be for the producers and all of the above to make a deal in which the producers receive royalties for the sale of equipment designed to tape their shows.

The court based its ruling on a strict and technically accurate interpretation of existing copyright law. But is it a feasible plan? Can it be enforced? And is it really in the best interest of the entertainment industry?

If this use of home video recorders can be banned, what about tape recorders used to tape music from the radio? Will all recording devices be banned, or will consumers have to register their equipment with police and swear they won't use it to break the law?

Existing laws already effectively prohibit reproduction of broadcast materials for commercial purposes. It seems to us that home use is a very different thing. This is one case in which a court should be asked to enforce its own impractical ruling.●

BRIGANTINE "CENTURION" TO BE CHARTER VESSEL

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. McDADE. Mr. Speaker, today I have introduced a bill to authorize documentation of the vessel *Centurion* as a vessel of the United States, so that she may engage in coastal trade as a charter vessel. The *Centurion* is a 53-foot brigantine, built at New Smyrna Beach, Fla. Its construction was commissioned in 1937 to be, as close as possible, a replica of an 1812 American gunboat. The vessel was not completed by its builder, Thomas Langan, until 1946.

Subsequently it was sold to David Stern—then to Mr. J. H. Winfield of Canada who, in the next year, sailed it to the Caribbean. Although believed lost in a hurricane, the 74-year-old Canadian sailor successfully brought this vessel to Bermuda. Sold again in the next year to Murtaugh Guiness for local charter, it was sailed to Alexandria, Egypt—over 6,500 miles—by Mr. Richard de Graff-Hunter of Britain. For a time it was berthed in Beruit until its sale to Horace W. Fuller, an American citizen, who chartered the vessel around the Greek coast. It was then sold to another British citizen, John H. Millar. Mr. Millar then loaned the brigantine to the Royal Yacht Squadron, where she was used to train cadets for the 1976 tall ships worldwide exposition.

She was next sold, then donated, to the Chesapeake Maritime Museum in St. Michael's, Md. Mr. Joseph B. Simoncelli of Scranton, Pa., purchased this fine vessel from the museum and has spent over $70,000 refitting it in Cambridge, Md., and Newport, R.I. Mr. Simoncelli intends to employ a crew of three to charter the brigantine in coastal trade.

Adoption of this bill will result in no cost to the Federal Government, nor would it increase or affect Federal regulations in any way.●

PASTERNAK FAMILY HONORED

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. CLAY. Mr. Speaker, recently, the B'nai B'rith Foundation announced that the Pasternak family of St. Louis will be presented the B'nai B'rith Guardian of the Menorah Award for distinguished communal service. I am honored to take this opportunity to extend my deepest congratulations to the Pasternaks on this momentous occasion.

"Helping people has held us together," Samuel Pasternak once said in explanation of his family's devotion to each other and to the St. Louis Jewish community.

The Pasternak family—brothers Samuel and Joseph, and sisters Helen and Sylvia—have contributed a combined 300 years of service to their local Jewish community.

All four Pasternaks have engaged in an unusual range of philanthropy and communal service, giving generously of their time, energies, and resources. They are active in the St. Louis Jewish Community Centers Association, and endowed the Ida Pasternak Auditorium in memory of their mother. They sponsor the Faye Pasternak Margolies family life education program and the Harry and Faye Pasternak Margolies institute of family living—programs offered through the JCCA that present courses aimed at strengthening Jewish life and clarifying parental roles.

They have established the Sam Pasternak Foundation, which supports a number of worthy projects, including a camp scholarship program for underprivileged youth, music scholarships, a concert series and special transportation for the elderly that provides buses and cabs for those who might otherwise be homebound.

The Pasternaks also work on behalf of the young—they helped establish the Susan Jacobs Day Care Building; and the elderly—the Pasternaks were instrumental in securing the current physical facility of the Jewish Center for the Aged, and in founding its Special Gift Committee. In addition, they serve Parkview Towers, a facility for senior adults.

Their philanthropy has aided such diverse concerns as cancer research, educational programs of the Jewish Hospital, a symphony orchestra and the Shaare Emeth Temple in St. Louis.

The four will be publicly recognized for their contributions to St. Louis Jewry when B'nai B'rith International, the world's largest and oldest Jewish service organization, bestows upon them the Guardian of the Menorah Award for Distinguished Communal Service, on November 7, 1982, at a dinner in their honor at the Breckenridge Inn, Frontenac, Mo.●

REPEAL WITHHOLDING

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. HAGEDORN. Mr. Speaker, I am today introducing legislation to repeal the withholding of taxes on interest and dividends.

I have consistently opposed withholding taxes and I want to provide this House with the opportunity to vote separately on this issue. Two years ago this House overwhelmingly defeated withholding and the vote on the separate rule was close enough to warrant time for a debate on this singular provision.

I urge you to cosponsor this bill and join those of us who will not settle for a hastily drafted bill in which we had no voice. Listed below are just some of the reasons for opposing withholding:

A July 1981 IRS study documented that when the IRS has information reporting (as it does from 1099 forms for all bank accounts and dividend earnings) there is a taxpayer compliance rate of 96.7 percent. What we really need is greater information reporting on all sources of income that are currently exempt from the 1099 reporting process.

According to a nationwide survey by Behaviorial Research Corp., 70 percent of the American people oppose withholding and 50 percent say withholding will discourage them from making investments. When we compare the U.S. savings rate of 5.6 percent of income with other nation's such as West Germany's 14 percent and Japan's 24 percent, I believe we all agree it is ludicrous to discourage savings even further.

This provision will cost the law-abiding public $1 billion to implement and $1 billion annually to administer. This figure comes very close to the revenue it is expected to raise. What will the Government receive after banks and other institutions write off the high cost of compliance as a very real legitimate business expense?

In 1979, 77 percent of all tax returns filed were due a refund from the Treasury. Obviously, the additional withholding requirement will result in even greater overpayments. Treasury expects to raise $4.3 billion from withholding in fiscal year 1983. Only about $1.3 billion of that comes from increased compliance. The other $3 billion is, in reality, an interest-free loan from the American people to Uncle Sam.

To avoid overwithholding, this provision will force most of the 60 million dividend and interest recipients to file exemption certificates (an average of five or more per taxpayer) or to change their wage withholding or estimated payments. Over 90 percent of taxpayers 65 and over have income from interest or dividends and nearly all would qualify from exemptions. This is less Government regulation?

I believe these reasons barely scratch the surface. Above all, I believe we deserve the opportunity to vote on this issue. That is the least we can do for the 70 percent of the American public who do not support this proposal. I urge your consideration and cosponsorship.●

ENVIRONMENTAL SUCCESSES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 8, 1982, into the CONGRESSIONAL RECORD.

ENVIRONMENTAL SUCCESSES

One of my biggest surprises in Congress this year has been the strength of environmental issues. As the year began, I thought that a combination of deregulation and changes in legislation would weaken substantially the effort to clean up and protect our air, water, and land. I thought that Congress would reverse the progress the nation had made toward cleaner air, purer water, and the conservation of wilderness during the 1970's. I now think the fight for a better environment will be a closer match than I had expected.

A few weeks ago, the environmentalists scored a series of impressive victories in Congress, victories which indicated that the environmental movement is by no means prepared to stand silently by and watch its accomplishments dismantled:

Cuts in environmental programs proposed by the President have met defeat in many committees of the House of Representatives and the Senate, and his proposals for less monitoring of the environment have been delayed, watered down, withdrawn, and rejected.

Both the House and the Senate are moving to require the spending of more funds for scientific research to identify the chemicals which endanger human health, to determine when concentrations of pollutants are hazardous, and to meet other needs.

The House voted by a far wider margin than anticipated, 340 to 58, to prohibit exploration for oil and natural gas in protected areas.

The House also voted overwhelmingly, 352 to 56, to extend federal legislation on pesticides for another two years, after defeating several weakening amendments, one of which would have kept states from enacting stricter standards.

During its consideration of bills extending the Clean Air Act, a House committee turned down an amendment on airborne pollutants which would have weakened the legislation significantly.

Despite objections from the administration, a Senate committee resoundingly approved its own version of the Clean Air Act, with provisions which really amount to mere "fine-tuning".

These developments in Congress are not the only ones which have changed the outlook for environmental protection. Decisions to be made in Congress in the next few weeks could likewise boost the environmental movement. For example, two environmentally controversial projects, the Tennessee-Tombigbee Waterway and the Clinch River Breeder Reactor, are in jeopardy despite repeated approval by Congress.

As I reflect on the sudden display of pro-environmental feeling in Congress, it occurs to me that I really should not have been surprised by it. Nothing out of the ordinary has really happened. Congressmen and Senators who have visited their constituencies recently realize that people from all parts of the political spectrum are worried about pollution of the air and water and are fearful that our remaining wilderness is not being managed properly. These people are willing to incur some additional cost and put up with a reasonable amount of government regulation to ensure that the environment is protected.

Politicians are paying attention to what their constituents are saying, not to what the experts are claiming about the lack of interest in environmental issues. The polls say that the pro-environmental vote could figure prominently in the upcoming election. In March of this year, a survey showed that 13% of all voters felt so strongly about environmental issues that a politician's stand on such issues could determine their vote. A survey released just a short time ago showed that 85% of all voters supported strict enforcement of laws on clean air and water; a mere 10% of the voters did not favor such enforcement.

As I see it, there are two principal factors which serve to explain the surge of support for environmental issues in Congress and the depth of pro-environmental sentiment among the people:

One factor is the perception that the Reagan Administration is unsympathetic toward the environment, especially as environmental policies are presented by the Secretary of the Interior, James Watt, and by the Administrator of the Environmental Protection Agency, Anne Gorsuch. The pro-

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environmental consensus runs strong, deep, and wide in this country. It cuts across ideological, regional, and partisan lines. It is hardly surprising that Congress and the people have reacted vigorously, rallying to the defense of the environment in many areas. Many persons have simply misjudged the public's attitude on the environment: most Americans want clean air, pure water, and unspoiled wilderness, and they are unwilling to sacrifice them, even if protection costs a little more. They have never been persuaded—and it is not likely they could be convinced—that we cannot have both a clean environment and a growing economy. The public sees stewardship of air, water, and wilderness as an integral part of prosperity.

A second factor is positive change in the environmental movement itself. Environmental groups have always been well organized, but lately they have become sophisticated, effective players in the political arena. Armed with computerized data banks and other innovations available to the modern lobbyist, the environmentalists are now better able to compete head-to-head with older, more experienced groups in drafting legislation, rounding up votes, and forging coalitions. The environmental groups do not possess as much money as the lobbyists they often oppose, but as they continue to grow in experience they are wielding greater clout with members of Congress. Moreover, these groups have learned how to work at the grass roots and how to join forces—with hunters and fishermen, with state governments, and with proenvironmental businesses, unions, civic groups, and professional organizations—to reach mutually desired goals.●

H.R. 6957—STATE, JUSTICE, COMMERCE APPROPRIATIONS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SANTINI. Mr. Speaker, as chairman of the House Travel and Tourism Caucus, I want to express my concern over the level of funding provided for the U.S. Travel and Tourism Administration in H.R. 6957.

The recommended $5 million will not even allow the USTTA to meet its mandate established by the National Tourism Policy Act just last year. That act made it national policy to work to bring more foreign tourists to the United States, thus increasing employment opportunities for Americans.

In examining which programs should be pruned during austere times, it behooves Members of Congress to look closely at costs and benefits. Attracting foreign visitors to the United States is a cost-effective enterprise for the Federal Government to undertake. For every dollar spent, studies have shown a return of more than $18 in revenue. Few other Government programs could show such a return on investment.

It is particularly surprising that the USTTA budget would be cut at a time of high unemployment. For a very small investment, growth in jobs can be great. If this Congress would, among other things provide the funding necessary for funding a complete marketing program in USTTA, perhaps we would not be forced to consider the need to expand unemployment benefits an extra 13 weeks.

As we continue in the budget process, I will be seeking support for additional funds for this administration. I am confident that additional funds will be authorized, and I hope that the members of the committee will agree to fund this essential program up to the authorized level.●

TRIBUTE TO THE CITY OF IRWINDALE, CALIF.

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. ROUSSELOT. Mr. Speaker, I would like to take a moment to pay tribute to the city of Irwindale, Calif., which will be celebrating its silver anniversity and the 173d year of independence of Mexico during the second weekend of September 1982. Many events are planned, ranging from an antique car parade to a traditional Mexican fiesta of mouth-watering tamales and music by a mariachi band. A costume contest will kick off the Saturday night activities, which will include dinner, dancing, and the crowning of the fiesta queen. The proud community of Irwindale has worked hard to make this the greatest fiesta of them all.

The silver anniversary celebrates Irwindale's day of incorporation 25 years ago on August 6, 1957. Irwindale became the 56th city in Los Angeles County. Known as the Jardin de Roca—Garden of Rocks—this community began a colorful history back in the 1850's when it was first settled by the families of Gregorio Fraijo and Fecundo Ayon. The land was a barren waste of rocks, sand, and jackrabbits but the families stayed there, raised their families and built their thriving community. Generation after generation have stayed on the land, and now there are seven generations of native Irwindale residents from some of these families.

Within the city limits flows the San Gabriel River, which for centuries built up large accumulations of rocks round and smooth from movement down the river. At first obstacles, the rocks later became a key asset to the area. When the age of the automobile arrived in southern California, so did the demand for roads and highways which require vast quantities of crushed rock and gravel. Huge rock crushers were built along the river and soon the industry flourished. Today, Irwindale provides Los Angeles County with two-thirds of its road construction material needs.

This is a proud moment for the city of Irwindale which has served its residents and the San Gabriel Valley with great success over the last 25 years. I would like to wish Irwindale the best of luck on its silver anniversay and I am sure Irwindale will continue its outstanding contribution to its residents and the entire Los Angeles County.●

A TRIBUTE TO W. KENNETH DAVIS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. RITTER. Mr. Speaker, it gives me great pleasure today to pay tribute to W. Kenneth Davis, Deputy Secretary, Department of Energy, for being selected to receive the American Association of Engineering Societies' National Engineering Award.

Mr. Davis has proven over many decades his continuing dedication and support to the engineering field. He has served as vice president of the National Academy of Engineering, president of the American Institute of Chemical Engineers, and was professor of engineering and applied sciences at UCLA. Mr. Davis is a world renowned chemical engineer who enjoys the support and respect of his peers, both in this country and in numerous foreign countries.

Mr. President, I find it most appropriate that AAES honor W. Kenneth Davis for his many professional accomplishments over many decades in the engineering field, and I too wish to congratulate the Deputy Secretary of Energy for this honor.●

RIGHTS—NOT ARMS—FOR SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. BROWN of California. Mr. Speaker, I will report extensively in the near future on my involvement with the United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace) conducted in Vienna last month. I had the privilege of being a part of the U.S. delegation to Unispace, and had the opportunity to discuss a number of issues with delegates from other nations as well as to participate in the nongovernmental organization activities conducted at the same time as the U.N. Conference.

I have been vocal in the past about my concern for the increasing military emphasis placed on space activities. This was a major concern expressed by most nations participating in the conference although both the Soviet Union and the United States largely tried to avoid the issue. In fact, the United States was successful in keeping reference to the "militarization" of space out of the report, referring instead to the "arms race" in space. Although the military issue is of prime importance, there are many other significant issues which need to be discussed. These include access to geostationary orbits for communications satellites and right of prior consent for remote sensing of foreign nations. At this time I would like to submit an editorial from the Christian Science Monitor which does an excellent job of summarizing some of these other critical issues.

The article follows:

[From the Christian Science Monitor, Aug. 26, 1982]

RIGHTS—NOT ARMS—IN SPACE

The United Nations space conference in Vienna was given little enough news coverage anyway. It is all the more unfortunate that so much of this pittance dwelt on the one topic of militarizing space—and the United States reluctance to deal with it. Urgent as this matter is, other ones of far-reaching significance should not be ignored. These include:

Fair access to the "geosynchronous" or "geostationary" orbit where communications satellites can remain over the same spot while the earth turns. As more and more satellites are lofted by the industrial countries, the developing countries worry that no good locations will be left for them. Technical improvements permit increased "crowding" without communications interference. But questions remain over the developing countries' rights to technology or to control of the space above them. The outer space treaty of 1967 states that the use of space shall be free and for the benefit of all countries "irrespective of their degree of economic or scientific development."

Right of prior consent to protect against technological intrusion via space. Many governments are concerned by the ability of direct-broadcast satellites to beam propaganda to their people. What kind of safeguards should there or could there be? Would they be compatible with freedom of information?

Also there are the "remote sensing" capabilities of scrutinizing military installations or crops, minerals, and other national resources from space. Developing countries want their share of this potentially valuable knowledge. They want access to any data developed about themselves, so it cannot be exploited by others—such as someone offering to buy "worthless" land when he knows oil lies under it. At the same time they want to be able to obtain remote-sensing data about themselves without having it go to others without their consent.

Such issues were aired if not resolved in the course of the Vienna conference's acceptance of a report it had been called together to consider. The final version, including recommendations to the UN, will go to the General Assembly for consideration this fall. It is to be hoped the suggestions for more study do not result in inordinate delay.

Which brings us to the small but important part of the report dealing with military activity in space. Most of the nations present were concerned not only about the futuristic weaponry that has made headlines but the conventional arms that are a more immediate threat to the peaceful uses of space. The US wanted to keep such matters out of this report and address them in the UN disarmament committee. It succeeded in eliminating references to the "militarization" of space.

But by the end of the parley the US did go along with revised paragraphs in the report calling for action to prevent an "arms race" in space—and for strict adherence to the letter and spirit of the 1967 outer space treaty. This bans nuclear and other weapons of mass destruction from space.

A mere report, alas, will not stop either Washington or Moscow from diverting resources to development of laser and other space weapons, even though their military efficacy has been seriously questioned. But the degree of agreement could be a step toward the goal backed by many in Vienna: that of outlawing the "testing, stationing, and deployment" of all weapons in space.

Prudence requires the free world to maintain defenses against any eventuality. But there is no reason that the inhabitants of Planet Earth cannot agree to put space off limits to arms—and thus concentrate on solving the problems of technology and equity in its marvelous peaceful uses.●

TRIBUTE TO THRUSTON MORTON

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. RODINO. Mr. Speaker, I want to join in paying tribute to our beloved former colleague, Thruston Morton, who passed away on August 14 in his home State of Kentucky.

Thruston Morton was a man who dedicated his life to public service, and whose conduct taught us all something about honor and integrity. When I entered Congress in 1949, Thruston Morton was in his second term as Congressman from Kentucky, and although we belonged to different political parties, we became fast friends. His conscientious manner as a member of the Education and Labor Committee won him the respect of his colleagues in the House. When he left Congress in 1952 he became Assistant Secretary of State in the Eisenhower administration and then went on to become national chairman of his party. He continued to serve the people of Kentucky and the Nation as U.S. Senator from 1956 to 1968.

I followed his career as a friend who admired his sense of compassion for the people he represented and his willingness to fight for principles.

Kentucky was rightly proud of its favorite son, and the Nation is grateful to him.

I am deeply saddened that he is gone, and I extend my sympathies to his wife, Belle Clay, and his family.●

BERTIL LENNART HANSON DAY

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. WATKINS. Mr. Speaker, Dr. Bertil Lennart Hanson has served the State of Oklahoma in many ways since 1959, with loyalty and dedication as a professor and head of the political science department at my alma mater, Oklahoma State University in Stillwater, Okla.

Today, in honor of his birthday and in recognition of all his years of service and devotion to the State of Oklahoma, I am proud to announce that the Governor of Oklahoma has proclaimed September 8, 1982, as "Bertil Lennart Hanson Day," as declared in the following proclamation:

PROCLAMATION

Whereas Dr. Bertil Lennart Hanson has served the state of Oklahoma in many ways since 1950, with loyalty and dedication as professor and now as professor and head of the Political Science Department at Oklahoma State University in Stillwater; and

Whereas Dr. Hanson has gained a worldwide reputation for such scholarship as his profound analysis, "The Intellectual Foundations of Political Science" (Oslo, 1967), "The Efforts of American Legislatures to Solve Problems of Public Policy" (Rome, 1975), and the oft quoted "Harnessing the Guinness Effect" (London, 1982); and

Whereas Dr. Hanson has gained a national reputation for the scope and depth of his ideas including articles on "The Anthropic Principle" (1982), "The MVQ" (1977), "The Just Wage in America" (1976), "The Common Heresy of Muenser and Marx" (1976) and monographs on Stockholm (1959), Nashville (1960) and Milwaukee (1961) governments, while his numerous and eclectic reviews have helped three generations of scholars do better next time; and

Whereas Dr. Hanson has contributed mightily to the understanding of Oklahoma government, publishing works on Oklahoma County Commissioners (1965), Direct Legislation (1966) and Tulsa Politics (1967); and

Whereas Dr. Hanson is remembered by two decades of students who, as leaders of government and business and scholars now well established, recall fondly his quiet humor, his easy good nature and his ability to express with drawings, ideas he could not convey with words;

Now, therefore, I, George Nigh, Governor of the State of Oklahoma do hereby proclaim September 8, 1982 as "Bertil Lennart Hanson Day" in the State of Oklahoma, in recognition of his achievements and contributions to educational leadership in his university and in Oklahoma.●

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ARCHBISHOP JOSEPH LOUIS BERNARDIN OF CHICAGO

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. McCLORY. Mr. Speaker, the city of Waukegan and my 13th Congressional District of Illinois were honored last Sunday, September 5, by a pastoral visit to our area by the newly installed Archbishop Joseph L. Bernardin of the Chicago Archdiocese of the Roman Catholic Church.

This warm and outgoing spiritual leader, who presides over more than 2¼ million members of the Catholic Church recognized early in his new role that the Lake County portion of the archdiocese merited equal recognition with that part which lies within Cook County.

Adorned in his clerical garments, Archbishop Bernardin gave consistent evidence of his warm, compassionate, and friendly personality. It was a mission of love which characterized his visit to the Immaculate Conception Church of Waukegan. His frequently outstretched arms in devotional gesture were at the same time an invitation to seek divine guidance and healing in our human lives and experiences.

Mr. Speaker, Archbishop Bernardin's special message to those of us who gathered in Waukegan's Immaculate Conception Church on Sunday encompasses both the humanity of his mission and the enlightened views on some public and social issues with which he as an ecclesiastical leader of the church is identified.

Mr. Speaker, Archbishop Bernardin received a commemorative plaque from Waugegan's Mayor William Morris, a remembrance from State Senator Adeline Geo-Karis, and many personal and private tributes from leading clerical and lay citizens who gathered to meet him. His welcome to Immaculate Conception Church was extended by Rev. John Quinn Corcoran, the church's pastor. I am pleased to attach to these remarks Archbishop Bernardin's eloquent and inspiring message:

HOMILY FOR THE 23RD SUNDAY OF ORDINARY TIME—IMMACULATE CONCEPTION CHURCH, WAUKEGAN

After I was appointed Archbishop of Chicago, I received many congratulatory letters. Many of them contained advice. A number of people, for example, reminded me that the Archdiocese includes *two* counties: not only Cook County but also Lake! "Don't forget us in Lake County," many of the people said. I took that advice to heart. Here I am. And I am delighted to be with you. Your warm welcome has already made me feel very much at home.

Today's scripture readings provide an excellent basis for our reflection on this first pastoral visit to Waukegan. In the first reading, Isaiah prophesied that when God's anointed servant, the Messiah, visited his people, "the eyes of the blind will be opened, the ears of the deaf will be cleared . . . the tongue of the dumb will sing."

Christ's healing of the deaf man, as recorded in the gospel by Mark, fulfills this prophecy. In an act that speaks more eloquently than words, Jesus is proclaiming that the one so long proclaimed by the prophets is here. In him, Jesus of Nazareth, the son of the carpenter, the very power of God is at work. God *has* visited his people. Let us reflect on this miracle for a moment to see what lessons it contains for us.

"Be opened," Jesus commands the deaf man. Deafness has closed the poor man to others; it has isolated him because of his inability to communicate normally. Deafness isolates its victims from others more than blindness. Deaf people see others talking and realize they are excluded. Jesus wants to free the deaf man from the prison in which his handicap has confined him. Jesus himself is the man of total openness: to God, and to those whom society in his day accepted only in subordinate roles or not at all: children, women, public sinners and social outcasts. Jesus come, as Isaiah said on another occasion, to proclaim "glad tidings to the lowly, liberty to the captives and comfort to all who mourn."

What Jesus said to the deaf man he is saying to us today: "Be opened!" How closed in we are much of the time: closed to God, closed to others, shut up in a prison of our own making, whose walls are self-fulfillment, whose guiding principle is the slogan: "Do your own thing." Most of the conflicts, divisions and wars in our world—between individuals, families, classes, groups and nations—are the result of people not being open. We tend to hear what we want to hear and no more; just enough to confirm our prejudices, then we stop listening altogther.

It is part of the good news of the gospel that there is One who can break through the walls which isolate us from one another and from God. His name is Jesus Christ. Jesus, the person of total openness, has the right, if anyone ever did, to command: "Be opened!" He won that right for all time on Calvary when—

For our sake be opened his arms on the cross,
He put an end to death
And revealed the resurrection.

The question we must constantly ask ourselves is why we are so often closed to the Lord; why we remain deaf to his many appeals to us. The basic reason, I think, is that we are not ready or willing to accept what he might tell us. Because we are afraid of the demands he might make, we pretend not to hear.

Fidelity to God's command, after all, is not always easy. Such fidelity means living a life of integrity, always telling the truth and being totally honest even when this causes us pain, inconvenience or embarrassment. It means working for justice and respecting the dignity and rights of others so that they may achieve their full God-given potential. It means working for peace, helping to develop a will on the part of all nations to reduce and ultimately to eliminate weapons capable of massive destruction, especially nuclear weapons. It means respecting the gift of life from the moment of conception until death. It means giving good example, especially to those who are younger than we, or those who look up to us. It means respecting the gift of our sexuality, using it as God intended so that it will be enobling and uplifting, not degrading.

It means giving a real priority to Jesus and his values, resisting to the best of our ability all the forces which would make a mockery of those values. It means communicating with the Lord in prayer each day, worshipping him throughout the eucharist and the other sacraments, together with our families and all the other members of the community to which we belong; and listening to the Word of God in which he reveals himself to us in so many wonderful ways. It means saying we are sorry and asking for forgiveness through the Sacrament of Reconciliation when we have sinned.

This is what openness to the Lord and fidelity to his will are all about. May we never be afraid to open up ourselves to him. Sure, he makes demands but the rewards of being open, of listening, are great. My experience—both in terms of my personal life and my ministry to others—tells me that there is nothing more frustrating and disillusioning than spiritual deafness, that unwillingness to listen to the Lord, to hear what he has to say, and then to incarnate it in our lives. I can tell you in a very personal way that it is only when I turn a deaf ear to Jesus that I begin to experience doubts, temptations, anxieties, difficulties of every kind. But when I open up to him—when I let him enter my mind and heart, my very being—everything changes: Then he gives me direction as well as strength and motivation to continue the struggle. He forgives me and wipes away the tears of discouragement and loneliness. He fills me with peace and joy.

I am so happy to be with you this morning. First of all, this visit provides me with an occasion to pay tribute to all the priests, religious and laity of the past and present who have cooperated in such a wonderful way to make this parish and this area a real community of faith. I thank you all and I also wish to acknowledge the presence of Congressman Robert McClory, Senator Adeline Geo-Karis, Mayor William Morris and other civic officials.

Another reason I am pleased to be here is that my presence enables me to express my solidarity with you. As your Archbishop, I want to be united with you, as together we go about the work of the Lord. We live in a world whose values often stand in contradiction to the values of the gospel. Today people are frequently unwilling to listen to the voice of Jesus and his Church.

Through all we say and do, we must help people to come to know Jesus better and to love him more. Through our own love and concern for people, through our understanding and compassion, through our desire to deal with them justly and fairly, we must make our Christian faith credible. Then people will begin to listen. Their deafness will disappear.

I simply want to assure you that I personally have a great respect and affection for you and that I pray each day that God will given you the grace and strength to live up to what he expects of all of us. All I ask in return is that you pray for me that I may be a good pastor—a good shepherd—both for you and for all the people of the archdiocese.●

PRICE CONTROLS ON "OLD" NATURAL GAS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SKELTON. Mr. Speaker, today I am introducing a bill to amend the Natural Gas Policy Act to eliminate the Federal Energy Regulatory Commission's authority to increase ceiling prices of "old" natural gas. It is my fear that, by putting an end to vintaging at this time, serious and life-threatening results could occur to our elderly and low-income citizens. While the issue of natural gas supply is an important one, I have seen little evidence that putting an end to these price controls will dramatically increase supplies. Furthermore, I am not convinced that there is a demand for such an increase in natural gas supplies. Finally, no further incentives are needed to encourage production of this old gas—this is natural gas that has already been produced.

It is apparent to me that the Commission is searching for ways to thwart the intent of current natural gas legislation. If the Congress had intended for vintaging to be eliminated, legislation would have been enacted to accomplish it. It is vitally important that any changes in public law profit from the appropriate representation of our citizens through the legislative process.

I am hopeful that my colleagues will join me in this legislation to prohibit the Federal Energy Regulatory Commission from lifting the price controls on our old, inexpensive natural gas.●

U.S. FOREIGN AID BELOW OTHER NATIONS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SIMON. Mr. Speaker, the National Journal recently had an article about the U.S. foreign economic assistance relative to Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Japan, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom.

We are behind every other nation in terms of percentage of gross national product with the exception of Italy which is just a fraction below us. And Italy has economic problems much more severe than ours.

But, interestingly, even Italy is increasing their assistance while we are cutting back.

The story is well worth reading and it contrasts with what we are doing in the military area.

And what does not make sense is that the chance of the Soviet Union moving their tanks across Central Europe is acknowledged by all as being a small fraction of 1 percent. But we cannot avoid recognizing that as a possibility and so we must be prepared militarily.

But the chance that Soviets will take advantage of poverty and misery and chaos in a developing, poor nation is almost 99 percent.

And yet we cut back on the much more likely threat and increase dramatically our assistance to the area where the threat is much less likely.

I am inserting the article in the RECORD at this point and urge my colleagues in the House and Senate to read it:

[From the National Journal, August 1982]

U.S. AID: IS IT GENEROUS OR STINGY?

There is more than one way to view U.S. development aid to Third World countries, and that is what lies beneath the disagreement between this side of the Atlantic and the other over the relative generosity or stinginess of the American aid performance. U.S. policy makers are fond of pointing to total dollar contributions, in which the United States always ranks first, as the index of our aid effort toward the welfare and economic development of the Third World. But members of the European Community prefer their own yardstick, in terms of which the U.S. effort looks a good deal more modest: the portion of gross national product that goes to development aid. This year's annual data on official development assistance, from the Organization for Economic Cooperation and Development (OECD), should provide for more conversation.

As usual, the United States ranks first among OECD member nations with a 1981 contribution of $5.8 billion. In share of GNP, however, it ranks second to last. Using either measure, the United States posted the biggest reduction in aid volume in 1981; its dollar contribution fell by almost a fifth, from $7.1 billion to $5.8 billion, and the share of gross national product it contributed fell by 26 per cent. Development assistance, as defined by the OECD, includes grants and concessionary loans by member countries to Third World nations for economic development and welfare, but not for military purposes.

	1981 (millions)	1981 GNP share (percent)	1980–81 change, GNP share (percent)
Australia	$649	0.41	−12
Austria	317	0.48	+108
Belgium	574	0.59	+16
Canada	1,187	0.43	+3
Denmark	405	0.73	−1
Finland	135	0.28	+26
France	4,022	0.71	+22
Germany	3,182	0.46	+6
Italy	670	0.19	+12
Japan	3,170	0.28	−11
Netherlands	1,510	1.08	+10
New Zealand	67	0.29	−11
Norway	467	0.82	−3
Sweden	916	0.83	+5
Switzerland	236	0.24	+3
United Kingdom	2,194	0.43	+21
United States	5,760	0.20	−26

Here is another way to look at the U.S. performance: as a dollar share of total development assistance. In 1981, the 17 countries gave $25 billion, of which the U.S. share was about a fourth. But in 1970, the U.S. share was double that: 46 percent, as the chart shows (in billions of 1981 dollars).

BORIS AND GEDI KUN

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SKEEN. Mr. Speaker, I rise to point out to my colleagues the plight of Boris and Gedi Kun, Soviet Jews who have been repressed by the totalitarian regime under which they are forced to live.

Gedi's parents and three sisters emigrated to Israel in 1973. At that time, Boris was employed as an aircraft engineer. He resigned from this position when he and Gedi applied for an exit visa to Israel, in order to avoid denial based on his secret work.

Upon receipt of their initial denial in 1974, Boris and Gedi were unable to obtain employment for 6 months. They have submitted numerous applications to emigrate from the Soviet Union and have been refused on each occasion.

Repression of Jews in the Soviet Union continues, 7 years after the completion of the Helsinki accords. And I feel we would be remiss in our duties were we to fail to bring this situation to the attention of the international community.●

STATEMENT IN SUPPORT OF LAFALCE AMENDMENT TO H.R. 6307

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. GOODLING. Mr. Speaker, I am pleased that this body today passed the bill H.R. 6307, the Resource and Recovery Reauthorization Act of 1982, for this measure contains a provision offered by my colleague, Mr. LAFALCE. As you know, section 5(d) of H.R. 6307 directs EPA to submit a report to the Congress identifying those hazardous wastes which may be unsuitable for landfill disposal. The LaFalce amendment will strengthen this provision on two counts.

First, the amendment requires that the report also identify hazardous wastes for which there exists one or more technologically feasible means of treatment, recovery, or disposal—including incineration, neutralization, fixation, chemical destruction, or any other means of thermal, chemical, physical or biological treatment, recovery, or disposal—other than land dis-

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posal which will protect human health and the environment.

Second, this amendment directs EPA to promulgate regulations respecting those hazardous wastes for which landfill disposal may not be protective of human health and the environment based upon the toxicity, mobility, persistence, or ability of the waste to bioaccumulate.

I speak to this issue because at present there are several landfills located in my district which have generated concern among local residents, township officials, the State department of environmental resources, and the Environmental Protection Agency. At least once a week my offices are contacted by frustrated people who do not know for sure if they can safely drink their water, or allow their children to drink it or what agency has jurisdiction to monitor it. I have heard of cases concerning sick infants, of dying cattle or cattle whose fur is falling out, and of property owners who finally sold their homes and moved when all of their well water was found to be contaminated.

Athough the landfills with which I am most acquainted are not permitted to accept hazardous waste—they are municipal, or sanitary landfills—my experience with them has educated me on the dangerous materials that society has "thrown away" for decades and that have endured in the environment, making household words of "Love Canal"—a problem Mr. LaFalce is all too well familiar with.

What bothers me most about this situation is that Americans have the technology to treat our hazardous wastes. Landfilling, however, is still the cheapest method around for dealing with the hazardous waste that nobody wants in their backyard. I know of one study which reported that alternative hazardous waste treatment facilities are from 41 to 60 percent underused. Incinerators capable of handling 670,000 metric tons of waste annually are currently burning only 395,000 tons. Water treatment plants capable of detoxifying 4 million metric tons of waste a year are now treating only 2 million. And recycling plants that can handle 1 million metric tons of wastes a year are recycling only 400,000.

I favor the LaFalce amendment, because I believe that a strong Federal stand against landfills will encourage the development of the emerging alternative technology industry to deal with the disposal of hazardous wastes. I feel that this would be a positive step toward safeguarding the health of our children and grandchildren.

My father, who also served in this body, was a farmer. I learned from him early on that we reap what we sow. As one Ohio farmer has said, "If poisons are buried in our ground, we will reap a bitter harvest."●

AFGE VICE PRESIDENT URGES OVERRIDE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. FRANK. Mr. Speaker, Mr. Daniel Kearney, the first district national vice president of the American Federation of Government Employees (AFGE), wrote to me yesterday a very strong and thoughtful letter critical of the President's veto of the supplemental appropriations bill. This bill provides the needed funding for many necessary Government jobs for the remainder of this year. I join with Mr. Kearney and with the entire American Federation of Government Employees in strongly opposing this veto, in supporting its override, and in appealing to Government employees to continue their work which is unquestionably essential to the proper functioning of the activities of our Federal Government.

I agree wholeheartedly with Mr. Kearney's analysis of the harmful effects of this veto and I wish to share his letter with my colleagues.

The letter follows:

American Federation
of Government Employees,
September 7, 1982.

Hon. Barney Frank,
House of Representatives,
Washington, D.C.

Dear Congressman Frank: Once again, thousands of Federal employees are being furloughed due to the Presidental veto of the Supplementary Appropriations Bill. In the span of less than one year due to budgetary constraints, agencies have been forced to furlough personnel. The President's intransigence in this area has created chaos. Again, agencies are choosing which employees to furlough and declaring some essential and others non-essential. The V.A. Hospitals, for instance, are finding it hard to select the kind of people that can be furloughed and not interrupt patient care. It is almost an impossible task, for if you furlough people in dietetics, meals will not be served on time and special diets will be neglected. Can the hospitals take a chance and furlough a refrigeration and air conditioning mechanic and hope that the systems will operate without difficulty? Those are terrible decisions to force on anyone.

The Coast Guard is already furloughing thousands of very vital maintenance people who provide for the safety of our fishing and maritime industries.

I could go on and on about many other agencies that are vital to the public. All this because a President did not get his way and who objects to the appropriation of 900 million dollars for vital social programs that affect the aged, poor and handicapped.

The public and the Congress should reflect on the irony of an Administration that objects to aid to the poor, but continually overlooks the gross mismanagement and cost overruns in military procurements which, if rectified, could more than pay the 900 million dollars he objects to. For example:

(a) The first trident submarine was delivered way behind schedule and the cost overruns were reported to be 600 million dollars.

(b) The Air Force's C5A program is running into a billion dollar overrun. The correction of defects and attention directed at the late delivery of these air craft, which the administration maintains are essential to our defense, would be a more appropriate area for cost savings.

(c) Just recently the press noted that the Navy was fighting with the manufacturer of the F18 because each plane had gone from an estimated price of 26 million to about 40 million and deliveries are delayed.

Total cost overruns on all defense procurement are not known to the public but it certainly will cost the taxpayer billions of dollars because of poor military management. Would that, President Reagan, speak out against defense department military management and welfare for the giant defense contractors? The silence of the Administration on cost overruns is deafening. I suppose some Generals and Admirals will be transferred to other billets without loss of pay or rank because of these overruns, but no one will face up to the fact that the Defense Department is unmanageable.

I am urging today that all Federal employees be declared essential and that the Congress immediately override the President's veto which affects so many working men and women. I am also asking every Federal employee to report for work regardless of the stories that he reads in the newspapers so that he may continue to serve the public for which he provides essential services. He or she should report for work even if the doors of the agencies are locked against them.

Respectfully yours,
Daniel J. Kearney,
National Vice President.●

REMEMBER THE CONSTITUTION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. McDONALD. Mr. Speaker, a great deal of controversy has surrounded the constitutionality of the procedures used in drafting and considering the recently passed tax increase bill. I, for one, believe the tactics used were blatantly unconstitutional and, therefore, have joined with a number of my concerned colleagues in filing a lawsuit challenging these procedures.

Unfortunately and regrettably, this is just the most recent in a series of examples of constitutional abuse. To elaborate further, I would like to add the editorial which appeared in the Chattanooga News-Free Press of August 23, 1982, entitled "Remember the Constitution." I believe we all would be better off if we would take this title to heart a little more often and consistently.

The article follows:

[From the Chattanooga News-Free Press, Aug. 23, 1982]

Remember the Constitution

In recent years, the Constitution of the United States has taken a beating—and our freedom with it.

The Constitution provides the basic rules by which our country lives. Violate those rules and we run the risk of destroying the greatest system of government the world has ever seen.

The worst attacks upon the Constitution in recent years have come from those who have sworn to uphold it—public officials. And their depredations have been tolerated by the rest of us. We have seen the judicial branch of government usurp the powers of legislative and executive branches, and both of them have assumed powers they did not have or failed to exercise those they did.

The most recent example of constitutional abuse came last week with passage of President Ronald Reagan's new tax bill with strong support from a majority of Democrats and Republicans in both the House of Representatives and the Senate. There may be legitimate differences in judgment on the contents of the tax bill. But there really should be no differences about the procedure—it was clearly improper.

Look at what Article, I, Section 7, of the Constitution of the United States says: "All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other bills."

Did the new tax bill originate in the House of Representatives? No, it didn't. There was no pretense about it. It originated in the Senate, probably because it was felt there was a friendlier atmosphere for it there. But that is no excuse. The Constitution says bills for raising revenue shall originate in the House.

The reason is simple. Because the members of the House are elected every two years and come from districts usually smaller than an entire state, they are closer to the people and more subject to the will of the people. The idea of the writers of the Constitution was to protect the people from undue taxes by having the representatives closest to the people start tax legislation in Congress.

It might be argued that it really doesn't make much difference, since the House majority voted for the new tax bill. But that's not the way the Constitution says it shall be done. We believe the Constitution was violated, and that's wrong.

Some have suggested they might file suit against the tax bill on procedural grounds. Others have commented and let it go at that. But every American should be concerned about every instance in which the rules of the Contitution are violated. That's how our system designed for liberty, justice and public order is eroded.●

SELECTIVE SERVICE REGISTRATION

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. MONTGOMERY. Mr. Speaker, I wrote the following article to Ms. Meg Greenfield, editorial page editor of the Washington Post, on August 4. It concerned a column written earlier by Post columinist Colman McCarthy about Enten Eller's conscientious objection to war and his decision not to sign up with the Selective Service System, as the law requires.

I might point out that since then, Mr. Eller and Benjamin Sasway have both been convicted for failure to register with the Selective Service System.

Even though the Post did not print this article, it ran an editorial on August 20 entitled, "Conscience and Draft Registration," advocating the enforcement of the law in regard to draft registration. I also want to include this editorial for the benefit of my colleagues.

The points made in this editorial are similar to the ones I made in the article submitted to Ms. Greenfield.

Law Must Be Obeyed

(By Representative G. V. Montgomery)

Persons reading Colman McCarthy's recent article concerning Mr. Enten Eller and conscientious objection to war are entitled to further illumination on the subject inasmuch as there are several misleading statements in McCarthy's piece. Registration is a manifest responsibility of citizenship. Refusal to register can lead not only to fine and/or imprisonment but also to such civic disabilities as the inability to hold office or vote.

Can "all those responsible" take pride in an individual who knowingly commits a felony? I think not. Enter Eller's father (a board member of the Church of the Brethren and a professor of religion) registered with Selective Service during World War II and was subsequently classified as a conscientious objector. Thus it can be seen that the person who obeys the law is likewise protected by the law. It is resonable to speculate that if the younger Eller emulated his father by obeying the law and registering, he too would be classified as a conscientious objector IF the draft were ever resumed.

Senator Hatfield's proposal to permit an individual to register as a conscientious objector was wisely rejected by the Congress. The proper time to consider a conscientious objector application is at the time of classification, not registration. At that time, determination of a claim of conscientious objection would be made by a local Selective Service Board, comprised of civilians.

Provision for conscientious objector status is already an important part of the Military Selective Service Act. If a draft were ever resumed, every individual ordered to report for examination and induction would be given the opportunity to request postponement, deferment, exemption or conscientious objector status. Information supporting such a request would be presented to the local civilian board. The individual could be assisted in his presentation by counselors, family members, clergy or others. No individual would be drafted until he had been offered all of his appeal rights under the law.

McCarthy misinforms readers by stating "this use of fear is an odd way of recruiting an army" and by intimating that Selective Service would present Mr. Eller with the option of going to jail or going to the Army. All Selective Service asks is that Mr. Eller register as the majority of his peers (14 out of 15) have done. No one is trying to recruit Mr. Eller for military service. As McCarthy acknowledges, "there is no draft, no recruit shortage, no war . . ."

Mr. Eller may be commended for achieving a straight A average in school, for having short hair, for reading the Bible and for being polite to his elders. But no citizen can be permitted to decide which laws he will obey and which he will ignore. For a democracy to work, all laws have to be obeyed.

While more than 8 million men have already registered, there is a sizeable number who have not. I believe the majority of those who have not yet registered are either uninformed of the requirement or are unaware of the importance of registering within 30 days of their 18th birthday. I would hate to see their future blemished because they failed to register. Parents, clergy, educators and others who seek to instill good behavior and character in young men would do well to counsel them to register with Selective Service. Registration is a simple process that can be accomplished in a few minutes at any post office.

[From the Washington Post, Aug. 20, 1982]

Conscience and Draft Registration

You probably have been impressed, as we have, with the placid demeanor and obvious sincerity of Enten Eller, the 20-year-old student who on Monday became the first man convicted of violating the law requiring young men to register for the draft. Mr. Eller is a member of the Church of the Brethren, a group which has been in this country since 1723 and which believes in pacifism. "God has led me to this position," Mr. Eller said during his trial, and there is no doubt that his refusal to obey the law, as well as his refusal to make any legal defense of his conduct, arise from what American conscription law has long regarded as conscientious objection.

Nonetheless, we think it was proper for the government to bring this prosecution and that it is important to understand why. The law Mr. Eller was convicted of violating represents about the mildest intrusion on personal liberty a government interested in maintaining the possibility of conscription can make. Young men are required only to register, there is no draft and no other consequence, at least for the moment, of registering. Selective Service law in the past has provided for conscientious objector status, and while an argument can be made that the law in the past was not generous enough in granting such status, the fact is that for members of the Church of the Brethren, the granting of such status was automatic. Mr. Eller's father, a minister in that church, himself registered for the draft during World War II and then sought and was granted CO status. It is hard to resist the conclusion that Mr. Eller and others like him, who have publicized their refusal to obey the registration law, do so because it is the only military-related law around that they can disobey.

In these circumstances, the government has not merely the option but the responsibility to enforce a law which was passed in a democratic process, which is plainly within the constitutional powers of Congress and which, in fact, does not represent an assault on personal freedom. The situation is not much different, we think, from that which would arise if members of a religious sect refused to obey stop signs, because of a genuine religious conviction that such government commands were morally wrong. Even while we respect their religious beliefs, we

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will want to have enforced the law which they feel compelled to disobey.

The arguments that the draft registration law is unwise, that it somehow promotes war or unfairly violates civil liberties, should be—and have been—directed at the politically responsible officials. Congress passed this law, and perhaps Congress will choose to repeal it; there is an election this fall, and voters can make their views known. In the meantime, the law should be enforced, even against as personally appealing a defendant as Mr. Eller.●

FATHER ALFRED BOEDDEKER, O.F.M.

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, on Friday, October 1, 1982, the American Irish Alliance will present its Fifth Annual Award for Outstanding Service to San Francisco to the Reverend Alfred Boeddeker, O.F.M.

Father Boeddeker, a Franciscan priest for more than 55 years, is the founder of St. Anthony's Dining Room which provides more than 1,200 free meals daily to the poor of San Francisco.

It is fitting that as part of San Francisco's observance of the 800th anniversary of the birth of Francis of Assisi, a member of the Franciscan community, who lives to the fullest the rule of the gentle Francis, should be so honored by his fellow citizens.

It has been said by Franciscan Cardinal Paulo Arns of Brazil "that Francis called the men and women of his time to form communities with the poor so that injustice and poverty would be overcome." Father Boeddeker has spent his entire adult life in selfless work with the poor, the sick, and the helpless. He has indeed formed communities with the poor and spent the riches of his talents to fight injustice and poverty.

Father Boeddeker received the robes of the Franciscan Order in 1921 at St. Elizabeth Friary in Oakland, Calif. He was ordained to the priesthood on June 11, 1927. He has served at a variety of assignments in the intervening years before his appointment as pastor of St. Boniface Parish, San Francisco, in 1949.

1928-30: First assignment: Assistant pastor, Old Mission Santa Barbara; pastor, St. Rafael Church, Goleta, a small church serving a large area near Santa Barbara; Parishioners mainly laboring men and families, Mexican; took immediate, active interest in welfare work, built social hall, secured recreation areas serving children, mostly Mexican and black. Chaplain—General Hospital, Santa Barbara, Calif.

1930-33: Graduate studies—Rome, the Antonianum University. Specialized in canon law and theology. Diploma: Lector generalis.

1933-48: Teacher at Franciscan Theologate, Santa Barbara, Calif. Dean of studies, Franciscan Province of Santa Barbara; in charge of Houses of Study on Pacific Coast: Santa Barbara, San Luis Rey, San Miguel. Member of Provincial Council, 1946-49.

1948-50: Graduate studies resumed—University of California. Specialized: Japanese, Chinese, Russian languages, Chinese history, political science. (Superiors intended to send him to Hankow, China to establish a Catholic University.) Special assignment: Restoration of historic Mission San Antonio de Padua near King City, Calif.

1949 to present: Appointed pastor of St. Boniface Parish, San Francisco. German National Parish for San Francisco area, and a sizeable residential parish. Congregation made up of "inner city" residents, mostly apartment and hotel dwellers, senior citizens, tourists, shoppers, downtown workers of virtually every race and nationality represented. Established "St. Boniface Credit Union" for parishioners.

Founder and executive director: "St. Anthony Charities"—including: St. Anthony Dining Room—1,200 or more free meals daily for the poor; St. Anthony Clinic—free medical services for persons without other care; St. Anthony Employment Service—nearly 1,000 jobs annually—free; Seton Hall (home for men), dining room workers—35 in city—free; St. Anthony Farms in Sonoma County—renewing lives of 40 men and providing meat and produce for the dining room—free; St. Anthony Thrift Shop—to assist low income persons.

Founder and director: Madonna Residence for elderly women of low income—1055 Pine Street, San Francisco. Foreign Student Center—social, educational, recreational—70 Oak Street, San Francisco. International Center—50 Oak Street, San Francisco. Marian Center—135 Golden Gate Avenue, San Francisco. Adult Benevolent Association—to assist elderly. Second Spring—magazine for adults: inspirational.

Father Boeddeker is a universally admired and beloved San Franciscan. He has by his example given all of us a glimpse of the spirit of Francis of Assisi. A spirit that tells us to love all of nature, to live simply and joyfully and to identify with and give service to the poor among us.

Father Boeddeker by his life reminds us all that we must be instruments of peace, sources of love, comforters of those in need and seekers after justice for all persons.

I share this brief account of Father Boeddeker's accomplishments with my colleagues in the House so that they might know of this truly noble person.

I join with my fellow San Franciscans in paying tribute to Father Alfred Boeddeker who has lived the gentle life of Francis of Assisi and who has brought love into the lives of those he serves in his continuing quest for justice.●

MAYOR DON FRASER REFLECTS ON SOVIET TRIP

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SIMON. Mr. Speaker, I am inserting into the RECORD the brief observations of our former colleague, now the mayor of Minneapolis, Don Fraser.

He was always a sensitive and thoughtful Member of the House on matters of foreign relations and that has not stopped since he became mayor of Minneapolis.

I believe my colleagues will find this of interest.

MY TRIP TO USSR: NUCLEAR ARMS TALKS TO CONTINUE HERE IN '83

In April of this year, I went to Moscow in the company of nine other Americans to talk about the nuclear arms race.

Our group had been invited by the Soviet Academy of Sciences and the American-Soviet Friendship Society to explore Soviet attitudes towards arms control and disarmament.

I had been in the Soviet Union ten years before on a Congressional mission and found the talks this time more candid and far-ranging than previously.

I was startled, for example, to hear one Soviet official admit that the Soviets did have human rights problems. However, when it came to specifics, no further admissions were forthcoming.

Later in the visit, I was able to meet with a number of individuals who have been attempting to emigrate, some for as long as ten years, despite the severe social ostracism that is heaped upon anyone who even applies for permission to leave the country.

We also raised such issues as Afghanistan, Poland and the imprisonment of Soviet dissidents but this in turn only elicited a list of Soviet grievances against the United States.

For me, the visit was an opportunity to become active in the nuclear arms issue again. When I left the Congress, just before running for Mayor, there was a five-month-period during which I served as a staff member of an organisation known as Members of Congress for Peace Through Law. There I had concentrated on the Salt II treaty. I was disappointed with the U.S. failure to ratify Salt II but pleased that both the Soviets and the U.S. are currently complying with its provisions.

Our Moscow group which had been convened by the Institute of Policy Studies in Washington included such figures as the Rt. Rev. Paul Moore, Episcopal Bishop of New York, journalist Roger Wilkins and disarmament writer, Mark Raskin. Unfortunately, Salt II negotiator, Paul Warnke, was prevented from accompanying us because of last-minute illness.

Clearly the Soviets are worried about the next round of new weapons such as the MX missile, the new Trident submarines and the cruise missile.

Our hosts evidenced some of this concern by accepting our invitation to come to the United States next year for another round of talks.

These talks, at my suggestion, are to be held here in Minneapolis and should bring a delegation of about 35 Soviet officials to our city next May.

At the recent Mayor's Conference in Minneapolis, Mayor Dianne Feinstein of San Francisco called nuclear arms the nation's major issue. She noted that two years ago, "you couldn't fill a small hall on this topic." This year it was one of the conference's most hotly debated resolutions.

Mayors throughout the nation have begun to recognize that the desire for world peace is fast becoming America's biggest local concern.●

TRIBUTE TO PEARL WILLIAMS-JONES

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. FAUNTROY. Mr. Speaker, I rise to bring to the attention of my colleagues and the Nation a remarkable woman who will be saluted for her humanitarian contributions to the people of Washington, D.C., Ms. Pearl Williams-Jones will be cited for outstanding achievement this Saturday by the Shaw Community Center Food Committee.

Ms. Williams-Jones is a highly skilled pianist and singer with special expertise in black American music. She is also an assistant professor of music at the University of the District of Columbia.

The Shaw Food Committee is saluting Ms. Williams-Jones in appreciation for her volunteering her musical talents to benefit the Food Committee efforts to provide free food baskets for needy Washington area families at Thanksgiving.

None is so tall as the person who reaches down to lift up her brothers and sisters. With her service in helping to feed hungry people, Ms. Pearl Williams-Jones has elevated herself in our hearts and inspired us to even greater achievements.

I am so very proud to join the Mayor and the Council of the District of Columbia, in conjunction with Shaw Community Center Food Committee, in paying tribute to Pearl Williams-Jones.

Hereto is a brief biographical sketch for your review:

BIOGRAPHCIAL SKETCH OF PEARL WILLIAMS-JONES

Pearl Williams-Jones, associate professor of music at the University of the District of Columbia, is a leader in the field of Black American music education, research, and performance. She has performed concerts of Black American music in the United States and abroad, and has published the findings of her specialized research in gospel music in scholarly music publications such as the Journal for the Society of Ethnomusicology.

She has been a consultant for the Smithsonian Institution's Folklife Festival and an administrative staff member of its African Diaspora Advisory Group. Mrs. Williams-Jones received a grant from the National Endowment for the Arts for research and development of curricula in Black American gospel music. In 1977 she served as consultant for the Festival d'Automne, an international festival of the music of Africa, Europe, and the United States, in Paris, France by invitation of the French government.

Mrs. Jones lectures and performs for radio, television, and has appeared at major universities and colleges as specialist in Black American music. She has received many honors for musical achievement, among which is the honorary degree Doctor of Humanities. Mrs. Jones is active in community and educational arts organizations. She is secretary of the Board of Directors of the D.C. Community Orchestra, a member of the Music Educator's National Conference, the Society for Ethnomusicology, Pi Kappa Lambda; she is an editorial advisor for Minority Voices, an interdisciplinary journal of literature and the arts.

Pearl Williams-Jones is an honor graduate of Howard University, and is listed in the Directory of Significant 20th Century American Minority Women and in the eighth edition of International Who's Who in Music.●

NUCLEAR "TURKEY" ON CONGRESS MENU

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. BROWN of California. Mr. Speaker, my colleagues are no doubt familiar by now with the case against construction of the Clinch River breeder reactor in Tennessee. Even supporters of Clinch River have quietly begun to wonder about the project. Estimated to cost $3.2 billion and with breeder technology not likely to be economically competitive before the middle of the next century, if ever, construction of Clinch River has been questioned by conservatives and liberals alike. Pro- and anti-nuclear advocates, economists, readers of Reader's Digest, and scientists have all voiced their opposition to its construction.

While proponents of the project like to claim scientific support for construction of Clinch River, the Federation of American Scientists (FAS), an organization priding itself in an objective scientific approach to issues, has gone on record in opposition to the project. Frank von Hippel, chairman of the FAS and senior research physicist at Princeton University, outlined the case against the project in a recent Los Angeles Times editorial. Dr. von Hippel has contributed as an independent analyst to the international debate over the breeder reactor since 1976. I include his editorial in the Los Angeles Times for the RECORD and urge my colleagues to read it for a succinct review of the case against the project.

The article follows:

[From the Los Angeles Times, Aug. 22, 1982]

NUCLEAR "TURKEY" ON CONGRESS MENU—ENERGY ECONOMICS HAVE CHANGED NEED FOR $3 BILLION REACTOR

(By Frank von Hippel)

In 1971, President Richard M. Nixon established as the highest priority energy program of this nation the commercialization of the plutonium breeder reactor. This almost magical machine makes the enormous amounts of energy stored in uranium fully accessible by turning it into plutonium fuel. It would thereby free mankind from concern about future nuclear fuel supplies for millennia.

The Atomic Energy Commission was quick to respond, and in 1972 entered into agreements with a consortium of electrical utilities to build a "demonstration" breeder reactor on the edge of the Clinch River in Tennessee at an estimated cost of $700 million. (The estimated final cost is now $3 billion and rising.)

In 1977, President Jimmy Carter vetoed appropriations for the project, citing concerns that the process of extracting huge quantities of chain-reacting plutonium would make it too easy for unfriendly nations—even terrorist groups--to produce nuclear weapons.

Now the signals from the White House have changed once again, and Congress is being encouraged to approve further appropriations for the breeder reactor next month. The vote will be close. The Clinch River project is now widely represented in periodicals ranging from the New York Times to the Reader's Digest as just another federal pork-barrel project. The Reader's Digest, for example, recently characterized it as "Sen. Baker's 'costly technological turkey'," referring to Senate Majority Leader Howard H. Baker Jr. in whose home state the reactor would be built.

How did this dream machine turn into a "technological turkey"? The basic reason is simple and has nothing to do with whether you are pro- or anti-nuclear power: At foreseeable uranium prices, the breeder cannot compete economically with ordinary nuclear power plants.

Both today's reactors and breeder reactors turn the energy of uranium into electrical energy, but breeders require the mining of much less uranium per kilowatt-hour of electricity produced. Procurement of uranium ore for today's reactors accounts for less than 5% of the price of electricity produced by a new nuclear power plant.

Most of the cost of nuclear power is charged to pay off the huge capital investment involved in the construction of the power plants. A small cost differential between the construction costs of the breeder and an ordinary nuclear power plant can, therefore, more than offset the breeder's savings in uranium costs. The breeder, which uses molten sodium metal instead of water as a coolant, would cost 25% to 75% more than existing reactors. This is why the most recent government analyses project that the breeder will not be economically wise until the price of uranium increases approximately tenfold.

The Clinch River demonstration program has been aimed at making breeder reactors commercially available by about the year 2000. Is it possible that by the year 2000—or even within a decade or two thereafter—the price of uranium, corrected for general inflation, will have risen tenfold?

Eight years ago that did in fact appear possible. In 1974, the Atomic Energy Commission projected that by 2020 the U.S. demand for electrical energy would have increased almost 1,400%. Solely for the generation of our electricity, we would be using the equivalent of more than the world's total energy consumption in 1974. Nuclear power plants were expected to satisfy three-quarters of this demand. To supply the present generation of reactors at the predicted rate, the known U.S. reserves of low-cost uranium would soon be exhausted.

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But times have changed. The price of electricity, which had dropped steadily relative to other prices from the 1930s to 1970, began rising in the 1970s as the costs of power plants, as well as fuel, began to increase much faster then general inflation. As soon as the price rise began, the demand for electricity, which had been doubling every decade, began to grow much more slowly. Suddenly, the utilities found that they needed much less new generating capacity than they had expected. Orders for new nuclear power plants, which averaged 20 per year between 1966 and 1973, dropped to zero. Of those under construction or on order in 1974, 40% were canceled. Construction schedules for most of the others have been stretched out.

As a result, actual nuclear capacity on line today is only one-third of what was being projected just eight years ago by the Atomic Energy Commission. The Department of Energy still expects nuclear energy to play a major role in the nation's energy future, but, because of its projections of slower growth in U.S. energy consumption, it now projects that our nuclear generating capacity in 2020 will be only about one-tenth as large as the 1974 prediction. With a tenfold reduction in expected demand for uranium, it may be a century before the price of uranium can be expected to reach the level that would make breeder reactors economical.

But once the Federal Government has been persuaded to spend tax money on a particular project—be it a dam, a new weapons system or a new type of nuclear reactor—the contractors, the bureaucracy and the politicians always join in an alliance to keep the money flowing, even if there is no longer a need for the project. Baker and his allies have been successful so far, but the alliance opposed to the Clinch River breeder has grown also, and now includes many of those concerned about Federal pork-barrel projects and budget deficits, as well as those concerned about nuclear proliferation.

This year, Congress should be under pressure from both sides as it faces its annual vote on the appropriation of yet another $250 million to keep Baker's "technological turkey alive."●

1983 BUDGET INFORMATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. ASPIN. Mr. Speaker, the week before we recessed, the House considered a number of important bills affecting the 1983 budget. Probably the two most significant were the tax and reconciliation bills. These bills implemented two of the major elements of the deficit reduction plan—revenue increases and cuts in existing entitlement law. We now know that the overall reconciliation targets for revenues and spending were exceeded. But it is important to realize that there are four other elements to the deficit reduction plan. The first of these is the management savings package that the administration has promised to accomplish. These savings in the areas of waste, fraud and abuse, debt collection, property management, and so on, do not require legislation, but they do require determination and hard work on the part of the administration. Second, the budget resolution assumes outlay savings from legislation to raise certain types of user fees. To date, no committees have reported such legislation, and there is some question as to whether they will be achieved. Third and fourth are the savings in defense and in nondefense discretionary programs that are assumed in the budget resolution. These will be accomplished if the appropriation bills in total remain within the aggregate targets for discretionary appropriations that were set out in the 302(a) allocations made pursuant to the Budget Act. I feel sure that the Appropriations Committee will remain on target, so that these savings will be achieved.

In fact, four appropriation bills have been reported by the committee, and one (Military Construction) has already passed the House. Mr. Jones, Mr. Panetta, and I have included in the Record a cost comparison for three of these bills—the military construction bill, the Commerce-State-Justice bill, and the HUD-independent agencies bill. Each of these bills is under its budget resolution targets for discretionary spending. The cost comparison for the fourth bill (Transportation) will be inserted in the Record when the bill is scheduled for floor action.

The HUD-independent agencies bill deserves special mention. To begin with, the spending target set for that bill by the Appropriations Committee when it subdivided its budget resolution allocation calls for even more cuts than the budget resolution assumed. Though the assumptions of the budget resolution are not binding on the Appropriations Committee, in fact, the HUD Subcommittee has agreed to cut its programs by $690 million in budget authority and $497 million in outlays beyond those cuts assumed in the budget resolution.

Second, the subcommittee is at this point more than $9.3 billion in budget authority below its own restrictive targets. This has come about because the subsidized housing programs are undergoing major reform, and it is not yet clear what shape these programs will take when their reauthorization is complete. So, the subcommittee has deferred action on this funding until a later date. While the budget resolution assumes up to $10 billion for subsidized programs, the subcommittee has made it clear that it does not intend to use this full amount; instead, the subcommittee will remain at or under its own targets.

Early Warning, H.R. 97–6968, Military Construction Appropriation, Fiscal Year 1983

Floor action: Scheduled for Tuesday, August 17, 1982.

Scorekeeping: The functional totals included in the first budget resolution conference report are allocated to the appropriate House committees in accordance with section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the first budget resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

Discretionary programs in bill: The bill is under the subcommittee's total. This bill would not be subject to the deferred enrollment provisions of the budget resolution.

Mandatory programs in bill: The bill is under the subcommittee's total.

Overall bill total: The bill is under the subcommittee's total.

Credit targets: The subcommittee has no credit activities in its jurisdiction.

Supplemental amounts which may be required: Future anticipated funding requirements also in this subcommittee's jurisdiction if added to this bill should not breach this subcommittee's 302(b) target.

For additional details see the attached early warning report.

Early Warning Additional Detail, House Budget Committee

Bill: H.R. 97–6968, military construction appropriation, fiscal year 1983.

STAFF ANALYSIS

Committee: Appropriations.

Subcommittee: Military Construction.

Chairman: Mr. Ginn (Georgia).

Ranking minority member: Mr. Regula (Ohio).

Scheduled: Tuesday, August 17, 1982.

I. Description of bill

This bill provides appropriations for military construction and family housing for the Department of Defense in fiscal year 1983.

II. Comparison with target for discretionary appropriations action

Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has two targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the Subcommittee may have enacted this session, causes the target for discretionary budget authority to be breached, then the bill will be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution (or held at the desk and not sent to the President for signature).

The summary table below shows that the Subcommittee is under its discretionary target. The numbers in the summary table would change only with floor amendments, Senate action, or conference action on this bill.

III. Summary table

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this subcommittee:		
1. Discretionary amount in bill	6,998	2,142
2. Prior action		
3. Total action to date	6,998	2,142
4. 302(b) target	7,466	2,290
5. Over(+)/under (−)	−468	−148
6. Amounts assumed but not yet considered		
7. Over(+)/under(−)	−468	−148
The amounts shown below are only for mandatory programs that are funded by this subcommittee:		
8. Mandatory amounts in bill	2	2
9. Prior action		3,969
10. Total	2	3,971
11. 302(b) target	4	3,975
12. Over(+)/under(−)	−2	−4
13. Supplemental amounts needed	2	2
14. Over(+)/under(−)		−2
The amounts shown below are for the bill total and include both discretionary and mandatory amounts:		
15. Total amounts in bill	7,000	2,144
16. Prior action		3,969
17. Total	7,000	6,113
18. 302(b) total target	7,470	6,265
19. Over(+)/under(−)	−470	−152
20. Supplemental amounts	2	2
21. Over(+)/under(−)	−468	−150

Note.—Detail may not add due to rounding.

IV. Explanation of over/under

The total of the 302(b) subdivisions made by the Appropriations Committee must equal the total amounts of the 302(a) allocation, but the assumptions which make up the subcommittee target need not be the same as the program assumptions that underlie the budget resolution. The specific assumptions behind the 302(b) target are not known—as a result, the specific programmatic reasons that the bill is over or under the subcommittee targets can not be precisely identified.

For this bill, the budget resolution only assumed the President's request in total. Therefore, the only valid comparison of the bill and the resolution would be a comparison of the bill and the President's request. Section V below provides the comparison of the bill and the President's request.

V. Comparison with President

This bill is below the President's request for items in this bill by $1,212 million in budget authority and $253 million in outlays. The major differences in budget authority are as follows:

[In millions of dollars]

Program	President's request	Appropriations bill	Appropriations over/under request
Military construction, defense agencies	409	289	−120
NATO infrastructure	375	325	−50
Military construction, Navy	1,208	1,121	−87
Military construction, Army	1,100	942	−159
Military construction, Air Force	2,082	1,421	−661
Family housing, Army	1,053	1,016	−37
Family housing, Navy	769	713	−55
Family housing, Air Force	932	872	−60
Net miscellaneous small changes	281	298	+17
Total	8,209	6,998	−1,212

The bill's reduction of $661 million in budget authority from the President's budget request for military construction, Air Force, is composed of $207 million related to the decision to defer MX funding until a decision is made on the basing mode, $82 million in projects not contained in the House-passed authorization bill, $81 million in NATO related projects, $122 million for a Rapid Deployment Force project in Egypt, $50 million related to a Rapid Deployment Force project in Oman, $75 million in other overseas projects, $134 million in miscellaneous reductions and miscellaneous increases of $90 million.

VI. Definitions of terms in summary table, section III

Line 1

Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 6957.

Line 2

Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills this session.

Line 3

Total action to date: line 1 plus line 2.

Line 4

302(b) target: the target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5

Over (+)/Under(−): line 3 minus line 4.

Line 6

Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next Spring's supplemental appropriations bill.

Line 7

Over(+)/Under(−): line 5 plus line 6.

Line 8

Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9

Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10

Total: line 8 plus line 9.

Line 11

302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes effect of assumed authorizing legislation that would change the level of mandatory programs.

Line 12

Over(+)/Under(−): line 10 minus line 11.

Line 13

Supplemental amounts needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14

Over(+)/Under(−): line 12 plus 13.

Line 15 through 21

These lines equal the sums of lines 1 and 8, lines 2 and 9, etc., respectively.●

COST COMPARISON FOR H.R. 97-6957, COMMERCE, JUSTICE, STATE, JUDICIARY AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1983

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. JONES of Oklahoma. Mr. Speaker, I submit a cost comparison for the RECORD.

Floor action: Scheduled for Friday, August 13, 1982.

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its budget.

Discretionary programs in bill: The bill is under the subcommittee's total. This bill would not be subject to the deferred enrollment provisions of the Budget Resolution.

Mandatory programs in bill: The bill is over the subcommittee's total by $1 million.

Overall bill total: The bill is under the subcommittee's total.

Credit targets: The bill is under the subcommittee's total.

Supplemental amounts which may be required: Future anticipated funding requirements also in this subcommittee's jurisdiction if added to this bill should not breach this subcommittee's 302(b) target.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL, HOUSE BUDGET COMMITTEE

Bill: H.R. 6957, Commerce, Justice, State, Judiciary and Related Agencies appropriation, fiscal year 1983.

STAFF ANALYSIS

Committee: Appropriations.

Subcommittee: Commerce, Justice, State, and Judiciary.

Chairman: Mr. Smith (Iowa).

Ranking minority member: Mr. O'Brien (Illinois).

Scheduled: Friday, August 13, 1982.

I. Description of bill

This bill provides funds for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for fiscal year 1983.

II. Comparison with target for discretionary appropriations action

Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has two targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the subcommittee may have enacted this session, causes the target for discretionary budget authority to be breached, then the bill will be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution.

The summary table below shows that the subcommittee's possible full-year total is under its various targets at this time. The subcommittee has considered all the programs assumed in the budget resolution; no other items remain to be considered. The numbers in the summary table would change only with floor amendments, Senate action, or conference action on this bill.

III. Summary Table

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this subcommittee:		
1. Discretionary amounts in bill	8,878	7,545
2. Prior action		
3. Total action to date	8,878	7,545
4. 302(b) target	8,880	7,585
5. Over (+)/under (−)	−2	−40
6. Amounts assumed but not yet considered		
7. Over (+)/under (−)	−2	−40
The amounts shown below are only for mandatory programs that are funded by this subcommittee:		
8. Mandatory amounts in bill	191	188
9. Prior action		2,110
10. Total	191	2,298
11. 302(b) target	190	2,297
12. Over (+)/under (−)	+1	+1
13. Supplemental amounts needed	−8	−12
14. Over (+)/under (−)	−7	−11
The amounts shown below include both discretionary and mandatory amounts:		
15. Total amounts in bill	9,070	7,733
16. Prior action		2,110
17. Total	9,070	9,843
18. 302(b) total target	9,070	9,882
19. Over (+)/under (−)		−39
20. Supplemental amounts	−8	−12
21. Over (+)/under (−)	−8	−51

Note: Detail may not add due to rounding.

IV. Explanation of over/under

Since the assumptions behind a committee's 302(b) subdivision are not required to be provided to the House, the House Budget Committee is unable to give a definitive answer to the question of where a particular bill is over or under a committee's 302(b) subdivision. The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee. A list of the major areas where this bill differs from the budget resolution follows:

Department of State's conduct of foreign affairs is above the resolution assumptions by $44 million in budget authority and $65 million in outlays.

Contributions to international organizations is above the resolution by $52 million in budget authority and $33 million in outlays.

Patent and Trademark Office salaries and expenses is above the resolution by $44 million in budget authority and $43 million in outlays.

Economic Development Administration (EDA) assistance program is below resolution assumptions by $30 million in budget authority.

Payment to the Legal Services Corporation is above resolution assumptions by $88 million in budget authority and $67 million in outlays.

V. Credit

The First Budget Resolution contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit activities, and subdivides those amounts among subcommittees. For comparative purposes, the table below shows the bill and the credit subdivisions.

[In millions of dollars]

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. Credit program limits in the bill	12	28	
2. Limits assumed in the budget resolution not acted upon in the bill and other amounts not subject to limit	1,729	3,638	
3. Total in bill	1,741	3,666	
4. Credit subdivisions	2,400	3,700	
5. Over(+)/under(−)	−659	−34	

The Commerce-Justice-State Subcommittee generally did not include credit limitations in this bill. For credit activities that are not limited, the amounts shown in this table are the estimates of the unconstrained level of such credit activities, which is the estimate in the first budget resolution for nearly all cases. These unlimited amounts include not only items assumed to be limited in the budget resolution but activity, like direct loans recorded when loan guarantee default payments are made, which are not subject to current limits. All of the differences in this subcommittee allocation from the budget resolution involve SBA programs. Comments on the differences included in the report are summarized below:

Direct loans

Business loan and investment fund is estimated to support $698 million in new direct loans. The resolution included a proposed limitation of $738 million for disaster loans, thus the bill is $40 million below the resolution assumption.

National Oceanic and Atmospheric Administration operations and administration fund is $7.5 million below the $40 million assumed in the resolution assumption.

Primary guaranteed loans

National Oceanic and Atmospheric Administration operations and administrative fund is $11 million below the $42.5 million assumed in the resolution assumption.

VIII. Definitions of Terms in Summary Table, Section III

Line 1

Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 6957.

Line 2

Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills this session.

Line 3

Total action to date: line 1 plus line 2.

Line 4

302(b) target: the target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5

Over(+)/Under(−): line 3 minus line 4.

Line 6

Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next Spring's supplemental appropriations bill.

Line 7

Over(+)/Under(−): line 5 plus line 6.

Line 8

Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9

Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10

Total: line 8 plus line 9.

Line 11

302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes the effect of assumed authorizing legislation that would change the level of mandatory programs.

Line 12

Over(+)/Under(−): line 10 minus line 11.

Line 13

Supplemental amounts needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14

Over(+)/Under(−): line 12 plus 13.

Line 15 through 21

These lines equal the sums of lines 1 and 8, lines 2 and 9, etc., respectively.●

COST COMPARISON FOR H.R. 6956, HUD-INDEPENDENT AGENCIES APPROPRIATION, FISCAL YEAR 1983

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. PANETTA. Mr. Speaker, I submit a cost comparison for the RECORD.

Floor action: Scheduled for Tuesday, August 17, 1982

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

Discretionary programs in bill: the bill is under the subcommittee's total. This bill would not be subject to the deferred enrollment provisions of the Budget Resolution.

Mandatory programs in bill: the bill is under the subcommittee's total.

Overall bill total: the bill is under the subcommittee's total.

Credit targets: the bill is under the subcommittee's total.

Supplemental amounts which may be required: Future anticipated funding requirements may breach this subcommittee's 302(b) target!

Explanation: Early Warning reports take into account items assumed in the Budget Resolution but not yet acted on to provide Members with a possible Subcommittee spending total for an entire fiscal year. This comparison is for informational purposes only—no procedural sanctions accompany this comparison.

Two items traditionally funded by the HUD-Independent Agencies Subcommittee remain to be considered. The Subcommittee deferred action on HUD subsidized housing programs and GNMA tandem mortgage purchases because these programs have not been reauthorized and because there is a wide difference between the administration's proposals for these activities and the House Banking Committee's reported reauthorization (H.R. 97-6296, Housing and Rural-Urban Recovery Act of 1982). These items are expected to be funded in a later supplemental appropriations bill after enactment of the reauthorization, which may make major changes in housing programs. If these deferred items were funded at levels assumed in the Budget Resolution, the Subcommittee could exceed its 302(b) target for discretionary budget authority, but not for outlays. However, at full committee markup of this bill, Mr. Boland, chairman of the Subcommittee, indicated that the HUD-Independent Agencies Subcommittee intends to keep funding for these items within its 302(b) subdivision which would thus eliminate the problem.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL, HOUSE BUDGET COMMITTEE

Bill: H.R. 6956 HUD-Independent Agencies appropriation, fiscal year 1983

STAFF ANALYSIS

Committee: Appropriations.

Subcommittee: HUD-Independent Agencies.

Chairman: Mr. Boland (Massachusetts).

Ranking Minority Member: Mr. Green (New York).

Scheduled: Tuesday, August 17, 1982.

I. Description of bill

This bill provides appropriations for HUD, the Environmental Protection Agency, NASA, the Veterans Administration, and several other smaller independent agencies.

II. Comparison with target for discretionary appropriations action

Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has two targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the subcommittee may have enacted this session, were to cause the target for discretionary budget authority to be breached, then the bill would be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution (or held at the desk and not sent to the President for signature).

The summary table below shows that the subcommittee is under its discretionary targets. The numbers in the summary table could change as a result of floor amendments, Senate action, conference action on this bill, or possible future supplemental appropriations. Possible future supplementals are discussed in Section IV below.

III. Summary table

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this Subcommittee: [1]		
1. Discretionary amounts in bill	32,153	20,201
2. Prior action		
3. Total action to date	32,153	20,201
4. 302(b) target	41,500	20,900
5. Over (+)/under(−)	−9,347	−699
6. Amounts assumed but not yet considered	10,375	253
7. Over (+)/under(−)	+1,028	−446
The amounts shown below are only for mandatory programs that are funded by this Subcommittee:		
8. Mandatory amounts in bill	14,843	12,900
9. Prior action		21,846
10. Total	14,843	34,746
11. 302(b) target	15,103	35,700
12. Over (+)/under(−)	−260	−954
13. Supplemental amounts needed	+69	+811
14. Over (+)/under(−)	−191	−143
The amounts shown below are for the bill total and include both discretionary and mandatory amounts:		
15. Total amounts in bill	46,996	33,101
16. Prior action		21,846
17. Total	46,996	54,947
18. 302(b) total target	56,603	56,600
19. Over (+)/under(−)	−9,607	−1,653
20. Supplemental amounts	10,444	1,064
21. Over (+)/under(−)	+837	−589

[1] In this display, general revenue sharing is scored as a discretionary program consistent with the classification used by the Appropriations Committee in setting its 302(b) targets. GRS is fully funded, so this classification has no impact on whether the bill is under or over its targets.

Note.—Detail may not add due to rounding.

IV. Explanation of over/under

Since the assumptions behind a committee's 302(b) subdivision are not required to be provided to the house, the House Budget Committee is unable to give a definitive answer to the question of where a particular bill is over or under a committee's 302(b) subdivision. The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee.

This appropriations bill is far below its 302(b) target for discretionary budget authority because the Appropriations Committee deferred action on two items, funding for HUD subsidized housing programs and for GNMA tandem mortgage purchases. These programs have not been reauthorized for 1983, and there is a wide difference between the administration's proposals for these programs and the House Banking Committee's reported reauthorization, H.R. 6296, the Housing and Rural-Urban Recovery Act of 1982. These items are expected to be funded in a future supplemental appropriations bill after enactment of the reauthorization, which may make major changes in housing programs. Mr. Boland, chairman of the Subcommittee, indicated at full committee mark-up of the bill that the Subcommittee intends to keep supplemental funding for these items within its 302(b) subdivision. They are:

NASA Research and development (space flight) is $140 million in budget authority and $106 million in outlays above the budget resolution assumption;

Section 202 Housing for the Elderly or Handicapped direct loans are $371 million

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below the resolution assumption for budget authority;

Urban Development Action Grants are $100 million in budget authority and $5 million in outlays below the resolution assumption;

Payments for operation of low income housing projects are funded at a level of $198 million in budget authority and $110 million in outlays above the resolution assumption; and

Funding for major veterans' hospital construction projects is $268 million in budget authority above the resolution assumption.

V. Credit

The First Budget Resolution contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit program levels, and subdivides those amounts among subcommittees. For comparative purposes, the table below shows the bill, plus items not yet acted on, and the credit subdivisions.

[In millions of dollars]

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. Credit program limits in the bill	578	40,225	68,250
2. Limits assumed in the budget resolution not acted upon in the bill and other amounts not subject to limits	6,165	16,664	
3. Possible total for subcommittee	6,743	56,889	68,250
4. Credit subdivisions	8,350	56,900	68,250
5. Over (+)/under (−)	1,607	−11	

The HUD-Independent Agencies Subcommittee has one of the larger jurisdictions over credit assistance programs among the Appropriations subcommittees. (The Agriculture and Foreign Operations Subcommittees are the other large jurisdictions.) In this bill, the possible total, including items not yet acted on by the Subcommittee, for all three credit program measures is at or below the subdivision assigned to the Subcommittee. In addition, for all credit programs in this bill the Subcommittee included an annual limit as requested by the administration except for the NCUA Central Liquidity Facility.

The major credit assistance program levels in this bill are:

FHA mortgage insurance commitments are limited to $40 billion in 1983, the same amount assumed in the budget resolution;

GNMA guarantees of mortgage-backed securities are limited to $68.25 billion, the same amount assumed in the budget resolution;

Section 202 Housing for the Elderly or Handicapped direct loans are limited to $453 million, $366 million less than assumed in the budget resolution; and

Action on GNMA tandem mortgage purchases is deferred by the Appropriations Committee, pending completion of the reauthorization for this program. The budget resolution assumes $2.97 billion for these direct loans.

VIII. Definitions of terms in Summary Table, Section III

Line 1

Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 6956.

Line 2

Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills.

Line 3

Total action to date: line 1 plus line 2.

Line 4

302(b) target: the target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5.

Over(+)/Under(−): line 3 minus line 4.

Line 6.

Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next spring's supplemental appropriations bill.

Line 7.

Over(+)/Under(−): line 5 plus line 6.

Line 8.

Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9.

Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10.

Total: line 8 plus line 9.

Line 11.

302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes the effect of assumed authorizing legislation that would change the level of mandatory programs.

Line 12.

Over(+)/Under(−): line 10 minus line 11.

Line 13.

Supplemental amounts needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14.

Over(+)/Under(−): line 12 plus 13.

Line 15 through 21.

These lines equal the sums of lines 1 and 8, lines 2 and 9, etc., respectively.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 9, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 10

9:00 a.m.

Special on Aging

To hold hearings on alleged fraud, waste, and abuse in the medicare pacemaker industry.

318 Russell Building

10:00 a.m.

Finance

To hold hearings on S. 2350, allowing taxpayers to choose to conduct their business in corporate or noncorporate form based solely upon business reasons, to be followed by a business meeting to consider the following miscellaneous tariff bills: S. 231, S. 1392, S. 1552, S. 1565, S. 1588, S. 1717, S. 1723, S. 1746, S. 1979, S. 2031, S. 2247, S. 2396, S. 2539, S. 2540, S. 2560, S. 2566, S. 2685, S. 2692, S. 2600, and S. 2705.

2221 Dirksen Building

Foreign Relations

To hold hearings on the current situation in the Middle East.

4221 Dirksen Building

SEPTEMBER 13

10:00 a.m.

Energy and Natural Resources

To hold hearings on S. 2088, requiring citizens of the Northern Mariana Islands to be treated as U.S. citizens for purposes of specified Federal statutes; S. 2089, declaring that the Northern Mariana Islands shall not be considered a foreign country for purposes of the tort claims procedure provisions of the Federal Tort Claims Act; S. 2090, exempting the Northern Mariana Islands from the application of the Clean Air Act; S. 2632, authorizing American Samoa to issue bonds and other obligations and to exempt such bonds for taxation; S. 2633, transferring specified functions, powers, and duties from the government comptrollers for the insular areas to the Inspector General of the Department of the Interior in order to establish an organization to maintain an independent audit oversight of their governments; and S. 2729, amending or repealing certain provisions of the Organic Acts applicable to the Virgin Islands.

3110 Dirksen Building

1:00 p.m.

Judiciary

Immigration and Refugee Policy Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for refugee assistance programs.

2228 Dirksen Building

SEPTEMBER 14

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To hold oversight hearings on the activities of the Export-Import Bank of the United States.

5302 Dirksen Building

Commerce, Science, and Transportation

To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.

235 Russell Building

Foreign Relations

To hold hearings on U.S. trade relations with Japan.

4221 Dirksen Building

11:30 a.m.

Budget

To hold hearings on proposals reforming the Congressional Budget Act of 1974 including S. 13, S. 59, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2864, S. 2069, and S. 2454.

6202 Dirksen Building

2:00 p.m.

Armed Services

Business meeting, to receive recommendations from the Subcommittee on Manpower and Personnel on the Uniformed Services Pay Act of 1982.

212 Russell Building

Foreign Relations

To continue hearings on U.S. trade relations with Japan.

4221 Dirksen Building

Governmental Affairs

Business meeting, to consider pending calendar business.

3302 Dirksen Building

SEPTEMBER 15

9:30 a.m.

Judiciary

To hold hearings on S. 2428, proposed Trademark Counterfeiting Act.

2228 Dirksen Building

Labor and Human Resources

Business meeting, to resume consideration of proposed legislation establishing a program to increase the availability of information to the American public on the health consequences of smoking and thereby improve informed choice, and to consider the nomination of Gary L. Jones, of Virginia, to be Under Secretary of Education.

4232 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Foreign Relations

Arms Control, Oceans, International Operations, and Environment Subcommittee

To hold hearings on Law of the Sea.

4221 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

2:00 p.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up S. 2245 and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Foreign Relations

To hold hearings on pending nominations.

4221 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

SEPTEMBER 16

9:30 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To resume oversight hearings on the activities of the Export-Import Bank of the United States.

5302 Dirksen Building

Budget

To resume hearings on proposals reforming the Congressional Budget Act of 1974, including S. 13, S. 59, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2864, S. 2069, and S. 2454.

6202 Dirksen Building

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on hospital reimbursement systems used by private third-party payors.

2221 Dirksen Building

Foreign Relations

To hold hearings on the nomination of Kenneth W. Dam, of Illinois, to be a Deputy Secretary of State.

4221 Dirksen Building

Select on Indian Affairs

To hold hearings on the statute of limitations relating to Indian claims.

Room to be announced

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on the effects of coal slurry pipelines on the overall national transportation system.

235 Russell Building

Governmental Affairs

To hold oversight hearings on certain activities of the General Services Administration.

3302 Dirksen Building

Small Business

To hold hearings on S. 2446, to increase small business participation in the Federal procurement process, and other related proposals.

424 Russell Building

Select on Intelligence

Closed briefing on intelligence matters.

S-407, Capitol

10:30 a.m.

Judiciary

To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.

2228 Dirksen Building

2:00 p.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Judiciary

To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.

2228 Dirksen Building

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To continue oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of William R. Graham, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

4221 Dirksen Building

Judiciary

Courts Subcommittee

To hold hearings on S. 1403 and S. 1874, bills to reform and improve the annuity program for survivors of Federal justices and judges.

2228 Dirksen Building

Judiciary

Separation of Powers Subcommittee

To hold hearings on the Joint China Communique, Taiwan Relations Act, and documentation of separations of powers.

5110 Dirksen Building

SEPTEMBER 20

10:00 a.m.

Judiciary

To resume oversight hearings on Government merger enforcement policy, focusing on the legal and economic basis for horizontal merger policy.

2228 Dirksen Building

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SEPTEMBER 21

9:30 a.m.
Governmental Affairs
To hold hearings on reorganization issues relating to Department of Energy laboratories.
3302 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2847, proposed Indian Housing Act.
Room to be announced

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending treaties and nominations.
4221 Dirksen Building

SEPTEMBER 22

10:00 a.m.
Governmental Affairs
To hold hearings to review proposals providing benefits to former Presidents and their families.
3302 Dirksen Building

Judiciary
To resume hearings on the impact of the Boulder, Colo., decision, relating to potential antitrust liabilities for local governments.
2228 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2061, providing for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and H.R. 4861, establishing the American Conservation Corps.
3110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 23

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 1747, relating to the purchase of prison-made products by Federal departments, to allow in certain cases, the purchases of similar products from small businesses.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on the alleged use of false identification to penetrate Federal programs.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold hearings on S. 2863, to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

2:00 p.m.
Governmental Affairs
To hold hearings on the nomination of K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board.
3302 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To hold hearings on S. 2255, proposed Antiterrorism and Foreign Mercenary Act.
2228 Dirksen Building

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on airline labor protection relating to mergers acquisitions, and intercarrier transactions.
235 Russell Building

10:00 a.m.
Judiciary
Courts Subcommittee
To resume hearings on S. 1529, and S. 2035, bills establishing the National Court of Appeals.
2228 Dirksen Building

SEPTEMBER 27

9:30 a.m.
Finance
To hold hearings on proposals providing for a flat rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1626, proposed Department of Energy Organization Act Amendments of 1981.
235 Russell Building

SEPTEMBER 28

9:30 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

SEPTEMBER 29

9:30 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 30

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.
5110 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to Government contractors.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.
4232 Dirksen Building

1:30 p.m.

Judiciary

Immigration and Refugee Policy Subcommittee

To hold hearings on Presidential immigration emergency powers.

2228 Dirksen Building

OCTOBER 6

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the accessibility of the judicial system.

2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 14

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.

4232 Dirksen Building

SEPTEMBER 23

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the use of computer matching in certain Federal agencies.

3302 Dirksen Building

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HOUSE OF REPRESENTATIVES–*Thursday, September 9, 1982*

The House met at 10 a.m.

Rabbi Barry Rosen, Temple Israel, Sharon, Mass., offered the following prayer:

During these days of preparation for the Jewish high holy day season, we join in the theme of introspection and prayer. We shall read in the liturgy on these days of remembrance and judgment, "It is decreed which countries are destined for the sword and which for peace." We pray that all peoples of the world will enter a permanent era of peace. Our thoughts turn to Israel and her neighbors with a special prayer that shalom, peace, can be realized that will bring security to all nations and dignity and tranquillity to every human being, each a creation of God. Bless also all the leaders of America, that they may continue to inspire and guide all Americans and all free peoples to attain shalom. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **PORTER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **PORTER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 20, answered "present" 5, not voting 63, as follows:

[Roll No. 312]

YEAS—344

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Evans (DE)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lungren
Madigan
Markey
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Obey
Oxley
Panetta
Pashayan
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Porter
Price
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Sawyer
Scheuer
Schneider
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zeferetti

NAYS—20

Butler
Dickinson
Emerson
Evans (IA)
Forsythe
Gejdenson
Goodling
Harkin
Hendon
Holt
Jacobs
Johnston
Luken
Miller (OH)
Mitchell (MD)
Murphy
Roemer
Sabo
Walker
Washington

ANSWERED "PRESENT"—5

Byron
Daniel, Dan
Horton
Oberstar
Ottinger

NOT VOTING—63

Addabbo
Applegate
Bafalis
Beard
Beilenson
Bingham
Blanchard
Breaux
Broomfield
Brown (OH)
Chappell
Chisholm
Clay
Collins (TX)
Coyne, James
Crockett
Dellums
Derwinski
Dougherty
Dymally
Dyson
Erlenborn
Ertel
Evans (GA)
Ford (MI)
Fountain
Gibbons
Goldwater
Gray
Grisham
Hall (OH)
Hawkins
Heckler
Heftel
Jeffries
Lundine
Marks
Marriott
Mattox
McCloskey
Moffett
Nichols
Parris
Pepper
Pritchard
Rangel
Roe
Rosenthal
Rudd
Santini
Savage
Schroeder
Schumer
Siljander
Simon
Smith (IA)
Stump
Walgren
Weiss
White
Winn
Young (AK)
Zablocki

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the following resolution:

S. Res. 457

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Adam Benjamin, Jr., late a Representative from the State of Indiana.

Resolved, That a committee be appointed by the presiding officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Rep-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

resentatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 118. Concurrent resolution expressing the sense of the Congress commending the achievements of U.S. Special Negotiator Philip C. Habib.

RABBI BARRY ROSEN

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, wisdom is needed in this House each day, but particularly on days such as this, when we face the possibility and the responsibility of dealing with constitutional issues as subject on our congressional agenda.

It is, therefore, very, very fitting that our opening prayer today was offered by a man of great wisdom, Rabbi Barry Rosen of Sharon, Mass.

A graduate of the University of Cincinnati and the Jewish Theological Seminary of New York, Rabbi Rosen is the spiritual leader of the 600 families of the Temple Israel in Sharon. His wife, the former Judy Ostrow, and their 10-year-old daughter, Rebecca Shira, accompanied him here today. A 5-year-old son, Ami Ben Chai, remained in Massachusetts.

The Hebrew word "rabbi" means teacher, and the role of teacher is an important one for any rabbi in his relationship with the members of his congregation. It is a role from which we, the Members of the House of Representatives, can benefit, in learning from the rabbi about his recent trips to Lebanon and Israel.

But that is only one of the roles of a rabbi. Rabbi Rosen has served his congregation as teacher, leader, and adviser for 6 years. Sensitivity and warmth characterize his dealings with people—his congregates and all others. Compassion guides him in the many decisions he must make daily that affect the lives of those within his congregation and beyond it.

Wisdom is something that he not only gleans from his congregation but that he also returns to them in his daily contacts with them.

In welcoming Rabbi Rosen to this House of Representatives and to Washington, I would also like to extend a welcome to the delegation from the Temple Israel that has joined the Rosens in their trip today, including temple president Joseph Walter and his oldest son Barry; Cantor Harold Lew; temple sisterhood Copresident Carol Brown; chairman of the board, Mr. Martin Raab; Past President Wol Wersted and his wife Evelyne, and also a past president, and their grandson, Jeremy Blumenthal; Aaron Kischil, director of the New England region, United Synagogues of America; Mr. Morris Burke; Mr. Ronald Shufrin; and Mr. Irving S. Krupsky, who is the educational director of the Temple Israel.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I ask to proceed for the purpose of discussing the program for the day and the remainder of the week and generally the start of next week.

We plan at the conclusion of the 1-minute period to take up the Consolidated Farm and Rural Development Act, which is an open rule with 1 hour of general debate allowed, and we would hope that we might be able to conclude that piece of legislation before going to the vote on overriding the President's veto of the supplemental appropriation bill.

In order that Members might understand the plan and make their own plans accordingly, it is our expectation to begin the 1 hour of debate on the override at about 2:30. If we have not concluded the Consolidated Farm and Rural Development Act by that time we would rise and go into the Whole House to act on the supplemental appropriation veto beginning at about 2:30.

With 1 hour of debate, given the general experience around here, it usually takes about an hour and a half, so we would expect that the vote on the override would occur at about 4 o'clock.

Following that there are some other things that we are going to try to do today so that tomorrow may be a pro forma session. The funeral for our late colleague, Adam Benjamin, will be held in Gary, Ind., tomorrow at 10 o'clock central time. Buses for those who would like to attend the services will leave the Capitol at 7:30 in the morning to go to Andrews and from there the plane will fly such Members as can attend to Gary, Ind., and will return tomorrow probably arriving back here midafternoon.

Therefore, if there were any session tomorrow, we would expect that it would be a pro forma session.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I will be delighted to yield to the gentleman.

Mr. MICHEL. I have forgotten; what time was set for the funeral tomorrow? There may be Members who would like to go to the funeral and then make connections to go to their districts, rather than returning to Washington.

Mr. WRIGHT. The funeral will be held beginning at 10 o'clock central standard time in Gary, Ind., tomorrow morning. As I understand it, Members seeking to return to their home districts directly from there may have to go to O'Hare or perhaps Midway in Chicago to make flights if they want to check that out.

Next week we have primaries in 13 States on Tuesday. Therefore, it would be our expectation that we would take suspensions on Monday and Tuesday and to devote those days to debating the suspensions and passing those that can be passed by voice vote. But in deference to the Members whose States have these primaries, we would hope not to have votes and we would put the votes off until Wednesday of next week.

I should think maybe Members might also want to be alerted to the fact that the HUD appropriation bill will be considered next week.

Yom Kippur, the high holy day of the Jewish faith, occurs on Monday, September 27. I will ask unanimous consent that when the House adjourns on Friday, September 24, it stand adjourned until noon on Tuesday, September 28.

AUTHORIZING ADJOURNMENT OF HOUSE ON FRIDAY, SEPTEMBER 24, 1982, UNTIL TUESDAY, SEPTEMBER 28, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourn on Friday, September 24, it stand adjourned until Tuesday, September 28.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

That is all I had to announce at this particular time, Mr. Speaker. I will answer any questions about the program or we could discuss them later in the day, unless the distinguished minority leader, the gentleman from Illinois, would have a question.

Mr. MICHEL. I wonder if the distinguished majority leader could look in his crystal ball. This may be unfair to ask at this juncture but are we talking about getting out of here on October 2d or 9th? In a conversation I had yesterday with the majority leader in the other body he was talking in terms of the 2d, but in conversations I have had with the Speaker, on occasion, it has been more like the 8th or the 9th.

Has that been crystallized yet or can we begin shooting for some other date?

I think Members all have a problem of scheduling.

Mr. WRIGHT. As the gentleman so well understands, the very best plans of mice and men go astray.

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We have tried from year to year to give a specific date. Our earlier target date was October 8.

I was told also yesterday by the minority leader in the Senate, Senator BYRD, that he and Senator BAKER both were hopeful that we could adjourn on October 2. There are relatively few things that just absolutely have to be done.

As we did last year, the House undoubtedly will pass many regular departmental appropriation bills. But, as happened last year, they may languish in the other body and it may become necessary for us to have a continuing resolution.

□ 1030

I would like to hope that if that were the case, the President would resist the temptation to play politics with the continuing resolution. Let us pass it and get on out of here, if that becomes necessary, instead of bringing us back, like little, errant schoolboys, by the ear, and thrashing us around the cheek and jowls and calling us big spenders, and things like that, especially since our continuing resolution would be under the budget. That is just an expression of hope. And if that hope were fulfilled, we could get out of here October 2.

Mr. MICHEL. I thank the gentleman. And, of course, if we do not act like errant schoolboys and do some of the right things rather than the wrong things, I do not think we will have that kind of confrontation, either.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

If I understand what was just done here by unanimous consent, we have eliminated now the date of September 27, in terms of a House session; is that correct?

Mr. WRIGHT. Yes. And there will be no schedule of legislative business late on the 17th, because at sundown on the 17th, that being a Friday, begins the holy day of Rosh Hashana. I think that Members might understand that with respect to any votes on legislation, we would really try very hard to have them occur early on the 17th in order that Members of the Jewish faith, might return to their homes by sundown on that date. So we would try to protect both that holiday and Yom Kippur, which occurs on the 27th of September.

Mr. WALKER. I thank the gentleman.

If the gentleman will yield further, my concern about the 27th is that that is one of the last days of the session when it is possible to have a discharge day. As the gentleman is well aware, there is building a momentum in terms of getting enough signatures on the discharge petition for the balanced-budget amendment.

Could the gentleman give us some assurance, since we are now eliminating that discharge day, that if we got 218 signatures on the discharge petition for a balanced budget, we would have another discharge day scheduled in order to have action in the House? Could we have some kind of assurance on this?

Mr. WRIGHT. Well, the rules of the House will be complied with, I will assure the gentleman, and whatever those rules provide, we will certainly extend to all Members the protection of them.

Mr. WALKER. If the gentleman will yield further, then is the gentleman assuring me that, under the rules of the House, he would ask unanimous consent, for instance, to have the 28th declared a discharge day? Because the rules of the House would preclude us from taking up the balanced-budget amendment if the gentleman proceeds under the course we have now scheduled. I know the gentleman does not want to prevent the balanced-budget amendment from coming to the floor.

Mr. WRIGHT. I would be glad to discuss that with the leadership on the gentleman's side of the aisle. I do not think I can make any commitment at this moment about a unanimous-consent request of that type. It might be objected to. Let us give me an opportunity to discuss that with the leadership on the other side of the aisle. I do not want to make any commitments right here on the spur of the moment.

THE HOUSE SHOULD OVERRIDE PRESIDENT'S VETO OF SUPPLEMENTAL APPROPRIATION BILL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, the President has said, and I quote, we should "shoulder our responsibilities in the House" and sustain his veto on the supplemental appropriation.

I also hope we are going to shoulder our responsibilities, Mr. Speaker, and we will vote to override this really unbelievable veto.

With the election just 7 weeks away, I am confident that many of my colleagues will recognize that senior citizens, college students, the handicapped and those who are concerned about getting America back to work will also be asking us to shoulder our responsibilities and to override this veto.

Mr. Speaker, the truth is that the Congress helped the President hit a home run on his tax bill. And in appreciation, he has thrown us and the American people a real spit ball in this veto. Let us show him what we think about it and override it this afternoon.

LOW-INCOME SENIOR CITIZENS RELY ON CONTINUED FUNDING OF TITLE V PROGRAM IN SUPPLEMENTAL APPROPRIATIONS BILL

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. I rise today on a matter of grave importance to thousands of low-income senior citizens in our Nation, who rely heavily on the continued funding of the title V program. The necessary funding to continue this very valuable program is contained in the supplemental appropriations bill which was vetoed by President Reagan, that we will later today, attempt to override. I cannot stress enough the value of the title V program. Over 54,000 poverty level elderly nationwide are able to supplement their income while providing critically needed community service tasks. In my State of Massachusetts, over 1,300 senior citizens benefited from title V this year.

There were 911 of these workers who provided needed services to the elderly.

Without the funding contained in the supplemental bill, title V will not continue past the September 30 deadline. Should this misfortune occur, not only will these elderly workers lose this critically needed income they will also lose the self-esteem and sense of worth that these jobs provide. We will lose the benefit of these citizens' years of experience and knowledge that they give so generously to these public service jobs. Many of these people who now are able to live independently because of title V, will be forced to turn to welfare and other Government support programs, thus costing the Federal Government far more dollars than the relatively few required to keep title V operating.

On July 20 of this year, 407 Members of this body voted for a resolution expressing the sense of the House of Representatives, that the title V program should be continued and funded at levels sufficient to maintain or increase the number of those employed under this program. While that vote was important to show support for this fine program, the vote today to override the supplemental appropriations bill, is the real test of our commitment to the continuation of title V and the positive future for those senior citizens served by the program.

I urge your support for the override of the Presidential veto.

VOTE TO OVERRIDE PRESIDENT'S VETO OF SUPPLEMENTAL APPROPRIATIONS BILL

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the President came to Washington with the right idea. He said that Congress has been trying to solve problems by throwing money at them and that was wasting the taxpayers' money. He was right about that. Unfortunately, the President has not learned the same lesson when it comes to defense spending. When the President tries to strengthen our defense by throwing money at the Pentagon, he is also wasting the taxpayers' money.

That is what the President's veto of this supplemental appropriations bill and the override attempt is all about.

The Congress passed a supplemental spending bill that spends nearly $2 billion less than the budget allowed. So our bill was not a budget-buster. The President, however, was upset because he wanted more money for defense and foreign aid so he vetoed the bill.

The President is making a mistake, and unfortunately he is misrepresenting this issue to the American people. We are not busting the budget. Rather, it is the President who wants to break the bank on defense spending.

According to the Appropriations Committee chairman there is a $147 billion carryover in the Pentagon today. Adding to that, the military budget was increased $37 billion this year. Now the President complains that he wants to spend, spend, spend, even more on the military. I think he is literally throwing money at the military and the resulting waste is staggering.

The President's spending appetite for Federal spending when it comes to defense is making some of these liberals in Congress look cheap by comparison.

I am going to vote to override the President's veto today because I think he is wrong.

We need a strong defense, but you do not get that by throwing money at it. Throwing money at the defense problem will not strengthen our defense. Instead, it will further weaken our economy.

Taking money out of a jobs program for senior citizens, student aid, and handicapped education to add to the waste in the military is just plain foolish. It is time for some clear thinking about spending down at the White House and in Congress to get this country back on track.

OVERRIDE VETO—SAVE TITLE V

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I rise in support of the vote to override the President's veto of the supplemental appropriations bill. Clearly, the issue here is not one of total dollar amount, but of distribution. The appropriations bill is well below the limits of both the administration's request and the fiscal year 1982 budget resolution ceiling. Yet the President has rejected this bill, simply because he feels it is unwarrented to provide 54,000 elderly and disadvantaged men and women, who have little or no other income, with a modest amount of assistance.

In Connecticut, the title V program provides 649 jobs for the elderly, who in turn, provide countless community services for their peers. In one area alone, 40 title V enrolees staff the nutrition programs serving 4,000. Veto of this bill would not only eliminate those positions, but cut the number of meals served in half. These services cannot be easily replaced, and in most cases, will require even greater outlays in supplemental security income, medicaid, and food stamps. These people will go from self-sufficiency to institutionalization as home delivered meals, day care, and transportation services provided by title V end.

We cannot afford to let the title V program end. We must again assert our priorities, and vote to maintain this supplemental appropriation. On behalf of the disadvantaged elderly, I urge my colleagues to join me in voting to override the President's veto.

AN ISSUE OF PRIORITY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, everyone knows that this critical supplemental bill is almost $2 billion less than the President requested. So what is the issue? The issue is priority—whether a few more pieces of military hardware and the cost overrun of a submarine are more important than immunizing our children from disease; whether a few pieces of military hardware and the cost overrun of a submarine are more important than the education of handicapped children; whether the employment of our older Americans who, among other things, deliver meals to our frail elderly who otherwise would not, in many cases, eat that day, are more important than a few more pieces of military hardware or the cost overrun of a submarine.

Members have a very clear choice today between choosing military cost overruns or people. It is that simple. It is a matter of national conscience. It is a matter of priority. Let us all vote to override the President's veto and show that we are a country of morality and that we have a national conscience.

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM MUST NOT BE ELIMINATED

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, there are many good reasons for this body to override the President's veto of the supplemental appropriations bill. But none is more clearly compelling than the need to rescue the $210 million it contains for the senior community service employment program.

This is funding that originates with the Department of Labor and passes through eight national aging organizations and through the State aging agencies. It is money that could not be better spent, particularly at this juncture when the Federal Government is withdrawing from the social sector and when the percentage of senior citizens in our society is growing.

The 54,000 senior citizens whose part-time jobs are funded by this program are primarily serving their peers. In my district in Dallas, Tex., 80 elderly citizens are working in this program. They are driving the Meals on Wheels vans, transporting other senior citizens who have no access to transportation. Some are working in elderly nutrition programs, and others are doing a variety of in-home services for their less fortunate friends.

Because of the President's veto, these 80 elderly workers have received termination notices, effective September 30. And across the country, a total of 54,000 jobs are at stake, as are about 250 community service programs that directly serve the elderly.

Mr. Speaker, the senior community service employment program is a double-purpose program that must not be eliminated because of the President's nickel-and-dime mentality. We should and we must override this veto.

A REFERENDUM ON IMPORTANT ISSUES

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, as my colleagues are pointing out, the vote on the override of the veto is clearly a referendum on several important issues. It is a referendum on title V, the senior community services employment program and the 54,000 senior citizens, disadvantaged senior citizens, who are employed by that program.

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The administration calls it "unwarranted." This House, in a vote of 407 to 4, committed itself to full funding for title V. You cannot have it both ways, voting for a resolution that commits itself to full funding, and then turning around and voting to support a veto that is against this program and would gut it.

Second, it is a referendum on the basic priorities of this country. The administration is taking the position that they want more for military at the sacrifice of the elderly, at the sacrifice of the students and the handicapped. The Congress on the other hand has committed itself to the human priorities by adopting this appropriations bill by an overwhelming vote in the first instance.

Lastly, it is a test of whether this Congress is truly going to be an independent branch of Government or simply a rubberstamp. We ought to clearly stand with the President when he is right, as we did with regards to the tax bill. But we ought to certainly oppose him when he is wrong. And on this issue he is wrong.

LET'S REAFFIRM OUR PRIORITIES

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, President Reagan's recent statement that the supplemental appropriations bill "would bust the budget by nearly a billion dollars" is incorrect. The bill is actually $1.5 billion below the President's request in budget authority and $1.3 billion below his request in outlays. Furthermore, the Congressional Budget Office estimates that the bill is $3.2 billion less in budget authority and $1.1 billion less in outlays than the budget ceilings established in the budget resolution for fiscal year 1982.

The President vetoed the bill not because it is a budget buster, but because he does not like the spending priorities established in the bill. Congress chose to spend more on essential domestic programs and less on military programs than requested by the President.

The supplemental appropriations bill contains funding critical to the operations of many programs including the senior community service employment program, student loans, education for the handicapped, and State extensions of unemployment benefits. The bill does not give the President the total amount he requested for defense programs. Instead, Congress funded only those programs which met the criteria for supplemental funding, which is to provide funds for mandatory costs incurred by the Government or other emergency or extraordinary circumstances. Even Defense Secretary Weinberger argued against the veto and urged the President to sign the supplemental.

Congress made its spending priorities clear last month when it overwhelmingly voted in favor of the supplemental appropriations bill. At a time when many people in our country are experiencing great hardships, Congress chose to spend money on programs which will allow people to just hang on to their standard of living rather than to fatten our already obese defense budget.

I urge my colleagues to reaffirm our priorities by voting to override the President's veto.

□ 1045

IS VETO OF THE PRESIDENT TRULY A SEARCH FOR WASTE?

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, we are told aid to our most needy college students or education for handicapped youth is "unwarranted," yet $700 million the Secretary of Defense himself suggested be cut, is according to the White House "urgently needed."

The Defense Department cannot wait until October for hundreds of millions in new hardware, yet senior citizens, we are told, can wait for jobs and dignity.

A bill that costs less than the President requested cannot be called a "budget buster" and the President's spending list cannot be called the priorities of the American people.

Is this veto a determined search for "waste"? Or is it a budget policy reduced to disdain for any program that puts the Government in service to its people?

TAX BILL ALLOWS CORPORATIONS TO TAKE TAX DEDUCTIONS FOR BRIBES

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, I have today introduced legislation to repeal the provision of the recently enacted $98.3 billion tax bill which allows multinational corporations to take tax deductions for bribes paid overseas.

That the tax bill contained a provision allowing U.S. corporations to take tax deductions for so-called grease payments overseas is a further demonstration of its basic unfairness to average Americans.

My amendment is based on the simple premise that bribery, no matter what it might be called, should not be tax deductable.

Not only does the tax bill condone the paying of bribes, it raises bribery to a new height of respectability by forcing average taxpayers to give it a special subsidy.

If this provision is allowed to stand, corporations will get more tax breaks while the average person pays more taxes on a pack of cigarettes, for a telephone call and for health care. People should be outraged over this.

The estimated loss to the Treasury for these bribery deductions is $30 million per year. My suspicion is that this is a very conservative estimate, particularly when foreign officials find out that U.S. corporations can actually limit their tax liabilities by passing out money under the table overseas.

Although the Foreign Corrupt Practices Act of 1977 provides for civil and criminal penalties for businesses convicted of bribing foreign government officials to obtain or maintain overseas markets, so-called grease payments were not made illegal.

Such payments, which would be tax deductible, could be made for such purposes as expediting shipments through customs or securing required permits.

APPEASEMENT OF RIGHT WING EVIDENT IN VETO

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK. Mr. Speaker, the President's veto of the supplemental appropriation is an example of why the American public sometimes gets the Federal Government confused with the flat earth society. We are being told that a bill that spends a billion less than the President wants to spend is bad because it spends too much. He says we are budget busters because we passed a bill that is $1 billion less than his recommendation.

Clearly what is at stake here is the President's need to appease his right wing. A little commonsense has broken out in the White House on some matters and that has caused consternation amongst some of his far-right supporters, so he has to engage in the sort of rhetoric we see in this veto denouncing the senior aide program, decrying aid to students, and demanding billions more for weapons.

Unfortunately, this means that the elderly and the students of this country get sacrificed on that right wing political altar.

Mr. Speaker, perhaps in the spirit of compromise we can work something out. Maybe what we can do under the senior aide program is to arm the elderly. Perhaps if we gave each one of them an M-16 or assigned each one of them duty as a monitor under the nuclear evacuation plan, we might persuade the White House to go ahead with the senior aide program. Clearly something has to be done to persuade the President and those who will support him in this body that a program which provides jobs to older people to work is worthwhile.

I would have thought that the merits of the senior aide program would have been self-evident even through the thick, ideological bog that envelops the White House. But if not—if it takes enlisting old people into some paramilitary force, if that is the only way we can provide them jobs—perhaps the time has come to arm the elderly and work out a compromise with the President's need to shore up his right.

MR. PRESIDENT: GIVE THE AMERICAN PEOPLE A CHANCE

(Mr. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTERSON. Mr. Speaker, I rise in opposition to the President's veto and to support the veto override today. The President asked us for $15.7 billion in the supplemental appropriations bill. We gave him only $14.2 billion, and now he has vetoed that appropriations bill as a "budget buster."

How does he logically explain that? The President believes we are spending $900 million too much on programs for the elderly, the handicapped, and students, and we are not spending enough—$2 billion too little—on defense and foreign aid. He would rather take the money away from the elderly and the young and send it overseas. Apparently Federal money spent for foreign aid and defense do not increase deficits—nor are they budget busters. But money for our own people here at home is a budget buster, even when we reduce the President's overall budget request.

I urge my friends, moderate and conservative, who are concerned with fairness and spending restraint to rise with me and vote to override this veto. And, I say to the President: "Come on, Mr. President, give the American people a chance."

THE PRESIDENT CHOSE CONFRONTATION OVER COMPROMISE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, today this House will consider and vote upon the override of a Presidential veto. This supplemental measure passed by a 7-to-1 margin reflecting good judgment and reflecting compromise on the part of this House and the other body.

Any veto and override attempt is a most serious matter but today's vote is all the more important because of what is at stake.

The President has chosen confrontation over compromise.

The decision that the House and the other body make on the President's veto will have a profound effect on our Nation's students, the unemployed, the handicapped, and a special group of elderly Americans. That is what is at stake today. No matter how you try to frame the debate, the basic issues are the future of education for the disadvantaged, student financial assistance, education for the handicapped, unemployment compensation, and the continuation of life-sustaining jobs for older workers.

President Reagan may rail about defense and the budget but what he is doing is cutting off essential programs. With his veto, the President has laid off over 50,000 older Americans and he has denied countless others of essential programs. What the issue comes down to is that the Congress decided not to add $3 billion to the largest Pentagon spending increase in peacetime.

President Reagan's veto is another grandstand play at his riverboat gamble. It is a losing gamble that has cost Americans over 10 million workers. The ante on this bid is 54,000 senior citizens and our children's future. I say stop the gamble. Let us provide the resources to address the needs of the people we represent.

Mr. Speaker, it is time for this Congress to stand up and force the President to put aside the cards and give the American people a fair deal.

CUTS FROM OVERRUN COSTS OF TRIDENT PROGRAM PUT TO GOOD USE

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, my colleagues have spoken well about the various priorities of this bill which the President has vetoed.

Let me speak about the use of one of those priorities.

This bill cuts $100 million in cost overruns from the Trident submarine program and it uses that $100 million in these ways: Some of it is appropriated for early education for handicapped children under the age of 8; it uses money for childhood immunization programs; it expends dollars to secure the unemployment trust fund so that America's jobless workers can be guaranteed some small financial assistance; and finally, it uses part of that $100 million cost overrun that we cut from the Trident submarine program to develop mass transit in the United States to make the lives of our urban neighbors somewhat more comfortable.

Those are proper priorities. I trust the House will join me and my other colleagues in overriding the President's veto.

IN SUPPORT OF TITLE V

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, in the past 2 months, both the House and the Senate have reaffirmed their commitment to title V, the senior community services employment program. The House overwhelmingly demonstrated its bipartisan support by a vote of 407 to 4 and the Senate by a vote of 89 to 6.

The bill contains $210 million needed to keep this program in operation and to keep 54,000 low-income older people working on the rolls after September 30. It is time here for us to reaffirm our commitment to this program. If we do not do that, if we eliminate the program, then what will happen is we will force these people off of the work rolls and on to the welfare rolls.

In addition, the cost of replacing these workers and providing the services which they do provide for the local community will be astronomical and probably twice the cost that we now provide through Federal funding.

In sum, any savings that we now believe we are going to achieve by eliminating this program would have to be assumed by some other branch of Government. I think that is absolutely counterproductive.

I hope we are able through this minimal funding to retain these elderly workers to provide jobs for 54,000 people and services for the hundreds of thousands of others that they work for.

UPHOLD THE RIGHT OF CONGRESS TO SET FEDERAL SPENDING PRIORITIES

(Mr. PHILLIP BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. PHILLIP BURTON. Mr. Speaker, President Reagan's veto of an appropriations bill overwhelmingly passed by Congress is an outrageous, hypocritical act. This bill proposes spending an amount $3.2 billion less than the budget supported by Reagan and appropriates $1.5 billion less than his appropriations request. The President's veto has unnecessarily precipitated yet another crisis in the Government. In his own words: "Delay in

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adoption of this bill poses serious problems."

The President states that one of his objections to the bill is the amount proposed for defense. He says this because Congress, in its wisdom, cut $2.1 billion from his excessive request for Pentagon spending, including a $30.7 million reduction in the Pentagon's nuclear weapons program.

Another problem the President has with the bill is the funding of various domestic programs. Mr. Speaker, I strongly endorse the Appropriations Committee's proposed $211 million for community service employment for the elderly poor. I applaud the $148 million for college grants for disadvantaged students. I commend the committee for proposing $26.5 million for handicapped education; $217 million for student financial assistance; and $10 million for aid to colleges with large numbers of minority students.

President Reagan is opposing a bill which includes $500,000 for the Center for Disease Control's preventive health services program to continue efforts to discover the cause and cure for Kaposi's sarcoma. This funding is critical for the fight against a pernicious and often fatal disease. People in San Francisco and the Nation are appalled that Mr. Reagan's veto will halt this vital program.

The people of San Francisco and other major American cities must wonder why Mr. Reagan opposes $37 million for urgently needed urban mass transportation. Those people concerned for our Nation's environment must wonder why he opposes $13.3 million to fund efforts to return land ravaged by strip mining to a useful and esthetic state.

Mr. Speaker, I will vote to override this veto and I urge all my colleagues to uphold the right of Congress to set Federal spending priorities.

VETO OF PRESIDENT A CON JOB

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, this veto is the biggest scam, con job that has been attempted by the White House up to this point. There is no point in calling it anything else but that. It is a con job. It is a scam. The President knows darn well that this is not any budget buster. He knows that. It is way below his figures.

What he wants to do and does not apparently have the will and support to do is to eliminate all Federal programs. That is what he wants.

Way back when we passed the Social Security Act, it was the Republicans who voted overwhelmingly to send it back to committee, and that would have killed the Social Security Act. A leopard does not change its spots.

What we have here is a scam job and we have got to deal with it. We have to be honest with the people. I tell the Members, the President is afraid. He is afraid to say, "I do not like housing; Government should not provide it. I do not like to help senior citizens; the Federal Government should not do that. I do not like to help students; the Federal Government should not do that."

He does not have the guts to say that. What he is doing is nibbling away at these programs every chance he gets. Cut, cut, cut.

Come on out. Be the true conservative that you are, Mr. President, and say end all Federal programs. I would have a lot more respect for you.

VOTE AGAINST THE PATENT TERM EXTENSION BILL

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, the issue of the day is the supplemental veto and the effort to override which I strongly support, but I rise to discuss another bill that has just been scheduled for debate next Monday with a vote to occur on Wednesday. Although it has been scheduled as a suspension, I rise to alert my colleagues that this measure is anything but noncontroversial. It is extremely controversial.

Since a lot of Members will be out of town on Monday and Tuesday for the primary elections, they will come back on Wednesday to face this vote without benefit of a lot of the debate. So I just want to alert my colleagues on this occasion.

I am speaking of the patent term extension bill which is an extremely important measure that will raise the price of medicine by giving up to a 7-year extension on patent terms to pharmaceutical companies.

It is based on false premises. The fact is that there has been no decline in innovation whatsoever by pharmaceutical companies since 1962.

Second, there have been huge increases in real dollar terms in research and development by pharmaceutical companies and enormous increases in profits. In addition, we just gave them a 25-percent tax credit for research and development expenditures.

Do not be hornswoggled on this bill. Consumer groups are strongly against it. Senior citizen groups are strongly against it, as well as many others.

The pharmaceutical industry is trying to pull the wool over the eyes of this Congress, do not let it happen. Vote "no" next Wednesday.

THE IMPORTANCE OF TITLE V FOR OLDER WOMEN

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, a number of my colleagues have already spoken to the possible elimination of title V of the Older Americans Act, if the Congress today does not override the President's veto on the supplemental appropriations bill.

Recently the Select Committee on Aging conducted hearings in the Northwest on the impact of budget cuts on older women. Congressman WYDEN and myself participated in these hearings and we heard from witnesses who reaffirmed the vital importance of the title V senior employment program, particularly for older women. Older women now represent 72 percent of the elderly poor and are truly dependent on many of these Federal programs.

Despite the crucial need for title V, President Reagan has vetoed the one piece of legislation that appropriated the $211 million in additional funds to keep title V seniors employed through June of 1983. If the Congress cannot override this veto, over 54,000 elderly will be out of work after September 30. Of the 54,000 part-time community services jobs provided for the low-income elderly, two-thirds are those employing women.

I urge the Congress today to override the President's veto and sustain this important program.

□ 1100

HUMAN NEEDS JUSTIFY OVERRIDING VETO

(Mr. DASCHLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DASCHLE. Mr. Speaker, later today, this House will have an opportunity to show that our country's senior citizens, handicapped citizens, and young people are just as important to this country as B-1 bombers, MX missiles, and M-1 tanks. We can do this by voting to override the veto on a supplemental appropriations bill, a bill that, far from being a "budget buster," appropriates almost $2 billion less than the administration asked for. This bill was not vetoed because it spent too much money. It was vetoed because it tried to meet some human instead of military concerns. It tried to make sure that we strengthen our country through programs like Green Thumb, so that senior citizens would have the opportunity to perform useful community services and lead a life of dignity instead of dependency. It tried to make sure that the handicapped would have the opportunity to fully participate in the educational system. It tried to make sure that our young people would not be denied the opportunity for a college education because of financial need. And, finally, it tried to reassert the will of this Congress that human needs, and not just military needs, are fit subjects for national concern, and for congressional support. I support a strong defense for our country. But I want also to make sure that we have a country worth defending. I think we all know that the kind of country we all want is one that does not turn its back on its elderly, its young, and its handicapped. That is why I will be voting to override today, and why I urge all my colleagues to do likewise.

ENOUGH IS ENOUGH—OVERRIDE THE VETO

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, enough is enough. Today the House must vote to override the veto of the supplemental appropriation bill for fiscal year 1982.

There are ample reasons to justify this vote—but none are more compelling than to avert the profound human trauma and tragedy which will occur if 54,200 older workers employed by title V are fired. Pure and simple—that is exactly what will happen if we fail to override. Already in parts of this Nation elderly workers—all of whom are low income—have been handed pink slips. In one case it resulted in a heart attack. All of these older workers will get these slips by the end of this month if the veto is sustained.

Who are these workers? More than two-thirds are women—almost 30 percent are from minority groups. They are people working for others in their community. More than half work for other less fortunate elderly providing them with meals or taking them to doctors. What other Federal program can boast of such a cost effective record?

I am an original cosponsor of the title V program. I know it works. It was only 4 years ago when President Carter signed into law the end of mandatory retirement at 65. It put the Federal Government in the position of setting the example for the private sector not to discriminate on the basis of age. Yet 4 years later we are regressing. A program exclusively providing jobs for the elderly is being singled out for extinction. Let us not be a party to this reversal of an enlightened and humane policy. Vote to override.

A BAD VETO

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, today many of my colleagues have spoken out against the President's veto. We have taken more time on 1-minute speeches than usual, because we do not think there is enough time in the debate today to fully alert the American people to all the bad that is being done by that veto.

I have to say that I notice there are very few Republican Members here to speak on 1-minute speeches and I can understand why, since only 18 Republicans in this House voted against this bill when it was originally before us.

Why is that? It is because it does many good things. There is $211 million in jobs for older Americans, $26 million for handicapped education, $217 million for student financial assistance. Those are just a few items, and all those items that are so vitally important equal the cost of only one B-1 bomber.

Let me say that there was much talk last year about the President's mandate. There was no mandate to cut education, no mandate to cut funds for senior citizens. There was no mandate in the 1980 election to cut money for the disadvantaged.

I think that we had better listen to the people. The polls are clear. Our mail is clear. We have the worst economic conditions in this Nation's history since the Great Depression right now. It is time to reach out and to help the people. It is time to have a reordering of priorities across the board, including defense. It is time to have some commonsense and some compassion on the floor of this House.

THE PRESIDENT'S WORD DOES NOT MAKE IT SO

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. ALEXANDER. Mr, Speaker, just because Ronald Reagan said it, does not make it so. The vetoed appropriation bill is about $1.9 billion under the budget. The President said that he vetoed the bill because it is over budget.

Farm exports would be established as a national priority under this bill. The American farmer needs help. The farm economy is facing the same conditions today as it did during the Great Depression, with net farm income about $1 billion less than it was in 1933.

I urge every Member of this body to vote to override the President's veto in order to set agricultural exports as a national priority.

A MESSAGE OF HOPE TO OLDER AMERICANS

(Mr. DOWDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWDY. Mr. Speaker, today we have the opportunity to send a message of hope and encouragement to a special group of older Americans, those who have worked in our communities through title V of the Older Americans Act.

What we can tell them is that we value their talent, resourcefulness, and experience. We can tell them that we want them to continue to be contributing members of our work force.

In my home State of Mississippi, we have three highly successful senior aides projects which employ hundreds of older Americans. These citizens feel that their work has not only provided them with a means of becoming self-supporting, but also has given them a renewed sense of purpose and involvement.

Unemployment is a problem which cripples our productivity and demoralizes our people. In Mississippi, it has jumped to over 12 percent. By failing to fund the senior community service employment project, we will force older Americans into competition with younger workers and further damage our economy. It has been estimated that for every dollar invested in title V programs, $1.15 is saved because of increased tax revenues and reduced public assistance. I think we should continue this valuable investment by voting to override the veto of the supplemental appropriations bill.

FEDERAL WORKERS AGAIN LEFT DANGLING IN THE WIND

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, on August 28, the President saw fit to veto an imperative piece of legislation after sitting on it for 10 days. Once again, the leaders of both parties were mistaken in their belief that the President would sign the bill they had worked so hard together to develop.

As a result of the supplemental appropriation veto, once again the Federal worker was left dangling in the wind by the President and the Congress: The President did so by design; the Congress did so by its failure to act in a timely fashion.

It is tragic that this pattern is repeated year after year. Not only is it traumatic for Federal employees and ludicrous to the taxpayer, it is also bad personnel policy, bad politics, and bad Government. It should be an unacceptable performance for all of us.

At the 11th hour on Tuesday we averted the unwarranted, unwanted, and unplanned layoff of 19,000 Internal Revenue Service employees—the individuals we rely upon to collect the revenues to which this Government is

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entitled and dependent upon. The reprieve came, however, only after employees were put through a closing-down process devastating to morale and to the effective operations of certain offices for the last 7 days.

I have sponsored legislation to preclude the regular disruption of Government services and employee lives, which is titled the "Government Service Continuity Act." The Office of Personnel Management opposed that legislation specifically because it wanted to keep the heat on Congress through the threat to Federal workers. Such a stance is deplorable. We ought to reject it and act to insure rational, Government management in the months and years ahead.

As the man said, "this is no way to run a railroad."

ANOTHER AIR FARE INCREASE FOR OUR CONSTITUENTS?

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Ohio. Mr. Speaker, the uniform joint fare system which exists for air travel and which we now enjoy in terms of convenience and lower fares will expire in January 1983 unless H.R. 5717, the Community Air Service Act of 1982 is passed; 5717 extends the uniform joint fare system beyond that time and continues to eliminate the need for separate reservations, separate ticketing, and separate baggage handling. Passengers from small- and medium-size communities who must fly a combination of two or more air carriers will be severely affected if joint fares are allowed to lapse.

Without joint fares, there will be substantially increased costs for constituents who have to fly on more than one airline because separate fares will be charged for each reservation, each ticketing, and each baggage handling. The result will be a consequent loss of traffic and the ultimate reduction or elimination in commuter service to the small- and medium-size cities in our districts. Toledo is one such medium-size community and the commuter service offered at Toledo Express Airport is valuable and important to my constituents and northwest Ohio.

I urge my colleagues to consider their own constituents—weigh their own situations. I urge my colleagues to think of the increased fares, and the reduction or elimination in commuter service in their own districts. I urge my colleagues to think of the inconvenience and the extra time involved. And most of all, I urge my colleagues to think of the impact it will have on your own communities.

H.R. 5717, the Community Air Service Act of 1982, introduced by Congressman Gene Synder should be supported.

PHONY AND EMOTIONAL ARGUMENTS AGAINST THE VETO

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, we have heard a string of arguments here this morning in favor of overriding the President's veto of the supplemental appropriations bill. Those particular arguments have been emotional, but they have been phony.

I am going to argue the other side. I am going to say that we should sustain this veto.

The issue here, the whole issue, is a billion dollars of spending that we cannot afford. It is a billion dollars of deficit add-on.

It is not a question of spending priorities. The administration has already agreed to take the defense cuts that the Congress has made and in addition wants the domestic cuts that they think are in order. In other words, any savings ought to be used to reduce the deficit, not to add on more spending programs.

Also, this is not a question of whether or not you are for title V of the Older Americans Act. We have written assurance this morning from the House Republican leadership that that program is going to be funded.

So there are no real excuses here. You are either for reducing deficits or you are a big spender. This vote will tell America, as few votes before it have, who the big spenders in this Congress are.

This debate this morning, with the Democrats supporting more deficits, has told us quite clearly that they continue to be the big spenders in Washington.

INCREASING USE OF COAL IS SOUND ENERGY POLICY

(Mr. BENEDICT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENEDICT. Mr. Speaker, next week, I, along with my colleague from Kentucky, Hal Rogers, will be sending a survey questionnaire to over 100 electric utilities across the United States. The purpose of this survey is to understand more fully why so few utilities in the United States have converted to coal from oil or natural gas as a source of boiler fuel.

Taking a closer look at the impediments to conversion makes sense now when oil prices in the world are relatively stable and consumption of oil has leveled off. Instead of waiting for the next energy crisis to remind us of the need to encourage the use of coal, we should be exploring the means to encourage the use of coal now. Congress must continue to pursue workable incentives to encourage conversion to coal-fired powerplants.

Increasing the use of coal is a sound energy policy. Coal is available in abundant domestic supply which insures a long-term stable price. Increased use of coal means expanded job opportunities. With respect to the environment, coal is a cleaner burning fuel than much of the residual oil currently being used in many utility boilers in the East.

This body has confronted the issue of encouraging the use of coal a number of times. In 1974 and again in 1978, laws were passed specifically to encourage the utility powerplants to convert to coal. Yet, in spite of these laws and the many hours of debate on the need to increase our domestic use of coal, only two utilities in the United States have taken the steps necessary to convert to coal.

I look forward to sharing the results of the utility survey with my colleagues who are concerned about our energy future.

PROBLEMS WITH DOMESTIC CONTENT LEGISLATION

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, the Energy and Commerce Committee began last night to mark up automobile domestic content legislation. I had serious doubts about the concept of domestic content in general and about the previous bill specifically.

Governmental quotas are never the best way to accomplish any objective. In the economic area they may be the most damaging of all. Quotas lead to inefficiency, they lead to higher prices, and most of all they restrict consumer choices. Let us face it: Most people who buy foreign cars, especially Japanese cars, buy them because they are less expensive than American cars and often because they believe they are of higher quality. Now I own three American cars myself, but I am not sure that I want to go home and tell my voters who drive Datsuns and Toyotas that they cannot buy those cars any longer or that their prices are likely to be increased by a set of Government quotas. I think not.

I was somewhat shocked that at least one national consumer group endorsed this legislation as an apparent payoff to a union that is one of its members.

Every credible economist who has examined the issue has detailed the harmful effects of domestic content quotas: On our own economy and on the public. Beyond its direct effects, this bill could have serious effects on our international trade relationships. And those relationships create U.S. jobs. Excluding oil imports the United States is a large net exporter of manufactured products. Upsetting the open trade relationships that this country has worked so hard for since World War II would cost America jobs. It would cost American consumers in terms of lost choices. It could throw the world economy into a protectionist tailspin the likes of which we have not seen since the 1930's.

As if all of these facts are not enough, now we have a substitute before us. I share with my colleague from California a concern about the cursory treatment this legislation has received. But even with a short time to look at the proposed substitute I have found that if anything it is worse than the original.

The gentleman from New York himself has admitted that the substitute would give foreign, Japanese, manufacturers more flexibility. In fact he is going to give them an automatic 25-percent quota. For domestic manufacturers on the other hand the substitute even further ties their hands by freezing their current domestic content ratios. By allowing an automatic 200,000 plus import exemption while stopping innovation by American manufacturers we may be actually increasing the technological and price advantage of Japanese manufacturers. In short, this substitute may cost American jobs, not just overall, but in the auto industry itself.

I do not pretend to fully understand the complicated formula at the heart of this bill, but I can see one thing right away: It is an accountant's relief act. The opportunities for cost-shifting are almost limitless, and the domestic content ratio is wholly dependent on where those costs are assigned.

These are only a few of the problems with domestic content legislation in general and with this bill specifically. I can only hope that the committee will regain its senses and conduct a serious investigation of these issues.

THE LATE HONORABLE KEITH SEBELIUS

(Mr. ROBERTS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS of Kansas. Mr. Speaker, it is my sad duty to officially inform this House of the death of a former colleague, Keith Sebelius, who at the age of 65 passed away after a long illness last Sunday.

Keith served this body and represented the First District of Kansas from 1969 until 1981.

We had Keith's services yesterday in Norton, Kans. It was attended by the entire Kansas congressional delegation and it was a genuine outpouring of love and affection not only for Keith, but for his family as well. We expressed our deepest sympathies to his wife Bette, and his sons, Doug and Gary.

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I have asked for a special order, Mr. Speaker, on Wednesday at the close of business, September 15, so that the Members may make a personal statement to the memory of Keith Sebelius and his outstanding contributions to our State of Kansas and our Nation.

H.R. 6863—SUPPLEMENTAL APPROPRIATIONS ACT OF 1982

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I have decided to vote to sustain the President's veto today. President Reagan, in his message on the veto, said that H.R. 6863 would "undermine the confidence crucial to continued reduction in deficits and interest rates which we must achieve for sustained economic growth."

I believe that the President has accurately pointed out the key to economic recovery. The American people must have confidence that the Federal deficit will be reduced.

The fact of the matter is that this urgent supplemental appropriations bill contains $1 billion in new spending not authorized by the authorizing committees. Congress is trying to sneak in through the back door what we took out through the front door vis-a-vis the budget bill.

At the same time, and so as not to be misunderstood, I think the defense spending level in the bill is quite adequate and if the veto is sustained, which I hope it will be, it will result in a real reduction in spending which will send a message of confidence to the marketplace that economic recovery is on its way.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. BLILEY. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

(Messrs. FRENZEL, ROUSSELOT, WALKER, BETHUNE, LOEFFLER, WEBER of Minnesota, EMERSON, BAILEY of Missouri, and HAMMERSCHMIDT also objected.)

The SPEAKER pro tempore. More than 10 Members having objected, objection is heard.

WE SHOULD LISTEN TO OUR CONSTITUENTS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, the other day I happened to run across an article in the Los Angeles Times by someone who served the Carter administration in their Office of Management and Budget. In the article he indicated that he thinks it is good that the President has exercised his prerogative to bring down a veto. As a matter of fact, he suggested that perhaps if the previous administration had done that more often, they would have been in a stronger position to form their policies as they worked with the House of Representatives and the U.S. Senate.

The gentleman expressed the very interesting thought that this is just one part of the overall process of negotiation in terms of spending. I think that has been brought out by the most recent reaction from the White House. They have indicated the President will take a number of cuts that we have suggested in defense. They want us to take a number of cuts that they have suggested on the domestic side, and it seems to me that is in a spirit of compromise. We can work this out.

But what we have to do in order to have the opportunity to work it out is to sustain the President's veto.

When I was home in the last couple of weeks talking to the people, I did not have many come up to me suggesting we are not spending enough money on the Federal level. Some of them agreed, while most of them disagreed, with the President's position on the recent tax bill, but the one thing they all thought we ought to do was to bring the deficit down. Most recognize we have to do this in domestic spending.

Let us respond to our constituents' concerns by sending the message home that we have listened to them and acted on their sentiments.

CONSIDERATION OF THE VETO OVERRIDE ON H.R. 6863

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I rise to add my voice to those urging the House to override the veto of the supplemental appropriations bill, H.R. 6863. I believe that the President, in his political zeal to confront the Congress and pretend to be a responsible

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fiscal executive, has chosen the wrong bill to veto.

The President's veto undoes the cooperative work of both Houses of this Congress, Mr. Speaker. Not only has he insulted America's elderly, America's students, our military personnel, hard-working Federal employees from NASA to IRS, and the unemployed, but the President has also vetoed a bill that Members of his own party in both the House and the Senate worked hard on. Although the bill's priorities are different than a line-item-veto executive might prefer, the funding totals are actually less than the limits set by the Republican budget resolution and less than the OMB-recommended Reagan appropriations bill.

This Reagan confrontation is harmful to many Federal programs, but I am particularly concerned that it stops funding for title V—the employment portion of the Older Americans Act. While the administration assures us that they do not intend to end the program, the substitute they expect to take up the slack is entirely inadequate.

The State of Ohio is one of the biggest participants in title V senior community service employment programs. Ohio senior citizens are engaged in meaningful jobs ranging from homemaker services for homebound elderly to distribution of meals under other Federal programs. Almost 70 percent of the seniors employed under title V were women in 1981-82. A full 86 percent of those employed were below the poverty line, and 33 percent were minorities.

Four hundred and six Members of the House voted to support title V in July; 89 Senators supported full funding in a similar resolution. We cannot back off that commitment now.

Mr. Speaker, the loss of the senior community service employment program is one of the many reasons that the House must act to override the veto of H.R. 6863. On behalf of elderly citizens, our military personnel, Federal employees, and American's unemployed, I urge my colleague to vote to override the Presidential veto of the supplemental appropriations bill.

SUPPORT OF THE VETO OVERRIDE EFFORT

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, I rise in support of the override measure.

I think we all recognize in this House, if we are going to be honest with one another, that the House has worked its will and we actually came in at $1.5 billion less than what the administration wanted us to do.

I think also of particular concern ought to be the title V program for older Americans which is creating a crisis for many of them who will lose their jobs and receive their pink slips.

I think it is ludicrous to recognize that we are following a policy where we are taking older Americans who have productive jobs and are going to put them on welfare, put them in medicaid and food stamps. I do not know of any political party that wants to follow a strategy which includes throwing people out of work and onto welfare. Thus, I urge my colleagues today to override this veto and begin to say to the elderly in this country that we are not going to play political ping-pong with their lives any more, and to say that this Congress has examined the President's recommendations, and we came in at $1.5 billion less, and if he does not like our priorities, that is tough.

SUPPLEMENTAL APPROPRIATIONS MEAN INCREASED SPENDING

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, this bill that will come before us today, the vetoed bill, is a supplemental appropriation, as we are aware. This is an add on to money that we have already appropriated. This contributes to the deficit to the tune of $14 billion.

Now, the President has already said and made it clear that he will continue the title V program for the elderly. So all of these arguments that that program will stop are pure unadulterated bunk. That will not stop. Everyone should know that here today.

I intend to support the President in his effort to try to hold down the spending that this Congress has engaged in, far and beyond and above what we have already appropriated.

A supplemental bill is exactly what it says. It says in effect Congress cannot live within its means. The Congress constantly comes back and asks for more money, like spoiled children. The House cannot live within the appropriated dollars that we have already spent; billions of dollars.

I urge my colleagues to sustain the President's veto.

OLDER AMERICANS PROGRAM FUNDING INCLUDED IN SUPPLEMENTAL APPROPRIATIONS

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, we know there is considerable support for title V of the older Americans employment program. I support that program. There are funds for this program, of course, included in the supplemental appropriations bill that will be debated and voted on later today, which was vetoed by the President.

There is $211 million contained in the bill, and it represents forward funding for the program to cover the first 9 months of fiscal year 1983, October through June. This forward funding is required by statute. We are well aware that the program has merit and it is clear that the only way to avoid problems will be to include this forward funding for the program.

Therefore, I support this program, and I have been assured, along with our distinguished Republican leader, that the forward funding for this older Americans program will be included in a followup version of the supplemental when the President's veto is sustained. This program will be funded at the full level that has been required by statute on a forward-funding basis.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from California.

Mr. ROUSSELOT. So the $211 million will be there even if the House sustains the President's veto today?

Mr. LOTT. That is my understanding. And we will support that.

LENDING LIMITS FOR FARMERS HOME ADMINISTRATION FARM AND RURAL DEVELOPMENT PROGRAMS

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5831) to provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 0, answered "present" 2, not voting 49, as follows:

[Roll No. 313]

YEAS—381

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)

Barnard
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Russo
Sabo
Santini
Sawyer
Schneider
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zeferetti

ANSWERED "PRESENT"—2

Ottinger
Roybal

NOT VOTING—49

Addabbo
Applegate
Bafalis
Beard
Bingham
Blanchard
Bolling
Bowen
Brodhead
Brown (OH)
Burton, John
Chisholm
Collins (TX)
Crockett
Dellums
DeNardis
Dougherty
Dowdy
Erlenborn
Evans (GA)
Ford (MI)
Forsythe
Goldwater
Goodling
Hunter
Ireland
Jacobs
Jeffries
Lowery (CA)
Marks
Marriott
Mattox
McKinney
Mitchell (MD)
Moffett
Nichols
Rosenthal
Rudd
Savage
Scheuer
Schroeder
Schumer
Smith (IA)
Stanton
Stump
Weiss
Wright
Young (AK)
Zablocki

□ 1130

Mr. SHUMWAY and Mr. ZEFERETTI changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5831, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

□ 1145

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5831, a bill to provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act, and for other purposes.

In brief summary, this legislation addresses the lending programs carried out by the Department of Agriculture through the Famers Home Administration for farm ownership and operating purposes, rural water and waste disposal, and other community facilities, rural business, and industrial development, and assistance to farmers who are victims of natural disasters.

The basic legislation, the Consolidated Farm and Rural Development Act, requires that lending levels for farmer and rural development-type programs be reauthorized for successive 3-year periods. Current authorizing provisions for this purpose are effective through fiscal year 1982. H.R. 5831 reauthorizes levels for these programs for fiscal years 1983-85.

The authorized program levels contained in the bill were adopted without controversy within the committee. They represent, for the most part, a lower total level than the level originally authorized for the 3-year period through fiscal 1982, and approximate the level as revised by the 1981 Reconciliation Act. I would suggest that these provisions enjoyed a broad concensus of support because they reflect a judicious compromise between conflicting interests: First, the need for fiscal restraint; and second, the need for adequate credit to enable rural America to survive a period of economic stress not approached since the depths of the Great Depression. Credit is no substitute for decent farm income. But it may be all that will permit farmers—including many able and experienced farmers—to hang on pending the economic recovery we have been assured is forthcoming.

I believe that a few illustrations will establish the responsible manner in which the Committee on Agriculture fashioned this legislation. For example, authorized program levels contained in current law and in H.R. 5831 are as follows:

	Current law	H.R. 5831
Real estate loans (including farm ownership loans).	$900 million	$1 billion.
Farm operating loans	$1.325 billion	$1.510 billion.
Emergency disaster loans	Amounts necessary	Amounts necessary.
Water and sewer loans	$300 million	$500 million.
Business and industrial loans	$1.5 billion	$1 billion.
Community facilities	$130 million	$300 million.

I shall not discuss these figures in detail. But a few of them merit mention. The authorized level for emergency disaster loans—and, I might add, the level utilized for such loans by the Appropriations Committee—has traditionally been established on an "as needed" basis. This recognizes the fact that it is not possible to estimate with any accuracy the magnitude or number of natural disasters which may occur in any given year. H.R. 5831 continues this prudent approach. In addition, the bill would restore a provi-

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sion of the program changed, to the detriment of farmers, in the Omnibus Budget Reconciliation Act of 1981. It would reduce from 30 to 20 percent, the level of production loss making a farmer eligible for loans. The 30-percent loss criterion precluded assistance to many farmers who were severely affected by natural disasters.

As to business and industrial loans, it has long been recognized that this program, consisting largely of loan guarantees, has been one of the most effective—and lowest cost—approaches to creating jobs and promoting healthy economic development in rural areas. While H.R. 5831 would cut by one-third the authorized annual level for this program, it will maintain a meaningful program operation. I would note that the administration has proposed to abolish this program. However, to insure that program benefits are targeted more narrowly to those the committee believes most in need of assistance, the bill imposes a "credit elsewhere" test, and reduces from 50,000 to 25,000 the population limit of areas in which the program will be available.

Extensive hearings conducted by the Subcommittee on Conservation, Credit, and Rural Development disclosed a need for other improvements in the programs carried out under the Consolidated Act. The need is also addressed by H.R. 5831.

The severe price declines for agricultural commodities, coupled with ruinous interest rates, have pressed a growing, indeed an alarming, number of farmers ever nearer the edge of financial collapse. One remedial measure considered and ultimately rejected by the committee was a blanket moratorium on Farmers Home foreclosures and loan repayments in States where such foreclosures approached numbers reflecting a multiple of customary levels. However, the committee did adopt a provision that, on a case-by-case basis, makes mandatory through September 30, 1983, a provision, which is discretionary with the Secretary under current law, to defer foreclosures and repayments on farmer-type loans. The deferral would be triggered only if a farmer requests deferral and establishes to the satisfaction of the Secretary that inability to pay is due to circumstances beyond the borrower's control, that good management practices were used, and that there is a reasonable chance for ultimate repayment after the deferral. This provision would be available only to owners or operators of family-size farms. It is a provision which can be the salvation of many experienced and competent farmers who are devastated by circumstances over which they have no control.

A series of other provisions are designed to insure the objectives of the water and waste disposal program are met. Several of the provisions are directed to reducing to statutory terms certain directives concerning program operation contained in conference reports on the Omnibus Budget Reconciliation Act of 1981 and the 1981 farm bill. The Secretary, in the committee's judgment, has not satisfactorily responded to the directives. Therefore, stronger measures are required. H.R. 5831 would—

First, authorize grants to borrowers to be used solely for repaying loans in cases where repayment cannot be made because of extraordinary circumstances;

Second, direct the Secretary to establish a graduated scale of grant rates reflecting higher rates for communities with lower population and income levels which demonstrate a financial need;

Third, direct the Secretary to establish a project selection system for choosing among applicants for loans and grants, giving equal weight to factors of low community income, small population, and health hazards resulting from lack of potable water or inadequate waste disposal;

Fourth, authorize payments to associations likely to receive grants or loans to assist them in meeting predevelopment costs of facilities;

Fifth, authorize grants to private nonprofit organizations for the purpose of enabling them to provide technical assistance and training to associations likely to receive loans or grants;

Sixth, direct the Secretary, in cases in which projects serve more than one rural community, to use the median population level and median community income level of all of the communities to be served for purposes of applying applicable formulas for assistance;

Seventh, change the standard for low-income areas eligible for 5-percent loans from those having an income level below the Federal poverty line to those having an income level below 80 percent of the statewide nonmetropolitan median family income; and

Eighth, establish a 7-percent maximum loan interest rate for borrowers which do not qualify for 5-percent loans but which have an income level not exceeding 100 percent of the statewide nonmetropolitan median family income.

Mr. Chairman, there are other items in the legislation that will be discussed by the chairman of the Subcommittee on Conservation, Credit, and Rural Development, and may I at this time state that the chairman of the subcommittee, the gentleman from Tennessee (Mr. Jones), the ranking minority member, the gentleman from Vermont (Mr. Jeffords), and all the members of the subcommittee merit our appreciation for the fine dedicated work which they did under very difficult circumstances. It would be very easy to just throw money at the problem, but that is not the way that our committee works nor was it the way that the subcommittee worked. Rather, they studied the issues, took a look at the budget, and prepared legislation for the 3-year period which is within, if not below, the budget.

So at this time I give personal commendation to the chairman, the ranking minority member, and the members of the subcommittee.

Mr. Chairman, H.R. 5831 clearly represents, in our view, a responsible and moderate effort to continue a program for furnishing assistance to rural America—assistance now urgently needed to mitigate the disaster that has befallen this sector of our economy.

The various changes in the Consolidated Act proposed by the bill enjoyed broad support. Only the repayment and foreclosure deferral provision described above encountered substantial opposition. The committee ordered H.R. 5831, as amended, reported favorably to the House by a rollcall vote of 38 to 1.

Mr. Chairman, I urge my colleagues to give equally strong support to this worthy legislation so essential to the viability of rural America.

Mr. JEFFORDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5831, a bill to amend the Consolidated Farm and Rural Development Act. I want to associate myself with the remarks of the distinguished chairman of the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture, Mr. Jones of Tennessee, and urge my colleagues to support passage of this legislation.

H.R. 5831 represents an important milestone in the Farmers Home Administration (FmHA) farm and rural development loan programs. Prior to 1978, loan program activity levels were addressed only in appropriation acts. As a result of the need for the legislative committees to make a periodic review of FmHA programs, the Agricultural Credit Act of 1978 (Public Law 95–334) required the aggregate principal amount of loans under the FmHA farm and rural development loan programs to be authorized every 3 years beginning October 1, 1979. H.R. 5831 marks the second time this requirement has been satisfied through legislation.

Mr. Chairman, H.R. 5831 would authorize insured and guaranteed loans totaling up to $4.31 billion annually—not including any farm disaster loans which might be needed—for fiscal years 1983, 1984, and 1985. The Committee on Agriculture felt that these levels were appropriate in order to take into consideration the need for increased FmHA loan program activity and to allow for program expansion over the 3-year life of the bill.

I also would like to point out that this is a $1.5 billion reduction in program authorization levels from the last 3-year authorization period (1980-82). It should be remembered that actual lending levels for these programs in each of the 1983, 1984, and 1985 fiscal years will still be set in separate actions by Congress in annual appropriation acts. I believe the new loan ceilings will give Congress a chance, through the appropriation process, to provide adequate credit to our rural areas through these FmHA programs.

In addition to establishing FmHA loan authorization levels, H.R. 5831 contains several other amendments whose purpose is to improve the operations of the Farmers Home Administration. These amendments include provisions to modify the water and waste disposal facilities loan and grant program in order to target program moneys to those communities most in need of assistance. Other amendments would modify the various farm programs and the business and industrial loan program.

Mr. Chairman, I do have some concerns about section 7 of H.R. 5831, which would require the Secretary of Agriculture to forgo foreclosure and allow a deferal of principal and interest payments by any individual FmHA farm borrower who is unable to make scheduled payments if the borrower requests deferral and can demonstrate, to the satisfaction of FmHA officials, that he had used good management practices, that he is temporarily unable to make payments because of circumstances beyond his control, and that he has a reasonable chance of repaying his loan if the Secretary foregoes foreclosure and allows the deferral. While I am well aware of and concerned about the critical problems our farmers are facing in meeting their credit needs, I am not convinced that it would be prudent policy to adopt section 7 into law.

The Farmers Home Administration currently serves the credit needs of only about 10 percent of all farmers. Thus, any type of deferral on FmHA loan payments could put the overwhelming majority of farmers, 90 percent, who have obtained credit from sources other than Farmers Home at a severe disadvantage since they would have to continue repaying their loans. I also believe that this type of requirement is not prudent program administration, and could create havoc in the agency's loan and accounting departments. Furthermore, FmHA already has, under existing authority, a number of alternatives available which will achieve the purpose of section 7, including authority to consolidate, reschedule, or defer loans. We have received numerous reassurances from USDA stating that it is their full intention to use the full range of these options to assist their borrowers and avoid termination of their loan accounts. There also is no reliable way to estimate the cost that this provision could incur on the Federal Government.

Nevertheless, Mr. Chairman, I am in support of this bill and urge its passage. The programs of the Farmers Home Administration play a vital role in the economy of our farm and rural communities. Adequate credit must be made available to encourage the orderly development of rural America. This legislation goes a long way toward insuring that such credit will be available.

I urge support of H.R. 5831.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, I appreciate the gentleman's yielding.

Let me just say that I do not think there is much controversy or opposition to this bill. Everybody recognizes that the farm sector of this country is under very dire economic straits and circumstances. Certainly when corn is selling for around $2 a bushel in my area, that means a loss of income and certainly no profits for my farmers. It is the same throughout this country.

But I would like to say a few things about the bill. I think we ought to point out that the Secretary of Agriculture has stated and publicly instructed the Department to go the extra mile with any farmers who might be facing these very tough economic times to see if they cannot work out payments on these Farmers Home Administration loans. I think they are trying to go the extra mile. At the same time we want to insure that farmers are treated fairly and equitably, and we want the administration to take into consideration these very difficult times that farmers are going through. I think this bill does address that.

Other positive features of this bill have to do with disaster emergency loans, reducing down from 30 to 20 percent the normal crop yield losses that must be sustained in order to qualify and to be eligible for low-interest Farmers Home Administration loans. I know in my area, where we have had a substantial amount of rain and floods this year, some counties were coming in with 28- and 25-percent losses, but the 30 percent was not reached. If we go back to 20 percent, I think we will be a lot more fair with the farmer who does sustain a large loss because of rain or drought or whatever the disaster may be.

I would also like to point out a positive aspect of the bill regarding the water facilities provisions, which I know this gentleman is very interested in, as well as the business and industrial sections of the bill which provide the support, if you will, and the infrastructure for rural America. A lot of these communities are being hurt because of depressed prices for farmers and are not able to come up with the dollars for these water treatment facilities and sewer systems, and the Farmers Home Administration can go in there and provide some help. I think this is a recognition of the very difficult times that rural America is facing.

Mr. Chairman, again let me say I appreciate the gentleman's yielding, and I add my support to the bill.

Mr. JEFFORDS. Mr. Chairman, I appreciate the very fine statement of the gentleman from Missouri (Mr. COLEMAN), and I reserve the balance of my time.

☐ 1200

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Tennessee (Mr. JONES), chairman of the Subcommittee on Conservation, Credit and Rural Development.

Mr. JONES of Tennessee. Mr. Chairman, I rise in strong support of H.R. 5831, and urge my colleagues to approve this legislation today in order that we may move ahead in meeting the September 30 deadline for reauthorizing the lending ceilings for the programs of the Farmers Home Administration. In addition to providing authorization levels for fiscal years 1983 through 1985 for the Farmers Home Administration's farm and rural development loan programs, this legislation would also mandate several important changes in the administration of various programs carried out by the FmHA.

H.R. 5831 was favorably reported by the Agriculture Committee by a vote of 38 to 1. Previous to this action, my subcommittee which has jurisdiction over agricultural credit held extensive oversight hearings during which we closely examined the operations of the programs addressed in H.R. 5831. In addition, we devoted a great deal of time to a careful review of the lending-and-loan-servicing policies of the Farmers Home Administration, particularly in the area of farmer program loans. I can assure you that the committee has done its homework on this legislation, and has been diligent in confronting the serious and difficult issues now facing our Nation's farm and rural communities.

Although I personally would have desired to see higher lending ceilings for farmer and rual development loan programs, I am satisfied that this legislation will provide adequate authority for the FmHA to fulfill its mission to rural America in the coming 3 years. In addressing the operations of the loan programs covered in this bill, the committee has sought to insure that the limited funding available during these times of budget restraint will be directed in ways to accomplish the most good. This is particularly true with regard to FmHA's water and sewer grant and loan programs, and the business and industry loan program.

I would especially like to note at this point that H.R. 5831 contains several provisions which are directly aimed at addressing the potentially disasterous farm foreclosure situation which could occur at a result of the current overwhelming numbers of farm loan delinquencies. This legislation would provide that, under certain circumstances, the FmHA would be required to forego foreclosure and defer principal and interest payments for individual farmer-borrowers. In addition, these borrowers would be given the opportunity to reschedule their loan repayments, and at interest rates no greater than the terms of their original loans. Rarely in my lifetime have I know a more critical and desperate period than the one now being faced by America's farmers, ranchers, and rural communities. The situation is so bad that you can hardly pick up a national news magazine or a major metropolitan newspaper without reading a cover story about the depression in rural America.

Time is running out for the American farmer, and it is running out fast. I can assure you that this legislation is not in itself going to solve all our problems, but I firmly believe we have taken a good first step in trying to meet some of the immediate needs.

In closing, let me say that I especially appreciate the bipartisan nature by which this legislation was handled in the committee. Ranking minority member of the Agriculture Credit Subcommittee, Mr. JEFFORDS, and I joined together in introducing H.R. 5831, and have worked closely with each other as it moved through the committee. Although there were differences on some specific provisions considered in the committee, for the most part this bill has enjoyed widespread support from both sides of the aisle.

So again, I urge my colleagues to support H.R. 5831 because it represents a sincere and diligent effort in reflecting the basic needs of farmers, ranchers, and communities in rural America.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I would like to associate myself with the remarks of my distinguished colleagues and urge support of this bill. In accordance with the Agricultural Credit Act of 1978, Public Law 95-334, H.R. 5831 authorizes funding levels for the Farmers Home Administration loan programs over the next 3 years.

The Farmers Home Administration loan programs play an important role in the economy of our rural areas. Rapid increases in the cost of land and other elements of production have made it necessary for many farmers to borrow in order to stay in business. Adequate credit must be made available to these farmers to foster and encourage the orderly growth and development of rural America. The purpose of the farmers home programs is to provide such credit, and this bill insures that the credit will be available.

In particular, I am pleased that the bill contains provisions to modify and improve the FmHA water and waste disposal system loan program. Two amendments which I offered to this program with the gentleman from South Dakota (Mr. CLINT ROBERTS), were adopted into H.R. 5831. I believe these amendments will serve to make FmHA assistance more readily available to low and moderate income, rural communities on a more cost-effective basis. The first provides for predevelopment assistance to communities for preliminary engineering and other costs associated with the preapplication stage of the FmHA funding process. The second amendment provides for technical assistance in design, construction, and operation, and maintenance of water and sewer systems.

I also would like to point out, Mr. Chairman, that the funding levels established by this bill are ceiling levels which in some cases will not be reached in fiscal 1983. In establishing these levels, the Agriculture Committee considered expected program growth over the next 3 years. Actual lending levels still would be fixed separately by the Congress in annual appropriations bills.

Mr. Chairman, we must provide the resources to strengthen and improve the ability of FmHA to deliver its full range of programs for farms and small communities. H.R. 5831 insures that the Farmers Home Administration will have the ability to provide these services, thereby improving the economy and living conditions in rural America. I urge passage of this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, I had not planned to speak on this bill and then I found in my office a letter from the Secretary of Agriculture from which I would like to quote. The letter says:

> H.R. 5831 provides for mandatory deferral of loan repayments and foreclosures which turn massive amounts of Federal loans into outright gifts.

The attachment reads as follows:

> Mandatory authority would allow borrowers who are able to pay to avoid doing so, thus undermining FmHA's effectiveness in assisting many farmers who are in financial difficulty.

Mr. Chairman, I would like to read from the bill. The bill reads as follows:

> The Secretary shall permit deferral if, due to circumstances beyond the borrower's control is temporarily unable to continue making payment on such principle and interest then due.

Mr. Chairman, what we are discussing here, in my opinion, is much more important than just this bill. We are going to pass this bill, I feel confident. But there are two issues that this House had better address. The first issue is whether or not we are going to have honesty in Government.

We have to know whether we can depend, when we get a letter from the Secretary of Agriculture, that that letter is accurate. This letter absolutely is completely inaccurate. It is an outright lie, if we want to be honest about what they have said.

The second thing we have to ask ourself is: Who is going to make agricultural policy? My people called over to the Department of Agriculture when they saw this statement, which they knew was wrong, and they asked them about it. Then they said the letter was written by OMB.

People in our Government had better know who is writing the letters in regard to agricultural policy that come to every Member of Congress. They had better know that it is OMB. And we had better know that either the Office of Management and Budget does not know what is in the legislation that they are writing letters to us about—sent to all Members of Congress—or we had better know that they are outright misleading the Members of Congress.

Our job is to write the best legislation we can. We cannot write it very well if we are misled.

So I hope the people of this Congress will realize hereafter when we get correspondence of this type that we had better look at it twice before we determine that we are getting accurate information.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I share the gentleman's concern because I think there is a discrepancy between what that letter says and what is in the legislation.

However, is the gentleman aware and is it not so that the Secretary issued orders months ago to all of the Farmers Home Administration agencies throughout this Nation to be cautious, to not foreclose on anyone that demonstrated the ability to repay the loans, to work with them in any possible way in order that they survive?

I think from that standpoint this legislation is somewhat redundant.

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Mr. DE LA GARZA. Will the gentleman yield to me briefly?

Mr. BEDELL. I am glad to yield.

Mr. DE LA GARZA. In the oversight hearings, during the hearings before the committee, it was never made explicitly clear by the Assistant Secretary or by the members of the Agriculture Department whether they had indeed issued orders or what orders they had issued or what restrictions they had or had not placed. I think that should be made clear.

Mr. BEDELL. And to answer the gentleman, I think the gentleman and I agree. We should have accurate information. When a Member of Congress gets a letter signed by the Secretary, they should feel that that letter is accurate.

This letter clearly is inaccurate. It clearly is not correct as to what is in the legislation. It misleads the Members of Congress and I believe that the Members of Congress should be aware of it so that if we get additional letters from the Secretary we had better check to find out whether they are correct or not.

Mr. HAGEDORN. Will the gentleman yield further?

Mr. BEDELL. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I think this is a very sensitive area we are treading in here because there are indeed many farmers who are in desperate and dire straits. Ninety percent of America's farmers are not financed by the Farmers Home Administration but, rather, by private creditors.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa.

Mr. HAGEDORN. Therefore, when we get into a position of telling people that if, beyond their own fault, they fall into dire economic straits, due to the fact we are in these times, and maybe he has exercised good management but simply is in financial difficulty, whether we ought to have the Government wave principle payment and forgive the interest payment forever. Therefore we may be carving out a very special niche for all of the farmer's that have come to the Government for their financial needs because they have been turned down by the private sector. I believe it requires at least two instances of rejection before they are even eligible for Farmers Home Administration money or loans.

We are making a very special niche for these people.

I have a great deal of sympathy for them, but in relationship to all of the other farmers that are having to go out into the private sector, they do not have this same kind of protection.

I really concern myself about what we might be doing if we tell people that we know it is tough, and if you have been a good manager you can come back to the Government; we are not going to foreclose and we are going to continue on making loans to what is probably, in all regards, going to be a losing proposition in the end anyway.

Mr. BEDELL. My argument is not whether the gentleman from Minnesota is right or wrong. My argument is that we should expect honest information in a letter signed by the Secretary.

□ 1215

Second, we should expect that to be a letter from the Secretary. We should not expect that to be a letter written by the Office of Management and Budget.

Mr. HAGEDORN. Just so that I understand it, I am trying to get a copy of the language so that I can quote from it exactly, but I believe it pretty much says that if a farmer, beyond his own fault, if he has been a good manager, and circumstances beyond his control—obviously, the market is going down, and beyond his control, an 8-billion-plus bushel price-depressing corn crop is beyond the farmer's control—are you saying, then, that the Government would not be able to foreclose, the Government would be forced to continue to give him operating capital?

The CHAIRMAN. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

Mr. JEFFORDS. Mr. Chairman, I yield 1 additional minute to the gentleman from Iowa.

Mr. BEDELL. I am saying that the letter from the Secretary reads as follows: "Mandatory authority would allow borrowers who are able to pay to avoid doing so * * *."

The bill mandates deferral only if "the borrower due to circumstances beyond the borrower's control is temporarily unable to continue making payment on such principal and interest then due * * *." The bill clearly says that you cannot get such a loan unless you are unable to pay. The Secretary has written a letter that says if you are able to pay, you will still be able to get these loans. Either he did not read it or OMB did not read it, or at least they are misleading the people in this Chamber.

Mr. HAGEDORN. I think the gentleman is partly right and he is partly wrong, because it does not allow for people who are able to pay their loans not to have to pay them. On the other hand, there are certain criteria right here in this section of the law which would say that if it is beyond the borrower's control and he is temporarily unable to continue making payment on principal and interest and he has a reasonable chance of repayment of the loan after the deferral of principal, that it must be waived.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I support H.R. 5831, amendments to the Consolidated Farm and Rural Development Act reauthorizing lending programs within FmHA. I would like to respond to some of the outrageous misrepresentation by the administration of some provisions in H.R. 5831, specifically the deferral language contained in section 7 and the limited resource loan program provision. I am sure other of my colleagues will address other portions of the administration's memo on H.R. 5831.

The administration hand delivered a letter and memo from Secretary Block explaining their opposition to H.R. 5831 to my office at about 5 o'clock yesterday. I do not appreciate their method of handling this important legislation by not allowing much time for rebuttal. It is consistent, however, with their handling of this bill from the beginning. For the benefit of my colleagues not on the Agriculture Committee, you should be aware that the administration did not even make available to Republican members of the Agriculture Committee their proposals for reauthorization of the FmHA lending programs until the day of the markup of the bill. The Department of Agriculture was, and rightfully so, chastized by Members on both sides of the aisle. And now, here we are again, with another last minute USDA document, and this one filled with outrageous statements about the provisions of the legislation before us today. To term the Department's memo as a "gross distortion" is the most generous thing I can think to say.

With regard to the deferral section of the bill, Secretary Block, in his cover letter, says:

> H.R. 5831 provides for mandatory deferral of loan payments and of foreclosures which turn massive amounts of Federal loans into outright gifts.

The memo then states:

> Section 7 would give delinquent farm loan borrowers entitlement, under certain conditions, to deferral, rescheduling or reamortization of loan payments or moratorium on foreclosure. Mandatory provisions would undermine borrowers' incentive to work within FmHA to improve their farm operations and debt management, and would allow those who are able to pay to avoid doing so.

"Mandatory deferral," "outright gifts," "wholesale moratorium"—I do not know what provision the administration is talking about. It certainly is not the one Congressman DORGAN and I authored, is not the one the House Agriculture Committee overwhelmingly approved, and is not the one found

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in our bill today. And the statement about farmers losing their "incentive" to work with FmHA is patronizing and insulting to farmers. The deferral provision in section 7 is just that—a deferral on payment of loan for a limited time, under limited circumstances, and on a case-by-case basis. The farmer is not forgiven the loan or interest—it must be repaid. How this is termed "outright gift" or "wholesale moratorium" I do not understand—Secretary Block and David Stockman must have created their own dictionary.

Under this deferral provision a farmer must meet certain criteria—and FmHA gets to determine whether he meets the criteria—to be eligible for a deferral. The criteria are nearly identical to the ones the Department now says it uses in allowing deferrals anyway. Under the bill, a farmer, in order to receive a deferral must: First, be a good manager; second, his inability to repay must be due to circumstances beyond his control; third, he must have a reasonable chance for repayment; and fourth, he must have no larger than a family-size farm—this is something now determined by county committees in determining farmers' eligibility for operating and ownership loans which have family-size-farm criteria.

A second, and very important part of the provision requires that FmHA notify farmers of the existence of deferrals and other servicing remedies. In a recent court decision in Georgia, Curry against Block, the district judge ruled that FmHA must provide clear notification to farmers about the existence of deferral possibilities and must rewrite their deferral regulations. The Government, in its brief filed in this case, stated that FmHA has no obligation to inform farmers about deferral possibilities and is appealing the case. The provision in H.R. 5831 is consistent with the judge's order regarding notification of deferral options.

The deferral provision in section 7 also fills a void in the law by requiring that USDA have clear procedures for applying for and appealing denials of deferrals and other servicing remedies. USDA currently does allow appeal of deferral decisions, but it is not something required by statute. Currently, decisions made by FmHA county committees are appealable by order of statute. Decisions made by FmHA county supervisors who do make deferral decisions are appealable by virtue of regulation, but it is not mandated by law. Our provision simply makes the law consistent with regard to decisions by country committees and county supervisors, and should not require USDA to change the way they operate. The Secretary also goes after the limited resource loan program, saying that it would cost "$231,697,000 in life-of-loan subsidy costs." It is ridiculous to think that a farmer would get a limited resource ownership loan and pay the limited resource interest rate for the 30-year life of the loan. Limited resource borrowers accounts are periodically reviewed and borrowers are usually graduated to regular interest rates within a couple years. I would estimate the cost of subsidy over a 3-year period to be about $80 million—certainly a reasonable cost to help young and limited-resource farmers who otherwise could not farm or would, like so many other farmers today, be forced out of business and into the unemployment lines. It is a very small investment for something as crucial as maintaining a family farm system.

And so, I hope my colleagues will not be taken in by the administration's outlandish statements and will support H.R. 5821, including the deferral and limited resource program provisions.

Mr. de la GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, the House has before it the most significant piece of agriculture legislation it will consider this year, the Consolidated Farm and Rural Development Act. It is critical for the survival of America's farm economy at this time of severe depression in American agriculture.

The USDA had just reported that 1982 net farm income will be again setting new lows for the third year in a row. When adjusted for inflation, farm income will be the lowest since 1932. The Congress has adopted legislation in the reconciliation bill which offers some long-term relief in the form of a paid diversion program on 1983 crops in order to reduce supplies. However, farmers need help now. They need the financial assistance and removal of the fear of imminent foreclosure which this bill provides. This bill provides for a moratorium on foreclosures by FmHA in the coming year, as a last resort.

I have just returned from 2 weeks of meetings with my constituents and the question on the minds of many farmers is whether they will be able to continue to operate. They already know that they are not going to make any money at today's unbelievably low prices. They know that their debt load is going to be much larger. What they do not know is whether their lenders, in particular, the Farmers Home Administration, will allow them to continue to farm in 1983. The First Congressional District of Arkansas is full of rumors that the FmHA will begin wholesale foreclosures shortly after the election. The fact is that a majority of FmHA borrowers in Arkansas will be unable to meet the existing criteria which were established in February 1982. This insures that farmers are on a collision course with FmHA policy unless the relief afforded by this legislation is provided.

Earlier this year, we persuaded Secretary Block to move away from the stringent collection policy which the administration attempted to put into place in 1981, just as the collapse of the farm economy was gaining momentum. However, now that total collapse is near at hand, the policy of the administration appears to be oppose the relief afforded by H.R. 5831. On Wednesday, USDA delivered a letter from Secretary Block to all the Members stating that the administration opposes this bill because it provides for mandatory deferral of loan foreclosure actions and because it exceeds the President's budget request.

In fact the administration already has at its disposal the flexible authority it needs to avoid massive foreclosures, but has little desire to use it. Farmers do not want a handout. They need a helping hand to make it through the hard times that exist because of circumstances beyond their control. That authority is provided by earlier versions of the Consolidated Farm and Rural Development Act, which allow the Secretary to defer loan principal and interest payments when he determines that a borrower is temporarily unable to make payments due to conditions beyond his control. The Secretary also has authority to consolidate and reschedule loans to farmers for up to 7 years. While the FmHA has utilized this authority to some extent, they have discouraged farmers from refinancing by forcing them to give up earlier loans made at lower interest rates and adopt higher rates after rescheduling. If farmers cannot pay back the loans they received at lower rates, how does the administration expect them to repay at recent, higher rates, given today's farm prices?

H.R. 5831 will allow farmers to request deferral of principal and interest on farm operating, disaster, and economic emergency loans only through September 30, 1983. This bill will not in any way alter the farmer's eventual obligation to repay the loan. During this 1 year period, loan foreclosures will be prohibited only if three conditions are met:

First, the borrower must be able to demostrate good management practices;

Second, the borrower must be able to show that he is unable to repay due to conditions beyond his control; and

Third, he must have a reasonable chance of repayment of the loan at the end of the period that principal and interest are deferred.

For those loans deferred by this legislation, no interest will accrue in the case of family size farms. Once the period of deferral is ended, borrowers may reschedule, consolidate, and reamortize their loans without being subjected to the higher rates required by the administration in recent cases of rescheduling.

This is a necessary piece of legislation in view of the great fear that is spreading through the farm community. It will allow farm borrowers another year to begin to salvage and rebuild what this farm depression has destroyed.

Mr. Chairman, I have not discussed other aspects of the bill. The administration opposes what the committee has recommended in terms of lending limits, but actual increases are very modest in view of the severity of the agricultural crisis.

The ceiling on farm ownership loans is raised to $1 billion from the current level of $900 million. The operating loan fund is raised to $1.5 billion from the current level of $1.3 billion and water and sewer loans are raised from $300 million to $500 million. In fact, the economic emergency loan program which the administration has so adamantly opposed is eliminated entirely although my hard-pressed farmers are entitled to know that there is $600 million in existing authority for fiscal year 1982 which the administration has refused to use.

In conclusion, Mr. Chairman, H.R. 5831 is a modest response to the severe needs of rural America. It provides no bailout for farmers or anyone else. Only a 1-year deferral of foreclosures in the most critical cases is provided. All debts due will continue to be the farmer's obligation after September 30, 1983. I urge my colleagues to vote for this essential legislation.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. Marlenee).

Mr. MARLENEE. Mr. Chairman, I rise in support of 5831 which is a reauthorization bill that properly addresses many of the problems facing agricultural borrowers from the Farmers Home Administration (FmHA). American agriculture has rarely faced times so crucial:

Income, in constant dollars, is now at depression-era levels.

Land values in some areas have dropped 4 to 8 percent.

Producers have cut capital purchases 10 percent, resulting in depressed sales in the agribusiness industries.

High interest rates and a severe cut in cash flow have combined to form the major deterrent to agricultural prosperity. Because agriculture and its related industries are the largest segment of the economy, employing approximately 16 million workers, there is a domino effect on the entire economy.

I believe the FmHA should be committed to do all it can, in a responsible manner, to assist its borrowers through these economic rough waters. National attention has focused on delinquency rates and foreclosures. Several congressional hearings, and now the General Accounting Office, have investigated FmHA lending practices. A variety of solutions have been suggested to the FmHA credit crisis. I did not find it wise to support a blanket moratorium on all FmHA foreclosures, and blanket deferrals of payments on FmHA loans—that is plainly overkill. I did, however, want to make certain that FmHA had the legal authority to exercise their judgment, forgo foreclosure, and defer payments of principal and interest in some cases. This reauthorization makes that consideration the law through the next fiscal year. The conditions qualifying this consideration are appropriate: First, the borrower must have demonstrated good management skills; second, circumstances beyond the borrower's control are making repayment impossible; and third, a delay of foreclosure or payments would afford the borrower a reasonable chance of repayment.

This bill also requires the notification of all borrowers of the criteria that must be met, and the availability of deferrals of payments and the forgoing of foreclosure. Borrowers are also to be notified of the appeals process to any FmHA decision. These are appropriate and adequate measures of safeguard for borrowers.

I want to underscore my extreme concern for agricultural operators who find no credit available from any lending source, including FmHA. For that reason I support this bill as it was reported from committee. In testimony I gave before the Agriculture Committee, I reminded my colleagues that many capable producers are not FmHA borrowers. Now seeking to borrow from FmHA as a last resort, they are finding no funds available for operating loans. Available FmHA funds must first be reserved for existing borrowers who may be in distressed conditions and require additional loans. In Montana, the amount of money used to finance existing FmHA borrowers was three times the amount loaned to first-time borrowers. An unnecessary moratorium of foreclosures, or unnecessary deferrals of payments, will further drain the reserve of funds that would otherwise provide credit to first-time borrowers.

It is important to every taxpayer that FmHA be a responsible credit source, so I was successful in striking the vague "impaired standard of living" test as one of the criteria for postponing otherwise appropriate foreclosures. There is no producer still in the business today who does not find his net income barely sufficient to survive another year. Last year, the increase in production expenses outstripped the growth in farm income $4 to $1. Applying an impaired standard-of-living test to FmHA borrowers would discriminate against every producer who is obtaining credit from another source, and is meeting much more stringent credit terms in doing so.

Mr. Chairman, I feel it is important that FmHA adhere strictly to the business of keeping agriculture in business. My committee amendment to the reauthorization bill is aimed at keeping the FmHA out of the oil, gas, and mineral business. Current FmHA loan agreements secure the mineral rights as a matter of routine. I question the propriety of this practice. More importantly, past loan agreements did not specifically secure the mineral, oil, and gas rights as collateral. Land values at the time the loan was made would not have reflected the value of possible mineral deposits, since much of these now-valuable deposits were as yet undiscovered, or a lesser value was placed on them. It is improper for the FmHA to now claim authority over disposition of these rights, especially if the agricultural producing capacity of the land is not greatly impaired. My amendment was aimed at stopping this practice. The FmHA was established to serve family farms. Until prosperity returns to America's producers, I want to see FmHA as a responsible lending source keeping producers in business.

Mr. de la GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. Dorgan).

Mr. DORGAN of North Dakota. Mr. Chairman, a young friend of mine from North Dakota is a family farmer in his early thirties and this year he received a notice from the Farmers Home Administration saying to him that "You are not making any financial progress, and we suggest that you either cut back your operations or consider quitting farming." This is a young fellow who is not delinquent. He is a good young farmer. He has a good record. He was written to by the Farmers Home Administration saying, "We think you ought to consider quitting farming."

What kind of a Federal agency is it that is supposed to be the lender of last resort and is writing to good young family farmers in this country suggesting they quit farming?

I think that is incompetent. The reason we are debating these bills today is because the Farmers Home Administration is not doing its proper job for our family farmers.

Now, the speaker before me talked about David Stockman. The letter that I received in my office today coming from the Secretary of Agriculture, apparently, was written by David Stockman. When is David Stockman going to get off agriculture's case? David Stockman says farmers are crybabies. I say David Stockman does not know what he is talking about.

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Six months ago on the floor of the House I said that David Stockman could not tell the difference between a razorback hog and a pickup truck. I still do not think he can tell the difference. The fact is, he does not know anything about farming. He fights harder for foreign aid than he does for family farmers. Does he not understand that the health of this country's economy is dependent in a large part on the health of the American family farmer?

Now, we put a provision in this bill, an amendment that Congressman DASCHLE and I sponsored in subcommittee, that came through the committee, that provides for a deferral for young farmers in trouble. It does not say, "We are going to forgive the interest and principal payments on your loan," but it say, "If you are a good young farmer, who, through no fault of your own, because of high interest rates and low prices, you have gotten into some trouble, we are going to give you some time."

The Farmers Home Administration ought to be giving these farmers a helping hand. Instead, they are giving them a handcuff. We are saying, with this deferral, "We will give you some time." It does not say, "You do not have to repay the interest and you do not have to repay the principal." It does not say that at all. You still have to repay it all. It simply buys them some breathing space. It says that young farmers are the farming future in this country and we want to give them some time. That is all this says. We will get into it during the debate, but I think this is a very important issue for family farmers.

Mr. JEFFORDS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the chairman, my good friend from Tennessee, Mr. JONES, and my friend from Vermont, the ranking member of the subcommittee, Mr. JEFFORDS.

I rise to briefly point out a very serious concern of mine regarding the emergency disaster loan program administered by the Department of Agriculture. Currently, producers are eligible for low-interest loans if a natural disaster has wiped out 30 percent of the aggregate economic value of production for his particular county.

The committee in its wisdom has provided for a reduction from 30 to 20 percent loss of an applicant's production from a single enterprize based on a per acre or per animal calculation.

However, short of offering an amendment, I want to call attention to the practice of basing eligibility on loss to the county instead of loss to the individual producer.

As the program now operates, a producer who sustains 100 percent loss from a natural disaster may not be eligible for an emergency loan while his neighbor across the road, who was hit by the same storm, would be eligible for the disaster assistance.

This situation is possible because of the calculation based on county loss not individual producer loss. Also, the county designation procedure discriminates against large counties and counties with intensive production. This situation is very inequitable and unfair.

I suggest the Department of Agriculture and the committee address this obviously questionable policy, especially in light of the absence of direct payments for disaster assistance.

I include for the RECORD, with your permission, a copy of my letter to the Secretary of Agriculture, asking him to use the authority he has to provide the assistance that the spirit of the law demands.

WASHINGTON, D.C.,
September 2, 1982.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Again I feel compelled to cite the need for greater flexibility in the rules under which the Department operates the disaster assistance program.

As presently applied, the guidelines require that there must be a 30 percent loss of all crops in a single county before any Federal disaster assistance can be approved. Since storms do not respect county lines there are many instances where deserving farm producers are ruled out because the storm damage is confined to their area of the county and it is not possible to meet the 30 percent requirement even though the losses of one farmer or a group of neighboring farmers might be 100 percent.

To deal with the inequities the strict application of this rule creates, I respectfully recommend that you exercise your authority to grant waivers of the 30 percent rule in those cases of exceptional merit.

I have one such case in mind where grain producers near Hay Springs, Sheridan County, Nebraska, have recently suffered etensive hail damage in the one major crop production area of the county and have lost as much as 100 percent of some of their crops. Unless the present rule is waived, however, disaster assistance will be denied them. This would be catastrophic in view of all of the other economic losses occuring as a result of the faltering farm economy.

Mr. Secretary, I know you will be interested in seeing the figures on the extent of these disaster losses in Sheridan County, Nebraska, and that you will see fit to approve an exemption so that the producers can recoup a percentage of their losses inflicted by the severe hail storm on August 23, 1982.

With best wishes, I am,
Sincerely,

VIRGINIA SMITH,
Member of Congress.

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Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. GUNDERSON).

Mr. GUNDERSON. Mr. Chairman, I rise in support of H.R. 5831 that establishes lending limits for farm and rural development programs of the Farmers Home Administration during the next 3 fiscal years.

The importance of these FmHA programs to our rural areas cannot be overemphasized. Besides being the "lead agency" in the area of rural development, the FmHA has played an increasingly important role in the farm credit picture in recent years.

In fact, as of January 1, 1981, 12.2 percent of all of the total outstanding farm debt—some $22 billion—was held by the Farmers Home Administration.

The importance of the FmHA as a "lender of last resort" for farmers has taken on even greater significance during the current recession when credit is tight. In many cases, the availability of a FmHA operating loan may make the difference for good, young farmers as to whether or not they will be in business a year from now.

Mr. Chairman, it is no secret that the Federal Government is facing a period of fiscal austerity when authorizations and actual spending on many Federal programs is being decreased rather than increased by the Congress. This is not the case with the FmHA farm lending programs.

Farm ownership loans are authorized at $1 billion for fiscal year 1983 under H.R. 5831. That is an 11-percent increase over their current authorization of $900 million and 29 percent more than requested by the President.

Farm operating loans are authorized at $1.51 billion for fiscal year 1983. Again, that is almost 10 percent more than the current authorization of $1.375 billion for this program.

H.R. 5831 also authorizes such sums as may be necessary for the natural disaster emergency loan program. More importantly, it decreases the eligibility requirements for such emergency loans from a 30-percent loss of a normal year's production to a 20-percent loss. This is particularly important during these times of economic austerity when even a 20-percent loss may result in the insolvency of many in our farming community.

Within the farm lending programs of the Farmers Home Administration are provisions permitting loans to limited resource farmers at interest rates less than those FmHA normally charge. The future of the family farm in America has been solidified since 1978 because of the existence of these provisions. That is why I am very pleased that H.R. 5831 continues the special treatment of limited resource farmers during the upcoming 3 fiscal years.

Mr. Chairman, if we are to guarantee the existence of the current family farm structure of agriculture, we need to provide opportunities for our good, young farmers to get in, and stay in, farming. The reauthorization of the ownership and operating programs at increased levels together with the special treatment of limited resource farmers all contained in H.R. 5831 will go a long way in achieving this goal.

I, therefore, urge my colleagues to support this valuable and most necessary legislation.

Mr. JEFFORDS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in strong support of H.R. 5811.

Mr. Chairman, the best case for passing this bill was made by the administration last week when they released at long last the projections for net farm income in 1982. Farmers in 1982—said the administration—will net $19 billion, down nearly 25 percent from last year's $25.1 billion.

In constant dollars, farm income this year will be at its lowest point since 1933. Farmers' return on equity will most likely be less than 1 percent, in 1982 and 1983, at this point does not look any better in fact it look worse.

Let me remind the Members that what we do with this bill will not just affect farmers. If one doubts that, ask an unemployed International Harvester worker whether agriculture's buying power affects him.

This bill is designed to assist a profoundly depressed segment of our economy. It is necessary although I wish it were not. It is fiscally responsible by House budget standards, reducing the authorized levels by 19 percent over 1979 budgeted levels, and I challenge a Member to find any other program levels with this type of funding reductions.

I do not like everything that is in the bill. I would rather see a declining requirement of Federal funds in the farm sector instead of an increasing requirement; but the truth of the matter is when one looks at the very real fact that at this very moment, 28 percent of all Farmers Home loans in the United States are now delinquent because farmers are unable to pay and with the income projections that we have just come out with, with the current farm bill which is totally inadequate in place, the truth of the matter is we are going to have increased needs for capital (from the Federal Government as a leader of last resort) in the agricultural sector in the very near future.

I repeat again: This bill is within the budget. It does meet the short-term needs. If we somehow can change our agricultural policy to provide for a more realistic net farm income, it will meet the needs in the future. If we do not, it will not.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Chairman, I rise in support of passage of H.R. 5831. This important legislation has originated in the House Agriculture Committee's Subcommittee on Conservation, Credit and Rural Development, chaired by our able and distinguished colleague, ED JONES of Tennessee.

As a former member of this subcommittee, I am particularly aware of the critical nature of this bill for American agriculture. It is imperative that our farmers and the rural sector of the country have access to the financial assistance and credit provided by it as soon as possible.

In my State of Arkansas, the Farmers Home Administration is more than the lender of last resort. It is the only lifeline keeping many of my farmers afloat at this time of economic disaster for agriculture.

As many of my colleagues have noted in this and earlier debates on the economy, the farm sector has been suffering longer than any other during the recent economic recession. In Arkansas, we have suffered through the 3 worst years in my lifetime. The drought of 1980 destroyed crops all over the State and 1981 and 1982 have been years of economic disaster. Now, FmHA reports that there are 3,349 operating loans and 6,485 emergency loans in the State of Arkansas in which farmers may well be unable to meet existing payment obligations, given today's low prices.

The level of delinquency on these loans exceeded 60 percent in January of this year and will go higher by January of 1983. Even with extensive subordination by FmHA to other lenders and some refinancing of debts, the delinquency levels on loans in Arkansas could not be reduced below 30 percent this year.

The loan ceilings for the various FmHA programs have received modest and very necessary increases. More needs to be done but our farmers recognize that at this time of budgetary restraint, the levels proposed will have to be sufficient.

The bill also provides for borrowers to receive a 1-year deferral of principal and interest repayments when they can show that they have used good farming practices, but economic conditions prevent repayment as scheduled. This temporary relief will enable our farmers to gain a reprieve from possible foreclosure in the most extreme cases.

I urge my colleagues to join with the members of the Agriculture Committee in approving this very necessary legislation. A broad base of support for this bill will reassure our farmers that Congress will not abandon them at the time of their greatest need.

● Mr. FITHIAN. Mr. Chairman, as a member of the House Agriculture Committee, I urge my colleagues to support the Consolidated Farm and Rural Development Act which will be considered by the House of Representatives today. I support this legislation, more specifically, I support the provision that requires the Department of Agriculture to forgo foreclosure and permit an FmHA family farm borrower to defer principal and interest payments on ownership, operating, disaster, and economic emergency loans. This deferral is permitted if the family farmer demonstrates that he has used good management practices, and that he has a reasonable chance of paying the loan after the deferral. There is a third requisite to the deferral that I feel tells the whole story. That requisite is the ability of the farmer to demonstrate that his temporary inability to make payments is due to circumstances beyond his control.

Mr. Speaker, allow me to spell out exactly what those circumstances beyond the farmers control are, and who is in control of those conditions that are causing the American farmers' plight. Since this administration took office on January 20, 1981, the prices of the cash crops in Indiana have been on a disastrous plunge. The price of corn has dropped from $3.75 in January of 1981 to below $2 in some parts of Indiana, and are expected to stay well below $2 for the remainder of this year. Wheat and soybeans have dropped over 30 and 20 percent, respectfully.

All the while that the bottom is dropping out of the commodity prices, the administration is discouraging the export sales of grain to foreign countries because of an ideologue that threatens to lead the American farmer into bankruptcy.

In Indiana alone, there is a new foreclosure every 3 hours of every day, 7 days a week. The threat of losing your home or family farm is becoming a frightening reality to most Americans.

Make no mistake about the fact that I do not consider this section of the Consolidated Farm and Rural Development Act as the savior of the farm community. The fact is that this provision will affect only a small amount of the farmers who need help. I do, however, consider this an effort to help those farmers that have called on the Government to assist them in producing the food of our Nation. The farmer that is helped by this provision is being put out of business because of the farm policies of this administration.

Again, I urge my colleagues to support this act and the provision calling on the Department of Agriculture to defer foreclosure on the family farmer. There is already enough foreclosures and business failures in Amer-

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ica due to this administration's policies without the Government becoming active in the process of foreclosure themselves.●

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 5831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by—

(1) in paragraph (1), inserting the designation "(A)" before the existing text thereof, and adding at the end thereof a new subparagraph as follows:

"(B) The Secretary is authorized to make a grant to any association which received a loan made or insured under subparagraph (A) to finance a water or waste disposal facility if—

"(i) such association is unable to repay such loan without suffering great economic hardship, and

"(ii) the inability to repay such loan results from an unanticipated diminution in the aggregate amount of fees or revenue received by such association, caused by a substantial decline in population or commercial activity in the area served by such facility. The proceeds for such grant may be used only to repay such loan.";

(2) adding at the end of paragraph (2) the following: "The Secretary shall fix the grant rate for each project in conformity with regulations promulgated by the Secretary which shall provide for a graduated scale of grant rates prescribing higher rates for projects in communities having lower community population and income levels which can demonstrate a financial need: *Provided,* That for grants for projects in communities having a population of fifteen hundred or less and a median community income level below 80 per centum of the statewide nonmetropolitan median family income, the grant rate shall be the maximum rate permitted under this paragraph when the community can demonstrate a financial need.";

(3) amending paragraph (7) to read as follows:

"(7) As used in this title, the terms 'rural' and 'rural area' shall not include any area in any city or town having a population in excess of ten thousand, except that (A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town having a population not in excess of twenty thousand; and (B) for purposes of loans and grants for private business enterprises under sections 304(b), 310B, and 312 (b), (c), and (d), the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population in excess of twenty-five thousand and its immediately adjacent urbanized areas as determined by the Secretary of Agriculture according to the latest decennial census of the United States: *Provided,* That special consideration for such loans and grants shall be given to areas other than cities having a population in excess of ten thousand."; and

(4) adding at the end thereof the following new paragraphs (16), (17), (18), and (19), as follows:

"(16) In providing financial assistance for water and waste disposal facilities under this section, the Secretary shall utilize a project selection system to determine which of the applicants for assistance meeting the basic requirements of this section shall be selected to receive assistance. Such project selection system shall provide for the objective and uniform comparison of requests for assistance (in the form of preapplications) on the basis of relative need as reflected by (A) low community median income; (B) small population; and (C) severity of health hazards resulting from inadequate provision for the reliable supply of potable water or from inadequate means of disposing of waste. For purposes of the project selection system, each of these three factors shall be weighted equally.

"(17)(A) The Secretary is authorized to make payments to associations described in paragraph (1) of this subsection which are reasonably likely to receive financial assistance under paragraph (1) or paragraph (2) of this subsection for community water and waste disposal facilities, for predevelopment costs incurred in connection with the planning and design of such facilities. Such costs may include the costs of drilling test wells and of preparing alternative engineering designs to determine the most feasible and economical method to improve the water supply or waste disposal system of the community involved.

"(B)(i) The amount of any payment received under subparagraph (A) with respect to a project by an association which receives, before the expiration of the five-year period beginning on the date of such payment is received, a loan under paragraph (1) of a grant under paragraph (2) of this subsection to finance such project shall be treated as part of the amount of such loan or the amount of such grant, as the case may be; and

"(ii) the amount of any payment received under subparagraph (A) with respect to a project by an association which does not receive, before the expiration of the five-year period beginning on the date of such payment is received, a loan under paragraph (1) or a grant under paragraph (2) of this subsection to finance such project shall be repaid to the Secretary as if such payment were a loan made under paragraph (1) unless the Secretary waives the repayment requirement with respect to all or part of such amount.

"(C) The total of payments made by the Secretary under this paragraph for any fiscal year shall not be less than 5 per centum of any amount appropriated to carry out paragraph (2) of this subsection for the fiscal year unless the applications for payments received by the Secretary from eligible associations for the fiscal year total less than 5 per centum of such amount.

"(D) For purposes of section 346, each payment made under subparagraph (A) shall be deemed to be a loan unless and until such payment is offset against a grant or the Secretary waives the repayment of such payment.

"(18)(A) The Secretary is authorized to make grants to private nonprofit organizations for the purpose of enabling them to provide to associations described in paragraph (17) of this subsection technical assistance and training—

"(i) to identify, and evaluate alternative solutions to, problems relating to the development, storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas;

"(ii) to prepare applications to receive financial assistance for any purpose specified in paragraph (2) of this subsection from any public or private source; and

"(iii) to improve the operation and maintenance practices at any existing works for the storage, treatment, purification, or distribution of water or the collection, treatment, or disposal of waste in rural areas.

"(B) In selecting recipients of grants to be made under subparagraph (A), the Secretary shall give priority to private nonprofit organizations which have experience in providing the technical assistance and training described in such subparagraph to such associations serving rural areas in which residents have low incomes and in which water supply systems or waste facilities are unhealthful.

"(C) The total of grants made by the Secretary under this paragraph for any fiscal year shall not be less than 2 per centum of any amount appropriated to carry out paragraph (2) of this subsection for the fiscal year unless the applications for grants received by the Secretary from eligible associations for the fiscal year total less than 2 per centum of such amount.

"(19) In the case of water and waste disposal projects serving more than one separate rural community, the Secretary shall utilize the median population level and the median community income level of all the separate communities to be served in applying the formulas provided in sections 306(a)(2), 306(a)(16), and 307(a)(3)(A).".

SEC. 2. Section 307 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) is amended by—

(1) in subsection (a)(3)(A)—

(A) striking out "the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)" and inserting in lieu thereof "80 per centum of the statewide nonmetropolitan median family income"; and

(B) inserting before the period at the end thereof the following: "; and not in excess of 7 per centum per annum on loans for such facilities which do not qualify for the 5 per centum per annum interest rate but are located in areas where the median family income of the persons to be served by the facilities does not exceed 100 per centum of the statewide nonmetropolitan median family income"; and

(2) adding at the end thereof a new subsection as follows:

"(d) Unless appraised values of the rights to oil, gas or other minerals are specifically included as part of the appraised value of property securing a farm ownership loan, the rights to oil, gas or other minerals located under the property shall not be considered part of the collateral securing the loan.".

SEC. 3. Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by adding at the end thereof a new sentence as follows: "In addition, the Secretary may provide financial assistance to persons eligible for financing under section 302 of this title by guaranteeing loans for the purposes specified in section 303(a)(1) of this title made by States or by agencies of States, including loans which involve tax-exempt bond funds.".

Sec. 4. Section 310B(d)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)(5)) is amended to read as follows:

"(5) No loan commitment issued under this section, section 304, or section 312 shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant of up to, but not exceeding, 20 per centum. The Secretary shall permit an applicant to make the required equity investment in the form of cash, tangible earning assets at book value, or appraisal surplus, or any combination thereof.".

Sec. 5. Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end thereof a new subsection as follows:

"(c) The Secretary shall permit a borrower having an outstanding loan made under this subtitle who has adequate equity to protect the loan to use proceeds from the sale of property securing the loan to make prospective scheduled payments on the loan: *Provided*, That such sale does not impair the borrower's ability to continue the borrower's operation.".

Sec. 6. Section 329 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1970) is amended by—

(1) striking out "30 per centum" and inserting in lieu thereof "20 per centum"; and

(2) striking out "based upon the average monthly price in effect for the previous year".

Sec. 7. Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) is amended by—

(1) inserting the designation "(a)" before the existing text thereof;

(2) in the second sentence, striking out "section" and inserting in lieu thereof "subsection"; and

(3) adding at the end thereof new subsections (b), (c), and (d) as follows:

"(b) During the period beginning with the date of enactment of this subsection and ending September 30, 1983, the Secretary shall permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, and shall forgo foreclosure of any such loan, in both cases upon a showing by the borrower that the borrower (1) has demonstrated good management practices, (2) due to circumstances beyond the borrower's control is temporarily unable to continue making payment on such principal and interest then due, and (3) has a reasonable chance of repayment of the loan after the deferral of principal and interest or the foregoing of foreclosure. Interest that accrues during the deferral period on any loan deferred under the provisions of this subsection shall bear no interest during or after such period. The foregoing provisions of this subsection shall be limited to borrowers who own or operate family-size farms, as certified by the county committee in accordance with section 333(b) of this Act. The Secretary shall promulgate regulations which provide (1) for notification of all farm borrowers of the provisions of this subsection and all other servicing alternatives offered by the Secretary; (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives; and (3) for appeal within the Department of Agriculture from a decision which denies relief under such provisions and alternatives.

"(c) Upon the expiration of any period of deferral of payment of principal and interest and foregoing of foreclosure by the Secretary under subsection (b) of this section, the Secretary shall make available to the borrower, upon the borrower's request, procedures whereby the loan can be consolidated, rescheduled, or reamortized to provide equitable repayment terms consistent with the borrower's farm and financial situation, and any loan so consolidated, rescheduled, or reamortized shall bear interest at a rate not in excess of the rate of interest on the original loan.

"(d) Any loan deferred, consolidated, rescheduled, or reamortized under any authority of the Secretary other than pursuant to subsection (b) of this section shall, notwithstanding any other provision of this title, bear interest for the balance of the original loan and for the term of the original loan at a rate not in excess of the rate of interest on the original loan.".

Sec. 8. Section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) is amended by adding at the end thereof a new subsection as follows:

"(d) On the request of a borrower with respect to whom the committee has made a certification under section 333(b) of this title, the committee may meet with such borrower—

"(1) to discuss with such borrower any question regarding the farming operation of such borrower, or

"(2) to advise such borrower regarding farm management decisions such borrower may be required to make.".

Sec. 9. Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended by—

(1) in subsection (b)—

(A) inserting "(1)" after "(b)";

(B) inserting before ": *Provided*, That", the following: ", and (2) the county committee to establish the maximum amount of credit which may be extended to such applicant under such certification to meet the actual needs of such applicant during the crop year involved"; and

(C) in the proviso, striking out "or recommendation required to be made by the county committee," and inserting in lieu thereof ", recommendation or limitation required to be made by the county committee under this subsection,";

(2) in subsection (d), striking out "and" following the semicolon;

(3) in subsection (e), striking out the period and inserting in lieu thereof "; and"; and adding at the end thereof a new subsection as follows:

"(f) that a borrower having an outstanding loan made, insured or held by the Secretary for farm ownership purposes under subtitle A, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, or economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978, be permitted to use the proceeds from the sale or lease of oil, gas, or other minerals and the proceeds from royalties generated from leases of oil or gas, located under the property securing the loan to make prospective scheduled payments on the loan.".

Sec. 10. Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by adding at the end thereof a new subsection (e) as follows:

"(e) Notwithstanding the provisions of subsection (a) of this section—

"(1) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,000,000,000;

"(B) operating loans, $1,510,000,000; and

"(C) emergency loans in amounts necessary to meet the needs resulting from natural disasters.

Not less than 25 per centum of the insured loans authorized for farm ownership purposes and not less than 25 per centum of the insured loans authorized for farm operating purposes shall be for low-income, limited-resource applicants.

"(2) loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $500,000,000;

"(B) industrial development loans, $1,000,000,000: *Provided*, That such loans may be insured, or made to be sold and insured, or guaranteed only with respect to applicants which, in the case of insured loans, are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time, and, in the case of guaranteed loans, the lender certifies that the lender is unwilling to provide credit to the applicant at the same rate of interest in the absence of the guarantee authorized by this title; and

"(C) insured community facility loans, $300,000,000.".

Sec. 11. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 note) is amended by adding at the end thereof a new section 349 as follows:

"Sec. 349. (a) Not later than one month following the end of each calendar quarter beginning with the quarter ending June 30, 1982, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the information specified below with respect to loans made, insured, or guaranteed for farm ownership purposes under subtitle A of this title, farm operating purposes under subtitle B, disaster emergency purposes under subtitle C, and economic emergency purposes under the Emergency Agricultural Credit Adjustment Act of 1978:

"(1) the estimated number and dollar value of loans designated delinquent;

"(2) the estimated number and dollar value of loans voluntarily liquidated;

"(3) the estimated number and dollar value of loans accelerated;

"(4) the estimated number and dollar value of loans in the process of foreclosure;

"(5) the estimated number and dollar value of loans foreclosed; and

"(6) the estimated number and dollar value of loans on which any other adverse action was taken.

"(b) Each report submitted under this section shall provide the required information

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on a State-by-State basis and shall list such information separately for each type of loan specified in subsection (a), and within each such type, separately for loans made or insured and for loans guaranteed, and separately for regular loans and for loans made to low-income, limited-resource borrowers.

"(c) In preparing the format of the report to be submitted under this section, the Secretary shall closely consult on a continuing basis with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, to ensure a common understanding of the terms employed in this section.

"(d) For purposes of this section—

"(1) 'loans described delinquent' means loans with respect to which (i) the amount repaid is more than $10 less than the amount due under the repayment schedule, or (ii) any payment is not made within fifteen days after the date the payment is due under the repayment schedule;

"(2) 'loans voluntarily liquidated' means loans with respect to which the borrower, on the borrower's own volition, or under threat of foreclosure and with the Secretary's agreement, has sold property securing the loan and applied the proceeds against the loan indebtedness;

"(3) 'loans accelerated' means loans with respect to which the borrower is notified by the Secretary that, because of a default, all principal and interest under the loan are due and payable;

"(4) 'loans in the process of foreclosure' means loans which have been referred by the Secretary to the Office of the General Counsel of the Department of Agriculture for initiation of action to foreclose the loans and such action is not completed;

"(5) 'loans foreclosed' means loans with respect to which legal proceedings have been concluded to sell the property securing the loan, or the property securing the loans has been sold by the Secretary under the terms of the loan agreement; and

"(6) 'loans on which other adverse action was taken' means loans with respect to which the Secretary has, because of delinquency or default, taken an action against the borrower other than those described in any other paragraph of this subsection.

"(e) The provisions of this section shall be effective through September 30, 1985.".

Sec. 12. (a) The amendments made by section 1(1) of this Act shall become effective on October 1, 1982, and shall apply to any association described in section 306(a)(1)(B) of the Consolidated Farm and Rural Development Act, as added by section 1(1) of this Act, without regard to whether the loan involved was received by such association before such effective date.

(b) The amendments made by section 1(4) of this Act which added new paragraphs (17) and (18) to section 306(a) of the Consolidated Farm and Rural Development Act shall become effective on October 1, 1982.

(c) The amendments made by section 6 of this Act shall apply to financial assistance made available with respect to disasters occurring after January 1, 1981.

(d) All other amendments made by this Act shall become effective upon the date of enactment.

Mr. de la GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 15, after line 24, insert the following new section (and redesignate succeeding sections accordingly):

Sec. 10. Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in the first sentence—

(A) by striking out "may" and inserting in lieu thereof "shall"; and

(B) by inserting after the first sentence the following: "Such property shall be determined to be suitable for such disposition if such property is being used, or customarily has been used, for the production of agricultural commodities and if such use is permitted under applicable land use laws in effect at the time of disposition under this subsection.";

(2) in the second sentence—

(A) by striking out ", whenever practicable,"; and

(B) by inserting before the period ", except that if such property is not sold to such persons within a period of two years after the date of acquisition, then such property shall be offered for sale to those States, units of local government, and private nonprofit organizations described in section 170(c)(2) of the Internal Revenue Code of 1954 which agree to use such property for agricultural purposes and to convey such property to such persons as soon as practicable."; and

(3) in the third sentence by inserting "or any such State, unit of local government, or organization" after "such persons".

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, the purpose of the amendment I am offering today is to insure that Farmers Home Administration policy on disposition of agricultural land acquired through foreclosure is in compliance with the Farmland Protection Policy Act. This amendment does not make any major changes to the law, but instead simply clarifies the congressional intent expressed in existing statutes.

What this amendment would specifically do is to require that land in the possession of Farmers Home as a result of foreclosure that customarily has been used for agriculture be offered to eligible farmers as a matter of first priority, then to State and local governments, and nonprofit organizations; and only then be put on the open market. Rather than simply disposing of such land to the highest bidder, Farmers Home Administration would be required to make a good faith effort to keep such land in agricultural use. I believe this is the intent of existing statutes, and this amendment would specifically define that intent.

Mr. Chairman, the purpose of Congress in enacting the Consolidated Farm and Rural Development Act and its predecessor legislation was to provide for the continuation of agriculture in the face of adverse market conditions by extending below-market credit to eligible farmers. A reading of this act, and in particular section 335(c), shows that this law establishes a hierarchy of priorities in the disposition of farm properties acquired by FmHA through foreclosure. The first priority it sets forth is to dispose of such property in a way that assures that it will be put back into the hands of farmers for continued agricultural use. The disposition of property in this preferred manner necessarily implies that sales need not bring the highest price.

Viewed in this light, the law assumes that farm property should be sold to eligible farmer purchasers unless circumstances other than its nonfarm value so dictate. Such circumstances might arise, for example, when local land use regulations no longer permit agricultural use of the property. But it is clear that the price of the property alone is not sufficient grounds for a secretarial determination that is not suitable for disposition to eligible farmers.

The fact that Congress did not intend CONACT to be a revenue generator for the Federal Treasury is reinforced by the provision of section 335(c) that the Secretary must keep open his offer to sell suitable property to eligible farmer purchasers for 3 years before going to public auction or negotiated sale. Three years is an extraordinarily long period of time to hold property acquired by foreclosure, and yet so strong was Congress apparent desire to assure that farms would eventually be put back into the hands of capable but financially disadvantaged farmers, that it provided for such a holding period in the statute.

Nor does CONACT stand in isolation as an expression of Congress intent to perpetuate the agricultural useage of agricultural land. The Farmland Protection Policy Act of 1981 (Public Law 97-8), title XV, subtitle I, section 1539, provides, for example, that its purpose is "to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses." The term "Federal program" is defined by the statute as including those "undertaking, financing or assisting construction or improvement projects; or acquiring, managing or disposing of Federal lands and facilities."

The disposition of farm properties by FmHA clearly falls within the purview of the Farmland Protection Policy Act, and FmHA is compelled by this statute to minimize the unnecessary and irreversible conversion of farmland in disposing of farmland it acquires by foreclosure. Because the CONACT does not require FmHA to sell farm property at the highest price, the conversion of farmland as a result of such a sale would be "unnecessary" within the meaning of the Policy Act.

Importantly, the underlying purpose of the Farmland Protection Policy Act is similar to that of CONACT—to strengthen rather than weaken the agriculture industry in the face of adverse economic conditions. In adopting the Policy Act, Congress found that "the extensive use of farmland for nonagricultural purposes undermines the economic base of many rural areas." Thus, these two statutes complement each other and their interpretation together strongly mandates that FmHA take every appropriate step to assure that good farmland remains in agricultural use under the private management of capable farmers. It is clear that this result was intended by the statutes to safeguard the long-run economic prospects of the agriculture industry, even if it means foregoing some potential Federal revenue in the short run. In the administration of these laws, the Executive must attempt to carry out Congress intentions. My amendment would clearly specify these intentions and require the Secretary to carry them out.

As you can see, Mr. Chairman, this amendment does not necessarily change the law, but merely clarifies the intent of existing statutes. I believe that by specifically requiring Farmers Home Administration to made a good faith attempt to convey farm properties acquired through foreclosure into the hands of farmers who might not otherwise be able to competitively bid for such land, we will be granting Farmers Home the ability to enhance farming opportunities and strengthen a domestic agriculture industry that, as we all know, is in serious economic trouble.

I urge my colleagues to support this amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to inform the gentleman I have discussed the matter with the chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES). The gentleman in turn has discussed it with various members of the committee. We have arrived at the consensus the gentleman makes a very valid and useful contribution to the legislation, and it would be our purpose to accept his amendment on our side.

Mr. JEFFORDS. Mr. Chairman, I appreciate the gentleman's comments.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: On page 12, after line 2, insert a new section 7 as follows and renumber the following sections accordingly:

"SEC. 7. Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end thereof the following: 'If the borrower under a loan made or insured by the Secretary under section 310B of this title establishes to the satisfaction of the Secretary that (1) the borrower is entitled to reimbursement for the principal and interest due under such loan from a third party that is involved in reorganization or liquidation under the Bankruptcy Act, and (2) the estate of such third party is likely to have sufficient assets to reimburse the borrower, the Secretary shall defer, at the request of the borrower, payment of the principal and interest for such time as the Secretary determines necessary to permit reimbursement of the borrower to be made under the bankruptcy proceedings.'."

Mr. HARKIN. Mr. Chairman, this amendment simply provides for a postponement in the payment of a B. & I. loan in a special type of circumstance of considerable hardship. For example, a borrower can have a loan with Farmers Home and a contingent contract with another firm that is undergoing bankruptcy which requires that the amount be repaid because the bankrupt company cannot perform its responsibilities.

When Farmers Home finds such a circumstance and also finds that the bankrupt firm can make the required payment but must wait for the distribution of funds under our bankruptcy laws, then I believe the Farmers Home Administration should wait for the repayment of their loan.

To do so could force the borrower from Farmers Home into bankruptcy.

This amendment simply has Farmers Home wait for the payemnt to be made by the contingent borrower.

What if the bank or the firm that is the third borrower cannot make the payment at the end? Would the Farmers Home be out of money? No, it would not, because this amendment only takes effect when Farmers Home knows that there are sufficient funds to make the payment, and it will be made because of the contractual relationship between the primary borrower and secondary borrower.

This amendment will not cost any money. The payment will be made. The number of cases involved is small. However, the impact on the borrower could be very large. These types of loans are major ones in the view of the small businesses that are affected. The Farmers Home is taking a very tight view of this, and there are some special cases involved where borrowers have borrowed money from Farmers Home; they have loaned the money to another firm. That firm has performed some of its contractual liabilities, but that third borrower is now undergoing bankruptcy.

Under some special contracts with the first borrower, if the secondary borrower is liquidated in bankruptcy, they have to pay back the first borrower before any other creditors. Farmers Home knows they are going to get the money back in that situation. That is what my amendment speaks to. It just allows that first borrower to put off until such time as they get their proceeds from the contingent contractor under bankruptcy proceedings to then pay the money back to the Farmers Home Administration.

As I said in my remarks, to not do so may be, in fact, to force the first borrower into bankruptcy which they otherwise might not have to do if they can just wait until the third borrower pays the money back.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I have reviewed the amendment. As I understand it, as the gentleman has stated it, it is to take care of those rare circumstances where the requirement by FmHA to pay the loan precedes the ability through bankruptcy to receive the money that is due the primary obligor.

Therefore, I have no objection to it, with that understanding.

Mr. HARKIN. I appreciate that.

Mr. DE LA GARZA. Mr. Chairman, I have discussed this with the chairman of the subcommittee. As we understand the explanation of the gentleman, this would impose no obligation on the Government. Under the factual situation the gentleman has delineated for us, there is no possibility that it could be any loss to the Government but rather that a time sequence is all the gentleman is asking for but not a deferral of payment or a deferral of the loan but rather that the time sequence for foreclosure would be affected; is that correct?

Mr. HARKIN. Mr. Chairman, let me try to be more clear than that. Let's take a specific case.

The primary borrower—let us say a group of business people—have borrowed the money under an association name. They have taken that money from Farmers Home and loaned it to a

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secondary borrower. That secondary borrower now is, let us say, undergoing bankruptcy proceedings. The secondary borrower has a contract with the primary borrower which says that the money which was borrowed from Farmers Home, and which was then loaned to the secondary borrower, that in case of bankruptcy, that amount of money is deemed to be cost of administration, which means under bankruptcy laws that is paid first.

We know they are going to pay it back to the primary borrower.

In a case like that, where Farmers Home knows they are going to get the money back, then Farmers Home would be obligated to, at the request of the primary borrower, put off repayment of that loan until such time as the bankruptcy court begins to distribute the funds, the first of which will be the cost of administration.

Of course, the primary borrowers would get their money back at that time. Then Farmers Home could go in and demand payment of that loan.

Mr. de la GARZA. Mr. Chairman, I think the gentleman has explained it satisfactorily. It is a delay in time.

Mr. HARKIN. That is true. It is a delay in time. It will cost the Farmers Home Administration no money whatsoever.

Mr. de la GARZA. Mr. Chairman, we have no objection to the gentleman's amendment on this side.

Mr. HARKIN. Mr. Chairman, I yield back the balance of my time.

□ 1245

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Harkin).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAMPLER

Mr. WAMPLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wampler: Page 4, line 18, strike out "can demonstrate a financial need" and insert in lieu thereof "are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time".

Page 4, beginning on line 24, strike out "can demonstrate a financial need" and insert in lieu thereof "are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time".

Mr. WAMPLER. Mr. Chairman, the purpose of this amendment is to clarify language contained in section 1 of H.R. 5831 pertaining to the grant formula for rural communities seeking Farmers Home Administration grants for water and waste disposal systems. This amendment would strike the language in the bill requiring communities having a population of less than 1,500 and a median community income level below 80 percent to "demonstrate a financial need' in order to receive a maximum 75-percent grant rate. Instead of requiring this demonstration of financial need, such communities would have to show that they were unable to obtain sufficient credit at reasonable terms elsewhere to meet their financing needs.

During consideration of H.R. 5831, the House Committee on Agriculture unanimously approved provisions to amend the Consolidated Farm and Rural Development Act to provide for graduated grant assistance for water and sewer system development in rural communities. These provisions provided that grant size would be determined on the basis of two objective criteria—community income level and community size. In addition, those communities with median family income no greater than 80 percent of the State nonmetropolitan median family income and with populations which do not exced 1,500 would be assured a maximum 75 percent grant.

The gentleman from Iowa (Mr. Evans) offered an amendment to H.R. 5831 which added a third criterion—demonstrable financial need—to the grant formula specified in the bill. The amendment was agreed to by voice vote even though several Members questioned whether any community with a population less than 1,500 and a median family income at or below 80 percent of State nonmetropolitan median income would not be demonstrably in need of financial assistance to construct or improve a water or waste disposal system. These criteria of size and income level in most, if not all, cases define a community's need for grant assistance.

The problem with this section of the bill, as it currently is worded, is that it requires the consideration of an extremely vague condition in determining grant assistance. It has the effect of opening up the criteria for grant assistance to other unspecified and possibly nonobjective measures of community need for financial aid, as defined by the Farmers Home Administration through regulations.

In order to avoid these possible problems while achieving the objective of the original language, I am offering an amendment to strike the "demonstrable financial need" language and substitute language which would establish a "credit elsewhere" test on those communities applying for maximum 75-percent grants which meet the two criteria of having a population less than 1,500 and median family income at or below 80 percent of State nonmetropolitan median income. Such language is much more specific and actually clarifies the intent of the original language. The "credit elsewhere" test also is an objective and established criterion which Farmers Home Administration is required to use in several of their loan and grant programs.

I have spoken with the gentleman from Iowa (Mr. Evans) and understand that he is in agreement with this amendment. I also have spoken with the Members on the other side of the aisle and understand that this amendment has their support.

I therefore urge my colleagues to vote for passage of this amendment.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to my colleague, the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I want to compliment the gentleman for offering this amendment. I am most supportive of it.

When this came up in committee, I remember it was late in the day. As the gentleman knows, I had been involved in these amendments with the gentleman from Virginia and I was unavoidably absent at the time that this came up; but I think what the gentleman has done here is to take a very loosely worded thing on this "demonstrable need," tighten it down, and as the gentleman says, to make it a "credit elsewhere" test, which really tracks with what Farmers Home has done in all these other cases they have made loans for.

I believe, if the gentleman does not mind me saying so, that the gentleman has perhaps stopped an end run by OMB or others, I am not going to pick out any bad people here, ghosts or anything like that, but an end run to try to get around what we worked out in the subcommittee and in the full committee, to make sure that these waste water loans and grants——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. Wampler was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, if the gentleman will yield further, to make sure that these small communities that really meet those criteria that we set down, those objective criteria of less than 80 precent of the State nonmetropolitan median income and less than 1,500 people are assured that they are available for the maximum grants and loans under the provisions that we put in the bill.

I think the "demonstrable financial need" was an attempt at an end run. I thank the gentleman for stopping the end run with his amendment.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for this contribution.

Mr. de la GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we appreciate the contribution of the gentleman from

Virginia. I just want to understand for the record that the gentleman's amendment in no way changes the responsibility of the Farmers Home to assure repayment and the responsibility to make loans to the full amount, or grants possible, but rather that the gentleman defines in a more exact nature the criteria, so that these small communities may be able to work and present their case to the Farmers Home Administration, is that a correct interpretation of the amendment?

Mr. WAMPLER. Mr. Chairman, will the distinguished gentleman from Texas yield?

Mr. de la GARZA. I yield.

Mr. WAMPLER. I thank the gentleman for yielding.

That is correct and is an accurate statement of the intent of the amendment.

Mr. de la GARZA. With that, we have no objection to the amendment on this side, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Wampler).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Daschle: On page 13, line 7, strike out "The Secre-" and all that follows through line 15.

On page 13, insert after line 25 a new subsection (d) as follows:

"(d) The Secretary shall promulgate regulations which provide (1) for notification of all farm borrowers of the provisions of this section and all other servicing alternatives offered by the Secretary; (2) clear procedures by which borrowers may petition the Secretary for relief under such provisions and alternatives; and (3) for appeal within the Department of Agriculture from a decision which denies relief under such provisions and alternatives.".

On page 14, line 1, redesignate subsection (d) as subsection (e).

Mr. DASCHLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. DASCHLE. Mr. Chairman, I offer this amendment simply as an improvement in the language that we have in the bill. It is really technical in nature. It does not change the thrust of the legislation at all. It simply provides for the section dealing with the deferral in the bill to be split into two sections.

The way the bill reads now, the requirements that Farmers Home borrowers be notified of the existence of deferral and other servicing remedies would apply only to the deferral language in H.R. 5831. There are other deferral language and servicing loan provisions in current law. We always intended, that is, the committee always intended, to be certain that the notification procedures applied to them as well. It is simply a matter of clarification that we now offer this subsection change.

I ask the acceptance of the committee in that regard.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the chairman of the committee.

Mr. de la GARZA. Mr. Chairman, we have examined the amendment.

I have just checked with counsel, though, with one clarification, that we would be prepared to accept the amendment.

The gentleman's amendment in item 3 provides for appeal within the Department of Agriculture from a decision which denies relief under such provisions and alternatives.

Is it the gentleman's intent to restate the appellate procedure that exists in the law at this time?

Mr. DASCHLE. The chairman is correct. We are not changing the appellate procedure at all. We are simply restating it for legislation clarification.

Mr. de la GARZA. That being the case, Mr. Chairman, we accept the gentleman's contribution and have no objection to the amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, what I understand this to be, this is the Farmers Home Administration Outreach program to notify farmers that they will be eligible at the request of the borrower to come in and seek deferral of their principal and interest; interest for 1 year and the principal to be amortized over the remainder of the life of the contract, they can show that for reasons beyond their control, being low market prices, had weather, high interest rates, they will be eligible for a waiver of interest and principal for 1 year and for no interest or compounding of interest waved for the balance of the contract; is that correct?

Mr. DASCHLE. My amendment only relates to the information required to be provided to them, not to the legislation itself.

As it stands right now, whether we are talking about loans under this section, this bill, or any other loan servicing mechanism the Farmers Home has, there is a requirement that farmers be notified that services such as that exist. We are simply breaking that down into two areas; one, dealing with the deferral language in this bill, the other dealing with other servicing provisions that currently exist in law.

Mr. HAGEDORN. I understand that; but Mr. Chairman, I do not know if there has been any estimate made of the cost of this provision which is included in notification, but when we get into deferral of interest and principal, there is not probably a farmer in the country that cannot come to the Government today, and remember that only 10 percent are financed by the Farmers Home Administration, explain why because of excessively high short-term interest rates, because of low farm prices, high fuel costs, that they are not in a cash-flow bind because of reasons beyond their own ability to control, they are in dire economic straits, and therefore meet the criteria Members of this Congress better be made aware that this is exactly what we are doing.

I will be amazed if virtually every single Farmers Home Administration borrower of ownership loans is not going to petition the Government for relief from 1 year's interest, and it is a lifelong gift, it is an outright gift.

I have a lot of support and sympathy for the people who are financed under this program, but for this Congress to award interest free gifts on the unpaid principal to people who have farm ownership loans, is a very serious thing that we are embarking on.

What are we going to do for the small business people? What are we going to do for the homeowners? What are we going to do for all the other people that come in during this time and show serious problems?

We are opening up a Pandora's box here, I think, that defies imagination.

Mr. DASCHLE. Mr. Chairman, if I can reclaim my time, we are not providing any gift at all.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

(By unanimous consent, Mr. Daschle was allowed to proceed for 2 additional minutes.)

Mr. DASCHLE. These borrowers are still going to be required to pay that money back. They are still bound by the responsibilities that they held from the moment they signed the contract for that loan. They are simply being deferred the responsibility of having to pay that for 1 year, not the responsibility for payment, just the deferral of that responsibility for 1 year.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the chairman.

Mr. de la GARZA. Mr. Chairman, I appreciate the gentleman yielding; but taking that statement, the gentleman's amendment and the reason for accepting it, recommending it to the committee, is that the concerns of the gentleman from Minnesota may be valid concerns and we share some of them.

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What the gentleman is doing has nothing to do with the legislation, the interest rate, 1 year, 3 years, or anything. All the gentleman is saying is that when and if the legislation is in place or that the Secretary informs those who have an interest, which I think is worthwhile in many of the rural areas where there is a lack of the dissemination of information.

I think it would be unjust and many times cruel if we were to pass legislation providing for some assistance and that some farmer, because of the lack of receiving the information, might not at least petition so that his situation may be reviewed.

Granted, the bulk of them possibly would, but I think that we do no harm to responsible activity by the Farmers Home Administration, but we rather enhance it; that they not put themselves off in a corner, shut themselves off in a room and say, "Well, the Congress gave us authority but we are not going to let anyone know about it."

I think that is the thrust of the gentleman's amendment and the reason why we would accept it.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield to me?

Mr. DASCHLE. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, I am not quarreling with the part of the fact that we are making the information available.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. Daschle) has expired.

(On request of Mr. English and by unanimous consent, Mr. Daschle was allowed to proceed for 3 additional minutes.)

Mr. HAGEDORN. My problem is the information that we are sending them, I say to the chairman of the committee and to the gentleman from South Dakota. That does concern me greatly because we are informing them of an outright gift. It says right here, "Interest that accrues during the deferral period on any loan deferred under the provisions of this subsection shall bear no interest during or after such period."

I would call that an interest-free gift. I think there are literally tens of millions of people throughout the Nation that would like one similar to that. I think in the area of agriculture there is hardly a farmer in the Nation, I do not care how rich or well off they are, that is not having cash flow problems and who would not be able to come in and qualify to their local banker. We are not doing anything at all for them.

That is the bad part, the news that we are sending to them and what this is going to allow if we pass this legislation intact and it actually becomes law.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield to me?

Mr. DASCHLE. I will yield in just a moment.

Mr. Chairman, let me respond just one more time by saying, first of all, that the homeowners in this country already have that opportunity under certain conditions. I think what we are asking is that farmers be given the same opportunity.

Second, we have already seen in the courts down in Georgia earlier this year where the judge made it very clear that unless we legislate a clarification in this area, that is going to be dictated in the courts. I think it is up to us to insure that the responsibility rests here, that we clarify that, and that we do it right now.

Third, I think it is important that we recognize that here we are talking about the discretion of the Secretary, we are talking about the discretion of the Farmers Home Administration. Any program can be subject to abuse. Any program can be made unworkable or untenable. But it depends on how good a manager there is.

I would certainly hope that we have in the Farmers Home Administration or in the Department of Agriculture, and I think in this case we can give the power to the Secretary and to the Farmers Home Administration the opportunity to make the good judgment under which cases the deferral provisions of this law would be used.

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. English).

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I would like to commend the gentleman for his amendment. I would like to make one other point that perhaps should be brought out here.

Many of us do not feel that the particular provision that the gentleman from Minnesota finds objectionable is strong enough. We made that point in committee. The point that I think has to be understood and the reason that this issue has even been addressed in this bill is the fact that the Secretary of Agriculture and the Department of Agriculture have failed to work with farmers, failed to work with farmers in trying to make certain that they have an opportunity to survive during these difficult times.

If they had shown a willingness to work with farmers this issue would not have even been addressed in this bill.

I think the provision in the bill itself is very weak because discretion is left up to the Secretary of Agriculture. The gentleman is certainly to be commended for at least letting the farmers know what is there and that the Secretary has the discretion to help farmers.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield to me?

Mr. DASCHLE. I yield to the chairman of the committee, the gentleman from Texas.

Mr. de la GARZA. I thank the gentleman for yielding.

Mr. Chairman, if I may address the gentleman from Minnesota, the concern of the gentleman from Minnesota deals with another area in the bill.

The CHAIRMAN. The time of the gentleman from South Dakota has again expired.

(On request of Mr. de la Garza and by unanimous consent, Mr. Daschle was allowed to proceed for 1 additional minute.)

Mr. de la GARZA. Mr. Chairman, will the gentleman yield further?

Mr. DASCHLE. I yield to the chairman, the gentleman from Texas.

Mr. de la GARZA. I thank the gentleman for yielding further to me.

Mr. Chairman, might not the gentleman from Minnesota address that issue in the bill, with the possibility that he might receive some support, rather than to obstruct at this time the intention of the gentleman from South Dakota? That information should be made available. If the gentleman is worried about the content of what information may be made available, then he should address that in the other section of the bill.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield further to me?

Mr. DASCHLE. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, with due respect to the chairman, I will probably take this up later, but I think it is important that when we talk about providing information to make sure that we know what is actually being told to them. I think I brought out a little bit of that in this debate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. Daschle).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rose: On page 9, after line 14, insert a new subparagraph (A) as follows:

"(A) inserting after 'the upgrading of existing facilities or construction of new facilities' the following: '(i) for providing firefighting, emergency transportation, or rescue services, and (ii)';".

On page 9, lines 15 and 22, redesignate subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively.

Mr. ROSE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. ROSE. Mr. Chairman, what I would like to show you is, I think, what you will find is a very simple and very fair amendment.

To best explain it to you, let us look for a moment at existing law and then what this bill does to the existing law.

The existing law allows 5-percent community facility-type loans for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in the area where the median income for the people to be served is below the poverty line. That is in our current law.

The committee bill does away with the test of the poverty line as provided by the Office of Management and Budget and substitutes as a test for eligibility for 5-percent loans that the income level must be less than 80 percent of the statewide nonmetropolitan median-family income.

In other words, it is a liberalization of the poverty line test that is the current law.

To that package, I want to add only one thing because I feel very strongly that providing volunteer firefighting, emergency transportation, and rescue service to those types of areas with 5-percent loans is just as important as helping upgrade health or sanitary standards.

I believe the cost is modest; I believe that we all realize that the health and security of people who live in those kinds of areas is just as important as their sanitary requirements.

I am told by many rescue and volunteer fire department people across the South that they are finding it, in these types of depressed areas, very, very difficult to get these loans and to make these kinds of payments.

I wish that we could provide a 5-percent loan for volunteer rescue squads and volunteer fire departments regardless of their economic situation, regardless of the income that is received, that is paid in that area, as we did prior to the 1981 reconciliation.

But, realizing the realities of the current budgetary situation, it is my intention that the words that I insert with my amendment only apply in those areas that equally are qualified for the 5-percent loans to meet health or sanitary standards, which is already in the current law.

I urge my colleagues to support me in this. I do not believe this is controversial and I hope it is not, and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ROSE

Mr. HARKIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin as a substitute for the amendment offered by Mr. Rose: On page 9, after line 14, insert a new subparagraph (A) as follows:

"(A) inserting after 'the upgrading of existing facilities or construction of new facilities' the following: 'for providing firefighting, emergency transportation, or rescue services, or';".

On page 9, lines 15 and 22, redesignate subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively.

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, I have checked with the initial offeror of the amendment. All my amendment does is to strike the "(i)" and to strike the "and, (ii)," that was in the initial amendment, which means that the firefighting, the ambulance, or emergency rescue and transportation services will still have to meet the same criteria of 80 percent of standard, nonmetropolitan median income and 1,500 population to be eligible for the 5-percent loans.

Mr. ROSE. Mr. Chairman, will the gentleman yield to me?

Mr. HARKIN. I yield to the gentleman from North Carolina.

Mr. ROSE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has perfected my amendment. That is my intention, and I thank him for offering it. I totally support it.

Mr. HARKIN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Harkin) as a substitute for the amendment offered by the gentleman from North Carolina (Mr. Rose).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from North Carolina (Mr. Rose) as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MORRISON

Mr. MORRISON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Morrison: Page 20, after line 17, insert the following new section:

Sec. 12. The Secretary of Agriculture, at the request of the borrower, shall release such borrower (without payment of any consideration or penalty) from personal liability on any outstanding loan insured or guaranteed under the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) before the effective date of this Act if such borrower transfers the property securing such loan to another person who—

(1) satisfies the conditions of eligibility specified in section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note), as in effect on September 29, 1982;

(2) agrees to assume the full amount of the outstanding indebtedness and the obligations of such borrower under the terms of such loan (including the payment of interest in accordance with the provisions of such loan in effect immediately before such transfer); and

(3) is reasonably likely to repay such indebtedness and to fulfill such obligations considering the financial condition of such person.

Page 20, line 18, strike out "SEC. 12." and insert in lieu thereof "Sec. 13.".

Page 21, line 8, strike out "All" and insert in lieu thereof "This Act and all".

Mr. MORRISON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MORRISON. Mr. Chairman, the amendment I am offering seeks to modify current Farmers Home Administration regulations regarding sale of a farm operation by a farmer who has an outstanding FmHA economic emergency loan. I believe that this amendment will allow slightly improved credit terms for some new farm borrowers without adversely affecting the Federal budget.

Under current FmHA regulations, a person who purchases a farm operation from someone carrying an economic emergency loan can, if he wishes, assume the loan. However, FmHA regulations require him to assume the loan at current rates and terms rather than at the original conditions of the loan. This situation is in effect at Farmers Home Administration because the economic emergency program, while still authorized, is operated at the discretion of the Secretary of Agriculture and currently is not being implemented. If the program were implemented, the farm buyer would be able to assume the economic emergency loan at the loan's original rates and terms.

All my amendment would do is allow a purchaser of a farm operation to assume an outstanding economic emergency loan from the seller at the original rates and terms of the loan, whether the economic emergency program is implemented or not at the time. The buyer would still have to meet all eligibility criteria of the economic emergency program before he could assume the loan.

Mr. Chairman, when the farm economy is facing one of the most severe credit squeezes in history, this amendment will allow slightly better credit terms for a very small number of borrowers interested in keeping a farm operation in production. The alternative is usually foreclosure, and no repayment at all to the Treasury. Local Farmers Home officials have asked for this flexibility, and I believe it can help the current crisis with little impact on the Treasury.

I urge support of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MORRISON).

The amendment was agreed to.

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AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: On page 16, line 18, after "applicants.", insert the following: "The Secretary shall inform in writing all applicants for loans for farm ownership and farm operating purposes of the availability of the loan program for low-income, limited-resource borrowers and the general nature of the program.".

Mr. DORGAN of North Dakota. Mr. Chairman, I will not take all my time, but this amendment is a very simple amendment that provides that the Farmers Home Administration shall do their job. That is, they shall notify potential borrowers of the operating loans and ownership loans of the Farmers Home Administration funds that there does exist a limited resource loan program. The limited resource program was targeted by this Congress to try and provide some help to some folks out there who are trying to make a go of family farming. These are the smaller family farmers.

The Farmers Home Administration operates as a lender of last resort. We say to the Farmers Home Administration by law that we want 20 percent of these funds for operating and ownership loans to be set aside for the marginal borrowers, for the smaller family farmers, for the ones who are in the most difficulty.

What I have discovered is that nearly one-half of the operating loans nationwide in the limited resources programs are unused. From my own State's experience and other States' experiences, there are a lot of farmers who could well use these funds. They could well qualify for limited resource loans but they are not notified by the Farmer Home Administration that those opportunities exist.

The day before I came back from the recess I received a call from a young borrower, a fellow that has two quarter sections of land. He was in serious trouble—not delinquent with anybody, but he needed a operating loan. His total income last year was $6,000. This was a small farmer who has very limited income and who went to the Farmers Home Administration, asked for some operating loan money. He was told no.

I asked the fellow, "Did the Farmers Home Administration tell you there was a limited resource program available specifically targeted for smaller farmers?"

His answer was, "No, I was not aware of it."

That is the answer almost universally when you speak to folks who have been to Farmers Home offices around the country. I think it is our job to make sure that the farmers understand that the limited resources program is there. This amendment does that, and I ask for its passage.

Mr. DASCHLE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. DORGAN and myself which requires that written notification be given to operating and ownership loan applicants of the existence of the limited resource loan program. As far as we can tell, and GAO has confirmed this to us in their preliminary briefing as part of an FmHA investigation they are doing at our request, the national FmHA office is not in any way encouraging the use of this congressionally mandated program.

States have widely varying records with regard to how much of the loan authority they have obligated this year—nationwide, only 48 percent of the limited resource operating funds were obligated as of July 7, 1982. North Dakota, for instance, had obligated only 19 percent of their limited resource operating funds on July 7, while South Dakota has an excellent record of 87 percent of its funds obligated on the same date.

But even if there were not a problem this year with regard to the limited resource loan operating funds not being obligated in a timely fashion, there would be the need for this amendment. There has always been a flaw in the administration of the limited resource loan program is that there is no such thing as an application procedure for it. The program is actually an earmark of funds within the regular operating and ownership loan programs. A farmer fills out an application form for an operating or ownership loan, on which there is no mention of the limited resource interest rate. The county supervisor then, in determining approval or disapproval of the application, decides whether to recommend the farmer for the limited resource interest rate. Again, I am sure there are wide variances with regard to whether county supervisors are inclined to use the program or not. The point is, however, that the farmer is not required to be informed of the program and may not even know whether he is being considered for the limited resource program.

This amendment would require that operating and ownership loan applicants be given something in writing which explains the limited resource loan program—a farmer has every right to know about a program created by Congress for which he or she may be eligible.

Something that is not in the amendment, but a suggestion I would make to FmHA is that they put a checkoff box on their operating and ownership application forms which asks a farmer if he/she wants to be considered for the limited resource loan program, and would be an easy way to verify that farmers have been informed of the program.

I urge my colleagues to support this amendment.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support of this amendment by the gentleman from South Dakota. The amendment would simply require the Secretary to inform loan applicants of the availability of the limited resource program.

I am deeply concerned that the 25 percent of the funds in the farm ownership and farm operating loan programs which are to be devoted to the limited resource program have, in most States, not been fully utilized. In my own State of Nebraska, for example, as of July 14 of this year, only 48 percent of the limited resource operating loan funds had been disbursed. Considering the current depressed state of the farm economy, I simply cannot believe that there is so little need for operating loans under the limited resource program.

We must send a clear signal to USDA that the Congress maintains its commitment to providing these low-interest funds to those many farmers who are struggling to meet their costs and retain their operations. I understand that there is some consideration of holding hearings into the operations of the limited resource program after the election, and I strongly urge that the committee do so.

At a minimum, I urge my colleagues to support the adoption of this amendment, so that our farmers and ranchers will at least be made aware of the existence of the program and have a fair opportunity to apply.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield.

Mr. DORGAN of North Dakota. Mr. Chairman, first of all I want to thank the gentleman for his support of the amendment. I thought the gentleman's statement was right on target. I would like to say that the General Accounting Office is in the process of conducting a study of the use of the limited resource funds and the procedures under which they are used. I think we will see some interesting results from that study, but I do appreciate the gentleman's comments and I hope this body will adopt this amendment.

Mr. BEREUTER. I thank the gentleman from North Dakota for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. Dorgan).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HIGHTOWER

Mr. HIGHTOWER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hightower: On page 20, insert after line 18 a new section 14 as follows, and renumber the following section accordingly:

Sec. 12. (a) Section 202 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended by striking out "The Secretary of Agriculture may" and inserting in lieu thereof "The Secretary of Agriculture shall".

(b)(1) Section 207(b) of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended—

(A) by striking out "$400,000" and inserting in lieu thereof "$200,000", and

(B) by striking out "$650,000" each place it appears and inserting in lieu thereof "$450,000".

(2) The amendments made by paragraph (1) shall not be construed to affect any loan insured or guaranteed before the date of the enactment of this Act.

(c) Section 211 of the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

(d) Notwithstanding any other provision of this act, the amendments made by this section shall become effective on October 1, 1982.

Mr. HIGHTOWER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HIGHTOWER. Mr. Chairman, this amendment pertains to the economic emergency loan program that is authorized by section 202 of the Emergency Agricultural Credit Adjustment Act of 1978, which will expire on September 30 of this year.

In 1982 $600 million was budgeted for this program and was not used. The Secretary of Agriculture said on more than one occasion that he wanted to use the economic emergency loan program, but it has not been done.

This amendment would continue the program for an additional year, would reduce the loan amount per borrower on a direct loan from $400,000 to $200,000, and on a guaranteed loan from $650,000 to $450,000. It does also change the wording of the law from, "The Secretary may" to "The Secretary shall."

Mr. Chairman, it has been said over and over again, and I hope every Member of Congress fully understands the extent of the economic disaster that is faced by many areas of agriculture. This is a good program that was put into the law several years ago. This Secretary of Agriculture has not seen fit to use it, but it is needed and it should be used. We have people that did not want or need Farmers Home Administration loans for a long time. They were able to go to their local banks. They were able to find the kind of financing that they needed, but now they have not been able to continue.

Yet, we know that if given the opportunity, if they are just given a chance to survive, to dig in a little bit deeper, they will be able to survive and stay in production, pay back their FmHA loans, and pay back their bank loans, but we need to provide the economic emergency loan program.

It has been in the law, as I said. We need to extend it another year, and that is all this section does—it extends the program for 1 additional year.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I will be happy to yield to my distinguished chairman of the subcommittee.

Mr. JONES of Tennessee. Mr. Chairman, the 1981 omnibus farm bill authorized a 1-year extension, through September 30, 1982, of the economic emergency loan program with a total lending ceiling of $600 million per year. Unfortunately, the authorization was made discretionary with the Secretary of Agriculture.

We are now into the 12th month of the fiscal year and the Secretary has yet to implement and utilize his authority to make loans to farmers under the EE program.

In spite of numerous letters and requests from Members of Congress and nearly every major farm organization, the Secretary has ignored the need for the program and has allowed $600 million in potential credit assistance to American farmers to go unused.

On March 15 of this year, I received a letter from Secretary Block in which he stated his intention to implement the EE program, and he stated that Farmers Home regulations would be issued shortly. It has now been 6 months since the Secretary made this announcement, but he still has not issued regulations.

To say I am disappointed would be an understatement. I still believe the economic emergency loan program has been a vitally important source of agricultural credit since its establishment in 1979. It should have been used in 1982, but it is too late now to expect much cooperation from USDA in making use of these needed funds.

Therefore, I support the gentleman's amendment, and urge its adoption.

Mr. HIGHTOWER. Mr. Chairman, I thank the gentleman. We certainly know that we are not going to be able to solve all the problems of agriculture by extending loans or getting larger loans. We want to address it in other ways, but we also think that spare tires are not included in cars just because they want to have flats. It might be that it will be needed. It is needed, and it should be implemented. It is a good program, and the authorization should continue for an additional year.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I am happy to yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, in looking at the amendment which the gentleman offers, I guess I have a question. There are a number of people following this debate who would be interested. The gentleman has not increased the authorization level. He has not mandated a Federal appropriation or anything. He is just saying that we ought to have the program available, and he is reflecting the remarks of the chairman of our distinguished subcommittee, is that correct?

Mr. HIGHTOWER. The gentleman is absolutely correct, and of course in addition to that we are reducing the amount a borrower can get, reducing the loan levels from the existing level.

Mr. GUNDERSON. So, if anything, the gentleman is actually tightening up the program. He is just saying that is what we need to do, this program ought to be available, the Secretary said he was going to use it, and let us get on with it.

Mr. HIGHTOWER. The gentleman is correct.

Mr. GUNDERSON. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Hightower).

The amendment was agreed to.

□ 1330

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dorgan of North Dakota: Page 17, line 15, insert before before the semicolon the following: ": *And provided further,* That it is the sense of the Congress that insured loans and guaranteed loans for industrial development also be available for facilities for the conversion of agricultural commodities into alcohol or hydrocarbons for use as motor fuel or other fuel, and that the Congress encourages the USDA to be more aggressive in pursuing op-

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portunities to assist in the development of an alcohol fuels industry in the United States through the proper use of industrial development funds.".

Mr. DORGAN of North Dakota. Mr. Chairman, this is a sense of Congress resolution. I originally wanted to provide the 25 percent of the B. & I. loans to be made available for the use in construction of plants that would produce ethanol alcohol from agricultural products. I have decided not to include the percentage figure, but this sense of Congress resolution does encourage the USDA to be more aggressive in pursuing oportunities to assist in the development of an alcohol fuels program in this country.

I really believe that this is not only a step toward energy independence but also a step toward developing new and important markets for agricultural products which can be achieved through the development of a strong ethanol alcohol industry in this country. I think it needs the kind of incentive that we can give it through the B. & I. program in the USDA. I think a sense of Congress ought to be expressed to the USDA that we believe this program should have the kind of support we have always expected it to get from the USDA.

Mr. Chairman, that is why I offered the amendment, and I hope the House will give the amendment its approval.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Michigan.

Mr. ALBOSTA. Mr. Chairman, I kind of wish the gentleman had left the amendment the other way, with the 25 percent in it, but I know there are only a certain number of things that can be accomplished with a small amount of money. Certainly this is one of the types of things that the Department of Agriculture, along with the Farmers Home Administration or through the Farmers Home Administration, can use to really do something to try to help accomplish the goal in this country of energy independence.

Besides that, as the gentleman has stated, we have got huge crops of corn and huge crops of wheat that right now could be put to another use for consumers, other than through animals for the meat or poultry for the eggs, and so forth. So, we ought to be encouraging the Secretary to move in this direction.

Mr. Chairman, I compliment the gentleman from North Dakota (Mr. DORGAN) on offering his amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman from Michigan (Mr. ALBOSTA) for his support.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I rise in support of the amendment.

I think the amendment recognizes that while we have not been hearing much about gasohol or alcohol fuels in the last year, the issue is not only not dead but it is going to spring back again in America as more and more motorists realize that they need an octane improver for their gasoline. We have taken the lead out of gasoline, and alcohol is an environmentally safe, productive octane improver.

The fact of the matter is, as the gentleman from Michigan (Mr. ALBOSTA) noted, that we have enormous surpluses of corn and wheat that have been piling up on the ground all over America, and alcohol is a way of using those surpluses for productive purposes.

So, Mr. Chairman, I think the gentleman's amendment recognizes that alcohol, as well as all sorts of alternative fuels, is not dead and it will come back again in America.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman from Kansas (Mr. GLICKMAN) for his comments.

It should be noted that we can develop an ethanol alcohol industry that extracts alcohol from a large number of farm products in this country and still retain much of the feedstock protein and other capabilities from the residue of the development. I think this is an awfully good approach.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, in regard to the feedstocks I think human food is also a byproduct of the conversion process, and I am wondering about this. This is a good amendment and I support the amendment, but I am wondering if the gentleman would accept an amendment to his amendment to say, after the comma on line 5, after the words "or other fuel," "and or byproducts and that the Congress encourages," and so forth.

Mr. DORGAN of North Dakota. Mr. Chairman, let me say that I would be happy to accept that language.

Mr. MARLENEE. I ask unanimous consent that that amendment be accepted.

The CHAIRMAN. The Clerk will report the modification.

Mr. MARLENEE. Mr. Chairman, if the gentleman will yield further, this would allow the loans to be made on that basis and not strictly for fuel, but in addition to that, they could utilize the byproducts for food or the processing of such food.

The CHAIRMAN. If the gentleman will suspend, the Clerk will report the modification.

The Clerk read as follows:

In line 5 of the Dorgan amendment after "other fuel" insert "and or byproducts."

The CHAIRMAN. Is there objection to the request of the gentleman from Montana (Mr. MARLENEE) that the amendment be modified?

There was no objection.

The CHAIRMAN. The language is incorporated in the amendment by modification.

Mr. DORGAN of North Dakota. Mr. Chairman, the point that the gentleman from Montana makes is an important one. The feasibility of developing an ethanol alcohol industry relates in part to the ability to use byproducts from that industry, and I certainly think the amemdment makes good sense.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I wish to commend the gentleman from North Dakota (Mr. DORGAN) for his amendment.

The oil glut today is beginning to go away, and in just a few years we will probably have another oil squeeze. It is so seldom that we here in Congress anticipate future needs, and I certainly feel that we need to get on with the business of developing a synthetic fuels industry.

Mr. Chairman, I think this sense of Congress resolution certainly makes sense, and again I commend the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, if I may conclude, we are choking on one of the record crops that we have had in this country with very low prices, and yet in North Dakota there are now six applications for developing ethanol alcohol plants to be built on the prairie to use agricultural products. I think it makes good sense for this country's agricultural future. It also makes inherent good sense as a step toward energy independence.

It is not a cure-all, but it is looking at the right kinds of things for this country's future. It is time that we started to do that, and I appreciate the comments of the gentleman from Louisiana (Mr. HUCKABY).

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to rise in opposition to the amendment because it is really a sense of Congress resolution and I do not think that fighting it would be worth while. But I do want to express a sense of caution about what we are doing here.

Let us understand the business and industry loan program from day one. The whole purpose of that program, since its inception, was to provide financial credit to industry in rural areas that did not happen to have the financial institutions in those rural areas that had the resources to provide the necessary financial capital for that industry. When we take a look at the appropriation level we are dealing with for the business and industry loan program in this country, we are looking at a total appropriation of about $300 million for business and industry loans. Let us just very simply divide that up among all the 50 States, and that comes out to about $6 million per State. That is not very much money.

When we start dividing that even further to the various industries presently in trouble in one of those states, we very quickly get an idea that there is not much money to go around at the present time to deal with the wide array of industry that we have in our total constituencies that presently is suffering and undergoing the same financial difficulties that the farmers are. When the farmers have depressed prices, they do not buy. When they do not buy, the machinery dealer does not sell and nobody else sells, and those people also run into some very difficult conditions.

For us to go into the legislative language and insist that USDA ought to be more aggressive in placing this money in alcohol fuels, as opposed to any of the other business and industry programs, I think, is a questionable policy.

It is questionable, No. 1, because of the limited resources, and it is also questionable because I think we are facing a second problem of misleading our farmers.

We talk about the glut of grain that we have in this country, and I am aware of that. But I think part of the reason we have a glut of grain in this country is because this Congress for too long has told the farmer to "produce, produce, produce, and we will simply export your food and you will have all kinds of financial success." That has not happened, and that is unrealistic. Now we are telling them to "keep on producing, and we will make alcohol fuels out of your grain and you will go into a financially successful area."

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I understand the gentleman's point, and I do not minimize the need out there to give some help to some small businesses that are suffering. But I think the record is pretty clear from the Farmers Home Administration and from this administration when they came to testify before the Agriculture Committee that they are not very interested in or very happy with the business and industry I loans in the first instance. They have not used them a great deal. They have not been very excited about the appropriations or the authorization of money for them.

I am saying, since the business and industry program is authorized and funded by this Congress, let us at least do something for the future of this country that makes sense for agriculture. That is what the Farmers Home Administration Agency is all about, helping agriculture and helping rural America.

I cannot think of anything that would help this country more or help family farmers more than trying to develop seed money for an industry called the alcohol fuels industry because that would move us a step toward energy independence and also a step toward higher grain prices. That makes good sense to me. I am not suggesting that we bleed it off of funds that would otherwise be going to small business on Main Street. I think the record is clear that that is not what is happening today anyway.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's remarks, and I am not opposing the amendment. I am just expressing a word of caution about what we are doing here.

I was one of those Members who, when we started consideration of this bill in our subcommittee, was not intending to support the business and industry loan program because I thought we ought to restore it to the farmer's program, in the Farmers Home Administration, and yet as we went through the hearings and the testimony, it became obvious that in these economic times we need a business and industry program.

I am saying that if there are some reasons that came out of that testimony justifying this need, let us not today say that none of that testimony matters and we are going to expand and start a new program. That is my only caution.

Mr. DORGAN of North Dakota. Mr. Chairman, if the gentleman will yield once again, my only point is that in the past this Congress has specifically designated a portion, 25 percent, of the business and industry loan program to be expended for the development of an alcohol fuels industry. We are moving away from that with no targeted money here at all.

I am saying that with a sense-of-Congress resolution we still care about that. We still think that alcohol fuels represent part of our agricultural future.

The major oil companies put ads in newspapers saying that "we don't think alcohol fuels means much and we don't think it is worth much," and right away I think it is something that we ought to start looking into.

So I think we ought to be expressing our interest to the USDA that we believe that this holds some hope for the future and we want to be aggressive in looking into it. That is all I am concerned with, and that is the intent of the amendment.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's remarks, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota (Mr. DORGAN), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STANGELAND

Mr. STANGELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STANGELAND: On page 14, insert at the end of line 9 a dash and strike line 10 and insert in lieu thereof—

(1) inserting the following proviso immediately before the period at the end of the first sentence in subsection (a): "*Provided*, That the Secretary shall obtain at least three recommendations for each such county committee vacancy from the board of county commissioners in each county or area in the state (or the equivalent of such board of county commissioners in each State)"; and

(2) adding at the end thereof a new subsection (d) to read as follows:

Mr. STANGELAND. Mr. Chairman, I am offering an amendment today that is designed to allow farmers some input into the nomination process for appointing Farmers Home Administration county committee members.

Current FmHA policy calls for the 3-year terms of the county committeemen to be staggered so that there is one term expiring each year. To fill the annual opening on the county committee, the Farmers Home county supervisor recommends three names to the State director who he feels are qualified for the position. The State director is then authorised to act on behalf of the Secretary of Agriculture in making the final selection.

My amendment would simply require that Farmers Home obtain at least three recommendations from the county board of commissioners, or its equivalent, when filling the open position on the county committee. The Secretary of Agriculture, or the State director as his designee, would still retain authority for making the final selection.

It is no secret that Farmers Home has been under increasing attack from farm groups and individual farmers in recent months. One common criticism heard from farmers is that they have no input into the selection of the FmHA county committee members. By transferring the nominating authority from the Farmers Home county supervisor to the county board of commissioners, or its local government equivalent in various States, farmers who are subject to the decisions made by the county committee will have some

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input into the appointment process through their own locally elected officials.

An added advantage is that while this amendment provides for democratic input from farmers in the appointment of FmHA county committeemen, there would be no added costs or excessive agency paperwork required as might be the case if an election were held instead.

Again, I want to emphasize that under my amendment final decisionmaking authority would continue to rest with the Secretary of Agriculture, or the FmHA State director acting as his designee. However, it would provide farmers with the opportunity to participate in the nomination process and allow them to have some input into the appointment of Farmers Home Administration county committee members.

☐ 1345

I understand there are potential problems with this legislation in some areas. If those problems can be recited I will not push for this amendment at this time. But I would urge a colloquy so that we might discuss this with the Department of Agriculture to see if they can change the method of appointing or nominating people to serve on the Farmers Home Administration county committee.

If we cannot convince them to make some changes in these rules and regulations then it would be my intent to introduce this amendment as a piece of legislation in the next session of Congress.

If there is anyone that would care to comment on this amendment I would be most happy to try to respond to questions.

Mr. JONES of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from Tennessee.

Mr. JONES of Tennessee. We have discussed this before as we did in subcommittee to some extent. I assure the gentleman that if he wants this, too, we will have hearings without doubt next year on the Farmers Home Administration. We will make this one of the necessary items to be discussed.

I share some of the problems with the gentleman on this. I do not really have the answer to it. I do not know just exactly where we should go because of the wording the gentleman has. So many people, the commissioners come from the urban areas of some of these counties and I do not know if that is the answer or not. But I will certainly be glad to confer with the gentleman and members of the subcommittee and also the USDA and see what we should come up with.

Mr. STANGELAND. I thank the gentleman for his comments.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. STANGELAND) has expired.

(By unanimous consent Mr. STANGELAND was allowed to proceed for 2 additional minutes.)

Mr. STANGELAND. I understand that local government units may be structured differently in different parts of the country from what they are in mine.

My purpose in offering this amendment is as an option and an alternative to election. If we are going to give a county Farmers Home Administration committee some authority for management assistance to the county director, then I think to elect them would run the risk of electing people to this board who would not have that management expertise or ability to advise and counsel.

So I would urge and appreciate the assurance of the chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES) that we have hearings and I would hope that we could talk to the Department about this in the meantime.

Mr. Chairman, I ask unanimous consent that I may withdraw the amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, (Mr. BROWN of California) having assumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5831) to provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act, pursuant to House Resolution 509, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute, adopted by the Committee of the Whole. If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CARNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 372, nays 39, not voting 21, as follows:

[Roll No. 314]

YEAS—372

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules

Mazzoli
McClory
McCloskey
McCurdy
McDade
McEwen
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle

Porter
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schulze
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Siljander
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon

Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—39

Archer
Badham
Brown (CO)
Butler
Carman
Carney
Cheney
Conable
Coughlin
Craig
Crane, Daniel
Crane, Philip
Dannemeyer

Dreier
Gramm
Gregg
Grisham
Hansen (ID)
Hansen (UT)
Heckler
Holt
Hyde
Jeffries
Kramer
LeBoutillier
Long (MD)

Lungren
McCollum
McDonald
McGrath
Mottl
Paul
Pritchard
Ritter
Russo
Shumway
Smith (AL)
Smith (OR)
Weber (OH)

NOT VOTING—21

Bafalis
Bolling
Bowen
Brown (OH)
Burton, John
Collins (TX)
Erlenborn

Evans (GA)
Goldwater
Marriott
Mattox
Nichols
Railsback
Rudd

Schroeder
Schumer
Seiberling
Stanton
Stump
Weiss
Young (AK)

☐ 1400

Mrs. COLLINS of Illinois changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Consolidated Farm and Rural Development Act to provide lending limits for fiscal years 1983, 1984, and 1985, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 5 P.M., FRIDAY, SEPTEMBER 10, 1982, TO FILE REPORT ON H.R. 6946, THE FALSE IDENTIFICATION ACT OF 1982

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 5 p.m., Friday, September 10, 1982, to file a report on H.R. 6946, the False Identification Act of 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON AGRICULTURE APPROPRIATION BILL, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Apporopriations may have until midnight tonight to file a privileged report on a bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

Mrs. SMITH of Nebraska reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON LEGISLATIVE BRANCH APPROPRIATION BILL, 1983

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes.

Mr. BURGENER reserved all points order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

☐ 1415

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, and that I may include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts (Mr. CONTE) for purposes of debate only, pending which I yield myself such time as I may require.

Mr. Speaker as we all realize, under present conditions—those that have existed for the last year and a half—we have the House with a majority of one party, the Senate with a majority of another party, and, of course, the President, the head of the executive branch.

As we come here today, I have no complaint about the use of the veto, because that is clearly within the rights of the executive branch. By the same token, however, for our system of government to work, there must be cooperation between the three branches of Government. Otherwise, as I have pointed out before, it is like the old Russian chariot with three horses; if we do not pull together, we do not get anywhere.

Mr. Speaker, at this time I would like to point out it is my opinion that the Congress, particularly the House of Representatives, and our Committee on Appropriations, which deals with this bill, has leaned over backward trying to cooperate with the executive branch. I say for the record the Committee on Appropriations through the years has been below the budget 37 out of 39 times. That is the budget recommended by our President.

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I was senior cochairman of the study group that led to the Budget Act and the establishment of the Budget Committee. That came about largely because 58 percent of the spending by the Government was bypassing the Committee on Appropriations, its annual review, and its actions and recommendations to the Congress.

Last year, at the request of the President and due to the circumstances which we faced, we were asked to rescind funds previously appropriated by some $15.1 billion. The committee recommended, and the Congress went along with, rescinding $14.3 billion of that total. We were also asked to go along with budget amendments carrying an additional 10-percent cut for the 1982 fiscal year. We went along with that. Last November, we had a request for a further reduction for 1982, and the Congress went along again. Colleagues on both sides of the aisle signed that agreement and that in turn was vetoed. Again the President was acting within the powers and the rights of the executive branch.

As we come to the Members today, I want to point out two or three things to the House that I think are significant. In the first place, may I say that the vetoed bill is $1.9 billion below the budget request. What we have done, and what the committee did do in the bill, is we took care of domestic programs. Funds are included for education programs and jobs for the aged and many other things that I think are vital. In addition, we did reduce some spending in the military. We asserted congressional priorities.

Some of the Members will recall when Mr. Weidenbaum, the Chairman of the Council of Economic Advisers, resigned he said the benefits of our cuts were not being felt because the spending was being done in another area. The unprecedented cuts in civilian programs have been offset by a rapid expansion of military outlays, according to Mr. Weidenbaum.

Do the Members realize that in the last 25 years, through the defense appropriations bill, we have spent $2.137 trillion? But under the Pesident's proposals, we are asked to spend $1.7 trillion in the next 5 years. I say here candidly, if conditions continue to deteriorate, in 3 years we will not have any money for anything else, because the money will all have been committed to military contracts.

May I say, too, at the end of fiscal year 1983, it is estimated that there will be an unexpended balance of $142 billion for the Defense Department. May I also point out that the reduction of approximately $2 billion from the President's requests for the Defense Department should be compared with the $200 billion which has already been appropriated this fiscal year.

I understand the need to carry over some money. With the situation being as it is, however, when they have a $142 billion expected carryover—certainly to cut a very small part of 1 percent from that amount, when it will not be spent the next year, in order to take care of these domestic programs that we have facing us, for which there is a need is a valid congressional action.

I believe in a balanced budget. No one has talked more about a balanced budget or worked harder for it. Mr. Speaker, certainly we need to have a balanced budget. We need interest rates to be brought down so we can have some stability in our Government.

One says, "What have we done about it?" I asked the General Accounting Office on April 26 to make a review of the Federal Reserve System. They have been doing that. Their final report just came in. During the period they have studied the Federal Reserve, we have had three reductions in interest rates. What else have we done? We reported out of our Committee on Appropriations a jobs bill that creates productive jobs instead of funding unemployment compensation.

We all believe in a balanced budget; but we are going to have to balance that budget at a level that carries on those things essential to our well being. We are going to have to protect the land. We will have to protect the highways. We will have to protect the things essential to us carrying on our economy. May I say we better give a thought to what level we balance the budget at. I recall some years ago somebody said Ethiopia is the only country in the world with a balanced budget. They did not owe a dollar and did not have one either. So it is just as essential that we carry on the necessary things as it is that we cut out that which is unnecessary.

I do not believe in the history of this Nation any Congress or any committee has cooperated more than we have here. Let me point out to the Members, in a country like ours, with a Constitution like ours, with three equal, independent branches of Government, under the Constitution, the Congress cannot be silent at a time like this. I believe that the President should propose and the Congress should dispose.

I say here and now, we need a President who will hold spending down. The overall amount is largely up to the President; what it is for specifically is the responsibility of this Congress.

I say to the Members that the responsibility is up to this legislative body to protect the rights of the people, the right of the Congress to say what for.

I say to the Members in overriding this budget, it is not a case of who wins, the Executive or the Congress. It is a case of whether we protect and live up to our responsibility of looking after the people's branch. Any time we sacrifice something given to us in the Constitution, to that degree we let the people down. When they cramp our style as authorized and as obligated as we are under our rules, you have taken rights away from the people.

So this is not said in anger or ill feeling. It is the responsibility of the President to veto when he sees fit. I do say it is our obligation to see that the Congress retains the right to say what for, and the President's recommendations should be how much.

Mr. Speaker, let me say to my colleague, the gentleman from Kentucky (Mr. PERKINS) and I have said this before: Some of the people that go along with all those cuts in domestic programs think the reductions are being applied to the debt. My friend knows this is not the case. It is being spent for more military spending.

I tell the Members more and more there is so much money, and the Defense Department has not been tight in the handling of it. I think one reads about that every day. For example, it took 11 years to complete the Trident submarine. I say to the Members that this slight reduction of the amount requested by the Defense Department is necessary so that we maintain these domestic programs so essential to our welfare.

I leave the Members with one thing to keep in mind, those who believe in defense—and we all do. A strong national defense is based on a sound economy, public support, and military capability and readiness, perhaps in equal amounts.

I say to the Members: It is just as important we keep the economy as strong as any part of defense. I say to the Members when the Congress took it upon itself to say what for, while cutting the budget $2.7 billion in certain areas we increased others by approximately $900 million. I say we acted wisely. I think we should insist on taking care of the people's programs and the things essential to our economy as best we can.

This bill is below the President's request considerably. It is within the totals of the budget resolution for fiscal year 1982 for both budget authority and outlays. I urge my colleagues to override the President's veto of this legislation.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I believe the President was poorly served by those who counseled him to veto this supplemental appropriations measure.

While I am not generally numbered among his allies, I urge my colleagues to help him retrieve that unfortunate error and vote to override his veto.

It takes a mind more clever than honest to argue that this bill "busts" the budget. How in the name of sense can he argue in paragraph 4 of the veto message that the bill provides an unacceptable total of $918 million in domestic spending increases, and in paragraph 6 complain that Congress gave him only a half billion dollars of the $2.6 billion he had asked for defense program supplementals?

Is there some mathematical magic by which dollars spent for domestic programs bust the budget, while those spent for military programs do not?

The budget estimates of new obligational authority for fiscal year 1982 for the activities funded by the supplemental amount to $16.3 billion. The conference committee recommended $14.5 billion—more than $1.7 below the budget authority.

That is hardly "budget busting" legislation, and the people who advise the President on this kind of business know it.

The conference report had strong bipartisan backing in both Senate and House. It was not considered by the distinguished chairmen and ranking minority members of either Appropriations Committee to be a partisan vehicle. And it was not voted upon on that basis.

This veto has produced a needless confusion and disruption of the Government, and has brought about a pointless confrontation between the President and the Congress.

The major components of the supplemental have to do with pay increases that are obligator on the part of the Government. It contains $4.4 billion for increases in military pay costs in the Department of Defense alone. This is the greatest single item in the bill.

I am especially concerned by the antipathy this administration has shown for the programs that benefit the poor and the disabled and disadvantaged. Those programs are virtually singled out by the veto message which speaks of "unrequested and unwarranted increases in domestic spending programs."

Is it "unwarranted" for this Congress to appropriate $210.6 million for employment of older Americans under the community service employment program, at a time when unemployment among older people is at or near an alltime high?

Is it "unwarranted" to appropriate $148 million for added assistance to local school districts in meeting the special needs of educationally disadvantaged children under the title I program of the Elementary and Secondary Education Act?

Is it "unwarranted" to put in an additional $2.5 million for vocational education assistance at a time when the national employment rate is running at its highest level since the Great Depression?

Is it "unwarranted" to appropriate another $140 million for the Pell grants that enable children of poor families to go to college at a time when educational and technological skills are so needed?

And is it "unwarranted" to appropriate $26.5 million more funds for the education of handicapped children? That is not a message I want to send to those children, and to their parents.

At a more personal level, am I supposed to tell the people of the Tug and Levisa Valleys of the Big Sandy River in my district that it is "unwarranted" to spend money to save their lives and homes and businesses from the floods that roar down those hollows with tragic regularity?

If that is the message the President and his advisers want to send to those people of Appalachia, then he can deliver it himself—preferably on a dark midnight when the torrents come and the streams rise out of their banks and engulf the little homes of people who have to run up the hillsides in their night clothes to escape being washed away.

I am not going to say to those people that flood control is an "uwarranted" expenditure, and I do not believe this House wants to tell them that, either.

I submit that scaring thousands of loyal and hardworking Government employees to death with the threat of unpaid furloughs is not a reasonable or decent way to run this Government. Nor does the threat of payless paydays for the military do much to improve the morale of our armed services.

I also submit that the people who are benefited by the supplemental appropriations contained in this bill are not the enemies of fiscal solvency. Even if one could say that the $918 million complained of by the President as "unwarranted," it is pocket change compared with the $155 billion budget deficit the President himself has embraced for the fiscal year beginning next month.

Let us bail the President out of his mess by overriding his veto of this supplemental appropriations bill and get on with the business of legislating for a sorely troubled country.

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Mr. CONTE. Mr. Speaker, I yield 5 minutes to my distinguished leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I have heard all of the arguments for overriding the veto, and they are unconvincing.

This is not a terribly bad bill compared with some appropriations bills I have seen around here.

Our distinguished majority leader turned newspaper columnist was correct when he wrote that this bill is technically under the budget. Technically, we do not have to sustain this veto to comply with our budget. Technically, we can sit back and say what is all the fuss about?

The problem is that the growth in Government spending and the high deficits we face are not mere technicalities.

A supplemental appropriation bill is supposed to do no more than make up for deficiencies in existing appropriations. This supplemental, like most others in recent years, goes far beyond that. It adds new legislative language; it expands programs and provides additional funding—far more than what is essential.

I will have to admit that in this bill is a $3 million item to replace an antiquated railroad bridge in my district, but I cannot allow that project to sway my judgment on a $14 billion bill that our President says is too much to spend at this time.

And I am not suggesting that we restore the defense cuts proposed in this supplemental. It is my understanding that if we sustain this veto, the President can live with the reduced defense figures that have been recommended. Defense spending is not an issue here. Nor is the issue cutting out programs or cutting out essential services.

The title V older Americans employment program, for example, is not threatened. The media tried to light that fire but such preying on the emotions of people is unfounded.

The President called me personally this afternoon to assure us of his support for this program.

What we are talking about here is forward funding for the program after September 30. If the money is not included in the supplemental, as I feel it should be, it will be included in the regular 1983 Labor-HHS appropriations bill or in the continuing resolution.

It is not my intention to see any disruption in that program, and I have told the administration that a revised bill will have to include that item.

Nor is the issue here that of providing additional funding to maintain vital services.

It is not absolutely essential to increase urban mass transit funding by 1 percent right now. Nor is there an emergency requiring more money in the interstate transfer program.

Will student aid programs fall flat on their face if we do not increase Pell grants by $56 per student? Of course not.

Is there some emergency that requires us to maintain higher levels of

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employment in the Department of Energy? Of course not.

Is it essential to spend $148 million in ESEA title I to resolve an argument over census figures? Of course not.

There are Members who may prefer all of these add-ons. I am sure the President would prefer the additional money for defense procurement. But doing everything we would like is not good economics.

The President is not going to get everything he wants, and we must not allow ourselves to dig deeper into the pockets of American taxpayers for what we want. The issue here is whether we stay on course or turn back.

A substantial percentage of the domestic increase in this bill represents restoration of the reductions made in last year's continuing resolution. You remember how hard we worked to achieve an extra billion or two in savings—how we sweated over the weekend and into the late hours of the evening to put together a continuing resolution that met our responsibility to bring down the deficit.

We should not wipe out that effort.

We are not just sustaining a Presidential veto, we are sustaining the momentum of the monumental task we set out to accomplish 20 months ago. If we lose that momentum, we lose the confidence of the American people and the confidence of those in the marketplace who are just beginning to believe we will back up our rhetoric with touch decisions and decisive action.

I would urge Members to vote "no" on the motion to override the President's veto of this supplemental appropriation bill.

Mr. CONTE. Mr. Speaker, I yield to my good friend, the gentleman from Virginia (Mr. Trible).

Mr. TRIBLE. Mr. Speaker, at a time of burgeoning budget deficits, I do not believe we should add nearly $1 billion in spending not requested by the President.

Since the bill passed the House on July 29, revised estimates have revealed ominous implications for the budget in fiscal 1983. The deficit is now estimated to reach an unacceptably high $155 billion—and this bill would add nearly $655 million to the deficit.

This bill would constitute a substantial and unwarranted addition to the $760 million contained in already enacted supplemental appropriations.

We must draw the line.

My vote to sustain this veto is a vote to curtail Federal spending; it is not a vote for the additional defense funding requested by the administration.

The supplemental request for defense lacked merit, and I support the committee's reductions. Moneys cut from defense should be used to reduce the deficit—and for that purpose only.

In 1980, Virginians voted to make America better. They rejected the tax-and-tax, spend-and-spend policies of the past.

We have made progress. We have reduced interest rates. We have cut taxes. And we have cut the growth of Government spending. We must continue this effort.

That is why I am voting to sustain the veto.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to by good friend, the gentleman from California (Mr. Rousselot).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of President Reagan's veto and do so with the full knowledge, if I can consult with my ranking Republican member, that we are assured that either in the continuing resolution and/or any subsequent supplemental that title V for the senior citizens will be preserved; is that correct?

Mr. CONTE. Well, if the gentleman will yield, I hope so. I have a letter here, though, on July 23 from the White House telling me they were opposed to this program and that they were going to turn this program over to CETA. I will have more to say about that when I speak.

Mr. ROUSSELOT. Well, my understanding is that our leadership, the gentleman from Illinois (Mr. Michel), and the gentleman from Mississippi (Mr. Lott), have received absolute assurances that this program will continue to be funded and will be covered either in a continuing resolution or with the guidance of the gentleman from Massachusetts, another supplemental; is that not correct? We know the gentleman from Massachusetts is supportive of it.

Mr. CONTE. Oh, definitely, I am 100 percent for it.

Mr. ROUSSELOT. Mr. Speaker, I believe that the President is correct in stating that Congress has fallen back on its responsibility to stop spending over what we have originally appropriated.

I wish to say to my colleagues that I have always felt that supplemental appropriations were just that, above and beyond what the House had already committed to spend. We are only kidding the public when we try to lead them to believe that these programs will be drastically cut if we do not override this veto. That is just not true. A supplemental bill such as this provides billions of dollars.

For instance, the handicapped and disadvantaged will have well over $4 billion that we have already appropriated. In this supplemental I think there is $138 million additional spending; so we are not tromping on the disadvantaged or the handicapped if we support this veto.

That just is not true. As an example let me review for my colleagues just one area of substantial add-on spending in health programs contained in this bill.

The bill provides add-on money for three health program areas—health resources, Indian health facilities, and the Alcohol, Drug Abuse, and Mental Health Administration—that have already been fully funded, and operated throughout the fiscal year, at a $1.1 billion level.

None of these funds are needed to cover agency costs before the end of the year; year-end payroll and related costs will be covered by the pay supplementals provided elsewhere in the bill.

Providing new program funds of this magnitude—$28 million—will force the Department of Health and Human Services to conduct a wasteful year-end spending operation in the last 20 days of the fiscal year.

If program levels for fiscal year 1983 need to be adjusted for changing circumstances, these can be accommodated by the $27.8 billion in discretionary spending authority provided to the Labor/HHS/Education Appropriations Subcommittee under the budget resolution for fiscal year 1983.

I say to my colleagues that I think we make a mistake when we try to mislead the public into believing that when we turn down a supplemental such as this—which is $14 billion in total costs, substantially over what we have originally appropriated—that we mislead the public into believing that programs will be drastically cut back. That just is not true.

So I will support the President's veto, because I think he is correct in what he has done.

Now I yield to my colleague, the gentleman from California, a member of the Budget Committee, who I know is trying to keep from spending unnecessarily.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Hollenbeck).

Mr. HOLLENBECK. Mr. Speaker, I thank the gentleman from Massachusetts.

In advance, I will associate myself with the gentleman's remarks in support of the override attempt.

Mr. Speaker, I rise to urge my colleagues to join me in voting to override the President's veto of H.R. 6863, the $14.2 billion supplemental appropriations measure. I disagree with the President's assertion that H.R. 6863 would bust the budget by nearly $1 billion. On the contrary, I have been told by the Congressional Budget Office that the supplemental is $3.2 billion less in budget authority than the budget ceiling established in the revised fiscal year 1982 budget resolution and $1.1 billion less in outlays.

What is more, this supplemental appropriations measure is not only below the Reagan budget enacted by Congress, it is also below the supplemental amount requested by the President himself. H.R. 6863 is $1.5 billion less than the President's request in budget authority and $1.3 billion less than his request in outlays. Why then I ask has the President decided to veto this measure? Simply stated, I believe the President has confused his spending priorities and the veto is an attempt by the Executive to force Congress to accept these questionable priorities.

President Reagan vetoed H.R. 6863 because it appropriated funds for education, jobs for older Americans and other domestic programs while reducing his request for an additional increase in military spending. Of the $2.6 billion requested for military purposes, about $2 billion was either previously denied by Congress or was intended to start new military programs. Despite the fact that Secretary of Defense Caspar Weinberger argued against a veto, the President contended the requested defense money was necessary.

In order to secure his increase in defense spending, the President is asking Congress to sustain his veto and oppose $211 million for jobs for older Americans, $217 million for student financial assistance, $148 million for compensatory education for the disadvantaged, $112.5 million for Federal highways, $26.5 million for handicapped education, $37 million for urban mass transportation, $39 million for the U.S. Postal Service, $20 million for advances to the unemployment trust fund, $11.5 million for preventitive health services, $10 million for alcohol, drug abuse and mental health, and $11 million for the Railroad Retirement Board.

At a time when we have already made significant cuts in discretionary domestic spending and provided for real defense increases unmatched in our history during peacetime, I find it ironic that the President would veto a measure which falls well within his budget parameters on the grounds that a nonessential defense increase should be funded at the expense of domestic programs which have already borne their fair share of budget cuts. I, for one, cannot and will not support the President in his veto of this supplemental appropriation. I urge my colleagues to join with me in voting to override the veto and, in so doing, sending a message to the White House voicing our consternation over the spending priorities being pursued by the Executive.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from New York (Mr. Solomon).

Mr. SOLOMON. Mr. Speaker, I rise in strong opposition to the supplemental budget in its present form. Mr. Speaker I voted against the recent tax increase legislation because I was concerned that this greedy Congress would not use the additional $98 billion in new revenues to reduce the deficit but would try to spend every nickel of it resulting in a huge tax increase and no smaller deficit. Mr. Speaker, this bill before us justifies those concerns because it is more than 1 billion over the budget enacted earlier in the year and it is only the beginning of the budget busting bills due to come before us in the near future.

Mr. Speaker, this is not the same supplemental that many of us voted for when the bill left this House some weeks ago. There are many changes such as the $1 billion pork barrel water project in Tug Fork, W. Va., which was secreted into the bill during the conference between the House and the Senate.

Mr. Speaker, one of the worthwhile programs contained in this supplemental is title V, Older Americans Act, providing continued funding for the Senior Aid or Green Thumb program. This is an excellent program that actually spends money to save money in the long run. I have been assured by the White House that regardless of whether this bill goes down these funds will be included in a cleared up version of a smaller supplemental and President Reagan guaranteed the continued funding of this program in his call to Minority Leader Bob Michel earlier today.

With that guarantee, I am going to vote to sustain the President's veto in hope that we can come back with a supplemental that is void of all the "pork," and within the budget that we all pledged to support just a few weeks ago. If we do this consistently with this and all future bills, we will be doing the American people a favor because it is the only way we will ever get a handle on higher and higher deficits and it is the only way we will ever get interest rates down to an acceptable level, the one major ingredient needed to reduce unemployment and get our economy rolling again.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. Natcher), a member of the committee.

Mr. NATCHER. Mr. Speaker, the bill that is now before the House of Representatives is $1.9 billion under the President's request.

The amount pertaining to the Subcommittee on Labor, Health and Human Services and Education, is $960 million less than the subcommittee's allocation under the Gramm-Latta budget resolution which the Congress adopted for 1982.

We are $960 million under the congressional budget for fiscal year 1982, including all of the supplemental appropriations that have come before this body.

In our section, Mr. Speaker, we have about 15 major items that are of great concern to every Member in this House. We have the community services employment for older Americans in the bill, $210,572,000. This would continue this program for 54,000 community service jobs for the elderly through June 30 of next year.

There is $217 million for financial assistance to low-income college students and other matters that I will point out before I finish, Mr. Speaker.

Now, Mr. Speaker, we have a copy of a letter from the Director of the Office of Management and Budget, Mr. David Stockman. I recall when Dave Stockman served in this House and I considered him one of the able Members of the House.

Mr. Speaker, a portion of this letter reads as follows:

> The reason for the administration's objection to including the fiscal year 1983 program funds in the fiscal year 1982 supplemental is that it is a pure and simple gimmick designed to prevent funds provided for this program from being counted under the 302(b) appropriation ceiling for fiscal year 1983 in the Labor, Health and Human Services bill.

Now, Mr. Speaker, that statement is wholly inaccurate, and Dave Stockman knows it.

My friend, the ranking minority member on the Appropriations Committee, will tell you why we put this money in this bill. Unless this older Americans money goes in the supplemental bill that is now before the House, there will be no jobs, there will be no employment of the 54,000 Americans after October 1. The Older Americans Act passed by this Congress provided for forward funding. We have to have forward funding. The funding cannot take effect until July 1 of each year. This means that funds appropriated in the 1983 bill could not be obligated until next July. The program would have to shut down since there is no funding in place for the period from October 1 to June 30. The funds in this supplemental bill are to cover that period.

Furthermore, this program has been forward-funded in this manner since it began in the midseventies, and the budget resolution certainly takes account of this. The money in the 1983 bill will fund the program from July 1, 1983, to June 30, 1984. This has been the practice for years. This is not a "gimmick" or a "back door attempt to excape the discipline of the budget process" as Mr. Stockman would have you believe. That is absolutely false and I wanted the Members to know it.

It is absolutely untrue to say, as the letter does, that "the President's veto of the supplemental bill will have absolutely no effect on the continuation of this program next year." We understand that layoff notices have already gone out to these workers.

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The administration proposed to eliminate this program in the 1983 budget. We have never been able to figure out why.

Now, in our regular bill for 1982, Mr. Speaker, we placed in the House bill $277 million.

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On the other side, in the other body, they cut that amount back to $66 million. That is why we are here today with this supplemental. We must restore the full amount required for the program to operate at the current level from October 1, 1982, through June 30, 1983, in accordance with the authorizing legislation

Mr. Speaker, we have a number of other major matters in this bill that are of great importance to this House: $26.5 million for additional funds for education for the handicapped; $148 million in this bill for compensatory education of the disadvantaged children; $11.5 million here for preventive health services, and $6 million of that is for childhood immunization, the balance being for the control of venereal diseases and tuberculosis; $40 million for college housing loans; $11 million for railroad retirement dual benefits; $10 million for research on alcoholism, drug abuse, and mental health; $10 million for aid for developing institutions of higher education; and $11 million for school assistance in federally affected areas, as well as important provisions related to the payment of Federal supplemental unemployment benefits.

I hope the House of Representatives votes to override this veto.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to our distinguished whip, the gentleman from Mississippi (Mr. Lott).

Mr. LOTT. Mr. Speaker, I would like to thank the distinguished gentleman from Massachusetts for yielding this time to me.

Mr. Speaker, I urge my colleagues to remember that this is a supplemental appropriations bill, and that means an add-on, an addition, an increase, any way you cut it.

Now, it is beyond me to explain why we always have two or three supplementals every year. I am sure there are good reasons for it. I am not being critical of the members of the Appropriations Committee or the administration, because the administration requested a lot of these supplementals. But remember, this is a supplemental, which means more spending.

Neither should we forget that this bill is not chicken feed. There are $14 billion in supplemental requests in this bill. What we are trying to save is a few hundred million dollars, maybe $700 million, maybe $800 million, maybe as much as $1 billion.

Is that not a worthwhile effort? We have been talking about doing it all year.

With regard to title V, the older Americans employment program, I support that program. We all support that program. I want to tell you right now that we are going to support the full $211 million of forward funding in the next supplemental when this veto is sustained and I—and the minority leader—have been assured that the administration is going to go along with that.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from Missouri.

Mr. COLEMAN. Telexes have been sent out today by the Office of Special Targeted Programs of the Department of Labor. I think this is very germane, following the remarks of the gentleman from Kentucky. The beginning of the Telex says that it is directed to all sponsors of title V employment for senior citizens:

> You are hereby authorized a 90-day no cost extension and to begin planning for a fiscal year 1983 program at a level consistent with your 1982 activity. While his authorization cannot serve as a fiscal year 1983 funding commitment, it does allow the use of your remaining 1982 funds for continuation of the program. As you know, the Congress has not appropriated funds for the SCSEP at this point. Upon completion of appropriation action by the Congress, we will provide appropriate funding commitments and associated instructions. However, the information behind the budget resolution indicates congressional intent that this program will be continued. This TWX is based on the assumption that Congress will carry out that intent.
>
> David T. Copenhafer,
> *Acting Director, Office of Special Targeted Programs.*

Mr. LOTT. I thank the gentleman for those comments.

Ms. OAKAR. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. If the gentlewoman will give me just a moment to complete my statement. I have only 3 minutes, and I know that there are a lot of people who would like to be yielded to and I will be glad to do that in a moment.

But first, there are two other points I would like to make. The next one is on defense.

As I understand it, the next supplemental will contain the same amount for defense as is in this bill. The administration is not going to come back and say we have to put the full $2 billion for defense in the supplemental even though, clearly, they would like to have it. So that issue is not going to be there. Those of us who are cheap hawks or just plain hawks, there is a recognition that for defense the additional money will not be in there.

Just a final point, and I then want to yield to a couple of my colleagues.

Everything we have been doing this year so far has been show and tell, show and tell, so we could go home and say, "Hey, we are cutting back. We are getting the budget under control." That is what we do in the budget resolution. That is what we do in authorization bills, but this is an appropriations bill, when we get down to the real thing; whether or not we are going to spend more and more money or not.

Mr. GRAMM. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Texas.

Mr. GRAMM. I thank the gentleman for yielding.

Mr. Speaker, I think it is important to point out that when we are discussing whether this bill busts the budget or not, that the budget is already busted. The deficit is $68 billion over the initial budget for fiscal year 1982, and $47 billion over budget for fiscal year 1983.

The question is: Are we going to make it $918 million higher? I say no. Let us sustain this veto.

The SPEAKER pro tempore. The time of the gentleman from Mississippi (Mr. Lott) has expired.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute. I do so in order to correct some wrong impressions that have been left.

The President requested $16.1 billion in supplemental funding and the Congress reduced these requests by $1.9 billion. So this bill by no means exceeds the budget but is $1.9 billion below the budget. The President objects to the fact that Congress wants to put the funds in different programs then where he wants to put them.

Involved here is whether you want to cut the bill below the budget requests by $1.9 billion from other program areas and save the domestic programs, as we do, or let the President tell you what to do in the bill. May I say, that out of the $16.1 billion requested by the President about $12 billion is mandatory in nature. The Congress has very little control over these items. The Budget Act was supposed to place more of the Federal budget under the annual review process and correct this situation but that has yet to be realized.

The Congress has a wonderful track record on this supplemental bill. We are under the budget by $1.9 billion. We are helping the President save money, and the gentleman from Texas as well.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Kemp).

Mr. KEMP. Mr. Speaker, this is a difficult position for a lot of us today on the floor. Many of us who supported this supplemental did so in good faith. We did it after working out a compromise, particularly on the President's Caribbean/Central American

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Initiative so vital to our foreign policy objectives in this hemisphere.

Let me say this is not the end of the process. I will support sustaining the President's veto, but it does not mean that these worthwhile programs will not receive additional funding. We will still have a chance for compromise. We will still have a chance to save money while providing for the legitimate funding requirements. The entire legislative process is one of compromise. We need a little more work on this bill to reach an agreement but we will do so—an agreement that will provide for Pell grants, for education for the disadvantaged and handicapped, for unemployment benefit administration, for health programs and, most importantly of all, for the title V senior citizen employment program which the House has so overwhelmingly supported. We will reach agreement on these programs and save some money in the process for the taxpayer.

I stress to my colleagues that a compromise will be reached because I fear that in the heat of the debate we may be tempted to take measure which we will later regret deeply. I am speaking here of President Reagan's Caribbean/Central American Initiative.

The House supported this initiative as an amendment to the conference report by a vote of 281 to 129—a strong showing of bipartisan support. Indeed, this initiative was a part of a package of economic and security assistance fashioned by Congressmen Long, McHugh, Obey, Gray, Wilson, and Dixon on this side of the aisle and Congressmen Conte, Edwards, Livingston, Lewis, and Porter on our side. All political persuasions, all regions of the Nation were included.

The common ground which we reached was a belief that American foreign policy should display a marked concern for the economic and security interests of our neighbors in this hemisphere. The reiteration of the Monroe Doctine which this bill contained must be supported by the financial, industrial, and intellectual resources of our Nation. I believe that our agreement was based on a very correct evaluation of the economic and military situation in Latin America and President Reagan is to be commended for this Marshall-aid-type strategy for this hemisphere.

The financial crisis which is now engulfing Central and South America and the Caribbean makes it imperative that we take action to protect the most vulnerable nations. As we all know, Mexico is in need of immediate assistance. Even without congressional action, we have sent $1 billion in advanced oil payments and have entered the foreign exchange markets to help stabilize the peso. This assistance we provided to a relatively strong developing nation with abundant oil reserves and a record of high real growth. Mexico is so vital to this Nation that we cannot afford to let them down.

In the near future we may be called upon to assist other neighbors and friends in the region during this time of crisis in foreign exchange. I do not believe that we will or should turn them down.

At the same time we simply cannot turn our backs on our smaller, most vulnerable neighbors. The nations of Central America and the Caribbean depend on our support and friendship. I might add that friendship on their part has been constant in the face of vacillating American policies over the past three decades. We cannot again fail to provide the support urgently needed.

When we begin writing a new supplemental, I intend to offer an amendment to restore the Caribbean/Central American Initiative and the security assistance package which accompanied it. This total package was not part of the controversy surrounding the President's veto. It was recognized by all parties as a truly emergency measure. Events since the vote have shown this to be a correct decision.

As I vote for sustaining this veto, I just want to announce that the vote today is not the end of the process. We will meet again in the Appropriations Committee to work out a new compromise. That product will incorporate the criticisms of the President and the wishes of the Congress. I urge my colleagues to approach this veto in a spirit of compromise and as a part of a process delicately designed to provide for the welfare of the Nation.

Before my time has expired I just want to make reference of the fact that I particularly appreciated the gentleman who is now standing up and wants me to yield—and I will yield to him and thank him for his support and spirit of compromise in helping bring forth the President's Caribbean Basin Initiative.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield to me?

Mr. KEMP. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, as the gentleman well knows, after a great deal of hard work, late-night wrangling, we came out with a Caribbean Basin Initiative plus the other money that the President wanted for supplemental overseas military aid, which was half of what the President asked.

Now, that was substantial. I gather that the President is very much disturbed that we cut that in half. Now, is the gentleman proposing then that we sustain this veto?

Mr. KEMP. In the spirit expressed above, that is what I propose.

Mr. LONG of Maryland. And does the gentleman——

Mr. KEMP. Mr. Speaker, I cannot yield further. I have only 30 seconds.

Mr. LONG of Maryland. I understand why the gentleman does not want me to talk any longer.

Mr. KEMP. Mr. Speaker, may we have order? I am not shutting off the chairman, Mr. Speaker, I have just 25 seconds left, and I just wanted to have a chance to answer the question.

It is simply this as I said before, that this is not the end of the process. We are going to go back in the committee. We are still able to come up with a supplemental that will include the projects and programs mentioned on the floor and supported by both sides of the aisle.

I just wanted everyone to know that I think the Caribbean Basin Initiative is so important and the foreign exchange crisis in Latin America and on our borders is so critical that I just plan to try to help resurrect the Caribbean Basin Initiative if the veto is sustained.

Mr. LONG of Maryland. Does the gentleman want to take money away from domestic programs in order to resurrect?

Mr. KEMP. The answer is "Yes."

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. Yates), the chairman of the Subcommittee on Interior of the Committee on Appropriations.

Mr. YATES. Mr. Speaker, the gentleman from New York, the gentleman from Mississippi, and the gentleman from California who look to the passage of the older Americans program at some time in the future are deluding themselves and deluding the country when they say they are willing to accept the promise of the White House that that program will be taken care of. The facts are directly to the contrary.

The letter read by the gentleman from Massachusetts (Mr. Conte), indicated the White House was opposed to the program in July. Subsequently, the President vetoed the older Americans program in the urgent supplemental bill; now he vetoes this bill because this program is in it. Now we are supposed to accept the President's assurance that this program will be approved at some time in the future.

The fact is that the President does not want this program. He insists upon defense, defense, and more defense. He refuses to agree to any kind of programs which provide funds for the needs of senior citizens of this country, for the older Americans, for people who are in need of health, education, food, and the other programs for which this bill is intended. The defense program is overfunded now. As the gentleman from Mississippi stated the military now has $143 billion which has not been obligated.

Mr. Speaker, it is time President Reagan realized the people of this country do have problems which need

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Government help. Our older citizens need help. They need the community services program which provides needed constructive employment for them.

This bill is needed for the students of this country so that they may complete their education. They should have the funds for Pell grants which this bill provides.

There are other programs in this bill which should be sustained. There is no valid reason the President has advanced for his veto. It is not a budget busting bill as he has charged. It is almost $2 billion below the amount he himself requested from the Congress.

I shall vote to override President Reagan's veto of this bill.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. Hagedorn).

Mr. HAGEDORN. Mr. Speaker, I rise in support of our President and I want to applaud him for his courageous action in vetoeing this spending bill. If we do not support our President, we are sending a clearcut signal to those Members currently working on 1983 appropriations to spend and spend again.

History does indeed repeat itself. Congress did this same thing to Gerald Ford in 1976. We overloaded appropriations bills, forcing President Ford to veto, making him the bad guy. I think the American people are smarter than that. It should be congressional leaders who take the lead in this difficult area and I believe we are wrong to force this decision, and subsequent blame, upon President Reagan.

All four significant areas funded by this bill in excess are worthy but all four areas are funded at levels beyond what we can afford. We are busting our own budget resolution. Our economy is finally showing a little life. Do we want to kill the beginnings of growth which we have seen in recent weeks?

If there is one of you that did not talk about Government spending and the effect it is having on our economy during your recent visit home, then you can go right ahead and override. I know that I talked about it a great deal—to farmers, small businesses, and individuals who had a glimmer of hope that interest rates were responding. They believed, that perhaps, just maybe, Congress was on the right track for once. I cannot vote to override and damper that optimism; $1 billion to us is pittance. We deal in vast numbers daily. However, $41 billion is not so small and we are already $41 billion over target on the $695 billion we passed in the fiscal year 1982 budget resolution; $1 billion is a beginning.

We can begin to show that we did indeed pass those budget resolutions in earnest or we can begin to bellyflop and slip back in all that money we struggled to remove.

Almost half of the domestic spending add-ons in this supplemental were vetoed by President Reagan earlier this year in an urgent supplemental. We sustained that veto. We should sustain this veto also.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Speaker, I would just like to commend my colleagues' attention to an article that appeared in the Los Angeles Times of Monday, September 6, by Mr. Bowman Cutter, a senior official at the Office of Management and Budget during the Carter administration. The article appeared in the Los Angeles Times. It was entitled "Reagan's Veto Was Right—It's Part of the System."

He points out, as one of the prior speakers just mentioned, that the veto "does not finish an issue; Washington does not work that way." He goes on to say: "Those of us who have been there know only too well that nothing finishes an issue. Once an issue is on the public agenda, it remains."

A lot of what we are hearing is pure rhetoric. We say this program is going to go down unless we pass this particular instrument that is before us. That is not true. This is part of a very good process, which has worked well so far.

We have only had two attempts at working out the supplemental. They have not worked. So what happens now? We have shown that we do not want the total amount of defense that the President wants. He now agrees that he will accept the defense cuts we have asked for. He is asking that we accept some of the domestic cuts that he wants. That is in the spirit of compromise. It gets us closer to what the people are saying back home. They are saying "Bring down that spending." Now, there are a lot of things we would like to have money spent on. We know we do not have all that money, so try to do what the people back home are asking us to do, bring us back within our own means.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the chairman of the Subcommittee on Commerce, Justice, State, and Judiciary of the Committee on Appropriations, the gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. Mr. Speaker, it is no wonder that people in this country are confused. Last December when we passed a continuing resolution, we were told, "Leave out the older Americans $210 million and the administration will approve, including it in the next bill."

The next bill was requested in February but they did not request the money needed to fund employment for older Americans. But the President requested items that we told him ought to have been in the bill in December which he vetoed because they were included. But he did not include money for older Americans. We put the money in but then that bill was vetoed. At that time, they said sustain the veto and we will approve money for older Americans in the next one. The veto was sustained.

Here is the next supplemental. Now they say, "Oh, older Americans funding need not be involved. Leave it out of this one and wait for the next supplemental."

It is no wonder the people of this country are confused at these inconsistent statements and actions by the administration. The fact of the matter is that there is a fundamental difference of opinion as to whether or not we should fund older Americans, college student programs, grants to local school districts impacted with large numbers of disadvantaged children, whether we should fund some of these immediately important things while making a slight reduction in the President's request for a huge increase in military spending. The President wants more for military, although the bill includes giving him 99 percent of what he requested. I urge Members to vote to override the veto.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am going to vote to override the President's veto of H.R. 6863, the Supplemental Appropriations Act of 1982.

The President was not well served by those who advised him on this issue.

The veto message states that "this bill would bust the budget by nearly a billion dollars." In fact, the conference agreement was $1.9 billion in budget authority under the President's budget estimates.

The veto message states that the bill "fails to provide required funding in virtually every major defense program * * *." In fact, cuts in defense were made precisely because the administration did not convince the House and the Senate that the funds requested were required. In fact, an estimated $2 billion in defense supplementals was proposed to restore funds previously denied by the Congress, or to start new programs which should and could have been proposed for consideration in the defense appropriations bill for fiscal 1983.

The veto message emphasizes "that if we are to keep deficits down we must also keep Federal spending down." As we have been told by Mr. Stockman—again and again—deficits are driven by outlays, and outlays under the conference agreement would be an estimated $1.5 billion less in fiscal 1982 than under the President's budget estimates.

Let me read to the Members a letter that I saw today, written to all of the

Governors of the country on September 1. I will use the one to Governor Matheson of Salt Lake City:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C. September 1, 1982.
Hon. SCOTT M. MATHESON,
Governor State of Utah, State Capitol, Salt Lake City, Utah

DEAR GOVERNOR MATHESON: The Senate leadership has taken seriously the recommendations of the nation's Governors regarding budget decisions for FY 1983 and supplemental appropriations for FY 1982. As you have suggested, we froze discretionary funding at 1982 levels and reduced the deficit through cuts in military expenditures, indexed entitlements and tax reform.

You are no doubt aware of the President's recent veto of the regular supplemental for FY 1982. I disagree strongly with the President's decision and hope that the veto will be overturned.

It should be made clear that this bill is not a "budget buster". It is a total of nearly $2 billion less than the President's request and within the budget ceiling for FY 1982 by $8.1 billion. Congress did add funding for high priority domestic programs such as Community Service Employment for Older Americans ($211 million), Compensatory Education for the Disadvantaged ($148 million), and Interstate Transfer Grants ($112 million) which the Administration opposes. It also approved over $400 million requested by the President for foreign economic and military assistance.

Congress chose also to defer or deny nearly $2 billion worth of inappropriate military spending requests. They will be considered in conjunction with the regular FY 1983 budget. However, the bill still contains over $5.2 billion for pay supplementals for the Department of Defense. In this manner, we have tried to balance the competing demands for scarce federal resources. I strongly believe we have been fair and prudent in this regard.

Now I need the Governors' assistance to override the veto of this bill. Upon its return, Congress will attempt to overturn this veto. The public support and assistance of the Governors would be very helpful and appreciated.

Warm regards.
Sincerely,
MARK O. HATFIELD,
U.S. Senator.

Go back and tell your people you are for cutting older Americans and aid to education and compensatory education for the disadvantaged. They are going to love that.

A lot has been said about title V. I am concerned about the mixed signals that we are getting on title V. I will read a White House letter I received on July 23:

THE WHITE HOUSE,
Washington, July 23, 1982.
Hon. SILVIO O. CONTE,
House of Representatives, Washington, D.C.

DEAR SIL: This is in further response to the letter you and 114 of your colleagues sent to the President in follow-up to our previous correspondence concerning the Senior Community Service Employment Program authorized under title V of the Older Americans Act. That letter raises a number of issues that I hope I can answer to your satisfaction.

While we can appreciate the Congressional interest in retaining title V as a categorical program, the Administration's policy not to seek financing for title V in 1983 has not changed since my March 15 reply. The Administration still believes that programs to meet the training and employment needs of the elderly can be operated under the Federal jobs training program proposed by the Administration to replace the Comprehensive Employment and Training Act (CETA) which expires at the end of this fiscal year.

Your letter to the President suggests that this approach to meeting the needs of the older worker is flawed because the older worker has been consistently underrepresented in CETA and because working through contractors, not States, has been the strong point of the title V program. It may be true that older workers have been underserved statistically in the CETA training programs. One explanation for that may be found in the views recently expressed by some program administrators at a workshop on job training at the annual meeting of the National Council on Aging. Several viewed categorical financing for the program for older workers as a hindrance to greater participation in other job training programs. Given constrained resources for job training, CETA prime sponsors could be expected to concentrate their efforts on programs for youth or other low-income adults if there were already categorical programs or set-asides for the older worker. Categorical financing in effect becomes a ceiling, not a floor.

In addition, a number of program operators at this workshop argued that it was their experience that States had been more responsive to their needs than their local communities and that it was often easier to work through the State capital than their local government to secure services. This supports our view that the proposal to service the training needs of the older worker through State grants will be a positive help to the elderly rather than a flaw as your letter suggests. It is also not accurate to suggest that the States have not performed as well as the national contractors in title V. A recent study of title V by the Federal Council on Aging notes that national sponsors operate in areas that are most congenial for them while States, under ground rules for equitable distribution of services, must fill the gaps by taking what is left. States have had to take on the more difficult tasks, yet program data show their performance is in line with that of contractors. None of the available evidence, therefore, indicates that States are ill-equipped to serve the older worker.

Your letter is correct in stating that the Administration's job training legislation specifically prohibits the use of resources for wages or stipends. This would prohibit establishing subsidized jobs of the type that title V participants now hold. These jobs provide only short-term income maintenance similar to that provided through the CETA public service employment programs that Congress agreed last year should be phased out. The arguments for discontinuing the authority for title V type jobs are the same as for the CETA-financed jobs—the program does not provide long term benefits to participants by moving them into unsubsidized employment. The transition rate from title V to unsubsidized jobs is less than 15 percent, which is far below that of the CETA public service employment programs. As your letter suggests by citing the Philadelphia title V job counseling program, it is not necessary for the transition rate to be so low. As another example, the National Retired Teachers Association—American Association of Retired Persons (NRTA-AARP) consistently places 33-40 percent of its participants in unsubsidized jobs; a rate three to four times higher than any other national contractor. According to the Federal Council on Aging study, some NRTA-AARP local programs place over 100 percent of their participants in unsubsidized employment. This argues that a program that emphasizes training for jobs can benefit older workers without the need for subsidized jobs as an intermediate step to private sector employment.

Finally, I believe it is necessary to correct what appears to be a popular misperception of the benefits derived from title V programs. Your letter, and others, have cited as fact that title V returns $1.15 to the taxpayer for every dollar spent on the programs. The Department of Labor has been unable to document that statistic, but believes it must have been drawn from the 1978 study of the Senior Community Service Employment Program done by NRTA-AARP. The conclusions reached by this study, which only surveys experience in 1976 with a very small number of title V participants in the NRTA-AARP program, do not support the cost-benefit estimate for all of the title V as your letter suggests. The report specifically states that "the cost-benefit calculations refer to the successful placement of an enrollee in a permanent job, not to all aspects of S.C.S.E.P." In addition the evaluators note that since the study did not have a control group, they could not say what might have happened to the enrollees in the absence of the program. Clearly, the survey size and design are not statistically reliable enough to use for generalizations about the benefits of title V.

I hope this letter has helped to clarify the Administration's position concerning title V.

With best wishes,
Sincerely,
KENNETH M. DUBERSTEIN,
Assistant to the President.

Mr. MICHEL. Mr. Speaker, would the gentleman yield to me?

Mr. CONTE. I would be glad to yield to my good friend from Illinois.

Mr. MICHEL. Who wrote that letter?

Mr. CONTE. It was written by Ken Duberstein, assistant to the President.

Mr. MICHEL. What was the date of that letter?

Mr. CONTE. That letter is dated July 23.

Mr. MICHEL. Well, I do not know—the President—whether or not he was misinformed at the time or whether he had all the facts, but I have to reiterate what he told me this afternoon and in unequivocal terms, that he would support the program and in any kind of new supplemental he would certainly support the addition of that.

Mr. CONTE. I thank the gentleman, but we have mixed signals.

I also have a letter here from Cyril F. Brickfield, executive director of the American Association of Retired Persons:

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American Association
of Retired Persons,
Washington, D.C., September 9, 1982.
Hon. Silvio O. Conte,
House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Congressman Conte: We understand from press accounts that the Administration has dropped its opposition to provision of $210.6 million for the Title V Senior Community Service Employment Program to extend it beyond October 1st. While the American Association of Retired Persons is pleased that the Administration appears to have changed its position, we are fearful that in deliberations over a second supplemental appropriations bill, Title V will be held hostage for radically altered expenditures in other areas. The Administration appears to be willing to trade a $211 million Title V program for a $600 million reduction in other domestic spending and a $2 billion increase in defense spending. It is hard to believe that a second supplemental will be agreed to on these terms. We are therefore continuing to urge Congress to vote to override the President's veto of H.R. 6863.

Thank you again for your continuing support of the Title V program and the nation's elderly.

Sincerely,

Cyril F. Brickfield,
Executive Director.

Let me say that the programs that I mentioned under title V really are very small programs that do not cost a considerable amount of money, but they do provide jobs. It is ironic that we just came back from the Labor Day weekend, when many of us attended Labor Day breakfasts and marched in Labor Day parades, and here we are saying that we are going to fire 54,200 people when we have one of the highest unemployment rates we have ever had in this country.

The $210.6 million that we provided to continue title V has been vetoed before, and it is the single largest item to which the President and the Director of the Office of Management and Budget object to. The President's executive office made it clear they wanted to terminate the program before, and to fill the gap with a new job training program, but I can assure you that there is no substitute for this program. Their proposal will not provide a single community service job, let alone 54,200 jobs, because the legislation does not authorize payment of wages, and because it vastly reduces funding specifically for the elderly.

Unless this Congress acts, the title V program will end, I believe, on September 30. Unless we act now, those termination notices that older Americans have been receiving will take effect in a matter of days as the program starts phasing out for good.

At this point I include the following:

Memorandum

To: All NCOA and Department of Senior Citizen Affairs Enrollees.
From: Natalie Gold, Project Director.
Subject: Termination Notice.
Date: August 20, 1982.

The National Council on the Aging Inc. (NCOA) receives funds each year from the U.S. Department of Labor and the Department of Senior Citizen Affairs, to employ low income older workers under Title V of the Older Americans Act. As you know, the NCOA Title V Program is called The Senior Community Service Project (SCSP).

The President did not include Title V in the Administration's Proposed Budget for fiscal year 1983 (10/1/82–9/30/82). The President also recently vetoed two versions of a supplemental appropriations bill that contained $210.6 million to fund Title V. This amount plus the $66.5 million already appropriated for July 1, 1982 through September 30, 1982 would have provided a total of $277.1 million for Title V and fully funded the program through June 30, 1983.

Another supplemental appropriations bill (H.R. 6863) containing $210.6 million for Title V was approved by a House-Senate Conference Committee on August 2. It is expected to be sent to the President prior to Congress adjournment (from August 20 until September 8). It faces a possible veto by the President.

NCOA is continuing to press for refunding of this highly effective program in order to protect the program enrollees and the valuable services that they perform in their communities. As of today, the fate of this program is uncertain and there are currently no funds available to NCOA for continuation of the program after September 30. There is no assurance that such funds will become available. Therefore, prudent management requires that we plan, on a contingency basis, for an orderly close-down of the program.

This is to notify you that your SCSP enrollment will terminate effective at the close of business on September 17, 1982. It will not be possible to pay you in cash for any vacation time that you have accumulated. Therefore, you should immediately contact our Fiscal Department to find out how much vacation you have earned. All such vacation time must be used before the close of business on the termination date.

If you are entitled to job related mileage reimbursement, payment will be included in you final check. The final check will be mailed to your address of record unless some other arrangement is requested and approved.

Many friends of the SCSP in Congress and elsewhere have worked hard to secure continued funding for the program. These efforts may yet succeed, either through H.R. 6873 being enacted or by some other means. If refunding occurs, we will notify you immediately to rescind this notice of termination.

Please do not hesitate to contact your Worksite Representative if you have any questions.

Green Thumb, Inc.,
Arlington, Va., August 30, 1982.
To Green Thumb Workers and Staff:

As most of you are no doubt aware, Congress passed a supplemental appropriations bill before it recessed for Labor Day that included funds to continue Title V and Green Thumb from September 30, 1982 until June 30, 1983.

President Reagan has vetoed this bill, and if Congress does not override this veto, it is likely that the Title V program and Green Thumb will end on September 30, 1982.

Because we must plan to close out our activities in a responsible manner, you are hereby notified that it may become necessary for Green Thumb to terminate the employment of all enrollees as of the close of business, September 24, 1982. Although I deeply regret having to convey this news to you, I feel a moral obligation to give you as much notice as possible so that you can begin making plans for a future that may not include Green Thumb employment.

If some action is taken that permits Green Thumb to continue beyond September 30th, you will be notified immediately by the State Green Thumb office.

I would like to thank you for all the hard work and support you have given the program and your community in the past, as I am sure you will continue to do in the future.

Sincerely,

Carl A. Larson.

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The administration would have you believe that we are playing games with the funding for this program. What we are doing is correcting a $67 million Senate funding level that we got stuck with in the continuing resolution. The $210 million will bring the level up to the full funding this House approved in its regular 1982 Labor/HHS appropriations bill. This $210 million will not be outlayed until 1983, so it will not have an effect on the deficit any different from funding the program in fiscal year 1983. It will not increase the deficit in fiscal year 1982. Rather the 3-year reauthorization passed in December requires that the program be forward funded, which is what we are doing here.

In response to the administration's intent to end the program on September 30, the gentleman from California, Mr. Panetta, and myself sponsored House Concurrent Resolution 278, which over half of you joined, to continue this program at current levels through 1983. That resolution passed the House overwhelmingly, with only four negative votes. During the debate on that resolution, I warned my colleagues that they had better be ready to stand firm on that vote when push came to shove and the funding to keep these 54,200 needy older Americans working was at stake. Push has come to shove. If you meant your vote on House Concurrent Resolution 278, then you will vote to override the veto. It has become a battle of wills on this program between Congress and the President, and we have been given no choice but to back our words with definitive action

The SPEAKER pro tempore. The Chair wishes to remind the gentleman from Massachusetts (Mr. Conte) that he has 2 minutes remaining.

Mr. CONTE. In closing, Mr. Speaker, let me say that this is a worthwhile program. It is a program that keeps a lot of old people off the poverty rolls. If the program does not continue, a lot of them will have to go on welfare, and, therefore, it will cost the taxpayers. They drive people to the congregate meal centers, they drive people to the stores, they drive them to the dentist, the hospital, and to the doctor. It is one of the finest programs for elderly people that we have in this country.

But let me go one step further. Everyone is concentrating on this program and saying, "All right, we will put that back." But there is also $217 million in here for Pell grants and SEOG grants. On one hand you want to say, "All right, we are going to take care of the elderly, but the heck with students who need it to enroll this year in college." I emphasize this is a supplemental for fiscal year 1982, so we are affecting the students who are in college for this 1982-83 school year.

There is $26.5 million in there that my good friend, the gentleman from Illinois (Mr. PORTER) fought so hard for—education for the handicapped. Are we going to say, "All right, there is $211 million here for title V, but the heck with that program for the handicapped"?

There is $21 million for the Coast Guard. They are closing stations all over the country. They do not have gasoline to run their patrols to go after the drug dealers. Are we saying, "All right, we are going to go for the $211 million for title V, but you know what the Coast Guard can do"?

Mr. PURCELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Michigan.

Mr. PURCELL. Mr. Speaker, I want to thank the ranking Republican member on the committee, the gentleman from Massachusetts (Mr. CONTE), for an outstanding statement which I wholeheartedly support.

I am disturbed here today that my party, through its whip, has come to the floor and said that we are going to have to have a lock on the military piece of this supplemental and that is already decided and in place for the next time we meet in committee, assuming the budget veto is sustained without any commitments on some of these other programs.

If we had an across-the-board reduction here to take out the $918 million, maybe that might have some merit if we are looking for dollar savings. But to come on to the floor and make commitments on program A versus program B at this hour to attempt to gain votes for the veto is disturbing to me.

Mr. Speaker, I want to thank the ranking Republican member on the committee for his comments.

As in most every agency in the Government, the agencies under the jurisdiction of the Labor/HHS/Education Subcommittee are on a short time fuse if they do not receive their requested pay supplementals. Just about the entire Department of Education is facing 10 working days of furlough. The entire Bureau of Labor Statistics and a majority of the Employment Standards Administration in the Department of Labor will be furloughed.

At least 10 States are facing serious problems continuing their occupational safety and health inspection programs without the $3.8 million transfer authorized in this supplemental. The Health and Human Services Department is potentially faced with an agencywide shutdown, with the exception of essential health-related personnel.

These increases in spending are all very important and targeted at the needy, be they children, college students, handicapped, or elderly. If the veto is not overridden, we will not be able to go back to the President with the same bill. There will need to be changes. We may very well lose some of these items. If you supported title V, as 407 of you did, as well as these education supplementals, I urge you to vote to override this veto.

If the veto is not overridden, the Patent and Trademark Office will be forced to furlough 2,700 employees, virtually the entire agency, on September 17.

The Department of Justice has completely run out of funds in two important law enforcement programs: The support of U.S. prisoners now housed in State and local jails, and fees and expenses of witnesses. They simply cannot pay the bills for these functions. So far, State and local law enforcement agencies are picking up the tab for the support of prisoners who are the responsibility of the Federal Government, but they cannot be expected to continue this indefinitely. The lack of funds for the fees and expenses of witnesses involved in Federal trials has made it necessary to postpone a number of trials, further delaying due process and adding to the already unacceptable backlog of such trials.

Two Department of Justice offices, the Drug Enforcement Administration and U.S. Attorneys and Marshals, will have to furlough personnel on or about September 15, and the Federal Bureau of Investigation is not far behind.

Due to some early and prudent management decisions, the State Department will not have to furlough employees through the end of the fiscal year, but this is at the cost of seriously delaying the security enhancement program at our overseas posts. Funds which were to have been used for such items as safe havens, locks, teargas, and other security-related projects have been postponed in order to continue to pay salaries. In addition, the vetoed bill includes $49 million, as requested by the President, for new personal security activities at overseas posts.

The bill includes a number of appropriations and language provisions which are important to many of your districts and which may not be provided if this veto is not overridden.

For example, language is needed and is included authorizing the Economic Development Administration to issue $30 million in direct loans and $150 million in loan guarantees during the remainder of fiscal 1982 from the economic development revolving fund. This is in accord with the clear intent of Congress in the continuing resolution, but the language is necessary if these loans are to be made available.

The bill includes funding for the coastal zone management program for the State of New York. Whaling research and activities are funded for Alaska. Ten million dollars is included for the 1984 Louisiana World's Fair. Law enforcement assistance funding is provided through the FBI, the Drug Enforcement Administration, U.S. attorney's and marshals and the Federal prison system for the expenses of the south Florida task force against drug traffic and organized crime.

Money is in here for the long-delayed alien detention center to be located in either Louisiana or Oklahoma, both of which are lobbying to get it. A new Federal prison to house 4,000 inmates is included for Arizona, as well as a minimum security prison camp for California. And $1.6 million is included to conduct the U.S. case in the Gulf of Maine boundary dispute, which is critical to New England and to the entire country in terms of future resources.

As I mentioned earlier, funding is provided in this bill in the amount of $49 million for additional security requirements at overseas posts in Western Europe and other highly threatened areas. The appropriations of this money is timely and important if we are to do all we can to avoid future attacks and kidnapings against our personnel serving in these countries.

And finally, $3.4 million is provided in the bill for the Iran-United States claims tribunal, an activity which must be funded regardless of our individual feelings about that whole ugly episode.

The Defense Department military personnel account is out of money. There is no money to pay the troops on September 15 and there is grave doubt enough money can be found to meet the civilian payroll.

We heard the same thing last month and some may think this is just another horror story from Defense.

But the fact is that the August 31 payroll was met only by using money which should have gone to the Treasury for withholding taxes and by deferring the transfer of social security withholding. That was a one-time shot. The well is empty. There is no more. If we do not get a pay supplemental, the troops will not be paid next week.

There is little or no impact on defense programs in this supplemental.

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We are too far along in the fiscal year for anything to help straighten out the impact of deferring operations and maintenance activities in order to make the payroll.

But we cannot allow the millions of uniformed personnel to miss a payday next week together with the real likelihood some civilians will not be paid either. We must pay the troops. We cannot put the entire Armed Forces structure on furlough.

The supplemental also includes $30.5 million for Coast Guard operating expenses and $78.1 million in supplemental pay. The Coast Guard is the service we always seem to forget when it comes to funding, but which we never forget when it comes to adding new responsibilities.

We want active drug interdiction efforts from the Coast Guard along with responsive search and rescue performance, and they do a fine job at both of these tasks even though their funding posture is often in question, and certainly strained now.

What happens if a Coast Guard rescue plane takes off from New York, and after searching a wide-ranging area, needs to refuel at the Atlantic City, N.J., Airport using a Government credit card backed up with no obligational authority. If the card is refused, the plane cannot refuel and continue its mission. Such a situation has not occurred, but it is not out of the realm of possibility if the Coast Guard has to continue operations with no funding authority.

Coast Guard activities such as drug interdiction, because of their nature, require constant use of equipment. Therefore, spare parts replacement is a very high priority, particularly given the age of many of the ships and rotary and fixed wing aircraft. The operating moneys in the supplemental are essential for continued Coast Guard performance of the duties which we in Congress have mandated.

Right now, the Coast Guard is calling operating funds in from the field to pay its nonuniformed personnel, who incidently face furlough after the 14th of this month. That means that for operating activities, the Coast Guard would have to deficiency spend to continue to keep its ships and airplanes running, as we here in Congress expect them to do. In other words, the Coast Guard is close to broke. Think about that when you consider how you are going to vote on this Presidential veto because right now, the Coast Guard is in jeopardy.

The vetoed bill provides $350 million in economic assistance for the President's Caribbean Basin Initiative. This is the aid portion of the total CBI package of trade and aid initiative proposed last February.

In my view, if this money is not included in this bill, and if this veto is not overridden, the Caribbean Basin aid package will not be funded. And that would send the wrong signal to our neighbors to the south, a very damaging signal that we do not care and that we do not follow through on our promises.

If we do not come through with this money after it has been so well publicized, we cut the legs out from under those in the Caribbean and Central America who would be friendly with the United States. Those friends are in Costa Rica, Jamaica, the Eastern Caribbean, the Dominican Republic, the new, democratically elected government in Honduras, the new and hopefully less repressive government in Guatemala, and the new constituent assembly in El Salvador.

The bill reduces the administration's request for economic aid to El Salvador from $128 million to $75 million, and we have eliminated the $20 million request for military assistance to that country entirely. As you will recall, our House conferees compromised with the Senate Members, who wanted to include all of the requests for El Salvador. I believe it is a reasonable compromise.

The bill also includes $3.5 million, as requested, for international military education and training. These funds represent the best investment we can make with foreign assistance money—for a very small amount of funding, we expose the rising military leaders in many countries to the U.S. system of a civilian-controlled, restrained military and to our way of domestic life.

The bill also includes $50 million in forgiven military credits for Sudan, as requested by the President. Sudan has proven itself a good and loyal friend to the United States and to our friends in the Middle East region, and that country is now directly threatened by Soviet and Cuban-inspired forces from Libya and Ethiopia. We must continue our support.

As mentioned in the veto message, the bill includes a transfer of $50 million for relief and rehabilitation in Lebanon, and earmarks $10 million of this for the American University of Beirut and its hospital. The Senate also included report language, which we have no difficulty in accepting, proposing that up to $1.9 million of the total $50 million, be made available for Beirut University College. These are American institutions of long standing which are located right in the heart of some of the most severe fighting and damage. We intend to continue our support for them during this very difficult period, just as we intend to support our Lebanese friends.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. Conte) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Fazio).

Mr. FAZIO. Mr. Speaker, I think we are observing a very embarrassing process for the minority here today, with all this shucking and jiving and slipping and sliding, they are trying to avoid responsibility for the very specific rejection of the priorities that are included in this bill.

This is a bipartisan committee. I think it is well known in the House in fact in both Houses that we do our work in a collegial way. Most Members of both parties supported this bill, in fact the other bodies fiscal leaders on the Republican side strongly advocated it. But now, because it is time for the President to run against the Congress, we all are supposed to get in line with the minority and let our appropriation responsibilities be dictated to us. And that is what is happening here. Congress is being told that our priorities are unimportant, that the Executive's priorities will have to take precedence and be implemented despite the input we are providing in adjusting downward by $1.9 million the President's request.

The President would have us retain $200 million for operation and maintenance money for the military in this bill that has already been provided for by transferring unobligated funds. And yet he would remove the $200 million for job programs for senior citizens who will end up going on SSI if they do not receive their minimal $3.25 an hour as this bill would provide. This is the clearest case of a priorities debate that we have had in the 3½ years I have been in Congress, and if anybody votes to sustain this veto, their constituents will not be confused, they will not be fooled. They will know in fact whose side the minority in this House is on. This is no vague budget resolution that allows Members to plea that they were against any particularly unpopular budget cut but for a budget reduction in general. This as Mr. Lott the minority leader has said is a specific up or down vote on whether we force feed the military while starving the poor, the aged, the disabled, and the young. You cannot hide that fact.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. Alexander).

Mr. ALEXANDER. Mr. Speaker, farm prices are depressed, in part, because exports are down. And, one immediate action that Government can take to boost farm prices is to sell more products in foreign trade.

This vetoed bill would make export trade a national priority by appropriating $500 million for the CCC export credit revolving fund.

Farmers do not want a handout. They want a helping hand.

This bill is not a budget-buster, and just because Ronald Reagan says it, that does not make it true. It sets national priorities that the President has ignored.

Mr. Speaker, I urge a vote to override the veto.

Mr. WHITTEN. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina (Mr. Andrews).

Mr. ANDREWS. Mr. Speaker, let me just say as chairman of the subcommittee which has the Older Americans Act, in title V that what the gentleman from Iowa (Mr. Smith) and others have said is true. They have simply been out to get this program all year, and it is not what is going to happen, it is happening. The pink slips went out and a number of them were discharged as of September 3, and another group as of September 13 has already been notified.

Mr. Speaker, the hour is late. It is going to be after midnight in about an hour unless we vote to override this veto.

Mr. WHITTEN. Mr. Speaker, I yield 30 seconds to the gentlewoman from Ohio (Ms. Oakar).

Ms. OAKAR. Mr. Speaker, one of the things that was interesting to me was that the committee cut $106 million in cost overruns in the Trident submarine program, but they wanted to have an immunization program for children and a jobs program for the elderly and an education program for our handicapped. They also included a program that means very, very much to the city of Cleveland. It is just amazing that anyone could vote to sustain the President when the committee is trying to do away with all of these exorbitant cost overruns in the military budget.

Mr. Speaker, therefore today, I rise in support of overriding the President's veto of H.R. 6863. The 1982 supplemental appropriations bill will, if passed, provide necessary funds for programs which affect constituents in every Member's district. The supplemental provides vital services for our elderly, our disadvantaged, the unemployed, and our Federal employees. Where is our conscience? Where are our priorities? While the Pentagon continues to fund billions of dollars in military hardware around the world, we continue to cut the very basics from those in our own country.

Let us look briefly at some of the specifics of what has been vetoed.

FUNDING FOR EDUCATION

The President's veto would be devastating to education at all levels; $399 million in education money has been carelessly labeled as "wasteful and unnecessary spending." Included in this figure are programs which have proven to be more than mere success stories. It is vital to education at all levels, but particularly to higher education, that the supplemental appropriations bill be passed—we must override the President's veto. Unless we do, programs such as compensatory education for the handicapped, handicapped education, vocational education, student financial assistance—including Pell grants and higher and continuing education, will be severely diminished. If we do not override this veto the neediest students receiving Pell grant money will lose over $100 each since the maximum grant will be cut from $1,800 to $1,674.

FUNDING FOR IMMUNIZATION

The administration is asking us to turn our backs on preventive health services and childhood immunizations. If we do not override this veto, $6 million targeted for childhood immunization against such diseases as polio, measles, rubella, dyptheria, whooping cough, and tetanus will be lost. This is $6 million which is administered by the States in various ways to prevent outbreaks of illnesses which we all know to be cripplers. Without this money school systems, health facilities, and visiting nurses programs throughout the United States would be unable to provide these innoculations to needy and vulnerable children. Fifty percent of all these immunizations are administered through these State programs. Can we afford to deny this life-saving protection to these children? Can we at the same time say "No, you can't have your immunizations and if you do become crippled or disabled we won't be able to take care of you down the road either." It is a well-established fact that prevention of disease is less costly than the treatment of disease.

FUNDING FOR OUR UNEMPLOYED

Failure to override the President's veto would mean the loss of $20 million in grants to the States for unemployment insurance and employment services. This money is needed to cover the initial administrative expenses of the Federal supplemental benefits program which the House approved in passing the Tax Equity Act last month. Certainly, now is not the time to put this supplemental benefits program in jeopardy when the unemployment rate is hovering near 10 percent and hundreds of thousands of jobless Americans are depending on additional weeks of unemployment benefits to tide them over until the labor market improves.

FUNDING FOR OUR ELDERLY

The supplemental also contains $112 million in grants to States to help pay for the medicaid health care program for the poor. The medicaid program has been the victim of substantial cutbacks in the last two budgets. Last year's budget reduced the Federal matching rate to the States by 3 percent in fiscal year 1982, 4 percent in fiscal year 1983, and 4.5 percent in fiscal year 1984. These reductions drastically hurt the States and consequently the recipients.

This year's budget allowed for copayments or medical services as well as liens on real property, including homes of medicaid recipients who are institutionalized. These changes directly penalized the recipients.

It is not fair to jeopardize the financial status of the States or the medical care of the poor by delaying this supplemental funding any longer.

One of the most severe results of the President's veto involves 54,200 elderly citizens participating in the title V senior community service employment program. Depriving these seniors of the $210 million appropriated through H.R. 6863 is self-defeating because it will put more people in the unemployment lines and make them more dependent on the Government through SSI and food stamp benefits.

As all of you are aware, the title V program is offered to those low-income persons 55 years of age and older. The shock of a senior citizen receiving a pink slip could be devastating. At the present time, approximately 86 percent of the participants on community services have incomes below the poverty level. In 1981, the cutoff income for a single title V participant was $5,387. Thirty-three percent of the participants are from minority groups and 58 percent have less than a high school education.

These workers have proven the success of the program. In Ohio alone, $12 million were allocated to employ 2,355 people during last year; 1,313 of the 2,355 provided direct services to the elderly, while 1,042 provided services to the general community; 362 seniors provided services through nutrition sites. It should be noted that approximately 100 of these participants were able to assist others in their homes in the areas of health and home care. Institutionalized care is far more costly. Further, title V returns to the taxpayers $1.15 for every dollar spent on the program; and it was found that SSI and food stamp costs were reduced an average of $24 a month when a new person joined the title V program.

FUNDING FOR CIVIL SERVICE RETIREES' HEALTH BENEFITS

Some $607 million would be appropriated to the civil service retirement fund and the Federal employees' health benefits program. The amount does not represent a superfluous sum of money, but, actually, equals the amount of money owed to the insurance carriers and annuitants who are awaiting their claims to be processed. I do not need to speak at length about the FEHBP, whose financial difficulties have been used by this administration to make drastic cuts in benefit coverage and cause sharp increases in premium payments.

FUNDING FOR MASS TRANSIT, HIGHWAYS AND BRIDGES

There is no question that our elderly are dependent upon public transporta-

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tion. In addition, our roads, bridges, and highways are badly in need of repair. I am especially concerned about a particular project in this bill that is vital for the city of Cleveland. In the heart of our downtown, the bridge streets which support the downtown area Terminal Tower, Huron Road, and the Old Post Office are eroding. These supports must be repaired for the safety of the hundreds of thousands who daily commute in that area and to revitalize our downtown. The supplemental provides $12.5 million for this vital work. If we do not override this veto today, the city of Cleveland has lost a critical opportunity to provide jobs and to revitalize itself.

Of course, human worth as demonstrated by these important programs can never be measured in dollars and cents. If in principle, we seek to encourage a sense of self-sufficiency, self-worth, and pride of achievement; then, in practice, we should feel honor-bound to support funding for these programs sufficient to match our deeds to our words.

We have demonstrated our support of these programs in the past, Mr. Speaker. I urge my colleagues to consider the alternatives and regard the beneficiaries of these programs not just in abstract statistics, but rather as individuals contributing to our society.

Thank you.

Mr. WHITTEN. Mr. Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, what it all comes down to is that this veto is a sham. This is not an argument here over how "much" is to be spent; this is an argument over "where" to spend.

That is significant because you can tell the political differences between people and political parties by where they choose to put money and where they choose to take it away. It is a dollars and cents statement of political values.

It is pretty clear what the White House's values are. You will find it reflected in their spending request.

They want to spend hundreds of millions of dollars more on defense and in foreign aid, particularly for the military junta in El Salvador.

Our bill, instead, says that is too much—and that with a mere fraction of the savings we will just as surely build a strong nation by keeping the U.S. Coast Guard afloat, keeping young minds from being priced out of college, providing economic opportunities for the elderly and providing unemployment assistance for jobless Americans.

That is the argument. The only argument.

When the men in the White House call this bill a "budget buster" they are betting that the American people will believe anything. Someone called this tactic a "sideshow." I agree. It is right out of P. T. Barnum, who said, "A sucker is born every minute."

Well, the administration is wrong about the American people being suckers. And the administration is wrong on this bill.

I urge my colleagues to override this veto.

● Mr. BROWN of California. Mr. Speaker, as the elections draw closer we can no doubt expect more and more partisan politics; it is the nature of things. But I was dismayed to learn that the President had vetoed H.R. 6863, the latest supplemental appropriation package. He contended wrongly that it was over budget merely because it set different priorities from his own. Priorities which I felt then, and feel now, are sound and sensible.

Our national defense budget has increased geometrically placing a strain not only upon those programs reduced to offset the added costs, but also upon the military-industrial complex as it spends money too fast and inefficiently. Both Secretary of Defense Weinberger and Secretary of State Shultz supported this package as a reasonable and well thought out alternative to the President's proposals. It in no way endangered the defense buildup, nor our national security. And in fact, it came under the President's proposals by a full $1 billion, in a small, but significant way reducing our astronomical deficit.

What are some of the moneys the President has decided are not important? Among other items, this package includes $211 million for jobs for older Americans; $217 million for student financial aid; $148 million for compensatory education for the disadvantaged; $26.5 million for handicapped education; $112.5 million for Federal highways; $11.5 million for preventive health services; and $20 million for advances to the unemployment trust funds. These are reasonable, worthwhile programs which should not be continually jerked around by the whim of politics.

While I was in my district, I witnessed the distress felt by my constituents regarding this veto measure. Hundreds of my senior constituents will be out of jobs without this bill, students will either have to sacrifice more or completely give up their ambitions for further education; and unemployment in my district jumped 2 percentage points to 13.6 percent in just 1 month. My constituents want and need help. The veto of this measure gave them little hope that it would be forthcoming. It is now Congress responsibility to renew that promise.

As a politician, I expect politics in an election year, but not to the detriment of the American people. It is time, Mr. Speaker, for the President to stop playing politics, to put away his playthings, and get on with the business of Government—that of serving the American public. This bill is a solid piece of legislation, and I urge my colleagues to join me in overriding the President's veto.●

● Mr. BOLAND. Mr. Speaker, I intend to vote to override the President's veto of the fiscal year 1982 supplemental appropriations bill.

The supplemental appropriations bill was the product of a considerable effort on the part of the members of the House and Senate Appropriations Committees. That effort involved the fashioning of numerous compromises required when the funding needs of various important programs had to be reconciled with the fiscal constraints that we all realize we have to operate under. The margin by which the conference report on the supplemental appropriations bill passed the House was evidence that the Members were satisfied with the compromises that had been made. We sent to the President a bill that was not only substantially below his request, but below the budget outlay and authority levels in the 1982 budget ceilings as well.

When the President vetoed the supplemental, he indicated that his action was premised on his belief that the bill was a "budget buster." This contention is not supported by fact. What the veto actually represents is a dispute with Congress over spending priorities. These disputes often occur but it seems to me that they can be most rationally dealt with if all parties recognize them for what they are, rather than misrepresent them. Let us look at the facts. The vetoed supplemental contained $0.5 billion of the $2.6 billion requested by the President in budget authority for defense. Of the money not provided, a substantial amount represented funds no longer sought by the Department of Defense, funds to pay cost overruns, funds previously denied by Congress, or funds to begin new programs. In contrast, the supplemental contained $918 million more for domestic programs than requested by the President. These funds were for programs for which Congress has, time and time again, given its approval.

The President took exception to our making available an additional $217 million to assist our young people in obtaining a college education, an additional $210 million to provide community service jobs to 52,000 of our low-income elderly, an additional $148 million to assist school districts in meeting the educational needs of the disadvantaged, and an additional $26 million to educate our handicapped children. I happen to believe that these programs are vital to the future of our country, as vital in the long run as many aspects of our defense programs. I also happen to believe in a strong national defense. I know, however, that the cuts the supplemental made in defense were not going to make or break our national security. The domestic programs that were selected for additional funding, however, need supplemental funds to sustain those Americans who depend on them. It is imperative that those funds be provided.

Mr. Speaker, the question of whether or not to override this veto really is a question of priorities. I believe that the bill we sent to the President appropriately reflected our priorities. The veto was unjustified and should be overridden.●

● Mr. DOWNEY. Mr. Speaker, I rise today to protest one of the most ludicrous actions I have seen this year. The President's veto of the regular supplemental was nothing but a blatant attempt to play political baseball. Unfortunately, the ball that is getting tossed back and forth is the quality of many people's lives.

The President maintains that the veto was necessary because the bill is a "budget buster." But this allegation simply does not stand up under the facts. The total amount of this bill is $1.3 billion less than the President's request. In fact, his own request would have "busted the budget" by more than $250 million.

But the President is not playing with facts, he is using mirrors. Is he trying to regain preelection credentials as a tough antispending conservative? Is this part of an effort to shift national attention away from the failure of Republican economic policies? Is the President trying to portray Congress, especially Democrats, as big spenders right before election?

The only other justification I can find for the veto is that the President is peeved because Congress did not agree to his every wish. In a bipartisan move, $2 billion in extra defense spending was denied that the President wanted for housekeeping items and some early starts on weapons buying planned for next year. Then Congress spent $900 million on some social programs that cannot finish the present fiscal year uninterrupted without the supplemental funds.

Let us look at some of the programs the President does not want to fund.

First and foremost, there is the older workers program. We all know how important that $210 million is to the 55,000 senior citizens who are anxiously awaiting word of our action today. Last July, a sense of the Congress resolution in support of title V passed the House overwhelmingly. I hope that every Member who voted for that resolution is ready today to put their vote where their mouth was last summer, and prove to their seniors that they pay more than lipservice to the program.

Hundreds of thousands of students are waiting for word on the quality of their education. One million Pell grant recipients and 128,000 SEOG beneficiaries will have their financial aid reduced because the President does not want to live up to his commitment to them. And the quality of education for many thousands of handicapped and learning disabled children will also be determined by today's vote.

Unemployment has risen to post-World War II records, and last month we agreed to a new extended benefits program for unemployed workers. There is money for this program in the supplemental, too.

Numerous health programs need additional money to finish off this fiscal year without curtailment. Basic health research by the Center for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, and Health Resources will be stalled because the President's priorities are elsewhere.

Despite promises in recent television commercials, the President does not want to pay full retirement benefits to approximately 400,000 railroad retirees.

President Reagan's veto was also spurred by a request to fund programs that serve the deaf and blind.

The most absurd aspect of the situation we find ourselves in today is that the President did not veto this bill because it spends too much. Rather, it was vetoed because it spends too little.

I urge all Members to end this political game by voting to override the veto. It is time to send a message to the President that enough is enough.●

● Mr. FOGLIETTA. Mr. Speaker, I rise to urge my colleagues to reject the President's veto of the urgent supplemental. Not only has Mr. Reagan vetoed a bill that is clearly within the guidelines of the fiscal year 1982 second budget resolution, he has vetoed a bill essential to the handicapped, the elderly, the unemployed, the disadvantaged, and to the American city. Mr. Reagan has complained that Congress has funded programs he does not want, and not funded programs that he does want. And he is right. We funded human needs programs. Mr. Reagan wanted us to forget human needs and build a bigger military.

The bill we passed provided $211 million for jobs for our older Americans. It provided $217 million for student financial assistance; $148 million for compensatory education; $37 million for urban mass transit; $20 million for the unemployment compensation trust fund. That was not quite what the President had in mind.

So what if the senior community service employment program runs out of money—so long as the military gets a bigger budget. So what if the unemployment fund runs out of cash—so long as the military gets more money. Mr. Speaker, Congress rejected the President's requests because the needs of the Nation demanded that we do so.

This urgent supplemental provides money needed by people from all walks of life in all parts of the country. The President had no legitimate reason to reject it. It is within spending targets, and it deals with need. If the President cannot accept our obligation to fund social programs, but can only see bigger defense budgets, then I suggest that his priorities are backward.

What we have done is right. I urge the House to stick to its convictions, and override this veto.●

● Mr. VOLKMER. Mr. Speaker, contrary to President Reagan's rhetoric, this bill is not a "budget-buster." The bill is not only well below budget, it is also $1.4 billion below the amount the President recommended.

When the President vetoed the bill he said it contained $900 million more than he wanted for social programs and about $2 billion less than he requested for defense.

Congress did add a much needed $217 million in financial aid to college students. Education is just as necessary as defense. A strong and adequate education is just as important for our citizens as a strong national defense. If the veto is sustained, several hundred thousand young people will not be able to attend college this fall.

Congress also added funds for elderly employment, education for the handicapped, and advances to the State unemployment funds. But we reduced other programs, such as defense, by $2.8 billion.

When the President opposes providing funds sorely needed for education and older American programs, I have to vote against him. This bill provides those funds, while keeping within our goal of holding down Federal spending. For these reasons, I intend to vote to override the President's veto.●

● Mr. MATSUI. Mr. Speaker, I rise to support the veto override of the fiscal year 1982 supplemental appropriations bill, H.R. 6863.

My support for the override is founded on my profound belief that the Congress of the United States serves as a coequal constitutional body to the Presidency in the establishment of this Nation's budget priorities. As the elected representatives of the people, we have a fundamental duty to govern over our national spending programs. To do otherwise is to abdicate our essential constitutional responsibilities.

It must be made clear that the supplemental appropriations bill which was submitted to the President for his signature conformed to the overall guidelines prescribed by the final budget resolution for 1982. Moreover, the measure was $1.5 billion below the total funds requested by the President

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for supplemental appropriations budget authority. For the President to frame his veto of H.R. 6863 in such terms as "budget busting" is simply distortive and unfair to the American people.

What must be made clear is that the President's veto of this measure was based solely on his disagreement with the spending priorities specified by the Congress in the bill. Given the unprecedented recession confronting this land, the Congress authorized in H.R. 6863 more money for domestic programs and less for military projects. By reducing the defense funding allocation by merely 1 percent, $918 million was made available to meet numerous critical domestic needs.

For the citizens of my congressional district, this funding differential is not a mere abstraction. H.R. 6863 insures that $16,000 per month is available to the Sacramento Office of Urban Indian Health Services for the provision of basic health care to my local Indian community. H.R. 6863 provides the necessary moneys to fund both supplementary educational opportunity grants and Pell grants. Hundreds of low-income young people from my district would not be able to attend such institutions as the University of California or the University of the Pacific without these grants. The opportunity for a higher education for needy and deserving students is a national priority deserving of support.

H.R. 6863 allocates $5.5 million for the Sacramento light rail project, a system which is being built today to meet tomorrow's transportation needs. Without this form of investment in our Nation's urban infrastructure, we sacrifice the future of our cities and communities.

Most importantly, H.R. 6863 invests in people. It contains moneys for childhood immunization, for the research efforts of the National Institutes of Alcohol, Drug Abuse and Mental Health, and for our struggle against tuberculosis. These programs are as essential for the security and well-being of my constituents as is a reasonable investment in our national defense. For our Nation's disabled, H.R. 6863 provides critical funds for handicapped education services. We are not too callous of a people not to recognize the right of all children to a decent education. For this country's senior citizens, H.R. 6863 authorizes over $210 million for title V jobs. This funding authority translates into 129 jobs for senior citizens in my district. For these Americans, H.R. 6863 represents the dignity of employment through public service.

To override the President's veto of H.R. 6863 is the responsible congressional action. Funding for these domestic programs must be preserved if pressing human needs are to be adequately answered. To override the President's veto will constitute the reaffirmation of our constitutional responsibility of representation.●

● Mr. SIMON. Mr. Speaker, today this House is called upon to assert its constitutional prerogative as a coequal branch of Government. On July 29 the House adopted H.R. 6863, the fiscal year 1982 supplemental appropriations bill. It was common knowledge in the House at that time that this bill was a candidate for Presidential veto. Nevertheless, the House passed the bill 282 to 111—with 41 Members not being recorded. Subsequently the House overwhelmingly adopted the conference report on this bill 348 to 67.

This bill is not a "budget buster" the President has alleged. Rather it is the Congress assertion of its legislative authority to establish spending priorities for the Federal Government. We have chosen a balanced approach to spending—providing more funds for domestic programs and less for defense than the President wishes. I personally believe those spending priorities currently reflect what the American people want, and just as importantly, what they need.

In the area of education, the supplemental appropriations bill provides additional funds for the following programs in the 1982–83 school year:

Compensatory education for the disadvantaged (chapter I, ECIA) $140 million;

Pell grants for low- and middle-income college students $140 million;

Supplemental educational opportunity grants (SEOG) $77 million;

Education for the handicapped $26 million;

College housing loans (continuing lending authority) $75 million;

Title III, institutional aid ($10 million in carryover authority plus $10 million in new spending authority) $20 million.

Let me explain to my colleagues the importance of these supplemental student aid funds to higher education. Without the additional $140 million in Pell grants, more than 200,000 low-income students from families with incomes below $9,000 will receive a $1,674 maximum grant instead of the $1,800 provided for in the March continuing resolution. Because of the rising costs of attending public and private postsecondary institutions—increases this year are as high as 21 percent—many of these low-income students will be denied the opportunity to pursue or continue their college education. In addition to the 200,000 low-income students who will have their maximum grants reduced, as many as 800,000 others will receive smaller awards.

The bill vetoed by the President would also restore $77 million of the $92 million in supplemental educational opportunity grant (SEOG) funds cut last year, eliminating or reducing SEOG awards to 128,000 students.

While many of my colleagues may view these amounts as small or insignificant in the context of a $14.1 billion supplemental appropriations bill, these funds represent an important contribution to thousands of low- and middle-income students who need these funds to obtain a higher education. Many of you have also heard horror stories about students defaulting on loans and misusing or abusing Federal student aid funds. A major new study of more than 2 million public college student aid recipients, by three major higher education associations, tells a very important story about the beneficiaries of Federal student aid. The typical student at a public 2-year or 4-year college or university who receives Federal student aid earns a substantial part of college expenses, has parents who can provide little or no help, and could not attend college without student aid. About one-third are self-supporting. I would like to share some of the study's major findings with my colleagues:

> Over two-thirds of self-supporting or independent students have incomes below $6,000, and 94% have incomes below $12,000. For those with some help from their families, average family income was $16,500;
>
> The average self-supporting student in 1981–82 needed about $6,000 a year for college and living costs, and was often an older person helping to support a family. Such a student received no help from family, earned about $450 in college work study, and contributed other earnings of about $1,900. He or she also received about $1,100 in grants, mostly Pell Grants, and borrowed about $700;
>
> The average students getting family help faced college costs of about $3,800 a year, received about $469 from parents, and earned about $500. He or she received about $1,000 in grants and borrowed about $700. Minority students generally received less family help than white students. The average black student at a public four-year college received about $180 from his or her family, the average Hispanic student about $142 and the average white student about $600.

This is the true story of the average student from a working class or poor family, who wants to improve his chances for success and contribute to the growth of this great Nation. We would not read about these students in the New York Times or Washington Post, but these students are the success stories of our Federal student aid program.

I want to ask unanimous consent to insert the "Fact Sheet on Stampen Study of Student Aid at Public Colleges" in the CONGRESSIONAL RECORD at this point.

I urge my colleagues to stand by their votes on the conference report and to support the right of this body and the Congress as a whole to establish the Nation's spending priorities.

FACT SHEET ON STAMPEN STUDY OF STUDENT AID AT PUBLIC COLLEGES

Dr. Jacob Stampen of the University of Wisconsin is completing a research study of student aid recipients at public community colleges, four-year colleges, and universities. This is the first such survey ever made, and is based on a representative sample of recipients at all types of public institutions. The data represents about 2,200,000 students, of whom about one-third are self-supporting or independent, and about two-thirds dependent to some extent on their families' assistance.

The project was carried out under the sponsorship of the American Association of State Colleges and Universities (AASCU), the National Association of State Universities and Land Grant Colleges (NASULGC), and the American Association of Community and Junior Colleges (AACJC) with support from the Ford and Exxon Foundations.

The study included students receiving at least one form of federal, state, or institutional need-based student aid, including grants loans, and work-study. Data is also available on cost of attendance, family income, student earnings, and other information. The data will be presented in a variety of ways—type of institution, race, sex, students on-campus and off-campus, etc.

Some data is expected to throw light on what most observers feel to be a very discriminatory feature of student aid: students living on campus are allowed to count the entire cost of room and board as an expense, but those living off campus are allowed only an arbitrary $1100 "commuter allowance," far below actual living costs. Proportionately, this affects far more public college students than private college students.

The data also shows clearly, in the judgement of the association, that students receiving aid are not getting a "free ride." Most students, even those with very low incomes, receive aid equal to only a fraction of their costs. Almost no students receive aid equal to total costs of college, even counting their own earnings and any family assistance.

So far, only preliminary data is available; the study is expected to be completed in October. Because of the urgent nature of Congressional decisions about federal student aid for fiscal years 1982 and 1983—which may be in the next two or three weeks—and because of strong public interest in student aid as colleges re-open this fall under difficult circumstances, the associations have decided to issue a short news release and this accompanying fact sheet at this time.

The attached tables are indicative of the method used and the kinds of information revealed. The first table (labelled No. 2) deals with about 1,300,000 "dependent" undergraduate students—those receiving some family help. It includes students at two-year colleges, four-year colleges, and universities. It shows the average student budget—a total to $3,833 for tuition and fees, room and board, and all other budgeted expenses. The table then shows expected parental contribution and assistance from need-based grants, student employment, loans, and student earnings or contributions, as well as all other sources. The budget shows that the average student faces an unmet need of $443, to be made up in what ever way he or she can.

The second table (labelled No. 3) gives the same data for independent or self-supporting students. These students represent about one-third of those receiving aid. Self-supporting students are heavily concentrated in public college; many are older—many public two-year and four year college students averaged 30 to 40 years in age—a good number are married and helping to support families. As a result, most have considerably higher living expenses than dependent students, and also much greater unmet need.

For general information about this study, please call John Mallan at 202/293-7070. For detailed research information, please call Dr. Jacob Stampen, 608/263-4485.

1981–82 AACJC/AASCU/NASULGC—FORD/EXXON STUDENT AID NATIONAL SAMPLE, ALL DEPENDENT STUDENTS RECEIVING NEED-BASED STUDENT AID, UNDERGRADUATES REPORTING PARENTAL INCOMES

[Sample N=1,289,783]

	Average dollar amounts	Percent of total student expenses
Student expenses:		
A. Tuition and fees	$921	24.0
B. Room and board	1,577	41.1
C. All other budgeted expenses	1,267	33.1
Total student expenses (A+B+C)	3,833	100.0
Grants/parental contributions:		
1. Expected parental contributions	469	12.2
2. Need-based grants:		
Pell grants (BEOG)	714	18.6
Supplemental grants (SEOG)	117	3.1
State grants (including SSIG)	159	4.1
Institutional grants	43	1.1
Total need-based grants	1,033	27.0
3. Subtotal (1+2)	1,502	39.2
Self-help:		
4. Student employment:		
College work-study (CW–S)	252	6.6
State/institutional work programs	94	2.5
Total student employment	346	9.0
5. Student loans:		
Nat'l direct student loans (NDSL)	156	4.1
Guaranteed student loans (FISL/GSL)	555	14.5
Institutional loans	8	0.1
Total student loans	719	18.8
6. Expected student contributions	540	14.1
7. Subtotal (4+5+6)	1,605	41.9
Other aid:		
8. Aid from all other sources	282	7.4
Total student resources (3+7+8)	3,390	88.4
Balance (total resources—total expenses)	−443	−11.6

1981–82 AACJC/AASCU/NASULGC—FORD/EXXON STUDENT AID NATIONAL SAMPLE, ALL INDEPENDENT STUDENTS RECEIVING NEED-BASED STUDENT AID, UNDERGRADUATES REPORTING STUDENT INCOMES

[Sample N-717.116]

	Average dollar amounts	Percent of total student expenses
Student expenses:		
A. Tuition and fees	$1,702	11.5
B. Room and board	2,912	47.5
C. All other budgeted expenses	2,456	40.1
Total student expenses (A+B+C)	6,125	100.0
Grants parental contributions:		
1. Expected parental contributions	11	0.2
2. Need-based grants:		
Pell grants (BEOG)	832	13.6
Supplemental grants (SEOG)	146	2.4
State grants (including SSIG)	158	2.6
Institutional grants	31	0.5
Total need-based grants	1,168	19.1
3. Subtotal (1+2)	1,179	19.2
Self-help:		
4. Student employment:		
College work-student (CW-S)	276	4.5
State/institutional work programs	171	2.8
Total student employment	447	7.3
5. Student loans:		
National direct student loans (NDSL)	161	2.6
Guaranteed student loans (FISL/GSL)	534	8.7
Institutional loans	17	0.1
Total student loans	712	11.6
6. Expected student contributions	1,959	32.0
7. Subtotal (4+5+6)	3,118	50.9
Other aid:		
8. Aid from all other sources	330	5.5
Total student resources (3+7+8)	4,636	75.7
Balance (total resources—total expenses)	−1,488	−24.3

●

● **Mr. ROYBAL.** Mr Speaker, I rise in support of the veto override.

This supplemental appropriations bill does not bust the budget as the President would like us to believe. In fact, it is below President Reagan's request by $1.9 billion and below the 1982 budget authority ceiling by $3.2 billion.

President Reagan vetoed this bill because he wanted more for the military, in the amount of $2.6 billion, than for needed domestic programs. For example, he objects to $211 million for the older Americans workers program; $217 million for student assistance; $174 million for education of the disadvantaged and the handicapped; $12 million for immunization and disease control; $10 million for alcohol, drug abuse, and mental health research; and $39 million for postal rate subsidy for charitable organizations and other preferred-rate mailers.

With regard to the older American workers program, let me caution my colleagues not to be swayed by last minute assurances that the program will be saved at the end of this process in yet another supplemental or continuing resolution. The fact is that precious time is passing by, before this program's current funding ends on September 30. Last year we reauthorized this program as a forward-funded activity. This supplemental provides that forward funding through June 30, 1983. The President's veto eliminates those funds. We should not allow this program to be bandied about like a political football—54,200 older workers' jobs are at stake; and the hours of dedicated service they provide to our communities and schools are being jeopardized. It should be remembered that the President's budget submission for fiscal

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year 1983 eliminates community service employment for older Americans as a separate program.

I would also like to share with you the petitions that I have received from senior citizens living in California who are affected directly by the action we take today. So far I have received 15,000 signatures from individual senior citizens throughout the State. I am sure that other Members have received similar petitions and correspondence from senior citizens of their district and thoughout the United States.

I urge every Member of this Chamber to look closely at the human impact of the President's veto and support our efforts to override it today.●

● Mr. WYDEN. Mr. Speaker, I rise today to urge my colleagues to override the President's veto.

The issue before us is not one of cold cash—it is a question of priorities, of choices, of how we want to allocate our resources.

The President cannot really be upset about how much we spent—we spent less than he requested. The President is upset about where we spent it.

The President would rather spend for foreign aid, than for elderly employment, student loans, and education for the handicapped.

The President would rather spend for exotic weaponry that does not work very well and would not give us any more security if it did, than for advances to State unemployment funds.

So we have got a choice today. We can either help this country get back on her feet, or we can continue to pay for waste.

I do not believe that there is any question about what we should do. In the name of fairness and credibility, we should vote to override the veto.●

● Mr. BONIOR of Michigan. Mr. Speaker, the fiscal year 1982 supplemental appropriation, H.R. 6863, is some $2 billion below the administration's request. It is over $3 billion below the budget ceiling established in the present fiscal year 1982 budget.

This bill does not rob from defense to fund social programs. After massive increases, it slices $2 billion, including $700 million the administration's own Secretary of Defense had marked for cuts.

This bill does not bust the budget or sap vital defense spending. This veto cannot be justified by economic policy and the need to control Federal spending. It cannot be wrapped in the flag and justified by reason of national defense.

Mr. Speaker, the bird is out of the bush. We can see it for what it is. This veto reflects one policy and only one policy—a determined distaste for any program that dares put the Federal Government to work in service of a better society. Listen to the litany:

This is the veto of an administration opposed to older Americans earning dignity through community service. This is the veto of an administration opposed to education for handicapped children. This is the veto of an administration opposed to helping beleaguered families finance the spiraling costs of higher education.

Having overseen the worse recession since the Great Depression, this is the veto of an administration opposed to advances to the unemployment trust fund.

Are these programs examples of waste, fraud, and abuse? If so, then let those who support the veto clearly say so. If not, then let us all acknowledge that this veto is not a battle over budget policy but a battle over the nature of our society.

When the young and the old, the struggling middle class and unemployed workers, cannot turn to their Government, then they are truly condemned to a closed society with limited and predefined opportunities. The growing train of administration vetoes forces a direct question. Will this Congress, simply and without hedging complexity, pledge this Government to the service of its people?

I urge my colleagues to override the veto.●

● Mr. GEJDENSON. Mr. Speaker, I rise today to urge my colleagues to join with me in supporting the continuation of the title V senior community service employment program by voting to override the President's veto of the supplemental appropriations bill. Without the funding contained in this bill, many of the 54,000 workers currently employed under title V will find themselves laid off work in October. Not only will this cause hardship for them, but it will also result in the disruption of nutrition programs and other services for older Americans that rely on the labor supplied by title V for their operation.

Title V of the Older Americans Act was reauthorized for fiscal year 1983–85 by the Congress last December. However, because of its funding structure, title V requires the $210 million contained in the supplemental appropriations bill to continue operations. Without this money, the older workers who rely on the income the program provides will find themselves out of work and dependent on SSI, food stamps, medicaid, and other welfare programs for their livelihood.

Unemployment levels for people 55 and older reached the second highest mark ever recorded for older Americans this summer. Never before has a senior employment program been so important. At a time when the threat of poverty faces many of our country's senior citizens, title V provides a dignified and productive alternative for the low-income elderly.

Once again, let me encourage each and every one of you to think seriously of the implications of your vote for the elderly workers in your district. I know that, like me, you have heard from hundreds of concerned citizens as to the importance and value of this program. I urge you to cast your vote for title V and vote to override the President's veto.●

● Mr. CROCKETT. Mr. Speaker, we are faced today with yet another example of President Reagan's callous disregard for the needs of American citizens, as he plays politics with the funding of Federal programs for the next few weeks and puts thousands of Federal workers in suspense about their jobs.

Mr. Reagan calls this supplemental appropriations bill budget-busting—but it is well below the spending bill he sent us. What it does cut is spending on military programs and Pentagon boondoggles, and it adds funding for older Americans, urban mass transportation, student funding, handicapped assistance, and other programs he seems hellbent on eliminating from the Federal Government.

This political game Mr. Reagan is playing with the lives of our constituents must be ended. I urge my colleagues to vote with me in overriding this outrageous veto.●

● Ms. FERRARO. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 6863, the Supplemental Appropriations Act of 1982, and I ask unanimous consent to revise and extend my remarks.

I will vote to override the veto because I think this bill meets the needs of the American people in a fiscally and economically responsible way.

The President, in his veto message, labeled this bill a budget-buster. But the label will not stick.

Rather than busting the budget, the bill is actually $1.1 billion under the budget ceiling. The President's charge is particularly weak in view of the fact that the bill spends $1.5 billion less than he wanted to spend.

This bill contains funding for several programs that are strongly supported by the American people and that have proved successful in making ours a better society.

It includes $211 million for the title V senior community service employment program, which employs 54,200 older Americans who provide services to hundreds of thousands more senior citizens.

The Reagan administration has repeatedly tried to eliminate this program. This House went on record on title V on July 20, when we voted 407 to 4 for a resolution which I cosponsored which reaffirmed our support for continued title V funding. That vote will be a hollow gesture if we do not vote today to override this veto.

The bill also contains some $400 million for education programs. Included in that total are $148 million for education aid for disadvantaged children and $26.5 million for education of handicapped children.

The funds also include $217 million for college student assistance. The American Council on Education estimates that without these funds, 1 million students will have their aid reduced, and 128,000 will lose their aid completely. My own State of New York will lose $54 million overall in education funds, and thousands of elementary, secondary, and postsecondary students will be denied opportunity.

In addition to the title V jobs and the education programs, the bill also includes funds for mental health programs, alcohol and drug abuse research, unemployment compensation, and mass transit aid. All of these programs have been cut severely in the past 2 years, and the small increases in this bill do not fully restore funding to previous levels. But they will help Americans cope during this recession.

The President has attempted to justify his veto on the ground that he is trying to save taxpayers dollars. But this bill spends less than the President requested, and the veto raises the spectre of another Government shutdown, such as occurred last November. At that time, when President Reagan vetoed the continuing resolution, the cost of the resulting 1-day shutdown of the Government was over $80 million. By overriding this veto, we can avoid having that happen again, and thereby spare Federal employees the uncertainty of indefinite job loss while we save money and keep Government services flowing.

As I have stated, this bill is not a budget buster. I urge my colleagues to stand by the senior citizens, students, and handicapped children who need the help provided in this bill, and vote to override the President's veto.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of this effort to override the President's veto of the supplemental appropriations bill.

I voted for this bill when it first passed, and I intend to continue my support for the important programs funded by this legislation.

The supplemental appropriations provides approximately $210 million to fund community service jobs for older Americans, $217 million to help economically disadvantaged students, and $148 million for education of handicapped children.

There are few programs more deserving of our full support than these important efforts to provide assistance to older Americans, handicapped children, and low-income students.

I would ask my colleagues: What more important obligations do we have than providing job opportunities for older Americans, and the human dignity associated with productive employment? What greater investment in the future of this Nation can we make than providing educational opportunities for low-income students so that they might lift themselves out of the viscious cycle of poverty? And what more compassionate and worthwhile help can we extend to handicapped children than insuring they get an appropriate education in the same public schools we provide for all children.

As for the administration's desire to shift funds from these programs into the Department of Defense; I believe we have already increased the Pentagon's budget enough this year. We also just passed legislation that provides for substantial increases in defense spending for fiscal year 1983. With this in mind, I believe that we simply do not have to pour millions more into the Pentagon in the 21-odd days left in the current fiscal year.

This measure will not seriously add to the Federal budget deficit. In fact, the bottom line figure in the bill is over $1 billion below the total of the President's original supplemental request. What this bill comes down to is simply a matter of priorities, and as far as I am concerned, senior Americans, handicapped children, and low-income students deserve our support. I urge my colleagues to join me in overriding the President's veto.●

● Mr. WORTLEY. Mr. Speaker, I am gravely disappointed that the President chose to veto the supplemental appropriations bill for fiscal year 1982.

Many of us were elected by voters who were sick and tired of the same old policies of tax and spend. That message was made abundantly clear in 1980. I believe that this Congress has taken that message seriously and we have carried out their wishes by drastically cutting back on Federal spending.

Therefore, the President's logic eludes me. In its present form, the supplemental appropriations bill is almost $2 billion less than the President's request. It is also well within the ceiling prescribed under the budget resolution. Given that, it is difficult to fathom how this bill can be a budget buster.

The President wants to remove most of the funds for domestic social programs and substitute an additional $2 billion for the defense function. An additional $2 billion, whether spent on domestic or defense programs, is still $2 billion. One cannot bust the budget while the other does not.

Even Secretary Weinberger admitted to the Senate Armed Services Committee that the Defense Department could operate very well without additional funds requested by the President. Total funds allocated for the defense function represent a 19-percent increase over fiscal year 1981 levels, giving the President 99 percent of his defense budget request.

Congress reauthorized the Older Americans Act last year. Included in that bill was the promise that money would be available for title V senior citizen employment programs. Again on July 20, the House overwhelmingly restated its support for title V. The Senate did the same. More than 54,000 low-income elderly across the country need and depend on this program. Title V workers are worried now for good reason. Unless this bill passes, current participants will receive termination notices. With unemployment of those over 55 at record high levels, this is hardly the time to terminate the program.

If the veto hurts the old, it also hurts the young: $148 million for compensatory education for the disadvantaged is sorely needed by local school districts; $217 million is included in this bill for student financial assistance. The academic year has begun and students are counting on this aid. Are we to pull the rug from underneath them now? I think not.

The responsible position for Members of this body is to override the President's veto. In so doing, we will demonstrate fiscal prudence and our commitment to those who sent us to Washington to set our national priorities.●

● Mr. FRENZEL. Mr. Speaker, this urgent supplemental appropriations bill, H.R. 6863, is the successor to two previous vetoed supplementals. In each of those cases, the President made his objections to overspending very clear.

He has made his objections clear on this bill, too. Nevertheless, each time, including this one, the Appropriations Committees of both Houses have been unwilling to accept even modest reductions in their favorite spending programs. Now that each House has satisfied all of its pet spending urges, domestic spending in this bill is nearly $1 billion over the President's requests made 6 months ago.

This vote is no test of congressional authority. Rather, it is a test of congressional willingness, or unwillingness, to work with the President to hold down deficits. It will take only one-third of us to pass that test today.

There has been a lot of talk about the specifics of the bill. It is said that the President wants to increase money for defense and foreign aid. I do not. My suppport of the veto is based on the need to reduce spending, not to increase it. Support of the veto need not increase defense spending.

There has been talk of reductions in student assistance programs and in senior citizen employment programs. Those need not be reduced in a new bill if the veto is sustained. There is plenty of room for cuts in other areas,

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like housing assistance, CETA, transportation, and others. Nobody expects us to save the full $1 billion, but we can surely carve out a couple of hundred million without inconvenience. Some of our taxpayers probably still believe that $200 million is worth saving.

Yes, we need to pay our essential Federal employees, and in addition to student assistance and senior employment, we need the funding for the Caribbean Basin Initiative which is necessary for our national security.

But we do not need the mandatory floor on Energy Department employees provided in this bill. We are trying to phase out some of that Department's activities. And we surely do not need the Tug Fork, W. Va., porkbarrel item which will ultimately cost $1 billion.

Finally, we will have a hard time convincing our constituents that an urgent supplemental request for funds made 6 months ago, is needed in its entirety when there are only 3 weeks left in the fiscal year. That is pretty hard for anyone to swallow.

We can redeem ourselves by sustaining this veto. We can prove our resolve to manage the fiscal problem. We can help reduce deficits and lower interest rates.

We have to set aside the old spending habits, the back scratching, the porkbarrel, and the logrolling. But it has to be done.●

● Mr. GEPHARDT. Mr Speaker, this bill is not the budget-buster the President claims. In fact, it provides for spending $1.3 billion less than the President had proposed. The bill also assures compliance with the budget resolution. While the administration's supplemental budget request called for breaching the overall spending ceiling established by the resolution by $250 million, the appropriations measure the President has vetoed holds spending $1.1 billion below that level.

The veto message further implies that the President objects to the priorities reflected in this bill. He attacks the $918 million provided for domestic programs while decrying a $2 billion reduction in military spending.

This argument is specious. The Pentagon does not want the additional appropriation and claims it cannot spend the money before the end of the fiscal year. In fact, Defense Secretary Weinberger urged the President to sign the bill.

In short, I cannot see any justification for this veto. The supplemental appropriation is a remarkably modest measure providing only the minimum amount of money needed to keep the Government running smoothly through the end of the fiscal year. It does not bust the budget, but rather it represents responsible budget policy. I will, therefore, vote in favor of overriding the President's veto.●

● Mr. BROWN of California. Mr. Speaker, funding for title V, senior community service employment program, the Federal community jobs program for low-income elderly, continues its struggle for survival in spite of the repeated efforts by the administration to eliminate it.

On July 20, I voted with 406 of my colleagues to pass House Concurrent Resolution 278. This resolution expresses the sense of the House that the title V, senior community service employment program must be fully funded. A similar resolution also passed the Senate by a vote of 89 to 6.

The senior community service employment program employs 54,000 low-income elderly workers. In my own congressional district, I am personally aware of the great value of this program to the community and its participants. If for no other reason than this program, I urge my colleagues to vote to override the President's veto. If we do not, the senior community service employment program, including Green Thumb and Senior Aides, will lose their jobs before the end of this month. This productive program should not be eliminated.●

● Mr. ERTEL. Mr. Speaker, I rise to urge my colleagues to override President Reagan's veto of the supplemental appropriations bill. President Reagan is misleading the American people when he claims he vetoed the supplemental funding bill because it would "bust the budget."

The President is not moving the Nation toward a balanced Federal budget. His own supplemental funding request would add $1.3 billion more to the deficit than this supplemental funding bill. The President objects to $918 million Congress added to domestic programs. But he is requesting that over $2 billion be added to a defense budget which is already bloated with unnecessary spending.

When Mr. Reagan accuses Congress of "sliding back into old spendthrift habits," he really means that the appropriations in this bill do not coincide with his own priorities. Mr. Reagan voted a bill that would keep in operation a program employing over 54,000 low-income older Americans in community service jobs. The President derided Congress for adding such unwarranted expenditures as funding for State administration of the unemployment compensation program. The President also described as "wasteful and unnecessary" increases in funds for handicapped and disadvantaged schoolchildren, financial assistance to college students, preventive health services, abandoned mine reclamation, highways and urban mass transportation.

Mr. Speaker, increased funding for these programs is not "unwarranted." It is now, when our country is in the depths of recession, when 1 in 9 Americans is unemployed, and 1.5 million are to discouraged even to look for work, that we need to sustain our investment in education and jobs and infrastructure.●

● Mr. GRAY. Mr. Speaker, I rise in support of the override measure before us, and wish to direct the attention of my colleagues to the inclusion in this bill of long-overdue funds for title V of the Older Americans Act, the senior community service employment program.

Mr. Speaker, the veto of this measure creates a particular crisis for the low-income senior citizens entering and reentering the work force through title V. They have already received termination slips and will be laid off by the end of this month if we fail to act today.

Mr. Speaker, this bill, which is $3.2 billion less than the budget resolution we approved, and $1.5 billion less than the administration's version of this bill, provides funds necessary to prevent title V from ending this month. Anxious title V workers, pink slips in hand, are distraught at the thought of losing their jobs, opportunities for training and private employment, and being forced back onto medicaid, food stamps, SSI, and Federal and State welfare roles. And, Mr. Speaker, I cannot think of any political strategy, of any party, which includes throwing people out of work and placing them on welfare.

Title V is a paradigm of efficiency. It has been shown to return to all levels of government $1,039 per worker in tax revenues, FICA contributions of over $1.5 million per year, and services which, if we had to hire regular part-time workers to do them, would cost us nearly double in salaries alone.

Mr. Speaker, my colleagues tell me they see the logic of continuing this program which, with its 16-percent rate of profit, is now a better investment than money market funds. But they say we can put title V dollars in yet another appropriations bill.

The time has come to face up to our responsibilities. We have a myriad of other matters, including appropriations bills for fiscal year 1983, awaiting our attention. Yet we face a bill which is under budget and less than the administration's request, and again we hear mutters of "next time, next time."

This is the third time this vital appropriation has been before us, and each time we have been pressured into bouncing it back and forth between this Congress and the administration. Starting September 17, title V workers are going to be out of jobs and back on welfare, and programs will begin to spend funds to close doors a majority of Members say they intend to reopen, that is wasteful—in financial and human terms.

Mr. Speaker, this supplemental appropriations bill has become urgent, our other duties have become increasingly pressing, and the time to stop playing ping-pong with every spending measure coming before this body has arrived. I urge my colleagues to take David Stockman and the President behind the woodshed by overriding this veto.●

● Mr. WOLF. Mr. Speaker, I want to express my concern over the veto of the general supplemental appropriations bill, H.R. 6863. At the outset, I would like to point out that this measure is $1.5 billion below the President's request.

I have been a supporter of this administration's efforts to achieve economic recovery and I will continue to do so. I support a policy of strong national defense and have consistently supported the President in the past on spending measures for the Department of Defense, including funding for foreign aid support for the Caribbean Basin which is contained in this appropriations bill. In a period of budget austerity, I do not believe, however, that we can afford to support increased defense spending at the expense of all else.

I firmly believe H.R. 6863 provided fair and adequate funding to maintain a strong defense posture, while it also recognized the importance of necessary domestic programs. I supported the original passage of H.R. 6863 because I believe it established a crucial balance in national spending priorities, while maintaining a level of funding that was $1.5 billion less than the President's request.

I agree with many of the points and programs supported by the President in the veto message, however, the President objected to several programs which I support. Of particular concern to me is the administration's request to reduce the $210.6 million funding for the senior community service employment program—a program where senior citizens assist other elderly individuals through community service. In Virginia, this translates into the loss of funding for jobs for 593 senior citizens. This figure does not even reflect, however, the scores of elderly residents who will lose the benefits offered by this community service.

I also have reservations regarding this proposal to reduce funding for education assistance. Universities nationwide are suffering due to the lack of commitment by the Congress to fund authorized student loan programs. I support these loan programs as a means of allowing young people the opportunity to attend college. I disagree with the administration's opposition to $148.8 million for educational programs designed to assist the disadvantaged, or objections to the $46.5 million appropriated for education for the handicapped.

I also disagree with the administration's position denying $39 million for the U.S. Postal Service. This will directly impact second-class mailers such as small daily and weekly newspapers and their abilities to continue to publish and distribute.

H.R. 6863 also included $112.5 million for Federal highways, $37 million for urban mass transportation, $10 million for alcohol, drug abuse, and mental health programs and $11.5 million in childhood immunization and other health programs—all of which I support.

Moreover, I feel strongly that an important factor was overlooked when the President decided to reject this bill. Some 200,000 Americans working for the Federal Government will face furloughs as a result of the President's veto if funds are not appropriated by September 15. These individuals were not targetted by the veto; however, they will be victims of furloughs without pay if these funds are not appropriated. This action poses unnecessary hardship for these employees and their families which is completely unjustified.

I believe we have the responsibility to legislate fairly and take actions to prevent the disruption of Government services and programs on which American citizens depend. I submit that we cannot afford this veto and urge the President's action on H.R. 6863 be overturned.●

● Mr. OBERSTAR. Mr. Speaker, in August, I joined with a majority of my Democratic colleagues in voting to pass the Tax Equity Act of 1982 which President Reagan had so strongly supported. Enactment of that legislation required a level of bipartisanship which has been rarely present in this body during the past 2 years.

It required Members on this side of the aisle to put aside partisan concerns and questions of political advantage, and respond, instead, to the overwhelming national interest in reduction of the Federal deficit.

Today, my colleagues on the other side of the aisle are faced with a similar decision. They must put aside political considerations and recognize that the national interest requires that the veto be overridden. To vote to override the veto of a President of one's own party is a courageous act, particularly the veto of an appropriations bill which the President has made yet another symbol of his economic policies. It is an inappropriate symbol, and the Congress cannot allow it to stand in the way of the operations of the Government or the essential services upon which millions of people depend. We must pass this appropriations bill.

The President has called this bill a budget buster. It is, in fact, $1.9 billion below the request made by the President. The Senate, controlled by the President's own party, passed this bill by voice vote. The House passed it 348–67.

The President's objections are not very convincing. The bill does not give him the further increases in defense spending he sought. The defense budget is already increasing at record levels, at a time when spending on domestic programs is being slashed.

The current rate of military spending puts us on course, almost unavoidably, toward a $1.7 trillion military budget over the next 4 years. At that rate, there would not be much room in the budget for spending on any other sector of human and social needs—a dangerous and very unwise policy.

The President finds it objectionable that Congress has voted to appropriate: $211 million for jobs for older Americans; $217 million for student financial assistance; $26.5 million for handicapped education; and $20 million for advances to the unemployment trust fund.

The administration, stung by public reaction against the President's veto of funding for the community services employment for the elderly program is now attempting, clumsily to cover up that blunder by saying that it affects only the "forward funding" of this program. I have checked this matter out thoroughly and want senior citizens to know, particularly those in my district who have been outraged by this veto, that killing the foward funding means killing the older Americans jobs program altogether.

That means that if the veto is not overridden, funds for community services employment for the elderly will be cut off and the program will end on September 30—there is no second chance.

I think it is also important for the public to understand the facts about this supplemental appropriations bill. The President asked Congress for $16 billion in supplemental appropriations a few weeks ago. The Congress cut $1.9 billion from that request. We did not exceed his budget; we reduced it. It is the President's prerogative to proposes levels of spending for Government programs; it is the responsibility of Congress to determine which programs shall receive the funds and how much shall be spent on them. We made that determination and we did so responsibly, within the budget limitations, and below the level of the President's request.

I think it is also important for people to understand that money saved by cuts in spending for the programs I mentioned earlier are not being applied to reduction of the deficit. Not at all—they will just be spent in some other area of the budget. And in the case of this supplemental appropriation, it means taking from the elderly, students, the handicapped, and the jobless and increasing military spending. That is the wrong course; those are the wrong programs to cut, particularly in a year in which we have already increased military spending more than 18 percent above last year.

I urge this House to join me in overriding the President's veto. I particularly urge my colleagues across the aisle to stick to your convictions of scarcely 2 weeks ago and vote to restore funding for these programs that so urgently need your support.●

● Mr. ROEMER. Mr. Speaker, I voted against passage of this same supplemental appropriation bill some 4 weeks ago, because it was over budget in a number of key areas and, I thought, contained excessive funds for foreign aid and for the sale of military weapons to foreign countries on easy credit.

In the past 4 weeks neither my feelings about this bill nor the excessive spending in this bill has changed. Therefore, I applaud the President's veto and will vote to sustain.

There is some necessary and on-budget spending in the bill that should be supported when the revised supplemental bill returns to the House. Of particular interest to me is adequate funding for title V. This program is working and ought to be supported by Congress and the President. The same is true of handicapped education.

Frankly, I was tempted to change my position to override the President's veto when I heard the President's stated reason for the veto. He said that the bill cut military spending too much. He is wrong on that issue in my opinion. The $2 billion in military savings is but a fraction of the military waste that can and should be cut.

In effect, the President did the right thing when he vetoed the bill, but for the wrong reasons. It was excessive foreign aid that he should have attacked, not a reduction in the amount of military waste.

I was pleased to hear from the White House staff today that the President would not attempt to add money back to the bill for military spending and would support title V funding.

For all these reasons I have decided to vote to sustain the veto.●

● Mr. MARKS. Mr. Speaker, the President's veto of the supplemental is a political and substantive mistake. The political error is in going back on his word to approve the supplemental if he received support for the revenue reform bill we passed before this recent recess. The support he has lost in the Congress by doing so will come back to haunt him as he continues to seek assistance in passage of his own spending priorities—such as the Caribbean Initiative, defense appropriations, and future spending cuts and revenue reform measures.

Mr. Speaker, compounding this political misjudgment is the seeking of an unnecessary confrontation with the Congress—attempting to force administration spending priorities, to the last penny, on a Congress which clearly has differing views on how much various functions and programs will receive within current budget constraints.

The substantive error represented by this veto is also two part. First, the President is not being honest with the American people when he calls this supplemental a budget buster. The totals in the bill are about $2 billion less than the President requested. This bill provides about about $8 billion less in budget authority and about $1.2 billion less in outlays than requested. This supplemental is fiscally responsible and represents our collective best judgment of how these Federal dollars should be spent. Allocating Federal funds is a congressional prerogative and constitutional duty of the first magnitude. A President should veto appropriations so strongly supported by a Congress only on the most serious grounds, not on the spurious reasoning and dubious political maneuvering this veto represents.

The second part of this substantive error is the President's obduracy in expecting a Congress to turn its back even further on the handicapped, the needy, the elderly, and students who will not attend college without this legislation.

The $148 million for education of the handicapped is needed. The $217 million for college student aid is needed. The $210 million for employment opportunities for the elderly is needed. All of these needs are far more vital than rushing advance procurement of next year's generation of weaponry into this year's supplemental. Incidentally, for Congress to do this would set a very bad fiscal precedent and I trust, if the veto is sustained, Congress will continue to refuse such advance funding as we negotiate with the administration on the next slimmer version of the supplemental.

Mr. Speaker, in closing, let me address a few remarks to a program which this administration seems determined to kill—and that is employment funding for the elderly under title V. As ranking minority member of the Health and Long-Term Care Subcommittee of the Committee on Aging, I feel very strongly about the vital necessity of preserving this valuable program.

By vetoing the supplemental the President plans to eliminate about 54,000 more jobs in the U.S. economy—and this will be done directly—the responsibility for this added unemployment cannot be placed at the door of economic bad times. These jobs and all they represent in self-respect, dignity, home care for the less ambulatory elderly, and cost-effective return in services for every Federal dollar spent must be preserved. These jobs will have been eliminated by Presidential veto.

In my own State of Pennsylvania over 2,200 jobs will be eliminated for the elderly. These senior aides are vital for the alternatives to institutionalization. They work as homemakers, home health aides. They assist in delivering meals to the bed or home ridden. They perform weatherization services and maintenance and cleaning chores in homes and at nutrition sites and senior centers.

A recent report indicates that by providing these services the Government actually benefits by hiring senior aides. For each dollar spent, aides return $1.31 in services, taxes, and so forth. These programs are clearly cost-effective—vastly more so than unguided missiles which recently attacked Danish resort areas. The value of the feeling the elderly get from giving of themselves has no dollar measurement—except that an active and involved senior citizen is far less likely to need expensive Government medical, psychological, and income supplement services.

This veto is a terrible mistake and I urge my colleagues to vote to override. Should the veto be sustained, I trust my colleagues will fashion and support a supplemental which contains no additional funds for defense and funds title V at the full level.●

● Mr. MOFFETT. Mr. Speaker, I strongly urge quick action to override the President's veto of the supplemental appropriations bill, which contains funding for a wide range of programs vital to our citizens. These programs are in vital need of funding; many will shut down unless the veto is overridden. Already, we have seen that 19,000 IRS employees were threatened with imminent furloughs until an emergency, temporary transfer of funds was made. But this transfer is valid until only 5 days from today.

Some of the major programs included in the bill are:

Unemployment compensation: It provides for both extended unemployment benefits authorized in the recently enacted tax bill, and $20 million for program administration costs, at the State level. Extended benefits are essential for millions of American workers who were cut off from such benefits by the 1981 Reagan budget bill, which changed trigger formulas for such benefits. My own State lost eligibility for such benefits, and will get back 6 weeks worth, if this veto is overridden.

Education: $148 million is appropriated for education for disadvantaged children.

Higher education: $217 million is appropriated for college students, of which $140 million is for Pell grants, and $77 million for supplemental education opportunity grants.

Jobs for older Amercians: $211 million is appropriated for the senior community service employment program, which will have to shut down if funding is cut off. Yesterday, in Connecticut, I was told that pink slips are already being delivered to the 600 elders employed by this program. Nationwide, 54,000 senior citizens are currently participating in this meaningful, community-based service program.

Health: $122 million is appropriated to the States for the medicaid program.

Child disease immunization: $6 million is included for this program, of which $1.5 million is for tuberculosis vaccinations which should be given at the start of the school year.

Transportation: $30 million is appropriated for the Federal Railroad Administration; $37 million for the Urban Mass Transportation Administration and $133 million for interstate highways.

Handicapped education: $26.5 million is appropriated to help education programs for handicapped citizens.

I want to take a minute to make particular notice of two programs contained in the supplemental bill which are of grave concern and importance to my home State of Connecticut. First, the title V senior community service employment program employs over 600 elders living in Connecticut. While I was home over the congressional work period, I was taken aside by countless seniors who urged my continued support for title V. These seniors were both title V employees and those who they serve in the community. It was not only the elderly who spoke to me about the importance of the program; persons of all ages working in their communities, in schools, in nutrition centers, they all benefit from title V services and cannot understand the President's opposition to senior community service employment. Frankly, I do not understand it either. One would think that he would have more compassion for his peers.

If it is not the elderly who are being victimized by the President's fiscal policies, it is our Nation's children. Only yesterday, I cochaired a forum in Connecticut on the effects of the New Federalism on the children in my State. George Springer, the president of the Connecticut State Federation of Teachers, testified on cutbacks in public education support. Mr. Springer drew attention to the funding for title I, compensatory education for disadvantaged children, contained in the supplemental bill. The $148 million for title I represents the amount necessary to overcome the potential loss of funds based on either 1970 or 1980 census data. Mr. Springer noted that the children of Connecticut stand to lose $3 million in title I funds if the veto of the supplemental bill is not overridden. 4,100 disadvantaged children would lose services and over 200 staff positions would be terminated.

I wonder how the President would explain his supposed profamily stance to the 4,100 title I children and their parents in Connecticut?

In addition to these vital social programs, the bill contains funding for many Government agencies, including the Internal Revenue Service. This is particularly ironic, since the Congress just recently enacted the largest peacetime tax increase in our history, at the urging of the President, to help close the record deficits generated by the President's budgets for the next 3 fiscal years. The centerpiece of this proposal is renewed emphasis on taxpayer compliance, based on the theory that Americans who actually owe taxes should not be permitted to avoid their liability. Because IRS salaries are included in this bill, IRS employees will be furloughed again next week, unless the veto is overriden. Our efforts to increase taxpayer compliance will falter, as thousands of work hours are lost in an utterly pointless charade created by the President. Further, the furloughed employees and their families, along with the Americans who benefits from the social programs funded in the bill, should not be asked to suffer because the President seeks publicity in a showdown with Congress.

The sums involved may not seem large in terms of our $750 billion Federal budget, but they are critical to the success of the programs involved and the future of individuals who are relying on them for assistance. We must not play political games at this time when so much is riding on the ability of Congress to meet the economic challenges before us.

It is important to remember that the President did not veto this bill because the total spending in it is too high. Indeed, the amount appropriated is $1.9 billion less in outlays and $1.5 billion less in budget authority than the administration requested. The President vetoed this bill because he did not like the choices we made—he believes we chose to spend too much on social programs and too little on defense. I find it just slightly incredible that the President objects to $1.5 million for tuberculosis vaccinations at a time when we are already spending $200 billion on the Pentagon.

I believe that the House was correct in passing the conference report on this bill and funding the social programs that the President wants to cut. A massive bipartisan majority voted for this bill—by a margin of 348 to 67. Clearly, the House believes that we should not trade our children's health and education, jobs and medicaid assistance, transportation improvements, or aid to unemployed workers for unnecessary increases in defense programs. I hope that the 348 Members of the House who originally supported this bill will join me in voting to override the President's veto of this critical legislation.●

● Mr. DYSON. Mr. Speaker, I rise in support of H.R. 6863, the supplemental appropriations for the balance of this fiscal year.

Mr. Speaker, it strains credulity when one considers the administration's rationale for opposition to this important piece of legislation. The President's contention that the $14.2 billion supplemental appropriations measure "would bust the budget by nearly a billion dollars" is inaccurate.

According to the Congressional Budget Office H.R. 6863 is $3.2 billion less in budget authority than the budget ceiling established in the revised fiscal year 1982 budget resolution, and $1.1 billion less than the ceiling in outlays.

Thus, rather than exceeding the budget by nearly a billion dollars, the bill is more than a billion below the ceiling established by the fiscal year 1982 budget resolution which this House adopted at the urging of President Reagan.

Moreover, while the bill passed by the Congress does not bust the budget, the measure requested by the administration would. According to the latest budget estimates by the CBO, the President's request would exceed the budget outlay ceiling contained in the fiscal year 1982 budget resolution by more than $250 million.

Finally, the facts also refute the President's contention that the bill would "undermine the confidence crucial to continue the reductions in deficits and interest rates." "H.R. 6863 is $1.5 billion less than the President's request in budget authority and $1.3 billion less than the request in outlays.

Therefore, the President's request, not the bill passed by the Congress, would be more likely to undermine confidence. It's request for $1.3 billion more in outlays would increase the deficit by that much more.

What the President has also objected to is that the Congress has set its own priorities and did not reflect his supplemental request on a program by program basis. I believe that the decision made by this House to modestly correct come of the problems inadvertently created by the cutbacks being made in domestic programs—older workers programs, compensatory education for the disadvantaged, student financial aid, among others—is the

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right decision. The House confirmed this position when it voted 348 to 67 on August 18 to pass the conference agreement to this bill.

Specifically, the bill before us today includes funding for the senior community service employment program, which employs approximately 54,200 low-income elderly. This cost effective and valuable program faces being shut down unless the $211 million contained in this bill is quickly approved. The bill includes funding for school districts which have had increases in the number of disadvantaged students who qualify for special aid. If this funding is not made available soon, school districts throughout the country will be unable to pay for this program. The bill also includes necessary funding for handicapped education programs and student financial assistance which has been cut very sharply in the past. Finally, it includes the new Federal supplemental extended unemployment benefits which were authorized in the tax and entitlement reconciliation bill passed last month. While money to pay benefits may be temporarily borrowed from the UI trust fund, the $20 million for staff to receive and process the claims will be lost, resulting insufficient administrative capacity for the program.

This is not a budget busting bill by any stretch of the imagination; and the priorities which are established in this legislation simply reflect a continuation of the highest national priorities this Congress and the American people have clearly mandated. I urge all of you to support this important commitment and vote to override the President's veto.●

● Mr. BIAGGI. Mr. Speaker, I rise to urge my colleagues to join with me in rejecting President Reagan's veto of this supplemental funding bill, H.R. 6863. The reasons why we should do this are numerous and compelling.

First and foremost, contained in this bill is funding for the title V senior community service employment program. If this program does not receive additional funding—$211 million contained in this bill, the program will terminate the end of this month and all 54,200 older workers currently employed will be fired.

As one of the original sponsors of the Older Americans Act amendments of last year which extended this program through 1985, I know firsthand the value and the merits of this program. I also feel that I do not need to reiterate its merits to my colleagues here as I am confident that title V workers have made themselves known in their communities and known to their representatives. Thousands of these workers, fearful that they will lose the very jobs which allow them to maintain a modest degree of self-sufficiency, are letting their voices be heard—and heard in a big way. We have heard how these workers provide nutritions services, home health services, and a variety of other support services to their elderly peers. We have heard how they assist in senior centers, in libraries, in hospitals, and in homes. We know that if we lose this vote, these 54,200 low-income elderly workers will be forced into public welfare rolls into lives of dependency and never-ending poverty.

It is essential to provide for funding of this program now in order to continue it to the end of its program year, June 1983. The authorizing legislation, signed by President Reagan last year, provides for forward funding of this program in order to allow for planning on the part of sponsors and participants. Any attempt to include funding for this program in a 1983 funding bill will be a clear violation of the statute and would result in a 9-month delay of the program until July 1983. Clearly, such a move would, in all practicality, end the program on September 30 of this month for sponsors would be required to close out programs until they receive funds next year. The problem is now—and funding this program now in a fiscal 1982 appropriations bill is the only way we can assure that this program will continue in an orderly fashion. Mere rhetoric in support of this program on the part of the administration will not assure its funding. Unless Congress appropriates the money now, the words of support will be rendered meaningless to the thousands of elderly now depending on this program.

For the benefit of my colleagues, I also wish to insert into the Record a listing of the kinds of services that are provided by senior workers in the title V program to other seniors. I would point out that nearly half the enrollees are providing direct services to the elderly nationwide. I am also including a listing of funding of this program by State as well as the number of senior workers employed in each State.

In my dual capacity as a member of the Education and Labor Committee and the Select Committee on Aging, my commitment to this program is based upon my personal knowledge of its effectiveness and its importance to older workers. It is the only employment program that we have for older workers. It is also one of our most cost-effective employment programs—returning $4 for every Federal $1 spent. Finally, it is the only employment program for the elderly which allows them to maintain a productive role in their towns and communities instead of being forced to rely on income support programs such as food stamps and SSI.

Congress overwhelmingly adopted House Concurrent Resolution 278 last month expressing its full support for the title V program at current funding levels. This resolution was adopted by a vote of 407 to 4 in the House. It is high time that we back this vote with this vote to override. If not, mere words and expressions of support will not keep these workers on the rolls. Already pink slips have been sent out and already horror stories are surfacing of seniors having heart attacks and other illness related to tension and stress of being fired from their jobs. Clearly we must act and act now in order to avert the true terror which will rise if we fail to provide money for title V.

I also wish to note the importance of the $169 million provided for Pell grants and the $148 million provided for title I funding in this bill. Mr. Speaker, no other social programs have faced the kinds of cuts which our education programs have received. These funds will provide modest relief to students and schools who depend on these programs. The Pell grant program—targeted toward our neediest college students—and the title I program—targeted toward our neediest elementary and secondary students—must be maintained at current services. This appropriation will allow for that continuation.

Recent reports have indicated that as a result of last year's draconian cuts in student aid programs, public colleges are witnessing a dramatic increase in enrollments for this fall. Private institutions are increasingly hard-pressed to provide aid to needy students and Pell grants provide the bulk of aid to this group if we cut this program any further, we risk returning our private colleges and universities into bastions for the rich—which they once were.

Another consequence of our failure to override will be a fiscal crisis of tremendous proportion in the Coast Guard. At issue in dollar terms is some $33 million in essential funds to permit the Coast Guard simply to function at present levels. According to a report in today's New York Post the headline reads "Cash Crisis May Spark Coast Guard Layoffs, 750 Civilians Here Are Facing the Ax." I am a former chairman of the Coast Guard and Navigation Subcommittee of this House and I remain a full-fledged supporter of the outstanding work which the Coast Guard performs on a regular basis for the people of this Nation. It is not fair to subject the uniformed or civilian employees of the Coast Guard to this game of fiscal roulette. I believe the damage which will be done to the Coast Guard if the veto is sustained provides still another reason to vote to override.

I urge my colleagues to vote to override this unfortunate veto and not allow many worthwhile programs to be terminated without cause.

TITLE V AND SERVICES TO THE ELDERLY

If title V of the Older Americans Act were not continued beyond September 30, 1982, States and communities would lose valuable services being provided to the population in general, and to older people in particular. As of the end of the last program year for which data are available (June 1981), just about half, or 27,935 enrollees, were providing services to the elderly nationwide.

The following table shows how many title V enrollees were serving older people in each state, and, among those, how many were working in the extremely important areas of nutrition and of "health and home care."

	Health and home care	Nutrition	Total serving elderly
Alabama	139	142	566
Alaska	16	29	79
American Samoa		3	128
Arizona	32	78	244
Arkansas	153	149	597
California	113	635	2,105
Colorado	17	55	229
Connecticut	73	130	445
Delaware		17	97
District of Columbia	18	32	191
Florida	210	364	1,419
Georgia	80	113	429
Guam			17
Hawaii	15	18	115
Idaho	5	37	117
Illinois	107	189	1,075
Indiana	48	243	780
Iowa	29	118	393
Kansas	6	64	186
Kentucky	32	166	488
Louisiana	162	86	519
Maine	3	12	106
Maryland	165	91	603
Massachusetts	81	146	911
Michigan	106	371	1,003
Minnesota	47	207	560
Mississippi	31	[illegible]	455
Missouri	52	135	565
Montana	8	36	127
Nebraska	4	70	157
Nevada	9	35	87
New Hampshire	2	33	86
New Jersey	62	221	869
New Mexico	10	38	107
New York	173	587	2,208
North Carolina	157	183	786
North Dakota	2	48	139
Ohio	108	362	1,313
Oklahoma	3	110	387
Oregon	10	79	317
Pennsylvania	223	230	1,449
Puerto Rico	47	27	209
Rhode Island	11	37	119
South Carolina	118	90	431
South Dakota	8	34	169
Tennessee	95	151	692
Utah	1	33	97
Vermont	4	21	[illegible]
Virginia	82	123	593
Virgin Islands	38	5	79
Washington	18	[illegible]	284
West Virginia	65	42	352
Wisconsin	45	176	658
Wyoming	5	52	[illegible]
Mariana Island	79	7	101
Texas	83	465	1,518
Total	3,206	7,086	27,935

Source: U.S. Department of Labor, State Summaries, SCSEP, Quarterly Reports, Dec. 9, 1981.

SCSEP FOR 1981-82 PROGRAM YEAR [1]

State	Allocation	Number of participants
Alabama	$5,018,000	982
Alaska	1,160,000	227
Arizona	2,777,000	543
Arkansas	5,178,000	1,013
California	21,788,000	4,263
Colorado	2,575,000	504
Connecticut	3,316,000	648
Delaware	1,160,000	227
District of Columbia	1,589,000	311
Florida	14,422,000	2,822
Georgia	5,788,000	1,133
Guam	555,750	109
Hawaii	1,160,000	227
Idaho	1,274,000	250
Illinois	11,002,000	2,153
Indiana	7,244,000	1,417
Iowa	3,586,000	702
Kansas	2,833,000	554
Kentucky	5,247,000	1,026
Louisiana	4,494,000	879
Maine	1,763,000	345
Maryland	3,773,000	738
Massachusetts	6,893,000	1,347
Michigan	8,867,000	1,735
Minnesota	6,885,000	1,347
Mississippi	3,394,000	664
Missouri	6,993,000	1,368
Montana	1,738,000	340
Nebraska	2,181,000	427
Nevada	1,274,000	250
New Hampshire	1,213,000	237
New Jersey	8,624,000	1,687
New Mexico	1,296,000	254
New York	20,587,000	4,028
North Carolina	6,755,000	1,322
North Dakota	1,665,000	326
Ohio	12,035,000	2,355
Oklahoma	4,252,000	832
Oregon	3,924,000	767
Pennsylvania	15,578,000	3,048
Puerto Rico	2,952,000	578
Rhode Island	1,455,000	285
South Carolina	3,360,000	657
South Dakota	1,950,000	382
Tennessee	5,508,000	1,078
Texas	13,854,000	2,710
Utah	1,702,000	333
Vermont	1,505,000	295
Virginia	5,852,000	1,145
Virgin Islands	555,750	109
Washington	3,722,000	728
West Virginia	3,139,000	614
Wisconsin	7,303,000	1,428
Wyoming	1,274,000	249
American Samoa	555,750	109
Trust Territory	366,750	72
Northern Marianas	189,000	37
Totals	277,100,000	54,216

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[1] Total State-by-State allocations and authorized participant levels.

CALL OF THE HOUSE

Mr. WHITTEN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Rollcall No. 315]

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

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□ 1530

The **SPEAKER** pro tempore. On this rollcall, 396 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. **WHITTEN**. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. Wright), the distinguished majority leader.

Mr. **WRIGHT**. Mr. Speaker, about 3 weeks ago 130 Members of the Republican side voted for this bill.

□ 1540

On that day, August 18, 130 of the Members—70 percent of the Republicans in the House—voted for the students, voted for the elderly, voted for the handicapped, voted for the programs that make money possible to cure childhood diseases through immunization.

In a very few minutes, we are going to find out how many of the Members meant it, how many are serious about it, and how many are going to back their own convictions or how many are going to let the White House lead them around with a ring in their nose like a prize bull at the county fair.

Just about 6 weeks ago, on July 20, 406 Members of this House voted for a resolution, bravely voted for a resolution saying that title V ought to be fully funded—fully, fully funded. The House voted for that last December and the President demanded it be taken out of the supplemental bill. He said it will go into the first supplemental this year. We put it in the first supplemental this year. He took it out again. He said we will put it in the next supplemental. We put it in the next supplemental. He said take it out now, sustain my veto, and we will do it some other time.

The warm smile, the gracious manner, and the cold heart that embraced the leaders of the Congress so warmly in such a high sounding tribute to bipartisanship and unity in the Rose Garden, 1 week later went out of its way to pick an unnecessary fight with the Congress. He did not have to. A phony charge. Every one of us knows that it does not have anything to do with budget busting. Every one of us knows the President asked almost $2 billion more be spent than we appropriated in this bill. So it is a phony charge, as phony as a three dollar bill to say that the Congress is budget busting.

What he wants to do is take money away from the students, take money away from the elderly, take money away from the children and the programs that will immunize them against diphtheria and typhoid and other diseases and give it to the military.

I am for military readiness, but we have increased military strength by 19 percent this year. We have added $36 billion over last year, and we have already cut educational programs by 25 percent. It is a question of priorities and it is a question of whether you meant it when you vetoed your convictions for this bill.

If half of the Members on the Republican side stand by their convictions of 3 weeks ago, we will override the veto, and once again we will demonstrate that a responsible Congress is capable of conducting the public debt.

Mr. **WHITTEN**. Mr. Speaker, I yield 3 minutes to the distinguished Speaker of the House of Representatives, the gentleman from Massachusetts (Mr. O'Neill).

Mr. **O'NEILL**. Mr. Speaker, I rise in support of the motion to override the President's veto. Less than a month ago I joined with the President in support of his tax bill. Partisan differences were set aside. Election considerations were overcome. Democrats and Republicans did, in my opinion, what was best for the Nation. The response from the financial markets of this display of unity was immediate and overwhelming. The stock market gave this country its first good economic news in a long time.

Today I rise in opposition to the President because he has chosen to break that spirit of cooperation over the Congress decision to fund jobs for the elderly, loans for the students, and education for the poor.

This bill is not, as the President claims, a budget buster. It is a billion and a half dollars less than he requested, most of the savings coming out of defense in a fiscal year when we have appropriated nearly 20 percent more for defense than we did last year.

By vetoing this measure, the President wants us to make a choice between weapons and handicapped children. Well, we do not have to accept this. We have made our choices, responsible choices, fair choices and I say let us stick to them.

Most of the Members have seen the television program the last couple of nights on title V and what it does to the older Americans is brutal. One would have to be a glib-tongued, effervescent personality, and have a heart of stone, to be able to vote against the title V program shown on the television the last couple of nights.

I say to the Members, I could outline the whole bill. The majority leader on my side I believe has done an excellent job. I say to the Members on my side, 16 of the Members voted against this bill originally. I believe we are going to perhaps have no more than the same 16.

Over on that side, 130 Republicans saw fit to do what they thought in their heart and their mind and their conscience was the right thing for America, last month, they knew that we had gone too far in the budget cuts previously.

Today, I am asking the Members as a leader in this House to stay with their conscience, to stay with their will, to stay with their high principles, to stay with those who need it the most in this country; and if 50 percent of the Republican Members who voted for this bill will vote to override the President's veto, then it is a victory for America.

Mrs. **FENWICK**. Mr. Speaker, will the gentleman yield?

Mr. **O'NEILL**. I yield to the gentlewoman from New Jersey.

Mrs. **FENWICK**. I thank the gentleman for yielding.

Mr. Speaker, I would like to honor the gentleman from Massachusetts for his words. This is the attitude and these are the thoughts that will certainly move us to a bipartisan motion that we consider in the interests of the people. I think we cannot have, and I was sorry to hear some of the cheers for some of the remarks concerning our President. It is not in that spirit that we will work for the public good.

I thank the Speaker.

Mr. **O'NEILL**. I want to thank the gentlewoman and I want to leave the Members with this: Let us not leave the elderly, the handicapped, the physically disabled behind. This is our opportunity to do a good deed.

The **SPEAKER** pro tempore. The gentleman from Mississippi (Mr. Whitten) has 1½ minutes remaining.

Mr. **WHITTEN**. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I take this time to conclude the debate, by pointing out what in my mind is more significant than anything that has been said heretofore.

The President asked for some $16 billion in appropriations, about 84 percent of which is required by law. We cut $1.9 billion. It cannot be said that we are exceeding the budget.

The President in his veto message points out that we cut the military. Now he says that they do not want that restored. So it comes back to whether we are going to stand up for our rights and meet the obligations that we have as Members of the legislative body, because this bill is not a budget buster; it is below the budget.

Throughout the year, I have had letters from the Office of Management and Budget demanding the right to control funding of items which are in the hands of the people's branch of the Congress. As I look at the veto message, listen to this:

> The bill also unnecessarily restricts the executive branch from exercising its author-

ity to allocate funds appropriated by the Congress.

We must fight to keep the rights of the people located in the House of Representatives, the people's branch of the Government. I do not believe any man in history has supported a President in his requests any more than I have.

May I say that I myself do not support everything in this bill. There are a number of items different from what I might prefer. I opposed the Caribbean Basin additions and I shall vote against legislation to be recommended. But when it comes to sacrificing to the executive branch, or through the President, to his Office of Management and Budget, the right to determine specific items to be funded, I must say no.

Again the President is within his rights under the Constitution to say how much; but it is up to the Congress to say what for.

I urge you to vote to override this veto, which provides much-needed funds while staying within the budget, and protecting our rights as legislators.

Thank you.

□ 1550

PARLIAMENTARY INQUIRY

Mr. CONTE. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CONTE. Mr. Speaker, is a yes vote a vote to override?

The SPEAKER pro tempore. A yes vote is a vote to pass the bill.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 301, nays 117, not voting 15, as follows:

[Roll No. 316]

YEAS—301

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, John
Burton, Phillip
Byron
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Coughlin
Coyne, James
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daschle
Davis
de la Garza
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Hance
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marks
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Morrison
Mottl
Murphy
Murtha
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
O'Neill
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Sabo
Santini
Savage
Scheuer
Schneider
Schulze
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Simon
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
St Germain
Stangeland
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauke
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
White
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—117

Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Benedict
Bennett
Bethune
Bliley
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Campbell
Carman
Carney
Cheney
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daub
Deckard
Derwinski
Dickinson
Dornan
Dreier
Edwards (OK)
Fiedler
Fields
Forsythe
Frenzel
Gingrich
Goldwater
Gradison
Gramm
Gregg
Grisham
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hubbard
Hunter
Hyde
Ireland
Jeffries
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
McClory
McCloskey
McDonald
McEwen
Michel
Miller (OH)
Montgomery
Moore
Moorhead
Myers
Napier
Oxley
Pashayan
Patman
Paul
Quillen
Ritter
Roberts (KS)
Roemer
Roth
Rousselot
Sawyer
Sensenbrenner
Shumway
Siljander
Skeen
Smith (AL)
Smith (OR)
Snyder
Solomon
Spence
Stanton
Staton
Stenholm
Tauzin
Taylor
Thomas
Trible
Walker
Weber (MN)
Whitehurst
Whittaker
Winn
Wylie
Young (FL)

NOT VOTING—15

Bafalis
Bowen
Brown (OH)
Collins (TX)
Erlenborn
Evans (GA)
Marriott
Mattox
Nichols
Rudd
Schroeder
Schumer
Stump
Weiss
Young (AK)

□ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Mattox and Mr. Young of Alaska for, with Mr. Collins of Texas against.

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will notify the Senate of the action of the House.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HON. ADAM BENJAMIN, JR.

The SPEAKER. Pursuant to House Resolution 579, the Chair appoints as members of the Funeral Committee of the late Adam Benjamin, Jr., the following Members on the part of the House:

Mr. Hamilton of Indiana;
Mr. Wright of Texas;
Mr. Michel of Illinois;
Mr. Myers of Indiana;
Mr. Hillis of Indiana;
Mr. Jacobs of Indiana;
Mr. Evans of Indiana;
Mr. Fithian of Indiana;
Mr. Sharp of Indiana;
Mr. Deckard of Indiana;
Mr. Coats of Indiana;
Mr. Hiler of Indiana;
Mr. Boland of Massachusetts;
Mr. Derwinski of Illinois;
Mr. Rostenkowski of Illinois;
Mr. Smith of Iowa;
Mr. Ford of Michigan;
Mr. Bevill of Alabama;
Mr. Coughlin of Pennsylvania;
Mr. Stokes of Ohio;

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Mr. Obey of Wisconsin;
Mr. Young of Florida;
Mr. Burgener of California;
Mr. Jones of Oklahoma;
Mr. Lehman of Florida;
Mr. O'Brien of Illinois
Mr. Murtha of Pennsylvania;
Mr. Traxler of Michigan;
Mr. Mineta of California;
Mr. Russo of Illinois;
Mr. Solarz of New York;
Mr. Markey of Massachusetts;
Mr. Glickman of Kansas;
Ms. Mikulski of Maryland;
Mr. Panetta of California;
Mr. Pursell of Michigan;
Mr. Rahall of West Virginia;
Mr. Dannemeyer of California;
Mr. Donnelly of Massachusetts;
Mr. Fazio of California;
Mr. Gray of Pennsylvania;
Mr. Lewis of California;
Mr. Sabo of Minnesota;
Mr. Sensenbrenner of Wisconsin; and
Mr. Washington of Illinois.

ADDITIONAL AUTHORIZATION FOR JAMES MADISON BUILDING

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 556 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 556

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6666) to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, and the first reading of the bill shall be despensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1610

The SPEAKER. The gentleman from Michigan (Mr. Bonior) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Missouri (Mr. Taylor), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 556 provides for the consideration of H.R. 6666, to increase the construction authorization for the James Madison Building of the Library of Congress. It is a simple open rule providing 1 hour of general debate divided equally between the chairman and ranking minority member of the Public Works and Transportation Committee. A waiver of section 402(a) of the Budget Act is provided because H.R. 6666 constitutes an authorization bill that was reported after May 15 of the fiscal year preceding that for which the authorization is made.

Mr. Speaker, H.R. 6666 increases the construction authorization for the James Madison Building of the Library of Congress from $130,675,000 to $139,200,000. This additional amount—$8.5 million—will be used to settle a claim by the J. W. Bateson Co., Inc., one of the building's construction contractors, for losses incurred because of alleged "Government delays." The original claim was for more than $20 million.

The Architect of the Capitol contends that the delays were primarily caused by the deficiencies, errors, and omissions of associate architects. The Justice Department has filed suit against the associate architects to recover approximately one-third of the cost of delays.

It is the opinion of the Architect of the Capitol that this agreement will obviate lengthy and costly negotiations and facilitate litigation against the associate architects.

Mr. Speaker, this is a noncontroversial rule and I urge its expeditious approval. I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 556 is a 1-hour open rule under which the House will consider legislation to increase the authorization for construction of the James Madison Building of the Library of Congress.

This rule contains one waiver, that of section 402(a) of the Budget Act, in order to allow the House to consider the bill, H.R. 6666. That section of the Budget Act requires legislation containing new budget authority to be reported from committee by May 15 of the preceding fiscal year. In this instance, the Committee on Public Works and Transportation did not report H.R. 6666 until July 28.

In addition to the necessary waiver, this rule provides one motion to recommit.

Mr. Speaker, this rule makes in order legislation that will increase the cost of construction of the James Madison Building by $8.5 million. This amount is in addition to the $130.6 million we have already spent on the new building.

During our hearing in the Committee on Rules, we were told that this additional $8.5 million will be used to pay off a claim against the Government for losses to one of the building contractors, the J. W. Bateson Co., Inc., allegedly caused by Government delay.

The legislation represents an attempt by the Committee on Public Works to put our stamp of approval on an agreement negotiated between the Architect of the Capitol and the Bateson Co.

There was no controversy about the need for this legislation in the Rules Committee, and I urge adoption of the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Nelson). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 365, nays 21, not voting 46, as follows:

[Roll No. 317]

YEAS—365

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
de la Garza
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell

Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos

Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Markey
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula

Reuss
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
St Germain
Stangeland
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—21

Ashbrook
Benedict
Brown (CO)
Dickinson
Emerson
Frenzel
Gregg

Gunderson
Hiler
Jeffries
Johnston
Latta
Marlenee
Martin (IL)

McDonald
Paul
Rousselot
Shuster
Solomon
Walker
Weber (MN)

NOT VOTING—46

Addabbo
Bafalis
Biaggi
Bolling
Bowen
Brown (OH)
Burton, John
Chisholm
Collins (TX)
Crockett
Emery
Evans (GA)
Fields
Forsythe
Fountain
Goldwater

Ireland
Luken
Marks
Marriott
Mattox
McCloskey
Mitchell (MD)
Moffett
Nichols
O'Brien
Rangel
Rhodes
Roberts (SD)
Rosenthal
Roth
Rudd

Santini
Schroeder
Schumer
Smith (PA)
Spence
Stanton
Stark
Stump
Weiss
Williams (MT)
Wylie
Yatron
Young (AK)
Zeferetti

□ 1630

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FARY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6666) to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. FARY).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 343, nays 12, not voting 77, as follows:

[Roll No. 318]

YEAS—343

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux

Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James

Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
de la Garza
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer

Dyson
Early
Eckart
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Harkin
Hartnett
Hawkins
Heckler
Hefner
Heftel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier

Kazen
Kennelly
Kildee
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Markey
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCurdy
McDade
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback

Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rousselot
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schulze
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Stratton
Studds
Synar
Tauke
Tauzin
Taylor
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wyden
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—12

Badham
Emerson
Frenzel
Hendon

Jeffries
Johnston
Latta
Marlenee

McDonald
Solomon
Walker
Weber (MN)

NOT VOTING—77

Addabbo
Albosta

Applegate
Bafalis

Bedell
Beilenson

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Biaggi
Bliley
Bolling
Bowen
Brown (OH)
Burton, John
Chisholm
Collins (TX)
Conyers
Crockett
Daniel, Dan
Dymally
Edgar
Emery
Ertel
Evans (GA)
Fiedler
Fields
Forsythe
Fountain
Gaydos
Goldwater
Hansen (UT)
Hatcher
Hertel
Ireland
Jeffords
Kemp
Kindness
Kogovsek
Livingston
Long (MD)
Luken
Marks
Marriott
Mattox
McCloskey
McCollum
McKinney
Mitchell (MD)
Moffett
Morrison
Nichols
O'Brien
Patman
Pease
Rangel
Roberts (SD)
Rosenthal
Roth
Roybal
Rudd
Schroeder
Schumer
Shamansky
Shannon
Smith (AL)
Smith (PA)
Stanton
Stark
Stump
Swift
Thomas
Trible
Weiss
Williams (MT)
Wright
Wylie
Yatron
Young (AK)
Zeferetti

□ 1650

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6666, with Mr. Bonior of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. Fary) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. Stangeland) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Fary).

Mr. FARY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 6666 increases the authorized limit of cost for the James Madison Memorial Library from $130,675,000 to $139,200,000, or an increase of $8,525,000. Mr. Chairman, the James Madison Memorial Library of Congress Building was accepted for beneficial occupancy commencing in April 1979 and full occupancy will be concluded during fiscal year 1982. The building is substantially complete with the exception of the so-called punch list and warranty items and the decorative screen to be installed at the front of the Madison Building.

Mr. Chairman, in 1980, George White, Architect of the Capitol, had requested a $10-million increase in the authorized limit of cost for this project. However, at that time, the House Committee on Public Works and Transportation determined that the request should be brought up at a later time due to the fact that the contractor's (J. W. Bateson Co., Inc.) delay claim amount was indeterminate.

On June 1, 1982, the Architect of the Capitol wrote to the chairman of the House Committee on Public Works and Transportation, the Honorable James J. Howard, stating that a proposed settlement with the contractor for $8,525,000 was in place, and as such, requested that legislation be introduced immediately. I would like to point out that the initial contractor's delay claim demanded a total of $23.5 million. However, after in-depth negotiations between the Architect and the contractor, on December 9, 1981, these efforts culminated in a settlement by letter of the entire delay claim for the lump-sum figure of $8,525,000. I do want to point out to the House that the letter agreement signed by Mr. White and the contractor did acknowledge that the Government was liable for delay claim in the amount of $8,525,000, and further, that if funds were not paid to the contractor by July 1, 1982, the contractor would have the right to commence legal action on the unpaid portion of the claim in the U.S. Court of claims, in order to protect his interests and to assure that interest on the agreed amount would commence to run at the then current U.S. Treasury rate. Yesterday, the Architect of the Capitol advised the committee that the delay claim in the amount of $8,525,000 which is listed in the committee report was wrong; that in fact on January 7, 1982, the Architect's Office had paid $385,000 to the Mills Co., a subcontractor, due to the fact that the company was ready to file for bankruptcy unless the money due them was paid. In light of this new fact, I do have an amendment at the desk which will reduce the amount of funds sought in this authorization from $8,525,000 to $8,140,000. Thus, the new figure providing for the total construction of the James Madison Memorial Library Building will be $138,815,000. I have checked further with the Architect's Office to make sure that no other portion of this claim has been paid, and the Architect advised that no other portion of the claim has been paid, and when it is paid, it will be in one lump sum.

The Architect of the Capitol states that a major causative factor in the lengthy and costly delays incurred on this project was the inordinate number of design deficiencies, delays, and errors or omissions of the associate architects. This matter has been referred to the Department of Justice and suit has been filed against the associate architects seeking to recover approximately one-third of the amount the Government has been forced to pay as a result of delays on the project. While any recovery in such an action will not be returnable directly to the project appropriation, it will go directly to the Treasury and will, therefore, serve to offset to some extent the cost of this proposed settlement.

Mr. Chairman, to conclude, this proposed settlement with the contractor has the effect of bringing to an end a series of lengthy, and of course, costly negotiations, and appears to be fair to all concerned. It also obviates the need for resort to protracted litigation by the contractor, which could lay the Government open to a potentially heavy judgment, plus whatever interest would accrue thereon.

Mr. Chairman, I urge adoption of H.R. 6666, as proposed to be amended by the amendment at the desk.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to express my support for this legislation which would increase the authorization ceiling for the Library of Congress James Madison Memorial Building. This additional funding is necessary to satisfy various delay claims now pending against the Government that arose during construction of this building. It is my belief that the funding level in this legislation as it will be amended by the Committee is fair and provides both the Government and the contractor a reasonable and acceptable compromise.

This in not to say that the prior history of price escalations on this project is one which we should be proud. In 1965, $75 million was authorized and, should we approve H.R. 6666, the authorization ceiling will be close to double what we originally authorized.

Despite these huge cost overruns and escalations, I firmly believe that we must honor our commitments and reimburse the contractor for delays on this project caused by government action or inaction. I would like to emphasize that before any of these claims are paid, they are validated by the Government to insure their accuracy.

For example, initially a total of 616 days of Government-caused delay were alleged. Subsequently, this has been lowered to an agreed-upon figure of 375 days of delays. Similarly, as has been previously pointed out, a total of $23.5 million was demanded originally but since that time, the Architect of the Capitol and the contractor have reached an agreement on a negotiated lump-sum figure.

Finally, I would like to join with my chairman and urge that the Department of Justice should continue actively to pursue its investigation regarding any inordinate number of design deficiencies, delays, errors, and omissions by the associate architects for this project. Any recovery will then be able to be used to offset the amount the Government has been forced to pay as a result of project delays.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, could the gentleman confirm the figures in the report here? As I understand, when this building was first authorized in 1965, we authorized an appropriation of $75 million to construct the building; is that correct?

Mr. STANGELAND. Yes; that is correct. The initial authorization was for $75 million.

On March 16, 1970, there was an additional authorization bringing it up to $90 million.

On February 27, 1976, there was an additional authorization bringing it up to $123 million.

On October 30, 1978, there was an authorization of up to $130,675,000. This authorization would bring the total cost of the Madison Library to about $138 million.

Mr. WALKER. What we have virtually done is doubled the cost of this building from the time that it was first proposed; is that correct?

Mr. STANGELAND. Basically that is correct; yes.

Mr. WALKER. This final $8.5 million is basically to pay cost overruns; is that correct?

Mr. STANGELAND. I think that would be correct. I was not here. The gentleman was not here. I do not know my memory serves me exactly correctly. This building was initially authorized perhaps as a House office building. There was a dispute and a determination that there was a need for an addition to the Library of Congress. There were a great number of design changes because as an office building, it would have been constructed in one fashion; as a library, with the load weight the floors had to carry, it needed a different type of construction.

Some of this increase was because there was a change in how that building was to be utilized after completion.

Mr. WALKER. I thank the gentleman. I was here as an aide at that time. I remember that controversy well. It was originally authorized I think as a library building. Then there was talk it was going to become a House building. Then it went back to a library building. There was quite a bit of discussion about that.

Nevertheless, what we have here is a doubling of the cost. It seems to me now to come in at a time when we have a budget crunch to say that we are authorizing another $8.5 million to pay some of these cost overruns is a little tough on the taxpayers.

I for one am going to vote against the bill.

I thank the gentleman for responding.

● Mr. MINETA. Mr. Chairman, I rise in opposition to this legislation.

This legislation represents the fourth cost overrun for this project. This is the fifth time this Committee has been on the floor seeking funds for this project, and each time the funding requested was to be the full amount required to complete the project.

In 1965 the Congress authorized $75 million to construct the Madison Library. In 1970 the Congress revised that to $90 million. In 1976 we raised it to $123 million. In 1978 we raised it to $130.7 million. And now in 1982 we are asked to raise it again to $139.2 million.

I was chairman of the Subcommittee on Public Buildings and Grounds in 1978 when the authorization for this project was last considered. Given the past history of cost overruns for the project, we scrutinized what was then a request for an additional $10 million. I worked very closely on this matter with my colleague, the since-retired ranking minority member of the subcommittee, the Honorable Bill Walsh of New York. We both felt that the request before us has to be trimmed to only those items for which the Architect of the Capitol had been able to show specific justification. Accordingly, we reduced the request to $7.67 million. And furthermore, both Mr. Walsh and I felt it was imperative that we put all concerned on notice that this would be the last request which would be permitted, and that those managing the project should conduct their business accordingly.

We made our position very clear in marking up this legislation in subcommittee in 1978. Mr. Walsh stated:

> First, I want it stated in the record and understood in this Committee that this is the last request for funds that I would participate in for this project. I would hope that in the future, those people associated with this project can be more cost-conscious, and this Committee will exercise tighter control in order to prevent such cost overruns as we have experienced in this project.

I added my own commitment: "let it be clearly understood by all parties involved in this project that this is, in fact, the last request."

I will not go back on that commitment today. This authorization is not required. The request today is for an additional $8.5 million to settle contractor delay claims against the Architect of the Capitol. I have no idea whether such claims are justified or not. But they are best adjudicated through the normal Court of Claims process. If they are found to be justified, the Court of Claims may order them paid without legislative authorization. And if they are not justified, we will have saved the taxpayer some money. I think the taxpayer would be best protected by having both the Architect of the Capitol and the contractors present their respective cases in open court.

I therefore oppose the bill.●

● Mr. HOWARD. Mr. Chairman, I rise in support of H.R. 6666, a bill to provide an additional authorization of $8,525,000 for the Library of Congress James Madison Memorial Building.

Mr. Chairman, I would like to commend the gentleman from Illinois (Mr. FARY), the chairman of the Subcommittee on Public Buildings and Grounds, for his fine presentation of this legislation to the House today. I would also like to thank the ranking minority member of the full committee (Mr. CLAUSEN), and the ranking minority member of the Subcommittee on Public Buildings and Grounds (Mr. STANGELAND), for their hard work and bipartisan support on this legislation.

Mr. Chairman, as my colleagues are aware, Congress authorized the Architect of the Capitol to construct the Library of Congress James Madison Memorial Building in 1985 at a cost of $75 million. On three different occasions, Congress found it necessary to increase the cost, whereby, today the authorized ceiling is set at $130,675,000. This legislation as proposed to be amended will increase the ceiling to $138,815,000. Today, I am pleased to state this will be the last time Congress will have to deal with this matter. The moneys incorporated in this legislation will finally bring to completion the outstanding delay claim filed by the contractor. The Architect of the Capitol had requested funding for this purpose in 1980, however, our committee felt it wise to hold up on an authorization until Mr. White had an opportunity to establish what the precise amount would be. I am pleased to point out that the initial claim filed by the contractor in 1978, demanded a total of $23,532,928, and only after lengthy negotiations, the contractor and the architect of the Capitol have agreed to a settlement of the entire delay claim in the amount of $8,525,000.

It should be noted that the Government has filed a law suit against the architects of the Madison Library Building alleging design deficiencies which ultimately led to delays being incurred by the contractor. The Architect of the Capitol has advised the Department of Justice has filed suit against the architects, and it is anticipated approximately $2 million to $3 million will be recovered by the Government.

To conclude, the Architect of the Capitol has assured the House Public Works and Transportation Committee, that by agreeing to this proposed settlement with the contractor, J. W. Bateson Co., Inc., that enactment of this legislation will bring to an end the lengthy and costly negotiations with Bateson and its subcontractors. It also avoids protracted litigation which

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could be potentially more costly for the Government.

Mr. Chairman, I urge adoption of H.R. 6666 as proposed to be amended.●

Mr. STANGELAND. Mr. Chairman, I yield back the balance of my time.

Mr. FARY. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes" approved October 19, 1965 (79 Stat. 986; Public Law 89-260), is amended by striking out "$130,675,000" and inserting in lieu thereof "$139,200,000".

□ 1700

Mr. FARY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. FARY

Mr. FARY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARY: Page 2, line 6, strike out "$139,200,000" and insert in lieu thereof "$138,815,000".

Mr. FARY. Mr. Chairman, yesterday, the Architect of the Capitol advised the committee that the delay claim in the amount of $8,525,000 which is listed in the committee report was wrong; that in fact on January 7, 1982, the Architect's office had paid $385,000 to the Mills Co., a subcontractor, due to the fact that the company was ready to file for bankruptcy unless the money due them was paid. Therefore, Mr. Chairman, the amendment at the desk will authorize $8,140,000 to be appropriated which takes into account the $385,000 which has already been paid. Thus, the new figure providing for the total construction of the James Madison Memorial Library Building will be $138,815,000.

I have checked further with the Architect's office to make sure that any other portion of this claim has not been paid, and the Architect advises that no other portion has been paid, and when it is paid, it will be in one lump sum.

Therefore, Mr. Chairman, I urge adoption of the amendment.

Mr. STANGELAND. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment to reduce the authorized limit in this legislation by $385,000. At this time I would like to express my displeasure that the committee has been made aware of this needed reduction at such a late date. It appears that one of the pending delay claims has already been satisfied by the Architect and that the authorization in H.R. 6666 has not been reduced correspondingly. I would hope that in the future the Architect of the Capitol would keep this committee updated on all developments of the legislation he has pending before us so that we can avoid wasting the time and effort of the Members on matters that should be resolved at the committee level.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FARY).

The amendment was agreed to.

The CHAIRMAN. Are there other amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BINGHAM) having assumed the chair, Mr. BONIOR of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6666) to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, pursuant to House Resolution 556, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 186, not voting 58, as follows:

[Roll No. 319]

YEAS—188

Akaka
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Bevill
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins (IL)
Coyne, James
Coyne, William
Davis
Dellums
DeNardis
Dingell
Dixon
Donnelly
Downey
Dwyer
Early
Edwards (AL)
Edwards (CA)
Erlenborn
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Frost
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gradison
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hatcher
Hawkins
Heftel
Hertel
Hightower
Hillis
Holland
Hollenbeck
Horton
Howard
Hoyer
Hughes
Hutto
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kemp
Kennelly
Kildee
LaFalce
Lantos
Leach
Leath
Lee
Lehman
Leland
Lewis
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Markey
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McDade
McHugh
McKinney
Mikulski
Miller (CA)
Minish
Moakley
Moffett
Mollohan
Mottl
Myers
Natcher
Nelligan
Nowak
Oberstar
Obey
Ottinger
Parris
Patman
Pease
Pepper
Perkins
Pickle
Price
Pritchard
Rahall
Railsback
Ratchford
Reuss
Rhodes
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Russo
Sabo
Savage
Scheuer
Schneider
Schulze
Seiberling
Shannon
Shuster
Simon
Smith (IA)
Smith (NJ)
Solarz
St Germain
Stangeland
Stanton
Stokes
Stratton
Studds
Swift
Synar
Udall
Washington
Watkins
Waxman
White
Whitten
Wilson
Wirth
Wright
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—186

Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Beard
Bedell
Benedict
Bennett
Bereuter
Bethune
Bliley
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Coats
Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dorgan
Dornan
Dowdy
Dreier
Duncan
Dunn
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdahl
Evans (DE)
Evans (IA)
Fiedler
Findley
Fountain
Frenzel
Gaydos
Gilman
Gingrich
Glickman
Goodling
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hammerschmidt
Hance
Hansen (ID)
Harkin
Hartnett
Heckler
Hefner
Hendon
Hiler

Holt
Hopkins
Hubbard
Huckaby
Hunter
Hyde
Jacobs
Jeffords
Jeffries
Johnston
Kazen
Kindness
Kramer
Lagomarsino
Latta
LeBoutillier
Levitas
Livingston
Loeffler
Lott
Lowery (CA)
Lundine
Lungren
Madigan
Marlenee
Martin (IL)
Martin (NC)
McCollum
McCurdy
McDonald
McEwen
McGrath
Mica
Michel
Miller (OH)
Mineta
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Murphy
Napier
Neal
Nelson
Oakar
Oxley
Panetta
Pashayan
Patterson
Paul
Petri
Peyser
Porter
Pursell
Quillen
Regula
Ritter
Roberts (KS)
Robinson
Roemer
Rogers
Roukema
Rousselot
Santini
Sawyer
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Staton
Stenholm
Tauke
Tauzin
Taylor
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wolf
Wolpe
Wortley
Wyden

NOT VOTING—58

Addabbo
Anderson
Bafalis
Beilenson
Biaggi
Boggs
Bolling
Bowen
Brown (OH)
Burton, John
Collins (TX)
Conyers
Crockett
de la Garza
Dougherty
Dymally
Edgar
Emery
Ertel
Evans (GA)
Fields
Fowler
Frank
Goldwater
Hansen (UT)
Ireland
Kogovsek
Lent
Luken
Marks
Marriott
Martin (NY)
Mattox
Mitchell (MD)
Murtha
Nichols
O'Brien
Rangel
Roberts (SD)
Rosenthal
Roth
Roybal
Rudd
Schroeder
Schumer
Shamansky
Smith (PA)
Stark
Stump
Thomas
Traxler
Trible
Weiss
Williams (MT)
Wylie
Yatron
Young (AK)
Zeferetti

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Ms. OAKAR, and Messrs, NELSON, D'AMOURS, NEAL, NELSON, FOUNTAIN, and WORTLEY changed their votes from "yea" to "nay."

Mr. AuCOIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FARY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

TERRITORIAL OMNIBUS BILL

Mr. WON PAT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5139) to authorize appropriations for certain insular areas of the United States, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment as follows:

In lieu of the amendment of the Senate to H.R. 5139, strike all after the enacting clause and insert the following:

TITLE I—GUAM

Sec. 101. Section 7 of the Organic Act of Guam (64 Stat. 384, 487), as amended, is revised to read as follows:

"Sec. 7. (a) The people of Guam shall have the right of initiative and referendum, to be exercised under conditions and procedures specified in the laws of Guam.

"(b) Any Governor, Lieutenant Governor, or member of the legislature of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in such referendum election. The referendum election shall be initiated by the legislature of Guam following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) petition for such a referendum to the legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast at the last general election at which such official was elected preceding the filing of the petition.".

Sec. 102. Section 1(a)(1) of Public Law 95-348 (92 Stat. 487) is amended by deleting "involved." and inserting in lieu thereof "involved, and $6,052,000 for fiscal year 1983, such sums to remain available until expended.".

Sec. 103. Section 205 of Public Law 95-134 (91 Stat. 1159, 1162), as amended by subsection 1(d) of Public Law 95-348 (92 Stat. 487, 488), is further amended by deleting "Medical Center of the Marianas:" and inserting in lieu thereof "Medical Center of the Marianas, to renovate, maintain, and operate the Guam Memorial Hospital, and to construct, maintain, and operate a health care facility in the northern part of Guam:".

Sec. 104. The Organic Act of Guam (64 Stat. 384), as amended, is further amended—

(a) by deleting the first sentence of the sixth paragraph of section 6, as amended (82 Stat. 842, 843), and substituting the following: "The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report."; and

(b) by deleting section 9-A (82 Stat. 842, 845), as amended (91 Stat. 1159, 1161), in its entirety, and inserting in lieu thereof the following new section 9-A:

Sec. 9-A. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of Guam:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of Guam, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

"(2) The authority to report to the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the government of Guam, and shall be in addition to the authority conferred upon the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.

TITLE II—TRUST TERRITORY OF THE PACIFIC ISLANDS

Sec. 201. In section 402(a) of Public Law 96-597 (94 Stat. 3478) strike "by October 1, 1982," and insert in lieu thereof: "by a date not later than ninety days following termination of the trusteeship agreement governing the administration of the Trust Territory of the Pacific Islands,".

Sec. 202. (1) The Act of June 13, 1975, (89 Stat. 212) is amended by inserting the following language before the last sentence:

"The corpus, income of, or distributions from such trust, or distributions to the beneficiaries of such trust shall not be subject to any form of United States Federal, state, or local taxation.".

(2) The corpus, income of, or distributions from the Ujelang Trust Fund numbered 2 (established by the High Commissioner of the Trust Territory of the Pacific Islands), or distributions to the beneficiaries of such trust fund shall not be subject to any form of United States Federal, state, or local taxation.

Sec. 203. The Act of March 21, 1972 (86 Stat. 87), relating to the Trust Territory of the Pacific Islands is amended—

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(a) by amending section 5 (86 Stat. 88), to read: "The chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The chief executives shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The chief executives shall also make such other reports at such other times as may be required by the Congress or under applicable Federal laws. The chief executives shall submit to the Congress, the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific Islands, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263, 268).".

(b) by deleting section 4 of the Act of June 30, 1954 (68 Stat. 330), as amended (87 Stat. 354; 91 Stat. 1162; 94 Stat. 85), in its entirety, and inserting in lieu thereof the following new section 4:

Sec. 4. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the aforementioned governments including those pertaining to trust funds held by such governments.

"(2) The authority to report to the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific Islands, the chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands all failures to collect amounts due the governments, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263,268).

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function, with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Office of Inspector General, Department of the Interior.".

(d) Section 201(a) of Public Law 96-205 (94 Stat. 85), is hereby repealed in its entirety.

Sec. 204. (a) That the Northern Mariana Islands shall not be considered a foreign country for purposes of subsection (k) of section 2680 of title 28, United States Code.

(b) This Section shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

Sec. 205. The Secretary shall conduct, upon request of the affected regional governments and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural and recreational resources of the Trust Territory of the Pacific Islands (specifically composed of the Mariana, Caroline and Marshall Islands). Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. The inventory and study shall also identify areas or sites which qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places. A full report on such inventory and study shall be transmitted to the respectively involved governments, the Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the effective date of this Act.

TITLE III—VIRGIN ISLANDS

Sec. 301. (a) Effective October 1, 1982, there is authorized to be appropriated to the Secretary of the Interior $150,000 for to be paid as a grant to the government of the Virgin Islands for use by the College of the Virgin Islands to study and plan for the creation of an institution for Caribbean educational, cultural, and technical interchange.

(b) The Secretary may place such stipulations as he deems appropriate on the use of funds appropriated pursuant to subsection (a) of this section.

(c) Grant funds appropriated pursuant to subsection (a) but not obligated or expended during the fiscal year in which they are appropriated shall remain available for obligation or expenditure in subsequent fiscal years.

Sec. 302. Section 405 of Public Law 96-205 (94 Stat. 84, 89) is amended by adding at the end thereof the following new sentence: "The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the United States Virgin Islands in the collection of these taxes.".

Sec. 303. There are authorized to be appropriated to the Secretary of the Interior, not to exceed $10 million for grants to the Government of the Virgin Islands for improvements in the generation and distribution of water and power, to remain available until expended.

Sec. 304. There are authorized to be appropriated to the Secretary of the Interior, not to exceed $3,000,000 for grants to the Government of the Virgin Islands for construction of two juvenile pretrial detention facilities, one on the island of St. Thomas, and one on the island of St. Croix, to remain available until expended.

Sec. 305. Any discharge from a point source in the United States Virgin Islands in existence on the date of the enactment hereof which discharge is attributable to the manufacture of rum (alcoholic spirits classified under item 169.13 and 169.14 of the Tariff Schedules of the United States (19 U.S.C. Section 1202) shall not be subject to the requirements of Section 301 (other than toxic pollutant discharges), Section 306 or of Section 403 of the Federal Water Pollution Control Act if—

(1) such discharge occurs at least 1,500 feet into the territorial sea from the line or ordinary low water from that portion of the coast which is in direct contact with the sea, and

(2) the Governor of the United States Virgin Islands determines that such discharge will not interfere with the attainment of maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

Sec. 306. Sections 8(d) and (e) of the Revised organic Act of the Virgin Islands (68 Stat. 500; 48 U.S.C. 1574 (d) and (e)) are repealed.

Sec. 307. Section 4(d) of the Organic Act of the Virgin Islands of June 22, 1936 (49 Stat. 1808, 48 U.S.C. 1405c(d)) is amended by substituting the word "legislature" for the words "legislative assembly" wherever they appear.

Sec. 308. The following provisions of the Organic Act of the Virgin Islands of June 22, 1936, as amended, are repealed: Section 2 (49 Stat. 1807; 48 U.S.C. 1405a); section 3 (49 Stat. 1807; 48 U.S.C. 1405b); section 5 (49 Stat. 1808; 48 U.S.C. 1405d); section 6 (49 Stat. 1808; 48 U.S.C. 1405e); section 7 (49

Stat. 1808; 49 U.S.C. 1405f); section 8 (49 Stat. 1809; 49 U.S.C. 1405g); section 11 (49 Stat. 1809; 48 U.S.C. 1405j); section 12 (49 Stat. 1809; 48 U.S.C. 1405k); section 13 (49 Stat. 1810; 48 U.S.C. 1405l); section 14 (49 Stat. 1810; 48 U.S.C. 1405m); Section 15 (49 Stat. 1810; 48 U.S.C. 1405n); section 16 (49 Stat. 1810; 48 U.S.C. 1405o); section 17 (49 Stat. 1811; 48 U.S.C. 1405p); section 19 (49 Stat. 1811; 48 U.S.C. 1405r); section 22 (49 Stat. 1812; 48 U.S.C. 1405u); section 23 (49 Stat. 1813; 48 U.S.C. 1405v); section 24 (49 Stat. 1813; 48 U.S.C. 1405w); section 25 (49 Stat. 1813; 48 U.S.C. 1405x); section 27 (49 Stat. 1813; 48 U.S.C. 1405z); section 28 (49 Stat., 1814; 48 U.S.C. 1406); section 29 (49 Stat. 1814; 48 U.S.C. 1406a); section 30 (49 Stat. 1814; 48 U.S.C. 1406b); section 31 (49 Stat. 1814; 48 U.S.C. 1406c); section 32 (49 Stat. 1814; 48 U.S.C. 1406d); section 33 (49 Stat. 1815; 48 U.S.C. 1406e); section 34 (49 Stat. 1815; 48 U.S.C. 1406g); section 39 (49 Stat. 1817; 48 U.S.C. 1406k).

Sec. 309. The following statutes are repealed:

(a) Section 4 of the Act of March 3, 1917, as amended (39 Stat. 1133; 48 U.S.C. 1395).

(b) That portion of section 1 of the Naval Service Appropriations Act, 1922, of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1393), which reads: "That no person owing allegiance to any country other than the United States of America shall be able to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands: Provided further,".

(c) Section 8 of the Act of July 3, 1930 (46 Stat. 948), as amended, by section 1 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1399).

(d) The Act of May 20, 1932 (47 Stat. 160; 48 U.S.C. 1400).

(e) Section 2 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1392b).

(f) The Act of December 20, 1944, as amended (58 Stat. 827; 48 U.S.C. 1409 to 1409j).

(g) The Act of June 30, 1949, as amended (63 Stat. 350; 48 U.S.C. 1407 to 1407i); *Provided*, That nothing in this subsection shall affect the pension rights of former employees of the Virgin Islands Corporation.

(h) The Act of October 29, 1951 (65 Stat. 661; 48 U.S.C. 1409m through 1409o).

(i) Section 30 of the Revised Organic Act of the Virgin Islands (68 Stat. 509; 48 U.S.C. 1544).

(j) Section 4 of the Act of August 19, 1976 (90 Stat. 1195; 48 U.S.C. 1574d).

Sec. 310. The Revised Organic Act of the Virgin Islands (68 Stat. 497), as amended, is further amended—

(a) by amending the fourth paragraph of section 11 (68 Stat. 503), as amended (82 Stat. 837, 838), to read: "The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body."; and

(b) by deleting section 17 (68 Stat. 505), as amended (72 Stat. 1094; 76 Stat. 43; 82 Stat. 840; 91 Stat. 1162), in its entirety, and inserting in lieu thereof the following new section 17:

"Sec. 17. (a) The following functions, powers, and duties heretofore vested in the government comptroller for the Virgin Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the govenment of the Virgin Islands:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of the Virgin Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Virgin Islands including those pertaining to trust funds held by the government of the Virgin Islands.

"(2) The authority to report to the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the government of the Virgin Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for the Virgin Islands related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.".

TITLE IV—AMERICAN SAMOA

Sec. 401. Effective January 1, 1983, section 5 of Public Law 95-556 (92 Stat. 2078) is amended by striking out the colon and all that follows and inserting a period in lieu thereof.

Sec. 402. Section 501 of Public Law 96-205 (94 Stat. 90) is hereby deleted in its entirety, and inserted in lieu thereof is the following new section 501.

"Sec. 501. (a) The Governor of American Samoa shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council of Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report.

"(b) The following functions, powers, and duties heretofore vested in the government comptroller for American Samoa are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of American Samoa.

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of American Samoa, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of American Samoa including those pertaining to trust funds held by the government of American Samoa.

"(2) The authority to report to the Secretary of the Interior and the Governor of American Samoa all failures to collect amounts due the government, and expenditures of funds or uses or property which are irregular or not pursuant to law.

"(c) The authority granted in paragraph (b) shall extend to all activities of the government of American Samoa, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(d) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for American Samoa relating to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.".

TITLE V—PUERTO RICO

Sec. 501. Section 202 of the Federal Water Pollution Control Act (P.L. 97-117) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this Act, the amount of any grant for treatment works in Puerto Rico made under this Act shall be 95 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1983, 85 per centum of the cost of construction thereof

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(as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1984, and 75 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1985.".

TITLE VI—MISCELLANEOUS

Sec. 601. Section 607 of Public Law 96-597 (94 Stat. 3477, 3483) is amended by deleting subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) The Governors of Guam and the Virgin Islands shall, as a condition for a grant pursuant to subsection (a) of this section, submit a plan which is designed to eliminate the respective territory's general fund deficit by the beginning of fiscal year 1987 to the Secretary of the Interior. Within sixty days after he has received such a plan, the Secretary of the Interior shall transmit the plan, together with his comments and recommendations to the Congress.

The plan shall provide for—

"(1) implementation of an effective budgetary and accounting system:

"(2) realistic revenue and expenditure projections which will progressively reduce current year general fund deficits and result in a balanced general fund budget no later than the beginning of fiscal year 1987;

"(3) financing of accumulated general fund deficits; and

"(4) quarterly goals and timetables for implementing the plan. The plan shall also indicate that the Governor has the necessary authority to implement the plan.

"(c) Not later than thirty days after the close of each quarter which occurs after the plan has been transmitted to the Congress, the respective Governor shall submit a report to the Secretary of the Interior and the Congress describing in detail the success or failure of such territory in meeting the goals and timetables described in such plan.".

Mr. WON PAT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendment to the Senate amendment be dispensed with, and that it be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Guam?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved for the benefit of the Members of the House?

Mr. WON PAT. Mr. Speaker, if the gentleman will yield, let me say that I take great pride in the amendment in the nature of a substitute which is being offered to the Senate's amendment of H.R. 5139 today.

Our substitute is a good faith compromise with the administration on this omnibus measure for the insular areas of our Nation. It was produced by my Subcommittee on Insular Affairs after extensive hearings and other work. This included consultation with the insular areas themselves, the administration, and our counterparts on the other side of the Capitol who are responsible for the amendment to our original bill for which we offer a substitute today.

The Senate amendment picked up all provisions of H.R. 5139 as it passed the House on December 11, 1981, with the exception of one no longer needed, and added other worthwhile provisions.

Our substitute incorporates all aspects of the Senate amendment but one. And, I am greatly disappointed that the opposition of the administration compels us to delete that provision.

Section 401 of the Senate amendment would have reimbursed Guam and the Virgin Islands for the unintentional—but still devastating—impacts of the administration's income tax rate reductions, enacted last year.

Because Federal law mandates that the tax codes of these territories "mirror" the Federal Code, their treasuries are losing an enormous amount of local revenues—our primary Federal support of them—as a result of the tax cut. The Congressional Budget Office estimates this loss at $254 million between fiscal years 1983 through 1985.

Despite the administration's promise to correct this situation, there has been no effort to do so. And the territories, of course, are powerless to rectify it themselves.

The Senate's section 401 of this bill would have authorized the partial compensation of the territorial treasuries to the extent of a total of about $90 million in fiscal years 1983 through 1985. Such assistance is needed because the staggering revenue loss imposed over our objections is contributing to crippling deficits and an inability to locally provide for essential infrastructure.

However, the inclusion of this budgetary assistance in the Senate amendment resulted in the threat of an administration veto of this entire, imperative omnibus legislation. I believe this threat is unwise and callous; but we have accepted the reality of it.

As a consequence, we have reluctantly concluded that it is necessary to delete this needed provision from H.R. 5139, as passed by the Senate, to enable the enactment of other provisions which are, for the most part, supported by the administration.

The provisions that we urge be added are described in a statement of explanation which I request be included in the Record at the conclusion of this statement. Most have no cost associated with them. They do include, though, some contribution to the most vital of the infrastructure needs which the federally imposed revenue loss makes impossible for Guam and the Virgin Islands to finance, including projects supported by the administration.

The result is that this amendment represents a dramatic savings over the Senate amendment. Whereas the Congressional Budget Office set the budget impact of the Senate amendment at $95.15 million, we have reduced that amount to $19.2 million.

As I have indicated, we have proposed eliminating most of the cost of the Senate amendment as an effort to facilitate approval of what we hope will be this Congress major contribution to territorial law. We have acceded to the administration's wishes in restraining authorizations not requested in the President's budget, to arrive at an omnibus measure that should be acceptable to the administration.

Mr. Speaker, I therefore recommend passage by this House, acceptance of our substitute by the Senate, and approval by the President.

EXPLANATION OF AMENDMENTS TO H.R. 5139

The amendment of section 102 to increase the $5 million authorization for capital projects on Guam by $1,052,000 is necessary to fully fund the Apra Harbor improvements supported by the administration. Delegate Won Pat, who has sponsored this project, has convinced us that useful development of the island's only commercial port requires this. It would complete the moving of an existing roadway, the first phase of which is funded in this year's budget.

The new section 103 would simply redefine an existing authorization for improvement of Guam medical facilities to conform it to the work as actually planned, taking account of the fact that the Medical Center of the Marianas has become the Guam Memorial Hospital. It would also specify that a portion of the funds are to be used to provide a much-needed clinic for the northern part of the island, now remote from any health care.

The new section 104 was suggested, with minor modifications, by recommendations contained in a General Accounting Office report on Federal auditing in the insular areas. They have the support of virtually all concerned, including the administration. The amendment would transfer the audit authority and staff of the U.S. Government Comptroller for Guam to the Inspector General of the Interior Department, retaining technical assistance resources in the Office of Territorial and International Affairs. It would also require the local government to prepare an annual comprehensive financial report and to report on actions taken pursuant to Federal audit recommendations.

The new section 202 provides income tax exemption for the trust funds established by the U.S. Government for the victims of nuclear testing on Bikini and Enewetak Atolls in the Marshall Islands. Because the establishment of these funds neglected to exempt their proceeds from Federal taxation, it has not been possible to invest them to produce the optimum assistance for the beneficiaries.

Since the U.S. Government Comptroller for Guam also serves the Trust Territory of the Pacific Islands and the Northern Mariana Islands, the new section 203 extends the fiscal accountability procedure improvements which would be made by the new section 104 to those four Micronesian governments.

The new section 204 clarifies the applicability of the Federal Tort Claims Act to the Northern Mariana Islands. It was recommended by the Northern Marianas Federal Laws Commission and is supported by the Commonwealth.

The new section 205 would require the National Park Service to inventory and study the outstanding natural, historical, cultural, and recreational resources of the Trust Territory of the Pacific Islands. The amendment would have the findings transmitted to Congress within 2 years of enactment. The survey would follow current historic evaluation work in the islands.

The new section 303 would address a situation long of concern to the Committee on Interior and Insular Affairs. The deficiencies in water and power infrastructure in the Virgin Islands impede economic self-sufficiency and impair the quality of life to a degree that should be unthinkable in modern-day America. The amendment would authorize funding of the first phase of a comprehensive, 4-year improvements plan, consistent with the administration program of providing similar assistance through the Caribbean Basin Initiative to the foreign neighbors of these American islands.

The new section 304 would make a proper Federal contribution to the serious Virgin Islands crime problem. Because of a lack of facilities, the juveniles suspected of committing a substantial majority of the offenses must now be released to the streets when apprehended. The authorization would construct juvenile pretrial detention centers on St. Croix and St. Thomas.

The new section 305 is also a component on the administration's Caribbean Basin Initiative. It would permit the Governor to exempt rum refining in the Virgin Islands from certain effluent discharge requirements contained in the Federal Water Pollution Control Act in specified circumstances. This is to enable the Virgin Islands industry to compete with that of its regional competitors, which would be assisted by other portions of the President's proposal.

The new section 306 would repeal two provisions of the Revised Organic Act of the Virgin Islands, the purposes of which have already been accomplished. The amendment was drafted by the Department of Justice.

The new section 307 was also drafted by Justice. It updates references to the Legislature of the Virgin Islands in the continuing provisions of the 1936 Organic Act.

The new section 308 would repeal obsolete provisions of the 1936 Organic Act. It was drafted by Justice.

The new section 309 would repeal other obsolete provisions of law pertaining to the Virgin Islands. It was also drafted by Justice.

The new section 310 is a counterpart to the new sections 104 and 203. It would improve Federal auditing and local financial accountability in the Virgin Islands.

The amendment of section 401 would delete a Senate-added amendment, strongly opposed by the administration, and substitute a minor clerical amendment instead. The Senate provision would have compensated Guam and the Virgin Islands for a portion of the local revenue losses directly—but unintentionally—attributable to the administration's 1981 tax rate reduction because of the so-called mirror system. According to the Congressional Budget Office, it would have authorized an estimated $90 million of the total $254 million in territorial losses between fiscal year 1983 and 1985. Such assistance would seem the minimum fairness would dictate in light of the staggering burden upon these territorial governments. We very reluctantly move to delete the Senate provision only because of the threat of a veto of this imperative omnibus measure.

Section 402 would be redesignated as section 601 for purposes of order. The new section 402, which would substitute, is a counterpart to the new sections 104, 203, and 307. It would improve Federal auditing and local financial accountability in American Samoa.

The new section 501 would alter the cost-sharing formula for waste water treatment plant construction in Puerto Rico in fiscal years 1982 through 1985 under the Water Pollution Control Act. According to the Congressional Budget Office, the amendment would not, however, result in any additional cost to the Federal Government. Instead, Puerto Rico would be enabled to use the same total funding for a lesser number of projects. This flexibility is imperative because Puerto Rico has already started construction of seven regional sewage treatment plants under the EPA Clean Water Act, and unless the island can assure the EPA that matching funds will be found in the near future, an estimated $48 million in Federal grants already given to Puerto Rico's Aqueducts and Sewer Authority may be deobligated or lost. Precedent for this includes the exemption from cost sharing already accorded other territories.

Finally, at the request of the administration, we note that section 302 of the bill, a Senate amendment, is silent on the question of reimbursement of the Customs Service by the Virgin Islands for costs directly associated with the Federal collection of territorial revenues. Presumably, reimbursement would continue until the need for it is obviated by the appropriations process. The purpose of the amendment, as we understand it, is simply to require that the collection assistance be provided so long as the local government wishes it to be.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 5139, the territorial omnibus bill, which initially passed the House on December 11, 1981, and was subsequently amended by the other body on May 10, 1982. Since that time additional issues have arisen in America's insular areas, necessitating legislative action. In response, the Subcommittee on Insular Affairs held additional hearings on August 19, 1982; and many of today's amendments are reflections, stemming from the findings of those hearings.

For example, at the administration's request, sections 104, 203, 310, and 402 transfers the audit authority and staff of the Comptroller for the Virgin Islands, Guam, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands to the Inspector General, U.S. Department of the Interior, and requires the local governments to prepare an annual, comprehensive financial report, thereby strengthening the financial accountability of the territorial governments. Also in response to the administration, obsolete material has been deleted from—while clarifying provisions have been added to—the Organic Act of the Virgin Islands.

Our committee amendments also drastically reduce the amount of territorial authorizations passed by the other body, resulting in a total of about $19 milllion rather than $95 million. Only those projects essential to the maintenance of adequate healthcare and sanitation, as well as protection of the public's safety and economic stimulation, have been retained.

Specifically, I would like to call your attention to two amendments of great merit—although of little expense—relative to the Trust Territory of the Pacific Islands. In recognition of the hardships imposed upon the peoples of the Bikini and Enewetak atolls as a result of U.S. nuclear testing in the Pacific, the Congress awarded ex gratia payments to them in the form of trust funds. These trust funds were to be invested with the interest derived therefrom distributed to all those eligible. Inadvertently, however, the Congress failed to exempt from Federal taxation proceeds from these investments. Consequently, the funds

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have been invested in foreign accounts. Clearly, the Congress had no intent to tax these funds, which were granted on humanitarian grounds; and even more clearly, it was not the intent to bar domestic investment. Accordingly, section 202 of this legislation corrects this deficiency.

Last January, a committee oversight inspection was conducted in the Trust Territory of the Pacific Islands. As many of you may know, negotiations are currently underway to determine the future political status of the Micronesian governments which presently make up the Trust Territory; that is, the Marshall Islands, Palau, and the Federated States of Micronesia. At present, it appears that all three governments will opt for free association with the United States, which in general equates to the granting of Federal subsidies and technical assistance in exchange for a guarantee of U.S. national security interests in Micronesia.

We, who made that long journey, were greatly impressed wherever we went with the scenic beauty of Micronesia along with its historical World War II significance. We found, however, that the Micronesians had few experts in park management and, in fact, were unaware of all the potential tourist attractions at their disposal. Currently under section 6, Public Law 95-348, the National Park Service has been directed to conduct a survey of World War II battle sites in Micronesia and to submit its recommendations to the Congress. Section 205 of this bill would merely extend the scope of that study—if so requested by the affected regional governments—to include natural, cultural, and recreational resources as well. Not only is such a provision in keeping with our current U.N. trust responsibilities; it also coincides with the extension of Federal technical assistance in the post-trusteeship period. Through its application, it would serve not only as a means to preserve some of the world's most pristime oceanic areas, but also a measure to develop the Micronesian economies through the enhancement of tourism.

Mr. Speaker, this is prudent legislation. Although it recognizes the unique characteristics of America's insular areas, it is also in line with today's fiscal responsibility. I, therefore, urge my colleagues to support unanimously H.R. 5139 as amended.

Mr. de LUGO. Mr. Speaker, I ask this House to endorse the package of amendments to H.R. 5139 submitted by my colleague, Mr. Won Pat. These amendments are very important to the people of the territories and their passage would once more illustrate this Congress understanding of, and concern for, its responsibilities toward the territories.

As there are a number of amendments, I will only address those which touch the U.S. Virgin Islands.

The amendment providing $10 million in water and power assistance is critical to the safety, health, and economic future of the Virgin Islands. The supply of water and power has been an ongoing battle, with the demands on local facilities clearly overpowering their capabilities. The population in the territory doubled from 1960 to 1970, and doubled again between 1970 and 1980. This rapid growth, while producing the highest standards of living in the Caribbean, also had the effect of creating havoc with the infrastructure responsibilities of the local government.

As a result of our successful experience with desalination plants, we are just emerging from years of relying upon the exhorbitant and wasteful process of barging water from Puerto Rico. Water supply, however, is still below demand. The water distribution system, meanwhile, has eroded through the years. Erosion coupled with increased pressure on the small pipes due to rising demand has lead to breakages, resulting in a 30-percent water loss.

Electric outages are frequent, with damaging consequences throughout the territory: Normal activities are periodically disrupted, businesses are forced to shut down, consumer goods are ruined, and business and public institutions must be power self-sufficient or have standby capabilities if they are to operate without interruption. The inadequacies of the system have seriously hampered the quality of life and forestalled further economic development.

The problems faced by the Virgin Islands water and power facilities have been carefully studied so as to provide a reasoned solution to our problem. The savings to the Virgin Islands government through the resulting efficiency in the system would provide much of the revenues needed to proceed with the long-term plans to bring local facilities up to reliable operating capacity.

The amendment providing $3 million for the construction of juvenile detention centers is clearly needed due to the serious criminal activity in the Virgin Islands which has increased at an alarming rate. There have been many negative consequences. Most importantly, residents have suffered as victims or from fear of becoming victims. The islands' largest industry, tourism, has suffered substantially from adverse publicity.

Much of the crime is said to be attributable to young, repeat offenders. Local law enforcement has been frustrated by the lack of facilities in which to hold young criminals prior to trial when apprehended. The result has been that many are returned to the streets where they commit additional crimes while pending trial.

These facilities will go a long way to curbing a situation which has compounded criminal activity in the islands.

Both of these amendments, I might add, have been provided for in the Interior Committee budget for fiscal year 1983.

I also ask your support for an amendment having no revenue impact, but which is of extreme importance to the economic future of the Virgin Islands. Approximately one-sixth of the revenues of the territorial government derive from the collection of excise taxes on rum produced in the Virgin Islands and sold in the United States. The rum industry employs some 3 percent of the territory's manufacturing work force. In light of the importance of the rum industry to our economy, an economy much more fragile than those of the 50 States, it is necessary that the people of the Virgin Islands have a more direct voice in the balancing of costs and benefits to determine the environmental standard to which that industry will be held.

The amendment would permit the Governor of the Virgin Islands to exempt the nontoxic ocean outfall discharges of existing rum distilleries in the territory from certain provisions of the Clean Water Act if he determined that the continuance of such discharges would not adversely affect water quality, a balanced population of aquatic life, or human health. This amendment has been reviewed and endorsed by the respective chairmen and ranking minority members of the Committee on Public Works and Transportation and that committee's Subcommittee on Water Resources, which has jurisdiction over Clean Water Act matters. The administration has also indicated its support for this amendment in the context of the Caribbean Basin legislation which now may pass out of Congress this year. The amendment also has the support of all segments of the Virgin Islands government and people, from the Chamber of Commerce to the League of Women Voters. I hope that my colleagues will support this important amendment.

Another amendment having no revenue impact, but important to the Virgin Islands, amends obsolete sections of the Organic Acts applicable to the territory. This is essentially a housecleaning amendment.

The other amendment takes the step, recommended by the General Accounting Office report on the territorial audit function issued in March of this year, of transferring the audit authority and staff of the territorial comptrollers, currently under the Department of the Interior's Office of Territorial and International Affairs, to its Inspector General's Office. This amendment is supported by the administration and should provide for a more equitable assessment of territorial finances since the audit responsibility will be removed from the office which administers the audited funds to territorial governments.

I urge my colleagues to vote in favor of these amendments. Thank you.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from Guam?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Guam?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WON PAT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

ADJOURNMENT TO MONDAY, SEPTEMBER 13, 1982

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent to dispense with the business in order under the Calendar Wednesday rule on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to make the point that we have several pieces of legislation that are now being bottled up, including the regulatory reform bill and several other important pieces of legislation. It seems to me that the only way we may be able to get at some of these bills is to not allow the Calendar Wednesday request to go through, and begin going through the roll of the committees so that we can begin the process of bringing some of those bills out of the Rules Committee and other places where they have been bottled up. In particular, today we had a motion on the floor which allowed a discharged day to be put aside for a very good reason, but nevertheless we are not going to be able to have a discharge day if we should get 218 signatures on the balanced budget amendment, and so at this point I shall not object, but I am basically putting the House on warning that from now on in that may be a tactic that will be used, to object to the Calendar Wednesday being dispensed with so that we can begin to get at some of this legislation off the bottling up process.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROCESSED COMMODITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

● Mr. FINDLEY. Mr. Speaker, since 1979, the volume of protein-fortified products shipped under title II of Public Law 480 has fallen from 43 percent to an estimated 20 percent this year and next. The volume of processed foods has fallen from 61 percent to 55 percent.

As we all know, the purpose of title II is to meet the nutritional needs of people less fortunate than ourselves. Through the years, the United States has donated millions of tons of food to people in developing countries.

In this time of tight budgets, it is important that we schedule shipments in such a way as to get the most "bang for the buck," but we cannot afford to ignore the nutritional needs of the recipients. The only way we can be sure that the recipients are receiving adequate nutrition is to send nutritionally balanced products: processed products.

Today, I am introducing a bill to require that the Department of Agriculture and the Agency for International Development increase the percentage of processed and protein-fortified products shipped under title II of Public Law 480.

This will not only assure that recipients receive proper diets, it also will provide substantial benefits to our troubled economy.

Increasing processed, or added-value products will benefit farmers by expanding the demand for raw commodities. It will benefit processors by creating a large export market for their products. And it will benefit the Nation's workers by increasing the number of jobs available in the processing and transportation industries.

A 1981 Department of Agriculture study investigated the effects of increasing exports of selected added-value products in terms of gross output, gross employment, and personal income. The products studied were wheat flour, corn-dressed poultry, wet corn milling products, soybean oil products, and cottonseed mill products. The study found that for 1980:

The U.S. exported 6.4 billion dollars' worth of wheat, but only 211 million dollars' worth of flour. If an additional 10 percent of the wheat had been exported as flour, the United States could have gained an estimated 5.635 billion dollars' worth of business activity, 122,400 additional jobs, and 1.217 billion dollars' worth of increased personal income.

If an additional 10 percent of the 8.6 billion dollars' worth of corn which was exported in 1980 had been processed into wet milling products for export, there could have been as much as 7.645 billion dollars' worth of business activity generated, up to 163,400 jobs created, and a $1.695 billion increase in personal income.

Soybean exports were valued at $5.9 billion. A 10-percent increase in processed soybean products would have expanded business activity by $1.646 billion, created 28,320 jobs, and increased personal income by as much as $253.7 million.

In addition to these economic benefits, increased exports of added-value products would reduce excess domestic supplies, strengthen commodity prices, and reduce the cost of Government price support programs.

Mr. Speaker, this bill is needed to help this Nation meet its humanitarian commitments, while helping to restore prosperity to the Nation's economy. I urge my colleagues to support its passage.

Thank you.●

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THE CONGRESSIONAL FRANKING PRIVILEGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, I take this time on behalf of the Committee on Post Office and Civil Service and the Commission on Congressional Mailing Standards to inform the House that a decision has been rendered in the lawsuit brought by common cause contesting the constitutionality of the congressional franking privilege. We are pleased to report that our position has been sustained and that the Common Cause complaint has been dismissed.

On September 7, a three-judge panel for the U.S. District Court (D.C.) issued a unanimous opinion rejecting all of Common Cause's claims, granting our motion for summary judgment, and dismissing the complaint.

Basically, the decision—which is appealable to the U.S. Supreme Court—

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holds that Congress is doing a reasonable job of regulating its use of the frank and that there is no basis at present for the court to become involved in Congress internal affairs.

Common Cause's fundamental contention was that the congressional franking statute gives incumbents an advantage so substantial as to violate the constitutional rights of challengers and potential challengers. The court concedes that the franking privilege does have an impact on the electoral process and is of value to incumbents. But the impact is not demonstrably great enough to violate the constitutional rights of challengers, according to the court. The frank serves legitimate public policy purposes, and the creation of some inherent electoral advantage is unavoidable when Members use the frank for these purposes. The court finds that Congress, since 1973, has been doing well enough in attempting to minimize this electoral advantage to avoid constitutional challenge. The court indicates that the House's 1977 tightening of franking rules and the 1981 enactment of the franking statute amendments are examples of Congress good-faith, self-policing efforts. The court concludes on the following cautionary note, however:

> We do not suggest that the franking privilege may never be shown to create such an imbalance in the campaign process as to constitute a cognizable interference with important rights. We hold only that the level of impact has not been shown to be sufficient in this case for us to assume the responsibility of redrafting a statute or promulgating regulations to govern the congressional use of the frank.

Although the court has ratified the effectiveness of our self-policing efforts to date, we believe it is essential that the House continue to improve upon these efforts. In this regard, the Commission will shortly be conducting a review of its existing franking regulations with the goal of making any necessary refinements in time for the beginning of the 98th Congress.

For the reference of Members, the complete text of the court's decision follows:

[U.S. District Court for the District of Columbia, Civil Action No. 1887-73]

COMMON CAUSE, ET AL., PLAINTIFFS, v. WILLIAM F. BOLGER, ET AL., DEFENDANTS, AND HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS, INTERVENING DEFENDANT

MEMORANDUM OPINION

Statement of the case

By an amended complaint filed March 12, 1974, plaintiffs seek a declaratory judgment that 39 U.S.C. § 3210, granting to Members of Congress the privilege of sending mail through the United States Postal Service as franked mail, is unconstitutional. Plaintiffs claim, in essense, that the franking privilege afforded by the statue provides an unconstitutional "subsidy" to incumbent candidates for Congress because franked mail inevitably has the effect of aiding Members' reelection efforts. Plaintiffs reason that because they are not afforded similar campaign advantages, section 3210 abridges their First Amendment rights to associate freely for the advancement of political beliefs, as well as deprives them of equal protection under the due process clause of the Fifth Amendment. In addition, plaintiffs seek a judgment that section 3210 permits an unlawful use of public funds for a non-public purpose in violation of the General Welfare Clause of Article I, Section 8, of the Constitution.

The Postmaster General[1] and the Secretary of the Treasury were the original named defendants in this case. Subsequently, on September 8, 1976, the House Commission on Congressional Mailing Standards was permitted to intervene as a defendant and the United States Senate, through its Select Committee on Ethics, formerly the Select Committee on Standards and Conduct of the United States Senate, was allowed to participate as *amicus curiae*.

It is the position of all defendants and the amicus that the franking statute and the congressional rules enacted thereunder facilitate the necessary and constitutionally protected communication between Members of Congress and their constituents and draw a proper line between legitimate and illegitimate uses of the frank, i.e., between communications on official business and communications for personal political advantage. They deny that the franking statute violates any of plaintiffs' First or Fifth Amendment rights. The case therefore presents a classic example of the tension which sometimes arises between conflicting claims of right.

Prior proceedings

On July 1, 1974, after denying defendants' motion to dismiss, the court granted plaintiffs' motion to convene a statutory court of three judges pursuant to 28 U.S.C. § 2284.[2] This court, in turn, considered and denied defendants' renewed motion to dismiss on February 10, 1975. Both motions to dismiss were predicated in part on plaintiffs' alleged lack of standing to bring this action, and were denied. Thereafter, all parties engaged in discovery through interrogatories, documentary requests, depositions and requests for admissions. Because of the nature of much of the material, a protective order was issued on March 1, 1976 and various coding systems were established to protect the confidentiality of Members of Congress and other witnesses. Without detailing the precise nature and volume of the discovery pursued by both sides, it is fair to say that the discovery concluded on April 22, 1981 has been thorough and complete. Many of the basic facts are not in dispute; what is sharply contested are the inferences to be drawn therefrom.

Present posture

Pursuant to the Court's timetable, plaintiffs, defendants and the intervening defendant filed motions for summary judgment on May 22, 1981. Oppositions were filed by the parties on June 12, 1981, as well as a memorandum of the United States Senate in support of the motions of defendants and intervening defendant and in opposition to plaintiffs' motion for summary judgment. The matter was argued at length on September 30, 1981.

Statutory basis for the franking privilege

1. The History of the Frank

The origin of the franking privilege can be traced to 17th Century England, when the privilege was granted to Members of the House of Commons concurrent with the establishment of the first public postal service in that country. The clear purpose then, as it is today, was to facilitate the carrying on of official business.

In 1775, the Continental Congress authorized the use of the frank by its own members and by those on active duty in the Continental Army. The First Congress, when it acted to establish a postal system in 1789, retained the privilege for official correspondence and documents. In 1873, after the Civil War, the privilege was temporarily abolished by Congress, but was restored in proprio vigore in 1985. 28 Stat. 593, 622 (Sec. 85).

Until the comprehensive revision of 1973, the Act of 1895 authorized Members of Congress to use the frank for correspondence on "official business." The responsibility to interpret the meaning of the term "official business" was exercised by the Post Office Department, which, upon request of anyone, including members of the public, provided official guidance in the form of advisory opinions as to whether a mailing or contemplated mailing could be franked.

This procedure was changed in 1968 when, in recognition of the practical as well as possible constitutional problems of its advisory position, the Department decided to give up its practice of issuing opinions to members of the public. It did, however, continue to give advisory opinions to Members of Congress until 1971, when, with the establishment of the new Postal Service, the Post Office Department relinquished any remaining responsibility in this area.

This confused state of affairs led to a spate of lawsuits in the federal courts of four different circuits by candidates running against incumbent members. At least two of these challenges, focused on the propriety of certain franked mailings by particular members,[3] were an acute embarrassment to Congress. Other more flagrant abuses surfaced, among them the reported event of a member mailing his lawn furniture to Bimini in the Bahamas, under a frank with the tag reading "Official Business." The combination of these factors plus the threat of further lawsuits led to Arizona Congressman Morris Udall's introduction of H.R. 3180 in Early 1973. Similar proposals were introduced in the Senate, and after the differences between the two bodies were accommodated in conference, the Franking Act of 1973, Public Law No. 93-191, was signed by the President and became law on December 18, 1973.

2. The 1973 Statute

The statute is set forth primarily in 39 U.S.C. §§ 3201, 3210-19. In this litigation, our attention is focused on section 3210.

In its opening declaration of policy, the statute states that the privilege of sending mail under the frank is "to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States." 39 U.S.C. § 3210(a)(1). "official business" is defined to "cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of these functions." 39 U.S.C. § 3210(a)(2).

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[1] Footnotes at end of article.

There follows a list of what the Congress considered to be frankable mail matter. The list includes, but is not limited to:

(a) Mailings to any person or any government official regarding programs, decisions and other matters of public concern. § 3210(a)(3)(A);

(b) The "usual and customary congressional newsletter or press release." § 3210(a)(3)(B);

(c) The "usual and customary congressional questionnaire." § 3210(a)(3)(C);

(d) Mail expressing condolences to a person who has suffered a loss or congratulations to a person who has achieved some personal or public distinction. § 3210(a)(3)(F);

(e) Mass mailings of federal documents and publications and publications containing items of general information. § 3210(a)(3)(G);

(f) Mail consisting of voter registration or election information or assistance. § 3210(a)(3)(H);

(g) Mail including a biography or autobiography of a member or family members which is part of a federal publication or in response to a specific request and not included for publicity purposes in a newsletter or other mass mailing. § 3210(a)(3)(I);

(h) Mail containing a picture, sketch or other likeness of a Member which is part of a federal publication or in response to a specific request, or, when contained in a newsletter or other mass mailing, is not of such size or does not occur with such frequency as to lend to the conclusion that the purpose is to advertise the Member, rather than illustrate the accompanying text. § 3210(a)(3)(J);

By way of contrast, the unauthorised uses of the frank are specified to cover the following: purely personal mailings unrelated to official business, § 3210(a)(4); mailings "laudatory and complimentary" of a member "on a purely personal or political basis," § 3210(a)(5)(A); "greetings" from the spouse or other members of the member's family, § 3210(a)(5)(b)(i); reports on how and when the member or his spouse or family spends time other than in connection with legislative, representative, and "other official functions," § 3210(a)(5)(B)(ii); mail "which specifically solicits political support," § 3210(a)(5)(C); and "any mass mailing . . . less than 28 days immediately before the date of any primary or general election . . ., § 3210(a)(5)(D).

The statute therefore permits franked mass mailings (defined to mean newsletters and similar mailings of more than 500 pieces) when they are made at least 28 days prior to a primary or general election. 39 U.S.C. § 3210(a)(5)(D). The statute also allows a member of the House to use the frank on postal patron mass mailings addressed not only into the area of his congressional district, but also into an area which he does not presently represent, but in which he will be a candidate in the next election because of redistricting. 39 U.S.C. § 3210 (d) (1)(A) and (B). Accordingly, material may be mass mailed under the frank to points outside the district of a Representative or outside the state of a Senator, subject only to the 28-day restriction.[4] Materials such as newsletters and press releases printed with campaign contributions are specifically permitted to be mailed under the frank. 39 U.S.C. § 3210(e).

It is clear from the legislative history, as well as from the text of the statute, that the 1973 Act was designed to give explicit approval to the traditional uses of the frank. As Congressman Udall, the leading supporter of the legislation, stated more than once, the approved uses were intended to be a summary of present practices. He emphasized that "we are simply confirming the sound, solid, responsible use of the frank which the vast majority of Members of Congress have always followed." [5] The entire legislative history confirms the position expressed by Congressman Udall.

3. The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate (now Select Committee on Ethics)

The 1973 statute also established for the House of Representatives a special commission composed of members and know as the "House Commission on Congressional Mailing Standards," (hereinafter House Commission) and for the Senate, the Select Committee on Standards and Conduct of the Senate (hereinafter Senate Committee). 2 U.S.C. § § 501, 502. Both groups are required to "provide guidance, assistance, advice, and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail" under the 1973 Act. 2 U.S.C. §§ 501(d), 502(a).

The Act also specifically provides for an administrative procedure for the receipt, investigation and hearing of complaints concerning alleged violations of the franking statute and limits the jurisdiction of the federal courts hearing such complaints.[6] Both the House Commission and the Senate Committee are required to "prescribe regulations governing the proper use of the franking privilege." 2 U.S.C. §§ 501(d), 502(a).

Each House of Congress, in response to the statute, has enacted formal rules which set further limits on the kind of material which may be franked. House Rule XLVI;[7] Senate Rule XLVIII, renumbered as 48(3).[8] While varying in certain respects, the Rules of both branches of Congress reflect concern as to the adequacy of the 1973 Act in two important respects:

(a) They extend the prohibition on mass mailings before a primary or general election in which the Member is a candidate from the 28 days permitted under the statute to 60 days.

(b) They require that the costs of mass mailings be defrayed exclusively from appropriated funds, although the statute permits the franked mailing of such material when paid for out of campaign funds.

4. Public Law No. 97-69

Most recently, Public Law No. 97-69, enacted on October 26, 1981, has further amended the 1973 statute by embodying the above two provisions of the House and Senate Rules as well as the prohibition barring mass mailings outside a member's district, when he is a candidate for another public office. The new law also extends the postal patron mailing privilege to the Senate and directs the Senate Committee on Rules and Administration to establish limits on such mailings.[9] Furthermore, the statutory authorization for letters of condolence and congratulations for personal distinction is eliminated and letters of congratulation can be sent only for "some public distinction."

To summarize, since this action was originally brought, the Congress has tightened considerably the respective features of the 1973 Act, particularly by incorporating into law the two important limitations embodied in the House and Senate Rules and implementing regulations and by eliminating authorization for the franking of all letters of condolence and certain letters of congratulations. The plaintiffs nevertheless remain firm in their challenge.

The issues

It is in the context of the foregoing statutory scheme governing the use of the franking privilege that two paramount issues are presented:

1. Whether the statute, as written and implemented, deprives the plaintiffs of their right to a fair political process, in violation of their constitutional rights under the First and Fifth Amendments.

2. Whether the statute recognises and protects the constitutional right and duty of Members of Congress to communicate with their constituents and at the same time limits any incidental adverse effects on the political process.

The factual record

We are convinced, after careful review of the evidentiary record [10] amassed over the length of discovery in this case, that the basic facts underlying plaintiff's challenge are not in dispute. We, therefore, set out our findings of fact in this case for the principal purpose of providing a clear context for our discussion and decision on the differing legal and constitutional arguments made. We preface these findings with two general assumptions, neither of which is genuinely disputed.

First, it stands to reason that incumbency alone is a valuable asset to the public official who seeks reelection. An incumbent Member of Congress enjoys a certain "visibility" among his constituents that a challenger may find difficult or impossible to match. It is also beyond argument that any communication with constituents, whether through local meetings or through the mail or mass media, contributes to such visibility and thus may have a direct effect (however slight) in influencing the outcome of an election. To the extent that the effect is positive from the incumbent's standpoint, it is undoubtedly detrimental to his challenger's position. This is so whether the communication is part of an overt campaign effort or made simply in the normal course of a member's representative function.

Second, there is little doubt that the franking privilege is a valuable tool in facilitating the performance by individual Members of Congress of their constitutional duty to communicate with and inform their constituents on public matters. As noted earlier, it is this particular duty which has justified the frank through its history.

Plaintiffs do not argue with the necessity of or public value in some kind of Congressional franking privilege. Their challenge before this court is based only on assertions that section 3210, as it stood in 1973 and, notwithstanding increased restrictions embodied in the Rules of both Houses and in subsequent amendments, even as it stands now, is drafted to enable more than the justifiable uses—that it permits Members of Congress to use the frank to make campaign-related mailings, particularly mass mailings.[11]

On the basis of the convincing evidentiary base offered by plaintiffs to support their

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argument, we make the following findings and offer a sampling of supporting evidence:

1. Members of Congress and their staff have received advice from many sources to take full advantage of the franking privilege in their campaign efforts. The publication of "The Job of the Congressman," co-authored by Congressman MORRIS UDALL, Chairman of the House Commission on Congressional Mailing Standards and sponsor of the bill which became the Franking Act of 1973, advises Members of the benefits of such use. Campaign committees from both the Republican and Democratic parties have held seminars for congressional staff members concerning the effective use of newsletters, questionnaires and other franked mailings. The Republican Senatorial Committee employed a direct mail consultant to give advice concerning effective campaign use of mass mailings—including franked mailings. A 1974 Democratic Campaign Committee manual entitled "Maximum Campaign Budget" called for integration of targeted franked mass mailings into overall campaign strategy. It is apparent that at least some members and their staffs believed that the use of franked mailings can be politically beneficial and should be employed.

2. At least some Members of Congress used direct mail consultants during the 1972, 1974 and 1976 campaigns to build mailing lists and to help integrate franked mailings into the overall campaign strategy.

3. Several Senators and Representatives have targeted franked mass mailings in ways that frequently have no relationship to official business and which are closely connected to reelection plans and strategy. Such targeted mailings, which are identified and documented, make use of voter registration lists and may be designed to convey views on an issue to a select group which is likely to be receptive to those views. Mailings may be made to voters on the basis of demography (race, religion, sex, age), geography, political affiliation or membership in special interest groups. The importance of special interest group mailings and of targeted mass mailings is demonstrated by the fact that, during the period from 1973-75, less than two percent of franked mass mailings by Senators were general newsletters.

4. The "usual and customary congressional questionnaires," frankable under section 3210(a)(3)(C), are often used for purposes other than merely determining constituents' views on particular issues. They may be used to obtain demographic and other information helpful to identifying recipients for targeted mailings, thus facilitating the member's political "responsiveness" to various groups and interests.

5. Members often include self-laudatory material in franked mailings, including favorable editorials, reports of awards, compliments of others concerning the member's performance of his duties, pressure group ratings, and the like. They also use franked mails to compliment and honor constituents to generate good will which, according to plaintiffs, improves the members' chances of reelection.

6. The House Commission on Congressional Mailing Standards has specifically approved the uses of the franking privilege described above. Mailings referred to in these findings and made by Senators were registered with the Secretary of the Senate.

7. The volume and timing of franked mass mailings, revealed by data stipulated by the parties to be reasonably accurate, indicate widespread use to promote incumbents' reelection efforts. The volume of franked mass mailings is significantly higher in the year preceding House or Senate elections than in the year following elections. The volume builds to a peak just before the preelection cutoff and drops sharply. The volume of non-mass franked mailings stays relatively constant from year to year in both the House and the Senate. It is an undeniable conclusion that the fluctuations in the volume of franked mass mailings are caused by the electoral cycle, rather than by fluctuations in legislative activity.

8. Measured in financial terms, the franking privilege confers a substantial advantage to incumbent Congressional candidates over their challengers. We find that Congress recognized the potential financial benefits conferred by section 3210 on campaigning incumbents at the time it passed the Act.

9. We make no specific finding concerning the extent to which use of the franking privilege has contributed to the electoral victories of any incumbent Members of Congress. We are inclined by the lack of evidence on this point to conclude only that there is no statistical relationship between the use of the frank and the outcome of an election and that proof of the decisive impact of the privilege in any particular election is elusive, whatever the potential financial benefit of the frank.

Analysis

It is the plaintiffs' basic position that the First Amendment and the equal protection component of the Fifth Amendment mandate that the government remain neutral in electoral matters and avoid any action which unfairly benefits some participants in the political process to the detriment of others. They claim that by affording what amounts to a postage subsidy which may be used to send materials which promote an incumbent's efforts toward reelection, the franking statute violates this constitutional principle of fairness.

Defendants on the other hand vigorously deny that the franking statute is consitutionally unsound, asserting that the bounds of the franking privilege have been drawn to facilitate the constitutional duty of Members of Congress to communicate with their constituents, and at the same time to limit as much as possible any adverse effects on the political process. It is to the constitutional issues underlying these opposing positions that we now turn our discussion.[13]

The first amendment aspects of plaintiffs' claims

The "Freedom of Speech" clause of the First Amendment, according to plaintiffs, protects several aspects of the political process with which the frank, by providing a subsidy to incumbents, interferes and harms. These include, under plaintiffs' analysis, the ability of candidates to win elective office, to attract financial support, to communicate with citizens, to educate the public and to influence the political discourse of a campaign. While we do not agree with plaintiffs that there is a First Amendment-based right to win elective office, we agree that important aspects of the political process do fall within the general rubric of speech under the First Amendment. As the Supreme Court stated in *Monitor Patriot Co.* v. *Roy*, 401 U.S. 265, 272 (1971), the constitutional standard that a person's speech remain unfettered and unabridged by governmental action "has its fullest and most urgent application precisely to the conduct of campaigns for political office."

While plaintiffs do not claim that their right to speak, to vote and to associate for political ends have been *directly* restrained by the franking statute, this absence of direct restraint does not render the First Amendment protections inapplicable. It is well-established that "the Constitution's protection is not limited to direct inference with fundamental rights." *Healy* v. *James*, 408 U.S. 169, 183 (1972). Claims of First Amendment violations demand heightened judicial sensitivity, "[e]ven where a challenged regulation restricts freedom of expression only incidentally." *Schad* v. *Borough of Mount Ephraim*, 452 U.S. 61, 69 n. 7 (1981). *See also Buckley* v. *Valeo*, 424 U.S. 1, 21 (1976).

The essential element of plaintiffs' argument is that, to the extent that it enables Members of Congress to use franked mail to promote their own campaign efforts, the franking statute works an effective restriction on challengers' access to the political process, thereby violating rights of expression and association. It is argued that the postal subsidy effectively created by the franking statute violates the rule under the combined First and Fifth Amendments requiring that the government neither impose unequal burdens nor grant unequal benefits upon participants' exercise of their rights to speech and association in the political process. Although we endorse the principle that protection of the fundamental fairness of the political process is necessary to ensure the uninhibited competition of candidates and in ideas which "is at the core of our electoral process," *Williams* v. *Rhodes*, 393 U.S. 23, 32 (1968), and accept that granting financial benefits to some interests may be under some circumstances the same as restricting the First Amendment rights of others, *see Taxation with Representation of Washington* v. *Rogers*, 676 F.2d 715, 744 (D.C. Cir. 1982), we do not accept plaintiffs' contention that the facts of this case require strict judicial scrutiny of the statute at issue.

It is clear from our reading of Supreme Court cases involving governmental restrictions on the exercise of free speech that the standard of strict scrutiny, which requires that the government justify a particular regulation by demonstrating that it "is necessary to serve a compelling interest and that it is narrowly drawn to achieve that end," *Widmar* v. *Vincent*, 102 S. Ct. 269, 274 (1981), is reserved for those instances where the restriction impacts *directly* on the *content* of the restricted communication. *See, e.g., Widmar* v. *Vincent, supra; Metromedia, Inc.* v. *City of San Diego*, 453 U.S. 490 (1981); *Central Hudson Gas & Electric Co.* v. *Public Service Commission*, 447 U.S. 557 (1980); *Consolidated Edison Co.* v. *Public Service Commission*, 447 U.S. 530 (1980); *Carey* v. *Brown*, 447 U.S. 455 (1980); *Police Dep't of the City of Chicago* v. *Mosley*, 408 U.S. 92 (1972). We do not believe that this is such a case, and is distinguishable in important respects from the decision in *Greenberg* v. *Bolger*, 497 F. Supp. 756 (E.D.N.Y. 1980), upon which plaintiffs principally rely.

In *Greenberg*, a First Amendment challenge was raised against a statutory scheme granting the two major political parties special reduced mailing rates while denying similar rates to minor parties. Plaintiffs argued in that case that by denying them the same discounted postal rates enjoyed by the major parties Congress had restricted their access to the mails and thereby had violated their First Amendment rights of expression and association. The court correctly observed that regulation of First Amendment rights of expression must be "content neutral," noting that "[t]he Supreme Court has often explained that '. . . above all else, the first amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.' " *Id.*, at 774, quoting *Police Department of the City of Chicago* v. *Mosley*, *supra* at 95-96. The court then determined that the statute challenged in that case was not content neutral. It reasoned that by drawing a line between major and minor parties, Congress had granted a postal subsidy for the expression of the most "popular" political ideas while refusing similar advantages to those who held political positions substantially different from those of the major parties. It concluded that "[b]y subsidizing the mailings of the Republicans and Democrats, the government has chosen to benefit those with popular views and burden those with unpopular views. To handicap the mailing of campaign literature because a political party has not achieved a required level of acceptance is not different from censoring speech because of its substance." *Greenberg*, 497 F. Supp. at 776.

The principal difference between this case and *Greenberg* is in the nature of the restrictions worked by the statute. In *Greenberg* the restrictions were direct and drawn along party lines. They therefore effectively limited the expression of particular political *ideas*. Although this case involves issues of access to the political process similar to those raised in *Greenberg*, the impact here is not upon defined political positions. The lines drawn by the franking statute distinguish *individuals*, not ideas. And because the individuals affected—non-incumbent congressional candidates—must be presumed to represent the full spectrum of political ideology, we cannot hold that the franking privilege creates any discrimination or restriction which is content related. This case does not fall within the rationale for strict First Amendment scrutiny adopted in *Greenberg*.

In fact, beyond acknowledging that the franking statute has some limited impact upon speech-related rights, the First Amendment finds little place in our analysis. Although the language of the First Amendment ensures that one's own speech be free, unfettered, and unabridged, it does not alone require that each individual be entitled to this particular privilege of incumbency that certain others may enjoy.[18] For this reason, questions of the constitutionality of governmental-created imbalances are much better suited to analysis under the principle of equal protection than under freedom of speech. It is thus to the Fifth Amendment that we now turn.

The fifth amendment claims

The plaintiffs' equal protection argument is direct and straightforward: by permitting the franking of materials which may be sent for no purpose other than to advance incumbency, the franking statute affords campaign advantages to incumbents, seriously imbalancing the political process to the detriment of any challengers. Plaintiffs argue that because of its impact on rights to free speech under the First Amendment the discrimination worked by the franking statute may be justified only by demonstrating a compelling interest.

The cases offered by plaintiffs to support their argument that the government may not discriminate among candidates by unequally imposing handicaps on some or granting benefits to others deal almost exclusively with the same sort of content-based discrimination discussed briefly above—drawing lines of distinction by party affiliation or ideology. We find little discussion in case law relating to the advantages which incumbents may enjoy simply by virtue of their incumbency over any challengers who seek this in public office.

In *Elrod* v. *Burns*, 427 U.S. 347 (1976), for example, the Supreme Court held that patronage dismissals violated the First and Fourteenth Amendments. The basis of the holding, however, was not necessarily that an incumbent might use the system to tip the electoral balance unfairly against any challenger, but that the threat of dismissal severely restricted the political beliefs and associations of the employees affected. The Court held that the requirement that employees pledge political allegiance to one party or another, work for the election of other candidates of the incumbent party, contribute a portion of their wages to the party, or obtain the sponsorship of a member of the party, all in order to maintain their jobs imposed an unconstitutional condition on the right to continued employment. There is no similar condition in this case. The franking statute imposes no direct condition upon the right of any person to challenge an incumbent, to support one or another party in a particular election, or to use the mails. Its impact upon political speech and association is at most indirect, and then ony to the extent that it may make campaign-related communication through the mails more expensive for a non-incumbent candidate than for the incumbent who seeks reelection and uses franked mail to promote that end.

We cannot overlook the fact that, despite their broadside objections to the franking statute, plaintiffs concede that the frank serves an essential public purpose in facilitating communication with constituents and that some sort of franking privilege is necessary in the performance of official congressional business. They concede that the problem is merely one of drawing lines—striking a proper balance between legitimate and illegitimate uses of the frank.

The franking statute effectively draws two lines of demarcation. The first is drawn by the granting of the franking privilege to Members of Congress only. In general, this distinguishes Congress from the general public, and also has the effect of drawing the line between incumbent and non-incumbent congressional candidates. Plaintiffs do not argue that non-incumbents should also be afforded the franking privilege. They seek only to limit its use by Members of Congress. The second line drawn by Congress draws a distinction between official and unofficial use of the frank. Our sole concern is with this second line of demarcation and to this we direct our attention.

Under present practice a mailing is considered to be "official" if, on its face, it falls within the permitted types (or at least outside of the prohibited types) of materials listed under section 3210. The statutory test does not look to motives, but only to "the type and content of the mail." § 3210(e). Plaintiffs argue that attention to content only, without considering the motives for sending a particular mailing, enables Members to use the frank for the *unofficial* purposes of promoting reelection. Plaintiffs thus fault the present franking statute and congressional practice for failing to subject franked mailings to a test of official versus unofficial *motivation*. Absent standards based on underlying motives, plaintiffs urge that the franking statute be modified to eliminate categories of mailings which have been prone to abuse in the past. We cannot accept plaintiffs' suggested cause of action.

Were the frank shown to be available and widely used for reelection purposes and had plaintiffs demonstrated that such use has a substantial detrimental impact on opposing candidates or members of the voting public seeking to educate themselves on the candidates and the issues, plaintiffs' claims, particularly those based on the First Amendment, would have considerable merit. But such level of interference with the electoral process has not been shown in this case. We are hesitant to apply a standard under the guise of strict judicial scrutiny to a situation where there has been no demonstration of significant harm to the plaintiffs' constitutional rights. The conceded and undisputed legitmate interests promoted by the franking statute are sufficient to justify the limited impacts on the rights of the plaintiff class and to satisfy the invocation of the rational basis test, which we apply in this case. We cannot hold the franking statute unconstitutional simply because it sets forth a standard to determine "official" uses of the frank different from that proposed by plaintiffs.

It is important to view the franking activities of Members of Congress from an overall perspective. It seems undeniable that all mailings, franked and unfranked, from any particular Member of Congress may be grouped into three types. The first type is composed of "official" mailings, those related directly to the legislative and representative functions of Congress. This is the type of communication which Members of Congress arguably are under a duty to provide and to which the frank has been extended over the past 200 years. At the other extreme are mailings which are on their face political or private and therefore "unofficial" in nature. Congress itself has recognized the dangers, constitutional as well as practical, of extending the franking privilege to these types of mailings and has excluded them or expressly prohibited them under the statute and rules in both Houses. Between these two extremes lies a class of mailings whose purposes are less easily discernible. For example, it is undeniable that Senator X, acting in his elected capacity, should have a right to make mailings within this middle area related to his official duties. It is equally obvious that this same individual acting as candidate for the Senate has an interest in mailing the same material to prospective voters to promote his campaign efforts. Thus the motivations, even behind a particular mailing, may be mixed. Plaintiffs' complaints here can only be about the actions and purposes of the candidate, however, and not the senator.

Congress drafted the franking statute expressly to include many of the types of mailings which unquestionably fall within this middle area. This of itself does not require that we invalidate the scheme as unconstitutional. The question before us is not whether the particular line which Congress has drawn between "official" and "unofficial" uses of the frank necessarily has the least possible potential, in comparison with other methods of drawing the line, for adversely affecting challengers' effective access to the mails. The question is only whether the line is a reasonable one.

A statutory scheme need not be drafted or even administered so as to eliminate completely all possible abuses before it is constitutionally acceptable. We can be concerned only with whether the standard adopted

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bears a rational relation to the twin goals at hand: one, to facilitate (even encourage) official communication and two, to discourage or eliminate unofficial communication. It is clear from the record that Congress has recognised the basic principle that government funds should not be spent to help incumbents gain reelection. The details of the franking scheme, including its distinction between official and unofficial mailings, appear to be rationally designed to work for that end. (It is relevant in this regard that the record in this case consists principally of *abuses* rather than routine uses of the franking privilege). It would be most inappropriate for the judiciary to step in and demand that Congress restructure this scheme under the circumstances of this case.

To state the obvious, it simply is impossible to draw and enforce a perfect line between the official and political business of Members of Congress. The franking privilege is only one of many perquisites afforded to them which may be turned one way or another into a campaign advantage over any challenger. We have already accepted as an assumption and stressed the fact that an incumbent is, by virtue of his incumbency alone, much more visible to the voting public than is a would-be challenger. He has greater access to the media, both local and national; he usually has one or more offices in his home district, in addition to his Washington office; he has a staff paid out of public funds; he has a WATS line for telephone calls which he may use to communicate with his constituents.

Plaintiffs do not suggest that the incumbents' use of these tools of office be strictly limited to purposes which cannot possibly contribute to efforts at reelection. This would be a most difficult standard to administer in any case, for each and every act of an elected representative may, in a political context, be seen as an effort to demonstrate that the voters' choice was a good one. It is impossible, without probing into the deepest thoughts and motives of an individual Member of Congress, to determine exactly why he votes as he does on a particular issue, why he casts a letter to a constituent in the terms in which it is cast, why he communicates with other Members of Congress as he does, why he assigns particular staff functions as he does, or why he does any of the myriad of things that a Member does in his day-to-day routine. It is no less difficult to apply and administer a subjective standard in the use of the frank. Moreover, we cannot require that such a standard be substituted for what we accept as an already reasonable objective standard adopted under section 3210.

For similar reasons, we cannot hold that the particular types of mailings to which plaintiffs object are so prone to abuse that they should not be permitted. Just as plaintiffs have identified the suitability of mass mailings (targeted or general), newsletters, questionnaires and other materials for campaign purposes, there is not a type of mailing challenged which is not also suitable for legitimate "official" purposes. Targeted mailings, for example, may be a means of directing discussion or information on particular issues to those groups in a particular Member's constituency which might be most affected, at the same time saving the cost of preparing and mailing information to individuals who are less likely to be interested. And notwithholding allegations that questionnaires are most often used to obtain demographic information beneficial to a candidacy, it goes without saying that any method of obtaining constituents' views and impressions on particular issues may be invaluable to a Member of Congress who truly considers himself responsible to the people.[14] It does little, therefore, for the plaintiffs to emphasize the potential in these types of mailings for abuse, without also acknowledging the legitimate ends to which they are put. We are not convinced by any of plaintiffs' arguments that there exists no rational and legitimate basis for Congress' decision to retain these particular "middle area" uses of the frank within the stated category of "official use," and we defer to the judgment embodied in the statute.

Prudential considerations

Our deference to Congress is guided also by important prudential considerations. We must give weight to the fact, mentioned earlier, that section 3210 was originally enacted in an attempt to curb widespread abuses of the franking privilege. It has since been refined by detailed regulations in each house to meet the more obvious of objections which arise even under its amended language. The House and Senate have also established machinery to monitor, review, and receive complaints concerning uses of the frank.[15] The plaintiffs seek to have the Congress, through judicial compulsion, "redraw the line" and strike a different balance. This we decline to do for at least two compelling reasons. First, the distinction between "official" and "unofficial" cannot be sharply defined or delineated and for the court to assume this burden would be an impossible task. Second, to grant the relief which plaintiffs seek would in effect require us to issue rules of behavior superseding those that Congress, a coordinate branch of government, has responsibly set for itself. It is not this Court's function to examine the policing efforts of committees created by Congress to deal with the particular types of concerns raised by plaintiffs in this case with an eye to compel even more refined standards and closer examination. The United States Court of Appeals for the District of Columbia recently manifested a reluctance "to develop rules of behavior for the Legislative Branch," or "to monitor every action taken by a senator and his aide in an effort to determine whether it is sufficiently 'official' or too 'political,'" *United States ex rel. Joseph* v. *Cannon*, 642 F.2d 1373, 1384, 1385 (D.C. Cir. 1981). We follow course in this case.

Conclusion

We do not suggest that the franking privilege may never be shown to create such an imbalance in the campaign process as to constitute a cognizable interference with important rights. We hold only that the level of impact has not been shown to be sufficient in this case for us to assume the responsibility of redrafting a statute or promulgating regulations to govern the congressional use of the frank. Our rationale for rejecting plaintiffs' claims under the First and Fifth Amendments holds as well for the challenge raised under the General Welfare Clause of Article I, Section 8. We find no constitutional violation.

For the foregoing reasons we grant judgment to the defendants and defendant-intervenor and dismiss the complaint.

An order consistent with the foregoing has been issued this day.

MALCOLM RICHARD
WILKEY,
U.S. Circuit Judge.

GEORGE L. HART, JR.,
U.S. District Judge.

J. H. PRATT,
U.S. District Judge.

September 2nd, 1982.

FOOTNOTES

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[1] Now the Director, United States Postal Service.

[2] Pub. L. No. 94–381, enacted August 12, 1976, which repealed §§ 2281 and 2282 and amended § 2284, does not apply to any actions filed before the date of enactment.

[3] *Schiaffo v. Helstoski*, 492 F.2d 413, 430, n.89 (3d Cir. 1974); *Hoellen v. Annunzio*, 468 F.2d 522, 526 (7th Cir. 1972) (permitting the use of extrinsic evidence in addition to content, *i.e.*, timing and other characteristics of franked mailings, as relevant to the sender's motive and the question whether the mailings were made to further an incumbent's election rather than the conduct of his official responsibilities as a legislator).

[4] In providing that the frankability of mail matter shall be determined "by the type and content of mail sent, or to be sent," this section also overturned the effect of *Hoellen, supra*, in which Judge (now Justice) Stevens stated that "we should not close our eyes in the face of extrinsic evidence which reveals that an appearance of official business is nothing more than a mask for a private purpose." *Hoellen, supra*, at 526.

[5] *See, e.g.*, 119 Cong. Rec. H 2600 (Apr. 11, 1973); *see also Congressional Perquisites and Fair Ethics: the Case of the Franking Privilege*, 83 Yale L.J. 1055, 1062–74.

[6] 2 U.S.C. §§ 501(e), 502(b), 502(c). In the case of complaints concerning House members, judicial review is on the basis of the administrative record before the House Commission § 501(e). In the case of the Senate, judicial review, while apparently *de novo*, cannot take place until after the filing of the complaint and decision thereon by the Senate Committee. § 502(c).

[7] Adopted March 2, 1977 in H.R. 287. In addition, the House Commission on Congressional Mailing Standards, pursuant to its Rule XLVI, has issued extensive regulations governing the use of the frank and rules of practice in proceedings before the Commission. *Regulations on the Use of the Congressional Frank by Members of the House of Representatives* (February, 1979).

[8] Adopted April 1, 1977 in Senate Resolution 110. The Senate Select Committee on Ethics has similarly implemented its Rule XLVIII through the issuance of regulations. The latest of these are *Regulations Governing the Use of the Mailing Frank by Members and Officers of the United States Senate* (June 26, 1979).

[9] Present House Rules limit such mailings to six per year.

[10] Contained in plaintiffs' voluminous Statement of Material Facts Not in Dispute incorporating plaintiffs' Request for Admissions (570 requests) and defendants' responses thereto. The extensive response of defendant intervenor alone to plaintiffs' Request for Admissions comprises 622 pages.

[11] Plaintiffs object specifically to several types of mass mailings explicitly or implicitly permitted by the provisions of section 3210; mailings including self-laudatory material; reports concerning visits to Washington by constituents; solicitation of political support (falling short of the specific requests barred by the statute); congratulatory messages; and questionnaires.

[12] The additional issue of plaintiffs' standing to bring this action has been raised at numerous times during this litigation. Defendant-intervenor argues that, despite all the evidence offered by plaintiffs, there is little showing that the "injuries" suffered by members of the plaintiff group who have run against and lost to congressional incumbents were caused by operation of the frank. Our attention is then drawn to several cases, including *Winpisinger* v. *Watson*, 628 F. 2d 133 (D.C. Cir. 1980), for the principle that standing cannot be based on speculative and tenuous theories of causation and injury.

We do not regard the issue of standing as a frivolous one and acknowledge that there may be a legitimate concern over whether plaintiffs' limited showings are sufficient to establish standing. We also recognize that the type and cause of injuries claimed in this case are not easily subjected to proof. Rather than to resolve the complexities of this issue, we prefer to confine our holding to plaintiffs' constitutional claims.

[13] We cannot ignore the fact that the plaintiffs' arguments against this particular advantage of incumbency can also be directed against others, i.e., greater access to the media, local and national, one or more local district offices, staff paid out of public funds, WATS line for telephone calls to and from constituents, etc.

[14] While we need not agree with defendant-intervenor's sanguine appraisal that the typical member follows the advice of Edmund Burke to the voters of Bristol in 1774 and votes his own conscience rather than following the expressed wishes of his constituents, it is nonetheless true that members, to be successful representatives, must at least learn at the outset the views of those who put them in office. Thereafter, they must keep themselves informed.

[15] For example, each house has its own method for policing mass mailings, which, as must be apparent, are the greatest single source of plaintiffs' claims of abuse. In the House, before sending a mass mailing a Member must first submit the same to the Franking Commission for an advisory opinion. In the Senate all mass mailings must be registered with the Secretary of the Senate and are available for public inspection.●

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, in the past 24 hours there has been a great deal of confusion about the administration's position on continued funding for the senior community service employment program as authorized under title V of the Older Americans Act. Since this program is a key part of the supplemental appropriations bill now under consideration it is important that we have the facts before voting.

The most important fact is that the administration's position on continuation of the title V program has been clear and consistent: The President is opposed to it; his fiscal year 1983 budget proposal zeroed out the program, and he has repeatedly stated his opposition to the program in correspondence with the Congress. I believe that the supplemental appropriations bill was vetoed in part because it contains funding for title V.

The question we are now faced with is what happens if this supplemental appropriations bill is not enacted. This is where the confusion arises.

As you know, the fiscal year 1982 appropriation in the continuing resolution provides only enough money to operate the title V program from July 1, 1982 through September 30, 1982. This level was based on a Senate Appropriations Committee decision to discontinue the past practice of forward funding the older worker program. We know that this was not done to terminate or in any way harm the title V program, and that the intention was to use fiscal year 1983 appropriations to support the program during the regular fiscal year from October 1, 1982 through September 30, 1983.

However, that level was decided upon before enactment of the Older Americans Act Amendments of 1981 (Public Law 97-115), in which Congress agreed that title V should continue to be forward funded. Section 508(b) of the new OAA states that money appropriated "for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following fiscal year." This language prohibits the Department of Labor from using fiscal year 1983 appropriations for the older worker jobs program during the 9-month period between October 1, 1982 and June 30, 1983. Thus, the jobs of thousands of needy elderly men and women will be terminated in October, regardless of the amounts provided for the fiscal year 1983 appropriations bill or continuing resolution.

The best way to avoid throwing older workers off their jobs is to pass the supplemental appropriations bill. This would provide $211 million to sustain the title V program until June 30, 1983. At that time the fiscal year 1983 appropriations will take over and continue funding for the program through the end of the fiscal year.

Part of the confusion over the necessity of including title V moneys in the supplemental appropriations was created by a letter from David Stockman to the distinguished minority leader. That letter claims that the President's veto of the supplemental would have no effect on continuation of this program. The letter goes on to say that the first budget resolution provides for continued funding at fiscal year 1982 levels. Thus, according to Mr. Stockman's logic, if Congress passes a continuing resolution for fiscal year 1983 the title V program would be saved.

There are several problems with Mr. Stockman's logic. First, as I mentioned earlier the authorization for title V prevents the use of fiscal year 1983 funds before July 1, 1983. Any continuing resolution or appropriations bill, therefore, would have to include an amendment to the Older Americans Act to allow funds for title V to be spent prior to July 1983. Amending authorizing legislation through appropriations bills is an inappropriate way to legislate.

Second, notices have already been sent to title V workers informing them that the program will come to an end on September 30. Thus, thousands of workers are now in a state of panic and are threatened with losing their jobs unless a continuing resolution for fiscal year 1983, with an amendment to the Older Americans Act, is enacted before September 30. It is unlikely that the continuing resolution would be passed in time, which means this valuable program must be dismantled.

The disruption caused by these funding problems points up the need to continue forward funding of the title V program. The 54,200 older workers employed by this program are low income and elderly. They cannot afford the loss of their jobs for even a few days. This administration is taking a callous attitude toward these needy Americans by contributing to the confusion over funding of this program. If the administration really cared about title V they would support funding it through the supplemental appropriations. The smokescreen created by Mr. Stockman's letter was, in my opinion, an attempt to confuse the issue and thereby jeopardize the title V program.

I strongly urge you to vote for overriding the veto of H.R. 6863.●

HALLMARKS OF A KENTUCKY GENTLEMAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

●Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to share an article with my colleagues—an article that provides a rare glimpse into our dear friend and colleague, BILL NATCHER.

We all know BILL as an outstanding legislator and the powerful chairman of the Labor-Health and Human Services Subcommittee of the Appropriations Committee. But this refreshing piece by Martin Tolchin gives us a further insight into BILL NATCHER, the man. I know my colleagues will enjoy this fitting tribute:

The article follows:

HALLMARKS OF A KENTUCKY GENTLEMAN

(By Martin Tolchin)

WASHINGTON, September 6.—The Congressional negotiators on a key spending bill were bogged down. The House conferees blamed the Senators for failing to consult them in drafting the bill. The Senate conferees countered that the House members had gone off on early summer vacations.

It was Representative William H. Natcher, a Kentucky Democrat, who got them back on track. The House conferees had sought $63 million for summer youth jobs. "Mr. chairman," said Mr. Natcher, "instead of the $63 million, how do you feel about $50 million, and instead of $57.6 million for the Work Incentives Program, how about $31 million?" When the Senate conferees still resisted, Mr. Natcher proposed the winning combination: $45 million for youth jobs and $35 for work incentives.

The compromise was agreeable to President Reagan, who had vetoed two previous spending bills, and he signed the agreement into law.

Last week, however, the President vetoed another spending bill, and Mr. Natcher is expected to play a key role in formulating House strategy to override that veto when Congress goes back to work on Wednesday.

"A REALLY DECENT GUY"

Mr. Natcher, a courtly, sharp-featured 72-year-old, has been breaking Congressional deadlocks almost since he arrived here in

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1954. His meticulous attire and no-nonsense demeanor have earned him almost universal respect in the chamber, and the leadership often has given him the gavel when difficult legislation is on the floor.

"Bill Natcher runs the House as a parliamentarian better than anyone I've ever seen," said Speaker Thomas P. O'Neill, Jr.

Mr. Natcher has a unique way of conducting his Congressional life. He has no press secretary, administrative assistant or legislative assistant. Instead of the 22 aides to which he is entitled, he has eight, six in Washington and two in his district in West Central Kentucky. All are women.

More remarkably, in his 28 years in the House, he has never missed either a roll-call vote or a quorum call. He long ago set the House record, and at last count had answered 12,659 consecutive roll-calls and quorum calls.

Nor has Mr. Natcher ever taken a campaign contribution. He finances his campaigns out of his Congressional salary. This year, with two primary opponents, he plans to spend about $8,000.

"I made up my mind before I got here that there were certain things I'd never do," Mr. Natcher said. "I'd never take a campaign contribution, and I'd stand up and be counted on every roll-call vote."

"I don't have an A.A., an L.A.," he said, referring to administrative assistant and legislative assistant "or a press secretary, because that's what they sent me up here to do," he said.

The Congressman lives by some of the old-fashioned traditions of the chamber. "His word is as good as gold, but he never forgets those who cross him," said one colleague.

Mr. Natcher's power base is his chairmanship of the Labor-Health and Human Services subcommittee on the Appropriations Committee, which oversees $307 billion of this year's $769 billion budget. He is the third-ranking Democrat on the Appropriations Committee, a position that has enabled him to funnel millions in appropriations into this Congressional district.

Previously, Mr. Natcher headed the subcommittee on the District of Columbia, and earned the enmity of some black leaders by listing his two major objectives as reducing the city's crime rate and illegitimate births. He said that the district "should not be turned into a haven for those who roost on welfare payments."

But although he voted against most of the early civil rights bills, he supported the Voting Rights Act of 1965 and most of the antipoverty and housing programs of the Johnson Administration. He says that he is proudest of his votes for the Manpower Training Bill, the Clean Air Act, the Elementary and Secondary Education Act and the New York City fiscal aid bill.

In 1974 Mr. Natcher presided twice over House deliberations on the New York City bill. "I took the position that we can't permit one of the greatest cities in the world to go under," he said.

He has witnessed the decline of the system of strong committee chairmen. "When I came here we had men like Sam Rayburn, Dan Reed, Clarence Cannon—strong, able men," Mr. Natcher recalled. "You had faith in them, you believed in them."

He also has seen the decline of the Appropriations Committee, whose subcommittee chairmen were once referred to as "the College of Cardinals." But now much of their power has been taken by the Budget Committee.

Mr. Natcher is a devoted diarist. He has recorded the events of his era in 42 bound volumes, and is now working on the 43d. His impressions also are recorded in more than 1,600 letters he has written his six grandsons.

Mr. Natcher is the product and now leader of his district's Democratic organization. Born and reared on a farm, he became a lawyer and district prosecutor, handling 13 murder cases. He had to wait until his seniors in the Democratic organization gave him the nod to run for Congress.

"I wanted to come to Congress 12 years before I got here," Mr. Natcher said. "They were 12 long years. I had to mark time for three old men."

Mr. Natcher played by the rules, and has been doing so ever since. The experience only underscored what his colleagues have long since discovered.

"I have a lot of patience," Mr. Natcher said "I've had it all my life."

REPRESENTATIVE WILLIAM H. NATCHER, DEMOCRAT OF KENTUCKY

WASHINGTON, September 6.—Representative Natcher corresponds regularly with six grandsons. In a recent letter, he described the turning point in the Presidential nomination of Woodrow Wilson, on the 85th ballot of the 1912 Democratic National Convention in Baltimore. Mr. Wilson bested Champ Clark, who was born in the district Mr. Natcher now represents. Excerpts follow:

"To this day, historians have never been able to account for the sudden switch in the Texas delegation, but my former Chairman of the Appropriations Committee, Clarence Cannon, told me why the switch took place. At that time he was Champ Clark's administrative assistant.

"Champ Clark called Clarence Cannon and told him to go to the office and get the Texas delegation file and bring it to Mr. Clark's home. Mr. Cannon got the file, which contained the names of all of the delegates, the members of their families and debtors, if any, and considerable confidential information about each delegate which could be used in talking to that particular delegate for his or her vote, along with certain other very confidential information.

"Mr. Cannon then proceeded to get on a streetcar in front of the Old House Office Building and upon reaching a certain point downtown, had to change streetcars. Inadvertently, he left the file on the seat.

"He immediately got off the streetcar and reported it to the police and to the transit company. After waiting for some time and after receiving a report from the transit company that no file was discovered on the streetcar, he then called Mr. Clark and advised him as to what had happened.

"The next morning Mr. Clark and his A.A., Clarence Cannon, returned to the Democratic national convention. Shortly after starting the first or second ballot on that day, with Mr. Clark still in the lead, the Texas delegation suddenly switched and voted for Woodrow Wilson. Several other states followed and this was the end of the road for Champ Clark.

"Mr. Cannon on more than one occasion told me this story, and each time he would hold his hands together at the end of the story, saying that he had let the Presidency of the United States slip between his fingers. He always believed that someone found the file and turned it over to the Texas delegation. This delegation, then becoming incensed at some of the contents of the file, switched."●

FRED RICHMOND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, during the recess, our colleague from New York, Frederick W. Richmond, resigned from the House. Since his multifarious troubles has brought severe discredit, not only upon himself, but upon the House as an institution, it is clear to me that Fred did the right thing.

I have no firsthand knowledge of Fred Richmond's misdeeds but, from the various published reports and from the nature of his guilty plea, these misdeeds appear to have been criminal in nature and cannot be condoned. Mr. Richmond will now have to pay the penalty for what he described as "foolish" and "mistakes."

My purpose in taking the floor at this time is not, however, to castigate Mr. Richmond. Rather it is to put on the record briefly my own experience with Fred Richmond as a person and as a Member of Congress.

Before he came to the Congress I knew Fred as a public-spirited citizen of New York who was always responsive to appeals to his generosity, whether it was a public cause or a campaign by someone with whose views he sympathized.

The same thing was true after he was elected to Congress. For example, when I was approached to help raise funds for a major monument to the late Ralph Bunche opposite the U.N., I turned to Fred for help and he responded immediately by arranging for and hosting a fundraiser.

As a Congressman, he was a useful member of the Committee on Agriculture, having chosen that assignment as one where he could effectively represent the interests of consumers on a farmer-oriented committee. I frequently turned to Fred for advice on how to vote on an agricultural bill, especially one affecting the food stamp program.

When Ed Koch left the House, Fred became Secretary of the New York delegation. As such, he performed efficiently and cheerfully a host of mundane tasks, such as arranging for the delegation's meals together, sending out minutes, and so forth.

Perhaps Fred's greatest contribution as a Member of the House was as founder and first chairman of the Arts Caucus, an organization of which I was happy to be a rank-and-file member and which arranged for numerous constructive events and programs, most recently a nationwide high school arts contest, which has culminated in an exhibition of paintings by students from all over the country, now on display in the tunnel between the Capitol and the Cannon

Building. I was particularly impressed by this because I had had the same idea some years ago, had talked to a few people about it, but had not had the drive and determination to bring it to fruition.

Fred's leaving represents a loss to the work of the House.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Butler (at the request of Mr. Michel), for the week of September 13, on account of official business.

Mr. McClory (at the request of Mr. Michel), for the week of September 13, on account of official business.

Mr. Yates, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Gonzalez, special orders for Monday, Tuesday, Wednesday, September 13, 14, and 15, for 60 minutes each.

(The following Members (at the request of Mr. Petri) to revise and extend their remarks and include extraneous material:)

Mr. Roberts of Kansas, for 60 minutes, on September 15.

Mr. Winn, for 60 minutes, on September 15.

Ms. Fiedler, for 60 minutes, on September 15.

Mr. Findley, for 10 minutes, on September 15.

Mr. Courter, for 60 minutes, on October 6.

Mr. Findley, for 5 minutes, today.

(The following Members (at the request of Mr. Stenholm) to revise and extend their remarks and include extraneous material:)

Mr. Ford of Michigan, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Addabbo, for 10 minutes, today.

Mr. Bingham, for 10 minutes, today.

Mr. Phillip Burton, for 5 minutes, today.

Mr. Jacobs, for 60 minutes, on September 15, 1982.

Mr. Evans of Indiana, for 60 minutes, on September 15, 1982.

Mr. Harkin, for 60 minutes, on September 30, 1982.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. de Lugo, to revise and extend his remarks today on H.R. 5139.

(The following Members (at the request of Mr. Petri) and to include extraneous matter:)

Mr. McKinney.
Mr. Bailey of Missouri.
Mr. Molinari in two instances.
Mr. Nelligan.
Mr. Fish.
Mr. Broomfield in two instances.
Mr. Gilman in two instances.
Mr. Lee.
Mr. Mitchell of New York.
Mrs. Heckler.
Mr. Rinaldo.
Mr. Daub in two instances.
Mr. Wortley.
Mr. Hartnett.
Mr. Weber of Minnesota.
Mr. Rousselot in five instances.
Mr. Fields in three instances.
Mr. Findley.
Mr. Porter.
Mr. Lewis.

(The following Members (at the request of Mr. Stenholm) and to include extraneous matter:)

Mr. Roe in two instances.
Mrs. Collins of Illinois.
Mr. de Lugo.
Mr. Lowry of Washington.
Mr. Nowak.
Mr. Fountain.
Mr. Coelho.
Mr. Clay.
Mr. Skelton in two instances.
Mr. Bonker.
Mr. Rodino in five instances.
Mr. Gaydos.
Mr. Solarz.
Mr. Gephardt.
Mr. Lehman.
Mr. Corrada.
Mr. Oberstar in two instances.
Mr. Wright.
Mr. Russo.
Mr. Akaka.
Mr. Mottl.
Mr. Simon in two instances.
Mr. Stark in two instances.
Mr. Frost.
Mr. Hubbard.
Mr. Dyson in five instances.
Mr. Dicks.
Mr. Pepper.

BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that committee did on September 8, 1982, present to the President, for his approval, a bill of the House of the following title:

H.R. 3663. An Act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

ADJOURNMENT

Mr. STENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 34 minutes p.m.), under its previous order, the House adjourned until Monday, September 13, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4697. A letter from the Comptroller General of the United States, transmitting a report on the major improvements that are needed in the Bureau of Indian Affairs' accounting system (AFMD-82-71, September 8, 1982); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

4698. A letter from the Director, Office of Management and Budget, transmitting a watershed plan and environmental impact statement for the Hoyle Creek Watershed, Okla., pursuant to sections 104 and 204 of Public Law 89-80; to the Committee on Agriculture.

4699. A letter from the Acting General Counsel, General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission, but for which Congress failed to pass a rescision bill; to the Committee on Appropriations.

4700. A letter from the Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations), transmitting a draft of proposed legislation to amend title 10, United States Code, to clarify the authority of the Armed Forces to conduct safety investigations of accidents involving aircraft of the Armed Forces and to protect from public disclosure certain parts of reports of such investigations; to the Committee on Armed Services.

4701. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting a notice of the decision to convert to contractor performance the motor vehicle operations activity at Fort Riley, Kans., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4702. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the Army's intention to initiate the disposal of chemical munitions at Lexington-Blue Grass Depot Activity, Ky., pursuant to section 409(b)(4) of Public Law 91-121; to the Committee on Armed Services.

4703. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the Servmart function at the Naval Supply Center, Pearl Harbor, Hawaii pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4704. A communication from the President of the United States, transmitting notice of the determination that the United States, through the exchange stabilization fund of the Department of the Treasury, is prepared to provide credit to the Bank of Mexico for a term greater than 6 months but not to exceed 1 year, pursuant to 31 U.S.C. 822a; to the Committee on Banking, Finance and Urban Affairs.

4705. A letter from the Secretary of Health and Human Services, transmitting a report to Congress on the fiscal year 1981 low-income energy assistance program, pursuant to section 2610(b) of Public Law 97-

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35; to the Committee on Energy and Commerce.

4706. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the fifth annual survey of the Nation's proved reserves of crude oil, natural gas, and natural gas liquids, covering calendar year 1981, pursuant to section 657(2) of Public Law 95-91; to the Committee on Energy and Commerce.

4707. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on September 23 and 24, 1982, in Ottawa, Canada; to the Committee on Energy and Commerce.

4708. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting notice to permit assistance to Yugoslavia under the international military education and training program during fiscal year 1983, pursuant to section 614(a)(1) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4709. A communication from the President of the United States, transmitting the seventh annual report on implementation of the Privacy Act of 1974, covering calendar year 1981, pursuant to 5 U.S.C. 552(p); to the Committee on Government Operations.

4710. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

4711. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the person involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

4712. A letter from the Acting Special Counsel, U.S. Merit Systems Protection Board, transmitting a report in response to a complaint filed with the Director of the Defense Logistics Agency, pursuant to 5 U.S.C. 1206(b)(5); to the Committee on Post Office and Civil Service.

4713. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report regarding studies for flood control on the Kansas River in the vicinity of Kansas City, Kans., and on the Missouri River in the vicinity of Nearman Bottoms, in response to a resolution by the Committee on Public Works and Transportation adopted October 19, 1967, and July 10, 1968; to the Committee on Public Works and Transportation.

4714. A letter from the Secretary of the Department of Health and Human Services, transmitting the fiscal year 1981 report on children in foster care under voluntary placement agreements, pursuant to section 102(e) of Public Law 96-272; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee on Armed Services. Report on allocation of budget totals to subcommittees under the first concurrent resolution for fiscal year 1983 (Rept. No. 97-797). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 5658. A bill to provide Federal grants to assist elementary and secondary schools to carry on programs to teach the principles of citizenship; with amendments (Rept. No. 97-798). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 6794. A bill to amend title 38, United States Code, to improve job training and job placement programs and educational assistance programs for veterans; with amendments (Rept. No. 97-799). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 7072. A bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-800). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee on Appropriations. H.R. 7073. A bill making appropriations for the Legislative branch for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-801). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 5858. A bill for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp.; with an amendment (Rept. No. 97-796). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 3809: Referred to the Committees on the Judiciary and on Merchant Marine and Fisheries for a period ending not later than September 15, 1982, for consideration of such portions of the bill and amendment as fall within their jurisdiction under clauses 1(m) and 1(n), rule X, respectively.

H.R. 6598: Referred to the Committees on the Judiciary and on Merchant Marine and Fisheries for a period ending not later than September 15, 1982, for consideration of such portions of the bill and amendment as fall within their jurisdiction under clauses 1(m) and 1(n), rule X, respectively.

H.R. 5016: Referred to the Committees on the Judiciary and on Merchant Marine and Fisheries for a period ending not later than September 15, 1982, for consideration of such portions of the bill as fall within their jurisdiction under clauses 1(m) and 1(n), rule X, respectively.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 7072. A bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. FAZIO:

H.R. 7073. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. BAILEY of Pennsylvania:

H.R. 7074. A bill to amend section 151 of the Internal Revenue Code of 1954 to provide an additional exemption for disabled individuals who need assistance in the form of attendant care services or medical devices in order to be employed or whose disabilities are so severe that such assistance would not enable such individuals to be employed; to the Committee on Ways and Means.

H.R. 7075. A bill to amend the Internal Revenue Code of 1954 to provide a one-time exclusion of gain from the sale of a principal residence by a taxpayer who engages in such sale because he or a member of his family has become disabled, and for other purposes; to the Committee on Ways and Means.

By Mr. BREAUX (for himself, Mr. FORSYTHE, and Mr. HUBBARD):

H.R. 7076. A bill to amend title II of the Outer Continental Shelf Lands Act Amendments of 1978.; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. BREAUX (for himself, Mr. FORSYTHE, Mr. YOUNG of Alaska, Mr. TAUZIN, Mr. FIELDS, and Mr. HUBBARD):

H.R. 7077. A bill to establish a fund for the sharing of revenues from Outer Continental Shelf oil and gas development with coastal States and units of local coastal governments; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. PHILLIP BURTON:

H.R. 7078. A bill to amend the Service Contract Act to prohibit discrimination against employees of predecessor employers under such Act, and for other purposes; to the Committee on Education and Labor.

By Mr. FINDLEY:

H.R. 7079. A bill to amend the Agricultural Act of 1970 to prohibit restrictions on the export of certain agricultural commodities; to the Committee on Foreign Affairs.

H.R. 7080. A bill to amend the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Foreign Affairs.

By Mr. FLORIO:

H.R. 7081. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the section allowing deductions for payments which are illegal under Federal law to foreign government officials or employees; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 7082. A bill to strengthen the law enforcement in the areas of violent crime and drug trafficking, and for other purposes; to the Committee on the Judiciary.

H.R. 7083. A bill to authorize the President to impose a tariff surcharge on the products of certain countries in order to offset the expense of providing U.S. defense assistance to such countries; to the Committee on Ways and Means.

By Mr. KOGOVSEK:

H.R. 7084. A bill to provide for the establishment of a national strategic materials and minerals coordination program, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mr. MINISH:

H.R. 7085. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. NELLIGAN:

H.R. 7086. A bill to establish the Northeast-Midwest States Hydropower Financing Authority; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Interior and Insular Affairs.

By Mr. QUILLEN:

H.R. 7087. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

By Mr. ROBERTS of South Dakota:

H.R. 7088. A bill to amend the National Labor Relations Act to prohibit conditioning the obtaining or retaining of employment upon a person's being referred, approved, or recommended by a labor organization; to the Committee on Education and Labor.

By Mr. SKELTON:

H.R. 7089. A bill to authorize the Secretary of Agriculture to authenticate and perform tests to certify that livestock and poultry semen for export satisfies the requirements of the foreign country to which such semen is to be exported; to the Committee on Agriculture.

By Mr. LONG of Maryland (for himself, Mr. Pritchard, Mr. Lowry of Washington, Mr. Yates, Mr. Hamilton, and Mr. Simon):

H.J. Res. 589. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of New York:

H.J. Res. 590. Joint resolution to authorize and request the President to proclaim March 21, 1983, as "National Taste and Smell Disease Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST (for himself, Mr. Gregg, Mr. Lott, Mr. Montgomery, and Mr. Dowdy):

H.J. Res. 591. Joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week"; to the Committee on Post Office and Civil Service.

By Mr. FUQUA (for himself, Mr. Bafalis, Mr. Bennett, Mr. Gibbons, Mr. Pepper, Mr. Chappell, Mr. Ireland, Mr. Shaw, Mr. Fascell, Mr. Young of Florida, Mr. Lehman, Mr. Hutto, Mr. McCollum, Mr. Mica, and Mr. Nelson):

H. Con. Res. 403. Concurrent resolution commending the sheriffs and citizenry of the State of Florida, the people of the United States, and the Florida Sheriffs Youth Fund for the establishment in 1957 and maintenance of the Florida Sheriffs Boys Ranch for 25 years; to the Committee on Post Office and Civil Service.

By Mr. PERKINS (for himself and Mr. Goodling):

H. Con. Res. 404. Concurrent resolution commending the efforts of the Nation's schools to increase their effectiveness and encouraging further improvement in the quality of education; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII:

464. The SPEAKER presented a memorial of the Legislature of the State of California, relative to veterans' health benefits; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 374: Mr. Heftel and Mr. Akaka.

H.R. 385: Mr. McDade.

H.R. 1918: Mr. Ralph M. Hall.

H.R. 1937: Mr. Lowery of California.

H.R. 2298: Ms. Oakar.

H.R. 3795: Mr. Smith of New Jersey.

H.R. 3883: Mrs. Heckler.

H.R. 4362: Mr. Frank, Mr. Peyser, and Mrs. Heckler.

H.R. 4617: Mr. Downey.

H.R. 4786: Mr. O'Brien.

H.R. 4863: Mr. Livingston.

H.R. 5471: Mr. Porter.

H.R. 5555: Mr. Ratchford.

H.R. 5711: Mr. Lundine.

H.R. 5976: Mr. Goodling.

H.R. 6077: Mr. Edgar and Mr. Anderson.

H.R. 6131: Mr. Goodling.

H.R. 6135: Mr. Bereuter, Mr. Gunderson, and Mr. Coats.

H.R. 6344: Mr. Young of Alaska and Mr. Brown of Colorado.

H.R. 6348: Mr. O'Brien, Mr. Lagomarsino, Mr. White, Mr. Barnes, Mr. Studds, Mr. Erdahl, Mr. Fields, Mr. McCurdy, Mr. Wilson, Mr. Atkinson, Mr. Vander Jagt, Mr. Biaggi, Mr. Bennett, Mr. Santini, Mr. McDade, Mr. Dyson, Mr. Gramm, and Mr. Brooks.

H.R. 6497: Mr. Badham, Mr. Corrada, and Mr. Ritter.

H.R. 6526: Mr. Ralph M. Hall, Mr. Lee, Mr. Forsythe, Mr. Donnelly, Mr. Smith of New Jersey, Mr. Sunia, Mr. Addabbo, Mr. Mineta, Mr. DeNardis, Mr. Trible, Mr. Moakley, Mr. Mitchell of New York, Mr. D'Amours, Mrs. Holt, Mr. Roe, Mr. Bowen, and Mr. McCurdy.

H.R. 6562: Mr. Dicks, Mr. Wyden, Mr. Erdahl, Mr. Conte, Mr. AuCoin, Mrs. Bouquard, Mr. Patterson, Mr. Fazio, Mr. Pritchard, and Mr. Swift.

H.R. 6589: Mr. Zablocki.

H.R. 6591: Mr. Walgren.

H.R. 6660: Mr. Dymally and Mr. Wolf.

H.R. 6690: Mr. Weiss.

H.R. 6731: Mr. Shamansky.

H.R. 6764: Mr. Oberstar.

H.R. 6794: Mr. Corrada.

H.R. 6837: Mr. Foglietta, Mr. Emery, Mr. Dunn, Mr. Hughes, Mr. Solarz, and Mr. Mitchell of Maryland.

H.R. 6850: Mr. Conyers.

H.R. 6932: Mr. Long of Maryland, Mr. de la Garza, Mr. D'Amours, Mr. Daschle, Mr. Smith of New Jersey, Mr. Addabbo, Mr. Panetta, Mr. Pepper, Mr. Dingell, Mr. Molinari, Mr. Rosenthal, Mr. Annunzio, Mr. Dwyer, Mr. Ottinger, Mr. Frank, Mr. Schumer, Mr. Roe, Mr. O'Brien, Mr. Carney, Mr. Williams of Ohio, Mr. Roberts of South Dakota, Mr. Ratchford, Mr. Zeferetti, Mr. Frenzel, Ms. Mikulski, Mr. Montgomery, Mrs. Kennelly, Mr. Florio, Mr. Foley, Mr. Edgar, Mr. LeBoutillier, Mr. Gaydos, and Mr. Waxman.

H.R. 6983: Mr. Moakley.

H.R. 6985: Mr. Santini, Mr. Frank, Mr. Biaggi, Mr. Bingham, Ms. Mikulski, Mr. Ford of Tennessee, Mr. Rosenthal, Mrs. Kennelly, Mr. Lantos, Mr. Fish, Mr. Hughes, Mr. Won Pat, Mr. Synar, Mr. Simon, and Mr. Waxman.

H.R. 6986: Mr. Bereuter and Mr. Gingrich.

H.R. 7041: Mr. Lagomarsino, Mr. Rinaldo, Mrs. Heckler, Mr. Hollenbeck, Mr. Frank, Mr. Aspin, Mr. Chappell, Mr. Conte, Mr. Napier, Mr. Kindness, Mrs. Holt, and Mr. Smith of Oregon.

H.R. 7056: Mr. Wyden.

H.J. Res. 487: Mr. Kogovsek, Mr. Kramer, Mr. Dougherty, Mr. Anthony, Mr. Coelho, Mr. Dixon, Mr. Patterson, Mr. Pursell, Mr. Siljander, Mr. Weber of Minnesota, Mr. Stanton of Ohio, Mr. Smith of Oregon, Mr. Nelligan, Mr. Campbell, Mrs. Bouquard, Mr. Hance, Mr. Staton of West Virginia, Mr. Goldwater, Mr. Mitchell of Maryland, Mr. Hopkins, Mr. Barnes, Mr. Hall of Ohio, Mr. Gibbons, Mr. Ireland, Mr. Fascell, Mr. Hatcher, Mr. Fowler, Mr. Jenkins, Mrs. Boggs, Mr. Roemer, Mr. Long of Louisiana, Mr. Schulze, Mr. Fields, Mr. Pickle, Mr. Hightower, Mr. White, Mr. Stenholm, Mr. Watkins, Mr. McCurdy, Mr. Archer, Mr. Mitchell of New York, Mr. Luken, Mr. Applegate, Ms. Oakar, Mr. Eckart, Mr. Hartnett, Mr. McClory, Mr. Stangeland, and Mr. Badham.

H.J. Res. 523: Mr. Kogovsek, Mr. Hansen of Idaho, Mr. Badham, Mr. McCloskey, Mr. Seiberling, Mr. Jeffries, Mr. Siljander, Mr. Vento, Mr. English, Mr. John L. Burton, Mr. Philip M. Crane, Mr. Dyson, Mr. Simon, and Mr. Minish.

H.J. Res. 539: Mr. Bevill, Mr. Hughes, Mr. D'Amours, Mr. Wyden, Mr. Craig, Mr. Petri, Mr. Gunderson, Mr. Jeffords, and Mr. Davis.

H.J. Res. 558: Mr. Jacobs, Mr. Bedell, Mr. Anthony, Mr. Clay, Mr. Ford of Tennessee, Mr. Hefner, Mr. Hatcher, Mr. Evans of Iowa, Mr. Michel, Mr. Martin of North Carolina, and Mr. Lagomarsino.

H.J. Res. 571: Mr. Vento and Mr. Swift.

H. Con. Res. 214: Mr. Zablocki.

H. Con. Res. 334: Mrs. Ashbrook and Mr. Hendon.

H. Res. 485: Mr. Patterson.

H. Res. 558: Mrs. Schneider, Mr. Frank, Mr. Leach of Iowa, Mr. Boland, Mr. Patterson, Mr. Nowak, Mr. Rosenthal, Mr. John L. Burton, Mr. Garcia, Mr. Studds, Mr. Vento, Mr. Long of Maryland, Mr. D'Amours, Mr. Fauntroy, Mr. Solomon, Mr. Lee, Mr. Heftel, Mr. Foley, Mr. Conyers, Mr. Edwards of California, Mr. Bailey of Pennsylvania, Mr. Oberstar, Mr. Mollohan, Mr. Young of Missouri, Mrs. Heckler, Mr. Minish, and Mr. Crockett.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

562. By the SPEAKER: Petition of Office of the Comptroller, city of New York, N.Y., relative to surplus dairy products; to the Committee on Agriculture.

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583. Also, petition of Town Board of Webster, N.Y., relative to nuclear weapons freeze; to the Committee on Foreign Affairs.

584. Also, petition of Democratic Governors' Conference, Office of the Governor, Frankport, Ky., relative to a balanced budget; to the Committee on Government Operations.

585. Also, petition of Sons of Union Veterans of the Civil War, Gettysburg, Pa., relative to the 100th annual national encampment, Sons of Union Veterans of the Civil War; to the Committee on the Judiciary.

586. Also, petition of the National Association of Attorneys General, Nevada, relative to funding for States for coastal impacts and aid in support of oil and gas production; to the Committee on Merchant Marine and Fisheries.

587. Also, petition of City Council, Philadelphia, Pa., relative to Federal funds for airport construction projects; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4374

By Mr. JONES of North Carolina:

—Strike out all after the enacting clause of the bill as reported, and insert in lieu thereof the following:

That this Act may be cited as the "Shipping Act of 1982".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "agreement" means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof, but does not include a maritime labor agreement;

(2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto;

(3) "assessment agreement" means an agreement or any provision of an agreement, whether part of a collective-bargaining agreement or negotiated separately, that provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized;

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count;

(5) "Commission", except in section 18, means the Federal Maritime Commission;

(6) "common carrier" includes both ocean common carriers and nonvessel-operating common carriers;

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff, but does not include a joint service, consortium, pooling, or transhipment arrangement;

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier;

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of his shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement;

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

(11) "forest products" means forest products in an unfinished or semifinished state that are of a size too large for the largest commercially available container or that are offered for carriage by the shipper as noncontainerized cargo in lot sizes having a volume greater than two thousand five hundred and sixty cubic feet or that are transported in shipload lot sizes;

(12) "inland division" means the amount paid by an ocean common carrier to any inland carriers with respect to performance of the inland portion of through transportation offered to the public by the ocean common carrier;

(13) "inland portion" means the charge to the public by an ocean common carrier with respect to the non-ocean portion of through transportation;

(14) "joint venture" means a consortium, joint service agreement or other agreement that will result in the establishment of a new and separate line or service to be operated for the benefit of the agreeing ocean common carriers and eliminates all, or virtually all, competition among the parties to the agreement in the affected trade;

(15) "loyalty contract" means a contract with an ocean common carrier or conference by which a contract shipper or consignee obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference;

(16) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier;

(17) "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement;

(18) "net profit or loss pool" means a pooling or apportionment of net profits or net losses, or any similar arrangement that results in the participants sharing all or virtually all of their costs of operation, but shall not be deemed to include a pooling or apportionment of revenues, even if such a pooling provides for certain adjustments to revenue or expense or results in the sharing of certain costs, provided that each participant continues to bear a substantial portion of his own costs;

(19) "nonvessel-operating common carrier" means a common carrier engaged in the transportation by water of cargo between the United States and a foreign country, whether in the import or export trade, that does not operate the vessels by which the ocean transportation service is provided, and is a shipper in his relationship with an ocean common carrier;

(20) "ocean common carrier" means a vessel operating common carrier engaged in the transportation by water of passengers or cargo between the United States and a foreign country, whether in the import or export trade; but does not include one engaged in ocean transportation by ferry boat or ocean tramp;

(21) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country;

(22) "rates" means rates, services, classification rules, or regulations;

(23) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of either party;

(24) "shipment" means all of the cargo carried under the terms of a single bill of lading;

(25) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made;

(26) "shippers' council" means an association of shippers or their agents, other than ocean freight forwarders and non-vessel-operating common carriers;

(27) "through rate" means the single amount charged by a common carrier in connection with through transportation;

(28) "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port; and

(29) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

SEC. 3. AGREEMENTS WITHIN SCOPE OF ACT.

(a) This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, and regulate rates, including through rates, cargo space accommodations, and other conditions of services;

(2) pool or apportion traffic, revenues, net losses, or net profits;

(3) allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carrier; and

(6) enter into other agreements to control, regulate, or prevent competition among themselves.

(b) This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

SEC. 4. AGREEMENTS.

(a) Filing Requirements.—A true copy of every agreement entered into with respect to an activity described in section 3 shall be filed with the Commission, except agreements related to transportation to be performed within or between foreign countries. In the case of an oral agreement, complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the form and manner in which agreements shall be filed.

(b) Commission Action.—The Commission shall within thirty days after filing reject any agreement that on its face fails to comply with this section. Unless an agreement has been rejected, the Commission shall, within thirty days of the filing of the agreement, transmit a notice of its filing to the Federal Register for publication.

(c) Conference Agreements.—Each conference agreement must—

(1) provide for the admission to conference membership of any carrier operating vessels willing to serve the particular trade or route;

(2) permit any member to withdraw from conference membership upon reasonable notice without penalty; and

(3) provide for retaining the services of an independent neutral body to police fully the obligations of the conference and its members.

(d) Conferences Utilizing Loyalty Contracts.—

(1) Each conference agreement must provide that, if the conference has in effect a loyalty contract with one or more shippers, each member of the conference may take independent action on any rate or service item required to be filed under section 8 whenever—

(A) a member requests the conference to amend a rate or service item and announces its intention to take independent action if the conference does not agree to the amendment;

(B) the conference fails to make the proposed amendment within thirty days after the first consideration of the amendment in a conference meeting; and

(C) the member seeking the amendment requests the conference to include in the conference tariff a separate entry for its account as proposed in the amendment.

(2) The agreement must further provide that, if the requirements of paragraph (1) are met, the conference shall include the proposed amendment in its tariff for use by any member of the conference and that the amendment shall become effective on publication and filing, but no later than forty-five days after the initial request.

(e) Interconference Agreements.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences serving different trades that would otherwise be naturally competitive must provide the right of independent action for each conference.

(f) Assessment Agreements.—

(1) Assessment agreements shall be filed with the Commission and shall be deemed approved upon filing. The Commission shall thereafter, upon complaint filed within two years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in any such proceeding within one year of the date of filing of the complaint. To the extent that an assessment or charge is found in the proceeding to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of any other section of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control.

(2) This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This section does not exempt from the provisions of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier that are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

SEC. 5. ACTION ON AGREEMENTS.

(a) Effective Date.—Except with respect to assessment agreements, each agreement entered into with respect to an activity described in section 3 shall become effective forty-five days after filing unless the Commission rejects the agreement under section 4(b), or suspends the effective date of the agreement under subsection (i).

(b) Standard.—The Commission shall by order disapprove or modify any agreement that it finds will operate in violation of this Act; but in the case of any agreement filed under section 4(a) that is a renewal of an agreement previously in effect under this section or section 20(d), there shall be a presumption that the conduct contemplated under the agreement so filed will not be in violation of section 10(a).

(c) Investigation.—The Commission may, at any time after an agreement has been filed, institute an investigation and conduct a hearing under section 11 to determine if the agreement complies with this Act and, if not, whether the agreement should be disapproved, canceled, or modified. Each agreement that is in effect at the time it is the subject of an investigation and hearing shall remain in effect during the investigation and hearing.

(d) Final Decision Time.—The Commission shall issue a final decision in each hearing under subsection (c) within one hundred and eighty days of ordering the hearing.

(e) Delay.—If, within the time period specified in subsection (d), the Commission determines that it is unable to issue a final order because of undue delays, the Commission may make a decision in the proceeding adverse to the delaying party on the basis of the delay, or in the case of undue delay caused by a proponent of an agreement, alternatively, toll the period specified in subsection (d) for the period of delay.

(f) Burden of Proof.—The burden of proof in any proceeding under this section or under section 4(f)(1) is on the party opposing the agreement, including the Commission.

(g) Duration of Effectiveness.—Each agreement, once in effect, shall remain in effect until withdrawn or until disapproved, canceled, or modified by the Commission. The Commission may not limit the effectiveness of an agreement to a fixed term.

(h) Compliance With Subpena or Discovery.—In any proceeding under this section, the Commission may disapprove an agreement for failure of a proponent of the agreement to comply with a subpena or discovery order lawfully issued by the Commission.

(i) Suspension.—At any time before the expiration of the forty-five-day period referred to in subsection (a), the Commission, upon complaint of a common carrier, shipper, or marine terminal operator, or upon its own motion, may upon notice suspend the effective date of an agreement pending the outcome of a proceeding under section 11, if the Commission, after preliminary investigation, believes that there are unresolved issues of fact, which, if determined adversely to the party or parties filing the agreement, will result in a finding that the agreement is in violation of this Act, and either

(1) there is a reasonable probability that upon further investigation the Commission would find that the agreement will operate in violation of this Act; or

(2) a shipper, common carrier, or marine terminal operator is likely to be substantially injured if the agreement is allowed to go into effect before a final decision on the merits.

The effective date of an agreement may not be suspended under this subsection for a period exceeding ninety days unless the Commission, before the expiration of that period, believes that an extension of such period by not more than ninety additional days is required to resolve the outstanding issues.

SEC. 6. LOYALTY CONTRACTS.

(a) Contract Requirements.—Ocean common carriers and conferences engaged in foreign commerce may utilize loyalty contracts, if—

(1) the contract is available to all shippers on equal terms and conditions;

(2) the contract shipper is permitted prompt release from the contract with respect to any shipment or shipments for which the contracting carrier or conference cannot provide space as requested on reasonable notice by the shipper;

(3) the contract covers only those goods of the contract shipper as to the shipment of which it has the legal right at the time of shipment to select the carrier;

(4) the contract shipper, carrier, and conference are permitted on ninety days' notice to terminate, without penalty, the contract

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rate system in whole or with respect to any commodity;

(5) the contract excludes bulk cargo (except liquid bulk cargoes, other than chemicals, in less than full shipload lots) and forest products;

(6) the contract provides that whenever a rate for the carriage of goods under the contract becomes effective insofar as it is under the control of the carrier or conference, the rate—

(A) may not be increased on less than ninety days' notice, except upon the agreement of the applicable shipper; and

(B) may be increased on not less than thirty days' notice if the increase is to a level no higher than that from which the particular rate was reduced within one hundred eighty days immediately preceding the filing of the increase; and

(7) the contract shipper is not denied the right to utilize competing services that involve loading to or from a vessel at a port or ports located beyond a carrier's or conference's geographic scope as defined in the contract; and

(8) the contract provides for a spread or series of spreads between tariff rates and rates charged contract shippers that shall not exceed an aggregate of 15 percent.

(b) Intermodal Loyalty Contract.—Each conference that offers an intermodal loyalty contract must offer an alternative all-ocean carrier loyalty contract. A shipper may not be penalized nor shall an action for breach of contract lie if a shipper elects one of the alternative loyalty agreements for the other for any shipment moving through the exit or entry ports that are the subject of the contract.

(c) Treatment of Contract Not in Conformity.—The utilization of a loyalty contract that does not conform with each of the requirements of this section is a violation of this Act.

SEC. 7. EXEMPTION FROM ANTITRUST LAWS.

(a) The antitrust laws do not apply to—

(1) any agreement that has been filed under section 4 and has become effective under section 4(f) or section 5, or is exempt under section 16 from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act undertaken or entered into in the reasonable belief that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 16 from any filing requirement of this Act;

(3) any loyalty contract or any activity pursuant to a loyalty contract;

(4) any agreement or activity that relates to transportation services within or between foreign countries, whether or not via the United States;

(5) any agreement or activity with a shipper's council organized under the laws of a foreign country and operating exclusively outside the United States, including an agreement or activity that affects cargo transported in a United States import or export trade;

(6) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other terminal facilities outside the United States; and

(7) subject to section 19(e)(2), any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14(b) thereof, and any duly filed and published tariff rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

(b) This Act does not extend antitrust immunity to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States; or to any discussion or agreement among common carriers that are subject to this Act fixing the inland divisions as opposed to the inland portions of through rates within the United States.

(c)(1) Any determination by any agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act, or obtain injunctive relief under section 16 of the Clayton Act, for conduct which is prohibited by this Act.

(d) Any shippers' council organized under the laws of the United States may apply to the Attorney General for certification that the conduct of the council in bargaining with ocean common carriers on the terms and conditions of service is not likely to result in a violation of the antitrust laws. The Attorney General shall grant the application for certification under the same conditions and limitations applicable to an application for antitrust certification of solely export conduct; except that the activities of the shippers' council in bargaining with ocean common carriers on the terms and conditions of service regarding cargo in import trade shall be eligible for the protection of such certification on the same terms and conditions that are made available for similar activities for service on cargo in export trade.

SEC. 8. TARIFFS.

(a) In general.—

(1) Except with regard to bulk cargo and forest products, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports or its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall plainly indicate the places between which cargo will be carried; list each classification of cargo in use; set forth the level of freight forwarder compensation, if any, by a carrier or conference; state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change, affect, or determine any part or the aggregate of the rates or charges; and include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for copies provided by the Commission.

(b) Time-Volume Rates.—Rates quoted in tariffs may vary with the volume of cargo offered over a specified period of time.

(c) Service Contracts.—An ocean common carrier or conference may enter into a service contract with a shipper to provide specified services under specified rates and conditions, subject to the requirements of this Act. Each contract entered into under this subsection shall be filed confidentially with the Commission, and a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and such essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for non-performance, if any.

The exclusive remedy for a breach of contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

(d) Rates.—No new or initial rates or change in existing rates, which result in an increased cost to the shipper may become effective earlier than thirty days after filing with the Commission. The Commission, for good cause, may allow such new or initial rates and such changes to become effective in less than thirty days. Any change in the rates that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) Refunds.—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to the filing of an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require, which gives notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within one hundred and eighty days from the date of shipment.

(f) Form.—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject any tariff filed that is not in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void, and its use is unlawful.

SEC. 9. CONTROLLED CARRIERS.

(a) Controlled Carrier Rates.—No controlled carrier subject to this section shall maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor shall any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in such tariffs. An unjust or unreasonable classification, rule, or regulation means one which results or is likely to result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

(b) RATE STANDARDS.—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) EFFECTIVE DATE OF RATES.—Notwithstanding the provisions of section 9(b), the rates, charges, classifications, rules, or regulations of controlled carriers shall not, without special permission of the Commission, become effective sooner than the thirtieth day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within twenty days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) DISAPPROVAL OF RATES.—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than sixty days' notice to the controlled carrier. No period of suspension under this subsection may be greater than one hundred and eighty days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject such new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) PRESIDENTIAL REVIEW.—Concurrently with the publication thereof, the Commission shall transmit to the President any order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within ten days after the receipt or the effective date of such Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that such stay is required for reasons of national defense or foreign policy which reasons shall be specified in the report. Notwithstanding any other provisions of law, the Commission shall immediately grant such request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) EXCEPTIONS.—The provisions of this section shall not apply to—

(1) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) any controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement effective under section 4, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States;

(5) a trade served exclusively by controlled carriers; or

(6) any controlled carrier registered in a state which, on the effective date of this Act, is among those designated a beneficiary developing country for purposes of the generalized system of preferences, provided for in title V of the Trade Act of 1974 (88 Stat. 2066; 19 U.S.C 2461 et seq.), and set forth in general headnote 3(c) of the Tariff Schedules of the United States, and which has vessels registered within its jurisdiction that are privately owned and not operated by a controlled carrier.

SEC. 10. PROHIBITED ACTS.

(a)(1) Subject to paragraphs (2) and (3), no common carrier, directly or indirectly, may form a joint venture with other common carriers operating in the same trade if such conduct substantially reduces competition in such trade considered as a whole.

(2) Paragraph (1) shall not apply if such conduct—

(A) results in gains in efficiency or services that outweigh any diminution in competition;

(B) is required by an express provision of a government-to-government agreement; or

(C) is in furtherance of foreign policy interests of the United States which outweigh the interests of the United States in preventing the substantial reduction in competition.

(D) permits U.S.-flag carriers to carry cargo of the importing or exporting foreign state which would otherwise be unavailable to such carrier, or available only on unequal terms by reason of the cargo reservation laws or trading practices (governmental or otherwise) of such state, provided that such agreement is not unjustly discriminatory among U.S.-flag carriers.

(3) With respect to conduct by a common carrier that was undertaken in the reasonable belief that the conduct was consistent with an agreement that was in effect under section 5 or 20(d) at the time the conduct occurred—

(A) there shall be a presumption that such conduct is not in violation of this subsection; and

(B) the common carrier, if the Commission determines that such conduct is in violation of this subsection, shall not be liable for reparations under section 11(f), or for penalties under section 13(a) to the extent that such conduct was so undertaken.

(b) No common carrier, including a joint service or consortium operating as a single entity, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariffs;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates

(B) cargo classifications;

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(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight in proper condition; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship;

(8) offer or pay any deferred rebates;

(9) demand, charge, or collect any rate or charge which is unjustly discriminatory between shippers or ports;

(10) make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(11) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee;

(B) may improperly disclose its business transactions to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (11) shall be construed to prevent providing such information, in response to any legal process, to the United States, or to any independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier which is a party to a conference agreement approved pursuant to this Act, or any receiver, trustee, lessee, agent, or employee of such carrier or person, or any other person authorized by such carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act shall be prohibited.

(c) No person may—

(1) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges which would otherwise be applicable;

(2) operate under an agreement described in section 3 that has not become effective under section 5, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement described in section 3 except in accordance with any modifications made by the Commission to the agreement.

(d) No conference or group of two or more common carriers, other than a joint venture operating as a single entity, may—

(1) boycott or take any other concerted action resulting in a refusal to deal;

(2) utilize a device or means that sets conditions or otherwise restricts the ability of a shipper to select an ocean common carrier in a competing trade, an ocean tramp, or a bulk carrier;

(3) restrict the employment of intermodalism or other technological innovations by member carriers;

(4) permit any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of an ocean common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(5) negotiate with any nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by such nonocean carriers: *Provided*, That this prohibition shall not prohibit the setting and publishing of a joint through rate by a conference, joint service, or an association of ocean common carriers authorized to file tariffs;

(6) concertedly deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit the amount thereof to less than one and one-fourth per centum of the freight charges;

(7) except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract, allocate shippers among specific carriers that are parties to that agreement or prohibit any carrier that is a party to the agreement from soliciting cargo from any particular shipper; or

(8) pool or apportion net losses or net profits with other common carriers operating in the same trade.

SEC. 11. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) Filing of Complaints.—Any person may file with the Commission a sworn complaint alleging a violation of this Act and may seek reparation for any injury caused to the complainant by that violation.

(b) Satisfaction or Investigation of Complaints.—The Commission shall furnish a copy of a complaint filed pursuant to section (a) of this section to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in such manner and by such means and make such order as it deems proper.

(c) Commission Investigations.—The Commission upon its own motion may, in like manner and with the same powers, investigate any conduct which it believes may be in violation of this Act.

(d) Special Investigations of Conduct Pursuant to Pooling Agreements.—(1) The Commission, upon its own motion or at the request of the Attorney General or the Federal Trade Commission, may initiate an investigation under this section of conduct pursuant to an agreement to pool or apportion traffic or revenues, or charter space with other common carriers operating in the same trade if it believes that conduct pursuant to the agreement substantially reduces competition in such trade.

(2) The Commission shall reject, modify, or terminate any agreement subject to investigation pursuant to paragraph (1) if it determines that conduct pursuant to the agreement substantially reduces competition in the trade concerned unless the agreement—

(A) results in gains in efficiency or services that outweigh any diminution in competition;

(B) is required by an express provision of a government-to-government agreement; or

(C) is in furtherance of foreign policy interests of the United States which outweigh the interests of the United States in preventing the substantial reduction in competition.

(D) permits U.S.-flag carriers to carry cargo of the importing or exporting foreign state which would otherwise be unavailable to such carrier, or available only on unequal terms by reason of the cargo reservation laws or trading practices (governmental or otherwise) of such state, provided that such agreement is not unjustly discriminatory among U.S.-flag carriers.

(3) The sole remedy under the Act for conduct found to violate paragraph (2) shall be rejection, termination, or modification of the agreement.

(e) Reports.—The Commission shall make a written report of every investigation made under this Act in which a hearing was held, which states its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information, and such authorized publication shall be competent evidence of those reports in all courts of the United States.

(f) Reparations.—For any complaint filed within four years after the cause of action accrued, the Commission shall, upon petition of the complainant and after notice and hearing, direct payment of reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest from the date of injury) caused by a violation of this Act. Upon a showing that the injury was caused by activity that is prohibited by section 10(b) (5) or (7) or section 10(d) (1) or (4), or that violates section 10(c) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. In the case of injury caused by an activity that is prohibited by section 10(b)(6) (A) or (B), the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(g) Injunction.—

(1) In connection with any investigation conducted under this section, the Commission may bring suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that the Commission has reasonable cause to believe that a violation of this Act has or is about to take place, and that the enjoining of that conduct is in the interest of the public, and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed ten days after the Commission has issued an order disposing of the issues under investigation. Any such suit shall be brought in the district in which the defendant person, partnership, or corporation resides or transacts business.

(2) After filing a complaint with the Commission under subsection (a), the complainant may file suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction

for a period not to exceed ten days after the Commission has issued an order disposing of the complaint. Any such suit shall be brought in the district in which the defendant person, partnership, or corporation has been sued by the Commission under paragraph (1); or, if no suit has been filed, in any district in which the defendant person, partnership, or corporation resides or transacts business.

SEC. 12. SUBPENAS AND DISCOVERY.

(a) In General.—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission which rules and regulations, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

(b) Witness Fees.—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

SEC. 13. PENALTIES.

(a) Assessment of Penalty.—Whoever violates any provision of this Act, or any regulation issued thereunder, or Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed $5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense.

(b) Tariff Suspension.—

(1) For any violation of section 10(b)(1), (2), (3), (4), or (8), the Commission may suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed twelve months.

(2) For failure to supply information ordered to be produced or compelled by subpena under section 12, the Commission may, after notice and opportunity for hearing, suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) Any common carrier who accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended shall be subject to a civil penalty of not more than $50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) Before any tariff suspension ordered under this subsection becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove the order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) Assessment Procedure.—Every civil penalty provided for in this Act may be assessed by the Commission after notice and an opportunity for hearing. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree or culpability, history of prior offenses, ability to pay, and such other matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment under this section.

(d) Review of Civil Penalty.—Any person against whom a civil penalty is assessed under this Act may obtain review thereof under chapter 158 of title 28, United States Code.

(e) Failure To Pay Assessment.—If any person fails to pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall seek to recover the amount assessed in any appropriate district court of the United States. In such action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) Limitations.—

(1) No fine or other punishment may be imposed for criminal conspiracy to violate any provision of this Act, or to defraud the Commission by concealment of any such violation.

(2) Any proceeding to assess a civil penalty under this section shall be commenced within five years from the date the violation occurred.

SEC. 14. COMMISSION ORDERS.

(a) In General.—Orders of the Commission relating to any violation of this Act or any regulation issued thereunder shall be made only after opportunity for hearing and upon sworn complaint or on its own motion. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) Reversal or Suspension of Orders.—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing shall, except by special order of the Commission, operate as a stay of such order.

(c) Enforcement of Nonreparation Orders.—In case of violation of any order of the Commission, or for failure to comply with a Commission subpena, the Commission, or any party injured by such violation, or the Attorney General may seek enforcement by any United States district court having jurisdiction over the parties. If after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) Enforcement of Reparation Order.—(1) In case of violation of any order of the Commission for the payment of reparation, the person to whom such award was made may seek enforcement of such order in any United States district court having jurisdiction of the parties.

(2) In any United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States district court who prevails shall be allowed a reasonable attorney's fee to be assessed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) Statute of Limitations.—Any action seeking enforcement of a Commission order shall be filed within four years after the date of the violation of the order.

(f) Representation in Court.—Attorneys employed by the Commission shall, if the Commission so directs, appear for and represent the Commission in any case before a court of the United States or a State of the United States.

SEC. 15. REPORTS AND CERTIFICATES.

(a) Reports.—The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

(b) Certification.—The Commission shall require the chief executive officer of every common carrier and, to the extent it deems feasible, may require any shipper, consignor, consignee, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than $5,000 for each day the violation continues.

SEC. 16. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any specified activity or class of agreements subject to this Act from any requirement of this Act, if it finds that the exemption will not substantially impair effective regulation by the Commission and is not likely to result in any significant lessening of competition in any trade

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serving the United States in which ocean common carriers operate. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons who, for purposes of this section, include the departments and agencies of the United States.

SEC. 17. REGULATIONS.

The Commission may promulgate rules and regulations as necessary to carry out the provisions of this Act.

SEC. 18. COMMISSION ON THE DEREGULATION OF INTERNATIONAL OCEAN SHIPPING.

(a) ESTABLISHMENT AND COMPOSITION.—(1) There is established the Commission on the Deregulation of International Ocean Shipping (hereinafter referred to in this section as the "Commission").

(2) The Commission shall be composed of twenty-two members as follows:

(A) The President or a person designated by him.

(B) The Secretary of State, the Attorney General, the Secretary of Transportation, the Chairman of the Federal Trade Commission, and the Chairman of the Federal Maritime Commission, or a person designated by each official.

(C) Four members from the United States Senate appointed by the President, two from the membership of the Committee on Commerce, Science, and Transportation and two from the membership of the Committee on the Judiciary.

(D) Four members from the United States House of Representatives appointed by the President, two from the membership of the Committee on Merchant Marine and Fisheries and two from the membership of the Committee on the Judiciary.

(E) Eight members from the private sector appointed by the President, including representatives of ocean common carriers, shippers, maritime labor organizations, and ports.

(3) The President or his designee shall be the chairman of the Commission.

(4) The majority leader of the Senate and the Speaker of the House shall make recommendations for the appointments of their respective members to be made pursuant to paragraph (2) (C) and (D) within thirty days after the date of the enactment of this Act.

(5) The President shall make all of the appointments in accordance with paragraph (2) after receiving the recommendations set forth in paragraph (a)(4), but such appointments shall be made no later than sixty days after such date of enactment. The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by deregulation of international shipping.

(6) The first meeting of the Commission shall be called by the President no later than thirty days after the beginning of the first fiscal year occurring after the date of the enactment of this Act.

(7) The term of office for members shall be for the term of the Commission.

(8) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(9) Twelve members of the Commission shall constitute a quorum (but a lesser number may hold hearings).

(10) The Commission shall select a vice chairman from among its members.

(b) COMPENSATION OF MEMBERS OF THE COMMISSION.—(1) Officials of the United States Government and Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission appointed from the private sector shall each receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5 of the United States Code when engaged in the performance of duties vested in the Commission, plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them notwithstanding the limitations contained in sections 5701 through 5733 of title 5 of the United States Code in the performance of such duties.

(3) Members of the Commission appointed from the private sector shall not be subject to Title II of the Ethics in Government Act of 1978, Public Law 95-521, as amended, or to the provisions of section 208 of title 18 of the United States Code. Prior to commencing service, such members shall file with the Commission a statement disclosing their financial interests and business and other relationships involving or relating to ocean transportation. Such statements shall be available for public inspection at the Commission's offices.

(c) COMMISSION FUNCTIONS.—The Commission shall conduct a comprehensive study of, and make recommendations concerning, the deregulation of international ocean shipping by common carriers. Such comprehensive study shall specifically address—

(1) various options for deregulation of the international ocean shipping industry, with reference to their ability to promote an efficient, stable, and competitive United States common carrier fleet;

(2) the opportunities for harmonizing United States policy toward international ocean shipping with the policies of our major trading partners;

(3) the system for determining tariffs based on the classification of goods and its role in a future deregulated industry; including the most effective method for eliminating unnecessary cargo classifications as a basis for establishing tariffs and the feasibility of establishing a single tariff by each conference or common carrier for all cargoes shipped in units of comparable size, weight, and handling characteristics.

(4) the role of the antitrust laws in the international shipping industry and their impact upon our relations with foreign nations;

(5) the impact of the "rules of competition" being considered by our trading partners and their relationship to the trend in the developing world towards structured cartelization;

(6) the impact deregulation may have on the growth of State-owned or State-controlled merchant fleets;

(7) the size of the United States liner fleet, by number and cargo capacity, which each of the deregulation options may produce; and

(8) the future structure and role of the Federal Maritime Commission in a deregulated industry.

(d) POWERS OF THE COMMISSION.—The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman or vice chairman, or any duly designated member, and may be served by any person designated by the chairman, the vice chairman, or such member. In the case of the failure of any witness to comply with any subpena or to testify when summoned under authority of this section, the provisions of sections 102 through 104, inclusive, of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply to the Commission to the same extent as such provisions apply to Congress.

(2) For purposes of sections 552, 552a and 552b of title 5, United States Code, the Commission shall not be considered to be an "agency", as such term is defined in sections 551(1) and 552(e) of such title 5. The Commission shall not be subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

(3) Each department, agency, and instrumentality of the executive branch of the Government, incuding independent agencies, is authorized and directed to furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(4) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(B) procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5, United States Code.

(5) Persons in the employ of the Commission pursuant to subsection (4) shall be considered to be Federal employees for all purposes, including—

(1) the Civil Service Retirement Act, as amended (5 U.S.C. 2251-2267),

(2) the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2091-2103),

(3) annual and sick leave, and

(4) the Travel Expense Act of 1949, as amended (5 U.S.C. 835-842).

(6) The Chairman may rent office space for the Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), may accept, hold and administer gifts from non-governmental sources and transfers of funds from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research or surveys in furtherance of the work of the Commission.

(e) Final Report.—The Commission shall submit to the President and to the Congress not later than one year after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the Commission resulting from the study undertaken pursuant to subsection (c), including its recommendations for such administrative, judicial, and legislative action which it deems advisable. Any formal recommendation made by the Commission to the President and to the Congress must have the majority vote of the Commission present and voting.

(f) Expiration of the Commission.—The Commission shall cease to exist 60 days after the submission to Congress of the final report under subsection (e).

(g) Authorization of Appropriation.—There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

SEC. 19. REPEALS AND CONFORMING AMENDMENTS.

(a) Repeals.—The laws specified in the following table are repealed.

Shipping Act, 1916:	
Sec. 13	36 Stat. 117
Sec. 14a	46 U.S.C. 813
Sec. 14b	46 U.S.C. 813a
Sec. 18(b)	46 U.S.C. 817(b)
Sec. 18(c)	46 U.S.C. 817(c)
Sec. 26	46 U.S.C. 825
Merchant Marine Act, 1920:	
Sec. 20	41 Stat. 996
Merchant Marine Act, 1936:	
Sec. 212(e)	46 U.S.C. 1122(e)
Sec. 214	46 U.S.C. 1124
Omnibus Budget Reconciliation Act of 1981:	
Sec. 1608(c)	95 Stat. 752

(b) Conforming Amendments.—The Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801 et seq.), is amended as follows:

(1) in section 1 by striking the definition "controlled carrier";

(2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking "common carrier by water" wherever it appears in those sections and substituting "common carrier by water in interstate commerce";

(3) in section 14, first paragraph, by striking "or a port of a foreign country";

(4) in section 14, last paragraph, by striking all after the words "for each offense" and substituting a period;

(5) in section 15, fourth paragraph, by striking "(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)" and also "with the publication and filing requirements of section 18(b) hereof and";

(6) in section 15, sixth paragraph, by striking ", or permitted under section 14b," and in the seventh paragraph, by striking "or of section 14b";

(7) in section 16, in the paragraph designated "First", by striking all after "disadvantage in any respect" and substituting "whatsoever.";

(8) in section 17 by striking the first paragraph, and in the second paragraph, by striking "such carrier and every";

(9) in section 21(b) by striking "The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act," and substituting "The Commission may, to the extent it deems feasible, require any shipper, consignor, consignee, forwarder, broker, or other person subject to this Act,";

(10) in section 22 by striking subsection (c);

(11) in section 25, at the end of the first sentence, by adding "under this Act";

(12) in sections 29, 30, and 31, after the words "any order of the board", by adding "under this Act,";

(13) in section 32(c), after the words "or functions,", by adding "under this Act,";

(14) in section 44, by striking all and substituting:

"(a) License.—No person may engage in carrying on the business of forwarding unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person who—

"(1) the Commission determines to be qualified by experience and character to render forwarding services; and

"(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the United States Department of the Treasury.

"(b) Suspension or Revocation.—The Commission shall, after notice and hearing, suspend or revoke any license if it finds that the independent ocean freight forwarder is not qualified to render forwarding services, or for willful failure to comply with any provision of this Act, or with any lawful order, rule, or regulation of the Commission.

"(c) Exception.—A person whose business is the sale of merchandise may forward shipments of that merchandise for his own account without a license.

"(d) Compensation of Forwarders by Carriers.—

"(1) A common carrier may compensate an independent ocean freight forwarder in connection with any cargo shipment dispatched on behalf of others only when the independent ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

"(A) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space; and

"(B) prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the cargo.

"(2) A common carrier may not pay compensation for services described in paragraph (1) more than once on the same cargo shipment.

"(3) No compensation may be paid to an independent ocean freight forwarder except in accordance with the tariff requirements of this Act.

"(4) No independent ocean freight forwarder may receive compensation from a common carrier with respect to any shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on such shipment.".

(c) Technical Amendments.—Section 212 of the Merchant Marine Act, 1936 (46 U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

"The Federal Maritime Commission is authorized and directed—";

and

(2) striking after subsection (e) the following undesignated paragraph:

"The Secretary of Transportation is authorized and directed—".

(d) Effects on Certain Agreements and Contracts.—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under the provisions of this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under the provisions of this Act.

(e) Savings Provisions.—

(1) Notwithstanding subsection 8(c), each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment may remain in full force and effect and need not comply with the requirements of that subsection until January 1, 1984.

(2) This Act and the amendments made by it shall not affect any suit at law filed before April 1, 1982.

SEC. 20. EFFECTIVE DATE.

This Act shall become effective one hundred and eighty days after the date of its enactment, except that sections 17, 18, and 19 shall become effective upon enactment.

H.R. 5543

By Mr. Snyder:

—(1) On page 2, line 12, strike the comma after the word "sound," and all that follows down through and including the word "Samoa" in line 17.

—(2) On page 3, line 7, strike "commerce" and insert in lieu thereof "Treasury".

—(3) On page 3, line 8, strike all of paragraph (4) through line 14 on page 4.

—(4) On page 3, line 8, strike paragraph (4) and insert in lieu thereof the following:

"(4) The term 'unit of local coastal government' means—

"(i) the government of any county, parish, burrough, municipality, town, or township in which a unit of general government below the state (determined on the basis of the same principles as are used by the Bureau of the Census of the Department of Commerce for general statistical purposes) and which governs a geographical area located entirely in a coastal state and located on or adjacent to a coastline as determined by the Secretary; and"

"(ii) the Matlakatler Indian Community and the recognized governing body of any Indian tribe in any coastal state except Alaska which performs substantial government functions and which governs the geographical area located entirely in a coastal state and located on or adjacent to a coastline as determined by the Secretary."

—(5) On page 4, after line 14, insert the following new paragraph:

"(5) The term "coastal related energy facilities" means any equipment or facility which is or will be used primarily in the exploration for, or the development of, production, conversion, storage, transfer processing or transportation of oil, gas, sulfur, geopressured methane, or other minerals from the Outer Continental Shelf."

—(6) On page 5, line 10, strike "1982" and insert in lieu thereof "1983".

—(7) On page 5, line 14, strike subsection "(c)(1)" and all that follows through the end of line 3 on page 6.

—(8) On page 5, line 14, strike all after "(c)(1)" through line 18 and insert in lieu

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thereof the following: "As authorized by Congress, the Secretary may use for any fiscal year, an amount equal to not more than 10 percentum of".

—(9) On page 5, strike lines 23 trhough 25, and lines 1 through 3 on page 6, and insert in lieu thereof the following: "(2) as authorized, the Secretary shall use the total amount of any sum paid into the fund during each fiscal year which are not used to carry out the provisions of (c)(1) of this Section, to supplement funding for SSI in coastal states."

—(10) On page 4, strike line 15, and all that follows down to and including line 3 on page 6.

—(11) On page 6, strike line 4 and all that follows down to and including line 12 on page 9.

—(12) On page 4, after line 14, add the following definition:

"(5) The terms bonus, and royalties, has the meaning given those terms in section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a) and (b)."

—(13) On page 5, line 10, strike "1982" and insert in lieu thereof "1983".

—(14) On page 5, strike lines 14 through 22, and insert in lieu thereof the following:

"(c)(1) As provided in advance by appropriation acts, the Secretary shall disperse directly to units of local coastal government, funds for Fiscal Year 1984 and for each subsequent fiscal year in amounts equal to not less to 25 percentum and not more than 50 percentum of the total amount appropriated from the fund for the purpose of enhancing, to the maximum extent practicable, access to coastal recreational areas for the handicapped, and for the elderly."

—(15) On page 6, strike lines 1 through 3 and insert in lieu thereof the following "which are not used to carry out provisions of subsection (c)(1), to provide block grants pursuant to section (4)."

—(16) On page 6, strike line 4, and all that follows down through and including line 12 on page 9, and insert in lieu thereof the following:

"NATIONAL COASTAL DEVELOPMENT GRANTS

"SEC. 4. For fiscal year 1984 and for each subsequent fiscal year as determined by appropriations, the Secretary shall provide to each coastal state a grant from sums paid into the fund during the prior fiscal year pursuant to section 3(b). Fifty percent of such funds paid to a coastal state shall be immediately passed through by the governor to the units of local coastal government.

"(b) The governor of a coastal state may utilize such funds for the purpose of carrying out his obligations and responsibilities under the Outer Continental Shelf Lands Act.

"(c) Units of local coastal government shall utilize such grant funds received under subsection 4(a), for coastal projects such units of government determine is in their best interest, and is not funded by any other Federal program.

"(d) The amount of grant provided under a subsection for a fiscal year to a coastal state shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

"(1) For each coastal state the equal combination of the amount of actual leasing with respect to oil, gas, sulfur, geopressured methane and other minerals which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) during the previous fiscal year which occurs within the Outer Continental Shelf planning area to which such coastal state is adjacent.

"(2) For each coastal state the volume of oil or gas produced from Outer Continental Shelf acreage leased by the Federal government within the planning area to which the state is adjacent in the previous fiscal year.

"(3) For each coastal state, the volume of oil and gas produced from the outer continental shelf acreage leased by the Federal government which is first landed in such coastal state during the previous fiscal year.

"(4) For each coastal state any proposed oil and gas lease sale which is specified by the Outer Continental Shelf Leasing Program prepared pursuant to section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and which are scheduled to occur within the Outer Continental Shelf planning area to which coastal state is adjacent in the current fiscal year."

—(17) On page 9, strike line 13 and all that follows down through and including line 16 on page 11, and renumber accordingly.

—(18) On page 10, strike line 3 and all that follows down through line 17, and redesignate accordingly.

—(19) On page 10, strike lines 18, 19 and 20, and insert in lieu thereof the following: "Each coastal state governor shall provide at least 50 percent of the financial assistance provided to the state under this title to units of coastal local government."

—(20) On page 10, strike lines 21 down through line 25; on page 11, strike lines 1 through 5; and insert in lieu thereof the following:

"(d) any coastal state which the Secretary determines uses any funds provided by a block grant under section 4(a) for an activity not consistent with this act, shall repay such funds to the Federal Treasury. If a coastal state does not repay funds required to be repaid under this subsection, the Secretary may reduce the amount of any future grants provided under this Act by the amount of such required repayment, and an equitable penalty as determined by the Secretary".

—(21) On page 11, strike line 6 and all that follows down through and including line 16.

—(22) On page 11, strike line 6 and all that follows down through and including line 16, and insert the following:

"(e) Funds under this section shall be paid to the state by the Secretary."

—(23) On page 4, strike lines 15 through 24; on page 5, strike lines 1 through 25; on page 6, strike lines 1 through 3; and insert in lieu thereof the following: "Section 3(a) the Secretary may earmark up to three percent of all revenues deposited in the miscellaneous accounts of the Treasury from bonuses and royalties on production begun after the passage of this Act, for the purpose of providing grants to coastal states, and to units of local coastal government.

"(b)(1) As provided in advance by appropriations acts, the Secretary shall use for Fiscal Year 1984 and for each subsequent fiscal year an amount equal to not less than 25 percentum and not more than 50 percentum of the total amount of earmarked funds appropriated under this section to assist coastal states in providing assistance to the elderly, handicapped, and unemployed, in pursuing the states' responsibilities under the Outer Continental Shelf Lands Act, or in adjusting to any negative or positive impact that may result from OCS oil and gas activities.

"(2) As provided in advance by appropriation acts, the Secretary shall use the total amount of any sums earmarked for each fiscal year under this section which are not used to carry out the provision of (b)(1) to provide additional grants pursuant to section (4).

—(24) On page 9, strike lines 17 through 25, and lines 1 through 17 on page 10, and insert in lieu thereof the following:

"(1) Activities to enhance industrial development of coastal communities.

"(2) Activities to preserve 'wetlands'.

"(3) Activities to enhance employment and recreational atmosphere in coastal communities for the elderly and the handicapped."

—(25) On page 11, after line 16, add the following new subparagraph:

"(f) Funds utilized by the state, or by a coastal unit of local government, may not be utilized for projects or programs for which Federal funding is being received through another program."

—(26) On page 9, line 15, strike "the following" and all that follows down through and including line 16 and insert in lieu thereof the following: "activities directly related to Outer Continental Shelf lease sales, drilling activities, and direct impacts on coastal areas resulting from such activities including:".

—(27) On page 5, strike lines 17 and 18.

On page 5, at lines 21 and 22, strike the words "National Sea Grant College Program Act (33 U.S.C. 1121-1131)." and insert in lieu thereof the words "Construction Differential Subsidy program under the Merchant Marine Act of 1936 (46 U.S.C. 1151-1161)."

Strike the remainder of the bill.

—(28) On page 3, line 7, strike "Commerce; and" and insert in lieu thereof, "Treasury."

On page 3, strike lines 8 through 25 and, on page 4, strike lines 1 through 14.

On page 5, strike lines 14 through 22 and insert in lieu thereof the following:

"(c)(1) As provided in advance by appropriation Acts, the Secretary shall transfer to the Secretary of Commerce for fiscal year 1984, and for each subsequent fiscal year, an amount equal to not less than 10 per centum and not more than 20 per centum of the total amount appropriated from the Fund for the purposes of this Act to carry out the National Sea Grant College Program Act (33 U.S.C. 1121-1131)."

On page 6, line 3, strike the word "block".

Beginning on page 6, strike line 4 and all that follows through line 15 on page 12, and insert in lieu thereof the following:

COASTAL STATES MARITIME SEARCH AND RESCUE GRANTS

SEC. 4. (a) There is hereby established the Coastal State Maritime Search and Rescue Grant Program, to be funded from sums paid into the Fund during the prior fiscal year and available for obligation pursuant to subsection 3(c)(2), for the purposes of promoting, establishing and maintaining coastal state and local government maritime search and rescue program operations. Such grants as are provided to the coastal states pursuant to subsection (b) of this section shall be utilized to:

(1) develop and implement maritime search and rescue operations;

(2) purchase all equipment necessary to sustain maritime search and rescue capability;

(3) hire, train, and compensate personnel; and

(4) provide financial assistance to local units of government for the purpose of paragraphs (1), (2) and (3).

(b) Subject to subsection (c)(1), for fiscal year 1984 and for each subsequent fiscal year, the Secretary shall provide to each coastal state a maritime search and rescue grant (hereafter in this Act referred to as a "grant"). From those sums available for obligation, the Secretary shall determine the amount of the grant to each eligible coastal state based upon the following formula:

(1) one-third to be allocated among the coastal states according to each coastal state's proportionate share of the total of numbered undocumented vessels in the coastal states;

(2) one-third to be allocated among the coastal states according to each coastal state's proportionate share of the coastal shoreline mileage of all coastal states; and

(3) one-third to be allocated among the coastal states according to each coastal state's proportionate share of the total number of search and rescue cases arising in all coastal states during the most recent fiscal year for which a statistical summary of Coast Guard search and rescue operations is available.

(c)(1) The Secretary, in consultation with the Secretary of Transportation, acting through the Commandant of the Coast Guard, shall prescribe rules and regulations for the development and approval of coastal state maritime search and rescue programs in order to determine the grant eligibility of a coastal state.

(2) The Secretary shall prescribe all other rules and regulations necessary for the administration of the Coastal States Maritime Search and Rescue Grant Program."

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SENATE—*Thursday, September 9, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Thurmond).

The PRESIDENT pro tempore. Our prayer this morning will be offered by the Reverend Thomas W. Evans, Minister, St. John's United Methodist Church, Springfield, Va. He is sponsored by the distinguished Senator from Virginia, Senator John Warner.

PRAYER

The Reverend Thomas W. Evans, Th. D., offered the following prayer:

Please pray with me.

Almighty God, our Father, Creator of all the Earth. We thank You for this new day of life. We ask Your blessings upon the President, his Cabinet, the Senate and the House. May each person have an open honest mind, pure intentions, and sound speech. Help us to rise above self-seeking and party zeal to the deeper concerns and needs of the people.

May we hear Your word again (II Chronicle 7: 14), "If My people who are called by My name, humble themselves and pray, and seek My face, and turn from their wicked ways, then I will * * * forgive their sins and heal their land." Help us to know (Psalm 127), "Unless You build * * * our labor is in vain. Unless You watch over the city (and nation) we watch in vain. It is in vain that we rise up early and go to rest late, eating the bread of anxious toil."

O God, we know that You are the Supreme Ruler over all nations, and only through You can we find peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

COMMENDATION OF THE GUEST CHAPLAIN

Mr. BAKER. Mr. President, I commend the guest Chaplain, and the distinguished Senator from Virginia for bringing him to us today, especially on the thought and content of his morning prayer.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WISHES FOR A SPEEDY RECOVERY FOR BABY GARN

Mr. BAKER. Mr. President, our colleagues might wish to know that last evening in an unfortunate accident, the young 3-month-old baby of Senator and Mrs. Jake Garn fell and suffered a fractured skull.

The baby is expected to be all right, but I am sure all Members will join with me in wishing Senator and Mrs. Garn a speedy and complete recovery for their young child.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the time allocated to the two leaders under the standing order there will be a period for the transaction of routine morning business which, as previously ordered, will extend not past the hour of 12 noon, in which Senators may speak for not more than 5 minutes each.

At 12 noon the Senate will stand in recess until 1:50 p.m. in order to accommodate the requirement of Members to attend to duties off the floor of the Senate in the nature of caucus activity.

Mr. President, at 1:50 p.m. the Senate will reconvene and will resume consideration of House Joint Resolution 520, the debt limit bill, at which time the Senator from Oregon (Mr. Packwood) will be recognized under the previous order.

At 2 p.m. the vote on cloture against further debate on the Helms second-degree amendment will occur under the provisions of rule XXII. The mandatory quorum call under that rule has been waived.

Mr. President, it is anticipated that the Senate will continue in session until the usual and regular hour of recess today, which means perhaps 6 p.m.

Mr. President, I shall have a further announcement to make about the schedule of the Senate sometime early this afternoon, particularly in respect to further debate on the measure at hand, that is to say the debt limit bill and the several amendments thereto.

The schedule, of course, will depend in large measure on whether cloture succeeds or fails in the 2 p.m. vote today.

Mr. President, I have no further need for my time. I am prepared to yield any time I have remaining under the standing order to any Senator but first let me offer it to the minority leader, if I may.

Mr. ROBERT C. BYRD. Mr. President, I am glad to accept the time offered by the majority leader.

Mr. BAKER. I thank the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. (Mr. Nickles). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. Jackson such time as he may wish.

DEPUTY SECRETARY OF ENERGY RECEIVES ENGINEERING AWARD

Mr. JACKSON. Mr. President, it is important that we be able to attract to and keep people of outstanding qualifications in the highest positions in executive branch agencies. Our ability to manage the difficult problems which our Nation confronts in many areas is only as good as the people who make the policy decisions.

In that regard, I believe that we have as the Deputy Secretary of Energy a man who brings extraordinary management and engineering skill to the job. I have personally known W. Kenneth Davis for many years and can attest to his professional abilities. He also is a man of admirable character.

Mr. Davis was selected in August by the American Association of Engineering Societies (AAES) as the recipient of its National Engineering Award. The award will be presented on September 15. The AAES is an affilitation of virtually all of the national engineering organizations with a membership totalling nearly 1 million men and women from engineering professions. Thus, the AAES recognition of Mr. Davis with this prestigious award provides great recognition of his preeminence in the field of engineering.

If this were the only award that Ken Davis had ever received, it would still be noteworthy. However, he has received many other national awards from engineering and technical associations and has been elected to both the National Academy of Sciences and the National Academy of Engineering. His activities as an engineer and manager have served the Nation exceed-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ingly well. I, therefore, take great pleasure in calling to my colleagues' attention this high honor bestowed upon Ken Davis by the AAES.

I thank the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator is welcome.

Does Mr. Proxmire or Mr. Stennis wish to have me yield some time to them?

Mr. STENNIS. Mr. President, may I ask the leader to repeat his inquiry?

Mr. ROBERT C. BYRD. Does the Senator wish me to yield some of my time to him?

Mr. STENNIS. Yes. I appreciate that, and I wish to have 10 minutes, frankly, at a convenient time.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair.

I yield 10 minutes to Mr. Stennis.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I certainly thank the minority leader.

MILITARY SUPERIORITY

Mr. STENNIS. Mr. President, we will be taking up the military appropriations bill in time. I do not know just when. But it is of the utmost importance.

I am not today pushing for any particular action at any particular time. But I do notice repeated statements in the press and by the columnists, made in good faith I am sure, about the expenditure of too much money with reference to our military budget.

There are also statements that tend to downgrade our military preparedness, and, by comparison, rate us as second best to the Soviets. As a background I want to challenge this morning suggestions that tend too far in that direction.

Mr. President, on the eve of beginning consideration of the fiscal year 1983 defense appropriations bill, I rise to disagree with those who would make America a second-rate military power. Out in the country there are those who would charge that America has frittered away its military superiority, thrown away its prowess and now stands naked and afraid before a giant Russian bear. This is dangerous nonsense. It undermines the confidence of the American people and weakens their support for the defense budget. Furthermore it denigrates those who wear the uniform and are responsible for fielding the effective military forces that protect our country and our interests worldwide. What we need instead of this rhetoric aimed at creating fear and even panic, is a day-to-day, year-to-year dedication to keeping our military strength modern, lean, well disciplined, and at the ready.

In this time of tight budgets and competing demands for funds, we must reexamine our military posture and rededicate ourselves to military preparedness. There are no loose dollars to be thrown away now, but we must continue to maintain a strong but frugal military preparedness even in the face of economic difficulties. A few years ago, in better economic times, there were those who called for more money for defense. Now, when the going gets tougher, some of those same people are calling for large cuts in defense spending. Some reductions have already been made and agreed to by the President. We are already within a few percentage points of the defense spending outlined in the last budget submitted by President Carter. But the country needs to maintain its military strength through thick and thin. That means we must maintain the consensus for defense spending that was achieved just a few years ago. For my part, I will bend my efforts to this purpose.

Now the President has said that the Russians have caught up with us in one important, but limited field—strategic nuclear weapons. It may be that in this nuclear field no country can achieve military superiority again the way the United States had clear superiority when we had nuclear weapons and the Russians did not. Through no fault of ours, we no longer have the luxury of sole possession of these weapons. That does not mean the United States cannot carry out its missions and deter the Russians in this field. What it means is that we must take the steps needed to make sure that we modernize and keep our guard up in that field. That is why I have long supported the MX intercontinental missile, the B-1 and other manned bombers, the Trident submarines and missiles and the whole new families of cruise missile and Stealth technology.

But to extend this nuclear problem to a statement of general American military weakness—as some have tried—is misleading and false. America is not a weak and threatened second-rate power and statements to that effect are damaging.

Let me point out with emphasis, Mr. President, that should those statements of our inferiority, our being second rate, be true then they should become the basis for immediate action by the Government—a call up of the National Guard and Reserve, immediate induction of young people under a fair Selective Service System, immediate halt in the retirement or sale of ships, aircraft, nuclear missiles and bombers that still have useful life in them, increased alert of our bomber, submarine and missile forces, putting more of the fleet to sea, vastly stepped-up maneuvers, training and readiness in general, return of the 350,000 women and children dependents of military personnel overseas, mobilization of industrial production and emergency supplemental increases in the military budget.

No military leader has recommended these actions; no responsible civilian official has recommended these actions; President Reagan has not recommended these actions. In fact, in June of 1982, the President endorsed some reductions in the military budget as part of a program to help the economy.

But if the statements about U.S. military inferiority are false, they should be denounced as harmful and dangerous political rhetoric. These statements encourage enemies such as the Russians and could lead to miscalculation by them. Russian miscalculations could cost thousands or even millions of lives if they mistakenly sought a war. Such statements also discourage our allies and make them less willing to follow our lead. Finally, such statements, which prey on fear, discourage and confuse the American people, and in the end weaken the consensus for a strong defense by making it appear hopeless.

There is no doubt in the Russian mind that U.S. military power is not to be trifled with. They have not moved against it and we must insure that they do not try. This is called deterrence, and it is a strong military posture that makes it effective.

Now, Mr. President, a great deal of the money I have supported, some of which I have taken a lead in over the years, is for weaponry that I look upon as purely for deterrence, and I think it has been effective that way. If we did not have it we would be faced with a much more dangerous situation and could have been the subject of attack. So this word "deterrence" is not something to be pitched around. I believe the President of the United States, as he seeks these agreements that can be enforced and checked on, must have this arsenal at his command to use as an effective deterrent as he approaches—and God help him proceed—a satisfactory settlement of some kind which will at least be a beginning in this field.

There is no doubt in the minds of all our top military leaders who have testified that they would not for one instant trade U.S. military forces today for those of the Russians—or anybody else.

There is no doubt in the mind of our Air Force Chief of Staff when he said on May 19, 1982,

> I have been associated with the air forces of other nations; there are none better, believe me, than the U.S. Air Force.

That is the man responsible for all our nuclear ICBM's and bombers as

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well as our fighter and attack aircraft who is speaking.

There was no doubt in the mind of our Chief of Naval Operations on May 19, 1982, when he testified about the American "blue chips of superiority." To the question, "What are the Russians afraid of?" he answered,

> Our superior tactical air at sea is number one * * *. Our superior SSN submarines are better—probably 5 to 8 years in technology * * *. We have a superior cruise missile which the Soviets cannot emulate * * *. We have an amphibious force that they cannot match * * *. Weapons systems individually in my judgment, are superior to the individual weapons systems in Soviet combatants.

There could have been no doubt in the minds of the Israel crews of American-made aircraft, missiles and guns in Lebanon as to their ability to knock out Russian-made aircraft, missiles and tanks. In air-to-air battles, 88 Russian-made aircraft reportedly went down while 1 American-made aircraft was lost. Twenty Russian-made missile batteries were claimed with no American-made aircraft lost. Some 400 Russian-made tanks reportedly were destroyed by American-made guns. These are remarkable statistics on military performance using U.S.-made equipment used in actual combat within the last 4 or 5 months.

These are matters that our military have claimed a superiority in, that they have great faith in, that they, the engineers, and the taxpayers backed by paying the bill, and it paid off in such a magnificent way so far as a test for the weaponry was concerned, an overwhelming victory, and the physical demonstration there that could not be had otherwise.

I can relate here, Mr. President, the great number of new weapons that we have. I am not trying to portray a show here. I am not trying to frighten anyone on the other side, so to speak. I am not trying to push around anybody on this floor who may oppose some elements of these appropriation items that are coming up in due time in this bill. But I do want to say that I know we are up against a practical matter here with regard to military weaponry until we find our way along a better road, a better route, with reference to arms limitation agreements. Until we find solid agreements that can be given surveillance and can be checked on, then we must not be guessing, we must not be second-best, we must not take chances.

There is no doubt in my mind that militarily the United States can do today what we need to do to protect our people and safeguard our interests. This fact is no accident and comes from the groundwork laid in past years. It must be kept that way and actions are already underway for that purpose.

Whole families of new long-range, high-accurate cruise missiles are now coming off the production lines.

New powerful Trident submarines and Trident I missiles are being deployed as fast as they can be built.

Two brandnew ballistic missiles—the MX and Trident II—are being developed as rapidly as practical.

Two new strategic bombers—the B-1 and highly classified Stealth bombers are being developed as rapidly as prudence allows.

A whole new family of the best tactical fighter aircraft in the world—F-14's, F-15's, F-16's, F-18's, A-10's—have been and still are rolling off the production lines into the air squadrons.

A whole new generation of Army and Marine Corps ground equipment—tanks, helicopters, cannon, fighting vehicles, trucks, missiles, radios, and all the rest—have been and are coming off the production lines into troop units.

Brandnew, larger and more capable fighting ships—Aegis cruisers, attack submarines, fast frigates, aircraft carriers, and amphibious ships, over 93 ships altogether—have been funded in previous years and are in various stages of completion with new deliveries coming all the time. More new ships are funded in this year's budget.

These results do not come from naive expectations, sweeping rhetoric or scare tactics. What is needed is a steadiness of purpose to field a strong military. Neither alarmism nor complacency serve that purpose.

For years, my watchwords for fielding a military program that is second to none have been the same: Preparedenss; deterrence; discipline; frugality. These watchwords, combined with plain hard work, have successfully shepherded the laws and the money needed for a strong American defense through the entire legislative process, authorization bills, appropriations bills, and joint conference with the House.

This bill does look large. It has not been but a few years though where we had to start rebuilding from the ground up following that most unfortunate of all conflicts in Vietnam. With the advancement of science in many fields, new and additional weaponry of the most expensive kind had to be supplied and many times on quick order.

I can say this, Mr. President, that with all our experiences in weaponry there are many cases of research and development where that process itself proves not to be an inferior weapons system but it proves the insufficiency of certain concepts where many millions of dollars are spent and the process is laid aside and is not proceeded with further.

This is a field now where weaponry is so expensive, so very greatly increased in costs that mount by leaps and bounds that no nation can keep on paying the bill if we proceed in a reckless way, if we recklessly buy items that are not needed, that are not worthy and are not necessary.

I very rigidly apply every rule I know of savings and frugality and its proper accent.

There were and will be many difficult times with challenges coming from many sides against key elements of the defense program. The B-1 bomber, aircraft carriers, Army tanks, troops in NATO, selective service, and many other items have all been subject to sharp challenge and debate. For the B-1 bomber alone, I voted at least 12 times on the Senate floor in favor of this bomber. Many of these debates have been a red-hot test of legislative skill, experience and stamina—some lasting for 7 weeks on the Senate floor and others going around the clock. In May 1982, the Defense authorization bill alone required 2 weeks of debate, including a final 21-hour around the-clock session.

It takes a steady purpose and resolve to provide for the common defense. The list of legislative battles is long-marked mostly by success. Between 1969 and 1981, over 50 new major weapons systems were first authorized or delivered to the combat forces—ships, tanks, aircraft and missiles—and many provoked controversy. During the same period, many major and controversial military policy questions arose. These included selective service, overseas troop deployments, the War Powers Act, military unionization, National Guard and Reserve support, draft registration, military justice and discipline, recruit quality, special pay for specially trained personnel, and limits on the number of generals and admirals.

One small illustration of how steadiness of purpose and resolve paid off for preparedness is the case of the nuclear-powered aircraft carrier. In 1978, after extensive hearings and testimony by the Navy, I proposed an amendment in committee that added funds for another large *Nimitz*-class aircraft carrier. This ship was not in the budget request, but the committee agreed it was needed by the Navy and recommended it to the Senate. After vigorous debate, the Senate adopted the amendment. Despite opposition by the executive branch, the ship was also approved by the joint House-Senate conference committee and sent to the President. President Carter chose to veto the bill and sent it back unsigned to Congress. The Armed Service Committee mobilized to try to override the veto in the Senate, but the House had to act first and it failed to override the veto. When this occurred, there was nothing else to do but move ahead the other parts of the military preparedness program. However, within 6 months of this debate, the administration budget request included a medium sized aircraft carrier. The Senate Armed Services Committee again recommended a large carrier and in 1979 Congress authorized and appropriated funds for a new nuclear powered *Nimitz*-class carrier. The keel for this ship was laid in October 1981. Construction is now 27 percent complete. It has been named the U.S.S. *Theodore Roosevelt* and will be launched in 1984 and delivered to the fleet in 1986. This illustrates how a real fleet is built. It is steady purpose and hard work that pays off—not sweeping rhetoric that plays on fear.

Another illustration is the magnificant work done a few years ago by Gen. Louis Wilson, previous Commandant of the Marine Corps, in restoring the firm discipline and high quality needed for a first rate combat force. It took day to day steadiness of purpose and determined effort to weed out the troublemakers, instill discipline and restore the morale and esprit that so typified the U.S. Marine Corps today all over the world, including in the troubled city of Beirut.

In conclusion, war and the military preparedness to deter it are not child's play. Experience, judgment and steady purpose through thick and thin is what is needed to see a strong military program through the legislative process. The watchwords of preparedness, deterrence, discipline, and frugality have served this country well in the past and are even more necessary in the difficult years ahead.

But let us be thankful, Mr. President, that we have the ability, we have the wherewithal, and we so far are able, within sound financing, to pay the bill. We are not going to be caught napping. This is our insurance. And within the lines of this protection, I believe, in time we will be going into a great new era of expanded production, expanded wealth, you might call it, and an expanded economy of the soundest kind and the best system of government in the world.

Mr. President, I thank the Chair and I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, are we in morning business at the present time?

The PRESIDING OFFICER. There are 4 minutes of the Democratic leader's time remaining.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the leader's time be set aside so that we can move into morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon with statements therein limited to 5 minutes each.

HOW TO MAKE THE REALITY OF NUCLEAR WAR EVIDENT TO THE HAND THAT CAN PUSH THE BUTTON

Mr. PROXMIRE. Mr. President, all of us are now aware of the terrible possibility that sometime in the next 20 or 25 years, maybe at noon today, maybe at 3 o'clock tomorrow morning, maybe 20 years from now, a nuclear war might start and involve the superpowers. Either a President of the Soviet Union or a President of the United States could launch such a catastrophe.

This nightmare haunts all of us. When a single human being possesses this awesome power to virtually destroy our world, what could set him off? What could provoke an American or Soviet President to push the button? More important, what could restrain him, give him second thoughts, stop him from making such a devastating reaction? Some of the top experts on human behavior and international affairs have recently discussed how we might require a President to have long seconds thoughts before he precipitated the nightmare that haunts all of us.

The New York Times on Tuesday reported on all of this and included a shocking suggestion by Roger Fisher, professor of law at Harvard University, that would bring the President of either country to a dramatic realization of what his simple push of that button would do in exterminating hundreds of millions of people. Here is what Professor Fisher suggests:

He would put the codes needed to fire nuclear weapons in a little capsule and implant the capsule next to the heart of a volunteer, who would carry a big butcher knife as he followed the President everywhere. If the President ever wanted to fire a nuclear weapon, he would first have to kill, with his own hands, that human being. "He has to look at someone and realize what death is—what an innocent death is. It's reality brought home," says Professor Fisher.

Mr. President, the psychological forces that might drive the hand that controls the nuclear button have been examined and discussed by the leaders of the American Psychological Society. The New York Times ably reports their conclusion. I think they make a contribution to our understanding of this human and very real aspect of nuclear war and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SCIENTISTS BELIEVE LEADERS LACK A SENSE OF WAR'S REALITY

(By Philip M. Boffey)

WASHINGTON.—One expert on international affairs has an unorthodox proposal to slow the hand of any President who might be tempted to unleash a nuclear attack. It has long been feared that a President could be making his fateful decision while at a "psychological distance" from the victims of a nuclear barrage; that he would be in a clean, air-conditioned room, surrounded by well-scrubbed aides, all talking in abstract terms about appropriate military responses in an international crisis, and that he might well push to the back of his mind the realization that hundreds of millions of people would be exterminated.

So Roger Fisher, professor of law at Harvard University, offers a simple suggestion to make the stakes more real. He would put the codes needed to fire nuclear weapons in a little capsule, and implant the capsule next to the heart of a volunteer, who would carry a big butcher knife as he accompanied the President everywhere. If the President ever wanted to fire nuclear weapons, he would first have to kill, with his own hands, that human being.

"He has to look at someone and realise what death is—what an innocent death is. It's reality brought home," says Professor Fisher.

Although Professor Fisher's proposal has not gained adherents among decisionmakers in the nation's capital, it would go far toward answering a need voiced by many political psychologists. In his recent presidential address to the International Society for Political Psychology, for example, Morton Deutsch of Columbia University suggested that nuclear weapons were "psychologically seductive," largely because they provide "a tremendous emotional kick for those with strong power drives." The kick comes, he said, because the stakes high, decisions have to be made quickly, and use of the weapons is inherently aggressive. Dr. Deutsch also thinks the tidy, abstract character of nuclear war scenarios "appeals to the talented, imaginative gamesmen" who are the leading strategic analysts in the United States and Soviet Union. Meanwhile, he lamented, "the real horrors of a nuclear war are not faced," and some way must be found to make them "psychologically real."

Whatever the merits of this analysis, it illustrates the potentially important role played by psychological factors in momentous issues of war and peace. Ever since Albert Einstein, in a famous letter written 50 years ago, urged Sigmund Freud to analyse the "strong psychological factors" blocking peace in the troubled world of the 1930's, a parade of behavioral scientists has speculated on the psychological factors that may cause or prevent wars, or at least mitigate their consequences.

There is little agreement among those scientists, no central core of accepted research findings, little evidence that they have had much influence on political leaders, and no real indication that the field is growing. But there is continuing evidence that the small band of professionals who grapple with these issues is alive and well and still scratching to bring its insights to bear on the most profound questions of human survival.

At the annual meeting of the American Psychological Association two weeks ago, several social, political, military and behavioral psychologists presented papers or led

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discussions on the psychology of war and peace. A month earlier, similar discussions dominated the meeting here of the five-year-old International Society for Political Psychology. And in a recent issue of the journal Foreign Policy, a psychiatrist and a Foreign Service officer argued that political-psychological analysis "can help illuminate human barriers to the resolution of political problems."

On a less theoretical level, the American Psychiatric Association and the tiny Institute for Psychiatry and Foreign Affairs held major conferences in 1980 and 1981 with Egyptian and Israeli delegations, composed of psychiatrists, military officers and other policymakers, in an effort to lay the psychological groundwork for peace and coexistence.

Psychologists and psychiatrists believe their professions may be able to provide guidance on a host of political-military issues. Among them are the factors that influence decision-making in a crisis, the perceptions that rival societies have of each other, the shaping of public opinion and national goals, the conduct of successful negotiations, the value of weapons as deterrents or bargaining chips, and the effects of such psychological phenomena as denial, habituation and psychic numbing on arms control efforts.

But it has proved difficult, in many cases, to transfer findings from one level of psychological analysis—say the behavior of individuals—to a wholly different level, such as international conflict. Freud himself, in his response to Einstein, was dubious about the relevance of psychiatry to international conflict.

The diagnoses and prescriptions offered by psycologists and other behavioral scientists vary widely. Some see the nature and behavior of man—his aggressiveness and greed and fear of strangers, for example—as perhaps the most important underlying cause of war; others believe wars result primarily from dispute, over territory and natural resources or other concrete differences, with psychological factors as important secondary causes. Some believe that wars often result from misperceptions and misunderstandings; others suggest they result from an all-too-perfect understanding of another nation's hostile intentions. There are almost as many different analyses as there are psychologists and wars.

Here is a sampling of the thinking presented in recent papers and conferences:

Dr. Deutsch told the political psychologists' convention that sane, decent, intelligent leaders of the two superpowers have allowed themselves to become enmeshed in a "crazy" and "malignant" social process in which the actions they take to enhance their national security end by making both sides feel less secure, much as married couples or parents and adolescents sometimes get trapped in vicious process that lead to hostility and violence. He suggested that military actions should be taken only if they plainly increase the security of both sides.

B. F. Skinner, the dean of American behavioral psychologists, presented a pessimistic analysis to the American Psychological Association in an address called "Why Are We Not Acting to Save the World?" He argued that "something in the very nature of human behavior" makes it difficult for people to respond to advice on how to avoid future disasters that they have not yet experienced.

Herbert C. Kelman, a Harvard social psychologist who has had extensive contact with government leaders and scholars in the Middle East, presented an optimistic analysis of the thinking of Yasir Arafat, head of the Palestine Liberation Organization. After two extensive conversations with Mr. Arafat in 1980 and 1981, Dr. Kelman concluded that his language, images, thought processes and past actions indicated that he had the capacity and will to come to an agreement with Israel, if he was offered the necessary incentives and reassurances. The hypothesis, Dr. Kelman said, is "well worth putting to the empirical test."

Ralph K. White, professor emeritus at George Washington University and formerly a leading psychologist with the United States Information Agency, argued that a policy of tension-reduction is needed far more urgenty than a policy of deterrence.

Although some behavioral scientists in the past have offered sweeping guidelines that they suggested would produce world peace, the mood among those working on international conflict today seems far more modest and restrained. Most would probably agree with Irving L. Janis, professor of psychology at Yale, who believes that "a psychological analysis is essential for understanding outbreaks of war" but that current knowledge is "grossly incomplete." Dr. Janis said he would oppose any effort by a committee of psychologists to give "definitive advice" to decisionmakers because of the "tentative nature" of current psychological knowledge.

DO NOT TEACH HATRED TO THE CHILDREN

Mr. PROXMIRE. Mr. President, there is probably no more odious act than the teaching of hatred to little children. Parents often teach their children hatred rather unthinkingly. Wanting to prepare their children for the harsh realities of life, they will point out that certain groups or nationalities are "bad people" or are "the enemy." In such a way, conflicts are often perpetuated through the prejudice which is passed on to children.

In a recent issue of Life magazine August 1982, the passing on of hatred to children was captured in two startling photographs. The first photograph shows a little girl of 2½ years of age. She is wearing white shoes and a bright yellow dress with short, puffed up sleeves and red lace trim. She is standing on a gravel-covered sidewalk. She is staring into the camera, her large brown eyes shaded by her father's military cap on her head. Clasped between her tiny hands is her father's 9 millimeter pistol. In a second photograph, a boy of approximately 10 years of age is shown mocking death lying face down in a freshly dug grave. These two photographs are encaptioned with an old Middle Eastern dictum which reads: "Learn who the enemy is, never forget, and carry on the struggle through your children's children's children." Whether this is a formula for eventual victory in a protracted armed struggle is not certain. But it certainly is a formula for countless numbers of senseless deaths, vast destruction, and a future of little hope for the children.

The tragedy of the dictum is that when carried to its logical, though extreme, conclusion, it is in effect a statement sanctioning genocide. For in a fight to the death, the end result would be the destruction of an entire people.

These photographs must not be, as the inscription reads, a call to continue the struggle, but rather a call to end it; not a call to perpetuate hatred, based on ethnic, racial, religious, or national origin, but to eradicate it. The memories of a bitter past should not be used to poison the minds of our children and their children, but rather to enlighten them.

Hatred is already so abundant, Mr. President, that it hardly needs to be taught. The seemingly endless circle of perpetuated conflict will only be broken when we and our children and our children's children learn the true lessons of that violence.

As I have said time and time again on the Senate floor, we need to learn the lessons of history. We do not accomplish that by forgetting past conflicts, but rather by drawing on these as a spur to do everything humanly possible, no matter how small any step may be, to insure that such tragedy will not be repeated.

The Genocide Convention establishes punishment for those responsible for genocide. But our attempts to prevent genocide should not stop there. The hatred and prejudice that drives people to commit heinous crimes against an ethnic or national group must be stopped. Fighting hatred is the first line of defense against genocide and senseless conflicts because it seeks to stop genocide before it occurs. But inevitably, or so it seems, the battle against hatred breaks down and that is when the Genocide Convention is needed as a second line of defense against the most abominable of crimes: the destruction of an ethnic, religious, or racial group. When the battle against hatred breaks down, it would be reassuring to know that in the most extreme case of purposeful violence, genocide, there is an international basis for nations to stand together and punish the perpetrators. I would hope that all my colleagues would join me in my endeavor to ratify the Genocide Convention.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, since May Senator NUNN and I have been coming to the floor of the Senate every day to speak out on the urgent need for the Senate to pass legislation to fight crime and to reform our criminal justice system. For the last 2 months, we have spoken out on a particular aspect of our legal system, the Federal habeas corpus statute for State prisoners. It is our belief that today's habeas corpus system and the way it operates runs far afield of what the purposes of the writ of habeas corpus should be. Rather than a shield to protect the exceptional case involving a miscarriage of justice, today's habeas statutes have created an entirely new system of appeals which a convict can use, time and time again, to challenge issues which had been resolved years earlier. Indeed, as one Supreme Court Justice said, under today's habeas system, the State trial and appeal is no more than a try out on the road. You do not get to Broadway with your case until you start filing habeas petitions.

Several weeks ago, Hon. Frank J. Kelley, the attorney general of the State of Michigan, wrote in support of efforts to modify the current habeas corpus statutes. He singled out one habeas reform proposal in particular, the need to put some sort of time limit on the ability of convicts to file habeas petitions. In doing so, he referred to the case of Nealy Buchanon against Charles E. Anderson as an illustration of the need for some sort of finality in the habeas corpus system.

The story begins back in 1956, when Buchanon pleaded guilty to two counts of first degree murder and was convicted and sentenced. Twenty-three years later, in 1979, Buchanon filed a habeas corpus petition in the Federal court, alleging in part that his guilty plea, since it had been made without counsel, violated the sixth amendment. Mr. President, I do not quarrel with Buchanon's underlying appeal concerning the need for a lawyer. But that principle had been announced back in the early 1960's, and Buchanon had waited some 15 years after it had been announced, and over 20 years after his original conviction, to raise his claim.

The State of Michigan, in investigating Buchanon's claim, found that every relevant witness, except the trial judge, had either died or had no independent recollection of the events in question. In addition, during the 23-year lapse, much of the documentation and the evidence in the case had disappeared. The State of Michigan therefore asked the court to dismiss the case, asserting that the delay in the filing had prejudiced the State's ability to respond to the allegations made.

The Federal district court refused to grant the State of Michigan's request for dismissal. Instead, it appointed a lawyer for Buchanon and held a lengthy evidentiary hearing. At that hearing, the court determined that Buchanon in fact had voluntarily waived his right to counsel back in 1956. So the State ultimately prevailed. Nonetheless, as Attorney General Kelley correctly pointed out, the decades-long delay resulted in an unnecessary duplication of effort and unnecessary expenditure for State and Federal funds. The Buchanon case is yet another example of the pitfalls in today's habeas corpus laws, and yet another example of the need to establish some sort of limit on when a prisoner can file a habeas corpus petition.

There are presently two habeas reform proposals on the Senate calendar. Each one is ready to be considered and passed by the Senate. The first, title 4 of S. 2543, is identical in substance to a habeas reform proposal that Senator THURMOND and I introduced last year. It sets up a time limit on filing habeas corpus petitions, to assure that habeas cases are heard while relevant evidence is still relatively fresh. The second, S. 2838, was introduced by Senator THURMOND and is cosponsored by Senator NUNN and I. It is similar in substance to the administration's habeas corpus reform proposals.

Both measures contain time limits, which require persons filing habeas petitions to file them at some point soon after their convictions have become final or after they have exhausted their State remedies. Whether you set that time limit at 1 year or at 3 years is not critical. What is essential, however, is the principle contained in both measures, and that principle is that, at some point in time, there must be an end to the numbers of appeals that a convicted criminal can file. Each bill also provides that, in special circumstances, where a new constitutional principle is announced and is made retroactive, a person could file a habeas petition on those specific grounds during a specified time period.

In this case, under either habeas reform proposal, Buchanon would have had an opportunity to raise the issue of not having an attorney in the early 1960's, immediately after the courts announced their interpretation of the right to counsel under the Constitution. However, Buchanon would not have been able to delay for an additional 15 years before raising a claim.

Mr. President, it is imperative that the Senate act promptly to heed the calls for reform raised by Attorney General Kelley and by so many others, and act on habeas corpus reform legislation. Time is running short. We are now in the last lap of this Congress, with as few as 16 days remaining in this session. It would be tragic if the Senate did not act, especially since we have this unique opportunity to make these necessary reforms.

TRIBUTE TO FORMER UNIVERSITY OF SOUTH CAROLINA TRUSTEE JAMES W. COTHRAN, SR.

Mr. THURMOND. Mr. President, it is with sadness that I rise today to pay tribute to my good friend, James W. Cothran, Sr., of Bishopville, S.C., who passed away on August 3, 1982. To his devoted wife, Dorothy, his three loving children, and other family, I extend my deepest sympathy.

Though Jimmy Cothran was a man of numerous abilities and interests, he will perhaps best be remembered for his undying partiotism, his commitment to quality education, and his seal for justice in law.

Jimmy Cothran's military career began when he volunteered for service in the Navy in 1943. During World War II, he saw action in the Aleutians and in the South Pacific. Upon completing his service in the Navy, Jimmy returned to Bishopville where he continued his patriotic duties with the Veterans of Foreign Wars. Holding numerous important positions with VFW, Jimmy served ably as their commander-in-chief from 1952 to 1953, the only South Carolinian to hold this national office.

His love for America never wavered. Jimmy had a profound respect for American tradition and for its institutions which provide opportunity for anyone bold enough to pursue their own dreams. Such a belief was the basis for his lifetime of continuous dedication to education.

For Jimmy Cothran, the University of South Carolina was more than his alma mater which presented him with an undergraduate and law degree. It was an institution that held a special place in his heart. As an expression of gratitude and loyalty to the University of South Carolina, Jimmy sought to give of his time and talents in a way that would greatly benefit the university.

He fulfilled this desire through his valuable leadership on its board of trustees, where he served from 1953 to 1981. His 28 years in this capacity helped make USC one of the foremost universities in the country in areas of academics, athletics, and numerous other activities.

His work as a trustee was an extension of his genuine desire to help young people attain the best education possible. I know that his fellow trustees would attest to the fact that Jimmy's efforts were not in vain. He enjoyed close interaction with the students, faculty, and staff, who provided

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him with the necessary input to better understand the needs of today's college students. This unique relationship granted Jimmy the keen insight to see which direction the university should be going to meet those needs.

University of South Carolina President James B. Holderman said of Jimmy Cothran, "The University community will cherish his memory for his wise and enthusiastic leadership. . . ." It is that enthusiasm which served as a common bond between Jimmy and the students.

Yet, his enthusiasm was felt in every other area of his life as well. He was enthusiastic about helping people in his law profession, and served his clients well for 35 years, insuring that they received the attention and skillful advice they deserved.

Though he was heavily involved in many organizations, he managed to devote 100 percent of himself to each cause. To Jimmy, every activity was important, and for this reason he gave his best.

Mr. President, James W. Cothran, Sr., was a soldier whose victories brought peace; a leader whose abilities brought positive results; and a man whose unshakable faith in God gave him the inner strength to overcome any external obstacle. His life served as an example for all.

Mr. President, I ask unanimous consent that a recent article from The (Columbia) State newspaper and a tribute by VFW Commander-in-Chief Arthur J. Fellwock about this courageous American, James W. Cothran, Sr., be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the State, Aug. 4, 1982]

James W. Cothran, Sr., Former USC Trustee

Bishopville.—James W. Cothran Sr., 67, former member of the University of South Carolina board of trustees, died Tuesday after a long illness.

Born in Florence County, he was a son of the late Malcolm C. and Sophia Frierson Cothran.

Mr. Cothran was a graduate of the University of South Carolina and the USC Law School. He was a member of Bishopville Presbyterian Church.

Mr. Cothran practiced law in Bishopville for over 35 years and was a member of the American, South Carolina and Lee County bar associations and the South Carolina Trial Lawyers Association. He was active locally in the V.F.W., the American Legion, the Kiwanis Club and Elks Club.

Mr. Cothran volunteered for military service in January 1943 and served in the Navy during World War II in the Aleutians and South Pacific Theaters until the end of the war. He attained the rank of lieutenant.

He devoted much of his talent and energy to further patriotic and educational causes. He was the only South Carolinian to serve as National Commander-in-Chief of the Veterans of Foreign Wars and was active in V.F.W. affairs until his death. He served on many V.F.W. committees, including the finance committee and the National Council V.F.W. for many years. He was a director of Freedom's Foundation at Valley Forge from 1952 until his death, serving as a local and national judge of the Voice of Democracy Contest.

Mr. Cothran was a member of the University of South Carolina Board of Trustees from 1953 to 1981 and served as its vice chairman from 1960 to 1978. He also served on many committees of the board, including the Executive Committee and the Building and Grounds Committee. He actively assisted many local young people further their education.

University of South Carolina President James B. Holderman said of Mr. Cothran, "His death means that the university has lost one of its most dedicated supporters. As an active member of the board of trustees for 28 years, Mr. Cothran shared generously of his time and great expertise to improve his alma mater and higher education in South Carolina.

"The university community will cherish his memory for his wise and enthusiastic leadership in higher education and for his outstanding, lifelong service to the university. We have lost a true friend," Holderman said.

Surviving are his widow, Mrs. Dorothy Parke Cothran; a daughter, Mrs. C. M. (Julia) Williamson of Florence; two sons, James W. Jr. and Thomas P. Cothran of Bishopville; two sisters, Dorothy I. Cothran of Florence and Mrs. Terry P. (Virginia) McCarrell of Charlotte; a brother, H. Lawton Cothran of Florence; and a number of grandchildren, nieces and nephews.

Services will be held at 2 p.m. Thursday at Bishopville Presbyterian Church.

The family suggests that those who wish may make memorials to the University of South Carolina Educational Foundation.

Hancock Funeral Home is in charge.

A Tribute to James W. Cothran—1981–82 Memorial Service

(By Arthur J. Fellwock, Commander-in-Chief, The Veterans of Foreign Wars)

The Veterans of Foreign Wars of the United States has a special place in its heart for Los Angeles, for it was in this city in 1952 that James W. Cothran was elected as its Commander-in-Chief at the 53rd National Convention.

To the thousands and thousands of members of the VFW and its Ladies Auxiliary who knew Jimmy Cothran during his long years of service to our organization, he was a very special person.

He was never too busy to pause and chat with them, to encourage them or by the warmth of his smile to make their day a little easier. And everyone who heard him speak was moved by the power of his oratorical gifts.

Jimmy Cothran was born Jan. 6, 1915, in Cartersville, S.C., and was educated in the schools of nearby Timmonsville. In 1937 he earned his bachelor's degree from the University of South Carolina and his law degree from his alma mater's Law School two years later, when he began practicing law in Bishopville, where he made his home for his remaining years.

During his three years' service in the United States Navy, he spent 22 months aboard the USS Charles J. Badger as communications officer. He saw action at Matsuwa, Kurabu Zaki, Paramushire and Kurile islands as well as the invasions of Leyte, Luzon, and Okinawa.

No sooner had he joined Post 3096 in Bishopville in 1946, than he was elected Junior Vice Commander of the Department of South Carolina. He was elected Department Commander for 1949–50. South Carolina's success in membership under him led to his election as Junior Vice Commander-in-Chief in 1950 at the National Convention that year in Chicago.

Jimmy Cothran, a dedicated husband and father, married the former Dorothy Parke, a Columbia, S.C., girl, who presented him with two sons, James W., Jr. and Thomas Parke, and a daughter, Julia Lea.

Although he devoted much of his time to his family, the VFW and his law practice, Jimmy Cothran was never too busy to do anything that would better his community and his state. He was a member of the Board of Trustees of the University of South Carolina, long active in the Lee County Fair Association and the Lee County Christmas Fund and a member of the Bishopville Presbyterian Church.

He was a Mason, a Kiwanian, an Elk, a Kappa Sigma and a member of the American Legion and the Military Order of the World Wars. He also served on the Freedoms Foundation Board of Directors.

Underlying his achievements always was a sense of humility, exemplified by his remarks after his election as Commander-in-Chief:

". . . I pray that God will give me the ability, sound judgment and the strength that it takes to make a wise and competent Commander-in-Chief for the Veterans of Foreign Wars—one whose willingness to work hard for the organization will encourage countless thousands of our members to do the same thing."

His prayers were answered and the VFW grew and its influence spread through his inspiration.

"My help cometh of God, who preserveth them that are true of heart."—Psalm 8.

Few men who have been privileged to wear the Cross of Malta Emblem have earned the affection, admiration and acclaim of so many members of the Veterans of Foreign Wars of the United States as Past Commander-in-Chief James W. Cothran.

Known to all of us as "Jimmy," he always shouldered his share of the burden when called upon and often volunteered to do so without being asked.

His ready wit and charm, befitting a gentleman whose roots were solidly and deeply grounded in a more gracious, more serene era, won the hearts of all who met him.

It was a rare person, indeed, in the VFW or outside, who did not become a better person for meeting, if only for a fleeting moment, Jimmy Cothran. He imparted to all his firm religious conviction that all men are created in the image and likeness of God.

He served the VFW and America's veterans as Commander-in-Chief in 1952–53. For our country, this was a period of severe strain. The Korean War had been grinding on. Major alarm over internal subversion gripped the American people. Under the strong and wise leadership of Jimmy Cothran, however, the VFW kept to a steady course, ever mindful of the veterans' loyalty to the United States, the innate patriotism of the American people and the needs of the veterans who were coming home from Korea.

In his service to the VFW after his year of leadership, Jimmy Cothran worked constantly for the betterment of our Order. He served on numerous sensitive committees as chairman, always contributing his wealth of knowledge, experience and common sense.

Although it has been nearly 30 years since Jimmy Cothran was Commander-in-Chief, the lives of all of us in the Veterans of Foreign Wars of the United States and its Ladies Auxiliary have been made richer, fuller, because he walked among us.

CONSTITUTIONALITY OF FRANKING STATUTE UPHELD

Mr. BAKER. Mr. President, on September 7, 1982, a three-judge panel for the U.S. District Court for the District of Columbia dismissed a lawsuit which had been pending since 1973 and which challenged the constitutionality of title 39, United States Code, section 3210. That statute grants to Members of Congress the privilege of sending official mail through the U.S. Postal Service as franked mail. Pursuant to Senate Resolution 476, 96th Congress, 2d session, the Senate appeared as amicus curiae in support of the statute. In order that all Members of the Senate may be promptly informed of the court's decision, I ask unanimous consent that the full text of the order and memorandum opinion be placed in the RECORD.

There being no objection, the material was order to be printed in the RECORD as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 1887-73]

COMMON CAUSE, ET AL., PLAINTIFFS, *v.* WILLIAM F. BOLGER, ET AL., DEFENDANTS, AND HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS, INTERVENING DEFENDANT

MEMORANDUM OPINION

Statement of the case

By an amended complaint filed March 12, 1974, plaintiffs seek a declaratory judgment that 39 U.S.C. § 3210, granting to Members of Congress the privilege of sending mail through the United States Postal Service as franked mail, is unconstitutional. Plaintiffs claim, in essense, that the franking privilege afforded by the statue provides an unconstitutional "subsidy" to incumbent candidates for Congress because franked mail inevitably has the effect of aiding Members' reelection efforts. Plaintiffs reason that because they are not afforded similar campaign advantages, section 3210 abridges their First Amendment rights to associate freely for the advancement of political beliefs, as well as deprives them of equal protection under the due process clause of the Fifth Amendment. In addition, plaintiffs seek a judgment that section 3210 permits an unlawful use of public funds for a non-public purpose in violation of the General Welfare Clause of Article I, Section 8, of the Constitution.

The Postmaster General[1] and the Secretary of the Treasury were the original named defendants in this case. Subsequently, on September 8, 1976, the House Commission on Congressional Mailing Standards was permitted to intervene as a defendant and the United States Senate, through its Select Committee on Ethics, formerly the Select Committee on Standards and Conduct of the United States Senate, was allowed to participate as *amicus curiae.*

It is the position of all defendants and the amicus that the franking statute and the congressional rules enacted thereunder facilitate the necessary and constitutionally protected communication between Members of Congress and their constituents and draw a proper line between legitimate and illegitimate uses of the frank, i.e., between communications on official business and communications for personal political advantage. They deny that the franking statute violates any of plaintiffs' First or Fifth Amendment rights. The case therefore presents a classic example of the tension which sometimes arises between conflicting claims of right.

Prior proceedings

On July 1, 1974, after denying defendants' motion to dismiss, the court granted plaintiffs' motion to convene a statutory court of three judges pursuant to 28 U.S.C. § 2284.[2] This court, in turn, considered and denied defendants' renewed motion to dismiss on February 10, 1975. Both motions to dismiss were predicated in part on plaintiffs' alleged lack of standing to bring this action, and were denied. Thereafter, all parties engaged in discovery through interrogatories, documentary requests, depositions and requests for admissions. Because of the nature of much of the material, a protective order was issued on March 1, 1976 and various coding systems were established to protect the confidentiality of Members of Congress and other witnesses. Without detailing the precise nature and volume of the discovery pursued by both sides, it is fair to say that the discovery concluded on April 22, 1981 has been thorough and complete. Many of the basic facts are not in dispute; what is sharply contested are the inferences to be drawn therefrom.

Present posture

Pursuant to the Court's timetable, plaintiffs, defendants and the intervening defendant filed motions for summary judgment on May 22, 1981. Oppositions were filed by the parties on June 12, 1981, as well as a memorandum of the United States Senate in support of the motions of defendants and intervening defendant and in opposition to plaintiffs' motion for summary judgment. The matter was argued at length on September 30, 1981.

Statutory basis for the franking privilege

1. The History of the Frank

The origin of the franking privilege can be traced to 17th Century England, when the privilege was granted to Members of the House of Commons concurrent with the establishment of the first public postal service in that country. The clear purpose then, as it is today, was to facilitate the carrying on of official business.

In 1775, the Continental Congress authorised the use of the frank by its own members and by those on active duty in the Continental Army. The First Congress, when it acted to establish a postal system in 1789, retained the privilege for official correspondence and documents. In 1873, after the Civil War, the privilege was temporarily abolished by Congress, but was restored in proprio vigore in 1985. 28 Stat. 593, 622 (Sec. 85).

Until the comprehensive revision of 1973, the Act of 1895 authorized Members of Congress to use the frank for correspondence on "official business." The responsibility to interpret the meaning of the term "official business" was exercised by the Post Office Department, which, upon request of anyone, including members of the public, provided official guidance in the form of advisory opinions as to whether a mailing or contemplated mailing could be franked.

This procedure was changed in 1968 when, in recognition of the practical as well as possible constitutional problems of its advisory position, the Department decided to give up its practice of issuing opinions to members of the public. It did, however, continue to give advisory opinions to Members of Congress until 1971, when, with the establishment of the new Postal Service, the Post Office Department relinquished any remaining responsibility in this area.

This confused state of affairs led to a spate of lawsuits in the federal courts of four different circuits by candidates running against incumbent members. At least two of these challenges, focused on the propriety of certain franked mailings by particular members,[3] were an acute embarrassment to Congress. Other more flagrant abuses surfaced, among them the reported event of a member mailing his lawn furniture to Bimini in the Bahamas, under a frank with the tag reading "Official Business." The combination of these factors plus the threat of further lawsuits led to Arizona Congressman Morris Udall's introduction of H.R. 3180 in Early 1973. Similar proposals were introduced in the Senate, and after the differences between the two bodies were accommodated in conference, the Franking Act of 1973, Pub. L. No. 93-191, was signed by the President and became law on December 18, 1973.

2. The 1973 Statute

The statute is set forth primarily in 39 U.S.C. §§ 3201, 3210-19. In this litigation, our attention is focused on section 3210.

In its opening declaration of policy, the statute states that the privilege of sending mail under the frank is "to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States." 39 U.S.C. § 3210(a)(1). "official business" is defined to "cover all matters which directly or indirectly pertain to the legislative process or to any congressinal representative functions generally or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to; the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of these functions." 39 U.S.C. § 3210(a)(2).

There follows a list of what the Congress considered to be frankable mail matter. The list includes, but is not limited to:

(a) Mailings to any person or any government official regarding programs, decisions and other matters of public concern. § 3210(a)(3)(A);

(b) The "usual and customary congressional newsletter or press release." § 3210(a)(3)(B);

(c) The "usual and customary congressional questionnaire." § 3210(a)(3)(C);

(d) Mail expressing condolences to a person who has suffered a loss or congratulations to a person who has achieved some personal or public distinction. § 3210(a)(3)(F);

(e) Mass mailings of federal documents and publications and publications containing items of general information. § 3210(a)(3)(G);

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(f) Mail consisting of voter registration or election information or assistance. § 3210(a)(3)(H);

(g) Mail including a biography or autobiography of a member or family members which is part of a federal publication or in response to a specific request and not included for publicity puprposes in a newsletter or other mass mailing. § 3210(a)(3)(I);

(h) Mail containing a picture, sketch or other likeness of a Member which is part of a federal publication or in response to a specific request, or, when contained in a newsletter or other mass mailing, is not of such size or does not occur with such frequency as to lend to the conclusion that the purpose is to advertise the Member, rather than illustrate the accompanying text. § 3210(a)(3)(J);

By way of contrast, the unauthorized uses of the frank are specified to cover the following: purely personal mailings unrelated to official business, § 3210(a)(4); mailings "laudatory and complimentary" of a member "on a purely personal or political basis," § 3210(a)(5)(A); "greetings" from the spouse or other members of the member's family, § 3210(a)(5)(b)(i); reports on how and when the member or his spouse or family spends time other than in connection with legislative, representative, and "other official functions," § 3210(a)(5)(B)(ii); mail "which specifically solicits political support," § 3210(a)(5)(C); and "any mass mailing . . . less than 28 days immediately before the date of any primary or general election . . ., § 3210(a)(5)(D).

The statute therefore permits franked mass mailings (defined to mean newsletters and similar mailings of more than 500 pieces) when they are made at least 28 days prior to a primary or general election. 39 U.S.C. § 3210(a)(5)(D). The statute also allows a member of the House to use the frank on postal patron mass mailings addressed not only into the area of his congressional district, but also into an area which he does not presently represent, but in which he will be a candidate in the next election because of redistricting. 39 U.S.C. § 3210 (d) (1)(A) and (B). Accordingly, material may be mass mailed under the frank to points outside the district of a Representative or outside the state of a Senator, subject only to the 28-day restriction.[4] Materials such as newsletters and press releases printed with campaign contributions are specifically permitted to be mailed under the frank. 39 U.S.C. § 3210(e).

It is clear from the legislative history, as well as from the text of the statute, that the 1973 Act was designed to give explicit approval to the traditional uses of the frank. As Congressman Udall, the leading supporter of the legislation, stated more than once, the approved uses were intended to be a summary of present practices. He emphasized that "we are simply confirming the sound, solid, responsible use of the frank which the vast majority of Members of Congress have always followed." [5] The entire legislative history confirms the position expressed by Congressman Udall.

3. The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate (now Select Committee on Ethics)

The 1973 statute also established for the House of Representatives a special commission composed of members and know as the "House Commission on Congressional Mailing Standards," (hereinafter House Commission) and for the Senate, the Select Committee on Standards and Conduct of the Senate (hereinafter Senate Committee). 2 U.S.C. § § 501, 502. Both groups are required to "provide guidance, assistance, advice, and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail" under the 1973 Act. 2 U.S.C. § § 501(d), 502(a).

The Act also specifically provides for an administrative procedure for the receipt, investigation and hearing of complaints concerning alleged violations of the franking statute and limits the jurisdiction of the federal courts hearing such complaints.[6] Both the House Commission and the Senate Committee are required to "prescribe regulations governing the proper use of the franking privilege." 2 U.S.C. §§ 501(d), 502(a).

Each House of Congress, in response to the statute, has enacted formal rules which set further limits on the kind of material which may be franked. House Rule XLVI;[7] Senate Rule XLVIII, renumbered as 48(3).[8] While varying in certain respects, the Rules of both branches of Congress reflect concern as to the adequacy of the 1973 Act in two important respects:

(a) They extend the prohibition on mass mailings before a primary or general election in which the Member is a candidate from the 28 days permitted under the statute to 60 days.

(b) They require that the costs of mass mailings be defrayed exclusively from appropriated funds, although the statute permits the franked mailing of such material when paid for out of campaign funds.

4. Public Law No. 97-69

Most recently, Public Law No. 97-69, enacted on October 26, 1981, has further amended the 1973 statute by embodying the above two provisions of the House and Senate Rules as well as the prohibition barring mass mailings outside a member's district, when he is a candidate for another public office. The new law also extends the postal patron mailing privilege to the Senate and directs the Senate Committee on Rules and Administration to establish limits on such mailings.[9] Furthermore, the statutory authorization for letters of condolence and congratulations for personal distinction is eliminated and letters of congratulation can be sent only for "some public distinction."

To summarize, since this action was originally brought, the Congress has tightened considerably the respective features of the 1973 Act, particularly by incorporating into law the two important limitations embodied in the House and Senate Rules and implementing regulations and by eliminating authorization for the franking of all letters of condolence and certain letters of congratulations. The plaintiffs nevertheless remain firm in their challenge.

The issues

It is in the context of the foregoing statutory scheme governing the use of the franking privilege that two paramount issues are presented:

1. Whether the statute, as written and implemented, deprives the plaintiffs of their right to a fair political process, in violation of their constitutional rights under the First and Fifth Amendments.

2. Whether the statute recognizes and protects the constitutional right and duty of Members of Congress to communicate with their constituents and at the same time limits any incidental adverse effects on the political process.

The factual record

We are convinced, after careful review of the evidentiary record [10] amassed over the length of discovery in this case, that the basic facts underlying plaintiff's challenge are not in dispute. We, therefore, set out our findings of fact in this case for the principal purpose of providing a clear context for our discussion and decision on the differing legal and constitutional arguments made. We preface these findings with two general assumptions, neither of which is genuinely disputed.

First, it stands to reason that incumbency alone is a valuable asset to the public official who seeks reelection. An incumbent Member of Congress enjoys a certain "visibility" among his constituents that a challenger may find difficult or impossible to match. It is also beyond argument that any communication with constituents, whether through local meetings or through the mail or mass media, contributes to such visibility and thus may have a direct effect (however slight) in influencing the outcome of an election. To the extent that the effect is positive from the incumbent's standpoint, it is undoubtedly detrimental to his challenger's position. This is so whether the communication is part of an overt campaign effort or made simply in the normal course of a member's representative function.

Second, there is little doubt that the franking privilege is a valuable tool in facilitating the performance by individual Members of Congress of their constitutional duty to communicate with and inform their constituents on public matters. As noted earlier, it is this particular duty which has justified the frank through its history.

Plaintiffs do not argue with the necessity of or public value in some kind of Congressional franking privilege. Their challenge before this court is based only on assertions that section 3210, as it stood in 1973 and, notwithstanding increased restrictions embodied in the Rules of both Houses and in subsequent amendments, even as it stands now, is drafted to enable more than the justifiable uses—that it permits Members of Congress to use the frank to make campaign-related mailings, particularly mass mailings.[11]

On the basis of the convincing evidentiary base offered by plaintiffs to support their argument, we make the following findings and offer a sampling of supporting evidence:

1. Members of Congress and their staff have received advice from many sources to take full advantage of the franking privilege in their campaign efforts. The publication of "The Job of the Congressman," co-authored by Congressman MORRIS UDALL, Chairman of the House Commission on Congressional Mailing Standards and sponsor of the bill which became the Franking Act of 1973, advises Members of the benefits of such use. Campaign committees from both the Republican and Democratic parties have held seminars for congressional staff members concerning the effective use of newsletters, questionnaires and other franked mailings. The Republican Senatorial Committee employed a direct mail consultant to give advice concerning effective campaign use of mass mailings—including franked mailings. A 1974 Democratic Campaign Committee manual entitled "Maximum Campaign Budget" called for integration of targeted franked mass mailings into overall campaign strategy. It is apparent that at least some members and their staffs believed that the use of franked mailings

can be politically beneficial and should be employed.

2. At least some Members of Congress used direct mail consultants during the 1972, 1974 and 1976 campaigns to build mailing lists and to help integrate franked mailings into the overall campaign strategy.

3. Several Senators and Representatives have targeted franked mass mailings in ways that frequently have no relationship to official business and which are closely connected to reelection plans and strategy. Such targeted mailings, which are identified and documented, make use of voter registration lists and may be designed to convey views on an issue to a select group which is likely to be receptive to those views. Mailings may be made to voters on the basis of demography (race, religion, sex, age), geography, political affiliation or membership in special interest groups. The importance of special interest group mailings and of targeted mass mailings is demonstrated by the fact that, during the period from 1973–75, less than two percent of franked mass mailings by Senators were general newsletters.

4. The "usual and customary congressional questionnaires," frankable under section 3210(a)(3)(C), are often used for purposes other than merely determining constituents' views on particular issues. They may be used to obtain demographic and other information helpful to identifying recipients for targeted mailings, thus facilitating the member's political "responsiveness" to various groups and interests.

5. Members often include self-laudatory material in franked mailings, including favorable editorials, reports of awards, compliments of others concerning the member's performance of his duties, pressure group ratings, and the like. They also use franked mails to compliment and honor constituents to generate good will which, according to plaintiffs, improves the members' chances of reelection.

6. The House Commission on Congressional Mailing Standards has specifically approved the uses of the franking privilege described above. Mailings referred to in these findings and made by Senators were registered with the Secretary of the Senate.

7. The volume and timing of franked mass mailings, revealed by data stipulated by the parties to be reasonably accurate, indicate widespread use to promote incumbents' reelection efforts. The volume of franked mass mailings is significantly higher in the year preceding House or Senate elections than in the year following elections. The volume builds to a peak just before the pre-election cutoff and drops sharply. The volume of non-mass franked mailings stays relatively constant from year to year in both the House and the Senate. It is an undeniable conclusion that the fluctuations in the volume of franked mass mailings are caused by the electoral cycle, rather than by fluctuations in legislative activity.

8. Measured in financial terms, the franking privilege confers a substantial advantage to incumbent Congressional candidates over their challengers. We find that Congress recognized the potential financial benefits conferred by section 3210 on campaigning incumbents at the time it passed the Act.

9. We make no specific finding concerning the extent to which use of the franking privilege has contributed to the electoral victories of any incumbent Members of Congress. We are inclined by the lack of evidence on this point to conclude only that there is no statistical relationship between the use of the frank and the outcome of an election and that proof of the decisive impact of the privilege in any particular election is elusive, whatever the potential financial benefit of the frank.

Analysis

It is the plaintiffs' basic position that the First Amendment and the equal protection component of the Fifth Amendment mandate that the government remain neutral in electoral matters and avoid any action which unfairly benefits some participants in the political process to the detriment of others. They claim that by affording what amounts to a postage subsidy which may be used to send materials which promote an incumbent's efforts toward reelection, the franking statute violates this constitutional principle of fairness.

Defendants on the other hand vigorously deny that the franking statute is consitutionally unsound, asserting that the bounds of the franking privilege have been drawn to facilitate the constitutional duty of Members of Congress to communicate with their constituents, and at the same time to limit as much as possible any adverse effects on the political process. It is to the constitutional issues underlying these opposing positions that we now turn our discussion.[13]

The first amendment aspects of plaintiffs' claims

The "Freedom of Speech" clause of the First Amendment, according to plaintiffs, protects several aspects of the political process with which the frank, by providing a subsidy to incumbents, interferes and harms. These include, under plaintiffs' analysis, the ability of candidates to win elective office, to attract financial support, to communicate with citizens, to educate the public and to influence the political discourse of a campaign. While we do not agree with plaintiffs that there is a First Amendment-based right to win elective office, we agree that important aspects of the political process do fall within the general rubric of speech under the First Amendment. As the Supreme Court stated in *Monitor Patriot Co.* v. *Roy*, 401 U.S. 265, 272 (1971), the constitutional standard that a person's speech remain unfettered and unabridged by governmental action "has its fullest and most urgent application precisely to the conduct of campaigns for political office."

While plaintiffs do not claim that their right to speak, to vote and to associate for political ends have been *directly* restrained by the franking statute, this absence of direct restraint does not render the First Amendment protections inapplicable. It is well-established that "the Constitution's protection is not limited to direct inference with fundamental rights." *Healy* v. *James*, 408 U.S. 169, 183 (1972). Claims of First Amendment violations demand heightened judicial sensitivity, "[e]ven where a challenged regulation restricts freedom of expression only incidentally." *Schad* v. *Borough of Mount Ephraim*, 452 U.S. 61, 69 n. 7 (1981). *See also Buckley* v. *Valeo*, 424 U.S. 1, 21 (1976).

The essential element of plaintiffs' argument is that, to the extent that it enables Members of Congress to use franked mail to promote their own campaign efforts, the franking statute works an effective restriction on challengers' access to the political process, thereby violating rights of expression and association. It is argued that the postal subsidy effectively created by the franking statute violates the rule under the combined First and Fifth Amendments requiring that the government neither impose unequal burdens nor grant unequal benefits upon participants' exercise of their rights to speech and association in the political process. Although we endorse the principle that protection of the fundamental fairness of the political process is necessary to ensure the uninhibited competition of candidates and in ideas which "is at the core of our electoral process," *Williams* v. *Rhodes*, 393 U.S. 23, 32 (1968), and accept that granting financial benefits to some interests may be under some circumstances the same as restricting the First Amendment rights of others, *see Taxation with Representation of Washington* v. *Rogers*, 676 F.2d 715, 744 (D.C. Cir. 1982), we do not accept plaintiffs' contention that the facts of this case require strict judicial scrutiny of the statute at issue.

It is clear from our reading of Supreme Court cases involving governmental restrictions on the exercise of free speech that the standard of strict scrutiny, which requires that the government justify a particular regulation by demonstrating that it "is necessary to serve a compelling interest and that it is narrowly drawn to achieve that end," *Widmar* v. *Vincent*, 102 S. Ct. 269, 274 (1981), is reserved for those instances where the restriction impacts *directly* on the *content* of the restricted communication. *See, e.g., Widmar* v. *Vincent, supra; Metromedia, Inc.* v. *City of San Diego*, 453 U.S. 490 (1981); *Central Hudson Gas & Electric Co.* v. *Public Service Commission*, 447 U.S. 557 (1980); *Consolidated Edison Co.* v. *Public Service Commission*, 447 U.S. 530 (1980); *Carey* v. *Brown*, 447 U.S. 455 (1980); *Police Dep't of the City of Chicago* v. *Mosley*, 408 U.S. 92 (1972). We do not believe that this is such a case, and is distinguishable in important respects from the decision in *Greenberg* v. *Bolger*, 497 F. Supp. 756 (E.D.N.Y. 1980), upon which plaintiffs principally rely.

In *Greenberg*, a First Amendment challenge was raised against a statutory scheme granting the two major political parties special reduced mailing rates while denying similar rates to minor parties. Plaintiffs argued in that case that by denying them the same discounted postal rates enjoyed by the major parties Congress had restricted their access to the mails and thereby had violated their First Amendment rights of expression and association. The court correctly observed that regulation of First Amendment rights of expression must be "content neutral," noting that "[t]he Supreme Court has often explained that '. . . above all else, the first amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.'" *Id.*, at 774, quoting *Police Department of the City of Chicago* v. *Mosley, supra* at 95–96. The court then determined that the statute challenged in that case was not content neutral. It reasoned that by drawing a line between major and minor parties, Congress had granted a postal subsidy for the expression of the most "popular" political ideas while refusing similar advantages to those who held political positions substantially different from those of the major parties. It concluded that "[b]y subsidizing the mailings of the Republicans and Democrats, the government has chosen to benefit those with popular views and burden those with unpopular views. To handicap the mailing of campaign literature because a political party has not achieved a required level of acceptance is not different from censoring speech because of its substance." *Greenberg*, 497 F. Supp. at 776.

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The principal difference between this case and *Greenberg* is in the nature of the restrictions worked by the statute. In *Greenberg* the restrictions were direct and drawn along party lines. They therefore effectively limited the expression of particular political *ideas*. Although this case involves issues of access to the political process similar to those raised in *Greenberg*, the impact here is not upon defined political positions. The lines drawn by the franking statute distinguish *individuals*, not ideas. And because the individuals affected—non-incumbent congressional candidates—must be presumed to represent the full spectrum of political ideology, we cannot hold that the franking privilege creates any discrimination or restriction which is content related. This case does not fall within the rationale for strict First Amendment scrutiny adopted in *Greenberg*.

In fact, beyond acknowledging that the franking statute has some limited impact upon speech-related rights, the First Amendment finds little place in our analysis. Although the language of the First Amendment ensures that one's own speech be free, unfettered, and unabridged, it does not alone require that each individual be entitled to this particular privilege of incumbency that certain others may enjoy.[13] For this reason, questions of the constitutionality of governmental-created imbalances are much better suited to analysis under the principle of equal protection than under freedom of speech. It is thus to the Fifth Amendment that we now turn.

The fifth amendment claims

The plaintiffs' equal protection argument is direct and straightforward: by permitting the franking of materials which may be sent for no purpose other than to advance incumbency, the franking statute affords campaign advantages to incumbents, seriously imbalancing the political process to the detriment of any challengers. Plaintiffs argue that because of its impact on rights to free speech under the First Amendment the discrimination worked by the franking statute may be justified only by demonstrating a compelling interest.

The cases offered by plaintiffs to support their argument that the government may not discriminate among candidates by unequally imposing handicaps on some or granting benefits to others deal almost exclusively with the same sort of content-based discrimination discussed briefly above—drawing lines of distinction by party affiliation or ideology. We find little discussion in case law relating to the advantages which incumbents may enjoy simply by virtue of their incumbency over any challengers who seek this in public office.

In *Elrod* v. *Burns*, 427 U.S. 347 (1976), for example, the Supreme Court held that patronage dismissals violated the First and Fourteenth Amendments. The basis of the holding, however, was not necessarily that an incumbent might use the system to tip the electoral balance unfairly against any challenger, but that the threat of dismissal severely restricted the political beliefs and associations of the employees affected. The Court held that the requirement that employees pledge political allegiance to one party or another, work for the election of other candidates of the incumbent party, contribute a portion of their wages to the party, or obtain the sponsorship of a member of the party, all in order to maintain their jobs imposed an unconstitutional condition on the right to continued employment. There is no similar condition in this case. The franking statute imposes no direct condition upon the right of any person to challenge an incumbent, to support one or another party in a particular election, or to use the mails. Its impact upon political speech and association is at most indirect, and then only to the extent that it may make campaign-related communication through the mails more expensive for a non-incumbent candidate than for the incumbent who seeks reelection and uses franked mail to promote that end.

We cannot overlook the fact that, despite their broadside objections to the franking statute, plaintiffs concede that the frank serves an essential public purpose in facilitating communication with constituents and that some sort of franking privilege is necessary in the performance of official congressional business. They concede that the problem is merely one of drawing lines—striking a proper balance between legitimate and illegitimate uses of the frank.

The franking statute effectively draws two lines of demarcation. The first is drawn by the granting of the franking privilege to Members of Congress only. In general, this distinguishes Congress from the general public, and also has the effect of drawing the line between incumbent and non-incumbent congressional candidates. Plaintiffs do not argue that non-incumbents should also be afforded the franking privilege. They seek only to limit its use by Members of Congress. The second line drawn by Congress draws a distinction between official and unofficial use of the frank. Our sole concern is with this second line of demarcation and to this we direct our attention.

Under present practice a mailing is considered to be "official" if, on its face, it falls within the permitted types (or at least outside of the prohibited types) of materials listed under section 3210. The statutory test does not look to motives, but only to "the type and content of the mail." § 3210(e). Plaintiffs argue that attention to content only, without considering the motives for sending a particular mailing, enables Members to use the frank for the *unofficial* purposes of promoting reelection. Plaintiffs thus fault the present franking statute and congressional practice for failing to subject franked mailings to a test of official versus unofficial *motivation*. Absent standards based on underlying motives, plaintiffs urge that the franking statute be modified to eliminate categories of mailings which have been prone to abuse in the past. We cannot accept plaintiffs' suggested cause of action.

Were the frank shown to be available and widely used for reelection purposes and had plaintiffs demonstrated that such use has a substantial detrimental impact on opposing candidates or members of the voting public seeking to educate themselves on the candidates and the issues, plaintiffs' claims, particularly those based on the First Amendment, would have considerable merit. But such level of interference with the electoral process has not been shown in this case. We are hesitant to apply a standard under the guise of strict judicial scrutiny to a situation where there has been no demonstration of significant harm to the plaintiffs' constitutional rights. The conceded and undisputed legitmate interests promoted by the franking statute are sufficient to justify the limited impacts on the rights of the plaintiff class and to satisfy the invocation of the rational basis test, which we apply in this case. We cannot hold the franking statute unconstitutional simply because it sets forth a standard to determine "official" uses of the frank different from that proposed by plaintiffs.

It is important to view the franking activities of Members of Congress from an overall perspective. It seems undeniable that all mailings, franked and unfranked, from any particular Member of Congress may be grouped into three types. The first type is composed of "official" mailings, those related directly to the legislative and representative functions of Congress. This is the type of communication which Members of Congress arguably are under a duty to provide and to which the frank has been extended over the past 200 years. At the other extreme are mailings which are on their face political or private and therefore "unofficial" in nature. Congress itself has recognized the dangers, constitutional as well as practical, of extending the franking privilege to these types of mailings and has excluded them or expressly prohibited them under the statute and rules in both Houses. Between these two extremes lies a class of mailings whose purposes are less easily discernible. For example, it is undeniable that Senator X, acting in his elected capacity, should have a right to make mailings within this middle area related to his official duties. It is equally obvious that this same individual acting as candidate for the Senate has an interest in mailing the same material to prospective voters to promote his campaign efforts. Thus the motivations, even behind a particular mailing, may be mixed. Plaintiffs' complaints here can only be about the actions and purposes of the candidate, however, and not the senator.

Congress drafted the franking statute expressly to include many of the types of mailings which unquestionably fall within this middle area. This of itself does not require that we invalidate the scheme as unconstitutional. The question before us is not whether the particular line which Congress has drawn between "official" and "unofficial" uses of the frank necessarily has the least possible potential, in comparison with other methods of drawing the line, for adversely affecting challengers' effective access to the mails. The question is only whether the line is a reasonable one.

A statutory scheme need not be drafted or even administered so as to eliminate completely all possible abuses before it is constitutionally acceptable. We can be concerned only with whether the standard adopted bears a rational relation to the twin goals at hand: one, to facilitate (even encourage) official communication and two, to discourage or eliminate unofficial communication. It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection. The details of the franking scheme, including its distinction between official and unofficial mailings, appear to be rationally designed to work for that end. (It is relevant in this regard that the record in this case consists principally of *abuses* rather than routine uses of the franking privilege). It would be most inappropriate for the judiciary to step in and demand that Congress restructure this scheme under the circumstances of this case.

To state the obvious, it simply is impossible to draw and enforce a perfect line between the official and political business of Members of Congress. The franking privilege is only one of many perquisites afforded to them which may be turned one way or another into a campaign advantage over any challenger. We have already accepted as an assumption and stressed the fact that an incumbent is, by virtue of his incumbency alone, much more visible to the voting public than is a would-be challenger. He has greater access to the media, both local and national; he usually has one or more offices in his home district, in addition to his Washington office; he has a staff paid out of public funds; he has a WATS line for telephone calls which he may use to communicate with his constituents.

Plaintiffs do not suggest that the incumbents' use of these tools of office be strictly limited to purposes which cannot possibly contribute to efforts at reelection. This would be a most difficult standard to administer in any case, for each and every act of an elected representative may, in a political context, be seen as an effort to demonstrate that the voters' choice was a good one. It is impossible, without probing into the deepest thoughts and motives of an individual Member of Congress, to determine exactly why he votes as he does on a particular issue, why he casts a letter to a constituent in the terms in which it is cast, why he communicates with other Members of Congress as he does, why he assigns particular staff functions as he does, or why he does any of the myriad of things that a Member does in his day-to-day routine. It is no less difficult to apply and administer a subjective standard in the use of the frank. Moreover, we cannot require that such a standard be substituted for what we accept as an already reasonable objective standard adopted under section 3210.

For similar reasons, we cannot hold that the particular types of mailings to which plaintiffs object are so prone to abuse that they should not be permitted. Just as plaintiffs have identified the suitability of mass mailings (targeted or general), newsletters, questionnaires and other materials for campaign purposes, there is not a type of mailing challenged which is not also suitable for legitimate "official" purposes. Targeted mailings, for example, may be a means of directing discussion or information on particular issues to those groups in a particular Member's constituency which might be most affected, at the same time saving the cost of preparing and mailing information to individuals who are less likely to be interested. And notwithholding allegations that questionnaires are most often used to obtain demographic information beneficial to a candidacy, it goes without saying that any method of obtaining constituents' views and impressions on particular issues may be invaluable to a Member of Congress who truly considers himself responsible to the people.[14] It does little, therefore, for the plaintiffs to emphasize the potential in these types of mailings for abuse, without also acknowledging the legitimate ends to which they are put. We are not convinced by any of plaintiffs' arguments that there exists no rational and legitimate basis for Congress' decision to retain these particular "middle area" uses of the frank within the stated category of "official use," and we defer to the judgment embodied in the statute.

Prudential considerations

Our deference to Congress is guided also by important prudential considerations. We must give weight to the fact, mentioned earlier, that section 3210 was originally enacted in an attempt to curb widespread abuses of the franking privilege. It has since been refined by detailed regulations in each house to meet the more obvious of objections which arise even under its amended language. The House and Senate have also established machinery to monitor, review, and receive complaints concerning uses of the frank.[15] The plaintiffs seek to have the Congress, through judicial compulsion, "redraw the line" and strike a different balance. This we decline to do for at least two compelling reasons. First, the distinction between "official" and "unofficial" cannot be sharply defined or delineated and for the court to assume this burden would be an impossible task. Second, to grant the relief which plaintiffs seek would in effect require us to issue rules of behavior superseding those that Congress, a coordinate branch of government, has responsibly set for itself. It is not this Court's function to examine the policing efforts of committees created by Congress to deal with the particular types of concerns raised by plaintiffs in this case with an eye to compel even more refined standards and closer examination. The United States Court of Appeals for the District of Columbia recently manifested a reluctance "to develop rules of behavior for the Legislative Branch," or "to monitor every action taken by a senator and his aide in an effort to determine whether it is sufficiently 'official' or too 'political,'" *United States ex rel. Joseph* v. *Cannon*, 642 F.2d 1373, 1384, 1385 (D.C. Cir. 1981). We follow course in this case.

Conclusion

We do not suggest that the franking privilege may never be shown to create such an imbalance in the campaign process as to constitute a cognizable interference with important rights. We hold only that the level of impact has not been shown to be sufficient in this case for us to assume the responsibility of redrafting a statute or promulgating regulations to govern the congressional use of the frank. Our rationale for rejecting plaintiffs' claims under the First and Fifth Amendments holds as well for the challenge raised under the General Welfare Clause of Article I, Section 8. We find no constitutional violation.

For the foregoing reasons we grant judgment to the defendants and defendant-intervenor and dismiss the complaint.

An order consistent with the foregoing has been issued this day.

MALCOLM RICHARD WILKEY,
U.S. Circuit Judge.
GEORGE L. HART, JR.,
U.S. District Judge.
J. H. PRATT,
U.S. District Judge.

September 2nd, 1982.

FOOTNOTES

[1] Now the Director, United States Postal Service.

[2] Pub. L. No. 94-381, enacted August 12, 1976, which repealed §§ 2281 and 2282 and amended § 2284, does not apply to any actions filed before the date of enactment.

[3] *Schiaffo v. Helstoski*, 492 F.2d 413, 430, n.89 (3d Cir. 1974); *Hoellen v. Annunzio*, 468 F.2d 522, 526 (7th Cir. 1972) (permitting the use of extrinsic evidence in addition to content, *i.e.*, timing and other characteristics of franked mailings, as relevant to the sender's motive and the question whether the mailings were made to further an incumbent's election rather than the conduct of his official responsibilities as a legislator).

[4] In providing that the frankability of mail matter shall be determined "by the type and content of mail sent, or to be sent," this section also overturned the effect of *Hoellen, supra*, in which Judge (now Justice) Stevens stated that "we should not close our eyes in the face of extrinsic evidence which reveals that an appearance of official business is nothing more than a mask for a private purpose." *Hoellen, supra*, at 526.

[5] *See, e.g.*, 119 Cong. Rec. H 2000 (Apr. 11, 1973); *see also Congressional Perquisites and Fair Ethics: the Case of the Franking Privilege*, 83 Yale L.J. 1055, 1062-74.

[6] 2 U.S.C. §§ 501(e), 502(b), 502(c). In the case of complaints concerning House members, judicial review is on the basis of the administrative record before the House Commission § 501(e). In the case of the Senate, judicial review, while apparently *de novo*, cannot take place until after the filing of the complaint and decision thereon by the Senate Committee. § 502(c).

[7] Adopted March 2, 1977 in H.R. 287. In addition, the House Commission on Congressional Mailing Standards, pursuant to its Rule XLVI, has issued extensive regulations governing the use of the frank and rules of practice in proceedings before the Commission. *Regulations on the Use of the Congressional Frank by Members of the House of Representatives* (February, 1979).

[8] Adopted April 1, 1977 in S.R. 110. The Senate Select Committee on Ethics has similarly implemented its Rule XLVIII through the issuance of regulations. The latest of these are *Regulations Governing the Use of the Mailing Frank by Members and Officers of the United States Senate* (June 26, 1979).

[9] Present House Rules limit such mailings to six per year.

[10] Contained in plaintiffs' voluminous Statement of Material Facts Not in Dispute incorporating plaintiffs' Request for Admissions (570 requests) and defendants' responses thereto. The extensive response of defendant intervenor alone to plaintiffs' Request for Admissions comprises 622 pages.

[11] Plaintiffs object specifically to several types of mass mailings explicitly or implicitly permitted by the provisions of section 3210; mailings including self-laudatory material; reports concerning visits to Washington by constituents; solicitation of political support (falling short of the specific requests barred by the statute); congratulatory messages; and questionnaires.

[12] The additional issue of plaintiffs' standing to bring this action has been raised at numerous times during this litigation. Defendant-intervenor argues that, despite all the evidence offered by plaintiffs, there is little showing that the "injuries" suffered by members of the plaintiff group who have run against and lost to congressional incumbents were caused by operation of the frank. Our attention is then drawn to several cases, including *Winpisinger* v. *Watson*, 628 F. 2d 133 (D.C. Cir. 1980), for the principle that standing cannot be based on speculative and tenuous theories of causation and injury.

We do not regard the issue of standing as a frivolous one and acknowledge that there may be a legitimate concern over whether plaintiffs' limited showings are sufficient to establish standing. We also recognise that the type and cause of injuries claimed in this case are not easily subjected to proof. Rather than to resolve the complexities of this issue, we prefer to confine our holding to plaintiffs' constitutional claims.

[13] We cannot ignore the fact that the plaintiffs' arguments against this particular advantage of incumbency can also be directed against others, *i.e.*, greater access to the media, local and national, one or more local district offices, staff paid out of public funds, WATS line for telephone calls to and from constituents, etc.

[14] While we need not agree with defendant-intervenor's sanguine appraisal that the typical member follows the advice of Edmund Burke to the voters of Bristol in 1774 and votes his own conscience rather than following the expressed wishes of his constituents, it is nonetheless true that members, to be successful representatives, must at least learn at the outset the views of those who put them in office. Thereafter, they must keep themselves informed.

[15] For example, each house has its own method for policing mass mailings, which, as must be apparent, are the greatest single source of plaintiffs' claims of abuse. In the House, before sending a mass mailing a Member must first submit the same to the Franking Commission for an advisory opinion. In the Senate all mass mailings must be registered with the Secretary of the Senate and are available for public inspection.

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[U.S. District Court for the District of Columbia, Civil Action No. 1887-73]

COMMON CAUSE, ET AL., PLAINTIFFS, v. WILLIAM F. BOLGER, ET AL., DEFENDANTS, AND HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS, INTERVENING DEFENDANT

ORDER

Upon consideration of plaintiffs' motion for summary judgment, defendants' and intervenor-defendant's motions for summary judgment, the oppositions of the respective parties thereto, the motion of the United States Senate, amicus curiae, in support of the motions of defendants and intervening defendant and in opposition to plaintiff's motion for summary judgment, and the entire record and after argument, it is by the Court this 2nd day of September, 1982,

Ordered that:

(1) plaintiffs' motion for summary judgment be and the same is hereby denied;

(2) The motions of defendants and the intervening defendant for summary judgment be and the same hereby are granted;

(3) The above-entitled action shall stand dismissed.

MALCOLM RICHARD WILKEY,
U.S. Circuit Judge.
GEORGE L. HART, JR.,
U.S. District Judge.
J. H. PRATT,
U.S. District Judge.

RECIPROCAL TRADE AND INVESTMENT ACT OF 1982

Mr. CRANSTON. Mr. President, I am pleased to join today as a cosponsor of S. 2094, the Reciprocal Trade and Investment Act of 1982. I believe this is an important measure which offers prudent remedies to many of the problems confronting our vital service and high technology industries.

As an original cosponsor, along with Senator HEINZ and Senator HART, of S. 2356, the High Technology Trade Act of 1982, I am delighted that the Senate Finance Committee has acted on S. 2094, which incorporates many of the provisions and furthers the aims of S. 2356.

As reported by the Senate Finance Committee, S. 2094 offers a careful balance of proposals designed to enhance the stability of two industries which must remain at the forefront of American industrial expansion in the decades ahead—the frontiers of high technology and the efficiency of American service industries.

I am a firm believer in the principles of free trade. The growth and maintenance of an open world economy for trade and investment is a common interest of all nations. But it is essential that this trade and investment go forward with a reasonable measure of equity. As we stated in the congressional findings section of the High Technology Trade Act, however:

> International competition in high technology products is increasingly characterized by a high degree of government intervention through central planning, joint establishment of industrial objectives, subsidization, anticompetitive practices tolerated or fostered by government policy, non-tariff and tariff barriers, investment performance requirements, access to preferential financing, and sponsorship of limited-access joint research projects.

I do not believe the adoption of blatantly protectionist measures is the appropriate response to this situation. But I also do not believe that the U.S. Government should adopt a laissez faire attitude in the face of unfair foreign competition. I think it is particularly important for the Federal Government to take affirmative, remedial action when industries at the vanguard of American economic growth are threatened.

S. 2094 offers a carefully crafted series of proposals which establish negotiating objectives, insure that executive branch research and recommendations on trade barriers will be coordinated, and provide negotiating authority and access to "fast track" legislative remedies where needed. It would be simplistic to shy away from these reasonable proposals as protectionist. For this legislation is, in its essence, an agenda setter. Its passage would set forth for our trade competitors, for the American business community and for Federal policymakers a clear set of concerns and objectives to pursue and the authority to do so. This statement of congressional concern can only be constructive to each of the parties involved in the process of improving our international trade relationships.

I, therefore, welcome the Finance Committee report on S. 2094 and pledge my support for timely action here in the Senate to see the legislation enacted.

ANDREW CAVACOS RECEIVES OUTSTANDING CITIZEN AWARD

Mr. SARBANES. Mr. President, the Lord Baltimore Chapter of the American Hellenic Educational and Progressive Association (AHEPA) will honor Andrew Cavacos, a distinguished Baltimore citizen, with their annual Outstanding Citizen Award on Saturday, September 11, 1982.

Andrew Cavacos, a Baltimore native and pharmacist is proprietor of the Cavacos Drug Co., an historic landmark in the Baltimore neighborhood of Hampden, established by his father, Theodore, upon his arrival in this country from the Greek Ionian island of Kythera.

The Cavacos family has long been identified with public service and Andrew Cavacos' involvement in a wide range of community affairs reflects his family's tradition of service. He played a major role in the acquisition of the church located at the corner of Preston Street and Maryland Avenue in Baltimore, which now serves as the Greek Orthodox Cathedral of the Annunciation and has also been a steady contributor to the Greek-American press.

Andrew Cavacos was involved in establishing the first little league for baseball in the United States. He also founded and conducted the all nations exhibit and was one of the original planners of the "I am an American Day" parade held in Baltimore City. Additionally, during World War II, he operated a USO post in his Baltimore home.

Andrew Cavacos was among the first Greek-American gubernatorial appointments in Maryland history serving four terms as police magistrate and has always been active in civic affairs both in promoting his own community and the State of Maryland during his many trips around the world.

I want to congratulate the Lord Baltimore Chapter of the AHEPA, of which I am a member, for honoring this outstanding American and public spirited citizen for his many productive years of service to church, community and Nation. I want to join with his family and friends in commending him for this most deserved honor.

SOUTH DAKOTA HAS ANOTHER WINNER

Mr. PRESSLER. Mr. President, several weeks ago I gave a speech here in the Senate commenting on the fact that South Dakota is the home of five young women who have won national competitions and are reigning national queens. Since that time a sixth young South Dakotan has won a national title and I want to congratulate her and her family for this outstanding achievement.

Miss Nancy Hoar of Rapid City, S. Dak., was recently named the Little Britches Rodeo Queen in the national competition in Colorado Springs. Nancy, the daughter of Mr. and Mrs. Darrell Hoar, is a senior at Stevens High School in Rapid City and has been an active and successful participant in South Dakota's 4-H program. In fact, last year Nancy was South Dakota's 4-H Rodeo Queen.

These competitions are an excellent test of young people's abilities and talents. For instance, Nancy had to successfully compete in a number of rodeo events to demonstrate her skill and expertise. She was also judged on her speaking ability and personality. I had the opportunity to meet Nancy when I was in Rapid City recently and was very impressed with her poise and intelligence. We are all very proud of this young lady. Nancy exemplifies the dedication and self-discipline characteristic of our home State. I'm sure my colleagues here in the U.S. Senate join me in wishing Nancy the very best in her future endeavors.

END THE REPRESSION IN POLAND

Mr. KENNEDY. Mr. President, over the past 10 days the people of Poland and the people of the United States have courageously reaffirmed their strong commitment to Solidarity and basic human rights. Labor Day, this past Monday in the United States, was an opportunity to recall both the achievements of American workers and the challenges they still face. But in Poland, August 31 was a more difficult day, the second anniversary of the historic Gdansk agreement which led to the free and independent Solidarity trade union. Unlike the first anniversary, it also marked 8 months of cruel repression of that movement, and of freedom in Poland, by the Polish martial law regime under the shadow of Soviet bayonets.

In the demonstrations over this second anniversary, five Poles were killed, and many more were wounded and arrested, in protests against continuation of martial law. But the Polish struggle for liberty goes on. Despite martial law, the faith and aspirations of the Polish people have not abated. The Polish spirit is not broken, but it is frustrated and discouraged in the face of continued military repression.

America and the West would be false to our own past and principles if we stood silent in the harsh circumstances of the present repression in Poland. For the United States and our allies, it is both right and sensible to take a clear stand—and to take measured and meaningful actions that will give substance to our words and warnings. We must continue to do all we can to bring an end to martial law in Poland. We must insist on the reinstatement of Solidarity and the release of Lech Walesa and all other political prisoners. We must make clear our continued commitment to free and constructive dialog among the Catholic Church, Solidarity, and the Polish authorities.

And we and our allies must restore our own unity not only in pursuing these goals but in the means we adopt to carry them out. We must resolve our current disputes over the Soviet gas pipeline to Europe, and over future East-West trade and credits, so that we can concentrate our attention once again where it belongs: on the cause of freedom and security in Europe, not a growing rift in the Western Alliance.

In the end, the ruthless practice of repression cannot endure in Poland, in Eastern Europe, or elsewhere in the world. The Polish generals and their partners in the Kremlin have made a critical error in their plan. They have forgotten the Polish spirit. They have underestimated the Polish people. They do not understand the power of the idea of freedom in Poland and in all history. It is an idea whose time will come again and again, springing up from a well of faith and hope, just as the flower crosses continue to appear and reappear across the length and breadth of Warsaw.

The correspondent of the New York Times in Poland, John Darnton, has written numerous thoughtful accounts of the political, social, and economic forces that have shaped the Polish existence since the birth of Solidarity in the summer of 1980. I ask unanimous consent that his articles of August 22 and September 1 appear in the RECORD, so that we may be reminded of the great goals and the great promise of Solidarity, and the hope it represents for the Polish people.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 22, 1982]

POLAND STILL DEFIANT—AN AMERICAN CORRESPONDENT IN WARSAW RELIVES THE DAYS WHEN THE WORKERS AROSE TO CHALLENGE THE COMMUNIST PARTY AND WERE BEATEN BACK BY FORCE

(By John Darnton)

Dusk, with a steady, bone-chilling drizzle. An abandoned concrete watchtower sits at one end of the bridge. The car slowly dodges the potholes.

The span over the Oder is ugly and dilapidated. Neither the East Germans on one side nor the Poles on the other would dream of repairing it, a sign of their mutual disdain. The river below is a thin brown stream, disappointing, considering the bloody course it has wended through history.

The East German guardhouse squats on the other side, technically on Polish ground. Eric Ambler would love it here. The reek of black tobacco, the hard stares at the passport held under the gooseneck lamp, the inquisitions, the rubber stamp pounded down with an executioner's swing.

But the waiting is nerve-racking, hours and hours behind the drome of windshield wipers. The East Germans are being relentless. Car panels torn out; body searches. The guards hold up each piece of paper and read it, sometimes upside down. This is strange, for it is February 1982 and Poland, plunged into martial law, is supposedly once again a reliable "fraternal" nation. The Poles returning from visits abroad look nervous. They are bringing in coffee, soap, meat wrapped in plastic bags that bleed on the wet pavement. Many, you are sure, are smuggling in gold, clothes to sell, zlotys purchased in West Berlin at one-tenth the official rate. There are guns everywhere; officials moving with abrupt darting motions; a pervasive sense of fear.

And then, incredibly, it is over. The road beyond is deserted and dips around a bend into a forest. It is dark.

Half a mile ahead, five men in Polish Army uniforms step out of the bushes. Their bayonets gleam in the headlights. The commander flags you down ferociously. He leans against the roof, demands to know your nationality, where you are coming from.

Then he reaches into his pocket. He thrusts something through the window. It is an old, crumpled French note, 100 francs. "I was wondering," he says, "if you would be good enough to exchange this for dollars. I'll give you a good rate."

You have left behind the Oder, the efficiency, the stares, and you are back in Poland, the same old inscrutable, confused, troublemaking, muddling-through Poland, martial law or no martial law.

It is also the third Poland I have seen in my nearly three years here. First, there was the Poland of Edward Gierek, the former party chairman, with his ambitious development schemes who is now in disgrace. That was a time of cynicism, apathy and pretense—and of prosperity disappearing before everyone's eyes like milk down a drain. Then there was the Poland of Solidarity and Lech Walesa. It was a time when horizons suddenly opened up, the blinkers came off, and there was hope of creating a livable, productive, nonschizophrenic society within the Soviet bloc. And now the Poland of Gen. Wojciech Jaruselski, a Poland of tanks and underground leaflets, where the structures of control are in place, but just barely—a crumbling facade with a scaffold around it. In this new Poland, the fear and the dream commingle and everyone waits for something to happen—something . . . .

AUGUST 1979

Confusing—this moonscape. On our first day in Poland, my wife Nina, and I dine at Bazyliszek, the one luxury restaurant in the Old Town section of Warsaw. An atmosphere of faded Viennese elegance, with crystal chandeliers, brass samovars, wild boar on the menu and a string quartet in the corner playing Mozart. Outside, on the cobblestones of Market Square, sits a young woman with straight blond hair, a gold star pasted under one eye and a guitar. She sings an old Dave Van Ronk song in strangely accented English. The words rise up, distinct between the spaces in the Mozart: "Baby, you been away too-o-o long."

The Old Town is, for my money, the most magnificent nub of any city in the world. In Nuremberg, Cracow and Prague, the medieval buildings totter and list with authentic age. Here they are as neat as picket-fence slats, instant Gothic, dating from the 1950's, when the Government decided to rebuild the heaping ruins of the Nazi-occupation era brick by brick. Crafts that had died out over a century ago were revived; old Canaleto paintings were copied to re-create the archways, gutters and gargoyles.

Later, I drive by the sprawling housing developments on the outskirts of Warsaw. Huge concrete slabs are scattered about like giant cinder blocks, monotonous in design and appalling in their cheap regard for living space. The priorities sink in the sense of a golden, royal past, a desperate attempt to climb backward in time, and a gray future that crawls ahead without a vision of what shall be or should be. I have been here three weeks and I have yet to meet a self-professed Communist.

But, house-hunting, I discover the moneyed operators. In the exclusive Mokotow section, I come up against the same landlord four times. It is illegal in Poland to own more than one house. He feels compelled to explain. One house belongs to his wife; another, to his sister; a third, to his son. His son, I learn later, is in primary school.

The landlord shows me an upstairs bedroom. Its window has been bricked down to the size of an envelope. Regulations, he explains: This way, it's only a storage room. In the living room, metal rods hang down from the ceiling, so low that we have to stoop.

Technically, he has reduced the room's dimensions so that it's not a room at all. Don't worry, he assures me; the rods will come down as soon as the inspectors come and go.

The rent for the house, officially set at 9,000 zlotys ($300) a month, will be paid to the State, but he wants five times that sum for himself, in dollars, under the table. Also, to reduce the Government's take, he proposes that we say we are sharing the house. He begins to pace off "his" half of the kitchen. I protest. The deal falls through. I hear him mutter, "Idiot. Doesn't know what country he's in."

An official guide is showing me around. He seems a bit defensive about my interest in the 500,000 Jews who lived in Warsaw before the Holocaust. He shows me where the tracks were of the trains that took them off to Treblinka. The raised foundations of earth under the high-rise apartments of the former ghetto still contain human bones. The monument to the heroes of the ghetto uprising is built with the very same granite that Hitler had planned to use to commemorate the liquidation of Poland's Jews. The monument is impressive. But it is the only one in Warsaw without flowers.

The guide then takes me to a church. He guides me stealthily down an aisle to plaques on the wall in memory of the war dead. Lists and lists of names, towns, dates. Finally one name leaps out: "Katyn."

"The date, the date, look at the date," whispers the guide.

I see the year 1940. I realize he is telling me the church believes that the Katyn Forest massacres of an estimated 15,000 Polish prisoners of war took place at a time when the area was in Soviet hands—that it was Stalin's work, not Hitler's, as Moscow claims. And the deeper meaning that this is the agony of Eastern Europe, where Germans kill Jews and Russians kill Poles, where the flagstones are steeped in blood, and where thousands can slip into graves unnoticed by history.

The next day, I go into a furniture store to buy a chair.

"Nie ma" ("There are none"), says the saleswoman, barely looking up from her newspaper.

But how about all those chairs in the window?

"Dekoracja" ("Decoration"), she says, mumbling something to herself. I think I hear that word again: "Idiot."

NOVEMBER 1979

The town of Czechowice-Dziedzice, in the mining region of Silesia. A flat landscape of blackened smokestacks, dirty red-brick buildings and concrete high-rises, with an occasional clump of sad, scraggly pines. There has been an explosion at a mine. Two men are dead and 20 are trapped in a tunnel 600 feet underground, where a methane-gas fire is still raging.

It is the third mine disaster in the past month; in all, some 43 lives have been lost. The accidents coincide with a new brigade system that keeps the mines going 24 hours a day, seven days a week. The Government is desperate for foreign exchange; it is squeezing the miners for more and more of its "black gold."

Appointments with officials at the mine are made for me at the Mining Ministry office in Katowice, 32 miles away; they send me off with handshakes. I arrive at Czechowice-Dziedzice and something has gone wrong. The official has been called away, the gate is locked. I bounce back and forth for two days. A local party secretary finally loses patience and tells me to get the hell out of town. My car is followed by a Polonez, the favored model of the U.B., the secret police.

My translator and I find a small bar named Barborka, after St. Barbara, the patron saint of miners. We enter a smoky cavern smelling of beer and sweat, and the bawl of conversation stops. Hostile eyes rimmed with coal dust turn to the stranger in a necktie. No one moves to ease our path to the bar.

Two beers later, my translator explains to the nearest table that I am an American journalist who has read about the mine disaster and has come to see what happened. A miner lurches up; his face is three inches from my own.

"First thing," he says, "you've got to realize that all the papers in this country are crap—crap and lies."

"They're scared of the truth and they're scared of us," says his companion. "And, by Christ, the Government better do something and do it fast, or we'll do something ourselves."

There follows, over the next hour, an unremitting stream of complaints, threats and curses, despite the presence of a shadow who creeps in and sits down nearby. Rarely have I encountered such burning anger, a pure, white-hot, we're-going-to-get-the-bastards anger. And these are the miners, the elite of the Polish work force, coddled with special meat shops and goods unavailable to others. These are the men who refused to join in the anti-Government upheavals of 1956, 1970 and 1976.

We toast cousins in Chicago. Leaving, I see the Polonez sitting empty down the street.

The next morning, I return to the mine. The party secretary tells me I got his workers drunk to elicit the kind of information spies are interested in.

And the fire in the mine? "None of your business," he says. "And don't you worry. Everything here is under control."

Three days later, they bring up the dead bodies.

AUGUST 1980

When the revolt comes, it is deeper and more disciplined than anyone expected. At the Lenin shipyard in Gdansk, the strikers' faces are dirt-streaked but radiant, solemn and lighthearted at the same time. The workers lounge about on the grass, listening to their leaders on loudspeakers, and, on transistor radios, to the BBC, Voice of America and Radio Free Europe. They marvel at the speed of news when it flows freely; they can take a vote and hear it come back over the little box within the hour.

The hall swarms with delegates from other factories joining the strike. A life-size plaster staute of Lenin gazes reflectively into the distance. To my surprise, I am given a seat on the raised stage of the strike committee. The delegates sit at long tables, as at a banquet—dockworkers, shipbuilders, tool-die machinists, assembly-line workers, bus drivers. Some write the names of their factories on placards as if they were attending a Rotarian convention.

More strikes are announced. Somewhere in the list, after an electrical factory in Elbing, I hear: "The New York Times." A cheer goes up. With everyone expecting an attack by armed troops, the foreign press seems to offer a glimmer of protection. At least, the world will know.

Food is brought to the locked gate by well-wishers. Overhead, a plane drops leaflets proclaiming the strike is over.

Lech Walesa is rushing around, bobbing his head in hurried conferences, giving orders, grabbing the microphone to calm the workers with joking patter. Only a month ago, he was an unknown, unemployed activist for the minuscule Baltic Coast Free Trade Union. I talk to Anna Walentynowicz, the 50-year-old crane operator whose dismissal sparked the strike. She describes the agony of 1970, when workers were shot down. She got into trouble later for passing a hat to buy flowers to their memory. This time, it will be different, she says. No more marching through the streets; stay close to the machines and wait. I ask her for her political views. "I'm a democrat," she says. "But mostly, I believe in God."

AUGUST 26, 1980

The strikes are still on. Stefan Cardinal Wyszynski, the Primate of Poland, delivers a sermon that is actually broadcast over state television. A group of workers in the Gdynia shipyard are huddled in a room, hanging on his every word. He is their spiritual monarch, for 30 years the only authority they have respected.[1]

Cardinal Wyszynski calls for peace, calm, reason, respect. True, he criticizes the Government, but he warns that strikes could pose a threat to the nation; he pleads for workers to be patient and postpone some of their demands. He refers to the partitions of Poland: "Let us remember with what difficulty we regained our freedom after 125 years." All this mixed in with religious metaphors honed to perfection from his decades of slipping elliptical meanings past the Communist authorities.

The speech is of critical importance. The church, in so many words, has told the workers to stop. What effect will it have?

The room is silent. A strike leader strides to the front and flips off the television. "Friends," he says, "as we have just heard, the Primate supports us right down the line."

A roar of applause and cheers. I learn, at that moment, a fundamental truth about the Roman Catholic Church in Poland. It resides so deeply in the people's hearts, in those recesses of nationalism and legend, that it can never be uprooted. When it words come into conflict with its own image, they are not ignored, they are magically transposed. The image is stronger; it is, in a sense, the real church.

Five days later, Solidarity is born.

OCTOBER 1980

The country is opening up—a headlong tide. New groups are forming. Liberals, reformers, even radicals, are taking over institutions, such as the journalists' union, that have been instruments of party control. Yet all this is unfolding peacefully, methodically, even democratically. It all seems part of what Jecek Kuron, the brilliant, barrel-chested long-time dissident, calls a "self-limiting revolution." The idea is to turn the authorities upside down without overthrowing them; to transform Poland without disturbing the geopolitical balance and bringing in the Russians. It is a tricky business.

Newspapers, incredibly, are printing news. I am having tea at the house of a friend, a former Polish ambassador, when a political activist arrives. Breathlessly, he pulls a typewritten document from his coat lining and says conspiratorially, "Have you seen the latest demands?"

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[1] Cardinal Wyszynski died in May 1981.

My host answers graciously. "Thank you, I have. They're in today's newspapers."

Even the security apparatus seems a bit more human. Janusz Onyszkewicz, Solidarity's national spokesman, is on the telephone talking to a friend in London about whether a Polish exile should return. "Tell him it's safe," Onyszkiewicz says.

"I don't know," says the friend.

"Tell him everything's changed now," says Onyszkiewicz.

"I'm not sure."

A third voice cuts into the line. "For God's sake, tell him we say it's O.K."

NOVEMBER 1980

I go to a political cabaret. There is a curious mix in the audience, dissident intellectuals seated across the room from party and Government officials. But one central table up front is empty until the final moment. When it fills, there is a stir; eyes turn, waiters rush to push in chairs; people drift by, hoping for a nod of recognition. The latecomers are steel-mill workers and Solidarity activists. They are the new celebrities.

Something of a social revolution is under way. It is consummate paradox to feel the winds of class warfare in a Communist state. It is as if all those statues of "worker heroes" had suddenly come alive.

The party is widely seen as the agent of exploitation. People are leaving it in droves. Across the country, workers strike to back up demands that hospitals, clinics, rest homes and vacation spas reserved for the police and party elite be given to "the people." Fancy cars left on the streets overnight are likely to have their windshields smashed.

At the Ursus tractor factory outside Warsaw, thousands gather in the movie hall to prepare for a strike. The issue is the "Narozniak affair," the arrest of a Solidarity volunteer for disseminating a classified state document. Tempers are rising. A lanky political dissident gives advice on how to stand up under police interrogation. Another reads a poem about the glory of dying for Poland; it sends shudders of excitement through the hall. One young man grips the mike earnestly and begins with a gaffe—"Comrades," he calls out. Twitters and chuckles. He blushes deeply and recovers, but two minutes later he slips again—"Another thing we should remember, comrades . . . ." This time there are howls of laughter. Flustered and red-faced, he can only sit down. Party membership has become a scarlet letter.

DECEMBER 1980

Things are moving fast. Films previously banned by the censor are playing on television. Universities are preparing to choose their own rectors by democratic elections. Parliament is becoming fractious. There is a kind of national euphoria; the whole country resembles a university coffeehouse plunged into frenetic discussions about unions, socialism, society. It seems that no meeting can adjourn before 3 in the morning.

Passports for travel abroad are available almost for the asking. It's as if the world has suddenly opened up. No matter that the neighboring "fraternal" countries have sealed their borders: Who wants to go there? Poles are coming back from the West to sniff the breezes—writers and scholars who left in official disgrace in 1968, émigrés who had vowed never to set foot in the country again.

New Year's Eve is a frenzied round of parties. The toasts become more and more outrageous, the champagne spills onto the floor. Men kiss each other on the cheek, women hug each other and exchange wishes in intimate tones. Jan, my sardonic friend, raises his glass and says: "And to you, as a journalist, I wish a Soviet invasion." Our friends laugh. It is too unthinkable.

Walking home in the middle of the street, we meet other groups of revelers. Beautiful Ania, who had looked so drawn and sad in the picture taken years before for a passport that never came, sighs and breathes deeply of the dank air. She opens her arms, as though to the night, and says: "All my life I've wanted to live in a free country. And now, just to think, my own country is becoming free."

JANUARY 1981

Breakfast with Lech Walesa at the Solec Hotel, a sort of rundown Polish version of a Holiday Inn. Two busloads of Soviet tourists pull up. They enter—bulky, chattering, the big-bosomed women, the men in their crinkly suits. How will they react when they see Walesa, the devil incarnate, the man threatening to bring down their empire?

They sit down. They order breakfast as if they own the place. They eat. Nothing happens. Of course they know the name, but not the face: He is so dangerous that they've never been shown a picture of him.

I look at Walesa and I realize that I know the face but not the man. How many times have I interviewed him? Maybe 10 or 15. How many times have I seen him sitting in his office, presiding at meetings, speaking to crowds? Maybe 30 or 40. And yet he remains elusive.

He has become such an international superstar there seems to be little left over. The legend of Walesa as dyed-in-the-wool worker, churchgoer, folk hero is beginning to overshadow the man. He is, without doubt, a gifted-leader—courageous, instinctive, articulate. But there is a darker side to his nature—his dictatorial tendencies, his pettiness, his intolerance. These traits have been coming to the fore, affecting his leadership. Some of his top lieutenants are becoming disenchanted; the movement is in danger of splitting.

Walesa repeatedly says that it is unity—millions of unarmed workers standing shoulder to shoulder against the state—that has made Solidarity into what it is. If that goes, the union is lost.

FEBRUARY 1981

The Tomb of the Unknown Soldier in Warsaw's Victory Square. The tomb, containing the ashes of a Polish soldier who died in the fighting that repelled a Soviet invasion in 1920, has become a rallying point for all kinds of demonstrations. It is guarded at all times by four Polish soldiers standing erect and immobile. Every few hours, they are replaced by four others, who goose-step from a garrison across the square. On this day, Rural Solidarity, the new independent farmers' union, has been refused legal status by the courts. The farmers, large men with calloused hands, whose Sunday suits are rumpled from all-night bus trips, are confused and angry. They march to the tomb.

The crowd grows; there are thousands. Speeches start up. Tough, defiant words are shouted. Suddenly, from across the square, come the guards. They march straight for the tomb, right toward the crowd—they have no choice. They get closer, 10 feet away, five feet.

Suddenly, the crowd parts, an aisle opens up, and, as the soldiers march through, a chant rises: "Long live the Polish Army!" "God bless the army!"

The soldiers take their places. I look at one of them. He is ramrod stiff and expressionless. But tears flow down his cheeks.

MARCH 1981

The lines in front of the stores seem endless. They practically merge into each other. The huddled, shivering figures conjure up visions of revolution and turmoil. In reality, the country is remarkably quiet, even subdued. The shortages are so bad that conspiracy theories develop. The Government, it is rumored, is intentionally holding goods off the market to blacken Solidarity. One writer tells his tablemates he has it on good authority that the goods are being stored in a secret tunnel constructed by the Nazis during the occupation. It's hard to tell if he's joking.

The strikes continue sporadically. They sound worse when they are read about outside the country, making it seem that the whole place is swirling in a vortex. But many of the strikes are local affairs, undertaken to oust a local administrator, or to get a police building converted to a clinic, or just to test muscle. I suspect they're not as detrimental to the economy as the Government makes out. I'm at one factory when a one-hour strike ends. The workers move dutifully over to the assembly line, but the conveyor belt doesn't move. "We don't have any parts, anyway," one worker explains.

But the economy, strapped for foreign exchange because of Gierek's live-now, pay-later borrowing policy, is in a state of collapse. A group of farmers from the south persuade the Solidarity chapter at the Ursus factory to build tractors for them on weekends. They go to another chapter and borrow the money, which is to be repaid with potatoes and cabbage. It's the only way to get anything done: Bypass the state altogether.

Mismanagement and inefficiency are rife. Goods are shipped to the wrong places, essential parts are missing, things are ordered and don't arrive. Cigarettes almost run out because there is no glue. Writers, who are guaranteed an allotment of paper, are composing novels on the backs of rejected manuscripts. I hear of a chocolate factory where no chocolates are being produced because there is no paper to wrap them in. But everyone goes to work, punching the time clock in and out.

DECEMBER 1981

Back in August 1980, our maid, Kasia Tracinska, suggested matter-of-factly that I should meet her son, Jurek. I put her off. A few weeks later, she raised the subject again. I explained that I would love to meet her son and her whole family, but that I was up to my neck trying to write about Solidarity and all the changes shaking Poland.

Not long after that, her son telephoned. "I'm coming to Warsaw tomorrow," he announced.

"Good," I said, not very enthusiastically.

"I'll be driving down with some other people," he said. "Lech Walesa, Bogdan Lis, a few others. You see, we have this new union we're trying to get registered."

Jurek Tracinski, it turned out, was a top Solidarity leader. A large man with a rakish mustache, he had a bemused expression that he put on to parry my queries about Soviet intervention. From Jurek I derived my respect for the integrity, courage and basic level-headedness of the Polish working class. Night after night, he explained the goals—not to drag Poland out of the

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Warsaw Pact, not to overthrow the state, but to set things right. "We just want a decent country," he would say.

Jurek often visited us with Bogdan Lis, Walesa's right-hand man. One day, they came from a meeting with striking farmers. Lis pinned a new button, a green Solidarity badge, on the lapel of my youngest daughter, 7-year-old Liza. She stood straight, eyes wide and solemn.

"Do you know about Solidarity?" Lis asked her.

"Yes," she replied.

"And what is it?" he prodded.

"Solidarity wants to make the Polish people free."

With a whoop of pleasure, he hugged her and spun her into the air.

For some reason, that scene flashed through my mind when my phone and telex went dead at 11:10 on the night of Dec. 12, 1981, and I drove through the streets to file a story and encountered police vans closing off both ends of the block where Solidarity's Warsaw headquarters is located.

DECEMBER 13, 1981

Martial law came down like a sledgehammer. It caught everyone off guard. Solidarity's leaders, who had arrived at Gdansk for a general meeting, were brought meekly down the stairwells of their hotels, their hands behind their backs. Many of our friends were dragged out of bed, some not even given time to put on their shoes. When Walesa was seized at his Gdansk apartment in the early hours of Dec. 13 and flown to Warsaw, he was convinced, reliable sources told me later, that he was going to be thrown out of the plane.

Jurek evaded arrest and went into hiding. But shortly afterward, four policemen with a dog came to his apartment for his wife. She shouted at them: "Criminals, bandits! I will not go with you—you'll have to shoot me right here." Her 8-year-old daughter screamed, "Mama!" and her 87-year-old mother threw herself at a policemen's feet, begging them to leave her daughter alone. But they arrested Jurek's wife and dragged her away.

One reason the military takeover came as such a surprise sounds a bit ludicrous in retrospect. There was no provision in the Polish Constitution for a state of emergency; a bill that would allow for one was being prepared for Parliament. Until the bill passed, the thinking ran, a military crackdown couldn't happen. So great was the illusion that democracy had already taken root that it was difficult to imagine the authorities acting illegally.

The key to the operation was isolation. The whole nation was cut off from the rest of the world and plunged into a blackout. All communications were severed, all travel banned, all meetings prohibited. Every household was isolated from every other, every factory, every division within a factory. The power of the union lay in numbers and concerted action, which depended on communication, openness and visibility. Once these were blotted out with curfews, roadblocks, dead telephones and jammed radio broadcasts, the power dissipated.

The generals did more than arrest 6,000 Solidarity leaders and supporters. Figuratively, they placed the entire population under arrest.

DECEMBER 27, 1981

I climb the stairs to the third-floor apartment of an old friend, a journalist and writer who loved to exchange theories and gossip over the kitchen table. He opens the door a crack, peers out and steps onto the landing.

"I can't see you," he says. "They just hauled me in. I was warned not to talk to any foreigners."

His eyes are dark circles. I have never seen them like that before.

The first week of martial law, it snowed heavily. The snow is a metaphor for the stillness and deadness that have descended upon the land. There are strikes, but they are broken up brutally by army tanks and the ZOMO, the dreaded paramilitary police in their camouflage uniforms. At two mines in Silesia, miners stay underground for weeks, convinced that the entire country is on strike. Only when their wives tell them this is not true do they give up and come to the surface, defeated and bitter.

I go to the Huta Warszawa steel mill the morning after a strike there has been broken. About 100 workers cluster about the front gate. They describe how their factory was surrounded by tanks, how the strike leaders were isolated in one part of the plant and the women started crying and fear set in. "We gave up without a struggle," says one man, still disbelieving.

As we are talking, a man in a cloth overcoat comes over and loudly demands to see my identification. The crowd turns on him. "Let's lynch the bastard," someone shouts.

Another man, in a fine imported suede coat, sidles up and politely but firmly orders me to leave.

JANUARY 1982

For Western journalists, accustomed to freedoms of news coverage unthinkable in the rest of the Soviet bloc, it is as if a tight net has been drawn around the country overnight. Borders are sealed to all but a departing trickle of foreigners. Telexes and telephones are dead. Within days, heavy-handed censorship is instituted.

We are followed and at times harassed. My Volvo begins getting flat tires from nails, screws and sharpened belt buckles. A television series called "Who Is Who?" centers on three American diplomats who are called spies; the aim is to cut contacts between Poles and foreigners. The police spread the word that anyone passing petitions or information to Western journalists is liable to be charged with treason and could draw a 15-year prison sentence.

Remarkably, none of my contacts—those who are still at liberty—drop away. But our meetings are fraught with cloak-and-dagger intrigue. We arrange to bump into each other at public locations, in front of a certain picture at the National Museum or in front of a certain post-office box. They slip me notes and underground bulletins. A hiding place is arranged for further written communication.

Every two days, I meet with an especially valuable source, a young man I'll call Karol. We set up an elaborate system of rendezvous points, mostly coffeehouses in the Old Town; if he is not at one, I am to go on to another. I notice that he is almost always a few minutes late. Before he comes, a young woman enters, surveys the room inconspicuously and leaves, barely glancing in my direction.

During one of our talks, I mention the risk he is running and ask him why he is doing it. "Must have been all those movies I saw in my youth about the resistance," he jokes. Like him, I feel as if I'm in a movie most of my waking hours.

The journalists' major preoccupation is getting the story out. There is a single secret channel available once a day. We use it for a pooled dispatch, which goes to every newspaper and radio station in the United States that asks for it. Slipping other stories past border guards strains ingenuity, especially since the authorities begin strip-searching suspicious-looking passengers at the airport. Somehow, one young man walks through with stories stuffed into both of his boots.

One of my stories gets out on a ferry to Sweden. Another is slipped under a cushion in a railroad car that goes through East Germany. A third is stuffed into the bottom of a Marlboro cigarette pack that is then resealed. There is no way of knowing which of them, if any, reaches New York.

Finally, I hit upon a sure-fire system. Because there are no facilities in Poland for developing color film, the Poles permit some photograhers to send their film out undeveloped. The photographers are closely watched anyway, so the film is deemed safe. One of them photographs three of my stories; the undeveloped roll is passed by the censor and ends up in Bonn, where a lab technician, in developing the film, finds a message to pass the copy on to New York.

MARCH 1982

Poles were proud of the alliance between intellectuals and workers in Solidarity, although differences between them remained. The differences are there under martial law, too. A friend, who is a writer and critic, was detained, and in his jail cell he met another detainee, a bus driver. They talked.

"Do you have any children?" asked the bus driver.

"Yes," the writer replied, "two small children."

"So do I. Were yours awake when they came for you?"

"Thank God, they were asleep."

"Yeah," said the bus driver. "Mine were sleeping too. But I woke them up. I wanted them to remember all their lives how those bastards came and took away their father."

The incident set the writer to thinking. Intellectuals, he concluded, were not "fierce" enough. "We think too much. Workers really know how to hate and how to pass that hatred on."

APRIL 1982

Martial law has solved nothing, because the Government has done nothing. So far, it has moved neither to create a "national accord" nor to outlaw Solidarity outright. A Polish journalist compares the situation to "a patient slowly waking up after a powerful anesthetic and finding that no operation has taken place.

Others compare it to the Nazi occupation, even though it is clearly far from that. They seem to do this for effect, to indicate the depth of the anger and alienation from the regime. They talk of "the war" as shorthand for "state of war," the martial-law provision. It's a curious turn of phrase, lending a kind of melodrama to what was, when all is said and done, a military operation accomplished with little bloodshed. I wonder if it isn't a psychological crutch of sorts, a way of covering what some concede is their shame over the fact that there wasn't more resistance.

Curiously, regard for the army is still high. The hatred is heaped upon the ZOMO. With their reliability open to question, the conscripted army troops were given only backup tasks during strike-breaking and were quickly withdrawn whenever they fraternized with civilian workers. This does not augur well for a regime whose power now rests upon military might. The army's loyalty has not been tested fully, and how it would respond if things got worse and orders were given to fire upon strikers or demonstrators is open to question. Government officials bristle when the word "junta" is used, but the military is dominant in the power structure and the party shows no signs of reviving.

Officials parrot the line that Poland was on the verge of civil war, that anarchy was threatening to suck it under, and that martial law was a last, desperate chance to save the nation. But they have difficulty mustering evidence to support these claims. Certainly there was no "anarchy" in the streets, in the sense of disorders, nor was there any sign of an opposition ready to take up arms. There was, on the other hand, widespread realization that the political situation was veering out of control and that Solidarity was again preparing to mount a challenge to the party.

This has led to the notion among some observers in the West that Solidarity brought on martial law by going "too far" in its demands. But it could also be argued that the party went back on the power-sharing arrangement struck in Gdansk in August 1980. Most of the 21 original demands of the Lenin shipyard strikers remained unfulfilled.

Faced with the party's intransigence, Solidarity's leadership adopted more radical stances and did battle over once-untouchable issues. But the extremists in the union never really gained control. And the union's actions had a way of ending up more moderate than its rhetoric.

At the end, the union tried—naivley, it turned out—to bypass the Polish party altogether and address itself directly to Moscow. This was the significance of Solidarity's call, at its final meeting on Dec. 12, 1981, for a national referendum on membership in the Warsaw Pact. The union counted on a vote for continued membership; the idea was to convince Moscow that the military guarantee the Russians needed could be provided not just by the Polish party but by Polish society as a whole. The meeting was seized upon as the pretext for the crackdown, although Western military experts believe the move must have been planned much earlier, if only for logistical reasons.

All along, the great unknown was how much latitude the Soviet Union would allow. Clearly conscious of the costs of intervention, Moscow displayed a tolerance that surpassed the expectations of many in the West. What Moscow could not tolerate was any tampering with the Polish party's sacred "leading role." In the Kremlin's view, the party was the one and only reliable instrument of control; without it, both "socialism" and Soviet domination fell apart.

The inherent contradictions were insurmountable. A Communist Party with minority support was trying to pull an entire country away from the direction it wanted to go in. It was struggling with a new, popular rival. Anything that Moscow did to bolster or bully it only reinforced the conviction that it was the agent of alien rule. The "leading role" was a fiction whose time had come.

In retrospect, the critical turning point came in March 1981, when the union voted a nationwide general strike to protest police beatings in Bydgoszcz. That was a do-or-die moment, when the union's strength was at a peak, the resolve of the authorities shaky and Moscow's intentions unclear. A general strike, if won, might have forced the authorities into honest cooperation.

Instead, Walesa and a few other negotiators bypassed the union's democratic decision-making procedures to negotiate a last-minute settlement. This opened up fissures in the movement and strengthened hardliners in the party. Union negotiators said afterward that the authorities had informed them that the Russians would invade if they did not give way. History may never know if that was true or not.

JUNE 1982

Jurek, I learn, has been arrested. He has gone on trial in Gdynia with eight other defendants. They are charged with distributing antistate leaflets and fomenting a strike at a naval academy. The strike, such as it was, occurred at a time when classes were suspended, and it was quickly called off.

The trial is brief. Even relatives of the accused find it hard to get into the courtroom. Key defense witnesses are not allowed to speak. In his summation, the judge passes quickly over the charges and emphasizes that some of the accused were known Solidarity activists. The sentences are preordained and severe. Jurek is given nine years.

In prison, his head is shaved clean, his mustache is shaved off. His face swells up, apparently from poor diet. His mother weeps often, especially on warm sunny days, when she looks out the window and imagines her son in a dank cell.

Everyone is slumped in a moral depression. Journalists are being fired left and right. Universities are being purged. People direct their energies toward schemes to get out of the country. No one seems to be doing any work.

A campaign is under way to boycott the regime. Intellectuals and professionals withhold their services. One actor I know works as a waiter in a coffeehouse. A well-known singer is pumping gas. A woman television broadcaster in Wroclaw is selling ice cream at a small stand in the market square.

There is an occupation-regime atmosphere about everyday events. A soccer game between a Soviet team and a Polish one is held under tight security; ZOMO troops with automatic weapons ring the stadium; the stands are divided into quadrants by uniformed police. On flights of the Polish airline, a ZOMO with his hand on his AK-47 stands at the back of the cabin, on the lookout for hijackers.

On the other hand, there is a laxity and inconsistency to the crackdown that seems in keeping with the Polish character. One man I know who is in hiding comes up from time to time for a meal at his favorite restaurant. Another public figure in hiding, the former head of the journalists' association, is said to have received heart medication, through an intermediary, from an official in the Ministry of the Interior.

In Victory Square there is a huge cross, made entirely of flowers, lying on the flagstones. Twice the police have removed it, and each time it has been reconstituted, bigger than before. Near the cross is a small shrine to nine miners shot by the police at Wujek in December. One day, someone brought a marble plaque with the nine names engraved on it. The police removed it. The next day, there were nine lumps of coal. They, too, were removed. The next day, there were nine crucifixes. And so it goes.

Last month, a British diplomat was walking across the square when he chanced to see a young man picked up by two ZOMO while kneeling beside the cross. The man did not resist as he was led away into a police van. Once inside, he was beaten savagely with nightsticks. the diplomat, peering through a window, counted 26 blows to the head and stomach before he was spotted and ordered to move on. He felt certain that the young man must have died.

Official thuggery is on the rise. On May 3, during pro-Solidarity demonstrations, policemen bashed heads all over the place. Clouds of tear gas billowed from one end of town to the other. Late in the evening, I went to meet someone at the train station. At an underground track, where there is a television set fixed to the wall a crowd had gathered for the evening news. Four ZOMO were standing in the center, their nightsticks still bent and scuffed. Around them were young men, obviously demonstrators. Everyone was watching the clashes on the news—in effect, watching themselves.

That is the image of Poland I carry away with me—oppressor and oppressed standing side by side, watching the theater of their country's disintegration. I do not know what will happen here; no one does. What everyone knows is that the conflict and the anguish are far from over. Perhaps next time the explosion will be violent. There is not really much to tell Jurek's mother to comfort her, except that there's a chance he will not serve his full nine years, that something will happen before then.

THOUSANDS OF POLES CLASH WITH RIOT POLICE IN THE STREETS OF GDANSK

(By John Darnton)

GDANSK, POLAND, Aug. 31—Polish riot policemen used tear gas, water cannons, flares and concussion grenades today to beat back thousands of anti-Government demonstrators in this port city where the Solidarity union was signed into existence after a victorious strike two years ago.

For over four hours, the narrow cobblestoned streets of the Old City, the broad boulevards downtown and the side streets near the Lenin Shipyard resounded with the sounds of clashes.

The trouble began when riot policemen moved in on thousands of demonstrators in front of the Lenin Shipyard. At least 300 of them retreated into the yard, by breaking down a metal gate.

Shortly before midnight, the northern section of the city was a vast no man's land, with demonstrators armed with gasoline bombs controlling blocks of Grunwaldska Avenue, sectioned off by flaming barricades. Several riot police vans, gutted by fire, lay in the middle of the road.

SOLDIER FLASHES A 'V' SIGN

Young men and women clustered around the barricades, which were made of benches, paving stones, chairs, tables and other material. At one point a convoy of seven army trucks filled with soldiers and accompanied by a bulldozer drew up. As it stopped at one of the barricades, the crowd yelled: "The military with us! The military with us!" After five minutes, the trucks inexplicably turned around, leaving the barricade untouched. A soldier on one of the trucks flashed a "V" sign and the crowd broke into a singing of the national anthem.

Fifteen minutes later, a huge contingent of riot policemen arrived and, firing off tear gas volleys and concussion bombs, cleared the avenue.

Reliable medical sources indicated that at least 11 people were hurt, including one young man apparently struck in the temple by a tear gas cannister.

For at least an hour in the afternoon, groups of young demonstrators dodged

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flares and cannisters fired by 40 riot policemen in front of the red-brick railroad station near Gorky Square. At one point the youths constructed a barricade of wooden benches and metal trash receptacles, crouching behind it and then jumping up to toss rocks at the policemen 30 yards away.

3,000 TO 4,000 DEMONSTRATORS

Other youths, some wearing kerchiefs over their mouths like wild west bandits, taunted the police by running around the side of the train station, picking up smoking cannisters and tossing them back.

The stench of tear gas hung over the city.

A young man who wandered too close was picked up by the police, removed to the doorway of the station and disappeared inside amid a rain of blows from riot sticks. A woman wearing a red blouse was knocked to the sidewalk by the police and clubbed several times before she managed to scramble up and run away.

The disorders began at 3:20 P.M. when the police converged upon a crowd of between 3,000 and 4,000 assembled around the 120-foot tall monument of three crosses and anchors outside the main gate of the Lenin yard. The monument, whose realization was one of the first demands of the strikers of August 1980, was built to commemorate workers shot by security forces during anti-Government demonstrations in 1970.

Shipyard workers began streaming out of the gate after the 2 P.M. shift and gathering around the sloping flagstones of the monument, covered with votive candles, photographs of Lech Walesa and Pope John Paul II, and flowers arranged in the shape of a giant cross above a "V-for-victory" symbol.

Some of the workers said they had been warned over the public address system in the shipyard earlier in the day not to join in demonstrations, but they came anyway. Delegations from various departments brought flowers to put at the cross, laying them down solemnly while the throng applauded.

"As you see," said a young shipyard worker in a brown jacket with a mustache that resembled Mr. Walesa's, "we are celebrating this anniversary peacefully, without bloodshed." The hope, he said, was to exert pressure to bring the martial law authorities to the negotiating table.

YOU ARE NOT ALONE

A young woman with long dark hair spoke out, saying that she wanted the shipyard workers to know that "you are not alone." The police, she said, had surrounded the area so that supporters from other parts of the city could not come. Tonight's state-controlled television news, she predicted, would describe them all as "irresponsible extremists."

A man with a beard said: "All I want is a contented, prosperous fatherland, and this is denied. I hope nobody is killed or wounded today. I wish the police would go back to being a force that is supposed to protect us."

"There's nothing I want more than for Lech to be with us today," he said. Mr. Walesa is interned in southeastern Poland.

Then, a military helicopter appeared overhead, circling a dozen times, and the crowd thrust up "V" signs defiantly and began chanting slogans—"We want Lech!" "Democracy!" "Free the internees!" "Divorce from Moscow!" and "Put the junta on trial!"

The crowd was begining to thin, as the police moved in from three directions, with columns of armored personnel carriers, water cannons, vans and jeeps fitted out with tear gas cannister launchers. They were met with whistles, jeers and shouts of "Gestapo!"

BEATEN WITH NIGHTSTICKS

For several hours afterward, knots of demonstrators roamed through the streets, with riot police chasing them. Two young men were seen being carried by police on a footbridge over the railroad tracks near Academic Park. The men were beaten with nightsticks before being loaded into a van.

At least three riot policemen, called ZOMO, were also said to have been injured.

By nighttime, demonstrators were battling the police in three separate areas. One group, which overturned and set a tractor-trailer truck ablaze, was holed up inside the Novotel, fending off police assaults. Another was taking on the riot police on the northern road to Gydnia, and a third had fanned out into a forest in nearby Oliwa, which the police were reluctant to enter.

STRATEGIC DOCTRINE: DETERRENCE OR WARFIGHTING?

Mr. **KENNEDY**. Mr. President, I would like to call the attention of my colleagues to disturbing reports that the Reagan administration is planning to develop the capability to fight and prevail in a protracted nuclear war. It is perhaps difficult to imagine that the existing nuclear balance of terror could be made even more perilous, but that would in fact be the result of such a program. By shifting the emphasis of U.S. nuclear strategy from deterrence to warfighting, the administration would render the already fragile nuclear standoff even more precarious; the nuclear threshold would be lowered considerably and the world would be brought one large step closer to nuclear holocaust and oblivion.

In a provocative article in the Los Angeles Times of August 15, Robert Scheer discusses the contents of the Pentagon's new defense guidance statement and a strategic master plan now being drawn up. Every sane American knows that there can be no winner in a nuclear war. Presumably administration officials know this too; yet in the new plans they use the terminology of "prevailing" in a "protracted nuclear war" and the termination of hostilities on terms favorable to the United States." In a letter to 70 newspapers around the globe, Secretary of Defense Caspar Weinberger downplays the significance of this shift in strategy, arguing that the Reagan administration is simply doing what is necessary to maintain deterrence.

Clearly, the issues raised by Mr. Scheer's article and Secretary Weinberger's letter are cause for concern. Not only is the notion of prevailing in a protracted nuclear war inherently contradictory; it is extremely dangerous as well. Such a strategy would lower the nuclear threshold, encouraging Soviet commanders to use nuclear weapons in a crisis to preempt a U.S. nuclear strike. This could precipitate an exchange with great risks of escalation toward annihilation. We are presented with a grim spectre indeed—a vision of United States and Soviet authorities buried away in bunkers, playing a horrible game of tit for tat, trading missile for missile, city for city, while the peoples and civilizations of both countries vanish into radioactive oblivion. I cannot imagine how such a holocaust could be ended "on terms favorable to the United States."

The argument is offered by Secretary Weinberger that the Soviet Union, for its part, is building forces to wage a protracted nuclear war. If so, the answer is not to blindly follow the Soviets' lead, that the world might be doubly imperiled, but rather to prevent such a destabilizing development before it occurs—to freeze it in its tracks.

The prospect of nuclear warfighting programs heightens the need for an immediate, mutual and verifiable freeze on the testing, production and futher deployment of nuclear weapons. The people and Government of the United States must act together to establish a defense policy that truly protects, rather than imperils, ourselves and our children, all that we have created and all that we hold dear.

I ask unamimous consent that the full text of Robert Scheer's article and the letter from Secretary Weinberger be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Aug. 15, 1982]

PENTAGON PLAN AIMS AT VICTORY IN NUCLEAR WAR

(By Robert Scheer)

WASHINGTON.—On the orders of the Reagan Administration, the Pentagon last week completed a strategic master plan to give the United States the capability of winning a protracted nuclear war with the Soviet Union, The Times has learned.

The document was delivered to the National Security Council and is awaiting final presidential approval.

The Pentagon plan was drawn up in response to a presidential directive, which represents the first reported time the U.S. government has declared that nulcear war with the Soviets can be won.

The directive is part of a top secret national security decision document that was drawn up in the fall of 1981 to supersede Presidential Directive 59, which was approved in the last six months of the Carter Administration.

IDEAL IS CONTROVERSIAL

Sources familiar with both highly classified documents report that President Reagan's strategic doctrine goes further toward a nuclear war fighting stance than former President Jimmy Carter's in that it specifically states the goal of winning a protracted nuclear war.

According to one member of the Reagan Administration, the plan would contemplate nuclear warfare that went on for as long as six months. One consequence of this planning has been a commitment of $18 billion to provide a communications systems that could endure such protracted nuclear warfare.

The idea that nuclear war between the superpowers can be kept limited or stretched out over several months—let alone won—is controversial in both military and political circles.

Air Force Gen. David C. Jones, who was chairman of the Joint Chiefs of Staff under both Carter and Reagan, has warned that preparations for fighting a limited or protracted nuclear war would be throwing money into a "bottomless pit." In his parting statement on retiring in June, Jones said, "I don't see much of a chance of nuclear war being limited or protracted." He added, "I see great difficulty in keeping any kind of nuclear exchange between the Soviet Union and the U.S. from escalating."

During the 1980 presidential primary campaign, Carter's Presidential Directive 59 was criticized by Sen. Edward M. Kennedy (D-Mass.) and others for assuming that nuclear wars can be fought and survived in a manner akin to conventional wars of the past.

Carter's secretary of defense, Harold Brown, asserted that Presidential Directive 59 was intended to deter any expectations that the Soviets might have of winning a nuclear war but did not endorse the idea that nuclear war could be kept limited or that meaningful victory was possible.

Carter's directive did not contain any specific means of implementation. But Reagan's directive, the sources said, specifically requires the Pentagon to draw up a plan for turning the policy declaration into military reality.

The Pentagon's strategic master plan was to have been sent to the National Security Council for approval in June. However, it was delayed because of the public disclosure of another secret Defense Department document, the annual defense guidance statement.

Parts of that statement, which the Pentagon draws up each year to project its needs for the next five years, were leaked to the New York Times and caused considerable embarrassment for the Administration.

The newspaper reported that the annual guidance plan assumed that "protracted nuclear war is possible" and that "American nuclear forces must prevail and be able to force the Soviet Union to seek earliest termination of hostilities on terms favorable to the United States."

The annual guidance statement contained a general policy of confrontation with the Soviets ranging from conventional wars to battles in space, with the nuclear component being only one part.

CONTAINS MORE DETAILS

Administration insiders report that the new strategic master plan is more detailed and more controversial in its advocacy of nuclear warfare than the annual Defense Department guideline. More significantly, it would carry the imprimatur of the President and his National Security Council, while the annual guidance plan is an internal Pentagon document.

The new strategic master plan concentrates exclusively on the possibilities of strategic nuclear war and reportedly aims at providing more of a "how-to" treatment of the subject. For example, the new plan devotes considerable space to the matter of destroying enemy political centers and command centers while preserving similar U.S. centers.

The Reagan Administration has budgeted $18 billion for the purpose of securing U.S. military command, control and communication, or C3, as it is known to planners. C3 refers to the ability of a nation's leaders to maintain communication with the troops in control of the nuclear arsenal.

The implications of the shift in strategic thinking about nuclear war were spelled out by Gen. James W. Stansberry, commander of the Air Force Electronics Systems Division, who told an Air Force conference:

"In previous years the concept for C3 was that it only had to be able to get off a launch of U.S. strategic weapons in response to a first strike before damage was unacceptable. The idea that there was no way to win a nuclear war exchange sort of invalidated the need for anything survivable. There is a shift now in nuclear weapons planning, and a proper element in nuclear deterrence is that we be able to keep on fighting."

LINKS ARE VULNERABLE

But critics of nuclear war-fighting strategies remain skeptical that C3 can be protected, because the antennas, telephone lines, satellites and other links in the communication system between a nation's leaders and the nuclear arsenal remain far more vulnerable than any other components of the defense system.

One observer on the Reagan staff said sarcastically, "We've been working on this C3 problem for five years now and can report that the system might survive 15 minutes of nuclear war."

But the Pentagon's master plan aims at finding means of hardening U.S. communications to the point that they could survive longer—"as much as six months," one Administration member noted.

The notion that nuclear wars can be fought on a limited and survivable basis toward other than cataclysmic ends has had growing support in the last decade. Increasingly accurate missile technology and sophisticated means of communications have produced the confidence in some quarters that nuclear war need not be fought as one spasmodic episode with little but radioactive rubble to show for the effort.

The result has been a push for rejecting a nuclear strategy based on the idea of a nuclear war as one spasmodic event, requiring as a deterrent only enough power on each side to assure the destruction of the other. This past policy has been challenged by strategies that require even more plentiful and advanced nuclear arsenals and systems of defense ranging from anti-missile systems to civil defense.

In the nuclear war-fighters' view, which Reagan's National Security Council appears to accept, a nuclear war might be fought over a period of several months with selective strikes at primarily military targets. At the end, they believe, one side could emerge victorious, with enough of its resources and populaton intact to begin over.

One leading advocate of this viewpoint, Colin Gray, has recently been appointed by Reagan to the advisory board for the Arms Control and Disarmament Agency and as an adviser to the State Department.

In a 1980 article in the magazine Foreign Affairs, Gray and co-author Keith Payne complained that "many commentators and senior U.S. government officials consider it (nuclear war) a non-survival event."

Instead, Gray and Payne argued, "the United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values."

They specified that 20 million U.S. fatalities would represent an acceptable cost.

Others may have a less optimistic view of the likely casualties but still believe it is possible to emerge on top in an all-out nuclear war. Last week, Energy Secretary James B. Edwards defended the Reagan Administration's commitment to testing and building more and better nuclear weapons. He said:

"I hope we never have to get into another war; if we do, I want to come out No. 1, not 2."

On the other hand, there is former Secretary of State Cyrus R. Vance, who left the Carter Administration before it formulated Presidential Directive 59. Vance, in an interview with The Times, stated:

"I happen to be one of those who believe it is madness to talk about trying to fight a continuing nuclear war as though it were like fighting a conventional war situation, and that one could control the outcome with the kinds of precision that is sometimes possible in a conventional war situation.

"It is a totally different world, a world that is hard for any of us to conceive, because none of us knows what a nuclear war is like. But, by extrapolation, we can have some idea of the incredible devastation that would come from it and the almost unimaginable consequences that would flow from it."

[From the Los Angeles Times, Aug. 25, 1982]

WEINBERGER VIEW ON NUCLEAR WAR

I am increasingly concerned with news accounts that portray this Administration as planning to wage protracted nuclear war, or seeking to acquire a nuclear "war-fighting" capability. This is completely inaccurate, and these stories misrepresent the Administration's policies to the American public and to our allies and adversaries abroad.

It is the first and foremost goal of this Administration to take every step to ensure that nuclear weapons are never used again, for we do not believe there could be any "winners" in a nuclear war. Our entire strategy aims to deter war of all kinds, but most particularly to deter nuclear war. To accomplish this objective, our forces must be able to respond in a measured and prudent manner to the threat posed by the Soviet Union. That will require the improvements in our strategic forces that the President has proposed. But it does not mean that we endorse the concept of protracted nuclear war, or nuclear "war-fighting." It is the Soviet Union that appears to be building forces for a "protracted" conflict.

The policy of deterrence is difficult for some to grasp because it is based on a paradox. But this is quite simple: to make the cost of nuclear war much higher than any possible benefit. If the Soviets know in advance that a nuclear attack on the United States would bring swift nuclear retaliation, they would never attack in the first place.

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They would be "deterred" from ever beginning a nuclear war.

There is nothing new about our policy. Since the awful age of nuclear weapons began, the United States has sought to prevent nuclear war through a policy of deterrence. This policy has been approved, through the political processes of the democractic nations it protects, since at least 1950. More important, it works. It has worked in the face of major international tensions involving the great powers, and it has worked in the face of war itself.

But, for deterrence to continue to be successful in the future, we must take steps to offset the Soviet military buildup. If we do not modernize our arsenal now, as the Soviets have been doing for more than 20 years, we will, within a few years, no longer have the ability to retaliate. The Soviet Union would then be in a position to threaten or actually to attack us with the knowledge that we would be incapable of responding. We have seen in Poland, in Afghanistan, in Eastern Europe and elsewhere that the Soviet Union does not hesitate to take advantage of a weaker adversary. We cannot allow the Soviet Union to think it could begin a nuclear war with us and win.

This is not just idle speculation. The Soviet Union has engaged in a frenzied military buildup, in spite of their economic difficulties. They have continued to build greater numbers of nuclear weapons far beyond those necessary for deterrence. They now have over 5,000 nuclear warheads on ICBMs, compared to about 2,000 only five years ago. They have modified the design of these weapons and their launchers so that many of their land-based missiles are now more accurate, more survivable and more powerful than our own. They have also developed a refiring capability that will allow them to reload their delivery systems several times. They have elaborate plans for civil defense and air defense against any retaliation we might attempt. And, finally, their writings and military doctrine emphasize a nuclear warfighting scenario. Whatever they claim their intentions to be, the fact remains that they are designing their weapons in such a way and in sufficient numbers to indicate to us that they think they could begin, and win, a nuclear war.

In the face of all this, it is my responsibility and duty as secretary of defense to make every effort to modernize our nuclear forces in such a way that the United States retains the capability to deter the Soviet Union from ever beginning a nuclear war. We must take the steps necessary to match the Soviet Union's greatly improved nuclear capability.

That is exactly why we must have a capability for a survivable and enduring response—to demonstrate that our strategic forces could survive Soviet strikes over an extended period. Thus we believe we could deter any attack. Otherwise we would be tempting them to employ nuclear weapons or try to blackmail us. In short, we cannot afford to place ourselves in the position where the survivability of our deterrent would force the President to choose between using our strategic forces before they were destroyed or surrendering.

Those who object to a policy that would strengthen our deterrent, then, would force us into a more dangerous, hair-triggered posture. Forces that must be used in the very first instant of an enemy attack are not the tools of a prudent strategy. A posture that encourages Soviet nuclear adventurism is not the basis of an effective deterrent. Our entire strategic program, including the development of a response capability that has been so maligned in the press recently, has been developed with the express intention of assuring that nuclear war will never be fought.

I know that this doctrine of deterrence is a difficult paradox to understand. It is an uncomfortable way to keep the peace. We understand deterrence and accept the fact that we must do much more in order to continue to keep the peace. It is my fervent hope that all can understand and accept this so that we can avoid the sort of sensationalist treatment of every mention of the word "nuclear" that only serves to distort our policy and to frighten people all over the world. Our policy is peace, and we deeply believe that the best and surest road to peace is to secure and maintain an effective and credible deterrent.

The purpose of U.S. policy remains to prevent aggression through an effective policy of deterrence—the very goal which prompted the formation of the North Atlantic Alliance, an alliance which is as vital today as it was the day it was formed.

CASPAR W. WEINBERGER,
Secretary of Defense.

THE SUPPLEMENTAL APPROPRIATIONS BILL—COMPENSATORY EDUCATION FOR DISADVANTAGED STUDENTS

Mr. KENNEDY. Mr. President, H.R. 6863, the supplemental appropriations bill for fiscal year 1982, includes $148 million for compensatory education for disadvantaged students—the title I program. This additional amount will compensate local education agencies to insure that no State or county loses funding if either the 1970 or 1980 census data forms the basis for making allocations under this program for the 1982–83 school year.

I would like every Senator to know how much each State will gain under this bill. The following table provides this information.

ESTIMATED CHAPTER 1 ALLOCATIONS FOR FISCAL YEAR 1983 USING 1970 AND 1980 CENSUS DATA

This table shows two estimates of fiscal year 1983 chapter 1 local education agency basic grant allocations, one using 1970 census data for the number of children in poor families and the other 1980 census data for such children. Which set of data the Department of Education will actually use to make allocations is presently the subject of a Federal court case, Ambach v. Bell.

The third column shows the higher allocation under the two simulations; that is, what counties would get if they were given allocations based on either the 1970 or the 1980 census data, whichever were larger. The last column shows the additional cost of providing funds for column 3, assuming that such sums would directly supplement allocations made using 1970 census data (column 1).

Allocations in columns 1 and 2 are estimated at a total chapter 1 appropriation of $2,885,969,000, as provided under Public Law 97–161. The estimated total amount for LEA basic grants is $2,386,322,000 ($2,357,663,000 under the base formula and $28,658,000 under the SIE formula). In addition, funds are to be provided for State agency grants, State administration grants, basic grants to territories and to the Secretary of the Interior, and for evaluation and studies grants. No funds would be provided for concentration grants.

1970 CENSUS ALLOCATION VERSION—U.S. SUMMARY

[Includes columns showing the higher allocation under the 2 simulations and the additional cost of funding it]

	Fiscal year 1983 LEA basic grants		Higher of col. 1 and col. 2	Additional cost of col. 3
	1970 census	1980 census		
Alabama	$65,374,000	$56,479,000	$65,382,000	$7,000
Alaska	4,620,000	4,667,000	5,031,000	412,000
Arizona	22,275,000	23,332,000	23,731,000	1,455,000
Arkansas	37,282,000	32,752,000	37,517,000	234,000
California	206,707,000	223,716,000	227,226,000	20,519,000
Colorado	24,194,000	23,173,000	24,892,000	698,000
Connecticut	20,097,000	23,259,000	23,561,000	3,464,000
Delaware	6,437,000	6,549,000	6,687,000	249,000
District of Columbia	13,670,000	11,798,000	13,670,000	0
Florida	76,186,000	78,472,000	82,321,000	6,135,000
Georgia	70,798,000	66,078,000	72,698,000	1,899,000
Hawaii	6,724,000	7,180,000	7,186,000	462,000
Idaho	5,779,000	6,789,000	7,010,000	1,231,000
Illinois	106,514,000	117,762,000	120,732,000	14,217,000
Indiana	32,540,000	34,268,000	35,209,000	2,670,000
Iowa	23,115,000	22,239,000	23,958,000	843,000
Kansas	19,093,000	17,491,000	19,287,000	193,000
Kentucky	50,536,000	45,209,000	50,883,000	347,000
Louisiana	74,231,000	65,145,000	74,380,000	149,000
Maine	9,032,000	9,182,000	9,573,000	541,000
Maryland	41,666,000	38,467,000	41,836,000	170,000
Massachusetts	46,017,000	53,506,000	53,511,000	7,493,000
Michigan	93,653,000	103,004,000	103,752,000	10,099,000

1970 CENSUS ALLOCATION VERSION—U.S. SUMMARY—Continued

[Includes columns showing the higher allocation under the 2 simulations and the additional cost of funding it]

	Fiscal year 1983 LEA basic grants		Higher of col. 1 and col. 2	Additional cost of col. 3
	1970 census	1980 census		
Minnesota	34,482,000	31,594,000	35,091,000	609,000
Mississippi	62,467,000	54,429,000	62,604,000	137,000
Missouri	46,458,000	41,900,000	47,155,000	697,000
Montana	8,344,000	7,890,000	8,671,000	327,000
Nebraska	13,585,000	13,070,000	13,903,000	318,000
Nevada	3,241,000	4,185,000	4,243,000	1,001,000
New Hampshire	3,861,000	4,504,000	4,528,000	666,000
New Jersey	58,790,000	73,954,000	74,063,000	15,274,000
New Mexico	21,562,000	19,266,000	21,625,000	63,000
New York	213,436,000	244,734,000	245,392,000	31,956,000
North Carolina	75,199,000	65,591,000	75,219,000	21,000
North Dakota	6,953,000	6,350,000	6,973,000	20,000
Ohio	77,892,000	78,443,000	82,716,000	4,825,000
Oklahoma	31,423,000	27,735,000	31,498,000	75,000
Oregon	19,916,000	20,436,000	21,611,000	1,696,000
Pennsylvania	106,704,000	108,903,000	113,241,000	6,537,000
Puerto Rico	93,227,000	91,885,000	93,227,000	0
Rhode Island	8,709,000	8,639,000	8,857,000	148,000
South Carolina	49,713,000	43,064,000	49,713,000	0
South Dakota	8,541,000	7,886,000	8,855,000	314,000
Tennessee	59,466,000	52,375,000	59,642,000	176,000
Texas	160,434,000	152,984,000	164,632,000	4,197,000
Utah	7,681,000	8,298,000	8,447,000	766,000
Vermont	3,739,000	3,980,000	4,072,000	333,000
Virginia	55,786,000	48,434,000	56,514,000	728,000
Washington	30,160,000	31,455,000	32,787,000	2,627,000
West Virginia	26,885,000	23,875,000	27,039,000	153,000
Wisconsin	37,676,000	36,837,000	38,758,000	1,083,000
Wyoming	3,452,000	3,110,000	3,540,000	88,000
U.S. summary	2,386,322,000	2,386,322,000	2,534,646,000	148,324,000

1980 CENSUS ALLOCATION VERSION—U.S. SUMMARY

[Includes columns showing the higher allocation under the 2 simulations and the additional cost of funding it]

	Fiscal year 1983 LEA basic grants		Higher of col. 1 and col. 2	Additional cost of col. 3
	1970 census	1980 census		
Alabama	$65,374,000	$56,479,000	$65,382,000	$8,903,000
Alaska	4,620,000	4,667,000	5,031,000	365,000
Arizona	22,275,000	23,332,000	23,731,000	398,000
Arkansas	37,282,000	32,752,000	37,517,000	4,765,000
California	206,707,000	223,716,000	227,226,000	3,510,000
Colorado	24,194,000	23,173,000	24,892,000	1,719,000
Connecticut	20,097,000	23,259,000	23,561,000	301,000
Delaware	6,437,000	6,549,000	6,687,000	138,000
District of Columbia	13,670,000	11,798,000	13,670,000	1,872,000
Florida	76,186,000	78,472,000	82,321,000	3,849,000
Georgia	70,798,000	66,078,000	72,698,000	6,620,000
Hawaii	6,724,000	7,180,000	7,186,000	6,000
Idaho	5,779,000	6,789,000	7,010,000	221,000
Illinois	106,514,000	117,762,000	120,732,000	2,970,000
Indiana	32,540,000	34,268,000	35,209,000	942,000
Iowa	23,115,000	22,239,000	23,958,000	1,720,000
Kansas	19,093,000	17,491,000	19,287,000	1,796,000
Kentucky	50,536,000	45,209,000	50,883,000	5,673,000
Louisiana	74,231,000	65,145,000	74,380,000	9,234,000
Maine	9,032,000	9,182,000	9,573,000	391,000
Maryland	41,666,000	38,467,000	41,836,000	3,369,000
Massachusetts	46,017,000	53,506,000	53,511,000	5,000
Michigan	93,653,000	103,004,000	103,752,000	748,000
Minnesota	34,482,000	31,594,000	35,091,000	3,497,000
Mississippi	62,467,000	54,429,000	62,604,000	8,175,000
Missouri	46,458,000	41,900,000	47,155,000	5,255,000
Montana	8,344,000	7,890,000	8,671,000	781,000
Nebraska	13,585,000	13,070,000	13,903,000	833,000
Nevada	3,241,000	4,185,000	4,243,000	58,000
New Hampshire	3,861,000	4,504,000	4,528,000	24,000
New Jersey	58,790,000	73,954,000	74,063,000	109,000
New Mexico	21,562,000	19,266,000	21,625,000	2,359,000
New York	213,436,000	244,734,000	245,392,000	657,000
North Carolina	75,199,000	65,591,000	75,219,000	9,629,000
North Dakota	6,953,000	6,350,000	6,973,000	624,000
Ohio	77,892,000	78,443,000	82,716,000	4,273,000
Oklahoma	31,423,000	27,735,000	31,498,000	3,763,000
Oregon	19,916,000	20,436,000	21,611,000	1,176,000
Pennsylvania	106,704,000	108,903,000	113,241,000	4,337,000
Puerto Rico	93,227,000	91,885,000	93,227,000	1,342,000
Rhode Island	8,709,000	8,639,000	8,857,000	219,000
South Carolina	49,713,000	43,064,000	49,713,000	6,649,000
South Dakota	8,541,000	7,886,000	8,855,000	968,000
Tennessee	59,466,000	52,375,000	59,642,000	7,267,000
Texas	160,434,000	152,984,000	164,632,000	11,647,000
Utah	7,681,000	8,298,000	8,447,000	149,000
Vermont	3,739,000	3,980,000	4,072,000	92,000
Virginia	55,786,000	48,434,000	56,514,000	8,080,000
Washington	30,160,000	31,455,000	32,787,000	1,331,000
West Virginia	26,885,000	23,875,000	27,039,000	3,164,000
Wisconsin	37,676,000	36,837,000	38,758,000	1,922,000
Wyoming	3,452,000	3,110,000	3,540,000	430,000
U.S. summary	2,386,322,000	2,386,322,000	2,534,646,000	148,324,000

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MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:06 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3517) to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes.

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. UDALL, Mr. KAZEN, Mr. PHILLIP BURTON, Mr. SEIBERLING, Mr. MILLER of California, Mr. COELHO, Mr. LUJAN, Mr. CLAUSEN, and Mr. PASHAYAN as managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4125. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report on two rescissions and a revision to one deferral previously reported; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Labor and Human Resources.

EC-4126. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale by the American Institute in Taiwan to the Coordination Council for North American Affairs; to the Committee on Armed Services.

EC-4127. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision to study the conversion to contractor performance of various functions to different installations; to the Committee on Armed Services.

EC-4128. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Guard Service function at the Naval Construction Battalion Center, Davisville R.I., to performance under contract; to the Committee on Armed Services.

EC-4129. A communication from the Acting Deputy Assistant Secretary of the Air Force for Logistics and Communications transmitting, pursuant to law, a report on a decision made to convert the food service mess attendants function at Port Austin Air Force Station, Mich., to performance under contract; to the Committee on Armed Services.

EC-4130. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Administrative Telephone Service function at the Navy Experimental Diving Unit, Panama City, Fla., to performance under contract; to the Committee on Armed Services.

EC-4131. A communication from the Secretary of the Treasury transmitting, pursuant to law, the fiscal year 1981 annual report of the Exchange Stabilization Fund; to the Committee on Banking, Housing, and Urban Affairs.

EC-4132. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Bank Merger Process Should be Modernized and Simplified"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4133. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the effect of airline deregulation on the level of airline safety; to the Committee on Commerce, Science, and Transportation.

EC-4134. A communication from the Secretary of the Interior transmitting, pursuant to law, the 11th annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-4135. A communication from the Director of the Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Cities Service Co.; to the Committee on Energy and Natural Resources.

EC-4136. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of excess royalty payment to Amoco Production Co.; to the Committee on Energy and Natural Resources.

EC-4137. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of excess royalty payment to Mobil Oil Co.; to the Committee on Energy and Natural Resources.

EC-4138. A communication from the Director of the Minerals Management Service of the Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Scurlock Oil Co.; to the Committee on Energy and Natural Resources.

EC-4139. A communication from the Secretary of Energy transmitting, pursuant to law, the second quarterly report for 1982 on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-4140. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation transmitting, pursuant to law, the report of the Corporation relative to issuance of civil strife insurance coverage; to the Committee on Foreign Relations.

EC-4141. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-4142. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in the funding level of the proposed assistance program in Burundi; to the Committee on Foreign Relations.

EC-4143. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in the funding level of assistance for Rwanda; to the Committee on Foreign Relations.

EC-4144. A communication from the Fiscal Assistant Secretary of the Treasury transmitting, pursuant to law, a report on Inventory of Nonpurchased Foreign Currencies, March 31, 1982; to the Committee on Foreign Relations.

EC-4145. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in the funding level of assistance for Cameroon; to the Committee on Foreign Relations.

EC-4146. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in the funding level of assistance for Swaziland; to the Committee on Foreign Relations.

EC-4147. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report listing reports issued by the General Accounting Office in July 1982; to the Committee on Governmental Affairs.

EC-4148. A communication from the Inspector General of the Department of Health and Human Services transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4149. A communication from the Chairman of the District of Columbia Armory Board transmitting, pursuant to law, the annual report for 1980 on the operations of the District of Columbia National Guard Armory and the Robert F. Kennedy Memorial Stadium; to the Committee on Governmental Affairs.

EC-4150. A communication from the Deputy Chief of Staff for Installations and Logistics, Headquarters U.S. Marine Corps, Department of the Navy, transmitting, pursuant to law, the annual report for the year ending December 31, 1981 on the Retirement Plan for Civilian Employees of the U.S. Marine Corps Exchanges, Recreation Funds, Clubs, Messes, and the Marine Corps Exchange Service; to the Committee on Governmental Affairs.

EC-4151. A communication from the Chairman of the District of Columbia Law Revision Commission transmitting, pursuant to law, the District of Columbia Administrative Procedure Manual; to the Committee on Governmental Affairs.

EC-4152. A communication from the Mayor of the District of Columbia transmitting, pursuant to law, a report in response to a General Accounting Office report entitled "Uncollected Rent Continues to Reduce Revenue for the District of Columbia"; to the Committee on Governmental Affairs.

EC-4153. A communication from the Comptroller General of the United States transmitting, pursuant to law, the 1981 GAO Annual Report; to the Committee on Governmental Affairs.

EC-4154. A communication from the Acting Assistant Secretary of the Interior for Indian Affairs transmitting, pursuant to law, a proposed plan for the use and distribution of certain Indian Claims Judgment Funds; to the Select Committee on Indian Affairs.

EC-4155. A communication from the Legislative Affairs Officer of the Administrative Office of the U.S. Courts transmitting certain materials submitted to the Committee on the Judiciary in late 1981 for inclusion in a hearing record and subsequently inadvertently omitted from that record; to the Committee on the Judiciary.

EC-4156. A communication from the Executive Director of the President's Commission on Executive Exchange transmitting a draft of proposed legislation to permit private companies to continue salary payments to participants in the Executive Exchange Program during their period of Federal service; to the Committee on the Judiciary.

EC-4157. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report and recommendation concerning the claim of the Florida Times-Union and the Jacksonville Journal for advertising provided for the Army Division, Fort Stewart, Ga.; to the Committee on the Judiciary.

EC-4158. A communication from the Secretary of Education transmitting, pursuant to law, a final regulation relating to final priorities for the National Institute of Handicapped Research Program; to the Committee on Labor and Human Resources.

EC-4159. A communication from the Secretary of Education transmitting, pursuant to law, a report on the condition of bilingual education in the Nation; to the Committee on Labor and Human Resources.

EC-4160. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Disclaimer of Opinion on the Financial Statements of the Pension Benefit Guaranty Corporation for the Fiscal Year Ended September 30, 1980"; to the Committee on Labor and Human Resources.

EC-4161. A communication from the Secretary of Agriculture transmitting, pursuant to law, a report on the Expanded Food and Nutrition Education Program of the Cooperative Extension System; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4162. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice that the AGM-65D Maverick missile would exceed baseline unit cost by more than 25 percent; to the Committee on Armed Services.

EC-4163. A communication from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting, pursuant to law, a report on converting the transient aircraft services function at Robins Air Force Base, Ga., to contractor performance; to the Committee on Armed Services.

EC-4164. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), a report on converting the Servmart function at the Naval Supply Center, Puget Sound, Wash., to contractor performance; to the Committee on Armed Services.

EC-4165. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the grounds maintenance function at Roosevelt Roads, Puerto Rico, to contractor performance; to the Committee on Armed Services.

EC-4166. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the air terminal operations function at the Naval Air Station, Jacksonville, Fla., to contractor performance; to the Committee on Armed Services.

EC-4167. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the air-conditioning maintenance function at the Naval Training Center, Orlando, Fla., to contractor performance; to the Committee on Armed Services.

EC-4168. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the keypunch function at the Naval Air Station, Cecil Field, Fla., to contractor performance; to the Committee on Armed Services.

EC-4169. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corp., transmitting, pursuant to law, a report on the average number of persons on board and on-time performance of each train operated by the Corporation for June 1982; to the Committee on Commerce, Science, and Transportation.

EC-4170. A communication from the Deputy Director of the Office of Congressional Relations, Consumer Product Safety Commission, transmitting, pursuant to law, the safety standard for Omnidirectional Citizens Band Base Station Antennas; to the Committee on Commerce, Science, and Transportation.

EC-4171. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Department of Energy covering calendar year 1981; to the Committee on Energy and Natural Resources.

EC-4172. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a request for a refund of an excess royalty payment by Phillips Petroleum Co.; to the Committee on Energy and Natural Resources.

EC-4173. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a request for a refund of an excess royalty payment by Cities Service Co.; to the Committee on Energy and Natural Resources.

EC-4174. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the final report on the National Program of Inspection of Non-Federal Dams; to the Committee on Environment and Public Works.

EC-4175. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the number of children placed in foster care pursuant to voluntary placement agreements for fiscal year 1981; to the Committee on Finance.

EC-4176. A communication from the Secretary of State, transmitting, pursuant to law, the semiannual reports on voluntary contributions made by the U.S. Government to international organisations for the periods October 1980-March 1981, April 1981-September 1981, and October 1981-March 1982; to the Committee on Foreign Relations.

EC-4177. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report on the records disposition activities of the Federal Government for fiscal year 1981; to the Committee on Governmental Affairs.

EC-4178. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Millions Can Be Saved Through Better Energy Management in Federal Hospitals"; to the Committee on Governmental Affairs.

EC-4179. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, the quarterly report on the activities of the Office of Inspector General, Department of Health and Human Services for the period April 1 to June 30, 1982; to the Committee on Government Affairs.

EC-4180. A communication from the Chief Judge of the U.S. Tax Court, transmitting, pursuant to law, the actuarial reports for the U.S. Tax Court Judges' Retirement and Survivor Annuity Plans for calendar year 1981; to the Committee on Governmental Affairs.

EC-4181. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, a recommendation proposing certain

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amendments to the Freedom of Information Act; to the Committee on the Judiciary.

EC-4182. A communication from the Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a notice that the Army intends to initiate the disposal of certain chemical munitions and Lexington-Blue Grass Depot Activity, Kentucky; to the Committee on Armed Services.

EC-4183. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on the implementation of the Magnuson Fishery Conservation and Management Act for calendar year 1981; to the Committee on Commerce, Science, and Transportation.

EC-4184. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the 1981 annual report on U.S. crude oil, natural gas, and natural gas liquids reserves; to the Committee on Energy and Natural Resources.

EC-4185. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Secretary of Energy, dated August 1982; to the Committee on Energy and Natural Resources.

EC-4186. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the first calendar quarter of 1982; to the Committee on Environment and Public Works.

EC-4187. A communication from the Chairperson of the Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1981; to the Committee on Environment and Public Works.

EC-4188. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Early Observations on Block Grant Implementation"; to the Committee on Governmental Affairs.

EC-4189. A communication from the Deputy Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the annual report of the Service on administration of the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-4190. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of an order suspending the deportation of a certain alien under section 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4191. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending the deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4192. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes; to the Committee on Labor and Human Resources.

EC-4193. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the fiscal year 1981 Low Income Energy Assistance Program; to the Committee on Labor and Human Resources.

EC-4194. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a copy of the fiscal year 1984 budget request of the Commission; to the Committee on Rules and Administration.

EC-4195. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the base operating services function at the Naval Air Station, Whiting Field, Milton, Fla., to contractor performance; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1145. A resolution adopted by the Lawrence, N.J., Township Council, urging the President and Congress to immediately initiate and enter into a mutual nuclear weapons freeze with the Soviet Union, and urging that all funds appropriated for the testing, production, and deployment of nuclear weapons and their deployment systems be applied to human needs and tax reduction; to the Committee on Appropriations.

POM-1146. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

"ASSEMBLY JOINT RESOLUTION No. 60

"Whereas, The Discount rate policies of the Federal Reserve Board over the past 18 months together with the recent preemption of state usury law limitations on interest rates by federal statutes have created economic stagnation and accelerated rather than retarded inflationary pressures in the nation's economy for the foreseeable future; and

"Whereas, The impact of high discount rates and unregulated interest rates will, if unchecked, lead inevitably to economic disaster with attendant tragic social consequences; and

"Whereas, It is the opinion of the Members of Legislature of the State of California, that immediate federal action is necessary to forestall a nationwide economic disaster; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to immediately enact legislation placing a maximum chargeable interest rate of 2 percent above the level at the time of lending of an index selected by Congress and the President for its accuracy as a measure of the average cost of funds; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1147. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America urging that the Olympic games be held permanently in Greece where they may be conducted in a manner and in an atmosphere conducive to the true and ancient ideals of the Olympic games; to the Committee on Commerce, Science, and Transportation.

POM-1148. A resolution adopted by the board of trustees of the Atlanta, Ga., public library opposing the passage of "The Cable Telecommunications Act of 1982" (S. 2172) by the U.S. Senate; to the Committee on Commerce, Science, and Transportation.

POM-1149. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 87

"Whereas, Utility rates throughout the State of California have risen dramatically over the last year; and

"Whereas, The price of natural gas is a major factor in rising utility bills; and

"Whereas, California is particularly dependent upon natural gas; and

"Whereas, The Federal Energy Regulatory Commission has already begun to administratively decontrol the price of natural gas transported in interstate commerce, which will result in higher costs to California consumers; and

"Whereas, The Federal Energy Regulatory Commission has indicated that it plans to administratively decontrol "old" natural gas; and

"Whereas, "Old" natural gas represents approximately 40 percent of all natural gas consumed in California; and

"Whereas, It has been estimated that administrative decontrol of "old" natural gas could cost California consumers over one billion dollars a year; and

"Whereas, Decontrol of natural gas would have a severe impact upon the already burdened ratepayers, particularly the poor and the elderly; and

"Whereas, Decontrol of natural gas would also have an adverse impact on major portions of California's economy, including agriculture, public services, and small businesses and would result in the loss of thousands of jobs; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby respectfully memorializes the President and Congress to require the Federal Energy Regulatory Commission to take no further action to accelerate the administrative decontrol of natural gas prices; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Federal Energy Regulatory Commission."

POM-1150. A joint resolution adopted by the legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 52

"Whereas, Agriculture is the number one industry in California, which is the leading agricultural state in the country; and

"Whereas, Although California's 33.4 million acres of cultivated land account for only 3 percent of the country's entire supply of farmland, the state produced nearly 10 percent of the 1980 farm cash receipts in the United States; and

"Whereas, Agriculture accounted for approximately 18 percent of the state's gross product during 1980, which amounted to $54.8 billion, using the multiplier factor; and

"Whereas, California leads the nation in the production of 49 different crops and livestock products; and

"Whereas, The diversity of the state's agriculture is truly impressive, for over 250 different commodities are grown here; and

"Whereas, Twelve percent of the nation's agricultural exports were shipped from California last year, which provided numerous jobs and revenue for our three customs districts of Los Angeles, San Francisco, and San Diego; and

"Whereas, The product of approximately one out of every four acres of California cropland is now sold in foreign markets and thus the state's agricultural economy is dependent upon international trade; and

"Whereas, Expansion of markets for agricultural products abroad is needed to supply outlets for growing production of many California crops and to balance declines in domestic consumption of certain important products; and

"Whereas, The trade policies often adopted by many of our important overseas trading partners are clearly discriminatory or otherwise violative of the General Agreement on Tariffs and Trade and are unfairly eroding export markets for California farm commodities; and

Whereas, A group of California food marketers have petitioned the United States Trade Representative to take their case against the European Economic Community before an international court, the General Agreement on Tariffs and Trade; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That agriculture is California's basic industry, and its well-being is vital to the economic health of the state; and be it further

"*Resolved,* That it is in the best interest of the state, and of the United States as a whole, that there be the closest and most vigorous possible cooperation between the Office of the Trade Representative and the United States Department of Agriculture in seeking to improve the nation's trade balance by negotiating the reduction or elimination of tariff and nontariff barriers, as well as other policies and programs, which encourage unfair competition in markets which the United States has historically served, which disrupt international trade patterns, and which block access to foreign markets for California agricultural products; and be it further

"*Resolved,* That the Congress of the United States and its appropriate committees join with the executive agencies involved and urge their active participation in seeking the most effective remedies to the problems of protectionism and subsidized competition which so seriously affect the movement of United States', and particularly California's, agricultural products into international trade; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Trade Representative, to the Secretary of Agriculture, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Department of State and the Department of Commerce, and to the chairmen of committees in Congress which have jurisdiction over foreign trade."

POM-1151. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America urging Congress to support and enact the President's tuition tax credit proposal; to the Committee on Finance.

POM-1152. A resolution adopted by the City Council of the City of Houston, Tex., opposing those portions of H.R. 4961 that would impose a corporate minimum tax on bank deductions of interest on loans to carry or purchase municipal bonds, and urging Congress to delete all portions of H.R. 4961 that would impose such a minimum corporate tax; to the Committee on Finance.

POM-1153. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America condemning the invasion, continued occupation, and colonization of the Republic of Cyprus by Turkey and urging Congress to take all steps within its power to bring about a peaceful solution of the question of Cyprus on the basis of the relevant United Nations Charter; to the Committee on Foreign Relations.

POM-1154. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America urging Congress to exert its influence with the unjustifiable and devastating restraints, restrictions, and harassments imposed by the Turkish Government upon the Ecumenical Patriarchate of Constantinople and the Greek Orthodox minority; to the Committee on Foreign Relations.

POM-1155. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America urging the Governments of the Soviet Union and the United States of America to reach agreement with respect to nuclear arms limitations and reductions that are both meaningful and verifiable and that will lead to the eventual elimination of nuclear arms from the arsenal of all nations of this world; to the Committee on Foreign Relations.

POM-1156. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America calling upon all nations and religious bodies to accept and affirm, for the sake of world unity and peace, the undeniable right of the individual and members of religious minorities, to believe, worship and observe the practice and teachings of their respective religions, in the hope that by so doing the spiritual and moral conditions of humanity will be free to aspire to new and greater heights; to the Committee on Foreign Relations.

POM-1157. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America condemning the denial of human rights and liberties, and the subjugation of individual dignity by military, oppressive, and totalitarian governments, and calling upon all governments to comply with the principles enunciated in the Charter of the United Nations and the Helsinki Final Act; to the Committee on Foreign Relations.

POM-1158. A resolution adopted by the Board of Commissioners of the County of Stokes, N.C., urging the Congress to freeze Federal salaries and pensions; to the Committee on Governmental Affairs.

POM-1159. A resolution adopted by the Board of Commissioners of the County of Yadkin, N.C., urging the Congress to freeze Federal salaries and pensions; to the Committee on Governmental Affairs.

POM-1160. A resolution adopted by the Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America supporting the adoption of the Constitutional Amendment to permit voluntary prayer in public schools and institutions; to the Committee on the Judiciary.

POM-1161. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico; to the Committee on the Judiciary:

"RESOLUTION

"Whereas: The House of Representatives, through House Resolution 533 which was approved on May 24, 1982, directed the Committee on the Judiciary (Penal) to perform an investigation of the agreement existing between the Executive Power of the Commonwealth and the Executive Power of the Federal Government regarding the Haitian refugees in Fort Allen, and on the Present status of the compliance with said agreement by the Federal Government.

"Whereas: The Committee on the Judiciary (Penal) carried out said investigation, conducting, among other things, public hearings which were initiated on the first (1st) of June and which concluded on the seventeenth (17th) of June of 1982.

"Whereas: Twenty-five (25) persons, representing various sectors of the Puerto Rican community, appeared to give testimony in said Public Hearings. Outstanding among said persons were the representatives of the Religious and Civic Community: Cardinal Aponte Martinez, Monseigneur Francisco Reus Froilán of the Episcopal Church and the Reverend Alredo Santiago. Members of the medical profession, psychologists, and personnel that worked in Fort Allen, and representatives of entities for the defense of the rights of the Haitian refugees, also gave testimony.

"Among the latter were Dr. Pedro A. Miró of Dr. Pila Clinic in Ponce; Arturo Geigel Bunker, former Administrative Assistant of the Clinic at Fort Allen, Miguel Arroyo Camacho, former policeman at Fort Allen; Dr. Alba Nydia Rivera, psychologist; André Rheaume, former interpreter at Fort Allen and Dr. Gerald Jean Jusste, Director of the Haitian Refugee Center in Miami, Dr. Anselme Remy, Professor of Anthropology of the University of Columbia, Dr. Paul Latortué, Speaker for the Puerto Rican Foundation for the Liberation of the Haitians, and Dr. Jean Claude Bajeaux, Coordinator of the Inter-Regional Council for Haitian Refugees. The following public officials also gave testimony, to wit: the Mayor of Juana Diaz, the Honorable Angel León Martinez: the Secretary of Justice, the Honorable Héctor Reichard; the Secretary of State, the Honorable Carlos S. Quirós; and Dr. Yamil Kouri, Assistant Secretary of Health, and Official Representative of the Department of Health of Puerto Rico to supervise the compliance with the contract between the Executive Power of Puerto Rico and the Federal Government.

"Whereas: A communication was received from Dr. Adolfo Pérez Esquivel, Nobel Peace Prize Winner, in which he expresses his solidarity with the investigative action of this House of Representatives "for the benefit of human rights in Puerto Rico".

"Whereas: The Committee received ample information on the living conditions of the Haitians refugees in Fort Allen; on the general treatment given to these persons by the Federal authorities as to their mental and physical health; on the aspects of entertainment and cultural expressions; and on the

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total living conditions in general, of the refugees as members of the community of human beings.

"Whereas: The Committee investigated all pertinent areas of the task assigned by the House except establishing direct contact with the Haitians themselves, and hearing their position, which could not be done due to the refusal of the authorities in Fort Allen to let the Committee hold public hearings and make a visual inspection of the Fort. In view of said refusal, the Committee proposed that a number of refugees be taken to the Town Hall of the Municipality of Juana Dias so that they could testify before the Committee, but, to this moment there has been no reply from the Fort Allen authorities.

"Whereas: The Committee on the Judiciary (Penal), after a careful evaluation of the evidence obtained in the course of the investigation, has reached the following findings of facts:

"(a) The first condition of the agreement between the Executive Power of the Commonwealth and the Federal Executive Power which says, "The Federal Government shall do everything that is necessary to keep Fort Allen in adequate humane and sanitary conditions" has been violated.

"The elements which justify the Committee's findings are summarized hereinbelow:

"(1) The abundance of mosquitoes is humanly unbearable.

"(2) The degree of heat resulting from the structures they live in makes their life miserable. During the day, the alternatives the refugees have is to remain inside the huts, and suffer the effects of the heat, or to go outside and face the effects of the blazing sun, because there is no cover or protection against the sun.

"(3) The sun has harmed the refugee's eyes, and, in fact, it is alleged that there are three (3) cases of total blindness that have not been treated by an ophthalmologist.

"(4) There is a case of food poisoning on the record which affected forty (40) employees and two (2) refugees in Fort Allen. Worms were found in the food.

"(5) Several cases of a disease known as "gynecomastia" have been found. It consists of the abnormal inflamation of the mammary glands in men. The pertinent medical authorities could not explain the causes of this phenomenon.

"(6) Many cases of pathological alterations in the menstrual cycle of the women refugees have been discovered, consisting of the disappearance or increase of menstrual flow.

"(7) Men and women are kept separate and incommunicated; even those that constitute a family.

"(8) The sanitary facilities are kept open in such a way that the person's biological needs are done practically in public, in clear violation of the cultural habits of the Haitian refugees.

"(9) Evidence was presented that the Haitian refugees are terrified of mosquitoes and that this terror increases when heavy rains create many puddles. The evidence was in the sense that the Fort Allen Authorities have not taken any steps to fill or eliminate these puddles.

"(10) The only furniture in the huts is the cot where they sleep; there are no chairs or benches inside or outside the huts where they can sit, so their options are to sit on the floor or to remain standing.

"(11) The refugees are not allowed to practice their autochthonous religious ceremonies, typical of their culture, thus causing them great spiritual disturbances and a sense of terrible emotional loss.

"(b) There has been a violation of the fourth provision of the agreement between the Executive of Puerto Rico and the Federal Executive which says 'no refugees that have physical or mental disabilities shall be sent to Fort Allen nor shall those identified as 'delinquents'; and to the provisions of the Fifth clause of the agreement, which states that those 'refugees that have contracted Malaria, 'Dengue Fever' or any other contagious disease shall not be sent to Puerto Rico'. There is evidence of the existence of two cases of Tuberculosis which is a highly contagious disease.

"(c) The eighth clause of the above stated agreement which provides "that the refugees located in Fort Allen shall have adequate recreational facilities" has been violated. The evidence was overwhelming in the sense that the refugees are not offered any type of recreational or cultural activities which would allow them to preserve their mental sanity, in a situation of forced detention such as theirs. The refugees are awakened at 4:00 a.m. with an exhortation to return voluntarily to Haiti. Said exhortation is repeated several times during the day through powerful loudspeakers. No explanation was given as to why the refugees are awakened at 4:00 a.m., when they are not provided with any activities to fill their hours of frustrating idleness.

"(d) The Fifth Clause of the agreement which provides "that all refugees sent to Puerto Rico shall undergo a medical evaluation during an observation period of fourteen (14) days prior to their transfer to Puerto Rico", has been violated. The evidence was in the sense that the so-called medical evaluation consisted of stripping the refugees, spreading a white substance over their bodies, and afterwards washing the substance off. A Committee of Federal Executive Government representatives and representatives of the Puerto Rican Executive Power was appointed to supervise the medical evaluation during an observation period of "fourteen days prior to their transfer to Puerto Rico". The two delegates of the Puerto Rican Executive Power were Dr. Yamil Kouri and Mr. Angel R. Aponte, Undersecretary of State. It was clearly established that said persons were present only one day of the fourteen (14) days at the Processing Center.

"Whereas: In addition to the concrete evidence on the living conditions in Fort Allen, which have been summarized in the preceding Whereas: the Committee on the Judiciary (penal) received reactions, opinions, and evaluations from distinguished members of the Puerto Rican Community and from representatives of the religious, civic and cultural sectors, who unanimously agree that the situation of the Haitain Refugees at Fort Allen is one that violates the human rights recognized by the civilized world, and by the most elementary principles of Christianity.

"Therefore: Be it resolved by the House of Representatives of Puerto Rico:

"Section 1.—To express the feelings of the House of Representatives with respect to the situation of the Haitian refugees at Fort Allen, which is repugnant to the sense of justice, benevolence and of human brotherhood which is characteristic of the Puerto Rican People; and that said situation is a transgression against the civil and human rights recognized by the Constitution of the Commonwealth of Puerto Rico, the Constitution of the United States, the United Nations Bill of Rights, the Universal Declaration of Human Rights, and the Universal Declaration of the Rights of Man, approved in December, 1948, by the General Assembly of the U.N.O.

"Section 2.—To express the feelings of the House of Representatives, that the agreement between the Federal Executive and the Executive of Puerto Rico on the transfer of Haitian refugees to Puerto Rico, not be renewed by the Executive Power of Puerto Rico in the coming month of August when said agreement draws to an end.

"Section 3.—A copy of this Resolution shall be sent to the Governor of Puerto Rico, to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the United Nations Organisation and to the Organisation of American States."

POM-1162. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"Whereas, There are approximately 250,000 veterans in the United States, of whom approximately 25,000 reside in California, who were exposed to atomic radiation during the occupation of Japan and in conjunction with at least 235 atmospheric nuclear weapons tests conducted in the 1940's and 1950's and up to as recently as 1962; and

"Whereas, These veterans are now suffering myriad health problems, including cancer, degenerative bone and nerve diseases, intestinal disorders, blood and respiratory diseases, emotional problems, and birth defects in children and grandchildren; and

"Whereas, Recent medical evidence indicates that all these ailments are associated with exposure to atomic radiation; and

"Whereas, These veterans have typically been hesitant to come forward for fear of prosecution under secrecy statutes and possible loss of employee medical benefits and diminished employment potential; and

"Whereas, Regulators published by the United States Veterans' Administration on December 2, 1981, pertaining to the provision of health care to veterans exposed to atomic radiation do not address health symptoms other than cancer; and

Whereas, Current Veterans' Administration regulations have been used to deny 98 percent of the claims by veterans for health care and compensation; and

Whereas, Under these regulations, it is incumbent upon the veteran to prove his or her exposure to atomic radiation through his or her own initiative in securing records that often are incomplete or missing entirely; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct the Administrator of Veterans' Affairs to revise the current regulations of the Veterans' Administration regarding the provision of health care to veterans exposed to atomic radiation to fully recognize the body of medical evidence associating exposure to atomic radiation with a wide range of health effects; and be it further

Resolved, That the Legislature of the State of California further respectfully requests that other appropriate agencies and resources of the United States be brought to bear in an investigation of the health and genetic complaints of veterans exposed to atomic radiation and of the apparent loss of records and documentation pertaining to exposure of individuals and military units; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans' Affairs."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 4476. An act to amend the Administrative Conference Act, by authorizing appropriations therefor.

By Mr. GARN, from the Committee on Appropriations, without amendment:

S. 2880. An original bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-537).

By Mr. STAFFORD, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2852. A bill to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes (Rept. No. 97-538).

By Mr. DOMENICI (for Mr. McClure), from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2405. A bill to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico (Rept. No. 97-539).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN, from the Committee on Appropriations:

S. 2880. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. SPECTER (for himself and Mr. Heflin):

S. 2881. A bill to amend the copyright law respecting the limitations on exclusive rights to secondary transmissions; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 2882. A bill to make a technical correction in the provision of the Economic Recovery Tax Act related to the election to have certain life interests qualify for the marital deduction; to the Committee on Finance.

S. 2883. A bill to broaden the exemption for common carriers and communications companies from the telephone excise tax; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2884. A bill to lower the rate on sulfathiazole until the close of business December 31, 1985; to the Committee on Finance.

S. 2885. A bill to suspend the duty on sulfapyridine until the close of December 31, 1985; to the Committee on Finance.

By Mr. HEINZ:

S. 2886. A bill to apply duty-free treatment to Fourdrinier wires suitable for use in capacitor papermaking machines; to the Committee on Finance.

By Mr. MITCHELL:

S. 2887. A bill to amend the Internal Revenue Code of 1954 to reform and simplify the individual income tax; to the Committee on Finance.

By Mr. BAKER (for Mr. McClure):

S. 2888. A bill directing the President to prepare and submit an annual report on the state of the insular areas to Congress, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOSCHWITZ:

S. 2889. A bill to continue until the close of September 30, 1985, the existing suspension of duties on color couplers and coupler intermediates used in the manufacture of photographic sensitized material; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. Harry F. Byrd, Jr., Mr. Huddleston, Mr. Bumpers, Mr. Lugar, Mr. Stafford, Mr. Moynihan, Mr. Cannon, Mr. Hollings, Mr. Helms, Mr. East, Mr. Boren, Mr. Andrews, Mr. Boschwitz, Mr. Proxmire, Mr. Inouye, Mr. Exon, Mr. Bentsen, Mr. Laxalt, Mr. Tsongas, Mr. Sarbanes, Mr. Pryor, Mr. D'Amato, Mr. Ford, Mr. Dole, and Mr. Randolph):

S.J. Res. 239. Joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated.

By Mr. JACKSON (for himself, Mr. Bentsen, Mr. Bradley, Mr. Cochran, Mr. Chafee, Mr. Chiles, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Durenberger, Mr. Garn, Mr. Gorton, Mr. Heinz, Mr. Inouye, Mr. Johnston, Mr. Leahy, Mr. Lugar, Mr. Mathias, Mr. Moynihan, Mr. Percy, Mr. Riegle, Mr. Rudman, Mr. Sarbanes, and Mr. Weicker):

S. Res. 458. Resolution to express the sense of the Senate that the Export-Import Bank of the United States shall be given sufficient authority and shall provide competitive financing for American exports; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. Heflin):

S. 2881. A bill to amend the copyright law respecting the limitations on exclusive rights to secondary transmissions; to the Committee on the Judiciary.

RETRANSMISSION CARRIER COPYRIGHT STATUS

Mr. SPECTER. Mr. President, I am today introducing a bill to bring needed precision to our copyright laws by clarifying the status of retransmission carriers, companies that utilize satellites or terrestrial microwave repeater stations to retransmit television signals to cable operators.

Although the Copyright Act Amendments of 1976 included an exemption from copyright liability for passive carriers, companies that provide the link to secondary transmissions by cable systems, recent court decisions have placed this congressional policy in doubt.

In March 1982, the U.S. District Court for the Northern District of New York held that Eastern Microwave's retransmission of broadcast signals was not entitled to the exemption from copyright liability for retransmission carriers established by the 1976 Copyright Act amendments (17 U.S.C. sec. 111(a)(3)). An appeal from this ruling is currently pending before the U.S. Court of Appeals for the Second Circuit. This ruling has created substantial confusion in the cable industry; confusion and uncertainty that can best be eliminated by congressional action to clarify the reach of the law.

Virtually every cable system in the country uses one or more of the so-called distant signals to supplement local television services. There are more than 50 companies delivering such signals nationwide with three firms utilizing satellite for nationwide distribution. This activity has been greatly facilitated by the compromise embodied in the 1976 Copyright Reform Act and by the Federal Communications Commission rules being relaxed to encourage cable systems to utilize distant signals.

In 1976 Congress adopted the compulsory license with royalty fee approach to the use of distant signals. Critical to that mechanism is the role of retransmission carriers who facilitate the opportunities of cable systems to receive and utilize distant signals. Almost one-quarter of the American public receives its television programing via cable. Almost 400 cable systems operate in Pennsylvania. Without the services of retransmission carriers to relay television signals over great distances the variety of viewing opportunities for cable subscribers will be severely limited.

In recognition of this passive and facilitating role, retransmission carriers were granted an exemption from copyright royalties. The cable systems that are the intermediate recipients of the secondary transmission and beneficiaries of the relay are not covered by this statutory exemption. Thus, copyright owners are not left uncompensated, but recover according to the

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compulsory license and royalty compromise embodied in the law. Indeed, without proper recognition of the exemption of retransmission carriers, the 1976 compromise can be significantly undermined.

While I am anxious to pursue our inquiry into the continuing viability of the 1976 compulsory license and royalty compromise, until we decide to adopt an alternative solution to the distant signal problem I think the current law must be allowed to govern. The amendment I offer today is intended to clarify that law and uphold the working compromise agreed upon in 1976.

The language I offer today is included in the Cable Television Copyright Act Amendments, H.R. 5949, recently reported favorably by the House Committee on the Judiciary. In its report, the House committee explained the need for this amendment:

> It is the intent of the Committee that this subsection clarify the copyright law regarding the intent of 17 U.S.C. 111(a)(3) which provides an exemption of copyright liability for common carriers.
>
> In the course of Committee deliberations on this legislation, a decision was issued in a case involving an interpretation of Section 111(a)(3) *Eastern Microwave, Inc.* v. *Doubleday Sports, Inc.*, 81-CV-303 (N.D., N.Y., March 12, 1982), which leaves the cable industry in a state of turmoil. The holding of that case was that the carrier, Eastern Microwave, Inc., failed to qualify for the Section 111(a)(3) exemption. In the Committee's view, the decision incorrectly construed the carrier exemption. If the decision is applied to other parties, all satellite resale carriers could be held liable for copyright infringement when they deliver distant signals to cable systems. Further, terrestrial microwave carriers could also be in danger of losing their exemption. These carriers are the primary means whereby cable systems receive distant signals for retransmission to cable subscribers; rather than face copyright liability, they may suspend broadcast retransmission. As a result, the signal carriage standards of the FCC could be undone, and the entire compulsory licensing scheme undercut, which would be antiethical to the intent of this committee and the public interest.
>
> There has never been any doubt by this Committee that carriers are exempt from copyright liability when retransmitting television signals to cable systems via terrestrial microwave or satellite facilities. Although the *Eastern Microwave* case is presently on appeal, in view of the significance of the ruling and the chaotic state in which it leaves the 1976 cable legislation, the committee believes it is useful to clarify the existing language of Section 111(a)(3) by certain technical amendments, thereby restating its intent that the exemption apply to all such carriers. With these changes, qualifying carriers may engage in business promotion and marketing of their services and retransmit one or more television signal via statellite to cable systems pursuant to their FCC tariff without fear of loss of the exemption.

The bill I am introducing, parallels the language adopted by the House Committee on the Judiciary. It would make three technical changes in the current language of section 111(a)(3) of title 17, United States Code, and thereby clarify congressional intent with respect to the limited exemption from copyright liability for retransmission carriers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111(a)(3) of title 17, United States Code is amended to read as follows:

"(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content of the primary transmission or over the ultimate recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist primarily of providing wires, cables, or other communications channels for the use of others: *Provided,* That the provisions of this clause extend only to the activities of said carrier or like entity with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions.".

By Mr. MOYNIHAN:

S. 2882. A bill to make a technical correction in the provision of the Economic Recovery Tax Act related to the election to have certain life interests qualify for the marital deduction; to the Committee on Finance.

ESTATE AND GIFT TAXES

● Mr. MOYNIHAN. Mr. President, the bill I am introducing today makes a technical correction in the estate and gift tax portion of the Economic Recovery Tax Act.

The Economic Recovery Tax Act made a number of changes in the rules for estate and gift taxes. Two are of concern here. First, the act provided an unlimited marital deduction. Previously, an individual was able to leave up to half of his belongings or $250,000, whichever was greater, to his spouse, free of estate taxes. There was a similar deduction for gifts that an individual makes to his spouse while he is alive.

Last summer, Congress decided that it made little sense to tax transfers between spouses. Such taxes seem especially unfair when one spouse has just died. The bereaved spouse has enough worries without having to figure out how to pay the estate taxes on the couple's belongings. Better to levy the tax when the surviving spouse has also died. Hence, an unlimited marital deduction was provided. Estate and gift taxes are no longer collected on property an individual wills or gives to his spouse.

Second, the tax laws were amended so that the marital deduction covers some terminable interests. A terminable interest is a property interest that is less than full ownership. For example, an individual can have a life estate in a building, meaning he has the right to all the income from the building while he is alive, but at death, the building automatically is transferred to another party. Black's Law Dictionary defines terminable property as "property of such a nature that its duration is not perpetual or indefinite, but is limited or liable to terminate upon the happening of an event or the expiration of a fixed term."

In the past, terminable interests did not qualify for the marital deduction and were taxed upon the death of the first spouse. Thus, if a man left the family house to his wife for life and to his children after her death, estate taxes would be due on the house when the man died. He could avoid estate taxes by transferring the house outright to his wife. Or he could direct who would get it after her death. But not both. Congress decided that tax considerations should not influence how an individual disposes of his property. Consequently, the law was changed.

Today, two kinds of terminable interests qualify for the marital deduction. Qualified terminable interest property. Section 2056(b)(7) defines this as property that passes from the decedent and from which the surviving spouse is "entitled to all of the income." The other kind of terminable interest that qualifies as a charitable remainder trust. An individual can place his property in trust with directions to the trustee to pay over a fixed sum to his spouse periodically during her lifetime and to donate the corpus to charity after her death. The sole requirement—in section 2056(b)(8)—is that the surviving spouse must be the only noncharitable beneficiary of the trust.

A problem has arisen concerning pooled income funds. A pooled income fund is an investment fund established by a college, church, hospital, charity, or other tax-exempt organization. Individuals who die can leave their money to the organization, which places it in the fund, invests it, and pays out the income to the surviving spouse as long as she lives. After the spouse dies, the investments become the property of the college or other tax-exempt organization.

A pooled income fund is not a charitable remainder trust. The staff of the Joint Committee on Taxation says it is covered by the marital deduction because it is qualified terminable interest property. However, in March, the IRS issued a private letter ruling in which it said it could not rule on whether a pooled income fund qualifies for the marital deduction because the issue is one "that cannot be reasonably resolved before regulations are issued." Hence, there is cause for concern.

The IRS has a long history of being highly technical in these matters. In order to be qualified terminable interest property, the surviving spouse must be entitled to all of the income "from the property." Technically, income received from a pooled income fund is a proportionate share of income earned from many, commingled investments. It is arguably not income from the specific property transferred. Another problem is that legacies to pooled income funds sometimes split the income while the widow is alive between the widow and a charity. There is no policy reason to discourage this. It is allowed for charitable remainder trusts. However, there is a fear that the IRS will take too literally the requirement in section 2056(b)(7) that "all" of the income go to the surviving spouse. There are at least two other reasons why the IRS could decide pooled income funds fail to qualify for the marital deduction if the IRS is so inclined.

My bill eliminates any ambiguity. It is a technical amendment, as I do not believe there is any doubt that Congress intended the marital deduction to cover pooled income funds. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) Paragraph (8) of section 2056(b) of the Internal Revenue Code (relating to the limitation in the case of life estate or other terminable interest) is amended by changing the heading to read as follows:

"(8) Special rule for pooled income funds and charitable remainder trusts.—".

(b) Subparagraph (A) of section 2056(b)(8) of such Code (relating to the special rule for pooled income funds and charitable remainder trusts) is amended by inserting the words "pooled income fund or" after "the only non-charitable beneficiary of a".

(c) Subparagraph (B) of such section is amended by making clause (ii) into clause (iii) and by inserting a new clause (ii) as follows:

"(ii) Pooled income fund.—The term 'pooled income fund' means a trust described in section 642(c)(5).".

(d) The amendments made by this Act shall take effect as if they had been included in section 403(d) of the Economic Recovery Tax Act (Public Law 97-34).●

By Mr. MOYNIHAN:

S. 2883. A bill to broaden the exemption for common carriers and communications companies from the telephone excise tax; to the Committee on Finance.

LONG-DISTANCE TELEPHONE CALL EXCISE TAX

● Mr. MOYNIHAN. Mr. President, common carriers, telephone and telegraph companies, radio stations and radio networks are exempted from the telephone excise tax on calls made on WATS lines. My bill would exempt them from the tax on all long-distance calls.

There is no reason to distinguish between the two calls in the tax laws. The only difference between a WATS call and an ordinary long-distance call is that they are billed differently by the telephone company. WATS stands for "wide area telecommunications service." There are two kinds of WATS lines: a so-called inward WATS, which is a toll-free 800 number, and an outward WATS, which is what each of us is the Senate has on his telephone. A WATS subscriber pays a flat fee per month, plus a variable amount based on the amount of time he spends on the phone. This gives him the privilege of making an unlimited number of long-distance calls.

WATS lines can be rented to cover the entire country or a smaller area. A WATS call travels to a WATS central office, where a computer screens it to insure the subscriber has paid for service to the particular area, and it is then dumped into the regular long-distance network. The routing priority is the same as for other long-distance calls. The telephone wires are the same as used by regular subscribers. The switching mechanism is the same. In 1978, the Federal Communications Commission ruled that WATS and ordinary long-distance are essentially identical and ordered the American Telephone and Telegraph Co. to explain the reason for its rate discrimination in favor of WATS. The Federal Communications Act says that it is illegal for a telephone company "to make any unjust or unreasonable discrimination in charges * * * in connection with like communication service * * * "[Instead of explaining, A.T. & T. took the Government to court. On June 11, 1982, the U.S. Court of Appeals for the D.C. circuit decided that the FCC had not done as detailed an analysis as it should have before issuing the "like service" ruling. The court vacated the ruling and remanded it "for such further proceedings, consistent with this opinion, as the Commission may wish to pursue."]

The Government has collected a telephone excise tax since 1917. Common carriers and communications companies have been exempted from the tax for some uses of the telephone since 1918. From 1918 to 1939, the exemption covered "leased wires and talking circuit special services." During that time, the Government collected two telephone taxes: a tax of 5 cents or 10 cents per call on calls costing more than a fixed amount. The minimum charge before a call was taxed was 15 cents at first, but was increased to 31 cents in 1932. Common carriers and communications companies were not exempted from it.

The other tax, from which they were exempted, was a tax of 10 percent—5 percent after 1932—on "leased wires and talking circuit special services." A leased wire was a private line rented between two points. The people at the telephone company do not remember exactly what a talking circuit special service was. They believe it was a special line on which a voice would be transmitted much more clearly than a regular telephone line: the sort of line a radio network might use to feed its programs to member stations. Hence, the designation special "talking" circuit. The House and Senate committee reports for the Revenue Act of 1918 give no reason for the exemption.

From 1939 to 1958, common carriers and communications companies were exempted from tax on leased wires, teletypewriters, talking circuit special services, and "wire and equipment service[s]." In the last category were stock market tickers and comparable devices. However, there was confusion because the telephone tax was completely remodeled under the 1939 code. Taxes were levied on "local telephone service," long distance calls costing more than 24 cents, "telegraph service," "leased wire, teletypewriter or talking circuit special service," and "wire and equipment service." The Government took the position that a common carrier or communications company had to pay a tax on a leased wire used entirely within a local telephone area because the wire constituted a "local telephone service."

From 1959 to 1965, the exemption for common carriers and communications companies covered all leased wires that went outside the local telephone area, "wire and equipment service," and "wire mileage service." The House committee report defined wire mileage service as "generally that communication service which cannot be connected, directly or indirectly, to an exchange operated" by the telephone company. A report the following year on a technical corrections bill added that the 1958 act had changed the definitions of "taxable types of services."

One of the former taxable categories was "leased wire, teletypewriter, or talking circuit special service." Part of this category was separated out into what is now known as teletypewriter exchange service. Most of the remainder of the old category is now in what is called wire mileage service.

From 1965 until present, common carriers and communications companies have been exempted from the telephone tax on WATS telephone calls. They are also exempted on what used to be known as leased wires and talking circuit special services, but since the Government stopped taxing these in 1965, this is no longer techni-

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cally an exemption. The Government also no longer taxes what used to be known as "wire and equipment services."

The legislative history of the 1939, 1958, and 1965 acts is unenlightening. Nowhere does it say why an exemption was provided—or altered.

A problem with exempting radio stations from taxes on WAT's telephone calls, but not ordinary long distance calls, is that this discriminates against smaller stations and smaller networks. The Black Radio Network, the Mutual Black Network, and the National Black Network cannot afford WATS lines. Their more well-heeled competitors like CBS, NBC, and ABC can. Long distance telephone calls by small black radio networks are taxed; their competitors' calls are not. This is a discrimination that I do not think we ought to allow.

My bill amends section 4253(f) of the tax code and would extend the exemption for common carriers and communications companies to all "toll telephone" calls.

Mr. President, I ask unanimous consent for the text of the bill to be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) Subsection (f) of section 4253 of the Internal Revenue Code (relating to an exemption for common carriers and communications companies) is amended by deleting "(2)" in the phrase "section 4252(b)(2)".

(b) This amendment shall take effect on the date of enactment.●

By Mr. GRASSLEY:

S. 2884. A bill to lower the rate of duty on sulfathiazole until the close of December 31, 1985; to the Committee on Finance.

S. 2885. A bill to suspend the duty on sulfapyridine until the close of December 31, 1985; to the Committee on Finance.

DUTIES ON CERTAIN SULFA DRUGS

● Mr. GRASSLEY. Mr. President, on July 21 I introduced S. 1979, a bill to suspend duties on certain sulfa drugs. Today, I am introducing two bills involving the same subject matter. I have every reason to believe that the controversial aspects of the previous legislation have been resolved.

This legislation addresses the need to reduce the cost of sulfanamides, which include the three compounds mentioned in these bills. These drugs are used in a high percentage of all hogs produced in the United States either for therapeutic purposes or in the feed supply. In closing it must be stressed that there is no U.S. manufacturer of sulfathiozole or sulfapyridine. Thus, lowering the duty will be a positive development for consumers and pork producers alike.

By Mr. MITCHELL:

S. 2887, A bill to amend the Internal Revenue Code of 1954 to reform and simplify the individual income tax; to the Committee on Finance.

PERSONAL INCOME TAX REFORM ACT OF 1982

Mr. MITCHELL. Mr. President, public dissatisfaction with the structure of the Federal income tax has reached a level unmatched in recent history. Today, I am introducing legislation to reform and simplify the Tax Code.

We face a major challenge in reforming Federal tax laws. Recent public opinion polls reveal a distributing trend: More and more people now feel that the income tax is the "most unfair" tax that they must pay. Such a finding is of great concern because the Federal Government relies on the personal income tax for almost half of the revenues it collects. This attitude no doubt contributes to the high level of dissatisfaction with the performance of the Federal Government, since the tax system is the means through which many people most frequently come into contact with the Government.

Reforming the income tax can also play a major role in addressing the serious problems now besetting our economy. Economists have long recognized that excessively high tax rates can discourage work effort and distort saving and investment decisions. Last year's tax bill acknowledged these problems but did not address them. This year's tax bill contained some reform provisions, but it was basically a tax increase bill. The fundamental problems of the current tax system remain.

The Congress last year focused on across-the-board rate reductions and ignored the distributional aspects of those reductions. Moreover, it overlooked the available opportunities to broaden the tax base. By eliminating or modifying many tax preferences, my bill will allow a much greater reduction in tax rates.

Senator Bradley has offered the most comprehensive tax reform proposal to date. I commend him for the hard work he has performed in drafting his innovative proposal. My legislation is very similar to his in the changes in deductions, exclusions, and credits, but it differs in the schedule of tax rates proposed.

A basic tax rate of 12 percent would apply to all taxpayers. Above $40,000 in annual income for married couples ($25,000 for single taxpayers), a progressive surtax would apply. The net result would be a 20-percent rate applied to income between $40,000 and $50,000 ($25,000 to $30,000 on single returns), 30 percent on income between $50,000 and $60,000 ($30,000 to $37,000 on single returns), and 36 percent on income above $60,000 (above $37,000 on single returns). In effect, the number of tax brackets would be reduced from 13 to 4.

The proposed range of the tax rates of 12 to 36 percent compares to 12 to 50 percent under current law.

Furthermore, the zero bracket amount (below which no tax is paid) for joint returns would be increased to $4,600 from $3,400. The personal exemption would be raised to $1,500 from $1,000.

Complementing these tax reductions would be the elimination or modification of most exclusions, deductions, and credits. This assures that the simplified tax system would produce the same amount of revenues that the current system is expected to produce.

I do not believe that all deductions and exclusions should be eliminated. Because one of the central purposes of this proposal is to restore confidence in the tax system, it would be counterproductive to repeal these tax provisions that enjoy wide public support and serve valid purposes. Thus, my bill would retain the deduction for charitable contributions, which plays an important role in enhancing the voluntary spirit in our society. The bill would also continue the home mortgage interest deduction, which has helped produce one of the highest rates of private homeownership in the world.

Other provisions that my bill would continue include the deduction for State and local taxes, the exclusion for social security and veterans benefits, and the exemption of interest on general obligation bonds.

I feel very strongly that any new system should continue to be based on the ability to pay. That is, differences in tax liabilities should reflect differences in taxpayers' ability to pay their taxes. The share of a family's income that must be devoted to necessities declines as income rises. On that basis our tax system has historically levied higher taxes on those most able to pay them, and lower taxes on those with lower income.

My belief in this approach explains why my bill is not a pure "flat tax" proposal. If adopted a pure flat rate has the potential of even further undermining confidence in government by eliminating all progressivity from the tax system. The very wealthy would have their taxes slashed, while the low- and middle-income taxpayers would end up paying more. That result would defeat the purpose of enacting comprehensive income tax reform.

Once the principle of ability to pay is accepted, the task is to determine what the tax rate schedule will be. In constructing this schedule, I believe that we should not overlook the effect of last year's tax cut on the distribution of the income tax.

Last year, administration officials argued that their proposed across-the-board rate reductions were fair because all tax rates were reduced by the same percentage. In the absence of inflation and higher social security taxes, that argument might have been true. But both inflation and the scheduled social security tax increases raise the tax liabilities of low- and moderate-income individuals disproportionately. Thus, the net effect of the tax cut once those factors are considered, is to provide greater tax relief for the wealthy. By 1984, taxpayers earning more than $50,000 who in the aggregate contribute about one-third of all income taxes, will receive about two-thirds of the net tax cut.

I believe that this result is unfair. Any tax reform that Congress enacts should achieve a more progressive distribution of taxes than current law will provide. My bill attempts to do that.

The benefits of my bill are obvious once the defects of the current system are examined. These defects are largely attributable to the pattern of tax legislation over the last few decades. Special preferences were carved out of the tax base one at a time, either as a result of sincere efforts to accomplish some specific policy objective, or as a result of lobbying by special interests to secure privileged treatment. Consequently, the tax base has shrunk relative to personal income. In 1982, for example, taxable income is expected to be only 60 percent of personal income.

To meet the Government's revenue needs, tax rates have had to remain high.

One result of this system is that middle-income workers are now subject to high marginal tax rates, as inflation has pushed these taxpayers into higher and higher brackets. In contrast, many upper income taxpayers have been able to shield themselves from the high statutory rates by taking advantage of tax shelters. Also, since most special tax breaks relate to investment income, wage earners have not been able to take advantage of the increasing number of tax preferences. Thus, working Americans by and large pay rates very close to the maximum rates set forth for them in the Tax Code, while wealthy Americans do not. Furthermore, these high rates discourage work effort and savings by middle-income workers.

A second problem with the current system is the complexity of determining one's tax liability. It is estimated that 40 percent of all taxpayers rely on professional help to fill out their tax returns. The confusion and costly compliance resulting from the existing individual income tax are far too great.

The current system erodes public confidence in basic government functions and directs too many resources to complying with the tax system that could be devoted to productive users.

Third, the tax system is widely perceived to be unfair. Most preferences are in the form of deductions or exclusions from income. Thus, the value of these preferences to each individual depends on his or her tax bracket. The higher one's income, the more valuable the tax preference. As tax breaks proliferate, progressivity declines and the perceived inequity of the Tax Code increases. Also, two taxpayers with identical incomes may pay very different amounts in taxes, depending on their sources of income or how they spend it. A fairer tax would strive to have all taxpayers with the same income paying the same amount in taxes.

Finally, tax evasion is encouraged by all these factors—a desire to avoid high tax rates, an increasingly complex tax code, and a perception by many taxpayers that they are paying more than their fair share. The IRS estimates that as much as $65 billion in revenues may be lost to tax cheating.

The appropriate response to these problems is a broader tax base accompanied by substantially lower tax rates. This simplified tax system would lower tax rates for the majority of middle-income Americans, encourage economic growth, reduce the cost of complying with the Tax Code, make the tax system more equitable, and reduce the incentives to evade taxes.

This approach differs markedly from past tax reform efforts which have been piecemeal, hastily prepared and usually offered for other purposes. A recent glaring example was the attempt to modify the deduction for business meals, the so-called "three-martini-lunch" proposal. This measure was first proposed in the Senate at about 4 a.m. during the Senate's marathon session on the 1982 tax increase legislation. No debate was permitted on the proposal. The purpose of the amendment was to raise revenue, not to achieve tax reform. Since full repeal of the deduction would have raised more revenue than was necessary at the time, the proposal before the Senate was to preserve the deduction in full for business lunches which occur away from the taxpayer's place of residence and to reduce the deduction to 50 percent of the cost of these business lunches which occur in the locality of the taxpayer's residence.

I voted against this amendment because it was obviously an effort to raise revenue, not to accomplish tax reform. Also, passage of this "modification" could create the impression of reform, making real reform more difficult, even though the "modification" essentially preserves the deduction. If the real objective were to reform the Tax Code, no deduction at all would be allowed for business meals, regardless of whether the meals occurred at home or on a business trip. The vast majority of working Americans eat lunches during the business day for which they are entitled to no deductions. A provision that allows a few taxpayers to force other taxpayers to share the expense of their lunches is exactly the type of provision that undermines public confidence in the tax system. This deduction should be repealed entirely, which my bill would do.

A second example of past tax reform efforts that have fallen short is the minimum tax on individuals. Proposals to impose a stronger minimum tax have a worthwhile objective—assuring that each individual pays a minimum amount of taxes each year—and I have supported such proposals. In the context of our current Tax Code, with all of its exclusions and deductions, there is really no choice other than to oppose a minimum tax on those taxpayers who, by using many of these preferences, reduce their taxes to negligible amounts.

Unfortunately, the minimum tax simply papers over the more fundamental problem of the Tax Code. The fact that the minimum tax has been overhauled twice in the last 4 years is an indication that we are not satisfied with the effectiveness of this approach in producing an equitable tax system. Rather than simply imposing a special tax on the current system, with all of its loopholes, we should directly attack those provisions that allow high-income taxpayers to escape paying their fair share.

Attempts to deal with the marriage penalty also illustrate the advantage of my simplified approach. The marriage penalty, which is the extra tax that two single people must pay if they get married, results from the high tax rates that are applied to the second spouse's income.

Last year's tax bill reduced the marriage penalty by introducing a new deduction for part of the earnings of the low-earning spouse. While this was a step in the right direction, this measure did not eliminate the marriage penalty, and it involves yet another complex calculation in determining a family's tax liability.

My bill would eliminate this new deduction, but it would also virtually eliminate the marriage penalty for most couples with total income under $40,000. Those making more than $40,000 would still have a reduction in the marriage penalty. This is possible because my bill applies a flat rate on incomes up to $40,000 on joint tax returns.

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In summary, legislation that would broaden the tax base and reduce tax rates offers the most satisfactory approach to achieving the goal of tax reform. My bill will encourage economic growth and restore respect for the Tax Code while still recognizing the need to distribute the tax burden fairly.

By Mr. WARNER (for himself, Mr. Harry F. Byrd, Jr., Mr. Huddleston, Mr. Bumpers, Mr. Lugar, Mr. Stafford, Mr. Moynihan, Mr. Cannon, Mr. Hollings, Mr. Helms, Mr. East, Mr. Boren, Mr. Andrews, Mr. Boschwitz, Mr. Proxmire, Mr. Inouye, Mr. Exon, Mr. Bentsen, Mr. Laxalt, Mr. Tsongas, Mr. Sarbanes, Mr. Pryor, Mr. D'Amato, Mr. Ford, and Mr. Dole):

S.J. Res. 239. Joint resolution designating October 16, 1982 as "National Newspaper Carrier Appreciation Day"; to the Committee on the Judiciary.

NATIONAL NEWSPAPER CARRIER APPRECIATION DAY

Mr. WARNER. Mr. President, I rise today to introduce a joint resolution proclaiming October 16, 1982, as "National Newspaper Carriers Appreciation Day."

One of the cornerstones of our democracy is a free and open press, as affirmed by the freedom-of-the-press clause of the first amendment to the U.S. Constitution.

Every day, more than 107 million Americans read one or more of the 9,396 daily, weekly, or other newspapers published in the United States. Approximately 1 million newspaper carriers deliver 83 percent of these papers.

The Department of Labor ranks newspaper employment as the Nation's largest manufacturing employer with 432,000 employees. Of the newspaper carriers included in this figure, an overwhelming 90 percent of them are 18 years of age or under. Having once been a newspaper carrier myself, I know that newspaper carriers are often subject to inclement weather, and occasionally their hard work goes unappreciated.

For these reasons, I am pleased to introduce this joint resolution, and ask that it be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 239

Whereas newspapers and their availability to the citizens comprise a cornerstone of a free society and of our democracy, as affirmed under the freedom of the press clause of the First Amendment to the United States Constitution;

Whereas every day more than 107 million Americans read one or more of the 9,396 daily, weekly, or other newspapers published in the United States;

Whereas 83 percent of the daily newspapers printed in the United States are delivered to the homes of readers;

Whereas newspaper carriers have always played an important and vital role in the distribution of newspapers;

Whereas there are approximately one million newspaper carriers in the United States;

Whereas 90 percent of such newspaper carriers are 18 years of age or under; and

Whereas it is appropriate to acknowledge the too often unappreciated contribution of newspaper carriers to freedom, and to recognize their devoted efforts in delivering the paper regardless of inclement weather: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1982, be designated as "National Newspaper Carriers Appreciation Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate celebrations and activities.

● Mr. MOYNIHAN. Mr. President, I rise today in support of the joint resolution offered by my distinguished colleague from Virginia designating October 16, 1982, as "National Newspaper Carriers Appreciation Day."

Newspapers have always been and continue to be one of our primary sources of news, information, and entertainment. And the overwhelming majority of our newspapers are delivered, everyday and often through adverse weather conditions, by approximately 1 million newspaper carriers. These individuals, many of whom are 18 years old or younger, deserve our recognition, indeed our thanks, for their hard work and sense of responsibility. So it is entirely fitting that we should set aside October 16 to honor our Nation's newspaper carriers.●

ADDITIONAL COSPONSORS

S. 894

At the request of Mr. Cannon, the name of the Senator from Minnesota (Mr. Durenberger) was added as a cosponsor of S. 894, a bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976.

S. 1018

At the request of Mr. Chafee, the name of the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 2094

At the request of Mr. Cranston, his name was added as a cosponsor of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

S. 2174

At the request of Mr. Thurmond, the name of the Senator from Alabama (Mr. Denton) was added as a cosponsor of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2420

At the request of Mr. Heinz, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of S. 2420, a bill to protect victims of crime.

S. 2572

At the request of Mr. Thurmond, the name of the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2585

At the request of Mr. Cranston, the names of the Senator from New Jersey (Mr. Bradley), the Senator from New York (Mr. Moynihan), the Senator from Ohio (Mr. Metzenbaum), and the Senator from Arkansas (Mr. Bumpers) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2631

At the request of Mr. Kasten, the name of the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2663

At the request of Mr. Hart, the name of the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of S. 2663, a bill to authorize a national program of improving the quality of education.

S. 2670

At the request of Mr. Moynihan, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 2670, a bill to prohibit all U.S. economic and military assistance and exports (except food and medicine) to, and all imports from, any country whose government has failed to take adequate measures to prevent opium and its illicit derivatives from being produced or refined for export to the United States.

S. 2726

At the request of Mr. Sasser, the name of the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 2726, a bill to provide for an increase in monetary aggregates and the maintenance of stable interest rates, to provide for the voluntary establishment of dual prime-rate policies by the Board of Governors of the Federal Reserve System, and for other purposes.

S. 2801

At the request of Mr. Jackson, the names of the Senator from South Dakota (Mr. Pressler) and the Senator from Indiana (Mr. Lugar) were added as cosponsors of S. 2801, a bill to withdraw certain lands from mineral leasing, and for other purposes.

S. 2829

At the request of Mr. Gorton, the name of the Senator from Hawaii (Mr. Matsunaga) was added as a cosponsor of S. 2829, a bill granting the consent of Congress to the Northwest Interstate Compact on low-level radioactive waste management.

SENATE JOINT RESOLUTION 174

At the request of Mr. Heinz, the names of the Senator from New Hampshire (Mr. Humphrey), the Senator from North Dakota (Mr. Andrews), and the Senator from Alaska (Mr. Stevens) were added as cosponsors of Senate Joint Resolution 174, a joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day."

SENATE JOINT RESOLUTION 203

At the request of Mr. Weicker, the names of the Senator from Rhode Island (Mr. Pell), the Senator from Nevada (Mr. Cannon), and the Senator from West Virginia (Mr. Randolph) were added as cosponsors of Senate Joint Resolution 203, a joint resolution to authorize and request the President to designate the week of November 30, 1982, through December 5, 1982, as "National Preventive Dentistry for the Elderly Week."

SENATE JOINT RESOLUTION 205

At the request of Mr. East, the names of the Senator from Nevada (Mr. Cannon) and the Senator from Arizona (Mr. Goldwater) were added as cosponsors of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 238

At the request of Mr. Thurmond, the name of the Senator from Rhode Island (Mr. Pell) was added as a cosponsor of Senate Joint Resolution 238, a joint resolution to designate October 9, 1982, as "National Running and Fitness Day."

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. Dole, the names of the Senator from South Carolina (Mr. Thurmond), and the Senator from Idaho (Mr. McClure) were added as cosponsors of Senate Concurrent Resolution 118, a concurrent resolution expressing the sense of the Congress commending the achievements of U.S. Special Negotiator Philip C. Habib.

SENATE RESOLUTION 393

At the request of Mr. Pressler, the name of the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of Senate Resolution 393, a resolution expressing the sense of the Senate that the Secretary of Agriculture should promptly call for a section 22 study on honey imports.

SENATE RESOLUTION 449

At the request of Mr. Armstrong, the name of the Senator from Wisconsin (Mr. Kasten) was added as a cosponsor of Senate Resolution 449, a resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

SENATE RESOLUTION 451

At the request of Mr. Hayakawa, the name of the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of Senate Resolution 451, a resolution regarding asylum for Hu Na.

SENATE RESOLUTION 458—RESOLUTION RELATING TO THE EXPORT-IMPORT BANK

Mr. JACKSON (for himself, Mr. Bentsen, Mr. Bradley, Mr. Cochran, Mr. Chafee, Mr. Chiles, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Durenberger, Mr. Garn, Mr. Gorton, Mr. Heinz, Mr. Inouye, Mr. Johnston, Mr. Leahy, Mr. Lugar, Mr. Mathias, Mr. Moynihan, Mr. Percy, Mr. Riegle, Mr. Rudman, Mr. Sarbanes, and Mr. Weicker) submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Res. 458

Whereas export of American products are vitally important to our nation's economy and support one of every seven jobs in this country;

Whereas unemployment is a serious concern of all Americans and statistics show that each $1,000,000,000 in exports supports over 30,000 jobs;

Whereas growth in our exports will improve our balance of trade deficit and promote economic growth;

Whereas inadequate budget authority for fiscal year 1983 for the Export-Import Bank direct loan authority limits our competitive position with other industrialized nations for export business; and

Whereas the Export-Import Bank requires only commitment authority and not direct appropriations:

Resolved, That it is the sense of the Senate that—

(1) The Committee on Banking, Housing and Urban Affairs of the Senate shall investigate ways to strengthen the Export-Import Bank with the aim of ensuring that United States exports are competitive with respect to financing with other exports in world markets;

(2) The Committee on Appropriations of the Senate shall provide sufficient authority for Export-Import Bank so as to enable United States exporters to compete in world markets;

(3) The Export-Import Bank shall meet its charter obligation by providing United States exporters with competitive financial support and, accordingly, the Secretary of the Senate shall transmit a copy of this resolution to the Export-Import Bank of the United States.

Mr. JACKSON. Mr. President, I am submitting today a bipartisan resolution whose aim is to express the sense of the Senate that the Export-Import Bank of the United States should be strengthened.

The Export-Import Bank was created by the Congress. It is supported by the Congress. And it is directed by the Congress to provide competitive financing terms to buyers of U.S. exports. So Congress should speak up regarding the Bank's needs.

Permit me briefly to summarize what the resolution says and why.

First, the resolution calls upon the Senate Banking Committee to investigate ways to strengthen the Export-Import Bank.

The economic realities of the world marketplace must be recognized. These realities involve an interdependent world. The free enterprise system is facing worldwide market competition.

The competition have their roots in a set of national priorities established by their government. The United States has no such commitment. And our lack of resolve shows up in national statistics—statistics on trade deficits, unemployment, business failures, idle capacity, and loss of product superiority.

This Nation needs a strong commitment to exports.

My colleague, Senator Heinz, has introduced Senate bill 2600. This legislation, I believe, provides an excellent working paper from which we can explore the ills of the Bank and establish our Nation's commitment to exports. And, as a cosponsor, I am hopeful that the Senate Banking Committee will move quickly on this measure.

Second, the resolution calls upon the Senate Appropriations Committee to provide sufficient authority for the Export-Import Bank.

Sharp reductions in the lending authority of the Bank have been recommended. The Bank is currently being funded at a level of $4.4 billion for direct loans and $9.2 billion for loan guarantees. The administration has requested $3.8 billion for direct loans and $8 billion for loan guarantees for fiscal year 1983. These figures reflect a 13-percent reduction in funding.

I am concerned about these reductions in the Bank's authority.

Why reduce a program that increases exports when the national deficit reached almost $40 billion last year?

Why reduce a program that produces jobs when the unemployment rate is 9.8 percent?

And, why reduce a program that provides money for the Treasury when the projected deficit for fiscal year 1983 is over $100 billion?

Third, the resolution asks the Export-Import Bank to provide U.S.

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exporters with competitive financial support.

The Export-Import Bank is not fulfilling the mandate laid down by Congress in the Export-Import Bank Act of 1945. The statute explicitly states that "competitive terms" means "terms and conditions which are competitive with the government-sponsored rates and terms and other conditions available for the financing of exports from the principal countries whose exports compete with U.S. exporters."

I want to emphasize competitive financing. Competitive financing means reliable financing. It means financing available to foreign buyers based on a consistent set of guidelines. These guidelines must support the sale of products in world markets. This is necessary for export financing to be competitive, and the U.S. industry does not have it.

So Congress must send a message to our competitor nations and the world marketplace of buyers. Each should know of the resolve of this Congress to support the competitive force of the Export-Import Bank as chartered.

● Mr. GORTON. Mr. President, I am pleased to join today in cosponsoring the resolution offered by the senior Senator from the State of Washington. The resolution affirms the Senate's belief that the Export-Import Bank has a vital role to play in insuring that U.S. exports are competitive with respect to financing with other exports in world markets. It is important for us to recognize that the unreasonable and predatory official export credit practices used by our trade competitors unfairly to compete with American exporters pose a serious threat to our Nation's exporting community. If we do not act to meet this threat, it is not only our exporting community which will suffer, but also any hope we have for economic recovery.

We can no longer allow to continue unchecked the anticompetitive export financing practices of our foreign competitors. Attempts to negotiate an international agreement to end these practices have proven fruitless. The adoption of this resolution, therefore, will serve notice that we will not allow our Nation's exporting sector to be unfairly disadvantaged in its ability to compete in the world marketplace.●

● Mr. HEINZ. Mr. President, I am pleased to be joining today with Senator Jackson and more than 20 of my colleagues in introducing a resolution expressing the sense of the Senate in support of the Export-Import Bank. I am not sure that such support was ever more needed than it is today. The Bank is under attack from many sides, while the need for its export support of facilities has never been more acute. Our trade competition are continuing their efforts to export their unemployment to our shores by providing their businesses with highly subsidized export credits. This puts our own producers at a disadvantage, since they are unable to match the predatory credit terms due to a lack of resources at the Eximbank and an unwillingness to use aggressively the resources that are available.

Mr. President, this fiscal year the Export-Import Bank will likely fall hundreds of millions of dollars short of using the program authority that the Congress gave it. This will not happen because there is no need for Eximbank support. That need has only increased over the past months as sale after sale has been lost to foreign exporters using aggressive financing. It will fall short because the Bank has over the past year pursued policies that have made Eximbank terms so unattractive that American producers have despaired of obtaining competitive financing from the institution that is chartered to provide it.

The dangers of an underfunded and unaggressive Eximbank are becoming clear to us, Mr. President, as our trade competitors, sensing a lack of willingness to defend our export markets, are now increasing their efforts to win sales in our domestic market by means of highly subsidized export credits. Mr. President, the time to have stopped this credit war was long ago; now it is coming home. Just last week the Subcommittee on International Finance and Monetary Policy, which I chair, held a hearing on the sale of subway cars to New York City's Metropolitan Transit Authority, a sale which was won by a Canadian producer armed with a 9.7-percent export package provided by the Canadian Government. America's last producer of subway cars was the loser in that deal. But we are all losers when a sale is lost due to uncompetitive financing: Jobs are lost, tax revenues are lost, foreign exchange is lost, and the free market is undermined because the sale is awarded to the less efficient producer. This loss spreads to our national security when it is one of our strategic industries that is victimized. I am referring to our aerospace, machine tool, and electronics industries, which have suffered particularly severely in an export credit war that we did not begin and which we have been unwilling to fight. Our unilateral disarmament is daily translating into clear defeat.

It is true, Mr. President, that there have been some improvments in our negotiations over export credits within the Organization for Economic Cooperation and Development. That progress, however, has been insufficient, little more than regulating the export credit war, but not ending it. In fact, Mr. President, steps that would lead to an end of this competition have thus far been resolutely resisted by the French and other countries that think they are benefiting from the subsidized export credits. What little progress that has been achieved has come in direct relation to the perception abroad that the United States is beginning to take action to defend its interests. That perception has been promoted in large measure by action in the Congress, such as the Competitive Export Financing Act that I and several of my colleagues introduced last year and which was reported by the Banking Committee early in the fall. Timely adoption of that measure alone would do a great deal to bring an end to this senseless subsidizing.

The Export-Import Bank is our defense against predatory export financing. Now is the time to press hard our determination to make subsidized financing unprofitable for our trade competitors by denying them any advantage from it. Strong support for the Export-Import Bank at this point will bring about the conclusion of negotiations leading to the end of official export credits as a factor in international trade, and that is the goal which I am confident we all share.

I congratulate Senator Jackson and my fellow cosponsors of this resolution—it is timely. It is important that the sense of the Senate be dramatized on this issue.

Mr. President, I ask unanimous consent that a recent editorial appearing in U.S. News & World Report, entitled "Give U.S. Business a Break," be included in the Record at this point. The article clearly shows that the time for action, such as that which is urged in the resolution being introduced today, has arrived.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From U.S. News & World Report, Aug. 2, 1982]

Give U.S. Business a Break

(By Marvin Stone)

It should be instructive to this administration to comprehend fully the vehemence with which our allies are reacting to President Reagan's effort to block the building of a Soviet gas pipleline to Western Europe.

Details of that story are on pages 25 and 26.

The pipleline, after all, is the largest East-West business venture ever undertaken. It means tens of thousands of jobs in Western Europe. Protecting their export industries, thus protecting jobs, is a high priority with those governments. In this case, our allies are saying: Jobs are important—far more important than good relations with Mr. Reagan.

What should be instructive in all this is that in most countries of the world govenment and business are partners. Not here. The U.S. government remains virtually the only major industrial power that hampers, rather than helps, its exporting industries.

Take the Export-Import Bank, a federal agency whose function is to help U.S. companies sell more abroad by easing credit terms to purchasers. For two years the

Office of Management and Budget has been reducing the agency's lending power—although, so far, Eximbank has never cost the taxpayers a cent.

Moreover, the Eximbank Board of Directors has set rates so high that competitor countries consistently beat those rates.

When other nations offer cheaper credit, they capture the trade. Last year this country exported 27.3 billion dollars less of merchandise than it imported.

How much does that matter? Senator John Heinz says that "if we had just broken even in the merchandise trade balance last year almost 1 million more Americans would have had jobs . . . and the budget deficit would have been cut by a third." That would have looked pretty good at a time when 10 million Americans are trying to eat without paychecks and the budget deficit hangs above 100 billion.

Now the U.S. and European nations have made a new agreement closing some, but not all, of the gaps between their export credit rates and ours. That helps in competing abroad, but nobody thinks it is going to balance trade anytime soon. The word from Heinz's camp, which is pushing a bill to provide competitive rates along the line, is, "We don't think it's a very significant change."

There has been a widespread impression that most Eximbank help goes to big, rich companies—Boeing, for instance. That is not wholly accurate. Big companies do indeed get a major share of Eximbank assistance. But, as Caterpillar Tractor's chairman, Lee Morgan, has pointed out: "Eximbank was used directly by more than 2,600 U.S. firms" in 1981.

As for Boeing, its U.S. companies employ more than 95,000 persons and use the services of 4,000 subcontractors with uncounted thousands of workers. Boeing officials have predicted that, if Eximbank credit is not revised to match foreign subsidies, the U.S. aircraft industry could be reduced to one manufacturer and 300,000 jobs could be lost.

Boeing's own recent experience offers a dramatic example of what happens when the U.S. does not compete effectively. French offers of cheap credit gobbled up the rich Mideast market for aircraft. The orders went to Europe's Airbus, diminishing the future for Boeing's forthcoming new models. Jobs and the trade balance hang on such an episode.

This year, for the first time, an operating deficit is forecast for Eximbank—but it has built up a reserve of 2 billion dollars. Heinz wants to vote it a kitty of a billion and tell it to go out and meet the foreign competition.

Whether or not the precise terms of Heinz's legislation are the best, there assuredly is an urgent need for action. A coalition of union and industry officials and state governors is calling for steps to bolster the U.S. export effort by some means or other. We cannot survive by what Senator Heinz calls "unilateral economic disarmament."●

AMENDMENTS SUBMITTED FOR PRINTING

CLAYTON ACT AMENDMENTS

AMENDMENT NOS. 2740 THROUGH 2905

(Ordered to be printed and to lie on the table.)

Mr. **BAUCUS** submitted 166 amendments intended to be proposed by him to the bill (S. 995) to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act.

TEMPORARY EXTENSION OF PUBLIC DEBT LIMIT

AMENDMENT NOS. 2906 THROUGH 2921

(Ordered to be printed and to lie on the table.)

Mr. **BAUCUS** submitted 16 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NOS. 2922 THROUGH 2970

(Ordered to be printed and to lie on the table.)

Mr. **WEICKER** submitted 49 amendments intended to be proposed by him to the joint resolution House Joint Resolution 520, supra.

AMENDMENT NOS. 2971 THROUGH 3264

(Ordered to be printed and to lie on the table.)

Mr. **PACKWOOD** submitted 294 amendments intended to be proposed by him to the joint resolution House Joint Resolution 520, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. **LUGAR**. Mr. President, as chairman of the Senate Agriculture Subcommittee on Agricultural Research and General Legislation, I wish to announce that a hearing on S. 2291 has been scheduled on Tuesday, September 14. S. 2291 would require the Secretary of Agriculture to disseminate farm income estimates on a monthly basis.

The hearing will begin at 9:30 a.m. in room 324 Russell Senate Building.

Anyone wishing to testify should contact Denise Alexander at 224-2035.

SUBCOMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. **WARNER**. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy and Mineral Resources hearing regarding America's role in the world coal export market previously scheduled for Tuesday, September 14 at 9:30 a.m. has been postponed until Thursday, September 23 at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building.

For further information regarding this hearing you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

AUTHORITY FOR COMMITTEES TO MEET

Mr. **BAKER**. Mr. President, I have two routine requests that have been cleared with the minority leader—I should like the record to show that—and I will state them now for the consideration of Senators.

COMMITTEE ON FOREIGN RELATIONS

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 10, at 10 a.m., to hold an open hearing on an overview on the Middle East.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Subcommittee on Energy of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 9, at 1:30 p.m., to hold an oversight hearing to discuss plutonium use policy.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ALL-AMERICAN DRUNK

● Mr. **QUAYLE**. Mr. President, we must engage in war. A war to end the slaughter of 70 Americans a day, 26,000 Americans a year. Americans who are innocent victims, many of them children, who die horrible deaths by fire and force. Victims who leave behind bereft families whose grief is worsened because they have to watch as the killers go free—free to kill and maim again.

Mr. President, I am speaking about the war we must wage against the Nation's drunk drivers. If there were a plane crash every day in the United States, caused by a pilot who was flying under the influence of alcohol, that resulted in the death of 70 people, you better believe that this country would be up in arms clamoring for something to be done about the problem. Well, every day 70 Americans do die in crashes, but they are in automobiles. The deaths are the result of an impaired pilot, the driver who is drunk.

Airline safety is a subject that is not taken lightly in our Nation. Great concern, caution, and care is exercised to prevent deaths and injuries that result from a plane crash. If a crash occurs, the press convenes on the scene, along with the Aeronautics Safety Board, and the country joins in the ensuing moratorium until the cause of the crash is uncovered and we are assured it will not happen again.

This is not the case in our response to auto crashes. Despite the fact that drunk driving is the most common form of violent death in the Nation, no moratorium is convened. In fact, I believe that drunk driving has become an accepted part of American life. We read the horror stories, and they have

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an all-American ring. We watch as the winner of the first Academy Award for best actress, Janet Gaynor, struggles for life after a taxi she was riding in is struck broadside by the drunken driver of a van and smashed into a tree. The other injured rider in the taxi is none other than Peter Pan; that is, the musical star Mary Martin, whose friend and manager, Ben Washer, was killed in the crash. The drunken driver? Well, like Peter Pan, he must have somehow learned to fly; within a few hours he was released from jail and is free. We barely pause long enough to let the news sink in before we are off in our own cars to possibly face the same fate.

We make excuses—perhaps we recall the time we ourselves were behind the wheel and should not have been. We think how easily it could have happened to us, but we were lucky. So we look the other way, thinking "There but for the Grace of God go I."

We do not want to embarrass our neighbors with the stigma—the label of alcoholic—which is socially unacceptable. I believe there is no stigma associated with being a drunk driver in this country today. Rather, I think it has the blessing and protection of the large majority of our citizens, the very same citizens who would no more stand for 70 plane fatalities a day than they would for an epidemic that killed 26,000 people a year—which is what drunk driving does. We do not tolerate plane crashes or killer epidemics, but we look the other way when it comes to getting the drunken driver off our highways.

Yes, I know it is a complex problem. If three people sit down together to discuss the issue, you have one person talking about highway safety; another addressing the subjects of police and the courts and enforcement; and the third will be talking about addiction and alcoholism and health. But complexity is no excuse for inaction. It does not explain or justify our disinterest and avoidance of the problem.

This is why I was especially pleased to see President Reagan sign the Executive order that created the Presidential Commission on Drunk Driving a few months ago. It is my hope that this act will trigger responses in every level of our society.

In my home State of Indiana, our Governor announced the creation of a drunk driving commission last month. I think that every State needs to look closely at what it is doing to address the problem, just as every American citizen needs to look carefully at the role they play in perpetuating this menace.

Mr. President, I submit for the Record an article that recently appeared in Newsweek magazine discussing this issue.

The article follows:

The War Against Drunk Drivers

The horror of those seconds will forever haunt Cindy Ferguson. She was driving her three sons—the identical twins Tommy and Tony and her baby, Lee—to a party, when suddenly her Vega was smashed from behind. A tremendous explosion hurled her, Tony and Lee onto the street. Cindy raced back to the car and pulled Tommy's burning body from the wreck, throwing herself on him to smother the flames. A friend, Steve Willoughby, remained trapped inside, screaming, a halo of fire encircling his face. As Cindy lay there on top of her son, the other driver approached her. But when she pleaded for help, he staggered away. Willoughby, 20 and Lee Ferguson, two, died on that Memphis street. Tommy, five, was in critical condition for six months with burns over 65 percent of his body. He has lost almost all use of his kidneys and most of his hearing. He has had 100 operations already and faces 14 years of reconstructive surgery.

The other driver suffered a broken nose. Despite at least seven drunk-driving arrests in four years, he had never spent a day in jail. His 5- to 10-year sentence for second-degree murder provided little solace for Mrs. Ferguson. But her nightmare was primarily responsible for Tennessee passing one of the toughest drunk-driving laws in the nation—despite concerns that it would overcrowd the courts and prisons. "I was more concerned," said state Sen. Curtis Person, its sponsor, "about the overcrowding of hospitals, morgues and cemeteries."

Drunk driving is a national epidemic, what one reformer calls America's "socially accepted form of murder" (chart, page 37). More Americans have died at the hands of drunk drivers during the past two years than were killed in Vietnam; on average, about three Americans are killed and 80 are injured by drunk drivers every hour of every day. The drunken slaughter over the past decade is a staggering one-quarter of a million Americans—the entire population of Rochester, N.Y. Safety experts say that one out of two Americans will be victimized by a drunk driver in his lifetime is hardly surprising when the National Highway Traffic Safety Administration (NHTSA) contends that up to 10 percent of all drivers on weekend nights are legally intoxicated.

But finally, outraged Americans are trying to put an end to the carnage. In a major break with past public policy, which concentrated on highway-safety conditions and protective devices such as air bags, a coast-to-coast crusade aims at getting drunk drivers themselves off the roads. A recent Gallup poll indicated that fully 77 percent of all Americans support mandatory prison sentences even for first-time offenders. President Reagan has declared the campaign a national priority, and Congress is considering bills that would award money to states that crack down.

FAILED EXPERIMENT

Already 27 state legislatures this year have passed their own versions of the toughest drunk-driving bill in the nation, and more legislation is pending in others. Twenty states have boosted the legal drinking age, reversing a Vietnam-era trend toward lower drinking ages that made alcohol-related crashes by far the single biggest killer of Americans between the ages of 16 and 24. In New Jersey the average number of persons killed annually by 18- to 20-year-old drivers climbed by 176 percent after the state lowered its drinking age to 18. "Statistics have shown us that kids can't handle alcohol," says New Jersey state Sen. C. Louis Bassano, sponsor of a bill to raise the drinking age to 21. "It's an experiment that has failed."

Liquor is so integrated into the nation's social and economic fabric that until recently, drinking and driving was an almost untouchable political issue. But the drunk driver who kills isn't usually the social drinker who has had one beer too many (box, page 36). The NHTSA reports that the average blood alcohol concentration of a drinking driver killed in a crash is .20—twice the rate for legal intoxication in most states. Still, judges, juries, prosecutors and legislators, most of whom drink socially, have tended to view the drunk driver with "there but for the grace of God, go I" sympathy (page 38). The result: loopholed laws that have been cumbersome to enforce, wholesale plea bargaining (California charged only 5,000 people with reckless driving in 1978, but permitted 80,000 drivers to plead guilty to it) and judgments of the lecture-and-slap-on-the-wrist variety (Idaho arrested 1,800 persons for drunk driving last year, convicted one-third of them and jailed just two). Explains NHTSA administrator Raymond Peck, "The well-scrubbed father of four standing before the judge doesn't look anything like the falling-down drunk that was pulled out of the wreck."

TIME BOMBS

America's tacit acceptance of drinking and driving has the effect of loosing time bombs on the nation's highways. An example was a Georgia man who, after his 13th conviction for driving while drunk, was sentenced to just one year in prison. Thus, he was drunk and on the road again 20 months later when he crashed and killed himself. Or consider the case of William Rowan. Rowan was once sentenced to 45 days in jail, a mild penance for a California driving record that carried six convictions for drunk or reckless driving, two for hit and run. Last March, after leaving a downtown Santa Ana bar, Rowan drove onto a sidewalk, killing four-year-old David Gunderman, who was waiting for the ice-cream man. After hitting the child, Rowan slumped in his seat and lit a cigar. Police measured his blood alcohol content at .27.

Campaigns against drunk driving have always had sobering truths on their side; what they lacked was a real constituency. All that may have changed one spring afternoon in 1980, when 13-year-old Cari Lightner of Fair Oaks, Calif., was struck from behind and killed by a hit-and-run driver as she walked to a church carnival. Cari's mother was stunned to learn that the driver, a 47-year-old man who had two previous drunk-driving convictions and was out on bail on a third arrest, had spent only two days in jail previously and was unlikely to wind up there for killing Cari. Candy Lightner quit her real-estate job and launched Mothers Against Drunk Drivers (MADD), giving the public outcry against dunk driving the constituency it has always needed—the victims.

In the past, says Edward Kunec, a NASA official who joined MADD in Virginia after his 20-year-old son was killed by a drunk driver last summer, "people who had these tragedies closeted themselves and said it was fate or the will of the Lord. Now people are coming out of the closet—and they are angry." In just two years, MADD has grown to 83 chapters in 29 states. Remove Intoxicated Drivers-USA (RID), founded in New York under similarly tragic circumstances, went national last year and now boasts 55 chapters in 29 states. The anger that is the movement's glue has made these organizations aggressively self-righteous and militant. "You can't be too strident," explains RID national coordinator Doris Aiken. "I don't know how you can tell someone nicely that they are incompetent to drive." Aiken warns those who view this campaign as a fad that will soon fade: "The pendulum will not swing back. There is an endless supply of victims."

The legal system often transforms the victims' grief into outrage. Paul Lawler, 15, died five days after a van barreled off a Massachusetts highway and into a restaurant entrance, pinning him against the restaurant wall. The drunk at the wheel was on probation for his third drunk-driving conviction. He was sentenced to four and a half years in prison—including the then maximum of two and a half years for vehicular homicide—and is eligible for parole next July, just two years after the accident. "I was under the impression anyone arrested for this kind of thing would have the book thrown at him," says Paul's mother, Carol Lawler, who now heads the Greater Boston chapter of MADD. "I didn't know vehicular homicide was a misdemeanor."

Mark and Bonnie Schuett turned the death of their four-year-old daughter, Kelly, who was killed as she walked near her home in quiet Ixonia, Wis., into a statewide cause célèbre. The driver, a 29-year-old man with a prior drunk-driving arrest, pleaded no contest to driving while intoxicated and was given a suspended five-day jail sentence and fined $284. His license was revoked for a year—but was actually restored after 90 days because he took treatment at an alcohol-abuse center. "This man got away with hitting and killing my child," says Mrs. Schuett. "Her life means more than a $284 fine." As a result of the Schuetts' lobbying effort, a new Wisconsin law went into effect last May that permits the state to suspend the license of anyone arrested for an alcohol-related driving offense—even before a trial. "Maybe we've saved somebody else's life," says Mrs. Schuett. "But I'm still angry."

GUILT

If anger fuels the movement, guilt is its motor oil. Thomas and Dorothy Sexton recall going to court to witness the trial of the man whose blood alcohol content was .26 when he killed the Sextons' 15-year-old son, Tom. They saw a car thief sentenced to two years in jail, while their son's killer—who pleaded guilty to homicide by a motor vehicle—was sentenced to two year's probation and fined $200. "We painfully relate our experience and say, 'If you don't want that to happen to you, let's do something'," says Sexton, a U.S. Department of Agriculture scientist who is now active in Maryland's MADD chapter. "I'm convinced if I had been involved in something like this five years ago, Tom would be alive today."

The movement's approach to the drunk-driving problem is essentially punitive. While legislation varies from state to state, it usually makes driving with .10 blood alcohol content (three beers or glasses of wine or shots of whisky consumed by a 150-pound man in two hours) a crime. In addition, many of the new laws make prision mandatory, if not for the first offense, certainly for the second. They often increase penalties for drivers who refuse the blood alcohol test and require that all convictions—regardless of the court disposition—be listed on a driver's record.

Many states are delighted by the preliminary results of the new laws. In Maryland, drunk-driving arrests by state police have gone up 45 percent and highway fatalities down almost 20 percent since its law went into effect. Maine, which last year began mandatory jail sentences for first-time offenders, has experienced a 47 percent reduction in alcohol-related fatalities. Oregon has had the most experience—its crackdown began in 1971—and the most success. During the '70s, highway fatalities dropped 6 percent and Oregon's fatality rate declined 35 percent despite the presence of 46 percent more drivers and 62 percent more vehicles on the road.

Success may be due to more than tough laws. Oregon has coupled its legal effort with a media campaign that urges Oregonians to report drunk drivers to a special telephone hot line. One hot-line spokesman is Donny Durrant, a former logger who had lost his license four times for drunk driving before he drove off the road at 85 mph and broke his neck. Durrant, now a quadriplegic, says in a TV message: "I wish someone had gotten me off the road before I had the accident which drastically changed my life."

Other states are backing their legislation with a variety of programs. South Dakota places highway signs reading, "X marks the spot . . . THINK!" at the almost 600 locations where drivers have lost their lives since 1979. Some states have considered efforts to stigmatize the drunk driver publicly. One Pennsylvania legislator proposed a special red license plate for all drivers convicted of driving while intoxicated—a modern-day scarlet letter. Local police in both Maryland and Massachusetts have gone so far as to use roadblocks, called "sobriety checkpoints," to deter and detect drunk drivers, though the Massachusetts effort has been ruled unconstitutional by a state court. Many states, however, complain that the new laws overtax their increasingly limited resources. Maine was the only state to include in its crackdown legislative package a new tax on liquor, which is expected to produce $2 million to $3 million annually that will be earmarked for treatment and prevention of alcohol problems.

COURT WATCH

The anti-drunk-driving campaigners are pressuring the courts as well as the legislators. One such group keeps constant watch in North Carolina's Forsyth County District Traffic Court. "People walk up to us and tell us things have changed," says Sandra Nicastro, one of the group's court fixtures. "Lawyers have told their clients, 'I don't think I can get you off this time because that lady's sitting there listening'." Some judges need little encouragement to get tough. Maine judges have meted out an average jail sentence of eight days to drunk drivers under the state's new laws—four times the permitted minimum. And a Mecklenburg County, N.C., judge may have set a new standard when he sentenced a drunk driver, who had eight prior arrests but had caused no injuries, to three years in jail.

Many safety experts insist crusaders should be focusing on automobiles and highways, not on drivers. H. Laurence Ross, a sociology professor at State University of New York at Buffalo, who has studied crackdowns on drunk driving, says deterrence only works for the short term when the problem is treated as a moral one rather than a safety question. In a new book, he writes: "A vehicle and highway that are safe for an alcohol-influenced driver are also safe for a driver who has a heart attack, who dozes off, who drops a lighted cigarette on his lap, who fails to see a stop sign. . . ."

Others are convinced that the lock-'em-up approach is meaningless unless it's combined with therapy. "I don't think the tougher laws will stop the hard-core alcoholics," says Col. Tom Anderson, director of the state police in Alaska, which has had a mandatory prison law since 1978. "It's a mess," agrees Arthur Snowden II, director of the state's court system. "We're just putting people in high-priced jails . . . just taking them off the street is not going to solve the problem." But Maryland district court Judge David Bates thinks he knows the solution. Bates gives drunk drivers the maximum permissible sentence, then waives it if they are willing to enter an appropriate education or treatment program. While it is hard to measure the success of Bates's approach because probationary sentences weren't included on drivers' records until last year, Bates says only 149 of the 5,697 drivers referred to the program dropped out or had their probation revoked.

But putting drunks behind bars does take them off the road in a way revoking their licenses never did. Many of those convicted in the past simply drove without a license. Others easily obtained licenses in other states: a Federal Highway Administration study reported that Ohio in 1977 had issued 1.3 million more licenses than there were driving-age Ohioans. Clarence Busch, who inadvertently launched MADD when he killed Cari Lightner, moved to Wisconsin last fall and obtained a license within a few days. The National Driver Register, a computerized roster of drivers whose licenses have been suspended, revoked or denied, was established in 1960 to remedy such problems. But states can communicate with it only by mail, and with 84,000 inquiries coming in daily, the system is cumbersome and slow.

NO QUESTIONS ASKED

Still, there are signs of reform that just a few years ago would have been unimaginable. One is Students Against Drunk Drivers (SADD), which began as a high-school project in suburban Wayland, Mass., and has been replicated already by students in 150 other schools. In Wayland, 900 students signed SADD contracts with their parents, promising to call home at any hour when a sober ride home is not available. In return, parents pledge "to come and get you at any hour, any place, no questions asked and no argument at that time. . ." Montgomery County, Md., had a surprise for students heading to senior year-end festivities. The boys found a note tucked in their rented tuxedos counseling, "Friends don't let friends drive drunk," and providing a hot-line number that provided free rides home. And in rural Truman, Minn., the high school spent $79 for a breath-testing device for its prom after rowdy drunks disrupted last year's festivities. The machine is now kept in the school vault for use during school hours.

Anti-drunk-driving crusaders hope that breath-testing devices will become as much a fixture on the social scene as the shaker and stirrer, and a number of bars and restaurants have installed them. Anthony Ravosa, a defense attorney who has defended many clients against drunk-driving charges, offers a breath test to customers in his South Hadley, Mass., Riverboat Restaurant and provides courtesy rides home to those who flunk it.

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Ravosa's gesture may ultimately prove to be more than simply humanitarian. The Massachusetts Supreme Judicial Court says an establishment can be liable for serving too much booze to a customer, and earlier this year it upheld a $50,000 verdict against a Milford tavern that served "six or more" white russians to a customer who was "obviously intoxicated." That customer later drove off the road killing nine year-old John Cimino.

DRIVING WHILE INTOXICATED

(Many social drinkers think their driving remains unimpaired after a couple of cocktails. Newsweek's Ron Givens tested that thesis under the supervision of New York State police. His report:)

There was something absurd about drinking on an abandoned Schenectady airport runway while surrounded by police, but I wanted to find out how alcohol affected my driving skills. So I drank my gin and tonic next to an unmarked trooper car. As my bartender, Sgt. Henry Michelin, put it: "Just like the neighborhood bar—someplace to lean and drink."

An average male guinea pig—5 feet 10, 170 pounds—I had arranged to take on a difficult state-police driving course both sober and drunk. I supplied the gin and tonic, the state police provided a car. The course requires precise maneuvering around hard rubber cones—forward and backward. Scoring combines the time taken to complete the course with a five-second penalty for each mistake—such as flattening a cone. And a passing tally for troopers is 2 minutes 17 seconds. My blood alcohol level was measured by a preliminary-breath-test (PBT) device the size of a cigarette pack.

After eight practice runs through the course, I had whittled my time down from 3 minutes 10 seconds to a passing score, and it was time to begin drinking. My first gin and tonic—containing three ounces of 80-proof booze—placed my blood alcohol level 45 minutes later at .07 (70 milligrams of alcohol per decaliter of blood), high enough in New York to be charged with driving while impaired by alcohol. At this point I was slightly lightheaded, but I didn't feel uncoordinated. My driving score told a different story. Not only did I add 1 minute 12 seconds to my previous, sober record, but my score was 19 seconds over my very first attempt.

WRETCHED

During my first post-drink attempt, I unconsciously tried to compensate for my condition through caution—a tactic that experts say is common among drunk drivers. In my case it didn't work: it took me longer and I made many more mistakes. This drop-off in performance was intensified by two more drinks, each containing one ounce of gin, which put my blood alcohol level at .11, or enough to be charged with driving with a blood alcohol level of .10 or more. Now I could easily tell that I was uncoordinated. I stumbled slightly when I walked and I flunked the touch-your-nose-with-your-finger test. My driving ability plummeted from poor to wretched. My score—4 minutes 26 seconds—was almost double my final sober result. "You have no business being in an automobile out on the road," said Sergeant Michelin.

While impairment due to alcohol varies from person to person and even, depending on circumstances, for the same individual, experts say that driving skills are significantly diminished at a blood alcohol level of .10. That's why many states have adopted .10 as the limit for determining when someone has been driving while intoxicated. However, Robert Pandina, acting director of the Center of Alcohol Studies at New Jersey's Rutgers University, argues that there is impairment at lower levels as well. Pandina explains that the .10 standard is "a kind of compromise that recognizes that this is a drinking society."

WIDE AWAKE

Contrary to old wives and drinking buddies, nothing will temper the effects of alcohol except the passage of time—about two hours for every ounce consumed. Food slows the release of alcohol into the bloodstream without blunting its effect, and exercise and coffee will only produce a "wide-awake drunk"—someone alert enough to spot trouble but unable to do anything about it. That was clear enough to me as I rode with Sergeant Michelin back to town; my slow-motion brain couldn't keep up with the rush-hour traffic on the highway. I couldn't help remembering the times when I had been this drunk and driven, and the thought scared the hell out of me.

HOW DRUNKS GET OFF

Defense attorney Randy Taylor parades around the courtroom, his arms pinned behind him by handcuffs. After several minutes of histrionic discomfort he compels the cop on the witness stand to remove the cuffs and place them on the defendant, a man charged with driving while intoxicated (DWI). Then Taylor seizes his client and bullies him about. Wasn't that how the police acted when they arrested him? he asks the witness. Finally, the Dallas lawyer shoves his client into a chair and barrels up to the cop: "Isn't it true you said, 'Shut up, you s.o.b.!' and kicked him in the leg?" And Taylor wins an acquittal.

"That's the way you get your client off," Taylor says. "The single most important factor in the typical DWI case is trying to make the jury put themselves in the place of the defendant." Taylor knows few restraints. On one occasion, after pleading his woman client guilty of DWI, he implored the jury, "The government wolves are really howling for blood tonight, waiting to put this poor little girl in jail for 30 days, taking her away from her husband." Then he put the cuffs on her, and she broke down and wept, attesting to the humiliation she had suffered. Despite a prior DWI conviction just 30 days before this arrest, she was sentenced to only three days in jail. Another time Taylor concluded his summation by stage-whispering to his client's four children, "Kids, I've done everything I can for your daddy." Pointing to the jury, he said, "Now it's up to these folks here." The defendant, who Taylor admits was probably guilty, was acquitted in 15 minutes.

The concept of "there but for the grace of God go I" has been the cornerstone of DWI legal defense ever since drunks started stepping on the gas. While the appeal is emotional, its foundation is solidly statistical: a recent Gallup poll reveals that four out of 10 Americans admit to having driven after drinking. But the extraordinary public campaign against drunk driving is having its impact even on jurors who may understand—from personal experience—the drunk driver's plight. The Texas Criminal Defense Lawyers Project recently has sponsored two special programs on DWI defense. Its program notes read: "The public has come to view DWI as a pernicious force in their communities and are demanding stiffer penalties . . . this institute is designed to teach you how to effectively represent your client . . ." Among the tactics garnered from the program and talks with top defense attorneys:

CHALLENGE THE EVIDENCE

Breath-analysis tests should not be accepted as gospel. Force the prosecution to prove that the testing machine was in good working order, that its chemicals had been tested and that its operator had proper qualifications. The tests aren't foolproof. Some people such as diabetics, who have certain chemicals in their breath, or denture wearers, who trap alcohol fumes along their gums, trigger false positive readings. If a blood sample was taken, make sure to request it; if it no longer exists, claim that it was purposely destroyed.

TRACK DOWN WITNESSES

Find people who were with the defendant before he got behind the wheel and get them to testify about how sober he was. Attorney F. Lee Bailey's acquittal on DWI charges in California stemmed partly from testimony about his sober behavior on the evening of his arrest by people who were at the restaurant where Bailey dined.

GET THE INSURANCE COMPANY INVOLVED

Insurers tend to see cases as business problems, not moral issues, and are often anxious to settle damage matters expeditiously. Don't assume that the victim's families want vengeance; often they just want the case to go away too.

VISIT THE SCENE OF THE ARREST

Since it can take up to six months between the arrest and the trial, the arresting officers can often be tripped up on details about the location. "If they [make mistakes]," says Taylor, "I can argue, 'Well, if you can't remember this, why can you remember anything else better?'"

TRY TO TALK WITH THE POLICE—AND HOPE YOU FAIL

When the police won't cooperate, argue that the witness is hostile, biased and has an ax to grind.

CAREFULLY CONSIDER THE CHOICE BETWEEN JUDGE AND JURY

Taylor opts for a jury 95 percent of the time. He says, "I can manipulate the jury's minds more than I can a trial judge who's been on the bench 15 years and seen all my tricks." But cases that revolve around complex points of law may best be left to a judge.

The courtrooms are the ultimate battleground in the war on drunk driving. And to win the war, reformers must find ways to force jurors and judges to sympathize with the victims of drunk drivers, instead of the defendants.●

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS RECOMMENDS WATER PROJECT STARTS

● Mr. STAFFORD. Mr. President, the administration has recommended that construction begin in fiscal year 1983 on nine U.S. Army Corps of Engineers water resources projects, with cost-sharing levels that would reflect more realistically on the local benefits of the projects and Federal budget constraints.

While the decision to initiate these authorized projects rests with the Committee on Appropriations, our committee considers that such a decision necessarily will have significant benefit on our responsibility for the corps activities.

Therefore, the new starts, cost-sharing issue was discussed in our Subcommittee on Water Resources, under its able chairman, Senator ABDNOR, and subsequently in full committee.

Following debate, the Committee on Environment and Public Works agreed to recommend to the Committee on Appropriations that the administration's proposal for new starts be approved.

Mr. President, I ask that a copy of the letter Senator RANDOLPH and I have sent to Chairman HATFIELD be printed in the RECORD.

The letter follows:

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C. August 12, 1982.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations,
Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Committee on Environment and Public Works met on August 11, 1982, to discuss the Army Corps of Engineers construction starts proposed by the Administration for the fiscal year 1983 budget. By a roll call vote of 7-2, our Committee supports the inclusion of these projects in the Corps' 1983 appropriations, as recommended by the Administration.

The Committee does not view our recommendation as setting a precedent for future action. We remain uncertain whether the precise levels of cost-sharing requested by the Administration are the most appropriate. We are also uncertain as to whether these projects should be considered the highest priority among those in the Corps' backlog of authorized projects.

Nevertheless, we believe the Administration's proposal represents an important step forward in the development of our nation's water resources, and we commend Assistant Secretary of the Army Gianelli for developing a package of projects that has received strong support from local project sponsors.

We, therefore, urge the Committee on Appropriations to include these projects, as recommended by the Administration, in the fiscal year 1983 Energy and Water Development Appropriations bill.

Inasmuch as the local project sponsors of the Ellicott Creek, New York, project have agreed to pay more than 35 percent of the flood control costs as they are now required to do under current law, we also recommend that the appropriations bill include first year construction funding for this project.

Sincerely yours,

JENNINGS RANDOLPH,
Ranking Minority Member.
ROBERT T. STAFFORD,
Chairman.●

COAL PORT DEVELOPMENT WOULD AID ECONOMY

● Mr. DOMENICI. Mr. President, a recent editorial that appeared in the Rapid City (S. Dak.) Journal has come to my attention. This editorial rightly praises the leadership and work of our colleague, Senator JIM ABDNOR, for developing legislation that would encourage rapid coal-port development. As the editorial states:

> By paving the way for expanded coal exports, the bill would help this nation's economic recovery, and furnish other nations with a reliable alternative to Mideast oil.

This legislation, S. 1692, is now on the Senate Calendar. I support that bill enthusiastically. I would urge the Senate to act soon to consider and pass S. 1692.

Mr. President, because of the importance of this issue, I ask that the editorial be printed at this point in the RECORD.

The editorial follows:

[From the Rapid City Journal, Aug. 19, 1982]

COAL PORT DEVELOPMENT WOULD AID ECONOMY

Improving the ability of the United States to compete in the worldwide coal market is the objective of legislation sponsored by South Dakota Sen. James Abdnor.

This country has abundant quantities of coal which other nations could use to meet their energy needs. Exporting this coal would be a shot in the arm for the coal and transportation industries and would improve our balance of trade.

However, nations like South Africa and Australia are outdoing us in global coal trade because they have deep-draft "superports" from which to ship coal more efficiently in large ships.

As chairman of the Senate Subcommittee on Water Resources, Abdnor has been concerned about finding a remedy for this trade deficiency. Last year, he introduced the National Harbors Improvement and Maintenance Act. It is aimed at the major stumbling blocks hindering port and harbor development in the United States—a lack of federal dollars and Washington red tape.

The bill received a favorable vote in committee, but Senate floor action is being held up until concerns of senators from states which have smaller ports are dealt with.

Enlarging and deepening a port to increase its shipping capacity is not inexpensive. As Abdnor points out, it would be difficult, if not wholly contradictory, to begin to involve the federal government in the dredging of deep-draft harbors at a time when it is essential to cut taxes and trim government spending. The federal budget cannot, and will not afford that luxury.

For that reason, the legislation Abdnor proposed will continue the federal government's role in maintaining existing harbors, but shift the responsibility for new projects to local port authorities and the shipping companies.

Local authorities would be responsible for new developments and would pass the cost on to shippers through vessel user fees.

Placing port development under the free market system would bypass the traditional political spoils system in which states with more political clout in Congress reap the lion's share of benefits. Shippers would direct their user fee dollars to the most usable and viable projects.

The government would still maintain a role in the maintenance of existing ports through the authorization of $250 million a year for continued dredging. Local authorities would pick up a portion of the costs with a cap on costs to protect smaller ports.

Because it substitutes private sector initiative for government subsidies, the Abdnor-sponsored legislation is in line with the administration's goal of reducing the federal government's annual expenditure of $500 million for ports and harbors.

By paving the way for expanded coal exports, the bill would help this nation's economic recovery, and furnish other nations with a reliable alternative to Mideast oil.●

LOS ANGELES COUNTY EPILEPSY SOCIETY'S 25TH ANNIVERSARY

● Mr. HAYAKAWA. Mr. President, 25 years ago in southern California, the Los Angeles County Epilepsy Society, Inc., was founded. Over the past 25 years of countywide service, this organization has been dedicated to helping those persons afflicted by the neurological disorder of epilepsy.

Epilepsy affects 1 in 100 children and 1 in 50 adults, or over 100,000 persons in Los Angeles County alone. This disorder affects people of all races, nationalities, and creeds, regardless of age or sex. Epileptic seizures can be controlled for the majority of epileptic children and adults with proper diagnostic, medical, and social treatment so they can lead normal, productive lives.

The Los Angeles County Epilepsy Society is the only countywide organization in Los Angeles specifically dedicated to serving epileptic children and adults. It supports research and offers counseling, educational, advocacy, referral, group, community, and employment services, and has effectively provided such services in the Los Angeles County area for the past 25 years.

I highly commend the Los Angeles County Epilepsy Society for its outstanding achievement on the occasion of the society's 25th anniversary. I am sure Los Angeles County can expect 25 more years of selflessness and dedication from the people of this organization who work with the community to combat epilepsy.●

CLEAN AIR ACT

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works recently voted 15 to 1 to report to the Senate legislation that would amend and reauthorize the Clean Air Act.

The bill reported by the committee would continue to protect the public health and the environment and would strengthen the current law in several respects.

When our proposed amendments come to the floor of the Senate, I and others will present arguments to our colleagues on the need to retain a strong Clean Air Act and to strengthen it in some regards.

Until then, I commend to my colleagues an article that appeared in

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today's edition of the Christian Science Monitor.

The article, authored by ecologist George Woodwell, makes the case that air pollution is a major threat to our Nation's farms and forests, as well as to people, and he argues that the Clean Air Act should be strengthened.

Mr. President, I ask that the article by Mr. Woodwell be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Sept. 9, 1982]

NEEDED: A CLEAN AIR ACT STRONG ENOUGH TO PROTECT PLANTS

(By George M. Woodwell)

How clean must we keep the air?

The answer has been made complicated; it need not be. It is determined by the requirements for life—by the physical, chemical, and biotic conditions that are required to support living systems. These include not only man himself but those other organisms upon which man depends. It is not determined by partial cost-benefit analyses, or by compromise among competing polluters.

Standards for air quality are derived from two sources: (1) effects on man and (2) effects on other living systems. Criteria based on effects on man are less stringent than those based on effects on plants. This is because plants are more sensitive than people to low-level air pollution. This relationship is true in virtually every circumstance except for ionizing radiation, where standards for protection of man are adequate to protect all other organisms.

It is not surprising that those who may profit from pollution call for relaxed standards on the grounds that hazards to human health are small. Such arguments are largely irrelevant. The most important and demanding criteria are those derived from populations of plants and the factors that affect them. If plants are protected, people will be free of both direct and indirect effects of air pollution.

The costs to industry may be high, but the costs of failure to protect people and plants are far higher. The most immediate issue is the strengthening of the Clean Air Act, now up for renewal in the US Congress, and the governmental apparatus required to carry it.

Consider the Northeastern United States. There has been an increase over the last three decades in both the acidity of rain over North America and the area affected by the acidification. Effects are concentrated in the Northeast. All the acidity is not deposited in rain. A substantial fraction—one-third to one-half—apparently arrives as sulfur dioxide on small particles. It is removed from the air on to surfaces, including leaves, where it is converted to acid.

Other changes include increases in exposure of plants to a variety of contaminants such as ozone and heavy metals. All are produced as a result of the heavy use of fossil fuels in industrialized areas to the west and south. New England bears the brunt of the effects because the storm tracks commonly pass through it.

Effects of this atmospheric chemistry are sufficiently complicated and difficult to measure to provide ample basis for discussion among scientists and equivocation by others. The most clearly defined effect of acid rain is the acidification of lakes and streams in areas where the bedrock contains little limestone. Such areas have granitic rocks, their metamorphic equivalents, or sedimentary rocks that have a low alkalinity and therefore little capacity for neutralizing acids.

Most of New England falls in this category. Its lakes, streams, and ground water are turning acid. The effect is the loss of freshwater fisheries in lakes and streams, the virtual sterilization of the water bodies. High acidity in wells mobilizes aluminum and other metals containing lead from minerals in the ground and in pipes. Aluminum is toxic to plants and certain animals, including fish. Lead and other heavy metals are toxic to people as well.

In certain instances, the additions of the nitrogen and sulfur associated with the acidification have caused increases in growth of trees. There is, however, substantially no basis for assuming that the acid-leaching of forests or agricultural crops by the more acid rains will produce any effect in the longer term apart from impoverishment in essential nutrients, reduction in rates of growth, reductions in agricultural yields, and the loss of species and yields from forests. These effects are in part directly due to the acidification and in part due to increased incidence of diseases favored by any generalized stress.

The effects of ozone and other components of photochemical smog compound the problem. The national standard for ozone was set in 1971 as 0.08 p.p.m. The EPA reported that, in 1977, all but one of the 34 monitoring stations in New England reported violations of the standard. The standard was increased in 1979 to 0.12 p.p.m. The probability was 95 percent or more that ozone concentrations exceeded the new standards in 1977 and 1980 over extensive areas in the United States, including the Eastern US from south of Washington to Portland, Maine. Many plant species are sensitive to photooxidant damage at concentrations below the current standard.

Evidence for the effects of air pollution on forests is accumulating rapidly. Damage has been shown in stands of white pine along the Blue Ridge Parkway in western Virginia. An average reduction in growth of 40 percent was measured for the period 1955–1977. A similar reduction in the growth of pitch pine has been reported in New Jersey over approximately the same period. Other trees showing severe declines in vigor, even widespread mortality, over extensive areas in New England include the beech, the red spruce, the white ash, and the white and yellow birches. Insect and disease organisms are known to increase under air pollution, and it would be surprising to discover that the problems observed in forests in the Northeast are not caused by the combination of air pollutants now present.

The pattern of change to be expected in the terrestrial vegetation under this series of stresses is well known. These transitions are under way: losses of forest productivity, shifts in species, losses of tree species, all accompanied by losses of freshwater fisheries and the acidification of ground water, with toxic consequences for man.

The evidence is that agricultural yields in the Ohio River Basin are being reduced significantly and that photosynthesis by forests over large areas is also being reduced. A measure of this is seen in the magnitude of reductions in solar energy captured by plants and made available by both agriculture and forests. These range upward to as much as 40 percent in certain circumstances. A general 20 percent reduction in the magnitude of these resources would not be surprising.

If the reduction applies to all of New England's forests, it would, in energy terms, amount to the output of between fifteen and thirty 1,000-megawatt power plants, or 135 to 270 billion kilowatts a year. Valued as electricity, it would be worth $7 billion to $14 billion. This is a substantial subsidy for the New England states to be paying from their forests and pastures and cultivated fields in the interests of industrialization elsewhere.

These statements may appear as mere assertions by an overly sensitive scientist. Each statement, however, can be documented in detail from the extensive literature now available on air pollution and on biotic effects. While none of these statements are beyond argument, the weight of evidence is that our regulatory system, as it stood before it was cut by the present administration, was inadequate to protect the public's vital interests. The proposals to weaken the Clean Air Act further promise still greater erosion of the capacity of the nation to support people.

How clean must we keep the air? Clean enough for green plants.●

TAIWAN

● Mr. EAST. Mr. President, I am not the only Member of this body to be alarmed at recent policy decisions by the Reagan administration concerning our relations with Taiwan. The State Department is apparently convinced that if we do not shove our Taiwanese friends toward unification with the mainland, the Chinese Communists in Peking will patch up their 20-year-old quarrel with their Soviet neighbors and the West will once more be confronted with a Red monolith.

I am extremely skeptical of this proposition. In this connection, I would like to quote Anthony Harrigan, president of the United States Industrial Council. Speaking at John Carroll College in Cleveland, Mr. Harrigan, who is one of the most forthright and farseeing champions of American national interests presently in print or on the lecture platform, declared as follows:

> It is ironical that Peking has threatened to downgrade relations with the United States if it doesn't halt arms shipments to the free Chinese in Taiwan. How much in the way of arms for Taiwan is in our national interest depends on very precise calculations. But we should not be taken in by Peking's arrogant posturing. Peking needs us, not the other way around.

Mr. Harrigan is absolutely on target here. The Red Chinese do need us more than we need them. The notion that the Chinese, who have bitterly contested Russian encroachments on their borders for centuries, could come to a genuine long-term understanding with Moscow is difficult to believe. It is far more likely that they will continue to seek their security in maintaining relations with the United States or, as Mr. Harrigan suggests, turning to Japan.

I ask that the whole of Mr. Harrigan's address be printed in the RECORD.

The address follows:

THE CRISES OF THE FUTURE: PEACE WITH FREEDOM, INDEPENDENCE AND SECURITY

(By Anthony Harrigan)

We should look beyond current issues to the final years of this century. We can be very sure that the world of the 1990s will be markedly different from the world of the early 1980s. Economies will undergo profound change. Power balances will alter. National and ideological concerns will shift. Only man, with his age-old capacity for good and evil, will remain unchanged in nature.

For all our contemporary interest in futurology, we seem to have a dim awareness of how much change will take place and how it will affect us in this country. The changes that inevitably will take place as we move towards the 21st century will result from the growth of populations, technological transformation, new organizational methods, religious and ideological movements, increases or losses in the capacity to produce food and valuable goods and services, access to energy and natural resources, and the very human factors of will and imagination.

It is unreasonable to suppose that any part of the world will remain an island in time, unaffected by change. The Soviet empire will be changed. Western Europe will be profoundly affected. The Islamic world will either come to terms with modern civilization or revert to a fiery fundamentalism. The Third World—Africa, and parts of Asia and Latin America—will undergo some of the most striking change (and one possibility is that some of the so-called underdeveloped countries will simply sink under the weight of poverty and associated problems). Finally, the United States and its great neighbor, Canada, will move to a new stage of historical development.

The set of changes likely to take place in the free world and the unfree world, in the developed, underdeveloped and quasideveloped nations, will produce a wholly new global pattern, as different as the global pattern of the 1980s is from the global pattern of the 1940s.

A special concern is the future of the Soviet empire. The changes that take place in the policies and structures of the USSR undoubtedly will be the most significant global changes for us, apart from the changes within our own country, for the Soviet Union, for all its internal weakness, possesses the armed might that has the potential of inflicting the most colossal damage on our country and civilization.

Even the layman can discern the potential for enormous change inside the Soviet Union. As we know, the Soviet world is unlike the United States, France or Japan because it is an empire, not a country. It isn't a great unit of power that has arisen out of natural national unity but out of military conquest, ideological warfare, and internal repression. Chief among the captive peoples are the peoples of the Soviet Union, who are controlled and dominated by an alien ideology and by the Russian elite. While one can make too much of historical analogies, one cannot help but find a significant analogy in the Roman Empire and its problems and breakdown on the periphery and the emergence of controlling elements outside of the old ruling elite. Indeed, the Soviets have been far less successful than the Romans in integrating the peoples on the periphery. Rome successfully suppressed many of the peripheral nationalisms, whereas the Soviet Union has not persuaded the peoples of Poland and other captive nations to accept the identity of the new Soviet man.

Moreover, the Soviet ideology is in decline everywhere. The traditional communist parties don't command true allegiance at home or abroad. At home, the regime is increasingly viewed as a privileged class of bureaucrats who have a good thing going for them. Fear of the Soviet regime and its organs continues to operate inside and outside the borders of the USSR, and the active dissident elements are brutally controlled as in Stalin's time. Abroad, the Soviet Union depends on militarized client states, such as Cuba, which also fail their peoples in every respect, and on radicalized, disaffected elements in the West who hate their own countries and civilization—the result of nihilistic feelings deeply embedded in the anti-Christian atmosphere of the modern Western world.

I don't think we should expect that major change in the Soviet empire will come from dissidents or even from popular unrest such as we witness in Poland today. The real change—and I suspect it will be a breakdown—is likely to result from economic failure, which, in turn, results from organizational failure.

As Wolfgang Leonhard has said (*Encounter*), "the bureaucraticised, centralized economic system in the Soviet empire makes rapid economic development quite impossible." The Soviet empire is frustrated by its own ideology; it is in an economic straitjacket of central state planning which fetters the productive process. Dr. Leonhard, who teaches at Yale University, has noted that "there are some 55 economic ministerial empires for each industrial branch, with every factory director receiving 11 detailed plans for the year, accompanied by some 3,000 detailed directives from above."

This system blocks the introduction of new technology. True, the Soviets have been able to import new technology from the West—the very rope that Lenin said the capitalists would supply—but the long range incorporation of such technology in the Soviet economic system seems unlikely. It's true that the Soviets have been able to score very impressive military-industrial achievements, by concentrating brainpower and resources on a few military objectives, but the rest of the system has suffered cruelly as a result. The future of developed socialism that the Soviets profess to aim for is incompatible with the nature of modern technological systems. The Soviets like the idea of automation, for, as Richard Vidmer has written, it "rekindles the hope that the Soviet economy can, in fact, be managed from a single administrative center." There is no real hope for the Soviets, however, because the new computer revolution, which we see at work in our own country, is a system based on de-centralization. The party control system in the Soviet Union is incompatible with the enormous technological changes afforded by the computer revolution. Richard Vidmer adds that most Soviet management theorists "simply ignore questions that point to fundamental reform and, instead, concentrate on practical issues that have no bearing on the party's ascendancy in the Soviet establishment."

It is risky to say that constructive change is impossible in any country or any system. Nevertheless, one can't ignore the fact that modern decentralized management and enterprise, whether industrial or agricultrual, seems unlikely in the Soviet Union so long as it subscribes to its archaic ideology. Vast new productivity within the terms of the collectivization in place in the Soviet Union really seems out of the question. The socialist experiment in the USSR is a failure. As Leonhard has said, the opposition to modernization of the economic system is formidable, "for, if they were to go on, then something like 100,000 apparatchiks, all proud of their promotions and titles and colored ribbons and emblems, would suddenly become completely superfluous." No doubt there are what has been called "half-reformers" in the Soviet Union, but they aren't likely to get their way. Efficiency and functionalism run head on into party centralized control.

I suspect, therefore, that the post-Brezhnev leadership will be no more successful than Brezhnev in increasing productivity or solving the country's horrendous food problem. The Soviet Union is locked into its past—even though few believe in communism the way they did decades ago.

As a result, the Soviet Union seems likely to try more of the same—more regulation, more coercion, more total control—and with the same hurtful results.

For all that there is change in the world, countries, like individuals, find it difficult to escape their past. The gap separating Russia from the West is not a 20th century phenomenon. Pytor Chaadaev, writing in 1829, said of his country: "We are one of those nations which do not appear to be an integral part of the human race, but exist only in order to teach some great lesson to the world. Who knows when we shall rejoin the rest of mankind, and how much misery we must suffer before accomplishing our destiny?"

I suspect that the Soviet world won't rejoin the human race in the remaining years of this century. While it will remain very strongly militarily—the fruit of autocracy—and it will continue to cause much mischief around the globe, its people will continue to suffer and its standard of living will be substantially below that of other industrial and technologically oriented countries. This means we must not make the mistake of helping the Soviet regime overcome its technological and managerial handicaps.

The problems facing the Peoples Republic of China are of the same nature, only much, much worse. The Chinese experience, especially with respect to the Cultural Revolution of 1966-76, has been devastating beyond anything the Soviets have suffered in six decades of brutal and misdirected internal policies. The Cultural Revolution went very far to extinguish the very roots of Chinese life and tradition. The revolutionaries all but extinguished an ancient civilization. I commend to you an article by James Kenneson in the April issue of Harper's Magazine, a grim account of his year in the capital of Henan Province in North China. Mr. Kenneson is no conservative or cold warrior, as the liberals like to say, and he wanted to be sympathetic to the new Chinese world. But he was appalled by the realities, appalled even after living in poverty-stricken Egypt, a land much poorer than China in natural resources and arable land.

The system now in place in China ensures that the tremendous abilities and energy of the Chinese people, such as are manifested in Hong Kong and elsewhere in overseas Chinese communities, won't be harnessed

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on the mainland, no matter how much equipment is purchased abroad. As Mr. Kenneson notes, the work unit is the basic organizational building block of Chinese society today. Assignment to a work unit is for life. Getting a transfer is almost impossible, no matter what an individual wants to do or is equipped to do. The work unit makes the choices that Westerners make for themselves. In his essay, Mr. Kenneson describes the maze of bureaucracy at every level in China. Leaders of hospitals, factories, and bureaucratic divisions, he says, "are appointed on the basis of service to the party, not expertise." There is a vast hierarchy of officials, each afraid to take problems to a higher level for being criticized for not solving them themselves. With this unwieldy and grossly inefficient structure at every level of Chinese communist society, there seems little chance that China, unaided, will reach even the current Soviet level by the end of this century.

To be sure, this is not the picture of China to which we have been treated in the press since President Nixon's first visit to Peking. Indeed for some years after that visit, when the first American journalists were admitted, we read endless articles about the spotless communes and the spirit of cooperation. Will we never learn that in communist countries travelers are only allowed to visit Potemkin villages? Foreigners travel on conducted tours and visit only a few cities which are open to foreigners. Resident journalists and diplomats are required to reside in foreigners-only compounds. Only the occasional foreigner sees the real face of the static, backward China that is engulfed in 1984 type controls over every phase of normal activity. We should always be aware that vast areas of China are totally closed to foreign visitors, as is the case with the Soviet Union.

No one should underestimate the resourcefulness of the great Chinese people. In time, they may break out of the iron ring devised by Mao Tse-tung, his associates, and followers. I believe that the evidence strongly suggests that Communist China will be bogged down in domestic difficulties for more years than there are remaining in this century. I also believe that it won't be feasible for the Chinese to turn to the Soviet Union because the Soviets have no desire to rescue them from their difficulties and produce an even greater menace on their border. The United States, for its part—if it is concerned about possible threats in the 21st century, won't rush to help the Chinese modernize, as so many American businessmen have so foolishly desired to do. Happily, Peking has discovered that it can't begin to absorb or pay for the modern items that have been offered by the West.

It is ironical that Peking has threatened to downgrade relations with the United States if it doesn't halt arms shipments to the free Chinese on Taiwan. How much in the way of arms for Taiwan is in our national interest depends on very precise calculations. But we should not be taken in by Peking's arrogant posturing. Peking needs us, not the other way around.

We need to bear in mind the history of foreign intercourse with China. There are valuable lessons to be found in that history. Before the end of the last century, Dr. Arthur H. Smith wrote in his book "Chinese Characteristics" that foreign intercourse with China for the century preceding 1860 was "one long illustration of the Chinese talent for misunderstanding. The history of foreign diplomacy with China is largely a history of attempted explanations of matters which have been deliberately misunderstood." This is an observation we should bear in mind in connection with the Taiwan relationship affair.

The danger with China, in my view, is the possibility of a Japanese connection. To many observers that may seem a farfetched notion. Yet Japan offers the only real opportunity for China to modernize very rapidly. China, in turn, provides an opportunity for a tremendous market for Japanese goods.

Consider the realities of the Chinese economic situation. David M. Lampton, writing in Foreign Policy points out that the rate of increase in the gross value of industrial and agricultural output in China has been declining steadily: from 12.3 percent in 1978 to 8.5 percent in 1979 to 7.2 percent in 1980. If it wanted to do so, however, Japan could transform China.

Japan, in my view, is the great question mark in the history of the world at this time. Its course of action in the years ahead is uncertain.

Though devoid of material resources, Japan has arisen from the ashes of military defeat in World War II to become an enormous economic power. Its high quality goods have displaced a wide range of products which were the foundation of American prosperity, notably in the automobile industry. Japan aims high, seeking not only to widen its market share in the United States and Western Europe in both heavy and light manufacturing products but also in high technology where the United States has been the world leader. The United States has contributed to its own decline as against Japanese competition by subsidizing Japan's defense to the tune of scores of billions—protecting its sea lanes from the Middle East, for example, by allowing the Japanese to dump their goods in the U.S. market while permitting them to maintain non-tariff barriers to American goods on their home market. In short, the United States has been the victim of virtual economic warfare directed by Japan, albeit this warfare is accomplished with a smile, polite expressions, and bland talk about opening domestic markets, which simply isn't done. We are fools to let the Japanese get away with these economic offensives—the product of a unique, homogeneous and strongly guided and directed society. We have only to blame ourselves. Nevertheless, I am convinced that much of the current recession in the United States is "made in Japan."

One can't blame the Japanese for being aggressive in the economic sphere. And, certainly, this is preferable to the military aggression of the 1930s, which led Japan into China and which, ultimately, produced war in the Pacific. I suspect, however, that we don't pay enough attention to Japan's future. We speak of the Japanese as allies and partners. This alliance is a one-way street, however. The U.S. is committed to the defense of Japan; the Japanese have no such obligation to render aid to the United States, and don't do so except in the most passive way. As former Undersecretary of State U. Alexis Johnson has said, Japan has an insurance policy with unusually low premiums. For example, they don't pay a cent for the Rapid Deployment Force which was designed to protect the Indian Ocean Oil route, which is essential to keeping the lights burning in Japan. Again, we don't insist on Japanese contributions. We think of the Japanese as they were in 1950, not as they are today.

I am not at all persuaded that Japan will remain in a passive role in the future, especially if the power of the United States diminishes in the 1980s and 1990s. Power abhors a vacuum, and Japan has enormous latent power. It can be argued that, in the long run, Japan will want to do more in the world than sell Toyotas and Mazdas, and that this ambition may be a central fact in the world situation by the end of this century, if not sooner. The Japanese, certainly, must be giving much thought to the future of their relationship with China and how to control that relationship to their own end—a very understandable and proper objective if one is Japanese. China, in a sense, is as much a hinterland for Japan as Africa was for Europe in years past. Japan's already heavy investments in Australia's raw material development also will make that country a continuing object of Japanese interest and ambition, as it was 40 years ago. Whither Australia?—is a good question.

Time does not permit extensive consideration of the place of Africa in the global constellation at the end of the century. Again, I suspect that it will remain a largely passive region, with growing rather than diminishing economic difficulties. The record of the new African countries since the early 1950s is not one as to suggest that the nations of the continent will be able to produce the food, let alone the goods and services, that are needed for a comfortable, progressive future. In short, I believe that Africa will remain a largely dependent and troubled region, in which the outside world is interested because of its mineral resources.

The future of the nations of Europe is of vital concern to us because of our ancestral ties to that region. Half of Christendom is under thrall in the Soviet Empire in Eastern Europe. And real danger exists that the Iron Curtain may be extended to the Atlantic. Ironically, the flame of independence, of national courage, seems much brighter in Poland than it is in Germany, the heart of the NATO alliance. The politics of fear in the 1980s could lead to a gradual transformation of Western Europe into a version of Eastern Europe. the deteriorating world economy, which has many roots—chiefly the hemorrhage of Western funds to the Middle East oil producers since 1974—may accelerate this process. While Eastern Europe, at least Poland, awakes to the hope of regaining lost freedom, much of the Western alliance reflects a willingness to accept the role of passive subjects of the Soviets. "Better red than dead" to use the familiar capsule expression. At least, many West Europeans are reluctant to stand up to the Soviet empire that seeks to extingish freedom. Obviously, the Soviets would like to attach the productive capacity of Western Europe to their empire. The Finlandization of Western Europe, sought by the socialist internationale, would give the USSR a valuable extension of its frontiers. The gas pipeline linking Siberia and Western Europe has tremendous significance, for it is an important step in advancing the energy dependence of France, Germany and Italy on the Soviet Union. Whether this dependence will come to pass one cannot predict at this time. Western Europe doesn't lack for wealth or technological capability. Its real lack is will. A failure of will is the great Western danger in the late 20th century, and this failure is most acute in Western Europe. We can only hope that West Europeans will be strengthened inwardly in the years ahead. In short, Western Europe's crisis is a moral or spiritual crisis, a derivative of shocks received in World Wars I and II and the nihilistic aftermath.

The Soviets, for all that their ideology has broken down and isn't intellectually convincing even to their own people, are likely to retain the capacity to disinform Westerners so that they fail to grasp the real survival issues. The parallel political structures of the Left, such as the Institute For Policy Studies in the United States, are likely to continue to do better work for the Soviets than any formal communist organizations could do. These parallel structures will assist Moscow by promoting the military, economic and moral disarmament of the West, by promoting whatever is weakening, by inculcating guilt in the West, and by endeavoring to weaken the will of the nations.

I am reminded of the statement by Dr. Brzezinski (in Encounter) that "That real Soviet preference is for men who lie down and accept every Soviet action. An ideal American foreign policy from the Soviet view, would be one in which we recognized Vietnamese predominance in Southeast Asia, rushed headlong into an embrace of Angola while abandoning Unita, lifted the embargo against Castro, and acquiesced in Soviet expansionism in the Indian Ocean—a foreign policy which some people (you may recognize them) have favored over the last few years."

Now I come to the United States. What the world will be like at the end of this century depends very much on what we will be like as a nation at that time. Critics of a stronger U.S. foreign policy—the Tom Wickers and Anthony Lewises of the media establishment—keep telling us that we cannot shape the world. True, we cannot control all the varied events of history or the destiny of nations. But ours is still an enormous influence by virtue of our size, wealth, technological power, precept and example. We have the most advanced and complex society in our modern world, the greatest potential for good and for wise action. Undoubtedly, much of the world will continue to look to us for leadership throughout this century. We can shape world events to some considerable degree, albeit not completely. We may not want to do this. Certainly, we are not the new Romans, as Vietnam demonstrated conclusively. But even if we do nothing, especially if we do nothing, we will have a powerful impact on life on this planet—one way or the other.

I begin any consideration of the future of our country in the remaining years of this century with an immense confidence in its potential. I begin with confidence in the capacity of the American people. For all our problems in this country, including crime, moral disorder, deficient education of the right type, and vulnerability to hurtful notions of various kinds, we have a population which, with its varied strains, has deep roots in the civilization and faith of the West. Our people have a tremendous love of country and its institutions, as evidenced in the great emotional outpouring at the time of the return of the hostages from Iran. Our people also will support bold measures for freedom, providing they understand what is at stake and have sound, articulate leadership. We have a level of skill and knowledge in this country which should assure us technological leadership into the 21st century—again, if our people understand what's at stake. One of our greatest national strengths is our ability to produce food in abundance, not only for our own people but for many peoples. This is a resource or capability that our adversaries do not possess and will not possess in this century.

We all have reason to be profoundly concerned, however, about our weaknesses in several areas, weaknesses brought on by our own folly. I have already spoken about our failure to protect our national economic interests against the Japanese. We must do something about that if we are not to become hewers of wood and drawers of water for Japan—a resource base for a more ambitious and better organized country.

At the same time, we must address the problem of declining productivity. We must work much harder and compensation must be on the basis of competition. One reason our auto industry is in trouble is that pay in American auto plants is twice that in Japanese plants. This is the situation in other industries as well. We pay ourselves too well. We have many absurd situations. Some senior executives receive too much compensation from companies that aren't performing well. At the same time, many plant employees also receive too much for the work they do. I know of a major industrial plant where the people who sweep the metal fragments off the floor receive $21,000 a year. In that same plant and numerous other plants, robots, automated machines, are bitterly resisted. Ironically, American companies developed robots, but the Japanese are installing them in the greatest number. We cannot afford make-work or no-work for high pay. Yet, in plant after plant, there are cases where people receive eight hours pay for 2 or 3 hours actual work. If these things aren't changed, our industrial civilization will decline as Britain's has declined, with appalling consequences for the living standards of our people and our nation's strength. Japan will become the No. 1 industrial power in the world, a cruel irony as Japan has less than half our population and none of our natural resources. Industrial revitalization is, therefore, essential for our renewal.

The emphasis in our country for many years has been on the political redistribution of wealth. In my judgment, however, the future well-being of the American people, their national security and prosperity, depends on new wealth creation. It has been alleged that the United States and its Western friends and allies are materialist democracies, and there is a measure of truth in that. Wealth can be misused; it can become an end in itself. I don't believe, however, that that is the record of the American republic. We have combined a development of our natural wealth with a concern for idealistic factors in life. It is fashionable in some quarters to dismiss wealth creation, but the lack of it produces suffering and denial of opportunities for the development of talents. Americans are the children or grandchildren or great-grandchildren of people who had generations of bitter experience with poverty, and our people don't want to go back to that condition.

Unfortunately, the world in the past 20 years has allowed expectations to exceed wealth creation. And the current global recession is evidence of a difficult but unavoidable retrenchment. Beginning in the 1960s, many people around the world, certainly in our own country, thought that they had an automatic right to a very comfortable life. They took out of society more than they put in. They imagined that government had simply to transfer wealth, for everyone to live on a very high standard. Government-decreed benefits were increased, but investment in productive facilities decreased. Now we are adjusting to reality, returning to a somewhat lower standard of living—a lower standard of expectations—and it is a rough experience—for individuals, families, institutions such as universities, and for the nation. We will have to start anew on a new and less elevated base. This is our central task in the years ahead. Without internal renewals, economic as well as in other ways, we will not be positioned by the end of the century to constrain the ambitions of the Soviet Union and other countries which are eager for us to have a diminished role in the world, countries which want our civilization and its values to recede and give way to other systems and other values.

We need to get through the period ahead and into the 21st century, with our liberties intact and the material base of our civilization strong enough to survive a variety of assaults, military, economic, and ideological. We want peace with freedom and preservation of our independence and security. To be sure, we won't be able to wrap up our problems by the end of the century; our aim is simply to deal with them effectively. Short of Armageddon, history doesn't come to a halt. History is an on-going process, with winners and losers, with values in flux and always under challenge. Every nation, every system of government, has its own dynamic. I have touched on a few, a very few, of the elements of national dynamics in the free world and the unfree world. We need to be very aware of the dynamics in the systems and countries that oppose our country and system. This awareness should help protect our values, our heritage, and our independence. If we aren't aware, if we aren't alert, if we fail to use our human and material resources intelligently, we will die as a country and a civilization. Looking ahead, beyond the headlines of the day, is imperative, therefore. Without vision we will perish, certainly in the turbulent 20th century where the clash of ideas, systems and countries is so furious.●

A RAY OF HOPE FOR THE DISABLED

● Mr. SASSER. Mr. President, the social security disability program has come under intense scrutiny recently and for good reason. Since the administration decided to accelereate the number of disability reviews some 18 months ago, the level of desperation and despair experienced by individuals who have had their disability benefits erroneously terminated has increased dramatically and in some cases reached intolerable limits.

In June, I introduced legislation which was aimed at redressing the gross inequities which have arisen through the administration of continuing disability investigations. A number of my colleagues have also introduced legislation dealing with this problem, and while the proposals differed somewhat in their approach to the problem the fact that the problem does exist remains.

I do not rise today to argue the merits of the various proposals. I do rise, however, to bring the seriousness of the problem to the attention of my colleagues and to ask that some form

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of relief be enacted before the situation deteriorates further.

A major provision of my bill (S. 2659) would allow for much needed human interaction early in the appeal process. By introducing this human touch into the appeals process at an earlier date it is hoped that blatantly erroneous terminations will be avoided. I have recently learned that the administration has made a procedural adjustment to allow for a face-to-face interview in the initial phase of the review process beginning October 1. While I am pleased to see the administration finally taking some action on this matter, I sincerely hope that efforts to correct other inequities in the administration of these reviews continue.

While it is certainly a move in the right direction, it by no means should be considered a cure-all for the ills confronting the disability review system. The severe trauma experienced by individuals erroneously terminated from the disability rolls makes it imperative that we move in an expeditious manner to effectuate needed changes in the review system. Indeed, the administration's acknowledgement of the problem is an important development, it does provide a ray of hope for over 4.6 million disabled beneficiaries across the Nation. However, it is our responsibility to illuminate this ray of light so that hope for fairness and equity in our social security disability system prevails. I ask my colleagues to join me in this request.

At this time I submit for the RECORD a copy of my written testimony before the Finance Committee hearings on disability on August 18 as well as a copy of an article in the September 1982 edition of Sergeants magazine dealing with this problem.

The material follows:

STATEMENT OF SENATOR JIM SASSER BEFORE THE SENATE FINANCE COMMITTEE HEARING ON SOCIAL SECURITY DISABILITY REFORM

Mr. Chairman, I would first of all like to thank you and Members of the Senate Finance Committee for allowing me to present this written testimony today.

As you sit here today, the social security disability program is itself severely disabled and in need of major repair. Both the variety and number of legislative approaches which have been offered to deal with the problem attest to its seriousness and the urgency with which it must be dealt. It is my sincere hope that Members of this committee will act quickly to remedy the current injustices in the disability program.

I became acutely aware of this problem in January of this year. In addition to letters from constituents recounting numerous incidents of erroneous terminations from the disability rolls, I received allegations of the existence of a quota system that was being used to systematically reduce the disability rolls. In March I brought this problem to the attention of the Secretary of the Department of Health and Human Services, Mr. Schweiker. In April I instructed the General Accounting Office to conduct an investigation of the Memphis Social Security Administration District office to determine whether quotas were being used to terminate the benefits of Disability Insurance recipients.

The final GAO report was released in June and proved inconclusive with respect to these allegations. However, it did reveal criticisms of the disability determination system which paralleled those heard in other states. The report concluded that the problems in Tennessee are not unlike those found in Ohio, New York, Pennsylvania, and California, suggesting that deficiencies in the Continuing Disability Investigations (CDI's) process are widespread and not the result of isolated instances or unique to any geographical region of the country.

The criticisms included: complaints directed at the quality of consultative examinations being performed at the request of the State disability determination system; complaints that the consultative examinations were too short, were not comprehensive, and did not adequately cover the claimants' impairments, and complaints that some consultative physicians are rude, prejudiced, and unprofessional. The employees also believed the Tennessee disability determination system (DDS) is experiencing organizational and workload problems because of the current continuing disability investigation (CDI) program. They also revealed there was a high case backlog and some pressure to reduce it.

It is little wonder that the social security disability program is currently experiencing such a deluge of complaints which has prompted the close scrutiny of several Members of Congress.

In 1980, the Congress adopted the Disability Amendments in response to the dramatic growth of the program during the early and mid 70's. A major provision of these amendments required the Social Security Administration, beginning in January 1982, to review the cases of disabled workers on the disability rolls at least once every three years, except where the disability was considered to be permanent.

However, in March 1981, the Reagan Administration, in an attempt to realize savings, decided to accelerate these reviews some nine months ahead of the January 1982 implementation date. This was done despite the lack of appropriate resources with which to handle the large increases in State agency caseloads. To a great extent this has contributed to the inequitable treatment and erroneous termination of a substantial percentage of the disabled population.

In Tennessee alone, the disability determination system in Nashville is scheduled to review approximately 11,170 cases. Next year this caseload will increase to 19,747, and in 1984 there are 30,896 cases scheduled for review.

Now, the original purpose of the 1980 disability amendments was to weed out those individuals who were no longer eligible for disability benefits. I strongly support any and all efforts to rid Government programs of waste, fraud, and abuse. In many cases there may be sufficient justification and cause for removing individuals from the disability rolls. If they do not belong on the rolls, then they should be removed.

However, it is apparent that the rights of disability beneficiaries are being callously disregarded and abused through the hasty and inefficient administration of unfair and unjust policies. In far too many cases, what we are seeing is that truly deserving beneficiaries are being systematically knocked off the rolls in an effort to reduce costs. Substantial evidence indicates that gross inequities are occurring not only in Tennessee, but across the Nation. Many beneficiaries are being indiscriminately terminated without so much as the benefit of a medical examination.

The legislation I have introduced would provide for a face-to-face evidentiary hearing at the reconsideration level of appeal in the hope that personal contact will reduce the high percentage of erroneous terminations at this level. Under my bill the disabled beneficiary would continue to receive benefits until this time and should be necessary to carry the appeal to the Administrative Law Judge level, the individual would continue to be eligible for medicare benefits.

The importance of protecting disability beneficiaries from erroneous terminations cannot be understated. Examples where desperation and despair follow termination of these benefits are plentiful. A recent article in the Memphis Commercial Appeal detailed several cases where adverse impacts upon disability recipients were felt. In one case, an East Tennessee lawyer told of one of his clients—a man who suffered from paranoid schizophrenia—who committed suicide because his benefits were terminated. The lawyer said the man left a note saying that was the reason he took his life.

Another woman, 51 years of age, suffers from multiple sclerosis, lupus, two ulcers, cystitis, a tumor, and a deteriorating spine, yet her benefits were terminated last October.

Two weeks ago I received a letter from an Attorney's office in Oak Ridge, Tennessee. In the letter the attorney, Ms. Dorothy Stulberg, outlined ten specific cases in which disability benefits were terminated. These cases are merely illustrative of what is happening across the country. Ms. Stulberg writes that "there is almost no way to express in words the hardship and the pain needlessly caused by the actions of the Social Security Administration" with respect to disability terminations.

Case No. 1—Male, 48 years of age, this man is on nine kinds of medicine. He has had two heart attacks while on social security disability. He has urinary problems, bleeding bowel, stomach problems, headaches, ankles swell, bad nerves, chest pains, and back pains. He became so desperate because of no income that he tried to work and broke his arm.

Case No. 2—Female, 34 years of age, this woman suffers from arthritis, headaches, seizures, psychological problems, frequent kidney infections, constant pain from a serious automobile accident. This lady is so upset about being terminated that she has overdosed. All doctors statements indicate that she is unable to work. She has absolutely no funds.

Case No. 3—Female, age 57, this woman worked for thirty years and was forced to take a medical discharge because of her physical condition. She voluntarily tried to return to work but was unable to do so. She also suffers from lupus, one leg is shorter than the other, must use a walker for support, has stiff fingers, suffers from hallucinations, sleep paralysis, on many medications and has organic brain disease. After contributing to social security for thirty years and being unable to work, she is now being denied social security disability benefits.

Case No. 4—Male, age 46, this man looks 65. He was terminated from disability and for one solid year he and his family had no income at all. Benefits were resumed in March 1982 without even a hearing. The medicals were so extreme that the Administrative Law Judge determined that it was necessary to have a hearing. It was so obvious that this man had psychological and physical problems. During the entire year he was not able to get the medication that was necessary to treat his illnesses. Our office borrowed and begged money from local churches in order that his family could survive.

Case No. 5—Male, 44 years old, this man suffers from bronchial emphysema, a bad back, and eye trouble. He has been without any funds at all for about seven months. He needs medication in order to ease his breathing problems. He has no funds to purchase medication. He has called our office begging for us to help him find some money so he can at least breathe. He has children. He has gone to the local health department and they have told him that they have money only for his high blood pressure which was extremely high. He weighs only 138 pounds and is 6 feet 3 inches tall.

Mr. Chairman, I could go on and on with examples of needless hardship. I think that these five examples, however, more than make the point. The issue is crystal clear and we must implement corrective legislation quickly to stem these gross injustices which are occurring every day.

On June 22, I introduced S. 2659 to address these inequities. The major provisions of my bill are as follows:

The bill provides for an adjustment period not to exceed six months wherein disability benefits will be continued until the reconsideration hearing.

The bill provides that a face-to-face evidentiary hearing be conducted at the reconsideration hearing.

The bill allows for the extension of medicare eligibility until such time as a decision is reached by an Administrative Law Judge.

The bill requires the Secretary of Health and Human Services to report to the Congress on a quarterly basis information which will better facilitate an accurate evaluation of the actual continuing disability investigations process.

The difference between this bill and other proposals primarily lies in the length of time where payment of benefits are paid. The legislation I have offered provides that benefits be paid until the reconsideration hearing as opposed to paying the benefits until the Administrative Law Judge hearing.

I believe that this approach is preferable from the standpoint of cost-effectiveness. According to the Congressional Budget Office, payment of benefits through the Administrative Law Judge level will cost approximately $120 million in 1983, $80 million in 1984, and $85 million in 1985. These figures include repayment of overpayments. In comparison, payment of benefits through reconsideration including a face-to-face hearing at the reconsideration level will cost $40 million in 1983, $45 million in 1984, and $30 million in 1985. Thus my bill would save approximately $170 million over the next three years. Furthermore, according to Social Security Administration actuaries, only about 50 percent of these overpayments are recoverable.

In order to compensate for those individuals who are erroneously terminated, my bill provides for the extension of medicare eligibility until the ALJ hearing. In most cases, eligibility for medicare is just as if not more important than the disability benefits themselves. According to the Congressional Budget Office, this provision would cost approximately $45 million in 1983, $50 million in 1984, and $55 million in 1985. This provision is important because it is extremely difficult for individuals who have been on the disability rolls to procure hospitalization insurance once they have been terminated from the disability rolls. Insurance carriers are reluctant to carry these individuals and even if they do the insurance premiums are very high.

As I have already mentioned, providing for a face-to-face hearing at the reconsideration hearing will hopefully reduce the inexcusably high percentage of erroneous terminations at this level. The individual facing termination of disability benefits should be afforded an opportunity to face those deciding the appeal as well as produce evidence which might have a bearing on the outcome of the appeal at the earliest possible time.

Finally, it is currently very difficult to accurately gage the exact depth and scope of the problem simply because no individual or agency is charged with collecting data relevant to the number of continuing disability reviews, the number of initial benefit termination decisions resulting from these reviews, the number of such termination decisions with respect to which reconsideration is requested or a hearing is requested or both, and the number of such termination decisions which are overturned at the reconsideration or hearing level.

Under my bill, the Secretary of the Department of Health and Human Services would be responsible for reporting this specific information to Congress on a quarterly basis. These reports will enable both Congress and the Secretary to better measure the disability review process and make changes as they are necessary.

It is my sincere hope that this committee will carefully consider the legislation I have offered here today and will move quickly to adopt what is intended to be a temporary solution to a most crucial problem. While a comprehensive disability package is needed, I do not believe such a comprehensive package could be adopted before the end of this year. It is therefore incumbent upon us to address this problem in an effective and expeditious manner.

Once again, I would like to express my thanks and appreciation to the Chairman and the Members of this committee for allowing me to offer this testimony today.

[From Sergeants magazine, September 1982]

PAY PICTURE FOR 1983

Unless unforeseen circumstances should change the pay picture for fiscal year 1983, which begins on Oct. 1, 1982, the cost-of-living pay adjustments for the active duty and the military retirees will be as follows:

For the active duty, a 4 percent pay increase effective Oct. 1, 1982. Targeting the raise to career personnel may also be applied again this year.

For the military and civil service retirees, a 4 percent pay adjustment, to be effective March 1, 1983, regardless of what the consumer price index may be. The increase will show up in the April 1, 1983 paycheck.

While these adjustments are far from what tney should be for the active duty as well as the retiree, it essentially places a cap on such adjustments. It took considerable lobbying to even obtain the 4 percent adjustments.

If the Senate proposal had prevailed in the conference committee between the House and Senate, all retired pay and even the active duty pay would have been frozen at the 1982 level.

SOCIAL SECURITY DISABILITY PAYMENTS

A program, conducted by the Social Security Administration, to review all those people with nonpermanent disabilities, is financially penalizing many of our disabled members.

The review program, directed by Congress in 1980, instructed the SSA to start the review process in February 1982. However, without taking time to develop sound procedures, or to hire and train qualified people to conduct the reviews competently, SSA began the review process in March 1981.

Unfortunately, many of those being targeted for reviews are the mentally ill, the severely handicapped and the very young who have not understood the communication received from the Social Security representative. The notice simply says their files are being reviewed to determine if they should be continued on disability rolls. Many of those who were placed on disability based on information already in their files did not realize this was a change, so they paid little heed to the notice.

What they did not realize is that the SSA redefined, or made the definition of disability more stringent under its regulations. Individuals have to requalify under the new rules, and old medical evidence is not being considered.

This is unfair because the contract doctor for the SSA ignores statements from two, or even three, doctors who have treated the individual for several years. If the contract doctor sees the individual at all, and in some cases he doesn't, a cursory examination is made, and the disability pay stopped based on the revised regulations. This comes as a severe shock to those disabled and has created a nightmare for many.

There are appeal procedures which, unfortunately like all such appeals, take considerable time. During this time disability payments are stopped.

AFSA is appalled at such a heartless program being conducted by the SSA. It is not enough that the individuals must cope daily with their disability, but to suddenly lose their disability payments only increases their anguish.

AFSA asks the oversight committee of Congress to place the burden of proof on the SSA. A complete review of an individual's medical history should be done before determining that the individual's condition has improved or that a disability no longer exists. Furthermore, there should be no cut-off of disability payments during the review process.

It is interesting to note that over 60 percent of the cases that have been appealed have resulted in restoring disability pay. That should say something about the poor administration of this congressionally directed review program.

VA HEALTH CARE

To meet the stiff competition with the private sector for nurses, Congress has passed legislation to improve the Veterans Administration health care system. They authorized the VA to pay their nurses a full week's salary for 24 hours of work on weekends. Even though the administration opposed the legislation, there was overwhelming support for the measure in Congress.●

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AMNESTY LURES ALIENS

● Mr. EAST. Mr. President, the Dallas Morning News, on August 29, 1982, carried a story headlined, "Amnesty plan luring aliens, U.S. agents say." I ask that this article be printed in the RECORD.

The story follows:

[From the Dallas Morning News, Aug. 29, 1982]

AMNESTY PLAN LURING ALIENS, U.S. AGENTS SAY

(By John Gonzalez)

EL PASO.—U.S. Border Patrol officials say the allure of potential amnesty is partly to blame for the latest influx of illegal aliens.

The officials challenge the assumption that the U.S. harvest season and the recent peso devaluation are mostly responsible for the record numbers of Mexicans who crossed the swift, muddy Rio Grande last week in search of work.

The patrol officials said that after a slow first half of 1982, traffic along the Texas and New Mexico portions of the border picked up in early July, a month before the Mexican currency was devalued for the second time this year.

While no one questions that the Mexican economic crisis is the underlying cause of the alien traffic, several border agents said the Senate-approved immigration law, awaiting House action that will begin in mid-September, is exacerbating the situation.

"We've got to remember that not only was there a peso devaluation, but there was also that immigration bill passed by the Senate, which received widespread publicity in Mexico," Laredo sector chief William Selser said.

"A lot of the aliens being encountered now are induced to come here by the thought that if they can get into the U.S. now, they won't have to leave," he said.

McAllen sector chief Larry Richardson agreed.

"I don't like the alarmist thing where this increase is blamed on the peso alone," he said. "We started our increase a couple of weeks in front of the devaluation (Aug. 5.) The immigration bill may be involved, too."

His brother, Del Rio sector chief Jack Richardson, said informants report counterfeiters are prepared to produce documents that illegal aliens could try to use to prove residency prior to Jan. 1, 1980.

The immigration bill, which would make the first changes in the law in 17 years, includes an amnesty provision that would allow aliens who have lived in the United States since before Jan. 1, 1980, to stay.

Rent receipts and U.S. W-2 forms would be considered proof of residency, and border patrol intelligence officers have been told the receipts and W-2s are among items that will be counterfeited.

"I don't have a built-in dislike for amnesty," Jack Richardson said. "I do have some concern about rewarding persons who have violated the law at the expense of those who have waited to try to lawfully immigrate."

"There are indications that vendors on both sides of the border are gearing up to supply counterfeit documents, but we haven't intercepted any yet."

El Paso sector chief Alan Eliason was more cautious.

"I am hearing speculation that the amnesty proposal is going tyo bring people in and that through acquisition of various documents, they would be able to sustain a claim that they've already been here two years. It could be, but I'm really not seeing it yet," he said.

Eliason said he has noticed an increase in aliens from big cities in southern Mexico where unemployment and inflation rates are staggering.

While border agents wait for the House to take action on the immigration law, they will rely more than ever on high-technology tools for detecting aliens as they illegally enter the United States.

Alien traffic is heaviest in El Paso, where 1-day apprehension records were set twice last week. Eliason said the record of 989 apprehensions in El Paso and southern New Mexico, set Tuesday, was eclipsed the following day, when 1,205 illegal aliens were caught. Most of them were found in downtown El Paso. The pace slowed as the weekend approached—down to 847 arrests Thursday.

At Laredo, the next-busiest area for crossing the river, the border agents were catching less than 150 aliens a day, but Selser said the rate is higher rate than a year ago.

Selser and other patrolmen said that the U.S. harvest season accounts partially for increasing influx of aliens. But the aliens often enter without realizing that there are few farm jobs available this season in the storm-damaged High Plains, they said. The job market for farm workers is considered saturated in several regions of the U.S.—from the pecan groves of southern New Mexico to the sugarbeet fields of Michigan. Mexicans questioned about their attempts to cross illegally into the United States invariably cite the need for work as their motivation for crossing.

The Rio Grande this time of year poses a danger to aliens attempting to cross, and drownings are a frequent occurence in El Paso where the river has been channeled into a flat but slippery concrete trough. At Del Rio, the river widens and forms a natural barrier. Horses, inner tubes or small boats are necessary to make the crossing. Further downstream at McAllen, aliens prefer to use inner tubes or bridges to ford the swift river.

Those whom elude detection at the riverbanks often are picked up by sensors, upon which the patrol relies heavily. Aliens who evade the sensors face detection at the many road checkpoints coordinated by border agents. Illegal aliens who clear those checks then need to worry about inland patrols by agents, who visited worksites from Odessa, to Oklahoma last week.●

U.S. GOVERNMENT STATEMENT AT OECD STEEL COMMITTEE

● Mr. HEINZ. Mr. President, our Government recently delivered an excellent analysis of the world steel situation at the OECD Steel Committee meeting on July 21.

This statement is not only a defense and explanation of Commerce Department actions, it is a thorough refutation of the various self-serving arguments raised by the European Community in an effort to avoid the assumption of their legal responsibilities. It makes clear that our law is not only fair and deliberate, it is GATT-consistent, tests which the EC itself has not always met. It also points out the irony of EC complaints that the quantity of their shipments to the United States is too low to be injurious in view of the Community's more drastic action in the face of proportionally less import penetration.

Mr. President, it is plain that when it comes to sell, the EC does not want to accept its obligations under the GATT and instead seeks to place the entire burden of adjustment on the American industry. This statement makes that clear and therefore is worthy of close attention by Senators. I ask that it appear at this point in the RECORD.

The statement referred to follows:

STATEMENT OF UNITED STATES AT OECD STEEL COMMITTEE—JULY 21, 1982

As you know, the Commerce Department made an historic decision last month. It found, to the surprise of few, that some European Community steel producers appear to be heavily subsidized, that others seem to be less heavily subsidized, and that some apparently receive no significant subsidies. We have spent much time, effort, and money to document with precision what we have known in general terms for a long time. The process itself is important, however. We did not presume the existence of subsidies; we did not accept uncritically the allegations of the U.S. industry to the individual steel makers under investigation; we did not rush to judgment. Instead, we conducted an exhaustive—and exhausting—and eminently transparent investigation. That search for the facts will continue right up to the time of the final determination, due August 24. Yet we published the preliminary results, in voluminous detail, for the entire world to examine critically. We spelled out the reasons why certain programs appear to be countervailable subsidies and why others do not. We have quite obviously managed to please no one entirely, which is perhaps the surest sign of our fairness.

Lest we forget—these are not the only cases under investigation. In addition to the complaints filed January 11 against seven members of the European Community, another 50 or so antidumping and countervailing duty investigations of steel imports into the U.S. are underway involving Spain, Japan, Canada, Korea, Argentina, Romania, Brazil, and South Africa. While these cases are still under investigation, it would be inappropriate to comment on specific issues involved in individual cases.

Nevertheless, we must respond to several charges that have been made against our conduct of these cases in order to clarify the objectives of United States policy and our support, which has been clear and consistent since the establishment of this committee, for effective adjustment to changing competitive conditions in the world steel industry.

First, we are accused of having unilaterally interpreted the GATT subsidies code. Part 1 of the code, which many of us have implemented through a national countervailing duty law, does not contain very explicit guidance on how to define and calculate subsidies. Therefore, when confronting novel situations, we, like any signatory of the code, will of course have to make choices on methodology which some consider a "unilateral" interpretation of the code. Our procedures are designed to ensure that these decisions are made on the basis of the best information available and on a careful analysis of what the code requires. We have—and we will up to the moment of the final determination—encourage all parties to express their views on all issues. Thereafter, we are subject to review by United States courts and in the GATT. We do not shrink from this scrutiny; we welcome it. For our aim is to build up a set of international rules that will provide a framework for free and undistorted international trade flows in steel—and all products. Like a muscle, this system can be strengthened only by regular use. If we are afraid to exercise the system, it will atrophy.

A second argument we have encountered is that restructuring subsidies are not prohibited by the subsidies code. That is absolutely correct—except where they cause material injury or otherwise prejudice the rights of a code signatory. The code does not prohibit domestic subsidies, but recognizes that they have legitimate policy uses. However, each code signatory is under the obligation to seek to avoid causing injury through the use of domestic subsidies. He is also obliged to weigh the world market context of his decision, including overcapacity and depressed prices, two factors that are quite familiar to us in this committee. In other words, a code signatory agrees not to shift the burden of adjustment, through the use of domestic subsidies, on to other producers. Before any subsidy can be authorized, its impact on others must be weighed. In a world of excess capacity, domestic subsidies that have the effect of maintaining inefficient production facilities are not only economic folly, but can be contrary to the GATT as well.

Another argument we sometimes hear is that European imports are too insignificant to be causing injury since they account for "only" 6.2 percent of the U.S. market. It is true that the EC's 6.4 million net tons of shipments to our market accounted for 6.2 percent of our apparent supply last year. As we have already noted in this committee, that was the highest market share for the EC since 1978. Moreover, thus far in 1982 (through May), EC shipments account for 7.0 percent of apparent supply, a 12 percent jump over 1981.

Then, too, we must all recognize that this sort of number is not terribly relevant to the question of injury to producers of any particular product. That is a judgment that can only be made after a careful assessment of the impact of the volume and price of imports on the sales, profits, and employment of individual industries.

We do not have detailed, product-by-product injury information with us. On the basis of its preliminary investigation, the United States International Trade Commission (ITC) published two volumes of data on a product-by-product basis. However, the committee should not forget that: (a) about one-third of the U.S. steel work force is on layoff and another 6 percent is working short weeks; (b) U.S. capacity utilization during the first 5 months of 1982 was 57.4 percent and in recent weeks has fallen close to 40 percent; (c) order books are empty, indicating no significant increase in demand is imminent; and (d) imports have been at record or near-record levels for months, creating a sizable inventory overhang that further depresses prices and will further delay the recovery, but for a moment, assume the 6.2 to 7.0 percent figure were relevant. How would we apply it to the situation of the community itself? What foreign supplier can claim anything like 6 or 7 percent of EC consumption? In fact, all suppliers taken together last year accounted for only 7.0 percent of the EC market. Yet the import threat was perceived to be so severe that the community felt compelled to maintain and to extend for another year a system of price and quantity restraints on imports. At the same time, we seem to be hearing the argument that import penetration in the U.S., which has been 2–3 times as high as in the community, is not sufficient reason for our producers to exercise their rights under U.S. law and the GATT to nullify the injurious effects of dumping and subsidization. That is curious logic, indeed.

A related charge is that our actions threaten to disrupt "traditional patterns of trade." This an old controversy and we are surprised by its staying power. We never agreed in this committee or anywhere else that traditional patterns of trade should be maintained. Let us review the history of our agreements since 1977:

At the third meeting of the ad hoc group, we concluded that: "No nation can be expected to absorb for sustained periods large quantities of imports at unjustifiably low prices"—that is, dumped or subsidized—"to the detriment of domestic production and employment"—that is, injury—"But any measure designed to deal with such imports"—read the trigger price mechanism—"Should take into account customary patterns of trade."

In view of the controversy that arose, we agreed to a clearer statement in the mandate of this committee to "take into account the concerns of trading partners that traditional trade flows established under normal conditions of competition"—that is, without dumping or subsidization—"Not be severely disrupted"—hardly the same as "maintained."

Let me repeat part of our statement at the last meeting. Not only did we not agree to maintain traditional trade flows, but we could not have done so within the legal framework of our fair trade laws. Nor would we want to do so. The constant purpose of our policy has been to neutralise the injurious effects of dumping and subsidisation, which distort normal conditions of competition, not to arrange the shares of our market at any level, "traditional" or "nontraditional." Ours is a rapidly changing market; how are we supposed, and why would we wish to try, to maintain imports from individual foreign suppliers at any "traditional" level?

While we made no such commitment to maintain traditional levels of imports, it is worth noting that U.S. imports in every year since 1977 have been above 1976, a total of 93 million tons, while EC imports since 1977 have been consistently below 1976, and amount to less than half of U.S. total.

We also must reject the claim that these cases will shift the burden of adjustment to EC producers. This is not a variation of the theme of beggar thy neighbor. We all share the responsibility for promoting prompt, adequate, regular adjustment within our own borders.

Not to do so is to shift the burden of adjustment on to others, and that is something we have all pledged to avoid. Indeed, it is hard to imagine any happy end to our steel crisis that does not rest on continuous, effective adjustment not just in one or two OECD countries, but throughout the entire OECD area.

This brings me to a final argument—that the U.S. industry is failing to modernise and that the U.S. Government has no industry policy for steel. Well, the industry has been modernizing for almost two decades:

Production capacity has been reduced by about 6 million metric tons since 1977. In fact, since there has been some new effective capacity installed, the reduction in obsolescent capacity has been even greater.

Employment peaked in 1965 and has been steadily trending downward as labor saving investments are made.

The industry in 1980-1981 elaborated on an ambitious set of modernization plans. But to implement them will cost money, lots of it, and it all must be generated through private funds.

The U.S. industry also pays for its mistakes. A failure to keep competitive, to improve quality and service, to control costs—any of these can be devastating to a free market producer.

Those who cannot generate such funds will have to retrench, eliminating marginal facilities, including entire plants. These decisions have been made literally hundreds of times in the 1970s. They will continue to be made, without fanfare, in most cases. This is a constant, and hardly painless, but very real adjustment process.

That brings us to our supposed lack of an industry policy. We do have one. It is simpler than the policies some of you have adopted. It requires no major public expenditure, no planning, and no direction by government. The key decisions are left to those closest to the market—the firms themselves. But our policy, which relies on the free play of market forces to ensure that structural change and adaptation take place regularly, is a true industry policy. And it is just as legitimate an industry policy as the more interventionist approaches others have adopted.

Now part and parcel of that policy is a reliance on GATT rules of fair international trade. If we are going to force our producers to face foreign competition without government financial assistance and to succeed or fail on their own resources, we owe it to them to ensure that imports compete for our market on an equal footing. Our aim is to eliminate, in so far as we are able to, distortive effects of government interference in the market. If we concerned ourselves only with the effects of U.S. Government policies on our market, we would be naive indeed. Such a course could undermine the objectives of economic efficiency that we seek and in effect would let others who are more interventionist dictate industry policy to us, merely because we seek to keep our markets open to the beneficial effects of international competition.

Compliance with antidumping and subsidy countervail laws are the price of admission to an open market. We did not invent this idea. It is the concept of equity which underlies the GATT itself. We will not prescribe adjustment measures for anyone else, but by the same token we cannot accept that others shift the burden of adjustment onto our producers and our workers.

In conclusion, let me recall how it was that we came to establish this committee. We sensed in 1977 that we were facing more than just another cyclical downturn in steel and that something fundamental had changed in world supply and demand. We concluded that our collective policy response therefore had to give "sustained priority attention . . . to the long-term need of restructuring and modernization, where necessary, to promote a rational allocation of productive resources with an aim of achieving fully competitive enterprises." In 1978,

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after a much more thorough debate, we agreed that this committee would have as one of its objectives to "facilitate needed structural adaptations that will diminish pressures for trade actions and promote rational allocation of productive resources with the aim of achieving fully competitive enterprises."

In October 1980, on the heels of another episode of trade confrontation, we agreed that the restructuring process needed to be accelerated if we were to meet these objectives. Throughout the history of this committee and it predecessor we have stressed the goal of cooperation, the need to recognize the interrelatedness of our problems and the value of regular consultations on incipient problems.

We tried our best from the spring of 1981 on to warn, in this committee and bilaterally, that the actions of some exporters were placing us on a collision course. We take no pleasure in having been proved correct in that forecast. We now see only one way to avoid repeated episodes of sharp conflict over this issue. We have got to start confronting, not each other, but the problem itself, in all its aspects. It is for that reason that we established this committee and, from all appearances, we need it today more than ever.●

A REPLY TO FRANK DONNER

● Mr. EAST. Mr. President, in the August 7-14, 1982, issue of The Nation, a left-leaning periodical, there appeared an attack on the Subcommittee on Security and Terrorism, on its chairman and myself, and on one of my staff aides, Dr. Samuel T. Francis. The article in which these attacks appeared was entitled "Rounding Up the Usual Suspects" and was written by Frank Donner, himself a long standing member of the anti-intelligence lobby that has so crippled our intelligence and internal security agencies in recent years.

Dr. Francis drafted a lengthy response to the Donner article and sent it to the editor of The Nation, in the hope that that magazine would have the fairness to publish both sides of the question. After 3 weeks of waiting for a reply from the editor, he has asked that I place his response in the CONGRESSIONAL RECORD. I am happy to do so, in order that the errors and fallacious reasoning of Frank Donner be exposed publicly, and I request that Dr. Francis' response be printed.

The response follows:

A REPLY TO FRANK DONNER

(By Samuel T. Francis)

It would appear that in the last two years I have become something of an obsession to the contributors of The Nation. In January, 1981, this magazine published an attack on the Heritage Foundation's Mandate for Leadership and specifically on the section dealing with internal security, which I authored, in the chapter on the intelligence community. Earlier this summer, The Nation published a hostile review of a recent collection, The New Right Papers, to which I was a contributor. The review dwelled on my essay in that collection and made an absurd attempt to link it with Nazi and Fascist ideology. Now The Nation has published an even more absurd article by Frank Donner ("Rounding Up the Usual Suspects") in its issue of August 7-14, 1982. It is curious that an obscure staff aide on Capitol Hill should attract this much attention, and even curiouser that the attention should be as hostile as it has been.

I have deliberately refrained from responding to these attacks, partly because my work has not permitted me time to reply and partly because I simply do not have the inclination to chase the contributors to The Nation around the political cabbage patch. Although friends and colleagues urged me to reply—indeed, in one case to consider legal action—not until the most recent barrage did I decide that a response was in order.

Unlike the earlier attacks, Frank Donner's article is directed not only at me personally but also at a serious issue of national policy, the projected revision of the Attorney General's guidelines for domestic security investigations (the Levi guidelines) by the FBI. For good or ill, my name has been publicly associated with the controversy over the guidelines, and it is important that Donner not be allowed to boast, as is his habit, that he has "refuted" or "discredited" my position in this controversy by an article that is replete with logical fallacies, factual errors, debaters' artifices, and the most vituperative insults.

Although Donner is ostensibly writing about the hearings held by the Subcommittee on Security and Terrorism on the Levi guidelines on June 24 and 25, 1982, the bulk of his article does not deal with the hearings, and none of it deals with the actual testimony of the witnesses. Nearly three-fourths of Donner's article focuses on a lecture I delivered in Boston at Emerson College in April of this year on the subject of the guidelines, my criticism of them, and my suggestions for revising them. Prior to his effort to refute my presentation in Boston point-by-point, however, Donner devotes a paragraph to my own academic background and to the Mandate for Leadership report of the Heritage Foundation.

It is not clear to me why Donner chooses to dwell on the subject of my doctoral dissertation, unless it is to suggest that I have no academic expertise in a subject on which I have repeatedly been asked to write and speak. If this is his suggestion, one can only marvel at his pedantry, since it is commonplace for academics to develop expertise in a second field. In any case, Donner follows his references to my dissertation topic with a gratuitous and unexplained insult to my monograph, The Soviet Strategy of Terror, "an unintentional parody of the genre." What "genre" he is talking about and why it is a "parody" he does not bother to explain. Incidentally, Donner's first factual error occurs at this point: I did not begin work at Heritage after earning my doctorate, as he states. I received my doctorate in 1979, two years after coming to Heritage. The point is of little importance, but it reveals the sloppiness of Donner's research and the cavalier manner in which he treats factual precision.

More importantly, I did not advocate in the Mandate for Leadership that the Levi guidelines be "scrapped." Nor did I advocate this in my speech at Boston, as Donner states. In everything that I have ever written or said on the subject, I have urged the revision of the existing guidelines and the need for some guidelines for domestic security investigations. This vitally important distinction between reform and revision, on the one hand, and outright abolition on the other is ignored by Donner.

He then reiterates the stale, hysterical, and inaccurate criticism of the Mandate for Leadership section on internal security that has been floating around on the American Left for two years. This criticism was effectively refuted, the out-of-context quotations and inaccurately compressed paraphrases corrected, in a letter from Phil N. Truluck, Executive Vice-President of the Heritage Foundation, to Congressman Thomas J. Downey, published in the CONGRESSIONAL RECORD, December 16, 1980, p. E5447; Congressman Downey's criticism of this section was published in the RECORD on November 19, 1980, p. E5005. I refer the reader to these citations, but to repeat the substance of Mr. Truluck's corrections once more:

(1) I did not advocate that the FBI "monitor [whatever that means] a broad selection of targets ranging from 'radical and New Left groups' to 'anti-defense' and 'anti-nuclear lobbies,'" I did mention a range of extremist or foreign connected groups (including right-wing extremists) as actual or potential internal security threats. I do believe that the FBI should be allowed to investigate at least some of the groups I mentioned, but it is impossible to specify which techniques or levels of investigation would be appropriate. Among the groups I mentioned that I considered then (and consider now) to be internal security threats are the foreign-linked Communist Parties and the active terrorist groups (e.g., FALN) and their supporters. There is no doubt in my mind that these groups should be under investigation at an intense level.

(2) It is not true that I stated, and I do not believe, that, in Donner's words, "the nation's security requires the surveillance of 'clergymen, businessmen,'" etc. The quotation from the Mandate concerning clergymen et al. is torn out of context. That context is a discussion of the nature of subversion and of how innocent parties can be unwittingly deceived, exploited, and manipulated for ulterior ends. The passage has nothing to do with "surveillance."

(3) Donner is also wrong when he states that the Mandate for Leadership section says "the K.G.B. has penetrated all levels of government and operates a vast network of proxies and spies." The KGB, as well as other foreign intelligence services, are indeed active in the United States—probably more so now than at any time in the past—as a number of recent espionage cases, Congressional testimony, the statements of defectors, and responsible investigative reporting have shown. The Mandate did comment on this fact, but this is quite different from claiming that the KGB has penetrated "all levels" of government, a claim I have never made and have no reason to believe. Once again, Donner's exaggerations deceive the reader.

It is doubtful to me that Donner has ever bothered to read the actual text of the Mandate for Leadership section on internal security. It is more probable that he has simply relied on the news accounts and editorials that were written about it. This is indicated by the fact that he has produced no quotations from the Mandate that did not appear earlier in these secondary sources and by his inaccurate reference to "the Heritage Foundation's report 'The Intelligence Community.'" There is no such report; there is a chapter of that title in the Mandate for Leadership. I was the editor of that chapter and the author of a section within it on internal security. If Donner had ever actually seen the Mandate for Leadership volume, he would not have made this elementary error.

I might suggest that Donner submit himself to the pursuit of an academic discipline for a few years, even to so esoteric a subject as the foreign policy of the Earl of Clarendon. There, in the "cloistered contemplation" of his subject, he will find that one cannot easily complete an acceptable dissertation in any field unless he carefully corroborates his facts, actually reads the texts on which he is commenting, is precise in his logic, makes some effort to substantiate his assertions, and avoids importing his own ideology and prejudices into his analysis. Judging from his article, I suspect that Donner would not last long in any acceptable graduate school.

The incoherence of Donner's mind is evident in his main assault on my remarks in Boston. He begins this part of his article with several vague and unexplained hit-and-run assertions: my "systematic rejection of constitutional objections to intrusive surveillance practices," my "unsupported argument that the executive branch has elastic, inherent powers in the domestic security realm," my "unjustified complaint about the impact of the Levi guidelines on the F.B.I.'s intelligence caseload," etc. It is difficult to guess what Donner is talking about, since he does not bother to quote my exact statements in these matters. As far as I can tell, the first assertion refers to my citation of several recent court cases that uphold the propriety of domestic security investigations. The second perhaps refers to my statement that one authority for domestic security investigations by the FBI that has been cited in the past, and with which I agree, is the requirement of the U.S. Constitution (Article II, section 3) that the President take care that the laws be faithfully executed and (Article IV, section 4) that the federal government protect the states from domestic violence. These are not "elastic" powers and my claim was not "unsupported." My "unjustified complaint" about the effect of the Levi guidelines refers, I suppose, to the statistics I cited in my remarks that in 1974 (before the guidelines) the FBI had 157 organizations under investigation, and in 1978 there were only 15 organizations and 42 individuals under investigation. Donner, in other words, is wrong on all three charges, although the reader has no way of knowing what I actually said. If Donner's charges refer to other statements that I made, he should have specified them.

Donner's purpose, of course, was not to refute what I said but simply to get the reader in the mood for the main assault, a painstaking but entirely erroneous criticism of my remarks in Boston. Essentially, Donner's criticism boils down to three charges:

(1) Terrorism is not now a serious threat in the United States; therefore, we do not need to take precautionary or preventive measures against it. I will say no more about this argument than to point out that it makes as much sense, and is as illogical, as the argument that I should not carry health insurance because I have never been seriously ill. I will not try to prove that terrorism is a serious problem in the United States today. I will rest content with what I hope is the incontestable statement that since the mid 1960s terrorism has been a worldwide problem, that the United States (and its citizens and institutions abroad) have been attacked and threatened by terrorists outside the country as well as inside, and that the terrorist threat continues to concern all civilized nations. Global terrorism has important and long term sociological and ideological causes as well as a significant conspiratorial dimension, and it is only common sense to believe that the United States is a logical target of some terrorist groups. Terrorism in the United States is not a particularly important problem right now, but our vulnerability to terrorism is a very important problem today. We all hope that the global wave of violence is on the decline, but as long as it exists, the leaders and the citizens of the United States have cause to take adequate security measures against it.

(2) Investigation (or "monitoring," "surveillance," "penetration," or "infiltration"—Donner uses these undefined terms interchangeably, although they generally have different meanings) of terrorist or terrorist support groups is unconstitutional and a threat to democratic freedoms. Donner repeats this point several times, yet at no time does he cite a single provision of the Constitution, a single court decision, or a single statute to support his insinuation that domestic security investigations are beyond the pale of the Constitution. There are indeed legal restrictions on the methods of intelligence collection in the Foreign Intelligence Surveillance Act of 1978, the Keith decision of 1972, and other laws and decisions. The Freedom of Information and Privacy Acts have also had indirect restrictive effects on the conduct of domestic security investigations, but there is no constitutional or legal bar to domestic security investigations or to the authority of the FBI or other law enforcement agencies to conduct them. In my remarks in Boston, as I stated above, I cited several court cases to support this statement; Donner either missed this part of the speech or deliberately chose to ignore it.

Moreover, there is no reason to believe that duly authorized and properly conducted domestic security investigations threaten a free society. The FBI was most active in this area between the administrations of Presidents Franklin Roosevelt and Lyndon Johnson—perhaps the most liberal stretch of American history and the era in which domocracy and civil liberties were most widely extended. Intensive domestic security investigations did not, in other word, retard political freedom but rather accompanied its expansion and were often authorized by those in government most responsible for the expansion of freedom.

It is important to understand that mere investigation, no matter at what level, of a group or individual for domestic security purposes does not mean that the subject of investigation is being prosecuted, punished, disrupted, intimidated, threatened, or interfered with. A group or individual may advocate the most extreme violence, all sorts of nonsensical and dangerous ideas, and the most oppressive or anarchic forms of government. Authorizing investigation of such advocacy merely means that the government (specifically, the FBI) is allowed to know about the groups or individuals, their associates, or those influenced by them and how seriously they intend their rhetoric. The justification for such investigations (which may mean merely collecting and reading the literature of such groups) is simply that some extremists are serious when they call for violence and do have the capability to carry out their threats. By knowing about such groups in advance, the authorities are aided in preventing violence. The negative is also useful: if a group is not serious in its advocacy of violence or does not have the ability to carry it out, the authorities need to know this too in order to redirect their resources more effectively. There has been substantial testimony in the Subcommittee on Security and Terrorism to this effect as well as in other committees in previous Congresses, but Donner either is ignorant of this evidence or choses to disregard it.

This brings us to Donner's third charge, namely, (3) Investigation of terrorists and their support apparatuses is not useful for the prevention of terrorist violence. In arguing for the contrary of this proposition, I cited several instances from recent history in which the absence or withdrawal of proactive investigation was followed by the perpetration of violence by the group from which investigation had been withdrawn or was lacking.

It is impossible to prove a negative, so no one can say with absolute certainty that investigation would have prevented the violence. Yet, given the circumstances, it is only common sense that at least some of it would have been prevented. This is not merely my subjective guess. It is based on discussions with professional intelligence and law enforcement officers, some of whom were directly concerned with some of the incidents I described or with similar incidents. Every intelligence officer or investigator with whom I have talked and who was involved in counter-terrorist work prior to the guidelines has described to me cases in which proactive investigation has prevented violence and has saved lives—the kind of investigation that is not allowed or is minimized under the guidelines in their present form.

Donner is at great pains to demonstrate that every one of the instances I discussed is invalid. It is in this section of his article that the profundity of his ignorance, his inability to think clearly, and indeed his artful and deceptive style become most evident. I will not try to reply to every one of his embarrassing bloopers here, since it would require almost a line-by-line analysis. Instead I will dwell on the most absurd of his errors in order to display his incompetence to write on this subject.

(1) The Brinks Robbery: One of the suspects arrested fleeing from the scene of the armed robbery and triple murders in Nyack, New York last October was a member of a group known as the "May 19th Communist Organization" (MCO), and a vehicle used in the escape attempt was traced to another member of the same group. Judge Webster has confirmed in public testimony that the FBI did not have the MCO under investigation prior to the Brinks robbery, although the group is clearly linked to the Weather Underground Organization support group, the Prairie Fire Organizing Committee, and has published manifestoes advocating terrorism and armed robbery ("expropriations"). My point was that police or FBI informants in the May 19th Communist Organization could have learned of the impending robbery, previous robberies allegedly committed by the same parties, or the whereabouts of wanted Weather Underground fugitives, since the MCO has been supportive of and apparently has had contacts with these fugitives and their activities. Perhaps informants could not have learned these things, but without them, the authorities are reduced to luck and the weaknesses of the terrorist groups themselves to counter them.

Judge Webster has stated that the Levi guidelines did not prevent the MCO from being investigated. I must disagree with him. If he is correct, then why was it not being investigated? Since the Levi guidelines do not permit the use of informants, mail covers, or electronic surveillance unless there is reason to believe a group or individual is or soon will be engaged in violence and the violation of federal law for certain purposes, and since there was no reason to believe this of the MCO prior to the Brinks robbery (other than its rhetoric), I do not see how the guidelines could have permitted the investigation of the May 19th Communist Organization.

Donner's response to this example is the following:

The fact is that two of the May 19 Organization's [sic] units, the Weather Underground and the Black Liberation Army, and several individual members as well were under intensive surveillance. Indeed, a number of the participants in the crime were fugitives and therefore targets of serious tracking efforts.

First, it is not true that the Weather Underground and the BLA were under active investigation (nor is it true that they are "units" of the MCO). The FBI closed its investigations of both groups in the late 1970's, and in December, 1981, Judge Webster stated in a press conference that the Weather Underground was no longer a functioning organization.

Secondly, Donner, in his whole discussion of the nature and purpose of investigations, reveals a woeful ignorance of both the nature of modern terrorism and of counter-terrorist intelligence. In his discussion of FALN Donner states, correctly: The experience of law-enforcement agencies is that most terrorist groups are virtually impenetrable by informants or by wiretaps and other techniques because security precautions are second nature to them.

Precisely so. The "hit teams" or "action cadres" of a terrorist group—those that actually perpetrate the violence—are generally underground or completely anonymous. In order to function, however, they must have contacts with or support from an above-ground apparatus (the "support group"), which also generally tries to publicize and legitimize the terrorists' "propaganda of the deed." The most accessible target of counter-terrorist intelligence therefore is the above-ground support structure, not the underground hit team, and through investigation of the support structure and surveillance of the contacts between it and the underground, the authorities may be led to the apprehension of the actual terrorists.

Moreover, because the support groups themselves seldom commit violence or illegal acts, they are generally not subject to investigation (at least intensive or long-term investigation) under the Levi guidelines. But because they advocate violence through their propaganda, revision of the Levi guidelines to allow for investigation of advocacy of violence would enable the FBI to investigate the support groups. In my remarks in Boston, I explained this problem and its solution very carefully, and I quoted General Schlomo Gazit, the former Director of Israeli Military Intelligence, and several other authorities to support my case. Donner was physically present during the whole of my remarks, but apparently was nodding off. He completely missed the point I was making: Investigation of the underground component of a terrorist group is often not very useful, since its whereabouts are unknown and its structure is difficult to penetrate; the proper and more accessible target of surveillance is the more public but less violent support structure. This is one reason why FBI surveillance and investigation of FALN, the Weather Underground, the BLA, and other underground terrorists have often not been very productive. The guidelines prevent the FBI from focusing on the proper target. (Even if the underground apparatus can be located, the proper response at that point is not to investigate it but simply to arrest its members).

(2) The Hanafi Muslims and FALN: Donner claims that surveillance of FALN and the Hanafis prior to the Levi guidelines did not prevent violence; therefore, he concludes, the guidelines and other restrictions on intelligence gathering are not responsible for failing to prevent violence since they went into effect. All this proves, however, is that successful surveillance and investigation are not easy. In the case of FALN (on the investigation of which I did not dwell in Boston) a Puerto Rican terrorist group active since 1974, the only breaks in the case have occurred through unsolicited tips. The FALN underground structure is highly secretive, and even surveillance of the above-ground support structure did not prove effective. This is no reason to give it up, however, since even low levels of investigation can reveal targeting, adherents, financing, ideology, and other important facts about a group (and did reveal such information in the FALN case).

With respect to the Hanafis, the point is that the withdrawal of informants from this group by the Washington Metropolitan Police during the near elimination of local police intelligence in the early 1970's obviated and made impossible any preventive action. "But if there is one thing about which we can be 'almost certain'," writes Donner, "it is that the smaller the group, the tighter the security and the more difficult the access." This remark is simply meaningless. Security is a function of the procedures and discipline of a group and has nothing to do with size. Some large organized crime families, for example, have far tighter security than all but the most sophisticated terrorist groups. Moreover, Donner's point is irrelevant, since there had been an informant in the Hanafis who had been withdrawn or dropped. I have spoken with officers actually involved in this case, and without exception they feel that retention of the informant would have prevented the Hanafi seizure in Washington in 1977, in which one person was killed. An informant in the group would almost certainly have known of the storage of arms, training and planning meetings, Hanafi surveillance of the targeted buildings, etc., and could have warned local police. Although the Hanafi case is not directly relevant to the Levi guidelines, its point is to show that the absence of surveillance enables the perpetrators of ideological violence to carry out their plans.

Similarly, the restrictions of the San Francisco police, while not federal regulations, did impede investigation and apprehension of the "Zebra" murderers. The suspect Black Muslim temple was eventually placed under mild photographic surveillance by state (not local) authorities in order to identify suspect members (some of them former convicts with records of violence), but this was only two months before a defector from the group told police what he knew of the planned murders and the case was wrapped up. Had even this amount of surveillance been permitted earlier, photographs of suspects might well have been identified by witnesses and surviving victims, and lives could have been saved.

(3) Jonestown: A Department of Justice spokesman admitted shortly after the massacre that Congressman Ryan had asked DOJ to investigate the People's Temple, but the Department "ruled out investigation into alleged brainwashing and physical abuse in religious cults because of fears such inquiries would violate constitutional guarantees of freedom of religion." (Washington Post, November 25, 1978, page A5). Apparently, then, we have come to a state where brainwashing and torture are guaranteed by the Constitution! Donner, either ignorant of or reluctant to acknowledge this admission by the Department, fantasizes that Jones's paranoia was "fed by his delusion of being spied on by the FBI and CIA." Perhaps, for that matter, it was the kind of paranoid drivel trumpeted by Donner and Jones's cohort Mark Lane about the intelligence community that instructed Jones.

(4) The Maryland KKK: More directly relevant to the guidelines themselves is the instance of the Maryland KKK, in which the FBI withdrew its informant (i.e., ceased to receive reports from him) while the Maryland State Police kept theirs in the Klan and were able to prevent serious violence shortly afterwards. The Bureau dropped its informant because of the Levi guidelines' time limits on the use of informants. Donner's attempt to refute this example is a foolish non sequitur. He points out that the FBI and State Police informant were the same individual. This fact, of course, has nothing to do with FBI loss of contact with him. The point is that because of the guidelines the FBI could not prevent an act of terrorist violence. Fortunately, the Maryland authorities, not bound by the federal guidelines, did do so. If, as many "civil libertarians" advocate, the provisions of the guidelines were extended to state and local agencies (and this has actually happened in some cases), this act of prevention could not have occurred.

(5) Finally, there is the Hinckley case. It may or may not be probable that Hinckley's violent proclivities and trip to Washington to shoot the President would have been detected. In my mind there remains a large degree of probability that he would have been detected if the Nazis had been under investigation and if Hinckley had been tracked as a potentially violent individual. However, the main point is that the Nazis themselves—a group with violent proclivities, attractive to extremists and eccentrics, and advocating totalitarian dictatorship—are not under investigation because of the guidelines. This was admitted by FBI spokesman Ed Gooderman to the editor of the conservative newsweekly, Human Events, shortly after the assassination attempt. If our religious life is to be elevated by brainwashing and torture, therefore, our political culture is to be enriched by vicious harangues in favor of genocide and totalitarianism with no chance for federal authorities to keep track of these nuts or prevent or warn of their provocative or violent activities.

Donner's general ignorance of the nature of contemporary terrorism and political violence reveals itself again, and in a major way, in his remark that Francis wants us to believe that a continuum running from dissent to violence exists in American political life and that penetration of dissenting groups is necessary to prevent the violence. He ignores what students of political violence have long known—that violence-prone or terrorist groups have for almost a century and a half conflicted ideologically with non-violent groups, even when they share the same goals.

Although I quoted or cited several authorities on terrorism, conflict and political violence in my remarks—none of whom Donner mentions—he does not mention any to support this assertion, and we cannot know what his authorities are. Obviously there is a disagreement over tactics between violent and non-violent groups. But in the history of terrorism, the latter often develop or fragment into violent groups. Such was the case with the SDS, for example, which moved from generally peaceful demonstrations through violent confrontations before fracturing into the Weathermen. The Black Liberation Army, an explicitly terrorist group, also developed from a faction within the militant but less violent Black Panther Party. There is also very often a fringe element that, while it does not fully endorse violence, exhibits some sympathy or fascination with it and has some association with a terrorist or violent group. This is not to say that all those who sympathize with the stated goals of a terrorist or violent group are involved with, have endorsed, or sympathize with violent methods, but the connections or "continuum" are sufficiently real for law enforcement authorities to be aware of them and make use of them for investigative and preventive ends.

Earlier in his article Donner makes another meaningless distinction between "isolated" terrorist acts, such as he claims predominate in the United States, and the "ideologically motivated terrorism prevalent in Europe today." I see no necessary difference between "isolated" terrorism and "ideological" terrorism. Indeed, in most definitions of terrorism, ideological or political motivation is a key element. The 42 terrorist incidents in the United States listed by the FBI for 1981 (not all of them "bombing incidents" as Donner inaccurately claims the FBI calls them) were all, as far as we know from available evidence, committed in the name of some aberrant ideology. It is true that some of the groups said to be involved are small, unsophisticated, and only occasionally a serious threat. Others—such as the Puerto Rican and Armenian terrorists—have presented fairly serious problems for some time and promise to cause more trouble. Others still—such as the Communist Workers Party and some Iranian groups—may become serious threats. Donner appears to have no knowledge of these groups or their tendencies, and in his determination to refute everything I say, he minimizes the terrorist problem to an unrealistic degree.

In short, Donner has no understanding or knowledge of what he is talking about, and there is nothing in his article that effectively refutes or challenges anything I or other critics of the Levi guidelines have said. (Other critics include the chief of the U.S. Park Police, the past and present Directors of the Secret Service, the General Counsel of the Treasury Department, a host of local and state law enforcement intelligence authorities, and another host of former FBI agents). Even when, as is not always the case, Donner is factually correct in his challenges, his facts are usually irrelevant to the point or argument. Donner was physically present at the session in Boston, but he remained silent during the discussion that followed. I wondered then why he did not participate, but it is now clear to me that he prudently did not choose to make a fool of himself when I was present to respond to him. Instead, he wrote an article about my presentation that would be read by an audience that was not present and could not know what I had said. Unable to refute my case, he resorts to insults to me, to Senator Denton ("a bumbling primitive") and Senator East (the "master of the paranoid style," a "tiger," a "fervent ideologue eager for the limelight").

Apart from the polemical weakness and intellectual poverty that Donner's tactic displays, this kind of vituperation is really a bit too thick coming from him. In the 1950s Donner was identified as having been a Communist in the 1940s. When afforded an opportunity to refute the sworn allegations, he declined and refused to answer the question (though he later denied that he was a Communist at the time he was questioned). It is not for me to say whether Donner is, was, or ever has been a supporter of Joseph Stalin, but until he has at least clarified these allegations, the rest of us—particularly Senator Denton, who has served his country heroically—should not have to suffer his foul mouth.

I would have thought that Donner's colleagues in the ACLU, so zealous themselves for the protection of civil liberties, even for Nazis to march through Jewish neighborhoods, would have sought some public clarification from him. Was he a Communist or not, and if he was, how did he make the transition from Stalinist to a stout defender of civil liberties? In his lifelong quest to ridicule and insult anti-communists, when has he ever turned his bile on the internal terror and foreign crimes and aggression of the KGB and its grim sister services?

Indeed, it matters little to me whether Frank Donner ever was a Stalinist or not. On the evening before my remarks in Boston, Donner insisted on making a speech himself, though, I was told, he had not been invited to do so. He treated us to an incoherent, rambling, and delusive diatribe on the alleged conspiracies of the CIA, the FBI, the "McCarthy period," the "New Right," and all the other bugaboos of the Old Left. Refusing to sit down and allow the scheduled program to proceed, he was finally led away by the chairman of the conference, to the snickers of the audience, revealed for what he is, an aging phony, a relic of irrelevance, an incomparable bore.●

JOHN KENNETH GALBRAITH ON THE NUCLEAR FREEZE

● Mr. **KENNEDY**. Mr. President, I call the attention of my colleagues to an extremely thoughtful article by John Kenneth Galbraith in support of the nuclear weapons freeze.

Professor Galbraith demonstrates lucidly and convincingly how the Reagan administration's loose rhetoric about fighting and winning a nuclear war has galvanized the American people behind the movement for a nuclear weapons freeze. He describes how the American people have become removed from decisionmaking in the realm of military strategy, a matter which concerns the very survival of our Republic. In the finest tradition of American democracy, the nuclear freeze movement represents a grassroot initiative by Americans determined to take their future into their own hands.

I commend Professor Galbraith's article to the Senate and request that it be printed in full at this point in the Record.

The article follows:

[From the Washington Post, Sept. 5, 1982]

Friend of the Freeze

(By John Kenneth Galbraith)

Like others in these last years, I've been deeply concerned over the dynamics of the nuclear arms race and the somber promise that it holds for mankind. Feeling so, I have tried to do whatever might be possible as a private citizen to arouse interest in arms control and concern for the exceedingly probable disaster if it does not succeed. I was a member of Americans for SALT; I have had a role in the Council for a Livable World and been a cochairman of the American Committee on East-West Accord; I persuaded the BBC, in the course of a television series on the issues of our time, to do a sequence in Death Valley to show how the landscape between Hartford and Philadelphia would look after a modest nuclear exchange; I have made speeches for Physicians for Social Responsibility, our most effective organization in advising people as to the consequences of nuclear war.

At the Democratic National Convention in 1980, I joined Adm. Gene La Rocque of the Center for Defense Information and Frank Askin, a lawyer from New Jersey, to speak in favor of a resolution calling for a bilateral nuclear weapons freeze. The freeze, a straightforward and wholly practical first step, seemed by far the best way of getting the issue away from the nuclear theologians who have made weapons policy, including arms control, their exceptionally private preserve.

The convention experience was especially instructive. Harold Brown, then in his residual days as secretary of defense—no men descend so rapidly into such well-earned obscurity as former secretaries of defense—reproached me with extreme solemnity for appearing on so frivolous a mission. He was there to lobby for the MX missile.

Charles Robb, now governor of Virginia, was designated by the Pentagon to refute the freeze heresy; he read his speech very well, despite not previously having encountered it. My own words, like those of my colleagues, were greeted with great waves of apathy. We were resoundingly defeated.

I cite these efforts not to suggest any seniority in the present discussion but to establish my credentials for affirming that, despite much efforts, we weren't getting anywhere at all until Ronald Reagan and his people came along to bail us out.

Concern for the danger of nuclear confrontation and war was, I am persuaded, just below the surface. But like the prospect of death, with which it is so largely identical, it was subject to psychological denial. Better and certainly happier not to think about it.

Needed was a major shock or series of shocks to bring the alarm into the open. This we could not provide. And this the Reagan administration, in a superbly orchestrated effort, has provided. That it was not intended does not subtract at all from the achievement.

The stage was set by the big increase in military spending, which was linked, in turn, to the assault on social expenditures. The first made the second necessary. Many

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in the past had sought to show military expenditures are at the expense of other public needs. The administration made the choice clear, vivid and unmistakable, a major exercise in popular education.

Then came the renewed commitment to the MX missile and the extended debate over its basing. This was admirably designed to arouse important and articulate people, and particularly western Republicans and the Mormon church. There is wholly nonpartisan aversion to having the MX as a neighbor and target.

Next came the well-publicized decision to proceed with the neutron bomb with its thought-provoking emphasis on the destruction of people as opposed to property.

This highly substantive action was combined with more theoretical talk of a limited nuclear war, which emerged as a quite probable prospect, tolerable except to the Europeans immediately involved. The latter promptly raised their voices, which, not surprisingly, had resonance across the Atlantic, including with those who wondered in their inconvenient way if a limited war could ever be limited.

Next came the renewed emphasis on civil defense. The educational value of this is simply immense. Nothing so aroused my Cambridge, Mass., neighbors as a civil defense advisory saying that, in the event of a nuclear attack, we should all go in an orderly manner to Greenfield out near the Berkshires—those of us who had cars. As an especially telling note, we were cautioned to take our credit cards with us.

In quick response, the Cambridge City Council took time off from its normal preoccupation with potholes, garbage collection and general fiscal astringency to publish a pamphlet condemning the whole insane business and urging preventions as the only hope.

The effort to arouse the public and keep it aroused continued. Early this summer, we had word of the plans for a five-year nuclear war from which we would emerge victorious if not quite happy and glorious. Following some criticism, Defense Secretary Caspar Weinberger reiterated his commitment, adding only the thought that while we might not win, we wouldn't lose.

Meanwhile, from the National Security Council came the news that it was national policy "to prevail" over the Soviets, this being one of those inspired ambiguities that is especially designed to give scope to the imagination. A NSC staff member, Prof. Richard Pipes, had earlier been quoted as saying that there could be no peace with the Soviets until, in a generous way, they abandoned their economic and social system. In other words, a state of permanent war with the Soviets.

In July came word that the administration would no longer have negotiations on the comprehensive test ban; there were doubts about verification. Better the risk from the weapons. In August, Energy Secretary James Edwards went out to Yucca Flats to celebrate the anniversary of the bombing of Hiroshima by being present at a nuclear test. He proclaimed it "exciting" and promised more. Prof. Eugene Rostow, in charge of arms control negotiations, had earlier recurred to Hiroshima and Nagasaki. Asked if he did not fear a nuclear war, he responded that Japan had survived a nuclear attack and flourished. How better could one have guided thoughts to the unfortunates who were in the two cities on those summer days and who neither survived nor flourished?

Thus the contribution of the administration. Can anyone doubt its effectiveness compared with the feeble voices previously raised? In consequence, the freeze has become a national crusade; there has been nothing comparable since the Vietnam War, as all know, it came within two votes of success in the House of Representatives. Considering the risks we had been accepting, including that of the blind delegation of power to those who make nuclear game theory and the resulting mega-deaths their monopoly, can anyone be sorry? One must marvel, in a certain way, at the political courage (or insouciance) that was involved. Not previously had anyone imagined that massive and enduring death was a salable proposition for the average American voter.●

MR. HELMS PLAYS DODGEM

● Mr. EAST. Mr. President, I have been disturbed, but not surprised, by the confusion which has attended the press coverage of our recent proceedings concerning abortion and prayer in schools. Granted, Senate procedure is no easy subject to master. Nevertheless, I believe, some of the coverage to have been inaccurate beyond the bounds of simple ignorance.

In the interests of assisting my colleagues in appreciating this fact, I draw their attention to an editorial which appeared in the August 20 New York Times and a response from Senator Helms which appeared in that same newspaper on August 25.

Mr. President, I ask that the editorial and Senator Helm's reply be printed in the Record at the conclusion of my remarks.

The material follows:

Mr. Helms Plays Dodgem

"People want to know where we stand on the issues," said Senator Arlen Specter of Pennsylvania during this week's Congressional battle on abortion. People should address their complaints to Senator Jesse Helms. Thanks to him, Americans who'd been promised an orderly discussion of his Human Life Statute and Senator Hatch's constitutional amendment permitting the states and Congress to prohibit abortion were treated to the spectacle of a Senator turning debate into dodgem.

First Senator Helms reneged on his previous agreement to a schedule of time limits for debate on the abortion issue. He announced that he wanted to withdraw his statute and Senator Hatch's amendment in favor of a new measure. But he waited until Wednesday to disclose just what it was.

It turned out to proclaim that "scientific evidence demonstrates" that life begins at conception and that the Supreme Court had "erred" in 1973 when it permitted abortion. His proposal also severely restricted women's access to the procedure. It was coupled with a ban on court review of state laws sanctioning prayer in public schools. The whole business was linked to the debt-ceiling bill.

Senator Helms seriously overestimated his ability to steer. To introduce his measure, he managed to break a filibuster by Senator Packwood, the Senate's foremost supporter of abortion rights. But he was promptly bumped back by Senators Weicker and Baucus, who offered amendments designed to move the debate off the substance of abortion and school prayer and onto the constitutionality of what Senator Helms was trying to do.

Senator Helms tried to table Senator Weicker's amendment but was outvoted by colleagues who were by now thoroughly miffed at the way he was flouting accepting procedure; the Baucus amendment has yet to be acted on.

So for now, gridlock reigns. Senators Packwood and Helms cannot even agree on how to limit debate. The Senate needs to get on to other matters; senators who might support the new Helms abortion proposal do not necessarily endorse his school prayer proposal; and besides, everybody wants to go home for the Labor Day recess.

It is probably just as well that no action seems likely until September, when another long fillibuster looms. But Senator Helms' effort to turn the Senate into bumper cars can hardly reassure voters on any side of the issue.

Helms on Prayer and Abortion: "I Am Ready to Take My Chances"

To the Editor: You spelled my name correctly in your Aug. 20 editorial "Mr. Helms Plays Dodgem." But I found scarcely anything else in it to be accurate. The Times was playing dodgem with the truth.

Contrary to your statement, the record will show that I have been ready to vote on both the voluntary school prayer amendment and the abortion amendment (they are separate amendments), now before the Senate, in the orderly fashion prescribed by parliamentary procedure. If you doubt it, inquire of Senate Majority Leader Baker.

Senators Packwood, Weicker, *et al.*, have resisted letting the Senate vote. That's why Senator Baker filed a cloture petition against their filibuster. They appear to be afraid to put their views to the test of a Senate vote.

You are dead wrong in your assertion that I have "reneged" on any previous agreement to schedule a time limitation on debate. Majority Leader Baker has refuted your assertion on the Senate floor.

You are incorrect in saying that I "wanted to withdraw" my statute. I have had several proposals available, but no specific statute was ever put forward for Senate debate until I sent my amendment to the desk. Senators Packwood and Weicker were livid because they were unsuccessful in their efforts to restrict me to an antiabortion proposal, which they thought least likely to be approved by the Senate.

I cannot imagine what prompted you to concoct the fantasy that I have ever "announced"—or even suggested—that I wanted to withdraw Senator Hatch's amendment in favor of mine. I respect Senator Hatch's right to include his proposal in any unanimous consent request.

You state that my right-to-life measure is "coupled with a ban on court review of state laws sanctioning prayer in public schools." The proposals are in fact separate proposals, which in the normal course of Senate procedure would be voted on separately; they are coupled only by the Senate rules which state the order of voting. Incidentally, the voluntary school prayer measure is the identical measure that has already passed the Senate twice.

As to the findings, which you treat with such incredulity, they are based upon the most extensive hearings on the subject ever conducted by a legislative body, in which all points of view were thoroughly aired by legal and scientific experts and which are now available in 1,038 printed pages of testimony. Thus there need be no surprise at what the findings are.

You do me too much credit when you say I managed to break a filibuster by Senator Packwood. In fact Senator Packwood lost the floor under the rules when he sought to make a motion to restrict my rights, after telling me informally that he would make no such motion.

You say that my tabling motion was voted down by colleagues thoroughly miffed by my flouting accepted procedure. The Times evidently is more skilled at mental telepathy than I, but I have not flouted any accepted procedure to my knowledge—and, indeed, Senator Baker has stated so on the Senate floor.

If there is gridlock, it is someone else who is jamming the system. I am ready to vote at any time, I have been ready to vote on the basis of any time agreement, and I have repeatedly stated so on the record. I admit that the voting may be close, but I am ready to take my chances. Why isn't the other side?

Better luck next time.

Jesse Helms,
U.S. Senator from North Carolina.

SUPPORT GROWS FOR SENATE EXPORT TRADING COMPANY LEGISLATION

● Mr. HEINZ. Mr. President, I recently received a letter from Michael Monroney, vice president for Government relations of TRW, Inc., detailing his company's support for the export trading company legislation (S. 734) and particularly the Senate language on the antitrust provisions.

Mr. Monroney's letter is a cogent defense of the Senate approach to the antitrust certification process. He points out that the House version fails to provide an adequate immunity and places the certification process in an agency unaccustomed to the administrative burden and disinclined to use the process to promote exports.

It is clear from Mr. Monroney's letter that the Senate version of the bill is the one best able to make ETC's viable entities. I hope the conferees will share that view.

Mr. President, I ask that the text of the letter appear at this point in the Record.

The letter follows:

TRW,
Arlington, Va., August 9, 1982.

Hon. John Heinz,
U.S. Senate,
Washington, D.C.

Dear Senator Heinz: I am writing to express TRW's support for the export trading company legislation, S. 734, which, I understand, you will soon be considering in conference. This legislation will encourage more aggressive and effective export activity by a broad range of U.S. companies and strengthen the competitiveness of U.S. firms.

There are two areas in the antitrust provisions of the legislation where, I think, the Senate version is better suited to promote the purposes of the bill, and I would urge you to support them in the conference. These are as follows:

1. The Senate version would protect firms which join together to form export trading companies or associations from uncertainty regarding the legality of their actions under the antitrust laws by giving the Commerce Department the principal role in certifying them as exempt from antitrust action. The House version, on the other hand, would give this role to the Justice Department. Since the principal purpose of this legislation is to promote export activity of U.S. firms, we think the Commerce Department should have the lead role as provided in the Senate version. Justice Department responsibility for enforcing the antitrust laws appears to be adequately protected under this version by the provisions for prior consultation with the Justice Department and for court action wherein the Justice Department can contest the certification.

2. In the Senate bill, the certification protects against all civil and criminal antitrust liability so long as the companies involved abide by the terms of the certificate, while the House bill protects against only criminal and civil treble-damage liability; civil single-damage and injunctive liability remain. Since the purpose of the whole certification process is to provide protection from antitrust action for specified export activities, it would not be desirable to take back some of this protection, as the House bill would do.

We would be grateful for your support during conference on these two antitrust provisions in the Senate bill, and we hope that you will support prompt conference action on this legislation.

Sincerely,

Michael Monroney.●

AMERICAN EAGLE GOLD COIN ACT OF 1982

● Mr. EAST. Mr. President, I wish to commend my colleague, Senator Schmitt, for his introduction of S. 2330, the American Eagle Gold Coin Act of 1982. I am proud to be a cosponsor of this legislation.

S. 2330 implements the recommendations made last February by the U.S. Gold Commission, which included such distinguished members as Treasury Secretary Regan and Murray Weidenbaum, then Chairman of the President's Council of Econmic Advisers. The bill provides for the minting of a series of American gold coins, to be known as American Eagles, which would be comparable to the gold coins currently minted by other nations. These coins would not be legal tender, but could be used for the payment of private debts.

Whatever one's position may be on the gold standard—and I realize that there is a great deal to be said on both sides of that issue—it is difficult to see how anyone could oppose something as sensible as the measure offered by my good friend from New Mexico. We presently import 3 million Krugerrands a year from South Africa, to the detriment of our international balance of payments. Since the purchase or sale of American Eagles would not be taxable, there would be no reason for Americans to buy gold coins from foreign sources.

Earlier this year, the Treasury Department estimated that Americans would buy 20 million ounces worth of these coins during the first year of issue, simultaneously reducing the 1983 budget deficit by $7.5 billion and improving America's balance of payments by as much as $5 billion. This estimate was made when the price of gold was $375 an ounce. As we know, the yellow metal has since hit the $500 mark, so these figures would likely be even higher if S. 2330 soon becomes law.

Mr. President, the right to purchase gold allows a people to cast a daily vote of confidence for or against the fiscal integrity of their government. As such, it is a moral check on inflationary spending policies even where there is no official gold standard.

The American people recovered their right to own gold in 1973 after a suspension of 39 years. This right will not be easily wrested from them again. The Federal Government, which has vast gold reserves, can use them to reduce the deficit and improve our balance of payments, or it can perversely sit back while our people send billions of dollars abroad to buy the gold coins of other lands. I sincerely hope that we will choose the wise and obvious course. I urge prompt passage of S. 2330.●

QUORUM CALL

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:50 P.M.

Mr. BAKER. Mr. President, I observe that the clock has reached the hour of 12 noon, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 1:50 p.m. today.

Thereupon, at 12 noon, the Senate recessed until 1:50 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Andrews).

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate resumed consideration of the joint resolution (H.J. Res. 520).

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon (Mr. Packwood) is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, will the Senator yield?

Mr. **PACKWOOD**. I yield.

Mr. **BAKER**. Mr. President, it is now 1:50 p.m., and under the order previously entered, as the Chair correctly pointed out, the Senator from Oregon is recognized.

At 2 p.m. we will have a cloture vote pursuant to the provisions of rule XXII on the limitation of further debate on the Helms second degree amendment.

It is expected that the Senate will be in session on that matter through the remainder of the afternoon looking to an adjournment time or recess time of 5 or 6 p.m.

Mr. President, if this cloture vote does not prevail, and I make no prediction one way or another in that respect, Members should be on notice that another cloture motion will be filed and there will be another vote as soon as it is eligible under the provisions of the rule.

Mr. **PACKWOOD**. Mr. President, is it the intention of the leader to file a motion today or tomorrow?

Mr. **BAKER**. Yes. It will be filed today. It is my intention to do that.

Mr. **PACKWOOD**. And vote on it then on Monday?

Mr. **BAKER**. On Monday.

I may also say, since I see the Senator from North Carolina is in the Chamber, that if we can arrange it after this cloture vote, whether cloture succeeds or fails, I wish to take a brief moment to consult with the Senator from Oregon, the Senator from North Carolina, the Senator from Connecticut and perhaps others who are principally involved in this debate so we can try to make an orderly arrangement for the procedure to follow.

Mr. President, I thank the Senator for yielding, and I yield the floor.

The **PRESIDING OFFICER**. The Senator from Oregon.

AMENDMENT NO. 2040

Mr. **PACKWOOD**. Mr. President, as the Senate is aware, we are at the moment discussing the Baucus amendment relating to court jurisdiction, although at 2 p.m., we will vote on the motion of cloture to terminate debate on the so-called Helms second-degree amendment which relates to abortion and that amendment is, of course, an effort to reverse by statute rather than by constitutional amendment the Supreme Court decision in the case of Roe against Wade which was the decision that allowed a woman to make a decision for herself as to whether or not she wanted an abortion.

Roe against Wade is a decision of the Supreme Court which says that women have a constitutional right to make a decision for themselves whether or not they want to have an abortion. They do not have to have one. But the Court says that the Government may not take away from them the right to make a decision as to whether or not they want to choose to have one. And that is an important distinction.

We are trying to leave the choice to the woman, not to the Government, as to whether or not she wants to have an abortion.

The ramifications, however, of the amendment of the Senator from North Carolina, my distinguished friend, Senator HELMS, go much beyond the subject of abortion, per se, because what this amendment endeavors to do and the amendment to which it is attached, the school prayer amendment, is to take away from the Supreme Court the right to make constitutional decisions by simply reversing them by statute.

Heaven knows, the Supreme Court has, in its history, made decisions at one time or another that probably every Member of this Senate disagrees with—not all of us disagreeing with the same decisions—but there are many decisions we do not agree with. And in our history, the Supreme Court has made on occasion decisions that so aggrieved the public, Congress, and the States that constitutional amendments were passed to overturn the Supreme Court decisions.

We did it with the 11th amendment, which resulted out of the case of Chisolm against Georgia. Chisolm was a citizen of another State. Chisolm sued the State of Georgia alleging that Georgia owed him some money. This so offended the Congress of that day and the States of that day that they offered the 11th amendment which would prohibit a citizen of one State from suing another State, and that amendment was adopted.

Then we adopted the Civil War amendments—the 13th, 14th, and 15th amendments—all of which in one way or another were designed to overturn the Dred Scott decision which said that blacks were not citizens of the United States with all of the concomitant rights thereto.

It is interesting to note that even in the passion of the Civil War and the sentiment of the Civil War, which was probably the most divisive moment in this Nation's history, even at that time, we did not try to overturn the Supreme Court's decisions on the Constitution with a statute. We went the route of a constitutional amendment.

We did it again with the 16th amendment. Congress had passed a law levying an income tax. The Supreme Court held that that law was unconstitutional, that under the Constitution, as then written, Congress did not have the power to levy an income tax, and, consequently, the 16th amendment was passed, which allowed Congress to levy an income tax. And it is interesting to note that while there were several statements and thoughts after the Supreme Court decision about trying to reverse the Supreme Court by statute, the effort was not made, and we did it with a constitutional amendment.

We did it most recently with the 18-year-old vote. Congress passed a law saying that 18-year-olds could vote in Federal and State elections. The Supreme Court held that, while Congress had the power to direct 18-year-olds to vote in Federal elections, we did not have that power as far as State elections were concerned. So the 26th amendment was offered and passed, extending the 18-year-old vote in all elections.

In each of those four cases, a constitutional amendment, which is the proper route, was used to overturn a constitutional decision of the Supreme Court.

At a future time in this Congress, the majority leader has assured us that we will have a chance to consider the Hatch amendment to the Constitution. The Hatch amendment is a constitutional amendment to reverse the Supreme Court decision allowing women to have the right to choose.

I do not agree with his amendment, and indeed I will fight it and argue against it, but at least he is pursuing the proper method, and when we get to that debate, we will be debating the substance and the issue of whether or not a woman should have a right to choose, or whether we should take that away by a constitutional amendment and send it out to the States.

But none of that are we debating today. Today, we are debating whether or not we are going to overturn almost 200 years of American history, and certainly overturn all of the history since Marbury against Madison, in 1803, that said that the final arbiter of what the Constitution says is the U.S. Supreme Court.

We do not have to like it. We do not have to agree with it. But short of revolution in the present form of Government we have, someone has to be the final arbiter of what the Constitution means, and that final arbiter is the U.S. Supreme Court, unless it is reversed by a constitutional amendment in accordance with the Constitution.

To undertake the avenue the Senator from North Carolina suggests is to say that henceforth, Congress, not the Supreme Court, will be the final arbiter of what the Constitution says, and if we, in Congress, do not like what the Court says about the Constitution, by a majority vote in each House, 51 votes here in the Senate and 218 votes in the House of Representatives, we can overturn that.

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I do not have to warn Members of this body what that portends for our form of Government.

Robert Bork, now on the court of appeals but before appointment to the court a well-known constitutional scholar, a conservative constitutional scholar, one who is opposed to the Supreme Court decision in Roe against Wade, testified before the Judiciary Committee that even though he thought Roe against Wade was not only wrong but he thought it was unconstitutional——

CLOTURE MOTION

The **PRESIDING OFFICER**. The hour of 2 p.m. having arrived under the previous order the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Howard Baker, Jesse Helms, Rogers Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, Nancy Landon Kassebaum, John P. East, Steven Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, Robert Dole.

Mr. **BIDEN**. Mr. President, I am now taking this occasion to rise and announce that I will vote to invoke cloture on the Helms amendment, but that I cannot support the substance of the amendment itself and, when the Senate moves to final passage, will cast my vote against the amendment.

I have chosen to follow this course for a number of reasons:

As I said during Judiciary Committee consideration of the proposed Hatch amendment, I believe we should have a debate on this issue on the Senate floor and we should vote on it—up or down.

None of us enjoys being put in this position. As the chairman of the Judiciary Committee has said on a number of occasions, we need a modern day King Solomon to resolve the issue for us. Unfortunately, no such person exists and popular dissatisfaction with the Supreme Court decision has forced this issue upon us. It will not go away if we choose to ignore it.

So I will vote to invoke cloture, giving the Senate the opportunity to work its will on this issue so that we can then get back to the many urgent legislative matters at hand which require our prompt attention.

I will, however, vote against the Helms amendment on final passage. While I still oppose the use of Federal funds to pay for abortions and will continue to vote for the so-called Hyde amendment in the future, I believe the measure before us goes well beyond the scope of Hyde.

First of all, I am troubled by the section prohibiting the use of Federal funds for research and training in abortion techniques. While I have no formal medical training, I am aware that a number of techniques, such as curretage, used in abortions are also essential to the treatment of other problems not directly related to abortions. My worry is further extended because, while the measure allows federally funded abortions to save the life of the mother, these provisions would severely limit the availability of trained and skilled surgeons in such life threatening instances.

This is to say nothing of the effect these provisions could possibly have on various forms of research that have given us greater insight into the miracle of fetal development.

I am further concerned about the prohibition on the use of Federal funds for abortion referrals. Senator Hatfield recognized this problem in his own abortion funding measure after discovering that recent Federal court decisions in Arizona and North Dakota call into question the constitutionality of restrictions on such referrals. According to these decisions, if the prohibition of "referral" is interpreted as interfering with the counseling relationship of doctor and patient, the statute may be an infringement of first amendment rights.

Although I have not studied the effect of Senator Hatfield's solution of changing the word "refer" to "promote," I cannot support a prohibition on referrals as embodied in the pending amendment.

I am also concerned about the section prohibiting health plans serving Federal employees from offering abortion coverage. I am not certain we should be in the business of making that kind of decision.

Most important, however, is the finding declaring that "scientific evidence demonstrates the life of each human being begins at conception." Regardless of my personal views on the matter, I cannot agree that the evidence is quite that clear and that we should make such a declaration.

The hearings on the so-called human life bill" demonstrated that no such consensus exists. I do not believe the Congress should sit back and pick a particular theory and declare it transformed automatically into reality. We are not competent to make that determination.

Now I do realize that this language appears in the "findings" section, not in the actual body of the measure, and therefore does not have legal weight. Findings do, however, form part of the legislative history through which a particular bill is enacted and could quite possibly be used in a court of law as clear evidence of congressional intent. This language, therefore, could have greater legal consequence than might be apparent at the present time.

I do not take these positions lightly. I realize that people on both sides of this issue will be disappointed in my stand. But I have given the matter a great deal of thought. Let us move to a final vote, let each Senator cast his or her ballot, and let us move on to the other important issues facing us on our legislative agenda.

● Mr. **ROTH**. Mr. President, I am voting to invoke cloture.

This issue has been debated at length, both on this bill and in other forms. Senators clearly know the arguments, pro and con. We have 3 weeks left in this congressional session, and it is simply irresponsible to tie up the Senate on this matter any further.

I do, however, have serious problems with the Helms amendment. I have, and remain, opposed to Federal funding of abortions. But I cannot support some of the restrictions in this amendment. For instance, when the life of a mother is in jeopardy, I believe medical personnel must have the ability to perform a life-saving operation. The Helms amendment would not allow this.

Mr. President, I also must add that I remain committed to school prayer legislation. I have been a long-term supporter of these measures, and I hope the Congress can enact legislation to permit voluntary, nondenominational school prayer as soon as possible.●

VOTE

The **PRESIDING OFFICER**. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Helms amendment numbered 2038 shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Kansas (Mr. Dole), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from New Mexico (Mr. Schmitt), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. Hatfield) and the Senator from Kansas (Mrs. Kassebaum) would each vote "yea."

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Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. MATSUNAGA) would vote "nay."

The PRESIDING OFFICER (Mr. BRADY). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 41, nays 47, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—41

Abdnor
Armstrong
Baker
Biden
Boschwitz
Cochran
D'Amato
Danforth
DeConcini
Denton
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Grassley
Hawkins
Heflin
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kasten
Lugar
Mattingly
Murkowski
Nickles
Nunn
Pell
Pressler
Proxmire
Quayle
Randolph
Roth
Sasser
Symms
Thurmond
Zorinsky

NAYS—47

Andrews
Baucus
Bentsen
Boren
Bradley
Brady
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cohen
Cranston
Dixon
Dodd
Glenn
Gorton
Hart
Hayakawa
Heinz
Hollings
Inouye
Jackson
Kennedy
Leahy
Levin
Long
Mathias
Metzenbaum
Mitchell
Moynihan
Packwood
Percy
Pryor
Riegle
Rudman
Sarbanes
Simpson
Specter
Stafford
Stennis
Stevens
Tower
Tsongas
Warner
Weicker

NOT VOTING—12

Cannon
Dole
Goldwater
Hatch
Hatfield
Kassebaum
Laxalt
Matsunaga
McClure
Melcher
Schmitt
Wallop

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, if I could have the attention of the Senate for a moment. I have cleared this request with the principals involved in this debate. It is agreeable. I hope there will not be an objection to it.

In a moment, I intend to suggest the absence of a quorum to gain a little time so that the principals on each side of this controversy can gather together and we can see where we are and where we are going next.

But, in the meantime, I ask unanimous consent that, when I yield the floor, the Senator from Oregon may be recognized after the calling off or completion of the quorum, which I am about to suggest, for the purpose of continuing the debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, let me say that it is my intention today to file another cloture motion. I will consult with the minority leader on that before I make any further requests as to the time for a vote. I would expect that we will continue to debate this measure today.

I may say, for the benefit of the Senate, I do not now know what the prospects are for the Senate dealing with the veto message. The House of Representatives will vote on the President's veto message, I am told, between 3 and 4 o'clock this afternoon. If it is sustained, then, presumably, there will be a new supplemental appropriations bill that we must deal with. If it is not sustained, then, of course, we must deal with the veto message.

So Senators should not assume that tomorrow will be a voteless day. It very well may be a busy day, either on debate on this matter or perhaps on the supplemental appropriations veto message or another supplemental appropriations bill.

Mr. BUMPERS. Will the majority leader yield?

Mr. BAKER. I yield, without losing my right to the floor, to the Senator from Arkansas.

Mr. BUMPERS. Is it the majority leader's intention to have another cloture vote at sometime Monday?

Mr. BAKER. Yes, that is my present intention.

Mr. BUMPERS. Could the majority leader give us any idea as to between what hours?

Mr. BAKER. No. I have talked in a preliminary way to the minority leader about that. I am trying to adjust that time so it meets the convenience of most Senators on both sides, but I will have an announcement to make about that at a little later time.

Mr. BUMPERS. I thank the Senator.

Mr. BAKER. If no other Senator seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair, in his capacity as a Senator from New Jersey, objects to rescinding the quorum call. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I yield to the Senator from Illinois without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSAL TO AMEND ADMINISTRATION'S ENERGY REORGANIZATION LEGISLATION

Mr. PERCY. Mr. President, I wish to introduce today an amendment to be offered by Senator COHEN and myself during the Governmental Affairs Committee consideration of the Federal Energy Reorganization Act of 1982 (S. 2562). We believe this amendment will provide greater balance in the proposed reorganization between nuclear and all other energy resources, including conservation, while underlining the continued importance of energy to national affairs.

There are some clear advantages to the merger of energy functions with business and trade functions as proposed by the administration. However, this merger must not abandon the national consensus for a balanced energy policy and a strong commitment to energy R. & D. As currently proposed, the organization places too much emphasis on developing nuclear power at the expense of other energy sources such as coal, oil, gas, solar, biomass, and conservation.

Although my own State of Illinois has been in the forefront of nuclear development, it would be foolish to tie our future to just one energy source, whether it be nuclear energy or anything else. Illinois vast coal resources must be developed in an environmentally sound manner. Our State's rising alcohol fuel industry has increasing potential to contribute to our fuel transportation needs. Conservation is also very important to our State. A shift to more efficient facilities and equipment can help Illinois energy intensive industries compete on world markets, while weatherization can help Illinois homeowners cope with rising fuel costs. Similar opportunities exist to take advantage of indigenous resources and conservation across the country. For example, in Senator COHEN's State of Maine, there has been a dramatic shift to the use of wood over the last few years, as well as a strong emphasis on weatherizing homes.

Yet, under the current bill, there would be four Assistant Secretaries with primarily nuclear-related functions, but only one catch-all Assistant Secretary for all other resources, including conservation. In essence, almost all nuclear functions have been enhanced from their organizational status, while conservation, solar, coal, oil, and gas have been reduced in status.

Our amendment would correct this imbalance by establishing a separate Assistant Secretary for Conservation and Renewable Energy and a separate Assistant Secretary for Fossil Energy, as there is currently at the Department of Energy. In addition, instead of raising the present Office of Basic Research to an Assistant Secretary level, we would merge this position with the proposed Assistant Secretary for Nuclear Energy, keeping the total number of Assistant Secretaries the same.

This structure will more accurately reflect the budget priorities for energy spelled out in the budget resolutions adopted by Congress in the past 2 years, and I am hopeful that Congress will once again reaffirm its commitment to a balanced energy future during this year's appropriations process.

The need for a diversified energy future becomes even more essential in light of growing concern about the spread of nuclear weapons to countries that do not already have them. The epidemic spread of nuclear technology, equipment, and fuel to unfriendly countries or terrorists who may use them against us is one of the greatest security threats facing our Nation. The security aspects of nonproliferation must therefore be reflected in any new energy organization. Our amendment would clearly assign this responsibility to an Assistant Secretary for Non-Proliferation and Security Affairs, labeled the Assistant Secretary for Security Affairs in the current administration proposal under the Deputy Secretary for Defense. This would upgrade the status of nuclear nonproliferation. It would also avoid the possible conflict of interest inherent in having the Deputy Secretary for Energy take on this responsibility while simultaneously being responsible for the entire domestic nuclear energy budget.

Our amendment would also change the title of the reorganized agency to the Department of Energy and Commerce. This would underline that the transfer of energy functions, as the administration has repeatedly stated, is not a "dismantlement" but a "merger" and would demonstrate the increased stature of the merged Department. This change in title would guarantee that energy issues are still given the Cabinet-level attention they deserve, while assuring our friends abroad that we would not be abandoning our international energy responsibilities. In addition, this title more accurately reflects funding levels for energy functions which remain significantly higher than commerce-related function.

Finally the amendment would provide for a more smooth transition of specific energy functions. One of the primary problems which has plagued the Department of Energy since its creation has been repeated internal reorganizations. This has been particularly striking in the conservation and renewable area. A recent GAO report has shown the severe damage inflicted on the conservation and renewable programs from an internal reorganization last fall. Our amendment would tighten the proposed legislative language to minimize program disruptions during the transition period.

On September 15, I shall chair a hearing of the Governmental Affairs Committee on the energy reorganization bill, during which the committee will take a more indepth look at how we can amend the current bill to make it a better balanced and more acceptable proposal.

Mr. President, I ask unanimous consent to have printed in the Record the text of the proposed amendment.

There being no objection, the text of the amendment was ordered to be printed in the Record, as follows:

Amendment to S. 2562, Committee Print

(Purpose: To provide greater balance in the proposed reorganization between nuclear energy and all other energy resources, including conservation)

On page 1, in the table of contents, strike out the item relating to section 203 and redesignate the item relating to section 204 as the item relating to section 203.

On page 1, in the table of contents, insert after the item relating to section 302 the following new item: Sec. 303. Establishment of offices.

On page 9, between lines 13 and 14, insert the following:

(52) subtitle A of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8811-8821);

(53) section 221 of the Energy Tax Act of 1978 (26 U.S.C. 4041 note);

On page 9, line 14, strike out "(52)" and insert "(54)".

On page 9, line 17, strike out "(53)" and insert "(55)".

On page 10, between lines 21 and 22, insert the following:

(e) The Office of the Assistant Secretary for Conservation and Renewable Energy is transferred to the Department of Commerce. Such Office shall be headed by the Assistant Secretary for Conservation and Renewable Energy appointed pursuant to section 302 (c)(4).

On page 12, strike out lines 20 through 30.

On page 12, line 32, strike out "Sec. 204." and insert "Sec. 203.".

On page 15, strike out lines 3 and 4.

On page 15, line 5, strike out "(4)" and insert "(3)".

On page 15, line 10, strike out "(5)" and insert "(4)".

On page 15, line 13, strike out "(4)" and insert "(3)".

On page 16, lines 29 and 30, strike out "Energy Research" and insert "Nuclear Energy and Basic Research".

On page 16, line 32, strike out "and" the first place it appears.

On page 16, line 34, insert before the period a comma and "and managing the Federal program of research on and development of the technology for nuclear power production, including research on and development of breeder reaction systems, naval nuclear propulsion, and disposal of nondefense generated nuclear waste".

On page 17, strike out lines 1 through 14 and insert the following:

(4) One of the Assistant Secretaries appointed pursuant to paragraph (1) shall be the Assistant Secretary for Conservation and Renewable Energy, who shall (A) perform the functions of the Secretary of Commerce relating to energy conservation and the development of technologies for renewable energy sources, (B) perform the functions of the Secretary of Commerce relating to the management of research, development, and demonstration projects and financial and technical assistance programs, including grants to State and local governments, regulatory programs, and information programs promoting the more efficient use of energy in buildings, industry, and transportation and the use of renewable energy technologies, (C) advise the Secretary of Commerce on the development of regulatory and fiscal policies that may effect the promotion of efficient energy use or the use of renewable resources, and (D) perform the functions transferred to the Secretary of Commerce by paragraphs (52) and (53) of section 201(a).

(5) One of the Assistant Secretaries appointed pursuant to paragraph (1) shall be the Assistant Secretary for Fossil Energy, who shall perform the functions of the Secretary of Commerce relating to the development of technologies for fossil energy.

On page 17, beginning with "Notwithstanding" in line 25, strike out through the period in line 29.

On page 17, beginning with line 30, strike out through line 6 on page 18 and insert the following:

(d) There shall be in the Department of Commerce an Assistant Secretary for Nonproliferation and Security Affairs, who shall be appointed by the President and who shall receive compensation at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Assistant Secretary for Nonproliferation and Security Affairs shall (1) advise the Secretary of Commerce with regard to the development and implementation of United States nuclear nonproliferation policies and programs and intelligence and security issues; (2) represent the Secretary of Commerce in interagency committees and groups dealing with nuclear nonproliferation, intelligence, or security issues; (3) advise the Secretary of Commerce regarding the relationship of United States nonproliferation policy to domestic energy policy, including uranium enrichment, breeder reactor, and nuclear research and demonstration programs; (4) gather and evaluate intelligence related to nuclear nonproliferation, international energy, national security, and related matters. The Assistant Secretary for Nonproliferation and Security Affairs shall report to the Secretary of Commerce through the Deputy Secretary for Defense Programs and shall perform such additional functions as the Secretary of Commerce or the Deputy Secretary for Defense Programs may prescribe.

On page 18, between lines 6 and 7, insert the following:

ESTABLISHMENT OF OFFICES

Sec. 303. (a) There shall be in the Department of Commerce an office of Fossil

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Energy, which shall be headed by the Assistant Secretary for Fossil Energy appointed pursuant to section 302(c)(5).

(b) There shall be in the Department of Commerce an Office of Nonproliferation and Security Affairs, which shall be headed by the Assistant Secretary for Nonproliferation and Security Affairs appointed under section 302(d).

On page 33, line 24, strike out "or".

On page 33, line 26, insert before the period a comma and "or the Office of the Assistant Secretary for Conservation and Renewable Energy transferred to such Department by section 201(e)".

On page 40, line 4, insert after the period the following: "Unexpended funds transferred pursuant to this subsection or section 703 shall be used only for the purposes for which the funds were originally authorized and appropriated.".

On page 40, line 32, strike out "(a)".

On page 41, strike out lines 9 through 14.

On page 50, between lines 1 and 2, insert the following:

REDESIGNATION

SEC. 713. (a) The Department of Commerce is redesignated the Department of Energy and Commerce, and the Secretary of Commerce or any other official of the Department of Commerce is redesignated the Secretary or official, as appropriate, of Energy and Commerce.

(b) Any reference to the Department of Commerce, the Secretary of Commerce, or any other official of the Department of Commerce in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of the Act shall be deemed to refer and apply to the Department of Energy and Commerce or the Secretary of Energy and Commerce, respectively.

● Mr. COHEN. Mr. President, I rise today to join my distinguished colleague from Illinois, Senator PERCY, in offering an amendment to S. 2562, the Federal Energy Reorganization Act of 1982, which was introduced at the request of the President.

When the President announced his plans to reorganize Federal energy functions, I had some skepticism. Still, I was careful to keep an open mind until the legislative proposal had been submitted to Congress and I had an opportunity to fully review it.

Now that I have studied S. 2562, and participated in the Senate Governmental Affairs Committee's first two hearings on the bill, I must say that many of my original concerns remain. The amendment Senator PERCY and I are introducing today addresses many of these concerns.

At the outset, I would like to point out that despite the current oil glut, our Nation's energy crisis has not come to an end. The glut we are experiencing has been caused by a prolonged international recession, increased conservation efforts, depletion of larger than normal reserves, and OPEC production levels exceeding the organization's approach targets. This oil surplus could end at any time because of supply disruptions, inventory buildup, or an expanding world economy.

One year ago, President Reagan announced in a national address on economic policy that he would soon propose the dismantling of the Department of Energy. He would do so, he said, because "we do not need an Energy Department to solve our basic energy problem. As long as we let the forces of the marketplace work without undue interference, the ingenuity of consumers, business, producers, and inventors will do that for us."

I agree with the administration that the private sector will prove much more efficient in distributing energy supplies throughout the country and in determining which energy technologies are worthy of investment. However, I have two major objections to the way in which the administration's free market energy policy is being carried out.

First, the administration is proposing that we abandon many federally supported technologies which are unable to compete in today's market, but which could prove to be valuable contributors to our Nation's energy mix in the years ahead. Second, the administration has drawn an exception for the nuclear industry by arguing that "the marketplace will encourage people to use solar energy on their own, but the nuclear industry is weak and requires a Government presence to put it on a stronger footing."

These policies are reflected in the administration budget request for fiscal year 1983, which proposes major spending reductions in all nonnuclear energy resources. It is also made clear in the reorganization proposal, which establishes one Assistant Secretary for all nonnuclear energy resources, while creating three Assistant Secretary positions and one Director for all nuclear-related functions.

This stands in sharp contrast to the present structure of the Department of Energy. The Department today has a separate Assistant Secretary for each of the following resources: nuclear, fossil fuels, and conservation and renewables. Without a balanced energy policy encourages the development of a variety of energy technologies, we will be seriously limiting the number of alternatives available to us in the future.

The amendment Senator PERCY and I are introducing today would correct this imbalance by establishing a separate Assistant Secretary for Conservation and Renewable Energy and a separate Assistant Secretary for Fossil Fuels. In addition, rather than raising the present Office of Basic Research to an Assistant Secretary level, as proposed in the legislation, our amendment would merge this position with the Assistant Secretary for Nuclear Energy. Restoring balance to the organizational structure of Federal energy programs will more accurately reflect the will of Congress, which has consistently supported alternative energy resources, including conservation.

Our amendment would also change the name of the reorganized agency to the Department of Energy and Commerce. This would alleviate the concerns of those who fear that abolition of the Department of Energy means the abandoning of a national energy policy.

By including "Energy" in the title of the newly organized Department, we are sending a signal both home and abroad that we remain committed to resolving our Nation's energy problems and that we will continue to meet our International Energy Agency obligations. Since the proposed reorganization calls for transferring the majority of Federal energy programs to Commerce, rather than eliminating them, the title change more accurately reflects the activities of the new Department.

The reorganization proposal places all Federal nuclear programs—civilian and military research and development, as well as promotion of nuclear exports—in the Department of Commerce. There is a potential conflict of interest in the Department between its responsibility for promoting nuclear sales abroad and its responsibility for controlling the spread of nuclear weapons. Yet, the reorganization proposal fails to assign a top-level person within the Department to be in charge of nuclear nonproliferation policy.

Our amendment would assign this responsibility to the proposed Assistant Secretary of Security Affairs. It would also change the title of this position to the Assistant Secretary for Nuclear Nonproliferation and Security Affairs. Upgrading this to an Assistant Secretary position will make clear to our partners in the International Atomic Energy Agency that we attach great importance to the problem of nuclear proliferation.

Since its establishment in 1977, the Department of Energy has undergone several internal reorganizations. These culminated in several reductions in force (RIF's) when the new administration took office in 1981. The General Accounting Office (GAO) has just completed a study of the reductions in force for the Office of the Assistant Secretary for Conservation and Renewable Energy, and its findings are quite disturbing.

In particular, the GAO has concluded that the Office will face great difficulty in carrying out mandated programs. Another GAO report on the reorganization proposal said that the administration has not performed the necessary planning to provide for a smooth transition of energy programs. Our amendment includes provisions that, we believe, are necessary for that orderly transition.

The Senate Governmental Affairs Committee will be holding its third hearing on S. 2565, the Energy Reorganization Act of 1982, on Wednesday, September 15. The focus of the hearing will be on the need for a balanced Federal energy policy.

I firmly believe that a strong Federal role is needed to assert long-term leadership and direction toward development of a variety of energy resources since that effort is not forthcoming from the private sector. I look forward to discussing this further in Wednesday's hearing, and I urge my colleagues to consider these amendments and other possible changes to S. 2562 that will make it more acceptable.●

Mr. PACKWOOD. Mr. President, I ask unanimous consent that when we again ask for a quorum call, when the quorum call is terminated, I again be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators as delegates to the North Atlantic Assembly meeting to be held in London, United Kingdom, November 14-19, 1982: the Senator from Maryland (Mr. Mathias), chairman; the Senator from Texas (Mr. Tower); the Senator from Illinois (Mr. Percy); the Senator from Alaska (Mr. Stevens); the Senator from Delaware (Mr. Roth); the Senator from Idaho (Mr. McClure); the Senator from North Dakota (Mr. Andrews); the Senator from Georgia (Mr. Mattingly); the Senator from Alaska (Mr. Murkowski); the Senator from Pennsylvania (Mr. Specter); the Senator from Rhode Island (Mr. Pell), vice chairman; the Senator from Washington (Mr. Jackson); the Senator from South Carolina (Mr. Hollings); the Senator from Missouri (Mr. Eagleton); the Senator from Georgia (Mr. Nunn); and the Senator from Delaware (Mr. Biden).

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the interruption in his presentation not be counted as an additional speech for the purposes of rule XXII.

The PRESIDING OFFICER. The Senator means rule XIX?

Mr. BAKER. Rule XIX.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, I report to my colleagues that we have just concluded a meeting between the principals involved in this debate looking to the possibility of an arrangement to dispose of the issues before the Senate. I regret to report that we have not reached an agreement on how that could be done, although I also report that the parties at that meeting, which included the Senator from Oklahoma (Mr. Nickles), the Senator from Alabama (Mr. Denton), the Senator from North Carolina (Mr. Helms), the Senator from Connecticut (Mr. Weicker), the Senator from Oregon (Mr. Packwood) discussed the matter freely and fully and I believe in good faith.

Notwithstanding, Mr. President, I think certainly some progress was made. For instance, the principals involved will agree, and shortly I will propound a unanimous-consent request to this effect, that for the remainder of today and tomorrow and Monday no tabling motion would be in order against this measure or any amendment to this measure, this measure being the debt limit bill, or any amendments to it. The pending amendment is the Baucus amendment.

The reason for that, Mr. President—I do not now propound the request—is so that we may facilitate real and meaningful debate on these issues and not simply the utilization of time available to Senators and a feeling on the part of some of the parties that they must maintain control of the floor in order to avoid such a tabling motion.

I believe it would be wise to enter into that agreement, and I hope Senators will not object to it. It may be that everybody said everything they wanted to say on this subject, but Mr. President, I am on record for more than a year and a half saying at a time mutually agreeable to the parties and on a suitable vehicle we will have a full and fair and freestanding debate on abortion, on busing, and on other matters of a similar and sensitive nature. I believe that the quality of that debate will be substantially improved if we remove the danger of a tabling motion and parties could yield and interact more freely and more in the nature of worthwhile debate.

I will shortly file a cloture motion against the Helms second degree amendment identical in form to the cloture motion filed previously which would produce a vote on Monday under the provisions of rule XXII.

Shortly I will ask unanimous consent that the mandatory quorum under rule XXII be dispensed with, that the vote under rule XXII be dispensed with, and that the vote under the provisions of that rule occur at 5 p.m. on Monday.

Mr. President, I do not now make that request, but I will do so shortly.

Now, it is my hope that in the course of the debate on the floor during the remainder of this day and tomorrow and prior to the cloture vote on Monday we can arrive at a satisfactory arrangement for the final disposition of the amendment now pending, other amendments, and hopefully of the bill itself.

However, as I indicated to the principals in conference in my office, at some point we have to conclude this matter. I am not going to rush it. I want every Senator to have a full opportunity to discuss it.

But the debt limit bill is an essential piece of legislation and it must be passed. If we are to adjourn sine die or to even recess on October 2 or thereabouts, then we only have a few days left in which to do that, and there are other important matters, not the least of which is the entire appropriation sequence, that must be dealt with in that period of time.

So, Mr. President, having outlined that proposal and now to reiterate as briefly as I can, in a moment I am going to suggest the absence of a quorum so that our cloakroom can initiate a hotline notification to Republican Members to see if there is any objection to that request, and I hope that the minority leader might be willing to consider it during that period.

To summarize, Mr. President, when the quorum is called off, I will ask unanimous consent that no tabling motion shall be in order to this bill or any amendment thereto during the remainder of this day or during the session today, on Friday or Monday. I will further ask unanimous consent that the vote on the cloture motion, which I will file shortly, occur at 5 p.m. on Monday next without the requirement for a mandatory quorum under the provisions of rule XXII.

Mr. President, I ask unanimous consent, if there is an objection to this request, that after the entering of that objection the Chair then recognize

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once more the Senator from Oregon (Mr. PACKWOOD).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDNG OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the remainder of the request I made prior to the suggestion of the previous call for the quorum apply with full effect after the transaction of the business to be proposed by the Senator from Florida—that is to say, if there is an objection to the unanimous-consent request I will present shortly, the Senator from Oregon be recognized at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE RED SHIELD OF DAVID OF THE MAGEN DAVID ADOM

Mr. BAKER. Mr. President, there is a measure that I believe has been cleared on both sides of the aisle for action by unanimous consent. It is Calendar No. 768, Senate Resolution 367, to be offered by Senator HAWKINS.

I inquire of the minority leader if he is prepared now to consider that matter.

Mr. ROBERT C. BYRD. Mr. President, that matter has been cleared on this side.

Mr. BAKER. I thank the minority leader.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 768, Senate Resolution 367, for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 367) expressing the sense of the Senate with respect to recognition of the Red Shield of David of the Magen David Adom by the International Committee of the Red Cross.

The Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause, and insert the following:

That it is the sense of the Senate that—

(1) the International Committee of the Red Cross, together with the League of Red Cross Societies, should take steps to support the recognition of the Red Shield of David of the Magen David Adom Society of Israel; and

(2) the League of Red Cross Societies should formally recognize the Red Shield of David of the Magen David Adom Society of Israel so that Magen David Adom may become a member in good standing of the League.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the International Committee of the Red Cross and to the Secretary General of the League of Red Cross Societies.

Mrs. HAWKINS. Mr. President, I rise to speak in support of a resolution I submitted on April 20, 1982, concerning international recognition of the Magen David Adom Society of Israel, which is the Israel equivalent of the American Red Cross.

Mr. President, the Magen David Adom Society of Israel has honored Senator DODD and me by conferring on both of us the position of cochairman of the U.S. Committee To Secure Recognition of the Red Shield of David by the League of Red Cross Societies. The problem of international recognition of Magen David Adom has existed since its foundation in 1948. The issue is the inclusion of the Red Shield of David among those emblems currently in use and sactioned by governments under the Geneva Convention. This is an extremely important issue. This would extend the same protection to Israeli doctors, corps people, and nurses who are attending battle casualties as is currently afforded to people working under the sign of the red cross or the red crescent. Magen David Adom, however, has been denied recognition because it does not fulfill one of the 10 requirements for recognition. This single requirement is that the society use the "title and emblem of the Red Cross (Red Crescent, Red Lion and Sun) in conformity with the Geneva Conventions."

The official emblem of the Magen David Adom Society of Israel is the Red Shield of David. The League of Red Cross Societies and the International Committee of the Red Cross, however, do not sanction this emblem—and action that has prevented Magen David Adom from obtaining the international recognition that it clearly deserves. There is no universal emblem for recognition under the rules governing emblems. Moslem countries are allowed to use the Red Crescent emblem, and Iran previously used the emblem of the Red Lion and Sun, although the Iranian national society has since dropped the use of this emblem.

The Magen David Adom Society of Israel does not desire recognition because of political considerations but out of a wish for the means to continue its humanitarian work in times of international conflict. Currently, all signatories to the Geneva Convention have agreed, in times of conflict, to recognize as protective symbols those emblems mentioned under the applicable rule. Since the Red Shield of David is not recognized, it is not afforded proper protection as are recognized societies.

The American Red Cross has been extremely vocal and visible in its support of Magen David Adom's efforts to secure recognition by the League of Red Cross Societies. On November 17, 1981, at a meeting of the General Assembly of the League of Red Cross Societies held in Manila, the American Red Cross expressed deep disappointment about a decision to discontinue the work of a group investigating the problems surrounding recognized emblems. The following is an excerpt from the statement on the American Red Cross delegation present at the Manila conference:

> The American Red Cross is deeply disappointed at this decision. It reiterates its conviction that the Magen David Adom is an exceptionally strong society fully qualified in every way for full recognition and equal status with Red Cross and Red Crescent Societies. It deplores the fact that the technical matter of the emblem denies Magen David Adom such recognition and status and that studies on possibilities of resolving emblem issues are not to be continued.

This statement by the American Red Cross delegation at the conference in Manila is a tribute to the humanitarian work performed by Magen David Adom. The society's dedication to humanitarian care is exemplary. During the recent conflict in Lebanon, Magen David Adom has been in southern Lebanon providing medical care, clothing, blankets, and other assistance to Lebanese civilians caught up in this conflict. I believe it is a tragedy that the Magen David Adom Society of Israel does not receive the recognition it deserves for its humanitarian efforts.

My resolution, as modified by the Senate Foreign Relations Committee, calls on the International Committee of the Red Cross to take steps to support the recognition of the Red Shield of David. It calls on the League of Red Cross Societies to recognize formally the Red Shield of David. I believe expressing that it is the sense of the Senate that the Magen David Adom Society of Israel deserves full recognition will encourage these institutions to resolve this problem favorably. I strongly urge my colleagues to support this measure so that steps may be taken to afford the Magen David Adom Society of Israel the recognition it deserves for its contribution to the cause of humanitarianism.

Finally, Mr. President, I should like to express my gratitude to the chairman of the Senate Foreign Relations Committee, Senator PERCY, and the fine staff of the committee for the contributions they have made to this effort. The committee amended some of the language in the original resolution to strengthen and clarify its intent without changing the spirit of the appeal. The resolution before us today is a better resolution thanks to the diligence and ability of Senator

Percy and his committee, and I thank him.

Mr. President, I move the adoption of this resolution.

Mr. PERCY. Mr. President, I urge my colleagues to join Senators **Hawkins** and **Dodd**, the chief sponsors of Senate Resolution 367, in supporting this sense-of-the-Senate resolution. It is far past time that the League of Red Cross Societies recognize the Red Shield of David of the Israeli Magen David Adom and grant it full recognition as a member in good standing of the league.

The Israeli Magen David Adom has been excluded because its symbol—the Red Shield of David—is not included among the three symbols formally recognized by the XVIIth International Red Cross Conference of 1948. This exclusion is arbitrary and unwarranted. Therefore, this resolution, as amended, urges the League of Red Cross Societies to formally recognize the Israeli society and urges the International Committee of the Red Cross to use its considerable respect and influence to correct this unfortunate situation.

The Magen David Adom is Israel's major emergency medical service, providing assistance regardless of race, religion or ethnic background. It also provides disaster service, blood services, ambulance services, and other hunamitarian assistance. It is greatly respected by its counterpart medical service in the United States, the American Red Cross. The American Red Cross has given its strong support to the drive for formal recognition of the Magen David Adom.

The point of the resolution is this: In times of conflict, those national societies which are formally recognized by the League of Red Cross Societies gain additional legal protection. Parties to the Geneva Conventions are obliged not to interfere in the work of these emergency medical service organizations. Therefore, formal recognition of the Magen David Adom by the League of Red Cross Societies would provide added protection to the brave and dedicated people who work for Magen David Adom. They deserve that protection.

I am proud to be a cosponsor of this resolution, and I urge my colleagues to support it.

Mr. DODD. Mr. President, with several major armed conflicts being fought on the globe at any given time, and savage terrorist acts shocking us every other day, one wonders what is left of what we so proudly call our civilized age. What is still beyond the reach of savagery?

One institution that we would hope can transcend nationalistic, ethnic, religious hatred is the International Red Cross system. It is recognized in the East and the West, the North and the South, in the global sense, as being a genuine humanitarian institution with no stain of political, religious or any other bias.

This noble and pure character of the International Red Cross system, which is its very essence and moral capital would be endangered by the refusal to recognize the Magen David Adom with its symbol, the Red Shield of David as part of the International Red Cross system.

Since its foundation, Magen David Adom functions in the noblest tradition of the Red Cross system, providing emergency medical, ambulance and disaster services regardless of the nationality or race of the victims.

However one assesses the origins and outcome of the recent Lebanon conflict, there can be no doubt that Magen David Adom's performance measured up to the highest standards of the Red Cross movement.

The Red Cross is a religious symbol of Christianity in its origin. When the first Moslem countries joined the Red Cross system, it justifiably allowed them to use an alternate symbol, the red crescent, in accordance with their own religious tradition.

There can be no other reason but political or religious bias to deny the same recognition from another alternate symbol, that of the Jewish faith. Denial of recognition would seriously erode the International Red Cross' moral foundation which is its most precious asset.

I strongly urge my colleagues to approve this resolution.

Mr. PELL. Mr. President, I rise in support of Senate Resolution 367. Senate Resolution 367 calls upon the League of Red Cross Societies to accord international recognition to the Red Shield of David which is the emblem of the Magen David Adom. Recognition of the Red Shield of David would allow the Magen David Adom to qualify for membership in the League of Red Cross Societies.

The Magen David Adom is the major emergency medical, disaster and humanitarian service organization in Israel. It is exceptionally strong and meets all but one requirement for membership in the League of Red Cross Societies. The one requirement the Magen David Adom does not meet is that it use either the red cross, the red crescent, or the now discontinued imperial Iranian red lion and sun as its emblem. This resolution urges the League of Red Cross Societies to include the Red Shield of David among the approved emblems.

Recognition of the Red Shield of David is a matter of considerable importance as recognized emblems are accorded protection in time of conflict under the Geneva Conventions. Given the tragic cycle of conflict in the Middle East it is vitally important that the emblem of the Magen David Adom have such international protection.

Passage of this resolution will put the Senate on record on a vital humanitarian issue.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The title was amended so as to read:

A resolution expressing the sense of the Senate with respect to the recognition of the Red Shield of David of the Magen David Adom Society of Israel by the League of Red Cross Societies.

The resolution, with its preamble, reads as follows:

Whereas Magen David Adom is the major emergency, medical, blood, ambulance, disaster, and humanitarian service in Israel;

Whereas Magen David Adom performs services equivalent to those performed by other national Red Cross societies currently recognized as members in good standing of the League of Red Cross Societies;

Whereas Magen David Adom has been formally recognized by the American Red Cross as an exceptionally strong humanitarian organization fully qualified for formal recognition and equal status with other members of the League of Red Cross Societies;

Whereas Magen David Adom fulfills nine out of ten formal requirements for recognition under the terms of the XVII Internation Red Cross Conference held in Stockholm, Sweden, in 1948;

Whereas the one requirement that Magen David Adom does not fulfill is the rule that only Red Cross societies using the "title and emblem of the Red Cross (Red Crescent, Red Lion and Sun) in conformity with the Geneva Conventions," may be afforded full recognition;

Whereas Magen David Adom uses the Red Shield of David as its emblem and distinctive sign of the medical services of Israel's armed forces;

Whereas the Red Crescent is the recognized emblem of Red Cross societies in Moslem countries;

Whereas Magen David Adom wishes to claim the same formal recognition for its emblem as is afforded other Red Cross societies not using the Red Cross emblem as long as there is no uniform emblem agreed upon by the League of Red Cross Societies;

Whereas recognition of the Red Shield of David is vital so that parties to the Geneva Convention will recognize the Red Shield of David as a protective symbol in times of conflict;

Whereas the International Committee of the Red Cross enjoys considerable respect as a humanitarian organization of long standing and, from October 1977 until November 1981, constituted a working group with the League of Red Cross Societies to study all questions relating to emblems;

Whereas the International Committee of the Red Cross could have considerable influence on the granting of formal recognition to the Magen David Adom by the League of Red Cross Societies; and

Whereas the General Assembly of the League of Red Cross Societies took an im-

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portant step toward recognition of Magen David Adom by granting Magen David Adom observer status at the meeting of the Assembly held in Manila, the Philippines, in November 1981 and on other occasions: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the International Committee of the Red Cross, together with the League of Red Cross Societies, should take steps to support the recognition of the Red Shield of David of the Magen David Adom Society of Israel; and

(2) the League of Red Cross Societies should formally recognize the Red Shield of David of the Magen David Adom Society of Israel so that Magen David Adom may become a member in good standing of the League.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the International Committee of the Red Cross and to the Secretary General of the League of Red Cross Societies.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mrs. HAWKINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection? Hearing no objection, it is so ordered.

The majority leader may proceed.

CLOTURE MOTION

Mr. BAKER. Mr. President, the request I am about to put has been discussed extensively on both sides and I believe has been the subject of hot lines perhaps on both sides. I know it has on this side. It embraces a provision for dealing with the veto message as well as a cloture vote if the request is granted in response to the petition I am about to file.

Mr. President, I ask unanimous consent that pursuant to a cloture motion I am about to file, which would mature under the provisions of rule XXII for a vote on Monday next, that that vote occur at 4 p.m. without the requirement for a mandatory quorum under the provisions of the rule and that the rollcall vote thereon be 30 minutes in length.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I shall not object. I merely wish to point out for the record that if an objection is interposed the cloture vote would occur in accordance with rule XXII, which would mean that it would occur 1 hour after the Senate convenes following a mandatory live quorum, so we have our choice. We can either vote in 1 hour following a mandatory live quorum on Monday or we can set the hour, which the majority leader is trying to do, and therefore there is no objection.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitue to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.
>
> Jesse Helms, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, Howard Baker, John P. East, Steve Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, and Bob Dole.

SENATE SCHEDULE

CONSIDERATION OF SUPPLEMENTAL APPROPRIATIONS BILL ON FRIDAY

Mr. BAKER. Now, Mr. President, as Members are no doubt aware, the House of Representatives by the requisite constitutional majority has just passed the supplemental appropriations bill, objections of the President to the contrary notwithstanding. It is anticipated that the messenger from the House of Representatives will be seeking admission to this Chamber sometime in the morning. Senators should be on notice then that sometime tomorrow morning we will proceed to the consideration of the veto message.

Mr. President, I had hoped earlier to be able to make a unanimous-consent request that we limit the time for debate on this measure to 1 hour equally divided and provide that that debate will begin at 11 o'clock and conclude at 12 o'clock. For a variety of reasons, that does not appear to be a wise course of action at this time.

Let me say for the benefit of Senators, however, that I anticipate that the messenger will arrive in the Chamber about 11 o'clock barring unforeseen circumstances, and it is my hope that tomorrow, sometime shortly after or even prior to the time the messenger arrives from the House, we can negotiate a time limitation for debate on that measure. As I indicated earlier, it does not appear desirable to make that request at this time. Therefore, I will not, and say instead, that I anticipate the messenger from the House will arrive in the Senate Chamber tomorrow at approximately 11 a.m.

Mr. HARRY F. BYRD, JR. Will the Senator from Tennessee yield?

Mr. BAKER. Yes, I yield.

Mr. HARRY F. BYRD, JR. When the majority leader propounds the unanimous-consent request for a time limitation, will he arrange for 20 minutes for the Senator from Virginia?

Mr. BAKER. Mr. President, I will be glad to consult with the minority leader on that point. I personally have no objection to that. Tomorrow when we address that issue I will certainly keep that in mind.

Mr. HARRY F. BYRD, JR. If the Senator wants an hour's limitation, if he will make it an hour and 20 minutes, that will take care of the Senator from Virginia.

Mr. BAKER. Mr. President, I thank the Senator. I am sure some arrangement can be worked out. As I say, it does not appear desirable to make that unanimous-consent request at this time.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes; I yield to the minority leader.

The PRESIDING OFFICER. The minority leader.

Mr. ROBERT C. BYRD. Mr. President, the majority leader has the floor. I merely ask the majority leader if in his judgment the vote will occur at around 12 to 12:30 p.m. tomorrow?

Mr. BAKER. Mr. President, indeed it will. I had hoped we could put down an order to vote on the veto message at 12 o'clock. It is still my anticipation that we will have that vote at 12 noon. There are certain circumstances that might intervene, but I think that is unlikely. In answer to the minority leader, the odds are heavily in favor of a vote at or very close to 12 noon tomorrow.

PROSPECTIVE CLOTURE MOTION

Mr. ROBERT C. BYRD. May I ask a further request of the majority leader? Does the majority leader foresee another cloture vote on the amendment by Mr. HELMS if the vote on the cloture motion fails on Monday?

Mr. BAKER. Yes, Mr. President, I do. Whether or not that motion is filed tomorrow or is filed on Monday is a matter I have not yet addressed.

Mr. ROBERT C. BYRD. I hope the majority leader will indulge me one further question, and I do not mean to be attempting to press him, but at some point in time, in view of the fact that we hope to go out October 2, I believe, the Senate is going to have to complete action on this debt limit bill, and the appropriation bills or a continuing resolution. What other measures are must measures before the Senate goes out on October 2?

MUST LEGISLATION PRIOR TO ADJOURNMENT

Mr. BAKER. Mr. President, I thank the Senator. In addition to the debt limit, which is a must item that we have to deal with one way or the other, I anticipate that the entire appropriations series must be dealt with in some way. As the minority leader has pointed out and as I have pointed out from time to time, we are now in the middle of September and we do not yet have a single regular appropriation bill. I must assume the House will send us something, and I therefore would include first on that list, after the debt limit, disposition of any appropriation bills that are available and a continuing resolution or resolutions as they may be necessary to cover the operations of the Government that are not covered by regular appropriation bills.

In addition to that, Mr. President, I anticipate that S. 995, the antitrust bill, will be called up by the leadership on this side as will the so-called crime package.

There are a number of other items, Mr. President, but those are the major items that occur to me at this moment.

Mr. ROBERT C. BYRD. The distinguished majority leader hopes to have some action on the constitutional amendment?

Mr. BAKER. Yes. I thank the Senator for reminding me of that.

Not only must we finish the debt limit bill, which carries the Helms abortion debate, among other things, but also, I am committed to reiterate my determination to have a debate on the Hatch constitutional amendment relating to abortion.

Mr. ROBERT C. BYRD. Does the distinguished majority leader agree with me in saying that at some point, if cloture motions on the amendment by Mr. Helms fail to get the required number of votes, a cloture motion will in all likelihood be entered on the bill itself, so as to expedite action on the bill?

Mr. BAKER. Mr. President, that is a real possibility, among other possibilities. It might be possible, of course, to proceed in other ways to exit from this debate if it proves futile—that is, if it cannot be concluded by a vote on an amendment or on amendments. But it is my hope we can do that. It is my hope that we can dispose of the Helms amendment on its merits, as well as the Weicker and Baucus amendments and others.

To specifically answer the minority leader as to whether I would consider at some point filing a cloture motion on the bill itself, I think I would. I have not yet concluded that I will do that. I have discussed it with Mr. Helms and Mr. Packwood and others, so they are aware that that is a real possibility.

At some point, the Senate must discharge its responsibility by passing the debt limit bill. I am on record and firmly committed to a full and thorough debate on this measure—that is, on the measures involved in the abortion debate—and I do not intend to foreshorten that unduly and I do not intend to deprive other Senators from offering amendments to the debt limit bill which may be germane, within limits. At some point, we have to finish the measure.

Mr. President, I believe there is one other unanimous-consent request that has been cleared on this side which I hope might be agreeable to the minority leader and other Senators.

TABLING MOTION RESTRICTIONS

In order to expedite the debate on the Helms amendment and other issues—that is, abortion, prayer, and other sensitive matters—I ask unanimous consent that no tabling motion to the debt limit bill or any amendment thereto be in order for the remainder of this day, Friday, or Monday, prior to the conclusion of the cloture vote on Monday next.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the request of the majority leader is that no tabling motion be in order with respect to the measure itself or to any amendments thereto on today or tommorrow or Monday, prior to the cloture vote. Am I correct?

Mr. BAKER. That is correct.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, it is 5 o'clock, and this is a little earlier than I had planned to recess the Senate. But in view of the action of the House of Representatives in passing the supplemental appropriations bill over the President's veto, to be absolutely honest with my colleagues, I need a little time to figure out where we go next.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, if there is no further matter to be dealt with urgently on this debate at this moment, I am going to ask unanimous consent for a time for the transaction of routine morning business.

Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend past 5:15 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, tomorrow morning, it may be that the leadership will attempt to create a period for the transaction of routine morning business by unanimous consent. Because a number of other factors may intervene that will make time very tight in the morning if we are to finish consideration of the veto message by noon, I will not do that at this time. If there is an urgent need for morning business tomorrow, if Members will communicate that to me or to the minority leader, in the case of Senators on the other side of the aisle, I will be glad to take account of their requirements.

Tomorrow the Senate will convene at 10 a.m.

After the recognition of the two leaders under the standing order, it is anticipated that there will perhaps be a period for the transaction of routine morning business.

I further anticipate that the messenger from the House of Representatives carrying the action on the President's veto will arrive in the Chamber at or around 11 a.m. tomorrow. It is a matter of such privilege that it is automatically laid before the Senate when it is received and displaces the pending business. So we will be on that measure as soon as the messenger is admitted. I hope we can finish action on the veto message by noon tomorrow.

After the disposition of the veto message, we will resume consideration of the debt limit bill, at which time the Baucus amendment will be the pending question.

I remind Senators that there is now an order against a tabling motion against the bill or any amendment to the bill. Therefore, I assume that the proponents will want to relinquish the floor and engage in worthwhile debate. As I have said, everything has been said on this subject that can be said.

In any event, we will proceed tomorrow to the supplemental appropriation veto message, and after that, we will be back on the debt limit bill and the Baucus amendment.

ORDER FOR RECOGNITION OF SENATORS DIXON AND NUNN ON TOMORROW

Mr. President, I am advised that two Senators have requests for special orders tomorrow. I ask unanimous consent that after the recognition of the two leaders under the the standing order, the Senator from Georgia (Mr. Nunn) and the Senator from Illinois (Mr. Dixon) be recognized on special orders for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

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RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition.

I move, in accordance with the order previously entered, that the Senate now stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 5:07 p.m. the Senate recessed until tomorrow, Friday, September 10, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, September 9, 1982:

THE JUDICIARY

Raymond L. Acosta, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico, vice Jose V. Toledo, deceased.

EXPORT-IMPORT BANK OF THE UNITED STATES

Rita M. Rodriguez, of Massachusetts, to be a Member of the Board of Directors of the Export-Import Bank of the United States, vice Donald Eugene Stingel, resigned.

DEPARTMENT OF JUSTICE

Arthur F. Van Court, of California, to be U.S. Marshal for the eastern district of California for the term of 4 years, vice Robert P. La Roche, term expired.

IN THE AIR FORCE

Lt. Gen. Charles C. Blanton, U.S. Air Force, age 52, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Harry D. Train II, 216-22-1435/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601, and to be senior Navy member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711:

To be vice admiral

Rear Adm. Arthur S. Moreau, Jr., 228-32-2434/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Edward S. Briggs, 470-26-8994/1110, U.S. Navy.

EXTENSIONS OF REMARKS

PORTS BACK MARITIME REGULATORY REFORM

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. LOWRY of Washington. Mr. Speaker, various ports of America, large and small, speaking through their trade organization, the Association of American Port Authorities, are strongly supporting H.R. 4374, the maritime regulatory reform bill, which this House will consider next week.

Recently a paper was circulated which claimed that port cities would be damaged by the legislation. The Association of American Port Authorities has written an important response to that paper, and I have enclosed for the record that letter to provide the Members the opportunity of that input before the vote next week. The letter is addressed to the distinguished chairman of the Merchant Marine and Fisheries Committee, who has been instrumental in bringing this important legislation to the floor.

American Association
of Port Authorities,
Washington, D.C., September 8, 1982.

Hon. Walter B. Jones,
Chairman, House Merchant and Fisheries Committee, Longworth House Office Building, Washington, D.C.

Dear Mr. Chairman: I am writing to share with you our analysis and reactions to the essay of the "Shipping Act of 1981 on American Port Cities," submitted recently to your committee by the National Institute of Economics and Law (NIEL).

As you know, Mr. Chairman, this Association, founded in 1912, represents virtually all the public port authorities of the United States. During consideration of H.R. 4374 and S. 1593, we have actively communicated with appropriate members of Congress relating the positions and concerns of the U.S. port industry on key points of the proposed legislation.

In responding to the NIEL position summary, I want to state at the outset that we are completely unfamiliar with any mandate by NIEL to define and project the views of the U.S. port industry. We know of none of our ports that asked the Institute to act on their behalf, nor do we know of any ports that have been contacted by NIEL. While we would appreciate the efforts of any appropriate and qualified organization to assist us in developing research analysis and in projecting port industry positions on key issues, we find the NIEL statement to be generally an ill-prepared, ill-based summary of the portent of H.R. 4374 and S. 1593 on the interests of U.S. ports and the communities in which they operate. The input of this Association to these two bills is in large measure reflected in the markups, and whereas NIEL may find reason to project ominous impacts on our industry, we believe the proposed legislation is basically a reasonable response to the necessities of regulatory reforms.

Our response to the NIEL essay has been prepared on the basis of review conducted by port authority attorneys and port directors from the four coasts, an effort coordinated by the Association's Law Review Committee. During this review, we concluded that the proposed legislation could be refined with a series of technical amendments which would serve to clarify the appropriate status of U.S. ports as fully-recognized parties within the structure of regulations covering the maritime transportation industry. These proposed technical amendments are attached and we respectfully request your consideration.

In a letter to Senator Gorton dated February 8, 1982, AAPA outlined the major concerns of all U.S. ports regarding reform of U.S. maritime regulatory laws. At that time, we said:

". . .[I]t is vital to the success of any maritime regulatory reform plan that ports continue to be a principal element of federal ocean regulatory law. The primary inclusion of ports in the Shipping Act of 1982 is imperative to assure the continued economic success of functions associated with the flow of U.S. waterborne commerce.

"Under current law and regulatory procedures administered by the Federal Maritime Commission, ports hold a very unique place. Congress and the FMC have formulated through the years certain "rights" and "requirements" that recognize ports as essential transportation links in the movement of waterborne commerce.

"Statutory rights of ports contained in Sections 16 and 17 of the Shipping Act of 1916 provide port entities legal standing to protect themselves against undue preference or rate discrimination. Section 8 of the Merchant Marine Act of 1920 protects ports against unreasonable cargo diversion. Section 205 of the 1936 Act sets a standard for conferences in order to prevent port services discrimination."

In the months since, AAPA has closely monitored all developments relating to H.R. 4374 and S. 1593. We are satisfied that these bills, as amended, preserve the existing statutory safeguards afforded ports.

During hearings before the House Judiciary Subcommittee on Monopolies and Commercial Law on May 6, 1982, NIEL opposed H.R. 4374 on grounds it would unwisely expand antitrust immunity in the maritime industry. NIEL is now suggesting that American ports should rally in opposition to the bill, arguing this time, that it does not provide them with antitrust protection adequate to match those afforded to ocean carriers. It appears that NIEL has reversed its concerns on antitrust immunity in just a few months time.

Following is a series of summary observations on a number of specific allegations raised in the NIEL paper:

1. *NIEL charge* (page 1): H.R. 4374 and S. 1593 contain "several procedural and substantive changes to existing law" which allow common carriers/conferences to "allot ports or otherwise regulate the number and character of sailings between ports, and to engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operator . . ."

AAPA response: NIEL ignores the fact that these supposedly port debilitating powers are *already* permitted under the Shipping Act of 1916 (46 USC 814). This statute has generally performed satisfactorily in allowing ports to protect themselves. Over the years, ports have challenged various agreements and routing arrangements under the powers authorized by Sections 15 and 16 of the 1916 Act as well as other "port protection" statutes contained in Section 8 of the Merchant Marine Act of 1920 and Section 205 of the 1936 Act.

Neither bill would alter these statutory protections.

2. *NIEL charge* (page 2): "The Federal Maritime Commission strictly scrutinizes any agreement that diverts traffic from a port that would be the natural routing for the goods" and will ". . . generally find any carrier rate agreement that attracts cargo from an area 'naturally tributary' to a port to some other port to be unjustly discriminatory."

AAPA response: NIEL's analysis misstates the current status of cargo diversion law and the FMC agreement-approval process. Its arguments are not based on recent practice, but on cases no more recent than 12 years ago, some dating as far back as 1957. Those early precedents have since been bypassed by time, technological change and current FMC views of cargo diversion as embodied in the famous "minibridge" case (*Council of North Atlantic Shipping Association, et al. vs. American Mail Lines, Ltd.*, FMC 73-38 (1977)) and a subsequent alteration contained in *N.C. State Ports Authority, et al vs. Port Containerline Ltd.*, FMC 77-50 (1980). Moreover, NIEL was unable to cite a single instance where an agreement has been rejected by the commission on the grounds of cargo diversion. The reasons are obvious: (1) nearly every major agreement approved by the commission involving minibridge, microbridge, or landbridge has in effect, sanctioned cargo diversion practices; (2) the carriers involved have negotiated and compromised in order to meet the concerns of affected ports.

U.S. ports are well aware of their right to challenge those agreements. Enactment of the proposed legislation would not change current patterns of cargo diversion. As might be expected with any change in law and the regular turnover in FMC membership, port diversion cases will be interpreted and reinterpreted in the light of circumstances, transportation technology and economic fairness for shippers. The specter of cargo diversion fears raised by NIEL is hardly a revelation to ports, all of which recognize that competition for cargo is a constant fact of business life.

3. *NIEL charge* (page 3): "[A]n agreement diverting traffic from its natural port now comes to the Commission with a strong presumption of invalidity."

AAPA response: This statement is not substantiated by NIEL or by the record of the FMC affecting conference agreements. U.S. ports are well aware that many conference agreements receive routine FMC approval.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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Few ports, however, follow these actions on a daily basis. Of greater concern to most ports are the post-agreement activities of carriers, including publication of rates. These are the actions that have drawn port protests over the years (see *Far East Conference Tariff Rule Regarding Assessment of Wharfage*, FMC 75-21 (1978), *In the Matter of Furnishing Container Chassis*, FMC 80-28 (1980), or *Petition Regarding Terminal Handling Charges of Various North Atlantic Conferences*, FMC (1981)). Once again, the ability of ports to protest post-agreement practices are unaffected by either bill.

4. *NIEL charge* (page 3): "Section 14(b) [1916 Act] presently prohibits the use of any dual-rate contract that requires a contract shipper to divert goods from their 'natural routing'." NIEL goes on to state that proposed reform legislation will act to dilute the protections now available under this Section.

AAPA response: That particular provision was adopted 20 years ago. At no time since has a single case involving "natural routing" under Section 14(b) come before the FMC.

Cargo affected by conference loyalty contracts moves as dictated by economic necessity as ports and shippers are well aware. The proposed reform amendments to Section 14(b) would not change this practice.

5. *NIEL charge* (page 6): Ports will not be exempt under agreements with carriers under H.R. 4374 and as a result "would be liable for acts of immunized carriers potentially subject to criminal prosecution and treble damages."

AAPA response: This charge is without merit. The Judiciary Committee report (97-611, part 2, page 33) clearly states that the carriers' antitrust immunity extends to their dealings with marine terminal operators. In any case, an agreement between two parties should be viewed by the FMC and the courts as a single transaction, thus immunizing both. In the interest of clarity, however, a minor technical amendment to Section 3 of H.R. 4374 (which is similar to the language contained in Section 4(b) of S. 1593) would better serve the committee's intent and end once and for all such academic speculation. (The amendment is listed as number one on the attached list of proposed technical amendments.)

6. *NIEL charge* (page 6): "Port authorities have sought to have the proposed legislation protect the right of all conference members to act independently" and neither H.R. 4374 nor S. 1593 provides the right of independent action.

AAPA response: It is true that AAPA has requested the right of independent action. While neither bill offers independent action procedures to the extent requested, we feel nevertheless the matter was adequately addressed in the Merchant Marine and Fisheries Committee report where it states: ". . . while desirable as a competitive tool [it] could in fact be used to compete unfairly against independent non-conference carriers . . .". (97-611, part 1, P.25). Accordingly, AAPA is satisfied with the compromise position found in H.R. 4374 allowing conference carriers to exercise the right of independent action on a 45-day maximum notice. This will give ports and shippers sufficient time to amend conference tariffs as circumstances warrant.

7. *NIEL charge* (page 7): Conferences will be able "to exact substantial concessions from all ports and smaller ports could be precluded from any meaningful participation in conference controlled traffic."

AAPA response: We find that this comment tends to misstate existing law and practice. Naturally, differences exist between conference agreements in the various port ranges. AAPA is well aware of the concerns that ports of various sizes have regarding existing conference service. However, neither bill would change the existing practice that allows conferences to decide which ports are served. Those decisions would continue to be based on cargo flows and the capacity of facilities at individual ports to handle them.

In conclusion, I wish to acknowledge the understanding and sensitivity shown by your committee and its staff to the concerns of our industry. We pledge our continued cooperation as the 97th Congress continues its consideration of maritime regulatory reform legislation.

Sincerely,

J. Ron Brinson,
President.●

HOSPICE CARE GETS LONG-OVERDUE RECOGNITION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BIAGGI. Mr. Speaker, It is a national tragedy that our terminally ill citizens have been for far too long reduced to living out their days in health care facilities, alone and without the comfort of friends and loved ones. I commend the authors of the recently passed Tax Equity and Fiscal Responsibility Act—an act which I supported—for allowing hospice care to be paid for under medicare. This provision would allow for care of the dying in the home instead of a hospital.

The hospice movement has grown in size and strength in recent years, largely in response to the growing cost of maintaining the terminally ill in hospitals. In 1978, there were 59 organizations offering hospice care; by mid-1981 this number had grown to 440. Hospice care is directed at chiefly providing relief from pain, often in facilities that are separate from hospitals, offering competent care in a fashion that allows the terminally ill dignity and compassion in the last stages of their illness.

Begun in England, the movement has grown in this country where the Congressional Budget Office has estimated that hospices are now serving about 50,000 nationwide—or 10 percent of potential users. This new medicare provision will hopefully increase participation by 109,000 at less cost to the medicare program—saving $48 million by 1986 when the provision expires. In 1983, each hospice user would spend $1,100 less than in a hospital. The benefit would also cover some items which medicare cannot pay for, such as outpatient drugs, family counseling, medical supplies for the patient's comfort, as well as respite service and home health care.

As an original member of the Select Committee on Aging, I maintain a special interest in the health care needs of medicare recipients. I believe this provision is a long-overdue step in recognizing cost-effective alternatives which will be better tailored to the needs of our elderly who are ill. However, this provision must be the first—and not the only—step we take in seeking ways in which to preserve medicare services to the elderly through the support of health care programs which offer viable alternatives to more costly institutionalization. For the benefit of my colleagues, I wish to insert an editorial from the New York Times which endorses the hospice concept and commend it to their attention.

To Ease the Pain of Death

For too many, the end of life is a nightmare of lonely hospital rooms and sterile combat against unstoppable disease. But there is an alternative: hospice care, an inspiring concept imported from Britain. The idea is to let the terminally ill remain at home for as long as possible so that friends and family can provide care under the supervision of a physician. Both the patient and the family receive help in coping with death.

Thanks to a provision of the omnibus tax reform bill now awaiting President Reagan's signature, hospice care will become an eligible expense under Medicare. The provision may add as many as 100,000 patients to the 50,000 now served by some 400 organizations nationwide. It also demonstrates that Reaganomics need not eclipse new ideas for social programs.

Although final approval of the hospice measure came amid the jumble of Congress's race toward adjournment, the consideration process was prudent. No one opposed the principle of offering more Americans a dignified way to die, but some objected to the cost.

Supporters of the measure knew that at a time when social programs are being cut to the quick, it would have been neither wise nor fair to create a major new program of public health expenditures. But they were able to point to a study by the Congressional Budget Office that found that the program would ultimately pay for itself.

To obtain covered hospice care, a patient would have to forgo treatment and drugs that might prolong life. Thus the program would substitute more humane but less expensive care for the high-priced services now given the terminally ill in hospitals at Government expense. By fiscal 1986, the Budget Office predicted, annual net savings for the taxpayer will approach $50 million.

Yet the coverage, available for up to 210 days, will be broad: home care for the dying patient, counseling for patient and family, pain-relieving drugs and medical supplies. "Respite care" will also be available to ease the strain placed on family members by the need for constant attendance.

The hospice idea is an encouraging new area of social service. Congress deserves high marks for pursuing it to fruition in an era dominated by austerity budget politics.●

HAPPY BIRTHDAY CLAUDE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FUQUA. Mr. Speaker, today is an auspicious occasion. It marks the 82d birthday of my good friend and colleague, Claude Pepper. Although Claude and I began our service in the House of Representatives together in 1963, his illustrious career of public service began in 1928 with his election to the Florida State House of Representatives from Taylor County which is located in the Second Congressional District I am privileged to serve.

From that time he has been a dedicated public servant. He served honorably and well in the U.S. Senate from 1937 until 1951 and has never left the public eye. We all know of his tremendous contributions to the well-being of older Americans through his service as chairman of the Select Committee on Aging and the prime example he serves for senior citizens everywhere.

I hope all my colleagues will join me in wishing Claude a very happy 82d birthday and many more to come.●

CAREY CRONAN—A MAN WE WILL MISS

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. McKINNEY. Mr. Speaker, Congress seems a little emptier this fall, and in fact, it is. A very special person—Carey Cronan—has passed away. Carey was a member of the Washington press corps for 33 years, still a very active member producing a weekly column and daily stories until he died at age 73. His greatest fear was that the Bridgeport Post-Telegram editors might decide he should retire. Carey did not even want anyone to know he went to the hospital for those last few days because his bosses might learn of it. But everyone knew Carey would never be too old to do what he loved the best—report the news. He came to Washington in the days of Roosevelt when the small press corps spent the morning on Capitol Hill, then shared a ride over to the White House for the afternoon story. Everyone who knew him has a favorite story about Carey Cronan, who was himself the inveterate storyteller. However, I felt the following piece, written by one of the Bridgeport reporters Carey included on his long list of trainees over the years, is probably the most appropriate tribute to a man we all loved, respected, and will miss.

CAREY CRONAN LOVED BEING A REPORTER

(By John Gilmore)

There is an old story about newspaper people who don't like to be called journalists . . . they prefer to be called reporters. A journalist, the story goes, is a pompous old fool with a pencil who carries a cane.

This could have been the philosophy of Carey Cronan. He loved being a reporter. His life was built around the profession and he never considered it simply a job. It was his life.

For 33 years Carey was the Washington correspondent for the Post Publishing Company. He watched the comings and goings of Connecticut representatives and senators. He knew them all.

Bridgeport mayors traveling to the nation's capital always stopped in to say hello to the veteran reporter. They felt it necessary, although he may have wondered why.

He was a fixture on the Washington scene, a legend in Connecticut.

And he never carried a cane as part of his wardrobe. Carey was a reporter. Carey passed away last month and left a void in the Connecticut press corps, both here and in Washington. He won't be replaced easily. He will long be missed.

His style was simple: get the basics, who, what, where, when, why and how.

It was almost impossible to get Carey to speculate or offer an opinion in a news story, a long-time friend and associate said. He just wouldn't do it. He didn't practice the new journalism.

But he did have opinions about things that happened around him. One of his strongest opinions was that former U.S. Sen. Thomas Dodd, who was censured in 1967 for misuse of campaign funds, was railroaded.

Carey felt the Senator was betrayed by a disloyal staffer.

Carey's career stretched back to 1928, when he took his first newspaper job in Bridgeport. He dabbled in radio reporting for a while, and was even considered by some as a pioneer in electronic journalism. But he returned to newspapers, his first and true journalistic love. There was something magical and permanent about words being preserved on paper.

Carey loved watching the interaction among the nation's elected representatives in Washington and truly believed the basic system of government was sound. He believed scandals were the product of a few bad apples in government and not the system. But he had seen the government grow and acknowledged the complexities of the nation's government as it approached the 21st century.

He would sit back sometimes and remember the days when presidential press conferences amounted to bringing the press corps into the Oval Office for a drink and simply talking about things that were happening. But that was in the days before the Eisenhower administration.

That was also before the television explosion into journalism, the explosion that brought instant analysis, live remote coverage and videotape. It was a time when a reporter's equipment consisted of simply a pad of paper and a pencil.

Things have changed over the years in American journalism, and Carey generally accepted those changes. He maintained an ability to survive. He survived because he had the basic talents necessary to be a reporter.

And he was a storyteller. Cronan was a storyteller of the first order. He could tell stories about people and, most importantly, himself.

Carey was at home with his work, his friends and a good cigar . . . a good Topstone cigar.

The cigar became his trademark to friends. When he was first married, he was fond of saying, he told his new wife Mary that he smoked cigars and there would be no discussion of the issue. She accepted his terms, Carey would say with a grin.

As a member of the National Press Club, Carey had the respect of his peers. All the media stars of Washington knew him and, more importantly, respected him.

Carey Cronan was a reporter. And you honored him by calling him a reporter.●

DENOUNCEMENT OF SOVIET UNION ON BEHALF OF THE SALOMON FINKELSTEIN FAMILY

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, I rise today to bring to the attention of my colleagues the plight of the Jews in the Soviet Union.

We all know that the U.S.S.R. has a blatant disregard for human rights. It is no wonder that so many have tried to escape to Israel where they can be reunited with loved ones and worship in peace. However, the Soviets have slowed Jewish emigration to a trickle and with it doused many hopes for religious freedom.

One who has repeatedly tried to leave the Soviet Union is Salomon Finkelstein. He along with his wife Frida, and son Artur long to be reunited with Salomon's parents who emigrated to Israel several years ago. The family first asked permission to leave Russia in March 1972. Their application was refused in June of that year. No reason was given but the Finkelstein's believe it is because of Salomon's previous army service from 1968–70.

Today is Salomon Finkelstein's 33d birthday. Although I do not have the power to give him what he wants most in life, I can speak on his behalf to strongly denounce the Soviet Union's Jewish emigration policy. As part of the 97th Congressional Class on Soviet Jewry, I urge my colleagues to do the same. We must continue to fight for Salomon Finklestein and those like him who only want the freedom that we in this country so often take for granted.●

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WOMEN'S EQUALITY DAY—AUGUST 26, 1982

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FISH. Mr. Speaker, I would like to express my unwavering support to commemorate August 26, the anniversary of the ratification of the women's suffrage amendment, as "Women's Equality Day."

Although the first efforts to secure voting rights date back as early as 1648 when the suffrage petition was placed before the house of delegates in the colony of Maryland, women did not win this indispensable right until 1920. Throughout those long years, committed women fought continuously and relentlessly to secure equal legal rights. Ratification of the 19th amendment marked a milestone in the quest for women's equality. Susan B. Anthony, Elizabeth Cady Stanton, and Lucy Stone are all familiar names to us, but there were many more who devoted their lives to this noble cause.

Yet, to simply praise their efforts and to celebrate the anniversary of the women's suffrage would denigrate their fight. Needless to say, equality for women is not confined to voting rights. It extends to equal legal rights in every sphere, to equitable educational and employment opportunities.

Although Congress has continually voted to obliterate inequities in the law, women must still hurdle discriminatory laws and practices. For instance, women comprise well over 48 percent of our total work force, but earn 59 cents of each dollar a man earns. Such inequities hurt not only individual women and their families, but also the prosperity and well-being of the Nation as a whole. We need to fight for the full participation of women in all facets of society.

Hence, as we celebrate this festive occasion, let us reaffirm our commitment to the equal rights amendment. Although opponents of the ERA have effectively halted its momentum, the ERA, in fact, is alive and kicking. Just as it took more than three centuries for women to win the vote, the campaign to ratify the ERA will also be long and arduous. I look forward to the day when we can add the ERA to our roster on Women's Equality Day.●

CONGRESSIONAL SALUTE TO HON. SOL STETIN OF PATERSON, N.J., OUTSTANDING CITIZEN, ESTEEMED NATIONAL LABOR LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROE. Mr. Speaker, on Friday, September 10, the residents of my congressional district and State of New Jersey will join together with a prominent group of concerned citizens from labor, business, civic and community organizations in support of the establishment of our Nation's first labor museum—the Botto House American Labor Museum—in a commemorative salute to the development and achievements of working people. It is indeed fitting and appropriate that the honored guest of this testimonial will be a highly distinguished citizen, national labor leader and good friend—Hon. Sol Stetin of Paterson, N.J.—whose lifetime of dedication and personal commitment in ever seeking the highest standards of excellence in his quest for economic and social justice for all of our citizens has truly enriched the historical, educational, and cultural heritage of our community, State, and Nation.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in extending our deepest of appreciation to Sol Stetin and share the pride of his good wife, Frieda; their two daughters and sons-in-law, Sandra and Ira Gash, and Myra and Robert Levine; and their grandchildren, Lauren and Amy Gash; Lisa, Michael, and Scott Levine upon this milestone of achievement in their family endeavors.

Mr. Speaker, Sol Stetin has been in the vanguard of a concerted effort to establish the first labor museum in the United States and the founding of the Botto House American Labor Museum, Inc., a private, nonprofit organization dedicated to the acquisition, restoration, and preservation of the Pietro Botto House of Haledon, N.J., as a State and National historic site and national historic landmark, and is president of the board of trustees of this most prestigious historic preservation organization.

Sol retired 2 months ago as senior executive vice president of the Amalgamated Clothing & Textile Workers Union, AFL-CIO, after serving a half century of fruitful and fulfilling years in the American labor movement. He formerly served as president of the Textile Workers Union of America and as a vice president and member of the AFL-CIO executive council. The Botto House American Labor Museum is a project he cherishes: it will depict the contributions and heritage of working people in New Jersey and the entire Nation.

Mr. Speaker, there is much that can be said of Sol Stetin and his lifetime of achievements in service to people and with your permission I would like to insert at this point in our historic journal of Congress a brief outline of his good works and affiliations that will be particularly cited by his colleagues and friends on September 10, as follows:

SUMMARY OF ACHIEVEMENTS AND AFFILIATIONS OF SOL STETIN

Sol Stetin, born in Poland, a resident of Paterson, New Jersey for 61 years, recently retired as Senior Executive Vice President of the Amalgamated Clothing and Textile Workers Union, after a distinguished career of nearly fifty years in the American labor movement. Active in the early organizing drives of the CIO, Stetin rose to the presidency of the Textile Workers Union of America, before merging his union with the Amalgamated Clothing Workers in 1976.

For about a half-century, Sol Stetin has spoken out on the major issues of the day: peace, social justice, education and opportunity for all citizens, and fair treatment for workers and their families. His voice has never wavered from a passionate, consistent commitment to justice and dignity for all.

From the day he started to work, the life story of Sol Stetin and the history of modern textile trade unionism became one and the same. In 1933, as a charter member of Dyers Local 1733 in Paterson, he was active in the formation of the old Federation of Dyers, Finishers, Printers and Bleachers of America. He signed his first union card on September 27, 1933 in the old United Textile Workers Union. In 1935, after the formation of the Committee for Industrial Organization—which became the Congress of Industrial Organization—he knew instinctively that he had a role to play in history's greatest organizing drive. And he did.

Sol Stetin is a former Trustee of William Paterson College, Wayne, New Jersey, where he received an Honorary Degree. He has been active in the Institute of Management and Labor Relations at Rutgers the State University since its inception in 1947 where he also received an Honorary Degree of Doctor of Humane Letters. A wing at the Rutgers Labor Education Center in New Brunswick, N.J. has been named in his honor. He served on the AFL-CIO Executive Council. He is now an AFL-CIO Vice President Emeritus.

Upon retirement, Stetin has taken on a new project with characteristic zeal and energy: establishing one of America's first labor museum at the Botto House National Historic Site In Haledon, New Jersey. Stetin has always been a strong advocate of education for the working class and was instrumental in beginning the labor education program at Rutgers University. His advocacy of education, along with his love for the Paterson area has led him naturally to the Botto House in Haledon.

During the epic 1913 Paterson Silk Strike, the home of Pietro Botto, an immigrant textile worker, became the focal point of a dramatic effort by silk and dye workers to secure better working conditions. John Reed, Upton Sinclair, IWW's Bill Haywood, Elizabeth Gurley Flynn and Carlo Tresca all came to Paterson and planned strike strategy at the Botto House. When Paterson barred the strikers from assembling there, Pietro Botto invited the workers to use his property for mass meetings. Although the strike failed, historians generally agree that it paved the way for the successful organization of textile workers in the 1930's.

Sol Stetin serves as President of the American Labor Museum/Botto House National Historic Site's Board of Trustees. The American Labor Museum seeks to convert the Botto House into an institution which will both interpret the past and suggest possibilities for the future well-being of American workers. His career as a labor leader and public citizen has been concerned with the advancement and development of all people. The establishment of the American Labor Museum/Botto House National Historic Site and the testimonial dinner in Sol Stetin's honor deserve full support.

Mr. Speaker, Sol Stetin has served our people and our country with honor and distinction. He is an outstanding individual whose richness of wisdom and quality of leadership in his daily pursuits, particularly on behalf of the working men and women and their families have touched the lives of many, many people in my congressional district and throughout our Nation. I appreciate the opportunity to publicly acclaim all of his good works and share the pride of his family and many, many friends in his professional expertise in educational civic and charitable endeavors which have made a vast contribution to the quality of life and way of life for all of our people. We do indeed salute an outstanding citizen and great American, Hon. Sol Stetin of New Jersey.●

"COP KILLER BULLETS" OUTLAWED IN BROOKHAVEN, N.Y.

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BIAGGI. Mr. Speaker, I am pleased to report that the town of Brookhaven, N.Y., has adopted a local law that restricts the possession and distribution of armor-piercing handgun bullets, which can rip through the bulletproof vests worn by police officers.

As one who has authored similar legislation at the Federal level (H.R. 5437), I am greatly encouraged by this very significant development.

It should be noted that Brookhaven has been joined by a number of other localities and States—including Minnesota, Kansas, Rhode Island, Alabama, Oklahoma, and Illinois—in enacting similar laws against these so-called cop killer bullets.

Each time a State or locality acts to outlaw this high-powered ammunition—which is not used for legitimate purposes but has been used to kill police officers—we are reminded of the severity of this problem. Already, H.R. 5437 has received the bipartisan cosponsorship of over 80 of my colleagues; identical legislation has been authored in the Senate (S. 2128); and the House Subcommittee on Crime has conducted hearings. I am confident that enactment of a Federal law to address this national problem is only a matter of time.

Simply put, our Nation's 528,000 law enforcement officers need and deserve whatever added protection we can provide them. The town of Brookhaven—and particularly Councilman Stephen Burke, who authored the local law—are responsible for giving them that protection. I am committed to doing the same on a nationwide basis.

At this time, Mr. Speaker, I wish to insert the text of the Brookhaven law:

HANDGUN BULLETS

29A-1. INTENT

It is the intent of the Town Board to restrict the possession, disposition and use of certain handgun bullets that are designed primarily for the purpose of armor penetration so as to give law enforcement personnel a reasonable degree of protection from penetration of body armor. This local law is not intended to restrict the availability of ammunition for personal defense, sporting, or hunting purposes.

29A-2. DEFINITIONS

For the purposes of this local law, the following terms shall be given the following meanings:

Body armor—commercially available, soft, bullet-resistant apparel with a penetration resistance equal to or greater than body armor classified as Threat Level Class II that complies with New York State Industrial Code Rule 55 or National Institute of Law Enforcement and Criminal Justice Standard 0101.01 dated May 1978.

Dealer—any person engaged in the business of selling ammunition at wholesale or retail who is licensed under Chapter 44 of Title 18, United States Code.

Dispose of—dispose of, give, give away, loan, offer for sale, sell, transfer, and otherwise dispose of.

Handgun—a firearm originally designed to be fired by the use of a single hand with a barrel five (5) inches or less in length.

Person—natural person, firm, partnership, corporation, or company.

Restricted handgun bullet—a handgun bullet that is designed specifically to penetrate armor, including body armor as defined herein, and which is comprised of any hard metal or hard metal alloy, or soft metal jacket with a hardened core comprised of any hard metal or hard metal alloy, including Teflon coated handgun bullets, which purposely reduces the normal expansion or mushrooming of the bullet's shape upon impact.

29A-3. PROHIBITED ACTS

(a) No person shall with intent to commit an unlawful act dispose of, possess, or use any restricted handgun bullet or bullets in the Town of Brookhaven.

(b) No dealer shall dispose of any restricted handgun bullet or bullets in the Town of Brookhaven.

29A-4. PENALITES

Any person convicted of violating this local law shall be deemed guilty of a misdemeanor punishable by a fine not exceeding One Thousand ($1,000.00) Dollars or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, provided, however, that any person who uses or possesses a restricted handgun bullet during the commission of another crime may be punished by such fine and imprisonment for not more than six (6) months which sentence shall run consecutively to any sentence imposed for conviction of such other crime.

Section 2. This local law shall take effect ninety (90) days from the date of filing in the office of the Secretary of State.●

ARTICLE ON THE TOBACCO PROGRAM FOR THE CONGRESSIONAL RECORD

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FOUNTAIN. Mr. Speaker, I would like to place the following editorial from the Des Moines Register in the CONGRESSIONAL RECORD so that all Members of the Congress may have the opportunity to read it.

We North Carolinians have always known that the tobacco program is a boon, not a bust, for the American farmer and for the American economy, and this editorial speaks to that issue. It is encouraging to see that citizens from nontobacco areas are realizing the crucial importance of the tobacco program—a program which helps to maintain millions of jobs and which generates billions of dollars annually in our Nation's economy.

I salute the editors of the Des Moines Register and highly commend this editorial to each and every Member of the Congress.

A BETTER TOBACCO PROGRAM

Congress last week gave final approval to a bill that will make welcome changes in the federal government's tobacco program.

The program is frequently attacked by anti-smokers who argue that the federal government has no business supporting a crop that causes cancer. The primary aim of the program, however, is not to promote tobacco production, but to protect the welfare of the small farmers who make their living growing tobacco. Agriculture Department experts argue that if the program were abolished, many of the small producers would be forced to get out of farming, and that tobacco would be produced by fewer, larger farms. Such a change would do nothing to reduce tobacco production or to convince Americans to quit smoking.

Unless the country is prepared to ban smoking, a tobacco program can be useful. The bill passed by Congress improves the tobacco program in three ways:

It eliminates taxpayer support, except for administrative expenses. The program costs were already minimal. According to the Senate Agriculture Committee, the tobacco program cost taxpayers less than $40 million over the past decade. The USDA expects to recover eventually 98.8 percent of what it had invested in the tobacco loan program.

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Now even these costs will be eliminated. From now on, tobacco growers will be required to make contributions to a special fund that will be used to cover losses suffered by the tobacco program.

To grow tobacco, a farmer must own or lease a tobacco allotment. Many people who own tobacco allotments don't actually produce the crop; they lease their allotments to active farmers. The new legislation makes modest moves toward getting the allotments back into the hands of actual farmers.

The bill gives the secretary of agriculture authority to lower the price-support level on tobacco. This should help ensure that U.S. tobacco will be more competitive in world markets and help limit the buildup of surplus tobacco stocks.

The measure gives the program the distinction of being the only major farm-commodity program that farmers pay for themselves. That's a good reason for the tobacco program to deserve a better image.●

PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. LEE. Mr. Speaker, due to official business, I was unable to be present in the House Chamber yesterday, September 8. Had I been here, however, I would have voted in the following manner on H.R. 6307, the Resource Conservation and Recovery Act.

Rollcall No. 308: I would have voted "aye" on this amendment seeking to strike provisions which apply RCRA regulations to small quantity generators and to require the EPA to study and report to Congress on the advisability of applying regulations to operations generating less than 1,000 kilograms a month.

Rollcall No. 310: I would have voted "no" on the amendment seeking to strike language preserving the rights on litigants under any statute of common law; and on

Rollcall No. 311: I would have voted "yea" on final passage of the RCRA reauthorization bill, H.R. 6307.●

TRIBUTE TO COL. VICTOR M. ROBERTSON, JR.

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to say a few words about a soldier's soldier who recently retired from the U.S. Army, Col. Victor M. Robertson, Jr.

Colonel Robertson has had a long and impressive Army career. Much of his service was with the infantry combat units where he served as company commander in the 5th Regimental Combat Team in Korea, the 71st Infantry Division at Fort Lewis, and combat support company and Company D, 325th Airborne Infantry Regiment, 82d Airborne Division. In addition to commanding the 74th Aviation Company in Vietnam in 1965–66, he commanded the 1st Battalion, 14th Infantry, 4th Infantry Division in Vietnam in 1969. He served as Division Chief of Staff with the 25th Infantry Division from 1972–75, and commanded the 2d Brigade.

His other high level staff assignments included: Aide-de-camp to the commanding general, 1st U.S. Army from 1963 to 1964; staff officer in war plans division, and Army Secretary for Joint Actions, Office of the Deputy Chief of Staff for Operations and Plans from 1966 to 1969; executive officer to the Chief of Staff, U.S. Army Vietnam in 1970; branch chief, Office of the Deputy Chief of Staff for Individual Training, Continental Army Command in 1970–71; and Chief of Staff, U.S. Army Military District of Washington from 1978 to 1981. He was assigned to the military district of Washington in 1978.

Colonel Robertson's outstanding military career is highlighted by the military decorations he has received. These include: the Silver Star, Legion of Merit with Oak Leaf Cluster, Distinguished Flying Cross, Bronze Star with "V" Device and two Oak Leaf Clusters, Meritorious Service Medal, seven awards of the Air Medal, and the Army Commendation Medal. He was also awarded the Combat Infantry Badge, Senior Parachutist Badge, Senior Aviator Badge, the Army General Staff Identification Badge, and the Vietnamese Parachutist Badge.

His many contributions to our Army would not have been possible without the support of his lovely wife, Lois. They will be greatly missed by all who had the pleasure of their association. I join the Army in congratulating Colonel Robertson on a most successful career and I wish him, and his wife, Lois, the best of luck in their future endeavors.●

LEGISLATION TO PROMOTE HYDROPOWER IN THE NORTHEAST-MIDWEST REGION

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. NELLIGAN. Mr. Speaker, I am introducing legislation which is designed to promote the development of our many hydropower resources in the Northeast-Midwest region of our country.

In 1979, according to Army Corps of Engineers figures, the capacity of 1,251 existing hyropower facilities nationwide was 64,000 megawatts of electricity. This represented approximately 13 percent of the Nation's total generating capacity.

There is tremendous potential for growth in the hydropower industry. According to the corps' "National Hydropower Resources Study," development of hydro potental at sites with existing dams could increase total capacity by 250 percent. Further development of nearly 4,500 potentially feasible, but undeveloped sites could increase total capacity by up to 500 percent.

Clearly, we can no longer afford to neglect our hydropower resources, and the vast potential they afford for reducing our dependence on oil imports. And yet, major obstacles remain to thwart hydropower development.

One of the main obstacles is the lack of finance capital. Once constructed, hydro facilities are relatively inexpensive to operate. However, startup costs, which include the costs of complying with necessary Federal environmental regulations, can be substantial.

To help meet the costs of feasibility studies, which can take between 3 and 4 years to complete, the Department of Energy administered a low-interest loan program between 1977 and 1980. Discontinuation of this program in 1981 has made financing more difficult, especially for municipalities and smaller utility firms.

The problem is especially acute in the Northeast and Midwest, which are the only regions of the country which lack access to Federal support for hydro projects via one of the five Federal power marketing authorities.

To correct this inequity, I am introducing legislation to create the Northeast-Midwest States Federal Hydropower Financing Authority. Under this legislation, midwestern and northeastern States would have the option of joining this regional power marketing authority, thereby becoming eligible to apply for lower cost loans and loan guarantees to cover up to 70 percent of the costs of hydropower development.

Interest rates on loans would reflect the Government's cost of borrowing. State and municipal power authorities, rural electric cooperatives, interstate river commissions, and consumer and stockholder held utilities in member States would be eligible for financing.

According to corps studies, the northeastern and midwestern States contain half the feasible hydro sites, and 20 percent of the potential generating capacity nationwide. I urge Members from these regions to investigate the hydro potential within their own districts. Such information is available simply by contacting the Army Corps of Engineers.

If you feel that hydroelectricity has the potential to aid your district, States, or region in meeting its long-term energy needs, and if you feel that it is unfair that the Northeast and Midwest are the only regions without access to the financial resources of Federal power marketing authorites, I would urge you to consponsor my legislation.●

RECLAIM AMERICA

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mrs. COLLINS of Illinois. Mr. Speaker, today, our Nation is in the midst of the deepest recession since the Great Depression of the 1930's. Economic policies dictated almost totally by the Reagan administration have produced the highest deficits this country has ever experienced and all economic indicators signify the gross failure of supply-side economics and rigid monetarism. Over 10 million people are out of work and the prospects for a strong healthy economy are gloomy at best.

For these reasons, towns and cities across the Nation are rallying to impress Congress, the President, and corporations that the American people cannot continue to accept policies that penalize the poor, the elderly, and working class in order to finance tax cuts that favor the wealthy and military enhancement programs too large and rapid for cost effectiveness and efficiency.

This movement, appropriately named Reclaim America, is sponsored by the National People's Action, a Chicago-based coalition of neighborhood organizations nationwide. The National People's Action is working in concert with unions, churches, peace groups, and all people's organizations to reorder the priorities of the current administration and corporate America.

Rallies, meetings, and other activities have been scheduled by NPA's Reclaim America in cities across the country for September 6-9. September 10 has been designated as the first joint Reclaim America action in Chicago and after stops in Cleveland and Philadelphia, the movement will bring its agenda to the Capital on Monday, September 13. NPA will end Reclaim America Week on Wall Street, New York City, on September 14.

I support this movement and commend the efforts of the National People's Action to bring together all people for the purpose of preserving democratic principles which form the foundation of our Republic.●

MARITIME REGULATORY REFORM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BIAGGI. Mr. Speaker, during the recent past, there have been several uninformed and misleading newspaper editorials attacking H.R. 4374—a bill to improve the international ocean commerce transportation system of the United States. The major premise of this maritime regulatory reform legislation is that the United States needs a healthy merchant marine for its national defense and its economic security. To be healthy, our merchant marine must be able to compete on an equal basis with foreign ocean carriers. H.R. 4374 would remove many of the constraints in our laws that now prevent it from doing that. Its enactment would, I am convinced, be in the best interests of all Americans.

H.R. 4374 has been carefully developed by the two committees that have reported it out. It is the product of extensive hearings, input from all facets of the industry and its customers, and a great deal of research and study—both in the Congress and in the executive branch. It is a complex bill that addresses the serious problems of a major industry.

I, therefore, would like to call attention to an editorial published by the Journal of Commerce whose staff has carefully followed this legislation during this and prior Congresses. It represents a much more informed and knowledgeable view of H.R. 4374 and the realities of the international ocean shipping business than was evident in the editorials in other national newspapers.

[From the Journal of Commerce, July 27, 1982]

SPECIOUS REASONING

Within the span of a few days recently the Washington Post, the New York Times and the Wall Street Journal all came out for defeat of the Biaggi and Gorton Bills for maritime regulatory reform. The vehemence of their attacks contrasts with the general indifference they have shown over the years toward the worsening plight of the American-flag merchant marine and the recurring crises which have afflicted ocean shipping of all flags in the commerce of the United States.

The danger is that the very considerable element in Congress whose interest in the shipping industry can most charitably be described as minimal will simply accept the editorial opinion of these three prestigious newspapers as acceptable truths. Such an attitude could mean that the pending legislation on this critical subject, the product of years of discussion and countless hours of testimony, would in effect be jettisoned.

A couple of common threads run through the three editorials: First, that shippers would benefit if only the ocean conferences—the "price-fixing cartels"—were shouldered aside in favor of good old American-style competition on the high seas; and second, that the American-flag merchant marine isn't as badly off as its "lugubrious" owners like to pretend.

In these days of government-owned and politically motivated cargo fleets—not to mention some privately owned predators of the sea—holding the American merchant marine to concepts of free market competition is simple foolishness. It would mean its immediate and virtually total destruction.

The Wall Street Journal's specious reasoning is illustrative: "We don't give antitrust immunity to oil tankers, tramp steamers and grain boats, which account for most of the shipping tonnage in and out of U.S. ports. There is absolutely no reason to make an exception of cargo liners."

What sort of comparison is that? Tankers, trampers and grain boats go when and where the cargo is provided; otherwise the owners send them into lay-up. Conferences are for liners that operate on fixed, regular schedules, cutting available space only when trade suffers a severe recession.

Would American shippers prefer to depend on fluctuating and uncertain tramp ship schedules to get their products into overseas markets? Would American importers like the goods they count on from abroad for seasonal sales to arrive only if the ocean carrier can book a full ship?

Taking most of its Ammunition from a recent report of the General Accounting Office, The New York Times declares that "existing regulations stifle competition and stop carriers from quickly adjusting their rates and services to market conditions"—a charge the industry itself has been making for many years. It then concludes: "The Biaggi-Gorton aproach would only make matters worse. America's shipping industry needs freedom to compete, not protection to charge whatever the traffic will bear."

The Times' notion of just how much freedom of competition is left on the sealanes today is sadly out of date. The bills of Rep. Mario Biaggi, D-N.Y., and of Sen. Slade Gorton, R-Wash., still differ in some points, including the important one of whether to permit closed conferences, so it is a bit premature to refer to the "Biaggi-Gorton approach," but no matter.

Commenting on the original draft of the GAO report the Federal Maritime Commission observed: "There is no question that in the short run, removal of the antitrust exemption would result in increased price competition. However, the nature of the liner shipping industry is such that nationalistic interests manifested by extensive government subsidization and control of their merchant fleets may result in prices, over the long run, being higher than would be the case under the present system.

The FMC went on: "Given the cost structure of the industry (i.e., a high proportion of constant to total costs, with declining average costs per unit of output), elimination of the antitrust immunity would most likely result in rate wars in the short run as carriers cut rates to attract as much cargo as possible to fill their vessels. With nationalistic interests exerting a strong influence, the result of the rate war would probably not be the survival of the most efficient liner operators, as economic theory would posit, but rather, the surviving carriers would more likely be those with the strongest backing of their national governments."

The result, thus, might well be that the more efficient carriers would exit a given trade. And, over the long run, the combination of inefficient operations and barriers to entry created by government-supported merchant fleets could well result in prices higher than they would have been in the absence of shortrun price competition.

This, we submit, is a far more realistic scenario of what would really happen than the bland notions of "free competition" put forward by the New York Times and Wall Street Journal.

There is a third option, the FMC suggests, apart from approving closed conferences or revoking all antitrust immunity—encouragement of rationalization among steamship lines through such devices as space charters, pooling and joint service agreements.

Consortia and pools could help American cargo lines meet the problem of rapidly increasing costs of new ships. What puts U.S.-flag carriers at a competitive disadvantage is not the Shipping Act of 1916 but the substantially higher costs of shipbuilding, maintenance, repairs and crews. We certainly don't oppose American-flag consortia, but with so few surviving lines—including two in acknowledged financial difficulty—we think they could have only limited benefit. Nor do we find in the GAO report any real hint of how the U.S.-flag lines are going to overcome their problems, in the near future—especially if they are deprived of the security of conference rates.●

DAIRY PRICE SUPPORT PROGRAM HAS REACHED SCANDAL STAGE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. PORTER. Mr. Speaker, the dairy price supports program in this country seems to unfairly provide protection to farmers while other businesses are continually subjected to the whims of the market. By artificially stimulating demand, the Government has created a situation whereby farmers are producing far more milk and dairy products than the Nation wishes to buy, the consumers are paying more at the stores, and to add insult to injury—those same consumers must buy and store the Government-owned surplus with their tax dollars while getting little in return. In order to keep prices on the market up, most of this surplus must remain in Government hands, and the volume is increasing each day.

As a recent Chicago Tribune editorial so insightfully explained, it is about time we modify our price supports program. Particularly, the proposal in the Senate to cut the milk support level would be a step in the right direction.

The editorial follows:

[From the Chicago Tribune, July 31, 1982]

DAIRY PRICE SUPPORTS MUST END

Every hour of every day U.S. taxpayers are paying a quarter of a million dollars to buy cheese, butter and milk powder that nobody is going to eat. Next year, we'll be paying even more—unless something is done fast to change a dairy price support program that has gone crazy.

The program was set up during World War II to stabilize prices and to help ensure a steady and adequate supply of milk. It is the most costly of several support programs for agricultural products.

Under the dairy program, the government sets a minimum support price and then buys enough milk and milk products to bring the market price—the amount paid by suppliers to supermarkets and food manufacturers—up to about the support price. The government is, in effect, another big competitor in the milk market, bidding prices upward.

For the taxpayer and consumer, the results are twofold: we pay more for dairy products than we otherwise would, and $2 billion a year of our tax dollars are being spent on buying and storing the products and running the program.

The first result is distasteful enough. In other parts of the world, notably the European Common Market, the government does not buy the milk but pays the farmer a premium over the price he receives in the marketplace. Consumers end up paying a fairly low price rather than a high price because of the government subsidy.

In the United States, though, farmers are subsidized at the expense of consumers. And while farmers may deserve sympathetic treatment in tough times, many consumers are living through even tougher times. The European system is an obstacle to free trade, but at least the people are charged for it only once—as taxpayers—and don't have to pay for it in higher prices as well.

Our price support system moves from the unfair to the rediculous when we consider its $2 billion cost to the taxpayers and what little we get for that money—at a time when we're facing cuts in other government programs and increases in taxes.

For every family in the nation, Uncle Sam now owns four pounds of dried milk, three pounds of cheese and two pounds of butter. If we were given that food, or even if it were sold at reduced prices, we'd feel a lot better about the whole situation.

The trouble is, if the government made a massive handout we wouldn't need to buy as much milk, cheese and butter through normal market channels. There would be a glut and prices would fall, forcing the government to step in and buy still more of the food in an attempt to push prices back up again.

To avoid this vicious circle, the government has given the food only to needy families, and its handouts have not kept pace with its purchases. The surplus keeps growing; its storage alone now costs close to $50 million a year.

Another possible solution, selling the products overseas, has been ruled out by State Department officials who fear such selling would disrupt overseas markets and that some of the food might be resold to the Soviet Union.

The administration has talked of increasing demand for dairy products by encouraging bakeries and others to use them more, and the American Farm Bureau Federation wants to increase demand by putting quotas on imports of imitation dairy products.

A more sensible and workable solution, though, would be to stop farmers from producing about 10 percent more milk than the nation wants to buy. And the best way to do that seems to be to gradually phase out the price support program.

The Reagan administration has made a start in that direction, eliminating an April, 1981, price support increase and freezing supports through next October at their October, 1980, level. But bolder moves are clearly needed. A proposal before the Senate to cut the support level from $13.10 to $12 a hundredweight by next Jan. 1 would be a good next step.

Critics say that in the short run that would lead to increased—not reduced—milk output as farmers try to make up for the cut in their income. But there's only so much milk you can get from a cow, and it's hard to imagine farmers investing in many more cows when milk prices are dropping.

In the longer run, the critics say, some farmers would go out of business. While few would like to see that, it's hard to understand why farmers should be protected from bankruptcy while other businesses are not. We may want to be sure we can feed our own people, but we don't need billions of pounds more food than the people want to eat.

Some farm leaders have accused the administration of not trying hard enough to stop the dairy surplus buildup. The food is being held hostage to force Congress to take action, they say. Even if that is true, it is not to be condemned. If holding food hostage is what it takes to convince congressmen to end or at least modify the dairy price support program, so be it.●

A BILL TO AMEND THE NATIONAL LABOR RELATIONS ACT

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, today, I am introducing legislation to amend the National Labor Relations Act, to prevent the practice of "closed shop" hiring, by outlawing the exclusive hiring hall.

On the contemporary labor-management scene, the exclusive hiring hall is a familiar phenomenon. Such a hiring hall comes into being when an employer and a union, as the "exclusive representative" of an identified group of employees, agree that the employer shall hire only those persons who have first been referred for employment by a union-operated hiring hall. Under current Federal law, such a hiring hall must be nondiscriminatory, without special preferences to union members.

In practical matters, though, it is many times operated as an exclusive hiring hall, and it has long been a common practice for unions to use the hiring hall as a device for imposing compulsory unionism on working people. A person comes cap-in-hand to a hiring hall hoping to be referred to a job; he knows that his chances of success improve if he pleases the union officials. The best way to accomplish this is to be a union member, so having no real choice, the person joins the union in order to obtain employment.

My legislation will alleviate this problem by repealing section 8(f) of the act outright, the key provision that presently allows this mischief, and by including a terse declaration

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that the exclusive hiring hall is prohibited.

Mr. Speaker, I am hopeful that the Congress will address this situation soon, and will consider this legislation as one solution. The United States has been built upon a free laborer with a right to work, without undue influences on his freedom.●

ROLLS ROYCE OF TRUCKSTOPS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. SKELTON. Mr. Speaker, during these times of economic hardship, it gives me pleasure to bring to the attention of this body an American free enterprise success story. It takes place in the town of Oak Grove, Mo., and is a shining example of what hard work and self-initiative can still accomplish in this country.

Oak Grove is a small town east of Kansas City, Mo. While many of my colleagues have probably never been there, Oak Grove achieved considerable fame nationwide among truckdrivers for a truckstop there which has been referred to as the "Rolls Royce of Truckstops." The Kansas City East Union 76 Auto/Truckstop, home away from home for truckdrivers, has been voted by nearly 30,000 long-haul drivers the No. 1 truckstop in America. This is the second year in a row that this business, owned and operated by Mr. Bill Conklin, has been afforded this honor. They have ranked among the top 10 since the contest, sponsored by the trucker quarterly magazine, Road King, was begun 4 years ago.

The success of this full service truckstop has been attributed to the commitment of the people who work there. The employees at the Kansas City East Union 76 Truckstop genuinely care about providing good service to their customers. They realize that a service station such as this becomes a second home during a trucker's long journey across the country and they work hard to insure that their stay is as pleasant and comfortable as possible.

I congratulate Bill Conklin and his employees on receiving this well-deserved award. This success story serves as an inspiration to all small businessmen and I wish them the best of luck in all future endeavors.●

CRESTA BLANCA WINERY'S 100TH ANNIVERSARY

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. COELHO. Mr. Speaker, it is with great pleasure that I rise today to bring to my colleagues' attention the fact that the Cresta Blanca Winery, one of the most distinguished and respected names in the American wine industry, is celebrating its centennial this year. Located in Ukiah, Mendocino County, Calif., the Cresta Blanca Winery produces a variety of wines of unsurpassed quality which have helped to make the State of California one of the greatest wine producing areas of the world.

Cresta Blanca was founded by Charles A. Wetmore, a celebrated California grape and wine industry pioneer. He was a perfectionist in his methods and 1889 Cresta Blanca competed against 17,000 other wines at the Paris Exposition. it won the coveted Grand Prix, thus proving that American wines could compete with the finest in the world. During the ensuing years this tradition of excellence has been zealously maintained and, as a result, Cresta Blanca has won top honors in many competitions.

I know my colleagues will join with me in expressing their commendation of the Cresta Blanca Winery for its many contributions to the viticultural and enological interests of the United States and to congratulate the winery on its 100th anniversary.●

OCEAN LINER SHIPPING

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BIAGGI. Mr. Speaker, soon we will be considering H.R. 4374—a bill to improve the regulation of ocean liner shipping. A primary purpose of this bill is to remove those constraints, uncertainties, and administrative burdens that our present shipping laws impose on American ocean carriers and that put them at a competitive disadvantage in relation to foreign carriers. The net result of enactment of this legislation should be a more healthy, competitive, and efficient American ocean liner fleet with lower costs to American consumers.

What has been bothering me is the overall impression given by a number of uninformed editorials in major newspapers that this legislation is proposing something entirely new; namely, cartelization of shipping. These editorials imply that the antitrust exemption of the ocean line industry is new and bizarre. This is simply not true. It is not bizarre, nor is it new.

H.R. 4374 is basically a reaffirmation of the antitrust immunity provided that industry over half a century ago. Ocean shipping has utilized conferences—or cartels—for over a hundred years. They have been recognized, allowed, and regulated in the United States since the Shipping Act of 1916. Unfortunately, in the intervening years, both the enforcement of that act and its judicial interpretation have undergone substantial change. As a result, ocean carriers operating in our trades are unable to predict with any certainty the extent of the antitrust exemption originally enacted in 1916. It is the purpose of H.R. 4374 to eliminate those uncertainties and to reaffirm the principles established in the 1916 act.

An extensive study by the present administration also reached the conclusion that our shipping laws need to be overhauled and that collective activities by ocean carriers should be "clearly immune from the antitrust laws." If these conclusions by the Congress and the administration are bizarre, they are shared by all facets of the maritime industry and by most knowledgeable observers of international ocean shipping.

I, therefore, would like to share with you two informed rebuttals to the editorials that attacked H.R. 4374. These rebuttals effectively correct some of the uninformed statements made in those editorials.

[From the Wall Street Journal, July 27, 1982]

PUTTING U.S. SHIPPING ON AN EVEN KEEL

Your July 15 editorial "Torpedo the Maritime Bills" identified many of the ills suffered by the ocean liner shipping industry but misconstrued the cures. You enumerated uncompetitive operating and capital costs, an inefficient and possibly counterproductive subsidy system and overcapacity as problems. We have said the same ourselves.

What we have also said is that the United States is dependent upon world trade for its economic health and that its economic and defense needs are best served by a strong and efficient merchant marine.

We are proud of the accomplishments of Sea-Land Service, Inc., the largest and most successful U.S.-flag liner operator, without having taken government subsidy. We believe that other companies can, given the correct operating environment, serve the public effectively and make a reasonable profit without subsidy. However, we also recognize that five of Sea-Land's eight major American competitors completed 1980 in the red prior to receiving federal operating subsidies and that they may have extreme difficulty in replacing aging ships.

Reform is needed both in the subsidy programs that relate to carriers' costs and in the regulatory/antitrust environment which will accompany whatever comparative cost environment exists. However, they are separate issues requiring separate legislation. The need for regulatory/antitrust reform is most urgent. Carriers and shippers alike, including Sea-Land, strongly support the Gorton and Biaggi bills, which do not involve subsidy.

Overcapacity is a critical problem. In most world markets shipowners reduce the impact by sharing capacity. American owners have not been able to accomplish this under present law, although competing foreign owners have been permitted to do so in U.S. trade. The Gorton and Biaggi bills would permit such cost reduction.

Overcapacity could also be reduced, if the bills are not torpedoed, by carrier agreements to limit the numbers of vessels to those actually needed for current and anticipated cargo volumes in the liner trade.

The basic issue raised in the editorial was whether liner conferences ought be permitted at all. Both bills contain explicit prohibitions against abuse of conference power and provide penalties for violation that are far more severe than the fines imposed under the antitrust laws. Unlike tankers, tramp steamers and grain ships, which seek cargoes of opportunity in the trades most lucrative at the moment, liners are common carriers serving fixed ports and routes on fixed and regular time schedules. They use highly expensive terminals and vessels which must operate on schedule even if insufficient cargo is available. The uncertainties of cargo availability for committed assets create the need for price stability that conferences provide. Importers and exporters also support freight rate stability so that they can predict their costs.

The Gorton and Biaggi bills strive to achieve reasonable balance among shipper and carrier needs. They do not entirely eliminate the antitrust laws but make the rules more efficient and certain.

C. I. Hiltzheimer,
Chairman, Sea-Land Industries, Inc.

[From the New York Times, July 21, 1982]

There's No Free Market in Shipping

To the Editor:

The Times editorial titled "Beware the Cargo Ship Cartel" (July 14) is devoid of the facts on which reasonable people could decide issues of maritime policy.

The logical result of the position set forth in that editorial would be to deny the United States virtually all opportunities to participate in its own foreign commerce much less the world's commerce.

The rules of ocean transportation are set by the leading maritime nations of the world, an attribute not enjoyed by the United States. Shipping cartels (or shipping conferences as they are known) already exist in most developed trades of the world and are not, as The Times would suggest, some new device that would be created by Senator Gorton's and Representative Biaggi's legislation.

Those conferences, which would continue to exist with or without the blessings of the United States, were evolved to serve a critical purpose: they provide the only workable means of preventing cut-throats and pirates from harmfully destabilizing the world's shipping services—a market where genteel participants are at the mercy of determined national governments.

Your rationalization that the United States merchant marine may not need attention because of its reputed good health is grossly at odds with the facts.

In 1950 the U.S. fleet carried 42 percent of U.S. foreign trade. That share has steadily dwindled to the point where today the fleet carries less than 4 percent of that trade. Where 15 years ago there were 25 shipping companies in the U.S. liner trades, today there are nine, and likely soon to be fewer.

The major premise lurking in your editorial, namely, that the free market offers the optimun solution for ocean shipping, is also seriously out of touch with reality. There is no free market in ocean transportation. It is a structure dominated by national governments set on building and maintaining merchant fleets under their national flags regardless of cost and in defiance of any U.S. attempts to alter the world unilaterally.

We wonder whether The Times is so vehemently in favor of free market forces as to advocate raising newspaper postal rates from their heavily subsidized levels up to the rates that the rest of American citizens have to pay when we send mail.

Herbert Brand,
Peter J. Luciano.

(The writers are, respectively, chairman and executive director of the Transportation Institute.)●

SAMUEL I. NEWHOUSE

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. MOLINARI. Mr. Speaker, today, September 9, 1982, a new boat will be christened to serve on the world famous Staten Island ferry. It is particularly fitting that the vessel will bear the name of *Samuel I. Newhouse.*

The first born of a struggling immigrant, whose father arrived a short distance away at Ellis Island not long before, Samuel Newhouse became the epitome of the American way of life. He was an office boy at 12, a publisher by the time he was 16, a lawyer at 21, and by the time of his death in 1979 at the age of 84, he had put up more than $500 million, most of it his own money, to acquire 31 newspapers, 7 magazines, 6 television stations, 5 radio stations, and 20 cable TV systems.

His remarkable career in journalism had its first beginnings when, virtually on his own, he rebuilt the failing Bayonne (N.J.) Times. At the age of 16, he was so successful, that he was earning the extraordinary income of $30,000 a year in 1916.

In the year 1922, he made his first move to Staten Island, and made the purchase that was to be the foundation of all he would accomplish in the many years ahead. S. I. purchased the Staten Island Advance, which was to become the principal voice of that island in New York City.

The rest is history. Over the years, S. I. Newhouse acquired the Newark Star Ledger; the Syracuse Herald Journal; the Syracuse Post Standard; the Jersey Journal; the Harrisburg (Pa.) Patriot; the Harrisburg News; the Portland Oregonian; the St. Louis Globe-Democrat; the Birmingham News; the Huntsville (Ala.) Times; the Huntsville News; the Springfield (Mass.) Union; the Springfield News; the Portland Oregon Journal; the New Orleans Time Picayune; the New Orleans States Item; the Mobile Press; the Mobile Register; the Mississippi Press; the Cleveland Plain Dealer; eight Booth papers in Michigan; the Ann Arbor News; the Bay City Times; the Flint Journal; the Grand Rapids Press; the Jackson Citizen Patriot; the Kalamazoo Gazette; the Muskegon Chronicle; and the Saginaw News.

Magazines: Parade supplement; Vogue; Glamor; House and Garden; Mademoiselle; Self; Gentleman Quarterly; Brides; British Vogue; British Brides; British House and Garden; French Vogue; Maison et Jardin; Italian Vogue; Australian Vogue.

Plus six televisions stations and five radio stations.

Over three quarters of a century, S. I. Newhouse developed, expanded, and nurtured all of these elements of the free press, and maintained the individual editorial integrity of each outlet, allowing each one its own personality and direction, while insisting on total journalistic responsibility.

All of these are remarkable achievements, but then of course, S. I. Newhouse was a remarkable man.

From painfully poor surroundings he rose, provided a living for thousands upon thousands as he did so. His was the American dream, and it brought blessings to many.

As the *Samuel I. Newhouse* ferry journeys the waters of the New York Harbor, it will serve as a reminder in later years, to a generation yet unborn, of the contribution of its namesake.

With great pleasure, I submit to my fellow Members of this body the name and the memory of Samuel I. Newhouse, a child of America, and an example to all that this country still holds the promise of the future.●

NATIONAL TASTE AND SMELL DISEASE AWARENESS DAY

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. MITCHELL of New York. Mr. Speaker, today, I have introduced a joint resolution, a measure authorizing the President to proclaim March 21, 1983 as "National Taste and Smell Disease Awareness Day."

According to a 1981 survey, it is estimated that the lives of 16 million Americans are affected by the loss or dysfunction of two of their five senses, the senses of taste and smell.

Taste and smell dysfunctions present hidden handicaps. There are no outward signs of these problems, but for the affected individuals, danger, anxiety and fears for personal safety are often present. Accidental poisoning from spoiled food, or the inability to detect gas fumes in home or car can result in personal harm or even death. For the victim of taste or smell disorders, the smell of smoke as a sign of fire is nonexistent. Unable to taste or smell, a person is robbed of vital protective senses. A distorted sense of taste or smell can make even the most precious rose or the most delectable food become repugnant and repulsive. Taste and smell dysfunctions can also be symptoms of underlying diseases and they can occur as side effects of taking even common drugs.

Despite the magnitude of these medical and personal problems, there remains a widespread lack of understanding and knowledge about these diseases. Precious few resources—facilities, trained medical personnel or scientific knowledge—exist to cope with taste and smell disease. There are no textbooks on the subject. No courses are taught in medical schools. Physicians are frequently unable to care for taste and smell disease patients since most are unfamiliar with the disorders and, therefore, have no understanding or their diagnosis or treatment.

The epidemiology of these disorders is also not clearly understood. However, a recent national survey indicated a disproportionate number of people with these diseases living in California, New York, Florida, and Pennsylvania.

The causes of loss or dysfuntion are complex, cutting across various medical disciplines. According to Dr. Robert I. Henkin of the Georgetown University Medical Center, a pioneer in the field of taste and smell diseases:

> They occur frequently following influenza, head trauma, radiation therapy to the oral cavity and with allergic rhinitis (inflammation of mucous membranes). They also occur for reasons that are not known. There are also underlying conditions such as metabolic diseases, nutritional disorders, reaction to therapeutic drugs and exposure to various chemicals and toxic vapors. Symptoms may appear as early warning signs of cancer, diabetes, hypothyroidism or deficiencies of vitamins and minerals. And there are unknown or congenital reasons why an individual loses these senses.

The Taste and Smell Foundation, a nonprofit, tax-exempt organization, established by a group of individuals suffering from these diseases, is supporting the operation of the Nation's first taste and smell clinic, at the Georgetown University Medical Center, where on a regular basis, patients suffering the loss or dysfunction of these senses can receive medical treatment on an intensive, interdisciplinary research basis. The foundation is committed to the growth and expansion of scientific, medical, and public attention to human taste and smell dysfunctions.

Although the foundation has taken a step in the right direction, the road to better awareness of taste and smell disease remains a long one. Research is needed to learn more about the anatomy, physiology, biochemistry, and pathology of these disorders. Improved access to diagnostic and therapeutic services is essential. An educational program for the medical and lay publics should be established to provide the latest and best possible information to meet the needs of both a growing patient and medical practitioner population.

Toward the goal of improved awareness of these disorders, I offer this resolution calling for March 21, 1983, to be proclaimed, "National Taste and Smell Disease Awareness Day."

The text of the resolution follows:

H.J. RES. 590

To authorize and request the President to proclaim March 21, 1983, as "National Taste and Smell Disease Awareness Day"

Whereas the lives of an estimated 16 million Americans are affected by the loss or dysfunction of their senses of taste and smell;

Whereas taste and smell dysfunctions are often hidden handicaps which present no outward sign of disease but present danger, anxiety, and fear of personal safety for those affected;

Whereas there is a widespread lack of understanding or knowledge about taste and smell diseases in spite of the magnitude of the problem;

Whereas medical science is on the threshold of breakthroughs in the field of taste and smell diseases through the pioneering work of medical professionals such as Dr. Robert I. Henkin of the Taste and Smell Foundation at Georgetown University Medical Center; and

Whereas a national public awareness program needs to be launched to enhance public knowledge of these serious disorders and offer those afflicted an awareness of the availability of medical care and comfort: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 21, 1983, as "National Taste and Smell Disease Awareness Day", and inviting the Governors and chief officials of State and local governments of the United States to issue similar proclamations. The President is further requested to include in such proclamation an invitation calling upon the press, radio, television, and other communications media, the health care professions, and all other agencies and individuals concerned with diseases affecting the senses of taste and smell, to observe that day with public activities in order to impress upon the people of the United States the importance of improved research on, and treatment of, taste and smell diseases, and in order to urge the people of the United States to support programs to improve services to those afflicted with such diseases.●

DOD AUTHORIZATION COMMENTARY

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BONKER. Mr. Speaker, when all is said and done, historians will record that the Reagan administration did not reduce Federal spending or balance the budget—it merely transferred huge expenditures from the domestic to the military side of the ledger.

Recently, the House of Representatives had the opportunity to examine carefully the administration's proposed Department of Defense authorization for fiscal year 1983. Instead of giving some direction to a Reagan rearmament plan that lacks coherence, the House decided essentially to rubberstamp what was placed before it. Few spending cuts were made and the most destabilizing, security endangering weapons systems were left in place. The House had the opportunity to make spending reductions which would have helped both to revitalize the economy and to enhance our national security. Regrettably, that opportunity was ignored.

The economic consequences of this massive buildup will be great. Contrary to popular myth, military spending is not good for the economy. A dollar spent on arms generates far less economic growth than a dollar spent on civilian programs. For example, $1 billion spent on the MX missile would generate an estimated 14,000 jobs; spending the same amount to promote retail trade or education would generate over 60,000 jobs. We must not forget that the strongest defense America has is a vigorous and expanding economy.

When one excludes the social security trust fund and interest on the national debt, the Reagan administration proposes to spend fully 50 percent of the Federal budget on its massive military buildup. Defense experts are rightly concerned that such a huge amount cannot be spent wisely and efficiently in such a short period of time. The increase in Pentagon spending reminds one of what conservatives accused liberals of doing in the 1960's—throwing money at the problem.

The funding of two programs—the B-1B bomber and the C-5 military transport plane—seemed particularly incredible to me. Both are clearly inefficient and wasteful.

Congress authorized the $4.8 billion that the administration requested for funding for the B-1B bomber. The Nation is now committed to building 100 of these bombers of dubious military value at the greatly inflated cost

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of $400 million a piece. President Carter and Congress wisely canceled the bomber in 1977 because of its exorbitant cost and uncertain capability for penetration improved Soviet air defenses. Instead, the decision was made to equip our existing B-52's with cruise missiles, at far lower cost, which could be safely launched well outside the Soviet reach.

Now, these warplanes will be acquired even though they will soon be rendered useless by advances in Soviet air defenses and by the upcoming production of the improved Stealth bomber. I am disappointed that the House rejected the opportunity to dump this expensive, soon to be obsolete, bomber.

The House also turned back an amendment to eliminate funding for the defect-plagued, overpriced C-5 military airlift and to replace it with funding for the acquisition of commercially available cargo planes, principally the Boeing 747. Even though the 747 alternative offered life-cycle savings of $7.9 billion over the Lockheed C-5 for essentially the same airlift capability, the House, under extreme pressure from the President, the Pentagon, and Lockheed lobbyists, voted to fund the C-5. Another opportunity to save the taxpayer's dollars was thus wasted.

What concerns me as much or more as the money wasted are the consequences of procuring some of these new weapons for the real security of our Nation. Several highly destabilizing weapons systems, systems which would actually reduce our security and increase the chances of war if deployed, were proposed by the administration and, regrettably, approved by the House of Representatives. Two that I voted against as not in the Nation's best interest were procurement of the MX and Trident II missiles.

The MX, if deployed, would actually undermine strategic stability, because the Soviet Union would likely view it as an offensive weapon, providing the U.S. with a first strike capability. The MX will only increase Soviet fears, driving them toward a dangerous launch-on-warning policy or even toward consideration of a preemptive strike.

Moreover, the administration is planning to spend $2.6 billion just this year on the MX missile even though no final decision has been made on its basing mode. The President does not know where he wants to put this dangerous, destabilizing weapons system, but he does know that he wants to spend billions of taxpayers' dollars on it.

Production of the Trident II missile will also undermine American security. The Trident II, because of its low trajectory and tremendous accuracy would likely force the Soviet Union to adopt a launch-on-warning policy. It would arrive at the Soviet targets so quickly that the potential for an accidental confrontation, perhaps because of computer error, would be greatly increased. It is in our best interest that the Soviet Union have an adequate warning time. the Trident II missile would deprive them and us of that crucial buffer.

Furthermore, money planned to be spent on the destabilizing Trident II missile could alone finance the production of 14 additional Trident submarines equipped with the more stabilizing Trident I missiles. Certainly that shift in funding would be a safer and more cost-effective deterrent to nuclear war.

In sum, the massive arms buildup proposed by the Reagan administration and largely approved by the Congress will have two principle effects. First, it will threaten the vitality of our already struggling economy. Money spent on the military rather than in other sectors of the economy will help to exacerbate already unacceptable unemployment. Second, funds diverted to the highly destabilizing weapons for which the President seems to have a special affinity, will have, ironically, the effect of reducing our national security. By forcing the Soviet Union to adopt a launch-on-warning policy by producing and deploying these new and dangerous weapons systems, we are only bringing ourselves closer to the abyss of nuclear war.

I urge the House not to squander our next opportunity, to examine critically, and to improve the military budget.

Mr. Speaker, I have had printed below a recent editorial from the Seattle Post-Intelligencer which echos my thoughts on this subject. I recommend it to my colleagues.

DEFENSE BUDGET POSES A DANGER

Congress appears about to pass a 1983 defense authorization bill in excess of $175 billion—some $45 billion higher than the amount being spent in the current year. For a couple of reasons, we have grave reservations.

The first reason is the impact on the economy. The recession continues in large part because of high interest rates, and interest rates stay high in large part because of marketplace expectations of continued huge federal deficits—perhaps $140 billion to $160 billion a year for the next several years. The deficit, of course, is the gap between tax revenues and government spending. Taxes have been cut to spark a recovery that never came, but the only spending cuts were in nonmilitary areas. Military spending will be going up by 35 percent.

The second reason is waste. Conservatives are fond of accusing liberals of "throwing money at problems." The defense authorization covering the year starting Oct. 1 seems to offer a number of examples of doing just that.

Take the MX missile system. The budget contains $3.7 billion for this system of land-based intercontinental ballistic missiles to replace the current Minuteman system, which is supposedly vulnerable to a Soviet first strike. But there isn't even a plan for basing the MX. What is the justification for earmarking money when they don't even know how to use it?

The bill also contains $4 billion for the highly questionable B-1 bomber, headed for early obsolescence. Compared to these huge sums, the $252 million to be wasted on the mindless civil defense plan to shuffle people in places like Seattle off to places like Yakima, while the Russians presumably brood about whether they will attack, is a tiny amount. Yet it is still waste.

The Senate and House have passed somewhat different versions of the defense authorization bill. The Senate version totals $177.9 billion and the House version $175 billion. They also have yet to reach agreement on a number of important issues, such as whether the Air Force will buy Boeing 747s or Lockheed C-5s. Nevertheless the fact that the two bills are so close suggests that the final tally will be $175 billion or more.

There is one possibility, suggested the other day by Alice Rivlin, director of the Congressional Budget Office. She said Congress could go back and take a whole new look at the budget, including military spending, in light of continued gloomy economic news. The idea is sound.

This nation, unfortunately, needs a strong defense. But it needs a strong economy as well. Simply ballooning the defense budget does not guarantee the first goal, and it may seriously jeopardize the second.●

IN MEMORY OF FRANK CHELF

SPEECH OF

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. RODINO. Mr. Speaker, I want to express my sympathies to the family of our former colleague, Frank Chelf, who died on September 1. Frank was a warm and dear friend to me as we served together on the Judiciary Committee. An Army Air Corps veteran of World War II, Frank Chelf entered politics in Kentucky after the war because of his deep commitment to serve his country. He was a man of principle who was willing to work very hard for causes he believed were right. As a member of the Judiciary Committee's Immigration Subcommittee, Frank made a lasting contribution to our immigration laws, working to bring greater fairness to the way immigrants are allowed into the country. Frank had been an orphan, and he worked hard to permit those children orphaned in World War II to find a home in the United States. His compassion and fairness were well known and respected by his colleagues in the House, and we were sorry to see him retire in 1967 after 22 years of distinguished service.

Frank Chelf loved his home State of Kentucky and he loved his country. His service as a veteran and statesman reflected his great love, and I am proud to have been his friend.●

A TRIBUTE TO SGT. ELEANOR JEFFERSON HALL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. CLAY. Mr. Speaker, it is with great pride that I pay a special tribute to Sgt. Eleanor Jefferson Hall who recently retired from the St. Louis Metropolitan Police Department. Sergeant Hall's remarkable contribution of service is deserving of public recognition for her career with the department was a highly distinguished and noteworthy one.

On Friday, August 6, 1982, Sergeant Hall terminated a love affair with the St. Louis Metropolitan Police Department. It was truly a love affair which began October 15, 1956, when Sergeant Hall raised her hand and took the oath of office to protect the life and property of all of the citizens of the city of St. Louis. From the very beginning, Sergeant Hall possessed the necessary qualities to become a productive and outstanding police officer because she cared about people.

Eleanor Helen Jefferson was born in Clarksdale, Miss., and, later with her parents, relocated in St. Louis, Mo., where she was educated in the St. Louis public schools. Upon completion of high school, Eleanor enrolled in the School of Charm and Modeling for she had and has always exhibited and practiced self-improvement. This is a quality which she brought with her to the police department and still possesses. She was a radiant and inspirational beacon for both young people as well as older adults during the entire period of her 26 years of service.

Sergeant Hall became a probationary patrolman on October 15, 1956, and upon graduating from the academy, she was assigned to the juvenile division where she immediately became a refreshing asset. She not only explained the pitfalls of self-destruction by living outside of the law but insisted upon self-pride and improvement to all individuals whom she encountered.

Her professonal manner and commitment to high standards resulted in her becoming the second female to ever achieve the rank of sergeant in the St. Louis Metropolitan Police Department. She, too, served meritoriously in a number of demanding assignments in various divisions throughout the department including the juvenile, narcotic, morality, gambling, public affairs, and uniform line divisions. In each of these assignments, she performed in a highly credible and outstanding manner and sought to enhance her background through study at local universities.

Sergeant Hall's achievements extend beyond the St. Louis Metropolitan Police Department and she has received numerous citations and letters of commendation for superior work.

Sergeant Hall is married to Mr. Lee F. Hall and they are the proud parents of three lovely daughters: Erma Jean, Adria, and Geraldine. Their children constitute the centerpiece of their lives.

Mr. Speaker, I believe in Sgt. Eleanor Jefferson Hall we have a lady for "all seasons" who has demonstrated the power of love, wisdom of the ages, the beauty of family solidarity, the love of children, and above all a guardian of the law and social justice and an abiding faith and love for her native land.

I am pleased to cite her as an unusual American who cares profoundly about people and human possibilities. All of us are enriched and inspired by the extraordinary example of Sgt. Eleanor Jefferson Hall. I am sure that all Members of the Congress join me in congratulating Sergeant Hall on her retirement and her remarkable contribution of service.

To Sergeant Hall, I extend my warmest best wishes, Godspeed, good health, and personal fulfillment as she undertakes other interests of her choosing.●

A NEW SCHOOL YEAR—CHALLENGES AHEAD FOR HANDICAPPED EDUCATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BIAGGI. Mr. Speaker, the week after Labor Day signifies the beginning of the new school year across the Nation. It is a time when schoolchildren can look forward to a new year of learning and challenges. However, for the 4 million handicapped children served under Public Law 94-142, the Education of the Handicapped Act, this new school year threatens to be fraught with attempts to take away their right to attend classes along with their nonhandicapped peers.

On August 4, the Department of Education issued proposed rules revising programs under Public Law 94-142, landmark legislation which has brought handicapped children into the mainstream of the classroom and has no longer relegated them to learn in separate facilities away from their nonhandicapped peers. As one of the original authors of this legislation, I can attest to the kinds of conditions that these children were once forced into and the progress they have made since this program has been in effect since 1977.

It is this kind of progress in education that prompted me to introduce House Resolution 558, legislation which urges that these rules, in their proposed form, be rejected. Clearly, at a time when appropriations for Public Law 94-142 have not grown consistent with the original intent of the law, coupled with drastic cuts in other Federal education programs, relief is needed by local school districts. In my own city of New York, it costs nearly $10,000 a year to educate a handicapped child. Of this cost, less than $250 is provided by Federal funds—the remainder is provided through State and local tax levy tax dollars. Relief can and must be provided to local jurisdictions in the absence of dollars. However, this relief cannot fly in the face of the intent of the law and the rights of handicapped children—and their parents—must be preserved.

For the benefit of my colleagues, I am including the text of House Resolution 558 as well as the list of Members who have added their names as cosponsors and urge others to join us as well.

H. RES. 558

Resolution expressing the sense of the House of Representatives that regulations recently proposed by the Secretary of Education under the Education of the Handicapped Act should not be permitted to take effect

Whereas the amendments to the Education of the Handicapped Act made by the Education for All Handicapped Children Act of 1975 (Public Law 94-142) have been the cornerstone of educational rights for more than 4,000,000 handicapped children; and

Whereas the intent of the Congress to provide a free, appropriate public education to all handicapped children must be preserved; and

Whereas this education has been secured since 1977 when regulations under the Education of the Handicapped Act were prescribed; and

Whereas regulations proposed by the Secretary of Education in a notice of proposed rulemaking published on August 4, 1982, seek to alter essential related services to children served by the Education of the Handicapped Act, limit the access of handicapped children to regular classroom instruction with nonhandicapped children, and alter the role of parents in assisting in the development of educational programs for their handicapped children, as well as limit the role of States and local schools in providing services to handicapped children under such Act; and

Whereas any changes in current regulations must be made only after a thorough examination by the Congress and the public: Now, therefore be it

Resolved, That it is the sense of the House of Representatives that—

(1) regulations relating to assistance to States for the education of handicapped children, proposed by the Secretary of Education in a notice of proposed rulemaking published on August 4, 1982 (47 Federal Register 33835 et seq.), should be rejected in their present form and should not be per-

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mitted to take effect during any period in which the Congress is in recess; and

(2) the provisions of section 431 of the General Education Provisions Act, which provide a procedure for congressional disapproval of all education regulations, apply in this instance, and the Congress should use this procedure for disapproval if final regulations proposed by the Secretary of Education seek to dilute congressional intent in administering the Education of the Handicapped Act.

LIST OF COSPONSORS

Mr. Biaggi, Mr. Richmond, Mr. Weiss, Mr. Brodhead, Mr. Fithian, Mr. Pepper, Mr. McGrath, Mr. Markey, Mr. Horton, Mr. Bedell, Mr. Smith of New Jersey, Mr. Santini, Mr. Moakley, Mr. Won Pat, Mr. Hoyer, Mr. Ford of Tennessee, Mr. Stark, Mr. Rodino, Mr. Downey, Mr. Bingham, Mrs. Chisholm, Mr. Addabbo, Mr. Gejdenson, Mr. Hopkins, Mr. Ratchford, Mr. Wolpe, Mr. Edgar, Mr. Gilman, Mr. Gore, Mr. Miller of California, Mr. Roe, Mr. Peyser, Mr. Foglietta, Mr. Boner of Tennessee, Mr. Martinez, Mr. Wortley, Mrs. Schneider, Mr. Frank, Mr. Leach, Mr. Boland, Mr. Patterson, Mr. Nowak, Mr. Rosenthal, Mr. John L. Burton, Mr. Garcia, Mr. Studds, Mr. Vento, Mr. Long of Maryland, Mr. D'Amours, Mr. Fauntroy, Mr. Solomon, Mr. Lee, Mr. Heftel, Mr. Foley, Mr. Conyers, Mr. Edwards of California, Mr. Bailey of Pennsylvania, Mr. Oberstar, Mr. Markey, Mr. Mollohan, Mr. Young of Missouri, Mrs. Heckler, Mr. Minish, and Mr. Crockett.

STATEN ISLAND MID-ISLAND GIRL'S SOFTBALL TEAM

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. MOLINARI. Mr. Speaker, I rise to honor a group of my constituents, whose fortitude and team spirit should be a lesson to us all. The Staten Island Mid-Island Little League girl's team, composed of 10–12-year-olds, entered the 1982 Little League Softball World Series, rising above 15,000 other teams to enter the celebrated event. On August 20, needing only one game to win, they were defeated by 1 to 0 by a Glendale; Calif., team. On the following day they lost once again by the narrow margin of 2 to 1.

The two games, played in Kalamazoo, Mich., ended their hopes of being the world champions.

For many months, the girls had held the dream of being the best in the country—their hard fought climb to the top established several records. They are the first team ever, in New York State or New York City, to reach the finals, and to lose after going so far was a crushing blow to these young ladies from Staten Island, but they are the children of several generations of Staten Islanders who have fought the good fight, and they won their share of battles, sometimes against what seemed to be overwhelming odds. As the sting of defeat wore off, these fine youngsters rallied, realizing that reaching the finals is an honor that very few can share.

In many ways, these girls personify this great country of ours, their spirit that took them to the top, and despite what I consider to be a minor setback, have returned to Staten Island fired with enthusiasm for that not too distant game when they will win. I am proud of their tremendous effort, their indomitable courage and their sense of fair play.

Mr. Speaker, I would like to enter their names in the RECORD, so that all may know of their achievement: Ellie Traino; Renee Annucci; Laurie Falcone; Florence Inciardi; Denise Lorelli; Jodi Kulak; Regina Diel; Dawn Roloph; Dawn McCann; Ann Marie Giamundo; Julie Fleschner; Carolyn Anarumo; Keri Ann Dugan; and Susan Pepe.

And, of course, Coach Jack Hurley, Manager Sandy Gonchar and the team's families, who fired the spirit that took them to such great heights. Speaking for all Staten Islanders, let me say that we do not consider the Middle Island Little League girl's team as losers, but as winners in every sense of the word. We all share the same deep pride in their outstanding accomplishments.●

A RETURN TO AMERICAN IDEALS "ONE MAN'S CHARLESTON"

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. HARTNETT. Mr. Speaker, few people recognize major shifts in policy as we plod through a life of inperceptable change. I recently received a very thought-provoking article by Tom Hamrick printed in the Charleston News and Courier on August 8, 1982. I want to share it with my colleagues in the hope that the commonsense views of this pundit might provide to be enlightening and serve as a mutual reference point of where to begin, as we consider the need for new and meaningful legislation.

ONE MAN'S CHARLESTON

(By Tom Hamrick)

I don't know about you, but I am frightened that the U.S. as it once existed is no more, and that our toboggan ride into the pit may now be so quickened that we can't stop an inevitable disaster. I am terribly concerned that time is running out and tomorrow's skolars may compare a short-lived America to a Roman Empire which also bought its way into oblivion with bread and circuses.

I am sickened that I live in "one nation under God" where a simple prayer has been banned in our skules by a Supreme Court I've long quit trusting to always act in the best interests of the Silent Majority. I do not feel these prayers should be secular . . . they shouldn't . . . but Gentile or Jew, surely we all owe a debt of gratitude which could at least be expressed in silent thanks in the classroom. (And was there ever anything more un-American than taking the traditional Christmas pageant out of skule?)

I am tired of turning on my teleset and hearing a mournful local commentator spill tears over some mama (wed or unwed) who tells the tube she can "hardly feed seven head" of children on her welfare aid, and then report her eighth production is due soon. Why should responsible citizens pinch pennies in planned parenthod, and then be forced to also pick up a piece of the tab for uncaring femmes who turn their bodies into welfare slot machines?

I am disgusted with a runaway fed budget soaring out of kilter . . . while so many of the people we send to Congress lack the guts to put our house in order.

I am frightened that crime is out of control . . . when the cause is ridiculously simple: the handcuffs are on the cop instead of the crud. And I couldn't care less if Public Defender Mark Archer doesn't have all the funds he needs to keep the garbage out of the can. I am tired of delayed trials and the technical loopholes which are craftily exploited by unconscionable attorneys to free the guilty. If we lack cells, let's put our thugs in tents. If soldiers can live under canvas, so can the scum.

I am totally turned off with college athletix, when we hire semi-literate jocks and ease them thru skule with crip courses in basket-weaving and hopscotch. It is past time that college sports return to amateur status, with competing athletes made eligible only on basis of respectable grade averages in a standard curriculum. Let's stop turning classroom clods into Saturday's gods.

I am appalled by our skyrocketing gimmecracy . . . which has created an army of shiftless Americans which feels that other people who toil should guarantee them daily survival which doesn't require the lift of a finger . . . except to autograf a welfare check . . . Before the Great Giveaway came along, there were a lot of 14-y-o kids like me peddling newspapers on streetcorners, reared by divorcee mothers who refused alimony and welfare, and who proudly worked as sales clerks to keep grits on the table of a walk-up flat. And that was the real American Way, before pols began passing out the freebies which destroy initiative and responsibility.

And I grow ill when I hear about foodstamps being spent for Pepsis, Oreos and select steaks, or gambled away, and realize that a lot of us eat less meat (or no meat at all) to finance the frivolities of others. And then there are also those millions of $$$s we scatter (and often waste) on skule and summer feeding programs because Congress feels today's youths can't survive on the same peanut butter sandwiches which kindled yesterday's student bodies.

I am tired of hearing that we lack the gelt to replace a bridge or hwy . . . and yet we have mountains of moolah to dump into El Salvador, or Shana, or Israel, or Togoland, and other pieces of geography big and small, in an effort to buy friendships which often end in one-way streets when the chips are down.

I suffer the doldroms when I pay my income taxes in full, while others avoid detection by accepting cash under the counter. Really, now, shouldn't we consider replacing our hit-and-miss income tax with state/fed sales taxes, to insure that each of us . . . individually or industrially . . .

shares the burden whenever we buy a loaf of bread or a pint of Pabst or import a ton of steel?

I am depressed that half of America's teen-age blax are unemployed, and yet there is total silence from so-called black leadership in pressuring D/C to lift a $3.35 hrly wage barrier which is denying them a foot on the ladder, particularly in the ranks of dropouts who face a career on the increasingly crushing dole.

I am dismayed by gigantic campaigns to enroll the illiteri as voters, and I have large doubts that our foredads ever intended that sheep be taxied to the polls to mindlessly ditto a "recommended slate" of candidates they know little or nothing about, except they've been endorsed by some wardheeler. I also worry much that we are all losing, B&W, as our local two-party system is increasingly split into two opposing racial camps, white against black.

I am disheartened that so many of our deserving aged are forced into circumstances of embarrassed poverty, while we always have taxbux for bigger and costlier givvecrat programs designed to help those who will not help themselves.

I am ashamed that we impose so little control over multi-million-$$$ spending for black-oriented medicine that we allow costly health programs to be converted into black job centers managed by hi-salaried but unqualified big shots, at the expense of the aged and ailing for whom taxland appropriated the funds. And I wonder if some of the people we appoint to supervise these operations as board mbrs are paying attention . . . or even care.

I am not proud of today's unionism, which has put pay ahead of production and cost us our world mkts, which enables our teachers to escape accountability in the classroom, and which argues that misfits in union ranks must be protected forever, so long as they tally their wkly dues.

And I cannot understand why Congress discourages thrift by imposing tall taxes on nest eggs, thereby denying banks a prime resource for the lower-cost loans needed to revive the economy.

Sure, thousands of you agree. But, meantime, honey, us Good Guys are getting the hell beat out of us because we're all waiting for the Other Guy to scream first . . . Sad, ain't it?●

A VICTIM OF CURRENT POLICY SPEAKS OUT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. SIMON. Mr. Speaker, recently Michael P. Smith of Marion, Ill., visited me. He is a cerebral palsy victim, 30 years old, trying to get by on extremely limited SSI and food stamp assistance.

I am inserting into the CONGRESSIONAL RECORD a letter which he sent to me which illustrates how the least fortunate in our society are being hurt by our present policies. This is not fair and does not make sense.

I hope my colleagues in the House and Senate will read this and I hope some people in the administration will read it also. What we are doing is we are saving money in too many instances at the expense of the people who can least afford it.

MARION, ILL.
June 25, 1982.

DEAR SIR: I'm writing to draw your attention to a situation of vital importance to me: Living.

Please allow me to take a few minutes of your time to explain what I mean. I am handicapped, I have Cerebral Palsy. I am thirty years old, divorced, and live alone. I receive Supplemental Security Income (S.S.I.), Food Stamps, Medicaid Benefits, and I live in a Federal Housing Project. I am unemployed, although I would like to work if I could find someone who would hire me and pay me enough to make a living. I am a bookkeeper.

I now receive $264.70 per month S.S.I., $32 per month Food Stamps, and I pay $60.00 per month for rent.

Beginning July 1, 1982, I will receive $284.30 per month S.S.I., $27 per month Food Stamps, and my rent will still be $60 per month.

The increase in S.S.I., of $19.60 or 7.4% is due to an increase in the cost of living. The reduction in Food Stamps of $5.00 or 15.5% is due to an increase in income. What this all boils down to is this: My total resources (S.S.I. and Food Stamps) before any expenses are now $296.70 per month. After July 1, 1982, my total resources will be $311.30 per month, or an increase of $14.60 per month or 4.9%.

What I want to know is this: What happened to the 7.4% cost of living increase? Why can't there be a coinciding increase in Food Stamps? An increase of $2.00 or 6.2% in my Food Stamps would increase my total resources $21.60 per month or 7.2%. That seems more fair than 4.9%, doesn't it?

I hope you can see what I've been trying to explain. Please help introduce and pass legislation to raise Food Stamp apportionments at the same rate and time as the cost of living increases on government checks.

I am quite sure that, if you stop to consider all the billions of dollars in Foreign Aid and refugee relief that this country gives away, this is not too much to ask of you for a fellow American.

Thank you for your time and consideration.

Sincerely,

MICHAEL P. SMITH.●

ASSURING THAT HELP IS ONLY A BEEP AWAY

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mrs. HECKLER. Mr. Speaker, as the primary sponsor of H.R. 3921, legislation to provide coverage under medicare for personal emergency response services, I would like to share with my colleagues an article which underlines the need for such authorization. This article, "When Life's at Your Fingertips," appeared in the August 22 issue of Parade.

Written by Lawrence Galton, the article demonstrates, by case histories, how the lives of the impaired elderly are enhanced, and even saved, by having medical assistance "only a beep away." Following is the text of the article:

[From Parade, Aug. 22, 1982]

WHEN LIFE'S AT YOUR FINGERTIPS

(By Lawrence Galton)

Mary Calkins, 57 years old, was home alone when she fell out of her wheelchair a few months ago. Unable to move, she would have been left helpless—except for a little wireless transmitter device in her pocket.

By pressing a button, Mrs. Calkins set in motion a system that immediately signaled an emergency center in Cincinnati's Bethesda Hospital. Within five minutes, a neighbor—alerted by the hospital—was there to help.

That system, called Lifeline, is being used by more than 12,000 people across the country. It has been shown to improve the health and quality of life of the elderly and disabled of all ages as well as to cut medical costs. People who would otherwise have to be institutionalized can now remain independent, says Sue Campbell, the Lifeline coordinator at Bethesda Hospital, where the system is hooked up to the homes of 150 people.

Lifeline is more than a lifesaver, says Dr. Carlos Castellon, director of the department of emergency medicine at Lee Hospital in Johnstown, Pa. "It's a companion, a source of psychological comfort."

Here's how Lifeline works: A wireless transmitter, carried in a pocket or attached to clothing, sends messages to a communicator in a home phone, which then automatically calls the hospital or other community agency where monitored equipment has been set up. The emergency response center has an information card for each Lifeline user listing medical condition and people to be called in an emergency. These are backed up by community service providers such as an ambulance service and police.

In addition, the telephone communicator incorporates an automatic timer. If no phone calls are made or received within a 12- or 24-hour period and the timer has not been reset manually, a "time-out" call is made to the hospital.

Lifeline was designed by Dr. Andrew S. Dibner, a geronotology specialist. In 1972, he got the idea for a timer that would call for help automatically and developed it with the aid of engineers. Before it was widely offered, a federally financed three-year study found that Lifeline users were less anxious, slept better and were more satisfied with their lives than nonusers. They also saved money. Lifeline users averaged one day a year of nursing home care, compared to 13 days for nonusers. The annual savings in institutional care costs averaged $1400 per user.

Since completion of the study in 1979, more than 400 Lifeline programs have been started in 46 states. Typically, they are operated by hospitals. Volunteers usually install the equipment in homes and instruct users, who may number up to 250 at one time. Hospital auxiliaries often finance the system. The charge to clients—$10 a month—may be scaled down to meet their financial abilities. And legislation has been introduced to provide medicare coverage for the service.

A recent survey of programs across the country shows that the average Lifeline client is 75 and that 75 percent are women. Most live alone and have mobility problems. Falls, frequently in the bathtub, are the

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most common emergency, with heart attacks next. "Time-out" emergencies—when the system automatically calls for help—occur about 5 percent of the time.

Lifeline has been useful in many kinds of situations. In Boston, for example, a young woman with severe brittle diabetes has been saved from five coma-induced emergencies in the last three years. And at St. Joseph's Memorial Hospital in Kokomo, Ind., Lifeline is part of a monitoring system for infants judged susceptible to crib death. If the monitor signals an interruption of breathing, parents immediately press a button, and a medical team is dispatched from the hospital.

The beep-beep sound made by the transmitter button has even discouraged would-be intruders.

Says Kass Bolshaw, Lifeline coordinator at the Marian Health Center in Sioux City, Iowa: "I know one thing. If my own parents were in a position where they might need Lifeline, I would certainly install it."

For further information about Lifeline, including specific programs, write: Lifeline Systems Inc., 400 Main St., Dept. P. Waltham, Mass. 02254.●

AFFIRMATIVE ACTION

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. RINALDO. Mr. Speaker, the effort of private industry to voluntarily institute affirmative action programs is taking place thoughout our Nation without much fanfare. I am proud of the fact that a major corporation in my district of New Jersey, Merck & Co. of Rahway, has initiated one of the Nation's most extensive affirmative action communications programs to demonstrate how equal opportunity can create a better work environment for everyone and lead to progress for the company as well.

Merck, one of the Nation's largest health products firms, has made day-long forums the cornerstone of an extensive affirmative action training program called phase III. It is believed to be the first such program to include the entire work force of a major corporation. In Merck's case, this amounts to 16,000 people at 61 plants, administrative, and sales locations throughout the United States. Earlier phases of the company's affirmative action awareness program reached down only to the supervisory level.

Explained John J. Horan, chairman and chief executive officer.

> We want to communicate Merck's affirmative action commitment to every single employee and to demonstrate how our equal opportunity policy and practices create benefits for all employees. It is our belief that this program will help Merck people create a more open work environment—one in which each employee will be more effective because his or her individual worth is recognized and respected.

Merck hopes its new program will actually impact on the day-to-day work environment of its people. The company established an office of equal employment affairs 14 years ago and conducted two previous communications programs relating to affirmative action. The first, in 1977, involved all executives and managers and the second, in 1979, involved supervisors, shop stewards and union officials.

"Phase III's debate without fear of censure gives our employees a unique learning experience," explained Walter R. Trosin, Merck's vice president for human resources. "They now have a vehicle to examine, discover and dispel misconceptions and prejudices that cloud affirmative action and its benefits.

"If we can remove barriers to a more supportive work environment, each employee becomes more capable of reaching his or her full potential. The individual progresses, and the company does as well."

The phase III program is still underway, though more than three-quarters of Merck's U.S. employees have participated in the no-holds-barred discussions on sensitive subjects of race and sex bias. The company believes its pioneering human relations project is a success. According to Stephen M. Darien, Merck's executive director of U.S. personnel relations:

> It has led to greater understanding of our affirmative action program and to better communication between people at all levels of the company. I think it encourages respect for the rights and feelings of coworkers and fosters a more cooperative and productive atmosphere.

Nine of every 10 participants to date not only rate the program as good to excellent, but report they have a clearer view of Merck's goals and polices, a questionnaire survey shows.

The program has another novel aspect. Instead of using professional trainers, the company has recruited and trained 1,000 of its line managers to act as discussion leaders. They preside over small group sessions limited to 10 to 15 persons.

The openness of the sessions has greatly enhanced communications and understanding among employees and supervisors. So much so, said B. Lawrence Branch, director of corporate equal employment affairs, that even people thought by their coworkers to be aloof are drawn into telling of work-related problems.

Merck reports that 69 percent of phase III participants said they felt more positive about the company's equal employment and affirmative action program as a result of the training. While 3 percent said their feelings about affirmative action were more negative than before, some 28 percent felt the same as before training, many noting that their attitudes had been positive. "The change in attitude expressed by more than two-thirds of the people undergoing the training shows that voluntary action programs of this kind can be dramatically effective," Mr. Darien said.●

THOUGHTS OF NUCLEAR EXTINCTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. MARKEY. Mr. Speaker, unfortunately, over the years we have learned to live with the bomb simply by not thinking about it. In debating nuclear weapons, we can easily forget the horrible devastation they would bring to this planet.

Fortunately, the nuclear freeze movement across this country is waking up the American public to the dangers of nuclear war and to the fact that the Reagan administration's nuclear arms buildup leads us closer to the threat of nuclear war.

I would like to commend to my colleagues an article written by Mary Janes Hayes in the June 7, 1982, issue of the Patriot Ledger of Massachusetts. It provides a very personal and valuable account of what nuclear extinction would mean to one person:

[From the Patriot Ledger, June 7, 1982]

Let Us Retreat From Thrust Toward Extinction

(By Mary Jane Hayes)

When I consider what I read in the papers—that costs for many social programs will be held down or cut, while defense spending on tanks and bombers and missiles, and many another means of destroying our fellow humans will rise from $183 billion in 1982 to $216 in 1983; that the Reagan administration will ask Congress to more than double military aid for El Salvador next year in addition to hinting that U.S. troops might be employed; that the president told Congress Feb. 8 that production of new lethal nerve gas weapons "is essential to the national interest," thus clearing the way for an end to a nearly 13-year-old moratorium on their manufacture; above all, that notwithstanding the United States and the Soviet Union between them have 16,000 nuclear warheads, enough to pulverize the earth and yet Strategic Arms Reduction Talks have not begun—when I consider all this preoccupation with death—this emphasis on confrontation instead of communication—this bearing of us inexorably and against our will toward extinction—I pause to reflect on the sweetness of my life.

I think of my family and friends, of the obligations and relations that give direction to my days. I think of my father, who was a thoughtful and articulate gentleman who set to the end of his life an example of personal integrity. I think of my mother, who is a home-making artist to her finger-tips, and who combines with her talents, pluck and staying power. I think of how that pair together succored and sheltered their young, despite the ravages of the Depression.

I think of the brother who taught me to draw and of the twin sister with whom could (and can) be shared every phase of maturing. I think of the husband who has constantly challenged me to become a fuller person than I otherwise might have been, not through words, but being the considerate man of action that he is.

I think of the two children, now young adults, it has been my privilege and charge, my anguish and joy to nurture. I think of inlaws and relatives of whom I am truly fond. Of the comrades I grew up with and with whom were enjoyed long years of croquet and Camp Fire Girls. I think of all the other people I've encountered along the way, from the noblest to the most pitiful, and especially of that handful that have made a real difference to my way of thinking or seeing or feeling. Were I never to meet another soul I could cry with a full heart: What men I've known! What women!

I think of the nature with whom I've become as intimate as if I were an Indian. I think of early rambles with my father through a local beechwood, my hand in his, his tall form moving along beside my smaller one, shafts of sunlight falling across logs and roots and clumps of mosses. From that day to this I have never ceased to love and wonder at the marvels of the physical world. Day by day, week in and week out, year after year I've walked it until nature and I have become so deeply bonded that she holds few negatives for me. I think of my appreciation of the fact that each part of her cycle is necessary and beautiful.

I think of winter with its icy light and the purity of its piercing cold; of the miracle of spring and particularly the magic of May which swells into the crescendo of summer, of autumn when trees are no longer clothed in leaves but crowned with jewels. I think of the birds in my backyard, of the blue jays so unconsciously graceful as they beat up or plummet down, of the chickadees under the protectorate of everyone's tenderness, and of the squirrels who outwit every baffle my brain can devise.

I think of my garden and yard and the therapy and esthetic gratification they provide, from the picking up of twigs in March to the covering over of the border in November for its annual slumber. I think how mine is not a sentimental love; for I have been tossed viciously about in skies in the days when I was an airline stewardess, and often on the high seas, now that I am a sailor. I understand perfectly well what Camus meant by the indifference of nature, but I love her not a whit the less because of it.

I think of the books that have guided, inspired, entertained and cheered me beyond the describing—from the folk and fairy tales of my youth to the volumes that have become part of my bones and blood as an adult. I think of the impassioned letters of Vincent van Gogh to his brother, Theo; of the novels of George Eliot and Thomas Hardy; of the essays of Emerson; of poems of Emily Dickson and William Wordworth.

I think how charmed I am by youngsters, by the sons and daughters of my neighbors who move me constantly to affection and delight.

I think of the dogs I've adored, from our first pet, named "Shep," (as disreputable a mutt as ever toured a neighborhood knocking over garbage cans and plaguing cats); through our two beagles "Rinky" and "Salty," to the 56 canines in my immediate vicinity, each of whom is a beloved acquaintance.

I think of my pleasure in great music: in Rachmaninoff, Tchaikovsky, Chopin, Brahms, and in favorite songs like "Greensleeves" and "Eidelweiss."

I think of the nine years I waited on table for a local caterer, through which I gained the satisfaction of hard physical work and the pride of serving a worthy master. (The woman who was our boss in those years had standards and the force of character to see to it that her help lived up to them.) I think of the excitements of stewardessing in the days when flying was still something of an adventure, and of the enrichments provided by travel and a viewing of the earth from an entirely new perspective. I think of several years of teaching with its confirmation that nothing mattered more than the cherishing of children. I think of the throes and agony of creative writing and the almost terrible gladness that accompanies achievement.

I think of the griefs that have granted me whatever grace of soul I possess. I think how loss, anxiety, humiliation, how uncertainty and guilt are the raw materials of compassion; how whatever fellowship in feeling I am able to extend has been forged in the dark crucible of sorrow. I think, too, of the happiness that has sprung up in me like daisies; of the golden familiar; of the blessedness of routine.

When I consider these things tears rise into my eyes from the depths of my being. It has been—it is—so inexpressibly precious. One life, mine, multiplied by millions worldwide—each unique, each precious, each endangered. And not only these, but all of those to come. Snuffed out, possibly, without their ever having had a chance to experience in all its manifestations.

We stand just at the edge of the abyss. It's not too late to retreat to the green fields of life.●

ANNOUNCING THE DEATH OF CHIEF JUDGE HERNÁN PESQUERA OF PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. CORRADA. Mr. Speaker, it is with great sadness and grief that I communicate to the House the untimely death of the chief judge of the U.S. district court for the District of Puerto Rico, Hon. Hernán Pesquera, who died last night in Puerto Rico.

Judge Pesquera was 58 years old and was appointed to the Federal bench by President Nixon on August 21, 1972. He served with great distinction during the last 10 years devoting all his energy and exceptional talents to impart justice to those coming before the court. Judge Pesquera served as chief judge for 2 years with administrative skills. During his tenure, he saw the court grow from two to seven Federal judges in Puerto Rico. Together with the late Judge José V. Toledo, Judge Pesquera was instrumental in supporting my own efforts and those of others in 1978 to increase the number of U.S. district court judges in Puerto Rico from three to seven when Congress enacted a law to that effect.

The great ability and hard work of Judge Pesquera will be missed by the court, the bar, and the legal community. As a personal friend, I am grieved by his death.

I extend my deepest condolences to his widow, Sonia Marty de Pespuera, their children Sonia, Maria Margarita, Hernán, and Isabel Cristina, as well as all the members of the family.●

OAKLAND RED CROSS HONORS INDIVIDUALS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. STARK. Mr. Speaker, on August 26, 1982, the Oakland Branch of the American Red Cross honored individuals who have volunteered their services to the community through the American Red Cross. These citizens have given freely of their time and effort to help wherever and whenever needed. Without the volunteer services of these individuals, the American Red Cross could not have provided the public service and the general benefits to the communities the American Red Cross serves. I salute the following volunteers who were honored:

Dennis Mataresse, Dan Mielke, Tom Preston, Ralph Roberts, Peggy Schmidt, Francis Shoemaker, Louis Steele, John Tessandori, Robert Valcalda, Marie Whidden, Ann Blasius, Joanne Sumara, Marton Watton, Walter Wilson, Charles Groce, Robert L. Elkins, Renita Evans, Betty Finger, Helen Fleck, Clevela Goodall, Phil H. Grant, Robert L. Gregg, [illegible] Gregory, Charles Harrington, Lillian Harrison, Maida Henderson, Agnes Hojio, Ingeborg Wells, Marjorie Wright, Patsy Sheaff, Carol Scheidel, Muriel Simpson, Shirley C. Smith, Francis J. Stevenson, Bernadine H. Swadley, Florence Swanburg, Mary Tarrant, Eugene Tarrant, Morris Turner, Glen Wardaugh, Flora E. Wasson, Venius Winn, and Joseph White.●

SEVENTY-FIVE YEARS OF SOLIDARITY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. STARK. Mr. Speaker, on August 28, 1982, the members of the International Brotherhood of Electrical Workers, Local 595, celebrated their 75th anniversary in Oakland, Calif.

Since it was founded in 1907, local 595 has flourished and expanded as it protected the interests of working people in the community. Today it has 1,400 members.

In these troubled economic times, the importance of unions, serving as the voice for working people, cannot be overemphasized. I would like to

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congratulate Thomas J. Sweeney, business manager/financial secretary of local 595, and all the members on their fine achievements, and I wish them many more years of success.●

SENIOR CITIZEN JOBS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. LEHMAN. Mr. Speaker, because of a schedule conflict this morning, I was unable to deliver a prepared 1-minute speech regarding the title V program and the President's veto of the supplemental appropriations bill. I would like to include these remarks in the Record to indicate my strong support for the jobs program and my intention to vote to override the President's veto of H.R. 6863.

My statement follows:

Mr. Speaker, when word first got out that President Reagan wanted to eliminate Title V jobs for senior citizens, I met with a group of these workers in my congressional district. They were outraged that this administration would take away their opportunity to earn some money and to serve the needs of our community. I gave them my promise that I would fight the attempts of the Reagan administration to take away their jobs.

Eliminating Title V jobs will hurt people. It will hurt the senior citizens who hold these jobs. Many of them will be left with very minimal means of support. Many of them will also be hurt emotionally and psychologically, as the administration is in effect telling them that our country has no need of their talents and willingness to work.

The people who are now being served by Title V workers will also be hurt. They will have to go without certain services as it is unlikely that State or local governments will step in to fill the gap.

Mr. Speaker, if we are serious about keeping people employed, and if we are serious about trimming the budget without hurting the elderly, it is imperative that we vote to override the President's veto of the Supplemental Appropriations bill.●

PENSION FUND INVESTMENT IN THE RESIDENTIAL HOUSING MARKET

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. GEPHARDT. Mr. Speaker, recently the Subcommittee on Labor-Management Relations of the House Education Committee held field hearings on the issue of pension fund investment in the housing industry. I would like to commend the chairman of the subcommittee, Phillip Burton, and the other members of the subcommittee for holding these hearings into this most important issue.

Congressman Ron Wyden prepared testimony for these hearings on his bill, H.R. 6781, the Residential Mortgage Investment Act of 1982. This legislation is designed to remove the impediments to pension fund investment in residential mortgages, one of the major issues discussed at these field hearings. This legislation has already been cosponsored by 245 Members of the House from both sides of the aisle.

I commend to my colleagues Congressman Wyden's testimony which provides an insightful view on this issue.

Congressman Wyden's Testimony

Mr. Chairman, I would first like to express my sincere appreciation to you for your kind invitation to participate in this hearing.

The economic vitality of the American housing industry is of the utmost importance to me and to my constituents in the state of Oregon. The health of the Oregon economy is in large part dependent on the health of the timber, lumber, housing, and real estate industries.

Because of the longest and most severe slump in housing in more than 40 years, Oregon is experiencing its longest and most severe economic slump in more than 40 years. In many Oregon communities, the effects of the recession have been devastating, with unemployment rates running close to the worst levels experienced in the Great Depression of the 1930's.

The diagnosis of the housing industry's malaise is clear: a severe shortage of affordable mortgage capital that has driven mortgage interest rates up to unprecedented levels and priced all but a miniscule percentage of the American people out of the homebuying market.

The cure is also clear: find new sources of mortgage capital. And pension funds, both public and private, represent the largest potential new source of mortgage capital—more than $600 billion.

At the present time, only about 3 percent of this vast pool of funds is invested in housing and real estate. There is no reason why that percentage should not and can not be higher—without endangering the prudent investment of pension funds.

Mortgages and mortgage-backed securities are sound, safe and profitable investments. A recent Salomon Brothers survey showed that, over a 10 year period, mortgage securities outperformed investments such as corporate bonds and long-term U.S. Treasury notes.

Mr. Chairman, I commend you for calling this hearing to explore the various options available to those pension funds interested in diversifying their portfolios with housing investment instruments. I am convinced that your involvement and leadership in this clearly worthwhile endeavor will prove to be a real benefit to pension funds, the housing industry and the homebuying public alike.

It is fitting to hold this hearing in your home state of California, Mr. Chairman. In recent months, the State of California has developed one of the most innovative programs in the nation to encourage public pension fund investment in housing. More than $100 million has been invested in mortgage instruments so far and the results are impressive: 6,746 jobs created, $144 million in personal income and $20-million in tax revenue generated. Both candidates for governor of California this year have endorsed this program and are calling for an expansion of this type of investment.

There is no reason why a similar surge of investment by private pension funds in housing should not occur and should not have similarly impressive results in stimulating new housing construction, creating new jobs and generating new revenue.

One reason why there has not been greater private pension fund investment in housing is because the United States Department of Labor, in interpreting the Employment and Retirement Income Security Act, has seen fit to draft restrictive regulations that apply only to pension fund investment in housing and, in my view, have discouraged pension fund managers from considering mortgage investments.

Although the Department of Labor did issue several exemptions for pension plan investment in residential mortgages earlier this year, the exemptions still do not reflect the realities of the mortgage marketplace and ERISA regulations continue to restrict unnecessarily mortgage investment and continue to treat housing as a second class investment.

As you know, Mr. Chairman, Congressman Dick Gephardt, Congressman Barber Conable and I introduced a bill last month—the Residential Mortgage Investment Act—that would remove these additional arbitrary regulatory impediments and permit mortgages to compete for the attention of private pension fund managers on an equal footing with other types of investment.

This legislation (HR 6781), now pending in the Labor-Management Relations Subcommittee, has quickly attracted widespread bipartisan support in the House and now has 235 cosponsors.

Mr. Chairman, the final action taken by the Labor Department, while making some significant improvements, nevertheless continues to impose numerous additional time-consuming and costly burdens on investments in mortgage securities.

Let me take this opportunity to list what I consider to be some of the major shortcomings in the Department of Labor's position on this issue:

The exemptions limit pension fund investments to "recognized mortgage loans," but define that to mean only loans that qualify under Fannie Mae, Ginny Mae or Freddie Mac—roughly 60 per cent of the residential mortgage market. There is no reason why other conventional mortgage securities packaged by private mortgage investment bankers should be excluded. Salomon Brothers alone has handled $71 billion in conventional mortgage securities in just the past 18 months.

The Department chose not to extend the exemptions to multi-family housing, even though requested to do so.

Plans are still forbidden to participate directly in the mortgage investment marketplace. Investments must be made through an "established mortgage lender", approved by HUD or some other government housing finance agency.

Pension fund managers are arbitrarily prohibited from purchasing more than a specified and limited percentage of any particular issue of mortgage backed security certificates.

If an employee benefit plan does not follow the conditions included in the Department's "class exemption"—or if a fund manager is uncertain whether a particular mortgage transaction qualifies under the exemption—the plan must request an opinion or seek an individual exemption from the Labor Department.

This procedure in itself is costly and burdensome. It is unlikely that a Labor Department response could be expected in less than 90 days. In this interim period, many profitable investment opportunities could be lost.

Most important; pension fund managers are still not allowed to make mortgage security investment decisions on their own. The manager instead must delegate this decision to an independent fiduciary or "qualified real estate management." This requirement—which applies exclusively to mortgage investments—creates a psychological barrier, adds additional costs and erodes whatever competitive edge the investment might have on its own merits.

Mr. Chairman, Congressman Gephardt, Congressman Conable and I introduced H.R. 6781 because we think this list of special restrictions on pension fund investment in housing includes real and substantial barriers and is not supported by sound economic reasoning.

Under the ERISA statute, pension plan trustees are given the responsibility and authority to direct and control the investment of pension plan assets. We believe the Department of Labor, in restricting mortgage investment capabilities, has usurped this responsibility and authority to an unreasonable degree, a degree that is not only economically unsound, but also fails to reflect the intent of Congress.

We introduced this bill because we believe that, by removing these arbitrary regulatory impediments—while retaining the basic prudency, diversity and arms length transaction standards—pension funds will have a new incentive to invest in housing.

We believe that a significant new infusion of mortgage capital will quickly flow from private pension funds to the housing marketplace and that this new source of capital is bound to have a downward impact on mortgage interest rates.

California's Public Investment Strategy program has already plowed the ground and has proven how a prudent investment of a reasonable percentage of public pension fund reserves can serve as a real stimulus to a state's housing and construction industries.

There is no reason why a similar surge in housing construction cannot happen all over the country if mortgage securities are allowed to compete on a level playing field with other private pension fund investment opportunities.

Mr. Chairman, once again, I thank you for the opportunity to participate in this hearing. I hope I can convince the Subcommittee that a legislative revision of the ERISA regulations on mortgage investment is a reasonable and sound method of encouraging new pension fund investment in residential housing.

My colleagues and I stand ready to work with the Subcommittee on any technical suggestions you might have on this bill. Thank you.●

AMNESTY TO ALIENS COSTLY TO STATES

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. DAUB. Mr. Speaker, yesterday, I introduced a bill, H.R. 7060, to amend the Immigration and Nationality Act, by updating the Registry Date provision. I have taken this action to allow my colleagues in alternative to the "amnesty" provisions currently contained in H.R. 6514, the Immigration Reform and Control Act, to be considered by the Judiciary Committee on Tuesday, September 14.

To stress the need for modification of H.R. 6514, I offer the following article reprinted from the Sacramento Bee on September 2, 1982, for my colleagues' benefit.

[From the Sacramento Bee, Sept. 2, 1982]

IMMIGRATION BILL MAY INCREASE STATE WELFARE TAB $1 BILLION

(By Leo Rennert)

WASHINGTON.—California would be saddled with up to $1.3 billion a year in additional state and local welfare outlays for illegal aliens eligible for legal resident status under a pending immigration bill, state officials warned Wednesday.

Under instructions from State Senate President Pro Tem David Roberti, Washington lobbyists for the Legislature have launched an all-out drive to persuade Congress to make major changes or kill the measure altogether.

Led by California, a coalition of states that would feel the impact of the bill, including Florida, Texas, New York and New Jersey, will meet today to draft a set of financial safeguards for submission to the House after the Labor Day recess.

When the Senate passed its version Aug. 17, the Reagan administration succeeded in attaching an amendment that would deny federal welfare assistance for three to six years to illegal aliens whose stay in the United States would be legitimized by the bill.

California and other states argue this would require them to pick up full welfare costs for hundreds of thousands of aliens as they begin the transition from undocumented status toward full citizenship.

At issue are such welfare programs as Aid to Families with Dependent Children (AFDC), Medicaid (known in California as Medi-Cal), food stamps and Supplemental Security Income. Normally, costs for these programs are split between Washington and the states.

While estimates about the number of illegal aliens vary widely, federal authorities tend to place the total at 3 million to 6 million. California alone may account for more than 1 million, according to new state projections.

State officials say they were slow to grasp the immigration bill's full impact on their strained treasuries during Senate consideration. But now that initial estimates are beginning to emerge, they are aghast at how much of an extra tab they may have to pick up.

As new battle lines form for the post-Labor Day session, California and other major states are likely to insist that the federal government pick up all initial welfare costs for undocumented aliens eligible for legal status.

President Reagan is certain to reject such demands. Administration officials estimate full federal financing would cost $6 billion to $10 billion over the next four years and there's no room for such outlays in the president's budget-slashing plans.

The House thus may be caught in a squeeze play between the White House, which wants an immigration bill only if it entails a minimal increase in the federal budget, and the states, which are beginning to insist that they won't accept the bill if they get stuck with most of the extra costs.

With Congress due to adjourn in a few weeks for the November election campaigns, that kind of impasse could doom the bill's chances this year.

In a letter to Rep. Don Edwards, D-San Jose, Roberti said he is "most disturbed" by additional financial burdens that would be imposed on the states under both the Senate-passed bill and a House version awaiting action in the Judiciary Committee in a couple of weeks.

Edwards is the senior Californian on Judiciary and chairman of the state's Democratic congressional delegation.

California officials estimate the annual extra tab for the state's strained treasury under the Senate bill would be $1.2 billion, plus another $130 million in locally funded general assistance programs.

The administration has agreed to channel up to $300 million a year to affected states in bloc grants to ease the impact. But state officials argue this would be totally inadequate. California, which is believed to account for 30 percent of illegal aliens and up to 50 percent of the potential welfare load, would get only about $100 million a year—less than 10 percent of its estimated extra costs.

The House bill would extend current federal-state matching formulas to aliens eligible for legal resident status. But state officials contend this still would saddle them with about $600 million in extra annual expenses as their share of new welfare services.

As long as immigration remains basically a federal question, they maintain Washington should underwrite the full cost of any major change in the status of illegal aliens.

California lobbyists hope that Edwards will offer an amendment to shift the financial burden completely to the federal government.

Roberti, who's about to become chairman of an immigration and refugee task force of the National Conference of State Legislatures, said California theoretically could take its cue from the Reagan administration and try to deny state benefits to former illegals.

"But I would find such action to be not only constitutionally questionable but morally reprehensible," Roberti remarked.

"The federal government may choose to tax these newly acknowledged residents of our nation while denying them basic public assistance. I believe Californians in good conscience would not.

"Furthermore, to do so would only push the costs onto local goverment, and in no way remove the fiscal consequences of federal action from the shoulders of California taxpayers.

"Reimbursement of costs that state and local governments would have to bear as the result of any federal decision to legalize un-

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documented aliens is essential. Without such a provision, I believe legalization should be actively opposed."

Legalization of undocumented aliens is a key feature of the bill, which also seeks to limit the number of legal immigrants while curbing the flow of illegal border crossings.

Under the Senate version, illegal aliens who arrived in the U.S. before 1977 would be granted permanent resident status. Those who arrived between 1978 and 1980 would get a temporary designation and become eligible for permanent status within three years. Federal welfare payments would be denied to both groups during these transitional periods.

"For the states, this is becoming the big sleeper issue," said David Vienna, whose Washington lobbying firm represents the California Legislature.

Leigh Snell, an immigration specialist in the Vienna firm, said the immigration bill went from "bad" in the House version to "horrendous" in the final Senate draft.

The Brown administration, while letting Roberti take the lead on this issue, also has been studying the likely state fiscal impact.●

THE PEOPLE'S PARADISE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FIELDS. Mr. Speaker, I submit for the RECORD an article from the National Review which discusses religious and press freedoms in the People's Paradise of Nicaragua. Again, reality clashes with the lies of collectivist propaganda and philosophy.

The article follows:

[From the National Review, Sept. 17, 1982]

ON THIS ROCK I WILL BREAK MY CHURCH

The Marxist Catholics of Latin America have been so diligent in publicizing themselves that it is possible to forget that there are still traditional (that is, Catholic) Catholics in that part of the world. Yet so there are, and in Nicaragua they have been taking a beating from the Sandinistas.

The latest clash began last month when Archbishop Obando y Bravo returned to Nicaragua from a trip to Rome carrying a letter from Pope John Paul II criticizing the "People's Church"—essentially a Marxist end-run around episcopal authority—as "absurd and dangerous." The government forbade La Prensa, the lone independent newspaper, to run it. The editors countered by electing not to go to press at all. Whereupon the Sandinistas agreed to let the Pope's letter run, provided it was not given page-one treatment. Shortly thereafter, however, the government struck back. Sandinista thugs jumped the archbishop's spokesman, Father Bismarck Carballo, at lunch, forced him to strip, and drove him through the streets. The state-controlled media claimed he had been surprised in a tryst with a parishioner. La Prensa refused once more to publish, rather than run the government's fabrication. There followed demonstrations in half a dozen Catholic high schools.

Meanwhile, Nicaragua's tiny Protestant minority has also fallen on bad times, as missionaries are expelled and churches taken over. The Sandinista interior minister, in a press conference straight out of Animal Farm, accused the Seventh Day Adventists of plotting to blow up high-tension wires, and warned that their "days in Nicaragua are coming to an end."

Central American anti-clericalism runs deep. The Mexican revolution, which preceded the Russian by seven years, ferociously persecuted Catholics. Mexican presidents (nominally the heirs of that revolution) ostentatiously avoided churchgoing.

In Nicaragua, Marxism sharpens the local impulse. How could it be otherwise? How can you tolerate an organization that believes in rendering unto Caesar only what is Caesar's, when you believe that everything is Caesar's? Jailers of the world, unite; you have nothing to lose but your prayers.●

TRIBUTE TO FRANK CHELF

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 8, 1982

● Mr. SNYDER. Mr. Speaker, I rise to pay tribute to a former colleague and friend, Frank Chelf, who passed away this past week.

One of the major challenges I have always faced since being elected to represent the Fourth Congressional District of Kentucky, was the challenge of trying to live up to the record of accomplishment, achievement, and statesmanship set by Frank Chelf during the 22 years he so ably represented the Fourth District. His has been a difficult act to follow.

Indeed, Frank Chelf represented the Fourth District of Kentucky longer than any other person has to date and throughout those 22 years, he served his district extraordinarily well.

In my freshman year, here in the House of Representatives, when I represented the old Third District, I had the honor and the pleasure to get to know and work with Frank, who, at the time was the dean of the Kentucky delegation. He was a man easy to respect because of his keen wit, his diligence, his oratorical skill, his humanitarianism and his dedication to his constituents. You could always count on Frank to put things in proper perspective and bring the proceedings down to earth with one of his off-the-cuff floor speeches for which he was so well known.

Frank Chelf was also a man easy to like because of his good nature and his remarkable sense of humor. Watching him in action those first 2 years, gave me as a freshman Congressman, quite a lesson in both the art of effective representation and gentlemanly conduct.

Congress lost a great legislator when Frank decided to retire to the life of a gentleman lawyer in 1966 and both Kentucky and the U.S. House of Representatives have lost a great friend with his passing now.●

IN MEMORY OF JAMES WALTER KEYS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. RODINO. Mr. Speaker, the city of Newark's antipoverty agency will name its headquarters for one of the most dedicated humanitarians to ever serve the people of Newark, James Walter Keys.

Jim Keys, who died earlier this year, was truly an activist in the battle against poverty and despair in our city. He was one of the first employees of the United Community Corporation (UCC) over 20 years ago, and he worked tirelessly to build this agency into a force for relieving the misery of the poor, the disadvantaged, the elderly, and the handicapped people in Newark. His dedication infused others with a spirit of community involvement, and in the process earned him the nickname "Mr. UCC." Jim brought together many different churches, social clubs, civil rights groups, volunteer agencies, and other self-help organizations to work for the common goal of helping people in need. He had a gift for communication, working effectively to develop cooperation among many different people, which continues even after Jim has left us.

Jim Keys was a friend of mine, and indirectly a friend of every citizen of Newark who cared about the quality of life in our city. The United Community Corporation's Executive Director, Dave Edwards, as well as UCC's director of senior services, Kitty Taylor, remembered the human qualities of Jim Keys in a recent article in the Star-Ledger. I ask that the article be reprinted in the RECORD.

The dedication of the UCC headquarters in Newark is more than a fitting tribute to a good man; it will serve as a constant reminder of the ongoing need for community service.

[From the Star-Ledger, Sept. 6, 1982]

UCC TO NAME BUILDING FOR LONG-TIME EMPLOYEE

(By Julia Katrina Graham)

In memory of James Walter Keys Sr., the United Community Corp. (UCC) will name its headquarters building, 31 Fulton St., for him during interdenominational services Sept. 15.

"Jim was always a man on the go and a great humanitarian, always involved in the community and with people of all ages. There was no race, color, or age line—he loved all people," said Kitty Taylor, director of senior services, and a friend of Keys for 15 years.

"He was an activist. Whenever anyone called him, he was always ready to come—he never said no. Whenever he saw there was a need for assistance, he always volunteered without being asked," she said.

James Walter Keys was born on May 2, 1916 in Mayfield, Ky. Although he was a

Baptist, he "respected all religious faiths, and attended churches of all denominations," according to friends. He died early this year.

He came to Newark 41 years later where he attended classes at Rutgers University and Essex County college. For a number of years he was employed as a musician with the Picadilly Pipers.

"Because of our love for music, we really hit it off," said Rick McInerheny. "I knew him very well; he was a special guy."

Keys was among the first employees of the UCC, serving the city's anti-poverty agency for more than 20 years, earning him the nickname "Mr. UCC."

"Jim was always helping people who were poor and needed food and clothing. The last project he worked on was getting cheese for those who needed it. Even when he was in the hospital he was still helping me and others," said John McGee, senior service outreach employe and long-time friend.

According to his friends, Keys was an inspiration to youth and a friend to the elderly.

Ella Lovelace, a senior service volunteer said, "Whenever we went on bus trips, Jim made sure we were comfortable."

His friends said Keys not only had good rapport with the community, but also with business and other professional organizations.

"It was because of Jim and his efforts that we received contributions from businesses for trips for senior citizens and gifts for children. Because of his rapport with the media he was responsible for having two busloads of children go see the 'Midday Live' show," said Norman Gaskins, executive director of the UCC.

Not only was Keys a member of the UCC, but he was an active member of Lions International Inc., Roseville's Lions Club, Kiwanis Club, NAACP, the National, N.J. and Newark Senior Citizens Coordinating Council, Peoples Association to the Memory of Dr. Martin Luther King, Jr., Project Volunteer, Emanuel Senior Citizens Day Care Advisory Board, COED, one of the founders of the Resource for Renaissance Project, and was on the Red Cross and Salvation Army Advisory Boards.

Dave Edwards, executive director of the UCC said, "It took me three minutes to trust him explicitly. When I first started working here in October, instead of me telling Jim what needed to be done, he would take the initiative and do what needed to be done. Jim lived and breathed UCC."

The interdenominational memorial service, which is open to the public is scheduled for Sept. 15 from 11 a.m. to 3 p.m. and will take place outdoors.

Persons who worked closely with Keys throughout his life will have two minutes to recall their memories. Musical selections will be performed, including a song called "Love," which Keys wrote.

BUILD UP MICHIGAN CAMPAIGN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BROOMFIELD. Mr. Speaker, a recent front page article in the Washington Post clearly discussed the economic problems in Michigan. It is no exaggeration to describe the economic situation in my home State as a depression.

But the situation discussed in the Post article only presented one aspect of the mosaic that comprises Michigan.

Another aspect is the work of the people and of the organizations in Michigan who have not fallen into a mental slump because of the economy and who are sticking with Michigan and actively working to rebuild it.

One such group is the Builders Exchange of Detroit and Michigan.

The Builders Exchange is Michigan's oldest and largest construction association with over 2,400 member companies. This organization has mobilized its vast resources to initiate a "Build Up, Michigan!" campaign to help in the recovery of the State and its construction industry.

The Builders Exchange recognizes the economic problems that exist, but believes these problems are overshadowed by Michigan's possibilities for future growth and greatness.

The Builders Exchange promotes the idea that it is time to start talking about Michigan and its construction industry's many good, strong points. Instead of being negatively reactive, the Builders Exchange wants all of us to be proactive when it comes to discussing the future of Michigan.

The "Build Up, Michigan!" program is designed to be an ongoing campaign and not just a loud, one-time effort. Month by month, the program will continue to grow, touching more and more people throughout Michigan and the surrounding States.

It will carry forth a positive message that, even though Michigan has its economic problems now, the long run will show that Michigan is still a great place for people and businesses to settle, to stay, and to build.

Mr. Speaker, when times are tough, it is easy to give up and walk away. But nothing concrete ever gets done that way.

The positive approach encompassed in the "Build Up, Michigan!" campaign of the Builders Exchange of Detroit and Michigan will do much to help in the recovery of that great State. I wish to commend the Builders Exchange for their deep concern and their initiative in helping in Michigan's recovery.●

COASTAL REVENUE SHARING ACT OF 1982

HON. CARROLL HUBBARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. HUBBARD. Mr. Speaker, I want to take this opportunity to briefly address by distinguished colleagues regarding the bill entitled "The Coastal Revenue Sharing act of 1982," just introduced by my friend from Louisiana, Congressman JOHN BREAUX. Although the Commonwealth of Kentucky is certainly not a coastal State, I, as Chairman of the Subcommittee on Panama Canal/Outer Continental Shelf, am concerned about coastal areas with large-scale OCS oil and gas leasing activity. I, therefore, am a cosponsor of this bill. I believe the concept of OCS revenue sharing is a fundamentally sound one. However, I am concerned about the possible overly rigid earmarking of funds generated by revenue sharing. Funding to those most concerned with OCS development should be provided in a manner that will permit them to choose the best method for mitigating against or planning for the potential impacts of OCS leasing. Coastal governments affected should be free to choose how to best react to this program, and the amounts generated should be directly related to the amount of leasing activity off a coastal State and such activity's proximity to the coastline.

I believe that the approach to OCS revenue sharing presented in Mr. BREAUX's bill will be most acceptable to the administration and to State and local government officials involved in OCS development. I urge my colleagues' favorable consideration of this measure.●

OCS REVENUE SHARING

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BREAUX. Mr. Speaker, today, I and several of my colleagues have introduced legislation to establish a fund for the sharing of revenues from Outer Continental Shelf (OCS) oil and gas development with coastal States and units of local coastal governments. As the Members are all aware, the Department of the Interior has recently announced a much needed program for accelerated OCS oil and gas leasing. It is with an eye to facilitating this program and providing assistance to coastal States and local governmental units impacted by this program that we introduce this bill.

The major elements of the legislation:

First, provide for the accruing of a small percentage of Federal bonus and royalty revenues from OCS lease tracts and production derived during fiscal year 1984 and thereafter for distribution in fiscal year 1985 and thereafter;

Second, mandate a 50-percent passthrough of the funds which would accrue to each coastal State to units of each local coastal government; and

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Third, stipulate that not less than 25 percent of the amount received by coastal States during any fiscal year be used to assist local communities impacted by OCS activities in their natural resource management and development efforts.

In the true spirit of revenue sharing, similar to the approach which has been adopted for the sharing of mineral development revenues with inland States, no other conditions or "strings" are attached to this pass-through of funds. This approach has been taken due to our belief that the governmental units most directly affected by OCS activities should be free to choose how to best react to this extremely important national program.

In addition, the bill reflects our belief that amounts generated for sharing with these governmental units should be directly related to the amount of leasing activities off their coast and such activities proximity to the coastline.

Finally, the bill contains a floor which will insure a minimum funding for all coastal States and local communities where OCS planning activities are occurring and a ceiling to further protect the future revenue position of the Federal Treasury.

This legislation is straightforward. It is not designed to provide back door financing for any existing programs of the Federal Government, but is rather intended to replace a number of categorical grant programs that this administration, and many of us in the Congress, have found wanting.

I believe that the approach encompassed in this bill will prove to be most attractive to the State and local officials who are involved in day-to-day planning for OCS exploration and development activities.●

ARMS TO TAIWAN

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FIELDS. Mr. Speaker, today I am inserting for the benefit of my colleagues, for articles which articulate the deep concerns held by many conservatives regarding U.S. policy toward Taiwan vis-a-vis our policy toward Communist China.

I believe it is extremely important that members of this House become aware of the serious foreign policy implications we will face if the United States does not continue to be a strong ally to Taiwan.

It is completely unrealistic to expect mainland China to negotiate in good faith with the Taiwanese. This Communist government has no intention of allowing Taiwan to exist as a free democracy. For this reason, it is imperative that the United States maintain a strong friendship with Taiwan and continue to supply this country with quality arms support.

I commend my colleagues attention to these excellent articles describing the important foreign policy responsibilities we have toward Taiwan.

[From the New York Times, Aug. 3, 1982]

PEKING TURNS ITS BACK

The news from China is disturbing. A lurch back to dogmatism, propelled by economic troubles and an approaching Communist Party Congress, is straining what was at best a difficult relationship with the United States. President Reagan wasted a year straightening out his attitudes toward Perkin. Now the Chinese seem eager to rebuff him.

Mr. Reagan has gone about as far as he should in placating Peking on arm sales to Taiwan. He has abandoned his unwise campaign talk about upgrading relations with the Nationalists. He is ready formally to endorse the idea of "one China," a concept on which Communists and Nationalists are agreed. He is prepared to put limits on selling advanced weapons to Taiwan. And he would give his blessing to Pekin's idea for a peaceful fusion of mainland and Taiwan—which is further than three previous American Presidents cared or dared to go.

Yet for all the dismay these American approaches caused in Taiwan, Peking's recent responses have been stony.

The Communists refuse to accept the sincerity of Mr. Reagan's intentions; his offer of American technology in return for an understanding on Taiwan was rebuffed as a crude bribe. The resignation of Secretary of State Haig, whom the Chinese knew to be a defender of strategic partnership, seems to have made it even harder for anyone in Pekin to champion the American connection. Policy toward the United States may be a factor in Peking's power struggles; an accord on Taiwan may be impossible at this point.

Americans emphatically believe they have a moral obligation to provide Taiwan with defensive arms, as provided in the Taiwan Relations Act and as understood by Peking when a normalization deal was struck with Jimmy Carter. With military sales to Taiwan drastically reduced, the United States at a minimum ought to authorize renewal of the co-production of F-5E jet fighters. But Pekin demands an end to all weapons sales, in language so strident as to suggest it prefers the grievance to an accommodation.

The outcry over foreign devils in China has a depressing resonance. So does the call to doctrinal purity, part of an orchestrated attack on capitalist "decadence." Rational diplomacy with China may be an early victim of its next revolution.

[From the Washington Post, July 30, 1982]

(By Rowland Evans and Robert Novak)

ABANDONING TAIWAN . . .

President Reagan is on the brink of approving a joint U.S.-Communist Chinese communique that friends of an independent Taiwan regard as a prolonged death sentence for the island regime and the conservative movement will resent as the president's worst betrayal yet.

From Taiwan's standpoint, all that can be said for the new communique is that it does not end U.S. arms sales on a certain date, as Peking demanded. It does, however, make clear that the weapons supply cannot go on indefinitely and will not be upgraded.

This reinforces the 1971 Shanghai Communique's recognition of "one China," pointing to eventual control over Taiwan by the mainland communists. Since the phase-out of U.S. arms is not linked by the new communique to reduce tensions between the two Chinas, the long-term prognosis for Taiwan is bleak.

To conservatives who have tried to overlook the drift toward moderate Republicanism by the Reagan administration, the betrayal of Taiwan is the last straw. Reagan, who championed Taiwan throughout his political career, has not consciously abandoned his principles. Rather, on this as on other questions he has insensibly followed the lead of the permanent government bureaucracy.

Although pro-Taiwan conservatives in Congress are pressuring the president to reject the communique, it is hard to imagine throwing aside what has been hammered out secretly in Peking negotiations this summer, especially when the communist regime accepted less than anybody ever expected.

This represents a victory from the political grave for Alexander Haig, who as secretary of state battled for the paramountcy of the Washington-Peking link over the future of Taiwan. Haig's obduracy on the China question was one of the least publicized and most important causes for his fall.

Haig insisted that good relations with Peking required nothing less than a communique setting a date certain for ending arms shipments to Taiwan. A few days after Haig was sacked, Reagan rejected his communique and instead approved a fuzzier version and shipped it off to Peking. Friends of Taiwan breathed easier, not because they liked the softer version but because they thought China's Deng Xiaoping would reject it out of hand.

Deng disappointed them. The Chinese would accept no linkage of terminating aid to Taiwan with reducing tension between the communist and nationalist regimes, but agreed to a promise that present weaponry would not exceed past quality and quantity and would not continue indefinitely.

The 32-year emotional legacy since Chiang Kai-shek fled the mainland makes this accommodation unforgivable for the president's conservative constituency.

From the Washington Times, Aug. 4, 1982]

OUR CHINA POLICY MAY DRIVE TAIWAN TO SOVIETS

(By Smith Hempstone)

In what would amount to violating the spirit if not the letter of the law of the land, the Reagan administration apparently is trying to formulate a policy acceptable to Communist China that would have the effect of eventually shutting off the present modest flow of American arms to Taiwan.

The Taiwan Relations Act of 1979 asserts that "the United States will make available in Taiwan such defensive articles and defensive services in such quantities as may be necessary to enable Taiwan to maintain a self-defense capability." The act further provides that "the President and Congress shall determine the nature and quantity of such defensive articles based solely upon their judgment of the needs of Taiwan."

The Reagan administration, according to Sen. Barry Goldwater (in an interview with *The New York Times)*, plans to circumvent its clearly stated responsibility to ensure the defense of Taiwan by proposing to Peking a plan under which Taiwan in the future would not receive any more or better arms of any type than it now does.

While this falls short of Peking's demand for a complete cessation of arms sales to the Nationalist Chinese, it would ensure the ultimate obsolescence of the arms made available to Taiwan by the United States. Further, inflation in the end would price Taiwan out of the American arms market.

In January, President Reagan announced his decision to supply Taiwan with additional F-5E jet fighters, rather than the more advanced FX aircraft the Nationalists were seeking. Mainland China's F-8 fighter, a copy of the Soviet MiG-21, is in some ways equal or superior to the F-5E. The F-12, which boasts elements of western technology, will be even better when it is developed in 1985.

Yet in an apparent attempt to kowtow to Peking, the White House, which had set July 29 as an informal target date for ending formal notification of the decision to allow continued co-production of F-5Es in Taiwan, has allowed this date to slip by. Quick action on this modest upgrading of the Nationalist air force is necessary to avoid a break in the Northrup production line.

What the administration is hoping is that Peking will agree that Washington's decision to allow inflation to erode the worth of American arms sales to Taiwan meets the Communist requirement that the U.S. halt significant transfers of military hardware, which Communist China regards as an infringement of its claim of sovereignty over the island republic. The White House has little room for maneuver because it unwisely agreed last winter that no further arms deals with Taiwan would be consummated while negotiations continue in Peking, thus giving the Communists every reason to string out the talks.

Peking ducks such as National Security Council staffer Don Gregg, soon to become Vice President George Bush's principal foreign policy adviser, have yet to suggest publicly what the United States has gotten out of playing its vaunted "China card."

The Communist Chinese have yet to criticize the Soviets for the repression in Poland. They have not renounced the use of force to resolve their conflict with Taiwan. They have not stopped denouncing the presence of American troops in South Korea.

The jobs and profits that were supposed to flow from the re-establishment of the China trade have proved illusory. Little Taiwan, with a population of only 17 million, is America's sixth-largest trading partner, with two-way trade exceeding $13 billion. Our trade with Mainland China, which boasts a population of nearly 1 billion, amounts to only about a third of that.

The ultimate effect of the administration's craven China policy will neither promote the cause of human rights on Taiwan nor lead to the peaceful reunification of the two Chinas. If anything, this policy could well drive Taiwan into the arms of the Soviet Union in its quest for a guarantor of its security.

Such a flip-flop may seem far-fetched, but it is no more so than the one that has seen the United States abandon an old friend for an uncertain dalliance with Peking. The Soviets, an Asian power in their own right, have cordial relations with India and a firm foothold in Vietnam. Moscow has played footsy with the Koumintang before, and would do again if it served its interests.

[From the Washington Times, Aug. 4, 1982]

RIGHT WING FEARS DESERTION OF TAIWAN

(By Ron Cordray)

Despite assurances from President Reagan that he remains committed to the defense of Taiwan, conservatives see growing dangers of U.S. abandonment of that nation.

The latest signal that has raised the concern of conservatives is the pending appointment of a moderate Republican to a key National Security Council position on China relations.

Sources say three conservatives were passed over for the position which will be given to David Lux, formerly on the China desk of the Commerce Department. The sources said Lux was backed by Donald Gregg who held the position prior to becoming Vice President George Bush's security adviser.

Conservatives view continued arms sales to Taiwan as the key to this administration's Taiwan commitment.

Gary Jarman, national director of the American Council for a Free Asia, said the "fundamental value of selling arms to Taiwan is not just to have weapons to repel an attack, it's a deterrent. It automatically brings us into the equation. The commitment to sell arms is the real deterrent."

"The pro-Peking faction realizes that a halt of arms sales to Taiwan would force Taiwan into unification negotiations with the Peoples Republic of China," one congressional source commented.

President Reagan met with about two dozen congressmen last week to discuss Taiwan, namely the contunued sale of arms to that nation and the joint communique to be issued by the United States and China.

Relative to the U.S. position on Taiwan, Sen. Barry Goldwater, R-Ariz, told the president that "someone in the State Department is doing you a disservice" by saying one thing "while you're saying another."

In response, Reagan said, "I can assure you I have my people in charge who are going to do what I represent."

The administration told congressmen it would send to Congress this month notification of a continued co-production agreement with Taiwan of the F-5E fighter and the sale of spare parts to Taiwan.

It was stated that the congressional notification and release of the joint communique with Peking would not be linked.

Reagan told congressmen the administration is attempting to arrive at language in the communique which will give Peking the "form" and yet give Taiwan the "substance."

Congressional sources said the president was confronted with the concern that an improperly worded communique would jeopardize Taiwan politically and militarily. In response, Secretary of State George Shultz said, "You're absolutely right."

Reagan said the statement on arms sales to Taiwan speaks in terms of quantity and quality only as it relates to the present situation. He said if China changes its position, the U.S. arms position also would change.

It was implied that the specific issues of quantity and quality of arms sales would not be in the communique, at least not spelled out explicitly. Reagan said it was his intention to be vague to allow flexibility.

Apparently to alleviate conservatives' concerns, Reagan told of a meeting he had with ex-president Richard M. Nixon following the normalization fo relations with China. At that meeting, Reagan asked Nixon what he would do in response to an attack on Taiwan. Nixon told him his response would be to respond with everything we have. Reagan then told Nixon, "I would also do that."

Conservatives remain concerned, however. They point to pro-Peking attitudes in the State Department and the views of Vice President George Bush who, according to sources, told Peking the Taiwan Relations Act is basically a nuisance.

They claim Bush fears a downgrading of relations with China and this could be a yoke around his neck in a 1984 or 1988 presidential bid.

Just as conservatives are concerned in other areas, they view the Taiwan debate as another example of moderate Republican views superseding the conservative views they expect President Reagan to represent.

With the United States and China reportedly close to agreement on the joint communique, conservatives may not have to wait long to determine if the pattern is continuing.●

PEACE IN THE MIDDLE EAST

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BROOMFIELD. Mr. Speaker, I want to take this occasion to extend my personal congratulations to Special Envoy Philip C. Habib for his historic contributions in the Middle East peace initiative. In recognition of his commendable diplomatic efforts and tireless service to his country, President Reagan presented Mr. Habib with the Nation's highest civilian award, the Medal of Freedom. As you know, the Medal of Freedom is bestowed by American Presidents on people who have made exceptionally meritorious contributions to the security or national interest of the United States, to world peace, or to cultural or other significant public, or private endeavors.

During the past 3 months, Envoy Habib was engaged in a marathon negotiating effort to bring to an end the tragic bloodshed and chaos in Lebanon. In the midst of the vicious fighting, he traveled to war-torn Beirut and deftly worked with many concerned groups to put an end to the fighting. He displayed not only personal courage, but incredible stamina in pursuing the drawn out negotiating efforts. His courageous efforts were demanding of both his energies and his considerable expertise in negotiating. He successfully brought about the cease-fire in Lebanon and the resolution of the crisis in West Beirut.

Those of us who have known Phil Habib over the years appreciate that he has served his country in many difficult diplomatic assignments overseas; we know firsthand of his exceptional contributions to our country and to world peace. Tuesday, President Reagan described Mr. Habib's recent

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negotiating efforts as "one of the unique feats of diplomacy in modern times."

I also want to strongly applaud the President and Secretary Shultz for their dedication, determination and vision in committing the many resources of our country to the pursuit of the elusive goal of bringing peace to this troubled land. Without their full support, Mr. Habib's long-term efforts would not have been possible.

I fervently hope that the cease-fire and recent developments in Lebanon will be the first step along the road to peace. Although much remains to be done, I am hopeful that this initial effort will ultimately lead to a just and lasting settlement for all of the concerned parties in that part of the world; they have indeed borne far too much suffering, grief, and bloodshed in recent years, and will, I am sure, welcome a new dawn of peace.●

CONGRESSIONAL SALUTE TO ANTHONY REED, DISTINGUISHED CITIZEN, ESTEEMED UNION REPRESENTATIVE, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROE. Mr. Speaker, on Saturday, September 11, the residents of my congressional district and State of New Jersey will join with local 669 UAW retirees of Paterson, N.J., in testimony to an esteemed union representative, outstanding citizen, community leader, and good friend, the Honorable Anthony Reed of Paterson, Wayne, and Toms River; N.J., who has announced his retirement as International Representative of the most prestigious UAW organization of United Automobile, Aerospace, and Agricultural Implement Workers of America.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in extending our deepest appreciation to Tony Reed for all of his good works and share great pride in the success of his achievements with his good wife, Jean Leslie, and their family: son Robert and wife Vicky of San Diego, Calif.; son Anthony, wife Robin, and daughter Katie of West Milford, N.J.; daughter Kathleen, husband Robert Sherger, and children Erika, Reed, and Sara of Lincoln Park, N.J.; daughter Diane, and husband Joseph Telford of San Diego, Calif.

Mr. Speaker, as Tony Reed retires from his highly respected office of representation on behalf of the United Automobile, Aerospace, and Agricultural Implement Workers of our Nation, I am pleased to participate with his many friends and colleagues in seeking national recognition of his untiring and compassionate efforts on behalf of his fellow man.

We are all familiar with the goals and objectives of the UAW in their constant vigil to enhance conditions in the workingplace and protect our working people and their hopes for better tomorrows. Tony Reed has, by his representation and lifetime of dedication to these same true American ideals of everything we hold dear—the laborers in the vineyard of our industrial complex, their families, homes, jobs, pensions, security, and opportunities to advance—has truly enriched our community, State, and Nation.

Mr. Speaker, we are proud to boast that Tony Reed is a native-born citizen of Paterson, N.J., the first industrial city of our Nation. He was born August 3, 1920, and is one of 11 children of William and Jennie Reed. He is a lifetime resident of our great sovereign State of New Jersey, residing in Paterson and Wayne until moving to Toms River in 1977.

As a young man of 19 years, Tony joined the employment roster of the Curtiss-Wright Corp., of Wood-Ridge, N.J., a manufacturer of national and international renown and a major employer in the State of New Jersey, and particularly for the people in Passaic and Bergen Counties in my congressional district. For close to four decades he worked on the production lines of Curtiss-Wright as a laborer and machine operator until his retirement in 1977.

During the course of his career pursuits, Tony earned the highest respect and esteem of his fellow workers at the Curtiss-Wright Corp. He was elected union steward in 1951, financial secretary in 1963, and in 1965 was elected president of UAW Local 669 at Curtiss-Wright. On November 1977 he was appointed to UAW Region No. 9 as international representative.

Mr. Speaker, there is much that can be said of Tony Reed and his lifetime of achievements in service to people. His leadership and highest standards of excellence in ever seeking to improve the quality of life and way of life for our people throughout his lifetime have endeared him to all of us.

In civic affairs, Tony has extended the richness of his wisdom and expertise—always giving willingly and unselfishly of his time—in helping others. We are especially proud of his compassion, dedication, and untiring efforts on behalf of his fellow workers. His personal commitment to them and to the economic, social and cultural enhancement of the community has been a way of life for him.

Tony's professional expertise in the American labor movement has enabled him to achieve State and national acclaim for his union representation of the employees of Curtiss-Wright Corp.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life here in America. There is so much that can be said of the friendship and good will that Tony has so willingly and abundantly given over these many years that mean so much to the lives of all of us. I appreciate the opportunity to seek this national recognition of all of his good works.

As we gather together on September 11 in tribute to his leadership endeavors and sincerity of purpose dedicated to service to people, we do indeed salute a distinguished citizen, outstanding community leader, and great American—the Honorable Anthony Reed of New Jersey.●

"HUMANISM" BACKGROUND EXPLAINED BY THEOLOGIAN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. SIMON. Mr. Speaker, one of the words that is being tossed about in the political arena these days is the word "humanism."

The first time I heard the phrase "secular humanism" was on the floor of this House.

And I have felt uneasy about the misuse of this word.

The other day in The Lutheran Standard I read an article by Michael Rogness, pastor of The First Lutheran Church in Duluth, Minn., titled "Speak a Good Word for Humanism."

Before we clutter the political lexicon with a misuse of that word, it would be good for everyone to read this Lutheran minister's analysis.

I urge my colleagues in the House and Senate to do so.

SPEAK A GOOD WORD FOR HUMANISM

(By Michael Rogness)

"You're a humanist!" is a stinging criticism for millions of people today. By contrast, the same statement would have been considered a glowing compliment until a few years ago.

What has changed?

The word "humanism" now has many meanings. Some are far different from what it originally meant.

RISE OF HUMANISM

It started out as a splendid word, very much at home in the Christian church.

In medieval society, scholars were interested mainly in other worldly topics such as the nature of God, revelation, and the heavenly spheres. The various natural and social sciences were either nonexistent or in their infancy. Literature, music, and art dealt almost wholly with Christian themes and ceremonies.

Then, in the 14th and 15th centuries, scholars, artists, and writers began to turn their attention to this world. "Let's see what human beings are like" was the theme of their inquiry. This marked the birth of humanism—a movement that grew within the church.

These scholars were Christian. They saw humanity as the peak of God's creation. Humanists believed human beings were exalted because they were created in God's image and given the breath of life. A favorite text of the humanists was in Psalm 8: "What is man that thou art mindful of him . . . ? Yet thou hast made him little less than God, and dost crown him with glory and honor."

The classic visual example of this humanism is Michelangelo's portrayal of the handsome Adam on the ceiling of the Sistine Chapel in Rome, with his finger outstretched to receive the divine spark transmitted from the Creator's own finger reaching to him.

This high regard for human beings caused humanism's influence to spill out in several directions. Humanists took a renewed interest in common people. The democratic impulse can be traced to humanism; to inevitably developed from the conviction that each human being should be considered God's creature. Kings, princes, and bishops were important in the order of creation, but serfs and workers also were children of God.

Humanism prepared the way for the Reformation through its interest in all people and by its encouragement of scholarship for learning the biblical languages. This, in turn, led to the renewal of the gospel's proclamation of God's love and grace for *all* people, from king to slave!

"Humanism" was indeed a splendid word!

CHANGING DEFINITIONS

Since then the meaning of the word has wandered in many directions. My advice is never to discuss humanism without first defining what is meant by it.

1. Humanism as "humanitarianism" is a general term to describe active concern for the welfare and well-being of people. Every Christian should be humanitarian and a humanist in this sense, if we take Jesus' parable of the good Samaritan seriously and follow his command to "love your neighbor."

2. Humanism as "the study of the humanities" refers to the whole range of subjects that examine human nature, society, and culture: literature, history, art, economics, sociology, psychology, social studies, and so on. Nowadays they are set apart from the "natural sciences," although many of the natural sciences also were given a boost by early humanists. Surely we want our very best young Christian scholars to enter all these fields of study.

3. "Christian humanism," as described above, expresses the conviction that every human being is precious because we are created by God.

4. "Secular humanism" is the term that draws fire today. It also has thrown the word humanism into disrepute. Secular humanism is humanism without God.

GOD NOT IN THE PICTURE

Webster's New World Dictionary defines humanism as "thought or action concerned with the interests and ideals of people." A secular humanist would share that concern, but God is not in the picture. One problem of secular humanism is that it is humanism without humanism's moorings. The anchor for a Christian humanist is the conviction that the world is God's creation and that each person is created in God's image, is loved by God, and therefore is of great value as a child of God. Secular humanists lack this foundation and therefore give human beings value only as they choose. A secular humanist might affirm the worth of a human being, yet conclude that certain nationalities, retarded persons, or elderly people are not as valuable as the rest of us.

A Christian humanist derives ethics from God; a secular humanist derives convictions of right and wrong from whatever opinions or sources he or she chooses. One secular humanist may or may not agree with another secular humanist. It is therefore impossible to consider secular humanists as any kind of solid bloc of opinion or strategy.

WHEN WAS TERM USED?

When was the term secular humanist first used? Who knows? It was listed as a religion without a belief in God in a footnote to a 1961 Supreme Court opinion. Ultraconservatives have interpreted this as some sort of legal recognition of secular humanism as the de facto religion of the land, although the footnote actually does not such thing. (The late Justice Hugo Black, who wrote the opinion, would be astounded by that interpretation.)

Those who see secular humanism as the menacing threat to Christianity point to the "Humanist Manifesto," signed in 1933 by 34 intellectuals. These 34 individuals called for a new "religious humanism" to replace traditional creeds. They also urged people to reject "acquisitive and profit-motivated society" in favor of a "socialized and cooperative economic order [with] the equitable distribution of the means of life."

IN STEADY DECLINE

Their manifesto was more a socialist than a religious document. But it gave birth to the American Humanist Association, whose membership, now about 3000, recently has been in steady decline.

In 1973 Paul Kurtz, a philosophy professor at New York University in Buffalo, drafted the "Humanist Manifesto II," which was signed by 61 persons. This document was candidly antireligious, rejecting God, enshrining "self-actualization" as the goal of life, insisting that ethics is "autonomous and situational," and affirming the right to birth control, abortion, sexual permissiveness, euthanasia, and suicide.

Both manifestos received only scant attention from the news media or anybody else. They would have faded into obscurity if it were not for their opponents, who have blown their influence way out of proportion!

Unfortunately many Christians have chosen to abbreviate the term "secular humanism" They have focused not on "secularism," which is a real danger to the faith, but on "humanism"—thus ruining an otherwise good word! I recently read two examples of this distorted view of humanism: "Humanism is the worship or recognition of man's claim to sovereignty and lordship." "Basically, humanism is a rejection of the ultimacy of God's throne and its replacement by the thrones of men. . . . Humanists within the church place sovereignty or lordship in man." Those are definitions not of humanism, but of secularism. But the damage has been done, and one hardly dares to say "I am a humanist" anymore.

FOSTERING PARANOIA

We are being hustled into a paranoid panic by those who have convinced themselves that "275,000 humanists have infiltrated [our country] until every department is controlled by the humanists." This dark "conspiracy theory," promoted by San Diego Baptist minister Tim LaHaye, is a blind shot with no foundation except the fears and suspicions of those who want to believe it. Also wildly inaccurate is the shrill charge of the Rev. Leo Wine of Ashland, Oregon, that "humanists' obsessions [are] sex, pornography, marijuana, drugs, self-indulgence, [and] rights without responsibility."

Religious-media hucksters play on the fear of their audiences. This is easy enough, because Christians are concerned about signs of decline in various aspects of our national life.

But such paranoid accusations and distorted statements, lumping thousands into a vast plot, only make Christians look ridiculous to fairminded people and convince the public that Christians are irresponsible in their accusations.

We Christians are deeply concerned about many trends in our society. We need to face these not with panic or paranoia, but with reasoned analysis and compassion.

For instance, it is true that there is an antireligious bias on many university campuses and in the news media. The valid impact of religion in our national life is largely ignored or often belittled. Christians are depicted one-sidedly, either as bigots or doddering fools.

It's also true that crime has increased, moral standards have loosened, and TV and movies now portray behavior as acceptable today that would not have been shown at all 20 years ago.

We are concerned about these trends, and we should speak out and make our convictions known.

Yet we should be clear on this point: What we really oppose as Christians is not humanism, but secularism and nonhumanism.

We oppose secularism because we believe that God is creator and Lord of this world and that we are his stewards.

We oppose nonhumanism because, as the opposite of humanism, it has little regard for persons as individuals of value. A university, hospital, office, or agency that regards people impersonally as numbers is "nonhumanist." We Christians should attempt to treat people as persons of worth, even in the midst of bigness. Some employers treat workers impersonally; that is nonhumanism. Some people talk about nuclear war callously, not realizing the ghastly and unthinkable suffering it would cause. That is nonhumanism, and we Christians must oppose it. Some people regard the gross national product as more important than the needs of the poor, the minorities, and those with disadvantages. That is nonhumanism, and we oppose it.

EXAMPLES OF NONHUMANISM

We are appalled at the nonhumanism that consider Jews inferior to others and killed millions of them, or the nonhumanism that led to Stalin's liquidation of 20 million peasants in the Soviet Union and the murder of millions in China in the 1950s. We are dismayed when the world's refugees, the starving, or the "boat people" are spoken of only as statistics. Those are all dramatic examples of nonhumanism, but there are countless examples on a smaller scale around us.

We Christians should welcome help from humanists of any stripe in our concern for people. We might not agree with secular humanists, but we welcome them if they work for civil and minority rights, job equality, peace, and other true humanist concerns.

I wish we could rescue the word "humanism," although it has been so badly battered that rescue might be impossible. But we should and do stand up for "humanitarian-

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ism," the "humanities," and the grand tradition of Christian humanism.

All in all, I should still like to be counted a humanist!●

ON BEHALF OF THE REFUSENIKS OF THE U.S.S.R.

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FIELDS. Mr. Speaker, today I am speaking on behalf of a family that cannot speak—a family that resides in the Soviet Union. Veniamin and Bella Lifshitz have tried to leave the Soviet Union and join their children and grandchildren in Israel since 1971. Repeatedly, they have been denied permission to emigrate because of Veniamin's alleged access to sensitive military information obtained when he served as a colonel in the Soviet Army more than 30 years ago.

In 1948, at the age of 40, Veniamin retired from the army as a semi-invalid with permanent heart damage. During the next 12 years, he was employed at a light industrial plant, not connected with any secret or sensitive work, until failing health forced him to resign. Since 1960, Veniamin has suffered from severe chest pains and recurring migraine headaches, sometimes confining him to bed for months at a time. It is indeed tragic, Mr. Speaker, that this 74-year-old man and his 69-year-old wife, are forced to remain in the U.S.S.R.

Mr. Speaker, I am pleading their case to the House of Representatives and to the Government of the Soviet Union hoping that their emigration applications will be approved in the near future.

I commend my colleagues' attention and participation in this worthwhile effort—an effort to help innocent refuseniks to leave the Soviet Union and be united with their loved ones in Israel.●

A TRIBUTE TO MR. RALPH LIEBERMAN

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROUSSELOT. Mr. Speaker, I would like to take this opportunity to honor an outstanding citizen, Mr. Ralph Lieberman of Commerce, Calif., who has been selected to receive the "Man of the Year" award by the Kiwanis Club of his hometown.

Mr. Lieberman will be feted at the Kiwanis' annual barbeque luncheon on October 1. Later in November, he will be the recipient of the Industry Statesmen Award at a special meeting held in Washington, D.C.

These awards come at the culmination of Ralph Lieberman's 50-year career with Sinclair Paint Co.

Ralph Lieberman has grown along side of Sinclair Paint Co. When he began working, there were only three employees. Sinclair now boasts almost 1,000 employees, a headquarters, and 2 other locations. But one thing has stayed the same under Ralph Lieberman's direction: the quality of the paint. Although he retired this year, he still keeps a hand in the business, talking with the staff almost every day.

He is also a past president of the industrial council and continues to work with that organization as chairman of the nominating committee and as a member of the board of directors.

Besides being one of Commerce's outstanding business people, Ralph Lieberman is being recognized as "Humanitarian of the Year." Somehow, on top of his business duties, Ralph has found the time to work for area charities. His two favorite charities, the United Jewish Welfare Federation and the cardiovascular unit of Cedars of Sinai Hospital, have him working for them on nearly a full-time basis. He began working for the federation in the 1960's and served for 2 years as division chairman.

The Commerce Kiwanis could not have made a better choice for "Man of the Year." Ralph Lieberman has made outstanding contributions in business and charity work alike. I would like to congratulate Ralph Lieberman on his latest achievement.●

FIFTY WAYS TO PROMOTE INDUSTRIAL INNOVATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BROWN of California. Mr. Speaker, it is frequently said that there is nothing Government can do to promote industrial innovation except get out of the way. Others, less skeptical of the role of Government, have still been cynical, and have asserted that there are no good ideas on how Government could help achieve this important national goal.

Personally, I have rejected both points of view and have instead advocated a variety of constructive initiatives. For several years, primarily through the Committee on Science and Technology, I have helped draft and in several cases enact legislation designed to encourage industrial innovation and productivity. During the Carter administration some modest progress, which I criticized as being inadequate, was made in implementing these programs. Surprisingly, given the oft-stated goals of the Reagan administration, most of the constructive initiatives in place when President Reagan entered office have been curtailed or eliminated.

Fortunately, not all initiatives originate in Washington, D.C. A few days ago the Governor's office in California issued an important report entitled, "Winning Technologies: A New Industrial Strategy for California and the Nation." This report, which was prepared by a 17-member Commission on Industrial Innovation appointed by California Gov. Edmund G. Brown, Jr., is useful to those of us who work on this issue in Washington as it is to the original recipients in California.

Mr. Speaker, rather than attempt to summarize this report and extract what elements I felt were most important, I would like to share the summary of recommendations, along with the list of commission members. I commend the following material to my colleagues:

WINNING TECHNOLOGIES—A NEW INDUSTRIAL STRATEGY FOR CALIFORNIA AND THE NATION

TABLE OF RECOMMENDATIONS

Industrial strategies for innovation

1. The California Commission on Industrial Innovation calls for the United States and California to develop national and state industrial strategies, aimed at accelerating the invention and utilization of winning technologies.

Investment for innovation

2. The United States Congress should pass the Reciprocal Trade and Investment Act of 1982.

3. The President should aggressively negotiate lower trade barriers for high-technology products through the General Agreement on Tariffs and Trade (GATT).

4. The United States should expand the incremental research and development tax credit.

5. The United States should enact an antitrust exemption for joint research by high-technology companies.

6. California should establish antitrust exemptions for research and development cooperative ventures.

7. The United States should restore budget cuts in research in such critical areas as the National Institutes of Health, the National Science Foundation, and the national laboratories of the Department of Energy and NASA.

8. The United States should move toward the complete elimination of taxation of long-term capital gains. As a first step, the government should eliminate capital gains tax on investments in new companies, while taxing gains from investment in nonproductive investment as ordinary income, as has been legislated in California.

9. The United States should allow corporations, at their option, to write off equipment at the rate at which it becomes obsolete if this would result in faster depreciation than current schedules permit.

10. The United States should create financial free trade zones to attract foreign investment.

11. California should bring its treatment of incentive stock options and employee stock ownership plans into conformity with recent federal changes.

12. The United States should redirect policies and increase support for the Export-Import Bank to assist U.S. businesses in effectively meeting unfair foreign competition.

13. States should enact pension fund flexibility to invest in innovation, as called for in Proposition 6 on the November 1982 ballot in California.

14. The United States should encourage investment in existing U.S.-based growth technologies targeted by government policies of our major industrialized trading partners.

Education and job training for innovation

15. The United States should mobilize national resources to support math, science, computer, engineering and high-technology vocational education, as was done through the National Defense Education Act in the 1950s.

16. University and community college governing boards should raise entrance requirements in math, science and computer studies.

17. School boards should raise standards required for graduation from high school to at least three years of math and two years of science, including at least one semester of computer studies.

18. Private industry should extend support for summer study by students in math, science and computer studies.

19. California should include science and computer studies in statewide or local standard elementary and secondary school achievement tests.

20. State universities should train guidance counsellors to encourage students to take math, science and computer courses, especially women and minorities.

21. California should reorient existing math and science achievement tests to stress problem-solving and not rote computation.

22. The United States and California should match funds with private industry to develop new curricula using new technologies like videos and computers.

23. Post-secondary education should expand the number of course offerings in math, science and computers available to secondary school students.

24. The U.S. Congress should pass legislation offering the same tax benefits for donations of computers to elementary and high schools as now exist for donations to universities.

25. California should promote the development of new computer software to expand computer education for interactive learning.

26. Until computers become more common, California should expose students to computers through mobile vans such as those sponsored by the Industry Education Council of California.

27. California should encourage school districts to form regional high-tech high schools which pool trained teachers, equipment and curricula.

28. School boards should offer teacher income supplements to math, science and computer teachers, based on what such skills are worth in the private sector.

29. Private industry should introduce recognition incentives for superior teachers. Universities should also recognize outstanding teachers.

30. The private sector should offer the use of employees as part-time teachers.

31. Private industry should provide employees to train teachers in math, science, and computer studies, and provide industry sites for hands-on computer training.

32. Universities and State Colleges should increase their commitment to math, science, and computer education.

33. State and federal governments could fund incentives in the form of teacher education scholarships to attract teachers into math, science and computer studies.

34. Private industry could also hire high school math and science teachers during the summer session, as a way to supplement their income and to gain upgrade training in new technologies.

35. School Boards should provide opportunities for all existing teachers to take training supplements in computer-aided education.

36. The State and federal governments should jointly fund inservice retraining for teachers in math and science, especially those with emergency credentials, through math/science computer institutes.

37. The United States and California should increase financial support to Schools of Engineering, Computer Science and related fields, so as to expand their capacity to produce qualified graduates.

38. The United States should not use the immigration laws to restrict the ability of foreign nations to work as engineers for U.S. companies or to serve as engineering faculty.

39. California should encourage the formation of university/industry research parks and expand other joint research efforts like MICRO, already established here, as a means of attracting new scientists and professors to the State.

40. California should encourage universities to revise patent policies to enhance industry cooperation.

41. The United States and state governments should encourage vocational programs to involve as much on-the-job training and employer participation as possible.

42. California should place a high priority on the development of vocational training programs in new and emerging technologies.

43. The private sector should establish Business/Labor councils to review existing programs, develop new ones, and take other actions to promote effective job-training.

44. The private sector should offer industry sites, equipment and employees to serve as faculty to the community colleges for job-training programs.

45. California should make a comprehensive effort to retrain existing teachers for the new skills of the 1980s.

46. The U.S. and California should make special efforts to develop effective job-training programs for displaced workers.

Employee-management productivity for innovation

48. California should establish Tripartite Boards to promote increased worker participation and productivity.

49. California should set up a clearinghouse to provide technical assistance and information to public and private sector efforts to increase workplace productivity.

50. California should encourage the development of employee stock ownership plans, and incentive stock option proposals for both workers and managers.

CALIFORNIA COMMISSION ON INDUSTRIAL INNOVATION

Gov. Edmund G. Brown, Jr., Chairman.

Richard C. Atkinson, Chancellor, University of California, San Diego.

David Commons, Consultant.

William C. Demers, International Vice President, Communication Workers of America.

Don Gevirtz, Chairman and CEO, the Foothill Group.

Ira Michael Heyman, Chancellor, University of California, Berkeley.

Ruth Jernigan, International Representative, United Auto Workers.

Steven Jobs, Chairman of the Board, Apple Computer Inc.

Robert P. Marr, Director of Public Relations, Operating Engineers Local No. 3.

Regis McKenna (Ex official), Chairman, Regis McKenna, Inc.

Rene McPherson, Dean, Stanford Business School.

David Packard, Chairman of the Board, Hewlett-Packard Co.

Leland Prussia, Chairman of the Board, Bank of America.

James L. Quillin, Secretary/Treasurer, California Conference of Machinists.

G. Rip Ridley, President, WAMS, Inc.

Lynn A. Schenk, Secretary, Business, Transportation and Housing Agency.

Charles Sporck, President, National Semiconductor Corp.

Don Vial, Director, Department of Industrial Relations.

Jerry Whipple, Regional Director, United Auto Workers, Region 6.●

TRIBUTE TO CAPT. DONALD C. POE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. LEWIS. Mr. Speaker, on September 24, 1982, friends and colleagues will pay tribute to an outstanding law enforcement officer and community leader, Mr. Donald C. Poe. I would like to take this opportunity to join with those honoring Mr. Poe and commend him to the House of Representatives today.

A lifelong resident of the Inland Empire, Donald C. Poe was born in Loma Linda, Calif. and attended Redlands schools. Upon graduation from Redlands High School, Donald furthered his education at San Bernardino Valley College until joining the U.S. Navy in August 1948.

In February 1953, Mr. Poe was hired as a patrolman for the Redlands Police Department by Chief of Police W. E. Slaughter. He was promoted to sergeant in September 1955 and assigned to the traffic bureau until January 1959. Following a promotion to lieutenant, he was given the responsibility of assisting the architect who designed the present Redlands Police Department building.

Donald Poe was promoted to captain in January 1963. His assignments as captain have been in both the operations and administration divisions where he was responsible for budget, planning, organizational development, investigations, and patrol operations. Since joining the Redlands Police Department, he has worked for five chiefs of police and three acting chiefs

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and currently works for Chief Robert E. Brickley.

An active participant in community endeavors, Donald Poe is a member of the Redlands Host Lions Club, Redlands Elks Lodge No. 583, American Legion Post 106, the YMCA, and the Redlands Lawn Bowling Club. He has served as president and deputy district director of the Lions Club and is past exalted ruler of the Elks Club where he also served as secretary. His law enforcement organization affiliations have been as president of the Southern California Warrant Officers Association, president of the San Bernardino County Peace Officers Association, and the Redlands Police Benevolent Association. He holds a teaching credential in police science at the community college level.

An active sportsman, Donald's favorite pastimes include bowling, golf, softball, racquetball, and surf fishing. The highlight of his golfing career is a verified hole in one at the Redlands Country Club on July 2, 1963, on the fifth hole.

Mr. Poe and his lovely wife, Cathy, are the parents of 8 children and the grandparents of 13. Mr. and Mrs. Poe reside in the city of Redlands.

Mr. Speaker, it is truly an honor to recognize Mr. Donald Poe for his unswerving dedication to the law enforcement profession. His all-too-often thankless job has provided the security and safety for the residents of Redlands. Mr. Poe will certainly be missed but not forgotten by all those fortunate enough to have worked with him. With great respect I commend Mr. Donald Poe to the House of Representatives.●

SOVIET TARGET: SOUTH AFRICA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FIELDS. Mr. Speaker, presented here are two articles written about the Soviet designs for taking over the African Continent by subverting current states and replacing them with Soviet puppets. These articles are based on the testimony of defectors from the Marxist-dominated Southwest African People's Organization and the African National Congress, organizations of terrorists and murderers posturing as political entities.

This testimony, given before the Senate Subcommittee on Security and Terrorism, provides concrete reasoning for the United States not pushing for a negotiated settlement for the sake of a settlement in Namibia, but the United States should take the time necessary to insure a settlement directed toward real self-determination in that area. The world has enough Cubas and Nicaraguas already.

[From the Washington Times, Sept. 9, 1982]

South Africa: Soviet's Chief Target

(By Daniel James)

The Soviet Union's effort to capture Namibia through the South West African Peoples Organization (SWAPO) is basically a step toward attaining its central goal in southern Africa: the subversion of the Republic of South Africa.

Its chosen instrument for doing so is the African National Congress, like SWAPO a former nationalist group now Communist-dominated, according to ANC defectors testifying before the Senate Subcommittee on Security and Terrorism.

One defector, Bartholomew Hlapane, was simultaneously a member of the ANC's National Executive Committee while secretly serving on the Central Committee of the South African Communist Party—a role that gave him a rare insight into Soviet machinations in southern Africa.

Hlapane, who had joined the African National Congress in 1948 believing in its goal of achieving racial equality through peaceful, democratic means, was recruited by the South African Communist Party seven years later, persuaded that the SACP would speed up the process.

By 1964, however, he became convinced that the SACP was using the ANC as merely "the first step [toward establishing] a socialist state" in South Africa, and as a means of igniting a violent revolution which betrayed "what we told the people of South Africa," and resigned from both groups.

Today, the ANC is thoroughly Communist-dominated, with seven of its 22 National Executive Committee members, including the deputy secretary general, belonging to the South African Communist Party, Hlapane revealed to the Subcommittee. ANC's president, Oliver Tambo, though not formally a Communist, has embraced "scientific socialism" and gladly accepts Soviet support, both military and other.

"During the period I served in the ANC and S.A. Communist Party," Hlapane further testified, "no major decision could be taken by the ANC without the concurrence and approval of the Central Committee of the S.A. Communist Party. Most major developments were in fact initiated by the Central Committee."

Probably the most significant "development" was the SACP's decision, in 1961, to organize the ANC's military arm, *Umkonto We Sizwe*—"Spear of the Nation"—with Hlapane's recruiter and veteran Communist, Hoe Slove, assigned to the task. The UWS, Hlapane stated categorically, "received all their funds from the Communist Party of South Africa."

Those funds, in turn, come largely from the Soviet Union, he further testified.

The assistant secretary of state for African affairs, Chester A. Crocker, estimated during subcommittee hearings that the ANC "receives comparable percentages of its military and other support from Communist and other [i.e., Soviet-bloc] sources" to those received by SWAPO: 90 percent military and 60 percent "other" support.

Umkonto We Sizwe troops are trained, according to witnesses who served in them, by Soviet and Cuban instructors. One of them, Ephraim Mfalapitsa, 28, was trained in Angola and East Germany in the use of such Soviet weapons as the AK47, the Makarov, and F1 hand grenades, as well as in "politics including Leninism and Marxism."

A highly pertinent portion of Mfalapitsa's testimony documents the charge that Moscow is behind much of the terrorism in the world. He related that Soviet, Cuban and East German experts trained him in "laying mines on farm roads; attacking farmhouses; ambushing lonely vehicles; and attacking small police stations."

Another ex-member of ANC's military arm, Jeffrey Mtutuzele Bosigo, 23, testified before the Security and Terrorism Subcommittee that he had been picked up by its recruiters while eluding the South African police after having participated in a riot, and promised an opportunity to continue his schooling.

But he was sent instead to an "engineering camp"—a euphemism for a base where sabotage and terrorism are taught—in Angola. Then he was sent to another base, Nova Cantenque, where he and other South African blacks received instruction principally from Cubans.

The South African Communist Party has also acquired considerable influence over ANC "sister organizations"—in the phrase of Sen. Jeremiah Denton, chairman of the subcommittee—such as the South African Indian Congress and the South African Congress of Trade Unions.

Thus the Soviet attempt to subvert South Africa is a many-pronged one, including not only black groups but Asians and labor unions, and not only South Africans but also Namibians, Angolans, Cubans and Marxist elements in Zimbabwe and other African states.

[From the Washington Times, Sept. 9, 1982]

Soviet Intrusion in Southern Africa

(By Daniel James)

(This is the last of a three part series based on an advance copy of testimony from five hearings held by the Senate Subcommittee on Security and Terrorism from March 22 to March 31 of this year. The subcommittee took testimony from 11 witnesses, six of them defectors from the Marxist-dominated Southwest African People's Organization and African National Congress.)

The growing Soviet intrusion in southern Africa extends beyond Angola, Namibia and even (through the African National Congress) South Africa, to other countries in the region, according to witnesses who have testified before the Senate Subcommittee on Security and Terrorism. It extends, in fact, to the whole African continent.

Lt. Adriano Francisco Bomba, a fighter-bomber pilot, defected on July 8, 1981, from his native Mozambique because the ruling Marxist-Leninist party, Frelimo, was running his country into the ground. This was an example, he testified, with an eye to Namibia and southern Africa in general, of "the end result [of] the transformation of a genuine nationalist movement into surrogates of the U.S.S.R. in Africa once such movements come to power."

In 1977, on the verge of completing high school, Bomba and 74 other Mozambican youths "were handed over to the Ministry of Defense" and put on an Aeroflot plane to Moscow. He had been studying to be an engineer, but "they decided that I would become a fighter-bomber pilot to defend the power of [Frelimo]."

Returning to Mozambique some two years later, he found this "deplorable situation": Frelimo had become "a Marxist-Leninist party," had "strangled" the private sector, and had mismanaged the economy into "producing much less than before." In general, "before the independence in Mozambique, the conditions of life were better."

By June of 1981, "it suddenly occurred to me that even though this system was [designed] to bring Mozambique down, I was in fact defending it." Accordingly, "I decided to desert."

While in the Soviet Union, Lt. Bomba saw military trainees from all over Africa. They reflected the growing Soviet military buildup on the continent, particularly in the southern portion, whose exact ramifications are unknown but considered by experts to be vast. The buildup results in extending or consolidating Soviet political influence.

"In Angola and Mozambique," the U.S. Department of State's chief Africa expert, Chester A. Crocker, told the subcommittee, "the number and range of activities of Soviet, Cuban and other foreign Communist advisers and technicians, in the civilian and military domains, has increased, implying concomitant political and economic influence."

A University of Arkansas Africa expert, Peter Vanneman, testified that the Soviet's "basic strength" in SWAPO and the ANC lies within their military wings, "so any instability [in the area] . . . enhances the value of the military wing to these organizations, and therefore strengthens Soviet influence."

Nearly all the independent black states in southeren Africa, as well as the Soviet-dominated independence movements not yet in power, are increasingly dependent on Soviet military aid and equipment, according to Dr. Vanneman. The following chart supplies the latest (but necessarily complete) figures for six of those states:

The number of Soviet-bloc military elements in southern Africa has increased commensurately with the rising supply of military equipment, but exact totals are not known. In the last year for which reasonably accurate figures are available, 1978, the State Dept. has reported at least 41,000 "Communist military personnel" in sub-Saharan Africa, besides 37,000 "Communist country civilian technical experts" throughout the continent. But today, in Angola alone, intelligence officials calculate there are about 29,000 troops and "advisers" just from Cuba; in addition, the East Germans have a relatively substantial presence there.

Moscow has also increased the number and caliber of its diplomats in the region. Thus its embassy staff in Botswana, on South Africa's northern border, has mushroomed to 50 from a handful, while those in Angola and Mozambique total more than 100 each. An example of the quality of Soviet envoys, as well as of the importance Moscow is giving to southern Africa, is Vasily Solodovnikov, ambassador to Zambia until last year, who is recognized as its top Africanist.

The Soviets are generally "improving and developing their policy apparatus" in the region, Vanneman told the subcommittee. Today they boast a "very sophisticated group of people dealing with Africa, and they have a considerable number of organizations staffed with African specialists." Whereas in the 1960s there were almost no Africanists, now they have more than 300.

Typical of the mounting Soviet interest in Africa is the fact that Soviet foreign Minister Andrei Gromyko's son, Anatoly, has been made head of the U.S.S.R. Academy of Sciences' Africa Institute. Upon taking over the Institute, young Gromyko added six policy specialists to its staff, "transforming it from a predominantly development-oriented think tank to one more concerned with strategic policy."

The Soviets have correspondingly upgraded their intelligence operations in Africa. Thus in the KGB, Crocker told the subcommittee, "one of the largest propaganda sections deals with southern Africa. I think that is extremely significant."

The Soviet's overall coordinator of Africa policy is Boris Ponomarev, head of the Soviet Communist Party's International Department. "He is in frequent contact with the ANC and SWAPO people," Crocker further testified.

What is the Soviet's basic policy, or strategy, in southern Africa,

Although "the Soviet Union does not have a grand design for southern Africa . . . it is, in fact, taking advantage of targets of opportunitity . . . to act counter to Western interests," according to Crocker. "The Soviet Union . . . has a vested interest in keeping the region in turmoil."

Vanneman told the subcommittee that he believes the Soviets are "primarily concerned to enhance their influence in the Indian Ocean," to put pressure on the United States particularly in the Middle East. Thus during the Ethiopian conflict, Cuban troops were flown all the way from Angola across Mozambique to Ethiopia. "So, in other words, what is happening in southern Africa is intimately related to what is happening in the Middle East, and in the oil regions."

Interruptions of our oil and non-fuel strategic mineral supplies from the Middle East and southern Africa has been a basic Soviet objective for many years. As Sen. Jeremiah Denton, the subcommittee chairman, pointed out, nothing less than "The survival of the free world" is thus involved because of our overwhelming dependence upon strategic minerals imports from the region. In his statement opening the subcommittee's five hearings on southern Africa, he quoted Leonid Brezhnev as having summed up Soviet policy in a 1973 Prague, Czechoslovakia speech in these words:

"Our aim is to gain control of the two great treasure houses on which the West depends . . . the energy treasury house of the Persian Gulf and the mineral treasure house of central and southern Africa."

The Soviet military, political and economic intrusion in southern Africa is, in other words, aimed ultimately at the stability of the West—meaning, in the first instance, of the United States.

THE PARABLE OF ENTERPRISE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. GOODLING. Mr. Speaker, while reading yesterday's Christian Science Monitor I came across an article by William Echikson entitled "The Crisis of France's Breakfast: Morning Croissants or Socialism?" A more universal title for that article would have been "The Parable of Private Enterprise." In any case, this article very aptly demonstrates the virtues of private enterprise as opposed to the evils of government regulation. While this particular case deals with what is happening in France, the underlying principle applies to all governments that seek to regulate private enterprise. Rather than applying a maximum number of work hours per week, apply a minimum, or better yet, make no regulations on the matter at all: Keep private enterprise a private matter. For the interest of my colleagues, I would like to insert this article.

[From the Christian Science Monitor, Sept. 8, 1982]

THE CRISIS OF FRANCE'S BREAKFAST: MORNING CROISSANTS OR SOCIALISM?

(By William Echikson)

It is 5:30 a.m. at the bakery on Rue de Babylone in the center of Paris.

Claude Bilnet, the owner, pulls out a rack of golden soft and flaky croissants, ready for the breakfast plate. Despite the early hour and the prospect of 12 more hours on the job, Mr. Bilnet smiles with pride as he looks over the savory rolls.

But turn the subject to France's Socialist President, Francois Mitterrand, and the smile disappears.

"If Mitterrand makes me do that, I won't be able to stay in business," he says.

No more fresh croissants? "No more."

His reaction is typical of France's many artisans, who are angry at Mr. Mitterrand's program of cutting work hours. In February the government decreed that workers are supposed to toil only 39 hours, down from 40. And if things go as planned, they will labor only 35 hours a week in 1985. The idea is to improve the worker's lot and open up new jobs.

But for bakers and other artisans such as chefs and hair stylists, the 39-hour workweek provoked a crisis.

In these fields workweeks traditionally last around 50 hours, and to cut working hours so drastically would cause a wave of bankruptcies in these small businesses, the artisans argued. The baking craft, for example, calls for both boss and worker to put in long days, beginning in the wee hours of the morning. Otherwise there would be no fresh bread for breakfast.

And since most of France's 40,000 "boulangeries" are family-run operations with three to five employees, they are unable to afford additional workers to compensate for the shorter workweek. A study for the National Bakers' Association claimed that if the 39-hour law was applied to bakers, half of the country's "boulangeries" would be forced to close.

As a result, the bakers' workweek became a test of how far Mitterrand was aiming to change France. Could the country do without its morning croissants?

Apparently not. Bosses and workers recently agreed on a 47-hour workweek in bakeries, down from last year's 49-hour maximum. And Mr. Mitterrand appears ready to accept this contract, even though it violates the 39-hour principle.

"There is no other choice," a Labor Ministry spokesman said. "This is the old system of work in France."

So France's artisans will continue to work long weeks—with union agreement. Up to 500,000 workers are affected, according to the Labor Ministry.

For such artisans working overtime is considered necessary to achieve excellence. Cooking gourmet meals in three-star restaurants or styling hair in the modes of fashions simply takes more than 39 hours a week. But is it just pride that makes these artisans willing to forgo the benefits of socialism?

"No, bakers are willing to work so hard because they know they can rise to become an owner," says Francois Guillermer, secretary general of the Paris Bakers' Association. "Individual enterprise is rewarded."

The baker Bilnet, for example, started out as an apprentice baker in Lyon 17 years ago. Now he owns his own bakery in the heart of Paris. He works much more than his employees, up to 80 hours a week, beginning early in the morning.

"If I didn't work so much. I would only make the minimum wage," he says. "But I am the boss and that is a terrific feeling."

He puts the batch of steaming croissants in the counter and opens the bakery for business. For the first hour until his salesgirl arrives, he will tend the register.

An older man enters. "Deux croissants, s'il vous plait," he says.

"Oui, monsieur," Bilnet responds, handing him two delicious-looking rolls. Both men smile.●

CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROUSSELOT. Mr. Speaker, today I rise to recognize the historic achievement of the Cabinet Committee on Opportunities for Spanish Speaking People, created by Congress in December 1969.

This Cabinet Committee, composed of several members of the President's Cabinet and other high-ranking officials of our Government, opened the door of opportunity to our Spanish-speaking citizens in much the same way archeologists opened the secret passageways in the pyramids in order to gain access to the knowledge of the past.

Spanish-speaking citizens suddenly found some of their own in high-ranking Government positions and with access to a number of Government-run programs ranging from housing and health benefits to economic development.

We are indeed fortunate to have had this committee chaired by two very distinguished Spanish-speaking leaders, both of whom, I might add, are from California—Martin Castillo of Monterey Park, a fighter pilot in World War II; and Henry Ramirez of Pomona, a migrant grape picker. These gentlemen devoted themselves to a task never undertaken in Government before—finding ways of bringing Spanish-speaking people into positions in the Government and participating in the many programs available to all citizens. And, today, the programs they formulated are part of U.S. Government policy.

Although funded by only $1 million annually, the rewards many times exceed the investment, not only in terms of actual benefits, but in terms of pride and accomplishment.

During its 5-year charter, the Cabinet Committee on Opportunities for Spanish Speaking People provided the initial momentum that brought a heretofore excluded minority, whose cultural heritage has so enriched our great Nation, into the mainstream of American life.

To Marty, Henry, and all of you who participated in the Cabinet Committee on Opportunities for Spanish-Speaking People—today we salute you.●

DOWN'S SYNDROME

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. SOLARZ. Mr. Speaker, I would like to call to my colleagues' attention the following article on Down's Syndrome which recently appeared in the New York Times.

This article is significant for two important reasons. First, it notes the tremendous advances that have occurred in the treatment of Down's Syndrome. And second, that despite this progress, there is still a stigma associated with those who are affected by Down's Syndrome.

It seems to me that it is wrong and unfair for society to treat Down's Syndrome individuals prejudicially when a growing number of these individuals are able to read, write, and function at near-normal levels.

Because studies have shown that one of the most beneficial outcomes of national commissions is to heighten public awareness of an issue and that increased public awareness is the most effective approach to removing the stigma associated with a handicapping condition, such as Down's Syndrome, I have introduced legislation, H.R. 4657, to establish a National Commission on Down's Syndrome.

I urge my colleagues to join with me and 63 other Members of the House of Representatives who have cosigned this legislation, in this effort to improve the quality of life for the 250,000 individuals and their families who are affected by Down's Syndrome.

[From the New York Times, Aug. 31, 1982]

DOWN'S SYNDROME MASKED BY SURGERY

(By Maya Pines)

No matter how well they act, how much they have learned or how close they come to having normal intelligence, children with Down's syndrome always stand out in a crowd because of their recognizable features, which label them "retarded."

Now, a leading Israeli psychologist, Dr. Reuven Feuerstein, advocates a series of relatively minor plastic operations that can make these children less conspicuously different and "more socially acceptable."

Children with Down's syndrome used to be regarded as nearly hopeless by most educators and physicians. But in the last decade, intensive infant stimulation and other training programs have enabled growing numbers of them to read, write and function at nearly normal levels, while more aggressive medical care has prevented some physical problems.

"Many of these youngsters can work up to high levels of functioning," said Dr. Feuerstein, who runs a children's home in Jerusalem as part of the Hadassah-Wizo Canada Research Institute. "Yet they are not accepted by society because of their appearance."

The operations he recommends were begun by two German plasitc surgeons in 1977 after they heard the testimony of a German couple whose daughter had had the first experimental operation nine years earlier, performed by another surgeon, Dr. H. Hoehller.

The parents were so pleased with this operation that they began a national campaing to urge other doctors to do such surgery. Because of the operation, they said, their daughter had been freed from the stigma of Down's syndrome, had been treated normally by other children and adults and had made enormous strides in social development.

The two plastic surgeons, Drs. Gottfried Lemperle and Dorin Radu, have now operated on more than 250 Down's syndrome children between the ages of 3 and 24 at Frankfurt's St. Markus Hospital.

The doctors have generally reduced the size of each child's protruding tongue (both for cosmetic reasons and because this made it easier to speak), brought the ears closer to the head, raised hanging lower lips, altered the axis of the eyelids, raised cheekbones with small implants of silicone, raised the bridge of the nose and, in some cases, put implants into severely receding chins.

Some of the children needed only a few of these operations. Even when all the procedures were required, however, they could be done within an hour and a half, in a single session.

Dr. Feuerstein says the operations leave no visible scars and are no more serious than the plastic operations commonly done to correct other congenital defects, such as cleft palate.

When he saw the German work, he said: "I became convinced. There is practically no risk. It's very cheap. There is no significant trauma. And it gives the children an opportunity to be seen as individuals, rather than just members of a strange and inferior group."

At Dr. Feuerstein's invitation, Dr. Lemperle demonstrated his technique in Israel. Last February, as a pilot study, 11 Israeli children were operated on at the Hadassah Medical Center. They were videotaped extensively before, during and after the operations.

"We want to learn exactly what the operation means to these children and their parents," Dr. Feuerstein said. "We were afraid the children would look in the mirror after the surgery and not recognize themselves. But it didn't happen. Afterward, they have been very happy."

One young man who used to spend his time clowning, as a defense against stigma, rapidly improved his behavior after seeing his new appearance.

Although the surgery cannot make the children look completely normal, Dr. Feuerstein has been so encouraged by the results of the first Israeli operations that he recent-

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ly visited the United States to spread the word.●

TRIBUTE TO BISHOP PAUL ANDERSON

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. OBERSTAR. Mr. Speaker, during the August recess, I had the very enjoyable privilege of visiting with Bishop Paul Anderson of the Roman Catholic Diocese of Duluth which covers much of my district in northeastern Minnesota. The occasion was not an entirely happy one in that Bishop Anderson is leaving Duluth after 14 years to serve in a new capacity in South Dakota.

Bishop Anderson is a marvelous, compassionate priest who has been an articulate voice for social justice and for ecumenicism.

In April 1981, nearly 18 months ago, Bishop Anderson and I appeared at a public rally to call for an end of U.S. involvement in El Salvador. The bishop responded with deep feeling to the spirit of Archbishop Romero of San Salvador who had urged the United States to stop supplying the arms which were responsible for the deaths of thousands of Salvadorans.

Bishop Anderson spoke as a religious man, a servant of God's people, a man deeply disturbed by the violence and suffering in El Salvador.

The same humanitarian concern which moved him to speak against outrages in El Salvador has also prompted his very principled, and public, position in support of an end to the nuclear arms race, as well as a most eloquent and moving appeal for passage of the equal rights amendment, expressed in his homily of last Sunday.

As a Congressman, and as one of the bishop's flock in the diocese, it has been a great comfort to me to know that I stand with my bishop in opposition to military aid to El Salvador and in support of the nuclear arms freeze.

Bishop Anderson has not championed these causes as political issues; rather, he has spoken as a man of profound religious convictions who is committed to working to end conflict and social injustice in the world.●

MONTHLY LIST OF GAO REPORTS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The July 1982 list includes:

NATIONAL DEFENSE

Aircraft Thrust/Power Management Can Save Defense Fuel, Reduce Engine Maintenance Costs, and Improve Readiness. GAO/PLRD-82-74, July 29.

The Air Force Needs to Exercise More Control Over Equipment Authorizations. GAO/PLRD-82-100, July 27.

Navy's Transfer of Power System to Financially Troubled Guam Power Authority Has Been Delayed. Acc. No. 118863, GAO-ID-82-28, July 2.

Applicability of Certain U.S. Laws that Pertain to U.S. Military Involvement in El Salvador. GAO/ID-82-53, July 27.

U.S. Security and Military Assistance: Programs and Related Activities. Acc. No. 118830, GAO/ID-82-40, June 1.

Corps of Engineers' Procedures for Acquiring and Altering Leased Space Need Revision. Acc. No. 118849, GAO/PLRD-82-86, July 1.

LETTER REPORTS

Deferral of $216,520,000 in budget authority provided for the Coast Guard's acquisition, construction, and improvement account which should have been, but was not, reported to Congress by the executive branch. GAO/OGC-82-18, July 6.

Allegations of wasteful spending at the Naval Air Station, Lemoore, California. Acc. No. 118881, GAO/PLRD-82-99, July 9.

Concerns remain on variations in the military services' contingency hospital programs. GAO/HRD-82-101, July 15.

GAO observations on Defense initiatives to link funding to readiness. GAO/PLRD-82-96, July 19.

INTERNATIONAL AFFAIRS

Allegations Concerning Eximbank's Claim Payments and First-Class Air Travel. GAO/ID-82-49, July 20.

Inter-American Foundation: Alternative to Traditionally Foreign Assistance. Acc. No. 118930, GAO/ID-82-16, July 13.

New U.S. Valuation System for Imported Products is Better and Easier to Administer. GAO/GGD-82-80, July 26.

LETTER REPORTS

Funding of international election observers for El Salvador elections were properly available. GAO/ID-82-44, June 25.

SCIENCE, SPACE AND TECHNOLOGY

NSF's Award of Two Research Vessels Met Requirements. Acc. No. 118862, GAO/PAD-82-14, June 28.

ENERGY

Loss of Experienced Staff Affects Conservation and Renewable Energy Programs. GAO/EMD-82-100, July 19.

Progress in Filling the Strategic Petroleum Reserve Continues, but Capacity Concerns Remain. GAO/EMD-82-112, July 15.

The Liquid Metal Fast Breeder Reactor-Options for Deciding Future Pace and Direction. Acc. No. 118932, GAO/EMD-82-79, July 12.

DOE Funds New Energy Technologies without Estimating Potential Net Energy Yields. GAO/IPE-82-1, July 26.

GSA Could Do More to Improve Energy Conservation in New Federal Buildings. Acc. No. 118925, GAO/PLRD-82-90, July 12.

LETTER REPORTS

Financial impacts which could result from default of legal challenge by participants in Washington Public Power Supply System Nuclear Projects 4 and 5. GAO/EMD-82-106, July 2.

Views on selected Department of Energy conservation and renewable programs and their program mandates. EMD-82-92, June 22.

NATURAL RESOURCES AND ENVIRONMENT

Fresh Look is Needed at Proposed South Florida Jetport. Acc. No. 118675, GAO/CED-82-54, July 15.

Better Planning Can Reduce Size of Wastewater Treatment Facilities, Saving Millions in Construction Costs. Acc. No. 118923, GAO/CED-82-82, July 8.

Cleaning up the Environment: Progress Achieved But Major Unresolved Issues Remain. GAO/CED-82-72, July 21.

Improved Administration of Federal Public Disaster Assistance Can Reduce Costs and Increase Effectiveness. GAO/CED-82-98, July 23.

Need to Strengthen Coordination of Ocean Pollution Research. GAO/CED-82-108, July 14.

Weaknesses Found in Timber Sale Practices on the Plumas National Forest. Acc. No. 118845, GAO/CED-82-88, June 23.

LETTER REPORTS

Procedures are needed to make sure that irrigation operation and maintenance costs are recovered at a jointly managed facility. GAO/CED-82-107, July 1.

Followup to GAO report on the claims processing procedures of the National Flood Insurance Program. GAO/AFMD-82-56S, July 22.

COMMERCE AND HOUSING CREDIT

The Voice of America Should Address Existing Problems to Ensure High Performance. GAO/ID-82-37, July 29.

Changes in Federal Maritime Regulation Can Increase Efficiency and Reduce Costs in the Ocean Liner Shipping Industry. GAO/PAD-82-11, July 2.

Commodity Futures Regulation—Current Status and Unresolved Problems. GAO/CED-82-100, July 15.

Review of the Federal Home Loan Mortgage Corporation's Financial Statements for the Year Ended December 31, 1981. GAO/AFMD-82-92, July 30.

LETTER REPORTS

Postal Service regulations on forwarding mail to boxholders. Acc. No. 119003, GAO/GGD-82-84, July 9.

Postal Service should be liberal in granting exemptions from the new forwarding regulations. Acc. No. 118931, GAO/GGD-82-74, July 9.

TRANSPORTATION

Federal and Contractor Employee Travel and Relocation Cost Reimbursements Differ. GAO/FPCD-82-35, July 20.

LETTER REPORTS

Review of the Federal Aviation Administration's response to Congressman Jack Brooks' letter on the National Airspace System Plan. Acc. No. 118868, GAO/AFMD-82-91, June 4.

Analysis of Amtrak's acquisition of office copying equipment. CED-82-111, July 12.

Several weaknesses exist in the administration of the highway right-of-way program by Wisconsin and Michigan and the Federal Highway Administration. GAO/CED-82-110, July 13.

COMMUNITY AND REGIONAL DEVELOPMENT

Housing and Community Development: National Problems. Acc. No. 118846, GAO/CED-82-96, June 28.

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Social Services

Revitalizing Distressed Areas Through Enterprise Zones: Many Uncertainties Exist. GAO/CED-82-78, July 15.

Concerns Regarding Impact of Employee Charges Against Employers for Unfair Labor Practices. GAO/HRD-82-80, June 21.

An Overview of the Win Program: Its Objectives, Accomplishments, and Problems. Acc. No. 118870, GAO/HRD-82-55, June 21.

Indian Health Service Not Yet Distributing Funds Equitably Among Tribes. Acc. No. 118864, GAO/HRD-82-54, July 2.

Adverse Opinion of the Financial Statements of the Student Loan Insurance Fund for the Fiscal Year Ended September 30, 1980. Acc. No. 118876, GAO/AFMD-82-52, July 8.

LETTER REPORTS

The small and disadvantaged business subcontracting program could be improved. Acc. No. 118871, PLRD-82-95, June 30.

HUD's reassessment procedures for multifamily housing projects during the approval process and construction phase. GAO/CED-82-109, June 30.

State drawdowns and use of low-income home energy assistance program funds. GAO/HRD-82-100, July 12.

In Fiscal 1983, spending and credit programs primarily benefiting business will be reduced substantially from fiscal 1982 levels; tax expenditures will be increased. GAO/PAD-82-40, July 21.

Preliminary Findings on Patient Characteristics and State Medicaid Expenditures for Nursing Home Care. GAO/IPE-82-4, July 15.

Medicare Payments for Durable Medical Equipment are Higher than Necessary. GAO/HRD-82-61, July 23.

Federal Oversight of State Medicaid Management Information Systems Could be Further Improved. GAO/HRD-82-99, July 30.

LETTER REPORTS

Stronger VA and DOD actions needed to recover costs of medical services provided to persons with work-related injuries or illnesses. Acc. No. 118866, GAO/HRD-82-49, June 4.

States need additional information on compliance with the law for waivers to limit freedom of choice of Medicaid recipients. GAO/HRD-82-90, July 20.

Income Security

LETTER REPORTS

Allegations concerning quotas used by the Social Security Administration to terminate disability insurance benefits in Memphis are groundless. Acc. No. 118869, GAO/HRD-82-88, June 3.

Problems found in data from a retirement history survey among the elderly. Acc. No. 118861, GAO/IPE-82-5, July 8.

Terminating benefits to economically recovered disability retirees should be more timely. Acc. No. 118924, GAO/FPCD-82-46, July 9.

Social Security Administration should take action to reexamine the continuing eligibility of disabled persons. GAO/HRD-82-91, July 14.

Administration of Justice

Prisoners Receiving Social Security and Other Federal Retirement, Disability, and Education Benefits. GAO/HRD-82-43, July 22.

Community-Based Correctional Programs Could be Used More Extensively within the Federal Criminal Justice System. Acc. No. 118877, GAO/GGD-82-69, July 2.

The Department of Justice Needs to Address the Problem of Two Personnel Investigations Being Conducted on all Bureau of Prisons Employees. Acc. No. 118879, GAO/GGD-82-56, July 8.

General Government

Uniform Guidelines on Employee Selection Procedures Should Be Reviewed and Revised. GOA/FPCD-82-26, July 30.

Comparison of Collectively Bargained and Administratively Set Pay Rates for Federal Employees. Acc. No. 118922, GAO/FPCD-82-49, July 2.

Changes to Appeals Process Could Improve Settlements and Increase Taxpayers' Satisfaction. GAO/GGD-82-54, July 28.

Further Research into Noncompliance is Needed to Reduce Growing Tax Losses. GAO/CGD-82-34, July 23.

Compilation of GAO's Work on Tax Administration Activities During 1981. GAO/GGD-82-82, July 22.

Key Issues Affecting State Taxation of Multijurisdictional Corporate Income Need Resolving. Acc. No. 118844, GAO/GGD-82-38, July 1.

Assessment of Federal Agency Compliance with the Service Contract Act. GAO/HRD-82-59, July 21.

Better Information Management Could Alleviate Oversight Problems with GSA's Construction Program. Acc. No. 118980, GAO/PLRD-82-87, July 9.

Review of the Federal Home Loan Mortgage Corporation's Financial Statements for the Year Ended December 31, 1981. GAO/AFMD-82-92, July 30.

Audit of the House of Representatives Restaurant Revolving Fund for the Fiscal Year Ended October 3, 1981. Acc. No. 118786, GAO/AFMD-82-59, June 23.

Audit of the United States Senate Restaurants Revolving Fund Fiscal Year Ended September 26, 1981. Acc. No. 118809, GAO/AFMD-82-60, June 25.

LETTER REPORTS

Assessing the feasibility of converting commercial vehicle fleets to use methanol as an offset in urban areas. Acc. No. 118921, PAD-82-39, June 11.

The Office of Management and Budget is influential in redesigning the Interior Department's offshore leasing and development program. Acc. No. 118831, EMD-82-93, June 11.

The Office of Management and Budget's efforts to develop and augment the Federal Information Locator System have not met congressional expectations. GAO/GGD-82-76, June 17.

President's special message proposing seven new deferrals totalling $14.5 million and revisions to two deferrals previously reported increasing the amount deferred by $140.5 million. GAO/OGC-82-17, June 30.

Better guidance is needed for determining when examining authority should be delegated to Federal agencies. Acc. No. 118848, GAO/FPCD-82-41, July 1.

Paperwork Reduction Act has not adversely affected IRS' ability to administer the tax laws. Acc. No. 118926, GAO/GGD-82-90, July 6.

Improvements are needed in the accounting for personal property in the Department of the Interior. GAO/AFMD-82-84, July 12.

Summary of recent GAO reports on managing intergovernmental assistance programs GAO/GGD-82-91, July 13.

Limitations on fiscal year 1981 fourth quarter obligations in certain agencies. GAO/PAD-82-43, July 16.

Comments on Jack Anderson's column concerning the cost effectiveness of several Government Printing Office actions. GAO/PLRD-82-101, July 16.

President's proposal of one rescission of budget authority totalling $8 million and one deferral totalling $3,613,000. GAO/OGC-82-19, July 19.

Improvements are need in GSA's role in the real property utilization survey program. GAO/PLRD-82-93, July 20.

Veterans Administration underestimated costs and overestimated savings associated with proposed move of its Florida Loan Guaranty Division from Jacksonville to St. Peterburg. GAO/HRD-82-85, July 21.

Findings of the Defense Science Board's task force on embedded computer resources acquisition and management cannot be relied on as an independent assessment. GAO/FPCD-82-55, July 22.

Statements of the House Recording Studio Revolving Fund present fairly its financial position for calendar 1981. GAO/AFMD-82-75, July 22.

Statements of the House Beauty Shop Revolving Funds present fairly its financial position as of December 31, 1981 and 1980. GAO/AFMD-82-82, July 23.

Transfer of offices of the Government Printing Office from Virginia to Laurel, Maryland. GAO/PLRD-82-106, July 30.

(The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 1518, 441 G Street, N.W., Washington, D.C. 20548. Phone (202) 275-6241.)●

PERSONAL EXPLANATION

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. PEPPER. Mr. Speaker, due to the hearing that my Select Committee on Aging was holding yesterday, Wednesday, September 8, I was not able to make all the votes on the floor. Specifically:

Rollcall No. 310; an amendment that sought to strike language preserving the rights of litigants under any statute of common law. I would have voted nay.

Rollcall No. 311; final passage of H.R. 6307, Resource Conservation and Recovery Act. I would have voted yea.●

VOLUNTEER FIRE DEPARTMENTS

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. WEBER of Minnesota. Mr. Speaker, volunteer fire departments have been saving property and lives in our Nation for decades. These departments serve as fine examples of what can be accomplished through community spirit and volunteerism. Almost a year ago, our President appealed to us to rediscover that spirit of volunteerism that helped make our Nation great. Today I would like to share with my colleagues an example of that spirit flourishing in southwestern Minnesota.

A dinner was held on August 31 in Windom, Minn., a small city with a population of 4,666. The gathering honored four retiring volunteer firemen, who have spent two nights a month for the entire length of their service in order to be prepared for disaster. The department not only provides protection for the city, but also a small village and 10 surrounding townships.

I would like to share with my colleagues the tribute to these men as given by Marion Uhlhorn, a member of the city council. It would be difficult for small communities in rural America to survive, were it not for people who place community service as one of their priorities in life. The city of Windom, Minn., hereby acknowledges that they have been fortunate, indeed, for a total of 114 years service by John S. Paulson, fire chief, 33 years; John Galle, Sr., assistant fire chief, 28 years; Waldine Moede, second assistant fire chief, 32 years; Raymond Sartorius, third assistant fire chief, 21 years; as volunteer firemen.

Not only have they contributed to the city of Windom as firemen, but many of them have served on the junior chamber of commerce, board of chambers of commerce and industrial development, church boards, and as members of a host of various civic organizations that make a small community progressive.

City officials recognize their contribution to the city of Windom as they have always worked closely with the city council. Windom has always had a fire department to be proud of, and this is evidenced by significant improvements over recent years, such as new quarters for firefighting equipment, modern up-to-date firefighting apparatus and trucks, and township fire contracts. No, this was not a 1- or 2-year project. Proper planning and budgeting over approximately 10 years produced the necessary results and at the same time placed no hardship on the taxpayers in the community.

As citizens of Windom, we salute all firemen, past and present, for their resourcefulness, abilities, high regard for life and property, dedication to the job, and unselfishly giving of their time for such a very important community service.●

CITY LIFE AT ITS BEST

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. DICKS. Mr. Speaker, the July 19 issue of Sports Illustrated contains an article entitled "Seattle: City Life at Its Best." This article describes the tremendous changes that have taken place in Seattle over the past 25 years—changes that have made that great city not only the capital of the Pacific Northwest, but, in the article's words, "a paragon and an inspiration." Seattle, like so many of our Nation's urban centers, has experienced substantial population and economic growth throughout the postwar era. The city's ability, through its forward thrust development program, to preserve its beautiful surroundings and cultural heritage while simultaneously coping with that growth is both a striking contrast to many of America's cities and a living tribute to the foresight and dedication of Seattle's citizens and its leaders.

As part of this growth and change, Mr. Speaker, Seattle has also become a major league community. Of all the projects that were undertaken as part of the forward thrust program, we are most proud of the Kingdome, the home of Seattle's professional sports franchises.

The citizens of Seattle committed nearly $70 million to build the Kingdome as a home for Seattle's professional sports franchises. And the citizens of Seattle could not have made that commitment without substantial and reliable assurances that those professional sports teams, if well supported in the Kingdome, would continue to play there. We needed to know that our investments would not be in vain, and that our trust would not be misplaced.

Following the Kingdome's opening in 1976, major league sports flocked to Seattle. Nearly 14 million people have come to the Kingdome to see our Seahawks of the NFL, our Mariners of baseball's American League, our SuperSonics of the NBA, and our Sounders of the NASL. These teams and their stadium have brought tourism and investment to Seattle, have provided our community with tremendous entertainment throughout the year, and have brought us the world championship of basketball, and solid, contending teams in each of the other sports as well. Moreover, despite the dire predictions that the Kingdome would be an economic failure, it has proven to be a highly profitable and well managed facility. Because of Seattle's success at attracting and maintaining professional sports teams, the special taxes levied to pay for the facility have been repealed, and the outlook for the future is excellent.

Because all communities that have professional sports teams—not just Seattle—are entitled to similar assurances, I have cosponsored H.R. 6467, the Major League Sports Community Protection Act of 1982. This bill, introduced by Congressmen DON EDWARDS, HENRY HYDE, and PETE STARK, now has some 150 cosponsors in the House. A companion bill, S. 2784, has broad cosponsorship in the Senate. Both bills will provide sports fans and communities with significant and much-needed protection of the financial and emotional investments they make on behalf of their local teams.

This legislation protects the ability of sports leagues such as the NFL to continue policies that have made NFL expansion to cities like Seattle possible. The bill authorizes leagues to keep teams in communities where the league determines the team can operate successfully. In the context of expansion, this provision will permit the NFL and other sports leagues to determine that expansion teams should operate on a long-term basis in the expansion communities selected by the league. The legislation also protects revenue sharing among the teams of a league, and such revenue sharing in the NFL—for example, the equal division of all network television revenues among the 28 NFL teams—makes it possible for new communities, such as Seattle and its partner expansion team, Tampa Bay, to participate in the NFL on an equal footing with the established teams. In short, if the NFL policies protected by this legislation cannot continue to be pursued by the league, one would have to question whether a community such as Seattle would ever have been chosen as an NFL franchise city—and one will have to question whether future NFL expansion to other cities of similar size can take place.

The need for this legislation is also dramatically illustrated by the events that have taken place over the past 2 years in Oakland, Calif. As in Seattle, the citizens of Oakland turned that community into a major league city by constructing a new multipurpose sports complex and filling it with winning professional sports teams and tens of thousands of loyal fans. No team, including our Seahawks, has ever been as well supported as were the Oakland Raiders. No team has ever been as successful on the field as were the Oakland Raiders. And yet, despite that record of success and support, the Raiders have announced their intention to transfer to Los Angeles over the unanimous opposition of the other clubs in the NFL. That transfer shows a callous disregard for the loyalty of their fans and for the taxpayers who will now have to assume the financial burden of amortizing and maintaining the stadium that they built for the Raiders such a short time ago.

Mr. Speaker, I do not think that is fair to the fans, to the taxpayers, or to the sports league that has tried to uphold its commitments to Congress and to the community of Oakland. And most of all, I do not want to see

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similar episodes repeated in Seattle or other communities throughout our Nation. H.R. 6467 would insure that we would not again have to witness the shameless spectacle that has taken place in northern California.

As its sponsors have stressed, H.R. 6467 and S. 2784 are narrow and carefully drafted pieces of legislation. They will in no way affect the interests of players or player unions, and they confer no new broad antitrust immunity on any sports league. They will not affect current television broadcasting practices and will not entitle sports leagues to engage in predatory or discriminatory conduct against competing leagues. H.R. 6467 deserves prompt and favorable consideration by every Member of this Congress, and I look forward to its swift enactment.●

MEXICAN INDEPENDENCE DAY

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. ROUSSELOT. Mr. Speaker, on the eve of Mexican Independence Day when we join our friend and sister nation to the south in celebration of her hard-won freedom, the largest concentration of Spanish-speaking people in this country prepare for its own celebration out in Los Angeles.

I would like to congratulate the organizing body behind the festivities—Comite Mexicano Civico and Patriotica—for its 51st anniversary from the Comite's founding by Don Rafael de la Celina and for its present activity under the leadership of President Horatio Molina. Because of this committee the rich Mexican heritage and achievements of her heroes have not only been preserved for future generations, but shared with all of Los Angeles.

The Comite's most outstanding accomplishment is the East Los Angeles Patriotic Parade, which over the years has grown from a local affair into an international production—televised in Mexico and South America and attended by over 150,000 Californians. A special committee within the Comite Mexicano Civico and Patriotica, Comisiones Desfile De La Independencia, put this spectacular event together.

I would like to extend the sincerest thanks and gratitude on behalf of the U.S. House of Representatives to Mr. Sal B. Lopez, the director of the committee, for his and the committee's tireless efforts in bringing America the East Los Angeles Patriotic Parade, a beautiful and time-honored tradition. For 22 years, Mr. Lopez has organized the parade, and each year he has witnessed the growth and increased participation which has made it one of the top three parades in southern California. To Mr. Lopez, Mr. Molina, the Comite Mexicano Civico and Patriotica, the nation of Mexico, and all Americans of Mexican descent—viva Mexico.●

PERSONAL EXPLANATION

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. AKAKA. Mr. Speaker, yesterday I introduced H.R. 7058, to grant the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management. I inadvertently left out the name of the gentleman from Oregon, Mr. WYDEN, as an original cosponsor of the legislation and will add his name to the bill today.●

DISTINGUISHED PUBLIC SERVANT HONORED

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. MOTTL. Mr. Speaker, at this time I would like to recognize an individual from the city of Parma, in Ohio's 23d Congressional District, for his devotion and service to his community. He is retiring Fire Chief Leonard R. Ott. Chief Ott has served Parma's Fire Department for over 29 years and has been chief of the department since September 1967.

In addition to his duties as a public servant, Chief Ott has also been quite active with both the Ohio Fire Chiefs Association and the Northeast Ohio Fire Chiefs Association, being elected to various offices, including president for the 1978–79 term.

Chief Ott is also a U.S. veteran, serving our country in the Army/Air Force for 37 months of active duty.

His immediate plans are to spend more time with his wife of 38 years, Betty, his two children, Patricia Ann and Richard, and his two grandchildren.

His retirement becomes effective October 28, 1982.

I ask my colleagues in the House of Representatives to join with me in wishing a most prosperous retirement to this dedicated public servant.●

ANDREW RICE HONORED BY SOCIETY FOR INTERNATIONAL DEVELOPMENT

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. REUSS. Mr. Speaker, at the Society for International Development's 25th anniversary World Conference in Baltimore this summer, my friend, Dr. Andrew Rice, received the society's first award for service, for his "consistent dedication to creating an international organization of individuals committed to bettering the lives of all people." The citation from the society (SID) noted that "as creator and editor of numerous development publications, as founder of chapters and membership services, and through his outstanding integrity and loyalty to SID, Andrew Rice is a continuing exemplar of international service." I want to tell my colleagues more about this remarkable man.

Andy has spent the last 20 years in devoted service to SID, a worldwide association of individuals and institutions engaged in international development. The goal of SID, in Andy's own words, is "to create a more humane world," through bringing together agencies and individuals of all nationalities to create a world society that is "open, participatory, solidly based in the community yet global in outlook, aware of complexity yet convinced that there exists the intellectual capacity and persuasive power to cope with it."

Andy was born in Madison, Wis., in 1922, and attended Harvard College, where he received a bachelor's degree with honors in Government in January 1943. He then entered the U.S. Army and achieved the rank of first lieutenant. Upon his return to civilian life in 1946, he enrolled in the China regional studies program at the Harvard Graduate School of Arts and Sciences, and received a masters degree in 1948.

Andy came to Washington in 1948, beginning a career in Government service as economics secretary of the Far Eastern Commission in the Department of State, and later as the international housing adviser in the Housing and Home Finance Agency. From 1950 to 1953, he worked on the staff of the Americans for Democratic Action, and then as the executive director of the American Veterans Committee until 1955.

The next few years he spent on Capitol Hill, as my own administrative assistant in 1956, and later as executive assistant to Senator WILLIAM PROXMIRE. In 1958, Andy began studying for his doctorate in political science while teaching courses at the Maxwell

School of Citizenship at Syracuse University. At the same time he served as executive assistant to the dean of the Maxwell School, Harlan Cleveland.

Andy returned from Syracuse to Washington in 1960 as a visiting fellow at the Brookings Institution, while finishing his doctoral dissertation on "building a constituency for the U.S. foreign aid program during the Eisenhower years." He also undertook a special assignment for the Colorado State University Research Foundation as the coauthor of a feasibility study on the Peace Corps, which was published under the title, "New Frontiers for American Youth." It was during this period that Senator Hubert Humphrey and I developed the original legislation establishing the Peace Corps, and Andy's work was enormously helpful in guiding that legislation to enactment under President Kennedy.

From 1961 to 1962, Andy was Special Assistant to Under Secretary of State Chester Bowles, and continued in that position when Under Secretary Bowles was appointed as Special Adviser to the President on African, Asian, and Latin American Affairs. In 1963, he was awarded his doctorate by the Maxwell School.

In addition to Andy's work at SID during the years of 1962 to 1977, he was a member of the Board of the Overseas Development Council and Worldwatch, further demonstrating his commitment to the "emerging global village." On the local level, he was elected president of the Citizens' Association of Cabin John, Md., the community in which he resides.

Upon the occasion of Andy Rice's 20th anniversary with the Society of International Development, and the society's own 25th anniversary, I commend them for their long and tireless efforts toward an international community, and convey my best wishes for success in this most worthy effort.●

CONTRACT SANCTITY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. FINDLEY. Mr. Speaker, today I am introducing a bill to guarantee the sanctity of farm product export contracts. Today, many of the world's grain firms are reluctant to enter into contracts with the Soviet Union because they have no assurance that the U.S. Government will allow them to deliver products in excess of the 8 million tons guaranteed by the United States-Soviet grains agreement.

At a time when this Nation is flooded with surplus grain, we simply cannot afford an ambiguous trade policy. Either we are going to do business with the Soviets, or we are not. The fact is that, economically, we have no choice. The Soviets know it.

Farm groups are aware of it, too. In the latest issue of the U.S. Wheat Associates newsletter, Tim Oviatt writes:

> The fact remains that the U.S. now relies on the U.S.S.R. more than ever to trim the bulging grain stocks, even though U.S. export grain customers number over 100 countries.

And, in the August 30 edition of Farm Week, the Illinois Farm Bureau newspaper, an emergency program to raise farm income is outlined. Among the proposals listed is one calling on the Government to restore our credibility and reliability as a supplier. According to the Illinois Farm Bureau, we must:

First, establish a new attitude on the part of the administration that there will be no more embargoes or sanctions whether it be of corn or pipeline equipment. There is every evidence to suggest that in every case of an embargo or sanction our Government has inflicted greater loss on U.S. producers that it has on the nation to which the embargo or sanction is directed.

Second, pass legislation to guarantee the sanctity of contracts.

Third, pass legislation to limit the use of an embargo to those cases involving declared war or where both Houses of Congress have authorized such drastic action.

Mr. Speaker, I feel that passage of this legislation is essential to the well-being of the American people. We can no longer afford to let the foreign policy elitists at the White House put decent men and women out of work so that we can maintain the illusion that we are doing something about problems over which we have no control.

Thank you.●

MOUNT OLIVE CHURCH CELEBRATES 75TH ANNIVERSARY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. DYSON. Mr. Speaker, the Mount Olive United Methodist Church near Prince Frederick, Md., is celebrating its 75th anniversary and homecoming this week. The church, built on land purchased from Calvert County in 1906, has already outgrown two buildings and is filling up a third.

Mount Olive has a long, proud history, and is built on a foundation of good people, starting with the seven trustees who bought the land on which the church now stands—Charles Stewart, Louis Morsell, Arthur Sewell, John Scales, Frank Parran, Hezekiah Mason, and Rufus Brooks.

Others, like Benjamin Parran, who served as a local preacher in the absence of an ordained minister, provided spiritual leadership for the church until his death in 1977 at the age of 89.

Mount Olive has produced other success stories, like Dorothy Turner, who is now an ordained minister in the Baptist Church in Baltimore, and who still makes regular trips back to Mount Olive to conduct services.

The church's current pastor, Rev. Andrew Johnson, has been conducting services at Mount Olive for almost 20 years and said the congregation is still growing. Not all of the traditions of the past 75 years have survived. The time-honored outdoor camp meeting, a service held under a large outdoor tent which attracted worshipers from all over the county, is a thing of the past. But new traditions have developed to meet the needs of a changing society. The church now offers adult education programs and helps its members find answers to modern day problems.

One of the Mount Olive members can still remember the early history of the church. She is Florence Estelle Stewart King, who was born on June 12, 1896, and still comes to every service. Florence only misses a service when she is not feeling well or cannot find anyone to take her, and Reverend Johnson tells me that is not very often.

The church's anniversary celebration will be filled with gospel singing and nightly and Sunday services with visiting ministers and their choirs. The final day of celebration, Sunday, will feature a banquet with Rev. Cornelius Carter of the Canaan Baptist Church as the guest speaker.

Other ministers who will speak during the anniversary celebration will be Rev. Joseph Collins, pastor of the Brooks United Methodist Church; Rev. James Brooks of Brandywine; Rev. Howard Kent, pastor of Cooper's/Peter's Charge: Rev. Jeffrey Smith, pastor of Hope Church, and Rev. Carl Hickerson III and members of the St. Mary's larger parish.

Reverend Johnson, who came to Mount Olive from my own St. Mary's County, said Mount Olive was founded to meet the needs of a growing congregation who up to that time had been meeting at the Carroll Methodist Church and at the home of James Sewell for Sunday school.

The present church, finished in 1977 and located off Dares Beach Road, has a seating capacity of about 200 people.

Mr. Speaker, this country was built on leadership inspired by a faith in God. Mount Olive, and churches like it, are a constant reminder of our Nation's heritage. It is only fitting that we pay tribute to the important role the Mount Olive church has played in its community for the past 75 years.●

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THE WAR AGAINST DRUNK DRIVING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. PORTER. Mr. Speaker, I would like to bring to the attention of my colleagues hundreds of Americans that are MADD—Mothers Against Drunk Drivers—and SADD—Students Against Drunk Drivers. These Americans, members of MADD and SADD have joined together for the fight against drunk drivers, the killer of over 26,000 Americans a year. Drunk drivers are the cause of more deaths in the past 2 years than the number of Americans killed in Vietman. On the average, 3 Americans are killed and 80 are injured every hour of every day. Over the past decade one quarter of a million Americans were killed by drunk drivers—a number equal to the entire population of Rochester, N.Y. and one-half the population of my district. These statistics are frightening, especially when so many of the defendants receive minor sentences.

I would like to take this opportunity to share with my colleagues an article from Newsweek magazine outlining the war against drunk drivers and expressing the need for the American people to take a harder attitude toward offenders:

> America's tacit acceptance of drinking and driving has the effect of tossing time bombs on the nation's highways. An example was a Georgia man who, after his 13th conviction for driving while drunk, was sentenced to just one year in prison. Thus, he was drunk and on the road again 20 months later when he crashed and killed himself. Or consider the case of William Rowan. Rowan was once sentenced to 45 days in jail, a mild penance for a California driving record that carried six convictions for drunk or reckless driving, two for hit and run. Last March, after leaving a downtown Santa Ana bar, Rowan drove onto a sidewalk, killing four-year-old David Gunderman, who was waiting for the ice-cream man. After hitting the child, Rowan slumped in his seat and lit a cigar. Police measured his blood alcohol content at .27.
>
> Campaigns against drunk driving have always had sobering truths on their side; what they lacked was a real constituency. All that may have changed one spring afternoon in 1980, when 13-year-old Cari Lightner of Fair Oaks, Calif., was struck from behind and killed by a hit-and-run driver as she walked to a church carnival. Cari's mother was stunned to learn that the driver, a 47-year-old man who had two previous drunk-driving convictions and was out on bail on a third arrest, had spent only two days in jail previously and was unlikely to wind up there for killing Cari. Candy Lightner quit her real-estate job and launched Mothers Against Drunk Drivers (MADD), giving the public outcry against drunk driving the constituency it has always needed—the victims.
>
> In the past, says Edward Kunec, a NASA official who joined MADD in Virginia after his 20-year-old son was killed by a drunk driver last summer, "people who had these tragedies closeted themselves and said it was fate or the will of the Lord. Now people are coming out of the closet—and they are angry." In just two years, MADD has grown to 83 chapters in 29 states. Remove Intoxicated Drivers-USA (RID), founded in New York under similarly tragic circumstances, went national last year and now boasts 55 chapters in 29 states. The anger that is the movement's glue has made these organizations aggressively self-righteous and militant. "You can't be too strident," explains RID national coordinator Doris Aiken. "I don't know how you can tell someone nicely that they are incompetent to drive." Aiken warns those who view this campaign as a fad that will soon fade: "The pendulum will not swing back. There is an endless supply of victims."
>
> The legal system often transforms the victims' grief into outrage. Paul Lawler, 15, died five days after a van barreled off a Massachusets highway and into a restaurant entrance, pinning him against the restaurant wall. The drunk at the wheel was on probation for his third drunk-driving conviction. He was sentenced to four and a half years in prison—including the then maximum of two and a half years for vehicular homicide—and is eligible for parole next July, just two years after the accident. "I was under the impression anyone arrested for this kind of thing would have the book thrown at him," says Paul's mother, Carol Lawler, who now heads the Greater Boston Chapter of MADD. "I didn't know vehicular homicide was a misdemeanor."
>
> Mark and Bonnie Schuett turned the death of their four-year-old daughter, Kelly, who was killed as she walked near her home in quiet Ixonia, Wis., into a statewide *cause celebre.* The driver, a 29-year-old man with a prior drunk-driving arrest, pleaded no contest to driving while intoxicated and was given a suspended five-day jail sentence and fined $284. His license was revoked for a year—but was actually restored after 90 days because he took treatment at an alcohol-abuse center. "This man got away with hitting and killing my child," says Mrs. Schuett. "Her life means more than a $284 fine." As a result of the Schuetts' lobbying effort, a new Wisconsin law went into effect last May that permits the state to suspend the license of anyone arrested for an alcohol-related driving offense—even before a trial. "Maybe we've saved somebody else's life," says Mrs. Schuett. "But I'm still angry."
>
> Guilt: If anger fuels the movement, guilt is its motor oil. Thomas and Dorothy Sexton recall going to court to witness the trial of the man whose blood alcohol content was .26 when he killed the Sextons' 15-year-old son, Tom. They saw a car thief sentenced to two years in jail, while their son's killer—who pleaded guilty to homicide by a motor vehicle—was sentenced to two years' probation and fined $200. "We painfully relate our experience and say, 'If you don't want that to happen to you, let's do something'," says Sexton, a U.S. Department of Agriculture scientist who is now active in Maryland's MADD chapter. "I'm convinced if I had been involved in something like this five years ago, Tom would be alive today."
>
> The movement's approach to the drunk-driving problem is essentially punitive. While legislation varies from state to state, it usually makes driving with .10 blood alcohol content (three beers or glasses of wine or shots of whisky consumed by a 150-pound man in two hours) a crime. In addition, many of the new laws make prison mandatory, if not for the first offense, certainly for the second. They often increase penalties for drivers who refuse the blood alcohol test and require that all convictions—regardless of the court disposition—be listed on a driver's record.
>
> Many states are delighted by the preliminary results of the new laws. In Maryland, drunk-driving arrests by state police have gone up 45 percent and highway fatalities down almost 20 percent since its law went into effect. Maine, which last year began mandatory jail sentences for first-time offenders, has experienced a 47-percent reduction in alcohol-related fatalities. Oregon has had the most experience—its crackdown began in 1971—and the most success. During the '70s, highway fatalities dropped —— percent and Oregon's fatality rate declined 35 percent despite the presence of 46 percent more drivers and 62 percent more vehicles on the road.
>
> Success may be due to more than tough laws. Oregon has coupled its legal effort with a media campaign that urges Oregonians to report drunk drivers to a special telephone hot line. One hot-line spokesman is Donn Durrant, a former logger who had lost his license four times for drunk driving before he drove off the road at 85 mph and broke his neck. Durrant, now a quadriplegic, says in a TV message: "I wish someone had gotten me off the road before I had the accident which drastically changed my life."
>
> Other states are backing their legislation with a variety of programs. South Dakota places highway signs reading, "X marks the spot . . . THINK!" at the almost 600 locations where drivers have lost their lives since 1979. Some states have considered efforts to stigmatize the drunk driver publicly. One Pennsylvania legislator proposed a special red license plate for all drivers convicted of driving while intoxicated—a modern-day scarlet letter. Local police in both Maryland and Massachusetts have gone so far as to use roadblocks, called "sobriety checkpoints," to deter and detect drunk drivers, though the Massachusetts effort has been ruled unconstitutional by a state court. Many states, however, complain that the new laws overtax their increasingly limited resources. Maine was the only state to include in its crackdown legislative package a new tax on liquor, which is expected to produce $2 million to $3 million annually that will be earmarked for treatment and prevention to alcohol problems.
>
> Court Watch: The anti-drunk-driving campaigners are pressuring the courts as well as the legislators. One such group keeps constant watch in North Carolina's Forsyth County District Traffic Court. "People walk up to us and tell us things have changed," says Sandra Nicastro, one of the group's court fixtures. "Lawyers have told their clients, 'I don't think I can get you of this time because that lady's sitting there listening'." Some judges need little ecouragement to get tough. Maine judges have meted out an average jail sentence of eight days to drunk drivers under the state's new laws—four times the permitted minimum. And a Mecklenburg County, N.C., judge may have set a new standard when he sentenced a drunk driver, who had eight prior arrests but had caused no injuries, to three years in jail.
>
> Many safety experts insist crusaders should be focusing on automobiles and highways, not on drivers. H. Laurence Ross, a sociology professor at State University of New York at Buffalo, who has studied

crackdowns on drunk driving, says deterrence only works for the short term when the problem is treated as a moral one rather than a safety question. In a new book, he writes: "A vehicle and highway that are safe for an alcohol-influenced driver are also safe for a driver who has a heart attack, who dozes off, who drops a lighted cigarette on his lap, who fails to see a stop sign. . . ."

Others are convinced that the lock-'em-up approach is meaningless unless it's combined with therapy. "I don't think the tougher laws will stop the hard-core alcoholics," says Col. Tom Anderson, director of the state police in Alaska, which has had a mandatory prison law since 1978. "It's a mess," agrees Arthur Snowden II, director of the state's court system. "We're just putting people in high-priced jails . . . just taking them off the street is not going to solve the problem." But Maryland district court Judge David Bates thinks he knows the solution. Bates gives drunk drivers the maximum permissible sentence, then waives it if they are willing to enter an appropriate education or treatment program. While it is hard to measure the success of Bates's approach because probationary sentences weren't included on drivers' records until last year, Bates says only 149 of the 5,697 drivers referred to the program dropped out or had their probation revoked.

But putting drunks behind bars does take them off the road in a way revoking their licenses never did. Many of those convicted in the past simply drove without a license. Others easily obtained licenses in other states: a Federal Highway Administration study reported that Ohio in 1977 had issued 1.3 million more licenses than there were driving-age Ohioans. Clarence Busch, who inadvertently launched MADD when he killed Cari Lightner, moved to Wisconsin last fall and obtained a license within a few days. The National Driver Register, a computerized roster of drivers whose licenses have been suspended, revoked or denied, was established in 1960 to remedy such problems. But states can communicate with it only by mail, and with 84,000 inquiries coming in daily, the system is cumbersome and slow.

'No Questions Asked': Still, there are signs of reform that just a few years ago would have been unimaginable. One is Students Against Drunk Drivers (SADD), which began as a high-school project in suburban Wayland, Mass., and has been replicated already by students in 150 other schools. In Wayland, 900 students signed SADD contracts with their parents, promising to call home at any hour when a sober ride home is not available. In return, parents pledge "to come and get you at any hour, any place, no questions asked and no argument at that time * * *." Montgomery County, Md., had a surprise for students heading to senior year-end festivities. The boys found a note tucked in their rented tuxedos counseling, "Friends don't let friends drive drunk," and providing a hot-line number that provided free rides home. And in rural Truman, Minn., the high school spent $79 for a breath-testing device for its prom after rowdy drunks disrupted last year's festivities. The machine is now kept in the school vault for use during school hours.

Anti-drunk-driving crusaders hope that breath-testing devices will become as much a fixture on the social scene as the shaker and stirrer, and a number of bars and restaurants have installed them. Anthony Ravosa, a defense attorney who has defended many clients against drunk-driving charges, offers a breath test to customers in his South Hadley, Mass., Riverboat Restaurant and provides courtesy rides home to those who flunk it.

Ravosa's gesture may ultimately prove to be more than simply humanitarian. The Massachusetts Supreme Judicial Court says an establishment can be liable for serving too much booze to a customer, and earlier this year it upheld a $50,000 verdict against a Milford tavern that served "six or more" white russians to a customer who was "obviously intoxicated." That customer later drove off the road killing nine-year-old John Cimino.●

RICE FARMERS NEED HELP NOW

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. **BROOKS**. Mr. Speaker, we are all well aware of the depressed state of the agricultural sector of our economy. I wish to call special attention to the plight of the rice farmer, which has reached emergency proportions.

Rice farms across the Nation, and especially those in my district located in southeast Texas, are facing problems which they have not been forced to contend with since the great depression. Overproduction in some States and high production costs, coupled with low market prices, diminishing collateral, and increased international competition, have forced rice farmers of several generations to abandon their profession. High interest rates and a stagnant economy have only served to exacerbate the already grim situation. Forty percent of rice farmers will not be able to plant next year, and 50 percent are behind on their loans.

The farm bill, approved by Congress last year, provided the Secretary of Agriculture with discretionary authority to implement base acreage reductions, in the event it should prove necessary. When it became clear that such reductions were to be implemented, I wrote to Secretary Block to urge that he select the most effective and equitable reduction. Unfortunately, the Secretary ignored my strong admonitions and chose to base the reduction on that planted in the previous year, instead of selecting the average acreage of the 1980 and 1981 crops. This decision penalized Texas rice farmers who had reduced their production and instead benefited those States primarily responsible for the current surplus of rice in the market. In the United States the 1981 acreage was some 492,000 acres—17 percent—greater than the 1980 acreage. However, 357,000 acres of that increase may be directly traced to Arkansas—20-percent increase—and Mississippi—40-percent increase—with Texas showing a reduction.

The implication of Secretary Block's actions extend not only to the Texas rice farmer but to the entire support infrastructure that has been built up over the years for handling and shipping the rice produced.

Given the seriousness of the situation, I am today writing to the Farm Credit Association to urge that it encourage the Production Credit Associations (PCA's) chiefly responsible for the financing of the rice farmer to adopt a more realistic approach. Rice farmers currently find their collateral to have diminished by more than 50 percent as a result of declining farm equipment sales, forcing many farmers to carry "uncovered loans." Local PCA's must actively consider the reinstitution of long-term capital expenditures over the realistic life of the equipment, 3 to 5 years, instead of annual depreciation schedules. The rice farmer desperately needs the opportunity to invest in long-term capital expenditures such as combines, tractors, land, and buildings.

I also call on the Congress to explore possible Federal grants, or long-term low interest loans to cover the accumulated carryover deficits from prior operations. We cannot ignore the rice farmer and those involved in agribusinesses such as agricultural chemicals, farm equipment, and agricultural air services.

In conclusion, I intend to again urge the Secretary of Agriculture to exercise his authority to prevent the collapse of rice farming in this country.●

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SENATE—*Friday, September 10, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Lord God Almighty, God of Abraham, Isaac, Ishmael, and Israel, Sovereign Lord of history, all nations, and all peoples, release Thy power in the Senate—power that convicts of sin, of selfishness, of greed, of pride, of deceitfulness and dishonesty, of the lust for power, and the abuse of power.

Release Thy grace Lord—grace that forgives and cleanses from all sin, grace that regenerates and renews and recreates, grace that transforms sinners into righteous servants of the Living God.

Release Thy love, Lord—love that dissolves enmity and fear and division, love that warms and illumines and heals, love that unites and strengthens and turns adversaries into brothers and sisters.

Release Thy wisdom, Lord—wisdom that leads to truth and justice and righteousness.

Lord, God Almighty, save us and our Nation from corruption, decay, and disintegration. We pray in the name of the Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the time for the recognition of the two leaders under the standing order and the execution of two special orders there be a period for the transaction of routine morning business to extend not past the hour of 11 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, this morning, after the recognition of the two leaders, the special orders, and the transaction of routine morning business, it is anticipated that some time this morning we will admit a messenger from the House of Representatives carrying the President's veto message.

There is no agreement to limit debate on that measure, but it will be my hope that we could conclude debate and have a vote on that measure some time at or shortly after noon today. That, of course, must abide circumstances at the moment since there is no limitation on the time for debate.

But I urge Senators who wish to speak on that measure to do so early rather than late.

Mr. President, the Senate will not be in session tomorrow absent extraordinary circumstances that might develop today, and I do not anticipate that.

ORDER FOR RECESS UNTIL MONDAY, SEPTEMBER 13, 1982

Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday next.

The PRESIDENT pro tempore. Without objection, it is so ordered.

CLOTURE VOTES NEXT WEEK

Mr. BAKER. Mr. President, I remind Senators that on Monday at 4 p.m. there will be a vote on cloture, as previously ordered and pursuant to a motion filed on yesterday. It is my intention to file another cloture motion today which will produce a vote on Tuesday, and I will negotiate with the distinguished minority leader and others on arranging a convenient time for Senators on that vote.

Mr. President, I believe there is nothing further I need say at this point. I am prepared to yield to the minority leader and to yield the control of my remaining time to him if he wishes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I will accept the time that is unused.

SUPPLEMENTAL APPROPRIATIONS, 1982—VOTE ON VETO OVERRIDE

Mr. ROBERT C. BYRD. Mr. President, about what time does the majority leader anticipate the vote on the override of the Presidential veto? Is he in a position to say?

Mr. BAKER. I had thought yesterday that it would be at 12 noon. I still hope for that, but since we do not have a time limitation, and apparently will not get one, it could run a little over that, but I urge Senators who wish to speak on this to come to the Chamber and do so soon rather than late.

The way we have arranged the matter this morning, morning business will end at 11 a.m., and I anticipate the message will come in at 11 a.m.

Mr. ROBERT C. BYRD. I am prepared on this side to have no more than an hour on the debate with 5 minutes of our time going to Mr. HARRY F. BYRD, JR., of Virginia, if the other side will yield 5 minutes to him from their time.

Mr. BAKER. All right.

Mr. President, let me explore that on my side. At this particular moment I am not in a position to agree to that, but I will try.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. I thank the minority leader.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Does the Senator from Virginia wish me to yield him my time now?

Mr. HARRY F. BYRD, JR. I think not.

I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, we have two Senators on special orders here now.

The order I believe now is for the recognition of the Senator from Georgia (Mr. NUNN) on special order. Is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. Mr. President, I do not see the Senator from Georgia in the Chamber presently, and it is probably a little earlier than he or the Senator from Illinois had anticipated.

Mr. ROBERT C. BYRD. The Senator from Illinois is ready.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. BAKER. Mr. President, will the Senator from Illinois be prepared to proceed now with his special order?

Mr. DIXON. Yes.

ORDER REVERSING SEQUENCE OF SPECIAL ORDERS TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the special orders be reversed in sequence.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

RECOGNITION OF SENATOR DIXON

The **PRESIDENT** pro tempore. The Senator from Illinois is recognized.

Mr. DIXON. Thank you, Mr. President.

(Mr. ABDNOR assumed the chair.)

S. 2890—THE SEVERANCE TAX EQUITY ACT

Mr. DIXON. Mr. President, I am today introducing the Severance Tax Equity Act—legislation that effectively prohibits the States from imposing excessively high severance taxes on coal, oil, or natural gas.

Over the past decade, the United States has seen the price of energy rise dramatically. Energy prices are an increasing burden on American business, and on the average working men and women of this country. High energy prices are especially burdensome during this time of severe economic recession. Increasing numbers of Americans have to worry whether they can afford the gas to commute to work, to look for jobs, or even to heat their homes this winter.

The recession has also had a significant impact on most State and local governments. They are caught in a squeeze between revenue sources that rise slowly, if at all, and ever-increasing needs. The result is an increasing inability to continue providing necessary governmental services.

In my own State of Illinois, for example, the recession has meant that the State's infrastructure continues to deteriorate. Illinois needs over $1 billion more annually than it is now able to raise just to maintain its investment in highways and transit systems. Education needs and social services are increasingly jeopardized.

The revenue sources of eight States, however, seem to be relatively unaffected by current economic conditions. In 1981, Alaska's tax revenue rose by 51.3 percent; New Mexico's by 30.3 percent; Oklahoma's by 24.2 percent; North Dakota's by 21.9 percent; New Jersey's by 21.6 percent; Wyoming's by 19.2 percent; Texas' by 17.9 percent; and Louisiana's by 17.5 percent. Except for New Jersey, which has rapidly growing tax revenues from Atlantic City casinos, these are all States with significant severance tax revenues.

In 1981, State severance tax revenues rose by an astonishing 53 percent.

Think of it. With a revenue resource that rose by 53 percent annually even as the economy was sliding into the depths of a recession, Congress would have no difficulty at all in balancing the budget. The severe budgetary problems that generated the support for a constitutional amendment to balance the budget would disappear.

Severance tax revenues, however, currently accrue solely to the States. Unfortunately, this resource is not available to all States. In fact, over 85 percent of severance tax revenues go to only 8 of the 50 States. For these lucky few, severance tax revenues are a major component of State finances. Fifty one percent of Alaska's revenue comes from severance taxes, while seven other States: Louisiana, Montana, New Mexico, North Dakota, Oklahoma, Texas, and Wyoming derive more than 20 percent of their revenues from this source.

There has been much discussion about whether or how much the burden of severance taxes is shifted to the citizens of States that buy, rather than produce, energy. Economists do not agree on the answer.

Now, I am not an economist, Mr. President. But it seems to me this question of the economic burden that might or might not be created by severance taxes is not exactly the most important one we ought to address.

The most important question before us it whether we are going to treat our natural energy resources as truly national resources, or whether we are going to let them be controlled—and make no mistake about it, the power to tax is the power to control—by States which, through an accident of geography, are the sites of our energy supplies.

I say those natural resources are national resources, and it is clear we are not now treating them that way—not when one State can raise 95 percent of its revenues by various energy taxes, and when nearly all of that energy is consumed in other States; not when citizens of many States pay large annual State income taxes, while those in some severance tax States pay none.

No, the time has come for a national approach to this most vital issue.

Illinois is a major coal producing State. It has no severance tax at the moment. However, evolving market conditions could soon make it very attractive for my State to impose a severance tax on coal.

And coal is not the only resource on which a severance tax can be imposed. Governors in the Great Lakes States have been seriously discussing imposing a severance tax on Great Lakes water that could, in the future, be piped to water-starved western and southwestern parts of our country. I have seen newspaper accounts indicating that the Midwest could be the future "OPEC of water."

I find that idea disturbing, Mr. President. The United States is much more than a collection of 50 States. It is a nation. It cannot and should not let control over what are truly national—not just natural—resources, be decided principally by the individual States.

I believe that States are entitled to tax economic activity within their borders. Our Constitution makes it clear that they have that right. I have no quarrel with the desire of States to impose limited severance taxes to compensate for the impact of energy production activities on the State. However, I do not believe States should be able to impose severance taxes that raise revenues far in excess of the amounts needed to recover those costs.

The bill I am introducing today, therefore, prohibits States from imposing severance taxes on coal, oil, or natural gas except to recover the public costs directly attributable to the energy extraction activities. This legislation does not prohibit States from taxing energy activities in other ways. States would continue to be free to impose income taxes, sales taxes, and other taxes that other businesses pay. Further, this legislation does not affect in any way the State's right to collect royalty income in appropriate situations. However, it will effectively prevent use of the severance tax mechanism to raise revenues for General Government and other unrelated activities.

The bill does not impose a numerical test; it does not attempt to dictate that severance taxes above a particular level are, per se, excessively high. It does establish a standard, a standard that is both flexible and reasonable. It permits States to impose severance taxes to raise amounts sufficient to recover the direct public costs attributable to the energy extraction activity. For example, States would be able to impose severance taxes to recover the costs of necessary highway upgrading or of new sewer lines needed to service the energy extraction facilities.

The amount necessary to recover associated public costs will vary from State to State and make a single national standard inappropriate. The test in the Severance Tax Equity Act will permit States to respond to their own unique circumstances, while insuring that energy activities are not singled out to bear a disproportionate share of the necessary costs of Government and that energy activities are taxed in a nondiscriminatory way.

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The "related to public costs" test is not without problems. An inventive State could try to contend that many activities that most reasonable people would believe were unrelated to the energy activity were somehow distantly related and therefore should be covered by the severance tax. Years of litigation could result, as clever States tried to stretch the standard to its limits—and beyond.

Therefore, the bill establishes a presumption that State severance taxes above its own 1978 level, or the 1978 national average, whichever is higher, are not related to the energy activity. A State would have to bear the burden of demonstrating that revenues above the 1978 level, adjusted for inflation, were necessary to cover directly attributable costs; 1978 was chosen because it reflects the level of taxation States felt was necessary before decontrol of oil prices began in 1979.

In my own view, it is possible, and perhaps even likely, that even the 1978 levels could be too high. However, for taxes below the 1978 level, the Federal Government or the party paying the tax would have to prove that the tax was excessive.

I believe, Mr. President, that energy severance taxes in some States have risen to a level that constitutes a burden on interstate commerce. My bill will eliminate that burden, insuring State severance taxes are related to the public costs directly attributable to energy activities.

This legislation addresses the core of the severance tax issue, but does not attempt to address the numerous related issues. For example, it does not impose a Federal severance tax or create or increase any other Federal energy tax.

I believe a strong case can be made for a new Federal energy tax. However, resolution of that important issue can proceed separately from the State severance tax preemption issue. Further, a new Federal tax is likely to be extremely controversial, and could impede action on the State severance tax limitation question.

Mr. President, I realize this proposal is controversial and that there are many that will oppose it, even though it does not call for a new Federal tax. I think it is worth remembering, however, that one of the major reasons the Thirteen Colonies came together to form the United States after the Revolutionary War was to form a customs union, to insure the free and unfettered flow of trade between and among the States-to-be. I think that objective was a sound one, and that it remains sound today.

Unrestricted severance taxes by the States have the potential to undermine the free flow of trade among the States, and to incite regional strife. Uncapped, these taxes work contrary to the interests of the union. We do not have to look very far to see the unfortunate consequences caused by placing State or regional interests above the national interest.

I think it is imperative, therefore, to enact this legislation, and enact it quickly. Our energy resources are part of our national treasure, and their benefits should be shared by the entire Nation.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Severance Tax Equity Act of 1982".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds—

(1) the Federal decision to allow the price of domestic crude oil to rise to the world price has unintentionally contributed to fiscal disparities between States, as a few energy-producing States seek to gain the greatest possible economic advantage from their positions as net energy exporters, at the expense of the other States;

(2) severance tax revenues in some States greatly exceed the amount necessary to recover the public costs attributable to the economic activity being taxed; and

(3) excessively high severance taxes constitute a burden on interstate commerce.

(b) Purpose.—The purpose of this Act is to impose an effective and reasonable limit on state energy severance taxes on certain minerals.

SEC. 3. LIMITATION ON CERTAIN STATE SEVERANCE TAXES.

(a) In General.—Notwithstanding any other provision of State or Federal law, the aggregate revenues from State severance taxes imposed by any State (and any political subdivision thereof) with respect to crude oil, natural gas, or coal transported outside such State in any State fiscal year shall not exceed the costs incurred by the State (and any political subdivision thereof) during such fiscal year which are directly attributable to the production within the State of crude oil, natural gas, or goal, as the case may be.

(b) Enforcement.—

(1) In general.—

(A) Action by attorney general.—The Attorney General may bring a civil action against any State (or any political subdivision thereof) which is in violation of subsection (a) in any appropriate district court of the United States.

(B) Action by taxpayer.—Any person who has paid a State severance tax which is imposed by a State (or any political subdivision thereof) in violation of subsection (a) may bring a civil action against such State (or political subdivision) in any appropriate district court of the United States.

(2) Relief.—The district court of the United States shall have jurisdiction to grant such relief (including injunctive relief) as may be appropriate in any action brought under paragraph (1).

(3) Burden of proof.—

(A) In general.—Except as provided in subparagraph (B), the burden of proof in any action brought under paragraph (1) shall be upon the petitioner to prove that the aggregate revenue from the State severance tax imposed by the defendant during the State fiscal year exceeds the costs incurred by the defendant during such fiscal year which are directly attributable to the production of crude oil, natural gas, or coal, as the case may be.

(B) Rates in excess of 1978 levels.—Upon introduction of evidence in any action brought under paragraph (1) that the rate of the severance tax imposed by the defendant during the State fiscal year exceeds the higher of—

(i) the adjusted 1978 State tax rate for such State for such fiscal year, or

(ii) the adjusted 1978 national average tax rate for such fiscal year,

the burden of proof in such action shall be upon the defendant to prove that the aggregate revenue from such severance tax for such fiscal year does not exceed the costs incurred by the defendant during such fiscal year which are directly attributable to the production of crude oil, natural gas, or coal, as the case may be.

(c) Adjusted 1978 State Tax Rate; Adjusted 1978 National Average Tax Rate.—For purposes of this section—

(1) In general.—The terms "adjusted 1978 State tax rate" and "adjusted 1978 national average tax rate" mean the 1978 State tax rate, or the 1978 national average tax rate, as the case may be, plus an amount equal to—

(A) such tax rate, multiplied by

(B) the inflation adjustment for the State fiscal year involved.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

(2) 1978 national average tax rates.—The term "1978 national average tax rate" means, with respect to crude oil, natural gas, or coal—

(A) the aggregate amount of revenue from State severance taxes imposed on such natural resource determined under paragraph (5) to have been collected by all States (and all political subdivisions thereof) during State fiscal years ending with, or within, calendar year 1978, divided by

(B) the aggregate quantity of such natural resource determined under paragraph (5) to have been produced from within all States during such fiscal years.

(3) 1978 state tax rates.—The term "1978 State tax rate" means, with respect to crude oil, natural gas, or coal produced from a State—

(A) the aggregate amount of revenue from State severance taxes imposed on such natural resource determined under paragraph (5) to have been collected by such State (and any political subdivision thereof) for the State fiscal year ending with, or within, calendar year 1978, divided by

(b) the quantity of such natural resource determined under paragraph (5) to have been produced from within such State during such fiscal year.

(4) Inflation adjustment.—The inflation adjustment for any fiscal year is the percentage by which—

(A) the first revision of the implicit price deflator for the gross national product for the third calendar quarter of the calendar year ending with, or within, the State fiscal year preceding such fiscal year, exceeds

(B) such deflator for the calendar quarter ending December 30, 1979.

(5) SECRETARY OF ENERGY DETERMINATIONS.—

(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Energy shall determine (and publish in the Federal Register) with respect to crude oil, natural gas, and coal—

(i) the amount of State severance taxes collected by each State (and all political subdivisions thereof) during the State fiscal year ending with, or within, calendar year 1978 for each such natural resource, and

(ii) the quantity of each such natural resource produced from within such State during such fiscal year.

(B) CENSUS DATA.—The Secretary of Energy shall base the determinations under this subsection on data which the Director of the Bureau of the Census shall provide, unless the Secretary finds that more appropriate information is available from an agency hearing described in subparagraph (C).

(C) PROCEDURES FOR DETERMINATIONS.—The Secretary of Energy shall make the determinations under this paragraph on the record after an opportunity for an agency hearing under section 554 of title 5, United States Code.

(D) JUDICIAL REVIEW.—

(i) FILING OF PETITION.—At any time before the 60th day after the date on which any determination is published under subparagraph (A), any person may file a petition with the United States Court of Appeals for the circuit in which such person resides, or has his principal place of business, for judicial review of such determination. A copy of the petition shall be transmitted by the clerk of the court to the Secretary of Energy. The Secretary of Energy thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the determination was based as provided in section 2112 of title 28, United States Code.

(ii) JURISDICTION.—Upon the filing of the petition referred to in clause (i), the United States Court of Appeals shall have jurisdiction to review the determination in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

(iii) APPEALS.—The judgment of the United States Court of Appeals affirming or setting aside, in whole or in part, any such determination shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(iv) LIMITATION.—Any determination of the Secretary of Energy under this paragraph shall be subject to judicial review only in accordance with the provisions of this subparagraph.

(6) UNITS OF MEASURE.—The 1978 State tax rate and the 1978 national average tax rate determined under this subsection shall be—

(A) per barrel, in the case of crude oil;

(B) per Mcf, in the case of natural gas; and

(C) per ton, in the case of coal.

(d) DEFINITIONS.—For purposes of this section—

(1) STATE SEVERANCE TAXES.—The term "State severance tax" means any tax or fee established by any State (or any political subdivision of a State) and levied on, measured by, or otherwise imposed with respect to crude oil, natural gas, or coal produced in such State. Such term does not include any income, sales, property, or any other similar tax or fee if such tax or fee—

(A) applies with respect to a broad range of business activities or types of property, and

(B) does not result in a significantly higher rate of tax or fee than is generally applicable to the other activities or property with respect to which it is imposed.

(2) STATE.—The term "State" includes the District of Columbia.

(3) CRUDE OIL.—The term "crude oil" includes a natural gas liquid recovered from a natural gas well in lease separators or field facilities.

(4) NATURAL GAS.—The term "natural gas" means any product (other than crude oil) or natural gas well; except that such term shall not include any geothermal energy.

(5) COAL.—The term "coal" includes lignite.

(6) BARREL.—The term "barrel" means 42 United States gallons.

(7) MCF.—The term "Mcf" refers to 1,000 cubic feet of natural gas measured at a pressure of 14.73 pounds per square inch (absolute) and a temperature of 60 degrees Fahrenheit.

(8) TON.—The term "ton" means 2,000 pounds.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the limitation provided by subsection (a) shall take effect 1 year after the date of enactment of this Act.

(2) 2-year period for States in excess of limitation.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any State (or any political subdivision thereof) in which any State severance tax on crude oil natural gas, or coal would otherwise exceed the limit under subsection (a), such limit shall not be applicable with respect to such tax at any time during the 2-year period beginning on the date of the enactment of this Act.

(B) EXCEPTION IF TAX IS MODIFIED DURING 2-YEAR PERIOD.—Subparagraph (A) shall cease to apply to any State severance tax if the rate at which the tax is imposed on the date of enactment of this Act is revised by the State or political subdivision involved.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Georgia (Mr. NUNN).

Mr. NUNN. I thank the Chair.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I continue to remind our colleagues of the critical need for reform in the area of habeas corpus proceedings. Judges as well as prosecutors have echoed our concerns, urging rapid and effective change in those laws now governing habeas corpus relief. By virtue of calculated habeas corpus abuse, career criminals secure for themselves years and years of freedom from punishment for their crimes. As a responsible Congress, we must act now to curtail this abuse. We must close those legal loopholes which have been routinely and needlessly available to criminals for far too many years.

Clearly the American concept of criminal justice is violated when a wrongdoer freely and openly admits his guilt to a series of violent crimes yet is allowed to remain unpunished via an endless stream of appeals and habeas corpus petitions. I point out the case of Albert Logan. In 1971, Logan was prosecuted on charges of aggravated assault, armed robbery, and three counts of rape. One of the rape victims was a 76-year-old woman. Upon conviction, he received a life sentence in Fulton Superior Court, Atlanta, Ga. Like hundreds of other criminals, Logan admitted his guilt to a spree of violent crimes. Nevertheless, like hundreds of other criminals, Logan persisted in overburdening the criminal justice system with numerous repetitive petitions for habeas corpus. And finally, like hundreds of other criminals, one of Logan's petitions for habeas corpus relief was eventually granted despite his many admissions of guilt. Logan's petition was granted some 7 years after his conviction, on the grounds that he had not been adequately assisted by counsel when he pled guilty to the charges.

Ironically, Logan's admissions and guilty plea, which he attacked via habeas corpus, were not the government's only evidence against him. His guilt was clearly established, even aside from his own admissions, by the evidence of his own fingerprints which the government secured in two of the rape cases. Moreover, according to the prosecutor, Logan had voluntarily and purposefully pled guilty from the start as a good will gesture, in order to avoid the death penalty. "He was begging to plead guilty to avoid the electric chair," said the prosecutor. Despite the strong independent evidence against him and numerous previous decisions affirming the conviction, Logan eventually obtained habeas corpus relief on the basis of an issue that did not and could not erase the substantial evidence of his guilt in a string of serious and violent crimes.

Few will disagree that crime is a problem which daily threatens the safety and security of the American people. Unfortunately, our criminal laws do not always reflect that consensus of opinion on the problem. We cannot and should not sit idly by while violent criminals like Logan are allowed to continually flaunt our system of criminal justice by the use of legal technicalities. This Congress needs to act promptly and decisively on strong anticrime legislation.

S. 2543, the Crime Control Act of 1982, which has now been awaiting action on the Senate Calendar since May 25, 1982, is one such piece of legislation. In introducing that bill, Senator CHILES and I specifically dealt with

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the problem of habeas corpus abuse by criminals like Logan. By including a 3-year statute of limitations for habeas relief and assigning greater weight to previous State court determinations of fact, the bill provides a strong first step to restoring some meaningful sense of finality and certainly to our criminal justice system. It presents a needed, well-reasoned, and responsible vehicle for habeas corpus reform. Again, I urge the Senate to act now to consider and pass the anticrime proposals set forth in S. 2543.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business that will not extend past 11 a.m., during which Senators may speak for 3 minutes each.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I seek recognition in my own right.

The PRESIDING OFFICER. We are still in morning business. Each Member has 3 minutes.

Mr. HART. I thank the Chair.

THE PROBLEMS WITH THE DENSE PACK PLAN

Mr. HART. Mr. President, the Reagan administration seems poised to commit this country to an expensive, elaborate, destabilizing and probably unworkable basing scheme for the troubled MX missile—the so-called dense pack plan—that would almost certainly fail to achieve its stated purpose: To provide the United States with a modernized ICBM force able to survive a surprise Soviet missile attack and to respond to such an attack in a timely, proportionate and disciplined manner.

Dense pack, or the closely spaced basing plan as the Air Force prefers to call it, would require an initial deployment of 100 MX missiles, based perhaps 2,000 feet apart, arrayed in rows along an east-west axis. The missile deployments would create a 10- to 12-square mile trapezoid with the smaller of the two planes along the trapezoid's southern periphery. According to administration spokesmen, the detonation of the first few Soviet warheads targeted against the southern-most MX missiles would disable all succeeding warheads through the effects of fratricide—or the heat, blast, and radiation triggered by the first explosions. Before the next wave of Soviet warheads could arrive and explode on target, it is alleged, the surviving MX missiles could be launched against the Soviet Union in retaliation. As the Soviet Union began to develop the capacity to lay down a precisely timed attack and thereby overcome the effects of fratricide, the United States could deploy a ballistic missile defense system adjacent to the MX deployments or build additional decoy silos to complicate Soviet targeting plans, thus further enhancing the survivability of the new ICBM force.

As with so many once-considered but now-discarded plans for MX basing, however, this latest scheme offers no long-term solution to the problem of ICBM vulnerability and suffers from a number of critical shortcomings, both technical and political.

The fratricide effect, which the advocates of dense pack claim would protect the MX from attack, could also be used to insure the destruction of the missiles. For example, the Soviets could set off a series of low-yield warheads at an altitude of 120 miles every 60 seconds for as long as several hours. Any U.S. missile attempting to pass through the distrubed atmosphere above the silos would be destroyed. This initial high altitude attack would, therefore, have the capacity either to disable MX or to prevent our missiles from being launched in the first place. Under this protective shield, the Soviets could detonate, in careful sequence, a number of accurate and very high-yield warheads within several hundred feet of the silos, enabling the phased destruction of all 100 MX missiles within a relatively short period of time.

Even if the technical requirements for launching such an attack now exceed current Soviet capabilities, such may not be the case by the early 1990's. Air Force spokesmen admit that the life expectancy for dense pack could be as short as 5 to 7 years, without the development of a ballistic missile defense system to protect MX or the construction of additional silos, either to deceive the attacker or to complicate this attack plans. With cost extimates for dense pack ranging as high as $25 billion, the administration would be asking the people of this country to pay for what amounts to a short-term or temporary basing scheme for the MX at an annual cost of almost $5 billion.

Should the administration succeed in obtaining congressional authorization for dense pack, pressures will inevitably increase to enhance the long-term survivability of the system through the deployment of a ballistic missile defense network, requiring either the renegotiation or the abrogation of the 1972 ABM Treaty. Should the Soviets construct their own BMD system in response, the way would be opened for a new and extremely destabilizing round in the superpower arms race. The ABM Treaty—perhaps the most important United States-Soviet arms control agreement ever concluded—should not be sacrificed to make room for an MX basing plan of questionable utility. In addition, a Soviet BMD deployment, even if limited in scope, would effectively neutralize the modest strategic offensive forces of the three other nuclear weapons states, all of which are either allied to the United States or supportive of this country's defense policies.

Finally, construction of the 100 new silos for defense pack would probably constitute a violation of both the SALT I and SALT II accords, which explicitly prohibit the building of any additional fixed ICBM launchers, or silos. Administration efforts to portray the encapsulated MX missiles as mobile systems in order to circumvent this prohibition are unlikely to be sanctioned by the Soviets without compensatory U.S. concessions, which may not be in this country's best interests especially if the Soviets chose to mimic U.S. actions. The problem would only be compounded by any U.S. effort to build more than 100 silos, either for more missiles or for purposes of deception.

Since 1976, more than 30 proposals for basing the MX have been thoroughly examined by two administrations. All have been discarded for a variety of technical, political and environmental reasons. No plan has yet been devised which, if implemented, would insure the long-term survivability of the U.S. ICBM force. Despite the claims of its supporters, dense pack looks no more promising. Rather than commit this country to an ill-considered and, by most accounts, unworkable plan for basing the MX on land, this administration should have the political courage to admit that no quick, simple and affordable solution to the problem of ICBM vulnerability currently exists nor is one likely to appear.

This administration must begin active consideration of other ways to guarantee the effectiveness of U.S. strategic forces. One way to advance this objective would be to reduce the importance of land-based missiles in our strategic nuclear posture by shifting a greater proportion of the U.S. nuclear deterrent to our most survivable nuclear weapons platforms, including ballistic missile submarines and standoff bombers equipped with cruise missiles. We may well discover that land-based nuclear systems have outlived their utility and are no longer necessary to safeguard deterrence. A second and equally important way to preserve the deterrent relationship and to reduce the likelihood of nuclear war is to redouble our efforts to negotiate an equitable, comprehensive and verifiable nuclear arms control agreement with the Soviet Union.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, the chairman of the Appropriations Committee is on his way to the Chamber from the airport. As I indicated on yesterday, I am loath to begin consideration of the veto message until he is here on the floor.

I understand that perhaps two Senators have matters with which they would like to deal as in morning business. I ask unanimous consent that the time for the transaction of routine morning business be extended until not past 11:15 a.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. STAFFORD. Mr. President, I urge my colleagues to vote to override the President's veto of the conference report on the supplemental appropriations bill.

This bill contains funding that is vital to programs dealing with education and with employment programs for older Americans. I urge my colleagues to support these programs today, just as they did 3 weeks ago. The need for this funding is just as urgent today as it was then.

Allow me to list the education program funding contained in this supplemental appropriations bill:

Title I of the Elementary and Secondary Education Act, that portion of the law that attempts to provide additional aid for the economically disadvantaged children of this Nation—$148 million.

Impact aid—$200,000.

Education for the handicapped—$26.5 million.

Vocational education—$2.5 million.

Pell grants for higher education—$140 million.

Supplemental educational opportunity grants—$77 million.

Title III—$4.8 million.

All of these programs have come under the close scrutiny of members of the Subcommittee on Education, on which I serve as chairman, over the last 18 months. Each of these programs has been determined to be a worthy investment in our Nation's future.

The additional funds contained in the supplemental appropriations bill increases the funding to a level that is more realistic than the levels contained in the continuing resolution for fiscal year 1982, but still below the levels of fiscal year 1981.

In my own State of Vermont, this bill provides additional funds for needy college students; $850,000 in additional SEOG funding for an additional 1,400 students, and $600,000 in additional money for Pell grants for an additional 600 students.

The supplemental appropriations bill also contains an additional $210 million for title V of the Older Americans Act, the senior community services program, which provides job opportunities for older citizens. In my own State of Vermont, the additional funds will provide continuing jobs for 311 older Vermonters. If the veto is sustained, these 311 Vermonters—and thousands of senior citizens across the Nation—will lose their current jobs.

This bill does not bust the budget.

This bill places spending priorities where this Senate thought they should be placed just 3 weeks ago.

This bill is as urgently needed today as it was 3 weeks ago.

I urge my colleagues to override the veto to assure continued necessary funding for these, and other, important programs.

CONDITIONS IN EAST TIMOR REMIND OF NEED FOR PASSAGE OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, Mr. DURENBURGER, my good friend and colleague from Minnesota, sent me an article which describes the numerous violations of human rights which have taken place in East Timor since Indonesia annexed the region in 1976. The article was written by the journalist Rod Nordland and published in the Philadelphia Inquirer.

Mr. President, a clear understanding of life in the area has been difficult to obtain, and therefore, this article is especially important because the journalist had the unusual opportunity to visit 8 of 13 districts in East Timor. In that tortured province, he personally witnessed the suffering of many Timorese.

Following Indonesia's takeover in 1976, Timorese opposition to Indonesian rule did not cease. The author reports that Indonesian anti-insurgency policies have resulted in widespread hunger and the loss of civilian lives. Indonesian policies also have disrupted food supplies and uprooted families from their homes. No person may leave his village or the country without official permission. At the time the article was written, the Indonesian Government openly acknowledged its intent to detain thousands of Timorese related to resistance fighters until total and complete surrender by the guerrillas.

According to the journalist, day-to-day survival is difficult for the Timorese. Due to shortages, staple foods, when available, cost twice as much in East Timor as in other parts of Indonesia. The sale of coffee is an important source of income for the Timorese, yet, Indonesian officials impoverish the native people by requiring them to sell their product at very low prices to one company only. They are not even permitted to trade their coffee for other goods in the marketplace.

The Catholic authorities in East Timor estimate that the population now numbers 425,000. According to census figures in 1974, the year Portugal withdrew from East Timor, the population was 650,000. Hunger is prevalent and the sight of a malnourished child is not unusual, however, Indonesia has turned away offers of relief. The journalist quotes one Timorese as saying, "In the heart of the people there will always be resistance. That's why I think the Indonesians are happy to see famine. The Timorese people will always be a problem so, they figure, just eliminate the problem."

According to this account, the Timorese are suffering numerous violations of the civil and human rights. Their terrible plight serves to remind us that the basis and precious right to exist belongs to all racial, religious, and ethnic groups. We know from history that the potential for genocide occurs when fundamental human rights are ignored. Sadly, the potential for genocide still exists in the world today.

Mr. President, since 1967 I have urged the Senate to ratify the Genocide Convention. Today, once again, I should like to press upon my colleagues the need for the United States to join with other nations in officially condemning genocide. Only by ratifying the treaty can the United States feel totally secure in its position as a leader in the area of international human rights.

Mr. President, I ask unanimous consent that Mr. Nordland's article from the Philadelphia Inquirer be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

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[From the Philadelphia Inquirer, May 28, 1982]

UNDER INDONESIA, TIMOR REMAINS A LAND OF MISERY

(By Rod Nordland)

DILI, EAST TIMOR—East Timor, the former Portuguese colony that was forcibly annexed by Indonesia in 1976, is a land beset by widespread malnutrition and hunger. This year's grain harvest was a dismal failure; now, even as many Timorese suffer through longstanding food shortages, they face a new wave of famine, the second in five years.

Adding to the misery of East Timor, the incidence of disease is essentially unchallenged by the province's inadequate medical care; a six-year guerrilla war continues to disrupt the populace, and anti-insurgency measures imposed by a military government have stripped Timorese of their civil rights.

Thousands of people are political prisoners—most of them simply because they are related, often distantly, to a fighter with the guerrilla group known as Fretilin—the Revolutionary Front for Independent East Timor. Hundreds of thousands have been relocated in a policy to depopulate the countryside and deprive the guerrillas of civilian support.

These are some of the conclusions reached during an 11-day tour of the province of East Timor, the first visit by an American journalist in two years and one of the few allowed to an independent outside observer in the six years of Indonesian rule. They are conclusions that are supported by a member of clergymen, civilian officials and aid organizations.

Nevertheless, Indonesian officials hotly contest them all. According to these officials, there was no poor harvest this year, only isolated food shortages; there is no famine, only isolated cases of malnutrition; there are no political prisoners, just a rehabilitation center where the relatives of guerrillas are kept for their own good, the countryside has not been depopulated, it has been "resettled."

"We have nothing to hide in East Timor," Adm. Sudomo of Indonesia's Command for the Restoration of Peace and Order said recently when he issued the invitation to visit the province, which has been a source of international concern since the mid-1970's.

Year after year, the United Nations has condemned as illegal Indonesia's forcible takeover of East Timor and has demanded that it withdraw its troops and allow for self-determination. Portugal itself has refused to acknowledge the annexation, insisting that Fretilin is the appropriate governing power of a free East Timor.

The recent visit included tours by helicopter and jeep of 15 towns and villages in eight of the province's 13 districts. Despite almost perpetual close monitoring by Indonesian military and civilian officials, it was still possible to see obvious signs of large-scale malnutrition and disease, as well as overt oppression.

It also was sometimes possible to meet independently with Timorese in and out of government, with clergy of the Roman Catholic Church in the mostly Catholic province and with average Timorese from many walks of life.

While many of the scores of Timorese interviewed were frankly fearful about talking, dozens did so nonetheless, saying, as one did, "Please tell the world so they can help the Timorese people." At least six of those interviewed, it was learned, were summoned afterward to military intelligence headquarters and interrogated about what they had said, often for many hours.

The picture that emerged was one of a population that widely regards the Indonesians as a foreign occupying force. Even many leaders who once favored annexation by Indonesia have become disenchanted—in some cases openly—with Indonesian rule, or at least with the military officials that represent it here.

The behavior of those military authorities "can only be described as being the behavior of conquerors toward a conquered people," said a petition signed by a pro-Indonesian member of the provincial assembly, Joao Pedro Soares, and sent last year to the central government in Jakarta, Indonesia's capital, appealing for relief. A short time later, Soares and three other East Timorese members of parliament whose names appeared on the petition disappeared, reemerging after a month to swear that it was a fake.

The Indonesian rule has been characterized by fear and marred by accusations of torture and widespread abuse of civilians by soldiers. There are virtually no civil liberties. Peasants are told to whom they must sell their coffee and at what price. No one may leave his village or hometown without permission. Telephone calls and telegrams to places outside East Timor are forbidden. No one may leave the province without special—and rarely granted—permission. That applies as well to the more than 4,000 citizens of other countries who live in the province. According to military police statistics, there are 916 Portuguese nationals and 3,158 Taiwanese nationals on East Timor; many of them have requested and been refused permission to return to their own countries.

The Timorese have already suffered a great deal since the 1974 revolution in Portugal brought to power leftists who initiated a precipitous decolonization of Portuguese holdings around the world. One of those holdings was the eastern half of the island of Timor. (West Timor had been a Dutch colony until joining Indonesia when that country won independence from the Dutch on Dec. 27, 1949.)

In East Timor, the initial struggle for power after decolonization ended when the leftist, pro-independence Fretilin wrested control from two other parties, UDT, or Unity, which wanted to remain a colony of Portugal, and Apodite, a small minority party that favored integration with Indonesia.

Fretilin declared the short-lived Democratic Republic of East Timor on Nov. 28, 1975. A week later, Indonesian paratroopers and marines invaded Dili, and with a few months they had taken over most of East Timor. In July 1976, it was proclaimed Indonesia's 27th province.

But serious fighting with the Fretilin guerrillas did not end, and the years-long disruption interfered with planting. The ultimate result was a major famine that devastated the province between 1978 and 1980, with a great loss of life.

Word of conditions in East Timor leaked out and, although Indonesia initially denied reports of the famine, in 1980 and 1981 the International Committee of the Red Cross and the Catholic Relief Services of the United States were allowed to begin a relief program in the province. It was terminated last year by the Indonesian government which said it was no longer necessary.

How many people died in the fighting and famine before the relief program began may never be known for sure, but based on Indonesia's census figures, there were only 550,000 persons in East Timor in 1980; in 1974, the Portuguese authorities had counted 650,000.

The conclusion that may be drawn from these figures is not as obvious as it appears, because the Portuguese census was a voluntary one. People were asked to go to their local administrative centers to be counted, but many lived far in the mountains and did not make the trip. Under the Indonesian regime, on the other hand, people have been concentrated in towns and resettlement centers, and the 1980 census was a thorough, door-to-door affair.

Nevertheless, Catholic authorities doubt the Indonesian results, and the church's own census puts the current population at 425,000, a loss of 225,000 people from the Portuguese figure.

While still recovering from the terrible famine of the late 1970s, Timorese agriculture was dealt another blow last year, when, just as the planting season was beginning and only a few months after the government had ordered the relief program ended, the Indonesian army launched Operation Security.

Every male in the province age 13 or older was ordered into the mountains to help the army to conduct a giant sweep designed to finish the Fretilin once and for all. The civilians, mostly armed with sticks and farm implements, formed human chains and encircled the rugged mountain fastnesses where the guerrillas were believed to be hiding. Army troops moved ahead of them, theoretically to beat their quarry into this human net.

Many of those caught in the net, however, were civilians who themselves had resisted government attempts to make them leave their homes in the mountains—the traditional dwelling place for Timorese—and move to resettlement centers.

According to the top church authority here, apostolic administrator Msgr. Martinho da Costa Lopes, who is widely known as "the bishop," at least 1,000 civilians perished in the operation, which lasted from two to four months between June and September 1981. In one action alone, he said, 500 civilians were killed at Laclut in Viqueque District.

"Many Timorese were killed including . . . innocent children, pregnant women and defenseless people without any crimes except their willingness to be independent from all oppression," Msgr. da Costa Lopes said in a recent interview here.

The Indonesian government says, officially, that Operation Security was a success and that it reduced the ranks of Fretilin to 300 men, sharing 120 weapons. Privately, however, several officials say there are still as many as 1,200 armed guerrillas at large.

The greatest casualty of Operation Security, in fact, was the 1981–82 corn and rice crop, much of which was not planted before the rainy season began in September because the men of East Timor were with the army in the mountains.

That crop was to have been harvested in March, but it was a disaster, according to Msgr. da Costa Lopes, clergy elsewhere in the province and other independent sources. The International Committee of the Red Cross, which still has one representative on East Timor, stated in a report in March that, according to official figures, the anticipated crop of 40,000 to 60,000 tons of maize and 30,000 to 40,000 tons of rice would not be harvested in 1982 because of bad weather, attacks by rodents and "movement of populations in the second half of 1981 which made planting in some areas, specially in the south insufficient."

According to clergy here, the result has been a famine of near-famine in many parts of the province, particularly in Baucau and Viqueque districts in the east where the continuing fighting between government troops and Fretilin guerrillas has been most severe.

Msgr. da Costa Lopes hestiates to use the term "famine"; he prefers to say that more than half of the population in those districts, where more than 100,000 people live, has "insufficient food to maintain life." In addition, he said, hunger and malnutrition are endemic throughout the country.

"In Viqueque, they begin to eat the *sagu* [boiled palm pulp], and this is a sign for Timorese that famine is coming," he said.

Other clergymen stated the case more strongly. "If you quote me as saying this, I'll be killed," said one, who was recently in the eastern part of the province. "Famine is always a relative term, and there is hunger and malutrition all over the country, but it's truly a famine in this region" of Baucau and Viqueque.

One of the worst-hit towns in Viqueque, according to Msgr. da costa Lopes, is Uatolari, a mountainside town close to the scene of the heaviest fighting. Not so, said East Timor's vice governor, Franciso Xavier Lopes da Cruz.

"The bishop, you know, he just stays here in Dili, he does't go very often to the mountains," Lopes da Cruz said. "Uatolari, they have a surplus, plenty of corn. The military commander told me he bought 26 million rupiahs [about $41,000] of corn, so how could they be starving in Uatolari?

"The truth is," he added, "no famine here in East Timor—you can see one or two people who don't have enough food, but not a famine."

A prominent Timorese viewed the issue of famine politically. Like many, he was clearly sympathetic to the guerrilla movement: "The Fretilin is a symbol of resistance" to Indonesia, he said. "In the heart of the people there will always be resistance. That's why I think the Indonesians are happy to see famine. The Timorese people will always be a problem so, they figure, just eliminate the problem."

When a party of officials and a reporter descended on Uatolari by helicopter, the grassy public square immediately was crowded with scores of children, standing just at the edge of the rotor wash. Many of them appeared to be severely malnourished, with the classic distended bellies and stick-like limbs that denote long-term, serious hunger.

Or so the reporter thought. Hans Meier-Eybers, the project director for a Catholic Relief Services agricultural recovery program in East Timor, a $5 million, U.S. government-funded program, thought otherwise. Meier-Eybers, a Swiss, surveyed the children critically and said. "They look like healthy kids to me. Sure, they're a little dirty, but that is all."

An Indonesian doctor, S. C. Kurniati, approached and was asked if he thought the children appeared to be malnourished. "You can see for yourself," he said, seeming a bit taken aback by the question: "These children are all malnourished."

In another mountainside town in Viqueque District, Uato Carabao, which was also visited by helicopter, the picture of apparent starvation was the same. Tucked onto a narrow, cloud-covered shelf on the mountain's edge, Uato Carabao also is close to the fighting and, as a result, the town's residents are forbidden to go up the mountain slopes to tend their fields. As the helicopter touched down briefly, people emerged wraithlike from the mist and stared without smiling while the helicopter picked up visiting medical personnel and swooped off again.

Although visits were permitted to the districts of Los Palos and Baucau, reportedly the past and present sites of the heaviest fighting with Fretilin, they were confined to the district capitals. No visits at all were permitted to places like Lufa in Los Palos, and Batumacella, Beguia, Quelicai and Laga in Baucau—where clergymen say widespread starvation exists.

In Baucau, district administrative staff member Sinago, an Indonesian, introduced Sister Osario Saurez, a Timorese nun who is principal of the Catholic primary school there.

She listened as Sinago described what a success Operation Security had been. "Every time we go to a village now," he said, "they are happy to see us."

"Because of the political situation," Sister Saurez said quietly, "because the people had to help the military for the Operation Security, they were not able to plant the fields."

"There is plenty of food here," Sinago said insistently, and a little nervously.

The nun continued to contradict him with a soft-spoken resolve that clearly astonished some of the officials present. "We are very short of food, namely in Baguia, Quelicai and Laga. But even here the food is not sufficient, the health care is not sufficient. Last year it is better, this year it is worse because of Operation Security."

The problem has been complicated, she explained, because much of the population has been resettled in the lowlands, far from the mountainside fields. In Baucau District, for instance, 61,000 of the 74,000 people in the district now live clustered around the town of Baucau proper.

"They can grow enough food there," said Sinago.

"More than 50 percent of the people are short of food," Sister Saurez said.

Evidence of serious food shortages can be found all over the country, not just in the hard-hit areas in the eastern districts. On a trip to Aileu, a mountain district just 30 miles south of the capital of Dili by rough jeep road, malnourished people were a frequent sight along the way.

At a resettlement village called Saburia, just outside the district seat of Aileu, the party, which included half a dozen military and civilian officials as well as a journalist, stopped to see the corrugated tin houses the Indonesian government had built for people resettled there from the mountains.

Saburia lies in a deep mountain valley. The village chief is a Timorese, but his "assistant" is an Indonesian; they and a military intelligence major named Marsidik accompanied the journalist as he interviewed residents.

Bernardo, 56, who lives with his wife and 10-year-old son, sat on the bare dirt floor of his house, which was devoid of possessions of any kind; there was also no sign of food in the house. Asked how the harvest had been, he surveyed the circle of officials and, after a long pause, said, "There is not enough to eat."

The next house was identical, except that nine persons lived in it and that it contained a piece of furniture, a table. Under the table—the coolest place at midday in the tin house—lay a boy sweating and shaking in what his family said was a three-day-old malarial fever. Other children in the household had bloated bellies and emaciated limbs. Thomas Ferreria, the family spokesman, was asked through an interpreter about his family's condition.

"Tell him," Maj. Marsidik warned Ferreria in Indonesian, "that it's OK here."

Ferreria did as he was told.

"So even though the crops are bad, you have enough food for the whole family?" he was asked, in English.

"Tell him you have enough until the next rainy season," said Marsidik in Indonesian.

"We have enough until the next rainy season," Ferreria said.

At the Betora parish church, on the outskirts of Dili, Sister Josephine Bordallo, a Spanish Carmelite nun who has worked here since 1979, single-handedly runs a clinic in which she sees 160 seriously ill people a day, including "many, many cases of malnutrition," she said. Most of the patients come to her clinic because the government-run facilities often have no medicine and no medical personnel.

"Tuberculosis is the most common disease, but hunger is the biggest problem," she said. "They come here and I give them medicine for TB, but then they go home and they have no food in their houses, so how can they get better?"

In the Lahane neighborhood of Dili, where hundreds of families have been forced to live in temporary huts along the steep banks of a mountain stream, severe malnutrition is widespread and apparent. Most of Lahane's residents were moved to Dili from their farms in the surrounding mountains in Dili they have no job skills and little work.

Of 22 Lahane children under the age of 12, whose body weights and measurements were taken on May 9, 18 were proved to be chronically malnourished, according to standards adopted by the World Health Organization.

"If the situation is this bad in Dili," said Msgr. da Costa Lopes, "you can imagine what it's like in Baucau or Los Palos. I've been there—to Laga, Baguia, Los Palos last October. Even at that time there was hunger, and now it is far worse."

East Timor's de facto ruler is an army colonel named A. P. Kalangie. A non-Timorese who holds enormous power despite his modest title as East Timor provincial secretary, he noted in a recent interview that Indonesia had refused an Australian donation of 1,000 tons of corn because Australia had continued to criticize conditions in East Timor, which is only 350 miles off its north coast.

In place of the Australian grain, Col. Kalangie said the Indonesian government is itself sending 1,000 tons of grain to East Timor. "But we won't just give it away," he added. "If you give people something for nothing, they get lazy."

"Yes," agreed Catholic Relief Service's Meier-Eybers, "and soon you have an island of beggars."

"That's what they are always telling me," said a priest in Dili. "We have to stop bringing in food so the people will make it for themselves," but these people are working hard and still they are hungry.

"What I cannot understand is the reluctance of the Indonesian government to allow one independent team to visit East Timor to see the real situation and assess its normality for themselves," said Michael Whiteley of Australian Catholic Relief,

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which in the past has been active in raising aid money for the Timorese.

"East Timor has enough foreigners who are refereeing us," Col. Kalangie said testily. There are two. Meier-Eybers is one of them, and agreed heartily with Kalangie. The representative of the International Committee of the Red Cross, Cedric Neukomm, is the second. He declined to be interviewed.

"The Red Cross doesn't want to say the truth," said Msgr. da Costa Lopes, "because they are afraid the Indonesian government will throw them out, and they want to stay to provide some help."

"When we were kids," said a man from a Portuguese-Timorese family, "our mothers used to say to us, 'Don't eat so fast, the Indonesians aren't coming.'" It was something the East Timorese long feared.

In December 1975, when the Indonesians finally did come, Col. Kalangie was one of the commanders of the invasion.

He recently contrasted Indonesia's takeover with the current dispute over the Falkland Islands: "The British generals are bad. You don't give a little bit, a little bit, you go all at once. Like what we did here, is all at once—*bok!*—and then explain to the rest of the world that we are here. That is how to do it, like the Russians in Afghanistan."

Now he is enthusiastic about the government's far-reaching resettlement policy. Since "integration," 150 new resettlement centers have been built and 50 more are planned by the end of this year, he said. To make it easier to control the population and to provide food and medical aid, education and other amenities, people have been moved from the mountains to these resettlement villages, usually in the lowlands, he explained.

"It is the new Indonesian civilization we are bringing," Kalangie said. "And it is not easy to civilize the backward peoples."

While the resettlement scheme may be effective in denying support to the guerrillas, critics say it has serious flaws. There was a good historical reason for the Timorese aversion to the lowlands: Malaria there is virtually epidemic, water supplies are poor and irregular, and the climate is far hotter than that of the highlands.

Still, under Indonesian rule the province's road system is being vastly improved; color television—as Kalangie is fond of pointing out—was introduced here even before it came to Portugal; there are new public works in virtually every large town, public buses now travel the highways and dozens of government schools have been opened.

"In many things, the Indonesians have done very well, far better than the Portuguese," a Timorese who is generally pro-Indonesian said in an interview. "Only in social justice and health have they fallen down." Later he was seized by military intelligence and interrogated for hours about the interview, according to well-informed sources.

"A referendum now would go in favor of Indonesia," said Lucio Engenio da Encarnacao, 55, manager of the Dili Hotel and a Portuguese citizen who has been trying unsuccessfully to get Indonesian government permission to leave "I have to admit that in transportation, education, many areas, the Indonesians did in five years what Portugal didn't do in hundreds of years.

"As for freedom," he concluded, "We never had it under Portugal so we don't miss it now."

"Sure, in Portuguese times, many things were bad," said a former colonial government employee. "But it's not a comparison between Indonesia and Portgual, but between Indonesia and the indpendence we could have had."

"This whole island is just a big prison," said a part-Timorese man who holds Portuguese citizenship and said he wanted to join his family in Australia. According to reliable sources, he is one of 700 Portuguese who have been registered with the Red Cross as would-be emigres. "We are being held hostage here until Portugal recognizes Indonesia's takeover of East Timor." he said.

The people on Atauro Island are hostages of a different sort. Thousands of Timorese are being held on the island, 15 miles north of Dili, and Indonesian authorities have announced their intention of keeping the internees there until every last known Fretilin guerrilla surrenders. Authorities freely acknowledge that the only reason they are being held there is that they are related to known or suspected guerrillas.

Between June and September last year, 3,785 such people—entire families, including young children—were moved to Atauro and left there with no food supplies, according to church sources. Quiet pressure by the International Committee of the Red Cross persuaded the Indonesians to allow the Red Cross to begin an emergency feeding and medical-care program in February.

But by then, according to Indonesian government figures, 176 internees had died in an outbreak of contagious disease. Some think it was cholera; others say it was gastroenteritis. Both are conditions that could have been aggravated by the crowded conditions in what the government calls the "rehabilitation camp."

It consists of 55 plywood and corrugated-tin barracks, each measuring 20 by 60 feet and housing an average of 65 people. For privacy, the inhabitants hang plastic sheets as room dividers.

"It is for their own good, and they like to be here," Col. Kalangie contended during a guided tour of the camp. He said many of the internees had been harassed by guerrilla relatives, or forced to provide them with food, and he asked, "Does this look like a concentration camp to you?"

In Barracks B–2, many of the more than 50 inhabitants were there because they were related to a single Fretilin member, Onrato da Costa; some were only cousins or distant in-laws. Da Costa's sister, Amelia da Costa Fernandes, was asked through an official interpreter how she felt about being imprisoned.

The interpreter repeated the question and Miss da Costa Fernandes, with bowed head and frightened expression, mumbled one or two words.

"She said they are grateful to the government who take care of them so they don't feel they are prisoners, but like others they can live as they want," the interpreter translated.

He was asked to inquire how long she thought her brother would stay in the mountains.

"God knows," she replied, her head still bowed.

Kalangie acknowledged that at least some residents of the camp were not pleased to be there. "You know, east or west, home is best," he said. "But maybe some of those who are in the mountains will feel their family is unhappy so they will come down. It is a positive system."

And if they don't come down, he said, the prisoners of Atauro Island will stay where they are.

The most serious civil-liberties challenge raised in East Timor came last year in the petition of the four assemblymen, who stressed the lack of legal recourse under military authorities.

"Although five years of integration have passed although security has been restored by stages and in a variety of ways although the masses of people have constantly made endless sacrifices," it said, "it is not yet possible to experience the implementation of law and discipline in this young province of East Timor."

The petition cited numerous instances of murder, torture and sexual assault by soldiers and officials against civilians. "These people or groups commit murders without due process or the laws concerning investigation. Feelings of fear are widespread among the people . . . ."

All four of the men who signed the petition now repudiate it as a forgery and say they had nothing to do with it. Msgr. da Costa Lopes said he felt sorry for the men, who he maintained were forced to recant after having been held in solitary confinement on the island of Bali for a month.

The author of the petition is believed to have been Joao Pedro Soares. According to Mulya Lubis, Jakaria, director of the Legal Aid Society, Soares visited the society's offices to seek protection after the petition was filed.

Soares, during a tense interview at his home here, first denied ever having visited Lubis. Then, when a reporter mentioned having seen a photograph Lubis had taken of him during the visit, Soares said, "I might have been in their offices, but I didn't take part in this."

One of the central charges in the petition was confirmed by Manuel Carascalao, a prominent coffee planter. Timor produces some of the world's best coffee, much of it grown on small, individually owned plots that provide a source of cash income for peasant families who otherwise make a subsistence living growing corn, rice or cassava.

After integration with Indonesia, Carascalao said, the military authorities granted a coffee monopoly to a Java-based company, P.T. Denok Hernandes International, and all growers, small and large, were ordered to sell their coffee to Denok, which became the only authorized exporter.

The Denok firm is widely believed to be owned by Maj. Gen. Leonardus "Benny" Murdani, Indonesia's chief of military intelligence and the man in ultimate command of East Timor.

The prices Denok set for the purchase of coffee were absurdly low; currently they are about 25 cents a pound for arabica coffee and 18 cents for robusta, less than half what buyers pay growers in Java and in other places in Indonesia.

Meanwhile, because of food shortages, the price of rice and other staple foods here is twice what it is elsewhere in Indonesia. The result is that a peasant grower cannot purchase a 50-cent pound of rice with the proceeds from a pound of his coffee.

"During the coffee harvest" in June and July, a knowledgeable Timorese said, "there are searches at all the military checkpoints—but they're not looking for guns. They're looking for coffee."

The soldiers make sure the coffee is sold to Denok, and growers are even prohibited from trading or bartering their coffee for basic necessities in local markets.

One evening, a young Timorese man fell quickly into step beside a reporter on Dili's Rua Antonio de Carvalho. "We are not allowed to speak to foreigners," he said. "But I just want to tell you. Before, we had Portuguese colonialism. Now, we have Indonesian colonialism."

When Indonesians began consolidating control in the province, they told everyone that the East Timorese people would be sama sama, which in Indonesian means roughly, "everyone equal." The slogan was less than successful, however, since in Tetum, the chief Timorese dialect, sama sama means "trample, trample."

WEINBERGER VIEW ON NUCLEAR WAR

Mr. PROXMIRE. Mr. President, in mid-August, Secretary of Defense Caspar W. Weinberger sent a letter to various newspapers and television stations across the country. The nature of this letter was to spell out the basis for U.S. retaliatory policy and to address what Mr. Weinberger viewed as completely inaccurate and misrepresentative stories about U.S. war-fighting strategies.

For the last 3 months, I have been speaking daily on the floor of the Senate to call the attention of the Senate to the great importance of our acting to support a verifiable negotiated agreement with the Soviet Union to limit the nuclear arms race. Most of the material I have put in the record in that connection has been critical of our foreign policy, and I stand by it. I think that is right. I believe we should and can aggressively pursue a negotiated nuclear arms agreement, and we must do it. I cannot think of any more important action this Government can take.

In view of my series of remarks on defense issues, I thought it is only fair and appropriate that the Secretary's remarks be given broad attention—even though I may not agree with some of them.

Secretary Weinberger forcefully argues that the United States does not endorse the concept of protracted nuclear war, or nuclear "war-fighting." It is the Soviet Union, he says, that is building forces for that purpose.

He explains that the large Soviet buildup of strategic forces requires the United States to have a survivable and enduring response that would "demonstrate that our strategic forces could survive Soviet strikes over an extended period."

The purpose of acquiring a survivable and enduring retaliatory capability is to deter attack. In the absence of such a capability, there might be a temptation for the Soviet Union to use nuclear weapons against the United States or to place ourselves "in the position where the survivability of our deterrent would force the President to choose between using our strategic forces before they were destroyed or surrendering."

Mr. Weinberger notes that this is "an uncomfortable" way to keep the peace. But peace is our policy.

Backing up the Secretary's analysis is a vast amount of information about improvements in the Soviet war-fighting capabilities—their growth in warheads, improvements in accuracy, refiring capability, and various defensive advances.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Aug. 25, 1982]

WEINBERGER VIEW ON NUCLEAR WAR

I am increasingly concerned with news accounts that portray this Administration as planning to wage protracted nuclear war, or seeking to acquire a nuclear "war-fighting" capability. This is completely inaccurate, and these stories misrepresent the Administration's policies to the American public and to our allies and adversaries abroad.

It is the first and foremost goal of this Administration to take every step to ensure that nuclear weapons are never used again, for we do not believe there could be any "winners" in a nuclear war. Our entire strategy aims to deter war of all kinds, but most particularly to deter nuclear war. To accomplish this objective, our forces must be able to respond in a measured and prudent manner to the threat posed by the Soviet Union. That will require the improvements in our strategic forces that the President has proposed. But it does not mean that we endorse the concept of protracted nuclear war, or nuclear "war-fighting." It is the Soviet Union that appears to be building forces for a "protracted" conflict.

The policy of deterrence is difficult for some to grasp because it is based on a paradox. But this is quite simple: to make the cost of nuclear war much higher than any possible benefit. If the Soviets know in advance that a nuclear attack on the United States would bring swift nuclear retaliation, they would never attack in the first place. They would be "deterred" from ever beginning a nuclear war.

There is nothing new about our policy. Since the awful age of nuclear weapons began, the United States has sought to prevent nuclear war through a policy of deterrence. This policy has been approved, through the political processes of the democratic nations it protects, since at least 1950. More important, it works. It has worked in the face of major international tensions involving the great powers, and it has worked in the face of war itself.

But, for deterrence to continue to be successful in the future, we must take steps to offset the Soviet military buildup. If we do not modernize our arsenal now, as the Soviets have been doing for more than 20 years, we will, within a few years, no longer have the ability to retaliate. The Soviet Union would then be in a position to threaten or actually to attack us with the knowledge that we would be incapable of responding. We have seen in Poland, in Afghanistan, in Eastern Europe and elsewhere that the Soviet Union does not hesitate to take advantage of a weaker adversary. We cannot allow the Soviet Union to think it could begin a nuclear war with us and win.

This is not just idle speculation. The Soviet Union has engaged in a frenzied military buildup, in spite of their economic difficulties. They have continued to build greater numbers of nuclear weapons far beyond those necessary for deterrence. They now have over 5,000 nuclear warheads on ICBMs, compared to about 2,000 only five years ago. They have modified the design of these weapons and their launchers so that many of their land-based missiles are now more accurate, more survivable and more powerful than our own. They have also developed a refiring capability that will allow them to reload their delivery systems several times. They have elaborate plans for civil defense and air defense against any retaliation we might attempt. And finally, their writings and military doctrine emphasize a nuclear war-fighting scenario. Whatever they claim their intentions to be, the fact remains that they are designing their weapons in such a way and in sufficient numbers to indicate to us that they think they could begin, and win, a nuclear war.

In the face of all this, it is my responsibility and duty as secretary of defense to make every effort to modernize our nuclear forces in such a way that the United States retains the capability to deter the Soviet Union from ever beginning a nuclear war. We must take the steps necessary to match the Soviet Union's greatly improved nuclear capability.

That is exactly why we must have a *capability* for a survivable and enduring response—to demonstrate that our strategic forces *could* survive Soviet strikes over an extended period. Thus we believe we could deter any attack. Otherwise we would be tempting them to employ nuclear weapons or try to blackmail us. In short, we cannot afford to place ourselves in the position where the survivability of our deterrent would force the President to choose between using our strategic forces before they were destroyed or surrendering.

Those who object to a policy that would strengthen our deterrent, then, would force us into a more dangerous, hair-triggered posture. Forces that must be used in the very first instant of an enemy attack are not the tools of a prudent strategy. A posture that encourages Soviet nuclear adventurism is not the basis of an effective deterrent. Our entire strategic program, including the development of a response capability that has been so maligned in the press recently, has been developed with the express intention of assuring that nuclear war will never be fought.

I know that this doctrine of deterrence is a difficult paradox to understand. It is an uncomfortable way to keep the peace. We understand deterrence and accept the fact that we must do much more in order to continue to keep the peace. It is my fervent hope that all can understand and accept this so that we can avoid the sort of sensationalist treatment of every mention of the word "nuclear" that only serves to distort our policy and to frighten people all over the world. Our policy is peace, and we deeply believe that the best and surest road to peace is to secure and maintain an effective and credible deterrent.

The purpose of U.S. policy remains to prevent aggression through an effective policy of deterrence—the very goal which prompted the formation of the North Atlantic Alliance, an alliance which is as vital today as it was the day it was formed.

Mr. ZORINSKY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. BAKER. Mr. President, I see a messenger from the House of Representatives seeking admission to the Chamber, and I yield for that purpose.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

The following message from the House of Representatives was communicated to the Senate by Mr. Berry, one of its reading clerks:

> The House of Representatives having proceeded to reconsider the bill (H.R. 6863) entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was
>
> *Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Mr. BAKER. Mr. President, this, of course, is the veto message. There is no time limitation on debate. However, it is hoped that debate will be prompt and that the Senate can vote on this measure sometime within the next hour.

Mr. President, I will have a statement to make a little later on the subject, but for the moment I yield the floor.

SUPPLEMENTAL APPROPRIATIONS, 1982—VETO

The PRESIDING OFFICER. The Chair lays before the Senate the President's veto message on H.R. 6863, which the clerk will read, and it will be spread in full upon the Journal. Pursuant to article I, section 7 of the Constitution, the Senate will proceed to its immediate consideration.

The legislative clerk read as follows:

> Veto message on H.R. 6863, entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes."

The Senate proceeded to reconsider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I rise today with ambivalence of emotion and purpose. This is the first time since my party has assumed control of the U.S. Senate and I have acted on this floor as the chairman of the Appropriations Committee that I have had to take the floor in opposition to my President. But, Mr. President, this is a matter of conscience that one cannot avoid. I would much rather be here in the role that I have been in the past to support my President even at times when I found it very difficult to do so because of my own priorities of appropriation resources being applied to various and sundry programs that are incorporated in appropriations bills.

Mr. President, I have swallowed hard many times. I have literally held my nose on occasion in order to be a part of the majority party and to be a responsible majority and to demonstrate the capability of the majority to govern.

I know this is not unique to myself, and probably most of my colleagues have had similar experiences at times in their political lives. But again I reiterate, Mr. President, there comes a time in a person's life where conscience and principal transcend all of the affections and loyalties of party and to one's President, and one has to take a step which separates from that kind of relationship and team effort that has been so prevalent on this floor in the short period of time that this party has been in control.

I do not attempt this morning to speak on behalf of any member of the Appropriations Committee. Each person will speak on his own behalf. I do not attempt here this morning to say that this, what I say, is a consensus of the Appropriations Committee. I speak only as an individual who cannot avoid the role of leadership that I have as chairman of the committee.

Mr. President, I do though rise to strongly urge the Senate to override the veto of the supplemental appropriation bill. This measure provides a total of $14.5 billion in budget authority. That is $1.7 billion less that the President requested for the programs and activities covered by this measure. Let me repeat that: This bill provides spending in an amount of $1.7 billion, almost $2 billion, less than the President requested.

By no account, no responsible account, can this bill be considered a budget buster, as it has been characterized by the bean counters at OMB. I can only believe that the President acted on very poor, unsound advice when he vetoed this measure since it is so obviously in accord with our joint effort to reduce spending and narrow the deficits.

This measure is also well within the budget ceilings for fiscal year 1982 established by Congress in its action on the budget resolution. With the enactment of this bill we will still be below those ceilings by $8.1 billion in budget authority and $1.1 billion in budget outlays below the ceilings. I emphasize below the ceilings. I believe that is one reason why my good friend and colleague, the chairman of the Budget Committee, Senator DOMENICI, has indicated his sympathy and his understanding on this position that I take this morning, for we all know that, as chairman of the Budget Committee, Senator DOMINICI well knows that this is not a budget-busting bill or he would be in opposition to it if it were.

So by no yardstick could this be considered a budget-busting bill. Mr. President, this is simply not true. Nor is there any truth to the charge that his bill somehow deprives the Defense Department of necessary funds. The President requested $7.7 billion for defense, and Congress appropriated in this measure $5.7 billion, and that in addition to $204.6 billion already enacted into law this year.

So the amount denied in this supplemental appropriation request represents only 1 percent of the total appropriated this year for defense.

Congress denied these defense funds request for good and sufficient reasons. Most of the money requested was for procurement and operations, programs which are more properly considered in conjunction with the fiscal year 1983 defense bill, and the reductions do not have any impact on defense readiness. I am quite sure Senator STEVENS, who is the subcommittee chairman handling the defense appropriation bill, would not have recommended we make these reductions if he had thought or any member of his committee had thought they would have detrimentally affected our national defense.

In the same regard it is certainly worth noting that Defense Secretary Weinberger recommended to the President that the supplemental appropriation be signed, Secretary Weinberger recommending this to the President. So if this measure does not bust the budget, the President's or the Congress' budget, and if it does not short-change defense what is all the furor about? Congress decided to add some $900 million above the President's request for certain programs. Congress provided funding for older Americans, compensatory education for the disadvantaged, education for the handicapped, student financial aid, child immunization, mental health research, and special assistance to developing institutions, among others.

In other domestic programs Congress cut $140 million below the President's request. So the net addition in these areas is $760 million in budget authority.

In outlays, the increases for domestic programs will amount to no more than $92 million, which is merely an asterisk in the context of a $115 billion deficit.

Mr. President, it is incredible that, as we now clearly identify the true issues surrounding this vote, we find that the questions are not what they used to be. The President himself recently stated that he did not realize that this bill contained funds for jobs for older Americans. He said it was an oversight and that he supports this program. It is becoming apparent that the whole foundation for the President's veto was an oversight.

Mr. President, the question is not budget busting. Obviously, the President's request would not bust the budget and the bill is nearly $2 billion below his request. The question is an institutional one. The President's advisers seek to eliminate certain programs and they will recommend he veto any bill that contains those programs, even if the bill in total is substantially below the President's budget request, as it is.

The President may later claim an oversight, but we cannot, and should not, use this as an excuse. The question is simple and straightforward: Will the Congress, which passed this measure by substantial majorities, kowtow to David Stockman in his singleminded desire to eliminate programs of great value and importance to the people of this Nation, or will the Congress assert its own priorities and prerogatives and responsibilities? I hope for our sakes and for the good of the Nation that each Member here will examine his conscience and her conscience and will vote to override this veto.

In no way, in my own mind and heart, does this have any impact on my continued admiration, respect, support, and commitment to work with the President to see his economic program succeed and to help him in every way possible in every issue that he sends up here, as I have in the past. But I close by saying, again, in conscience I cannot support the President of the United States on this veto. And I believe that in review and I believe that in retrospect the President himself must have some serious question about the propriety of that veto when he acknowledged the oversight of the older Americans.

Mr. PROXMIRE. Mr. President, I congratulate my good friend, the chairman of the Appropriations Committee and the manager of the bill, on the statement he just made. I concur wholeheartedly in what he has said.

I think the first issue that we have to meet on this bill is that it is not a budget buster—not a budget buster in any way, shape, or form. It cuts either $2 billion or $1.4 billion, depending on whether you take the revision that the administration proposed, below, underneath, less than what the President requested.

Talk about George Orwell. Calling this a budget buster, I suppose, if we presented a $10 billion or $5 billion bill, instead of a $14.6 billion bill, they would have considered that an even worse budget buster. It is ridiculous. Ridiculous. How in the world can you have something that can be called a budget buster or big spending bill when it is less than what the President requests?

Now, I have the greatest respect for the Washington Post. I think it is a fine newpaper; one of the finest in the country. But, at the same time, they had a headline—I suppose it is hard when you are a headline writer and have to write it. It was in this morning's Post. I do not have the headline with me at the moment. But it was something like: "The House Overrides President's Veto of $14 Billion Spending Bill."

I am sure that most people reading the paper got the impression that the President was trying to hold down spending. Not at all. There is no way, if we fail to override, that we are going to come in with a bill below that unless we refuse to give the President what he requests, with more emphasis.

Mr. President, I think we set exactly the right priorities here. We have a modest cut in guns and a modest increase in butter. But let me point out what the modest cut in guns amounts to.

As my good friend from Oregon has pointed out, the Secretary of Defense, Caspar Weinberger—and nobody can call Caspar Weinberger weak on defense or a dove or somebody who puts a low priority on defense spending—wrote to Mr. Stockman on the 16th of August. I have a copy of the letter, which I will put in the Record but let me just read the first paragraph. He said:

> I am soliciting your support for expeditious signature by the President of the FY 1982 Pay Supplemental Bill, following completed congressional action.

Mr. President, I ask unanimous consent that Secretary Weinberger's letter to Mr. Stockman be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE SECRETARY OF DEFENSE,
Washington, August 16, 1982.

Hon. David A. Stockman,
Director, Office of Management and Budget, Washington, D.C.

Dear Dave: I am soliciting your support for expeditious signature by the President of the FY 1982 Pay Supplemental Bill, following completed Cogressional action.

The Department of Defense will legally exhaust all appropriated funds for a military payroll approximately Wednesday, August 18. The amounts required for pay increases have been apportioned on a deficiency basis since October 1, 1981. By law, we can neither obligate nor expend additional funds in the absence of the signed Supplemental Bill. The Department simply will not be able to meet the military payroll after August 18, and our military personnel will experience a payless payday on August 30, while the Congress is in recess.

While the Supplemental Bill includes language agreed to by both the House and Senate that would retroactively authorize obligations for military pay in anticipation of its enactment, the provision is inoperative until it becomes law.

The Constitution prohibits expenditure of funds that have not been appropriated by the Congress, and the Antideficiency Act, Section 3679 of the Revised Statutes, prohibits obligations in excess of those amounts appropriated. Neither my General Counsel nor I know of any further flexibilities at this time that would enable the Department to meet the military payroll requirements.

Every possible action should be taken to avoid hardships of this type to our uniformed personnel. I urge you to support expeditious signature of the FY 1982 Supplemental Bill.

Sincerely,

CASPAR WEINBERGER.

Mr. PROXMIRE. Mr. President, when the Secretary of Defense, who is our expert on defense, says to go ahead and sign the bill, it seems to me it does not make much sense for us to argue that it does not provide enough for defense. He is the expert. If it did not provide enough for defense, obviously he would have urged a veto instead of urging the President to sign the bill.

Mr. President, I would also like to point out that the Congress fulfilled its role as a separate but coequal branch of the Federal Government by recasting the President's priorities and cutting his proposed budget in the process.

Both Houses supported this congressional initiative overwhelmingly. The House approved the conference report on the supplemental bill by a vote of 348 to 67. I recall very well when we acted on this bill. There was no rollcall vote, but we had a hotline out in which we asked every Democratic Senator whether he wanted a rollcall, whether he had any reason to object. And nobody spoke up. I understand the same kind of opportunity was given to Republican Senators and at that time nobody indicated any opposition.

Mr. President, I think all of us have respect for the President of the United States. He has a very difficult job. He has done some things extremely well. But, in this particular case, Mr. President, that veto does seem to be a serious mistake and it seems to this Senator that we should certainly override it.

Let me just spend a minute or two more indicating what is at stake here. Mr. President, we do cut the defense

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budget by $2.141 billion below the request of the administration, we cut foreign aid by $110 million, and we cut the pay raise by $109 million, for a total cut of about $2.358 billion.

Now, we add on certain domestic programs here. Community service for older Americans—that is one in which the President has relented somewhat. That will provide 55,000 jobs in this country, and the jobs are at a very, very low wage, for older Americans—Green Thumb, for example—jobs that older Americans, who are otherwise on welfare, will have an opportunity to have the dignity of a job at low pay doing constructive work. And these programs have been enthusiastically supported by everybody who has had any opportunity to see them in action.

Compensatory education for the disadvantaged, $148 million. Again, a very modest, mild reduction from the reduction that the President put in. In other words, we would not reduce it as much.

Student financial assistance, $217 million. In that case, Mr. President, the Office of Management and Budget recommended a substantial cut, a cut of 17 percent. We simply ameliorated that cut in 1981 and make a cut of 10 percent. Of course, if you allow for inflation, it could be closer to 15 or 20 percent. We still make a cut, but we restore a modest part of that student financial assistance mainly in the Pell grant program.

The other part of the program I would call attention to is handicapped education, $26 million. I think all of us realize that, regardless of whether we have a Republican administration or a Democratic administration, whether it is conservative or liberal, almost every American realizes we have an obligation to our handicapped citizens. There is no way that they can take care of themselves.

I do not know how anybody who has someone come into his office or goes out in his State and talks to people who are handicapped can turn his back on them. Other programs, I think, you could make a strong case that we have to cut them strongly. But a restoration of $26 million for handicapped children, it seems to me, simply shows that we do not have, as the distinguished Speaker of the House of Representatives said yesterday, a heart of stone. $26 million for handicapped children, it seems to me that represents the kind of thing that we are trying to do here in a very limited, modest way.

As the chairman of the Appropriations Committee has said so well, this is not, not, not a budget buster. It is below the President; less than.

I hope we keep that in mind.

An economy vote is a vote to override in this case. It is hard to grasp that because usually that is not the case, particularly with the reputation the President has made. But in this case it is. I hope somehow we can get that across to the rest of the Members of this body so that we can act expeditiously on this measure.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I rise to support President Reagan's veto of the $14 billion supplemental appropriation bill.

I think it is important that we understand just what the President proposes. The President proposes that the total will be reduced by $900 million. He does not advocate an increase in defense expenditures. I say again, he does not advocate an increase in defense expenditures. He seeks to reduce the total by $900 million.

In a statement yesterday from Utah, I suppose, or maybe Kansas, President Reagan in commenting on the House action yesterday in overriding the veto said the big spenders won.

Frankly, I am not surprised that a Democratic-dominated House of Representatives voted to override the President's veto of an appropriation bill. But I would be astonished and indeed alarmed if the Republican-dominated Senate were to vote to override the President's veto of a bill which adds tremendously to the spending of Government.

It has been correctly pointed out by the Appropriations Committee that the total figure in this bill is less than the President originally recommended. That does not mean it is not a budget-busting bill. The President has seen the light. He is not asking for these additions in defense that he asked for previously. He wants the defense totals left as they are in this bill, but he wants the total of the bill reduced by $900 million. I think that is reasonable. We have too much spending.

Much is made of the fact that the bill now before the Senate is below the recently adopted congressional budget ceiling.

Well, that does not impress me one bit. The figure adopted by the Senate and the House of Representatives in the budget resolution is, in my judgment, an irresponsible figure. I did not vote for that resolution for that reason. So the fact that it is below the budget ceiling is totally meaningless when one considers whether or not there is too much spending.

The President is trying to get spending under control, and the President is one of the few who is making a determined effort to get spending under control. That being the case, I want to support that endeavor.

It is not pleasant to vote against some of the appropriations that are in this proposal, but I think in looking at it on balance the appropriate vote on this measure is to vote to sustain the President's position. Congress then can bring in a new bill, $900 million less than the present bill, and the President would presumably sign such legislation.

I want to applaud the President for this veto, and express the hope that he will continue to veto money bills coming out of the Congress. Congress has proved itself irresponsible in the past. The Congress has adopted a budget resolution this year which provides for spending which will mean that for 3 consecutive years, and maybe longer, budget deficits will exceed $100 billion.

The Congressional Budget Office last week submitted figures showing that for the upcoming fiscal year, 1983, the deficit will be $155 billion.

Can this Nation sustain itself with 3 years of budget deficits exceeding $100 billion?

I recognize, and I have been in public life for several years, that it is much easier to vote for spending than it is to vote to reduce spending.

I recognize the political pressures being exerted by pressure groups to include these items and other items, various different items, in these appropriations bills.

But somewhere along the way this Government, this Congress, the Members of the House and the Members of the Senate, have to be willing to say, "No."

President Reagan has shown courage, I think, in vetoing the supplemental appropriation bill. The supplemental appropriation is just what the name implies. It is an additional appropriation for the fiscal year which will end 20 days from today. We have already passed appropriations bills and this is on top of all of those.

I would just be astonished and disappointed if this Republican-dominated Senate is unwilling to sustain President Reagan's veto of a money bill of this magnitude. What he seeks is, I say again, not an increase in defense spending, as has been alleged on the floor of the Senate. He seeks to reduce the total by $900 million. He does not seek to add any additional funds for defense.

I shall support his veto. I think it is justified. I think he was correct in his assertion yesterday that in the House of Representatives the big spenders won. I hope the big spenders will not win today.

Mr. HART. Mr. President, the issue before the U.S. Senate is one of priorities. As much as the President of the United States would like to talk about spending, that is not the issue before the Senate. The objection that the President has is that Congress does not necessarily share his priorities.

We have a constitutional right, we have a constitutional authority, we have a constitutional responsibility to establish, as elected officials and representatives of constituencies, the same constituencies as the President of the United States, in our collective judgment what we believe the priorities of this country ought to be.

What this bill represents is a set of priorities which the President does not agree with. That is the issue. That is what the vote is about.

The President essentially wants to suggest, in 1982, as he did in 1981, that the only one, the only individual in this Government who has the right or the authority or the responsibility to set the priorities of this country is the President of the United States. If you agree with "patriotism" and if you agree with his view of the world, all the good things that he suggests that represents, then you have no choice but to support his priorities.

It is absolutely false to say, as he did yesterday, that the big spenders won. That is not the issue. He knows it is not the issue. This is not what this bill is all about. The distinguished floor managers have stated what this bill is about. It is about what the priorities of this country ought to be.

The Senator from Virginia is absolutely right to talk about the budget deficits and the problems this country faces. He is absolutely right when he points them out to be the single most serious problem our economy faces. But these deficits are the result of the economic program that was passed last year, pure and simple, not congressional spending, not a Democratically controlled House. They are the result of the passage of a set of priorities that include the biggest defense buildup in the history of this country.

How the President of the United States or his supporters can talk about Government spending and exclude the Department of Defense, I do not know. The President avowedly seeks to take a proportion of the budget that represented 24 percent of the Federal spending when he took office and drive it to 40 percent of Federal spending in 5 years and exclude it when he talks about Government spending. That is one of the reasons we have the deficits we have.

We shall never be able to get and keep interest rates down so long as we have that irresponsible Government spending that goes exclusively across the river to the Pentagon.

That is what this bill is about, Mr. President. It is not about spending, it is about priorities.

I think it is not accidental that the House overrode that veto on a bipartisan basis. That was not a partisan vote. We can talk about a democratically controlled House as long as we want to, but I quote the House Republican leader, Mr. Michel, who said the following thing:

> The principal reason we lost was that you cannot make a good argument that Congress was busting the budget. You couldn't make a good agrument on the numbers. Maybe for the long haul, the administration could learn something from this.

That is not Tip O'Neill, that is Mr. Robert Michel, the House minority leader.

Mr. President, I think it is incumbent on all of us and I think it is incumbent on the American people to understand that this is not an issue of who the big spenders are. Nobody is more concerned about spending than the distinguished Senator from Wisconsin. He has spoken out on that issue as much as the Senator from Virginia or anyone else in this Chamber. He is here today stating his position as a fiscal conservative and a responsible Member of this body that this is not a budget-busting bill.

The President can adjust weekly what he thinks ought to be the budget numbers. He seems more inclined to do that all the time. But this is not a bill that busts the budget that was accepted by this Congress and, to my knowledge, approved by the administration.

I think what the Senate ought to do is send a message to the President that we are way beyond waste, fraud, and abuse. The phrase that dominated the political lexicon for 2 years or more in this country—waste, fraud, and abuse—is no longer heard anymore. Even this President does not talk about waste, fraud, and abuse except when his administration sets up a special unit to monitor defense contractors. I think that is one of the smartest things this administration has done.

If we are going to see waste, fraud, and abuse in the 1980's, it is going to happen in the Department of Defense. So we had better get ready for it.

I hope the Senate will send a message to the President and reaffirm to the American people that there is another set of priorities in this country than just those that flow from the oval office. I think that is what this issue is all about and I hope my colleagues will vote to override the veto.

Mr. ANDREWS. Mr. President, I think that a lot of things have been said on the floor in the debate that is underway now and by people in the executive branch and by individuals after the vote in the House. Much has been said that the vote yesterday in the House was a bipartisan vote. Let me point out to my colleagues, Mr. President, that the decision coming out of the White House was a split decision. Many of the more prominent members of the President's own Cabinet, according to press reports, urged the President to sign this bill. Those individuals are not budget busters, any more than the chairman of our committee, the Senator from Oregon, or the ranking Democratic member, the Senator from Wisconsin, or the Senator from North Dakota are budget busters. This was a close call in the President's own family.

He called me last night and we talked for some time on the telephone. I said, "Mr. President, I totally agree with what you are trying to do, cut down Government deficits. But," I said, "I think you have been given horrible advice when you were advised to veto this bill."

I think we ought to point out again and again and yet again the fact that this bill does not exceed the President's budget. It does reorder some priorities, but after all, under the Constitution as I studied it some years ago in school, is that not what Congress is supposed to be, a coequal branch, to take a look at priorities and set those priorities for the Nation?

A remark was made a moment ago that one of our colleagues hoped the President would continue to veto money bills. That might be good politics, but it is lousy government. The subcommittee I am responsible for of the Appropriations Committee happens to fund a number of different agencies. One of them is the Coast Guard. It is not a parochial issue with me. There is no Coast Guard search and rescue station in the whole State of North Dakota, which I am privileged to represent. I think that is obvious to everybody. But there are a number of Coast Guard stations that are extremely important to this Nation's defense and its people's safety.

The Commandant of the Coast Guard was in my office yesterday afternoon about 4 o'clock. He said that he is going to have to start laying off employees of the Coast Guard within a week if this bill is not successfully preserved by a vote to override on the floor of the Senate this afternoon.

Anybody who believes that we can go back to the House of Representatives and quickly get a replacement through for this supplemental so that these layoffs, at tremendous cost to the Government, at tremendous cost to the services extended to the people of this country, anyone who belives we can pass a successor to the supplemental that patches everything up and leaves off just a few of the articles the President objects to has to believe in the tooth fairy. It is not going to be done.

(Mr. EAST assumed the chair.)

Mr. HATFIELD. Will the Senator yield at that point?

Mr. ANDREWS. I am glad to yield to my distinguished chairman.

Mr. HATFIELD. I am glad that the distinguished Senator, the chairman of our Transportation Subcommittee, has brought this point forward, because the House does not plan to do any business until next Wednesday. Therefore, we are facing not only general overall Government furloughs by Wednesday, but we are facing, more particularly, military furloughs—no pay for the military.

Mr. ANDREWS. That is absolutely right.

Mr. HATFIELD. Therefore, those who are of the opinion that, somehow, we should sustain the veto at this moment and then send us back to the drafting board within the timeframe that we have to operate—should know—it is simply not possible. A vote to support the veto at this point means layoffs.

We might as well face up to that issue right this morning. There is no other way to avoid it, because a redraft of the supplemental will have to originate in the House of Representatives. They are not in session today because of Representative Benjamin's funeral. My understanding is that their business calendar will begin on Wednesday. That, as the Senator from North Dakota has pointed out, is not possible for the appropriations process to bring forth a revision of a supplemental bill.

It is more than a matter of priorities. It is more than a matter of supporting or not supporting the President at this point. It is now a question of how the general functions of Government will be impacted by next Wednesday. I thank the Senator.

Mr. ANDREWS. Mr. President, I appreciate the comments from my distinguished chairman. I totally agree with him. I would like to point out some other things in this bill that are important, programs that need to have continuity. I have had calls from people in my State, as the Senator has had calls from people in his State, and from friends in other States about ongoing programs. If this veto is not overriden this afternoon, individuals in a whole host of different agencies will begin laying off personnel. As the chairman of the committee pointed out, we are not going to come to the rescue. There is no Paul Revere that is going to run through this Chamber later on this evening and pass some substitute that can keep those programs going.

I remember almost a year ago when we had a continuing resolution, hour after hour after hour of negotiations with our colleagues from the other body. We agreed upon a figure in that continuing resolution. The President's people were in that room. They signed off on it, we thought. The next morning we had a veto because Mr. Stockman looked in his mirror and saw the other side of it and came up with a whole host of new figures. Frankly, I am getting darned sick and tired of Stockman and his mirror act. He is not serving the President well. He is not serving the Congress well. He is not serving the Nation well.

Mr. President, a moment ago the chairman of the Appropriations Committee pointed out that this is an institutional question. It is an institutional question, but it is more than that. It is a question of orderly process. When we watched the charade of the veto of the continuing resolution almost a year ago, over $400 or $500 million, we witnessed a cost to the taxpayers of this country in lost time of Federal employees discharged, and then brought back and paid for not working, that far outbalanced the purported savings in the action of the veto and the waiting for the reenactment of the continuing resolution.

All the figures that I have access to in the subcommittee over which I have jurisdiction, and other figures from other subcommittees in the Appropriations Committee, indicate that the cost would be far higher, if the President were to get another supplemental appropriations bill that did in fact whittle out the $700 million he is objecting to. We would find an even greater cost in lost employment, lost time, and lost service to the Government. This simply does not make sense from a fiscal standpoint.

We also ought to point out, Mr. President, that in this bill we have a number of items that are time-sensitive. In addition to Coast Guard and FAA operations we have interstate transfer funds which are necessary in a number of States to build badly needed highways. We have $112.5 million in this bill for these interstate transfer projects that I understand the administration objects to.

I have in my hand a request from the President of the United States to put $150 million into our regular bill, which is to be marked up next week, for the very same function. If we wait another several months, given the weather in the various States, it is going to cost more money in getting these projects under contract, more money that is going to impact on the pocketbooks of the taxpayers.

So let me once again, Mr. President, urge my colleagues to recognize the true facts of this issue: One, this was not a unanimous call even in the President's own family, his Cabinet. Two, there are a number of programs that will be in jeopardy if this veto is not overridden. Three, the loss of time through this political charade will have more cost impact on the taxpayers than any savings we can possible recognize from it. Finally, Mr. President, let me point out again that if we are going to have an orderly appropriations process, the only way we are going to move some of our separate appropriations bills is to override this veto so we do in fact have time to pass the regular bills in such fields as defense, transportation, and hopefully in health and human services. We do not want to go the continuing resolution road once again.

That is the best way to save money, Mr. President. That is the best way to serve the people of this country. I hope that my colleagues will join me in voting to override this veto because they are interested in saving Federal funds, because they are interested in a balanced government, and because they are interested in an orderly process in Government.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Idaho.

Mr. SYMMS. Mr. President, I intend to vote to sustain the veto on the supplemental appropriations bill that is being considered today.

My primary reason for supporting the President's veto is because first, the President is correct. This bill is overbudgeted, and the problem with our budget and the economy is that the Government is spending too much money.

Second, the Congress has unfortunately increased the use of its habit to spend more of the taxpayers' money by funding programs under the supplemental appropriations bills. Originally, supplemental appropriations bills were used to finance emergency spending measures that could not have otherwise been planned for in the normal appropriations process. Now these bills are used to get around the budget process, and quite logically, hold up the Congress near the end of every year.

These bills are now a fixture in the appropriations process. These expenditures could have been funded within the normal appropriations process if we wanted to make an attempt to put an end to the shell game that currently exists in the budget process.

Third, funding for title I educational programs is included in this bill. The funding levels for the various States should logically be determined by the legislated formula based in the latest census data. Unfortunately logic has not prevailed on the process of allocating funds. Funding for title I education programs is being determined by a formula based in the 1970 census data—not the 1980 census data which is the most current and accurate data available. As a result of this action, 13 States in the Union, one of which is Idaho, are going to receive fewer funds than they rightfully deserve. For example Idaho will be $1,010,000 short in funds that they rightfully deserve under title I funding.

Why did we go to the trouble of taking the census if we are not going to use the data? The census indicated that my State is poorer now than in 1970 and it is a State whose population has more greatly expanded than others States in the Union. Consequently according to the formulas that we have approved here, my State should receive a proportionate share of the funds, relative to its needs.

This has not happened. My State along with 12 others is being shortchanged. We will be sending money to States whose populations have decreased and are more affluent. We will be sending money to States to fund educational programs to students who are no longer there. I am hopeful that this matter can be corrected either here in Congress or, if not, by the judicial process.

I hope, Mr. President, that the Senate will not approve this measure. We are spending too much money, and we are spending that money, for the most part, on programs that contribute absolutely nothing to the economic health of our economy.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KENNEDY.** Mr. President, I strongly urge my colleagues to join the House of Representatives in overriding the President's veto of the supplemental appropriations bill.

There are solid grounds for the Senate to override this veto. But one of the most important reasons is that the President's action was more of a public relations veto than a substantive veto, and was used by the administration as a diversionary tactic to draw attention away from their support last month of the large tax increase bill.

But those are not valid reasons for the many Senators and Representatives who supported this bill a month ago to switch their positions and oppose it now.

The Senate and the House worked hard on this legislation to fashion a compromise acceptable to both Congress and the administration. At the time, we felt that we succeeded; we brought the bill in at a level nearly $2 billion below the President's request, and it was passed by Congress with overwhelming bipartisan support.

Many of the major provisions in this legislation are needed to continue vital programs:

The bill contains essential funds for the older Americans community service employment program—widely recognized as one of the most effective Federal programs for elderly citizens. That program, which provides funds for 54,000 senior aides, will be in jeopardy if we fail to override the veto.

The bill contains appropriations for Pell grants for college aid to low-income students, to assure that money is available for the full $1,800 grant per student. In Massachusetts, 40,000 students will have their aid cut if these funds are denied.

The bill contains aid for hard-pressed local schools to educate the disadvantaged and the handicapped.

It also provides $10 million to help pregnant adolescents and their families.

Finally, it contains funds to avoid the needless and wasteful disruption of the Government which is likely to result if this veto is sustained.

The President characterizes these provisions as "wasteful and unnecessary spending." I call them essential to meeting our obligation to the elderly, the young, the handicapped, and the disadvantaged.

The President's justification for vetoing this bill is transparently false. He calls it a budget buster, yet the total spending in the bill is 11 percent less than the $16 billion requested by the President. The plain truth is that the President does not want to provide adequate funds for the elderly, for the handicapped, and for education, yet he has no such qualms about billions more for defense and for military aid.

The issues before us today are the same issues that have occupied us for nearly 2 years—the fundamental issues of fairness and priorities.

The President has persistently opposed bill after bill to fund vital human service programs for millions of our citizens. Yet he has consistently refused to moderate the massive increases in his defense budget—which will double to nearly $370 billion over the next 5 years. Just last month the President repudiated his previous acceptance of the carefully crafted compromise in the congressional budget resolution that would reduce the defense increase by a modest 3 percent—from 15 percent to 12 percent.

Of course we must have adequate funds for defense. At the same time, we must carefully scrutinize all defense spending, just as we have examined each domestic program. Much of the defense funding the President seeks is for new, nonurgent programs. Some is for activities that have not even been authorized by Congress. A supplemental appropriations bill is no place to make such important decisions.

In sum, there is growing acceptance by Congress of the need to trim military spending if we are to succeed in balancing the budget and restore economic prosperity. This bill is by no means perfect, but it is a fair and reasonable effort by Congress to recognize the realities of the Federal budget, and it deserves to be enacted into law.

Several Senators addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Nebraska.

Mr. **EXON.** Mr. President, the President of the United States has the right to exercise vetoes, and certainly that is a part of his duties under the Constitution.

I should like to try to raise the level of debate on matters of this importance in the Congress of the United States.

I was quite amazed to sit here for the last hour or hour and a half and hear some of the arguments that were advanced for overriding the Presidential veto, most of which I agree with, and some of the most amazing reasons why we should sustain the Presidential veto.

Most of those arguments, so far as the latter action was concerned, had to do with "if you vote for this, you are a big spender." The record of this Senator from Nebraska is such that no one could challenge me as being a big spender.

It seems to me, Mr. President, that when we continue to endorse, without thinking, the statements that are made by the President of the United States, if we continue to jump through the hoop every time the President of the United States calls "wolf!" as if he expects all his Little Red Riding Hoods to jump through the hoop once again, then we are not discharging our duties.

The level of debate and the reasons for our action here must be more important than simply mimicking or mouthing the words of the President of the United States when he says that the big spenders won in the House of Representatives yesterday.

I heard a statement on the floor this morning, by one of my colleagues for whom I have the highest respect, that the big spenders in the Democratic House prevailed yesterday, when we all know that was a true bipartisan effort.

There are many reasons why we should override the Presidential veto. I am going to mention only one.

The farmers of the United States today are in dire distress. Time and time again, we hear from this administration that we are going to work our way out of the depression—the depression, Mr. President—that we are seeing in grain sales today by promoting overseas sales of grain. I simply point out that in this bill that the President veto is $500 million which is specifically designed to enhance the sales of American grain overseas.

We must not continue to be misled by a myth. We should vote our conscience on this issue. So far as I can ascertain, no reason has been advanced on the floor of the U.S. Senate today to support the President in this matter, other than supporting the President in this matter. In the opinion of this Senator, that is not a valid argument.

I urge my colleagues to override the Presidential veto.

Mr. **GORTON.** Mr. President, I speak this afternoon primarily to commend the thoughtfulness and the character of the distinguished Senator from Oregon, the chairman of the Ap-

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propriations Committee. No individual during the course of this Congress has worked with more diligence or more effect to cause a better, a more conservative, and a more reasonable fiscal policy to be the reality of the United States.

When the Senator from Oregon led off debate on this subject, he pointed out that this proposal which is before us today does not bust the budget; that, in fact, it is more than $1 billion less than the request from the President for the subjects contained within it. The Senator from Oregon is entirely correct.

The Senator from Oregon also pointed out that this proposal is below the authority contained in the budget resolution for fiscal year 1982. He is correct in that respect as well.

The Senator from Oregon said with some regret that the President and the White House, in dealing with this proposal on the basis of its being irresponsible spending, were not treating with this in an appropriate fashion.

The issue here is not the total amount of spending contained in this bill. The issue here is the set of priorities for distribution of the various spending programs within the supplemental appropriations bill.

In fact, of course, the distribution which Congress has wrought in this bill is far closer to the views not only of the minority but also of the majority party in the Budget Committee and in the Appropriations Committee than is the alternative proposal which is made by the administration.

It is because this bill is consistent with the budget resolution for fiscal 1982, it is because this resolution is consistent with the priorities for spending which Congress, itself, in its wisdom, has determined, and it is because this is both a conservative and a responsible supplemental budget that I join the chairman of the Appropriations Committee—and, I believe, the chairman of the Budget Committee as well—in believing that the veto should be overridden.

Mr. HATFIELD. Mr. President, I thank the Senator for his kind remarks, and I appreciate his support on this issue.

Mr. JEPSEN. Mr. President, I wish to point out my reasons for voting to override the President's veto on the supplemental appropriations.

Let me begin by expressing my respect for the President's arguments in vetoing this legislation. This country is blessed with a leader who is finally turning around the total deterioration that our military has suffered over the last 10 years. I recognize his concern that we continue the momentum of our overall defense improvements.

However, a large portion of the administration's request for supplemental defense appropriations went far beyond any justifiable request for extra last-minute funding. What we in Congress approved were additional funds associated with uncontrollable cost increases, such as underfunded pay entitlements, inflation adjustments, et cetera. The requests for new start funding and funding to expand existing programs remain beyond the scope of this legislation and should not even be included in this bill.

The funding levels provided in the supplemental are more than adequate to keep our defense programs on track and our military people fully paid. In fact, Secretary Weinberger urged the President not to veto the bill.

If we do not succeed in overriding this veto, the impact on the military of the President's veto being sustained could be exactly the opposite of that intended by the administration. There is some question about the legality of using withholding accounts to pay the September 15 paychecks of our military and civilian personnel. If this fallback method cannot be implemented, there will be widespread morale problems in the services. The gradual improvement in recruiting and retention rates that we have struggled to reach will be dealt a serious blow if payments on September 15 are delayed.

I lay the blame for the present supplemental funding crisis squarely in the laps of those defense advisers who recommended bypassing congressional oversight in attempting to start new programs and expand others. There seems to be a disturbing trend of arrogance cropping up in the dealings of some members of the Department of Defense with Congress and its budget and oversight process. We have provided for vast increases in many defense programs and much of what we receive in return are requests for more funding to cover further cost growth.

It is time we sent a signal to the Department of Defense and the defense industry in this country that those of us who are 100 percent supporters of a strong defense are also 100 percent supporters of a strong economy. Congress has the responsibility for national security but it also has the economic obligation to use prudent man financial practices in appropriating funds. We have procedures for budgeting programs and these procedures must and will be respected.

This supplemental appropriations is nearly $2 billion less than the administration's budget request. I support a congressional override of the President's veto.

Mr. MOYNIHAN. Mr. President, I shall be brief in what I have to say and it can be compressed within a very short compass.

I wish to make two points:

First is that a great deal of attention has been drawn to the social programs which are provided for to very limited extent in this bill.

Might it be clear, and I was very pleased to hear the statement just made by my good friend, Senator JEPSEN, that $5 billion in this program is for the Commodity Credit Corporation? Anyone in this Chamber who represents a State which looks to agricultural support programs has an elemental interest to support the bill that the Senate passed and the override which the distinguished chairman has proposed. Certainly they do if they expect continued support of such programs from those of us who have little direct interest in them.

I emphasize that. The $5 billion is for farmers, and we are prepared to vote for it regardless of the number farmers in our State. But are we to do so with the expectation that those who benefit will not join us? Or that those who do not approve will somehow suggest the expenditures, the outlays, and authority were directed to our own interests and not more generally to those of the Nation?

Mr. President, there is in addition some money in this measure for established programs to help the aged, the handicapped, and those in college, not large sums, relatively small, given our budget, but very much in order.

One of the items to which a fair amount of attention has been called is the $211 million for title V of the Older Americans Act. Title V is a well understood, well performing program that hires older persons to do work for older persons. It is an established, proven, sensible program.

The President vetoed this bill, which includes this measure. In his veto message he said, "I do not take this step lightly."

He would have had us think he was fully cognizant of all the bill's provisions as well as arguments which led him to reject the views of the Secretary of State, the Secretary of Defense, and such other views as were presented in favor of the bill.

No. He said the bill is not acceptable and there was much talk about big spenders.

Yet this morning we learned something that verges on the astounding. Judy Woodruff of NBC news interviewed the President and she described the exchange.

She said, "Despite this tough talk from the President he acknowledged that he had agreed at the last minute to restore funding for jobs for the elderly poor, a program he professed not to know had been affected by his veto."

Then Miss Woodruff quotes the President as saying, "This one slipped by me. I happen to believe in that program, and I have, and I gave them my word that I was." And then with that well-known clarity, that direct and forthright concision of statement and precision of view he drifted off into another subject.

"This one slipped by me."

It is not a very long or complicated bill.

The social programs about which the President expressed such dismay and concern are three: Title V. of the Older Americans Act; the Education of The Handicapped Act; and the Higher Education Act. There are only three. They slipped by him and now he wishes he had not done it.

So I say support the President and override the veto.

Thank you, Mr. President.

Mr. BRADLEY. Mr. President, this administration never ceases to amaze. President Reagan's veto of the supplemental appropriations bill is shortsighted, self-contradictory, and wrong. The House and Senate sent him a supplemental appropriations bill that was almost $2 billion under the President's request. This bill clearly does not bust the budget; let me repeat—this bill clearly does not bust the budget. Since it provides funds for his cherished Caribbean Basin Initiative, Secretary of State Schultz recommended that the President sign it. Since it provides money to pay the Armed Forces of the United States and omits nothing urgently needed by the Defense Department, Secretary of Defense Weinberger recommended that he sign it. The majority leader of the Senate, the chairman of the Budget Committee, the chairman of the Appropriations Committee all urged the President to sign it.

You would think that, with all this high-powered, Repulican advice the President would either sign the bill or have extraordinary good reasons not to. What are his reasons? The President of the United States vetoed this bill because it had too much money for the poor, the children and the aged and too little for defense. Let me repeat: This bill, $2 billion under his request, was vetoed because it contained too much money for the poor, the children and the aged, and too little for defense.

Now what programs for the poor and aged did the President object to? They were student grants for the poor, $217 million; community service jobs for the elderly, $211 million; and educational help for poor children, $148 million.

People who live in New Jersey like Americans in every other State need the funds included in this bill. Let me read to you a letter I received from Oxford, N.J., which highlights the plight of many families who are striving to give their children a better life by sending them to college. The father, who is on social security disability, writes that although his two college age children qualify for student assistance, there is currently no money in the programs to help them. He writes:

> DEAR SENATOR BRADLEY: Again I am writing to you in concern of my sons, who will be attending East Stroudsburg State College again this fall.
>
> They were eligible for SEOG and National Direct Student Loan which the Federal government gives to the Colleges, but there was no money to be given out to them. To me, this is discriminating. Why wasn't East Stroudsburg State given enough money for SEO Grant and ND student loans. Who needs it more than my two boys? They can't even buy clothing, or anything with their social security checks, because they have to use 100% for college. Are they to live off of my social security check? . . .
>
> The President stinks in my estimation, he only cares for the rich.
>
> My sons will be forever paying back under guaranteed student loan at 9 percent or whatever. Are they to give up college, one is a sophomore and the other a senior?
>
> I can only say my family and I don't have to worry about hell, we are in it right now. I only want to know why they were eligible for SEO Grant and NDS Loan and there is no money. I am very bitter and so are my two sons. I can only say no wonder the young go wrong. How can they survive if no one cares? . . .

The supplemental budget bill which we passed and the President vetoed would allow students such as these to complete their education. Young people in New Jersey would receive $4.2 million in Pell grants and $2.3 million in SEOG funds. In addition, our elementary and secondary school students would receive $17 million in educational assistance. They deserve that chance.

That is not all. The President also denies an important chance to thousands of older Americans who are contributing valuable service to their communities. Fifty-four thousand people are facing the loss of dignified work and income needed for basic survival as a result of this veto. One individual from Newark, N.J. makes the point very succinctly. She writes:

> Dear Senator: I have been a widow for 7 years. I am a senior citizen. I am employed by the Senior Aid Employment program to give home care for the less fortunate senior citizens of America. Without this program I do not know if I can make it. Also the older Americans who depend on this program for their home care and Medical attention. Please try to help me.

Another writes from Long Branch:

> Dear Sir: I am not worried about losing my job. I am worried about my clients. They really depend on me. Most of them are shut-ins. Most of them have no family, nobody they can depend upon. They have no car, and everybody today is so involved in their own personal life that they can't be bothered helping other people.
>
> Some of the things I do for them are running errands, grocery-shopping, buying clothes for them, cooking, writing letters—doing whatever is needed. I don't stand on ceremony. If they are sick, I stay with them. When they go to the hospital, I visit them. I try to encourage them. Sometimes they haven't got the will to live. Having somebody that they know to come by helps them. They look forward to it. Sometimes I pick up prescriptions for them. I even pick-up foodstamps for my clients. Whenever I am told to go, I go and find out what's needed.
>
> I hope that program won't be cut because these are all poor people and they cannot afford to have outside help to help them. They just have their monthly checks and every penny is rationed—they haven't even enough money to see them through. They can't afford to pay for outside help.
>
> I am asking you to do all you can to save the Title V Employment Program for Senior Citizens. The people I work for need all the help they can get.

This supplemental budget would also provide funding for the Federal supplemental benefits program providing 6 to 10 weeks of benefits for unemployed workers.

Let us compare the urgency of these programs that the President did not want with funds the President is upset that he did not get. Congress chose to deny Defense Department funds for housekeeping items and the initial payment for new weapons systems planned for next year. There is absolutely no reason why these items could not be funded next year. Clearly they are not worth disrupting Government services. And I do not think a credible case can be made that they are more urgent than the thousands of students who cannot go to college next week because programs are not adequately funded. Nor are those defense funds more urgently needed than the money to keep thousands of older Americans from being thrown out of work.

What is left to say? There was no reason to veto this bill: it does not bust the budget; it provides funds needed by the children, the aged, the poor, and the unemployed; the funds omitted from the defense portion are neither urgent nor controversial. Mr. President, we all want a strong defense. We can have a strong defense without cutting educational opportunities for our children or employment opportunities for the elderly. This veto is shortsighted, self-contradictory, and wrong. This bill should become law. The veto should be overridden.

Mr. DOMENICI addressed the Chair.

The VICE PRESIDENT. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I rise today in support of H.R. 6863, the supplemental appropriations bill for fiscal year 1982.

It is not easy for me to make this statement, but I think the most important matter is that when we are finished today, the American people understand what has transpired.

I regret that there are some who would like to make this a major issue in terms of fiscal austerity. There are some who would want to be self-fulfilling prophets and indicate that if this bill becomes law we have in some way shattered the restraint we have shown

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around here, and in some way fractured the discipline we have shown toward reduced deficits.

It bothers me that some think that is the case. If I was not concerned about it I probably would not even speak. But I am convinced that there are many who do understand, those who recognize our drive for fiscal responsibility. I am convinced they understand this measure for what it is.

This bill has little relevancy to austerity or to meeting budgets or to bringing the deficit trend lines down. The problem is that our President—and this Senator has the utmost respect for him, and I have been on his team on almost every issue, and together we have worked out many difficult problems—has been led to believe that this bill is a budget buster, that somehow this will send a signal that we will not support him when he really needs our support, when it is important for the country.

So I want to make the point right up front. If the budget is busted by the upcoming continuing resolution, if individual appropriation bills that come down for fiscal 1983 do not meet that budget, this Senator will be here voting "no" for the President, and I will be here voting against overriding a veto if he vetoes them.

So I want to make that clear right up front. And I want to say for those who look at our budget for fiscal 1983 and note the progress we have made thus far with a tax bill, and with real restraint on entitlements: You do not have to have any fear that this Senator and, I believe, this institution, are going to indeed follow those actions with similar restraint on appropriations. I do not think that is the issue at all today. That has nothing whatsoever to do with the issue before us today on this bill.

This bill, H.R. 6863, provides $9.2 billion in budget authority and $7.5 billion in outlays for supplemental appropriations in fiscal 1982. The President in his request asked for new spending of $10.7 billion in budget authority and $8.9 billion in outlays. In short, this bill will reduce the deficit that may have occurred under the President's request by $1.4 billion. I think this is a critical point. This is a bill which, in fact, will produce a smaller deficit than the budget requested by the President.

Mr. President, this bill can be enacted and Federal spending for fiscal 1982 will still be below the ceilings of the congressional budget resolution by $8.1 billion in budget authority and $1.1 billion in outlays. So this is well within the limits Congress has set for itself.

I also would like to remind my colleagues that the vast bulk of the spending provided for in this bill fulfills the congressional commitment for pay raises granted last October to military and civilian public servants. This is a commitment Congress has made and should keep. In the bill before us, $6.1 billion in budget authority and $5.9 billion in outlays will be used for these commitments. Much of the rest will be used to keep vital agencies of Government functioning.

I ask unanimous consent that a summary chart setting forth these calculations be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

H.R. 6863, FISCAL YEAR 1982 SUPPLEMENTAL

[In billions of dollars]

	Budget authority	Outlays
Revised budget resolution	777.7	734.1
Current Level	766.9	732.1
CBO technical adjustment to current level	−.1	−.1
Action underway (H.R. 4961)	.4	.2
Amount remaining	10.3	1.9
H.R. 6863, conference report [1]	9.2	7.5
Less items already in current level	−6.7	−6.4
Less offsetting receipts affected by appropriations action	−.3	−.3
Net impact of H.R. 6863	2.2	.8
Amount remaining	8.1	1.1
President's request [1]	10.7	8.9
House passed [1]	[illegible]	7.3
Senate passed [1]	9.0	7.5

[1] Reflects Senate Budget Committee scoring of CCC borrowing authority.

Note: Details may not add to totals due to rounding.

Mr. DOMENICI. In the final analysis, the controversy over this measure is not a controversy over fiscal austerity. As I said before, this bill will yield smaller deficits than if Congress had merely approved the President's request. This controversy involves rather the relationship between the executive branch and the legislative on policy matters. Who shall have the final say on what I would call fine tuning of priorities among Federal programs?

My judgment is that such a question should not be answered, and will not be answered, on this measure. It is claimed by many that the question is whether we should add another $1.8 billion for defense in this measure and remove a little more than $585 million in certain domestic programs. To me the choice is not really that simple at all. Most of the defense money the President requested and that Congress did not include would not have spent out in fiscal 1982. Most of the money added for domestic programs will not spend out in fiscal 1982. The final level of spending in defense and nondefense for the next year has yet to be decided. It is not being decided here. It will be decided in subsequent fiscal 1983 appropriation bills or in a continuing resolution. This 1982 supplemental bill is not going to determine those levels.

As I said in my opening remarks, I intend to support the spending policies for fiscal 1983 that the first budget resolution calls for and which were endorsed by the President. These policies are clearly set out in the first budget resolution, and we will all understand, both the White House and Congress, when we exceed them.

Approval of the bill before us today in no way prejudices our ability to increase defense spending and hold down domestic spending in later years.

Some of the objections to the $585 million increase above the President for some programs may be justified. However, I believe we do need to maintain funding for the working elderly, which is about $211 million of the $585 million, and we should be sure of our ground before we excise funds for the handicapped and students, which are also part of this measure.

I would again repeat the final word on funding levels for these programs will be made later in the fiscal 1983 appropriation process. This measure will not, and I repeat will not, make these final decisions.

In conclusion, to clear away all the deadwood in this debate, I say simply that I cannot object to this measure on the levels of spending it contains. It is clearly within the targets we have set. It will produce a smaller deficit than the President's request would produce. And it is not the final word on defense or nondefense spending priorities.

In the final analysis I cannot justify disrupting vital operations of Government or failing to keep commitments we made to our military and civilian personnel because of a narrow dispute over a relatively small amount of money for several domestic programs, some of which even the President has conceded need to be funded.

Therefore, Mr. President, I will support the override.

Mr. MOYNIHAN addressed the Chair.

The VICE PRESIDENT. The Senator from New York.

Mr. MOYNIHAN. Mr. President, in the briefest comment I would like to congratulate my friend, the distinguished chairman of the Budget Committee, the Senator from New Mexico, for the courage he summoned to make what cannot have been an easy statement, given his exceptional and central record of support for the President's programs in this Chamber.

Mr. DOMENICI. May I thank the Senator from New York, Mr. President?

Mr. MOYNIHAN. I appreciate that.

I would like to make one comment about the final observation the chairman made about the treatment of military personnel.

Mr. President, I would dare to suggest that from time immemorial the first principle of prudent government is to pay the army, and there is something unseemly about our present circumstances. We are paying the Armed

Forces from the moneys we withheld from their pay for income tax purposes or social security. I have written the Comptroller General to ask what the authority for that is and to inquire about interest payments being lost by the social security trust funds because social security tax payments from the Defense Department are not arriving in the Treasury, where these moneys are put into Government securities and bear interest.

But much more important, Mr. President, there is a question of seemly and orderly government. Congress provided the funds to pay the armed services, and with almost casual indifference the President vetoes and says, "Pay it out of the money we have taken out of their paychecks."

What happens if we do not pass another bill? Why should we not simply go forward, as we had, with the business of government? If the administration does not understand it, surely we do. And a vote to override would allow us immediately to turn to serious matters which the chairman of the Appropriations Committee wants to bring to this floor. Thirteen appropriations bills, the last month of the year and not one passed.

SEVERAL SENATORS. Vote!

The VICE PRESIDENT. Who seeks time?

Mr. RUDMAN. Mr. President, I wish to associate myself with the remarks of the Senator from New Mexico, the chairman of the Budget Committee.

Mr. President, it is no great secret that I have been a consistent supporter of President Reagan's economic goals, helping him achieve both tax and budget cuts. I have, however, disagreed on occasion with the specifics of his program and the emphasis of where the budget ax must fall. It is for this reason I will vote to override the President's veto of an urgent supplemental appropriations bill that is, in fact, less than his original request.

I simply cannot agree with those who characterize this bill as a "budget buster" because it is $1.5 billion less than the President wanted. Of the total $14.2 billion appropriation called for in this bill, 85 percent is mandatory costs such as military pay and health and retirement benefits. This money simply must be appropriated to insure that the Federal Government meets its obligations.

Debate has centered around whether all of the remaining 15 percent should be funneled into new weapon systems and foreign aid or whether some portion should be allocated to social programs that have already experienced sharp budget cuts. As a member of the Senate Appropriations Committee I am very familiar with both sides of this debate. Frankly, I do not believe that we can further reduce the funds targeted for worthwhile senior citizen and education programs without causing tremendous hardship on those who are less fortunate. If this veto is sustained, many elderly citizens in New Hampshire will find themselves without jobs come October. The elderly jobs program allows many of our senior citizens to continue a productive and independent lifestyle while enhancing the services available in our communities. I do not believe it fair to reward them for their dedication and many contributions by taking away their jobs.

Similarly, I do not believe it fair to restrict programs for the handicapped which enable the disadvantaged children to live normal and productive lives and save taxpayers millions of dollars in future welfare costs. In addition, we have already tightened the eligibility and drastically reduced the student aid programs. Additional reductions will prevent many bright and deserving young people from continuing their education.

On the other hand, we have, over the past 2 years, embarked upon a sustained modernization of our Armed Forces and significantly increased defense spending to respond to a growing number of threats to our national security. I have supported funding for programs which I believe improve our Nation's defense posture at acceptable cost. I am not certain, however, that the Defense Department can efficiently absorb additional funding and embark on new projects without creating an environment for undue waste and mismanagement.

Finally, I would warn against interpreting this vote as an indication of the President's support in Congress. Given the fact that this bill is less than the President's original request and falls within the framework of his recovery program it will not inhibit our ability to reach his economic goals. Those of us who vote to override his veto do so simply because we happen to disagree with the administration's decision to further cut education and jobs programs in favor of sending more money to the Defense Department. I continue to be a strong backer of the President and he will be able to count on my future support.

Mr. DOLE. Mr. President, I will just take a minute or two. I wish to first commend the distinguished Senator from New Mexico and the others, particularly the Senator from Oregon, Senator HATFIELD. I think I found myself in agreement with the distinguished Senator from Oregon on nearly every occasion this year.

I do not suggest that we are busting the budget, but I do not want to bust the President, either. The President was in the State of Kansas yesterday. We were flying in a helicopter between Manhattan and Topeka. I do not suggest the door was open or anything like that, but the President wanted to know if I wanted to help him on this bill. [Laughter.] And I thought about it and I figured I would.

So I wanted to make that statement because I really believe, and I say this having been there and having witnessed the outstanding or tremendous ovation the President received from about 15,000 or 16,000 college students and others in the State of Kansas from both parties when he talked about leadership and when he discussed the need to curtail Federal spending, when he discussed the need to curtail the growth of government, when he discussed the need of such things as school prayer and other things. I must confess, I was maybe not surprised but certainly encouraged by the support the President had.

I cannot quarrel with the chairman of the Budget Committee or the chairman of the Appropriations Committee because I am not an expert in these matters. It may not bust the budget. It may, in fact, be below the budget. But it does, I think, put, again, the question of who is providing the leadership.

I do not suggest the President ought to dictate to the Congress, dictate to any committee, or dictate to any Senator. But right now we are on the verge, I believe, of coming out of a recession. We are on the threshold of recovery. And, whether we like it or not, perception means a great deal. And there is a perception in this land right now that things are getting better. There is a perception in this land right now that we have a real strong, firm leader in the White House. And I think I can say for the thousands of young men and women who were in the audience yesterday at Kansas State University that they believe that this President is providing that leadership.

I suggest that we will boil it down however we want. I know there are strong feelings and I know that those who toiled with this effort may disagree. But President Reagan has a great reservoir of strength in America. In my view, this would not seriously undercut that leadership by it would at least cause a pause and people might wonder if, in fact, the President had been weakened.

Having seen what the perception does in certain areas and having been with the President yesterday and having heard him make very strong statements about the economy, I can only say to my colleagues on both sides of the aisle: Do not underestimate the strength of President Reagan. The strength is there. It is with Democrats, with Republicans, with Independents, with young people, with college students, and with people all across this land. He has indicated that we should sustain the veto and that is what I hope we can do.

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Mr. BURDICK. Mr. President, I will cast my vote today to override the President's veto of the supplemental appropriations bill. I do so because it contains essential and necessary elements for the well-being of this country. In agreement with me is Governor Allen I. Olson, Governor of the State of North Dakota. I ask unanimous consent that a telegram I received from him today be printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Telegram From Hon. Allen I. Olson, Governor of the State of North Dakota, to Hon. Quentin N. Burdick, U.S. Senator From North Dakota

As you know, I strongly support President Reagan's efforts to balance the budget and reduce federal spending. However, the supplemental appropriations act contains funding for a number of items which are extremely important to North Dakota including employment of older Americans, low-income student loans, mineral leasing audits, funding for general and recreational roads and bridges in North Dakota.

While I support the concept of fiscal restraint embodied in the President's veto, I urge that you vote to sustain the legislation and override the veto as being in the best interest of North Dakota under the circumstances.

I believe the situation we find ourselves in with this budget and the President's veto underscores the need for serious consideration of giving line item veto power to the President. Neither you nor the President should be faced with the "all or nothing" decisions on vital budget issues.

Sincerely,

Allen I. Olson,
Governor of North Dakota.

Mr. LEVIN. Mr. President, I want to urge my colleagues to vote to override the President's veto of the supplemental appropriation bill for fiscal year 1982.

The President has called this bill a budget buster. This is a catchy phrase which the President has used repeatedly over the past 18 months to characterize legislation which he finds objectionable. The problem in this case, however, is that the phrase just does not match up with the facts.

Let us take a minute to look at the actual numbers. The President proposed $16.3 billion in new spending for fiscal year 1982. The Congress approved $14.6 billion. In other words, Congress voted to spend $1.7 billion less than the President requested. It is true that we are only 2 years away from 1984, but that is not enough of a reason for the administration to engage in blatant doublespeak that less is more. Alliteration may be fine for slogans, but it is not an adequate replacement for the plain and simple facts.

The controversy about this supplemental appropriation bill is not really, then, about busting the budget. It is about priorities. It is about spending $210 million more for community service employment for older Americans when the administration asked to spend nothing more. It is about spending $217 million more for financial assistance to college students when the administration sought to spend nothing more. It is about adding $6 million for child immunization to make up for earlier Federal cuts and a 12-percent increase in the cost of some vaccines when the administration is willing to risk having the immunization program's effectiveness reduced. It is about spending $26.5 million more for education for the handicapped when the administration sought to spend nothing more.

And it is about spending $1.9 billion less than the administration requested for military spending. In reviewing the President's military spending requests, the Appropriations Committee found that they were a departure from normal practices involving new starts and program shifts that did not meet the criteria for supplemental funding.

In vetoing the bill, the President has, thus, put the wish list of the Pentagon ahead of the needs of average Americans. It is just another example of the administration's blind side when it comes to reviewing what the Pentagon wants to spend. The least we can ask from an administration which is so determined to choose guns over butter is that the President take a moment to look for military fat. Last year, David Stockman testified that "There is so much waste in the Defense Department it has taken us longer to figure out." Well, we are still waiting. The President's insistence that the supplemental appropriation bill is a budget buster and his refusal to recognize the budgetary impact of the military spending cuts suggest that unless he is sent a message, we will be waiting for a long time to come. I believe that it is essential for the Congress to override his veto as one way of sending that message.

Mr. MITCHELL. Mr. President, the supplemental appropriations bill that is before us today is a responsible piece of legislation that should have been signed into law. Members of Congress from both parties recognized this when the bill passed the House by a 5-to-1 margin and passed the Senate with no dissenting votes.

Why would the President veto a bill that received substantial support in the Congress? In his veto message, the President explained that the veto was necessary to keep the deficits down. Yet, a comparison of the President's initial request and the supplemental passed by the Congress shows that the Congress was more fiscally responsible than the President. This bill appropriates $1.4 billion less than the President requested for fiscal year 1982. Furthermore, according to the Congressional Budget Office, the bill is $3.2 billion under the spending ceiling set by the Congress last spring.

The President's misleading description of this bill does nothing to enhance the public's understanding of the issues involved. His attempt to gain political advantage by criticizing a bill that comes in under both his and the Congress budgets only undermines efforts to forge a bipartisan consensus to deal with economic problems.

The real reason for the President's veto is not the overall level of spending but the mix of spending on domestic and defense spending. The supplemental bill reduced the President's defense request by nearly $2 billion and increased funds for domestic programs by $600 million. Even this increase in domestic spending does not do damage to the fiscal year 1982 budget deficit, because the outlays resulting from these appropriations are actually lower than the President requested for domestic programs.

This tradeoff, slightly more for domestic programs and a smaller increase in defense, is very reasonable. The $2 billion reduction from the President's request still leaves us with a $30 billion increase over 1981. This reduction in the rate of increase in defense spending is a modest one, particularly in view of the higher domestic funding that it allows.

I am particularly disappointed with the President's opposition to the $210 million contained in the bill for the senior community service employment program. This funding would continue the 54,200 part-time jobs currently in effect for low-income persons aged 55 and over. Of this total, some 340 positions are in my State of Maine. The jobs under this program not only result in the delivery of direct services to other senior citizens, but they provide an opportunity for the elderly to have meaningful work and most importantly, a source of income. If that income is denied, many of these senior workers will be forced to go on welfare, a result which is surely as undesirable as it is unfair.

Just 2 days ago, I met in Lewiston, Maine, with a group of senior citizens who will be severely affected if this veto is not overridden. One of them is an example of human fortitude. Rita Roy is 59. She is blind and partially disabled, but she is intelligent and alert. She does not qualify for social security, and was ineligible or otherwise unable to get funding from other assistance programs. She did not want to go on welfare. The senior community service employment program gave her a job in April 1980. Her only income is the $67 a week she earns from working 20 hours a week, at the minimum wage, from that job. Although the pay is not high, it has given her a sense of fulfillment, pride and dignity in earning her own way, and she gets by on her $67 a week income. Now that job is in jeopardy. If it is abolished she will have no alternative but to apply for welfare. There will be no savings of public funds, and our society, as well as Rita Roy, will be the losers as a result.

The supplemental appropriations bill also contains funding for several important education programs. First, it has $148 million for disadvantaged students. This amount would be awarded to local school districts as supplemental grants under chapter I of the Education Consolidation and Improvement Act of 1981 in order to prevent them from a partial loss of their allocation close to the start of the school year. There is also $26.5 million for three categorical programs aiding in the education of handicapped children. Finally, there is additional money for the Pell grant program and the supplemental educational opportunity grant program, two worthwhile programs providing financial aid to college students. The spending in the education category can make the difference for needy students who cannot meet the full cost of attending college and for the disadvantaged and handicapped who need a helping hand in obtaining a proper education.

The legislation further includes $112 million for grants to the States for medicaid payments. It is essential to point out that this amount is substantally below the administration's initial request of $552 million, a figure later reduced to $342 million.

The purpose of this extra funding is to pay outstanding medicaid claims for prior years. While the Appropriations Committees will deal with the issue again in connection with the 1982 appropriations bill, this additional amount will nonetheless make a contribution to elimination of the backlog of claims which currently exist under the medicaid program.

The supplemental appropriations bill also contains funds vitally needed by our Coast Guard. Without the $114 million which the vetoed bill contained for the service, there is the real possibility that the Coast Guard's 5,000 civilian employees may have to be furloughed later this month and that military personnel may be forced to work without pay.

There will be other serious ramifications for the Coast Guard. Day to day operations will have to be curtailed. Operations relating to law enforcement, military readiness, and aids to navigation will have to be reduced. In addition, there is likely to be a delay in signing important and necessary procurement contracts.

The bill retains $150 million in loan guarantees under the Economic Development Administration, to carry out the intent of Congress that the program be fully implemented. The administration sought to limit EDA's loan guarantee program to $45 million this year, despite a $150 million authorization by Congress and worsening economic conditions that make the need for the program even greater.

The confrontation sought by the President on this bill reflects a rigid adherence to budget priorities that are not in the best interests of the nation.

This, combined with the misleading characterization of the supplemental bill, will only create more difficulties in constructing bipartisan solutions to our budget problems. I urge my colleagues to vote to override the Presidents' veto of this worthwhile bill.

Mr. DURENBERGER. Mr. President, when I received word that the President had vetoed the supplemental appropriations bill, I took a copy of that bill and went back over it, line by line. That kind of review is the surest way to dispel any suggestion that this bill is a budget buster. It is a fair and reasonable bill, and I intend to vote to override the veto this afternoon.

I have cast some tough votes over the past 2 years to sustain the President's vetoes when Congress approved legislation that did violate budget ceilings. But we are not dealing with that kind of legislation today. This bill is well within the budget. In fact, it is a whopping $1.8 billion below the President's own spending request. Equally important, the Senate was able to achieve these savings and still provide supplemental funding to some very important programs. It accomplished that feat by making a fair trade-off between demands for higher defense spending and the legitimate needs of other programs that have a more immediate impact on human needs.

The bill provides $2.1 billion less than the President requested for defense—less than a 1-percent reduction in military spending. At the same time, it provides approximately $900 million more than he requested for a variety of social programs, including education for the handicapped, the Older Americans Act, and student financial assistance. The net savings—in the order of $1.8 billion—will go to lower the Federal deficit, and put more downward pressure on interest rates.

It cannot be fairly argued that this fails to meet legitimate defense needs. Even with these minimal reductions, the 1982 defense budget will be the highest in peacetime history. Providing the kind of additional funding sought by the President through a 1982 supplemental appropriation would require the Senate to exceed budget limits for defense, something we simply cannot do. If necessary, many of these same defense programs can receive additional funding under the fiscal year 1983 continuing resolution, which will be before the Senate in just a few weeks. This short delay is a small price to pay for maintaining the integrity of the congressional budget process.

If, on the other hand, the Senate sustains the President's veto, some very important programs are likely to lose some or all of their supplemental funding. For example:

The community service employment program in the Older Americans Act stands to lose up to $211 million. This could mean the loss of more than 1,000 jobs in Minnesota alone through elimination of successful programs like Green Thumb.

Student financial assistance programs (Pell grants and SEOG's) stand to lose $217 million.

In education funding, $26 million for the handicapped will be subject to elimination.

In funding for interstate highways, $112.5 million would also be threatened; a sum that includes more than $10 million in funding for long-delayed highway projects in Minneapolis, St. Paul, and Duluth, Minn.

There are, of course, many more examples.

I would be the first Senator to take the floor in defense of the President's position if this bill did exceed budget ceilings. But the simple fact is that it does not. It represents a rare opportunity to save about $1.8 billion above and beyond the President's original request. The real issue here is not whether we should exceed budget limits, but whether we should force the defense budget to bear a fair share of the burden necessary to cut back a Federal deficit well in excess of $100 billion. And as strongly as I support the President's effort to improve the quality of our defense capability, I think we all need to recognize the reality that we will never be able to gain control of Federal spending until all aspects of the budget, including military spending, carry a fair share of the burden.

The trade-off made in the bill between dollars for defense and dollars for human needs is a sound trade-off. And whether we approve or disapprove of that trade-off is the real issue posed by the override vote.

This is the first time I have ever broken with the administration on a veto involving spending legislation. But I believe there are compelling reasons to override this veto, and I urge all of my colleagues to join in that effort.

Mr. D'AMATO. Mr. President, I rise in support of an override of the President's veto of H.R. 6863, the fiscal year 1982 supplemental appropriations bill. It was my sincerest hope that the President would heed the advice of those in Congress and those within his inner circle of advisers who urged him to sign this appropriations measure; however, such was not the case.

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I do not take this position in support of an override lightly, but rather, my stand results from a thorough review of the facts of the situation. As one committed to the President's program of reducing Federal deficits and lowering interest rates, I firmly believe that this bill represents a sound balance of prudent fiscal management with the true needs of the people in this Nation.

The fact is that the President had requested $15.6 billion in spending in this supplemental appropriations bill. I and my colleagues on the Senate and House Appropriations Committees worked many hours in an effort to develop a bill. The result was a measure which contains $14.2 billion in spending. Consequently, this bill is not a budget buster, but rather comes under that level requested by the President by some $1.4 billion. It is therefore precisely because I am committed to the President's program of fiscal economy that I am supporting the override of this veto.

More importantly, however, this bill recognizes that it is the province of the Congress to set the priorities within the given budget ceilings. This supplemental appropriations bill contains funding for programs which are essential to the students, older Americans, and handicapped of this Nation as well as necessary moneys which will improve the badly deteriorating infrastructure of this country. The Congress simply cannot allow these people programs to suffer because of this veto.

All across the Nation, students are returning to the classrooms this week. The action we take today could very well make the difference for thousands of students who hope to attend both independent and public colleges and universities. In my own State of New York, 130,000 students depend upon Pell grants, and more than 44,000 students receive supplemental educational opportunity grant aid. This bill contains $217 for these two programs which assist families in meeting the rising costs of tuition.

Just this week, the University of Wisconsin concluded in a study that Federal aid is indeed directed at needy students, and that without such aid students would not be able to attend school. Moreover, an editorial in yesterday's New York Times reports a disturbing fact; that is, the percentage of students from poor and middle-class families is falling at private independent colleges and universities. The funds in this measure will help prevent the exacerbation of this caste system in education.

In the area of elementary education, we have provided $148 million for title I of the Education Consolidation and Improvement Act. Many States, including New York State, have been shortchanged because of the Secretary of Education's use of the 1970 rather than the 1980 census in distributing title I funds. As any colleagues know, title I is a program which assists local school districts educate the economically disadvantaged. It is a program which has proven to work. My own State of New York has experienced a 22-percent increase in the number of poverty-level children from 1970 to 1980 and therefore stands to loose $31 million from the use of the 1970 census. The funding which we have placed in the supplemental will help restore to States the title I funding which they truly need and deserve.

The supplemental appropriations bill contains $210.6 million for title V of the Older American Act. Over 54,000 older Americans are gainfully employed by this program which has been reauthorized by the Congress for an additional 3 years and which has the overwhelming support of this body. The many State offices for the aging and national contractor organizations which operate the title V programs have already begun to send closedown notices to individuals employed under this program, and quite frankly, these older Americans are frightened. They are frightened that they will lose their productive employment and be forced onto the welfare rolls. We in the Congress cannot allow this to happen.

There are other important programs which are included in this bill such as funding for the handicapped. In addition to over $26 million for programs under the Education for All Handicapped Children Act, some $9 million is included for the special institutions which serve the deaf, hearing impaired, and the blind. As an advisory board member of the National Technical Institute for the Deaf in Rochester, N.Y., I can unequivocally state that the funds in this measure for NTID and the other special institutions are dollars well spent. Our economy realizes a return of $11 for every $1 spent in the rehabilitation of the average graduate from NTID. Upon retirement the average graduate will have repaid the Federal Government over 400 percent of the cost of his education and will have saved the Government over 300 percent more by not being on welfare. These funds are crucial if these institutions are to meet the challenges of the future.

Mr. President, for all of these reasons, I will vote to override the veto and urge my colleagues to do the same.

Mr. MATTINGLY. Mr. President, last month, I supported the conference report on H.R. 6863. As I said at that time, I believe we are making progress at holding down spending and for that reason I supported the bill. It was the best we could do at that time and get passage in both Houses of Congress.

Now that the bill has been vetoed, I feel we have an opportunity to further restrain spending. By voting to sustain the President's veto we can come forth with another bill saving the taxpayers of this country several more hundreds of millions of dollars.

This is consistent with my philosophy that we should never pass up an opportunity to cut the growth in Government or to lift the burden of taxation from out citizens. The President's veto gives us that fresh opportunity. I believe with a little more work we can come up with an even better piece of legislation.

Certainly there are many fine programs with money at stake in this bill. It is unfortunate that they are hostages to the fate of this bill. I support many of these programs and will work to see that they continue to receive funding in the appropriations bill that will be drafted after we sustain the President's veto.

Mr. DIXON. Mr. President, the issue before the Senate today is whether or not to override the President's veto of H.R. 6863, the supplemental appropriations bill. It is clear what the President wants us to do. I watched him comment on the House override of his veto on one of the network television news shows. The essence of his comment was that "the big spenders won."

I have an enormous amount of respect for the President, but I have to confess that his comment leaves me somewhat confused. I can only conclude that his definition of big spender is somewhat different than mine.

Congress passed a bill that is $1.8 billion below what the President requested. I voted for that bill. I continue to support it. I do not understand, however, how voting for less spending than the President requests makes me and the rest of the Senators and Representatives that support the bill "big spenders."

The bill is clearly not a budget buster. Even using OMB figures, the bill is at least $1.4 billion below the President's request, and it is within the guidelines of the budget resolution that Congress approved last year.

As I see it, the issue is not "big spending." Rather, it is what programs should funds be spent for, and who should decide how they are spent.

The President wants to spend about $2.1 billion more for defense than provided in this bill, and he wants to spend about $900 million less for domestic programs than Congress included. The President also wants to spend more for foreign aid and certain other programs than is in the supplemental appropriations bill.

Let me make it clear at the outset that I support a strong national defense. I have voted for increases in military spending. I believe that increases are necessary. However, the extra money the President wants is mostly for housekeeping items, and for beginning early spending on weapons programs planned for next year.

But, let us look at some nondefense programs. Without the funds included in this bill, over 55,000 jobs for the elderly will be lost—elderly people in this country who would otherwise probably be on welfare. Without the funds provided in this bill, several hundred thousand young Americans will not be able to begin college this year. Without the funds provided in this bill, education for the handicapped and unemployment programs will be hurt.

Mr. President, I believe we must reduce Federal spending if we are ever to begin to control the deficits that are crippling our economy. I have supported, and will continue to support, appropriate measures to reduce spending on domestic programs. I believe the necessary sacrifices must be shared, however.

The current deep recession has left the social safety net in shreds, and I am very disappointed to see the President resisting the very modest efforts of the Congress to try to repair some of the damage.

Sound programs are funded in this bill without busting the budget. Providing funds for these few domestic programs will not hurt the Defense budget. National security will not be jeopardized. Not one plane, not one tank, will be lost.

I regret that the President's veto had to come to us in this form. Because the President's only choice was to either veto the entire bill or to sign it, payrolls at the Defense Department and a number of other agencies have been jeopardized. Programs not in controversy have had their funding interrupted. This situation again points out the need for a Presidential item veto power. It has worked in the States and will work at the Federal level. I have introduced a constitutional amendment to give the President item veto authority, and the veto battles we have fought this year eloquently attest to the need for the amendment.

Mr. President, I want to conclude by noting that Congress has given the President almost everything he has asked for. Our Constitution, however, gives the power of the purse to the Congress. Senators and Representatives are elected to exercise their judgment, not merely to rubberstamp every Presidential proposal.

I urge my colleagues, therefore, to exercise that judgment. This bill was strongly supported when it was first considered on the Senate floor and deserves continued support. It is not a budget buster; it is $1.8 billion below the President's request. I hope the Senate, therefore, will join the House and override the veto.

● Mr. **BIDEN**. Mr. President, it is time that we recognize that the President's position on this supplemental appropriations bill is, at best, misguided. This bill is not a budget buster, as the President calls it. This is a disagreement about priorities between the President and the Congress. The President wants more spending for defense, and he wants to cut other Federal activities to pay for it. This bill cuts defense spending about $1 billion below the President's request, and I believe that this is the reason for his veto.

That must be the reason because, as I said, this bill is not a budget buster. It is below the President's own requested appropriation level. It is well within our own congressional budget. It is not a bill to fund new or unnecessary Federal programs. It is a responsible bill to continue the vital functions of government. Its passage is necessary just to meet our payroll.

Let us look at some numbers for a minute.

If this bill is passed, there will still be $1.3 billion in spending authority left under the congressional budget. And this is the tightest Federal budget this country has ever seen.

This bill actually cuts the President's requested spending by $1.4 billion. He asked for spending totaling $8.9 billion—but in this bill Congress would provide only $7.5 billion.

The President often talks about the need to cut domestic spending—and this bill cuts domestic spending by $400 million below the President's request. And it does so without harm to services for older Americans or the disadvantaged and handicapped.

Mr. President, in this bill the Congress has cut the President's request for spending for domestic programs by $400 million. It has cut his request for defense and foreign affairs by almost $1.1 billion. Yet the President calls this a budget buster.

I intend to vote to override this veto in order to keep essential Government functions operating, as well as to save money.●

● Mr. **WEICKER**. Mr. President, I rise to urge our colleagues to join the distinguished chairman of the Appropriations Committee, Senator Hatfield, in voting to override the President's veto of the Supplemental Appropriations Act of 1982.

The President vetoed this bill because the mix between social and defense programs was unacceptable. That he called it a "budget buster" is an insult to the intelligence of the American people. This bill is $1.7 billion "below" the budget request. It is well within the budget resolutions. It is "not" a "budget buster."

It is the aged, the disadvantaged youth, the handicapped, and the college students who will benefit from the excess which the President has accused us of exercising.

The President exercised his constitutional authority in returning the bill to Congress without his signature. Let us now cast a vote for the weak and underprivileged. Let us stand up and exercise our constitutional prerogative and vote to override that veto.●

Mr. **SASSER**. Mr. President, I rise today to support the veto override of H.R. 6863, the 1982 supplemental appropriations bill.

I commend the House of Representatives for their veto override yesterday, and I hope that my colleagues will follow suit here today.

If we do not override the veto of H.R. 6863, we will be turning our backs on the elderly, the students, the handicapped, the farmers, and the men and women or our country who serve in our Armed Forces.

If H.R. 6863 does not pass, 54,000 elderly Americans will no longer be able to participate in the title V senior employment program. Eleven hundred Tennesseans now participating in this program will be denied their minimum wage jobs in helping out with home health, day care, meals on wheels, and other community service programs.

And the human impact of these funding reductions will be incalculable.

Take the case of Jamie Roberts, for example, in Covington, Tenn.

Jamie Roberts makes $250 a month, her only income, by driving a community van for the title V program so that the elderly of Tipton County can get into town to buy their groceries and medicine. She also helps deliver daily meals to the elderly confined at home.

Now what is going to happen in Tipton County if funding for the title V program is discontinued?

Well, first of all Jamie Roberts will be thrown out of a productive job. She will be denied the opportunity to help out the the elderly of Tipton County. She will be thrown on the unemployment lines and at age 60 she is unlikely to get another job. And she will suffer an income loss of $63 a month.

Just imagine that. The Federal Government cannot afford $63 a month to have Jamie Roberts help her fellow citizens in Tipton County live a better life.

And do you know what else will happen? Well, many of the elderly people that Jamie Roberts serves in her title V van will have to be institutionalized. They will not be able to live in the security and comfort of their own homes, knowing that Jamie Roberts can help bring them meals or help them get into town to get their prescriptions. And when these elderly individuals are institutionalized, Tipton County taxes are going to go up by one-half million dollars.

Now that is a false economy if I have ever seen one.

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And when Jamie Roberts loses her title V job, she will not be the only one. Eleven hundred other Tennesseans will also lose their jobs. The quality of life all over Tennessee will suffer when these good and caring individuals are thrown on to the State's already growing unemployment lines.

But the elderly are not the only ones who will suffer if we do not override the veto of H.R. 6863.

Without the $217 million contained in this supplemental appropriations bill, more than 1 million students will have their Pell grants reduced, and 128,000 students nationwide will be unable to receive supplemental educational opportunity grants.

In Tennessee, this means that about 30,000 young Tennesseans will suffer immediate reductions in their Pell grants. And 2,100 Tennesseans would lose the opportunity to receive supplemental educational opportunity grants.

At a time when we need good education for our younger generation to help rebuild America, we see an administration saying that we can not afford the investment. Another false economy, my friends.

And many, many others in Tennessee and the Nation will be severely hurt if the veto of H.R. 6863 is not overriden.

Farmers are going to wonder when we are going to get around to appropriating the $5 billion for the Commodity Credit Corporation in order to fund much-needed farm price supports.

Our military personnel will wonder when we are going to fund the 14 percent pay raise that the Congress authorized last year. Without timely enactment of H.R. 6863, our military personnel will see the value of their service to this country diminished by the administration's political stance on this measure.

And finally I would point out that a vote to override the veto of H.R. 6863 will, indeed, be a vote for fiscal austerity since the administration's original supplemental funding request was about $2 billion more than the funds now appropriated by H.R. 6863.

These are all good and sufficient reasons to vote to override the veto of H.R. 6863.

Mr. MATSUNAGA. Mr. President, I rise to urge my colleagues to vote to pass the supplemental appropriations bill, over the veto of the President.

Mr. President, not long ago, we voted by a substantial majority to approve the same bill now under consideration, believing that it is a fair and balanced piece of legislation which appropriates money for essential domestic and military programs. It is still a fair and balanced compromised bill which should clearly be enacted into law.

The President vetoed the bill claiming that it was a budget-buster. The fact-of-the-matter is that the bill appropriates $1.9 billion less than was requested by the President. It appears that the President vetoed the bill because it appropriates $2 billion less for defense, and $918 million more for education and social programs than was requested by him.

In essence, the President is defying the clear wishes of Congress and demanding that Congress defer to his spending priorities, which continually seek massive increases in defense spending at the expense of education and social programs.

Mr. President, the vetoed supplemental appropriations bill includes funding for worthy domestic programs which merit the support not only of the Congress but of the President himself. The bill appropriates $211 million for community service employment for older Americans, $217 million for financial aid to low-income college students, $148 million for grants to local schools to help educate disadvantaged students, and approximately $20 million for advances to the unemployment trust fund to provide funds for unemployment compensation benefits recently authorized by Congress in the tax bill.

Mr. President, let us here in this august body follow the lead of the House, and notify President Reagan that we will not put up with a politically motivated veto when the orderly operation of the Federal Government is at stake and when critical domestic programs are being sacrificed. We must send a clear message to the White House that we do not intend to relinquish our constitutional responsibility with respect to the formulation of national policies which will affect the direction of the economy and the lives of millions of Americans.

I am voting to override the President's veto, and urge my colleagues, on both sides of the aisle to do likewise, and thus reaffirm the integrity of Congress as an independent branch of our Government.

Mr. RIEGLE. Mr. President, today I am joining many of my colleagues in voting to override the President's veto of this supplemental appropriations bill.

I, like others in this Chamber, feel it is ridiculous to call this bill a "budget-buster" when this bill is actually almost $2 billion below the supplemental request made by the President. The President's problem with this bill is that it provides more funds for domestic programs than the President requested.

Mr. President, it is clear that the President, with this veto, attempts to continue his efforts to shift our national spending priorities away from vital domestic programs into a massive and unprecedented peacetime military buildup. This important measure contains needed funds for community services employment for older Americans, funding for the medicaid programs which provides essential health care for low-income Americans, vital funding for education programs including money for disadvantaged and handicapped students as well as low-income college students. In addition, this bill contains funds for States to administer the Federal supplemental benefit (FSB) program providing additional unemployment compensation for individuals unable to find work which is so critical to my State of Michigan.

I urge all of my colleagues to join me in voting to override the President's veto.

●Mr. GRASSLEY. Mr. President, I support the override of the veto of this supplemental spending bill for a variety of reasons. First, I must point out that although the President vetoed this supplemental bill, he realizes the importance of passage of supplemental legislation. In fact, it became increasingly clear over the last couple of weeks that there was broad agreement in the House, the Senate, and the White House that certain programs had to be funded in order to maintain continuity and to avoid unnecessary hardship and management crisis.

I, of course, remain concerned about the need for stringent budgetary restrictions. The economy demands it. And in reflecting upon those concerns, I weighed the consequences of sustaining the veto and the possible impact it might have on the Nation and the State of Iowa. It was my judgment that the nature of the supplemental bill gave little justification to placing these spending measures in jeopardy, particularly when the total amount was $1.4 billion below what the President himself requested, and since the total was well within the budget targets set in the first budget resolution. Furthermore, the House will not be back in session until next Wednesday which would leave an insufficient amount of time for the Congress to act in time to avoid unnecessary confusion.

Mr. President, there is a more fundamental reason why I support this supplemental bill at this time. I have long been concerned about sending the right signals to the public that we in Congress are embarked on a steady and consistent course. It has become evident within the past few weeks that this Congress, with the support of the White House, has taken the necessary steps to get budget deficits under control. The Congress and the White House came to an agreement on a budget resolution and a tax bill which set the economy in a direction of recovery. That budget resolution contained supplemental funding in excess of the amount in this bill.

I cannot, then, see what good would come from holding up this bill when the resulting confusion would cause precisely the opposite of what we are trying to accomplish here. On the basis of minute differences on this bill, we would be in danger of once again sending the wrong signals to the Nation's markets, that Congress and the White House cannot act in concert. What the markets need to know right now is that a unified Federal Government in Washington is moving in a constant, determined direction. Without that assurance, markets will simply mirror our lack of determination, and economic recovery will be delayed.●

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. CRANSTON. Mr. President, there are many reasons to override the President's veto of this supplemental appropriations measure. I want to stress just one of the many. Failure to override would mean the termination of the older Americans' senior community service employment program—a result which will be disastrous for millions of older Americans for whom this program means the difference between self-sufficiency and destitution.

The President's veto means that 55,000 low-income elderly workers will lose their jobs and many of them will be thrown onto the welfare rolls. The impact of this veto, however, goes far beyond those who hold these part-time jobs. Over half of the senior aides participating in the program are providing services to less-able-bodied elderly individuals. These senior workers provide the backbone of programs providing nutrition, health, and other services to home-bound elderly individuals. Without these services, many of older Americans would be forced to leave their homes and their communities and move into institutional care.

Mr. President, terminating this program is absolutely senseless. It is far better to provide work opportunities that allow low-income older Americans to remain self-sufficient and contributing members of their communities, rather than force them into welfare dependency. This is an effective, cost-savings program.

EDUCATIONAL PROGRAMS

The educational programs contained in the supplemental appropriations bill are equally critical.

The Congress worked long and hard, Mr. President, to maintain its faith with the vast majority of Americans who want sound educational programs, elementary through postsecondary. This bill provides, I believe, the absolute minimum required to keep disadvantaged and handicapped education programs, and Pell grant college assistance programs from deteriorating further.

Mr. President, the educational future of well over 1 million Americans as well as the well-being of millions of older Americans rides on what the Senate does here today.

Let us not break faith with the young and the old.

● **Mr. DODD.** Mr. President, I will vote to override the President's veto of H.R. 6863, the supplemental appropriations bill, and I urge my colleagues to do likewise.

H.R. 6863 is a fiscally responsible effort to adjust funding for vital Government functions.

In fact, it is $1.8 billion less than the President requested. In this legislation Congress has reduced supplemental spending by more than 10 percent below the administration's request.

The issue does not center on the amount of Government spending or "budget busting." To say that it does works violence on the facts. It is rather a question of priorities.

As the chairman of the House Appropriations Committee said yesterday: The question is not "how much." It is "what for." The issue is do we need more for military hardware and foreign aid or more for the needs of the American people. Congress has made it clear that it believes the latter. I concur.

The fact is that almost every Member of Congress who has supported this bill has done so in the spirit of compromise. There are items in this bill that each of us would prefer be left out. There are items in this bill that each of us would prefer be expanded. But the legislation before us best approaches our reasonable collective judgment on the country's immediate needs.

The veto message says that the bill provides an unacceptable total of $918 million in domestic spending and yet falls more than $2 billion short of that required for defense supplementals.

Let us put that in context. We have already appropriated $200 billion for defense this year and the Department of Defense will have an estimated unexpended balance of $142 billion at the end of this year. Reducing the President's request by $2 billion for defense will merely reduce that unexpended balance by less than 2 percent. Even the President's own budgetary champion, OMB Director David Stockman, concedes that there is 10 times that much waste lurking in the corridors of the Pentagon.

In contrast, the domestic programs included in this bill are those that have suffered deep cuts. Supplemental funding will not reinstate full funding but it will allow these programs to continue to assist individual Americans and their families for the remainder of the year.

A vote to override will, for example, preserve funding for community service employment for older Americans. Authorized under title V of the Older Americans Act, this program has singlehandedly improved the lives and economic welfare of thousands of senior citizens throughout the country by providing them with part-time community service jobs. Such jobs range from assisting the teachers of handicapped youngsters to counseling fellow senior citizens on tax matters. As a result of title V, social, health, welfare, and educational services in communities across the Nation have been dramatically upgraded.

In addition to being one of our most successful programs, title V has proven itself to be one of our most efficient. Very little money is spent on administrative costs. Moreover, title V employees have earned the reputation of being some of the most conscientious and productive workers around. Employers have nothing but the highest praise for their title V employees.

In short, Mr. President, this country cannot afford to lose this superb program. Appropriating the funding for title V is a vote for the needs of senior employees and the communities they so well serve.

It is also essential that we assure the $10 million appropriation for mental health research contained in this bill. That money will preserve long-term studies to help us find new ways to detect and treat millions of Americans suffering from mental illnesses. Some of this money will be spent on studies of specific areas of the brain which do not function properly in cases of mental illness, in the hopes of correcting such malfunctions some day. Studies of ways to combine treatments which take both environmental and biological factors into account will also be funded by this appropriation. Furthermore, studies of mental health problems affecting children will likewise be continued under this bill. Such research is too important to neglect.

A vote to override will also make the difference for almost 3 million college students who want to obtain the skills and training they and their communities need.

The bill contains $217 million for student financial assistance. That amount, which the President objects to, is less that 2 percent of the bill as a whole. And yet almost 3 million of America's neediest college students will receive the awards they have been anticipating and need to further their education.

The $140 million for Pell grants in this bill will go overwhelmingly to students from disadvantaged families, 47 percent of those students receiving Pell awards are from families whose incomes are below $12,000 per year. Because the Pell program was cut this year, those with greatest eligibility are being affected.

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The reason is that the Department of Education uses a two-stage process when forced to reduce Pell awards. In the first step, they "hold harmless" the poorest students and cut those somewhat better off. In the second stage, they cut all Pell awards. Without the funding in this supplemental, stage two of the cuts will take effect. The very neediest students are those who will suffer.

The remaining funds for student financial assistance will go to the supplemental educational opportunity grants program. Those funds were included by an amendment I introduced on the Senate floor and which the Senate adopted without dissent. That amendment also provides aid for the very neediest students. This year the SEOG program was cut 25 percent. Students at schools with large numbers of disadvantaged classmates are suffering greater cuts because a 25 percent loss means a loss of "fair-share" money those students received in the past. The program holds harmless the 1979 allotments for each school and then distributes additional funds to schools and students where the need is greatest. Again, the hold-harmless level was not met and schools did not receive even the minimum they had believed they could expect. Poorer schools lost that guarantee and the extra boost we had given them in the past. Some of these schools, with many disadvantaged young people, sustained cuts of 60 percent, or even 70 percent.

The funding in the bill for these students does not restore that fair-share money, nor reinstate last year's funding levels. But it does allow the statutory guarantee to be met. It allows students to receive what they were promised by law 2 years ago and an estimated 150,000 will be able to stay in school as a result of the $77 million for this item.

In addition, the veto message objects to $148 million for chapter I of the Education Consolidation and Improvement Act, formerly title I of the Elementary and Secondary Education Act. That $148 million is a one-time appropriation to allow school districts to have some idea what funds will be available for compensatory education for disadvantaged children.

A dispute over the estimated number of poor children in each district has tied up services for those children. The Department of Education and several States are locked in a court fight over whether to use 1970 or 1980 census data in allocating title I funds. The $148 million in this bill would allow the program to continue on its course without waiting for a final outcome of this dispute. The $148 million—0.1 percent of a $14.6 billion bill—would allow optimal census data to be used on a county basis, school districts to plan services for the year, and children to receive those services uninterrupted and unabated by Federal district court battles.

These programs are not wasteful. They are investments in the strength, knowledge, and future of our young people. They mean improving the skills and knowledge of those children and students whose skills and knowledge we shall all need in the coming years. To place these programs at jeopardy because of the small percentage of funding they represent, and yet chastise us for including only half a billion for defense, is a gross distortion of reality and national priorities.

In summary, Mr. President, Congress has acted reasonably and responsibly in fashioning this supplemental appropriations legislation. We have managed to reduce spending vis-a-vis the President's request without sacrificing vital services that are essential to the well-being of this Nation. Overriding this veto in not a partisan move. It is a requirement of the national interest.●

Mr. SARBANES. Mr. President, I rise to urge my colleagues to vote in favor of overriding the President's veto of this appropriations bill. It has already been pointed out that, contrary to what the President has stated, this bill does not bust the budget. It is, in fact $1.4 billion below the amount requested by the President for supplemental appropriations. I emphasize again that the total amount of this bill is well below the total amount sought by the President. It is therefore clear that when the rhetoric is stripped away, the President's disagreement with this bill must relate to program priorities rather than the overall level of spending.

The failure to pass this measure will result in great hardship for a number of Federal agencies and many important domestic programs, either forcing them to sharply reduce services or, in some cases, shut down altogether. The President's veto of this bill has confronted our Nation with the prospect of massive and unwarranted Federal employee furloughs and the interruption or termination of important services such as title V, the senior community service employment program.

The Internal Revenue Service has already gone through one disruptive and expensive shutdown exercise. Emergency meetings were held to develop detailed shutdown procedures. Notices of furlough were prepared and delivered to 19,000 Internal Revenue employees. Normally dedicated and efficient employees, who bring in $20 of revenue to each $1 expended in salaries and other costs, were faced with imminent layoffs. In the end, furloughs were averted by last minute congressional approval of a reprograming request. Another 19,000 mailgrams were sent, at great expense, to cancel the already scheduled shutdown. Although the immediate crisis was defused, the atmosphere of uncertainty and misinformation has seriously affected the morale and productivity of one of the Government's most cost effective operations.

If a supplemental is not enacted this week, the pointless, wasteful and demoralizing exercise that the IRS has just gone through is set to be repeated on a much larger scale at agencies throughout the Government. The IRS itself anticipates laying off 90,000 employees on Monday, September 13. If no supplemental is enacted by Wednesday furlough notices will go out to 22,000 NASA employees, 100,000 workers at HHS, and 5,000 employees at the GAO.

It is impossible to calculate either the immediate cost or the long-lasting effect of such massive confusion and disruption in these important agencies. It is clear, however, that these recurring episodes are interfering with the ability of agencies to carry out their missions and to provide important services. I can also report that Federal employees are tired of being the political football in disputes over appropriations bills. The strain upon family financies of having their paychecks held hostage time and time again, in addition to the continuous assault on them in other areas, is severely eroding the motivation of Federal employees. For decent and fair treatment of these employers and for the responsible and orderly conduct of government that they vote to override the veto.

This supplemental bill that the President vetoed contains nearly $211 million in funding for the title V senior community service employment program in order to keep in operating through the current program year, which ends on June 30, 1983. The senior aides program provides part-time employment nationwide for 54,200 older men and women to use their skills, experience, and energies to provide needed services to the citizens of their communities; 1,100 jobs are currently provided in my own State of Maryland through the National Council of Senior Citizens, Green Thumb, and the Maryland State Office on Aging to older Americans who have an annual income of under $4,000. The State stands to lose $4 million in funding for these jobs at a time when unemployment and poverty among older Americans is reaching record-breaking levels. Unemployment for persons age 55 or older reached 797,000 in July, the second highest mark ever recorded for older Americans. Over 1 million elderly Americans have been thrown into poverty over the past 3 years. The wages earned by senior aides—which average only $3.50 an hour—have helped to keep some older Americans financially independent and off of public assistance.

The title V program also provides significant benefits to the communities in which senior aides work. Thousands of homebound elderly being served by title V workers would otherwise be unnecessarily institutionalized at a much higher cost to the Government. Similarly, senior aides in child and adult day care centers enable family members to get off public assistance and return to gainful employment. Senior aides are also involved in transportation for senior citizens and escorts for the blind, and also help at understaffed Federal agencies, such as the Internal Revenue Service where they assist in providing tax information for older Americans. A layoff of senior aides would result in serious problems for these and many other programs for older Americans, which rely on the valuable manpower that the title V program provides.

The senior aides program has worked extraordinarily well for our Nation, older Americans, and the communities they serve. Its administrative expenses have been kept at rock bottom, with practically every dollar expended going directly to benefit older workers. This is a proven and cost-effective program and I therefore urge my colleague to join in overriding the President's veto of the supplemental appropriation so that this effective program can continue.

● Mr. ZORINSKY. Mr. President, I rise in support of this vote to override the President's veto of this important supplemental appropriations bill for 1982.

I have long supported the goal of employment of all those Americans who are physically able to work. In this respect, I have consistently supported the senior community service employment program for the low-income elderly of our Nation who are physically able and quite willing to work. I know that I am not alone in my wholehearted support for this senior jobs program.

Successful passage of Senate Resolution 340, in July of this year, clearly put the Senate on record, by a vote of 89 to 6, in full support of title V of the Older Americans Act, the senior jobs program. Title V provides low-income elderly the opportunity to work and preserve a sense of self-worth and self-dignity. The senior community service employment program has been very successful in placing seniors in jobs throughout the rural areas of my State of Nebraska.

The supplemental appropriations bill contains funding for education programs which I strongly support such as education for the handicapped, compensatory education for disadvantaged children, and vocational education, as well as financial assistance for needy students and certain higher education programs.

This bill provides $5 billion for additional borrowing authority for the Commodity Credit Corporation. These additional funds are essential to meet price support commitments of the agency and to make deficiency payments which may be needed to compensate producers who participate in reserve and acreage diversion programs up to established target prices for wheat, corn, and other feed grains and cotton.

This bill also earmarks $500 million for export credit loans. Increasing our exports, especially of grain, is of top priority as we harvest another record crop of wheat and corn.

Denial of these additional capital funds would seriously disrupt the operations of the CCC and would stop programs to help farmers through the most serious economic crisis since the 1930's.

Also included in the funding measure are necessary funds for the North Omaha Freeway project, which I have supported since I was the mayor of Omaha. The North Omaha Freeway project has been in the works since 1955, and has the support of every mayor of Omaha since that year. This Congress saw fit to appropriate $2 million to begin the project last year and this bill provides an additional $4 million to continue the North Omaha Freeway.

While this supplemental appropriations bill for 1982 contains $14.2 billion, it is $1.9 billion under the President's overall spending request. For these reasons and my strong convictions for adequate funding of social programs, I am voting today to override the veto of the President on the supplemental appropriations bill.●

SEVERAL SENATORS. Vote!

Mr. ROBERT C. BYRD addressed the Chair.

The VICE PRESIDENT. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I will be very brief. I will be followed by the majority leader and I hope that we can then vote.

The distinguished Senator from Kansas has rightly said that the President has a great reservoir of strength. But, Mr. President, there is a greater reservoir of strength that lies with the American people who are going to be directly affected by this vote.

Mr. President, this bill is not a "budget buster" as the President has called it. It is $1.9 billion under the administration's budget request and it spends $110 million less for foreign aid than was requested by the administration. It does adjust the priorities. And the Senate, as an independent branch of Government, along with the House, has not only the right but the duty and the responsibility to take such action and to readjust priorities.

This legislation provided help for the elderly in the community services jobs program. It provides help for the handicapped. It provides help for the disadvantaged. It provides help for those students in middle- and low-income families who need money with which to go to college.

Mr. President, I hope that the Senate will assert its independence of the White House. The other house has done so on yesterday. This legislation was put together in a bipartisan fashion. It has been supported on both sides of the aisle in both houses.

We have heard the distinguished Senator, who is chairman of the Appropriations Committee, Mr. HATFIELD, and we have heard the distinguished Senator, who is chairman of the Budget Committee, Mr. DOMENICI, who have spoken out in support of the bill and in support of an override of the President's veto.

So, Mr. President, I hope that the Senate will take a stand today for the elderly, for the disadvantaged, for the handicapped, and do not forget that there is money in this bill to pay for the administration of the unemployment compensation program. It is my hope that the Senate will take a stand, assert its independence, use its own good conscience, use its own mind and heart and vote to override the President's veto, vote to save $1.9 billion, vote for spending less money for foreign aid and more money at home.

Mr. President, this supplemental appropriations bill provides necessary funds for many programs and projects which are important to the people of the Nation and West Virginia in particular. This bill includes language which would assure that the administration continue work on the Tug Fork flood control project in the manner and at the pace intended by Congress. This bill also provides funds for jobs for older Americans, for education for the handicapped, and for student loans. Funds are also included for reclamation of abandoned mine lands and for a program to demonstrate technology which may permit the controlled burnout of coal mine fires. The supplemental appropriations bill also includes language which would stop the administration from eliminating certain programs including coal research and development in the Department of Energy, and other language which would require the Department of Defense to burn American coal at U.S. bases in Europe. Mr. President, I am pleased to have sponsored these amendments to this supplemental appropriations bill, and I urge my colleagues to join the 301 Members of the House of Representatives who voted yesterday to support this bill.

The VICE PRESIDENT. The majority leader.

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Mr. BAKER. Mr. President, I will not be long because I do not think it takes very long to identify the prime reason why we should sustain the judgment of the President of the United States on this measure.

Other speakers have referred to the independence of the Senate, the legislative prerogative, the prerogatives of the Appropriations Committee or the Budget Committee or other committees of the Congress. I respect those things.

But, Mr. President, I would like to speak of the partnership that exists between the Congress of the United States, two great political parties, and the President of the United States. And that is really what is at issue.

Will we continue that partnership? Will we go forward together in a sustained and historic effort to recapture control of our fiscal and economic destiny, or will we end that at the first opportunity on the first money bill that occurs after our victories on the budget resolution, on the tax bill, and on so many other successes, that that partnership between the President and the bipartisan Congress has produced these past 2 years?

Mr. President, this is not the time to end that partnership. And that is the real crux of the problem. I have sat here, Mr. President, during the continuation of this debate and I have heard learned and scholarly and appropriate remarks about the internal mechanisms of this bill and how it does or does not break the budget, how it does or does not fit within the budget resolution.

I am reminded of a statement by a great 19th century painter and photographer who once said that photography describes everything but it explains nothing.

Mr. President, it is that way so often in this Chamber. So often we are beguiled by the cloistered and protected atmosphere in this Chamber that we forget the true perspective of the national understanding of the image that we protect.

The country will not understand nor care for very long about whether a particular item was vetoed in a previous appropriation bill or included within a budget resolution.

The country will respond to the preception of what we do here, of how the press reports, that we continued and sustained the partnership, going forward together in this effort, this historic effort, to reestablish fiscal integrity in the governmental affairs of the United States, or whether we took the first opportunity to end it.

I can just see our friends now, Mr. President, in the money markets around the world, in New York, San Francisco, in Texas, and California. I can just see them now. If we override this veto, I can see what they are going to say. "We were persuaded for a while that you were going to do that, that you really meant it, that you were going to get your affairs in order and your budget under control. We believed you. And the interest rates have tumbled and the stock market has prospered."

But do you know what they are going to say if we override this veto? They are going to say, "Well, really, we knew they did not mean it. They only had to wait until they got the first appropriation bill to show that they were only trying to fool us one more time."

Mr. President, let us not do that. Let us not fool them at all. Let us sustain the veto of the President of the United States.

SEVERAL SENATORS. Vote. Vote.

The VICE PRESIDENT. The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I would urge that the clerk repeat the names as the votes are cast so that everyone can hear.

The VICE PRESIDENT. The clerk will do that.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Indiana (Mr. LUGAR), the Senator from Idaho (Mr. MCCLURE), the Senator from Indiana (Mr. QUAYLE), the Senator from New Mexico (Mr. SCHMITT), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Texas (Mr. TOWER) are necessarily absent.

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New Mexico (Mr. SCHMITT) and the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from Texas would vote "nay" and the Senator from New Mexico would vote "yea," and the Senator from Mississippi would vote "yea."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), and the Senator from South Carolina (Mr. HOLLINGS), the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. HOLLINGS) would vote "yea."

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 60, nays 30, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—60

Abdnor
Andrews
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Domenici
Durenberger
Eagleton
Exon
Ford
Baucus
Biden
Glenn
Gorton
Grassley
Hart
Hatfield
Hawkins
Heinz
Huddleston
Inouye
Jackson
Jepsen
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Boren
Bradley
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Stafford
Tsongas
Weicker
Zorinsky

NAYS—30

Armstrong
Baker
Boschwitz
Brady
Byrd,
  Harry F., Jr.
Denton
Dole
East
Garn
Goldwater
Hatch
Hayakawa
Heflin
Helms
Humphrey
Johnston
Kassebaum
Kasten
Laxalt
Long
Mattingly
Murkowski
Nickles
Percy
Simpson
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—10

Bentsen
Cochran
Hollings
Lugar
McClure
Quayle
Schmitt
Specter
Stennis
Tower

The VICE PRESIDENT. On this vote, the yeas are 60, the nays are 30. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. ROBERT C. BYRD. Mr. President, may we have order? May we have order in the Senate and in the galleries?

The VICE PRESIDENT. The visitors in the galleries are here as guests of the Senate. They will be in order.

The Sergeant at Arms will restore order.

Who seeks recognition?

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The majority leader is recognized.

Mr. BAKER. Mr. President, if we could have order in the Senate, I ask the Chair to state the pending business.

The VICE PRESIDENT. Will the Senator suspend?

The Senate will be in order. The visitors in the galleries are asked to be in order as well.

The majority leader is recognized.

Mr. BAKER. Mr. President, will the Chair please state for the benefit of the Senate now the pending business?

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The VICE PRESIDENT. The clerk will state the unfinished business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, I call the attention of the Senate to the fact that we do not have many days left in this session and that we have an order down which prohibits the offering of a motion to table against the bill or any amendment to this bill, which ought to provide an opportunity for free debate.

Mr. ROBERT C. BYRD. Mr. President, the majority leader is entitled to be heard. There is entirely too much confusion in the Chamber.

The PRESIDING OFFICER (Mr. Symms). The minority leader is correct.

The Senate will be in order. Will all Senators please retire to the cloakrooms to carry on conversations and the remaining Senators please take their seats so the distinguished majority leader may be heard?

The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I was about to say that there can be no tabling motion today or Monday prior to the cloture vote on Monday. Therefore, I urge Members who have debate they wish to contribute to the record on the pending amendment, which I believe is the Baucus amendment, or any of the other amendments that are in the tree of amendments now before the Senate, to do so now because at some point we are going to have to finish this bill. There will be another cloture vote at 4 p.m. on Monday against the Helms second degree amendment. It is my intention to proceed with other cloture votes from time to time as that may appear desirable and as it may appear promising of a final result in this matter.

Mr. President, while I have promised for more than 1½ years that we were going to have a free-standing debate on the social issues, I have not promised that it would go on forever; at some point we are going to have to end this, and we are going to have to take up the debt limit. I encourage Senators to come to the floor and engage in a full and fair and perhaps even a spirited debate on these very important issues.

Mr. President, I expect the Senate to be in for a while yet today. I will now yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CITIZEN CRIME PREVENTION WORKS

Mr. BIDEN. Mr. President, today I should like to recognize and pay tribute to an innovative and unique organization. The National Association to Town Watch (NATW) is a nonprofit nationwide network of citizen crime watch groups and local law enforcement agencies. Its founder and executive director, Mr. Matt A. Peskin of Wynnewood, Pa., established the organization early in 1981 in an effort to unite the thousands of citizen volunteers who are assisting their local police in organized crime watch-type programs. Mr. Peskin saw the need for a nationwide association through which local groups could share valuable crime prevention information and programs. By March of last year, the National Association of Town Watch had become a reality. Today, the organization has grown to include member groups in 22 States across the country and has even attracted membership from Provinces in Canada.

There are several important characteristics I should like to relate about the organization. First, its members are only those who are affiliated with and working in cooperation with their local police. They are not vigilante groups. Rather, they are concerned citizens who have taken time to be trained and to work with the law enforcement agency in their particular community. Second, and perhaps most important, the organization has come a long way without a major source of funding. Through hard work, membership fees and small contributions NATW has been able to grow.

Mr. President, I believe it is important that limited Federal support be available to local crime prevention programs, which have proven to be effective and worthwhile. It is my belief that the volunteer anticrime spirit can be enhanced if limited Federal resources and technical assistance are available. It is for this reason that Senator Specter and I introduced our Justice Assistance Act of 1982 (S. 2411), so that successful crime fighting programs can be continued.

The National Association of Town Watch just recently introduced and implemented a new dimension to the crime watch campaign that I strongly endorse. The program is called letter carrier watch and incorporates the voluntary services of local letter carriers to serve as additional eyes and ears while on their daily routes. The program is targeted at helping police combat the steadily growing number of daytime burglaries. Letter carriers are a valuable addition to an area's crime watch team for the following reasons: They know the neighborhoods quite well, their hours coincide with the time most day burglaries are committed, and many carriers are already adept at spotting suspicious activity. The suburban Philadelphia area, and five other pilot areas across the country, kicked off programs in their areas in May. Carriers attended awareness sessions conducted by crime prevention officers and the various components of the letter carrier watch were discussed. One of the major items outlined was safety. Carriers were instructed never to get physically involved in any suspicious circumstances—only to telephone the local police.

The program certainly has generated a great deal of public support. The program also makes a great deal of sense. There is no real cost involved and at the very least, it will serve as a deterrent to potential daytime criminals.

The carriers, the police, the community, and the media strongly support this program and I believe this to be an excellent crime prevention proposal. I urge every Member of the Senate to lend their support for expansion of the letter carrier watch program nationally.

I take my hat off to the National Association of Town Watch and to Mr. Peskin for showing us that the spirit is alive and well in communities across America. These citizens' groups and law enforcement agencies are fighting to keep their homes, their families, and their neighborhoods safe. Their efforts are paying off because they are working together.

Mr. President, I ask unanimous consent that an article about this fine group that appeared in the New York Times on August 30, 1982, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 30, 1982]

Anticrime Patrols Grow in Number and Effect

(By William Robbins)

Ardmore, Pa., August 29.—Citizens' crime-watching groups, scattered and isolated 10 years ago, have now enlisted more than five million members and are gaining recognition from the police and other experts as a highly effective force against crime.

Often operating with direct channels to police departments, the groups patrol their neighborhoods in radio-equipped cars, walk their blocks and scan their apartment complexes, reporting what they see and hear but rarely confronting criminals. Increasingly they are organized on a national basis.

"They give us more eyes and ears—that's the big thing," said George W. Rush, a patrolman who responded to a citizen-patrol call here in Lower Merion Township, a section of the Philadelphia area's Main Line.

"Wherever the watches do a good job, you find that they cut crime quite a bit," said Ferris Lucas, executive director of the National Sheriffs Association, which began organizing groups nationwide about 10 years ago. The units it sponsors are called Neighborhood Watches.

Some groups note, however, that their vigilance has diverted crime to neighboring areas.

Across the nation, the movement has brought together people like Annette Pough, 75 years old, who takes her turn for "a terribly boring three hours," calling regularly from her car to "Blue Knight Base," a volunteer stationed at Lower Merion's police headquarters, and Matt Peskin, a 28-year-old real estate broker, who last year started a new national association as an outgrowth of his patrols here.

No nationwide totals are available to prove that the neighborhood groups have reduced crime, but a check of several cities and neighborhoods with citizen patrols produced sometimes dramatic figures, ranging from 50 percent reductions in burglaries in some blocks of Manhattan's Lenox Hill section to a 34 percent reduction here in Lower Merion Township.

RESIDENTS SAY THEY FEEL SAFER

Just as important, some say, is a new sense of security brought to neighborhoods once gripped by fear.

"One thing that makes it worthwhile is that the people in the community feel safer," said Capt. Louis Sbrocchi of the New York City Police Department's Office of Community Affairs.

"The program has given the residents in my area a new sense of self-reliance and determination," said Kathy Hoard, a member of Detroit's Neighborhood Watch, an organization with groups on 4,000 of the city's 12,000 residential blocks. "Neighborhood Watch has helped us stabilize and feel more secure. Without it, we would consider moving."

"The fears were spreading all over the country," said Curtis Langley, director of Norfolk State University's National Center for Community Anti-Crime Programs. "People were afraid to stay home and afraid to leave, and many of them have simply got tired of it. People are getting involved because they know the problem is not going to go away, and it's never going to be completely solved by the police alone."

The community groups apparently have a long way to go to wipe out widespread fears of crime. According to a recent Gallup Poll, 48 percent of Americans are afraid to walk alone at night in some areas in their immediate neighborhoods, although 17 percent say their communities have some kind of organized volunteer anticrime program.

The organizations are almost as varied as their names. In New York City, with one of the largest efforts operating under the Police Department's Civilian Participation Program, about 150,000 members take in groups ranging from various types of motor patrols to its most numerous segment, the Blockwatchers.

The Blockwatchers, about 70,000 strong, are trained at precinct houses to watch, listen and report accurately. As with other civilian crime patrols, they are advised never to try to detain a suspect.

MOTOR PATROLS MORE ACTIVE

But the advice is not always followed by some of the mobile patrols, which include groups called civilian observation patrols, civilian radio motor patrols, and civilian amateur radio patrols, the last a network of ham radio operators. Those involved range from drivers of buses, taxis and trucks to motorists patrolling in their own cars.

"We tell them to try not to get directly involved, but some of these guys get so fed up they get carried away," said James Gillen Jr., president of Minute Men, a New York taxi company that is one of the program's most active participants.

When one of his drivers, Jimmy Martin of Brooklyn, saw a woman being abducted last year, he radioed the police and then drove the abductor's car off the road just as the police arrived. Another driver, John Espada of Queens, tackled and held a suspect for the police after seeing a woman attacked.

New York's citizen crime watches are in addition to the uniformed Guardian Angels, widely known for their subway patrols, and the Auxiliary Police, numbering about 7,300, who wear police uniforms but are not authorized to make arrests.

EFFECT SEEN IN BROOKLYN

New York officials offer no overall figures on the crime watch programs' effectiveness, but scattered reports are available. After a program began in the Midwood section of Brooklyn, for example, reports showed a 17 percent decline in crime over all, while burglaries dropped 34 percent.

In other areas across the country, claims of program effectiveness include a 12 percent drop in major crimes for Detroit since its Neighborhood Watch was started in 1976, a 15 percent drop in the crime rate of Park Ridge, Ill., a 40 percent decline in burglaries in Morton Grove, Ill., 20 percent fewer burglaries in Winter Park, Fla., and 30 percent fewer in Gloucester City, N.J.

In Cherry Hill, N.J., the burglary rate fell by 33 percent after citizens organized a crime watch, but neighboring areas felt the sting of the diverted criminals. In self-defense, Haddonfield started its own crime watch program.

In Chicago, where block watchers are known as Beat Representatives, Deputy Superintendent Ira Harris of the Police Department's Bureau of Community Services, said that "2,715 arrests in 1981 were directly attributable" to the group's program.

PATROLS IN MIAMI AREA SCHOOLS

And in Dade County, Fla., whose 175,000-members Citizens Crime Watch has extended its operations into the schools, Janet Gemmill, the anticrime patrol's president, said there had been a 50 percent drop in drug sales at the North Miami Senior High School.

Lieut. Joseph Daly of Lower Merion said the publicity about the recent murders of Courtlandt S. Gross, retired chairman of the Lockheed Aircraft Corporation, his wife and their housekeeper have tended to mask a continuing drop in the township's crime rate. He cited figures showing a 43 percent decline in burglaries in the last five months.

In some instances, however, patrols and neighborhood watches have led to unforeseen results. In Park Ridge, for example, one patrol reported "suspicious characters" in a car near a service station. When the police arrived they flushed out Federal agents in a stakeout.

Scattered crime watch organizations have been in existence for many years but the first nationwide organizational effort began a decade ago when the National Sheriffs Association began promoting Neighborhood Watch groups and, aided by funds from the now-defunct Law Enforcement Assistance Administration, began circulating literature to community groups.

Neighborhood Watches sponsored by the sheriffs now operate in about 2,500 communities.

NEW GROUP BEGAN LAST YEAR

One of the latest national organizational effort was started a little over a year ago by Mr. Peskin shortly after he joined Lower Merion's Community Watch. His National Association of Town Watch now has 450 member groups in 23 states.

Mr. Peskin, who said he started his association with savings of $5,000 and is seeking foundation funds to keep going, estimates that "between five and 10 million" members now belong to crime watch groups in about 20,000 communities.

In most areas, Mr. Peskin said, one of the biggest problems is boredom, which often reduces participation by patrollers on summer weekends, when they are needed most.

Mrs. Pough, his fellow patroller, agreed that "it's terribly boring," but recalled a policeman's response when she complained after a patrol that "nothing happened."

"You just don't know what you might have prevented from happening," he said.

DALLA CHIESA ASSASSINATION

Mr. BIDEN. Mr. President, I know that all of us read with shock the weekend news stories of the assassination of Gen. Carlos Alberto Dalla Chiesa in Sicily.

Most Americans, probably paid little attention to these events—one more murder, one more act of terrorism in a far-off land. But this murder will have significant reverberations here in the United States. First, Americans should not forget that General Dalla Chiesa was the Italian general who had directed the successful effort to control terrorism in that country and was responsible for the daring rescue of our own General Dozier. Second, and of even more significance to us here in the United States, the government had assigned to General Dalla Chiesa a new chore, in part at the behest of people like myself and other American officials, an attack on the Sicilian Mafia and in particular its role as primary financier and organizing force for Southwest Asian heroin directed at the United States.

As I pointed out in a report to the Senate in 1980 after the majority leader and I led a delegation to the Mediterannean, the problem was bound to worsen, and indeed now has worsened, because of our inability to control the Sicilian Mafia. Indeed, it is now safe to say that the increase in robberies and burglaries we are now witnessing in the United States, especially on the east coast, is a direct result of our failure to control the importation of Southwest Asian heroin into the United States.

The reason I say that is that these heroin addicts need a lot of money and they get the money by robbing us on the street and burglarizing us in the home. There is a direct correlation between the inflow of that heroin and the increase in those two crimes.

Certainly the most alarming aspect of the Dalla Chiesa assassination is the profound discouragement it has engendered among the Italian people in their effort to control the Mafia.

They recognize that the general and his immediate predecessors were undertaking the first serious effort to control the Mafia since World War II. I say "immediate predecessors," because since late 1979 there have been almost 200 gangland slayings in Sicily including judges, prosecutors, and other law enforcement officers pursuing the Mafia. In fact, General Dalla Chiesa was undertaking a new strategy that we have been attempting here in this country against organized crime; that is, the seizure of the financial assets of the organization. Reportedly General Dalla Chiesa was beginning to make real progress in that effort. Perhaps this cost the general and his young wife their lives. Unfortunately, commentators in Italy are now expressing the view that you "can't beat the Mafia."

I hope that this discouragement does not become debilitating because I firmly believe that a national commitment on the part of their Government with unswerving commitment in terms of manpower and resources from the United States can control the lawlessness in Sicily which has a direct impact upon the United States. The swift action in appointing the general's successor and granting him broad powers is encouraging. I might point out, however, that the lawlessness that the Italian Government faces in Sicily is really no different other than in degree than the lawlessness that the Turkish Government faces with the Kurds on the Iran border, or the Pakistani Government with the Pathans on the northwest provinces of Pakistan or the various insurgent groups, like the Shan United Army in the hinterlands of the Golden Triangle of Southeast Asia. All are beyond the control of central governments, all depend on the revenues from illicit heroin trafficking for their sustenance and in every case that heroin trafficking is directed at the United States where it results in pain and suffering for the addicts and the victims of crime committed by those addicts to support their habits.

Yet this administration, indeed I must say even the past administrations of Presidents Carter and Ford, has no meaningful international diplomatic strategy for tackling this problem. Indeed, notwithstanding the urgency, there is no one official in this or any earlier administration with authority to forge and then implement such a strategy. Still this administration has not been willing to duplicate elsewhere in the United States what it has done in south Florida. We are still cutting resources in the Federal law enforcement agencies and narcotics treatment programs that cope with this scourge every day.

Mr. President, we are in serious trouble in this country in terms of the extent to which organized crime and international drug trafficking is affecting even legitimate institutions, and unless we have at the highest level, the Cabinet level, someone responsible for first setting out a strategy and then implementing the strategy to deal with international drug trafficking, we are going to continue the way we are now.

In some instances the CIA does not speak to the FBI, the FBI does not speak to the DEA, the Drug Enforcement Agency, and the Internal Revenue Services likes to keep their hands off even though there is a need to get them involved in dealing with the assets of these criminal organizations.

All in all, we have an $80 billion business in America, making it the 10th largest American corporation, exceeding the sales, for example, of the IBM Corp., and it happens to be called drug trafficking. That is how much money is generated every year just in the United States of America.

We are yet to develop a strategy. We are still having difficulty convincing this administration as we did the last Democratic administration that there is a need to make this a priority as high as our defense priority, as high as any other priority in this country.

There is much more to say, but I will not take the time of my colleagues and the Chair at this point other than to say this is not a problem that is going to go away. It is not a problem we can address without spending time and money and until we equip the police agencies in America with the same degree of financial assistance and technical infrastructure that the crime organizations have we cannot expect them to be able to do their job.

We do not have to change the Constitution, the fourth, the fifth, and the eighth amendments, in order to make a dent in organized crime. We have to target resources and be willing to do it.

We spend in the United States of America on the Federal level less than $3 billion a year for every aspect of our law enforcement process, and we spend over $255 billion a year on defense.

I think we need to spend a great deal of money on defense, but I am not sure that I make a distinction between whether or not my mother is shot and killed in a parking lot while she is shopping and whether or not she is killed as a consequence of a Cuban invasion or a Russian invasion. She is still dead, and the fact of the matter is a lot of people are dying, a lot of people are being murdered, a lot of people are being victimized, and it is having an effect on the very way in which we conduct our lives.

We have a whole new multibillion dollar industry in America. It is called locks, bars, gates, guard dogs, and private security fences. It has been spawned as a consequence of inability of Government to deal adequately with the problem of crime, and until we begin to do it, until we begin to allocate the resources for it, we are not going to make a change.

Those who suggest the easy answers, whether it be capital punishment or the Miranda rule or the fourth amendment of search and seizure, that is not going to get the job done. We have to make the commitment, spend the time and the money. We are not doing it.

I thank the Chair for its consideration. As the Senate knows, Senators have heard a lot about this subject from me over the past 5 years. I am here for at least 2 additional years, and the Senate is going to hear a lot more. We must make some progress on this issue.

Hopefully the Dalla Chiesa assassination will refocus attention on the need for a more meaningful response by our Government to this problem.

Mr. President, in that hope, I ask unanimous consent to have printed in the Record a number of newspaper articles on the assassination and excerpts from my trip report to the Mediterranean in 1980.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 3, 1982]

GUNMEN IN SICILY KILL HIGH ITALIAN POLICE

(By Henry Kamm)

Rome, September 3.—Gen. Carlos Alberto Dalla Chiesa, one of Italy's highest ranking police officials, was assassinated by gunmen tonight in the center of Palermo, Sicily. His wife and a police escort were also slain.

General Dalla Chiesa of the Carabinieri, the national police force under military command, had been named to the political post of prefect of Palermo only last May 1. His assignment was to take charge of the fight against the Sicilian Mafia, which has turned Palermo into a major center of the herion trade with Europe and the United States.

General Chiesa was killed as he used his body to try to shield his wife, who was at the wheel of their car. Mrs. Dalla Chiesa died in a hospital immediately after the assault.

The gunmen, using two cars and a motorcycle, escaped. Their vehicles were found soon after the assassination in a side street less than a mile from the scene of the crime. They had been set on fire.

Before moving to Sicily, General Dalla Chiesa was Deputy National Commander of the Carabinieri, an appointment that he earned for his leading part in the struggle against political terrorists.

"General Dalla Chiesa was sent to Palermo as representative of the Government of the republic, to respond to the mortal challenge flung by the Mafia against the democratic state," Prime Minister Giovanni Spadolini said in a statement tonight.

He paid tribute to the "highest contribution" that the general had made in the antiterrorist struggle and said that he died at a moment at which, "with intelligence and courage," he was putting into action "a battle plan against Mafia terrorism." President Sandro Pertini announced from an

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Alpine resort that he would cut short his vacation on Saturday to return to Rome.

Police sources at the scene of the crime told ANSA, the Italian news agency, that the gunman had first fired on Mrs. Dalla Chiesa, and then, as her husband leaned over her, killed him. Their car, out of control, crashed into a wall. The killers also fired on a car carrying security police accompanying the general, mortally wounding a 32-year-old plainclothesman, Domenico Russo.

The general and Emanuela Setti Carraro, a 32-year-old Red Cross volunteer nurse, were married only last July. They had just left police headquarters for the prefect's residence.

The police have issued no statements suggesting whether the killers were Mafia members or political terrorists. A policeman on the scene said the fatal bullets had been fired from Soviet-made AK-47 assault rifles, which in the past have been used by terrorists and crime syndicates.

An unidentified man phoned a newspaper in the Sicilian city of Messina soon after the assassination, taking responsibility for the crime on behalf of "the guerrilla party," which is not a known terrorist group.

General Dalla Chiesa, whose family has a long military tradition, was named head of the antiterrorist campaign in 1978, after the kidnapping and murder of former Prime Minister Aldo Moro. The next year he was appointed head of the Carabinieri in northern Italy until his nomination late last year as Deputy Commander of the National Police. He served as an infantry officer in World War II until 1943, when he joined an anti-Fascist Partisan unit.

[From the New York Times, Sept. 5, 1982]

Italy's Anger Rises at General's Murder

(By Henry Kamm)

Rome, Sept. 4.—A funeral was held today for Gen. Carlo Alberto Dalla Chiesa, the high-ranking police official assassinated by gunmen Friday night in the center of Palermo in Sicily, and it provided an occasion for expressions of anger and frustration over the Government's seeming inability to provide law and order.

The 62-year-old general's wife, Emanuela, 32, was also slain. A bodyguard who had been reported slain was said today by hospital officials to be in an irreversible coma.

The murders, which officials suspect were carried out by organized crime, have aroused more emotion in Italy than any event since the 1978 kidnapping and murder by left-wing terrorists of former Prime Minister Aldo Moro.

Preaching the funeral sermon, Salvatore Cardinal Pappalardo, in the presence of President Sandro Pertini and Prime Minister Giovanni Spadolini, criticized "the actions and decisions, slow and uncertain, of those who should provide for the security of simple citizens, Government servants and authorities of state."

"The slower and more uncertain are the actions of the state, the more opportune, decisive and violent are the actions of those who have the mind, the will and the might to strike," the Archbishop of Palermo continued in the televised ceremony, and the people in San Domenico Church applauded.

The Cardinal's tough homily was punctuated by outcries of rage and anguish from the tightly packed crowd in the Baroque church. Shouts for the resignation of the Government, many of whose ministers were present, rose, and so did demands for the introduction of the death penalty.

The couple will be flown to Milan for burial. They were struck down Friday night in their car with Mrs. Dalla Chiesa at the wheel. The murderers escaped in two cars and on a motorcycle, which were later found set afire and abandoned.

General Dalla Chiesa had a nationwide reputation, cutting across party lines, for efficiency and probity in the struggle against banditry after World War II and against political terrorism and syndicated crime. He was sent to Palermo in May as a prefect, an unusual appointment for a military man, with the mission to put the Mafia out of business after the murder, also in Palermo in his car, of Pio La Torre, a regional Communist leader and outspoken opponent of the Mafia.

The assassinations of Mr. La Torre and General Dalla Chiesa, the two public figures who have become national symbols of the struggle against the criminal "families," are viewed by the average Italian as acts of arrogant disdain by the Mafia, for which the Government has been unable to find a response.

The demonstrations today, as well as announcements of widespread protest work stoppages throughout Sicily, in Rome and in other regions are viewed here as indications of the serious challenge posed to Mr. Spadolini's Government over its ability to protect Italy's citizens. By coincidence, Parliament today completed its assent to Mr. Spadolini's second Cabinet, which is identical to the one that resigned last month.

[From the Baltimore Sun, Sept. 5, 1982]

Mafia Fighter's Death Marks End of Legend

(By Kay Withers)

Rome.—A few weeks ago Gen. Carlo Alberto Dalla Chiesa delivered the eulogy at the funeral of a police colleague gunned down by Sicily's crime bosses.

"There is a name that some would prefer not to repeat," he said in ringing tones. "And that name is Mafia! The Mafia, who knew he was unprotected and who, with its taste for cowardice, murdered him in front of his family as he went home to rest."

Apart from the speech's courage and directness in an island where omerta—the law of silence—reigns, it was tragically prophetic. General Dalla Chiesa himself and his 32-year-old bride of six weeks, Emanuela, fell in a hail of bullets Friday night, as presumed Mafiosi ambushed their unprotected car in a Palermo Street.

It was the end of an already tarnished Mafia reputation for chivalry in sparing women, a sign of the increased brutality of the times.

And it was the end of a legend.

General Dalla Chiesa was perhaps the only police officer whose name was a household word in Italy. The newspapers wrote constantly of "General Dalla Chiesa's Carabinieri" during the four years in which he led the country's battle against terrorism.

General Dalla Chiesa caught Renato Curcio, founder of the Red Brigades, and he wrested a crucial confession from former brigade member Patricio Peci and largely broke the terrorist gang. In short, General Dalla Chiesa was a hero in a country that has few of them.

As the speaker of the Chamber of Deputies, Nilde Jotti, put it, General Dalla Chiesa "represented the state's success against terrorism."

This symbol of hope was sent to Palermo in May, to pit his acknowledged wits against what Rome's Il Messaggero called "the eternal strength of the Mafia."

On the eve of his arrival, the island's organized crime leaders greeted him with the murder of Pio la Torre, the regional Communist Party secretary and an opponent of the Mafia. A stream of other killings followed.

General Dalla Chiesa believed the luck that never left him in four years of anti-terrorist activity and his penchant for breaking up his routine and moving without notice would protect his life. But in the end, an unexpected romantic streak betrayed him—his young, pregnant wife picked him up Friday in an unarmored car. Now they are both dead.

According to his friend and colleague, Gen. Umberto Cappuzzo, his successor as Carabinieri chief, the military, somewhat portly General Dalla Chiesa "liked to introduce a human dimension" to his life as Italy's tough top policeman.

"Each of us makes a decision in life," the general once said. "I chose to serve the state to the bitter end."

The impact of his death is enormous here, in some ways greater than that of the murder of former Prime Minister Aldo Moro in 1978.

"More than Moro, General Dalla Chiesa conveyed the impression of invulnerability," commented sociologist Franco Ferrarotti. "He was a Carabiniere, a general. If he couldn't be protected, who could? From the point of view of the state's effectiveness, his death reinforces the feeling that you can't beat the Mafia."

The president of the Sicilian region, Mario Dacquisto, yesterday described an "air of resignation" in the island capital, the feeling that "nothing can be done."

Nevertheless, General Dalla Chiesa's death is more an indication that something can be done and that he was doing it. His effectiveness was what killed him.

General Dalla Chiesa possessed the gift of collating apparently isolated details into a total design. And he had started an examination of the financial status of suspected Mafiosi and crime bosses, a technique long advocated by anti-Mafia activists, who believe millions of dollars in profits from the lucrative heroin trade in the United States are flowing into Sicilian pockets.

"He touched the sensitive nerve of vested interests," Mr. Ferrarotti said. "The Mafia doesn't care about ringing denunciations. But if you take, say, 3,000 names and start looking into how their estates were acquired, then you're dead."

The presumed efficacy of General Dalla Chiesa's methods was underlined the day after his death when Alberto Chiari, head of Sicily's finance and customs police and evidently a man of rare courage, gave orders to continue the investigation.

The murder undoubtedly will stimulate debate here over how to deal with the Mafia and whether to give prefects and police sweeping powers.

So far in Italian history, the man who has met with the greatest success in dealing with the Mafia was Benito Mussolini. The Fascist dictator sent the notorious Prefect Mori to Palermo and allowed him to combat omerta by jailing whole villages until someone talked. Fighting the Mafia with the Mafia's own methods, you might call it.

General Dalla Chiesa had in fact asked the government for special powers, which had been refused. As Interior Minister Virginio Rognoni stood in silence before the two closed coffins in Palermo yesterday, relatives of Domenico lo Russo, the dying policeman shot with the Dalla Chiesas, screamed at him, "Get out!"

Scuffles with police erupted outside Palermo's San Domenico church, where a state funeral was held yesterday.

One Rome commentator suggested using "a very effective and somewhat brutal police force." Politicians have dragged their feet, in permitting repressive tactics, no matter what the cost. "The state will win in the end," said Mr. Dacquisto. "But there will be other victims, perhaps many, before the end."

None, though, so illustrious. Carlo Alberto Dalla Chiesa was thought to be the ace up Italy's sleeve. One should never underestimate this country's amazing resilience, but the strong initial impression here in the wake of Friday's assassinations is that Italy has played its best card against the Mafia and lost.

[From the New York Times, Sept. 6, 1982]

HEAD OF ITALIAN POLICE GROUP NAMED TO CRIME POST

(By Henry Kamm)

ROME, September 5.—The Government of Prime Minister Giovanni Spadolini today created a post of high commissioner for the fight against organized crime.

Meeting in emergency session, the Cabinet named to the position the head of a secret police agency attached to the Prime Minister's office. The official, Emanuele de Francesco, was simultaneously appointed successor to Gen. Carlo Alberto Dalla Chiesa as prefect, or regional governor, of Palermo.

General Dalla Chiesa and his wife were murdered in the center of Palermo Friday night. Two cars and a racing motorcycle ambushed the small private car that Mrs. Dalla Chiesa was driving and opened a barrage of automatic fire. Mr. Spadolini had sent the general, who had gained a considerable reputation for his success in leading the battle against political terrorism, to Palermo last May with the special mission of combating the Mafia.

SPADOLINI ATTENDS FUNERAL

The announcement of the creation of the new office, which will have coordinating power over all organs of Government in the fight against the crime syndicates, was made by Mr. Spadolini to a special session of the Senate.

The session was ordered Saturday, when the Senate met to confirm Mr. Spadolini's newly formed Government, and allowed him to leave for Palermo to attend the victims' funeral without replying to questions on the killings.

The funeral service became the scene of strong criticism against the Government's inability to affirm its power against the Mafia.

The tone was set by a daughter of the 62-year-old general's first marriage and by the father and sister of the general's 32-year-old wife.

While the relatives accused the Government of inability to protect the general and his wife, the Archbishop of Palermo, Salvatore Cardinal Pappalardo, made his charges—of indecision and weakness, in fighting the Mafia—the principal theme of his oration. Then, evidently emphasizing his criticism, he stepped from the pulpit to greet President Sandro Pertini and pointedly ignored the Prime Minister and other Cabinet members.

HUNT FOR KILLERS GOES ON

The 85-year-old President is considered above politics and has not been criticized. The critical attitude toward Mr. Spadolini and his ministers was shared by the large crowd in the church and on the square in front of it. Government members were insulted and some members of the crowd threw coins at them while the coffins of the victims were applauded.

Today's national newspapers gave prominence to the expressions of rage, heightening, political sources said, the Government's sense of urgency to calm the national mood. While the rapid naming of General Dalla Chiesa's successor and the granting of exceptional status to him was a step in that direction, Mr. Spadolini was unable to report any success in the principal task, the hunt for the murderers.

According to police sources, eight hours after the crime, which took place within view of several apartment houses, no witnesses had come forward. This is viewed here as a measure of the terror that the Mafia exercises over the citizens of Palermo and other regions of Sicily. About 100 murders have been committed in the Sicilian capital this year; most are assumed to have been settlements of gangster accounts and remain unsolved.

PROMINENT OFFICIALS KILLED

In the last three years, the following prominent officials have been murdered in Palermo and surrounding regions: the provincial secretary of the Christian Democratic Party; the deputy police commissioner of Palermo; a judge; the chief public prossecutor; two officers of the carabinieri, the national police force under military command of which General Dalla Chiesa had been deputy national commander; the president of the region of Sicily; the mayor of Castelvetrano, and the regional chairman of the Communist Party.

All the murders remain unsolved.

Political commentators in the major newspapers speculated that General Dalla Chiesa was assassinated not only because of his prominence and aggressive stand against the Mafia but also because his methods of proceeding against organized crime were showing signs of becoming effective.

Adopting the American method of fighting against organized crime through the use of tax-evasion prosecutions, General Dalla Chiesa had enlisted all branches of local and national Government to compile information on the holdings and business interests of suspected crime-syndicate members. He had also sought to explore the links between political power and organized crime by seeking information on the letting of public contracts in Sicily.

Before the Senate tonight, Mr. Spadolini affirmed that the Government would continue the fiscal work begun by General Dalla Chiesa.

[From the New York Times, Sept. 7, 1982]

ITALY GIVES WIDE POWERS TO ANTI-MAFIA CHIEF

(By Henry Kamm)

ROME, September 6.—The official charged with leading the fight against the Mafia was given sweeping new powers today as he took over from his slain predecessor.

Acting with unusual speed, the Government of Prime Minister Giovanni Spadolini today prepared, and President Sandro Pertini signed into law, a decree conferring the extraordinary powers on the new prefect of Palermo, Sicily. The prefect, Emanuele de Francesco, has also been appointed to the newly created post of high commissioner for the fight against organized crime.

Before the decree was even signed, the official, Mr. De Francesco, arrived in the Sicilian capital, where his predecessor as regional governor was murdered Friday night.

Heavily guarded, in contrast with the custom of Gen. Carlo Alberto Dalla Chiesa, the slain prefect, Mr. De Francesco was driven from the airport to his offices and began a round of conferences with security officials conducting the search for the murderers of the general and his wife.

Mr. De Francesco arrived in a city whose life was muted not only by the shock of the assassination, which has jolted Italy more than any event since the kidnapping and murder by left-wing terrorists of former Prime Minister Aldo Moro in 1978, but also by a four-hour general strike called in protest against Mafia violence. Similar but briefer work stoppages took place in Rome and in many other cities.

As a further measure of the determination of Italy's political system to rise to what the President, the Prime Minister and other political leaders have called a challenge to the state by the Mafia, parliamentary leaders of both Government and opposition parties pledged to approve with record speed an anti-Mafia law that has been under examination for many months.

One of the main movers of the bill, Pio la Torre, the Communist Party leader in Sicily, was murdered in Palermo in April. The murder brought the appointment of General Dalla Chiesa with the express mission of stamping out Mafia power.

MAFIA GROWS RICH ON DRUGS

The law is expected to duplicate some of the provisions that today's decree gave to the high commissioner. They reflect the big increase in wealth acquired by the crime syndicates with the growing involvement in the last two years of Sicily, and in particular the Palermo region, with the production and trafficking of heroin to the rest of Western Europe and the United States.

In an attempt to identify and prosecute the major members of crime "families," bank-secrecy regulations were set aside to allow the high commissioner to obtain information on the holding of suspected gangsters.

The commissioner was also authorized to obtain full disclosure of the ownership of shares of companies bidding for public-works contracts. Much of the "laundered" proceeds from the narcotics trade, arms smuggling and other Mafia activities are widely believed to be going into prosperous Sicilian construction companies.

The commissioner was given the right also to intercept the telephone calls of suspects and was given access to all relevant reports of a secret service organization in the Prime Minister's office. Before being appointed high commissioner Sunday, Mr. De Francesco headed that organization. There are suggestions that he will continue to do so while also serving as prefect of Palermo.

Some of the powers given to Mr. De Francesco were among those reportedly requested by General Dalla Chiesa and denied by the Government because of opposition by the Interior Minister, Virginio Rognoni. Mr. Rognoni has become a main target for criticism for supposedly failing to provide General Dalla Chiesa, an officer widely respected across party lines, with the means to conduct his fight against the Mafia and protect himself.

Excerpts From the Sicilian Connection: Southwest Asian Heroin En Route to the United States

(Report by Senator Joseph R. Biden, Jr.)

VI. ITALY AND THE SICILIAN CONNECTION

"It would seem that the Italian laboratory activity is directed at the United States." (Peter Bensinger, Director, DEA, April, 1980.)

The next stop on the Southwest Asian trail is Italy. Historically, Italy has played a significant role in the transhipment of Middle Eastern herion to the United States. Organized crime families based in Sicily have frequently been involved in the transhipment of this heroin, with family members in America conducting the marketing. Indeed, in the late 1940's and early 1950's, the Italian Police, working with the U.S. Federal Bureau of Narcotics, managed to eliminate an important Sicilian heroin importation connection. Of course, traditional organized crime families in the United States and Italy, in particular the one formerly headed by the late "Lucky" Luciano, who was deported from the United States to Italy, continue to maintain close relationships up to the present day.

Italy is again emerging as an important source of heroin destined for the United States. DEA believes that Itlay is the principal source of Southwest Asian heroin headed for the East Coast of the United States.

DEA and Italian police have already closed down several major, very sophisticated laboratories in Itlay. The first important seizure was in San Remo which is located near the French border, on November 27, 1979. Five individuals were arrested, including a former French Connection chemist. Twenty-two kilograms of morphine base and one kilogram of heroin were seized. This seizure was the first in Southern Europe since a French seizure near Marseilles in February, 1978. Prior to that, there had been no seizure of a significant lab in this part of the world since 1972.

In April 1980, DEA Director Peter Bensinger stated that the San Remo seizure indicated that, as in the French Connection days, the big-time organized crime traffickers are having no trouble obtaining all of the morphine base they want. According to Bensinger, the investment in sophisticated laboratory equipment for the conversion of morphine base to heroin and the presence of a significant amount of morphine base at the San Remo laboratory suggest an attempt to export large amounts of heroin to the United States.

Bensinger said that all of the heroin produced at the San Remo laboratory was intended for U.S. consumption. According to DEA's calculations, the laboratory was capable of producing between 10 and 50 kilograms of heroin a week. That would be sufficient to supply indefinitely between 6,000 and 30,000 of the estimated 400,000 heroin addicts in the United States.

On June 4, 1980, the Guardia di Finanza, the primary domestic police agency in Italy, working with DEA, seized two laboratories outside Milan that were potentially capable of even larger production than the one at San Remo. Seventeen individuals, including four French chemists, were arrested. More than 60 kilograms of morphine base and three kilograms of finished heroin were seized at the labs. The laboratory records indicated that they produced about 4 kilograms of heroin a day or approximately 20 kilograms a week. One informant said that the plan was to convert one ton of morphine base to heroin, all destined for the United States.

Both of those recent seizures in Milan and the seizure at San Remo involved Italian and French Corsican traffickers with ties to the United States directly or through Canada. Despite the presence of these laboratories in central and northern Italy and the heavy involvement of French chemists in their operation, DEA is convinced that it is traditional Sicilian organized crime that poses the most serious threat to the United States. DEA suspects Sicilian families of reconnecting with their American branches to merchandise heroin produced in the laboratories that were recently seized or in three equally sophisticated labs that DEA believes may be operating in Sicily.

Penetrating the Sicilian families will be much more difficult and dangerous, though DEA has had some success. From November, 1978, through September, 1979, DEA participated in a major intelligence operation in cooperation with the Italian police in Sicily. The purpose of this effort was to locate heroin processing laboratories in Sicily and to identify major traffickers operating between Sicily and the United States. As a result of this operation, approximately $500,000 in U.S. cash, presumably intended to pay for shipments to the United States, was seized at the Palermo Airport in June 1979. In the next month, Italian officials arrested two important organized crime figures with four kilograms of Southwest Asian heroin in their possession.

Dr. Giorgio Borris Giuliano, the deputy police chief of Palermo, had taken an active interest in the prosecution of this case, and was murdered, gangland style, in July 1979. A leading judge in Sicily, who had expressed strong anti-organized crime sentiments, was also murdered there. These killings have understandably placed quite a pall on anti-narcotics operations in Sicily. There were other political assassinations committed last year by individuals associated with organized crime and altogether, some 70 gangland slayings occurred in Sicily in 1979.

The killings illustrate just a small part of the complex Sicilian-U.S. operation involved in the processing and transhipment of Southwest Asian heroin to the United States. Between December, 1977, and January, 1980, more than 50 kilograms of heroin from Palermo were seized at JFK airport alone. Twenty-four of the 50 kilograms were seized on January 16, 1980, in a case involving two members of a well-known organized crime family in the New York area. One DEA study discusses a $3.5 million transaction between New Jersey and Sicilian organized crime families. DEA and Justice Department intelligence efforts have identified direct links between four Sicilian families and the trafficking of Southwest Asian heroin into the United States, as well as direct links between those families and the two political assassinations described above.

In a meeting with the Italian Minister of Interior, it was clear that the Italian government is very aware of these "links." He is very concerned about Italy's growing role in the international transhipment of Southwest Asian heroin to the United States and the contribution that this illegal trade makes to the general lawlessness among Sicilian organized crime families. In addition, he is alarmed that Southwest Asian heroin has fomented a serious heroin epidemic in Italy itself—which now ranks second only to West Germany in per capita heroin addiction.

One U.S. Government study group that went to Italy to assist the Italians in coping with the epidemic stated that the evidence of the seriousness of the problem is manifest. "Physical evidence of possible heroin use, such as needles and syringes," the group reported, "can easily be found in the streets of Rome, Florence and other large cities." Indeed, one DEA agent told a harrowing story of one of his children playing on a beach in Italy and coming to him with a needle sticking out of his leg that the boy had picked up on the beach.

IX. INITIATIVES

Will the International Drug Trade ever be completely wiped out? . . . "not in my lifetime." (Mathea Falco, Assistant Secretary of State for International Narcotics Matters, responding to a reporter's question in *U.S. News & World Report*, December 25, 1979.)

This report documents the existence of a substantial new threat to the United States, if not the entire West. This country is about to face a massive influx of Southwest Asian heroin, which, if unchecked, will feed a large heroin addict population and cause a concomitant rise in street crime and related social disarray. Indeed, it is arguable that if we do not disrupt the new Sicilian Connection, we may face a heroin epidemic and a crime wave reminiscent of what this country experienced in the early 1970's.

While recognizing the severity of this potential threat, this report also makes a strong case for candor and caution in suggesting policies and initiatives to cope with the international traffic in heroin. Assistant secretary of State Mathea Falco's conclusions, grim as they are, are thoroughly consistent with the findings of this report. There simply are not any short-term, politically realistic solutions to the problem of heroin addiction in this country. The major disruptions in international trafficking which have occurred in the last decade have been largely influenced by fortuitous events; a drought in Asia, the Soviet invasion of Afghanistan, a drought in Mexico.

That observation is not meant to suggest that carefully considered international initiatives involving cooperating governments like Mexico and Turkey cannot successfully take advantage of fortuitous events. However, it is absolutely essential that the American people understand that the growing of opium, whether by the Pathans in Pakistan or the Turks in the Afyon Province of Turkey, and the trafficking and processing of the heroin in parts of Turkey, by the Kurds in Iran or by the Sicilians and Corsicans in the Mediterranean, often reflect deep-seated problems of poverty, political insurgency and political instability. These are not problems which our foreign policy can solve in a single year, a single decade or perhaps even in this century.

Indeed, quasi-official complicity in the heroin trade that hinders resolution of the international problem (e.g., as is alleged about the Bulgarian agency, KINTEX) may not be subject to unilateral action at all. We must develop an international strategy to "manage" this problem, exploiting as best we can the political and environmental conditions in a particular growing or transhipment area. In the long run, we should seek a system of multilateral initiatives—a world strategy—which will permit us to exploit fortuitous events when and where they occur. When a drought occurs in Southwest Asia, the U.N. can move in adequate income substitution programs to encourage farmers to give up opium cultivation. The mass emigration of the Pathan poppy farmers caused by the Afghan war creates an opportunity for income substitution. Of course, bilateral arrangements with the various producing and transhipping countries can strengthen whatever multilateral initiatives we develop.

The recommendations that follow are necessarily tentative. They are intended to serve more as an agenda for further discussion—in the context of investigative hearings in the Criminal Justice Subcommittee planned for the late summer—and not as a final set of policies. The recommendations fall into five basic categories: (a) dampening U.S. demand for heroin; (b) developing a more coherent federal strategy; (c) strengthening the Justice Department's response to organized crime; (d) developing a more coherent long-term international strategy, and; (e) adopting a set of bilateral initiatives aimed at stopping Southwest Asian heroin at production and transhipment points.

A. Dampening U.S. demand for heroin

The American people must understand that the best way to disrupt the international trade in illegal drugs is to reduce the illegal demand for heroin in the United States. It is hard to disagree with the Turkish officials who argued that, "so long as illicit demand continues, illicit production will definitely be carried on . . ." It is this powerful, insatiable demand that makes the same heroin worth a few thousand dollars in Southwest Asia worth a quarter of a million dollars on the streets of New York. Such staggering profits make international trafficking worth almost any risk and render it practically invulnerable to law enforcement. As long as all the heroin needed by America's addict population can be supplied from a hundred square miles of land beyond any government's control, we must recognize that, inevitably, we will waste much rhetoric, foreign aid and political prestige demanding action of governments that they simply cannot deliver. Therefore, the first two recommendations pertain to reducing demand:

Recommendation I: The Congress should resist efforts to reduce the amount of Federal money now available to State and local governments for treating heroin addicts.

The recent budget-cutting fever in the Congress has threatened the 90,000 treatment slots provided by the Department of Health and Human Services to State and local governments. Cutting back funding for treatment slots at a time when we are faced with a major new heroin threat risks smoothing the way for the wave of Southwest Asian heroin.

Recommendation II: The abolition of the Law Enforcement Assistance Administration, although unavoidable within the context of the current effort to balance the budget, should not be carried out in such a manner as to undercut effective criminal justice programs designed to treat addicts who commit street crimes.

The Treatment Alternatives to Street Crime (TASC) program, developed by LEAA in 1972, has proven itself effective at identifying and then treating criminals with heroin addiction problems. Other results of the TASC program are a direct reduction in the incidence of street crime committed by heroin addicts as well as a substantial reduction in the demand for heroin in those cities where TASC has been implemented.

B. Developing a more coherent federal strategy

The next recommendation concerns the central role of the Federal Government in coordinating a national and international strategy for combatting international trafficking.

In 1972, Congress mandated the development of an annual strategy statement by the Executive Branch concerning drug abuse. The Strategy Council on Drug Abuse at the White House is charged with the development of that strategy, and the National Narcotics Intelligence Consumers' Committee is an interagency unit established to digest the intelligence upon which the strategy is based. The role of these two interagency bodies must be seriously reexamined. Although each has provided significant information and advice, overall performance and impact have been somewhat uneven.

For example, although both played an important role in identifying the threat of Southwest Asian heroin, neither has provided particularly forceful leadership in developing a specific Federal strategy for responding to that threat. There is strong evidence to support the contention made by two members of the Council that it is not particularly well-respected in the Federal Government as a forum for developing a coordinated strategy. The strategy itself is so general and vague that it is probably not a meaningful guide to agencies. A similar criticism might be leveled about the National Narcotics Intelligence Consumers' Committee, especially that the intelligence information it disseminates is not taken seriously by high-level decision makers. Certain administration officials argue that the rigor of the analysis performed by the Committee is not always adequate to result in useable information.

Recommendation III. Congress should consider establishing a legislative charter for an interagency narcotics coordinating body with a director appointed by the President subject to advice and consent of the Senate. The Director should have authority to review the budget of, set the priorities for, and resolve conflicts between the agencies involved in narcotics prevention and control. The Director should have the authority, after consulting with the Director of the Central Intelligence Agency, to levy collection requirements on the intelligence community. The Director should be required to issue an annual strategy statement that is both public and classified that provides specific direction to the relevant agencies.

C. Strengthening the Justice Department's response to organized crime

The Sicilian Connection will be as sophisticated as any of the major trafficking networks we have confronted in the past. As a recent GAO report pointed out, we are dealing with merchandising systems of immense size and complexity. The National Narcotics Intelligence Consumers' Committee estimates that annual illicit drug sales exceed $45 billion, which, for illustration, is six times the gross revenue of the whole A&P grocery chain. A recent Treasury Department report explained that A&P requires 3,000 stores, 100,000 employees and $200 million in working capital. Clearly, heroin trafficking networks moving billions of dollars worth of Southwest Asian heroin are likely to be large and complex. Recent DEA intelligence suggests that Sicilian systems for merchandising heroin in the U.S. may involve dozens, if not hundreds, of individuals and transactions measured in the hundreds of thousands of dollars.

Although DEA produces the best intelligence on organized crime and its involvement in narcotics trafficking, recent Criminal Justice Subcommittee ovesight hearings indicate that the agency and its parent, the Department of Justice, are not well prepared to meet the threat of a sophisticated new Sicilian Connection. A recent report by GAO correctly concluded that the Federal program directed at major drug trafficking networks is "not effectively carried out." GAO blamed "lack of expertise, little overall direction, shifting priorities, and legal obstacles."

As suggested earlier in this report, DEA and the Justice Department generally have achieved, as one Justice official admitted, a "dismal record" in attacking the financial empires and the merchandising networks of the illegal drug trade. That is a primary reason why major violators can preserve their networks and resources and, in some cases, continue to operate them from prison. The Subcommittee on Criminal Justice will conduct further hearings on the subject of financial investigations in the summer of 1980.

Recommendation IV: It is absolutely essential that the Federal government give immediate attention to more effective investigation of financial assets and more effective use of the tools Congress has given the Executive Branch in the Criminal and Civil Forfeiture Statutes.

Recommendation V: The General Accounting Office's recent recommendation concerning DEA's use of intelligence in operational law enforcement, especially as it pertains to the Central Tactical (CENTAC) program, should be given very serious consideration by both DEA and the Congress. It is absolutely essential that DEA develop a more effective strategy for using its resources and its intelligence against major organized crime networks.

By its very nature, traditional organized crime is highly centralized and very difficult to penetrate. And, as the GAO recently pointed out, DEA is not proficient in conspiracy investigations. As recent Criminal Justice Subcommittee hearings have indicated, DEA delegates to local office management of its major investigations, even those with complex interstate and international components. Rarely are investigations managed at headquarters, which ought to have a broader range of information available on any particular conspiracy. DEA should be developing highly sophisticated centralized strategies at its Washington headquarters, directing the best talent available at this new Sicilian Connection.

DEA personnel abroad are generally very competent and effective government officials. While centralization of investigative management is, as mentioned above, a worthy goal, one questions the wisdom of reductions in DEA presence in Europe as recently mandated by OMB. This seems especially contradictory at a time when the United States is asking West Germany, England, France and Italy to increase their international narcotics control efforts.

Recommendation VI: DEA presence in Europe should not be reduced but rather increased, and to the extent possible, working conditions and salaries of DEA personnel abroad should be at least made competitive with other foreign service personnel of equal rank and stature.

D. Developing A More Coherent Long-Term International Strategy

In terms of international initiatives, the United States must invest its energies primarily in developing a multilateral program

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which will create the realistic hope of ending illicit opium production. That multilateral program must begin with some modest initial measures such as those proposed at the NATO meeting last fall and incorporated in the following three recommendations.

Recommendation VII: A serious effort should be undertaken to develop a better international data base on the exact dimensions of narcotics abuse in all countries in the world, especially in the industrialized West. A determined effort should be made to get all NATO allies to join the United States in its initiative to the Organization for Economic Cooperation and Development to create an internationally respected base of data on the magnitude of the drug problem facing each country.

The United States must recognize that economic development in the under-developed regions of the world, especially in politically troubled areas like the Northwest Provinces of Pakistan, the Kurdish areas of Iran, and parts of Eastern Turkey, probably provides the ultimate solution to the illicit growth of opium. However, we must be exceedingly careful that economic development not exacerbate the problems we are trying to resolve (e.g., irrigation projects are extremely important, but not if newly arable land is used for opium cultivation).

Recommendation VIII: The American foreign policy establishment should make a more serious effect to pursue our government's proposal to the Development Assistance Committee of the Organization for Economic Cooperation and Development to include narcotics control as a factor in bilateral and multilateral assistance programs. The United States has proposed that such assistance programs should deliberately exclude opium production from irrigation projects and other agricultural programs they sponsor.

The centerpiece of any truly international effort must be the United Nations. The most important United Nations instrument in this area is the Fund for Drug Abuse Control (UNFDAC). Its, nonpolitical nature has been especially useful in formerly nonaligned Afghanistan, as well as in traditional law enforcement, crop substitution and research in South Asia and other opium-producing areas of the world. A recent study conducted by the Bureau of International Narcotics Matters at the State Department concluded that, besides West Germany and the United States, contributions for narcotics control assistance are "modest". With respect to such effort and assistance in Southwest Asia, they are non-existent.

Recommendation IX: The United States should be more aggressive in asking other Western countries to increase contributions to the Fund, and encouraging the World Bank and other multilateral development banks to support narcotics control-related development assistance.

The State Department's Bureau of International Narcotics Matters had done exceedingly well in its limited budget. However, we agree with the tenor of recent GAO criticism of that offices's failure to develop a general stratgey on international initiatives.

Recommendation X: The Bureau of International Narcotics Matters should develop a comprehensive stategy paper on all matters described above, but in particular, on how other Western allies might join together in an international war against illegal drugs.

The General Accounting Office suggests the convening of a conference of high-level representatives from victim countries, primarily NATO countries. The French have been particularly leery about participating in such NATO-based initiatives and still prefer the European program proposed by former President Georges Pompidou. The so-called Pompidou group excludes the United States and has not been particularly effective in curbing the recent European heroin epidemic. However, discussions with Italian and German officials indicate that interior ministers from those two countries and other European countries are meeting regularly. European cooperation is evidently not only possible but becoming a fact.

Recommendation XI: The United States should take advantage of the present environment of cooperation in Europe, and if possible, attempt to join in a Western European conference on the subject. There should be at least four items on the agenda of such a conference:

1. Identification of source and transshipment countries with which individual participants might develop bilateral arrangements to curb illicit activity. For example, the French or the Swedes might be able to accomplish more with the Iranians than we could.

2. Development of initiatives which would curb heroin laboratory and transshipment activity in European countries, especially Italy and France.

3. Assessment of the drug treatment and data collection needs of Western European countries and pooling information on these subjects.

4. Exploration of joint initiatives which might be undertaken to freeze assets held by international traffickers or to halt sizable international cash transactions by the traffickers.

E. Bilateral initiatives in countries where Southwest Asian heroin is produced or transshipped

Pakistan is a primary source country for Southwest Asian heroin. Bilateral assistance from the United States or any other victim country or multilateral assistance by the U.N. or any other agency, would be useful in facilitating enforcement of President Zia's recent opium-growing ban. U.S. relations with the government of Pakistan and use of goverment A.I.D. money to assist in enforcing the ban had been complicated until recently by the $400 million military aid package for Pakistan proposed by the United States in response to fear of Soviet invasion of Pakistan. Since that arrangement stalled, the Pakistanis have actually been more interested in talking with the U.S. government about bilateral aid arrangements in the narcotics field.

At present there is a general prohibition on using A.I.D. money in Pakistan for most purposes because of the so-called Symington Amendment, which prohibits sending funds to countries developing nuclear weapons. However, there has always been an exception to that rule for narcotics control. Therefore, the Senate Foreign Relations Committee and the State Department have been working on amendments to the Foreign Assistance Act that would provide additional funds for rural development and narcotics control on the assumption that such money might be used in the Northwest Frontier Province where most of the opium is grown.

Fear of disrupting the proposed military aid package with the Pakistanis and an attitude of general fiscal restraint led the Administration to propose no additional expenditures of A.I.D. monies in Pakistan for this fiscal year. This occurred despite Assistant Secretary of State Mathea Falco's testimony before the Foreign Relations Committee on March 14, 1980, that control of Southwest Asian heroin at its source is a number one priority.

However, the investigation underlying this report revealed an accumulation of a considerable amount of American A.I.D. counterpart funds in Pakistani bank accounts. Under the Symington Amendment, those funds cannot be spent for any purpose other than narcotics control. In the recent markup of the Foreign Assistance Act, the Senate Foreign Relations Committee authorized the expenditure of up to $10 million of the accumulated funds for rural development in Pakistan to provide substitute income for opium-growing Pathan farmers. The money could be used for rural development projects such as road building—a sorely needed improvement in the Northwest Province areas of Pakistan. In simple terms, Pathan farmers who otherwise would be growing opium for income would build roads instead.

Apparently, the Pakistani government has expressed interest in using the funds for that purpose. Of course, this would only be a short-term solution to the general problem of finding substitute sources of income for members of the Pathan tribal groups who otherwise have no ready source of cash income. A permanent solution will obviously require great patience and commitment from the United States over a number of years to resolve the underlying economic and social problems—but a new U.S. heroin epidemic is imminent, and short-term measures are crucial to combatting it.

Recommendation XII: The Congress should enact the amendment to the Foreign Assistance Act authorizing expenditure of $10 million in counterpart funds in Pakistan. The State Department should move swiftly to develop a plan with the Pakistanis to implement an income substitution program in the Northwest Provinces.

Turkey is the first non-source victim country in the Southwest Asian heroin trail. We are satisfied that a sophisticated law enforcement and diplomatic program by our government and the government of Turkey might have a substantial impact.

I agree with DEA agents in Turkey who state that the primary goal of DEA's operation in Turkey and its liaison with the Turkish National Police should be to identify major traffickers as they leave for Western Europe. Furthermore, there is clear consensus that some effort should be made with Turkish customs to gain more effective control over the exports leaving from Istanbul airports, seaports, trainyards and across the other major land arteries through Istanbul.

Recommendation XIII: DEA should continue to work vigorously with Turkish National Police to fill the large intelligence gaps concerning trafficking in the rural areas we have identified in this report and with Turkish customs to increase its effectiveness in Istanbul.

The local militia force in Turkey primarily responsible for security in rural areas, known as the Jandarma, is potentially an important part of efforts to halt trafficking in the Turkish countryside—particularly if DEA and the Turkish government make greater efforts to sensitize them to the narcotics problem.

Recommendation XIV: I agree with DEA and Turkish officials that there should be greater emphasis on developing the Jandarma's narcotics control capability. Also, the ability of the Jandarma—especially its airwing—to monitor leakage from legal opium production into illegal use as well as the extent of illicit opium cultivation should be upgraded.

The Balkan Countries and Greece may be the most important transshipment points for Southwest Asian heroin to both Western Europe and the United States. The role of the customs agencies in Bulgaria, Yugoslavia and Greece is of critical importance. The Yugoslavs have been doing an outstanding job—with the largest seizures of Southwest Asian heroin by any European country. However, the allegations concerning the possibly sinister role of the Bulgarian KINTEX organization are indeed disturbing. The effectiveness of Greek customs at the Yugoslav, Bulgarian and Turkish borders and at the Volos ferry from Syria is also a matter of deep concern.

Recommendation XV: The Senate Intelligence Committee and the Foreign Relations Committee should query the intelligence community and the State Department on the most recent information on the role of the KINTEX in gun and drug smuggling with the KURDS and elsewhere in the Middle East. If there is substance to the allegation, an intensive diplomatic initiative ought to be undertaken to thwart that activity. One possibility might involve the Turks who are developing bilateral narcotics initiatives with the Bulgarians and have alleged in international forums that there is a traffic in trading guns for heroin among insurgent groups in Turkey.

Recommendation XVI: If a solidly documented DEA report establishes the role of Greece as a transit point for Southwest Asian heroin en route to the clandestine laboratories in Italy and France, a permanent DEA presence should be established in Athens to help the Greeks improve their customs operation.

Italy has assumed increasing importance in the connection between the poppy fields of Southwest Asia and the streets of American cities and towns. As in Ankara, the DEA office in Rome is of extremely high professional competence and has an excellent relationship with the host government. Indeed, the DEA office in Rome may enjoy a closer working relationship with the Interior Ministry than does our diplomatic corps. In fact, the State Department narcotics coordinator for Rome does not seem to take an interest in his responsibilities and he did not even meet with Congressional staff during the recent visit. This matter should receive the immediate attention of Ambassador Gardiner and the Bureau of International Narcotics Matters.

The effectiveness of the Rome DEA office was evidenced recently by the very large laboratory seizures in San Remo and Milan. Discussions with DEA, State Department and Italian officials clearly indicate that the Italians are taking this problem seriously. They are committing substantial resources to reorganizing their narcotics treatment capabilities. They are also seriously considering suggestions made by our government and outside experts that their law enforcement operations be reorganized along the lines of the U.S. government's DEA in order to more effectively combat the illicit narcotics trade—especially the Sicilian organized crime link to the United States.

Such a reorganization would assist DEA in filling some of the obvious intelligence gaps acknowledged by DEA officials. For example, we still do not know exactly how Southwest Asian morphine base is getting to Sicily, the location of the major heroin laboratories in Sicily, or the modus operandi of the trafficking to the United States.

Recommendation XVII: The Italian government should again be approached about sending a high-level delegation to the United States to see how DEA is organized and how we might help them reorganize their drug enforcement operations. In the course of those discussions and through our DEA office in Rome, we should continue trying to fill the three intelligence gaps described above.

Mr. BIDEN. Thank you very much, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, as much as I hate to confess it publicly, I must say that I am about to decide that no one wants to speak about abortion today. If that is the case, I intend to go on to some other considerations.

Mr. PACKWOOD. Mr. President, I do not intend to delay the majority leader in taking us out. I had hoped we would have what the leader has called a spirited debate this afternoon, but I would be prepared to go ahead on Monday with a spirited debate.

Mr. BAKER. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond the hour of 2:05 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS—VETO

Mr. PERCY. Mr. President, I reluctantly voted to sustain President Reagan's veto of H.R. 6863, the supplemental appropriations bill. I say reluctantly because my vote is not an endorsement of the administration's budget priorities as outlined in the President's veto message. I do not, for example, think we need all of the military spending originally requested by the President. Rather, my vote against the supplemental appropriations bill is a vote against a Federal budget and Federal spending which will be in the red by close to $112 billion this 1982 fiscal year.

Within 15 minutes of the Senates vote the stock and futures markets have reacted negatively. Overriding the President sent the wrong signals to the financial markets that determine interest rates, long-term corporate investment, and ultimately the future of our economy.

We can hardly be serious about the constitutional amendment to balance the Federal budget when we continue to enact spending bills far in excess of our Federal income.

HISTORIC BEAUFORT, S.C.

Mr. THURMOND. Mr. President, history books abound with information about early settlements in the New World like Jamestown, Va., and Plymouth, Mass. Often, however, little is said about the historic coastal city of Beaufort, S.C., which, in 1520, became the site of the second landing of Europeans in North America.

The history of Beaufort is a story of the struggle of people against nature, and of the harsh realities of settling a wilderness. The odds against these early settlers were only matched by their courage and willingness to succeed.

The residents of Beaufort established a prosperous life, only to see it vanish during the adversity of the War Between the States. The area remained economically distressed until the middle of the 20th century.

Little did the good citizens of Beaufort know that the same natural beauty that attracted the Spanish, French, and English settlements in this beautiful coastal area would later attract throngs of tourists and retirees. Located on the coast between Charleston, S.C., and Savannah, Ga., its location also provides a strategic location for military bases.

The community of Beaufort, which at one time was impoverished and seemed to have little hope of survival, is today flourishing and enjoying prosperity, thanks to its agriculture and the bounty of its surrounding Atlantic Ocean waters. Shrimp, crabs, oysters, and other sea life teem in the waters around Beaufort and have made the area attractive to industry and business, as well as to tourists.

Beaufort can boast of a remarkable history. It was the location of the first attempted North American settlement by the French in 1562, and of other early settlements by the Spanish and French.

Mr. President, the people of Beaufort can take great pride in the history of this fine port city. Researchers from the Institute of Archeology and Anthropology at the University of South Carolina have given the citizens of Beaufort County even more reason to be proud of this historic area. Three years ago, these researchers began an excavation project to uncover the lost city of Santa Elena.

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Santa Elena was established by the Spanish in 1566 to help convert the local Indians to Christianity, and it served as protection for Spanish treasure fleets on their voyages from Mexico to Europe during the era of great competition between the French and the Spanish for control of the New World.

It is interesting to note that the settlement of Santa Elena is over half a century older than the Pilgrim settlement in Plymouth, Mass., and 40 years older than Jamestown in Virginia.

Two forts were built on the settlement to protect the Spanish, who had colonized that area, from enemy attack. The first, San Felipe, built in 1570, was attacked and captured by Indians in 1576. The second fort, San Marcos, was built in 1577 and abandoned in 1587. It appears that the Spanish were disturbed at the news that Sir Francis Drake had attacked and burned St. Augustine in Florida. Fearing he might make his way up the coast to San Marcos, the Spanish fled from the settlement. Thus, the occupation of this area came to an end.

Today, the land where Santa Elena stood is owned by the U.S. Marine Corps, and is part of their training center called Parris Island. Researchers continue to work diligently to find the entire settlement. They have made great strides so far, and are to be commended for their outstanding work. I look forward to hearing more about their findings and am excited about the prospects of their search.

Certainly, Beaufort and its surrounding islands have witnessed a history of conflict that contrasts vividly with the natural serenity of the area. From the time the Spaniards first sailed into the harbor of Port Royal, more than 450 years ago, up to the present day, the people have experienced war, hurricanes, fires, epidemics and the vicissitudes of economic fortune, in their struggle to save their environment and the land that they loved.

Mr. President, the people of Beaufort are proud and strong. They enjoy a rich heritage and have not forgotten the struggles their forefathers encountered during their fight to make Beaufort a strong city. Surely, they can take pride in their past and they can look forward to a prosperous future.

This beautiful city, shaded peacefully by moss-laden oaks and overlooking broad expanses of winding rivers, is truly an historian's paradise. I feel it is important that more Americans become aware of the significant part the area of Beaufort County played in the history of our great country.

Mr. President, in order to share more of the history of Beaufort County with my colleagues, I ask unanimous consent that a brochure printed by Dr. John J. Duffy, professor of history at the University of South Carolina, be included in the RECORD.

There being no objection, the brochure was ordered to be printed in the RECORD, as follows:

A BRIEF HISTORY OF BEAUFORT

(By John J. Duffy)

The history of Beaufort is a story of the struggle of men against nature, Indians, Spaniards, Frenchmen, and fellow countrymen. Beaufortonians established prosperity in the face of adversity, only to see it dissolve in the Civil War. Many false dawns of hope followed defeat in the Civil War, but, in the main, the area remained in economic distress until the middle of the twentieth century. The same natural beauty which attracted first the Spanish and then the French and English to its shores would in the twentieth-century attract tourists and retirees. The strategic location, which over the years had made it vulnerable to enemies, would make it a suitable location for military bases. The present prosperity of the area is based upon these factors as well as agriculture and the products of the surrounding waters.

The first European to visit the area, Francisco Cordillo, landed in 1520 on what is now Port Royal Island and named the cape Santa Elena. Recognizing the strategic importance of the area, the Spanish in 1557 attempted to develop a fort at Santa Elena, but the project failed. The French Admiral Gaspar DeColigny dispatched Jean Ribaut and a group of volunteer Huguenot settlers to Port Royal in 1562. They settled on a small island lying between two rivers which is now called Parris Island. There, Ribaut built Charlesfort on the northern bank of Ballast Creek. Ribaut left the settlers and returned to France which was then in the throes of a religious war. Hostilities kept Ribaut from returning to the aid of the thirty Frenchmen left at Charlesfort. In spite of the aid given them by the Indians who were subjects of one King Audusta, the tiny garrison of Frenchmen ran short on food and despaired of Ribaut's return. They built a small ship and set sail for France. When found by a passing vessel, the men had run out of food and were desperate. Thus ended in tragedy the second attempt to colonize the area which is now Beaufort.

After the collapse of the French expedition, the Spanish returned to the area in April of 1566 under Menendes and built Fort San Felipe on the southeastern point of Parris Island. They left a garrison of 110 men. In accordance with Spanish custom, priests were dispatched to the area in 1569 to Christianize Indian inhabitants of the area. The Pardo expedition, one of the most significant expeditions in North America, explored the interior as far as what is now Alabama in 1567. The Spanish remained in the area until an Indian rebellion in 1576 drove them back to St. Augustine. With the burning of St. Augustine by Sir Francis Drake in 1586, Spain withdrew from Port Royal. The missionaries continued work in the area well into the seventeenth-century.

After the restoration of King Charles II in 1660, English interest in establishing colonies on the Northern American continent was rekindled. William Hilton was dispatched in 1663 from the Barbados to explore the continent. Hilton, after whom Hilton Head Island was named, landed in the Port Royal area and his report was highly complimentary, praising the fertility of the soil, the healthful environment, the abundance of fish and game. As had Ribaut a hundred years before, he described the Port Royal area as the finest location for settlement on the Carolina coast. According to Hilton, "The Ayr is clear and sweet, the countrey very pleasant and delightful; and we would wish, that all they that want a happy settlement of our English Nation, were well transported thither." In 1666, the Barbadian official Robert Sanford sailed along the coast to Port Royal and arrived at the same conclusion.

In the spring of 1679 the colonizing expedition from Barbados under the command of Governor Sayle landed in the Port Royal area. Here the first government of South Carolina was actually elected. The freemen chose five council members to work with the five deputies of the Proprietors. Beaufort might well have become the site of the first colony if it had not been for the guile of the Cacique of Kiawah. This Indian leader extolled the advantages of the land to the north on the banks of the Ashley. The Indian's advice, as well as fear of possible Spanish attack, led the expedition to proceed north where the colony was established at Charleston.

In 1648 a group of Scots established a settlement at Stuarttown on Port Royal Island. The area was still being bitterly contested between Spain and England and in 1686 the Spaniards destroyed the Scottish settlement. The activities of the Spanish and their Indian allies in the area frustrated any attempts of English colonization in the Port Royal area in the next generation. This fighting in the area between the Spanish and the English was only part of a great world struggle for supremacy. The success of Colonel James Moore's expeditions against the Spanish in northern Florida in 1704 relieved some of the pressure on the English in the Port Royal area, and in 1712 the legislature laid out plans for a town to be known as Beaufort. As early as 1711 a settler in the Beaufort area established a name for himself in the colonies in the intermittent Indian wars. Colonel John Barnwell commanded a small body of troops and with the help of Colonel James Moore, the younger, destroyed the Tuscarora Indians around New Bern. Colonel Barnwell was thereafter know as "Tuscarora Jack."

The town of Beaufort was three years old when a new and terrible threat appeared. In April of 1717 the Yemassees, who had initially been friendly to English colonists, rose in rebellion against them and attacked the Port Royal settlement. They massacred every person they could find. The Indians were permanently subdued in 1717 but the continuing threat of the Spanish to the area caused the settlement to develop slowly. As late as 1721 there were only 30 whites and 40 black inhabitants in St. Helena Parish.

St. Helena's Church was built in 1724–1725 in Beaufort. The numerous creeks and rivers separating Beaufort from the rest of the settlement led to the establishment of Prince William's Parish in 1745. The church serving this area was built at Sheldon. In 1747, St. Peter's Parish was separated from St. Helena's and a church built in Purrysburg. The last of the parishes carved from St. Helena's was St. Luke's Parish in May of 1767 which served the area between the New River and Port Royal Sound, including Hilton Head. Although the area was not separated from St. Helena's Parish, in 1748 a "Chapel of Ease" was erected on St. Helena Island to serve its inhabitants who found it difficult to travel to Beaufort.

Rice culture proved unsuited to the Sea Islands is this period. After 1740 the development of indigo provided a money crop which was perfectly adapted to the geography of the area. The evidence of growing prosperity in the region after 1740 is great. In this period, however, one should not imagine the development of great plantations. Rather, the Beaufort planters of the eighteenth-century lived on a relatively small number of acres. A study made of the local militia rolls showed that only sixteen Beaufortontians were listed as owning more than 1000 acres and only one with more than 2000 acres. Most planters owned between 5 and 15 slaves. Several of them owned herds of cattle and other livestock. Important landholding families of the period were the Barnwells, the Middletons, the Heywards, the Deveauxs, the Wiggs, and the Bulls.

With the triumph of the British cause over the French and Spanish in 1763, the Port Royal area prospered, greatly aided by the bounty paid to indigo growers within the empire. Thus, when the Revolution broke out, the citizens of the Beaufort area proved uninterested in the revolutionary cause or actually hostile to it. Shipbuilding was extremely important in Beaufort in the eighteenth-century and the industry centered around Port Royal. In 1743 William Bull described Port Royal to the lords of trade as the "most commodious harbour in the province."

The conservatism of the Beaufort district in the Revolution can be explained in terms of its prosperity, the importance of the indigo bounty, and the strong influence of the relatives of Lieutenant Governor William Bull, Jr. and of the recently arrived Scottish merchants within the colony. With the evacuation of Port Royal Island by the Americans in February, 1779, the British moved into the area and secured control. What enthusiasm that had existed for the Revolutionary cause now completely evaporated. Although the records of the patriots from the Beaufort area in the Revolution is somewhat unclear, Beaufort produced one of the outstanding leaders of the Tories in the person of Colonel John Deveaux. Deveaux at the end of the Revolution captured the entire Spanish garrison in a bold attack on the Spanish in the Barbados, thus assuring that those islands remained a part of the British Empire. The war left the Beaufort area in wreckage.

With the development of Sea Island cotton after 1790 Beaufortonians recovered and by 1800 were entering into a phase of their history which has been characterized by one historian as the "Periclean age of Beaufort." This lasted from 1800 to 1860. It was the Beaufort of this period which the historian Edward McCrady described as the "wealthiest, most aristocratic, most cultivated town of its size in America." The great plantations which characterized the period in South Carolina appeared in the Beaufort area at this time.

The English scientist Charles Lyell, who visited the area in 1845, described the passage of his ship through "the winding mazes of a most intricate channel called the Beaufort River." The low sand islands and mainland covered with oaks, long-leaf pines and palmettos were inhabited by cattle, game and wild ducks. He noted the bounteous supply of oysters. To his eye this constituted a "novel and curious scene."

Lyell left an idyllic portrait of the town of Beaufort where the planters had established their summer homes to escape the heat of the interior. Each villa, he noted, was "shaded by a verandah, surrounded by beautiful live oaks and orange trees laden with fruit."

Among the buildings which so charmed the Englishman in 1845 would have been the Old Barnwell House dating from 1733, the Beaufort Arsenal (1795), the home built by Chancellor DeSaussure in 1795, St. Helena's Church, the Classical Revival building which housed the Baptists, built in 1844, the La Fayette Building, the De Treville House, the Anchorage, Tabby Manse, and other equally imposing structures.

In the 1850's the wealthy planters refurbished many of the other structures and added others equally imposing. Among the great homes dating from this period are the Tidalholm, the Greek Revival Waterhouse Home, the Porter-Danner House, Paul Hamilton's Home, the Oaks, and the Crofut House.

The imposing Beaufort College Building dates from 1852. The Beaufort College provided preparatory training for the young men of the area from 1795 until the beginning of the Civil War. The President of the College Board. Dr. Thomas Fuller, one of the wealthiest men of the area, owning over 360 slaves on three plantations, also served as the Commissioner of Free Schools.

Large libraries were recorded to have existed in the area including one owned by Thomas Aston Coffin at "Coffin's Point." An even larger collection of books was owned by Edgar Fripp at Seaside Plantation on St. Helena Island. Similarly, the records of the Union forces indicate that there was a very fine library containing books and old papers dating back to 1812 at the Pope Plantation on Hilton Head Island. The largest library in the area probably belonged to Robert W. Barnwell, who served as a U.S. Congressman and U.S. Confederate Senator as well as the president of South Carolina College. Unfortunately, most of these libraries were destroyed.

Beaufort planters ardently supported the secessionist cause. In fact, the most prominent Beaufortonian of the period, Robert Barnwell Rhett, former Congressman and Senator, has been called by his chief biographer, the "Father of Secession." Rhett, a fiery orator, was considered too implusive and too fanatic by the leaders of the new Confederacy, which he had done so much to establish, and his last years were ones of bitter resentment. Political figures who came from the Beaufort area in this period included William J. Grayson, a U.S. Congressman, and Henry DeSaussure, the director of the United States Mint.

Several months after the Civil War began in November of 1861, the Federal fleet under the command of Commodore S. F. Dupont landed 12,000 soldiers under General Thomas Sherman and entered Port Royal after reducing Forts Walker on Hilton Head and Beauregard at Bay Point. At approximately the same time, General Robert E. Lee took command of the Department of South Carolina and Georgia and determined that he would be unable to hold the numerous entrances and islands on the Carolina coast. He abandoned all the positions except for those essential to the defense of Charleston. Shortly thereafter, the land of the great planters was seized by the Union forces as "abandoned lands" and distributed to the black inhabitants and soldiers or bought by the government at low prices. In November 1862, the first slave troops mustered into the federal service enrolled in Beaufort under the command of Thomas Wentworth Higgins, an abolitionist from Massachusetts and colonel of the "first regiment of South Carolina Volunteers." According to the South Carolina historian, D. D. Wallace, the black soldiers led by white commissioned officers did some "splendid fighting with heavy losses against fortified positions along the coast." The Port Royal area remained in Union hands for the rest of the war. In fact, the right wing of Sherman's army entered South Carolina through Beaufort, then marched inland and from there joined the left wing in its movement to Columbia.

Reconstruction had actually begun in the Beaufort area long before the rest of South Carolina. It is not surprising that some of the more remarkable leaders of the Reconstruction period came from Beaufort. The most famous of these black leaders was Robert Smalls, and escaped slave, who actually took over the Confederate ship, *The Planter*, and surrendered it to the Union forces. Smalls earned a commission in the Union navy and piloted several Union gun boats in seventeen battles. Elected to the Constitutional Convention of 1867, he played an important role in it. He was instrumental in South Carolina's ratification of the Fourteenth Amendment. Elected to Congress in 1876, he served until 1886 and was, in fact, the last black Congressman from South Carolina. The "king of Beaufort County," Smalls played a leading role in the black community in South Carolina in this critical period. He was also a man of great humanity, known for his kindness to his former master's family for whose son he secured an appointment to Annapolis. Smalls was also instrumental in securing a naval station for the Port Royal area.

Cotton production recovered gradually and the crop of 1879 was the largest ever grown. However, economic hard times returned in the 90's and the Sea Island growers sought tariff protection.

The Beaufort area also suffered a devastating blow from nature in the Hurricane of 1893. Winds of a hundred miles and hour combined with high tides covered the islands with ten to twelve feet of water. Estimated loss of life was as high as 14,000. The ensuing suffering was vividly described by Joel Chandler Harris, creator of "Uncle Remus," in Scribners Magazine. A large ship was actually left aground in the middle of a ruined Bay Street.

Beaufort produced a remarkable state senator with wide influence in the person of Senator Neils Christensen. In 1905, the twenty-nine year old Christensen, who was also the editor of the Beaufort Gazette, began a crusade against the state dispensary, which by that time was riddled by graft and had become extremely unpopular in the state. Christensen's opposition to the dispensary brought him into conflict with one of the most powerful politicians in South Carolina, Coleman Livingston Blease. In spite of threats against his life and vindictive personal charges by Blease that his father had commanded Negro troops, Christensen persisted in his efforts and the dispensary was ultimately abolished.

The establishment of the Marine Corps Recruit Depot at Parris Island during World War I brought a brief flurry of prosperity to the Beaufort area. The introduction of truck farming to replace the disappearing Sea Island cotton also contributed to the revival of prosperity. Agricultural depression, the boll weevil, and the disappearance of Sea Island cotton brought economic depression to South Carolina and Beaufort county long before 1929.

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In 1947, Port Royal was transferred from the jurisdiction of the Savannah United States Engineers office to the Charleston United States District Engineer. The newly created South Carolina State Ports Authority attempted to secure federal funds for improving the harbor. The state legislature established the Port Royal Authority in 1954. The local authority jointly with the state authority, congressional representatives, state leaders and local interest secured an appropriation of $500,000 from Congress in 1955 for the dredging of the Port Royal area. In 1958 State Pier 21 was opened at Port Royal by the Authority. Beaufort further profited from the establishment of the Marine Air Station as an auxiliary and later as a major military base. Improved roads and the building of crucial bridges in the lower part of the county opened up the surrounding Sea Island for development. The influx of retired persons into the area further enhanced the economy. Beaufort enjoyed the highest rate of growth of any county in the state in the period 1950-60. The county has no heavy industry and its present prosperity is based upon the military presence, service industries, retirees, tourism, truck farming, and fishing.

It is heartening to note that much of Beaufort's wealth in the third quarter of the twentieth-century has been used to restore the grandeur of old homes and buildings dating from its "Periclean Age." As a result Beaufort is one of the most attractive towns on the Atlantic coast.

Beaufort, South Carolina, pronounced bew-fort, and Beaufort, North Carolina, pronounced bo-fort, were named in honor of the Duke of Beaufort, pronounced bo-fort. Beaufort, North Carolina retained its original pronunciation while the South Carolina town's name was anglicized in the same way that the "beau" in beautiful was. Several explanations for this exist. One is that the 18th century pronunciation was bew-fort but historians maintain that this is not so and that the pronunciation of the name of the English noble was the same then as now. Another explanation was that sea captains pronounced the two differently to avoid confusion but this cannot be accepted since Beaufort, South Carolina as a port of destination would have been designated Port Royal. Until a better explanation is forthcoming, we simply have to attribute the anglicization of the name of Beaufort, South Carolina to common usage by the inhabitants. The change has been totally accepted and the unwary newcomer or tourist who pronounces Beaufort, bo-fort will find himself courteously corrected by the residents.

CONGRESSMAN KEITH SEBELIUS—FAREWELL TO A FRIEND

Mr. DOLE. Mr. President, the Senator from Kansas has just returned from a trip home, a visit which brought contrasting emotions. There was joy on Thursday, when President Reagan was the guest speaker at the Alf Landon lecture at Kansas State University. But just the day before, there was sadness, as I traveled to Norton, Kans., to say farewell to our former colleague and beloved friend Keith Sebelius. To his loving wife and countless friends, the Senator from Kansas offers his deepest sympathies.

A DEDICATED MAN

If you wanted to find a model Congressman, Keith Sebelius was your man. He was everything that a Congressman is supposed to be. He was a spirited and effective spokesman for his constitutents, never losing sight of his task in Washington: To serve the people of his district. He never forgot where he was from. In fact, he never really left. To Keith, Washington was only where he worked—his home would always be Norton, and he spent as much time in his district as was professionally possible. For more than a decade, Keith Sebelius was the proud Representative of "The Big First," a huge congressional district that takes up half the State. But the dimensions of the job did not bother Keith—he knew he could handle it. Voters agreed, electing him to six consecutive terms in the House of Representatives. Once he reached Washington, his constituents quickly realized they could not have found a more tireless and dedicated friend. Whether at home in Norton, on the road in the Big First, or at the office in Washington, Keith was accessible, understanding, and willing to work. He listened, he understood, he acted. And when Keith Sebelius was ready to speak, his colleagues on the House Agriculture Committee listened. In Congress, it does not take long to figure out which Members truly understand the issues, and there is no question Keith Sebelius understood the needs and concerns of the American farmer. Certainly, farmers have never had a better friend. The Congressman was not interested in making headlines. He simply wanted to do his work with quiet efficiency, knowing that the needs of the people always came first. If there was ambition, it was only to see that the Big First prosper.

COMPETITION BRINGS FRIENDSHIP

The Senator from Kansas is proud to say that Keith Sebelius was his Congressman, from 1969 until 1981. When this Senator first ran for Congress in 1960, his opponent in the Republican primary was Keith Sebelius. In many ways, the competition of political foes is no different from the competition waged by members of any other field of endeavor. To match a competitor, you must learn what makes them run, and you must understand their very nature. Sometimes the competition is fierce. But through such challenges you are forced to reach inside yourself and ultimately become the best that you can be. And that is a debt I owe to Keith Sebelius. This Senator won that race, but happily, from this competition, came a friendship that endured and a partnership that flourished. Later, it was Keith Sebelius who followed this Senator to Washington in 1969. I was a freshman Senator and Keith was the new man from "The Big First." Thus began a distinguished 12 years of service by the dedicated man from Norton. Oh, some might say he did not make legislative history and I guess there will be no Federal buildings bearing his name. But in the Big First he will always be a hero. Ask the farmer on the combine, ask the shopkeeper on Main Street, ask the mayor of any western Kansas town. Just ask the people. They will tell you.

HE WILL BE REMEMBERED

When we said goodby to Keith this week in his beloved Kansas hometown, one had only to look around to witness the respect accorded this good man. There was the entire Kansas congressional delegation, the Governor and many State legislators—Republicans and Democrats, alike. But above all, there were the people, always the people. They crowded into the church to say goodby to their friend. And in Topeka the flags at the Capitol hung at half staff.

Just west of Keith's hometown is a gentle lake that already bears his name. This Senator truly believes that when Kansans gaze at the peaceful waters of Keith Sebelius Lake, they will remember this good friend, and they will know he was there, and that he did make a difference. Kansas will miss him.

TOURO SYNAGOGUE COMMEMORATIVE STAMP

Mr. PELL. Mr. President, I had the great good fortune to attend the ceremonies on the occasion of the issuance of the Touro Synagogue commemorative stamp. This stamp was unique in that it honored Touro Synagogue, the oldest synagogue in our Nation. It and its congregation have occupied an honored place in Newport, and an honored spot in the hearts of Newporters since the very day of its founding. I know I am particularly proud to be a director of the Society of Friends of Touro Synagogue.

We were honored by having Postmaster General William Bolger come personally to speak and issue the stamp. Aaron Slom, president of the Society of Friends of Touro Synagogue, did an excellent job in organizing and presiding over the day. My good friend and colleague, Senator CHARLES PERCY, was there. But I was particularly struck by the marvelous and deep-feeling words of Rabbi Theodore Lewis when he developed the point that not only should government give "to bigotry no sanction, to persecution no assistance," but that the people must be likewise motivated.

In this regard, I ask unanimous consent that the truly eloquent words of Rabbi Lewis be inserted in the CONGRESSIONAL RECORD at this point together with the sensitive, fine speech given by Postmaster General Bolger.

There being no objection, the invocation and remarks were ordered to be printed in the RECORD, as follows:

RABBI LEWIS INVOCATION

We beseech Thee, oh God, to give of Thy blessings to those who have assembled in this sacred, and historic edifice this morning. Above all, do we ask that Thou bestow Thy divine Grace on the Honorable William F. Bolger, Postmaster General of the United States. He has come here as a representative of the United States Government to inaugurate the issuance of a Touro Synagogue Commemorative Stamp. For over 25 years the Society of Friends of Touro Synagogue has importuned the Postal Service of the United States that a stamp be issued honoring this, the oldest Synagogue in the United States and the only one that has been designated as a National Historic Site.

It was to this Congregation that George Washington wrote his famous letter in which he used the immoral words "for happily the Government of the United States which gives to bigotry no sanction, to persecution no assistance" words which have become the classical expression of religious liberty in America.

Our hearts are filled with joy as we join in the dedicatory exercises commemorating the issuance of the Touro Synagogue Commemorative Stamp.

By issuing this stamp, the United States Postal Service is not only honoring this venerable House of God, but is also paying tribute to the part that Jews have played in the development of this blessed land that we love. In every field of human endeavor, in art, in industry, in economics, in medicine and in law, Jews have made significant and lasting contributions to the welfare and well being of America.

Whereas Washington's eloquent words "for happily the Government of the United States which gives to bigotry no sanction, to persecution no assistance" were adequate and forward looking in the 18th century, these words will not suffice for the end of the 20th century. In this modern era, if we are to overcome the divisiveness that separates the people of this land, there must be a new slogan—"for happily the Government and the people of these United States which give to bigotry no sanction, to persecution no assistance." It is not enough if only the Government gives to bigotry no sanction, to persecution no assistance, the people must be likewise motivated.

Let us, then, move on towards the realization of this ideal in our society. Thus, will we show by our attitudes and by our way of life, that the words of George Washington continue to inspire us and have become an integral part of our lives. Thus, will we give meaning and substance to this ceremony in which we participate this day.

REMARKS OF WILLIAM F. BOLGER, POSTMASTER GENERAL

(First Day of Issue Ceremony, the Touro Synagogue Stamp, the Touro Synagogue, Newport, R.I., August 22, 1982)

Thank you, and good morning, ladies and gentlemen. I am delighted to be able to share this occasion with you.

To the members of The Society of The Friends of Touro Synagogue, I commend you for your dedication to the maintenance of the oldest synagogue in North America and to the promotion of awareness of its important role in American religious liberty. I also wish you success with the Patriot's Park project.

I know how long members and friends of the Touro Synagogue have campaigned for this stamp. And I know how much it must mean to people like Rabbi Lewis, Ben Helfner, and the family of Dr. Martin Greenfield to see this come to fruition.

We of the Postal Service understand this kind of dedication because we share it.

Through our commemorative stamp and stationery programs, we have created a unique honor roll to recognize and pay tribute to the men and women who over the years have made significant contributions to this country and, indeed, to all humanity.

A good portion of our postal honor roll has honored those individuals whose valiant efforts contributed to the growth and independence of this Nation.

I think we all recognize that the birth of our Nation was brought about not by the work of one particular group of people, but rather was achieved through the courage, perseverance and dedication of individuals representing diverse ethnic and economic groups. They were individuals who—while different in many ways—shared the dream of a new Nation and confidence in its future; individuals who—while different in many ways—were united in purpose.

It was that unity of purpose that gave impetus to the Nation's independence.

In 1975, we issued four stamps in a set entitled, "Contributors to the Cause," focusing on this diversity in unity. The series commemorated the accomplishments during the Revolutionary War of four individuals of different backgrounds who were "united in a common cause." Their names were less well known than George Washington, Benjamin Franklin, John Adams and other Revolutionary heroes.

There was Sybil Ludington, a young girl barely into her teens, who rode her horse through the New York countryside rallying the militia to repel the British at Danbury, Connecticut.

There was Salem Poor, a black foot soldier who earned a citation for his courage and bravery at the Battle of Bunker Hill.

There was Peter Francisco, a Portuguese-French immigrant who served with distinction in no less than seven major battles, including the one which resulted in the British surrender at Yorktown.

And, there was the Polish-born Jewish financier, Haym Salomon, whose genius helped to finance the revolution and later helped to sustain our fledging Nation.

The four stamps called worldwide attention to the role each played so heroically during the struggle for independence.

Even more importantly, the stamps pointed out that the history of our Nation belongs to all Americans . . . that victory was achieved not merely because of individual efforts, but because of united ones, the sum total of the efforts of all who contributed to the cause.

I do not mean to imply that in unity the colonists lost their individuality. Quite the contrary is true. The varying cultures of the early colonists provided America with a rich and rewarding legacy, strengthening our Nation's economic, social, and spiritual life.

The Touro Synagogue . . . and what it stands for . . . is a graphic representation of a central part of that legacy . . . that of religious liberty. And the stamp we dedicate this morning—so handsomely designed by Donald Moss—will travel around the world speaking in the universal language of postage stamps of this precious American right and tradition.

While the size of a single stamp is not great, its sphere of influence is. This is because millions and millions of people around the world see and use and collect postage stamps. They have very nearly universal visibility.

Depiction of a subject on a United States postage stamp is an honor. In a sense, it is a living tribute because stamps have purpose and value. And we know that portrayal on a stamp encourages many people to learn more about the subject that is highlighted. And that is precisely what I hope happens in this instance.

When we issued the Haym Salomon commemorative stamp, there were people who expressed surprise at learning that there were Jewish people here in colonial times.

As a matter of fact, there were several active Jewish communities in places like Charleston, South Carolina, Baltimore, Philadelphia, Norfolk, Richmond and Savannah, as well as New York and here in Newport.

A small group of Jewish people, descendants of Sephardic Jews from Spain and Portugal, had come to Newport as early as 1658, from the West Indies island of Curacao (Cur-a-sow).

They had heard about Rhode Island and Roger Williams and his belief in freedom of worship and liberty of conscience. And, with the same kind of courage that marked other pioneers who came to this land to build new lives for themselves and their children, they came to Newport to establish new roots. They formed a congregation and met in each other's homes to pray together.

One hundred and five years after the original group arrived—in 1763—Touro Synagogue was constructed by descendants of the earlier settlers, together with newer arrivals from a variety of countries.

That the congregants could build such a structure, that they could openly attend services there, tells us that they felt comfortable enough in the community to publicly follow the dictates of their faith. This was a marvelous portent for the future of America.

And there is a physical feature to this structure that to this day speaks of the congregation's hopes for, and confidence in, the new land.

Even though there were some who expressed concern that it might lessen the architectural beauty of the structure, a wing for a school was included as part of the Synagogue.

The congregation intended the building to be not only a house of worship for the adults, but a place of learning for their children as well.

Surely, this is proof of their trust in their fellow Americans. The people who built Touro Synagogue trusted the community to enable them not only to live and work in peace, but to be able to assemble for prayer and gather their children together to learn of their heritage—openly—and without fear.

These words—"openly"—and "without fear" are vitally important

To practice one's faith in fear is to *live* in fear. And, thank God, we live in a land where people feel free to worship where and when they please . . . where most people even take religious liberty for granted—rarely thinking about how glorious this is.

The Jewish people who founded Touro Synagogue did not take religious liberty lightly or for granted. They cherished it. And because they did, they not only included a wing for a school—indicative of their faith in the future—they built a trap door to the underground—as a reminder of the past.

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Does this sound contradictory?

The Jewish community of Newport had existed for more than 100 years when Touro Synagogue was built.

They had lived in peace, and they did not build the trap door because they feared for the future. Rather, the builders of the Synagogue, who had not been alive during the time of the Spanish Inquisition, had been taught by their forefathers the importance of remembering . . . of remembering times of pain even during times of joy . . . a theme that is fundamental to the Jewish observance of Passover and is even part of the traditional Jewish wedding ceremony.

The builders of Touro Synagogue constructed the door to the underground to remind their children and their children's children of the time in Spain when such trap doors were not symbolic, but were very real and necessary instruments for survival.

They certainly did not take their religious liberty lightly or for granted. And they did not want their succeeding generations to do so either.

This, to me, is what the Touro Synagogue stamp is all about.

While it was built by a specific group of people, the visions, the hope, and the confidence in America that made this Synagogue a reality are part of the heritage bequeathed not to the Jewish people alone, but to all Americans by all the stalwart colonists who struggled to establish and build this great land of ours.

And it is my hope that this stamp will not only help memorialize those colonists and their courageous spirit, but will help also emphasize the unity of purpose that enabled them to build this citadel of religious freedom—the unity embodied in the United States of America.

I pray their vision, hope and confidence—their faith—will inspire us all anew.

Thank you.

Now it is my pleasure to present several albums containing the Touro Synagogue stamp to the following distinguished persons:

The first, by tradition, goes to the President of the United States, and Mr. Reagan's will be delivered to the White House.

DEFENDERS' DAY

Mr. MATHIAS. Mr. President, on September 12, Marylanders will celebrate Defenders' Day. On this day in 1814, the fierce 2-day Battle of Baltimore began. It was a turning point in the War of 1812 and Marylanders annually look back to that day with great and justifiable pride.

Gen. Samuel Smith, a Baltimore merchant, Revolutionary War hero, and U.S. Senator, had spent the previous year training the local militia. On September 12, he sent 3,200 members of the militia to meet the 4,000 British regulars who landed at North Point less than 3 weeks after easily sacking the Nation's Capital. In two costly engagements, the citizens of Baltimore gallantly stood and fought and drove back the invaders.

Meanwhile, beginning the morning of the 13th, 50 British ships bombarded Fort McHenry at the mouth of the Port of Baltimore. The attack continued all that day and night. But when Francis Scott Key looked out "by the dawn's early light" from a flag-of-truce ship further down the Patapsco River, the star-spangled banner still flew over the fort. The British had been driven off.

The star-spangled banner still waves over Fort McHenry. The National Park Service has done a beautiful job of restoring and preserving the fort. They offer a fine film inside and a nice park outside with a view of the bustling port.

A visit to Fort McHenry is always a source of pleasure and inspiration. But, a visit on Defenders' Day is particularly rewarding, and I urge my colleagues to undertake that brief journey this Sunday. They will be amply rewarded. From 6:30 to 8:30 on Sunday evening, September 12, the Battle of Fort McHenry will be reenacted with a mock bombardment by a Navy destroyer and a defense of the fort by the Maryland Army National Guard artillery unit. Fireworks, a fireboat, and patriotic music and drill will add to the festivities.

To begin the day properly, I suggest attending the fifth annual Defenders' Day civic service of Christ's Church at 1110 St. Paul Street in Baltimore. It begins at 11 a.m.

Christ's Church has been intimately involved in the history of Baltimore throughout the years since that first Defenders' Day. The same bronze bell which pealed the alarm in 1814 rings out today; it was an organist of Christ's Church who suggested the tune for the national anthem to Francis Scott Key; and the rector of that time wrote a prayer which they use today.

This year, members of the Fort McHenry Guard will be participating in the service, as soldiers in Baltimore did in 1814.

A visit to the Inner Harbor, after the ceremonies at the fort, would be a pleasant climax for the day. The Inner Harbor which the fort defended has more to offer than ever: Harborplace with its shops and restaurants, paddle boats, a marina, the National Aquarium, an outdoor concert pavilion, and much more.

Before or after the "battle," stop by the Sam Smith Market in Harborplace and salute the gentleman for whom it is named, who, 168 years ago, returned home from his work here in the Senate to lead a brave defense of a very great city.

DAVIS-BACON

Mr. NICKLES. Mr. President, the 97th Congress has yet to deal with one of the costliest "sacred cows" ever legislated. I am speaking of the Davis-Bacon Act—a public law that has long outlived its usefulness—and frequently reaches an effect precisely the opposite of what its authors had in mind; that is, protecting local construction craftsmen and contractors from fly-by-night operations.

This ironic effect of the present administration of the Davis-Bacon Act has not gone unnoticed by one group that is often left holding the bag when "prevailing wages" prescribed by Washington are required in their construction contracts. In case my colleagues missed it, the National Association of Counties in July passed the following resolution:

> Whereas the Davis-Bacon Act was originally passed in 1931 to protect area workers from unfair competition from outside workers in federal construction contracts, and the principle behind the Act still applies;
>
> Whereas numerous government and objective reports have documented inequities in the wage determination process which have led to inappropriate overprotections of area wages and significantly inflated costs of federally assisted construction;
>
> Whereas county government construction costs under Davis-Bacon Act provisions have proven to be significantly higher than similar projects not covered by the Act;
>
> Therefore be it resolved that the National Association of Counties supports the Administration's position to maintain the Davis-Bacon Act to regulate the payment of wages and benefits in federally assisted construction projects;
>
> Be it finally resolved that NACo endorses initiatives to reform the Davis-Bacon Act as follows to make it more equitable and less costly;
>
> 1. Provide for the continued exemption of regular county workers from Davis-Bacon coverage except where specifically mandated by statute.
>
> 2. Eliminate the "thirty percent rule" and use a "fifty percent rule" or majority rule of those in a job classification to determine the prevailing wage.
>
> 3. Allow for the reasonable use of helper categories of workers in ratios commonly used in non Davis-Bacon Act construction.
>
> 4. Provide that the county boundaries generally be used as the local wage determination area, and prohibit the use of urban wage data in rural areas and vice versa;
>
> 5. Raise the $2,000 threshold which has been used since the implementation of Davis-Bacon in the 1930's to a more reasonable level not to exceed $50,000 and index this threshold in future years to fairly reflect inflation in the construction industry.

The resolution was passed by the National Association of Counties full voting membership at its annual meeting in Baltimore, Md., July 13, 1982.

Unfortunately, the Reagan administration's attempts to reform the Davis-Bacon Act along similar guidelines have been thwarted by a lawsuit filed by the very principals who benefits the most from the application of predetermined prevailing wages. I need not take this time to acquaint my colleagues with case studies on wage determinations. I suspect that every Senator receives frequent complaints from his or her State and local government officials concerning wage determinations issued by the Department of Labor: Wage determinations that are frequently based on inadequate surveys and/or the application of the notorious 30-percent rule.

In this day of cost consciousness the Congress has a duty to deal constructively with the Davis-Bacon Act. County administrators are on the cutting edge of our attempts to balance the budget. We cannot turn our backs on them as they try to bring publicly financed construction costs into line with private construction costs.

BUFFALO BILL DAM AND RESERVOIR ACT AND THE RECLAMATION REFORM ACT OF 1982

Mr. DeCONCINI. Mr. President, an unprinted amendment was offered to the House-passed bill, S. 1409, by the majority leader on behalf of the Senate Energy and Natural Resources Committee late Friday afternoon, August 20, 1982, and passed by unanimous consent. The amendment included three separate bills as companion titles to the House bill.

Two of the titles, consisting of the Buffalo Bill Dam and Reservoir Act, and the Reclamation Reform Act of 1982, are identical to bills previously passed by the Senate. However, title III of the amendment is substantively different from any legislation previously passed by either House. In large part it is similar to H.R. 5118 as passed by the Senate, but it includes language changes which alter considerably, and critically, the provisions of that bill.

H.R. 5118 is the Southern Arizona Water Rights Settlement Act which I introduced in the Senate as S. 2114. The bill passed the Senate unanimously on May 11, 1982, was accepted by the House but was subsequently vetoed by the President.

Mr. President, I am indeed surprised and disappointed that neither my staff nor I was consulted or even notified prior to this action. Both title III the Water Rights Settlement Act, and title II, the Reclamation Reform Act, are matters of great importance to the people of Arizona. I am sure the majority leader and the chairman of the Energy Committee, Senator McClure, must have believed that I approved of the amendment. I am sure it was simply a misunderstanding. However, I did not approve of the amendment and do not now.

I was informed on Friday afternoon that there would be no more rollcall votes and there was no indication the Water Rights Act would be considered before this week.

The chairman, in his submitted statement for the Record, states:

> Title III of the pending amendment is the text of the agreement on the Papago Water matter negotiated between the House Interior Committee, the Senate Delegation from Arizona and the Secretary of the Interior.

That is incorrect. I was not a party to the negotiations on the reported agreement, was not present when the agreement was made, and do not support the amendment as it is written and included in S. 1409. Because I was not a party to the agreement, I do not know fully the circumstances or conditions under which it was made, not the totality of the understandings which may have been expressed at the time. I have been told there were discussions concerning judicial recourse, which were, inadvertently, not adequately reflected in the bill language. If that is the case, then it should be relatively easy to make additional changes to more accurately represent the agreement. We can then review all of the changes to assess whether they meet the original purposes of the Senate bill.

Mr. President, I am also quite concerned with getting the Reclamation Reform Act, title II of S. 1409, passed through the Congress this year. I know this is one of the highest priorities of the Senate Energy and Natural Resources Committee and I certainly support the chairman, Senator McClure, in his attempts to expedite and complete work on this package. Again, let me say that I am sure the distinguished chairman of the Energy Committee understood I approved of the legislation—as he so indicated his understanding in his floor statement. However, it is regrettable we were not able to carefully consider the proposed amendment before it was passed.

It has certainly been my intention and sincere belief, that we could pass legislation that would give some real assurance of the delivery of needed water to the people of Tucson and Pima County—both Indian and non-Indian alike.

The legislation the Senate passed unanimously, S. 2114, did just that. I believe the veto was unwarranted. I have been hopeful, and remain so, that we can still draft legislation which would be acceptable to the administration and offer sufficient assurance to the people of the Tucson area.

ADM. THOMAS MALONE RETIRES—ENDING A DISTINGUISHED CAREER OF NAVAL SERVICE

Mr. SASSER. Mr. President, on September 11 a change of command ceremony will occur at the Memphis Naval Air Station. This ceremony will mark the retirement on October 1 of Adm. Thomas Malone as Chief of Naval Technical Training at the Memphis Naval Air Station at Millington, Tenn.

Admiral Malone has held the post of Chief of Naval Technical Training since August 1978. During that time he directed the Navy's technical training program for the more than 500,000 officers and enlisted students in naval vocational training in schools throughout the Nation. The preparedness of our Navy fighting men and women can, in large measure, be attributed to Admiral Malone's superb efforts as Chief of Naval Technical Training.

Admiral Malone has had a distinguished naval career which includes more than 20 years of active submarine duty on Polaris and attack submarines. He has served with distinction in the Pacific and the Mediterranean and he was a crewmember of the U.S.S. *Seadragon* on her east-west transit of the northwest passage and the Arctic Ocean.

Admiral Malone has served his country with distinction since his graduation from the Naval Academy in 1953. And in his service at the Memphis Naval Air Station, he has been a good citizen as well. He has helped pioneer a good neighbor policy between the naval air station and the Shelby County community. During his tenure at the Memphis Naval Air Station, Admiral Malone has supervised completion of the Sergeant Walter K. Singleton Parkway and many other essential public works projects which are important links between the naval air station and Shelby County.

He has also served the local community in numerous other ways, reflected by his chairmanship of the combined Federal Military and Civilian Campaign, his support of the Tennessee Special Olympics, and his assistance in the renovation of the St. Peters Home for Children.

Admiral Malone and his wife, Marguerite, plan to reside in Memphis after his retirement on October 1. I join with the citizens of Shelby County in wishing Admiral Malone a successful retirement and congratulations on his long and distinguished career.

MESSAGES FROM THE HOUSE

At 11:20 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House, having proceeded to reconsider the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill pass, two-thirds of the House of Representatives having agreed to pass the same.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4196. A communication from the Acting General Counsel of the General Accounting Office transmitting, pursuant to

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law, a report on the status of budget authority proposed for rescission but for which Congress failed to pass a rescission bill; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources.

EC-4197. A communication from the Assistant Secretary of the Air Force for Manpower, Reserve Affairs, and Installations transmitting a draft of proposed legislation relative to authority of armed forces to conduct safety investigations and protect aspects of such investigations from public disclosure; to the Committee on Armed Services.

EC-4198. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Servmart function at the Naval Supply Center, Pearl Harbor, HI to performance under contract; to the Committee on Armed Services.

EC-4199. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the keypunch function at the Aviation Supply Office, Philadelphia to performance under contract; to the Committee on Armed Services.

EC-4200. A communication from the President of the United States transmitting, pursuant to law, a report on a determination made by him to provide, through the Exchange Stabilization Fund, credit to Mexico in the amount of $600 million; to the Committee on Banking, Housing, and Urban Affairs.

EC-4201. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on a decision made to permit Margate Shipping Company, an operator receiving an operating-differential subsidy to retrofit three vessels in a foreign shipyard; to the Committee on Commerce, Science, and Transportation.

EC-4202. A communication from the General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-4203. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment by the Superior Oil Company; to the Committee on Energy and Natural Resources.

EC-4204. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on a refund of an excess royalty payment to Amoco Production Company; to the Committee on Energy and Natural Resources.

EC-4205. A communication from the Assistant Secretary of the Army for Civil Works transmitting, pursuant to law, a final report on the Shoreline Erosion Control Demonstration Program (Corps of Engineers); to the Committee on Environment and Public Works.

EC-4206. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a justification of an increase in the funding level of the proposed fiscal year 1982 program in Guatemala; to the Committee on Foreign Relations.

EC-4207. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 31, 1982; to the Committee on Foreign Relations.

EC-4208. A communication from the Director of the General Government Division of the General Accounting Office, transmitting, pursuant to law, a report on saving money on large Postal Service procurement; to the Committee on Governmental Affairs.

EC-4209. A communication from the Acting Secretary of the Postal rate Commission, transmitting, pursuant to law, notice of the Postal Service's filing of a request for a recommended decision eliminating the aggregate letter rule; to the Committee on Governmental Affairs.

EC-4210. A communication from the President of the United States, transmitting, pursuant to law, the seventh annual report on the Federal agencies' implementation of the Privacy Act of 1974; to the Committee on Governmental Affairs.

EC-4211. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the third annual report on the financial status of the U.S. Service Retirement System; to the Committee on Governmental Affairs.

EC-4212. A communication from the Deputy Director of the Office of Congressional Relations, Consumer Product Safety Commission, transmitting, pursuant to law, a report on a new Privacy Act System of records; to the Committee on Governmental Affairs.

EC-4213. A communication from the Bureau of Health Personnel Development, and Service, Health Services, Administration, Public Health Service, Department of Health and Human Services, transmitting, pursuant to law, notification of academic year 1982-83 allotments to schools participating in the Scholarship Program for First-Year Students of Exceptional Financial Need; to the Committee on Labor and Human resources.

EC-4214. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a plan for the Hoyle Creek Watershed, Oklahoma; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1163. A resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 52

"Whereas, Agriculture is the number one industry in California, which is the leading agricultural state in the country; and

"Whereas, Although California's 33.4 million acres of cultivated land account for only 3 percent of the country's entire supply of farmland, the state produced nearly 10 percent of the 1980 farm cash receipts in the United States; and

"Whereas, Agriculture accounted for approximately 18 percent of the state's gross product during 1980, which amounted to $54.8 billion, using the multiplier factor; and

"Whereas, California leads the nation in the production of 49 different crops and livestock products; and

"Whereas, The diversity of the state's agriculture is truly impressive, for over 250 different commodities are grown here; and

"Whereas, Twelve percent of the nation's agricultural exports were shipped from California last year, which provided numerous jobs and revenue for our three customs districts of Los Angeles, San Francisco, and San Diego; and

"Whereas, The product of approximately one out of every four acres of California cropland is now sold in foreign markets and thus the state's agricultural economy is dependent upon international trade; and

"Whereas, Expansion of markets for agricultural products abroad is needed to supply outlets for growing production of many California crops and to balance declines in domestic consumption of certain important products; and

"Whereas, The trade policies often adopted by many of our important overseas trading partners are clearly discriminatory or otherwise violative of the General Agreement on Tariffs and Trade and are unfairly eroding export markets for California farm commodities; and

"Whereas, A group of California food marketers have petitioned the United States Trade Representative to take their case against the European Economic Community before an international court, the General Agreement on Tariffs and Trade; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That agriculture is California's basic industry, and its well-being is vital to the economic health of the state; and be it further

"Resolved, That it is in the best interest of the state, and of the United States as a whole, that there be the closest and most vigorous possible cooperation between the Office of the Trade Representative and the United States Department of Agriculture in seeking to improve the nation's trade balance by negotiating the reduction or elimination of tariff and nontariff barriers, as well as other policies and programs, which encourage unfair competition in markets which the United States has historically served, which disrupt international trade patterns, and which block access to foreign markets for California agricultural products; and be it further

"Resolved, That the Congress of the United States and its appropriate committees join with the executive agencies involved and urge their active participation in seeking the most effective remedies to the problems of protectionism and subsidized competition which so seriously affect the movement of United States', and particularly California's, agricultural products into international trade; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Trade Representative, to the Secretary of Agriculture, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Department of State and the Department of Commerce, and to the chairman of committees in Congress which have jurisdiction over foreign trade."

POM-1164. A resolution adopted by the National Council of the Steuben Society of America urging our Government to suspend

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all financial, economic, and military aid to aggressor nations and condemning the actions of the U.S.S.R. and the State of Israel which are detrimental to the cause of "Peace on Earth—Good Will Toward Men"; to the Committee on Foreign Relations.

POM-1165. A resolution adopted by the National Conference of Republican County Officials urging its members to be involved whenever and wherever meetings or gatherings occur that will ultimately have a bearing on the manner in which county officials conduct their business, and that this recommendation be implemented as part of an ongoing and dependable system; to the Committee on Governmental Affairs.

POM-1166. A resolution adopted by the National Council of the Steuben Society of America urging Congress to take appropriate action to effectuate the recommendations of President Reagan for a return to the States of the powers, functions, and responsibilities now assumed by the Federal Government and implemented and discharged by them through "block grants" and used in such amounts and according to such priorities as they deem proper; to the Committee on Governmental Affairs.

POM-1167. A resolution adopted by the National Council of the Steuben Society of America urging the passage of the proposed constitutional amendment on a balanced budget; to the Committee on the Judiciary.

POM-1168. A resolution adopted by the National Conference of Republican County Officials endorsing the Republican National Committee's "talking points" and "First Monday" and NCRCO's own "County Constituent" as the only periodicals necessary to carry out their national work program; Ordered to lie on the table.

POM-1169. A resolution adopted by the National Conference of Republican County Officials agreeing it can make a substantive contribution and will actively participate in political campaigns on behalf of their own party's candidates; Ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2899. An original bill to authorize assistance to promote economic revitalization in the Caribbean and Central America (Rept. No. 97-541).

By Mr. WARNER (for Mr. McClure), from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1999. A bill to amend the act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Va., and for other purposes (Rept. No. 97-542).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 1029. A bill to amend section 1 of the Act of June 5, 1920, as amended, to authorize the Secretary of Commerce to settle claims for damages of less than $2,500 arising by reason of acts for which the National Oceanic and Atmospheric Administration shall be found to be responsible.

H.R. 3835. A bill for the relief of Rutherford K. Clarke and his wife Ida T. Clarke.

By Mr. WARNER (for Mr. McClure), from the Committee on Energy and Natural Resources, without amendment:

S. Res. 459. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1999; referred to the Committee on the Budget.

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Special Report on Budget Allocations of the Committee on Environment and Public Works (Rept. No. 97-540).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON:

S. 2890. A bill to amend the Internal Revenue Code of 1954 to limit the amount of severence taxes imposed by States on oil, natural gas, and coal; to the Committee on Finance.

By Mr. ZORINSKY (for himself, Mr. Andrews, Mr. Boren, and Mr. Exon):

S. 2891. A bill to amend the Commodity Credit Corporation Charter Act to require the Commodity Credit Corporation to pay rates for the storage of grain on farms which is no less than the rates the Corporation pays for storage of grain in commercial storage facilities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JEPSEN:

S. 2892. A bill to clarify the definition of abuse in the Natural Gas Policy Act; to the Committee on Energy and Natural Resources.

By Mr. CHILES (for himself and Mrs. Hawkins):

S. 2893. A bill to settle Indian land claims within the State of Florida, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. ROTH (for himself and Mr. Biden):

S. 2894. A bill to authorize and direct the Secretary of the Army acting through the Corps of Engineers to relocate the Christina River Dredge Spoil Disposal Site; to the Committee on Environment and Public Works.

By Mr. BRADLEY (for himself and Mr. Grassley):

S. 2895. A bill to reduce temporarily the duty on caffeine; to the Committee on Finance.

By Mr. MATHIAS (for himself and Mr. Sarbanes):

S. 2896. A bill to permit the Secretary of the Army to authorize the delivery of water from the District of Columbia water system to water systems in the Metropolitan Washington area in Maryland, and the purchase of water for the District of Columbia water system from certain systems; to the Committee on Environment and Public Works.

By Mr. LEVIN:

S. 2897. A bill to require the Assistant Secretary of Labor for Veterans' Employment to establish an experimental program of job search training for unemployed veterans; to the Committee on Veterans' Affairs.

By Mr. CANNON:

S. 2898. A bill entitled the "Critical Materials Act of 1982."; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PERCY, from the Committee on Foreign Relations:

S. 2899. An original bill to authorize assistance to promote economic revitalization in the Caribbean and Central America; placed on the calendar.

By Mr. BOREN:

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. Danforth, Mr. Pell, Mr. Dole, Mr. Hatch, Mr. DeConcini, Mr. Quayle, Mr. Randolph, Mr. Riegle, Mr. Rudman, Mr. Glenn, Mr. Murkowski, Mr. Lugar, Mr. Huddleston, Mr. Cannon, Mr. Durenberger, Mr. Pressler, Mr. Jackson, Mr. Moynihan, Mr. Helms, Mr. Stennis, Mr. Stafford, Mr. Bumpers, Mr. Burdick, Mr. D'Amato, Mrs. Hawkins, Mr. Denton, Mr. Cranston, and Mr. Hayakawa):

S.J. Res. 241. Joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week."; to the Committee on the Judiciary.

By Mr. JEPSEN (for himself and Mr. Eagleton):

S.J. Res. 242. Joint resolution designating September 22, 1982, as "American Businesswomen's Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for Mr. McClure) from the Committee on Energy and Natural Resources:

S. Res. 459. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1999; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 2890. A bill to amend the Internal Revenue Code of 1954 to limit the amount of severance taxes imposed by States on oil, natural gas, and coal; to the Committee on Finance.

(The remarks of Mr. Dixon on this legislation appear earlier in today's Record.)

By Mr. ZORINSKY (for himself, Mr. Andrews, Mr. Boren, and Mr. Exon):

S. 2891. A bill to amend the Commodity Credit Corporation Act to require the Commodity Credit Corporation to pay rates for the storage of grain on farms which is no less than the rates the Corporation pays for storage of grain in commercial storage facilities; to the Committee on Agriculture, Nutrition, and Forestry.

UNIFORM GRAIN STORAGE RATES

Mr. ZORINSKY. Mr. President, I have received a letter from Nebraska State senator, Hon. Loran Schmit, who is chairman of the Nebraska State Legislature's Agricultural Committee, concerning the differential be-

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tween grain storage rates paid to farmers by the Commodity Credit Corporation and the rates paid to commercial grain storage facilities by the Corporation.

Inasmuch as Senator Schmit's letter explains the discrepancy between farm and commercial storage rates, I am including it in this part of my remarks. The letter follows:

> DEAR SENATOR ZORINSKY: I am once again writing to you to ask your help to correct what I believe is a serious injustice to Nebraska farmers. At the present time any Nebraska farmer who stores grain in his facilities on his farm receives a storage payment of 26.5 cents per bushel. The same grain stored in a commercial facility in David City receives a storage payment of 29.1 cents per bushel and beginning July 1st will be paid at the rate of 32.4 cents.
>
> The difference in the on farm storage rate versus the commercial storage rate represents a loss of millions of dollars to an already financially strapped agricultural economy. I do not believe the elevators should be paid any less for storage services but that farmers should be paid an equal amount. I believe that at a time when the federal government is writing three year guarantee storage construction contracts that farmers would be willing to build additional grain storage even without government loans or a three year guarantee as in the commercial program.
>
> I would appreciate it very much if you would use your considerable influence with the Department of Agriculture to raise the storage rate for on farm storage to the equivalent of commercial storage."
>
> With every best wish.
>
> Sincerely,
>
> LORAN SCHMIT,
> *State Senator.*

Mr. President, I have written to Secretary of Agriculture, John Block, and raised the question as to the fairness and equity in the rate differential. I asked the specific question as to the justification for a difference of 5.9 cents per bushel on stored grain between the farm and commercial facilities and whether there was some problem with agricultural statutes that should be corrected. I indicated that if there is need for correction I would like to have his recommendations.

The Secretary's response confirmed the fact that a discrepancy does exist and that in some instances the rate paid per bushel may be as high as 50 cents depending on the type of grain stored and the elevator location. His response also indicated that farmer-owned grain stored in a commercial facility is only entitled to the 26.5 cent per bushel rate even though the rate paid on CCC-owned grain is higher. This means that during the time farmers are required to pay storage on grain under loan to CCC, that the farmer has to make up the difference.

I believe that Senator SCHMITT has good cause to ask for equal rates for farm-stored grain and commercially stored grain.

The farmer is accountable for keeping stored grain under loan to CCC in condition as is the commercial facility accountable for keeping grain in condition. I can ascertain no good reason for the differential. Therefore, Mr. President, not having received a satisfactory response from Secretary of Agriculture John Block I am introducing today a bill that would amend the Commodity Credit Corporation Charter Act to require that the grain storage rate paid by CCC be the same in the area where the grain is stored whether farm or commercially stored.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third proviso of the second sentence of section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)) is amended by inserting before the colon at the end thereof the following: ", except that the rate the Corporation pays for the storage of grain on farms in any area may not be less than the rate the Corporation pays for the storage of grain in commercial storage facilities in such area".

By Mr. JEPSEN:

S. 2892. A bill to clarify the definition of abuse in the Natural Gas Policy Act; to the Committee on Energy and Natural Resources.

CLARIFICATION OF DEFINITION OF ABUSE IN NATURAL GAS PRICING SYSTEM

● Mr. JEPSEN. Mr. President, I am introducing legislation today that will give new direction to our current natural gas pricing system. Not only will these changes make our current pricing system more fair and equitable, but it also will help hold down the spiraling costs of natural gas for consumers.

Iowans and others across America have been hit hard in recent years by the ever-increasing costs of natural gas. As many of my colleagues have surely heard from their own States, some people are even pressed to make a choice between food and fuel. With winter approaching and our economic atmosphere as it is, this situation will soon become intolerable.

My legislation is designed to keep fuel costs at a manageable level. It would, in essence, allow the Federal Energy Regulatory Commission to beef up its review of contracts between gas producers and pipeline companies.

These changes are especially important for Iowa, because FERC regulates nearly 90 percent of Iowan's gas bills. Iowa has progressive conservation and energy assistance programs, but they do not go far enough to keep up with spiraling price increases.

There are three basic areas in gas contracting where we can focus upon. They are: Take-or-pay provisions; indefinite price-escalator clauses; and market-out clauses.

First, my measure would expand the Commission's authority to regulate take-or-pay contract clauses. These clauses force pipeline companies to buy all or a large portion of gas contracted for, regardless of changing market demand.

Second, the legislation would also expand the Commission's authority to regulate indefinite price escalator clauses. These clauses, especially those not tied to economic indicators, guarantee rapid, unqualified price hikes for natural gas users.

Finally, the bill will require market-out clauses to be included in contracts with gas producers. This would insure that pipeline companies would not be forced to continue buying high-priced gas under contract when market prices and demand decreases.

Mr. President, these changes are both vital and necessary if we are to begin the process of lifting the ever-increasing cost burden of natural gas off of the backs of consumers. In Iowa, for example, we have seen gas prices increase by nearly 100 percent in just the last 3 years. For the average Iowa homeowner, this translated into a $71 January 1979 heating bill to a $130 bill in 1982.

Relief is needed for these people, and it is needed now.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Natural Gas Policy Act (15 U.S.C. 3301) is amended by adding at the end thereof the following:

"(38) ABUSE.—The term 'abuse' is not limited to misrepresentation but also includes imprudence on the part of the pipeline company and any pipeline company-producer contract which materially prevents the pipeline from responding to changes in customer demand or other market forces. A rebuttable presumption arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces if the following contract clauses are found in a producer-pipeline contract:

"(A) Take-or-pay clause which commits the purchaser to pay for a minimum daily contract quantity of gas greater than 70 percent of daily contract quantity on an annual basis whether or not such gas is taken.

"(B) Indefinite price escalator or redetermination clause which is not tied to a recognized and approved economic indicator.

"(C) Most favored nation clause where the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

Such a rebuttable presumption also arises if a contract does not include a market-out clause which allows the buyer to escape the contract or to nominate a new lower price if the gas is not marketable at the contract price.".●

By Mr. CHILES (for himself and Mrs. Hawkins):

S. 2893. A bill to settle certain Indian land claims within the State of Florida, and for other purposes; to the Select Committee on Indian Affairs.

FLORIDA INDIAN LAND CLAIMS SETTLEMENT ACT OF 1982

● Mr. CHILES. Mr. President, today Senator Hawkins and I are introducing legislation to resolve a long-standing dispute between the Miccosukee Tribe of Indians of Florida and the State of Florida. The State and the tribe have worked together to reach a settlement which has been approved by the U.S. District Court for the Southern District of Florida in which a suit by the tribe (Case No. 79-153-CIV-JWK) is pending. Federal action is now necessary to approve this settlement. The attorney general of the State of Florida and the Miccosukee Tribe have requested Senator Hawkins and I to introduce the legislation to accomplish this, and we are pleased to do so.

The Florida Indian Land Claims Settlement Act authorizes no Federal expenditure in settlement of the tribe's claims. The monetary compensation to be paid to the tribe under the terms of the settlement will be paid entirely by the State. Nevertheless, Federal approval of the settlement as provided in the bill is necessary for three reasons:

First, in the settlement agreement the Miccosukee Tribe waives all its existing claims against the State. In view of the existing Federal legislation which prohibits conveyances of land by Indian tribes without Federal approval (25 U.S.C. 177), the State has wisely insisted that the tribe's waiver of claims should be confirmed by the Congress.

Second, the Miccosukee Tribe requested as a condition to the settlement that an existing Miccosukee State Indian Reservation be conveyed by the State to the Federal Government to be held in trust for the benefit of the Miccosukees. The Florida cabinet has approved this conveyance and the bill provides for the acceptance of these lands by the Secretary of the Interior as a Federal Indian reservation.

Third, finally, the settlement agreement provides to the tribe approximately 189,000 acres of Everglades land under a perpetual lease. These lands and waters will be preserved in their natural state and will be available for public recreational use but the Miccosukee Indians will be guaranteed permanent rights to live, hunt, and fish in the area, which has been their traditional homeland for more than a century. While the legal title to the leased area will be held by the State, the State has agreed that the area may be treated for certain purposes as a Federal Indian reservation. The bill implements this agreement of the parties.

I congratulate the State and the tribe for the successful culmination of their joint efforts to resolve this dispute without acrimony or lengthy litigation and without an added burden on the Federal budget.

The historical roots of this controversy lie in the 18th century prior to the creation of the United States or the acquisition of Florida in 1819. The Miccosukee Tribe are descendants of the Seminole Nation which occupied all of Florida when the United States acquired it from Spain. Their rights had been recognized by Spain and by Great Britain. The United States entered into treaty relations with the nation in 1823. Later, the Miccosukee band of the Seminole Nation was driven from its lands in northern and central Florida by the Armed Forces of the United States and forced to take refuge in the sparsely populated Everglades country of south Florida which they had previously used as hunting grounds and where they continue to live today.

Until the 20th century they were left undisturbed in the unsettled Everglades and preserved their language, religion, and way of life almost entirely unaffected by the white man. The State of Florida set aside a portion of the Everglades as a reservation for them in 1917.

However, their right to their lands was jeopardized in the 1930's by the establishment of the Everglades National Park. The State reservation was abolished in 1935—another State reservation was provided but it was far to the north of their traditional homeland—and the Indians were told they would have to leave the park. However, in 1964 the National Park Service agreed to let them live in a strip 500-feet wide at the northern edge of the park, and the State agreed that they could continue to reside temporarily on State-owned lands north of the park. These State lands are the lands involved in the present settlement.

Since before 1960 the tribe has negotiated with the State for a permanent guarantee of their right to occupy these State lands. This bill represents the culmination of two decades of negotiations. The Florida attorney general recommended in 1975 that the State negotiate a new arrangement for Indian rights in the Everglades. In 1978—following a public hearing—a new agreement acceptable to the tribe and the State was reached. However, the Governor requested that the tribe waive any legal claims it might have against Florida as a condition of State approval. The Indians, who had no prior plans to sue the State, then investigated their rights and discovered two significant claims, a claim based on the State's flooding of more than half of the State Miccosukee Reservation which I have mentioned, and a claim based on the establishment by Presidents Tyler and Polk of a 5 million acre "executive order" Indian reservation in southwestern Florida, including the cities of Naples and Fort Myers. The tribe set forth these claims in a suit filed in the Federal court in January 1979.

In the settlement negotiations which have taken place since the filing of the tribe's complaint, the Indians have made clear their willingness to waive these claims, as well as any other claims they may have to lands in Florida, provided acceptable guarantees of their permanent rights in this 189,000-acre tract be provided. The Governor and cabinet of the State of Florida approved the settlement agreement on October 6, 1981, the Miccosukee Tribe approved it on March 8, 1982, and the district judge tentatively approved it on July 2, 1982. Approval by the Congres is the only remaining step needed to resolve this matter. The settlement agreement provides that the agreement will terminate unless congressional approval is given by December 31, 1982.

For this reason I hope the Senate will act favorably and expeditiously on this legislation.●

● Mrs. HAWKINS. Mr President, I rise today and join Senator Chiles in introducing the Florida Indian Land Claims Settlement Act. This measure is the culmination of over 25 years of negotiations between the State of Florida and the Miccosukee Tribe of Indians of Florida. These negotiations have fortunately led the permanent resolution of a controversy whose roots go back as far as the 18th century. The clear and careful process of negotiation that has led to this agreement makes me and all the participants very proud. A significant and lasting agreement has been achieved without acrimony, lengthy litigation, or added burdens on the Federal budget.

Specifically, this bill provides for the establishment of a Federal Indian reservation in the State of Florida—to be held in trust by the Secretary of the Interior. In addition, this settlement agreement provides approximately 189,000 acres of Everglades land to the Miccosukee Tribe under a perpetual lease. While legal title to this leased area will be held by Florida, the State has agreed that the area may be considered, in certain circumstances, as a Federal Indian reservation. In exchange for these guarantees of land as well as hunting and fishing rights, the Miccosukee Tribe of Indians has agreed to waive any other claims to land in Florida. Because it is prohibited for tribes to convey land to States without approval of the Federal Gov-

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ernment, the State and the tribe have requested congressional approval of the settlement agreement.

The settlement is acceptable to the Miccosukee Tribe and to the attorney general of the State of Florida. It has been approved by the U.S. District Court of the Southern District of Florida and has been supported by public recreational and conservation groups in open hearings. I support this bill because it brings about final resolution of the long dispute between the State and the tribe, provides a permanent home to a small but proud tribe of American Indians, and, most important, brings to the situation a measure of justice where none previously existed.

Passage of this bill will be a victory for a very important group of Americans. The history of the Miccosukee Tribe and its relations with the U.S. Government is not without a certain pathos and grimness. Before the United States was even a nation, both Spain and Great Britain recognized the tribe's rights in the area that is now Florida. In 1823, after the United States had already acquired Florida, we negotiated a treaty with the Miccosukee Nation. Later, though, the U.S. Government sent Armed Forces to drive the Miccosukee from their own territory deep into the Everglades—where they are to this day.

The Miccosukee's rights to their own land have gradually been taken away. A portion of the Everglades that was given them as a reservation in 1917 was taken away in the 1930's, when Everglades National Park was established. In 1964 the National Park Service let the Miccosukee settle on land in the north of the park. This piece of land is a small strip 5-miles long but only 500-feet wide.

The situation as it exists now is sad and ironic—the descendants of the natives who once inhabited the entire State of Florida must now rely on permission from the National Park Service to build their homes and feed their families on a tiny piece of swampland. In fact, they do not even have a permanent guarantee for their right to occupy this land.

The Miccosukee Tribe has continued to negotiate with the State of Florida. This bill, which I fully support, is the happy result of two decades of negotiation.

In 1978 an agreement acceptable to the Miccosukee Tribe was reached. As a condition of the State's approval, however, the Governor requested that the tribe waive any legal claims it might have against the State of Florida. Two claims were then discovered, which the Miccosukee rightly set forth in a suit filed in January 1979. The first claim is based upon the State's flooding of more than half of the Miccosukee State Indian Reservation, and the second is based on President Tyler's and President Polk's establishment of a 5-million acre Indian reservation in southwestern Florida, including the cities of Naples and Fort Myers.

The Miccosukee Tribe has agreed to waive these claims if the terms proposed in the bill are met—that is, if they receive a permanent right to a 189,000-acre tract of land and have the Miccosukee State Indian Reservation taken into trust by the United States. The Governor and cabinet of the State of Florida approved the settlement agreement on October 6, 1981. The Miccosukee Tribe approved it on March 8, 1982. The district judge tentatively approved it on July 2, 1982. Last but not least, our approval will resolve this very serious issue. The settlement agreement will terminate unless congressional approval is given by December 31, 1982.

Because of my deep concern that a sadder chapter in American history be closed and a new chapter—one that tells a happier tale of increased opportunity, greater independence, and more self-determination for the Miccosukee Tribe of Indians of Florida—be opened, I urge my colleagues to support prompt passage of this measure.●

By Mr. BOREN:

S.J. Res. 240. Joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week"; to the Committee on the Judiciary.

NATIONAL JAYCEE WEEK

● Mr. BOREN. Mr. President, I am introducing today a Senate joint resolution that will, if passed, authorize the President to designate January 16, 1983, through January 22, 1983, as "National Jaycee Week".

The U.S. Jaycees, headquarters in Tulsa, Okla., will be celebrating 63 years of service to communities across America in January.

The Jaycee movement began in St. Louis, Mo., on October 13, 1915, and quickly spread to a national organization, formally created by 29 chapters at the first convention in St. Louis on January 21, 1920.

Through the years, the Jaycees have been involved in a variety of projects. In the early days, Jaycees were at the forefront in such diverse areas as aviation (Charles Lindbergh was the most prominent Jaycee in that field), development of U.S. Air Mail Service, and creation of the National Wildlife Federation. Just prior to U.S. involvement in World War II, the organization voted at its national convention to support the formation of the Selective Service System. Congressional debate had been stalemated on the issue until the Jaycees—all between the ages of 21 and 36 and very draft-prone—voted their support for the draft. Some 85 percent of the membership served in the war.

The organization has been involved—always on a nonpartisan basis—with other government issues and programs over the years. The Jaycees campaigned in support of political freedom for civil servants, were instrumental in formation of the ACTION agency and lobbied in favor of statehood for Alaska. More recently, the Jaycees have concentrated their government efforts on matters of economy, having called repeatedly for a balanced Federal budget. In 1981, the Jaycees enacted its "Enough Is Enough" campaign in support of recommended cuts in Federal spending—again, on a nonpartisan basis.

Some of the Jaycees' major projects in recent years have included public education on alcohol and other drugs, energy awareness, CPR training, shooting safety, and muscular dystrophy fundraising.

The Jaycees have been active in the corrections field by maintaining over 400 prison chapters with a membership of nearly 17,000. The program is now in its 20th year, and cooperates with a job placement service for newly-released inmates.

Jaycees now number some 300,000 members in approximately 7,500 local chapters in communities across America. As a service organization, the Jaycees have done much to enhance the communities in which they serve, by following closely the creed that "Service to Humanity is the Best Work of Life."

By supporting this resolution, we will be honoring an organization that has given much toward the health and vitality of our communities. This will be a small expression of America's gratitude for the many significant contributions of the U.S. Jaycees.

I urge my colleagues to join me in cosponsoring this joint resolution.●

By Mr. BRADLEY (for himself and Mr. GRASSLEY):

S. 2895. A bill to reduce temporarily the duty on caffeine; to the Committee on Finance.

CAFFEINE DUTY REDUCTION

Mr. BRADLEY. Mr. President, I am introducing, along with the Senator from Iowa, Senator GRASSLEY, a bill to reduce the duty on caffeine for 1 year from 8.5 percent ad valorem to 6 percent ad valorem. This legislation represents a compromise on a House bill, H.R. 5811, which would reduce the tariff permanently to 5.1 percent. I understand that the administration and affected domestic interests have agreed to the compromise version, and the Trade Subcommittee of the House Ways and Means Committee has reported this version as part of an omnibus tariff bill, H.R. 6867.

The lesser, temporary duty reduction is proposed in order to give the European Community time to legislate a permanent reduction in its own ad valorem duty on caffeine. The temporary reduction should provide them with an incentive to bring their own rate down soon. It they do not, our rate will revert to its current level after 1 year. If they do cut their tariff on caffeine, the Congress may consider a reciprocal permanent reduction on the U.S. duty.

The current U.S. duty for caffeine is derived from a formula that converted the specific rate of duty under the valuation procedures which existed prior to our implementation of the Multilateral Trade Agreement, to their "ad valorem" equivalent, as provided for in these agreements. There is reason to believe that the conversion calculations failed to produce a true "equivalent" and resulted in a substantially higher duty that should have been the case. Since U.S. consumers of caffeine are dependent upon imports for at least one-half of their supply, the result of an inaccurate duty conversion may have been to increase caffeine prices for U.S. consumers.

Mr. President, this legislation represents a compromise accepted by all interested parties, to my knowledge, including the domestic producers of caffeine, and the administration. It is designed to open markets for U.S.-made caffeine, as well as afford U.S. consumers the benefits of competition. There is a good chance that enactment of this bill will elicit a timely duty reduction by the European Community, and the mutual reduction of barriers will benefit us all.

Mr. GRASSLEY. Mr. President, I am pleased today to offer with my distinguished colleague from New Jersey, Senator BRADLEY, a bill to reduce the tariff on caffeine.

By the Trade Agreement Act of 1979 (Public Law 96-39), a mandate was given to the International Trade Commission to develop ad valorem rates that would produce revenues substantially equivalent to the former specific rates of 25 cents per pound.

However, the result was an imposition of a duty equivalent to 42 to 43 cents per pound, or an increase of 68 percent over the previous rate of 25 cents per pound.

This legislation proposes to restore the duty intended under Public Law 96-39, the Trade Agreement Act of 1979.

Importation of significant quantities of caffeine is necessary due to the fact that domestically produced caffeine is at the present time insufficient to meet our Nation's needs. Since the intent of the duty rate was never intended to double the cost of caffeine, passage of this legislation should see a price decline for consumers of soft drinks and pharmaceutical products.

Thank you, Mr. President, for allowing me this time and I ask that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart B of part 1 to the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"907.18	Caffeine (provided for in item 437.02, part 3B, schedule 4).	6 percent ad val.	No change.	On or before 12/31/83".

SEC. 2. The amendment made by section 1 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. 2896. A bill to permit the Secretary of the Army to authorize the delivery of water from the District of Columbia water system to water systems in the Washington metropolitan area, in Maryland, and the purchase of water for the District of Columbia water system from certain systems; to the Committee on Environment and Public Works.

WASHINGTON METROPOLITAN AREA WATER SUPPLY

● Mr. MATHIAS. Mr. President, the bill I am introducing provides the congressional authorization necessary to enable the Washington Suburban Sanitary Commission (WSSC) to purchase water from the U.S. Army Corps of Engineers Water Aqueduct (WAD) in Washington, D.C. The Commission needs the additional water to provide for the rapidly expanding needs of a growing Washington metropolitan area.

The proposed plan entails the construction of an interconnect between the WSSC and WAD. It has received the endorsement of both local jurisdictions, Prince Georges and Montgomery Counties. The plan would not affect the water supply system of the District of Columbia but would insure an adequate supply to the Maryland suburbs in the event of an accident or water shortage.

The only viable alternative to this plan would be for the WSSC to substantially increase its water capacity at the Potomac plant in Montgomery County. The price tag for expanding the Potomac plant is $60 million—double the amount needed by the corps water aqueduct to provide the WSSC with its extra capacity.

The legislation I am introducing would involve no Federal funds. The total cost of the project would be defrayed by the local users' fees.

Hearings, conducted before the Senate Governmental Affairs Subcommittee on Governmental Efficiency and the District of Columbia in October of 1979 showed that water shortages in the Washington metropolitan area pose threats for the future. Due to a growing population, total water demands are rising while the average flow of the Potomac remains unchanged. Lack of storage facilities and currently limited interarea exchanges of water supplies will only serve to exacerbate this growing problem.

It is necessary to insure that there is an efficient use of the available water supply in the Washington metropolitan area. The provision of interconnections between the water supplies and the encouragement of interbasin transfers of water are ways that this can be practically achieved.

A CRS study completed in 1981 predicted that by the year 2020 water supply demands for the Washington metropolitan area would reach 1,095 mgd (million gallons daily), while the population is expected to increase to 8 million. If such trends materialize, the problems of water supply may become serious. Enabling the WAD to sell water to the WSSC would help ameliorate the growing problem of water supply in the Washington metropolitan area and insure the efficient use of the water resources of the Potomac River.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, on the recommendation of the Chief of Engineers, United States Army, is hereby authorized in his discretion, upon request of any competent State or local authority in the Washington metropolitan area in Maryland, to permit the delivery of water from the District of Columbia water system at the Dalecarlia Filtration Plant, or at other points on such water system, to any such competent State or local authority. All of the expense of installing such connection or connections, and appurtenances, and any subsequent changes therein shall be paid by the requesting entity, which shall also pay those charges for the use of such water as may be determined from time to time, in advance, by the Secretary of the Army. Payments will be made at such time and under such regulations as the Secretary of the Army may prescribe. The Secretary of the Army may revoke at any time any permit for the use of water which may have been granted.

SEC. 2. The Secretary of the Army, acting through the Chief of Engineers, is authorized to purchase water from any competent State or local authority in the Washington metropolitan area in Maryland which has completed a connection with the District of Columbia water system. The Chief of Engineers is authorized to pay those charges for the use of such water as may be agreed upon in advance by the Secretary of the Army.●

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By Mr. LEVIN:

S. 2897. A bill to require the Assistant Secretary of Labor for Veterans' Employment to establish an experimental program of job search training for unemployed veterans; to the Committee on Veterans' Affairs.

UNEMPLOYED VETERANS' JOB SEARCH TRAINING EXPERIMENTAL PROGRAM ACT OF 1982

Mr. LEVIN. Mr. President, I rise today to submit an inexpensive and cost-effective proposal. This proposal is aimed at enabling veterans to make the optimum use of their skills and training. Veterans have given much in the defense of this Nation, and it is my sincere hope that through this legislation many unemployed veterans will be better able to take their rightful place in society.

The armed services have invested much time and money advertising the job skills and training that a tour of military duty brings. My legislation, the Unemployed Veterans Job Search Training Experimental Program Act of 1982, establishes a career transition pilot program to teach unemployed veterans to represent themselves, their skills, and their experiences successfully in today's uncertain job market. My proposal will enable veterans to better achieve independence and job security while reducing the number of unemployed veterans that depend on the Government for support.

This pilot project consists of a 5-day program of workshops and individual counseling at Veterans' Administration facilities by a group of traveling career guidance professionals. Instruction and workshops will explore resume writing, job targeting, interview techniques, and salary negotiation. Veterans' Administration representatives will be present at all sessions. Together with participating veterans, they will be encouraged to establish ongoing local career guidance programs.

During this period of economic uncertainty, we must make the best possible use of this Nation's abundant human resources. The unemployed veteran constitutes an unfortunately underused human resource—a resource that this Nation can no longer afford to waste.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Unemployed Veterans' Job Search Training Experimental Program Act of 1982".

Sec. 2. For the purpose of this Act—

(1) the term "Assistant Secretary" means the Assistant Secretary of Labor for Veterans' Employment;

(2) the term "Administrator" means the Administrator of Veterans' Affairs; and

(3) the term "veteran" has the same meaning as provided in section 101(2) of title 38, United States Code.

Sec. 3. (a) Not later than 180 days after the day on which funds are appropriated pursuant to section 5, the Assistant Secretary, in consultation with the Administrator, shall establish and carry out an experimental program of job search training designed to improve the job search abilities of unemployed veterans. The experimental program shall be of such duration as the Assistant Secretary determines is necessary to conduct the program efficiently and to evaluate the program effectively.

(b) The experimental program established under subsection (a) shall consist of training seminars conducted at several facilities of the Veterans' Administration in various regions of the United States as specified by the Administrator. Each seminar shall include—

(1) instruction on—

(A) identifying the types of jobs for which the veteran is qualified by reason of education, training, or experience;

(B) identifying the employers who provide the types of jobs for which the veteran is qualified and the locations of concentrations of such types of jobs;

(C) preparing resumes;

(D) developing and improving oral and written communications skills, interviewing techniques, and salary negotiation techniques; and

(E) managing a search for jobs; and

(2) an individual counseling session with each veteran, including a critique of the resume prepared by the veteran.

(c) The Assistant Secretary, after consulting with the Administrator, shall enter into a contract or contracts with experienced professional employment counselors or any organization of experienced professional employment counselors to conduct the seminars referred to in subsection (b).

(d) A representative of the Veterans' Administration shall participate in the administration and presentation of each seminar.

Sec. 4. (a) The Assistant Secretary shall evaluate the effectiveness of the experimental program established under section 3 based on the number of unemployed veterans who receive instruction under the program, critiques by such unemployed veterans on the usefulness of the instruction received, the number of unemployed veterans who obtain full time employment after receiving the instruction, and such other criteria as the Assistant Secretary, after consulting with the Administrator, considers appropriate.

(b) Not later than 180 days after the termination of the experimental program established under section 3, the Assistant Secretary, after consulting with the Administrator, shall prepare and transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the operation of the experimental program, together with the evaluation prepared under subsection (a). The Assistant Secretary shall include in the report such recommendations for additional legislation as the Assistant Secretary, after consulting with the Administrator, considers appropriate.

Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry the provisions of this Act.

By Mr. HUMPHREY (for himself, Mr. Danforth, Mr. Pell, Mr. Dole, Mr. Hatch, Mr. DeConcini, Mr. Quayle, Mr. Randolph, Mr. Riegle, Mr. Rudman, Mr. Glenn, Mr. Murkowski, Mr. Lugar, Mr. Huddleston, Mr. Cannon, Mr. Durenberger, Mr. Pressler, Mr. Jackson, Mr. Moynihan, Mr. Helms, Mr. Stennis, Mr. Stafford, Mr. Bumpers, Mr. Burdick, Mr. D'Amato, Mrs. Hawkins, Mr. Denton, Mr. Cranston, and Mr. Hayakawa):

S.J. Res. 241. Joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

Mr. HUMPHREY. Mr. President, I am today introducing for myself and 28 other Senators a joint resolution to designate the week of December 12 through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week."

Traffic accidents are the No. 1 cause of violent deaths in this country. In 1980, over 50,000 Americans were killed and many more suffered serious injuries due to traffic accidents. The National Highway Traffic Safety Administration estimates that between 40–55 percent of fatal accidents involve an intoxicated driver, and this figure reaches 55–65 percent in single vehicle crashes.

These statistics translate into a shocking one-quarter of a million Americans killed within the past decade because of alcohol-related crashes. Even this past weekend the Nation's awareness was once again raised as two prominent entertainers suffered injuries allegedly due to a drunk driver. In addition, the economic costs to society are immense, estimated at anywhere from $5 to $25 billion a year. Even the most conservative figure is far more than this society can afford and does not include the needless pain and suffering caused by drinking and driving.

A new problem of drugged driving is emerging from the unfortunate rise in drug use in our society, particularly among our youth. At a recent hearing of the Subcommittee on Alcoholism and Drug Abuse, experts testified about the increasing incidence of driving after drug use, particularly marihuana, and described the problems inherent in testing drivers for drug use and studying the effects of drug use on driving ability.

Of increasing concern is the combination of drugs and alcohol and its impact on the incidence of traffic accidents. Surveys of our young people show that drinking and driving often accompany marihuana use. We have also been made aware that driving after the use of therapeutic drugs, either alone or in combination with alcohol, counter to the advice of physician, pharmacist, or manufacturer, may also create safety hazards on the roads. More research is needed to determine the effects of drugs on the incidence of traffic accidents, both alone and in combination with alcohol, and we need to alert the public to the risks of combining alcohol and drugs with driving.

It is clear that the public is now demanding changes in our approach to the problem of drunk driving, in large part due to the volunteer efforts of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxiated Drivers (RID). These groups have most effectively drawn attention to the magnitude of the problem and the ineffectiveness of existing legislation and its enforcement.

In response to this public demand, the Senate recently unanimously approved legislation to assist State and local efforts against drunk driving. President Reagan has appointed a Presidential Commission on Drunk Driving which is working to heighten awareness of the problem and stimulate the pursuit of solutions. Many States and localities have appointed task forces to study the problem in their area and to develop a more comprehensive approach to the development of new solutions. Most States have examined their drunk driving statues this year and passed, or have pending, new legislation to increase penalties and strengthen enforcement of drunk driving laws.

It is important that we press forward in these efforts to develop new and creative approaches by combining the expertise of government, community groups, and voluntary organizations and bringing the unique talents of each to bear on this devastating national problem.

I believe that we should set aside 1 week annually as a "National Drunk and Drugged Driving Awareness Week." It is my hope that this week would provide a time when we could focus attention on the seriousness of the problem of drunk and drugged driving, examine the effectiveness of the various approaches developed at State and local levels, and make recommendations for needed changes in approach to the problem. This week would guarantee a forum to keep public attention focused on the deaths and injuries caused by drunk and drugged driving, and insure a means to continue to apply pressure for solutions.

Because there is a high incidence of traffic accidents during the Christmas and New Year's holiday period and it is a time of increased socializing which often includes excessive drinking, a most appropriate time for this awareness week would be the week beginning December 12, 1982. It is my hope that this week will be marked by radio and TV programs, articles in the print media, and local initiatives such as dial-a-ride or roadblocks, all aimed at raising the public awareness of the risks of drunk and drugged driving. Perhaps such a concentration of efforts by Federal, State and local government, community groups, and voluntary organizations will help reduce the toll from drunk and drugged driving at one of the most dangerous times of the year, and facilitate communication and cooperation between all of us in attacking this critical national problem.

I urge my colleagues to join me in sponsoring this joint resolution. I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD as follows:

S.J. RES. 241

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over 50,000 in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40–55 percent of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55–65 percent in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from $5–$25 billion a year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many states have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the state and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem; Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, that the week of December 12, 1982 through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

By Mr. JEPSEN (for himself and Mr. EAGLETON):

S.J. Res. 242. Joint resolution designating September 22, 1982, as "American Businesswomen's Day"; to the Committee on the Judiciary.

AMERICAN BUSINESSWOMEN'S DAY

● Mr. JEPSEN. Mr. President, on behalf of the American Businesswomen's Association, I join my distinguished colleague from Missouri, Mr. EAGLETON, in sponsoring a joint resolution which would designate September 22, 1982, as "American Businesswomen's Day." This day would be dedicated to recognizing America's businesswomen for their achievements and advancements in helping to shape America.

The American Businesswomen's Association (ABWA) represents businesswomen in all 50 States and Puerto Rico with a membership of over 105,000 individuals. For more than 32 years, the ABWA has helped prepare women for leadership roles in business. This association is dedicated to the professional, educational, cultural, and social advancement of businesswomen.

Last year, the combined chapters of ABWA awarded more than $1,600,000 in scholarships to women. Many of the students were entering colleges or vocational schools for the first time. Some needed specialized courses in order to advance in their chosen career fields, and others were women seeking to update their skills in order to reenter the market after taking time out to raise families.

In addition, their national scholarship fund has provided a cumulative total of over $2,000,000 for educational scholarships.

Mr. President, I would especially like to commend Nancy Bruner, a resident of the great State of Iowa, for the important leadership that she has provided as president of the ABWA.

Women provide essential contributions in every phase of our society—in business, education, government, and other diverse fields, as well as in the home and church.

Therefore, Mr. President, the efforts of today's dynamic businesswomen deserve special recognition. I would therefore like to ask my colleagues to join me in supporting this legislation which proclaims September 22, 1982, as National Businesswomen's Day.

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Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 242

Whereas there are forty-three million working women integrally involved in determining the direction of both the private and public sectors of our Nation;

Whereas American businesswomen hold active, responsible, decisionmaking roles at all levels of business, and thus influence the direction of our Nation; and

Whereas the Congress recognizes the important contributions of American businesswomen to our Nation's continuing vitality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 22, 1982, is designated "American Businesswomen's Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 1399

At the request of Mr. Dodd, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 1399, a bill to encourage equitable contracts between sales representatives and their principals.

S. 2050

At the request of Mr. Chiles, the name of the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 2050, a bill to amend section 104 of the River and Harbor Act of 1958, Public Law 85-500 as amended, to increase the annual funding authority for the aquatic plant control program.

S. 2094

At the request of Mr. Danforth, the name of the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

S. 2624

At the request of Mr. DeConcini, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 2624, a bill to amend section 1407(h) of title 28, United States Code, to permit the consolidation of civil antitrust actions for trial.

S. 2679

At the request of Mr. Durenberger, the name of the Senator from Missouri (Mr. Danforth) was added as a cosponsor of S. 2679, a bill to add representatives of town officials to the membership of the Advisory Commission on Intergovernmental Relations.

S. 2784

At the request of Mr. DeConcini, the names of the Senator from Oklahoma (Mr. Boren) and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2822

At the request of Mr. Nickles, the names of the Senator from New Hampshire (Mr. Rudman) and the Senator from North Dakota (Mr. Burdick) were added as cosponsors of S. 2822, a bill to amend title IV of the Higher Education Act of 1965 to provide standards for students for maintaining satisfactory progress as a condition for assistance under that title.

SENATE JOINT RESOLUTION 178

At the request of Mr. Hatch, the name of the Senator from Kansas (Mrs. Kassebaum) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. Inouye, the name of the Senator from California (Mr. Cranston) was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

SENATE JOINT RESOLUTION

At the request of Mr. Eagleton; the names of the Senator from Arizona (Mr. Goldwater), the Senator from Hawaii (Mr. Inouye), the Senator from Nevada (Mr. Laxalt), the Senator from Nevada (Mr. Cannon), the Senator from Alabama (Mr. Heflin), the Senator from Oklahoma (Mr. Nickles), the Senator from New York (Mr. Moynihan), the Senator from New Hampshire (Mr. Humphrey), the Senator from Vermont (Mr. Stafford), the Senator from Nebraska (Mr. Exon), the Senator from Missouri (Mr. Danforth), the Senator from California (Mr. Cranston), the Senator from Kentucky (Mr. Huddleston), the Senator from Florida (Mr. Chiles), the Senator from South Carolina (Mr. Hollings), the Senator from Vermont (Mr. Leahy), the Senator from Iowa (Mr. Jepsen), the Senator from West Virginia (Mr. Randolph), the Senator from Montana (Mr. Baucus), the Senator from Iowa (Mr. Grassley), the Senator from Wisconsin (Mr. Kasten), the Senator from Idaho (Mr. Symms), the Senator from Michigan (Mr. Riegle), the Senator from Indiana (Mr. Lugar), the Senator from Kentucky (Mr. Ford), the Senator from Connecticut (Mr. Weicker), the Senator from Illinois (Mr. Dixon) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE JOINT RESOLUTION 228

At the request of Mr. Nunn, the names of the Senator from Wisconsin (Mr. Kasten), the Senator from Rhode Island (Mr. Chafee), the Senator from Nebraska (Mr. Zorinsky), the Senator from Ohio (Mr. Metzenbaum), and the Senator from South Carolina (Mr. Hollings), were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week."

SENATE RESOLUTION 453

At the request of Mr. Nunn, the names of the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. Symms), the Senator from Texas (Mr. Bentsen), the Senator from Illinois (Mr. Percy), the Senator from Alabama (Mr. Heflin), the Senator from Arkansas (Mr. Bumpers), and the Senator from Arizona (Mr. DeConcini), were added as cosponsors of Senate Resolution 453, a resolution designating the week of October 3 through October 9, 1982 as "National Productivity Improvement Week."

AMENDMENT NO. 1906

At the request of Mr. Cranston, the names of the Senator from West Virginia (Mr. Robert C. Byrd), and the Senator from West Virginia (Mr. Randolph), were added as cosponsors of Amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

SENATE RESOLUTION 459—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. WARNER (for Mr. McClure), from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 459

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1999. Such waiver is necessary because S. 1999, as reported, authorizes the enactment of new budget authority which would first become available upon the date of enactment.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of S. 1999, a bill to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park. Such bill was not reported on or before May 15, 1981, in the case of fiscal year 1982, or

May 15, 1982, in the case of fiscal year 1983, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The likelihood that the Committee on Energy and Natural Resources would report S. 1999 was reflected in its March 8, 1982 report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. However, at that time it was anticipated that passage of this bill would have little, if any, budgetary impact. Subsequently on April 4, 1982, the Filene Center was destroyed by fire. Therefore, the reconstruction activities for which an authorization of financial assistance is provided by S. 1999 were not anticipated at the time of the bill's introduction.

Enactment of this legislation is in accordance with the program of the President as set forth by letter of July 1, 1982, from Under Secretary of the Interior Donald Paul Hodel. Moreover, the conference agreement on H.R. 6863 (a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes) provides, subject to authorization, initial budget authority for the activities provided for by S. 1999. The Senate thus has had adequate notice of this bill; its enactment is not expected to interfere with or delay the legislative process of the Senate.

Failure to enact S. 1999 would preclude expeditious reconstruction of the Filene Center so as to maintain continuity of service; it is in the public interest that such continuity of service be maintained.

AMENDMENTS SUBMITTED FOR PRINTING

DEFENSE PRODUCTION ACT AMENDMENTS

AMENDMENT NO. 3265

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted an amendment intended to be proposed by him to the bill (S. 2375) to extend by 5 years the expiration date of the Defense Production Act of 1950.

COUNCIL ON CRITICAL MATERIALS

Mr. CANNON. Mr. President, I am filing today an amendment to S. 2375, the Defense Production Act Reauthorization that would establish a Council on Critical Materials in the White House.

This amendment is based on a variety of bills introduced in the past to help the U.S. Government deal more effectively, and take action to reduce, our import dependency for a wide range of minerals and materials. Specifically, this amendment is drawn from H.R. 4281, the Critical Materials Act of 1982, which was recently reported by the House Science and Technology Committee.

As House Report 97-761 notes, the legislation "represents the next logical step in the policy and administration processes provided by Public Law 96-479, the National Materials and Minerals Policy, Research and Development Act of 1980." Both the House Science and Technology Committee and the Senate Committee on Commerce, Science, and Transportation have held oversight hearings on the implementation of Public Law 97-479. While some constructive steps have been taken by the administration, we need to organize more effectively our Federal efforts, particularly this administration's inconsistent stockpile policies.

Presently, interagency coordination and leadership in the critical minerals and materials area is assigned to the Cabinet Council on Natural Resources and Environment. The Cabinet Council arrangement, while it may be effective in dealing with issues on an ad hoc basis, does not represent an effective ongoing mechanism. Nor does it provide for public, industrial, and congressional access and input.

In a recent Congressional Research Service analysis of the Materials Policy Act and the President's plan to implement the Act, CRS states:

> The largest gap between the Act and the report is unquestionably one not of omission but of commission: the Administration's insistence that "national materials policy will be coordinated through the Cabinet Council on Natural Resources and Environment" (page 7), rather than through the Executive Office of the President, as consistently specified in the Act. The question of the central focus for such policymaking within the Executive Branch is perhaps the key question at issue, and it seems clear that the Administration and the Congress continue to differ on this vital point.

Furthermore, the House report concludes that:

> In addition to those areas cited in the CRS analysis, the President's plan fails on a number of specific policy related issues:
>
> (1) An emphasis on minerals and public land policy while ignoring other materials concerns in the final product or use cycle. This, it would appear, is a consequence, despite the Administration's disclaimer, of the fact that the Council on Natural Resources and Environment is operated essentially at a sub-Cabinet level through the Office of the Secretary of the Interior.
>
> (2) The absence of specific proposals or programs on critical or strategic materials research and development, particularly programs for substitution, recycling, conservation, and new materials development.
>
> (3) No permanent organization structure for coordination of materials and minerals policies or programs was presented as required by the law.
>
> (4) No specific programs in the Department of Defense, Interior or Commerce were recommended as a result of their 18-month analysis.

Thus, Mr. President, I believe it is time to join with our House colleagues and take steps to buttress our Government's capability to anticipate and deal with critical minerals and materials issues. This is why I intend to offer this as an amendment to S. 2375, the Defense Production Act Reauthorization, and I urge my colleagues to support this amendment.

In addition, I am today introducing this proposal as a separate bill, S. 2898, in order to facilitate its consideration by the Senate should it not be adopted as an amendment to the Defense Production Act legislation as currently contemplated in the House.

I ask unanimous consent that an excerpt of House Report 97-761, which includes a section-by-section analysis of the bill, be included in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Critical Materials Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the availability of adequate supplies of strategic and critical industrial materials continues to be essential for national security, economic well-being, and industrial production;

(2) research, development, and technological innovation are important factors which contribute to and affect the availability and use of materials;

(3) there exists no single Federal entity with the authority and responsibility for establishing critical materials policy and for coordinating and implementing that policy; and

(4) the importance of materials to national policies requires an organizational means for the coordination, within and at a suitably high level of the Executive Office of the President, of existing policies within the Federal Government.

(b) It is the purpose of this Act to establish a Council on critical Materials under and reporting to the Executive Office of the President—

(1) to provide for necessary coordination of critical materials policies, including research and development, among the various agencies and departments of the Federal Government, and for the implementation of such policies;

(2) to bring to the attention of the President, the Congress, and the general public such materials issues and concerns, including research and development, as are deemed critical to the economic and strategic health of the Nation; and

(3) to insure adequate and continuing consultation with the private sector concerning critical materials, materials research and development, Federal materials policies, and related matters.

ESTABLISHMENT OF THE COUNCIL ON CRITICAL MATERIALS

SEC. 3. There is hereby established a Council on Critical Materials (hereinafter referred to as the "Council") under and reporting to the Executive Office of the President. The Council shall be composed of three members who shall be appointed by the President and who shall serve at the pleasure of the President. Members so appointed who are not already Senate confirmed officers of the Government shall be appointed by and with the advice and consent of the Senate. The President shall designate one of the members to serve as chairman. Each member shall be a person who, as a result of training, experience, and achievement, is qualified to carry out the duties and functions of the Council, with particular emphasis placed on fields relating to materials policy or materials science and engineering. In addition, at least one of the members shall have a background in and

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understanding of environmentally related issues.

RESPONSIBILITIES AND AUTHORITIES OF THE COUNCIL

Sec. 4. (a) It shall be the primary responsibility of the Council—

(1) to assist and advise the President in establishing a coherent national materials policy consistent with other Federal policies, and in carrying out activities necessary to implement such a policy;

(2) to coordinate Federal materials-related policies, programs, and research and development activities, including those related to critical materials;

(3) to review and appraise the various programs and activities of the Federal Government in accordance with the policy and directions given in the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601), and to determine the extent to which such programs and activities are contributing to the achievement of such policy and directions;

(4) to formulate and recommend to the President national policies designed to improve conditions affecting the mineral and materials needs and resources of the Nation, and to meet the social, economic, and national security goals of the Nation;

(5) to advise the President of mineral and material trends, both domestic and foreign, the implications thereof to the United States and world economies and to national security, and the probable effects of such trends on domestic industries; and

(6) to make or furnish such studies, analyses, reports, and recommendations with respect to matters of materials-related policy and legislation as the President may request.

(b) In carrying out its responsibilities under this section the Council shall have the authority—

(1) to establish such special advisory panels as it considers necessary, with each such panel consisting of representatives of industry and other members of the private sector, not to exceed ten members, and being limited in scope of subject and duration; and

(2) to establish and convene such Federal interagency committees as it considers necessary in carrying out the intent of this Act.

(c) In seeking to achieve the goals of this and related Acts, the Council and other Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy, including the National Security Council, the Council on Environmental Quality, the Office of Management and Budget, and the Office of Science and Technology Policy, shall work collaboratively and in close cooperation.

RESEARCH AND DEVELOPMENT POLICY

Sec. 5. In addition to the responsibilities described in section 104, the Council shall have specific responsibility for overseeing and collaborating with appropriate agencies and departments of the Federal Government relative to Federal materials research and development policies and programs. Such policies and programs shall be consistent with the policies and goals described in the National Materials and Minerals Policy, Research and Development Act of 1980. In carrying out this responsibility the Council shall—

(1) review annually the materials research and development authorization requests and budgets of all Federal agencies and departments; and in this activity the Council shall, in cooperation with the Office of Science and Technology Policy, the Office of Management and Budget, and all other Federal office and agencies deemed appropriate, ensure close coordination of the goals and directions of such programs with the policies as determined by the Council; and

(2) assist the Office of Science and Technology Policy in the preparation of such long range materials assessments and reports as may be required by the National Materials and Minerals Policy, Research and Development Act of 1980, and assist other Federal entities in the preparation of analyses and reporting related to critical materials.

COMPENSATION OF MEMBERS AND REIMBURSEMENTS

Sec. 6. (a) Members of the Council who serve full time and the chairman of the Council, if not otherwise paid officers or employees of the Government, shall be paid at the rate of basic pay provided for level II of the Executive Schedule. The other members of the Council shall be paid at a rate per diem comparable to the rate of basic pay provided for level III of the Executive Schedule.

(b) The Council may accept reimbursement from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, or from any State or local government, for reasonable travel expenses incurred by any member or employee of the Council in connection with such member's or employee's attendance at any conference, seminar, or similar meeting.

POSITION OF EXECUTIVE DIRECTOR

Sec. 7. (a) There shall be within the Council an Executive Director (hereinafter referred to as the "Director"), who shall be chief administrator of the Council. The Director shall be appointed by the Council and shall be paid, if not otherwise a paid officer or employee of the Government, at the rate of basic pay provided for level IV of the Executive Schedule.

(b) The Director is authorized—

(1) to employ such personnel as may be necessary for the Council to carry out its duties and functions under this Act, but not to exceed twelve compensated employees;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(3) to develop rules and regulations necessary to carry out the purposes of this Act.

(c) Notwithstanding section 367(b) of the Revised Statutes (31 U.S.C. 665 (b)), the Council may utilize voluntary and uncompensated labor and services in carrying out its duties and functions.

RESPONSIBILITIES AND DUTIES OF THE DIRECTOR

Sec. 8. (a) In carrying out his functions the Director shall assist and advise the Council on policies and programs of the Federal Government affecting critical materials by—

(1) providing the professional and administrative staff and support for the Council;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, including research and development, which affect critical materials availability and needs;

(3) cataloging, as fully as possible, research and development activities of the Government, private industry, and public and private institutions;

(4) monitoring and evaluating the critical materials needs of basic industry and the Government, including the critical materials research and development needs of the private and public sectors;

(5) initiating Government and private studies and analyses, including those to be conducted by or under the auspices of the Council, designed to advance knowledge of critical materials issues and develop alternatives, including research and development, to resolve national critical materials problems;

(6) issuing a biennial report providing a domestic inventory of critical resources with projections on the prospective needs of government and industry for these resources, including a long range assessment, prepared in conjunction with the Office of Science and Technology Policy in accordance with the National Materials and Minerals Policy, Research and Development Act of 1980 and in conjunction with such other Government departments or agencies as may be considered necessary, of the prospective major critical materials problems which the United States is likely to confront in the immediate years ahead and providing advice as to how these problems may best be addressed, with the first such report being due on April 1, 1984; and

(7) recommending to the Congress such changes in the current policies, activities, and regulations of the Federal Government, and such legislation, as may be considered necessary to carry out the intent of this Act and the "National Materials and Minerals Policy, Research and Development Act of 1980".

(b) In exercising his responsibilities and duties under this Act, the Director—

(1) may consult with representatives of science, industry, labor, State and local governments, and other groups; and

(2) shall utilize to the fullest extent possible the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals.

AUTHORITY

Sec. 9. The Council is authorized—

(1) to prescribe such rules and regulations as may be necessary for its operation;

(2) to enter into contracts and acquire property necessary for its operation to such extent or in such amounts as are provided for in appropriation Acts;

(3) to publish or arrange to publish critical materials information that it deems to be useful to the public and private industry to the extent that such publication is consistent with the national defense and economic interest;

(4) to request available information from private and public sources which it considers necessary in the discharge of its duties if—

(A) in the case of a request for information from a private source, the furnishing of such information will not create an undue burden or hardship on such sources; or

(B) in the case of a request for information from a public source, the furnishing of such information is permitted by law; and

(5) to exercise such authorities as may be necessary and incidental to carrying out its responsibilities and duties under this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 10. There is hereby authorized to be appropriated to carry out the provisions of this Act a sum not to exceed $1,000,000 for the fiscal year ending on September 30, 1984, and such sums as may be necessary thereafter.

DEFINITION

SEC. 11. As used in this Act, the term "materials" has the meaning given it by section 2(b) of the National Materials and Minerals Policy, Research and Development Act of 1980.

Amend title of the bill to read:

A bill to provide for a Council on Critical Materials, for development of a continuing and comprehensive national materials policy, and for programs necessary to carry out that policy.

PURPOSE OF THE BILL

The "Critical Materials Act of 1981", H.R. 4281, represents the next logical step in the policy and administration processes provided by Public Law 96-479, the "National Materials and Minerals Policy, Research and Development Act of 1980", H.R. 4281 establishes a Council on Critical Materials under and reporting to the Executive Office of the President for the purpose of developing and coordinating national materials policy and program plans within the Federal Government. Further, the Council will focus attention for the private and public sectors on materials-related issues considered critical to the Nation's economic and strategic well-being. Special attention is given to establishing materials research and development policies and programs consistent with the policies and goals of Public Law 96-479.

I. INTRODUCTION AND ISSUES

The availability of materials suitable for application is frequently a limiting factor in both the implementation of contemporary technologies and the development of more advanced technologies. For example, alloys of aluminum, chromium, cobalt, niobium, nickel, tantalum, and titanium are critical to the manufacture of modern jet engines. Only in the case of titanium is our import dependency less than 50 percent; for five others, more than 90 percent of our domestic consumption is met by imports—often from countries with divergent national interests to those of the United States. Similarly, high strength, corrosion resistant (hence, chromium-containing) materials are required for the production of natural gas from the hostile environment of deep, highly corrosive gas wells. In such other areas as power generation and transmission, energy conversion and storage, transportation, chemical processing, biomaterials for surgical implants, national defense, and, in short, in virtually every major industrial activity the availability of suitable engineering materials is crucial.

As a consequence, much discussion has taken place in the Congress regarding means of treating the Nation's non-fuel materials needs through domestic and foreign strategies. Discussion has also focused on using research, development and technological innovation to resolve many of these materials-related problems, hence reducing our vulnerability to interruptions in supply of critical and strategic materials. There is considerable research and development activity throughout the Nation and the world in the processing and properties of metallic, ceramic, polymeric, electronic and other materials. This activity encompasses such applications including, as well as the above, light-weight, fuel-efficient automobiles; the storage of nuclear wastes and hazardous chemicals; first-wall fusion reactor materials; high-temperature gas turbines; and microelectronics to name just a few. In the U.S., the Federal Government spends an estimated $1 billion annually on such research with $4.0 billion being spent by the private sector.

Thus, there is good reason to believe that the resolution of our materials import vulnerability could be reduced with proper development, coordination and implementation of a national critical materials policy, including a suitable research and development strategy. Within this general framework, there are areas of particular national concern:

(1) Defense

Our national defense and economic well-being depends strategically on more than twenty non-fuel minerals of which seven are imported at levels of 90 percent or more and the rest at levels of 50 percent or more of our annual needs. Included among the former are sources of manganese, cobalt, chromium, an the platinum-group metals of which the world's reserves lie largely in Southern Africa and the Soviet Union. Given the complex politics of importation, the Nation is particularly vulnerable in an economic and strategic sense to interruption in the supply of several of these elements. For instance, in the case of chromium, while there are potential metallurgical substitutes for chromium, there are no known elements which play the chemical role of chromium in corrosion resistant stainless steels, which are the backbone of our chemical processing industry, or in oxidation resistant alloys used in jet engines and high-temperature gas turbines.

(2) Domestic production

Our domestic minerals processing and metals producing industries are no longer as competitive in the world marketplace. For example, U.S. ferroalloy production, on which steelmaking is dependent, has decreased from 85 percent of domestic consumption in the 1960's to about 50 percent in 1980. In this instance, the Nation is now importing materials which our domestic industry was once capable of supplying. Without a domestic ferroalloy processing capacity, the availability of raw materials in the world marketplace takes on a different character in terms of the health of a vigorous steelmaking industry. This is particularly true in a nation in which steel-intensive technologies (the automotive industry, tubulars for oil and gas production and distribution, steel applications in the production of alternate fuels, etc.) abound. There is widespread concern about the long-term vitality of the domestic metals producing industry in general, emphasized by the steel industry's movement away from metals production activities into other more diverse areas. Similar concerns exist regarding processing and production in the titanium, aluminum and copper industries. The materials processing and producing capabilities of the Nation should be among the issues treated in providing a national materials policy, with specific consideration given to research and development, tax incentives, regulation, and import controls.

(3) Stockpiling

The bulk of the materials contained in the strategic stockpile was assembled more than twenty years ago. For 20 of the 61 families of materials included in the stockpile, the quantity available is at least 50 percent or more short of the goals established by the Federal Emergency Management Agency. Alternatives to stockpiling include, on the one hand, substitution, conservation, recycling, advanced technology related to high performance materials, and surface modification for corrosion or wear resistance; and, on the other hand, incentives such as exist in the Defense Production Act of 1950 (50 U.S.C. App. 2091 et. seq.). Obviously, further coordination at a comprehensive policy level would allow for more efficient and effective means of handling our present policies and programs regarding the stockpiling of critical materials.

(4) Corrosion

It has been estimated that about 4 percent of our GNP is lost annually due to metallic corrosion and that roughly 20 percent of this cost could be saved by making proper use of existing technology. In addition to the need for effective technology transfer in this area, we need to evaluate the impact of new technologies on our materials needs. For example, some metallic alloys produced by rapid solidification processing have unique mechanical, magnetic, electrical and chemical properties and may find application in areas ranging from chemical processing to national defense. The content of chromium required in alloys producted by rapid quenching to induce corrosion resistance is substantially lower than in alloys produced by traditional methods.

(5) Materials cycle

In addition to the mining of raw materials and minerals processing and refining, other stages of the total materials cycle must be considered in the development of national materials policy. At a time when our vulnerability to interruption in the supply of chromium and other materials is clear, it is imprudent to allow unlimited export of recyclable stainless steel scrap, each ton of which contains roughly 400 pounds of chromium. This emphasizes the need for a national materials policy in which coordination between government and industry is continually exercised. Similarly, research on materials processing should be stimulated, particularly innovative processing techniques such as rapid quenching, and advanced semi-conductor crystal growth techniques that would result in major improvements in manufacturing rather than incremental development of existing technology. Our Nation's vanishing lead in micro-electronics to Japan is in part a consequence of contrasting policies of our governments and Japanese industry's willingness to adapt and implement new technologies.

Finally, the Nation's materials, energy and environmental concerns are not unrelated. The large increases in energy costs have made the production of most materials more expensive. By the same token, advanced energy technology such as coal conversion, production of natural gas from deep wells, breeder and fusion reactors, solar electric energy, hydrogen energy systems, and fuel cells are all materials limited. Development of new domestic sources of minerals, particularly within public lands, must be weighted against long-term, multiple use of such lands and the critical (or lack of critical) nature of the minerals involved. The need for careful attention to the long-term balance between the production of critical materials, energy consumption and a clean environment continues to be persistent. Development and integration of materials policy and policy related to the Nation's energy and environmental concerns requires coordination which goes beyond the factional interests of individual agencies or missions.

II. PURPOSE

During the closing days of the 96th Congress, Public Law 96-479, the "National Ma-

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terials and Minerals Policy, Research and Development Act of 1980" was signed into law. Public Law 96-479 represented the first major statement on materials policy that had been developed in over three decades, and required the President to take a number of steps in addressing materials problems. These included among others the establishment of an organizational structure providing the following elements: Policy analysis and decision determination within the Executive Office of the President; continuing long-range analysis of materials used to meet national security, economic, industrial and social needs, the adequacy and stability of materials supplies, and the industrial and economic implications of supply shortages or disruptions; continuing private sector consultation in Federal materials programs; and interagency coordination at the level of the President's Cabinet. In addition, the Act called for a balancing of environmental, energy and materials polices and defined several initiatives on the part of the Secretaries of Commerce, Defense and the Interior and the Director of the Office of Science and Technology Policy to consider the resolution of a variety of materials related problems.

It appears clear, as described in Section III of this report, that the current Administration's response to Public Law 96-479 does not address major concerns of the National Materials and Minerals Policy, Research and Development Act of 1980. In short, the Administration appears to place heavy emphasis on minerals and public lands policy and little or no emphasis on other materials concerns in the product or user end.

The purpose of H.R. 4281, the "Critical Materials Act of 1981", a supplement to Public Law 96-479, is to reemphasize policy directives of the original legislation and to focus further on organizational concerns. In particular, the bill establishes a Council on Critical Materials under and reporting to the Executive Office of the President. Policy directions are determined as much or more so by organizational placement as any other feature of a policy-making body. It is no accident that the Council on Natural Resources and Environment, headed by the Secretary of the Interior, placed primary emphasis on minerals, mining and related public land policies with almost no attention to basic materials processing, conservation, substitution, recycling or new materials development. Such imbalances in the focus of materials policy can be expected regardless of which agency has responsibility and/or authority. It was for this reason that Public Law 96-479 called for, among other things, "policy analysis and decision determination within the Executive Office of the President". Such a level of policy determination would transcend the normal interagency competitiveness and provide the necessary balance in materials policy considerations. The Committee intends that the Council should be part of the operations of the Executive Office of the President, but flexibility regarding the organizational location of the Council is provided by the bill. In event the policy decision making shall remain at an executive level above any given individual Federal department or agency as specified in P.L. 96-479. It is not intended that the Council be restricted in any policy making role because of any possible identification with an individual Federal Department or agency.

The Council on Critical Materials, as proposed, would (1) provide for necessary, coordination of critical materials policies, including research and development, among the various agencies and departments of the Federal Government, and for the implementation of such policies; (2) bring to the attention of the President, the Congress and the general public such materials issues and concerns, including research and development, as are deemed critical to the economic and strategic health of the Nation; (3) insure adequate and continuing consultation with the private sector concerning critical materials, materials research and development, Federal materials policies, and related matters. The Council on Critical Materials would oversee the multitude of Federal materials programs—in materials research alone, there are over 14 agencies and departments involved with over $1 billion in programs—and act as the Federal government's focal point to analyze and evaluate materials policy as it would concern our energy, environmental, minerals, defense and foreign policies, among others. It would also provide to those groups important information and data concerning materials needs, problems and projections. Moreover, H.R. 4281 would focus attention on coordination and implementation of research and development activities aimed at stimulating industrial innovation and productivity and at developing new materials, substitution, conservation and recycling technologies to reduce the demand on critical and strategic materials.

III. ANALYSIS OF THE ADMINISTRATION'S RESPONSE TO PUBLIC LAW 96-479: NATIONAL MATERIALS AND MINERALS PROGRAM PLAN AND REPORT TO CONGRESS

In response to Public Law 96-479, the President released his "National Materials and Minerals Program Plan and Report to Congress on April 5, 1982. The plan, which was transmitted almost six months after its due date focuses on four major policy elements:

(1) Land availability

The plan proposes to open public lands to appropriate minerals exploration and development; in short, to determine the potential of the public lands with respect to minerals availability. Emphasis is placed on wilderness lands and withdrawal of other public lands in relation to minerals development and national needs given the "vast unknown and untapped mineral wealth" of the Nation. There is little evidence, however, to substantiate the existence of large amounts of critical or strategic minerals on public lands.

(2) Minerals and materials data collection

The plan emphasizes that minerals and materials information and analysis is critical in guiding policymaking affecting national defense, land use, taxation, trade, research and development, environmental protection and various aspects of both domestic and foreign policy. The proposed initiatives would strengthen the Department of the Interior's International Regional Resource Officer program as well as review domestic data collection but falls short of the requirements of P.L. 96-479 calling for long-term assessment of international minerals supplies.

(3) Materials research and development

The plan states that the National Economic Recovery and Tax Act of 1981 provides sufficient tax incentives to stimulate private sector research and development. Thus, all government funded research and development activities, except for mission specific Department of Defense programs, are stated to concentrate on long-term, high-risk, high-potential payoff projects with the best chance of wide generic application to materials problems and increased productivity. In short, government assistance is considered appropriate only where market forces are incapable of achieving clearly defined national objectives. The interagency Committee on Materials (COMAT) is reaffirmed as the federal research and development coordinating body, while policy resolution of materials research and development questions will be provided through the Cabinet Council on Natural Resources and Environment. The latter is at odds with the specifications of P.L. 96-479 which suggests that policy analysis and decisionmaking be accomplished within the Executive Office of the President and materials research and development analysis be conducted by the Office of Science and Technology Policy.

(4) Strategic and critical materials stockpile

The President's plan calls for a "major interdepartmental effort to improve the nation's preparedness for national mobilization" through the Emergency Mobilization Preparedness Board. Further emphasis is placed on Titles I and III of the Defense Production Act and on the Strategic and Critical Materials Stockpiling Act, the latter to include a comprehensive review of current materials being stockpiled. Title III funding authorization was not treated.

While the President's plan has been widely cited as "the first major statement by any President in thirty years addressing the nation's mineral dependency problems", there is considerable concern as to whether the proposed plan represents the necessary framework for the coherent national materials and minerals policy as required by P. L. 96-479. Analysis of the Congressional Research Service (CRS) of the President's report made the following point:

"Several policy areas appear to have been given major attention in the President's report: mineral development on federal lands, deregulation, Cabinet Council policymaking and coordination, and Administration economic policy. Yet these areas were given relatively little attention in the guidelines offered by the Act: land policy, Section 3(7) and 5(e)(3); deregulation, Section 4(8); and Cabinet Council coordination, Section 5(a)(1)(D). Thus, the report may be seen to some extent as a vehicle for promoting these current Administration policy issues, rather than as a complete response to the requirements of the Act. This view may be supported by the number of areas of concern that were raised by the Act but essentially ignored in the report: scientific and technical engineering manpower needs, especially for research and development in critical materials areas; the need for long-range assessments of minerals and materials needs and requirements, preferably for 5-10-25 years; the need for increased mining and metallurgical research capabilities by the U.S. Bureau of Mines; the need for greater attention to resource recovery, recycling, and waste materials disposal; and the need for an early warning system for materials supply and availability problems.

"However, the largest gap between the Act and the report is unquestionably one not of omission but of commission: the Administration's insistence that 'national materials policy will be coordinated through the Cabinet Council on Natural Resources and Environment' (page 7), rather than through the Executive Office of the President, as consistently specified in the Act. The question of the central focus for such policymaking within the Executive Branch is perhaps the key question at issue, and it seems clear that the Administration and the Congress continue to differ on this vital point."

In addition to those areas cited in the CRS analysis, the plan fails on a number of specific policy related issues:

(1) An emphasis on minerals and public land policy while ignoring other materials concerns in the final product or use cycle. This, it would appear, is a consequence, despite the Administration's disclaimer, of the fact that the Council on Natural Resources and Environment is operated essentially at a sub-Cabinet level through the Office of the Secretary of the Interior.

(2) The absence of specific proposals or programs on critical or strategic materials research and development, particularly programs for substitution, recycling, conservation, and new materials development.

(3) No permanent organisational structure for coordination of materials and minerals policies or programs was presented as required by the law.

(4) No specific programs in the Department of Defense, Interior or Commerce were recommended as a result of their 18-month analysis.

IV. SUMMARY OF TESTIMONY AND ADMINISTRATION POSITION ON THE BILL

Testimony was heard on H.R. 4281 before a joint hearing of the Subcommittees on Science, Research and Technology, and Transportation, Aviation and Materials of the Committee on Science and Technology on April 20 and 22, 1982. H.R. 4281 proposes the establishment of a Council on Critical Materials in the Executive Office of the President to advise the President on materials matters and to coordinate Federal interagency programs. While the location of this advisory body within the Executive Office of the President was supported in all nongovernment testimony by a variety of representatives from industry and academia and has been consistently recommended for over 30 years in preceding studies, the Administration opposed this approach in general and specifically the legislative approach of H.R. 4281. Although endorsing the need for effective materials and minerals policy coordination, the Administration felt that the Council required by this bill would bureaucratically impede materials and minerals policy coordination whereas the Cabinet Council, already in place, would assure that all interested departments and agencies were represented. The Administration would, therefore, prefer that policymaking reside with the Cabinet Council on Natural Resources and Environment which is chaired by the Secretary of the Interior. Other witnesses argued that the latter approach is considered inadequate in the sense that the Cabinet Council structure lacks the permanency crucial to maintaining continuity from one Administration to the next. Moreover, given the organization and political character of the Cabinet Councils, concern was expressed that the Council on Natural Resources and Environment would be unable to provide the objective analysis and decisionmaking required to treat the Nation's materials and minerals needs. Additionally, testimony expressed the concern that the revitalization of the Committee on Materials (COMAT), as proposed in the President's plan, would not be effective in providing the desired coordination of materials research and development activities on a Federal level. The need for central Executive Office coordinating and policymaking is underscored by the Administration's late response to Public Law 96-479 and lack of implementation as required by the Act. Finally, consultative ties with the private sector are minimal or nonexistent. Industry does not know how the Council on Natural Resources and Environment functions or how materials an minerals issues of importance might be brought to its attention by industry.

V. SUMMARY OF THE BILL

The importance of materials-related matters in national domestic and foreign policy requires an effective organisational means at the level of the Executive Office of the President with the authority and responsibility for establishing, coordinating and implementing critical materials policy. Thus, the bill establishes a three-man Council on Critical Materials under and reporting to the Executive Office of the President as that organizational entity.

The Council has the responsibility (1) to assist and advise the President in establishing and implementing a coherent national materials policy consistent with other Federal policies; (2) coordinate Federal materials-related policies, programs and research and development activities; (3) review and appraise the programs and activities of the Federal Government in accordance with the policy and directions given in the National Materials and Minerals Policy, Research and Development Act of 1980 (Public Law 96-479); (4) formulate and recommend to the President national policies designed to improve conditions affecting the mineral and materials needs and resources of the Nation; (5) advise the President on domestic and foreign minerals and materials trends and their effects; and (6) provide for such studies, analysis, reports and recommendations with respect to questions of materials-related policy and legislation as the President may request.

The bill places special emphasis on the importance of materials research and development. The bill stipulates that the Council shall have specific responsibility for overseeing and collaborating with the appropriate agencies and departments of the Federal Government with respect to Federal materials research and development policies and programs. To this end, the Council will (1) annually review the materials research and development authorisation requests and budgets of all Federal agencies and departments and, in cooperation with the Office of Science and Technology Policy (OSTP), the Office of Management and Budget, and other appropriate Federal agencies; and (2) assist OSTP with the preparation of long-range materials assessments and reports as required by law, and assist other Federal entities in the preparation of analysis and reports related to critical materials.

The Council, if appropriate, will appoint an Executive Director who will provide professional and administrative staff and support for the Council and to carry out the mandates of the Act, including a biennial report providing a domestic inventory of critical resources. The report will also provide an assessment of the prospective major critical materials problems which the Nation is likely to have, and advice as to their resolution.

VI. SECTIONAL ANALYSIS OF THE BILL

Sec. 1. Gives the short title, as amended, as the "Critical Materials Act of 1982."

Sec. 2. Provides findings and purposes of the Act, including the establishment of a Council on Critical Materials under the Executive Office of the President.

Sec. 3. This section establishes and defines the Council on Critical Materials: The Council consists of three members appointed by the President and confirmed by the Senate when appropriate. Each will have training, experience or background in materials policy and/or materials science and engineering.

Sec. 4. Defines the responsibilities and authorities of the Council.

Sec. 5. Places emphasis on materials research and development as oversight responsibility of the Council.

Sec. 6. Provides compensation of members of the Council.

Sec. 7. Provides for an Executive Director as chief administrator of the Council.

Sec. 8. Defines responsibilities and duties of the director.

Sec. 9. Defines further authorities of the Council.

Sec. 10. Authorizes up to $1,000,000 for the first year of operation.

Sec. 11. Defines the term "Materials."

VII. ANALYSIS OF THE BILL AND COMMITTEE VIEWS

This Act, which may be cited as the Critical Materials Act of 1982, provides for the organization of a Council on Critical Materials under the Executive Office of the President for the purpose of establishing, coordinating, and implementing national critical materials policy. Particular emphasis is placed on research, development and technological innovation as a means of reducing the Nation's materials import vulnerability while at the same time recognizing the importance of integrating materials policy related to the Nation's energy, environmental and other concerns.

A. Findings and purposes

Section 2(a) establishes that the availability of supplies of materials vital to national defense (strategic) and important to the Nation's industrial economy (critical) continue to be essential. Many materials and minerals may be appropriately placed in both categories. Research, development and technological innovation throughout the entire materials cycle (discovery, extraction, production, processing, use, recycling and disposal) represent opportunities to reduce our materials import vulnerability. There exists at present no single Federal entity responsible for establishing critical materials policy or for coordinating and implementing that policy. The Committee believes that the policymaking entity should be organised under and report to the Executive Office of the President in order to integrate such policy with that of environmental, energy, security or other pertinent national policy considerations. As noted in Section III of this report the Committee intends that the Council should be part of the operations of the Executive Office of the President, but flexibility regarding the organisational location of the Council is provided by the bill. In any event, the policy decision making shall remain at an executive level above any given individual Federal department or agency as specified in P.L. 96-479. The Committee does not intend that this Council be restricted in any policy making role because of any possible identification with an individual Federal department or agency. The Committee further does not intend that the activities of the council be duplicative of any related activities now underway in the Exec-

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utive branch. Rather such activities should be subsumed under the Council's responsibilities.

Section 2(b) provides for and the Committee agrees with the establishing of a Council on Critical Materials under the Executive Office of the President (EOP). H.R. 4281 requires the establishment of a permanent Council on Critical Materials in order to transcend the normal interagency competitiveness and to provide for the necessary balance in materials policy decisionmaking. Section 2(b) specified that the Council on Critical Materials will: (1) provide for necessary coordination of critical materials policies including research and development, among the various Federal agencies and departments and for the implementation of such policies; (2) bring to the attention of the President, the Congress and the general public such materials issues and concerns as are considered critical to the social, economic and strategic health of the Nation; and (3) insure adequate and continuing consultation with the private sector concerning materials, materials research and development, Federal materials policies and related matters.

B. Establishment of the Council on Critical Materials

Section 3 specifies that the Council on Critical Materials, established under and reporting to the Executive Office of the President, shall be composed of three members, one of whom shall be designated chairman. The members shall be appointed by the President with the consent, as appropriate, of the Senate. It is the Committee's view that the members shall be duly qualified to carry out the purposes of the Council given their training, experience and achievement in fields relating to materials policy and or materials science and engineering. In addition, to provide greater balance with such policies as they concern environmental needs, the Committee directs that at least one member shall have a background and understanding in environmentally related matters. The Committee has reported language which gives the President the flexibility to appoint one or more members who might already be confirmed members of his Administration. In light of the possibility that more than one member may not have full time status, the Committee feels that the Executive Director should be a full time employee.

C. Responsibilities and authorities of the council

Section 4 describes the primary responsibilities of the Council, as follows:

(1) to assist and advise the President in establishing a coherent national materials policy consistent with other Federal policies, and in carrying out activities necessary to implement such a policy. It is the Committee's intent that, for example, policy related to the Nation's materials, energy and environmental needs should be considered and evaluated in integrated form. Likewise, given the complicated politics and questions of importation, materials, policies should be duly considered in foreign policy and national security questions;

(2) to coordinate materials-related policies, programs, and research and development activities, including those related to critical materials, within the Federal Government;

(3) to review and appraise the various programs and activities of the Federal Government in accordance with the policy and directions given the National Materials and Minerals Policy, Research and Development Act of 1980 (Public Law 96-479), and to determine the extent to which such programs and activities contribute to the achievement of such policy and directions;

(4) to formulate and recommend to the President national policies designed to improve conditions affecting the mineral and materials needs and resources of the Nation, and to meet the social, economic and national security goals of the Nation. By social goals, it is the Committee's intent that the Nation's materials needs must be balanced with other national needs such as environment or energy. Such policies should consider, as well, measures for economic analysis and such financial, tax and regulatory incentives as may be necessary to stimulate industrial innovation and productivity in materials technologies but not to the detriment of environmental or energy needs;

(5) to advise the President of mineral and material trends, both domestic and foreign, of the implications to the economy of the United States and the world and to national security. The probable effects of such trends on domestic industries should also be considered. Given the Nation's import vulnerability—particularly with respect to critical and strategic materials such as chromium, cobalt, manganese, and the platinum-group metals—it is important that conditions in southern Africa, for example, where most of the world's reserves of materials are located, be carefully appraised; and

(6) to make or furnish such studies, analyses, reports and recommendations with respect to materials or materials-related policy and legislation as the President may request.

Section 4(b) authorizes the Council to establish such special advisory panels as it considers necessary in carrying out its responsibilities. Each such panel should consist of representatives from industry, academia, and other members of the private sector, not to exceed ten members, and is intended to be limited in scope and duration. The Committee feels strongly that such outside consultative ties be established in the conduct of the Council's business. In addition, the Committee feels strongly that nonprofit, private interest groups have an adequate opportunity to participate in the overall formulation of such policy. Similarly, the Council shall establish and convene such Federal interagency committees as it considers necessary in carrying out the intent of this Act.

Section 4(c) calls attention to the need for collaboration and cooperation between the Council and other Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy. The latter may include among others the National Security Council, the Council on Environmental Quality, the Office of Management and Budget, and the Office of Science and Technology Policy.

D. Research and development policy

In addition to the responsibilities described in Section 4, the Committee concurs that the Council shall have specific responsibility for overseeing and collaborating with appropriate agencies and departments of the Federal Government relative to Federal materials research and development policies and programs. In this context, Section 5 again emphasizes the need that such policies and goals are described in the National Materials and Minerals Policy, Research and Development Act of 1980, including providing a balance between materials, environmental and energy policies. In carrying out this responsibility, the Council shall: (1) annually review the materials research and development authorization and budgets of all Federal agencies and departments. In addition, in this context, the Council shall, and the Committee agrees, in cooperation with the Office of Science and Technology Policy, the Office of Management and Budget, and other Federal offices and agencies as deemed appropriate, ensure close coordination of the goals and directions of such programs with the policies as determined by the Council. Such a review process would ascertain any duplication, deficiencies in programs, opportunities for industrial innovation, and others; and (2) assist OSTP in the preparation of such long-range materials assessments and reports as may be required by the National Materials and Minerals Policy, Research and Development Act of 1980, as well as providing assistance to other Federal entities in the preparation of analyses and reports related to critical materials.

E. Compensation of members and reimbursements

Section 6(a) stipulates that members of the Council shall serve full time if appropriate. Such members shall be paid at the rate of basic pay provided for level III of the Executive Schedule while the chairman shall be paid at the rate provided for level II. Reimbursement from any private nonprofit organization or from department, agency, or instrumentality of the Federal Government for reasonable travel expenses incurred by any member or employee of the Council in connection with such member's or employee's attendance at any conference, seminar or similar meeting is also provided for in Section 6(b).

F. Position of the executive director

This section deals with the appointment by the Council of an Executive Director, who shall be the chief administrator for the Council. The Director shall be paid at the rate of basic pay provided for level IV of the Executive Schedule and is given the authority described in Section 7(b); namely, (1) to employ such personnel as may be necessary for the Council to perform its duties and functions under this Act, but not to exceed twelve compensated employees; (2) to obtain the services of experts and consultants in accordance with the provisions of Section 3109 of title 5, United States Code; and (3) to develop such rules and regulations as are necessary to carry out the purposes of this Act. Section 7(c) allows for the possibility notwithstanding Section 367(b) of the Revised Statutes (31 U.S.C. 665(b)), that the Council may utilize voluntary and uncompensated labor and services in carrying out its duties and functions.

G. Responsibilities and duties of the director

The Director shall assist and advise the Council on policies and programs of the Federal Government affecting critical materials by the following means, identified in Section 8(a):

(1) providing for professional and administrative staff and support for the Council;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, including research and development, which affect critical materials availability and needs;

(3) cataloging, as fully as possible, research and development activities of the

Government, private industry, and public and private institutions;

(4) monitoring and evaluating the critical materials needs of basic industry and the Government, including the critical materials research and development needs of the private and public sectors;

(5) initiating Government and private studies and analyses, including those to be conducted by or under the auspices of the Council, designed to advance knowledge of critical materials issues and develop alternatives, including research and development, to resolve national critical materials problems;

(6) issuing a biennial report providing a domestic inventory of critical resources with projections on the prospective needs of government and industry for these resources, including a long-range assessment, prepared in conjunction with the Office of Science and Technology Policy in accordance with the National Materials and Minerals Policy, Research and Development Act of 1980 and in conjunction with such other Government departments or agencies as may be considered necessary, of the prospective major critical materials problems which the United States is likely to confront in the immediate years ahead and providing advice as to how these problems may best be addressed; and

(7) recommending to the Congress such changes in the current policies, activities, and regulations of the Federal Government, and such legislation, as may be considered necessary to carry out the intent of this Act and the "National Materials and Minerals Policy, Research and Development Act of 1980".

Section 8(b) allows that the Director, in exercising his responsibilities and duties under this Act, (1) may consult with representatives of science, industry, labor, State and local governments, and other groups; and (2) shall utilize to the fullest extent possible the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals.

H. Authority

Section 9 authorizes the Council:

(1) to prescribe such rules and regulations as may be necessary for its operation;

(2) to enter into contracts and acquire property necessary for its operation to such extent or in such amounts as are provided for in appropriation Acts;

(3) to publish or arrange critical materials information that it deems to be useful to the public and private industry to the extent that such publication is consistent with the national defense and economic interest;

(4) to request available information from private and public sources which it considers necessary in the discharge of its duties if—

(A) in the case of a request for information from a private source, the furnishing of such information will not create an undue burden or hardship on such sources; or

(B) in the case of a request for information for a public source, the furnishing of such information is permitted by law; and

(5) to exercise such authorities as may be necessary and incidental to carrying out its responsibilities and duties under the Act.

I. Authorization of appropriations

Section 10 authorizes appropriations to carry out the provisions of the Act in the sum of up to $1,000,000 for the first fiscal year and such sums as may be necessary thereafter.

J. Definition

Section 11. As used in this Act, the term "materials" has the meaning given it by section 2(b) of the National Materials and Minerals Policy, Research and Development Act of 1980.

VIII. LEGISLATIVE HISTORY OF THE BILL

H.R. 4281, Critical Materials Act of 1981, was introduced by Mr. Fuqua for himself and Mr. Glickman, Mr. Walgren, Mr. Brown of California, Mr. Santini, Mr. Roe, Mrs. Bouquard, Mr. Flippo, Mr. Young of Missouri, Mr. McCurdy, Mr. Dymally, Mr. Bedell, Mr. Bennett, Mr. Breaux, Mr. Daniel, Mr. Rahall, Mr. Hollenbeck, Mr. Forsythe, Mr. Ritter, Mr. Young of Alaska, Mr. Lujan, Mr. Bevill, Mr. Rudd, Mr. Skeen, and Mr. Lehman, on July 27, 1981. The bill was referred to the Committee on Science and Technology and subsequently to the Subcommittee on Transportation, Aviation and Materials.

Testimony associated with the implementation of P.L. 96-479, "The National Materials and Minerals Policy, Research and Development Act of 1980," was heard before the Committee on Science and Technology on July 28, 1981. The purpose of this hearing was to review the progress of the Executive Branch in preparing the response called for in P.L. 96-479 as well as to consider related legislation, H.R. 4281 in particular, which was introduced prior to the hearings. Oversight hearings on P.L. 96-479 and H.R. 4281 were held on April 20 and 22, 1982, before the Subcommittee on Transportation, Aviation and Materials and the Subcommittee on Science, Research and Technology. Witnesses from the President's Office of Science and Technology Policy, the Departments of Commerce, Defense and the Interior, and the Office of Technology Assessment. Representatives of national materials professional societies and industry were also heard during these sessions.

On July 29, 1982 the Subcommittee on Transportation, Aviation and Materials met for the purpose of marking up the bill. The bill, as amended, was passed by voice vote and ordered reported to the full Committee for further action.

On August 11, 1982, the Committee met for the purpose of marking up the bill. After further amendment, the bill was ordered reported as amended by a roll call vote of 37 yeas and 1 nay.

The following is a list of witnesses who testified at the above hearings:

July 28, 1981:

Dr. William O. Baker, Chairman of the Board (retired) Bell Laboratories.

Dr. Simon D. Strauss, consultant to ASARCO, Inc., and Chairman of the Minerals Availability Commission, American Mining Congress.

Mr. Joseph R. Wright, Deputy Secretary of Commerce, Department of Commerce.

Mr. William P. Pendley, Deputy Assistant Secretary for Energy and Minerals, Department of the Interior.

Mr. Robert Trimble, Acting Deputy Undersecretary for Research and Engineering, Department of Defense.

Mr. John M. Marcum, Assistant for Energy and Natural Resources, Office of Science and Technology Policy.

April 20, 1982:

Mr. John M. Marcum, Assistant for Energy and Natural Resources, Office of Science and Technology Policy.

Mr. Robert D. Wilson, Director, Office of Strategic Resources, Department of Commerce.

Mr. Richard Donnelly, Director of Industrial Resources, Office of the Deputy Undersecretary for Research and Engineering, Department of Defense.

Mr. William P. Pendley, Deputy Assistant Secretary for Energy and Minerals, Department of the Interior.

Mr. Stanley V. Margolin, Immediate Past President, Federation of Materials Societies.

Ms. Hope M. Babcock, Deputy Counsel, National Audubon Society.

April 22, 1982:

Dr. Joel S. Hirschorn, Project Director, Office of Technology Assessment.

Mr. Richard C. Mulready, Vice President, Technology, Pratt and Whitney Group, United Technologies.

Mr. E. F. Andrews, Vice President, Materials and Services, Allegheny International.

Dr. George Lubin, representing The Society of the Plastics Industry.

Dr. James I. Mueller, President, American Ceramics Society.

IX. COST AND BUDGET DATA

The bill authorises to be appropriated up to $1,000,000 to carry out the provisions of the Act for the fiscal year ending September 30, 1984, and such sums as may be necessary thereafter.

X. EFFECT OF LEGISLATION ON INFLATION

In accordance with Clause 2(1)(4), Rule XI of the Rules of the House of Representatives, this legislation is assessed to have no inflationary effect on prices and costs in the operation of the national economy.

XI. CONGRESSIONAL BUDGET ACT INFORMATION

The bill provides for new authorization rather than new budget authority and consequently the provisions of section 308(a) of the Congressional Budget Act are not applicable.

Under a separate section of this report, a five-year current programs estimate is provided in response to the requirement of section 403 of the Congressional Budget Act of 1974.

XII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

The Committee has received the following communication regarding the cost of H.R. 4281 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 11, 1982.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 4281, the Critical Materials Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,
ALICE M. RIVLIN, *Director.*

Congressional Budget Office—Cost estimate

1. Bill number: H.R. 4281.
2. Bill title: Critical Materials Act of 1982.
3. Bill status: As ordered reported by the House Committee on Science and Technology, August 11, 1982.
4. Bill purpose: The bill establishes a three-member council on critical materials under the Executive Office of the President to coordinate and implement critical materi-

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als policies, including research and development, among the various federal agencies and departments, and to ensure adequate and continuing consultation with the private sector concerning critical materials, material research and development, federal materials policies and related matters. The council will appoint an executive director to assist the council. The director will be assisted by a staff of up to 12 persons and may obtain the services of experts and consultants.

5. Cost estimate:

Estimated authorization level:

Fiscal year:	*Millions*
1983	
1984	$1.0
1985	1.1
1986	1.1
1987	1.2

Estimated outlays:

Fiscal year:	
1983	
1984	.9
1985	1.0
1986	1.1
1987	1.2

The costs of this bill fall within budget function 800.

6. Basis of estimate: For the purpose of this estimate, it is assumed that this bill will be enacted in fiscal year 1982, and that the full amounts authorized will be appropriated prior to the start of each fiscal year.

The bill authorizes up to $1 million for fiscal year 1984 and such sums as necessary thereafter. The 1985–87 costs shown above reflect the 1984 authorization adjusted for inflation. Based on historical experience of similar councils, it has been estimated that 90 percent of each year's appropriation would be spent in the first year with the remainder spent in the following year.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Walter Raheb.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum, Assistant
Director for Budget Analysis).

XIII. OVERSIGHT FINDINGS AND RECOMMENDATIONS, COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to Clause 2(b)(2), Rule X, and Clause 2(1)(3), Rule XI of the Rules of the House of Representatives, no findings or recommendations have been submitted by the Committee on Government Operations for inclusion in this report.

XIV. OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to Clause (1)(3), Rule XI of the Rules of the House of Representatives, under the authority of Clause 2(b)(1) and Clause 3(f), Rule X, the Committee's oversight findings and conclusions are reflected in the recommendations found in the present bill and report.

XV. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with Clause 3 of Rule XIII of the Rules of the House of Representatives, it is hereby stated that no changes to existing law result from H.R. 4281.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on S. 2562, Federal Energy Reorganization Act of 1982 on Wednesday, September 15, at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Mike Mitchell at 224–4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on the General Services Adiministration on Thursday, September 16, at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Link Hoewing at 224–4751.

ADDITIONAL STATEMENTS

FRAUD HOTLINE UPDATE

● Mr. SASSER. Mr. President, in the bleak terrain that is the Federal budget picture, there are few bright spots that are cause for cheer. The Washington Post wrote about one of them today, however, when it featured an article on the General Accounting Office (GAO) and its nationwide, toll-free fraud hotline. Operated by GAO's fraud task force, the hotline has been responsible for saving millions of American taxpayer dollars each year, and in doing so, clearly justifying the one-half of a million dollars annually it cost to maintain the operation.

The purpose of the hotline is clear. Instances of waste, fraud, and abuse in the Federal Government can be corrected, prevented, or punished more readily if citizens can report such suspected instances as quickly and easily as possible. This kind of reporting can best be done through a nationwide, toll-free hotline telephone number which guarantees anonymity to the caller if he or she wishes. In the case of the GAO hotline the nationwide number is 800–424–5454; for the Washingtion, D.C., metropolitan area, the number is 633–6987.

Almost 4 years ago, as chairman of the Senate Appropriations Subcommittee on the Legislative Branch, I proposed the establishment of such a hotline. Along with the support of my former colleague on the subcommittee, now Health and Human Services Secretary Richard Schweiker, and the cooperation of then-Comptroller General Elmer Staats, the hotline was launched in January 1979.

Now, 44 months and 41,000 calls later, the hotline has not only proven its efficacy, but, as the Washington Post article notes, this legislative initiative has prompted the establishment of similar operations within a number of Federal agencies.

Ideally, there should be no need for such hotlines, for, ideally, there should be no waste, fraud, or abuse in the conduct of our Federal Government. It is present, however. And now, when nearly every sector of American society is suffering through the worst economic conditions in generations, it is more important than ever to save every Federal budget dollar where possible, and to prevent every penny of waste where practical.

GAO's nationwide, toll-free fraud hotline is doing just this. I am glad that the Post has taken notice of the hotline and its worth to our Government and its citizenry.

I should point out, too, that such efficiency is not an accident. The fraud task force which oversees the hotline is especially dedicated to its task and maintains good records on its operation. The trends and totals in the hotline calls have been useful guides in the development of other legislation designed to promote efficiency and prevent waste, fraud, and abuse in Federal agencies.

Comptroller General Charles Bowsher, who succeeded Elmer Staats in the post last year, has provided the hotline and the fraud task force with the same firm support as his predecessor. With such support from the top and with such dedicated personnel in the operation itself, I am sure we can look forward to continued good results from the hotline.

Mr. President, I ask that the Washington Post article, complete with its listing of various Federal agency hotline numbers, be printed in the Record.

The article follows:

They Let Their Fingers Do the Squawking

(By Pete Earley)

The first call came six minutes after Les Krings began his two-hour shift answering the General Accounting Office's national fraud hotline.

The caller, a woman in the Midwest, said a relative should be arrested for collecting Social Security disability benefits while holding a full-time job.

"She decided to call because she was tired of hearing her brother-in-law brag about how much jewelry he could buy his wife with the benefit checks," said Krings, a GS12 who takes a break once a month from other auditing assignments to answer the hotline telephone.

During the next hour he received three more calls. Two callers wanted to know what the GAO had done with information they had already phoned in. The third, an Ohio man, complained that he had had to discuss "extremely personal matters" in a crowded room when he had applied for free legal aid recently.

"Sometimes," Krings said, "we play the role of a psychiatrist."

Since Jan. 18, 1979, GAO employes have received more than 41,000 tips from the public on their phone line. Some of the calls, particularly those left overnight on the agency's three answering machines, can cause them to shudder—such as the caller who left a 90-minute diatribe against the government, complete with expletives.

But there have been some gems, according to Gary Carbone, the GS–14 who oversees the project. Based on GAO hotline tips:

The General Services Administration discovered that it had wasted $330,000 by renting 18,000 feet of office space in New York

City that went unused for nearly two years. It canceled the lease.

Two University of Wisconsin professors were convicted of misusing $160,000 in federal grant money and extorting an undisclosed sum from their students. Both recently were sentenced to three years in prison.

A New Jersey prison superintendent and key aides were forced to resign after they were linked to a parole-selling scheme.

The hotline was the brainchild of Sen. Jim Sasser, a member of the Senate Appropriations subcommittee that oversees the GAO. The project, budgeted at $500,000 for fiscal 1982, has the equivalent of four full-time employes of its own and draws on another 32 employes from the fraud prevention and audit oversight section at GAO to answer the phones.

Seventeen other federal agencies also have started hotlines. Most of their callers are government employes reporting waste, fraud and mismanagement.

At the GAO, however, 70 percent of the tips come from the public. That means it gets more calls than does any other agency, averaging 70 per day. But many of the tips cannot be followed up, Carbone said, because tipsters often are not sure which federal agency they are talking about—or even if federal funds are involved.

A common tip, Carbone said, is what hotline staffers call the "woodchopper"—a complaint that a neighbor, co-worker, friend or relative is receiving disability payments yet is strong enough to mow the lawn or chop wood. Such tips are hard to check out unless the caller knows what kind of federal benefit the person is receiving. Often there is a valid explanation for what the tipster saw, Carbone said, but some of the tips have led to convictions.

Carbone said his office has never done a complete statistical survey of its hotline calls. "They come in so fast we just haven't had time," he said. But earlier this year Carbone examined the 41,000 calls the agency has received during office hours since the hotline began.

The most common tip (1,259 of those tallied) involved Social Security benefits, followed by allegations of tax cheating and welfare and food stamp fraud.

Carbone said 11,676 tips had enough information and appeared serious enough to investigate. After additional screening, the GAO pared those to 7,481 tips—706 alleging "mismanagment" and 5,775 intentional wrongdoing.

The tips were forwarded to the inspector general at the appropriate agency, but Carbone said the GAO has never done a study of what happened to them after that. The GAO asks the IGs to respond within 60 days, but usually the IG simply says the complaint is still being investigated.

It now takes the GAO 90 days to review a tip and then forward it to a federal agency, Carbone said, unless the accusation involves a high-ranking official or a contract that is about to be signed. Then the time is cut to a week.

In rare instances a tipster will try to misuse the hotline, Carbone said. A caller will accuse a federal employe of wrongdoing, then call his boss or a local reporter and tell them the employe is being "investigated by the GAO."

Krings said his favorite hotline story is about a woman who tried to turn in her daughter for collecting more food stamps than she deserved.

The woman, Krings said, said the daughter had stopped giving her a percentage of the stamps. Before she hung up, she asked if she would get a reward.

WHERE TO CALL ABOUT WASTE AND FRAUD

Here are the telephone numbers for reporting waste and fraud to various federal agencies, according to the General Accounting Office. Some of the numbers are hotlines, others are the office of the agency's inspector general. The first number listed is the local number, the second, a nationwide toll-free number.

Agriculture, 472-1338/800-424-9121.
Commerce, 724-3519/800-424-5197.
Defense, 693-5080/800-424-9098.
Education, 755-2770/none.
Energy, 252-4073/none.
Environmental Protection Agency, 382-4977/800-424-4000.
General Accounting Office, 633-6988/800-424-5454.
General Services Administration, 566-1780/800-424-5210.
Health and Human Services, 472-4222/800-368-5779.
Housing and Urban Development, 472-4200/none.
Interior, 343-2424/800-424-5081.
Labor, 357-0227/800-424-5409.
NASA, 755-3402/800-424-9183.
Social Security Administration, 301-594-5000/800-367-5779.
Small Business Administration, 653-7557/none.
Transportation, 755-1855/800-424-9071.
Treasury, 566-6900/none.
Veterans Administration, 389-5394/none.●

THE OMNIBUS VICTIM/WITNESS PROTECTION ACT

● Mr. HEINZ. Mr. President, I submit for the Record a letter from Alice Rivlin, Director of the Congressional Budget Office dated September 10, 1982. When Report 97-532 on S. 2420, the Omnibus Victim/Witness Protection Act was filed, the necessary budget analysis was not yet available. I have consulted with Senator Thurmond, who has given me his permission to have the CBO letter for Report 97-532 made part of the record.

The letter follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., September 10, 1982.

Senator Strom Thurmond,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2420, The Omnibus Victims Protection Act of 1982, as reported by the Senate Committee on the Judiciary, August 19, 1982. For the purpose of this estimate, it is assumed that this bill will be enacted by October 1982.

Title I requires that presentence reports prepared for federal district judges contain a victim impact statement, assessing the financial, social, psychological, and medical impact of the offense on identifiable victims. Based on information from the Administrative Office of the U.S. Courts, and assuming that about 20 percent of presentence reports would require such statements in 1983, CBO estimates that the cost of this program would be about $300,000 in 1983, increasing to $500,000 by 1987.

Section 201 of the bill provides criminal penalties for the intimidation of or retaliation against witnesses and victims. CBO has no basis for estimating the amount of fines the government might receive as a result of these provisions.

Section 202 broadens the authority of the Attorney General to provide witness protection, authorizes the Attorney General to seek reimbursement of witness protection expenses from state or local governments, and permits certain civil actions to prevent or restrain intimidation of a victim or witness. The extension of protection to the new categories of witnesses is at the discretion of the Attorney General, and would necessitate either a reduction in expenditures for protection of other types of witnesses, an increase in funding for witness protection, or additional reimbursment from a state or local government, when appropriate. Thus, the extent to which the broadened authority will be used, and whether any additional costs will be incurred, cannot be determined at this time.

Title IV authorizes individuals to sue the federal government for injuries or death caused by persons who escape or are released from federal custody where the government has been grossly negligent. Data are not available on the number of individuals victimized by federal escapees or released federal prisoners. Because it is not possible to predict the number of escapees or judicial findings of gross negligence associated with such victimization, CBO has no basis for estimating the costs to the government of enactment of this provision.

Title V requires the Attorney General to develop and implement Department of Justice guidelines for fair treatment of crime victims and witnesses. Based on information from the Department of Justice, CBO estimates that developing the guidelines would require approximately 3 staff-years, at a cost of $125,000 in fiscal year 1983. Because the guidelines have not as yet been promulgated, CBO has no clear basis for estimating their implementation costs. The Committee has stated its intent that the guidelines should not require the creation of new services beyond the various departments' budgetary capacity. However, the bill specifies a minimum of 9 objectives for the guidelines, and some costs could be incurred in order to meet these objectives, subject to appropriation action. For example, if the 95 U.S. Attorneys' offices were to devote an average of only one additional paralegal each to implement the guidelines, the cost would be approximately $3 million annually.

The other titles of the bill are expected to result in no significant cost to the federal government.

Should the Committee so desire, we would be pleased to offer further details on this estimate.

Sincerely,
Alice M. Rivlin, *Director.*●

CANADIAN PUGWASH SUPPORTS NUCLEAR WEAPONS FREEZE

● Mr. KENNEDY. Mr. President, I should like to call the attention of my colleagues to the declaration made recently by the Canadian Pugwash Group, part of the worldwide Pugwash movement, which is composed of some 2,000 scientists. This movement grew out of a conference of scientists held at Pugwash, Canada, 25 years ago,

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which was inspired by the manifesto of Bertrand Russell and Albert Einstein to address the perils of the cold war and the nuclear arms race. Then, as now, the Pugwash movement represented concerned scientists determined to insure that the technological fruit of scientific progress not be made into the instrument of human extinction. In the words of these experts, expressed 25 years ago and reaffirmed with urgency this summer:

> Mankind is confronted with a choice: We must halt the arms race and proceed to disarmament, or face annihilation.

At their recent meeting, the Canadian Pugwash Group concluded that:

> The only sure way of halting the arms race is by freezing the testing, production, and deployment of nuclear weapons and their delivery vehicles by the two superpowers.

I welcome this unequivocal and authoritative endorsement of a nuclear weapons freeze. It underscores the need to respond to the overwhelming challenge of the present peril by pursuing an immediate, mutual, and verifiable freeze over nuclear weapons.

I commend this statement to my colleage, and request that it be printed in full at this point in the RECORD.

The statement follows:

DECLARATION BY THE CANADIAN PUGWASH GROUP ON THE 25th ANNIVERSARY OF THE HOLDING OF THE FIRST PUGWASH CONFERENCE AT PUGWASH, CANADA, IN JULY 1957

A quarter of a century ago a small group of 22 distinguished scientists from 10 East-West countries, assembled in Pugwash, Nova Scotia, on the invitation of Mr. Cyrus Eaton, to seek ways of ending the Cold War, preventing a hot war and avoiding a nuclear holocaust. They were inspired by the Russell-Einstein Manifesto pointing to the dangers of a nuclear war that could put an end to the human race.

That meeting gave its name to the Pugwash Movement which has spread around the world and now encompasses some 2000 scientists from 75 countries.

Today, on the invitation of Canadian Pugwash, another small group of scientists, including signers of the Russell-Einstein Manifesto and participants in the first Pugwash Conference, have gathered in Pugwash to commemorate the 25th Anniversary of that first meeting. There follows the statement adopted by the Canadian Pugwash Group.

During the intervening years the nuclear peril facing the nations and the peoples of the world has escalated and is now much greater than it was 25 years ago. Nine multilateral treaties and thirteen bilateral American-Soviet treaties and agreements on arms limitation have failed to halt the arms race which continues to escalate. The arms race, and in particular the nuclear arms race, is proceeding in a more dangerous way than ever before. The threat it poses to human survival knows no parallel in all history.

Increasing numbers of scientists and the public realize that peace and security cannot be found in the vast and continuing accumulation of weapons of destruction or in the current concepts of deterrence. Unfortunately, however, others, including some in position of authority, speak of fighting, surviving and even winning a limited nuclear war, a protracted nuclear war or an all-out nuclear war. We believe that these illusions verge on insanity and can only lead to a mad race to oblivion.

We agree with and fully support the declaration of 1978 of the United Nations General Assembly's First Special Session on Disarmament: "Removing the threat of world war—a nuclear war—is the most acute and urgent task of the present day. Mankind is confronted with a choice: we must halt the arms race and proceed to disarmament or face annihilation."

There now exist some 50,000 nuclear weapons whose destructive power is more than one million times greater than the bomb that destroyed Hiroshima. Not only is the number of weapons increasing but, what is worse, the nuclear arms race is now mainly a qualitative race rather than a quantitative one. The rapid pace of technological innovation and the development of new, more accurate and more devastating weapon systems so far exceeds the slow pace of arms control and disarmament negotiations as to make a mockery of the efforts to halt and reverse the arms race. The threat of nuclear annihilation, either by design or as a result of accident, desperation, miscalculation, or panic, grows greater year by year.

In these circumstances, the only sure way of halting the nuclear arms race is by freezing the testing, production and deployment of all nuclear weapons and their delivery vehicles by the two superpowers. Such a freeze is a necessary first step to major reductions in the stock piles of these weapons and toward the goal of their eventual elimination. Indeed, a reduction in the number of nuclear weapons and their delivery systems, without a freeze, could be meaningless. The modernization of older weapon systems and the development of even more horrible and threatening new ones could completely negate the effect of any reduction in numbers. A technological freeze is as necessary as numerical reductions, and even more urgent. Moreover, if small nuclear delivery vehicles, such as cruise missiles, are produced and deployed in large numbers, it will be extremely difficult, if not impossible, to verify their limitation and reduction. Thus, time is indeed running out on efforts to halt and reverse the nuclear arms race.

Recently there have been several hopeful developments as people all over the world have become alerted to the dangers of the nuclear arms race. Millions have rallied to demand a stop to the arms race, and a great human cry for a nuclear freeze is surging around the world.

Another hopeful development is the growing demand that additional Governments pledge[1] not to be the first to use nuclear weapons. Declarations of no-first-use by all the nuclear weapon powers would be tantamount to declarations never to use these weapons. We believe that any imbalance in conventional forces is not of such dimensions as to prevent the making of no-first-use pledges; the making of such pledges, however, could be more readily agreed to if there were agreement on mutual balanced conventional forces in Europe.

It is also encouraging that several scientific inventors of some of the most sophisticated nuclear weapon systems ever conceived by the mind of man now oppose their use and urge their abolition.

In the light of these developments, we believe that the scientists of the world—and particularly those who are members of the Pugwash Movement—have a duty to help inform and educate the governments and peoples of the world about the dangers of the nuclear arms race and to explore ways of improving international security in order to avoid a nuclear war.

The members of the Canadian Pugwash Movement and the distinguished guests invited to join them at this 25th Anniversary Commemorative Meeting at Pugwash, Canada, call on the Pugwash Movement and the scientists of the world to intensify their efforts and to rededicate their energies and activities to the abolition of the threat of nuclear war and to the establishment of a just and secure world order.●

THE MOSCOW HELSINKI GROUP IS PRESSURED TO END ITS WORK

● Mr. D'AMATO. Mr. President, I recently received the gloomy news that the Moscow Helsinki Monitoring Group has halted its activities. Elena Bonner, wife of renowned Soviet dissident Andrei Sakharov, issued a statement to journalists saying that the cruel persecution of the human rights group forced a halt to its activities. The group had been formed in May 1976 by a group of Soviet citizens dedicated to promoting compliance by their Government with the Helsinki Final Act. Collecting and disseminating information on violations of the human rights provisions of the Final Act, these courageous individuals selflessly risked persecution. The threat of arrest and imprisonment did not deter them from their noble pursuit. Other Helsinki Monitoring Groups were also formed in Ukraine, Lithuania, Georgia, and Armenia. The members of these groups were soon harassed. arrested, sentenced to labor camps, put in special psychiatric hospitals, and otherwise persecuted for their activities. Of the 17 individuals who comprised the Moscow group, 10 are imprisoned, 4 have either been allowed or forced to emigrate, and only 3 remain in Moscow. On Monday, one of the last three members of the group still at liberty, Sofya Kalistratova, was threatened with the charge of anti-Soviet activity. In these difficult circumstances, the group was forced to abandon its work.

I wish to draw my colleagues' attention to the fate of Malva Landa, an imprisoned member of the Moscow Helsinki Group. For 20 years, Landa worked as a geologist and for 10 years as editor of various geological publications. Because of her political activities, she was forced to do manual labor for several years preceding her retirement.

Landa's parents were Jewish, and her father perished in Stalin's camps. Landa's own activism can be dated back to 1971 when she became involved in the human rights movement in Moscow. After Ginzburg's arrest in February 1977, she assumed trusteeship of Solzhenitsyn's Russian Public Fund for the Aid of the Families of Political Prisoners.

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[1] Such pledges were made by China in 1964 and by the U.S.S.R. during the Second U.N. Special Session on Disarmament in 1982.

On May 31, 1977, Landa was sentenced to 2 years of internal exile under articles 99 and 150 of the RSFSR Crininal Code, "Negligent destruction or damaging of State property and personal property." These charges related to a fire, probably set by the police, that occurred in her apartment in December 1976. After serving 8 months of her term, she was amnestied in commemoration of the 60th anniversary of the October revolution.

She has been the organizer of numerous protests against arrests on political charges and is very active in circulating samizdat materials and information on camp conditions. Landa had been subjected to numerous interrogations, house searches, and detentions during her visits to Moscow. On March 26, 1980, she was sentenced to 5 years of internal exile for anti-Soviet slander.

Mr. President, we cannot forget Malva Landa and the other brave human rights activists. As a member of the U.S. Commission on Security and Cooperation in Europe, which monitors compliance with the Helsinki accords, I can assure you that I will continue to speak out on behalf of those imprisoned for holding dear the human rights ideals in the Helsinki Final Act. The Soviet Government, which is flagrantly violating both the letter and spirit of the Helsinki accords, must not be allowed to think that the dissolution of the Moscow group will distract our attention from further violations of the rights of the Soviet peoples. The Soviets must understand that the idea of human rights is one that will continue to flourish despite their repressive actions.●

THE ABORTION CONTROVERSY

● Mr. **JEPSEN**. Mr. President, all too frequently, because of the controversy surrounding an issue, many pertinent facts are glazed over or misstated. Columnist William F. Buckley, Jr., recently wrote a column addressing some misinformation relating to the abortion controversy.

I ask that the column which appeared in the Washington Post on August 25 be printed in the RECORD.

The article follows:

PRO-ABORTION BLATHER

(By William F. Buckley, Jr.)

The Planned Parenthood people have been featuring a full-page ad of a bed, with three people under the covers sitting upright, unsmiling. On the left the young woman, in her nightie. On the right, the young man in his pajamas. Between them, dressed in a business suit, a grim-faced middle-aged man. The headline: "The Decision to Have a Baby Could Soon Be Between You, Your Husband and Your Senator."

The brief textual message warned about a bill in the U.S. Senate that "could deprive you of your most fundamental personal rights: the right to have the number of children you want. When you want them. Or to have none at all." And it continues: "Sponsoring the bills are Jesse Helms, Orrin Hatch and other right-wing U.S. senators who will stop at nothing to impose their particular religious and personal beliefs on you."

Now, we live in an age when people will publicly swear to it that to be refreshed you need only a glass of Coca-Cola or to be nourished a cup full of Wheaties; and we smile at our own commercial exuberance. But along the way a lobby crystallized that began to insist on certain restrictions. They tend to crowd under the generic heading of truth-in-selling. What galls is that the very same people who are mobilizing to resist outrageous hyperbole by cornflakes vendors sponsor, and tolerate, the kind of disingenuous, hypocritical blather for which Planned Parenthood should be driven out of business.

To reason from the disapproval of abortion an aggressive desire to regulate the size of a family is as reasonable as to charge that any senator who opposes infanticide aggresses against the sovereign right of the parents to decide on how large a family to have.

And then the sly business about senators who "will stop at nothing to impose their particular religious and personal beliefs on you." What is that supposed to mean? What beliefs is a legislator supposed to act upon? Elvis Presley's? If a legislator believes that it is religiously wrong, let us say, to kill one's aged grandparent, is he exercising sectarian aggression in acting on that belief by voting against euthanasia? Are we supposed to ask: what is the religion of the Planned Parenthood people? And are the "acting" on that religion in insisting that the newly discovered (1973) right to terminate the life of an unborn child be guaranteed by the federal government?

What gets you about the pro-abortion people, when all is said and done, is their persistent refusal to face up to the only serious question involved in this heated controversy. It is as if, 150 years ago, slaveowners had taken out full-page ads asking whether you wanted Congress to decide whether you could own property. No, no, no, the abolitionists said. It isn't a question of whether the people should be permitted to own property. It is a question of whether black people can qualify as property. Well, the right-to-life people are saying no, no, no, the question isn't how large a family the parents desire. The question is whether the implementation of that right should include the right to kill a substance that is more accurately described as human life than as animal life.●

PORT DEVELOPMENT

● Mr. **ABDNOR**. Mr. President, I would like to discuss the issue of port development, as it relates to our trade obligations with our allies.

I, along with my colleague from New York, Senator DANIEL PATRICK MOYNIHAN, sponsored S. 1692, the National Harbor Development and Maintenance Act. Other Senators have also introduced legislation which deals with ports development and maintenance. Mr. President, each of these bills would result in the establishment of some user fee or tax. Any legislation should be designed so that such fees or taxes are consistent with the General Agreement on Trade and Tariffs (GATT). The GATT is a carefully negotiated international agreement which defines the limits to fees and taxes imposed on international commerce. Its major purpose is to prevent the signatories from taking any action which would provide hidden or indirect protection to domestic production.

In order to assure ourselves that S. 1692 was consistent with GATT, Senator MOYNIHAN and I wrote to the Honorable William Brock, U.S. Special Trade Representative. We asked Ambassador Brock to define the articles of the GATT which would affect port user fees or taxes. We also asked how a variety of changes in proposed legislation would affect GATT.

Ambassador Brock's response is very detailed and I would like to share it with my colleagues in its entirety. However, I believe it would also be useful to summarize the major points covered by the response to our letter.

The following is a brief description of the two articles of the GATT which relate most directly to port development and maintenance.

Article III imposes restrictions on taxes. It requires that any tax structure not discriminate against imported products. Revenues raised from a tax covered by article III would have to be deposited into general tax revenues, not a trust fund. Taxes which could cause GATT problems are:

First, taxes which directly discriminate against imports. These include:

Taxes only on imports; or

Higher taxes on imported products than on exported products or domestic trade.

Second, taxes which indirectly discriminate against imports. These include:

Tax structures which impose higher tax rates for products which are generally imported (such as TV's) than for products which are generally exported (such as grain).

Ad valorem taxes, which will most likely result in higher taxes for imported, high value commodities, as compared to lower value, export commodities, such as grain or coal.

Article VIII relates to fees; that is, assessments to pay for a specific service, such as dredging. If revenues are to be deposited into a trust fund, it is highly likely that, from the perspective of GATT, such assessments will be considered fees. Article VIII requires that fees be related to the cost of service provided.

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Fees which could result in GATT problems are:

First, ad valorem fees or differentiated fees for various products. This is because the value of a product is not related to the need for dredging.

Second, fees at a specific port which are not directly related to the cost of dredging that port.

I must point out to my colleagues that the higher a fee is, the more intense the potential GATT problem will be. For example, if a fee were based only on current maintenance costs, the fee would average 18 cents per ton of commercial traffic. It is likely that another country would not go to the trouble of objecting to such a relatively small fee, even if it is contrary to the provisions of GATT.

On the other hand, if fees were to be based on construction, they would be considerably higher. The possibility of a protest or retaliatory action will substantially increase. It is also important to note that the criteria established for imposition of fees or taxes apply not only to the Federal Government, but also local or State entities.

I am pleased that enactment of S. 1962 would not appear to conflict with major provisions of the GATT. That is not true of other legislation or legislative proposals. Ambassador Brock's letter more clearly defines these conflicts. At this point, I ask unanimous consent that Ambassador Brock's letter be printed in the RECORD.

The letter follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, D.C., June 17, 1982.

Hon. JAMES ABDNOR,
U.S. Senate, Committee on Environment and Public Works, Washington, D.C.

DEAR JIM: Thank you for your letter of March 15, 1982. We appreciate your desire that any dredging legislation not adversely affect our compliance with the General Agreement on Tariffs and Trade (GATT).

A basic purpose of GATT is to prevent the imposition of new measures which provide hidden or indirect protection to domestic production. Two of the most important GATT provisions which accomplish this purpose are Articles III and VIII. Article III applies to the nondiscriminatory application of taxes and other regulations which relate to matters generally applicable to both imported and domestic products. Article VIII limits charges affecting foreign trade, other than duties and other than taxes covered by Article III, to the cost of services rendered to such trade by the bodies applying the charges.

Because of the exception in Article VIII for taxes covered by Article III, both Article III and Article VIII would probably not be applicable to the same fee. However, either one or the other of these two Articles would be relevant to any fee relating to imports. Whether a particular fee would be considered a tax under Article III, or a charge under Article VIII, will be considered in the attached memorandum relating to particular legislative proposals. Article VIII also applies to exports as well as imports, but Article III applies only to imports.

The basis for a user fee for dredging that would be most defensible under GATT would appear to be a port-specific fee based on the gross tonnage or draw of the vessels using the port where the dredging is done. The least defensible would be any fee based only on imported cargo. Other bases likely to raise serious GATT problems would be fees applied to all cargo on an ad valorem basis or on a specific basis but at different rates for different products. Furthermore, it is believed that it would be more difficult to defend under GATT a fee imposed at all ports to cover the cost of dredging at particular ports, than it would be to defend a fee imposed only at the port where the dredging is done.

Because of the complexity of the problems relating to the application of GATT provisions to various types of user fees, it would be desirable to set forth in section 5 of S. 1692 somewhat more specific rules for the imposition of such fees by non-Federal interests. Moreover, it might also be advisable to provide for review of, and concurrence in, the proposed fees by a Federal authority, as the Trade Representative.

The more general aspects of the relevant GATT Articles will be outlined first in the attached memorandum, and then the various provisions, or potential provisions, in dredging bills set forth in the memorandum attached to your letter will be considered in light of such GATT provisions.

Very truly yours,

WILLIAM E. BROCK.

IMPLICATION OF DREDGING USER FEES IN RELATION TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

GENERAL ANALYSIS OF RELEVANT GATT PROVISIONS

Two provisions of GATT designed to prevent hidden barriers to foreign trade which are most likely to apply to user fees for dredging are Article III and Article VIII.

Article III opens with the following basic principle:

"1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production."

Paragraph 2 of the Article deals with taxes and provides that the broad non-protective principle of the first paragraph shall apply to all taxes which affect imports:

"2. The products of the territory of any contracting party imported into the territory of any other contracting party shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied directly or indirectly to like domestic products. Moreover, no contracting party shall otherwise apply internal taxes or other internal charges to imported or domestic products in a manner contrary to the principles set forth in paragraph 1."

Several commercial treaties of the United States contain national treatment provisions comparable to the first sentence of paragraph 2.

Article VIII opens as follows:

"1. (a) All fees and charges of whatever character (other than import and export duties and other than taxes within the purview of Article III) imposed by contracting parties on or in connection with importation or exportation shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

"(b) The contracting parties recognize the need for reducing the number and diversity of fees and charges referred to in sub-paragraph (a).

(c) The contracting parties also recognize the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements."

The first subparagraph contains an important general rule which would apply to any user fee which relates in any way to importation or exportation (unless Article III were found to apply to it). The other two subparagraphs contain principles which, although not legal rules, could well be relied on to interpret or apply legal rules.

Article II of GATT applies to the importation of products on which tariff concessions have been granted. This Article contains a comparable rule against any new "duties or charges of any kind" on the importation of such products (par. 1(b)), except "fees or other charges commensurate with the cost of services rendered" (par. 2(c)). This Article II rule, which is quite comparable to that in Article VIII, applies to most United States imports.

Article XXIII of the GATT permits a contracting party to press a complaint against another contracting party with respect to any action which it considers has "nullified or impaired" "a benefit accruing to it directly or indirectly" under GATT, whether or not "such action conflicts with the provisions of the Agreement" (par. 1(b)). This gives the opportunity for an investigation, a panel finding, recommendations for modification of the action which is the subject of the complaint, and possibly (although almost never formally utilized) the authorization of retaliation against such action. These could all apply even though no legal rule had been violated. However, in such a complaint procedure a complaint might to some extent rely on the general principles (such as those in the latter part of Article VIII:1).

Another GATT provision that is relevant to charges which may be imposed by non-Federal authorities is Article XXIV:12, which provides:

"12. Each contracting party shall take such reasonable measures as may be available to it to ensure observance of the provisions of this Agreement by the regional and local governments and authorities within its territory."

Since any non-Federal authority would be acting pursuant to Federal authorization, this provision appears to require that such authorization be limited to the collection of fees which are consistent with GATT.

From the perspective of GATT, fees should not place a greater burden on imports than on like or competitive domestic products (Art. III). Consequently, user fees should not burden either imports or exports more than the approximate cost of channel maintenance or construction services for which the fees are charged, taking into account all vessels and cargo which utilize the services. This problem of not exceeding the cost of services rendered is likely to be greater if fees collected at one port are used to finance dredging at another port (Art. VIII).

Dredging user fees most likely to be consistent with GATT would appear to be fees based on gross tonnage or draw of vessels, which are imposed, without differentiation between types of cargo, at the port where the dredging was done. Whether Article III or VIII applies, the type of fee most likely to be inconsistent with GATT would be a fee imposed only on imports or exports, (except that Article III does not apply to exports). A uniform specific fee on all cargo loaded and unloaded at the port (or also in transit through it) without any differentiation between types of cargo, would be somewhat more defensible than an ad valorem fee. If Article VIII applies, an ad valorem fee would often have much less relationship to dredging services than a fee based on weight or volume. There might be considerable opportunity for complaints from other contracting parties that any variations in the rate of a fee (either ad valorem or specific) according to products involved would have a protective effect (in the sense of Article III) or would result in some products bearing more than the cost of services rendered (in the sense of Article VIII).

S. 1692 would authorize non-Federal agencies to impose fees. under Article XXIV the authorization should limit the agency's discretion in order to prevent it from imposing a fee inconsistent with GATT. You might want to amend S. 1692 to set the general standards of non-discrimination against cargo in foreign trade, and to require that fees be related to the cost of services rendered, with a provision for Federal Government review of the proposed non-Federal regulations. Finally, port specific user fees are less likely to be contrary to Article VIII of GATT than uniform fees applicable to all ports. This is because shippers which use the ports imposing the fees are paying for the benefits which they have received from the dredging at such ports.

It is not clear whether certain types of fees would be treated under GATT as a tax under Article III or a user fee under Article VIII. The decison would likely be based more on the incidence of the charge and the use of the proceeds than on the language of the law establishing it. For example, if a charge is collected at all ports but the proceeds are paid into a trust fund which will be used to pay the costs of particular dredging projects, use of the proceeds for such a specific purpose might well result in the charge being viewed as a fee to which Article VIII applies.

REPLIES TO SPECIFIC QUESTIONS RAISED REGARDING APPLICATION OF GATT TO PARTICULAR LEGISLATIVE PROVISIONS

Port specific user fees (S. 1692) and effect on GATT

I. Operation and Maintenance Dredging User fees collected by appropriate non-Federal interest to recover a specified percentage of the costs of dredging a deep draft channel or harbor (14 feet or deeper) including associated administrative expenditures; up-front financing and contract management by the U.S. Army Corps of Engineers; annual lump sum payment by non-Federal interest to the Secretary of the Army. Fees established by non-Federal interest, pursuant to state law, with general authority granted by Congress. (S. 1692 does not specify type of fee.) [S. 1692:I]

Port specific user fees would be more defensible under GATT than those imposed at all ports for dredging at only certain ports. However, it would be desirable for the legislation to contain standards which the non-Federal authority would apply so that the fees would be consistent with GATT. There should probably also be requirements for some Federal review of non-Federal proposals for the same purpose.

Including the proposed standards in the legislation authorizing the fees would have some limiting effect. If there is no provision for Federal review, further limitations in the legislation might be desirable, such as precluding fees only on cargo in foreign trade loaded or unloaded, and perhaps also precluding ad valorem fees or different fees on different types of cargo.

It is assumed that, for purposes of A to C below, the fees would apply alike to foreign and domestic trade.

Options not specified by S. 1692:

A. Tonnage-based fees on cargo [S. 1692:I:A].

From the standpoint of both Article III and Article VIII, a tonnage-based fee, uniform on all types of cargo (whether loaded or unloaded, or remaining on a vessel in transit through the port), would appear the best way to assess the fee, if it is to be on the cargo rather than on the vessel.

B. Value-based fees on cargo [S. 1692:I:B].

As indicated above, an ad valorem fee on cargo would probably not be defensible under Article VIII, because it would put an unjustifiably heavy burden on imports of high value products (as jewelry) compared with low value (as grain). From the standpoint of Article III, if the high value products were not generally transported domestically by ship, such a fee could have a protective effect contrary to Article III.

C. Fees on vessels based on registered tonnage or draw [S. 1692:I:C].

Fees based on draw of the vessels would appear to be the most defensible under GATT. The deeper the draw, the more the vessel benefits from the dredging and therefore it would be paying for the services rendered to it. To a somewhat lesser extent the same general approach would apply to fees based on gross tonnage. If one could prove that most vessels with large gross tonnage or draw were engaged in foreign rather than domestic trade, it might be argued under Article III that the fee had a protective effect. However, it is likely such a fee on vessels would come under the provisions of Article VIII (cost of services rendered) rather than Article III (nondiscrimination against imports).

D. Fees on import and export cargo or vessels [S. 1692:I:D].

Placing the user fee only on foreign trade would clearly be inconsistent with the GATT, whether the fees were found to conflict with Article III or Article VIII. It would directly discriminate against imports in favor of domestic commerce, and would require imports and exports to pay the entire cost of benefits which were also used by domestic trade.

To the extent that all or most of the burden of the fee is on imported cargo the fee would probably be considered to be a tax under Article III. This is because there would also be domestic products brought into the port on which the fee might similarly have been applied. Imposing fees on cargo in foreign trade alone would be in violation of that Article because it would not be similarly imposed on cargo in domestic trade. If it were to be considered a fee under Article VIII, it would clearly be contrary to that Article, since imports would be paying the full costs of dredging, which would benefit domestic trade, and exports, as well. To the extent that all or most of the fee is on vessels which principally carry imports or exports, other countries could also argue, under both Articles III and VIII, that this constituted an indirect discrimination against imports and had a protective effect on domestic production. It is also possible that an argument could be made that, under Article VIII, imports or exports were bearing a disproportionate share of the cost of dredging. However, whichever Article was applicable, the argument against the fee would be weaker than if the fee were only on the cargo in foreign trade.

What has been said with respect to imports under Article VIII would also apply to a fee only on exports. Since Article III does not apply to exports, and there is no comparable export provision in GATT, there might well be no GATT problem if such a fee was not found to come under Article VIII.

II. New construction dredging.—User fees collected by appropriate non-federal interest to recover costs of dredging improvement project including associated administrative expenditures. [S. 1692:II:1st par.]

The discussion of fees covering operation and mantenance costs would generally apply to new construction. However, since new construction costs would be considerably greater than those for maintenance, any fees which placed a disproportionate burden on foreign trade might be more likely to result in a GATT complaint and a finding of inconsistency with a provision of the Agreement.

All project costs incurred by non-federal interest; revenue would remain with the non-Federal interest; fees set, pursuant to state law; general authority granted by Congress. [S. 1692:II:2d par.]

In relation to recovery of the cost of new construction, the agency is likely to be providing for higher fees, it is probably more important to include standards in legislation which would limit the discretion of the non-Federal authority to set fees, and to give a Federal agency authority to review the regulations.

A. Fees to reflect the service and benefits provided to each commercial vessel or cargo laden therein; all vessels eligible (S. 1692) [S. 1692:II:A].

As indicated under S. 1692:I:C above; port specific fees on vessels based on their gross tonnage or draw would be the most defensible user fees under GATT. As stated under [S. 1692:I:A, a port specific fee uniformly applicable to all cargo in vessels using the port, whether loaded, unloaded, or in transit, would be unlikely to cause a GATT legal problem. However, if the fee were ad valorem, or specific at different rates for different types of cargo, it might accord indirect protection to certain domestic products (see above under S. 1692:I:B).

B. Fee system left to discretion non-Federal interest without "service and benefits" limitation (not in S. 1692): [S.1692:II:B].

As explained under S.1692:I, delegation of authority to a non-Federal body, without any limitations on the discretion of the body, could lead to GATT problems under Article XXIV. Moreover, problems are probably more likely because of larger dredging costs, and consequently larger fees, for construction.

1. Tonnage-Based Fees on Cargo [S.1692:II:B:1]:

As indicated under S.1692:I:A, this would be the best way to assess the fee if it is to be on the cargo rather than the vessel.

2. Value-Based Fees on Cargo [S.1692:II:B:2]:

As indicated under S.1692:I:B, the ad valorem basis for the fee would probably be the least defensible basis, except for a system which would openly discriminate against foreign trade. Moreover, there would probably be more likelihood of a complaint in the event of a larger fee for new construction than for maintenance.

3. Fees on Vessels Based on Registered Tonnage or Draw [S.1692:II:B:3]:

Gross tonnage or draw, as a basis for the fee, would be the best basis, as explained under S.1692:I:C.

National uniform fees (S. 2217)

Operation, Maintenance and New Construction Dredging at Deep-Draft Ports.

A. Uniform Federal tax on each type of cargo unloaded from any vessel at all deep draft ports (14 feet or deeper), which may vary according to the type of commodity, to be paid by vessel owner; rates promulgated as regulations by Secretary of Treasury; discretion left to Secretary on effect of tax rate on international trade; tax only on cargo unloaded from any vessel [S.2217:A].

The bill calls the fee a tax. However, because of its use to cover the cost of dredging at particular ports, it might well be considered a fee under Article VIII. If such a fee were applicable to all ports, countries exporting large quantities of goods to ports where minimal dredging, for which the fee was imposed, was done would be likely to complain that such imports were paying the cost of services rendered to other ports where the major dredging was done.

Moreover, if the rate of the fee varies according to the type of cargo unloaded, a strong case could be made that the cargo subject to the higher fee was paying, in addition to the cost of services rendered to it, part of the cost of services rendered to the cargo subject to the lower rate. Moreover, since the justification for dredging is related to the size of the vessels using the port, a charge based on the value of the cargo would have little or no relation to the cost of the services rendered to such cargo.

If the charge were considered to be a tax, imposed uniformly only on all cargo unloaded at any deep draft ports, it might not be questionable under Article II if it applied equally to both domestic and imported cargo.

However, if the fee were imposed on a specific basis with differentiation between types of products, it might well be challenged as resulting in indirect protection of domestic production. Such a differentiation could possibly place an excessive burden on types of imported products which are highly competitive with domestic production, thereby resulting in indirect protection to domestic production. Applying the fee to cargo unloaded at all ports would presumably reduce the level of the fee at ports where major dredging is being done, and consequently might somewhat diminish the likelihood that a complaint would be brought.

Other options not specified by S.2217:

1. Tax only on imports [S.2217:A:1].

As discussed under S.1692:I:D, if the fee were applied only to imports would raise the most serious problem of clear inconsistency with both Articles III and VIII.

2. Tax only on exports [S.2217:A:2].

Although Article III does not apply to exports, Article VIII does. Placing the cost of new dredging operations only on exports would clearly exceed the cost of service rendered to exports under the provisions of the latter Article.

3. Tax on all cargo from any vessel [S.2217:A:3].

The GATT implications of applying a fee to all cargo unloaded, whether imports or domestic trade, has been discussed under S.2217:A.

4. Dedicated percentage of customs revenue [S.2217:A:4].

The imposition of no new fee, but the use of a proportion of revenue collected from customs duties applied consistent with GATT, would raise no legal problem under the Agreement. It might possibly make the United States more reluctant to negotiate new or further tariff reductions in the future.

B. Aggregate revenue from all ports collected in a Federal Trust Fund; Fund, subject to appropriations, shall pay for all operation and maintenance costs at deep-draft ports beyond that required to maintain depth of greater than 14 feet; and 90 percent of Congressionally authorised improvement project costs at specific ports up to depths of 45 feet. [S.2217:B].

The comments under S.2217:A discuss the apparent inconsistency with the cost of service limitation in GATT of collecting fees, even though referred to as taxes, at all ports to pay for maintenance and improvement at only certain ports. The payment of the charges into a trust fund to be used for dredging at particular ports appears to indicate that the charges would be user fees under Article VIII.

C. State port user tax imposed on all items loaded onto any vessel at a port in such state and unloaded from such vessel at foreign port (export only); tax on vessel owner and at uniform rate suggested by Secretary of the Treasury; revenue paid to General Fund of Treasury. [S.2217:C].

The GATT problems with non-Federal taxes on exports only have been noted at the end of the discussion under 1692:I:D. There would also be the problems of uniform fees imposed at all ports to pay for services at only some, the desirability of criteria for the suggestion by the Secretary of the Treasury.●

REMARKS OF GOV. WILLIAM JANKLOW CONCERNING WATER FOR ENERGY DEVELOPMENT AND GROWTH

● Mr. ABDNOR. Mr. President, on June 8, 1982, South Dakota's Gov. William Janklow addressed a forum at the University of Colorado School of Law in Boulder, Colo., concerning the issue of water for energy development and growth. The Governor's remarks are indicative of the realistic and progressive position of the State of South Dakota on this important issue. His oral remarks were accompanied by an impressive display of charts and graphs which cannot be reprinted in the RECORD, but my staff will be pleased to reproduce them for anyone who would like copies.

I ask that the Governor's statement be printed in the RECORD.

The statement follows:

REMARKS OF WILLIAM J. JANKLOW, GOVERNOR, STATE OF SOUTH DAKOTA, PRESENTED TO NEW SOURCES OF WATER FOR ENERGY DEVELOPMENT AND GROWTH, INTERBASIN TRANSFERS, AT UNIVERSITY OF COLORADO SCHOOL OF LAW, BOULDER, COLO., JUNE 8, 1982

SOUTH DAKOTA AND THE ETSI EXPERIENCE

Introduction

In this paper I would like to take the opportunity to remove from the emotional arena South Dakota's experience with ETSI Pipeline Project and its coal slurry pipeline proposal and to explain to fellow practioners of the legal profession, in the context of a rational examination, what it is South Dakota and ETSI have done. In doing so, I am confident that the attendees of this conference, as fellow professionals, will agree that South Dakota was placed in a position that a decision had to be made and action had to be taken. I am also confident you will agree that the decision South Dakota made was the correct one under the circumstances. In presenting these remarks here today, I would like to discuss South Dakota's impression of why coal slurry pipelines are becoming a force in the coal transportation market, why the Missouri River is an attractive water source from the standpoint of both ETSI and South Dakota, why South Dakota was drawn into this relationship with ETSI, what the basic contract between South Dakota and ETSI provides, what it is the downstream states are complaining about, and what the law of the 1944 Flood Control Act and Federal law respecting inter-basin transfers really is.

Why coal slurry?

In an address to the American Public Power Association delivered on May 7, 1980 Mayor Lyla Cockrell of San Antonio related her city's experiences in its attempts to convert from natural gas to coal in its municipal electric utility. Mayor Cockrell indicated that things went very smoothly in designing the equipment to convert to coal and in obtaining long-term coal contracts from Sun Oil Company at its Cordero Mine near Gillette, Wyoming. With respect to the transportation of that coal from Wyoming to Texas, however, the Mayor related an entirely different story.

"Unfortunately, this story is not the same for the railroad freight rate. When we were looking for coal leases . . ., the railroad at point of origin, quoted us a price of $7.90 a ton for hauling the coal 1630 miles from Wyoming to Texas by unit train, with [San Antonio] furnishing some $30 million dollars of coal cars. Subsequently, when the commitment was made to the Cordero mine, [the railroad] withdrew its offer and began quoting prices of as high as $16 a ton. When no agreement could be reached we were ready to stockpile coal. We petitioned the Interstate Commerce Commission to set a rate, and they did so in October, 1976, at $10.93 a ton. In the next two years, several freight rate increases were granted until the rate reached $12.42 a ton. It became apparent that railroad lobbyists were hard at work. Then, on December 1, 1978, the ICC granted a rate increase to $16.12 per ton. Eight additional rate increases since that time have driven the freight rate to $20.25 per ton. There have been five increases since October 1 of last year!"

These remarks by the Mayor of San Antonio are sufficient argument to explain why some people feel there is a need for competition in the coal transportation market.

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ETSI believes that it has a competitive advantage over railroad transportation because of the capital intensive nature of coal slurry pipelines. Chart I is a graph taken from a presentation by Frank Odasz, of ETSI given to the Interstate Oil Compact Commission in 1981. It represents the claim by ETSI that 70% of a coal slurry pipeline's operating costs go to debt service and are fixed. Only 30% of slurry pipeline operating costs are variable and, therefore, are subject to inflation. Railroads on the other hand currently have only 15% of their operating costs fixed and 85% of their operating costs are variable and are subject to inflation. As Chart I shows, during an inflationary period the mode of transportation with the highest percentage of fixed cost gains a considerable competitive advantage. Under ETSI's calculations, at a 5% rate of inflation as is represented by the 1979 GNPD, the cumulative savings in operating costs over a 30 year period represents $32 billion.

From our perspective, we are receiving arguments from both sides. The railroads claim that slurry lines are so expensive that they will never get off the ground and, in fact, the first coal slurry line ever constructed, they claim, was put out of business by railroad competition. ETSI on the other hand claims that the first slurry line located in Ohio did, in fact, compete with railroad transportation but stopped its operation for other unrelated reasons. Our only conclusion is that the first coal slurry line resulted in the railroads' initiating unit train transportation for coal and consequently lowering rates for coal customers.

Why Missouri River water?

Chart II is an outline map of the Missouri River Basin. It covers all of Nebraska and portions of nine other states. The basin covers ⅙ of the total land area of the United States and also extends into Canada. On an average annual basis and based upon 1970 estimated levels of depletion, the annual flow of the Missouri River at Sioux City, which is the traditional dividing line between the upper and lower basin, is 21 million acre-feet of water per year. The River is a gaining river and by the time it empties into the Mississippi River just upstream from St. Louis, the average annual flow is approximately 54 million acre feet of water per year. The net gain, therefore, averages 33 million acre feet of water per year between Sioux City and the river's mouth.

This is a substantial amount of water in comparison to amounts projected to be necessary for energy development. The natural flows of the Missouri River, however, have been enhanced by the construction of 6 reservoirs on the mainstem of the river itself. Four of those reservoirs are located in South Dakota, 1 in North Dakota and 1 in Montana. The total storage capacity of those reservoirs is approximately 74 million acre feet of water. Chart III shows the actual level of storage in those reservoirs during 1981 and the projected storage levels during the remainder of 1982. On the right hand side of the chart, the bottom line represents a storage forecast if precipitation for the remainder of the year is in the lower 10% of the historical experience. The next to the bottom line represents the storage forecast if precipitation for the remainder of the year is in the lower quartile, the middle line represents the storage forecast for median precipitation, the next to the top line is the forecast for upper quartile precipitation, and the top line is the forecast for precipitation in the top 10% of the historical experience. As the Chart shows at the beginning of March in 1982, there were still approximately 52 million acre feet of water in storage in the main stem system on the Missouri River. This represents more than 2 years' average flow of the Missouri held in storage in South Dakota, North Dakota and Montana.

The purposes of these dams is navigation, flood control, irrigation and hydropower development. Chart IV shows a comparison in year 1975 of the actual flows of the Missouri River at Sioux City, Iowa, with the flows that would have naturally occurred in the absence of the mainstem reservoirs. Flood stage at Sioux City is approximately 90 thousand cubic feet per second. As you will note, for most of the months of May, June, and July the Missouri River at Sioux City would have been at or above flood stage. Because of the dams, however, this water was held back and at no time did the actual flow ever exceed flood level. Furthermore, the natural flows during the last portion of the navigation season in September, October, and November would have fallen below those flows necessary to maintain navigation on the Missouri River. Actual releases from the dams, however, maintained flows at a level very close to 65,000 cubic feet per second and a full service navigation season was provided up until the end of November. A similar chart for 1980 and 1981 is presented in Chart V. Chart VI shows the power generated by the Missouri River mainstem system. The receipts from this power are used to repay the federal government for its investment in the power and irrigation portions of the mainstem reservoirs.

Chart VII shows the flood damages prevented by the mainstem reservoirs. As of 1981, the cumulative savings in flood damages estimated by the United States Army Corps of Engineers is 1.537 billion dollars. This total exceeds the money invested by the United States Government in the mainstem dams for flood control purposes. These benefits are received almost entirely by the downstream states. Note that 1978 represented a savings of $450 million of flood damages that never occurred. In exchange for this flood protection downstream, the State of South Dakota gave up approximately 530,000 acres of prime farm land that is now under water and is contributing little or nothing to the South Dakota economy.

Chart VIII shows the navigation on the Missouri River through 1982. The top portion of the bar represents navigation tonnage moving in an upstream direction. The remainder of the bar represents navigation tonnage moving in a downstream direction. As is evident from the fact that little or no navigation occurred in the years prior to 1954 when the first dams were closed, this navigation would not be taking place without the construction of those dams.

The question arises from South Dakota's standpoint: Who is benefiting from the construction of these reservoirs? They were all authorized in the Flood Control Act of 1944. In addition to the flood control and navigation benefits downstream which have been realized, the 1944 Act also provided and authorized the irrigation of 806,000 acres of land in South Dakota, 1 million acres of land in North Dakota and a similar amount in Montana. Those irrigation developments have, to the largest extent, never been achieved. Not one gallon of Missouri River water is being used for irrigation in South Dakota under a facility authorized by the 1944 Flood Control Act. In exchange for this, the overwhelming majority of the power generated in South Dakota on these dams is exported out of state. Chart IX shows the distribution of power from South Dakota dams during federal fiscal year 1980. This allocation changes slightly from year to year but its basic point that other states receive more power benefits from the dams constructed in South Dakota than does South Dakota continues to be true year after year after year.

While the loss of 530,000 acres of land in South Dakota is providing substantial navigation, flood control and power benefits for our neighboring states, South Dakota itself is receiving little or no benefit in a substantial economic sense from the construction of those reservoirs. Chart X is a representation of water used in the member states of the Western Governor's Policy Office. As will be noted, no state in that organization uses less water than South Dakota. In fact, our sister State of Nebraska who is complaining loudly about South Dakota's relationship with ETSI is one of the larger water users among the western states. This chart shows in a graphical manner why at the time South Dakota was confronted with a need to make a decision on ETSI, it was felt that the State should do those things which will enable it to gain benefits from the development under the 1944 Flood Control Act that other states downstream from us have been receiving for the last 20 years.

One thing that was reserved to the State of South Dakota was the right of the upper basin states to allocate water pursuant to their state laws. In fact, the 1944 Flood Control Act is notable as an expression by Congress of State's rights in the allocation of waters during an era when TVA and the Boulder Canyon Project Act represented substantial steps in the opposite direction—total federal control of the allocation and use of water resources. Chart XI shows the language of Section 1(b) of the 1944 Flood Control Act. That section was enacted into law at the insistence of the western states and is commonly known as the O'Mahoney-Milliken amendment. Its plain language is that states lying wholly or partially west of the 98th meridian (South Dakota and the upper basin states) have the right to allocate the waters in their states for beneficial consumptive uses even if such allocation represents an impairment in navigation uses of the river.

Mr. ABDNOR. Mr. President, I ask that the text of the O'Mahoney-Milliken amendment be printed at this point in the Governor's statement.

The text of the amendment follows:

Flood Control Act of 1944

Section 1. (b) The use for navigation, in connection with the operation and maintenance of such works herein authorized for construction, of waters arising in States lying wholly or partly west of the ninety-eighth meridian shall be only such use as does not conflict with any beneficial consumptive use, present or future, in States lying wholly or partly west of the ninety-eighth meridian, of such waters for domestic, municipal, stock water, irrigation, mining, or industrial purposes.

Mr. ABDNOR. I ask that the remainder of the Governor's statement be printed in the Record.

The Governor's statement continues:

It is interesting to note that there was no doubt in the mind of Congress when this provision was enacted that this is exactly what Congress intended. In fact, Senator Milliken stated during the hearings on the 1944 Flood Control Act:

"As I pointed out the other day, you take navigation here. The people are figuring on a 9 foot channel or a 12 foot channel and, assuming, Congressman, that that reflects a conflict of water use—I don't know whether it will or not; the figures are so conflicting here that I cannot reach a decision. But assume that it would. In the meantime they have built their barges, they have built their docks, they have established their track sidings. They have built their wharves, they have built all their accessories, and then they would be claiming to be a vested interest recognized by Congress. Now these are the things that we got to guard against." (Hearings on H.R. 4485, Senate Commerce Committee, 78th Congress, 2d Sess., at 605.)

In addition, remarks from other Congressmen indicated clearly that they understood the meaning of this provision. Representative Lemke of North Dakota simply stated, "We are not going to take water from the people in the states where it originated so that some fellow may float a yacht down the lower Mississippi Valley, while the people and their cattle in the upper regions go hungry on account of the lack of food and water." (Cong. Rec., 78th Cong., Second Sess., page 4213) Representative Dirksen from Illinois stated, "Now come the folks from this area, where water is a priceless commodity, and say that before we take away all their water for navigation purposes to sustain a barge or a vessel that may haul commodities, we believe preference should be given to beneficial consumptive." Id. at 4215. Senator O'Mahoney himself stated that "the purpose has been at all times to protect the historic and traditional rights of the people of the west to use the waters rising in the west in a manner that has been recognized by law and by court decision for almost 100 years." Id. 8420. There can be little doubt that the meaning of the O'Mahoney-Milliken amendments was to guarantee to the states the right to allocate waters within their boundaries without regard to the impact of such allocation on navigation.

Why ETSI and South Dakota?

In 1974 the Wyoming State Legislature authorized the Wyoming State Engineer to issue groundwater permits from the Madison formation to ETSI. Those permits, as eventually issued, entitled ETSI to withdraw an average of 15,000 acre feet of water a year from the Madison formation. Individual yearly withdrawals could go up to 20,000 acre feet per year as long as the long term average was not violated. Chart XII is taken from the Bureau of Land Management Environmental Impact Statement on the ETSI Coal Slurry Pipeline. It shows the relative location of ETSI's proposed well field in Niobrara County. The well field is located immediately adjacent to the South Dakota-Wyoming border. The concentric lines on the chart indicate the number of feet in drawdown that would be experienced by the potentiometric head in the lifetime of the ETSI project. It will be noted from the chart the City of Edgemont's water level would drop approximately 275 feet. This would necessitate the drilling of new wells not only for Edgemont but for numerous ranchers and other communities in the area. In addition, flow in the Fall River which runs through the municipality of Hot Springs would be reduced to such an extent that Hot Springs wastewater treatment costs would increase by approximately $100,000 per year. Finally, the flow reductions would also affect environmental and esthetic values in streams in the Black Hills of South Dakota. The Black Hills are located within and around the Madison outcrop in Custer, Pennington, Lawrence and Meade Counties in South Dakota. This potential use of groundwater in Wyoming presents an unacceptable threat to existing uses of water in the State of South Dakota. In order to prevent this potential damage, the State found itself facing long and protracted litigation that may have preserved the status quo but would not have presented any net gain to either South Dakota, Wyoming or ETSI.

In addition to the need to eliminate ETSI's threat to South Dakota's Madison Aquifer water supplies, there exists in that area of South Dakota between the Oahe Reservoir and the Black Hills a very real need for good quality drinking water for both livestock and humans. In fact, some communities and ranches in this area have naturally occurring contents in their water supplies that are 3 to 30 times the EPA primary drinking water standard. It has long been the dream of western South Dakota residents to bring Missouri River water westward to cure these and other deficiences in their water supplies but physical and, ultimately, economic barriers prevented this from happening. It soon became apparent to the western residents of our State that the only practical means of achieving their dream was through a massive subsidy either from the Federal government or from the emerging energy industry in Wyoming.

Finally, as is apparent from the preceeding section of these remarks and the accompanying charts, South Dakota has received little that was authorized under the Pick-Sloan Plan that has provided so much benefit in navigation, flood control, and hydropower to the downstream states. While Nebraska which gave up virtually no land to the Missouri River Reservoirs has received 222,800 acres of Pick-Sloan irrigation projects, not one acre of South Dakota land is irrigated from the Missouri River by a Pick-Sloan diversion. With cost sharing rapidly becoming the word of the day in Federal water development, it was apparent that South Dakota's chances of obtaining Pick-Sloan irrigation development were going to get slimmer unless she developed a revenue source comparable to that provided by Nebraska's irrigated economy and Wyoming's, Montana's and North Dakota's coal, oil and gas reserves.

South Dakota's relationship with ETSI prior to 1981 had a long and stormy history. As far back as 1974, ETSI and South Dakota have been cussing and discussing the potential for an arrangement that would avoid a showdown over the Madison Formation. In 1977, the South Dakota Legislature passed a bill authorizing the grant of a water right for Oahe Reservoir water to ETSI that ETSI could have used merely as a backup for its Madison Aquifer source. That bill was vetoed and an attempt to override it failed in the State Senate by one vote.

It was not until May of 1981 when ETSI's South Dakota Counsel happened to run into me in the Capitol cafeteria one day that I mentioned an interest in avoiding what seemed to be inevitable litigation. The resulting conversation grew into more formal negotiations, and it was not until this process began that it became apparent that ETSI was willing to look to the Oahe Reservoir as a primary source of water instead of a backup and hold its Madison Formation water rights in reserve to be used only if Missouri River water were physically or legally available. In our negotiations we attempted to pursuade ETSI to give up its Madison Formation water rights, but it soon became apparent that no deal containing that condition could be struck.

Once ETSI's willingness to use Missouri River water as a primary source became apparent, the other main provisions of the contract to provide water to western South Dakota communities along the pipeline and money to the State's Water Facilities Construction Fund were hammered into place after long and arduous negotiations, a special session of the South Dakota Legislature, and longer and more arduous negotiations to actually draft the technical agreement. Once this agreement began to take shape and it appeared that our goals with respect to preserving the Madison Formation, providing water to western South Dakota communities, and obtaining money for water development were actually achievable, it became impossible for South Dakota to reject this virtual bird in the hand in favor of protracted and uncertain litigation that might possibly accomplish only one of our goals.

The deal

Charts XIII, XIV, XV, XVI and XVII outline the basic agreement between the South Dakota Conservancy District, which is the contracting entity for the State of South Dakota, and ETSI. The basic $9 million payments which begin with construction of the coal slurry pipeline proper are indexed to the GNPD (gross national product deflator). Our calculations show that if the GNPD behaves over the next 50 years exactly as it did during the last 50 years, the indexed payments could total approximately $1.4 billion over the life of the contract.

Negotiating this contract and structuring the arrangement presented several unique and stickly legal problems. The first was the provision of the South Dakota State Constitution which prohibits the legislature from granting to any private concern any special privilege, franchise, grant, or immunity whatsoever and prohibits the legislature from enacting any special legislation where the same purpose can be accomplished through a law of general applicability. We have preserved the legality of this transaction in this regard by enacting a statute of general applicability which allows the South Dakota Conservancy District to apply for and to obtain water rights for the purpose of transferring them for consideration to third persons for ultimate use in energy development both in and out of South Dakota. The general provisions of the agreement as presented here in Charts XIII through XVII were, in fact, presented to the legislature. In reality, however, the legislation made no specific mention of ETSI and the South Dakota Conservancy District could, in fact, have applied for and transferred the water rights to energy users other than ETSI. Nothing in the legislation mentioned ETSI, and nothing except our desire to prevent the legislation from being repealed in the January, 1982, Legislative Session required us as a matter of law to consummate the proposed arrangement with ETSI.

In addition, the application by the South Dakota Conservancy District for a water right passed through the same legal and administrative procedures as any other water right application in South Dakota. The approving body, the South Dakota Water Management Board, held over 40 hours of administrative hearings on this permit application alone. The application was submitted to the same rigorous tests and scrutiny that this Board administers to all other permit applications, and the Board, as a result, voted unanimously to approve the permit noting that ETSI as ultimate recipient of the permit had the present intent to appropriate the water, that the project was feasible, that unappropriated water was available, and that the proposed project was clearly in the public interest of the citizens of South Dakota.

The other major theoretical problem involved the basic ability of the State to convert its interest in water held for ultimate use by individual members of the public into other assets, namely cash. Our legal analysis is that, among other things, the arrangement described above whereby the Conservancy District obtains the water right and the consideration for its transfer is placed in a trust fund for water development administered by the Conservancy District preserves this transaction in this regard. Water rights, after all, are sold every day in many of the western states. If private individuals that can do this with property acquired from the State, an independent authority created by the State for water development purposes should be able to do the same.

In addition, a great deal of attention was paid to the legal rights of the states downstream from South Dakota. After analysis of the pertinent provisions of the Flood Control Act of 1944 discussed above and a review of some of the facts pointed out in the next section, it was determined that South Dakota's allocation of Missouri River water to a coal slurry pipeline originating in Wyoming stood on firm legal ground vis-a-vis downstream states.

What are the other States complaining about?

On a substantive basis, the downstream states claim ETSI and, even more so, additional diversions of this type will impair their claimed rights to Missouri River water for navigation, municipal, domestic, irrigation, pollution assimilation, fish and wildlife, recreational, and esthetic purposes. On a legal basis, their complaints apparently center around their claim that ETSI is an inter-basin transfer and also around Section 6 of the Flood Control Act of 1944 which authorizes the Army Corps of Engineers to enter into contracts for surplus water for municipal and industrial purposes.

Chart XVIII compares the average ETSI withdrawal at the rate of 50,000 acre feet per year with the discharge of the Missouri River at the Oahe Dam near Pierre, South Dakota. As you will note, ETSI's withdrawal represents only 0.28% of the average annual 1981 discharge of the Oahe Dam. In contrast to this, most measuring devices have an inherent error of 5%. The result is that it would take more than 17 ETSI's at 50,000 acre feet per year each to create a withdrawal from the Oahe Reservoir large enough to be measured at Pierre, South Dakota. Because of contributions to the Missouri River downstream from Pierre, the effect of 17 ETSI's still could not be measured with any certainty when the river passes through Sioux City, Iowa.

As a further comparison, it should be noted that each year at the end of the navigation season releases from the Gavins Point Dam, which is furthest downstream on the Missouri, are cut from approximately 32,000 cfs to about 15,000 cfs for the purpose of conserving water in storage and concurrently to maintain stream flows for municipal, domestic, and other uses including water quality downstream. Whether such large releases during the off season are necessary for downstream purposes is problematic. The Corps of Engineers, however, has determined that releases of this magnitude can be made without impairing other requirements and purposes of the reservoirs. This cut-back in flow lasts for approximately 4 months until the beginning of the next ensuing navigation season and represents a reduction in Missouri River flow of approximately 53%. We are unaware of any inability of the Missouri River to meet downstream desires other than navigation during this period when its flow above Sioux City is cut to 47% of navigation season releases. The Missouri River, after all, is a gaining stream and picks up, on an average, 33 million acre feet of water every year below Sioux City in addition to an average contribution of 21 million acre feet of water from the watershed above Sioux City.

Another interesting figure comes from a report written by the Missouri River Basin Commission, a joint federal-state entity governed by Federal agency representatives and representatives appointed by the governors of all 10 Missouri River Basin states, and published in December, 1978 at the request of the now nearly defunct Water Resources Council. That report, entitled "Upper Missouri River Basin Water Availability Assessment for Coal Technology Requirements," addressed the water necessary, and its availability, for probable energy development in the States of Wyoming, Montana and North Dakota. In its baseline assessment, the Missouri River Basin Commission projected that, by 1985, 150,706 acre feet of water per year would be necessary to meet coal development requirements in these States. 30,488 acre feet of this total would be used for coal slurry pipelines. By the year 2000, the Commission projected that 237,481 acre feet per year with 78,056 acre feet per year going to coal slurry pipelines would be necessary for energy development. These figures are interesting not because they represent relatively large amounts of water, but because the total amount projected for the year 2000 even if it were all diverted from the Oahe Reservoir could still not be accurately detected by a gauge in the stream below the Oahe Dam. The projected 2000 demand is less than one-half of the annual evaporation from the Oahe Reservoir and should certainly be no cause for alarm in light of the 53% reduction in stream flow that occurs every fall at the close of the navigation season.

With respect to the inter-basin transfer issue, the legal questions here are easily resolved. The United States Supreme Court has on three separate occasions declared a diversion's status as an inter-basin transfer to be irrelevant from a legal perspective. *New Jersey v. New York*, 283 U.S. 336 (1931); *Connecticut v. Massachusetts*, 282 U.S. 660 (1931); *Wyoming v. Colorado*, 259 U.S. 419 (1922). I am sure these cases will be examined in great detail during this conference, and I need not repeat that exercise here. I do, however, draw your attention to Justice Holmes' opinion in *New Jersey*. In that case the State of New York proposed the diversion of 600 million gallons of water a day from the Delaware River into the Hudson River Basin. New Jersey's complaint against this proposed diversion resembles nothing more than a script for the cries currently being made by downstream states against South Dakota's proposed diversion for ETSI. It was in *New Jersey* that Oliver Wendell Holmes wrote his famous line, "A river is more than an amenity, it is a treasure." 283 U.S. 342. Shortly thereafter, Justice Holmes made it abundantly clear that the issue of an inter-basin transfer is truly irrelevant and serves only as a make-weight argument. Justice Holmes said, "the removal of water to a different watershed obviously must be allowed at times unless States are to be deprived of the most beneficial use on formal grounds. In fact, it has been allowed repeatedly and has been practiced by the States concerned." 283 U.S. 343. Justice Holmes then went on to allow a diversion from the Delaware River basin in the amount of 440 million gallons daily. According to the best information available to us, this amounts to 6% of the average flow of the Delaware River. As was discussed earlier, nothing approaching that high percentage of Missouri River flows is currently being contemplated for diversion to energy industry use.

In addition, it is a bit difficult to understand how the States of Nebraska and Missouri, for instance, can, in all honesty, complain about inter-basin transfer. Nebraska, while engaging in no inter-basin transfers itself, is downstream on the Platte River and is the direct of indirect beneficiary of at least 3 inter-basin transfers from the Colorado River Basin into the Platte River Basin. The largest of this amounts to 505,000 acre feet of water yearly in the Denver, Colorado area. If these inter-basin transfers were not being made it is difficult to predict how much worse the water disputes between Nebraska and its upstream neighbors on the Platte would be.

Missouri takes this process one step further and actually exports water out of the Missouri River Basin at the town of Springfield. This diversion consists of a water supply intake within the City of Springfield and within the Missouri River Basin and a wastewater outfall within the City of Springfield lying outside the Missouri River Basin. South Dakota acknowledges that Springfield's diversion of water out of the Missouri River Basin may be necessary in order to distribute water from one side of the City to the other. It does not appear to us, however, that Missouri's necessity is any less than South Dakota's need to use industrial water development to subsidize delivery of Missouri River water to western South Dakota towns where the radium concentrations exceed the EPA limits by a factor of 30. The inter-basin transfer at Springfield amounted to 16,800 acre feet in 1978, a diversion of the same order of magnitude as that proposed by ETSI. A similar inter-basin transfer of water is conducted by the City of Butte, Montana in its municipal water supply. All in all the Missouri Basin States Association has identified four inter-basin transfers importing water into the Missouri River and two inter-basin transfers exporting water from the Missouri River Basin. (Chart XIX) The net result is that the Missouri River Basin is a net gainer of approximately 644,000 acre feet of water yearly. It is difficult to undestand how Missouri River Basin States can be complaining about inter-basin transfers when all of the basin states and particularly those riparian to and downstream from the Platte River, have been the beneficiaries of such actions for a long period of time.

Finally, with respect to the inter-basin transfers, I submit that ETSI is not an inter-basin transfer in the traditional sense

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of that word. Water is not being used to develop resources located outside of the Missouri River Basin. It is Missouri River water that is used to develop a Missouri River Basin resource-Wyoming Coal. Water is consumed and the beneficial use is initiated within the Missouri River Basin near Gillette, Wyoming.

Logic dictates that there is little difference between this use of Missouri River water to develop in-basin coal and the use of water by an Omaha brewery which may ship its products into eastern Iowa or the actual export of raw water out of the basin to the extent of 54 million acre feet per year at the mouth of the river above St. Louis. With respect to this last figure, the additional water released from Gavins Point Dam during the navigation season during 1980 amounted to approximately 8,100,000 acre feet of additional water released for navigation purposes. Navigation tonnage during 1980 totaled 3,009,612 tons. The cargo carrying efficiency of this navigation water was, therefore, 0.37 tons per acre foot of additional water released. ETSI on the other hand will deliver in its first pipeline 37,500,000 tons of coal with only 20,000 acre feet of water. The carrying capacity of water to be used by ETSI is 1,875 tons per acre foot. The water use efficiency of ETSI's first coal slurry pipeline, will, therefore, be nearly 507,000 percent greater than that of the increased water released for navigation during the 1981 season. This comparison, it should be noted, includes only the increased flows released from the upper basin at Gavins Point Dam and does not include any of the 33 million acre feet of contributions occurring below that point.

Finally, with respect to the argument that Section 6 of the 1944 Flood Control Act requires water service contracts out of the mainstem reservoir to be executed by the Corps of Engineers, it can only be said that those who are making this claim ought to review their legislative history and the very nature of the Pick-Sloan program. Section 6 states:

"That the Secretary of War is authorized to make contracts with States, municipalities, private concerns, or individuals at such prices and on such terms as he may deem reasonable for domestic and industrial uses for surplus water that may be available at any reservior under the control of the War Department: *Provided*, That no contracts for such water shall adversely affect than existing lawful uses for such water."

A reading of this Section begs two questions: What is surplus water? And is the authority granted the Army Corps of Engineers under Section 6 exclusive? With respect to the first question the Army Corps of Engineers have a regulation which states "The term surplus water means water trapped or stored in a reservoir project which is not utilized to fulfill an authorized project purpose." ER 1105-2-20 (28 Jan. 1982). If that is the Army's definition of surplus water, it is clear from the legislative history that the water to be used by ETSI is not surplus to any project purposes.

The Oahe Reservoir, which is the source of water for the ETSI project was originally authorized by the Flood Control Act of 1944. Section 9(a) of that Act authorized the construction of the Oahe Reservoir as described in Senate document No. 191, 78th Congress, 2nd Session (April 1944). At pages 115-116 of that document, the Oahe Reservoir is described as containing storage to irrigate an area of 750,000 acres along the James River in South Dakota. Page 117 of the document lists additional smaller pumping units which could also be served out of the Oahe Reservoir and other reservoirs in South Dakota. The dam, therefore, was authorized and constructed with an irrigation function for service to at least 750,000 acres of irrigation. At the present time, diversions to serve only approximately 190,000 acres of the full potential capacity have been subsequently authorized by Congress. This leaves a surplus reclamation capacity in the Oahe Reservoir capable of serving somewhere in the neighborhood of 560,000 acres. It is unlikely that this reclamation capacity nearly all of which is still carried as a function of the Pick-Sloan project will be used for irrigation until further specific diversions are funded by Congress. Under Section 9(c) of the Reclamation Project Act of 1939, the Secretary of Interior is authorized to make interim use of reclamation projects if he determines that such use will not interfere with the irrigation function of the project. It is clear in this case that where in excess of 500,000 acres of irrigation capacity awaits further Congressional action in order to be utilized, the amount allocated to ETSI will not present any interference with irrigation development in South Dakota over the next 40 to 50 years.

The bottom line is that ETSI's water is not surplus to the reclamation function of the Pick-Sloan Plan but is being utilized as an intergral part of that function. In fact Section 9(c) of the 1944 Flood Control Act specifically requires the Secretary of the interior to operate the reclamation portions of the Pick-Sloan development under Federal Reclamation Law, and the Reclamation Project Act of 1939 is a portion of the general body of Federal Reclamation Law.

In answering the first question in this matter it is easy to see that the second question is also answered. The Army Engineers' authority to contract surplus water is inapplicable in this case and, therefore, is not exclusive in its application.

Conclusion

In this paper I have presented a basic outline of the nature, history, and extent of South Dakota's Involvement with ETSI Pipeline Project and its proposal to develop a coal slurry line from Wyoming to Arkansas and Louisiana. It is South Dakota's position that the actions taken were not only reasonable under the circumstances but were also perfectly legal and within the envisioned purposes of the Pick-Sloan program when it was originally authorized in 1944.

I do not rest, however, on our own analysis of the reasonableness of South Dakota's actions. The downstream states have received practically all of the benefits that they bargained for in the passage of the 1944 Flood Control Act. South Dakota and her upstream sisters on the other hand, have received practically none of those benefits. An Iowa economist funded by the Iowa General Assembly to analyze the impact on Iowa of Missouri River diversions, essentially concluded the same thing. It is apparent from his remarks included in the last two charts of this presentation that when South Dakota's action is subjected to rigorous analysis even her opponents must agree with what South Dakota did in establishing her relationship with ETSI. The Iowa report written by David Osterberg concludes with a final word on ETSI.

"A FINAL WORD ON ETSI

"The ETSI slurry pipeline, the subject of many recent newspaper articles, has come as a warning shot to Iowa. Coming in a low water year when navigation has been reduced, talk of decreasing the flow made citizens and policy-makers aware of all plans to make the Missouri into a smaller river.

"Governor Janklow of South Dakota has claimed that the new pipeline will remove water equal to one-tenth the annual evaporation on Lake Oahe and that downstream users should "quit being selfish" about the Missouri (UMC 1981, p. 8,9). There is merit on both counts: (1) if 50,000 fewer acres flowed past Sioux City in a year, river gauges would have trouble measuring the loss; (2) South Dakota has a claim on water from the River. Iowa has gained the benefits of flood control, farmland creation, navigation and cheap hydropower. Iowa has also suffered the destruction of thousands of acres of wildlife habitat and recreation areas and has a continuing serious problem with degradation. However, Iowa has received the benefits promised. South Dakota has not.

"South Dakota receives power from the Missouri River dams and enjoys four "Great Lakes" which are reputed to have the best walleye fishing south of Canada. However, South Dakota has not received the irrigated acres it was promised to make up for the 500,000 now under the four Corp-built lakes.

"All Basin states would like to see the Missouri used within the Basin. This remains true even after the ETSI deal. South Dakota agreed to the ETSI pipeline first because it prevented ETSI from taking groundwater from the Madison formation and drawing down the potable water sources of South Dakota towns bordering the ETSI pump field in Wyoming. Second, the pipeline will carry water to western South Dakota towns along its path. South Dakota is protecting its water resources."●

THE KGB FORCES A HALT TO THE WORK OF THE MOSCOW HELSINKI GROUP

● Mr. HATCH. Mr. President, 2 days ago, the world learned that the repressive tactics of the Soviet Government have brought another casualty to the international human rights movement: Elena Bonner, wife of banished Andrei Sakharov, announced that the Moscow Helsinki Group was halting its operations due to "cruel persecution" by the Soviets. Since this remarkable citizens' group began its work in May 1976—despite arrests and other harassment—it has produced over 200 reports based on information from Soviet citizens in various parts of the U.S.S.R., which document the Soviet human rights situation. Therefore, although the Moscow Helsinki Group has been forced to end its work, it has left a rich legacy of information which has broadened Western understanding of the Soviet Union.

Apparently, it was the threat of criminal prosecution of 75-year-old retired lawyer, Sofya Kalistratova, which was the immediate cause for the demise of the Moscow Helsinki Group. Kalistratova, a distinguished defense lawyer, who during her career defended such leading human rights activists as Gen. Pyotr Griogorenko and Vladimir Bukovsky, suffers from a weak heart and could not survive a term of imprisonment. The Moscow Helsinki Group has suffered 10 arrests and 4 forced emigrations; only 3 elderly members of the Group remained at liberty; Elena Bonner, Naum Meiman—who has been trying in vain to emigrate to Israel for many years—and Sofya Kalistratova.

I would like to take this occasion to call my colleagues' attention to the fate of one of the imprisoned members of the Moscow Helsinki Group, Anatoly Marchenko. Marchenko, a worker and self-educated writer, has long been active in an important cause: the need to improve working people's rights in the Soviet Union. Too long has their voice been silent. It was partially due to the writings and activities of Anatoly Marchenko that their problems have begun to be heard.

Born the son of illiterate parents in 1938, Anatoly Marchenko served his first prison sentence from 1960 to 1966 for trying to flee across the Soviet border into Iran. After his release, he wrote "My Testimony," the first documentation of political camps and prisons in post-Stalinist times, which was translated into 18 languages. In 1968, he was sentenced to 2 years in camp for alleged passport violations and "anti-Soviet slander" after he wrote letters defending the Czechoslovak liberalization campaign in 1968.

On March 31, 1975, Marchenko was sentenced to 4 years of internal exile for alleged violation of the rules of administrative surveillance imposed following his release from prison. A member of the Moscow Group from its inception, Marchenko followed its activities from his place of exile in Irkutsk oblast—and, despite a local procurator's attempts to concoct a criminal case against him to prevent his return to the Moscow area—Marchenko was released from internal exile in September 1978. Marchenko's 11 years in camps, prisons, and exile have left him in very poor health. He is partially deaf, lame, and has had two operations for a chronic bleeding stomach ulcer. In 1980, Marchenko published "From Tarusa to Chuna," a description of his period of internal exile.

During Marchenko's Siberian exile, AFL-CIO leader George Meany invited him in December 1977 to attend an AFL-CIO convention in Los Angeles. In response, Marchenko sent the AFL-CIO an open letter, "On the Life of Soviet Workers." Excerpts follow:

> The principle of paying wages for work has been distorted into paying rewards for service to the state according to governmental rank. This principle is taken to ridiculous extremes, since there are permanent shortages of basic goods and services . . . This principle of hierarchical distribution of goods extends to everything: from whether or not a worker "deserves" a sheet for his dormitory bed, to whether or not a cottage is supplied with toilet paper . . .
>
> Such conditions for the workers of our huge country are possible only because Soviet citizens are without any rights. In the USSR, government, labor unions and police are all links in the chain which fetters our people. All organizations, including the church, are subordinate to, and controlled by, a small ruling group. Let sixty years of Soviet experience serve as a warning to other nations.

Arrested again on March 17, 1981, Anatoly Marchenko was sentenced on September 4, 1981, to 10 years of special regimen camp plus 5 years of internal exile for "anti-Soviet agitation and propaganda." Since then—in flagrant violation of Soviet law—his wife, Larisa Bogoraz, has been forbidden to visit or receive any news from her husband. Even the Soviets should recognize that Marchenko's family has the right to be in contact with him. Instead, the Soviet authorities have decided to try to isolate Anatoly Marchenko from the outside world, trying in vain to make him become merely a cipher among the estimated 5 million Soviet citizens engaged in forces labor.

At a time of increased international concern about the issue of forced labor in the Soviet Union—and the question of how forced labor is being used to build the gas pipeline to Europe—I think the Soviets are showing how much they fear the voices of people such as Anatoly Marchenko and the other members of the Moscow Helsinki Group and their counterparts throughout the Soviet Union, including Helsinki monitors in Ukraine, Lithuania, Armenia, and Georgia. We in the West, particularly as members of the Commission on Security and Cooperation in Europe will continue to speak out for these voices of justice in the Soviet Union.

At this time, Mr. President, I think we should all pause and give thought to the freedoms we enjoy and observe the heroic efforts of the freedom-striving Helsinki group members of the Soviet Union. In addition to those mentioned, let me now list those who have suffered a worse fate.

Imprisoned Members of the Helsinki Monitoring Groups in the U.S.S.R. and Lithuania

MOSCOW HELSINKI GROUP—SENTENCED

1. Ivan Kovalev—sentenced on April 2, 1982 to five years of strict regimen camp plus five years internal exile for "anti-Soviet agitation and propaganda."

2. Malva Landa—sentenced on March 26, 1980, to five years of internal exile for "anti-Soviet slander."

3. Anatoly Marchenko—sentenced on September 4, 1981, to ten years of special regimen camp plus five years of internal exile for "anti-Soviet agitation and propaganda."

4. Viktor Nekipelov—sentenced on June 13, 1980, to seven years in labor camp and five years of internal exile for "anti-Soviet agitation and propaganda."

5. Yuri Orlov—sentenced on May 18, 1978, to seven years in strict regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda."

6. Tatiana Osipova—sentenced on April 2, 1981 to five years general regimen camp and five years of internal exile for "anti-Soviet agitation and propaganda." (Article 70, RSFSR Criminal Code)

7. Feliks Serebrov—sentenced on July 21, 1981, to four years strict regimen camp plus five years exile for "anti-Soviet agitation and propaganda." (Also a member of the Psychiatric Working Group.)

8. Anatoly Shcharansky—sentenced on July 14, 1978, to three years in prison and 10 years in strict regimen camp for "anti-Soviet agitation and propaganda" and "treason." (Article 64-a, RSFSR Code) (Sentenced in October, 1981 to return to prison for three years.)

9. Vladimir Slepak—sentenced on June 21, 1978, to five years of internal exile for "malicious hooliganism." (Article 206, RSFSR Code)

10. Leonard Ternovsky—sentenced on December 30, 1980, to three years in general regimen camp for "anti-Soviet slander." (Also a member of the Psychiatric Working Group.)●

IT DIDN'T READ OR SOUND LIKE WHAT I SAW AND HEARD

● Mr. JEPSEN. Mr. President, Melvin Stukenberg, executive vice president of the Iowa-Nebraska Farm Equipment Association, recently wrote a very perceptive column in the August issue of the Retailer.

Mr. Stukenberg, who is editor of the magazine, addressed the reporting on President Reagan's recent visit to Iowa to talk to the National Corn Growers Association. The headline over his column sums it up pretty well: "It Didn't Read or Sound Like What I Saw and Heard."

I ask that the editorial be printed in the Record.

The editorial referred to follows:

It Didn't Read or Sound Like What I Saw and Heard

The National Corn Growers Association was very kind and sent to me an invitation to visit their recent annual convention. Since the featured speaker on the first day of their meeting was the President of the United States, I took advantage of their hospitality and attended the afternoon session.

The corn growers from across the United States as well as guests such as myself filled nearly every seat in the Veterans Auditorium, and we were not disappointed as the President had a very fine message for the entire agricultural sector of our economy. He received frequent and vigorous rounds of applause throughout his message from this group of farmers who is having some very tough times due to the economy of the entire country.

The President did not offer any easy solutions to the present plight of the nation's agriculture, but he did dwell on the export situation and the importance of it in getting prices back to a profitable level. He called attention to the continual decrease in the rate of inflation, and the fact that interest rates are declining and are already far below the 20% rate that we knew several months ago.

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That evening when I returned home and read the paper and listened to the report of the President's speech on the six o'clock news, I was beginning to wonder if the reporters attended the same meeting that I had. They were reporting that the farmers gave the President a luke warm reception, while my observation was that the reception was so loud and long that it was hard for him to start his presentation. The reporters said that the farmers were certainly disappointed that the President did not offer some new and fantastic program to solve all problems overnight. My observation was that nearly every statement he made was applauded with vigor.

The reporters interviewed several farmers, and after they were unable to find a negative remark there, they went outside to interview the protesters who were there. The protesters were less than fifty in number but the amount of news coverage they received made it appear that they nearly outnumbered the fourteen or fifteen thousand people who were very supportive of the President.

This incident reminded me of the many times that I have listened to the President or some other leader, and then listened to the commentators afterward tell me what they think I should have heard. I feel that I have a fair knowledge of the English language, and I can usually understand what I have heard. I am getting more than a little tired of people trying to manage the news, and trying to get us to believe as they do.●

REALISM ON CUBA

● **Mr. KENNEDY.** Mr. President, for more than two decades our relations with Cuba—a nation only 90 miles from our shores—have resembled relations with some distant and unknown land. They have been filled with mutual ignorance, hostility and distrust.

Yet Cuba is a "known quantity. It is a country we have had to deal with over the past 20 years, if only because of a wide range of serious differences and problems between us. For 5 years American diplomats have been stationed in Havana and Cuban diplomats have been stationed in Washington, despite the freeze in our diplomatic relations.

Obviously, very important and extraordinarily difficult issues continue to divide our two governments—and the road to normalization under the best of circumstances will be difficult. What is puzzling, however, is the Reagan administration's policy, which is making those circumstances even more difficult. This administration has turned its back on up to 2,000 political prisoners the United States had previously promised to process for entry; it has violated requirements of U.S. law for the reunification of divided families; it has underminded diplomatic openings which could have led to the return to Cuba of the criminals and other excludable persons who came illegally to Florida during the Mariel boat crisis. Cuba was willing to talk last year, but we were not.

Authoritative documentation of these facts is contained in a series of thoughtful and compelling articles by Mr. Wayne Smith, who served as Chief of the U.S. Interests Section in Havana from 1979 until his retirement last month. As the New York Times pointed out in an editiorial on September 8, the key policy question raised by Mr. Smith is why the United States should not apply to Cuba the same cautions but realistic approach called for in dealing with the Soviet Union or any other adversary. The Reagan administration has failed to demonstrate why it is in our national interest to reject diplomatic means to resolve at least some of the issues between the United States and Cuba—even while it pursues a diplomatic dialog with the Soviet Union and other states that pose serious threats to our interests.

I would like to share with my colleagues some of the recent writings of Mr. Smith, one of our foremost authorities on United States-Cuban relations—as well as the New York Times editorial praising his work. I ask that they be printed at this point in the RECORD.

[From the New York Times, Sept. 8, 1982]

THINKING THE UNTHINKABLE ON CUBA

It is Wayne Smith's angle of vision that makes so devastating his understated critique of American policy toward Cuba. It is not every day that a career diplomat risks criticism by spilling the beans, including in this case some black Cuban ones suggesting that the Reagan Administration ignored openings for serious negotiations.

Mr. Smith was director of the State Department's Office of Cuban Affairs from 1977 to 1979 and chief of the U.S. interests section in Havana from 1979 until his resignation last month. He can't be convincingly shushed with the usual if-you-knew-what-we-know litany.

From his perspective, the supposedly rock-hard evidence of massive Cuban arms shipments to El Salvador isn't very solid. "If the guerrillas had received all the arms reported by U.S. intelligence, the Salvadoran Army would be outgunned 20 to 1," he observes in a Foreign Policy article. It will take a lot of white papers to plug the holes that sentence punches in the official rationale for dramatic increases in U.S. arms aid to El Salvador.

But Mr. Smith finds nothing uniquely foolish in the Reagan Administration's Cuba policy. Instead he finds it hackneyed in its stridency, its knee-jerk deference to domestic politics and its resistance to genuine negotiations. Successive Presidents have been unwilling to concede that the Castro regime can't be gotten rid of, short of war. "No incantations will make it disappear," Mr. Smith writes. "To reduce it by fire and sword would cost far more in blood, treasure, and world opprobrium than the problem warrants."

Yet successive Presidents continue to believe that somehow a great power should be able to deal expeditiously with a tiny island ruled by a Marxist zealot. They have resorted to embargoes and bluster, or worse. The best that can be said for the latest sterile gimmick—the proposed Radio Marti—is that it's better than another Bay of Pigs.

Mr. Smith argues that Washington should apply to Cuba the same cautious but realistic approach it applies to the Soviet Union. He maintains with some authority that the much-publicized Reagan Administration soundings in Havana weren't serious, and that three chances for real negotiations, beginning in early 1981, were passed up.

Only rarely do career diplomats go public with this kind of argument, and Wayne Smith won't be thanked by Mr. Reagan for speaking plainly. But the rest of us are in his debt; he has opened a revealing window in Foggy Bottom's stuffiest room.

[From the New York Times, Sept. 5, 1982]

IT IS NOT IMPOSSIBLE TO DEAL WITH CASTRO—REALISM IS REQUIRED

(By Wayne S. Smith)

WASHINGTON.—Cuba continues to have much the same effect on United States Administrations that the full moon reputedly had on werewolves. Perhaps there is no sprouting of hair, but a certain frothing at the mouth and loss of rationality are notable. Indeed, Cuba is such an emotional issue that clear and objective analysis is extremely rare. The Reagan Administration follows the pattern.

Certainly there is nothing new in its approach to Cuba. On the contrary, it seems determined to make past mistakes all over again, and again and again. It came to office striking fierce postures and warning that no option was excluded, not even blockade or invasion. In expecting Fidel Castro to be cowed, the Administration displayed an abysmal insensitivity to history.

For 20 years, Mr. Castro has successfully defied United States-sponsored invasion, assassination attempts, clandestine Central Intelligence Agency radio stations and efforts at destabilization. The Administration's posturing simply implies more of the same. There is no reason to believe such tactics will work any better now than in the past.

To be sure, as the Administration came to office, it faced serious problems in Central America that involved the Cubans. Firm but careful admonitions aimed at pointing the Cubans, the Sandinistas and others in the direction of real negotiations and peaceful solutions would have made good sense. Demonstrably, however, that was not the Administration's purpose. Having blown the situation out of all proportion by describing it as a major East-West test of wills, it was determined to demonstrate in no uncertain terms that it could "stop Communism in its tracks." It wanted confrontation, not negotiations.

In early 1981, the Administration acknowledged that Nicaraguan support for the guerrillas in El Salvador had been drastically reduced. Clearly, Nicaraguans' accommodation of the United States' concerns meant that they valued a continuing relationship with us, thus giving us useful negotiating leverage. Rather than using such leverage to good advantage, we threw it away. The Sandinistas had acceded to our demands, at least in part, but we cut off economic assistance anyway. We abandoned diplomacy in favor of confrontation and clandestine destabilization programs. The democratic opposition in Nicaragua—the very people we should have wished to help—told us this would simply make matters worse. It did.

We also rebuffed Cuban overtures. The Administration was not even willing to sit down to discuss an issue of such keen interest to us as the return of criminals and others ineligible for entry dumped on us during the Mariel sea-lift. The Cubans suggested discussions. We turned them down.

Our only tentative nod in the direction of dialogue came with Alexander M. Haig, Jr.'s meeting with Carlos Raphael Rodrigues, Vice President of Cuba, in Mexico last December, and Mr. Castro's meeting with Gen. Vernon Walters in Havana last March. But these were only preliminary contacts made for the purpose of reiterating Washington's position—and, apparently, of turning aside pressures for serious negotiations. Neither meeting changed the equation in the slightest. By late spring, it was clear that there was to be no follow-up. The Administration was intent upon increasing pressures against, not negotiating with, the Castro regime.

Having thus turned our back on diplomacy, and with very little in the way of leverage to exert against Havana—little, that is, that we have not already tried—we are left in the same blind alley we have been in for the past 20 years.

If future United States policies are to have more success than those of the past, we must overcome emotionalism. Our policy must be geared to clear, realistic objectives and must result from careful thought, not kneejerk reactions. For example, a principal objective should be to reduce Soviet influence in Cuba. Yet, confrontation works directly against that goal. Mr. Castro cannot loosen his relationship with Moscow so long as he is threatened by Washington.

Our best hope of moderating Cuban foreign policy is in demonstrating over a period of time that compromise is in Havana's interest. In the final analysis, serious negotiations and a process of gradual engagement are the only sensible options open to both countries. Neither the historical record nor an objective analysis of the existing situation suggests that this is impractical. Indeed, gradual engagement is the one approach that has never been given a fair chance.

We cannot, however, expect miracles. No quick fix is possible. Mr. Castro is a convinced revolutionary and many of his objectives are antithetical to our own. Relations are likely to remain adversarial for a long time to come. But the areas of conflict could be reduced and a more satisfactory relationship gradually worked out. It is not impossible to deal with Mr. Castro. Sooner or later, Washington must do so, not because we like him but in order to advance our goals and interests.

The United States should apply to Cuba the same cautious yet realistic approach used toward the Soviet Union and other adversaries. As Secretary of State, Mr. Haig observed recently that while Americans could not expect any rapid reconciliation of United States and Soviet interests, the United States had to work toward that objective. Why not adopt the same attitude toward Cuba? The process would be slow and full reconciliation probably beyond grasp. But if we were at least moving in the right direction, that would be a vast improvement over the pass.

[From the Miami Herald, August 22, 1982]

TURNING A DEAF EAR TO THE CUBANS

(By Wayne S. Smith)

Shortly after the inauguration, the Reagan Administration indicated it would place less emphasis on human rights. In the case of Cuba, it has more than kept its word; it has given them no attention at all.

The Carter Administration had its weaknesses. Its objectives were often confused and its efforts at implementation incoherent. This was certainly true of its approach to the Cuban problem. Still, despite its faults, it scored undeniable gains in the field of human rights. It brought about the release of all American and of thousands of Cuban prisoners. Families were reunited through the issuance of preference immigrant visas. Husbands and wives, parents and children, who had not seen one another in years, were brought together.

By contrast, the Reagan Administration's record is zero. It has done nothing. Not a single political prisoner has been released as the result of anything the administration has said or done. On the contrary, it has callously, and in my view shamefully, turned its back on the some 1,500–2,000 ex-political prisoners the United States had previously committed itself to process for entry.

Many of these ex-prisoners were in front of the Interests Section in Havana on May 2, 1980, having come back to ask how much longer it might be before we could begin processing them. I went outside that morning to inform them that we had just received the necessary information and would begin processing that very same day. A few minutes later, they were attacked by a pro-Castro crowd. In the ensuing melee, some 400 people sought refuge inside our building. There they remained until September. With the Interests Section thus virtually closed, the processing of ex-political prisoners had to be postponed, but we had fully expected that once our 400 houseguests were gone (virtually all found their way safely to the United States) and we could reopen our doors, our first priority would be these ex-prisoners. We reckoned without the Reagan Administration. It refused to honor the May 2 commitment. The ex-prisoners have been left in limbo. As one of them said in a letter to me last year, "The U.S. has not only abandoned us, it has dishonored its word." He was right.

Grudgingly, the administration recently agreed to accept a handful of released Cuban political prisoners who had managed to get to Costa Rica. Fine. But what about all those still suffering in Cuba?

And what about the divided families? These are people who are eligible for preference immigrant visas. Their documents are in order and the Interests Section could have begun processing them over a year ago. But, as in the case of the political prisoners, the Reagan Administration has said no. There is no jurisdictional basis for this refusal. It is likely to stand up only until some of the families take it to court. The State Department has not even been able to explain the rationale on which the refusal is based—either to the Interests Section or to key senators whose right to know is unchallenged. For example, in a letter last January, Senator Edward Kennedy (D. Mass.), pointed out that the State Department had no authority under law to halt the processing of preference visas in Havana; he therefore demanded an explanation. To date, he has received no reply.

On an off-the-record basis, various officials have suggested that the refusal to authorize preference visas is based on 1) a reduction in the Interests Section staff, and/or 2) the need to hold such visas as a bargaining chip until the Cubans agree to take back the some 2,000 excludables dumped on us during Mariel. Both assertions are specious. The interests Section staff was reduced by one consular officer *subsequent to and as a result of* the decision against authorization, not the other way around. Further, while the Castro regime has offered several times since January 1981 to discuss the return of the excludables, the Reagan Administration has refused. It hardly makes sense to preserve a bargaining chip for negotiations in which one refuses to participate.

The Reagan Administration's Cuba policy, looked at in its broadest terms, is a failure. It has neither intimidated Castro nor otherwise moderated his behavior. If anything it has made matters word. That much might have been predicted. That the administration has turned its back on Cuban citizens it had an opportunity to help, however, is more difficult to understand. The numbers involved are limited and these are people to whom we have a clear obligation. The administration's refusal to honor that obligation opens it to charges of talking out of both sides of its mouth, or worse.

[From Foreign Policy, Fall 1982]

DATELINE HAVANA: MYOPIC DIPLOMACY

(By Wayne S. Smith)[*]

There are encouraging signs that Ronald Reagan's administration may follow a more sensible policy toward the Soviet Union than indicated by his campaign rhetoric. Unfortunately no such realism is evident with respect to Cuba; rather the administration seems determined to make past mistakes all over again. Its approach to the Cuban problem is as hackneyed as it has been unsuccessful and evokes a painful sense of déjà vu.

No American administration has devised an effective policy toward Fidel Castro's Cuba. Initial U.S. attitudes, formed in the atmosphere of intense hostility of the early 1960s, have changed little. When it comes to Cuba, the United States seems locked in a time warp. As a result U.S. policies have frequently worked against what their objectives should have been. Reduction of Soviet influence, for example, must be a principal goal; yet U.S. policies have had exactly the opposite effect.

At least in part, this intellectual sclerosis results from three idiosyncrasies that distort U.S. perceptions of the Cuban problem. First, many Americans believe in a quick fix where in fact none exists. This belief may be a holdover from the 1960–1961 period when Americans considered the Castro regime an aberration to be quickly disposed of, much as they had disposed of the regime of left-leaning President Jacobo Arbenz in Guatemala. In part, too, it may reflect a residual disdain for so-called banana republics and a concomitant belief that the United States, as a great power, should be able to resolve quickly any problem posed by little countries to the south. Each administration has persisted in the search for a panacea overlooked by its predecessors. The search is based on a delusion. The Castro regime is there to stay. No incantations will make it disappear. To reduce it by fire and sword would cost far more in blood, treasure, and world opprobrium than the problem warrants.

Second, successive administrations have taken a procrustean approach to the problem of defining Cuban intentions and policies. Cuba is frequently viewed through the lens of Washington's own policy miscalculations and domestic political needs.

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[*] Wayne S. Smith, senior associate of the Carnegie Endowment, served in Cuba, 1958–1961, was director of the State Department's Office of Cuban Affairs, 1977–1979, and chief of the U.S. interests section in Havana, 1979–1982.

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Former President Carter's handling of the discovery in August 1979 of the Soviet brigade in Cuba exemplifies the process of self-victimization through false images that often results. The brigade had been in Cuba for a long time and posed no real threat to the United States. But for domestic political reasons administration officials portrayed it as new evidence of Soviet-Cuban aggressiveness so threatening that a U.S. failure to react would be extremely dangerous. Moscow and Havana were testing the United States, the argument ran; accordingly, the administration demanded the brigade's withdrawal. The Soviets and Cubans, of course, had no intention of removing it at Washington's command.

Virtually out of thin air the Carter administration had spun a public relations problem with which it then had to live. The status quo later became acceptable after all, but not before the administration had done tremendous harm to its own credibility and to important American priorities. The SALT II treaty was shelved and détente dealt a mortal blow. The Soviets and Cubans were not, in fact, testing the United States at all. The administration simply chose to portray the situation in those terms and was then hoist with its own petard.

Third, Cuba arouses peculiarly strong emotions in the United States. In part, these emotions are due to Cuba's geographic proximity. Certainly they are also fueled by the personality of Castro. Many Americans grind their teeth in rage at the sight of him on their TV screens. Congressmen who can discuss in rational terms future diplomatic relations with Albania or Vietnam angrily exclude that possibility for Cuba. By contrast, a small but equally committed minority idolize Castro as the antiestablishment figure par excellence. Dispassionate analysis between these extremes is extraordinarily rare.

If future U.S. policies toward Cuba are to be more successful than those of the past, they must flow from long-range strategies geared to clear, realistic objectives; they must result from careful thought, not knee-jerk reactions; and they must deal with concrete issues. So far, the Reagan administration has shown no inclination toward such clarity of purpose.

REAGAN'S RIGID POSTURE

In his resignation statement on June 25, 1982, former Secretary of State Alexander Haig, Jr. complained that the administration had moved away from the "careful course" laid out earlier. No such course was ever apparent with respect to Cuba. On the basis of its own statements, the Reagan team remains confused as to whether it even has a Cuba policy. For almost a year after taking office, Haig sidestepped questions about the new U.S. posture toward Cuba. A full policy review was in process, he explained, and he did not wish to make any statements that might prejudice its conclusions. On January 27, 1982, a State Department spokesman admitted he had no idea when the study might be completed. More recently references to it have virtually disappeared.

Nor have the goals and assessments been clear. The administration began by excluding normalization of relations even as a distant objective. But in May 1982 Haig reversed course, saying that the United States would welcome normalization if the Cubans would cease intervening in other countries. President Reagan, however, speaking on April 30, took still another position: The United States would normalize relations only if Cuba severed its ties with the Soviet Union. Two weeks later the State Department's director of Cuban affairs stated that Cuba would never loosen the relationship it has with the Soviet Union.

Despite this public confusion over policy and objectives, the administration's posture toward Cuba is evident. Stated succinctly, its initial position was that the United States would not even talk to the Cubans until they ceased all interventionist activities in Latin America and withdrew their troops from Africa. If they refused to do so, Washington would exclude no option, including a U.S. blockade or invasion of Cuba. Meanwhile, the administrition adopted measures to signal its displeasure and to underline that there could be no business as usual. Thus it refused visas to Cuban officials, did not invite the head of the Cuban interests section in Washington to diplomatic functions in violation of a specific bilateral agreement, and tried to stop a congressional delegation from attending a meeting of the Inter-Parliamentary Union in Havana. The administration refused to talk to Cuban officials even about a matter as intensely interesting to the United States as the return of criminals and other excludable persons dumped on U.S. shores during the 1980 Mariel sea-lift. Havana offered several times to discuss the matter. Washington would not even respond, although Haig sought to give the impression that Cuba was refusing to negotiate.

The prospects for success of an approach that precludes all compromise are ordinarily questionable. But at least initially, a strong argument could be made that the new administration's tough stance made some sense. Washington faced an urgent problem in Central America. As the Reagan administration came to office, the guerrillas had launched an all-out offensive against the ruling junta in El Salvador. This offensive was unsuccessful, but it was not immediately clear whether Cuba and Nicaragua, which had supported the insurgents, would press for a new offensive or diminish their efforts. Menacing statements from the new U.S. administration were therefore cogent and sensible. But Washington's purpose should have been to convince Havana and Managua that their continued efforts carried high risks, and that it made more sense to trim their objectives and negotiate.

In fact, both Cuba and Nicaragua were already moving in that direction. At first, convinced of the guerrillas' broad popular support in El Salvador and of the need to present the new Reagan administration with a fiat accompli, the Cubans had stepped up their assistance in November 1980, anticipating the January 1981 offensive. When the offensive failed, however, the Cubans and Nicaraguans re-evaluated their positions. Very shortly after Reagan's inauguration, arms shipments declined. Moreover, the Cubans signalled a desire for improved relations and a disposition to exchange views on the situation in El Salvador. While restraint there would have to be mutual, they said, they favored a political settlement.

The U.S. interests section in Havana reported these démarches to Washington, and I urged in several cables that we respond to Cuban overtures, if only to emphasize the strength of U.S. feelings. The Department of State never responded in any way.

The Nicaraguans, disheartened by the guerrillas' failure and concerned about losing U.S. economic assistance, also drastically reduced support to the guerrillas and signalled a desire for improved relations with the United States. But diplomatic initiatives were not in the new administration's game plan. It had come to office vowing to get tough; and the risks to the United States of a policy of confrontation seemed minimal to officials in the new administration. The junta in El Salvador had just defeated the guerrillas without U.S. military assistance. Those new to power in Washington expected that with U.S. aid the Salvadoran government could score a complete victory relatively quickly. Some also expected that threats alone would intimidate Castro and the Nicaraguans. Against this background, the United States opted for military victory in El Salvador and ignored the Cuban and Nicaraguan overtures. Washington acknowledged that arms shipments from Nicaragua had declined but cut off economic assistance anyway.

Shortly after the inauguration Haig defined the violence in Central America as a case of external aggression: U.S. actions in El Salvador were aimed at drawing a line against Soviet-Cuban expansionism. A Department of State white paper released in February 1981 claimed to demonstrate that "the insurgency in El Salvador [had] been progressively transformed into a textbook case of indirect armed aggression by Communist powers through Cuba."

The white paper, however, became a source of acute embarrassment to the administration, primarily revealing shoddy research and fierce determination to advocate the new policy, whether or not the evidence sustained it. Some of the supporting documents turned out to be forgeries. Others were of such vague origin as to be worthless. None of the documents linked the USSR to the supply of guerrilla forces in El Salvador or demonstrated that the violence there was a case of external aggression rather than an internal conflict.

Although concern over Cuban involvement in any turmoil so near the southern border of the United States is justified, U.S. policy would have been more effective had it addressed the turmoil in in its proper context. Treating the situation as a major East-West test of wills, however gratifying to the administration's confrontational instincts, did not and still does not contribute to a sensible solution.

ATTEMPTS AT INTIMIDATION

A promising opportunity to negotiate from a position of strength in the late winter and early spring of 1981 was lost. Had the clear-cut political and military victory Washington sought really been as firmly within its grasp as it seemed to believe, the administration would have deserved support. Warnings at the time suggested and subsequent events have demonstrated, however, that no such victory was in sight. Now, over a year later, the United States is caught in an open-ended spiral of escalating tensions and continuing violence.

Neither the record nor prudent diplomacy suggests that Reagan should have taken Castro's word at face value. Washington has as much reason to distrust Havana as the latter does Washington. But Castro did indicate a willingness to seek accommodation, and the United States had little to lose by seriously exploring the possibilities with him.

The late spring of 1981 brought another opportunity to negotiate. The Nicaraguans, the Hondurans, and the Costa Ricans met to discuss reduction of tensions and border guarantees. The Cubans, also concerned over rising regional tensions, stated they would favor mutual security guarantees and would be willing to play a positive role in bringing them about. The U.S. embassy in Managua and I strongly recommended to the State Department that the United States pursue this opening. I also urged engaging Mexico in the process. During a visit to Washington a short time later, I was told there was no interest in such a negotiating process.

Having rejected the thesis that it might get further by talking to Castro, the United States continued to escalate pressure against Cuba and to create uncertainty in Havana about American intentions. The pressures consisted principally of tightening the embargo against Cuba and establishing Radio Mart, but the administration recognized these as long-term measures. It expected immediate impact from the increased uncertainty fostered by U.S. policy. The administration continued to believe that it could intimidate Castro. Accordingly the United States stimulated speculation that it might take military measures. It also allowed Cuban exiles in Florida to resume paramilitary training. Whether the training had the support of the CIA is not clear. It was certainly at odds with the administration's emphasis on controlling terrorism and may have been illegal. Nevertheless, the administration condoned this training, seeing it as a useful adjunct to the war of nerves against Castro.

Why Washington expected Cuba to crumble under tough talk is difficult to understand. A senior policy maker explained in July 1981 that the new administration was convinced its predecessors had not fully explored the possibilities of exerting pressure on Castro. It was determined that all options should be tried. My reply to this, in a letter dated that same month, was that Castro had seen it all before. Neither harsh words nor harsh measures has ever succeeded. Hence unless the United States was prepared to carry its threats to their logical dénouement, it had best not issue them at all. Bluffs would not work, for Castro was certain to call them.

That is precisely what happened. Between January and November 1981, Washington strongly threatened military measures; the Cubans said they were willing to open discussions but would never knuckle under to intimidation. To emphasize the point, Castro organized a People's Militia, which he claimed would put 500,000 Cubans under arms. He tightened military ties with Moscow—the last thing the United States should have wished to bring about—and brought in large quantities of arms. On July 30 Haig cited these shipments as new proof of Cuban aggressiveness and claimed Washington had solid evidence that some of these weapons were being transshipped to Central America. The administration never produced any such solid evidence. As for the size of the shipments, surely the United States could not expect the Cubans to disarm in the face of U.S. threats.

In late October the situation took on a new dimension. Several developments occurred that the Cubans believed were related. First, on October 19 syndicated columnists Rowland Evans and Robert Novak claimed without supportable evidence that a 500-600 man Cuban special force was infiltrating El Salvador from Nicaragua. The column alone would not have concerned Havana, but a senior State Department official raised the matter with the Soviets as something Washington took most seriously, implying that it might feel forced to respond. Second, U.S. naval maneuvers were to be held near Cuban waters. Third, and most important, on October 29 Haig said the review of U.S. policy options regarding Cuban was almost ready to be sent to the president. Claiming the review contained evidence of Cuban intervention in Central America, he said the United States planned to take action.

The Cubans took Haig at his word, concluding an invastion was imminent. Castro mobilized Cubans to defend their island to the last man and defied the United States to do its worst. Policy makers in Washington were surprised. Although they themselves had rattled the sabers, they did not understand why the Cubans were mobilizing. Still at first they did not consider the development a bad sign. One U.S. official said: "The Cubans are genuinely nervous—and that's not all bad."

As tensions increased, however, Washington quickly sheathed its own sword. During his November 10 news conference, Reagan responded to a question concerning U.S. intentions toward Cuba by saying, "We have no plans for putting Americans in combat any place in the world." As the full implications of Castro's mobilization sank in, reaction in Washington became more somber. Clearly if Castro was willing to defy what he had seen as an immiment invasion, then the U.S. campaign of escalating threats was doomed to failure. Castro had carried the game to its last move and refused to back down. He had called Washington's bluff. On November 15 Castro claimed the Yankees had again retreated in the face of Cuba's determined resistance. Cuba began to demobilize. From that point on, the administration downplayed threats and gave more emphasis to long-term pressures, particularly Radio Marti. Washington increasingly took the position that since Castro refused to accede to its demands, the United States would take measures to raise the cost to him.

Meanwhile, the episode ending with Cuban mobilization began to cause concern among many Americans. Some, including a few congressmen, wondered if the administration had indeed been planning military action. Few Americans really wanted to go that far; nor did they favor military involvement in El Salvador. A congressional resolution on March 2, 1982, calling for negotiations in El Salvador, clearly reflected that outlook.

CONFLICTING SIGNALS

The invasion scare also made the Mexican government nervous. In early November Mexico privately urged the United States to try talking to the Cubans. On February 21 President José Lópes Portillo publicly called for efforts to reduce tensions throughout the area and for direct talks between the United States and Cuba on the one hand and between the United States and Nicaragua on the other.

Apparently to neutralize pressures from these various directions, the administration agreed to a Mexican proposal that Haig speak with cuban Vice President Carlos Rafael Rodrigues. The two met secretly in Mexico City on November 23, 1981. Nothing concrete came of the encounter. They simply restated well-known positions. Still, the meeting was taken as a possible icebreaker. Speculation was further stimulated four months later when Catro's meeting in Havana with U.S. Ambassador at Large Vernon Walters became known.

But not all the signals from Washington were positive. Indeed, most of the rhetoric remained as tough as ever. Shortly after his secret meeting in November with the Cuban vice president, for example, Haig charged again that Cuba threatened world peace and stability. On December 14 Assistant Secretary of State Thomas Enders presented to the Senate Subcommittee on Western Hemisphere Affairs a white paper charging that Castro had returned to the export-of-revolution policies of the 1960s. The paper implied that only tough measures would deter Castro's aggression. It did not mention Cuban offers to negotiate or reductions in arms shipments to El Salvador.

The conflicting signals puzzled the Cubans, but they temporarily persuaded themselves that the Haig-Rodrigues and Walters-Castro encounters might presage a more forthcoming American attitude. The Cubans informed the United States in December that they had ceased shipping arms to Nicaragua, perhaps reflecting a softening of their own position in order to improve the atmosphere for negotiations. Since April 1981 the Cubans had denied shipping weapons to El Salvador. My response to them had always been that while that might be true, some of the arms they sent Nicaragua were reaching El Salvador. Their assertion that the Havana-Managua pipeline had also been turned off therefore seemed a major breakthrough. The Cubans indicated no change in their principles and reserved the right to provide anything Nicaragua needed to defend itself. The Nicaraguan armed forces were well stocked, however, and now had supply arrangements with third countries such as France. The Cuban assertion was duly reported to Washington, which ignored it.

The Cubans actively publicized their readiness to negotiate seriously. In early April 1982 a senior Cuban official told a group of U.S. scholars and journalists in Havana that Cuba wished to play a positive role in bringing about a comprehensive settlement in Central America, provided the United States would also show restraint and work toward mutually satisfactory solutions. The offer's package was as noteworthy as its substance. There were no preconditions of any kind; rather the Cubans were ready to sit down at the bargaining table immediately. Also important, they would discuss all issues, multilateral and bilateral.

A few days after this proposal, a cuban official confirmed to me Cuba's seriousness of purpose: "We want a peaceful solution in Central America. We understand your security concerns and are willing to address them. If you are willing to meet us halfway and to deal with us on the basis of mutual respect, there is no reason we cannot at long last begin to put aside this unproductive animosity between us. We are as weary of it as you are."

Again, it was not a matter of accepting anything on faith, but a question of seriously exploring the possibilities at no risk to the United States. But steps taken by the administration in mid-April dealt prospects for negotiations a sharp blow. First, the United States informed the Cubans that the 1977 fishing agreement would be allowed to lapse. The material impact of the measure was slight, since Cuban fishing in U.S. waters was insignificant. The agreement, however, was produced by the first American-Cuban negotiations in 1977 and in a symbolic sense was closely associated with the idea of détente between the two. Its cancellation was therefore taken as a clear

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signal that the United States had no further interest in better relations.

Second, American citizens would no longer be allowed to make any financial transactions related to tourism in Cuba. Few Americans vacationed in Cuba to begin with, and the Cubans would simply increase the number of exiles permitted to return every month to visit families to make up the loss of hard-currency earnings. Hence the only concrete result of the measure was to infringe upon the rights of U.S. citizens to travel abroad.

From the administration's own narrow interests, there were strong arguments against negotiations with Cuba. Talks with Cuba would further erode the conservative base at home weakened by the opening of arms talks with the Soviets. Moreover, the administration had worked itself into a blind alley in Central America. The electoral solution in El Salvador had solved nothing, as it produced a right-wing government that immediately closed off any possibility of negotiations with the rebels and began actions certain to lose popular support. So long as fighting continued in El Salvador, Washington would be in no position to begin serious talks with Nicaragua or Cuba. Having insisted that the violence in El Salvador resulted from Soviet-Cuban expansionism, the United States could not be perceived as negotiating with what it considered the source while the expansionism continued.

The rationale put forward by the administration to explain its reluctance to negotiate, however, remains quite different from that outlined above. Washington articulated, separately and in tandem, three objections to negotiations, each of which is flawed.

First, it said that Cuban aggressiveness remains unabated and Cuban arms shipments to Central America have not been reduced. But U.S. evidence of arms shipments—especially during the period of Cuban peace overtures—has never been solid. While some arms have been sent from Cuba to El Salvador, the quantities are almost certainly far less than alleged. If the guerrillas had received all the arms reported by U.S. intelligence, the Salvadoran army would be outgunned 20 to 1.

The question in any event was not so much whether some Cuban equipment was still in the pipeline as how the United States could best go about halting the flow and defusing the situation. Discussions might have offered a productive alternative where confrontation failed. With the door closed to negotiations, the situation has continued to deteriorate.

Second, the administration said that it had tried to talk to the Cubans but had found them so uncompromising that further discussions were clearly futile. This claim was deliberately misleading. Neither the Haig-Rodrigues nor the Walters-Castro meetings were serious probes. At the first, Haig simply stated U.S. views and Rodrigues stated Cuba's. At the second, Walters outlined a number of issues of concern and asked whether the Cubans would be disposed to discuss them. They answered affirmatively. They were not, in other words, unresponsive. Yet, the United States spread the word that it had found the Cubans rigid in their positions. However, it also pointed to the meeting as proof of U.S. willingness to talk.

Thus the talks were, from the administration's perspective, simply a way to parry domestic and foreign criticism. The possibility of future encounters cannot be excluded, especially if public pressures mount. But unless there is some basic change in the U.S. attitude and approach, future meetings are likely to be as sterile as earlier ones.

Third, Washington's efforts to question the utility of negotiations from a historical point of view make such a change unlikely. Enders, for example, insisted to a House Subcommittee on March 25, 1982, that while the United States did not reject talks in principle, "the record is daunting." He elaborated:

"In 1977 we started talking seriously to the Cubans, saying we wanted to create conditions in which the legacy of the past—the embargo and the political tension—could be overcome. We suggested a gradual withdrawal of the more than 20,000 Cuban troops from Angola. . . . While we talked, Cuba went into Ethiopia."

This statement reflects a misreading of history for the sake of expediency. True, this administration's two immediate predecessors claimed an unappreciative Cuba ignored conciliatory gestures and stabbed them in the back. But a closer examination of the record does not bear out such partisan charges.

President Ford's administration did make overtures to Cuba in the first part of 1975. And in November, with the arrival of large numbers of Cuban troops in Angola to assist the Popular Movement for the Liberation of Angola (MPLA), then Secretary of State Henry Kissinger announced the termination of conciliatory gestures toward Havana. In an outburst on February 28, 1976, Ford described Cuba's decision as a flagrant act of aggression and Castro as an international outlaw.

The fact is, however, that the United States had done more to provoke the fighting in Angola than the Cubans. Washington encouraged Holden Roberto and the National Front for the Liberation of Angola (FNLA) to ignore the agreement to share power with Agostinho Neto's MPLA and Jonas Savimbi's National Union for the Total Independence of Angola signed in Portugal in January 1975. In March 1975 the FNLA and 1,200 regular Zairean troops entered Angola, where CIA advisers and West European mercenaries later joined them in a drive against Luanda. Havana, in response, sent advisers to assist the MPLA.

In August and October South African troops invaded Angola with full U.S. knowledge. No Cuban troops were in Angola prior to this intervention. In November, responding to the MPLA's appeals, Havana began airlifting troops to Angola. The United States immediately protested and called Castro an outlaw.

U.S. officials were myopic to have expected the Soviets and Cubans to permit a cheap U.S. victory in Angola. But that Castro did not turn his back on the MPLA did not signify his lack of interest in improving relations with the United States. Were that true, U.S. encouragement of Zairean and South African incursions would also have meant that U.S. overtures to Castro were cynical in purpose. He may have thought so but, pragmatically, was willing to keep the two issues separate and to pursue rapprochement even though the United States backed forces in Angola opposed to Cuba's friends.

The point is not that the United States should have ignored Cuban troops in Africa but that those troops might never have been deployed to Angola had the United States pursued a more intelligent course to begin with. The Angolan situation does not prove that talking to the Cubans is unproductive. On the contrary, the United States would have fared better had it discussed Angola with the Cubans and other interested parties with a view to upholding the 1975 agreement.

CUBAN CONFUSION

The Carter administration's approach to Cuba ultimately differed little from those of its predecessors. There were some early talks on fishing rights and maritime boundaries. Travel opportunities improved and interests sections in Havana and Washington were opened. The end of rapprochement began, however, not with Ethiopia or Mariel but much earlier. On November 17, 1977, a high ranking U.S. official claimed a new study revealed a recent, dramatic build-up of Cuban forces in Angola. In fact, no such build-up had taken place. True, an ongoing reduction of Cuban troops had stopped and some had returned to Angola in the spring of 1977 because of tensions with Zaire and an abortive coup in May. The United States had known about and understood the reasons for this development and had nevertheless opened its Havana interests section in the fall. The Cubans were therefore baffled by the administration's statement; when no explanation was forthcoming, they concluded the episode served an immediate domestic purpose: The Carter administration was striking a tough posture toward Cuba to facilitate passage of the Panama Canal treaties through the Senate.

The Cubans had dealt with the United States in good faith until that point but from the November 17 statement forward, rapprochement went sour. In January 1978 the Cubans went into Ethiopia in force. The conviction that U.S. professions of concern over Angola were hollow probably encouraged the Cubans to underestimate American reaction to the intervention. But in the final analysis, a more substantive error led to their action in Ethiopia. In July 1977 the United States had agreed to supply Somalia with arms. This decision was sensible, for Somalia was breaking away from its Soviet and Cuban patrons. The administration's mistake was in not making absolutely clear to the Somalis that the arms were for defensive purposes only and that the United States would not help them pursue their claim to the Ogaden region of Ethiopia. The Somalis interpreted the arms agreement as support for their irredentist ambitions and shortly thereafter invaded Ethiopia. As in Angola, the Soviets and Cubans were not disposed to permit the United States a cheap victory. They had already lost Somalia through defection; they were determined not to see their Ethiopian ally fall in the wake of a Somali invasion. Hence they decided to commit Cuban troops and Soviet equipment to Ethiopia's defense. The Somali surge was turned back.

The arrival and continued presence of Cuban troops in Ethiopia are counter to U.S. interests, but to call their deployment aggression is to take the situation out of context. Had the United States taken greater care, the Somali invasion and the subsequent Cuban intervention might never have taken place. American policy makers must consider more carefully the consequences of their moves before they make them.

The Carter administration's whole approach to Cuba was confused. Its experiences hardly provide a good test of what serious dialogue might produce. Even so, the brief relaxation under Carter produced more positive results than have any previous or subsequent policies. Most Cuban political prisoners and all Americans in Cuban jails were released. Cuban exiles were allowed to return to visit their families. Havana offered to cooperate with the United States in efforts to stop the drug traffic. It also expressed a willingness, which the United Stated did not have the wit to exploit, to help defuse certain international crises. The increasingly strained relations bottomed out in the spring of 1980 with the Mariel exodus, which the Carter administration helped bring about through its inertia and then handled ineptly.

Neither the historical record nor an objective analysis of the existing situation suggests that a policy of relaxing tensions with Cuba is impractical. Indeed, it is the one approach that has never been given a fair chance. What the United States has tried and what the Reagan administration is attempting all over again—threats, pressures, and philippics—has not worked. It is time to turn to a policy of gradual engagement. Such a change will not be easy. The administration had an opportunity in 1981 to negotiate from strength and in a more congenial atmosphere. It threw that opportunity away. The U.S. position in Central America has deteriorated, especially in the wake of the Falklands crisis. The Cubans, having been rebuffed, are now in a temper. Nevertheless serious negotiations are the only sensible path open to the two sides. Americans should not expect miracles. Castro is a convinced revolutionary and many of his objectives are antithetical to U.S. goals. U.S.-Cuban relations are most likely to remain unfriendly for a long time to come. But the areas of conflict could be reduced and a more satisfactory relationship gradually worked out. It is not impossible to deal with Castro. Indeed, sooner or later Washington must do so, not because Americans like him or because they wish to be perceived as nice fellows, but in order to advance U.S. interests.

Principal U.S. objectives in Cuba should be to reduce Soviet influence; to moderate Cuban actions abroad; and to encourage a liberalization process in Cuba itself. Yet, clearly, confrontation works directly against the first and third goals. Castro can neither loosen his relationship with the Soviet Union nor relax discipline at home as long as he must fear the appearance of Marine divisions on his beaches. It is unrealistic to expect that Cuba could or would wish to sever ties with Moscow. A reduction in Soviet dominance, however, is no less in Cuba's interest than in America's. In the final analysis, a reduced Soviet presence in Cuba is also in Moscow's interest. And Washington's best hope of moderating Cuban foreign policy is in demonstrating over time that compromise is in Havana's interests.

Having defined U.S. goals, American officials must devise a policy of gradual engagement to achieve them. In order to improve the atmosphere and build confidence in one another's good faith, negotiations should begin with free travel, cultural exchanges, and discussion of some of the more routine problems between the two countries. The process must be carefully orchestrated, and it must be clear to the Cubans that if they want the United States to address their concerns they must address U.S. concerns as well. Successful dialogue will be firmly based on the principle of reciprocity. Cuba will only stop supporting subversive groups in Central America if the United States also ceases to do so. CIA backing for the armed groups operating against Nicaragua from Honduras must cease, as should the training in Florida of exiles bent on attacking Cuba. As a senior Cuban official stated to me recently: "We are perfectly willing to agree to rules of the game, but they must apply to you as well as to us."

The United States should apply to Cuba the same cautious yet realistic approach it employs toward the USSR and other adversaries. Haig noted recently that while Americans could not expect any rapid reconciliation of U.S. and Soviet interests, the United States had to work toward that objective. Why should the United States not apply this attitude to Cuba as well? The process may be slow, but at least moving in the right direction would be a vast improvement over the past.●

GAO'S "EARLY OBSERVATIONS ON BLOCK GRANT IMPLEMENTATION"

● **Mr. RIEGLE.** Mr. President, recently, the General Accounting Office released a report entitled, "Early Observations on Block Grant Implementation," No. GGD-82-79, August 24, 1982. This excellent report illustrates some of the potential difficulties that may arise in the implementation of the administration's New Federalism proposals.

The first phase of the new block grant programs was incorporated into the Omnibus Reconciliation Act of 1981. Nine block grants were created which consolidated numerous separate categorical programs. These nine block grants gave the States substantially more authority over the use, distribution, and fiscal control of Federal funds. Along with the new responsibility, however, substantial reductions in funding occurred compared with what the programs would have received at the previous year's levels.

The comprehensive GAO study, which encompassed 13 States, concluded that reasonable progress was being made in the early stages of the block grant transition. This is apparently due to the States' own energetic and successful efforts, because, as the report mentions, "Federal agencies have been adhering to a policy of minimal involvement in block grant administration."

GAO reported that early implementation efforts in the States that were visited, largely centered around coping with Federal funding reductions. Of the block grants that were operating at the time of the review, only the social services program had undergone major revisions by the States, and it appears that budgetary constraints necessitated these changes. In contrast, few changes were made in the health block grants and community services programs, because ongoing categorical outlays—"pipeline moneys"—from prior project grant awards provided States with a financial cushion in these areas. This cushion served to mitigate the adverse effects of these funding reductions.

We should approach the block grant issue with a great deal of caution, since GAO predicts that more wide-ranging modifications will occur next year, and I believe that these will be reflected in major service reductions; especially if funding remains at these drastically reduced rates.

Proponents of the block grants noted that reduced Federal requirements and increased programmatic flexibility would allow States to maintain services with less resources. The GAO report notes that it was too early to draw any definitive conclusions on this theory, but noted that some State officials offered their early impressions that any savings produced by block grants would not compensate for the budget reductions. Moreover, State officials said that the assumption of greater responsibilities not previously administered by States would actually lead to increased costs.

Mr. President, I commend this report to my colleagues, and welcome its addition to the continuing debate on the wisdom and structure of New Federalism. GAO will be continuing their work in this area, and this will be invaluable to the Congress and enable us to fully assess the risks and benefits involved in the delegation of authority to the States. I ask that the digest of the GAO report be printed in the RECORD at this point.

The report follows:

[Comptroller General's Report to the Congress]

EARLY OBSERVATIONS ON BLOCK GRANT IMPLEMENTATION

DIGEST

The 13 States GAO visited were making reasonable progress in the transition to block grant administration. Involvement with the predecessor programs helped States accommodate the shift even though there was little time before implementation and the uncertainty of block grant appropriations complicated planning. Budget reductions accompanying the block grants also prompted concerns and adjustments. Ongoing outlays from prior categorical awards, certain legislative restrictions and other factors, however, initially limited the number of major changes from most previous programs. States can be expected to institute more programmatic and administrative changes as the transition continues to unfold.

Block grant oversight and accountability mechanisms were evolving at the time of GAO's study. State legislatures were moving to become more involved in block grant decisions, and States were establishing procedures to obtain public participation and to audit block grant expenditures. Concurrently, Federal agencies have been adhering to a policy of minimal involvement in block grant administration. Certain questions, however, have arisen concerning matters such as the amount of information that would be available on State block grant activities and the applicability of Federal laws in addition to the block grant legislation.

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PRIOR STATE INVOLVEMENT HELPED EASE TRANSITION

The Omnibus Budget Reconciliation Act of 1981 assigned States primary administrative responsibility for nine block grants. Six became effective on October 1, 1981: Social Services; Low-Income Home Energy Assistance; Maternal and Child Health Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; and Community Services. The Education, Primary Care, and Small Cities block grants were not operating at the time of GAO's review, and States were using the added time to assess the merits of State administration or to plan for implementation. Almost all of the 13 States were administering the operating block grants, with the exception of the Community Services program which 5 had deferred.

The transition to most of the operating block grants was eased considerably by States' previous experience. States already received the vast majority of funds under the predecessor programs and had various ties with program recipients. Consequently, the need to make major administrative adjustments immediately was reduced for most block grant programs. Because States' prior involvement in the Community Services program was not as extensive, in general more decisions were required. (See pp. 9 to 13.)

While States' experience helped ease the transition, officials in most States believed that the process could have been enhanced by more timely and reliable data. Recognizing the short time available, in a number of cases State officials were generally satisfied with the information they received and cited certain Federal actions as particularly helpful. In several instances, however, officials stated that the lack of adequate information about funding and other matters complicated planning, particularly in cases where funds previously had gone to non-State entities. (See pp. 15 to 19.)

SEVERAL FACTORS INFLUENCED THE NUMBER OF EARLY PROGRAM CHANGES

During early implementation, a major concern was coping with budget reductions. For the three operating health block grants and the Community Services program, however, several factors fostered stability and limited the number of major changes made immediately. Most notably, ongoing Federal outlays from 1981 awards under the predecessor categorical programs provided additional time and resources for adjusting to the reduced funding levels. Almost all of these programs were project grants, or had a project grant component, funded for at least a 12-month period. Because they became effective at various times in the Federal fiscal year, many in the last quarter, these projects already were funded well into fiscal year 1982. (See pp. 21 to 23.)

The limited scope of early adjustments under the health and community services block grants also was influenced by statutory requirements for continued funding of certain grantees and services, and the short time frame preceding implementation. Moreover, States rarely had transferred funds from one of these block grants to another block grant as allowed by the legislation. Generally, States retained priorities established under the categorical programs; when reductions were necessary, officials most often reported making them on a proportional basis.

In contrast, more changes were made immediately in two block grants which had fewer legislative restrictions and no ongoing categorical outlays. To cope with funding reductions in the Social Services block grant, 10 of the States altered previously established funding patterns. Also, seven States had transferred Low-Income Home Energy Assistance funds into Social Services. In the Low-Income Home Energy Assistance program States used their new flexibility to fund weatherization—an activity not authorized previously. (See pp. 25 to 27.)

While initially concentrating on budgetary decisions, certain States reported, or contemplated, management changes to take advantage of reduced Federal application and reporting requirements. Officials believed, however, it was too early to make any definitive judgments on administrative costs or efficiencies emanating from block grants. (See pp. 27 to 29.)

STATE BLOCK GRANT OVERSIGHT MECHANISMS ARE EVOLVING

Although limited by the short time frame preceding implementation, States were moving to establish block grant oversight procedures. For example, in 10 States GAO visited, State legislatures had enacted measures influencing early block grant implementation and enhancing their role in appropriating funds and reviewing block grant plans. As a result of these actions and the overall trend greater State oversight of Federal funds, State legislatures are expected to become increasingly involved in block grant decisions. (See pp. 30 to 32.)

During early implementation, States obtained public comments by holding hearings, circulating block grant plans, and establishing advisory groups. State methods for obtaining future public participation, however, had not been finalized at the time GAO completed its work. Thus, a more complete picture should be available next year. (See pp. 32 to 35.)

One oversight vehicle contemplated by the legislation is State audits of block grant funds. Audit strategies were being developed and the States were considering questions that had arisen concerning such factors as the approach and funding of block grant audits. The Office of Management and Budget has requested States to submit their audit plans so an early dialogue can begin. (See pp. 35 to 37.)

OTHER BLOCK GRANT DEVELOPMENTS

Traditional Federal oversight activities, such as detailed application review, have been curtailed and little additional guidance has been issued beyond that contained in the statutes. Federal compliance and enforcement efforts on such matters as nondiscrimination are being developed. (See pp. 39 to 41 and p. 43.)

Although States are required to submit annual reports, Federal agencies have stated they will not specify the form and content of these reports. Concerns that the lack of standard program data could make national assessments difficult have prompted certain States for some block grants to work together to maintain or develop reporting systems. A key issue is whether this voluntary approach will produce sufficient information for national policymaking.

Another question raised during early implementation was whether national crosscutting requirements, such as fair labor standards and political activities constraints, apply to the block grants. Crosscutting requirements are statutes or administrative requirements which apply by their terms to all or several Federal assistance programs. Aside from certain civil rights laws, the Reconciliation Act and agency regulations by and large are silent on the subject. The Small Cities block grant regulations are an exception to this pattern.

As opposed to making an explicit determination of the applicability of crosscutting requirements to the block grants, Federal agencies at this time are addressing the issue selectively, but they are continuing to consider alternative ways of approaching the subject. Given the short time available preceding implementation, most States were considering the applicability of these requirements and believed that Federal advice would be desirable. (See pp. 42 to 44.)

GAO believes it would be helpful, in minimizing potential problems, if the Office of Management and Budget in coordination with the responsible Federal agencies assessed whether or not the crosscutting requirements apply to the block grant programs. This would provide a basis for sound advice to the States and for seeking remedial legislation if that were deemed appropriate. In response to this report, the Office of Management and Budget stated that it has begun a process to work with the Federal agencies and others to consider general guidance on the crosscutting requirements.

AGENCY COMMENTS

Federal agencies commented that this report was a useful and objective summary of block grant implementation. They also stated that it was accurate and provided new insights on States' experiences. Written comments received from the Office of Management and Budget and the Department of Education along with GAO's response are included in appendixes III and IV. Oral comments were received from the Departments of Health and Human Services (HHS) and Housing and Urban Development (HUD). HHS officials said that the report was a cogent and helpful description of block grant implementation, and they offered some technical comments which were considered in preparing this report. HUD officials said that the report accurately described the Department's block grant program.●

SO, WHAT'S WRONG WITH A SERVICE ECONOMY

●Mr. INOUYE. Mr. President, recently Forbes magazine published an interview with Mr. Ron Shelp, vice president of the American International Group, concerning the dominance of the service sector in the U.S. economy.

Some policymakers are making a belated discovery about the transformation of the U.S. economy from a manufacturing to a service economy even though this transition has actually been proceeding since the 1920's.

What is important about this phenomenon is not that the United States has become a service economy but rather that it is becoming increasingly information-oriented, with value added coming principally from technically trained individuals who have specialized training in data handling and with information skills.

In his interview, Mr. Shelp dispels some myths about the service economy, such as the allegation that a service economy will result in lower living standards. Moreover, he notes that productivity in services may be much higher than claimed although we currently have no means to measure accurately the increase in service productivity.

Finally, he makes the crucial point that services are closely linked to products. Clearly, for example, computer software is intimately related to computer hardware, and both are crucial to operations.

This Forbes interview is noteworthy because it moves the discussion about services toward services as part of a national industrial economic strategy. Services must be seen as a part of economic policy, and this interview makes a worthy contribution to this policy debate. I ask that it be printed in the RECORD.

The interview follows:

SO, WHAT'S WRONG WITH A SERVICE ECONOMY?

(By James Cook)

As the recession has deepened and more and more of the U.S. traditional manufacturing economy has shut down, much of it permanently, it has become clear that the U.S. is going to have to depend more and more on the service industries for jobs and for economic growth. To most people, the services seem like a feeble reed for a great nation to cling to—low paying, economically unproductive, incapable of generating the kind of growth and affluence the U.S. is accustomed to. That's the conventional wisdom. Last year Ronald K. Shelp, a vice president with New York's American International insurance group, challenged this conventional wisdom in a book, "Beyond Industrialization: Ascendancy of the Global Service Economy" (Praeger, $29.95). In it Shelp argues that the shift to a service economy, while painful, is good for us in the long run. He tells Forbes why.

SHELP: In terms of the way economists define it, in terms of jobs, the U.S. has been a service economy since about 1945, when over half of Americans were employed in services. Since then the proportion has grown dramatically. By 1980–81, 72 percent were employed in services. [In dollars] services are now over half the GNP—about 65%. We're making policy as if we are an industrial country, and not dealing with the fact that we aren't.

Look at our leading economic indicators. They come out every month, and what do they measure? Inventories, job creation, manufacturing confidence, housing starts and so on. In my opinion they don't really measure the U.S. economy because very few of them have anything to do with the service sector.

Having said that, it is a very tough thing to start measuring. Yet we make a series of conclusions about how well or how poorly the U.S. economy is faring based on judgments of how an industrial economy should be faring. Which, again, we haven't been doing for 40 years.

As we become a service economy our standard of living will decline—maybe I should say continue to decline.

SHELP: Well, it may or may not. People have never come to grips with the problem of productivity in services. Because nobody knows how to measure it. A lot of people blame services for our declining productivity because services are supposed to be so unproductive. They contribute more to inflation than big, labor-intensive industries, and it takes five service workers to do what one manufacturing worker can do. I doubt that is true, but when we deal with the problem of national productivity, we don't address how you measure and improve productivity in services but productivity in manufacturing. So we are not really addressing the problem.

The assumption is that it is very hard to improve productivity in nonmachinery, labor-intensive businesses; if you issue loans or insurance policies, you just have to have people to turn out these policies, and the more policies, the more people. But if you look at word processors and all the other technological changes going on in service companies, I suspect the potential for improvement in services is a lot better than we think it is. People have this built-in bias against services. I don't know if you saw that piece in the *New York Times* the other day—"Big Mac versus Big Steel." What bothered me was not the either/or but equating the service economy with Big Mac.

Jobs in the service sector often are lower paying than those in manufacturing.

SHELP: When people think of services, they first think of government and then of menial services. And the wages in those kinds of services are lower. But services also include the high-technology services, the professions, accounting, construction companies, telecommunications companies, banks, insurance companies, advertising. Look at the wage level there. You're in a different ball game. Henry Kissinger once said that a great nation cannot be a nation that depends on hamburger franchises. I agree with him absolutely. The trouble is, I don't think that's what the U.S. service economy is about.

You know, the only thing that Marx and Adam Smith probably agreed on is that services are parasitic. They both say that: The services aren't productive, they don't really contribute anything to the gross national product or to growth. There are a whole series of assumptions about services. They're always said to be labor-intensive as well as low paying—some are, some aren't, some are even capital-intensive. They are associated with low technology, low skill. There is a propensity for services to employ women, minorities, part-time workers. And these traditional assumptions are definitely true—for some service industries.

But they are parasitic, aren't they? They really do feed off everything else that goes on in the economy.

SHELP: The real point for me is that they're integrated. It's not services or manufacturing. They complement each other. Look at the socialist countries, where they have made a concerted effort to allocate their resources to industry, big industry. But, as we know, their industry doesn't work very well. There is no effective distribution system, no effective transportation system, communications system, marketing and so forth. That's one of the big problems for the Soviet Union and quite a few other socialist countries, and countries such as Hungary and Rumania are beginning to think about it.

A novel thought: Socialist industry is inefficient because it is excessively industrial. So you're suggesting service industries really provide a sort of infrastructure for industrial development.

SHELP: That's right. The lines are beginning to blur. Industrial companies are already selling services, a lot of them both domestically and internationally, and one day you'll find services acquiring manufacturing. Take the oil companies. They're being forced into the service business overseas by nationalism—Aramco in Saudi Arabia, some of the companies in Libya. They are no longer equity holders of oil companies. They are supplying their expertise, management and consulting services to government or to the new owners. Eventually, they will start exploiting these skills and services everywhere.

Or take construction and engineering services. The Bechtels and the Fluors and all these great companies aren't just selling services, design and construction, they are also selling goods, selling an incredible amount of goods, and the likelihood is, when they get an international contract they will choose the engineering, design and equipment from those they know—that is, the U.S. producers.

The point is that services and manufacturing are linked, integrally. The development of the service sector can and should encourage the growth in manufacturing. The great pity is, a lot of people equate the rise in the service economy with the decline in our traditional manufacturing industry. They assume that nothing is going to be manufactured and produced in this country anymore. If you read economic theory, you know some economists say that societies go through three stages—agricultural, industrial, post-industrial—and the third phase is supposed to be the most advanced stage, the stage where we have really arrived as an economy, where we are a truly sophisticated, advanced technological society.

Not much help to me if I lose my job.

SHELP: You ask, where are the people in these declining industries going to work? The obvious conclusion is they are going to work in the service sector and hopefully at something other than franchising or at low wage levels. There is a good bit of data showing that that's what has been happening since the turn of the century—when people left the agricultural sector, the majority of the jobs weren't filled in the industrial sector. Even as we were becoming an industrial nation, they were filled in the service sector. That's been true in the U.S. through-out the 20th century. The U.S. service sector has done quite well in producing jobs in bad times, and not just jobs in McDonald's either. Between 1977 and 1980, in fact, employment in eating and drinking establishments rose 18%, but employment in business services increased 32%, with computer and data processing up 64%. Job gains of more than 25% occurred in legal services, engineering and architectural services, and accounting, auditing and bookkeeping.

And, of course, government remains one of the dominant forces in the U.S. service economy.

SHELP. That's true and not true. There's a tendency to think of the growth in government as being primarily responsible for creating jobs in the service sector, and you can't minimize it. But in recent years government employment has dropped at the federal level. It has not leveled off much at the state and local level [and] this New Federalism, if that works, should probably encourage more growth there. I don't want to minimize the role of government, but I don't think that's where all the action is. In terms of employment, the U.S. would be a service economy without government. Barely. But so, I think, would quite a few

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other countries, including some developing ones.

What shocked me, when I started looking into this, is how many developing countries are service economies already. They haven't gone through the other stages. Maybe they don't have to. Maybe imitating industrial countries like the U.S. is not necessarily the pattern that everybody has to follow. I initially thought the data would show they were all shining shoes and selling pencils, but there are a surprising number in commerce, retail trade, transportation, things you wouldn't expect. And when you get to developing countries that have really fostered the service industries, such as Singapore and Hong Kong, they are in the same kind of service industries that the highly skilled service workers are in this country.

Of course, in a lot of these countries, government service is used as a means of solving the unemployment problem, much as we used the Post Office here right after WWII.

Shelp: Government is one of the main reasons some developing countries have service economies. Not just as a means of solving the unemployment problem, but because governments have accepted the responsibilities for accelerated economic development and growth, as well as welfare, leisure-time activities, good health and educational facilities—responsibilities that, when we were developing, our government didn't assume.

What you're suggesting is that if we go on trying to find solutions to problems in the economy by focusing on the industrial sector, we're going to be pursuing the wrong solutions to the wrong problems.

Shelp. The problem of adjustment is a very difficult one. I have no doubt that certain companies in certain traditional industries are probably finished. Particular steel companies may have had it, but that doesn't necessarily convince me the U.S. steel industry is finished. I think part of our traditional industry will come back. The tough part is determining when to let the weak ones fail in the struggle and when to provide government assistance. I don't think the U.S. is very good at that. Everybody says the industries to foster are services and high technology. But how then do you determine which high technology you want—which are the good ones, which aren't, which services are good and which aren't, and finally which traditional industries you'll save?

Proponents of reindustrialization wouldn't agree with you. They dream of restoring the good old days.

Shelp: Reindustrialization is probably a misguided policy. We should really concentrate on cultivating our services, our technology and the traditional companies and industries that can and should survive. Obviously we have to factor in things like national security in making those decisions.

Scant comfort to the permanently laid-off autoworkers. Robots taking their jobs.

Shelp: Robotics is scary, especially the type the Japanese have moved in on. But I suspect robotics will create new business opportunities, new industries, new technologies. They are hard to fix in advance. That has always happened before in technological change: New technologies inevitably create new jobs themselves. Intuitively I think that's true. There obviously will be unemployment and job changes, but the problem to my mind is providing the incentive for retaining and relocating people in new areas. There is something to be said for certain kinds of planned adjustment. It's nice to think about the invisible hand taking care of everything, retraining and relocating people, but I think other countries are a lot more creative about it than we are.●

NEWBERRY, MICH., CELEBRATES ITS CENTENNIAL

● Mr. LEVIN. Mr. President, this year Newberry, Mich. will mark its centennial. Under the general slogan of "Looking Back—Moving Ahead," Newberry has developed an extensive program of celebration. And they have a great deal to celebrate.

Even though I was born and raised in a city, I know that our national roots pull all of us to towns like Newberry—towns where you know your neighbors, share their concerns, cooperate with them in improving the quality of life in your community. In fact, many of our efforts in this Nation are directed to creating that kind of communal spirit in our own lives; lives which are too often impoverished by the impersonal nature of our dealings with others.

I am glad that a town like Newberry understands that the basis of its strength rests in its sense of self. Its ability to survive and flourish is nurtured by the fact that for a century it has been a physical and spiritual home to generations of families who know that their own essence has been shaped by a common experience. Newberry celebrates that sense of community as it fondly allows itself to "look back." But Newberry also recognizes that renewal comes from more than a knowledge of the past; it also comes from an experience of the future. And that is why Newberry takes the opportunity afforded by its centennial to think about "moving ahead." After all, roots do more than anchor a tree to a spot in the soil; they also provide the nourishment which allows the branches of that tree to grow and search for new paths to the sky.

In many ways, I wish I had been born in Newberry. But, in many ways, I am a part—we are all a part—of its history and future. Mr. President, I extend my congratulations to the town and the people of Newberry, Mich., and I send them my thanks for what they have been and my best wishes for what they will be.●

NATIONAL ALZHEIMER'S DISEASE WEEK

● Mr. DURENBERGER. Mr. President, today I am asking support for a joint resolution to encourage the designation of the week of November 21, 1982, as National Alzheimer's Disease Week. I am pleased to join with my distinguished colleagues, Senators Eagleton and Levin as well as Members of Congress in making Americans more aware and more concerned about the devastating effects of Alzheimer's disease.

The disease is now believed to be the most common cause of severe impairment in older individuals. With 1.5 million victims, Alzheimer's disease is one of the most common causes of death in the United States.

There is no known cure for Alzheimer's disease and there are no known methods for preventing it. What is known is that it produces intellectual disability—senile dementia—in 15 percent of Americans aged 65 and over. We know that this disease accounts for more than 50 percent of all nursing home admissions in the United States. And we know that it is costing billions of dollars each year to provide health care for these afflicted individuals.

We are beginning to understand more about the causes of Alzheimer's disease. For example, we know that changes in proteins in the brain lead to mental and neurological symptoms. The victim of this disease is likely to experience losses in memory, confusion, irritability, and problems in judgments. This is intensely frustrating for both those afflicted and for their loved ones since the individual with Alzheimer's disease appears healthy physically but is rendered mentally crippled and thus becomes incapable of functioning normally.

Clearly, we need to know more about the causes of Alzheimer's disease. Certainly we need to investigate into the possible hereditary links of this heartbreaking disease. We need to study Alzheimer's disease more thoroughly with the hope of better treatment, a possible cure, and an eventual method of prevention.

It is my hope that passage of this joint resolution declaring a National Alzheimer's Disease Week will spur more interest, a greater concern, and an outpouring of research into this important area of health. I invite my distinguished colleagues to join me in this endeavor.●

LEROY COX: A FOUNDING FATHER OF RAYTOWN

● Mr. EAGLETON. Mr. President, on September 22, 1982, the Raytown Area Chamber of Commerce will be honoring Raytown's leading citizen for many years, Leroy Cox.

Few Americans can claim the title of being a "founding father" of their community, but Leroy Cox is just that. He was one of the citizens who convinced the Jackson County Court that Raytown should be incorporated and in 1950, Mr. Cox was appointed the first Mayor of the new community. He served as Mayor for 9 years, from 1950 through 1957 and from 1959 through 1960. As Mayor, Mr. Cox gave life to Raytown, spearheading the establishment of city boundaries through annexation, sewer development, street lights, traffic lights, street maintenance, city parks, the police department, and the purchase of the first City Hall.

After leaving the Mayor's office in 1960, Mr. Cox continued serving his community. He has been a member of the Jackson County Planning Commission Board of Zoning Adjustment since 1973 and has been active in numerous civic organizations.

Leroy Cox has also been highly successful at his avocation, the exhibition of American saddlebred horses at major national horse shows since 1946. In addition, he has served as sponsor of the Raytown Piperettes Women's A.A.U. basketball team, which ranked in the top 5 teams nationally for 15 or more years and whose players earned 40 first-team All-America awards.

The list of Leroy Cox's honors and achievements goes on and on. His has been a life of dedication and service to his community, his State, and his Nation. I join the Raytown Area Chamber of Commerce, of which Mr. Cox is a past president, in saluting him. His achievements are a testament to his commitment to his friends and neighbors. Leroy Cox has worked tirelessly to improve his community and I am confident that his work will go on in the future. Raytown owes a great debt of gratitude to Leroy. I join the Chamber of Commerce and all of Raytown in extending my heartfelt thanks to him for his many years of service.●

HOME RECORDING

● Mr. MATHIAS. Mr. President, on August 1, 1982, the Philadelphia Inquirer endorsed the approach that I have proposed to resolve the home-taping issue now before the Senate Judiciary Committee. As you know, my amendment to S. 1758 would exempt home video and audio taping from liability for copyright infringement. It would also require the manufacturers and importers of recording devices and blank tapes to pay a small royalty to compensate copyright owners. The Inquirer's editorial is a thoughtful statement of the need to find a reasonable solution that protects both the right of copyright owners to be compensated for the use of their creative property, as well as the interests of citizens who wish to tape in the privacy of their homes.

I ask that this editorial be included in the Record.

The editorial follows:

[From the Philadelphia Inquirer, Aug. 1, 1982]

Home Recording, Yes, But Protect Copyrights

U.S. copyright law, authorized in a constitutional provision giving the Congress power to secure for authors "the exclusive right to their respective writings" for limited times, was enacted in 1790 by the First Congress and has been revised a number of times. It well could be described as the nation's initial and most fundamental consumer legislation. Without copyright protection there would be no financial incentive to write books, songs, plays and other creative works that could easily be copied and sold with no compensation to the authors.

It is in that context that the Congress should consider carefully pending bills dealing with video and audio taping of copyrighted material for home use. Generally referred to as the Betamax bills, in reference to the trade name of a device on the market used to record television programs for future viewing, the measures would apply to all types of videocassette recorders (VCRs) and also to audio taping devices used to reproduce copyrighted records and albums.

Last October the U.S. Court of Appeals for the Ninth Circuit ruled that reproduction of copyrighted video material for home use constituted copyright infringement and that manufacturers and distributers of the recording devices may be held liable in damage suits. The U.S. Supreme Court has agreed to hear an appeal, but a decision is not expected before next year.

Meanwhile, the first congressional action on the issue is likely to be in the Senate, where Betamax bills are on the agenda of the Judiciary Committee and could come up for consideration at any time, possibly this week. Members of the committee include Arlen Specter (R., Pa.) and Joseph R. Biden, Jr. (D., Del.), both of whom have devoted much study to the bills and have kept their options open. Their committee votes could be crucial.

One proposal before the committee simply would nullify the Ninth Circuit Court decision by exempting taping for home use from copyright liability with no compensation to copyright owners. That would be not only unfair but an opening wedge to potentially devastating erosion of copyright protection at a time of rapid advance in technology for reproducing copyrighted work at low cost.

A more reasonable approach is taken in an amendment sponsored by Sen. Charles Mathias (R., Md.) that, while allowing taping for home use to continue, would provide for compensation to copyright owners. Funds for the compensation would come from fees assessed on retail sales of recorders and tapes.

An existing federal agency, the Copyright Royalty Tribunal, would set the fees and divide the proceeds among copyright owners in much the same way it does now relative to music played in coin-operated "jukeboxes" and by other means in public places. Since it would be impractical, if not impossible, to tabulate precisely the number of times each musical selection is played, the tribunal allocates royalties to copyright holders based on available data, with arbitration procedures in case of disputes.

The complexity of detail is enormous, and the Congress might be well advised to avoid spelling out every intricate rule of implementation. At root is the need to give fair treatment to owners of copyrighted material without impeding unreasonably the use of recording devices that provide convenience and enjoyment for increasing numbers of people.

It has been argued superficially that no copyright compensation for home recording is justified because much of the money probably would go to producers of motion pictures and television shows already making large profits. That shouldn't be necessarily so, but legislation could take that into account with provisions assuring fair allocation to individual creative artists and performers and noncorporate copyright owners.

Home recording devices commonly allow for deletion of commercials, which has led to the "time-switching" phenomenon whereby movies, shows and other events on TV are routinely recorded for later viewing because they can be seen in significantly less time without commercials. Sponsor support for TV programming presumably would diminish if growing proportions of audiences deleted commercials. Relationships between copyright compensation and future program quality deserve Congress' attention.

In a relatively short time print-copying technology may permit books to be reproduced at less cost than conventional printing. Although this is not an immediate issue before the Congress, precedents set in copyrights for visual and audio material may affect later decisions on a broader spectrum of copyrighted material.

Copyright protection is the essence of the issue before the Senate Judiciary Committee. Advancing technology requires more, not less, vigilance in preserving and strengthening that protection.●

WILDLIFE MANAGEMENT

● Mr. GOLDWATER. Mr. President, I recently had an opportunity to read in Exxon USA an excellent question and answer article featuring Bob Jantzen, the Director of the U.S. Fish and Wildlife Service, who came to his present post from the State of Arizona. It deals honestly and effectively with the difficult wildlife management issues of today and points out how it is the intent of the Reagan administration to deal with these issues with sound resource management practices.

Since most of us are being questioned by constituents on wildlife policies, I urge everyone in the Senate to take time to read this meaningful article. I believe it will provide a greater understanding of the issues and of the man who is in charge of our Nation's wildlife.

I ask that the article be printed in the Record.

The article follows:

[From Exxon USA, First Quarter 1982]

Thinking Like a Mountain

(By Don Dedera)

He is 53 years of age. That span of time roughly coincides with the evolution of a truly national—even international—policy of scientific and sensitive management of the fish and wildlife resources of the United States.

Robert A. Jantzen by name, he is the newly appointed director of the Interior Department's Fish and Wildlife Service. He fills a post served in the past by a succession of distinguished naturalists and biologists. As federal caretaker of the creatures of America's land, air, and waters, he personifies an ethic now deeply ingrained in the American spirit.

It wasn't always so.

The Nation's blackest environmental chapters chronicle abuse and waste of our living natural resources. Many dark deeds of egg gatherers, plume seekers, fish dynamiters, and commercial gunners can never be

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undone. Millions of bison no longer roam the plains, and more millions of passenger pigeons have vanished forever from the flyways.

Yet nature early attracted its defenders and champions—Emerson, Walton, Thoreau, Marsh, Burroughs, Merriam, Mather, Muir. Massachusetts closed its season on deer in 1694; in 1872, America set aside the world's first national park: Yellowstone. The country heeded Gifford Pinchot: "There are just two things on this material earth: people and natural resources. A constant and sufficient supply of natural resources is the basic human problem." Novelists of the stature of DeVoto and Steinbeck gave voice to that truth, and Ellen Glasgow could trace her social issues to "The soil, impoverished by the war and the tenant system which followed the war. . . ."

Nearly a century ago conservationists founded the Boone & Crockett Club. In 1902 the National Association of Audubon Societies emerged. The next year, the first federal wildlife refuge was proclaimed at Pelican Island, Florida.

The aesthetic, cultural, and scientific values of nature's life forms earned the support of more legions of admiring Americans called ecologists, among them, Aldo Starker Leopold. Although his later writings, such as "Thinking Like a Mountain" and "Sand County Almanac" won public acclaim, it was his classic "Wildlife Management," first published in 1933, that fired the imaginations of a new generation of biologists.

"When I first read Leopold's book as a boy, it set the direction of my life," says Bob Jantzen today. Growing up in a small rural central Arizona town, he clerked in a sporting goods store, managed a fish hatchery, and absorbed outdoor knowledge and lore. Following a hitch in the Marines, he took a degree in wildlife management at the University of Arizona and rose through the ranks to become director of his state's game and fish department, a post he held for 13 years. He was named director of the federal service in autumn, 1981. In his Senate confirmation hearing, much was revealed in a brief exchange between Jantzen and an interrogating senator.

"Do you fish, Mr. Jantzen?"

"Yes, Senator, I do."

"Do you fish for trout?"

"Yes."

"With dry flies?"

"Yes, sir."

"Okay. You'll do."

Exxon USA magazine crossed trails with Director Jantzen in Portland, Oregon, where he was inspecting one of the service's seven regional offices.

Exxon USA: Do you hope to visit all the units of the Fish and Wildlife Service?

Jantzen: I wish that were possible. But the national wildlife refuge system has grown to 410 units totaling 87 million acres. If I did nothing else for the next several years. I couldn't do justice to them all. They extend from the Aleutian Islands to the Virgin Islands, from Moosehorn, Maine to Hawaii.

Exxon USA: Anything else you might wish for, in taking on this enormous responsibility?

Jantzen: Well, like most wildlife biologists, many a time over the past 30 years, I've wished I could have been more successful in implementing the concepts advanced by Dr. Charles Vorheis. He was a most influential pioneer in wildlife management at my university. He considered himself an "economic zoologist," sort of a family physician in land health. His belief was that sick nature, like sick people, likely would require treatment. Couldn't just be left alone to cure itself.

Exxon USA: And that philosophy guides you still?

Jantzen: It had better. Beneficial management has become the ideal of all the state fish and wildlife agencies. It's the heart and soul of our endangered species and migratory bird program. Much of our research is toward perpetuation of healthy natural populations.

Exxon USA: Was there a sharp turning in America toward professional scientific management of fisheries and wild birds and animals?

Jantzen: The first in a series of laws enacted during my lifetime was the Pittman-Robertson Act of 1937, in which the federal government collected excise taxes on firearms and ammunition and made the money available to the states to further modern wildlife management. At first, trained wildlife professionals were held in suspicion by some of the old-time, field-trained game warden types. But in the end, scientific management was accepted. For example, some of my most satisfying work was in systematic study of mule deer and wild turkey. In concert with studies by others across the nation, that sort of work led to better management of these species.

Exxon USA: Some critics indict hunters and fishers as the ultimate enemies of wildlife. . . .

Jantzen: Not true! They were among the first to raise alarms and demand measures of protection, such as closed seasons and bag limits. Hunters are outdoor recreationists and are the staunchest supporters of our first guideline in the Fish and Wildlife Service: preserve the resource.

Exxon USA: You're an outspoken advocate of the rights of states to manage their resident wildlife. Now that you're a Washington bureaucrat, has this view changed?

Jantzen: If anything, I believe more fervently that the States should lead in care of resident species. We seek a stronger partnership between the federal service and the state agencies, built on trust and respect. For our own part in the federal service, we face a tremendous task in correcting deficiencies in our national wildlife refuges and ranges managed by the service. Lord knows, there's enough work to go around.

Exxon USA: What's wrong with "benign neglect?"

Jantzen: Look—for a long, long time so much of this country has been influenced by human presence that there is no way we can leave management to Mother Nature. Complete protection of a species in some cases may be a proper procedure. But there's no stopping the world for the protection of everything. The more sensible goal is a balance between utilization of these fish and wildlife resources and conservation of this precious heritage for future generations.

Exxon USA: "Management" seems to be battered by biologists into a fuzzy buzzword. Does it have any real meaning?

Jantzen: Sure it does. It means maintaining and restoring habitat. That's where life begins. It means keeping good data on populations. It means keeping watch for disease and other impacts upon fish and wildlife. It means identification and control of pollutants. It means removing certain species when necessary and restocking if required. It means harvesting of surpluses. It means listening to the constructive advice of all user groups.

Exxon USA: You're a native of a western state which abruptly shifted in human population from rural to urban. Do city folks know enough about the natural world?

Jantzen: They do, and they don't. An environmental jargon has come into vogue. Consider the word, "ecosystem." But whether an ecosystem is a bucket of water or a whole ocean, in nature, it is dynamic, shifting, changing. The ever-changing forces of nature have been endangering species millions of years before the influence of humans. And what of the human race? People are a part of this world, too, with legitimate needs and a well-deserved biological niche.

Exxon USA: At times you have fought for expansion of wilderness, and at other times you've opposed more wilderness. Is there a conflict?

Jantzen: America needs an adequate wilderness system. But I don't agree with those who say we can't have too much wilderness. There are at least two serious flaws in that attitude. First, most wilderness simply cannot care for itself. Second, locking up vast tracts as wilderness effectively removes nature from the use and enjoyment of perhaps a majority of Americans. For example, some 35 million Americans—one citizen in six—are handicapped. Millions of others don't have the money to finance an expensive wilderness vacation. I do understand that for many Americans the very idea of wilderness has value, and it does for me, too. But we can never return to the days of Lewis and Clark.

Exxon USA: That statement may win you no friends among wilderness lovers.

Jantzen: I wouldn't want to make enemies, but America's wrenching change cannot be ignored. Where once we were a nation of farmers and ranchers and woodsmen and drovers and outdoorsmen, those roles have diminished in relative numbers. When Americans mostly sprang from rural origins, they were tuned to the cycles of life forms, and witnessed the calculated cruelities of nature herself; they knew a great deal of the relationships of the waters and woods. Abstraction from reality may present us with our greatest challenge—how can we make, as a democracy, good political/biologial decisions if we think eggs come from a styrofoam nest and milk comes from a waxpaper udder? I wonder if one American in 50 today has observed the birth of a calf, let alone watched a coyote kill a fawn.

Exxon USA: Back home, you got your share of criticism. An old-time rancher, Fred Frits, sometimes disagreed with you rather vociferously.

Jantzen: That is correct, and I prized every comment that fine gentleman made. He was a man of the land. For example, he understood that no matter what he did, 85 percent of the quail propulation was going to perish by natural means every year, and that the average rabbit has a life expectancy of 30 days. Fred appreciated his current resource base. He could be sentimental, but he was a realist toward nature. Fred's father was killed by a grizzly bear.

Exxon USA: Some Americans down through the years have been so wealthy and altruistic as to give the nation entire national parks—Acadia, Great Smokey Mountain, Grand Tetons, Guadalupe Mountains. What can we of lesser means contribute?

Jantzen: Sound citizenship. In several states recently, programs to curtail poaching have gained wide citizen support. Peer pressure encourages people to obey the game and fish laws. And that said, I'll bet the hunting and fishing regulations are better obeyed than traffic laws in this country.

Exxon USA: There seems to be a trend toward barbless fishing, photographic hunting, and no-trace camping. Approve?

Jantzen: Hook-and-release fishing is gaining in popularity, and I enjoy it myself. That's a preference. But I'll always want to fish for my table, too. That's the culmination of multiple-use management—a choice of use.

Exxon USA: As the most visible federal wildlife conservator, you must count on help from conservation organizations?

Jantzen: We'd probably not succeed without them. There are dozens of organizations. Ducks Unlimited is one of the world's most effective wildlife conservation groups. Privately financed, it invests 80 percent of its donations annually in breeding grounds in Canada. Not just waterfowl but 300 species of birds and mammals benefit. Also, the Nature Conservancy owns and protects more than 700 sanctuaries in 47 states. Other groups add to this living national treasure. I'd say that Ducks Unlimited has made a major contribution in increasing waterfowl populations over the last half-century.

Exxon USA: Is industry involvement worthwhile? In Exxon's case, in recent years, the company has contributed substantially to projects devoted to perpetuation of the bald eagle, the bluebird, the peregrine falcon, and a regular zoo of creatures within Sabal Palm Grove Sanctuary in Texas. The company has funded a bird hospital in Florida and contributed to a computer inventory of natural areas. Multiplied throughout industry, do these activities amount to much?

Jantzen: In managing the wildlife agency in a growth state, I learned that industries and individuals impacting a resource usually want to be reasonable and responsive to the need for protecting fish and wildlife. It's their world, too, and in recent years it has been my experience that when developers realize there is potential for harm, most are willing to modify plans to avoid it. That's the point of view I'm taking into this job, anyway.

Exxon USA: And what of the role of the public sector?

Jantzen: For the U.S. Fish and Wildlife Service, to mention just a few of my goals, I'd like to sustain and improve the professionalism of the organization . . . make sure we're getting good biological facts . . . pass on recommendations to the decision-makers based on solid scientific data. Maybe this sounds trite, but managing people is an important aspect of wildlife management. I'd like the members of our service to become better listeners to a diversity of ideas and, while protecting the resource, become more efficient problem-solvers.

Exxon USA: In the broad sense, has America's environmental record been so atrocious?

Jantzen: The case can be made to the contrary, that in the world community, we're the leaders in responsible concern for nature. We can list the Wilderness Act, the Clean Water Act, the Endangered Species Act, the world's largest national park and wildlife refuge system, the Land and Water Conservation Fund that has assisted thousands of outdoor projects, the Wild and Scenic Rivers Act, and the lands set aside under the Alaska Native Claims Act, and many others. I've served on numerous national and international committees, and I happen to know that our environmental performance as a nation is the standard of the world.

Exxon USA: Of which Americans can take pride?

Jantzen: No king passed down these edicts. They flowed up from the people. The laws of the land reflect the public's desire and judgment that natural resources compose a public treasure. The American recognition of these unique values ennobles us all. If this were not true, the office I hold would be powerless. More likely, it would not exist.

Exxon USA: Could you take a decade-long look at what the future holds for the natural resources under your care?

Jantzen: There unquestionably will be accelerated demands upon the basics: the wild lands and the sea. And how we control these demands will be crucial in their effect upon shellfish, finfish, sea mammals, birds, and land animals. Frankly, I'm optimistic. We add to our knowledge every day, and we know how to safeguard the natural world. I detect some very positive cooperative attitudes maturing in our neighbors to the south, and such a trend will bode well for the migratory life which knows no political boundaries. Also, given the energy requirements of this nation, every element of society must help devise strategies for energy development without permanent damage to our marine and land resources.

Exxon USA: Is that truly possible?

Jantzen: It's been said that humans are the planet's smartest and deftest predators. But I know of no other vertebrate that can manage its environment so well and change its own habits. People can and do modify their behavior, and I find hope in that.

Exxon USA: Then what of a longer look, say, to the year 2000?

Jantzen: That's only 18 years away. I know some of my fellow citizens believe in doomsday, and they refer to a familiar data base called history. I suppose in hindsight we might have done better, but we've changed our ways, too; and in the next couple of decades if we insure that we combine our love for nature with pragmatic science, those dire forecasts need not come to pass. I take heart and direction from the founder of modern game management, he who thought like a mountain. He said it best with the words:

"In the long run we shall learn there is no such thing as forestry, no such thing as game management. The only reality is an intelligent respect for, and adjustment to, the inherent tendency of the land to produce life."●

ELECTION OF DANIEL E. LAMBERT

● Mr. COHEN. Mr. President, veterans in the State of Maine have, for some time, taken great pride in the leadership of Daniel E. Lambert, who is State adjutant of the American Legion.

Dan's service record is a distinguished one, and he has been in the forefront of efforts to draw attention to the needs of those who have served on their Nation's behalf. He has been a strong spokesman for veterans in Maine and the Nation.

Recently, Dan received the recognition of his peers, when he was elected president of the National American Legion Press Association. In that role, he will, I know, be an effective advocate of veterans and programs of benefit to them.

The American Legion, in an August 31 news release, noted Dan's new position. I ask that the release be printed in the RECORD.

The news release follows:

CHICAGO, ILL.—Daniel E. Lambert, Orrington, Maine, was elected President of the National American Legion Press Association at the annual meeting of the Legion press group held in conjunction with the 64th National Convention of the American Legion in Chicago.

Lambert, a four times wounded veteran of the famed "Darby's Rangers" of World War II, presently is serving as State Adjutant of the Maine American Legion and is the Editor-Publisher of the Maine Legionnaire, the official publication of the Maine American Legion.

The National American Legion Press Association is made up of over 900 publications and a nationwide membership of press and public relations staffers serving the American Legion.

Lambert is a past State commander of the Maine American Legion and serves as State Secretary of the Maine Veterans Coordinating Committee and is active in the American Legion, VFW, DAV, and AMVETS and is legislative counsel to the Maine WWI Veterans.

A writer and lecturer, the new NALPA national president is expected to push a program to promote the image of the American Legion in the nation and to seek to create additional publications for the veterans organization.

He was cited for outstanding service to the veterans, widows and orphans of Maine and the nation by the Legion when he was presented with the Humanitarian Award for service by the Maine group.

Other officers elected included: Area I Vice President, Ely Bar, New York, Area I Executive Board, Robert C. Godfrey, Delaware; Area II Vice President, Robert W. Sowerby, Florida, Area II Executive Board, Mrs. Mary Ada Heitz, Kentucky; Area III Vice President, Bill McGrew, Arkansas, Area III Executive Board, Ocie Sims, Kansas; Area IV Vice President, Austin McElfish, Texas, Area IV Executive Board, Helen F. Benth, Wyoming;

National President Lambert made the following appointments: Secretary-Treasurer, George W. Hooten, Georgia; Chaplain, Willard K. Maxon, Wyoming; Historian, Mrs. Mary B. Howard, Georgia; Sergeant-at-Arms, Richard J. Wilde, Panama; Counselors to Department Publications, Lillian Cleveland, Florida; Emerson O. Mann, Kentucky; Lincoln Cox, West Virginia; Dorothy Rowe, Florida; and Robert B. Craig, Nebraska. Judge Advocate, William Chester, Kentucky; Photographer, George Gagnon, Maine.●

PATRIOTISM AND SERVICE—A GRANDFATHER'S ADVICE

● Mr. COHEN. Mr. President, as we read reports today of young men refusing to register with the Selective Service System, as required by law, we often tend to forget those Americans who volunteer to enter our Armed

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Forces, dedicating a portion of their lives to the service of their country.

One of these young men recently received a letter from his grandfather, a constituent of mine from Winterport, Maine. I was so impressed with the feeling expressed in the letter—stressing patriotism, honor, and devotion to duty—that I wanted to bring it to the attention of my colleagues.

Gordon W. Wildes, a retired Air Force colonel, wrote the following letter to his grandson, Michael Redgate of Woodbridge, Va., on the occasion of Michael's acceptance into the U.S. Marine Corps:

May 27, 1982.

Dear Mike: Congratulations on passing your physical yesterday, and more importantly, on being sworn into the Marine Corps by your father, Colonel John Redgate, USMC. It was an important day for you and I am very proud of you.

You have just taken a big step and I think it is the right one. You are now on your own and your destiny and future will be largely shaped by you. You can either be your best friend or your worst enemy. I am confident that you have good common sense and the character to realize this.

Over the years I have had the opportunity and the pleasure of talking to young recruits like yourself, including my own son, David, when he entered the U.S. Military Academy. I have always pointed out that they—and now you—are now a part of the military chain of command that starts with the President of the United States and goes down to the lowest ranking man in the ranks whose duty it is to carry out the orders of the Commander-in-Chief and defend our great country. Unfortunately, this simple statement of fact is frequently forgotten by some citizens who regard such an honor as something to be dodged rather than experienced.

Another thing I have always pointed out to recruits is this: Becoming a member of the regular armed forces puts one in a very different category than, say, a member of a high school class, or a college class, or an employee of some civilian firm. I say this because yesterday, on taking the oath, you have started a file on yourself, that will, for good or ill, follow you all your life. It is a federal record, an official government document. A lot of young recruits don't realize that not showing up for work a day or two at a Sears Roebuck warehouse is a vastly different matter than not showing up for duty in a military unit and getting an AWOL citation on your record.

In your case, having been raised in a military family, you realize this and you therefore have a considerable advantage.

You have some other advantages:

You have had a fine home all your life. Some of your fellow Marines haven't had this advantage.

You have "been around." Born in North Carolina, lived in Virginia, Connecticut, California, Hawaii, and fortunately, in Maine. You will find that some of your fellow Marines will be leaving their home towns for the first time.

You have been in college one year. I would guess that most of your fellow Marines have not even considered college.

You are probably a year or two older than your fellow Marine recruits. You, therefore, have had more experience in life and can be of help to your fellow Marines who are younger and less experienced than you.

So, my advice is—take advantage of these advantages!

I realize, and I am sure you do also, that the next thirteen or fourteen weeks are not going to be a bed of roses. But as they say in the Marine Corps, "We didn't promise you a rose garden!" They do promise, however, to give you the opportunity to make a better man of yourself while in the service of your country.

And so, Mike, good luck to you. I wish we were riding around the battlefield at Bull Run and could be talking instead of writing.

All of this with affectionate best wishes from your grandfather.

Love,

Gordon W. Wildes.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is an order for the Senate to convene at 12 noon on Monday, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I have no further business to transact. I have a number of routine matters that could be taken care of. I am prepared to do them now.

INTELLIGENCE ACTIVITIES AUTHORIZATION 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, I believe that a conference report on H.R. 6068 is here and available for action. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, could I inquire of the minority leader if he is in a position to consider that matter at this time?

Mr. ROBERT C. BYRD. Mr. President, I am.

Mr. BAKER. I thank the Senator.

Mr. President, I submit a report of the committee of conference on H.R. 6068 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of August 19, 1982.)

● Mr. WALLOP. Mr. President, it is a privilege to submit the intelligence authorization conference report authorizing appropriations for U.S. intelligence activities for fiscal year 1983.

The Senate Select Committee on Intelligence views the annual budget authorization process as one of the principal means for strengthening the U.S. intelligence system. The committee has devoted a great amount of time and effort during the past 6 years examining how well the intelligence community meets its responsibilities, and we have identified a number of important areas where the system needed improvement. The progress the committee has made through budget authorization will enable the intelligence community to better perform against the diverse and complex concerns our Nation will face in the years ahead.

The fiscal year 1983 intelligence authorization bill continues the committee's goal to revitalize our intelligence system. Not only does the bill provide improvement to a number of key areas but it also insures new capabilities will be available to effectively deal with emerging policymaking problems. However, the committee's work is by no means complete—better processing systems are needed to promote analytical quality and investments must continue so that the intelligence system remains sufficiently flexible to respond to multiple crises without diverting resources from other high-priority missions.

I would like to take this opportunity to commend the members of the Senate Select Committee on Intelligence and our colleagues in the House for their diligence and strong support for the goals we have set. There is unanimous agreement between the two committees that our intelligence service must be first rate. After all, intelligence is the country's first line of defense.

Mr. President, I strongly urge my colleagues in the Senate to support this important legislation.●

The PRESIDING OFFICER. Without objection, the conference report is considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are some items on today's Executive Calendar that are available for action by unanimous consent on this side. I will inquire of the minority leader if he is in a position to consider those items appearing under National Science Foundation and National Corporation for Housing Partnerships.

Mr. ROBERT C. BYRD. Mr. President, those nominations have been cleared on this side of the aisle.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations so identified, being numbered 934, 935, and 936, be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL SCIENCE FOUNDATION

Edward A. Knapp, of New Mexico, to be an Assistant Director of the National Science Foundation.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Frank J. Donatelli, of Virginia, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

Edward Sulzberger, of New York, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

STATEMENT ON THE CONFIRMATION OF EDWARD A. KNAPP, OF NEW MEXICO, TO BE AN ASSISTANT DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION

● Mr. DOMENICI. Mr. President, I am very pleased that a person of outstanding qualifications such as Dr. Edward A. Knapp was chosen for this influential and prestigious position as Assistant Director of the National Science Foundation for Mathematics and Physical Science. His strong educational background in physics and his firsthand experience in modern applications of science through his work as division leader for accelerator technology at LANL make him an ideal person for the post and I expect the Senate to confirm him as soon as possible.

An employee at LANL since 1958, Dr. Knapp is the division leader for accelerator technology at Los Alamos National Laboratories, a position he has held since 1978.

Dr. Knapp holds a doctorate in high energy physics from the University of California at Berkeley. A scientist who has worked in international circles, he was a visiting scientist in Geneva, Switzerland, a delegate to the Joint United States-Japanese Accelerator Seminar in 1973 and a guest scientist in exchange programs between the United States, Japan, and the Soviet Union.●

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON MONDAY, SEPTEMBER 13, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday, after the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I also ask unanimous consent that, in addition to the special order granted in favor of Senator MATHIAS, the distinguished Senator from Georgia (Mr. NUNN) be recognized in sequence on Monday as well on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TUESDAY, SEPTEMBER 14, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that on Tuesday, after the recognition of the two leaders under the standing order, the distinguished Senators from South Carolina and Pennsylvania (Mr. THURMOND and Mr. SPECTER) be recognized on special orders for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, SEPTEMBER 13, 1982

Mr. BAKER. Mr. President, I inquire of the minority leader if he has any further business to transact.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader for his courtesy. I have nothing further.

Mr. BAKER. I thank the minority leader.

Mr. President, I see no Senators seeking recognition. In view of the statement by the minority leader, I now move, in accordance with the order previously entered, that the Senate stand in recess until 12 noon on Monday next.

The motion was agreed to, and the Senate, at 2:05 p.m., recessed until Monday, September 13, 1982, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 10, 1982:

NATIONAL SCIENCE FOUNDATION

Edward A. Knapp, of New Mexico, to be an Assistant Director of the National Science Foundation.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Frank J. Donatelli, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for a term expiring October 27, 1984.

Edward Sulzberger, of New York, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1983.

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SENATE—*Monday, September 13, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

"Our Father Who art in Heaven," help us to acknowledge Thy Fatherhood and trust Thee as Father. "Hallowed be Thy name." Help us to take seriously the glory of Thy name. "Thy kingdom come, Thy will be done on Earth as it is in Heaven." Help us to do Thy will and desire Thy Kingdom.

"Give us this day our daily bread." Help us in humility to acknowledge that Thou art the Giver of every good and perfect gift. "Forgive us our trespasses as we forgive those who trespass against us." Help us to be as forgiving to those who oppose us as Thou art in forgiving us.

"Lead us not into temptation, but deliver us from evil." Help us to abhor evil and cleave to righteousness.

"For Thine is the Kingdom and the power and the glory forever." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, two Senators will be recognized on special orders; that is to say, the distinguished Senators from Maryland (Mr. Mathias) and Georgia (Mr. Nunn).

I ask unanimous consent that after the execution of the special orders there be a brief period for the transaction of routine morning business in which Senators may speak for not more than 5 minutes each and to extend not past 1 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

VITIATION OF SPECIAL ORDER FOR SENATOR NUNN

Mr. BAKER. Mr. President, I am advised that the distinguished Senator from Georgia no longer requires the time allocated to him under the special order. I ask unanimous consent that it be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the execution of the special orders and morning business is provided, the Senate will resume consideration of House Joint Resolution 520. Pending at that time will be the Baucus amendment No. 2040 to the Weicker amendment No. 2039.

Senators will recall, I am sure, that there has been an order entered that no tabling motion will be in order the remainder of this day prior to the cloture vote which will occur at 4 p.m. The reason for that was to encourage Members to engage freely in debate on the issues involved without running the risk of losing the floor or gaining some parliamentary advantage.

I hope that Members who have things they wish to say about the pending amendment or about the general subject matter of abortion or prayer in schools will come to the floor and make those statements and engage in that debate during the remainder of this day.

I do not anticipate that there will be another opportunity like this one when no tabling motion will be in order and that, indeed, this is a special opportunity for Members to make their contribution to this debate.

So far the debate has not been very compelling; it has been fairly extensive but with very little give and take. One Member of the freshman class on our side observed to me that on occasion he was tempted to think that the debate had not been substantive. I think that is perhaps an understatement of the situation.

However, Mr. President, I urge Members to consider that today is a special opportunity for them to engage in debate without fear of parliamentary advantage or disadvantage because of the order which prohibits tabling motions prior to the cloture vote which is scheduled to occur at 4 p.m. today.

As I have indicated, Mr. President, there will be a cloture vote today against the Helms amendment. This is the second cloture vote against that amendment. It is my intention, after the Senate proceeds to the consideration of the unfinished business, to file a cloture motion which will produce a vote on Wednesday. I will consult with Senators and with the minority leader in particular and see if it is possible to arrange a time certain for that vote on Wednesday, assuming that cloture is not invoked today. If cloture is invoked today, then, of course, we will continue to debate the pending amendment under the provisions of rule XXII applying to debate after cloture is invoked.

Mr. President, I expect this to be a busy week. The debt limit bill has to be disposed of. I hope that we can do that this week. Senators should be on notice of the possibility of a late session, especially on Thursday of this week, which is our regularly scheduled late session.

THOSE MEN, SO POWERFUL

Mr. BAKER. Mr. President, this morning, I am most pleased to share with my colleagues the words of Stanislaw Baranczak, who at the age of 36, is a leading Polish poet, and who, for the last 14 years has been at the forefront of Polish opposition and the Solidarity movement. Mr. Baranczak is presently an associate professor of Polish literature at Harvard.

I ask unanimous consent that his poem "Those Men, So Powerful," be printed in the Record.

There being no objection, the poem was ordered to be printed in the Record, as follows:

Those Men, So Powerful

(Ci mezczyzni, tak potezni)

(By Stanislaw Baranczak)

Those men, so powerful, always shown
somewhat from below by crouching cameramen, who lift
a heavy foot to crush me, no, to climb
the steps of a plane, who raise a hand
to strike me, no, to greet the crowds
obediently waving little flags, those who sign
my death sentence, no, just a trade
agreement which is promptly dried by a servile blotter,
those men so brave, with such upturned brows
standing in an open car, who
with such courage visit the battle-line of the harvest, who
set their foot in a furrow as though entering a trench,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

those men with a hard hand capable of banging on the lectern
of the rostrum and slapping on the shoulder
people bent in obeisance who just a moment ago were pinned
to their black suits with a medal.

always
you were so afraid of them
you were so small
compared to them, who always stood above
you, on steps, rostrums, platforms,
and yet it is enough for just one second to stop
being afraid, let's say:
to start being afraid a little less,
to become convinced that they are the ones,
that they are the ones who are most afraid.

Mr. BAKER. Mr. President, there is a Senate joint resolution to be offered on behalf of the Senator from Arkansas (Mr. Bumpers), the leadership, and other Senators, which I believe is in the hand of the minority leader, and I wonder if he cares to present that at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

NATIONAL POETRY DAY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Bumpers, Mr. Baker, and other Senators—and I add my own name because this resolution provides for the designation of October 15 as National Poetry Day—I send to the desk a joint resolution and ask that it be stated by the clerk.

The PRESIDENT pro tempore. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 243) authorizing and requesting the President to designate October 15, 1982, as National Poetry Day.

Mr. ROBERT C. BYRD. Mr. President, I ask for the immediate consideration of the resolution.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

The cosponsors of the Bumpers-Baker joint resolution, Senate Joint Resolution No. 243, are Senators, Robert C. Byrd, Hollings, Lugar, East, Dixon, Inouye, Burdick, Cannon, Stevens, Domenici, D'Amato, DeConcini, Riegle, Hatch, Laxalt, Levin, Randolph, Tsongas, Pell, Stennis, Pryor, Symms, Cochran, Bradley, Matsunaga, Weicker, Cranston, Heinz, Chiles, Thurmond.

(By request of Mr. Robert C. Byrd the following statement was ordered to be printed in the Record:)

● Mr. BUMPERS. Mr. President, I am introducing today along with Senator Baker and 28 other cosponsors a resolution designating October 15, 1982, as "National Poetry Day."

Mr. President, through the years various States and foreign countries have set aside days to honor poetry. October 15 is now celebrated as Poetry Day in all 50 States and in over 40 countries. Each year Governors issue Poetry Day proclamations in their respective States, and schools, poets, and poetry organizations across the country observe Poetry Day.

In the 20th century world in which we live—a world full of technological marvels and seemingly impossible scientific feats—it is fitting to take time, as the majority leader does each Monday morning, to spend time with poetry. Poetry delights us all, and is a source of inspiration, insight, and pleasure. Poetry has known no social barriers. It has been enjoyed equally by the rich and the poor, the young and the old, and by people of all nations. Poetry in this country has provided us with unique documentation of events, culture, and traditions. It is a component of our literary arts which warrants special recognition.

Mr. President, Mrs. Peggy Vining, president of the Poets' Roundtable of Arkansas, wrote me last October and asked me to initiate this Poetry Day resolution. At about the same time, Verna Lee Hinegardner, national chancellor, National Federation of State Poetry Societies, Inc., wrote President Reagan asking for such declaration. I ask that these two letters, and the White House response, be printed in the Record at this point. I also ask that a history of Poetry Day prepared by the National Poetry Day Committee, Inc., be inserted in the Record.

The letters are as follows:

Little Rock, Ark.,
October 1, 1981.

Senator Dale Bumpers,
Dirksen Senate Office Building,
Washington, D.C.

Dear Sir: In 1948 Arkansas was the eleventh state to begin observing National Poetry Day. Each year (just as the President proclaims Thanksgiving) so does the Governor proclaim National Poetry Day in Arkansas.

We celebrate October 15th, National Poetry Day with readings, workshops, contests, Illustrated Poetry exhibits and promote poetry in various ways in the public school.

We recommend that a resolution be offered: We ask October 15th be set aside as Poetry Day, and therefore be placed on the National Calendar.

Shelley said, "Poets are the unacknowledged legislators of the world." Poets have helped to preserve historic facts, as well as, provide all races with uplifting lines for guiding their lives.

Poetry will continue, as long as men feel, to give impetus and strength to the lives of coming generations.

May Arkansas poets have your attention in this matter?

Sincerely,

Peggy Vining,
President,
Poets' Roundtable of Arkansas.

National Federation of State
Poetry Societies, Inc.,
Hot Springs, Ark.,
October 29, 1981.

President Ronald Reagan,
The White House,
Washington, D.C.

Dear Mr. President: In the name of poetry and poets—past, present and future—I seek recognition of Poetry Day on calendars in our country.

My Hallmark Calendar lists Secretaries Day, April 22; Grandparent's Day, September 13 (all of which should have been honored on Mother's Day or Father's Day); Bosses Day, October 16; Sweetest Day (whatever that is) October 17; and Mother-in-law's Day, October 25 (all of which should have been honored on Mother's Day). Yet Poetry Day, October 15, remains unlisted. Are we so card-and-gift oriented that we must have days designated for commercial purposes only?

October 15 is celebrated in all 50 United States of America and in over 40 foreign countries. October 15 is listed in Almanacs as Poetry Day. Scientific Research has proven beyond a doubt that there was a Poetry Day for centuries. Before 1508, the day was October 5th—then with the change of calendars and the loss of ten days—reckoning brought Poetry Day to October 15. There it remains.

Each year our governors issue Poetry Day Proclamations (as regularly as Thanksgiving Day Proclamations) in their respective states. Schools, Poets and Poetry Organizations across the country observe Poetry Day. Our Senators and Congressmen have been bombarded with letters requesting that Poetry Day be honored on calendars.

Brigit was the Celtic God of Poetry; Pegasus was the classic winged horse of Apollo and the muses; while the Greeks honored Muses, the Goddesses of Arts and Sciences—three of which are Calliope, poetic inspiration and eloquence; Erato, Erotic poetry; and Euterpe, Music and Lyric poetry. We American poets, who have produced and continue to produce world famous poets, request no god or goddess, we request only a special day on the calendar. Will you, please in the name of poetry, in the name of poets such as Longfellow, Frost and Dickinson, in the name of living poets recording the story of our times in concentrated lyrical language, do whatever it takes to get October 15 named as Poetry Day on our calendars?

My father always said, "If you want something done, start at the top." In respect to my farmer-father, I knock at your White House door.

Sincerely,

Verna Lee Hinegardner,
National Chancellor.

The White House,
Washington, November 23, 1981.

Miss Verna Lee Hinegardner,
Hot Springs, Ark.

Dear Miss Hinegardner: On behalf of President Reagan, I want to acknowledge your message and to thank you for your suggestion. Traditionally, the President issues proclamations designating periods for special observance only when a Congressional resolution authorizes him to do so. You may, therefore, wish to contract those who represent you in the Congress regarding your idea.

With the President's best wishes,

Sincerely,

Anne Higgins,
Director of Correspondence.

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History of Poetry Day and National Poetry Day Committee, Inc.

It all started in 1936—though it had been a dream all of Tessa Sweazy Webb's life—to find a way to honor poets—and she talked this over with everyone who would listen.

Finally, she was introduced to Ohio Senator Williams and through this contact she was able to get a joint resolution—S.J.R. No. 39—called the Grubbs-Myers-Marshall Resolution introduced and passed in January, 1938, by Ohio's—92nd General Assembly—naming the third Friday of October of each year: Ohio Poetry Day.

The day was to be set aside to honor poets of Ohio! To give special programs and observances in the schools and public places . . . in such manner as prescribed by the superintendent of public instruction.

Other states followed Ohio slowly but no concerted effort was made to make this a national day—or National Poetry Day in all states until Lucia Trent of Texas spearheaded the movement and called this movement the National Poetry Day Committee. (It was not incorporated until Dr. Frances Clark Handler took over the National Directorship and incorporated the name for its protection in 1966.)

Lucia Trent enlisted the aid of Will Strong, in California, who was at that time Vice-President of Poets of the Pacific. An organization that covered ten states in the west and far west.

Instead of the third Friday in October, which was being used by Ohio and still is as well as October 15th for Poetry Day . . . Lucia Trent selected October 15th, for the National Poetry Day to honor Poet Ralph Cheney—who died on that day in 1941. (This was now 1947.)

It is strange to note that both women—Tessa Sweazy Webb in Ohio and Lucia Trent in Texas both selected an October day for Poetry Day. Scientific research has proven without a doubt that there has been a Poetry Day for centuries. Before 1508 the date was October 5th—then with the change of calendars and the loss of ten days—with the new reckoning it brought Poetry Day to October 15th—and that is where it remains until this day. There are some groups for convenience sake who name another day for Poetry Day—and even weeks and months as Poetry weeks and months . . . but the official day remains October 15th—annually!

This day is celebrated in 50 United States of America and 40 Foreign Countries. October 15 is listed in all almanacs as Poetry Day. The National Poetry Day Committee, Inc., is listed on the roster of the Encyclopedia of Associations and is known all over the World.

Since the first Texas proclamation in 1947—issued by the then Governor of that state Beauford Jester—49 other states have come in the fold. 38 States have Legislation naming October 15 Poetry Day and the one state that does not celebrate October 15th does celebrate another day as Poetry Day on its own.

Even though there is legislation in so many states naming October 15th Poetry Day, it is still necessary to get the Governor's Proclamation every year, for like all holidays and days of special note and days that are legal holidays they would be forgotten if the proclamations were not forthcoming—reminding the public that this is indeed Poetry Day and give states an opportunity to eulogize their own poets in these proclamations. Most States have long lists of accredited poets that should not be forgotten.

In 1949—Dr. Etta Josephean Murfey was named national director of the National Poetry Day Committee, Inc., and this position she held until her death April 1, 1966.

All 50 states of the United States have a State chairman and most of them are the same ones who served since National Poetry Day Committee, Inc., has been in existence. A small percentage have resigned due to health or age and when this happens, the Chairmanship is readily filled from a long list of accredited poets waiting in the wings.

Dr. Etta Josephean Murfey had appointed Dr. Frances Clark Handler her Cochairman—first for Florida then later for National (or the United States), enacting the promise from Dr. Handler that when Dr. Etta's time came Dr. Handler would carry on this work—"no matter what the cost!"

Needless to say this work has gone on uninterrupted since Dr. Frances Clark Handler took over the National Director's Chair April 1, 1966. (Passed and approved by Executive Board—entered in Minutes of the Meeting, May 1, 1966.)

National Poetry Day Committee, Inc., was then incorporated as a non-profit organization for the name's protection.

Legislation has been introduced in the 89-90-91-92-93 Congresses by Congressman Claude Pepper and Congressman Dante Fascell of Florida and by Congressman Gonzales of Texas . . . the bills call for a mandatory signing of a Poetry Day proclamation by the President of the United States annually.

There is every indication that this will pass eventually. We all know that war and peace is the first thing on the President's agenda but our President and our Vice-President know all about our aims as did the President and Vice-president before them and many statesmen have placques hanging in their offices that were awarded them from both the National Poetry Day Committee, Inc., and the Florida State Poetry Society, Inc., for their work in the arts.

When the day comes that other pressing matters are resolved then I am sure that the Presidential proclamation for a National Poetry Day will be forthcoming annually.

When the National Poetry Day Committee, Inc., achieves this goal for poets they will have reached a summit never before attained.

Respect and Honor only . . . have come to this Committee's endeavors in all cultural circles and we feel that this will eventually be extended to the Presidential proclamation.

We give thanks to all the dedicated people that are with us in this worthy endeavor and to the Governors who have joined hands with us every year sending us the Poetry Day proclamations from their states, so that this committee can make all the people of the United States culturally and poetically aware.

Respectfuly submitted by:

Dr. Frances Clark Handler,
National Director,
National Poetry Day Committee, Inc.

Mr. BUMPERS. Finally, Mr. President, I asked an old and dear friend of mine, Miss Lily Peter, to write a special poem commemorating National Poetry Day. Miss Lily is a lifelong resident of Phillips County, Ark., who has been the poet laureate of Arkansas, and has given generously of her time, talent, and money to music and the arts in Arkansas. I echo Miss Lily's sentiments expressed in "A Day for Poetry" that "Poetry opens windows on the universe that prose can never find," and I ask that this beautiful poem be printed in the Record.

A DAY FOR POETRY

Poetry came before prose in the world's history,
and the earliest writings of man are in the metres
and rhythms of poetry to delight his senses
with joy in the world's magic and mystery.
Poetry opens windows on the Universe
that prose can never find, and if we spend
our days altogether with prose, we shall miss forever
the beauty and wisdom the metaphor can rehearse.
We shall miss the music of the inner grace
that is poetry's provenance and its breathing-space.
Then is it not well for us to set aside
one day in the year's cycle to take pride
in the wash and wonder
of poetry that can cleave asunder
the tension and trivia of our daily striving,
give us a share in the glory of creation,
and through this moment of the spirit's adoration
bring us refreshment of new joy in living!

—Lily Peter.●

(By request of Mr. Robert C. Byrd, the following statement was ordered to be printed in the Record:)

● Mr. CHILES. Mr. President, I am pleased to be a cosponsor of the Senate joint resolution requesting and authorizing the President to designate October 15, 1982, as "National Poetry Day." Not only do I join my colleagues in the Senate in support of this resolution but I also join with 50 State Governors and 40 foreign nations in recognizing the inestimable contribution poetry has made to the lives of people all over the world. Bob Graham, the Governor of my State of Florida, proclaimed October 15 as "Poetry Day" in Florida. His proclamation illustrates the attention everyone in this country and in countries around the globe should give to this art form. I ask that a copy of the proclamation be printed in the Record.

The proclamation is as follows:

Proclamation: State of Florida, Executive Department, Tallahassee

Whereas the art of poetry is a vital part of our culture; and

Whereas many of our citizens enjoy this form of literature, and many also are talented and write poetry; and

Whereas this form of expression is taught in our schools and used in many special activities in our lives; and

Whereas poetry has been honored as an art and as an important part of our society's culture;

Now, therefore, I, Bob Graham, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim October 15, 1982 as Poetry Day in Florida and urge all citizens to join in saluting the contributions of poetry and poets to our everyday lives and our culture.

Mr. CHILES. Mr. President, poetry deserves our commendation. Poetry speaks to men, women, and children from all walks of life and from all cultures. Not only does it cross a cultural barrier but it crosses the barrier of history. Today we still read the poetry of the ancient Greeks and Romans; we read the Rubáiyát as well as old and middle English poetry and find they have relevance to our lives. We have all written a poem for school, for ourselves or for others. We write poetry because it draws on the human experience and allows us to understand ourselves as well as others. It is one of the few mediums that lends itself to the easy expression of human emotions and ideas. People have and will continue to express their pain, desires, grief, and happiness through poetry.

Mr. President, I urge President Reagan to proclaim October 15 as "National Poetry Day."●

The joint resolution (S.J. Res. 243) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. Res. 243

Whereas the tendency of thinking in our era is decidedly in the direction of analytical techniques; and

Whereas modern civilization, influenced by the control of the physical world made possible by the tremendous advances of science, forgets at times the importance of cultivating an imaginative grasp of human culture, attitudes and feelings through the literary arts; and

Whereas people of all ages have universally turned to poetry as one of the basic ways of understanding experiences, of helping to grasp ideas and events from unexpected angles, and of assisting to express the thoughts and hopes of generations; and

Whereas the timeless themes and great continuities of poetry have become strands of unity in our history, across nations, across religious and political differences, and across centuries; and

Whereas much of American poetry has come to us in the 20th century as a cultural heritage of inestimable value, passed down from our folklore, patriotism, and religions, giving tone and character to the American culture of today; and

Whereas the culture of this generation as conveyed through its poetry will give similar impetus and strength to the lives of coming generations of Americans; and

Whereas many of the States of the Union have adopted and set aside October 15th of every year as "Poetry Day"; and

Whereas in recognition of the contribution of poetry to the cultural development of this nation, it is fitting that a day should be set apart to enjoy and appreciate poetry and to honor poets of the past and present who enrich the lives of all persons: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 15, 1982, be designated as "National Poetry Day" and that the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and the people of the United States to observe that day by engaging in appropriate activities and programs, thereby showing their support of poetry.

Mr. BAKER. Mr. President, is the minority leader agreeable that the resolution stay at the desk for the remainder of this session today for other cosponsors?

Mr. ROBERT C. BYRD. Yes, I am.

Mr. BAKER. Mr. President, I make that request.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have no further need for my time under the standing order, and I am prepared to yield it now to any Senator or offer it to the minority leader if he wishes.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader.

ACID PRECIPITATION AND CANADA

Mr. ROBERT C. BYRD. Mr. President, as the Clean Air Act has moved through the reauthorization process, I have advocated a cautious approach in dealing with the phenomenon of acid precipitation. Others have called for massive control programs—which would cost jobs and increase electric utility rates in my State of West Virginia and the Appalachian, Midwestern, and Southern regions of our country—and which may prove to be totally ineffective. The scientific community has by no means reached a consensus with regard to acid precipitation.

As this debate has intensified over the last 2 years, the Canadian Government has been an active participant—and has urged that controls be placed on coal-burning facilities in the United States as a necessary action to address the perceived threat to Canada's lakes and streams. Our Canadian friends recently had an opportunity to hear from the president of the National Coal Association, Mr. Carl Bagge, on this issue. Mr. Bagge spoke before the Canadian Bar Association's 64th annual meeting on August 30, 1982.

Mr. Bagge's remarks are timely, hard hitting, and deserve attention. I ask unanimous consent that his remarks to the Canadian Bar Association be inserted in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Acid Rain—Rights and Remedies: The American Coal Industry View

(Remarks Prepared by Carl E. Bagge)

Honorable ladies and gentlemen of the Canadian Bench and Bar: It's a special privilege for a member of the American Bar Association to join you at your annual meeting in Toronto. I should like to thank Chairman Poch and the members of the Board of Directors for inviting me to share the dais with so many distinguished Canadian political leaders and lawyers.

Looking over the list of other speakers on this important occasion and considering what they might say, my thoughts drifted back to Daniel.

Let the record show, Mr. Chairman, that I walked into this den of lions of my own free will, and I hope to leave it—as Daniel—in one piece.

I've just returned from a recent successful fishing trip to your magnificent outdoors—lured from Washington by a provincial government advertisement in the U.S. that caught my eye because it was headlined, "Great Lakes."

The ad promised "Water, water everywhere . . . over 400,000 crystal clear lakes . . . unspoiled wilderness . . . natural delights . . ."

Let the record show, Mr. Chairman, that your tourism and acid rain ministers need to get their act together in the U.S.

"Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

John Kennedy's words to the Canadian Parliament in 1961 ring true today. For we cannot repeal our unique partnership, our friendship, and our economic kinship.

Rowland Frazee, Chairman of the Royal Bank of Canada, recently put it this way: "We cannot change Canada's close and intricate relationship with our major trading partner, the United States. Our recession and our recovery are tied to theirs . . . In most major ways," he added, "events here depend on events there."

That's why the acid rain issue cannot be separated from economics—from the most far-reaching air quality program proposed in American history. And that's why the effects of this proposal on both our economies is part of my message today.

For it's the recognition of these effects that leads directly to the still unanswered scientific questions so closely tied to the acid rain issue. They are not a "smokescreen" as we hear so often from Ottawa. Scientific understanding—not wishful thinking, not political slogans—is the foundation for sound solutions to both human and environmental problems. And it's answers to these scientific questions that have to steer the acid rain course of our two great nations.

There are at least three plausible explanations of acid rain.

One, the "local-source" theory, holds that emissions don't regularly travel long distances before falling as dry particles or wet precipitation. Instead, acid rainfall is caused principally by sulfur and nitrogen oxides from local sources.

Also, many scientists believe that these pollutants serve as raw materials, which are converted into acid compounds by other oxidizing chemicals. Under this "catalytic theory," it's not the amount of sulfur and nitrogen oxides in the atmosphere, but the oxidants which make possible the acid content of rainfall.

Two weeks ago, the Battelle Institute announced that its scientists believe a vital chemical link to acid rain has been found—a catalyst that's common in urban smog. Battelle says that this potential breakthrough opens up an entirely new area of research.

Yet, it's the "coal plant-long transport" theory which is touted as the single cause. It's accepted by some politicians on both sides of the border, and often reported as fact by the media in Canada and the United States.

As this theory goes, acid rain is caused when sulfur dioxide from Midwestern coal-fired plants mixes with nitrogen oxides. These effluents are sent on the winds hundreds of miles where they fall as acid rain on parts of the Northeastern United States and Canada. Emissions from coal plants allegedly are directly involved in lake acidification and fish kills, harming vegetation, and linked to some human health and problems.

Three theories, three possible answers, but we believe the jury is still out. I ask you to consider some of the reasons:

Scientists haven't found any sound evidence of acid rain damage to vegetation in the natural environment, and no direct link between acid rain and human health problems has been confirmed. Clearly, the most important scientific question at issue is whether there's a direct cause and effect relationship among sulfur dioxide from coal plants, acid rain, and ecosystem damage.

The recent National Academy of Sciences study, called Atmosphere-Biosphere Interactions, is the most widely-quoted in support of this theory—basing its findings on "overwhelming circumstantial evidence."

One reason is the statement found on page 182: "Acid rain, due to further oxidation of sulfur and nitrogen oxides . . . from anthropogenic (man-made) sources," the author wrote, . . . "is causing widespread damage to ecosystems . . ." But here's what the same author wrote on page 142: ". . . direct cause and effect linkages between sources of acids and effects on ecosystems will not be possible for the foreseeable future."

Not even the most skillful form of press agentry can reconcile internal conflicts like these. Based on the second statement, it's impossible to draw a direct cause and effect relationship beween coal plants and acid rain.

The mystery doesn't end there. Central to the "long-transport" theory is the hypothesis that effluents are travelling hundreds of miles where they are falling as acid rain in Canada and the United States.

But as it turns out, American and Canadian scientists can track emissions from a particular source only about 30 miles, not hundreds of miles. Since this is so, scientists from both nations are using computer models to help track effluents much longer distances.

The problem is, there's insufficient long-term rainfall monitoring data of reliable quality. What's more, scientists are having difficulty modeling the complexities of atmospheric phenomena, which are known to affect effluent movements. This means that the statements pinpointing how much acid rain is coming from the United States, and how much pollution is of local or distant origin, are purely hypothetical and theoretical.

Last year, in a Los Angeles Times story, an official of the Ontario Ministry of Environment admitted that computer modeling is only a "useful guideline" to help find out what's happening in the atmosphere over one year. Computer guidelines are useful. But they aren't a scientifically-proved method. And there's no justification for using these guidelines, however useful, as the basis for a multi-billion dollar regulatory program, regardless of what you've been led to believe.

One acid rain theory—as you'll recall—holds that local sources are possibly to blame for acid rain. But acid rain theorists on both sides of the border seem to get an advanced case of myopia when local sources are suggested as a possible cause of lake acidification. A case in point in the INCO smelter.

The INCO smelter is the world's largest. It's sending nearly one million tons of sulfur dioxide into the air each year from a "superstack" taller than the Sears Tower. That's one to three percent of all sulfur dioxide in the Western Hemisphere.

Yet, we read and hear that thousands of Canadian lakes are increasingly "sensitive" to acid rain from the United States. Press reports claim that by century's end 50,000 lakes "may" be dead.

Let's look at what's actually happening, rather than what might happen. A "sensitive" lake isn't an affected lake. The Canadian lakes so far identified as dead are a tiny fraction of the half-million lakes, in this vast country. What's more, many of these dead lakes are found in the Sudbury area-the INCO smelter's backyard.

Canadians aren't the only ones who are looking past local pollution sources. The same myopia persists among "long-transport" theorists in the United States. The acid rain bill reported out of the Senate Environment Committee, for example, essentially ignores sulfur dioxide from oil burning plants, and for all intents and purposes controls only coal-burning plants in 31 states on or east of the Mississippi River.

Kentucky and New York have roughly the same overall sulfur dioxide emissions. Yet, Kentucky—a large coal-burning state—would have to cut its emissions four times as much as New York—an oil-burning state.

The American coal industry isn't making light of acid rain. Acidified lakes are real, not imagined. And we are keenly aware of the economic implications of damage to Canada's environment. But inflammatory rhetoiric can't replace unvarnished facts. Above all, let's get our facts straight.

There's no doubt that a large percentage of sulfur dioxide in the United States is produced from man-made sources. But if the "coal plant-long-distance transport" theory is to hold water, as sulfur dioxide levels go down, so should acid rain.

Yet, scientists aren't even sure if acid rain is increasing or decreasing. In the longest-running survey of rainfall in the United States, the United States Geological Survey found virtually no change in rainfall acidity in New York State over 13 years beginning in 1965. This is significant, because New York is one of the most often-mentioned targets of acid rain damage.

Also, EPA is reporting a 40 percent drop in sulfur dioxide concentrations over the past ten years, and a 15 percent drop in sulfur dioxide emissions in the Ohio river Basin—the alleged source of Canada's acid rain.

These cuts are all the more impressive, for as sulfur dioxide levels were falling, electric generation in the United States was rising from 888 billion kilowatt-hours to 1.4 trillion kilowatthours—a 56 percent jump. During that same time, coal burning by America's electric utilities shot up 65 percent.

In light of these trends, we are dismayed at Ottawa's charge that the United States isn't doing its fair share to curb air pollution. Over the past ten years, American industry—and ultimatley consumers—spent nearly $160 billion on air pollution control. We are doing an outstanding job removing pollutants from our plants and our automobiles.

This doesn't imply that the coal industry has supported every tenet of America's clean air laws, any more than the Canadian Provinces welcome every pronouncement by the Ottawa Government.

It means that American people are paying willingly but dearly for clean air—some $14 billion each year to keep the Clean Air Act in force. And it's simply wrong-headed for Ottawa to suggest that our industry and our government are "footdragging" on cleaning the air, or that our government's actions aren't reflecting the wishes of the American public.

We find these allegations even harder to take, given the Ottawa Government's continued heralding of its pollution-control efforts. Again, let's look at the record.

One good example are pollution controls at the INCO smelter. These controls are offered by Canada's environment Minister, John Roberts, and others as evidence of Canada's good faith to meet its obligations on what's called a "two way street."

In a recent interview, Mr. Roberts said that the smelter's emissions have been cut from 3,500 tons per day to 2,500 tons. "This is a significant step," he said. I agree, but how were these reductions made? Mr. Roberts gave the answer: "It was done successfully at the sacrifice of potential production at the world's largest smelter."

Isn't this a perverse kind of progress? I doubt the Canadian people—particularly in the Sudbury area where unemployment is reported at 40 percent—relish more pollution controls at the expense of this nation's already-flagging industrial performance.

The coal industry and the American people will never support clean air progress through economic stagnation. We aren't "backing away" from clean air goals. But we are also supporting greater economic growth—more jobs, and better paychecks for the working people of our country. And it's this tandem goal that's at the heart of our efforts to streamline the Clean Air Act.

And, we should remember that the United States Clean Air Act is still the world's most effective. Unlike Canada, our federally-mandated clean air laws are enforced vigorously with civil penalties and the cutoff of federal funds.

Just as important, the Clean Air Act continues to benefit both our countries. New Source Performance Standards are in force. So, as new coal plants go into service, replacing older, less efficient ones, the air will get progressively cleaner—even in the face of quickened economic growth.

On the other hand, the proponents of tighter sulfur dioxide controls got a lot of mileage out of Ontario Hydro's decision to build two scrubbers. According to press reports, an Ontario Hydro official said the building of scrubbers would likely have a "multiplier effect." In short, if Ontario Hydro "bit the bullet," perhaps utilities in the United States would jump on the bandwagon.

I'm not sure what the gentleman means. For there are already 87 scrubbers in the United States at a cost of $4 billion, plus an annual cost of $1.7 billion to keep them operating. Thirty-five more scrubbers are under construction. And EPA is reporting that half of all America's coal-burning units will be outfitted with scrubbers in less than 20 years. Canada, I am quick to add, has yet to build a single utility scrubber.

I've also heard talk that Ottawa's much touted acid rain program is a ploy to increase electric power exports to the United

States, which last year brought in several million dollars.

Mr. George Rejohn of the Canadian Embassy in Washington recently said, "Such silly inventions and distortions do not merit serious nor thoughtful attention."

I agree. We don't accept these conspiracy theories. But can you blame people for wondering, when Ontario Hydro cancels its first two scrubbers, and admits the decision came after the loss of potential power sales to General Public Utilities?

When you step back and take a long, hard look at all the evidence, it comes down to this: The causes and effects of acid rain are unknown. America has the best clean air record in the world. We've spent billions of dollars on clean air, and billions more are committed. Yet, despite all this—despite the sacrifices—the acid rain theorists, including the Ottawa Government, say it's not enough.

We are asked to embrace the potentially most burdensome regulatory program in American history, and are expected to have guilt feelings if we resist.

Mr. Roberts summed up the Canadian Government's view this way: American calls for more acid rain research are like saying: "We need to know which mosquitoes are carrying malaria before we clean up the swamp."

I would only remind the honorable gentleman of Lord George's famous warning. He said: "It is very dangerous to leap a chasm in two bounds."

Can the coal industry—and the American people—possibly look past the chasm of scientific doubt and make a leap of faith to accept what in reality is a 12-million ton cut in sulfur dioxide over the next 12 years? How can we when the Department of Energy is predicting costs to industry and consumers of as much as $300 billion—over and above the present Clean Air Act—in the next 30 years? Shouldn't we be angry when electric rates in some parts of the United States are expected to rise 100 percent, placing an awesome burden on consumers, who already are strapped by the high cost-of-living?

Why shouldn't we fight this legislation? According to the United Mine Workers of America, the jobs of 89,000 mining industry employees and 225,000 jobs in related industries would be affected. Total income loss would be $6.6 billion per year. These job losses would hit in Northern Appalachia and the Midwest areas where unemployment is at 10 percent or more.

The coal industry will stand fast in opposition to this bill and let me make the reason crystal clear: Even with the billions of dollars spent, the jobs lost, and the crushing effects on our economy, there's not the slightest assurance that the acidity of rain will be affected.

Yet, when the coal industry and the U.S. Government through its State Department point to the lack of acid rain evidence, the enormous costs and job losses, we are accused by your acid rain Minister in Ottawa of engaging in "informational haze." What's more, the Ottawa Government is expressing "outrage" at our attitude, and predicts a worsening of relations between our two countries unless we come to our senses. Frankly, I believe the "outrage" is misplaced, and it's not just the weakness of the case for acid rain controls.

Your Government is openly proud of the millions of dollars spent in lobbying our Congress to enact acid rain controls. The Ottawa Government apparently believes that these tactics are successful. For after the acid rain bill was reported out of the Senate Public Works and Environment Committee, it was followed by speeches in the Canadian Parliament calling the action a "great breakthrough."

But let's not let our wishes become the father of our thoughts. As reasonable men and women, do you actually believe that a majority of Congressmen and Senators from the 31 affected states will support a bill that imposes such massive electric rate increases on their consumers with no assurance of benefit?

Is there likely to be much support for a bill that would have such devastating human dimensions, and such crucial implications for the revitalization of America's industrial and commercial heartland?

Acid rain is based on the theory of gravitation—that what goes up must come down. But don't forget Newton's Law, which says: For every action there's an equal and opposite reaction. And we are reacting.

Calling to mind what Rowland Frasee said about the close and intricate relationship of our two economies; let there be no doubt; If this legislation becomes a part of the Clean Air Act, the higher energy costs, the job losses and severe overall economic effects will also affect this side of the border.

What's more, if this bill is part of the Clean Air Act, the chances are good that there will be no change in the law. This means, very frankly, that the efforts to streamline this Act—while preserving both economic growth and clean air goals—will be lost, also to the detriment of both our nations.

There is a reasonable course, and I urge you to consider it. The American coal industry believes deeply that acid rain research must be accelerated, and we are in good company.

Two weeks ago, a federal task force set up under the Acid Preciptation Act of 1980, called for more research to fill the "major gaps" of information about the causes and effects of acid rain.

Several bills are pending in Congress which would build a strong acid rain research foundation.

One bill of considerable merit, which would step up research, is sponsored by Senator Robert C. Byrd, the Senate Democratic Leader. In the House of Representatives a similar legislative approach is sponsored by Congressman Edward Madigan. His bill was approved by the House Energy and Commerce Committee by an overwhelming 27–5 margin. And, I might add, it is the only acid rain legislation approved by the House.

These bills call for more acid rain research beyond the three-year $64-million commitment of the Reagan Administration, and would augment the $32 million already spent or earmarked by the American Utility Industry.

A key element of the House bill is to restore existing acidified lakes with liming, and other methods known to be effective.

Acid rain may well be a serious problem for our two countries. But we must be certain that the cures that are prescribed actually works, that it doesn't have the side-effects of greater economic adversity and a worsening of relations between our two great nations.

How can we allow the acid rain issue to undermine the trust and cooperation between Canada and the United States, which has flourished for nearly 200 years? I urge the thoughtful members of the Canadian bench and bar through this organization to send a message to your public officials. Good common sense must replace strident rhetoric.

I'm no diplomat. But it doesn't take a statesman to see the need for voices to be lowered, and for thoughtful consideration to begin. We need to get this issue out of politics and public relations and into the laboratory where it belongs!

Let me close with these thoughts.

Churchill once said, "The farther backward you can look, the farther forward you can see." His admonition applies to the United States of America.

For many years, our domestic policy was fueled with a spirit of action, despite the financial costs. We sent men to the moon and brought them safely back to earth. We opened our hearts and our treasury to help create a better life for millions of our people. And we are still waging a war to protect the health and safety of our citizens, and to preserve a legacy of environmental quality.

We've had a large measure of success, but we've also learned some lessons from experience. For far more could have been accomplished, at far less cost, if we had tempered our burning desire to act with a proper understanding of what we were trying to get done.

Armed with the lessons of history, we are optimistic about the future—about finding solutions to both our human and environmental problems—and with good reason.

America has no lack of scientific genius. We have some of the worlds's best minds. America doesn't lack political will. Our record in building one of the greatest societies on earth is beyond question. And we suffer from no lack of spirit. The flame of desire to forge a better life for our children and grandchildren still burns brightly.

Yet, the acid rain debate brings into sharper focus an overriding challenge facing America. We must find a way to face the future with a relatively diminishing amount of financial resources. Like it or not, these hard choices must be made in the years to come.

This doesn't imply that the United States is ready to set aside any of its national goals. Far from it. But it means that we must meet all our goals with the resources at our command without sacrificing any one of them.

Clean air is one of America's goals. But it isn't the only one. We must also produce more energy at reasonable cost-energy needed to build economic growth and development which serves all our people. We can do it only by tackling our many goals in an efficient, and a cost-effective way, and with a full understanding that greater use of coal is essential to our success.

That's why our government—and your government—must understand the full dimensions of acid rain, before creating more bureaucracy, more costs, and an uncertain economic future for our people.

But it isn't just economic uncertainty that's at stake for our two nations. For I remind you again of what John Kennedy said to the Canadian Parliament nearly two decades ago: "Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

Then the President added this thought: "What nature hath so joined, let no man put asunder."

I hope, and I pray God we don't forget it.

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Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin such time as he may require, from the time under my control.

Mr. PROXMIRE. I thank the minority leader.

WHO IS AHEAD?

I

Mr. PROXMIRE. Mr. President, the President of the United States, in an unprecedented and controversial statement, has concluded that the Soviet Union is strategically superior to the United States. Since making that sweeping observation, however, other top officials of the administration have begun to chip away at the real meaning of that quote. The Secretary of Defense has said that we have superiority in some areas while the Soviets excel in others.

Gen. John Vessey has said in response to the question from Senator Levin—

> Would you swap U.S. military capability overall . . . for that of the Soviets? That he would "take some of the things that the Soviets have for their forces in terms of numbers and give them to our forces, but overall would you trade with Marshall Ogarkov? Not on your life. . . ."

Secretary Weinberger has said:

> I would not for a moment exchange anything, because we have an immense edge in technology.

So where does that leave the statement of the President? Was he simply in error? Did he overstate his case by drawing a simplistic conclusion? Or does he sincerely believe that the Russians have strategic superiority over the United States.

Beginning today, Mr. President, and continuing for 3 days, I will introduce material in the Record from the Center for Defense Information which deals with this question of "Who Is Ahead" in the race for nuclear superiority.

The first excerpt from the Defense Monitor, a publication of the Center for Defense Information, will concentrate on strategic comparisons. The second will look at NATO and Warsaw Pact comparisons, while the third will examine other elements of competition, such as weapons exports, political and economic influence, and trends for the future.

Mr. President, I ask unanimous consent that part I of the Defense Monitor be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Defense Monitor]

U.S.-Soviet Military Facts

TOTAL NUCLEAR WEAPONS

The United States can explode over 12,000 nuclear weapons on the Soviet Union; the Soviets can explode almost 8,000 nuclear weapons on the United States.

Of the over 12,000 U.S. nuclear weapons capable of striking the Soviet Union, over 2,600 are on F-111's, F-4's, A-6's, A-7's and other "tactical" aircraft which could fly to the Soviet Union from Europe, Asia, or from aircraft carriers; over 9,500 are "strategic" nuclear weapons.

Of the Soviets' 8,000, almost 150 are on Backfire bombers, which can only hit the U.S. if they fly at airliner speeds, on one-way missions. The remaining 7,800 are "strategic" nuclear weapons.

Of the more than 9,500 U.S. "strategic" nuclear weapons, half are on submarines which are invulnerable, hidden beneath the ocean. Four hundred more strategic weapons will be added in 1982, bringing the total to over 9,900 U.S. strategic nuclear weapons.

In addition to strategic nuclear weapons capable of hitting each other's homelands, both the U.S. and the U.S.S.R. have thousands of "tactical" nuclear weapons for use against ship convoys, tank formations, and other targets. As a general estimate, the U.S. and its allies have a total of about 31,000 nuclear weapons and the Soviets have about 20,000. (About 26,000 U.S. nuclear weapons are in the active inventory and 4,000 more in inactive storage.)

Soviet strategic nuclear weapons carry about 8,000 megatons of explosive power compared to 4,000 for the U.S. As the Soviets begin to catch up with the U.S. in producing smaller, more accurate and efficient weapons, they, too, are reducing their megatonnage.

LAND-BASED MISSILES

The number of Soviet intercontinental ballistic missiles (ICBMs) is declining. They have 1,398 now whereas seven years ago they had 1,600.

The Soviets have larger missiles, with greater throw weight than U.S. missiles.

U.S. weapons are smaller because they have miniaturized, computerised guidance packages, more efficient rocket engines, thinner but more effective heat shields, greater accuracy, and more compact, efficient hydrogen weapons.

Ninety-five percent of Soviet missiles are old-fashioned, liquid-propelled ICBMs; they carry large nuclear weapons to compensate for inaccuracy.

Soviet ICBMs are less reliable and less accurate than U.S. ICBMs.

The Soviets are shifting gradually to more modern ICBMs, with smaller yield warheads—following the U.S. lead.

The U.S. has maintained a level of 1,054 ICBMs but has modernized the missiles by introducing new types from Minuteman (MM) I to MM II to MM III and added 1,100 weapons by MIRVing the Minuteman III.

The U.S. has completed hardening of Minuteman silos and installation of an improved guidance system which doubles accuracy.

The U.S. has MIRVed 550 of its 1,000 MM ICBMs and will soon complete retrofitting 300 of these (900 nuclear weapons) with the MK12A warhead, doubling each weapon's explosive power and increasing lethality.

The U.S. will soon replace 50 MM IIs with MIRVed MM IIIs, adding a net increase of 100 highly accurate weapons to the total ICBM force.

U.S. solid fuel-propelled MM ICBMs can be launched against the Soviet Union well within the 30 minute time of flight of Soviet missiles. Therefore, Soviet ICBMs launched against U.S. ICBMs might find only empty holes on arrival in the U.S. ICBMs constantly maintain a 98% alert rate. It is believed that the alert rate of Soviet ICBMs is much lower.

It will soon be possible to launch U.S. ICBMs by airborne command posts should ground command centers be destroyed.

STRATEGIC BOMBERS

The Soviet strategic bomber force of 145 planes still includes 100 old, slow, propeller aircraft.

All 376 operational U.S. strategic bombers are modern high speed jet aircraft. The U.S. also has over 40 long-range bombers in active reserve, and over 200 in storage.

Over 100 U.S. bombers would be airborne prior to Soviet missile attack against the U.S.

In addition to strategic bombers, the U.S. has over 400 strike aircraft which are equipped with nuclear weapons aboard its aircraft carriers.

The U.S. will add 4,350 nuclear-tipped air-launched cruise missiles over the next several years to enhance the capability of its strategic bomber forces.

One of the greatest advantages the U.S. has over the Soviet Union is its air refueling capability. The U.S. has over 600 KC-135 tankers to extend the range of its long-range bombers and other aircraft. The Soviets have 30 long-range tankers.

The U.S. will soon add to its strategic mobility and air refueling capacity by buying new KC-10 tankers and re-engining 300 KC-135s.

STRATEGIC SUBMARINES

The 62 Soviet ballistic missile submarines carry 950 nuclear missiles (almost 2,000 nuclear weapons) for war against the U.S., Western Europe and China.

The Soviets maintain day and night about 300 nuclear weapons at sea targeted against the U.S.

The Soviets maintain a much smaller percentage of their strategic subs at sea than the U.S.

The U.S. maintains at least 55 percent of its 32 ballistic missile subs at sea at all times (18-20 subs). This will soon be increased.

The U.S. keeps 3,000 nuclear weapons in position to attack targets in the Soviet Union at all times.

U.S. subs could wage a protracted nuclear attack on Russia for over 3 months.

"Just one of our relatively invulnerable Poseidon submarines—less than 2 percent of our total nuclear force submarines, aircraft, and land-based missiles—carries enough warheads to destroy every large and medium-sized city in the Soviet Union. Our deterrent is overwhelming."—President Jimmy Carter, January 23, 1979.

The U.S. will soon complete the retrofitting of Trident I missiles on 12 of 31 Poseidon subs. The weapons on these new missiles have 60 percent longer range, are 2½ times more powerful, and are more accurate than the weapons on the Poseidon missiles they are replacing. The number of weapons on our 304 remaining Poseidon missiles is being selectively increased.

Trident I missiles to go on 12 Poseidon and 9 Trident subs will provide 3,000 new nuclear weapons for our strategic arsenal in the 1980's.

Each Trident submarine, the first of which will go on active patrol in October 1982, can carry enough weapons to target every Soviet city of over 100,000 people. The President's five-year plan calls for 15 Trident subs; the Navy wants 20-26.

A LESSON ON GENOCIDE FROM ANCIENT GREECE

Mr. PROXMIRE. Mr. President, the Athenian Senate was a predecessor of the U.S. Senate. Consider how they confronted a small ancient city-state called Mitylene. In 427 B.C., the people of Mitylene broke its alliance with Athens and joined the Peloponnesians in their war against the Athenian empire. For the Mitylenians the war was a short one since it only took a few months for the Athenian navy to successfully lay seige to Lesbos and occupy their city. The Athenian Senate then began debate on the fate of their treacherous former allies. The vast majority of the Athenian Senate, led by the demogog Cleon, was filled with anger and resentment at what they saw as Mitylene's unprovoked hostility and their unspeakable crime of associating with the Peloponnesian fleet during their insurrection. In this heated atmosphere of hurt and vengeance, the Athenian Senate sentenced every man, woman, and child of Mitylene to death.

It was not long after the boat carrying the execution order had been dispatched when some of the Athenian legislators began to reflect on the genocidal sentence they had issued and the next day a faction in the Senate, led by the famous orator Diodotus, was able to win a reversal of the original decision. Thus, a second boat was sent with the reprieve which, according to legend, arrived just as the Athenian field commander was about to put the populace to the sword.

Mr. President, the Mitylene story is notable not in the actual physical carnage or political callousness involved—there are, unfortunately, far greater examples of these in contemporary politics—but in the realization that even a nation with the philosophical and ethical foundations of Athens, when put under the right amount of stress, can experience sporadic outbursts of wanton, purposeless violence.

This was not a fanatical regime led by pathological tyrants but a nation similiar to our own; populated by such great men as Socrates, Plato, and Thucydides. Nor was the Mitylene decision preceded by dramatic Nuremburg parades or enormous show trials that would have prepared civilization for the coming slaughter. The Mitylene debacle teaches us that the environment needed for acceptance of the mass extermination of a people can be created in a relatively short period of time and within the most seemingly civilized of nations. The question we must ask ourselves is whether our Nation has led the fight against genocidal murder and worked with fellow nations to avoid future "close calls" like that of Mitylene. I wish I could answer this question with an unqualified yes, but this would be dishonest. While it was largely due to our influence that the Genocide Convention was initially written and passed in the General Assembly in 1948, the United States today stands essentially alone in its rejection of the Genocide Convention by failing to ratify it.

In 427 B.C. the Athenians came face to face with the horrific dimensions of genocide. They discovered that no great legislative body can afford the luxury of anger unchecked by reason and justice untempered by mercy. The decision for the genocidal slaughter of their neighbors was a comparatively easy, almost self-perpetuating, one and had it not been for the voices of a few courageous Athenian leaders, the culture and history of Mitylene would have been entirely eradicated. We, like Diodotus, must be ever vigilant in watching for the early signs of genocidal crimes. Through ratification of the Genocide Convention, we can lead the world in preventing these terrible deeds which blot the pages of history.

HOW DOBOY HELPED NEW RICHMOND, WIS., AND THEIR EMPLOYEES AT THE SAME TIME

Mr. PROXMIRE. Mr. President, I call to the attention of the Senate the initiative of a Wisconsin firm that resulted in a compassionate boost for their labor force and a fine contribution to their community.

New Richmond, Wis., is a town of about 4,300 people in western Wisconsin near the Minnesota border. The Doboy Packaging Machinery Co. was faced this spring with a dropoff in their business and the necessity of laying off some of their employees.

Recently, the Wall Street Journal carried a short item about how Doboy helped both their employees and their city. It is a fine example of a company's thoughtfulness and generosity at work. I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMUNITY SERVICE: ONE COMPANY EASES OUT LAID-OFF WORKERS SLOWLY

Doboy Packaging Machinery Co., New Richmond, Wis., didn't want to abruptly lay off 25 workers when it cut its payroll last spring. So it paid workers an entry-level wage for three months while they did community service jobs. They worked 35 hours weekly on projects at hospitals and schools that needed maintenance work but couldn't afford it. The company didn't save much money, but it did help ease the workers transition to joblessness.

At Holy Family Hospital, five Doboy workers did painting, plastering, built a roof and installed a helicopter pad, "things we never would have done this year," says a hospital official. The labor was worth about $5,000. The company also gave the workers time off for job search and provided some outplacement training.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. BAKER. I yield back the remainder of my time.

RECOGNITION OF SENATOR MATHIAS

The **PRESIDING OFFICER** (Mr. MATTINGLY). Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

CONGRESSIONAL MASS MAILINGS

Mr. MATHIAS. Mr. President, when Woodrow Wilson wrote his now famous work, "Congressional Government," 98 years ago, he said:

> The informing function of Congress should preferred even to its legislative function. Unless (Congress informs) the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct.

I think that this observation of Woodrow Wilson expresses in a practical way the fundamental philosophical point which James Madison made more than two centuries ago:

> A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

Clearly, a well-informed citizenry is the bedrock of a democracy, and for this reason I have always advocated improving the ways in which Senators and Representatives communicate with and inform their constituents.

I have consistently supported using modern communications technology, such as television, to enable Congress to be more effective in carrying out its informing function. Today, however, instead of addressing new and improved methods of communication, it is my duty to call the attention of Senators to a serious communications problem.

I am glad to see the Senator from Wisconsin in the Chamber, because he has an outstanding interest in economy in Government and economy in Congress.

The problem to which I refer is the mounting costs of Senators' mass mailings. Because Senators have the privilege of mailing with the frank, we are not as aware of the costs of what we mail as we would be if we had to buy stamps and lick them and stick them on one by one, on each letter. But because we are not aware of our postage costs does not mean that there are none. Mail is not free. It is very expensive.

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In fact, the Postal Service recently estimated that the postage costs for Congress as a whole will be $102 million this year. It will be $102 million, I say to the Senator from Wisconsin.

Senators' mass mailings—not those individual letters in which they respond to questions from constituents, not those letters that are directed to finding out information that a Senator may need to have, but the mass mailings, the self-generated mailings—account for approximately $31 million of that total, almost one-third of the total congressional postal bill.

At current rates, Senators will send out 245 million pieces of mass mailings in 1982. About three-fourths will be what we call newsletters. The other mass mailings are small group mailings, press releases, and town meeting announcements.

What I want to make clear is that we are not talking about answering those millions of letters to which I referred; answers to questions or requests which our constituents send us every year. At current rates, our mail response to the incoming mail, responding to our constituents, which we have a duty to do, will total this year about 11 million pieces. But the mass mailings, those things we generate ourselves, with our pictures in them, our names prominently displayed, will total 245 million pieces of mail this year—11 million in which we are responding to constituents; 245 million that we are casting out to the winds.

That, Mr. President, is in a country, I point out, that has only 83 million mailboxes.

This figure reflects an alarming rate of growth. This year's total is 73 percent higher than last year's. How is that for inflation? Seventy percent more this year than last year. Last year was 20 percent higher than 1980. The 1980 total was 27 percent higher than the 1979 total. In 1979, Senators were sending out 93 million mass mailings, and now, just 3 years later, we are sending 2½ times that many. Theoretically, mass mailings are limited by the paper allotment, but, obviously, the paper allotment is a limitation that does not work.

Mass mailings are expensive. I have already mentioned the postage cost for 1982, which is estimated to be $31 million. While that is the largest single cost, it is by no means the total cost. Paper, printing, and mailing lists add another $6 million, for a total of $37 million. Approximately 70 employees of the Sergeant at Arms are involved in supporting this activity. And that still does not include the cost of staff in Senators' offices who write material and update the mailing lists.

While I am on the subject I should mention one element of cost that is especially disturbing: mass mailings, chiefly newsletters, that are undeliverable. A significant percentage of every mailing is returned because the addressee has moved or because the address is simply incorrect. Such returns are a significant expense, approximately $2.5 million this year alone.

The volume of the returns—the rejected, the undelivered mail—is now so heavy that many offices are unable to keep up with removing the incorrect addresses from their mail files. Consequently, some undeliverable newsletters are repeatedly sent to the same addresses.

Mr. President, compared to some costs of government, $31 million might not sound like very much. But, to paraphrase the distinguished majority leader's father-in-law, the late Everett McKinley Dirksen: "A million here. A million there. And pretty soon you're talking about real money." So let me compare that $31 million to some other things that we have been discussing in this Chamber recently.

A few days ago, there was a great deal of weeping and wailing and gnashing of teeth over the cost of the Hart Building. What an extravagance the Hart Building was! What a terrible thing to think that it might have a gym or a restaurant in it! What an extravagance! Well, at the current rate, we could build a new Hart Building, with a gym, with a restaurant, every 4 years, with the money we spend on Senators' mass mailings alone. I doubt that there would be much question of which would have the more enduring value.

As a second comparison, we are spending almost as much on mass mailings as we are on the entire Senate committee system.

This is an election period. We are all in touch with our constituents, and our constituents are in touch with us. I raise this question now because I think it is useful to get a sense of whether the country thinks this mass mailing makes good sense.

Compare it with the committee system, because it costs just about as much. All the work that is done by congressional committees is comparable in its cost to the country to the mass mailings emitted on a daily basis from Capitol Hill.

A third comparison would be the one-time installation cost to televise Senate floor proceedings, which would be one-tenth of the annual cost of mass mailing. The annual operating cost of television would be about 1 percent of the cost of mass mailing.

Just think of it, Mr. President. Think of it in long-range terms. We could televise the proceedings of the U.S. Senate for the next 100 years, for a century, with the money that we spend in a single year for Senators' mass mailings.

Of course, there are a lot of differences among Senators in their use of mass mailings. Some send hardly any; some send information notices on specific issues, press releases, and town meeting notices, but no newsletters; and some other inundate their constitutents with newsletters. Last year, more than half of the Senators sent fewer pieces of mass mail than there are mailboxes in their States, but some Senators sent more than one piece per mailbox. Some sent a lot more and in such cases the high volumes are usually newsletters.

For example, last year, the combined mailings of both Senators from one State amounted to more than 12 pieces per mailbox. That was the leader. Another State with 1.7 million mailboxes received over 6 million pieces of mass mail last year from only one Senator. One Senator has four times as many names on his mailing list as there are mailboxes in his State.

If those figures are not impressive enough for you, just consider the volume involved. Last year one Senator sent 13 million pieces of mass mail, while in the first 6 months of this year alone, another Senator had already sent 8 million. Just to keep up with the demand for printing, the Senate recently had to buy another press which, all by itself, can print over 3 million newsletters a week. And the truly disturbing thing about these fantastic volumes is that the majority of Senators now annually send fewer than one piece of mass mail per mailbox. If these Senators were to become high-volume senders, the overall volume would really skyrocket.

As chairman of the Committee on Rules and Administration, I receive letters from all over the country about Senators' newsletters. One man sent me six copies he received of a single newsletter. One copy was addressed to his wife, and five were addressed to him, each to a different spelling of his last name.

I cannot even get away from this problem when I go home. Not long ago, a neighbor of mine complained to me about receiving newsletters from a Senator in a different and somewhat remote State, a Senator to whom he had not written and with whom he had not communicated in any way. He wanted an explanation. Constituents know newsletters are not free, and they suspect the truth, that they are in fact, very expensive. They also know who foots the bill, and they no doubt wonder what the cost must be if very many Senators are sending unsolicited mass mailings to people outside their States. I have no explanation to give them other than to say that no Senate rule is being violated, no law is being violated. But they must wonder further, and I wonder myself, whether or not we need some new rules in this area.

I think this is a good time to ask the whole Senate the question.

Mr. President, I raise this issue now in anticipation of holding hearings in the Committee on Rules and Administration on this problem. I urge all my colleagues to reflect on this problem and consider ways we might improve our effectiveness in communicating with our constituents while at the same time reducing costs. In the meantime, I urge all my colleagues to keep a close watch on their mass mailings and to remember that every mailing of 1 million newsletters costs the American taxpayers $150,000.

Mr. President, the dramatic nature of the increase in mass mail volume is illustrated by a chart that I have in my hand, which shows the steep rise in the growth of mass mailings, and by a graph, which shows the volume of newsletters as a percentage of all Senate mail in the years 1981 and 1982. If it is technologically possible for the Government Printing Office to do so, I ask unanimous consent that these graphs be printed as part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE MASS-MAIL VOLUME, 1979 TO 1982

Year	Millions of pieces of mass-mail	Percentage increase over previous year
1979	93	(1)
1980	118	27
1981	142	20
1982	[2] 245	73

[1] Not available.

[2] 1982 estimate is based on first 6 months of 1982.

Senators' newsletters as a percentage of all Senate mail (1981–82)

	Percentage of total
1. Mass mailings:	
a. Newsletters	69
b. Information notices, press releases, and town meeting announcements	23
2. Other than mass-mailings:	
a. Correspondence prepared with the Senate Correspondence Management System	4
b. Other mail	4
Total	100

Mr. MATHIAS. Mr. President, I yield back my time.

Let me withhold that and yield to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator from Maryland.

Mr. President, I commend him for his statement. I did not hear all of it, but I shall read all of it in the RECORD tomorrow. As the Senator knows, I have addressed this newsletter matter on occasion in the Senate. On one occasion, I recall offering an amendment to require Senators to state the number of copies of a newsletter that they were mailing and also the estimated cost.

Mr. President, I recall stopping by the Senate printshop, which is adjacent to the parking area, shortly after I came to the Senate. I went in and I saw several high-speed offset presses going lickety-split. One of the employees of the printshop was happily showing me the latest technology. I recall that a newsletter from a very prominent Senator was rolling off one of those presses. I asked, "How many copies of that newsletter will you print?"

He said, "950,000."

Then I inquired of the GAO as to the estimated cost per newsletter. The estimate that I got back at that time, assuming first-class postage, was about 26 or 27 cents per copy. That led me to offer the amendments that I did offer, which were defeated by the Senate.

I thank the Senator for looking into this, because in this time of great strain on the Government's finances, I think we owe it to the taxpayers to take a look at it. I thank the Senator.

Mr. MATHIAS. Mr. President, I thank the Senator from North Carolina for his comments. He is a member of the Committee on Rules and Administration. I hope that when we hold this hearing, it will be possible for him to attend and participate.

Mr. HELMS. I shall be there and I shall participate.

Mr. MATHIAS. This is an example of where we are going around making various petty economies as we are trying to stop the leaking spigot and we are letting it run out at the bung. It is a case of a major expenditure. When you think that you could build a Hart Building every 4 years with what is being spent on Senators' mass mailing, it would give you some concept of how much money is indeed being utilized in an activity that needs to be analyzed in terms of its public benefit in improving the public knowledge.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. All the Senator's time has expired.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for routine morning business to last not past 1 p.m., during which Senators may speak for 5 minutes each.

AGRICULTURE SECRETARY JOHN BLOCK

Mr. HELMS. Mr. President, not until this past week did I see a story published by the Washington Post more than 2 months ago—on July 5, to be exact. Congress was in recess at the time and I was in North Carolina. Thus, I was not aware of the newspaper piece about Secretary John R. Block.

Apparently few, if any, other Members of the Senate read the article. None has even mentioned it to me, and a casual inquiry among Senators failed to produce even one who was aware of it.

Nonetheless, Mr. President, I feel obliged to come to the defense of Jack Block against some of the anonymous and mean-spirited spokesmen who purportedly made insulting comments about a fine, dedicated American who is doing a splendid job as Secretary of Agriculture under the most difficult of circumstances.

As one who has spent most of my adult life in the news business, I am growing increasingly concerned about the constantly increasing tendency among the major media to allow unidentified spokesmen to demean the character and dedication of people in public office. These days, everybody from the President on down is defenseless against such cowardly and intellectually dishonest attacks.

Mr. President, I do not mind criticism, and nobody else should—if it is fair criticism. But a reporter, under existing practices, can sit down and dream up all manner of quotes to be used against someone the reporter does not like, or with whom the reporter or his editors happen to disagree. President Reagan, Jack Block and all the rest of us ought to be entitled to face our accusers—if the accusers exist.

The piece in the July 5 Washington Post stated flatly that "lightweight" is the word "heard most frequently to describe Block." Other reporters, unidentified, were quoted as referring to Secretary Block as "Blockhead."

That, Mr. President, is a cheap shot, unworthy of a responsible newspaper. Incidentally, I have never heard a reporter who knows anything about agriculture refer to Secretary Block in such a derogatory manner.

The truth is, Jack Block is a capable and effective Secretary of Agriculture. True enough, he is presiding over the Department of Agriculture at its most difficult time in history. There are no easy answers, no instant solutions to the problems of American agriculture. Whereas previous Agriculture Secretaries could come to Congress and obtain funding for expensive and often ineffectual farm programs, the well has run dry insofar as unlimited Federal funds are concerned.

Secretary Block is providing responsible leadership. As a farmer himself, he not only understands the difficulties that farmers face, he has faced them himself and successfully overcome those challenges. In my opinion, there has never been a Secretary of Agriculture with a better working knowledge of the problems confronting full-time farmers today.

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Commercial farmers, including Jack Block, know how ineffective and inefficient Government actions can be. Farmers tell me that they want lower interest rates and less Government. Despite rocky economic times, farmers know that Secretary Block is one of them and that he is working hard for them.

Mr. President, Jack Block is a genuine, "hands on" farmer with a world perspective. He knows the industry literally from the ground up. As Illinois director of agriculture, he was traveling around the world seeking new markets for farm products even before he became Secretary.

Mr. Block has been a very successful farmer, not by inheritance but by achievement. As did many others, he returned to the family farm after service in the Army. He built the original 300 acres into a progressive 3,000-acre enterprise. He and his lovely wife, Sue, know firsthand the problems facing farmers.

For this reason, I believe farmers generally trust the Secretary, and they have good reason to do so. The Secretary is well aware of this responsibility.

I can vouch for the fact that the Secretary has consistently and forcefully argued for farmers in the highest councils of Government. Those who contend otherwise simply have not been party to the decisions.

President Reagan himself has said,

> I believe that our Administration is lucky to have an Illinois farmer named Jack Block, who never lets me or any member of our cabinet forget our farmers.

Mr. President, the Washington Post article accuses Secretary Block of having a firm belief in the President's program. This charge is one to which Secretary Block proudly pleads guilty. In fact, it is high time we had a Secretary of Agriculture who was committed to real economic growth in the marketplace, rather than artificial Government quick-fixes.

This is not blind faith in a free-market ideology. Rather, it is a conviction borne of experience.

As a businessman, Jack Block knows the true impact of Government regulations and taxation. As a former director of a State agency, he knows the vital role that State and local officials can play.

Our confirmation hearings showed that Mr. Block was extremely successful in directing his State agency. As chairman of the committee responsible for the oversight of USDA, I firmly believe he is an active and astute administrator here. He is well equipped and capably performing.

I encourage my colleagues to take a look at the record.

The Carter grain embargo, which precipitated the current economic distress on the farm, was lifted at Secretary Block's urging.

The Secretary is strongly committed to exporting more farm products and strengthening prices in the marketplace. He has led or sent trade teams to every continent, placed a high priority on market development, and maintained funding for export credit guarantees at the highest level in history.

He was instrumental in the development of a farm bill in 1981 that was both sound farm policy and responsible budget policy. He was constructively and effectively involved in the process of producing this legislation.

If in fact, this farm bill which was criticized as being inadequate will provide net outlays for 1982 price supports that are over 2½ times the outlays in the previous fiscal year. Under the farm bill, the Reagan administration will provide nearly $11 billion of assistance to farmers this year.

Mr. President, such assistance is proof that the safety net features of the 1981 farm bill are working.

Of course, this is due to low farm prices caused by excess supplies and a sluggish world economy. The Secretary is attempting to remedy our oversupply problems with the tools provided in the farm bill.

The Secretary announced a voluntary acreage reduction program for 1982 and made an aggressive effort to encourage participation in it. Farmers responded with a signup of acreage in the program that reached unprecedented levels.

There was also the case of the infamous Medfly. An outbreak of this destructive pest occurred in the fertile fields and orchards of California, which, as Senator HAYAKAWA is wont to remind us, produces a large share of the food found on American dinner tables each day.

The vital food supply of our largest agricultural State was endangered by the Medfly, but the Governor of that State merely took misguided, half-hearted actions which were not effective in stopping the nefarious pest.

Secretary Block's response was firm and decisive. At his insistence, the State of California finally took the actions necessary to stop the pest and protect our food supply.

There is a panoply of other issues before the Secretary of Agriculture, not even including the input he has in policy matters across the board as a Cabinet member. Suffice it to say that the Secretary is constantly seeking to reduce Federal spending and overregulation, emphasizing the role of the marketplace in improving the conditions we face. He approaches this task with a forthright and upbeat manner. If the naysayers of the newspapers do not approve of the Secretary's optimism, so be it. Their negativism is certainly not the answer.

The important thing is to get the job done for America's farmers, consumers, and taxpayers.

Mr. President, I commend Secretary Block for the excellent job he is doing.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

"WIC" DOVE

Mr. WARNER. Mr. President, the birth of our Nation was made possible because intrepid men and women had the courage, fortitude, and daring to fight for the lives and liberty of their countrymen.

Two hundred years later, these same qualities are still evident amongst us. William "Wic" Dove is one young man whose actions have exemplified many of those virtues which Americans still hold dear.

During the year of our Nation's bicentennial, Wic heroically rescued a drowning mother and her 9-month-old son. There can be no question but that he saved their lives.

Himself suffering from a recent injury, and in need of surgery, Wic did not hesitate to risk his own life for those two strangers. After pulling both unconscious victims from the water, Wic was able to successfully apply lifesaving techniques and revive both.

Louis Adamic once observed that, "There is a certain blend of courage, integrity, character, and principle which has no satisfactory dictionary name, but has been called different things at different times in different countries. Our American name for it is 'guts'." He could have been writing of Wic Dove.

The valor and courage that Wic displayed that long ago summer day is something I will not soon forget, nor will those whose lives he touched—and saved.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED LEGISLATION ON WILD AND SCENIC RIVERS—MESSAGE FROM THE PRESIDENT—PM 173

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

One of the greatest challenges facing our Nation is to make careful and wise use of our natural resources. At the same time, we must protect other national treasures—wild, free-flowing rivers and wilderness areas—for this and future generations to enjoy in their natural, undeveloped state.

To further this effort and pursuant to the Wild and Scenic Rivers Act of 1968 and the Wilderness Act of 1964, I am today proposing, at the recommendation of the Secretary of Agriculture and the Secretary of the Interior, eight additions to the National Wild and Scenic Rivers System and three additions to the National Wilderness Preservation System. These additions total some 245 miles of rivers and over 21,000 acres of wilderness.

Briefly described, the proposed additions to the Rivers System are:

(1) The Clarks Fork of the Yellowstone River, Wyoming—21.5 miles of the river in the Shoshone National Forest.

(2) The Elk River, Colorado—29 miles of the river in the Routt National Forest.

(3) The Conejos River, Colorado—36.8 miles of the river in the Rio Grande National Forest.

(4) The Los Pinos River, Colorado—54 miles of the river in the Weminuche Wilderness, San Juan National Forest.

(5) The Verde River, Arizona—39.5 miles of the river in the Prescott, Coconino, and Tonto National Forests.

(6) The Au Sable River, Michigan—23 miles of the river in the Huron Manistee National Forest.

(7) The Snake River, Wyoming—13 miles of the river in the Bridger-Teton National Forest.

(8) The Piedra River, Colorado—28.4 miles of the river in the San Juan National Forest.

The comprehensive bill that I am transmitting today to add these rivers to the System will also make changes to the Wild and Scenic Rivers Act to enhance our ability to manage such rivers efficiently and effectively.

In addition, I am transmitting three legislative proposals to designate the following areas as additions to the Wilderness System:

(1) The Spruce Creek addition to the Hunter-Fryingpan Wilderness, Colorado—the 8,000-acre Spruce Creek Wilderness Study Area, to be added to this Wilderness in the White River National Forest. The area offers outstanding opportunities for solitude and backcountry recreation.

(2) The Paddy Creek area, Missouri—6,728 acres in the Mark Twain National Forest. This area of the Ozarks contains an unusual assortment of rock formations, including caves, crevasses, and fissures.

(3) The Aravaipa Canyon Primitive Area, Arizona—6,670 acres in Graham and Pinal Counties. Aravaipa Creek provides the canyon, which is bordered by high mesa-like cliffs, with lush vegetation and a variety of wildlife that is seldom seen in the surrounding Sonoran Desert.

After reviewing the suitability of three other rivers for possible designation, the Secretary of Agriculture has found them not to be suitable for inclusion in the National Wild and Scenic Rivers System. These include portions of the San Francisco River in Arizona, the Moyie River in Idaho, and the Salt River in Arizona. Finally, after reviewing the Elkhorn Wilderness Study Area in Montana, the Secretary of Agriculture has determined that this area is not suitable for inclusion in the National Wilderness Preservation System.

I am also transmitting to the Congress today letters and reports from the Secretaries of the Interior and Agriculture regarding all of these rivers and wilderness proposals. I concur in all of these recommendations, and urge the Congress to act expeditiously and favorably on the proposed legislation, so that the natural resources of these areas may be protected and preserved.

RONALD REAGAN.

THE WHITE HOUSE, *September 13, 1982.*

PROPOSED LEGISLATION TO REFORM THE CRIMINAL JUSTICE SYSTEM—MESSAGE FROM THE PRESIDENT—PM 174

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am herewith transmitting proposed legislation entitled the Criminal Justice Reform Act of 1982. This Act—plus other proposals now pending in Congress—would strengthen society's defenses against the continuing and pervasive menace of crime.

Crime is clearly one of the most serious problems we face today. Crime—and the fear of crime—affect the lives of most Americans. Government's inability to deal effectively with crime diminishes the public's confidence in our system of government as a whole. Last year alone, one out of every three households in the country fell victim to some form of serious crime. By 1981, according to one survey, nearly eight of ten Americans did not believe that our system of law enforcement discouraged people from committing crimes—a fifty percent increase in just the last fifteen years.

As the threat of crime has become clearer to all Americans, so too has the need for improving our defenses against crime. As my Attorney General said only a few weeks ago: "In recent years, through actions by the courts and inaction by Congress, an imbalance has arisen in the scales of justice. The criminal justice system has tilted too decidedly in favor of the rights of the criminal and against the rights of society." It is time to restore the balance—and to make the law work to protect decent, law-abiding citizens.

To protect the rights of law-abiding citizens, the Administration has previously announced its strong support for a comprehensive law enforcement measure, the Violent Crime and Drug Enforcement Improvements Act of 1982, introduced in the Congress as S. 2572 and H.R. 6497. That important legislative initiative addresses many of our most pressing needs: bail reform, victim-witness protection, strengthened drug penalties, protection of federal officials, sentencing reform, expanded criminal forfeiture, donation of surplus federal property to State and local governments for needed correctional facilities, and a series of miscellaneous improvements in federal criminal laws.

The attached legislative proposal that I am now submitting would reform three additional areas of federal law affecting the criminal justice system. First, it would limit the insanity defense so that only those who did not have the mental state which is an element of their crime would escape responsibility for their acts. Second, the proposal would reform the exclusionary rule to prevent the suppression of evidence seized by an officer acting in the reasonable, good faith belief that his actions complied with law. Although the argument for retaining the exclusionary rule in any form is, at best, tenuous, this proposal eliminates application of the rule in those cases in which it most clearly has no deterrent effect. Finally, the bill would reform federal habeas corpus review of State adjudications to ensure greater deference to full and fair State judicial proceedings and to

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limit the time within which habeas corpus preceedings may be initiated. Habeas corpus reform would conserve scarce federal and State judicial and prosecutorial resources.

This new proposal and the Violent Crime and Drug Enforcement Improvements Act of 1982 represent a legislative program to protect all our citizens. These are not partisan initiatives. They are far too important to the Nation's well-being. In my view, they provide the basis for a renewed effort against the menace of crime. They will help restore the balance between the forces of law and the forces of lawlessness. I join with all Americans in urging the Congress to give both these legislative proposals its immediate attention and to begin the process of reclaiming our communities from criminals.

Ronald, Reagan.

The White House, *September 13, 1982.*

MESSAGE FROM THE HOUSE

At 2:51 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate numbered 1 to the bill (H.R. 2475) to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes; and that the House disagrees to the amendments of the Senate numbered 2 to 7, inclusive, to the said bill.

The message also announced that the House has passed the following bill and joint resolution, without amendment:

S. 2582. An act to amend the act to establish a permanent committee for the Oliver Wendell Holmes Devise, and for other purposes; and

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6307. An act to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983 and 1984, and for other purposes; and

H.R. 6666. An act to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 6666. An act to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building; to the Committee on Environment and Public Works.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 6307. An act to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1983 and 1984, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Special report entitled "Budget Allocations of the Committee on Finance" (Rept. No. 97-543).

● Mr. DOLE. Mr. President, the first concurrent resolution on the budget makes an allocation of total budget outlays and budget authority among the various committees in the Congress. Section 302(b) of the Congressional Budget Act requires each committee to further subdivide its allocation among subcommittees or programs under its jurisdiction and report the results to its respective House. This report has the proposed allocations among our program categories for outlays and budget authority for fiscal years 1982 and 1983. As required by the Budget Act, the amounts are further subdivided between controllable amounts and all other spending. Our established practice is to show as "controllable" those amounts which would result from new legislation and "all other" those amounts which would result from current law or which were assumed to result from legislative changes not within Finance Committee jurisdiction. Section 8 of the first concurrent resolution provides that it shall not be in order to consider any bill providing new budget or spending authority for fiscal year 1983 until the allocations required by section 302(b) of the Budget Act are made.●

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 460. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2899; referred to the Committee on the Budget.

By Mr. BAKER (for Mr. Murkowski), from the Committee on Governmental Affairs, without amendment:

S. Res. 461. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1562; referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with understandings:

Treaty Doc. 97-19. Constitution of the United Nations Industrial Development Organization (UNIDO), which was signed for the United States at New York, on January 17, 1980 (Ex. Rept. No. 97-59).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 2900. A bill to amend the Arms Export Control Act to provide for the reimbursement of the United States Government for the sale of defense training based on the additional costs of such training; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. Sarbanes, Mr. Sasser, Mr. Levin, and Mr. Riegle):

S. 2901. A bill to establish a National Commission on Neurofibromatosis; to the Committee on Labor and Human Resources.

By Mr. ROBERT C. BYRD (for Mr. Bumpers) (for himself, Mr. Baker, Mr. Robert C. Byrd, Mr. Hollings, Mr. Lugar, Mr. East, Mr. Dixon, Mr. Inouye, Mr. Burdick, Mr. Cannon, Mr. Stevens, Mr. Domenici, Mr. D'Amato, Mr. DeConcini, Mr. Riegle, Mr. Hatch, Mr. Laxalt, Mr. Levin, Mr. Randolph, Mr. Tsongas, Mr. Pell, Mr. Stennis, Mr. Pryor, Mr. Symms, Mr. Cochran, Mr. Bradley, Mr. Matsunaga, Mr. Weicker, Mr. Cranston, Mr. Heinz, Mr. Chiles, and Mr. Thurmond):

S.J. Res. 243. Joint resolution authorizing and requesting the President to designate October 15, 1982, as "National Poetry Day"; considered and passed.

By Mr. WARNER (for himself, Mr. Stevens, Mr. Mathias, Mr. Sarbanes, and Mr. Pryor):

S.J. Res. 244. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY, from the Committee on Foreign Relations:

S. Res. 460. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2899; to the Committee on the Budget.

By Mr. BAKER (for Mr. Murkowski), from the Committee on Governmental Affairs:

S. Res. 461. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1562; to the Committee on the Budget.

By Mr. HOLLINGS (for himself and Mr. Stafford):

S. Con. Res. 119. Concurrent resolution commending the efforts of the nation's schools to increase their effectiveness and encouraging further improvement in the quality of education; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ:

S. 2900. A bill to amend the Arms Export Control Act to provide for the reimbursement of the U.S. Government for the sale of defense training based on the additional costs of such training; to the Committee on Foreign Relations.

REIMBURSEMENT OF THE COST OF CERTAIN DEFENSE TRAINING

● Mr. BOSCHWITZ. Mr. President, today I am introducing legislation that will greatly improve one very important aspect of the U.S. foreign military sales (FMS) program—our training of foreign military students. My bill pertains to the manner in which the tuition of these foreign students is priced.

Under current law, countries receiving grant assistance under the international military education and training (IMET) program are charged on an incremental basis for the training they purchase, that is, they reimburse the United State for the additional cost we incur by having them at our training facilities. Other countries, such as Japan, Australia, New Zealand, the NATO countries, the Persian Gulf nations, and several states in Africa and South America, are required to pay on the full-cost principle, which means they pay the additional costs noted previously plus a proportionate share of the administrative and overhead costs we would incur whether we had them at our facilities or not.

Needless to say, the countries paying full cost view the system as highly discriminatory. The two types of cost accounting also cause the procedure to be more bureaucratic than need be and adds administrative headaches.

Therefore, Mr. President, I propose in my bill to amend the Arms Export Control Act to make the additional cost principle standard throughout the FMS program. In this way, all countries whose military students receive U.S. training would reimburse us for just what it costs us to train them.

Training of military students from abroad is very important to our foreign policy. Not only does it impart military knowledge and skills to countries whose armed forces are equipped at least in part with U.S. equipment, but perhaps more importantly it gives our military personnel an opportunity to get to know individuals who will some day occupy key posts in the defense and foreign affairs ministries in their governments.

Mr. President, I think my bill will make foreign military training programs run more smoothly and effectively. I urge its adoption by the Senate.●

By Mr. DOLE (for himself, Mr. SARBANES, Mr. SASSER, Mr. LEVIN, and Mr. RIEGLE):

S. 2901. A bill to establish a National Commission on Neurofibromatosis; to the Committee on Labor and Human Resources.

NATIONAL COMMISSION ON NEUROFIBROMATOSIS ACT

● Mr. DOLE. Mr. President, today Senators SARBANES, SASSER, LEVIN, and I are introducing legislation to establish a National Commission on Neurofibromatosis.

NEUROFIBROMATOSIS

Neurofibromatosis (NF) is the most common neurological genetic disorder, affecting an estimated 100,000 people in the United States. It is estimated that one in 3,000 people have this progressive genetic disorder which results in abnormal development of neural tumors. The disease usually appears in childhood, although it can appear as late as age 50, with the following progressive symptoms: Small and large pressure sensitive tumors just under the skin, severe curvature of the spine, enlargement and deformation of bones, tumors on the auditory nerves resulting in deafness, tumors on the optic nerve resulting in loss of sight, and tumors of the brain and spinal cord, frequently resulting in epilepsy, retardation, and death. In approximately 5 percent of the cases, the tumors become cancerous.

Research has determined that NF is inherited from one parent in about 50 percent of the cases. The other half, however, are caused by a sporadic mutation of the genes. To date almost nothing is known about the causes of this mutation, and there is no effective treatment for NF other than surgical intervention in the growth of the tumors, which may grow back.

NATIONAL COMMISSION

Despite the prevalence of the disease, NF is perhaps the most overlooked serious disorder of our time. Recently, attention has been focused on NF as a result of the theatrical and motion picture productions of "The Elephant Man," the true story of John Merrick's struggle with the most severe case of NF ever recorded. That attention, however, will not replace the needed coordination and focus of our research efforts provided by a national commission.

Mr. President, the legislation we are introducing today would establish an independent commission of 20 members, organized, operating, and reporting within an 18-month period, with an authorization of $1.25 million. The Commission is to prepare a comprehensive plan for research and education on NF and the needed services for people with NF and their families. There is currently research going on within the National Institutes of Health and at other institutions across the country. But the coordination and funding for this research is severely lacking. A commission is needed to coordinate the work done so far and to plan for needed future research. As we have done with other major diseases, we need to formulate a national policy for dealing with NF.

We believe a national commission is a necessary step in our battle against NF. A recent report prepared by the Congressional Research Service found that commissions have effectively served to target limited resources, promote patient education and professional awareness, and provide a diverse perspective on prevention and treatment of diseases. Those are the objectives we seek with this legislation, and I encourage my colleagues to support it.●

● Mr. SASSER. Mr. President, I rise in support of the National Commission on Neurofibromatosis Act, S. 2901.

Neurofibromatosis (NF) is a genetic disorder which is either inherited from a parent or is the result of a genetic mutation.

At least 100,000 Americans are afflicted with neurofibromatosis. It occurs equally in both sexes and is found in all racial, ethnic, and social class groups.

There is a shortage of specialized programs and trained professionals for neurofibromatosis research, treatment, care, education, and rehabilitation. Presently, there is no cure for neurofibromatosis. Treatment is aimed at correct diagnosis, surgical intervention, psychotherapy, and genetic counseling. Research is being directed toward locating the gene that causes neurofibromatosis and determining a prenatal test for identifying its presence, trying to understand the variability of neurofibromatosis, and evaluating the role of the various growth and hormonal factors in the body in relation to neurofibromatosis.

The purpose of S. 2901 is to establish a National Commission on neurofibromatosis to prepare a comprehensive report to the Congress which would include a long-range plan to expand and coordinate the national treatment and research effort against neurofibromatosis, to advance educational activities and opportunities, to improve the quality of life of individuals with neurofibromatosis, and to increase public awareness of neurofibromatosis.

Because neurofibromatosis is one of the most common serious neurological genetic disorders, affecting 1 of every 3,000 births, I urge my colleagues to support the establishment of a National Commission on neurofibromatosis.●

By Mr. WARNER (for himself, Mr. STEVENS, Mr. MATHIAS, and Mr. SARBANES):

Senate Joint Resolution 244. Joint resolution designating January 17, 1983, as "Public Employees Appreciation Day"; to the Committee on the Judiciary.

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PUBLIC EMPLOYEES APPRECIATION DAY

Mr. WARNER. Mr. President, everyone who works, whether for themselves or for someone else, recognizes the need and value of praise and appreciation for their services. Public employees are no exception.

Very often, I witness Federal career employees being made the brunt of undue criticism. While we all know there is need for improvement in some areas, most Government employees are dedicated individuals who are doing their best to carry out policy directives, providing for an improved quality of life for all Americans.

My observation is based on over 10 years of personal service in the executive branch—at the Justice Department, the Pentagon, and as head of the Nation's Bicentennial.

For these reasons, I am pleased to introduce, with Senators STEVENS, MATHIAS, and SARBANES as cosponsors, a Senate Joint Resolution designating January 17, 1983, as "Public Employees Appreciaton Day."

It is fitting to recognize the contributions of millions of our citizens who have served and are serving this Nation in local, State, and Federal service in conjunction with the 100th anniversary of the Civil Service Act next January, and ask that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 244

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 17, 1983, is designated "Public Employees' Appreciation Day". The President is authorized and requested to issue a proclamation inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that day with appropriate ceremonies and activities.

Mr. WARNER. Mr. President, I ask unanimous consent that the statements made throughout the day by other Members of the Senate be located in the RECORD at this one place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I yield to my distinguished colleague from Maryland.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Virginia for yielding to me.

I wish to not only tell him and other Senators that I am a cosponsor with the Senator from Virginia of this resolution but also that I will work for its adoption and beyond merely the adoption of the resolution will work for a greater recognition of the contribution that civil servants make to the Government of the United States and to the people of the United States.

The quality of their work is extraordinary. Not only the level of performance but the level of excellence of their performance is outstanding.

All too often they are made the scapegoats for the problems that have been created by other forces and other people in our society.

I think the civil service is one of the great institutions of the United States. We should be proud of it. We should protect it. We should preserve it. And we should pay it.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Maryland and I join him in his observations.

Indeed, he is recognized in this Chamber as being one of the leaders and great protectors of the institution of civil service.

I myself admit with great humility that it is unlikely that I would be in the Senate had it not been for an excess of 10 years of service in a variety of capacities as a Federal employee, starting out as a mail carrier during World War II and eventually having the privilege to serve as Secretary of the U.S. Navy.

So I shall join with my distinguished colleagues from Maryland and other Members of this body to see what we can do to bring the proper credit and appreciation of the Nation on the Federal civil service.

Indeed, all too often they are regarded as responsible for some of the problems of Government, but if we analyze it, indeed it is the leadership who is responsible, as opposed to these loyal people who have dedicated their lives in the service of their country.

I thank you, Mr. President, and I yield the floor.

ADDITIONAL COSPONSORS

S. 473

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 473, a bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for the use of their vehicles on Government business.

S. 585

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 585, a bill to provide a special defense to the liability of political subdivisions of States under section 1979 of the Revised Statutes (42 U.S.C. 1983) relating to civil actions for the deprivation of rights.

S. 1698

At the request of Mr. DENTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 2436

At the request of Mr. WARNER, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 2436, a bill to designate the Mary McLeod Bethune "Council House" in Washington, D.C., as a national historic site and for other purposes.

S. 2734

At the request of Mr. HUMPHREY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2734, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs.

S. 2735

At the request of Mr. HUMPHREY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2735, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 2736

At the request of Mr. HUMPHREY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2736, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 2784

At the request of Mr. DECONCINI, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 235

At the request of Mr. HELMS, the names of the Senator from Arizona (Mr. DECONCINI) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Joint Resolution 235, joint resolution to proclaim March 21, 1983, as "National Agriculture Day."

SENATE JOINT RESOLUTION 239

At the request of Mr. WARNER, the names of the Senator from Wisconsin (Mr. KASTEN), the Senator from Arizona (Mr. DECONCINI), the Senator from Illinois (Mr. DIXON), the Senator from Washington (Mr. GORTON), the Senator from California (Mr. HAYAKAWA), the Senator from South Dakota (Mr.

Abdnor), the Senator from South Dakota (Mr. Pressler), the Senator from Texas (Mr. Tower), and the Senator from Alabama (Mr. Denton) were added as cosponsors of Senate Joint Resolution 239, joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day."

SENATE JOINT RESOLUTION 241

At the request of Mr. Humphrey, the names of the Senator from Oregon (Mr. Hatfield), the Senator from Texas (Mr. Tower), the Senator from Maine (Mr. Mitchell), and the Senator from Virginia (Mr. Warner) were added as cosponsors of Senate Joint Resolution 241, joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week."

SENATE CONCURRENT RESOLUTION 119—COMMENDING OUR NATION'S SCHOOLS

Mr. HOLLINGS (for himself and Mr. Stafford) submitted the following concurrent resolution, which was referred to the Committee on Labor and Human Resources:

S. Con. Res. 119

Whereas an educated citizenry, able to make critical decisions is the cornerstone of democracy;

Whereas education is one of the best tools for people to raise themselves from poverty;

Whereas the national defense demands soldiers capable of operating high technology equipment;

Whereas the growth of high technology industries as the mainstay of the nation's economy requires a well-educated workforce;

Whereas the international nature of economic competition demands that U.S. workers be highly productive as well as skillful;

Whereas the schools within the last several years have placed a greater emphasis on strict academic standards and these efforts are showing results in terms of higher achievement gains: Therefore be it

Resolved, That the Congress applauds the efforts of the schools to increase their effectiveness and provide a quality education for all students. Congress recognizes that improving education is a joint effort involving private industry, local schools, States and the Federal government and resolves to show that "Congress Cares" by continuing to work with industry, local schools and States to improve the nation's schools.

Mr. HOLLINGS. Mr. President, I am submitting a concurrent resolution calling attention to the efforts of the Nation's schools to increase their effectiveness and encouraging the further improvement in the quality of education. Joining me in cosponsoring this resolution is the senior Senator from Vermont, Senator Stafford.

The challenge ahead, Mr. President, if we are going to return America to a strong footing of competitiveness in the world marketplace is the realization that our schools will provide the quality necessary in our people to get the job done. We must seek to improve our schools and promote quality if we are to accomplish our goal. This resolution will, Mr. President, lend support to our efforts in this direction.

SENATE RESOLUTION 460—BUDGET WAIVER

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. Res. 460

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2899. Such waiver is necessary because S. 2899 authorizes the enactment of new budget authority which would first become available in fiscal year 1982, and such bill was not reported on or before May 15, 1981, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority to provide supplemental emergency economic assistance to countries of the Caribbean Basin in fiscal year 1982.

S. 2899 provides an authorization for fiscal year 1982 of $350,000,000 for emergency economic assistance to Caribbean and Central American countries in support of the Caribbean Basin Initiative, a program to promote economic revitalization and to facilitate expansion of economic opportunity in the Caribbean Basin region. The effect of not considering this bill would be to deny policy guidance for these aid programs and to deny the use of counterpart funds for development programs.

The specified sum is included in the fiscal year 1982 supplemental appropriations act (P.L. 97-257). The Appropriations Committees of the Senate and the House of Representatives have had adequate notice of this authorization, and Congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

SENATE RESOLUTION 461—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. BAKER (for Mr. Murkowski), from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. Res. 461

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1562. Such waiver is necessary because S. 1562 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of a bill to provide a comprehensive national science policy with respect to the Arctic.

S. 1562 authorizes an appropriation of $25,000,000.00 per year to support the activities of the Arctic Science Policy Council and the Arctic Research Commission.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Arctic Policy Act, and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENTS NOS. 3266 THROUGH 3269

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted four amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

REFUGEE ASSISTANCE

AMENDMENT NO. 3270

(Ordered to be printed and be referred to the Committee on the Judiciary.)

Mrs. HAWKINS submitted an amendment intended to be proposed by her to the bill (H.R. 5879) to amend chapter 2 of title IV of the Immigration and Nationality Act to extend for 1 year the authorization of appropriations for refugee assistance, and for other purposes.

REIMBURSING STATES AND LOCALITIES IN THE EVENT OF AN IMMIGRATION EMERGENCY

● Mrs. HAWKINS. Mr. President, today I am offering an amendment to the House-passed version of the reauthorization of the Refugee Act of 1980, H.R. 5879. The Refugee Act of 1980 is the legislation authorizing a range of benefits provided to refugees who are allowed to settle in this country. It must be reauthorized this year. The House has already finished consideration of its reauthorization bill, and the Senate is expected to finish prior to our adjournment in October.

My amendment is designed to redress serious shortcomings in current law. Currently, our State and local governments cannot depend on reimbursement for their tremendous expenses—should they again be surprised by a massive influx of undocumented aliens. In 1980, Florida was inundated with 125,000 Cubans over a period of only 6 months. The total cost of accepting these homeless people amounts to over $1 billion, to date. Out of that Florida paid $150 million. Obviously, 15 percent of a $1 billion tab is a tremendous burden on Floridians—a burden that, ironically, they were powerless to prevent. For-

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eign policy and immigration policy fall under the jurisdiction of the Federal Government. Hence, State and local governments could not say no to the influx of undocumented aliens. However, they must say yes to the cost of paying for the food, housing, and education of these aliens.

For example, 1 out of every 12 children in a Dade County school is now a refugee or a Cuban or Haitian entrant. Florida State and local governments have paid for 75 percent of the cost of educating these children. The issue is not merely money, though. Consider the harassment and shock caused by the massive injection of undocumented aliens to these Florida communities.

Another tremendous price that Floridians pay—in money and in psychic damage—is in the area of criminal justice. Normally the crime rate increases in proportion to increases in population. Because of the Cuban arrivals in Florida, however, increases in the crime rate have far outstripped population increases. Cuban entrants comprise 4.6 percent of the unincorporated of Dade County; yet, at one point they made up a staggering 14.8 percent of jail population. In the year following the massive influx of Cubans to Dade County, serious crimes increased by 23.1 percent. Of course, the people of Dade County are expected to pay the bill for over 75 percent of the cost of this crime epidemic—as well as endure an excessively high crime rate in their formerly safe and solid community. I believe that this is blatantly unfair, and my amendment seeks to correct this situation in the event of any future immigration emergencies.

This amendment provides a range of benefits to aliens who arrive in the United States as a result of the policy of a foreign government to encourage emigration to the United States in violation of U.S. immigration laws. In other words, these aliens are here as a result of a failure of U.S. foreign policy. The benefits in the amendment are designed primarily to help an alien adjust smoothly and quickly to American society so that they can contribute to the local economy and social environment. The amendment is also designed to place the responsibility for financing benefits fully in the hands of the Federal Government. Foreign policy is a Federal responsibility. It is only equitable, then that spectacular failures of foreign policy be funded by the Federal Government. That is New Federalism in its purest and most equitable form.

Under this amendment, State and local governments will be reimbursed by the Secretary of the Treasury after consulting with appropriate Federal departments. Before being reimbursed, however, a State must submit to the Secretary of the Treasury an application that describes the services furnished, specifies the amount claimed for reimbursement, and provides proof that the services were furnished to an eligible alien both quickly and economically.

The kinds of services provided under this amendment range from cash assistance for a 36-month period, to health care for a 60-month period, to education services for a 120-month period, and so forth. These services are necessary to prevent aliens from becoming a burden on their community and will help them assume a productive role in our society. This amendment will assure State and local governments that from now on the Federal Government will live up to its obligations in the area of immigration. I urge the Senate to adopt this amendment.●

ARCTIC RESEARCH AND POLICY ACT OF 1981

AMENDMENT NO. 3271

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. BAKER (for Mr. MURKOWSKI) (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill (S. 1562) to provide comprehensive national policy dealing with national needs and objectives in the Arctic.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. BOSCHWITZ. Mr. President, I wish to announce that the Senate Agriculture Subcommittee on Foreign Agricultural Policy will hold a hearing on Tuesday, September 21, on U.S. agricultural exports of processed and value-added products. The hearing will focus on the history of these exports as well as potential benefits of increased export volume.

The hearing will begin at 9:30 a.m. in room 324, Russell Senate Office Building.

Anyone wishing further information should contact Denise Alexander of the committee staff at 224-0014.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 15, in order to receive testimony concerning S. 2428, the Trademark Counterfeiting Act of 1982, and for the purposes of considering the following nominations:

David Dowd, of Ohio, to be U.S. district judge for the northern district of Ohio; and

Edward Rafeedie, of California, to be U.S. district judge for the central district of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 14, in order to consider and act on the attached schedule of committee business.

TENTATIVE AGENDA

(1) BILLS

S. 2411—Justice Assistance Act of 1982 (Subcommittees on Criminal Law and Juvenile Justice).

S. 675—Federal Review and Revision Commission (Subcommittee on Separation of Powers).

(2) NOMINATIONS

UNITED STATES MARSHALS

Mr. Herbert M. Rutherford III, of New Jersey, to be U.S. Marshal for the eastern district of Virginia.

Mr. Max E. Wilson, of North Carolina, to be U.S. Marshal for the western district of North Carolina.

Mr. Edward M. Camacho, of Guam, to be U.S. Marshal for the District of Guam.

OTHER

Mr. Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal (reappointment).

Prof. Robert A. Destro, of Wisconsin, to be a member of the Commission on Civil Rights.

Dr. Guadalupe Quintanilla, of Texas, to be a member of the Commission on Civil Rights.

Rev. Constantine N. Dombalis, of Virginia, to be a member of the Commission on Civil Rights.

(3) COMMEMORATIVES

S.J. Res. 97—To designate the second full week in October as "National Legal Secretaries' Court Observance Week."—(Introduced by Senator Mitchell.)

S.J. Res. 174—To authorize and request the President to designate October 16, 1982 as "World Food Day."—(Introduced by Senator Leahy).

S.J. Res. 234—To designate the week commencing with the third Monday in February, 1983 as "National Patriotism Week."—(Introduced by Senator Goldwater.)

S.J. Res. 235—To proclaim March 21, 1983, as "National Agriculture Day."—(Introduced by Senator Helms.)

S.J. Res. 238—To designate October 9, 1982 as "National Running and Fitness Day."—(Introduced by Senator Thurmond.)

S.J. Res. 239—To designate October 16, 1982 as "National Newspaper Carrier Appreciation Day."—(Introduced by Senator Warner.)

S.J. Res. 241—To designate December 12 through 18, 1982 as "National Drunk and Drugged Driving Awareness Week."—(Introduced by Senator Humphrey.)

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 16, in order to receive testimony concerning the following legislation:

S. 2784—Major League Sports Community Protection Act of 1982; and

S.J. Res. 199—A proposed amendment to the Constitution relating to voluntary school prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 14, to hold an oversight hearing on U.S. trade relations with Japan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RESEARCH AND GENERAL LEGISLATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, September 14, at 9:30 a.m., to hold a hearing on S. 2219, a bill to require the Secretary of Agriculture to publish monthly farm income estimates.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SINAI SUPPORT AND FIELD MISSIONS

● Mr. TOWER. Mr. President, President Reagan has recently sent a letter of commendation to the individuals who served in the Sinai Support and Field Missions. I shall take a moment to add my congratulations and thanks for the fine job done by the people involved in this peace-keeping mission in the Middle East.

One of Texas' own companies, E-Systems of Dallas, was the prime Government contractor in this important effort in the Sinai. The company was responsible for establishing a tactical early warning system guarding the approaches to the Giddi and Milta Passes. In a 1977 GAO report, it was noted that E-Systems was "chosen to perform the Sinai project based on its experience and quick-reaction capability."

The GAO publication reported that:

> The establishment and operation of the early warning system demonstrated a successful blending of government and private enterprise to achieve desired results under difficult circumstances. Noteworthy was the speed with which the early warning system became operational between the signing of the joint resolution on October 13, 1975, and the redeployment of forces in the Sinai on February 22, 1976.

Sinai Support Missions Director Frank E. Mestrone's reports to the President also contained praise for the rapid and efficient manner in which the contractor met the challenges of the mission's work over the 6 years of operation.

The experience and capability of E-Systems and its staff were important to the successful completion of the mission. The company was able to fulfill its contract in a cost-efficient manner and well within the time allowed.

America has followed a policy in the Middle East aimed at bringing a just and lasting peace to this trouble region. The success of special envoy Philip Habib is the most recent example of the United States stabilizing influence in this area of the world.

A less well known—but no less important—example of U.S. concern in the Middle East is the Sinai Support Mission's peace-keeping role. Perhaps in the future, other positive demonstrations of U.S. interest in serving the goal of peace and prosperity in the Middle East can come through similar joint private and Government operations in this corner of the globe.

The men of women of the mission are to be commended for their time and energy in this important job.

I submit for the RECORD President Reagan's letter.

THE WHITE HOUSE,
Washington, D.C., July 14, 1982.

A unique American peacekeeping operation in the harsh and isolated desert environment of the Sinai Peninsula ended on April 25, 1982, when Israel completed its withdrawal from the Sinai in accordance with the terms of the 1979 Egyptian-Israeli Peace Treaty. On that day, the Sinai Support Mission and its overseas arm, the Sinai Field Mission, concluded six years of keeping the peace between Egypt and Israel. As the Sinai Support Mission closes out this operation, I want to pay tribute to the many dedicated men and women who, during this critical period, served with distinction either with SSM here in Washington or with SFM in the Sinai.

"The orange men and women," as the Sinai Field Mission staff were called because of the international orange color of their clothing and their helicopters, played a crucial role in maintaining the peace in that area, first under the Second Sinai Disengagement Agreement of 1975 and then under the 1979 Peace Treaty. Initially, they operated an electronic early warning system guarding the approaches to the strategic Giddi and Mitla Passes. When the Israeli troops withdrew further east of these passes under the terms of the Peace Treaty, SFM was assigned a new role, the verification of Egyptian and Israeli compliance with the force and armament limitations specified in the Treaty for controlled areas in the western Sinai. The verifications involved onsite inspections of units and facilities scattered over a 15,000 square mile area of the Sinai. During this period, SFM personnel earned the respect and confidence of both the Egyptians and the Israelis because of their expertise, professionalism, and impartiality.

In additional to these most important contributions to keeping the peace, the Sinai Support Mission rendered noteworthy assistance in the creation of its successor organization, the Multinational Force and Observers, which assumed Sinai peacekeeping responsibilities on April 25, 1982. The speed with which the MFO was created and made operational would have been hard to achieve without the expertise and cooperation of the Sinai Support Mission.

To all those who served in the Sinai Support and Field Missions, let me say, congratulations for a job well done. You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

RONALD REAGAN.●

TREASURY DEPARTMENT REAFFIRMS LEGALITY OF DISC

● Mr. HEINZ. Mr. President, several months ago I had occasion to write Secretary of the Treasury Regan with respect to an article by a Treasury Department employee asserting that the Domestic International Sales Corporation (DISC) was a subsidy under the Rules of the General Agreement on Tariffs and Trade (GATT). I pointed out that this was not the position of the U.S. Government and that such a statement by a Government employee, even though qualified as an expression of his own views, was bound to damage our case on this contentious issue in the GATT.

Thus I was pleased to receive a recent letter from Assistant Secretary Dennis Thomas affirming the Government's longstanding position that DISC is consistent with GATT rules. There is no question in my mind that that is the case, and it is helpful to have similar statements from all concerned departments to reconfirm our Government's unanimity on the point.

Mr. President, I ask that both my letter and Mr. Thomas' response be printed in the RECORD.

The letters follow:

DEPARTMENT OF THE TREASURY,
Washington, D.C., July 21, 1982.

Hon. JOHN HEINZ,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEINZ: Thank you for bringing to our attention the unfortunate statement about DISC in Mr. Schott's Challenge article. We have brought your letter to Mr. Schott's attention, even though he is on leave from the Treasury Department.

Your letter also gives me the opportunity to reaffirm that the Treasury Department does not consider DISC provisions of the Internal Revenue Code to be contrary to United States obligations under GATT regarding export subsidies.

Sincerely,

W. DENNIS THOMAS,
Assistant Secretary,
(Legislative Affairs).●

COMMODORE JOHN BARRY DAY

● Mr. MATHIAS. Mr. President, last year I introduced a Senate joint resolution to authorize and request the President to designate September 13 as "Commodore John Barry Day," in tribute to the Father of the American Navy.

I am pleased that this resolution passed the Senate and the House in time for the President to sign the

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proclamation on his first visit to a U.S. aircraft carrier, the U.S.S. *Constitution*.

Commodore Barry has long been a source of pride to Irish Americans, particularly the Ancient Order of Hibernians in America. The A.O.H. had its roots in the 16th century in Ireland, and the founding of the A.O.H. in America in 1836 makes it the oldest fraternal organization in this country.

The new President of the Ancient Order of Hibernians is a Marylander, Joseph A. Roche of Baldwin, Md. For over 130 years, the Ancient Order of Hibernians in America has assisted Irish immigrants and sought to recognize the accomplishments, talents, and patriotism that the Irish have brought to this country.

I can think of no better way to fulfill this effort than to pay tribute, once again, to the Father of the American Navy, Commodore John Barry.

I ask that the President's comments on board the U.S.S. *Constitution* be printed in the RECORD.

The comments follow:

EXCERPTS FROM REMARKS BY PRESIDENT RONALD REAGAN ABOARD THE U.S.S CONSTITUTION, ON THE OCCASION OF THE SIGNING OF S.J. RES. 87 AND HIS PROCLAMATION

You know, today you ship's motto, "The Spirit is Old; The Pride is New," fits this Nation as well as the vessel. And I have a little chore that I'm going over here for just a second to do, and then I'll just finish with a few remarks.

There was a Commodore John Barry in the United States Navy in the days of the Revolution, and he has been called by many the Father of the United States Navy. So, I'm going to go over here and tell you a little bit of what it is that I'm signing, and then I'll finsh telling you something, a story that I think you might like to hear.

I'll just go to the table.

This is a proclamation [resolution]. It was passed by the 97th Congress of the United States authorizing and requesting me to designate September 13th, 1981, as Commodore John Barry Day. He was a hero of the American Revolution holder of the first commission in the United States Navy. He was born in 1745 in County Wexford, Ireland. He was commissioned to command the brig *Lexington*, equipped for the Revolution, and became a national hero with the capture of a British man-of-war, the *Prince Edward*, April 1776.

Following the Revolution, when the sovereignty of this new nation was threatened by pirates, Commodore Barry was placed in command of the first ships authorized under the new Constitution and was named Senior Captain of the United States, Navy in 1794. As I said, he's considered by many as the Father of the United States Navy. He was honored in 1906 when the Congress had a statue of him erected in Lafayette Square in Washington, D.C., and since then a statue has also been erected by our Government in County Wexford, Ireland.

"So, now, therefore, be it resolved that the President is authorized and requested to designate September 13th as Commodore John Barry Day as a tribute to the Father of the United States Navy and to call upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate ceremonies and activities." It is signed by Congressman Thomas O'Neill, the Speaker of the House, and by George Bush, the Vice President of the United States and President of the Senate.

I'm going to use about four pens. I could have signed this at the hotel, but I just thought with this chance, I had to sign it right out here where the Navy is.●

EXPORT TRADING COMPANY LEGISLATION WILL CREATE JOBS

● Mr. HEINZ. Mr. President, a recent statement and letter by the U.S. Conference of Mayors affirms the job creating potential of the export trading company legislation (S. 734) now in conference. As the letter makes clear, the several studies that have been done on this subject project the creation of between 300,000 and 600,000 jobs by 1985, as the legislation makes the United States increasingly export oriented.

Clearly, Mr. President, this is major legislation and I hope it will move promptly through conference. I ask that the letter and resolution of the Conference of Mayors appear at this point in the RECORD.

The letter and resolution follow:

UNITED STATES
CONFERENCE OF MAYORS,
Washington, D.C., August 9, 1982.

DEAR CONFEREE: As you know, you will soon be meeting to put the final touches on the Export Trading Company legislation (S. 734). The U.S. Conference of Mayors supports this legislation, believing it to be vital to the economic vitality of the small business community, important in reducing our trade deficit, and potentially of significant benefit to cities in their business development efforts. Consequently, we urge prompt approval of this legislation by the conference committee and by the Congress.

The Conference of Mayors at our annual meeting in June, adopted policy specifically endorsing Export Trading Company, (ETC) legislation. I am enclosing a copy of that resolution.

The Export Trading Company legislation would permit banks to take limited ownership interests in an ETC and allow ETC's to apply for an antitrust certification preclearance, giving greater assurance their activities would not make them liable to antitrust action. In addition, the legislation directs the Department of Commerce to promote the formation of export trading companies.

We are optimistic that this legislation will encourage many small and medium sized firms to enter the export market. This in turn will create jobs here in the United States. Most analyses indicate the increase would be at least 300,000 jobs, and possibly twice as much by 1985.

We thank you for your past support of this important legislation and we urge you to expedite its enactment.

Sincerely,

JOHN J. GUNTHER,
Executive Director.

EXPORT TRADING COMPANIES

Whereas, export development and foreign investment can aid in promoting economic activity and expanding jobs in cities; and

Whereas, there are new and expanding opportunities for export sales and foreign investment in cities especially involving small and medium sized businesses; and

Whereas, export trading companies can be an important means for overcoming information, technical, and economic barriers to international trade and finance by making it easier for small and medium sized businesses to pool their resources and, when appropriate, to link their activities with larger business and financial institutions involved in the international trade network; and

Whereas, the Congress is currently considering an Export Trading Company Act which is generally supported by the Administration, now, therefore, be it

Resolved, That the Conference of Mayors supports the legislation currently before the Congress which would permit establishment of export trading companies and urges its prompt enactment into law; and be it further

Resolved, That the legislation should contain the simplest possible procedures and requirements for participation and involvement of small business and the creation of smaller trading companies; and be it further

Resolved, That the Conference supports the proposal to give the Department of Commerce authority to certify export trading companies in view of the other international trade approvals, authorities, and programs which are already their responsibility.●

U.S. POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that according to the latest U.S. Census Bureau approximations, the total population of the United States on September 1, 1982, was 231,871,800. This represents an increase of 218,178 since August 1, 1982. Since this time last year, our population has grown by an additional 2,205,449.

In 1 short month we have added enough people to our population to more than fill the city of Corpus Christi, Tex. Over the past year, our population has increased enough to fill the city of Pittsburgh, Pa., more than five times.●

PLIGHT OF THE WESTERN TIMBER INDUSTRY

● Mr. HATFIELD. Mr. President, I recently introduced legislation that alleviates a most serious problem that exists in the Western wood-products industry. As you know, high interest rates and the slowdown in homebuilding has dealt a crushing blow to the industry that supplies the materials to build our homes. Housing starts have plummeted from over 2 million per year in 1979 to less than 1 million in 1981. My State of Oregon and many other Western timber-producing States are suffering economic malaise only likened to the Depression years of the 1930's. In my State alone, 73 lumber mills are either closed or working at reduced shifts. Since 1979, 22,000 of the 90,000 direct jobs in Oregon's wood-products industry have been lost. Since 1979, 10 wood-products firms have taken bankruptcy. Unfortunately, the situation of this beleaguered industry only points to even worse times ahead.

In the West, many timber companies are almost totally reliant on Federal timber for their raw materials. Timber is purchased under contracts dictated by the Federal Government which in many instances has a monopoly position as supplier of the raw product. Typically, these companies purchase Government timber on a schedule that provides them with a timber supply for several years, so that these companies can plan properly.

Mr. President, during the decade of the 1970's we had Federal housing policies which fostered homebuildings. With the shift in the Federal economics program, and through a combination of tight money, high interest rates, and deregulation of financial institutions, capital has been channeled away from housing.

This situation has put the companies who bid competitively for Government timber in a terrible bind. Prices for lumber and plywood are much lower than the Government prices they have under contract. In Oregon and Washington, as much as 90 percent of the 20 billion board feet of timber under contract cannot be harvested in today's market. The only alternative many of these companies holding these contracts have is to default. Defaulting Government timber contracts, with severe penalties resulting, will drive many of them out of business, thus exacerbating an already unacceptable situation.

Mr. President, when two parties are involved in a contractual agreement, and drastically changed conditions disable one of those parties to the point whereby the contract cannot be fulfilled, the only alternative available is to default on the contract or to modify it. This is exactly the situation we face today.

During the week of August 16, the Public Lands and Reserved Water Subcommittee of the Energy and Natural Resources Committee heard from many interested parties on this very problem. The hearings were called to address legislation introduced both by Senator McCLURE and me that authorized the Secretaries of Interior and Agriculture to modify Federal timber sales contracts. It became painfully obviously that this serious situation warrants immediate action, or the small, independent segment of the lumber industry would be lost, leaving only a handful of large, integrated companies as the suppliers of wood products.

Mr. President, witness after witness spoke in favor of granting some type of relief to these troubled companies. The administration did not recognize that the problem with unharvestable timber contracts warranted immediate action. Instead it took the position that the Federal Government took no part, or shared no blame in this problem. I feel that attitude is one of the greedy liquidators, ready to pounce at the first sign of default. I am dismayed and disturbed by this attitude.

A recent Congressional Research Service study on Federal timber contracts claims that companies who will be able to turn back timber contracts to the Government will receive some kind of benefit and that the Federal Government will lose revenues. This statement could not be further from the truth. There is no possibility that billions and billions of board feet of Federal timber will never be harvested. As I stated earlier, the only alternative is defaulting on or modification of these contracts. To speak of benefits, knowing that this situation exists, is ridiculous. The only benefits that will occur will be to the attorneys who must litigate the endless amounts of suits and countersuits that will result. That is of no benefit to either the Government or to the counties, mill owners, States, and private citizens who depend on this industry for their livelihood.

Mr. President, I submit for the RECORD an article that recently appeared in the Oregonian newspaper that expands on my comments:

[From the Oregonian, Sept. 5, 1982]

ADMINISTRATION TELLS TIMBERMEN: PAY AND BE DAMNED

(By Dick Johnston)

WASHINGTON.—Key segments of the timber industry are near accord on a potential congressional solution to Western Oregon's looming crisis over high-priced government administration's ideological opposition as the chief obstacle to resolving a problem many Oregon mill owners believe could drive them into bankruptcy.

Agreement among the politically potent timbermen and, to a lesser extent, the environmentalists is vital to any scheme for relieving Oregon mills of contracts signed in the late 1970s and early '80s before lumber markets plummeted, when firms promised to pay the highest prices in history for Forest Service and Bureau of Land Management stumpage.

Now, while there is not unanimity within the timber industry or between the two groups, their differences do not seem fatal to efforts by Sens. Mark O. Hatfield, R-Ore., and James A. McClure, R-Idaho, to write a compromise plan when Congress returns from its Labor Day recess this week.

And an important Department of Agriculture natural resources official has recommended—unseccessfully—that the administration embrace a termination policy that many in the industry and on Capitol Hill consider essential for any workable relief program.

The Reagan administration's insistence on doing nothing to avert contract defaults beyond time extensions was a defeat for its assistant secretary of agriculture for natural resource, John B. Crowell Jr., the longtime general counsel for Louisiana-Pacific Corp.

Although Crowell remains mum on what he recommended, leaky Washington keeps few secrets: His recommendation included allowing termination of up to 40 percent of the high-priced contracts, by volume.

His recommendation gives weight to the Oregon industry's pleas.

As the industry plight worsened, Crowell refused to turn to termination, saying he would wait until there was no alternative. Now he has turned, but his superiors regard such relief as a "bailout" and contrary to their free-market philosophy.

The two Republican senators leading the relief search, Oregon's moderate Hatfield and Idaho's conservative McClure, are far more pragmatic, willing to seek compromises they can sell rather than schemes rooted in politics or idelogy.

But even if the senators sell a relief scheme to Congress, they can expect trouble at the White House, which has all but nailed "no soliciting" signs on the gates.

President Reagan made it clear this summer that his determination against giving special aid to any industry included wood products: He vetoed the fiscal 1982 urgent supplemental appropriations bill, in part because it included a home mortgage interest payment subsidy plan the president derided as a "bailout." He made the veto stick, too.

What is not in doubt is that Hatfield and McClure and their staffs still are talking about a proposal similar to that develop by an ad hoc committee of Western Oregon and Idaho timbermen assembled by the senators.

When they write their final proposal, these are the probable central elements:

Contract terminations, perhaps as high as 50 percent by timber volume.

Longer contract extensions than the administration has granted.

Transfer from national forest to national forest, probably within the same Forest Service region, of the timber payment offset credits the Forest Service grants purchasers for building access roads.

Penalties, at least enough to cover the government's resale expenses, can be expected with terminations. Sentiment is strongly against "rewards" for speculators, although buyers who turn back contracts are unlikely to be barred from rebidding on the same timber at today's prices, now close to half the tariff on the original pacts.

The Idaho-Oregon panel agreed to limited termination, and the Southern Forest Products Association reversed its opposition and endorsed the concept in June. For now, SFPA wants terminations limited to 40 percent of the volume covered by the contracts, and the Southeastern Lumber Manufacturers Association, a group of 396 small mills, favors 25 percent. Some Western Oregon lumbermen want 60 percent or more and there have been calls for blanket termination, most notably by Rep. Jim Weaver, the Oregon Democrat who heads the House Agriculture forests subcommittee.

SFPA, representing three-quarters of the Southern pine production in a dozen states, also wants to block resale of terminated Douglas fir contracts on top of today's regular sales in national forests and on BLM holdings.

It favors capping the Forest Service's Northwest Region 6 sales at 4.1 billion board feet a year in fiscal 1983 and '84. That would be 1.3 billion feet less than the administration's 1983 request and 1.7 billion feet less than the fiscal '84 ceiling.

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SFPA is worried about the accumulation of sold but unharvested timber in the Northwest's national forests, now more than 16 billion board feet. Its resale at today's lower prices after sales contract default or termination could glut the market unless total sales are limited, it complains.

Congress may resolve the issue differently. There are rumbles from Capitol Hill that the administration's fiscal 1983 request of 12.3 billion board feet of national forest sales is excessive; 11 billion board feet has been mentioned as a target.

If the Forest Service sales allocation pattern held, that would cut Region 6 sales by some 600 million feet, the major portion of it in Oregon.

Proposals for price rollbacks, greeted with no enthusiasm except in Western Oregon where the state reduced prices in its forests, seem to be dead because pine operators fear their markets would soon be inundated by Northwest lumber and plywood at ruinous prices.

The support of Southern and Idaho pine operators for Western Oregon relief clearly hinges on maintaining existing market patterns.

Southerners are acutely sensitive to Northwest timber prices that spell potential competition in the South and East Central states where Canadian lumber has also become a potent challenger.

But SFPA supports extending contract deadlines for harvest of Northwest timber.

The administration extended deadlines twice to allow up to three years extra on some contracts before holders must harvest the timber and pay the government—or default. Now the favorite among timbermen and on Capitol Hill appears to be a five-year extension for contracts signed before Jan. 1. Congress is likely to seek interest, some type of periodic payment and other responses, such as roadbuilding, for carrying the contracts.

Western Oregon timbermen remain nervous about the contracts, though, despite extensions. A slow recovery is predicted, and contract expiration dates loom in the distance like a brick wall across an expressway.

Additionally, the contracts are on their books as tens of millions of dollars in liabilities.

Liabilities concern Idaho timbermen as well. Thus their demand, resisted by environmentalists and Southerners, to be able to transfer ineffective purchaser credits from one national forest to another.

A bit of history: Congress does not finance roadbuilding in timber sales areas, so the government depends on buyers. But recognizing the value of roads for purposes other than logging, the Forest Service compensates builders by crediting road costs against timber payments.

Normally, the timber value exceeds road costs, but in difficult terrain and sparse timber, such as the Idaho mountains, the Forest Service sometimes owes more for roads than it gets from the timber.

It is forbidden, however, to pay the difference. Instead, the purchaser is allowed to carry over excess credit to future sales in the forest where the road was built.

If a purchaser doesn't buy again in that forest or continues to buy and build up credits, they are considered ineffective.

Idaho timbermen have hungered for transfers to other national forests, but they were first thwarted by the counties containing the forests and now face the wrath of environmentalists and the doubts of the South.

Counties resisted when their quarter share of forest revenues came from the Forest Service's net proceeds within their borders, but the law has changed and roadbuilding costs are not deducted.

Environmentalists associate ineffective credits with sales that produce less revenue than the cost of the roadbuilding required, and they abdhor such sales as bringing logging and roads to fragile lands.

Southerners, fearing Northwest credits might show up in a carpetbag down in Dixie, favor confining transfers to the Forest Service region where credits are earned.

Whatever the outcome of relief efforts, Congress is unlikely to complete a solution until next year.

The 97th Congress has 16 legislative days before its scheduled adjournment. And if the 98th is like most new congresses, it will concern itself more with office swapping and committee assignments than with legislating until the President issues his fiscal 1983 budget in late February.

And whatever happens, Congress won't swallow what Hatfield and Weaver earlier put before the House and Senate, nor will it go for the leftovers the administration tried to disguise with a new-policy sauce.

Hatfield and Weaver sought to authorize—not compel—the secretaries of agriculture and interior to terminate or extend U.S. Forest Service and BLM timber sale contracts bid before Jan. 1, 1982, or to roll back prices to current values for unextended contracts. Beneficiaries would have to show "economic hardship."

Pine timbermen fretted about the proposal and the administration flatly condemned it.

Although the administration would have a free hand in deciding if any relief would be granted, officials envisioned competing loggers brawling on the doorsteps of Agriculture Secretary John Block and Interior Secretary James Watt.

Besides, the bill is contrary to the administration's opposition to government intervention in the marketplace and its stated belief that a contract is a contract. The administration also seems reluctant to give up the billions of dollars the timbermen agreed to pay for the government's trees, despite arguments that bankrupting mills will cost the Treasury a fortune in unemployment benefits and will yield little, if anything, for the government at a distress sale.

But in its position statement on the Hatfield-Weaver bill, the administration refused to consider any contract adjustment except its own extension policy. Beyond that, it said, if buyers can't perform, let them default and pay the piper on the installment plan.

Using almost identical words, Hatfield and Weaver condemned the policy as one of unemployment and bankruptcy.

The penalty on a defaulted contract is the difference between the original bid and the resale price, plus the expense of resale.

In Western Oregon, it is common for a small timber operator to hold 60 million or even 100 million board feet of government timber under contracts signed when Douglas fir sawtimber was going for as high as $440 per thousand board feet, about twice today's price. If the differential amounted to $200 per thousand, each million feet a timberman defaulted would leave him $200,000 in debt to the government.

Many penalties would exceed a defaulting mill's worth. Aaron U. Jones, president of Seneca Sawmill Co. in Eugene, told a recent congressional hearing: "The magnitude of the financial crisis facing these firms can be seen in the fact that at prices bid in 1979 the average cost of only a four-month supply of timber is equal to the average purchaser's present net worth."

Most mills, he added, hold a two-year supply under contract.

But the administration's attitude wasn't all "let 'em eat cake." If defaults come, it proposed to keep the defaulters out of bankruptcy court by arranging an easy payoff plan that would amount to an unsecured liability to the government. While the proposal was not described as new, anyone unfamiliar with government debt collection practices might think it was.

The Justice Department knows all about debt collection, though, since that's one of its jobs. And a spokesman there says its Civil Division lawyers routinely negotiate repayment arrangements that avoid ruining the debtor. Moreover, a Forest Service spokesman noted, it is common for a Justice lawyer to decide that the government will never be able to collect all it is owed and settle for whatever he feels he can get—again, without taking the collection into court.

What Hatfield and Weaver fear is that Oregon's surviving mills whose owners have somehow managed to stay afloat in the worst wood-products market since the Great Depression, will finally give up and go bankrupt rather than take on yet another financial burden.

High Timber Contracts Plague Industry

Washington.—No businessman can buy at $550, sell at $162, and stay in business long.

That explains the deep concern many Western Oregon timbermen have with the unprecedented prices they agreed to pay for government stumpage in the late 1970s and early into the '80s.

Contracts for that timber did not cause the virtual collapse of the wood products industry; high mortgage interest rates did, driving housing starts from more than 2 million in 1979 to fewer than 1 million this year.

But even if the housing industry begins recovering, reviving lumber markets with it, many a mill owner wonders if he can make it because of those contracts, which won't simply go away with renewed prosperity.

Many say they can't foresee future market conditions in which they will break even, let alone turn a profit, with the high-priced timber, even by blending it with new purchases at today's lower prices.

The Reagan administration averted an immediate crisis with the contracts last year by granting extensions of up to three years on the deadline for harvesting and paying for the timber, which normally occurs three to five years after the agreements are signed. Without the extensions, the Department of Agriculture announced last fall that by April 1, 1983, it expected contract defaults on 958 U.S. Forest Service sales, totaling more than 2.7 billion board feet of timber.

"Bankruptcies are a very real threat," warned John B. Crowell Jr., assistant secretary of agriculture for natural resources.

Despite the grace periods, the contracts will come due in the mid-1980s unless the government terminates them.

Without termination of a miraculous revival of housing starts, many Western Oregon lumbermen will be forced to choose between logging or contract default, a choice some believe is no choice at all because either decision may lead to bankruptcy court.

Harvesting requires awesome outlays for the timber, and for its cutting and processing.

Default, so far the only escape from the contracts, leaves the buyer indebted to the government for the difference between the original bid and the resale price, plus government paperwork expenses. Assume the debt is $200 per thousand board feet on a 5 million-foot contract: The original buyer would owe $1 million—for nothing.

But harvesting may be out of the question.

That's what frightens Fred Sohn, whose Sun Studs mill at Roseburg produces lumber and veneer. Sohn noted at a recent congressional hearing: "The massive asset depletion our company would undergo if we were forced to operate the sales we have under contract would quickly make us insolvent. Our example is not unique."

Sohn, who predicts a loss of $7 million in 1982, said it would climb to $16.4 million in 1986 if he harvests the federal timber he has under contract, chewing up $15.8 million in capital and leaving him $32.4 million in the hole.

E. P. "Bud" Johnson is in the same boat. "I had 60 million board feet under contract on Jan. 1, and I could not operate any of those sales on today's market without staggering losses," the managing partner of C&D Lumber Co. at Riddle told congressmen.

Sohn and Johnson are among Western Oregon lumbermen who, though often reluctantly, joined the frenzied bidding for government stumpage to assure a future supply of timber for their mills.

Bids for national forest and Bureau of Land Management timber had sky-rocketed before, but in the last years of the '70s and the first year and a half of this decade, prices went into orbit.

The average price for national forest Douglas fir saw timber between 1950 and the last quarter of 1979 soar from $16.4 per thousand board feet to $446.10 (both in 1980 dollars). By the last three months of 1979, timber buyers were agreeing to pay nearly twice what they had in 1977. In 1977, the Forest Service reports, the annual average was $225.90 per thousand.

The buyer's problem with what they agreed to do in housing's boom years is easily illustrated, although precise comparisons are a problem because of the difficulty of converting from the 140-year-old Scribner scale the Forest Service uses to measure logs and the actual yield from the logs in a sawmill.

Scribner tends to understate the yield, particularly from a modern, computerized mill, which can get at least 25 percent to 30 percent more lumber from large old-growth logs than Scribner predicts and, at times, more than 100 percent from smaller second-growth logs.

The Forest Service bills timber buyers according to its Scribner tally; mills charge so much for a given size, grade and species of lumber and also have byproducts such as bark, chips and hog fuel that Scribner does not anticipate.

That said, take 1979's average for Douglas fir saw timber on the stump, $446.10 per thousand, measured in Scribner scale.

Add logging and production expenses, using a Forest Service rule of thumb of $250 to $300 per thousand board feet of lumber and higher for veneer. Those are fixed costs.

Still, it is clear that an efficient mill with $446.10 timber still is investing at least $550 in each thousand feet of lumber it produces, assuming a 50 percent overrun, which means 1,500 feet of lumber from each thousand feet of stumpage by Scribner, and a conservative $250 per thousand in logging and production costs.

Blend the old contract timber equally with the new and use the same assumptions: The investment is in the neighborhood of $480 per thousand.

During the week of Aug. 22, the average mill realization dropped to $162 per thousand for the composite of softwood framing lumber that Random Lengths, the Eugene-based wood products report, uses to measure the market.

That is why the federal contracts give timbermen fits.●

KGB FORCES MOSCOW HELSINKI GROUP TO DISCONTINUE ITS ACTIVITY

● Mr. HEINZ. Mr. President, reports from Moscow yesterday indicate that the KGB has managed to halt the activity of the Moscow Helsinki Monitoring Group, which for more than 6 years, under the most arduous conditions, had been monitoring Soviet compliance with the human rights provisions of the 1975 Helsinki accords. At a press conference in Moscow, Elena Bonner, wife of banished Academician Andrei Sakharov, announced that the Moscow Helsinki Group was being disbanded due to repressive Government actions.

The immediate cause for the group's demise is that group member, Sofya Kalistratrova, 75, who suffers from a heart ailment, is threatened with criminal prosecution for "anti-Soviet slander." Kalistratrova and Bonner, along with Dr. Naum Meiman, were the last three members of the Moscow Helsinki Monitoring Group still enjoying tenuous liberty. Of the 17 original Moscow Group members, 10 are now in prison or internal exile, and 4 were forced to emigrate from their homeland. Nevertheless, this brave group has managed to publish over 200 documents on human rights abuses in the Soviet Union and calling upon the Soviet Government to observe its Helsinki pledges.

The Moscow Helsinki Monitoring Group was founded in May 1976 by Dr. Yuri Orlov, an internationally respected physicist and advocate of human rights. A veteran of World War II and a graduate in physics from Moscow State University, Orlov was a member of the Communist Party of the Soviet Union and worked at the prestigious Institute of Theoretical and Experimental Physics of the U.S.S.R. Academy of Sciences until 1956. He was then expelled from the party and dismissed from his job for speaking out at a party meeting. He moved to Armenia and there obtained his doctoral degree in physics, becoming a corresponding member of the Armenian Academy of Sciences in 1968. Orlov returned to Moscow and was once again dismissed from his job in 1972. Following a 1973 letter in defense of Academician A. D. Sakharov, Orlov lost his post at the Institute of Theoretical and Experimental Physics in 1974 and did not work in his profession again.

From 1974 to 1976, Orlov was active in the defense of political prisoners in the U.S.S.R., signing the "Moscow Appeal" on behalf of Alexandr Solzhenitsyn, participating in the first Unofficial International Scientific Seminar—organized by Jewish refusenik scientists—and campaigning vigorously for the release of Leonid Plyusch, the Ukrainian cyberneticist imprisoned in a psychiatric hospital. In September 1974, Orlov became a founding member of the Moscow chapter of Amnesty International. Besides working to free fellow Amnesty members, Sergei Kovalev and Andrei Tverdokhlebov, after their arrests, Orlov also devoted much time to the prisoners of conscience and torture victims in Spain, Sri Lanka, Yugoslavia, and Uruguay.

Orlov announced the formation of the Moscow Helsinki Group in May 1976 and assumed its chairmanship. After a search and numerous interrogations in early 1977 and a vituperative campaign against him in the Soviet press, Orlov was arrested on February 10, 1977. While he was awaiting trial, the Norwegian Parliament nominated him for the 1978 Nobel Peace Prize. Orlov's case finally came to court in May 1978. On May 18, 1978, Orlov received the maximum penalty under article 70, "anti-Soviet agitation and propaganda," 7 years in a strict regimen camp followed by 5 years of internal exile.

When he arrived in labor camp, Yuri Orlov announced to camp authorities that he considered himself to be the camp representative of the Moscow Helsinki Group. In response, Orlov has been told by wardens that he will never leave camp alive. Indeed, it seems that the camp authorities are following instructions to do everything possible to ruin Orlov's health and to try to undermine his spirit: He is isolated in a special section of camp in which he is the only political prisoner. He has been placed in solitary confinement five times and in the camp prison three times for extensive periods of time. Orlov's wife, Irina Valitova, has been denied the visits permitted to her under Soviet law, but has learned that her husband suffers from a virulent form of tuberculosis. Thus, the Soviet Government wreaks vengeance on the pioneering human rights work of a leading physicist: Professor Yuri Orlov. We in the West will continue to speak out in Professor Orlov's defense.

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Mr. President, not only did the Moscow Helsinki Group contribute greatly to Western understanding of the Soviet human rights situation, but its example led to the founding of similar Helsinki monitoring groups in Ukraine, Lithuania, Armenia, and Georgia. Although the Kremlin has also managed to suppress temporarily the public activities of these groups, the struggle continues. The English publicist John Morley wrote that "you have not converted a man because you have silenced him."●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule XXXV that I place in the Congressional Record this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule XXXV which would permit Mr. Stuart Sweet of the staff of Senator Paula Hawkins, to participate in a program sponsored by a foreign educational organization, Soochow University, in Taipei, Taiwan, from August 24 to September 3, 1982.

The committee has determined that participation by Mr. Sweet in the program in Taiwan, at the expense of Soochow University, to discuss trade and policy issues at the university, is in the interest of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule XXXV which would permit Dr. James K. Galbraith, a Senate employee on the staff of the House Joint Economic Committee, to participate in a program sponsored by a foreign educational organization, the Friedrich-Naumann-Stiftung (Foundation) of Bonn, West Germany, in the Azore Islands from September 2–5, 1982.

The committee has determined that participation by Dr. Galbraith in the program in the Azore Islands, at the expense of the Friedrich-Naumann-Stiftung (Foundation) to discuss "Liberalism in Europe and North America—Challenges in the 1980's," is in the interest of the Senate and the United States.

The Select Committee on Ethics has received requests for determinations under rule XXXV which would permit Mr. Arthur Briskman of the staff of Senator Howell Heflin, Mr. Warren W. Kane of the Committee on Appropriations staff, Mr. Auggie Tantillo of the staff of Senator Strom Thurmond, and Mr. Bruce Barlett of the Joint Economic Committee staff, to participate in a program sponsored by a foreign educational organization, Tunghai University, in the Republic of China from August 27 to September 5, 1982.

The committee has determined that participation by the above-named individuals in the program in the Republic of China, at the expense of Tunghai University, to discuss trade and policy issues, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule XXXV which would permit Mr. R. Stephen Browning of the staff of Senator Max Baucus, to participate in a program sponsored by a foreign educational organization, Soochow University, in the Republic of China from August 25 to September 4, 1982.

The committee has determined that participation by Mr. Browning in the program in Taiwan, at the expense of Soochow University, to discuss the political and legislative system of the United States and the future relationship between the United States and Taiwan, is in the interest of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule XXXV which would permit Ms. Mary Ann Bond of the staff of Senator Mark Andrews, to participate in a program sponsored by a foreign educational organization, Soochow University in Taipei, Taiwan (Republic of China), from August 25 to September 3, 1982.

The committee has determined that participation by Ms. Bond in the program in Taiwan, at the expense of Soochow University, to discuss trade and foreign policy issues, is in the interest of the Senate and the United States.●

SECRETARY OF STATE SHULTZ' SPEECH ON THE MIDDLE EAST

● Mr. MATHIAS. Mr. President, last night Secretary of State George P. Shultz gave his first major address since taking office in July. He spoke on the Middle East before the national leadership of the United Jewish Appeal. It came at a unique juncture in history, when events have altered the landscape of Middle East politics. It was therefore appropriate for the Secretary of State to reaffirm vigorously the United States' commitment to peace in this troubled region—peace for both Arabs and Jews. Moreover, he advocated compromise among all parties, and observed wisely that "the path of rejection has achieved nothing but tragedy."

Mr. Shultz speaks of the many challenges confronting Israel and the Arabs—challenges which must be met lest peace continue to elude them. The Secretary of State has clearly accepted the challenge of peace—it is now incumbent upon others to follow.

Mr. President, I commend the Secretary of State's thoughtful remarks to my colleagues, and I ask that they be printed in the Record.

The speech follows:

Excerpts From Secretary of State's Speech on the Middle East

My friends and fellow Americans:

No theme is more appropriate for my first speech as Secretary of State than the theme of peace. No objective we share is more worthy or more elusive: to attain it requires realism, strength, the capacity to run risks and the ability to gather trust. It takes sustained good will to build up that trust. And it takes serious, fair and direct bargaining at the negotiating table to hammer out workable and durable agreements.

International institutions and resolutions for peace need practical efforts to give them life. Mankind has made astonishing technological and material leaps in the last 40 years. But we must make equally dramatic gains in the political realm if we are to bequeath a safe and secure world of peace to our children.

I believe we can make those gains. Strength of arms and of will are essential, but no more so than the ability to find that winning mixture of courage and realism. No matter what the obstacles, we must persevere, for there are no more noble nor important goals than peace, freedom and security.

PRESIDENT'S PEACE INITIATIVE

These principles apply fully to that set of goals foremost in our thoughts today—peace in the Middle East, and security and success for Israel and her Arab neighbors. No one who has walked the streets of Jerusalem and Tel Aviv and who has talked at length with as many Israeli people as I have can doubt that they want peace and security, and I am dedicated to helping them achieve both.

Against the backdrop of confrontation, despair and fear that have characterised the search for peace in the Middle East, three key documents spell out how peace might be made a reality:

The first is U.N. Security Council Resolution 242, which established the basis for a negotiating process founded on the idea of an exchange of territory for real peace.

The second is the Camp David Accords, which, in the Egypt-Israel peace treaty, led directly to the realization of such an exchange of territory for peace. Camp David calls for a "just, comprehensive and durable" Middle East peace based on Resolution 242, but builds on it as well by calling for a solution that recognizes "the legitimate rights of the Palestinian people and their just requirements" and a "resolution of the Palestinian problem in all its aspects."

APPROACH TO PEACE

And third, there is the President's speech of Sept. 1. This historic address builds on the earlier documents by stating categorically that our approach to peace will continue to be based on Resolution 242, with its concept of an exchange of territory for peace, and the Camp David accords, which provide for Palestinian self-government with full guarantees for Israel's security.

While I cannot summarize for you the totality of a rich and complex speech, I would like to review four important points made by the President:

First, there should be full safeguards for Israeli security, both internal and external, throughout the transitional period and beyond. The President has made this forcefully clear.

Second, as stated in Camp David, there should be a transitional period of five years during which the Palestinians of the West Bank and Gaza should be permitted to exercise full autonomy.

Third, the U.S. believes that peace cannot be achieved on the basis of Israeli sovereignty over the West Bank and Gaza, but must be based on Resolution 242's formula of an exchange of territory for peace. Our preference is for self-government by the Palestinians in association with Jordan, with the extent of withdrawal determined by the quality of peace offered in return.

Fourth, the United States also believes that peace cannot be achieved by the creation of an independent Palestinian state on the West Bank and Gaza. The President has stated clearly and unequivocally that we will not support an independent Palestinian state in the territories.

A strong, secure Israel is in our interests and the interests of peace. There will be no peace without Israeli security, but Israel will never be secure without peace. Our vision of the future on the West Bank is one guided by a vision of a secure Israel living with defensible borders and by our abiding belief that it is not in Israel's long-term interests to try to rule over the more than one million Palestinians living in the West Bank and Gaza.

Israel has demonstrated once again, at tragic cost, that it will not be defeated militarily. If Israel's adversaries want peace and justice they must recognize, clearly and explicitly, the right of the State of Israel to exist, and they must enter, as President Reagan said, "direct, hard and fair" negotiations with Israel.

For the moderate Arabs, there is the opportunity to demonstrate that the course of negotiations can produce results and serve their vital interests. For Lebanon, there is now a second chance: the chance once again to be free, prosperous and democratic, posing no threat to its neighbors and serving as a stable bridge between the West and the Arab world.

The Palestinians now confront a great decision: whether to continue down the self-destructive road of armed struggle, which has only produced tragedy for the Palestinian people, or to seize the opportunity to affect their destiny by way of the peace process. The Camp David framework upholds the importance of self-government for the Palestinians of the West Bank and Gaza. And it provides Palestinian representatives the right to participate in the determination if their future at every step in the process.

THE CHALLENGE TO ISRAEL

The challenge that the President had offered to Israel is to extend its hand to welcome wider participation in the peace process. Israel had demonstrated once more its military strength and bravery. But we all recognize that while true peace requires military strength, strength alone is not enough; true peace can only be achieved through lasting negotiated agreements leading ultimately to friendly cooperation between Israel and her neighbors.

The evacuation of the P.L.O. from Beirut and the forceful demonstration of Israeli capability make this an altogether unique moment, a moment of opportunity to end this cycle. Triumphs of statecraft are decisions which join opportunity with action. If this opportunity is allowed to pass it may never come again.

The challenge Israel faces now is to combine diplomacy with power to build an enduring political settlement. There is nothing that says that Palestinian self-government in association with Jordan must lead inevitably to a Palestinian state. The President has said that we will not support such an outcome. It is not beyond the reach of diplomacy to create, not Israeli military power to ensure, that agreed arrangements for the West Bank will not erode over time. U.S. determination that concrete, iron-clad arrangement for the security of Israel accompany the ultimate resolution of the Palestinian question is heightened, not diminished, by the fact that we have views on a desirable direction for the negotiations.

LONG-TERM SECURITY

The crucial point is that when it comes to safeguarding the long-term security of Israel, the friendship and resolve of the United States are second in importance only to Israel's own resolution and strength. And, in the final analysis, that friendship and resolve deserve, in return, to be reciprocated by a willingness to listen with an open mind to the views of others. But let me be clear: we have a right to be heard, but we have no intention of using our support for Israel's security as a way of imposing our views.

We must not underestimate the dilemmas and risks that Israel faces in opting for negotiations, but they are dwarfed by those created by a continuation of the status quo. The United States recognizes its obligations, as the principal supporter of Israel's security, to be understanding of Israel's specific circumstances in the negotiating process. The President has urged consideration of his proposals in the context of negotiations, to be undertaken without preconditions and with no thought of imposed solutions.

That is why the United States particularly asked that the parties themselves not preclude possible outcomes by concrete and perhaps irreversible actions undertaken before the process of negotiation is completed. While we support the right of Jews to live in peace on the West Bank and Gaza under the duly constituted governmental authority there—just as Arabs live in Israel—we regard the continuation of settlement activity prior to the conclusion of negotiations as detrimental to the peace process.

The President has offered a fundamental challenge to the Arabs as well. It is time for the Arab world to recognize the opportunity provided by Camp David. The path of rejection has achieved nothing but tragedy, particularly for the Palestinians. Surely, the pattern of agonies of this capable and courageous people must not be repeated. Alternatively, the Camp David process and the President's fresh start offers a promise of resolution with honor and justice to those with the wisdom to join the peace process. But it also implies a corollary: those who fail to join will miss a precious opportunity, an opportunity for peace that may not come again soon.

There will be, as I have said, no imposed solutions: any point agreed by Israel and its Arab neighbors will not be opposed by us. But at the same time, the United States is now obligated, by reality and morality alike, to make known its views on what we believe is needed to reach a fair, workable and lasting solution.●

SOMETIMES PEOPLE ARE AHEAD OF THEIR LEADERS

● Mr. HOLLINGS. Mr. President, many times in history the people are ahead of their leaders in perceiving problems. One of those times is, I believe, right now, and the issue has to do with foreign trade. For 35 years now, our people have watched as the country exported jobs, dollars, and technology overseas. As a result of this generation-long subordination of foreign trade to foreign aid, America finds itself in grave economic peril. We are failing to produce adequate wealth as an industrial society, and we are failing to demand fair and equitable treatment from our trading partners. Mr. President, we could balance our Federal budget tomorrow and we could bring interest rates down, and much as those two actions would accomplish, they would not solve these even more fundamental problems of the production of wealth and its trade.

I bring this subject up today not to discuss it at great length with my colleagues, but to call attention to how keenly Americans feel what unfair trade is doing to us as a nation. Recently, Dr. Kitty Dickerson, a highly respected professor in the College of Home Economics at the University of Missouri-Columbia, conducted a study of consumer attitudes toward imports in one specific area—apparel. The results of this impartial and scientifically done study speak for themselves. Suffice it to say that consumers are cognizant of where their apparel is produced; they do prefer American-made products; and they believe it is bad national policy to run trade deficits such as those we have been having for so many years. The unmistakable majority opinion of those interviewed in this survey is that tougher laws are needed to control apparel imports.

It is time for American policymakers to wake up to what is going on. Other countries have stacked the deck against America, and we refuse to respond, even to recognize the problem. Those who wish to continue making American policy ought to recall the words of Gandhi, "There go my people. I must catch them for I am their leader."

Mr. President, I ask that Dr. Dickerson's survey results be printed in today's edition of the CONGRESSIONAL RECORD.

The survey follows:

THE AMERICAN CONSUMER LOOKS AT LABELS

Survey results showed that American consumers are concerned about the country of origin of the apparel they buy and rate domestic apparel superior to foreign merchandise.

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	Percent
1. When you buy clothing for yourself or members of your household, do you notice whether you are buying items produced in the U.S. or another country?[1]	
Do not notice	34.3
Sometimes notice	29.1
Notice carefully	36.1
No response	0.4
2. Is it important to you that an item of clothing (which you are going to buy) was produced in the U.S.?	
Very important	32.4
Somewhat important	26.1
Of little importance	15.3
Not important at all	24.4
Undecided, no opinion	1.6
No response	0.3
3. In terms of quality, how would you compare imported clothing items to those produced in the U.S.?	
Imports are better	5.9
Imports are equal to domestic	23.9
Imports are not as good	47.3
Undecided, no opinion	22.0
No response	1.0
4. How often do you buy clothing items that were made in other countries when you are shopping for yourself or other adult members of the household? For children age 12 and under?	
Always, almost always:	
Adults	1.2
Children	2.6
Quite often:	
Adults	5.8
Children	6.0
Fairly often:	
Adults	9.3
Children	17.8
Occasionally:	
Adults	34.2
Children	23.9
Seldom:	
Adults	38.9
Children	29.1
Never:	
Adults	10.6
Children	20.5

THE AMERICAN CONSUMER IS CONCERNED ABOUT IMPORTS

Nine questions addressed the American consumers' concern that clothing imports, which they perceive exceed U.S. apparel exports, were injuring the domestic industry and costing American jobs. In addition, a majority of consumers said they believe retailers make more profit from the sale of imported clothing than from the sale of American-made clothing.

5. Which of the following statements do you feel is more accurate:	
a. Our country brings more clothing into our country to sell than it ships out	62.7
b. Our country ships out more clothing to other countries than it brings in	19.8
Undecided	11.4
No opinion	1.5
No response	4.6
6. Would it disturb you if you thought more clothing items were being shipped from other countries to sell in the U.S. than were being made here to ship to other countries?	
Yes	63.1
No	29.8
Undecided, no opinion	6.6
No response	0.5
7. Clothing manufacturers in this country say that imported clothing is driving them out of business. Do you think this is true?	
Yes	63.5
No	22.7
Undecided, no opinion	13.4
No response	1.7
8. Do you think we should be concerned about their claims that this is the case?	
Yes	82.5
No	9.1
Undecided, no opinion	6.7
No response	1.7
9. Do you think that bringing in clothing made in other countries will cut down on jobs for people who live in the U.S.?	
Yes	72.7
No	17.8
Undecided, no opinion	6.9
No response	2.7
10. Does that influence you as to whether or not you will buy clothing made in other countries?	
Yes	56.5
No	20.6
Undecided, no opinion	7.3
No response	15.6
11. How do you feel that the wages for workers in the apparel industry in other countries compare to the wages of workers in the U.S. apparel industry?	
Much higher in U.S.	52.1
Some higher in U.S.	19.2
About the same	4.4
Some higher in other countries	2.1
Much higher in other countries	0.5
Uncertain	19.6
No response	2.0
12. Do you think that there is any difference in the amount of profit which stores make on imported clothing items compared to clothing items made in the U.S.?	
Yes	59.6
No	18.2
Undecided, no opinion	14.0
No response	8.2
13. If you believe there is a difference, how do you feel profits compare?	
Much more profit on imports	38.7
Some more profit on imports	14.9
No difference	2.8
Some more profit on U.S. products.	3.0
Much more profit on U.S. products	1.7
Undecided	8.0
No response	[2] 31.0

THE AMERICAN CONSUMER THINKS THERE IS A NEED FOR TOUGHER FEDERAL LAWS LIMITING IMPORTS

One question sought consumers' views on stronger federal regulations to limit imported clothing.

14. Do you think our federal government should pass stronger laws that would limit the amount of clothing that could be shipped into the U.S. from other countries?	
Yes	55.3
No	31.2
Undecided, no opinion	12.7
No response	0.9

[1] Interviewers asked the questions in the form presented. Response alternatives shown were not read to the respondents. The researcher felt that giving consumers options for answers would tend to bias their answers.

[2] Consumers who answered "no" to the previous question are included in this percentage.

Other questions provided data on demographic characteristics and purchasing practices. Responses to each item were cross-tabulated with those from other items and analyzed statistically for patterns in consumers' views and for profiles according to demographic characteristics and purchasing patterns. These cross-tabulations indicated that consumers most concerned about the imported clothing issue were middle-aged and middle-income. Women were more concerned than men. Those least concerned were the youngest and oldest, and the highest and lowest income groups.

The study was conducted by Dr. Kitty Dickerson at Virginia Polytechnic Institute and State University and the University of Missouri-Columbia and was funded entirely by grants from the U.S.D.A.'s Agriculture Research Service and the Virginia Tech Experiment Station.

HOW THE STUDY WAS DONE

Trained interviewers telephoned 1,350 consumers in major cities, small towns and rural areas in 32 states. The consumers represented a cross section of the population from lower, middle, and upper economic classes.

The study was conducted by Dr. Kitty Dickerson and was begun in 1980 and completed in 1981. It was funded with grants from the U.S. Department of Agriculture, Agricultural Research Service and the Virginia Polytechnic Institute and State University Experiment Station at Blacksburg, Virginia.●

SENATOR HELMS CAPTURES LIBERAL HIGH GROUND

● Mr. DENTON. Mr. President, columnist Mary Meehan has provided a great service by examining Senator JESSE HELMS' latest "human life bill." She correctly points out that this abortion initiative has captured the liberal high ground on the human rights issue by affirming the right to life of unborn children.

I also note that the advocates of the "right" to abortion are filibustering this eminently humane piece of legislation, apparently with the idea in mind that, if the Senate is not permitted to act on this bill, the abortion issue will simply disappear. They are wrong. The death of millions of unborn children is not that easily ignored. I hope that some of my pro-choice friends will permit the Senate to choose whether or not public policy will encourage or discourage this cruel and inhumane practice.

Mr. President, I ask that the article by Mary Meehan from the September 7, 1982, issue of the Washington Times be printed in the RECORD.

The article follows:

[From the Washington Times, Sept. 7, 1982]

SEN. HELMS CAPTURES LIBERAL HIGH GROUND

(By Mary Meehan)

Sen. Jesse Helms of North Carolina has placed Senate liberals in a difficult position by offering his latest "human life bill" as an amendment to the debt ceiling bill. So difficult that some of them may develop the Senate version of diplomatic flu before the roll is called on ending the filibuster led by Sen. Robert Packwood of Oregon.

Most liberals assume that anything Helms is for, they should be against. But this time they may find that crafty Ol' Jesse has captured their high ground. And they will be surrounded, not so much by the Helms troops as by their own past statements on human rights.

The Helms bill cites several international documents, including a 1950 United Nations declaration which "affirmed that every child needs appropriate legal protection before as well as after birth." It cites our Declaration of Independence, with its affirmation of the right to life; widespread state restrictions on abortion prior to the 1973 Supreme Court decision; and the fact that U.S. agencies "protect human life before birth from working place hazards, the effects of dangerous pharmaceuticals, and other hazardous substances." It also says that "scientific evidence demonstrates the life of each human being begins at conception."

Liberals are unlikely to attack the international community, the Declaration of Independence, or efforts to protect the unborn from dangerous drugs and chemicals. They will find other objections to the Helms bill.

First, they will say that when human life begins is not a scientific question. Yet scientists keep writing about it, and their consensus—conclusively proved by the "test tube babies"—is that each human life begins at conception.

Some pro-choice people say their religions teach that a soul is infused only at viability or at birth. They contend that scientific evidence about conception is irrelevant. They may also believe that the earth is flat, but we cannot base public policy on their beliefs. The law cannot deal with arguments about souls; the law has no competence in theology.

The second point of opposition to the Helms bill will be its finding that the Supreme Court, in the 1973 Roe v. Wade abortion case, "erred in not recognizing the humanity of the unborn child and the compelling interest of the several states in protecting the life of each person before birth." Yet the court was wrong on Dred Scott v. Sandford and Plessy v. Ferguson, and many who have studied law and history believe it was mistaken in the abortion case.

Some liberals insist that a constitutional amendment is the only proper way to correct error by the Supreme Court. This is what Sen. Daniel Patrick Moynihan D-N.Y., said when he testified against an early version of the Helms bill. But a different view appeared in an essay called "When the Supreme Court is Wrong" in Moynihan's 1980 book, Counting Our Blessings. Contending that the court was wrong on a major press case and on aid to parochial schools, he suggested that Congress should keep passing legislation based on its own constitutional point of view.

Liberals' opposition to the human life bill was also undermined by their recent votes in favor of the Voting Rights Act amendments, which contradicted the 1980 Supreme Court decision in *City of Mobile v. Bolden*.

Sen. Helms knows that Congress cannot "overturn" the court on abortion by passing his bill. The best Congress can do is to pressure the court to re-examine its 1973 abortion decision. In view of the millions of lives at stake another look at that decision is not very much to ask.

The third point of opposition to the Helms bill will be its comprehensive ban on federal funding of abortion and "training in the techniques for performing abortions." This will put liberals in the uncomfortable position of defending techniques that include dismemberment, salt poisoning, and delivering the child so early that her lungs cannot breath the air. Abortion has become the liberals' Vietnam.

Attacks on Jesse Helms are likely to be the forth point of opposition to his bill. Yet no one who has watched him closely can doubt his sincerity on the abortion issue. His position is at best a mixed blessing in his home state—one of the few that still funds Medicaid abortions.

Last year Helms remarked that he wished there were "some way my conscience could let me walk away from this issue. My life would be a great deal more comfortable. But neither Sen. Packwood nor any other senator has ever answered my repeated questions about the deliberate termination of innocent human life." He also said. "I have never questioned the good faith of anyone who disagrees with me . . . . I reflect on no one's sense of morality. But I am saying that this issue is the most fundamental of all."

Liberals can keep their reputation as protectors of the poor and the helpless by standing with Helms in defense of the unborn. Those who cannot should at least try to answer his questions.●

JAPAN MAY END QUOTAS, SEND MORE CARS TO UNITED STATES

● Mr. LEVIN. Mr. President, this morning's Detroit Free Press carried a story indicating that Japan is giving serious consideration to waiving the third year of the voluntary import restraint agreement on autos because the American auto industry is "doing so well."

Their perception of the state of the industry is untrue and their thinking is unacceptable.

As we begin a new model year, sales for 1982 hit record lows and unemployment soared to new highs. Where profits were achieved, they came through real and painful reductions in costs and not through increased sales. The "recovery" noted by the Japanese was a miracle, a Lazarus-like reprieve from the grave. But the industry, like the raised Lazarus, is not at all a pretty sight to see even though we welcome the opportunity to see it again.

For the Japanese to conclude that since the American auto industry is now able to lift its head again, it is now time to put on the gloves and go a few rounds is the height of absurdity and insensitivity.

Additionally, the Free Press article suggests that one of the factors causing Japan to consider waiving the third year may well be congressional consideration of the local content bill. The article quotes a Mr. Nao, deputy director of the auto division of the Japanese Ministry of International Trade and Industry, as saying that local content is "a slap in the face" of Japanese industry, and goes on to suggest that "we are angry because we have tried to help the U.S. auto industry by restraining our exports, but you in the U.S. keep pointing fingers at us."

Well, Mr. President, I find that kind of statement to be offensive, an intrusion into our internal affairs and downright objectionable coming, as it does, from a representative of a nation we helped rebuild after World War II and whom we now spend billions to defend while they refuse to spend the resources they promised to commit to improving their national defense.

Mr. President, this latest statement by the Japanese may be, as the Free Press pointed out, a "negotiating posture," but it is a dangerous one. I trust that my colleagues will agree that it illustrates the problems associated with allowing Japan to determine when the American industry was healthy enough to allow for a return to "unrestrained trade." In addition, I trust it also demonstrates to my colleagues why we need to adopt local content legislation so that foreign firms could produce autos here and better understand the state of our market.●

HONORING DR. LEON FILL

● Mr. LEVIN. Mr. President, on September 29, Dr. Leon Fill of Huntington Woods, Mich., will be the guest of honor at a dinner sponsored by the Bar-Ilan University. Dr. Fill is being recognized for his philanthropic and leadership efforts on behalf of Bar-Ilan University.

Certainly that award is justified; but it does not do justice to all that Leon Fill has done. His efforts on behalf of Bar-Ilan have been extensive, but they have just been a part of his good works.

Leon Fill has been involved in a host of activities and been a member of a variety of different charitable organizations. As a member of the medical community, Leon Fill has been active in various professional organizations. His involvement generalized into a concern about the education process and, as a result, he served as the President of the State Board of Education in Michigan. His involvement goes far beyond his profession. As an active citizen of his community, Leon Fill has been deeply involved in the political process. Fortunately, most of the time he has supported Democrats, but on occasion he has been known to stray into less happy fields. The fact that I

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can forgive him for that error in judgment should be ample evidence of the regard I have for him and for his work.

Finally, I think it is fitting to point to Leon Fill's efforts on behalf of both the Jewish community and the entire community of Detroit. Leon Fill's contributions to the Jewish community in Detroit are more than monetary; his willingness to offer his counsel and support have made him a respected leader whose advice is solicited and followed. And as a resident of Detroit, Leon Fill has done more than his share in supporting the culture of our community from A to Z—beginning at the art institute and ending at the zoo.

There is a tendency, I fear, to view tributes of the kind that Leon Fill will receive later this month as the capstone of a career. Instead, I would commend the words of Dag Hammarskjöld who said that "you have not done enough, you have never done enough so long as it is still possible that you have something to contribute." And, Mr. President, Leon Fill still has a great deal to contribute.●

ACCESSIBILITY FOR THE PHYSICALLY DISABLED

● **Mr. DURENBERGER.** Mr. President, one issue of primary importance to most of the members of my State is equal access to opportunity and services to all citizens. In my opinion, one of the major roles of the Federal Government is to insure equity to all our people.

Specifically, today I would like to talk about section 504 regulations. Since 1973, this country has modified its perception of physically disabled people. In the Rehabilitation Act of 1973, Congress mandated that disabled people can come out of the closet and be part of the American dream and lifestyle. Each person has worth and can contribute to this Nation. Government policies should not stand in the way of individuals striving to reach their potential.

Presently the section 504 regs are being reexamined. I am very much in favor of reviewing regulations and eliminating cumbersome, intrusive, and cost-ineffective regulations. In the case of section 504 regulations, I am very concerned the proposed changes are detrimental. I have written Attorney General Smith regarding my concerns. I also wrote to Mike McConnell of OMB on this issue. I ask that the text of my letter to Mr. McConnell be printed following my remarks.

I think it is essential that each Senator review these changes and communicate with OMB. We must represent all citizens of our States and treat people with individual respect and dignity. Reducing accessibility for the physically disabled robs our society of valuable resources and denies basic right to large numbers of our citizens.

The letter referred to is as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., August 25, 1982.

MIKE MCCONNELL,
Office of Information and Regulatory Affairs, OMB, Old Executive Building, Washington, D.C.

DEAR MR. MCCONNELL: I am concerned with the proposed changes in the draft section on the 1978 HEW Section Guidelines of the Rehabilitation Act of 1973.

As you know, Section 504 of the Rehabilitation Act of 1973 provides that "No otherwise qualified individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subject to, discrimination under any program or activity receiving Federal financial assistance." Clearly, the intent of Congress is to provide equal access to programs for handicapped individuals. The language of the current regulations is explicit in defining implementation of equal access and opportunity to education.

My main concern is that the definitions in the regulations remain explicit and precise, yet allow flexible implementation on the local level. I am confident that states intend to provide suitable services for individuals with disability. However, in these times of budget difficulties, it is possible that some state legislatures may opt to find loop holes in broad definitions to limit handicapped special services.

For example, the deletion of the word "appropriate" in "appropriate educational services must be provided" is vital. Without this one word the door is open for local school districts to decide to eliminate special services for students with handicaps. Secondly, there is a tremendous difference between providing "equal opportunities" as the regulations now state and "substantially equal opportunities." I do not believe that the intent of Congress was to provide "substantially" equal opportunities, which infers less than equal opportunities. Rather, it was to provide fully equal opportunities.

I am also concerned with the OMB's position on the comment period and regional hearings for Section 504. I am aware that the OMB has supported a 60-day comment period which would involve no regional hearings. I would encourage a reevaluation of these decisions. The DREDF (Disabled Rights and Education Defense Fund) has issued a challenge to each state to send to the administration a minimum of 1,000 letters calling for 10 regional hearings and a 120-day comment period in which the public may comment on the proposed changes. I am in favor of the hearings and extended comment period. Both would allow for more discussion and public input on this important issue effecting a significant portion of the population. Through the exchange I feel we can more readily move towards the Congressional mandate of equal access for all persons under federal programs.

I would appreciate your further examination of these two aspects. I am confident that we are both working towards the same goals of equal opportunity and so will support whatever means will best achieve this end.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.●

THE KGB FORCES THE END OF THE MOSCOW HELSINKI GROUP

● **Mr. PELL.** Mr. President, Elena Bonner, wife of banished Soviet human rights activist, academician Andrei Sakharov, held a press conference on September 8, in Moscow to announce the dissolution of the Moscow Helsinki Monitoring Group. According to Bonner, "the increasingly difficult situation" and "pressure from the authorities" had forced the last three members of the Moscow Helsinki Group to cease their activities. One of these three members, attorney Sofya Kalistratova, is threatened by the authorities with prosecution and a prison term. Kalistratova is 75 years old and suffers from a heart ailment. For her, a jail sentence would be tantamount to a death sentence.

The Moscow Helsinki Monitoring Group was established in May 1976 to monitor Soviet compliance with the human rights provisions of the Helsinki Final Act. Following the example of the Moscow Group, other Soviet Helsinki groups were founded in Ukraine, Georgia, Lithuania, and Armenia. By publicizing Soviet violations of human rights and calling upon their Government to observe the principles to which it had agreed at Helsinki, the Helsinki monitors were soon themselves harassed, imprisoned, exiled, or forced to emigrate from their homeland.

One of the most blatant cases of Soviet repression against the Moscow Helsinki monitors concerns that of Vladimir Slepak, a 54-year-old engineer. Slepak was the leading Jewish activist—the "dean of Jewish refuseniks"—before his arrest. He was initially denied permission to emigrate in April 1970 on the grounds that his previous work had been classified. But even after the 5-year period in which secrecy restrictions are applicable had elapsed, he was refused an exit visa. He worked in a television equipment factory until 1957 and, thereafter, as chief of research laboratory on TV and impulse apparatus until he was dismissed because he filed an application to emigrate. Slepak joined the Moscow Helsinki Group on June 17, 1976.

The Slepak family has long been the target of systematic harassment by the authorities. Vladimir has been fired from numerous jobs, tailed, searched, beaten, had his telephone disconnected and apartment bugged, and has been imprisoned about 25 times for periods of 10 to 15 days. A March 1977 article in Izvestiya accused Slepak of treason against the U.S.S.R. The elder son, Aleksandr, was allowed to emigrate to Israel on October 27, 1977. On that same day, the younger son, Leonid, who has been expelled from the institute where he was studying, received a draft notice. Induction into the army might have delayed Leonid's emigration due to secrecy restrictions. Leonid emigrated in April 1979.

On June 1, 1978, Vladimir and his wife, Maria, were arrested for displaying a protest banner which read, "Let us go to our son in Israel," from the balcony of their Moscow apartment. Mrs. Slepak was released from custody the following evening, but on June 21, 1978, Vladimir was sentenced to 5 years of internal exile for "malicious hooliganism"—article 206 of the RSFSR Criminal Code.

Mr. President, the dissolution of the Moscow Helsinki Monitoring Group, or more specifically, the KGB pressure that brought about this dissolution, is a most ominous development, not only for the Soviet people, but for the entire cause of security and cooperation in Europe. The deliberations at the upcoming CSCE Review Conference in Madrid will certainly be complicated by the knowledge of this latest example of the Soviet Government's repression against its citizens who simply ask that their Government live up to agreements to which its representatives have affixed their signatures.●

NEW PUBLIC MARKETS FOR THE PRIVATE SECTOR

● **Mr. DURENBERGER.** Mr. President, we are beginning to see important changes in the delivery of public services in this country. In response to the cry for more efficient and responsive services, combined with the realization that Government has overstepped its service capabilities and responsibilities, we have begun to reevaluate our entire public service delivery system. Questions are being asked: Which services are being provided? How are they produced? Who produces them? Who benefits from them? And who makes the decisions?

Part of the solution to our overspent and undereffective public service system is the business sector, rich with resources and based upon efficiency and innovation. President Reagan has predicted "a torrent of private initiatives that will astound the advocates of big government." Although it is not yet a torrent, it is considerably more than a trickle.

The private sector is now actively exploring ways in which it can benefit by providing for the needs of the employee and the community, contributing in a direct way by producing public services—alone, in cooperation with Government and other organizations, competitively, for-profit, not-for-profit. Many businesses already are engaged in such projects; many others are in the planning stages.

At the same time, businesses are understandably skeptical about this concept of entering public service markets formerly monopolized by Government. In most firms, community service traditionally has been confined to direct dollar donations. With few exceptions, community action has not been considered a vital component of corporate planning and administration, nor has it involved a broad range of business resources. However, this traditional tunnel-vision view of corporate community involvement is beginning to change.

Among the commentaries I have read concerning this shift in private sector perception, I am particularly impressed by an article in the July issue of Enterprise magazine, published by the National Association of Manufacturers. The article, "New Public Markets for the Private Sector," was written by Peter C. Brown, a Minneapolis consultant specializing in alternative service delivery.

Mr. Brown's article outlines strategies for companies to effectively enter public service markets. Among his major points: A business should specifically identify the services and resources it has to offer; it should search out specific needs in the community and fit the firm's skills to the proper project; and whether or not the project is profit-based, the company should take a business approach to its administration, with an eye on expenditures, revenues and results.

The article by Peter Brown is an excellent basic guide for companies seeking to enter the public service market. His view—and mine as well—is that the private sector can move into this emerging market to the long-term benefit of both company and the community. I ask that Mr. Brown's article be printed in the RECORD.

The article follows:

[From the Enterprise, July 1982]

NEW PUBLIC MARKETS FOR THE PRIVATE SECTOR

(By Peter C. Brown)

In a "single bold stroke," President Reagan has cut away $47 billion in federal programs and challenged private enterprise to take the lead in addressing the tough social problems of our country.

But in most companies, the experience curve for addressing social problems ends with grants and loaned executives. If you are in this group, the idea of doing more may be the "right" thing to do but not the prudent thing.

Yes, public services need overhauling to incorporate market forces and business principles. But how do you justify jumping into an arena that is fragmented, highly politicized and run by career bureaucrats who have everything to lose from change? Problems with public services are deep-seated and long-standing. What chance does a company like yours have against such inertia? And in these hard times?

The doubts are appropriate. But they can be overcome.

Public services are just now emerging as a potential market. Many opportunities are undiscovered as are the strategies for benefiting from participation in an arena previously monopolized by government. Following are strategies for creating public service ventures, for-profit, as well as not-for-profit, through which you can move into this emerging market to the long-term benefit of both your company and the community.

Identify what you have to offer. Many business leaders embrace the idea of private initiative in public services but simply don't see the pertinent skills in their own companies. What is a circuit-board manufacturer good at besides making circuit boards? Probably many things.

Most successful corporations have a host of finely tuned overhead and administrative resources often lacking in small public service agencies: accounting, purchasing, asset management, insurance, personnel management, benefits administration, facilities management, etc. Big companies have large-scale management skills and the ability to carry out complex development projects against negotiated budgets and timetables. They have geographic access and economies of scale not available to local government and nonprofit agencies.

Corporate managers understand risk analysis, market analysis and experimentation. They understand how to forge partnerships and joint ventures with other producers who bring components or technologies essential to achieve a market advantage, or shared production capacity to achieve economies of scale for enhancing profitability. These qualities translate to rich resources for meeting community needs.

When you try to determine what your company does well, look at how it meets its own needs in addition to how it serves its market. A company that has a commuter van-pooling service for its employees might contract with government-funded social service agencies in its vicinity. The idea is to transport social service recipients during daytime hours when the vans are idle, thus eliminating the need for each agency to have its own vehicle. A consumer company or utility with an efficient billing and collections system may be able to replace sluggish procedures for processing and depositing local tax revenues.

Look at the corporation as a problem-solving institution, not a loose collection of people, equipment, facilities and capital. Lending an employee with technical expertise to a government agency may help the agency solve a technical problem. Contributing used desks and vacant office space may help cut costs. Subsidizing a non-profit agency's operating costs may help it stay in business or serve more clients. These contributions help the community but do not tap the greatest resources of the company: its ability to identify market needs and develop and carry out solutions to meet them.

Get close to the problem. Few corporate managers get close enough to any particular community need or public service to envision a better solution, or find the fit with their company's skills and resources. Doing volunteer work or contributing funds and equipment isn't the same as taking a close, critical look at how a problem is being addressed and considering a feasible alternative. But getting a leg up in a private market requires finding a smarter solution. The same principle applies in the public service arena. And to find a smarter solution, you must know the territory.

One starting point is to decide what community problem represents your target of opportunity. Look around at what others have identified as critical community needs. A good choice is a need that has a strong constituency in the community, is not encumbered with great controversy and is of

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direct concern to your company. Maybe the problem affects the firm's operations (such as a poorly qualified labor supply), or maybe you have already invested heavily in it (such as subsidizing housing rehabilitation around your headquarters), or maybe it costs you money (e.g., supporting disabled employees). Pick a problem important to the CEO; pick one you have an idea about solving, one you have a hunch fits your company's knowhow. Try to build on self-interests wherever you can find them.

Don't undercut your chances of success by tackling too many community problems or initating multiple ventures on a hit-or-miss basis. Pick a target and become sufficiently knowledgeable about it to be confident in your approach. When you've handled it successfully, you can broaden your reach or take on another problem.

Designate a skilled person to identify the underlying issues and determine how the company might address them. Choose someone who understands your biases and interests and is a broad, creative thinker. A common tactic is to pick a professional in the field being studied. But unless you find a professional who is cut from a different cloth than his or her colleagues, you'll probably find yourself with recommendations to do what everyone else in the field has tried but found didn't work.

If you want to find a market niche where none is currently perceived, you must look at the problem in a different way. Let's say you're looking at a public service that is losing government funding. Why does the service need to be subsidized? Why isn't it provided by the private market? Is it an overlooked opportunity? Some services fell from the private market into government subsidization because the potential for profit didn't compete with other opportunities for private investment, and government moved in aggressively. Vocational education is an example.

Other services originated in the public sector as extensions of related public activities. Providing technical assistance to small businesses, for instance, has been an outgrowth of huge public expenditures in economic development. But which is better equipped to foster entrepreneurism: government or business? There is value in asking whether demand and market conditions may have caught up to these and other services so they could be delivered on a break-even or profitable basis.

Maybe the business opportunity lies in redesigning the service itself, or the way in which it is delivered. Perhaps the introduction of technology, or larger geographic scale, or better management, or use of paraprofessional personnel could turn this service into a profitable venture. Or maybe a joint venture that brings a better mix of skills or spreads the risks makes it feasible as a private initiative.

Brainstorm alternative services. Is the current approach a "treatment" that must be subsidized, such as housing rehab? Could a "prevention" strategy be substituted as a private service—such as creating a mix of maintenance, financing, warrantee, and do-it-yourself counseling services sold to homeowners (to help them keep up their homes through private contractors and their own efforts)?

Look for parallels in business. Some corporations subsidize low-yield operations with revenues from high-yield operations. AT&T's rates for long-distance calling are an example, where higher profits from high-traffic lines offset lower profits from lower-traffic lines. Nonprofit social service agencies are largely dependent on grants to fund services for poor and disadvantaged clients. Yet demand for social services in corporations and among middle- and upper-income families is growing. Can the agencies be helped to penetrate profitable new markets that can offset some of the costs of serving their low-income clientele? Can your company help them reach those markets?

Another parallel in business is the development of economies of scale through aggregation and collaboration. Administration and facilities managements are a bugaboo to many nonprofit agency executives who are trained as social service specialists. We have spent years trying to train agency directors to perform tasks better contracted out. Each agency suffers from the high cost of providing services on such a small scale, not to mention the incompatibility in skills and interests. Isn't your corporation already solving such problems for its own operating divisions through service standardization and centralized delivery? Couldn't private sector franchise and holding company arrangements be adapted to standardize and aggregate overhead functions in the human services sector?

Businesses that provide contracted facilities management and administration in the health-care industry could be helped to reach new markets. How about child care, community corrections, nursing homes and mental retardation facilities? Can economies in overhead functions be gained without interfering in the client/practitioner relationship or constraining the service ingenuity of the individual service agency? Can your company collaborate with an established, small contract-management firm to reach these markets?

When you look at the problem you want to tackle, think broadly. Talk to professionals in the field, to consumers and to people in business. Rethink what the problem is, what the service is, who the buyer is, who the consumer is. Look for ways to work the margins to your benefit through technology, management skills, scale and lower-cost personnel. Think about selling prevention in place of treatment. Look for parallels in private business.

Find the fit. Probably the hardest step in developing a public service venture is finding the appropriate fit with your company's skills. Many opportunities for intervention can be identified and a range of skills found inside the company. But, if the two don't fit, you don't have a feasible business opportunity.

In some cases, a new venture idea may have enough potential to be worth pursuing even if you don't have all the needed skills. In that case, you must develop the missing skills in-house or find them outside. The latter course may involve hiring someone with special knowhow or finding a joint venture partner. It may mean acquiring an innovative small company or nonprofit agency that has developed the skills you need but lacks the capital, management skills and geographic access to penetrate the market significantly.

Finding the right fit also involves internal considerations beyond the immediate skills and resources of the company. Each company has its own style, tolerance for risk and ability to innovate. Each has its own markets and marketing networks, technologies and business development objectives. Finding the fit between community problems and your corporation's skills and resources will build on the strengths and account for the gaps.

Take a business approach. Many successful leaders seem to lose their bearings when they become involved with public service. They don't ask the important questions, such as what are we trying to achieve and how will we know when we have made progress? Result-oriented management practices are especially needed—and hard to find—in the "soft" services. Measures of results achieved, costs incurred and revenues earned apply whether the task is job training, health care or commuter transit. Sometimes, the salient financial measure is profits. Often, it is costs saved (commuter transit), subsidies reduced (getting disabled employees back to work) or tax revenues generated (creating new jobs).

The corporation may come to the venture through any of three avenues. It may be a profit-based initiative that represents a logical next step in the company's new business development activities, and that justifies a substantial capital investment and management commitment on the merits of its potential ultimate financial return.

It may be a not-for-profit initiative that represents an extension of the company's charitable and social responsibility activities, and that justifies investment and commitment on its potential to achieve an important public affairs objective.

It may be a limited-profit venture tied to philanthropy, which operates like a profit-oriented business venture but offers less than a normal return, the cost of which is charged off against the company's philanthropic budget. Under this hybrid strategy, a relatively small philanthropic contribution leverages a substantial capital investment in the new venture, which commands the best technology and management resources of the corporation in its execution. It serves a public affairs objective but may also provide a footing from which a profit-based initiative ensues.

Consider the value of approaching the venture on a partnership basis. Much of what needs doing in the community requires skills or resources that exceed the capacities of individual organizations. Nonprofit agencies and small firms have market sensitivity, public service expertise, commitment and community organizing skills. But they lack capital and scale, market access and sophisticated management skills. Corporations have the management skills, technology, market analysis skills, scale and capital, but they lack social service expertise, public service experience and, often, neighborhood trust.

Feasible ventures can be designed around partnerships between corporations and nonprofit agencies or small businesses. This kind of partnership is not common in the public service sector, but it has been forged from time to time in the private market. Innovation, the sine qua non of small firms, is exceedingly expensive in large companies. Consequently, many corporations have diversified and gained a market edge by acquiring or collaborating with innovative small businesses. The same principle applied to public service suggests many opportunities. For example, an enterprising corporation that already has experience with a nonprofit agency—such as buying services from the agency for the firm's employee assistance program—may be able to utilize a franchise or hold company structure in partnership with the nonprofit to market those services to employers across the country.

If you can, build the venture into your line operations. Many community initiatives are carried out by corporate staff separately from the firm's main business activities. But if you are drawing on the skills of the business as an institution rather than a collection of resources, you'll be most effective if you can merge the implementation milestones into line managers' performance objectives.

If you've found a close fit with current capabilities, you'll have a reasonable feel for how quickly the venture should come up to speed. If the fit is less natural and the territory unfamiliar, allow for experimentation and greater development expense. Make outside experts available. Treat the learning curve as a research and development cost. Help your people be energized and refreshed by the new effort, not saddled with unrealistic goals. But be sure they know your eye is on the results.

Measure the benefits and build on success. The public services sector is assuming many characteristics of a viable market: heightened competition for limited service funds, new interest among government administrators in measuring results and improving productivity, a turn to user fees and consumer choice, increased contracting out and use of vouchers, and a growing demand for social services in corporations and middle- and upper-income families. The current delivery system serving this emerging market is fragmented and inefficient without the mechanisms even for measuring costs and results achieved. Many of the technologies, management tools and collaborative arrangements developed to gain market advantage in the private sector have been overlooked entirely for application to enhance public service productivity.

For corporations with an eye to the service market over the long term, public service ventures can establish an early market position for profitable future growth.

In the near term, public service ventures can help the community restructure the ways in which it meets its needs. They can also help the corporation achieve difficult public affairs objectives such as strengthening the local economy and the community's self-reliance, reducing the grant-dependency of local service agencies, and providing new avenues for employee growth and satisfaction.

How you measure success depends on what your objectives are going into the venture. Make a profit? Reduce a cost of business? Generate tax revenues? Create jobs? Put people back to work? Increase the serviceable lifetime of a neighborhood's housing stock? Enhance the corporate image? You must decide what combinations of potential benefits and risks justify your initiative.

Be sure to take full measure of the results you achieve. Only then can you satisfy yourself and your stockholders that the return justifies the investment, and only by understanding your successes can you build on them. Building on the successes may enable you to improve your results and achieve them in more communities, or go deeper into the problem to tackle related issues: figuring out how to build on a successful internal van pool service by marketing to clusters of smaller employers (none of which is large enough to create his own); establishing other transportation-related services (such as shuttling social service recipients to service agencies); or helping form a private fleet management firm to meet local government transportation needs. If you can gain a toehold, understand your success, then build on it—you've done a lasting service to your company and community alike.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which the clerk will state.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 2040

The PRESIDING OFFICER. The pending question is the Baucus amendment No. 2040.

The amendment is as follows:

At the end of amendment numbered 2039 add the following: "It is the sense of the Congress that the Federal courts must remain open to litigants whose claims arise out of the Federal Constitution. Furthermore, it is emphatically the province and duty of the judicial department to say what the law is and article 5 of the Constitution specifically provides a mechanism to respond to the constitutional decisions of the Supreme Court.".

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am about to send to the desk a cloture motion against further debate on the Helms second-degree amendment.

Before I do so, for those listening about the Senate, I wish to report that I have advised the minority leader that I intend to file this motion, and I have advised the Senator from North Carolina and the Senator from Oregon. I believe all parties who are principal to this debate are aware of the fact that I intend to file this motion that will produce a vote on Wednesday.

Mr. President, it is my hope that later in the day we can clear on both sides a unanimous-consent agreement that the vote on this motion will occur at 5 p.m. on Wednesday. But I will not now put that request.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Don Nickles, Bob Kasten, Howard H. Baker, Jr., John P. East, Steven D. Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, and Robert Dole.

Mr. BAKER. Now, Mr. President, as I say, at a later time I intend to confer with the minority leader and with the two principal adversaries in this debate, that is to say, Senator HELMS and Senator PACKWOOD, as well as Senator WEICKER and others, in an attempt to get a time certain other than that time provided for in rule XXII for this vote to occur on Wednesday next.

Mr. President, I may also say that at some point it is my intention to try to reach the Hatch amendment to the Constitution, and I will consult further with the Senator from North Carolina, the Senator from Oregon, and the minority leader about that. But Senators should be aware of the fact that at some point it is my present intention to attempt to move to consideration of the Hatch amendment during some day this week.

Mr. President, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of House Joint Resolution 520.

Mr. HAYAKAWA. Mr. President, last Thursday, I voted against cloture because I support my friend from Oregon who is for allowing women the freedom to choose safe, legal abortions and is against overturning the Supreme Court's decision in Roe against Wade. While I have the highest respect for the views of those who oppose the freedom to choose abortions, I will again oppose cloture for

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the same reasons I voted against it last Thursday.

The controversy over abortion is not going to go away—not today, not tomorrow, not next year. The two sides now facing each other are so diametrically opposed on the subject that it will not be resolved, regardless of what this Congress should decide to do. If the prochoice forces should prevail this time around, that will not deter the prolife forces from mounting future legislative attempts to work their will in the Congress. By the same token, if the prolife forces were to prevail—if this amendment should pass and be made law—the opposition would not rest until it had reversed its loss.

Like two great wrestlers, these determined adversaries will continue to struggle, neither side allowing itself to be pinned down and only increasing its efforts when the other appears to be prevailing. The only hope is that, in the future, Congress will not allow this issue to so bind it that it cannot carry out its constitutional responsibilities. Indeed, I hope that we will not allow any single issue, however important, to prevent us from passing a budget, increasing the debt limit, providing for the national defense, or carrying out the other duties we were elected to perform.

I can appreciate the strong feelings on both sides of the issue, as my own convictions are strong. As a conservative who supports the Constitution, I am compelled to support the freedom of women to choose abortions.

The Constitution of the United States is, in a sense, a negative document. This is especially true of the Bill of Rights. It recognizes that Government is necessary to secure the rights and freedoms of the citizenry and then goes about carefully defining what Government is and what it can and cannot do. Where the rights of the people are concerned, it is liberal, but where it defines the powers of Government, it is extremely conservative.

The Bill of Rights says that the Government shall not establish a religion. The Government shall not order troops into your house without your permission. All sorts of inhibitions are placed upon the Government. From the point of view of the Bill of Rights, the attitude toward government is conservative. Its authors had just fought a war against a Big Brother type of government and were determined that such a government not exist here.

In creating Congress, the authors of the Constitution allowed the legislative body the powers necessary to allow an efficient, unified nation, but kept from it the power to intrude in the personal lives of its citizens. Article I, section 8 spells out what Congress can do. It can collect taxes, borrow money, regulate commerce, and so on. But, like the other branches of Government, Congress is not granted the authority to regulate the lives of individual citizens.

It is interesting to note that the Bill of Rights begins with the words "Congress shall make no law * * *" and ends with the granting of all undelegated powers to the States and the people.

As time has passed a number of attempts have been made to expand the scope of the Constitution to allow the Government to intrude in the lives of individual citizens, for example, the prohibition amendment. I view the efforts to outlaw abortions as such attempts. It is not the place of government, particularly an overwhelmingly male Congress, to tell American women what they can and cannot do with their bodies, and it is not the place of Congress to make religious or philosophical determinations such as when life begins.

While I realize that there are those who disagree with my views, I know that everyone in this body agrees with me when I say that no one here wants any woman to have an abortion. None of us want any person to go through the mental anguish and physical pain of having an abortion. All of us want every child to be born into families that want and love them. If they were, we would not be wrestling with a flood of crime and social problems.

So even if we cannot reach a consensus on the issue, we can at least agree that the need for abortions should be reduced. I would suggest that by improving the education of our people about human reproduction and increasing the research of safe, effective contraceptives we can do just that.

Mr. President, Judy Mann had an article in last Friday's Washington Post that referred to the issues that the Congress should be deliberating. I found it excellent reading, and I ask that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

[See exhibit 1.]

Mr. HAYAKAWA. Mr. President, some of us would like to think that our statements on this issue are profound and that they will be forever remembered. They are wrong. This controversy will go on and on and our arguments will be repeated over and over by others. I only hope that this issue will never be allowed to frustrate the ability of Congress to do its job.

Thank you, Mr. President.

EXHIBIT 1

JUDY MANN: ABORTION

The antiabortion bill that the Senate is now considering—and which President Reagan suddenly has started pushing—is a splendid illustration of how the right wing uses abortion as an organizing issue yet misses the point on ways to reduce abortions.

While permanently banning the use of federal funds for most abortions, the Helms "Human Life" bill asserts that the Supreme Court erred in its 1973 decision legalizing abortion, and declares that life begins at the moment of conception. . . .

Abortions didn't suddenly come into being with the 1973 Supreme Court decision, and most even now are not paid for with federal funds. There were 600,000 legal abortions in 1972, when women could get them for reasons of mental and physical wellbeing. There were between 1.2 million and 1.3 million legal abortions in 1981. Where was the outraged right-wing in 1972?

Abortion is a private matter that ought to be left between a woman and her physician. It is not the president's business and it is not the business of the overwhelmingly male Congress to legislate guilt trips onto American women.

Having said that, it is important to note that Americans are ambivalent about abortion, and if Congress and the president were genuinely concerned about reducing the widespread use of it—instead of playing politics with it—they would probably find a good deal of support. According to the Gallup polls, only 25 percent of the public supports legalized abortion under all circumstances; 53 percent believe it should be legal only under certain circumstances. A Yankelovich survey found that while 70 percent of the women support abortion on demand, 56 percent of them believe abortion to be morally wrong. But surveys have found little support for the legislative sledgehammers Congress has been considering.

Its approach has been wrong. The same Congress and the same administration that are so concerned about abortion allocated the grand sum of $16 million in 1981 for federal research on contraceptive development. It spent a paltry $7.3 million for evaluation of the safety and efficacy of contraceptives. It spent $79.1 million on research into the reproductive processes. The total federal support for population research in 1981 was $151.4 million. That is roughly $50 million less than the cost of one B-1 bomber.

Money is just part of the problem, says Dr. Gabriel Bialy, head of research for the Center for Population Research. "Rather than investing our resources into fighting changes in abortion laws, maybe it's incumbent on our part to do a better job of selling the contraceptive methods now available.

"One could liken abortion to chemotherapy: necessary but drastic. Currently what people working in the cancer area are focusing on is not just the development of drugs that will inhibit tumor growth but they are looking at those factors that may contribute to the growth of cancer."

A similar approach ought to be used to reduce the need for abortions. Money ought to be spent on the development of improved contraceptives and Americans ought to be better education on contraceptive use. The average failure rate for the condom and the diaphragm is 10 to 12 percent, Bialy says, but it was brought down to two percent in a program for underprivileged teen-agers when clinic employees took the time to carefully instruct them.

Bialy also believes there is a need for fundamental changes in Americans' attitudes toward contraceptives. "People are dissatisfied with what's available and when they are dissatisfied they use that as a rationalization for not using it. You talk to men and they give you a litany of reasons why they don't use the condom. In other elements of our lives we recognize we cannot have exactly what we want . . . That should be no excuse for not using what's currently available."

One-third of all abortions are performed on teen-agers. "If you can get the kids to think about the fact that fast foods don't provide them with good nutrition," he says, "isn't it possible that we could succeed in getting the idea across that junk sex is just as bad for them?"

Congress has spent far too much time debating such questions as when human life begins. No one, * * * knows the answer to that. But we do have some understanding of when the need for abortion begins: it begins with ignorance, with contraceptive failure, with poor attitudes about reproduction. We have found that public education has changed attitudes about smoking. It can also change attitudes about sex.

● Mr. JEPSEN. Mr. President, since the beginning of the 97th Congress, almost 2 years ago, this body has been actively debating and considering legislation which deals with our economy, our defense, our foreign policy, and our domestic policy. During this time, when Americans have asked the Congress to turn its attention to many of the pressing social issues which were the focal point of the 1980 elections, the immediacy of the economic problems has caused a diversion from these issues.

After almost 2 years of delaying action on social issues, the Senate is currently debating legislation that is of great interest to Americans of all political, religious, and social backgrounds—the issue of abortion.

Mr. President, I am on record in support of Senator Helms' efforts to restrict abortion on demand. I firmly believe that life in the womb is just that, life, and that if that life does not meet natural disaster or deliberate attack, it will become a young child. I believe that the 1973 Roe against Wade decision which legalized abortion has perpetrated an even more tragic effect than the snuffing out of lives in the womb. It has legitimatized the ethic of human disposability. That is—life which is inconvenient has no right to exist.

Mr. President, the current attempt by several of my colleagues to stall further debate on the pressing issue of abortion is not only consuming the time of this body—it is distracting attention from an issue that is of great importance to all Americans—no matter what opinion one might have. This body is doing a great disservice to the constituents we serve by not forcing an up or down vote on this issue; 1.5 million lives are being terminated every year. The people of America are watching.●

● Mr. WARNER. Mr. President, today I will vote for cloture, having voted against cloture on the first attempt in keeping with my practice respecting the freedom of debate under Senate traditions.

My vote is cast in the belief that the opportunity for debate on the measure has been adequate. Today, for example, very little has been said and the Senate on other important matters is virtually at a standstill.

My vote for cloture does not indicate how I will vote on the pending measure. I firmly believe, however, the importance of the issues merits a vote, or votes, expressly on the issues of abortion and school prayer. My preference would be separate votes.●

The PRESIDING OFFICER. The Senator from California should be reminded that under the previous order at 4 p.m. the clerk will state the motion to invoke cloture.

Mr. BAKER. Mr. President, before that happens, I cleared this on our side. I ask unanimous consent that after the cloture vote the Senator from Oregon (Mr. Packwood) be recognized once more.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

Cloture Motion

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, Howard Baker, John P. East, Steve Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, and Bob Dole.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived. The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2038 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. PELL (when his name was called). Mr. President, I have a live pair with the senior Senator from Massachusetts (Mr. Kennedy). If he were here and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I, therefore, withhold my vote.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. Danforth), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Heinz), the Senator from Illinois (Mr. Percy), the Senator from New Mexico (Mr. Schmitt), the Senator from Vermont (Mr. Stafford), and the Senator from Wyoming (Mr. Wallop) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Delaware (Mr. Biden), the Senator from Arkansas (Mr. Bumpers), the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mr. Chiles), the Senator from California (Mr. Cranston), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Montana (Mr. Melcher), the Senator from Arkansas (Mr. Pryor), the Senator from Michigan (Mr. Riegle), and the Senator from New Jersey (Mr. Bradley) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. Riegle) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 45, nays 35, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—45

Abdnor
Armstrong
Baker
Boschwitz
Cochran
D'Amato
DeConcini
Denton
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Grassley
Hatch
Hatfield
Hawkins
Heflin
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Pressler
Proxmire
Quayle
Randolph
Roth
Sasser
Symms
Thurmond
Warner
Zorinsky

NAYS—35

Andrews
Baucus
Boren
Brady
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Cohen
Dixon
Dodd
Glenn
Gorton
Hart
Hayakawa
Hollings
Jackson
Leahy
Levin
Long
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Packwood
Rudman
Sarbanes
Simpson
Specter
Stennis
Stevens
Tower
Tsongas
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for

NOT VOTING—19

Bentsen
Biden
Bradley
Bumpers
Cannon
Chiles
Cranston
Danforth
Goldwater
Heinz
Inouye
Kennedy
Melcher
Percy
Pryor
Riegle
Schmitt
Stafford
Wallop

The PRESIDING OFFICER. On this vote, there are 45 yeas and 35 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

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Mr. BAKER. Mr. President, I ask unanimous consent that notwithstanding the order for the Senator from Oregon to be recognized next, that I be recognized for 1 minute in advance of that time, without his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr President, all Senators may not be aware, but a cloture motion has been filed today against further debate on the Helms amendment. I would like to set a time certain for a vote on that cloture motion on Wednesday when it will mature. I would suggest 5 p.m.

I will inquire of the minority leader if he is in a position to agree to that at this time.

Mr. ROBERT C. BYRD. Not at this moment, but very shortly I am sure I will be.

Mr. BAKER. Very well. Mr. President, I will discuss this matter further with the minority leader. It is my hope that we can, as we have recently in the case of most cloture motions, establish a time certain for this vote.

A little later I would hope that we can get unanimous consent that without the rule XXII quorum a vote will occur at 5 p.m. on Wednesday next on the cloture motion which has been filed today.

Now, Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, will the majority leader answer a question? Does the majority leader know what he plans to do during tomorrow?

Mr. BAKER. Mr. President, it would be my hope that during the day tomorrow, perhaps as soon as we conclude morning business in the morning, that we could proceed to the consideration of the Hatch amendment. It would be my hope, as I indicated earlier, that we would have a full day of debate on the Hatch amendment, perhaps even part of Wednesday, depending on the preference of Senators. But I have outstanding a representation that I will ask the Senate to proceed to the consideration of the Hatch amendment to the Constitution at some point. I despair of gaining unanimous consent to do that, but it is my present intention to ask the Senate to proceed to the consideration of that matter tomorrow.

It is also my intention, Mr. President, to return to the consideration of the Helms amendment, which, of course, we must do under rule XXII at some time during the day on Wednesday.

At this time, I would expect that we would turn to the Helms amendment and continue debate on the Helms amendment either in preparation for another cloture vote, if that is required, or pursuant to the provisions of rule XXII postcloture, if that is appropriate.

Mr. President, answering the question of the Senator from Oregon, I would hope that tomorrow the Senate would agree to the consideration of the Hatch amendment for the remainder of the day and perhaps a part of Wednesday.

Mr. WEICKER. Mr. President, will the distinguished majority leader yield for a question?

Mr. BAKER. I yield.

Mr. WEICKER. If I am not mistaken, making the motion to proceed is the prerogative of the majority leader but is the motion to proceed debatable?

Mr. BAKER. Yes, it is.

Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I believe the Senator from Oregon has the floor.

Mr. BAKER. Will the Senator from Oregon yield?

Mr. PACKWOOD. Yes, without losing my right to the floor.

Mr. HELMS. Mr. President, I understand that procedurally it is necessary to return to the "debate" on the Helms amendment. But beyond that, I see no point in consuming the time of the Senate. I will say again what I have said for the last 3 or 4 weeks, that I am ready to vote and put an end to all these cloture votes. I hope we will have enough votes on Wednesday, but I am not certain of it. I do thank the majority leader for his patience.

Mr. BAKER. I thank the Senator from Oregon and the Senator from North Carolina.

Mr. President, it would be my intention tomorrow, after we resume consideration of the unfinished business, to move to proceed to the consideration of the Hatch amendment which, of course, would have the effect of displacing the debt limit, but to return to the debt limit after perhaps a day of debate on the Hatch amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think the majority leader announced earlier there would be no more votes today.

Mr. BAKER. Mr. President, I had not announced that, but I will now announce that. There will be no more record votes tonight.

Mr. President, I have consulted with the principals involved and earlier today with the minority leader. For the remainder of this day, I ask unanimous consent that no tabling motion be in order to the bill or any amendment thereto.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. Before the Senator from Oregon proceeds, may we have order in the Chamber?

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think the time has come—I had hoped we might have had what the majority leader called a spirited debate, but I do not think we are going to have a spirited debate. So let me touch a bit on the subject of abortion itself, realizing that what we are actually debating and what we are rejecting cloture on is not so much the subject of abortion as to whether or not we should invoke cloture on the Helms amendment, which I contend is an effort to reverse the Supreme Court by legislation on a constitutional issue rather than a constitutional amendment. Be that as it may, I think it is appropriate to talk a bit about abortion and about the decision as to whether or not a woman should be able to make the choice for herself as to whether or not she wants to have an abortion. I emphasize "make the choice." Nobody is forcing her to have it. Neither should anyone prohibit her from having it.

Because of the efforts of the Moral Majority and others to paint this as a moral issue, and clearly they see it as the morality on the one side and those who favor a woman's right to choose as being on the other side, I should like to read a list of organizations who support a woman's right to choose whether or not she wants an abortion. To put it another way, they support the present Supreme Court decision on this subject, and the present Supreme Court decision is that a woman can make that choice if she wants. That is a constitutional right, and that right cannot be taken away properly without amending the Constitution. These are religious organizations which hold prochoice positions on abortion rights:

Religious Organizations Which Hold Pro-Choice Positions on Abortion Rights

American Baptist Churches, 1968 (reaffirmed 1981);

American Ethical Union, 1973 (reaffirmed 1977);

American Jewish Congress, 1972 (reaffirmed 1982);

American Humanist Association, 1972 (reaffirmed 1977);

B'Nai B'rith Women, 1970 (reaffirmed 1978);

Catholics for a Free Choice;

Christian Church (Disciples of Christ) 1975;

Episcopalian Church, 1967 (reaffirmed 1976, 1979);

Federation of Reconstructionist Congregations and Havurot, 1982;

Episcopal Urban Caucus, 1982;

Episcopal Women's Caucus, 1982;

Hawaii Council of Churches, 1981;

Lutheran Church in America, 1970 (reaffirmed 1978);

Massachusetts Council of Churches, 1976;

Moravian Church in America, Northern Province, 1970 (reaffirmed 1974);

Northern California Ecumenical Council and the Southern California Council of Churches, 1981;

National Council of Jewish Women, 1969 (reaffirmed 1979);

National Federation of Temple Sisterhoods, 1965 (reaffirmed 1975);
New York State Council of Churches, 1982;
Pennsylvania Council of Churches, 1980;
Presbyterian Church in the U.S., 1980;
Reconstructionist Rabbinical Association, 1981;
Union of American Hebrew Congregations, 1981;
North American Federation of Temple Youth, 1982;
Unitarian Universalist Association, 1977 (reaffirmed 1978);
United Church of Christ, 1981;
United Methodist Church, 1976 (reaffirmed 1980);
United Presbyterian Church, USA, 1970 (reaffirmed 1979);
United Synagogue of America, 1975;
Women's Caucus of the Church of the Brethen, 1982;
Women's League for Conservative Judaism, 1972 (reaffirmed 1974); and the
Young Women's Christian Association, 1973 (reaffirmed 1979).

Mr. President, there may be other religious organizations that have endorsed choice. I hesitate to mention them unless I am sure they are on that side. If by chance I have offended anyone by leaving out a religious organization that has adopted a resolution in favor of supporting the Supreme Court's decision on choice, I would like to have its name and I shall add it to the list. I would simply rather err on the side of caution in mentioning the names rather than on the undue side of carelessness and, by chance, wrongly naming an organization.

Next I would like to name medical associations which hold pro choice positions on abortion rights:

American Academy of Child Psychiatry, 1977;
American Academy of Pediatrics, 1977;
American College Health Association, 1982;
American College of Obstetricians & Gynecologists, 1974;
American College of Osteopathic Obstetricians & Gynecologists, 1982;
American Medical Association, 1981;
American Medical Students Association, 1982;
American Medical Women's Association, 1982;
American Protestant Hospital Association, 1977;
American Psychiatric Association, 1981;
American Public Health Association, 1979;
Association, of Planned Parenthood Physicians, 1981;
Group for the Advancement of Psychiatry, 1969;
National Family Planning and Reproductive Health Association, 1982;
National Medical Association, 1982;
National Student Nurses Association, 1982; and the
Physicians Forum, 1982.

Again, Mr. President, there may be other medical organizations that have endorsed a women's right to choose. If I do not know them, I would like to have their names to add to the list. I do know as far as medical organizations are concerned, the overwhelming bulk of those who have any position at all, including the American Medical Association, which is the dean of medical associations in this country, have taken a position on the side of the right of a woman to choose.

Mr. President, I should now like to read a list of other organizations. These are not medical, not religious, but they represent a great cross-section of American society that also supports a woman's right to make a choice as to whether or not she wishes to have an abortion:

American Association of University Women, 1982;
American Civil Liberties Union, 1973;
American Federation of Teachers, 1981;
American Home Economics Association, 1971;
American Psychoanalytic Association, 1970;
American Psychological Association, 1982;
American Veterans Committee, 1982;
Americans for Democratic Action, 1981;
Center for Population Options, 1981;
Center for Women Policy Studies, 1982;
Coalition of Labor Union Women, 1982;
Committee for Abortion Rights and Against Sterilization Abuse, 1981;
Committee To Defend Reproductive Rights of the Coalition for the Medical Rights of Women, 1982;
Community Service Society, 1974;
Federation of Organizations for Professional Women, 1981;
Federation of Protestant Welfare Agencies, Inc., 1976;
Friends of Family Planning, 1982;
International Ladies Garment Workers Union, 1980;
Mexican-American Women's Association, 1981;
Ms. Foundation for Women, Inc., 1981;
National Abortion Federation, 1982;
National Abortion Rights Action League, 1982;
National Association for the Advancement of Colored People, 1982;
National Association of Social Workers, 1975;
National Capital TAY-SACHS Foundation, 1982;
National Council of Family Relations, 1971;
National Education Association, 1982;
National Emergency Civil Liberties Committee, 1982;
National Organization for Women, Inc., 1982;
National Women's Health Network, 1978;
National Women's Political Caucus, 1982;
Newspaper Guild, 1981;
Planned Parenthood Federation of America, 1976;
Population Association of America, 1982;
Reproductive Rights National Network, 1982;
Sierra Club, 1969;
United States' Women's Health Coalition, 1982;
Voters for Choice, 1979;
Women Against Pornography, 1982;
Women & Health Roundtable, 1982;
Women's Equity Action League, 1981;
Women's International League for Peace and Freedom, 1981;
Women's Legal Defense Fund, 1982;
Women's National Democratic Club, 1980; and
Zero Population Growth, 1982.

Mr. President, if you count the religious, the medical, and the other organizations, it is an extraordinary array of a very valid cross section of American life. What it, indeed, proves is that this issue is one upon which Americans vehemently and strongly disagree, an issue that is a very private, personal one.

Let me emphasize that this is not a monetary issue in bulk. Whether or not a woman chooses to have an abortion is not a Federal expense. It is not going to make any difference to the President's budget. If the Helms amendment passes, it is not going to save any extraordinary amount of money. I personally think that the Federal Government under its medicaid program should be willing to fund abortions for poor women who cannot otherwise afford them. We fund most of their other medical costs because we say that they should not be without proper medical treatment, but we do not fund their abortions. That is a battle that has been fought in this Senate before and my side has lost.

What we are talking about now is a more fundamental issue. This is not, are we going to increase the President's budget by $1 billion or $500 million or are we going to save money. We are now going to the very heart of the situation, which is, are we going to reverse the Supreme Court on a constitutional matter, the right of a woman to make a choice as to whether or not she wants an abortion, to reverse it by a statute and impose upon everyone in this country, or at least attempt to impose upon them, a particular moral view with which the bulk of the country does not agree. I say attempt because we are all well aware that it will not work.

Prior to the Roe against Wade decision in 1973, abortion was illegal in most of the States of this country and yet illegal abortion was rampant. We tried a similar experiment with prohibition 60 years ago, an it did not work then either.

So when people talk about imposing morality on America, all they are simply saying is that if we have our way it will make our consciences feel better if we can change the Supreme Court's decision and tell a woman in America that if she has an abortion a stigma will attach to it that she has done something illegal and immoral. It will not change her mind to have it; we know that from our experience before abortion was legalized, but we will have imposed a morality, an attempted morality on this country that will not work.

The danger that I find in the approach of the Senator from North Carolina (Mr. HELMS) is the danger of attempting to reverse the Supreme Court with a statute. Tomorrow, apparently, we will debate the amendment of the Senator from Utah (Mr. HATCH). His is a constitutional amend-

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ment to reverse the Supreme Court decision on abortion. I do not agree with his amendment, but he has at least followed the process that our Founding Fathers intended when they drafted the Constitution. That process is that if you do not like a constitutional decision of the Supreme Court, you attempt to change it with a constitutional amendment. We have done it numerous times in the history of this country. We did it with the 11th amendment in which we prohibited a citizen of one State from suing another State. That constitutional amendment grew out of Chisholm against Georgia. Chisholm was a citizen of one State and sued the State of Georgia and the States did not like it. Congress proposed a constitutional amendment to prohibit it, and it was adopted.

We did it with the Civil War amendments, the 13th, 14th, and 15th amendments to overturn the Dred Scott decision. The Dred Scott decision was a U.S. Supreme Court decision in the mid-1850's that said blacks were not citizens. It did not matter that they were free blacks in Northern States. They still were not citizens. So those amendments overturned the Dred Scott decision and said that blacks were citizens.

It is interesting to note that we went the constitutional amendment route even when we were passionately involved in the Civil War. Despite Vietnam, despite any other activity of this country, the American Civil War remains in our history the single most divisive thing that ever happened in this country. At the height of northern victory and at the height of the hate and passion that that war engendered, Abraham Lincoln and Andrew Johnson did not attempt to amend the Constitution by statute. They clearly would have had the votes to do it; the South in essence had been purged of the Congress. Any statute would have passed overwhelmingly. But those men very carefully grasped the significance of what they would be doing and they went the proper route of the constitutional amendment.

We did it with the 16th amendment. The 16th amendment reversed a Supreme Court decision that said that the Congress could not levy an income tax. Congress had tried to. The Supreme Court found that it violated the Constitution as then written. There were discussions about the Court was wrong and the Court should not have ruled that way and we should try to reverse the Court by statute, but no one seriously tried it. Finally, the 16th amendment was sent out by the Congress for ratification and the States ratified it allowing the imposition of an income tax.

And, of course, we did it recently with the 26th amendment which was the 18-year-old vote in State elections. Congress had passed a law saying that 18-year-olds could vote in Federal and State elections. The U.S. Supreme Court held that while the Congress had the power to do that for Federal elections, it did not have the power to do it for State elections. So the 26th amendment was offered by the Congress and ratified by the States which said that 18-year-olds could vote in State as well as Federal elections.

That is the proper way to amend the Constitution, if you do not like a constitutional decision of the Supreme Court. Our founders did not intend the Constitution to be easily amended. The recent battle for the equal rights amendment truly proves how hard it is. Ten years of effort at ratification of the equal rights amendment and it was not ratified. It will one day, I hope, be ratified, but again those who wanted the equal rights amendment followed the avenue that our founders intended, which was a constitutional amendment.

In the amendment of the Senator from North Carolina (Mr. HELMS) there are a series of findings. The argument may be made that these findings are not binding on the Court, but indeed the Court has given deferance to findings of Congress in the past, much more so than the findings of State legislatures.

Time and again in cases, the Supreme Court—first the Federal district courts and then the Supreme Court—has said Congress has found such and such, and far be it from the Court to overturn the findings of fact of Congress, because the Supreme Court is not involved in factfinding. They are involved in reviewing decisions to see if they are constitutional. But they do not have witnesses. They do not have lawyers come in and cross-examine defendants and plaintiffs. They review a record that comes from a court below, and one of the things that can come from the court below is that Congress made the following findings of fact. One of the findings is that "scientific evidence demonstrates the life of each human being begins at conception."

I will read that again, because these three taken together are critical.

> Scientific evidence demonstrates the life of each human being begins at conception.

When we had hearings before the Senate Judiciary Committee on the so-called human life bill which Senator HELMS introduced, this particular point, that "scientific evidence demonstrates the life of each human being begins at conception," was debated extensively.

I will read one quotation from the National Academy of Sciences, which is probably our most prestigious scientific organization:

> It is the view of the National Academy of Sciences that the statement in Chapter 101, Section 1, of U.S. Senate Bill S158, 1981, cannot stand up to the scrutiny of science. This section reads "The Congress finds that present day scientific evidence indicates a significant likelihood that actual human life exists from conception." This statement purports to derive its conclusions from science, but it deals with a question to which science can provide no answer.

Indeed, life exists in all of us all the time. It is ongoing. But if by this sentence you mean that life and personhood exist from conception and that, from that moment on, if the Court were to accept that finding of fact, you can reverse a Supreme Court decision, that is exactly what is the intent of the Senator from North Carolina, because his two subsequent findings read as follows:

> The Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth; and
>
> The Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

The amendment of the Senator from North Carolina has many other findings, most of which are wrong in part—not in total, but in part—but those three are the critical ones.

It is said that the scientific evidence is that life begins at conception, which even the National Academy of Science has said is beyond the speculation of science; and with the two findings that the Supreme Court erred in the Supreme Court decision in Roe against Wade, it is hoped that, by putting those three together, a basis for a finding of fact will have been laid that by the simple passage of a bill, in this Congress, we will overturn a constitutional decision.

The reason why those on my side feel so passionately about this issue is not just the issue of abortion. It is not just the issue of abortion, because that issue has been clouded by the fact that the abortion amendment is attached to another amendment, and that amendment is equally pernicious in terms of the procedures it intends to invoke. It reads as follows:

> Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.

It goes on further to say that any of the inferior Federal courts cannot have jurisdiction of any case the Supreme Court cannot hear. That is a clear effort to overturn the constitutional decision of the Supreme Court on prayer, by simply taking away the jurisdiction of the Court. With 51 votes in this body and 218 in the House of Representatives, you do not have to go the route of getting two-thirds here and two-thirds in the House for a constitutional amendment and getting three-fourths of the States to ratify it. All you need is two-thirds of Congress being swept off its feet in a passionate moment, and you can take away anybody's rights by saying they cannot get into court.

My predecessor in this body, Wayne Morse, said time and time again, "Give me control of the procedures of democracy, and I will control the substance of democracy."

All you have to do is change the wording of that amendment very slightly. Instead of saying that the Supreme Court cannot review any decision involving school prayer, change it to read, "The Supreme Court cannot review any decision involving abridgement of freedom of speech or of the press or unlawful search and seizure."

How many times have all of us in this body had complaints about some of the actions of the Internal Revenue Service in swooping down upon a small business, demanding to see books, harassing the owner of the business, frightening the owner to death? Think how much that power can be magnified if you have no right to go to court to protest the searching of your premises or the seizing of your documents.

Or, picture a situation—and I can imagine this easily, in which we would be swept off our feet—a Lindberg kind of kidnaping, in which a suspect is caught. On the way to the police station, he says a few words to the police officers and then the trial comes. The defendant chooses not to take the stand. The statements to the police officers are admitted in evidence. The defendant is convicted and is sentenced to be executed.

The case goes to the U.S. Supreme Court. The Supreme Court overturns it, saying that the statements given to the police officers were illegally admitted and violated the defendant's rights against self-incrimination. The country is in an uproar, because the baby of a famous couple has been kidnaped and murdered, and the country wants vengeance on somebody. Retribution would make us feel better, and I understand that.

In that moment of passion, I could picture a Congress passing a law that says that henceforth, the Supreme Court cannot review any cases involving self-incrimination. Then there would be no limit to the protection of the traditional civil liberties of this country. We would have overturned 200 years of history—certainly, 180 years of constitutional history since Marbury against Madison in 1803.

What we will have said is that, henceforth, it will be Congress that will decide what the Constitution means, not the Supreme Court.

That is certainly a topic worthy of debate. I would hope that in rational discussion and rational debate this Congress would not come to that conclusion, but it should not be decided in the heat of passion over abortion or prayer.

If we are going to change what our founders intended, and they clearly knew what they were doing, our civil liberties, our Bill of Rights reads very much as the traditional civil liberties in England. Most of them came from England. Many of them word for word came from England. But all of the English protections are simply acts of Parliament, and they can be reversed by a majority at any time. It has been a strong sense of English tradition that they do not reverse them.

Our founders understood that, if we gave those civil liberties in this country no more protection than they had in England, if we simply made them statutes of Congress, any subsequent Congress could reverse them. If that is what they had intended, that is what they would have done. They were fully well aware of the process because that was the process in Great Britain, where there was nothing more than the protection of the Parliament. They went way beyond that. They took those liberties that English men and women had fought, bled, and died for, been imprisoned for and forfeited properties for, for over 500 years from Magna Carta to their Bill of Rights in 1789 and wrote them in our Constitution and said, "We are giving them a higher elevation than Britain. We are giving them a greater protection, and we are saying that those rights cannot be taken away by an act of Congress the way they can be taken away in Great Britain."

If we pass the amendment of the Senator from North Carolina we are reversing what the Founding Fathers intended without following the process that they intended.

I pray we will not come to that because if we do I fear it will be the day that we will see a declining light over protections that have made this country extraordinarily free, historically, traditionally the freest in the world. Many of the liberties, as far as they involve establishment of religion, the press, the right to assemble, are greater than those in Great Britain. If we decide that henceforth the Supreme Court may review only those things that Congress chooses, that is the day that we take those liberties out of the hands of those whom our founders intended to review them and put them in the hands of a transitory Congress easily subject to passion.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that when the quorum is called off I might again have the floor.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past 5:30 p.m. in which Senators may speak.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUPPLEMENTAL REPORT OF THE SPECIAL PROSECUTOR IN THE RAYMOND DONOVAN INVESTIGATION

Mr. **THURMOND**. Mr. President, I wish to inform my Senate colleagues that I have today received a copy of the "Supplemental Report of the Special Prosecutor" in the investigation of Secretary of Labor Raymond J. Donovan.

Special Prosecutor Leon Silverman has reported that he has investigated all additional allegations of wrongdoing by Mr. Donovan which surfaced since his first report and has concluded that there is insufficient credible evidence of any violation of the law by Secretary Donovan. In his letter of transmittal to the U.S. Court of Appeals for the District of Columbia, Mr. Silverman also pointed out that the source of 17 of the previously investigated allegations has since admitted having deliberately lied about all of his allegations and that a subsequent polygraph examination of the source confirmed that the source was now telling the truth in reporting the fabrication of all his previous allegations.

Mr. President, this supplemental report of the Special Prosecutor is further good news for Secretary of Labor Raymond Donovan. Its conclusion is the same as the earlier voluminous report by Prosecutor Silverman; that is, no credible evidence of wrongdoing. It is my hope that the filing of this additional report, in what has obviously been a very thorough investigation by the Special Prosecutor, will finally and definitively put an end to these accusations about Secretary Donovan.

Our Secretary of Labor is an able, knowledgeable leader whose integrity has been upheld in every respect by this lengthy, detailed investigation conducted pursuant to the Ethics in Government Act. I am pleased for him and his family that this burden has been lifted and express the hope that

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he will now be permitted to pursue the responsibilities of his important Cabinet post without any further harassment or distraction with respect to these baseless charges.

Mr. President, I ask unanimous consent to have printed in the RECORD following these remarks copies of Special Prosecutor Silverman's letter to me as Chairman of the Senate Judiciary Committee, his letter to Judges Robb, Lumbard, and Morgan of the D.C. Circuit Court of Appeals, and the introduction from his supplemental report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT SPECIAL PROSECUTOR,
New York, N.Y., September 13, 1982.

Hon. STROM THURMOND,
Chairman, Judiciary Committee of the U.S. Senate, Russell Senate Office Building, Washington, D.C.
(Attention of Duke Short).

DEAR SENATOR THURMOND: On September 11, 1982 I filed with the Division for the Purpose of Appointing Special Prosecutors of the United States Court of Appeals of the District of Columbia, a supplement to my report of the investigation of Secretary of Labor Raymond J. Donovan pursuant to 28 U.S.C. 595(b)(2). I have today submitted to the Speaker of the House of Representatives and the Vice President of the United States copies of the supplemental public report pursuant to Section 595(a) and the Order of the Court filed September 11, 1982. Since I know that you have a continuing interest in this matter, I am furnishing a copy of this supplemental public report to you as Chairman of the Judiciary Committee of the United States Senate.

Respectfully,

LEON SILVERMAN,
Special Prosecutor.

INTRODUCTION

Subsequent to the preparation of the four volume Report of the Special Prosecutor filed with the Court on June 26, 1982, a series of allegations concerning Secretary Donovan was received by the Special Prosecutor. Pursuant to decretal paragraph 3 of the December 29 Order, the Special Prosecutor investigated all of the allegations, some of which were in part duplicative of, or strongly resembled, allegations set forth in the Report. In each instance, the Special Prosecutor concluded that there was insufficient credible evidence to support a prosecution of Secretary Donovan for any of the alleged wrongdoing or for his statements concerning such allegations. The allegations and the attendant investigation are described in this Supplemental Report.

U.S. GOVERNMENT SPECIAL PROSECUTOR,
New York, N.Y., September 11, 1982.

Hon. ROGER ROBB,
Senior Circuit Court Judge, U.S. Court of Appeals for the District of Columbia, U.S. Courthouse, Washington, D.C.

Hon. J. EDWARD LUMBARD,
Senior Circuit Court Judge, U.S. Court of Appeals for the Second Circuit, New York, N.Y.

Hon. LEWIS R. MORGAN,
Senior Circuit Court Judge, U.S. Court of Appeals for the Eleventh Circuit, Newman, Ga.

DEAR JUDGES ROBB, LUMBARD, AND MORGAN: Your Honors will recall that when my report was filed with the Court on June 26, 1982, I informed the Court that I believed it timely to give the notification to the Attorney General provided for in 28 U.S.C. 596(b)(1) thereby terminating the Office of Special Prosecutor. It was suggested that I should delay notification to the Attorney General until all of the administrative details associated with the winding up of my office had been completed which it was anticipated would take between three and four weeks.

During the winding up period I received additional allegations which, I believe, required me to reopen the investigation under the mandate contained in the Court's Order dated December 29, 1981. I informed the Court of that decision and immediately began this additional investigation.

I submit herewith a report of the investigation which, together with my report filed on June 26, 1982, will constitute my final report under 28 U.S.C. 595(b) (1) and (2). I shall, on Monday, September 13, 1982, submit to the Attorney General my notification pursuant to 28 U.S.C. 596(b)(1) that the investigation of all matters within my prosecutorial jurisdiction has been completed and that I have filed a report with the Court in full compliance with 28 U.S.C. 595(b). The office which I have occupied since December 29, 1981, will thereupon be terminated.

The Court will be aware that in connection with the murder of Nathan Masselli I requested the Federal Bureau of Investigation to conduct a full investigation into any possible federal criminal offense arising out of the murder. To date there has been developed no evidence of any relationship between Secretary Donovan and the murder of Nathan Masselli. I have therefore directed the FBI to report the results of this ongoing investigation to the Attorney General. If any evidence is subsequently developed indicating such a relationship and if the Attorney General shall apply to the Court for the appointment of a Special Prosecutor pursuant to 28 U.S.C. 592, and if the Court requests that I resume the Office of Special Prosecutor under those circumstances, I will be willing to accept such an appointment.

The Court should also be aware that, after my report was filed on June 26, the source of seventeen (17) of the allegations that I previously had investigated was interviewed and submitted to a polygraph examination. In the interview, the source admitted having deliberately lied about all of the allegations and stated that none of them was true. During the polygraph examination, the source stated that the source had deliberately fabricated the allegations and was now telling the truth in stating that the allegations had all been lies. In the opinion of the polygraph examiner, the source was truthful in so stating.

I cannot end my services without expressing to the Court my gratitude for the signal honor which you conferred on me by appointing me Special Prosecutor with respect to the matter concerning Secretary of Labor Raymond J. Donovan. This post was one of the most interesting and challenging experiences that I have had in the practice of law. I have learned much. It is given to few lawyers to perform public service in the way that has been permitted me and I am grateful for the opportunity.

Sincerely,

LEON SILVERMAN,
Special Prosecutor.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I hope shortly to be able to take care of certain closing details.

There is one matter that I believe can be passed by unanimous consent on our Calendar of General Orders for tonight, and I would especially like to deal with it, if possible.

Is the minority leader in position to consider Calendar Order 780, H.R. 3835, a bill for the relief of Rutherford K. Clarke and Ida T. Clarke?

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding to its consideration.

Mr. BAKER. I thank the Senator.

RELIEF OF RUTHERFORD K. CLARKE AND IDA T. CLARKE

The bill (H.R. 3835) for the relief of Rutherford K. Clarke and his wife Ida T. Clarke, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 10:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR CHILES

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order there are special orders for the recognition of Senators THURMOND and SPECTER. I ask unanimous consent that the Senator from Florida (Mr. CHILES) be recognized on special order to follow after the distinguished President pro tempore, the Senator from South Carolina (Mr. THURMOND) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders and the execution of the special orders, there be a period for the transaction of routine morning business to extend not past 11:30 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Mr. President, the minority leader and I have consulted and, as is usually the case on Tuesday, Senators on both sides of the aisle will be involved in caucuses off the Senate floor at midday.

Therefore, I ask unanimous consent that the Senate stand in recess tomorrow between the hours of 12 noon and 2 p.m.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR CLOTURE VOTE ON HELMS AMENDMENT NO. 2038 AT 5 P.M. ON WEDNESDAY, SEPTEMBER 15

Mr. BAKER. Mr. President, I indicated earlier that I hoped to establish a time certain to vote under rule XXII. Let me propound a unanimous-consent request now which, I believe, has been cleared by the minority leader, and I will state it for his consideration and for the consideration of other Senators.

I ask unanimous consent that notwithstanding rule XXII of the Standing Rules of the Senate, the rollcall vote occur on the cloture motion on the Helms amendment No. 2038 (to Helms modified amendment No. 2031) to the debt limit bill at 5 p.m. on Wednesday, September 15, and that the automatic quorum under rule XXII be waived.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the minority leader.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, after the expiration of the time just provided for the transaction of routine morning business, it is anticipated that the Senate will be asked to proceed to the consideration of Senate Joint Resolution 110, the Hatch amendment dealing with abortion, and that the Senate will debate that measure tomorrow and perhaps part of the day on Wednesday. A cloture vote will occur on the Helms amendment No. 2038 on Wednesday at 5 p.m., and the automatic quorum call will be waived.

Now, Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. HAYAKAWA). Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I have no further business to transact, and I see no Senator seeking recognition. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 a.m., tomorrow.

The motion was agreed to; and at 5:25 p.m., the Senate recessed until Tuesday, September 14, 1982, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 13, 1982:

DEPARTMENT OF STATE

Robert Bigger Oakley, of Louisiana, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Richard V. Backley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988, reappointment, to which position he was appointed during the last recess of the Senate.

NATIONAL SCIENCE FOUNDATION

The following-named persons to be Members of the National Science Board, National Science Foundation, for terms expiring May 10, 1988:

Charles E. Hess, of California, vice William F. Hueg, Jr., term expired.

John H. Moore, of California, vice Raymond L. Bisphlinghoff, term expired.

Norman C. Rasmussen, of Massachusetts, vice Alexander Rich, term expired.

Roland W. Schmitt, of New York, vice Lloyd Miller Cooke, term expired.

FOREIGN SERVICE

The following-named persons in the Department of State for appointment as Career Members of the Senior Foreign Service to the classes stated, and also for any other appointments indicated:

For appointment as Career Members of the Senior Foreign Service, class of Minister-Counselor, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Michael Hayden Armacost, of Maryland.
Reginald Bartholomew, of Virginia.
Charles E. Brodine, M.D., of Maryland.
Lawrence E. Finch, of Virginia.
John C. Fry, of Maryland.
Jerome H. Kahan, of Virginia.
Francis J. Seidner, of the District of Columbia.

For appointment as a Career Member of the Senior Foreign Service of the United States of America, class of Counselor:

Frank A. Sieverts, of Wisconsin.

For appointment as Career Members of the Senior Foreign Service, class of Counselor, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

John A. Burroughs, Jr., of Maryland.
Morris Dempson Busby, of Virginia.
Bruce Wormley Clark, of Iowa.
Paul F. Eggertsen, M.D., of Washington.
Anthony M. Kern, of Maryland.
Roy T. Pearson, M.D., of Washington.
Elmore Francis Rigamer, M.D., of Louisiana.
Gerald Sylvin Rose, of California.
George F. Sherman, Jr., of Maryland.

The following-named persons for appointment in the Foreign Service as Foreign Service Officers or Foreign Service Information Officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as a Foreign Service Information Officer of class 1, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

James T. L. Dandridge II, of Alabama.

For appointment as Foreign Service Officers of class 3, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Marietta N. Barbier, of Maryland.
Lincoln Benedicto, of Florida.
Barbara Jean Bowie, of New York.
Jean Davis Bradford, of Texas.
Kathleen M. Cayer, of Massachusetts.
John Daniel Fernandez, of California.
Walter Greenfield, of the District of Columbia.
Leonard J. Lange, of Maryland.
Maria Luisa Otero, of Puerto Rico.
Celio Francisco Sandate, of Kansas.
Maria Alexandra G. Sundquist, of New York.
Nancy G. Vancon, of Virginia.

For appointment as a Foreign Service Information Officer of class 3, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America:

Morris E. Jacobs, of Colorado.

For appointment as Foreign Service Officers of class 4, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Naim Ahmed, of Maryland.
Edward M. Alford, of Virginia.
James Joseph Barnes, of Alabama.
Elizabeth Barnett, of Connecticut.
John K. Bauman, of Virginia.
Scott D. Bellard, of Indiana.
Shelley Elise Berlin, of Georgia.
Donald Edgar Braum, of California.
Linda M. Brown, of Pennsylvania.
Marvin S. Brown, of Georgia.
Peter C. Bruce, of the District of Columbia.
Jay L. Bruns III, of Colorado.
Cynthia R. Bunton, of Illinois.
Jill Farrelly Byrnes, of California.
Dennis Franklin Carter, of Pennsylvania.
Guyle E. Cavin, of Texas.
Judy W. Cohen, of Florida.
Donald J. Cooke, of Ohio.
Philip Stanhope Sheffield Covington, of Nevada.
William Holmer Crane, Jr., of Flordia.
Clark H. Crook-Castan, of New Hampshire.
Frances R. Culpepper, of Virginia.
David S. DeCrane, of Virginia.
Kenneth James Dillon, of Virginia.
Robert Emmett Downey, of New Jersey.
Kenneth Alan Duncan, of Connecticut.
William A. Eaton, of Virginia.
Mark T. Fitzpatrick, of Virginia.
Michael Paul Fleischer, of New York.
Zandra I. Flemister, of Connecticut.
Robert C. Friel, of Pennsylvania.
Laura K. Greulich, of California.
Ronald Allan Harms, of California.
James Thomas Heg, of Washington.
Colin S. Helmer, of Virginia.
Douglas C. Hengel, of New York.
John E. Herbst, of New York.
Leslie Robert Hickman, of New York.
William Holway Hill II, of Virginia.

BEST COPY AVAILABLE

Emily Hodges, of California.
J. Anthony Holmes, of California.
Eric Kurt James, of California.
Cassius Clay Johnson, of California.
Richard Garon Johnson, of Connecticut.
Alan Robert Kellogg, of Hawaii.
Alexander T. Kirkpatrick, of Michigan.
Thomas Charles Krajeski, of Massachusetts.
Alan Bryan Cedrick Latimer, of Georgia.
Steven Mark Lauterbach, of Ohio.
Jerry W. Leach, of Virginia.
Richard Burdette LeBaron, of Virginia.
Elliot R. Lief, of Florida.
Patricia L. McArdle-Pendrick, of California.
C. Steven McGann, of New York.
William J. McGlynn, Jr., of Virginia.
Michael Andrew Meigs, of Texas.
Louis Steven Menyhert, of Texas.
Joseph J. Merante, of New York.
Lawrence S. Mondschein, of Connecticut.
Olga Murphy, of Texas.
Alan David Oslick, of Pennsylvania.
James A. Paige, of Ohio.
Sarah See Pitts, of California.
Jon R. Purnell, of New Hampshire.
Evans Joseph Robert Revere, of Virginia.
John Robert Riddle, of Texas.
David M. Shapiro, of Florida.
Charles Bronson Skinner, of Florida.
Sandra Ruth Smith, of Missouri.
Carolyn Smith Spillane, of Texas.
Gregory Brian Sprow, of Virginia.
J. Bradley Swanson, of Connecticut.
Ann Sanborn Syrett, of Washington.
Teddy B. Taylor, of Florida.
David J. Thacher, of California.
Bruce Edwin Thomas, of California.
Mary Jane Thomas, of South Dakota.
Eugene P. Tuttle, of New York.
Steven J. Valdez, of California.
Frederick John Vogel, of Maryland.
Stephen Gerald Wesche, of Oregon.
Royal Michael Wharton, of New York.
James L. Williams, of Maryland.
Langdon Phillips Williams, Jr., of New York.
Nicholas M. Williams, of New York.
Stephen Bryan Williams, of Arkansas.
James G. Williard, of Florida.
Ross Lee Wilson, of Minnesota.
Thomas Stephen Windmuller, of New York.

The following-named Members of the Foreign Service of the Departments of State and Commerce to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Donald D. Arabian, of Virginia.
Abelardo A. Arias, of the District of Columbia.
Timothy A. Arnts, of Virginia.
George W. Baker, of Virginia.
Brant G. Bassett, of Virginia.
Eric D. Benjaminson, of Virginia.
John D. Bennett, of Massachusetts.
Kathleen K. Benson, of Virginia.
Desiree Camille Blackwell, of the District of Columbia.
Franz W. Boenig, of Virginia.
Rudolph Frederick Boone, of Maryland.
William G. Bosch, of Virginia.
Donald E. Bowman, of the District of Columbia.
Miriam P. Bratton, of Virginia.
David D. Campbell, of Virginia.
Marc Daly Carlisle, of North Dakota.
Robert D. Culver, of Virginia.
Linda Derparseghian, of Virginia.
Thomas F. Farr, of Georgia.
Karen B. Foley, of Maryland.
Gary Dale Garcia, of Pennsylvania.
James G. Gillespie, of Virginia.
David A. Gutschmit, of the District of Columbia.
Bradford E. Hanson, of California.
Wayne F. Haynes, of Virginia.
Michael D. Hebert, of Virginia.
Carolyn Huggins, of Florida.
Elizabeth A. Jervis, of Virginia.
Nancy E. Johnson, of the District of Columbia.
Rodney J. Johnson, of the District of Columbia.
Edward S. Jones, of Maryland.
Christopher Kauth, of Wisconsin.
David J. Keegan, of Florida.
Thomas P. Keogh, of Virginia.
Katharine Elsue Koch, of Ohio.
Robert E. Kragie, Jr., of Virginia.
Janet L. Lasko, of Ohio.
David Lonnquest, of Virginia.
William J. Lynch, of Virginia.
Michael P. Macary, of Virginia.
John L. Mack, of Texas.
Gerald M. Marks, of Illinois.
Robert Barry Murphy, of New Hampshire.
Atim Eneida Ogunba, of New Jersey.
Richard Gustave Olson, Jr., of Minnesota.
Rosemary D. O'Neill, of Massachusetts.
Edmee Hawkes Pastore, of California.
Michael S. Paulson, Jr., of Virginia.
Kenneth John Pitterle, of Pennsylvania.
C. Paul Plumb, Jr., of Virginia.
Charles Aaron Ray, of Texas.
Theorphilus James Rose, of Florida.
Carol S. Ross, of Maryland.
Carol L. Rudman, of New Hampshire.
John M. Salazar, of New Mexico.
Richard E. Santos, of Virginia.
David Bruce Shear, of New York.
Ernest M. Troth, of Virginia.
Jay D. Wakamatsu, of Virginia.
Michael F. Walker, of Virginia.
Mary Ellen Waller, of New Jersey.
Paul G. Wickberg, of Oklahoma.
Terrence L. Williams, of Virginia.
Robert Cantrell Wood, of South Carolina.
Teresa C. Wyman, of Ohio.
Joseph Dean Yap, of Tennessee.
Thomas Michael Young, of Virginia.

Consular Officers of the United States of America:

William E. Belk, of Washington.
Jeanette Porpora, of New York.

Secretaries in the Diplomatic Service of the United States of America:

John Phillips Boright, of Maryland.
Michael P. W. Stone, of California.
E. William Tatge, of Maryland.

In the Army

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code:

ARMY

To be lieutenant colonel

Rollison, Rembert G., 252-64-4459
Spencer, James W., Jr., 191-32-2916
Thompson, Richard E., 503-48-5504
Wilder, Thomas F., 048-32-2620
Wirts, David W., 387-42-8621
Wright, Lucius, 214-38-2502

DENTAL CORPS

To be major

Adrian, Elise C., 062-46-1437
Adrian, Eric D., 048-48-3080
Alling, Rocklin D., 231-70-6946
Asher, Marshall L., 456-80-4537
Beaty, John C., 217-40-5431
Bloodworth, Kenneth E., 452-86-3229
Burke, Mary H., 486-60-0889
Creamer, Timothy J., 080-38-8386
Davis, Lawrence H., 510-56-4287
Decastro, Edward M., 128-38-7761
Dornsife, Roy F., II, 161-38-9571
Fletcher, Edward E., 491-52-0126
Fondak, Jeffrey T., 131-42-4110
Frazier, John M., 185-40-2545
Glaser, Carl G., 142-48-4843
Graugnard, Gary F., 436-72-7565
Greene, Henry A., 414-78-9108
Haley, William B., II, 400-66-5218
Hollmann, Albert H., 413-96-9742
Johnson, William C., 412-78-6112
Jones, Herschel L., 430-96-7240
Koditek, Edward A., 557-76-8851
Lee, Stephen R., 519-56-7426
Marquez, Ramon, 580-86-8464
Marshall, Daniel W., 585-05-9309
McCann, John T., 263-86-3698
McGary, Larry T., 439-90-4629
McGuire, James R., 469-62-5985
Netti, Charles A., 526-72-8539
Oliver, John F., 454-76-0779
Pfau, Thomas J., 213-46-8022
Pollard, Bryan K., 442-48-5328
Raymond, John W., Jr., 223-60-3086
Read, James D., 414-84-4345
Rose, William F., Jr., 403-66-1440
Sather, David A., 472-60-5222
Schwartz, Jerry M., 449-80-2606
Seymour, Henry C., 266-80-6531
Shapter, David E., 028-40-3573
Smart, Stephen C., 432-02-9865
Souweine, Leon E., 018-36-5921
Taylor, Philip E., 446-46-3854
Tyler, David C., 118-40-3423
Watts, Wayland M., III, 127-38-0647
Wolff, Gerald K., 101-40-1361
Woodson, James D., 260-84-9858

MEDICAL CORPS

To be major

Abbasi, Rafat A., 212-88-0386
Ajemian, Peter J., 155-38-1237
Alley, Robert J., 528-78-3012
Arrott, James W., 022-42-0242
Ashok, Viswanath K., 413-19-7364
Baker, Thomas M., 325-46-9138
Bartell, Silas A., 414-60-2183
Barton, Theodore D., 491-56-1930
Behrmann, Randall D., 519-54-6144
Belfer, Mark H., 363-56-4955
Belmont, Judson R., 045-38-6838
Bendelstein, Harold L., 142-46-5006
Bermudez, Lillian E., 583-42-5249
Bernhard, Karl A., 070-36-5220
Berry, Michael A., 228-66-8355
Besch, George A., 148-38-6212
Blair, Philip W., Jr., 265-92-7612
Blankenship, Joe G., 228-60-2818
Bosse, David A., 456-86-2846
Boyle, Daniel J., II, 574-18-0597
Brawner, John C., 223-70-1998
Brooke, Paul C., 516-58-1202
Brooks, Albert D., 164-44-0661
Brown, Deborah S., 454-96-2125
Brown, Roy C., 454-82-3251
Browne, Doris A., 426-82-8300
Bruce, Charlotte A., 585-70-9266
Burgardt, Ann J., 398-34-5521
Burnham, Clyde M., 546-50-0045
Byars, William D., 248-92-4514
Cain, Albert D., 249-84-0380
Cain, James R., 248-94-6575
Candelariotorres, Edwin, 584-40-6923
Carey, William G., 114-40-7763
Carpenter, Kenn, 145-46-0563
Castro, Candice L., 265-08-7220
Causton, Ronald B., 136-38-3953
Cervantes, Aida G., 567-90-0260
Chamberlin, William M., 224-62-0015
Charles, Glenwood A., 580-09-6938
Chavala, Sudarsan, 045-66-5451

Cherewaty, Stephen N., 135-44-7964
Cheshier, James L., 429-92-8641
Cohen, Melvin L., 465-78-5197
Cole, Richard D., 333-42-8524
Combs, Diane L., 536-54-1829
Cornish, Juanita S., 205-36-1497
Coronado, Tomas, 459-78-6351
Covarrubias, Elba C., 583-50-8085
Covarrubias, Gonzalo A., 570-80-2383
Craven, Catherine M., 556-86-1071
Crooks, Lida A., 585-26-5691
Dacs, James D., 364-58-9253
Dai, Joseph M., 147-38-0030
Dalton, Randall, 268-50-7171
Darby, Dewayne P., 409-92-0565
Dean, Bruce L., 314-56-9513
Deeken, Michael G., 391-58-6621
Desocarras, William G., 449-90-6600
Detlefs, Richard L., 147-44-6286
Dharmapal, Nirmala, 300-66-3524
Diez, Felipe, 202-42-2557
Dodd, Jack E., 094-38-2179
Dolen, William K., 412-92-5869
Doyne, Holly L., 473-60-6349
Dreher, Gerald F., 060-44-7123
Dsilva, Nancy, 578-88-4587
Duncan, Stephen F., 308-52-9066
Eaton, James M., 428-94-2543
Ehrhart, Robert H., 018-36-5308
Elias, George D., 280-30-1663
Ellison, Thomas W., 411-88-0726
Erickson, Jon A., 542-64-5717
Evans, Paul, 026-38-6333
Evans, Winston C., 236-74-8308
Ewald, Frank W., Jr., 228-62-4528
Farrell, Joseph, 582-94-5440
Ferrari, Albert, 068-44-4039
Fitchett, Rose, 211-30-8355
Flannery, Frank T., 142-40-1906
Fontelo, Paulito A., 577-94-9417
Fortson, James K., 264-74-2594
Fredericks, Peter 461-90-6025
Friedman, E. G., 211-34-8500
Friedman, Michael L., 179-34-9068
Fritz, Arthur L., 239-90-0525
Galindo, Benedicto R., 575-50-6839
Galland, Thomas J., 435-76-8398
Gaudier, Frank A., Jr., 582-86-3534
Gilman, James K., 309-50-8308
Glasow, Patrick F., 285-48-8392
Gleitsmann, Kenneth Y., 557-72-6161
Goldman, Donald I., 106-38-1572
Gonzales, Ricardo O., 585-16-5822
Gonzalez, Roberto 584-40-0452
Gonzalez, Umpierre G., 584-34-7211
Goodrich, Jacob A., 254-90-4044
Gordon, Calvin O., 553-66-6237
Gossman, Melvin D., 172-36-3330
Graves, Walter G., 120-44-3210
Green, Carl A., 422-68-9260
Greenfield, Gerald Q., Jr., 212-60-1653
Grewal, Bahl R., 138-64-2506
Griffin, Eugene R., III, 248-88-6962
Grillo, Joseph 127-40-4962
Grossman, Joseph 066-40-8404
Hanney, Dennis E., 085-42-7967
Hansard, James B., 454-68-9948
Hanson, Clement J., 515-50-2670
Hardy, James T., 179-34-3581
Harlan, Delores E., 360-34-4985
Harte, Edward E., 562-90-1102
Hartman, Lawrence P., 260-86-8638
Hasbargen, James A., 322-46-2340
Hayami, Marvin Y., 538-54-3455
Heller, Joe W., 452-66-3198
Hendrix, Clarence, 399-50-1792
Hendrix, Rose M., 542-64-3298
Henriquez, Luis F., 125-38-6981
Herrington, Chauncey E., 255-72-0443
Hinkle, John C., 450-84-8673
Hinton, James H., 190-42-7224
Hoffman, Kristen E., 508-72-1340
Hollis, Vincent W., 578-66-1786
Holmes, Mark D., 297-52-9411
Hopper, Kenneth D., 458-70-4427
Horwith, Gary S., 111-36-3096
Howell, Robert M., 505-62-6819
Hurst, Daniel L., 278-46-6304
Hurwitz, Michael A., 215-58-4162
Jennings, William C., 430-90-7293
Johnson, Daniel R., 574-20-4083
Johnson, Donald R., 427-90-4882
Johnston, Jon J., 207-38-2821
Jolley, Stephen G., 529-78-0138
Jones, Bruce H., 510-50-8586
Jones, Delbert E., 469-58-7553
Jones, Gary W., 228-56-8565
Jones, Gregory L., 239-78-3884
Kadakia, Shailesch C., 312-76-7719
Karwacki, Jerome J., Jr., 217-52-7422
Kasper, John S., 195-38-8271
Kerr, William B., 180-36-8199
Kim, Jason Y., 382-70-0580
Kim, Sok M., 439-25-0589
King, James W., Jr., 436-78-5956
Kinsey, Jeanette C., 032-56-8750
Kirtley, Thomas L., Jr., 226-66-4756
Klingler, Richard L., 576-48-7221
Kode, Shaila B., 534-70-9209
Kopp, Daniel L., 497-52-7827
Kulangara, Raju J., 356-58-6011
Kulungowski, Michael A., 499-50-6484
Kumar, Shashi, 523-90-5021
Kyle, Walter L., 431-92-6249
Lagrone, Michael O., 458-84-6901
Lands, Ronald H., 411-78-0355
Latorre, Agustin J., 262-78-6601
Lee, Hyung B., 147-60-3387
Liberatore, Benjamin, 060-38-5834
Linder, Michael M., 408-92-0615
Little, James P., 385-54-0362
Long, William F., 455-80-9132
Longbotham, Jacqueline H., 585-32-8483
Lower, Thomas J., 481-56-9001
Luketic, Davor A., 419-70-4056
Maldonado, Antonio M., 583-38-7467
Manuat, Daniel A., Jr., 339-56-7891
Mariano, Cornelio D., Jr., 552-92-1398
Marion, Malcolm L., II, 248-92-7293
Martin, James W., 349-40-7194
Martinezdelacruz, Francisco, 081-44-9796
Masi, Jose D., 219-84-3403
Mathews, Thomas G., 521-68-7526
Matthew, William M., 499-58-3548
McCubbin, Michael M., 479-66-2185
McFall, Danny W., 412-86-5339
McKee, Kelly T., Jr., 251-92-2544
McMahon, Matthew J., 484-68-1957
McMullen, Robert C., 569-58-5195
McQueen, Charles E., 328-42-8819
Mendoza, Carlos A., 482-62-8207
Mitchell, William A., 090-42-1358
Monson, Antonio P., 498-72-7302
Moreno, Albert J., 466-80-8623
Morrison, Jimmie D., 456-78-6186
Naill, William E., Jr., 221-32-4180
Neasman, Farley B., 261-96-0233
Neff, Stephen H., 006-50-0806
Newhouse, Paul A., 303-60-8924
Nguyen, Tu H., 576-94-7356
Nieves, Nestor L., 584-50-7395
Nolan, Brian T., 340-40-1109
O'Donnell, Philip J., 230-56-8951
Page, Benjamin W., 240-78-9454
Patterson, Joseph W., 585-14-7109
Patterson, Ophelia C., 229-56-3377
Pavlovic, Tatjana K., 334-60-6143
Pearson, Earl S., 562-72-7592
Perry, Donald X., 022-38-6005
Peters, Robert H., III, 172-40-4263
Petras, Adam F., Jr., 185-42-9927
Piacentile, Anthony R., 099-36-0585
Pickett, Wallace J., III, 419-64-1098
Pittman, Phillip R., 427-98-4315
Plunkett, Jim B., 454-90-0356
Purdon, Alfred, Jr., 267-02-3080
Rabinowitz, Paul S., 095-44-3858
Rafiq, Rehana M., 380-74-9431
Rajashekhar, Sumithra, 200-48-0366
Riggs, Gary H., 246-80-9674
Roebuck, Richard R., 297-42-4394
Rosado, Ofelio, 580-74-8216
Ross, Bertrand A., 461-96-1739
Ryan, John F., 122-42-5200
Sado, Anthony S., 036-32-5567
Saito, Gary E., 518-56-5990
Saylor, Robert P., 483-66-1477
Schapman, Steven J., 483-62-1718
Schleve, Milton J., 503-50-6274
Schmidt, Chris W., 482-66-0315
Shaw, Timothy A., 442-48-2519
Shmuklarsky, Moshe J., 072-40-3071
Sihelnik, Stephen A., 413-92-7690
Smith, Arthur L., 447-54-9594
Smith, Buddy D., 512-54-6362
Snyder, James A., Jr., 505-66-4956
Sopocko, Mary K., 356-34-4800
Stalcup, William J., II, 440-50-6938
Steckel, Frederick A., 199-36-7311
Stein, Theodore D., 119-26-9753
Steinweg, Donald L., 191-42-3490
Sukumar, Venkataraman, 577-92-8476
Tak, Mahinder K., 220-78-6373
Talbot, Shelagh K., 166-40-5808
Taormina, Marc K., 497-60-4496
Tarabishy, Ramsey, 552-02-7260
Taylor, Wallace E., Jr., 454-86-4639
Tell, Daniel T., 174-42-7478
Ting, Beatrice T., 556-33-7738
Tran, Duc V., 586-34-8313
Troy, Leo J., Jr., 036-32-1555
Turner, Gregory W., 440-48-8652
Vincent, Gordon F., 263-86-2544
Visser, Philip A., 500-52-9915
Wagstaff, Bettie B., 399-50-1370
Walker, James S., 443-54-8603
Webb, Robert H., Jr., 225-62-4822
Webb, Timothy J., 452-78-7100
Weeks, Jeffrey B., 505-62-4841
Welch, Kerry D., 528-78-7746
Westrom, Dale R., 551-74-7329
Wheeler, James. H., III, 391-52-2895
Willham, Bruce E., 316-60-0922
Witte, Michael C., 482-68-0638
Wogan, Terrence L., 159-40-5482
Wolf, Stephen J., 274-54-4487
Woodward, Joan E., 408-88-5841
Wright, John P., 466-78-9478
Yang, Jin W., 108-58-4030
Yowler, Charles J., 279-50-9354
Ysla, Roy G., 324-34-2609
Zervas, Jeffrey P., 475-52-9368

In the Army

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code:

ARMY

To be lieutenant colonel

Aaron, Larry D., 265-66-8520
Abbott, Danny L., 555-62-1800
Abdalla, Steven J., 217-46-8705
Abraham, Robert E., 508-52-0976
Ackerman, Michael W., 267-88-6573
Adair, Lawrence J., 223-60-6714
Adame, Alberto A., 458-56-7873
Adams, Ben P., 413-72-4602
Adams, Jerome, 218-42-8790
Adams, Robert H., Jr., 417-58-5092
Adams, Robert L., 290-32-7118
Addonizio, Anthony, 084-36-8595
Adkins, Richard C., 075-38-0235
Adkins, Terrence L., 544-52-9347
Akins, William P., 574-14-6748
Albright, Carl W., 405-54-3842
Alexander, Maurice R., 308-48-2462
Alexander, William W., 224-62-8478
Alich, James A., 559-62-8594
Allen, James B., 227-60-8832

Allen, Norman R., 367-50-7554
Allen, William L., 334-38-4016
Alley, John E., 545-62-2904
Allred, Kenneth L., 418-56-1577
Alton, John F., 215-40-5928
Alton, Ronnie D., 565-64-0967
Alvord, Harold F., 046-34-5597
Ament, Robert J., 383-42-4418
Ammendolia, Anthony J., 549-64-2902
Anderson, Andrew K., 449-64-6100
Anderson, Charles V., 087-34-0727
Anderson, Frank H., III, 424-52-2308
Anderson, Jerry F., 451-62-2707
Anderson, John C., 226-56-9509
Anderson, Michael L., 570-68-2025
Anderson, Robert C., 493-44-7973
Anderson, Roger E., 504-50-5270
Anderson, Thomas W., 257-74-2406
Anderson, Tully J., 348-42-4139
Andrews, Norman J., 245-70-3322
Andrews, Teddy G., 228-52-9779
Andrighetti, John 315-48-0519
Anes, Richard M., 585-12-9050
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Yim, Gordon T., 575-44-8868
Yocom, Michael L., 585-26-8554
York, Joseph O., 486-46-4430
Young, Anna M., 535-40-1746
Young, Earl W., Jr., 430-82-6987
Young, John R., Jr., 575-48-8807
Young, Nathaniel L., Jr., 429-84-2806
Young, Randy J., 568-64-4850
Young, Robert B., 075-36-9271
Young, Stanley R., Jr., 029-34-3574
Young, Thomas F., 233-68-7837
Young, Thurlow D., 519-50-1222
Zahrndt, Dennis L., 206-34-1181
Zak, Michael I., 089-36-5000
Zakszeski, Charles E., 151-34-1585
Zapata, Jenaro A., 461-66-9438
Zawilski, Robert W., 211-38-3186
Zeigler, George H., Jr., 248-72-5898
Zeller, Joseph L., Jr., 493-52-7364
Zepko, John J., 118-34-6322
Zgutowicz, Henry G., 102-36-7437
Zupancic, David P., 299-34-7671

CHAPLAIN CORPS

To be lieutenant colonel

Adams, Charles V., 494-46-6414
Alexander, Kenneth L., 466-46-5667
Allison, Donald E., 413-52-6916
Anderson, Bruce D., 110-20-2555
Anderson, Garry B., 472-38-7138
Bateman, William F., 411-54-2426
Benonis, Richard R., 178-24-7056
Berbiglia, James C., 457-52-4305
Bigsby, Jon R., 387-38-3720
Butler, Ignatius W., 114-14-4049
Cassibry, Phillip J., 418-46-0884
Cheyne, William B., 483-38-2285
Corbett, Clarence L., Jr., 246-46-9885
Dean, Jasper J., 420-38-1450
Doggett, Donald B., 412-56-9953
Donahue, Daniel J., 028-24-8993
Donovan, Richard N., 509-34-4271
Freeman, Eumid N., 552-40-2326
Gariepy, Robert E., 020-22-7185
Giles, David A., 474-30-0790
Gilly, Kenneth J., 427-52-7159
Grace, James N., 326-28-1506
Groen, Douglas J., 480-56-0307
Guesnier, Rene, 512-28-0742
Hicks, Herbert H., 466-60-9217
Holley, Richard H., 176-32-4724
Iskowitz, Joel J., 109-32-7794
Kasteel, Frans R., 112-28-3049
Litorja, Marvin C., 334-26-5789
Lynch, John J., 012-20-3024
Maddox, Fred L., 252-52-0500
Marcantonio, Clement, 521-62-6823
McAllister, William S., 143-32-0359
McCarthy, Michael J., 119-24-8270

Miles, Joel L., Sr., 443-34-3528
Mize, Jerry L., 429-66-6835
Ornburn, Frank M., 494-38-3136
Overton, Donald E., 459-48-0992
Robnolt, James H., 432-60-6001
Rodrigues, Anthony V., 575-14-8248
Russell, Charles N., 467-36-0902
Smith, John B., 477-30-4201
Stallings, Bennie A., 427-68-6416
Thoni, Philip F., 410-30-0292
Warme, Thomas M., 471-34-7450
Wilson, Donald G., 231-46-0409

JUDGE ADVOCATE GENERALS CORPS

To be lieutenant colonel

Andrews, Douglas G., 549-70-9873
Behuniak, Thomas E., 043-34-9470
Belt, Julia A., 166-36-5092
Brooks, Clifford D., 346-36-8287
Chiminello, Philip D., 213-40-0562
Clark, Elliot J., Jr., 228-58-6697
Clervi, Ferdinand D., 489-46-2578
Cooch, Francis A. V., 038-28-0891
Dooley, Joseph M., 037-28-6616
Finnegan, Richard N., 019-30-8055
Flanigan, Richard C., 173-36-5381
Fowler, Joseph C., Jr., 102-36-5718
Fulbruge, Charles R., III, 371-48-0647
Galehouse, Lawrence D., 239-76-9634
Godwin, Fitzhugh L., Jr., 230-56-7994
Gravelle, Adrian J., 272-38-1562
Haas, Michael A., 184-36-1887
Haggard, Albert L., 549-52-8906
Harper, Stephen J., 524-64-9177
Hollowman, John T., 578-58-2055
Huffman, Walter B., 454-72-7206
Jacobsen, Craig C., 261-72-1788
Jeffress, Walton M., Jr., 224-62-3519
Johnston, Wayne R., 429-90-6113
Kesler, Dickson E., 217-44-7765
Kullman, Thomas M., 422-52-2478
Limbaugh, Daniel B., 358-40-0985
Linebarger, James L., 229-52-1960
Long, John W., 521-46-3681
Mackey, Patrick J., 538-42-0635
Markert David O., 502-42-1509
Millard, Arthur F., 510-42-3667
Moushegian, Vahan, Jr., 228-58-7097
Nix, John H., 250-68-4271
Park, Percival D., 186-32-4127
Raney, Terry W., 278-38-6819
Rivest, Joseph R., 124-34-6732
Roberson, Gary F., 240-68-3299
Rothlisberger, Daniel L., 517-50-9603
Ruppert, Raymond C., 158-38-5540
Schempf, Bryan H., 075-38-2290
Schwabe, Charles L., 448-40-5511
Shields, Buren R., III, 529-64-7239
Vallecillo, Carlos A., 581-84-2546
Varo, Gregory O., 014-38-8360
Walsh, James F., 229-62-2920
Warner, Ronald A., 461-68-9922
Wilks, Riggs L., Jr., 459-82-4773
Williams, Robert B., 498-48-5823
Williams, Robert P., Jr., 404-56-9722
Wright, Richard W., 506-54-8206
Zucker, David C., 486-52-1655

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army, and appointment into the Regular Army as appropriate, in accordance with the appropriate provisions of title 10, United States Code:

ARMY

To be major

Aaron, Ralph P., 436-84-1318
Aaron, Steven G., 456-86-7835
Abrahamson, David L., 535-46-6261
Ackerly, William G., 018-40-8582
Adamczyk, Joseph W., 141-44-6739
Adamo, Paul J., 266-92-6773
Adams, Russell E., 230-68-8748
Adams, Scott C., 259-78-7722
Adcock, Gordon G., 455-84-5363
Ader, Ernest C., 585-22-3440
Adkins, Ronald A., 225-72-0571
Ahyo, Gerald P., 575-50-0839
Akridge, Donnie E., 424-66-0806
Albrecht, Robert G., Jr., 324-44-5451
Alcott, Henry S., 472-56-1084
Alexander, Joe A., 446-52-2543
Algner, John A., 068-44-4806
Allen, Jay D., 216-46-6609
Allen, Thomas J., 372-48-5210
Alley, Claude R., 244-68-2011
Alspaugh, James D., 250-74-0479
Alsup, Charles W., 131-34-1581
Alvarado, Hector H., 453-92-2151
Ammon, Peter J., 526-72-6589
Amoroso, August J., Jr., 436-82-4135
Andersen, Brian M., 578-70-1639
Anderson, Bruce, 137-32-4977
Anderson, Carey A., 078-38-1637
Anderson, Doc A., 417-58-0888
Anderson, George W., 045-46-1025
Anderson, John C., 340-44-8333
Anderson, Keith M., 473-56-6186
Andrews, Mary G., 411-88-2331
Anglin, Roger I., 499-50-9269
Angwin, John S., 516-60-4411
Anthony, Patrick J., 447-46-6858
Apo, Douglas K., 565-84-1976
Appelquist, John O., 495-50-8393
Applewhite, Michael P., 574-16-8745
Arbeeny, John, 087-38-7986
Ariail, Thomas M., Jr., 247-90-2295
Arlinghaus, Bruce E., 284-46-6887
Arnold, Albert E., III, 482-56-4577
Arnold, Edwin J., Jr., 459-86-8222
Arnold, James G., 423-64-1241
Arnold, Terry W., 482-60-8222
Arntz, Stephen J., 515-54-5343
Ash, Robert W., 212-56-8059
Ashe, Michael H., 387-44-6649
Ashley, Charles F., 505-62-3743
Ashton, William J., 078-42-9577
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Atwell, Emory E., 264-88-9952
Atwood, Delbert W., 529-64-0305
Atwood, Henry J., Jr., 439-68-2972
Aurentz, Forrest W., 232-82-6071
Austin, Brian J., 225-72-7375
Austin, Calvin A., Jr., 214-52-1008
Avery, Charles N., 044-38-9425
Avey, Richard W., 535-48-5406
Azama, Rodney S., 575-58-0628
Babington, James D., 502-56-3051
Bacon, Robert A., 003-36-7913
Bahr, Stephen M., 053-40-2429
Bailer, Richard O., 077-38-7927
Bailey, Daniel D., 585-44-2951
Bailey, Ernest M., Jr., 422-54-8216
Bailey, Larry S., 527-86-3263
Bailey, Robert M., 062-44-6260
Bailey, Thomas L., 422-70-3593
Baker, Edward I., 025-42-0612
Bako, Victor B., Jr., 211-38-6986
Balderman, Michael D., 143-44-5408
Balmer, Mearl E., Jr., 195-38-9999
Baltezore, Lawrence A., 323-46-6137
Banasik, Michael E., 501-56-4947
Baranzyk, Stephen T., 393-52-8535
Barfield, Thomas H., Jr., 228-68-6274
Barlotta, Samuel J., 267-02-2449
Barlow, Bruce H., 214-56-0873
Barlow, Ingram P., Jr., 266-86-8738
Barnes, Lee R., Jr., 488-58-6965
Barnwell, Walter J., 441-54-5147
Barrett, David H., 256-84-2980
Barrett, Raymond D., Jr., 513-52-1758
Barrett, Roger L., 587-34-0237
Barron, Michael J., 558-76-9453
Bartolain, Bruce A., 319-44-6976
Barton, Gene C., 231-62-0159
Bates, William W., 239-86-4251
Batron, Arthur D., 007-42-9877
Baumert, Gary W., 524-68-5669
Baur, Daniel J., 268-50-6930
Bawol, Joseph M., 170-40-6993
Baylor, Curtis A., 577-64-3851
Beard, Casey F., 539-48-6063
Beckman, Randy R., 467-76-6564
Belin, James A., 230-68-3906
Bell, Donald C., 491-50-9533
Bell, William H., II, 422-68-4130
Bellino, Michael D., 228-72-3469
Benedict, Jonathan H., 260-78-8716
Benjamin, David J., Jr., 337-44-6455
Benner, James H., Jr., 219-54-7878
Bennett, Guy M., 254-88-0111
Benson, Robert A., 170-40-1285
Bernardo, Michael B., 069-40-5970
Berry, Jeffrey C., 473-46-6139
Berry, Robert W., 001-40-8783
Bethea, Thomas M., 230-74-8062
Beumer, Robert S., 474-58-0298
Bevers, Bill, Jr., 230-68-0868
Bielefeld, William C., 395-52-5352
Billings, Robert K., 446-52-9945
Bilodeau, Mark B., 470-58-2920
Bishop, Edward D., 424-68-6848
Bishop, Gary G., 268-44-4105
Bitner, Teddy D., 499-52-9285
Bixby, William G., 068-38-9882
Black, Christopher A., 045-40-1319
Black, Henry C., III, 222-34-7281
Black, William M., 257-86-1872
Blain, Thomas D., 254-78-9704
Blake, Douglas B., 453-80-2454
Blakely, William, 239-84-2552
Blakley, Charles E., 529-70-2762
Blakney, Robert R., 008-40-4472
Blanco, Joseph M., 270-50-3187
Blankenship, Richard E., 233-72-6898
Blatti, Michael A., 522-86-3423
Blazey, Scott E., 055-42-1679
Blewett, John L., 533-46-9806
Blizzard, Daniel K., 424-68-4573
Bobbitt, Frank J., 469-60-0811
Boden, John E., 573-82-2399
Bodre, Ronald A., 195-40-4409
Boerner, Ronald C., 481-60-7980
Boettcher, Dwayne R., 387-50-2365
Bogema, James A., 553-74-0706
Bohne, William T., 439-66-3609
Boman, Truman R., Jr., 514-44-4334
Bonin, John A., 463-94-5583
Bonnes, James H., 081-38-1124
Bookout, Randall D., 289-42-5083
Boram, Jerry D., 321-36-5552
Bortner, Thomas D., 205-40-9179
Boston, Richard C., 012-40-3999
Boswell, Joseph R., 175-40-4793
Bowden, James A., 228-68-7507
Bowden, Thomas G., 415-74-8744
Bowen, James R., 199-38-3128
Bowers, Karen N., 369-56-1428
Bowman, Fred W., Jr., 306-46-6302
Boxberger, John I., 108-40-3448
Boy, Wayne W., 222-34-1987
Boyd, Corbett W., 587-48-3811
Boyd, Robert P., III, 258-84-0258
Boykin, Royce K., 237-76-0762
Boynton, John G., 569-78-4875
Braddy, William L., Jr., 461-84-7996
Bradley, Larry R., 495-54-7038
Brady, Thomas M., 085-42-8986
Brady, William B., Jr., 357-40-5269
Bragger, Ronny B., 118-40-7581
Brake, Jonathan W., 539-46-2365
Brand, Joseph J., 470-62-9484
Brandt, Kevin L., 552-78-7162
Brandt, Terry W., 228-68-9257
Brannen, Mark A., 260-74-8676
Bratcher, Jack D., 494-54-2748
Brauer, Albert G., II, 301-42-7136
Brawley, Richard D., 548-78-8403
Brazeale, James L., 494-56-7616
Breitenbach, Daniel L., 285-48-5579
Brennan, James M., 168-42-4472
Brice, David L., 250-90-6401

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Brinkley, Charles L., 262-84-6087
Brinkley, Phillip L., 405-72-8722
Brinson, James E., 259-86-5507
Britt, Robert E., 093-34-0931
Brooks, Harry W., III, 127-40-5189
Brooks, Johnny T., 250-92-4150
Brooks, Roy A., 394-50-8775
Brookshire, Jeffry L., 458-78-0724
Brosseau, Howard W., 097-40-6685
Broussard, Stephen J., 464-80-4944
Brown, Clyde D., 405-74-0795
Brown, David M., 223-64-5006
Brown, Gerry M., 413-70-9257
Brown, Randall K., 333-42-4627
Brown, Robert M., 245-80-7654
Brown, Robert P., 270-48-8790
Brown, Roger B., 568-60-0553
Bruce, Robert H., 454-92-0526
Bruner, Ralph M., 342-44-3667
Bruns, Larry D., 523-72-4522
Bruscato, Frank E., 434-68-6779
Brutsche, Robert M., 585-40-1612
Bryant, Byron D., 423-72-2920
Bryant, William O., 442-50-4181
Brzosowski, Mark A., 106-40-0040
Buccellato, Edward A., 147-42-9696
Bucha, Peter J., 194-40-1839
Buck, Richard H., 439-84-6184
Buckwalter, John R., 487-56-2089
Bulick, Dale F., 559-54-3155
Bullman, Daniel T., 013-40-7743
Buntz, Edward C., 566-72-7428
Buono, John T., 555-74-6233
Burchett, Michael A., 466-72-2843
Burgdorf, Charles E., Jr., 220-50-8213
Burke, Gordon J., Jr., 252-84-1952
Burke, Kenneth E., 563-70-0281
Burke, Robert E., 241-78-1197
Burkett, Michael L., 437-68-8371
Burkhardt, Robert W., 300-46-0528
Burnett, George F., 575-50-6458
Burns, Chester A., 280-44-1093
Burns, James T., Jr., 104-36-5765
Burrows, James E., 377-48-2710
Burton, Paul J., 141-40-0632
Butt, Robert M., 258-72-7266
Byrom, William L., 412-86-4168
Cahill, Thomas E., 108-40-3915
Cain, Francis M., III, 247-96-7735
Calhoun, Michele D., 356-42-4464
Callicott, Don S., 430-92-3687
Calvin, Arthel, 431-92-8789
Camera, Nicholas J., 139-42-0678
Camp, James T., 032-36-9934
Campbell, Marguerite C., 136-44-9924
Campbell, Philip L., 384-48-4794
Campbell, Wallace L., Jr., 449-76-5624
Cannon, James V., 413-76-3576
Cantolup, Louis P., 061-36-6043
Canton, Raymond P., Jr., 466-50-1235
Cantrell, Merton T., Jr., 529-58-5587
Caplenor, Philip A., 411-86-5911
Carcia, Vincent M., 105-38-9996
Cargill, Kenneth W., 260-74-1033
Carlson, David A., 159-42-6997
Carlson, Gary C., 469-60-9598
Carlson, Kathryn G., 247-78-8467
Carmona, Waldemar E., 582-98-4594
Carpenter, Howard J., 035-34-5543
Carpenter, John W., 233-72-8638
Carrick, Christopher T., 500-56-2202
Carroll, Charles R., 224-70-0827
Carter, Kevin L., 177-40-7907
Carter, Maxwell B., 417-58-8498
Carter, William L., 570-74-9507
Caruso, John J., 027-36-7902
Carver, Jeffrey C., 228-70-6927
Cash, Thomas T., Jr., 424-62-8649
Casper, Lawrence E., 527-70-8530
Cassetori, Michael H., 188-40-3260
Cassidy, William H., Jr., 265-90-2093
Cassil, Danny R., 444-48-5667
Castro, Gloria E., 312-42-7404
Castro, Steve A., 583-32-3229
Catts, Randall G., 424-64-7409
Caudle, Michael E., 464-84-0234
Caughey, Daniel M., Jr., 201-40-1817
Caverly, Robert A., 283-46-0929
Chachulski, Joseph D., 067-42-5404
Chaffins, James M., 224-76-2307
Chalk, William E., III, 560-66-0255
Chalkley, Walter L., 227-64-7815
Challis, Daniel S., 211-36-6650
Chamberlain, Edwin W., 225-66-4817
Chambers, Joseph W., Jr., 259-74-9458
Chambers, Larry L., 508-64-1940
Chandler, Alvin S., 242-84-1762
Chandler, Gerald L., 251-82-6860
Channing, Roger J., 194-40-6776
Chapin, Robert L., Jr., 543-64-6490
Chatman, Andrew R., 423-66-6069
Cheatham, William T., III, 564-70-3551
Chesley, Joseph W., Jr., 578-66-4328
Chiarelli, Peter W., 539-46-6598
Chin, Bobby, 587-05-3976
Chin, William, 068-44-5404
Christen, Joe L., 467-90-6418
Christopher, Paul P., 022-36-7850
Cipriani, Dominic G., 163-40-2899
Cipriano, John J., Jr., 155-40-4070
Cirillo, Roger, 134-40-0025
Ciszewski, Paul B., 355-38-0151
Clark, Douglas F., 250-82-5736
Clark, Forrest G., 020-40-1313
Clark, Gerald E., 515-36-8655
Clark, James B., 526-80-3753
Clark, Robert A., 515-48-8300
Clark, Shelby T., 351-34-8710
Claterbos, John V., 509-56-3735
Clement, Lawrence D., 543-54-5226
Clements, Charles W., II, 224-72-3753
Close, Kenneth R., 300-48-8786
Clouse, Jeffrey W., 286-48-6329
Coady, Alan W., 231-70-5046
Coberly, James B., 523-72-8864
Cody, Richard A., 008-34-6483
Cofer, Jonathan H., 174-42-8459
Coffey, Douglas R., 507-70-5491
Cogan, Michael R., 202-36-3116
Coindreau, Andrew T., 449-88-6268
Colby, Rollin L., 393-50-5453
Cole, Mark G., 450-84-9572
Coleman, Aaron R., 421-64-7414
Coleman, Katherine R., 473-62-3248
Coligan, Robert E., 449-88-8237
Collier, William C., 226-62-7766
Collins, Danny, 513-52-1593
Collins, Edward J., Jr., 406-66-7830
Collins, Henry A., 228-64-6072
Collins, Michael O., 488-56-1295
Common, Louis W., 267-90-4931
Compton, William M., 087-44-4436
Condon, Paul D., 029-34-1512
Coniglio, Timothy F., 506-68-8480
Conklin, Joseph E., 129-38-2595
Conkling, Martin E., 441-50-7449
Conley, Stafford G., 229-62-7441
Conlin, Shaun S., 048-44-3281
Connors, Michael P., 212-58-1600
Conover, Bruce R., 154-42-5076
Cook, Breck D., 577-68-2888
Cook, David L., 514-56-7919
Cook, Jack A., Jr., 430-90-8453
Cook, Jon C., 318-44-4943
Cook, Robert J., Jr., 228-74-3154
Cooke, Robert R., 142-40-3666
Coomler, James D., 305-58-1992
Cooper, Winthrop H., 223-68-4003
Copeland, Thomas N., 429-92-7636
Corbett, John R., Jr., 225-72-6309
Corcione, Christopher M., 056-44-7015
Corcoran, Thomas E., 082-38-4712
Corey, Claren S., Jr., 009-40-3501
Correa, Gregory A., 575-54-2928
Cosio, Albert Q., 547-64-7074
Costantine, Alfred G., 212-58-6838
Costello, Thomas J., 331-40-5243
Cotterman, Bruce W., 186-38-7187
Coughlin, Edward J., 478-54-5360
Coulter, Walter F., 433-72-3467
Courtney, William R., 531-50-6671
Coven, David R., 430-82-1146
Cowan, David M., 431-88-6039
Cowardin, Louis J., Jr., 225-64-0977
Cox, Charles W., III, 366-52-1597
Cox, Jesse W., Jr., 410-86-9093
Cox, Sandra A., 502-48-7082
Cox, Thomas F., 489-54-0519
Cramerus, Pieter F., 450-84-0793
Crawford, Philip E., 426-84-4770
Crawford, Raymond R., 103-42-0280
Crawford, Robert E., 452-86-5646
Creel, Buckner M., V, 231-68-6883
Crinean, James C., 536-52-7106
Crits, James W., 462-92-0748
Cronin, Kenneth J., Jr., 151-42-8679
Cronin, Steven T., 481-60-4472
Crossan, Charles L., 262-84-4797
Crossen, Thomas L., 271-44-9506
Crouse, John R., 205-36-8406
Crow, William A., 457-88-2274
Crowden, Ronald G., 574-18-6357
Culpepper, Michael H., 417-72-9131
Cunningham, Philip L., 320-40-5376
Cunningham, Roger D., 490-58-2687
Curran, Robert J., 121-42-7751
Curry, Joe W., Jr., 439-62-7332
Curry, Stephen J., 004-52-1664
Curtis, Steven E., 417-74-5799
Cushing, Clayton M., 463-90-0415
Cygrymus, Robert M., 161-42-7001
Czlonka, Michael, 429-96-0747
Czura, Thomas M., 328-40-8020
Dabney, Harry J., 459-84-6681
Dalrymple, Nancy J., 084-36-2813
Daly, Stephen C., 218-58-3359
Damico, Phillip J., 510-48-4564
Damron, Danny R., 230-62-8711
Daniels, William J., 419-66-8570
Danielson, Jesse M., 416-72-9635
Dannaker, Michael A., 287-42-6711
Danner, Stephen A., 531-46-7774
Dascoulias, Peter G., 002-34-9177
Daugherty, Donald R., 488-48-0310
David, Robert G., 465-82-7014
Davidson, Stephen S., 416-72-0711
Davis, Alice M., 226-60-6035
Davis, David F., 524-68-8768
Davis, Douglas B., 133-44-2028
Davis, Lawrence E., 248-90-5499
Davis, Marion T., 415-88-8626
Davis, Oscar N., 263-96-8916
Dean, Richard L., 444-50-8155
Decker, William M., V, 065-40-4061
Deegan, Michael, 032-36-1900
Dees, Robert F., 466-78-5138
Defebo, James J., 489-54-2748
Deggins, Samuel T., Jr., 437-72-1341
Dehayes, Mark F., 378-54-9135
Dellert, Luis A., Jr., 457-90-1501
Demers, Richard R., 036-30-4136
Dennehy, Joseph S., 516-62-2789
Dennis, Thomas J., 538-50-4544
Denton, James B., 229-64-3764
Dernar, Jim, 273-46-2696
Dessert, Rolland A., 261-82-7062
Dewitt, Charles R., 214-48-3180
Dewitt, John P., 405-76-1410
Dexter, William T., Jr., 114-40-7173
Dias, John P., Jr., 465-84-0496
Dick, Walter F., 286-46-3306
Dicks, Julian M., 587-03-2960
Diehl, Forrest V., 518-52-5181
Diehl, William H., 170-40-3266
Diekema, Bridget T., 362-54-9140
Dienno, Jeffrey B., 207-40-1886
Dillon, Francis H., III, 227-74-4446
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Kauffman, George L., Jr., 170-38-3252
Keith, Raymond T., 139-42-2974
Kindred, Gary R., 493-52-6042
King, Wendell C., 527-66-0384
Korte, Don W., Jr., 229-66-9387
Kuhn, Austin C., 232-80-1537
Leahy, Lawrence M., 116-42-0514
Ledford, Gordon L., Jr., 369-42-8209
Legg, William E., 411-76-0454
Leverett, Carey O., 256-78-5201
Lieberman, Michael M., 334-36-6383
Lindsay, Gaylord C., III, 455-82-5367
Lloyd, Darryl W., 438-72-1813
Lockett, Griffin D., 177-36-9472
Lorenz, Patrick E., 501-48-3196
Lucas, William R., 510-50-4313
Lucero, John A., 585-20-5884
Luetkenhaus, David S., 508-60-5062
Lyday, Richard L., 297-44-1091
Madden, Gary E., 465-74-7486
Markelz, Stephen L., 334-38-9879
Martig, Robert J., 508-66-5106
McCarthy, Timothy I., 123-36-0776
McClinton, Carlene M., 454-68-0421
McDowell, D. N., 523-66-8660
McGreevy, Patrick B., 560-52-9816
McMurphy, William C., 420-56-0971
Meyers, David L., 486-54-1221
Miller, Douglas W., 183-38-3939
Miller, Edward R., 279-48-3954
Moon, Jeffrey P., 111-40-3368
Moskowitz, Peter K., 453-92-1170
Murnyak, George R., 137-40-5606
Murphy, Edward B., Jr., 242-80-9518
Myers, Ronald D., 411-80-7044
Nolan, David L., 250-80-4214
O'Brien, Michael J., 210-36-3773
O'Brien, Robert P., 527-86-5225
Orsak, Julius S., Jr., 405-52-0622
Paskett, Curtis M., 518-36-5961
Prather, Carl B., 225-66-0714
Randol, Doyle E., 579-66-5922
Rankin, Robert J., 229-66-0172
Rogers, Francis J., 155-40-7424
Romeo, William D., 131-32-1533
Royer, David L., 301-42-0167
Schmidt, Robert M., 317-50-8412
Sexton, Rodger R., 437-82-4574
Shields, Glenn A., 382-42-5043
Sigman, Michael E., 245-74-9832
Singler, John E., 084-38-0558
Smith, David W., 426-96-0980
Smith, John H., 067-42-9297
Smith, Michael L., 513-52-6526
Snide, William H., 113-38-3745
Speights, Stephen R., 451-86-7732
Sturgis, Anne K., 205-40-4076
Sullivan, Robert G., 048-32-7193
Sutherland, Donald E., 478-62-5363
Sutton, James E., 227-66-7372
Swisher, Timothy A., 163-40-1198
Tamayo, Federico M., 562-62-7229
Thomason, Roy S., 260-74-3520
Thompson, Benny R., 217-50-2539
Tribble, Curtis, 275-44-3560
Troutman, Carrick T., 410-82-0705
Walton, Ira F., III, 437-72-5096
Wannemacher, Bruce M., 349-38-1123
Wanzer, Christopher R., 416-64-7884
Welter, Richard F., 572-76-5380
Werner, Braynard H., 230-54-3966
Wilde, Graham L., 486-50-1924
Williams, David L., 418-70-6700
Williams, John B., II, 239-76-8160
Wolfe, Hershell E., 225-62-0042
Wood, Robert L., Jr., 021-34-2229
Yearta, William J., 265-80-8347

MEDICAL SPECIALIST CORPS

To be major

Ball, Karen R., 538-44-6709
Dennis, Robert W., 154-36-6158
Handley, Carol A., 424-58-0531
Leggett, Dee C., 376-56-5961
Maguire, Molly S., 249-80-5359
Mayfield, Gail E., 481-52-5038
McPhee, Scott D., 537-52-9297
Meier, Edward C., 531-42-2755
Neville, Robert E., 266-90-5906
OGrady, William H., 564-72-9485
Rotert, Denise A., 504-56-1563
Stoehr, David R., 161-42-7019
Swain, James H., 563-68-7632
Wood, Lawrence L., 517-58-2927

VETERINARY CORPS

To be major

Barnett, William M., 485-46-5805
Daise, Richard L., 511-48-6704
Donovan, John C., 298-42-6192
Donovan, John C., 298-42-6192
Eckstein, Jon M., 483-54-2798
Fournier, John S., 268-50-2474
Grate, Stephen J., 353-36-4475
Green, David E., 543-58-0006
Hopson, David E., 454-60-6404
McKinney, Luann, 182-44-3203
Mobley, Ray, 265-64-0920
Solana, Richard P., 074-32-6791
Yancey, Anthony L., 223-70-3741

ARMY NURSE CORPS

To be major

Ackerman, Candace P., 559-84-5512
Acuff, Robert C., 552-60-5601
Ahlgren, Denise M., 329-44-9338
Alden, Sharon L., 239-82-1920

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Allison, Dennis C., 549-78-7682
Alspach, Robyn L., 291-50-4715
Altena, Janet L., 515-52-5467
Andresen, James A., 524-62-6591
Angelo, Rita L., 193-42-2443
Armant, Joyce R., 045-46-4640
Baker, Kizzie A., 316-56-9685
Baldy, Mary A., 274-52-4009
Barnwell, Robert E., 558-68-0731
Bartz, Elizabeth A., 391-58-8537
Bass, James H., Jr., 430-98-1226
Beard, Joy E., 434-86-5554
Berlin, Marlene J., 339-44-5443
Bester, William T., 476-60-1712
Bickford, Nancy J., 396-52-7290
Blakemore, Bonnie B., 541-50-0589
Bolfing, Mary P., 491-58-7035
Borup, Patricia A., 553-80-5712
Bothwell, Frances A., 405-76-5376
Bottoms, Ann D., 262-84-1091
Boyes, John G., 524-56-3887
Bradshaw, Mary C., 015-38-8203
Brandt, Barbara J., 186-38-2164
Branstiter, Wesley V., 533-56-5188
Brateman, Deborah N., 070-38-0216
Brett, Katherine J., 249-82-5246
Bryant, Mary C., 442-56-7127
Buchanan, Holly K., 170-42-7649
Buchanan, Mary E., 429-90-6830
Bunton, Shelia D., 370-56-0292
Caldwell, Terence J., 499-50-5929
Call, Catherine A., 167-42-7685
Carlson, Deborah, Z., 073-46-2033
Carlson, Rebecca S., 309-58-2527
Carr, Sam D., 458-72-1455
Carroll, Naomi E., 557-64-4606
Chatmon, Lorna R., 195-40-8828
Chisolm, Janet E., 247-98-2430
Chudy, Jeanne H., 084-44-8995
Clinch, Richard L., 436-70-7507
Cody, Nancy E., 495-56-0040
Collins, Janice L., 541-62-6136
Collins, Shirley J., 033-42-8857
Colvin, Christine A., 544-62-2247
Conkright, Linda R., 315-58-6047
Cooke, Curtis V., III, 238-66-5673
Cooper, Janice M., 225-62-6712
Cormier, Leslie A., 018-34-9080
Coville, Joyce M., 139-38-2676
Cox, Mary R.,498-58-0432
Cross, Pamelia J., 418-74-2557
Crutchfield, Ruth E., 565-86-7566
Cunningham, Brenda G., 237-68-2511
Dacumos, Deborah, 567-84-4240
Dale, Cynthia J., 182-38-2086
Daniels, Delois, 249-84-8046
Davis, Bridget W., 371-52-0345
Davis, Mary C., 231-68-1301
Davison, Frances E., 153-36-2753
Destasio, Jennifer M., 552-88-4144
Dexter, Sheryl V., 383-50-3602
Douglass, Dale A., 464-84-9373
Dunn, Mary A., 483-66-1699
Durham, Carol D., 291-46-2036
Dyer, Marcia M., 522-74-1251
Edwards, Loretta F., 243-90-2501
Eitel, Martin O., 073-38-2813
Ellis, Dorothy A., 133-38-4001
Elsesser, Susan, 173-44-7708
English, Jacqueline J., 237-82-2796
Farrell, Dennis J., 072-40-8841
Fishell, Royce A., 516-64-0929
Floyd, Marcia J., 220-62-6168
Fluharty, Michael L., 455-88-2570
Forbes, Paul W., 542-50-1300
Forsythe, Kathryn M., 396-56-7216
Fortune, Richard N., 572-72-6006
Fox, Susan R., 449-88-6460
Freeman, Johanna W., 267-02-7251
Fretz, Carolyn V., 563-74-6799
Funk, Alice H., 468-64-0356
Gaffney, Mary C., 567-70-1680
Garvin, Patrick M., 486-56-8385
Gaskill, Mary E., 137-40-7415
Gautreaux, Douglas D., 437-80-6654
Gautreaux, Mary L., 585-56-7859
Gibson, Martha G., 255-78-5419
Grant, Mary E., 320-48-6398
Graves, Rhonda L., 569-90-2768
Gustke, Deborah A., 459-98-4075
Hagemeister, Brian, 386-50-7943
Halavin, Susan A., 106-42-8412
Hampton, Kristie L., 311-56-1032
Harper, William M., 214-58-9009
Harris, Francis W., Jr., 466-66-4268
Heim, Lauren L., 454-74-2323
Henderson, Diane M., 550-92-2536
Henley, Mozettia H., 076-36-2797
Hirschinger, Barbara A., 315-56-0956
Hodges, Carol A., 210-40-7232
Hofmann, Andrea L., 385-48-1583
Hoke, Mary M., 352-40-0022
Hoover, Christine P., 187-44-2402
Howell, Mary E., 548-66-6494
Hubbard, Jacqueline D., 264-04-0321
Hundley, David P., 403-66-2963
Hunt, Nancy E., 372-50-9275
Imbruglio, Lorna R., 049-44-0682
Ives, Karen L., 141-48-4103
Jacobs, Carol A., 105-42-3949
Jaeger, Dorothy M., 248-98-9085
Janovsky, Jacquelyn K., 388-46-0040
Jantz, Julia A., 441-56-8198
Jennings, Suzanne C., 237-86-5156
Jensen, Richard G., 394-52-9611
Johnson, Brenna B., 536-54-0183
Johnson, Catherine, 482-70-1410
Johnson, Donald E., 534-46-7218
Johnson, Jacqueline D., 079-40-3653
Johnson, Katherine M., 318-46-0976
Jones, Jeanette, 308-48-7002
Keller, Susan M., 042-44-2279
Kirby, Diana C., 479-68-7711
Kirby, Judith A., 556-68-9425
Kohler, Mary M., 139-40-7021
Kratz, David A., 516-50-6937
Kott, Wonney R., 264-96-6457
Kval, Ellen J., 502-42-5479
Lavallee, Stephany M., 001-42-3661
Lester, Nancy J., 224-62-4888
Levine, Janice K., 536-48-2693
Long, Margaret M., 394-58-2852
Loss, Dean R., 392-56-0752
Lothery, Mary T., 459-84-7173
Lovaas, Patricia K., 502-58-6361
Lowney, Paula J., 282-48-7623
MacGhee, Bonnie 135-44-2370
Maestas, Gail M., 517-62-4834
Maloney, Patsy L., 263-04-0617
Manogue, Lynne M., 585-32-7267
Martin, Raymond E., 455-78-7369
Martinez, Jose A., Jr., 450-72-8581
Mathia, William J., 397-42-6244
Mathieu, Eldred, L., 044-42-0711
Maynard, Mary D., 144-46-1130
Mayo, Elaine D., 578-70-8319
McAlpin, Patricia A., 461-80-3355
McCauslin, Sherry L., 208-42-9095
McDaniel, Charles W., 225-60-3133
McDonald, Richard E., 463-90-2918
McDaniel, Charles W., 225-60-3133
McDonald, Richard E., 463-90-2918
Mello, Anthony S., 052-34-5334
Melton, Carole A., 039-28-5961
Miller, Arnold D., 399-40-2601
Moran, William F., 319-46-0278
Mucha, Joseph M., Jr., 372-58-9359
Mussnug, Patricia L., 263-04-1316
Naimo, Rose M., 044-48-4106
Neal, Emma J., 266-58-0220
Nelson, Margaret A., 124-40-3211
Nemetsky, Cheryl., 451-94-5062
Opio, Melissa N., 454-92-7730
Opulski, Frank R., 044-38-6327
Patrick, Marcia R., 045-46-0010
Pauley, John M., 479-58-0738
Pereira, Darla F., 503-62-7051
Perez, Aida R., 137-48-1118
Perry, Lee A., 348-42-2855
Petrik, Lesley A., 477-62-2216
Powers, Judith L.,136-46-2848
Prather, Patricia F., 227-74-4901
Preston, Janet E., 437-74-9732
Price, Nanci A., 104-40-6491
Pugsley, Karen E., 484-66-9627
Redwine, Jimmy W., 438-82-9465
Reed, Catherine O., 486-60-4600
Renaud, Michelle T., 040-46-5816
Reynolds, Judith A., 396-56-1723
Richard, Lee W., 501-56-6799
Richling, William A., 508-68-3744
Ridge, Susan L., 333-44-1270
Rihm, David M., 264-80-7287
Riley, Roslyn S., 433-70-3929
Robertson, Kathryn E., 360-44-7268
Robinson, Marylou V., 539-50-2169
Roesler, David E., 121-36-2240
Romano, Mary J., 205-36-5627
Rompre, Rubin M., 041-48-2258
Rouse, Kathleen A., 148-46-7625
Rutt, Wade T., 522-56-1133
Sassi, Mary E., 331-46-4988
Satterwhite, Janet L., 536-54-9520
Savinske, Debra L., 324-46-7275
Saye, Jackie W., 320-44-2349
Schaeberle, Donald C., 172-40-6710
Scheele, Harriet L., 068-44-3514
Schoch, Roger E., Jr., 177-42-5089
Schofer, Glen A., 129-32-5833
Scrogham, Jefferson H., 431-82-3371
Selden, Tim C., 288-40-0342
Sexton, Patricia A., 212-62-2772
Shinners, Katherine C., 392-56-7726
Simmons, Idella L., 355-36-8127
Simon, Stella, 077-46-5361
Simpson, Nancy M., 161-42-7099
Sims, Beverly A., 295-36-3918
Smith, Anthony G., 312-48-8195
Soelle, David M., 021-30-3309
Sowder, Patrica K., 341-38-0379
Spaulding, Susan A., 003-38-2878
Splichal, Clifford T., 228-62-3826
Spring, William B., Jr., 278-48-2940
Staggers, Nancy L., 521-78-9811
Stanfield, Jerry M., 551-56-6678
Steenbock, Mark G., 502-60-4376
Stipetich, Patricia A., 295-50-7813
Suiter, Robert L., 541-56-3134
Taylor, Russell W., 548-76-1347
Terry, Judy C., 427-96-1725
Thomas, Linda S., 464-94-6235
Thomas, Steven C., 394-48-0765
Tobey, Jack E., 545-66-8208
Todd, Nancy S., 522-64-9654
Toelle, Lois M., 537-48-3263
Tominey, Theresa M., 394-46-5253
Torrance, Youhon D., 421-76-7267
Torstrick, Virginia M., 201-44-4420
Treiber, Christine A., 138-40-8937
Tribbey, Edward M., 393-50-0255
Tully, Patricia G., 347-44-1414
Varner, Willie H., Jr., 430-92-0897
Vazquez, Eileen K., 339-44-5220
Voelmeck, Wayne F., 511-52-4930
Waechter, Michele M., 184-38-2655
Waller, Joyce M., 243-80-2965
Weathington, Elizabeth A., 420-60-7011
Webster, Diana M., 518-54-8772
Whitlatch, Claudia M., 392-56-0650
Williams, Jaime L., 213-62-3325
Williams, Julia B., 461-88-6501
Williams, Patricia A., 103-42-5451
Williams, Timothy P., 468-62-5380
Willis, Sue E., 447-52-5591
Wilson, Susan V., 482-68-4927
Wise, Patricia B., 216-56-5532
Wolfe, Roberta E., 311-48-3807
Wood, Sylvia H., 552-88-2527
Wright, Charles A., 069-42-0922
Wright, Donna M., 548-78-0871
Yardley, Mary R., 334-42-1241
Young, Sandra R., 218-60-2307

Young, Susan D., 445-54-8736
Younglotero, Frances M., 069-40-7692
Zimmerman, Janet F., 182-42-2585

In the Army

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, and 533:

To be major

Rodgers, Thomas A., 196-36-3703

To be captain

Adams, Michael R., 308-50-4887
Allison, Avery V., Jr., 419-66-1632
Anderson, Carl, 248-02-6661
Anderson, John D., 476-44-7543
Arnold, Joyce, 439-70-3412
Atwood, Henry J., Jr., 439-68-2972
Augustine, Daniel A., 047-46-6826
Babb, Charles M., 227-72-6512
Bailie, John A., 267-76-6199
Barron, Charles R., 424-66-2809
Bell, James, 232-76-3592
Benito, Robert P., 105-40-3496
Betteker, James M., 294-48-2995
Blackmon, Hunter L., 587-84-4140
Boatman, Randy L., 429-96-6083
Brame, Freda R., 412-94-8309
Bridewell, George D., 226-66-4659
Bromm, Alfred J., 125-42-6487
Bruce, Robert H., 454-92-0526
Bush, Frank P., Jr., 423-64-5378
Caine, James T., Jr., 230-74-0783
Carroll, John P., 207-44-6753
Clymer, Theodore W., 144-36-5491
Conkling, Martin E., 441-50-7449
Craig, James P., 521-66-7720
Daniel, Timothy M., 520-56-1035
Davis, Robert M., 444-54-8306
Defebo, James J., 489-54-2748
Derrick, Duane G., Jr., 579-58-5914
Deuger, Mark S., 330-48-1338
Dodgen, Larry J., 438-74-5373
Donaway, Wayne I., 221-34-3584
Dunable, Kerry B., 236-82-6781
Dunkley, Michael L., 230-82-2150
Etchieson, Marcene, 443-54-2886
Evans, Henry C., III, 223-76-1794
Everett, Michael W., 577-68-2040
Faulker, Rosa M., 580-80-9122
Faure, Patrick R., 119-52-1524
Finney, Derry L., 214-54-4698
Forrester, Billy W., 411-82-0551
Foster, Jessie L., 413-76-9185
Franken, Dennis J., 391-58-3007
Gallagher, Kevin F., 559-04-3965
Gallagher, Samuel L., 265-06-0429
Garrison, Robert K., Jr., 566-72-1287
Gendrolis, Paul S., 005-50-9216
Gerhard, James P., 573-80-7167
Gollan, Richard G., 041-50-3559
Goodale, Edwin S., 212-62-0189
Grant, Edward L., 464-80-6637
Gregor, Lawrence J., 517-52-3748
Grigsby, Thomas W., 248-02-1584
Hampton, Mark A., 413-80-5828
Hampton, William A., 002-30-4638
Harry, William, 436-58-1423
Heer, Gary L., 519-56-9543
Helmer, Peter N., 210-40-8516
Herrmann, Julie A., 540-70-3414
Heuer, Dennis W., 128-44-1605
Holder, Patrick M., 081-46-3751
Hosler, James M., 264-02-4503
Hunsaker, Charles R., 274-40-5195
Hunter, Ronald L., 347-36-0846
Hybridge, John, 537-48-1965
Isaacson, John E., 532-44-0036
Jackson, Claude D., 406-74-6836
Jackson, Kevin F., 263-25-3549
Jackson, Russel K., 515-56-3565
Jacobs, William M., 472-54-6398
Jarrell, James H., 423-74-1284
Jervis, Walter T., 219-56-0121
Jones, Michael E., 222-36-0533
Jones, Thomas L., 405-74-0581
Juneau, Michael J., 439-90-6212
Junghans, Lloyd D., 264-68-7630
Kemp, Gerald R., 411-90-3283
Kilgore, Michael C., 521-82-7034
Kirsch, Robert A., II, 263-88-3093
Kirstein, Dennis K., 572-76-2236
Krueger, Robert J., 392-62-6055
Langford, Alan V., 447-46-0903
Lavelle, Andrews, 207-46-1965
Lee, Gary A., 447-56-5092
Leek, Martin W., 453-90-2521
Lefebvre, James R., 002-44-3518
Lombardo, Samuel R., 135-40-6884
Longanecker, James C., 355-42-0444
Lucas, Richard L., 180-36-3056
Mach, John M., 455-98-1924
Majo, Robert M., 061-38-9951
Mappes, John S., 117-46-8545
Maronski, Francis G., 002-40-3544
Matthews, Thomas E., 179-40-0280
Maust, Robert A., 260-88-6872
Maxwell, James M., 434-70-8347
McAllister, Frank S., 218-54-1846
McCullough, Michael A., 249-96-9479
McDaniel, James C., 247-88-6114
McKenzie, Carol E., 231-68-4561
Minadeo, Dominic F., 278-40-3545
Moore, Timmy D., 545-98-3393
Moorhead, Janet L., 264-96-8889
Morgan, Herbert O., 416-56-8417
Nerdahl, Cameron B., 227-86-9571
O'Brien, Raymond F., 092-40-9507
Oxford, Donald G., 587-50-9437
Page, Scott W., 266-86-0360
Park, Claudia D., 549-70-2179
Parker, Wayland E., 265-04-0039
Petersen, Kim P., 228-72-0717
Pettet, Leslie P., 073-46-1980
Pfleeger, David J., 149-42-6127
Polk, Peter B., 217-56-5532
Powierza, Richard J., 013-38-0508
Quinn, Joseph D., 527-74-9408
Randall, Willie C., 223-74-0370
Reynolds, Jerry., 407-76-2177
Richard, John S., 447-46-2922
Runnels, Fred A., Jr., 587-62-3153
Sabonis, Chris, 016-32-1003
Safier, Randall M., 199-38-3276
Sales, Jimmy M., 443-58-7001
Saner, Ralph E., Jr., 354-40-9773
Satterly, Glenn M., 484-58-5949
Shanahan, Larry C., 444-52-3029
Sheahan, Patrick J., 530-42-5161
Shubat, Larry C., 108-38-7023
Shure, Yale A., 412-78-9915
Sidri, Jenny, 005-48-6705
Sincere, Clyde J., 254-76-2660
Skelly, Terry L., 291-48-0717
Smith, Frank B., Jr., 585-34-0533
Smith, James M., 253-86-1961
Stansfield, Alan, 553-76-5042
Steagall, Benny G., 457-94-7099
Thomason, Robert, 550-86-9497
Walsh, Gerard M., 228-78-5971
Weiss, Jack L., 512-52-7034
Wells, Leon G., 573-62-7492
Welton, Thomas G., 517-64-5410
Whitaker, Richard J., 295-54-9866
White, Lonnie R., 409-90-9645
White, Marilyn M., 453-84-6547
Williams, William D., 233-80-4180
Woods, John C., 196-42-4554
Wright, Daniel G., 427-96-5597
Young, Byron L., 440-54-6843
Zvanut, William M., 408-88-6401

First lieutenants

Adkins, Donald M., 413-90-1800
Alter, Richard J., 522-92-0182
Anderson, Oscar R., 453-04-5971
Ball, William C., 080-44-9579
Barnhart, Denny, 497-50-5718
Berry, Harry L., Jr., 490-66-5274
Bland, Pamela M., 230-88-1897
Blue, Thomas G., 242-98-7832
Bray, Arnold N., 248-02-2301
Brennaman, Charles S., 259-94-9484
Browning, Tommy L., 464-96-2049
Burns, James R., 253-11-5629
Caves, Elmer R., 419-74-1946
Champin, Alejandro L., 557-02-7759
Chandler, Robert L., 254-92-4796
Clements, Duncan S., 220-62-9761
Davis, Lee A., 240-94-6188
Diemer, Manuel A., 461-19-1811
Disharoon, Charles G., 522-96-9825
Doyle, Robert A., 223-64-5449
Duemler, Richard F., 223-896-7527
Duesing, Robert J., 289-44-2472
Dutton, Kent, 453-04-8850
Ermi, David A., 175-44-0305
Fleshman, Raymond A., II, 273-58-5225
Freund, John R., 501-56-2505
Garcia, Wayne L., 080-46-6440
Gibney, Robert E., 184-42-6864
Glenn, William B., 438-84-1566
Goodman, Douglas E., 083-40-4649
Graves, David L., 219-68-4217
Hamilton, John A., Jr., 570-02-7560
Hankins, Jarvis L., 246-06-0713
Hanscom, Richard G., 007-50-3626
Hart, Steven M., 261-25-5020
Harvey, Terrence C., 006-42-8182
Hosselrode, Randy W., 215-56-8845
Howell, Reggie, 314-68-0370
Jenkinson, Kristen, 539-60-3287
Johnson, Bruce P., 518-64-6190
Johnson, Michael E., 093-44-7688
Jones, Jesse G., 242-78-9963
Largent, Regina M., 265-06-5404
Largo, Carmine, 070-42-7487
Lester, Frank G., III, 219-56-2278
Madden, Patrick M., 462-02-1602
Mahon, Francis G., 075-48-2722
Mangano, William F., 020-44-7421
Manning, Geraldine D., 258-88-7143
Manning, Henry, 140-50-3855
Mariano, Lynn B., 575-72-8278
Marlowe, Terry K., 577-72-4342
Matthews, Ronnie D., 266-72-6117
Maxwell, Barry A., 546-17-1085
McCullough, Daniel C., 343-46-4879
McMillen, William N., Jr., 402-88-8105
McNichol, Stephen J., 261-27-5256
Merza, William S., Jr., 041-38-6417
Messinger, Edwin J., 227-74-3582
Michelson, Patrick J., 559-17-6962
Miles, Stephen J., 018-38-2234
Miller, David A., 191-40-5841
Mokrycki, Michael T., 305-62-5475
Moorer, Tyrone M., 577-74-2167
Nuanes, Jim S., 464-94-2699
O'Rourke, Paul D., 213-50-8811
Organ, Charles L., 430-11-3418
Pelosky, John M., 225-80-5699
Perez, Miguel A., 257-94-9656
Perkins, Roger L., 560-82-4615
Peterson, Christian M., 191-40-8086
Plate, Thomas M., 478-70-5630
Plemmons, Paul R., 339-48-8869
Pollard, Gary L., 359-38-9840
Powers, William D., 432-02-4890
Ramirez, Samuel, 585-56-5299
Roberts, Jerome A., 468-60-5821
Robertson, Timothy F., 471-70-5896
Rockwell, James W., 400-60-2656
Salazar, Victor M., 552-06-1927
Sandridge, Michael C., 227-88-3285
Shalak, Michael A., 414-25-8634
Spencer, Rainier H., 110-46-6606
Spiewak, Daryl L., 325-44-3117
Stafford, William S., 146-42-5932
Stapleton, Mark L., 217-66-0403
Stewart, Richard W., 215-64-5436
Sutey, William K., 526-04-4282
Suthard, Robert L., 223-64-9698

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Takemoto, Glenn H., 575-66-5591
Takemoto, Lytle D., 576-68-2935
Terry, Robert F., 249-82-2070
Todd, Alan D., 249-82-6947
Treon, Kim M., 198-48-0166
Turnbow, Gerry B., 463-11-2532
Turnmeyer, Robert G., 050-52-8602
Tweten, Tracy E., 522-80-5402
Vance, Charles D., 091-48-0786
Versage, David J., 092-42-9779
Visbal, Robert M., 555-13-4192
Warthan, Nelson B., 224-66-5695
Wiecks, Thomas W., 477-70-0730
Winfrey, Michael L., 585-52-1237
Wood, Stephen C., 259-96-5386
Ylinen, John A., 463-08-0594
Young, Jimmy D., 556-02-5519

The following-named temporary captains of the U.S. Navy and Naval Reserve for permanent promotion to the grade of captain in the staff corps, as indicated, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Connor, Thomas M.
Drake, Anthony M.
Gabel, Ronald E.
Goschbarker, Dell J.
Heffner, Dennis K.
Johannes, James D.
Kavanaugh, Frederick L.
Kennedy, Harry G., Jr.
Luiken, George A.
MacDonald, Gordon R., Jr.
Miller, John S., Jr.
Pryor, Charles A., Jr.
Reinert, Charles M.
Romano, C. Victor
Welch, William C.

The following-named temporary commander of the U.S. Navy Reserve for permanent promotion to the grade of commander in the staff corps, as indicated, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Carlisle, John L.

The following-named temporary lieutenant commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of lieutenant commander in the various staff corps, as indicated, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Bowen, Gerald J.
Buck, Richard L.
Calebaugh, Donald L.
Clement, Patrick A.
Datu, Jesus A.
Desrosiers, Paul M.
Feldman, Bruce D.
Hart, Franklin E.
Jones, Bluett E.
Kantor, Seth M.
Opoliner, Lawrence H.
Posner, Moss D.
Six, Eric G.
Sobel, Douglas O.
Vensel, Lee H.

SUPPLY CORPS

Haller, Brian O.
Monkowski, David B.
Rossley, Thomas W.
Tutunjian, Stephen J.
Vasquez, Fidencio

CHAPLAIN CORPS

Pace, Roger W.
Pucciarelli, George

CIVIL ENGINEER CORPS

Hobbs, Roy E.
Kaleba, Frank

JUDGE ADVOCATE GENERAL'S CORPS

Durbin, David S.
McKee, William M.
Woodley, Seaton M.

DENTAL CORPS

Golden, Bruce E.
Hunter, Alvin J.

NURSE CORPS

Beard, Margaret L.
Butcher, Carol M.
Orr, Katherine E.

The following-named officer of the line of the U.S. Navy, for appointment in the Civil Engineer Corps, as permanent lieutenant (junior grade), subject to qualifications therefor as provided by law:

Martinez, Dana C.

DEPARTMENT OF EDUCATION

Wendy Hawley Borcherdt, of California, to be Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, vice John H. Rodriquez, resigned.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

MEDICAL CORPS

Fishburn, Frederick B., 299-30-0043

DENTAL CORPS

Crielly, William J., Jr., 165-38-5240

HOUSE OF REPRESENTATIVES—*Monday, September 13, 1982*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 10, 1982.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Monday, September 13, 1982.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, send Your wisdom upon this assembly and upon all Your people, that we may be the people You would have us be. May our hearts be open to Your spirit and our souls touched with love, forgiveness, and peace. Grant us Your grace this day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 6863) entitled "An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6068) entitled "An act to authorize appropriations for fiscal year 1983 for intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed the following Senators as delegates to the North Atlantic Assembly meeting to be held in London, United Kingdom, November 14-19, 1982: Mr. MATHIAS (chairman), Mr. TOWER, Mr. PERCY, Mr. STEVENS, Mr. ROTH, Mr. MCCLURE, Mr. ANDREWS, Mr. MATTINGLY, Mr. MURKOWSKI, Mr. SPECTER, Mr. PELL (vice chairman), Mr. JACKSON, Mr. HOLLINGS, Mr. EAGLETON, Mr. NUNN, and Mr. BIDEN.

CONGRATULATIONS MISS DEBRA SUE MAFFETT—MISS AMERICA, 1982

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, it is my pleasant privilege this morning to congratulate Miss Debra Sue Maffett of Anaheim, Calif., who was crowned Miss America this weekend.

America, California, and the city of Anaheim are beautifully represented in her title. I applaud the evolution of the pageant into a program of beauty and talent. Miss Maffett's singing talent is certainly an exhibition of a God-given gift. Miss Maffett should also be honored for persistence. It is reported that she won her California title after another State failed to select her twice for its title.

For my Texas friends who may be here this morning, let me make this observation that Texas failure to recognize and honor the beauty of this young lady has now benefited California because she moved to California and was there crowned Miss America.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding and I commend him. The State of California does now have a Miss America.

Of course, as the gentleman knows, Mississippi has three Miss Americas and in this contest the Miss Mississippi was second to the charming young lady from California, a second alternate.

Mr. DANNEMEYER. I can only say that at least the people of Mississippi have the good judgment and discretion to honor their own whereas I say Texas loss is California's gain.

I know my colleagues join with me in congratulating Miss Debra Sue Maffett, this year's Miss America.

UNION OF COUNCILS FOR SOVIET JEWRY ACCLAIMED

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, today I had the pleasure of meeting Mr. Naum Tselescin, formerly of Leningrad, U.S.S.R., who has now emigrated to the United States. Mr. Tselescin waited 4½ years to be allowed to leave the U.S.S.R.

He is in Washington today as the guest of the Union of Councils for Soviet Jewry, a group well known to most Members for its tireless work on behalf of Jews who wish to emigrate from Russia.

The Union of Councils, and the various regional committees identify, communicate with, and organize local, national, and international support for, refuseniks like Naum Tselescin.

The presence of Naum Tselescin in Washington today is a heart-warming tribute to the thousands of people throughout the United States and the world who work persistently and effectively for rights the rest of us take for granted. Their work is frustrating, because the Soviet Government allows so few people to emigrate, but, without them, there would be no hope for the otherwise nameless and faceless refuseniks.

Today, however, they, and we, see the tangible rewards of their noble efforts. To the volunteers of the Minnesota-Dakota Committee for Soviet Jewry, who took a deep interest in Naum Tselescin and his family, I give my special thanks.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 15, 1982.

DIRECTING THE SECRETARY OF AGRICULTURE TO RELEASE CERTAIN CONNECTICUT LAND

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6422) to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut, as amended.

The Clerk read as follows:

H.R. 6422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a)(1) Subject to subsection (b), the Secretary of Agriculture shall release on behalf of the United States, with respect to the land—

(A) described in section 2 of this Act, and

(B) conveyed, along with certain other parcels of land situated within the town of Sterling, county of Windham, State of Connecticut, to the State of Connecticut by a quitclaim deed dated November 18, 1954,

the condition in such deed which requires that such lands be used for public purposes, and if not so used, that the lands revert to and revest in the United States: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release authorized in paragraph (1) of this subsection.

(b) The Secretary of Agriculture shall not execute the release authorized in subsection (a)(1) until the State of Connecticut, in consideration of such release, enters into an agreement satisfactory to the Secretary of Agriculture which provides that the State will not sell, lease, exchange, or otherwise dispose of the lands to which the release applies—

(1) except to the Ekonk Cemetery, Incorporated, of Sterling, Connecticut, exclusively for the expansion of its existing cemetery; and

(2) unless the proceeds from such disposal are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

Sec. 2. The land referred to in section 1(a)(1) is the certain parcel of land formerly vested in the United States (a portion of the land designated as the J. E. Tanner tract 6b) and situated in the town of Sterling, county of Windham, State of Connecticut, containing 0.93 acres of land, more or less, bounded and described as follows:

Beginning at a stonewall corner located in the southerly line of the Cedar Swamp Road, so-called, being the northeast corner of the herein described premises and the northwest corner of the existing Ekonk Cemetery, Incorporated; thence south 14 degrees, 49 minutes east, 152.1 feet, more or less, along a stonewall to a wall corner; thence north 64 degrees, 50 minutes east, 145.7 feet, more or less, along a stonewall to a wall corner, the last two courses bounding easterly and northerly on the aforesaid Ekonk Cemetery, Incorporated; thence south 14 degrees, 53 minutes east, 50 feet, more or less, to an iron pin; thence south 64 degrees, 50 minutes west, 308 feet, more or less, to an iron pin; thence north 14 degrees, 49 minutes west, 204 feet, more or less, to an iron pin set in the southerly line of the aforesaid Cedar Swamp Road, the last three courses bounding easterly, southerly, and westerly on remaining land of the State of Connecticut; thence north 66 degrees, 26 minutes east, 162.9 feet, more or less, to a wall corner the place of beginning, bounding northerly on the said Cedar Swamp Road.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. Weaver) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. Frenzel) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. Weaver).

Mr. WEAVER: Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6422, as amended, involves less than 1 acre of land, and no cost to the Federal Government. But it is a significant matter to the Ekonk Cemetery of Sterling, Conn., which needs about 1 acre of land to expand the cemetery.

The 0.93 of an acre in question is part of a larger parcel conveyed to the State of Connecticut by the United States in 1954 and which is now the Pachuag State Forest. The lands were granted to the State under authority of section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937. That section provides that lands acquired by the Federal Government under the act may be conveyed to public authorities and agencies, but with the condition that they be used for public purposes, and that if they are not so used, they revert to the United States. The 1954 deed contains this "public purpose reversionary clause" and this prevents the State from conveying any of the land in question to the cemetery corporation. The bill releases this clause for the tract of 0.93 of an acre but retains to the United States the mineral interests reserved in the original conveyance.

Our committee ordered the bill reported by a recorded vote of 25 ayes to 0 nays. Adoption of H.R. 6422, as amended, by the House will remove a rather technical obstacle and permit the Ekonk Cemetery to make a much-needed expansion.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. FRENZEL. Mr. Speaker, my understanding is there is no objection to this bill on our side.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently being considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

● **Mr. GEJDENSON.** Mr. Speaker, I am pleased to present for consideration by the House of Representatives H.R. 6422, a bill directing the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands previously conveyed to the State of Connecticut. The release of this 1 acre of land is contingent upon an agreement between the State of Connecticut and the Secretary of Agriculture in which the State would agree to dispose of the lands to which the release applies to the Ekonk Cemetery, Inc., of Sterling, Conn.

The Ekonk Cemetery is a nonprofit organization incorporated in 1926 under the laws of the State of Connecticut. For approximately 20 years, the Ekonk Cemetery, Inc., has been seeking an additional acre of land from the adjacent Pachuag State Forest for use as additional cemetery space. However, most of the Pachuag State Forest were lands acquired under the Federal Bankhead-Jones Farm Tenant Act of 1935 and conveyed to the State of Connecticut in 1954. Section 32 of title III of the act requires that any deed of conveyance be conditioned on the land being used solely for public purposes. The deed effecting the 1954 transfer of land to the State of Connecticut contained a provision establishing the right to reversion of ownership to the United States if the land ever ceased being used for public purposes. Therefore, this legislation is necessary to enable the Secretary of Agriculture to release the State of Connecticut from the deed's reversionary condition for this parcel of land.

The trustees of the Ekonk Cemetery brought this problem to my attention many months ago. Apparently, the cemetery had run out of burying ground and the trustees were seeking help in obtaining additional acreage.

The trustees of the Ekonk Cemetery had previously contacted the State of Connecticut concerning this conveyance of property, but the State's attorney general ruled that the "public purpose" clause contained in the deed would make such a transfer impossible. Furthermore, the State of Connecticut Park and Forest Commission is favorably disposed to transfer the acre of land to the Ekonk Cemetery, Inc. I am pleased that we have been able to work out a solution for the Ekonk Cemetery, Inc.

The Department of Agriculture has no objection to the enactment of H.R. 6422 as amended. I note that the Congress has, in several instances in recent years, granted similar relief to that provided by H.R. 6422.

I would like to thank the chairman of House Agriculture Committee, the Honorable E DE LA GARZA for his timely assistance in considering this legislation. Furthermore, I extend my appreciation to the Honorable JAMES WEAVER for presenting this bill today for the House of Representatives consideration. Last, I would like to thank the staff of the Agriculture Committee for their professional work in preparing the report on H.R. 6422.

Mr. Speaker, I encourage your support for this legislation and extend the appreciation of myself and the trustees of the Ekonk Cemetery for your assistance in the resolution of this matter.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 6422, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MODIFYING WITHDRAWAL OF CERTAIN LANDS IN MONO COUNTY, CALIF.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2475), to modify a withdrawal of certain lands in Mono County, Calif., to facilitate an exchange for certain other lands in Mono County, Calif., and for other purposes; with Senate amendments thereto, concur in the Senate amendment numbered 1 and disagree to the Senate amendments numbered 2 through 7.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 7, strike out "laws:" and insert "laws, including the mining laws:".

Page 2, line 3, strike out "2" and insert "102".

Page 2, line 11, strike out "3" and insert "103".

Page 2, line 13, strike out "3" and insert "103".

Page 2, line 15, strike out "2" and insert "102".

Page 2, line 16, strike out "1" and insert "101".

Page 2, after line 20, insert:

TITLE II

SEC. 201. That the Secretary of the Interior be, and he hereby is, authorized and directed to convey by patent to the city of Miles City, a municipal corporation organized and existed under the laws of the State of Montana, to wit: Lots 9, 17, and 21 (all presently encumbered by the Miles City public water system); lots 28, 31, and 32, all in section 32; lots 16 and 17 in section 33, township 8 north, range 47 east, Principal meridian, Montana, and tract Q and tract S, townships 7 and 8 north, range 47 east, Principal meridian, Montana.

SEC. 202. The Secretary of the Interior is authorized and directed to convey to the city of Miles City, Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented or conveyed by Act of Congress, to wit: Patent numbered 1021511, tracts A and B; patent numbered 1122295, tracts E and F; patent numbered 1173770, tract G; patent numbered 1173768, tract K; patent numbered 1173769, tract L; patent numbered 1178764, tract M; patent numbered 1219817, tract P, all located in townships 7 and 8 north, range 47 east; and tract D located in township 8 north, range 47 east, Principal meridian, Montana.

SEC. 203. The Secretary of the Interior is further authorized and directed to convey to county of Custer, State of Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented, to wit: Patent numbered 1023689, tract C; patent numbered 25-76-0099, tract T, located in townships 7 and 8 north, range 47 east, Principal meridian, Montana, and patent numbered 25-76-0100, lot 20, located in section 33, township 8 north, range 47 east, Principal meridian, Montana.

SEC. 204. The patents and documents issued pursuant to sections 201, 202 and 203 of this title shall contain a reservation to the United States of all gas, oil, coal, and other mineral deposits as may be found in such lands and the right to the use of the lands for extracting and removing same.

SEC. 205. No conveyance shall be made pursuant to this title until payment has been made for the fair market value of the interest being conveyed. Where initial conveyance of these lands was conditioned upon payment of a reasonable consideration on the basis of use, the Secretary is directed to determine the basis for the payment made at the time of the original conveyance. If such payment reflected fair market value without any reduction in that price because of the reverter, no additional payments shall be required.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I wonder if the gentleman could withhold this until minority representatives get here?

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Let me say that this bill as passed by the House was totally noncontroversial and, in fact, is still, even with the Senate amendments.

But the Senate tacked on an entirely extraneous bill on which the House Subcommittee on Public Lands has since had hearings and is prepared to move. We are simply trying to disentangle two completely unrelated issues, send back the Shumway bill, the one that was originally passed by the House in its original form, plus a technical amendment the Senate added and we agree with.

Let me elaborate. H.R. 2475 was passed by the House on December 15, 1981, after earlier being reported favorably by the Committee on Interior and Insular Affairs. The bill, which was introduced by the gentleman from California (Mr. SHUMWAY), would authorize the Department of the Interior to transfer certain Federal lands in California to a private party in exchange for lands which would become part of the Owens Valley Native Fish Sanctuary, an ecological reserve which protects the sole remaining habitat of the endangered Owens pupfish. The bill is strongly supported by the administration, by the State of California, the University of California, the city of Los Angeles, and a number of scientific and environmental groups. Its passage in the House was by unanimous consent.

When the Committee on Energy and Natural Resources of the other body considered this House-passed bill, they adopted an amendment dealing with a totally unrelated matter; namely, the transfer of certain Federal lands to a city in Montana. As so amended, the bill has now come back to us from the other body.

Since the Senate action, the Subcommittee on Public Lands and National Parks has held a hearing on the Montana proposals, and I anticipate that our committee will be in a position to act on them separately fairly soon. Meanwhile, however, I believe that it is essential that the House act to disentangle the California and Montana proposals, which are completely unrelated, and which could not have been joined in this way if the rules of the House were applicable in the other body.

Therefore, I am seeking the removal of the Montana land provisions from the California bill, and the return of the bill to the Senate for what I hope will be prompt action on a meritorious proposal.

I have already talked to the gentleman from Montana (Mr. MARLENEE), the author of a bill dealing with the subject matter of the bill attached by the Senate to the original bill. We intend, in the Interior Committee, to deal with that as a separate piece of legislation. He has no objection to that.

Mr. FRENZEL. Further reserving the right to object, does the gentleman assure me that the gentleman from Montana (Mr. MARLENEE) has no objection to this procedure?

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Mr. **SEIBERLING.** I have talked to him this morning.

Mr. **FRENZEL.** And to the manner in which you are going to handle this?

Mr **SEIBERLING.** I talked with him this morning and told him what I was going to do and he has no objection.

Mr. **FRENZEL.** And the gentleman's committee is going to move forward with the other bill?

Mr. **SEIBERLING.** We are.

Mr. **FRENZEL.** Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CITIZEN REGENT OF THE SMITHSONIAN INSTITUTION

Mr. **HAWKINS.** Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate joint resolution (S.J. Res. 194) to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The **SPEAKER** pro tempore (Mr. Kildee). Is there objection to the request of the gentleman from California?

Mr. **FRENZEL.** Mr. Speaker, reserving the right to object, I would like to yield to the gentleman from California (Mr. Hawkins) to explain the purpose of this resolution.

Mr. **HAWKINS.** Mr. Speaker, will the gentleman yield?

Mr. **FRENZEL.** I yield to the gentleman from California.

Mr. **HAWKINS.** Mr. Speaker, Senate Joint Resolution 194 provides for the appointment of Miss Nancy Hanks of the District of Columbia to fill a vacancy on the Board of Regents of the Smithsonian Institution.

Senate Joint Resolution 194 passed the Senate June 9, 1982, and was referred to the Committee on House Administration. On August 4, 1982, the committee favorably reported the joint resolution by unanimous voice vote. House Report 97-753 has been filed to accompany Senate Joint Resolution 194.

The purpose of the joint resolution is to fill the vacancy created on the Smithsonian's Board of Regents by the expiration of the term of James E. Webb of the District of Columbia on June 21, 1982.

The Smithsonian Board of Regents is made up of 17 members, 9 of whom are so-called citizen regents. The citizen regents are noncongressional persons who have been nominated by the regents and are elected to the Board of Regents by passage of a joint resolution of Congress. Of the nine, two regents are designated to be residents of the District of Columbia. The citizen regents serve statutory 6-year terms and their service is gratuitous, except for necessary traveling and other expenses in attending meetings of the Board.

The Smithsonian Board of Regents has unanimously nominated Miss Nancy Hanks as citizen regent from the District of Columbia. Miss Hanks is a well-known champion of the arts whose outstanding record of public service spans 30 years. Most of us know Miss Hanks as the distinguished chairman of the National Endowment for the Arts from 1969-77. Miss Hanks serves on numerous educational, foundation, and corporate boards where she is active in social responsibility and public interest work.

Miss Hanks' combined experience in Government, in the arts, and in the private and corporate sectors should complement and provide added dimension to the Board of Regents of the Smithsonian Institution.

I urge favorable consideration of this nomination.

Mr. **FRENZEL.** Further reserving the right to object, Mr. Speaker, I thank the distinguished chairman for his presentation, with which the minority concurs wholeheartedly. We know of nobody better qualified for that trusteeship than Nancy Hanks.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 194

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of James E. Webb of the District of Columbia on June 21, 1982, is filled by the appointment of Nancy Hanks of the District of Columbia for the statutory term of six years.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **HAWKINS.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

OLIVER WENDELL HOLMES DEVISE FUND INTEREST

Mr. **HAWKINS.** Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2582) to amend the act to establish a permanent committee for the Oliver Wendell Holmes devise, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

Mr. **FRENZEL.** Mr. Speaker, reserving the right to object, I would yield to the gentleman from California to describe the bill.

Mr. **HAWKINS.** Mr. Speaker, will the gentleman yield?

Mr. **FRENZEL.** I yield to the gentleman from California.

Mr. **HAWKINS.** Mr. Speaker, S. 2582 is a bill providing for the adjustment of the statutory rate of interest paid on the funds of the Permanent Committee for the Oliver Wendell Holmes devise on deposit with the U.S. Treasury. The bill also clarifies the intent of the original act which established the Holmes devise by authorizing the Holmes devise fund to receive royalties from publications authorized in the original statute.

Mr. Justice Holmes died in 1935 and left a large portion of his estate to the U.S. Government. The Permanent Committee for the Oliver Wendell Holmes devise was established by law in 1955 to devote the income and as necessary the principal of the fund to prepare a comprehensive history of the U.S. Supreme Court, to finance an annual lecture or series of lectures, and to prepare a memorial volume of Justice Holmes' writings. The 1955 law provided for the payment of interest to the Holmes devise fund at a rate of 3.5 percent per annum, which was a preferential rate of interest on long-term securities at that time.

Three and a half percent no longer reflects current market conditions. S. 2582 would amend the law to allow the Holmes devise to earn a rate of interest determined by the prevailing market interest rates on marketable Government securities. The change assures that the Holmes devise receives a rate of return that is approximately equal to the rate paid by the Treasury on its marketable borrowings of comparable maturities. It authorizes the Secretary of the Treasury to invest the Oliver Wendell Holmes devise funds in public debt securities with maturities and amounts to be selected by the permanent committee.

There is presently $88,000 in the Holmes devise, which is administered by the Library of Congress. S. 2582 would provide appropriate investment flexibility and an equitable increase in the rate of return earned on the Holmes devise. The Congressional Budget Office estimates that under this bill, the adjusted interest rate would increase payments to the Holmes devise from the Treasury by about $7,000 to $9,000 annually. The Treasury Department has no objection to this adjustment.

The original act provides for the acceptance of gifts to the Holmes devise, but it does not address the receipt of royalties or other income. The bill would allow the Holmes devise to receive such income. At present, royalties have begun to accrue on the publication of the history of the Supreme Court.

The Senate passed S. 2582 on June 9, 1982. The Committee on House Administration reported S. 2582 by unanimous voice vote on August 4, 1982, and filed House Report No. 97-752 to accompany the bill.

I urge passage of this legislation.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I thank the distinguished chairman for his description, with which I concur.

There is no objection to this bill.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the first section of the Act entitled "An Act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes", approved August 5, 1955 (69 Stat. 533), is amended in the second sentence thereof by striking out "(3)" and all that follow up to (but not including) the period, and inserting in lieu of the matter stricken the following: "(3) amounts equal to the interest earned on moneys in the fund which are invested in public debt securities pursuant to the succeeding sentence".

(2) The first section of such Act is further amended by adding at the end thereof the following new sentence: "Moneys in the fund shall be invested by the Secretary of the Treasury in public debt securities in accordance with specifications, as to maturity of security and amount to be invested, prescribed by the Permanent Committee for the Oliver Wendell Homes Devise.".

(b) Section 5 of such Act is amended by inserting immediately after the first sentence thereof the following new sentence: "The Committee is further authorized to receive royalties or other income that is generated by the sale of its publications or which otherwise becomes payable to the fund.".

SEC. 2. The amendments made by subsection (a) of the first section of this Act shall be effective in the case of fiscal years beginning after September 30, 1982.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

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RESERVE REQUIREMENTS REFORM ACT OF 1982

Mr. FAUNTROY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6222) to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions.

The Clerk read as follows:

H.R. 6222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reserve Requirements Reform Act of 1982".

SEC. 2. (a) Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the thereof the following:

"(11) ADDITIONAL EXEMPTIONS.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed $2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

"(ii) Each depository institution may designate in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

"(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than $2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

"(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

"(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.".

(b) Section 19(b)(4)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(4)(A)(iv)) is amended by inserting "except as provided in paragraph (11)," after "requirement is imposed,".

(c) Section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

"(E) The term 'reservable liabilities' means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from the District of Columbia (Mr. FAUNTROY) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Speaker, I yield myself such time as a I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 6222, the Reserve Requirements Reform Act of 1982. This is a bill to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions, which was unanimously adopted by the committee.

This is legislation which will provide realistic and meaningful relief to 23,831 or 59 percent of all depository institutions in our Nation. As you know, the Monetary Control Act of 1980 requires all depository institutions to maintain non-interest-bearing reserves with the Federal Reserve. Since the implementation of the act, the Federal Reserve has, by temporary administrative action, exempted some 17,755 depository institutions with less than $2 million in assets—that is 44 percent of all depository institutions—from reserve requirements. This exemption, however, expires on December 31, 1982, and the Federal Reserve has said that it cannot extend it without specific authorizing legislation. This exemption was established during the early stages of the implementation of the act because of the concern by the Fed that subjecting a large number of institutions, many of them

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small, to these new reporting and reserve requirements could cause significant operational difficulties. As a part of its continued oversight, the committee has concluded, however, that no adverse effects would occur if this temporary exemption were made permanent.

If this legislation is not adopted, institutions now exempted would then have to maintain non-interest-bearing sterile reserves pursuant to the schedule established in the Monetary Control Act, submit reports, and otherwise incur expenses; 17,755 depository institutions, or approximately 44 percent of all such institutions, would be immediately affected by this scheduled expansion of reserve requirements.

H.R. 6222 would replace the administrative exemption provided by the Federal Reserve with legislative authority for a somewhat broader and fairer exemption that exempts from reserve requirements the first $2 million of reservable deposits of all depository institutions. In practice, this would exempt almost all depository institutions with total deposits of approximately $5 million or less from requirements to maintain reserves. The number of institutions which would benefit from this bill by not having to either maintain reserves or submit as many reports is estimated to be 23,831 or 59 percent of all depository institutions.

This approach was selected because it was determined that an exemption formula based on levels of reservable liabilities and applicable to all institutions was the most equitable of the several alternatives. Those alternatives which would have been based on asset size were rejected because of concern that institutions just passing over the threshold of the exempt level would confront a very high marginal reserve requirement while institutions just below the cutoff would be completely exempt from any reserve requirement.

Provisions affecting certain reporting requirements are specifically stated in the bill, thereby making explicit the intention of the Committee that the burden of submitting reports is also removed or substantially diminished along with the removal of the burden of maintaining reserves. Consistent with the Federal Reserve System's responsibility to monitor and control money and credit aggregates institutions which have a zero reserve requirement shall be subject to less overall reporting requirements than other institutions. This provision does not eliminate the ability of the Federal Reserve to require periodic or special reports designed to assure compliance with the Monetary Control Act and to obtain information to monitor and control the monetary and credit aggregates. It should be noted that while most institutions with $2 million or less of reservable liabilities will have total deposits of approximately $5 million, it is possible for a much larger institution to have only $2 million or less in reservable liabilities. The reporting requirements for such an institution would have to be more stringent.

These provisions take effect upon enactment of the legislation. The importance of accurate measurement of required reserves for monetary control dictates, however, that the Federal Reserve System and its Board of Governors be given a reasonable period of transition to effect and implement this exemption. It is assumed that such a period need not exceed 60 days. If more time is required, it is expected that the Board will so advise the committee and give its reasons. In any event, the committee does not believe that a delay in implementation by the Federal Reserve would be the basis of any claims for payment to a depository institution by the Federal Reserve for any lost opportunities, direct, or consequential costs.

The bill is not expected to have any impact on the ability of the Federal Reserve to control monetary policy. The Federal Reserve has, however, indicated in testimony before the Subcommittee on Domestic Monetary Policy that any increase in the exemption level above that provided in the bill would have a detrimental impact on their ability to control the money supply.

Additionally, while there is no direct budgetary impact, the income earned by the Federal Reserve and turned over to the Treasury from bank reserves will be slightly diminished by this legislation. The lost income is expected to be $24 million in 1982 and $66 million in 1988 when the reserve schedule is fully phased in. Some of this, of course, will be offset by taxes collected on the income earned from the reinvestment of these funds.

Mr. Speaker, I yield back the balance of my time.

Mr. STANTON of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Reserve Requirements Reform Act of 1982—H.R. 6222. Both Chairman St Germain of the full Banking Committee and Chairman Fauntroy of the Domestic Monetary Policy Subcommittee are to be commended for bringing this worthwhile legislation to the floor today. This amendment to the Federal Reserve Act provides at least some partial relief from the burdens which reserve requirements impose on all depository institutions for the sake of implementing monetary policy.

This bill has the salutary effect of reducing both the reserve and the paperwork burden for particularly smaller institutions such as credit unions without having a measurable impact on total reserve levels. More than 50 percent of all depository institutions would be completely relieved of the burden of posting reserves, and yet the Federal Reserve would retain control over 99 percent of total deposits.

Mr. Speaker, Federal Reserve Chairman Paul Volcker wrote to me on April 28, 1982, to state that the Federal Reserve would not extend its exemption for nonmember institutions with deposits of less than $2 million beyond December 31, 1982. The legislation before us today incorporates the Federal Reserve's solution by exempting the first $2 million in reservable liabilities at all depository institutions, large or small.

This bill is supported by the Independent Bankers Association of America, the U.S. League of Savings Associations, the National Association of Mutual Savings Banks, the National Association of Federal Credit Unions, and the Credit Union National Association. It will have the effect of exempting nearly 24,000 institutions from reserve requirements, including 99 percent of the Nation's credit unions.

H.R. 6222 was reported from the Committee on Banking, Finance and Urban Affairs by a vote of 43 yeas to 0 nays. A companion proposal is contained in S. 2879, the Depository Institutions Amendments of 1982, now pending before the Senate. Mr. Speaker, I encourage all of my colleagues to support this bipartisan effort to grant much needed regulatory relief to our country's depository institutions. I hope we can see it enacted before the 97th Congress adjourns.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from the District of Columbia (Mr. Fauntroy) that the House suspend the rules and pass the bill, H.R. 6222, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FAUNTROY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

SHIPPING ACT OF 1982

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4374) to improve the international ocean commerce transportation system of the United States, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shipping Act of 1982".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "agreement" means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof, but does not include a maritime labor agreement;

(2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto;

(3) "assessment agreement" means an agreement or any provision of an agreement, whether part of a collective-bargaining agreement or negotiated separately, that provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized;

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count;

(5) "Commission", except in section 18, means the Federal Maritime Commission;

(6) "common carrier" includes both ocean common carriers and nonvessel-operating common carriers;

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff, but does not include a joint service, consortium, pooling, or transshipment arrangement;

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier;

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of his shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement;

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

(11) "forest products" means forest products in an unfinished or semifinished state that are of a size too large for the largest commercially available container or that are offered for carriage by the shipper as noncontainerized cargo in lot sizes having a volume greater than two thousand five hundred and sixty cubic feet or that are transported in shipload lot sizes;

(12) "inland division" means the amount paid by an ocean common carrier to any inland carriers with respect to performance of the inland portion of through transportation offered to the public by the ocean common carrier;

(13) "inland portion" means the charge to the public by an ocean common carrier with respect to the non-ocean portion of through transportation;

(14) "joint venture" means a consortium, joint service agreement or other agreement that will result in the establishment of a new and separate line or service to be operated for the benefit of the agreeing ocean common carriers and eliminates all, or virtually all, competition among the parties to the agreement in the affected trade.

(15) "loyalty contract" means a contract with an ocean common carrier or conference by which a contract shipper or consignee obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference;

(16) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier;

(17) "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement;

(18) "net profit or loss pool" means a pooling or apportionment of net profits or net losses, or any similar arrangement that results in the participants sharing all or virtually all of their costs of operation, but shall not be deemed to include a pooling or apportionment of revenues, even if such a pooling provides for certain adjustments to revenue or expense or results in the sharing of certain costs, provided that each participant continues to bear a substantial portion of his own costs.

(19) "nonvessel-operating common carrier" means a common carrier engaged in the transportation by water of cargo between the United States and a foreign country, whether in the import or export trade, that does not operate the vessels by which the ocean transportation service is provided, and is a shipper in his relationship with an ocean common carrier;

(20) "ocean common carrier" means a vessel operating common carrier engaged in the transportation by water of passengers or cargo between the United States and a foreign country, whether in the import or export trade; but does not include one engaged in ocean transportation by ferry boat or ocean tramp;

(21) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country;

(22) "rates" means rates, services, classification rules, or regulations;

(23) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of either party;

(24) "shipment" means all of the cargo carried under the terms of a single bill of lading;

(25) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made;

(26) "shippers' council" means an association of shippers or their agents, other than ocean freight forwarders and non-vessel-operating common carriers;

(27) "through rate" means the single amount charged by a common carrier in connection with through transportation;

(28) "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port; and

(29) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

SEC. 3. AGREEMENTS WITHIN SCOPE OF ACT.

(a) This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, and regulate rates, including through rates, cargo space accommodations, and other conditions of services;

(2) pool or apportion traffic, revenues, net losses, or net profits;

(3) allot ports or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or non-vessel-operating common carrier; and

(6) enter into other agreements to control, regulate, or prevent competition among themselves.

(b) This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

SEC. 4. AGREEMENTS.

(a) Filing Requirements.—A true copy of every agreement entered into with respect to an activity described in section 3 shall be filed with the Commission, except agreements related to transportation to be per-

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formed within or between foreign countries. In the case of an oral agreement, complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the form and manner in which agreements shall be filed.

(b) COMMISSION ACTION.—The Commission shall within thirty days after filing reject any agreement that on its face fails to comply with this section. Unless an agreement has been rejected, the Commission shall, within thirty days of the filing of the agreement, transmit a notice of its filing to the Federal Register for publication.

(c) CONFERENCE AGREEMENTS.—Each conference agreement must—

(1) provide for the admission to conference membership of any carrier operating vessels willing to serve the particular trade or route;

(2) permit any member to withdraw from conference membership upon reasonable notice without penalty; and

(3) provide for retaining the services of an independent neutral body to police fully the obligations of the conference and its members.

(d) CONFERENCES UTILIZING LOYALTY CONTRACTS.—

(1) Each conference agreement must provide that, if the conference has in effect a loyalty contract with one or more shippers, each member of the conference may take independent action on any rate or service item contained within a tariff required to be filed under section 8 whenever—

(A) a member requests the conference to amend a rate or service item and announces its intention to take independent action if the conference does not agree to the amendment;

(B) the conference fails to make the proposed amendment within thirty days after the first consideration of the amendment in a conference meeting; and

(C) the member seeking the amendment requests the conference to include in the conference tariff a separate entry for its account as proposed in the amendment.

(2) The agreement must further provide that, if the requirements of paragraph (1) are met, the conference shall include the proposed amendment in its tariff for use by any member of the conference and that the amendment shall become effective on publication and filing, but no later than forty-five days after the initial request.

(3) This subsection does not change the effectiveness of section 8(d).

(e) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences serving different trades that would otherwise be naturally competitive must provide the right of independent action for each conference.

(f) ASSESSMENT AGREEMENTS.—

(1) Assessment agreements shall be filed with the Commission and shall be deemed approved upon filing. The Commission shall thereafter, upon complaint filed within two years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in any such proceeding within one year of the date of filing of the complaint. To the extent that an assessment or charge is found in the proceeding to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of any other section of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control.

(2) This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements. This section does not exempt from the provisions of this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier that are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

SEC. 5. ACTION ON AGREEMENTS.

(a) EFFECTIVE DATE.—Except with respect to assessment agreements, each agreement entered into with respect to an activity described in section 3 shall become effective forty-five days after filing unless the Commission rejects the agreement under section 4(b), or suspends the effective date of the agreement under subsection (i).

(b) STANDARD.—The Commission shall by order disapprove or modify any agreement that it finds will operate in violation of this Act; but in the case of any agreement filed under section 4(a) that is a renewal of an agreement previously in effect under this section or section 20(d), there shall be a presumption that the conduct contemplated under the agreement so filed will not be in violation of section 10(a).

(c) INVESTIGATION.—The Commission may, at any time after an agreement has been filed, institute an investigation and conduct a hearing under section 11 to determine if the agreement complies with this Act and, if not, whether the agreement should be disapproved, canceled, or modified. Each agreement that is in effect at the time it is the subject of an investigation and hearing shall remain in effect during the investigation and hearing.

(d) FINAL DECISION TIME.—The Commission shall issue a final decision in each hearing under subsection (c) within one hundred and eighty days of ordering the hearing.

(e) DELAY.—If, within the time period specified in subsection (d), the Commission determines that it is unable to issue a final order because of undue delays, the Commission may make a decision in the proceeding adverse to the delaying party on the basis of the delay, or in the case of undue delay caused by a proponent of an agreement, alternatively, toll the period specified in subsection (d) for the period of delay.

(f) BURDEN OF PROOF.—The burden of proof in any proceeding under this section or under section 4(f)(1) is on the party opposing the agreement, including the Commission.

(g) DURATION OF EFFECTIVENESS.—Each agreement, once in effect, shall remain in effect until withdrawn or until disapproved, canceled, or modified by the Commission. The Commission may not limit the effectiveness of an agreement to a fixed term.

(h) COMPLIANCE WITH SUBPENA OR DISCOVERY.—In any proceeding under this section, the Commission may disapprove an agreement for failure of a proponent of the agreement to comply with a subpena or discovery order lawfully issued by the Commission.

(i) SUSPENSION.—At any time before the expiration of the forty-five-day period referred to in subsection (a), the Commission, upon complaint of a common carrier, shipper, or marine terminal operator, or upon its own motion, may upon notice suspend the effective date of an agreement pending the outcome of a proceeding under section 11, if the Commission, after preliminary investigation, believes that there are unresolved issues of fact, which, if determined adversely to the party or parties filing the agreement, will result in a finding that the agreement is in violation of this Act, and either

(1) there is a reasonable probability that upon further investigation the Commission would find that the agreement will operate in violation of this Act; or

(2) a shipper, common carrier, or marine terminal operator is likely to be substantially injured if the agreement is allowed to go into effect before a final decision on the merits.

The effective date of an agreement may not be suspended under this subsection for a period exceeding ninety days unless the Commission, before the expiration of that period, believes that an extension of such period by not more than ninety additional days is required to resolve the outstanding issues.

SEC. 6. LOYALTY CONTRACTS.

(a) CONTRACT REQUIREMENTS.—Ocean common carriers and conferences engaged in foreign commerce may utilize loyalty contracts, if—

(1) the contract is available to all shippers on equal terms and conditions;

(2) the contract shipper is permitted prompt release from the contract with respect to any shipment or shipments for which the contracting carrier or conference cannot provide space as requested on reasonable notice by the shipper;

(3) the contract covers only those goods of the contract shipper as to the shipment of which it has the legal right at the time of shipment to select the carrier;

(4) the contract shipper, carrier, and conference are permitted on ninety days' notice to terminate, without penalty, the contract rate system in whole or with respect to any commodity;

(5) the contract excludes bulk cargo (except liquid bulk cargoes, other than chemicals, in less than full shipload lots) and forest products;

(6) the contract provides that whenever a rate for the carriage of goods under the contract becomes effective insofar as it is under the control of the carrier or conference, the rate—

(A) may not be increased on less than ninety days' notice, except upon the agreement of the applicable shipper; and

(B) may be increased on not less than thirty days' notice if the increase is to a level no higher than that from which the particular rate was reduced within one hundred eighty days immediately preceding the filing of the increase; and

(7) the contract shipper is not denied the right to utilize competing services that involve loading to or from a vessel at a port or ports located beyond a carrier's or confer-

ence's geographic scope as defined in the contract; and

(8) the contract provides for a spread or series of spreads between tariff rates and rates charged contract shippers that shall not exceed an aggregate of 15 percent.

(b) Intermodal Loyalty Contract.—Each conference that offers an intermodal loyalty contract must offer an alternative all-ocean carrier loyalty contract. A shipper may not be penalized nor shall an action for breach of contract lie if a shipper elects one of the alternative loyalty agreements for the other for any shipment moving through the exit or entry ports that are the subject of the contract.

(c) Treatment of Contract Not in Conformity.—The utilization of a loyalty contract that does not conform with each of the requirements of this section is a violation of this Act.

SEC. 7. EXEMPTION FROM ANTITRUST LAWS.

(a) The antitrust laws do not apply to—

(1) any agreement that has been filed under section 4 and has become effective under section 4(f) or section 5, or is exempt under section 16 from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act undertaken or entered into in the reasonable belief that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 16 from any filing requirement of this Act;

(3) any loyalty contract or any activity pursuant to a loyalty contract;

(4) any agreement or activity that relates to transportation services within or between foreign countries, whether or not via the United States;

(5) any agreement or activity with a shipper's council organized under the laws of a foreign country and operating exclusively outside the United States, including an agreement or activity that affects cargo transported in a United States import or export trade;

(6) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other terminal facilities outside the United States; and

(7) subject to section 19(e)(2), any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14(b) thereof, and any duly filed and published tariff rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

(b) This Act does not extend antitrust immunity to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States; or to any discussion or agreement among common carriers that are subject to this Act fixing the inland divisions as opposed to the inland portions, of through rates within the United States.

(c)(1) Any determination by any agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act, or obtain injunctive relief under section 16 of the Clayton Act, for conduct which is prohibited by this Act.

(d) Any shippers' council organized under the laws of the United States may apply to the Attorney General for certification that the conduct of the council in bargaining with ocean common carriers on the terms and conditions of service is not likely to result in a violation of the antitrust laws. The Attorney General shall grant the application for certification under the same conditions and limitations applicable to an application for antitrust certification of solely export conduct; except that the activities of the shippers' council in bargaining with ocean common carriers on the terms and conditions of service regarding cargo in import trade shall be eligible for the protection of such certification on the same terms and conditions that are made available for similar activities for service on cargo in export trade.

SEC. 8. TARIFFS.

(a) In general.—

(1) Except with regard to bulk cargo and forest products, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports or its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall plainly indicate the places between which cargo will be carried; list each classification of cargo in use; set forth the level of freight forwarder compensation, if any, by a carrier or conference; state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change, affect, or determine any part or the aggregate of the rates or charges; and include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for copies provided by the Commission.

(b) Time-Volume Rates.—Rates quoted in tariffs may vary with the volume of cargo offered over a specified period of time.

(c) Service Contracts.—An ocean common carrier or conference may enter into a service contract with a shipper to provide specified services under specified rates and conditions, subject to the requirements of this Act. Each contract entered into under this subsection shall be filed confidentially with the Commission, and a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and such essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for non-performance, if any.

The exclusive remedy for a breach of contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

(d) Rates.—No new or initial rates or change in existing rates, which result in an increased cost to the shipper may become effective earlier than thirty days after filing with the Commission. The Commission, for good cause, may allow such new or initial rates and such changes to become effective in less than thirty days. Any change in the rates that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) Refunds.—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to the filing of an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require, which gives notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within one hundred and eighty days from the date of shipment.

(f) Form.—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject any tariff filed that is not in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void, and its use is unlawful.

SEC. 9. CONTROLLED CARRIERS.

(a) Controlled Carrier Rates.—No controlled carrier subject to this section shall maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor shall any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in such tariffs. An unjust or unreasonable classification, rule, or regulation means one which results or is likely to result in the carriage or handling of cargo at rates or charges which are below a level which is just and reasonable. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations which the controlled carrier has failed to demonstrate to be just and reasonable. In any proceeding under this subsection, the burden of proof shall be on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

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(b) Rate Standards.—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) Effective Date of Rates.—Notwithstanding the provisions of section 9(b), the rates, charges, classifications, rules, or regulations of controlled carriers shall not, without special permission of the Commission, become effective sooner than the thirtieth day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within twenty days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) Disapproval of Rates.—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why such rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend such rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend such rates, charges, classifications, rules, or regulations on not less than sixty days' notice to the controlled carrier. No period of suspension under this subsection may be greater than one hundred and eighty days. Whenever the Commission has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject such new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) Presidential Review.—Concurrently with the publication thereof, the Commission shall transmit to the President any order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within ten days after the receipt or the effective date of such Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that such stay is required for reasons of national defense or foreign policy which reasons shall be specified in the report. Notwithstanding any other provisions of law, the Commission shall immediately grant such request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) Exceptions.—The provisions of this section shall not apply to—

(1) any controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) any controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of any controlled carrier in any particular trade which are covered by an agreement effective under section 4, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States;

(5) a trade served exclusively by controlled carriers; or

(6) any controlled carrier registered in a state which, on the effective date of this Act, is among those designated a beneficiary developing country for purposes of the generalized system of preferences, provided for in title V of the Trade Act of 1974 (88 Stat. 2066; 19 U.S.C 2461 et seq.), and set forth in general headnote 3(c) of the Tariff Schedules of the United States, and which has vessels registered within its jurisdiction that are privately owned and not operated by a controlled carrier.

SEC. 10. PROHIBITED ACTS.

(a)(1) Subject to paragraphs (2) and (3), no common carrier, directly or indirectly, may form a joint venture with other common carriers operating in the same trade if such conduct substantially reduces competition in such trade considered as a whole.

(2) Paragraph (1) shall not apply if such conduct—

(A) results in gains in efficiency or services that outweigh any diminution in competition;

(B) is required by an express provision of a government-to-government agreement; or

(C) is in furtherance of foreign policy interests of the United States which outweigh the interests of the United States in preventing the substantial reduction in competition.

(D) permits U.S.-flag carriers to carry cargo of the importing or exporting foreign state which would otherwise be unavailable to such carrier, or available only on unequal terms by reason of the cargo reservation laws or trading practices (governmental or otherwise) of such state, provided that such agreement is not unjustly discriminatory among U.S.-flag carriers.

(3) With respect to conduct by a common carrier that was undertaken in the reasonable belief that the conduct was consistent with an agreement that was in effect under section 5 or 20(d) at the time the conduct occurred—

(A) there shall be a presumption that such conduct is not in violation of this subsection; and

(B) the common carrier, if the Commission determines that such conduct is in violation of this subsection, shall not be liable for reparations under section 11(f), or for penalties under section 13(a) to the extent that such conduct was so undertaken.

(b) No common carrier, including a joint service or consortium operating as a single entity, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariffs;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates;

(B) cargo classifications;

(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight in proper condition; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship;

(8) offer or pay any deferred rebates;

(9) demand, charge, or collect any rate or charge which is unjustly discriminatory between shippers or ports;

(10) make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(11) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the

consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee;

(B) may improperly disclose its business transactions to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (11) shall be construed to prevent providing such information, in response to any legal process, to the United States, or to any independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier which is a party to a conference agreement approved pursuant to this Act, or any receiver, trustee, lessee, agent, or employee of such carrier or person, or any other person authorized by such carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act shall be prohibited.

(c) No person may—

(1) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges which would otherwise be applicable;

(2) operate under an agreement described in section 3 that has not become effective under section 5, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement described in section 3 except in accordance with any modifications made by the Commission to the agreement.

(d) No conference or group of two or more common carriers, other than a joint venture operating as a single entity, may—

(1) boycott or take any other concerted action resulting in a refusal to deal;

(2) utilize a device or means that sets conditions or otherwise restricts the ability of a shipper to select an ocean common carrier in a competing trade, an ocean tramp, or a bulk carrier;

(3) restrict the employment of intermodalism or other technological innovations by member carriers;

(4) permit any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of an ocean common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(5) negotiate with any nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by such nonocean carriers: *Provided*, That this prohibition shall not prohibit the setting and publishing of a joint through rate by a conference, joint service, or an association of ocean common carriers authorized to file tariffs;

(6) concertedly deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit the amount thereof to less than one and one-fourth per centum of the freight charges;

(7) except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract, allocate shippers among specific carriers that are parties to that agreement or prohibit any carrier that is a party to the agreement from soliciting cargo from any particular shipper; or

(8) pool or apportion net losses or net profits with other common carriers operating in the same trade.

SEC. 11. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) FILING OF COMPLAINTS.—Any person may file with the Commission a sworn complaint alleging a violation of this Act and may seek reparation for any injury caused to the complainant by that violation.

(b) SATISFACTION OR INVESTIGATION OF COMPLAINTS.—The Commission shall furnish a copy of a complaint filed pursuant to section (a) of this section to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in such manner and by such means and make such order as it deems proper.

(c) COMMISSION INVESTIGATIONS.—The Commission upon its own motion may, in like manner and with the same powers, investigate any conduct which it believes may be in violation of this Act.

(d) SPECIAL INVESTIGATIONS OF CONDUCT PURSUANT TO POOLING AGREEMENTS.—(1) The Commission, upon its own motion or at the request of the Attorney General or the Federal Trade Commission, may initiate an investigation under this section of conduct pursuant to an agreement to pool or apportion traffic or revenues, or charter space with other common carriers operating in the same trade if it believes that conduct pursuant to the agreement substantially reduces competition in such trade.

(2) The Commission shall reject, modify, or terminate any agreement subject to investigation pursuant to paragraph (1) if it determines that conduct pursuant to the agreement substantially reduces competition in the trade concerned unless the agreement—

(A) results in gains in efficiency or services that outweigh any diminution in competition;

(B) is required by an express provision of a government-to-government agreement; or

(C) is in furtherance of foreign policy interests of the United States which outweigh the interests of the United States in preventing the substantial reduction in competition.

(D) permits U.S.-flag carriers to carry cargo of the importing or exporting foreign state which would otherwise be unavailable to such carrier, or available only on unequal terms by reason of the cargo reservation laws or trading practices (governmental or otherwise) of such state, provided that such agreement is not unjustly discriminatory among U.S.-flag carriers.

(3) The sole remedy under the Act for conduct found to violate paragraph (2) shall be rejection, termination, or modification of the agreement.

(e) REPORTS.—The Commission shall make a written report of every investigation made under this Act in which a hearing was held, which states its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information, and such authorized publication shall be competent evidence of those reports in all courts of the United States.

(f) REPARATIONS.—For any complaint filed within four years after the cause of action accrued, the Commission shall, upon petition of the complainant and after notice and hearing, direct payment of reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest from the date of injury) caused by a violation of this Act. Upon a showing that the injury was caused by activity that is prohibited by section 10(b) (5) or (7) or section 10(d) (1) or (4), or that violates section 10(c) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. In the case of injury caused by an activity that is prohibited by section 10(b)(6) (A) or (B), the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(g) INJUNCTION.—

(1) In connection with any investigation conducted under this section, the Commission may bring suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that the Commission has reasonable cause to believe that a violation of this Act has or is about to take place, and that the enjoining of that conduct is in the interest of the public, and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed ten days after the Commission has issued an order disposing of the issues under investigation. Any such suit shall be brought in the district in which the defendant person, partnership, or corporation resides or transacts business.

(2) After filing a complaint with the Commission under subsection (a), the complainant may file suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed ten days after the Commission has issued an order disposing of the complaint. Any such suit shall be brought in the district in which the defendant person, partnership, or corporation has been sued by the Commission under paragraph (1); or, if no suit has been filed, in any district in which the defendant person, partnership, or corporation resides or transacts business.

SEC. 12. SUBPENAS AND DISCOVERY.

(a) IN GENERAL.—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission which rules and regulations, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpena compel the attendance of witnesses and the

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production of books, papers, documents, and other evidence.

(b) Witness Fees.—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

SEC. 13. PENALTIES.

(a) Assessment of Penalty.—Whoever violates any provision of this Act, or any regulation issued thereunder, or Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed $5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense.

(b) Tariff Suspension.—

(1) For any violation of section 10(b)(1), (2), (3), (4), or (8), the Commission may suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed twelve months.

(2) For failure to supply information ordered to be produced or compelled by subpena under section 12, the Commission may, after notice and opportunity for hearing, suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) Any common carrier who accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended shall be subject to a civil penalty of not more than $50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) Before any tariff suspension ordered under this subsection becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove the order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) Assessment Procedure.—Every civil penalty provided for in this Act may be assessed by the Commission after notice and an opportunity for hearing. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree or culpability, history of prior offenses, ability to pay, and such other matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment under this section.

(d) Review of Civil Penalty.—Any person against whom a civil penalty is assessed under this Act may obtain review thereof under chapter 158 of title 28, United States Code.

(e) Failure To Pay Assessment.—If any person fails to pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall seek to recover the amount assessed in any appropriate district court of the United States. In such action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) Limitations.—

(1) No fine or other punishment may be imposed for criminal conspiracy to violate any provision of this Act, or to defraud the Commission by concealment of any such violation.

(2) Any proceeding to assess a civil penalty under this section shall be commenced within five years from the date the violation occurred.

SEC. 14. COMMISSION ORDERS.

(a) In General.—Orders of the Commission relating to any violation of this Act or any regulation issued thereunder shall be made only after opportunity for hearing and upon sworn complaint or on its own motion. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) Reversal or Suspension of Orders.—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing shall, except by special order of the Commission, operate as a stay of such order.

(c) Enforcement of Nonreparation Orders.—In case of violation of any order of the Commission, or for failure to comply with a Commission subpena, the Commission, or any party injured by such violation, or the Attorney General may seek enforcement by any United States district court having jurisdiction over the parties. If after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) Enforcement of Reparation Order.—(1) In case of violation of any order of the Commission for the payment of reparation, the person to whom such award was made may seek enforcement of such order in any United States district court having jurisdiction of the parties.

(2) In any United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States district court who prevails shall be allowed a reasonable attorney's fee to be assessed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) Statute of Limitations.—Any action seeking enforcement of a Commission order shall be filed within four years after the date of the violation of the order.

(f) Representation in Court.—Attorneys employed by the Commission shall, if the Commission so directs, appear for and represent the Commission in any case before a court of the United States or a State of the United States.

SEC. 15. REPORTS AND CERTIFICATES.

(a) Reports.—The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

(b) Certification.—The Commission shall require the chief executive officer of every common carrier and, to the extent it deems feasible, may require any shipper, consignor, consignee, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than $5,000 for each day the violation continues.

SEC. 16. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any specified activity or class of agreements subject to this Act from any requirement of this Act, if it finds that the exemption will not substantially impair effective regulation by the Commission and is not likely to result in any significant lessening of competition in any trade serving the United States in which ocean common carriers operate. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons who, for purposes of this section, include the departments and agencies of the United States.

SEC. 17. REGULATIONS.

The Commission may promulgate rules and regulations as necessary to carry out the provisions of this Act.

SEC. 18. COMMISSION ON THE DEREGULATION OF INTERNATIONAL OCEAN SHIPPING.

(a) Establishment and Composition.—(1) There is established the Commission on the Deregulation of International Ocean Shipping (hereinafter referred to in this section as the "Commission").

(2) The Commission shall be composed of twenty-two members as follows:

(A) The President or a person designated by him.

(B) The Secretary of State, the Attorney General, the Secretary of Transportation, the Chairman of the Federal Trade Commission, and the Chairman of the Federal Maritime Commission, or a person designated by each official.

(C) Four members from the United States Senate appointed by the President, two from the membership of the Committee on Commerce, Science, and Transportation and two from the membership of the Committee on the Judiciary.

(D) Four members from the United States House of Representatives appointed by the President, two from the membership of the Committee on Merchant Marine and Fisheries and two from the membership of the Committee on the Judiciary.

(E) Eight members from the private sector appointed by the President, including representatives of ocean common carriers, shippers, maritime labor organizations, and ports.

(3) The President or his designee shall be the chairman of the Commission.

(4) The majority leader of the Senate and the Speaker of the House shall make recommendations for the appointments of their respective members to be made pursuant to paragraph (2) (C) and (D) within thirty days after the date of the enactment of this Act.

(5) The President shall make all of the appointments in accordance with paragraph (2) after receiving the recommendations set forth in paragraph (a)(4), but such appointments shall be made no later than sixty days after such date of enactment. The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by deregulation of international shipping.

(6) The first meeting of the Commission shall be called by the President no later than thirty days after the beginning of the first fiscal year occurring after the date of the enactment of this Act.

(7) The term of office for members shall be for the term of the Commission.

(8) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(9) Twelve members of the Commission shall constitute a quorum (but a lesser number may hold hearings).

(10) The Commission shall select a vice chairman from among its members.

(b) COMPENSATION OF MEMBERS OF THE COMMISSION.—(1) Officials of the United States Government and Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission appointed from the private sector shall each receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5 of the United States Code when engaged in the performance of duties vested in the Commission, plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them notwithstanding the limitations contained in sections 5701 through 5733 of title 5 of the United States Code in the performance of such duties.

(3) Members of the Commission appointed from the private sector shall not be subject to Title II of the Ethics in Government Act of 1978, Public Law 95-521, as amended, or to the provisions of section 208 of title 18 of the United States Code. Prior to commencing service, such members shall file with the Commission a statement disclosing their financial interests and business and other relationships involving or relating to ocean transportation. Such statements shall be available for public inspection at the Commission's offices.

(c) COMMISSION FUNCTIONS.—The Commission shall conduct a comprehensive study of, and make recommendations concerning, the deregulation of international ocean shipping by common carriers. Such comprehensive study shall specifically address—

(1) various options for deregulation of the international ocean shipping industry, with reference to their ability to promote an efficient, stable, and competitive United States common carrier fleet;

(2) the opportunities for harmonizing United States policy toward international ocean shipping with the policies of our major trading partners;

(3) the system for determining tariffs based on the classification of goods and its role in a future deregulated industry; including the most effective method for eliminating unnecessary cargo classifications as a basis for establishing tariffs and the feasibility of establishing a single tariff by each conference or common carrier for all cargoes shipped in units of comparable size, weight, and handling characteristics.

(4) the role of the antitrust laws in the international shipping industry and their impact upon our relations with foreign nations;

(5) the impact of the "rules of competition" being considered by our trading partners and their relationship to the trend in the developing world towards structured cartelization;

(6) the impact deregulation may have on the growth of State-owned or State-controlled merchant fleets;

(7) the size of the United States liner fleet, by number and cargo capacity, which each of the deregulation options may produce; and

(8) the future structure and role of the Federal Maritime Commission in a deregulated industry.

(d) POWERS OF THE COMMISSION.—The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman or vice chairman, or any duly designated member, and may be served by any person designated by the chairman, the vice chairman, or such member. In the case of the failure of any witness to comply with any subpena or to testify when summoned under authority of this section, the provisions of sections 102 through 104, inclusive, of the Revised Statutes of the United States (2 U.S.C. 192-194) shall apply to the Commission to the same extent as such provisions apply to Congress.

(2) For purposes of sections 552, 552a and 552b of title 5, United States Code, the Commission shall not be considered to be an "agency", as such term is defined in sections 551(1) and 552(e) of such title 5. The Commission shall not be subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

(3) Each department, agency, and instrumentality of the executive branch of the Government, incuding independent agencies, is authorized and directed to furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(4) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(B) procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5, United States Code.

(5) Persons in the employ of the Commission pursuant to subsection (4) shall be considered to be Federal employees for all purposes, including—

(1) the Civil Service Retirement Act, as amended (5 U.S.C. 2251-2267),

(2) the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2091-2103),

(3) annual and sick leave, and

(4) the Travel Expense Act of 1949, as amended (5 U.S.C. 835-842).

(6) The Chairman may rent office space for the Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), may accept, hold and administer gifts from non-governmental sources and transfers of funds from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research or surveys in furtherance of the work of the Commission.

(e) FINAL REPORT.—The Commission shall submit to the President and to the Congress not later than one year after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the Commission resulting from the study undertaken pursuant to subsection (c), including its recommendations for such administrative, judicial, and legislative action which it deems advisable. Any formal recommendation made by the Commission to the President and to the Congress must have the majority vote of the Commission present and voting.

(f) EXPIRATION OF THE COMMISSION.—The Commission shall cease to exist 60 days after the submission to Congress of the final report under subsection (e).

(g) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated

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such sums as may be necessary to carry out the activities of the Commission.

SEC. 19. REPEALS AND CONFORMING AMENDMENTS.

(a) Repeals.—The laws specified in the following table are repealed.

Shipping Act, 1916:	
Sec. 13	36 Stat. 117
Sec. 14a	46 U.S.C. 813
Sec. 14b	46 U.S.C. 813a
Sec. 18(b)	46 U.S.C. 817(b)
Sec. 18(c)	46 U.S.C. 817(c)
Sec. 26	46 U.S.C. 825
Merchant Marine Act, 1920:	
Sec. 20	41 Stat. 996
Merchant Marine Act, 1936:	
Sec. 212(e)	46 U.S.C. 1122(e)
Sec. 214	46 U.S.C. 1124
Omnibus Budget Reconciliation Act of 1981:	
Sec. 1608(c)	95 Stat. 752

(b) Conforming Amendments.—The Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801 et seq.), is amended as follows:

(1) in section 1 by striking the definition "controlled carrier";

(2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking "common carrier by water" wherever it appears in those sections and substituting "common carrier by water in interstate commerce";

(3) in section 14, first paragraph, by striking "or a port of a foreign country";

(4) in section 14, last paragraph, by striking all after the words "for each offense" and substituting a period;

(5) in section 15, fourth paragraph, by striking "(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)" and also "with the publication and filing requirements of section 18(b) hereof and";

(6) in section 15, sixth paragraph, by striking ", or permitted under section 14b," and in the seventh paragraph, by striking "or of section 14b";

(7) in section 16, in the paragraph designated "First", by striking all after "disadvantage in any respect" and substituting "whatsoever.";

(8) in section 17 by striking the first paragraph, and in the second paragraph, by striking "such carrier and every";

(9) in section 21(b) by striking "The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignor, consignee, forwarder, broker, other carrier or other person subject to this Act," and substituting "The Commission may, to the extent it deems feasible, require any shipper, consignor, consignee, forwarder, broker, or other person subject to this Act,";

(10) in section 22 by striking subsection (c);

(11) in section 25, at the end of the first sentence, by adding "under this Act";

(12) in sections 29, 30, and 31, after the words "any order of the board", by adding "under this Act,";

(13) in section 32(c), after the words "or functions,", by adding "under this Act,";

(14) in section 44, by striking all and substituting:

"(a) License.—No person may engage in carrying on the business of forwarding unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person who—

"(1) the Commission determines to be qualified by experience and character to render forwarding services; and

"(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the United States Department of the Treasury.

"(b) Suspension or Revocation.—The Commission shall, after notice and hearing, suspend or revoke any license if it finds that the independent ocean freight forwarder is not qualified to render forwarding services, or for willful failure to comply with any provision of this Act, or with any lawful order, rule, or regulation of the Commission.

"(c) Exception.—A person whose business is the sale of merchandise may forward shipments of that merchandise for his own account without a license.

"(d) Compensation of Forwarders by Carriers.—

(1) A common carrier may compensate an independent ocean freight forwarder in connection with any cargo shipment dispatched on behalf of others only when the independent ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

"(A) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space; and

"(B) prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the cargo.

"(2) A common carrier may not pay compensation for services described in paragraph (1) more than once on the same cargo shipment.

"(3) No compensation may be paid to an independent ocean freight forwarder except in accordance with the tariff requrements of this Act.

"(4) No independent ocean freight forwarder may receive compensation from a common carrier with respect to any shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on such shipment.".

(c) Technical Amendments.— Section 212 of the Merchant Marine Act, 1936 (46 U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

"The Federal Maritime Commission is authorized and directed—";

and

(2) striking after subsection (e) the following undesignated paragraph:

"The Secretary of Transportation is authorized and directed—".

(d) Effects on Certain Agreements and Contracts.—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under the provisions of this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under the provisions of this Act.

(e) Savings Provisions.—

(1) Notwithstanding subsection 8(c), each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment may remain in full force and effect and need not comply with the requirements of that subsection until January 1, 1984.

(2) This Act and the amendments made by it shall not affect any suit at law filed before April 1, 1982.

SEC. 20. EFFECTIVE DATE.

This Act shall become effective one hundred and eighty days after the date of its enactment, except that sections 17, 18, and 19 shall become effective upon enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLOSKEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Jones) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Jones).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4384, a bill designed to improve international ocean commerce as it affects the United States. As this bill proceeded through both the Committee on Merchant Marine and Fisheries and the Committee on the Judiciary, it was subjected to intensive scrutiny and far-ranging debate.

The legislation is a refinement of many years of hard work by Members of this body. We have benefited from the advice and contributions by members of the ocean transportation industry, organized labor, and particularly the consumers of regulated ocean shipping services—these American importers and exporters whose very existence is dependent upon a competitive, rational, and reliable ocean transportation system.

H.R. 4374 was reported by the Committee on Merchant Marine and Fisheries on June 16, following which the Committee on the Judiciary held hearings and marked up a bill which was ordered reported on the 30th of July. The bill before us today is, with minor exceptions, the bill reported out of the Committee on the Judiciary. I congratulate that committee and its chairman on the way they approached this most vital measure. They helped to devise the necessary balance to assure that competition remains a hallmark of ocean shipping and that the maximum safeguards be provided to those who must depend on liner shipping.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Rodino), the able chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I am pleased to join my distinguished colleague from North Carolina, the chairman of the Committee on Merchant Marine and Fisheries, in urging the adoption of H.R. 4374, the Shipping Act of 1982.

The legislation before us today is the outcome of the deliberations of both the Merchant Marine and the Judiciary Committees. It represents a careful balancing of the interests of the ocean carriers, the shippers who pay for their services, and the ultimate consumers.

The bill will achieve a number of meritorious objectives. By clarifying the substantive law and expediting the procedures before the Federal Maritime commission, we can acheive greater certainty and substantially lessen the cost of regulation. Less regulation can benefit not only the industry, but also the consumers who ultimately pay the cost of shipping services.

The bill removes the vague and sometimes unworkable "public interest" standard for approval of agreements among carriers, and substitutes a complete list of prohibited practices, intended to insure the protection of user interests. And while the bill allows the ocean carrier cartels to continue operations, it provides for the formation of a Presidential Study commission to make recommendations within 1 year for a more complete deregulation and restoration of competitive principles in the industry.

Critics of the ocean carriers have suggested for years that the cartel arrangements among carriers should no longer be tolerated. Deregulation of this industry, however, is complex—it involves not only the ships and ports of our Nation, but the ships and port facilities of every other maritime nation as well. And deregulation must be undertaken with a sensitivity for the interests and values of these other nations. The Study Commission will afford us an opportunity to move with a moderate, sensitive, but firm gait toward the ultimate deregulation we seek.

The bill that is offered today is largely in the form reported by the Judiciary Committee on July 30 of this year. Since that date, Chairman Jones and I have agreed on a few additional changes to resolve areas of difference between the two committees. None of these additional changes significantly affects the antitrust protections built into the Judiciary amendment. Indeed, in a number of cases, the additional language we have added should clarify and strengthen competitive principles. For example, a newly added definition of joint ventures will spell out more clearly the types of corporate combinations that fall within the restrictions of section 10(a) of the bill. Additional language has also been added to make sure that unreasonable refusals to deal by common carriers are prohibited.

I am also satisfied that this legislation will have no significant negative impact on port authorities or marine terminal operators. For the most part, this bill is concerned with the conduct of ocean carriers. Nothing in the legislation will alter the current law permitting marine terminal operators to enter into agreements among themselves and with ocean carriers. If those agreements are approved by the Federal Maritime Commission, they are granted limited antitrust immunity.

Under this legislation, agreements between marine terminal operators and carriers will be subject to the procedures set forth in section 5 of the bill. Other agreements will remain subject to the Shipping Act of 1916. Thus, ports would not be treated any differently under the antitrut laws than they are now if this legislation is enacted. Whether agreements are filed pursuant to the Shipping Act of 1982, or under the Shipping Act of 1916, we would expect that the Commission would process them with the same dispatch.

During consideration of this legislation by the Committee on the Judiciary, concern was expressed that the Maritime Commission would have no authority to restrict pooling arrangements that have severely anticompetitive effects and no countervailing benefits. To resolve this problem, the committee added section 11(d) to the bill, which allows the Commission to investigate such pooling arrangements and modify or terminate the underlying agreements. Because many such pooling arrangements may promote efficiency or have other public policy benefits, section 11(d) does not authorize advance or preclearance disapproval by the Commission—the Commission may act only when the agreement is in effect and it believes that conduct pursuant to the agreement substantially reduces competition.

After the committee filed its report, concern was expressed that the language of section 11(d) could unfairly call into question existing revenue pooling involving the northbound and southbound east and gulf coast Brazil and Argentina trades. U.S.-flag carriers have a legitimate interest in preserving their business in trades which, as the result of restrictive and protective laws passed by other nations, could jeopardize their continued participation. Accordingly, I have agreed with Chairman Jones to add a new subparagraph 11(d)(2)(D) providing that such pooling agreements will be allowed when they permit U.S.-flag carriers to continue operating in trades subject to cargo reservation laws or trading practices that operate unequally or unfairly with respect to the U.S.-flag carrier. Such agreements may, of course, be allowed under sections 11(d)(2) (a)–(c), as well.

A number of distinguished members of both committees have played a vital role in bringing this legislation to the floor. I want to acknowledge in particular the work of the gentleman from New York (Mr. Biaggi) and the gentleman from New Jersey (Mr. Hughes). Finally, I want to thank the distinguished chairman of the Merchant Marine Committee for the consideration he has shown to our committee in bringing an acceptable bill to the floor.

I urge my colleagues to support this legislation.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I would like to emphasize the provisions of H.R. 4374 which were added to protect the consumers of shipping services, to provide them with the competitive environment so necessary if the foreign trade of the United States is to prosper. These protections, which serve to weaken conference powers, include:

First, independent action; second, defined standards for loyalty contracts; third, service contracts; fourth, open conferences; and fifth, shippers' councils.

Shipping conference strength is traditionally bolstered by loyalty agreements, in which a shipper can be required to ship all his goods with the conference, in order to get a favorable rate. To offset this element of conference power, H.R. 4374 mandates that such conferences allow their members to offer prices independent of (and presumably lower than) the conference tariff. This is called "independent action." It allows a shipper the chance to convince a single member of the conference to offer better rates and insures that such a rate cannot be stifled by the majority of conference members. Of course, conferences can always choose to offer even more flexible types of independent action.

Loyalty contracts also let a shipper get a lower rate by committing to ship a specified part of his cargoes with the conference. The bill allows the parties to broadly define the scope of loyalty contracts. The commodities and services which may be included in the contract may be determined on the basis of each party's commodity and geographic needs and capabilities; but the shipper is free to drop all or any portion of the loyalty arrangements.

Also, we have added a shipper-requested provision limiting the spread between tariff rate and contract rate to no more than 15 percent.

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The bill also allows shippers and carriers to enter into service contracts. Service contracts are a device where an individual shipper can negotiate his own deal with the carrier, independent of the conference. It is another part of the bill which weakens conference powers. The inclusion of legislative standards for service contracts is designed to make this competitive device a tool for innovation available to conferences. Some independents have successfully employed service contracts to tailor service to the mutual needs and benefits of the parties. H.R. 4374 makes clear that such commercial innovation may legally be employed by conferences while making certain that their common carrier responsibility is not abandoned. These changes add a competitive spur within a shipping environment designed to provide efficient and reliable transportation services to our importers and exporters.

I would like to point out briefly the few changes which have been agreed to by the Merchant Marine and Fisheries and the Judiciary Committees, changes which, I repeat, are from the version of the bill reported by the Judiciary Committee.

Several definitional changes were made to clarify the coverage of this legislation and to eliminate any confusion which may have existed. Significant among these are definitions dealing with inland division, a definition made necessary by inclusion in the bill of a requirement that conferences of ocean common carriers may not, as a group, negotiate with inland carriers the inland portion of a through rate. This inclusion is consistent with the deregulatory action the Congress has pursued for domestic carriers, and there is no provision in this bill which frustates the competitive impact of the domestic transportation deregulatory actions we have taken over the past several years. Having introduced and restricted joint venture activity, it became necessary to define what a joint venture is and the technical changes incorporate such a definition; likewise, the prohibition against the formation of net profit or loss pools which was added by the Judiciary Committee required a definition not so broadly drawn so as to eliminate beneficial activity necessary to guarantee efficiency in the ocean transportation field.

The suspension of any agreement and activity which can be ordered by the Federal Maritime Commission under this bill is further clarified in this amendment by applying a fairly standard test that the Commission is likely to find that the agreement will violate the legislation or that some other party may be substantially injured if the agreement is not suspended.

To protect importers and exporters, as well as nonconference carriers, from undue pressure by operators of common carriers working together, we have added restrictions on the kinds of tieing or loyalty agreements which conferences may offer; the amendment restricts loyalty agreement discounts to a maximum of 15 percent.

As reported by the Judiciary Committee, this bill would have prohibited any common carrier to attempt to monopolize a trade. It was agreed that the retention of this provision was inconsistent with the purposes of this legislation, which are to encourage efficiency, competitiveness, and fairness within the context of a system which recognizes concerted activity by groups of ocean common carriers. Since everything in this bill is geared toward protecting the public, while recognizing the validity of these liner conferences, a provision to make illegal the very activity we are regulating was viewed as inappropriate. Therefore, that provision is deleted.

I would like to digress from further explanation of the amendments before us to remind my colleagues that these groups of ocean carriers who are being regulated by this legislation operate as unregulated conferences everywhere in the world. A significant majority of the carriers who would be regulated by this legislation will continue to be foreign carriers operating under the laws of countries which either recognize the existence of this narrow transportation cartel or operate under the laws of a nation which, while restricting anticompetitive devices, provides broad exemptions based upon demonstrable evidence that these cartels work a beneficial effect upon world trade by increasing efficiency and reducing operating costs.

Throughout the world, we have learned that conference pricing truly reflects the cost of doing business. It reflects the competition which is inserted into trade by conference outsiders, and it does not produce the type of monopoly price fixing which many uninformed critics of this system allege is the logical outcome. Consumers of these services throughout the world point to the conference liner system as the most appropriate way of providing regular service at reasonable rates with the maximum of innovation. To this, H.R. 4374 has added the checks against discrimination and other safeguards in the form of enumerated prohibitions which will improve the regulatory scheme in the United States immeasurably.

It is important that my colleagues know, and that the record clearly demonstrate that the regulatory procedures contained within H.R. 4374 apply only to those carriers who operate as liners, that is, carriers of general cargo over regular routes, whose service is freely available to all shippers without discrimination. At no time was this legislation ever intended to permit the formation of conferences or to extend this regulatory scheme to tanker or bulk cargo operators, even if those tanker operators carry chemical parcels in less than full shipload lots.

Among the sanctions and prohibitions in H.R. 4374 which replace the vague and almost impossible-to-apply restrictions in the 66-year-old Shipping Act, are a few which I think should be highlighted. The formation of joint ventures—not conferences—which reduce competition—and cannot be justified by the limited factors specified in the bill—is prohibited. While agreements which conform to statutory requirements go into effect within a time certain, any threatened harm to a competitor, customer, or other person, will subject the agreement to suspension by the Federal Maritime Commission. By the same token, suspension by the Federal Maritime Commission is available if the implementation of the agreement is likely to result in a violation of the law.

Every conceivable technique which may be employed to prevent a competitor from entering a trade, is expressly forbidden. Also, any device which may be employed to discriminate against any shipper, port, another carrier, or any other person, has, for the first time, been expressly identified and prohibited. When combined with new injunctive remedies and civil penalties which can add up to $25,000 a day, H.R. 4374 is not only an improvement over the 1916 Shipping Act; H.R. 4374 protects the public better than the old Shipping Act, even when combined with the sometimes used antitrust sanctions.

To return to the amendments before us, the restrictions against the formation of joint ventures are mitigated to some extent by an amendment which requires that actions by other countries may have the effect of eliminating competition and making it difficult for U.S. interests to exercise their rights to engage freely in world trade; where such situations exist, it may indeed by appropriate to permit the formation of certain limited joint ventures to overcome restrictions which are imposed by others.

A group of amendments were recommended by the Administrative Conference of the United States which affect only the Commission on the Deregulation of International Ocean Shipping which is created by this legislation.

As you can see, the good bill which was reported by the Judiciary Committee remains a good bill and the changes made by amendments between July 30 and today, under agreement between our two committees, has only improved this most necessary legislation.

There is not a single segment of governmental, business, labor, or consumer activity which has not voiced its opinion about H.R. 4374. What appears before us today is a synthesis of multiple efforts and opinions, and reflects in the finest sense that type of compromise of which good legislation is born. To repeat, ocean carriers (foreign and domestic), labor unions, the consumers of the service itself (both importers and exporters) have overwhelmingly attested to the necessity for this legislation and have overwhelmingly asked for our support in approving this legislation

The 1916 Shipping Act, under which we have been operating, granted antitrust immunity to activities engaged in by these ocean conferences. H.R. 4374 creates no new grant of antitrust immunity—H.R. 4374 does not permit cartel price fixing to any extent not currently permitted. H.R. 4374 makes more certain the procedures which must be followed to retain immunity and provides sure and certain sanctions for those who would violate the law. H.R. 4374 minimizes Government intervention, but does not eliminate it. Instead, H.R. 4374 recognizes that competition and efficiency are functions of commercial reality, and that the Government's role is to guarantee that efficiency not be used as the basis for predatory conduct which would eliminate competitors or discriminatory activity which would harm consumers and others. And finally, H.R. 4374 squarely faces the reality that ocean shipping is an international activity and that it is absolutely essential that our practices be in harmony with those of our trading partners.

I ask for, and I am certain you will provide, your support for this important piece of legislation.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Jones) has 8 minutes remaining.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the subcommittee chairman, the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I am pleased to join the distinguished chairman of the committee and Mr. Rodino, the chairman of the Committee on the Judiciary, in urging enactment of H.R. 4374. Since I introduced this bill in August of last year, we have been working together in a coordinated effort to produce a bill that would address the serious problems facing our merchant marine. We have been joined in that effort by the Members on the other side of the aisle.

H.R. 4374 was developed by the Subcommittee on Merchant Marine, which I chair. We held 4 days of hearings and heard over 30 witnesses. At the conclusion of the hearings, my subcommittee produced a comprehensive redraft of the original bill. Our work product was eventually ratified by the full committee under the fine leadership of the gentleman from North Carolina.

Thus, the bill we are presenting today is the result of our joint efforts and those of the Judiciary Committee—the administration—the Federal Maritime Commission—the maritime industry—shippers—ports—and maritime labor. It is a consensus bill reflecting the interests of each of those groups. Each of them assisted in resolving the many complex issues inherent in this legislation and contributed significantly to the development of the bill.

The bill arises out of several fundamental propositions that are, in my opinion, not subject to challenge. They are:

First, the United States—as the world's greatest trading nation—needs a healthy merchant marine for its economic security and national defense.

Second, we do not have such a merchant marine, and its health is declining rather than improving.

Third, the present poor condition of our merchant marine is, to a great extent, self-inflicted.

Fourth, one of the ways by which we have hampered the health of our merchant marine is through the laws that govern it and their interpretation.

Fifth, it is now time to change those laws.

H.R. 4374 would make some of the changes in law that are necessary. It would remove those constraints in the law that prevent or impede our ocean carriers from engaging in those cooperative activities that would improve their efficiency and enable them to compete on a more equal basis with foreign carriers.

If our ocean carriers are enabled by this legislation to better compete with foreign carriers, the eventual result should be more American ships carrying our trade. That means more American crews and more jobs for Americans. In these days of unacceptably high unemployment, any bill that offers the opportunity for more American jobs is worthy of strong support.

H.R. 4374 would also change the law by simplifying and speeding Government procedures that have made it difficult for our carriers to quickly respond to changing conditions and shipper requirements. These changes should enable them to operate more efficiently and reduce their administrative costs. They should also enable our operators to compete for cargoes with foreign carriers on a more equal basis.

This bill has been attacked by some as being "special interest" legislation. It is—it is in the special interest of the American people. It is aimed at producing a larger, more healthy, and more efficient American merchant marine. And, clearly, that objective is in the best interests of the American people.

The long and diverse list of organizations, corporations, unions, and other interests that have expressed support for this bill confirm that conclusion.

Anyone who looks at the experience of Great Britain in the recent Falkland Islands war cannot fail to be impressed with the important—if not vital—contribution her merchant marine made to Britain's ultimate success. During that conflict, Great Britain used over 50 merchant ships to support its naval task force.

In a similar situation, we in the United States would find it almost impossible to muster comparable resources from our U.S.-flag merchant marine. This bill will, of course, not provide those resources. But it is an important—if not vital—part of the process of revitalizing the American merchant marine so that if we ever have a similar need for merchant ships, we will have them.

In the past 10 years, this greatest trading Nation in the world has seen 10 U.S.-flag steamship companies go bankrupt—an average of one a year. At the present time, there are two more U.S.-flag carriers that are in a poor financial situation.

We are increasingly dependent on foreign-flag vessels for the export of our products to the marketplaces of the world and the importation of our consumer goods. A look around the harbors of New York, Baltimore, and any other U.S. port will confirm our dependence on foreign-flag shipping.

These are the facts. The reasons for the decay and what can be done to reverse this decline are the difficult questions that we have been trying to resolve. H.R. 4374 is but one of our responses to this problem.

H.R. 4374 is an important bill. Its importance is well-stated in a recent letter from the Labor-Management Committee. That letter said:

> For the American merchant marine, H.R. 4374 is an absolute necessity as a building block in fighting its way back to a position of competitive equality with its foreign counterparts. The legislation redresses problems that have led to the diminution of the liner sector of this industry.
>
> A vote for this bill is a vote for American shipping, American consumers, American labor, and American security.

I concur with that statement and urge the support of all Members for H.R. 4374.

The basic purpose of H.R. 4374 is to improve the international ocean commerce transportation system of the United States. It does this by rewriting that portion of the 1916 Shipping Act, that regulates common carriers by water in foreign commerce. That act was aimed at eliminating cutthroat competition in ocean shipping and to bring a measure of stability to that business so that American exporters would not be a disadvantage as compared to their foreign competitors.

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The 1916 act accomplished its purpose by granting ocean common carriers and conferences of those carriers immunity from the antitrust laws of the United States. That enabled American carriers to engage in the type of cooperative activities that were engaged in by their counterparts overseas and that led to increased efficiency in usage of their vessels.

Unfortunately, since 1916, the original purpose of the act has become distorted. In the intervening years, both the enforcement and judicial interpretation of the act have undergone substantial change. As a result, ocean carriers operating in our foreign trades today are unable to predict with any certainty the extent of the antitrust exemption granted in 1916. One aim of H.R. 4374 is to eliminate those uncertainties and reaffirm the act's principles.

A second problem the bill addresses is the procedural delays that are common in enforcement of the 1916 act. It often takes many many months or years for a carrier to receive approval for a proposed cooperative arrangement. This greatly reduces their ability to quickly respond to changed economic and trade conditions. H.R. 4374 addresses this problem by modernizing and simplifying the procedures before the Federal Maritime Commission—the agency that administers our maritime regulatory law.

In the 1916 Shipping Act, Congress concluded that the ocean carriers serving our foreign commerce must be immune from the antitrust laws. After extensive hearings, study, and input from numerous sources, I—and the subcommittee I chair—reached the same conclusion. We recognized, as did the 1916 Congress, that we are dealing with an international, not a domestic, industry. The antitrust laws that apply domestically cannot work when applied to an industry to which the rest of the world does not apply such concepts.

Only the United States has followed a philosophy that limits the activities of conferences and carriers through a combination of regulatory and antitrust oversight of rates and practices. The result has been insecurity, delays in regulatory approvals for, or rejection of, practices standard elsewhere, excessive and unpredictable Government intervention, and the anomalies and irritations that inevitably arise from the attempt to impose our laws on foreign parties whom our laws can only imperfectly control. Our foreign counterparts feel imposed upon in the name of a policy they do not embrace, and our own operators are the victims of an ever-changing regime that is only partially effective when applied to their foreign competitors.

While H.R. 4374 retains and strengthens the basic antitrust immunity for the ocean liner industry, it also provides numerous protections to insure that they do not abuse their monopoly powers. The bill contains a long list of prohibited acts with meaningful penalties that are, in some cases, heavier than those in the 1916 act.

A feature of the bill that is worthy of note is its recognition of the intermodal movement of cargo as a common form of ocean transportation service. H.R. 4374 recognizes this fact and allows conferences to set a single through rate for an intermodal movement. They do not need to show the division of that rate between the water and the inland portion of the transport. The long-standing position of the Justice Department—which is to prohibit conferences from reaching agreement with inland transportation cartels—remains intact. In furtherance of the competitive intent of this position, the negotiation of rates with inland carriers must be undertaken by individual ocean carriers.

Despite the administration's recommendation to the contrary, the bill retains the present requirement that tariffs be filed with the Federal Maritime Commission. This was a subject of considerable controversy, but I remain convinced that tariff filing is essential for enforcement of the common carrier concepts inherent in the bill and for the prevention of discriminatory practices. Neither carriers nor shippers supported the administration's proposal to end the tariff filing requirement. Even though tariff filing is retained in the bill, I understand that the administration fully supports H.R. 4374 in its present form.

I would like to briefly address the impact this legislation will have on a vital component of our national maritime industry—port authorities or marine terminal operators. For the most part, this bill is concerned with the conduct of ocean carriers and does not deal directly with the activities of port authorities. However, the Judiciary and Merchant Marine Committees were aware that, under current law, marine terminal operators can and do enter into agreements among themselves and with ocean carriers; and, if those agreements are approved by the Federal Maritime Commission, they are granted limited antitrust immunity.

Nothing in the Shipping Act of 1982 alters that. Agreements between marine terminal operators and carriers will be subject to the procedures set forth in section 5 of the bill. Other agreements will remain subject to the Shipping Act of 1916. Thus, ports would not be treated any differently under the antitrust laws than they are now if this legislation is enacted.

A key component of this legislation is that it provides for the Federal Maritime Commission to expedite its review of agreements which must be filed with it for approval, and to process those agreements under clear and precise standards. This, of course, would be applicable to those terminal agreements which must be filed pursuant to the Shipping Act of 1982—and, while no procedural changes have been made in the Shipping Act of 1916, we would expect that the Commission would process terminal agreements which must be filed pursuant to the 1916 act with the same dispatch.

In summary, H.R. 4374 recognizes the need to amend the present law and provide a modern and realistic regulatory scheme that will allow U.S. carriers and shippers to conduct international ocean commerce in a stable, efficient, and competitive manner within a fair trade environment.

It attempts to provide clearcut rules and procedures applicable to both foreign-flag and U.S.-flag operators within an equitable and competitive commercial environment. While advancing the commercial interests of the carrier as well as the shipper, it also attempts to prevent U.S.-flag vessels from being driven from the liner trades by a regulatory scheme that previously has weighed disproportionately heavily on U.S. operators.

I believe that this legislation is the first step in the process of revitalizing our merchant marine. Its enactment is essential if our country is to have the strong merchant marine it needs for its economic and military security.

IN SUPPORT OF H.R. 4374

Administration (September 8, 1982 letter).

Council of American-Flag Ship Operators (representing U.S.-flag liner operators).

Council of European & Japanese National Shipowners Assn. (CENSA) (representing major foreign-flag operations).

Labor-Management Maritime Committee (representing labor as well as management in the marine industry).

America Farm Bureau.

North Atlantic Ports Association.

Transportation Association of America.

Motor Vehicle Manufacturers Association.

U.S. Council for International Business.

National Customs Brokers and Forwarders Association.

National Industrial Traffic League (representing 1,800 shippers, shipper associations, boards of trade, chambers of commerce, et al).

National Association of Recycling Industries.

American Association of Port Authorities.

Navy League of the United States.

National Council of Farmers Cooperatives.

Warner-Lambert.

Lubrizol.

Julius Wile & Sons.

Union Carbide.

ARCO Chemical Co.

Dupont.

Ford Motor Co.

FMC.

Rohm & Haas.

Sea-Land Services.

National Maritime Council.

Joint Maritime Congress.

Transportation Institute.

AFL-CIO Maritime Committee.

All seafaring unions.

In Opposition to H.R. 4374

Hiram Walker & Sons, Inc.
Consumer Federation of America.
All Brands Importers.
National Association of Beverage Importers.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Edwards).

Mr. EDWARDS of California. Mr. Speaker, I thank the chairman of the Committee on Merchant Marine and Fisheries.

Mr. Speaker, it is with some dismay that I rise to oppose the motion to suspend the rules and pass H.R. 4374, the proposed Shipping Act of 1982. I feel strongly that this bill should not be considered in any manner that precludes proper debate and the offering of appropriate amendments. The leadership decision to allow the bill to be brought to the floor today has been objected to by me and other members of the Judiciary Committee including the ranking minority member, Representative Robert McClory. At least three members of the Judiciary Committee have amendments they would like to offer. As a result, the procedure being followed today has the effect of attempting to gag us. In addition, the Members should be aware that the version of the bill being presented today differs from the reported versions, has not been reviewed by any committee, and was not even made available to us until Friday—much too late for us to analyze it or receive public comment.

Mr. Speaker, my objections to the motion to suspend the rules are also based on the extremely adverse effect of H.R. 4374 on the national economy. If enacted, this bill would give international shipping cartels the unbridled power to control the ocean liner trades of the United States. Under the bill such cartels—comprised mostly of foreign corporations—are specifically authorized to fix shipping prices as well as to allot ports and allocate cargoes. The effects of the bill would be to reduce services and, according to estimates that I consider reliable, to increase the costs of ocean liner transportation by some 20 percent.

The purpose of the act, according to the very first sentence of the Merchant Marine and Fisheries Committee report is "to exempt from the antitrust laws those agreements and activities subject to regulation by the Federal Maritime Commission;" further, "FMC is provided exclusive jurisdiction in administering all the (relevant) provisions of the Shipping Act * * *" Yet the House Judiciary has had inadequate time to review this regulation.

The bill is complex, and, in many instances, what appear to be protections against abuse of conference monopoly power in one portion of the bill are modified into insignificance in other portions. In brief outline, the bill works by granting antitrust exemption to ocean liner companies and their cartels—the "conferences"—for a long list of important actions. It makes legal a large and indeterminate number of acts that, under existing legislation, are illegal. These explicit increases in the cartels' legal actions are reinforced by making it more difficult to prove illegality and by minimizing the scope and severity of penalties and recoverable damages.

Six authorized activities are, in brief: To fix rates—the essence of anticompetitive cartel action; to pool traffic and revenues; allot ports or restrict or regulate the number of sailings; limit the volume of cargo to be carried; engage in exclusive, preferential, or cooperative working arrangements, and enter into other agreements to control, regulate or prevent competition among themselves. Section 7(a) provides that the antitrust laws do not, with minor exceptions, apply to any of these activities. In addition loyalty contracts, the ocean liner conferences' classic tool of economic discrimination are preserved, but with effective regulation eliminated.

Further, in a frightening example of newspeak, provision is made for what is euphemistically called independent action. There is, in fact, no genuine right of independent action mandated in the bill. Instead, conferences are required to permit independent action only if they already have loyalty contracts in effect and if the proponent of the independent rate submits its proposal to all the other members of the cartel. Since conferences normally operate under a unanimity rule, the gains from any unpopular, independent action would have to be weighed against the costs of alienating other members of the conference—any one of which could veto some future proposal. Consequently, truly independent action is most unlikely. What is much more likely is action to cut rates even below the cartels' loyalty contract rates in order to exclude potential independent competition or some small shipper at the behest of a powerful customer. Thus, although fighting ships would be illegal under the act, fighting rates are authorized. The fact that dual rates, independent action and service contracts can be instituted only through the conferences eliminates the theoretical possibility that discounts could reduce the monopolistic power of conferences.

The bill also weakens the present protections against anticompetitive actions:

First, although the authorized agreements and actions are strongly anticompetitive, the burden of proof is shifted from the parties to the agreement, where it lies under present law, to anyone challenging an agreement.

Second, the Commission can no longer reject any conference agreement on the grounds that it is contrary to the public interest or that it would adversely affect American commerce, or because rates are too high or too low. Further, there is no prohibition against a conference's monopolizing a trade.

Third, by exempting all actions within the scope of the act, it precludes injured parties from being awarded treble damages. Section 11 does provide that FMC may award double damages in specified instances of anticompetitive actions but not any actions by consortia or single carriers (section 10(d)), or conference actions such as monopolizing (section 10(a)), discrimination and rebating (10(b)(6)), and offering deferred rebates 10(b)(8).

Fourth, section 13(f)(1) provides "No fine or punishment may be imposed for criminal conspiracy to violate any provisions of this Act, * * *."

Finally, through requiring the Federal Maritime Commission (FMC) to enforce cartel tariffs in effect, the bill not only delegates congressional legislative power to the international cartels, but also provides them with Federal enforcement power. This raises a constitutional issue. It is the type of unbridled delegation of governmental power to private bodies that the Supreme Court long ago rejected in the days of the New Deal.

The bill's proponents frequently assert that the bill really does not do much, that it is essentially just a rewrite of the 1916 act. In my view this is misrepresentation since, in fact, under the bill at least five major protections against abuse of power would be removed by the proposed act. At present, the FMC can prohibit carriers in foreign commerce from operating under a tariff containing unreasonably high or low rates (Section 18(b)(5)). The Commission must, under present law, also prevent carriers from raising unreasonably low rates if the reason for doing so is that a competitor has been successfully eliminated. The requirement that dual-rate—loyalty—contracts be approved in advance by the FMC is removed. Finally, as I have already mentioned, two flexible standards for disapproval of anticompetitive agreements are removed: First, detriment to the commerce of the United States; or second, conflict with the public interest.

Few industries are less deserving of antitrust exemption. The history of this industry is replete with every form of anticompetitive action. Unlike the tankers and bulk carriers, the liner companies have for more than a hundred years practiced cartelization with monopolistic rates, predatory practices, discrimination and retaliation against both shippers and independent liner companies who have failed to acquiesce in the cartels' control of various trades.

The consequences of the bill are predictable. Rates will rise and service will decline. Both the facts and the logic are conclusive. Not only in the distant past, but currently, conferences raise rates when they succeed in suppressing competition from independent liner companies. For example, last week the conferences serving the Canada-Europe trades raised rates 24 percent, after the major independent liner company joined the conference; after Sea-land joined two Pacific conferences, they raised rates $5 to $7 per ton and planned additional increases, despite declining traffic. The president of Trans Freight Lines, Inc., the largest independent in the United States-Europe trades, is quoted as saying that if the Biaggi bill is passed TFL will join the conferences and disappear as an independent carrier (American Shipper, September 1982, p. 14).

No adequate analysis of the impacts of the bill on ocean freight rates or on prices paid by consumers or prices received by farmers and other exporters has been undertaken. However, Dr. Allen R. Ferguson, chairman of the National Institute of Economics and Law and author of one of the standard works on maritime policy, has stated that a rate increase of some 20 percent is reasonable to expect. The reasonableness of this figure is indicated by the 24 percent increase in Canadian rates and by a Journal of Commerce report that, despite past severe competition in the Pacific trades, "as in other trades, independent (that is, competitive) rates range from 10 to 20 percent below conference prices." (July 19, 1982, 1A).

If the conferences are, in fact, enabled by this legislation to increase rates by as little as 20 percent, on the average, the shipping costs of American liner imports and exports would rise by some $3 billion per year—year after year.

Such an increase would raise prices to American consumers of television sets, automobiles, automobile repair parts, coffee, tea alcoholic beverages, and clothing, for example. Also, the delivered prices abroad of important American liner exports, such as cereals and other farm products, industrial machinery, chemicals and textiles, will all rise. The result: a worse competitive position for American farmers and workers in world trade. At the time of the worst recession since the 1930's, the last thing we need is a policy to reduce American jobs and farm incomes and to add to inflationary pressures.

Among shippers, the greatest disadvantage could be expected to fall on small- and medium-sized shippers. The conferences and their members would have far greater motive for providing loyalty contracts and the volume and other discounts allowed under the bill to large-volume shippers. When such discounts are part of a monopolistic price-setting institution, they impose the maximum burdens on those shippers with the least leverage, typically the smaller ones.

Port cities will also be hurt. The reason is simple and logical, although there have been recent efforts to obscure the issue. The basic economic claim of the proponents is that the bill will facilitate rationalizing ocean liner operations. Rationalization merely means reducing excess capacity and, thereby, increasing load factors. At present, liner companies in the American trades do not curtail schedules and raise their vessel utilization for one simple reason: If they did, they would lose traffic to their rivals. Thus, the power to rationalize requires the power to keep independents out of the trade.

Rationalization to reduce excess capacity is, essentially, reducing frequency of service, calls per port and ports served—all specifically allowed in the Biaggi bill. Whatever the reductions in cost, the reduction in schedules and in ports served would exert downward pressure on the employment of and wages of longshoremen, pilots and tug crews, as well as on port revenues and economic activity in port cities. There is, incidentally, no reason to expect that the associated savings would be passed on to consumers.

The question of how large these reductions would be is uncertain and complex. However, the central fact is that the bill would either do nothing or it would lead to these negative pressures.

Montreal has recently gained traffic at the expense of New York and other American ports. According to American Shipper (September 1982, pp. 8 and 9) this is a consequence of difference in costs of operating through the ports. Under the Biaggi bill, if it were to the conferences' advantage to do so, they could set rates more favorable to moving through Montreal than through Boston, New York, or New Jersey ports. The requisite terms and conditions could, presumably, be defined to avoid blatant legal discrimination, and the burden of proof would be placed on the injured port to show that the particular rates—or other conditions of service were unjustly discriminatory under the act.

According to testimony of Mr. Lidinsky, director of traffic of the Port of Baltimore, before the Senate Judiciary Committee, the only remedy would be to provide unrestricted right of independent action to liner companies. That is not provided in the Biaggi bill. Port lobbyists in the past 2 weeks have sought a counterfoil to the increased power of the ocean liner cartels, in further extension of their own antitrust exemption. No provision has been made for that.

A particularly bizarre characteristic of this special-interest legislation is that it imposes costs on the American economy primarily for the benefit of foreign corporations. According to the Maritime Administration, 72 percent of American liner traffic was carried in foreign ships in 1982. Consequently, for every additional dollar in liner profits, 75 cents goes to foreign corporations. In some conferences, for example that controlling trade between the west coast and Australia, there are no American members.

The bill has been justified by its proponents in large measure on the grounds that the American-flag liner industry is in dire straits. In fact, at the request of the Merchant Marine and Fisheries Committee, the General Accounting Office prepared a major study which showed that the American-flag share of liner tonnages and value of cargo carried was higher in both absolute and relative terms in the period 1976–78 than in either 1966–70 or 1971–75. After requesting the report, the Merchant Marine and Fisheries Committee proceeded to report the bill without seeing the final GAO report or hearing testimony from the Comptroller General or his staff.

In addition, American liner companies who are seeking this concealed government bail out include:

Lykes Brothers Steamship Co. of New Orleans, a subsidiary of LTV, Inc. LTV is a $7-billion company that made after-tax profits of $96-million dollars in 1982, and in 1981 made after-tax profits of $365 million.

Sea-land, a subsidiary of R. J. Reynolds. Reynolds earned a net profit of $736 million in 1981 and is expected to earn some $900 million in 1982, total revenues amounted to $13.8 billion in 1981.

United States Lines, which has ordered 14 gigantic container ships from a Korean shipyard, estimated to cost $760 million. Obviously, U.S. Lines does not expect the American liner industry to collapse.

American President lines which is owned by Natomas, the energy conglomerate.

Delta Steamship Lines which is owned by Holiday Inns.

Another stock argument in support of the antitrust immunity is that antitrust laws have been differentially enforced to the disadvantage of American-flag carriers. The GAO staff examined this issue also, and reported:

> GAO's analysis of 58 malpractice cases initiated by the FMC failed to show any evidence of an enforcement pattern biased against U.S. flag carriers.

A third common argument in support of this legislation is that it is needed to provide military logistics support. The United States does, in fact, need cargo ships as a military reserve. However, if this bill were in fact to increase the pool of vessels available in time of emergency, it would do so in the most inefficient way imaginable. Three quarters of the hidden subsidy would go not to American-flag companies, but to foreign operators, providing their governments—including Russia and Poland—with three quarters of whatever defense capability this strange legislation would produce. Further, if the bill really did work, as its advocates claim, to reduce excess capacity of the American ocean liner companies, it would, tautologically, reduce the capacity that would be available in time of emergency. The military argument is both convoluted and erroneous.

One of the worst consequences of enacting this legislation is the precedents it would set. The act would both permit monopclization and remove effective regulation. How could Congress deny any distressed American industry the privilege of cartelization, once it has granted a foreign-dominated industry with a history of anticompetitive practices that privilege?

Under the circumstances it is not surprising that H.R. 4374 has been strongly opposed by recent editorials in the Wall Street Journal, the New York Times, and the Washington Post, as well as by such consumer and farm groups as the American Association of Retired Persons, the Association of Older Americans, Congress Watch, the Consumer Federation of America, the Consumers for World Trade, the Consumers Union, the League of Older Voters, the National Farmers Organization, the National Farmers Union, the National Institute of Economics and Law, and the Transportation Consumer Action Project.

It is a source of still further concern and dismay that the bill is being considered under suspension of the rules even though the need for the legislation has been challenged by the General Accounting Office, as well as the House Republican Research Committee, and has been opposed by the Federal Trade Commission and a number of outstanding economists.

Mr. Speaker, in conclusion, the arguments in favor of the bill are false. Further, the bill provides a bailout for an inefficient American industry—a bailout through a kind of offbudget financing by imposing the burden of monopolistic prices on American consumers and exporters. The bill will help the big—big companies and especially big shippers—at the expense of the small—small shippers, independent liner companies, and the smaller ports. The bill deprives the public of the protections of antitrust laws and weakens the penalties for violating the lax protections it does retain.

Mr. Speaker, in my judgment, such a bill should be defeated on the merits. I am also convinced that it will reflect poorly on the integrity of this body for such a controversial and complex measure to be adopted without full debate and the opportunity for amendment.

Therefore, I once again, urge the Members to vote no on the motion to suspend the rules.

I include the following documents in the RECORD:

NATIONAL INSTITUTE OF
ECONOMICS AND LAW,
Washington, D.C., September 9, 1982.

DEAR MEMBER: On behalf of the National Institute of Economics and Law, we urge you to oppose the Biaggi Bill, H.R. 4374, known as the "Shipping Act of 1982." A new version of the bill, worked out by staff and never reviewed by any committee, may be brought to the floor under suspension of the rules on September 13.

Under the bill, international shipping cartels, dominated by foreign carriers, would be granted control of the American ocean liner trades. With insignificant exceptions, the bill gives the shipping cartels total immunity from the antitrust laws. Further, it reduces both the penalties for violations of the greatly weakened law and the civil damages recoverable from the liner companies.

The consequences are predictable. Prices charged in ocean liner services will rise—conservatively estimated—by 20 percent. One of the announced purposes of the bill is to permit the carriers to "rationalize" operations to increase vessel utilization. In plain English, this means reducing voyage frequencies and the ports served. The increase in the cost of transport will hurt consumers, farmers, other exporters and workers in export industries. "Rationalization," whatever its efficiency effects, will reduce port utilization and, hence, dockside jobs and port revenues.

We attach a statement signed by several prominent economists expressing their opposition to the bill. The bill is also opposed by farmer and consumer groups, such as Consumer Federation of America, Consumers for World Trade, Consumers Union, National Farmers Union and National Farmers Organization.

Sincerely,

ALLEN R. FERGUSON.
JEROME M. ZEIFMAN.

STATEMENT IN OPPOSITION TO H.R. 4374 AND S. 1593 THE PROPOSED SHIPPING ACT OF 1982

We, the undersigned economists strongly oppose H.R. 4374 and S. 1593. In our view, this special interest legislation would promote a wasteful use of our resources and worsen our terms of trade. Their purpose is to strengthen the ocean liner cartels (the "conferences") and to annul the current limited regulation of American liner trades by the Federal Maritime Commission (FMC).

The bills would impose on American consumers, importers, workers, farmers and other exporters a burden of subsidizing foreign liner companies. Three-quarters of the liner traffic is carried in foreign-flag ships; consequently, three out of every four dollars paid in excess rates would go to foreign companies and only one-quarter to American operators.

The bills provide a bail-out for an inefficient American industry—a bail-out that is provided through a kind of off-budget financing by imposing the burden of monopolistic prices on American consumers and exporters, rather than on the same individuals as taxpayers. They would tend to retard innovation and the growth of productivity, particularly in ocean shipping and indirectly in the American economy as a whole. Further, according to a recent General Accounting Office report, the U.S. flag liner fleet is not in a serious decline as alleged by the proponents of this act.

We object to the general thrust of this legislation. The bills grant to ocean liner companies and their cartels, in the words of the Senate version, "complete immunity from the antitrust laws," as well as immunity from any effective regulation by the Federal Maritime Commission. They would, thus, create legal, unregulated monopolies in an essential service that handles import and export shipments that amounted to $148 billion in 1981.

We oppose specific measures in the bills designed to implement these broad, anticompetitive purposes. The bills grant automatic antitrust exemptions for setting rates, pooling earnings and traffic, engaging in "exclusive, preferential, or cooperative working arrangements . . . to control, regulate, or prevent competition among themselves, and repeal a statutory preapproval requirement which has governed these arrangements for over 66 years." Three mechanisms are provided for granting discount rates to large shippers; at least one of these has no economic justification whatever, namely, loyalty contracts. The bills permit conferences to engage in predatory practices against operators of unscheduled ships. The option of triple damages under the antitrust laws is precluded and "No . . . punishment may be imposed for criminal conspiracy to violate . . . this Act. Further, even violators of the proposed law itself are to be free of antitrust prosecution. The bills would also permit cartelization of terminal operators in cooperation with conferences. Finally, they shift the burden of proof away from those proposing restrictive market practices to those seeking competitive markets.

We are also deeply concerned about the precedents set by H.R. 4374 and S. 1593. These Acts would both permit monopolization and remove effective regulation. This is unique at the federal level and leaves the economy in the worst of both worlds. These Acts are inconsistent with greater reliance on competitive markets; therefore, they are also imcompatible with the logic underlying the current wave of deregulation. How could Congress deny any distressed American industry the privilege of cartelization, once it has granted a foreign-dominated industry with a history of anti-competitive practices that privilege? According to a recent GAO report the U.S. flag liner fleet is not in a serious state of decline.

Kenneth J. Arrow, Stanford Unversity; William Baumol, New York University and Princeton University; William M. Capron Boston University; Paul H. Davidson, Rutgers University; Robert Eisner, Northwestern University; A. Myrick Freeman, III, Bowdoin College; Walter W. Heller, University of Minnesota; Charles C. Holt, Professor of Management, University of Texas at Austin; John Tepper Marlin, President, Council on Municipal Performance (for indentification only); Leonard Rapping, University of Massachusetts, Ronald G. Ridker, Advisor, Public Interest Economics; David Starrett, Stanford University; Robert M.

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Solow, Massachusetts Institute of Technology.

NATIONAL ASSOCIATION
OF BEVERAGE IMPORTERS, INC.,
September 3, 1982.
Re H.R. 4374—omnibus shipping bill.

DEAR CONGRESSMAN: On Monday, September 13 the captioned bill will come before the House of Representatives on a Motion to Suspend the Rules. I am addressing you on behalf of importers as well as American consumers to ask you to vote against the suspension of the rules on this bill. If the suspension motion carries, you should vote against the bill itself. A balanced view of this situation has already been outlined to you in a "Dear Colleague" letter of August 10 from Don Edwards. NABI supports his view.

Your further attention is directed to the "Dear Colleague" letter of August 12 by Mr. Biaggi in response to Don Edwards' position. Mr. Biaggi's letter is incomplete in apprising you of the true nature of this bill. The conclusion contains the observation that "H.R. 4374 would remove many of the restraints in our laws and its enactment would be in the best interests of all Americans."

Actually, passage of this bill would be in the best interests of shipping companies. This bill ignores the interests the average American who would have to pay the costs of higher freight rates which the bill would encourage.

The third paragraph of Mr. Biaggi's letter deals with the expanded antitrust exemption. It glosses this point in stating "the bill redraws the demarcation between the antitrust laws and regulation by the Federal Maritime Commission. The result is to clarify the law and make its application more certain and consistent."

In reality the bill extends the exemption for the carriers under the antitrust laws. It removes the Justice Department from surveillance over the carriers, and sets up the Federal Maritime Commission as the enforcement agency. The paltry record of the FMC speaks for itself, but even the new FMC enforcement authority would be sterilized. The net effect of Sections 7(a) and 10(a)(3) of the bill is to provide blanket immunity for the carriers from prosecution by the FMC and blanket immunity from private treble damage suits. Sec. 7(a)(2) provides that the antitrust laws do not apply to any activity that is undertaken by the carriers in the "reasonable belief" that it is pursuant to an agreement. To the same extent, Sec. 10(a)(3) states that any conduct that was undertaken by a common carrier in the "reasonable belief" that it was consistent with an agreement shall preclude assessment of damages under Section 4 of the Clayton Act.

Perhaps the most shocking part of this bill is that it would remove any public interest standard from the shipping laws. Public Law 87-346 wisely added a public interest standard which has been judicially construed and approved by the Supreme Court of the United States in *FMC* v. *Svenska Amerika Linen* (390 U.S. 238—1968).

Passage of H.R. 4374 would remove consideration of the public interest as a factor in judging the conduct of the shipping lines.

This bill deserves full floor debate, as it is highly controversial. We urge that you do not approve the suspension of the rules procedure. Should the motion carry, we ask that you vote against this bill.

REX D. DAVIS,
President.

WINE AND SPIRITS
WHOLESALERS OF AMERICA, INC.,
Washington, D.C., August 18, 1982.

Hon. DON EDWARDS,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EDWARDS: WSWA, representing over 800 importing and wholesaling establishments throughout the United States, strongly opposes, in principle, H.R. 4374, the Shipping Act of 1982.

We import over 80 percent of the wines and spirits sold in this country. Our products are a significant factor in international commerce. For example, wines and spirits account for the largest volume category and most highly tariffed product on the westbound North Atlantic trade route.

The primary beneficiary of H.R. 4374 would be foreign, not domestic, ocean carriers. It would expand, not reduce, the scope of antitrust immunity now enjoyed at the expense of importers, exporters and the American consumer. The bill would remove, not expand, Department of Justice surveillance of these cartels. Criminal and civil antitrust suits recently have been successfully concluded aginst many of these carriers. The bill, moreover, runs contrary to the objectives of the Carter and Reagan Administrations to deregulate the transportation industries.

We appreciate your steadfast opposition to this legislation and efforts to protect American importers, exporters and consumers against rate-gouging by the shipping cartels.

Sincerely,

DOUG METZ.

NATIONAL FARMERS UNION,
Washington, D.C., August 12, 1982.
Re The Shipping Act of 1982, H.R. 4374.

Memorandum to: All Members of the House of Representatives.

From: Paul R. Sacia, Legislative Assistant.

DEAR MEMBER: On behalf of the National Farmers Union, we urge you to oppose H.R. 4374, the Shipping Act of 1982. This measure would increase the cost to American farmers of exporting cereals, fruits, vegetables, feed, fertilizer and other agricultural products by 20 percent, under conservative estimates.

As pointed out in the Journal of Commerce on July 13, 1982, only this year some maritime conferences have been so successful in reducing competition that they have raised their rates from $5 to $7 per ton. H.R. 4374 would serve to exacerbate the monopoly control over international shipping cartels and impose even greater shipping costs on American farmers.

It is also particularly distressing to us that $3 out of every $4 in increased shipping profits would go to the benefit of foreign carriers under H.R. 4374.

In our view, the proponents of this legislation have grossly misstated both the need for, and the affects of, this legislation. The recently released report by the General Accounting Office makes it clear that H.R. 4374 is special interest legislation which adversely affects both the American farmer and the American consumer.

Once again, we urge you to oppose this legislation and to oppose it being brought up on the floor of the House of Representatives. Thank you for your consideration.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., August 11, 1982.

DEAR REPRESENTATIVE: On behalf of its over 200 organizations and their 35 million members, Consumer Federation of America urges you to oppose H.R. 4374. The title of this legislation, "A Bill to Improve the International Ocean Commerce Transportation System of the U.S.," could not be more misleading. In fact, H.R. 4374 is an industry and Administration attack on the antitrust laws that flies in the face of current efforts to end wasteful economic regulation. If successful, this antitrust exemption for the ocean liner industry would force American consumers, workers and farmers to subsidize not only the U.S. Merchant Marine but foreign shipping companies as well.

Aside from its deleterious impact on consumer prices and the demand for American farm products and industrial exports, H.R. 4374 would set a dangerous precedent by exempting an entire industry from the antitrust laws. Such an action would surely lead other industries to seek their own special waiver to act as cartelized monopolies. That would be a disaster for consumers and for the entire American economy. Accordingly, we request your strong opposition to H.R. 4374.

Sincerely,

STEPHEN BROBECK,
Executive Director.

CONSUMERS FOR WORLD TRADE,
Washington, D.C., September 7, 1982.
Re H.R. 4374, Omnibus Shipping Bill.

DEAR CONGRESSMAN: Consumers for World Trade (CWT), a national, nonprofit organization representing the consumer interest in international trade, urges you to vote against suspension of the rules on H.R. 4374. Passage of this bill would have a serious impact on American consumers and should not be rushed through without the benefit of full House debate.

H.R. 4374 would impose on American consumers the burden of subsidizing the U.S. merchant marine and foreign liner companies. The conference report of the Judiciary Committee indicates the net effect of the legislation would be to make consumers pay about 20% more in terms of freight or imported cargo. Furthermore, H.R. 4374 would jeopardize consumer protection from cartel pricing.

Should the motion to suspend the rules be approved, CWT urges you to vote against H.R. 4374.

DOREEN L. BROWN,
President.

AMERICAN WHOLESALE BEVERAGE CO.,
INC.,
Winston-Salem, N.C., August 30, 1982.

Hon. DON EDWARDS,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EDWARDS: WSWA, representing over 800 importing and wholesaling establishments throughout the United States, strongly opposes, in principle, H.R. 4374, the Shipping Act of 1982.

We import over 80 percent of the wines and spirits sold in this country. Our products are a significant factor in international commerce. For example, wines and spirits account for the largest volume category and most highly tariffed product on the westbound North Atlantic trade route.

The primary beneficiary of H.R. 4374 would be foreign, not domestic, ocean carriers. It would expand, not reduce, the scope of antitrust immunity now enjoyed at the expanse of importers, exporters and the American consumer. The bill would remove, not expand, Department of Justice surveillance of these cartels. Criminal and civil antitrust suits recently have been successfully concluded against many of these carriers. The bill, moreover, runs contrary to the objectives of the Carter and Reagan Administrations to deregulate the transportation industries.

We appreciate your steadfast opposition to this legislation and efforts to protect American importers, exporters and consumers against rate-gouging by the shipping cartels.

Sincerely,

JIM TASIOS.

[From the New York Times, Sept. 13, 1982]

BIG SHIPPING TRIES AN END RUN

The $15 billion cargo liner industry is hardpressed to explain why it needs exemption from the antitrust laws. So rather than risk an embarrassing debate, the industry is trying to slip through legislation when no one is looking. It will be up to House members who believe in competition to stop this end run.

Ocean-going cargo liners operate in a twilight zone between regulated cartel and open competition. Carriers using American ports are permitted to join "conferences" that fix rates, subject to oversight by the Federal Maritime Commission. But unlike those operating outside United States jurisdiction, these conferences must be open to all comers, making it difficult to fix rates above competitive levels.

The system doesn't work very well, partly because the Maritime Commission is notoriously inefficient. The industry complains of excessive paperwork and bureaucratic delays. Customers complain about inconsistent enforcement, which on occasion results in higher-then-competitive rates. Thanks, though, to the threat of antitrust prosecution, the system has not proved a total disaster.

The Carter Administration's economists talked hopefully of making it better; by eliminating the conference system, abolishing the commission and letting competition determine rates.

Not surprisingly, that is precisely the opposite of what the industry wants. It would like freedom from Justice Department scrutiny and more help from the Maritime Commission is enforcing its cartel agreements. With the aid of its chief promoter, Representative Mario Biaggi of New York, it has pushed an antitrust exemption bill through the House Merchant Marine and Judiciary Committees.

A number of Judiciary members, however—Republicans and Democrats—are crying foul. And in an ordinary floor debate, there would be a good chance to weaken the bill or destroy it altogether by amendment.

But key opponents of the suspension are out of the country or preoccupied with primary elections. If the bill's sponsors can suspend the House rules, prohibit amendments and limit debate to force a vote this week, they may succeed. But that requires a two-thirds majority. Good sense can prevail if a substantial minority of House members present object to this perverted free enterprise.

[From the Wall Street Journal, July 15, 1982]

TORPEDO THE MARITIME BILLS!

Legislation steaming through Congress would grant antitrust immunity to ocean freight lines participating in "conferences" that divide up cargo and trade routes, and pool revenues. There are three simple reasons why the bills, sponsored by Sen. Slade Gorton and Rep. Mario Biaggi, should be torpedoed.

The first is that cartels are bad. Our laws don't allow microchip makers or lumber distributors or pizza parlor operators to fix prices or divvy up markets. We don't give antitrust immunity to oil tankers, tramp steamers and grain boats, which account for most of the shipping tonnage in and out of U.S. ports. There is absolutely no reason to make an exception of cargo liners. Liner conferences, if they work, only raise freight prices.

The second is that the legislation is a diversion from the real problems afflicting most U.S.-flag operators; uncompetitive capital and operating costs, which result from the perverse incentives of a long history of government subsidies and regulations. U.S.-flag ships must hire American crews, and be subject to the featherbedding rules of U.S. maritime unions, leading to labor costs that are twice international levels.

What is more, the government has historically given operating subsidies to U.S.-flag operators who purchased ships from American yards, where construction costs are typically two to three times higher than abroad. It is no accident that the U.S. coastal trade, which has been reserved by law to U.S.-flag ships, has lost traffic to trucks and railroads.

The third is that antitrust immunity probably won't make much of a difference in today's shipping market. The world shipping industry has been clobbered by overcapacity during the last seven or eight years, thanks to the spendthrift subsidizing of shipbuilding and export-finance by governments from Sweden to South Korea.

As a result, conferences in the Pacific, North Atlantic and Europe-Far East routes have been powerless to keep their prices above market level for long—lest they be undercut by scrappy independent fleets out of Hong Kong and Singapore; by companies such as the U.S.-based Sea-Land Service, which has alternately participated in and broken away from the Pacific conference; and by bulk carriers, which have topped off their cargo with a little business that normally goes to freighters. Ironically, one of the biggest trust-busters has been the Soviet merchant marine, whose history of price-shading has provided Moscow with one of its few sources of foreign exchange.

If Congress really wants to help the shipping industry, it will phase out the subsidies and regulations that have discouraged many U.S.-flag fleets from reducing their costs to international levels.

[From the New York Times, July 14, 1982]

BEWARE THE CARGO SHIP CARTEL

It is the bizarre proposition of ocean shipping companies that they can increase their efficiency by further reducing their competition. With the support of President Reagan, they ask Congress to exempt them from the antitrust laws. Only by freeing ocean shippers to form cartels, they insist, can America build an effective merchant marine.

This would be reform in the wrong direction. The American merchant fleet is actually quite healthy. It would be healthier still if it relied less on Government aid and protection, and more on competitive markets.

Since the Great Depression, the Federal Government has spent about $10 billion in direct subsidies to keep the American merchant marine above water. Indirect aid has been worth billions more: a legal monopoly on coastal service, Federal rules requiring Government contractors to ship in American vessels, plus assorted loan guarantees and tax breaks.

Yet the industry keeps crying for more help. It says the number of cargo liners flying the American flag has been cut in half since 1970. Without extreme measures, the carriers insist, there will soon be no American oceangoing fleet.

Price-fixing of sorts already is permitted. Under current regulations, international "conferences" of shipping companies are allowed to set rates jointly, subject to the approval of the Federal Maritime Commission. Bills now offered by Mario Biaggi in the House and Slade Gorton in the Senate would remove this procedure from Government oversight and let the companies enforce the agreements by limiting their shipping capacity.

The Reagan Administration agrees to this cartelization because it hopes that higher prices to the private economy will relieve its budget of the annual subsidy of about $400 million.

It is not at all clear the American maritime industry needs this extraordinary protection. "Rather than indicating distress," reports the General Accounting Office, "the decline in the number of U.S. flag vessels . . . reflects significant changes in the type of ships used." New technology, notably containerization, has allowed a smaller fleet to carry as much cargo as before.

However unhealthy the industry may be, cartelization is a strange cure. If it allowed shipping companies to raise their rates by only 20 percent—a reasonable guess, according to the maritime economist Allen Ferguson—America's cargo shipping bill would increase by $3 billion a year. And since foreign flag carriers would share in the spoils, perhaps $2 billion of this total would end up in foreign hands.

Congress should certainly reexamine its maritime policy. The existing regulations stifle competition and stop carriers from quickly adjusting their rates and services to market conditions. The operating subsidies clearly destroy incentives to hold down wages; an American ship's master earns more than $200,000 a year, twice as much as Swedish or West German masters.

The Biaggi-Gorton approach would only make matters worse. America's shipping industry needs freedom to compete, not protection to charge whatever the traffic will bear.

[From the Washington Post, July 12, 1982]

THE HEALTHY FLEET

One of the premises of those who support continuation and extension of our system of maritime subsidies is that the U.S. maritime fleet is in great distress. We hear over and over again that ship owners register their vessels under flags of convenience, like those of Liberia and Panama, and that the number of U.S. flag veessels is declining. Now comes a report from the General Accounting Office, a preliminary draft of which has been obtained by The Post, which suggests that the maritime industry is in much better shape than it would like us to think.

The GAO analysts do not dispute the figures which show, for example, that the number of U.S. flag vessels has declined from 523 in 1970 to 256 in 1980. But they also direct our attention to the critical question of what kind of vessels these are. The

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1970s saw a vast increase of "containerization," the process that permits cargo to be loaded in one vast package rather than item by item. As a result, a given amount of cargo can be loaded and shipped more rapidly by containerised ships than by the kind of methods used in 1970. So it takes fewer vessels to transport the same amount of cargo. The GAO concludes that the shipping capacity of the U.S. merchant fleet has not therefore declined as the figures on the number of ships would suggest.

The GAO report undercuts the arguments made by shipping interests that their industry needs special federal help, notably the exemption from the antitrust laws that recently passed the Senate and seems about to pass the House. On the contrary, the report indicates that the U.S. flag merchant fleet is profitable, well-equipped and able to compete with carriers operating under other flags. The best argument the industry can extract from the report, in our view, is of the if-it-ain't-broke-don't-fix-it variety; with the current complex system of subsidies, the U.S. merchant fleet is doing fairly well, so the system, however offensive to free-market purists, should be left alone.

We take another view. American consumers should not have to pay the cost of subsidies that provide vast benefits to a few and then pass along heavy costs to the rest of us. Some plans the Reagan administration is considering to reduce subsidies are good; others, such as the antitrust exemption, that would increase costs to consumers, are not. It is still not clear whether the main purpose of the administration's plans is to reduce subsidies or just to shift the burden of subsidization from the federal budget to consumers' budgets. In the meantime, the GAO report serves the useful purpose of discrediting the lugubrious reports of the maritime industry's demise and directing the debate toward the twin questions of what, if anything, should be subsidized and by whom.

[From the Washington Post, June 30, 1982]

GAO: No Need for Major Shipping Law Revisions

(By Thomas W. Lippman)

With Congress about to act on bills to give sweeping antitrust immunity and regulatory relief to the U.S. maritime industry, the General Accounting Office has concluded that the economic condition of much of the merchant fleet is far better than generally believed and "does not justify a major revision" of existing shipping law.

The GAO's finding that the U.S.-flag liner fleet is not in the state of decline ascribed to it runs counter to a long series of SOS signals about the fleet issued by the industry, congressional committees and independent researchers in recent years, and is likely to be disputed vigorously by industry lobbyists.

The GAO report is apparently an abbreviated version of a study initiated four years ago and circulated for comment to interested groups in January but never made public. Congressional sources said the new study is to be released soon.

It says that the U.S.-flag liner fleet—the vessels carrying manufactured goods and general cargo on scheduled international routes—is generally profitable, well-equipped and capable of competing with foreign shipping lines.

The sharp decline in the number of American-flag vessels in this service in the past decade is the result not of "general chronic distress" but of modernisation and the acquisition of big container ships that carry more cargo in less time at lower cost, the report says. Although "valid reasons exist" for changing shipping law to favor the carriers, "The GAO does not believe the current condition of the general-cargo-loner segment of the U.S. merchant marine is among them," the report says.

It also says that the decline in the number of ship operating companies from 19 to nine was caused not by overall erosion of the industry or by flaws in maritime law but by competitive forces and the demands of capital investment in containerised equipment, which are invigorating to the industry.

These conclusions appear to support the claims of consumer groups who argue that the proposed grant of blanket antitrust immunity and authorizaton for the carriers to enter cartels would require consumers and exporters to subsidize the liner fleet unnecessarily. But it is not clear whether they will have any impact on legislation that has been making its way through Congress since last summer, with the backing of the administration.

One congressional source said yesterday that the main conclusions of the GAO's analysis have been known on Capitol Hill for some time and are unlikely now to undercut legislation that has bipartisan support. But another said it would "cast doubt on some of the arguments for the legislation . . ."

A Senate version of the bill awaiting floor action would confer antitrust immunity on the carriers, authorize them to join international groups of shipping companies to control rates and schedules and lift some regulation of rates and schedules. A similar bill cleared the House Merchant Marine and Fisheries Committee and is undergoing review in the Judiciary Committee.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I concur in what the gentleman from California said. Let me just add that this bill would legitimize actions which otherwise would be criminal violations of the antitrust laws, that would subject companies to large fines up to a million dollars and prison sentences for the executives who engaged in them. Yet this bill would legitimize these.

The Judiciary Committee did the best job they could under the circumstances to remove some of the worst features that were in the original bill.

Nevertheless, it is highly controversial. It should not be brought up under suspension. In my opinion it is an abuse of the right to bring up bills under suspension.

For these reasons, I intend to vote against it.

● **Mrs. SCHNEIDER.** Mr. Speaker, I rise today in opposition to consideration of H.R. 4374, a bill to exempt the merchant marine industry from antitrust laws, under suspension.

I supported this bill in committee because I believe it deserves debate on the floor. However, I think passing it under suspension, without discussion and possibility of amendment, is inappropriate.

My concerns are that H.R. 4374 would expressly allow the merchant marine industry to "discuss, fix, and regulate or prevent competition among themselves" and where antitrust exemptions are deemed necessary, we must follow regular order. In addition, the benefits of this bill may go largely to the foreign carriers, since more than 70 percent of American import and export liner traffic is carried by foreign carriers.

I urge my colleagues, therefore, to vote against this legislation under suspension.●

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that each side be granted an additional 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCLOSKEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Clausen).

Mr. CLAUSEN. Mr. Speaker, I rise in support of this legislation. I want to commend the committee. This legislation is, in fact, designed to correct many of the shortcomings in existing law and to reaffirm some of the antitrust immunity provisions regarding ocean common carriers which many feel have been eroded since the enactment of the 1916 Shipping Act.

I thank the gentleman very much for yielding to me and commend the committee for their action.

□ 1245

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding to other Republicans who wish to speak, I would like to address a challenge to my friends on the Judiciary Committee who have opposed this legislation because it expands somewhat the antitrust exemption granted the shipping industry.

I would remind those advocates of antitrust enforcement that back in 1914, the Alexander Committee of Congress made a recommendation when we were faced with choosing between antitrust immunity for shipping conferences and so-called free competition or the obliteration of conferences. That recommendation in 1914, and the decision of Congress in 1916 was to grant immunity from the antitrust law to shipping conferences provided that they were appropriately regulated by what has now become the Federal Maritime Commission.

Now, that decision, right or wrong, has been made by every trading country in the world. The United States, when we created our conferences in the 1916 act, created open conferences so that people who wanted to join the conferences had the right to do so. In the rest of the world, the shipping conferences, between the Far East and Europe, between Europe and Africa, are so-called closed conferences, giving much stronger antitrust immunity to the foreign shipping companies than is given to the companies of the United States under U.S. law.

Now, what led to this bill today, which is the product not just of this Congress, but of two prior Congresses, and studies made in those Congresses about the penalties that were befalling U.S. shippers and U.S. consumers because of our open conference system? The key facts that I want to challenge those who advocate strong antitrust enforcement to meet are these. I want to quote two simple statements from a study of ocean rate disparities made by Booz, Allen & Hamilton, in June of 1978. That study and the two conclusions I will quote furnished the primary basis for this legislation.

> Conclusion No. 1. Ocean liner freight rates are 32-percent higher for outbound commodities than for similar inbound commodities on the same trade route.

This means that American exporters who are shipping goods overseas are paying 32 percent more under our current law to ship those goods than are the people that are shipping the same imports into this country.

Now, conclusion No. 2 under existing law:

> Ocean freight rates paid by U.S. exporters are over 100 percent greater than those paid by exporters from an alternative source country to a third market.

Now, note what that means. That means that if American manufacturers shipping refrigerators to the West Coast of Africa are competing with German manufacturers of refrigerators to the west coast of Africa, the American shippers, with our open conference system, will be paying twice as much, a hundred percent greater freight rates.

Now, those two conclusions, that we pay higher rates going out of this country than for goods shipped in, and the fact that we are paying twice as much as our German and Japanese competitors, who have closed conferences, led the Merchant Marine Committee after literally 6 years of study to come up with this bill which would try to change some of the imbalance that is now enjoyed by our European competitors.

Now, those facts, if those of you who feel that it is wrong to slightly increase the antitrust exemption for the shipping industry from what it is today, I would ask you to defend why you want to keep the status quo if, indeed, we are having to pay twice as much as our competitors in the European community and in Japan at a time when increasing U.S. exports is a primary goal of U.S. trade policy.

Mr. Speaker, I am glad to yield 10 minutes to the gentleman who I understand is my chief protagonist, the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I oppose H.R. 4374 on substantive grounds because it greatly expands the limited antitrust exemption accorded the maritime industry, because it significantly reduces the remedies available for wrongdoing, because it would allow the complete elimination of competition by the creation of monopolies, because it would hurt consumers who buy imported goods, because it would hurt farmers, manufacturers, and workers who wish to export, because it would reduce calls made on American ports resulting in revenue and employment losses, because it would create an inefficient subsidy for our carriers that would be realized in the main by foreign carriers, including those of Communist countries, and because it would repeal the requirement that conferences act in the public interest. Indeed, this bill is not in the public interest. it not only tramples on the charter of economic liberties, as the Supreme Court has called our antitrust laws, it tramples on the Constitution itself, as the chairman of the Subcommittee on Civil and Constitutional Rights noted in his dissenting views. It is no mere coincidence that the chairman of that subcommittee and its ranking Republican member both oppose this legislation.

Mr. Speaker, I also oppose H.R. 4374 on procedural grounds. As Mr. MCCLORY, the ranking Republican member of the Judiciary Committee, explained in a letter to you, Mr. Speaker, this bill should not be brought up under suspension for five reasons.

First, you do not put bills on suspension in order to close off important amendments. But that is what is being done here. The Republicans on the Judiciary Committee were committed to an amendment offered by Mr. MCCLORY which the Justice Department considered critical to the legislation—an amendment to get the Federal Maritime Commission out of the business of enforcing the price-fixing agreements of the cartels. It is bad enough that we authorise price fixing in this industry, but we do not have to spend our tax dollars on hiring Federal employees to make certain that the price-fixing agreement is not violated. But the cartels want the free help; they are afraid that the amendment might pass; that is why we are gagged.

Second, a majority of the Democratic members on the Judiciary Committee voted against this legislation in committee. Normally, the leadership does not treat the majority party's position so lightly.

Third, this bill is extremely complicated. It is highly controversial, drawing fire from our Nation's most respected newspapers and from Nobel Prize winning economists. It is condemned by an excellent analysis of the House Republican Research Committee. And it hardly measures up to the thorough analysis of the General Accounting Office, which was somewhat ironically requested by the bill's proponents. Moreover, the bill is poorly drafted. It is full of contradictions. For example, provisions authorizing price discrimination abound yet are weighed against a provision prohibiting discrimination. Provisions authorizing pooling of revenues and costs are posed against a lone provision affirming antitrust merger policy. This legislation, therefore, deserves more than a cursory discussion for a maximum of 40 minutes on a day before the Speaker's primary. In fact, 11 States and the District of Columbia have primaries tomorrow.

Fourth, the bill is burdened by an unconstitutional provision which under the suspension procedure cannot be corrected. Under the bill, the ocean carriers are permitted to fix the rates. While they may do so under current law, the important difference is that today the FMC may under section 18(b)(5) veto any rate which is so high or so low as to be injurious to U.S. commerce. The bill before us repeals the FMC's authority to protect U.S. commerce from injurious rates but nevertheless continues the FMC's responsibility to see that no one deviates from these rates, even if they be injurious to our commerce. In other words, the carriers alone set the policy but the Government enforces it. This is exactly the kind of delegation of congressional authority which the Supreme Court condemned as unconstitutional in the famous cases of *Schechter Poultry Corp.* v. *United States*, 295 U.S. 495 (1935), and *Carter* v. *Carter Coal Co.*, 298 U.S. 238 (1936).

This unconstitutionality can be remedied by reinstating section 81(b)(5) or by eliminating FMC enforcement of private rates. But since that is not possible under the suspension procedure, Mr. Speaker, the only recourse for those who take seriously their oath to uphold the Constitution will be to vote against the pending motion.

Fifth, until the last minute, the House has been kept in the dark on

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this bill. The bill before us is not the bill reported by the Merchant Marine Committee. The bill before us is not the bill reported by the Judiciary Committee. No; the bill before us does not come from any committee but rather was drawn up by a couple of staffers who, I might add, were not elected by anyone. While a privileged few know its contents, the House has not had a reasonable opportunity to study and analyze. Thus the only safe vote is a "no" vote.

Proponents suggest that this bill is another in a long line of popular regulatory reform bills. But that slogan ill suits this bill. Whereas prior regulatory reform bills were procompetitive, this bill is anticompetitive. While prior bills achieved deregulation, this bill merely effectuates weaker regulation. This bill is no reform. It is special interest legislation.

Why is that? First, it basically removes the Justice Department from the maritime scene. The Antitrust Division, you see, has become a real nuisance, defending competitive principles and consumer interests. Instead, the bill leaves the FMC in charge, with reduced authority and little will to exercise it.

Second, the bill basically eliminates criminal penalties; they exist only for those foolish enough not to file their agreements and wait the requisite time for the agreement to go into effect. But once an agreement has gone into effect, criminal penalties are eliminated.

Third, the bill eliminates the treble damage remedy now available to private injured parties. Whereas today an injured party may go to court to collect treble damages under the antitrust laws, under this legislation that party may not be entitled to anything unless he can convince the FMC that one of the internally inconsistent prohibitions has been violated, in which case he may collect single damages or in certain rare instances, up to double damages. But in summary not only is the amount of damages reduced, the forum is made less favorable to plaintiffs, and the situations in which any recovery is authorized are substantially curtailed.

Fourth, the bill eliminates the requirement of present law that carriers act in the public interest. This hardly inadvertant; it may, in fact, be the main reason for the bill. The justification of this incredible provision is that it takes too much time to decide if proposed conduct is in the public interest. I think we should nip this kind of rationalization in the bud, lest we hear pleas to legalize murder because of cases where trial, appeal, habeas corpus, and retrial have taken too long. Courts have said that the public interest standard embodies our national commitment to principles of competition. Thus, today, common carriers may carry on activities authorized under the Shipping Act but must do so in the least anticompetitive way. Under this legislation, carriers will be free to operate contrary to the public interest and in the most anticompetitive way. And as if this were not enough, the burden of proof is placed on the public interest. Today, the proponent of an anticompetitive agreement has the burden of proving that it fulfills an important transportation need or Shipping Act policy. In contrast, this bill shifts the burden to the opponent who must overcome the presumption of validity accorded to all agreements to demonstrate that the agreement in question violates one or more of the specific prohibitions. In such a proceeding it will be irrelevant that the agreement is repugnant to the public interest, grossly anticompetitive, contrary to our transportation needs, or injurious to U.S. commerce. For such values often engender discussion, and discussion takes time, and the purpose of this bill is to eliminate such delay. Thus we are asked to lay aside such considerations.

Perhaps the following example will make my point clear. Imagine the classic situation of six common carriers in a conference being given fierce competition by an independent. Under the bill the conference carriers could direct an ongoing joint venture or consortium formed out of some of them to engage in predatory practices to drive the independent out of the trade. While the bill may in limited instances prohibit the formation of joint ventures for such a purpose, it is totally permissive with respect to the operation of an ongoing concern. The House clearly has distinguished between the formation and the operation of joint ventures as recently as last month, when it passed H.R. 5235, the Foreign Trade Improvements Act of 1982. What is more, this bill would permit even the formation of joint ventures to engage in predatory practices if it resulted in gains in efficiency or services which offset the loss of the competitor. And, remember, the burden of proof would always be on the good guy, the party attempting to vindicate our national policy of free and open competition.

What my example illustrates is the point made by the Federal Trade Commission in testifying before the Judiciary Committee: that it is not possible to list every possible antitrust violation in the form of specific, concrete prohibitions. Such a list merely invites creative lawyers to alter a factor for their clients to create licenses to violate the antitrust laws.

Fifth, to show that one need not labor too hard to find how outrageous this bill is, the bill now before us would permit the creation of monopolies. Ironically, the bill reported by the Judiciary Committee would have expressly prohibited monopolization. But the nameless, unelected authors of this bill decided to take it out. So, it would appear that the legislative history is clear. There is nothing to stop all the carriers in a given trade from combining into one giant conference and then charging any rate they wish. Why else would this bill have stricken the express prohibition against monopolization and the express authority of the FMC to veto excessive rates? The best that proponents can say is that this is unlikely to happen. But monopolization is attempted even when it is prohibited. Why should we risk the possibility of monopolization by so clearly inviting it?

When all factors are considered, the reason for this legislation is not regulatory reform of the FMC but rather a greatly expanded antitrust exemption for ocean common carriers. The desire to enact this legislation, as bad as it is, is prompted by the declining popularity and feasibility of subsidies for the maritime industry. With reduced subsidies in their future, the carriers grew restless. And what was once an on-budget subsidy was transformed by this legislation into an off-budget subsidy of congressionally approved monopoly overcharges. The problem is that there is no controlling this off-budget subsidy. We will never get to vote yes or no, or to set the level of monopoly profits. Nonetheless, American manufacturers and American consumers will be paying the subsidy. And what makes this transformation such a bad bargain is that U.S. carriers serve only 30 percent of our trade. Thus 70 percent of all the monopoly overcharges generated by this legislation would flow into foreign hands.

But who cares about this off-budget subsidy? Not the carriers who will enjoy larger profits. Not the Seafarers Union who hope to gain even better wages for American crewmen, who already enjoy pay schedules twice as high as those of any other country. Not the big shippers who you may see on Capitol Hill lobbying for this legislation because they are basically exempt from the evils of this legislation. They will be able to protect themselves with service contracts, time-volume rates, tailormade tarriffs, and other devices to gain discounts at the expense of other shippers—those who are not big enough to lobby here. So who cares?

The American people care. These are the people for whom the antitrust laws were written. These are the people who benefit from competition in prices and services. These are the people for whom the public interest standard was written into the Shipping Act. These are the people who will pay the off-budget subsidy, which sloppily will benefit foreign carriers more than our own. These are the people I will be thinking of when I cast my vote on this bill.

So I urge the Members of this House to follow the advice of Nobel Prize winning economists, our leading newspapers, the GAO report, and the House Republican Research Committee to vote for the American people and against this special-interest legislation.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding. I would like to associate myself with the gentleman's remarks in opposition to the measure.

I would ask this question in relation to the challenge that was presented to justify the opposition to the bill in relation to shipping costs.

Is it not correct that the personnel costs on U.S.-fleet ships are almost twice the personnel costs of the foreign shippers that are shipping minus these provisions?

Mr. SENSENBRENNER. The gentleman is correct.

Mr. McCLOSKEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, the gentleman made two points. One was that Congress enacted the 1916 act which gave exemption from the antitrust laws to the conferences; but of course, Congress did so under the theory that the Federal Maritime Commission was going to regulate this industry and make sure that unreasonable and excessive rates were not granted.

Now, I agree that it eventually became a captive agency and, in effect, was not doing the job that it should have; but nevertheless, that was the theory of the 1916 act.

Now we are scrapping that regulatory authority. It is true the bill expressly prohibits some aspects of cartel practices; but, of course, it retains the open cartel for American carriers; so I do not see what the gentleman's point was about opening the cartel.

□ 1300

Mr. McCLOSKEY. Let me try to make the point: The gentleman objects to the FMC having jurisdiction and the gentleman would like to have the Antitrust Division have the jurisdiction. The problem with that is that we are not dealing with domestic intercourse or domestic competition; we are dealing with international conferences.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume, and I will yield to the gentleman from Ohio to reply to this point.

The U.S. Government is dealing with a shipping conference which may have seven foreign company members and one U.S. liner company as a member and is, thus, looking to the Antitrust Division to enforce against all eight companies the antitrust laws of the United States extraterritorially.

The other seven countries may be Great Britain, the Netherlands, France, our trading partners, our allies in NATO. Those countries, however, have almost universally enacted blocking statutes to prevent our antitrust enforcers and U.S. law enforcement agencies from getting the records of the foreign companies.

The result is that it is much easier to enforce the antitrust laws of the United States against the U.S. company than it is against the foreign companies in the same conference with whom we are competing.

This has led, in the committee's view, to the general degradation and diminution of the strength of the U.S. merchant marine.

We have in other laws the responsibility to provide for a strong U.S. merchant marine. Yet, the strong antitrust enforcement which is effective against U.S. companies is not as effective against their competitors and we are thus seeking a balance here between very valid principles which the gentleman from Ohio (Mr. SEIBERLING) espouses, the antitrust law which I also espouse, and yet which recognizes the realities of world trade, which is that the closed conferences used by our competitors in other countries is beyond our reach entirely, and in the United States conferences which are partially within our reach this kind of enforcement penalizes U.S. shipping in competition with its foreign competitors.

Now, in this search for balance, I think it is clear we have to accept some antitrust immunity. The question is how much and to what extent?

It is one thing for a committee that has spent 15 years studying this issue and come up with legislation to try to reach that balance, and another for a group of idealists on another committee who understandably do not want to see the antitrust laws diminished in their scope, but who are making its arguments without reference to the real trading world in which U.S. shipping is faced with competition every day.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I would be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I do not think we are as powerless as the gentleman suggests. There is a very simple device that the United States can use to obtain compliance with the antitrust laws with respect to any carrier, foreign or domestic; namely as a condition of doing trade with the United States, require that the carriers comply with the antitrust laws.

That would take care of the whole thing.

Mr. McCLOSKEY. I wish the gentleman had sat with me in a series of conferences that, through the auspices of our State Department, have been held with our allies, Great Britain, Norway, the Netherlands, West Germany, and others, urging that the United States should not exercise that right to urge extraterritorial enforcement of our antitrust laws on our trading partners and our allies.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further to me?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding further to me.

Mr. Speaker, we do have the right to require businesses to respect our laws as a condition of doing business in or with the United States.

Mr. McCLOSKEY. We may have the right to enforce U.S. law on the high seas but we would be using it to penalize conduct which under foreign law is perfectly proper and legal.

Now, if the gentleman were to urge that foreign law is upping freight rates, that would be one thing. But under foreign law, the freight rates of exporters from Europe to Africa are half what they are in the United States. That fact is what led the committee to reach the conclusion that it is best that we broaden the antitrust exemption of U.S. shipping companies so we could attain a greater proportion of the export trade and contribute to our export trade imbalances.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. McCLOSKEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I must say that the gentleman loses me. If we had the antitrust laws in full force and effect with respect to all ocean shipping entering and leaving U.S. ports, we would not have the situation that freight rates to and from the United States are higher. Competition would take care of that.

Mr. McCLOSKEY. I understand that completely. But does the United States have the right to be the new imperialist and say that all of our laws are going to apply to all of the foreign trade in the world?

We do not have that right. We do not have that privilege any longer.

Mr. SEIBERLING. We have that right to the extent that they enter our ports.

Mr. McCLOSKEY. We may have that right, but we lose our allies and our trading partners in the process.

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That is the search for balance that the committee is seeking.

Mr. RODINO. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yeilding.

Mr. Speaker, the mere fact that we are having this dialog shows how difficult it is, and it has been, for the committees to resolve this question. Now I, as one who has been a strong advocate of antitrust enforcement, recognize that there was some merit on the side of those who were arguing for exemption and expansion. However many difficult and complex issues remain and it is for this reason that we have written into the bill the provisions requiring that a Presidential study commission review this total subject. I think that is the answer to it.

Mr. McCLOSKEY. I have to concede that, Mr. Chairman.

Mr. Speaker, it seems to me that when we enacted the law in 1916 and have seen literally 66 years of experience under the law, that none of us can be quite sure about what kind of abuses may develop and the Presidential study commission is a very proper addition to this act.

It may be 2 or 4 years from now that we will find there are changes we want to make in this provision. But it is clear after 66 years of experience that the current status quo is destroying the U.S. merchant marine, making U.S. exporters pay higher rates and hurting U.S. manufacturers.

For all of those reasons, it seems to me this law ought to pass.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I yield one-half minute to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I want to associate myself with the remarks of my colleague, the gentleman from California, and I rise in support of the bill.

Mr. Speaker, I think it is important to say the bill does not expand the kind of activities eligible for immunity; it just simply redefines those.

Mr. Speaker, one of the significant elements of this comprehensive legislation concerns the antitrust exemption. As there has been some misunderstanding about this, I would point out to the House that this element of this bill is intended to clarify the original antitrust immunity which has been in force since passage of the Shipping Act in 1916. The bill does not expand the kinds of activities eligible for such immunity. The legislation will correct the procedures presently followed in order to reinstate certainty and predictability in the regulation of liner shipping in our foreign commerce.

Additionally, H.R. 4374 is not intended to favor any particular flag operator. In this regard, it is flag blind.

The bill gives recognition to the need for international comity in liner shipping. As the House is aware, the extraterritorial enforcement of U.S. antitrust laws to ocean liner services has created unnecessary friction with our trading partners.

In closing, Mr. Speaker, permit me to observe that the proposed legislation will adequately protect shippers and carriers as well as provide a more efficient and certain procedure for reparations for violations of the Shipping Act.

I strongly urge my colleagues to support this landmark ocean regulatory legislation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield to me for 30 seconds?

Mr. McCLOSKEY. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding this time to me.

Mr. McCLORY offered a very important amendment in the Committee on the Judiciary; I offered two important amendments. They received considerable support, though not enough to pass. We should have the opportunity to offer them on the House floor. This is an important bill. It should be fully and thoroughly explored on the floor.

We do not need a study commission. We have a lot of experts here. What we need is to have a full debate on this bill.

Mr. McCLOSKEY. Mr. Speaker, I wish that we could have the time. My understanding is that the legislative calendar is so backed up that the only chance to get this important legislation passed this year was on the suspension calendar, and that is the reason it is here.

I hope we can resolve in conference some of the difficulties. I particularly want to commend the Committee on the Judiciary for adding the provision relating to shippers' councils because as we give greater power to the shipping conferences, it seems to me we should balance that economic power with the power of the shippers' councils.

Mr. Speaker, I was delighted when the Committee on the Judiciary added that provision. I hope that the Department of Justice's known antipathy to shippers' councils can be avoided. I gather it has been, because shippers' councils seem to me to be a necessary counterbalance to the strength that we will be giving the shipping conferences under this bill.

Mr. RODINO. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Speaker, This morning I received a letter from the Department of Justice objecting to provisions in the bill that would remove the Department's authority to litigate in court cases involving the Federal Maritime Commission. The Judiciary Committee has always sought to protect the Department's authority to litigate all cases involving the Government. I have been a strong advocate of this position since I believe it is the responsibility of the Attorney General to be the litigator for the Government.

Unfortunately, this matter was not called to my attention until a few minutes ago. While we are not in a position to correct this problem now, I will do what I can to correct this problem in any conference we may have with the Senate. I understand that Chairman JONES is prepared to work with us in making this correction.

The letter reads as follows:

ASSISTANT ATTORNEY GENERAL,
LEGISLATIVE AFFAIRS,
Washington, D.C., September 13, 1982.
Hon. PETER W. RODINO, Jr.
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you are aware, on September 13, 1982, the House of Representatives is scheduled to consider H.R. 4374, a bill "to improve the international ocean commerce transportation system of the United States." Sections 14(e), 14(f), and 13(c) of the bill, as reported by the Committees on the Judiciary and Merchant Marine and Fisheries would divest the Attorney General of some of his authority to conduct the litigation of the United States. Enclosed is a copy of the Department's report, as cleared by the Office of Management and Budget, which sets forth our position on similar provisions in S. 1593, the Senate counterpart to H.R. 4374.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE
Washington, D.C., April 28, 1982.
Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This presents the views of the Department of Justice on sections 15 and 16 of S. 1593, a bill, "To revise regulation of international liner shipping operating in the United States foreign commerce."

Section 15 would authorize the Federal Maritime Commission (the "FMC") to assess civil penalties for violations, and provides for review, enforcement action, and compromise by the FMC. Section 16 authorises attorneys of the Federal Maritime Commission to institute legal action in the courts of the United States, independent of the Attorney General, for the enforcement of orders of the FMC. The granting of this authority to the Federal Maritime Commission is in conflict with present law governing the authority and responsibility of the Attorney General of the United States. The Department of Justice opposes the enactment of these sections.

Historically, the Attorney General has exercised plenary responsibility over the conduct of the legal affairs of the United States. Act of September 24, 1789, 1 Stat. 73. See also *United States* v. *San Jacinto Tin Co.*, 125 U.S. 273, 279 (1888); *Confiscation Cases*, 7 Wall. (74 U.S.) 457–58 (1868). The responsibility to conduct the litigation of the United States was first given greater statutory recognition in the act which created the Department of Justice, Act of June 22, 1870, 16 Stat. 162, and is now primarily codified at sections 516 and 519 of Title 28, which reserve the conduct of litigation involving the United States to the Attorney General and the Department of Justice "[e]xcept as otherwise authorized by law.[1]

This statutory assignment of plenary litigating authority to the Attorney General centralizes the conduct of litigation on behalf of the United States and thereby furthers a number of important policy goals. It allows the presentation of uniform positions on important legal issues, ensures that government lawyers will be able to select test cases which present the government's position in the best possible light, and gives the Attorney General authority over lower court proceedings so that government litigation will be better handled on appeal and before the Supreme Court. It provides for greater objectivity in the filing and handling of cases by attorneys who are not themselves affected litigants.

Legislation, such as sections 15(c), 15(d) and 16(e) of S. 1503, seeks to bestow independent litigating authority on other federal agencies and departments, and therefore amend, in effect 28 U.S.C. §§ 516. This is inconsistent with the salutary function of the Attorney General and would permit each such agency to make its position the government's position of the day. As the Fifth Circuit has indicated in *I.C.C.* v. *Southern Railway Co.*, 543 F.2d 534, 535 (5th Cir. 1976), such a result is not in the interest of the government, nor would it be well received in the courts.

The kinds of orders and civil penalty assessments which the Federal Maritime Commission will issue in enforcing S. 1593 if it should become enacted are not essentially different from the kinds of orders and assessments which other regulatory commissions and agencies issue in enforcing their statutes. When it becomes necessary to enforce agency orders and assessments in judicial proceedings, the Department of Justice has generally been responsible for the management of the litigation on behalf of the government. This is but part of the Attorney General's overall responsibility for the supervision and conduct of the government's litigation in the courts of the United States.[2]

In summary, the Department of Justice objects to sections 15 and 16 of S. 1593 in that they grant independent litigating authority to the Federal Maritime Commission and undermines the authority of the Attorney General to conduct litigation to recover civil penalty assessments of the FMC. We are aware of no reason that would call for a departure from the authority and control of the Attorney General set forth in present law. We recommend that section 16(f) be deleted and that the following sections be amended to read as follows:

"15(d) ACTION UPON FAILURE TO PAY ASSESSMENT—If any person fails to pay an assessment of a civil penalty after it has become final and an unappealable order, or after the appropriate court has entered final judgment in favor of the Commission, the Commission shall refer the matter to the Attorney General of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"15(e) LITIGATION—All litigation arising under this Act shall be conducted by the Attorney General of the United States pursuant to section 516 of Title 28, United States Code.

"16(c) ENFORCEMENT OF NONREPARATION ORDERS—In case of violation of any order of the Commission, or for failure to comply with a Commission subpena, the Commission, through the Attorney General, pursuant to 28 U.S.C. 516, or any party injured by such violation, may seek enforcement by any United States district court having jurisdiction over the parties. If after hearing, the court determines that the order was properly made and duly ordered, it shall enforce the order by an appropriate information or other process, mandatory, or otherwise."

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General,
Office of Legislative Affairs.

I would like to ask the gentleman from California whether or not he agrees with me that if this matter is developed in conference, that we do whatever is possible to assure that this is the case.

I have always been an advocate of this position. I think it is important and I would like to say that the Committee on the Judiciary has not been derelict, unfortunately, because the letter was addressed to me only today, it has just come to my attention.

Mr. McCLOSKEY. I am in the same situation. I just saw the letter a few minutes ago.

If the point is valid, I think we should try to iron it out in conference.

Mr. Speaker, I thank the gentleman.

Mr. JONES of North Carolina. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank the gentleman from North Carolina for yielding this time to me.

Mr. Speaker, I am pleased to join the distinguished chairman of the Committee on the Judiciary and the chairman of the Committee on Merchant Marine and Fisheries in support of this legislation.

As one of the two Members of the House who is fortunate to serve on both committees, I am most gratified that the two committees have been able to work together to produce what I think is a reasonably balanced piece of legislation.

Mr. Speaker, I share many of the concerns expressed by my colleague from Ohio and I wish we lived in the ideal world where we could apply antitrust legislation extraterritorially, but we have to take the facts as they are. There are two objectives to this bill which I think we can all agree on: The first is the need to speed up and simplify the regulatory process of the Federal Maritime Commission.

Unfortunately, this agency has not been known for its dispatch in dealing with regulatory matters. The bill we consider today contains a provision that requires the Federal Maritime Commission to make a decision on all agreements within 45 days of the date they are filed, with a right to suspend this decision no more than 180 additional days.

A second and equally important objective of this bill is the effort to create greater certainty as to the types of activities which the carriers can or cannot engage in. It substitutes for the much maligned "public interest" test a more specific list of prohibited acts which will guide the Maritime Commission in regulating concerted activities.

The bill before us today does not accord the total antitrust immunity many in the industry would like to have. It does, however, draw a clearer line of demarcation between antitrust and shipping regulation. It eliminates most private treble-damage suits but installs in their place a sure and effective reparations remedy under the Shipping Act. An injured person can recover the amount of actual injury, interest from the date of the injury, and a reasonable attorney's fee.

The changes in existing law represent immediate improvements that I believe will simpify the law and benefit both the industry and the customers it serves.

The legislation also contains an important provision creating a Presiden-

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[1] 28 U.S.C. section 516 provides: "Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General."

28 U.S.C. section 519 provides: "Except as otherwise authorized by law, the Attorney General shall supervise all litigation to which the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant United States attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties."

See also 5 U.S.C. § 3106, which provides in pertinent part: "Except as otherwise authorized by law, the head of an Executive department or military department may not employ an attorney or counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice."

[2] We note that section 15(f)(2) provides that penalty assessment proceedings are barred unless begun within five years from the date of violation. However no mention is made of any limitation on enforcement litigation. We recommend that S. 1593 be amended so as to clarify either that enforcement actions are subject to no time bar, or that enforcement actions shall begin within a certain period after the FMC action is complete.

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tial study commission to make recommendations for the long-term deregulation of the maritime industry. The study commission, with the participation of the executive branch, the Congress, the industry, the unions, the ports and other interested persons, will have an opportunity to make a valuable contribution toward reshaping this industry in a manner that will best serve this Nation for years to come.

In conclusion, I hope the House will act favorably on the amended bill reported by the Committee on the Judiciary.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. Bennett).

Mr. BENNETT. Mr. Speaker, I urge your support for H.R. 4374, which will modernize the regulation of international shipping. This bill is crucial if we are to arrest the decline of the U.S.-flag merchant marine.

A strong economically healthy merchant marine is essential to our national security, to provide the sealift required by our defense plans. This bill will increase the opportunity for a more numerous merchant marine fleet. Joint Chiefs of Staff have repeatedly made the point that there are no plans for military operations overseas which do not clearly depend upon sealift. The Navy estimates that about 350 dry cargo ships alone would be required to support the deployment of the Rapid Deployment Force to the Persian Gulf area of the Indian Ocean, a contingency plan receiving "increased emphasis" according to the Secretary of Defense. Most of those ships would have to come from the U.S. merchant marine.

Today, our privately owned dry cargo fleet could just barely satisfy this requirement, and then only by virtually abandoning our overseas trade routes to foreign competition. It is in the interest of our national defense needs that this bill be enacted absent any better suggestion for meeting unmet requirements.

The downward trend in U.S.-flag shipping must be reversed and H.R. 4374 is expected to be an important part of that process. It will help our U.S.-flag carriers by expediting the procedures under which they are regulated and helping to equalize the unfair regulatory burden that now exists between U.S.-flag and foreign-flag carriers. These benefits come without cost to the Government or danger to American consumers.

Among the supporters of this bill are the administration, the Merchant Marine and Fisheries and Judiciary Committees, and the National Industrial Traffic League representing the overwhelming majority of users of ocean shipping. I know of no opposition to H.R. 4374 within the entire maritime industry.

With your help and support we can take a long step forward in correcting a serious deficiency in the essential maritime needs of our Nation.

Mr. JONES of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I can find nothing in this legislation which would support that contention or give rise to that fear that this bill hurts the consumer. Everything in this bill—from the requirement that conference membership not be restricted * * * to the requirements for independent action and nondiscriminatory practices—effectively policed by a Federal regulatory body—demonstrates that the committee has taken an archaic, 66-year-old piece of legislation which produced nothing but high transportation costs and modernized it so that these shipping companies can fully utilize technical and commercial innovation, reduce the costs of transportation, and improve our ability to meet foreign competition.

The overwhelming endorsement of this bill by practically every importer and exporter who uses ocean transportation services is loud testimony that H.R. 4374 will generate reliable services at reasonable rates. The businessmen who make up the export/import industry—the first line consumers of shipping services—know that the differences between making a sale and not realizing the sale is the cost of the transportation component of the landing cost of a product. Only if legislation is perceived as insuring competitive rates for reasonable service will this group of businessmen endorse a bill such as this.

Is it in the consumer's interest to have a strong merchant marine? The answer is yes. Is it this country's national interest to wake up foreign competition? The answer is yes.

Is this bill necessary? The answer is yes.

□ 1315

Mr. JONES of North Carolina. Mr. Speaker, I yield myself the balance of my time, and I would like to conclude by reading from a letter dated September 8, 1982, signed by a fine gentleman downtown, "Drew," being Secretary Drew Lewis of the Department of Transportation:

The Secretary of Transportation,
Washington D.C., September 8, 1982.

Hon. Walter B. Jones,
House of Representatives,
Washington, D.C.

Dear Walter: I am writing to express the Administration's commitment to the regulatory reform of the maritime industry and to ask that you work with us to see that H.R. 4374, a bill "To improve the international ocean commerce transportation system of the United States," is considered and passed by the House in a timely manner.

I am sure you are aware that there have been extensive and lengthy hearings, discussions and negotiations among representatives of ocean carriers, shippers (who are the consumers of ocean transportation services), Congressional committees, and the Administration on the proposed legislation. A general consensus has emerged with regard to the nature of the regulatory reforms that are necessary to make U.S. maritime policy consistent with international shipping practices and to clarify the present procedures which have made U.S. regulation of the liner industry unwieldy and unpredictable. That consensus is reflected in the broad-based support for H.R. 4374.

This legislation will correct procedures presently followed in order to reinstate certainty and predictability in the regulation of liner shipping in our foreign commerce, while adequately protecting all parties—shippers, carriers and ultimately the American consumer. It is not intended to favor any particular flag operator, and gives recognition to the need for international comity in liner shipping. The legislation defines with greater precision the scope of antitrust immunity which has been in force since passage of the Shipping Act of 1916. A more precise definition will provide greater clarity and certainty for operators and users of shipping services. At the same time, the legislation will eliminate many of the problems that have arisen in connection with extraterritorial application of our laws to ocean liner services, which has produced friction with our trading partners.

As this session draws to a close, I recognize there are numerous bills vying for floor action. H.R. 4374, which is scheduled to be considered under suspension of the rules on September 13th, represents a bipartisan effort to address the problems of the maritime liner industry and to reform the procedures under which the federal government unnecessarily regulates the industry. On behalf of the Administration, which is committed to this regulatory reform effort, I join with the Congressional sponsors of this legislation to urge your support and passage of H.R. 4374.

Sincerely,

Drew.

● Mr. SYNDER. Mr. Speaker, I speak in strong support of H.R. 4374. As a member of the Merchant Marine and Fisheries Committee for over 12 years, I have had the opportunity to observe the antiquated system under which the United States requires its ocean common carriers to operate. Indeed, the United States is almost unique in the world in its regulation of ocean-borne foreign commerce. Under existing law, the United States requires conferences operating in the U.S. trades to maintain open membership while the rest of the world permits closed conferences. Presently in the United States, shippers' councils are not permitted to act as a counterbalance to a conference's power, whereas shippers' councils are permitted throughout the rest of the world.

Agreements implementing the conference members' agreed-upon activity are now required to be approved by the Federal Maritime Commission (FMC) prior to coming into effect. This is more often than not, a lengthy process which results in many agreements becoming commercially obsolete by the time they are approved. In addition, the antitrust immunity which Congress clearly intended to apply to ocean shipping when it enacted the Shipping Act of 1916, has been substantially eroded. As a result, there is no longer a clear antitrust standard for the carriers to operate under, or for the FMC to administer with any certainty of staying within the parameters of permissible activities and without the prospect of prosecution by the Justice Department. Usually, U.S.-flag carriers will feel the brunt of a Justice Department decision to assert an antitrust violation has occurred, since U.S.-flag interests are more easily accessible to our domestic legal process and pose no foreign policy considerations.

H.R. 4374 is a bipartisan legislative effort designed to correct many of these shortcomings in existing law. I am not in complete agreement with the bill and would have preferred to have seen some changes in the bill; particularly I am not satisfied with the bill's provision which retains the requirement that tariffs must be filed and enforced by the FMC. Nonetheless, I think that the bill before us makes some significant improvements in other areas of concern and provides the basis for enacting legislation in the next Congress to further improve our ocean transportation system.

Mr. Speaker, I would like to compliment the Secretary of Transportation, Drew Lewis, for his outstanding efforts, as well as those of the other members of the Department of Transportation team, on behalf of this bill. The Secretary spent a great amount of his personal effort to get this bill where it is today. He successfully argued the industry's case before the Cabinet Council and overcame the significant opposition of other departments to this legislation, a feat which no one else had been able to accomplish, especially during the previous administration. He also kept close watch on congressional action, and worked quietly behind the scenes to keep the bill moving.

The industry owes Secretary Lewis a debt of gratitude, in my opinion. This administration is living up to its commitment to help the maritime community.

Mr. Speaker, I urge my colleagues to support H.R. 4374 with a yes vote.●

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 4374, the Ocean Shipping Act of 1982, which is designed to improve the efficiency of our ocean-liner carriers while maintaining the needed protections for consumers and for those engaged in the maritime trades of the United States.

This constructive regulatory reform legislation modernizes the regulation of ocean shipping in line with today's commerical needs. The Ocean Shipping Act of 1982 was envisioned to give an opportunity to U.S. importers and exporters of goods to compete effectively for their share of world markets. Time is long overdue for us to revise the present regulatory framework which falls short from providing the U.S. shipping industry with the tools it needs to respond to changes in market conditions. Many years of technological advances have gone by and we need a Federal law which reflects this progress.

It is painful to see that U.S. ships no longer carry the bulk of U.S. goods moving in foreign commerce at a time when our Nation suffers an economic crisis. There is a compelling need for us to lend a hand in trying to create a move effective and less costly ocean-carrier service which could successfully compete with foreign-flag carriers. We no longer can afford to allow that 75 percent of U.S. producers shipping costs be diverted from our own shipping industry.

I trust this regulatory reform will bring about a healthier and more productive U.S.-liner industry. I urge my colleagues to vote in favor of this legislation.●

● Mr. PRITCHARD. Mr. Speaker, I rise in support of H.R. 4374, a bill "to improve the international ocean commerce transportation system of the United States."

There have been extensive and lengthy hearings, discussions, and negotiations among representatives of ocean carriers, shippers who are consumers of ocean transportation services such as the forest products industry, congressional committees, and the administration on the proposed legislation. A general consensus has emerged with regard to the nature of the regulatory reforms that are necessary to make U.S. maritime policy consistent with international shipping practices and to clarify the present procedures which have made U.S. regulation of the liner industry unwieldy and unpredictable. That consensus is reflected in the broad-based support for H.R. 4374.

I particularly want to focus on section 2 of this bill that contains the definition for "forest products." This definition is designed to include those products that are noncontainerized cargo in lot sizes having a volume greater than 2,560 cubic feet. This definition exempts forest products from the requirements of filing a tariff and being subject to conference loyalty agreements, thus tracing a similar exception which already has been provided in this bill for bulk cargoes. This proposal is designed to replace the exemption for "softwood lumber" which was contained in the Shipping Act of 1916.

The forest products industry is in dire straits. This is of particular concern to those of us in the Pacific Northwest. Since the collapse of the housing market, many of the business opportunities for the forest products manufacturers have closed. In fact, in several cases the only business opportunity that exists which is keeping the industry afloat until the revival of the housing market is the export market. That is why it is so essential that regulatory relief is provided for such an economically depressed industry.

This legislation represents the bipartisan effort to address the problems of the maritime industry and to reform the procedures under which the Federal Government unnecessarily regulates the industry. I think it behooves us to act expeditiously in order to bring the necessary regulatory relief. This bill will correct procedures presently followed in order to reinstate certainty and predictability in the regulation of liner shipping in our foreign commerce, while adequately protecting all parties—shippers, carriers, and ultimately the American consumer. I would urge my colleagues to support the passage of H.R. 4374.●

● Mr. LENT. Mr. Speaker, I rise in support of the Shipping Act of 1982, H.R. 4374.

This legislation has been a long time in coming. Maritime regulatory reform has been the subject of hearings in both the House and Senate during the 96th and 97th Congresses.

The bill before us today is designed to clarify procedures which have in the past made U.S. regulation of the liner industry uncertain and unwieldy, and more closely conform our ocean shipping practices with those of our trading partners. As such, it represents an important step in our efforts to revitalize our merchant marine, improve the competitive stance of our international ocean shipping industry, and enhance our national defense capabilities.

Furthermore, H.R. 4374 is an example of what the legislative process of give-and-take can produce; this marvel of accommodation is supported by the leadership of the Merchant Marine and Fisheries and Judiciary Committees, the administration, U.S.-flag-liner shipping companies, port authorities, labor, and importers and exporters.

A vote for H.R. 4374 is a vote for a more efficient and effective merchant marine. I urge my colleagues to vote for its passage today.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 4374, as amended.

The question was taken.

Mr. EDWARDS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 4374, as amended.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PATENT TERM RESTORATION ACT OF 1982

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6444), to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product, as amended.

The Clerk read as follows:

H.R. 6444

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Patent Term Restoration Act of 1982".

SEC. 2. (a) Title 35 of the United States Code is amended by adding the following new section immediately after section 154:

"§ 155. Restoration of patent term

"(a)(1) Except as provided in paragraphs (3) and (4), the term of a patent which encompasses within its scope a product subject to a regulatory review, or a method for using such a product or a method for producing such a product, shall be extended from the original expiration date of the patent if—

"(A) the product sponsor gives notice to the Commissioner in compliance with the provisions of subsection (b)(1);

"(B) the product has been subjected to a regulatory review pursuant to statute before its commercial marketing or use;

"(C) the patent to be extended has not expired prior to notice to the Commissioner under subsection (b)(1); and

"(D) the patent to be extended was issued on or subsequent to the date of enactment of the Patent Term Restoration Act of 1982.

"(2) The rights derived from any claim of any patent extended under paragraph (1) shall be limited.

"(A) in the case of any patent, to the scope of such claim which relates to the product subject to regulatory review, and

"(B) in the case of patent which encompasses within its scope a product—

"(i) which is subject to regulatory review under the Federal Food, Drug, and Cosmetic Act, to the uses of the product which may be regulated by the chapter of such Act under which the regulatory review occurred, or

"(ii) which is subject to regulatory review under any other statute, to the uses of the product which may be regulated by the statute under which the regulatory review occurred.

"(3)(A) Subject to subparagraph (B), the term of the patent shall be extended by the time equal to the regulatory review period for such product for the period up to ten years after the date of filing of the earliest application for the patent and the time equal to one-half the regulatory review period for the period between ten and twenty years from the filing date of the earliest patent application.

"(B) In no event shall the term of any patent be extended for more than seven years. No term of any extended patent may exceed twenty-seven years from the date of filing of the earliest patent application for the patent. If the term that the patent would be extended is less than one year, no extension shall be granted.

"(C) In no event shall more than one patent be extended for the same regulatory review period for the product.

(4) The term of a patent which encompasses within its scope a method for producing a product may not be extended under this section if—

"(A) the owner of record of such patent is also the owner of record of another patent which encompasses within its scope the same product; and

"(B) such patent on such product has been extended under this section.

"(b)(1) To obtain an extension of the term of a patent under subsection (a), the product sponsor shall notify the Commissioner under oath, within ninety days after the termination of the regulatory review period for the product to which the patent relates, that the regulatory review period has ended. If the product sponsor is not the owner of record of the patent, the notification shall include the written consent of the owner of record of the patent to the extension. Such notification shall be writing and shall—

"(A) identify the Federal statute under which regulatory review occurred or, if the regulatory review occurred under the Federal Food, Drug, and Cosmetic Act, the chapter of the Act under which the review occurred;

"(B) state the dates on which the regulatory review period commenced and ended;

"(C) identify the product for which regulatory review was required;

"(D) state that the requirements of the statute under which the regulatory review referred to in subsection (a)(1)(B) occurred have been satisfied and commercial marketing or use of the product is not prohibited; and

"(E) identify the patent and any claim thereof to which the extension is applicable; the date of filing of the earliest application for the patent; and the length of time of the regulatory review period for which the term of such patent is to be extended; and state that no other patent has been extended for the regulatory review period for the product.

"(2) Upon receipt of the notice required by paragraph (1), the Commissioner shall promptly publish in the Official Gazette of the Patent and Trademark Office the information contained in such notice. Unless the requirements of this section have not been met, the Commissioner shall issue to the owner of the record of the patent a certificate of extension, under seal, stating the fact and length of the extension and identifying the product and the statute under which regulatory review occurred and specifying any claim to which such extension is applicable. Such certificate shall be recorded in the official file of the patent so extended and shall be considered as part of the original patent.

"(c) As used in this section:

"(1) The term 'product' means any machine, manufacture, or composition of matter for which a patent may be obtained and includes the following:

"(A) Any new drug, antibiotic drug, new animal drug, device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.

"(B) Any Human or veterinary biological product subject to regulation under section 351 of the Public Health Service Act or under the virus, serum, toxin, and analogous products provisions of the Act of March 4, 1913 (21 U.S.C. 151-158).

"(C) Any pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act.

"(D) Any chemical substance or mixture subject to regulation under the Toxic Substances Control Act.

"(2) The term 'major health or environmental effects text' means an experiment to determine or evaluate health or environmental effects which requires at least six months to conduct, not including any period for analysis or conclusions.

"(3) The term 'earliest application for the patent' means the patent application providing the earliest benefit of filing date to the patent and includes patent applications under sections 119 and 120.

"(4) The term 'product sponsor' means any person who initiates testing or investigations, claims an exemption, or submits an application, petition, protocol, request, or notice described in paragraph (5) of this subsection.

"(5) The term 'regulatory review period' means—

"(A) with respect to a product which is a drug, antibiotic drug, or human biological product, a period commencing on the earliest of the date the first product sponsor (i) initiates a clinical investigation on humans, or (ii) submits an application or petition with respect to such product the Federal Food, Drug, and Cosmetic Act, Public Health Service Act, or the Act of March 4, 1913, and ending on the date such application or petition with respect to such product is approved or the product is licensed under such statutes or, if objections are filed to such approval or license, ending on the date such objections are resolved and commercial marketing is permitted or, if commercial marketing is initially permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings are finally resolved and commercial marketing is permitted;

"(B) with respect to a product which is a food additive or color additive, a period commencing on the earliest of the date the first product sponsor (i) initiates a major health or environmental effects test on the product, but only if the data from such test is submitted in a petition referred to in clause (iii) of this subparagraph, (ii) claims an exemption for an investigation with respect to such product, or (iii) submits a petition with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting issuance of a regulation for use of the product, and ending on the date such regulation becomes effective or, if objections are filed to such regulation, ending on the date such objections are resolved and commercial marketing is permitted or, if commercial marketing is initially permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings are finally resolved and commercial marketing is permitted;

"(C) with respect to a product which is an animal drug or veterinary biological product, a period commencing on the earliest of the date the first product sponsor (i) claims an exemption for investigation of the product or requests authority to prepare an experimental product under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Act of March 4, 1913, or (ii) submits an application or petition with respect to the product under such statutes, and ending on the date such application or petition with respect to the product is approved or the product is licensed under such statutes or, if objections are filed to such approval or license, ending on the date such objections are resolved and commercial marketing is permitted or, if commercial marketing is initially permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings are finally resolved and commercial marketing is permitted;

"(D) with respect to a product which is a device, a period commencing on the earlier of the date the first product sponsor (i) submitted a proposed product development protocol with respect to the product under the Federal Food, Drug, and Cosmetic Act, (ii) initiates a clinical investigation on humans, or (iii) submitted an application with respect to the product under such statute, and ending on the date such application with respect to the product is approved under such statute;

"(E) with respect to a product which is a pesticide, a period commencing on the earliest of the date the first product sponsor (i) initiates a major health or environmental effects test on such pesticide, but only if the data from such test is submitted in a request for registration of such pesticide under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, (ii) requests the grant of an experimental use permit for the pesticide under section 5 of such Act, or (iii) submits an application for registration of such pesticide pursuant to section 3 of such Act, and ending on the date such pesticide is first registered, either conditionally or fully; and

"(F) with respect to a product which is a chemical substance or mixture for which notification is required under section 5(a) of the Toxic Substances Control Act—

"(i) which is subject to a rule requiring testing under section 4(a) of such Act, a period commencing on the date the first product sponsor has initiated the testing required in such rule and ending on the expiration of the premanufacture notification period for such chemical substance or mixture, of if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or injunction is dissolved or set aside;

"(ii) which is not subject to a testing rule under section 4 of such Act, a period commencing on the earlier of the date the first product sponsor—

"(I) submit a premanufacture notice, or

"(II) initiates a major health or environmental effects test on such chemical substance or mixture, but only if the data from such test is included in the premanufacture notice for such substance or mixture,

and ending on the expiration of the premanufacture notification period for such substance or mixture or if an order or injunction is issued under section 5(e) or 5(f) of such Act, the date on which such order or such injunction is dissolved or set aside;

except that the regulatory review period shall not be deemed to have commenced until a patent has been granted for the product which is subject to regulatory review, for the method for using such product, or for the method for producing such product.

"(d)(1) Notwithstanding subsection (a)(1)(D), in the event the regulatory review period has commenced prior to the date of enactment of this section, then the period of patent extension for such product or a method of using such product shall be measured from the date of enactment of this section. In the event that prior to the date of enactment of this section a new drug product was approved on a date more than seven years after the commencement of the regulatory review period and during such regulatory review period the patentee was notified that such product's application was not approvable under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act and as a result of which the patentee caused a major health or environmental effects test to be conducted to evaluate carcinogenic potential, then the period of patent extension for such product or the method of use of such product shall be seven years, if the filing required by subsection (b)(1) of this Act is made within ninety days of the date of enactment of this section.

"(2) Notwithstanding subsection (a)(1)(D), in the case of products approved and for which a stay of regulation granting approval pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act was in effect as of January 1, 1981, the period of such patent extensions shall be measured from the date such stay was imposed until such proceedings are finally resolved and commercial marketing permitted, if the filing required by subsection (b)(1) is made within ninety days of the termination of the regulatory review period or of the date of enactment of this section, whichever is later.".

(b) The analysis for chapter 14 of title 35, United States Code, is amended by adding at the end the following:

"155. Restoration of patent term.".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. SHAW. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state it.

Mr. SHAW. Mr. Speaker, is the gentleman from Illinois opposed to the bill?

Mr. RAILSBACK. I am not. I favor the bill, Mr. Speaker.

Mr. SHAW. Mr. Speaker, I do oppose the bill, and I make demand for the time on this side of the aisle.

The **SPEAKER** pro tempore. The gentleman from Florida (Mr. SHAW) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, H.R. 6444 is the product of over 4 years of study of ways in which Government patent policy can be changed to stimulate industrial innovation in the United States. The genesis of the legislation was a call by President Jimmy Carter in May 1978 for a domestic policy review of industrial innovation. President Carter's directive lead to the creation of an Advisory Committee on Industrial Innovation composed of more than 150 senior representatives from the industrial, public interest, labor, scientific, and academic communities. This committee made several recommendations for changes in Federal law with the goal of an improved patent system. Several of these changes were enacted by the 96th and 97th Congress, but a key recommendation of the Advisory Committee which remains to be implemented is that calling for "an adequate extension of the patent term * * * when commercialization of patented inventions is delayed due to Federal regulations." It is this recommendation which is embodied in H.R. 6444.

In view of the economic crisis our country is now experiencing and the obvious need for constructive ways to deal with it, we on the Judiciary Committee took the recommendation for patent term restoration very seriously and commissioned a more detailed analysis of the issue by the congressional Office of Technology Assessment which, after a year of independent study, presented the Congress with a 74-page report on the issue focusing on the pharmaceutical industry as an example.

The OTA report found that—

> The drug develpment process is time consuming and is characterized by a high probability of failure. A decade or more may elapse between the time a chemical having promising biological activity is identified and the time it is marketed as a new drug. The odds against developing a marketable pharmaceutical are great . . . only one out of 7,000 to 10,000 newly synthesized chemicals will be found to have promising biological acitivity. Only one out of 10 promising chemicals will survive to marketing.

The report estimates that direct costs, in 1976 dollars, of developing a new pharmaceutical average $33 million. In addition to finding that the new drug-development process is extraordinarily costly and lengthy, the Office of Technology Assessement also found that the average effective patent term for drugs approved in 1979 was less than 10 years.

It is the extraordinarily long development time required by the testing needed to meet regulatory requirements which causes significant loss of effective patent term and underlies the need for H.R. 6444.

The testimony before the subcommittee and the information contained

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in the report of the Office of Technology Assessment confirms the link between effective commercial patent term and innovation and supports the recommendation of President Carter's Advisory Committee for remedial legislation.

It is important to keep in mind that the issue involved is not simply the growth of the economy, it is encouraging future investment of large sums of private capital in the high-risk area of breakthrough pharmaceutical and chemical technology. Such investments pay off not only in economic growth, but even more importantly in improvements to the health and well being of our people, especially those most likely to need new medical technology such as senior citizens. And, frequently, new pharmaceutical technology can be more cost effective than preexisting therapies which involve often costly hospitalization. I believe firmly that the generic pharmaceutical industry should be encouraged. But it is important to keep in mind that generic companies, by definition, do not develop new and better drugs—they simply copy existing therapies. We must look to the research intensive, patent dependent companies for new cures for disease. The goal of H.R. 6444 is simply to encourage these companies to produce more and better therapies.

Although the general thrust of the testimony presented to my subcommittee was supportive of the concept of patent term restoration, important criticisms were made. The committee was sensitive to those criticisms and adopted a number of amendments to the original proposal which were designed to respond to them. The modifications were so significant that an entirely new bill was drafted and approved by my subcommittee and the full Judiciary Committee. This new bill, H.R. 6444, is vastly different from the original House bill H.R. 1937, or the Senate passed bill, S.255.

The most important amendment restricts the bill to patents issued after the date of enactment. Therefore, generic companies will not experience any delay in access to patented technology until the year 2000. By the time the first patent is extended by the bill, the advantages of the new products induced by it will far outweigh any delay in generic reproductions coming to the market.

Further, the amendments deny any benefit under the legislation to companies which procrastinate in obtaining their patents and greatly limit any extension of patent to companies which fail to expedite the testing and regulatory approval process. Further, the bill applies to only one patent on any product to avoid pyramiding of patent protection.

H.R. 6444, as reported by the Judiciary Committee, is a balanced bill which will assure more rapid technological innovation in the pharmaceutical and chemical industries, resulting in a stronger economy and the development of less costly and more competitive new therapies and chemicals. At the same time, the interests of consumers have been protected.

The bill is sponsored by over 100 Members. S. 255, a Senate counterpart, passed the Senate last year by a unanimous voice vote.

Mr. Speaker, I urge Members to vote for H.R. 6444.

Mr. Speaker, with my remarks I include a letter received by me Today from the gentleman from Tennessee (Mr. FORD) as follows:

WASHINGTON, D.C.,
September 13, 1982.

Re H.R. 6444—Patent Restoration Act.

Mr. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and Administration of Justice, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I write to support the Patent Term Restoration Act (H.R. 6444) from my perspective as a member of the Subcommittee on Health of the Committee on Ways and Means.

We regard soaring health care costs as a major problem which, to date, has eluded any pervasive legislative or marketplace solution. Health care costs have increased sixfold over the past twenty years, and skyrocketing hospitalization and surgical costs have accounted for a substantial portion of the increase. Health care costs as a percentage of our GNP continues to increase at an alarming rate. Many families have been wiped out because of illnesses that have required protracted and costly hospitalization, and the Medicare and Medicaid programs—which are essential to the elderly and the poor—have become prime targets for the Administration's budget cutters.

One component of our health care system—medicines—has provided an efficient, effective and humanitarian counterweight to an otherwise bleak health care picture. Prescription drug prices have increased only 34% over the past 20 years. Perhaps even more importantly, however, new drugs have alleviated human suffering and saved billions of dollars by providing effective alternatives to costly surgical procedures and hospitalization. The past two years alone has witnessed the introduction of new or improved drugs to treat or prevent ulcers, glaucoma, pneumococcal pneumonia, second heart attacks, epilepsy, hepatitis, arthritis and hypertension, to name some of our more common and costly illnesses.

New medicines, Mr. Chairman, represent the most compassionate and cost effective means of preventing and treating disease. It is in our national interest, and particularly in the interest of the poor and the elderly, to assure adequate incentives to encourage the introduction of new and better medicines. The stakes are too big to be penny wise and pound foolish.

An average 6.8 year patent term for drugs is grossly unfair and inequitable when better mousetraps receive 17 years of exclusivity. Continuation of this inequity is bound to reduce the flow of funds into R&D for new medicines and the number of new medicines that will be forthcoming in the 1990's.

H.R. 6444 both redresses this inequity and protects consumers and generic manufacturers by excluding products already marketed and patents already issued. It should be supported by all who are prepared to critically examine the importance of new medicines to the poor, the elderly and to our health care delivery system. Feel free to use this letter during floor debate on the bill if it will help secure its passage.

With best regards.

Sincerely,

HAROLD FORD,
Member of Congress.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I think that the point that the gentleman makes is very, very important, and I would only add to that that one recent amendment that was adopted made it very clear that we did not want any pyramiding or we did not want extensions for one patent that may be discovered to have a new product or a new nature. We really limit it to one extension, and even that extension is limited to a period of 7 years, which may not cover the regulatory review period.

Mr. KASTENMEIER. The gentleman from Illinois is correct, and I thank him for that comment and would like to take this time to thank the subcommittee—the gentleman from Illinois (Mr. RAILSBACK), the gentleman from Michigan (Mr. SAWYER), as well as other members of the subcommittee, including the gentleman from Massachusetts (Mr. FRANK), although he disagrees with this bill. Nonetheless, I think he was of enormous help in the dialog attendant to producing what we have on the floor.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, the gentleman from Wisconsin has done his usual scholarly and lawyer-like job of exploring this subject, and it is a very important one. He has made a very careful and thoughtful presentation. The only thing that concerns me is that we have here a bill that is controversial. There were some amendments offered in the committee which were not adopted. I supported some of them. I did not support others. It does seem to me that it ought to be taken up under a rule so that we can debate those amendments and decide what we want to do instead of doing it under suspension of the rules.

I just wonder if the gentleman can comment on that.

Mr. KASTENMEIER. I am afraid that I have more or less the same answer for the gentleman as was given during the last bill.

☐ 1330

The SPEAKER pro tempore. The time of the gentleman from Wisconsin (Mr. Kastenmeier) has expired.

Mr. KASTENMEIER. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, in view of the period of time that we have remaining in this Congress, in view of what appeared to be overwhelming support for this bill—and I do exclude the gentleman from Tennessee (Mr. Gore), the gentleman from California (Mr. Waxman), and the gentleman from Massachusetts (Mr. Frank) who are in opposition to the bill—and considering what appears to be the numbers in support of this bill, it seemed to be the wisest, most prudent course of action to try to pass this under suspension.

Now, of course, we can go to the Committee on Rules and try to get a rule and open this bill up, but I would think that those who are interested in finding a plausible solution to the problem would think that we would like to test this bill, and I believe this body will approve it by a two-thirds margin or more.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 6444. This bill would amend the patent law by restoring that portion of the patent term during which the marketing or use of a patented invention was prevented due to Federal regulatory review. I am a cosponsor and strong supporter of this legislation.

For far too many years American industrial innovation has not kept pace with our foreign competitors. Analysis of our economic problems reveals that America's preeminence in the creation, possession, and use of advanced high technology has all but gone. Today, there is scarcely an American industrial sector which does not face stiff foreign competition in the sale of high technology products. The Europeans and Japanese are challenging and surpassing us in electronics, communications, and aviation, where in the past we had no peers.

The rate of new drug development is declining and will continue to decline unless there are adequate R. & D. incentives.

In 1960, 50 chemical new drugs came onto the market. In 1979, only 12 such drugs were introduced.

Other data submitted before the Subcommittee on Courts, Civil Liberties and the Administration of Justice support the conclusion that there is a real decline in U.S. pharmaceutical innovation. Studies conducted at the University of Rochester show that there has been a decline in the number of new drug compounds being studied in humans by U.S. companies. These studies show that after an initial rise to a high of 34 new drugs in 1964, the number dropped to a plateau of around 50 for the decade between 1965-1974. However, there was a 40-45 percent decline in new drugs in 1975 to 1976. A preliminary update of this data presented at the March 1980 meeting of the American Society of Clinical Pharmacology and Therapeutics indicates that this low level of new drug productivity has not changed.

There are other indications that R. & D. by U.S. pharmaceutical companies is declining. In 1964, U.S. firms asked FDA for permission to do research on 70 chemicals developed by their own research. In 1976, only 20 such applications were filed with FDA. Moreover, U.S. firms are becoming increasingly dependent upon licenses from foreign companies to provide them with research candidates. Testimony before the subcommittee projected that of the new drugs anticipated to be approved in the period 1981-1985, about 50 percent will have originated outside the United States.

A bill similar to H.R. 6444, S. 255 has already passed the other body and is also pending before our committee. This legislation is very important and will benefit all Americans, particularly the sick and the elderly by encouraging the development of important new medicines—and I urge the Members to vote favorably for the enactment of H.R. 6444.

Mr. SHAW. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think that what we have to look at here when we are discussing this bill is exactly what it does. It extends the potential that a company is protected from any competition whatsoever in the field to 24 years. That is exactly what the bill does.

This means that we are simply guaranteeing, with the elimination of competition, a continuation of the high price of drugs which has now lasted for 17 years. We would now extend that for 24 years, and the people who are bitten are the consumers. Twenty-five percent of the drugs that are consumed today are consumed by the elderly, those people who can no longer support themselves and have limited means in which to do so. I think this is the important thing that we must consider and that we must keep in mind during this discussion.

Exactly what we are trying to do today is not to kill the bill but to open it up for the amendment process so that we can offer some technical amendments in this particular area, some amendments that are very important to the consumers at this time, particularly to the elderly population.

We are looking now at two time periods that basically extend the life of a patent. One is the time period during which the Government is doing its work. This is the time period over which the company has no control. I have no problem in extending that time in addition to the time the patent would last.

However, the other period of time we are talking about is the time that the companies themselves are controlling. This is the period of time between applying for the patent and the time they finish their experiments and what not with the drug. This can go on to extend to the full 7 years, together with the time consumed by the Government.

Mr. Speaker, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Mr. Speaker, I am pleased to rise in support of this important compromise legislation, the Patent Term Restoration Act, which provides a limited patent term extension for pharmaceutical and chemical inventions, the primary class of inventions which loses commercial patent life due to regulatory testing and paperwork requirements.

I compliment the gentleman from Wisconsin and his able subcommittee, who have studied this issue for over 4 years, with the expert assistance of the Office of Technology Assessment and the Patent and Trademark Office.

Mr. Speaker, I would like to use my time to carefully respond to some of the criticism which has been leveled against this bill.

First, it has been suggested that H.R. 6444 will simply enrich already prosperous drug companies. In response, I would only say that the purpose of H.R. 6444 is not to enhance profits of anyone. Rather, the purpose of the bill is to channel existing profits into further research by insuring adequate patent term to amortize investments in research. Since 1966, effective patent life has declined from 14.6 years to 6.8 years. Unless a remedy such as this legislation is passed, pharmaceutical companies may not continue to invest in research, a situation which will not be in the public interest.

Further, it has been claimed that decline in patent term will have no effect on the level of investments in research. The committee record shows to the contrary, that pharmaceutical research as a percentage of sales fell almost 35 percent from 1966 to 1980. During the same period, average effective patent term declined from 14.6 years to 7.4 years—46 percent. In 1981, it declined further to 6.8 years.

Also, it has been claimed that patent owners can already extend patent life

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by obtaining more than one patent on a product, so-called patent pyramiding.

This is the most erroneous charge against this bill, because these subsequent patents are virtually always "process patents" which simply protect a new method of manufacture, they do not extend the patent on the invention itself. They in no way limit generic companies from using an off-patent chemical formula and manufacturing the product.

It is recognized by many that the issue involved is not simply the growth of the economy, it is encouraging future investment of large sums of private capital in the high risk area of breakthrough pharmaceutical technology. Such investments pay off not only in economic growth but even more importantly in improvements to the health and well being of our people, especially those most likely to need new medical technology, such as senior citizens.

That is why such nonprofit groups as the National Alliance of Senior Citizens, the American Cancer Society, the American Heart Association, the American Medical Association, the American Bar Association and dozens of research hospitals and universities support the legislation.

The committee has reported a measure that neither side is totally happy about. That is a mark of its fairness. It will, I believe, provide some impetus for development of the myriad drugs necessary to the continued health needs of our Nation.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the ranking minority member of the subcommittee, the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I rise in support of H.R. 6444. This legislation would amend the patent law by restoring that portion of a patent term during which the marketing or use of a patented invention was prevented due to Federal regulatory review.

Large and small businesses must be encouraged to channel a larger share of profits, manpower, and investment capital into research and the development of commercial products; the pharmaceutical and agricultural chemical industries are research-intensive and risky. They are particularly dependent on the patent system and they face stiff foreign competition. Ironically, these industries, while especially needing the patent system, do not receive its full benefits. The effective term of pharmaceutical patents as a consequence of regulatory review, dropped from 16 years in 1960 to 13 years in 1970, to about 9.5 years in 1979, to 6.8 years today. The agricultural chemical industry today can expect an effective patent term of only about 12 years. This is just unacceptable!

Given the fact that today, upward of 10 years of patent life out of a total of 17 years, can be (and often is) lost because of Government-required testing. The drug company has less than 7 years of patent life to try and recover its initial investment. This bill would provide that if a company did lose a number of years of its patent life because of Government-mandated review, then it could recover a maximum of 7 years. This would give that company more years to recover its investment, and this should mean cheaper prices to the consumer. I also believe this legislation could mean more and better medications, resulting in better and earlier therapy. This point was well made by a Chicago Tribune Editorial of May 1, 1981, which said:

> Some objections have been raised to the proposed legislation because it would lengthen the time until a drug could be copied by the developer's competitors and marketed as a generic product, presumably at a lower price. But in the long run, we all stand to benefit much more from the discovery and availability of new medications. It is far less expensive to treat patients with drugs than with surgery or long hospitalization, which may be the only alternatives. And one of the most effective ways to cut health care costs is to develop new medications. Enormous savings, for example, could be made if we had more effective durgs for heart disease, cancer, genetic disorders, respiratory diseases, and a long list of other ailments for which better treatment is urgently needed.

In addition to the support of the Chicago Tribune, this bill enjoys the editorial support of over 25 newspapers from around the country. It is also cosponsored by 103 Members of this body.

Although the National Council of Senior Citizens has sent you a letter in opposition, I would like to point out that the National Retired Teachers Association and the American Association of Retired Persons have decided not to take a position on this legislation. It also has the support of the American Medical Association, the National Alliance of Senior Citizens, the Johns Hopkins University, the Association of American Medical Colleges, the Health Industry Manufacturers Association, to mention just a few of the 38 letters of endorsement we have received from health, medical organizations, and universities around the country.

Mr. Speaker, at this time I would like to further clarify, for the purpose of legislative history, the amendments I offer and which were adopted by the Judiciary Committee.

Under section 155(a)(2), the rights derived from restoration of a patent term are limited to the scope of the claims which cover the product undergoing regulatory review. Because a single patent can also encompass a product with several uses subject to different regulatory review requirements, or subject to no regulatory review requirements at all, a patent extension for a product approved, that is, as a human drug, covers all human drug uses but not pesticidal, photographic, or other uses.

Under section 155(a)(3), any patent extension must be calculated from the original expiration date of the patent. Thus, if it would happen that two regulatory review periods for two different products under the same patent occurred, the resultant extensions would run concurrently, both dated from the original patent expiration date and not consecutively.

Under section 155(c)(2), acute and subchronic toxicity testing is ordinarily completed in less than 6 months. In that case, it would not be included within the definition of a "major health and environmental effects test." However, if acute and subchronic toxicity testing took longer than 6 months, it would be included within such definition.

Section 155(c)(4) defines product sponsor in a way to assure that any person or persons responsible for any part of the regulatory review process for a product qualifies as a product sponsor to obtain the restoration benefits provided under the bill. The term "first product sponsor" is used throughout section 155(c)(5) and is intended to assure that if there is more than one product sponsor (as is usually the case when a university or other inventor licenses a product), the period of patent extension includes the combined regulatory review period of the first and subsequent product sponsors even if the extension is obtained by a subsequent sponsor.

The clinical investigation referred to in section 155(c)(5)(A) is intended to permit the calculation of the period of patent extension for a drug or human biological product to commence with the first safety testing of the drug in humans. Normally, this testing will occur at the beginning of phase 1 of the IND phase of FDA review.

Mr. Speaker, in conclusion, I would like to mention that during our subcommittee hearings and markup, a hardship case was brought to our attention by Senator GRASSLEY which this bill presently omits, and the case involved a company, Impro Products, Inc., an animal health products firm. I am advised that a district court, on September 2, 1982, issued a permanent injunction against the agency involved preventing them from further distribution of the false test results as the company wages a larger antitrust suit. If appropriate, this case may be considered when we meet with the other body in conference.

I urge the Members to vote in favor of H.R. 6444.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I am happy to yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding, and I wish to associate myself with his remarks in strong support of the bill.

Mr. Speaker, in recent years, the average patent life for new drugs introduced into the marketplace has declined significantly. It has been shown that our stringent regulatory requirements take 7 to 10 years to complete, almost half of the 17-year period that Congress has specified for exclusive patent protection on other products. No one wants to return to allowing the sale of any concoction off of the back of a wagon, without the public having any idea whether it is safe to take, or effective as a medicine. But, if the agencies of Government are going to demand costly and extensive development and testing procedures before any product can be marketed, it is only fair that the time required to obtain that approval is not taken off the patent life.

The average cost of marketing a new medicine is now about 470 million, and the number of such new medicines has declined dramatically in the last 20 years, at the same time that the regulatory approval process has been demanding increased resources of time and money.

This bill would simply restore part of the patent life not available, because the Federal Government delays marketing until appropriate clinical and animal tests have satisfied the Food and Drug Administration scientists that a drug is safe and effective. No patent would be extended unless such regulatory delay had actually occurred, and in no case could the term be extended more than 7 years.

Opposition to this idea has come from some who complain that restoring this part of the patent protection will result in higher prices for drugs, a particular concern of the elderly. They overlook the fact that research and development of new products are essential as an alternative to more costly forms of therapy, such as hospitalization or surgery. Besides being less costly, drug therapy is safer for elderly patients. They have certainly benefited from our superior technology in the past. In fact, out of every dollar spent on health care in the United States, only about 8 cents is paid for medicine. While the Consumer Price Index has risen 178 percent, and health care costs have increased 629 percent, the cost of prescription drugs has increased only 34 percent in the past 20 years.

Patent restoration will provide more incentive for research and development of new products, as well as promoting price competition between old and new medicines. Drug manufacturers who do not do research and development are very shortsighted to oppose this incentive, because if the basic research is not done and the testing and approval process not completed, there will be substantially fewer products brought to the market, and both they and the public will be the losers.

This extension of the patent term to compensate for time required by our regulatory procedures is a matter of equity, and will not affect the patent life of any drug or chemical currently being marketed. I urge the passage of this legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 6444, the Patent Term Restoration Act, and urge my colleagues to adopt this important bill which provides for an extension of the patent term lost due to Federal agency review periods.

As a cosponsor of H.R. 6444, and as a member of the Judiciary Committee which favorably reported the patent term restoration bill in early August, I believe that enactment of this legislation will go a long way in stimulating industrial innovation and would reduce the inequities resulting from delays in bringing patented products to market due to Federal regulations and agency reviews.

Despite the fact that enactment of the patent term extension bill promises to improve the quality of health care by bringing more—and much improved—pharmaceutical products to the marketplace, some concern has been raised by those who fear that the extended patent term will result in slowing the process by which generic drugs come to the marketplace. The Judiciary Committee, however, mindful of the important role that generics play, limited the application of the legislation to patents issued after the date of enactment. The legislation also provides that no patent can be extended under the bill for more than 7 years.

I believe that the patent term bill is a fair and equitable approach to assure that American companies remain competitive while at the same time encouraging the developing of new products to meet our health needs. As Congressmen Rodino and Kastenmeier have clearly indicated, this legislation will encourage the investment of the large sums of private capital needed to achieve new breakthroughs in the high-risk fields of pharmaceutical innovation and technology.

I urge you to join with us in supporting this important and well-balanced legislative proposal.

Mr. KASTENMEIER. Mr. Speaker, I yield 7 minutes to a member of the subcommittee, the gentleman from Massachusetts (Mr. Frank), in the belief that he will yield to those colleagues who support his point of view.

Mr. FRANK. Mr. Speaker, I thank the chairman of my subcommittee for yielding to me.

Mr. Speaker, I want to acknowledge the significant work that the gentleman did to improve this bill, but I think in part that is one of the reasons why we ought not to be doing this on suspension.

There are two levels of discussion on this bill. One is whether or not any relief is needed for this industry, and Members differ about that. But there is another level which is even more important for those who agree that some relief would be required, and that is how best to structure it in a fairly difficult area.

In committee there were several amendments which were debated at some length and defeated. Allusion was made to the fact that opponents to the bill in its present bill were overwhelmed. Mr. Speaker, we were "whelmed," but I am not sure that we were overwhelmed. We got better than a third of the committee that supported some fairly substantial amendments, and we lost by votes of 16 to 10 and 16 to 9. That seems to me to justify a chance to deal with the bill in a form that allows amendment. This really is not the kind of legislation for which the suspension calendar was intended, since there is a substantial bipartisan section of the committee which seeks amendments and since there are subcommittees and chairmen having related jurisdiction which support amendments.

Mr. Speaker, the fundamental amendments are two in number. First, the question is, if some patent term as this is necessary, when should it begin? In its current form the patent term is extended for that period during which experimentation is being done on the drug. That is not in my judgment the requirement that the Federal Government imposes on the companies. It is something that common sense and common decency and a respect for human life imposes on the companies. I do not think they ought to be compensated in extra time for the time they use in testing this drug for efficacy and for safety.

Moreover, the FDA itself has no control over what happens during that period. That is in the control of the companies themselves.

One amendment proposed by the gentleman from Florida (Mr. Shaw), and supported by many of us in the subcommittee would have begun adding on to the patent process at that moment at which the Food and Drug Administration was given a completed application. It is at that point that the jurisdiction of the regulatory

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agency is engaged. It is during that period that any bureaucratic delay would occur.

Many of us were prepared to support an amendment that would say that the day the companies hand in a completed application to the FDA, from that moment forward they would get extra time.

Another amendment we wanted to have is related, because as the bill now stands, there is no mechanism for deciding who was at fault for the delay. Under the current bill a company which suffers delay because of its own ineptitude or its own shortcutting in not properly testing this drug would be rewarded with an extension of its patent term. I would like the opportunity to offer an amendment, supported by a substantial partisan minority of the subcommittee, to allow someone to intervene in that process and say, "wait, this is not the problem of bureaucratic delay."

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Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I wanted to point out that there is, as the gentleman knows, a great deal of testing before it actually goes into the chemical testing stage, before they ever even apply for a patent. There are all kinds of testing before it ever reaches that stage.

Mr. FRANK. I thank the gentleman. I am glad there is. But I do not regard that as a favor at any point that the companies are doing for us. I regard that as an integral part of the process by which one determines the fitness of the drugs to go forward.

Let me say further I agree with the gentleman that this is a fit subject for debate. What we are asking for today is not defeat of the whole bill but defeat of the suspension process so that the gentleman from Illinois and I could in fact conduct this debate for the benefit of the Members in a somewhat more open fashion, not constrained as we are by the time.

I do not think, given the kinds of issues the gentleman from Illinois would like further to discuss, that the suspension process adequately contains this.

The cost of this is that generic drugs, a means of saving money for consumers and for the Government, a means of effective cost control that does not sacrifice the quality of care, will be put further out of the reach of consumers. I think that would be a mistake.

Mr. Speaker, I yield such time as I have remaining to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. I want to thank by colleague and pay my respects to the chairman of the subcommittee and the full committee.

I respectfully oppose this bill as strongly as I possibly can as an unnecessary giveaway for which nothing will be given in return. It proceeds from false premises and I want to outline them one by one.

No. 1, the impression is given that this industry is in distress. That is false. This industry is the third most profitable industry in the United States. This fact comes not from the debate of the chairman of the subcommittee this morning, but in the arguments and the general presentation of the industry. The profits of this industry are going up and up and up.

No. 2, that there is some problem with R. &. D. expenditure. Research and development spending has been skyrocketing and it has been going up in real terms, deflated dollars year after year after year. Let me read you a recent quote from Fortune magazine within the past year.

> Merck is pouring a colossal $280 million into R&D this year, nearly four times more than ten years ago, while Eli Lilly's $210 million for 1980 was three times more than in 1971. Pfizer's research expenditure, which quintupled from 1970 to 1980, will grow by nearly 16% this year, to around $180 million, while Squibb has boosted spending 84% in the last five years to $91 million.

Where is the problem with incentive for research and development? And as if there was a problem, we already gave them just this past year a new 25-percent tax credit to stimulate them even more. How much encouragement do they need?

The second false premise is that innovation has been declining, it is said. Innovation has not been declining.

The statement has been made that there are half as many drugs approved this year as in 1960. That is misleading because 1962 was the year the modern era of drug regulation began. There were fewer new drugs approved in 1962 than there were this year.

The third false premise, that there is a problem with the effective patent life. Let us look at the effective patent life for not just the ones that the drug industry averages in but let us look at the top selling drugs for this year.

An average number of years of patent monopoly protection after FDA approval is not 17 years but 18½ years, more than the 17 years.

How could that be? It is because they use the patent system, they pyramid patents, and they evergreen patents. Even after the patent period expires they still control the market.

Take the example of librium.

I urge my colleagues to vote no when the occasion arises.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I cosponsored this legislation and I still believe that there are many more changes in the law that need to be made.

But I would urge my colleagues, as a cosponsor, to vote against this bill on the Suspension Calendar.

This is a very serious piece of legislation. One of the amendments that was offered in committee, the Shaw-Frank amendment, would have provided that the extension period for patents be counted as to the various products covered from the time of the application to the Federal agency until it is approved. That is a critical amendment. The length of the patent term as it is to be extended under this bill would be modified significantly by a very important amendment that should have the opportunity to be offered.

While it is true many of the things that have been said about the nature of this industry and the need for innovation, I think the length of the time of the patent extension is one that demands the attention of this House under a separate floor vote and, therefore, I would urge a no vote under suspension of the rules.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in support of this legislation.

Right at the outset I want to make a correction or two in some of the statements made by the gentleman from Tennessee; namely, if you adjust for inflation the pharmaceutical research as a percentage of sales fell by almost 35 percent from 1966 to 1980.

During the same period of time the effective patent term declined from 14.6 years to 7.4 years. Then in 1981 the effective patent term declined to 6.8 years.

I would also suggest that the gentleman from Tennessee published an article not too long ago wherein he attributed this bill to the Reagan administration. This bill actually, if the gentleman had done his homework, had its genesis in the Carter administration. President Carter appointed a blue ribbon panel to get into this subject, to find out why innovation and patent applications were declining in the United States and in particular in this industry; namely, the pharmaceutical and chemical industries where they had declined by over 50 percent since 1960.

This panel came up with some four major recommendations. One was that we computerize and data process the Patent Office to make it more efficient. Second, that we get a review and restudy process and increase the patent examiners. Third, that we set up a new Patent Court of Appeals called the Court of Federal Circuit. Fourth, that we do something to correct this intrusion on the patent term that this process of Federal examination and licensing before it could be marketed that applied in both the pharmaceutical and chemical industries.

The first three of those have been accomplished by the Congress, and this is the fourth one that is being implemented to try and get some life back in our innovation and our patent applicatons and in our progress.

This bill has been endorsed by approximately 50 of the major newspapers in the country, including the New York Times and the Washington Post, which are certainly liberal and consumer-oriented newspapers.

Not only has it been endorsed by these major newspapers on the basis of fairness, but by every one of the major medical and health care organizations, including the American Medical Association, the American Bar Association, the Patent Division, and the American Association of University and American Association of Medical Schools, the Heart Association, the Cancer Association, who are all behind this legislation.

May I say that when we have a patent term for 17 years for the inventor of a toy, to say that the inventor of an important pharmaceutical can only have 6.8 years of patent protection is just a question of plain fairness. All of them had 17 years historically as indicated by the Constitution. Then in 1962 we started this Federal process of a patent, but before marketing, that has gradually chewed up that patent life as to pharmaceuticals and pesticides and certain chemicals.

In just plain fairness it is merely giving back that time or a portion of it.

Also, the pyramiding and evergreening has been alluded to and would be prevented by this bill which wipes that out.

So it is just in plain fairness to this industry and to reencourage the investment of research and development money.

Incidentally, we are getting very little for it. There is no effect on the patent life for almost 20-years down the pike from today if we do adopt the bill. Nothing will change except the encouragement of R. & D. money going into the development of pharmaceuticals and drugs.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I wanted to make one point, which is that the New York Times and the Washington Post I think have now come out with a subsequent editorial that calls for an amendment.

But the gentleman is absolutely right, originally they were very strong for the bill.

I think the gentleman has made some excellent points. I think the gentleman from Texas (Mr. Brooks) is also for the bill.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 6444, the Patent Term Restoration Act of 1982. This bill would allow the extension of the term of a patent for products which are subject to review by Federal agencies when the owners of those patents are prevented from marketing their inventions during the agency approval process.

Mr. Speaker, this bill has the important purpose of encouraging innovation by restoring full value to patents on inventions subject to agency review. It would grant patent owners an extension of their rights for up to 7 years beyond the traditional 17-year patent term. The knowledge that the regulatory review and approval process will not diminish the value of their patents is certain to encourage research and development in these regulated fields.

Mr. Speaker, under the able leadership of my friend, Chairman Bob Kastenmeier, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice has made several changes to the original patent term bill, H.R. 1937. These amendments insure that the original purpose of the legislation will be carried out and that there will be minimum negative impact from the bill on the generic drug industry and on consumers.

I urge support of H.R. 6444.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. Waxman).

Mr. WAXMAN. Mr. Speaker, there is one proposition that I think both the proponents and opponents of this bill would agree upon that is the fact that when we give an extension of the patent interest period it is going to lead to a longer period of time in which there will be higher prices for drugs. That is logical, because a patent means you have a monopoly over the production and sale of a drug.

That monopoly means that there cannot be a competitor who can produce the same drug and sell it at a cheaper price.

What this bill will do will be to insist on the highest price for drugs to be paid by those people who need to buy drugs.

Who are the people who need to buy drugs? Primarily the elderly and certainly the sick. Eighty-four percent of drug purchases in this Nation are paid for out of the pockets of the people who must buy medications.

This bill will add a shift and it will add to the cost of drugs billions which will mean a shift out of the pockets of the elderly primarily into the pockets of the pharmaceutical manufacturers. We are told that we ought to support this shift of billions of dollars from those who are on limited, fixed incomes to those who are some of the wealthiest corporations in this Nation because it is going to be fair and it is going to bring about innovation.

But if we look at those claims, they just do not hold up because what we see with the pharmaceutical industry was, according to the Wall Street Journal, a 25-percent increase in profits in 1981. For 1982, a 20-percent increase in profits. And at a time when everyone else in this Nation is suffering from recession.

What we have seen in expenditures for research and development is a continuous increase year after year.

When the drug manufacturers manufacture drugs they get their investment back and they get a tremendous profit. I do not begrudge them that but what I do begrudge them is to come to Congress a year after we passed the tax break for them for research and development of 25 percent, and to ask us to help them out by giving them a longer period of time over which they are going to ask the elderly of this Nation to pay higher prices for drugs.

I do not think that is fair and a number of my colleagues agree that it is not fair who originally thought this idea of this bill seemed right.

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A number of my colleagues joined in even coauthoring the bill, who accepted that superficial argument that is advanced for it; and then later, when they looked at the legislation more carefully, they decided to oppose it.

Two of the leading newpapers in this Nation originally supported the bill when they heard from the pharmaceutical industry. But when they looked at it a little more carefully, they backed away from it. The New York Times and the Washington Post both told us to support this legislation, and then later came out with editorials asking us to either oppose it or to severely curtail it.

Now, this legislation is different from that which the other body has proposed, and it is still not legislation that the drug industry will support because the drug industry wants the bill passed by the other body—because that is a much more generous bill for them. And this compromise which we are being urged to vote for is a compromise which they still do not accept.

I urge that on this suspension vote we defeat this bill, that we defeat it because as it stands today before us we have only one choice to vote up or down, and I say let us vote down this bill. I urge my colleagues to join me in doing so.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. Gore).

Mr. GORE. I thank my colleague for his courtesy.

Mr. Speaker, just to correct the record once and for all, the Post changed its position, the New York Times changed its position, too, and the Times did not just ask for amendments. I say to my colleagues; it came out flat, foursquare against the whole thing. Let me read to my colleagues what they said:

> The pharmaceutical industry is efficient, profitable and healthy. It has no demonstrable need for any special break. The patent system as a whole may need reform, but that is a different issue. Monopoly rights should not be doled out to anyone with a hard-luck story, as Congress seems to believe. The proposed extension is unjustified, unsuited to the stated purpose of increasing research and offensive to the basic principle of a free economy.

To sum up, research and development spending is increasing. Profits are increasing. Innovation is stable. The industry does not need this bill. The only thing it will accomplish is to raise the price of medicine by an estimated $3 billion to $5 billion each year.

Mr. Speaker, I urge my colleauges to vote "no."

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time.

The **SPEAKER** pro tempore. The gentleman from Florida (Mr. Shaw) is recognized for 1 minute.

Mr. SHAW. Mr. Speaker, I think in our desire to finish up the legislative business of this Congress, we are probably going to be doing a lot of things and voting on a lot of things that we have no business doing. In looking around this hall today, we see that most of the Members are apparently not here. I think that if we would check, we would find that they were not in their offices, that they are in their home districts doing important business. But this is important business. What we must do is to vote this bill down under suspension, get it here on the floor, with an open rule, so that we can present amendments to take the bad part out of this bill and pass it in a preferred form.

What we are talking about is the pocketbooks of the elderly. And for us to go running out of this hall so that we can get home to campaign and tripping over the limited earnings of the elderly in doing so, I think it would be a tragedy. We must take out of the bill the portion that would allow the extention of the patent, the period of time the prices are set without competition, to take out that portion which the company has complete control of, and come up with a good bill that all of us can support.

● **Mr. CORRADA.** Mr. Speaker, I rise in support of H.R. 6444, the Patent Term Restoration Act, which would restore the period of useful life of patents lost hurdling over Federal regulations. Currently, manufacturers of such products as drugs, medical devices, and chemicals, use more than half of the 17 years of their patents exclusivity period complying with FDA's premarketing requirements.

It is only fair play that we correct this inequity in the law. It is ironic that medical breakthroughs be penalized for having to meet Federal regulatory requirements directed to protect the public health.

With this kind of disincentive, it comes as no surprise that in the past 20 years there has been a dramatic decline in the number of new medicines introduced in the United States. Our research intensive industries feel betrayed when Congress incentives are diminished by subsequent regulations and nothing is done about it.

The future well-being of our citizens and the economic situation of our Nation demands the drafting of incentives for economic investment in high-risk areas that could bring about economic growth and new lifesaving products. This bill provides a simple, equitable, and uncostly way of stimulating this capital investment in areas that could lead us to a new era of economic stability and a healthier life for our people.

I urge my colleagues to vote for the passage of this legislation.●

● **Mr. PEYSER.** Mr. Speaker, while I am very sympathetic with the problems confronting pharmaceutical companies in the loss of patent protection time due to the delays in final approvals by the FDA, I think that this bill, in its present form where it cannot be amended, is not in the best interest of the public and particularly the elderly.

I would be willing to support an amendment to this legislation, such as the Frank amendment which would limit the extension time to the time elapsed between the actual filing for drug approval and final approval by the FDA. Drug research is obviously of great importance, and companies should not be penalized by needless loss of protection under their patent by delays over which they have no control.

It is certainly my intention to support this legislation with the type of amendment I have spoken of when it comes to the floor in the next Congress. In the meantime, it is certainly my hope that pharmaceutical companies, both for their good and for the good of the American public, will continue their active research work that has done so much good in improving the health of all Americans.●

● **Mr. HOLLENBECK.** Mr. Speaker, I rise in support of H.R. 6444, the Patent Term Restoration Act of 1982.

Mr. Speaker H.R. 6444 is a balanced bill which will assure more rapid technological innovation in the pharmaceutical and chemical industries resulting in a stronger economy and the development of less costly and more competitive new therapies and chemicals. At the same time, the interests of consumers have been adequately protected under the legislation.

The purpose of the Patent Term Restoration Act is to prevent the regulatory practices of the Federal Government from damaging the flow of new prescription drugs to the American people. The bill will allow manufacturers of pharmaceuticals requiring Federal regulatory approval prior to release, to reclaim patent protection for the period of time required for mandated testing and processing up to a maximum of 7 years.

Under present law, a research intensive pharmaceutical firm which submits a new drug to the Food and Drug Administration (FDA) for approval faces the prospect of losing much of the useful life of its patent protection while the drug undergoes the approval process. As the complexity and length of the approval process at FDA has increased over time, the average useful life of a standard 17-year patent has declined from about 14 years in 1966 to 7.4 years in 1980. At the same time, the cost of developing drugs has risen from an average of about $6 million in 1960 to a staggering $70 million today. This is not a good situation, especially when the drug industry is on the brink of major new medical breakthroughs.

The intent of this legislation is to place pharmaceutical firms on an equal footing with the rest of American industry, who face no regulatory hurdles before they can introduce new products. Drug manufacturers have come up with a number of effective pain relievers over the years. Now it is the Congress turn to deliver a pain reliever to them, in the form of long needed changes in the patent laws. I urge the bill's adoption.●

● **Mrs. SCHNEIDER.** Mr. Speaker, I rise today in support of H.R. 6444, the Patent Restoration Act. There are benefits and detriments to this legislation, but the primary question is—Do we want to forego the benefits of drug research?

Because of Federal regulatory requirements, it now takes 7 to 10 years to develop, test and obtain FDA approval for new medicines before they can be marketed. As a result, the average patent life left for new drugs approved for marketing in recent years has been less than half the 17 year period of patent protection that Congress has specified for all products.

This decline in effective patent life, coupled with an average cost of about $70 million per new medicine that enters the market, has been accompanied by a dramatic reduction in the number of new medicines introduced during the past 20 years. In 1960 the pharmaceutical industry produced 50 new medicines. Recently, the number of new medicines approved annually has amounted to only about one-half to one-quarter of that figure.

The patent has traditionally provided a major incentive for costly, risky research and development. Without it, many important advancements in medical, agriculture and other fields would not have occurred or been economically feasible. The sick will be the real victims of lost patent life.

Drugs have improved health care while in many instances reducing the need for surgery, but much work remains to be done. Research into incurable diseases, such as hypertension, glaucoma, herpes simplex, and mental illness, among many others, must be accelerated.

I ask my colleagues to reflect on the importance of health to the American people and the need to conquer disease. I am confident that with passage of this bill we will see a renewed effort in drug research. If, as some opponents maintain, research does not ensue and the public is not served, then I will work to change the situation so that it does. In the meantime, this is the best available vehicle for progress, and we ought to take it.●

The SPEAKER pro tempore. The question is one the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 6444, as amended.

The question was taken.

Mr. FRANK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings of this motion will be postponed.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the bill, H.R. 6444, just considered.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Wisconsin?

There was no objection.

EXTENSION OF TITLE XVII OF PUBLIC HEALTH SERVICE ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6384) to extend title XVII of the Public Health Service Act.

The Clerk read as follows:

H.R. 6384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1701(b) of the Public Health Service Act (42 U.S.C. 300u(b)) is amended by striking out "and" after "1981," and by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1983, and $9,000,000 for the fiscal year ending September 30, 1984".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reauthorizes the health information and health promotion programs carried out by the Department of Health and Human Services. These programs, working closely with State and local government—as well as with such local private groups as the American Red Cross and the YMCA, are among our best hopes for containing the human and monetary costs of disease.

Whatever the setting, individuals who are better informed about health and healthy lifestyles are more likely to make responsible choices about their own health care and health habits. Through this authority the Surgeon General published his original report on health promotion and disease prevention, entitled "Healthy People."

Through this reauthorization, the Department of Health and Human Services will be able to continue and expand the efforts to implement the recommendations of "Healthy People" and will provide the public, educators, and professionals with information that will allow them to understand and use the principles of public health.

The public health problems of the 1980's will more and more include those chronic problems and conditions for which health information, promotion, and education are important—and sometimes the only—types of prevention activities available to society. This bill provides the Secretary of HHS with a specific vehicle in the basic Public Health Service Act to foster more effective strategies and methods for use by the many public and private sector groups that sponsor health promotion progams.

Mr. Speaker, under this authority the Secretary will be able to work through the Centers for Disease Control and the Office of Health Promotion to return—dozens of times over—savings in illness averted and disease prevented.

The Commerce Committee reported this bill without amendment by voice vote. I urge its adoption.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the support of my colleagues for H.R. 6384, a bill which provides for a simple extension of title 17 of the Public Health Service Act through fiscal year 1984.

This is the legislative authority under which the Department of Health and Human Services conducts its health promotion and health information program. These education, information, and promotion activities form the cornerstone of the Department's prevention initiative.

The Committee on Energy and Commerce supports the continued efforts of the Department of HHS to educate the public, encouraging individuals to make more informed decisions about their activities which may lead to better health habits.

H.R. 6384 is a noncontroversial bill that was reported by voice vote without amendment by the Committee on Energy and Commerce. Authorization levels contained in the bill are for $8 million in fiscal year 1983 and $9 million in fiscal year 1984. Although no agency views were filed, it is my understanding that the administration supports this bill. I support H.R. 6384 and urge my colleagues to do likewise.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 6384, extending the health information and health promotion programs authorized under title XVII of the Public Health Service Act and increasing the funding level from $1.5 million currently for 1982 to $8 million in fiscal year 1983 and $9 million in fiscal year 1984.

The health information and health promotion programs were created in 1976 under Public Law 94-317 to provide "new and expanded authority for programs in health information and health promotion." These programs provide among others for the creation of an Office of Health Information and Health Prevention which "coordinates all activities within the Department of Health and Human Services related to health information and health promotion; coordinates its activities with similar activities of organizations in the private sector; and establishes a national information clearinghouse to facilitate the exchange of information and health promotion."

Also under this legislation, the National Health Promotion Training Network was created. This network has been carrying out extensive and effective work with local agencies, such as the American Red Cross, the YMCA, and the National Urban League.

This legislation provided for an essential part of the national prevention strategy: The Center for Disease Control. This Center has done important research, and has provided technical assistance to States, so the programs adopt and use available health promotion and education approaches.

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The importance of available information for the Nation, including Puerto Rico on health issues and prevention is manifest. The Committee on Energy and Commerce anticipates that with the reauthorization of these programs, the Department of Health and Human Services will be able to expand its effort to implement recommendations to provide important information to the public, and to foster continued effective strategies and methods for use by the public and private sector groups sponsoring health promotion programs. Furthermore, the committee asserts that with the reauthorization of this bill no inflation impact will be felt.

Thus, I urge my colleagues to vote in support of H.R. 6384 to continue and increase the effectiveness of this Nation's health information and health promotion programs.●

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill, H.R. 6384.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROPOSED LEGISLATION ENTITLED "THE CRIMINAL JUSTICE REFORM ACT OF 1982"—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-234)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, September 13, 1982.)

□ 1410

ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM AND NATIONAL WILDERNESS PRESERVATION SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-235)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, September 13, 1982.)

□ 1420

ABANDONMENT OF U.S. HUMAN RIGHTS POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, I rise to express my horror and outrage that the Reagan administration last week abandoned this country's policy on human rights by approving a commercial sale of 500 electric shock batons to the Republic of South Korea. Shock batons are devices which may be used for interrogation and torture, as well as crowd control.

Leg irons, handcuffs, mace, fingerprint equipment, shotguns, thumbscrews, shock batons, and other "police-type" equipment are on the U.S. list of "crime control and detection equipment." U.S. Government approval is required under the Export Administration Act of 1979 to export these items to any country other than the NATO nations, Japan, Australia, and New Zealand.

Refusing to supply such equipment to regimes which have little regard for their citizens' human rights is essential to deterring human rights violations, and to distancing the United States from such regimes.

The State Department, which vigorously opposed this sale, stated in the most recent report on human rights practices in South Korea, "There were numerous allegations of torture * * *." And the Japan Emergency Christian Conference on Korean Problems recently stated:

> The use of torture today is, if anything, more systematic and brutal than at any previous time in modern Korean history.

The Commerce Department's OK of this sale, over the State Department's objection, signals all peoples of the world that pursuit of the almighty dollar includes providing oppressive regimes with instruments of torture. The decision is an embarrassment to President Reagan, who declared on Human Rights Day, December 10, 1981:

> We will continue to strive to respect these rights fully in our own country and to promote their observance abroad.

The sale of shock batons to South Korea promotes disregard, not observance, of human rights. If the President indeed intends to promote observance of human rights, he should dismiss the Commerce Department officials responsible for ignoring the State Department's recommendation that this export be denied.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Stark) is recognized for 5 minutes.

[Mr. STARK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Pepper (at the request of Mr. Wright), for this week, on account of leading the House delegation to the meeting of the Inter-Parliamentary Union.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Waxman) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.
Mr. Coelho, for 5 minutes, today.
Mr. Bingham, for 10 minutes, today.
Mr. Stark, for 5 minutes, today.
Mr. Simon, for 60 minutes, on September 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Kastenmeier, and to include extraneous matter, on H.R. 6444.

(The following Members (at the request of Mr. Madigan) and to include extraneous matter:)

Mr. Smith of Alabama.
Mr. Green.
Mr. McCloskey.
Mr. Lewis.

(The following Members (at the request of Mr. Waxman) and to include extraneous matter:)

Mrs. Kennelly in two instances.
Mr. McHugh.
Mr. Yatron.
Mr. Shannon.
Mr. de la Garza in 10 instances.
Mr. Pepper.
Mr. Markey in two instances.
Mr. Bennett.
Mr. Clay.
Mr. Mazzoli.
Mr. Anderson in 10 instances.
Mr. Gonzalez in 10 instances.
Mr. Brown of California in 10 instances.
Mr. Annunzio in six instances.
Mr. Jones of Tennessee in 10 instances.
Mr. Boner of Tennessee in five instances.
Mr. Dicks.
Mr. Corrada.
Mr. Howard.
Mr. Yates.
Mr. Boland.

ADJOURNMENT

Mr. WAXMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 22 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 14, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4715. A letter from the Secretary of State, transmitting the determination that it is in the national interest of the United States to make monthly payments under loan guarantees or credit assurances extended to the Polish People's Republic, pursuant to section 205 of Public Law 97-216; to the Committee on Appropriations.

4716. A letter from the Director, Office on Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority as of September 1, 1982, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 97-236); to the Committee on Appropriations and ordered to be printed.

4717. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Air Force of defense articles to Korea (Transmittal No. 82-78), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4718. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Navy of defense articles to Egypt (Transmittal No. 82-83), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4719. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the proposed sale by the Navy of defense articles to France (Transmittal No. 82-76), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4720. A letter from the Principal Deputy, Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the inactive ship maintenance function at the Naval Inactive Ship Detachment, Pearl Harbor, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4721. A letter from the Chairman, Federal Financial Institutions Examination Council, transmitting a report, "Section 340 Fair Housing Lending Study," pursuant to section 340(e) of Public Law 96-399; to the Committee on Banking, Finance and Urban Affairs.

4722. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a determination that it is in the national interest for the Eximbank to extend credit and guarantee loans to the People's Republic of China, pursuant to section 2(b)(2) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4723. A letter from the Chairperson, National Advisory Council on Indian Education, transmitting the eighth annual report of the Council, pursuant to section 442(b)(6) of Public Law 92-318; to the Committee on Education and Labor.

4724. A letter from the Secretary of Health and Human Services, transmitting the 1981 annual report on the National Health Service Corps, pursuant to section 366A of the Public Health Service Act, as amended; to the Committee on Energy and Commerce.

4725. A letter from the Secretary of Transportation and the President of the National Railroad Passenger Corporation, transmitting the annual report of the Railroad Revitalization and Regulatory Reform Act with respect to the completion of the Northeast corridor improvement project, pursuant to Public Law 94-210; to the Committee on Energy and Commerce.

4726. A letter from the Chairman, National Digestive Diseases Advisory Board, transmitting the Board's first annual report of its activities, pursuant to section 437(j) of the Public Health Service Act; to the Committee on Energy and Commerce.

4727. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Egypt (Transmittal No. 82-83), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4728. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Brazil (Transmittal No. 82-79), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4729. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to France (Transmittal No. 82-76), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4730. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Korea (Transmittal No. 82-78), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4731. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice that it is in the national interest to grant assistance to private sector organizations within the country of Tanzania, pursuant to section 620(q) of the Foreign Assistance Act; to the Committee on Foreign Affairs.

4732. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of political contributions of Ambassador-designate Peter D. Constable, and members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4733. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of political contributions by Ambassador-designate Henry Allen Holmes, and members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4734. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of political contributions by Ambassador-designate Rozanne L. Ridgeway, and members of her family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4735. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4736. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4737. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4738. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4739. A letter from the Director, Office of Personnel Management, transmitting the third annual report on the financial status of the civil service retirement system for the fiscal year ending September 30, 1981, pursuant to section 121(a) of Public Law 95-595; to the Committee on Government Operations.

4740. A letter from the Secretary of the Interior, transmitting notice of the leasing systems to be used in oil and gas lease sale No. 71, Diapir Field, to be held on October 13, 1982, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

4741. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund totaling $78,906 to Conoco Inc., Diamond Shamrock Corp., Oxy Petroleum Inc., and Union Texas Petroleum for an excess royalty payment, purusant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4742. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $1,109.67 to the Amoco Production Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4743. A letter from the Chief Justice of the Supreme Court of the United States, transmitting notice that this Court will open the October 1982 term on October 4, 1982, at 10 a.m., and will continue, pursuant to our present calendar, until all matters before the Court, ready for argument, have been disposed of or decided; to the Committee on the Judiciary.

4744. A letter from the Special Prosecutor, Department of Justice, transmitting a supplemental report pursuant to the order of the Special Prosecutors Division of the U.S. Court of Appeals for the District of Columbia Circuit dated September 11, 1982, pursuant to 28 U.S.C. 595(a); to the Committee on the Judiciary.

4745. A letter from the Secretary of Transportation, transmitting a report on an application by the Margate Shipping Co. to retrofit three tankers in a foreign shipyard and its effect on the shipyard mobilization base, pursuant to Public Law 97-35; to the Committee on Merchant Marine and Fisheries.

4746. A letter from the Chairperson, Architectural and Transportation Barriers Compliance Board, transmitting the annual report of the Board for fiscal year 1981, pursuant to section 502(g) of Public Law 93-112; jointly, to the Committees on Education and Labor and Public Works and Transportation.

4747. A letter from the Acting Comptroller General of the United States, transmitting a report on Outer Continental Shelf production ratesetting functions (EMD-82-97, September 10, 1982); jointly, to the Committees on Government Operations and Interior and Insular Affairs.

4748. A letter from the Comptroller General of the United States, transmitting a report on moneys that can be saved through better energy management in Federal hospitals (GAO/HRD-82-77, September 1, 1982); jointly, to the Committees on Government Operations, Armed Services, Interior and Insular Affairs, Energy and Commerce, and Veterans' Affairs.

4749. A letter from the Secretary of Transportation, transmitting a report on the status of the public ports of the United States, pursuant to section 2 of Public Law 96-371; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 9, 1982, the following report was filed on September 10, 1982]

Mr. HUGHES: Committee on the Judiciary. H.R. 6946. A bill to amend title 18 of the United States Code to provide penalties for certain false identification related crimes; with an amendment (Rept. No. 97-802). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CHAPPELL (for himself and Mr. Russo):

H.R. 7090. A bill to repeal the provisions of the Omnibus Budget Reconciliation Act of 1982 which, for fiscal years 1983, 1984, and 1985, reduce and delay cost-of-living increases in annuities and retired or retainer pay based on Government service and reduce, in relation to the amount of such increases, the pay of members and former members of the uniformed services for their service in Federal civilian positions; to the Committee on Post Office and Civil Service.

By Mr. HEFTEL:

H.R. 7091. A bill to amend the Congressional Budget Act of 1974 to make first concurrent resolutions on the budget binding, to eliminate second concurrent resolutions on the budget, and for other purposes; to the Committee on Rules.

By Mr. PARRIS:

H.J. Res. 592. Joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

465. By the SPEAKER. Memorial of the Legislature of the State of Washington, relative to H.R. 3663, the Bus Regulatory Reform Act of 1982; to the Committee on Public Works and Transportation.

466. Also, memorial of the Legislature of the State of California, relative to gas and electric utility rates; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 750: Mr. Brown of Ohio, Ms. Mikulski, Mrs. Smith of Nebraska, and Mr. Erdahl.

H.R. 865: Mr. Solomon.

H.R. 2034: Mr. Andrews, Mr. Kindness, Mr. Rose, Mr. Swift, and Mr. Williams of Montana.

H.R. 2347: Mr. Solomon.

H.R. 5362: Mr. Hansen of Idaho.

H.R. 5995: Mr. Fithian.

H.R. 6170: Mrs. Fenwick.

H.R. 6306: Mr. Hartnett, Mr. Spence, Mr. Napier, and Mr. Campbell.

H.R. 6364: Mr. Bailey of Pennsylvania.

H.R. 6573: Mr. Lagomarsino.

H.R. 6591: Mr. Young of Missouri.

H.R. 6596: Mr. Coelho, Mr. Waxman, Mr. Martinez, Mr. Edgar, Mrs. Kennelly, Mr. Bereuter, Mr. Dwyer, and Mrs. Heckler.

H.R. 6970: Mr. Patman, Mr. Lantos, Mr. Mattox, Mr. Rahall, Mr. Huckaby, Mr. Won Pat, Mr. Minish, Mr. Kindness, Mr. Andrews, Mr. Hughes, Mrs. Schroeder, Mr. Yatron, Mr. Beard, Mr. Santini, Mr. Ratchford, Mr. Mottl, Mr. Bafalis, Mr. Frost, Mr. Fazio, and Mr. Roe.

H.J. Res. 144: Mr. Mollohan, Mr. Lee, and Mr. Rose.

H.J. Res. 531: Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Alexander, Mr. Anderson, Mr. Andrews, Mr. Annunzio, Mr. Bafalis, Mr. Bailey of Pennsylvania, Mr. Barnes, Mr. Beilenson, Mr. Bevill, Mr. Biaggi, Mr. Boland, Mr. Boner of Tennessee, Mrs. Bouquard, Mr. Bowen, Mr. Brinkley, Mr. Brodhead, Mr. Burgener, Mr. John L. Burton, Mr. Campbell, Mr. Chappell, Mr. Chappie, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mr. Coats, Mr. Coelho, Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. Daschle, Mr. Daub, Mr. de la Garza, Mr. Dellums, Mr. Donnelly, Mr. Dornan of California, Mr. Dougherty, Mr. Dowdy, Mr. Dreier, Mr. Dwyer, Mr. Dymally, Mr. Early, Mr. Edgar, Mr. Edwards of California, Mr. Evans of Georgia, Mr. Evans of Iowa, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mr. Fish, Mr. Fithian, Mr. Florio, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Fountain, Mr. Frank, Mr. Frenzel, Mr. Frost, Mr. Gaydos, Mr. Ginn, Mr. Gonzalez, Mr. Green, Mr. Grisham, Mr. Guarini, Mr. Hall of Ohio, Mr. Hatcher, Mrs. Heckler, Mr. Hefner, Mr. Holland, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Hughes, Mr. Hutto, Mr. Ireland, Mr. Jacobs, Mr. Jones of Tennessee, Mrs. Kennelly, Mr. Kildee, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. LeBoutillier, Mr. Lehman, Mr. Lent, Mr. Long of Louisiana, Mr. Lungren, Mr. McCollum, Mr. Markey, Mr. Marriott, Mr. Matsui, Mr. Mattox, Mr. Mavroules, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Moakley, Mr. Moffett, Mr. Molinari, Mr. Murphy, Mr. Napier, Ms. Oakar, Mr. Oberstar, Mr. Patterson, Mr. Peyser, Mr. Porter, Mr. Price, Mr. Pritchard, Mr. Rahall, Mr. Rangel, Mr. Ratchford, Mr. Reuss, Mr. Robinson, Mr. Roe, Mr. Rosenthal, Mr. Sabo, Mr. Santini, Mr. Scheuer, Mr. Skelton, Mr. Smith of Pennsylvania, Mr. Solarz, Mr. Stokes, Mr. Sunia, Mr. Swift, Mr. Tauzin, Mr. Traxler, Mr. Udall, Mr. Vento, Mr. Washington, Mr. Waxman, Mr. Weiss, Mr. Winn, Mr. Won Pat, Mr. Wyden, Mr. Yates, Mr. Yatron, Mr. Young of Missouri, Mr. Wirth, and Mr. Zeferetti.

H.J. Res. 587: Mr. Coelho.

H. Con. Res. 336: Mr. Phillip Burton, Mr. McCollum, Mr. Gejdenson, Mr. Dymally, Mr. DeNardis, Mr. Wolpe, Mr. Brown of Colorado, Mr. Wirth, Mrs. Roukema, Mr. Dannemeyer, Ms. Mikulski, Mr. Mavroules, Mr. Pepper, Mr. Rodino, Mr. Courter, Mr. Kemp, Mr. Kildee, Mr. Yates, Mr. Gradison, Mr. Dornan of California, Mr. Molinari, and Mr. Gray.

H. Con. Res. 377: Mr. Hoyer.

H. Con. Res. 391: Mr. Leach, Mr. Fazio, and Mr. Regula.

H. Res. 421: Mr. Fary, Mr. Hagedorn, Mr. LaFalce, Mr. Lagomarsino, Mr. McClory, Mr. Molinari, Mr. Quillen, Mr. Russo, Mr. Spence, Mr. Swift, Mr. Walgren, Mr. Ginn, Mr. Railsback, and Mr. Whitten.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

588. By the SPEAKER: Petition of the International Typographical Union, Colorado Springs, Colo., relative to the President's veto of the extension of the manufacturing clause of the U.S. copyright laws; to the Committee on the Judiciary.

589. Also, petition of the American Bar Association, Chicago, Ill., relative to certain amendments to an appropriations bill being subject to a point of order; to the Committee on Rules.

590. Also, petition of the Centre County Board of Commissioners, Bellefonte, Pa., relative to a nuclear arms freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6956

By Mr. FLIPPO:

—On page 20, line 13, strike out "$5,542,800,000" and insert in lieu thereof "$5,402,800,000", and

On page 20, line 17, insert immediately before the period the following: ": *Provided further*, That none of the funds appropriated under this heading shall be obligated or otherwise made available for the sole-source procurement of the design, development, or production of liquid-hydrogen, liquid-oxygen (Centaur) upper stages".

By Mr. WALGREN:

—Page 42, immediately after line 18, insert the following new section:

"Sec. 416. None of the funds appropriated by this Act may be obligated or expended to promulgate, issue, prescribe, implement, administer, make or enforce any finding, rule, order, or sanction under the Clean Air Act on any State or political subdivision thereof for failure to adopt, implement, conduct, or enforce a vehicle emission control inspection and maintenance program. Nothing in this section shall be construed to preclude the use of funds for the purpose of providing technical assistance under such Act to any State or political subdivision thereof.".

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EXTENSIONS OF REMARKS

THE JOURNAL OF COMMUNITY ACTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 9, 1982

● Mr. CONYERS. Mr. Speaker, the Journal of Community Action is one of the most promising and innovative channels of communication I have come across in the areas of community development, local-State-Federal relations, and neighborhood economic development. Edited by two veteran community organizer-analysts, Nelson Rosenbaum and Milton Kotler, the bimonthly journal offers in each issue very thorough coverage of public policy, reviews of literature, current research, and practical organizing. Of particular value is a regular feature, "Notes From the Field," which provides highly useful information on community projects across the country that have proved successful and are models for replication. Published by the Center for Responsive Governance in Washington, D.C., Community Action is bound to become a leading journal, and I wish its editors every success.

An article by Lawrence Bailis, "Community-Based Organizations and CETA," that appeared in the January-February 1982 issue, reflects the high-quality journalism that is typical of Community Action. I recommend the article, that follows, to my colleagues.

COMMUNITY-BASED ORGANIZATIONS AND CETA

(By Lawrence N. Bailis)

As is almost always the case, federally funded employment and training programs are now at a critical crossroads. During the past fifteen years, supporters of these programs have seen expenditures for the Comprehensive Employment and Training Act (CETA) and its predecessors grow from less than a billion dollars a year to more than $10 billion, only to see them reduced sharply to less than one-third that size, with further cuts likely.

The growth of these programs has been accompanied by the rise of non-profit organizations that claim to serve all or portions of the client community, groups known as "community based organizations" (CBOs) in the CETA parlance. Many nationwide as well as local unaffiliated community groups were created largely in response to the availability of funding for what were then known as manpower programs (and are now known as employment and training programs since the term "manpower" is currently considered a sexist word). Other community groups had been in existence long before the creation of manpower programs but used the CETA program and its predecessors as an opportunity to widen the range of services that they were providing to the community.

During the past decade, the destinies of the employment and training programs and the CBOs that have provided services in them have become increasingly intertwined. Aided in part by federal regulations that encourage utilization of community groups, CBOs have received as much as one-fifth of the monies allocated to training adults, and the bulk of the monies for certain youth employment and training programs.

The importance of community based organizations to CETA has outweighed their share of total funding dollars. The documented successes of certain community groups in reaching, training, and employing disadvantaged Americans—and the political support enjoyed by many of these organizations—helped to promote the sustained growth in CETA funding. The equally well documented shortcomings in CBO management practices have, on the other hand, hurt the overall image of the problem, and thereby contributed to the atmosphere that has helped to promote the recent and ongoing cutbacks.

While many CBOs have developed a broad base of public and private sector funding sources, CETA has become the primary source of funding for many others. Federal grants have helped to sustain many organizations which have become spokesmen for the disadvantaged in areas that go far beyond preparation for the world of work. The cutbacks in CETA and other federal funding sources are thus jeopardizing the viability of many community groups, and forcing almost all of them to step up their efforts to provide alternative sources of funding.

Most of the discussion about the future of federally funded employment and training programs has focused on structural issues such as whether or not the current Prime Sponsor system should be preserved, or on the roles to be played by state government, local government, and the business community. However, for the reasons outlined above, analysis of the potential roles to be played by community groups should play an important part in ongoing efforts to enact a new federally funded employment and training system to replace CETA.

FRAMEWORK FOR DECISIONMAKING

Decisions about the future role of CBOs in employment and training systems should be made on the basis of two kinds of considerations: (a) the future shape of these systems and their objectives, and (b) assessments about the ability of community-based organizations to promote achievement of these objectives as evidenced by their previous track record.

At first glance, neither of these considerations can provide clear guidance. First, while a large number of different legislative proposals have been considered, no one can be sure what federal employment and training program of the future will look like. Second, nearly a decade of CETA research and evaluation studies has failed to provide definitive conclusions about the strengths and weaknesses of CBOs as service deliverers, or even more general information about what factors contribute to making an organization an effective provider of training services.

However, prudent planners cannot wait until the future is totally clear and predictable, and those who seek to affect the future do not have the luxury of waiting until all of the relevant data has been collected and analyzed. If they do wait, they will find that others have already made key decisions without ever consulting them. Therefore, now is an opportune time to review the role of CBOs in the past and reach conclusions about the role that they can play in the future.

WHITHER CETA?

Before attempting to prescribe the proper role for community based organizations in future federally funded employment and training systems, one must first address two sets of issues:

Is there likely to be any federal funding for such programs beyond the next year or two, and

If so, what are the program goals and structure likely to look like?

While it is always hazardous to make predictions on topics such as this (and doubly hazardous to put one's predictions into print where they can be so easily retrieved and reviewed), several conclusions appear justified by the contents of the legislative proposals offered by Senators Quayle and Kennedy and Representatives Hawkins and Jeffords.

First, major changes in the structure and functioning of employment and training programs seem inevitable. Even those who are happiest with the current CETA system admit that severe cutbacks are raising questions about such previously fundamental aspects of the CETA system as reliance upon local general-purpose governments representing 100,000 or more citizens as the basic planning and operational unit ("Prime Sponsor") under the system, and the importance of providing training allowances to permit low-income disadvantaged men and women to participate in training programs at all.

Beyond this, a general consensus appears to have emerged from recent Congressional hearings on CETA that the goals of the reauthorized or redesigned program should stress provision of training opportunities rather than Public Service Employment to the disadvantaged, and in particular to disadvantaged youth.

Despite these changes, the goals of future employment and training efforts are likely to resemble many of the current ones. It also seems reasonable to expect important continuities in the overall structure in which planning and service delivery take place. Some have called for retaining the current Prime Sponsor system in which cities and counties with a population of 100,000 or more are responsible for employment and training, with the state governors responsible for portions of states that do not meet the 100,000 cut off. Others have called for raising the population cutoff, and/or increasing the role of the governor as overseer or operator of the entire system within a state. Almost everyone seems to be calling for an increased role by the business community in planning and operating future programs. But, whichever of these or

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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other alternatives is finally chosen, it is clear that some organization will be given responsibility for providing training and related services in a given jurisdiction. That organization will have to decide (a) whether it wishes to provide these services directly or to subcontract for at least some of them, and (b) if they are subcontracted, whom to subcontract them to.

In short, it seems increasingly likely that there will be either government bodies or consortia including government that will be deciding what role—if any—CBOs should be playing in the planning and administration of skills training programs for disadvantaged Americans. While politics will inevitably play a role in making these decisions, empirically based evaluations of the potential and limitations of community groups can also be expected to be influential. The remainder of this article seeks to provide information that will further such planning at both the federal and local levels.

LESSONS FROM THE PAST

During the first eight fiscal years of CETA, community-based organizations have played virtually every conceivable role in the planning and delivering of employment and training services. Many Prime Sponsors, especially the larger ones, have permitted CBOs to function as comprehensive service deliverers, i.e., to perform all needed services from outreach and recruitment of trainees through provision of training and supportive services to eventual placement of clients and followup on their progress on-the-job. Other Prime Sponsors have divided responsibility for client services among a number of organizations, but have given CBOs a number of important functions to carry out.

A recent survey of utilization of CBOs among twenty Prime Sponsors revealed the extent to which CBOs provide training services in adult programs. (Urban Systems, 1979). In cases where community outreach was subcontracted, it was done exclusively by community based organizations. Nearly 80 percent of the subcontractors with responsibility for provision of counseling and related supportive services were CBOs, and more than half of the agencies that provided specialized job development and/or placement were community groups. In addition to this, nearly half of the combined outreach, intake, assessment, and classroom training responsibilities that were subcontracted were assigned to CBOs as well. CBOs were also the leading choice of Prime Sponsors to deliver so-called work experience (on-the-job programs in which the primary benefit is developing work habits rather than skill acquisition) and represented more than 40 percent of the sub-grantees with responsibility for on-the-job training.

If there were universally accepted standards of performance for community-based service deliveries and adequate data to assess their performance, one could review this past experience and decide what CBOs did best, under what circumstances, and so forth. Unfortunately, neither the standards nor the data exist, and so the lessons from the past are more dependent upon judgement than mathematical manipulation of performance data. While there are disputes about all parts of the CBO record to date, it is possible to make relatively conclusive assessments of the role of CBOs as advocates for the client community, as links between that community and the more mainstream training institutions, and as direct deliverers of classroom training services.

THE ADVOCACY ROLE

While statistics about impact of training on earnings of trainees are sometimes hard to come by, there is broad recognition of the fact that community based organizations have been playing a client advocacy role since their initial involvement in employment and training programs. While all agencies that provide CETA services have felt pressures to "cream," i.e., to serve those who are most likely to succeed within the overall eligible group, many CBOs have apparently been relatively successful in resisting these pressures. While the employer community has incentives, to press for serving those who are most likely to become model employees, CBOs have competing incentives to remind government agencies and employers alike that one cannot measure the effectiveness of programs in terms of overall placement rates and cost per placement.

The creative tension between the drive to demonstrate cost-effectiveness and the need to serve those most in need is likely to persist into the foreseeable future. While government agencies serving as Prime Sponsors or overseers of employment and training programs might try to resist pressures to cream, a review of the CETA record to date does not give one total confidence that this can be expected to occur throughout all of the decentralized components of employment and training programs across the Nation.

Given this situation, it would seem reasonable to maintain the current statutory role for CBOs in planning employment and training programs—and to consider expanding it. Care must be taken, of course, to insure that advocacy of client needs does not become distorted into advocacy for providing money for CBOs regardless of their merits. The experience with CETA to date, however, suggests that there is little reason to be concerned that CBOs will become overly influential in a planning process that is shared among government officials, business leaders, and other key actors.

LINKAGES TO THE COMMUNITY

Community based deliverers of employment and training service have been funded, in large part, to remedy the perceived failures of so-called mainstream service deliverers (such as public schools, community colleges, and proprietary schools) to serve minorities and other disadvantaged clients. While CBOs have sometimes been seen as competitors to these mainstream groups, they have also often served as the "glue" that has linked the mainstream employment and training system together with the minority and disadvantaged client community.

The history of employment and training programs is replete with examples in which community groups have successfully promoted linkages between mainstream agencies and their disadvantaged clientele through the conduct of such activities as:

Outreach to the client community that is promoted by formal and informal ties between CBO staff and potential client groups,

Intake that is promoted by the location of many CBOs directly in the neighborhoods where clients line,

Assessment of client needs that is promoted by the rapport that can be developed between CBO staff and clients, and

Direct placement of minority groups to further affirmative action goals of major employers that is promoted by all of the other three above-listed factors.

With the increased emphasis on economic development within the employment and training systems, community-based organizations have the potential to provide new forms of linkages. Perhaps the most promising of these is promoting ties between minority small businesses and larger Chambers of Commerce or Private Industry Councils.

In recent years, there has been a trend towards centralisation of the functions of outreach, intake, assessment and placement, with Prime Sponsors directly carrying out these activities rather than subcontracting them to CBOs and other groups. It is widely believed that these centralized efforts are most desirable in smaller Prime Sponsors where geographic compactness and the relatively small numbers of clients permit centralized facilities to be accessible to those from outlying neighborhoods and where it is administratively feasible to carry them out in a single location. If, as seems likely, the service delivery areas of the future will be larger than the current prime sponsorships, the desirability of centralized outreach, intake, assessment, and placement will decline, and the relative attractiveness of delegating these tasks to community groups with a strong base in the neighborhoods where clients are drawn from will increase.

The above discussion provides logical arguments in favor of utilizing community groups to deliver services that link the mainstream organizations that are delivering employment and training services with the members of and organizations within the client community. But even if the logic is convincing to supporters of community groups, it is doubtful whether it will be enough to convince those with operational responsibility for future employment and training systems. Therefore, the burden of proof is likely to fall on community groups themselves to demonstrate that (a) such linkages are necessary if the overall system is to function as intended and (b) the community groups are better equipped to provide these linkage services than other organizational alternatives.

Doing so will not be easy. The CETA evaluation literature does not provide definitive conclusions on the relative advantages and disadvantages of utilizing community groups for outreach, intake and placement, as opposed to centralizing them within a single government agency. But the difficulty of the task does not diminish the need to proceed with it.

PROVISION OF TRAINING

The rhetoric of CBOs proclaims that community groups are more sensitive to the special needs of disadvantaged Americans than others and are therefore in a better position to provide meaningful training opportunities. The rhetoric of those who oppose CBO involvement in training stresses the importance of having up-to-date training methods and equipment, high standards, and close ties to the employer community, and notes that CBOs are often weak in these regards.

There is logic behind both sets of claims. Therefore, while strong cases can be made that CBOs deserve consideration as advocates and links to the client community, there are no obvious conclusions to be drawn about utilizing CBOs to deliver classroom training, or other skills acquisition opportunities such as on-the-job training.

CBOs have provided a substantial proportion of the total CETA classroom training services in the past. However, much of the

CBO training has been pre-vocational (e.g. orientation to work routines and English as a Second Language) as opposed to skills training. But no study that we are aware of has provided definitive conclusions about the strengths and weaknesses of CBOs as providers of either pre-vocational or skills training service deliverers.

In the absence of any hard data one way or the other, it seems prudent to avoid drawing any overall conclusions about the desirability of utilizing CBOs to deliver either pre-vocational or vocational skills training. Instead, agencies that are responsible for selecting service deliverers in the future—be they Prime Sponsors or Private Industry Councils—would be well advised to require that those who would provide such services provide them in a demonstrably effective way, i.e., to build an evaluative capacity into their programs so that those funding them can see for themselves what they are getting for their money, and can compare these results with other service deliverers in the same jurisdiction or in similar jurisdictions.

Although methodologies for assessing the performance of individual training agencies across Prime Sponsors have yet to be developed, it would be desirable that they take into account CBO claims that they are serving clients who are more disadvantaged than are the clients of other institutions, and that CBO and non-CBO service deliverers be involved in their development.

THE QUESTION OF ACCOUNTABILITY

Any effort to assess the performance of CBOs in the past and prescribe a role for them in the future must address the issue of the management performance of community groups and the widespread beliefs that such groups cannot be relied upon to carry out their employment and training responsibilities in a "businesslike" way, i.e. with adequate record keeping and accounting safeguards.

Even the most enthusiastic supporters of community groups admit that there have been instances of inadequate record keeping by CBOs that have delivered services in the employment and training systems of the past. Some of them argue that if the staff of CBOs spent more time bringing record keeping systems up to date, it would mean spending less time with clients. But regardless of the reasons, those choosing to eliminate CBOs from CETA service delivery systems have done so on the grounds of management shortcomings far more often than on the grounds of inadequate performance.

Whatever justification such excuses may have had in the past, they clearly have no place in the employment and training systems of the future in which funding will be reduced, and in which pressures to demonstrate effectiveness will become stronger and stronger. If community groups cannot meet the record-keeping and procedural requirements of those who pass out employment and training monies, they will not have much opportunity to provide any excuses in the future.

SUMMARY AND CONCLUSIONS

The employment and training programs of the future are likely to resemble those of the past in many important ways. The experience of nearly two decades of community based organization involvement in these programs appears to justify involvement of such organizations in the planning for such programs in the role of client advocates.

Although logical arguments can be advanced to explain why community groups bring special advantages to the jobs of outreach to the community, intake and assessment, and the provision of skills training and supportive services, logic alone will no longer be sufficient to guarantee roles for community groups in such functions. The CBO record seems to justify giving community groups a chance to show that they can serve the client groups of future programs as cost-effectively as anyone else. But the only way to insure future involvement of community groups in the operation of employment and training programs will be to marshall evidence that funding community groups can help to achieve the objectives of whoever is running the system. CETA Prime Sponsors, state Governors, or Private Industry Councils will be under increasing pressure to show that they are providing cost-effective services to the disadvantaged. CBOs will be under increasing pressure to help them do this.

In the past, efforts to evaluate the effectiveness of community groups have generally been left to CETA Prime Sponsors and the academic research community. But the need for demonstration of effectiveness is likely to become so great in the future that community groups would be well-advised to develop a capacity to carry out such evaluation activities on their own, so as to avoid dependence upon others.

If community groups can demonstrate the need for their services and their effectiveness in providing them, neither rhetoric nor federal regulations mandating a role for community groups will be necessary. To the extent that they can not demonstrate their effectiveness, they may be left with little more than rhetoric and nostalgic reveries for the "good old days."●

PERSPECTIVES ON THE MIDDLE EAST

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. McCLOSKEY. Mr. Speaker, during the summer recess, I was privileged to address the Commonwealth Club of San Francisco on the day after the President proposed his new Mideast peace initiative.

A copy of that speech follows:

PERSPECTIVES ON THE MIDDLE EAST

Ladies and Gentlemen: Thank you very much. If it is with some disjointedness that I address you today, it is in part because I had to rewrite my speech last night after listening to President Reagan give about four-fifths of what I was going to say to you today as to what should happen in the Mideast. Secondly, I've interrupted my honeymoon of ten days duration, the first five days on the River of No Return, the Middle Fork of the Salmon River; we go backpacking this evening, and those thoughts are much on my mind.

But with respect to the Middle East, you have seen the same papers I have: "McCloskey has become obsessed with the problem. Even his friends say he has gone too far." Let me try to lay out my perspective of the Mideast and of its importance to you, to me, to our children and to their children.

Thirty-seven years ago in this city we founded the United Nations in the hope that we could create, as we had in this country, a world forum for negotiation and dispute settlement under law, recognizing that the only methods of settling disputes peacefully were by the ballot box, the judicial decision or by negotiation, and that the only alternative was war. And in that same year, and indeed in this same San Francisco Bay Area where the United Nations was founded 37 years ago, the United States introduced to the world a weapon that was conceived largely here in the San Francisco Bay Area. And as you look across this Bay today at the Campanile and recognize that the Berkeley Laboratory and the Los Alamos Laboratory in effect developed atomic weapons, it seems fitting and proper 37 years later that we look at the problems of this world in perspectives with respect to the United Nations and to our success in controlling atomic warfare. And I would concede to you that I have been obsessed to some extent in the attempt to try to prevent nuclear war.

In the past few years it has been growing increasingly apparent that the greatest danger of nuclear war stems not from our confrontation with the Russians and their leadership which, like ours, recognized that a major nuclear war between the United States and the Soviets would destroy their civilization, our civilization and most of what the world has built up over the past 4,000 years of recorded history, but the greatest danger of nuclear war could come out of a creation of the United Nations itself—the confrontation in the Mideast, in what was once formerly known as Palestine, when the United Nations, two years after its founding, enacted a resolution creating—it thought—a Jewish state and an Arab state side by side in what had formerly been Palestine. And the creation of that Jewish state and that Arab state was under Resolution 181 of the United Nations adopted in November 1947, looking ahead to that day in 1948 when the British mandate over Palestine would be withdrawn. And I submit to you that all of us today, in the effort to avoid nuclear war, should fully understand and study the history of the conflict that has evolved in the Mideast between the Arabs and the Israelis, and particularly the incredible step forward that I think President Reagan made in his speech of yesterday and the position that he has taken.

In my judgment, we face the danger of nuclear war within the next decade between the Arabs and the Israelis unless a homeland is found for the Palestinian people; and that young Palestinians are going to fight and die until that homeland is achieved. And there is no ethnic group in this country that should understand the willingness to fight and die if necessary to achieve a homeland so much as the Jewish community throughout the world which for nearly 15 hundred years has been seeking such a homeland and has fought and paid so dearly to create and to preserve the state of Israel.

Now if you go back to 1947 and the creation of Isreal with the withdrawal of the British on May 14th, 1948, the Israelis have fought three bitter wars—1948, 1956 and 1967—because in that first 20 years following the action of the United Nations, no Arab state and no Arab individual conceded that Israel had the right to exist. The view of the Arab world and of Arabs throughout the world was that the creation of Israel was illegal; that it was a usurpation of the promises that the British and the French had made to the Arabs back in World World I when, in order to overthrow the Turks and Turkish control of that region, and Byzantine control before that, not only had the

British Balfour Declaration, in 1917, espoused Britain's view that there should be a Jewish homeland in the Mideast. At the same time the allies in World War I were promising the Arabs that if they would join in our fight against the Turks under the leadership of Lawrence of Arabia and others that there would be an Arab sovereignty in that area, something that had not existed since the days of Mohammad.

Those promises that were made in 1917 came into fruition in 1948. But for those first 20 years the Arabs did not accept Israel's right to exist. It was not until finally in 1967, when the Israelis defeated soundly the massed armies of the Arab world martialed against them, that Israel earned its right to exist. During that victory, they occupied four areas—the Golan Heights, the Gaza, the Sinai, the West Bank, known as Judea and Samaria, and East Jerusalem. Again the United Nations looked at the problem and, in 1967, adopted Resolution 242. Resolution 242 to which the President referred to in his speech last night, should be understood by every American for what it means. I want to quote to you the specific language adopted in 1967 by the United Nations, again bearing in mind that if this dispute is to be settled by law, by negotiation, by ballot box, by vote, that through the United Nations the hope exists to solve the problem other than through conflict.

There are two parts, basically, to Resolution 242. It affirms that the fulfillment of the chartered principles of the United Nations requires the establishment of a just and lasting peace in the Mideast, and should include the application of both the following principles: the withdrawal of Israeli armed forces from territories occupied in the recent conflict—the West Bank and Gaza being those relevant today; and the respect for and the acknowledgement of the sovereignty territorial integrity and political independence of every state in the area, the right to live in peace within secure and recognized boundaries, free from threats or acts of force.

Now clearly the resolution envisoned two things: First, that Israel be recognized as having a right to exist; and, second, when they would be free from force or threats of force, that Israel would withdraw from the occupied territories.

There was yet to be another war in 1973, and finally, in 1978, with Sadat's famous mission to Jerusalem. The Egyptians and the Israelis, brought together by President Carter, entered into the Camp David agreement. And, again, Camp David should be understood for specifically what it is in this step towards hopefully the building of international rules to go by.

Camp David, specifically, in its opening preamble referred to the agreement . . . UN Resolution 242, that basis, and I quote: "For a peaceful settlement of the conflict between Israel and its neighbors is United Nations Security Council Resolution 242 in all of its parts." The Israelis signed that agreement; the Egyptians signed that agreement—witnessed by the United States. Resolution 242 in all of its parts clearly envisions the ultimate autonomy and self rule over the West Bank and Gaza by the Arabs who live there—some 700,000 on the West Bank; some 400,000 on the Gaza Strip. Bear in mind that, with the 500,000 Arabs living in current Israel, if Israel were to annex the West Bank and Gaza it would have nearly as many Arabs, and more by the end of this century at their existing birth rate, than there are Israelis living in that part of the world.

Israel, thus in 1978, agreed to ultimately abandon the West Bank and Gaza in return for the guarantees of secure borders and an end to the threat of force. Getting the Egyptians off their southern flank was a tremendous achievement. The Israelis tend to say that they gave up a good deal. But look what they got: They removed a nation of 40 million people with a major armed force in the region as a threat on their southern flank with a demilitarized Sinai. Camp David left Jordan, Syria and Lebanon as potential enemies, but the armed forces of Jordan had never been significant; the Lebanese armed forces are practically nonexistent. Note what has happened in the last two months, in Syria. The Israelis destroyed over one-fourth of the Syrian Air Force and tanks with scarcely any losses at all. So during the current invasion of Lebanon, the Israelis have removed in the military threat of Syria; they removed the threat of Egypt when they signed the Camp David accords. But now, in 1982, the position of Israel has materially changed. And it changed with the election of Prime Minister Begin a year ago last June when he said on June 30 that his election was a mandate for the creation of "Yretz Israel," the historic Israel, the Israel that included Gaza and the West Bank, Judea and Samaria.

In the recent visit that a number of us made in the Mideast, we met with the heads of states of six nations, missing only King Hussein of Jordan. We met with Crown Prince Hassan of Jordan, however, and met with the defense ministers and the foreign ministers or their deputies in each country. The most significant instruction and lesson that we got, however, was in Jerusalem from an Israeli taxi cab driver who said the problem with our democracy is that we are not a rule of the majority in a democracy, our country Israel, we are the captives of a small minority, the religious parties who believe that we own the West Bank and Gaza and who believe that the historic Israel includes Judea, Samaria and Gaza. For Israel to reach its ultimate Zionist goal is to have that land a part of Israel—Ramallah, Bethlehem, Jerusalem, Nazareth and Jericho. And because of the very slender majority for Prime Minister Begin today, his government depends for its power upon the five representatives of the five percent of the Israeli people who believe that they own the West Bank, Samaria, Judea and Gaza. And to stay in power the Begin government must take the position that Begin has taken in his outright opposition to what the President said yesterday.

This creates a new problem for the United States because, until recently, the entire Jewish community and most Americans, and I included, believed that what was good for Israel was in the best interest of the United States as well. As President Reagan said when he was a candidate, you may recall, Israel is the only democracy in the Mideast; the only ally that we can rely upon. It is true that there isn't one of the 22 Arab governments that this nation can be sure is going to be governed by the same people or the same religious sect a year from today. Israel is by far the most stable of the nations in that area. But if Israel is to be our ally, and Israel does the wrong thing, and the United States backs Israel right or wrong, then we create enemies amongst the Arab nations who are irrevocably opposed to the expansion of Israel and, not only irrevocably opposed to the expansion of Israel, but with the dispersion of 4 million Palestinians throughout the 22 countries of that region, there isn't an Arab government in the Mideast that is not threatened by a Palestinian revolt or insurgency within their own country because the leadership of that country has not joined in what all Arabs agree: that there must be a restoration of a Arab participation in the holiest of all cities, Jerusalem, the temple of the Islamic faith, as well as of the Christian and the Jewish faiths.

So we are in a difficult position today, with Israel taking the position it has for the past year that it will annex the West Bank and Gaza. As Mr. Begin said in our presence: "How can we annex what is already ours?, pointing to the West Bank on the historic maps of Israel. As Mr. Sharon said a few months ago: "Shamit (in the Sinai) is the last territorial concession that we will make." You recall when they gave up the Sinai there was the conflict with their religious settlers who had settled in those areas and who resisted to the point of fire works. So here we have a situation where Israel says in 1982: "we are no longer going to accept Resolution 242 with its requirement that we give up the West Bank and Gaza." We were shown a map when we were in Jerusalem prepared by the Israelis and it showed 50% of the West Bank assigned for agricultural purposes; 40% assigned to Israeli settlements, new or planned, and only 10% to the 700,000 Arabs who live there. And in the last several years, Begin has moved to rapidly expand those settlements, to appropriate the land ownership rights, in many ways illegally, and to achieve absolute control over what is imperative to survival on the West Bank, and that is water. No Arab can drill a well. The Israelis control all new uses of water and are taking Arab water. And the circumstances are clear, I think, to any observer of that area, and have been clear to our State Department for some months, that Israel is rapidly moving to annex the West Bank and Gaza, as they have already annexed East Jerusalem and the Sinai. Which puts the United States then with the problem: Do we back Israel as we have for 32 years or do we back United Nations Resolution 242 which this country has put so much behind?

The irony of our visit in Jerusalem was that when the five of us in the Congress who met with Yasir Arafat said to him—in fact our purpose for talking with these leaders was to try to see if we could move them towards peace—"can't you accept U.N. Resolution 242?" can't you accept Israel's right to exist? Those are absolutely necessary if we are to move towards peace. "Arafat's response to us was that I can't accept 242 standing alone because 242 provides for the protection of Israel but it doesn't have any provision at all for the Palestinians. I can accept 242 if you take it in context with the other United Nations Resolutions, including 181 which creates an Arab state as well as a Jewish state. And I said, well, what do you mean? Put it in your language. He said I can accept all U.N. resolutions pertaining to the Palestinian problem if they are taken in context all together. I can accept in effect 242 with its protection and guarantees for an Israeli state, if the rest of the world will accept our right to a Palestinian state. That statement by Arafat was a very significant breakthrough. We weren't duped and we weren't misled. He made no secret of what he said. I can accept them all; I can't accept 242 standing alone. The problem that occurred was that the next day, his representatives in three different capitols, particularly Mr. Terzi, the Ambassador to the United

Nations, said he did not intend that. He didn't really intend to include 242. He couldn't have. Three days later Mr. Terzi reversed himself, went before the United Nations and said yes, Chairman Arafat and the Palestinian Liberation Organization does accept 242 as part of all of the U.N. resolutions. But by that time the press had picked up the initial denials, and the credibility of both our statements and Mr. Arafat's were destroyed perhaps for a rather extended period of time.

But not the irony of the situation today. Ask yourself this question: Why has the United States been the only government in the world in the last 60 days to try to preserve the Palestinian Liberation Organization leadership? Why? What do we have at stake? What we have at stake is (1) the oil in the Mideast which furnishes 25% of our fundamental basic economy in this country, and (2) that if the Palestinians, 4 million of them now dispersed throughout the Arab world, continue to fight for a homeland and overthrow Arab governments in that area, the very reason for our interest in the Mideast, the solidarity of that area as a barrier to Soviet expansion, is destroyed.

You recall in 1978 when President Carter said very explicity: We will repel with military force, if necessary, any intrusion of a foreign power into the Persian Gulf. why? Because on a very narrow stretch of land along the Red Sea, Persian Gulf, Kuwait, Qatar, the Emirates, Bahrain, Saudi Arabia, 25% of the oil on which the U.S. economy depends and 50% of the oil of Europe is produced. The three countries that stand between the Persian Gulf and the Soviets are Pakistan, Iran and Turkey, not one of them what you could call a stable government upon which we could rely. So the stability of that area, the continued flow of oil to the United States, upon which our economy depends, the countries like Saudi Arabia and Kuwait, which if they had an interruption of production such as we saw in Iran or following the 1973 war, could result in economic impact in this country. Those problems have been sufficient to cause an American President, Jimmy Carter, not a hawk but a dove, to say that we will repel with military force, if necessay, a foreign intrusion into the Gulf.

So we have a great deal at stake in maintaining that stability. We have a tremendous stake in seeing that the Palestinian aspirations for a homeland are met and the one barrier to both United Nations policy and U.S. policy today as announced by the President is the intransigence of a country for whom we have learned a tremendous affection and respect over the last 36 years.

The battle for peace in the Mideast will be won in the public opinion in the United States as to whether the American people and the Congress will not permit the President to stand up to Prime Minister Begin of Israel. There is no indication at this point that Begin does not mean what he says that they intend to continue the settlements and to proceed with the annexation. Or that Defense Minister Sharon, who is probably his heir-apparent, is not absolutely convinced that the last territorial concession has been made and that the historic Israel of Judea, Sumaria, all of Jerusalem and the Gaza Strip must be part of a secure Israel.

So the task in front of the United States now is a shift in policy direction of the very kind that Secretary Shultz and the President have crafted. Note that in this search for peace, and when you look at the responsibilities and privileges that we all share in the Bay Area, not that of the four men leading this policy, three of them come from the Bay Area—Secretary Shultz, Cap Weinberger, Phil Habib—and the President who comes from Southern California is advised by Ed Meese who once went through the Alameda County District Attorney's Office as some of the people in this room have done. So if there is any community which ought to play a part in the debate, the discussion, the reasonable dialogue, the formation of public opinion, in my judgment it is the San Francisco Bay Area out of which came the potential for a rule of law rather than a rule of combat in the United Nations, and where the atomic bomb which, if we go to war could destroy our civilization, was created.

Shimon Peres, who is the former Defense Minister of Israel said to us that he felt that they had a maximum of 10 years before the Arabs acquire the atomic weapon. If an Israel which is willing to destroy the city of Beirut, a town of 600,000 people, mostly Lebanese, to get at 6,000 PLO soldiers; an Israel which is willing to use cluster bombs in a city of that kind . . . and I found cluster bombs in hospitals and schools in West Beirut . . . if that kind of Israel is to be supported right or wrong, it seems to me clear that an Arab leader with all of the humiliation suffered by the Arabs throughout the last 1,000 years, that if there is not a Palestinian homeland when all of those billions of dollars that go to Saudi Arabia and Kuwait, and by them are funneled to the PLO and other Arab states, that some of those dollars are going to be used to acquire atomic weapons. And if atomic weapons are acquired by Arabs I think unhesitatingly they will be used against Israel, as I am sure that Begin and the Israeli leaders today would use them against Syria and Iraq if they felt that they were in a confrontation that meant their very survival.

So there is a tremendous amount at stake in this part of the world. And as I said the issue will not be decided by President Reagan. It will be decided by whether the people of the United States permit the Members of Congress who represent them to say for the first time we are prepared to cut foreign aid, we are prepared to cut military assistance, we are prepared to treat Israel as a sovereign nation, but no more than that. And if the interests of peace in that part of the world require that we demand of Israel that it ultimately give up the West Bank and Gaza, we should be prepared to do that. If we are not, if we do not have the political will to give our President that freedom to negotiate in foreign policy, I am very much afraid we will see an atomic war in that part of the world within this decade. And if you once have such an exchange of missiles and if the United States and the Soviets go on the kind of hair trigger alert that would then occur, I think we could see the war that would ultimately destroy mankind. And if I am obsessed with trying to prevent that, I plead guilty.

Thank you.●

A CENTENNIAL YEAR TRIBUTE TO FIORELLO LA GUARDIA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. GREEN. Mr. Speaker, it is fitting that we take the occasion of the San Gennaro Street Festival in New York City to pay tribute to a man of Italian decent who left behind a legacy of dedication and hard work for the people of the city Fiorello H. LaGuardia.

The 56th annual San Gennaro festival has been dedicated to Mr. LaGuardia, in connection with the celebration of his 100th anniversary. The 99th mayor of the city of New York is recognized by historians and New Yorkers as the most effective and innovative chief executive. Known by many as the cosmopolite of this most cosmopolitan city LaGardia chose to work toward his goal of making our world a better place in which to live through politics.

To his enemies, he was egotistical, strutting and power hungry, a demagog and a radical. To his more numerous admirers, he was colorful, dynamic, contagiously self-confident, progressive and the deadliest Tammany killer of his day.

LaGuardia, often called an irregular Republican but a Republican all the same, won 11 out of 14 campaigns in a habitually Democratic city. He rose to national prominence in national politics before entering city hall and in 1916, became the first Republican since the Civil War to be elected to Congress from the Lower East Side—the area which I represent now in Congress.

He entered city hall as mayor of New York in 1934 and quickly earned the title of "Maverick." For the next 12 years, over the city's radio stations, before the legislature at Albany, at the board of estimate, and elsewhere, he identified good government in New York City with his name.

He believed in government with a heart and dedicated himself to projects that would benefit the needy. He brought the New York City Housing Authority into being and through this established 13 public housing units by 1942.

Some of us may remember hearing his tenor-alto voice over the radio as he read the Sunday comics or may recall stories of him racing his own firemen to a fire. LaGuardia's notoriously demanding work habits were contagious among his staff of first rate administrators. Rarely concerned with following the partisan path, he liked to say: "There isn't a Democratic or Republican way of collecting garbage."

In addition to his mayoral and congressional service, LaGuardia was the Director General of the United Nations Relief and Rehabilitation Administration, a World War I aviator in Italy and, as a young man, a member of the U.S. Foreign Service. He left city hall in 1945.

During his last public appearnace, a commencement address to a boys

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school in 1947, he said: "My generation has failed miserably * * * It now requires more courage to keep the peace than to go to war." Characteristically, LaGuardia remained hopeful throughout his career that, somehow, a rising generation would learn how to make things in this world better and could pick up where he would eventually have to leave off.

I would like to join Governor Carey in proclaiming 1982 as the LaGuardia centennial year and urge all citizens to take up Fiorello LaGuardia's goal of peace and world improvement at every level.●

MOSCOW HELSINKI GROUP FORCED TO DISBAND

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. YATES. Mr. Speaker, as a Commissioner of the U.S. Commission on Security and Cooperation in Europe, the Government body charged with monitoring compliance with the Helsinki Accords of 1975, I was especially dismayed to learn that the Moscow Helsinki Monitoring Group has been forced by KGB pressure to announce the cessation of its activities.

The Moscow Helsinki Monitoring Group was founded in May 1976 by Dr. Yuri Orlov to monitor compliance by the Soviet Government with the human rights provisions of the Helsinki accords. From its inception, the group was subjected to KGB harassment and reprisals. Of the original 17 members of the Moscow Helsinki Group, 10 people were sent to prison or exile; 4 others were forced to emigrate from their homeland; and only 3 were still at liberty.

One of these last three in Sofya Kalistratova, 75-year-old attorney widely respected in Soviet human rights circles for her valiant defense of Soviet dissidents. Since December 1981, Mrs. Kalistratova has been threatened with arrest and trial. It is unlikely that Mrs. Kalistratova, who suffers from a heart ailment, could survive any prison sentence or exile. In her statement on the dissolution of the Moscow Helsinki Group, Elena Bonner, wife of Academician Andrei Sakharov, said that threats against Mrs. Kalistratova were the last straw.

At this point, I would also like to mention the fate of another Moscow Helsinki Monitor, 33-year-old Anatoly Shcharansky, a mathematician and computer scientist. He graduated from the Moscow Institute of Applied Physics in 1972. A year later, in April 1973, he was refused permission to emigrate, ostensibly on the grounds that he had access to state secrets. On July 4, 1974, just 1 day after marrying him, his wife Avital, left the U.S.S.R. for Israel without her husband, expecting him to follow in the near future. Instead, Shcharansky was barred from leaving.

He became a founding member of the Moscow Helsinki Group and soon emerged as one of the leaders and spokesmen for the Jewish emigration movement.

Shcharansky was arrested on March 15, 1977, and eventually charged with "anti-Soviet agitation and propaganda" (Article 70 of the RSFSR Criminal Code) and treason (Article 64-a). At his trial over a year later, Shcharansky was accused of working with the CIA, a charge President Carter specifically denied. After a trial that coincided with the trials of Ginzburg in Tarusa and Petkus in Lithuania, Shcharansky was sentenced on July 14, 1978 to 3 years in prison and 10 years in strict regimen camp. Even by Soviet standards, Shcharansky's treatment in prison has been abysmal, and he is now incarcerated in the notorious Chistopol Prison where he is scheduled to remain until December 1984.

Mr. Speaker, the announcement that the Moscow Helsinki Monitoring Group has been forced to cease its activities is only the latest in a series of negative developments in the Soviet Union. I note that the fledgling independent peace movement in Moscow has been suppressed by the KGB, and in the past month the Kremlin has severely curtailed telephone communications between the Soviet Union and the Free World. It is against this backdrop that the next session of the CSCE Review Conference is slated to begin in Madrid in November of this year. At this moment, I see little in Soviet behavior to suggest that they are seriously interested in finding a genuine solution to the questions of security and cooperation in Europe.●

ON BEHALF OF SOVIET REFUSENIKS

HON. ALBERT LEE SMITH, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. SMITH of Alabama. Mr. Speaker, I wish to thank all my colleagues who recently signed my letter to the Honorable Andrei Gromyko and His Excellency Anatoly Dobrynin on behalf of the Ghinis family who are refuseniks for whose emigration I have worked for the past 2 years. Most particularly, I am grateful for the support of the distinguished chairman of the House Committee on Foreign Affairs, Mr. ZABLOCKI, whose signature added much weight to this effort.

The current decline in emigration from the Soviet Union is tragic. But Soviet repression of individual freedom certainly is not new. For example, take the case of the Kasanevich family which is of great concern to me and my constituents. Mr. Kasanevich is a longtime refusenik. He and his family have been denied exit visas for 10 years on the excuse of "state secrets." During that time, the family has been constantly harassed by the KGB including threats, interrogations and smashing at the doors of his home at 5 a.m. Still, Mr. Kasanevich courageously continues his struggle to obtain an exit visa for himself and his family, and helps others as well.

This family's situation, and that of the Ghinises, is just one more reminder of what we can expect from the Soviet Union in terms of respect for the treaties which it agrees to. I urge you to keep these violations firmly in mind as you consider your support for any new agreements with the Soviet Union.●

BRIAN A. BELL: "OUTSTANDING AIRMAN OF THE YEAR"

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mrs. KENNELLY. Mr. Speaker, there are many truly outstanding volunteers in our military forces today, yet too often the accomplishments of these young men and women enlistees go unnoticed and unrecognized. Consequently, I am especially proud to bring to your attention today the record of one such individual, Air Force S. Sgt. Brian A. Bell, a 22-year-old native of Hartford, Conn.

Staff Sergeant Bell's record of achievement and excellence, compiled during 4 years of Air Force service, recently earned him recognition as an "Outstanding Airman of the Year." For the record, I would like to highlight these achievements.

Staff Sergeant Bell enlisted in the Air Force in 1978 after graduating from Hartford's South Catholic High School. He completed basic training at Lackland Air Force Base, Tex.

After basic training, Staff Sergeant Bell was assigned to Sheppard Air Force Base, Tex., for technical training as a telecommunications operations specialist. He graduated in the top 5 percent of his class.

Staff Sergeant Bell then joined the 2163d Communications Squadron at Peterson Air Force Base, Colo., where he began upgrade training. In March 1979, he completed that training to the five skill level and scored an impressive 96 percent on his end-of-course exam.

For more than 2 years, Staff Sergeant Bell was assigned to the communications security accounting section of the 2163d Communications Squadron. He was responsible for managing thousands of classified documents and codes and, again, he earned an outstanding rating for his performance.

Staff Sergeant Bell's decorations include the Air Force Good Conduct Medal, the Outstanding Airman of the Year Ribbon with star and one oak leaf cluster, and the Air Force Longevity Service Award Ribbon. He was recognized as Air Force Communications Command Airman of the Year and Colorado Springs Chamber of Commerce Outstanding Enlisted Military Representative.

While compiling a record of excellence as an Air Force enlistee, Brian Bell also found time to be active in fundraising for the Muscular Dystrophy Association and served as a volunteer at a muscular dystrophy camp in Colorado.

This outstanding individual presently serves as a Reserve liaison noncommissioned officer with the 1816th Reserve Advisory Squadron at Westchester County Municipal Airport in New York.

Mr. Speaker, Brian A. Bell is 1 of 12 outstanding airmen of 1982 who will be honored tonight at an Air Force Association banquet. It is with pleasure that I bring his achievements to the attention of this body and commend him for his excellent record of service to our country.●

COMMODORE JOHN BARRY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. BOLAND. Mr. Speaker, today marks the 237th anniversary of the birth of Commodore John Barry.

As my colleagues know, Commodore Barry is considered to be the Father of the U.S. Navy. He held the first commission in our Navy, commanded the first ship purchased and equipped to fight in the American Revolution, and captured the first enemy ship actually taken in battle.

Although his exploits at sea are best known, he also served with distinction as Washington's aide at Valley Forge and in combat at the battles of Trenton and Princeton. After American independence had been secured, John Barry fought to preserve it in actions against the French, and as commander of the first ships authorised under our Constitution.

Mr. Speaker, John Barry is an authentic American hero, but he holds a special place in the hearts of Irish Americans. Born in County Wexford, Barry came to America as a merchant seaman and, like so many of his countrymen who would follow, enriched his new home with the special qualities of courage, loyalty, and pride that characterise the Irish people. His life is an example of the things that can be achieved by those who believe in their cause and in themselves. It is fitting that we pause today to honor the memory of a man who contributed so much to the country we love.●

POSTAL REVENUE FOREGONE SUBSIDY

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. CLAY. Mr. Speaker, last month the Subcommittee on Treasury—Postal Service—General Government of the Committee on Appropriations wisely recommended an appropriation of $706 million for the postal revenue foregone subsidy during fiscal year 1983. Thus, members of the Committee on Appropriations as well as the full House will soon have an opportunity to stand up and be counted in support of our Nation's sick, aged, disadvantaged, and minorities when the subcommittee's recommendation is considered later this month.

On August 15, 1982, the Los Angeles Times published an informative article which dramatized the impact of reductions in the postal revenue foregone subsidy upon those voluntary charitable organizations which would meet the safety net necessitated by withdrawal of public support of social programs. The article merits the attention of each Member of Congress and is printed below.

HIGHER POSTAGE PUTS SQUEEZE ON CHARITIES: FUND-RAISERS REACH FEWER DONORS AND SUFFER THE CONSEQUENCES

WASHINGTON.—Even as federal officials look to private charities to take up more of the nation's social burden, fund-raising by those groups has suffered a sharp blow because of higher postage costs.

Budget cuts have reduced government payments to the postal service, and that resulted Jan. 10 in rate hikes that affected subsidized second-, third- and fourth-class mail.

"It's killing us," said Joan Holmes, executive director of the San Francisco-based Hunger Project.

The higher rates have killed Sign magazine, a Roman Catholic monthly that folded after 61 years of publication.

And officials of the American Kidney Fund say the higher rates may have been associated with the death of a Virginia woman because every dollar paid in additional nonprofit postage is taken from those waiting for financial help to obtain treatment.

ABRUPT AND STAGGERING

"The relationship between nonprofit postal rates and deaths from kidney disease is direct and real. In January, after the abrupt and staggering increase in postal rates, a woman on our waiting list died," Ellen Kay Hatch, executive director of the fund told a House subcommittee.

Although she did not name the patient involved, Hatch said her organization raises 99% of its funds via mail, and the rate increase meant that in January it had $16,000 less to spend assisting individuals.

The woman, she said, had died that month while awaiting assistance from the foundation. It was the first fatality on the group's waiting list, which grew to about 500 people last fall, Hatch said.

Subsidies holding down the rates for certain classes of mail had been scheduled to be phased out gradually by 1987, but the Reagan Administration convinced Congress to end the subsidized rate early.

Known as "revenue foregone," the subsidy for 1983 was proposed at $500 million by the Administration. However, the House postal operations subcommittee has recommended a subsidy of $913.2 million, which would roll back the rates to the original schedule. The question is now before the House Budget Committee.

27 CENTS A POUND

Under the Administration cuts, nonprofit organizations soliciting money now have to pay 27 cents a pound for bulk mail, up from 15.8 cents. And those using second-class mail to distribute publications that contain little advertising saw the per-item charge jump from 0.9 cents to 4.5 cents.

The rates for first-class mail and most profit-making magazines and newspapers were not affected, having gone up last November. The January hike did involve an increase for some newspapers, those circulated within one county. That rate went from 3.4 cents to 3.9 cents per pound, or 1.3 cents to 1.9 cents per item.

"People are going to have to cut back on the amount of mail they send out. That's going to affect their returns," said Clyde Shorey of the March of Dimes.

A 2.1-cent increase means an extra cost of $2.5 million in mailing 120 million solicitations, he said.

Charles E. Taylor, president of Wilberforce University in Dayton, Ohio, said the rate hikes will mean less income for the United Negro College Fund, and, thus, less money for assisting students at his and other schools.

"Without any doubt, fewer young American will be able to break the cycle of poverty as a direct result of the sudden and steep increase in nonprofit third-class postal rates," he said.

Jane Biral of United Nergo College Fund told a congressional subcommittee that the January rate hike forced her organization to cut back mailing by 60%, resulting in a decline in income of $500,000.

That, said Taylor, results in an average of $12,000 less for each member college, and "assuming institutional aid of $500 per student, it would mean that Wilberforce's freshman class next year would be at least 5% smaller than the freshman class on our campus today."

Carolyn A. Emigh of the Nonprofit Mailers Federation said the subsidy cuts come at the same time the government wants private groups or charities to take over more of the nation's social service needs.

Her concern was echoed by the Rev. Gerald Orlando of the Passionist Fathers, publishers of Sign.

"We're asked as a religious group to pick up the slack because of the social programs that are being dropped by the Administration and we say 'OK, we'll do the best we can,'" Orlando said. "But then we're clobbered on the other side by higher postal rates. It just doesn't make any sense to us."

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The family-oriented magazine, founded in 1921, was closed down with its May issue, despite a circulation of about 100,000.

"I think the postal rates were sort of the death blow of the magazine," Orlando said, "you could probably come up with less expensive paper in the magazine, less expensive color and things, but you can't do anything about the postal rates."●

THE PRESIDENT'S MIDDLE EAST PEACE INITIATIVE

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. McHUGH. Mr. Speaker, I would like to briefly comment on the Middle East peace initiative recently put forward by President Reagan. In my judgment, the President's statement was significant and timely. The parties in the Middle East have a golden opportunity to use this moment to broaden the peace process, and the President is right to press them to do so.

As the President said, the two key unresolved issues are the permanent recognition and security of Israel, and the legitimate concerns of the Palestinians to have some control over their own affairs. Unless these two issues are resolved, there is no chance for a permanent peace in the Middle East. Yet, if they are to be resolved, there must be broader participation in the peace negotiations, particularly by Jordan and the moderate Palestinians themselves. It is now time for them to join the Camp David process.

The President made these points forcefully and well. However, there is one key point on which I would disagree with the President. The Camp David agreement contemplated that no outside party would prejudge or impose the terms of a final settlement. Those terms were to be determined by the negotiating parties themselves.

This is a critical point. Thus, the United States should not attempt to dictate what specifically is required to assure Israeli security or Palestinian rights. For the President to suggest that a final settlement should involve Israeli withdrawal in exchange for Palestinian federation with Jordan is to prejudge the final settlement. The Israelis and Arabs themselves must work out their own arrangements. We can be an important catalyst and mediator, but not the final arbiter.

Finally, I would agree with the President that if negotiations are to have a hope of success, it will be important for the Arabs to forsake their demand for a new Palestinian state, a demand which is completely unacceptable to Israel, and, for its part, Israel should refrain from establishing new settlements on the West Bank, a process which is wholly unacceptable to the Palestinians. Unless there is mutual restraint on these two points, the negotiations will not get to first base.●

TRIBUTE TO COMMODORE JOHN BARRY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. MARKEY. Mr. Speaker, I rise today to pay tribute to one of America's first and finest heroes, Commodore John Barry. Last year, President Reagan proclaimed September 13, 1981, as "Commodore John Barry Day." Today, I rise to honor this Revolutionary War hero, the father of the U.S. Navy, and one of our Nation's most famous Irish-Americans.

As a Revolutionary War hero, Commodore John Barry was commissioned to command the brig *Lexington*, the first ship bought and equipped for the Revolution. He became a national hero with the first capture of an enemy warship in actual battle. As father of the Navy, he commanded the first ships authorized under the new Constitution. In 1794, George Washington named him Senior Captain of the U.S. Navy. Today, his memory lives on in our Nation's Capital and in his home country. He was honored in 1906, when the Congress erected a statue of him in Lafayette Park in Washington, D.C., and in 1956, when our Government erected a statue at his birthplace, County Wexford, Ireland. Beyond this, the memory of Commodore John Barry serves to inspire many U.S. citizens with Irish-American ancestry, and in particular, the Ancient Order of Hibernians, this Nation's oldest and largest Irish-American organization. Navy personnel, and all who courageously defend our country, revere this man, as do all Americans who recall our proud past and seek to strive for an even greater future.●

LEONARD LURIA: RECIPIENT OF B'NAI B'RITH GOLD MEDALLION AWARD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. PEPPER. Mr. Speaker, it gives me great pleasure to call to the attention of this House a man who has distinguished himself in business and in civic service to the Miami community. Mr. Leonard Luria has served our city with distinction for many years with the Miami Jewish Federation, the Hillel Foundation at the University of Miami, the Israel Bond Advisory Committee of Greater Miami, and as the president of the American Friends of the Hebrew University for Southeast Florida. Mr. Luria's unequaled dedication is an inspiration to all of us and a remarkable example of self-sacrifice for the well-being of others.

Mr. Luria graduated from the University of Pennsylvania's Wharton School of Business in 1947. Since 1960, he has been the president of L. Luria & Son, Inc., and remains a respected member of the Miami business community.

We recognize Mr. Luria at this time because he has been singled out by the B'nai B'rith Foundation of the United States and on the 23d of October a dinner-ball will be held in his honor at which time he will be presented with B'nai B'rith's Gold Medallion Award for Communal Service. B'nai B'rith is well known throughout our country for its many civic, charitable, and social welfare activities which benefit all of our citizens but most notably those in need. As an outgrowth of this tradition of sharing and service, the Gold Medallion Award carries with it great meaning, and Leonard Luria is a most worthy recipient of this great honor.

Mr. Speaker, as the B'nai B'rith Foundation honors Mr. Luria for his service and commitment, it is indeed appropriate that we also recognize his accomplishments. Our commemoration of his patriotism goes along with our gratitude for his many contributions and our pride in his giving spirit.●

COMMODORE JOHN BARRY DAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mrs. KENNELLY. Mr. Speaker, I am delighted to join today in commemorating Commodore John Barry, a Revolutionary War hero and an American patriot of Irish descent.

John Barry was born 237 years ago today in County Wexford, Ireland. He is widely recognized as the father of the U.S. Navy and his contribution to the birth of this Nation is not only a source of special pride to those of us of Irish ancestry, but to all Americans, regardless of heritage.

John Barry, historians say, delivered one of the first comprehensive intelligence reports on English intentions as the Continental Congress deliberated in Philadelphia over the merits of independence.

After the Colonies declared themselves free and independent, John Barry was named commander of the *Lexington*, the first ship bought and equipped by the United States during the Revolution.

Commodore Barry was the first American commander to capture an enemy ship in battle.

And, after the Revolution was over, when the sovereignty of the United States was threatened by pirates, Commodore Barry was placed in charge of the *United States*, one of the first ships acquired under the new Constitution. At the same time, he was named senior captain in the U.S. Navy.

President George Washington, in granting Commodore Barry his commission as senior captain in 1794, extolled him as a man of "patriotism, valor, fidelity and abilities."

These are qualities we all take pride in as we honor Commodore John Barry and remember his contribution to the American Revolution and the creation of the U.S. Navy.

It is fitting that today, the 237th anniversary of his birth, be designated "Commodore John Barry Day." Commodore John Barry was one of the first and greatest American patriots of Irish descent.●

EDUCATION FOR ALL HANDICAPPED CHILDREN—PUBLIC LAW 94-142

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. MARKEY. Mr. Speaker, I would like to express my concern and outrage over proposed regulatory changes by the Reagan administration which will cripple the Education for All Handicapped Children Act, Public Law 94-142.

Just when real progress could be discerned in this area, the Department of Education, via the Reagan administration, is turning its back on this important issue. I do not understand this move; what can be more important than our children? How can anyone possibly rationalize an escalating defense budget, which supposedly is meant to protect us, while at the same time ignore the needs of our children, our future.

This law, Public Law 94-142, is working. The goal is simple and forthright: to provide a free and appropriate public education to all handicapped children. Proof of the fact that this goal is being met is the millions of handicapped children across the country who are doing well, and making previously unheard of strides, in our public schools. We must continue to go forward, not retreat, as these regulations would insure.

The importance of Public Law 94-142 cannot be understated or undermined. This act represents the opportunity for all handicapped children to reach their maximum potential. It means a chance for achievement and for acceptance—a chance to make a contribution to society.

The administration has repeatedly tried to destroy Public Law 94-142, first by placing it in a block grant, which Congress rejected; then by attempting to cut its funding; and now by changing its regulations. The Congress must, and will, continue in its efforts to block the administration's attempts at crippling this law which serves to protect and nurture our country's 4 million handicapped children. The regulations, if not withdrawn, must be rejected.●

OUR HEALTHY FLEET

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. BIAGGI. Mr. Speaker, during the recent past, there have been several replies by knowledgeable persons in the field of international ocean shipping in response to a Washington Post editorial that claimed that our U.S.-flag maritime fleet is doing fairly well and is in much better shape than we have been led to believe. I would like to reprint these rebuttals for the information and assistance they can provide us. However, before I do so, I would like to make a few observations of my own.

Today, our Nation is the greatest consuming and producing nation in the world, and the importation and exportation of goods has helped our economy and our prosperity grow so as to provide us with the best living standard in the world. However, the present market share of U.S.-flag shipping, which is engaged in the transport of these goods, is hovering around 3.6 percent.

In the past 10 years, this greatest trading Nation in the world has seen 10 U.S.-flag steamship companies go bankrupt—an average of 1 a year. At the present time, there are two more U.S.-flag carriers that are in a poor financial situation. We are increasingly dependent on foreign-flag vessels for the export of our products to the marketplaces of the world and the importation of our consumer goods. A look around the harbors of Baltimore, New York, and any other U.S. port will confirm our dependence on foreign-flag shipping. These are the facts. The reasons for the decay and what can be done to reverse this decline are the difficult questions that we have been trying to resolve.

What I want to see and what the Congress has been trying to do is to provide the incentive and climate so that U.S.-flag vessels will carry a fair share of our trade, in a competitive manner, so as to benefit all of us who depend on international trade. The key element that we must always consider is internationalism. Our fleet must compete with foreign fleets and operate within international regulations, rules, and policies. Ocean shipping is not like domestic trucking where the rules are the same and are enforced in an equal and equitable manner.

Simply stated, the problems of a healthy U.S.-flag merchant marine go far beyond the simple statements in uninformed editorials. The following informed responses to the Washington Post editorial are proof of the complicated nature of the issue of a healthy U.S.-flag merchant fleet.

[From the Washington Post, July 27, 1982]

"The Healthy Fleet" contained serious errors in fact. The exemption from U.S. antitrust laws granted to the international shipping industry is not a new one—it has been in effect for over 65 years. Amended some 33 times and the subject of numerous decisions of the court, the 1916 Shipping Act has become severely distorted over the years. The primary thrust of the legislation currently under consideration by both houses of the Congress is to spare the shipping public from the unnecessary delay and expense of an inappropriate and burdensome regulatory process, one that has evolved from these distortions. Relief from the burden of regulation will allow commercial entities to better respond to an extremely dynamic marketplace, thus further promoting competition in this industry.

Regardless of our quarrels over the health of the U.S.-flag merchant marine and the level and type of government support it requires, the desirability of effecting regulatory reform and retaining the antitrust exemption is not dependent on the conclusions of the GAO report.

ALAN GREEN, Jr.,
Chairman, Federal Maritime Commission.

Unfortunately, the health of our merchant marine is far from sound, as evidenced by shrinking employment, lower profits, and recent bankruptcies.

Under present law, ocean carriers are permitted to act collectively, but sometimes are in danger of having violated the antitrust laws. During the last 15 years, the federal courts have severely eroded the antiturst exemption provided by the 1916 Shipping Act. Because of this uncertainty, and the administrative delay in obtaining exemptions, ocean carriers have been constrained from making otherwise sensible commercial decisions. This has greatly impeded the effectiveness of the conference system in our trades, and outraged our trading partners. Although our foreign trade is also the trade of our partners, we now find ourselves not only out of step with the rest of the world, but also attempting to apply our antitrust laws extraterritorially.

Legislation (S. 1593, the "Gorton Bill" and H.R. 4374, the "Biaggi Bill") before Congress today is designed to eliminate regulatory burdens hampering all operations in U.S. trades. At the same time, it would protect independent carriers and shippers by prohibiting specified anti-competitive practices.

The reforms the administration supports would make it easier for companies and conferences not only to enter into agreements among themselves for more efficient service,

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but also to bring our unique regulatory policies more in line with the rest of the world.

H. E. Shear,
Maritime Administrator,
U.S. Department of Transportation.●

JOHN BARRY

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. SHANNON. Mr. Speaker, 1 year ago today, September 13, 1981, was proclaimed by our President as "Commodore John Barry Day." It was an appropriate way for our Government to honor an early, great Irish-American. And it is appropriate again this year that we pause to honor the man who has often been described as the "Father of the United States Navy."

John Barry was born on this day in 1745, in County Wexford, Ireland. Like millions of other immigrants since, he crossed an ocean with the desire to make his way in this new land. In fact, John Barry was to become one of those great patriots who fought for the creation of the United States of America. During the Revolutionary War he commanded the brig *Lexington*, which was the first ship bought and equipped for the War of Independence. He became a national hero when he led the first capture of an enemy warship during battle.

Our first President relied on Barry during those difficult days at Valley Forge. Later, Barry returned to the sea where he continued to serve his country with effectiveness and with honor.

Today, let us honor the memory of the man who represents part of the great tradition of Irish-Americans. Commodore Barry demonstrated that a single individual can make significant contributions to the welfare of his nation. We acknowledge him as a great Irish-American patriot.●

LEGISLATION TO REPEAL MILITARY RETIREMENT COLA OFFSET

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. DICKS. Mr. Speaker, today I introduced legislation to repeal the provision of the Omnibus Reconciliation Act which reduces civil service pay for military retirees working for the Federal Government by the amount of the military retirement cost-of-living adjustment they receive.

This action is blatantly unfair to military retirees and will have devastating impact on the civil service, particularly at defense industrial facilities.

We have established a program of veterans' preference for those seeking to work for the Federal Government. The intent of this program is to recognize the sacrifice made by those who have served honorably in the military service and who have often developed important skills applicable to the Federal Government's needs. By this action to offset retirment cost-of-living adjustments the Congress is undermining the very fiber of the veterans' preference concept.

Certainly the offset will significantly lower the incentives for military retirees to join the Federal service. He or she will receive no penalty if they seek employment in the private sector. Let me give you an example of what this will mean. For the last few years at facilities such as Puget Sound Naval Shipyard it has been virtually impossible to recruit quality nuclear engineers out of schools or from the private sector. The reason is that because of repeated pay caps on civil service employment, the Federal sector is now running 18 percent behind comparability with the private sector overall and substantially further behind in high skill professions such as engineering.

We have been able to meet requirements thus far, at least to some degree, by recruiting nuclear trained personnel who are military retirees. Now, that option will be much more difficult, and the critical work on our nucelar warships will be jeopardized.

In addition, the offset will create a second class of civil service worker. Employees working side by side at the same job will be receiving different pay if one is a military retiree and the other is not. This wage differental will be magnified when a person's civil service retirement is calculated and will follow him or her throughout their entire life.

By adopting the bill I introduced we can eliminate this inequity and avoid serious problems in maintaining an effective civil service. This provision was not included in either the House or Senate bill. It was pulled out of the hat as part of an overall deal in conference. In my judgment it was not well thought out and deserves to be reconsidered. If there are those who believe that we are overly generous with military retirement, let them address the issue directly and see if the Congress concurs in their judgment. Do not unfairly punish one group of military retirees through a last minute action.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Omnibus Budget Reconciliation Act of 1982 (H.R. 6955, Ninety-seventh Congress) is amended by striking out subsection (d).

Sec. 2. The amendment made by the first section of this Act shall take effect as of the date of the enactment of the Omnibus Budget Reconciliation Act of 1982.●

CONCERN ABOUT H.R. 6046

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. EDWARDS of California. Mr. Speaker, I rise to express my concern about H.R. 6046, the Extradition Act of 1982.

This bill as reported not only fails to correct the current deficiencies in the extradition process but rather dangerously narrows the scope of judicial review. It would create the risk that the foreign dictatorships such as the Philippines, Taiwan, El Salvador, or South Africa could in collaboration with the executive branch, deprive Americans and foreigners alike of rights that the Constitution entitles them to.

This bill is far too important and complex to rush through the House in the next month. I hope that it will not be scheduled for debate. If it is, I intend to insist that it be debated fully and that we give careful consideration to a series of amendments that will cure the deficits in the legislation.

Under the bill as reported, a foreign government with the cooperation of the Justice Department, can have an American or a foreigner held without bail for at least 10 days without even presenting any evidence of a crime.

The definition of a political offense for which extradition would not be permitted would be drastically narrowed and courts would be precluded from inquiring into allegations that a request for extradition was a subterfuge for an effort to punish someone for their political views or that the individual would be denied due process.

Mr. Speaker, the problems with this bill are well laid out in a letter from the ACLU and an op-ed piece by Christopher Pyle. I ask unanimous consent that they be printed in the Record at the conclusion of my remarks.

[From the New York Times, Aug. 11, 1982]

Ruining Extradition

(By Christopher H. Pyle)

South Hadley, Mass.—For more than two centuries, the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. That policy may be about to end.

Under either of the extradition bills now cleared for debate in Congress, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

For example, both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Under current law, no American court will allow a person to be extradicted if it can be shown that he or she is really being sought for "an offense of a political character." Each bill would, in its own way, destroy this defense.

The Senate bill, which the Administration favors, would do so by stripping the courts of jurisdiction over the political crimes defense. Instead, the accused would have to raise his claim with the State Department, which could then decide whether protecting him from persecution is worth the risk of alienating the foreign government involved.

The State Department's motive for supporting this bill is clear. It wants to be able to swap alleged criminals with foreign countries the same way that children trade baseball cards: "We'll give you one terrorist if you give us three embezzlers."

The House bill seems more protective of political refugees than the Senate bill because it would keep in the courts the power to decide the political crimes defense. However, the appearance is deceptive, because the House bill would forbid the courts to regard as political, and hence not extraditable, any offense involving bodily violence or a conspiracy to commit bodily violence. There is a tiny exception for crimes committed under "extraordinary circumstances," but the bill does not say what they might be. All that is clear is the political message: Protecting foreign revolutionaries from return to authoritarian regimes should be a rare, not common occurrence.

As if to emphasize a preference for authoritarian regimes, both bills would forbid the courts to question whether a request for extradition was really a subterfuge for persecution. Nor would the courts be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the ground that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment. Judgments of this sort would be left to the State Department, which currently pretends that El Salvador protects human rights.

The Administration claims that the courts should be denied the power to look into foreign injustice in order to assure the neutrality of the United States in foreign political conflicts. However, there can be no doubt where the Justice Department's sympathies would lie; both bills would require its lawyers to represent all foreign governments in their extradition requests. The United States would be neutral—on the side of whoever happens to be in power.

In anticipation of this legislation and a treaty to implement it, the Marcos dictatorship is requesting the extradition of more than a dozen of its opponents now living in the United States. One of those charged with plotting in the United States to support bombings in the Philippines is Benigno Aquino Jr., an associate at Harvard University's School of International Affairs who ran against President Ferdinand E. Marcos in the last free election. The only "evidence" against Mr. Aquino comes from the confession of an alleged coconspirator who later recanted, claiming he had been tortured. However, if either bill now before Congress passes, that evidence will be sufficient to send this democratic politican back into the hands of the dictator he opposed.

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON OFFICE,
September 8, 1982.

DEAR REPRESENTATIVE: I write to express the strong opposition of the American Civil Liberties Union to H.R. 6046, the Extradition Reform Act of 1982, as reported.

The ACLU supports efforts to modernize and reform extradition procedures which would protect civil liberties while facilitating the extradition of those charged with serious crimes. We are, however, adamantly opposed to the current bill because it would prohibit the courts from reviewing extradition demands by foreign governments to insure that no demand is part of a foreign effort to suppress political dissent. The bill would also permit individuals—U.S. citizens and foreigners alike—to be held without bail upon the mere allegation by a foreign government that an extraditable crime has been committed.

For more than two centuries the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. Although the stated purpose of the bill is to facilitate the return of terrorists, it is drafted so broadly that it would endanger the very persons that American law governing extradition has always shielded: critics of authoritarian regimes, whether they are U.S. citizens or foreigners.

If H.R. 6046 is brought to the floor of the House, we urge you to support amendments which would alter provisions in the legislation that now:

Require the court to hold an individual for at least 10 days based upon a mere request of a foreign government with no supporting evidence, unless the person can affirmatively demonstrate that he or she should be released;

Define the long-standing political crime exception to extradition so narrowly as to exclude in almost all circumstances crimes which in any way include violent conduct; and

Prohibit a court from inquiring into allegations that a state is seeking extradition of a person for the purpose of prosecuting such person because of his or her political opinions, race, religion, or nationality.

Consider just a few situations in which the courts would have no choice but to act:

A foreign government's mere, unsubstantiated allegation that an American citizen had, on a visit to that country, conspired to commit a violent act, coupled with a promise to produce evidence at a later date, would compel that the person be held without bail for at least 10 and perhaps for more than 60 days.

A leading critic of a foreign dictatorship could be extradited based on allegations that he engaged in violent acts, without having the opportunity to demonstrate that the charges were a mere subterfuge to punish him for his political views or that he would be subjected to arbitrary detention or torture if extradited.

An individual who used violence to escape from a foreign prison where he was being tortured or who used force directed at military units as part of an uprising against a repressive regime would be unable to claim the political exception to extradition which has traditionally been the hallmark of American extradition law.

It is not sufficient that the Executive branch could decline to file a complaint or to extradite in a particular case of manifest injustice. Every administration is under enormous pressure from its allies to extradite political opponents of the regime and to ignore evidence of torture or lack of due process. The recent decision by the Reagan Administration to certify that the government of El Salvador is not violating international human rights standards is but one recent manifestation of this continuing phenomenon.

The concerns that we have about this bill are anything but hypothetical. If it is passed, the government of the Philippines has served notice that it will seek extradition of Benigro Aquiro, Jr., who ran against President Marcos in the last free election and is now an associate at the Harvard University Center for International Affairs. Aquiro is an internationally prominent advocate of peaceful opposition to the Marcos regime who has been charged with planting bombs in the Philippines.

Since the Senate has enacted a similar bill, action in the House is necessary to prevent a serious erosion of civil liberties. When H.R. 6046 comes to the floor, we urge you to support amendments to deal with these problems. If such amendments are not passed, we ask you to vote against passage of the bill.

Yours sincerely,

JOHN SHATTUCK
Director.●

PRIMARY CAUSE OF FALKLANDS WAR

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. BENNETT. Mr. Speaker, I include at this point in the RECORD an article written by Gen. J. D. Hittle, U.S. Marine Corps, retired, recently in the Navy Times. It is a thought-provoking and issue-raising article which all people interested in the defense of our country and of Great Britain should give consideration to. The purpose of General Hittle and others who raise questions like this is not to cast criticism but to point out the things that need to be done in the future if we are to maintain the naval strength in the free world that is so greatly needed.

COST CUTTING AT ROYAL NAVY'S EXPENSE WAS PRIMARY CAUSE OF FALKLANDS WAR

(By J. D. Hittle, Brig. Gen., USMC (Ret.))

The British may be understandably pleased over their victory in the distant misty realm of sheepherding. Nevertheless, they want to know how they got into the Falklands war—so costly in lives, ships and money—in the first place. The result is that Prime Minister Margaret Thatcher has re-

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sponded to the public and Parliamentary demands by creating a six-man panel to investigate why the Falklands war happened.

There are some intriguing things about this investigation. For one thing, it wasn't necessary. A primary reason there was a crisis that developed into a war was a simple and obvious one: The Thatcher government decided not to provide the Falkland Islands, whose sovereignty was in intense dispute with Argentina, with the naval protection of even a single combat surface ship. There was not even as sea sentry to make a visible show of British resolve to protect and retain the Falklands.

The disinclination or inability to provide even symbolic Royal Navy surface protection for the Falklands was an invitation to the anxious Argentines and, thus, a root reason for their miscalculation that led to seizure and war.

It's pretty well recognized that a key reason the Royal Navy had no surface ships in Falklands waters was that the Royal Navy was in the process of having its surface ships, naval aviation and amphibious capabilities drastically reduced.

This astounding anti-naval policy was the direct result of a plan by Mrs. Thatcher and her defense minister, John Nott, to scuttle a large part of the Royal Navy's conventional warfare strength. The reason, if it can be so termed, was to help get the money to procure four Trident missile submarines. This would put the Thatcher government into the international "nuclear club." That it would reduce the kind of conventional naval forces needed for protection of NATO Atlantic sea lanes—or protection of England's overseas colonies—didn't seem to matter.

It is now a matter of sad record that Mrs. Thatcher and Nott disregarded warnings, among which was the informed protest of the civilian head of the navy, Keith Speed. His reward for trying to prevent the anti-naval policy was to be fired by Mrs. Thatcher. Thus, another paradox of the Falklands tragedy and its causes was that Speed was sacked for being right, and Defense Minister Nott, who pushed the scuttling of so much of the navy, is, as of this writing, still defense minister.

Mrs. Thatcher said that the panel should not restrict itself to the policies of her government, but should also look at policies of previous governments.

Understandably, Mrs. Thatcher didn't want her policies to be the only target of investigation of the origins and handling of the Falklands war. Apparently she believes there is plenty of blame to go around. If Mrs. Thatcher is thinking in terms of overall reduction in defense forces, including the Royal Navy, she is correct. The trend in British naval strength has been generally downward since the Suez debacle in 1956. Soon afterward, the decision was made to withdraw from east of Suez and focus on defense of the home islands and NATO.

Yet it will be difficult for the investigators to avoid putting the finger on the Thatcher-Nott responsibility for an immediate cause of the Falklands crisis.

What they did was a hatchet job on conventional naval power. Naval aviation and amphibious forces were special targets. The Royal Navy task force that sailed for the Falklands was a valiant but handicapped one. It did not have a single large carrier, such as the U.S. Navy has, to project power against land targets and to provide far-out protection of the fleet from enemy air and sub attacks. Both of the Royal Navy carriers were small and specialized for antisub protection of NATO sea lanes.

Of these two carriers, one, the HMS Invincible, had already been sold to Australia! The Royal Marines, the amphibious specialists, were available for the Falklands as the result of some fortunate happenings. British sources say that part of the Thatcher-Nott plan for cutting back conventional naval power called for the disbandment of the Royal Marines. They were spared such a fate because, these sources say, civilian navy boss Keith Speed's protests helped expose the scheme before it became an accomplished fact.

So it is precisely in the targeting of naval aviation and Royal Marines where, if the investigators go back far enough, they will find precedent for the Thatcher-Nott anti-naval plans that helped set the Falklands stage.

Mrs. Thatcher may feel some satisfaction in the recognition that her plan for downgrading naval aviation and amphibious capabilities was not her invention. That satisfaction may be dulled a bit when the precedents for her plan are recognized.

Here's why: The historical origins of the Thatcher-Nott plans for drastic reduction of naval aviation and amphibious power go back to the period soon after World War I.

Two key features of that era of dismal and disjointed British defense policy were the virtual dissolution of naval aviation and the failure to develop an effective amphibious capability. England's navy emerged from World War I with its own Royal Naval Air Service. The echo of the war's final shot had hardly faded before the British government decided the navy didn't need its own air arm. The result was that naval aviation was snatched away from the Royal Navy and merged into the Royal Air Force.

Thus, the development of England's naval aviation was placed under the bomberminded, single air force advocates. In such a predicament, the art of naval air war intellectually and physically withered. This sorry situation continued for 21 years. It was not until 1939, when the menacing clouds of war swirled low on the horizon, that naval air was reconstituted as an integral part of the Royal Navy. But, as events were to demonstrate, the remedial action was late. As World War II proved, England's dereliction of carrier war development could not be quickly rectified by recognition of the error on the eve of global war.

The late James Forrestal, our first Secretary of Defense, who understood the value of the U.S. concept of balanced naval power, summed up that early British anti-naval air policy: "The consequence of this neglect was that the British went into war with a totally inadequate naval air force."

Just as the Thatcher-Nott cutback in naval aviation contributed to unnecessary losses in the Falklands, the pre-World War II hobbling of naval aviation set the stage for the loss of HMS Prince of Wales and HMS Repulse to Japanese air attacks off Malaya and the sinking of HMS Glorious off Norway—all largely due to the lack of adequate naval aviation.

Similarly, in the period between World War I and World War II, British defense policy had as little regard for amphibious warfare as it did for naval aviation. Yet, while British defense officials let amphibious matters languish in neglect, the U.S. Navy and Marine Corps proceeded to develop the amphibious doctrine equipment and specialized forces that became a key to victory in that global war.

The perceptive James Forrestal also saw the British dereliction of amphibious matters and understood its cost. Commenting on the British defeat in Norway, our first Secretary of Defense said: "That disaster, which profoundly affected the course of the entire war, was more than a failure of 16,000 men, it was a failure in the exercise of seapower on the part of the then largest navy in the world, and it was due entirely to the lack of a small, specially trained amphibious force such as we have in the form of the U.S. Marines, to supplement ashore the action of the fleet at sea."

It is worth noting that British naval aviation, after release from captivity in the Royal Air Force and largely due to policies of enlightened defense thinkers such as Winston Churchill and Mountbatten, eventually forged an effective carrier warfare capability. So also, the Royal Marines, under favorable defense policies and by close liaison with U.S. Marines, achieved a highly professional amphibious effectiveness. Strangely, it was these laboriously attained naval air and amphibious capabilities that were selected as targets of the Thatcher-Nott anti-naval plan.

As the historical record so clearly shows, such governmental attitude didn't begin with Prime Minister Thatcher's tenure in office. It had precedent and a long period of acceptance during the period between World War I and World War II.

The irony is that it was the era dominated by the drastic defense cutbacks of Labor Prime Minister Ramsay MacDonald, the strategic timidity of the Baldwin government, and the disastrous bumbling of the archappeaser Neville Chamberlain.

It will be interesting to see if the investigating panel looks far enough back to find these naval air and amphibious policy blunders that are precedents for the same kind of mistakes that contributed so heavily to the Falklands war and the cost of winning it.

It would be even more interesting to see how the present conservative Tory government explains why it backtracked to the weak-kneed era of isolationism and appeasement and embraced two of that period's most disastrous defense mistakes.●

ANNUAL LEGISLATIVE POLL RESULTS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to provide my colleagues with the findings of my annual legislative questionnaire. The response to my poll was tremendous and I am deeply gratified by this demonstration of interest in current issues.

Since I was first elected to Congress, I have been conducting an annual survey because I believe that a democracy functions best when there is an open line of communication between the people and their elected representatives. The questionnaire provides a unique opportunity for me to better understand the thoughts and concerns of the people of the Sixth Congressional District. It also enables constituents to play an active role in the legislative process by making their views known.

Mr. Speaker, I believe my colleagues will find the results of my poll interesting and useful, which is why I am making it available to them through the CONGRESSIONAL RECORD:

THE ECONOMY

1. Do you feel the Administration is moving in the proper direction with its economic policies? Yes, 43%; no, 46%; undecided, 11%.

2. Congress is debating a number of methods to reduce unnecessary and costly government regulations. Do you favor legislation requiring federal agencies to perform cost-benefit analyses before issuing major rules and regulations? Yes, 79%; no, 11%; undecided, 10%.

3. Do you support legislation to amend the United States Constitution to require a balanced federal budget except in times of national emergency? Yes, 69%; no, 20%; undecided, 11%.

4. Do you support the Administration's "New Federalism" proposal to transfer many existing federal functions to the states and local governments? Yes, 44%; no, 48%; undecided, 8%.

5. Many economists feel high interest rates will retard economic recovery. The Chairman of the Federal Reserve Board, Paul Volcker, believes that a tight monetary policy is necessary to keep inflation down. Do you feel the Federal Reserve Board should relax its present monetary policy? Yes, 46%; no, 38%; undecided, 16%.

6. The U.S. trade deficit is approximately $40 billion, and the high level of imports is aggravating our economic problems. What do you think our policy should be with respect to trade and imports?

a. We should adhere to the principles of free trade and take no action to curb imports: 9.8%.

b. We should take action only against those countries which erect barriers against our goods, or subsidize goods sold in the U.S.: 30.1%.

c. We should impose import quotas on certain products to assist depressed industries: 20.9%.

7. What actions do you favor to create more jobs?

a. Lower interest rates: 26.9%.

b. Restrictions on imports: 15.1%.

c. Public work programs: 16%.

d. Tax and regulatory incentives to business: 16%.

e. None of the above: 1.3%.

FOREIGN AFFAIRS

8. Do you agree with the Administration's position in support of Great Britain in the Falkland crisis? Yes, 66%; no, 22.3%; undecided, 12.1%.

9. In light of the Falkland crisis, what do you think United States policy should be regarding Argentina?

a. Restore a close working relationship with Argentina, involving economic and military aid: 24.2%.

b. Make improved relations with Argentina dependent upon the development of democratic institutions in that country: 52.3%.

c. Keep relationships with Argentina at a bare minimum for some time to come: 23.2%.

10. Do you think the United States should continue to extend military assistance to El Salvador? Yes, 29.9%; no, 53.6%; undecided, 16.5%.

11. The Polish government continues to suppress its people under a strict martial law policy. How do you feel the United States should respond to this situation?

a. Continue economic sanctions on the Polish government until it lifts martial law: 26.6%.

b. Ease sanctions to induce the Polish government to allow more freedom: 11.3%.

c. Pursue a harsher policy toward the Polish government: 7.9%.

d. Focus our policy on the Soviet Union, increasing pressure on that country to improve conditions in Poland: 29.4%.

e. Maintain a "Hands-off" policy: 20.7%

EDUCATION

12. The Congress is considering whether or not to give tax credits as one form of relief to families who are paying tuition for children enrolled in private educational institutions. Do you think Congress should allow tuition tax credits for:

a. Private elementary and secondary schools: Yes, 42.6%; no, 42.5%; undecided, 14.9%.

b. Colleges and universities: Yes, 49.2%, no, 39.5%; undecided, 11.3%.

THE ENVIRONMENT

13. This year the Congress will reauthorize the Clean Air Act. Some feel the act should be relaxed to stimulate our economy. Others believe that maintaining strong clean air standards is essential to prevent catastrophic deterioration of our environment. What do you think the Congress should do with respect to the Clean Air Act?

a. Make it stricter: 35%.

b. Keep it about the same: 35%.

c. Relax some of the standards: 24.2%

d. Undecided: 5.8%.

DEFENSE

14. There are currently several proposals in the Congress calling on the United States and the Soviet Union to immediately freeze their nuclear arsenals because both sides have more than enough weapons to defend themselves. Opponents of this strategy argue that a freeze is inflexible and reduces the incentive for the Soviets to negotiate substantial reductions in their nuclear arsenal. Do you support legislation calling on the U.S. to immediately freeze the development of nuclear weapons? Yes, 32.1%; no, 54.5%; undecided, 13.4%.

15. The Congress is debating the level of funding for the Defense Department. In general, do you feel that defense spending should be:

a. Somewhat increased: 29.8%.

b. Kept at current levels: 36.2%

c. Somewhat reduced: 34%.

ENERGY

16. Despite the unresolved risk inherent in the potential of nuclear power, do you feel we should continue our research in developing this energy source? Yes, 68.1%; no, 23.8%; undecided, 9.6%.●

COMMODORE JOHN BARRY DAY

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. DOUGHERTY. Mr. Speaker, September 13 marks the commemoration of Commodore John Barry Day, for it was 237 years ago today that John Barry, known as "the Father of the American Navy," was born in County Wexford, Ireland. Commodore Barry became a hero of the American Revolution when the ship he commanded captured an enemy ship in battle. After the Revolution, he bravely defended our new Nation against the pirates who attacked American ships on the high seas.

I am particularly proud of Commodore Barry's accomplishments for two reasons. First, as a member of the congressional Friends or Ireland, and a grandson of Irish immigrants, I can certainly appreciate the efforts John Barry took in coming from that grand country across the ocean to live in America. Second, as a member of the Seapower Subcommittee on the House Armed Services Committee, I respect the commodore for his leadership role in developing our country's Navy, which has proven so vital for a nation surrounded by water.

For these reasons, I join my colleagues today in saluting Commodore John Barry, the "Father of the United States Navy."●

ITALIAN TERRORISM MUST BE WIPED OUT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 13, 1982

● Mr. BIAGGI. Mr. Speaker, the shocking September 3 murder of Gen. Carlo Alberto Dalla Chiesa has once again focused world attention on Italy and her vulnerability to terrorism.

Gen. Dalla Chiesa was one of Italy's most outspoken, respected, and effective figures in law enforcement. On September 3 the general and his wife were in their car riding down a street in Palermo, Sicily when they were ambushed and murdered by a group of terrorist gunmen.

The general had been assigned by the Italian Government to Palermo in May to investigate still another terrorism murder, that of Mr. Pio La Torre, a regional Communist Party leader and another outspoken critic of organized crime in Italy.

Gen. Dalla Chiesa's murder evoked a strong and emotional reaction throughout Italy and Sicily. His death marked the end of a career which spanned more than 30 years in the fight against crime. The general fought against banditry after World War II and in the years up until his death, concentrated his energies on Italy's two main criminal elements—organized crime and political terrorists.

Gen. Dalla Chiesa was a fearless man—always willing and able to rise to the occasion in the fight against crime. In the eyes of many Italians

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Gen. Dalla Chiesa died as the hero which millions considered him to be.

The anger and frustration of the Italian people about the murder of the general was evident at his funeral service. In his eulogy, the Archbishop of Palermo—Salvadore Cardinal Pappalordo attacked the perpetrators of the crime and was also critical of the reaction of those in government. He said:

> The slower and more uncertain are the actions of the state, the more opportune, decisive and violent are the actions of those who have the mind, the will and the might to strike.

I find tremendous significance in his words. It is absolutely essential that government and law enforcement agencies fight the scourge of terrorism as they would any enemy which poses such a threat to the internal security of her people. Not since the 1978 kidnap and murder of former Prime Minister Aldo Moro have the people of Italy reacted in such a united fashion against the terrorist elements in their nation. It is now time and it would be the most appropriate and meaningful tribute to the memory of General Dalla Chiesa for the Government of Italy to declare war against crime and terrorism. The fact that the government clearly has the people behind them should aid them immeasurably in this campaign.

A nation of laws must never yield to the forces of lawlessness. Italy must work to rid itself of terrorism and the United States should lend all necessary support to this important endeavor.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 14, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 15

9:30 a.m.

Judiciary

To hold hearings on S. 2428, proposed Trademark Counterfeiting Act.

2228 Dirksen Building

Labor and Human Resources

Business meeting, to resume consideration of proposed legislation establishing a program to increase the availability of information to the American public on the health consequences of smoking and thereby improve informed choice, and to consider the nomination of Gary L. Jones, of Virginia, to be Under Secretary of Education.

4232 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Finance

Business meeting, to resume markup of S. 2673, providing a Federal income tax credit for tuition to lower- and middle-income families, and to consider miscellaneous tariff measures.

2221 Dirksen Building

Foreign Relations

Arms Control, Oceans, International Operations, and Environment Subcommittee

To hold hearings on "Law of the Sea."

4221 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

1:30 p.m.

Conferees

On S. 2036, providing for State and local employment and training assistance.

Room to be announced

2:00 p.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up S. 2245 and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Foreign Relations

To hold hearings on the nominations of Richard R. Burt, of the District of Columbia, to be Assistant Secretary of State for European Affairs; Rozanne L. Ridgway, of the District of Columbia, to be Ambassador to the German Democratic Republic; and Henry Allen Holmes, of the District of Columbia, to be Ambassador to Portugal.

4221 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

3:00 p.m.

Conferees

On H.R. 4717, amending the effective date provisions of section 402(b)(3) of the Windfall Profit Tax Act of 1980 (Public Law 96-223) to further defer the effective date of certain provisions providing for the recognition as income of LIFO inventory amounts.

H-208, Capitol

SEPTEMBER 16

9:30 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To resume oversight hearings on the activities of the Export-Import Bank of the United States.

5302 Dirksen Building

Budget

To resume hearings on proposals reforming the Congressional Budget Act of 1974, including S. 13, S. 50, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2864, S. 2069, and S. 2454.

6202 Dirksen Building

Commerce, Science, and Transportation

*Surface Transportation Subcommittee

To hold hearings on the effects of coal slurry pipelines on the overall national transportation system.

235 Russell Building

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Finance

Health Subcommittee

To hold hearings on hospital reimbursement systems used by private third party payors.

2221 Dirksen Building

Foreign Relations

To hold hearings on the nominations of Kenneth W. Dam, of Illinois, to be a Deputy Secretary of State, and W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs.

4221 Dirksen Building

Select on Indian Affairs

To hold hearings on the statute of limitations relating to Indian claims.

Room to be announced

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to continue to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.

324 Russell Building

Governmental Affairs

To hold oversight hearings on certain activities of the General Services Administration.

3302 Dirksen Building

Small Business
To hold hearings on S. 2446, to increase small business participation in the Federal procurement process, and other related proposals.
424 Russell Building

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

10:30 a.m.
Judiciary
To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.
2228 Dirksen Building

2:00 p.m.
Agriculture, Nutrition, and Forestry
Business meeting, to continue to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.
324 Russell Building

Judiciary
To resume hearings on S.J. Res. 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of William R. Graham, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.
4221 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To hold hearings on the Joint China Communique, Taiwan Relations Act and documentation of separations of powers.
5110 Dirksen Building

SEPTEMBER 20

10:00 a.m.
Judiciary
To resume oversight hearings on government merger enforcement policy, focusing on the legal and economic basis for horizontal merger policy.
2228 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Governmental Affairs
To hold hearings on reorganization issues relating to Department of Energy laboratories.
3302 Dirksen Building

*Select on Indian Affairs
To hold hearings on S. 2847, proposed Indian Housing Act.
6226 Dirksen Building

10:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending treaties and nominations.
4221 Dirksen Building

SEPTEMBER 22

10:00 a.m.
Governmental Affairs
To hold hearings to review proposals providing benefits to former Presidents and their families.
3302 Dirksen Building

Judiciary
To resume hearings on the impact of the Boulder, Colorado decision, relating to potential antitrust liabilities for local governments.
2228 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2061, providing for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and H.R. 4861, establishing the American Conservation Corps.
3110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 23

9:00 a.m.
Office of Technology Assessment
Board meeting, to discuss pending business matters.
EF-100, Capitol

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 1747, relating to the purchase of prison-made products by Federal departments, to allow in certain cases, the purchases of similar products from small businesses.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on the alleged use of false identification to penetrate Federal programs.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold hearings on S. 2863, to extend Federal employees compensation benefits to all Federal jurors, to provide the awarding of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

1:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on refugee consultation.
Room to be announced

2:00 p.m.
Governmental Affairs
To hold hearings on the nomination of K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board.
3302 Dirksen Building

Judiciary
*Security and Terrorism Subcommittee
To hold hearings on S. 2255, proposed Antiterrorism and Foreign Mercenary Act.
3110 Dirksen Building

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on airline labor protection relating to mergers, acquisitions, and intercarrier transactions.
235 Russell Building

10:00 a.m.
Judiciary
*Courts Subcommittee
To resume hearings on S. 1529, and S. 2035, bills establishing the National Court of Appeals, and to begin hearings on S. 1403 and S. 1874, bills to reform and improve the annuity program for survivors of Federal Justices and judges.
2228 Dirksen Building

SEPTEMBER 27

9:30 a.m.
Finance
To hold hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1626, to reform and improve the regulation of oil pipelines.
235 Russell Building

SEPTEMBER 28

9:30 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Government Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif.,

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Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

SEPTEMBER 29

9:30 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 30

9:30 a.m.
Judiciary
Juvenile Justice Subcommittee
To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.
5110 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to Government contractors.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.
4232 Dirksen Building

1:30 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To holds hearings on Presidential immigration emergency powers.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 23

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the use of computer matching in certain Federal agencies.
3302 Dirksen Building

SENATE—*Tuesday, September 14, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Father in Heaven, this morning we pray for all the men and women whose tireless, dedicated labors support the Senate in its leadership. We thank Thee for those who serve faithfully at routine tasks without glamour or recognition. Help us never to presume upon their quiet, hidden ministeries. Help us to show love and appreciation at every opportunity.

We commend to Thy gracious care and blessing those who maintain buildings and grounds, who repair and clean, who prepare, serve and manage food services. We are grateful for the police on the grounds and in the buildings, for those who provide security at the doors and on the floor. In gratitude we recognize those who work in the document room and library; for the efficient, dependable staffs in Senators' and committee offices. We thank Thee for those in the offices of the Sergeant at Arms, the Secretary of the Senate, those so busily occupied in the cloakrooms, for the Official Reporters of Debates, and those in the Congressional Record office who process so accurately the thousands of words of Senate business daily, and we thank Thee for the members of the Senate Press Corps.

Grant to us all a sense of the importance of each and our need for each other as part of this huge Senate family. In appreciation for each member of the team, may we respect, serve and love each other. In the name of the Servant of servants. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. BAKER. Mr. President, I commend the Chaplain on his inclusive prayer today. I do not believe he left out anybody. Of course, all of us wish the Lord's blessings on every employee. But I must confess, as I listened to the prayer, I must acknowledge that I thank the Deity for the presence of the press most days, but not every day.

Mr. ROBERT C. BYRD. May I say to the distinguished majority leader that our good friend the Chaplain included everybody but himself. We thank the Deity for him.

Mr. BAKER. As the saying goes in the Senate, I associate myself with the remarks of the minority leader.

(Mr. HUMPHREY assumed the chair.)

ORDER OF PROCEDURE

SENATE JOINT RESOLUTION 110

Mr. BAKER. Mr. President, I have a change in the schedule. As I indicated on yesterday, sometime during the day today, presumably early today, I would ask the Senate to proceed to the consideration of Senate Joint Resolution 110, the Hatch constitutional amendment dealing with abortion. Last evening I received a telephone call at my home from Senator Hatch indicating that he had been called away on urgent business, specifically—and I believe I am correct in saying this—that the State convention assembles today in Utah, and he found that it was absolutely essential that he be there.

In view of the fact that Senator Hatch is the principal sponsor and has long been the staunchest advocate of a constitutional amendment on the subject, I feel it would be unfair to him and to the Senate to try to motion up that measure in his absence. Therefore, I will not make the motion to proceed to Senate Joint Resolution 110 today. I do intend to ask the Senate to proceed to the consideration of that resolution, however, before we complete this debate.

In view of that circumstance, Mr. President, the Baucus amendment No. 2040 to the Weicker amendment No. 2039 to Senate Joint Resolution 520, the temporary increase in the public debt limit, is the unfinished business and will have the attention of the Senate today.

CLOTURE VOTE AT 5 P.M. WEDNESDAY

Mr. President, a cloture motion has been filed. By unanimous consent, a vote has been set for 5 p.m. on Wednesday. There will be no quorum call prior to that vote. The vote will occur promptly at 5 p.m.

Mr. President, if cloture is invoked, then, of course, under the provisions of the rule, the Senate will proceed with the debate on that measure until it is completed. If cloture is not invoked, it is possible that the Senate will be asked to vote on cloture again on Thursday. But that is a matter I will discuss with the minority leader and principles on both sides.

HOUSE JOINT RESOLUTION 520

I would remind Senators again that we are dealing with the debt limit. We have been on it now about 3 weeks, almost 3 weeks. At some point, we have to pass the bill itself.

Members should know that by the end of this week it is my intention to try to deal with the underlying bill, the debt limit bill. It may not be possible to do that, but that is my wish.

Mr. President, I encourage Members to come to the floor and debate the abortion issue, debate the prayer in school issue, debate other issues which may be offered to the debt limit bill, with the knowledge that the leadership on this side wishes to finish this measure by the end of this week. The Senate will be in session on Friday and, if necessary to do so, we will be on the debt limit. If we finish the debt limit by Friday, it would be my intention to ask the Senate to proceed to the consideration of S. 995, the contribution antitrust bill.

Mr. President, there are a number of routine matters that can be dealt with. Is the minority leader prepared to do those now or would he prefer to do them during the time for the transaction of routine morning business?

Mr. ROBERT C. BYRD. Mr. President, I would be happy to proceed as the majority leader wishes, but before we do so I wish to make an inquiry.

SENATE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, I should like to ask the majority leader the schedule, as he sees it, for the next week and the week ending October 2. Early on, it was announced by both leaders that the Senate would probably try to adjourn by October 2.

Mr. BAKER. Yes, Mr. President. I say to my friend, the minority leader, that it is still my intention to ask the Senate to go out on October 2. I must say, however, that I have read in the newspapers that the Speaker of the House of Representatives indicated October 8 as the probable adjournment time for the House of Representatives.

After I read that in the newspapers, I called the Speaker, and we are supposed to get together on Wednesday to discuss the calendar. I believe today is

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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the only day of the primary election in Massachusetts and it was not possible to have that meeting in advance of the two caucuses today.

As soon as I meet with the Speaker and find out what he has in mind, I will have an announcement. I still plan on October 2, but I want to hear what the Speaker has in mind.

The reason for this, other than simple comity and courtesy, is the principal business yet to be disposed of, mainly the entire body of the appropriations process of which it is highly doubtful and undesirable for the Senate to originate such legislation.

If we are to finish the appropriations bills, we must receive them from the House. If we must deal with a continuing resolution or continuing resolutions, I suppose they have to come from the House as well. Our ability to deal with the appropriations process after the House has acted is the final and ultimate determiner of whether we can get out on the 2d of October or even the 8th.

Mr. President, I still believe we can do all of this by the 2d of October, and I intend to urge that we arrange our affairs and schedules in both Houses so that we can accomplish it.

Members should be on notice that there is a possibility, at least, that it will be extended a little past the 2d. If that is so, it will be against my better judgment and against my personal wishes.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield further?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. The House will return after the election, as they have been doing in recent years, for organizational purposes. I hope that the Senate will go out on the 2d of October and, inasmuch as the House is going to come back in any event, I would also expect to talk with the Speaker and the majority leader of the House and at least those over there to try to pursue adjournment on the 2d. If the House is coming back after the election in any event, I do not see why the House should proceed until October 8 and hold us here until October 8—if they are coming back, anyhow. Perhaps we should come back for organizational purposes and if there is any cleanup work to be done, do it at that time. I would not suggest that we ought to attempt to do a lot of work following the election, but I would want to underscore the hope that has been expressed by the majority leader and the intention that has been expressed by him to try to complete the work here by October 2.

I agree with him that we are, to a considerable degree, dependent upon the House acting first on appropriations matters and the continuing resolutions, but I join with him in urging the House leadership to try to complete action by October 2. I have a number of Senators on this side of the aisle who have scheduled engagements back in their respective States beginning October 2, as a matter of fact. If there is going to be any change from October 2, I would personally hope that it would be possible for us to go out on October 2 and come back after the election and do whatever cleanup work has to be done.

Mr. BAKER. Mr. President, I agree with that. The minority leader and I have discussed this at length on a number of occasions, as Members must surmise. I have told my own caucus that it is my firm intention to go out on the 2d, even if we have to come back after the elections. That, of course, depends on whether we can complete the appropriations process or make provisions for operation of Government past October 2, which is also the beginning of our fiscal year.

I shall discuss these matters with the Speaker, and I am sure the minority leader will discuss them with the Speaker, and perhaps he and I can sit down, as we so often do, to compare notes.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

BOWIE K. KUHN, COMMISSIONER OF BASEBALL

Mr. BAKER. Mr. President, like millions of Americans I enjoy our "national pastime," the sport of baseball. It is a sport native to the United States, and has over decades secured a unique place in our heritage.

Unlike most Americans, Mr. President, I have had the special privilege of coming to know, to respect, and to admire the current commissioner of baseball, Bowie K. Kuhn. As the chief ambassador of baseball, Mr. Kuhn is a welcome visitor to the Capitol corridors. As the primary defender of the game, he is an able advocate in advancing the interests of baseball in Washington.

For these reasons I was interested in a column about Commissioner Kuhn that appeared in the Washington Post last month, and because the article should also be of interest to other baseball fans—of which there are many in the Congress—I ask unanimous consent to include that article in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 17, 1982]

WITH KUHN'S ENEMIES, WHO NEEDS FRIENDS?

By Thomas Boswell

SAN DIEGO, August 16.—One of the ways to judge a man is by his enemies.

By that standard alone, Bowie Kuhn ought to be reelected here on Wednesday as commissioner of baseball. The small group of foes now lined up against Kuhn is tantamount to a testimonial for the commissioner.

If Kuhn had picked the least credible possible group of palace plotters, he'd probably have come up with the same coalition of National League owners who will arrive here Tuesday to politic for his firing.

And if Kuhn had tried to align the best minds and the most respected organizations in baseball to back him—or at least agree to tolerate his continuance in office—he'd have come up with just such supporters as he has.

Let's look at the forest, not the trees. When vindictive old Augie Busch and selfish, capricious Ted Turner line up against stable Peter O'Malley and imaginative Roy Eisenhardt, it's not hard to figure out which side has the general state of baseball at heart and which just has private axes to grind.

"Right now, it looks like there are three firm votes against Kuhn in the National League and two others wavering," said Eisenhardt, president of the Oakland A's and cochairman of baseball's Restructuring Committee. "What it looks like is what you have is three 'nos' in search of the fourth 'no' that's necessary to block the rehiring of the commissioner.

"Of course, if they get a solid fourth 'no,' then you might see a fifth and a sixth 'no' vote, too," continued Eisenhardt, who is pro-Kuhn. "But I'd say getting No. 4 is going to be tough for them.

"Whatever happens, doesn't it make you wonder about baseball's structure when four owners can thwart the will of 22 others? And that's exactly what it could come down to."

It's possible to find only seven owners—five in the National League and two in the American—who smile when the phrase "Dump Bowie" is mentioned.

Taken as a group, they're quite a cast: Busch of St. Louis, Turner of Atlanta, John McMullen of Houston, the Williams brothers of Cincinnati (who get one vote), Nelson Doubleday of the Mets, George Steinbrenner of the Yankees and Eddie Chiles of Texas.

Busch's middle name is bile.

To Turner, baseball is just another situation comedy. He'll vote his cable-TV wallet and everybody else be damned.

McMullen, whose eye is on baseball and hockey pay-TV millions, is another who is voting his bank account, not his conscience. He and Turner are afraid Kuhn will use his influence to keep baseball from being damaged, as boxing was, by overexposure, this could cost these two an extra Swiss villa somewhere along the line, so they're ready to fire Kuhn.

The Williams brothers—emblematic of the anachronistic, nearly demolished Reds—just can't force themselves to believe that times have changed: the players have been emancipated, but they don't want to believe it.

Doubleday has sniffed the wind and smells the future: the revenue sharing of pay-TV dollars. Kuhn's basically for it. So, Doubleday is voting according to his own New York megamarket wallet rather than voting in the best interest of the game his ancestor may have invented. He's bringing shame to the name. Maybe Alexander Cartwright dreamed up the sport after all.

Since the AL is locked up for Kuhn, Chiles and Steinbrenner don't count, but they make interesting allies. Both are meddlesome millionaires in the process of devaluing their clubs by trying to manage and general manage their teams, instead of letting pros do it. Naturally, they figure to be on the wrong side of this issue, too.

For the past year, ever since baseball took its $25 million strike bath, the game has, for the first time in memory, been looking seriously at its two basic problems of the '80s: labor relations and revenue sharing. In other words, how the loot should be split between the owners and the players, and how the owners should split their part of the pot among themselves.

"No real progress can be made in these areas until the issue of the commissioner is settled," says Eisenhardt. "If Kuhn is fired, it won't do any real damage to the work of the Restructuring Committee, but it will certainly delay the game's ability to act on these important matters."

That may be putting the issue too mildly. In the 12 months since the strike, baseball has made progress in reaching a significant consensus among owners in several areas. The Restructuring Committee's extremely important proposals—especially on joint league voting on major issues, as well as placing both league presidents and the Player Relations Committee under the commissioner—are emblematic of this:

No matter what anybody says up front, the committee has operated on the assumption that a new, more powerful Kuhn—given a mandate, among other things, to bring PRC strike general Ray Grebey sharply to heel—would be the next commissioner.

While gaining some powers, Kuhn is perfectly willing, perhaps even glad, to welcome a newly created power figure—a sort of chief executive officer for baseball. This CEO would have a business background and focus on revenue sharing and cable TV. The Restructuring Committee is on record as endorsing such a move. But, as Kuhn backer John McHale of Montreal says, "If you carve out new areas for such a 'business' executive, it's essential that he must report to the commissioner. He can't be tunneling under him."

This growing common-sense consensus is possible in large part because, in the past three years, so many teams have come under new ownerships. "All the bad blood that's historically been in the game has apparently decreased," says Eisenhardt. "That's why we've made progress."

That is, until now.

"Maybe this is the last hurrah for the old-school way of doing baseball's business," said Eisenhardt. "And then maybe we can get on with our business and do something right for a change."

If men like O'Malley, Eisenhardt, Kuhn, McHale and Edward Bennett Williams in Baltimore can't pull baseball's wagon out of the ditch, then it's just going to have to stay stuck.

However, if a tiny gang of short-sighted self-servers stands in their way here this week, then more, much more's the pity.

Mr. BAKER. Mr. President, I now yield briefly to the distinguished Senator from Iowa.

AN EXHIBIT OF WESTERN PAINTINGS

Mr. GRASSLEY. Mr. President, for the next week, an exhibit of the work representative of the finest contemporary western artists in 18 States will grace the rotunda of the Russell Senate Office Building. Recalling the style of Frederick Remington and Charles Russell, these paintings display western cattle ranching in the 1980's instead of the 1880's

This collection is the property of one dedicated man, James "Gene" Rush of Sioux City, Iowa, who commissioned artists following the recommendations of professionals and academics from each State selected.

I thank those 26 Senators who, with me, have cosponsored this exhibit and ask all of my colleagues to take some time to enjoy this interesting and representative display depicting the life of the contemporary cowboy and cattle ranch.

Mr. BAKER. Mr. President, I yield the remainder of my time to the minority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

RISING UTILITY BILLS

Mr. ROBERT C. BYRD. Mr. President, last weekend the Washington Post published an article entitled, "Rising Utility Bills Stir Revolt." The article reported that—

> Consumers, angry over rising utility bills, have forced utility issues onto the ballot in November in an unprecedented number of States, alarming the industry and producing heated campaigns that have seeped into other races.

In other words, the Post article indicates that rising utility bills are becoming a political issue in many States.

I was interested in this report, because the Committee on Environment and Public Works recently completed their revision of the Clean Air Act which included a very controversial acid precipitation proposal. The committees proposal is to impose a new regulatory program on a 31-State region to achieve a reduction of 8 million tons of sulfur dioxide emissions by 1995. If passed, one of the major effects of such a program would be to increase the electric utility bills for thousands of consumers in the Midwest and Appalachia. One analysis has estimated the change in electric utility rates that would be required in the first year that the 8-million-ton reduction is achieved. These would be rate increases required in order for utilities to recover capital costs associated with an acid precipitation control program. According to that analysis, several States in the Midwest would have utility rate increases of over 10 percent. These same States are also currently facing high unemployment rates. In my own State of West Virginia, where unemployment is about 10.9 percent, first year electric utility rate increases would be about 6.3 percent. In Ohio, where unemployment is about 11 percent, electric utility customers would see their rates increase by 19 percent. In Kentucky, where unemployment is about 9.8 percent, customers would see their rates increase by 10.9 percent. In other words, people who have already been hit hard by the economic recession could also look forward to the prospect of significantly higher electric rates.

Mr. President, I know there are many other Senators who are very concerned by the Environment Committee's acid precipitation proposal and its impact on utility rates. I ask unanimous consent to have printed in the RECORD this article

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 11, 1982]

RISING UTILITY BILLS STIR REVOLT—CONSUMERS ALARM INDUSTRY BY PLACING ISSUES ON NOVEMBER BALLOT

(By Martha M. Hamilton)

Consumers, angry over rising utility bills, have forced utility issues onto the ballot in November in an unprecedented number of states, alarming the industry and producing heated campaigns that have seeped into other races.

In eight states from coast to coast, groups have used the initiative process to put utility-related proposals on the ballot. One has already been knocked off on a technicality, and most of the rest have provoked massive counterefforts by utilities and the business community to defeat them.

In Maine and Massachusetts voters will decide whether to eliminate or limit the use of nuclear power plants, while in five other states ballot issues proposed changes ranging from the election of state public utility commissions and the creation of agencies to act as advocates for consumers in utility cases to the prohibition of automatic pass-throughs of increased fuel costs. In Idaho, voters will be asked to vote to support nuclear power.

"Unlike the last spate of consumer revolt, when anger was directed at the Public Utility Commissions . . . consumers seem to have gotten more savvy in their approach," a recent Dean Witter Reynolds utility industry analysis noted.

One of the initiatives that has caused the greatest concern is in Maine—"because of the precedent it might set," said Fran Valluzzo, manager of the Edison Electric Institute's state and local government relations office.

The Maine initiative would shut down nuclear power generation in the state by 1987, closing the Maine Yankee power plant, which provides approximately a third of Maine's power.

A similar initiative failed in 1980. That proposal would have shut down the plant immediately.

"The accident at Three Mile Island was the original reason for the first referendum," said Jo Ann Mooney, director of the referendum campaign. In February the

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state approved placing the issue on the ballot a second time.

In July, opponents of the issue began advertising heavily on radio and television. Mooney claims the advertising helped her group's cause. "Then it became real to people. The phones haven't stopped ringing since," she said.

The Committee to Save Maine Yankee, which successfully opposed the earlier ballot proposal, is also leading the opposition this year. The group includes some 40,000 citizens and is supported by but not run by utility companies such as Central Maine Power, according to that company's spokesman.

Opponents of the measure argue that it would force the state's utility companies to replace generating capacity by buying expensive oil. To do so would increase residential electricity bills dramatically—perhaps by as much as 21 percent, according to one state study—and drive industry from the state, they argue.

An Arkansas initiative has already been stricken from the ballot by the state Supreme Court. It called for an elected utility commission, a consumer advocate agency and elimination of fuel cost pass-through. The court ruled that the ballot's summary—some 800 words long—was confusing.

Proponents asked for a rehearing but concede that their chances are slim. "Fundamentally the court decided that the voters are too dumb to vote on this issue—that it's too complicated for the voters," said Zach Polett, of Arkansas Community Organizations for Reform Now (ACORN).

ACORN, the state labor federation and other groups collected signatures in favor of the initiative, spurred by a $102 million increase granted in May, 1982, to Arkansas Power and Light Co. Nearly three weeks ago, the state certified that the group had enough signatures for the initiative to appear on the ballot

Then came the court challenge to the proposal on the basis that the ballot description was too complicated. "It did work to the benefit of the utilities that the proponents had put so much into it that it sort of collapsed of its own weight," said Jerol Garrison, a spokesman for Arkansas Power and Light.

The utility company itself was neutral on the issue, although the company's president said he personally opposed the initiative.

In Massachusetts, voters will decide whether to restrict construction of new nuclear power plants. In Michigan and Ohio, ballots will include proposals for elected utility commissions. "Governors generally appoint political hacks," said lawyer Henry W. Eckhart, former chairman of Ohio's utility commission and a supporter of the measure.

In Missouri, whether or not a proposal for a citizen's utility board appears on the ballot depends on a court hearing. Supporters failed to get the issue on the ballot after opponents got petition signers to withdraw their names. Although supporters of the measure later produced affidavits from people saying they were misled and wanted their names reinstated, it was too late. The court will review a challenge to the law that permits signatures to be withdrawn, said Dean DeHart of Missourians for a Citizens Utility Board.

Nevada's ballot includes a proposal for a utility consumer advocacy agency.

In Idaho, Citizens for Energy and the Environment, which includes a large number of John Birch Society members, got a pronuclear power proposal on the ballot. "We think it's just historic," said Don Fotheringham, an organiser of the group.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the minority leader.

NATO-WARSAW PACT COMPARISONS—PART II

Mr. PROXMIRE. Mr. President, yesterday, in part I of the three-part series from the Defense Monitor, I talked about the various static comparisons of strategic capability—the number of nuclear warheads, missiles, submarines, bombers, and the qualitative aspects of these force levels.

Today, the Monitor materials explore the relationship between the military forces of the Warsaw Pact nations and NATO. All to often we see comparisons between the U.S.S.R. and the United States without the contribution that would be made in any all-out war by their respective alliance partners. With a population of 626 million in NATO compared to 380 million for the Warsaw Pact, considering that NATO has more than a 2-to-1 lead in GNP and a $54 billion advantage in military spending, it can easily be seen that the NATO partners contribute much more to the relative defense of their military alliance than do the nations of the Eastern Bloc. Even considering Soviet border troops, internal security personnel, and construction units, the military manpower levels of the PACT and NATO are about equal.

The Warsaw Pact does have a commanding lead in tanks, armored vehicles, and submarines and this cannot go overlooked. The United States and our NATO allies must find production plants that allow higher production levels at lower unit costs if these relative disadvantages are to be redressed.

Most interesting is the fact that NATO has always outspent the Warsaw Pact in defense costs and that gap appears to be widening in the projections for 1980–86.

Mr. President, I ask unanimous consent that part II of the Defense Monitor be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Defense Monitor—Part II

THEATER NUCLEAR FORCES

The U.S. has about 6,000 nuclear weapons in Europe, excluding those on ships and submarines.

The U.S. has over 400 fighter bombers in Europe which can strike all Warsaw Pact nations with nuclear weapons.

France and Great Britain have over 500 nuclear weapons of their own that can be exploded on the Soviet Union.

2,600 of the NATO and U.S. nuclear weapons in Europe can be exploded on the Soviet Union.

The Soviet Union has been deploying SS-20 intermediate range missiles since 1977. It now has about 300 SS-20s with 3 warheads each (900 weapons) deployed. One-third of these face China.

The Soviet Union also has 300 SS-4 and SS-5 medium and intermediate range missiles for a total of 600 MRBMs and IRBMs. This is the same number of these types of missiles they had 10 years ago, though because the SS-20 is MIRVed they now carry more weapons.

The Soviet MRBM/IRBM force has ½ *less* total megatonnage than it had in 1970.

The U.S. has 180 medium-range Pershing 1a missiles based in West Germany. France has 18 intermediate-range missiles of its own.

The U.S., the U.S.S.R., France, and Britain all have a substantial number of nuclear weapons for combat in Europe. It is estimated that over 15,000 weapons are allocated directly on both sides for nuclear war in Europe.

AT A GLANCE: MILITARY RESOURCES OF NATO [1] WARSAW PACT, AND PEOPLE'S REPUBLIC OF CHINA

	NATO	Warsaw Pact	China
Population	[2] 626	[2] 380	[3] 1
GNP	[3] $5,975	[3] $2,020	[3] $552
Military spending	[3] $256	[3] $202	[3] $57
Military manpower	[2] 5.8	[2] [4] 4.8	[2] 4.8
Strategic Nuclear weapons	10,000	7,800	(5)
Total Nuclear weapons	31,000	20,000	(5)
Tanks	29,000	63,000	11,600
Anti-tank weapons	400,000	(6)	(6)
Other Armored vehicles	54,000	83,000	4,000
Heavy artillery	17,000	24,000	18,000
Combat aircraft	12,000	12,000	6,100
Helicopters	12,400	4,500	350
Major Surface warships	428	281	32
Attack Submarines	232	290	104

[1] NATO totals include France and Spain.

Sources: NATO, IISS, DOD, CIA, CDI. Chart by Center for Defense Information.

[2] Million.

[3] Billion.

[4] Excludes some 560,000 Soviet border guard, internal security, railroad, and construction troops.

[5] Several hundred.

[6] Data not available.

VERIFICATION CAPABILITIES

Both the U.S. and U.S.S.R. use a vast array of sophisticated and powerful intelligence gathering systems to survey each other regularly, thoroughly and accurately. These systems include photo-reconnaissance satellites, radars and other devices in space, on land, sea, and in the air, which monitor all aspects of weapon testing and deployments. U.S. satellites reportedly can photograph objects 6 inches or less in diameter. U.S. satellites also use infra-red scanning to monitor Soviet missiles.

The Soviet Union is surrounded by U.S. monitoring stations.

The U.S. does not depend only on the technical limits of satellite cameras. Electronic and computer techniques are also used to enhance the quality of pictures.

Both civilian and military officials have repeatedly testified that the U.S. has the capbility to adequately verify existing arms control trends.

The Soviet Union, the U.S., and Britain have agreed in principle on arrangements for on-site inspection of a comprehensive nuclear test ban.

NATO/WARSAW PACT COMPARISONS

"In the Central Region of Europe, a rough numerical balance exists between the immediately available non-nuclear forces of NATO (including France) and those of the

Warsaw Pact."—Defense Secretary Harold Brown, January 1980.

The Warsaw Pact has 253 active divisions and NATO has the equivalent of 143 divisions when independent brigades are included. NATO divisions are, in general, larger than Warsaw Pact divisions. U.S. divisions average about 18,300 soldiers. Soviet divisions 11,000.

NATO leads the Warsaw Pact in total manpower in uniform, total ground forces, and total ground forces in Europe.

The Warsaw Pact has more than a 2-1 edge over NATO in the total number of tanks. The Warsaw Pact has only a 1.54-1 advantage in main battle tanks in Europe.

NATO has invested heavily in anti-tank weapons and leads the Warsaw Pact in both the quantity and quality of such weapons, NATO deploys over 50 types of anti-tank weapons and a total of almost half a million.

NATO and the Warsaw Pact have approximately the same number of total combat aircraft.

The quality of NATO weapons including combat aircraft, artillery, anti-tank weapons, military helicopters, and air launched missiles, exceeds that of the Soviets.

"What are called static measures of assessment, in which for example, Soviet and American missile or tank inventories are compared in isolation, are rarely illuminating about the expected outcome of a battle or instructive as to the defense posture we should adopt."—Defense Secretary Harold Brown, January 1980.

"NATO forces are well trained and, given the full range of capabilities at their disposal, are capable of presenting a credible defense of Alliance territory."—1982 NATO Report.

NAVAL COMPARISONS

U.S. and other NATO navies have twice the naval tonnage and several times the firepower of the Soviet and other Warsaw Pact navies.

The Soviet Navy, which started far behind us, has also been declining in size recently, not increasing. In certain types of Soviet naval vessels, the decline over the years has been significant. The Soviets have 100 less submarines of all categories today than they had ten years ago.

NATO has 428 major surface combatants. The Warsaw Pact has 281. NATO has deployed more than twice as many as the Soviet Navy since the early 1960's and will continue to outproduce the Soviets in the future.

The U.S. has 13 heavy aircraft carriers, the Soviets none. The Soviets have two Kiev ships which are equipped with less capable aircraft and are comparable in both size and capability to the five U.S. Tarawa-class amphibious assault ships.

The U.S. continues to hold superiority over the Soviet Navy in performance of critical missions such as strike warfare, amphibious warfare, and anti-submarine warfare as well as in readiness.

The U.S. Navy has 553,000 personnel compared to 433,000 for the Soviet Navy.

The U.S. has 193,000 marines; the Soviets only 12,000.

The U.S. has major naval bases around the world. The Soviet Union has no naval bases outside of the Soviet Union and Eastern Europe.

"The Soviet Union must divide its large naval forces between four separate and widely dispersed fleets. It would be extremely difficult for the Soviet Union to utilize ships from one fleet in another theater in the event of hostilities, since these ships must pass through geographical barriers and bottlenecks which are subject to closure by U.S./NATO naval operations."—Department of Defense, 1980.

MILITARY SPENDING

The Administration proposes spending 1.9 Trillion dollars over the next six years on the military. This means we will spend *$36 million every hour* for the next six years. It will cost a total of more than $20,000 for every taxpayer in America.

Seventy-eight percent of all discretionary spending in the federal budget goes to pay for the military.

The cost of new and often unnecessary weapons continues to escalate. The estimated cost for 44 major weapons sytems jumped $114.5 Billion in the last three months of 1981.

The U.S. and its NATO allies have outspent the Soviet/Warsaw Pact military forces for many years—$256 Billion to $202 Billion in 1980 alone.

The Administration's claim that the Soviets outspend the U.S. on military forces ignores the contribution of our military allies.

Official estimates which compare U.S. and Soviet military spending use a C.I.A. methodology based on costing out the Soviet military at U.S. prices. For example, the Soviets pay their soldiers less than 5 rubles (about $8) per month. The U.S. pays its recruits more than $500 per month. Yet, Soviet manpower costs are calculated at U.S. wages.

Because the Soviets have twice as many soldiers as we do (the Soviets face twice as many NATO and Chinese troops as they have in their own forces), every one million dollars we put into pay increases for our troops shows up as a $2 million increase in the Soviet budget.

The C.I.A. acknowledges this problem, stating that its dollar cost calculations "overstate Soviet programs relative to the U.S."

RESTRAINT ON FREEDOM OF SPEECH: INVALID OBJECTION TO THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, America was instrumental in drafting the Genocide Convention in 1946, a measure intended to prevent human nightmares such as the Holocaust perpetrated by the Nazis. But, as we are painfully aware, the Senate has not yet ratified this important treaty.

Why is this treaty so important? Because it guarantees to all groups, no matter what their race, religion, or creed, the right to live free of the specter of systematic annihilation. We were not only the leader of the human rights fight for the Genocide Convention, we were the author of it. The United States was the principal proponent. The United States should have been the first nation to ratify the Genocide Convention. Instead, we have stood passively by while 82 other nations have ratified the treaty. Mr. President, 82 other countries, large and small, rich and poor, east and west, every other developed country in the world except us. In this instance, we did not even join, much less lead, the march toward an international human rights code.

Why, then, has not the Senate acted to correct this embarrassing flaw in our record? One long-standing objection to the convention is that the clause which forbids "direct and public incitement to commit genocide" violates the freedom-of-speech amendment to our constitution. Anyone who has done his legal homework, Mr. President, knows this objection has no basis in fact.

According to a 1969 Supreme Court ruling on the first amendment, freedom of speech and the incitement to commit lawless actions are not the same thing. One is legal, and the other is not. A person can declare that he is in favor of genocide, or murder, or incest, or any lawless action. But he is forbidden to incite others to commit a criminal act.

There is nothing in the Genocide Convention that prevents someone from saying he is in favor of genocide. The only constraint it places on an individual's speech is that he refrain from inciting others to commit genocide—and that is in perfect accord with our Constitution.

For the record, then, Assistant Attorney General William Rehnquist, speaking on behalf of the Nixon administration, testified before the Senate Foreign Relations Committee on the relation between our Constitution and the Genocide Convention. I quote the following testimony:

> Senator CHURCH. In other words, you are satisfied that such constitutional protection, as presently exists in the field of free speech, would not be adversely affected in any way by the terms of this Convention?
>
> Mr. REHNQUIST. I am satisfied, first, that they would not be, and, second, that they could not be.

Clearly, the argument that this Convention infringes on our constitutional right to freedom of speech, like so many other objections to the treaty, does not stand up to close scrutiny. Mr. President, I ask that the Senate ratify the Genocide Convention.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time until the special orders have been completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR THURMOND

The PRESIDING OFFICER. Under the previous order, the Senator from South Carolina is recognized for not to exceed 15 minutes.

Mr. THURMOND. I thank the Chair.

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S. 2902—A BILL TO DEFINE THE AFFIRMATIVE DEFENSE OF INSANITY AND ESTABLISH PROCEDURES FOR THE COMMITMENT OF MENTALLY ILL OFFENDERS

(Introduced by Mr. Thurmond, for himself, Mr. Biden, Mr. Specter, Mr. Cochran, Mr. DeConcini, Mr. Dole, Mr. East, Mr. Grassley, Mr. Hatch, Mr. Heflin, Mr. Laxalt, Mr. Long, Mr. Nunn, Mr. Pressler, Mr. Quayle, Mr. Simpson, Mr. Symms, Mr. Zorinsky, Mr. Robert C. Byrd, Mr. Chiles, Mr. Helms, Mr. Warner, Mr. Baker, Mr. Hollings, Mr. Humphrey, and Mr. Huddleston.)

Mr. THURMOND. Mr. President, today, I am introducing a bill to define the affirmative defense of insanity and to establish uniform and comprehensive procedures for the civil commitment of Federal offenders suffering from a mental disease or defect.

In sponsoring this measure, I am joined by Senator Biden, the ranking minority member of the Committee on the Judiciary. Senator Specter, a distinguished former prosecutor and chairman of the Subcommittee on Juvenile Justice, is also cosponsoring this bill. Further, Senator Heflin, the former chief justice of the Alabama Supreme Court and a man whose legal opinion I value highly, is joining me in introducing this legislation.

Mr. President, among the distinguished Members of this body cosponsoring this measure are 10 members of the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. THURMOND. Yes.

Mr. ROBERT C. BYRD. Is my name among those names?

Mr. THURMOND. No, Mr. President, it is not.

Mr. ROBERT C. BYRD. I should be very happy if the distinguished Senator would add my name.

Mr. THURMOND. I am very pleased to do that.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. Robert C. Byrd) be added as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. THURMOND. Moreover, Mr. President, Senators Cochran, Hatch, Pressler, Nunn, Quayle, Symms, and Zorinsky, all of whom have previously introduced legislation on this subject, are joining me in cosponsoring this bill. Clearly, this proposal has strong bipartisan support.

The issue of the insanity defense is one that cries out for legislative reform. Unfortunate as the verdict was in the attempted assassination of the President of the United States, it did serve to focus the attention of the Nation and this Congress on the serious shortcomings of the insanity test presently applied by the Federal courts. People throughout this country, from every walk of life and of every political persuasion, have called for a change in the law. I am sure that my colleagues have been overwhelmed by calls, letters, and telegrams from their constituents demanding that we address this issue so that the law will no longer allow the criminals of this world to escape responsibility for deliberate, violent, vicious acts.

We in the Senate would be shirking our duty to protect law-abiding citizens if we fail to take the time of this Congress to reform the insanity defense. The bill that I and my colleagues are introducing today would provide this needed reform and restore public confidence in our criminal justice system.

Congress has never enacted legislation defining the test to be used for insanity in Federal criminal cases, or spelling out procedures to be applied once the defense is raised. The development of the insanity defense has therefore been left to the Federal courts of appeal.

The foundation for the insanity defense was laid over a century ago by the British courts seeking to deal with mentally deranged defendants in a legally rational manner. The first articulated rule for defining insanity in the context of a criminal prosecution was established in England in the case of Daniel M'Naghten in 1843:

> Every man is to be presumed to be sane . . . To establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing the act, the party accused was labouring under such defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.

This rule became the dominant test of the insanity defense used in the United States for many years.

However, the M'Naghten rule, or right-wrong test as it is often called, has been gradually but steadily broadened by the American courts. In 1897, the notion of "irresistible impulse" was added to the M'Naghten rule to excuse criminal behavior by defendants even if they could discern right from wrong, as long as they were unable to control their actions because of some form of mental illness.

In 1954, the Durham rule was established which extended the insanity defense even further to forgive unlawful acts which were the "product" of a mental disease or defect. After wrestling with the vague Durham rule "products test" for almost 20 years, the Federal courts adopted the governing standard used in the Hinckley case, and which the American Law Institute sets forth in the Model Penal Code.

This formulation, commonly referred to as the ALI test, includes both cognitive and control criteria in framing the insanity defense. The test provides:

> A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

The drafters of this provision, therefore, expanded the defense to cover not only the inability of a person to distinguish right from wrong with respect to his acts, but to accord independent significance to the inability to control behavior, thus adopting the irresistible impulse notion. In addition, by its "substantial capacity" formulation, the American Law Institute recommended explicit recognition of a vague and blurred line between the sane and the insane.

A survey recently conducted by the Congressional Research Service shows that 23 States apply some version of the M'Naghten test, although 6 of those States have supplemented the test with the "irresistible impulse" concept. Twenty-five States and the District of Columbia have adopted a formulation of the ALI test, which is also the basic test applied in the Federal courts. Two States have utilized what is commonly referred to as a mens rea approach and seven States have created an alternative verdict of "guilty, but mentally ill."

A factor equally important as the test used to legally define insanity is the assignment of the burden of proof. In a criminal trial, the prosecution has the burden of proving all the essential elements of the crime charged. The burden of proof is composed of two parts: The burden of production and the burden of persuasion. The burden of production only requires that evidence be introduced to place a fact at issue in a trial, while the burden of persuasion requires that enough evidence be introduced to persuade the judge or jury of the actual existence of that fact.

The prosecution's burden of proof does not automatically extend to the sanity of the defendant. Instead, the defendant is presumed to be sane at the time he committed the acts constituting the offense. However, this presumption of sanity can be rebutted by the defendant by introducing evidence at trial to place his sanity, or mental condition, at issue.

Once the defendant's mental condition becomes an issue, the burden of persuasion becomes important. There are two views as to who must carry this burden: Some jurisdictions shift the burden of persuasion to the prosecution so that the defendant's sanity must be proved beyond a reasonable doubt, while other jurisdictions label it an affirmative defense, requiring the defendant to carry the burden of proving his insanity.

The States are evenly split between the two views of the burden of proof allocation. In 25 States and in the Federal courts, the prosecution bears the burden of disproving the elements of the insanity defense—that is proving sanity—beyond a reasonable doubt. Twenty-five States and the District of Columbia place the burden of proof on the defendant. Nineteen States require the level of proof to be "by a preponderance of the evidence," while three States require "beyond a reasonable doubt." Four other States have proof levels ranging from "to the satisfaction of the jury" to "by a reasonable certainty."

Mr. President, I have outlined the confused history of the modern insanity defense and provided background information on the sharply different practices used in the allocation of the burden of proof to provide a context and framework for examining the issues raised by the insanity defense. Primarily these are defining the test to be used to determine insanity, the burden of persuasion as to mental condition, and the proper disposition of offenders shown to be suffering from a mental disease or defect.

The legislation that I am proposing today has evolved from the hearings held by the Subcommittee on Criminal Law and by the full Judiciary Committee over the summer months. Senator **Specter** provided great leadership during that period, always being available to chair the hearings during my absence and participating in examining the many witnesses who appeared before the committee. I express my sincere appreciation to Senator **Specter** for all of his hard work on this issue. In addition, Senator **Heflin** was actively involved in the hearings and helped to focus the issues by drawing upon his extensive and impressive legal background and experience, and I thank him for his participation. Moreover, Senator **Grassley** and Senator **Hatch** were equally helpful in chairing the hearings, and I commend them for their efforts and interest in this most important matter.

The hearings held by the Committee on the Judiciary were, in part, a response to the public outcry over the verdict in the Hinckley trial, but, more importantly, served to examine the various legislative proposals pending before the committee. By the conclusion of the hearings, nine bills had been introduced and referred to the Judiciary Committee. I should like to take this opportunity to briefly describe these bills.

S. 818.—This bill was introduced by Senator **Hatch** and adopts what has been termed the mens rea test. Under this approach, the insanity defense is focused upon the defendant's intent at the time of the commission of the acts constituting the offense. Senator **Hatch** has also introduced S. 1558, which uses the same mens rea approach but also provides for civil commitment procedures similar to the ones contained in the bill which I am introducing today.

S. 1106.—This measure was introduced by Senator **Zorinsky** and establishes a plea of "guilty but insane." The bill also contains civil commitment procedures such as those contained in my bill.

S. 2658.—Senator **Specter** sponsored this bill which utilizes a M'Naghten test, shifts the burden of proof to the defendant by clear and convincing evidence, and limits psychiatric testimony as to the ultimate legal issues raised by the defense.

S. 2672.—This bill, which was introduced by Senator **Quayle**, defines the insanity defense under a mens rea test and establishes a special verdict of "guilty but mentally ill."

S. 2678.—Senator **Nunn** introduced this proposal which uses the same definition of insanity as used in my bill, makes it an affirmative defense, and provides for a verdict of guilty but mentally ill. The bill also establishes comprehensive civil commitment procedures.

S. 2745.—This legislation, which was sponsored by Senator **Symms**, is modeled on the law adopted by his own State of Idaho. It abandons the concept of mental condition as a defense to a criminal prosecution, yet it does allow the admission of expert testimony regarding a defendant's state of mind or mens rea.

S. 2780.—Senator **Cochran** introduced this proposal, which utilizes a M'Naghten test, shifts the burden of persuasion to the defendant, and limits psychiatric testimony. It further provides for a special verdict of guilty but mentally ill and establishes civil commitment procedures.

Seven hearings were held by the Committee on the Judiciary relative to the insanity defense. Three hearings were held by the Subcommittee on Criminal Law, and four were held by the full committee. A total of 42 witnesses appeared at these hearings. The committee heard testimony from some of the jurors who participated in the trial of John Hinckley. At that hearing, it was made poignantly clear that the jurors did not feel that they could properly assess the defendant's criminal responsibility under the ALI formulation of the insanity defense used by the Federal courts. The jurors expressed their frustration with the control test—or volitional prong of the ALI rule—which exculpates the defendant if he cannot "conform his conduct to the requirements of the law." Further, the jurors disclosed their dismay with the requirement of the law that the prosecution, once the insanity defense has been raised, be required to prove the defendant's sanity beyond a resonable doubt. It was suggested at that hearing and in subsequent hearings that the prosecution should not have to bear the burden of proving the defendant's sanity.

Throughout the hearings, the committee received testimony from a wide array of witnesses with a particular expertise or interest in this issue. The committee heard from psychiatrists and psychologists who expressed a broad divergence of opinion regarding the efficacy of psychiatric testimony and the need for an insanity defense. The committee also heard from legal scholars whose testimony ranged from advocating the abolishment of the defense to retaining current law.

The Attorney General appeared before the committee and testified in support of the mens rea approach. While I feel that approach certainly has merit, I share the concerns that my colleague Senator **Heflin** has often expressed regarding the mens rea test. I have spoken with the Attorney General on subsequent occasions, and I have shown him the bill that I am introducing today. He acknowledges that this proposal is a great improvement over current law.

The committee also heard from practicing lawyers from both the prosecution and defense sides of the issue. Attorneys litigating in States using alternative forms of the insanity defense, such as guilty but mentally ill, appeared and shared their experiences and insights with the Committee. Further, representatives from the Judicial Conference and mental health organizations testified and made recommendations to the committee. Mr. President, I am very satisfied that the committee thoroughly explored all of the issues relative to the insanity defense through the course of the seven hearings held on this matter.

The bill that I and my colleagues are introducing today does, I believe, represent a consensus view among those Senators on the committee, as well as those Senators who have introduced their own legislative proposals. This bill narrows the insanity defense to the degree that only those individuals who have no comprehension of what they are doing or have no understanding of the consequences of their acts, will be able to successfully assert the defense. Further, the bill addresses an important, yet overlooked, area of the law—the civil commitment of mentally ill persons in need of medical care and treatment. Today, there is no means by which the Federal Government can institutionalize insane and dangerous persons who have committed violent and criminal acts. The Government has had to rely on the benevolence of

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the States to commit dangerously ill persons. This bill will remedy that obvious defect in our laws.

Section 1(a) of the bill establishes that insanity is an affirmative defense, thus placing the burden of persuasion on the defendant asserting the defense. The test of insanity is as follows:

> It shall be an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of mental disease or defect, lacked entirely—
>
> (1) the ability to understand the nature and quality of his acts or
>
> (2) the ability to distinguish right from wrong with respect to his acts.

This would be the sole and exclusive test of insanity. The bill specifically states that mental disease or defect does not otherwise constitute a defense.

This particular formulation of the insanity defense focuses on the defendant's cognitive ability to perceive what he is doing and to know that his actions are wrong. The bill rejects any notion that a defendant should be excused from criminal liability because he could not conform his conduct to the requirements of the law or because he had an irresistible impulse to commit the act.

This is a point that cannot be overemphasized. A person's volitional ability to control his behavior or resist impulses is simply not contemplated under this insanity defense. It is, I submit, impossible to distinguish between offenders who were undeterrable and those who were merely undeterred, or between the impulse that was irresistible and the impulse resisted. Therefore, this formulation of the insanity defense does not recognize a volitional or control test.

Another important aspect of this test which deserves comment is the defendant's ability to distinguish right from wrong with respect to his acts. This test is meant to be an objective inquiry into the individual's cognitive ability to know whether he was doing right or wrong. The motivations for the criminal acts are irrelevant. For instance, religious or political reasons given for criminal behavior will not excuse the conduct even though the defendant may have felt that his actions were somehow justified.

Section 1(b) of the bill addresses the burden of proof issue, which is clearly a crucial factor in any criminal prosecution. The bill provides that the defendant has the burden of proving the defense of insanity by clear and convincing evidence. As a result, the prosecution no longer has to show that the defendant is sane once he has asserted the defense of insanity. The use of the clear and convincing standard requires that the defendant prove his insanity by evidence greater than a preponderance but less than beyond a reasonable doubt.

Section 2 of the bill makes technical changes in the notice provisions of the criminal code so that the defendant is required to notify the prosecution when he intends to introduce expert testimony relative to his mental condition at the time of the offense.

Section 3 establishes seven new sections under chapter 313 of title 18 of the United States Code establishing civil commitment procedures for an individual who suffers from a mental disease or defect and, as a result, presents a danger to the person or property of himself or another. These procedures provide uniform, clear, consistent treatment of an individual at every stage of the criminal justice process from the pretrial stage through conviction and release. The foundation for these procedures lies in the notion that the court should retain jurisdiction over Federal offenders suffering from mental diseases and that disposition of such offenders, whether it be institutionalization, release, or probation, should be ordered by the court following a hearing. As a result, the public is protected from insane and dangerous persons, and those criminal offenders in need of mental health care will receive proper and humane treatment.

There are two important aspects contained in section 3 which, I feel, deserve special comment. In section 4242, the bill provides for a special verdict of "not guilty only by reason of insanity." This additional verdict requires that the trier of fact specifically find that the "not guilty" verdict is founded upon a successful defense of insanity.

Another important provision is found in section 4243, which sets out the disposition of an individual acquitted by reason of insanity. This section requires the insanity acquittee to bear the burden of proving that he is no longer insane—that is, that he is presently sane—and no longer dangerous before he can be released to the community. This differs from present law in which the prosecution, which previously argued that the defendant was sane, must turn around after an acquittal and assert that the defendant is presently insane.

Other than these two changes, the commitment procedures contained in this bill are those which have been considered by the Committee on the Judiciary for several years. Also, these same procedures were passed by the Senate by unanimous consent in the 95th Congress.

Mr. President, in closing, let me remind my colleagues that the first duty of a government is to protect innocent and law-abiding persons from the bullies and predators of the world. We must insure that criminals who deliberately plan and carry out brutal acts of violence with full knowledge of the nature and wrongfulness of their conduct will be morally condemned by the community and held appropriately accountable for their acts.

The citizens of this Nation are watching the Congress to see whether we respond to their demands for a change in the laws governing the insanity defense. This bill meets those demands. I sincerely hope that my fellow Senators will respond to their constituents by supporting this measure, and I urge prompt consideration of this bill.

Mr. President, I ask unanimous consent to have printed in the Record a copy of the bill and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) Chapter 1 of title 18, United States Code is amended by adding at the end thereof the following new section:

"§ 16. Insanity Defense.

"(a) Affirmative Defense.—It shall be an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of mental disease or defect, lacked entirely—

"(1) the ability to understand the nature and quality of his acts; or

"(2) the ability to distinguish right from wrong with respect to his acts.

Mental disease or defect does not otherwise constitute a defense.

"(b) Burden of Proof.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence."

Sec. 2. Rule 12.2 of the Federal Rules of Criminal Procedure is amended—

(a) by amending the title of the rule to read "Rule 12.2 Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition";

(b) by amending subdividion (b) to read as follows:

"(b) Expert Testimony of Defendant's Mental Condition.—If a defendant intends to introduce expert testimony relating to a mental disease or defect or any other mental condition bearing upon the issue of guilt, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, notify the attorney for the government in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate."; and

(c) by deleting "by a psychiatrist designated for this purpose in the order of the court" in subdivision (c) and inserting in lieu thereof "pursuant to 18 U.S.C. 4242".

Sec. 3. Chapter 313 of title 18, United States Code, is amended to read as follows:

"Chapter 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

"Sec.

"4241. Determination of mental competency to stand trial.

"4242. Determination of the existence of insanity at the time of the offense.
"4243. Hospitalization of a person found not guilty only by reason of insanity.
"4244. Hospitalization of a convicted person suffering from mental disease or defect.
"4245. Hospitalization of an imprisoned person suffering from mental disease or defect.
"4246. Hospitalization of a person due for release but suffering from mental disease or defect.
"4247. General provisions for chapter 313.

"§ 4241. Determination of mental competency to stand trial.

"(a) Motion To Determine Competency of Defendant.—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychologial report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another facility designated by the court as suitable—

"(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capability to permit the trial to proceed; and

"(2) for an additional reasonable period of time until—

"(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or

"(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the trial to proceed, the defendant is subject to the provisions of section 4246.

"(e) Discharge.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certicate to the defendant's counsel and to the attorney for the government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247 (d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial.

"(f) Admissibility of Finding of Competency.—A finding by the court that the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trail for the offense charged.

"§ 4242. Determination of the existence of insanity at the time of the offense.

"(a) Motion For Pretrial Psychiatric or Psychological Examination.—Upon filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the government, may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(b) Special Verdict.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity."

"§ 4243. Hospitalization of a person found not guilty only by reason of insanity.

"(a) Determination of Present Mental Condition of Acquitted Person.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

"(d) Burden of Proof.—In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to, or serious damage to the property of, another person due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.

"(e) Determination and Disposition.—If, after a hearing, the court fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to, or serious damage to the property of, another person due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment."

"(f) Discharge.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (e) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by the standard specified in subsection (d) that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him,

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that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an exlicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(g) Revocation of Conditional Discharge.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (f) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"§ 4244. Hospitalization of a convicted person suffering from mental disease or defect.

"(a) Motion To Determine Present Mental Condition of Convicted Defendant.—A defendant found guilty of an offense, or the attorney for the government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. "(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives available under chapter 227 of this title that could best accord the defendant the kind of treatment he does need.

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized for the offense committed.

"(e) Discharge.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under chapter 227.

"§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect.

"(a) Motion To Determine Present Mental Condition of Imprisoned Defendant.—If a defendant serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the government, at the request of the director of the facility in which the defendant is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the defendant. The court shall grant the motion if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the release of the defendant pending completion of procedures contained in this section.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247 (d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility until he is no longer in need of such custody for care or treatment or until the expiration of his sentence of imprisonment, whichever occurs earlier.

"(e) Discharge.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the defendant has not expired, the court shall order that the defendant be reimprisoned until the date of his release.

"§ 4246. Hospitalization of a person due for release but suffering from mental disease or defect.

"(a) Institution of Proceeding.—If the director of a facility in which a person is hospitalized certifies that a person whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person's counsel, and to the attorney for the government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247 (d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) Discharge.—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247 (d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) Revocation of Conditional Discharge.—The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"(g) Release to State of Certain Persons.—If the director of a facility in which a person is hospitalized pursuant to this subchapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.

"§ 4247. General provisions for chapter 313.

"(a) Definition.—As used in this chapter—

"(1) 'rehabilitation program' includes—

"(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

"(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

"(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

"(D) organized physical sports and recreation programs; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) Psychiatric or Psychological Examination.—A psychiatric or psychological examination ordered pursuant to this chapter shall be conducted by a licensed or certified psychiatrist or clinical psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be—

"(1) designated by the court if the examination is ordered under section 4241, 4242, 4243, or 4244; or

"(2) designated by the court, and upon the request of the defendant, an additional examiner may be selected by the defendant, if the examination is ordered under section 4245 or 4246.

For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4242, 4243, or 4246, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The Director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245, and not to exceed thirty days under section 4242, 4243, or 4246, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

"(c) Psychiatric or Psychological Reports.—A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 4241, whether the person is suffering from a mental disease or defeat rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

"(B) if the examination is ordered under section 4242, whether, at the time of the commission of the acts constituting the offense, the person, as a result of mental disease or defect, lacked entirely the ability to understand the nature and quality of his acts or the ability to distinguish right from wrong with respect to his acts;

"(C) if the examination is ordered under section 4243 or 4246, whether the person is suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another;

"(D) if the examination is ordered under section 4244 or 4245, whether the person is suffering from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility.

"(d) Hearing.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) Periodic Report and Information Requirements.—(1) The director of the facility in which a person is hospitalized pursuant to—

"(A) section 4241 shall prepare semiannual reports; or

"(B) section 4243, 4244, 4245, or 4246 shall prepare annual reports; concerning the mental condition of the person and containing recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to section 4241, 4243, 4244, 4245, or 4246 shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) Videotape Record.—Upon written request of defense counsel, the court may

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order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

"(g) Admissibility of a Defendant's Statement at Trial.—A statement made by the defendant during the course of a psychiatric or psychological examination pursuant to section 4241 or 4242 is not admissible as evidence against the accused on the issue of guilt or punishment in any criminal proceeding, unless the defendant waived his privilege against self-incrimination, but is admissible on the issue whether the defendant suffers from a mental disease or defect.

"(h) Habeas Corpus Unimpaired.—Nothing contained in section 4243 or 4246 precludes a person who is committed under either or such sections for establishing by writ of habeas corpus the illegality of his detention.

"(i) Discharge.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4243, 4244, 4245, or 4246, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determination that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the government.

"(j) Authority and Responsibility of the Attorney General.—The Attorney General—

"(A) may contract with a State, a political subdivision, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

"(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243 or 4246;

"(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, or 4246, consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

"(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

"(k) This chapter does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice."

(b) The item relating to chapter 313 in the chapter analysis of Part III of title 18, United States Code, is amended to read as follows:

"313. Offenders with mental disease or defect."

Section-by-Section Analysis

I. INTRODUCTION

The bill amends various provisions of title 18, United States Code, and of the Federal Rules of Criminal Procedure, relating to the procedures to be followed in Federal courts with respect to offenders who are or have been suffering from a mental disease or defect. Among the matters provided for by these amendments are the determination of mental competency to stand trial, the determination of the existence of insanity at the time of the offense, to limit the scope of a separate insanity defense, and the post-trial hospitalization of defendants suffering from a mental disease or defect.

II. SECTION-BY-SECTION ANALYSIS

Section 1 states the affirmative defense of insanity under Federal statute in subsection (a) ". . . the defendant, as a result of mental disease or defect, lacked entirely—(1) the ability to understand the nature and quality of his acts; or (2) the ability to distinguish right from wrong with respect to his acts". The bill further states that this is the sole and exclusive test for insanity by providing, "mental disease or defect does not otherwise constitute a defense. In section (b) the bill establishes that the defendant has the burden of proving the insanity defense by "clear and convincing" evidence. This standard is greater than a preponderance of the evidence but less than beyond a reasonable doubt.

Section 2 of the bill amends Rule 12.2 of the Federal Rules of Criminal Procedure to conform with chapter 313 of title 18 as amended by this bill.

Section 3 provides a comprehensive amendment of current chapter 313 of chapter 18, United States Code. Proposed 18 U.S.C. 4241 deals with the determination of mental competency to stand trial; 18 U.S.C. 4242 relates to the determination of the existence of insanity at the time of the offense; 18 U.S.C. 4243 provides for the hospitalization of a person found not guilty only by reason of insanity; 18 U.S.C. 4244 deals with the hospitalization of a convicted person who is suffering from a mental disease or defect; 18 U.S.C. 4245 covers the hospitalization of an imprisoned person who suffers from a mental disease or defect; 18 U.S.C. 4246 deals with the situation of such a person who is scheduled to be released; and 18 U.S.C. 4247 contains general provisions for chapter 313. These sections are discussed below:

18 U.S.C. 4241, Determination of Mental Competency to Stand Trial, contains six subsections which deal exclusively with the determination of the mental competency of the defendant to stand trial or to enter a plea. Subsection (a) permits either the defendant or the government to move for a hearing to determine the defendant's mental competency, and requires the court to order a hearing if there is resonable cause to believe that a mental disease or defect renders the defendant unable to understand the proceedings or to assist in his defense. Subsection (b) permits the court to order a psychiatric or psychological examination of the defendant prior to hearing. Subsection (c) requires that the hearing be conducted pursuant to the provisions of section 4247(d). Subsection (d) provides that a defendant found by a preponderance of the evidence to be mentally incompetent shall be hospitalized for treatment in a suitable facility for a reasonable period of time to determine whether there is a substantial probability that he will attain the capacity to permit the trail to proceed. If the defendant appears unlikely to improve sufficiently, he is to be treated in accordance with the provisions of section 4246. Subsection (e) provides for the discharge from the hospital of a defendant who has recovered sufficiently to stand trial. Subsection (f) specifies that a court finding of competency to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the crime charged and shall not be admissible as evidence at trial. (See S. Rept. No. 97-307, pp. 1191-1197.)

18 U.S.C. 4242, Determination of the Existence of Insanity at the Time of the Offense, provides for an examination of a defendant who intends to rely on such a defense and sets forth the types of verdict to be rendered in such cases.

Subsection (a) provides for the psychiatric or psychological examination of a defendant who files a notice of intent to rely on the defense set forth in Section 1 of the bill. Subsection (b) specifies that in a case involving such a defense the trier of fact is to return a verdict of guilty, or not guilty only by reason of insanity.

18 U.S.C. 4243, Hospitalization of a Person Found not Guilty Only by Reason of Insanity, sets out the procedure to be followed when a person is found not guilty only by reason of insanity at the time of the offense. Subsection (a) requires that such a person be committed to a suitable facility until he is eligible for release pursuant to subsection (e). Subsection (b) requires that the person undergo a psychiatric of psychological study, while subsection (c) mandates a hearing on his present mental condition within 40 days following the verdict. Subsection (d) provides that in such hearing, the person found not guilty only by reason of insanity has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage to property of another. Subsection (e) provides that if, after hearing, the person fails to prove that his release would not create a substantial risk of bodily injury to another person or serious damage to the property of another person due to present mental disease or defect, he shall be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (f) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (g) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release.

18 U.S.C. 4244, Hospitalization of a Convicted Person Suffering from Mental Disease or Defect, sets forth procedures to be followed when there is reasonable cause to believe that a recently-convicted defendant may be suffering from a mental disease or defect and in need of care or treatment in a suitable facility. Subsection (a) permits the court, shortly after a guilty verdict and before sentencing, on motion of the defendant or the government or on its own motion, to order a hearing on the defendant's present mental condition if there is reasonable cause to believe he is suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. Under subsection (b), the court may order a psychiatric or psychological examination of the defendant. If, after a hearing provided for by subsection (c), the court determines by a preponderance of the evidence pursuant to subsection (d) that the standard set forth in subsection (a) has been met, the defendant is to be committed to the custody of the Attorney General for hospitalization in a suitable facility in lieu of being imprisoned. Subsection (e) permits the discharge and

final sentencing of a hospitalized defendant when the director of the facility certifies that the defendant is no longer in need of custody for care and treatment. (See S. Rept. No. 97-307, pp. 1204-1206.)

18 U.S.C. 4245, Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect, deals with the hospitalization of an imprisoned person who is suffering from a mental disease or defect for which he is in need of custody for care and treatment, if the person objects to being hospitalized. Unlike current Federal law, subsection (a) provides that, when a defendant who is imprisoned objects to being transferred to a suitable facility for care and treatment of a mental disease or defect, the court shall, on the government's motion, order a hearing on the defendant's present mental condition if there is reasonable cause to believe that the defendant may be suffering from a mental disease or defect for the treatment of which he is in need of custody for care and treatment in a suitable facility. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the defendant, and for the conduct of the hearing. Subsection (d) provides that a defendant who is found to be suffering from a mental disease or defect and in need of custody for care and treatment shall be hospitalized in a suitable facility until he is no longer in such need, or until his prison sentence expires. Subsection (e) provides for the defendant's discharge from the hospital and return to prison upon the certification by the director of the facility that he is no longer in need of custody for care and treatment. (See S. Rept. No. 97-307, pp. 1206-1208.)

18 U.S.C. 4246, Hospitalization of a Person Due for Release but Suffering from Mental Disease or Defect, covers those circumstances where State authorities will not institute civil commitment proceedings against a hospitalized defendant whose Federal sentence is about to expire, who is mentally incompetent to stand trial, or against whom all criminal charges have been dropped solely for reasons related to his mental condition, and who is presently mentally ill. Subsection (a) requires the court to order a hearing if the director of the facility in which the person is hospitalized certifies that he is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the person and for the conduct of the hearing. Subsection (d) provides that if the facts certified are found by the court by a preponderance of the evidence, the person is to be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release. Subsection (g) deals with mentally ill persons who have been hospitalized and against whom all charges have been dismissed for reasons not related to their mental condition. If the director of the hospital certifies that the release of such a person would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General is required to release the person to appropriate State officials for the institution of State civil commitment proceedings. If the appropriate State will not assume responsibility, and so informs the Attorney General, the person must be released. (See S. Rept. No. 97-307, pp. 1209-1212.)

18 U.S.C. 4247, General Provisions for Chapter 313, contains a definition of terms used in chapter 313, as well as other provisions generally applicable to sections 4241-4246. Subsection (a) defines the terms "rehabilitation program" and "suitable facility." Subsections (b) and (c), respectively, set forth requirements for court-ordered psychiatric or psychological examinations and reports. Subsection (d) enumerates the rights a person has at a hearing to determine his mental condition. Subsection (e) pertains to reports by mental facilities, and contains a requirement that a hospitalized person be informed of the availability of rehabilitation programs. Subsection (f) permits the court to order and examine a videotape record of a defendant's testimony or interview which forms a basis of a periodic report of his mental condition. Subsection (g) concerns the admissibility in evidence of statements made by a defendant during the course of a psychiatric or psychological examination. Subsections (h) and (i), respectively, preserve the availability of the writ of habeas corpus, and permit a hospitalized person to move for a hearing to determine whether he should be released. Subsection (j) sets forth the authority and responsibility of the Attorney General under chapter 313. Subsection (k) provides that chapter 313 does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice. (See S. Rept. No. 97-307, pp. 1212-1213.)

Mr. SPECTER. Mr. President, the bill we introduce today to delimit the insanity defense in Federal criminal cases merits prompt attention. Although late in the session, this Congress can, by acting expeditiously to enact this legislation, not only improve the Federal criminal justice system but can do much to restore the public's respect for law and our system of government.

I commend the distinguished chairman of the Committee on the Judiciary for his leadership on this issue. On June 22, 1982, the morning after John W. Hinckley, Jr., was acquitted, the Senator from South Carolina (Mr. THURMOND) focused our attention on the challenge presented by that verdict and the public outrage it engendered. I joined with him on the Senate floor to speak out against current Federal law which allows potential for such abuse in the Federal criminal justice system, and I introduced legislation on that day to define the proper boundaries of the insanity defense and to place upon a Federal defendant seeking to avoid criminal responsibility for his actions the burden of proving by clear and convincing evidence the affirmative defense of insanity.

The chairman of the Committee on the Judiciary was urging prompt hearings on proposals to reform the law of insanity and I was honored to have chaired a series of expedited hearings before the Subcommittee on Criminal Law, with the cooperation and support of the Senator from Maryland (Mr. MATHIAS). Thereafter I was pleased to participate in an additional set of hearings on these issues before the Committee on the Judiciary itself. Throughout the 12 weeks that have intervened, the distinguished chairman of the Committee on the Judiciary and I have consulted and met with our colleagues, and others, in a conserted effort to fashion a legislative response to the problems we had noted in the Federal criminal justice system's treatment of the defense of insanity.

I am gratified to be able to lend my assistance to this effort and that our final product incorporates my sense that the fundamental change we must enact is to shift to the defendant the burden of proof. I do disagree with the statement of the defense included in the bill, however. After numerous hearings, much thought and discussion, I suggest we modify the prevailing test with part of a suggestion made by Prof. Alan Stone of the Harvard Law School. I urge that the law should require that the defendant be required to prove that at the time of the conduct charged "as a result of severe mental disease or defect he lacked substantive capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law." In this way, we can tighten down the test of the American Law Institute's Model Penal Code.

After another controversial acquittal almost 140 years ago in the famous case of Daniel M'Naghten, Lord Chief Justice Tindal responded to the questions propounded by the House of Lords by suggesting:

> (J)urors ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that to establish a defence on the ground of insanity, It must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know he was doing what was wrong.

Daniel M'Naghten's case, 8 Eng. Rep. 718, 722 (1834) (emphasis added).

By establishing insanity as an affirmative defense excusing the defendant of criminal responsibility, we can constitutionally place upon the defendant the burden not only of going forward but of persuasion. Although the federal courts have since the 1895 decision of Justice Harlan in *Davis* v.

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United States, 160 U.S. 469 (1895), imposed upon the Government the burden of proof once the issue of the defendant's sanity is raised, they have done so not as a matter of constitutional law, but as a supervisory rule applicable only in the Federal courts. This is apparent from two subsequent Supreme Court decisions upholding State law from constitutional attack.

In 1952, the Supreme Court upheld an Oregon statute that not only placed the burden of proving his insanity defense on the defendant but required the defendant to provide his insanity beyond a reasonable doubt, a much more exacting standard than the one we propose. *Leland* v. *Oregon*, 343 U.S. 790 (1952). Notwithstanding the doubts entertained by commentators, this case has never been overruled. Cf. *Rivera* v. *Delaware*, 429 U.S. 877 (1979) (dismissal of case in which appeallant challenged continuing validity of Leland against Oregon for not raising substantial Federal question).

More recently, in 1977 the Supreme Court held in *Patterson* v. *New York*, 432 U.S. 197 (1977), that New York laws placing the burden on the defendant to establish the analogous affirmative defense of extreme emotional disturbance in order to reduce a crime from murder to manslaughter did not offend the Constitution's guarantee of due process. Justice White, writing for the majority, expressly declined to adopt "as a constitutional imperative, operative countrywide, that a State must disprove beyond a reasonable doubt every fact constituting any and all affirmative defenses related to the culpability of an accused." 432 U.S. at 210.

I suggest that the time has come for Congress to change Federal law and legislatively allocate the burden of proof on the insanity defense to the defendant. The Oregon and New York cases to which I referred lend support to this approach as do the statutes of approximately half the States. See Note, Constitutional Limitations on Allocating the Burden of Proof of Insanity to the Defendant in Murder Cases, 56 B.U.L. Rev. 499, 503-505 (1976).

This legislation goes on to require the defendant to establish his affirmative defense of insanity by clear and convincing evidence. I submit that the prosecution in a criminal case is entitled to proceed as if the traditional rules governing the inference of intent from conduct and the inference that a person ordinarily intends the natural and probable consequences of his actions apply. As Chief Justice Burger observed:

> The function of the standard of proof, as that concept is embodied in the Due Process Clause and in the realm of factfinding, is to "instruct the fact finder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication." In re Winship, 397 U.S. 358, 370 (1970) (Harlan, J., concurring). The standard serves to allocate the risk of error between the litigants and to indicate the relative importance attached to the ultimate decision.

Addington v. *Texas*, slip op. 4 (U.S. April 30, 1979). We believe it is appropriate to require the defendant to prove in an after-the-fact presentation of such an abstract and obtuse defense as insanity that a high probability exists that he was insane at the time of his conduct in order for him to escape responsibility for his crime. Accordingly, we would place on the defendant the burden of meeting a standard of proof by "clear and convincing evidence." This standard is the middle ground between the traditional standard of proof "by a preponderance" used in civil cases and the more exacting standard of proof "beyond a reasonable doubt," which the prosecution must meet in criminal cases.

In the course of our hearings we also focused on the need for Federal authority to fulfill the Federal Government's responsibility to the public in the wake of an acquittal by reason of insanity. The current absence of Federal commitment authority makes it possible for a Federal defendant acquitted of a violent crime on account of insanity to walk out of the courtroom and threaten the public safety, again. The Department of Justice informs me that this is more than a theoretical possibility and that in 1981 a Federal defendant acquitted of murder by reason of insanity escaped not only criminal punishment but civil commitment, as well. By providing Federal commitment authority we remedy a serious failing of our Federal criminal justice system.

Our chief concern in this regard is that we insure a long-term continuation of court jurisdiction over the Federal defendant acquitted by reason of insanity in order to insure his treatment, incapacitation while a threat to society beyond the reach of the criminal laws, and his carefully monitored and staged reintegration into society under the necessary medical care and treatment.

I suggest that post-acquittal authority is most readily justifiable constitutionally when the jury returns a special verdict of not guilty by reason of insanity after trial in which defendant bore the burden of proof on this issue. Such a finding can then serve post-trial to justify the inference that the defendant continues to suffer from a mental disability requiring care and, most importantly, following acquittal for a violent crime, when he may continue to present a threat to the safety of others beyond the reach of the criminal law. In this setting the Federal defendant excused from criminal responsibility on the basis of insanity can be required to submit to examination and conditions designed to control his violent behavior.

The legislation we propose today includes a new section 4243 that will protect the public from dangerous Federal defendants acquitted only by reason of insanity by establishing procedures to insure their commitment to care and treatment so long as they continue to create a substantial risk to the community.

Finally, I wish to emphasize a final point of concern to me—the influence of the psychiatric testimony that has come to dominate insanity cases. The reallocation of the burden of proof and exacting standard of proof we recommend will go a long way toward remedying the current problem in Federal law governing the insanity defense because a defendant will no longer be able to escape just punishment by creating confusion or concocting a conflict between teams of expert witnesses. It is precisely because the question of legal insanity is not a scientific or a clinical conclusion that it is propounded to the jury. For this reason, it must be more clearly enunciated as an issue for the jury and reserved to the jury.

I encourage our Federal judges to make full use of Federal Rules of Evidence 701 and 702 to confine both expert and other opinion testimony to matters helpful to the jury and to utilize Federal Rule of Evidence 403 to exclude evidence that is confusing, cummulative or a source of undue delay. The role of expert and opinion testimony at trial must be better controlled.

To a great extent, the various modern reformulations of the insanity defense are each attempts to confine medical testimony while preserving to the jury its province as final arbiter. From Durham to McDonald to Washington to Brawner to Hinckley even in this, one of the leading Federal circuits, the courts have not been successful in restraining the influence of psychiatric speculation. I am hopeful that our statutory definition of insanity, the first in our 200-year history, will go a long way toward limiting the role of the batteries of expert witnesses that have come to dominate insanity trials and have led to the perception that it is a rich man's defense.

This legislation presents us with a challenge to correct several current failings of our criminal laws. It is most unfortunate that it takes the wounding of a President and the acquittal of his attacker in a verdict that the overwhelming majority of Americans viewed as unjust, to present this opportunity for action. We should not accentuate the tragedy by failing to seize this historic moment.

I was honored to appear before the House Committee on Criminal Justice on July 21 as it began its hearings on these matters. Those hearings were concluded last week and their distinguished chairman (Mr. Conyers) has scheduled a markup on insanity defense legislation for next week. I am encouraged to note that the subcommittee chairman has himself introduced a bill, H.R. 6783, that includes each of the components of the joint legislation we introduce this morning. I, therefore, have every confidence that prompt Senate action will be mirrored in the other body and suggest that this is a matter on which good faith, bipartisan legislative efforts can succeed in the enactment of much needed changes in the Federal criminal justice system. The public deserves no less than our conscientious attention to this important legislation.

Mr. THURMOND. Mr. President, I also ask unanimous consent that the record remain open for the purpose of adding further original cosponsors until the close of business today.

The PRESIDING OFFICER (Mr. Warner). Without objection, it is so ordered.

Mr. CHILES. Mr. President, will the distinguished Senator from South Carolina add me as a cosponsor to the bill he is introducing this morning?

Mr. THURMOND. Mr. President, I ask unanimous consent to add the distinguished Senator from Florida as a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I send a bill to the desk and ask unanimous consent that it be read twice after which I shall object to the further consideration of the bill and ask that it be placed directly on the calendar.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The unanimous-consent request is pending.

The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that bills are not supposed to be introduced until the period for morning business.

So for that reason I could object to the introduction of the bill at this point or even during this calendar day. I will not do that.

I will not object to the first and second readings of the measure if I may have the same privilege accorded on behalf of two bills which I want to introduce on behalf of two other Senators, one by Mr. Kennedy which deals with funding for public works infrastructure employment, and one which is by Mr. Metzenbaum which deals with extended supplemental unemployment benefits.

So, if we can work out an arrangement whereby both the measure which Mr. Thurmond and the measures which I have referred to can be given first and second readings and objected to and go on the calendar on the next legislative date or if he wishes to ask unanimous consent that the measures be put directly on the calendar, I would have no objection with that provided the same courtesy could be shown in regard to the measures I have referred to.

Could we work the thing out along that line?

Mr. THURMOND. Mr. President, I understand the majority leader wanted to be present and maybe we should have a quick quorum to give him time to get here.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. The pending request will be withheld until such time as we resolve the matter, and I believe the majority leader will be here momentarily.

Mr. THURMOND. Mr. President, I will be pleased to withhold that request until after this matter is settled then.

Mr. President, I shall suggest the absence of a quorum to give the majority leader time to get here.

Mr. SPECTER. Mr. President, I wonder if the distinguished Senator from South Carolina would defer on his request for the suggestion of the absence of a quorum also so that we might proceed while we await the majority leader's arrival.

The PRESIDING OFFICER. The parliamentary situation is as follows:

There are pending unanimous-consent requests to ask that those not be passed upon until such time as the majority leader arrives. Also under the previous order there is a 15-minute allocation of time to the Senator from Florida. The Chair understands that the Senator from Florida has deferred the order of priority to the Senator from Pennsylvania.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Unless there is objection, the Senator from Pennsylvania may proceed with his special order until such time as the arrival of the majority leader.

Mr. SPECTER. I thank you, Mr. President.

THE MIDDLE EAST

Mr. SPECTER. Mr. President, observations and discussions during a 3-day visit to Lebanon and Israel on behalf of the Foreign Operations Subcommittee of the Appropriations Committee suggest that prospects are good for peace in the Middle East and U.S. political leadership is more important than financial assistance.

Some conclusions, although they are preliminary, on some key issues are:

First, President Reagan and Prime Minister Begin should meet at the earliest practical moment—in any event no later than November when Mr. Begin has plans to be in Los Angeles—to reestablish their personal diplomacy which could bridge some apparent but unreal differences and set the stage for further negotiations on the positive aspects of Mr. Reagan's proposals and some valid issues raised by Mr. Begin's objections.

Second, there is significant support for President Reagan's proposal in Israel, but additional attention must be given by the United States to legitimate Israeli security concerns, and appropriate assurances must be given that Jerusalem will not be divided and that there will not be a new, separate Palestinian State.

Third, the United States should not appropriate further aid for Lebanon until a comprehensive plan is formulated, and we see the precise participation by others in the financial community including the Arab nations, the European Community and, most importantly, what the Lebanese Government plans to do for itself.

Fourth, the United States should assist Lebanon's President-elect Bashir Gemayel in achieving national unity in Lebanon between the Christian and Moslem factions including our closely monitoring the discussions on an Israeli-Lebanese peace treaty to strike the proper balance between leaving Mr. Gemayel sufficient time for unifying Lebanon and not losing the opportunity for that important treaty.

Mr. James Bond, staff director of the Foreign Operations Subcommittee of the Senate Appropriations Committee, Paul Michel, Esq., of my staff and I arrived in Beirut in the afternoon on Friday, September 10, on the last helicopter flight provided from Cyprus a few hours after the last of the U.S. Marines had left Lebanon. Before our flight from Ben Gurion Airport on Monday, September 13, we had visited Beirut—both East and West—driven down the coastal highway to Tel Aviv with brief stops in Damur, Sidon, and Tyre and met with:

In Lebanon: President-elect Bashir Gemayel; President Ilyas Sarkis; Foreign Minister Fouad Butros; and Dr. Muhammad Atallah, President, Council of Development and Reconstruction.

In Israel: Prime Minister Menachem Begin; Labor Party leader Shimon Peres; Yehuda Ben-Meir, Deputy Foreign Minister; and Hanon Baron, Deputy Director General, Ministry of Foreign Affairs.

Prior to these meetings we were briefed and received excellent assistance from Ambassadors and staff:

Lebanon Embassy briefings by: Chargé d'Affaires Robert Barrett; Deputy Chief of Mission Robert Pugh; Political Section Chief Ryan Crocker; Defense Attaché Col. Winchell Craig; Habib Mission Representative Jock Covey; Control Officer Douglas

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Greene; AID Director William McIntyre; and Economic/Commercial Section Chief Hunt Janin.

In Cyprus, Ambassador Dillon.

Israel Embassy briefings by: Ambassador Samuel Lewis.

On the day before yesterday, I had the opportunity to meet with Prime Minister Begin for more than an hour. After observing the intensity of Mr. Begin's feelings and noting the escalating rhetoric in the international media, I believe President Reagan and Prime Minister Begin should meet face-to-face. Like the nations they lead, these men have been allies and good friends. There is merit in some of the President's proposal; there is merit in some of the Prime Minister's objections. But if the public argument continues at long distance, the alliance may continue to deteriorate.

The new issue of Time magazine pictures a stern Menachem Begin with a caption "Begin Digs In—A Defiant No To Reagan's Peace Plan". It describes the Prime Minister as being in a rage. Sitting with Mr. Begin for more than an hour on Sunday evening, I found him to be reasoned and calm, but quite firm. His attitude reflected the special kind of hurt, rather than anger, which arises from a relationship between friends.

While it is clear that Mr. Begin intends to stand by his principles, it was obvious to me that he has been deeply saddened by the controversy with his good friend, Ronald Reagan. It is well known that these men are on a first name basis with the President calling Mr. Begin "Menachem" and insisting that the Prime Minister call him "Ron." An unusual, special and friendly relationship has developed between these leaders, as between the nations they lead.

It is no secret that Mr. Begin was offended by Mr. Reagan's reference to the Israeli action in Lebanon as a holocaust. The word holocaust has an historic meaning for Mr. Begin. During the middle of our conversation, Mr. Begin left the room to bring in a newly acquired book with pictures of the real Holocaust. For several minutes he turned page after page pointing to the faces of children, women and the elderly who were led to the gas chambers by the Nazis.

It is also no secret that Mr. Begin deeply resented the advance notice given to King Hussein of Jordan. He was also offended by the President's refusal to delay his September 1 speech which came only 1 day after Mr. Begin was notified.

In our conversation, Mr. Begin's major point of emphasis, and there were many points of emphasis, was that Israel would not yield to threats or intimidation. I responded that I was sure that President Reagan has not intended to threaten or intimidate, but had outlined a position to guide negotiations.

As I see it, there are major misunderstandings which could be resolved or, at least, clarified by personal diplomacy between these two men of good will. When the President calls for the Arabs in Jerusalem to vote in a West Bank election, Prime Minister Begin draws an inference of a divided Jerusalem. Similarly, Mr. Begin expressed grave concern abut the implications of Arab control over internal security on the West Bank. The Prime Minister dwelt on the President's assertion that there should not be a single new settlement on the West Bank, which Mr. Begin viewed as an extraordinary restriction.

If a face-to-face meeting does not occur reasonably soon, personal relations are likely to sour. Efforts to apply public pressure by the Reagan administration may prove counterproductive. While Secretary of State Shultz has every right to seek support at the high-level UJA dinner 2 days ago, such action may intensify resistance in Israel.

By the same token, a face-to-face meeting between the President and the Prime Minister would be most useful before the debate within Israel proceeds. Public opinion polls are interpreted to say that a majority of Israelis favor giving up West Bank territories for negotiated guarantees of peace and security. The President's proposal has taken key aspects of the Israel Labor Party's plan. It is likely that there would be greater flexibility with a meeting between President Reagan and Prime Minister Begin at an early date before the debate hardens positions within Israel itself.

When I asked Mr. Begin when he next planned to be in the United States, he stated that he would be in Los Angeles in November for a bond dinner. While he said that he thought it inappropriate to invite himself to the White House, it was clear that the Prime Minister would welcome such an invitation.

It is true that Mr. Begin has said that he would not discuss President Reagan's proposal. However, if the two men sit down to talk it would be inevitable that the discussion would include all aspects and differences of opinion.

Much of President Reagan's proposal would be of great benefit to the State of Israel. Recognition of Israel by the Arab States is long overdue. Mr. Begin has raised legitimate concerns on security issues, and the future of Jerusalem. Little should be lost by a face-to-face meeting, but much could be gained.

The most encouraging aspect of our meeting was Prime Minister Begin's statement that he anticipated a long period of peace in the Middle East. As he did on a number of matters, Mr. Begin spoke in biblical terms of 40 years of peace, adding that it could be as long as 60 years or as short as 10 years. His optimism arose from the demonstrated superiority of Israeli military power, the crushing of the PLO, the solidity of the peace treaty with Egypt and the absence of any other formidable military power in the Arab world. And, he expressly discounted the likelihood of any Soviet military initiative in the area. Succinctly stated, Mr. Begin said Israel would attack no one, and no one would attack Israel.

Mr. Begin restated Israel's intention to leave Lebanon as soon as Syria withdrew its military forces. Discounting Syrian goodwill, Mr. Begin stated that Syria would leave without provoking further fighting because it was well known that Damascus lay within range of Israeli artillery embankments in the mountains of Lebanon overlooking that city.

Mr. Begin reviewed the troubled history of Lebanon, detailing the rival religious factions. He expressed hope and confidence that President-elect Bashir Gemayel would be able to unify the country. When I told him of Mr. Bashir Gemayel's statement to me on the previous day concerning his deep concern that pressure from Israel for an immediate peace treaty with Lebanon would undermine Gemayel's ability to achieve national unity between Christians and Moslems, Mr. Begin said he would like the peace treaty concluded, but would put no pressure on Lebanon. Mr. Begin repeated this statement at a news interview immediately following our meeting.

On the subject of President Reagan's initiative on the Palestinian issue, Prime Minister Begin raised four contentions that Mr. Reagan's proposals were outside the Camp David Accord:

First, there had been no mention of Jerusalem, whereas Mr. Reagan's proposal called for the Arabs in Jerusalem to vote in the West Bank elections which implied a partition of Jerusalem;

Second, internal and external security were lumped together in the Camp David Accord whereas Mr. Reagan's plan gave the Arabs increasing control over internal security;

Third, the Camp David Accord did not ban new settlements on the West Bank after a 3-month moratorium, whereas Mr. Reagan called for not a single new settlement; and

Fourth, the Camp David Accord did not stipulate a final disposition of the West Bank whereas Mr. Reagan called for some jurisdiction in Jordan.

Although not mentioned by Mr. Begin, others commented that Mr. Begin probably reacted angrily to Mr. Reagan's initiative because it came virtually simultaneously with Israel's success in ousting the PLO, leaving Mr. Begin no opportunity to savor the victory or enjoy a brief respite before facing a new crisis.

During our discussion, Mr. Begin stressed the danger to Israeli security if the Arabs controlled any of the West Bank. When I asked Mr. Begin about the issue of aid to Israel which was pending before the Foreign Operations Subcommittee, Mr. Begin responded that this was not the time for Israel to make requests and that the subcommittee knew the details of Israel's needs.

Later on Sunday evening, we met with Mr. Shimon Peres, leader of the Labor Party, who forcefully disagreed with Mr. Begin on the security issue. Mr. Peres insisted that there could be a demilitarized zone on the West Bank just as there was under the agreement with Egypt on the Sinai. Pointing out that Mr. Reagan's proposals were fashioned largely from the Labor Party's earlier proposals, Mr. Peres noted that public opinion polls showed that a majority of Israelis favored territorial concessions as a means of solving the West Bank controversy.

Our meeting with President-elect Bashir Gemayel took place at the Presidential residence in Beirut, Lebanon, on a hilltop overlooking East and West Beirut where earlier in the morning we had met with outgoing Lebanese President Ilyas Sarkis. With inauguration on September 24, Mr. Gemayel's attention was concentrated almost exclusively on the vital task of integrating the Moslem factions with his own Christian factions and ending the 8 years of civil war between them. We met Mr. Gemayel only moments before his first and fateful official meeting with Saheb Salem, the most prominent Moslem leader. A young man of only 34 years of age, Mr. Gemayel appeared apprehensive, although very determined and acutely aware of the overriding importance of his being President of all the Lebanese. Trained as a lawyer and educated partly in the United States, he spoke with clarity, directness and candor.

My very first question was what financial assistance he felt he needed to succeed. He brushed aside the issue, saying he was much more concerned with the political assistance from the United States to gain time. He asserted that the Israeli Government was pressuring him for an immediate peace treaty between the two countries even while Israeli forces occupied the southern part of Lebanon and Israeli, Syrian and PLO forces faced each other in the central part. He said signing a peace treaty now would undermine his credibility as an independent leader and his efforts to form a national coalition with Moslem factions. I promised to convey his plea to United States and Israeli officials which I did.

Mr. Gemayel stressed that next to time to build Lebanese unity, he needed U.S. assistance to secure the withdrawal of all foreign forces. Northern Lebanon is effectively under the control of PLO forces in many areas. In central Lebanon and the Bekaa Valley which lies between mountain ranges near the border with Syria, large concentrations of PLO forces are behind Syrian lines which face Israeli lines. In the south, the Israeli Army is in complete control. Mr. Gemayel suggested that while the parties seemed to accept the principle of essentially simultaneous withdrawal, each seemed to expect the other to go first. Agreement on phased withdrawal of portions of each force seeded logical, but was not forthcoming. U.S. diplomatic efforts were needed, he indicated, to advance and assure this process. Ambassador Morris Draper with whom I met before leaving Washington was due the next day in Lebanon to continue the Habib mission and specifically to negotiate simultaneous withdrawal.

Mr. Gemayel did not cite physical damage or destruction as a critical problem. He was concerned with strengthening and upgrading the 23,000-man Lebanese Army to enable it to assume control of parts of Lebanon as foreign forces withdraw. Some U.S. advice or technical assistance might be needed. He did, however, note that general economic assistance to rebuild the country would also be welcome. He said that in addition to the destruction from the fighting this summer, much damage remained unrepaired from the 1975–76 civil war and sporadic fighting since then. Moreover, because no maintenance of the infrastructure had been carried out, equipment was deteriorating, broken or missing. But this need was secondary to the need for political unity. Mr. Gemayel said that "if the Government of Lebanon fails now to reunify and reunite the country," economic progress will not suffice. Without a national consensus among all Lebanese, "everything will be destroyed."

As to economic needs, Mr. Gemayel reported he expected most of the necessary financing from abroad to be provided by Saudi Arabia and Kuwait. But a premature or forced peace treaty with Israel would preclude this assistance.

Eighteen hours after concluding the meeting with Mr. Gemayel and after traveling southward on the coastal highway viewing war damage, we met in Jerusalem with Prime Minister Begin. I conveyed my impressions of Mr. Gemayel and his fear of a treaty ending any chance for national reconciliation. Initially, Mr. Begin indicated irritation that an immediate peace treaty was not forthcoming. The issue was discussed extensively as Mr. Begin and I exchanged views and impressions on Mr. Gemayel and the difficulty of the task he and Lebanon faced. Mr. Begin acknowledged the toll of years of fighting, saying "people are tired in Lebanon; Lebanon is tired of civil war." Mr. Begin saw some hope of Lebanese unification and agreed on its importance to Israel as well as Lebanon.

Mr. Begin, however, stressed that "a peace treaty was very important to Israel now". He said he wondered if the Gemayel was just using Moslem objections as an excuse. But finally Mr. Begin said, regarding the peace treaty, "we are not going to press him on that."

In Lebanon, we also met with outgoing President Sarkis in the large ornate marble-floored office that Mr. Gemayel will soon use. President Sarkis seemed exhausted by the years of fighting and foreign occupation and despondent about the war damage in Beirut and throughout Lebanon. He talked very slowly and softly. He stressed the suffering because of the "dead end in which Lebanon had found itself for the last 8 years." He said "the country had been destroyed materially, physically, and morally." In his view, "no other country has ever been so destroyed."

As to a peace treaty with Israel, he said there should be no treaty now and no separate peace. "There must be an overall peace settlement", he said. A separate peace between Israel and Lebanon would "only push neighboring countries to extremism" and lead to the isolation of Lebanon from the Arab world.

President Sarkis called the presence of Palestinian refugees in Lebanon not satisfactory. He said, "we received them not happily." A home for them must be found somewhere else if Lebanon with its multiplicity of Moslem and Christian factions is to achieve political equilibrium. On a more hopeful note, he thought Lebanon could rid itself of foreign forces and revive its economy if the major powers, especially the United States, provided leadership and assistance.

We also went to the Foreign Ministry to meet Minister Fouad Butrus. He stressed the view at Fez that for a normalization of relations between Israel and its neighbors, Soviet involvement in the peace process was essential; otherwise, Syria and such nations as South Yemen, Algeria, and the PLO would not cooperate. When I advised him that this involvement would never come to pass and inquired as to why he thought it was so important to Arab States, he alluded to the power of the Soviet Union to veto resolutions in the U.N. Security Council as well as to dissuade certain Arab States from cooperating. Only a joint effort could

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succeed in establishing a general and durable peace. As to the possibilities of bilateral peace treaties he predicted that neither Jordan nor Lebanon would feel free to proceed alone.

In Beirut we also met at length with Muhammad Atallah, President, Council of Development and Reconstruction. He estimated the total need to finance full reconstruction of public facilities damaged in the past 8 years at $12 billion. Another $12 billion would be needed for privately owned facilities, he thought. He noted that following earlier fighting, the Arab nations in 1979 had pledged $2 billion although only about $300 million has been transferred to date. But all estimates on needs beyond emergency relief were highly speculative, as he acknowledged. He stressed that relief needs had already been met by and large. No projection of any further relief could be made until comprehensive surveys not yet begun had been completed. Even the use to which prior U.S. assistance had been put could neither be fully documented nor determined. He did say that the United States had given $15 million of a total of $90 million in relief funds.

The primary need from the United States, he said, was not money, but technical advice and managerial capability. The necessary financing could be obtained, he thought, from private sources in Lebanon and around the world, from the European Economic Community, from international institutions such as the World Bank and especially from major Arab oil states.

During several automobile tours of areas in West and East Beirut where fighting took place, we observed localized areas of severe destruction where PLO forces had been encamped. A number of PLO refugee camps had been reduced to ruble. Heavy damage was also in apartment buildings used by PLO. Yet from the more distant view from the American Ambassador's residence above the city, Beirut appeared to be an enormous city with thousands of medium-sized buildings, the overwhelming number of which were not heavily damaged or damaged at all. The visual impression was supported by casualty figures from Lebanese sources for civilians indicating that between 750 and 800 were killed although earlier accounts in the press included figures up to 10,000.

Along the coastal highway leading south from the city, we also saw certain areas of severe destruction, including parts of Sidon, Tyre and numerous small villages along the roadway which was the route taken by Israeli forces as they advanced northward. The hillside city of Damour, which had once had a population of 30,000 people, was totally unpopulated. It had been the scene of PLO-Christian fighting and recently Israeli bombing. Not a single building in this town seemed to have escaped major damage rendering it unusable.

Along much of the highway, small shopkeepers in cities and rural areas seemed to be doing business briskly in well supplied stores. While the roadbed itself was damaged in a number of areas, it was perfectly usable and had been reopened quickly after the fighting ended with rubble, debris and many burned-out vehicles plowed over to the side. The general sense was that at least for most people, normalization was returning rapidly. On the coastal highway, and even more so in Beirut, traffic was so heavy as to indicate substantial economic activity.

I acknowlege my thanks to the distinguished Senator from Florida (Mr. Chiles) for agreeing that I might precede him on this special order. I thank the Chair and I yield the floor.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Florida for a period not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982

Mr. CHILES. Mr. President, for nearly 4 months now, Senator Nunn and I have been coming to the floor of the Senate to speak out about crime. There are several bills that would help fight crime currently pending on the Senate calendar. All we need to do is to take those bills off the calendar, pass them, and work with the House to get them passed into law. There is little time left in this session, but it is hard to imagine any single issue that is more worthy of the Senate's attention than the need to fight crime and to reform our criminal justice system.

Over the past several weeks, I have talked about the many organizations—both those representing law enforcement officials and those representing persons who are concerned about the alarming crime rate—who have come out in support of the anticrime bills now pending on the Senate Calendar. Just this weekend, another voice was added to those who have been speaking out about the need to pass crime fighting legislation. That voice was a particularly important one. It was the voice of the President of the United States. On Saturday, President Reagan made a nationwide address devoted entirely to the need for action on crime. Those of us who have been pushing for action on crime are rightfully encouraged and delighted with what the President has to say. He reaffirmed his support for the bipartisan crime package, S. 2572, which is now pending on the Senate Calendar. And he went on to propose three other changes in our criminal justice system, changes which are strikingly similar to reforms already pending before the Congress. First, he proposed a modification to the so-called exclusionary rule, which would bring the operation of the rule more in line with the purposes the rule is designed to promote. The exclusionary rule was designed to deter illegal police searches and seizures by preventing any evidence seized during an illegal search from being used against someone at trial. In operation however, the rule has been used mechanically, without regard to its underlying purpose. As a result, crucial evidence is often excluded from trial due to a purely technical violation of the search and seizure rules by the police. The President's proposal would specify that good faith searches conducted by the police which nevertheless violated the search and seizure rules would not be subject to the exclusionary rule.

The second of the President's proposals is a reform of the insanity defense. The verdict in the Hinckly trial emphasized once again the need for a fresh look at the insanity defense. The President's proposal focuses on the mental state needed for a specific crime, and specifies that the insanity defense would apply only if the defendant's mental disease prevented him from having the mental state needed to commit the crime. This is, I believe, a good approach. There are other good approaches before the Congress as well. Senator Nunn and I have introduced an insanity defense reform bill, S. 2678, which also limits the reach of the insanity defense. In addition, Senator Thurmond and other members of the Senate Judiciary Committee have come forward with an insanity reform bill that would also tighten the defense. All of these proposals are good ones, and they all underscore the need for prompt congressional action to reform the insanity defense.

The third reform proposed by the President was one which is particularly pleasing to me. It would limit the Federal habeas corpus statute for State prisoners, thereby creating a greater sense of finality for State court criminal judgments. His proposals appear to be similar to those in title 4 of S. 2543, and to those in S. 2838. Both of these habeas reform bills are presently pending on the Senate Calendar. I introduced one of the proposals, and am a cosponsor of the other one. Needless to say, I welcome the President's proposals, and agree with him that they merit prompt action.

Mr. President, in the final analysis, what is really important about the President's speech is that be believes that the issue of crime merits national attention, and prompt congressional action. He has added his voice and his

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support to our efforts to fight crime and to make our towns and cities safe once again.

Mr. President. I had the opportunity well over a year ago—almost a year and a half ago—along with 13 other Senators to visit the President of the United States to tell him of what we thought was the pressing need for stringent legislation to fight crime and to seek his support. I am glad that he has heeded that urging that we made and that we now see the President speaking out nationally against this issue.

I urge my colleagues to listen to the President's words, and to act promptly on crime legislation. Time is running short, but there is still time enough to act.

I would now like to discuss for a few moments one of the areas where the President has called for reforms: The Federal habeas corpus laws for State prisoners. Today's habeas laws have created an entirely new system of appeals, appeals which do not even begin until after a person has been convicted and has lost every one of this appeals. There are no time limits on filing habeas petitions, and a person is free to file as many petitions as he wishes to file.

Moreover, there is no real requirement that the person who files a habeas petition allege that he is innocent, or that his original trial was patently unfair. Supreme Court Justice Lewis Powell, in a speech last month to the American Bar Association, brought up an example of one individual who had some 30 separate habeas claims pending before the Supreme Court last year.

Today's system, with its uncontrolled availability of habeas corpus petitions to prisoners, has many bad effects upon the criminal justice system. The single most serious effect, in the eyes of many observers, is the burden habeas petitions places on the system. In 1979, the Justice Department made a statistical study of the use of Federal habeas corpus petitions by State prisoners. One part of that study looked into the resources used in connection with habeas petitions. It concluded that Federal habeas review of State court judgments uses enough resources to make its duplicative and inefficient character a matter of concern.

The study outlined some of the costs to the courts. Each habeas petition, and there are about 7,000 filed each year, must be considered and disposed of by the Federal court. Federal magistrates had to write reports and recommendations for some 45 percent of all petitions filed, and had to draft opinions for the Federal court in over 16 percent of all habeas claims. The courts ended up holding a hearing of some kind in 6 percent of all cases, and had to write a memorandum or an opinion in almost 39 percent of all cases. More than 25 percent of all the Federal district court habeas decisions ended up being appealed, and those appeals added to the already overcrowded dockets of the Federal appeals courts. On the appeals court level, the courts had to write opinions in 42 percent of the cases, and heard legal arguments in 25 percent of the cases. The study went on to observe that the State had to bear significant expenses in a large number of habeas cases. In 53 percent of all cases, the State had to put together a set of records concerning the case. In 61 percent of the cases it had to respond to the factual claims raised in the habeas petitions, and 55 percent of the cases, it had to file a brief in response to the habeas petition. In over 8 percent of the cases, the State or Federal Government also picked up the cost of an appointed lawyer for the habeas petitioner.

Mr. President, these numbers add up to a tremendous drain on our judicial system, especilly when you realize that only 3 percent of the petitions filed are ever successful. Judges, magistrates, State attorneys, defense attorneys, and court personnel end up spending countless hours each year going around and around working on these petitions. And all of that time, and all of that money, is taken away from current cases. Judge Henry Friendly commented on the burden the current habeas corpus system places on our court system. He said:

> Indeed, the most serious single evil with today's proliferation of collateral attack is its drain upon the resources of the community—judges, prosecutors, and attorneys appointed to aid the accused, and even of that often overlooked necessity, courtrooms. Today of all times we should be conscious of the falsity of the bland assumption that these are in endless supply. Everyone concerned with the criminal process, whether his interest is with the prosecution, with the defense, or with neither, agrees that our greatest single problem is the long delay in bringing accused persons to trial. The time of judges, prosecutors, and lawyers now devoted to collateral attacks, most of them frivolous, would be much better spent in trying cases. To say we must provide fully for both has a virtuous sound but ignores the finite amount of funds available in the face of competing demands.

The Senate has a chance to do something about the shortcomings in today's habeas corpus system, to streamline the system, and to make sure that our limited judicial resources are put to their best use. We can do that acting on either one of two habeas corpus reform bills now on the Senate Calendar. The first, title 4 of S. 2543, is similar to a proposal Senator Thurmond and I introduced last year. The second, S. 2838, was introduced by Senator Thurmond and is cosponsored by both Senator Nunn and myself. It is similar to the habeas corpus reforms offered by the administration earlier this year. Either bill would go a long way toward reducing the burdens the current habeas corpus system places on our court system. Furthermore, either bill could be called up at any time. But the opportunity to call up either bill is slipping away. With as few as 14 days left in this session, we still have some time to act, but very little. If we fail to act, the Senate will be letting down all of the people from across the country, including the President, who have called for reform of this part of our judicial system. Mr. President, I urge my colleagues not to stumble at this opportunity, and to move forward on this important reform.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

NO TABLING MOTION ON HOUSE JOINT RESOLUTION 520, OR AMENDMENTS THERETO IN ORDER TODAY

Mr. **BAKER**. Mr. President, not on the matter at hand but on a separate matter, as we have in the past, in order to facilitate debate on the abortion and prayer issues, I hope, I would like to provide that no tabling motion would be in order against the bill or any amendments to the bill today. I make that request at this time.

Mr. President, I ask unanimous consent that no tabling motion be in order to the bill House Joint Resolution 520 or to any amendment thereto during the remainder of this calendar day.

The **PRESIDING OFFICER**. Is there objection? Without objection it is so ordered.

Mr. **BAKER**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER PLACING CERTAIN MEASURES ON THE CALENDAR

Mr. **BAKER**. Mr. President, the distinguished President pro tempore, the Senator from South Carolina (Mr. Thurmond), has two items that he wishes to try to take to the calendar under the provisions of rule XIV. The

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distinguished minority leader, I believe, has two bills on other subjects that he may wish to do the same thing to.

In order to facilitate that and to avoid the necessity of tracking the provisions of rule XIV in respect to objections to proceeding to the next stage of their legislative development and the requirement for an intervening legislative day, I am agreeable to putting these four items directly on the calendar.

Mr. President, I am agreeable to putting these four items directly on the calendar as if they had been taken through various stages provided by rule XIV, if the minority leader wishes to proceed in that manner.

Mr. ROBERT C. BYRD. Mr. President, for the record, so that my colleagues on this side will clearly understand, there is no way—no way—that anybody on my side of the aisle can prevent the placing of the President's crime package and the bill which Mr. Thurmond introduced on insanity, from going on the calendar. I can object at this point to their being introduced on this legislative day, but the majority leader has the votes and he can adjourn for a half minute and that cures the first objection. Then the offering of the two measures could be made, the request could also be made that there be a first and second reading, and there could be an objection to the second reading, which would mean that the bill could not be placed on the calendar until the Senate adjourned again.

The majority leader would have used his adjournment weapon once on this legislative day. It could not be used again until tomorrow, but he could use it again tomorrow, after which rule XIV could be used as a mechanism to automatically force the two bills on the calendar.

I hope my colleagues understand that about the only thing we can accomplish is to delay, by a couple of days at most, those bills going on the calendar.

I have been a majority leader and I know how the rules work here. I know what the majority leader can do. He has the votes to adjourn. That is not a debatable motion. If he wants to adjourn this Senate, all he has to do is to have the votes and make a motion. A quorum call can occur before then, but that is all. Then there will be a vote on adjournment.

For any who might wonder why I give unanimous consent to the request of the majority leader, there it is in the record. If any Senators want to check with the Parliamentarian to see if I am correct, they can do so.

I have used this procedure many times and I know whereof I speak. Therefore, I have no objection to the placing of the two bills on the calendar that the majority leader has made reference to, provided the same clearance may likewise be given to a bill by Mr. Kennedy which deals with funding for public works infrastructure employment, and one by Mr. Metzenbaum dealing with extended supplemental unemployment benefits, so that all four bills would go on the calendar.

Mr. BAKER. Mr. President, I thank the minority leader. As usual, his statement of the procedural situation is absolutely correct. I observed with great interest his efforts to proceed in a similar way during his tenure as majority leader. I must confess what little I know about the rules of the Senate I learned from him. I appreciate his statement, and, in fact, I concur in it. I hope there will not be an objection.

Now, Mr. President, I will make the request as to those two bills to be offered by the Senator from South Carolina, but I will condition it on no objection occurring to the request which I believe will be made by the minority leader.

Mr. President, I ask unanimous consent that two bills to be offered by the Senator from South Carolina (Mr. Thurmond), to wit, S. 2902 and S. 2903, one being the insanity defense and the other being the President's crime package, be placed on the calendar; provided further that such action occur if there is no objection to the request about to be made by the minority leader in respect to the two measures to be offered by him on behalf of other Senators.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader for his customary courtesy.

I ask unanimous consent that a joint resolution by Mr. Kennedy, dealing with funding for public works infrastructure employment, and a bill by Mr. Metzenbaum and others dealing with extended and supplemental unemployment benefits, go on the calendar on the same day.

The PRESIDING OFFICER. Is there objection to the joint unanimous-consent request by the majority and minority leaders?

Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the distinguished President pro tempore, I thank the minority leader, and I thank all others for their cooperation.

The PRESIDING OFFICER. If the Chair might interject, the distinguished President pro tempore had three unanimous-consent requests pending at the time we suspended awaiting the arrival of the majority leader. It is my understanding that one has now been covered and there are two others which I presume the President pro tempore wishes to restate.

Mr. THURMOND. Mr. President, as I understand the situation now, the bill (S. 2902) I introduced on the insanity defense a few moments ago has now been ordered placed on the calendar?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. And the crime package of three bills has also been placed on the calendar?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. I ask unanimous consent that the distinguished Senator from Florida (Mr. Chiles) be added as a cosponsor of the insanity bill which I have just introduced and which has been ordered put on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the other request I had was that a copy of the insanity bill that was just introduced and a section-by-section analysis be printed in the Congressional Record following my remarks.

The PRESIDING OFFICER. That has been acted upon.

Mr. THURMOND. Mr. President, I ask unanimous consent that the record remain open for the purpose of adding further original cosponsors until the close of business today.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no objection, but I might make the same request with respect to the bills introduced on behalf of Mr. Kennedy and Mr. Metzenbaum.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, does anybody else on the floor want to be added as a cosponsor?

The distinguished Senator from North Carolina (Mr. Helms) wishes to be added as a cosponsor and the distinguished Senator from Virginia (Mr. Warner) desires to be added as a cosponsor to the bill.

Mr. BAKER. Will the Senator add me as a cosponsor, please?

Mr. THURMOND. Mr. President, I ask unanimous consent that these Senators, including the distinguished majority leader (Mr. Baker), be added as original cosponsors to the insanity defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, may I ask has the Senator concluded his business?

Mr. THURMOND. That concludes it, Mr. President, and I want to express my deep appreciation to our able majority leader, and I also thank the able minority leader for his cooperation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from South Carolina.

Will the majority leader allow me to make a parliamentary inquiry, Mr. President?

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Mr. President, just for the record, is it not true that bills and resolutions may be introduced only during the period for routine morning business if there is an objection?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

(The measures placed on the calendar are: S. 2902, S. 2903, S. 2904, and S.J. Res. 245. The text of S. 2902 is printed heretofore in today's Record. The text of the remaining three measures follow:)

S. 2903—Criminal Justice Reform Act of 1982

(Introduced by Mr. Thurmond, by request.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Reform Act of 1982."

TITLE I—OFFENDERS WITH MENTAL DISEASE OR DEFECT

Sec. 101. This title may be cited as the "Insanity Defense Reform Act of 1982."

Sec. 102. (a) Chapter 313 of title 18, United States Code, is amended to read as follows:

"CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

"Sec.
"4241. Determination of Mental Competency to Stand Trial.
"4242. Determination of the Existence of Insanity at the Time of the Offense.
"4243. Hospitalization of a Person Acquitted by Reason of Insanity.
"4244. Hospitalization of a Convicted Person Suffering from Mental Disease or Defect.
"4245. Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect.
"4246. Hospitalization of a Person Due for Release but Suffering from Mental Disease or Defect.
"4247. General Provisions for Chapter.

"4241. Determination of Mental Competency to Stand Trial

"(a) Motion To Determine Competency of Defendant.—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist in his defense.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility—

"(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and

"(2) for an additional reasonable period of time until—

"(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or

"(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the trial to proceed, the defendant is subject to the provisions of section 4246.

"(e) Discharge.—When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial. Upon discharge, the defendant is subject to the provisions of chapter 207.

"(f) Admissibility of Finding of Competency.—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged. "4242. Determination of the Existence of Insanity at the Time of the Offense.

"(a) Insanity Defense.—It is a defense to a prosecution under any Federal statute that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

"(b) Motion for Pretrial Psychiatric or Psychological Examination.—Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, that the defendant intends to rely on the defense set forth in subsection (a), the court, upon motion of the attorney for the government, may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Special Verdict.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or of the attorney for the government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty;

"(3) not guilty only by reason of insanity.

"4243. Hospitalization of a Person Acquitted by Reason of Insanity

"(a) Determination of Present Mental Condition of Acquitted Person.—If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (d).

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.

"(d) Determination and Disposition.—If, after the hearing, the court finds by clear and convincing evidence that the acquitted person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The existence of clear and convincing evidence that a person's release would create a substantial risk of bodily injury to another person or serious damage to property of another shall be presumed, subject to rebuttal by the acquitted person, where the person has been found not guilty only by reason of insanity of an offense involving bodily injury or serious damage to property of another, or a substantial risk of such injury or damage. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) Discharge.—When the director of the facility in which an acquitted person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court shall order the discharge of the acquitted person or, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from this mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) Revocation of Conditional Discharge.—The director of a medical facility responsible for administering a regimen imposed on an acquitted person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"4244. Hospitalization of a Convicted Person Suffering From Mental Disease or Defect

"(a) Motion To Determine Present Mental Condition of Convicted Defendant.—A defendant found guilty of an offense, or the attorney for the government, may, within ten days after the defendant is found guilty, and prior to the time the defendant is sentenced, file a motion for a hearing on the present mental condition of the defendant if the motion is supported by substantial information indicating that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if it is of the opinion that there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c). In addition to the information required to be included in the psychiatric or psychological report pursuant to the provisions of section 4247(c), if the report includes an opinion by the examiners that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody for care or treatment in a suitable facility, the report shall also include an opinion by the examiner concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to imprisonment, be committed to a suitable facility for care or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for care or treatment in a suitable facility. Such a commitment constitutes a provisional sentence of imprisonment to the maximum term authorized by law for the offense for which the defendant was found guilty.

"(e) Discharge.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall proceed finally to sentencing and may modify the provisional sentence.

"4245. Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect

"(a) Motion to Determine Present Mental Condition of Imprisoned Defendant.—If a defendant serving a sentence of imprisonment objects either in writing or through his attorney to being transferred to a suitable facility for care or treatment, an attorney for the government, at the request of the director of the facility in which the defendant is imprisoned, may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the defendant. The court shall grant the motion if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. A motion filed under this subsection shall stay the release of the defendant pending completion of procedures contained in this section.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant may be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility until he is no longer in need of such custody for care of treatment or until the expiration of his sentence of imprisonment, whichever occurs earlier.

"(e) Discharge.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody for care or treatment in such a facility, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the term of imprisonment imposed upon the defendant has not expired, the court shall order that the defendant be reimprisoned until the expiration of this sentence of imprisonment.

"4246. Hospitalization of a person due for release but suffering from mental disease or defect

"(a) Institution of Proceeding.—If the director of a facility in which a person is hospitalized certifies that a person whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person, is pres-

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ently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) Psychiatric or Psychological Examination and Report.—Prior to the date of the hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) Hearing.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) Determination and Disposition.—If, after the hearing, the court finds by clear and convincing evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsiblity for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibilty. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility, until—

"(1) such a State will assume such responsibility; or

"(2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another;

whichever is earlier. The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment.

"(e) Discharge.—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court shall order the discharge of the person or, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that—

"(1) his release would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall order that he be immediately discharged; or

"(2) his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would no longer create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall—

"(A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and

"(B) order, as a explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

The court at any time may, after a hearing employing the same criteria, modify or eliminate the regimen of medical, psychiatric, or psychological care or treatment.

"(f) Revocation of Conditional Discharge.—The director of a medical facility responsible for administering a regimen imposed on a person conditionally discharged under subsection (e) shall notify the Attorney General and the court having jurisdiction over the person of any failure of the person to comply with the regimen. Upon such notice, or upon other probable cause to believe that the person has failed to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, the person may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him. The court shall, after a hearing, determine whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

"(g) Release to State of Certain Other Persons.—If the director of a facility in which a person is hospitalized pursuant to this subchapter certifies to the Attorney General that a person, against whom all charges have been dismissed for reasons not related to the mental condition of the person, is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried for the purpose of institution of State proceedings for civil commitment. If neither such State will assume such responsibility, the Attorney General shall release the person upon receipt of notice from the State that it will not assume such responsibility, but not later than 10 days after certification by the director of the facility.

"4247. General Provisions for Chapter—

"(a) Definitions.—As used in this chapter—

"(1) 'rehabilitation program' includes—

"(A) basic educational training that will assist the individual in understanding the society to which he will return and that will assist him in understanding the magnitude of his offense and its impact on society;

"(B) vocational training that will assist the individual in contributing to, and in participating in, the society to which he will return;

"(C) drug, alcohol, and other treatment programs that will assist the individual in overcoming his psychological or physical dependence; and

"(D) organized physical sports and recreation programs; and

"(2) 'suitable facility' means a facility that is suitable to provide care or treatment given the nature of the offense and the characteristics of the defendant.

"(b) Psychiatric or Psychological Examination.—A psychiatric or psychological examination ordered pursuant to this title shall be conducted by a licensed or certified psychiatrist or clinical psychologist, or, if the court finds it appropriate, by more than one such examiner. Each examiner shall be designated by the court, except that if the examination is ordered under section 4245 or 4246, upon the request of the defendant an additional examiner may be selected by the defendant. For the purposes of an examination pursuant to an order under section 4241, 4244, or 4245, the court may commit the person to be examined for a reasonable period, but not to exceed thirty days, and under section 4242, 4243, or 4246, for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the psychiatric or psychological examination shall be conducted in the suitable facility closest to the court. The director of the facility may apply for a reasonable extension, but not to exceed fifteen days under section 4241, 4244, or 4245, and not to exceed thirty days under section 4242, 4243, or 4246, upon a showing of good cause that the additional time is necessary to observe and evaluate the defendant.

"(c) Psychiatric or Psychological Reports.—A psychiatric or psychological report ordered pursuant to this chapter shall be prepared by the examiner designated to conduct the psychiatric or psychological examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychiatric, psychological, and medical tests that were employed and their results;

"(3) the examiner's findings; and

"(4) the examiner's opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 4241, whether the person is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

"(B) if the examination is ordered under section 4242, whether the person was insane at the time of the offense charged;

"(C) if the examination is ordered under section 4243 or 4246, whether the person is

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suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another;

"(D) if the examination is ordered under section 4244 or 4245, whether the person is suffering from a mental disease or defect as a result of which he is in need of custody for care or treatment in a suitable facility; or

"(E) if the examination is ordered as a part of a presentence investigation, any recommendation the examiner may have as to how the mental condition of the defendant should affect the sentence.

"(d) Hearing.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) Periodic Report and Information Requirements.—(1) The director of the facility in which a person is hospitalized pursuant to—

"(A) section 4241 shall prepare semiannual reports; or

"(B) sections 4243, 4244, 4245, or 4246 shall prepare annual reports; concerning the mental condition of the person and containing recommendations concerning the need for his continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

"(2) The director of the facility in which a person is hospitalized pursuant to sections 4241, 4243, 4244, 4245, or 4246 shall inform such person of any rehabilitation programs that are available for persons hospitalized in that facility.

"(f) Videotape Record.—Upon written request of defense counsel, the court may order a videotape record made of the defendant's testimony or interview upon which the periodic report is based pursuant to subsection (e). Such videotape record shall be submitted to the court along with the periodic report.

"(g) Admissibility of a Defendant's Statement at Trial.—A statement made by the defendant during the course of a psychiatric or phychological examination pursuant to sections 4241 or 4242 is not admissible as evidence against the accused on the issue of guilt or punishment in any criminal proceeding, unless the defendant waived his privilege against self incrimination, but is admissible on the issue whether the defendant suffers from a mental disease or defect.

"(h) Habeas Corpus Unimpaired.—Nothing contained in sections 4243 or 4246 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus the illegality of his detention.

"(i) Discharge.—Regardless of whether the director of the facility in which a person is hospitalized has filed a certificate pursuant to the provisions of subsection (e) of sections 4241, 4243, 4244, 4245, or 4246, counsel for the person or his legal guardian may, at any time during such person's hospitalization, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility, but no such motion may be filed within one hundred and eighty days of a court determination that the person should continue to be hospitalized. A copy of the motion shall be sent to the director of the facility in which the person is hospitalized and to the attorney for the government.

"(j) Authority and Responsibility of the Attorney General.—The Attorney General—

"(A) may contract with a State, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

"(B) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243 or 4246;

"(C) shall, before placing a person in a facility pursuant to the provisions of section 4241, 4243, 4244, 4245, or 4246, consider the suitability of the facility's rehabilitation programs in meeting the needs of the person; and

"(D) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter and in the establishment of standards for facilities used in the implementation of this chapter.

"(k) This chapter does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.".

(b) The item relating to chapter 313 in the chapter analysis of Part III of title 18, United States Code, is amended to read as follows:

"313. Offenders with mental disease or defect.".

Sec. 103. Rule 12.2 of the Federal Rules of Criminal Procedure is amended—

(a) by deleting "crime" in subdivision (a) and inserting in lieu thereof "offense";

(b) by deleting "mental state" in subdivision (b) and inserting in lieu thereof "state of mind";

(c) by deleting "by a psychiatrist designated for this purpose in the order of the court" in subdivision (c) and inserting in lieu thereof "pursuant to 18 U.S.C. 4242"; and

(b) by deleting "mental state" in subdivision (d) and inserting in lieu thereof "state of mind";

Sec. 104. Section 3006A of title 18, United States Code, is amended—

(a) in subsection (a), by deleting "or, (4)" and substituting "(4) whose mental condition is the subject of a hearing pursuant to chapter 313 of this title, or (5)"; and

(b) in subsection (g), by deleting "or section 4245 of title 18".

TITLE II—APPLICATION OF THE EXCLUSIONARY RULE

Sec. 201. This title may be cited as the "Exclusionary Rule Application Act of 1982."

Sec. 202. (a) Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"3505. Application of the Fourth Amendment Exclusionary Rule

"Except as specifically provided by statute, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the Fourth Amendment to the Constitution of the United States. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) The table of sections of such chapter is amended by adding at the end thereof the following item:

"3505. Application of the Fourth Amendment Exclusionary Rule.".

TITLE III—FEDERAL INTERVENTION IN STATE CRIMINAL PROCEEDINGS

Sec. 301. This title may be cited as the "Federal Intervention Reform Act of 1982."

Sec. 302. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules or procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

Sec. 303. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 304. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"Rule 22.

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to 28 U.S.C. § 2255, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 305. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)" respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.";

(b) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(c) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

SEC. 306. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the rights asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SECTION-BY-SECTION ANALYSIS

TITLE I—INSANITY DEFENSE REFORM

Title I of the bill amends various provisions of title 18, United States Code, and of the Federal Rules of Criminal Procedure, relating to the procedure to be followed in Federal courts with respect to offenders who are or have been suffering from a mental disease or defect. Among the matters provided for by these amendments are the determination of mental competency to stand trial, the determination of the existence of insanity at the time of the offense, a limitation of the scope of a separate insanity defense, and the post-trial hospitalization of defendants suffering from a mental disease or defect.

Section 102 of the bill provides a comprehensive amendment of current chapter 313 of title 18, United States Code. Proposed section 4241 deals with the determination of mental competency to stand trial. Section 4242 relates to the determination of the existence of insanity at the time of an offense, and limits the separate insanity defense to a "mens rea" test of criminal responsibility. Section 4243 provides for the hospitalization of a person acquitted by reason of insanity. Section 4244 deals with the hospitalization of a convicted person who is suffering from a mental disease or defect. Section 4245 covers the hospitalization of an imprisoned person who suffers from a mental disease or defect. Section 4246 deals with the situation of such a person who is scheduled to be released. Section 4247 contains general provisions for chapter 313.

Section 4241, Determination of Mental Competency to Stand Trial, contains five subsections which deal exclusively with the determination of the mental competency of the defendant to stand trial or to enter a plea. Subsection (a) permits either the defendant or the government to move for a hearing to determine the defendant's mental competency, and requires the court to order a hearing if there is reasonable cause to believe that a mental disease or defect renders the defendant unable to understand the proceedings or to assist in his defense. Subsection (b) permits the court to order a psychiatric or psychological examination of the defendant prior to the hearing. Subsection (c) requires that the hearing be conducted pursuant to the provisions of section 4247 (i.e., the defendant shall be represented by counsel, afforded an opportunity to testify, etc.). Subsection (d) provides that a defendant found by a preponderance of the evidence to be mentally incompetent shall be hospitalized for treatment in a suitable facility for a reasonable period of time to determine whether there is a substantial probability that he will attain the capacity to permit the trial to proceed. If the defendant appears unlikely to improve sufficiently, he is to be treated in accordance with the provisions of section 4246. Subsection (e) provides for the discharge from the hospital of a defendant who has recovered sufficiently to stand trial. Subsection (f) specifies that a court finding of competency to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the crime charged, and shall not be admissible as evidence at trial.

Section 4242, Determination of the Existence of Insanity at the Time of the Offense, specifies the extent to which a defendant's mental disease or defect constitutes a defense to prosecution, provides for an examination of a defendant who intends to rely on such a defense, and sets forth the types of verdicts to be rendered in such cases.

Subsection (a) states that it is a defense to prosecution under any federal statute that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged, and specifies that mental disease or defect does not otherwise constitute a defense. By limiting the separate, judicially-developed, insanity defense, this statutory approach to the issue of the criminal responsibility of a person suffering from a mental disease or defect focuses on two critical questions: did the defendant act with the state of mind required for the offense charged and, if he did so act but was suffering from a mental disease or defect, should he be imprisoned, hospitalized, or otherwise treated.

Subsection (b) provides for the psychiatric or psychological examination of a defendant who files a notice of intent to rely on the defense set forth in subsection (a). Subsection (c) specifies that in a case involving such a defense the trier of fact is to return a verdict of guilty, not guilty, or not guilty only by reason of insanity.

Section 4243, Hospitalization of a Person Acquitted by Reason of Insanity, sets out the procedure to be followed when a person is found not guilty solely by reason of insanity at the time of the offense. Subsection (a) requires that such a person be committed to a suitable facility until he is eligible for release pursuant to subsection (d). Subsection (b) requires that the person undergo a psychiatric or psychological study, while sub-

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section (e) mandates a hearing on his present mental condition within forty days following the verdict. Subsection (d) provides that if, after the hearing, the person is found by clear and convincing evidence to be then suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, he shall be committed to the custody of the Attorney General for treatment, preferably in a state facility. The fact that the person was found not guilty only by reason of insanity of an offense involving bodily injury or serious damage to property, or an offense involving substantial risk of such injury or damage, is to give rise to a rebuttable presumption that the dangerousness element of subsection (d)'s test for commitment is met. If the person is able to rebut or neutralize this presumption, the government will be required to come forward with other facts to meet its burden of clear and convincing evidence of the person's present dangerousness resulting from a mental disease or defect. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release.

Section 4244, Hospitalization of a Convicted Person Suffering From Mental Disease or Defect, sets forth procedures new to Federal law, to be followed when there is reasonable cause to believe that a recently convicted defendant may be suffering from a mental disease or defect and in need of care or treatment in a suitable facility. Subsection (a) permits the court, shortly after a guilty verdict and before sentencing, on motion of the defendant or the government or on its own motion, to order a hearing on the defendant's present mental condition if there is reasonable cause to believe he is suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. Under subsection (b), the court may order a psychiatric or psychological examination of the defendant. If, after a hearing provided for by subsection (c), the court determines by a preponderance of the evidence pursuant to subsection (d) that the standard set forth in subsection (a) has been met, the defendant is to be committed to the custody of the Attorney General for hospitalization in a suitable facility, in lieu of being imprisoned. Subsection (e) permits the discharge and final sentencing of a hospitalized defendant when the director of the facility certifies that he is no longer in need of custody for care and treatment.

Section 4245, Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect, deals with the hospitalization of an imprisoned person who is suffering from a mental disease or defect for which he is in need of custody for care or treatment, if the person objects to being hospitalized. Unlike current federal law, subsection (a) provides that, when a defendant who is imprisoned objects to being transferred to a suitable facility for care and treatment of a mental disease or defect, the court shall, on the government's motion, order a hearing on the defendant's present mental condition if there is reasonable cause to believe that the defendant may be suffering from a mental disease or defect for the treatment of which he is in need of custody or care for treatment in a suitable facility. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the defendant, and for the conduct of the hearing. Subsection (d) provides that a defendant who is found by a preponderance of the evidence to be suffering from a mental disease or defect and in need of custody for care and treatment shall be hospitalized in a suitable facility until he is no longer in need of such care or treatment, or until his prison sentence expires. Subsection (e) provides for the defendant's discharge from the hospital and return to prison upon the certification of the director of the facility that he is no longer in need of custody for care and treatment.

Section 4246, Hospitalization of a Person Due for Release but Suffering From Mental Disease or Defect, covers those circumstances where State authorities will not institute civil commitment proceedings against a hospitalized defendant whose federal sentence is about to expire, who is mentally incompetent to stand trial, or against whom all criminal charges have been dropped solely for reasons related to his mental condition, and who is presently mentally ill. Subsection (a) requires the court to order a hearing if the director of the facility in which the person is hospitalized certifies that he is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the person and for the conduct of the hearing. Subsection (d) provides that if the facts certified are found by the court by clear and convincing evidence, the person is to be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release. Subsection (g) deals with mentally ill persons who have been hospitalized and against whom all charges have been dismissed for reasons not related to their mental condition. If the director of the hospital certifies that the release of such a person would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General is required to release the person to appropriate State officials for the institution of State civil commitment proceedings. If the appropriate State will not assume responsibility, and so informs the Attorney General, the person must be released.

Section 4247, General Provisions for Chapter 313 contains a definition of terms used in chapter 313, as well as other provisions generally applicable to sections 4241-4246. Subsection (a) defines the terms "rehabilitation program" and "suitable facility". Subsections (b) and (c), respectively, set forth requirements for court ordered psychiatric or psychological examinations and reports. Subsection (d) enumerates the rights a person has at a hearing to determine his mental condition. Subsection (e) pertains to reports by mental facilities, and contains a requirement that a hospitalized person be informed of the availability of rehabilitation programs. Subsection (f) permits the court to order and examine a videotape record of a defendant's testimony or interview which forms a basis of a periodic report of his mental condition. Subsection (g) concerns the admissibility in evidence of statements made by a defendant during the course of a psychiatric or psychological examination. Subsections (h) and (i), respectively, preserve the availability of the writ of habeas corpus, and permit a hospitalized person to move for a hearing to determine whether he should be released. Subsection (j) sets forth the authority and responsibility of the Attorney General under chapter 313. Subsection (k) provides that chapter 313 does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice.

Section 103 of the bill amends Rule 12.2 of the Federal Rules of Criminal Procedure to conform with chapter 313 of title 18 as amended by section 102.

Section 104 of the bill amends section 3006A of title 18, United States Code, to conform with chapter 313 of title 18 as amended by section 102.

TITLE II—EXCLUSIONARY RULE REFORM

Title II of the bill would add a new section 3505 to title 18 of the United States Code governing the Fourth Amendment exclusionary rule. It would provide that except as specifically provided by statute, evidence obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a federal court if the search or seizure was undertaken in a reasonable and good faith belief that it was in conformity with the Fourth Amendment. It would also provide that a showing that the evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief unless the warrant was obtained through intentional and material misrepresentation.

Initially, although the Fourth Amendment secures the right of persons to be free of "unreasonable" searches or seizures it should be noted that there are no constitutional or statutory provisions which specifically set limits on what is meant by an "unreasonable" search or seizure. Instead, the law in this area is an amalgam of cases dealing with a vast range of issues relating to the undertaking of searches and seizures. The crux of the present problem which would be overcome by the new section 3505 is that as courts have continued to develop the law of search and seizure they have continued to apply the exclusionary rule in situations where it could not possibly deter unlawful police conduct, the foremost rationale for the rule.

The new section 3505 deals with this situation by providing that evidence obtained as a result of a search undertaken in reasonable good faith as to its lawfulness shall not be excluded since actions undertaken in reasonable good faith are not susceptable of being deterred. The often highly probative evidence found during a search undertaken by the officers in reasonable good faith would be admitted and the attention of the court in a criminal case would remain focused on the question of the defendant's guilt or innocence, not diverted to a consideration of possible police error in applying the ever evolving law of search and seizure.

Section 3505 would still allow consideration of police conduct but the issue would be whether the actions of the law enforcement officers were undertaken in a reasonable and good faith belief that they were lawful.

Such good faith is clearly shown when an officer makes an arrest in reliance on a statute that is later found to be unconstitutional or relies on a duly authorized search warrant, a judicial mandate to search which he has a sworn duty to carry out. Hence, the section specifically provides that a showing that evidence was obtained pursuant to and in the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief. However, a search pursuant to a warrant would not constitute such evidence if the warrant were obtained through intentional and material misrepresentation. This standard is derived from *Franks* v. *Delaware*, 438 U.S. 154 (1978) where the Court emphasized the presumption of validity with respect to an affidavit offered in support of a warrant but held that "where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request." 438 U.S. at 155–156. If at the hearing the defendant establishes that perjury or reckless disregard for the truth was present, and with the affidavit's false material set aside the remaining material is insufficient to establish probable cause for the warrant's issuance, it must be voided and the fruits of the search excluded.

The section is not, however, limited to searches executed pursuant to a warrant. An officer may in good faith make a reasonable interpretation of a statute which a court determines to be inconsistent with the legislative intent, or may reasonably and in good faith conclude that a particular set of facts and circumstances gives rise to probable cause to conduct one of the types of judicially sanctioned warrantless searches, or that a warrant is not required. The proposed legislation would cover such situations as well.

Although intended primarily to apply in criminal proceedings brought in federal court, the proposal is drafted so that the same reasonable good faith test would apply to the obtaining of evidence offered in all types of proceedings in federal courts such as applications for federal habeas corpus petitions filed by State prisoners and federal civil cases. Indeed these are the types of cases where the deterrent effect of the rule has already been found to be minimal at best and greatly outweighed by the societal cost of excluding the evidence. In *Stone* v. *Powell*, 428 U.S. 465 (1976), the Supreme Court held that where a State has provided a full and fair opportunity for litigation of Fourth Amendment claims, a State prisoner may not be granted federal habeas corpus relief on the grounds that evidence obtained by an unlawful search and seizure was introduced at trial.

In *United States* v. *Janis*, 428 U.S. 433 (1976), the Court held that the exclusionary rule should not be applied to forbid the use in federal civil proceedings of evidence seized by State officers in good faith reliance on a search warrant that proved to be defective. While the *Janis* holding (the scope of which would not be affected by section 3505) related specifically to the use in the courts of one sovereign of evidence obtained by law enforcement agents of another sovereign, the lack of any deterrent effect of applying the rule would be analogous in the case of a search by federal officers who were acting in good faith.

Under section 3505 law enforcement officers would still be required to keep abreast of the complex law of search and seizure because the conduct of an officer will have to be informed to be reasonable. The section would not reward ignorance on the part of the police. It simply restrains the rule to its proper boundaries where it will remain as a "judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect . . ." *United States* v. *Calandra*, 414 U.S. 338, 348 (1974). Thus the proposal would not eliminate the exclusionary rule but rather will eliminate the disrespect for the law that its application often engenders in the minds of the police and the public alike. Moreover, when the rule is applied in the case of a trivial violation or mistake by the police as to whether the requirements of the law have been complied with, and results in the acquittal of a criminal guilty of a serious crime or alters the result in a significant civil proceeding, the lack of proportionality of the sanction applied to the officer's mistake is so great that the confidence of the public in our system of justice cannot help but be eroded. In cases of this nature, where the police have reasonably tried to apply the complex law of search and seizure, the rule has a grossly distorting effect on our system of justice where the central purpose is to search for the truth and, in criminal cases, ensure that the guilty are convicted and the innocent are acquitted.

A suggestion that Congress should act to restrict the scope of the exclusionary rule was made over ten years ago by the Chief Justice in his dissent in *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 422–424 (1971). Since section 3505 is grounded primarily on the cases decided since that time in which the Supreme Court has emphasized the deterrence of unlawful conduct as the sole or primary purpose of the rule, the section's modification of the rule is constitutionally permissible. Moreover, the substance of section 3505 is very similar to that already adopted by the Fifth Circuit *en banc* in *United States* v. *Williams*, 622 F. 2d 830 (1980), *cert. denied*, 449 U.S. 1127 (1981) in a decision based on a thorough analysis of relevant Supreme Court cases, and it basically follows the recommendation of the Attorney General's Task Force on Violent Crime which conducted hearings on the issue around the country and received the opinions of distinguished citizens and jurists of all points of view.

TITLE III—FEDERAL INTERVENTION IN STATE CRIMINAL PROCEEDINGS

Title III of the bill would amend various provisions of title 28, United States Code, and a related Rule of Appellate Procedure, concerning the availability of collateral relief in the federal courts of State and federal prisoners. Among the matters addressed by these amendments are the standard of review in habeas corpus proceedings, the effect of procedural defaults on the subsequent availability of collateral relief, the time within which collateral relief may be sought, the requirement of exhaustion of state remedies, and the procedure on appeal in collateral proceedings.

Section 302 of the bill would add two new subsections to section 2244 of title 28, United States Code. Proposed section 2244(d) relates to the effect of a State prisoner's failure to raise a claim properly in State proceedings on the subsequent availability of federal habeas corpus. Proposed subsection (d)(1) of section 2244 sets out a general standard under which such a procedural default would bar access to federal habeas corpus unless it was the result of State action in violation of federal law. The main practical significance of this standard is that attorney error or misjudgement in failing to raise a claim properly would excuse a procedural default if it amounted to constitutionally ineffective assistance of counsel, since in such a case the default would be the result of the State's failure, in violation of the Sixth Amendment, to afford the defendant effective assistance of counsel, *See Cuyler* v. *Sullivan*, 446 U.S. 335, 342–45 (1980). But lesser degrees of attorney error or misjudgement would not excuse a default. This would adopt as the uniform rule the approach of the Second Circuit Court of Appeals in the case of *Indiviglio* v. *United States*, 612 F.2d 624, 631 (1979), eliminating the great uncertainties that currently exist in this area. Proposed section 2244(d)(2)–(3) further provides for excuse of a procedural default where a claim raised in a habeas corpus proceeding asserts a new, retroactive right subsequently recognized by the Supreme Court, or where the factual predicate of the claim could not have been discovered prior to the default through the exercise of reasonable diligence.

Proposed new section 2244(e) in section 302 of the bill would establish a one year time limit on application for federal habeas corpus, normally commencing at the time State remedies are exhausted. This would provide State defendants with ample time to seek federal review following the conclusion of State proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the State trial. The proposed limitation rule may be compared to various existing time limits on seeking reveiw or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeal by federal defendants under Fed. R. App. P. (4(b); the normal ninety day limit on a State defendant's application for direct review in the Supreme Court under Sup. Ct. R. 11, 22; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(e) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Section 303 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant of section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly of the Second Circuit Court of Appeals. *See* Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's cerification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge

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and then an appellate judge that an appeal is warranted. Section 304 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 303.

Section 305 of the bill would make various changes in section 2254 of title 28, United States Code. Section 305(a) would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhaust State remedies. This would implement a recommendation of Professor David Shapiro. *See* Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 358–59 (1973). It would avoid the waste of State and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the State courts to exhaust State remedies.

Section 305(b) of the bill would add a new subsection (d) to section 2254, United States Code. Proposed subjection (d) would accord deference to the result of *full and fair* State adjudications. This would establish a standard similar to that stated by the Supreme Court in the case of *Ex Parte Hawk*, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory re-adjudication by the decision in *Brown* v. *Allen*, 344 U.S. 443 (1953). To be full and fair in the intended sense the State court determination must be reasonable, and must be arrived at by procedures consistent with applicable federal law, including the constitutional requirement of due process. In addition, re-adjudication by the federal habeas court would be allowed in cases in which new evidence of substantial importance came to light or a retroactive change of law of substantial importance occurred after the State proceedings. The general sense of the proposed reform is that reversal of a State conviction after a lapse of years and affirmance by the appellate courts of the State should rest on a finding by the habeas court of a significant error or deficiency in the State proceedings. A mere reasonable difference of opinion in a case in which the proper disposition is unclear should not be grounds for disturbing a State judgment in a habeas corpus proceeding.

Section 305(c) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure, redesignate it as section 2254(e), and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to State determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 306 of the bill would amend section 2255, 28 United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 302 of the bill governing excuse of procedural defaults and time limitation in habeas corpus proceedings.

S. 2904—A Bill To Make More Equitable Certain Provisions Relating to Unemployment Compensation

(Introduced by Mr. Robert C. Byrd for Mr. Metzenbaum, for himself, and Mr. Robert C. Byrd, Mr. Dixon, Mr. Heinz, Mr. Kennedy, Mr. Mathias, Mr. Riegle, Mr. Durenberger, Mr. Levin, Mr. Eagleton, Mr. Sarbanes, Mr. DeConcini, Mr. Cannon, and Mr. Sasser.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the provisions of subtitle A of title VI of the Tax Equity and Fiscal Responsibility Act of 1982, establishing a Federal supplemental benefits program of unemployment compensation benefits shall remain in effect, and an individual's period of eligibility shall continue, without regard to any provision in such Act relating to termination of such Federal supplemental benefit program, or to the end of such period of eligibility, until the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

(b)(1) Notwithstanding the provisions of section 2402(b) of the Omnibus Budget Reconciliation Act of 1981 the amendments made by subsection (a) of section 2402 of such Act shall not be effective for determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

(2) For purposes of making such determinations described in paragraph (1), the rate of insured unemployment for all weeks shall be calculated in the same manner as it is calculated for the particular week with respect to which the determination of an "on" or "off" indicator is being made.

(c) Section 2403(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "September 25, 1982" and inserting in lieu thereof "the national seasonally adjusted total rate of unemployment is less than 8.7 percent for at least one month occurring after September 1982".

(d) For purposes of determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent, paragraph (1) of section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if such paragraph did not contain subparagraph (A) thereof.

(e) In the case of any State with respect to which the Secretary of Labor has determined that State legislation is required in order to amend its State unemployment compensation law so as to include any requirements imposed by this section with respect to extended compensation, such State's unemployment compensation law shall not be determined to be out of compliance under section 3304(c) of the Internal Revenue Code by reason of a failure to contain any such requirement for any period prior to the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

S.J. Res. 245—Making an Urgent Supplemental Appropriation for the Department of Labor for the Fiscal Year Ending September 30, 1982

(Introduced by Mr. Robert C. Byrd, for Mr. Kennedy for himself, Mr. Robert C. Byrd, Mr. Randolph, Mr. Metzenbaum and Mr. Riegle.)

Whereas unemployment has increased to 9.8 per centum on a national basis, varying from a high of 14.3 per centum in the State of Michigan to a low of 4.7 per centum in the State of North Dakota;

Whereas unemployment compensation payments have reached an annual rate of over $20,000,000,000;

Whereas hundreds of thousands of workers have exhausted the period of time for which they are entitled to draw unemployment compensation;

Whereas legislation is now pending to extend that period, which will increase the cost; and

Whereas it is deemed to be to the best interest of the unemployed and the Nation that productive and essential work replace unemployment and the resulting payment of unemployment compensation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in an effort to reduce unemployment cost and the cost of public assistance, to increase the benefit of expenditures, and to put people back to productive work, where the benefits of the efforts will be of value, there is hereby appropriated to the Department of Labor a sum equal to 5 per centum of the latest estimated cost to the Federal Government of unemployment compensation for the current fiscal year, to remain available until December 31, 1982, of which—

(1) 85 per centum shall be available to provide productive jobs for those unemployed in accordance with section 2, and

(2) 15 per centum shall be available for the youth employment and training programs of the Department of Labor (92 Stat. 1982).

Sec. 2. (a) No individual assisted with funds available in accordance with this section—

(1) shall be eligible for unemployment compensation during the period of productive job employment under this section; or

(2) shall be paid except upon certification in writing by the supervising official that such job was performed.

(b) Individuals assisted with funds available in accordance with this section—

(1) shall be certified as unemployed for at least two weeks in accordance with criteria established by the Secretary of Labor, with priority given those individuals who are not currently eligible for unemployment compensation and who have prior work experience;

(2) shall be paid at a rate which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1968, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer, but in no case shall the annual rate of such wage exceed $10,000; and

(3) subject to subsection (a)(1), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to others employed in similar occupations by the same employer.

(c)(1) No currently employed worker shall be displaced by any individual employed with funds under this section, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits.

(2) Not more than 15 percent of the funds provided to any eligible entity under this section may be used for the cost of administration and not more than 20 percent of such funds may be used for the acquisition of supplies, tools, and equipment.

(d) Funds available in accordance with this section may be used for the purpose of providing unemployed individuals with temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and the conservation, rehabilitation, and improvement of public lands, such employment to include (but not be limited to) employment in—

(1) road and street repair,

(2) bridge painting and repair,

(3) repair and rehabilitation of public buildings,

(4) repair and rehabilitation of water systems,

(5) erosion, flood, drought, and storm damage assistance and control,

(6) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(7) park and playground rehabilitation,

(8) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(9) stream, lake, and waterfront harbor and port improvement and pollution control,

(10) forestry, nursery, and silviculture operations,

(11) fish culture and habitat maintenance and improvement,

(12) rangeland conservation, rehabilitation, and improvement,

(13) installation of graded ramps for the handicapped, and

(14) energy conservation.

(e) Funds available in accordance with this section shall be allocated as follows:

(1)(A) Eighty-three per centum of the funds available in accordance with this section shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of the national average rate of unemployment for such three months.

(B) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this paragraph on the basis of the relative number of unemployed persons, 25 per centum of such funds on the basis of the relative number of unemployed persons residing in areas of substantial unemployment, and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 4.5 per centum of the labor force).

(2) Two per centum of the funds available in accordance with this section shall be allocated among Native American tribes, bands, and groups for use in meeting the need for employment and training and related services of such tribes, bands, and groups.

(3)(A) The remainder of the funds available in accordance with this section shall be allocated, in the manner described in paragraph (1)(B), among eligible entities which are not eligible for an allocation under paragraph (1) for the purpose of serving a locality—

(i) which has had a large scale loss of jobs caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances, or

(ii) which has experienced a sudden or severe economic dislocation.

(B) In expending funds from such allocation in the case of an eligible entity serving two or more such localities, the eligible entity shall take into consideration the severity of unemployment in each such locality.

(f) (1) For purposes of this section, an eligible entity is—

(A) a unit or consortium of units of general local government with a population of less than one hundred thousand persons which has demonstrated the capacity to operate employment and training programs, or a concentrated employment program grantee (serving a rural area);

(B) a unit of general local government with a population equaling or exceeding one hundred thousand persons or a consortium including such a unit and other units of general local governments; and

(C) a State.

(2) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of general local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

Sec. 3. The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this Act of the allocation of funds appropriated herein.

Sec. 4. The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the provisions and the purposes of this joint resolution not later than thirty days after the date of enactment of this joint resolution.

ORDER OF PROCEDURE

Mr. **BAKER**. Mr. President, I was about to inquire, has the Senate yet gone into routine morning business under the order?

The **PRESIDING OFFICER**. The majority leader is advised that under the previous order, there was a period set, but it has not yet been reached.

Mr. **BAKER**. There was no objection to the introduction of the bills by the distinguished Senator from South Carolina and I assume that, in any event, the unanimous-consent order already entered into would abrogate any right to object.

The **PRESIDING OFFICER**. The Senator is correct.

Mr. **BAKER**. Mr. President, have the special orders been executed?

The **PRESIDING OFFICER**. All special orders have been executed, with the exception of item No. 6, that there be a period for the transaction of routine morning business, which has not been reached yet.

Mr. **BAKER**. There is also an order to recess at 12 noon.

ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I ask that the Chair now exercise that portion of the order providing for a time for the transaction of routine morning business.

The **PRESIDING OFFICER**. The Chair will now read the order and the proposal:

> Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11:30, with statements therein limited to 3 minutes each.

We are now beyond the hour of 11:30.

Mr. **BAKER**. Mr. President, I ask unanimous consent that that time be extended to 12 o'clock.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

THE CALENDAR

Mr. **BAKER**. Mr. President, there are two items on the calendar that are available for action at this time. I invite the attention of the minority leader to Calendar Order No. 745, S. 349, and Calendar Order No. 744, H.R. 5228, and ask if he is prepared to consider those items.

Mr. **ROBERT C. BYRD**. Yes, Mr. President.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 745, S. 349.

The **PRESIDING OFFICER**. The clerk will state it.

The assistant legislative clerk read as follows:

> A bill (S. 349) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That (a) this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATION PROCEDURES

Sec. 101. (a) Chapter 51 is amended by adding at the end of subchapter I the following new section:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a claimant for benefits under laws administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist a claimant in developing the facts pertinent to his or her claim.

"(b) When, after consideration of all evidence and material of record in any pro-

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ceeding before the Veterans' Administration involving a claim for benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of such claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this section shall be construed as shifting from a claimant to the Administrator the burden described in subsection (a) of this section.".

(b)(1) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title are each amended by striking out in the item relating to chapter 51 "Applications" and inserting in lieu thereof "Claims".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(c)(1) The table of sections at the beginning of such chapter is amended by striking out in the item relating to subchapter I "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

"Subchapter I—Claims".

(d) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new item:

"3007. Burden of proof; benefit of the doubt.".

Sec. 102. Section 3311 is amended by adding at the end the following new sentence: "Subpenas authorized under this section shall be served by any individual authorized by the Administrator by (1) delivering a copy thereof to the individual named therein, or (2) mailing by registered or certified mail addressed to such individual at such individual's last dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or, in the case of service by registered or certified mail, the return post office receipt therefor signed by the individual so served shall be proof of service.".

Sec. 103. Section 4001 is amended—

(1) by amending subsection (a)—

(A) by striking out "(not more than fifty)" and inserting in lieu thereof "(not more than sixty-five)";

(B) by striking out "associate"; and

(C) by inserting before the period at the end of the second sentence "in a timely manner"; and

(2) by adding at the end the following new subsection:

"(c) The Chairman shall submit a report to the appropriate committees of the Congress, not later than October 1, 1983, and annually thereafter, on the experience of the Board during the prior fiscal year together with projections for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, information specifying the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the twenty-four months preceding the prior fiscal year and the then current fiscal year, respectively, the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the prior fiscal year, and the number of members and other professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall include, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as provided for by subsection (a) of this section.".

Sec. 104. Section 4002 is amended by striking out "associate" wherever it appears.

Sec. 105. Subsections (a) and (b) of section 4003 are amended by inserting a comma and "after notice to the claimant of such additional information together with an opportunity to be heard in connection with such information," after "concerned" both places it appears.

Sec. 106. Section 4004 is amended—

(1) by amending subsection (a)—

(A) by striking out "involving" and inserting in lieu thereof "for"; and

(B) by inserting before the period at the end of the second sentence "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding and on applicable provision of law";

(2) by amending subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, when a claim is disallowed by the Board, it may not thereafter be reopened and allowed and no claim based upon the same factual basis shall be considered.

"(2) Following such a disallowance, the Board (directly or through the agency of original jurisdiction, as described in section 4005(b)(1) of this title)—

"(A) when new and material evidence is secured, shall, and

"(B) for good cause shown, may authorize the reopening of a claim and review of the Board's former decision.

"(3) A judicial decision under subchapter II of chapter 71 of this title, upholding, in whole or in part, the disallowance of a claim shall not diminish the Board's authorities set forth in paragraph (2) of this subsection to authorize the reopening of a claim and review of the former decision."; and

(3) by amending subsection (d) to read as follows:

"(d) After reaching a decision in each case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representatives, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact, law, and matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

Sec. 107. Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

Sec. 108. Section 4009 is amended by adding after subsection (b) the following new subsection:

"(c) Whenever there exists in the evidence of record in an appeal case a substantial disagreement between the substantial findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and, after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure prescribed in subsection (b) of this section. If the Board denies the request of such claimant for such an opinion, the Board shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for its determination. Actions of the Board under this subsection, including any such denial, shall be final and conclusive, and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such decision by an action in the nature of mandamus or otherwise, subchapter II of chapter 71 of this title to the contrary notwithstanding.".

Sec. 109. (a) Chapter 71 is further amended by adding at the end the following new sections:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator, under regulations which the Administrator shall prescribe, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c)(1) In the course of any proceeding before the Board, any party to such proceeding or such party's authorized representative shall be afforded opportunity—

"(A) at a reasonable time prior thereto as well as during such proceeding, to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(B) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations which the Administrator shall prescribe, pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(C) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(D) to submit rebuttal evidence;

"(E) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(F) to serve written interrogatories on any person, including any employee of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Administrator by the person to whom the interrogatories are directed or such person's representative.

"(2) The fee provided for in paragraph (1)(A) of this subsection may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(3) In the event of any objection filed under paragraph (1)(F) of this subsection, the Administrator shall, pursuant to regulations which the Administrator shall prescribe establishing standards consistent with standards for protective orders applicable in the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Administrator shall specify, the interrogatory or interogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered.

"(4) If any person upon whom interogatories are served under paragraph (1)(F) of this section fails to answer or fails to provide responsive answers to any such interrogatories within thirty days after service or such additional time as the Administrator may allow, the Administrator shall, upon a statement or showing by the party who served such interrogatories of general relevance and reasonable scope of the evidence sought, issue a subpena under section 3311 of this title (with enforcement of such subpena to be available under section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within one hundred miles of where such person resides, is employed, or transacts business.

"(d) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator shall determine the matter as a part of the record and decision in the case.

"(e) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board (1) shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, (2) shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places, and (3) on the payment of a fee prescribed under section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on the basis of the party's inability to pay or for other good cause shown.

"(f) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title and in regulations prescribed by the Administrator under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.

"§ 4011. Notice of procedural rights

"In the case of any disallowance, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator shall, at each procedural stage relating to the disposition of such a claim, beginning with disallowance after an initial review or determination, and including the furnishing of a statement of the case and the making of a final determination by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notice shall be on such forms as the Administrator shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration, (1) descriptions of all subsequent procedural stages provided for by statute, regulations, or Veterans' Administration policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, and (3) such other information as the Administrator, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4009 the following new items:

"4010. Adjudication procedures.
"4011. Notice of procedural rights.".

Sec. 110. (a) In order to evaluate the feasibility and desirability of alternative methods of (1) assuring the resolution of claims before the Administrator of Veterans' Affairs for benefits under laws administered by the Veterans' Administration as promptly and efficiently as feasible following the filing of a notice of disagreement pursuant to section 4005 (as amended by section 107 of this Act) or 4005A of title 38, United States Code, and (2) affording claimants the opportunity for a hearing before or review by a disinterested authority at a location as convenient and on as timely basis as possible for each claimant, the Administrator is authorized to conduct a study, commencing not more than one year after the date of the enactment of this Act, for a period of twenty-four months, involving either or both of the alternative methods described in subsection (b) of this section for resolution of claims.

(b)(1) In not more than three geographic areas, the Administrator is authorized to provide an intermediate-level adjudication process whereby each claimant may, within the time afforded such claimant under paragraph (3) of such section 4005(d) or 4005A(b) to file an appeal, request a de novo hearing at the agency of original jurisdiction (as decribed in section 4005(b)(1) of such title 38) before a panel of three Veterans' Administration employees, each of whose primary responsibilities include adjudicative functions but none of whom shall have previously considered the merits of the claim at issue. Following such hearing, such panel shall render a decision and prepare a new statement of the case in accordance with the requirements of paragraphs (1) and (2) of such section 4005(d). Such new statement of the case shall, for all purposes relating to appeals under chapter 71 of such title 38, be considered to be a statement of the case as required by paragraph (1) of such section 4005(d).

(2) In not more than three other geographic areas, the Administrator is authorized to provide for an enhanced schedule of visits, on at least a quarterly basis each year, by a panel or panels, of the Board of Veterans' Appeals to conduct formal recorded hearings pursuant to such section 4002 in such areas.

(c) Not later than six months after the completion of such study, the Administrator shall report to the Congress on the results thereof, including an evaluation of the cost factors associated with each alternative studied and with any appropriate further implementation thereof, the impact on the workload of each regional office involved in such study, and the impact on the annual caseload of the Board of Veterans' Appeals resulting from each alternative studied, together with any recommendations for administrative or legislative action, or both, as may be indicated by such results.

TITLE II—VETERANS' ADMINISTRATION RULEMAKING

Sec. 201. (a) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§221. Rulemaking

"Notwithstanding the provisions of subsection (a)(2) of section 553 of title 5, the promulgation of rules and regulations by the Administrator shall be subject to the requirements of section 553 of title 5.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 220 the following new item:

"221. Rulemaking.".

TITLE III—JUDICIAL REVIEW

Sec. 301. Section 211(a) is amended by striking out "sections 775, 784" and inserting in lieu thereof "sections 775 and 784 and subchapter II of chapter 71 of this title".

Sec. 302. (a) Chapter 71 is further amended by adding at the end the following new subchapter:

"Subchapter II—Judicial Review

"§ 4025. Right of review; commencement of action.

"(a) For the purposes of this chapter and section 3404 of this title—

"(1) 'final decision of the Administrator' means—

"(A) a final determination of the Board of Veterans' Appeals pursuant to section 4004 (a) or (b) of this title; or

"(B) a dismissal of an appeal by the Board of Veterans' Appeals purusant to section 4005 or 4008 of this title; and

"(2) 'Claim for benefits' means—

"(A) an initial claim filed under section 3001 of this title;

"(B) a challenge to a decision of the Administrator reducing, suspending or terminating benefits; or

"(C) any request by or on behalf of the claimant for reopening, reconsideration, or further consideration in a matter described in clause (A) or (B) of this paragraph.

"(b) Except as provided in subsection (f) of this section, after any final decision of the Administrator adverse to a claimant in a matter involving a claim for benfits under any law administered by the Veterans' Administration, such claimant may obtain a review of such decision in a civil action commenced within 180 days after the mailing to the claimant of notice of such decision pursuant to section 4004 of this title. Such

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action shall be brought against the Administrator in the district court of the United States for the judicial district in which the plaintiff resides or the plaintiff's principal place of business is located, or in the district court of the United States for the judicial district where the principal offices of the Board of Veterans' Appeals (established under section 4001 of this title) are located.

"(c) The complaint initiating an action under subsection (a) of this section shall contain sufficient information to permit the Administrator to identify and locate the plaintiff's records in the custody or control of the Veterans' Administration.

"(d) The Administrator shall file, together with the answer to a complaint filed pursuant to subsection (a) of this section, a certified copy of the records upon which the decision complained of is based or, if the Administrator determines that the cost of filing copies of all such records is unduly expensive, the Administrator shall file a complete index of all documents, transcripts, or other materials comprising such records. After such index is filed and after considering requests from all parties, the court shall require the Administrator to file certified copies of such indexed items as the court deems relevant to its consideration of the case.

"(e) In an action brought pursuant to subsection (b) of this section, the court shall have the power, upon the pleadings and the records specified in subsection (d) of this section, to enter judgment in accordance with section 4026 of this title or remand the cause in accordance with section 4026 or 4027 of this title.

"(f) No action may be brought under this section—

"(1) where the initial claim for benefits is filed pursuant to section 3001 of this title after the last day of the fifth fiscal year beginning after the effective date of this section; or

"(2) with respect to matters arising under chapters 19 and 37 of this title.

"§ 4026. Scope of review

"(a) In any action brought under section 4025 of this title, the court to the extent necessary to its decision and when presented, shall—

"(1) decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(2) compel action of the Administrator unlawfully withheld;

"(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), and conclusions of the Administrator found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law; and

"(4) in the case of a finding of material fact made in reaching a decision on a claim for benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding when it is so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding were not set aside. Before setting aside under this clause any finding of fact, the court shall specify the deficiencies in the record upon which the court would set aside such finding, and shall remand the case one time to the Administrator for further action not inconsistent with the order of the court in remanding the case. In so remanding a case, the court shall specify a reasonable period of time within which the Administrator shall complete the ordered action. If the Administrator does not complete action on the case within the specified period of time, the case shall be returned to the court for its further action.

"(b) In making the determinations under subsection (a) of this section, the whole record before the court pursuant to section 4025(d) of this title shall be subject to review, and the court shall review those parts of such record cited by a party, and due account shall be taken of the rule of prejudicial error.

"In no event shall findings of fact made by the Administrator be subject to trial de novo by the court.

"(d) When a final decision of the Administrator is adverse to a party and the sole stated basis for such decision is the failure of such party to comply with any applicable regulation of the Veterans' Administration, the court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4027. Remands

"(a)(1) In any action brought under section 4025 of this title, the court shall, on motion of the Administrator made before the expiration of the time specified for the filing of an answer to a complaint filed pursuant to subsection (b) of such section, allow a single remand of a case to the Administrator for further review by the Administrator. If such review is not completed within ninety days after the date of such remand, the matter shall be returned to the court for its action.

"(2)(A) At any time after the Administrator files an answer, the court may, in the exercise of its discretion, remand the case to the Administrator for further action by the Administrator.

"(B) If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there is good cause for granting such leave, the court shall remand the case to the Administrator and order such additional evidence to be taken by the Administrator.

"(C) In the case of a remand under subparagraph (A) or (B) of this paragraph, the court may specify a reasonable period of time within which the Administrator shall complete the required action.

"(b) After a case is remanded to the Administrator under subsection (a) of this section, and after further action by the Administrator, including consideration of any additional evidence, the Administrator shall modify, supplement, affirm, or reverse the findings of fact or decision, or both, and shall file with the court any such modification, supplementation, affirmation, or reversal of the findings of fact or decision or both, as the case may be, and certified copies of any additional records and evidence upon which such modification, supplementation, affirmation, or reversal was based. Any such modification, supplementation, affirmation, or reversal of the findings of fact or decision shall be reviewable by the court only to the extent provided in section 4026 of this title.

"§ 4028. Survival of actions

"Any action brought under section 4025 of this title shall survive, notwithstanding any change in the person occupying the office of Administrator or any vacancy in such office.

"§ 4029. Appellate review

"The decisions of a district court pursuant to this chapter shall be subject to appellate review by the courts of appeals and the Supreme Court of the United States in the same manner as judgments in other civil actions.".

(b) The table of sections at the beginning of such chapter is amended—

(1) by inserting before the item relating to section 4001 the following new item:

"SUBCHAPTER I—GENERAL";

and

(2) by adding after the item (added by section 109(b) of this Act) relating to section 4011 the following new items:

"SUBCHAPTER II—JUDICIAL REVIEW

"Sec.
"4025. Right of review; commencement of action.
"4026. Scope of review.
"4027. Remands.
"4028. Survival of actions.
"4029. Appellate review.".

Sec. 303. Section 1346(d) of title 28, United States Code, is amended by inserting before the period at the end thereof "except as provided for in subchapter II of chapter 71 of title 38".

TITLE IV—ATTORNEYS' FEES

Sec. 401. Section 3404 is amended—

(1) by amending subsection (c) to read as follows:

"(c) The Administrator shall approve reasonable attorneys' fees to be paid by the claimant, to attorneys recognized under this section, for representation before the Veterans' Administration in connection with a claim for benefits under laws administered by the Veterans' Administration, but in no event shall such attorneys' fees exceed—

"(1) for any claim resolved prior to or at the time that a final decision of the Administrator is first rendered, $10; or

"(2) for any claim resolved after such time, an amount in excess of—

"(A) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the claim is resolved in a manner favorable to the claimant, 25 per centum of the total amount of any past-due benefits awarded on the basis of the claim; or

"(B) if the claimant and an attorney have not entered into such an agreement, the lesser of—

"(i) the fee agreed upon by the claimant and the attorney; or

"(ii) $500, or such greater amount as may be specified from time to time in regulations which the Administrator shall prescribe based on changed national economic conditions subsequent to the date of enactment of this subsection, except that the Administrator may, in the Administrator's discretion, determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee."; and

(2) by adding at the end of such section the following new subsections:

"(d)(1) If, in an action brought under section 4025 of this title, the matter is resolved in a manner favorable to a claimant who was represented by an attorney, the court shall determine and allow a reasonable fee for such representation to be paid to the attorney by the claimant. When the claimant and an attorney have entered into an agreement under which the amount of the fee payable to such attorney is to be paid from any past-due benefits awarded on the basis of the claim and the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant, the fee so determined and allowed shall not exceed 25 per centum of the total amount of any past-due benefits awarded on the basis of the claim.

"(2) If, in an action brought under section 4025 of this title, the matter is not resolved in a manner favorable to the claimant, the court, taking into consideration the likelihood at the time such action was field that the claimant would prevail, may determine and allow a reasonable fee not in excess of $750 to be paid to the attorney by the claimant for the representation of such claimant.

"(e) To the extent that past-due benefits are awarded in proceedings before the Administrator or a court, the Administrator shall direct that payment of any attorneys' fee that has been determined and allowed under this section be made out of such past-due benefits, but in no event shall the Administrator withhold for the purpose of such payment any portion of benefits payable for a period subsequent to the date of the decision of the Administrator or court making such award.

"(f) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are applicable.

"(g) For the purposes of subsections (c) and (d) of this section, claims shall be considered as resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(h) In an action brought under section 4025 of this title, the court may award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs where the court finds that the position of the Administrator was not substantially justified or that special circumstances make an award just.".

Sec. 402. Section 3405 is amended—

(1) by striking out "or" after "title,"; and

(2) by striking out "him" and inserting in lieu thereof "such claimant or beneficiary, or (3) with intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens a claimant or beneficiary or prospective claimant or beneficiary under this title with reference to any matter covered by this title".

TITLE V—MERIT PAY SYSTEM EXCLUSION FOR BOARD OF VETERANS' APPEALS MEMBERS

Sec. 501. Section 4001(b) is amended by adding at the end the following new sentence: "The provisions of section 5402 of title 5 shall not be applied to any member of the Board.".

TITLE VI—EFFECTIVE DATES

Sec. 601. The provisions of this Act shall become effective on the first day of the first month beginning 180 days after the date of the enactment of this Act.

Sec. 602. A civil action authorized in subchapter II of chapter 71 of title 38, United States Code (as added by section 302(a) of this Act) may be instituted to review decisions of the Board of Veterans' Appeals rendered on or after April 1, 1982.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. SIMPSON. Mr. President, it is my pleasure to present to the Senate for its approval S. 349, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act." This legislation is designed to improve the adjudicative rights of individuals pursuing claims for Veterans' Administration benefits in order to make them more nearly comparable to the rights of claimants for other Federal benefits.

The improvements made by this bill would take the following forms: most importantly, the bill would lift the present near-total preclusion of judicial review of VA claims, to permit—for the first time—persons whose claims for benefits are denied at the agency level to appeal that denial in the Federal courts. It would codify certain adjudication procedures which are presently in use in the VA and which are generally favorable to claimants. It would authorize the VA to test two alternative methods of improving the appeals process within the VA. It would subject the VA to the formal rulemaking requirements of the Administrative Procedure Act. It would lift the present $10 limitation on the amount of fees that may be paid by a claimant for attorney representation in connection with a claim for VA benefits, to permit the payment of reasonable fees, not only at the Federal court level, but also in the final stage of the agency adjudication. And finally, it would exempt members of the Board of Veterans Appeals from certain performance review requirements generally applicable to other administrative personnel, in order to safeguard the quasi-judicial autonomy of the BVA.

Mr. President, the need for this legislation is clear. Under present law as set forth in section 211(a) of title 38 of the United States Code, all VA benefits decisions are final and not subject to judicial review. Although, as discussed more fully in the Veterans' Affairs Committee report, Federal courts have held that section 211(a) does not preclude judicial review of constitutional questions, certain procedural matters, and challenges to the Administrator's authority to issue particular regulations, the vast majority of VA benefits determinations remains unappealable to any court. Present law also provides, as set forth in section 3404(c)(2), that no attorney representing a claimant for VA benefits may be paid more than $10 for that representation—a provision which effectively precludes all but pro bono representation. Both of these limitations are at odds with the adjudicative rights afforded, primarily by virtue of the Administrative Procedure Act, to claimants for other Federal benefits.

In most other respects, however, the VA claims adjudication process has grown to serve VA claimants quite well. It contains a number of unique and valuable features which are worth preserving: most notably, the use of informal rules for the admission of evidence, the practice of giving the claimant the benefit of the doubt on disputed factual matters, reliance on free representation before the VA by skilled representatives of the national veterans' organizations, and the impressive and well-esablished expertise of the Board of Veterans' Appeals in deciding the specific military and medical-related factual issues that arise in the context of claims for VA benefits.

Our task, then, in formulating this legislation was to preserve these positive aspects of the present system, and to enhance them through the addition of other important adjudicative rights and safeguards. Our purpose was to insure that veterans and other claimants before the VA receive all benefits to which they are entitled. And we trust that the expansion of these important and almost universal rights of judicial review and meaningful attorney representation will appreciably further that goal.

HISTORY OF S. 349

Mr. President, legislation concerning judicial review of VA benefits determinations has been before Congress in one form or another for many years. The issues contained in present legislation were first addressed in a measure which was introduced in the 94th Congress—S. 3392—by the distinguished Senator from my neighboring State of Colorado (Mr. HART), and which was reintroduced as S. 364 in the 95th Congress. On the basis of extensive hearings held on S. 364, the bill was reintroduced in significantly modified form as S. 330, in the 96th Congress, and was passed in the Senate by voice vote on September 17, 1979. The bill before us today, S. 349, was identical, when introduced on January 30, 1981, to the Senate-passed version of S. 330. On July 15, 1981, the Senate Veterans' Affairs Committee held a hearing to consider S. 349 and related issues, and on June 8, 1982, S. 349 was reported favorably by a unanimous vote of the committee. Subsequently, the bill was referred to the Judiciary Committee, under the original referral order, for a period of 45 days, at the expiration of which, the committee having taken no action, the bill was discharged from the committee and placed on the Senate Calendar.

A total of eight hearings have been held on this legislation: Five during the 95th Congress, two during the

96th Congress, and one in the present Congress. The present form of the bill reflects what I feel to be a painstaking and conscientious effort to gather together the many points of view and recommendations that were presented at these hearings by the many interested witnesses. Truly, this legislation is a group effort, arrived at in an excellent spirit of bipartisan cooperation and consensus.

The notion of judicial review has received strong support from the major veterans' organizations. The VFW, at its national convention in 1979, adopted a resolution specifically endorsing the substance of S. 349, and general support for the need for judicial review has been voiced by representatives of the Disabled American Veterans, AMVETS, Paralyzed Veterans of America, COMVETS, and most energetically and outspokenly, by the National Veterans' Law Center. The American Legion has expressed opposition to the bill, and the VA this year abandoned its previous position of support for the legislation—the basic rationale in both instances being that the present system is adequate and needs no revision.

DISCUSSION OF JUDICIAL REVIEW PROVISIONS

This legislation is not centrally based on a belief that the current system of VA claims adjudication is unjust; to the contrary, there is no evidence that most claimants are not satisfied with the resolution of their claims for VA benefits. Rather this legislation reflects the view that the primary original rationale behind the statutory preclusion of judicial review contained in section 211(a) is now obsolete. The preclusion first appeared in the Economy Act of 1933, Public Law 73-2, and reflected the view that vererans' benefits are mere gratuities and that veterans have no intrerest in or right to such benefits so compelling as to warrant the protection afforded by access to court review. Clearly, this position is untenable and offensive, especially in light of the significant case law that has emerged in the last decade concerning the legal status of Federal entitlements, beginning with the seminal case of Goldberg against Kelly in 1970, in which the Supreme Court held that welfare benefits are more in the nature of a right than a privilege for purposes of due process protections.

This legislation also reflects the view that, inasmuch as administrative determinations concerning virtually all other Federal benefits are subject to judicial review (the only significant exception being determinations concerning benefits under the Federal Employees Compensation Act), it is both unjustifiable and fundamentally unfair to deny to veteran claimants such a common and highly valued right. In addition, although there is cause to have great confidence in the competence and good faith of the individual adjudicators and adjudicative bodies within the VA, there is and will inevitable continue to be some proportion of cases, however small, that are wrongly decided by the Board of Veterans' Appeals, where the only hope of correcting the resulting injustice then lies in judicial review. In this sense, this legislation reflects a faith in the system of checks and balances embodied in Federal court review, a system which can only enhance the likelihood that the truth will be found and a correct and just decision reached. It might also help overcome the perception, in some claimants' minds, that the combination of no judicial review and the $10 limit on attorneys' fees is responsible for a system which is unfair in denying veterans their "day in court." To continue to inform claimants before the VA that benefits to which they are entitled by law could be wrongfully denied, and that there is no remedy for such a wrongful denial, no longer seems to be an acceptable position. Although the VA has a unique and vital mission of providing service to our Nation's veterans and their survivors, it is, at the same moment, a large and complex Federal agency, responsible for dispensing some $14 billion in benefits each year—so the passage of legislation which would involve the judiciary as a "check" on VA action should prove beneficial to claimants before the VA.

Mr. President, although this legislation will permit judicial review of questions of fact as well as questions of law, it is important to note that the factual review provisions have been framed very narrowly. A VA finding of fact may be set aside by a reviewing court only when it is "so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if it were not set aside."

This provision is intended to permit a reviewing court to reject an agency factual finding only when the court is certain that the finding was wrong. It is intended to be a substantially narrower standard than the "substantial evidence" test used in social security cases—a test which has often been criticized as being too broad, and under which reviewing courts have felt too free to substitute their judgment for that of the administrative tribunal, without having seen or heard the witnesses and without the expertise of the administrative decisionmakers. It is intended to afford the maximum possible deference to the BVA's expertise as an arbiter of the specialized types of factual issues that arise in the context of claims for VA benefits—and to minimize the burden imposed on the Federal courts), while still recognizing and providing for the possibility of error in BVA factual determinations, and the need, however seldom it may arise, for some avenue of redress against the most glaring errors. But despite the various considerations that counsel in favor of restricting the scope of factual review, there can be no doubt that some form of meaningful factual review is essential; obviously, any scheme of judicial review which would guarantee that a manifest and grievous injustice, resulting from a factual finding that is utterly lacking in a rational basis in the evidence could go unremedied would be absurd indeed.

Mr. President, I note that on August 17—some 8 days after S. 349 had been discharged from the Committee on the Judiciary—the Department of Justice submitted to that committee its views on S. 349 as reported by the Veterans' Affairs Committee. Concern was expressed that the new standard of factual review contained in proposed section 4026 might present significant problems of judicial construction, by requiring reviewing courts to engage in what the Department of Justice perceives to be a complicated three-part test. As they put it:

> A court will be required to determine what degree of evidence constitutes a "rational basis" for a finding, how far removed from a "rational basis" a finding may be before it is deemed to cause "a manifest and grievous injustice," and what degree of hardship must be present before a finding causes "a manifest and grievous injustice."

The end result of this process, it was stated, could in effect approximate a substantial evidence standard. The Justice Department views concludes with a recommendation that factual review be limited to cases where there is no evidence in the record to support the finding in question. I ask unanimous consent that the document referred to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. This expression of concern disregards several of the points that the Veterans' Affairs Committee took great pains to clearly state in discussing the new standard of factual review in its report on S. 349. Please recall that the judicial review provisions of S. 349 were specifically designed to provide for a far more restrictive scope of review than is available under the "substantial evidence" test—in order to preclude reviewing courts from simply substituting their judgment for that of the agency—and to do so by means of a standard so strongly worded as to leave no question as to the intent of the Congress. This standard should be viewed as a unit, not dissected into three or more disparate parts. If the committee had intended that a reviewing court make separate findings as to whether there is a "rational basis" and whether "a manifest and grievous injustice would

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result," we would certainly have been artful enough to craft separate clauses for each such element. As it is, however, the language used is intended to represent a straightforward, one-step inquiry into whether the reviewing court is absolutely certain that the agency was wrong. To the extent that the reviewing court has any uncertainty as to the meaning of this standard, it is expected that clarification will be sought from the legislative history first and foremost, rather than through independent judicial construction.

As for the suggested "no evidence" standard, it is clear that such a standard would preclude any meaningful factual review, by precluding all review of findings supported by the merest scintilla of evidence, no matter how patently insubstantial or uncompelling. In practical effect, only questions of law would be reviewable, thus making crucial the distinction between questions of law and questions of fact. The problems associated with this approach are discussed in the committee's report on S. 349, numbered 97-466, in the section dealing with the scope of review provisions of the committee bill.

Essentially, the problem is that most claims determinations before the VA devolve about mixed questions of law and fact, which are often extremely difficult to separate. Indeed, it is quite possible that a specialized veterans' bar could spring up, whose members would have developed great skill and artifice in sorting out the elements of each issue and presenting every question as a legal one, thus creating a likely spate of work for attorneys and the courts—contrary to the Justice Department's central desire to minimize the burden on the courts—but without providing any greater benefit for the veteran community or the broader interests of justice than is provided under the present version of the bill.

One additional point made in the Justice Department views, however, is well taken. The Department recommends a clarification of the language relating to punitive awards of attorney's fees against the United States, in order to reflect more accurately the committee's express intention of track the relevant provisions of the Equal Access to Justice Act. I do very much appreciate these recommendations and will be pleased to give them my full and careful attention at the next appropriate stage in the consideration of this legislation.

It should be noted that this legislation does not repeal the judicial review prohibition contained in section 211(a). Rather, it is retained in substantially modified form, in order that there will be no ambiguity as to whether judicial review of VA benefits determinations is governed by the Administrative Procedure Act or by the provisions of this legislation (the Administrative Procedure Act does not apply, by virtue of section 701 thereof, where there is a statute precluding judicial review).

DISCUSSION OF ATTORNEY'S FEES PROVISIONS

The limitation on attorney's fees dates back to the post-Civil-War period and was established at its present $10 level in 1924. It was grounded in a desire to protect helpless pensioners from unscrupulous lawyers fabricating claims and harassing veterans. It does not appear to have been considered in relation to any potential right of court review, but seems to have been directed only at attorney participation in the uncomplicated initial claims filing process. But no matter how well grounded may have been the concerns expressed in Congress in 1918 about lawyers and claims agents as "mercenary leeches sapping the blood" of financial benefits for veterans, it is clear that such a view of today's organized bar, particularly in light of the widespread network of local bar associations that now generally monitor attorney behavior, is no longer tenable.

Although this $10 limitation is not directly linked to preclusion of judicial review, it seems that the bar to judicial review may have contributed to nonparticipation of attorneys in VA claims matters. In recent years, only approximately 2 percent of all claimants before the Board of Veterans' Appeals were represented by attorneys, a phenomenon that is undoubtedly heavily attibutable to the limit on the fee that an attorney may receive. Thus, the newly created right to judicial review proposed in this legislation would be a hollow right indeed without some easing of the limitation on attorneys' fees. Without the assistance of an attorney, a claimant would effectively be precluded from filing a proper appeal of an adverse VA decision in Federal court and, without amending the $10 limitation, there would continue to be little or no attorney representation in VA claims cases.

Yet extreme care must be taken in making any change in the attorneys' fees limitation so that we do not induce unnecessary retention of attorneys by VA claimants and not disrupt unnecessarily the very effective network of nonattorney resources that has evolved in the absence of significant attorney involvement in VA claims matters. The mainstays of that network are veterans' service officers, usually employees of the national veterans' service organizations, who provide representation without charge to veterans and other claimants before the VA, without regard to whether the individual claimant is a member of the service officer's organization.

The attorneys' fees provision in this legislation are designed to balance these important, competing considerations. The basic purpose is to authorize attorney involvement in the judicial review process, while preserving the present system of low-cost, generally nonattorney representation before the VA as much as is possible. The $10 limit would be retained throughout the proceedings before the agency, except that it would be lifted where an attorney who has been retained to appeal a case to district court determines that the existing administrative record is inadequate and in need of further development or supplementation for appeal purposes. This reopened-case provision should be regarded as incidental to the provisions relating to attorneys' fees for representation in court, and is designed not to interfere with present agency adjudication practice, but to insure that no attorney who accepts a case for court appeal shall be saddled with an administrative record which is inadequate and which he or she had no opportunity to develop.

SUMMARY OF PROVISIONS

Mr. President, I should like to share with my colleagues a brief review of the various provisions of this legislation. The bill's six titles cover the following subjects: Adjudication procedures, Veterans' Administration rulemaking, judicial review, attorneys' fees, merit pay system exclusion for Board of Veterans' Appeals members, and effective dates, as follows:

Title I: Adjudication procedures.—This title would codify and establish various internal procedures of the VA applicable in adjudications of claims for benefits under laws administered by the VA. Included in title I of the Committee bill are provisions that would:

Codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings, currently provided for by regulation (38 CFR 3.102 and 3.103), in order to assure that the VA's present practices of providing claimants all reasonable assistance in the development of claims and construing the evidence liberally in favor of the claimant are not lost in reaction to the provision, in title III of the Committee bill, authorizing judicial review of final decisions denying claims.

Specify procedures for the service of subpenas authorized under section 3311 of title 38, United States Code, including procedures for personal service or service by mail.

Increase the statutory limitation on the size of the BVA from 50 to 65 in order both to ease existing strains on the BVA's docket and to enhance the Board's ability to deal with workload increases that may be generated by judicial review of VA decisions.

Encourage the BVA to dispose of appeals before it in a timely manner.

Require the Chairman to report to the appropriate committees of the Congress annually on the Board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

Require the BVA to provide a claimant with notice and an opportunity for a hearing before making a decision based on addi-

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tional official information received after the BVA had previously decided the case.

Codify a claimant's right to an opportunity for a hearing before the BVA.

Require expressly that BVA decisions must be exclusively on evidence and material of record and on applicable provisions of law.

Make a technical correction in the description of the BVA's authority to reopen a claim by deleting (as inconsistent with present practice) the present requirement that new and material evidence sufficient to reopen a claim be in the form of official reports from the proper service department.

Specify that a court decision upholding denial of a claim under title III of the Committee bill, shall not diminish the Board's discretionary authority to reopen a claim.

Require the BVA to mail a detailed statement of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative.

Expand the present requirement that BVA decisions be in writing and contain findings of fact and conclusions of law separately stated, to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion, as well as an order granting or denying relief.

Expressly provide a claimant before the BVA with the right, upon request, to have the Board acquire an independent medical opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case. Any Board decision to deny such a request, and the basis for such denial, would have to be provided to the claimant but such decision would not be subject to judicial review.

Authorize the Administrator to administer oaths and affirmations, examine witnesses and receive evidence in VA claims adjudication proceedings.

Provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings subject only to such provisions as the Administrator may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

Provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant (or other party) shall have the right to review and, on the payment of a fee (waivable, pursuant to regulations that the Administrator must prescribe, on the basis of inability to pay or for other good cause shown) limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing, to present witnesses and evidence including medical opinions and rebuttal evidence, to make argument and to submit written contentions, and to submit to any person written interrogatories which must be answered unless written objections thereto are filed. If the person served with interrogatories files an objection thereto, the Administrator must, pursuant to regulations that the Administrator must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given. If the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Administrator issue a subpena (enforceable in Federal district court) for the witness' attendance at a deposition at which the unanswered interrogatories would be asked.

Allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such basis.

Specify the materials that must be included in the record of VA claims adjudication proceedings and provide that the record shall be available for the claimant's inspection and shall be copied for the claimant upon the payment of a fee (waivable, pursuant to regulations that the Administrator must prescribe, on the basis of claimant's inability to pay or for other good cause shown) limited to the costs of duplication.

Specify that the adjudication rights contained in title 38 and prescribed thereunder by the Administrator are exclusive.

Require the Administrator, at each stage of claims adjudication proceedings before the VA, to provide the claimant with detailed notice, in easily understandable language, of the claimant's procedural rights.

Authorize a VA study of alternative methods of ensuring the prompt and efficient resolution of claims and affording claimants the opportunity for a timely and convenient hearing or review by a disinterested authority. Under this provision, the Administrator could study the following two alternative methods of speeding claims resolution at locations convenient to claimants: (A) intermediate review panels which would conduct de novo reviews at VA regional offices prior to appeal to the BVA, and (B) an enhanced schedule of BVA traveling board visits (at least four per year). The report on the study, including the Administrator's recommendations for administrative or legislative actions, or both, would be due to be submitted to the Congress within 6 months after completion of the study.

Title II: Veterans' Administration rule making.—This title would require application of the Administrative Procedure Act (APA) provisions applicable to rule making, including requirements of notice to the public of proposed regulations and opportunity for comment on such proposed regulations notwithstanding the exclusion from such provisions in section 553(a)(2) of title 5, United States Code, of matters involving loans, grants, benefits, or contracts.

Title III: Judicial review.—This title would permit access to the United States Federal court system for review of decisions of the Administrator on claims for benefits. Included in title III of the Committee bill are provisions that would:

Expand the present category of exceptions to the general preclusion of judicial review contained in present section 211(a) of title 38, United States Code.

Authorize review of a final decision of the Administrator adverse to a VA benefits claimant in Federal district court (in either the plaintiff's home district or the judicial district where the Board of Veterans' Appeals is located, presently the District of Columbia) instituted by a civil action brought within 180 days of the mailing by the VA of notice of such decision.

Define a "final decision of the Administration", which may be appealed to Federal court, to include a Board of Veterans' Appeals (BVA) final decision on the merits, refused to reopen a claim, and dismissal of an appeal.

Define "claim for benefits" to include not just initial claims, but also subsequent action taken on a claim such as reduction or termination of benefits.

Require that a complaint instituting a civil action for court review of a decision relating to a claim for benefits include sufficient information to permit the VA to identify and locate the plaintiff's VA records.

Require the VA to file, together with its answer to a complaint, a certified copy of all of the materials that constitute the record or, if the cost of filing all such materials would be unduly expensive, a complete index of all of the materials. In the latter case, the court would, after considering the requests of the parties, order the Administrator to file certified copies of such indexed items as it deemed relevant to its consideration of the case.

Authorize a court, in an action for review of a VA denial of a claim for benefits, to enter a judgment on the pleadings and the records.

Preclude judicial review, under the provisions added by this title of the Committee bill, which the initial claim is filed with the Administrator on or after the last day of the fifth fiscal year beginning after the effective date of such provisions, and with respect to matters arising under chapters 19 (insurance) and 37 (home, condominium, and mobile home loans) of title 38, United States Code.

Authorize the reviewing court to decide all relevant questions of law; to interpret constitutional, and statutory provisions as well as other actions of the Administrator, compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, finding, and conclusions of the Administrator found to be (A) arbitrary, capricious, an abuse of discretion, or not in accordance with law, (B) contrary to constitutional right, power, privilege, or immunity, (C) in excess of statutory, jurisdiction, authority, or limitation, or in violation of a statutory right, or (D) without observance of procedure required by law, or (E) in the case of a finding of material fact, so utterly lacking in a rational evidentiary basis that a manifest and grievous injustice would result if the finding were not set aside.

Require a reviewing court, before reversing an Administrator's decision on the basis of the court's finding that a factual determination of the Administrator is utterly lacking in a rational evidentiary basis, to specify where it finds the record deficient and remand the matter a single time to the Administrator for further action within a reasonable, specified period of time.

Require a court, in making determinations, to review those parts of the administrator record cited by a party and to take due account of the rule of prejudicial error.

Preclude a reviewing court from conducting a trial de novo on the Administrator's findings of fact.

Provide that, in a matter resolved by the VA solely on the basis of a party's failure to comply with a VA regulation, the reviewing court may consider only issues raised as to the validity of or a party's compliance with the regulation.

Authorize three different types of remands from the reviewing court to the Administrator: First, a single remand for not more than 90 days, at the Administrator's request before the Administrator files an answer, for the Administrator to reconsider the case; second, a remand in the court's descretion after the Administrator has filed an answer; and third, a remand if either party applies for leave to adduce further evidence and the moving party shows "good cause" for the requested remand.

Provide that any actions brought under the judicial review provisions added by this title of the Committee bill will survive the tenure of any individual as Administrator.

Provide that decisions of the district court pursuant to the judicial review provisions added by this title shall be subject to review in higher Federal courts in the same manner as judgments in other civil actions.

Specify that the current-law limitation on the jurisdiction of Federal district courts in matters involving pensions shall not apply to VA pension matters.

Title IV: Attorneys' fees.—This title would revise the present title 38 limitation of $10 for claimants' attorneys' fees by authorizing reasonable attorneys' fees, within certain limits, for representation of individuals before the VA and for representation in a case appealed to court under the judicial review provisions added to title 38 by this title of the Committee bill, with a specified limitation in cases in which the matter is resolved in a manner unfavorable to the claimant. Included in title IV are provisions that would:

Retain the $10 limitation on the amount an attorney may receive for services rendered prior to a final BVA decision.

Permit the Administrator to approve a reasonable attorneys' fee for representation within the VA after a final BVA decision (where, for example, a case remains before the VA for reconsideration or for reopening on the basis of "new and material evidence" offered under section 4004(b) of title 38, United States Code, as amended by title I of the Committee bill), up to a maximum of $500 or, if the claimant and attorney have entered into a contingency-fee agreement, no more than 25 percent of any past-due benefits awarded the claimant.

Authorize the Administrator to increase the $500 maximum limitation in future years to reflect changed economic conditions.

Authorize the Administrator to disregard the $500 limitation in an individual case involving extraordinary circumstances warranting a higher fee.

Allow a reviewing court, in a case appealed from the VA, to approve a reasonable attorneys' fee. For cases not resolved in a manner favorable to a claimant, the maximum a court could approve would be $750. For cases resolved in a manner favorable to a claimant, the only limitation on the amount of the fee that a court could approve would be that it must be reasonable, or that, if a claimant and an attorney had entered into a contingent-fee agreement, the fee approved by the court could not exceed 25 percent of the total amount of past-due benefits.

Authorize the VA to make payment to an attorney from past-due benefits, but preclude the VA from making payments from benefits received subsequent to the date of the decision entitling the veteran to benefits.

Limit the applicability of the attorneys' fee provisions to cases involving claims of benefits.

Define, for the purpose of attorneys' fees provisions, a claim as being "resolved in a manner favorable to the claimant" when any or all of the relief sought is granted.

Authorize a court to award to a prevailing party, other than the Administrator, reasonable attorneys' fees and costs where the court finds that the position of the Administrator was not substantially justified or that special circumstances make an award unjust.

Provide criminal penalties for willfully and intentionally defrauding a VA claimant.

Title V: Merit pay system exclusion for Board of Veterans' Appeals members.—This title would exempt members of the BVA other than the Chairman and the Vice Chairman from the merit pay provisions of the Civil Service Reform Act of 1978.

Title VI: Effective dates.—This title provides for an effective date and authorizes the institution of civil actions, under the judicial review provisions added by title III of the Committee bill, for the review of certain Board of Veterans' Appeals (BVA) decisions prior to such effective date. Included in this title are provisions that would:

Provide that the provisions added by the Committee bill would become effective 180 days after the date of enactment.

Allow for court review of a BVA decision rendered on or after April 1, 1982.

Mr. President, in conclusion, I do wish to take this opportunity to express my great appreciation for the efforts and contributions of my good friend from California (Mr. CRANSTON), the ranking minority member of the Veterans' Affairs Committee. He has indeed been a tireless champion of this legislation, and I applaud his deep and heartfelt concern for the quality of justice that is afforded to veterans and their dependents. I also wish to thank the distinguished Senator from Colorado (Mr. HART), who has been an original sponsor of this legislation since its inception, for his continued interest and involvement. In addition, Senator STROM THURMOND has given outstanding service in resolving this matter—as a member of the Veterans Affairs Committee and as chairman of the Judiciary Committee. I richly commend him and sincerely thank that extraordinary gentleman.

The bill that is before you today is the product, as I have already indicated, of years of effort and careful weighing of equities by the Veterans' Affairs Committee staff. As far as the excellent modifications reflected in the committee amendment to S. 349 are concerned, I wish to acknowledge the fine work of committee staffers Scott Wallace, Tom Harvey and Harold Carter, ably assisted by Kay Eckhardt, Laurie Altemose, and Jim MacRae. My thanks also to minority staffers Bill Brew and Jon Steinberg, as well as to Joe Buzhardt with Senator THURMOND, and Bill Holen of Senator HART's staff. I also wish to extend my thanks for valuable technical assistance to Ed Lukey and Don Zeglin of the VA's Office of the General Counsel, to Jān Donsback, special assistant to the Chairman of the Board of Veterans Appeals, and to Ron Simon and Lewis Milford of the National Veterans' Law Center.

Mr. President, I believe that this legislation is fully responsive to all of the many and varied concerns that have been brought to the attention of the committee with regard to improving the VA claims adjudication process. It is now time to grant to claimants before the VA adjudicative rights that are comparable to those afforded to claimants for virtually all other Federal benefits. I urge my colleagues to support this important legislation.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., August 17, 1982.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of Justice on S. 349, a bill to amend title 38 of the United States Code to establish procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration. The Department of Justice previously provided in-depth comments on S. 349 to the Committee on Veterans' Affairs (reprinted in S. Rep. No. 97-466, 97th Cong., 2d Sess. 141 (1982)) and we will not belabor your Committee with a repetition of those comments. However, S. 349 was amended in part subsequent to the submission of our comments and we welcome this opportunity to express the views of the Department of Justice on the amendments.

Most of our comments are unaffected by the amendments to S. 349. For example, we expressed our view that the enactment of S. 349 would greatly increase the volume of litigation handled by the Department of Justice. We pointed out that this increase is a natural consequence of a bill which provides access to the courts to a large class of claims not previously subject to judicial review. None of the changes to S. 349 effected by the amendments alters our position. We remain of the view that this legislation will represent a departure from existing practice with concomitant substantial costs to the Government. However, we defer to the Veterans' Administration as to whether such changes should be effected at this time.

We do wish to supplement our comments concerning the attorney's fees provisions of S. 349. We originally expressed concern that the provisions did not clearly indicate the situations in which a court is empowered to award attorney's fees against the United States. The amendments to S. 349 address this concern and provide a clear indication of the standards for the award of attorney's fees. Nonetheless, we remain concerned about the language used to amend that portion of Section 401 dealing with the punitive award of attorney's fees against the United States. As amended, this section permits the award of attorney's fees to a prevailing party "where the court finds that the position of the Administrator was not substantially justified or that special circumstances make an award just." 38 U.S.C. § 3404(h) (proposed language). The Report of the Committee on Veterans' Affairs indicates that this language was intended to provide an attorney's fees standard similar to that contained in the Equal Access to Justice Act, Public Law 96-481. S. Rep. No. 97-466, 97th Cong., 2d Sess. 79 (1982).

The amended language appears to provide an attorney's fee standard that is broader than the standard set forth in the Equal Access to Justice Act. The difference in standards is found in two cases. First, unlike the standard contained in the Equal Access to Justice Act, which permits the denial of

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an attorney's fee award where "special circumstances make an award unjust" (28 U.S.C. § 2412 (d)(1)(A)), the standard contained in S. 349 would arguably limit a court's power to deny the award of attorney's fees where special circumstances make an award of attorney's fees unjust to situations where the court also finds that the position of the Administrator is justified. Even where the position the Administrator is unjustified, however, the court may feel that the conduct of the prevailing party in the course of litigation, such as abusing discovery procedures, unduly prolonging litigation to generate increased attorney's fees, or generally acting in bad faith, justifies the denial of an attorney's fees award.

Second, the standard in S. 349 would permit a Court to award attorney's fees, even if the position of the administrator is substantially justified, where special circumstances make an award just. However, the Equal Access to Justice Act precludes an award in any case where "the court finds that the position of the Untied States was substantially justified." 28 U.S.C. § 2412(d)(1)(A). Thus, S. 349 once again goes further than the Equal Access to Justice Act in exposing the United States to liability for attorney's fees.

To insure that S. 349 more closely follows the Equal Access to Justice Act in providing for the award of attorney's fees, we suggest that the language of Section 401 be amended to provide:

(h) In an action brought under section 4025 of this title, the court may award to a prevailing party other than the administrator, reasonable attorney's fees and costs where the court finds that the position of the administrator was not substantially justified and special circumstances do not make an award unjust.

We also wish to supplement our views concerning the scope of review for factual determinations made by the Administrator in Board of Veterans' Appeals proceedings. We expressed concern that extensive review of such factual determinations would greatly exacerbate the significant caseload problems which will naturally result from judicial review of a new class of claims. The Committee on Veterans' Affairs responded to these concerns by amending section 4026 to allow a court to overturn the Administrator's factual findings only where a finding "is so utterly lacking in a rational basis in the evidence that a manifest and grievous injustice would result if such finding was not set aside." 38 U.S.C. § 4026 (proposed language). While this language is a good first step in limiting the scope of judicial review of factual determinations, we feel that it might still permit extensive review of factual determinations. The proposed language provides a new standard which likely will require extensive judicial construction prior to application. A court will be required to determine what degree of evidence constitutes a "rational basis" for a finding, how far removed from a "rational basis" a finding may be before it is deemed to cause "a manifest and grievous injustice", and what degree of hardship must be present before a finding causes "a manifest and grievous injustice." If a court construes these terms broadly, it is possible that the standard of review could in effect approximate an "arbitrary and capricious" or even "substantial evidence" standard. The standard offers little guarantee against a recurrence of the enormous problems attendant to the factual review in Social Security cases which we discussed in our comments to the Committee on Veterans' Affairs.

The best approach to this problem is to provide review only of the legal basis for the Administrator's decision while reposing sole responsibility for factual determinations with the Boards of Veterans' Appeals, which have the expertise necessary to weigh and interpret properly complex medical evidence. Experience dictates that many litigants advance any available arguments, even if the chances of success of the arguments are restricted. Therefore, a mere tightening of the standard of factual review is likely to reduce only the number of cases that successfully raise factual challenges, not the absolute number of factual challenges. A preclusion of factual review will protect the integrity of the Administrator's factual findings and assure control over the caseload resulting from S. 349. However, should the Committee wish to retain some degree of factual review, we suggest that section 4026 be amended to provide in pertinent part:

(a) In any action brought under section 4025 of this title, the reviewing court to the extent necessary to its decision and when presented, shall—

(4) in the case of a finding of material fact made in reaching a decision for a claim for benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding where there is no evidence in the record to support it.

This standard should decrease the likelihood of a judicial expansion of factual review.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell,
Assistant Attorney General.

Mr. THURMOND. Mr. President, I would like to take this opportunity to raise an important issue with respect to this legislation. As the distinguished chairman of the Senate Veterans' Affairs Committee knows, my major concern about this legislation, as chairman of the Judiciary Committee, is that section 4026(A)(4) of the bill, which permits limited judicial review of factual findings of the Administrator, might impose an unnecessarily heavy burden on the Federal court system, both in terms of added case load and lack of judicial familiarity with the particular types of factual questions involved in VA claims determinations. This concern could be addressed by limiting the scope of judicial review available under this bill to questions of law only. This is an issue which I raised in the 96th Congress, by offering an amendment to that effect at the committee markup of S. 330, the predecessor of S. 349. I again raised the scope of review issue in our markup this year, although I did not offer an amendment at that time. I would appreciate any comments which the Senator from Wyoming would care to make on this important issue, particularly with regard to the scope of review provision presently found in S. 349.

Mr. SIMPSON. I am well aware of the concerns of the distinguished chairman of the Judiciary Committee on this issue. Indeed, I find his concerns compelling, and I would agree that it is appropriate to phrase the scope-of-review provisions as restrictively as is practicable. As the Senator knows, the factual review provisions in this legislation have been made increasingly restrictive over the years. In S. 364—this bill's predecessor in the 95th Congress—the "substantial evidence" test was used. This was narrowed in S. 330—the bill that passed the Senate in the 96th Congress—to an "arbitrary and capricious" test. In the present bill, the standard has been further refined to provide that a factual finding of the VA may be reversed by a reviewing court only when it is "so utterly lacking in a rational basis in the evidence that a manifest and grievious injustice would result if such finding were not set aside." As is stated in the committee's report, and as I have emphasized in my opening remarks today, this standard is intended to be substantially narrower than the "substantial evidence" test. A reviewing court may not conduct a trial de novo of the facts, and every effort has been made in framing the legislation to insure that the court will not simply substitute its judgment for that of the administrative tribunal, as is so often the case in the area of social security matters. I believe that the Board of Veterans' Appeals has, over the years, demonstrated great competence as an expert adjudicator of the particular types of factual issues that arise in connection with claims for VA benefits, and that we should defer to that expertise. Nevertheless, after a painstakingly thorough examination of considerations such as these, the committee found that the fact/law distinction was likely to prove unworkable in the VA context. Accordingly, the committee settled upon the very restrictive standard of factual review now contained in the bill, in an attempt to satisfactorily address these same considerations—easing the burden on the Federal courts, and deferring to the expertise of the BVA—that led to the recommendation of a "law-only" scope of review.

Mr. THURMOND. I appreciate the chairman's understanding of this problem and his substantial efforts to structure a very narrow review provision. I recognize that it is difficult to say with any certainty what effect the limited factual review of VA determinations will have on the caseload of the Federal court system. Thus, in light of that uncertainty and of the Senator's very helpful explanation of the factual review provision found in S. 349, I shall defer for now to the present language of the bill, which refects the chairman's sincere and very conscientious effort to address these concerns constructively. I suggest, however, that both the Veterans' Affairs Committee and the Judiciary Committee carefully monitor experience under this legislation and that, after expiration of the 5-year sunset provision contained in section 4025(f)(1) of the bill, we conduct a thorough analysis of the results of judicial review of VA determinations. Of particular importance will be the impact of the factual review provision, through means such as an examination of the percentage of appeals on factual grounds that ultimately prove unsuccessful, on matters such as Federal court caseload and the decisionmaking role of the BVA.

Mr. SIMPSON. I think that the distinguished Senator's suggestion is an excellent one. Without a doubt, the scope-of-review issue has been the most difficult one to resolve in the context of this bill, and I would certainly expect it to be the most significant subject of study in considering whether this legislation ought to be extended beyond the original 5-year authorization. As a member of the Judiciary Committee myself, I wish to express my great appreciation for the chairman's sensitivity to issues concerning the ability of the Federal courts to continue to handle their ever-increasing caseloads effectively and responsibly, without any diminution in the quality of justice available to litigants in all Federal cases.

Mr. THURMOND. I thank the Senator for his assurances and his cooperation on this important issue.

Mr. CRANSTON. Mr. President, as the ranking minority member on the Veterans' Affairs Committee, I am delighted to join with my good friend from Wyoming, the committee chairman (Mr. SIMPSON), in urging our colleagues to give their wholehearted, unanimous approval to S. 349, the proposed Veterans' Administration Adjudication Procedure and Judicial Review Act. If the Senate acts as we urge, this will be the second time—the first coming during the last Congress on September 17, 1979, when a predecessor measure, S. 330, was passed—that the Senate has gone on record in support of legislation to eliminate provisions in current law that accord veterans a second-class citizenship in the very fundamental area of their relationship with the Federal Government regarding questions related to statutorily provided benefits and services. I am convinced that the Senate's position on this issue is correct, and I hope that our colleagues in the other body will take notice of our actions and, once this measure reaches that body, will given it the full and favorable consideration it deserves.

Mr. President, the basic purpose of S. 349, which the Veterans' Affairs Committee reported on June 8, 1982, is to insure that veterans and other claimants before the VA receive all benefits to which they are entitled under law by providing them with the opportunity for judicial review of final decisions of the Administrator of Veterans' Affairs denying claims for benefits, by codifying certain internal procedures of the VA relating to the adjudication of benefit claims, by requiring that VA rulemaking processes comply with provisions of the Administrative Procedure Act relating to notice and comment, and by allowing claimants to pay attorneys reasonable fees for representation before the VA after a decision by the Board of Veterans' Appeals and for representation in judicial proceedings.

BACKGROUND

Mr. President, in January of last year, at the time Senators HART, DECONCINI, and I introduced S. 349—which was identical to S. 330 as passed by the Senate during the 96th Congress—I made an extended statement in which I discussed the history of consideration of judicial review legislation in the Senate over the prior three Congresses and the reasons supporting the bill we were then introducing. I refer my colleagues and others with an interest in this background to my remarks at the time of introduction which begin on page 1354 of the RECORD for January 30, 1981.

It is sufficient to note at this point that the measure as it comes before the Senate has been through an extended period of development which began in the 94th Congress. During this period, the Committee on Veterans' Affairs has held eight hearings on judicial review legislation, and the Judiciary Committee has held one such hearing. Judicial review legislation has been before both the Veterans' Affairs Committee and the Judiciary Committee, with the Veterans' Affairs Committee twice voting to report such legislation, and the Judiciary Committee twice, after referral of the reported bill for a period of time, taking no action to amend the reported measures before being discharged from their consideration.

Finally, as I just noted, the Senate, during the last Congress, passed legislation quite similar to the pending measure.

In short, it is clear that the Senate has given a great deal of consideration to the issue of providing for judicial review of VA decisions and has indicated its support for providing an opportunity for a veteran aggrieved by a VA decision on a claim for benefits to obtain a carefully limited review of such a decision. I have every expectation that the Senate will go on record again today in support of such a result, and I strongly urge that action.

Mr. President, because, as I noted earlier, I have previously described in some detail the background of this legislation and the general reasons for my support for it, I will limit my remarks today to a brief discussion of the more significant changes made by the Veterans' Affairs Committee to the measure as introduced. In addition, I will mention some current activity that further reinforces my support for this legislation.

COMMITTEE AMENDMENTS

Mr. President, the committee made a number of changes to S. 349 as introduced. The two principal changes were to the provisions relating to a court's scope of review and to the provisions relating to the fee a VA claimant can pay an attorney.

On the scope-of-review issue, S. 349 as introduced—and S. 330 as passed by the Senate during the last Congress—included an "arbitrary and capricious" test for a court to use in evaluating a VA decision on a question of fact. As was described in the committee report on S. 330 (S. Rept. No. 96-178) it was the committee's intent in adopting this standard in that legislation that a reviewing court would have less latitude to review, and thus possibly reverse, a VA decision on a question of fact than a court utilizing the "substantial evidence" test which is generally used by courts under the Administrative Procedure Act in conjunction with the review of factual decisions made by other Federal agencies.

In S. 349 as reported and now pending before the Senate, the "arbitrary and capricious" standard has been replaced by an even more restrictive scope-of-review standard—a court can set aside a VA finding on a material fact only when the VA finding "is so utterly lacking in a rational basis in the evidence that a manifest and grievious injustice would result if such finding were not set aside." Thus, a veteran seeking court review of a VA decision on a factual issue would have to show, first, that the factual issue was "material" to the claim; second, that the VA's finding was "utterly lacking in a rational basis"; and finally, that "a manifest and grievious injustice" would result if the VA decision were allowed to stand. This is a very narrow scope-of-review provision which clearly demonstrates the committee's view that the Board of Veterans' Appeals is and should remain the expert arbiter of factual issues in VA claims matters and that a reviewing court's role in examining decisions of the Board on factual matters should be sharply circumscribed. I believe that this standard strikes the appropriate balance of allowing some opportunity for court review of VA decisions on factual issues, so as to avoid the result of allowing plainly incorrect decisions to go uncorrected, while sharply limiting that review so that courts are prevented from second guessing the VA decisionmakers on factual issues.

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Mr. President, as is discussed in the committee report accompanying S. 349 (S. Rept. No. 97-466) the committee considered various formulations for the scope-of-review provisions including, as suggested by the VA, allowing court review only of questions of law and precluding review of questions of fact. This latter formulation was considered during the development of S. 330 during the last Congress and, both on that occasion and in our committee's deliberation on S. 349 this year, our committee decided against establishing such a fact/law dichotomy. Instead, on each occasion the committee adopted scope-of-review provisions permitting specific, limited review of factual questions.

Two major reasons support the committee's decision not to preclude court review of factual issues in VA claims cases. First, denying claimants before the VA any opportunity to have a court review issues of fact would continue to relegate these claimants to second-class citizenship before the courts. I cannot think of any adequate way to explain to a veteran or other claimant before the VA that his or her benefit could be denied on the basis of a clear factual error.

Second, a law/fact dichotomy in the scope-of-review provisions would be extremely difficult to apply, and, ironically, could actually increase the amount of judicial time and energy expended on the review of VA cases. Few questions that come before the VA are pure fact or pure law questions. Rather, they are usually a mix of fact and law. If a court were permitted to review only questions of law, it might apply the law/fact distinction in a very strict fashion and refuse to hear many cases in which there is a significant legal question. Or, a court might stretch the concept of a "legal" question almost to the breaking point so as to assume jurisdiction over cases with compelling factual issues. In any event, it is not clear that the spirit of the law/fact distinction would be respected, and it seems likely that there would be a wide divergence in various courts' handling of VA cases.

Further, if a law/fact distinction were enacted, attorneys appealing VA decisions to court would find it necessary, in order to fulfill their responsibilities to their clients, to do their utmost to characterize each issue in their cases as involving a question of law. This would mean that reviewing courts frequently would be called upon first to address difficult threshold questions as to which of the issues presented, if any, it may consider. Where the court decided not to consider a case or issue on the grounds that it involved only questions of fact, those decisions could often be appealed to a higher court. Thus, a law/fact distinction could result in a very substantial, wasteful demand on judicial resources for the resolution of issues unrelated to a review of the merits of the VA claims being appealed. There is a reasonable likelihood that such expenditure of judicial resources on deciding jurisdictional questions could exceed the utilization of those resources needed to decide certain factual issues under the strict, very limited scope-of-review provision in the committee bill.

For these reasons, Mr. President, I believe that the specific but limited opportunity provided for in the bill for court review of factual decisions in VA claims decisions is the most appropriate course to take.

With reference to the change to the provisions relating to attorneys' fees, S. 349 as introduced would have amended current law, which precludes an attorney from receiving more than $10 for representing a veteran or other claimant before the VA, so as to allow a veteran to hire an attorney and pay more than $10 when the claim was at the regional office level and the veteran had received a "statement of the case"—the document provided to a veteran following the initial rejection of a claim and before the first substantive appeal. Under S. 349 as reported by the committee, the lifting of the $10 limitation is delayed until after the Board of Veterans' Appeals has rendered a decision on a claim. The committee made this change to demonstrate more clearly its view that a veteran claimant's first choice for representation before the VA should generally be a veterans' service officer. These service officers—generally employees of veterans' organizations—do a fine job representing veteran claimants, without charge, before the VA. There is a real need for them to continue to serve veterans in this way. At the same time, there is a need to provide a basis for some attorney participation in the context of providing access to judicial review.

So that an attorney entering a case after a decision by the Board could have the opportunity to have an impact on the administrative record before seeking court review and also to create the greatest likelihood that claims will be resolved before the VA rather than in court, S. 349 as it is before the Senate would further amend current law in two ways: First, it would mandate by law that a claim before the VA be reopened upon the presentation of new and material evidence following a Board decision, rather than leaving it discretionary as it is under current law; and second, it would add a new discretionary basis—"for good cause shown"—for the Board to reopen a claim. Thus, an attorney entering a case after a Board decision would be able, upon the presentation of new evidence, to have the case reopened by the VA and could, for good cause shown, petition the VA to reopen such a case.

Mr. President, as I noted earlier, there are a number of other changes that the committee made to S. 349. These changes are fully described in the committee report, so I will not go into them at this time. It is enough to note that I believe that these changes which were developed in committee should enhance the likelihood that the bill will achieve the committee's goal of providing specific limited access to court for review of individual benefit decisions and of causing the least disruption possible to the current claims adjudication system and to the Federal judiciary.

CONTINUING NEED FOR LEGISLATION

Mr. President, in the statement that I made in January 1981 when S. 349 was introduced which I referred to earlier, I discussed in detail the reasons that I believe that judicial review legislation is needed. I continue to believe in this need, because of the reasons I mentioned then as well because of events since then.

As I noted in my earlier statement, one compelling reason for providing for judicial review is to attempt to insure fairness to individual claimants before the VA. In saying this, I do not mean to indicate a belief that the Board of Veterans' Appeals in any way intends to deny such fairness or that, despite the Board's best efforts, there is a routine denial of fairness. To the contrary, I believe that the members of the Board are fairminded, conscientious individuals who make a concerted effort to carry out their adjudicatory responsibilities in an evenhanded fashion and that, by and large, most claimants before the VA are treated fairly. However, I have long been concerned that the tremendous volume of claims handled by the Board provides a significant opportunity for some injustices to occur. On the basis of current trends, the number of claims handled by the Board will continue to increase, thereby increasing the possibility of some unintended injustices. At an oversight hearing on the Board's activities before a House Veterans' Affairs Subcommittee earlier this year, the Board Chairman, Kenneth Eaton, in testimony prepared for the hearing, stated:

> For the past 5 or 6 years the number of appeals has outstripped our ability to handle them. At this time we see no letup in new appeals. In fiscal year 1981 veterans and other claimants filed a record number—68,183—notices of disagreement. For the first half of fiscal year 1982, NOD's came in at a rate more than 3-percent greater than a year earlier.

It seems difficult to believe that with this great volume of claims and the pressure to reach decisions on them in a timely fashion, injustices will not occur that could be remedied by judicial review.

Mr. President, the other principal support for judicial review legislation is the need to establish a basis for the review of questionable agency actions restricting, withholding, or withdrawing VA benefits, actions that can only increase as there is greater pressure within the executive branch to realize cost savings in current programs. There are many examples of such actions, such as efforts by the VA to collect for the cost of health care provided to veterans who happen to be VA employees; attempts by the agency, at the direction of the Office of Management and Budget, to restrict beneficiary travel reimbursement for eligible veterans; allegations that some VA stations are applying very stringent standards in cases in which Vietnam veterans are seeking to be granted service connection for post-traumatic stress disorder; and the VA's drawing overly restrictive regulations to implement the targeted GI bill delimiting-date extension enacted in Public Law 97-72.

In each of these cases and in other similar cases, the lack of access to court review has serious implications. If the veterans affected by the various VA actions had access to court to challenge the particular actions, the individuals most directly affected by these actions would be able to be heard by an entity outside of the VA. In a similar way, the VA's handling of claims based on exposure to agent orange or to radiation from the detonation of a nuclear weapon would benefit from outside review by allowing those who believe they have been harmed to have their claims tested in an independent forum.

Mr. President, in making this point, I do not want to be understood as suggesting that the VA is wrong on all or any of these issues. Rather, I am suggesting that outside review by the independent branch of Government established in our constitutional framework to carry out the role of determining whether action is legal would benefit all parties involved. The VA would have its processes subjected to appropriate scrutiny and, to the extent the agency's actions were upheld, would be vindicated. Likewise, to the extent the agency's actions were struck down, steps could be taken to improve the process so as to insure that the agency is fulfilling its mission to serve veterans in the best possible fashion. I am concerned that agency action that does not have the benefit of outside scrutiny may fail to address fully the legitimate needs of those the agency exists to serve, and I believe that providing for judicial review would correct this shortcoming.

A final need for judicial review legislation is to help clarify the state of the law on the scope of the current law provision that bars judicial review, section 211(a) of title 38. At present, there are some important differences between the various U.S. Courts of Appeals regarding the sweep of this prohibition, and I am concerned that the VA contributes to this confusion by raising the 211(a) bar in cases in which it is not appropriate. Thus, the place where a veteran seeks to bring an action may well determine the outcome of the case, a result that should be avoided.

Some courts have held, correctly I believe, that the 211(a) bar applies only to claims for benefits by individual veterans. The VA has not accepted this view. Hence, on the issue of the VA's raising section 211(a) in cases involving other than individual benefit decisions, earlier this year I wrote the VA Administrator regarding my concerns about what I saw as an inappropriate reliance on 211(a) in the context of a case—Gott against Nimmo, presently pending in the U.S. Court of Appeals for the District of Columbia Circuit—involving a challenge to the way in which various guidelines were issued relating to the VA's handling of claims for benefits based on exposure to nuclear-detonation radiation. It is clear that no individual claims for benefits are involved in this case, and yet attorneys representing the VA have raised the bar of 211(a) in both the trial court—unsuccessfully—and presently in the court of appeals. The most appropriate way to clarify the situation, in my view, is to remove the 211(a) bar and thereby provide specified, limited access to court for veterans and others with claims before the VA.

Mr. President, I ask that my letter to Administrator Nimmo that I mentioned dated March 10, 1982, and his reply, dated March 24, 1982, be printed in the Record at this point.

The letters referred to follow:

U.S. Senate,
Committee on Veterans' Affairs,
Washington, D.C., March 10, 1982.

Hon. Robert P. Nimmo,
Administrator of Veterans' Affairs,
Washington, D.C.

Dear Bob, I have been following the case of *Gott* v. *Nimmo* (formerly, *Gott* v. *Cleland*) in which the Veterans' Administration's use of certain documents in the resolution of claims for benefits based on exposure to nuclear radiation is challenged. Most recently, I reviewed the District Court's Supplemental Memorandum Opinion of February 17, 1982, and I am writing to request an update on the agency's plans in response to that opinion. Specifically, I am interested in knowing whether the agency plans to comply with Judge Green's order that, within ninety days, the VA (and, in the case of the VA/Defense Nuclear Agency Memorandum of Understanding, the VA and the DNA) publish notice of proposed rulemaking to replace the documents invalidated by the Court's September 30, 1981, order. Aside from the legalities involved, I believe that taking the action directed would reflect good public policy, and I would urge full and timely compliance with the Court's order.

There can be little question that the agency should have a uniform, written policy to deal with claims based on exposure to radiation, and inviting public participation in the development of that policy can help both to ensure that the policy is as well-informed as possible and to create a greater sense of public confidence in whatever policy is ultimately developed and adopted.

Regarding the Memorandum of Understanding, clearly the VA has a genuine need for the type of information provided by DNA, and I believe that public participation in the development of a new memorandum of understanding between VA and DNA should help reduce some of the current mistrust that is felt by veterans who were exposed to radiation and by the survivors of veterans who were exposed, who are seeking redress from the Government.

Should you disagree with my views on this matter and ask the Justice Department to appeal Judge Green's ruling, I strongly urge that you insist that section 211(a) of title 38 not be raised as a bar to the consideration of the merits of this litigation because this case clearly does not involve individual claims for benefits. In testimony that the VA submitted in conjunction with the Committee's July 15, 1981, hearing on judicial review, it was noted that the agency continues "to believe that there should be access to the courts for challenges to the constitutionality of veterans' benefits legislation, regulations, and procedures" and that the agency was "cognizant of an emerging trend . . . toward permitting judicial review of allegations that a regulation was promulgated in excess of the Administrator's authority or is otherwise contrary to law." As to the latter point, the VA's testimony was that "[t]his growing body of case law would seem to provide a sufficient basis for review of substantive agency actions of broad, binding application. . ." and that only "judicial review of individual benefit decisions" should continue to be precluded. You made this same point in your written response to a question I asked at your confirmation hearing when you stated:

"Basically, I agree that the regulations of the VA, which constitute the Agency's interpretation and implementation of laws enacted by Congress, should be reviewable by a court for consistency with the statutory mandate, on the same basis as other Federal agencies. This is in fact occurring now."

Further, in a follow-up written response to a question I asked at the Committee's July 15 hearing on this issue, Robert Coy, then Acting General Counsel, responded

"I have asked that the section [211(a)] not be raised in response to a clear allegation that a statute, regulation, or procedure is unconstitutional, or that a regulation or procedure exceeds the statutory authority of the Administrator."

Given what I thought, therefore, was agency policy on raising section 211(a) as a bar to court review, I was surprised to note in the Supplemental Memorandum Opinion that attorneys appearing representing the VA apparently were still seeking to raise that bar to judicial review in this case, and I would hope that, should this case be appealed, no further attempt to raise it will be made.

I look forward to your providing me with your views on this matter at your earliest convenience. Thank you for your continuing cooperation.

With warm regards,
Cordially,

Alan Cranston,
Ranking Minority Member.

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VETERANS' ADMINISTRATION,
Washington, D.C., March 24, 1982.
Hon. ALAN CRANSTON,
Ranking Minority Member,
Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: I am pleased to respond to your letter of March 10, 1982, in which you requested an update on, and offered several recommendations regarding, the Veterans Administration's position in *Gott v. Nimmo*, No. 80-0906 (D.D.C., Supplemental Memorandum Opinion and Order, February 17, 1982).

Initially, I would advise you that our counsel at the Department of Justice filed a protective notice of appeal on February 16, 1982, and that we plan to pursue further consideration of this case before the Court of Appeals. Also, in response to the district court's February 17 Order, to which you referred in your letter, the Government filed a motion on March 4 seeking, in the alternative, clarification of the order or a stay pending appeal. Finally, with regard to the non-reviewability statute at 38 U.S.C. § 211(a), the General Counsel advises me that its use in defending this lawsuit is appropriate and is consistent with Agency policy as expressed to the Committee on Veterans' Affairs last year. A brief explanation of these positions follows.

Reduced to its bare essentials, this case began as a challenge to the validity of three Government documents. They are a Memorandum of Understanding by which the Department of Veterans Benefits (DVB) and the Defense Nuclear Agency (DNA) agreed on exchanges of information in development of ionizing radiation exposure data for veterans claiming disability resulting from participation in nuclear weapon tests; a section of DVB Program Guide 21-1 which contains information relating to such claims; and a section of DVB Manual 21-1 which sets forth internal VA procedures for development of information from claimants as to any possible in-service exposure to radiation from nuclear weapon detonations. Counsel alleged, on behalf of several plaintiffs, that the three documents constitute rules or regulations and therefore should have been promulgated via the notice-and-comment rulemaking procedures by which other VA regulations are issued, in accordance with the provisions of the Administrative Procedure Act at 5 U.S.C. § 553, as implemented by VA at 38 C.F.R. § 1.12. An additional contention was that two of the three documents were issued in violation of the Freedom of Information Act, 5 U.S.C. § 552, since they were not published for public information in the Federal Register (the program guide provision was so published). The court, however, has not reached that issue in the litigation.

Our defense of this litigation has been based on two major points. First, we believe the challenged documents are not rules or regulations, and contain no criteria which affect the substantive rights of individual claimants. Second, section 211(a) precludes the court from reviewing the merits of VA's handling of radiation cases because such a review would involve intervention of the court in the adjudication of individual claims.

These positions were not formulated without careful analysis, nor have we been unmindful of the Committee's concerns about the scope of section 211(a), particularly in the context of your current consideration of judicial review legislation. I continue to believe, as I stated in a written response to your question at my confirmation hearing, that VA regulations should be, and are, reviewable in the Federal courts. This principle was further explained by the Acting General Counsel last summer, when he indicated to the Committee that "legislation, regulations, and procedures" are judicially reviewable, as are "substantive Agency actions of broad, binding application."

Section 211(a) has been properly limited by the courts so that it does not protect every decision, policy, or action of the VA from judicial scrutiny. Those Agency rules and procedures of broad and binding application which affect the rights of a number of claimants to VA benefits are not protected by section 211(a). The way the VA processes and decides an individual benefit claim is clearly beyond the reach of the Federal courts, however. Because the three written provisions challenged in *Gott* do not, in our opinion, provide criteria for decision-making, and are merely procedural and instructional they do not dictate the substantive decision in any individual case. In other words, while they tell the VA adjudicative employee what to do before he decides a claim, and give him some background about the state of the scientific knowledge of effects of ionizing radiation, they clearly do not tell him how to decide the claim. Similarly, they do not provide set criteria against which the adjudicator must judge the merits of the claim, nor do they impose additional duties on claimants. Since no VA regulatory criteria are involved, the conclusions of the VA as to the casual connection between radiation and any given disability are embodied only in its individual claim decisions, and review of those individual claims decisions is precluded by section 211(a).

The General Counsel has not changed the Agency's position on the use of section 211(a) as articulated to the Committee last summer. Section 211(a) will not be raised by the Veterans Administration, nor by Department of Justice at our recommendation, when there is either a clear challenge to the constitutionality of a statute, regulation or procedure or an allegation that a regulation or procedure is inconsistent with law. This is the general policy you cite in your letter, which was enunciated by the Acting General Counsel in his written response following the hearing of July 15, 1981, on S. 349. However, that response goes on to acknowledge that there are many cases where the allegations are not so clear. We stated that there existed "gray areas" of VA administrative issuances not clearly identifiable as binding regulations or procedures and that cases challenging these materials might be defended on the basis of section 211(a). We also cited the case of *Carter* v. *Cleland*, 643 F.2d 1 (D.C. Cir. 1980), as an example of this type of case.

The *Carter* case is significant because it recognizes that section 211(a) prohibits court review of administrative guidelines issued under the authority of the Administrator of Veterans Affairs, where such guidelines do not have binding effect on claimants for benefits. The Court of Appeals held that such matters are within the Administrator's discretion in handling individual benefit decisions, particularly where, as is true in *Gott*, the guidelines are not binding on the BVA. That rationale is clearly applicable to the *Gott* case, in which the documents in issue are DVB issuances not binding on BVA, are concerned merely with the develoment, exchange, and dissemination of information related to radiation claims, and do not establish criteria for entitlement to benefits.

I enclose copies of the challenged documents, for your ready reference. They were initially shared with the Committee at the time of their issuance. See Veterans Claims for Disabilities from Nuclear Weapons Testing: Hearing before the Comm. on Veterans' Affairs, U.S. Senate, 96th Cong., 1st Sess. 160-168, 183-187, 188-189 (1979). As we have endeavored to demonstrate to the court, none establishes binding standards for claim adjudication.

When the district court held the challenged documents invalid for failure to have been promulgated under APA procedure (Memorandum Opinion and Order, September 30, 1981), VA complied by rescinding the program guide and manual provisions, which had been distributed to the regional offices, and by ceasing use of the procedures set forth in the memorandum of understanding, in cooperation with DNA. We did not, however, cease carrying out our responsibility to render decisions on claims, based upon all available evidence. The court's ultimate response was the February 17 Order, requiring VA and/or DNA to promulgate rules on "methodologies and standards to calculate radiation exposure and harm." As noted above, we have asked the court to clarify exactly what we should do to be in compliance. If conducting rulemaking on the three challenged documents would suffice, we would do so, pending appeal, even though we believe the court is mistaken. However, if the court is ordering VA to publish hard standards for radiation-claim adjudication, such as set levels of radiation exposure which would be required to establish entitlement to disability benefits, we believe it is exceeding its authority in this case. Not only do we believe the scientific uncertainties as to what levels of radiation attribute to particular adverse health effects preclude such rulemaking at this time, but we also believe an order, without a statutory basis, to issue regulations violates the discretion delegated by the Congress to the Administrator, in 38 U.S.C. § 210(c), to determine what regulations are necessary or appropriate.

As the litigation has progressed, it has become apparent that plaintiffs' counsel is primarily seeking court review of the methodology by which DNA researches or reconstructs radiation exposure data on individuals when VA requests it. Both agencies involved and the Justice Department agree that any such methodologies are beyond the scope of this litigation. Contrary to plaintiffs' and the court's impression, the VA-DNA memorandum did not establish or introduce methodologies for calculation of radiation exposure. It merely mentioned that they existed and would be used, modified, or replaced as necessary to accomplish the goals of DNA's research. See Memorandum of Understanding, paragraphs 2, 5b(2), 7b. Because the memorandum contained no such substantive matter, public participation was not sought in its development.

My principal concern in this matter is that veterans and their survivors receive the fairest and most sympathetic consideration of their claims for VA disability benefits. The purpose of the documents at issue in *Gott* was to increase the efficiency of our efforts to secure from DNA the most accurate radiation exposure data possible, for consideration along with all other evidence on file in each individual case. With or without the documents, VA decision-making on claims can proceed, under the statutory and regulatory criteria governing claims for "service connection," at 38 U.S.C. chapters 11 and 71, 38 C.F.R. parts 3 and 19.

At such time as the scientific community may reach a consensus as to the health effects of ionizing radiation at certain levels of exposure, I would consider it wise to promulgate uniform standards based upon those biomedical principles. At present, I believe the discretion of VA adjudication personnel should not be hampered by strict numerical considerations. For example, several claims have been allowed with no hard evidence of a particular level of radiation exposure, because the decision-making personnel believed that the record as a whole, considered in light of the doctrine of reasonable doubt, warranted allowance. I am concerned that attempts to introduce any dose/response tables into VA regulations at present could well lead to the denial of claims which our decision makers, within the broader discretion they now possess, might allow.

I appreciate your interest in this litigation, and am committed to resolving the many questions remaining in the area of ionizing radiation's health effects on veterans.

Sincerely,

Robert P. Nimmo,
Administrator.

CONCLUSION

Mr. CRANSTON. Mr. President, approval of S. 349 by the Senate today will, I believe, mark this as an important day for all our Nation's veterans. This legislation promises to those who served their country the same right of independent review of the fairness with which their Government treats them that is available to virtually all other citizens.

In closing, I want to express my gratitude to my good friend from Wyoming (Mr. Simpson) for moving forward on this legislation of such fundamental importance. He and his staff—especially associate counsel H. Scott Wallace, chief counsel Tom Harvey, and legislative director Julie Susman—have been fair, thorough, and most constructive in approaching S. 349. The chairman is owed a great vote of thanks by all veterans for his leadership on the legislation before the Senate today.

In addition, I want to thank the chairman of the Judiciary Committee, our colleague from South Carolina (Mr. Thurmond), for his cooperation in making it possible for this bill to come before the Senate today.

Mr. President, I also congratulate my good friend from Colorado, Senator Gary Hart, for his long commitment to the cause of judicial review. He has been well and ably assisted on this issue by Bill Holen, a member of his staff who has taken a strong interest in this legislation. I also want to express my gratitude to my colleagues on the Veterans' Affairs Committee who are cosponsors of the measure, Senator DeConcini, an original cosponsor, and Senators Simpson, Randolph, Matsunaga, Mitchell, Stafford, Kasten, Denton, Murkowski, and Specter, as well as Senators Burdick, Riegle, and Cohen who are also cosponsors.

I also note the very hard work on this legislation by members of the minority staff on the committee, including Bill Brew, who has been the principal committee resource on this legislation for the last 4 years, as well as Ed Scott, Jon Steinberg, Ingrid Post, and Charlotte Hughes.

Mr. President, S. 349 as it comes before the Senate today is a measure worthy of my colleagues' support, and I urge that they give it their unanimous backing.

Mr. HART. Mr. President, today Senator Simpson, chairman of the Senate Veterans' Affairs Committee, has brought to the floor a measure which will grant veterans the earned right of judicial review of final Veterans' Administration determinations and will significantly reform the administrative procedures of that agency.

The Veterans' Administration Adjudication Procedure and Judicial Review Act, S. 349, as amended by the Veterans Affairs' Committee, reflects several years of hard work by individuals and organizations which are interested in the rights of the American veteran. I first introduced legislation to open the Veterans' Administration to the scrutiny of the Federal court in May of 1976. Since then I have persisted in my efforts to insure that veterans be afforded all their constitutional rights to due process of law in dealings with the Veterans' Administration. Joining me in that effort has been Senator Cranston, whose leadership in the 96th Congress led to the successful consideration by this body of S. 330, a bill similar to the amended measure we are considering today.

Mr. President, the purpose of S. 349, which Senator Cranston and I introduced on Juanuary 30, 1981, as amended by the committee, is to provide Veterans' Administration claimants the right to judicial review of final decisions of the Administrator of Veterans' Affairs claims for benefits, the codification of certain VA adjudication procedures, to apply certain provisions of the Administrative Procedures Act to the rulemaking procedures of the VA, and to provide for payment of reasonable fees to attorneys for rendering legal services for representing claimants before the VA after a final denial of the claim by the Board of Veterans' Appeals and representing claimants in judicial proceedings.

Mr. President, since I first introduced legislation to reform the administrative procedures within the Veterans' Administration nearly 6 years ago, the Senate Veterans' Affairs Committee under the leadership of Senator Cranston and Senator Simpson have held eight hearings on the concept of judicial review of VA decisions. Legal scholars, veteran organizations, the Veterans' Administration, the Department of Justice and individual veterans have all provided a wealth of substantive evidence to support the compelling need for the enactment of S. 349.

When I first introduced legislation to provide for judicial review of final VA determinations in the 94th Congress, it was at the urging of Colorado veterans who felt that the denial of that right relegates veterans to the status of second-class citizens. The veterans of Colorado could not understand why they were denied the right to court review of their claims, if denied by the VA, when almost every other Federal bureaucratic action affecting any corporation, welfare recipient, social security recipient and prisoner is afforded judicial review by the Federal courts.

Mr. President, the central issue in the debate on this bill is whether we are going to afford the American veteran the same constitutional rights we grant other citizens in this country. Judicial review is important in granting the veteran adequate protection of his rights as a citizen, and it will provide improved oversight of VA procedures and activities by an independent body.

American veterans have been denied for too long their fundamental right to simple justice in the adjudications of Veterans' Administration claims. Under the current VA procedures veterans have no right to appeal outside the agency, are effectively denied access to an attorney, and cannot question in Federal court validity of the VA rule and regulations promulgated by the VA. S. 349 will correct these deficiencies and finally restore the full constitutional rights of the American veteran.

In conclusion, Mr. President, I want to express my appreciation to Senator Simpson, distinguished chairman of the Veterans' Affairs Committee and Senator Cranston, the ranking minority member, for their work and strong support of this important measure. I would also like to recognize the excellent work of the Veterans' Affairs Committee staff, particularly Mr. Scott Wallace of the committee staff and Mr. Bill Brew and Mr. Tom Harvey of the minority staff, for the many hours of diligent work to bring this measure to the floor for consideration.

Mr. President, I believe this legislation is essential in insuring this Nation protects the rights of its veterans. There is no logical reason for Congress to deny the men and women who have honorably served their country in times of war and peace the right to simple justice. I urge my colleagues to support this bill.

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The **PRESIDING OFFICER**. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. **BAKER**. I move to reconsider the vote by which the bill was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL IMPLEMENTATION ACT OF 1982

Mr. **BAKER**. Mr. President, I ask the distinguished minority leader once more if he is in a position to consider calendar item No. 744, which is H.R. 5228.

Mr. **ROBERT C. BYRD**. That has been cleared on our side, Mr. President.

Mr. **BAKER**. Mr. President, I ask that the Senate consider calendar order No. 744, H.R. 5228.

The **PRESIDING OFFICER**. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5228) to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

The Senate proceeded to consider the bill.

UP AMENDMENT 1261

Mr. **BAKER**. I send to the desk a corrected amendment proposed by the distinguished Senator from South Carolina (Mr. THURMOND).

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for the Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1261:

On page 2, line 13, after the word "thereby" insert the word "knowingly".

On page 3, line 18, insert the word "or" at the end of the line; beginning with line 24 on page 3, strike out all through line 9 on page 4; and in line 10, page 4, before the word "shall" insert "or attempts or conspires to do so,".

On page 4, strike out lines 11 through 19 and insert in lieu thereof the following:

"(b) The punishment for an offense under this section is—

"(1) a fine of not more than $250,000; and

"(2) imprisonment for any term of years or for life if the offender while committing an offense under subsection (a)—

"(A) knowingly causes the death of any person; or

"(B) under circumstances manifesting"; and on page 4, line 24, strike out "(ii)" and insert in lieu thereof "(C)".

On page 4, line 25, strike out "case; and" and insert in lieu thereof "case."; and on page 5 strike out lines 1 through 3.

Mr. **THURMOND**. Mr. President, this amendment to H.R. 5228 would accomplish a number of related goals.

First, the offense defined in section (a)(1)(A) for causing death, serious bodily injury, or substantial property damage in the course of unlawfully acquiring, using or disposing of nuclear material would be amended to require a "knowing" rather than an "intentional" state of mind with respect to the "result" elements of the offense. As amended, rather than requiring a "conscious objective" to cause the harm, the actor would be guilty if he engaged in the prohibited conduct with an "awareness of or a firm belief in the substantial certainty of causing" the death, the bodily injury, or the property damage. The culpability proposed by the amendment is a standard often used in modern homicide statutes for murder. See section 1601, Final Report of the National Commission on Reform of Federal Criminal Laws (1971). In the context of this extremely dangerous conduct involving nuclear material the "knowing" standard is by far the preferable one.

Second, the penalty subsection is amended to add "knowingly causes the death of any person" to the other aggravating factors justifying a possible life term of imprisonment. This is the only appropriate maximum penalty for such an offense. The penalty provisions are also amended to apply this higher penalty to every offense defined in the act when the specified aggravating factors are present. H.R. 5228 as it passed the House would permit a life term under specified aggravating circumstances only for the offenses in subsections (a)(1) and (a)(3) dealing with homicide, assault, and robbery. While these probably are the crimes most likely to leave an aftermath of death and serious bodily injury, who can say that the unauthorized transfer of a nuclear weapon to a terrorist group under subsection (a)(2)(B) that is used to kill or injure was not done under circumstances manifesting an extreme indifference to human life. Similarly, with respect to extortion under subsection (a)(4), a life term is clearly appropriate for the offender who systematically kills hostages in order to obtain delivery of a nuclear bomb to a foreign power. Even the so-called "threat" offenses in subsections (a)(5) and (a)(6) in the nuclear context contain the seeds of panic and potential death and serious bodily injury under the specified aggravating factors. No one knows what would happen if some known irresponsible group threatened to set off a nuclear bomb in New York City. It is almost impossible to predict the various circumstances under which these offenses may occur. In deciding an appropriate penalty, the existence of the aggravating factors justifying a higher penalty for one offense should apply to all offenses.

Third, this amendment alters the bill to clearly retain without change the current case law on attempt and conspiracy. It accomplishes this result by simply deleting the definitions in the bill and inserting in lieu thereof the phrase "or attempts or conspires to do so." No other Federal statute proposes to define these terms. The exact and appropriate definitions have long been in dispute between the House and Senate in the context of the criminal code bills. The House formulation of both attempt and conspiracy in this act have potential serious problems. For example, both of these offenses are framed in terms of a "specific intent" to commit another offense where it is strongly arguable that the appropriate mental state is the mental state required by the crime attempted or that is the object of the conspiracy. The implications of this issue cut across the whole criminal code. This legislation is not the place to try to resolve it. Accordingly, the amendment simply keeps current case law relating to the definition of attempt and conspiracy.

In addition, the amendment concerning attempt and conspiracy is drafted to apply these concepts to all offenses in this bill, including the "treat" offenses in subsections (a)(5) and (a)(6). The House excluded this coverage on a theory that first amendment rights were somehow involved because the offenses involve making threats. Current conspiracy law does not make such a distinction as to "threat" crimes and there does not appear any good reason why, under this act, a person should not be chargeable for conspiracy to threaten to blow up New York City with an atomic bomb. An unsuccessful attempt to make such a threat is probably a rare possibility in the real world but there is no sound policy reason not to cover it. It clearly does not violate the first amendment.

Finally, the amendment proposed would change the penalty provisions so as to grade conspiracy the same as the completed offense rather than the 5-year penalty applicable under the general conspiracy provisions of 18 U.S.C. 371. This conforms to the modern practice for grading offenses. See, for example, congressional assassination and kidnaping (18 U.S.C. 351) and Presidential assassination and kidnaping (18 U.S.C. 1751).

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar No. 743, S. 1446, the Senate companion bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, I observe that the hour of 12 o'clock has arrived, if I observe correctly.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2 p.m.

Thereupon, at 12:01 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MATTINGLY).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Georgia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, what is the unfinished business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the pending business which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, in a moment I am going to send a cloture motion to the desk against further debate on the Helms amendment to the Helms amendment.

Mr. President, later in the day I hope to be able to conclude an agreement that will provide by unanimous consent for a time certain for this vote to occur on Thursday if indeed cloture is not invoked tomorrow. If cloture is invoked tomorrow, then under the provisions of the rule no further action will be required.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit:

Jesse Helms, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, John P. East, Steve Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, Bob Dole, and Howard Baker.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of House Joint Resolution 520.

Mr. BAKER. Mr. President, an order has been entered that no tabling motion be in order today. I had hoped that would avoid any conflict over the question of who has possession of the floor. I do not see many people on the floor. I see the Senator from North Carolina here, and one or two of my diligent and dedicated staff. But until we have somebody else here I do not know anything else to do except to suggest the absence of a quorum, which I will do shortly.

But, Mr. President, once again I do not want to preach but at some point we have to move on with this matter, and I would urge Senators to come to the floor and make whatever presentation they wish on this subject.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. I yield the floor, Mr. President.

Mr. HELMS. Mr. President, I think I am now moving into the 35th second of my participation in this filibuster. I have not chosen to consume the time of the Senate because everything has been said time and time again that can be said or perhaps should be said on the subject.

Furthermore, for the past 3 or 4 weeks I have been willing, in fact anxious, to have a vote on my two amendments, and that is why I have not elected to participate in the extended debate which is being conducted by my good friends and colleagues who are opposed to my amendments. Variously they say that my amendments are going to be defeated. They say that, on the one hand, and, on the other hand, they say, "No, we will not allow a vote to occur."

I find it passing strange that if they have enough votes to defeat one or both of my amendments why do they not proceed and let the Senate vote them down so that the distinguished majority leader will have one less problem to deal with, and he does have a plate full of problems trying to put together the legislative schedule of the Senate for the remainder of this session.

I know that both of these issues are emotional issues. Both are emotional insofar as I am concerned. It gives me no pleasure to be in the eye of the hurricane on the abortion issue because I can see the frustrations on both sides, and it is not without regard for the opinions of others that I have felt obliged to represent the way I feel on this issue.

You would have to be callous not to understand the feelings of those who favor abortion on demand. But, on the other hand, we are dealing with the ultimate right of all, we are dealing with the question of whether we, as a Nation and as individuals, do not become a part of what we condone. We live in a time when 1.5 million babies die, have their lives terminated deliberately, each year in this country.

I remember, Mr. President, 2 or 3 years ago I attended a fundraising function in Durham, N.C. for the intensive care facility of the children's ward of Duke University Medical Center. Arnold Palmer was there, Perry Como was there, as were others. All of us went there to raise money for this facility, which had saved the lives of countless thousands of babies who could lie in my hand, premature children, prematurely born children.

Later that day I went over to the intensive care division, and the physician who heads that fine facility took me on a tour of it. I was dressed in the appropriate clothes, and we went around and we saw these little lives being preserved by the latest technology and by the most dedicated men and women who were scurrying about making sure that the temperature was just right, and the blood pressure was just right.

Then the physician took me across the hall to the waiting room, and there must have been 8 or 10 young couples there, the mothers and fathers of those little ones, and they were down on their knees praying that their child in each case across the hall would survive.

That was Sunday, Mr. President. I flew into Washington that evening, came to the Senate floor the next day

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at noon, and the first order of business was the question of whether the taxpayers' money should be used for the purpose of deliberately terminating the lives of innocent unborn children.

I remember engaging in the debate that afternoon and thinking about the contradiction between what I had seen the day before and what I was hearing on this Senate floor that afternoon.

Still in all, Mr. President, I recognize that this is an emotional issue, a polarizing issue, a difficult political issue for some Senators, but I say again that, in my judgment, we have become a part of what we condone.

Many of my friends in North Carolina tell me this abortion issue and my stand on it will cost me my seat in the Senate. If that be the case, so be it. My conscience will not allow me to walk away from this issue.

I have noted with some interest the extended remarks of Senators who are opposed to my amendment with reference to abortion, the pending amendment, and over and over again they have lectured the Senate about the Constitution.

They have deplored what they have described as being an assault on the Constitution and on the Federal judiciary.

I have heard those comments with interest, and some amusement, because clearly they have not read the amendment.

Would you believe, Mr. President, that the amendment about which these Senators complain would strip the courts of jurisdiction does not strip the courts of jurisdiction? In fact, it urges and provides for expedited consideration by the Supreme Court of State abortion laws. Because there are many of us, Mr. President, who feel that Roe against Wade was a serious and tragic error by the Supreme Court and that the Court ought to have the opportunity—and in fact has the duty—to reconsider Roe against Wade.

Now, having said that, Mr. President, on this other subject of limiting the jurisdiction of the courts over cases involving voluntary school prayer, I have heard quotations from any number of liberal legal spokesmen to the effect that it would be an awesome thing for the Congress to get in the business of limiting the jurisdiction of the Federal courts.

I was talking to a former distinguished Member of this Senate from North Carolina, the Honorable Sam J. Ervin, Jr., who is one of the leading constitutional scholars in this country and is justifiably acknowledged as such. If I remember correctly, he said that he had counted 57 times—57 times—when the Senate had voted to limit the jurisdiction of the courts. And I do not recall seeing the pillars of justice come tumbling down as a result of any one of those 57.

As a matter of fact, the same Senators who are rather piously describing themselves as defenders of the Constitution and of the Federal courts voted just a few weeks ago for the so-called Voting Rights Act extension which clearly limits the jurisdiction of the Federal courts. So what they are saying, Mr. President, by any fair interpretation, is that it is all right to limit the jurisdiction of the courts when they want to do it, but it is not all right when somebody else thinks the courts have overstepped their bounds.

And I have been amazed at the cavalier manner in which the opponents of my amendment have glossed over article III, sections 1 and 2 of the Constitution, which clearly sets forth the right—and I think the duty—of Congress to limit the jurisdiction of the courts when the courts have gone too far.

The Supreme Court went too far when it banned prayer from the schools of this country. The Court went too far when it got into the school busing business, resulting in hundreds of thousands of little childern being hauled across cities and counties just to satisfy the whim and caprice of some Federal judge or Federal bureaucrat or combination of the two. And the Court, in the judgment of this Senator, erred badly in the instance of Roe against Wade.

But, Mr. President, aside from the arguments, pro and con, on either of my amendments, what happened to the oft-proclaimed declaration that the Senate should be allowed to work its will?

Now, I readily confess that that late, great, distinguished Senator from Alabama, Jim Allen, and I conducted a few extended debates ourselves. So I know what a filibuster is. I have been on the other side.

But every time Jim Allen and JESSE HELMS tried to say to this Senate, "Whoa, here, take another look," immediately the press rose up as one and said, "They should stop; they should allow the Senate to work its will." And I hear all of the pious declarations that Senator Allen and Senator HELMS were engaging in some sort of dark conspiracy to thwart the will of the Senate. Well, I cannot recall, Mr. President, one instance—one instance—in which Senator Allen and I did not reach an accommodation with the leadership of the Senate.

Now, Senator Allen is dead and gone, and I miss him. He was one of the greatest Senators ever to sit in this body. But I do not recall one time when, after the point was made, he was unwilling, or I was unwilling, to let the Senate vote.

But here we have the spectacle of Senators, who say, "Oh, no. This thing has gone on for 3 or 4 weeks and we are not going to let the Senate vote." And then out of the other side of their mouths they say, "Oh, we have got the votes." Well, if they have the votes, why do they not let the Senate vote?

And, by the way, Mr. President, what has happened to all my liberal editor friends—the Washington Post and the New York Times and others—who have been so quick in the past to condemn those of us who engaged in extended debate? Have they now been struck dumb and blind? Do they not have one word to encourage Senator WEICKER and Senator PACKWOOD and others to let the Senate work its will? Is it just a one-way street with the Washington Post and the New York Times? I think it is. I think it is.

Now, I have been asked by just about every newsperson in this town in the last 24 hours whether we will have enough votes to impose cloture tomorrow. My answer is, I do not know. I do not even know whether we have enough votes to pass either of my amendments, if Senator WEICKER and Senator PACKWOOD would ever let us get to a vote.

I am willing to take my chances, but they are not willing to take their chances. They have tied this Senate up for week after week, day after day, because, apparently, they are afraid to let the Senate work its will.

Now, the distinguished majority leader has stated that the debt ceiling bill must pass. And I know he feels obliged to do whatever he can in that direction. But I would say to the majority leader that his problems will not be over, in terms of consumption of time, if, as, and when a motion to recommit with instructions is made. And certainly the Senate will not be saying goodby to either of these issues if we are denied a vote on my amendments.

If we are denied a vote, then I must exercise my right as a Senator to continue to bring these matters to the attention of the Senate and encourage the Senate to vote on them. There will be appropriations bills, there will be authorization bills, there will be all types of legislation, as long as there is a U.S. Senate. If I should be removed from the picture, there are other Senators who will pick up this torch. There are other Senators who believe in the sanctity of innocent human life. Life will go on.

But I have made an agreement which I shall keep with the majority leader that if I am accorded a vote on these issues, I will not bring them up again this year, whether we are in the postelection session or not.

I want him to understand, and I am sure he does understand, that if I do not get a vote on my two proposals all bets are off.

So it is a matter of what the Senate wants to do. To vote cloture tomorrow does not necessarily mean that a Senator will vote one way or another on the amendment itself. It will simply be a vote to let the Senate work its will.

Mr. President, I do not know how long I have spoken. Let me ask the Chair, how long have I been speaking? Does the Chair know?

The PRESIDING OFFICER. Approximately 20 minutes.

Mr. HELMS. Approximately 20 minutes, the Chair says. This is the longest I have spoken since these amendments became the pending business. I do not intend to consume any more of the Senate's time, but let me say again so it will be clear, that I have been willing from the very beginning to take my chances. I have been asking for the Senate to express its will. I think the waste of the Senate's time should be concluded.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DAVID AND DOROTHY NEWHALL HOST THE COUNTY FIELD DAYS

Mr. LEAHY. Mr. President, one of the most enjoyable parts of being a Senator is the chance to get back home. For my wife and me, home usually means going to Middlesex, Vt., to our former farm, situated in the mountains in central Vermont. It is a lovely area, with a view unmatched anywhere in the country, and the most restful place I have ever been.

I think we enjoy Middlesex so much because of the people who live there. Nothing that the Leahy family has done, or could do, could begin to match all of the special things the residents of this lovely town have accomplished.

Two of the very special people in Middlesex are David and Dorothy Newhall. They have been involved in every aspect of Middlesex life, and most residents feel that the town would not be the same without them. Recently, the Times-Argus in Vermont wrote about the Newhalls and one aspect of their life—the County Field Days. I know how enjoyable these field days are as I have never missed them, but they are especially enjoyable because of Dave's and Dot's work.

I ask unanimous consent that the entire article from the Times-Argus be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Times-Argus, Aug. 4, 1982]

NEWHALLS HOST COUNTY FIELD DAYS

(By Derek L. Kinner)

MIDDLESEX.—For the past five years, Newhall Field here has been the site of the well-attended Washington County Field Days. The hosts, David ("Buffalo") and Dorothy ("Dot") Newhall, find preparation and coordination of the event exhausting but would not have it any other way. To them, it is a labor of love.

"You have to really enjoy people to want to work so hard on a show this large," Dot says. "David begins his two-week vacation one week before the Field Days to mow the field and prepare the cooking shed. The week afterwards he cleans up."

David Newhall is employed as a maintenance mechanic in the state Buildings Division. Besides working full-time for the state, David is also Middlesex fire chief, the town's civil defense director and an inspector for the Capital Fire Mutual Aid System. He also does a lot of work around his home and in his garden.

Being very community-oriented, the Newhalls gladly accepted when they were approached five years ago and asked to host the Washington County Field Days.

"Everything ran smoothy," he says, "and we've held it here ever since. Of course, we've made improvements over the years."

The first Washington County Field Days celebration was held 15 years ago on Upper Terrace Street, Montpelier, at Eugene Joslin's farm. At the time it was mainly a cattle show.

Later it was moved to Kneeland Flats, but the owner of that property died and it was moved to Newhall Field, where it has been since. Today, Washington County Field Days not only offers a 4-H cattle show but several other exhibits, such as an open horse show, a small animal display, garden displays and musical entertainment.

"We'll have a parachute jump for the first time this year," Dot says. Hawk Leno, an experienced jumper, came to the Newhalls and offered his skills. He will fall from the sky into the tractor rodeo ring.

Washington County Field Days Inc., a nonprofit corporation, sponsors the event to help 4-H clubs show their animals. Money earned is cycled back into future fairs. The event also receives a stipend from the state.

"Without the stipend, it would be nearly impossible to hold the Field Days," David says, "It takes a large amount of money to buy the food and refreshments."

The Newhalls say they have met a lot of "fantastic" people and formed several lasting friendships with participants in the show. The cooperation of most people involved is very warming, they say. Of course, the Newhalls add their own touches of hospitality.

Three years ago, Dot Newhall made a breakfast for overnight campers who had no transportation. It was such a hit that she has made it an annual practice. Many visitors show up in the morning both days just to enjoy the eggs, bacon and toast breakfast.

Along with the preparation, the Newhalls' grounds must pass a health inspection. The state Board of Health inspects the grounds before and during the Washington County Field Days. However, the Newhalls say they have had no problems with sanitation.

"Last year," David says, "we got 95 points out of a possible 100."

All of the animals to be exhibited must be inspected. The rules are strict and the state Department of Agriculture regulates the inspection.

Dot says, "The kids are really good with their animals. You wouldn't even recognize the animals after they are cleaned up and brushed down."

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

OMNIBUS VICTIMS PROTECTION ACT OF 1982

Mr. BAKER. Mr. President, as in morning business, there is an item that is cleared on this side for action at this time. I refer to Calendar Order No. 769, S. 2420. I inquire of the minority leader if he is in position to consider that act at this time.

Mr. ROBERT C. BYRD. Mr. President, that item is cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

Mr. President, in view of that I ask the Chair to lay before the Senate S. 2420, Calendar Order No. 769.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2420) to protect victims of crime.

The Senate proceeded to consider the bill which was reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Omnibus Victims Protection Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, have an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under the current law, law enforcement agencies must have cooperation from

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victims of crime and yet neither the agencies nor the legal system can offer protection or assistance when such victim as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain to him both the criminal justice process and his rights, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the Federal Government does all that is possible within the limits of-available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a victim/witness model for State and local law enforcement officials.

TITLE I—VICTIM'S IMPACT STATEMENT

Sec. 101. Subsection (c)(2) of rule 32 of the Federal Rules of Criminal Procedure is amended by striking ", and such other information as may be required by the court" and inserting in lieu thereof: "The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and any such other information as may be required by the court.".

TITLE II—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

Sec. 201. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§1512. Tampering with a witness, victim, or an informant

"(a) Whoever—

"(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"(A) influence the testimony of another person in an official proceeding;

"(B) cause or induce another person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, multilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"(A) a witness or a victim from attending or testifying in an official proceeding; or

"(B) a witness, victim, or a person acting on behalf of a victim from—

"(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer of a correctional facility;

"(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"(3) with intent corruptly, or by threats of force, or by any threatening letter or communication, influences, obstructs, impedes, or attempts to corruptly, or by threats of force, or by threatening letter or communication, influences, obstructs, impedes the—

"(A) enforcement and prosecution of federal law;

"(B) administration of a law under which an official proceeding is being or may be conducted; or

"(C) exercise or a Federal legislative power of inquiry,

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000 or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine or both up to twice that authorised for such offense.

"(c) In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"(d) It is not a defense to a prosecution under this section that—

"(1) an official proceeding was not pending or about to be instituted;

"(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"(3) no person was injured physically, or, in fact, intimidated.

"(e) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible Federal offense;

"(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section, or in the distribution of the proceeds of such crime punishable in this section;

"(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section.

"§1513. Retaliating against a witness or an informant

"(a) Whoever—

"(1) knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(B) any information relating to an offense or a possible offense given by a person to a law enforcement officer; or

"(2) threatens to cause bodily injury to another person or to damage the property of another person or otherwise endeavor to intimidate another person because of any matter described in subparagraph (A) or (B) of paragraph (1);

"(3) unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described in subparagraph (A) or (B) of paragraph (1),

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000 or imprisoned not more than ten years, or both. Whoever is guilty of an offense in subsection (a)(2) shall be fined not more than $10,000 or imprisoned for not more than two years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(c) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding is a Federal official proceeding;

"(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section; or

"(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section."

"§1514. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title the term—

"(1) 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a parole or probation officer under this title;

"(2) 'maliciously' means for the purpose of (A) intimidating, harassing, harming, injuring in any other way another person or (B) interfering with the orderly administration of justice;

"(3) 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(4) 'physical force' means physical action against another, and includes confinement;

"(5) 'victim' means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"(6) 'witness' means an individual—

"(A) having knowledge of the existence or nonexistence of facts relating to an offense;

"(B) whose declaration under oath is received in evidence for any purpose;

"(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility; or

"(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States.

"§ 1515. Penalty for an offense committed while on release pending judicial proceedings

"Any term of imprisonment imposed under sections 1503, 1512, or 1513 which is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered.".

(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1512. Tampering with a witness, victim, or an informant.
"1513. Retaliating against a witness or an informant.
"1514. Definitions for Certain Provisions.
"1515. Penalty for an offense committed while on release pending judicial proceeding.".

(c) Subsection (a) of section 3146 of chapter 207 of title 18, United States Code, is amended by—

(1) inserting between "officer," and "unless" the following: "subject to the condition that such person not commit an offense under chapter 73 of this title,"; and

(2) inserting between "impose" and "the" the following: "a condition of release that such person not commit an offense under chapter 73 of this title and impose"; and

(3) by adding at the end thereof the following: "Notwithstanding any other provision of this subsection, the pretrial release of any person pursuant to this section or section 3148 shall be deemed to include a condition that the defendant not commit or cause to be committed any act proscribed by sections 1503, 1512, and 1513 of this title".

SEC. 202. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witnesses relocation and protection.
"3522. Reimbursement of expenses.
"3523. Civil action to restrain witness or victim intimidation.
"3524. Definition for chapter.

"§ 3521. Witness relocation and protection

"(a) The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513 of this title, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"(1) provide suitable official documents to enable a person relocated to establish a new identity;

"(2) provide housing for the person relocated or protected;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure.

"(c) Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"§ 3522. Reimbursement of expenses

"The provision of transportation, housing, subsistence, or other assistance to a person under section 3523 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"§ 3523. Civil action to restrain witness or victim intimidation

"(a) The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under sections 1503, 1512 or 1513 of this title. After a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under sections 1503, 1512 or 1513 of this title involving a witness or a victim has occurred or is reasonably likely to occur, the court may order that a defendant, a witness or other person connected with the case, or any individual in the courtroom to—

"(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513 of this title;

"(2) maintain a prescribed distance from a specified victim or witness; and

"(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"(b) A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"§ 3524. Definition for chapter

"As used in this subchapter 'government' includes the Federal Government and a State or local government.".

(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"224. Protection of witnesses.............. 3521".

TITLE III—RESTITUTION

SEC. 301. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§ 3579. Order of restitution

"(a) The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property; or

"(3) make restitution in money or, when the victim agrees, in services to the victim or to a person or organization designated by the victim.

If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b)(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) If a defendant is placed on probation or paroled pursuant to this title any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation. In determining whether failure to comply with an order of restitution shall be grounds for the revocation of parole or probation, the Court shall consider the defendant's employment status, earning ability, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.".

(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Order of restitution.".

(c) Within six months after the date of enactment of this title, the Attorney General shall report to Congress concerning any laws necessary to ensure that all victims of crime are justly compensated in those cases where restitution is not possible. The Attorney General shall consider funding methods such as imposing additional fines on all individuals convicted of Federal crimes.

(d) The court may not order restitution in any offense described in:

(1) section 24 of the Securities Act of 1933 (15 U.S.C. 77x) (relating to the registration of securities);

(2) section 325 of the Trust Indenture Act of 1939, as added by the Act of August 3, 1939, and amended (15 U.S.C. 77yyy) (relating to the public offering of notes, bonds, debentures, evidences of indebtedness, and certificates of interest or participation therein);

(3) section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) (relating to regulation of transactions in securities exchanges and over-the-counter markets);

(4) section 29 of the Public Utility Holding Company Act (15 U.S.C. 79z-3) (relating to regulation of public utility holding companies and their subsidiary companies);

(5) section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) (relating to regulation of investment companies and securities issued by them);

(6) section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-17) (relating to registration of investment advisers);

(7) section 11911 of subtitle IV of title 49, United States Code (relating to securities of carriers subject to the jurisdiction of the Interstate Commerce Commission);

(8) section 127 of chapter 2 of title I of the Act of October 26, 1970 (12 U.S.C. 1957) (relating to records and reports by uninsured banks and institutions, banks insured by the Federal Deposit Insurance Corporation, and institutions insured by the Federal Savings and Loan Insurance Corporation);

(9) section 210 of the Currency and Foreign Transaction Reporting Act (31 U.S.C. 1059) (relating to records and reports concerning domestic currency transactions, exports and imports of monetary instruments, and foreign monetary transactions);

(10) section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b) (relating to price manipulation and other illegal practices involving transactions in commodities in interstate commerce), and section 9 (d) and (e) of that Act (7 U.S.C. 13 (d) and (e)) (relating to transactions in commodity futures by commissioners, employees, or agents of the Commodity Futures Trading Commission);

(11) the eleventh paragraph of section 25(a) of the Act of December 23, 1913, as added by the Act of December 24, 1919 (12 U.S.C. 617) (relating to the prohibition on the use of corporate funds to manipulate the price of a commodity by an agent of a corporation organized to do foreign banking); and

(12) sections 1, 2, and 3 of the Sherman Act (15 U.S.C. 1, 2, and 3) (relating to agreements in restraint of trade and monopolizing trade).

TITLE IV—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF FEDERAL PRISONER

SEC. 401. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)."

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"(B) For the purposes of this paragraph 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person or property of another.

SEC. 402. Subsection (a) of section 2680 of title 28 of the United States Code is amended by adding at the end thereof the following: "This subsection shall not apply to actions constituting gross negligence for purposes of section 1346(b)(2) of this title.".

TITLE V—FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

SEC. 501. (a) Within six months after the date of enactment of this title, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. The Attorney General shall assign responsibilities for the implementation of each of the guidelines. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) SERVICES TO VICTIMS OF CRIME.—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) their role in the criminal justice process, including what they can expect from them;

(D) key points in the criminal justice process at which they might want to request information as to the status of their particular case and suggestions on how best to request this information; and

(E) ability of law enforcement officers to protect victims and witnesses from intimidation.

(2) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have an "on call" or "telephone-alert" system available.

(3) PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.—The opportunity to request advance notification of important criminal justice proceedings shall be given to victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims. Those same individuals, who provide the appropriate official with a current address and telephone number should receive prompt advance, if possible, notification of judicial proceedings relating to their case, including—

(A) arrest or initial appearance before a judicial officer of the accused;

(B) initial bond decision of the accused; and

(C) disposition of the case (including trial, sentencing, and eventual release of accused).

"(4) CONSULTATION WITH VICTIM.—The prosecution should obtain the non-binding views of victims of serious crimes, or in the case of a minor child or homicide, the victim's family, prior to making a recommendation to the court, when the victim has provided a current address and telephone number. The key points for consultation include—

(A) pretrial release hearings (if feasible);

(B) pretrial diversion program;

(C) dismissal; and

(D) plea negotiations;

(5) SEPARATE WAITING AREA.—Victims and other prosecutor witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(6) PROPERTY RETURN.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there are compelling law enforcement reason for retaining it.

(7) NOTIFICATION TO EMPLOYER.—A victim or witness should be asked if he would like his employer to be notified of need for the victim/witness to cooperate and, therefore, be absent from work. If the victim or witness has to take time off from work to assist in the investigation or prosecution of the case, employers should be encouraged to continue to pay the victim or witness as if he had actually worked. In situations where as a direct result of a crime or cooperation with law enforcement officials, the victim or witness is subjected to serious financial strain, a law enforcement official should offer to contact creditors to explain the circumstances.

(8) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—The Attorney General and Secretary of the Treasury should instruct the directors of the Federal training facilities to ensure that victim assistance training be offered to law enforcement personnel so that victims are properly assisted immediately following the commission of crime and throughout the duration of the criminal justice proceedings; and to ensure that criminal justice personnel are familiar with these guidelines.

(9) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that when feasible other important means of assisting victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court, are provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

SEC. 502. All Federal law enforcement agencies, outside of the Department of Justice, shall adopt guidelines consistent with section 501.

TITLE VI—PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

SEC. 601. Within one year after the date of enactment of this title, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

UP AMENDMENT NO. 1262

(Purpose: To provide technical and clarifying amendments to S. 2420)

Mr. HEINZ. Mr. President, on behalf of Senator LAXALT and myself, I send to the desk and ask for the immediate consideration of an amendment to the substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself and Mr. LAXALT, proposes an unprinted amendment numbered 1262.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, line 4, strike "multilate" and replace in lieu thereof "mutilate".

On page 27, line 12, insert ")" after "(iv.

On page 28, strike out lines 12 through 16 and insert in lieu thereof the following:

"(3) corruptly, by threats of force, or by any threatening letter of communication, intentionally influences, obstructs, or impedes or attempts to influence, obstruct, or impede the—

On page 28, line 22, strike "or" and insert in lieu thereof "of".

On page 34, line 17, insert "which is" after "imprisonment".

On page 34, line 18, strike "which is" and insert in lieu thereof "when the offense is".

On page 35, in the material immediately following line 20, strike "Witnesses relocation" and insert in lieu thereof "Witness relocation".

On page 38, line 21. strike "3523" and replace in lieu thereof "3521".

On page 39, line 11, strike "that".

On page 46, line 11, strike "or property".

On page 46, line 11, insert "." after "another".

Mr. HEINZ. Mr. President, I will say for the benefit of my colleagues these are technical amendments. My understanding is they have been cleared on the other side of the aisle as well.

Mr. President, I believe the technical amendments are before us for consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1262) was agreed to.

Mr. HEINZ. Mr. President, I know of no further amendments.

Mr. President, I rise to urge swift approval of S. 2420, the Omnibus Victims Protection Act of 1982. As chairman of the Special Committee on Aging, I have long advocated measures to improve our criminal justice system to better protect those older Americans who are especially vulnerable to violent crime. The committee has found, however, that one of the greatest needs after the crime has been committed is for the police, prosecutors, and courts to take into account the needs and interests of the victim. After all, victims are supposed to be the very individuals the criminal justice system was set up to protect. It is this need that the Omnibus Victims Protection Act, S. 2420, was developed to fulfill.

S. 2420 will not take away the grief nor erase the memory of those already victimized by crime. But the bill would be a first step toward insuring more humane, respectful treatment of victims by a system that is supposed to help them. S. 2420 would:

Make it less likely that dangerous offenders would continue to be able to prey on society;

Make sure that the sentencing judge is aware of the impact of the crime on the victim;

Make sure that victims and witnesses who cooperate with law enforcement officials are given better protection against intimidation and retaliation;

Make sure the Attorney General develops guidelines which will provide for the fair treatment of crime victims and witnesses.

I recognize that S. 2420 is not the final answer to all the problems victims face after the crime. However, I do see this legislation as the most important step the Federal Government can take to begin the process of rebalancing the scales of justice. We must insure that victims are given at least the rights now afforded routinely to the accused.

It is inexcusable that victims routinely show up at court only to find out that once again the court date has been changed; or to be forced to wait in the same room with the person they have identified as having committed a violent crime.

It is inexcusable for prosecutors to drop or plea bargain them to lesser charges without even picking up the phone to talk to the victim.

It is inexcusable for parole boards to release from prison a dangerous person without the greatest attention being given to the details involved in the decision to release.

It is inexcusable that criminals who receive funds as a result of their crimes can spend those funds without the victim ever having a chance to receive restitution for their losses.

The time has come for action. I urge my colleagues to swiftly approve this legislation. Every day we delay, thousands of new victims are being added to the rolls; every day we wait, new victims are being ignored and mistreated.

Hundreds of individuals and organizations devoted countless hours to the drafting and perfecting of the omnibus victims protection bill of 1982. While it is impossible to thank them all individually, I did want to thank my good friend, the distinguished Senator from Nevada, Senator LAXALT, for the work he has done on behalf of this legislation. Senator LAXALT for years has been a leading advocate for greater victims' rights. And many of the provisions in this bill are based on work he and his able staff member, Jock Nash, have done. In addition, I want to thank Senator THURMOND, chairman of the Judiciary Committee, and Senator BIDEN, minority chairman. Both were original cosponsors of the legislation and helped guide it through the Judiciary Committee in an expeditious manner. In addition to the other members on Judiciary, I also want to especially thank Senator MA-

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THIAS, who, as chairman of the Subcommittee on Criminal Law, prepared the hearings and moved the legislation through the subcommittee. I also want to thank the staff of the subcommittee, Mike Klipper and Maura Whelan, and many other staff members on Judiciary who helped immeasurably with the legislation.

I especially appreciate the assistance of the citizens who came forward to testify at the hearings on this bill. It was difficult for these individuals to share with us the painful experiences they endured as victims. I will never forget the testimony of Virginia Montgomery, who after being mugged just a few blocks from the Capitol, had to pay $11,000 in doctors' bills, only to be treated shabbily by the criminal justice system. Nor will I forget the testimony of Geraldine, who was kidnapped, raped, and robbed at gunpoint and said that her treatment by the courts and prosecutors was so bad that she would never recommend to any rape victim that she go through a trial. Nor will I forget Douglas Payton, who brought with him photographs of his deceased wife and testified to the pointlessness and brutality of her murder—which could have been prevented had the Federal Government not been grossly negligent.

The President's task force on victims also assisted in reviewing the bill and offered constructive suggestions for amendments—those of Chairman Lois Harrington and staff director Terry Russell—were especially valuable.

Dozens of private organizations helped with the bill at every stage. The American Bar Association as represented by Laurie Robinson and Susan Hillenbrand of the criminal justice section's victim witness assistance project; the National Organization for Victim Assistance as represented by Marlene Young and John Stein; the Coalition Against Sexual Assault as represented by Mary Ann Largen; the Crime Victims Legal Advocacy Institute as represented by Frank Carrington, the American Civil Liberties Union as represented by John Shattuck, David Landau, and Martin Michaelson; the Washington Legal Foundation as represented by Nick Calio and Paul Kamenar; the Victim Service Agency as represented by Lucy Friedman; and Paul Hudson of the New York Compensation Board. I am also grateful for the many individuals inside the Justice Department who offered their advice and assistance. In particular, Ron Ganier, Roger Pauli, Gerald Shur, and Cary Copland.

Many assistant U.S. attorneys spent long hours reviewing drafts of the legislation and helping us to locate potential witnesses for the hearings. In particular, I want to thank Ava Abramowitz, of the U.S. Attorney's Office in the District of Columbia and Justin Williams of the Alexandria office.

Finally, I especially would like to thank Catherine Milton of the staff of the Special Committee on Aging, without whose skillful direction this legislation would not have been developed, John Rother, staff director of the committee, for his guidance, and Kate Clarke and Linda Goldman for their assistance.

S. 2420 does not call for new Federal funds, it simply requires a redirection of priorities and appropriated resources. In fact, in a letter from Alice M. Rivlin, Director of the Congressional Budget Office, it is estimated that there would be some minimal costs associated with implementation of S. 2420, the omnibus victims protection bill. According to the estimates provided by the Congressional Budget Office, preparation of victim impact statements, would cost about $300,000 by 1987. The only other provision to which CBO attached cost estimates is title V, the requirement that the Attorney General issue guidelines for victims. Based on information provided by the Department of Justice, CBO estimates that developing the guidelines would require approximately 3 staff years, at a cost of $125,000 in fiscal year 1983. Because the guidelines have not as yet been promulgated, CBO states it has "no clear basis for estimating their implementation costs."

The Senate Judiciary Committee intends that these costs be absorbed into the annual budget of the agencies affected. The committee does not intend for these costs to increase the appropriated requests for fiscal year 1983.

I urge my colleagues to approve S. 2420 so that the Federal criminal justice system will no longer impose further injury upon those it was designed to protect and assist.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Alice M. Rivlin, Director of the Congressional Budget Office.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Congressional Budget Office,
U.S. Congress,
Washington, D.C., September 10, 1982.

Senator Strom Thurmond,
Chairman, Committee on the Judiciary,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2420, the Omnibus Victims Protection Act of 1982, as reported by the Senate Committee on the Judiciary, August 19, 1982. For the purpose of this estimate, it is assumed that this bill will be enacted by October 1982.

Title I requires that presentence reports prepared for federal district judges contain a victim impact statement, assessing the financial, social, psychological, and medical impact of the offense on identifiable victims. Based on information from the Administrative Office of the U.S. Courts, and assuming that about 20 percent of presentence reports would require such statements in 1983, CBO estimates that the cost of this program would be about $300,000 in 1983, increasing to $500,000 by 1987.

Section 201 of the bill provides criminal penalties for the intimidation of or retaliation against witnesses and victims. CBO has no basis for estimating the amount of fines the government might receive as a result of these provisions.

Section 202 broadens the authority of the Attorney General to provide witness protection, authorizes the Attorney General to seek reimbursement of witness protection expenses from state or local governments, and permits certain civil actions to prevent or restrain intimidation of a victim or witness. The extension of protection to the new categories of witnesses is at the discretion of the Attorney General, and would necessitate either a reduction in expenditures for protection of other types of witnesses, an increase in funding for witness protection, or additional reimbursement from a state or local government, when appropriate. Thus, the extent to which the broadened authority will be used, and whether any additional costs will be incurred, cannot be determined at this time.

Title IV authorizes individuals to sue the federal government for injuries or death caused by persons who escape or are released from federal custody where the government has been grossly negligent. Data are not available on the number of individuals victimized by federal escapees or released federal prisoners. Because it is not possible to predict the number of escapees or judicial findings of gross negligence associated with such victimization, CBO has no basis for estimating the costs to the government of enactment of this provision.

Title V requires the Attorney General to develop and implement Department of Justice guidelines for fair treatment of crime victims and witnesses. Based on information from the Department of Justice, CBO estimates that developing the guidelines would require approximately 3 staff-years, at a cost of $125,000 in fiscal year 1983. Because the guidelines have not as yet been promulgated, CBO has no clear basis for estimating their implementation costs. The Committee has stated its intent that the guidelines should not require the creation of new services beyond the various departments' budgetary capacity. However, the bill specifies a minimum of 9 objectives for the guidelines, and some costs could be incurred in order to meet these objectives, subject to appropriation action. For example, if the 95 U.S. Attorneys' offices were to devote an average of only one additional paralegal each to implement the guidelines, the cost would be approximately $3 million annually.

The other titles of the bill are expected to result in no significant cost to the federal government.

Should the Committee so desire, we would be pleased to offer further details on this estimate.

Sincerely,
Alice M. Rivlin, *Director.*

● Mr. LAXALT. Mr. President, the Senate is considering today what I believe to be an issue of great importance. Namely, how can our criminal justice system be made more responsive to the needs of crime victims? For too long, victims have been the "forgotten persons" in our system of justice. Indeed, they are not only forgotten, they are neglected by the very system which totally depends on them. Were it not for victims coming forward to sign complaints, identify the accused and to testify for the prosecution, our system of justice as we know it, would come to an end. The time has come to enhance the role of the victim in the criminal justice process.

The Omnibus Victims Protection Act is a bill which represents the end product of what has been clearly a bipartisan effort to redress clear inequities that have affected victims of crime. In a system which seeks justice through the adversarial process, the victim must be made a part of the proceedings, and be assured that his just claims to information, notification, protection and restitution be seriously considered and honored. S. 2420 is an important first step which will do much to restore the faith of the American public in our system of justice.

In this bipartisan effort, a number of people deserve particular recognition. First, Senator HEINZ and his capable staff of Catherine Milton and Joseph Lydon labored extensively in bringing this bill to where it is today. My distinguished colleague from Pennsylvania, as chairman of the Special Committee on Aging, has been very involved in victims' issues, especially since a large proportion of all victims happen to be the elderly. Senator HEINZ is to be commended in this regard and for his contribution to this bill.

Second, I would like to especially thank Senator THURMOND and Senator BIDEN. As chairman and ranking minority member respectively of the Senate Committee on the Judiciary, they played an indispensable role in seeing that S. 2420 was reported out of committee before this Congress adjourned. There is a large backlog of legislation in the committee and without their assistance and cooperation, this bill would not have been considered today on the floor of the Senate.

Third, Senator MATHIAS, as chairman of the Judiciary Subcommittee on Criminal Law also played an important role in expediting the processing of this bill. Maura Whelan, a legislative assistant on his staff, provided invaluable assistance in drafting the bill's report as well as making the necessary technical changes that were required. Senator MATHIAS and his subcommittee staff have my personal gratitude for the help they provided.

Finally, two organizations whose expertise and draftsmanship provided much of the language of S. 2420 must be recognized. They are the American Bar Association and the National Organization for Victim Assistance. The ABA's model statute on victim-witness intimidation was the base on which the rest of this bill was fashioned. During the course of Senate consideration of this bill they have made themselves available to the judiciary staff to help reconcile the many legal and substantive questions that arose. In addition, the National Organization for Victim Assistance, has been working for years at the grassroots level to change State statutes in this area. Their knowledge of victim's issues and their solutions, plus their help in generating a grassroots lobbying effort to push this bill, played a vital role in drafting this bill as well as seeing it through the Senate. NOVA continues to play a preeminent role as advocates for victims of crime. This legislation is as much a result of their efforts as any other organization or person.

Mr. President, I will not go on further. My views in this area are a matter of record. I support this bill without reservation.●

● Mr. MATHIAS. Mr. President, I am pleased to join my distinguished colleagues, Senators HEINZ and LAXALT, in urging final Senate passage of S. 2420, the Omnibus Victim/Witness Protection Act. This legislation has strong bipartisan support, and its nearly 60 cosponsors represent every point on the ideological spectrum. Shortly after the bill's introduction last spring, the Subcommittee on Criminal Law, of which I am chairman, held a hearing where S. 2420 received supporting testimony from the Department of Justice, the American Bar Association, a number of victims' rights organizations, and three victims of violent crime. The subcommittee sent S. 2420 to the full Judiciary Committee with a unanimous favorable recommendation; and, shortly thereafter, the committee agreed to report it favorably to the Senate floor. I am confident that today we will vote overwhelmingly to send S. 2420 to the House of Representatives, where the Judiciary Committee is already preparing a bipartisan bill similar to S. 2420.

In the preamble to the U.S. Constitution, the framers wrote that one of the principal tasks of the new government would be to "insure domestic tranquility." However, we need only look at the steady increase in violent crime in this Nation to recognize that this is one area in which, if we have not failed outright, we are sadly far from success. There has been much discussion in the 97th Congress about what we, in the Federal Government, can do to address the problem of violent crime. S. 2420 is a comprehensive piece of legislation designed to deal with the most tragic effect of violent crime—its impact on the victim. The interest and support S. 2420 has generated indicates that there is increased public awareness of the need to sensitize the criminal justice system to the problems faced by victims of crime. A number of victims' advocacy groups have been formed in recent years, such as Frank Carrington's Victims' Assistance Legal Organization (VALOR), and the National Organization for Victim Assistance (NOVA), both of which were represented at the May 27 hearing. These groups have been in the forefront of the movement for victims' rights, and have made valuable contributions to the progress of S. 2420. The American Bar Association has also been a leader in this area. Since 1976, the ABA's criminal justice section's Victims Committee has been studying the role and treatment of victims in the criminal justice system. In fact, a large part of the legislation now before us is a direct outgrowth of the many hearings and publications of the Victims Committee over the last 6 years.

S. 2420 consists of six sections which recognize the important role played by victims and witnesses of crime in our criminal justice system, and the difficulties they often face as they cooperate with the system. This legislation, if enacted, will provide victims and witnesses with a wide range of protections generally unavailable to them now, and it does so in a manner fully consistent with the constitutional rights of criminal defendants. Basically, S. 2420 would:

Require a "victim impact statement" to be included in the report given to the sentencing judge;

Make it a Federal offense to intimidate or retaliate against victims of Federal crimes;

Permit, for the first time, a Federal judge to order restitution as part of the sentence for crimes involving loss of property or personal injury;

Require the Attorney General to develop guidelines for the fair treatment of crime victims and withesses;

Make the Federal Government civilly liable for bodily injury caused by a "dangerous person" who has either escaped or been prematurely released from Federal custody due to the gross negligence of the Federal Government; and

Require the Attorney General to recommend legislation restricting the ability of a Federal felon to reap financial gain from the publication of his memoirs, for example, or in any other way capitalizing on the notoriety of his crime.

For the most part, the changes envisioned by the authors of S. 2420 are not dramatic, but simple and straightforward alterations in current law that are consistent with out Nation's basic values and principles.

The Victim Impact Statement, for example, is a logical addition to our criminal justice system which will make it more responsive to the needs of victims. This statement—a nonargu-

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mentative assessment of the psychological, financial, and medical impact of the crime on the victim which is filed with the sentencing judge—has, I am pleased to say, been employed by the Federal district court of Maryland in Baltimore since 1979. At the May 27 hearing, Judge Edward S. Northrop, chief judge of the Federal district court of Maryland, and Paul Falconer, the chief U.S. Probation Officer there, both testified on the district court's experience with the Victim Impact Statement. Mr. Falconer stated:

> The victim of an offense has no standing in the court beyond the status a mere witness—he has no right of allocution and is often overlooked in the process of plea negotiation. Our position is that we should not prosecute, try and sentence any defendant without at least listening to the victim and giving some consideration to the victim's offense-related needs. It is essential that the Victim Impact Statement be factual and confirmed; it must be non-inflammatory and non-argumentative. We never want to be guilty of waving the bloody shirt; neither are we to bury the bloody shirt with the victim still in it.

The "Guidelines for the Fair Treatment of Victims and Witnesses" are straightforward, commonsense recommendations that will surely create a more humane and effective criminal justice system. Among its recommendations, the guidelines, if implemented, would: require that victims and witnesses be notified of scheduling changes, such as postponements in trial dates; require that they be consulted before the case in which they are involved is plea bargained or otherwise disposed of; assure separate waiting chambers for the victim and the accused; and require that the Government return, within a reasonable period of time, any property to the victim that was used as evidence in the prosecution of a case.

Far from complicating the prosecutorial process, the implementation of these guidelines will improve the operation of the criminal justice system while it shows more sensitivity to the victim. Faith in the integrity and responsiveness of the criminal justice system will increase the likelihood that those who have been victimized will report these crimes to law enforcement authorities, and work with those authorities in seeing that justice is served. There are many people now who are so fearful of reprisals from the assailant or his associates that they believe it is better and safer to remain quiet. Others feel that the justice system does not provide relief, but, instead, creates a further agony—a second victimization. At the May 27 hearing, Geraldine X, a librarian from Maryland, who had been raped and kidnapped, described this "second victimization":

> My sense of disillusionment with our court system is so great that the year following the crime was much more painful than those three hours I described to you. My disillusionment is so great that I cannot in good conscience urge anyone to prosecute. * * * The greatest insult is being overlooked. Your humanity is overlooked. * * * I would never shame a person into going into the court system. I could not.

The testimony of Geraldine X eloquently demonstrates that the criminal justice system, in hurting the victim, threatens itself, by discouraging crime victims who believe they will not get justice from coming forward.

In urging the enactment of S. 2420, the sponsors recognize that the majority of violent crimes are prosecuted on the State and local level. It is our hope that in passing S. 2420, the Federal Government will be providing the States with a comprehensive and effective model statute. Once again, I urge my colleagues to support this important legislation.●

● Mr. PRYOR. Mr. President, today the Senate will consider S. 2420, the Omnibus Victims Protection Act of 1982. I rise in enthusiastic support of this measure.

Mr. President, through the years our judicial system has paid close attention to assuring that the individual accused of crime be given fair treatment throughout criminal proceedings. But little attention has been given to assuring that the victim of a crime be awarded the best possible treatment. I believe that S. 2420 ably addresses some of the more troublesome aspects of victimization, and I am proud to be an original cosponsor of this measure.

While enactment of this legislation would make a considerable difference in some of the long-term effects of victimization on all victims, one of the most positive aspects is the hope it will give to our Nation's older Americans who are so often devastated by crime. It has been found that the odds are better than 10 to 1 that an older person will become the victim of crime. The elderly are also more inclined to suffer broken bones and greater financial setbacks as the result of crime. And several public opinion polls have shown that elderly persons often rank fear of crime as the most serious problem they face. In some communities, 80 percent of the elderly say they live in constant apprehension.

Earlier this year the Special Committee on Aging, of which I am a member, held a hearing to examine the issue of crime and the elderly. One theme kept recurring throughout the panel's questioning of victims, police officers, social workers, and the like. This was the fact that in many cases what occurs in the victim's life as a result of the crime can be worse than the crime itself.

The victim of crime is often forced to recover from physical injuries, recoup economic losses, fight the fear of future crime, and work with an often cumbersome judicial system in apprehending and prosecuting the criminal. It appears that, in many cases, the trouble caused by legal redtape leaves the victim "victimized" twice—once by the criminal and again by the system. Often the victim or witness is called to appear in court, and arrives there, only to find that the case has been pulled off the docket or delayed. Many times, when the suspect has not been apprehended or is released on bail, the victim may be subjected to harassment or intimidation. There are many examples of a person being convicted of theft, swindle or other crimes for profit, yet no move is made to reimburse the victim. In these cases the criminal actually comes out better financially than the victim.

It is my firm belief that S. 2420, which has been introduced by my distinguished colleague from Pennsylvania (Mr. HEINZ), will go a long way toward easing some of these unfortunate effects of crime. I urge that my colleagues give this measure their full support.●

● Mr. KASTEN. Mr. President, crime in this country is out of control. Whether it be in New York City, here in our Nation's Capital, or in the towns and cities of my home State of Wisconsin, everyone is concerned. When people cannot walk the streets without fearing for their lives; when a family is afraid to leave their home for fear it will be looted in their absence, then the people of this country are hostage to crime and the fear of crime.

People want laws passed that will protect them from becoming victims of crime. They also want laws passed to insure that when they are victims, they will be treated fairly and not be subject to further hardship. The bill now before us, Omnibus Victims Protection Act of 1982, will help assure that the victim of a crime will be treated with dignity and fairness.

When a person is robbed, or mugged, or otherwise made a victim of crime, there is often great psychological stress. The threat to personal safety, and the loss of valuable property, can leave lasting scars. Older people, who often lead a fragile existence, are particularly susceptible to the trauma associated with crime.

Mr. President, it is the victims of crime who need protection. Our system of justice presently looks to protect the accused. In so doing, we often inflict upon the innocent victim unnecessary physical, financial, and psychological hardship. It is unfair to ask victims to cooperate in prosecuting an accused criminal, and then not protect the victims from that criminal, and from the unnecessary burdens such cooperation now places upon the victim.

The bill before us today protects the innocent victim of crime in many ways. When a crime is committed, the court proceedings will include an impact statement to provide information on the psychological, financial, and medical impact of the crime on the victim. Rules against threatening a witness, victim or informant are strengthened, as are rules for retaliating against a witness or an informant. New rules are provided for witness relocation and protection. In addition, the bill provides for reimbursement of expenses and restitution of amounts lost as a result of criminal activity.

Mr. President, these provisions, and the others that make up this bill, are an important beginning toward treating the innocent victims of crime with the dignity and respect they deserve. Passage of this bill will bring us one step closer to the day when Americans can live without the fear of crime.

Mr. President, I support this legislation and urge my fellow colleagues to join me in voting for it. I believe this is the least we can do.●

● Mr. MURKOWSKI. Mr. President, there is common agreement that crime in America is a matter of grave concern, one of the most pressing issues on our legislative and social agendas. I support the efforts of the Congress and of our community leaders to strengthen existing legal deterrents to crime and to creatively attack the procedural impediments that too often prevent the criminal from being brought to justice. For these reasons, I have cosponsored legislation designed to simplify and strengthen the Federal criminal code and drug enforcement regulations, guarantee swift and certain punishment of offenders identified as "careers criminals," and assure that the law-abiding citizen's constitutional right to possess a firearm is not unnecessarily burdened.

Yet, in our effort to focus on the reduction of crime, we tend to overlook those most immediately affected by the rising crime rate: the victims of crime themselves. While it should be obvious that our current system of criminal justice quite literally could not function without the cooperation of the victim, our system tends to treat these persons like lifeless cogs in the machinery. We cannot expect to improve our criminal justice system unless the victim of crime can reliably expect to be treated as a person, with emotions and a personal interest in the outcome.

The sad fact is that the end of the criminal episode may mark only the beginning of the victim's ordeal. The victim who cooperates with authorities and appears as a witness may be exposed to forms of stress and embarrassment comparable to or even greater than that suffered by the criminal defendant. Having been once victimized during the perpetration of a crime, an individual should not be victimized a second time by legal institutions interested in the victim only as a tool to identify and punish criminal offenders. The final indignity may come when a too lenient, overburdened criminal justice system permits the acknowledged criminal to walk away unpunished while the victim of crime pays an unrecognized financial, psychological, and social price.

S. 2420, the victim protection bill, is designed to remedy these injustices. This legislation, when implemented at the Federal trial court level, would assure that the victim's side of the story receives a crucial airing within the context of the sentencing proceeding itself, where it can do the most good. Before sentencing a convicted criminal, the court would be compelled to consider the financial, psychological, and medical impacts of the crime on the victim. The victim would be protected from retaliation by a criminal defendant, and might even have the right to collect money from the convicted criminal to reimburse the victim's loss.

Mr. President, my colleagues from Pennsylvania and Nevada are to be commended for introducing this legislation. It is a key building block in an improved, comprehensive criminal justice system, and I urge its passage.●

● Mrs. HAWKINS. Mr. President, as an original cosponsor of S. 2420, the Omnibus Victim and Witness Protection Act, I commend Senators HEINZ and LAXALT for their successful efforts in putting together this omnibus bill. It provides much needed reforms to our criminal justice system.

This bill is the result of extensive hearings held by the Special Committee on Aging and the Senate Judiciary Subcommittee on Criminal Law. The hearings established the need for legislative action to assist victims and witnesses as they come in contact with the criminal justice system. Unfortunately, our criminal justice system gives more priority and attention to criminal defendants than it gives to victims and witnesses of criminal acts. For example, defendants are provided with legal counsel who can explain to them the criminal judicial process and their rights, while victims or witnesses have no such counterparts. Victims are the "forgotten people" in our criminal justice system.

The purpose of this bill is threefold: To enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to insure that the Federal Government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the rights of defendants; and to provide a victim/witness model for State and local law enforcement officials. This bill addresses the insensitivity and lack of concern for the victims and witnesses by strengthening their legal protections.

There are six major provisions in S. 2420. First, require that the presentence report prepared for Federal judges includes a "victim impact statement," informing judges of the financial, social psychological, and medical impact upon victims of the crime. Second, require restitution for crimes involving loss of property or personal injury. Third, request the Attorney General to recommend legislation providing restitution to victims before a Federal felon may profit from his crime's notoriety. Fourth, hold the Federal Government civilly liable for bodily injury caused by a "dangerous person" who escaped or has been released from Federal custody when the Government is found "grossly negligent." Fifth, require the Attorney General to prepare guidelines for the fair treatment of Federal crimes, similar to a "victim's bill of rights." Finally, this bill provides added protections for victims and witnesses, including criminal penalties intimidating witnesses or victims.

It is sad that victims and witnesses are oftentimes hurt more by our criminal justice system than by the crime itself. Indeed, one witness testifying before the Subcommittee on Criminal Law said, "My life has been permanently changed, I will never forget being raped, kidnaped, and robbed at gunpoint. However, my sense of disillusionment with the criminal justice system is many times more painful. I could not, in good faith, urge anyone to participate in this hellish process." Victims are often the last to hear about changes in the time of the court proceeding so they are required to not only wait in the courtroom with the accused, but lose wages for worktime lost. Oftentimes they are not informed of financial assistance or other social services available as a result of being a witness or victim. It is our duty to support legislative action which improves our criminal justice system. Mr. President, this bill, S. 2420, will do just that by improving the treatment of victims and witnesses. I urge prompt passage of this legislation.●

Mr. HEINZ. Mr. President, are there any further statements by Senators?

● Mr. DODD. Mr. President, I am pleased to cosponsor S. 2420, the Omnibus Victims Protection Act of 1982.

Violent crime in this country has increased dramatically and tragically. From 1976 to 1980, reported violent crime increased 33 percent and in 1981 criminal violence was committed every 24 seconds. In 1981, over a million citizens were victimized, with tragic consequences for them and their families.

A secondary consequence of criminal violence is that citizens against whom there is no allegation of wrongdoing enter our criminal justice system. Hundreds of thousands of victims are subpenaed to appear in court, an often stressful experience. Michael McCann, chairman of the American Bar Association's Victims Committee testified compellingly on their behalf when he appeared before the Senate Committee on the Judiciary.

> No prosecutor with any degree of sensitivity can long remain ignorant of the truly onerous and often frightening part such victims and witnesses play as the crime tragedy progresses from the stage of offense, through apprehension, identification, pretrial proceedings, and trial. The woes of victims and witnesses are legion. To the weak, the infirm, and the elderly, the potential of offender retribution for aiding the prosecution is real, palpable, and, on occasion, terrifying.

Mr. President, we must insure that those who have suffered as victims of crime do not suffer further at the hands of our criminal justice system—that they do not fear retribution for testifying against those who have harmed them already.

Although only a small fraction of violent crime and crimes against property are under Federal jurisdiction, I believe that the Federal Government should play a leadership role in recognizing the needs of victims, in helping them cope, and in protecting them against retaliation. This bill is an important first step toward that goal.

S. 2420 requires that the judge be presented with an assessment of injury to the victim as part of the sentencing report. Too often, at present, the judge is unaware of the severity of the attack, or even, at times, of whether the victim survived wounds caused during an attack. Further, the bill protects both victims and witnesses from intimidation or retaliation at the hands of an offender, enabling the Attorney General to initiate civil proceedings to restrain intimidation, or harassment. The bill further provides for restitution by the offender. Such restitution would cover the victim's expenses, property losses, uninsured medical costs, and funeral costs, if necessary.

Additionally, S. 2420 mandates that the Attorney General develop and implement guidelines for the fair treatment of victims and witnesses, addressing the need for consultation and information exchange with the prosecutor. Federal immunity is waived in cases where gross negligence in releasing a prisoner causes further injury to citizens. Finally, profit by a criminal as a result of his notoriety is curtailed. The last provision was earlier recommended by the House Select Committee on Assasinations, of which I was a member, and I applaud its inclusion here. We should restrict the extent to which violent criminal acts are ultimately profitable to those who commit them.

These provisions move us toward a model in which crime victims will be treated fairly in our criminal justice system. But this is not a perfect bill nor should it be a final effort.

The bill does not provide for direct aid to victims either through services to help them cope with their experience or through monetary compensation. Many States, including Connecticut, have more extensive programs than that proposed here, which are financed through fines and court fees. The Federal Government does not have ready access to many of these same mechanisms. Thus the fiscal constraints we are operating under make a more complete program difficult at this time.

Protection of its citizens is a fundamental function of government. The provisions of this bill were designed to further that purpose. It would be wrong to apply too broadly the third-party accountability implied by a waiver of Federal immunity in cases of gross negligence. Further, flexibility in restitution provisions should be maintained and, as the bill states, restitution should be "as fair as possible without unduly complicating or prolonging the sentencing process."

Overall, this legislation takes an important first step in establishing the rights of victims in Federal court. The first responsibility of law enforcement is to secure the safety of law-abiding citizens. Safety can be secured without jeopardizing the rights of the accused. It is those principles which this bill seeks to maintain. I applaud the efforts of its sponsors in bringing it before us today.●

● **Mr. GRASSLEY.** Mr. President, I am pleased to lend my support to this landmark in criminal legislation.

So often we find ourselves in the position of legislating rights for the accused—we are scrupulously aware of the accused's constitutional rights—and yet we overlook the rights of the victim. We are quick to see that the accused is informed of his rights, quick to see that he is provided with an attorney to protect those rights, quick to see that all of his medical needs are taken care of, and all of his physical needs are provided for. The victim however is on his own. The victim was hurt? Well, let's hope that he has insurance.

Added to the unfairness of this system is that on the Federal level, we are forced to simply shake our heads when the convict sells his accounting of his crime for profit. Jack Henry Abbott, for example, a long-time convict collected a $12,500 advance for his book, "In the Belly of the Beast," a document about the nightmare of prison life. He is expected to earn as much as $250,000 in royalties from the book, and the notoriety he has so unabashedly earned from his latest murder is expected to contribute to that sum.

Now I ask you: Should society be rewarding a man who has taken two lives? Jack Abbott has hired an attorney to keep that money from the family of his victims. Jack Abbott admitted he killed Richard Adan, a waiter and aspiring playwright, but he blames society for spawning his alleged paranoia that "forced him to kill" a man who was trying to help him. Think for a moment how Adan's family feels, how Adan's fiancé feels upon learning that a loved one's murderer is profiting from the notoriety surrounding his murder.

This legislation goes a long way toward sensitizing the criminal justice system to those who are the victims of crime. Aside from insuring that no Federal felon will profit as a result of his notoriety, the legislation requires that a victim's impact statement be included in the sentencing report given to the judge. This legislation underscores the capability of the court to prevent intimidation of a witness or victim and importantly makes the Federal Government civilly liable for bodily injury caused by a "dangerous person who has either escaped or been prematurely released from Federal custody due to the gross negligence of the Federal Government."

I commend Senators THURMOND, HEINZ, LAXALT, and, of course, the majority leader for their hard work in getting this legislation passed. I hope that the House acts quickly in enacting this legislation to respond to a system that victimizes those who have already suffered at the hands of an assailant.●

The **PRESIDING OFFICER.** The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The **PRESIDING OFFICER.** The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Victims Protection Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, have an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under the current law, law enforcement agencies must have cooperation from victims of crime and yet neither the agencies nor the legal system can offer protection or assistance when such victim as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain to him both the criminal justice process and his rights, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the Federal Government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a victim/witness model for State and local law enforcement officials.

TITLE I—VICTIM'S IMPACT STATEMENT

SEC. 101. Subsection (c)(2) of rule 32 of the Federal Rules of Criminal Procedure is amended by striking ", and such other information as may be required by the court" and inserting in lieu thereof: "The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and any such other information as may be required by the court.".

TITLE II—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 201. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1512. Tampering with a witness, victim, or an informant

"(a) Whoever—

"(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"(A) influence the testimony of another person in an official proceeding;

"(B) cause or induce another person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"(A) a witness or a victim from attending or testifying in an official proceeding; or

"(B) a witness, victim, or a person acting on behalf of a victim from—

"(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer of a correctional facility;

"(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"(3) corruptly, by threats of force, or by any threatening letter of communication, intentionally influences, obstructs, or impedes or attempts to influence, obstruct, or impede the—

"(A) enforcement and prosecution of federal law;

"(B) administration of a law under which an official proceeding is being or may be conducted; or

"(C) exercise of a Federal legislative power of inquiry,

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000 or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine or both up to twice that authorized for such offense.

"(c) In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"(d) It is not a defense to a prosecution under this section that—

"(1) an official proceeding was not pending or about to be instituted;

"(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"(3) no person was injured physically, or, in fact, intimidated.

"(e) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible Federal offense;

"(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section, or in the distribution of the proceeds of such crime punishable in this section;

"(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section.

"§ 1513. Retaliating against a witness or an informant

"(a) Whoever—

"(1) knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(B) any information relating to an offense or a possible offense given by a person to a law enforcement officer; or

"(2) threatens to cause bodily injury to another person or to damage the property of another person or otherwise endeavor to intimidate another person because of any matter described in subparagraph (A) or (B) of paragraph (1);

"(3) unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described in subparagraph (A) or (B) of paragraph (1),

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000 or imprisoned not more than ten years, or both. Whoever is guilty of an offense in subsection (a)(2) shall be fined not more than $10,000 or imprisoned for not more than two years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(c) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding is a Federal official proceeding;

"(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section; or

"(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such

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crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section."

"§ 1514. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title the term—

"(1) 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a parole or probation officer under this title;

"(2) 'maliciously' means for the purpose of (A) intimidating, harassing, harming, injuring in any other way another person or (B) interfering with the orderly administration of justice;

"(3) 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(4) 'physical force' means physical action against another, and includes confinement;

"(5) 'victim' means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"(6) 'witness' means an individual—

"(A) having knowledge of the existence or nonexistence of facts relating to an offense;

"(B) whose declaration under oath is received in evidence for any purpose;

"(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility; or

"(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States.

"§ 1515. Penalty for an offense committed while on release pending judicial proceedings

"Any term of imprisonment which is imposed under sections 1503, 1512, or 1513 when the offense is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered.".

(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1512. Tampering with a witness, victim, or an informant.
"1513. Retaliating against a witness or an informant.
"1514. Definitions for certain provisions.
"1515. Penalty for an offense committed while on release pending judicial proceeding.".

(c) Subsection (a) of section 3146 of chapter 207 of title 18, United States Code, is amended by—

(1) inserting between "officer," and "unless" the following: "subject to the condition that such person not commit an offense under chapter 73 of this title,"; and

(2) inserting between "impose" and "the" the following: "a condition of release that such person not commit an offense under chapter 73 of this title and impose"; and

(3) by adding at the end thereof the following: "Notwithstanding any other provision of this subsection, the pretrial release of any person pursuant to this section or section 3148 shall be deemed to include a condition that the defendant not commit or cause to be committed any act proscribed by sections 1503, 1512, and 1513 of this title".

Sec. 202. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Reimbursement of expenses.
"3523. Civil action to restrain witness or victim intimidation.
"3524. Definition for chapter.

"§ 3521. Witness relocation and protection

"(a) The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513 of this title, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"(1) provide suitable official documents to enable a person relocated to establish a new identity;

"(2) provide housing for the person relocated or protected;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure.

"(c) Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall detemine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"§ 3522. Reimbursement of expenses

"The provision of transportation, housing, subsistence, or other assistance to a person under section 3521 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"§ 3523. Civil action to restrain witness or victim intimidation

"(a) The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under sections 1503, 1512 or 1513 of this title. After a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under sections 1503, 1512 or 1513 of this title involving a witness or a victim has occurred or is reasonably likely to occur, the court may order a defendant, a witness or other person connected with the case, or any individual in the courtroom to—

"(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513 of this title;

"(2) maintain a prescribed distance from a specified victim or witness; and

"(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"(b) A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"§ 3524. Definition for chapter

"As used in this subchapter 'government' includes the Federal Government and a State or local government.".

(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"224. Protection of witnesses.............. 3521".

TITLE III—RESTITUTION

Sec. 301. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§ 3579. Order of restitution

"(a) The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property; or

"(3) make restitution in money or, when the victim agrees, in services to the victim or to a person or organization designated by the victim.

If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b)(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) If a defendant is placed on probation or paroled pursuant to this title any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation. In determining whether failure to comply with an order of restitution shall be grounds for the revocation of parole or probation, the Court shall consider the defendant's employment status, earning ability, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.".

(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Order of restitution.".

(c) Within six months after the date of enactment of this title, the Attorney General shall report to Congress concerning any laws necessary to ensure that all victims of crime are justly compensated in those cases where restitution is not possible. The Attorney General shall consider funding methods such as imposing additional fines on all individuals convicted of Federal crimes.

(d) The court may not order restitution in any offense described in:

(1) section 24 of the Securities Act of 1933 (15 U.S.C. 77x) (relating to the registration of securities);

(2) section 325 of the Trust Indenture Act of 1939, as added by the Act of August 3, 1939, and amended (15 U.S.C. 77yyy) (relating to the public offering of notes, bonds, debentures, evidences of indebtedness, and certificates of interest or participation therein);

(3) section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) (relating to regulation of transactions in securities exchanges and over-the-counter markets);

(4) section 29 of the Public Utility Holding Company Act (15 U.S.C. 79z-3) (relating to regulation of public utility holding companies and their subsidiary companies);

(5) section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) (relating to regulation of investment companies and securities issued by them);

(6) section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-17) (relating to registration of investment advisers);

(7) section 11911 of subtitle IV of title 49, United States Code (relating to securities of carriers subject to the jurisdiction of the Interstate Commerce Commission);

(8) section 127 of chapter 2 of title I of the Act of October 26, 1970 (12 U.S.C. 1957) (relating to records and reports by uninsured banks and institutions, banks insured by the Federal Deposit Insurance Corporation, and institutions insured by the Federal Savings and Loan Insurance Corporation);

(9) section 210 of the Currency and Foreign Transaction Reporting Act (31 U.S.C. 1059) (relating to records and reports concerning domestic currency transactions, exports and imports of monetary instruments, and foreign monetary transactions);

(10) section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b) (relating to price manipulation and other illegal practices involving transactions in commodities in interstate commerce), and section 9 (d) and (e) of that Act (7 U.S.C. 13 (d) and (e)) (relating to transactions in commodity futures by commissioners, employees, or agents of the Commodity Futures Trading Commission);

(11) the eleventh paragraph of section 25(a) of the Act of December 23, 1913, as added by the Act of December 24, 1919 (12 U.S.C. 617) (relating to the prohibition on the use of corporate funds to manipulate the price of a commodity by an agent of a corporation organized to do foreign banking); and

(12) sections 1, 2, and 3 of the Sherman Act (15 U.S.C. 1, 2, and 3) (relating to agreements in restraint of trade and monopolizing trade).

TITLE IV—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF FEDERAL PRISONER

SEC. 401. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)."

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"(B) For the purposes of this paragraph 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person of another.".

SEC. 402. Subsection (a) of section 2680 of title 28 of the United States Code is amended by adding at the end thereof the following: "This subsection shall not apply to actions constituting gross negligence for purposes of section 1346(b)(2) of this title.".

TITLE V—FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

SEC. 501. (a) Within six months after the date of enactment of this title, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. The Attorney General shall assign responsibilities for the implementation of each of the guidelines. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) SERVICES TO VICTIMS OF CRIME.—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) their role in the criminal justice process, including what they can expect from them;

(D) key points in the criminal justice process at which they might want to request information as to the status of their particular case and suggestions on how best to request this information; and

(E) ability of law enforcement officers to protect victims and witnesses from intimidation.

(2) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have an "on call" or "telephone-alert" system available.

(3) PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.—The opportunity to request advance notification of important criminal justice proceedings shall be given to victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims. Those same individuals, who provide the appropriate official with a current address and telephone number should receive prompt advance, if possible, notification of judicial proceedings relating to their case, including—

(A) arrest or initial appearance before a judicial officer of the accused;

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(B) initial bond decision of the accused; and

(C) disposition of the case (including trial, sentencing, and eventual release of accused).

"(4) CONSULTATION WITH VICTIM.—The prosecution should obtain the non-binding views of victims of serious crimes, or in the case of a minor child or homicide, the victim's family, prior to making a recommendation to the court, when the victim has provided a current address and telephone number. The key points for consultation include—

(A) pretrial release hearings (if feasible);

(B) pretrial diversion program;

(C) dismissal; and

(D) plea negotiations;

(5) SEPARATE WAITING AREA.—Victims and other prosecutor witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(6) PROPERTY RETURN.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there are compelling law enforcement reason for retaining it.

(7) NOTIFICATION TO EMPLOYER.—A victim or witness should be asked if he would like his employer to be notified of need for the victim/witness to cooperate and, therefore, be absent from work. If the victim or witness has to take time off from work to assist in the investigation or prosecution of the case, employers should be encouraged to continue to pay the victim or witness as if he had actually worked. In situations where as a direct result of a crime or cooperation with law enforcement officials, the victim or witness is subjected to serious financial strain, a law enforcement official should offer to contact creditors to explain the circumstances.

(8) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—The Attorney General and Secretary of the Treasury should instruct the directors of the Federal training facilities to ensure that victim assistance training be offered to law enforcement personnel so that victims are properly assisted immediately following the commission of crime and throughout the duration of the criminal justice proceedings; and to ensure that criminal justice personnel are familiar with these guidelines.

(9) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that when feasible other important means of assisting victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court, are provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

SEC. 502. All Federal law enforcement agencies, outside of the Department of Justice, shall adopt guidelines consistent with section 501.

TITLE VI—PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

SEC. 601. Within one year after the date of enactment of this title, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I simply wish to thank all Senators.

I thank, first of all, Senator THURMOND, the chairman of the Judiciary Committee, who expedited not only the hearings but the consideration of this measure on the Victims Assistance Act.

I thank, of course, my principal cosponsor, Senator LAXALT, with whom it has been such a great privilege to work and without whose diligence in the efforts in the committee I do not think we would have developed such a fine work product.

I am deeply indebted to Senator BIDEN, who cooperated with us in every way. Most of this legislation is a part of the omnibus bill that he has been working on. It is through his efforts today that we were able to clear this bill for consideration.

Finally, Mr. President, I observe that, as we meet here at this hour, the President's Commission on Victims, which the President appointed some weeks ago, ably chaired by Lois Harrington, is deliberating at this very moment down at the courthouse on the issue of what we should have in the way of a national policy, not just a Federal Government policy, but a national policy on victims and witnesses.

The passage of this bill by the Senate I think underscores the sensitivity of this body and all its Members to seeing to it that we do something at long last to balance the scale of justice now more in favor of the victims and the witnesses and end a situation where some people have said we often give more attention to the rights of the criminals than we do to the rights of victims and witnesses.

I thank all my colleagues, and especially Senator BAKER and Senator ROBERT C. BYRD for their cooperation in this matter.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, also as in morning business I am prepared to take up H.R. 1710, Calendar Order No. 748, if that is cleared on the minority leader's calendar.

Mr. ROBERT C. BYRD. Mr. President, that is cleared.

USE OF THE FRANK BY THE LAW REVISION COUNSEL

The bill (H.R. 1710) to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER DISCHARGING THE COMMITTEE ON THE JUDICIARY FROM FURTHER CONSIDERATION OF SENATE JOINT RESOLUTION 205

Mr. BAKER. Mr. President, I believe this has been cleared as well. I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 205.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL SEWING MONTH

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate, Senate Joint Resolution 205, the item just discharged from the Committee on the Judiciary.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S.J. Res. 205) to designate September 1982 as "National Sewing Month".

The Senate proceeded to consider the joint resolution.

● Mr. EAST. Mr. President, I recently introduced a resolution to designate September as "National Sewing Month." This resolution, Senate Joint Resolution 205, parallels a resolution introduced in the House by Representative BILL BONER of Tennessee.

This resolution is of particular interest to the people of my State, since North Carolina is one of the Nation's leaders in textile manufacturing. Many of our people work in textile mills, fabric centers, sewing shops, or otherwise participate in the day-to-day buying and selling of sewing items.

Yet home sewing is very much a national avocation. More than 90 million Americans sew at home: 50 million citizens have the basic skills to do small-item or mend-type sewing at home, and 40 million citizens sew at least part of their wardrobe—with many of them making home furnishing items as well. Home sewers also make sport accessories, arts/crafts handiwork, and energy-saving items.

National Sewing Month is being actively promoted by the American Home Sewing Association, which represents over 500 corporations and retail outlets in the textile, fabric, pattern, and fiber sectors. The industry is being joined in its efforts by a wide variety of educational, social, and service groups including home economics teachers, 4-H clubs, the Girl Scouts of America, American Sewing Guilds, Future Homemakers of America, and others.

Mr. President, I urge that the Senate support this sewing awareness effort by passing Senate Joint Resolution 205. I also ask that an excellent article on home sewing from the current issue of Forbes magazine be inserted in the RECORD.

The article follows:

A STITCH IN TIME

(By Thomas Jaffe)

Listen closely and you may be able to hear it: the distant, fitful hum of sewing machines. Up until recently only about 20 percent of American women used their Singers twice a month or more. But with the sorry state of the economy and changing lifestyles those machines are coming out of the closet more often these days. Just look at the earnings of manufacturers supplying the home sewing market: Wm. E. Wright, a $61 million (sales) purveyor of everything from ribbons to zippers, reported a 65 percent increase in profits, to $3.7 million, in its June fiscal year. Wright's 6 percent margins are the best in a decade. Earnings projections for retail fabric companies like Fabri-Centers of America and House of Fabrics call for a 30 percent to 40 percent increase this year.

Nor has this sudden burst of activity been lost on investors. Since last September the Price of House of Fabrics common has nearly tripled, to a recent 18. Wright, traded over the counter, has doubled, to 12¼. And Fabri-Centers of America has almost doubled, to 17¾.

Why the suddenly rekindled interest in needle and thread? Simple economics. Today over half of American women work. They want something to wear on the job with enough style that it will look good for at least a couple of years, not just one season. In the midst of a recession with unemployment at its highest level since the Depression, if you can make your own dress for as little as 30 percent of what it would cost you to buy it in a store you start thinking about your sewing machine.

This time the patternmakers are ready. "We're aiming at the customer who wants to make something simple and fast," says Arthur Joinnides, vice president of American Can's Butterick Fashion Marketing Co. and the publisher of Vogue Patterns. Yesterday's enormous catalogs, with patterns for 700 styles or more and frighteningly complex instructions showing as many as five views of the finished dress, frightened off a lot of potential home sewers, and patternmakers seem to have learned their lesson.

In 1980, for instance, Butterick introduced its See & Sew line—only 96 styles on their own display stand. There are fewer pattern pieces. There's only one view to consult and instructions that mercifully allow for a graded fit. "After all," laughs Joinnides," who's a perfect 8 or 10?" Best of all, their price is only $1.10 each, vs. the $2.75 pattern average. (The total U.S. market is an estimated $2.75 million.) After just three years See & Sew accounts for some 7 percent of more than 100 million patterns sold annually.

There have been other changes in the market since Wilbur Peters, chairman of $122 million (sales) Minnesota Fabrics Inc., started in fabric retailing 23 years ago. "We had loads of stuff piled high and priced cheap," he remembers. "We specialized in offgoods, overruns and discontinued patterns. If we tried that approach today, we'd be sunk." Last year many women went to MF's 92 stores to buy fabric for patterns designed by the likes of Calvin Klein, Yves St. Laurent and Ralph Lauren.

"We're in the fashion business, pure and simple," says Michael Feuer, vice president of $173 million (sales) Fabri-Centers of America, Inc. "We just happen to market it by the yard rather than by the size." To do this successfully, however, Feuer says you also must offer full customer service. Minnesota has added 50 home economists to its sales staff to help beginners get in the home sewing habit. Feuer thinks the reason some of the giant retailers like K Mart couldn't make it in the business is that their operations were basically self-service.

After all, many of the big retail chains scrambled into fabrics in the first place to cash in on the double knit craze. "Double knits were so easy to sew that women just bought patterns and a bunch of material and waltzed out of the store," says Wes Phillips, senior fabric buyer for $2 billion (sales) TG&Y Stores of Oklahoma City. "It was so easy from the retailer's point of view that once the double knit days were over, plenty of guys sat there asking themselves, 'Where did all our quick sales go?' and never got around to building a true organization for their fabric departments."

Other discounters like Wal-Mart, Zarye and TG&Y made the adjustment and survived. Says Malcolm Sherman, general manager of Zayre Stores: "If you try to sell to home sewers the way you market health and beauty aids or ketchup, you're bound to lay an egg."

Nobody is predicting a long-term boom in home sewing. And the recession that has encouraged this do-it-yourself economizing won't last throughout the Eighties. But there is no question that home sewing has a new lease on life. "If we could get just one-tenth of the customers for ready-to-wear clothes to start sewing more," says Art Joinnides of Vogue Patterns, "the size of the industry would double."●

The **PRESIDING OFFICER**. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time. The joint resolution was read the third time and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 205) together with its preamble is as follows:

S.J. RES. 205

Whereas the American Home Sewing Association is sponsoring a first industrywide promotion effort to increase consumer sewing education and family sewing participation; and

Whereas over fifty million consumers sew at home and over forty million citizens sew at least part of their wardrobe; and

Whereas the home sewing industry generates over $3,500,000,000 in sales annually for the United States economy; and

Whereas unnumbered careers in fashion, retail merchandising, fashion design, interior design, patternmaking, and textile design and parts of the garment industry have had their genesis in a seventh or eighth grade home economics sewing class: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1982 is designated "National Sewing Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. **BAKER**. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 1814 INDEFINITELY POSTPONED

Mr. **BAKER**. Mr. President, I move to indefinitely postpone Calendar Order 716, S. 1814.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

EXTENSION OF TIME FOR BUDGET COMMITTEE TO FILE REPORT ON SENATE RESOLUTION 447

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Budget Committee have until the close of business tomorrow, the 15th of September, to report Senate Resolution 447.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. **BAKER**. Now, Mr. President, what is the pending business before the Senate?

The **PRESIDING OFFICER**. House Joint Resolution 520 is the pending business. The pending question is the Baucus amendment.

Mr. **BAKER**. Yes, Mr. President.

I would point out to my colleagues this has been pending now for more than 2 weeks, and while there will be a cloture vote tomorrow at 5 p.m. under the provisions of rule XXII and pursuant to unanimous consent previously agreed to setting that time, there is also an order that provides that no tabling motion will be in order for the remainder of this calendar day, which was designed originally to encourage Members to debate freely and to discuss these issues without fear of parliamentary complications.

I think we failed in that because I do not find many takers. But, Mr. President, it is only 3:25 in the afternoon, and I do not plan to go out at this hour. So I would once again urge Senators to come to the floor and make their contribution to this debate and to say whatever they may wish pro or con.

Mr. President, earlier today I filed a cloture motion with respect to further debate against the Helms amendment which will mature, under the provisions of the rule, on Thursday 1 hour after the Senate convenes and after a

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quorum call is provided for under the rule. That, of course, would occur only if cloture is not invoked on Wednesday at 5 p.m.

If cloture is invoked on Wednesday that would be a nullity. But in the event we must have the vote on Thursday, may I inquire of the minority leader and the distinguished Senator from Oregon (Mr. PACKWOOD) if they might be in position to explore the possibility of a time certain for that vote on Thursday, as we have under other circumstances?

Mr. ROBERT C. BYRD. Mr. President, I have asked the staff to explore the possibility of agreeing to a request to vote at 2 p.m. on Thursday.

Mr. BAKER. I thank the Senator. If he could let me know when he is in position to do so I would like to put a request that we establish that as a time certain to vote.

Mr. PACKWOOD. That is fine with me.

Mr. BAKER. Mr. President, I will not put the request at this time, but we will check with our cloakroom, as the minority leader has indicated he is checking with his. It would be my hope that no Senator will object to the request to set the time at 2 o'clock on Thursday if that vote is required and without the requirement for a mandatory quorum under the provisions of rule XXII.

Mr. President, we are now on the debt limit bill. I thank all Senators, including the minority leader, for permitting me to transact this business as in morning business. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished majority leader intend to renew the request by him for no tabling motion for tomorrow?

Mr. BAKER. Perhaps, Mr. President. But may I say to my friend, the minority leader, that I would like to consider that a little further before I make the request, and I would not propose to do it at this time.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

TIME TO VOTE

Mr. HARRY F. BYRD, JR. Mr. President, the abortion issue is an important one and one which I feel should be addressed by Congress. The issue has been fully debated. So I shall vote tomorrow to bring debate to a close on the Helms proposal. I think the Senate should vote one way or the other on the issue.

In regard to the Helms amendment, I have studied the Helms proposal and shall vote against it as I feel it goes too far.

THE GOVERNMENT'S FINANCIAL SITUATION

Mr. HARRY F. BYRD, JR. Mr. President, I wish to comment briefly on the Government's financial situation.

The total deficit for the current fiscal year through July 31, 1982—and this is the latest date for which figures are available—on that date the deficit was $106 billion. Yes, $106 billion deficit for the first 10 months of the current fiscal year.

Now let us equate that to what the Senate told the American people last year the deficit would be. On May 18, 1981, not much more than a year ago. Congress passed a budget resolution which stated that the deficit would be $37 billion. Last July, a little more than a year later, the deficit was $106 billion and still climbing.

The Budget Committee and the budget resolutions passed by the Senate have consistently underestimated spending. For the fiscal year 1980, the Budget Committee and the budget resolution underestimated spending by $144 billion. For the fiscal year 1981, the Budget Committee and the budget resolution underestimated spending by $44 billion. And for this year, fiscal 1982, which ends in 2 weeks and 2 days, the Budget Committee and the budget resolution underestimates spending by $36 billion.

This is a horrendous record, a terrible record. I think it is just irresponsible the way Congress is handling the tax funds of the American people.

This fiscal year will end with the largest deficit in history, the largest deficit in history, well over $100 billion.

Is it any wonder, Mr. President, that the American economy is in the shape it is? Is there any wonder why interest rates are so high?

Interest rates are devastating. They have brought the housing industry to a halt; they have had a major adverse impact on the automobile industry. Indeed, interest rates have had an adverse impact on virtually every business and every individual who has to go to the banks, to the money markets, to borrow funds either for business or for daily living.

When anyone tells you, the American public, that the Federal Government is getting spending under control, you ask them to show you figures. The figures do not justify any claim that Federal spending is being brought under control. It is spending as usual.

One of these days this Congress will be forced by circumstances to face up to this issue of spending; up to this point it has not done so.

The much-heralded change in budget procedures of some 7, or 8 years ago was supposed to bring a discipline to Congress. No discipline has been brought to Congress.

When it comes to spending there is no discipline in the Congress of the United States. Every record shows that. All one needs to do is look at the figures. Spending is totally out of control.

As a politician I know it is much easier to vote to spend than it is to vote to safeguard the tax funds of the American people. All the pressure is to spend. There is no pressure on the other side.

For many years now, Congress has been buying the people's votes with the people's own money. There is no place that Congress can get money, there is no place the Federal Government can get money, except out of the pockets of the people who work.

Yes, the deficit for fiscal year 1982, which ends in 2 weeks and 2 days, as of July 1 of this year was $106 billion. That is $69 billion more that authorized by the budget resolution passed May 18, 1981.

Last Friday was a dramatic day in the Senate. The President of the United States had vetoed a $14 billion supplemental appropriation bill which he said was excessive spending. And let me emphasize that a supplemental spending bill is what the name implies; it is additional spending far and above the regular appropriation bills.

After the measure was vetoed, it went to the House of Representatives, which overrode his veto. The Senator from Virginia is not surprised that the Democratic-controlled House of Representatives would vote to override the veto on a spending bill.

But then it comes to the Republican dominated Senate. The Republican dominated Senate could not even get one-third of its membership to support the President on his veto of an excessive money spending bill.

I think that was a highly symbolic vote. To me it says that the Congress is continuing business as usual when it comes to uncontrolled spending of American tax funds. It suggests, too, that it does not make too much difference when the Congress is Republican or Democratic, the spending goes on as usual.

How long can this country continue to tolerate deficits of the magnitude of $106 billion? And it will be greater by the time the fiscal year is over. The deficit projected for the upcoming fiscal year is $155 billion, and for the year after that it will be more than $100 billion. So it will be 3 years in a row, and maybe 4, with deficits exceeding $100 billion. To the Senator from Virginia, that is a very alarming, dangerous prospect for the people of the United States. The more the Government goes into debt, the more the Government has to borrow, the more that forces up interest rates.

If we do not get interest rates down, how can the young people buy a home? How can the working people buy automobiles? How can we get a sustained economic recovery going unless we bring interest rates down to a point where the average working man and woman can make the purchases that are necessary both to them and to develop a strong economic recovery?

Yes, Mr. President, I am greatly concerned about the Government's financial situation. I think it is the major problem facing the United States today. This country could experience a real sustained economic recovery if we could get the Government's finances straightened out, if we could control Government spending.

To give one other example before I close of what the Congress has done, Congress this year passed a budget resolution which puts into motion spending policies and programs that, in the period of 3 years and 5 months ending September 30, 1985—3 years from the end of this month—will increase the national debt by 44 percent—yes, 44 percent. Last April the debt was $1.069 trillion; the budget resolution projects a debt of $1.468 trillion; on September 30, 1985.

Incidentally, speaking of the national debt, many say, "Well, what difference does it make, we are not going to pay it anyway, so why worry about it?"

Of course, that is foolish; there are many reasons to worry about it. One reason is that the interest charges on the national debt—the interest cost of the national debt paid by the taxpayers—is $115 billion at the present time. Yes, $115 billion just to pay the interest costs on the national debt.

If one wants to put it another way, of every personal and corporate income tax dollar paid into the Federal Treasury, 36 cents of that dollar goes to pay the interest costs on the debt.

And yet the Congress this year, the Senate this year, has passed a budget resolution which will increase the national debt by 44 percent, $400 billion; during the period which will end 3 years from now; namely, September 30, 1985.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **PACKWOOD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate resumed consideration of H.J. Res. 520.

Mr. **PACKWOOD**. Mr. President, I would like to respond, if I might, just momentarily to my good friend from Virginia about whether or not we have had full debate on the pending Helms amendment. I very much appreciate his support today against cloture. I heard his statement that he will vote for it tomorrow. I do appreciate the fact that if we have to vote on the Helms amendment that he will vote against it.

But if he means if we have had full, open debate, Senator Helms and I confronting each other or trying to debate what his current amendment means, we have not.

In deference to the majority leader, he has endeavored to get that kind of debate. That is the reason we have been operating under a unanimous consent that no motions to table are in order so nobody has to worry about who has the floor.

Up until a few weeks ago, we assumed that we would be debating the so-called human life bill that had been introduced by Senator Helms and held at the desk. And that human life bill was an attempt not even obliquely to almost directly overturn the Supreme Court decision in Roe against Wade, which was the Supreme Court decision that legalized a woman's right to choose whether or not she wanted an abortion.

In the human life bill, the Senator from North Carolina (Mr. Helms) had language that reads as follows:

> The Congress finds that present day scientific evidence indicates a significant likelihood that actual human life exists from conception.
>
> The Congress further finds that the fourteenth amendment to the Constitution of the United States was intended to protect all human beings.
>
> Upon the basis of these findings, and in the exercise of the powers of the Congress, including its power under section 5 of the fourteenth amendment to the Constitution of the United States, the Congress hereby declares that for the purpose of enforcing the obligation of the States under the fourteenth amendment not to deprive persons of life without due process of law, human life shall be deemed to exist from conception, without regard to race, sex, age, health, defect, or condition of dependency; and for this purpose "person" shall include all human life as defined herein.

The 14th amendment reads as follows, and section 1 is critical:

> All persons—

And I emphasize "persons"—

> born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Now, that is section 1 of the 14th amendment.

It is clear that the amendment, over and over, refers to persons and starts out "All persons born or naturalized." It is clear that the drafters of that amendment understood what they meant by the term "persons."

The Supreme Court, in its decision of Roe against Wade, which legalized abortion, said that they did not have to decide, for the purposes of that decision, when life started. They freely admitted that philosophers, theologians, and jurists have dealt with that point for some time but, for the purposes of their decision, they did not have to decide it because the fetus, especially in the early months of pregnancy, was not a person within the definition of the 14th amendment.

Then they laid down their decision as to when a woman might make a choice as to whether or not she wanted an abortion.

Senator Helms, in order to overturn that decision, and I emphasize this, overturn it by statute—there was a constitutional decision. The Supreme Court vested the woman's right to make that decision for herself in the Constitution. The normal method of overturning constitutional decisions of the Court, if you do not like them, is by a constitutional amendment. And we have done that a number of times in our history.

Senator Helms preferred to attempt to overturn it by a statute, which, of course, requires only a majority vote in the House and Senate, rather than a constitutional amendment, which requires a two-thirds vote and then ratification by three-quarters of the States, which is a very difficult process. Hence, the human life bill was introduced.

There were hearings on it in the Senate Judiciary Committee and the bill was roundly attacked even by people who did not like the Supreme Court's decision on Roe against Wade, as being a back-door effort to reverse the Supreme Court by a statute. Senator Helms took a vote count, as best he could, on his amendment on this bill. I took a vote count. It was clear that if this particular amendment came to a vote, it would have lost by a fairly wide majority. He knew that; I knew that. Consequently, he has changed his tactic and now has a slightly different approach.

He now says, and these are the three qualifications:

> Scientific evidence demonstrates the life of each human being begins at conception.
>
> The Supreme Court of the United States in the case of Roe against Wade erred in not recognizing the humanity of the unborn child and the compelling interest of the sev-

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> eral States in protecting the life of each person before birth; and
>
> The Supreme Court of the United States in the case of Roe against Wade erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

Now, my fellow Senators, I do not know what that means. It is clear that is a change from his earlier human life bill where he attempted, by a bootstrap argument, to define life as beginning at conception and that all life was a person within the meaning of the 14th amendment and, therefore, entitled to the protection of the 14th amendment.

Does this new amendment, does this new bill of his mean the same thing? I think it does. And, indeed, the Senator from North Carolina, on one occasion, made a statement that he intended to accomplish the same thing with this new amendment.

But we have not had any debate on it. No chance to put and respond to questions because for 3 days—for 3 days—the Senator from North Carolina has indicated that he is prepared to vote on his amendment. But no one has had a chance to say, "Senator, is it different than the previous amendment, where the previous one was an effort to restrain the court or overturn by statute but this is an effort to expedite appeal from the Supreme Court, or are they one and the same thing in different language?"

Apparently, we are going to have no debate.

So we may be undertaking the reversal of the Supreme Court. We may be. I think we are, with this amendment, without ever having had a hearing on it, without a single person knowing for sure what it means, without any constitutional scholar ever coming and saying, "That is a dangerous way to go about overturning the Supreme Court."

I would like to have a debate. I am ready for a debate. I am here for a debate. But we have had none.

For those who want to terminate further discussion on this, who say that we have had an adequate debate and who will now vote for cloture to end debate, they may choose to do that, but they should not do it if they think we have had a meaningful debate on what the pending amendment means.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, this week, my colleagues are being called upon to cast many of the most important votes in the history of this body. The Senate must delay no longer in addressing the grievious situation created by the Supreme Court's Roe against Wade decision which has permitted the abortion of millions of unborn children over the years. Each moment that we delay results in the needless and unjustified deaths of countless innocent children. I submit that should the Senate choose not to act expeditiously to rectify this egregious situation, each of us is responsible for this unprecedented loss of human life.

I have searched my soul and decided that this issue will determine, as several others, what we are as a people. I do not consider it a religious issue. I consider it a human issue, perhaps one of the greatest civil rights issues of all time. The right to life deals with the most defenseless, voiceless, and vulnerable of all human beings—the unborn. The dimensions and significance of this issue are great. We have tolerated over 1 million abortions every year in this country. This is a staggering waste of human life.

It is time that we reflect on the significance of a legal system that permits the deaths of thousands each week. What kind of "justice" is this? As legislators, how can we stand idly by and witness such a tragic perversion of the most basic principles of human life—the right to life, liberty, and the pursuit of happiness? Mr. President, I simply ask that my colleagues responsibily weigh the grave consequences of their decisions and search their consciences for guidance.

I congratulate Senator Helms for his diligence in pressing for Senate consideration of this all-too-important issue. His dedication is to be commended.

Mr. President, there is virtually nothing in the Helms proposal that is either objectionable or controversial. While its purpose is twofold, its thrust is very basic and straightforward.

The proposed amendment incorporates the significant findings of numerous treaties, historical documents, international declarations, and Senate hearings regarding unborn children and the right to life. These findings are unanimous in that they affirm the fact that life begins at conception.

In accordance with these findings, the measure would get the Federal Government completely out of the business of abortion. Briefly, the proposal codifies the Hyde amendment restrictions on Federal funding of abortions, thereby eliminating the necessity of renewing these prohibitions annually through appropriations riders. Nearly all of these regulations and restrictions have been approved by the Congress in one form or another.

I hope that cloture can be invoked this week, so that we may move to the speedy adoption of the Helms amendment to this bill.

But to be quite frank, the measure before us is not my first choice as a vehicle for correcting the present situation nor is it my second choice. Unfortunately, this proposal will not sufficiently rectify the injustice created by the Supreme Court's Roe against Wade decision. My strong personal preference remains with the human life amendment approach, such as is embodied in my own amendment, Senate Joint Resolution 18; or the very similar amendment by Senator Garn which I have cosponsored, Senate Joint Resolution 17. Therefore, I must make clear that any statutory action which the Senate shall take on this matter shall not distract from my efforts to secure the constitutional guarantee of the right to life.

I hope that at some time during the consideration of this issue, the Senate could turn its attention to Senate Joint Resolution 110, the human life federalism amendment offered by my colleague from Utah, Senator Hatch. While Senate Joint Resolution 110 is not ideal, it could allow even greater protection of the right to life than the measure proposed by Senator Helms. On March 10, the Senate Judiciary Committee approved the human life federalism amendment by a vote of 10 to 7. I believe that the Members of this body should at least offer their constituents an indication of their support for this proposal by subjecting it to a straight up or down vote.

I yield the floor.

Mr. PACKWOOD. Mr. President, will the Senator from Iowa yield for a question?

Mr. GRASSLEY. I yield the floor, but I regret that I do not have time to yield for a question.

Mr. PACKWOOD. All right.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of unanimous-consent requests. Unless the Senator from Oregon, or another Senator, seeks recognition on the bill at this time, I am prepared to put us into a brief period for the transaction of routine morning business.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond the hour of 5 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

NCA, DOE BLAST PROPOSED ACID RAIN CONTROLS

Mr. FORD. Mr. President, as the Senate nears the possibility of debate on amendments to the Clean Air Act, I would like to point out that part of the bill, as reported by the Committee on Environment and Public Works, is based on inconclusive scientific evidence. As shown by testimony presented before a hearing recently held by the Committee on Energy and Natural Resources, the facts are just not all in on the phenomenon of acid precipitation.

The entire transcript of the August 22 hearing will be available to my colleagues by the end of this week so that they may see for themselves how disparate are the opinions of the scientific community and how premature it would be to impose an acid rain control strategy at this point. As a prelude to this, however, I ask unanimous consent to have printed in the RECORD two articles that highlight the scientific disagreement on the cause and effects of acid rain.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the National Coal Association News, Aug. 30, 1982]

NCA, DOE BLAST PROPOSED ACID RAIN CONTROLS

Jan W. Mares, the Energy Department's acting undersecretary, told the Senate Energy Committee August 22 that legislation pending before the Senate to reduce sulfur emissions from coal-fired power plants could cost consumers between $5 billion and $7 billion annually.

Mares said proposed acid rain controls are "especially disconcerting in light of the fact that major scientific uncertainties abound, and we have little understanding of the benefits, if any, that would result."

The plan, adopted by the Senate Environment Committee, would require utilities and industries in a 31-state region to reduce the amount of sulfur dioxide emitted from their smokestacks by 8 million tons annually by 1995.

According to Kaiser Aluminum & Chemical Corp., the impact of such an acid rain plan would have devastating economic impacts upon the aluminum industry, increasing the cost of aluminum from the company's Ravenswood plant by more than five cents per pound.

"Over the past several years Kaiser and the entire U.S. aluminum industry have been severely impacted by increasing energy costs," the company said in a statement. "Already there are serious questions about the viability of many aluminum smelters as they face increased competition from others with lower energy and labor costs. Five cents a pound clearly represents a competitive problem. It is more than 10 percent of the current selling price of aluminum ingot."

In other testimony, Professor Alan Gertler of the University of Nevada's Atmospheric Sciences Center and Richard Semonin of the Illinois State Water Survey said additional research is needed to develop the most efficient abatement strategies for combatting acid rain.

[From the Western Kentucky Coal Association News, September 1982]

COAL INDUSTRY UNITED IN OPPOSITION TO SENATE ACID RAIN CONTROL PLAN

The nation's coal industry-miners and mining companies—told members of the Senate last month that it "stands united in the strongest possible opposition" to the acid rain control program approved July 22 by the Senate Environment and Public Works Committee.

In a joint letter signed by the presidents of the United Mine Workers of America, the National Coal Association and the Mining and Reclamation Council of America, the industry spokesmen charged the measure would cost far more than the $3.9 billion annual cost projected by the Environment and Public Works Committee and may reach $8.5 billion per year when fully implemented.

Sam Church, Jr., president of the United Mine Workers of America, Carl E. Bagge, president of the National Coal Association, and Daniel R. Gerkin, president of the Mining and Reclamation Council of America, signed the joint letter.

The group charged that even at the committee's lower cost estimate, consumer electric bills in some areas of 31 midwestern and eastern states that fall under the new program would increase by 50 percent or more. The industry leaders also said nearly 90,000 coal mining jobs could be dislocated or lost along with an additional 225,000 associated jobs and $6.6 billion in annual wages.

The Environment Committee measure calls for a reduction of 50 percent in emissions from existing utility power plants by 1995. However, the coal industry letter says the committee failed to recognize the effects of its requirements that new power plants "offset" new emissions with further reductions at existing plants.

One coal company analysis found this requirement would increase the 8 million ton annual reduction projected by the committee to 12 million tons. Such a requirement would raise the total cost of the measure to $8.5 billion per year, the letter said.

While the "high economic and social costs" of the committee proposal are certain, the coal industry leaders said, there is "uncertainty that additional, new controls would bring about a change in the acidity of rainfall."

Also, they said, there is "astounding inequity" in the proposal. As an example, the industry leaders cited a comparison of the effects of the proposed program on two states—Kentucky and New York—which have nearly identical levels of total manmade sulfur dioxide emissions. Although New York is supposed to be the state suffering the greatest environmental effects from rainfall, it would only be required to reduce its sulfur dioxide emissions one fourth as much as Kentucky, they said.

This inequity exists because the impact of the committee's proposal falls predominantly on midwestern coal-fired power plants and not on other sources of sulfur dioxide emissions. Some scientists believe that local sources of emissions in New York and other Northeastern states play a far greater role in potential rainfall effects than do more distant emissions.

The committee's action was based on the false assumption that rainfall is rapidly becoming more acidic and that environmental damage is increasing and spreading, the industry leaders said.

"New reports from the U.S. Geological Survey and New York State's Department of Environmental Conservation call into question the premise that immediate action is required," the group said. "In the longest continuous monitoring program of rainfall quality, the U.S.G.S. found that rainfall in New York State has remained virtually unchanged since it began its studies in 1965. Also analysis of new data from New York State's lake monitoring program shows that in the last few years lakes have not become more acidic and in fact may be improving.

"Responsible researchers suggest that not enough is understood about this phenomenon and man's role in its formation to embark on yet another costly regulatory program-with results far from certain," the group said. They urged the Senate to reject "costly and premature proposals" to control acid rain and instead approve legislation to accelerate the existing federal acid rain research effort and establish a program to mitigate environmental effects in lakes and waters found to be more acid than normal.

Meanwhile, at the Kentucky Coal Conference in Lexington two weeks ago, Brad Cates, Director of the Intergovernmental Liaison Office of the Environmental Protection Agency, said "EPA must first determine if there is an acid deposition problem", and "The current effort by Congress to deal with the acid rain question is an excessive and premature response to a problem we know little about, although current studies should tell us much in a few years".

David Drake, Deputy Secretary of the Kentucky Department of Energy told the attendees at the conference that, "if the acid rain legislation passes in its current form, we will see a drastic increase in the use of Western coal, east of the Mississippi and a halt to the conversion of oil fired facilities to coal."

The legislation directs the Governors of the 31 states within the "acid deposition impact region" to negotiate their respective shares of the mandated 10 million ton reduction in sulfur dioxide emissions. If the Governors of three fourths of the 31 states reach agreement on how to allocate sulfur dioxide emission reductions, the agreement becomes binding and enforceable upon all 31 states. (Thus, the Governors of 24 states could agree that their states should affect the entire 8 million tons of reductions.) If the Governors fail to reach agreement within 18 months of the date of enactment a statutory formula is established to define each state's share of the 10 million ton reduction goal. The formula ranks the states by the extent to which all the actual utility emissions in a given state exceed 1.5 pounds of sulfur dioxide per million BTU heat input. (Under this formula, states with the highest sulfur dioxide emission rates have the greatest reduction burden; Indiana would have to reduce sulfur dioxide emissions by more than 70 percent, while Massachusetts would have to reduce sulfur dioxide emission by less than 10 percent.)

The 31 states are given 3½ years from the date of enactment to submit a plan to USEPA for achieving each state's respective share of the 10 million ton reduction requirement. If a state does not submit a plan within the time provided, or if the plan submitted has not been approved by USEPA within 6 months after its submission, then all major stationary source power plants in that state (except those subject to new source performance standards) must meet an emission limitation of 1.2 pounds of sulfur dioxide per million BTU heat input.

The sulfur dioxide emission reductions required by the amendment must be achieved

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"at the earliest practicable date," but not later than January 1, 1993, unless the control strategy consists of "an innovative system of continuous emission reduction or the replacement of existing facilities with new facilities of substantially lower emissions," in which event the deadline is January 1, 1995.

WKCA President Steve Jones has conveyed the concerns for this legislation and the result to the Western Kentucky Coal industry to U.S. Senators Ford and Huddleston, calling such a possibility, "the darkest day in the history of the Western Kentucky Coal industry". He questions ability of any legislative body to "legislate Western Kentucky out of the electric utility market", pointing out that the electric utility industry is the largest user of domestic coal.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 175

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the Eleventh Annual Report on the Administration of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) as required by the Act. This report was prepared in accordance with Section 211 of the Act and covers calendar year 1981.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1982.*

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 176

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 7104(e) of Title 5, United States Code, I hereby transmit the Third Annual Report of the Federal Labor Relations Authority which covers Fiscal Year 1981.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1982.*

ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT—PM 177

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of the National Foundation on the Arts and Humanities Act of 1965, as amended, I transmit herewith the Annual Report of the National Endowment for the Arts and the National Council on the Arts for the Fiscal Year 1981.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1982.*

ANNUAL REPORTS ON THE STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION—MESSAGE FROM THE PRESIDENT—PM 178

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of P.L. 94-317, the "National Consumer Health Information and Health Promotion Act of 1976," I hereby transmit the Fourth and Fifth Annual Reports on the Status of Health Information and Health Promotion. The fourth report is based on the period of June 1980 through June 1981 and reviews activities that occurred primarily before I took office, and the fifth report is based on activities during the period of June 1981 through June 1982.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1982.*

MESSAGES FROM THE HOUSE

At 11:26 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one its reading clerks, announced that the House has agreed to the amendment of the Senate to the following bill, with an amendment, in which it requests the concurrence of the Senate:

H.R. 5139. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5831. An act to amend the Consolidated Farm and Rural Development Act to provide lending limits for fiscal years 1983, 1984, and 1985.

At 3:19 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the following bill:

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6222. An act to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions;

H.R. 6384. An act to extend title XVII of the Public Health Service Act; and

H.R. 6422. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 405. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3517.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 6222. An act to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 6384. An act to extend title XVII of the Public Health Service Act; to the Committee on Labor and Human Resources.

H.R. 6422. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5831. An act to amend the Consolidated Farm and Rural Development Act to provide lending limits for fiscal years 1983, 1984, and 1985.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4215. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the Inactive Ship Maintenance function at the Naval Inactive Ship Detachment, Pearl Harbor, Hawaii to performance under contract; to the Committee on Armed Services.

EC-4216. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the Motor Vehicle Operations and Maintenance function at the Pacific Missile Test Center, Point Mugu, Calif., to performance under contract; to the Committee on Armed Services.

EC-4217. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the refuse collection and disposal function at Fort Sheridan, Ill., to performance under contract; to the Committee on Armed Services.

EC-4218. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the motor vehicles operations function at Fort Riley, Kans., to performance under contract; to the Committee on Armed Services.

EC-4219. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the maintenance function of the Directorate of Industrial Operations at Fort Riley, Kans., to performance under contract; to the Committee on Armed Services.

EC-4220. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to Egypt; to the Committee on Armed Services.

EC-4221. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to Korea; to the Committee on Armed Services.

EC-4222. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military assistance sale to France; to the Committee on Armed Services.

EC-4223. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a report on an extension and guarantee of credit by the Export-Import Bank to the People's Republic of China in connection with its purchase of steelmaking equipment and related services; to the Committee on Banking, Housing, and Urban Affairs.

EC-4224. A communication from the Chairman of the Federal Financial Institutions Examination Council transmitting, pursuant to law, a report entitled "Section 340 Fair Housing Lending Study"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4225. A communication from the Assistant Secretary of State for Congressional Relations transmitting a draft of proposed legislation to implement the Convention for the Conservation of Salmon in the North Atlantic Ocean; to the Committee on Commerce, Science, and Transportation.

EC-4226. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the status of the public ports of the United States; to the Committee on Commerce, Science, and Transportation.

EC-4227. A communication from the Secretary of Energy transmitting, pursuant to law, the 1982 third quarter report on biomass energy and alcohol fuels; to the Committee on Energy and Natural Resources.

EC-4228. A communication form the Secretary of the Interior transmitting, pursuant to law, notice of an oil and gas leasing sale, Diapir Field, Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC-4229. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Repeal of Unneeded Outer Continental Shelf Production Rate-Setting Functions Would Cut Costs"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S.J. Res. 97: A joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 174: A joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 234: A joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 235: A joint resolution to proclaim March 21, 1983, as "National Agriculture Day."

S.J. Res. 238: A joint resolution to designate October 9, 1982, as "National Running and Fitness Day."

S.J. Res. 239: A joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day."

S.J. Res. 241: A joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Edward R. Camacho, of Guam, to be U.S. marshal for the district of Guam for a term of 4 years;

Max E. Wilson, of North Carolina, to be U.S. marshal for the western district of North Carolina for the term of 4 years; and

Herbert M. Rutherford III, of New Jersey, to be U.S. marshal for the eastern district of Virginia for the term of 4 years.

By Mr. TOWER, from the Committee on Armed Services:

Andrew E. Gibson, of New Jersey, to be a member of the Board of the Panama Canal Commission; and

William W. Watkin, Jr., of New Jersey, to be a member of the Board of the Panama Canal Commission.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. William E. Brown, Jr., U.S. Air Force, to be lieutenant general, and Col. Diann A. Hale and Col. Arthur J. Sachsel, U.S. Air Force, to be brigadier general. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force there are 472 appointments to the grades and dates of rank to be determined by the Secretary of the Air Force—list begins with James E. Albin—in the Air Force there are 8 appointments to the grades and dates of rank to be determined by the Secretary of the Air Force—list begins with David S. Bowles—in the Air Force there are 21 permanent promotions to the grade of lieutenant colonel and below—list begins with David S. Bowles—in the Air Force there are 3,829 permanent promotions to the grade of major—list begins with Gregory J. Aaron—and in the Marine Corps Reserve there are 199 permanent appointments to the grade of lieutenant colonel—list begins with James C. Adamson. Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the Record of September 8, 1982, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. Biden, Mr. Specter, Mr. Cochran, Mr. DeConcini, Mr. Dole, Mr. East, Mr. Grassley, Mr. Hatch, Mr. Heflin, Mr. Laxalt, Mr. Long, Mr. Nunn, Mr. Pressler, Mr. Quayle, Mr. Simpson, Mr. Symms, Mr. Zorin-

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SKY, Mr. ROBERT C. BYRD, Mr. CHILES, Mr. HELMS, Mr. WARNER, Mr. BAKER, Mr. HOLLINGS, Mr. HUMPHREY, AND Mr. HUDDLESTON):

S. 2902. A bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes; read twice and ordered placed on the calendar.

By Mr. THURMOND (by request):

S. 2903. A bill to reform the use of the insanity defense in federal criminal cases, to ensure the admissibility of evidence when obtained by law enforcement authorities acting in good faith, and to define circumstances justifying federal intervention in State criminal proceedings; read twice and ordered placed on the calendar.

By Mr. ROBERT C. BYRD (for Mr. METZENBAUM (for himself, Mr. ROBERT C. BYRD, Mr. DIXON, Mr. HEINZ, Mr. KENNEDY, Mr. MATHIAS, Mr. RIEGLE, Mr. DURENBERGER, Mr. LEVIN, Mr. EAGLETON, Mr. SARBANES, Mr. DECONCINI, Mr. CANNON, and Mr. SASSER)):

S. 2904. A bill to make more equitable certain provisions relating to unemployment compensation; read twice and ordered placed on the calendar.

By Mr. STEVENS:

S. 2905. A bill to amend title 5, United States Code, to establish a new retirement and disability system for Federal employees and Members of Congress while protecting the right of participants in the retirement and disability system under subchapter III of chapter 83 of such title to receive benefits under such subchapter, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUMPHREY:

S. 2906. A bill to amend the Strategic and Critical Materials Stock Piling Act to provide that the National Defense Stockpile Transaction Fund shall be an off-budget activity, and for other purposes; to the Committee on Armed Services.

By Mr. HAYAKAWA:

S. 2907. A bill for the relief of Hisato Diozake; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for Mr. KENNEDY (for himself, Mr. ROBERT C. BYRD, Mr. RANDOLPH, Mr. METZENBAUM, and Mr. RIEGEL)):

S.J. Res. 245. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982; read twice and ordered placed on the calendar.

By Mr. LONG (for himself, Mr. JOHNSTON and Mr. MOYNIHAN):

S.J. Res. 246. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BENTSEN (for himself and Mr. DANFORTH):

S. Res. 462. Resolution to express the sense of the Senate concerning consultations with the Government of Japan on exports of agricultural products from the United States to Japan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. BAKER, Mr. ROBERT C. BYRD, Mr. SPECTER, Mr. COCHRAN, Mr. DECONCINI, Mr. DOLE, Mr. EAST, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. LAXALT, Mr. LONG, Mr. NUNN, Mr. PRESSLER, Mr. QUAYLE, Mr. SIMPSON, Mr. SYMMS, Mr. ZORINSKY, Mr. CHILES, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, and Mr. HUDDLESTON):

S. 2902. A bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes; read twice and placed on the calendar by unanimous consent.

(The remarks of Mr. THURMOND on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. THURMOND (by request):

S. 2903. A bill to reform the use of the insanity defense in Federal criminal cases, to insure the admissibility of evidence when obtained by law enforcement authorities acting in good faith, and to define circumstances justifying Federal intervention in State criminal proceedings; read twice and placed on the calendar by unanimous consent.

(The text of the legislation appears earlier in today's RECORD.)

By Mr. ROBERT C. BYRD (for Mr. METZENBAUM) (for himself, Mr. ROBERT C. BYRD, Mr. DIXON, Mr. HEINZ, Mr. KENNEDY, Mr. MATHIAS, Mr. RIEGLE, Mr. DURENBERGER, Mr. LEVIN, Mr. EAGLETON, Mr. SARBANES, Mr. DECONCINI, Mr. CANNON, and Mr. SASSER):

S. 2904. A bill to make more equitable certain provisions relating to unemployment compensation; read twice and placed on the calendar by unanimous consent.

● Mr. LEVIN. Mr. President, I would like to express my support for the legislation which Senator METZENBAUM has introduced today with respect to unemployment compensation. This legislation is urgently needed.

First, it will suspend until the national unemployment rate goes below 8.7 percent the illogical change which was made in last year's reconciliation bill with respect to the calculation of the insured unemployment rate (IUR). The insured unemployment rate is different from the nominal unemployment rate, which is the number normally cited in the press, and has traditionally been about 3 percent lower than the nominal rate. The IUR is the percentage of workers covered by a State's unemployment compensation program who are currently receiving State benefits. The IUR is used in determining whether a State is eligible for the extended benefits program for weeks 27 through 39, which is funded half by the State and half by the Federal Government.

As part of last year's reconciliation bill, the formula by which the IUR is determined was changed so that people who are receiving extended benefits are no longer included in the IUR. In other words, people who have received unemployment benefits for more than 26 weeks are no longer considered unemployed individuals. I object to this formula and agree that it should be suspended for three reasons.

First, it is illogical to me to have two individuals—one unemployed for 24 weeks and the other unemployed for 30 weeks—and to treat one as unemployed for the purpose of the IUR calculation and the other one as if he were employed. Both are without jobs. Both should be included in the insured unemployment rate. This illogic is compounded by the fact that the person who has been unemployed longer is probably more in need of assistance. What last year's reconciliation bill seemed to be saying was that if a State has been in a severe recession for a long period of time, and if a large percentage of the unemployed still cannot find work after 26 weeks, then the State's economic situation is improving as indicated by its falling IUR. This is spite of the fact that the State's nominal unemployment rate may continue to stay at record high levels.

Second, I have seen firsthand the practical effect of this illogic. As a result of this change, Michigan was knocked off of extended benefits last November and did not become eligible again until March of this year. All during that time, Michigan had the highest unemployment rate in the Nation.

Third, excluding the extended benefits recipients from the IUR calculation has made Swiss cheese out of the validity of the IUR as an accurate barometer of unemployment. For example, in my State of Michigan the nominal unemployment rate has hovered in the 14- to 15-percent range for the past few months, but the insured unemployment has dropped by 3 percentage points. The unemployment figures in Michigan for August add to the discredit of the IUR calculation because unemployment increased from 14.4 to 15.2 percent at the same time the IUR continued to drop.

The second part of the legislation which Senator METZENBAUM has introduced today will suspend the change in the level at which a State triggers on the extended benefits, thereby keeping it at a 5-percent IUR. This change to 6 percent was also part of last year's reconciliation bill, but is not scheduled to take effect until weeks beginning after September 25 of this year. Although having the IUR calculation revert back to the way it was prior to last year's reconciliation bill would be sufficient for Michigan to qualify for extended benefits after this September, other States which are currently experiencing high levels of unemployment would require keeping the IUR trigger at 5 percent as well in order to qualify for extended benefits. The result of not suspending last year's reconciliation changes with respect to both the IUR calculation and the trigger level would be to leave some States with historically high unemployment rates, but being ineligible for extended benefits.

The third part of this legislation would be to link the duration of the recently passed Federal supplemental benefits program to a specified rate of unemployment instead of the date of March 31. There has been more than a little speculation that the March 31 date was chosen as the time to end the FSB program because it was far enough beyond the election to avoid the most obvious appearances of its being politically motivated. However, it makes much more sense to key it to a rate of unemployment. The Metzenbaum legislation would terminate the FSB program when unemployment went below 8.7 percent.

By historical standards, this is a high threshold for an FSB program. In the 1970's a similar program was instituted twice, in 1971 and in 1974. In 1971, the unemployment rate was 5.5 percent, in 1974, it was 7.2 percent, now it is 9.8 percent. However, in the interest of "going the extra mile," as the President is fond of saying, this bill sets an 8.7-percent trigger, which is what the administration is projecting the unemployment rate to be by March 31 of next year. If the administration's forecast is correct, the FSB program would trigger off on schedule. If the administration's forecast is overly optimistic, then the need for the FSB program would still exist and the program should continue.

A final point. The three aspects of this bill should be considered as an integral package. If the changes are not made with respect to the IUR and the trigger level for extended benefits, then the FSB program will be a pale shadow of its predecessors. In that event, it will not provide unemployment compensation coverage on top of the 39 week State and extended benefits programs but rather for most States only add coverage on top of the first 26 weeks because so few States will be eligible for weeks 27 through 39 under the normal extended benefits program.

I am, therefore, pleased to be a cosponsor of this legislation and will work for its passage.●

Mr. DIXON. Mr. President, today, I join my colleagues in cosponsoring what I hope will be the answer to the unemployment compensation difficulties that we still face.

On August 5, Senator Metzenbaum and I, along with many other Senators, offered a sense of the Senate resolution which passed the Senate by an overwhelming vote of 84 to 13. That measure instructed the conferees on the tax bill to take action on two issues.

First, to establish a Federal supplemental benefits program of not less than 10 weeks or more than 13 weeks which would be available to workers who have exhausted their rights to any extended unemployment compensation benefits.

Second, to assure the continued eligibility of States who are currently eligible, or who were eligible for the extended benefits program on June 1, 1982.

The conferees, in fact, have addressed only a portion of that instruction, and have failed to address the most substantive part of our resolution, that being the extended benefits program.

The FSB program was never meant to supercede the extended benefits program, but rather to augment it. We had a strong majority in this body who, by their votes on August 5, agreed that this should be the case. And yet, I respectfully point out that the conferees failed to address these issues.

I appreciate the conscientious manner in which the distinguished chairman of the Finance Committee tried to address this issue. However, because the conferees failed to meet this challenge, the bill we offer today is still necessary.

This bill is a constructive approach to the basic problem that many States are facing—that being the changes in the calculation of the insured unemployment rate, or IUR, which qualifies a State for the extended benefits program.

Until last year, those individuals who were receiving extended benefits as well as those who were receiving the first 26 weeks of regular benefits, were counted in the calculation of the insured unemployment rate. Changes made in last year's omnibus budget reconciliation eliminate those on extended benefits in that calculation.

As a result, States with high total unemployment rates, such as Illinois with 11.8 percent, and who have had long periods of unemployment, are in a position where the insured rate is falling while the total unemployment rate is rising. The reason for this incongruity is that many who have exhausted benefits and are no longer included in the system, as well as those who are still on extended benefits, are not being counted.

It makes absolutely no sense whatsoever for a State that has the third highest level of unemployment among this Nation's 10 largest States, to be ineligible for the maximum benefits allowable.

Our bill would include those receiving extended benefits in the calculation of the insured unemployment rate until such time as the national unemployment rate falls below 8.7 percent. That percentage is the administration's projection for March 31, 1982.

Another change which was made in reconciliation last year was to increase the trigger rates by 1 percent on September 26. Understanding the calculation change that was made, this further exacerbates the problem.

In addition to the August 5 amendment, on August 3 I joined Senator Heinz and many others on a letter to the distinguished chairman of the Finance Committee, Bob Dole, urging the conferees to change the trigger mechanism. On August 12, Senator Heinz and I sent another letter explaining the problem, and again urging the conferees to address it.

Mr. President, our bill does address the root of this problem by temporarily repealing the increased trigger provisions until the national unemployment rate falls below 8.7 percent.

The third provision of our bill would enact the conference committee language with respect to the FSB program, changing it only in terms of the period in which it would be in effect. The conferees made the effective dates from September 12 through March 31. We would change that to end when the national level of unemployment falls below 8.7 percent—the administration's own figure for March 31, 1983.

It must be understood that each of these provisions is an integral part of the unemployment compensation system.

If only one part of these provisions is enacted, namely, the FSB program, it is quite possible that individuals would receive fewer weeks of benefits than they do now.

In any event, if we do not further address the extended benefits question, what is likely to happen in the States that soon trigger off the program is simple:

Individuals now on extended benefits will receive 10 more weeks of benefits. That is all. If we do not address the extended benefits questions, all benefits for those currently in the system will run out November 20.

As the FSB program was first conceived, it would add to the first 26 weeks of regular benefits and the additional 13 weeks of extended benefits,

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making a total program maximum of 52 weeks. In those States who have no extended benefits program, or who will trigger off, the maximum would be 36 weeks under the conference report language.

I urge my colleagues to support this bill. The Congressional Budget Office indicates that the costs associated with it are $529 million—a cost we must endure if we are to meet the needs of people who depend on this temporary assistance for their very survival.

This is responsible, responsive legislation. We cannot justify doing anything less.

By Mr. STEVENS:

S. 2905. A bill to amend title 5, United States Code, to establish a new retirement and disability system for Federal employees and Members of Congress while protecting the right of participants in the retirement and disability system under subchapter III of chapter 83 of such title to receive benefits under such subchapter, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE PENSION REFORM ACT OF 1982

Mr. STEVENS. Mr. President, I am introducing the Civil Service Pension Reform Act of 1982, today, in order to circulate it to all parties. I plan to reintroduce it next year for more serious consideration, but I want my friends in the Federal work force to have it now to review. I hope they will think seriously about this proposal. Its structure would protect participants from further attacks. This bill is just a starting point, but we must start now before it is too late.

Retirement spells drastic changes for individuals and families. Prior to retirement, an employee makes a variety of decisions affecting his future. The most important questions are what will he do; when will he retire; and how much income will be needed to meet the needs of himself and his family.

Unlike 25 years ago, today an employer must offer a retirement plan to attract quality employees. A good retirement plan offers to resolve in part the questions of a reasonable retirement age and a sufficient income level. To determine these and other specifics, an employer must consider a number of factors, such as:

First, what can be profitably offered?

Second, what benefits are competitive with counterpart businessess?

Third, how much employee turnover is desirable?

Fourth, what age range is necessary or desirable for the type of work involved?

Fifth, what requirements must be met under the Employee Retirement Income Security Act of 1974?

The Federal Government as an employer, however, is faced with a different set of circumstances. The Government's provision of a secure retirement for its employees is counterbalanced by its responsiveness to the taxpayers. While employee benefits in a business are constrained by the profit margin, similar benefits in Government employment are constrained by the public's willingness to pay. The Government has a responsibility to both groups to provide a good yet affordable retirement plan. The current civil service retirement system (CSRS) is clearly lacking in both respects. It is an expensive plan which rewards a few at the expense of many.

The Congressional Budget Office reports that annual outlays of CSRS are $17.3 billion and will rise to $30.1 billion in 1986. Total retirement costs constitute 36.5 percent of payroll, of which 29.5 percent are Government costs. This is to be compared to typical private sector plan costs of 22.7 percent. Yet, these high costs reflect benefit payments to a relatively small group of people. Studies show that approximately 25 percent of new Federal hires remain in the Government until retirement. The remaining 75 percent either withdraw their contributions upon resignation with no interest accrual or they remain vested in the system to receive a marginally smaller retirement benefit upon reaching retirement age. Hence, the exorbitant costs of the current system result from the relatively few who take advantage of it.

I am convinced that the cost of the system can be significantly reduced while redistributing the benefits to profit the most. In order to do this in the most equitable manner, I am introducing a bill to establish a new retirement system to mandatorily cover all Federal employees hired after the date of enactment of this legislation with the option to current Federal employees to elect coverage under this new system. This legislation, the Civil Service Pension Reform Act of 1982, will dramatically change the pension system for Federal workers.

It includes social security coverage for all new Federal workers. Social security will be the foundation for the rest of the system. It will make the system comparable to pension plans in the private sector. The public will no longer have reason to single out Federal workers as ones insulated from their concerns. All will be treated equally here. Yet, even to the Federal worker, the benefits of social security coverage far outweigh the liabilities.

The basic pension plan will be a defined contribution plan, requiring Government contributions only, eventually to be invested in the private sector. One's retirement will depend upon the accumulations of his contributions plus its investment earnings. Private investment provides a variety of heretofore unavailable options. Individual employees will now participate in investment decisions. When an employee feels his account is sufficiently large to support him, he can leave at any time.

Most Federal workers will actually benefit from this new system. Actuarial estimates reveal that employees at all income levels who work a full career—age 65 with 40 years of service—will receive greater net replacement of their income—after taxes—than under the current system. The new system will provide employees with portability between the Federal and private sector, nonexistent now. An employee may leave after 5 years, taking with him his accumulated earnings and his social security credit. This option heralds a new flexibility for Federal employees. Retirement benefits will no longer direct the decisions for midcareer Federal employees who are considering other career alternatives. The retirement plan will continue to reward full career Federal employees while freeing part-career employees to move in and out of the non-Federal sector.

In addition, unfunded liabilities and spiraling Government costs will be problems of the past. The system will be fully funded. The Government's costs will be fixed. This system also achieves substantial cost savings over the current system. The new system reduces the cost of Federal retirement to the Government and thus to the taxpayer by 20 percent. These savings are achieved primarily from two places. First, coverage by social security precludes the generation of windfall benefits to those who work in covered employment for short spans. Second, those who take advantage of the current system by retiring with minimum age and service eligibility will no longer receive benefits commensurate with the current arrangement.

Admittedly, the concepts contained in the legislation are somewhat revolutionary vis-a-vis the current system. However, such retirement plans are fairly common in the private sector. The structure, the costs, and the benefits are comparable to many good private sector retirement plans. The following describes the bill's general provisions:

First, the proposal mandatorily covers all Federal and postal employees hired after the date of enactment.

Second, there is an option for current workers to elect coverage in the new system.

Third, the Government will buy an employee's current retirement credit for the employee who elects coverage in the new system. The new amount will be placed in the employee's account in the new system. The employee will have two options:

Option one, the worker's current retirement contributions will be matched by the Government with the total increased by a 5-percent interest factor compounded for the number of years of service, or

Option two, the worker will be entitled to the present value of his accumulated benefits adjusted by a 6-percent inflation factor.

The following table illustrates the amounts involved for an employee who entered Government service at age 25 with a starting salary of $10,000 and received annual pay increases of 6-percent. Option A is based on a 5-percent interest rate. Option B is based on a 6-percent discount rate and an assumed 6-percent inflation rate.

At age	Option A	Option B
30	$9,104	$4,421
35	23,806	17,219
40	46,692	50,135
45	81,424	125,279

Fourth, the first tier of the new system will be social security. Federal employees will pay the same social security taxes as covered employees and will receive the same benefits. The Government will pay the employer tax and pay its portion into the social security trust fund.

Fifth, the second tier will be a defined contribution plan. The Government will contribute to an employee's account 9 percent of the first $20,000 (adjusted annually) and 16 percent of every dollar thereafter. This is a Government contribution plan only.

Sixth, the third tier will be a voluntary thrift plan. The employee may contribute any amount he wishes. The Government will match 100 percent of the employee's contribution up to 3 percent of salary. In other words, if the employee contributes 6 percent, the Government will contribute 3 percent; if the employee contributes 2 percent, the Government will contribute 2 percent.

Seventh, an employee will vest in the new system after 5 years of participation. This includes newly-hired employees and current employees who transfer to the new system. After 5 years of participation, an employee may leave Government with the entire amount in his retirement account. This includes Government contributions plus interest. Alternatively, he can draw an actuarily-adjusted annuity or he may defer drawing on the account until later in life. In such a case, the account would continue to accrue interest. Survivors will receive a social security benefit supplemented by the accumulated earnings in the employee's or annuitant's account.

Eighth, the new system will contain a new pension fund. All Government contributions to an employee's account in the fund will be invested in special issues of the Treasury for the employee's first 5 years of participation. The employee's contributions to the thrift plan will be available for private sector investment beginning the second year. After an employee's 5th year of participation, all new Government contributions will be available for private investment. During the first several years of the new system, however, Government contributions to an employee's account after the 5th year of participation will be phased into private investment.

Ninth, there is established an 11-person Federal Pension Board composed of the Secretaries of Treasury, Commerce, and Labor, the Chairman of the Federal Reserve Board, six appointments by the President (nominated to him by employee organizations), and an executive director appointed by the President with the advice and consent of the Senate. All board members will be subject to the fiduciary responsibilities spelled out in ERISA. The Board will generally oversee investments of the fund. The Board will also establish a variety of investment options to which employees may direct their investments. Employees shall receive annual statements showing their current accounts and providing them with an opportunity to choose investments. The presiding member of the Board, one of the President's appointments, will be the Executive Director. The Director will implement the investments, contract with private investment firms, and perform general administrative functions.

Tenth, a new sick leave and disability system is established. Each employee will be granted seven days of non-accumulating annual sick leave. Illnesses or injuries necessitating longer leave will trigger short-term accident and illness insurance. Such insurance will be preceded by a short waiting period and application for such payment must be accompanied by medical documentation. Depending upon one's length of service and the duration of his absence, an employee will receive 100 percent, 80 percent, and 60 percent of his gross pay.

If the absence will extend beyond 6 months, the employee may apply for long-term disability. If he qualifies for disability under social security, he will be guaranteed 60 percent of his gross pay until restoration or death. If he does not qualify for social security, he will remain covered for 20 years. After 2 years, he must take a fitness for duty examination or be dropped from the rolls. If he is considered capable of performing any Federal job, he must be appointed to a position. If he refuses the position, all disability payments cease. If he is not able to perform any Federal job but is still not eligible for social security, he will receive 40 percent of his gross pay until restoration or death.

Eleven, the unfunded liability of the current system is amortized over a 40-year period by payments from the General Treasury. All agencies will pay the full cost of the employees remaining in the current system.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2905

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Pension Reform Act of 1982".

PURPOSES

SEC. 2. The purposes of this Act are—

(1) to provide Federal employees with a retirement benefits plan which is comparable to good private sector retirement benefits plans;

(2) to promote financial stability and flexibility for the future of each Federal employee;

(3) to ensure a fully funded and financially sound Federal Government retirement benefits plan;

(4) to guarantee the right of each Federal employee participating in the Federal employees' retirement system established before the date of enactment of this Act to receive the retirement benefits that are available to such employees under such system on the date of enactment of this Act;

(5) to establish a new Federal employees' retirement system that guarantees the right of each Federal employee to receive the cash value of property purchased for the benefit of the employee;

(6) to enhance portability of retirement assets between Federal jobs and jobs outside the Federal Government;

(7) to increase the options of each Federal employee with respect to retirement benefits plans;

(8) to encourage Federal employees to increase personal savings;

(9) to include Federal employees in the investment decisionmaking process with respect to the assets of the Federal employees' retirement system; and

(10) to extend financial protection from disability to additional Federal employees and to increase such protection for eligible Federal employees.

TITLE I—CIVIL SERVICE PENSION SYSTEM

ESTABLISHMENT

SEC. 101. (a) Title 5, United States Code, is amended by inserting after chapter 83 the following new chapter:

"CHAPTER 84—CIVIL SERVICE PENSION SYSTEM

"SUBCHAPTER I—DEFINITIONS

"Sec.
"8401. Definitions.

"SUBCHAPTER II—CIVIL SERVICE PENSION SYSTEM

"8411. Civil Service Pension System; participation.
"8412. Defined contribution plan.
"8413. Thrift savings plan.
"8414. Annuity: vesting; payment method; amount.
"8415. Deferred retirement; withdrawal in lieu of annuity.
"8416. Death benefits.
"8417. Civil Service Pension Fund.
"8418. Investment of the Fund.

"8419. Administrative provisions.
"8420. Transition provisions.
"8421. Payment of benefits; commencement, termination, and waiver of annuity.
"8422. Audit.

"SUBCHAPTER III—ILLNESS AND ACCIDENT INSURANCE BENEFITS: DISABILITY COMPENSATION

"8451. Definitions.
"8452. Illness and accident insurance benefits.
"8453. Short term disability compensation.
"8454. Long term disability compensation.
"8455. General provisions.

"SUBCHAPTER IV—CIVIL SERVICE PENSION BOARD

"8491. Establishment of Civil Service Pension Board.
"8492. Functions.
"8493. Powers and administrative provisions.
"8494. Fiduciary responsibilities.

"SUBCHAPTER I—DEFINITIONS

"§ 8401. Definitions

"For the purposes of this chapter—

"(1) the term 'employee' has the same meaning as provided by section 8331(1) of this title;

"(2) the term 'Member' has the same meaning as provided by section 2106 of this title;

"(3) the term 'participant' means an employee or Member for the benefit of whom contributions are made under section 8412 of this title;

"(4) the term 'basic pay', when used with respect to an employee or a participant—

"(A) means the lesser of—

"(i) the basic pay of the employee or participant established pursuant to law; or

"(ii) the rate of basic pay payable for level I of the Executive Schedule,

without regard to any provision of law limiting the amount of pay actually payable in any fiscal year, including any provision of law restricting the use of appropriated funds; and

"(B) includes the items described in section 8331(3) of this title;

"(5) the term 'System' means the Civil Service Pension System described in section 8411 of this title;

"(6) the term 'Fund' means the Civil Service Pension Fund established by section 8417 of this title;

"(7) the term 'account' means an account established and maintained under section 8419(a) of this title;

"(8) the term 'Office' means the Office of Personnel Management;

"(9) the term 'Director' means the Director of the Office of Personnel Management;

"(10) the term 'Board' means the Civil Service Pension Board established by section 8491 of this title;

"(11) the term 'Executive Director' means the Executive Director of the Board;

"(12) the term 'Civil Service Retirement and Disability Fund' means the Civil Service Retirement and Disability Fund described in section 8348 of this title;

"(13) the term 'Government' has the same meaning as provided by section 8331(7) of this title;

"(14) the term 'lump-sum credit' has the same meaning as provided by section 8331(8) of this title;

"(15) the term 'annuitant' means a former participant who is entitled to an annuity under this chapter and who has applied to the Board to begin the payment of the annuity;

"(16) the term 'price index' has the same meaning as provided by section 8331(15) of this title;

"(17) the term 'normal cost' has the same meaning as provided by section 8331(17) of this title;

"(18) the term 'public investment' means any asset acquired by the investment of sums in the Fund under section 8418(a)(1) of this title;

"(19) the term 'private investment' means any asset acquired by the investment of sums in the Fund under section 8418(a)(2);

"(20) the term 'earning' means the amount of the gain realized or yield received from the investment of sums in the Fund;

"(21) the term 'loss' means the amount of the loss realized from the investment of sums in the Fund;

"(22) the term 'net earnings' means the excess of earnings over losses;

"(23) the term 'net losses' means the excess of losses over earnings; and

"(24) the term 'labor organization' has the same meaning as provided by section 7103(a)(4) of this title.

"SUBCHAPTER II—CIVIL SERVICE PENSION SYSTEM

"§ 8411. Civil Service Pension System; participation

"(a) The provisions of this chapter comprise the Civil Service Pension System.

"(b)(1) Except as provided in paragraph (2) of this subsection, each employee commencing employment or reemployment by the Government on or after the effective date of this subchapter, and each Member taking office on or after such date for the first time or after a break in service, shall be a participant in the System.

"(2) Paragraph (1) of this subsection shall not apply to any employee by reason of a break in service if the employee—

"(A) is involuntarily separated from employment by the Government while subject to the provisions of subchapter III of chapter 83 of this title; and

"(B) is reemployed by the Government not later than three years after the date on which the employee was involuntarily separated from such employment.

"(c) Except as otherwise provided in this subchapter, the benefits payable under the System are in addition to the benefits payable under the Social Security Act.

"§ 8412. Defined contribution plan

"(a)(1) The employing agency of a participant shall deposit to the Fund for the benefit of the participant at the end of each pay period of the participant a portion of the annual contribution calculated under paragraph (2). The amount of the contribution deposited under this paragraph at the end of any pay period shall be equal to the product of such annual contribution and the fraction the numerator of which is the gross pay payable to the participant for such pay period and the denominator of which is the annual rate of basic pay of the participant.

"(2)(A) The annual contribution for the benefit of a participant in any fiscal year is the amount that is equal to the sum of—

"(i) 9 percent of the annual rate of basic pay of the participant not exceeding the reference amount; and

"(ii) 16 percent of the excess of the annual rate of basic pay of the participant over the reference amount.

"(B) For the purpose of subparagraph (A) of this paragraph, the reference amount is $20,000 as increased pursuant to this subparagraph. Each time, after the effective date of this chapter, that the rates of pay under the General Schedule are increased under section 5305 of this title, the reference amount shall be deemed to be increased by an amount (rounded to the nearest multiple of $100 or, if the amount is $50 less than a multiple of $100, to the next higher multiple of $100) determined by multiplying the overall average percentage increase in such rates of pay by the reference amount before the increase. Any increase in the reference amount shall take effect at the beginning of the first applicable pay period commencing on or after the first day of the month in which the increase in such rates of pay takes effect.

"(b)(1) In the case of any participant who served on active duty as a member of the uniformed services and who is commencing employment by the Government or taking office for the first time, each Secretary of a military department in which the participant served as a member of the uniformed services and each Secretary of an executive department (other than the Department of Defense) in which the participant served as a member of the uniformed services shall, on the date the participant becomes a participant, deposit in the Fund for the benefit of such participant an amount for each year and fraction of a year of such participant's service on active duty in the department of such Secretary as a member of the uniformed services. The amount deposited under this paragraph for any year or fraction of a year shall be calculated as provided in subsection (a)(2)(A) of this section, except as provided in paragraph (2) of this subsection, based on the annual rate of basic pay payable to such participant in such year and the reference amount in effect in such year under paragraph (2) of this subsection.

"(2) For the purposes of the second sentence of paragraph (1) of this subsection, the reference amount applicable with respect to any period of service in the uniformed services before the effective date of this chapter is $20,000 and the reference amount applicable with respect to any period of service in the uniformed services after the effective date of this chapter is $20,000 as increased pursuant to the second sentence of this paragraph. Each time, after the effective date of this chapter, that the rates of basic pay of members of the uniformed services are increased under section 1009 of title 37, the reference amount shall be deemed to be increased by an amount (rounded to the nearest multiple of $100 or, if the amount is $50 less than a multiple of $100, to the next higher multiple of $100) determined by multiplying the overall average percentage increase in such rates of basic pay by the reference amount before such increase. Any increase in the reference amount shall be considered to have taken effect at the beginning of the first applicable pay period commencing on or after the first day of the month in which the increase in such rates of pay took effect.

"(3) Paragraph (1) of this subsection shall not apply in the case of any participant who is awarded retired pay by reason of service in the uniformed services unless the retired pay is awarded—

"(A) by reason of a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war; or

"(B) under chapter 67 of title 10.

"(c)(1) The sums required to be contributed by an employing agency under subsection (a) of this section for the benefit of a participant shall be paid from the appropriations or funds available to such agency to pay the basic pay of the participant or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the office or establishment. In the case of a participant in the legislative branch who is paid by the Clerk of the House of Representatives, contributions for the benefit of such participant shall be paid from the contingent fund of the House of Representatives.

"(2) The sums required to be contributed by the Secretary of an executive department or the Secretary of a military department under subsection (b) of this section shall be paid from the appropriations or funds available to such Secretary to pay the basic pay of members of the uniformed services under such Secretary.

"(d) For the purposes of this section—

"(1) the term 'uniformed services' shall have the same meaning as provided in section 101(3) of title 37;

"(2) the term 'military department' means any of the military departments as defined in section 101(7) of title 10;

"(3) the term 'service-connected' shall have the same meaning as provided in section 101(16) of title 38; and

"(4) the term 'period of war' shall have the same meaning as provided in section 301(2) of title 38.

"§ 8413. Thrift savings plan

"(a) Each participant may contribute to the Fund in any fiscal year any amount not exceeding 16 percent of the participant's annual rate of basic pay. Any contribution under this subsection shall be pursuant to a program of regular contributions to be made at the end of each pay period of the participant under such regulations as the Board shall prescribe.

"(b) Subject to the third sentence of this subsection, the employing agency of a participant who contributes to the Fund under subsection (a) of this section in any fiscal year shall contribute to the Fund in such fiscal year for the benefit of such participant an amount equal to the amount of the contribution of the participant under subsection (a) of this section. The contribution by the agency shall be made at the same time as contributions are made by the participant under subsection (a) of this section. The total amount of the contributions made by an employing agency for the benefit of any participant in any fiscal year shall not exceed the lesser of—

"(1) the amount contributed by such participant during such fiscal year; or

"(2) 3 percent of such participant's annual rate of basic pay.

"(c) The sums required to be contributed by an employing agency under subsection (b) of this section for the benefit of a participant shall be paid from the appropriations or funds described in section 8412(c)(1) of this title.

"(d)(1) Subject to such restrictions, limitations, and conditions as the Board may prescribe, the Board shall pay to any participant who separates from employment by the Government before the date on which the participant becomes entitled to an annuity under section 8414(a) of this section an amount equal to—

"(A) the total of the contributions made under subsection (a) of this section; and

"(B) the applicable percentage of the amounts contributed for the benefit of the participant under subsection (b) of this section.

"(2)(A) For the purpose of paragraph (1) of this subsection, the applicable percentage for a participant separating from employment by the Government after having been a participant in the System for a period set forth under column I of the table below is, except as provided in subparagraph (B) of this paragraph, the percentage set forth under column II of the table below opposite the description of such period.

"Column I	Column II
Period for which the participant has been a participant in the System:	Applicable percentage:
More than 1 year and not more than 2 years	20
More than 2 years and not more than 3 years	40
More than 3 years and not more than 4 years	60
More than 4 years and not more than 5 years	80
More than 5 years	100.

"(B) For the purposes of paragraph (1) of this subsection, the percentage applicable in the case of any participant who dies while employed by the Government or separates from employment by the Government under section 8455(e)(1) of this title shall be 100 percent.

"§ 8414. Annuity: vesting; payment method; amount

"(a) An individual who is a participant for not less than 5 years is entitled to an annuity under this subchapter payable beginning on the day after the participant separates from employment by the Government or on such date as the participant specifies under section 8415 of this title. The annuity shall be payable pursuant to the method of payment elected under subsection (c) of this section.

"(b)(1) The Board shall prescribe methods of payment of annuities under this subchapter.

"(2) The Board shall include among the methods of payment prescribed under paragraph (1) of this subsection—

"(A) a method providing for the payment of a monthly annuity for the joint lives of the annuitant and the spouse of the annuitant and the life of the one of them who survives the other of them; and

"(B) methods that include provisions for periodic increases in the amount of the annuity payable under each such method to offset, in whole or in part, any increase in the cost of living.

"(c) Under such regulations as the Board shall prescribe, each annuitant—

"(1) shall elect one of the methods of payment prescribed by the Board under subsection (b)(1) of this section; and

"(2) may change, at any time, any election made under clause (1) of this subsection.

"(d)(1) The amount of the annuity payable to an annuitant pursuant to the method elected under subsection (c) of this section shall be determined, as of the date on which the payment of the annuity under the elected method commences, in accordance with generally accepted actuarial principles and standards based on the balance credited to the annuitant's account.

"(2) The amount of the annuity payable to the surviving spouse of an annuitant who elected, on or before the date payment of an annuity under this subchapter commenced, to be paid by the method described in subsection (b)(2) of this section and has been paid pursuant to such method continuously until the date of the annuitant's death shall be equal, subject to subsection (e) of this section, to 55 percent of the amount of the monthly annuity payable to the annuitant on the day before the date of the annuitant's death.

"(e)(1) At the end of each fiscal year the amount of each annuity payable under this subchapter shall be redetermined in accordance with generally accepted actuarial principles and standards based on the information applicable to the annuitant receiving the annuity and available as of the date of the redetermination.

"(2) If the amount of the annuity as redetermined at the end of any fiscal year under paragraph (1) of this subsection exceeds the amount of the annuity payable during such fiscal year, the amount of the annuity payable in the succeeding fiscal year shall be equal to the redetermined amount.

"(f) Notwithstanding any other provision of this section, no election or change of an election shall be effective under subsection (c) of this section if the election or change of an election would result in a violation of the terms of an applicable court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to a court decree of divorce, annulment, or legal separation, as determined by the Executive Director.

"§ 8415. Deferred retirement; withdrawal in lieu of annuity

"(a)(1) Any participant who separates from employment by the Government entitled to an annuity under section 8414(a) of this title may, in lieu of receiving the annuity beginning on the day after the date on which the participant separates, elect to—

"(A) defer the commencement of the payment of the annuity until such date as the participant specifies; or

"(B) withdraw, in one payment, the amount of the balance credited to the participant's account as of such date.

"(2) The Board shall make payments in accordance with any election of a participant under paragraph (1) of this subsection.

"(b) Any election under subsection (a) of this section shall be in writing and shall be filed in accordance with such rules as the Board may prescribe.

"(c)(1) Subject to paragraph (2) of this subsection, any former participant, after making an election under subsection (a)(1) of this section, may modify the date specified in the election.

"(2) Any modification under paragraph (1) of this subsection—

"(A) shall be—

"(i) in writing; and

"(ii) filed with the Board in accordance with such rules as the Board may prescribe; and

"(B) may not specify a date for the commencement of annuity payments earlier than 31 days after such modification is filed with the Board.

"(d) Any former participant who is reemployed by the Federal Government after receiving payment of the balance credited to his account pursuant to an election under subsection (a)(1)(B) of this section may deposit the amount withdrawn or any portion thereof in the Fund. Such amount shall be credited to the account established for the

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participant upon the reemployment of the participant and shall be invested.

"§ 8416. Death benefits

"(a) In any case in which a participant dies before the date on which the payment of an annuity under section 8414(a) of this title commences, the balance credited to the account of the deceased participant shall be payable in the following order:

"(1) to the beneficiary or beneficiaries designated, before death, by the participant in accordance with such rules as the Board may prescribe; or

"(2) if there is no beneficiary designated as described in clause (1) of this subsection, to—

"(A) the deceased participant's surviving spouse;

"(B) each surviving child of the deceased participant, in equal shares; or

"(C) the estate of the deceased participant.

"(b)(1) Except as provided in paragraph (2) of this subsection, any beneficiary entitled to receive benefits under subsection (a) of this section shall receive such benefits in one payment.

"(2)(A) Any individual entitled to receive benefits under subsection (a) of this section may elect, in accordance with such rules as the Board may prescribe, to receive such benefits as an annuity payable monthly for life. The Board shall pay an annuity in accordance with an election under this subparagraph.

"(B) The monthly amount of any annuity payable under subparagraph (A) of this paragraph shall be determined as of the date on which the payment of the annuity commences in accordance with generally accepted actuarial principles and standards based on the applicable share of the balance credited to the deceased participant's account.

"(C) The monthly amount of each annuity payable under this section shall be redetermined at the end of each fiscal year as provided in section 8414(e) of this section.

"(c) For the purposes of this section the term 'child' includes a natural child, adopted child, a stepchild (but only if the stepchild lived with the deceased participant in a parent-child relationship), and a child who lived with and for whom a petition of adoption was filed by the deceased participant and who is adopted by the surviving spouse of the deceased participant after the death of the participant.

"§ 8417. Civil Service Pension Fund

"(a) There is established in the Treasury a Civil Service Pension Fund.

"(b) The Fund consists of the sum of all contributions under sections 8412 and 8413 of this title increased by the total net earnings from investments of the Fund or reduced by the total net losses from investments of the Fund.

"(c)(1) Except as provided in paragraph (2) of this subsection, the sums in the Fund are appropriated and shall remain available without fiscal year limitation—

"(A) to invest under section 8418 of this title;

"(B) to pay benefits under this subchapter; and

"(C) to loan to participants as provided in subsection (d) of this section.

"(2)(A) The total net earnings from the investment of sums in the Fund are appropriated and shall remain available without fiscal year limitation for—

"(i) the payment of expenses incurred in the administration of the System, subject to subparagraph (B) of this paragraph;

"(ii) investment under section 8418 of this title; and

"(iii) the payment of benefits under this subchapter.

"(B) The Board shall allocate not more than 4 percent of the earnings realized in any fiscal year from the investment of sums in the Fund for the payment of the expenses incurred in the administration of the System in such fiscal year before allocating the remainder of the earnings to credit the account of any participant under section 8419(b) of this title.

"(d) The sums in the Fund attributable to contributions made by a participant under section 8413(a) of this title may be loaned to such participant subject to such terms and conditions as the Board may prescribe.

"(e)(1) Subject to paragraph (2) of this subsection, sums in the Fund are not subject to execution, levy, attachment, garnishment, or other legal process.

"(2) Moneys due or payable from the Fund to any individual shall be subject to legal process for the enforcement of the individual's legal obligations to provide child support or make alimony payments as provided in section 459 of the Social Security Act (42 U.S.C. 659).

"(f) Except as provided in section 8455(d)(2)(A) of this title, the sums in the Fund shall not be appropriated and may not be used for any purpose other than the purposes specified in this section.

"§ 8418. Investment of the Fund

"(a)(1)(A) The Board shall invest a portion of the available sums in the Fund, as provided in this section, in interest bearing securities of the United States Government.

"(B) Any sums of the Fund which are required by subsection (c)(1)(A), (c)(2)(A), (c)(2)(B)(ii), or (d) of this section to be invested in public investments shall be invested in such interest bearing securities of the United States as will ensure an annual rate of return of not less than 2 percent in excess of the increase in the price index during the term of the investment.

"(2) The Board shall invest a portion of the available sums in the Fund, as provided in this section, in—

"(A) interest bearing or equity securities of private business concerns; and

"(B) such other assets, including interest bearing securities of any State or political subdivision thereof, as the Board considers appropriate.

"(b)(1) Each participant may elect the general type or types of private investments, as designated by the Board under section 8492(a)(2) of this title, into which the Board shall invest sums in the Fund credited to the account of such participant.

"(2) An election under paragraph (1) of this subsection shall be made in accordance with rules prescribed by the Board.

"(c)(1)(A)(i) At the end of the calendar month during which the participant begins to participate in the System, the contributions made for the benefit of such participant under section 8412 of this title during such month shall be invested in public investments.

"(ii) The contributions made for the benefit of such participant under section 8412 during the sixty calendar months after the month described in clause (i) of this subparagraph shall be invested in public investments.

"(B) Except as provided in subsection (d) of this section, the contributions made for the benefit of such participant after the last calendar month described in subparagraph (A)(ii) of this paragraph may be invested in public or private investments as determined by the Board.

"(2)(A)(i) At the end of the calendar month during which the participant first makes a contribution under subsection (a) of section 8413 of this title, all such contributions and the contributions made for the benefit of such employee under subsection (b) of such section shall be invested in public investments.

"(ii) The contributions made by and for the benefit of the participant under section 8413 of this title during the twelve calendar months after the month described in clause (i) of this subparagraph shall be invested in public investments.

"(B)(i) The contributions made by a participant under subsection (a) of section 8413 of this title during the 48 calendar months after the last calendar month described in subparagraph (A)(ii) of this paragraph may be invested in public or private investments as determined by the Board.

"(ii) The contributions made for the benefit of such participant under subsection (b) of such section during such period of 48 calendar months shall be invested in public investments.

"(C) The contributions made by or for the benefit of a participant under section 8413 of this title after the last calendar month described in clause (i) or (ii) of subparagraph (B) of this paragraph may be invested in public or private investments as determined by the Board.

"(d) Except as otherwise provided in subsection (c)(1)(A) of this section, at the end of each calendar month described under column I of the table below all contributions made into the Fund under section 8412 of this title for the benefit of each participant who begins to participate in the System during a calendar month specified in column I of such table shall be invested as set forth in columns II and III of such table opposite the applicable number of the month:

"Column I	Column II	Column III
Number of the month after the effective date of this section	Percent of the contributions for the benefit of each participant for the month to be invested in public investments	Percent of the contributions for the benefit of each participant for the month to be invested in public or private investments
1 through 120	100	0
121 through 132	90	10
133 through 144	80	20
145 through 156	70	30
157 through 168	60	40
169 through 180	50	50
181 through 192	40	60
193 through 204	30	70
205 through 216	20	80
217 through 228	10	90
229 and after	0	100.

"(e) In investing sums of the Fund in equity securities of private businesses the Board shall not acquire such an extensive ownership interest in any private business that the Board, without the concurrence of other owners of the private business, can elect any officer of the private business or require the adoption of any policy for the management of the private business.

"§ 8419. Administrative provisions

"(a)(1) The Board shall establish and maintain an account with respect to each participant in the System. The balance in such account at any time is the sum of all contributions made by or for the benefit of such participant under section 8412 or 8413 of this title, the amounts transferred with respect to such participant under section 8420(c) of this title, and the total net earnings allocable to such participant, reduced by the total net losses allocable to such participant and the amounts paid with respect to such participant under sections 8414 and 8416 of this title.

"(2) The Board shall allocate to the credit of the account of each participant, pursuant to rules prescribed by the Board, a pro rata share of the net earnings and net losses, determined after the allocation under section 8417(c)(2)(B) of this title, from each investment based on the sums from the Fund invested in such investment and attributable to such participant.

"(b) Each employing agency shall report to the Board at the end of each month all amounts contributed by or for the benefit of each participant during such month under section 8412 or 8413 of this title.

"(c) The Board shall provide each participant an annual statement of the balance in the participant's account.

"§ 8420. Transition provisions

"(a)(1) Any employee or Member who—

"(A) is subject to the provisions of subchapter III of chapter 83 of this title, and is employed by the Government on the day before the effective date of this subchapter, or

"(B) is not required by section 8411(b) of this title to be a participant in the System, may elect to become a participant in the System.

"(2) Any election under paragraph (1) of this subsection shall be—

"(A) in writing; and

"(B) filed with the Board and the Director of the Office of Personnel Management not later than two years after the effective date of this subchapter or reemployment, as the case may be.

"(b)(1) Any employee or Member who is described in subsection (a)(1)(A) of this section and is reemployed by the Government, or becomes a Member, after a break in service beginning on or after the effective date of this subchapter, and, on the date such employee is reemployed by the Government, has a lump-sum credit in the Civil Service Retirement and Disability Fund, shall elect—

"(A) that the transfer described in subsection (c)(2) of this section be made for the benefit of such employee or Member; or

"(B) that section 8338 of this title continue to apply with respect to such employee or Member to the extent of the lump-sum credit.

"(2) Any election under paragraph (1) of this subsection shall be—

"(A) in writing; and

"(B) filed with the Board and the Director of the Office of Personnel Management not later than 30 days after the effective date of the reemployment of the employee by the Government or commencement of membership in the Congress after a break in service.

"(c)(1) There shall be transferred, with respect to any participant electing under subsection (a) of this section to participate in the System, from the Civil Service Retirement and Disability Fund to the Civil Service Pension Fund the larger of—

"(A) an amount equal to the sum of—

"(i) the amount of the unrefunded deductions withheld from the basic pay of such participant and the contributions made for the benefit of such participant under section 8334(a)(1) of this title;

"(ii) the amount of the voluntary contributions made by such participant under section 8343 of this title;

"(iii) annual interest on the balance of the amounts described in subclauses (i) and (ii) of this clause in the Civil Service Retirement and Disability Fund on the anniversary of the date on which withholding of deductions under section 8334(a) of this title commenced, computed at 5 percent and compounded annually until the date of the transfer; and

"(iv) an amount equal to 14 percent of the participant's daily rate of basic pay for each day of accumulated sick leave under section 6307(b) of this title; or

"(B) an amount equal to the present value of the benefits payable to such participant under the provisions of subchapter III of chapter 83 of this title, as actuarially determined, based on the length of service (including credit for accumulated sick leave under section 6307(b) of this title) and average pay of such participant on the effective date of the election under subsection (a) of this section, the amount of the voluntary contributions made by such participant under section 8343 of this title, an annual interest rate of 6 percent, and an assumed average annual increase in the price index of 6 percent.

"(2) There shall be transferred, with respect to any participant making the election described in subsection (b)(1)(A) of this subsection, from the Civil Service Retirement and Disability Fund to the Civil Service Pension Fund the larger of—

"(A) the amount described in paragraph (1)(A) of this subsection; or

"(B) an amount equal to the present value of the benefits payable to such participant under the provisions of subchapter III of chapter 83 of this title, as actuarially determined, based on the length of service (including any credit for accumulated sick leave under section 6307(b) of this title) and average pay of such participant on the date the participant last separated from employment by the Government, the amount of the voluntary contributions made by such participant under section 8343 of this title, an annual interest rate of 6 percent, and an assumed average annual increase in the price index of 6 percent.

"(d)(1)(A) Any participant with respect to whom a transfer is made under subsection (c) of this section and who separates from employment by the Government before the date on which the participant becomes entitled to an annuity under section 8414(a) of this title may elect—

"(i) to receive payment under paragraph (2) of this subsection; or

"(ii) to be subject to the provisions of subchapter III of chapter 83 of this title.

"(B) Any election under subparagraph (A) of this paragraph shall be—

"(i) in writing; and

"(ii) filed with the Board and the Director of the Office of Personnel Management not later than 30 days after the date on which the participant separates from employment by the Government.

"(2)(A) The Board shall pay to any participant making an election under paragraph (1)(A)(i) of this subsection an amount equal to the sum of—

"(i) the amounts described in subclauses (i) and (ii) of subsection (c)(1)(A) and the earnings in the Fund attributable to such amounts;

"(ii) any amounts contributed to the Fund by the participant under section 8413(a) of this title and the earnings in the Fund attributable to such amounts; and

"(iii) the applicable percentage, as determined under subparagraph (B) of this paragraph, of the amounts contributed for the benefit of the participant under section 8413(b) of this title and of the earnings in the Fund attributable to such amounts.

"(B) For the purposes of subparagraph (A)(iii) of this paragraph, the term 'applicable percentage' means the applicable percentage determined under section 8413(d)(2) of this title.

"(3) The balance in the account established and maintained with respect to any participant who makes an election described in paragraph (1)(A)(ii) of this subsection shall be transferred from the Civil Service Pension Fund to the Civil Service Retirement and Disability Fund.

"(e)(1) No employee may be subjected to adverse action or discrimination for the purpose of coercing the employee to elect to become a participant in the System.

"(2) Any activity prohibited by paragraph (1) of this subsection is a prohibited personnel practice for the purposes of section 1206 of this title.

"§ 8421. Payment of benefits; commencement, termination, national policy and waiver of annuity

"(a) Each annuity is stated as an annual amount, 1/12 of which, fixed at the nearest dollar, constitutes the monthly rate payable on the date 30 days after the month for which it has accrued.

"(b) Except as otherwise provided, the annuity of an annuitant commences on the day after he separates from employment by the Government, on the date specified in a notice filed with the Board under section 8415 of this title, or on the day after he is separated from employment by the Government under section 8455(e)(1) of this title.

"(c) The annuity of an annuitant terminates on the date of death or other terminating event provided by law. The annuity of a survivor terminates on the date of the survivor's death or other terminating event provided by law.

"(d) An individual entitled to an annuity from the Fund may decline to accept all or any part of the annuity by a waiver signed and filed with the Board. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

"(e) Payment payable under the provisions of this subchapter to a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is designated the guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Board, is responsible for

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the care of the claimant, and the payment bars recovery by any other person.

"(f) The Board shall prescribe regulations to provide that the amount of any monthly annuity payable under this section accruing for any one month period and which is computed with regard to service that includes any service referred to in section 8332(b)(6) of this title performed by an individual before January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which such individual is entitled (or on proper application would be entitled) for such month which is attributable to such service performed by such individual before such date.

"(g) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from his annuity for such purposes as the Board considers appropriate.

"(h)(1) No payment shall be made from the Fund unless an application for benefits based on the service of a former participant is received by the Board before the one hundred and fifteenth anniversary of his birth.

"(2) Notwithstanding paragraph (1) of this subsection, after the death of a participant or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received by the Board within 30 years after the death or other event which gives rise to title to the benefit.

"(i)(1) Payments under this subchapter which would otherwise be made to an annuitant based upon the service of the annuitant shall be paid (in whole or in part) by the Board to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall apply only to payments made by the Board under this subchapter after the date of receipt by the Board of written notice of such decree, order, or agreement, and such additional information and documentation as the Board may prescribe.

"(3) As used in this subsection, 'court' means any court of any State or any court of the District of Columbia.

"§ 8422. Audit

"The Comptroller General of the United States shall, not less frequently than every two years, conduct such audits of the financial condition and administration of the Civil Service Pension Fund as he considers appropriate.

"SUBCHAPTER III—ILLNESS AND ACCIDENT INSURANCE BENEFITS; DISABILITY COMPENSATION

"§ 8451. Definitions

"(a) For the purposes of this subchapter—

"(1) a participant shall be considered disabled for Federal service if the participant—

"(A) is unable, because of disease or injury, to render useful and efficient service in the participant's position, and

"(B) except in the case of a Member, is not qualified for reassignment, under procedures prescribed by the Office of Personnel Management, to a vacant position which is in the employing agency at the same grade or level and in which the participant would be able to render useful and efficient service;

"(2) the term 'employing agency' means the agency in which the participant was employed on the day before the effective date of the participant's entitlement to illness and accident insurance benefits under section 8452 of this title; and

"(3) the term 'creditable service' means creditable service as provided in section 8332 of this title.

"(b) For the purposes of subsection (a)(1)(B) of this section, an employee of the United States Postal Service shall be considered not qualified for reassignment as provided in such clause if the reassignment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement applicable to such employee.

"§ 8452. Illness and accident insurance benefits

"(a) Any participant whose total period of participation in the System and accumulated creditable service is not less than one year is entitled to receive illness and accident insurance benefits, as provided in subsection (c) of this section, each time the participant is temporarily incapacitated, by disease or injury, to perform the duties of his position.

"(b)(1) The entitlement to benefits under subsection (a) of this section shall be effective as of the day after the date on which the participant has been absent from his position for seven workdays because of one disease, injury, or combination of diseases or injuries.

"(2) Except as provided in paragraph (3) of this subsection, the entitlement to benefits under subsection (a) of this section shall terminate upon—

"(A) the restoration of the capacity of the participant to perform the duties of his position;

"(B) the expiration of the applicable recovery period provided in tne schedule of impairments prescribed pursuant to section 8455(f) of this title;

"(C) the expiration of the period which the prognosis, determined under section 8455(a) of this title, indicates is required for the restoration of the participant's capacity to perform the duties of his position;

"(D) the expiration of a period of 26 weeks after the effective date of the entitlement; or

"(E) the date on which the participant entitled to such benefits begins to receive disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act by reason of being under a disability,

whichever occurs first.

"(3) Except in the case of a termination of the entitlement to benefits under paragraph (2)(A) or (2)(E) of this subsection, the Office may extend the payment of benefits under subsection (a) of this section in the case of any participant who, as determined by the Office based on a diagnosis and prognosis reported to the Board under section 8455(a) of this title—

"(A) has not, by the date on which the entitlement to such benefits terminates under paragraph (2) of this subsection, sufficiently recovered from the disease or injury to perform the duties of his position; and

"(B) is expected, within such short period as the Office prescribes, to recover sufficiently to perform such duties.

"(c) A participant who is entitled to receive illness and accident insurance benefits under subsection (a) of this section and whose total period of participation in the System and accumulated creditable service, as of the effective date of the entitlement to such benefits, is described under column I of the table below, shall be paid the percentage of the weekly rate of such participant's basic pay applicable as of such effective date, as such percentage is set forth in the headings of columns II, III, and IV of the table, during the weeks described under each such column opposite the applicable description of the period of participation in the System or the accumulated creditable service, until the date such entitlement terminates under paragraph (2) or (3) of subsection (b) of this section.

"Column I	Column II	Column III	Column IV
For a participant whose total period of participation in the System and accumulated creditable service is not less than—	Pay 100 percent of participant's weekly rate of basic pay for each of the first—	Pay 80 percent of participant's weekly rate of basic pay for each of—	Pay 60 percent of participant's weekly rate of basic pay for each week after the first—
1 year, but less than 2 years	1 week	5 weeks after the first week	6 weeks.
2 years, but less than 3 years	2 weeks	6 weeks after the first 2 week	8 weeks.
3 years, but less than 4 years	3 weeks	7 weeks after the first 3 weeks	10 weeks.
4 years, but less than 5 years	4 weeks	8 weeks after the first 4 weeks	12 weeks.
5 years	5 weeks	9 weeks after the first 5 weeks	14 weeks.

"§ 8453. Short term disability compensation

"(a) A participant who receives illness and injury insurance benefits under section 8452 of this title for not less than 26 weeks and who, on the date the payment of such benefits terminates—

"(1) is disabled for Federal service as determined by the Office based on the examination required by section 8455(a) of this title; and

"(2) has applied for disability insurance benefits under section 223 of the Social Security Act or for benefits under section 202 of such Act by reason of being under a disability and is not receiving such benefits, is entitled to receive short term disability compensation for a period of not more than 18 months.

"(b)(1) The entitlement to short term disability compensation under subsection (a) of this section shall be effective on the date on which the payment of illness and injury insurance benefits under section 8452 of this title terminates.

"(2) The entitlement to compensation under subsection (a) of this section shall terminate upon—

"(A) the restoration of the participant to a condition in which he is no longer disabled for Federal service;

"(B) the expiration of the period which the prognosis, determined under section 8455(a) of this title, indicates is required to restore the participant to a condition in which he is no longer disabled for Federal service;

"(C) the date on which the participant entitled to such benefits begins to receive disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act by reason of being under a disability; or

"(D) the expiration of a period of 18 months after the effective date of the entitlement,

whichever occurs first.

"(c) A participant who is entitled to short term disability compensation under subsection (a) of this section shall be paid monthly an amount equal to 60 percent of the monthly rate of the participant's basic pay applicable on the effective date of the entitlement to such compensation.

"§ 8454. Long term disability compensation

"(a) Subject to section 8455(b) of this title, a participant who—

"(1)(A) receives short term disability compensation under section 8453 of this title for a period of 18 months; and

"(B) at the end of such period—

"(i) is disabled for Federal service as determined by the Board based on the examination required by section 8455(a) of this title; and

"(ii) has applied for disability insurance benefits under section 223 of the Social Security Act or for benefits under section 202 of such Act by reason of being under a disability; or

"(2) has been determined to be under a disability for the purposes of title II of the Social Security Act,

is entitled to long term disability compensation.

"(b) The entitlement to long term disability compensation under subsection (a) of this section shall—

"(1) be effective on the earlier of—

"(A) the day after the expiration of the maximum period during which short term disability compensation is paid under section 8453(a) of this title; or

"(B) the date on which the participant begins to receive disability insurance benefits under section 223 of the Social Security Act or benefits under section 202 of such Act by reason of being under a disability; and

"(2) terminate when the participant is no longer disabled for Federal service.

"(c)(1) Subject to paragraphs (2) and (3) of this subsection and section 8455(b) of this title, a participant who is entitled to long term disability compensation under subsection (a) of this section shall be paid monthly an amount equal to 60 percent of the monthly rate of the participant's basic pay applicable on the effective date of the entitlement to such compensation. The amount of the long term disability compensation payable to a participant under the first sentence of this paragraph shall be increased by the overall average increase in the rates of pay under the General Schedule each time, after the effective date of the entitlement to such compensation, that such rates of pay are increased under section 5305 of this title (rounded to the nearest multiple of $100, or, if the amount is $50 less than a multiple of $100, to the next higher multiple of $100).

"(2) Subject to section 8455(b) of this title, a participant who—

"(A) is entitled to long term disability compensation under subsection (a)(1) of this section, and

"(B) has been determined not to be under a disability for the purposes of title II of the Social Security Act,

shall be paid monthly 40 percent of the monthly rate of the participant's basic pay applicable on the effective date of the entitlement to such long term disability compensation increased as described in the second sentence of paragraph (1) of this subsection.

"(3) Any participant who—

"(A) is paid monthly long term disability compensation in an amount determined under paragraph (1) of this subsection, and

"(B) after the commencement of the payment of such long term disability compensation, is determined not to be under a disability for the purposes of title II of the Social Security Act,

shall be paid monthly long term disability compensation in an amount determined under paragraph (2) of this subsection in lieu of the amount determined under paragraph (1) of this subsection effective on the date of the determination described in clause (B) of this paragraph.

"§ 8455. General provisions

"(a)(1)(A) Subject to subparagraph (B) of this paragraph, any participant who is receiving payments of—

"(i) illness and injury insurance benefits under section 8452 of this title;

"(ii) short term disability compensation under section 8453 of this title; or

"(iii) long term disability compensation under section 8454 of this title,

shall be examined by a physician under the direction of the Office (in the case of any participant receiving payments referred to in clause (i) or (ii) of this subparagraph) or the Board (in the case of any participant receiving payments referred to in clause (iii) of this subparagraph) at such times as the Office or the Board, as the case may be, may require.

"(B) Subparagraph (A) of this paragraph shall not apply in the case of any participant who—

"(i) is receiving payments described in clause (ii) or (iii) of such subparagraph; and

"(ii) is determined to be under a disability for the purposes of title II of the Social Security Act.

"(C) Notwithstanding any other provision of this subchapter, any participant who fails to submit to the examination required under subparagraph (A) of this paragraph shall not be entitled to the benefits or compensation referred to in such subparagraph.

"(2) A physician examining a participant under paragraph (1) of this subsection shall report to the Office or the Board, as the case may be, the diagnosis and prognosis with respect to such participant.

"(b)(1) Any participant described in section 8454(a) of this title who is determined on the basis of the examination conducted under subsection (a) of this section to be able to perform the work required in any position in the employing agency located within a reasonable commuting distance from the last place the participant worked in the employing agency, as determined by the Director, shall be appointed to such position. If there is no such position in the employing agency, the participant shall be appointed to any position in the Government, located within such reasonable commuting distance, in which the participant is able to perform the work required, as determined by the Director based on such examination.

"(2) Any participant who elects not to accept an appointment under paragraph (1) of this subsection shall not be entitled to compensation under section 8454 of this title.

"(3) Any participant who is appointed to a position under paragraph (1) of this subsection is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title any determination that the participant is able to perform the work required of such position.

"(4) Any participant who is appointed to a position under paragraph (1) of this subsection is entitled to the higher of—

"(A) the maximum rate of basic pay payable with respect to the grade of the position to which the participant is appointed; or

"(B) the rate of basic pay determined pursuant to section 5363(d) of this title.

"(c) Notwithstanding section 8454 of this title, the amount of monthly compensation payable to a participant under such section shall be reduced (but not below $50) by the amount of disability insurance benefits to which the participant is entitled under section 223 of the Social Security Act and the amount of any benefits to which the participant is entitled under section 202 of such Act by reason of being under a disability.

"(d)(1) Illness and accident insurance benefits payable to a participant under section 8452 of this title and short term disability compensation payable to a participant under section 8453 of this title shall be paid by the employing agency from the appropriation or fund used to pay the participant, including, in the case of an employee of the Congress who is paid by the Clerk of the House of Representatives, the contingent fund of the House of Representatives.

"(2)(A) Long term disability compensation payable to a participant under section 8454 of this title shall be paid by the Board from sums appropriated to the Fund for such purpose and from sums reimbursed to the Fund under subparagraph (B) of this paragraph.

"(B) The employing agency of any participant receiving long term disability compensation under section 8454 of this title shall reimburse the Fund, from the applicable appropriation or fund described in paragraph (1) of this subsection, in the amount of the disability compensation paid by the Board to such participant under subparagraph (A) of this paragraph.

"(e)(1) A participant who is entitled to disability compensation under section 8453 or 8454 of this title shall be separated from employment by the Government in any case in which—

"(A) the Board determines, based on the prognosis with respect to such participant, that the participant will continue to be disabled for Federal service indefinitely; or

"(B) no specific prognosis with respect to such participant is available to the Board.

"(2) The amount of disability compensation payable under section 8453 or 8454 of this title to a participant who is separated under paragraph (1) of this subsection is reduced (but not below zero dollars) by the amount of any annuity to which such em-

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ployee is entitled under section 8414 of this title.

"(f) The Office shall prescribe a schedule of impairments. The schedule shall include a list of diseases and injuries and the typical period required for the recovery from each such disease or injury based on such factors as the Office considers appropriate. The Office may adopt, to the extent that the Office considers appropriate in the administration of this subchapter, any schedule of impairments used by any other agency of the Government in the administration of worker compensation laws.

"SUBCHAPTER IV—CIVIL SERVICE PENSION BOARD

"§ 8491. Establishment of Civil Service Pension Board

"(a) There is established as an independent agency in the executive branch of the Federal Government a Civil Service Pension Board.

"(b) The Board shall be composed of—

"(1) the Secretary of Commerce;

"(2) the Secretary of Labor;

"(3) the Secretary of the Treasury;

"(4) the Chairman of the Federal Reserve Board;

"(5) the Executive Director appointed by the President under subsection (c) of this section; and

"(6) six other members appointed by the President.

"(c) The President shall appoint, by and with the advice and consent of the Senate, an Executive Director of the Board. The Executive Director shall have substantial experience, training, or expertise in the management of financial investments.

"(d)(1) The President shall appoint the six members of the Board other than the Executive Director from a list of recommended individuals submitted under paragraph (2) of this subsection.

"(2) Whenever there is a vacancy on the Board to be filled by appointment by the President under subsection (b)(6) of this section, each organization of managers of Government agencies or other instrumentalities, as the President considers appropriate, and each labor organization may submit to the President the name of one individual whom the organization recommends to be appointed to fill such vacancy.

"(e)(1)(A) Except as provided in subparagraph (B) of this paragraph the term of office of each member of the Board appointed under subsection (b)(6) of this section shall be four years.

"(B) Of the members of the Board first appointed under subsection (b)(6) of this section, three members shall each be appointed for a term of two years.

"(2) Any member appointed under subsection (b)(6) of this section to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(f) The Executive Director shall serve for seven years after the date of appointment unless removed earlier by the Board under section 8493(a)(1)(C)(iii) of this title.

"(g)(1) The Board shall meet—

"(A) not less than four times during each fiscal year at such times as the Board shall establish; and

"(B) at additional times at the call of the Executive Director.

"(2)(A) Except as provided in section 8493(a)(1)(C) of this title, the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board.

"(B) A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(h) Six members of the Board shall constitute a quorum for the transaction of business.

"(i) Each member of the Board who is not a Federal employee shall be compensated at the daily rate of basic pay applicable to a position described in section 5315 of this title for each day or part thereof during which such member is engaged in performing a function of the Board.

"(j) The accrued annual leave of any employee who is a member of the Board shall not be charged for any time used in performing service for the Board during any work period.

"§ 8492. Functions

"(a) In addition to performing such functions, duties, and responsibilities as are required under subchapter II of this chapter, the Board shall—

"(1) establish policy and prescribe rules for the management of the Civil Service Pension Fund;

"(2) designate the general types of investments which a participant may elect, under section 8418(b) of this title, for the investment of sums in the Fund attributable to such participant;

"(3) review the performance of investments made for the Fund;

"(4) supervise the Executive Director of the Board; and

"(5) review and approve the budget of the Board.

"(b) The Executive Director shall—

"(1) be the executive officer of the Board;

"(2) preside at the meetings of the Board;

"(3) manage the Fund;

"(4) administer the provisions of this chapter; and

"(5) take such other actions as may be necessary to carry out the provisions of this chapter.

"§ 8493. Powers and administrative provisions

"(a)(1) The Board may—

"(A) adopt, alter, and use a seal;

"(B) adopt, amend, and repeal rules to carry out the provisions of this chapter;

"(C) upon the concurring votes of seven members—

"(i) disapprove any action of the Executive Director under subsection (b) of this section;

"(ii) except as provided in paragraph (2) of this subsection, direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this chapter and the policies of the Board; and

"(iii) remove the Executive Director from office for good cause shown; and

"(D) take such other action as may be necessary to carry out the provisions of this chapter.

"(2) The Board may not direct the Executive Director—

"(A) to invest or to cause to be invested any sums of the Fund in a specific asset; or

"(B) to enter into a contract under subsection (b)(1)(C) of this subsection with a specific private business concern.

"(b)(1) The Executive Director, subject to subsection (a) of this section, may—

"(A) call meetings of the Board;

"(B) subject to civil service and classification laws, appoint, employ, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

"(C) subject to paragraph (2) of this subsection, and subject to the approval of the Board, negotiate, without regard to the provisions of title III of the Federal Properties and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), contracts with private business concerns to invest sums of the Fund and to manage such investments;

"(D) enter into such other contracts or other arrangements or modifications thereof, as may be necessary to carry out the provisions of this chapter and the policies of the Board;

"(E) obtain from any Federal agency, including any independent establishment or instrumentality of the United States, advice, information, estimates, statistics, and such other assistance as the Executive Director considers necessary to carry out the provisions of this chapter and the policies of the Board;

"(F) make such expenditures from the Fund as the Executive Director determines are necessary to carry out the provisions of this chapter and the policies of the Board;

"(G) pay the compensation, per diem, and travel expenses of personnel from the Fund;

"(H) accept and utilize the services of individuals employed intermittently in the Government service and reimburse such individuals for travel expenses, as authorized by section 5703 of title 5, United States Code, including per diem as authorized by section 5702 of such title;

"(I) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of his functions to such officers and employees under the Board as he may designate and authorize such successive redelegations of such functions to such officers and employees under the Board as he may consider to be necessary or appropriate; and

"(J) take such other action as may be necessary to carry out the provisions of this chapter.

"(2) Each contract entered into under paragraph (1)(C) of this subsection by the Executive Director shall—

"(A) specify that the private business concern managing investments for the Fund under such contract shall make, consistent with prudent criteria for financial investment, such investments as, in the judgment of such private business concern, will maximize the return on such investments; and

"(B) provide for the payment of fees to such business concern in an amount not exceeding the amount equal to one-quarter of 1 percent of the sums of the Fund invested by such business concern under the contract.

"§ 8494. Fiduciary responsibilities

"(a) For the purposes of this section—

"(1) the term 'fiduciary' means—

"(A) with respect to the Fund, each member of the Board; and

"(B) with respect to sums from the Fund invested and managed by a private business concern under a contract entered into under section 8493(b)(1)(C) of this title—

"(i) such private business concern; and

"(ii) each owner, director, officer, and employee of such private business concern;

"(2) the term 'party in interest' includes—

"(A) any fiduciary;

"(B) any counsel to a fiduciary;

"(C) any person providing services to the Board;

"(D) a labor organization;

"(E) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subclause (A), (B), or (C) of this clause; and

"(F) a corporation, partnership, or trust or estate of which, or in which, 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation;

"(ii) the capital interest or profits interest of such partnership; or

"(iii) the beneficial interest of such trust or estate,
is owned directly or indirectly, or held by a person described in subclause (A), (B), (C), or (E) of this clause; and

"(3) the term 'person' means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

"(b)(1) A fiduciary shall discharge his responsibilities with respect to the Fund or applicable portion thereof solely in the interest of the participants and beneficiaries and—

"(A) for the exclusive purpose of—

"(i) providing benefits to participants and their beneficiaries; and

"(ii) defraying reasonable expenses of administering the Fund or applicable portions thereof;

"(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

"(C) to the extent permitted by the provisions of subchapter II of this chapter, by diversifying the investments of the Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

"(2) No fiduciary may maintain the indicia of ownership of any assets of the Fund outside the jurisdiction of the district courts of the United States.

"(c)(1) A fiduciary shall not cause the Fund or any portion thereof to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

"(A) sale or exchange, or leasing, of any property between the Fund and a party in interest;

"(B) lending of money or other extension of credit between the Fund and a party in interest;

"(C) furnishing of goods, services, or facilities between the Fund and a party in interest; or

"(D) transfer to, or use by or for the benefit of, a party in interest, of any assets of the Fund.

"(2) A fiduciary shall not—

"(A) deal with any assets of the Fund in his own interest or for his own account;

"(B) act, in his individual or any other capacity, in any transaction involving the Fund for the benefit of a party (or represent a party) whose interests are adverse to the interests of the Fund or the interests of its participants or beneficiaries; or

"(C) receive any consideration for his own personal account from any party dealing with such Fund in connection with a transaction involving assets of the Fund.

"(3) For the purposes of this subsection, a transfer of real or personal property by a party in interest to a plan shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the plan assumes or if it is subject to a mortgage or similar lien which a party-in-interest placed on the property within the 10-year period ending on the date of the transfer.".

(b) The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 83 the following new item:

"84. Civil Service Pension System 8401".

COMPENSATION OF EXECUTIVE DIRECTOR

Sec. 102. Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Executive Director, Civil Service Pension Board.".

TITLE II—MISCELLANEOUS AND CONFORMING AMENDMENTS

PAY RETENTION FOR CERTAIN DISABLED EMPLOYEES

Sec. 201. Section 5363 of title 5, United States Code, is amended—

(1) in subsection (c) by striking out "preceding"; and

(2) by adding at the end thereof the following new subsection:

"(d) Any employee who is appointed to a position under section 8455(b)(1) of this title by reason of a disability is entitled to basic pay at a rate not less than the higher of—

"(1) the rate of basic pay payable to the employee in the last position the employee formerly held, plus 50 percent of the amount of each increase, after the date of the appointment, in the maximum rate of basic pay payable with respect to the position to which the employee is appointed; or

"(2) 60 percent of the maximum rate of basic pay payable, on the date of the appointment, with respect to the last position that the employee held at the time of the onset of the disability, plus the amount of each increase, after the date of the appointment, in such maximum rate of basic pay.".

SICK LEAVE

Sec. 202. Section 6307 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding subsection (a) of this section, an employee who is participating in the Civil Service Pension System under subchapter II of chapter 84 of this title accrues seven days of sick leave on the effective date of the employment of such employee for use during the fiscal year in which such employment commences and on the first day of each ensuing fiscal year.

"(2) Notwithstanding subsection (b) of this section, sick leave which accrues under paragraph (1) of this subsection and is not used during the fiscal year in which the sick leave accrues does not accumulate for use in succeeding fiscal years.

"(3) Notwithstanding subsection (c) of this section, sick leave with pay may not be advanced to an employee described in paragraph (1) of this subsection.".

MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5

Sec. 203. (a)(1) Clause (17) of section 8331 of title 5, United States Code, is amended to read as follows:

"(17) 'normal cost' means the entry-age normal cost computed by the Office of Personnel Management in accordance with generally accepted actuarial practice (using dynamic assumptions), and expressed as a level percentage of basic pay;".

(2) Clause (19) of such section is amended to read as follows:

"(19) 'unfunded liability' means the estimated excess of—

"(A) the present value of all benefits payable from the Fund to employees, Members, former employees, and former Members subject to this subchapter, and to their survivors, computed in accordance with generally accepted actuarial practice (using dynamic assumptions), over

"(B) the sum of—

"(i) the present value of deductions to be withheld from the future basic pay of employees and Members currently subject to this subchapter and of future agency contributions to be made on their behalf; plus

"(ii) the Fund balance as of the date the unfunded liability is determined;".

(3) Clause (21) of such section is amended by striking out "and" at the end thereof.

(4) Clause (22) of such section is amended by striking out the period and inserting in lieu thereof a semicolon and "and".

(5) Such section is further amended by adding at the end thereof the following new clause:

"(23) 'dynamic assumptions' means economic assumptions used in determining actuarial costs and liabilities of a retirement system which anticipate the effects of long-term future—

"(A) investment yields,

"(B) increases in rates of basic pay, and

"(C) rates of inflation.".

(b) Section 8332 of such title is amended by adding at the end thereof the following new subsection:

"(n) Any employee electing under section 8420(d)(1)(A)(ii) of this title to be subject to the provisions of this subchapter shall be credited with the service performed while subject to the provisions of chapter 84 of this title.".

(c) Section 8334(a)(1) of such title is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: "Except as provided in the third sentence of this paragraph, the employing agency shall contribute for each employee or Member an amount equal to that percentage of the employee's or Member's basic pay which is equal to the excess of—

"(A) the normal cost applicable to such employee or Member, over

"(B) the percentage applicable to such employee or Member under the preceding sentence.

The United States Postal Service shall contribute for each employee of the United States Postal Service an amount equal to such employee's basic pay multiplied by two-thirds of the normal cost applicable to such employee's basic pay. The contributions under this paragraph shall be made from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment.".

(d) Section 8338 of such title is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) Subject to paragraph (2) of this subsection, an annuity or reduced annuity authorized by this section is computed under section 8339 of this title.

"(2) An annuity or reduced annuity authorized under this section and payable to an employee or Member making the election described in section 8420(b)(1)(B) of this title shall be based on the years of service and average pay of such employee as of the date of the latest separation of such em-

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ployee from the service before the effective date of chapter 84 of this title. Eligibility for such annuity shall be determined under the applicable provisions of this subchapter considering the participant's total creditable service before, on, and after the effective date of such chapter.

"(d) This section shall not apply to an employee who makes the election described in section 8420(b)(1)(A) of this title.".

(e) Section 8348 of such title is amended—

(1) by striking out subsections (f), (g), and (h) and inserting in lieu thereof the following:

"(f)(1) The Office of Personnel Management shall determine the amount of the unfunded liability of the Fund as of the close of each fiscal year beginning after September 30, 1982, and before October 1, 2022.

"(2)(A) The amount of any unfunded liability determined under paragraph (1) for any fiscal year shall be amortized, in annual installments, over the number of fiscal years between such fiscal year and fiscal year 2022.

"(B) The amount of the first annual installment under subparagraph (A) shall be equal to that percentage of aggregate basic pay which the Office of Personnel Management determines is necessary, when increased and compounded annually by 6 percent, to finance (with interest at the rate used in the most recent valuation) such unfunded liability over the number of years determined under such subparagraph. Each annual installment after the first annual installment shall be increased by an amount equal to 6 percent of the amount of the preceding annual installment.

"(3) At the end of each fiscal year, the Office of Personnel Management shall notify the Secretary of the Treasury of the amount of the annual installment computed under paragraph (2)(B) for such fiscal year. Before closing the accounts for each fiscal year, the Secretary shall credit that amount to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated."; and

(2) by redesignating subsection (i) as subsection (g).

(f)(1) Chapter 83 of such title is amended by adding at the end thereof the following new sections:

"§ 8349. Annual statement

"At the end of each fiscal year, the Office of Personnel Management or the employing agency shall provide each employee and Member who is subject to the provisions of this subchapter an annual statement of the present value of the future benefits payable to such employee or Member under this subchapter. For the purpose of such statement the present value of the future benefits shall be actuarially determined based on the creditable service and average pay of the employee or Member on the last day of such fiscal year.

"§ 8350. Applicability

"Except as otherwise specifically provided in this subchapter or chapter 84 of this title, the provisions of this subchapter shall not apply with respect to an employee, Member, or survivor of an employee or Member who is subject to the provisions of chapter 84 of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"8349. Annual statement.
"8350. Applicability.".

COURT-ORDERED SURVIVOR ANNUITY UNDER CHAPTER 83 OF TITLE 5, UNITED STATES CODE

SEC. 204. (a) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) If a decree, order, or agreement described in section 8341(j) of this title requires the payment of a survivor annuity based on the service of an employee or Member who is a party to such decree, order, or agreement and the annuity of such retired employee or Member, as computed under any of subsections (a)-(i) and (n) of this section, is not reduced under subsection (j) or (k) of this section, the annuity of such retired employee or Member shall be reduced by the percentages specified in the first sentence of subsection (j)(1) of this section without regard to any notification authorized by such sentence. Any reduction in the annuity under the first sentence of this subsection shall terminate on the first day of the month after the date of any court decree, court order, or court-approved agreement revoking the requirement under a previous decree, order, or agreement to pay a survivor annuity.".

(b)(1) Subsection (b)(1) of section 8341 of title 5, United States Code, is amended—

(A) by striking out "(o)" and inserting "(n)"; and

(B) by inserting "reduced by the amounts, if any, payable under subsection (j) of this section" after "with respect to the annuitant".

(2) The first sentence of subsection (c) of such section is amended by inserting "reduced by the amounts, if any, payable under subsection (j) of this section" after "Member".

(3) The first sentence of subsection (d) is amended—

(A) by striking out "(o)" and inserting in lieu thereof "(n)"; and

(B) by striking out "Member, except" and inserting "Member reduced by the amounts, if any, payable under subsection (j) of this section, except".

(4) Such section is amended by adding at the end thereof the following new subsection:

"(j)(1) Subject to paragraph (2) of this subsection, if a retired employee or retired Member dies after having retired under this subchapter or an employee or Member dies after having completed at least 18 months of civilian service and the retired employee, retired Member, employee, or Member is survived by a spouse or former spouse who is a party to a court decree of divorce, annulment, or legal separation, or a court order incident to or court-approved property settlement agreement incident to any court action for or decree of divorce, annulment, or legal separation, to which the retired employee, retired Member, employee, or Member was a party before death, a survivor annuity shall be payable to such spouse or former spouse in accordance with the terms of such decree, order, or agreement. The survivor annuity payable to any spouse or former spouse under the first sentence of this subsection shall commence on the day after the retired employee, retired Member, employee, or Member, as the case may be, dies and shall terminate on the earlier of—

"(A) the date on which the survivor annuity terminates in accordance with the terms of the decree, order, or agreement; or

"(B) the last day of the month before the spouse or former spouse dies.

"(2)(A) Survivor annuities shall be payable under paragraph (1) of this subsection in the order in which the decree, order, or agreement is received by the Office of Personnel Management.

"(B) The total amount of survivor annuities payable under paragraph (1) of this subsection shall not exceed the amount of the survivor annuity that is payable to a widow or widower under—

"(i) subsection (b) of this section in the case of a retired employee or retired Member who dies after retiring under this subchapter; or

"(ii) subsection (d) of this section in the case of an employee or Member who dies after having completed at least 18 months of civilian service.".

AMENDMENTS TO CHAPTER 89 OF TITLE 5

SEC. 205. Chapter 89 of title 5, United States Code, is amended—

(1) in section 8903—

(A) by inserting "not less than" after "offering" in paragraph (1); and

(B) by inserting "not less than" after "offering" in paragraph (2); and

(2) in the last sentence of section 8904 by striking out "All plans" and inserting in lieu thereof "Not less than two levels of benefits under each plan".

CONFORMING PROVISIONS FOR OTHER RETIREMENT SYSTEMS

SEC. 206. (a) The fourth sentence of section 309(d)(2) of the National Housing Act (12 U.S.C. 1723a(d)(2)) is amended to read as follows: "The corporation shall contribute to the Civil Service and Retirement Disability Fund the amount determined under section 8334(a)(1) of title 5, United States Code.".

(b) The first sentence of section 5.6(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2227(b)(2)) is amended to read as follows: "Each bank shall contribute to the Civil Service Retirement and Disability Fund the amount determined under section 8334(a)(1) of title 5, United States Code.".

(c) Section 1005(d) of title 39, United States Code, is amended to read as follows:

"(d) Officers and employees of the Postal Service (other than the Governors) shall be covered by chapters 83 and 84 of title 5 according to the provisions of such chapters. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in or determined under such chapter 83. The Postal Service shall pay into the Civil Service Pension Fund the amounts specified in or determined under such chapter 84.".

TITLE III—SOCIAL SECURITY AMENDMENTS

SOCIAL SECURITY COVERAGE FOR NEW FEDERAL EMPLOYEES

SEC. 301. (a)(1) Section 210(a) of the Social Security Act is amended—

(A) in paragraph (5) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "United States";

(B) in paragraph (6)(A) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "instrumentality of the United States";

(C) in paragraph (6)(B) by inserting ", if such individual was most recently hired or rehired to perform such service prior to January 1, 1983, and is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "December 31, 1950";

(D) in paragraph (6)(C) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "instrumentality of the United States"; and

(E) in paragraph (7)(D) by inserting before the first semicolon the following: ", or service performed in the employ of the District of Columbia (or any instrumentality which is wholly owned thereby) by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)".

(2) Section 210(a)(6) of the Social Security Act is further amended by adding "and" at the end of subparagraph (C) and by adding at the end thereof the following new subparagraph:

"(D) Service performed in the employ of the United States or the District of Columbia, or in the employ of any instrumentality of the United States or the District of Columbia, if such service is performed by an individual who is not included as an 'employee' for purposes of section 8331 of title 5, United States Code;".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 is amended—

(A) in paragraph (5) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "United States";

(B) in paragraph (6)(A) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "instrumentality of the United States";

(C) in paragraph (6)(B) by inserting ", if such individual was most recently hired or rehired to perform such service prior to January 1, 1983, and is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "December 31, 1950";

(D) in paragraph (6)(C) by inserting "by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)" after "instrumentality of the United States"; and

(E) in paragraph (7)(C) by inserting before the first semicolon the following: ", or service performed in the employ of the District of Columbia (or any instrumentality which is wholly owned thereby) by an individual who was most recently hired or rehired to perform such service prior to January 1, 1983, and who is not a 'participant' under the Civil Service Pension System (as defined in section 8401(3) of title 5, United States Code)".

(2) Section 3121(b)(6) of the Internal Revenue Code of 1954 is further amended by adding "and" at the end of subparagraph (C) and by adding at the end thereof the following new subparagraph:

"(D) service performed in the employ of the United States or the District of Columbia, or in the employ of any instrumentality of the United States or the District of Columbia, if such service is performed by an individual who is not included as an 'employee' for purposes of section 8331 of title 5, United States Code;".

(c) Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"DETERMINATION OF MOST RECENT HIRING FOR FEDERAL EMPLOYEES

"(p) For purposes of this section and section 3121(b) of the Internal Revenue Code of 1954, an employee of the United States, the District of Columbia, or any instrumentality of either, shall be considered to be hired or rehired on any date on which such employee first performs services for remuneration for such entity following a period of at least days during which such individual did not perform services for remuneration for such entity.".

(d) The amendments made by this section shall apply to services performed after December 31, 1982.

TITLE IV—AUTHORIZATION AND EFFECTIVE DATE

FIRST YEAR EXPENSES OF THE SYSTEM

SEC. 401. (a) Notwithstanding section 8417(c)(2) of title 5, United States Code (as added by section 101 of this Act), the expenses incurred in the administration of the Civil Service Pension System described in section 8411(a) of such title (as added by section 101 of this Act) during fiscal year 1983 shall be paid from appropriations.

(b) There are authorized to be appropriated to the Civil Service Pension Fund established by section 8417 of title 5, United States Code (as added by section 101 of this Act), for fiscal year 1983 such sums as may be necessary to pay the expenses incurred in the administration of the Civil Service Pension System during such fiscal year.

EFFECTIVE DATE

SEC. 402. Titles I and II of this Act and the amendments made by such titles shall take effect January 1, 1983.

By Mr. HUMPHREY:

S. 2906. A bill to amend the Strategic and Critical Materials Stockpiling Act to provide that the National Defense Stockpile Transaction Fund shall be an off-budget activity, and for other purposes; tc the Committee on Armed Services.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND REORGANIZATION ACT OF 1982

● Mr. HUMPHREY. Mr. President, I am seriously concerned over repeated reports of problems with the national defense stockpile. To determine the extent of these problems, the Subcommittee on Preparedness held a series of hearings this summer on the status of the stockpile.

These hearings revealed that serious problems exist with the national defense stockpile. Instead of providing a ready and adequate supply of raw materials for a national emergency, the stockpile has been used, or rather abused, for political and economic reasons, Additionally, witnesses at these hearings revealed that the stockpile is being mismanaged and alleged that materials in the stockpile necessary for defense purposes have deteriorated.

Here are some examples of defense stockpile abuse. This summer, a proposal was introduced mandating that revenues accrued from the sale of excess stockpile materials be used to purchase copper, a priority three commodity, in spite of the fact that nearly half of the 10 billion dollars' worth of critical materials needed to meet stockpile requirements are priority one or two commodities.

Perhaps the most disturbing revelation at the hearings is that the revenues accrued in the stockpile transaction fund are used to offset the Federal budget deficit, resulting in serious shortfalls in materials inventories. This appears to be a clear violation of the Strategic and Critical Materials Stockpiling Act, which states: "The purpose of the stockpile is to serve the iterest of national defense only and is not to be used for economic or budgetary purposes."

Two separate Federal agencies manage the defense stockpile. The Federal Management Agency (FEMA) consolidates stockpile requirements established by other Federal departments and agencies, while the General Services Administration (GSA) oversees the stockpile commodities, transactions, and budget. Differing perspectives and cumbersome coordination between the two agencies result in awkward and inefficient management of this integral part of our national defense preparedness structure.

After completing hearings this summer, I notified President Reagan of the findings. The administration subsequently completed an emergency mobilization preparedness review of the defense stockpile that recommends the National Security Council as the final authority of the National Defense Stockpile. This recommendation, when implemented, should streamline the currently convoluted dual stockpile management system. As such, I fully endorse this recommendation.

To insure good physical condition of stockpile commodities, I am preparing legislation to require regular and thorough administration reports to the Congress on the physical status of the stockpiled materials.

In addition, I am now introducing legislation that will establish the stockpile transaction fund as a true revolving fund, independent from the budget process and of efforts to use the fund to offset the Federal deficit.

Mr. President, much time and effort on the part of the President, his national security advisers, and the Congress have been expended in the interest of restoring our national defense. At the very foundation of these efforts is the presumption that in a national

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emergency materials would be available to support a combined mobilization of military and defense-related industries. This has been shown to not be the case, and I believe that it is time that a national resolve is established to clear up the problems uncovered in the hearings this summer. I am encouraged by the administration's attention and efforts in this direction and hope that my colleagues will respond in a similar fashion.

Mr. President, I ask unanimous consent that my proposed bill, S. 2906, to establish the stockpile transaction fund as a true revolving fund, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Defense Stockpile Transaction Fund Reorganization Act of 1982".

SEC. 2. Section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b)(1) All moneys received from the sale of materials in the stockpile under paragraph (4), (5), or (6) of section 6(a) shall be covered into the fund and shall remain in the fund until expended.

"(2) Moneys covered into the fund under paragraph (1) shall be available only for the acquisition of strategic and critical materials, including replacement materials for materials rotated under section 6(a)(4) or disposed of under section 7(a), and for the expenses of transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile.

"(c)(1) Notwithstanding any other provision of law, the appropriate level of total budget authority and total budget outlays and the recommended level of Federal revenues contained in any concurrent resolution on the budget adopted under title III of the Congressional Budget Act of 1974 shall not include the budget authority, outlays, revenues, and receipts for the fund.

"(2) Notwithstanding any other provision of law, the President shall not include in the Budget submitted under section 201(a) of the Budget and Accounting Act, 1921, proposed budget authority and estimates of outlays, revenues, and receipts for the fund.

"(3) Budget authority and budget outlays for the fund shall not be subject to any general limitation imposed by statute on expenditures of the United States.

SEC. 3. (a) The Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) is further amended—

(1) by striking out section 3(c);

(2) in section 5—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" in subsection (c);

(3) in section 6—

(A) by striking out "subject to the notification required by subsection (d)(2)," in subsection (a)(5);

(B) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) dispose of such materials or quantities of materials in the stockpile as the President determines not to be necessary to continue to maintain in the stockpile in carrying out this Act.";

(C) by striking out "is authorized by law and" in subsection (c)(1);

(D) by striking out the first comma and "the disposition of which is authorized by law," in subsection (c)(2); and

(E) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The President may waive the applicability of any provision of subsection (b) to any acquisition of material for, or disposal of, material from the stockpile.";

(4) in section 7—

(A) by striking out "(a)" in subsection (a); and

(B) by striking out subsection (b); and

(5) in section 11—

(A) by striking out "(a)" in subsection (a);

(B) by striking out "by barter, as provided for in section 6(c) of this Act," in subsection (a)(2);

(C) by striking out "appropriations" in subsection (a)(3) and inserting in lieu thereof "expenditures"; and

(D) by striking out subsection (b).●

By Mr. ROBERT C. BYRD (for Mr. KENNEDY for himself, Mr. ROBERT C. BYRD, Mr. RANDOLPH, Mr. METZENBAUM, and Mr. RIEGLE)

S.J. Res. 245. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982; read twice and placed on the calendar by unanimous consent.

(The text of the joint resolution appears earlier in today's RECORD.)

EMERGENCY JOBS INITIATIVE

● Mr. KENNEDY. Mr. President, there is no more urgent or important business facing the Congress and the country than putting Americans back to work. It has been over a year since the President's economic recovery program became law. In that time 3 million Americans have lost their jobs. The program that was designed to produce "jobs, jobs, jobs," has instead brought about the highest unemployment in over 40 years.

The American people have waited patiently for the President to deliver on his promises. They have waited patiently for the recovery to begin. They have waited patiently for pay checks to replace pink slips. But their patience has been rewarded with record business failures, lengthening unemployment lines and the knowledge that one of every three Americans will be without work sometime during this year.

The American people have been patient for too long, it is time for us to act.

The program I am introducing offers new hope and opportunity to 200,000 workers who have exhausted their unemployment benefits. These men and women know what it is to work hard. Most have worked their entire lives.

I believe we owe these workers who are jobless through no fault of their own the chance to put their skills and talents to work rebuilding their communities.

In cities and towns across this country, our public buildings are in disrepair. Our roads and bridges are deteriorating, our water systems need fixing. Our schools and hospitals and public housing need repairs. The jobs are there.

The challenge is to put the skills and talents of the unemployed to work rebuilding their communities.

My bill is targeted. It provides help to those communities with the highest unemployment. It provides jobs to those that have been without work the longest. No job would last longer than 6 months. No one could earn more than $10,000. It is an emergency measure designed to respond to the national unemployment crisis now facing the country.

There is still time if we act now. I urge my colleagues to join in sponsoring this important measure.

Mr. President, I ask unanimous consent that a more detailed description of the bill be printed in the RECORD.

There being no objection, the detailed description was ordered to be printed in the RECORD, as follows:

DEMOCRATS EMERGENCY JOBS INITIATIVE

THE NEED

Unemployment stands at 9.8, a 40 year high.

10.8 million Americans can't find work.

$20 billion will be paid out this year alone in U.I. checks.

140,000 workers each month are exhausting these benefits.

1 in 6 unemployed workers are not even receiving U.I.

These idled men and women can be put to work rebuilding the deteriorating public facilities in their communities.

THE PROGRAM

Resources—5 percent ($1 billion) of the fiscal year 1982 expenditure for Unemployment Insurance would be appropriated in an urgent one time supplemental for the Department of Labor.[1]

Jobs—200,000 unemployed workers would be hired to repair and maintain public facilities and improve public lands in such jobs as: bridge and street repair; rehabilitation of public buildings; repair of water systems; flood and erosion control; harbor and port improvement; forestry and rangeland conservation; and energy conservation;

Eligible Areas—83 percent of funds go out by formula to State and local communities with unemployment in excess of the national average for 3 consecutive months. 2 percent to Native American tribes. 15 percent by formula to local areas suffering high unemployment as a result of plant closings, natural disasters or other severe economic dislocations.

Eligible Individuals—85 percent of funds go to workers unemployed at least two weeks with priority for long term unemployment and those who've exhausted U.I.

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[1] CBO estimates that 20 percent of cost ($200 million) would be recouped through reduced transfer payments, increased revenues and other budgetary "feedback" effects.

15 percent of funds are earmarked to employ 16-19 year olds in community improvement projects.

Duration—jobs would be temporary, not to exceed 6 months for any individual.

Wages—prevailing wages, not to exceed $10,000 a year.●

By Mr. LONG (for himself, Mr. JOHNSTON, and Mr. MOYNIHAN):

S.J. Res. 246. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week"; to the Committee on the Judiciary.

NATIONAL PORT WEEK

Mr. LONG. Mr. President, today, I am joining with Senator JOHNSTON and Senator MOYNIHAN in introducing a joint resolution authorizing President Reagan to proclaim the first week in October in calendar years 1982 through 1984 as "National Port Week." I am happy to say that the Congress has payed tribute to our Nation's ports by designating this week as "National Port Week" since 1978.

From the early days of our Nation, attempts were made to convert our waterways into tools of civilization, and, since that time, ports have played a central role in our development. Our Nation's economics, commerce, and industry depend heavily on our network of waterways which links the industrial centers of our country. Commerical ports annually contribute more than $66 billion in national income and $12 billion in Federal, State, and local taxes to our presently unstable economy in addition to helping create over 1 million jobs nationwide.

Just as our forefathers met the challenge of building flourishing ports, we must continue to expand them. The total amount of goods carried by water in the State of Louisiana alone will more than double by the year 2000. We must stand behind our ports and encourage them to grow as waterborne transportation is the most fuel-efficient mode of shipping in our Nation's domestic and international commerce. We, as a nation, must utilize the energy options which are available to us.

Since there must be a port of origin as well as a port of destination, the ports throughout our Nation have long realized the vested interest which they have in each other. It is this spirit of cooperation that has made this Nation the great maritime trade center that it is. Just look around at any port site. You will see goods from many distant points of origin—grain from Iowa, steel from Pittsburgh, sugar from Louisiana—not to mention imports and exports from other parts of the world.

U.S. international trade has grown to over $300 billion annually, contributed to by deep-draft commercial ports, inland river ports, and over 25,000 miles of navigable waterways. One out of every six jobs in agriculture, manufacturing, and services in America is dependent upon international sea-born trade.

Mr. President, each one of us reaps the benefits or our Nation's ports. I think we should all take the time to recognize the important contribution of this industry to our country's well-being and join together to pay tribute to our Nation's ports.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 246

Whereas the past development of the public ports of the United States is the result of a fruitful partnership with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States, and local municipalities assuming major responsibility for land-based port development;

Whereas our Nation's commercial seaports and inland river ports are indispensable to foreign and domestic waterborne commerce and to the economic well-being and national security of the United States;

Whereas the maintenance and development of our national network of commercial ports is vital to expanded international trade and to the attainment of a favorable trade balance;

Whereas commercial ports serving the waterborne commerce of the United States are responsible for the continued employment of more than one million workers and in 1981 generated a total of $70,000,000,000 in direct and indirect benefits to the United States economy;

Whereas there is a continuing need to focus public attention upon the value of a viable and competitive system of commercial ports; and

Whereas the National Port Week observance promotes public recognition of the vital role that our ocean and inland ports have played in the economic growth and national security of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation in each of calendar years 1982, 1983, and 1984 designating the first week in October as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 2247

At the request of Mr. PACKWOOD, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from Indiana (Mr. LUGAR), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2247, a bill to amend the Tariff Schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2485

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2485, a bill to require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms.

S. 2618

At the request of Mr. ZORINSKY, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2618, a bill to limit the retirement annuity of Members of Congress and former Members of Congress.

S. 2634

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes.

S. 2649

At the request of Mr. D'AMATO, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2649, a bill to authorize the Secretary of the Interior to enter into a cooperative agreement to maintain the gravesite of Samuel "Uncle Sam" Wilson and to erect and maintain tablets or markers at such gravesite in commemoration of the progenitor of the national symbol of the United States.

S. 2702

At the request of Mr. ANDREWS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian Tribes as socially and economically disadvantaged small business concerns.

S. 2867

At the request of Mr. CHAFEE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2867, a bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control.

SENATE JOINT RESOLUTION 97

At the request of Mr. THURMOND, his name was added as a cosponsor of

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Senate Joint Resolution 97, a joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week."

SENATE JOINT RESOLUTION 174

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 174, a joint resolution to authorize and request the President to designate October 16, 1982 as "World Food Day."

SENATE JOINT RESOLUTION 235

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to proclaim March 21, 1983, as "National Agriculture Day."

SENATE JOINT RESOLUTION 239

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 239, a joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day."

At the request of Mr. WARNER, the names of the Senator from Minnesota (Mr. DURENBERGER), the Senator from Washington (Mr. JACKSON), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Senate Joint Resolution 239, supra.

SENATE JOINT RESOLUTION 241

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week."

AMENDMENT NO. 2035

At the request of Mr. METZENBAUM, the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from Maryland (Mr. SARBANES), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Illinois (Mr. PERCY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Nebraska (Mr. EXON), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of amendment No. 2035 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

SENATE RESOLUTION 462—RESOLUTION RELATING TO CERTAIN TRADE BARRIERS

Mr. BENTSEN (for himself and Mr. DANFORTH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 462

Whereas, the U.S. and Japan are among the signatories to the General Agreement on Tariffs and Trade; and

Whereas, the U.S. has worked for an open world trading system within the framework of the GATT and has allowed Japan open access to U.S. markets; and

Whereas, Japan has enjoyed this open access and has achieved a dominant position in many U.S. markets and now has an $18 billion annual trade surplus with the U.S.; and

Whereas, Japan has used a system of import quotas and other tariff and non-tariff trade barriers to restrict imports of 22 categories of agricultural products, including beef and citrus in which the U.S. has a comparative advantage in production; and

Whereas, this system of import restritions has forced Japanese consumers to pay unreasonably high prices for beef, citrus, and other foods produced in the U.S. while denying U.S. farmers and ranchers reasonable access to these markets and denying U.S. farmers and ranchers the opportunity to sell their products at these higher prices; and

Whereas, consultations between the U.S. and Japan on liberalization of trade in beef and citrus are scheduled to begin in Honolulu on October 20; therefore be it

Resolved, That it is the sense of the Senate that the U.S. in such consultations should seek completely open access to the Japanese market for U.S. beef and citrus, including the removal of all trade barriers to the export of such agricultural products to Japan.

SEC. 2. It is further the sense of the Senate that in the event such consultations do not result in open access to the Japanese market for U.S. beef and citrus, then the Government of the United States should evaluate what remedies under United States law and international agreements are appropriate under the circumstances.

JAPANESE AGRICULTURAL TRADE BARRIERS

Mr. BENTSEN. Mr. President, I am today submitting a resolution designed to help open the Japanese market to American agricultural products, particularly beef and citrus. I am pleased to be joined in this effort by my distinguished colleague the Senator from Missouri (Mr. DANFORTH) who is the chairman of the International Trade Subcommittee.

American workers, citrus growers, and cattlemen are being cut off at the knees by unfair Japanese trade practices. These practices are straightforward: Japan has erected insurmountable walls against the free trade of many citrus products and U.S. beef. These Japanese barriers clearly and flagrantly violate international trade agreements and obligations which Japan has under GATT—the General Agreement on Tariffs and Trade. And Japanese officials have dragged their feet repeatedly in response to world pressure to reduce or eliminate those trade walls.

JAPAN'S STEEL CURTAIN AGAINST BEEF IMPORTS

Japan—with only a literal handful of domestic ranchers—has erected a tall three-tiered wall against beef imports which hold U.S. exports to a ridiculously low level. The Japanese combination of a strict quota, a 25-percent tariff, and an additional variable import surcharge has held U.S. imports to only 9 ounces per person per year—about one steak or two hamburgers—and pushed meat prices in Japan sky high. The average price of meat consumed in Japan in 1981, for example, was $6.93 per pound—almost triple the U.S. average of $2.39 per pound. Last November, a chuck roast costing $1.49 per pound here cost $10.15 per pound in Tokyo. And a sirloin steak costing $3.46 per pound here went for $14.35 per pound in Tokyo supermarkets. Transportation costs account for only 50 cents per pound of this wide price difference, with the balance due entirely to the tight lid Japan keeps on U.S. beef imports.

Japanese consumers, U.S. ranchers, and U.S. workers in the meat processing industry are being needlessly penalized by this glaring Japanese violation of GATT. The U.S. Department of Agriculture has projected that U.S. beef sales to Japan in the absence of trade barriers could increase sevenfold to 200,000 metric tons within 5 years—which would roughly triple total U.S. beef sales abroad compared to 1981. Based on last Friday's beef prices these additional exports would boost cattle industry income by $370 million annually.

JAPAN'S FREEZE ON CITRUS IMPORTS

American citrus growers, especially grapefruit growers in Texas, are being victimized by illegal Japanese trade barriers, as well. Only four groups in Japan are permitted to import citrus, and two of the groups are Japanese growers with a strong interest in locking the freezer door on U.S. citrus exports. Their success can be measured by comparing world figures on orange juice consumption. In 1981, U.S. consumption averaged 17 liters per person, followed by 16 liters in Canada, and 15 liters in Sweden. Yet, Japan's trade barriers so successfully suppressed imports that consumption there was a scant 2.5 liters per capita.

It is argued that Japanese citrus quotas do not suppress consumption, but past experience tells us something else. When Japanese barriers against lemon imports were relaxed, for example, U.S. exports soared 30-fold to 246 million pounds in 1981 from only 8.3 million pounds when the quotas existed.

One of the most unreasonable Japanese citrus barriers is against U.S. grapefruit juice, where imports are capped at a paltry 6,000 metric tons, or 13.2 million pounds in 1982. This is in spite of the fact that Japan does not produce grapefruit and does not impose quotas on imports of fresh grapefruit. Experience with lemons show us that Japanese consumers would eagerly import many times the amount of grapefruit juice and other citrus products now permitted by the Japanese quotas if these illegal barriers were removed. But those quotas and the barriers against U.S. agricultural products can only be reduced or eliminated in government-to-government negotiations—which brings me to the need for prompt passage of this resolution.

QUOTA REDUCTIONS ARE NEEDED

The United States maintains the most open and free trade posture of any nation. Our free trade policy has deep roots in our national history because unfair tariffs were a rallying point for our "War of Independence." For generations, we have tried to show by example that free trade benefits every nation. For example, the United States is a leading beef producing nation, yet we import more beef than any other major beef-producing country. The international economic principle of comparative advantage would result in every nation being better off with trade—a principle which especially favors our internationally competitive farmers and ranchers. Yet, our open trade policy has been misunderstood and even called naive. Japan and other foreign governments routinely violate GATT and other agreements without fear of retaliation by Uncle Sam.

Well, it is time we begun to play by the same trade rules that Japan plays by. Every month, billions of dollars worth of Japanese TV's, autos, computers, and toys crowd into our ports and stores as fast as Japanese producers can pile them onto ships. A lot of those ships return empty, however, because we could scarcely fill one small steamer with the beef and grapefruit juice going the other way which Japan permits to squeeze under its trade wall.

Negotiations with Japan in the past on trade issues have not been very productive. For example, the Japanese have increased the U.S. beef import quota only enough, since 1978, to add one hamburger per year to the diet of each Japanese. And that is the result of 3 years of bargaining.

A sizable share of Japan's wealth is tied to the production and export of goods to Americans. It is time that Japan met its obligations, both under GATT and as the free world's second biggest economy, to hold high the principle of open trade. A good opportunity for the United States to pry open Japan's trade doors will occur in October when United States and Japanese officials meet specifically to discuss Japan's beef and citrus trade barriers. It is high time that the State Department began to work for our farmers and ranchers, not vice versa.

I believe it is up to Congress to hold the administration's feet to the fire on agriculture exports to Japan. It must understand and understand clearly that Japan's trade barriers against beef and citrus violate GATT and that Congress wants the playing field of world trade leveled. Congress wants those barriers down and it wants them down now or Japan runs the terrible risk of facing trade barriers on her own exports.

EXPLANATION OF RESOLUTION

Mr. President, these are harsh words, but they need saying. The clock is running down and patience is running very thin in Congress with unfair Japanese agricultural trade practices. I am submitting a resolution today which is designed to make that point clearly and forcefully. The resolution is intended to stiffen the administration's back in these upcoming Japanese trade neogtiations. It is time for the administration to prove its ability and willingness to go to bat and produce results for U.S. farmers and ranchers—to show the rest of the world that they take unfair and illegal trade practices seriously—before any more jobs and paychecks are lost due to unfair foreign trade barriers.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NO. 3272

(Ordered to be printed and to lie on the table.)

Mr. **ROTH** submitted an amendment intented to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 3273

(Ordered to be printed and to lie on the table.)

Mr. **HUMPHREY** submitted an amendment intended to be proposed by him to the joint resolution, House Joint Resolution 520, supra.

AMENDMENTS NOS. 3274 THROUGH 3276

(Ordered to be printed and to lie on the table.)

Mr. **ZORINSKY** submitted three amendments intended to be proposed by him to the joint resolution, House Joint Resolution 520, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. **WALLOP**. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 2801 (H.R. 6542), the Wilderness Protection Act of 1982. The hearing will be held on Thursday, September 23, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit testimony for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

Witnesses are requested to provide the subcommittee with 100 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee. Witnesses will be arranged in panels and may be limited in number due to the amount of requests to testify which are expected. Witnesses are requested to limit their oral testimony to 5 minutes and to submit their full written statement for the record.

For further information regarding this hearing, please contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. **WARNER**. Mr. President, I would like to announce for the information of the Senate and the public that the subcommittee hearing scheduled for Thursday, September 23, at 9:30 a.m., on America's role in the world coal export market, will be held in room 5300 instead of room 3110.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, September 15, at 10 a.m., to hold a markup on S. 2620, S. 2621, and S. 2245, bills to reauthorize the Federal Insecticide, Fungicide, and Rodenticide Act.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 15, at 10 a.m., to hold a hearing on the Law of the Sea.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 15, at 2 p.m., to hold a hearing to consider the nominations of Richard R. Burt to be Assistant Secretary of State for European Affairs; Rozanne L. Ridgway to be an Ambassador to the German Democratic Republic; and Henry Allen Holmes to be Ambassador to Portugal.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, September

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15, at 10 a.m., to hold a hearing to consider S. 2562, the Federal Energy Reorganization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 16, at 10 a.m., to hold an oversight hearing on the General Services Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, September 16, at 9:30 a.m., to hold an oversight hearing on coal exports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Friday, September 17, at 9:30 a.m., to hold an oversight hearing on coal exports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ABOLITION OF TECHNOLOGY TRANSFER GROUP

● Mr. JEPSEN. Mr. President, I find it odd that at a time when President Reagan is stressing the importance of the technology transfer issue, nominees for key policy positions at the Arms Control and Disarmament Agency are abolishing the relevent section at that agency.

I would like to submit for the RECORD a memorandum written by Norman Terrell, Acting Assistant Director, Bureau of Nuclear Weapons Control, abolishing the Technology Transfer Group as of August 30, 1982. I ask that the memorandum be included in the RECORD following my statement.

I hope, Mr. President, that some nominees can be found to fill these positions who are more supportive of the arms control and technology transfer agenda of our President, Ronald Reagan.

The memorandum follows:

ASSISTANT DIRECTOR,
U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
August 26, 1982.

MEMORANDUM

To: NWC Staff
From: NWC—Norman Terrell
Subject: Abolition of Technology Transfer Group

Effective the opening of business, Monday, August 30, 1982, the Technology Transfer Group is abolished. The technology transfer and Commerce Department license review functions of the Group are assigned, together with Mr. William Searle and Dr. Gerhard Mally, to the Arms Transfer Division. Space policy responsibilities, together with Mr. James Chamberlin and Mrs. Esther Jones, are assigned to the Defense Program Analysis Division. Colonel Tim deGavre will be given a new assignment by the Senior Military Advisor.

I want to express my great appreciation to Colonel deGavre for the fine leadership he provided to the Technology Transfer Group, and to the other members of the Group for the important contributions they have made.

cc: Mr. Grey; Mr. Montgomery.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notifications which have been received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 10, 1982.
In reply refer to: I-02939/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S, Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-76, concerning the Department of the Navy's proposed Letter of Offer to France for defense articles and services estimated to cost $97 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF.

TRANSMITTAL NO. 82-76

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: France.
(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$25
Other	72
Total	97

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Four very low frequency transmitters with spare parts, publications, training, and support.

(iv) Military department: Navy (LCD).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 10 Sep. 1982.

POLICY JUSTIFICATION

FRANCE—VERY LOW FREQUENCY (VLF) TRANSMITTERS

The Government of France (GOF) has requested the purchase of four VLF transmitters with spare parts, publications, training, and support at an estimated cost of $97 million.

This sale will contribute to the foreign policy and security objectives of the United States by improving the defensive capabilities of an ally. Although French forces are not committed to NATO command, France nevertheless bases its defense on cooperation and interoperability with NATO. As a further potential benefit, this sale will contribute to the standardization and interoperability of French and U.S. equipment, as well as demonstrate the seriousness of the U.S. commitment to cooperative programs with alliance partners. France's commitment to this program may well have positive effects on French willingness to participate in other multinational, cooperative arms programs.

The GOF has decided to build a new communications system based upon a hardened network and on relay aircraft which will be able to retransmit the orders of the French President to submerged submarines as well as to other strategic components even in a high interference environment. Acquisition of these VLF transmitters will provide France with communication facilities operable under adverse conditions.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Rockwell International Corporation of Richardson, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to France until 1987. At that time there will probably be several contractor representatives in France on a year to year basis.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 10, 1982.
In reply refer to: I-02760/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-78, concerning the Department of the Air Force's proposed

Letter of Offer to Korea for defense articles and services estimated to cost $60 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF.

TRANSMITTAL No. 82-78

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Korea

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	0
Other	60
Total	60

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Cooperative logistics supply support arrangement, requisition case (FMSO II), for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin.

(iv) Military department: Air Force (KBN).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold:

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 10 Sep. 1982.

POLICY JUSTIFICATION

KOREA—AIRCRAFT SPARE PARTS

The Government of Korea has requested the purchase of a cooperative logistics supply support arrangement, requisition case (FMSO II), for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin at an estimated cost of $60 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Eastern Asia. This sale will help to ensure that aircraft previously obtained by Korea from the U.S. are maintained in a mission-ready status to the maximum extent practicable.

This cooperative logistics supply support arrangement is necessary to ensure an uninterrupted flow of spare parts to support the C-123K, F-4D/E, F-5A/B/E/F, T-33, and A/T-37 aircraft, and other systems and subsystems of U.S. origin. The Korean Air Force will have no difficulty in absorbing the articles.

The sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items and services will be from the many contractors providing similar items and services to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Korea.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room 4229 of the Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 10, 1982.
In reply refer to I-03029/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-83 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $689 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL No. 82-83

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Egypt.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$227
Other	462
Total	689

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Four E-2C aircraft with spare parts, support equipment, training, and publications.

(iv) Military department: Navy (SAL).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 38 report.

(viii) Date report delivered to Congress: September 10, 1982.

POLICY JUSTIFICATION

EGYPT—E-2C AIRCRAFT

The Government of Egypt (GOE) has requested the purchase of four E-2C aircraft with spare parts, support equipment, training, and publications at an estimated cost of $689 million.

The proposed sale supports the American foreign policy and national security objectives of assisting the GOE in its program of modernizing its armed forces so that it may provide for its own security and self-defense and contribute to regional security and stability. A strong and independent Egypt will be able to participate in the Middle East peace process and resist incursions of Soviet client states in the region.

The sale of these four aircraft will provide the Egyptian Air Defense Force with extended early warning as well as command and control capabilities. The E-2C aircraft will be used to augment ground radar units.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Grumman Aerospace Corporation of Bethpage, New York.

Implementation of this sale will require the assignment of 21 additional U.S. contractor representatives to Egypt for two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such notifications have been received.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, Room 4229, Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 9, 1982.
In reply refer to: I-03444/82

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Sec-

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tion 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF,
Director.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 10, 1982.

In reply refer to: I-02875/82ct

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF,
Director.●

SALUTE TO PERCY V. WILLIAMS

● Mr. SARBANES. Mr. President, Marylanders today enjoy substantially better educational opportunities thanks to the pioneering efforts of Percy V. Williams. During his 20 years with the Maryland State Department of Education, Dr. Williams has demonstrated great compassion and initiative as he has assumed the increased responsibilities of advanced leadership.

A native of Perryman, Md., Dr. Williams was educated in the public schools of Harford and Cecil Counties. His decision to pursue a career in education was prompted by an early concern for the poor and disadvantaged, complemented by continued encouragement from his father. He completed Bowie Normal School and began using his outstanding teaching abilities at Havre de Grace Elementary School. His professional qualifications were further enhanced by his attainment in 1938 of a bachelor of science degree from Virginia State College, and 3 years later a master of education degree from Temple University.

Dr. Williams interrupted his career for 3 years to serve his Nation in the Army during World War II. After the war he returned to Harford County, where he was appointed supervisor of black schools, a position he held until 1950, when he became principal of Central Consolidated School in Hickory. His outstanding work at Central formed a sound foundation for further advanced study, culminating in the doctor of education degree he received in 1955 from New York University.

In 1962 Dr. Williams joined the Maryland State Department of Education, where he has served as a supervisor, assistant director, director, and finally assistant State superintendent of compensatory, urban and supplementary programs, a post he held with distinction from 1970 through this year. He has also instructed students at Morgan State University and Coppin State College, and has served as a highly respected consultant to many educational, professional, and governmental organizations. He is a member of the National Education Association, the Maryland State Teachers Association, and the National Alliance of Black Educators, among many other prominent professional groups. He has even succeeded in coordinating his teaching skills with his deep religious convictions through his efforts as a lay teacher and speaker at the teenage church school of Union Methodist Church.

Mr. President, Percy Williams retired from the Maryland State Department of Education on June 1. His many friends have reserved the evening of September 16 to honor him for his long and distinguished record of accomplishments, and I ask my colleagues to join my fellow Marylanders and I in saluting this great educator.

LAUNCHING THE COLUMBIAN DECADE—ADDRESS BY SENATOR MATHIAS

● Mr. DOMENICI. Mr. President, recently, our colleague, Senator MATHIAS, was asked to address the biennial conference of the Italian American Foundation International Relations Workshop regarding the upcoming 500th anniversary of the Christopher Columbus' discovery of America. "Launching the Columbian Decade" is a wonderful historical perspective of why the deeds and accomplishments of Columbus deserve to be retold and honored.

Mr. President, I ask that the speech of the senior Senator from Maryland be printed in the RECORD.

The speech follows:

LAUNCHING THE COLUMBIAN DECADE

(By Senator CHARLES MCC. MATHIAS, Jr.)

It is a great honor to participate in the 1982 Biennial Conference of the National Italian American Foundation and to help you launch the Columbian Decade.

When Ben Palumbo asked me to open this international relations workshop, he graciously offered to let me pick my own subject. I suspect Ben had in mind something that dealt with U.S. foreign policy, so he is not to blame that, instead, I want to talk about "Launching the Columbian Decade."

Actually, my subject is not as far afield as it may appear to be. In fact, when you consider the tremendous challenges that confront the United States right now and those that lie ahead, it seems particularly appropriate to begin this workshop by reflecting a little on Christopher Columbus' achievements.

Today, we live in one of the great transitional periods of human history, just as Columbus did. Very little is certain in our world. But we can be perfectly certain of one thing: If the United States is to grasp the miraculous future that is within its reach, this Nation must summon up the same kind of faith and courage and vision that sustained Christopher Columbus on his extraordinary voyages of discovery.

Columbus' voyages of discovery, taken as a whole, may very well be the greatest event in the history of the secular world. Let your mind search back through the centuries of human endeavor to find another single deed that has had such far-reaching historical significance. What momentous battle or invention can compare with the discovery of a New World?

Columbus paved the way for the greatest migration of peoples this world has ever known. He opened the door on a new ERA which allowed for the steady march of civil and religious liberty.

It does not obscure his achievement that other Europeans may have reached our shores years or even centuries earlier than Columbus, for it was Columbus alone who broke the rigid barriers of ignorance and fear to allow the Old World to meet the New. Columbus not only led the way to new places, he opened the mind to new vistas, to new hopes, to new challenges.

Columbus died without realizing the full significance of his voyages, but he did at least have a hint of the magnitude of his achievement. The journal he kept of his third voyage, the one on which he first spotted the mainland, contains this entry:

"I believe that this is a very great continent, until today unknown . . . and if this be a continent, it is a marvelous thing, and will be so among all the wise. . ."

These are the words of a prophet. And like the proverbial prophet, who is "without honor in his own country," Columbus died discredited and alone.

It took the wry wit of Baltimore's Ogden Nash to sum up the ironies of Coumbus' career. He wrote:

So Columbus said, Somebody show me the
    sunset and somebody did and he set
    sail for it.
And he discovered America and they put
    him in jail for it,
And the fetters gave him welts,
And they named America after somebody
    else.

October 12, 1992, will mark the 500th anniversary—the quincentenary—of the day land was sighted by one of the ships sailing on Christopher Columbus' maiden voyage to find a westward passage to the Orient. Instead of the Orient, however, Columbus reached a New World—what he called "the other world." His contemporaries neither appreciated nor acknowledged the enormous contribution Columbus had made to the expansion of European civilization, and to the creation of a new one. But we, who are the ultimate beneficiaries of his vision, courage and travail, must see that the memory of Columbus and his achievement does not suffer the same fate in 1992 as it did in his lifetime.

Although the anniversary is still 10 years away, it is not too soon to begin to plan for the observance of such an unprecedented event—the birthday of the New World. The National Italian American Foundation will undoubtedly play a pivotal role in organizing and preparing to make this the greatest celebration the world has ever known. And you will not be alone. Groups across the Nation are already gearing up to meet the challenge of this celebration.

The Federal Government, too, must do all it can to see that this anniversary is observed appropriately and thoughtfully. To spur that effort, I have introduced legislation in the Senate to establish the Christopher Columbus Quincentenary Jubilee Commission. The Commission would be charged with planning, encouraging, coordinating, and conducting local, national and international observances and activities.

Its 31 members, most of whom would be private citizens, would be responsible for preparing comprehensive programs to commemorate the quincentenary of the voyages Columbus embarked on in 1492. Books, films, lectures, exhibits, ceremonies, and all manner of celebrations would be planned and coordinated by the Commission. Columbus' travels are well documented, and there is much to learn from him about the human spirit and the quest to discover new frontiers. The age of discovery is far from over. The Commission would work in conjunction with State, local, and foreign governments, public agencies, and private organizations to plan the 1992 celebration.

A particularly important aspect of the observance must be to consult and work with our friends and neighbors in other nations of the Western Hemisphere who share with us the Columbian legacy, and whose heritage of culture, scholarship, and creative art can contribute so much to the value and significance of the event. Italy and Spain, too, will surely wish to take a special role in our observance as they plan their own.

A celebration of the dimensions we contemplate dictates that the Federal Government play a role. My bill devises what I think is an appropriate role for Government and I hope you will help me see that it is enacted quickly.

Now, if you wonder why a Marylander of Welsh descent is leading this congressional charge, let me remind you that Baltimore boasts one of the most active, lively and civic-minded Italian-American communities in the entire United States of America. Furthermore, Baltimore is the only city in the country that, in 1792, marked the 300th anniversary of Columbus' landing by erecting a monument in his honor. That monument to Columbus, dating back to the earliest days of the Republic, still stands as a constant reminder to all Marylanders of what we owe to this very great man.

Now, to close on a note that brings us back to the realm of international relations, it is well to remember that essential to Columbus' genius was his ability to absorb the records of the past and give vitality to them in the present. Columbus was propelled and guided by history and he repaid the past by launching the future. The breadth of his knowledge is reflected in what he wrote in 1501:

"Withersoever men have sailed to this day, thither I have also sailed. I have held traffik and converse with the wise and prudent, churchmen and laymen, Latins and Greeks, Jews, and Moors. . . . During this time I have seen and made it my study to see, all writings, cosmography, histories, chronicles, philosophy, and other arts, so that the hand of the Lord plainly opened my understanding to see that it was possible to sail from hence to the Indies, and set on fire my will for the execution thereof."

Clearly, what Columbus undertook and accomplished was no mere accident. He had an indomitable will to achieve the impossible in spite of tremendous opposition and unimaginable odds. His knowledge of the past, and his belief in himself and his mission were enough to change the course of history.

I am confident that we, too, can change the course of history in our time, if we absorb the dreadful lessons of the past and if we determine that in a world haunted by the specter of nuclear war, a passage to a better New World can be discovered.●

EASTON LITTLE LEAGUE ALL STARS

● Mr. **SARBANES**. Mr. President, baseball has often been called the All-American Sport because its energy and team cooperation capture so much of the American spirit. I am proud to note that a group of young people from the Eastern Shore of my own State of Maryland has demonstrated an abundance of that spirit.

The Easton Little League All Stars is more than a ball team—it is a collection of highly talented young people whose athletic skills have brought enormous pride to their families and to their community.

Under the careful direction of their manager, Bill DelBiondo, and his tournament coach, Paul Gawel, these youngsters have grown in strength and maturity, overwhelming all challengers to become one of the eight top teams in the world and earning them contender status in the coveted Little League World Series. Although they ultimately did not win the series, their sportsmanship remains an inspiration to us all.

Mr. President, I ask that the articles from the Baltimore Evening Sun be printed in the RECORD to recognize these outstanding young citizens.

The articles referred to follow:

[From the Baltimore Evening Sun, Aug. 25, 1982]

EASTON KIDS GO FOR THE SERIES

(By Frank Megargee)

EASTON—It just could be the biggest thing to hit this historic town, this self-styled "Colonial Capital of the Eastern Shore," since powdered wigs and silver-buckled shoes went out.

It has everyone all but dancing in the streets. It's the Easton Little League All Stars, whose string of victories has propelled them into that boyhood dreamland—the Little League World Series at Williamsport, Pa.

Just by getting into the series, the boys become one of the top eight teams in the world.

All of which has turned this town of about 7,800 souls, normally relaxed amid antique charms, into a nearly community-wide fan club cheering on a bunch of 11- and 12-year-olds.

"Easton is bursting at the seams with pride," said Mayor George P. Murphy.

The mayor and Police Chief Edward Blessing were due to lead a motorcade of 11 cars packed with fans early today on the long drive to Williamsport, where the Easton team was scheduled to play a Michigan team today if the rain holds off.

"I expect half the town will be going," the mayor said with pardonable hyperbole.

Actually, there may be quite an exodus. Besides the mayor's motorcade, two charter buses departed this morning for the central Pennsylvania town that is the home of Little League baseball.

Some fans left yeaterday. One businessman, Ron J. Wanner, a vice president of a local manufacturing firm, was flying up with family and friends in the company Cessna.

Expected to ride in the mayor's caravan was County Councilman Richmond W. Hill, grandfather of All Star first baseman, Maury Newman, 12. Granddad had a message to read at the game's opening ceremonies from Gov. Harry R. Hughes, praising the players as "most worthy representatives of our state in this international competition."

Those who are left at home can follow the game's play-by-play on Easton and Cambridge radio stations. At the Talbot County Community Center, bleachers will be set up in the big arena and the radio broadcasts will be amplified over the sound system.

Fans are invited to come and "celebrate together," said Pat Kerns, the center's manager.

If the team makes it to the series finals Saturday, Kerns plans to set up a wide-screen television to take advantage of national network coverage.

Win or lose, the 14 Easton All Stars will be feted as champs when they return Sunday. After all, said one fan, "the worst that can happen is that they wind up the fourth best in the U.S. and eighth in the world."

They are competing against teams from Michigan, Florida and Washington state, as well as teams from Europe, Canada, Venezuela and Taiwan.

When their returning bus approaches town on Sunday they will be met by a police car and escorted to a town park for a brief tribute. "They'll be anxious to get home and we won't keep them long," said Chief Blessing. "Just long enough to show our appreciation."

Later, a bigger celebration will be held, probably Sept. 18, the chief said. There will be a parade and awards, and there is even talk of inviting Little League teams from throughout the state to march in their uniforms.

Lou E. Satchell, an accountant and father of Steve, 12, a left fielder on the All Stars, recalled that he also played left field on the Easton All Stars in the 1956-57 season and almost reached the regional competition.

"But the World Series is the ultimate goal of every little boy who ever played Little League," he said. "It's something they'll remember all their lives."

At Swann's Tire Center here yesterday, where several fans were buying charter bus tickets, two of the mothers talked about sportsmanship.

"The boys show a degree of maturity unusual for youngsters of that age," said Wadella Chase, a high school teacher whose son, Kurt, is a pitcher.

"They're confident, but not cockey," she added. "And they've set fine examples of good sportsmanship wherever they've gone."

Nina Niskey, also a teacher and the mother of Brian, another toprated pitcher, had a good word for the example set by the coaches and managers. "Even when the boys make a mistake," she said, "they always give them a pat on the back that raises up their heads again."

Norman J. Moore, superintendent of schools, is confident the youngsters will be able to handle all the media attention and the pressure of being instant celebrities. "I know those kids from school, and I've watched the games here. I'm sure they'll settle back in their normal pattern after it's over. Meantime, they deserve all the credit they're getting."

"Sure they're under pressure, but once the game is over they become little boys again," said Margie H. Callahan, president of the Easton Little League.

Callahan said the team was getting considerable financial support from the community. So far, she said, business and individuals have donated about $3,000 to help defray travel and other expenses. Parents were paying their own way.

Two businessmen, Donald J. Swann and W. Wayne Lewis, canvassed local companies for donations for the charter buses so that fans could ride up and back at reduced rates.

Help also came from the Star Democrat, the local newspaper, which was getting out a special supplement saluting the players. Ten percent of the proceeds from that will go to the team.

As might be expected in historic Easton, even the Talbot County Historical Society got into the act by donating miniature Talbot County flags for fans to wave during the games.

"What we are seeing here," explained a spokesman for the society, "is a bit of Talbot history in the making."

A Lifetime Memory in the Making

(By Dan Rodricks)

Williamsport, Pa.—Fourteen boys from Maryland's Eastern Shore, bubble gum brothers in baseball since a July victory over Homerun Baker, were scheduled to take a giant step into a dream today. They are playing some kids from up in Michigan and, win or lose, they'll leave this Boys Town of Baseball with sugar plum memories of their 12th summer.

They've been traveling together since early July and winning baseball games along the way. From that first 23–0 parade past Homerun Baker of Oxford, to their regional championship in New York last weekend, to this—the Little League World Series—the boys from Easton have been casting a sterling memory for themselves.

Theirs is one of the eight best Little League teams between Talbot County and Chia-Yi-Hsien, Taiwan. And this, in the mind of every 12-year-old who lived close enough to town to learn the game, is a very big deal.

This is a dream, the kind that doesn't sink in right away, but comes back to comfort the memory way down the line, long after pot bellies and mortgage payments.

But let us cut the philosophy.

Right now, there is this game against Wyoming, Mich. (Pop., 58,000). The first pitch was scheduled for 2 p.m., and only farmers around here are hoping the weather forecast is accurate. Showers could put the game off a day, but no matter. The boys can handle it, it seems, in any climate. They're as cool as the seeds in an Eastern Shore cantaloupe.

Their manager, Bill DelBiondo, says he's never seen such a relaxed, mature and quietly determined group of seventh-graders. No bragging, he says. No swelled heads. When these boys came up for Little League as 9-year-olds, DelBiondo and other sideline adults knew there was something special here.

"It was a cold March day when we had tryouts," DelBiondo recalled yesterday. "And they had snow jackets on. They were special, you could tell right away. They were special athletes. They could throw the ball. They could hit. They could run. They could field. They had no fear of the ball. They were all starters as 9-year olds."

This is the generation that knows DiMaggio as Mr. Coffee. They were born in 1969 or 1970, good years for Bay oysters and Easton baseball players. DelBiondo, who works for Black & Decker, is a happy man these days; he seems privileged to have inherited so much talent from a town of 7,800.

Best of all, he likes being part of the memories. The boys are having a ball. Last night, his left fielder, Tyrone Camper, was chumming it up with a couple of kids from Taiwan.

Taiwan is an occupying force here, having won the World Series each of the last five years and 10 of the last 13. They got off to a fabulous start yesterday, too, beating curly-haired Venezuelans from Maracaibo, 8–2.

Tyrone was asked how he communicates with the Taiwanese players, who are from the small town of Pu-Tzu. "Like when they say something," he explained, "I say the same thing back at them and they laugh." Simple enough. American-Taiwan relations among big people should be so good.

The kids from Easton have had a marvelous summer. No school. Baseball.

There were eight teams of 14 boys in the Easton Little League back in the spring. At the end of the season, DelBiondo and his tournament coach, Paul Gawel, selected an all-star team. The journey to the World Series started with that win over Homerun Baker. Any gang to kids that beats a team called Homerun Baker deserves champagne-flavored bubblegum.

There were fourteen more games, and the Easton gang won them all—beating Federalsburg, Greensboro, East Salisbury, Cambridge, Harundale, St. Mary's, Hagerstown, Morristown, N.J., Seaford, Del., and, finally, Millis, Mass. The last victory was the Eastern Regional Championship.

The numbers on the Easton entry show that their top pitchers, Kurt Chase (8–0) and Brian Niskey (6–0), are also the top hitters, with Chase batting .658 in tournament action and Niskey batting .525. Kelly Hawkins, the lead-off hitter and right fielder, bats .419. Niskey hit six of the team's 18 tournament home runs. Easton averaged nine runs a game to their opponents two. They hit for extra bases 40 percent of the time. Chase pitched a no-hitter in the regional championship.

These are numbers of fleeting importance, but they tell part of a summer story. The other part is that in America, baseball players come from towns like Easton; they are the sons of farmers and teachers and choir directors, accountants and doctors and truck drivers. DelBiondo's son, Mike, is the catcher. Matt Saulsbury plays second, Maury Newman is first baseman, Doug Shaw plays third. Steve Satchell, Ray Anderson and Tyrone Camper; David Derr plays the infield.

They come out of back yards and fields of dry summer grass. Tyrone used to play in a field behind a Methodist church in a place he called "the alley." He played there with his friends, his brother and father. Some of the other boys followed their brothers into Little League.

And the talent here is at times dazzling. A 12-year-old pitcher throws a ball 70 miles an hour. Shortstops scoot across second base, across the infield, making plays to first. Catchers hop and stop bad pitches. Outfielders make long, strong throws; they gaze up at fly balls, gauge them, get under them, clamp them in their gloves. The glove of a pitcher snaps back as he casually takes a return from his catcher. A third baseman attacks a bunt, barehanding it from the grass.

They have learned the game and, in their 12th summer, the game has given them an eternal dream which begets a sugar plum memory, which is all any Little Leaguer should hope for.●

LITERACY VOLUNTEERS OF AMERICA

● Mr. D'AMATO. Mr. President, Literacy Volunteers of America celebrates its 20th birthday in 1982 with 2,300 tutors and students currently working in 26 States and two Canadian Provinces.

In 1962 Ruth Colvin discovered a need for a literacy program in her community of Syracuse, N.Y. As the literacy program developed, new teaching methods, tutor training and materials were designed and published in close cooperation with educator professionals.

In 1967, the State of New York approved Literacy Volunteers as a nonprofit organization. By 1972 Literacy Volunteers had become Literacy Volunteers of America with the stated purpose "to foster literacy in the United States" (and Canada).

Today the national headquarters of LVA remains in Syracuse. A volunteer national board of directors, representing diverse Literacy Volunteer units and occupations, now works in close cooperation with the State organizations and individual units throughout the United States. Recognition and support for training, development, and programs have come from corporations, foundations, individuals, and the Office of Education. As an example, the State of New York assisted in the preparation of Read On, an instructional series, which like all other Literacy Volunteers of America publications are shared with other literacy organizations, schools, and individuals.

In 1974 Literacy Volunteers of America expanded to meet the needs of the foreign born. The "English as a Second Language" course materials were written. As with all basic reading programs, the ESL was and continues to be a 1-to-1, teach-tutor method with trained Literacy Volunteers supplying their expertise at no cost to the student. Literacy Volunteers devote themselves to the teaching of the 23,000 Americans who are functional illiterates.

Only last week in the Washington Post, a news story indicated that four Cambodian children drowned in Florida because they could not interpret the danger signs.

I applaud Literacy Volunteers of America in their efforts to eradicate illiteracy in New York State and throughout the country.

I salute in particular the 40 units in the New York State organization, the extensive New York City program and the pioneering spirit of Ruth Colvin of Syracuse on the 20th birthday of Literacy Volunteers of America.

I join with them and the national organization in their drive to eliminate illiteracy in the State of New York and throughout the Nation.●

STATUS REPORT ON THE BUDGET FOR FISCAL YEAR 1982

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1982 pursuant to section 311 of the Congressional Budget Act. This report reflects completed action on the Tax Equity and Fiscal Responsibility Act (H.R. 4961, Public Law 97-248), the Omnibus Budget Reconciliation Act (H.R. 6955, Public Law 97-253), and the 1982 Supplemental Appropriation Act (H.R. 6863, Public Law 97-257).

Report to the President of the U.S. Senate From the Committee on the Budget

REFLECTING COMPLETED ACTION AS OF SEPTEMBER 10, 1982

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution level	777,672	734,100	628,400
Current level	769,462	733,004	628,600
Amount remaining	8,210	1,096	200

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $8,210 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 92 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $1,096 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 92 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $200 million for fiscal year 1982, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 92.●

JUSTICE ASSISTANCE ACT OF 1982

● Mr. BIDEN. Mr. President, today in the Judiciary Committee we favorably reported the Justice Assistance Act of 1982. This is a bill that I have worked on with Senator **Specter**, the original sponsor of the bill, to move through the Judiciary subcommittee and full committee in hopes that this vitally needed program can be considered by the full Senate this Congress.

I would at this point like to commend Senator **Specter** who has worked very hard on developing this proposal that will help State and local law enforcement. As the ranking member of the Judiciary Committee, I can honestly say that politics have been put aside by Senator **Specter** and myself in a truly bipartisan effort to move this legislation through the Senate.

The Justice Assistance Act of 1982 has been developed with the fullest intention that law enforcement and the operation of criminal justice systems are primarily State and local responsibilities. Ninety-four percent of all violent crime occurs within the local or State criminal law jurisdiction, and the Federal Government should avoid possible infringement on the State and local law enforcement responsibilities. Sheer economic limitations preclude the Federal Government from offering assistance funds that would be used to subsidize local or State criminal justice programs.

Too often in the past, under the old LEAA program, assistance money was used to purchase equipment or pay salaries. Also, the former program resembled a scattershot approach with few dollars being spread so thin that achievement of success was difficult to measure.

Instead, this bill would take into account the lessons learned from the old LEAA program. Using a modest annual investment of $125 million, this program would enable State and local governments to make criminal justice improvements by implementing effective program approaches in criminal justice operations.

PROGRAMS OF PROVEN EFFECTIVENESS

One of the features of this bill, similar to a bill I introduced last June, would be funding programs of proven effectiveness such as: Career criminal prosecution; integrated criminal apprehension program (ICAP); "sting"; treatment alternatives to street crime (TASC); victim-witness assistance; arson prevention and control; prosecutor's management information system (Promis); violent juvenile offenders program (New Pride); and comprehensive crime prevention, et cetera.

We further intend that this program link research and program operations by having the National Institute of Justice be responsible for testing, evaluating, and recommending adjustments in the types of programs to be funded. This will be done with the practitioner's needs in mind. This type of evaluation will be geared to the realities of the day-to-day operations and political constraints that make up the real world of police officers and prosecutors. These reports are to be useful documents, not scientific manuscripts, which often collect dust on bookshelves. It is our intent that this program be streamlined administratively and avoid a return to previous LEAA mistakes, when limited Federal dollars were often spent in an ineffective manner.

TRAINING AND TECHNICAL ASSISTANCE

One provision of this bill calls for the Federal Government to provide grants up to 100 percent of the cost to State and local jurisdiction that request specific training or technical assistance. The intent is to provide the requesting jurisdictions with written material, training workshops, direct on-site technical assistance, so that new concepts and programs of proven effectiveness can be started. It will be the responsibility of the requesting jurisdiction to cover the operating and day-to-day costs of the program.

Training and technical assistance will also be available for management problems or specific concerns that may not necessarily entail the development of one of the concepts listed above.

Another program in the bill will be the emergency assistance funding program. When there occurs a crime problem of such a serious or epidemic proportion such as the Atlanta child murders or the drug-related violence in south Florida, the prompt support by the Federal Government to local and State agencies should be available.

We have carefully written this language to insure that the Federal Government does not needlessly intervene in matters of State and local concern. This program will only be implemented for crime emergencies or extraordinary circumstances and when State and local resources are not geared to expeditiously resolve the problem. In all situations in which these funds are used, primary responsibility for responding to the situation rests with the local or State jurisdiction. These funds are to be used to help coordinate and expediate resolution of the crime problem, following the request for assistance by the local jurisdiction.

This proposal represents a very modest authorization of $125 million a year. It is a far cry from $1 billion a year investment that was going into Federal criminal justice assistance only a few years ago. It is important that assistance funds be made available to States and cities, but in a streamlined and efficient manner. This bill is intended to do just that.

Mr. President, let me urge the Senate leadership to bring this bill before the full Senate as soon as possible. There has been a great deal of rhetoric on the crime issue that has not been followed up by action. I am

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tired of statements about the administration's commitment to fight crime and then having to fight budget cuts to Federal law enforcement agencies and assistance to State and local police that OMB proposes each year. The administration has yet to support any criminal justice assistance program or offer an alternative to this or the House-passed version. On the House side, Congressman HUGHES' criminal justice assistance bill was overwhelmingly passed out of the House in February by a vote of 289 to 73. It is very possible that when the Specter/ Biden assistance bill comes to the Senate floor and is passed, a conference on the House version could be worked out in short order.

It is clear that those directly involved working in our local and State criminal justice agencies recognize that the Federal Government can play a role in assisting State and local law enforcement. The President's own Task Force on Violent Crime recommended in August 1981 that funds be available for implementing demonstration programs of proven effectiveness that require a reasonable match of State and local funds. I believe that is precisely what this bill calls for.

Finally, Mr. President, this summer Senator THURMOND and I sent out over 12,000 questionnaires to criminal justice professionals across the country asking for their opinions on pending crime legislation. The response to the questionnaire has been extraordinary, with over 4,000 filled out questionnaires returned so far. Question 3 of the questionnaire reads as follows:

> Federal assistance to State and local criminal justice agencies is necessary if we are to find new successful crime fighting and crime prevention techniques?

Eighty-eight percent responded favorably to this question. This further documents that those patrolling our city streets, prosecuting arrested defendents, and working in our jails and prisons realize that technical assistance and training is a means to bettering our criminal justice system.

I ask my colleagues to join with Senator SPECTER and myself in cosponsoring this bill and seeing that it is considered for final passage as soon as possible.●

HUMAN RIGHTS IN THE PHILIPPINES

● Mr. KENNEDY. Mr. President, on September 15, President Ferdinand Marcos of the Philippines will arrive in the United States for a 6 day state visit. President Reagan will receive him at a time when human rights are being seriously violated in the Philippines. Reports of persecution, arbitrary detention, torture and disppearances in that country are all too familiar—including the crackdown of security forces presently underway in order to quell dissent at home while President Marcos is in the United States.

My friends and colleagues, Senators CRANSTON, MOYNIHAN, PELL, and TSONGAS joined me yesterday in writing to President Reagan to express their concern that President Marcos' stay here could be misinterpreted as a sign that the United States condones the violation of human rights in the Philippines. We called on the President to reverse the impression of U.S. indifference to repression in the Philippines created by last year's visits to Manila by Vice President Bush and then Secretary of State Haig, and urged the administration to take advantage of the Marcos visit to demonstrate support for the people of the Philippines in their struggle for true democracy and human rights.

In this connection, I commend to my colleagues the important article by A. Whitney Ellsworth which appeared in the September 13 New York Times. Mr. Ellsworth, who led an official delegation from Amnesty International to the Philippines in November 1981, suggests that the administration at least ask President Marcos why investigations of human rights violations by his security forces so often come to naught.

Mr. President, I ask that the full text or our letter to President Reagan be printed in the RECORD at the conclusion of my remarks, together with articles by Whitney Ellsworth in the New York Times and by William Branigin in the Washington Post.

The material follows:

U.S. SENATE,
Washington, D.C., September 13, 1982.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We are concerned that your decision to welcome President Marcos of the Philippines for a state visit to the United States will be misinterpreted as a sign that your Administration condones the repression of the Marcos Government in the Philippines and its continuing violations of basic human rights.

We share the warm feelings of friendship by the overwhelming majority of Americans for the Filipino people. Americans and Filipinos fought side-by-side with great courage in World War II, and our shared dedication to freedom and human rights led to full independence and democracy for the Philippines after the war.

Unfortunately, there is convincing evidence, confirmed by the Department of State, that the government of President Marcos has been far from faithful to these ideals. Martial law, imposed ten years ago this month, endured for nearly a decade, only to be replaced in January 1981 with equally repressive national security measures. Throughout this period, the Marcos Government has engaged in persistent persecution of the press, labor, church, students and business leaders. There have been numerous reports of arbitrary detention, torture and disappearances; current instances of these cruel practices are described this week in the U.S. press.

The visit of President Marcos is an opportunity for you and your Administration to demonstrate America's support for the brave citizens of the Philippines in their struggle for true democracy and against the serious violations of human rights by the Marcos Government. We believe that this message is an essential reflection of the fundamental values of our nation—and is necessary to neutralize the unfortunate impression of indifference to repression created by the visits to Manila last year by Vice President Bush and Secretary of State Haig.

We strongly agree that an important element of our national security is the stability of nations that are our allies. But our allies are ultimately the peoples in those countries. It is their pleas we must hear and their rights we must heed when their government becomes their oppressor instead of their protector. The security of the United States does not require our support for the repression of the Filipino people.

We hope, therefore, that you will make the Marcos visit an occasion to enhance the cause of human rights in the Philippines. This visit can be an important signal to all peoples who look to the United States for leadership and hope, but who all too often see only the news reports of American officials embracing and toasting their oppressors.

Sincerely,

CLAIBORNE PELL.
ALAN CRANSTON.
EDWARD M. KENNEDY.
PAUL E. TSONGAS.
DANIEL PATRICK MOYNIHAN.

[From the New York Times, Sept. 13, 1982]

ABUSING FILIPINOS' RIGHTS

(By A. Whitney Ellsworth)

After President Ferdinand E. Marcos arrives in Washington on Wednesday for a state visit, perhaps our Government could stretch the bounds of hospitality and ask him why investigations of human rights violations by Filipino security forces so often come to naught.

There are repeated reports of "disappearances" of political opponents and suspected subversives, of torture and killings. A few investigations of the military for such abuses have led to dismissal, demotion and transfer, but most have not even gone that far despite clear Government policy against such abuses and laws designed to prevent them. Also, there have been reports of massacres, allegedly by paramilitary units, but investigations into them fizzle out.

One massacre occurred a year ago, Sept. 15, 1981, In early morning, 18 armed men entered the village of Sagod, near Las Navas, northern Samar. They rousted inhabitants from their houses and separated them into two groups: men and older children "who could write" in one line, women and younger children in another. Two armed men led the women and younger children across a river. They heard gunfire from the village. The other armed men soon joined the guards. All resumed their march away from the village. While crossing a ditch, three women and two children escaped. The line of march was halted in a forest.

Although some villagers recognized three armed men and their guides as having come from a nearby lumber company, the leader said he was a member of the New People's Army, the Communist Party's armed wing. He asked if the women knew where another New People's Army commander could be found and accused them of supporting the army. The women denied this but to no avail. The men opened fire, killing almost all the women and children. The few surviving children later found carnage in the village: The men and older children had been gunned down and left in piles. Then they discovered one woman who had survived; she and some children had fled in canoes up river to the next settlement. Overall, 45 men, women and children were murdered.

Hours later, a unit of the 14th Infantry Battalion arrived and burned some of the houses after placing bodies in them. They sealed off the village, declaring it a "no man's land."

The massacre was not reported in the Manila press until nine days later. The next day, Defense Minister Juan Ponce Enrile called for a thorough investigation. The official results have never been made fully public, but the general in charge of the investigation told a provincial council that he had determined that the New People's Army had been responsible and that the matter was closed.

Survivors of Sag-od told human rights groups that they had recognized some of the men as members of the lumber companys security force. On Sept. 29, a news story in Bulletin Today by a reporter in Samar mentioned the allegation about the security force, reported its reputation for viciousness and identified the commander as a lieutenant colonel. The newspaper was taken to the house of Lieut. Col. Carlos Lademora in San Francisco, eastern Mindanao. Colonel Lademora is the leader of a paramilitary group based in Mindanao known as the Lost Command. Many of its 250 members are convicted military and civilian criminals and deserters, although about 15 officers and men, including the lieutenant colonel, are members of the Philippines Constabulary, the largest military service charged with internal security. The Government does not admit that the Lost Command is part of the armed forces, but Colonel Lademora claims that his group is a special unit of the armed forces engaged in counter-insurgency operations.

The Lost Command reportedly runs protection rackets and serves as security guards for agricultural corporations, and numerous complaints about their activities, particularly killings attributed to them, have been made to Mr. Marcos by provincial authorities and church officials but to no avail.

When Colonel Lademora saw the news story, he called a family meeting, put his son in charge and instructed him to assassinate various political leaders in the province if he did not return in seven days, and left for Manila the next day. After two days there, he reportedly disguised himself and went to Samar. When he return to San Francisco, he contacted friends to establish an alibi for himself about his presence in Mindanao on Sept. 15. The Lost Command unit in Samar was ordered to return to Mindanao by the military authorities.

Even if the Lost Command has avoided responsibility for Sag-od, Mr. Marcos should be asked why such a paramilitary group is able to operate with impunity when it could be so easily found and forced to disband. A year after Sag-od is a good time to ask these questions.

[From the Washington Post, Sept. 13, 1982]

Marcos' Visit Here Aims at Bases Pact, Improved Image

(By William Branigin)

Manila, Sept. 12—Philippine President Ferdinand Marcos goes to Washington this week for his first U.S. state visit in 16 years in the wake of a crackdown that has weakened his domestic opponents but given more ammunition to his critics abroad.

While he has played down the visit as little more than a social call on President Reagan, it is clear that Marcos attaches much more importance to it as a major milestone of his 17 years in power. Preparations for the visit have been frenetic and advance teams have been working on it in the United States for four months.

The prime mover behind the visit is the new Philippine ambassador to Washington, Benjamin Romualdez, who is also the president's brother-in-law and governor of a southern province.

When Marcos arrives in Washington for talks Thursday with Reagan, officials here say, his entourage will include at least a dozen Cabinet ministers and several hundred other persons serving in some capacity, private, or official.

Among the subjects Marcos plans to discuss with Reagan are the role of the United States in the Pacific region's security, new agreements governing two major American military bases here and economic and trade matters. But at least as important as these to Marcos will be the image he wants to project back home as leader of a former American colony meeting the American president in Washington on equal terms.

"It's important for him to show that he's a close ally of the United States, but that he's going there as an equal, not like in the past," a Western diplomat said. He recalled Marcos' last state visit to the United States in 1966, when, nervous and inexperienced in his first year in office, he went more or less hat in hand "looking for money and support" from a somewhat patronizing then-president Johnson.

Marcos had been in the United States since then but only on private and ceremonial visits.

In this perspective, the visit goes to the core of the legacy Marcos is trying to build for himself, contributing to the aura of a leadership that has already taken on some of the characteristics of a monarchy.

But while Marcos will be meeting a president considered here to be the best friend he has ever had in the White House, the visit also is fraught with dangers.

Marcos' supporters worry that opponents here and in the United States will embarrass and discredit him with massive demonstrations.

Especially irksome were plans by opposition labor leaders to stage strikes and protests this month, while the Philippine economy is suffering from sharp drops in world commodity prices affecting its leading exports.

In response, Marcos last month ordered the arrests of three leftist labor leaders and scores of antigovernment agitators. They were accused of involvement in a communist plot to carry out strikes, bombings, assassinations and the armed overthrow of the government by 1983.

In a news conference last Monday, Marcos said investigators had found handwritten evidence of such plans and had captured hundreds of firearms and explosives. He said the government's "preemptive action" had thwarted the alleged plot. Nevertheless, security forces have been alerted to guard against disturbances, especially while the president is away on the trip, which is expected to last 10 days.

Saturday, a bomb exploded in front of an overseas employment agency on a busy downtown street, killing three persons and injuring more than 20, police said. But the motive was not immediately clear.

According to Western diplomats and other independent observers, the crackdown so far generally seems to have worked. In addition to the arrests of the labor leaders and antigovernment agitators—42 are now detained and 26 others are being sought—Marcos at the same time created a 1,000-strong force of "secret marshals" empowered to kill suspected common criminals. At least 47 suspects were killed in two weeks last month before the marshals' powers were restricted.

In some ways the tough policies and charges of a plot against the government reminded Filipinos of the days before Marcos declared martial law in 1972, a year ahead of his scheduled departure from office at the end of his second presidential term. Marcos ruled under martial law until January 1981, when he lifted it and secured constitutional changes allowing him to run for a new, six-year term. He won reelection handily in June 1981 in a contest boycotted by most opposition groups.

"Now Marcos is giving a signal to people in the Philippines that he is still in control," a Western diplomat said. Marcos also could be signaling Washington that there is a potential threat to him, he added.

A Marcos aide agreed that the crackdown "served as a reminder to everyone concerned of who is in charge, whether he [Marcos] is in the country or abroad."

Diplomats and other observers said the action appeared to have taken the wind out of an increasingly militant part of the labor movement and had discouraged moderate opponents, who scheduled but then called off several protests.

"I think the real purpose of Mr. Marcos was just to generate a climate of fear so that in his absence people would be too scared to do anything," said former senator Salvador Laurel, the head of a moderate opposition grouping. However, he noted that Marcos opponents among the estimated 750,000 Filipinos living in the United States were using the crackdown as a rallying cry for demonstrations against the state visit.

Laurel said a major test for the moderate opposition would come Tuesday, when a "massive demonstration" is planned in front of the Manila cathedral. He said organisers hope to attract 25,000 to 50,000 people to protest the state visit. The only demonstration against the trip so far has been the gathering of about 70 students in front of the U.S. Embassy here last week.

Besides the domestic opposition, Philippine authorities also are concerned about the activities of opponents in the United States led by former senator Benigno Aquino, who was jailed under martial law for eight years before Marcos freed him to undergo heart treatment in Texas. Aquino later took up a fellowship at Harvard.

Armed forces Chief of Staff Fabian Ver accused Aquino Friday of collaborating with Philippine "criminals" in organising anti-Marcos demonstrations.

Laurel said that besides their aim to end U.S. support for the Marcos government, opponents here also opposed the state visit because "it's not worth all that expense at a time when we're broke." He claimed it would cost "$20 million at least." Government officials dismissed criticism of the visit's cost, which they refused to estimate.

A Western diplomat said, however, "Whatever the trip costs, they'll get it back in compensation for the bases."

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He was referring to what is expected to be a main subject for discussion during the visit: the review of a 1979 agreement on the use of huge American naval and air bases here until 1991.

The talks are not expected to go into great detail, but Marcos has indicated that he wants agreement soon on a date to begin "renegotiating" the accord before its five-year review in 1984. Officials here have said they would like to start the talks by January 1983.

The Philippine side also is expected to raise the issue of U.S. compensation for use of the bases. The current arrangement provides for a $500 million U.S. aid package during the five years, a figure that Philippine authorities consider far too low. No revised figure has been proposed officially, but the numbers mentioned informally have ranged as high as $2 billion, informed sources said.

The higher "rent"—as the Filipinos prefer to call the compensation—undoubtedly would bolster the economy, which is sagging under a $16 billion foreign debt and low prices for the principal exports of coconut, oil, copper, sugar and lumber.

The poor economic conditions in depressed rural areas have fueled the slow but steady growth of the communist New People's Army, which has been conducting an insurgency against the Marcos government.

While the bases agreement is considered the most important issue in Philippines-American relations, Marcos has indicated that he is most interested in assessing during his U.S. trip how the United States envisions its future role in Asia and its commitment to the security of the Philippines.●

MEXICAN TIME BOMB

● Mr. EAST. Mr. President, in a column carried in the Colorado Springs, Colo., Gazette Telegraph on September 5, 1982, Prof. Jeffrey Hart warns that the Mexican economic crisis poses a long-term threat to the very existence of the United States. I ask that this cautionary article be printed in the RECORD.

The article follows:

SITUATION IN MEXICO SERIOUS THREAT TO UNITED STATES

(By Jeffrey Hart)

Mexico, unable to come up with either interest payments or principal on its massive $22 billion debt, nearly went down the drain taking major banks with it. That ought to concentrate the mind.

From Poland to Tanzania, Third World and communist nations have accumulated colossal debts which have little or no chance of being repaid and which have the potential for disaster in the financial structure of the advanced nations.

The Mexican financial disaster indicates a long-term threat to the very existence of the United States as a nation.

We hear a great deal these days about an atomic holocaust, with the United States and the Soviet Union exchanging thousands of the big bombs, and Jonathan Schell in "The Fate of the Earth" has even written a spine-tingling best seller about it.

But there is a much more likely scenario for disaster.

A communist regime exists, of course, in Cuba. Marxists are in control in Nicaragua, and both El Salvador and Guatemala are battling communist insurgencies. Consider the situation if both countries, in fact, [illegible] to the guerrillas.

The next country northward of Guatemala is Mexico.

Mexico's population growth is out of control and in consequence the country has both widespread poverty and heavy unemployment. Despite its revolutionary rhetoric, the Mexican government consists of an utterly corrupt and politically rickety one-party system. The current lame-duck president, Lopez Portillo, has outraged even his political colleagues by the size of the bundle he is taking with him as he leaves office.

Mexico would certainly be ripe for de-stabilization. With communists in control of Guatemala on its southern border, and a communist bastion off its shores in Cuba, Mexico would be an easy target for penetration and a mounting insurgency based in the mountains and the wretched barrios.

Moreover, Mexico's petroleum resources are concentrated in the southern portion of the country, where they would be strategically vulnerable from Guatemala.

Let us indulge in a bit of long-range speculation, despite the fact that it may initially seem far-fetched.

Suppose the de-stabilization of Mexico succeeds and communist guerrillas seize power, installing a Mexican Castro in the presidential palace. We then confront the fact of a communist state on our southern border, a border which we have shown little capacity to seal. The large Hispanic population in the American Sunbelt would be ripe for infiltration, and might well develop its own Marxist component. Demands that portions of the American Southwest and West be returned to Mexico might meet with widespread sympathy.

Terrorists infiltrated from Mexico and Cuba would conduct attacks throughout the Sunbelt. Guerrilla attacks would take place in Los Angeles, San Diego and El Paso. Riots would break out in Miami. With economic breakdown threatening in the United States, the federal government declares martial law, and with the United States crippled by its domestic problems the international situation deteriorates.

Communist China seizes Taiwan and opens negotiations with Japan on economic and defense matters. Castro seizes the Panama Canal. The Soviets turn off the Euro-Siberian gas pipeline, and, at an emergency energy summit conference in Moscow, demands that Germany leave NATO.

It could happen here.

In fact, something very much like it is implicit in the world view of those in this country and Europe who support, for example, the Salvadoran communist insurgents.

The socialization of the world requires that America be defeated, and the most lethal threat to America's survival comes not from Soviet missiles but from the deteriorating economic and political situations south of the Rio Grande.●

UNANIMOUS CONSENT AGREEMENT REGARDING CLOTURE VOTE ON THURSDAY

Mr. BAKER. Mr. President, I ask unanimous consent that notwithstanding the provision of rule XXII of the Standing Rules of the Senate, the rollcall vote occur on the cloture motion on the Helms amendment No. 2038 (to the Helms modified amendment No. 2031) to the debt limit bill at 2 p.m. on Thursday, September 16, and that the [illegible] quorum under rule XXII be

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the net effect of that is to say that if cloture is not invoked tomorrow at 5 p.m. on the Helms amendment, there will be another vote at 2 p.m. on Thursday to invoke cloture on the Helms amendment.

REMOVAL OF INJUNCTION OF SECRECY—TAX CONVENTION WITH AUSTRALIA, TREATY DOCUMENT NO. 97-28

Mr. BAKER. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with Australia signed at Sydney on August 6, 1982 (Treaty Document No. 97-28), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of Australia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Sydney on August 6, 1982. I also transmit the report of the Department of State on the Convention.

The Convention, based on the OECD and draft United States model income tax conventions, takes into account changes in the income tax laws and tax treaty policies of the two countries. It provides limits on the tax at source with respect to taxes on investment income and provides rules for the taxation of capital gains, business profits, personal service income and other income. It also specifies the method used to avoid double taxation and provides for administratives cooperation between the tax officials of the two countries to avoid double taxation and prevent fiscal evasion.

I recommend that the Senate give early and favorable consideration to the Convention and give advice and consent to its ratification.

RONALD REAGAN.

THE WHITE HOUSE, *September 14, 1982.*

ORDERS FOR WEDNESDAY

RECESS UNTIL 11 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATORS CHILES AND BUMPERS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order the distinguished Senator from Florida (Mr. CHILES) be recognized under special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised that the distinguished Senator from Arkansas (Mr. BUMPERS) desires time on special order tomorrow and, therefore, I ask unanimous consent that after the recognition of the distinguished Senator from Florida (Mr. CHILES) that the Senator from Arkansas (Mr. BUMPERS) be recognized in sequence on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I further ask unanimous consent, after the recognition of the two leaders under the standing order, and the recognition of the Senators from Florida and Arkansas on special orders, that there be a brief period for the transaction of routine morning business to extend not past the hour of 12 noon in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further business to transact. I inquire of the minority leader if there is anything further he wishes to do during this period for the transaction of routine morning business.

Mr. ROBERT C. BYRD. Mr. President, I have nothing. I hope I am not being repetitious in asking the majority leader, as I understand it, the only remaining "must" legislation is the debt limit, the continuing resolution, and appropriations bills.

Mr. BAKER. Yes, Mr. President, those are the "must" items. There are a number of other things we could take up and would take up given the opportunity, but those are the "must" items. If those are disposed of and assuming that we have those available from the House of Representatives—I am referring now to the appropriations bills—I think I would not insist on the other items that may be on the list.

If we cannot finish, particularly if we come back after the election, there are a whole host of measures that must be dealt with. But the minority leader correctly states the situation as I perceive it.

Mr. ROBERT C. BYRD. I thank the majority leader.

RECESS UNTIL 11 A.M. TOMMORROW

Mr. BAKER. Mr. President, I see no Senator seeking recognition. I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to and, at 4:51 p.m., the Senate recessed until tomorrow, Wednesday, September 15, 1982, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate September 14, 1982:

THE JUDICIARY

James C. Fox, of North Carolina, to be U.S. district judge for the eastern district of North Carolina, vice a new position created by Public Law 95-486, approved October 20, 1978.

EXECUTIVE OFFICE OF THE PRESIDENT

Martin S. Feldstein, of Massachusetts, to be a member of the Council of Economic Advisers, vice Murray L. Weidenbaum, resigned.

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HOUSE OF REPRESENTATIVES—*Tuesday, September 14, 1982*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 10, 1982.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Tuesday, September 14, 1982.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, God of all creation, as You have created us with Your love and nurtured us in all good ways, we earnestly pray that Your spirit of understanding and reconciliation will mark our lives and be our daily beacon. As You have loved us, so may we express that love in ways that bring joy and blessing and respect one to another. May we experience Your spirit not only in heaven above, but in our associations with those near and dear to us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke.

EXPORT-IMPORT BANK LOAN TO COMMUNIST CHINA A DISGRACE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, recently, the administration extended a $68,425,000 credit to the Communist dictator of Red China through the Export-Import Bank.

It is outrageous that the American taxpayers are being forced to subsidize Communist China while domestic programs like social security are in jeopardy. Though the administration claims this loan credit is "in the national interest," commonsense alone tells us that is not true.

Our own economy is in recession. Over 10 million Americans are unemployed. American small businesses are failing in record numbers. The American steel industry is in a depression, and tens of thousands of steelworkers have been laid off. Yet the administration contends that it is in our "national interest" to make a $68 million subsidized loan to help Communist China build steel plants which will then unfairly compete with our own steel industry. This kind of action is an insult to the American people. The Communist Chinese will receive these loans at below-market interest rates and yet our struggling American businesses must pay market rates.

These terrible foreign aid boondoggles should be ended immediately. If we really want to make significant cuts in the Federal budget, here is the ideal place to start.

Communist China is not one of our friends. Their repressive and tyrannical regime is the very opposite of everything America stands for. It is against our best interests, in every way, to use our tax dollars to help prop up Communist dictatorships. This $68 million Export-Import loan guarantee is a tragedy and a disgrace.

SPENDING AND TAXING ADVERSELY AFFECTING ECONOMY STILL

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, in the last 24 hours, there has been a good deal of comment about the fact that consumer spending did as well as was anticipated after taxes were cut. There also has been a lot of talk about the fact that as taxes were dropped, consumers have not seemed to spend the money.

Of course not, Mr. Speaker. At the same time that the tax cuts appeared on the American scene, we were talking about the largest single tax increase in history and naturally the American people were not willing to spend the money when they did not know how much additional tax they would have to pay.

So, in fact, that tax increase has hurt the economy already.

We also have heard some talk recently about the fact that the spending bill that we passed the other day was not going to hurt the economy. The stock market immediately reacted. It fell as a result of that spending increase and that drop was blamed specifically on the fact that Congress was overspending and was increasing the deficit.

So, as we approach the kind of economic buffoonery that is going to be foisted upon this House this week, I think we need to understand that spending and taxing are still adversely affecting the economy, as they have adversely affected the economy in the past.

REDUCTION OF 30-PERCENT WITHHOLDING TAX IN VIRGIN ISLANDS

(Mr. de LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. de LUGO. Mr. Speaker, today, I introduce a bill which will reduce the 30-percent withholding tax in the Virgin Islands to 10 percent for U.S. citizens and residents of the United States and for corporations organized in the United States, and allowing the Virgin Islands Legislature to reduce the tax further as it sees fit. This legislation was introduced earlier as H.R. 5113 and then as H.R. 5985. The present bill reflects the changes in the previous bills which the administration suggested. This legislation, therefore, has full administration support.

The bill addresses the need in the U.S. Virgin Islands for direct measures to attract new investment. With the numerous trade agreements the United States has entered into, the Virgin Islands is finding it increasingly difficult to compete for offshore business. Several businesses have declined with Virgin Islands government's efforts to get them to locate in the terri-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tory, citing the 30-percent withholding tax as their sole impediment. Furthermore, the 30-percent withholding tax has not produced resounding tax benefits for the Virgin Islands treasury. The burden of paying the 30-percent tax on interest has stifled business expansion due to reluctance by mainland banks to lose 30 percent of their interest on loans to Virgin Islands taxes. On the other hand, dividends have not been declared by many businesses who chose to avoid the tax by accumulating earned surplus instead of declaring dividends.

To quote the Virgin Islands Commissioner of Commerce:

> With the exception of the Virgin Islands' competitors, no one wins under the existing withholding tax. The losers include Virgin Islands workers and entrepreneurs and the strangely enough Virgin Islands treasury itself.

This bill is important for the people of the Virgin Islands. It provides investment incentive that should lead to a better circulation of capital, more available mortgage money, and potential for funding a much needed housing development, but most importantly, it will provide jobs for our people.

For these reasons, I ask for your support of this bill.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I am pleased to join my colleagues, Mr. MILLER and Mr. ERLENBORN, in introducing the Migrant and Seasonal Agricultural Worker Protection Act. This bill repeals the Farm Labor Contractor Registration Act and puts in its place compromise legislation that is supported by a consensus of the interested organizations, including the Department of Labor, unions, farmers, migrant worker groups and food processors. I commend the diligent and devoted efforts of the members and staff of the Subcommittee on Labor Standards for developing this piece of legislation that eliminates undue redtape and harassment for farmers and other agricultural employers, while at the same time, provides real protection to migrant agricultural workers.

Mr. Speaker, my interest in the issues confronted by this legislation is longstanding. I introduced legislation in this Congress and in the 96th Congress to correct problems existing in the implementation of FLCRA. The bill we are introducing today addresses those same problems and provides a workable solution that I urge my colleagues to support.

The Farm Labor Contractor Registration Act was enacted in 1963 to protect both farmers and farmworkers from abuse by unscrupulous farm labor contractors and crew leaders. The strict requirements of FLCRA were necessary to deal with the potential problems posed by farm labor contractors who generally move with the harvest and serve as independent labor suppliers to more than one farm operation at a time. Since FLCRA's enactment, however, the Department of Labor has misconstrued the terms of the act and has imposed the act's requirements on farmers and agricultural employers who were never intended to be covered by the act. Because farm labor contractors and crew leaders are often transient and difficult to locate, the Department unfortunately began to enforce the stringent terms of the act against fixed site agricultural employers, such as farmers and processors, who were easily located at their farms or plants. These fixed site employers, however, are already held accountable for the treatment of migrant and seasonal workers under the Fair Labor Standards Act, the Wagner-Peyser Act, the Federal Unemployment Tax Act, the Occupational Health and Safety Act, the Federal Insecticide, Fungicide and Rodenticide Act, as well as several State laws. To impose the additional and unjustified burdens under FLCRA is simply unnecessary and unfair.

The legislation we are introducing today is designed to resolve the issue of who is, and who is not, a farm labor contractor under the law. At the same time, the bill guarantees significant rights and protections to migrant and seasonal agricultural workers. The bill imposes on all agricultural employers, whether or not they are required to register as farm labor contractors, certain duties and standards in their treatment of migrant agricultural employees, including requirements to provide adequate housing and transportation.

I believe this legislation provides a viable solution to the problems of the past, and effectively protects the rights and interests of agricultural employers and migrant and seasonal farm employees. Enactment of this bill is much needed by the agricultural community of this country, and I urge adoption of this bill in the form being introduced today.

TRANSFER OF CERTAIN FEDERAL PROPERTY TO CITY OF HOBOKEN, N.J.

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3620), transferring certain Federal property to the city of Hoboken, N.J., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

> Page 1, lines 4 and 5, strike out "transfer at a price to be negotiated and which may be less than fair market value," and insert:
>
> Transfer for the fair market value as determined by the General Services Administration under the guidelines set forth in this Act, at a price to be negotiated,
>
> Page 3, after line 6, insert:
>
> SEC. 2. In making its determination of fair market value, the General Services Administration shall recognize that the fair market value of the property is determined by the market in which it shall be sold, with the city of Hoboken being the only potential purchaser. The General Services Administration shall make every effort to expedite the sale and transfer of the property to the city of Hoboken, recognizing the hardship which would result in any undue delay in lengthy negotiations. The General Services Administration shall give full consideration to the right of the Federal Government to be compensated for the property while considering the city of Hoboken's ability to pay for the property. Furthermore, the General Services Administration shall give consideration and recognition to whatever funds and costs the Federal Government has invested in the property. The General Services Administration shall also give consideration to the fact that the city of Hoboken has been deprived of tax revenue from the property since its acquisition by the United States, in 1917, but has been required, despite its loss of tax revenue, to provide municipal services to the property.
>
> Page 3, line 7 strike out "SEC. 2." and insert "SEC. 3."

Mr. BIAGGI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from New York?

Mr. WALKER. Mr. Speaker, reserving the right to object, is the gentleman going to have an opportunity to explain to us what this is?

This was a rather controversial bill as I recall, when it was brought up before. Is the gentleman going to have an opportunity to explain to us what we are now doing to clean up the bill?

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. BIAGGI. I did not realize that this was controversial. Clearly it was a subject of discussion when we brought it up before.

This is a question of transferring some land to the city of Hoboken. It is a question of the cost.

The Senate amendment to our bill originally would deal with the question of negotiating for the price at somewhat near fair market value. It was the original intention of the bill to cede the property entirely without

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cost to Hoboken for a number of historical reasons.

But we have no objection to the Senate amendment.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I will be glad to yield to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

Essentially the Senate added a Republican-inspired amendment to require when this Federal property goes to the city of Hoboken that it go at the fair market value.

There are other provisions in the bill but, in effect, they protect the Government rather than any other party.

Mr. WALKER. Further reserving the right to object, I understand what we are doing is we are going to allow the city of Hoboken to assume the property, but they will have to pay fair market value for the property under the Senate amendment?

Mr. McCLOSKEY. There are certain conditions about that fair market value negotiation, but essentially that was what the other body required.

When the House passed the bill it merely authorized the transfer of the property to the city of Hoboken. The other body added amendments in effect requiring that if Hoboken gets it that it pay the fair market value.

There are certain conditions about that, but that is essentially the nature of the Senate amendments.

From the Republican side, the gentleman from Kentucky, Gene Snyder, has asked me to advise that there is no Republican committee opposition to the Senate amendments.

Mr. WALKER. Further reserving the right to object, do I understand, and maybe the gentleman from California can answer, or the distinguished gentleman from New York can answer, will this mean that there now will be no cost to the Government with regard to this ceding of the property.

Mr. McCLOSKEY. It means at least that, as I understand it.

The only reservation I have is whether the U.S. Government will get full market value or full value less something. Whatever it gets will be more than under the House bill.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

● Mr. GUARINI. Mr. Speaker, I am very pleased that Chairman Jones and Chairman Biaggi and the House leadership have placed on the Consent Calendar a bill of great importance to the economic revitalization of my home county of Hudson and the city of Hoboken. This measure, H.R. 3620, as amended by the Senate, authorizes the transfer of the Hoboken pier terminals to the city of Hoboken by a negotiated sale at fair market value as determined by the General Services Administration.

The Hoboken pier terminals have been in the hands of the Federal Government since 1917. This parcel of property constitutes about 30 percent of the entire shoreline of the city of Hoboken and 50 acres of land and piers in a city that is barely larger than 1 square mile.

H.R. 3620, the bill I sponsored which seeks this negotiated return of the piers, has undergone some important revisions since it was first introduced. This noncontroversial measure was passed by the House of Representatives on March 18 of this year by a better than 7-to-1 margin. On August 19, the Senate passed a slightly amended version of H.R. 3620 by voice vote. The Senate-passed version of the bill before us today should be adopted so that this measure can become law at the soonest possible date.

The return of these piers, which have sat useless and deteriorating since 1978, will be a catalyst in the continued drive by the city of Hoboken to renovate itself. Under the outstanding leadership of Mayor Stephen Cappiello, Hoboken has become engaged in an urban revitalization of recognizable scope. By passing H.R. 3620, and allowing the negotiated transfer of this pier property back to the city of Hoboken for incorporation into the city's development plans, we would be helping a city which is helping itself.

The benefits of H.R. 3620 are many. The Federal Government will be relieving itself of responsibility for piers which are currently useless because of the revolution in the container shipping industry.

The Government would gain revenue through the sale of these piers, free itself of the responsibility to future repairs and liabilities, while at the same time allowing Hoboken the opportunity of restoring its waterfront for nonmaritime use.

There has been a great deal of talk in this Chamber about the need to sell surplus Government property. However, in few cases would the advantage be as great to the two parties involved. Hoboken is ready to find a developer who can shape this area consistent with both the nonmaritime use and the growth of the New Jersey shoreline on the New Jersey side of the Hudson River. Through incorporation of this previously unusable land, the city can continue its great renaissance.

I can assure my colleagues that this measure enjoys the full support of the administration, the Department of Transportation, the General Services Administration, the State of New Jersey, the Port Authority of New York and New Jersey, and the city of Hoboken. And as I have mentioned, H.R. 3620 was passed in the Senate by voice vote.

I ask the Members of this body for their support for this measure today. It means so much to the future development of Hoboken and Hudson County.

I want to thank Chairman Jones and Chairman Biaggi for their efforts in leading this important legislation through the legislative process. I also want to thank Senator Bradley and Governmental Affairs Chairman Roth for their work in getting this measure through the Senate.●

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

Committee on Public Works and Transportation,
Washington, D.C., August 23, 1982.

Hon. Thomas P. O'Neill,
The Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on July 27, 1982:

LEASE/CONSTRUCTION

Long Beach, Calif.: 400 Ocean Gate.

Los Angeles, Calif.: Veterans Administration.

The original and one copy of the authorizing resolutions are enclosed.

Every best wish.

Sincerely,

James J. Howard,
Chairman.

There was no objection.

COMMUNICATION FROM THE HONORABLE WILLIAM E. DANNEMEYER

The SPEAKER pro tempore laid before the House the following communication from the Honorable William E. Dannemeyer:

House of Representatives,
Washington, D.C., September 9, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: In compliance with Rule L (50) of the Rules of the House of Representatives, I am informing you that I have been served with a subpoena duces tecum from the Superior Court of the State of California for the County of Orange for records maintained in my Congressional office. The date of service was August 27, 1982.

I will make the necessary determinations required under paragraph three (3) and communicate them to you.

Sincerely yours,

William E. Dannemeyer,
Member of Congress.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS AND NATIONAL COUNCIL ON THE ARTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of today, Tuesday, September 14, 1982.)

ANNUAL REPORT OF FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

(For message, see proceedings of the Senate of today, Tuesday, September 14, 1982.)

FOURTH AND FIFTH ANNUAL REPORTS ON STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, September 14, 1982.)

ANNUAL REPORT ON ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, September 14, 1982.)

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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 15, 1982.

SUBSISTENCE ALLOWANCE AND INSTITUTION OF COMMODORE RANK

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6804) to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 705 of title 14, United States Code, is amended by adding a new subsection (f) as follows:

"(f) A member of the Coast Guard Reserve not on active duty who is enrolled in an officer candidate program authorized by section 600 of title 10 leading to a commission in the Coast Guard Reserve, and is a full-time student in an accredited college curriculum leading to a bachelor's degree may be paid a subsistence allowance for each month of the member's academic year at the same rate as that prescribed by section 209(a) of title 37.".

Sec. 2. That title 14, United States Code, is amended as follows:

(1) Section 41 is amended by inserting "commodores;" after "rear admirals;".

(2) Subsection (b) of section 42 is amended by striking out "0.75;" and inserting in lieu thereof ".375; commodore .375;".

(3) Subsection (a) and (b) of section 256 are each amended by striking out "rear admiral" and inserting in lieu thereof "commodore".

(4) Subsection (b) of section 259 is amended by striking out "rear admiral" and inserting in lieu thereof "commodore".

(5) Section 271 is amended—

(A) by inserting a comma after "may" in subsection (c);

(B) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(C) by adding after subsection (c) the following new subsection;

"(d) When a vacancy in the grade of rear admiral occurs, the senior commodore serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred."

(6) Subsection (d) of section 275 is repealed.

(7) Subsection (a) of section 288 is amended by striking out "rear admiral" and inserting in lieu thereof "commodore".

(8) Subsection (a) of section 289 is amended to read as follows:

"(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of commodore or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of commodore. Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.".

(9)(A) Section 290 is amended—

(i) by amending the catch line thereof to read as follows:

"§290. Read admirals and commodores; continuation on active duty; involuntary retirement";

and

(ii) by amending subsection (a) to read as follows:

"(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of commodore or rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral or in the position of Chief of Staff are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Board shall be convened frequently enough to assure that each officer serving in the grade of commodore or rear admiral is subject to consideration for continuation during a promotion year in which he completes not less than four or more than five years combined service in the grades of commodore and rear admiral.".

(B) The item relating to section 290 in the table of sections at the beginning of chapter 11 is amended to read as follows:

"290. Rear admirals and commodores; continuation on active duty; involuntary retirement.".

(10) Subsection (b) of section 421 is amended by striking out "rear admiral" and inserting in lieu thereof "commodore".

(11) Section 462a is repealed.

(12) Subsection (b) of section 724 is amended—

(A) by striking "rear admiral" in the first sentence and inserting in lieu thereof "commodore"; and

(B) by striking "grade of rear admiral" in the last sentence and inserting in lieu thereof "combined grades of commodore and rear admiral".

(13) Subsection (e) of section 729 is amended—

(A) by striking "the grade of rear admiral" and substituting "the grades of commodore and rear admiral"; and

(B) by inserting "for promotion to the grade of commodore" after "consideration".

(14) Subsection (b) of section 736 is amended to read as follows:

"(b) Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.".

(15) Subsection (a)(2) of section 740 is amended by striking "rear admiral" and substituting "commodore".

(16) Subsection (b) of section 742 is amended by inserting "or commodore" after "rear admiral".

(17)(A) Section 743 is amended to read as follows:

"§ 743. Rear admiral and commodore; maximum service in grade

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral or commodore shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and commodore.".

(B) The item relating to section 743 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"743. Rear admiral and commodore; maximum service in grade.".

Sec. 3. (a) Section 202 of title 37, United States Code, is amended to read as follows:

"§ 202. Pay grades: commodores, retired list

"An officer of the Coast Guard holding a permanent appointment in the grade of commodore on the retired list, and who in time of war or national emergency has served satisfactorily on active duty for two years in that grade or in a higher grade, is entitled when on active duty to the basic pay of a rear admiral.".

(b) the item relating to section 202 in the table of sections at the beginning of chapter 3 of title 37 is amended to read as follows:

"202. Pay grades; commodores, retired list.".

Sec. 4. (a) An officer of the Coast Guard who on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

(2) was serving on active duty in the grade of admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

(b) An officer who on the day before the effective date of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

(c) An officer who on the day before the effective date of this Act was on an approved list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

(d) An officer who on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

(e) An officer of the Coast Guard who on the day before the effective date of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled after that date to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act—

(1) was serving on active duty, and

(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts (Mr. Studds) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 6804 was introduced on July 20 by myself, Mr. Jones of North Carolina, and Mr. Young of Alaska.

Both parts of this legislation were requested by the administration in July and the bill should, I suspect, be utterly without controversy. Its purpose is to create for the Coast Guard a scheme somewhat similar to the Marine Corps platoon leader program, and the ROTC program used by the other armed services. Briefly, it would permit the Coast Guard to enlist candidates in the Coast Guard Reserve between their sophomore and junior years in college, and require them to serve on active duty for 2 months both immediately following enlistment and during the summer between their junior and senior years. While in school, participants would be provided a subsistence allowance of $100 per month, and upon graduation, they would be commissioned and expected to serve at least 3 years active duty.

This program is intended to help the Coast Guard compete with the other services in attracting certain categories of officers with special training in fields such as engineering and computer science, and to recruit officers from minority groups.

Quite obviously given the fact it has been approved by OMB, the cost of this legislation will be miniscule—approximately $100,000 a year.

The other purpose of the bill is to provide for a new grade of commodore in the officer corps of the Coast Guard. This legislation would bring the Coast Guard's officer rank structure into line with that now in use by the U.S. Navy. It would also eliminate the practice of dividing the rear admiral grade into an upper half and a lower half.

As I have said, this legislation was originally proposed by the administration. It is supported by the Coast Guard and was approved unanimously by the Committee on Merchant Marine and Fisheries.

I want particularly to thank the ranking minority member of the subcommittee, Mr. Young of Alaska, the chairman of the full committee, Mr. Jones of North Carolina, and the sponsor of the amendment which added the commodore section to the bill, Mr. Snyder, for their support of this legislation.

H.R. 6804 is a simple, but necessary bill, and I trust it will be approved today without controversy.

Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6804 contains two provisions regarding the personnel management and administration within the Coast Guard.

Section 1 authorizes the payment of a subsistance allowance to individuals enrolled in an officer candidate program which would be completed during two summers of training on active duty prior to graduation from college. The subsistance allowance would be paid during the 18 academic months of the junior and senior years for these individuals. This program is similar to a Marine Corps program currently in use in the Department of Defense. The program gives the Coast Guard one more tool in trying to overcome the severe shortage of officers they are experiencing in certain specialities. As such, the Coast Guard will be able to offer an incentive to individuals, particularly with engineering and computer science backgrounds as well as those in minority groups, to enter the Coast Guard and fill the critical need for these specialties.

One concern that the subcommittee had in reporting out this bill was the administration of the program by the Coast Guard. The announced sanctions that the Coast Guard would use if a person disenrolled from the program seem to be excessive. Two years of active duty is proposed. It is the intent of the committee that should the Coast Guard implement this program, the sanctions for disenrollment from this officer candidate program should be no greater than those for disenrollment from other training programs that provide similar benefits. The report which we filed on this bill gives some guidance in this regard.

The remaining sections of the bill contain amendments to title 14 of the United States Code which would create a new rank of commodore within the Coast Guard's officer corps. These provisions would conform the Coast Guard flag officer rank designations to those used by the U.S. Navy. In time of war, the Coast Guard is to be transferred as a service in that Department. The provisions address the promotion and retention practices regarding these personnel as well as the pay and certain other transitional matters needed to fully achieve the creation of the grade of commodore. Additional questions which arose after the provision was reported by our committee, will be addressed in the other body, if I understand correctly.

Both the officer candidate subsistence allowance provision and the creation of the commodore rank are proposals that have been developed and submitted by the administration. They are noncontroversial in nature and serve to improve the personnel laws of the Coast Guard.

Therefore, Mr. Speaker, I recommend that we enact these provisions in H.R. 6804 today.

Mr. Speaker, I yield back the balance of my time.

● Mr. JONES of North Carolina. Mr. Speaker, this bill, H.R. 6804, will allow the Coast Guard to more effectively compete with the other military services for officer candidates as well as establish a new flag rank of commodore.

This legislation will allow the Coast Guard to offer Reserve enlistment to college juniors and seniors who would participate in officer candidate school during two, 2-month summer programs, and receive a monthly stipend of $100 during the school year. Candidates would have a 3-year active duty commitment upon graduation. While overall officer enlistment is satisfactory at this time, recruitment of minorities as well as those in certain professional areas, is seriously deficient. Implementation of this program will improve this situation and provide a solid basis for future recruitment.

H.R. 6804 also creates a new rank of commodore. Under present promotion procedures, a captain is promoted directly to two star rear admiral, which is divided for pay purposes, into upper and lower halves. This change would not increase the number of flag officers in the Coast Guard or make any substantive difference, but would bring the rank structure into conformity with that now used by the Navy.

The administration has requested this legislation and I urge you to support it.●

● Mr. SNYDER. Mr. Speaker, I rise to speak in support of H.R. 6804, particularly sections 2 through 5 of the bill, which create the Coast Guard commodore rank, replacing the rear admiral (lower half) designation. These changes will conform the Coast Guard's officer grade structure to that of the U.S. Navy.

The commodore provisions were added by amendment to H.R. 6804 at committee markup on August 3. The amendment adopted by the committee was a technically improved version of H.R. 6909 which I introduced, along with the chairman of the committee and the gentleman from New York, on July 29. H.R. 6909 was virtually identical to legislation requested by the administration with minor changes. Those changes have been developed in close consultation with the Coast Guard and Members on both sides of the aisle. I particularly wish to acknowledge and thank the chairman of the committee, the subcommittee chairman, the subcommittee ranking minority member, and the gentleman from New York for the assistance rendered by their staffs in preparing this piece of legislation.

The subcommittee chairman has accurately described this bill's provisions creating the rank of commodore within the Coast Guard and I feel no need to add to this discussion. The bill is straightforward and without any controversy that I am aware of. I am pleased to support this measure and urge its adoption.●

● Mr. YOUNG of Alaska. Mr. Speaker, H.R. 6804 is a bill to provide assistance allowances for members of the Coast Guard officer candidate program and to establish the grade of commodore within the Coast Guard.

This bill provides for a new officer candidate program which permits the payment of $100 a month to junior and senior year college students who enlist in the program. These students would be required to complete officer candidate school during two summers of active duty. The program is designed to attract college students in critical specialties to meet severe shortages in those areas in the officer corps of the Coast Guard.

Mr. Speaker, although this may be a needed program to attract qualified officers to the Coast Guard, the announced 2-year active duty requirement for disenrollment in the administration's letter of transmittal for this program is excessive in view of the benefit received compared to the benefit and sanctions in other officer programs. For example, disenrolled cadets can receive 3 to 4 years of college and $528 per month and have no active duty requirement. We have examined the various officer candidate programs and their sanctions for disenrollment. Only active duty enlisted personnel must complete their enlistment if they drop out of an officer program. Thus, the disenrollment sanction for the program we are considering today seems to be disproportionate and inconsistent. The proposal is designed to attract highly talented and motivated individuals needed by the Coast Guard. Thus, as proposed the announced sanction would be self-defeating because the 2-year active duty requirement would, in fact, be a disincentive. Thus, it is the recommendation of the committee that any sanction for disenrollment from an officer candidate program of the Coast Guard shall be no greater than that for disenrollment from any other officer candidate program of equal benefit to the individual.

The remainder of the bill provides for the grade of commodore in the Coast Guard. This change would conform the Coast Guard's officer structure to the other military services. The bill makes the necessary amendments to title 14, United States Code and includes some transition sections needed to institute this new rank.

During the course of the committee's consideration of this bill, additional questions arose regarding some of the changes to title 14 in the commodore sections of this bill. Attached are the responses I have received to the questions noted above which I submit for the record.

Mr. Speaker, on the basis of the above I urge that we approve this bill today.

The attachments follow:

Department of Transportation,
U.S. Coast Guard,
Washington, D.C., September 9, 1982.
Hon. Don Young,
House of Representatives
Washington, D.C.

Dear Mr. Young: Enclosed are the responses to the questions forwarded with your letter of August 17, 1982 concerning the amendment to H.R. 6804 which would establish the grade of commodore in the United States Coast Guard.

I will be glad to provide any additional information which would expedite final passage of this legislation.

Sincerely,

J. S. Gracey,
Admiral, U.S. Coast Guard, Commandant.

QUESTIONS BY MR. YOUNG OF ALASKA

Question 1. Section 2 of H.R. 6804 amends Section 290 of Title 14, United States Code. This section would provide for the consider-

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ation of commodores and rear admirals for continuation on active duty. Further, it would provide that officers serving in the position of Chief of Staff are not subject to consideration under this section. This version of Section 290 read with Section 41(a) of Title 14 seems to preclude the assignment of a commodore to the position of Chief of Staff. Section 41(a) provides that the rear admiral designated by the Commandant to the position of Chief of Staff shall be the senior rear admiral for all purposes other than pay.

Is it the intention that Section 290 exclude commodores from assignment to the position of Chief of Staff?

If not, is it intended that commodores who would have served as Chief of Staff would be considered to be continued in the grade of "rear admiral" and not in the grade of commodore as the new provision is currently drafted? If this language remains the same, would it be possible that a commodore who has served in the position Chief of Staff would be considered on a continuation board prior to being promoted to the grade of rear admiral?

The exemption of the position of Chief of Staff from continuation boards in Section 290 and the senior rear admiral designation in Section 41(a) were enacted in Public Law 96-322 to recognize the organizational prominence in terms of military protocol that the position of Chief of Staff holds and to protect junior flag officers from the scrutiny of a continuation board so that they could make decisions in that sensitive position with the degree of autonomy necessary for that position. If the junior flag officers, i.e., commodores, are not intended to be assigned to the position of Chief of Staff, is it necessary to continue these provisions in Title 14?

Answer. Section 41a(b) of Title 14 and Section 290 as contained in H.R. 6804 preclude the appointment of a commodore as Chief of Staff of the Coast Guard. Given the increasingly broad managerial responsibilities of the position, future Chiefs of Staff will be chosen from among those officers serving in the grade of rear admiral. The recognition of the organizational prominence of the position of Chief of Staff in section 41a(b) and the protection from continuation board scrutiny in Section 290 continue to be necessary to aid junior rear admirals who may serve as Chief of Staff. The most junior rear admiral could still be several years junior, by date of rank, to the most senior rear admiral.

Question 2. Section 724 authorises the number of Coast Guard Reserve officers and prescribes the percentage of that number for each grade of officer except for flag officers. Subsection (a) sets the authorised number of reserve officers at either 5,000 or a greater number determined by the Secretary of Transportation if necessary for planned mobilization requirements. Subsection (b) provides for the number of officers in each grade as a percentage of 5,000 or the greater number set by the Secretary. Flag officers are set at a fixed number of two. Accordingly, the Secretary has the discretion to increase the number of officers in the grades of O-6 and below by increasing the overall number of Reserve officers, but has no discretion with regard to the number of flag officers. Would it not be desirable to vest the Secretary with similar discretionary authority, to increase the authorised number of flag officers for the Reserve if required for mobilization purposes?

Answer. Although the authorized number of two reserve rear admirals in Section 724(b) is adequate at this time, in the context of your question, it is reasonable to vest the Secretary with the discretionary authority to increase the authorized number of flag officers for mobilization purposes. This could be accomplished by revising the last sentence of 14 U.S.C. 724(b) to read as follows (deleted matter is in brackets, new matter is in italic): "The authorized number of Reserve officers in an active status not on active duty in the grade of rear admiral is two[.]; *however, the Secretary may authorise additional officers in the grade of rear admiral as necessary to meet mobilization requirements.*"

Question 3. What was the rationale for settling on the title of "commodore"? Since some flag officers and particularly some district commanders will no longer be referred to as "admiral", do you perceive any public relations problems or decrease in public confidence in the Coast Guard because of this new designation? Will certain flag or district commander billets be designated as junior flag officer billets and thus have only commodores assigned to fill them? If so, which billets are these? Would the Coast Guard have any objection to the use of the term "commodore admiral" or other similar designation to overcome some of these problems?

Answer. The Commandant at the time the DOPMA was under active consideration by the Congress requested the Congress not make the majority of the provisions of the DOPMA applicable to the Coast Guard. In return, he committed the Coast Guard to recommending certain conforming changes to Coast Guard personnel laws. One of those commitments involved a new designation for rear admirals of the lower-half. Under the Defense Officer Personnel Management Act (DOPMA), officers of the U.S. Navy serving in the O-8 paygrade were designated rear admirals, and those in the O-7 paygrade were designated commodore admirals. A subsequent amendment to that Act redesignated commodore admirals as commodores. In accordance with the Commandant's commitment, the proposal currently before the Congress recommends designating future rear admirals of the lower-half of the Coast Guard as commodores, so as to have Coast Guard grade designations match Navy grade designations. It is this desire for uniformity with the Navy that leads us to recommend the designation commodore.

We perceive that no public relations problems or decrease in public confidence will result from the designation commodore. We are not aware of any public relations problems encountered by the Navy in the use of this designation.

We would prefer not to designate the applicable flag billets as being either commodore or rear admiral billets. Assignment decisions will be based on an evaluation of the future requirements of a billet and the individuals qualified to assume that billet, as each vacancy occurs. We may well need to have a given billet filled by a rear admiral at one time and by a commodore at another, and would prefer to retain the management flexibility to allow this type of change.

We prefer the designation commodore to the designation commodore admiral. Should the designation commodore prove to be unacceptable, one solution is to retain the current upper-half/lower-half system and the designation rear admiral, but have rear admirals of the lower-half wear one star, and rank with the one star flag and general officers of the other services, etc.

QUESTIONS BY MR. SNYDER

Question 1. The legislation has no explicit provision regarding effective date, thereby making it effective as of the date of enactment.

a. Does the Coast Guard require a deferred effective date in order to gear up for, and put into effect, the changes brought about?

b. If so, what would you recommend?

Answer. The Coast Guard does not require a deferred effective date for H.R. 6804. The transition provisions of the bill allow immediate implementation without adverse effect.

Question 2. If the commodore legislation is enacted, a certain lack of uniformity will still exist between Coast Guard and Navy continuation board reviews conducted between the grades of captain and rear admiral. Please explain the exact nature of those differences and why they should or should not continue, given the individual needs of the two services.

Answer. The continuation provision for flag officers in the Coast Guard is Section 290 of Title 14. That section as contained in H.R. 6804 provides that each commodore or rear admiral who has not previously undergone continuation board review would be subject to mandatory continuation board review between his fourth and fifth years of service as a flag officer. Under Section 290(b), not less than 50 percent or more than 75 percent of those officers undergoing continuation board scrutiny may be continued in grade.

The continuation provision for flag officers in the Navy is contained in the Defense Officer Personnel Management Act, in Section 638 of Title 10, United States Code. Under that section, officers who have served at least three and one-half years as commodore and whose names are not on a list of officers recommended for promotion to rear admiral may be considered for early retirement by a board convened at the discretion of the Secretary of the Navy.

The primary substantive difference between these continuation provisions is that Coast Guard continuation board review is mandatory, while Navy continuation boards are convened at the discretion of the Secretary of the Navy.

The mandatory continuation board review for Coast Guard flag officers and the percentages of those officers who may be continued on active duty best serve the present personnel management needs of the Coast Guard, by forcing attrition within the junior flag grades. We would prefer to maintain this mandatory system of forced attrition, rather than adopt the non-mandatory Navy system.●

The **SPEAKER** pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Massachusetts (Mr. Studds) that the House suspend the rules and pass the bill, H.R. 6804, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was not objection.

FEDERAL BOAT SAFETY ACT AMENDMENTS

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6813) to amend the Federal Boat Safety Act of 1971, as amended.

The Clerk read as follows:

H.R. 6813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213) is amended as follows:

(1) By inserting "contract with, and" immediately after "The Secretary may" in the second sentence of section 25(a) (46 U.S.C. 1474(a)) and in section 26(a) (46 U.S.C. 1475(a)) immediately after "promulgate, may".

(2) In section 26 (b) and (c) (46 U.S.C. 1475 (b) and (c)):

(a) by striking "appropriated" and inserting "authorized to be expended"; and

(b) by adding at the end thereof the following: "His action in doing so shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing the program.".

(3) In section 26(d) (46 U.S.C. 1475(d))—

(a) by inserting immediately after the third sentence the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating safety programs pursuant to this Act."; and

(b) by adding at the end thereof the following: "Approval of those elements of a combined program shall be deemed a contractual obligation of the United States for the payment of the proportional share of the cost of implementing State recreational boating facilities programs pursuant to this Act.".

(4) In section 30 (46 U.S.C. 1479)—

(a) by striking "of Appropriations" in the section heading and inserting "Contract Spending Authority";

(b) by striking "there is authorized to be appropriated" and inserting "The Secretary is authorized to expend" in subsections (a) and (b);

(c) in subsection (a) by striking "such appropriations to remain available until expended." and inserting "subject to such amounts as are provided in appropriations Acts for liquidation of contract authority, to remain available until expended. Any funds released by payment of final voucher or modification of program acceptance shall be credited to the balance of unobligated authorizations and shall be immediately available for expenditure."; and

(d) in subsection (b) by striking "such appropriations to remain available until expended." and inserting "subject to such amounts as are provided in appropriations Acts for liquidation of contract authority to remain available until expended. Any funds released by payment of final voucher or modification of program acceptance shall be credited to the balance of unobligated authorizations and shall be immediately available for expenditure.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts (Mr. Studds) will be recognized for 20 minutes, and the gentleman from California (Mr. McCloskey) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Studds).

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

The purpose of H.R. 6813 is to facilitate the implementation of recreational boating safety programs in a manner consistent with the public interest and the intent of Federal law. The bill amends the Federal Boat Safety Act of 1971, as amended by the Recreational Boating Safety and Facilities Improvement Act of 1980, to enable the Committee on Appropriations to appropriate funds from the boating trust fund without causing a corresponding reduction in overall Department of Transportation budget authority.

This is accomplished by converting the existing grant authority to contract spending authority effective in fiscal year 1983 (the final year of an existing multiyear authorization), subject to the provision of liquidation of contract authority in subsequent appropriation acts.

Under the language of this legislation, the manner of review and consideration of State boating safety programs by the Committee on Appropriations will conform to those procedures utilized to provide appropriations for similar programs administered by the Federal Aviation Administration and the Federal Highway Administration in the Department of Transportation.

The Federal Boat Safety Act of 1971 represented the first attempt by the Federal Government to adopt a comprehensive approach to the improvement of recreational boating safety. To accomplish this, the act required manufacturers to build recreational boats in accordance with performance standards and provided Federal financial assistance to States to encourage the development of comprehensive State boating safety programs. The program of categorical grants developed under the 1971 statute was designed to encourage States to undertake additional responsibilities in boating safety education and enforcement, including modification of existing vessel numbering reporting systems and expansion of boating education and law enforcement. To insure consistency among the various State boating safety programs developed pursuant to the act, cooperative agreements were entered into between the States and the Federal Government.

Between 1972 and 1980 the grants-to-States program resulted in 51 of the 55 eligible jurisdictions establishing or expanding their boating safety programs in full compliance with the criteria set forth in the 1971 act. During that same time period the boating population increased from 7 million to over 14 million, yet the fatality rate from numbered vessels decreased by more than half. Significant benefits in lives saved and the prevention of property damage resulted from congressional appropriations over the 8-year period of just under $40 million.

The authorization for the 1971 statute was slated to expire at the end of 1979. Because of the tremendous success of the grants-to-States program, the committee reviewed methods to build on these achievements as well as alternative methods of funding. This resulted in what is known as the Recreational Boating Safety and Facilities Improvement Act of 1980. This act replaced the State boating safety grants programs of the 1971 law with a new fund in the Treasury called the national recreational boating safety and facilities improvement fund. The act provided for the diversion of a portion of the Federal marine fuels tax receipts into the fund so that those who benefit from the boat safety and facilities improvements rather than other taxpayers would finance the costs of such programs. A cap of $20 million was placed on the fund.

Unfortunately, no money has yet been made available from the fund for the purposes envisioned by the Congress. The goal of H.R. 6813 is to make sure that the boating safety effort does indeed go forward.

There are two simple points I wish to emphasize with respect to this legislation. First of all, we are talking here about a user fee program. The boating safety fund does not cost the general taxpayer a penny; it is financed entirely by those who benefit from boating safety projects and who pay the Federal tax on motorboat gasoline.

Second, the boating safety program has been a tremendous success. During the decade it has been in place, it has made a major contribution to the prevention of loss of life and property resulting from recreational boating accidents.

This bill was approved unanimously by the Committee on Merchant Marine and Fisheries, and I would particularly like to thank the bill's sponsors, Representatives Mario Biaggi and Tom Evans, for the fine work they have put into this legislation, and into the entire area of recreational boating safety.

This is a good bill, and I hope it will be approved without any problem by the House.

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Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is bipartisan legislation. H.R. 6813, introduced by Representatives Biaggi, Evans, Studds, and Lent on July 27, amends the Federal Boat Safety Act of 1971 as amended by the Recreational Boating Safety and Facilities Improvement Act of 1980, converts the recreational boating safety and facilities improvement fund from a discretionary spending authority to a direct (contract) spending authority.

The purpose of this change is to enable obligation of Federal moneys derived from the 4-cent-per-gallon motorboat fuel tax to support State boating safety programs—$10 million annually—and State boating facilities improvement programs—$10 million annually. The bill would eliminate having such expenditures scored, for budget purposes, against Department of Transportation appropriations ceilings. In the past a problem has occurred in appropriation actions wherein appropriations for Coast Guard operating expenses would have been reduced to offset the amount appropriated from the boating fund.

For the record, the administration opposes enactment of H.R. 6813 because it would remove expenditures from the national recreational boating safety and facilities improvement fund from the normal budget process. I think the administration is wrong.

Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. Walker).

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask a couple of questions of the subcommittee chairman or the committee chairman with regard to the bill and particularly the reason for the administration's opposition.

When they say that they oppose it because it would remove the expenditures from the normal budget process, does that imply that this is an area where they have achieved some cost savings, in their opinion, in the past year?

Mr. BIAGGI. If the gentleman will yield, if the gentleman will note, the administration objected to the legislation only as a matter of procedure rather than substance. And clearly the bill provides that the $10 million outlay and the $20 million contract authority will not come within the purview of the first budget resolution. So it will not be sent to the President until September 30. Hence, it will go over in the next resolution. But that is the only reason the administration has entered that opposition.

Frankly, the Secretary of Transportation has stated that it is consistent with the President's concept of federalism and, in addition to that, we have a user tax proposition here, which again is consistent with what the President is seeking. That clearly is the only area of opposition.

The gentleman is performing a service in raising the point so that it is clear for everyone to understand. There was no substantive opposition on the part of the administration. Only procedural. I hope my explanation was satisfactory. These expenditures will not take place within the purview of the first budget resolution.

Mr. WALKER. Well, my problem is that the administration does seem to have some concern with the budgeting process. As I say, does that mean that this is an area where they have achieved budget savings in the past and they are afraid that by taking it out from under the normal budget processes they will not be able to achieve those same savings in the future?

Mr. BIAGGI. No; it is not. The money that has been under discussion at this point, one of the questions on this point, really, comes out of the 4 cents a gallon that is charged that is obtained and flows into a fund similar to the highway trust fund and the airport and airway development fund. And these moneys are being used. No additional funding is required. We are just talking about an appropriation process. These moneys already have been collected. Really, they are dedicated funding. The problem has always been a question within the process of appropriations in the House, as to whether it should be subjected to the appropriation process, or should it automatically come out of the funds. We have preferred that it would automatically come out of the fund, but the Ways and Means Committee insisted on it coming through the regular appropriation process, and that is where we find ourselves in this case.

Mr. WALKER. I thank the gentleman. It sounds to me, though, as though this is something similar to what we have in some of the other trust funds.

Mr. BIAGGI. That is right.

Mr. WALKER. Where there has been some controversy about withholding of the money as a way of keeping down budget deficits. So what the gentleman is saying is that by moving this off budget, we would still continue to spend the money, but that the money in the trust fund could not be used as a way of mitigating to some extent the budget deficit.

Mr. BIAGGI. That is right.

Mr. WALKER. And that would be the issue that the administration is raising, that they would hope to be able to hold the money at some point as a way of keeping the budget deficit down. Is that really where the argument lies?

Mr. BIAGGI. Yes, that is true. The administration requested this appropriation process.

Mr. WALKER. I thank the gentleman.

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Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. Evans).

Mr. EVANS of Delaware. Mr. Speaker, in the 95th Congress, we passed, and the President signed, the Recreational Boating Safety and Facilities Improvement Act. Public Law 95–451 reaffirmed the intent of the Congress to continue a program which has proved to be a model of Federal-State cooperation resulting in the saving of many lives on our Nation's waterways.

As a result of the original Boating Safety Act of 1971, most States have implemented boating safety programs. While the numbers of boats and boaters have increased dramatically over the last decade, the total number as well as the rate of boating-related fatalities have both declined. The Federal contribution to the States under the Boating Safety Act never exceeded $10 million in any one year, but this was money that was very well spent. I am one who believes an ounce of prevention is worth a pound of cure, and money spent to prevent boating accidents is money we do not have to spend for costly and traumatic search and rescue missions and all the other problems related to accidents.

User fees are much discussed these days, and it is important to note that our boaters presently pay a tax on motorboat fuels. Public Law 95–451, earmarked $20 million from this tax to be used to provide matching grants to the States for safety and facilities programs. This action stemmed in part from the frustration of the boating community that they were being taxed, with little of the money being returned in the way of services to those people actually bearing that tax.

Under current law, expenditures from the recreational boating safety and facilities improvement fund compete against appropriations for other Coast Guard functions.

I might add that the functions of the Coast Guard have greatly expanded, because we in the Congress have mandated additional missions for the Coast Guard that go much beyond the original mission of search and rescue.

So H.R. 6813 would simply grant the Secretary of Transportation contract authority to make expenditures from the fund to assist State boating safety programs. The growth of the Coast Guard's responsibility has far outstripped the growth of its funding, as I have said before.

H.R. 6813 recognizes that this already tight funding for the Coast

Guard's search and rescue and law enforcement activities will not compete with similarly important, and in the long run very cost effective, funding for State boating safety programs.

Let me suggest again that while the number of recreational boats over the last decade or so has increased dramatically, the number of accidents and fatalities has actually gone down, so we are truly spending the taxpayers' dollars, and in this case the user fees from the boat owners' themselves in a cost-effective manner.

Safety on the Nation's waterways is very much a concern of both Federal and State governments. H.R. 6813 will make certain that highly successful State boating safety programs will continue. The money, as I have noted, is to be derived from the existing tax on motorboat fuels, and it would permit the boating public to realize direct benefits from a tax they have been paying for many years.

I urge my colleagues to support this bipartisan and very responsible legislation.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Speaker, I rise in strong support of H.R. 6813—which I authored along with my good friend and colleague from Delaware, Mr. Evans, and the distinguished chairmen of the Committee on Merchant Marine and Fisheries and the Subcommittee on Coast Guard and Navigation.

The bill amends the Federal Boat Safety Act of 1971. It would substitute contract spending authority for categorical grant authority as the mechanism for providing Federal financial assistance to State recreational boating safety and facilities improvement programs under that act.

These programs are supported by appropriations from the recreational boating safety and facilities improvement fund. This is a user fee supported trust fund—financed with excise taxes paid by recreational boaters in the form of the 4-cent-per-gallon Federal motorboat fuel tax.

This modification to existing law is necessary to preclude appropriations from the trust fund from precipitating corresponding reductions in the Coast Guard operating expense account—further contributing to that agency's chronic fiscal shortfalls. It will insure that funds earmarked for State recreational boating safety and facilities access programs are expended for those programs—subject to authorization and obligational ceilings.

The amendment would result in the outlays of $10 million in fiscal year 1983. This is a small price to pay for preserving intact a unique Federal/State partnership that provides essential marine law enforcement and recreational boating safety education services to the boating public.

In requesting appropriations for this program in fiscal year 1983, the administration specifically endorsed it as consistent with the President's "New Federalism Initiative" in that it results in the shift of existing Federal responsibilities to the States, along with a source of matching funds to facilitate the assumption of those functions.

A decade of experience has demonstrated that federally supported, State-administered boating safety programs have resulted in the saving of thousands of lives and millions of dollars in property damage. This has been achieved at minimal cost through this unique Federal/State partnership arrangement under which the Federal Government—through Coast Guard supervision and direction—has maintained requisite national uniformity, while the States have been responsible for providing education and enforcement services.

This historic leveraging of Federal tax dollars has resulted in a 3-to-1 ratio of State in comparison to Federal expenditures.

The enactment of this legislation in this, the third and final year of a 3-year authorization of this program, is necessary to insure the continuation of this valuable program with tangible results out of all proportion to the magnitude of expenditures invloved. It will effectuate implementation of changes incorporated in 1980 amendments to this act—which I authored—designed to shift the funding responsibility for these programs, benefitting recreational boating from the general taxpayer to the boating public.

Failing enactment of these procedural amendments, in my judgment, Federal financial support for recreational boating safety may terminate. This will inevitably be reflected in higher boating accident and fatality statistics in every State.

I would point out to my colleagues that this amendment is consistent with those funding mechanisms employed in similar transportation safety-related programs financed through the highway trust fund and the airport and airway development fund.

Statutory authority for this shift in funding approach is specifically provided for in the Congressional Budget Act of 1974. Moreover, until late last week, the proponents of this measure operated on the assumption that the administration was not opposed to this shift in approach to program funding. This was based upon earlier comments received from the Secretary of Transportation and from discussions between the Department and the committee.

The administration now lodges a pro forma objection to the legislation, because it removes expenditures from the dedicated trust fund from the operation of the normal budget process, presumably, this procedural objection has no impact upon underlying administration support for the substantive program itself. I would expect then that, following successful implementation of this new funding approach this fiscal year, the committee will recommend its subsequent incorporation on a permanent basis—along with several administration-proposed amendments—as it considers necessary reauthorization of the act next year.

I, therefore, urge the support of my colleagues for this procedural amendment which is necessary to insure funding for a small user fee supported program of vital importance to the 60 million recreational boaters throughout the United States. Absent this program, recreational boating on the 25,000 miles of navigable waterways in our Nation will inevitably become an increasingly hazardous and far less enjoyable experience.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the chairman of the Subcommittee on the Coast Guard, the chairman of my committee, as well as my good friend and colleague, the gentleman from New York, (Mario Biaggi), who has been in the forefront of this fight to provide moneys for the Federal Boat Safety Act.

This is the only act in town. It seems to me it makes sense to provide this independent authority so that we can spend the moneys that are needed for Federal boating safety programs.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 6813, the Federal Boat Safety Act amendments, which is directed to assist financially in the implementation of State recreational boating safety programs.

By shifting the existing grant authority to a contract operating authority, the provisions of the bill would do away with unwarranted competition of this program against various Coast Guard budget categories. As we all know, given the present budget constraints, the Coast Guard's crucial activities, even though inadequately funded, have taken the bulk of the appropriations leaving unfunded this also very important program designed to aid in the proper and safe operation of recreational boats.

Our 50 million recreational boaters have been paying a Federal tax of 4 cents on the gallon of marine fuel since 1980 in the belief it would return to them in the form of boating safety

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and facilities improvement grants. Let us not keep our fellow Americans waiting for the funds Congress intended for them 2 years ago and could be the difference between life and death for the millions of Americans who venture into the sea in search of good time and not a calamity.

We must solve the inequity and unfreeze the more than $40 million that have accrued in the national recreational boating safety and facilities improvement fund since its creation during the 96th Congress. The action we take today is of vital importance for continuing our boating safety programs all across the Nation which have been successful in substantially reducing the rate of boating accidents and fatalities.

I urge my colleagues to vote for the passage of this legislation.

Mr. STUDDS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, just so the record will reflect, the committee report notes under departmental reports the following: H.R. 6813 was referred to the Department of Transportation for a report. No report has been returned to the committee.

The administration has not taken a formal position or had not when the committee report was issued.

Let me just observe that this is a good program. It works. It saves lives. It is inexpensive, and not only that, but it is a user fee, a concept being urged upon this committee and this subcommittee in particular practically hourly by this administration. Here is an instance where we are willing to give it a try and I urge Members to do so.

Mr. Speaker, I have no further requests for time.

● Mr. LENT. Mr. Speaker, as a cosponsor, I rise in strong support of H.R. 6813 and urge its prompt passage by this body. In addition, I want to commend my colleague from New York (Mr. BIAGGI) for his support and assistance in bringing this legislation before us today.

This bill gives me a sense of déjà vu. Two years ago, we passed the Recreational Boating Safety and Facilities Improvement Act. We set up a fund in the Treasury into which Federal motorboat fuel taxes were to be transferred with the idea of funding State boating safety programs with those taxes already paid by motorboat fuel users.

Even though the motorboat fuel taxes were earmarked for boating safety programs, the 1980 law has a built-in budgetary stumbling block which prevents the fund from being tapped without triggering cuts in other Department of Transportation spending categories. As a result, our pledge to the Nation's recreational boaters to support State boating safety and facilities improvements has not been fulfilled.

H.R. 6813 will help us keep the promise we made 2 years ago to the millions of Americans who own boats and enjoy the sport of recreational boating. It should be noted that this bill is not a budget buster for it will free up tax money already paid by boaters for boating safety programs. As a matter of fact, recreational boaters paying the 4-cents-per-gallon Federal motorboat fuel tax have paid well in excess of the $20 million fund established for boating safety programs.

Safe boating saves lives. Passage of this bill today will help resolve the "Catch 22" situation we have experienced in the past and make sure tax funds already paid for boating safety and facilities improvement are used as Congress intended. This bill accomplishes that and I urge my colleagues to vote for its passage.●

● Mr. JONES of North Carolina. Mr. Speaker, approval of these amendments to the Federal Boat Safety Act of 1971 as contained in H.R. 6813, will put an end to a situation where an unnecessary competition for limited funds has resulted in the deprivation of recreational boating programs.

The 1979 amendments to the Boat Safety Act, the Recreational Boating Safety and Facilities Improvement Act, established a dedicated trust fund made up of the already collected 4-cents-per-gallon marine fuel taxes, to support State boating safety and facilities improvement projects. The fund was authorized at $20 million per year—which is its current level—for 3 years ending in fiscal year 1983.

Attempts to move forward with the appropriation of moneys from the fund have been unsuccessful as this transaction, for budget purposes, is "scored" against the budget authority of the Department of Transportation and would result in a correspondingly lower appropriation for Coast Guard operating expenses. This legislation, H.R 6813, would correct this situation by changing the existing grant authority of the fund to contract spending authority, subject to the provision of liquidation of contract authority in subsequent appropriations acts. This reflects the procedures used to administer similar programs. Also within the Department of Transportation at the Federal Aviation Administration and the Federal Highway Administration.

Without this change, the 14 million recreational boaters in this country will continue to see their fuel taxes go unused for their stated purpose: the development and enhancement of boating facilities and safety programs. I urge your favorable vote.●

● Mr. YOUNG of Alaska. Mr. Speaker, H.R. 6813 is a bill to amend the Federal Boat Safety Act of 1971 and more specifically the national recreational boating safety and facilities improvement fund contained within that law.

The purpose of this bill is to correct the fiscal distortion in the boating trust fund's administration. It assures funding of safety and facility programs without a reduction in the Coast Guard budget authority which was attempted by the Office of Management and Budget this past year. The important result of this bill is that the funding for the Coast Guard search and rescue and law enforcement programs will not have to suffer because expenditures were made from the boating safety trust fund.

Mr. Speaker, I urge that we enact this bill today.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6813, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SAILING SCHOOL VESSELS ACT OF 1982

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6580) to reform the regulation of sailing school vessels, as amended.

The Clerk read as follows:

H.R. 6580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sailing School Vessels Act of 1982".

SEC. 2. The Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390 et seq.; 70 Stat. 151), is amended as follows:

(1) Subsection (a) of the section is amended by inserting ", or any guest on board a sailing school vessel," after "purposes" in paragraph (5). Such subsection is further amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(7) any sailing school instructor or sailing school student.".

(2) Section 2(a) is amended by striking out "and each freight-carrying vessel," and inserting in lieu thereof ", each freight-carrying vessel, and each sailing school vessel". Section 2(a)(3) is amended by striking out "and the crew" and inserting in lieu thereof ", crew, sailing school students and sailing school instructions".

(3) Section 3 is amended by striking out "and freight-carrying vessels" and inserting in lieu thereof ", freight-carrying vessels, and sailing school vessels". Section 3 is further amended by striking out "and crew," and inserting in lieu thereof ", crew, sailing school students, and sailing school instructors," and by inserting after "number of passengers" the following: ", sailing school students, and sailing school instructors".

(4) Sections 4(a), 4(b), and 5 are each amended by striking out "or freight-carrying vessel" each place it appears and inserting in lieu thereof ", freight-carrying vessel, or sailing school vessel".

(5) The first section is amended by adding at the end thereof the following:

"(f) The term 'sailing instruction' means teaching, research, and practical experience in the operation of vessels propelled primarily by sail and may include any subjects related thereto and to the sea, including but not limited to seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

"(g) The term 'sailing school vessel' means a vessel of less than five hundred gross tons which carries six or more individuals who are sailing school students or sailing school instructors and which the Secretary finds is principally equipped for propulsion by sail, whether or not the vessel has any auxiliary means of propulsion, and is owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code, as now or hereafter amended, or by any State or political subdivision thereof, during such times as the vessel is operated by such organization or State or political subdivision exclusively for the purposes of sailing instruction. For purposes of this subsection, 'auxiliary means of propulsion' means mechanical propulsion equipment, not exceeding four horsepower, or such larger amount as the Secretary, by regulation, may permit, for each displacement ton of the vessel.

"(h) The term 'sailing school instructor' means any person who is aboard a sailing school vessel for the purpose of furnishing sailing instruction. Such term does not include any operator or member of the crew of such a vessel who is among those required to be aboard the vessel to meet requirement establishing under section 3 of this Act.

"(i) The term 'sailing school student' means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.".

SEC. 3. Sailing school students and sailing school instructors shall not be considered to by seamen under the provisions of titles 52 and 53 of the Revised Statutes of the United States and any Act amendatory thereof or supplementary thereto, or for the purposes of the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

SEC. 4. Each owner or charterer of a sailing school vessel shall maintain evidence of his or her financial responsibility to meet any liability incurred for death or injury to sailing school students or sailing school instructors on voyages aboard the vessel, in an amount not less than $50,000 for each student or instructor. Such financial responsibility may be evidenced by policies of insurance or other adequate financial resources.

SEC. 5. For purposes of sections 3, 4, and 6 of this Act, the terms "sailing school students", "sailing school instructor", and "sailing school vessel" have the meaning given such terms in the first section of the Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956, (46 U.S.C. 390).

SEC. 6. (a) The Secretary of the department in which the Coast Guard is operating shall, after consultation with representatives, of the private sector having experience in the operation of vessels likely to be certified as sailing school vessels, prescribed rules and regulations to carry out this Act and the Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390b), as it related to sailing school vessels. Such rules and regulations shall reflect the specialised nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels. Any manning requirement imposed with respect to sailing school vessels shall take into account the participation of sailing school students and sailing school instructors in the operation of such vessels. Such rules and regulations shall be prescribed not later than eighteen months after the date of enactment of this Act.

(b) Subsection (a) of this section shall take effect on the date of enactment of this Act. This Act (other than subsection (a) of this section) and the amendments made by this Act shall take effect eighteen months after the date of enactment of this Act or on the date upon which the rules and regulations referred to in subsection (a) take effect, whichever is earlier; except that if such rules and regulations take effect more than eighteen months after the date of enactment of this Act, the amendment made by section 2(4) of this Act to section 4(a) of the Act of May 10, 1956, shall take effect three months after the effective date of such rules and regulations.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts (Mr. STUDDS) will be recognized for 20 minutes, and the gentleman from California (Mr. MCCLOSKEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 6580 is to require the Coast Guard to develop marine safety regulations which are suitable to the unique nature of sailing school vessels. Sailing school vessels are operated by nonprofit educational institutions for the exclusive purpose of teaching students a variety of maritime-related subjects.

The legislation would amend section 46 U.S.C. 390 to include sailing school ships within a category now limited to small passenger and small freight carrying vessels. At present, sailing school ships are regulated either as if they were oceanographic research or large passenger carrying vessels.

The Coast Guard would be required to issue final regulations within 18 months to provide as necessary for the design, construction, alteration, or repair of sailing school vessels, and for their operation, including manning requirements and crew qualifications. More specific regulations in the areas of vessel stability, compartmentation, and utility systems, where sailing ships may differ significantly from other vessel types, may also be necessary.

Federal inspection regulations currently do not provide for sailing school vessels. Under U.S. law, sailing school ships, if not owned by a Government agency, are considered to be passenger vessels. Although regulations applicable to small passenger vessels are to some extent compatible with the operation of sailing vessels, many sailing school ships are larger than 100 gross tons and hence are governed by regulations applicable to larger passenger vessels. Many of these regulations are not appropriate for sailing school vessels, including both the requirement for vessels over 100 gross tons to be constructed of steel, and stability and compartmentation standards better suited to very large vessels.

Some sailing school ships operate under inspection regulations applicable to oceanographic research vessels, but such vessels are required to be engaged exclusively in oceanographic research or instruction. The Coast Guard has interpreted this as prohibiting formal instruction in navigation and seamanship, two primary courses of education on sailing school vessels. Merchant vessel requirements, as well as nautical school ship regulations, are similarly not appropriate for sailing school ships.

The possibility that students or instructors aboard school vessels may be viewed by the courts as seamen entitled to recover damages for injuries under maritime legal doctrines also hampers school ship operations. Wide-ranging liability for injuries to seamen has historically been justified on the grounds that seamen are in need of special protection because they are at the mercy of the vessel's master, and that the vessel operator who derives a profit from their employment should bear the costs of compensating them for their injuries. These justifications do not support the imposition of such broad liability on the operator of a sailing school ship, which operates to provide an educational opportunity for students.

H.R. 6580 would establish a new class of vessels under maritime statutes to be called sailing school ships. The new classification would remove

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the school ships from certain other vessel classifications, and would also remove students and instructors, although not the crew, from classification as seamen.

The committee held a hearing on this legislation on June 17, and reported the bill without controversy on August 3. Every effort was made to accommodate suggestions from the Coast Guard for clarifying and improving the bill, and I am confident that the legislation as reported is both a sound and a necessary proposal.

I hope very much that it will be approved by the House today.

Mr. **McCLOSKEY**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the chairman of the Coast Guard Committee has adequately and accurately stated the situation; but for the record, it should be noted that the Coast Guard and the administration have indicated their opposition to the bill on two grounds; one, that they see no reason or benefit to be gained from treating sailing vessels or sailing school vessels differently from other passenger vessels. I think that argument has been answered by the comments of the gentleman from Massachusetts.

Second, the bill provides the Coast Guard with no guidance with respect to the regulatory treatment these tall sailing ships are to receive, and that is certainly true, but it does not seem to me again that the Coast Guard is beyond the talent or the capacity to write adequate regulations; but I wanted those matters noted for the record.

□ 1245

Mr. **STUDDS**. Mr. Speaker, I yield myself 1 minute.

Again, I would like the record to reflect that the administration did not testify in opposition to this bill. Hearings were held, the Coast Guard did testify; there was no great controversy at the hearing.

I would think even the administration would concede we ought not to require sailing vessels to be made of steel.

Mr. Speaker, I urge adoption of the bill.

● Mr. **JONES** of North Carolina. Mr. Speaker, the Sailing School Vessels Act of 1982, H.R. 6580, is intended to correct inhibitions on existing law which deter the development and operation of sailing schools by requiring vessels used in these educational programs to meet unnecessary Federal regulations.

Currently, sailing school vessels are not specifically addressed in Federal regulations, but are instead covered by either those designed for passenger vessels or ships involved in oceanographic research. Many of these requirements are inappropriate given the unique use of the vessel and incompatible with its teaching purpose.

Specifically, H.R. 6580 would establish a new class of vessels, "sailing school ships," and require the Coast Guard to promulgate new inspection regulations within 18 months of enactment which address the peculiar design, construction, alteration, or repair of sailing school vessels, as well as their operational requirements, including staffing and crew qualifications. The bill would also eliminate students and intructors, although not crew, from classification as seamen.

I urge my colleagues to vote to suspend the rules and approve this bill, helping at least in a small way to carry on the seafaring traditions of our country through the continuation of the nonprofit sailing schools which operate these vessels and train the sailors of tomorrow.●

● Mr. **YOUNG** of Alaska. Mr. Speaker, I urge support for passage of H.R. 6580, the Sailing School Vessels Act of 1982.

This bill permits the Coast Guard to regulate sailing school vessels used for navigation instruction while taking into account the particular nature of sail-powered vessels. Current statutes provide for regulation of steel-hulled, machine-powered vessels or passenger and ocean research vessels. Vessels propelled primarily by sail do not easily fit into these categories necessitating this change. Specifically, the bill would permit the Coast Guard to address the differences in vessel stability, compartmentation, and utility systems in developing the safety regulations for these vessels. Further, only those who are in the legitimate business of teaching sailing ship navigation would be permitted to operate under this law.

Mr. Speaker, in view of the above, I recommend that we enact H.R. 6580.●

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6580, as amended.

The question was taken.

Mr. **WALKER**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. **STUDDS**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered, H.R. 6580.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FALSE IDENTIFICATION CRIME CONTROL ACT OF 1982

Mr. **HUGHES**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes, as amended.

The Clerk read as follows:

H.R. 6946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "False Identification Crime Control Act of 1982".

SEC. 2. Chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"§ 1028. Fraud and related activity in connection with identification documents.

"(a) Whoever, in a circumstance described in subsection (c) of this section—

"(1) knowingly and without lawful authority produces an identification document or a false identification document;

"(2) knowingly transfers an identification document or a false identification document knowing that such document was stolen or produced without lawful authority;

"(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor) or false identification documents;

"(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document, with the intent such document be used to defraud the United States; or

"(5) knowingly produces, transfers, or possesses a document-making implement with the intent such document-making implement will be used in the production of a false identification document or another document-making implement which will be so used;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under subsection (a) of this section is—

"(1) a fine of not more than $25,000 or imprisonment for not more than five years, or both, if the offense is—

"(A) the production or transfer of an identification document or false identification document that is or appears to be—

"(i) an identification document issued by or under the authority of the United States; or

"(ii) a birth certificate, or a driver's license or personnal identification card;

"(B) the production or transfer of more than five identification documents or false identification documents; or

"(C) an offense under paragraph (5) of such subsection;

"(2) a fine of not more than $15,000 or imprisonment for not more than three years, or both, if the offense is—

"(A) any other production or transfer of an identification document or false identification document; or

"(B) an offense under paragraph (3) of such subsection; and

"(3) a fine of not more than $5,000 or imprisonment for not more than one year, or both, in any other case.

"(c) The circumstance referred to in subsection (a) of this section is that—

"(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

"(2) the offense is an offense under subsection (a)(4) of this section; or

"(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

"(d) As used in this section—

"(1) the term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, local or foreign government, or an international governmental or quasi-governmental organization which, when completed with information concerning a particular individual, is of a type commonly accepted for the purpose of identification of individuals;

"(2) the term 'produce' includes alter, authenticate, or assemble;

"(3) the term 'document-making implement' means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

"(4) the term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification; and

"(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

"(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

Sec. 3. The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following:

"1028. Fraud and related activity in connection with identification documents.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. Hughes) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. Sawyer) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6946, the False Identification Crime Control Act of 1982 was reported favorably to the House by the Committee on the Judiciary on August 10, 1982, by a voice vote.

False identification, in the last decade, has become a technique widely used by fugitives to avoid apprehension by law enforcement officials. False identification is used by illegal aliens to infiltrate the United States and to take advantage of the opportunities and expensive protection and benefits we provide for our citizens.

The use of assumed identities by criminals is one of the oldest means to avoid detection since criminals began running away from the scene of the crime. In modern society the numerous types of financial transactions and the need for personal security has led to the need to prove one's identity frequently. A person seeking to establish a new identity must therefore obtain the documents that verify that identity or else risk arousing suspicion and apprehension. Hence, there now exists a thriving market in counterfeit and stolen identification documents.

The question of how to deal with the problem has engendered a great deal of thought and study. Six years ago a Federal Commisson on False Identification reported on the need for protection of identification documents.

What has evolved is an ad hoc system that is based on driver's licenses and birth certificates, documents that are issued by the States. We need to protect State-issued documents of identity and it is with that goal that this bill is brought to the House for consideration.

H.R. 6946 creates three new offenses dealing with the counterfeiting and transfer of counterfeit and stolen identification documents and the equipment used to make false identification. It also creates an offense covering the possession of five or more false identification documents, and a prohibition on the possession of false identification documents with the intent to defraud the United States.

These offenses deal only with Government-issued identification and not those used by private organizations. Both State-and local-government-issued identification and foreign governmental or international quasi-governmental identification are also covered.

In the case of State-and local-issue identification, primarily birth certificates and driver's licenses, the bill provides for strong penalties for the production of these documents without lawful authority. That is because driver's licenses and birth certificates are the basic types of identification that are relied upon for the issuance of passports, social security cards and most of the other identification documents that the Nation relies upon.

The bill also carries an important exception for the activities of investigative, protective, and intelligence agencies which often need to produce documents for undercover police officers or to protect Federal witnesses and others.

I want to compliment my good friend from Illinois, Henry Hyde, for his leadership on this issue. He has worked most diligently for a number of years, almost singlehandedly, to bring this issue to a proper resolution.

Mr. Speaker, I also want to commend my colleague from Michigan, Hal Sawyer, the ranking minority member of the Subcommittee on Crime of the Committee on the Judiciary for his leadership in this area. They have worked most diligently for a number of years to bring this issue to a proper resolution.

Mr. Speaker, this bill is the culmination of more than 8 years of work on the false identification issue by private industry, the Justice Department, many State and local officials, and the Congress.

Mr. Speaker, the administration supports this bill. It is a noncontroversial bill and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the chairman of the subcommittee in urging my colleagues to vote in favor of H.R. 6946, the False Identification Crime Control Act of 1982. This is another bipartisan effort of the Subcommittee on Crime which has been endorsed by the administration.

Testimony before the subcommittee clearly demonstrated that there is an urgent need for Federal legislation to prevent the manufacturers and distributors of false identification documents from peddling their products with impunity. As the gentleman from Illinois (Mr. Hyde) demonstrated with the exhibits he presented to the subcommittee, these criminals shamelessly advertise in national magazines to provide identification tailored to the needs of the purchaser. If the buyer is a criminal, or course, these documents facilitate a variety of enterprising exploits—illegal immigration, drug smuggling, and terrorism.

Earlier this year, law enforcement officers in the State of Michigan brought to my attention the fact that false identification manufacturers are fueling the teenage drunk driving problem, while they line their own pockets. Their services are heavily advertised around high school and college campuses and in periodicals aimed at a young audience. While it is true here, as it is with the crime problem in general, that the primary responsibility for addressing this problem is at the local level, there is clearly a role for the Federal Government to play. Certainly, its involvement is appropriate where the trafficking involves Federal documents. In addition, there are many instances where the activities of a manufacturer outside of a State can thwart that State's efforts to protect the integrity of its own documents. In Michigan, for instance, the State

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police have established a 13-county area crackdown on the use of false identification documents by minors in purchasing liquor. Obviously, Federal obstacles to the influx of false ID's manufactured outside of the State would be of invaluable help.

In response to this problem, I introduced H.R. 6105, which concentrated on manufacturers who send phony ID's to minors. Most of the conduct which would have been proscribed in my bill is contained in H.R. 6946. In addition, H.R. 6946 provides strong penalties for those who produce identification documents without lawful authority or transfer them knowing that they are stolen or unlawfully produced and for those who produce, transfer or possess implements specially designed for producing false identification. The most serious offenses are punishable by a $25,000 fine and/or 5-years imprisonment. Certainly, these penalties will provide a strong disincentive to manufacturers and traffickers in false identification. H.R. 6946, coupled with existing State and Federal laws prohibiting fraud against the Government, will provide an arsenal for the various levels of Government to combat this costly sort of crime.

Let me emphasize to my colleagues that H.R. 6946 covers only major manufacturers and traffickers in false identification documents and hardcore criminals who use multiple documents to create false identities. It would not cover the use of a phony driver's license by a minor to buy liquor. This problem is more appropriately addressed by the State and local governments. However, H.R. 6946 will assist them by detering the manufacture and distribution of false identification documents.

Mr. Speaker, I believe that H.R. 6946 will put an end to the carefree pandering to alcohol abuse and crime by these greedy companies who seem impervious to the suffering that drunk driving and crime generate. I urge my colleagues to vote in favor of H.R. 6946, as it was reported by the Judiciary Committee.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Hyde).

Mr. HYDE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am delighted to reach this pinnacle of legislative progress today because it has been at least 5 years since I have been involved with this issue.

It was first brought to my attention by Frances Knight, who was formerly in charge of the Passport Division of our State Department. She presented me with a thick report of an advisory commission, the Federal Advisory Commission on False Identification, which certainly captured my interest because it underscored the dimensions of this very serious problem.

I am pleased to say that with the advent of the gentleman from New Jersey (Mr. Hughes) as the ranking member of the Subcommittee on Crime of the Committee on the Judiciary, and the gentleman from Michigan, Mr. Hal Sawyer, who is the ranking Republican on that committee, the legislation finally saw the light of day and received the enthusiastic support of the committee, not only the members of the committee, the distinguished chairman, and ranking member, but the staff who contributed many long hours on this matter; Hayden W. Gregory, Eric Sterling of the majority staff, and Deborah K. Owen of the minority staff, who were indispensable in fashioning this legislation into the excellent bill that it is today, with the support of the Department of Justice.

So with many thanks to all who have contributed, I urge adoption of this very important piece of legislation.

Mr. FISH. Mr. Speaker, will the gentleman yield to me?

Mr. HYDE. I would be glad to yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding.

As a member of the Subcommittee on Crime, I recall when the gentleman from Illinois appeared before us and contributed so much to the concept of deterring the use of false ID's and the control of this abuse as one more step in our fight to deter illegal use by criminals.

This was the initiative of the gentleman from Illinois. I want to thank the gentleman for bringing this up, and I compliment the chairman of the committee and the ranking member for bringing this bill to the floor today.

Mr. HYDE. I thank the gentleman.

Mr. Speaker, let me just say that when this Congressional Record is printed, I intend to take these remarks and mail them to Frances Knight as a memento that justice is sometimes delayed but never denied.

Mr. Speaker, as the sponsor of H.R. 352, the bill which was considered by the Subcommittee on Crime, and as sponsor of similar measures in past Congresses, I want to commend the chairman of the subcommittee (Mr. Hughes) and the ranking minority member (Mr. Sawyer) for recognizing the urgent need for Federal legislation prohibiting the criminal misuse of identification documents. This pernicious crime has been able to thrive upon various loopholes in the Federal law and the inability of individual States to control the counterfeiting of their documents beyond their borders. H.R. 6946, as reported by the Judiciary Committee, will finally enable us to address a phenomenon that has gone unchecked for far too long.

My concern in this area began in early 1977, when Frances Knight, then Director of the Passport Office, called my attention to a report which had just been issued by the Federal Advisory Committee on False Identification (FACFI). The report culminated a 2-year study conducted under the auspices of the Justice Department, and concluded that false identification crime was a serious national problem that had been virtually ignored.

Criminals use false credentials as a shield to prevent law enforcement authorities from discovering their activities in drug trafficking, credit card fraud, passport fraud, illegal immigration, welfare fraud, terrorist activities, and other aspects of organized crime. The cost to American taxpayers was estimated at over $16 billion annually in 1976 when the FACFI report was issued. This was a modest estimate then, and testimony before the subcommittee suggests that the problem is even greater now.

Let me cite a few examples of how false identification facilitates a wide variety of crime. Bernard Welch, the convicted murderer of Washington heart specialist Dr. Michael Halberstam, had more than 20 false identities which he apparently used in fencing stolen valuables. Kristina Bersten, a member of the Baader-Meinhof gang of terrorists in West Germany, used an altered Iranian passport to cross the Canadian border before she was caught in Vermont by Federal authorities, and then deported. The well-known terrorist, Carlos "the Jackal," uses all varieties of false identification as he travels from country to country.

Curbing the misuse of identification documents will have a substantial impact in other problem areas, such as illegal immigration. The attorney general of Illinois, Tyrone Fahner, recently said that spot checks during a 2-week period showed that 45 percent of the aliens who applied for jobless benefits were illegal aliens who were not entitled to such benefits. Every-one of those illegal aliens had a counterfeit card that showed him to be in the United States legally. Mr. Fahner has estimated that unless the practice is stopped, illegal aliens in Illinois will be able to collect as much as $66.2 million each year in fraudulent unemployment benefits. Obviously, Federal legislation which would deter the production of these instrumental documents would lessen the burden of illegal immigration on the States.

The FACFI report identified two legislative problems. First, Federal law generally relates to specific documents and is inconsistent in the activities it proscribes. The offenses are multitudinous and there is an urgent need for an organized and consolidated tool that the prosecutor can use in this area. Second, Federal law does not address interstate trafficking in State documents. This is clearly an area where the States need Federal assistance.

My bill, H.R. 352, was designed to address both of these problems and was specifically endorsed in the FACFI report. The committee's bill, H.R. 6946, clarifies the language of H.R. 352 to bring it more into line with the amendment which I successfully offered to the proposed new Criminal Code 2 years ago. H.R. 6946 also improves the penalties applicable to producers and distributors of phony Federal and State identification documents and the implements used in making them. As reported by the committee, H.R. 6946 will undoubtedly be instrumental in drying up the source of these documents.

Mr. Speaker, 2 years ago, the Judiciary Committee voted to crack down on false identification fraud when it amended the Criminal Code reform bill. Unfortunately, that bill never made it to the floor. Today, in the context of separate legislation, we have another opportunity to close the loopholes in Federal law governing identification documents which give so much aid and comfort to the criminal element in this country. I urge my colleagues to support H.R. 6946.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. MAZZOLI).

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON WEDNESDAY AND THURSDAY, SEPTEMBER 15 AND 16, 1982

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday and Thursday, September 15 and 16, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield further to me?

Mr. HUGHES. I would be glad to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I would like to join in what has been said about my good friend from New Jersey and his leadership on the Subcommittee on Crime of the Committee on the Judiciary, putting forth a bill today with my other good friend from Michigan, Mr. SAWYER. I think it is going to make a very healthy contribution to conquering some of the rampant misuse of documents and, of course, leading to misuse from a crime standpoint. I want to thank him for his leadership.

Mr. HUGHES. I thank the gentleman from Kentucky.

Mr. Speaker, as the gentleman knows, this will dovetail very nicely with the comprehensive immigration bill that the distinguished chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary has developed and on which our committee is about to begin markup.

I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 6946, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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PENALTIES FOR CRIMES AGAINST CABINET OFFICERS, SUPREME COURT JUSTICES, AND PRESIDENTIAL STAFF MEMBERS

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 907) to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes, as amended.

The Clerk read as follows:

S. 907

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 351 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Section 351 of title 18 of the United States Code is amended by adding at the end the following:

"(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(i) There is extraterritorial jurisdiction over the conduct prohibited by this section."

SEC. 2. (a) The section heading of section 351 of title 18 of the United States Code is amended to read as follows:

"§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 18 of title 18 of the United States Code, the item relating to section 351 is amended to read as follows:

"351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties.".

(c) The chapter heading of chapter 18 of title 18 of the United States Code is amended to read as follows:

"Chapter 18—CONGRESSIONAL, CABINET AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT".

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 18 reads as follows:

"18. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault .... 351".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(violations with respect to congressional" and all that follows through "assault)" and inserting in lieu thereof the following: "(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)".

SEC. 3. (a) Subsection (a) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Subsection (e) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(e) Whoever assaults any person designated in subsection (a)(1) shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

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(c) Subsection (g) of section 1751 of title 18 of the United States Code is amended by striking out "this section" and inserting in lieu thereof "subsection (a)(1)".

(d) Section 1751 of title 18 of the United States Code is amended by adding at the end the following:

"(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(k) There is extraterritorial jurisdiction over the conduct prohibited by this section."

Sec. 4. (a) The section heading of section 1751 of title 18 of the United States Code is amended to read as follows:

"§ 1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 84 of title 18 of the United States Code the item relating to section 1751 is amended to read as follows:

"1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties.".

(c) The heading of chapter 84 of title 18 of the United States Code is amended to read as follows:

"Chapter 84—PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING, AND ASSAULT"

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 84 reads as follows:

"84. Presidential and Presidential staff assassination, kidnaping, and assault .... 1751".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(Presidential assassinations, kidnaping, and assault)" and inserting in lieu thereof "(Presidential and Presidential staff assassination, kidnaping, and assault)".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **SAWYER**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from New Jersey (Mr. Hughes) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. Sawyer) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. Hughes).

Mr. **HUGHES**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be able to bring this important bill to the floor today. S. 907, a Senate bill, as amended, would add certain high-level Federal officials to the protection of existing Federal law by providing criminal penalties for killing, kidnaping, attempting to kill or kidnap, or assaulting these officers.

Section 351 of title 18 currently protects Members of Congress and Members of Congress-elect. S. 907 would amend section 351 to add Cabinet Secretaries and nominees, and second in command in Cabinet departments; the Director and Deputy Director of the CIA and nominees to be CIA Director; Supreme Court Justices and nominees.

Section 1751 of title 18, protecting the President and Vice President, and President-elect and Vice President-elect, someone legally acting as the President; and if no Vice President those in line of succession to the Presidency.

S. 907 would amend section 1751 to add senior staff members in the President's and Vice President's office to its coverage. The reason behind these amendments is obvious. Those who will be added to the protection of the Federal law are high-ranking Federal officers, officers involved in controversial and high visible activities. Unfortunately, along with their high positions they incur risks to their personal safety. Currently, attacks on these Federal officials can generally be prosecuted only by State and local authorities. While the protections of State and local laws may often be adequate, it seems much better to avoid the inconsistencies in the scope of protection and in the punishment meted out to the attackers by making such attacks Federal crimes to be investigated, prosecuted, and punished by Federal authorities.

S. 907 also makes explicit that these statutes apply extraterritorially, so that no matter where an attack might occur the United States can prosecute. The need for this legislation is especially urgent in light of the tragic attack on President Reagan last year that left his press secretary, Jim Brady, permanently disabled, and the very recent attack on Supreme Court Justice Byron White, which fortunately did not cause serious injury to Justice White.

I do not believe that there is any controversy whatsoever about the substance of S. 907. Indeed, the President just this past Saturday in his radio address singled out S. 907 as one of the pieces of legislation requiring immediate attention by the Congress. I am happy to say this morning that the full Judiciary Committee reported out S. 907, and I do not think we could expedite a piece of legislation any more than we have expedited this particular one.

I want to particularly commend again my distinguished ranking minority member, Hal Sawyer of Michigan, without whose cooperation we could not have had this legislation before the House today. I urge the Members to vote to suspend the rules and pass S. 907, as amended. It is a good piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. **SAWYER**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the chairman of the subcommittee in urging this body to pass S. 907. This bill generated no controversy during our committee's consideration and has been endorsed by the administration.

Recent attacks on well-known public figures, such as President Reagan, Press Secretary Jim Brady, and Supreme Court Justice Byron White, have highlighted the need for this legislation. S. 907 would make it a Federal crime to kill, kidnap, or assault:

Cabinet heads and persons nominated to those positions;

Deputy Cabinet heads;

The Director of Central Intelligence, a person nominated to be Director, and the Deputy Director;

Supreme Court Justices and nominees; and

High-level staff appointed by the President and Vice President.

The subcommittee also made two changes in the bill to clarify certain aspects of these offenses. First, S. 907 will provide for explicit extraterritorial jurisdiction over these offenses. Under current law, for instance, the defendant in the Leo Ryan murder case raised the issue that there was no extraterritorial jurisdiction over that offense. While the Court correctly held, in my view, that there was extraterritorial jurisdiction, there is no guarantee that other courts will make the same decision in the future. S. 907 corrects this deficiency. In addition, it clarifies the fact that the defendant need not be aware of the victim's official status. The Federal interest in protecting these high-level officials is sufficient to warrant excluding such a showing.

As I have frequently pointed out to my colleagues, the Federal Government's role in fighting violent crime is a limited one under our Constitution. S. 907 covers an area where the Federal Government's interest is substantial and the appropriateness of its involvement is unquestionable. I urge my colleagues to vote in favor of S. 907 so that assaults on highly regarded public figures such as Jim Brady will no longer go unpunished under Federal law.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. **HUGHES**. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. Hughes) that the House suspend the rules and pass the Senate bill, S. 907, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

DIRECTING CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 3517

Mr. MAZZOLI. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 405) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3517, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. FISH. Mr. Speaker, reserving the right to object, and I shall not object, I make this reservation for the purpose of asking the chairman of the subcommittee to tell us a little more about the concurrent resolution.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FISH. I will be glad to yield.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman very much for yielding. It is well that this be a matter of record.

What the concurrent resolution does is to simply correct two typographical errors in a measure which the gentleman and I passed through the House just last week, dealing with the U.S. Virgin Islands. It amends, in a sense, a typographical error which occurs on page 1, line 5 of the bill, and changes "1981" to "1982."

On page 6 of the bill at line 7, we change "202(b)" to "201(b)."

They are typographical errors. Otherwise, there is no change in the substance of the bill.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 405

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 3517) to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) Strike out "1981" in section 1(a) and insert in lieu thereof "1982".

(2) Strike out "202(b)" in section 2(c)(4) and insert in lieu thereof "201(b)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ELEMENTARY AND SECONDARY ASSISTANCE GRANTS TO ASSIST TEACHING OF CITIZENSHIP PRINCIPLES

Mr. CORRADA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 568) to provide Federal grants to assist elementary and secondary schools to carry on programs to teach the principles of citizenship, as amended.

The Clerk read as follows:

H.R. 5658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 582(1) of the Education Consolidation and Improvement Act of 1981 is amended—

(1) by striking out "and" at the end of clause (H);

(2) by inserting "and" at the end of clause (I); and

(3) by inserting after clause (I) the following new clause:

"(J) programs to teach the principles of citizenship;".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Puerto Rico (Mr. Corrada) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. Erdahl) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Puerto Rico (Mr. Corrada).

Mr. CORRADA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us today will focus national attention on a serious problem affecting our Nation's youth without creating a costly, new Federal program.

H.R. 5658 addresses the problem of our young people's lack of knowledge about government and the responsibilities of citizenship. In subcommittee hearings on this bill, we discovered some alarming trends. Teenagers' understanding of government has declined in recent years. Only a small percentage of persons age 18 to 22 exercise the right to vote. Social problems such as crime, vandalism and alcohol and drug abuse suggest that too many young people are not functioning as responsible citizens.

Despite these trends, citizenship and government classes are receiving lower priority in the school curriculum than they did several years ago.

H.R. 5658 responds to these critical needs without any additional cost to the Federal Government. The legislation, as reported by the Committee on Education and Labor, amends an existing program, the education block grant authorized by chapter 2 of the Education Consolidation and Improvement Act, to allow these funds to be used for programs to teach the principles of citizenship. In keeping with the nature of this block grant, State and local educational agencies will have complete discretion over whether to fund citizenship education programs and the content of these programs.

Thus, we are really talking about a simple piece of legislation that will actually increase State and local flexibility to use Federal funds, while drawing attention to an important area. I urge my colleagues to suspend the rules and pass H.R. 5658.

Mr. Speaker, I reserve the balance of my time.

Mr. ERDAHL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend our colleague, the gentleman from Puerto Rico (Mr. Corrada) for explaining this bill, because it is one that we on the minority join in supporting. I also want to commend the distinguished gentleman from Florida (Mr. Bennett) not only for his persistence over the years for producing the intent and direction of this bill, but also I think for his flexibility in permitting it to go into law without an appropriation.

On behalf of the minority, I rise in support of H.R. 5658 and want to let the Speaker and Members of the House know that it would be difficult to support a new authorization at a time when many of the more established programs are fighting to hold their own. H.R. 5658, as amended, specifically lists citizenship education among the list of approved activities under the education block grant. This proposal has the virtue of removing any ambiguity regarding the use of chapter II block grant funds for citizenship education, while avoiding the creation of a new separate categorical grant program.

This action would not involve new spending authorization. It would also have the advantage of protecting the duly enacted block grant and of avoiding the precedent of reestablishing categorical grant programs.

This bill was approved unanimously in committee and deserves bipartisan support.

Mr. Speaker, I have no further requests for time on this side of the aisle, and I yield back the balance of my time.

Mr. CORRADA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Florida (Mr. Bennett), who initially introduced this legislation in Congress.

Mr. BENNETT. Mr. Speaker, I rise today in support of my bill, H.R. 5658, which would allow education block grant funds to be used by State educational agencies to assist them in establishing and carrying out programs under which students in elementary and secondary schools will be provided

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instruction in citizenship. The legislation leaves up to the States the content and nature of the instruction.

I strongly encourage the House to approve this legislation. It gives an important thrust to meet an important need in education—and leaves the methods and content under the control of local authorities. No massive bureaucracy is either established or encouraged.

We have all heard or read about youth crime in America. The problem is growing and it is not limited to any particular part of the country or to any one economic group. Crimes are being committed by young people from rich neighborhoods as well as poor; from small towns as well as big cities; from rural areas as well as suburbs.

Arrest statistics from the Justice Department indicate that juveniles account for a disproportionate share of police arrests nationally. In 1980, persons under 18 in our country accounted for 36 percent of the arrests for serious crimes, although that age group—not including those under the age of 10—constitutes but 15 percent of the population.

Youth crime has spilled over to the schools where vandalism costs the Nations's public schools hundreds of millions of dollars a year. In addition, there are tens of thousands of assaults on teachers each year. But as serious as these crime statistics are, they are only symptoms of an illness that is afflicting our schools and our society as a whole. This illness is a lack of knowledge and a lack of practice of the principles of good citizenship in our democracy.

I believe that this deterioration is due in part to the failure of our schools to provide an adequate education in the field of good citizenship and in what good citizenship means to our society and to each of us individually. This failure by the schools—at a time when family life is becoming increasingly fragmented—is giving us a new generation of Americans no longer guided by the principles that have made our Nation great.

Our culture, like that of other civilizations, is built upon widely accepted behavioral values. Although values of our culture may vary somewhat from individual to individual, there are certain basic and accepted values of citizenship in America. One of the most critical factors in the survival of any society has always been its ability to transmit effectively its carefully achieved values to each succeeding generation. Therefore, it becomes a responsibility of our American schools to educate our children about our values—an obligation which is shared with the home, church, the community, and its various agencies.

It is vitally important to the future of America that young people know about the hertiage of America in standards, principles, and behavior—and learn to formulate their citizenship values in an open academic atmosphere where free discussion may improve and strengthen our culture and perhaps our chances for survival.

Enactment of my bill would be a major step in providing the background in citizenship principles which I believe our young people should have in order to become effective, responsible, participating members of society. The recent hearings on my bill in the Elementary Education Subcommittee demonstrated that practical curriculums have been worked out in some locations. What is needed now is a positive expression on the part of the Congress that something in this area must be done on a nationwide scale. My bill, I believe, is such an expression. It is a modest start—but some start must be made.

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Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Speaker, I commend the gentleman from Florida (Mr. BENNETT) for his initiative and leadership in bringing this matter to the attention of the Committee on Education and Labor for its consideration. I believe that this is a significant and needed piece of legislation at this time, and I would like to thank the gentleman for his diligence in this matter.

Mr. BENNETT. Mr. Speaker, I thank the gentleman very much.

Mr. CORRADA. Mr. Speaker, I would also commend our distinguished colleague, the gentleman from Minnesota, (Mr. ARLEN ERDAHL), the gentleman from Pennsylvania (Mr. GOODLING), and all the Members of the minority side for their support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Puerto Rico, (Mr. CORRADA) that the House suspend the rules and pass the bill, H.R. 5658, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the use of education block grant funds to teach the principles of citizenship."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CORRADA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Puerto Rico?

There was no objection.

REEMPLOYMENT RIGHTS FOR MEMBERS OF THE NATIONAL GUARD AND RESERVE

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6788), to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training.

The Clerk read as follows:

H.R. 6788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2024(d) of title 38, United States Code, is amended by inserting after the first sentence the following new sentence: "However, an employer is not required to grant such a leave of absence for a total of more than three hundred and sixty-five days (excluding required weekend drills and required annual two-week training periods) within any thirty-six month period.".

The SPEAKER pro tempore (Mr. BENNETT). Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes, and the gentleman from South Carolina (Mr. NAPIER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Education, Training and Employment, the distinguished gentleman from Pennsylvania, (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, presently the job of a member of the Reserves or National Guard who is absent from civilian employment to perform active duty for training for more than 90 days is not protected under the veterans' reemployment rights program administered by the Department of Labor. These are the tours of training duty other than initial active duty training, weekend drills and 2-week summer encampments, which are clearly protected by existing law.

The great majority of the more than 900,000 members of the National Guard and Reserves do not need active duty training of greater than 90 days duration. However, according to the Department of Defense, there are approximately 6,000 members of the Reserves and National Guard nationwide who are annually required to take training in excess of 90 days, for this small group, there is no protection under current law as interpreted by the Department of Labor that their jobs will be there when they return to their civilian employment.

H.R. 6788 amends existing law to provide that a member of the National Guard or Reserves who is absent from civilian employment to perform active duty for training for more than 90 days will have reemployment protection for up to 12 months within 3 calendar years.

The Congressional Budget Office advises there would be no cost to the Government with the enactment of this legislation. On July 22, by unanimous voice vote, the committee ordered the bill reported to the House. The administration favors the enactment of H.R. 6788, and there is no objection to the bill. I strongly recommend that the bill be favorably considered and passed.

Mr. NAPIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6788, a bill designed to clarify the rules of reemployment with respect to certain members of the National Guard or Reserve military forces who are required to perform active military duty for training.

Mr. Speaker, this bill provides that the individuals concerned who enter active service duty for training for in excess of 90 days will have reemployment rights so long as the total period of training is not in excess of 12 months within any 36-month period.

Mr. Speaker, H.R. 6788 seeks to provide reemployment protection for a relatively small but important group of about 6,000 reservists and guardsmen. Recent court decisions have limited historic protection to those individuals called to active duty for training for periods not exceeding 90 days in any 3-year period.

Mr. Speaker, this bill balances reservists' and guardsmen's rights with our military needs and with the needs of employers who must grant leave. It is a bill supported by the Department of Defense and the Department of Labor. It results from rather extensive consideration by the Committee on Veterans' Affairs, and particularly our Subcommittee on Education, Training and Employment. In this connection, I congratulate our chairman, the Honorable Sonny Montgomery, our subcommittee chairman, (Mr. Edgar), the ranking member of the subcommittee, the gentlewoman from Massachusetts (Mrs. Heckler), and the ranking Republican member of the full committee, the gentleman from Arkansas, (Mr. Hammerschmidt). H.R. 6788 is a good bill and I urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I, therefore, yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Sam B. Hall, Jr.), a distinguished member of our Committee on Veterans' Affairs, for any comments that he would like to make.

Mr. SAM B. HALL, JR. Mr. Speaker, I would like to ask the gentleman from Mississippi (Mr. Montgomery) one question with reference to this bill.

As I understand the matter, an employer is required to grant leave of absence, with job reinstatement rights, to an employee summoned to active or inactive duty for training with the National Guard or Reserves for up to 365 days within a 3-year time span, exclusive of leave time required for weekend drills and annual 2-week training sessions. As I understand it, that is the bottom line of this bill?

Mr. MONTGOMERY. The gentleman is correct. Weekend drills and the 2-week annual encampment, are covered under another provision of law.

Mr. SAM B. HALL, Jr. Mr. Speaker, I thank the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I strongly support H.R. 6788, which clarifies congressional intent in reference to reemployment rights for members of the National Guard and Reserve.

Last year, the Labor Department ruled that members of the Reserve components who are called to active duty or inactive duty for training for periods of more than 90 days, were not entitled to reinstatement of their jobs.

This came as a surprise since, historically, the Department of Labor had taken the position that members of the Reserve and National Guard who were absent from their civilian employment for the purpose of performing active or inactive duty for training were entitled to reinstatement to their jobs under the veterans' reemployment rights program, regardless of the length of such training.

Two recent decisions handed down by the Fifth Judicial Circuit of the U.S. Court of Appeals, are the basis for the new Labor Department policy on the extent of protection for reservists, as provided in the veterans' reemployment rights program. Simply stated, the new policy limits for the first time the protection of reservists of National Guardsmen on active duty for training for 90 calendar days every 3 years. The Department of Defense cannot live with this new policy and supports legislation to correct the problems the new Labor Department policy has created.

Upon learning of this change in policy, I introduced H.R. 5209, a bill similar to H.R. 6788. Hearings were held by the Subcommittee on Education, Training and Employment on H.R. 5209 at which the administration and public witnesses testified.

This new interpretation of the law and its effects on the members of the Reserve and National Guard who attend training for longer than 90 days is of great concern to the committee and the Department of Defense cannot live with it. The Labor Department has misread the ruling of the courts involving two cases pertaining to employment rights for active duty for training purposes and thus we find ourselves having to legislate to provide job security for a few critical members of our total force.

As reported, a member of the Reserve or National Guard who is absent from civilian employment to perform active duty for training for more than 90 days will have reemployment protection for up to 12 months within 3 calendar years.

I want to express my appreciation for the cooperation and assistance of John Paul Hammerschmidt, ranking minority member of the committee. In addition, I commend Bob Edgar, chairman of the Subcommittee on Education, Training and Employment, for his leadership in developing and advancing this legislation, and the cooperation and assistance of Margaret Heckler, the ranking minority member of the subcommittee as well as all of the members of the subcommittee.

Mr. Speaker, I urge the adoption of the bill as reported by the committee.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. Montgomery) that the House suspend the rules and pass the bill. H.R. 6788.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

TECHNICAL CORRECTIONS ACT OF 1982

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6056), to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980, as amended.

The Clerk read as follows:

H.R. 6056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) Short Title.—This Act may be cited as the "Technical Corrections Act of 1982".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—AMENDMENTS RELATED TO ECONOMIC RECOVERY TAX ACT OF 1981

SEC. 101. AMENDMENTS RELATED TO TITLE I OF THE ACT.

(a) Amendments Related to Section 101.—

(1) Effective date for amendment to section 21.—Paragraph (1) of section 101(f) of the Economic Recovery Tax Act of 1981 (relating to effective dates for rate cuts) is amended by inserting before the period at the end thereof the following: "; except that the amendment made by paragraph (3) of subsection (d) shall apply to taxable years ending after December 31, 1981".

(2) Rate reduction tax credit.—Section 6428 (relating to 1981 rate reduction tax credit) is amended by adding at the end thereof the following new subsection:

"(d) Special Rules.—For purposes of this section—

"(1) Individuals to whom 50 percent maximum rate or 20 percent capital gain rate applies.—

"(A) In general.—In the case of any individual to whom this paragraph applies, in determining the amount of the credit allowable under subsection (a)—

"(i) the portion of the tax imposed by section 1 determined under section 1348(a)(2) (as in effect before its repeal by the Economic Recovery Tax Act of 1981), and

"(ii) the portion of the tax imposed by section 1 determined under subsection (a)(2)(B) of section 102 of the Economic Recovery Tax Act of 1981,

shall not be taken into account.

"(B) Individuals to whom paragraph applies.—This paragraph applies to any individual if the tax imposed by section 1 for the taxable year is determined under—

"(i) section 1348 (as in effect before its repeal by the Economic Recovery Tax Act of 1981), or

"(ii) section 102(a)(2) of the Economic Recovery Tax Act of 1981.

"(2) Special rule for tax imposed by section 402(e).—The tax imposed by subsection (e) of section 402 shall be treated as a tax imposed by section 1."

(3) Elimination of 50-cent rounding errors.—If any figure in any table—

(A) which is set forth in section 1 of the Internal Revenue Code of 1954 (as amended by section 101 of the Economic Recovery Tax Act of 1981), and

(B) which applies to married individuals filing separately or to estates and trusts,

differs by not more than 50 cents from the correct amount under the formula used in constructing such table, such figure is hereby corrected to the correct amount.

(b) Amendment Related to Section 104.—Subparagraph (C) of section 402(e)(1) (relating to imposition of separate tax on lump sum distributions) is amended by striking out "$2,300" and inserting in lieu thereof "the zero bracket amount applicable to such an individual for the taxable year".

(c) Amendments Related to Section 111.—

(1) Clarification of limitation on benefit.—Subsection (d) of section 911 (relating to citizens or residents of the United States living abroad) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Aggregate benefit cannot exceed foreign earned income.—The sum of the amount excluded under subsection (a) and the amount deducted under subsection (c)(3)(A) for the taxable year shall not exceed the individual's foreign earned income for such year."

(2) Technical amendment.—Clause (ii) of section 911(c)(3)(B) (relating to special rules where housing expenses not provided by employer) is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(d) Amendment Related to Section 122.—Subsection (c) of section 122 of the Economic Recovery Tax Act of 1981 (relating to effective date for increase in rollover period for principal residence) is amended by adding at the end thereof the following new sentences:

"Notwithstanding the preceding sentence, the taxpayer may elect to have the amendments made by this section not apply to any old residence sold or exchanged on or before August 13, 1981. Such an election shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe."

(e) Amendments Related to Section 124.—

(1) Benefits must be nondiscriminatory.—

(A) Subsection (d) of section 129 (defining dependent care assistance program) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Discrimination.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, owners, or highly compensated, or their dependents."

(B) Paragraph (3) of section 129(d) (as redesignated by subparagraph (A)) is amended by striking out "employees who are officers, owners, or highly compensated, or their dependents" and inserting in lieu thereof "employees described in paragraph (2), or their dependents".

(C) Paragraph (1) of section 129(d) is amended by striking out "paragraphs (2) through (6)" and inserting in lieu thereof "paragraphs (2) through (7)".

(2) Clarification of deduction to employer.—Paragraph (7) of section 129(e) (relating to disallowance of excluded amounts as credit or deduction) is amended—

(A) by striking out "shall be allowed" and inserting in lieu thereof "shall be allowed to the employee", and

(B) by striking out "excluded from income" and inserting in lieu thereof "excluded from the gross income of the employee".

(f) Amendment Related to Section 125.—Paragraph (2) of section 222(c) (defining child with special needs) is amended to read as follows:

"(2) Child with special needs.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act."

(g) Amendment Related to Section 126.—Paragraph (4) of section 483(g) (relating to nonresident alien individuals) is amended by striking out "This section" and inserting in lieu thereof "Paragraph (1)".

SEC. 102. AMENDMENTS RELATED TO TITLE II OF THE ACT.

(a) Amendments Related to Section 201.—

(1) Application of short taxable year rule to 15-year real property.—Paragraph (5) of section 168(f) (relating to short taxable years) is amended by adding at the end thereof the following new sentence: "In the case of 15-year real property, the first sentence of this paragraph shall not apply to the taxable year in which the property is placed in service or disposed of."

(2) Adjustments to basis in the case of certain transfers.—Subparagraph (B) of section 168(d)(2) (relating to adjustment to basis) is amended by striking out "subsection (f)(7)" and inserting in lieu thereof "paragraph (7) or (10) of subsection (f)".

(3) Changes in use.—Subsection (f) of section 168 (relating to special rules for application of section) is amended by adding at the end thereof the following new paragraph:

"(12) Changes in use.—The Secretary shall, by regulation, provide for the method of determining the deduction allowable under subsection (a) with respect to any property for any taxable year (and for succeeding taxable years) during which such property changes status under this section but continues to be held by the same person."

(4) Qualified coal utilization property.—

(A) Paragraph (4) of section 168(h) (relating to qualified coal utilization property) is amended to read as follows:

"(4) Qualified coal utilization property.—The term '10-year property' includes qualified coal utilization property which would otherwise be 15-year public utility property."

(B) The heading of subparagraph (A) of section 168(g)(8) is amended to read as follows:

"(A) Qualified coal utilization property.—".

(C) The heading of subparagraph (B) of section 168(g)(8) is amended to read as follows:

"(B) Coal utilization property.—".

(5) Clarification of applicable percentage for year real property placed in service.—The third sentence of section 168(b)(2)(A) (relating to 15-year real property) is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "In the case of 15-year real property".

(6) Section 1245 recovery property included as unrealized receivable.—The second sentence of subsection (c) of section 751 (relating to unrealized receivables and inventory items) is amended by inserting "section 1245 recovery property (as defined in section 1245(a)(5))," after "section 1245(a)(3)),".

(7) Clarification of additional depreciation in the case of recovery property.—

(A) Subsection (b) of section 1250 (defining additional depreciation) is amended by adding at the end thereof the following new paragraph:

"(5) Method of computing straight line adjustments.—For purposes of paragraph (1), the depreciation adjustments which would have resulted for any taxable year under the straight line method shall be determined—

"(A) in the case of recovery property, by determining the adjustments which would have resulted for such year if the taxpayer had elected the straight line method for such year using the recovery period applicable to such property, and

"(B) in the case of any property which is not recovery property, if a useful life (or salvage value) was used in determining the amount allowable as a deduction for any taxable year, by using such life (or value)."

(B) Paragraph (1) of section 1250(b) is amended by striking out the last sentence.

(8) Theme parks, etc.—Paragraph (2) of section 168(c) (defining classes of recovery property) is amended by adding at the end thereof the following new subparagraph:

"(F) Special rule for theme parks, etc.—For purposes of subparagraphs (C) and (D), a building (and its structural components) shall not be treated as having a present class life of 12.5 years or less by reason of any use other than the use for which such building was originally placed in service."

(b) Amendments Related to Section 205.—

(1)(A) The next to the last sentence of section 57(a) is amended by striking out "and (12)" and inserting in lieu thereof "and (12)(A)".

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 205(b) of the Economic Recovery Tax Act of 1981 but shall not apply to taxable years beginning after December 31, 1982.

(2) Paragraph (2) of section 58(f) is amended by striking out "the item of tax preference set forth in section 57(a)(2)" and inserting in lieu thereof "the items of tax preference set forth in paragraphs (2) and (12)(B) of section 57(a)".

(3) Paragraph (12) of section 57(a) (defining items of tax preference) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) Subparagraphs (A) and (B) inapplicable where longer recovery periods apply.—If, pursuant to section 168(b)(3) or 168(f)(2), the recovery period for any property is longer than the recovery period for such property set forth in subparagraph (A) or (B), subparagraph (A) or (B) (as the case may be) shall not apply to such property."

(4) Subparagraph (A) of section 57(a)(12) is amended by striking out "under section 168(a)" and inserting in lieu thereof "under section 168(a) (or, in the case of property described in section 167(k), under section 167)".

(c) Amendment Related to Section 206.—Paragraph (1) of section 1248(c) is amended by striking out "section 312(k)(3)" and inserting in lieu thereof "section 312(k)(4)".

(d) Amendments Related to Section 207.—

(1) Paragraph (1) of section 209(c) of the Economic Recovery Tax Act of 1981 (relating to effective date for carryover provisions) is amended by adding at the end thereof the following new subparagraph:

"(C) If any net operating loss for any taxable year ending on or before December 31, 1975, could be a net operating loss carryover to a taxable year ending in 1981 by reason of subclause (II) of section 172(b)(1)(E)(ii) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act and as modified by section 1(b) of Public Law 96-595), such net operating loss shall be a net operating loss carryover under section 172 of such Code to each of the 15 taxable years following the taxable year of such loss."

(2) Subsection (c) of section 209 of the Economic Recovery Tax Act of 1981 is amended by adding at the end thereof the following new paragraph:

"(3) Carryover must have been alive in 1981.—The amendments made by subsections (a), (b), and (c) of section 207 shall not apply to any amount which, under the law in effect on the day before the date of the enactment of this Act, could not be carried to a taxable year ending in 1981."

(3) Paragraph (2) of section 207(c) of the Economic Recovery Tax Act of 1981 (relating to new employee credit) is amended by striking out "section 53(c)" and inserting in lieu thereof "section 53(b)".

(e) Amendments Related to Section 211.—

(1) Applicable investment tax credit percentage for recovery property.—Paragraph (7) of section 46(c) (relating to applicable percentage for recovery property) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) in the case of property other than 3-year property (within the meaning of section 168(c)), 100 percent, and", and

(B) by striking out "shall be treated as 5-year property" in the last sentence and inserting in lieu thereof "shall be treated as property which is not 3-year property".

(2) Petroleum storage facilities.—

(A) Subparagraph (G) of section 48(a)(1) (defining section 38 property) is amended by inserting "(not including a building and its structural components)" after "storage facility".

(B) Subparagraph (F) of section 1245(a)(3) (defining section 1245 property) is amended by inserting "(not including a building or its structural components)" after "storage facility".

(3) Clerical amendment.—

(A) Paragraph (2) of section 47(d) is amended—

(i) by striking out "section 48(c)(8)(D)" and inserting in lieu thereof "section 46(c)(8)(D)", and

(ii) by striking out "section 48(c)(8)(B)" and inserting in lieu thereof "section 46(c)(8)(B)".

(B) Subparagraph (A) of section 47(d)(3) is amended by striking out "section 46(c)(8)(E)" and inserting in lieu thereof "section 46(c)(8)(F)".

(f) Amendments Related to Section 212.—

(1) Clarification of transitional rule.—Subparagraph (B) of section 212(e)(2) of the Economic Recovery Tax Act of 1981 (relating to transitional rule for increase in investment tax credit for qualified rehabilitation expenditures) is amended to read as follows:

"(B) such building does not meet the requirements of paragraph (1) of section 48(g) of the Internal Revenue Code of 1954 (as amended by this Act)."

(2) Determination of substantial rehabilitation.—Clause (i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended by striking out "the 24-month period ending on the last day of the taxable year" and inserting in lieu thereof "the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year".

(3) Clarification of basis adjustment.—Subparagraph (A) of section 48(g)(5) (relating to adjustments to basis) is amended—

(A) by striking out "a credit is allowed under this section" and inserting in lieu thereof "a credit is determined under section 46(a)(2)", and

(B) by striking our "the credit so allowed" and inserting in lieu thereof "the credit so determined".

(4) Extension of time to make election to use straight line depreciation.—Subparagraph (B) of section 168(f)(4) (relating to election made on return) is amended to read as follows:

"(B) Election made on return.—

"(i) In general.—Except as provided in clause (ii), any election under this section shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year concerned.

"(ii) Special rule for qualified rehabilitated buildings.—In the case of any qualified rehabilitated building (as defined in section 48(g)(1)), an election under subsection (b)(3) may be made at any time before the date 3 years after the building was placed in service."

(5) Clarification of buildings eligible for rehabilitation credit.—

(A) Subclause (II) of section 46(a)(2)(F)(iii) (defining 40-year building) is amended by striking out "any building" and inserting in lieu thereof "a qualified rehabilitated building".

(B) Subclause (III) of section 46(a)(2)(F)(iii) (defining certified historic structure) is amended by striking out "has the meaning given to such term by section 48(g)(3)" and inserting in lieu thereof "means a qualified rehabilitated building which meets the requirements of section 48(g)(3)".

(6) Definition of substantially rehabilitated.—Clause (i) of section 48(g)(1)(C) (defining substantially rehabilitated) is amended—

(A) by striking out "property" the first 2 places it appears and inserting in lieu thereof "building (and its structural components)", and

(B) by striking out "property" the third place it appears and inserting in lieu thereof "building".

(7) Cross Reference.—Clause (ii) of section 170(h)(4)(B) (defining certified historic structure) is amended by striking out "section 191(d)(2)" and inserting in lieu thereof "section 48(g)(3)(B)".

(g) Amendment Related to Section 213.—Subsection (b) of section 213 of the Economic Recovery Tax Act of 1981 (relating to investment tax credit for used property; increase in dollar limit) is amended by striking out "property placed in service" and inserting in lieu thereof "taxable years beginning".

(h) Amendments Related to Section 221.—

(1) Subparagraph (B) of section 108(b)(2) (relating to certain credit carryovers) is amended by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and by inserting after clause (iv) the following new clause:

"(v) section 44F (relating to credit for increasing research activities)."

(2) Effective only with respect to amounts paid or incurred after March 31, 1982, subparagraph (A) of section 44F(b)(2) is amend-

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ed by adding at the end thereof the following:

"Clause (iii) shall not apply to any amount to the extent that the taxpayer (or any person with whom the taxpayer must aggregate expenditures under subsection (f)(1)) receives or accrues any amount from any other person for the right to use substantially identical personal property."

(3) The paragraph (28) of section 381(c) added by section 221 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (29).

(i) Amendments Related to Section 234.—

(1) Subparagraph (B) of section 1371(g)(3) (defining qualified subchapter S trust) is amended to read as follows:

"(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States, and".

(2) Section 678 is amended by adding at the end thereof the following new subsection:

"(e) Cross Reference.—

"For provision under which beneficiary of trust is treated as owner of the portion of the trust which consists of stock in an electing small business corporation, see section 1371(g)."

(j) Amendments Related to Section 251.—

(1) Paragraph (8) of section 422A(b) (defining incentive stock option) is amended by striking out "granted options" and inserting in lieu thereof "granted incentive stock options".

(2) Paragraph (1) of section 422A(c) (relating to exercise of option where price is less than value of stock) is amended—

(A) by adding at the end thereof the following new sentence: "To the extent provided in regulations by the Secretary, a similar rule shall apply for purposes of paragraph (8) of subsection (b) and paragraph (4) of this subsection.", and

(B) by striking out the paragraph heading and inserting in lieu thereof the following:

"(1) Good faith efforts to value stock.—".

(3) Subparagraph (A) of section 422A(c)(2) (relating to certain disqualified dispositions where amount realized is less than value at exercise) is amended by striking out "the 2-year period" and inserting in lieu thereof "either of the periods".

(4) Clause (ii) of section 422A(c)(4)(A) (relating to carryover of unused limit) is amended by striking out "granted options" and inserting in lieu thereof "granted incentive stock options".

(5) Subsection (j) of section 425 (relating to cross references) is amended by inserting "an incentive stock option," after "qualified stock option,".

(6) Effective only with respect to transfers after March 15, 1982—

(A) subsection (c) of section 425 (defining disposition) is amended by adding at the end thereof the following new paragraph:

"(3) Special rule where incentive stock is acquired through use of other statutory option stock.—

"(A) Nonrecognition sections not to apply.—If—

"(i) there is a transfer of statutory option stock in connection with the exercise of any incentive stock option, and

"(ii) the applicable holding period requirements (under section 422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)) are not met before such transfer, then no section referred to in subparagraph (B) of paragraph (1) shall apply to such transfer.

"(B) Statutory option stock.—For purpose of subparagraph (A), the term 'statutory option stock' means any stock acquired through the exercise of a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option.", and

(B) paragraph (1) of section 425(c) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(k) Amendment Related to Section 252.—

(1) Paragraph (3) of section 83(c) (relating to sales which may give rise to suit under section 16(b) of the Securities Exchange Act) is amended by striking out "Securities and Exchange Act of 1934" each place it appears and inserting in lieu thereof "Securities Exchange Act of 1934".

(2) Subsection (c) of section 252 of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out "taxable years ending after December 31, 1981" and inserting in lieu thereof "transfers after December 31, 1981".

(l) Amendments Related to Section 261.—

(1) Clarification of definition of youth participating in qualified cooperative education program.—Subparagraph (D) of section 51(d)(8) (defining wages) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "clauses (i), (ii), and (iii) of subparagraph (A)".

(2) Clarification of effective date for eligible work incentive employees.—Subparagraph (B) of section 261(g)(1) of the Economic Recovery Tax Act of 1981 (relating to eligible work incentive employees) is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".

(3) Definition of eligible work incentive employees.—Subparagraph (B) of section 51(d)(9) (defining eligible work incentive employees) is amended by striking out "section 432(b)(1)" and inserting in lieu thereof "section 432(b)(1) or 445".

(m) Amendments Related to Section 263.—

(1) Subparagraph (A) of section 809(e)(3) (relating to charitable, etc., contributions and gifts) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) Sections 545(b)(2) and 556(b)(2) are each amended by striking out "5-percent" and inserting in lieu thereof "10-percent".

(3) Paragraph (10) of section 512(b) (relating to modifications to unrelated business taxable income) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(n) Amendment Related to Section 266.—Subsection (c) of section 266 of the Economic Recovery Tax Act of 1981 (relating to deduction for motor carrier operating authority) is amended by adding at the end thereof the following new paragraph:

"(3) Section 381 of the Internal Revenue Code of 1954 to apply.—For purposes of section 381 of the Internal Revenue Code of 1954, any item described in this section shall be treated as an item described in subsection (c) of such section 381."

SEC. 103. AMENDMENTS RELATED TO TITLE III OF THE ACT.

(a) Amendments Related to Section 301.—

(1) Paragraph (4) of section 128(d) (relating to limitation for credit unions) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the amounts described in subparagraph (A) of paragraph (5) shall include amounts paid into credit union share accounts."

(2) Paragraph (2) of section 584(c) (relating to dividends or interest received) is amended to read as follows:

"(2) Dividends or interest received.—The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 or 128 applies shall be considered for purposes of such section as having been received by such participant."

(3) Paragraph (7) of section 643(a) (defining distributable net income) is amended to read as follows:

"(7) Dividends or interest.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain interest)."

(4) Paragraph (5) of section 702(a) (relating to income and credits of partner) is amended to read as follows:

"(5) dividends or interest with respect to which there is an exclusion under section 116 or 128, or a deduction under part VIII of subchapter B,".

(b) Amendment Related to Section 302.—Subsection (c) of section 128 (as amended by section 302(a) of the Economic Recovery Tax Act of 1981) is amended by adding at the end thereof the following new paragraph:

"(3) Limitation on qualified interest expenses, etc.—

"(A) Limitation.—The amount of the qualified interest expense of any taxpayer for any taxable year shall not exceed such taxpayer's excess itemized deductions (as defined in section 63(c)).

"(B) Coordination with other provisions.—For purposes of sections 37, 43, 85, 105(d), 170(b), and 213, adjusted gross income shall be determined without regard to the exclusion provided by this section."

(c) Amendments Related to Section 311.—

(1) Limitation on deduction for spouse.—Subparagraph (B) of section 219(c)(2) (relating to limitation) is amended to read as follows:

"(B) the amount allowable as a deduction under subsection (a) for the taxable year (determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))."

(2) Clarification of age 70½ rule.—Paragraph (1) of section 219(d) (relating to individuals who have attained age 70½) is amended to read as follows:

"(1) Beneficiary must be under age 70½.—No deduction shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made."

(3) Definition of Qualified Employer Plan.—

(A) Paragraph (3) of section 219(e) (defining qualified employer plan) is amended by inserting "and" at the end of subparagraph (C), by striking out subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(B)(i) Paragraph (3) of section 72(p) (defining qualified employer plan, etc.) is amended by striking out "without regard to subparagraph (D) thereof".

(ii) The amendment made by clause (i) shall take effect as if the matter struck out had never been included in such paragraph.

(4) CLARIFICATION OF DEFINITION OF COMPENSATION.—Paragraph (1) of section 219(f) (defining compensation) is amended to read as follows:

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' includes earned income (as defined in section 401(c)(2)) reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62. The term 'compensation' does not include any amount received as a pension or annuity and does not include any amount received as deferred compensation."

(5) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—Subparagraph (B) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out "the contribution is made" and inserting in lieu thereof "the contribution is made on account of the taxable year which includes such last day and".

(6) CLARIFICATION OF ADDITIONAL TAX WHERE AMOUNTS RECEIVED BEFORE AGE 59½.—Subparagraph (A) of section 72(o)(2) (relating to additional tax if amount received before age 59½) is amended by striking out "to which the employee made one or more deductible employee contributions".

(7) 10-YEAR AVERAGING AND CAPITAL GAINS PROVISIONS.—The last sentence of subparagraph (A) of section 402(e)(4) (defining lump sum distribution) is amended by striking out "this section and section 403" and inserting in lieu thereof "this subsection, subsection (a)(2) of this section, and subsection (a)(2) of section 403".

(8) ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.—

(A) Subparagraph (D) of section 402(a)(5) (relating to rollover amounts) is amended by adding at the end thereof the following new clause:

"(v) ROLLOVER OF PARTIAL DISTRIBUTIONS OF DEDUCTIBLE EMPLOYEE CONTRIBUTIONS PERMITTED.—In the case of any qualifying rollover distribution described in subclause (III) of clause (i), clause (i) of subparagraph (A) shall be applied by substituting 'any portion of the balance' for 'the balance'."

(B) Subparagraph (C) of section 403(b)(8) (relating to rollover amounts) is amended by striking out "subparagraphs (B), (C)," and inserting in lieu thereof "subparagraphs (B), (C), (D)(v),".

(9) ESTATE TAX EXCLUSION.—

(A) Paragraph (1) of section 2039(f) is amended to read as follows:

"(1) IN GENERAL.—An amount is described in this subsection if—

"(A) it is a lump sum distribution described in section 402(e)(4) (determined without regard to the third sentence of section 402(e)(4)(A)), or

"(B) it is an amount attributable to accumulated deductible employee contributions (as defined in section 72(o)(5)(B)) in any plan taken into account for purposes of determining whether the distribution described in subparagraph (A) qualifies as a lump sum distribution."

(B) Paragraph (2) of section 2039(f) is amended by striking out "A lump sum distribution" and inserting in lieu thereof "An amount".

(10) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS BY OWNER-EMPLOYEES PERMITTED.—

(A) The second sentence of section 401(d)(5) is amended to read as follows: "Subparagraphs (A) and (B) shall not apply to contributions described in subsection (e), and shall not apply to any deductible employee contribution (as defined in section 72(o)(5))."

(B) Paragraph (2) of section 4972(b) (relating to contributions by owner-employees) is amended by adding at the end thereof the following new sentence: "No contribution by an owner-employee which is a deductible employee contribution (as defined in section 72(o)(5)) shall be taken into account under this paragraph."

(11) EFFECTIVE DATE FOR ESTATE AND GIFT TAX PROVISIONS.—Subsection (i) of section 311 of the Economic Recovery Tax Act of 1981 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(5) ESTATE AND GIFT TAX PROVISIONS.—

"(A) ESTATE TAX.—The amendments made by subsections (d)(1) and (h)(4) shall apply to the estates of decedents dying after December 31, 1981.

"(B) GIFT TAX.—The amendments made by subsections (d)(2) and (h)(5) shall apply to transfers after December 31, 1981."

(12) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 219(b)(2) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1))".

(B) Subparagraph (D) of section 3401(a)(12) is amended by striking out "section 219(a)" and inserting in lieu thereof "section 219".

(C) Subsection (d) of section 6047 is amended by striking out "section 219(a)" and inserting in lieu thereof "section 219".

(D) Paragraph (2) of section 311(c) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(2) Subparagraph (J) of section 402(e)(4) (relating to tax on lump sum distribution) is amended by adding at the end thereof the following new sentence: 'This subparagraph shall not apply to distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5)).'"

(d) AMENDMENTS RELATED TO SECTION 312.—

(1) SIMPLIFIED EMPLOYEE PENSIONS.—

(A) Clause (ii) of section 408(k)(3)(C) (relating to uniform relationships of contributions) is amended by striking out "on behalf of each employee" and inserting in lieu thereof "on behalf of each employee (other than an employee within the meaning of section 401(c)(1))".

(B) Subsection (j) of section 408 is amended by striking out "$15,000" and inserting in lieu thereof "$17,000".

(2) CONFORMING AMENDMENT.—The last sentence of section 401(j)(3) is amended—

(A) by striking out "subsection (j)(2)" and inserting in lieu thereof "paragraph (2)", and

(B) by inserting "with respect only to such change" after "participation".

(3) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (1) of section 312(f) of the Economic Recovery Tax Act of 1981 (relating to effective date) is amended by striking out "plans which include employees within the meaning of section 401(c)(1) with respect to".

(e) AMENDMENTS RELATED TO SECTION 314.—

(1) Paragraph (1) of section 314(b) of the Economic Recovery Tax Act of 1981 is amended by striking out "by redesignating subsection (n) as subsection (o) and by inserting after subsection (m)" and inserting in lieu thereof "by redesignating subsection (m) as subsection (n) and by inserting after subsection (l)".

(2) Section 408 is amended by redesignating the subsection added by section 314(b)(1) of the Economic Recovery Tax Act of 1981 as subsection (m).

(f) AMENDMENTS RELATED TO SECTION 321.—

(1) Subparagraph (A) of section 305(e)(3) (defining qualified public utility) is amended to read as follows:

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public utility' means, for any taxable year of the corporation, a domestic corporation which, for the 10-year period ending on the day before the beginning of the taxable year, placed in service qualified long-life public utility property having a cost equal to at least 60 percent of the aggregate cost of all tangible property described in subparagraph (A) or (B) of section 1245(a)(3) placed in service by the corporation during such period."

(2) Clause (ii) of section 305(e)(3)(C) is amended to read as follows:

"(ii) QUALIFIED LONG-LIFE PUBLIC UTILITY PROPERTY.—The term 'qualified long-life public utility property' means any tangible property which—

"(I) is described in subparagraph (A) or (B) of section 1245(a)(3),

"(II) has a present class life (as defined in section 168(g)(2)) of more than 18 years, and

"(III) is public utility property (within the meaning of section 167(l)(3)(A))."

(g) AMENDMENTS RELATED TO SECTION 331.—

(1) CERTAIN REGULATED COMPANIES.—Paragraph (3) of section 44G(b) (relating to certain regulated companies) is amended—

(A) by striking out "No credit" and inserting in lieu thereof "No credit attributable to compensation taken into account for the ratemaking purposes involved", and

(B) by adding at the end thereof the following new sentence:

"Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence."

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (21) of section 401(a) is amended by striking out "which would be allowable" and all that follows and inserting in lieu thereof the following:

"which would be allowable—

"(A) under section 46(a) if the employer made the transfer described in section 48(n)(1), or

"(B) under section 44G if the employer made the transfer described in section 44G(c)(1)(B)."

(B) Paragraph (4) of section 331(c) of the Economic Recovery Tax Act of 1981 is amended by striking out "section 6699" and inserting in lieu thereof "section 6699(c)".

(C) Clause (ii) of section 6699(c)(2)(A) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "clause (i)".

(D) Clause (ii) of section 6699(c)(2)(B) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "clause (i)".

(E) Paragraph (4) of section 55(c) is amended by striking out "44G(b)(1),".

(F) The paragraph (29) of section 381(c) added by section 331 of the Economic Recovery Tax Act of 1981 is redesignated as paragraph (30).

(h) AMENDMENT RELATED TO SECTION 334.—The last sentence of section 409A(h)(2) is amended by striking out "the requirements

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of section 401(a)" and inserting in lieu thereof "the requirements of this subsection or of section 401(a)".

(i) Amendment Related to Section 337.—Paragraph (2) of section 409A(d) is amended to read as follows:

"(2) a transfer of a participant to the employment of an acquiring employer from the employment of the selling corporation in the case of a sale to the acquiring corporation of substantially all of the assets used by the selling corporation in a trade or business conducted by the selling corporation, or".

SEC. 104. AMENDMENTS RELATED TO TITLE IV OF THE ACT.

(a) Amendments Related to Section 403.—

(1) Property treated as having passed from spouse.—

(A) Subsection (b) of section 1014 (relating to basis of property acquired from decedent) is amended by adding at the end thereof the following new paragraph:

"(10) Property includible in the gross estate of the decedent under section 2044 (relating to certain property for which marital deduction was previously allowed). In any such case, the last 3 sentences of paragraph (9) shall apply as if such property were described in the first sentence of paragraph (9)."

(B) Section 2044 (relating to certain property for which marital deduction was previously allowed) is amended by adding at the end thereof the following new subsection:

"(c) Property Treated as Having Passed From Decedent.—For purposes of this chapter and chapter 13, property includible in the gross estate of the decedent under subsection (a) shall be treated as property passing from the decedent."

(2) Denial of double deduction.—

(A) Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end thereof the following new paragraph:

"(9) Denial of double deduction.—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same decedent."

(B) Section 2523 (relating to gift to spouse) is amended by adding at the end thereof the following new subsection:

"(h) Denial of Double Deduction.—Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same donor."

(3) Dispositions of certain life estates.—

(A) Subsection (a) of section 2519 (relating to dispositions of certain life estates) is amended to read as follows:

"(a) General Rule.—For purposes of this chapter and chapter 11, any disposition of all or part of a qualifying income interest for life in any property to which this section applies shall be treated as a transfer of all interests in such property other than the qualifying income interest."

(B) Clauses (i) and (ii) of section 403(d)(3)(B) of the Economic Recovery Tax Act of 1981 are each amended by striking out "chapter 11" and inserting in lieu thereof "chapter 12".

(4) Time for making election.—Paragraph (4) of section 2523(f) (relating to election with respect to life estate for donee spouse) is amended to read as follows:

"(4) Election.—

"(A) Time and manner.—An election under this subsection with respect to any property shall be made on or before the first April 15th after the calendar year in which the interest was transferred and shall be made in such manner as the Secretary shall by regulations prescribe.

"(B) Election irrevocable.—An election under this subsection, once made, shall be irrevocable."

(5) Treatment of certain interest retained by donor spouse.—Subsection (f) of section 2523 (relating to election with respect to life estate for donee spouse) is amended by adding at the end thereof the following new paragraph:

"(5) Treatment of interest retained by donor spouse.—

"(A) In general.—In the case of any qualified terminable interest property—

"(i) such property shall not be includible in the gross estate of the donor spouse, and

"(ii) any subsequent transfer by the donor spouse of an interest in such property shall not be treated as a transfer for purposes of this chapter.

"(B) Subparagraph (A) not to apply after transfer by donee spouse.—Subparagraph (A) shall not apply with respect to any property after the donee spouse is treated as having transferred such property under section 2519, or such property is includible in the donee spouse's gross estate under section 2044."

(6) Amendment of section 2523(f).—Paragraph (3) of section 2523(f) (relating to certain rules made applicable) is amended by striking out "the rules of" and inserting in lieu thereof "rules similar to the rules of".

(7) Cross reference.—Section 2519 is amended by adding at the end thereof the following new subsection:

"(c) Cross Reference.—

"For right of recovery for gift tax in the case of property treated as transferred under this section, see section 2207A(b)."

(8) Annuities not treated as qualifying income interest.—Clause (ii) of section 2056(b)(7)(B) (defining qualifying income interest for life) is amended by adding at the end thereof the following new sentence: "An annuity shall not be treated as a qualifying income interest for life."

(9) Clerical amendment.—Paragraph (2) of section 2035(b) is amended by striking out "section 6019(a)(2)" and inserting in lieu thereof "section 6019(2)".

(b) Amendments Related to Section 421.—

(1) Treatment of certain surviving spouses.—Paragraph (5) of section 2032A(b) (relating to special rules for surviving spouses) is amended by adding at the end thereof the following new subparagraph:

"(C) Coordination with paragraph (4).—In any case in which to do so will enable the requirements of paragraph (1)(C)(ii) to be met with respect to the surviving spouse, this subsection and subsection (c) shall be applied by taking into account any application of paragraph (4)."

(2) Exchanges of qualified real property.—

(A) Clause (ii) of section 2032A(i)(1)(B) (relating to exchanges where other property received) is amended by striking out "the other property" and inserting in lieu thereof "the qualified exchange property".

(B) Paragraph (3) of section 2032A(i) is amended by striking out "subparagraph (A), (B), or (C)" and inserting in lieu thereof "subparagraph (A) or (B)".

(3) Transfers of certain farm, etc., real property.—

(A) Subsection (a) of section 1040 (relating to transfer of certain farm, etc., real property) is amended by striking out "such exchange" and inserting in lieu thereof "such transfer".

(B) Subsection (c) of section 1040 is amended—

(i) by striking out "an exchange" and inserting in lieu thereof "a transfer",

(ii) by striking out "the exchange" each place it appears and inserting in lieu thereof "the transfer", and

(iii) by striking out "Exchange" in the subsection heading and inserting in lieu thereof "Transfer".

(C) Section 1223 (defining holding period of property) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) If—

"(A) property is acquired by any person in a transfer to which section 1040 applies,

"(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death, and

"(C) such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year."

(4) Clarification of effective dates.—

(A) Subparagraph (A) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out "subsections (b)(1), (c)(2), (j)(1), and (j)(2)" and inserting in lieu thereof "subsections (b)(1), (j)(1), and (j)(2) and the provisions of subparagraph (A) of section 2032A(c)(7) of the Internal Revenue Code of 1954 (as added by subsection (c)(2))".

(B) Subparagraph (B) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out the second sentence and inserting in lieu thereof the following: "If the estate of any decedent would not qualify under section 2032A of the Internal Revenue Code of 1954 but for the amendments described in subparagraph (A) and the time for making an election under section 2032A with respect to such estate would (but for this sentence) expire after July 28, 1980, the time for making such election shall not expire before the close of February 16, 1982."

(C)(i) Subparagraph (C) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended by striking out "within 6 months after the date of the enactment of this Act" and inserting in lieu thereof "at any time before February 17, 1982".

(ii) Subparagraph (D) of section 421(k)(5) of the Economic Recovery Tax Act of 1981 is amended—

(I) by striking out "within 6 months after such date of enactment" and inserting in lieu thereof "before February 17, 1982", and

(II) by striking out "the date 6 months after such date of enactment" and inserting in lieu thereof "February 17, 1982".

(c) Amendments Related to Section 422.—

(1) Paragraph (3) of section 6166(b) (relating to farm houses and certain other structures taken into account) is amended by striking out "65-percent requirement" and inserting in lieu thereof "35-percent requirement".

(2) Clauses (i) and (ii) of the first sentence of section 6166(g)(1)(B) (relating to disposition of interest; withdrawal of funds from business) are amended to read as follows:

"(i) the redemption of such stock, and the withdrawal of money and other property distributed in such redemption, shall not be treated as a distribution or withdrawal for purposes of subparagraph (A), and

"(ii) for purposes of subparagraph (A), the value of the interest in the closely held business shall be considered to be such value reduced by the value of the stock redeemed."

(d) Amendments Related to Section 424.—

(1) Coordination with section 6166(a)(1).—

(A) In general.—Subsection (d) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended by adding at the end thereof the following new paragraph:

"(4) Coordination of 3-year rule with section 6166(a)(1).—An estate shall be treated as meeting the 35-percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1)."

(B) Cross reference.—Subsection (j) of section 6166 (relating to extension of time for payment of estate tax where estate consist largely of interest in closely held business) is amended by adding at the end thereof the following new paragraph:

"(5) Transfers within 3 years of death.—

"For special rule for qualifying an estate under this section where property has been transferred within 3 years of decedent's death, see section 2035(d)(4)."

(C) Conforming amendment.—Paragraph (3) of section 2035(d) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(2) Exceptions for certain transfers.—Paragraph (2) of section 2035(d) (relating to exceptions for certain transfers) is amended—

(A) by inserting "of this subsection and paragraph (2) of subsection (b)" after "Paragraph (1)", and

(B) by striking out "2041,".

(3) Election to have amendments not apply.—

(A) In the case of any decedent—

(i) who dies before August 13, 1984, and

(ii) who made a gift (before August 13, 1981, and during the 3-year period ending on the date of the decedent's death) on which tax imposed by chapter 12 of the Internal Revenue Code of 1954 has been paid before April 16, 1982,

such decedent's executor may make an election to have subtitle B of such Code (relating to estate and gift taxes) applied with respect to such decedent without regard to any of the amendments made by title IV of the Economic Recovery Tax Act of 1981.

(B) An election under subparagraph (A) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) An election under subparagraph (A), once made, shall be irrevocable.

(e) Amendment Related to Section 426.—Paragraph (3) of section 2518(c) (relating to disclaimers) is amended by striking out "For purposes of subsection (a), a" and inserting in lieu there of "A".

SEC. 105. AMENDMENTS RELATED TO TITLE V OF THE ACT.

(a) Amendments Related to Section 501.—

(1) Loss computed with respect to unrecognized gain.—

(A) In general.—Subparagraph (A) of section 1092(a)(1) (relating to recognition of loss in case of straddles, etc.) is amended by striking out "unrealized gain" and inserting in lieu thereof "unrecognized gain".

(B) Unrecognized gain defined.—So much of paragraph (3) of section 1092(a) as precedes subparagraph (B) thereof is amended to read as follows:

"(3) Unrecognized gain.—For purposes of this subsection—

"(A) In general.—The term 'unrecognized gain' means—

"(i) in the case of any position held by the taxpayer as of the close of the taxable year, the amount of gain which would be taken into account with respect to such position if such position were sold on the last business day of such taxable year at its fair market value, and

"(ii) in the case of any position with respect to which, as of the close of the taxable year, gain has been realized but not recognized, the amount of gain so realized."

(C) Reporting of gain.—Subclauses (I) and (II) of section 1092(a)(3)(B)(i) (relating to reporting of gain) are amended to read as follows:

"(I) each position (whether or not part of a straddle) with respect to which, as of the close of the taxable year, there is unrecognized gain, and

"(II) the amount of such unrecognized gain."

(D) Clerical amendments.—

(i) Section 6653 (relating to failure to pay tax) is amended by redesignating subsection (g) as subsection (f).

(ii) The subsection heading of subsection (f) of section 6653 (as redesignated by clause (i)) is amended by striking out "Unrealized" and inserting in lieu thereof "Unrecognized".

(2) Clarification of general rule limiting recognition of loss.—Subparagraph (A) of section 1092(a)(1) is amended by striking out "which—" and all that follows and inserting in lieu thereof the following: "which were offsetting positions with respect to 1 or more positions from which the loss arose."

(3) Coordination with section 1256.—Paragraph (4) of section 1092(d) (relating to special rule for regulated futures contracts) is amended to read as follows:

"(4) Special rule for regulated futures contracts.—In the case of a straddle at least 1 (but not all) of the positions of which are regulated futures contracts, the provisions of this section shall apply to any regulated futures contract and any other position making up such straddle."

(4) Clerical amendment.—Subparagraph (C) of section 1092(c)(2) (relating to offsetting positions) is amended by striking out "subsection (a)(3)(B)" and inserting in lieu thereof "subsection (a)(2)(B)".

(b) Amendments Related to Section 503.—

(1) Transfers of rights and obligations.—Subsection (c) of section 1256 (relating to regulated futures contracts marked to market) is amended to read as follows:

"(c) Terminations, Etc.—

"(1) In general.—The rules of paragraphs (1), (2), and (3) of subsection (a) shall also apply to the termination (or transfer) during the taxable year of the taxpayer's obligation (or rights) with respect to a regulated futures contract by offsetting, by taking or making delivery, or otherwise.

"(2) Special rule where taxpayer takes delivery on part of straddle.—If—

"(A) 2 or more regulated futures contracts are part of a straddle (as defined in section 1092(c)), and

"(B) the taxpayer takes delivery under any of such contracts,

then, for purposes of this section, each of the other such contracts shall be treated as terminated on the day on which the taxpayer took delivery.

"(3) Fair market value taken into account.—For purposes of this subsection, fair market value at the time of the termination (or transfer) shall be taken into account."

(2) Identification of mixed straddles.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by striking out "such position" and inserting in lieu thereof "the first regulated futures contract forming part of the straddle".

(3) Active management with respect to syndicates.—Clause (v) of section 1256(e)(3)(C) is amended by inserting "(by regulations or otherwise)" after "determines".

(4) Holding period.—Paragraph (8) of section 1223 (relating to holding period of property) is amended by inserting "(other than a commodity futures contract to which section 1256 applies)" after "commodity futures contract" the first place it appears.

(5) Foreign currency and cash settlement contracts marked to market.—

(A) In general.—Subsection (b) of section 1256 (defining regulated futures contract) is amended—

(i) by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(ii) by adding at the end thereof the following new sentence:

"Such term includes any foreign currency contract."

(B) Foreign currency contract defined.—Section 1256 is amended by adding at the end thereof the following new subsection:

"(g) Foreign Currency Contracts Defined.—

"(1) Foreign currency contract.—For purposes of this section, the term 'foreign currency contract' means a contract—

"(A) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts, and

"(B) which is traded in the interbank market.

"(2) Valuation.—For purposes of this section, the fair market value of any foreign currency contract shall be determined under regulations prescribed by the Secretary. Such regulations may disregard any terms in a contract which the Secretary determines preclude readily ascertainable valuations."

(C) Effective date.—The amendments made by subparagraphs (A)(ii) and (B) shall apply only with respect to contracts entered into after May 11, 1982.

(6) Clarification of extension.—Paragraph (3) of section 509(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(3) the fair market value on the last business day of the preceding taxable year for each regulated futures contract described in paragraph (2), and".

(7) Clerical amendment.—Subparagraph (A) of section 1212(c)(4) (defining net commodities futures loss) is amended by striking out "and positions to which section 1256 applies".

SEC. 106. AMENDMENTS RELATED TO TITLE VI OF THE ACT.

(a) Amendments Related to Section 601.—

(1) Production from transferred property.—Paragraph (3) of section 6429(d) (relating to production from transferred property) is amended by striking out subparagraph (D).

(2) Allocation of royalty limit.—Subparagraph (B) of section 4994(f)(3) (relating to allocation of royalty limit) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (2)(A)".

(3) Qualified family corporation defined.—Subparagraph (B) of section 6429(d)(4) is amended by striking out "other than royalty interests described in paragraph (2)(A)" and inserting in lieu thereof "other than royalty interests from which there is qualified royalty production determined by treating such corporation as a qualified royalty owner".

(b) Amendment Related to Section 603.—Paragraph (2) of section 4994(g) (relating to limitations for certain transferred properties) is amended by striking out "owned by a person other than an independent producer" and inserting in lieu thereof "owned by any person (other than the producer) who at such time was not an independent producer".

SEC. 107. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

(a) Amendments Related to Section 722.—

(1) Aggregation of properties.—Subsection (d) of section 6659 (relating to underpayment must be at least $1,000) is amended by striking out "the valuation overstatement" and inserting in lieu thereof "valuation overstatements".

(2) Clarification of definition of valuation overstatement.—Paragraph (1) of section 6659(c) (defining valuation overstatement) is amended by striking out "exceeds 150 percent of" and inserting in lieu thereof "is 150 percent or more of".

(3) Clarification of increase in negligence penalty.—Subparagraph (B) of section 6653(a)(2) (relating to additional amount for portion attributable to negligence, etc.) is amended by inserting "(or, if earlier, the date of the payment of the tax)" after "assessment of the tax".

(b) Amendments Related to Section 724.—

(1) Subsection (c) of section 5761 (relating to application of section 6659) is amended—

(A) by striking out "section 6659(a)" and inserting in lieu thereof "section 6660(a)", and

(B) by striking out "Section 6659" in the heading and inserting in lieu thereof "Section 6660".

(2) Subparagraph (B) of section 6656(b)(2) (defining overstated deposit claim) is amended by striking out "the date such return is filed" and inserting in lieu thereof "the due date for filing such return".

(c) Amendment Relating to Section 725.—

(1) Paragraph (1) of section 6654(f) (relating to exception to penalty for failure to pay estimated tax where tax is small amount) is amended by striking out "is less than" and inserting in lieu thereof ", reduced by the credit allowable under section 31, is less than".

(2) Subsection (a) of section 6015 (relating to requirement of declaration of estimated income tax by individuals) is amended by striking out "entitled under subsection (b)" each place it appears and inserting in lieu thereof "entitled under subsection (c)".

SEC. 108. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) Amendment Related to Section 802.—Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal service plans) is amended by striking out "This section" and inserting in lieu thereof "This section and section 501(c)(20)".

(b) Amendment Related to Section 823.—Subparagraph (A) of section 4942(j)(3) is amended by striking out "and" at the end of clause (i) and inserting in lieu thereof "or".

SEC. 109. EFFECTIVE DATE.

Except as otherwise provided in this title, any amendment made by this title shall take effect as if it had been included in the provision of the Economic Recovery Tax Act of 1981 to which such amendment relates.

TITLE II—AMENDMENTS RELATED TO CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

SEC. 201. AMENDMENTS RELATED TO WINDFALL PROFIT TAX.

(a) Amendments to Section 4988.—

(1) Paragraph (3) of section 4988(b) (defining taxable income from the property) is amended by striking out "purposes of paragraph (2)" and inserting in lieu thereof "purposes of this subsection".

(2) Clause (ii) of section 4988(b)(3)(C) (relating to taxable income reduced by cost depletion) is amended by striking out "all taxable periods" and inserting in lieu thereof "all taxable years".

(b) Amendment to Section 4989.—Paragraph (3) of section 4989(b) (relating to inflation adjustment) is amended—

(1) by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1)(A) and (2)", and

(2) by adding at the end thereof the following new sentence: "For purposes of applying paragraph (1)(B), the revision of the price deflator which is most consistent with the revision used for purposes of paragraph (1)(A) shall be used."

(c) Amendment to Section 4991.—Subparagraph (B) of section 4991(d)(1) (defining tier 2 oil) is amended by striking out "National Petroleum Reserve" and inserting in lieu thereof "Naval Petroleum Reserve".

(d) Amendments to Section 4992.—

(1) Subsection (b) of section 4992 (defining independent producer) is amended to read as follows:

"(b) Independent Producer Defined.—For purposes of this section—

"(1) In general.—The term 'independent producer' means, with respect to any quarter in any calendar year, any person other than a person to whom subsection (c) of section 613A does not apply for such calendar year by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

"(2) Rules for applying paragraphs (2) and (4) of section 613A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied by substituting 'calendar year' for 'taxable year' each place it appears in such paragraphs."

(2) Paragraph (2) of section 4992(c) (relating to allocation where production exceeds independent producer amount) is amended—

(A) by striking out "such person's production for such quarter of domestic crude oil" and inserting in lieu thereof "such person's qualified production of oil for such quarter",

(B) by striking out "such person's domestic crude oil" and inserting in lieu thereof "such person's qualified production of oil", and

(C) by striking out the last sentence.

(3) Clause (i) of section 4992(d)(3)(B) (relating to small producer transfer exemption) is amended by striking out "has the property" and inserting in lieu thereof "has the interest".

(e) Amendment to Section 4993.—Subparagraph (B) of section 4993(c)(2) (relating to requirements for qualified tertiary recovery project) is amended to read as follows:

"(B) the date on which the injection of liquids, gases, or other matter begins is after May 1979,".

(f) Amendments to Section 4994.—

(1) Subparagraph (A) of section 4994(c)(2) (relating to refunds for tertiary projects of integrated producers) is amended by striking out "the taxpayer" each place it appears and inserting in lieu thereof "the producer".

(2)(A) Paragraph (1) of section 4994(e) (defining exempt Alaskan oil) is amended to read as follows:

"(1) from a well located north of the Arctic Circle or from a reservoir from which oil has been produced in commercial quantities through such a well, or".

(B) Paragraph (2) of section 4994(e) is amended by striking out "the divide of the Alaskan-Aleutian range" and inserting in lieu thereof "the divides of the Alaska and Aleutian ranges".

(g) Amendments to Section 4995.—

(1) Subparagraph (A) of section 4995(a)(3) (relating to adjustments for withholding errors) is amended—

(A) by striking out "removed during any calendar year", and

(B) by striking out "removed during the same calendar year".

(2) Paragraph (3) of section 4995(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) Subparagraph (B) of section 4995(a)(4) (relating to time payment deemed made) is amended by striking out "The producer" and inserting in lieu thereof "For purposes of this chapter (and so much of subtitle F as relates to this chapter), the producer".

(h) Amendments to Section 4996.—

(1)(A) Paragraph (1) of section 4996(a) (defining producer) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) Net profits interests.—Except to the extent otherwise provided by regulations, in the case of any property, all cost recovery oil covered by a net profits agreement (within the meaning of subsection (h)) shall be treated as produced by the parties to such agreement in proportion to their respective shares (determined after reduction for such cost recovery oil) of the production of the crude oil covered by such agreement."

(B) Subparagraph (A) of such paragraph (1) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(C) Section 4996 (relating to other definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Terms Used in Subsection (a)(1)(B).—For purposes of subsection (a)(1)(B) and this subsection—

"(1) Net profits agreement.—The term 'net profits agreement' means an agreement entered into (or renewed) after March 31, 1982, and providing for sharing part or all of the production of crude oil from a property where—

"(A) 1 or more persons are to be reimbursed for qualified costs by the allocation of cost recovery oil, and

"(B) 1 or more persons are to receive a share of any production of crude oil from the property remaining after reduction for the cost recovery oil referred to in subparagraph (A).

"(2) COST RECOVERY OIL DEFINED.—The term 'cost recovery oil' means crude oil produced from the property which is allocated to a person as reimbursement for qualified costs paid or incurred with respect to the property.

"(3) QUALIFIED COSTS.—The term 'qualified costs' means any amount paid or incurred for exploring for, or developing or producing, 1 or more oil or gas wells on the property.

"(4) SCOPE OF AGREEMENT.—A net profits agreement shall be treated as covering only shares of production of crude oil held by persons who hold economic interests in the property (determined without regard to subsection (a)(1)(B))."

(D) Subsection (b) of section 4988 (relating to net income limitation on windfall profit) is amended by adding at the end thereof the following new paragraph:

"(6) COST RECOVERY OIL COVERED BY NET PROFITS AGREEMENT.—For purposes of paragraph (2), if any person is treated under section 4996(a)(1)(B) as the producer of any portion of the cost recovery oil covered by a net profits agreement (within the meaning of section 4996(h))—

"(A) such person (and only such person) shall include in his gross income from the property the gross income from such portion, and

"(B) the qualified costs allocable to such portion shall be treated as paid or incurred by such person (and only by such person)."

(E) If 90 percent or more of the remaining production referred to in subparagraph (B) of section 4996(h)(1) of the Internal Revenue Code of 1954 is to be received by governmental entities, and organizations described in clause (i), (ii), or (iii) of section 4994(b)(1)(A) of such Code, which do not share in the costs referred to in subparagraph (A) of such section 4996(h)(1), then the requirement of paragraph (1) of section 4996(h) of such Code that the agreement be entered into (or renewed) after March 31, 1982, shall not apply.

(2)(A) Paragraph (1) of section 4996(b) (defining crude oil) is amended by adding at the end thereof the following new sentence: "In the case of crude oil which is condensate recovered off the premises by mechanical separation, such crude oil shall be treated as removed from the premises on the date on which it is so recovered."

(B) Paragraph (3) of section 4996(b) (defining domestic) is amended by striking out "an oil well" and inserting in lieu thereof "a well".

(i) AMENDMENTS RELATED TO SECTION 4997.—

(1) IN GENERAL.—Subsection (a) of section 4997 (relating to records and information; regulations) is amended by striking out "such information" and inserting in lieu thereof "such statements and other information".

(2) PENALTY FOR FAILURE TO MAKE A RETURN.—

(A) Subsection (a) of section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by striking out "or" at the end of subparagraph (F) of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) to make a return required by section 4997(a) (relating to information with respect to windfall profit tax on crude oil),".

(B) Subsection (a) of section 6652 is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) or (3)".

(3) PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—Paragraph (3) of section 6678 (relating to failure to furnish certain statements) is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following:

"(A) section 4997(a) (relating to statements with respect to windfall profit tax on crude oil),".

(j) AMENDMENTS TO ESTIMATED TAX PROVISIONS.—

(1) Paragraph (3) of section 6015(d) (defining estimated tax in the case of an individual) is amended to read as follows:

"(3) the amount which the individual estimates as the sum of—

"(A) any credits against tax provided by part IV of subchapter A of chapter 1, and

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986."

(2) Paragraph (2) of section 6154(c) (defining estimated tax in the case of a corporation) is amended to read as follows:

"(2) the amount which the corporation estimates as the sum of—

"(A) any credits against tax provided by part IV of subchapter A of chapter 1, and

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986."

(3) Subparagraph (B) of section 6654(g)(3) (defining tax) is amended to read as follows:

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B))."

(4) Subparagraph (B) of section 6655(e)(2) (defining tax) is amended to read as follows:

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B))."

SEC. 202. MISCELLANEOUS PROVISIONS.

(a) AMENDMENT TO SECTION 44D.—Subsection (f) of section 44D (relating to application of section) is amended by striking out "December 3, 1979" each place it appears and inserting in lieu thereof "December 31, 1979".

(b) AMENDMENT TO SECTION 193.—Paragraph (1) of section 193(b) (defining qualified tertiary injectant expenses) is amended by striking out "during the taxable year".

(c) AMENDMENT TO SECTION 223 OF THE ACT.—Paragraph (1) of section 223(a) of the Crude Oil Windfall Profit Tax Act of 1980 (relating to boilers fueled by petroleum coke or petroleum pitch) is amended by striking out "Paragraph (10)" and inserting in lieu thereof "Subparagraph (A) of paragraph (10)".

(d) AMENDMENT TO SECTION 613A.—Subparagraph (E) of section 613A(c)(10) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'oil or gas property' includes, in the case of any well, necessary production equipment for such well which is in place when the well is transferred."

SEC. 203. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), any amendment made by this title shall take effect as if it had been included in the provision of the Crude Oil Windfall Profit Tax Act of 1980 to which such amendment relates.

(b) EXCEPTIONS.—

(1) DEFINITION OF INDEPENDENT PRODUCER.—The amendment made by section 201(d)(1) shall take effect on January 1, 1983.

(2) PENALTY PROVISION.—The amendments made by section 201(i) shall apply with respect to returns and statements the due dates for which (without regard to extensions) are after the date of the enactment of this Act.

(3) AMENDMENT TO SECTION 613A.—The amendment made by section 202(d) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

(c) NO INTEREST FOR PAST PERIODS RESULTING FROM AMENDMENTS RELATING TO COST RECOVERY OIL.—No interest shall be paid or credited with respect to the credit or refund of any overpayment of tax imposed by the Internal Revenue Code of 1954, and no interest shall be assessed or collected with respect to any underpayment of tax imposed by such Code, for any period before the date which is 60 days after the date of the enactment of this Act, to the extent that such overpayment or underpayment is attributable to the amendments made by section 201(h)(1).

TITLE III—AMENDMENTS RELATED TO INSTALLMENT SALES REVISION ACT OF 1980, ETC.

SEC. 301. CLARIFICATION OF ATTRIBUTION RULES IN SECTION 1239.

(a) DEFINITION OF RELATED PERSONS.—Subsection (b) of section 1239 (defining related persons) is amended to read as follows:

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related persons' means—

"(1) a husband and wife, and

"(2) a person and all entities which are 80-percent owned entities with respect to such person."

(b) 80-PERCENT OWNED ENTITY DEFINED.—Subsection (c) of section 1239 (defining 80-percent owned entity) is amended to read as follows:

"(c) 80-PERCENT OWNED ENTITY DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term '80-percent owned entity' means, with respect to any person—

"(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for such person, and

"(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for such person.

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of subparagraphs (A) and (B) of paragraph (1), the principles of section 318 shall apply, except that—

"(A) the members of an individual's family shall consist only of such individual and such individual's spouse,

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"(B) paragraph (2)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein, and

"(C) paragraph (3) of section 318(a) shall not apply."

SEC. 302. CORRECTION OF CLERICAL ERROR IN SECTION 453B(d)(2).

Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "to the extent that under paragraph (1)" and inserting in lieu thereof "to the extent that under subsection (a)".

SEC. 303. CLARIFICATION OF INSTALLMENT SALE RULES WITH RESPECT TO LIKE-KIND EXCHANGES.

Subparagraph (C) of section 453(f)(6) (relating to like-kind exchanges) is amended by inserting ", when used in any provision of this section other than subsection (b)(1)," after "the term 'payment' ".

SEC. 304. TECHNICAL CORRECTIONS TO BANKRUPTCY TAX ACT OF 1980.

(a) CORRECTION OF CLERICAL ERROR RELATING TO CROSS REFERENCE.—The last sentence of subsection (e) of section 443 (relating to returns for a period of less than 12 months) is amended by striking out "section 1398(d)(3)(E)" and inserting in lieu thereof "section 1398(d)(2)(E)".

(b) CLARIFICATION OF CERTAIN TRANSFERS OF ASSETS IN SUBPARAGRAPH (G) REORGANIZATIONS.—The last sentence of subparagraph (C) of section 368(a)(2) (relating to special rules relating to definition of reorganization) is amended by striking out "or stock".

SEC. 305. MISCELLANEOUS AMENDMENTS.

(a) EFFECTIVE DATE OF SECTION 404A.—Subparagraph (E) of section 2(e)(2) of Public Law 96-603 is amended by striking out "was barred" and inserting in lieu thereof "was not barred".

(b) REDESIGNATION OF SECTION 194.—

(1) The section 194 which relates to contributions to employer liability trusts is hereby redesignated as section 194A.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to the section 194 which relates to contributions to employer liability trusts and inserting in lieu thereof the following:

"Sec. 194A. Contributions to employer liability trusts."

SEC. 306. EFFECTIVE DATES.

(a) FOR SECTIONS 301, 302, AND 303.—The amendments made by sections 301, 302, and 303 shall apply to dispositions made after October 19, 1980, in taxable years ending after such date.

(b) FOR SECTION 304.—

(1) The amendment made by subsection (a) of section 304 shall take effect as if included in the amendments made by section 3 of the Bankruptcy Tax Act of 1980.

(2) The amendment made by subsection (b) of section 304 shall take effect as if included in the amendments made by section 4 of such Act.

(c) FOR SECTION 305.—

(1) The amendment made by subsection (a) of section 305 shall take effect on December 28, 1980.

(2) The amendments made by subsection (b) of section 305 shall take effect on October 14, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida (Mr. GIBBONS) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1330

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a completely noncontroversial proposal from the Committee on Ways and Means. It is in line with our customary action each year where the Committee on Ways and Means examines those revenue acts that are before it and, on a consensus basis, makes technical corrections and clarifications that are necessary to those acts.

Mr. Speaker, as you know, and as I hope all Members know, we have an excellent staff on the Committee on Ways and Means and the joint committee staff. They cooperated together with the Treasury Department and with the private sector and with all of the Members of the Congress, particularly the Members of the Ways and Means Committee, to put this legislation together.

There is absolutely no controversy with this legislation. It has been cleared by all sides and been passed unanimously by the Committee on Ways and Means.

I will be glad to answer any questions.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Because of the scheduling, the gentleman from New York (Mr. CONABLE) was here earlier, but is now on his way back to the floor and, as I understand, will be here in a moment. But I just wanted to find out from the gentleman whether or not this was something which has the approval of the minority.

Mr. GIBBONS. Absolutely, yes sir. I can assure you unequivocally. The administration also approves of the bill.

Mr. WALKER. The administration is in support of it?

Mr. GIBBONS. The administration and the minority support the bill and, as far as I know, there is no objection.

I will be glad to describe the details of the bill.

Mr. WALKER. If the gentleman would provide us with a couple of details from the bill it might give time for the minority Member to get here and to have his views recorded on this. I would thank the gentleman.

Mr. GIBBONS. Mr. Speaker, H.R. 6056, the Technical Corrections Act of 1982, contains technical, clerical, conforming and clarifying amendments to provisions enacted in the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, the Installment Sales Revisions Act of 1980, the Bankruptcy Tax Act of 1980, and certain other tax legislation enacted in 1980.

H.R. 6056 was introduced on April 1, 1982, by Mr. CONABLE and myself. Comments were invited on the bill and a public hearing was held by the Committee on Ways and Means on April 27, 1982. The committee approved several technical amendments on May 11, 1982, as a result of the testimony and comments received from the Treasury Department, the Internal Revenue Service, tax practitioners, and the general public.

The bill is divided into three titles. The first title provides technical amendments to the Economic Recovery Tax Act of 1981. The second title provides amendments to the Crude Oil Windfall Profit Tax Act of 1980; and the third title provides amendments to the Installment Sales Revision Act of 1980, the Bankruptcy Tax Act of 1980, and other tax legislation enacted in 1980.

Mr. Speaker, the amendments made by H.R. 6056 are designed only to make technical or clarifying changes and to rectify inadvertent drafting errors and omissions. The committee made every effort to avoid making any substantive changes to the 1980 and 1981 tax legislation.

Mr. Speaker, I urge my colleagues to approve H.R. 6056, the Technical Corrections Act of 1982.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us an important piece of tax legislation which has resulted from many hours of bipartisan effort by the minority and majority members of the Committee on Ways and Means. Specifically, H.R. 6056, the Technical Corrections Act of 1982, contains a series of technical amendments to three already-enacted tax laws: the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980.

Each of these pieces of legislation effected major changes in the Internal Revenue Code. Because of their complicated makeup, it was inevitable that some clarification and corrections would be necessary to precisely delineate congressional intent and to eliminate ambiguities of the initial legislation. I believe H.R. 6056 generally accomplishes both of these desirable goals.

The importance of completing action on this legislation as soon as reasonably possible is also apparent. Many taxpayers are awaiting action by Congress to determine the applicability of the original pieces of legislation. I support its prompt adoption.

● Mr. MATSUI. Mr. Speaker, I rise to support H.R. 6056, the Technical Corrections Act of 1982.

This legislation makes a much needed technical correction to the Crude Oil Windfall Profit Tax Act of 1980 so as to insure that the State of California and the city of Long Beach will enjoy the full exemption from taxation afforded to governmental entities under the act. The principal beneficiary of this curative amendment will be postsecondary educational institutions as State law earmarks these oil revenues for their use and support.

The State of California and the city of Long Beach contract with a consortia of private companies to operate governmentally owned tideland oil fields. The contract, let on public bid, pays the contractors a 5-percent share of net profits. It is the application of these net profit contracts to the economic interest test, as set forth in the Windfall Profit Tax Act, which has caused this tax problem unique to California and Long Beach. H.R. 6056 cures this problem by crediting all expense oil under these net profit contracts on the basis of contract interest.

The adoption of this legislation will eliminate the current inequitable situation and will place California and Long Beach on parity with all other governmental entities in the future development of their oil interest. I urge your support of H.R. 6056 and this much needed curative amendment.●

● Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 6056, the Technical Corrections Act of 1982. H.R. 6056 exempts the State of California and the city of Long Beach from the windfall profit tax on oil. This tax has been applied to the city and State under the provisions of the Crude Oil Windfall Profit Tax Act of 1980 because of the unique "net profits" agreement the city of Long Beach and the State lands commission have with a consortium of private oil companies for production of oil on public lands in my district of California.

However, a reading of the legislative history of the Windfall Profit Tax Act of 1980 makes it abundantly clear that the intent of Congress with the Windfall Profit Tax Act was to exempt revenues to States and other governmental units from the tax if the oil revenues were used for public programs.

Mr. Speaker, by State of California law Long Beach revenues go to the public education system. I can imagine few wiser choices for spending oil revenues, which because of serendipity lie under the city of Long Beach, than to contribute to the education of future generations of Americans.

Because of a Department of Treasury ruling, the Treasury has withheld windfall profit tax money totaling nearly $50 million. However, the corrections encompassed in H.R. 6056 are applied retroactively, thereby restoring to the city of Long Beach and the State of California these moneys in a most timely fashion because of the current economic hardships facing my district. Furthermore, it is estimated that this clarification of the intent of the Windfall Profit Act will save the city and State a total of $20 million each year.

Mr. Speaker, I have for the past two Congresses introduced legislation that would accomplish this fair and much needed correction. This year, I have worked with my good friend and colleague, Bob Matsui, who sits on the Committee on Ways and Means to insert this provision in a technical tax corrections bill, which because this is a technical correction is where this provision belongs. I am most appreciative of the contributions of my California colleagues on Ways and Means in getting this worthy provision passed.●

Mr. GIBBONS. Mr. Speaker, I have no further requests for time.

In conclusion, I want to say that the Committee on Ways and Means approved this technical corrections bill not because the committee makes a lot of errors but because we are proud of the work we do. The committee trys to be extremely accurate, and sure that taxpayers, tax practitioners, and the Government know exactly what is intended by the Congress.

I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Montgomery). The question is on the motion offered by the gentleman from Florida (Mr. Gibbons) that the House suspend the rules and pass the bill, H.R. 6056, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AUTHORIZATION

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6272) to amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes.

The Clerk read as follows:

H.R. 6272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

Sec. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

"(4) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $1,281,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for the fiscal year ending September 30, 1984.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1981;", and by inserting "; $33,843,000 for the fiscal year ending September 30, 1983; and such sums as may be necessary for the fiscal year ending September 30, 1984" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1981;", and by inserting "; $25,000,000 for the fiscal year ending September 30, 1983; and such sums as may be necessary for the fiscal year ending September 30, 1984" before the period at the end thereof.

(d) Section 7(d) of such Act is amended by striking out "and" after "1981;", and by inserting "; $475,000 for the fiscal year ending September 30, 1983; and such sums as may be necessary for the fiscal year ending September 30, 1984" before the period at the end thereof.

(e) Section 7(e) of such Act is amended by striking out "the fiscal year ending September 30, 1982" and inserting in lieu thereof "each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984".

TITLE II—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

Sec. 201. Section 302 of Public Law 96–472 is amended by adding at the end thereof the following new subsection:

"(c) For the fiscal year ending September 30, 1983, there are authorized to be appropriated to the Director—

"(1) $2,774,000 to carry out section 301, which amount shall include—

"(A) not less that $300,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $1,535,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake and with respect to other high seismic risk areas in the United States; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania (Mr. Walgren) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. Weber) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. Walgren).

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

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revise and extend their remarks on H.R. 6272.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset I want to recognize the work of the members of the Subcommittee on Science, Research and Technology of the Science and Technology Committee, and in particular the contribution of the ranking minority member, the gentlewoman from Massachusetts, Mrs. HECKLER, and the others for their assistance in preparing this bill.

This is the third time the Earthquake Hazards Reduction Act of 1977 has been reauthorized. In addition, this year marks the third year that the Federal Emergency Management Agency has had responsibility for implementing the Earthquake Act and multihazard, research, planning, and mitigation programs.

Since both of these programs are a part of FEMA, our subcommittee authorized both programs in a single bill.

Although this authorization is not large, it is important. I want to directly address the reason the committee recommended an authorization that is $3,939,000 above the President's budget submittal, $939,000 for the multihazard, research, planning, and mitigation program, and the $3 million balance for the earthquake hazards reduction program of the U.S. Geological Survey.

The bulk of the fire programs conducted at the U.S. Fire Administration have already been authorized for fiscal year 1983. They were authorized in Public Law 97-80, which was last year's authorization bill, and these programs do not need to be reauthorized this year.

However, one program, the emergency first response program, was only authorized for fiscal year 1982 so that the committee could monitor the progress of this program during its first year of existence.

The committee has found that this program was extremely cost effective in training firefighters to respond to all types of hazards.

This program identifies and packages emergency management plans and procedures which then can be used by fire departments across the country to respond to a variety of hazards.

Although Government programs are often criticized as spending money on planning and really nothing more, I think reasonable people will agree that planning is the be all and the end all of saving lives.

If our emergency response is not planned in advance, there will be no good response. The end result will be that property and lives which would not have been lost will in fact be lost.

Since most of the agency's programs are covered by the standing 2-year authorization, no further action is required except for the extension of the emergency first response component.

Providing authorization for the full range of the USFA programs will allow the agency to use its appropriation in the most effective and productive way. That is why we bring this authorization, $939,000 above the President's budget submission, to the House floor for renewal.

At this level the authorized funding would be level to and equal with that of fiscal year 1982.

Turning to the area of earthquakes, the most vivid indication of needed action comes from the report entitled "An Assessment of Consequences and Preparation for a Major California Earthquake."

The report estimates that a repeat of the 1906 San Francisco earthquake which took 700 lives and destroyed buildings costing, in 1978 dollars, about $170 million, probably would not cause $24 billion in damages, cause up to 5,000 lives lost and 700,000 injuries. If a similar earthquake occurred in the Los Angeles area it would probably cause losses of about $45 billion and as many as 23,000 deaths.

Going east, a repeat of the New Madrid, Mo., earthquakes of 1811-12, estimated by many to have been the most violent series of earthquakes in the United States, could cause losses in the Midwest comparable with the "worst case" estimates for San Francisco or Los Angeles.

The significance of this threat is why our bill has $3 million above the President's submission for the U.S. Geological Survey to be devoted to the first phase of an earthquake prediction network. Existing instrumentation networks in sourthern California are for earthquake prediction research, not for an operational earthquake prediction.

The instrumentation and communication devices in place are not at the level of reliability that is needed for an operational system. Instrumentation networks must be geographically comprehensive and data generated must be analyzed immediately, 24 hours a day, at a central location.

At present the data from some instrumentation is collected only every few weeks. Consequently we are approaching the occurrence of a catastrophic earthquake in southern California in only a research mode.

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Current earthquake monitoring systems in southern California are characteristic of current earthquake monitoring systems throughout the United States. By beginning to fully instrument and monitor one well-known fault area on an operational level, we as the Congress are recognizing that it is time to take the next step leading to the ability to make reasonable predictions about earthquakes for the country as a whole. California is not alone in the threat of earthquake activity. All or part of 39 States lie in regions classed as having major or moderate seismic risk. Within those 39 States more than 70 million people are vulnerable to Earth movements strong enough to threaten life and property. We have, certainly, the responsibility to take reasonable measures to anticipate the threats to their lives and property.

The earthquake hazard reduction and multihazard authorizations of this bill represent a 6.6-percent increase over the President's budget request. We believe that this sum is an effective investment in preventing life and property losses that will happen if we do not make this investment. I urge the other Members of the House to support the emergency efforts being made across the country by local firefighters in their emergency response teams and protecting against the very real hazards of earthquake and other kinds of emergencies in establishing this kind of an effort on a Federal level.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the distinguished gentleman from Pennsylvania for yielding, and I rise in support of this effort. I wish to commend the gentleman and the subcommittee for this work. I think it is very important work. The sense of security is, as the gentleman has well put it, kind of deceptive. I was going to ask a question, but there is no question in my mind that enough is known now scientifically that the predictions are almost mathematically accurate, and the ability to predict which has been developed in the last 5 years alone shows clearly that we have very special areas of responsibility in this country, particularly in such areas as California.

I have long supported this legislation. My interest also stems from the fact that I am now chairman of the Subcommittee on Housing and Urban Development, and I have been a member of that for 20 years. We had hearings on the housing programs and their impact on lessening the destructiveness of an earthquake. Therefore, my concern is very keen. The only question I have is whether at this time, under the pressure of budgetary restrictions, we are not being a little bit too economical. Is the level of authorization we are requesting here realistic, in the gentleman's opinion?

Mr. WALGREN. We feel—I think I can speak on behalf of the committee, or certainly some strong feelings of individual members of the committee—that this is adequate to cover the very immediate steps that we can take, and we honestly believe that out of this is going to come an awareness and a sensitivity to this problem that will make us feel that we should be taking broader steps, particularly in the housing area and the structural planning, to protect lives in such an event. As the gentleman says, we have done little, and the threat is extreme.

Mr. GONZALEZ. I commend the gentleman and his associates on the subcommittee once again for doing a very good job, despite the handicap of lack of awareness, I guess you could say. It is so hard to try to set up a climate for sympathetic consideration for something that has not happened. I commend the gentleman for his very wonderful work, very important work. This is really crucial work. I hope that the gentleman will succeed in arousing more concern and greater support. I certainly want to volunteer any kind of personal help that I, as one individual Member, could render to the subcommittee.

Mr. WALGREN. We certainly appreciate and honor that interest and commitment of the gentleman. Before I came to Congress and in my first several years here prior to becoming chairman of the subcommittee, I was not actively involved in this area. But I think the Congress as a whole deserves credit for its foresight in this area. The fact that we are doing this much I believe is an indication that the people can have confidence that there are reasonable people in the Congress who are trying to look down the road and make prudent investments in areas that affect their safety. This is one of those prudent investments.

Mr. GONZALEZ. Once again I commend the gentleman.

Mr. WALGREN. I thank the gentleman for his remarks, and I commend the gentleman for his interest in the subject.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia (Mr. Rahall).

Mr. RAHALL. I thank the gentleman for yielding this time to me.

Mr. Speaker, H.R. 6272 was jointly referred to the Committee on Interior and Insular Affairs due to our oversight responsibilities for the U.S. Geological Survey within the Department of the Interior. On May 12 of this year the Interior Committee by a unanimous voice vote ordered the bill favorably reported to the House.

The earthquake hazards reduction program, established by the Earthquake Hazards Reduction Act of 1977, provided an opportunity for participation in a national program by State and local governments, industry, universities, and other professionals. Without the direction and coordination provided in the 1977 act, the national program would lack direction in focusing on earthquake problems.

Several objectives were enumerated in the act to accomplish the ultimate goal of reducing the loss of lives and property from earthquakes: Earthquake resistent construction; earthquake prediction; development of model code; earthquake-related issue comprehension; public education; earthquake hazard mitigation research; and seismic phenomena research.

The U.S. Geological Survey carries out scientific research and engineering studies that contribute to a better understanding of earthquake hazards. Results of USGS research are communicated to others for use in construction designs for hospitals, government buildings, houses, dams, nuclear power-plant sitings, and oil pipelines, to name a few uses.

The Geological Survey is responsible for conducting five specific tasks set down in the implementation plan of the Earthquake Hazards Reduction Act. They are:

First, to conduct research on the nature of earthquakes, earthquake prediction, earthquake hazards evaluation, and induced seismicity;

Second, to prepare national seismic risk maps;

Third, to evaluate earthquake hazards on a regional basis;

Fourth, to provide data and information on earthquake occurrences and hazards; and

Fifth, to evaluate earthquake predictions with the advice of a National Earthquake Prediction Evaluation Council.

A sixth task—to acquire, analyze, and disseminate strong ground motion data—is currently performed by the Geological Survey for the National Science Foundation.

Mr. Speaker, the successful implementation of the earthquake hazards reduction program will be a valuable tool in preventing a mass catastrophe. On behalf of Morris Udall, chairman of the Interior and Insular Affairs Committee and Jim Santini, chairman of the Mines and Mining Subcommittee, I urge my colleagues' support in reauthorizing this program.

Mr. WALGREN. Mr. Speaker, I have no further requests for time.

Mr. WEBER of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we all tend to assume that it is only our colleagues from California who have reason to be concerned about the dangers and destruction caused by earthquakes. While it is true that California is located in an extremely hazardous zone, the fact is that studies have shown 39 States lie in regions classed as having major and moderate seismic risk. Thus the scope of possible earthquake destruction could affect as many as 70 million American citizens. This authorization provides for an extensive earthquake hazards and risk assessment program, global seismology studies, and the operation of seismic engineering programs. In addition to scientific studies on earthquakes, this legislation also provides for multihazard planning in order that we may better cope with emergencies when devastating earthquakes occur. The possible panic and crisis situation that would exist should another major earthquake strike San Francisco or Los Angeles, point out the absolute necessity of planning now for all contingencies. The United States has been truly fortunate in the post-World War II era that no major catastrophic earthquakes have taken place in the seismically active zones under many of our major cities. We cannot continue to rely exclusively on that good fortune. This authorization helps provide the needed research and the planning and mitigation programs that can make the effects of a major earthquake less devastating to the population.

The committee has provided approximately $4 million more in this authorization than the administration has requested. This additional authorization has come primarily in two areas. First, there is $3 million more provided to fund several design studies for instrumenting fault zones in southern California. Second, $939,000 extra is authorized for the emergency first responder program. I have no particular quarrel with either of these two programs, but I do question whether they are truly needed when this Congress is working so hard to control the growth of the Federal budget. I think it best that we stand back for a couple of years and look at these types of programs and see whether further on down the road they should figure prominently in our list of high priority items. While the dollar amounts are relatively small in these instances, we all know that these are exactly the types of programs that have caused the Federal deficit to mushroom so in the last 20 years. For example, once the California earthquake design studies are completed, I am certain in future years we would see a further request for Federal funding of an extensive monitoring system. I am not saying that this is necessarily bad, but I do have some question as to whether this should be a Federal responsibility. I want to express a note of caution that this could possibly lead to substantial Federal expenditures in the future.

Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania (Mr. Walker), a member of the committee.

Mr. WALKER. I thank the gentleman for yielding.

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Mr. Speaker, I join with the gentleman in noting that there is no particular controversy about this bill, and everybody agrees with the merits of the bill. It appears to have administration support. But I think we do need to emphasize the fact that it is a bill that comes in here over budget. It is about $4 million over budget, as the gentleman from Minnesota has pointed out. That $4 million is a relatively small amount, it is a relatively small amount as this bill goes, it is a relatively small amount as the total budget goes; but the fact is that all of these drops in the ocean are exactly what has created the ocean of debt that this Nation is now faced with. If every time we get a bill like this on the floor, with an item in it that raises the amount of money being spent over the budget request, we are in fact contributing to expanding that ocean of debt in the future. So I would hope that, as the House passes this bill—and it seems evident that the House will—we will realize that we are passing a budget buster, albeit a fairly small one, but also recognize that the administration will request of the other body that they amend the bill and try to bring that spending limit down.

I think there is one other point that needs to be made. One thing that concerns me about the procedure we are using here in bringing such bills up under this particular calendar, under the Suspension Calendar, is that we are precluded from the opportunity of making those kinds of amendments here in the House. We now see a bunch of bills being crowded onto the Suspension Calendar where probably the House should have a chance to work its will rather than taking them up under this process. I have no doubt in my mind that if this bill came up under regular procedures and an amendment was offered to eliminate the $4 million, this House would probably adopt that amendment, and it would get us within the budget. We are precluded from that opportunity. I am disappointed to see that we are now going to have a jam of bills on the Suspension Calendar which will keep us from maintaining some kind of budget control. I would hope that we would have some review of the kinds of things we are doing under the Suspension Calendar to allow this House to exercise its rights with regard particularly to budget matters.

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Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. Mr. Speaker, I would lke to commend the gentleman for again expressing his concern; and, in a broader context, I commend the gentleman for being the watchdog of this House on budgetary matters, whether they be relatively small matters, such as the budget that we are considering today, or the larger programs when the gentleman finds the entire House filled to listen to him basically preaching the same message for pieces of legislation where the matters in excess of the budget were not a few million but tens of billions of dollars.

I would join with the gentleman in pointing out that although this bill is not going to find me in opposition, time and time again when we take up different pieces of legislation, we very rarely find a piece of legislation coming before this House which is under budget.

So these matters add up one on the other. This is how we build the size of the deficit we have.

I would also like to commend the gentleman for continuing to bring to the attention of Members the problems we face with regard to the procedures of the House and the rules under which legislation such as this are considered that make it difficult for the membership to exercise their judgment as it would like to do.

Again I do not object to this bill, but I would like to commend the gentleman for his continued vigilance in watching the taxpayers' money being spent.

Mr. WALKER. I thank the gentleman. I think the gentleman made the point well in his statement that what we are dealing with here is a situation where we have a fairly small amount of money; but I think the House needs to continue to be on notice that even these small amounts of money should be watched because in total they are a problem for our budget deficits.

● Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 6272. The bill authorizes appropriations for the Earthquake Hazards Reduction Act of 1977 and for the multihazards research planning and mitigation program for fiscal year 1983. The U.S. Geological Survey, the National Science Foundation, the National Bureau of Standards Center for Building Technology, and FEMA have key roles in carrying out the national earthquake hazards reduction program.

Mr. Speaker, as one Member from California I am acutely aware of the potential hazards of a severe earthquake. My State lives in expectation of the inevitability of such an occurrence. The Federal Emergency Management Agency (FEMA) currently assesses a 5- to 8-percent probability per year of a catastrophic earthquake in California. But California is only one of many States where earthquakes occur. Perhaps the most violent quakes on record in the United States occurred in New Madrid, Mo., in 1811 and 1812. Another event of large magnitude took place near Charleston, S.C., in 1886. Geologists believe that earthquakes are likely in more than 30 States, although the probability in any one spot is much less than that in the Pacific States.

A catastrophic earthquake in California could cause $20 to $50 billion in direct property damage and 5,000 to 25,000 fatalities. Proper prediction and response planning are critical to reduce losses and provide for recovery of an impacted community following an earthquake. Dr. Philip Abelson wrote in the October 2, 1981, Science magazine:

> Present knowledge and experience do not permit dependable and accurate forecasting of the time of an earthquake. Some of them are attended by obvious premonitory phenomena, others are not. Through observing and heeding such phenomena, the Chinese were successful in avoiding great loss of life in one instance. On another occasion, precursors were now evident and several hundred thousand lives were lost. Ultimately, there will be better understanding of the events culminating in major quake. For now, the most practical approach is to identify the likely locations and magnitudes of earthquakes and to design structures to withstand the disturbances. Around the world most of the lives lost in earthquakes have resulted from collapse of buildings.

Clearly, an earthquake prediction system can be a critical component of an earthquake program. For this reason, the authorizing committees have included funding for the U.S. Geological Survey to develop a prototype earthquake prediction network for continuous geophysical monitoring of the fault systems threatening major California population centers. Such a program could be expanded to other earthquake-prone areas of the country once working experience had been gained in California.

The nature of earthquake prediction is such that Federal involvement is critical. Prediction networks must cover wide areas, cross jurisdictional boundaries, and require great coordination. It is difficult to envision the successful establishment of a prediction network without the help of the Federal Government. This is true with most complex issues, but is especially true in a field where the Federal Government is the acknowledged leader, such as meteorology and geophysics. Ultimately, the burden of a major earthquake will fall on the Federal Government. No State can come close to coping with the billions of dollars in damages caused in the aftermath of a major earthquake.

I urge my colleagues to support the programs included in this legislation designed to improve predictive capability, prepare emergency response plans, and engage in earthquake-related research.

Another hazard of constant concern is fire. FEMA is also the coordinator of the Federal effort in preventing and controlling fire. Most of the fire programs at FEMA are conducted at the U.S. Fire Administration (USFA).

Annually, fires in this Nation cause approximately 8,000 deaths, 300,000 injuries and over $5 billion of destroyed property. If one included the total cost of meeting fire and building codes, installing protective systems, maintaining fire departments and insuring property, the total rises to a staggering $21 billion.

The national fire picture becomes more grim in light of arson statistics. The national direct loss due to arson is estimated at $1.23 billion per year. This is a figure that is comparable to losses due to other major crimes such as larceny-theft, $1.1 billion, or burglary, $1.4 billion. Beyond this, tax losses due to arson multiply these losses many times. Arson is a cruel killer. Over 700 lives are lost each year to arson. It is evident that our Nation needs increased emphasis on prevention and control of fire. However, the President's budget proposals do not include funding of the USFA. Since the creation of the USFA in 1974, it has provided a Federal focal point for development of programs to prevent and control fires. The programs of the USFA need to be continued.

Title II of this bill authorizes the multihazard, research, planning, and mitigation program at FEMA which combines programs applicable not only to earthquakes and fires but also to other hazards. Mitigation and response plans for earthquakes and fires can be applied to other hazards. Furthermore, a hazard such as an earthquake may be accompanied by other manmade and natural disasters in the course of events and a multihazards mitigation and response plan will be necessary to deal with these related problems. Considerable cost savings could be achieved by using this approach of advanced integrated planning for different hazards. It is the key to whether we simply put up with repeated loss of life and property from the many hazards that we face, or whether we move to prevent them, and to use our resources more efficiently to recover from them.

Let us work toward programs which insure the most effective and coordinated investment in reducing the costly penalty of earthquakes, fires, and other hazards.

I urge my colleagues to support H.R. 6272.●

Mr. **WEBER** of Minnesota. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. **WALGREN**. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman fron Pennsylvania (Mr. WALGREN) that the House suspend the rules and pass the bill, H.R. 6272.

The question was taken and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. **WALGREN**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill, S. 2273, to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. **WALKER**. Mr. Speaker, reserving the right to object, I do so because it was my understanding that the administration is going to seek an amendment to bring this bill within the budget in the Senate. Is the action we are about to take going to preclude the administration from having the opportunity to reduce the spending by $4 million in the Senate?

Mr. **WALGREN**. Mr. Speaker, will the gentleman yield?

Mr. **WALKER**. I yield to the gentleman from Pennsylvania.

Mr. **WALGREN**. I thank the gentleman for yielding.

Mr. Speaker, that is not my understanding although I do not profess to study what happens in the other body.

Mr. **WALKER**. Further reserving the right to object, let me understand the procedure that we are going through here. We have a Senate passed bill we are substituting now for the House passed bill.

Does that mean that we are going to go to conference and that we have a Senate passed bill that is within the $60 million limit that we could bring back a conference report on that would meet budget standards?

Mr. **WALGREN**. It is my understanding we would still be in the position to negotiate with the Senate as to what their position is and that that negotiation would occur either in a conference——

Mr. **WALKER**. Further reserving the right to object, does the Senate passed bill come within the $60 million of expenditures that the administration has requested?

Mr. **WALGREN**. It is my understanding that the Senate passed bill is the same as the President's request.

Mr. **WALKER**. So that would meet the $60 million standard. So what we would have then is a negotiation between the House and Senate with regard to a spending limit of $60 million or $64 million or somewhere in between; is that correct?

Mr. **WALGREN**. That seems to make sense.

Mr. **WALKER**. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Pennsylvania (Mr. WALGREN)?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)(3)) is amended by inserting the following immediately before the period at the end thereof: "; and for the fiscal year ending September 30, 1983, $3,100,000 to carry out the purposes of this Act".

SEC. 2. Section 7(b) of such Act (42 U.S.C. 7706(b)) is amended by striking "and" after "1981;", and by inserting "; and $30,843,000 for the fiscal year ending September 30, 1983" immediately before the period at the end thereof.

SEC. 3. Section 7(c) of such Act (42 U.S.C. 7706(c)) is amended by striking "and" after "1981;", and by inserting "; and $25,000,000 for the fiscal year ending September 30, 1983" immediately before the period at the end thereof.

SEC. 4. Section 7(d) of such Act (42 U.S.C. 7706(d)) is amended by striking "and" after "1981;", and by inserting "; and $475,000 for the fiscal year ending September 30, 1983" immediately before the period at the end thereof.

MOTION OFFERED BY MR. WALGREN

Mr. **WALGREN**. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WALGREN moves to strike all after the enacting clause of the Senate bill, S. 2273, and to insert in lieu thereof the provisions of the bill, H.R. 6272, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 6272, was laid on the table.

TECHNICAL CORRECTIONS IN HEALTH LAWS

Mr. **WAXMAN**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6355), to make technical corrections in health and other laws amended by the Omnibus Budget Reconciliation Act of 1981, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6355

Be it enacted by the Senate and House of Representatives of the United States of

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America in Congress assembled, That (a)(1) section 931(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "'1980,'" in paragraphs (1), (2), and (3) and inserting in lieu thereof "'1980;'".

(2) Section 1001(c), 1003(b), and 1005(b) of the Public Health Service Act (42 U.S.C. 300(c), 300a-1(b), 300a-3(b)) are each amended by striking out the comma after "1981" and inserting in lieu thereof a semicolon.

(b) Section 936(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "300m(d)(1)(B)(ii)" and inserting in lieu thereof "300m(d)(1)(B)".

(c) Section 942(i) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "'feasible (1)'" and inserting in lieu thereof "'feasible (i)'".

(d)(1) Section 963(b)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "clause (2)" and inserting in lieu thereof "clause (3)".

(2) Section 311(a)(3) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(b)(3)) is amended by striking out the period at the end and inserting in lieu thereof a comma.

(e) Section 965(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out paragraph (A) and by redesignating paragraphs (B), (C), and (D) as paragraphs (1), (2), and (3), respectively.

(f) Section 1101(b) of the Public Health Service Act (42 U.S.C. 300b(b)) (as in effect before its repeal by section 2193(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended byt inserting a comma after "1981".

(g) Section 2741(a)(3) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "and 'and'".

Sec. 2. (a) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254m-(e)) is amended by inserting before the period the following: "or under section 225 as in effect on September 30, 1977".

(b) Section 337(a) of the Public Health Service Act (42 U.S.C. 254j(a)) is amended by striking out "carrying out this subpart" and inserting in lieu thereof "carrying out this subpart (other than section 338G)".

(c) Section 338D(b) of the Public Health Service Act (42 U.S.C. 254o(b)) is amended by striking out "section 338F(b)" and inserting in lieu thereof "section 338E(d)".

(d) Section 338E(d)(1) of the Public Health Service Act (42 U.S.C. 254p(d)(1)) is amended by striking out "section 338D(c)" and inserting in lieu thereof "section 338D(b)".

(e) Section 1536 of the Public Health Service Act (42 U.S.C. 300n-5) (as amended by section 935 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "this title and" inserting in lieu thereof "this title and—".

(f) The second sentence of section 1904(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by striking out "equipment for the systems" and inserting in lieu thereof "equipment for the systems (other than systems with respect to which grants were made as prescribed by section 1905(c)(2))".

(g) Effective October 1, 1982, section 1912(b) of the Public Health Service Act is amended to read as follows:

"(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts—

"(A) which would have been provided by the Secretary to the State and entities in the State under section 301 of this Act for mental health services demonstrations and under the Community Mental Health Centers Act and the Mental Health Systems Act for mental health services for fiscal year 1981 if the Secretary had obligated all the funds for such purposes available for such Acts under Public Law 96-536, and

"(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (D) and (E) of paragraph (2) for fiscal year 1980, bore to the total amount appropriated for mental health services demonstrations and mental health services for fiscal year 1981 under Public Law 96-536 for section 301 of this Act, the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (D) and (E) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Centers Act.

"(B) The Mental Health Systems Act.

"(C) Section 301 of this Act.

"(D) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act of 1970.

"(E) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) For purposes of paragraph (1), the total amount appropriated under Public Law 96-536 for mental health services demonstrations under section 301 of this Act shall be deemed not to exceed $20,000,000; and if such total amount did exceed $20,000,000, the amount that would have been provided to each State and entities in each State shall be ratably reduced for purposes of paragraph (1)(A) to conform to the limit prescribed by this paragraph.

"(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1916(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(h) Section 1915(c)(5) of the Public Health Service Act (42 U.S.C. 300x-4(c)(5)) is amended (1) by inserting "procedures for" before "procedural", and (2) by striking out "review procedures" and inserting in lieu thereof "review".

(i)(1) Section 1915(c)(6)(A)(i) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)(A)(i)) is amended—

(A) by striking out "for mental health services";

(B) by inserting "for mental health services" after "fiscal year 1981";

(C) by inserting "for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(D) by striking out "such Acts" each place it occurs and inserting in lieu thereof "such provisions of law".

(2) Section 1915(c)(6)(A)(ii) of such Act is amended—

(A) by striking out "for mental health servies";

(B) by inserting "for mental health services" after "fiscal year 1981";

(C) by inserting "and for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and

(D) by striking out "such Acts" and inserting in lieu thereof "such provisions of law".

Sec. 3. (a) Section 6(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(1)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (4)".

(b)(1) Section 19(a)(7) of such Act (15 U.S.C. 2068(a)(7)) is amended by striking out "section 9(d)(2)" and inserting in lieu thereof "section 9(g)(2)".

(2) Paragraph (8) of section 19(a) of such Act is repealed and paragraph (9) and the first of the two paragraphs (10) are redesignated as paragraph (8) and (9), respectively.

(c) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by striking out "section 10(e)(4)" and inserting in lieu thereof "subsection (f)".

(d) Section 31(b)(1) of such Act (15 U.S.C. 2080(b)(1)) is amended by striking out "The Commission" and all that follows through "Substances Act." and inserting in lieu thereof the following:

"(b)(1) The Commission may not issue—

"(A) an advance notice of proposed rulemaking for a consumer product safety rule,

"(B) a notice of proposed rulemaking for a rule under section 27(e), or

"(C) an advance notice of proposed rulemaking for regulations under section 2(q)(1) of the Federal Hazardous Substances Act,".

(e) Section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 147(a)) is amended by striking out ", after consultation with the Technical Advisory Committee provided for in section 6 of this Act".

(f) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) (as amended by section 1211(f)(1) of the Omnibus Budget Reconciliation Act of 1982) is amended by adding at the end the following:

"(e) For the purposes of this section, (1) the term 'manufacturer' includes an importer for resale, and (2) a dealer who sells at wholesale an article or substance shall with respect to that sale be considered the distributor of that article or substance.".

(g) Section 1211(h)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended (1) by striking out "by inserting, ', Science and Transportation' immediately after 'on Commerce', and", and (2) by striking out "12(c)(1)" and inserting in lieu thereof "12(d)(1)".

Sec. 4. (a) Section 709 of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out subsections (a) and (b), (2) by striking out "(c)", and (3) by amending the section heading to read as follows:

"PAYMENT OF TORT CLAIMS".

(b) The item relating to section 709 in the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Authorizations of Appropriations" and inserting in lieu thereof "Payment of Tort Claims".

SEC. 5. Section 831(b) of the Public Health Service Act (42 U.S.C. 297-1(b) is amended by inserting before the period a comma and the following: "$400,000 for the fiscal year ending September 30, 1983, and $800,000 for the fiscal year ending September 30, 1984".

SEC. 6. (a) Section 791A(b)(3)(A) of the Public Health Service Act (42 U.S.C. 295h-1a(b)(3)(A) is amended by striking out "postbaccalaureate" and inserting in lieu thereof "baccalaureate".

(b) Section 791(c)(2)(A) of such Act (42 U.S.C. 295h(c)(2)(A)) is amended to read as follows:

"(A) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that—

"(i) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submitted; and

"(ii) such entity shall expend or obligate at least $100,000 in funds from non-Federal sources to conduct such programs; and".

(c)(1) Section 709(d) of such Act (42 U.S.C. 292i(d) is amended to read as follows:

"(d) Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(2) Title VIII of such Act is amended by adding at the end the following:

"TECHNICAL ASSISTANCE

"SEC. 857. Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

(d) Section 1602(f)(2) of such Act is amended by inserting after "including" the following: "selling real property pledged as security for such a loan or loan guarantee and".

(e) Section 306(l)(2) of such Act (42 U.S.C. 242k(l)(2)) is amended by striking out subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D),(E), and (F), respectively.

(f) Section 308(d) of the such Act (42 U.S.C. 242m(d)) is amended (1) by inserting ", if an establishment or person supplying the information or described in it is identifiable," after "No information", and (2) by striking out "authorized by guidelines in effect under section 306(l)(2) or under regulations of the Secretary" and inserting in lieu thereof "such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose".

(g) Section 330(d)(2) of such Act (42 U.S.C. 254c(d)(2)) is amended by inserting before "and the costs" the following: ", the costs of repaying loans made by the Farmers Home Administration for buildings,".

(h) Section 207(a)(1) of such Act (42 U.S.C. 209(a)(1)) is amended by inserting "psychology," after "pharmacy,".

(i) Section 302 of the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79) is repealed.

SEC. 7. (a) Title of the Public Health Service Act is amended by adding at the end the following new part:

"PART F—OTHER AGENCIES OF THE NATIONAL INSTITUTES OF HEALTH

"NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

"SEC. 481. The National Institute for Occupational Safety and Health is an agency of the National Institutes of Health.".

(b)(1) Subsections (a) and (b) of section 22 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671) are amended by striking out "in the Department of Health, Education, and Welfare".

(2) Subsection (b) of such section 22 is amended by adding after the first sentence the following: "The Institute shall be an agency of the National Institutes of Health.".

(3) Such section 22 is amended by striking out "Secretary of Health, Education, and Welfare" each place it occurs and inserting in lieu therof "Secretary of Health and Human Services".

SEC. 8. (a) The paragraph beginning with "Service and supply fund:" under the heading "PUBLIC HEALTH SERVICE" in the Federal Security Agency Appropriation Act, 1946, (42 U.S.C. 231) is amended by inserting ", or in advance," after "stock furnished".

(b)(1) The matter in section 1706(a) (42 U.S.C. 300u-5(a)) of the Public Health Service Act preceding paragraph (1) is amended by striking out "Health Information, Health Promotion and Physical Fitness and Sports Medicine" and inserting instead "Health Promotion".

(2) The heading to section 1706 (42 U.S.C. 300u-5) of such Act is amended to read "Office of Health Promotion".

(c) The first sentence of section 311(c)(2) (42 U.S.C. 243(c)(2)) of the Public Health Service Act is amended by striking out "forty-five days" and inserting instead "six months".

SEC. 9. Section 340(g) (42 U.S.C. 256(g)) is amended (1) by striking out "and" after "1980," in paragraph (1) and by inserting before the period in that paragraph a comma and "and $3,000,000 for the fiscal year ending September 30, 1982", and (2) by inserting "and" after "1980," in paragraph (2) and by striking out in that paragraph ", and $3,000,000 for the fiscal year ending September 30, 1982".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **MADIGAN**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN.)

Mr. **WAXMAN**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the principal purpose of H.R. 6355 is to correct errors made in drafting the various health portions of the Omnibus Budget Reconciliation Act of 1981. Public Law 97-35 was drafted last summer in considerable haste and this legislation is intended to rectify some of our grammatical and typographical mistakes.

The legislation also contains a number of additional provisions which are necessary to streamline and improve administration of various health authorities. These provisions include allowing advance payments to the National Institutes of Health's service and supply fund and extending the period of time States may receive technical assistance during health emergencies. These provisions were included at the suggestion of the Department of Health and Human Services.

In addition, the legislation contains three largely noncontroversial provisions the first of which would provide an authorization of appropriations for 2 fiscal years for the training of nurse anesthetists. These funds will help ease the current shortage of nurse anesthetists in U.S. hospitals.

The second and more controversial provision would transfer administration of the National Institute for Occupational Safety and Health to the National Institutes of Health. The shift would enhance the interaction between Federal researchers in occupational and environmental health, and improve the ability of NIOSH to obtain resources and attract qualified scientists.

The third would permit the use of community health center grants for the purpose of repaying Farmers Home Administration Act loans made for the purpose of constructing new buildings.

Mr. Speaker, the legislation was reported by unaminous voice vote of the Committee on Energy and Commerce. I urge support for the committee proposal.

Mr. **MADIGAN**. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. **BROYHILL**. Mr. Speaker, I rise in opposition to the motion to suspend the rules and pass H.R. 6355. I take this action for one simple reason: This bill contains a provision which is sufficiently controversial as to violate the suspension procedure.

The principal problem with this bill is that it proposes to transfer the National Institute of Occupational Safety and Health (NIOSH) from its parent centers for disease control (CDC) to the National Institutes of Health (NIH). This amendment was not discussed in public hearings before the committee, as acknowledged in House Report 97-793.

Before discussing the problems with this transfer which cause difficulty, I want to advise the House that there has been no comparable legislation acted on by the Senate.

I oppose this transfer for a number of reasons. The principal among these is that the mandated mission of the National Institute for Occupational Safety and Health (NIOSH) is incompatible with the existing mission of the National Institutes of Health (NIH). This is so for a number of reasons:

First. NIOSH is mandated to respond to requests for health hazard

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evaluations and is authorized to use warrants and subpenas for right of entry and right of access to data. NIH neither has nor depends on these field response capabilities;

Second. NIOSH is authorized to recommend health based standards to the Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA), while NIH conducts or supports research on which these standards may be based;

Third. NIOSH is mandated to carry out programs to test and certify personal protective equipment. NIH is not involved in regulating industry in any manner.

In addition, the centers for disease control is the principal agency of the Public Health Service concerned with the prevention of illness and premature death. By contrast, NIH, through stimulating and supporting basic investigator initiated research, works to improve human health by acquiring new scientific knowledge. This is a clear divergence between the application of existing knowledge on the one hand and the expansion into new areas of intellectual endeavor on the other.

Further, occupational safety and health research as performed by NIOSH focuses heavily on identifying and characterizing work place conditions that cause disease or injury and on recommending technologies for prevention. This requires an emphasis on subjects not generally within the purview of NIH—such as industrial accidents, mining, and engineering—and outside the mission of NIH (regulation).

Finally, the centers for disease control operate national surveillance systems not only for infectious disease but also for chronic environmental health problems through a network of State and local public health agencies. This CDC expertise is important for the assessment of the magnitude of health problems, the monitoring of national trends, and the conduct of epidemiological studies that will assist NIOSH in identifying effective control mechanisms. NIH is not involved in such national surveillance activities.

For these reasons, it should be clear that this provision renders the bill H.R. 6355 indisputably controversial. Consideration of this provision under suspension of the rules, a procedure designed to expedite the passage of noncontroversial items, would do violence to the rules of this House. For this reason alone, if not for substantive reasons enumerated above, I urge my colleagues to oppose the motion and return this bill to the Union Calendar for consideration at a later time under the usual procedural rules of the House.

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Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my good friend and colleague, the gentleman from California (Mr. WAXMAN) for yielding to me on this measure.

This bill was reported by a voice vote from the Committee on Energy and Commerce. It was part of an agreement and an understanding between the majority and the minority. Our good friends and colleagues, the gentleman from North Carolina (Mr. BROYHILL) and the gentleman from Illinois (Mr. MADIGAN) came to an agreement with our friend and colleague, the gentleman from California (Mr. WAXMAN) with regard to the content of this legislation.

No controversey attached to the legislation at the time it was under consideration in the Committee on Energy and Commerce.

There are some strong arguments for all parts of the bill. First of all, the technical amendments make sense, have no controversy, and have significant merit and will make the Public Health Service function better.

Second of all, moving the National Institute for Occupational Safety and Health to NIH makes excellent good sense. First of all, the National Institute for Occupational Safety and Health is a research institution. It engages in research. It is not a regulatory body.

OSHA, the regulatory body which deals with occupational safety and health, is in the Department of Labor.

NIOSH was put, at the insistence of our former friend and colleague, the Honorable Jacob Javits, the Senator from New York, into the Department of Health and Human Services to conduct research and to separate it from the regulatory agency, OSHA; so there is no OSHA regulatory function which exists at NIOSH. NIOSH has a research grant program administered at this particular minute through the National Institute of Health's Division of Research Grants. NIOSH has a sister agency at the National Institute of Health which does similar work, the National Institute of Environmental Health Sciences.

It appears to be extraordinary good sense to move the two programs under one agency so that duplication, waste, and overlap can be eliminated, and so that the two might have close and intimate contact and coordination under the aegis of the National Institutes of Health.

As mentioned, the National Institute for Occupational Safety and Health has a grant program which is already administered through the National Institutes of Health. As mentioned, this is legislation, which comes without controversy from the Committee on Energy and Commerce, was reported by a voice vote after agreements between the majority and the minority, and certainly the gentleman from North Carolina (Mr. BROYHILL) is to be commended for his part in that agreement, as is the gentleman from Illinois (Mr. MADIGAN).

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I will be glad to yield to the gentleman.

Mr. BROYHILL. I think the record needs to be corrected. I do not recall being a part of the agreement on this particular amendment. There may have been other agreements.

The SPEAKER pro tempore. The time of the gentleman from Michigan has expired.

Mr. WAXMAN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman.

I was of the impression that the gentleman from North Carolina was a part of the understanding. In any event, my good friend, the gentleman from Illinois (Mr. MADIGAN) was a part of it.

Mr. BROYHILL. The gentleman from Illinois did agree on this amendment. He will have to speak for himself; but my agreement did not go to this amendment.

Mr. DINGELL. Well, I am always delighted to commend the gentleman from North Carolina, because I have the most intense respect and affection for the gentleman, as I do for my good friend, the gentleman from Illinois (Mr. MADIGAN), to whom now I happily yield.

Mr. MADIGAN. Mr. Speaker, I want to thank the gentleman for yielding.

I intend to speak on all of this later; but I think there are three things at issue. One is health planning, the other was the National Institutes of Health; the third was this technical corrections bill, originally urged upon us by the Department.

The gentleman from North Carolina, the gentleman from Michigan, and the gentleman from California, with the gentleman from California (Mr. WAXMAN) and myself, were all parties to an agreement to move those bills in a certain order and the provisions of the health planning bill were discussed and the provisions of NIH were discussed; but in fairness to the gentleman from North Carolina, while he agreed to the procedure and to the particulars of health planning and NIH, I do not believe that the particulars of this technical corrections bill were ever discussed with him; so I do not believe that the gentleman has a commitment to the provisions of the technical corrections bill. I believe that I do, because I knew what was in it.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield to me?

Mr. DINGELL. I am delighted to yield. I just want to observe that the gentleman from Illinois has always kept his commitments to me in a most honorable fashion.

I am delighted to yield to the gentleman.

Mr. WAXMAN. I also want to add my recollections to the record. The gentleman from Illinois, the ranking minority member of our subcommittee, did agree to the substance of all that is in this proposal before us today; but we always knew that the administration opposed the transfer of NIOSH to NIH and that in agreeing to move the various health bills before our committee in a certain fashion, that we did not plan to waive the substantive arguments later down the road.

Mr. DINGELL. Mr. Speaker, I thank the gentleman.

Mr. MADIGAN. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. Bliley).

Mr. BLILEY. Mr. Speaker, we have been asked to suspend the rules in order to consider on the floor the matter of the organizational placement of the National Institute for Occupational Safety and Health. But I must raise two warnings. In the first place, this is not a minor "technical amendment" to legislation, but rather a substantive reordering of programs that would have a significant impact on the health operations of NIOSH, a $60 million agency. And, we are being offered political shenanigans that would be sold to us under the label of improved organizational effectiveness. We should not let ourselves become victims of the hoax.

Let us examine the impact of this amendment. NIOSH is now a part of the Centers for Disease Control, which is the principal Agency of the Public Health Service concerned with the prevention of illness and premature death. NIOSH fits well in this organizational environment where the focus is on pragmatic and service-oriented health programs.

NIOSH conducts field investigations to evaluate health hazards in the workplace—an activity akin to the well know epidemic assistance provided by CDC. There are other similarities. NIOSH provides scientific recommendations to regulatory agencies as CDC does in the area of clinical laboratory practice and immunization. NIOSH carries out regulatory powers in its testing and certification of personal protective equipment, whereas CDC enforces the Nation's foreign quarantine requirements.

The amendment would move NIOSH out of this compatible organizational environment, and place it in the National Institutes of Health. Although there is some similarity between the two in that both conduct research, there is a significant difference in the focus of that research. NIOSH focuses heavily on identifying workplace hazards that cause injury or disease. This is directed research that must be related to prevention through regulation or other means. At the Bethesda campus we have, on the other hand, the Nation's premier biomedical research organization whose sole mission is to acquire new scientific knowledge. I submit that even in the one area of apparent similarity, research, there are very important differences between NIOSH and NIH. The Director of NIH has stated that the NIOSH mission is incompatible with that of NIH. Therefore, we must consider carefully the diversionary and detrimental impact that would result by the mismatch of the other mandated NIOSH activities, which can be confrontational in nature, on the basic research environment of NIH. To do this work, we, the Congress, have authorized NIOSH to use warrants and subpenas in the execution of right of entry and right of access to data. These are hardly the tools of Nobel Prize winners. I reiterate, this bill is not a technical amendment.

I contend that the motivations are purely political. The amendment is being offered as a part of a partisan political effort to reverse the move of NIOSH headquarters from the Washington area to Atlanta, Ga.

Appropriation language was passed which stopped that move midstream, with the top NIOSH leadership in Atlanta, and a dissident support staff remaining in Rockville, Md. Obviously, it is more difficult to exert day-to-day influence on an organization located more than 600 miles away. This current amendment is a blatant maneuver to deepen the disruption of NIOSH by having it report to another organization located in the Washington area—NIH. This ploy is being proposed by those who, under the cover of last year's budget conflicts and crises, slipped through an apparently innocent provision which has handcuffed an important health agency. However, this move is not simply a political ploy. The long delays and disruption caused by postponing the transfer of NIOSH to the CDC is causing serious safety hazards to America's workers. For 12 long months, the move of the NIOSH headquarters has been in limbo. This hiatus has resulted in the discontinuation or delay of program activities and in missed opportunities. For example, we are still waiting for the production of the scientific document on radio frequency microwaves. Plans to upgrade some 20 standards have for the most part been delayed and, it has been impossible to proceed with plans to improve the effectiveness of the NIOSH safety program. We cannot allow this sort of thing to continue to jeopardize the safety and health of our Nation's work force. In fact, we should take steps now to assure that last year's mistake is corrected.

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Speaker, I would like to thank my colleague, the gentleman from Illinois, for giving me these 3 minutes. I very much appreciate his courtesy.

Mr. Speaker, there are about 751 permanent employees of this agency, most of whom work here in the Washington area. I am sure that many of these employees will watch this debate with a great deal of interest. The reason? Because this controversy, ostensibly part of a minor technical bill, is nothing more than an illustration of how the Washington bureaucracy deals with those who seek to effect change.

One year ago, a decision was made to transfer the 10-year-old Agency from Washington, D.C., to Atlanta, Ga., and to Cincinnati, Ohio, in an effort to improve the effectiveness of the Agency.

What happens when that decision is made by management? Employees of the Agency react by saying, "Who is trying to do this to us now? What plot is afoot to deprive us of working in the Washington area where we have our families, our friends, and our children in school? We are not going to stand still for this. We will fight this move." So they organize as a part of an effort to teach those in charge of the bureaucracy, "Thou shalt not move us without our concurrence."

So employees have now fought the efforts of the administration to move this function to Atlanta where in the judgment of the administration, it belongs. Last year those opposed to the move were successful in getting an amendment to the appropriations bill which prohibited the move. So these people are now trying to prevent a move to Atlanta. We in this Chamber should not countenance this effort for two reasons: One, the current proceeding is designed for noncontroversial measures. This is certainly not one of that type. It is a controversial measure. It should have been brought up under ordinary rules, under the procedure whereby amendments could have been offered on the floor of the House.

Second, I do not believe that we in the Congress have the background and knowledge to know frankly where this activity should best be placed. I believe that the administration's position should be respected and the bill should be rejected.

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Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin (Mr. Obey).

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

I find the comments of the previous speaker quaint, to be kind.

In my judgment, the action of the gentleman from California (Mr. Waxman) and the action of the gentleman from Illinois (Mr. Madigan) and the full committee have been appropriate in this instance.

Mr. Speaker, I must come to the House and confess that virtually every dollar which has been added to the NIOSH budget over the past few years in the Appropriations Subcommittee has been added at my urging, because of the importance of their mission. But I must say that without significant restructuring of the bureaucratic procedures under which that organization operates, it is very difficult for me to recommend to the House additional funding for that Agency.

The fact is that CDC, in which NIOSH presently is lodged, is a fine instrument, the finest the Nation has, in terms of attacks on infectious diseases. But NIOSH is misplaced within that agency because the mission of NIOSH is not to deal with infectious diseases; it is to deal with the different kinds of diseases that have nothing whatsoever to do with the skills with which epidemiologists may have gained in tracking infectious deseases.

It seems to me, therefore, highly appropriate that the committee does what it is doing today. We do not need NIOSH to be an HEW version of OSHA. We need them to be the best scientific agency we can possibly support, and to do that I think we need them attached directly to what is, I think by common agreement in this place, to be attached to the best scientific arm in the country, which is NIH.

I simply want to say that I recognize that this issue is essentially an arcane one in terms of the average layman or in terms, even, of the average Member of this House who is not privileged to serve on the committee with jurisdiction today, or the Appropriations Subcommittee with jurisdiction in this area.

But I think what the committee is doing is terribly important. As we all know, NIOSH has been criticized on many occasions in the past for the quality of the research which it has brought to a number of the issues under its purview. This is very simply an effort to rearrange the bureaucratic structure so that NIOSH has the best opportunity possible to produce the best quality research which is used by other Government agencies.

I think the committee is absolutely right in the substance and the end process of this procedure.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think perhaps the most important responsibility that any Member of this body has to the institution and to the other Members of the body is that that individual be a man or woman of his or her word and that once he or she has given their word, that that word be kept, regardless of the personal or political cost.

There is some difficulty throughout this session of Congress in dealing with the legislation relating to health matters, and that difficulty primarily evolves from trying to determine exactly who the spokesman for the administration on health matters is. On one occasion, it may be a White House lobbyist, on another occasion OMB, and on another occasion someone from the Department of Health and Human Services.

The gentleman from California (Mr. Dannemeyer) has just, in the well a few minutes ago, made a speech about one particular provision of this bill. In the committee, he and I discussed that provision of this bill before this was voted upon, before it was passed out of the committee by a unanimous voice vote.

At that point the gentleman from California showed me a letter that had been handed to him by a woman lobbyist from one of the agencies in the audience saying that the administration was opposed to this provision in this bill and I showed him a communique from the administration telling me that the package that we had agreed to dealing with NIH, dealing with the technical corrections and dealing with health planning was being supported by the spokesman for the administration with whom I was doing business as the ranking minority member of the subcommittee.

With all that having transpired, this bill and the other bills which we had agreed upon were passed out of the committee by unanimous voice vote.

Now some other spokesman from the department may come forward and say, "The administration is opposed to this one provision," or that one provision, or some other provision, but the fact of the matter is that at one point the administration had signed on to everything that we had done with regard to this entire package of bills, had put that in writing for me, and I was able to show that to the gentleman from California (Mr. Dannemeyer) and to other members of the committee before these packages of bills were passed out of the committee by unanimous voice vote.

Now, if the administration or some individual spokesman from one agency or department of the administration not previously heard from wants to come forward and say this one little part of this bill we did not agree to, they can do that, but I am not going to do that. I am going to keep the word that I gave to the other members of the Committee on Energy and Commerce and to the other people who were involved in this, and I am going to support this bill because I do not think that there is a thing in the world wrong with it.

I think it is part of a package and that package was very important to the administration, and the administration objectives.

With regard to health planning, NIH and these other things will be very well served if the agreement made by all the ladies and gentlemen who were involved here in the beginning is kept.

Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

● Mr. CRAIG. Mr. Speaker, today we are considering, under suspension of the rules, H.R. 6355 which contains provisions that will organizationally transfer the National Institute for Occupational Safety and Health (NIOSH) from the Centers for Disease Control (CDC) to the National Institutes of Health (NIH). While I support many of the provisions in the bill, I cannot support the proposed transfer.

I object to this bill on three main grounds. First, there are numerous functions of NIOSH which are not compatible with NIH, specifically making field investigations in response to requests, recommending standards to regulatory agencies, and regulating of protective equipment. Why combine incompatible functions?

Second, whenever a proposed transfer is contemplated, there should be committee hearings. Neither the Energy and Commerce Committee or the Education and Labor Committee have considered the ramifications of this transfer. We all know that whenever an agency or division of any department of Government is moved from one jurisdiction to another there are additional costs involved. What are these additional costs?

Third, there appears on page 9 of the bill report some very ambiguous language. After reading carefully, I can only conclude that House committee jurisdiction for NIOSH would be transferred from Education and Labor to Energy and Commerce Committee. Why is committee jurisdiction being changed?

For these and other reasons, I ask that you oppose passage of this legislation in its present form.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Waxman) that the House suspend the rules and pass the bill, H.R. 6355, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6355.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE SUNDRY REPORTS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until 5 p.m. today to file sundry reports.

The SPEAKER pro tempore (Mr. WALGREN). Is there objection to the request of the gentleman from Texas?

There was no objection.

END THE PESO PANIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, several weeks ago I came to the House floor and reported that I had freshly returned from the border at Laredo, right at the beginning of what has turned out to be this financial crisis, and I reported for the first time in this House the omnibus potential thereof. The fact, there was quite a bit of chaotic conditions reflected even at the stretch of the border.

I also warned and predicted and feared what now, I fear, has been publicized quite a bit, unfortunately, always as a reaction to a crisis. It just seems that we can never, ever, anticipate; we can never have anticipatory action or planning, even.

I also brought out the fact that my continuing efforts to bring about responsibility and accountability on the part of the fiscal agent of our Government, the Federal Reserve Board—which very few people realize is a fiscal agent; they think it is the independent master—its responsibility in this evolving crisis. I want to underline the fact that today the situation is alarming. It will continue to grow in desperation and in intensity with very, very great potential for devastating damage to our own interests, both economic and political, as well as hemispheric, because Mexico, being our immediate southern neighbor, placed by destiny to share this part of the world with us, is just the one that is closer and, therefore, with these developments in the last month or so, is brought a little bit more to the level of consciousness in our country, even though not quite completely as yet.

But it is only there, and that is only the beginning. I have also brought out, but no one has reported, for weeks the basket cases of Brazil and Argentina, just to speak of two of the most critical situations that I think long ago should have called for some kind of anticipatory action on the part of not only the Congress but particularly our money managers and our responsible agencies such as the Federal Reserve Board.

At this point, commerce and industry and trade in Mexico have been devastated by that country's huge, immense financial problems.

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I have reported for several years the fact that Mexico has had an average of unemployment reaching almost 50 percent, which today it exceeds. The rate of inflation is now about that, but it has been on an average of over 30 percent. I have also pointed out that the average age now—that is, on a median average—is 15 years in Mexico and that the emerging labor market reflected the fact that it is inescapable that we have a responsibility to evaluate and figure out on a binational basis. This has been the whole missing element.

For 20 years I have advocated that we work binationally. The problem, any problem, including the so-called illegal alien, or undocumented worker problem, cannot be resolved unilaterally. The United States acting alone cannot and never will. We would have to build a solid concrete barrier at least 30 feet high along the nearly 2,000-mile border, or we would have to have soldiers every 3 yards, and even then we probably would not succeed.

But, if we work binationally, and that is the only way it is going to be resolved, we might perhaps start, just begin. As a matter of fact, I met recently with the manager or director of housing authority of Hong Kong in the Far East, and it was most interesting to discuss with him the same problem that had agitated and victimized Hong Kong from mainland China. They had been constantly inundated with so-called illegals, and I was surprised when he told me that the problem had been brought under control during the last year, and only after the mainland China Government decided to come in and join and do something in a bilateral way. It was not until both of those entities agreed on what to do and how to do it, plus a very rigid identification or ID system in Hong Kong.

Now, I have maintained all along that it is necessary to have binational cooperation, but in an environment in which we do not even have happy relations with our northern neighbor, with Canada, I think it is easy to see how impossible that task has been for 20 years. But at this point the devastation in Mexico cannot be adequately described in words. We must not forget that this kind of economic problem and situation does not stop at the border any more than disease. For years also I have been a long-time advocate of a binational border control on disease control. Tuberculosis germs do not obey borders or rivers or mountains, and it has not been until just very lately that we have had the beginning of some realistic work along those lines.

The American border areas have been devastated by the peso panic for three reasons. First, the tremendous loss of value in the peso means that Mexican customers of American stores—and we must never forget that Mexico is our best customer, No. 1 in our trade with the world—and other businesses simply do not possess the buying power that they enjoyed a few months ago. A peso today will buy perhaps 35 percent of what it would just last winter. It is inevitable, then, that a U.S. firm or firms that were and still are very much dependent on the patronage of Mexican citizens are finding their customers suddenly unable to buy anything, even compared to anything that they used to buy.

Second, there is the fact of exchange controls, and here is where we have a big contributing factor and responsibility, which severely limit the amount of currency that Mexican citizens can take out of their country. Just last weekend the Government of Mexico limited the amount of pesos that could be taken out of the country to 5,000, or about 70 U.S. dollars. Mexicans can accordingly spend much less than they could before, and what they have to spend buys very little.

Third, there is the fact that Mexico is not repatriating pesos for dollars, at least through the normal channels. There is a lot of black market speculative effort, but not through normal channels. This means that an American merchant who accepts pesos has no reliable way of converting that currency to dollars, and of course the merchant has to pay his suppliers and employees in dollars, not in pesos.

There is nothing the United States can do about Mexican currency controls, and very little our country can do to prop up the value of the peso. However, we can take action to make the peso a currency that can be exchanged for dollars.

All our newspapers have printed about the emergency aid that we, through the Federal Reserve Board, have given Mexico. Well, this is inaccurate. We have not given Mexico any-

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thing. The money we provided was to bail out our American banks. It was relief, bailout for the American banks which this administration does not draw the line on. It draws the line on American corporations. They do not want any bailouts there. They do not want any bailouts for the small businessman, but if it is a bank, why, $1 billion without questions overnight was what they did in order to save such banks as Chase Manhattan and the Hanover Manufacturers Trust, which incidentally I must report has in a very unwise way—you know, you always talk about and hear all of these people talking about the profligate spenders and the liberals, but the most conservative elements by definition are the ones that have been the unwise investors and spenders and speculators through sheer greed. Greed is what is getting us under. This is what got them under here.

The Hanover Manufacturers Trust is in Mexico out on a cliff, and is saved only at this time by American taxpayers' dollars through the Federal Reserve Board, more money than it has in its capitalization structure. If that is not a most unconservative, most speculative, most foolish type of way of doing banking business, I do not know what is. Now, we can take action to make the peso a currency that can be exchanged for dollars, and this is what I am proposing as of last week. I proposed it by requesting in writing of the Federal Reserve Board and the Secretary of the Treasury that they look into a suggestion contained in that letter, in two letters which I offer for the RECORD at this point:

WASHINGTON, D.C.,
September 10, 1982.

Hon. DONALD T. REGAN,
Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: I am enclosing herewith a copy of a letter I have sent to Chairman Volcker, outlining a procedure that could go a long way toward restoring commerce in American firms that are now devastated by current Mexican currency controls.

In brief, my suggestion is that the Federal Reserve agree to accept peso deposits of member banks, and exchange them for dollars at the official Mexican rate of exchange. This peso facility would be limited to amounts that are demonstrably in the normal range of peso deposits, so as to insure that it would not be used in a way that would encourage speculation or abuse. Although I have suggested that the Federal Reserve establish this facility through its swap line resources, the Treasury could create a similar facility through use of its Exchange Stabilization Fund.

The economic devastation in the Mexican border region is immense, and has been recognized by the Administration, which has offered relief through certain Small Business Administration programs. However, the need is not for loans—many firms cannot, in fact, qualify for nor benefit from loans. What is needed is a restoration of commerce, which can only be done through a program to enable a resumption of peso redemption, at reasonably stable rates. Currently, the only trade possible is through the currency black market, which is extremely risky and cannot in any way substitute for a reasonable, open and stable method of exchange.

I believe that my suggestion is prudent and workable, and I hope that you will urge its adoption by the Federal Reserve, or move for its implementation through the resources of your own Exchange Stabilization Fund.

I believe that both the Treasury and the Federal Reserve have all the authority needed to carry out this program.

Sincerely yours,
HENRY B. GONZALEZ,
Member of Congress.

WASHINGTON, D.C.,
September 10, 1982.

Hon. PAUL A. VOLCKER,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

DEAR MR. CHAIRMAN: I know that you are keenly aware of the difficulties confronting Mexico, and of the circumstances that forced Mexico to adopt exchange controls. Those controls have, unfortunately, resulted in severe problems for numerous businesses and banks in the United States. My purpose in writing is to request that the Federal Reserve provide some relief to Americans who have been harmed by the emergency actions taken by the Government of Mexico.

Let me emphasize that I do not suggest any action that would damage Mexican efforts to regain financial stability, nor any action that would create opportunities for currency speculators. My request is limited to actions that would alleviate problems confronted by persons who now have great difficulty in conducting ordinary business, specifically, merchants and bankers in the border area who normally accept pesos.

Merchants in the border area today face circumstances in which their Mexican customers cannot obtain dollars, except on the black market. The merchants, themselves, cannot accept pesos except at the greatest risk, since they can only convert pesos to dollars on the black market, at rates that fluctuate enormously from day to day. In normal times, merchants could accept pesos, deposit them with their banks, and the banks then convert the pesos to dollars. Presently, however, banks can only convert pesos at the greatest risk—on the black market. Thus, border area businesses face a situation in which a great part of their regular clientele cannot obtain dollars, and the businesses cannot accept pesos unless they are willing to take the enormous risks of dealing in the black market.

I believe this situation could be resolved easily, through the intervention of the Federal Reserve. The action I suggest could restore devastated American businesses, prevent numerous bankruptcies, and restore some stability along the border area.

My suggestion is that the Federal Reserve agree to accept the peso deposits of its member banks, and credit dollars to the banks at the official Mexican rate of exchange. Pesos so acquired could be credited to the Federal Reserve's swap line, and redeemed at such time as your currency traders find it prudent to do so. Any such agreement to accept pesos, however, should be limited to amounts that banks can show they would normally handle—so as to eliminate chances that the exchange facility could be used to evade Mexican currency controls or facilitate the work of speculators. For example, the Federal Reserve might limit its commitment to accept pesos in any thirty day period to one-sixth of the amount handled by a bank in the six months from January to July, 1982. Alternatively, the peso facility might be limited to a similar average of the amount the bank handled for a business that historically accepted pesos in the course of trade. Further, the peso facility might be limited to a specified border zone, say a region within 150 miles of the border. This is the region in which businesses frequently accept pesos in lieu of dollars, and as such is typical of both the U.S. and Canadian border trade pattern.

The Federal Reserve peso facility that I suggest would enable Mexicans to resume at least some degree of their normal trade in the United States. It would free residents of the border zone of the fear and instability that is now so widespread, and it would go a long way toward curbing the black market in pesos. It would prevent numerous bankruptcies in the United States, help curb the growth of unemployment, and provide a quick, effective and low-risk way to restore commerce. Since the exchange rate that would be offered by the Federal Reserve would be only at the official Mexican rate, the risk should be prudent to take. The overall impact of such a facility should be beneficial to Mexican efforts to stabilize the value of the peso, as well as to relieve some of the disruption that has affected citizens of that country, particularly those who normally conduct business in the United States.

The suggested peso facility could easily terminate when the emergency situation has passed. In the meantime, it would do much to contain economic damage and restore confidence. There does not appear to be any statutory provision that would prevent your establishing a peso facility, and I hope that you will take whatever action you can to relieve the enormous problems that now confront border area businesses and banks.

Sincerely yours,
HENRY B. GONZALEZ,
Member of Congress.

Now, this more than anything else would end the sense of panic and doom that pervades along the border areas. When I talk about the border zone, I am not talking about right immediately across the border. I am talking about areas that extend as far in as my city of San Antonio, that is, 150 miles down the way. But in deeper terms it goes even further, to Houston, to Dallas, which has developed a tremendous Mexican trade.

This idea would enable some degree of business to go on. It would restore order to an area that very much needs to find some degree of stability.

I have suggested to Treasury Secretary Regan and Federal Reserve Board Chairman Volcker that the U.S. Treasury or the Federal Reserve agree to accept a limited amount of pesos from American banks in order that those banks can offer their commercial customers a way to redeem pesos for dollars. As long as merchants cannot take the pesos to the bank and find a ready exchange, as they have all through the years, they simply cannot take the risk of accepting pesos. But right now, the banks cannot find a way to exchange pesos for dollars. The only ready way to end this logjam and to restore commerce to the border would be to have the U.S. Government agree to convert a limited number of pesos into dollars. This can be done within the authority of existing statutes. It can be done through the swap lines of the Fed or through the exchange stabilization fund of the Treasury. It can be done in a way that does not encourage people to evade or undermine Mexico's efforts to restore order within its own borders.

My suggestion is more fully explained in the letters that I submit for the RECORD, that I addressed as of a week ago to Secretary Regan and Chairman Volcker.

PROPOSED AMENDMENTS TO H.R. 6046, THE EXTRADITION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CROCKETT) is recognized for 5 minutes.

● Mr. CROCKETT. Mr. Speaker, H.R. 6046, the Extradition Act of 1982, as reported out by the Committee on Foreign Affairs, fails to provide adequate legal safeguards to a person whose extradition is sought by a foreign state. Therefore, when and if the bill comes to the floor, I intend to offer a series of amendments and I intend to see that all the amendments are debated to the fullest extent possible. These amendments are attached to this statement.

Section 3194 of the bill imposes additional limitations on the availability of the political offense exception. In its present form, the political offense exception of the bill unnecessarily limits those acts that would constitute a political offense. Those limitations, in my opinion, would deprive the exception of any real meaning.

Section 3194 also codifies the current practice of allowing the Secretary of State to determine whether extradition is sought because "of such person's political opinion, race, religion, or nationality." Additionally, this section also gives the Secretary sole discretion to refuse the extradition of a person for humanitarian reasons.

I believe that these issues are too important to warrant only the Secretary's discretionary review. Thus I will offer amendments providing for judicial inquiry into these issues. At the very least other procedures of review should be incorporated into the bill. Specifically, I would suggest that the Secretary, before ordering the surrender of a person who is being sought by a foreign state, be required to give the person an opportunity to submit evidence that supports his or her claim that extradition is being sought because of the person's political opinions, race, religion, or nationality. Additionally, the Secretary of State should be required to provide the person, before he or she is extradited, with a written statement of the reasons for the Secretary's determination in regard to these civil, political, and humanitarian issues.

These additional requirements will undoubtedly extend the extradition proceedings. Nevertheless, I strongly believe that, if the Secretary is required to respond to these issues in a formal manner, our extradition laws will function more credibly and equitably.

The amendments that I will propose to deal with these issues and an explanation of the purpose of each amendment follows:

AMENDMENT A—PROTECTING FREEDOM FIGHTERS, BUT NOT TERRORISTS, FROM EXTRADITION

The purpose of the Extradition Act of 1982, to facilitate the surrender of terrorists, is laudable, but the exceptions it would make to the political crimes defense, sweep too broadly, and would endanger the very persons that the United States has historically shielded.

Both bills would make it nearly impossible for a person accused by a foreign government of a crime of violence to invoke the protection of the political crimes defense to extradition. Both bills would make it substantially easier for military juntas and autocratic regimes to recover and punish former officials of democratic governments, and would even allow Communist regimes to recapture freedom fighters against their oppression.

The problem lies with the unnecessarily broad language of Section 3194(e)(2)(E) and (F) of H.R. 6046 (and subsections (A) and (B) of the same provision in S. 1940). These subsections would deny benefit of the political crimes defense to any person charged by a foreign government with committing a crime of bodily violence or a crime involving the use of a firearm, except in "extraordinary circumstances." Neither bill defines what an extraordinary circumstance might be, but the implication is clear. If Congress passes these provisions without change, it will signal an intent to retreat radically from the current political crimes defense.

The better solution would be to enact the wanton violence standard adopted by the court in *Eain* v. *Wilkes* which authorised the extradition of an alleged PLO terrorist for the wanton and indiscriminate bombing of a marketplace. This can be accomplished by striking subsections (E) and (F) and substituting:

"(E) an offense that consists of the taking of a hostage;

(F) an offense that consists of an intentional, wanton or indiscriminate act of violence resulting in death or bodily injury to persons not taking part in armed hostilities;

(G) an offense consisting of an act of violence intended to spread terror among the civilian population;"

SUPPLEMENTARY LANGUAGE TO EXPLAIN AMENDMENT A

Subsection (e)(2) sets forth, in subparts (E), (F) and (G), offenses which are normally too heinous to merit protection under the political crimes defense to extradition. The crime of rape has been dropped from this list because it is impossible to conceive of any circumstances in which it would be entitled to the political crimes defense.

Hostage-taking is already forbidden by treaties to which the United States is a party. The taking of hostages in armed conflict is prohibited by the 1949 Geneva Conventions regarding international armed conflicts and non-international armed conflicts (Common Article 3; Civilians Convention, Article 33). Hostage-taking is also prohibited by the 1979 International Convention Against the Taking of Hostages (which has received the consent of the Senate, but will not formally take effect until 22 ratifications have been completed.) Thus subpart (E) is intended to be expressive of current, or pending legal obligations of the United States to extradite or punish hostage-takers.

However, the term "taking of a hostage" is not without ambiguity. It is here understood to mean the deliberate detention of a person for the purpose of obtaining a ransom or reward, or of securing compliance with a demand upon a government or third party, rather than the incidental detention of a person as part of an effort to escape an authoritarian nation with closed borders or to escape other forms of unjust imprisonment including imprisonment that is illegal under international law.

Subpart (F) would simply codify the *ad hoc* acts of the wanton violence standard enunciated in *Eain* v. *Wilkes*, the recent case of the alleged PLO terrorist charged with bombing a marketplace in a resort town in Israel. In that case, the magistrate interpreted the political crimes defense as not applying in those situations where the offense was particularly heinous or lacking in military justification: "Accepting that the defendant was a member of the P.L.O. organization and with motivation toward its political objective, there is nothing in the evidence which "tends" to show that this act was directed in opposition to the State of Israel and that the crime furthered the cause of the group objective. The random and indiscriminate placing of an explosive near a bus stop on a public street in any trash bin defuses any theory that the target was a military one or justified by military necessity. It was an isolated act of violence. The commission of these alleged offenses is so remote from the political objective that it could not reasonably have been believed by the offender to have a direct political effect on the government of Israel; nor was it directed at the government of Israel." *In re Extradition of Ziyad Abu Eain*, 21 Magistrate No. 79 M. 175 (N.D. Filed Dec. 18, 1979).

Under Section 3194 (e)(2)(F) and (G), the bombing of a public marketplace, the machinegunning of an airport waiting room, or an attack upon the children of occupying soldiers would be too remote from any justifiable military objective, too terrifying to presumptively innocent persons, and too contemptuous of the value of human life to warrant protection under the political crimes defense. Similarly, the recent bombing by the PIRA of a military band concert in London was too remote from the conflict in Northern Ireland, even if it was true that the musicians had been, or might again be, engaged in that conflict. Since the concert was being held for the benefit of elderly persons and children, the bombing also constituted a "wanton and indiscriminate act of violence" against "persons not taking part in armed hostilities." On the other hand, the bombing of an Army barracks or a police station relevant to the hostilities

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could be considered a sort of act which warrants invocation of the political crimes defense, even if injury to persons not taking part in armed hostilities was an incidental consequence.

Subpart (F) is consistent with the norms established under Common Article 3 of the 1949 Geneva Conventions. That article protects persons taking no active part in the hostilities of a non-international armed conflict against various violations of their human rights, including violence to life and persons, murder, cruel treatment, and the taking of hostages. Among the persons protected by the Geneva Conventions who would be considered as not participating in armed hostilities under subpart (F) are wounded, sick, and shipwrecked persons, medical personnel, and prisoners (Fourth Convention, Article 4).

The term "armed hostilities" is intended to apply not only to non-international armed conflicts like the American Civil War fought by conventional armies, but to a wide range of insurrectionist activity, whether or not the established government of the territory concedes that the conflict has actually risen to the level of a non-international armed conflict. Evidence of "armed hostilities" would normally include organized, armed resistance of sufficient scale or a threat to require the government to use military or para-military forces, in addition to civil police, in an effort to suppress the resistance to its authority. Not all armed hostilities need be directed against military or police targets; resistance to private death squads and vigilante groups, and attacks on armed civilians associated with an occupying force would also qualify the accused for benefit of the political crimes defense, provided always that the violence of which he is accused was focused rather than indiscriminate, proportioned rather than excessive, and respectful rather than careless of the difference between dangerous adversaries and helpless or uninvolved persons.

Subpart (G) provides that where the violence is intended to spread terror among the civilian population the accused shall not be granted benefit of the political crimes defense. To ascertain an intent to spread terror rather than to gain a tangible advantage in armed hostilities, the court will normally have to draw inferences from the totality of the circumstances. In making this judgment, the court may look beyond the representations of the accused to the patterns of conduct and the statements of intent of the organization of which he is a part.

Finally, it is understood that governments, no less than private organizations, have engaged in wanton violence for the purpose of frightening civilian populations into surrendering their freedoms. Thus subparts (E), (F), and (G) are intended to deny benefit of the political crimes defense not only to anti-government terrorists, but to terroristic officials as well.

Amendment B—Avoiding Assistance to Foreign Persecutions: a Judicial Duty

The United States, through all its branches, has the moral and legal obligation not to serve as the long arm of foreign injustice. Both the executive and courts have a duty to make sure that requests for extradition are not subterfuges for foreign persecution, and will not result in persecution. The duty is analogous to that imposed on the executive and the courts by the Immigration and Nationality Act, which provides that persons shall not be deported if their lives or freedom would be threatened "on account of race, religion, nationality, membership in a particular social group, or political opinion." Section 243(h). The U.N. Protocol Relating to the Status of Refugees (19 U.S.T. 6276) contains virtually identical language to protect refugees. A similar duty should be incumbent on both the courts and the executive as they consider extradition requests.

To accomplish this end, a new subsection (D) should be added to section 3194(d)(2) of H.R. 6046 so that "The court shall not order a person extraditable after a hearing under this section unless the court finds—

"(D) the person's life or freedom would not be threatened in the requesting State on account of his race, religion, nationality, membership in a particular group, or political opinion."

In addition, subsection 3194(e)(3)(A), assigning this task to the Secretary of State, at his discretion, should be deleted. Such concerns are too important to be left to executive discretion.

STATEMENT ON AMENDMENT B

The United States today has extradition agreements with approximately 100 countries, including some highly repressive regimes. To expect the State Department to abrogate these agreements in order to prevent injustice is unrealistic; to do so would be to lose the reciprocal benefits that these agreements afford for the recovery or ordinary criminals.

On the other hand, the United States has moral and legal obligations not to serve as the long arm of foreign injustice. In particular, the courts and the Secretary of State have the duty to make sure that requests for extradition are not subterfuges for foreign persecution. This duty is implicit in the due process clause of the Fifth Amendment and the privilege of the writ of habeas corpus. It is also analogous to the duty imposed on the executive and the courts by the Immigration and Nationality Act, which provides that persons shall not be deported if their lives or freedom would be threatened "on account of race, religion, nationality, membership in a particular social group, or political opinion." Section 243(h). The U.N. Protocol Relating to the Status of Refugees, to which the United States is a party (19 U.S.T. 6276), contains virtually identical language to protect refugees.

Accordingly, section 3194(d)(2) should be amended to impose a similar duty on both the executive and the courts as they consider extradition requests. The amendment alters the so-called "rule of non-inquiry" which forbids inquiry into the motives and capacities of the requesting State to the extent necessary to avoid complicity in foreign persecutions, but does not require either the court or the Secretary of State to deny extradition simply because foreign legal procedures differ from American legal procedures.

On its face, this change may seem to be a departure from current law; in fact it would conform current law to current practice. The rule of non-inquiry has never been absolute, see *Gallina* v. *Fraser*, 278 F.2d 77, 79 (2d Cir., cert. denied, 364 U.S. 851 (1960), and in practice it is usually disregarded when the likelihood of "victor's justice" is manifest. See. e.g., *United States* v. *Artukovic*, 170 F. Supp. 383 (S.D. Cal. 1959) (return of pro-Nazi Croatian charged with war crimes to regime dominated by Serbian Communists denied), In re Mylonas, 187 F. Supp. 716 (N.D. Ala. 1960) (return of anti-Communist Greek convicted in abstentia of embezzlement by Communist-dominated local government denied), and *Roman* v. *Diaz*, 179 F. Supp. 459 (S.D. Fla. 1959) (return of Cuban defector sought by Castro regime denied). See also, *Nicosia* v. *Wall*, 442 F.2d 1005, 1006 (5th Cir. 1971) ("the United States intends to . . . deny extradition in cases in which it is demonstrated that a fugitive's life or freedom would be threatened on account of his political opinion").

The need for this modification of the rule of non-inquiry has been recognized by the British Parliament an the legislatures of other Commonwealth nations. Reciprocal legislation typified by Britain's Fugitive Offenders Act provides that "no court shall order the return of any person to a member State of the Commonwealth if it appears that the person might be "prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions." Fugitive Offenders Act, 1967, c. 68, s 4 (1). Thus, what is proposed here would simply bring American law into line with the established practice of English-speaking nations generally.

Amendment C—Assuring Just Treatment for the Accused: An Executive Duty

Section 3196(a) of H.R. 6046 provides that the Secretary of State "may" impose conditions on the surrender of a person found extraditable by a court where the Secretary believes that the conditions are "necessary to . . . the interest of justice." The purpose is laudable, but the duty is phrased in terms that are unnecessarily vague and discretionary.

Since it is inconceivable that Congress would vest any executive official with authority to act contrary to the interest of justice, the word "may" in the last clause of subsection 3196(a) should be changed to "small."

The term "interest of justice" is vague, and would be improved by a reference to internationally recognized standards of justice. To achieve this end, the following new sentence should be added to subsection 3196(a):

"The Secretary of State shall condition the surrender of a person ordered extraditable by a court upon such conditions as will assure compliance with international law, including international law relating to the protection of human rights, at all stages of the requesting State's legal proceedings, including pretrial detention and interrogation, trial, and punishment."

SUPPORTING LANGUAGE TO EXPLAIN AMENDMENT C

Since the Declaration of Independence was signed in 1776, Americans have recognized that all men "have certain inalienable rights, and among these are life, liberty, and the pursuit of happiness." Moreover, "when governments become destructive of these ends, it is the right of the people to alter or abolish them." These principles are also enshrined in the 140 year-old political crimes defense to extradition.

Among the universal liberties referred to in the Declaration by the Founders was the right to due process of law, which the signers particularized in their list of complaints against the King. The existence of universal rights to due process of law was also recognized by the United States when it ratified the Geneva Conventions of 1949. Article 6 of Protocol II to those conventions enumerates some of these judicial guarantees which are "recognized as indispensible by civilized peoples," including:

a. an independent and impartial court;

b. procedures requiring that the accused be informed without delay of the particulars of the offense charged against him;

c. procedures which afford the accused before and during his trial all necessary rights and means of defense;

d. conviction based only on individual penal responsibility;

e. prohibition of ex post facto liability or penalty;

f. a presumption of innocence;

g. a right of the accused to be present at his trial;

h. a prohibition against compulsory self-incrimination; and

i. a requirement that a convicted person be informed of his judicial and other remedies.

Having been a prime mover in the movement for international human rights, the United States has a special obligation to conform its law and conduct to the norms it has espoused. The addition of a sentence to subsection 3196(a) acknowledging the obligation of the Secretary of State to "condition surrender of a person ordered extraditable by a court upon such conditions as will assure compliance with international law . . . ." is meant to be expressive of this duty.

Amendment D—Clarifying the Right of the Accused To Petition the Secretary of State

Both H.R. 6046 and S. 1940 recognize that an accused who has been found extraditable by a court has a right to petition the Secretary of State to refuse surrender on the ground that the foreign state is seeking extradition for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. Section 3196(a)(3). This provision codifies current practice and is laudable, but it does not go far enough.

More important than the right to reargue the political crimes defense at this stage is a right to petition the Secretary of State to impose conditions on the surrender sufficient to serve the interests of justice, to carry out the Secretary's obligation to international law, and to otherwise avoid complicity in "victor's justice" and other forms of foreign persecution. The Secretary should not be expected to recognize the need for these conditions on his own; he needs the assistance of formal submissions and arguments by the accused.

Now that judicial administration of the political crimes defense has been preserved, these formal submissions need not necessarily be presented at a formal hearing. However, if the Secretary chooses to make his decision on the basis of written evidence and arguments alone, he should be required to issue formal findings of law and fact, not only give the petitioner and his supporters faith in the integrity of the Secretary's decision, but to assure that the Secretary's analysis is thorough, careful, and uninfected by political pressures from the requesting State.

To achieve these ends, a new subsection (a) should be inserted in Section 3196:

"(a) If a person is found extraditable pursuant to section 3194, that person shall have the right to petition the Secretary of State for an order refusing surrender to the requesting state, or conditioning surrender on such conditions as will assure compliance with this act and international law and otherwise serve the interest of justice. The Secretary may, at this discretion, provide a hearing or decide the petition on the basis of written evidence and arguments alone. A final decision adverse to the petitioner shall be in writing, and shall include findings of fact and conclusions of law which are responsive to the petition. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting each of the respective findings."

Amendment E—Assuring That Trial Will Only Be for the Extraditable Offense

It is a well settled rule of international law, called the "rule of speciality," that the requesting State may not obtain extradition on one charge and then add or substitute others. To assure that this fundamental principle of due process is not forgotten, and to assure that the Secretary of State does not leave its administration entirely to the requesting State, this rule should be codified as a standing condition on the surrender of any person ordered extraditable by the United States. This purpose may be accomplished by inserting a new subsection (b) in Section 3196 of H.R. 6046:

"(b) The surrender of a person who has been ordered extraditable shall be conditioned on the requesting State's assurance that the person will not be detained, tried, or punished in the territory of the requesting State for an offense other than that for which extradition has been granted, nor be extradited by that State to a third State."

SUPPORTING LANGUAGE TO EXPLAIN

AMENDMENT E

Adding the "rule of speciality" to H.R. 6046 would simply underscore provisions already in most modern American treaties of extradition. Implicit in this general requirement is the understanding, universally recognized, that the principle of speciality does not extend to crimes committed by the accused after surrender. Similarly, it is understood that the requesting State, by agreeing to this condition, is also agreeing not to surrender the accused to a third State in connection with this or some other previous offense. In addition, it should be understood that the requesting State would not be in violation of this condition if the offense for which the accused is ordered extraditable is recharacterized in the course of trial, provided that the new characterization is based on the same set of facts contained in the extradition request (and supporting documents), and provided that the defendant would not be subject to a penalty more severe than that provided for in the case of the offense for which the accused was extradited. These understandings, as well as the general rule of speciality, are already enumerated in recent treaties of extradition. See, e.g. Extradition Treaty Between the United States and the United Mexican States, T.I.A.S. 9656, signed May 4, 1978.

Amendment F

One of the primary functions of the political crimes defense to extradition is to help the United States remain neutral in foreign political conflicts.

Unfortunately, both H.R. 6046 and S. 1940 violate this principle by providing that all requests for extradition be argued by attorneys from the U.S. Department of Justice. This requirement would require the United States in all extradition cases to be on the side of the established regimes and against the alleged revolutionaries; even when the established regimes operate police states and the revolutionaries are fighting for constitutional democracy.

Given the availability of American law firms eager to represent foreign clients and the ease with which an attorney's mandate can be confirmed through modern communications, there is no practical reason to employ Justice Department attorneys in this capacity.

Accordingly, H.R. 6046 should forbid Justice Department attorneys to take sides in extradition disputes. This change may be accomplished by replacing all references to the Attorney General as a legal representative of the requesting State with "Counsel for the requesting State," and by including a new subsection within Section 3191 which expressly provides:

"The United States shall not provide legal representation to the requesting State in an extradition hearing, but the Secretary of State shall establish procedures whereby attorneys representing a requesting State may establish their authority to act on the requesting State's behalf."●

H.R. 7092, THE HIGHWAY REVENUE ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Rostenkowski) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, I am today introducing H.R. 7092, the Highway Revenue Act of 1982, which would extend the highway trust fund and related highway excise taxes for 1 year, until October 1, 1985. This legislation has been prepared at the request of the House Committee on Public Works and Transportation as a companion to the legislation approved by the Public Works Committee authorizing highway program expenditures for fiscal year 1983. The bill will be considered by the Committee on Ways and Means on Wednesday, September 15, 1982, and if approved, will be offered on the floor as the revenue title to the Public Works Committee legislation.

H.R. 7092 contains three basic provisions. The first extends the present law tax rates for the various highway excise taxes for 1 year, through September 30, 1985. Under present law, these excise taxes are scheduled to decline or expire after September 30, 1984. The second provision extends the period during which the revenues from these taxes are deposited into the highway trust fund for 1 year, until October 1, 1985, and transfers the highway trust fund provisions to the Trust Fund Code of the Internal Revenue Code, effective October 1, 1982. In making this transfer, the trust fund language is modernized and conformed to that of other trust funds but no major substantive changes in the trust fund's purposes or operations are made or intended. The third provision permits expenditures out of the trust fund, as provided by appropriation acts, before October 1, 1985, as

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authorized under prior law or by titles I and II of the Surface Transportation Assistance Act of 1982 (H.R. 6965, as introduced). Authority is also continued, as under present law, for transfers from the trust fund for the payment of refund claims, for certain income tax credits and for motorboat fuel taxes to the national recreational boating and safety improvement fund and the land and water conservation fund. In addition, the present law Byrd amendment language is transferred to the trust fund code.

In conclusion, I expect this legislation to be acted upon expeditiously by the Committee on Ways and Means, and I hope by the House as well. Legislation to provide highway authorizations for fiscal year 1983 is needed, and the proposed revenue title described above is also necessary in order to avoid triggering the trust fund apportionment limitation required by the Byrd amendment with regard to fiscal year 1983 authorizations out of the trust fund. In other words, without an extension of the highway trust fund taxes beyond September 30, 1984, the full amount of the fiscal year 1983 trust fund authorizations proposed by the Committee on Public Works and Transportation could not be made.●

TEAMSTERS' CENTRAL STATES PENSION FUND REFORM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

● Mr. RANGEL. Mr. Speaker, today, I am introducing, along with my distinguished colleague, Mr. PICKLE, legislation requested by the administration to assure that trustees and administrators of certain multiemployer employee benefit plans, like the Teamsters' Central States Pension Fund, comply with conditions relating to asset management which are contained in Internal Revenue Service issued determination letters.

The Congress must give the Government agencies responsible for administering the Employee Retirement Income Security Act of 1974 (ERISA) adequate enforcement mechanisms to safeguard pension plan assets. Retirement income security must truly be a reality for the hundreds of thousands of participants in these plans who are relying on ERISA to protect their pension benefits. I intend to do all I can to insure that this confidence in ERISA is well founded. These bills are important steps toward this goal.

The legislation I am introducing today as H.R. 7094 and H.R. 7095 was proposed by the administration on July 2, 1982, and examined in detail during the July 26, 1982, hearing held by the Ways and Means Committee's Oversight Subcommittee, which I chair, to examine the Government's efforts to reform the Teamsters' Central States Pension Fund and the adequacy of enforcement remedies under ERISA. This hearing confirmed that complete reform of the fund is not a reality and that current negotiations between the Government and this fund probably have a long way to go before a comprehensive settlement is at hand. In fact, all parties—the Labor Department, IRS, the General Accounting Office, and the Central States Pension Fund itself—agreed that the fund's continuation of outside independent asset management after the expiration of the current agreement on October 3, 1982, is warranted.

What I want to do by introducing this legislation is to give the Government what it now says it urgently needs to better protect assets by having a sanction that is exclusively directed at those directly responsible for the wrongdoing, and which, unlike the present remedy of revocation of a plan's tax exemption, leaves unharmed the innocent.

The administration has told my subcommittee at the hearing that this additional enforcement sanction would give it the missing tool it needs to insure that the Central States Pension Fund continues to have truly independent asset managers after October 3 of this year. The evidence supports the need for such legislation; the fund does not oppose it.

Indeed, it was due to the weight of evidence at that July 26, 1982, hearing that the Oversight Subcommittee on August 3, 1982, issued a letter report to the chairman of the Ways and Means Committee recommending that the committee promptly consider and report the legislation requested by the administration.

It is my sincere hope that by introducing this legislation today the legislative process will move forward to insure that the Teamsters' Central States pension fund continues to have truly independent asset managers after October 3 of this year. The time in which we must act is running out. I urge my colleagues to review and support these two bills.

The importance of a continuing independent asset management arrangement is too crucial to meaningful reform of this fund to be left to chance or a bargaining process. The retirement security of over one-half of a million participants and beneficiaries in this particular fund alone is much too important to depend upon the application of the ERISA sanction of revocation, which can leave harmless the guilty, hurt the innocent and above all fail to safeguard the plan assets themselves.●

LEGISLATION TO REVISE AND REORGANIZE PORTIONS OF TITLE 46, UNITED STATES CODE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. STUDDS) is recognized for 10 minutes.

● Mr. STUDDS. Mr. Speaker, I am today introducing, for myself, Mr. JONES of North Carolina, Mr. BIAGGI, and Mr. YOUNG of Alaska, legislation to clarify, without substantive change, virtually the entire body of U.S. law dealing with merchant marine vessel safety and personnel. This legislation, which is identical to a bill introduced in the other body (S. 2660), represents the partial culmination of decades of efforts aimed at reorganizing and bringing up to date the marine safety-related statutes of the United States.

Anyone who has ever dared to rustle his or her fingers through the mystifyingly complex, redundant, chaotically organized and obsolete provisions of title 46 of the United States Code can appreciate the need for this legislation. Several generations of marine safety law currently cohabitate within the 1,610 sections of this title, and identifying the relationships between them is more difficult than defining with confidence the parentage of every alley cat currently walking the streets of Washington, D.C.

Although the legislation I am introducing today has not yet officially been endorsed by the administration, it is consistent with recommendations contained in the Department of Transportation's recent report on the roles and missions of the U.S. Coast Guard. The bill, itself, is derived from a vast amount of both past and quite recent Coast Guard efforts to make sense out of the maritime statutes the agency is charged by law with administering.

Title 46 currently contains no fewer than 13 separate sections which deal with penalties for violations of vessel inspection laws and regulations. While these 13 sections are presently scattered throughout the title, the new legislation would group them in easy-to-locate form in each chapter to which penalties apply.

Sections of law which deal with similar subjects are often now widely separated within title 46. For example, sections 221 through 236—inclusive—discuss the subject of merchant marine officers and their duties. Sections 561 through 712—inclusive—cover merchant seamen, their duties, and related laws. The new legislation groups all of these sections into a single chapter dealing with merchant marine personnel.

Several sections of title 46, including, for example, those dealing with the slave trade, are today obsolete and would be repealed by the proposed bill.

The legislation being introduced today is 206 pages long, and yet it will cover only 10 of the 39 chapters of title 46. Generally, the chapters which will be affected are those which apply most directly to vessel safety standards and to regulations affecting the responsibilities of merchant marine personnel. It is my hope that the task of completely reorganizing and simplifying this title of law can be accomplished fairly quickly in the years ahead.

I wish to emphasize that it is the intent of the sponsors of this legislation that it not have any significant substantive effect on U.S. maritime law as it currently applies to the U.S. merchant marine, and to others affected by the statutes involved. Our purpose is solely to reorganize and to clarify the law, and to eliminate provisions which are wholly obsolete. Our intent is to enact this legislation as rapidly as possible so that a framework can be established for any future changes in those laws which may be required.

The text of the bill which I am introducing today is identical to S. 2660, the measure which is currently pending before the other body. I chose to introduce the identical text in order to simplify the process of receiving public and congressional comment on the legislation. Numerous changes, primarily of a technical nature, will have to be made before final action may be taken. The Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries will, in cooperation with the Subcommittee on Merchant Marine, be holding a hearing on the bill on September 23.

If there is any possibility that action can somehow occur on this legislation during the few weeks remaining in this Congress, I plan to pursue that option. More likely, however, the introduction of this bill, and the initiation of hearings, will serve simply to lay the groundwork for early action in the 98th Congress. I am hopeful, for the sake of all those who have come to know, and who would like to have greater affection for, title 46, that such action does indeed occur.

● Mr. YOUNG of Alaska. Mr. Speaker, I join today with my colleague and chairman of the Coast Guard and Navigation Subcommittee and others in introducing this bill to consolidate and reenact certain of the marine safety and seaman's welfare laws of the United States.

The purpose of this bill is intended to be a codification without substantive change of the complex maze of marine safety laws administered by the Coast Guard in title 46 of United States Code. These laws relate to the safe operation of vessels generally; the inspection, regulation, and documentation of vessels; the procedures relating to marine casualties; and the laws relating to the licensing, certification, and documentation of merchant marine personnel and the manning of vessels. In addition, it includes those laws relating to the protection and relief of merchant seamen. As one can see from this list of topics, this body of law is very important to the maritime industry of the United States and therefore requires our careful attention so that unintended changes are not inadvertently made.

Further, my understanding is that the law will be revised so that it can be read and understood by everyone rather than being the exclusive domain of maritime lawyers who I understand also have difficulty in sorting out how title 46 applies. I am also pleased that we are not making any substantive change so that the existing provisions which are so important to the shipping and fishing industries, as well as maritime labor and recreational boating, will be preserved. Once the clarification and reorganization of these laws is accomplished, we will then be able to squarely and easily address and correct the problem areas that arise in the maritime laws administered by the Coast Guard.

These laws have been enacted in bits and pieces over the last 200 years. Thus, this codification which has been underway for over 15 years is overdue. I am confident that we will proceed at a pace so that the concerns of all of those in the maritime community can be heard with the ultimate goal of enacting a well organized and comprehensible body of marine safety laws for the United States.●

SPORTS COMMUNITY PROTECTION BILL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. Stark) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, recently, on August 16, Congressman Don Edwards and I testified before the Senate Judiciary Committee in support of the Major League Sports Community Protection Act, S. 2784, which was introduced in the Senate by Senators DeConcini, Heflin, Simpson, Huddleston, and Bentsen, and now has 20 cosponsors in the Senate.

S. 2784 has a nearly identical counterpart in the House, H.R. 6467, introduced by Representatives Edwards, Hyde, and myself, and it now has over 150 cosponsors. At these same hearings, a panel of distinguished mayors—Mayors Feinstein of San Francisco, Caliguiri of Pittsburgh, Berkley of Kansas City, and Halloin of Green Bay—also testified as to the urgent need for the passage of this legislation to protect pro sports fans in this country. I understand that this legislation is now strongly supported by the mayors of more than 40 cities, including, for example, Baltimore, Boston, Chicago, Dallas, Houston, Indianapolis, Jacksonville, Memphis, Milwaukee, Minneapolis and St. Paul, New Orleans, Philadelphia, Phoenix, Portland, San Antonio, Tampa, and, to be sure, Mayor Lionel Wilson of Oakland.

Now that Congress has returned from its Labor Day recess, I want again to stress the importance of this legislation and the need for prompt attention by the Congress. I am pleased that Chairman Rodino intends to schedule hearings to take place shortly before the House Antitrust Subcommittee. These hearings will further underscore the necessity for prompt passage of this legislation.

One feature of this legislation has been misunderstood. In recent weeks, there have been some questions about the scope of H.R. 6467. Some have suggested that this legislation would let professional sports leagues move teams from areas that have supported these teams without any concern for the antitrust laws. Anyone who understands my concern for the sports fan knows I would never support such legislation. All that H.R. 6467 is intended to do is to allow leagues to take steps to protect fans in areas that have supported teams and who are now faced with the loss of those teams by unilateral actions of an individual team. H.R. 6467 would only allow leagues to prevent such moves. It gives no antitrust immunity for decisions that allow such moves. I stated this in my testimony before the Senate Judiciary Committee, and I want to reconfirm it now.

Reasonable men can disagree over the meaning of words, but I want no disagreement with respect to the scope of this legislation. I thus want to reiterate that at the appropriate time I will seek revision of H.R. 6467 to replace the current language in section 2(1)(a) of H.R. 6467 with the language now contained in section 2(1)(a) of the companion Senate bill, S. 2784. As a result, the team location provision of H.R. 6467 would merely authorize leagues to enforce rules allowing a league to decide that a member club of such league shall not be relocated from its territory.

With this change, I believe the bill, when passed, could only come into play in two possible situations: First, a team could desire to move, and the league could conclude that the team should not be relocated; in that circumstance, the community's interests would have been protected, and the league's action would be authorized by this statute. Second, a team could desire to move, and the league could give its blessing to such a move; in that circumstance, if a community felt aggrieved, this bill would have no effect on the remedies available to a community or on the team's or

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league's exposure to legal challenge for abandoning the territory. In short, I see no situation in which this legislation can disserve public interests.

I also want to emphasize that, apart from the legislation that Congress should enact, the Oakland-Alameda authorities have done everything in their power to keep the Raiders in Oakland and to protect the taxpayers' investment in the Oakland-Alameda Coliseum, which was built specifically for the Raiders and has major unpaid public debt service outstanding through the year 2005. Indeed, the city of Oakland was successful under California State law in establishing, through a decision of the California Supreme Court, that the city is entitled to exercise eminent domain powers to buy the Raiders and keep them in Oakland for the purpose of serving vital public interests in the Oakland community.

Now, however, it is evident that the Oakland Raiders intend to take further steps to deprive the Oakland community and its taxpayers of their rights under State law. The Raiders, assisted by Los Angeles interests who seek to take the team from Oakland to Los Angeles, have been in the California Legislature seeking special interest, retroactive amendments to the California eminent domain statute to overturn the supreme court's ruling and to preserve the Raiders' opportunity to walk out on Oakland merely for higher profits elsewhere. This punitive measure would strip the Oakland community of its right under State law to protect the multi-million-dollar taxpayer investment in the Oakland-Alameda Coliseum made at the Raiders' behest in 1965. In my view, we in the Congress have an obligation to act before the overriding public interests of communities and taxpayers can be defeated in this manner.

Congress has always urged sports leagues to keep their commitments to communities, and the Oakland community along with the NFL is attempting to do this in the Oakland Raiders' instance. Congress should in this session, therefore, legislate to give concrete effect to congressional policies requiring teams to keep their commitments to communities, and Congress should not by its inaction endorse efforts by the Raiders retroactively to amend California State law to override the eminent domain ruling of the California Supreme Court in favor of the city of Oakland. I am including in the record several recent news stories describing the efforts of the Raiders to ram these amendments to California law through the legislature in Sacramento.

Finally, I was pleased to hear recently on the August 22 edition of ABC's Sportsbeat that even Howard Cosell, an outspoken and longtime admirer of Al Davis, condemns the Raiders' move. Mr. Cosell stated that in leaving Oakland "what Davis did was morally wrong." He might have said also that it was a rip-off of taxpayers and the public.

I was also heartened when, after Mr. Cosell questioned whether any legislation on this subject should be applied to the Raiders still pending relocation, the distinguished Senator from Pennsylvania, Senator ARLEN SPECTER, vigorously supported applying the bill to the Raiders. In addition to mentioning the direct conflict between State and Federal law created by the city of Oakland's successful suit to purchase the Raiders in eminent domain, Senator SPECTER noted that Congress often has the obligation to take immediate action to correct wrongs to the public. Senator SPECTER further noted that applying the bill to the Raiders clearly would "not violate due process." This "is one of the most complex and confusing legal situations that could be formulated," SPECTER said, concluding that application of congressional action to the Raiders case "would bring clarity and finality to that mess." Senator SPECTER concluded by emphasizing what we in northern California all know; namely, that the support of the Oakland-Alameda community for the Raiders deserves protection. He put it this way:

> I think if you balance the interests of the Oakland fans as opposed to the interests of the Los Angeles fans where the Raiders have not yet become established and there has not been that relationship or that fan affinity or the cheering or the familiarity with the Raiders players, that there is a great deal more of an emotional attachment between the Oakland fans and the Raiders than between the Los Angeles fans and the Raiders. The romance in Los Angeles has just gotten started. The marriage in Oakland is of long standing.

One other point, Mr. Speaker, is that I believe the Raiders' management has clearly violated the promise given to Congress in 1966 during consideration of the football merger legislation. In that legislation—both on the floor of the House and in the Senate committee report—promises were given that "the plan for an expanded league assures that all 24 of the existing professional football teams will continue to operate in their present locations."

To ignore the Oakland move is to break faith with that promise, and should not be tolerated.

We have drafted H.R. 6467 narrowly. It will do much to protect the financial well-being of many of our Nation's cities which have built stadiums with taxpayer dollars. It should be enacted in this session.

L.A. RAIDERS LOSE A ROUND IN SACRAMENTO

SACRAMENTO.—Supporters of the Oakland Raiders' move to Los Angeles failed to pass a measure that would have blocked a legal attempt to keep the team in Oakland.

Southern California lawmakers tried unsuccessfully yesterday to revive a rejected bill by Senate Republican leader William Campbell, R-Hacienda Heights, that would have prevented Oakland from using its powers of eminent domain to buy the football team.

Senate President Pro Tem David Roberti, D-Los Angeles, ruled that an attempt by Sen. Alan Robbins, D-Van Nuys, to amend the bill's provisions into another measure dealing with elections was out of order.

Robbins said he would find another bill and try to amend it at a later session.

The Campbell bill, rejected Tuesday on a 17–18 vote, needed a 27-vote, two-thirds majority to pass. Robbins tried to amend its provisions into a bill requiring only a majority vote.

[From the Oakland (Calif.) Tribune, Aug. 25, 1982]

PRO-RAIDERS BILL LOSES IN SENATE

(By Virgil Melbert)

Outvoting the powerful Los Angeles delegation 18–17, a coalition of Northern and Southern California senators killed Tuesday legislation designed to prevent Oakland from buying the Raiders football team.

While the emotional Senate vote represented the city of Oakland's first major victory in the effort to hold onto the Raiders, it may be shortlived.

Van Nuys Democrat Alan Robbins vowed to reintroduce the anti-Oakland legislation in a hijacked Assembly bill today and seek another vote when four Los Angeles senators who were missing Tuesday are back on the floor.

"The bottom line is that we'll have a bill out before the week is over," Robbins said.

Oakland Democratic Sen. Nicholas Petris, who led the battle against the Los Angeles bill, said the hijacking of an Assembly bill for a new attempt would be "highly unorthodox" and possibly could be blocked through parliamentary maneuvers.

With only a week left in the 1981–82 legislative session, Robbins took over the Los Angeles bill Tuesday morning after its author, Republican Minority Leader William Campbell of Hacienda Heights, was admitted to a Sacramento hospital with chest pains.

The Campbell bill was introduced Aug. 2 after the California Supreme Court ruled Oakland has the legal right to attempt to acquire the Raiders franchise through eminent domain proceedings. The city's suit is pending in Monterey County Superior Court.

The Campbell bill would have rewritten state law to forbid retroactive use of eminent domain by a city or county to acquire a professional sports franchise.

The bill would have to clear both houses of the Legislature before the Aug. 31 adjournment.

In its original form Tuesday, the Campbell bill was an "urgency" measure—requiring a two-thirds, 27-vote approval in the 40-member Senate so it could take effect immediately. In his first roll call, Robbins was able to muster only 13 "yes" votes.

Later, he unsuccessfully attempted to make it a simple majority-vote bill, one which would not become law until Jan. 1. Even then, he could rise only 17 of the needed 21 votes.

But, early Tuesday evening, after the Senate's presiding officer, Sen. John Foran, D-San Francisco, declared the bill dead, Robbins said the Los Angeles delegation would amend it into an unidentified measure which had already cleared the Assembly and try for a new vote today.

Petris said he will move instead to have the bill sent to a policy committee for a hearing.

Petris said the Oakland-Alameda County Coliseum was built with public funds specifically for the Raiders with the promise that the team would remain in the community.

"There's no point in my recounting here the gory, selfish, greedy details of what the owner has done," Petris said.

Sen. John Holmdahl, D-San Leandro, charged that attempts to lure the Raiders to Los Angeles with promises of extra seats and benefits for the owners amounted to bribery with public funds.

Speaking for the bill, Robbins noted that Oakland regularly comes before the Legislature pleading for extra state support.

[From the San Francisco Examiner, Aug. 25, 1982]

RAIDERS, FERRIES TOP LEGISLATURE'S LOGJAM OF BILLS

(By Steven A. Capps)

SACRAMENTO.—Lawmakers diverted their attention to San Francisco ferryboats, Oakland-Los Angeles Raiders football and other legislative games as they crept toward the final deadline to finish this year's work.

They also sent to the governor a measure restoring lobbying powers to the Commission on the Status of Women and approved a bill that would strengthen the state's drug paraphernalia laws and, according to its author, close down "head shops."

With the Legislature's final adjournment set for Tuesday, the list of unresolved measures has grown so long the Senate has taken to holding grueling floor sessions from morning until night, with only brief breaks for meals.

In fact, after such a session Monday night, Republican leader William Campbell of Hacienda Heights was taken to the hospital complaining of chest pains. He was admitted for observation and was expected to remain there until later in the week.

Behind-the-scenes disputes between individual lawmakers—during which action on various bills has been delayed—is partly to blame for the legislative logjam, although both Assembly Speaker Willie Brown, D-San Francisco, and Senate President pro tem David Roberti, D-Los Angeles, yesterday dismissed the skirmishes as normal and not an all-out war between the houses.

"There are individual members who are arguing, but there's no war," Brown said.

One bill earlier delayed during a fight between members of the Senate and the Assembly would give legislators a pay raise. It has been stuck in the Assembly, but Brown said yesterday it's not because of a fight.

"The pay bill is not hung up because of any interhouse squabble," he said. "It's hung up because I can't get 54 votes for it."

Among the topics that were taken up yesterday:

The Raiders: By a vote split north-south rather than Republican-Democrat, the state Senate yesterday rejected a measure to finalize the Oakland Raiders' move to Los Angeles.

The Raiders bill was drafted by Campbell, but since he was in the hospital, fellow Southern California Sen. Alan Robbins, D-Van Nuys, agreed to take up the bill for him yesterday.

The bill is aimed at halting the City of Oakland from using its powers of eminent domain to force the Raiders' owners to sell the team to the city. The matter is now before a court in Monterey County.

The vote yesterday was 17-18. At least 27 votes—a two-thirds majority—are needed for the bill to take effect immediately upon the governor's signature, thus heading off court action.

But Robbins said he would try to amend the bill today to require only a simple majority of 21 votes, in which case it wouldn't go into effect until Jan. 1 following the governor's signature.

Robbins predicted he would get the votes when four absent Southern California members return to the Capitol.

"The issue is: Should a city or county have the right under eminent domain to acquire a professional sports franchise," Robbins said. "I think they should not. It is not a wise or justifiable use of public funds."

Democrat Nicholas Petris, who happens to be from Oakland, argued against the bill, saying eminent domain was the proper avenue for the city to take, especially since taxpayers there had built a stadium for the Raiders.

"The understanding at the time (the stadium was built) was that the team would stay on for a long, long time," he said. He said the reasons behind the Raiders' move to Los Angeles were "selfish" and "greedy."

"It's up to the court to determine if this is a proper public use (of eminent domain)," he said.

[From the Oakland (Calif.) Tribune, Aug. 31, 1982]

MOVE TO KILL RAIDER SUIT IS STAVED OFF

(By Virgil Meibert and Gayle Montgomery)

Eastbay legislators won another chance today to block Los Angeles legislators from killing Oakland's chances for acquiring the Raiders football team through eminent domain.

The latest action came after the Los Angeles legislators, with help from Assembly Speaker Willie Brown, scored a victory over Oakland in their effort to prevent the city from buying the Raiders.

In an Assembly Judiciary Committee hearing this morning, Assemblyman Bill Lockyer, D-San Leandro, won a ruling from Assembly Clerk James Driscoll that it would require 54 votes on the Assembly floor to get the amended anti-Oakland bill into judiciary committee.

The date for sending bills to the committee has passed and it will require a two-thirds vote of the lower house to waive that rule.

Judiciary Committee Chairman Elihu Harris, D-Oakland, attempted to stall the bill earlier by walking out of the committee when it failed to have a quorum 32 minutes after the hearing time, but Los Angeles Assembly members countered by electing a temporary chairman and continuing. At that point, Lockyer asked and received from Driscoll the 54-vote ruling.

Earlier in the day, with help from Speaker Brown, the Los Angeles legislators had won a crucial victory by beating down a Northern California challenge to the germaneness of the Los Angeles amendment.

Brown, a San Francisco Democrat, stunned Eastbay legislators by prolonging voting long enough for the Los Angeles delegation to win a five-hour Assembly floor fight shortly after 1 a.m.

Then, Brown exacted a promise from Democratic Majority Leader Mike Roos of Los Angeles that the bill—which would prevent Oakland from buying back the Raiders through an eminent domain action—will be amended so it will not apply to San Franciso and, presumably, the 49ers if they should want to move.

Twenty minutes earlier, Eastbay legislators and their allies had cheered happily on the Assembly floor when they thought they had killed the Los Angeles bills in a 38-34 vote disallowing key amendments because they weren't "germane."

But Brown ruled that the decision wasn't final, that Los Angeles legislators could continue to try to change the votes of other legislators. He had previously ruled against granting the same privilege on other bills in the post-midnight proceedings.

Ultimately, three Northern California Assemblymen—Byron Sher, D-Palo Alto, Tom Hannigan, D-Vallejo, and Stan Statham, R-Chico—switched to the Los Angeles side along with two from Southern California and Los Angeles had its victory.

Eastbay legislators, who had thought Brown was at least neutral in the feud, were shaken.

"He broke the rules at least twice to help them," said Sen. Nicholas Petris, D-Oakland. "I don't understand it."

The last-ditch battle to strip Oakland of its right to purchase the Raiders through an eminent domain lawsuit was expected to continue through today and tonight until the Legislature adjourns for the year at midnight.

Unable to budge the state Senate in the same effort last week, the powerful Los Angeles delegation switched the fight to the Assembly floor Monday evening.

Roos "hijacked" a pending bill, already approved by the Senate, dealing with municipal court clerk appointments.

He gutted the existing bill and inserted amendments prohibiting any city from using eminent domain proceedings for buying a sports franchise. The bill also stated that in legal terms a sports franchise is "not a public use for which the power of eminent domain may be exercised."

Roos' maneuver touched off a frantic bipartisan Eastbay lobbying effort throughout the evening hours to persuade legislators that the Roos amendments were not "germane" to the content of the previous bill and were therefore improper.

Oakland Democrat Harris led the effort to round up support on the Assembly floor, with the help of Assemblymen Lockyer, Gilbert Marguth, R-Livermore, Tom Bates, D-Oakland, and Bill Baker, R-Danville.

Petris, who had blocked the same bill in the Senate by protesting it was not germane, also showed up on the Assembly side.

Outside the chambers, legislators were being called out for more lobbying by Oakland City Councilman Dick Spees, city lobbyist Lynn Suter and Alameda County Democratic Party Chairwoman Mary Warren.

If approved by the Assembly, the measure would be sent back to the Senate, which would have to concur before tonight's midnight adjournment.

Petris said that if the bill comes back to the Senate he hopes there will be enough pro-Oakland votes to kill it.

If not, it would be sent to Gov. Brown to sign or veto.

Oakland was given the go-ahead to attempt to buy back the Raiders through eminent domain proceedings by the state Supreme Court in a ruling earlier this summer.

The city's only legal hurdle, in its pending lawsuit, is to prove that a sports franchise is a legitimate "public use."

The Los Angeles-backed legislation would retroactively prohibit Oakland from pursuing this lawsuit. City officials believe the eminent domain lawsuit may be the only remaining solid chance of regaining the football team.

Immediately after the Los Angeles victory early today, Brown, who was presiding, asked Roos if the bill could be amended so it would apply only to Los Angeles and Oakland.

"I'm not sure I would want to do that in San Francisco," he said.

Roos agreed to amend the bill today to limit its eminent domain restraints to Oakland and Los Angeles.

The maneuver could cost Oakland the support it has had in the voting from San Diego, Orange County and San Francisco legislators, who would like to retain the threat of eminent domain to keep sports franchises in their own communities.

Meanwhile, a judge Monday postponed start of the damages phase of the Oakland Raiders-National Football League antitrust trial from Sept. 20 until Nov. 1.

U.S. District Court Judge Harry Pregerson said the delay is necessary because attorneys need more time to prepare.

The same six-woman jury which ruled unanimously last May that the NFL had violated antitrust law by blocking the Raider's move from Oakland to Los Angeles will hear the damages phase of the trial.

The league has appealed the decision. The jury will hear arguments, then decide monetary damages due the Raiders because the NFL delayed their move.

[From the Oakland (Calif.) Tribune, Sept. 1, 1982]

L.A. Beaten in Try To Halt Raider Suit

(By Gayle Montgomery and Virgil Meibert)

Outnumbered, but never outmaneuvered, a small group of Northern California legislators succeeded in knocking down the Los Angeles effort to prevent Oakland from buying the Raiders football team.

One hour before the end of the 1982 legislative session at midnight, Assembly Democrat Mike Roos of Los Angeles threw in the towel on a two-week effort to legislate an end to Oakland's move to buy the Raiders through an eminent domain action.

A last-ditch effort failed when Roos was able to get only 33 of the 54 votes (a two-thirds majority) necessary to move the Los Angeles legislation through committee, thanks to an Oakland legislator's last-minute discovery of the two-thirds requirement.

"I'm giving up," Roos said. "We needed 54 votes. I couldn't get them. We're effectively blocked."

The anti-Oakland forces were formidable. Led by Minority Leader William Campbell, R-Hacienda Heights, in the Senate, and Majority Leader Roos, in the lower house, they had the Los Angeles delegation at their disposal.

Late Monday, Roos had "hijacked" a pending bill dealing with municipal court clerk appointments, had gutted it and inserted amendments prohibiting any city from using eminent domain proceedings to buy a sports franchise.

With the unexpected aid of Assembly Speaker Willie Brown, D-San Francisco, the amendments had received narrow approval at 1 a.m. Tuesday on a vote to determine whether they were "germane" to the bill.

The revised bill was then sent to the Assembly Judiciary Committee.

After that defeat, the Northern Californians responded with ingenuity by using legislative rules to reverse the battle.

At 2 a.m. Tuesday, Assemblyman Tom Bates, D-Oakland, found an obscure rule which requires a two-thirds majority—54 votes—on the final day of a session to get a late bill into the Judiciary Committee.

Assemblyman Elihu Harris, another Oakland Democrat, started the upset Tuesday morning by walking out of the Judiciary Committee, which he chairs, when Roos was unable to get a quorum within 30 minutes after a hearing was to start on the Raider bill.

The Los Angeles group responded by appointing a temporary chairman, but was blocked immediately by Assemblyman Bill Lockyer, D-San Leandro, who brought up the 54-vote rule. It was quickly upheld by Assembly Chief Clerk James Driscoll.

That action stunned the Los Angeles group and kept Oakland's momentum rolling.

Then shortly after the full Assembly convened Tuesday, Oakland Mayor Lionel Wilson arrived and was introduced by Lockyer.

Speaker Willie Brown came back to greet the mayor and was seen engaged in a tense discussion for 15 minutes. Brown had been instrumental Monday night in keeping the anti-Oakland legislation alive, and Wilson obviously wanted no repeats.

Wilson said later that he had asked the speaker, a long-time political ally, for help. He at least got no further problems from Brown.

The Oakland Mayor and Vice Mayor Dick Spees spent all day in the Assembly, encouraging both Democratic and Republican Northern Californians to hang tough.

Walnut Creek Assemblyman Bill Baker, and Livermore Assemblyman Gilbert Marguth, both conservative Republicans, worked closely with Wilson and the Eastbay Democrats.

Former Assembly Minority Leader Carol Hallett, of San Luis Obispo, the Republican nominee for lieutenant governor, also worked closely with Eastbay legislators, along with her Democratic opponent, Leo McCarthy of San Francisco.

On the Senate side, where Sen. Nicholas Petris, D-Oakland, had earlier blocked repeated moves by Southern California legislators to shove through bills to stop the Oakland effort, the Republican leader, Campbell—as did Roos in the Assembly—conceded defeat about an hour before the session was to close.

"If it's alive, its going to need CPR to save it," Campbell said. "We're looking at a two-thirds vote over there (in the Assembly). The Oakland legislators have done a very good job. Nick Petris did a good job here, and Elihu Harris did a great job over there."

Oakland also was aided by some San Diego legislators. The San Diego votes were surprising, because the Assembly Speaker appeared to have diluted Southern California support for Oakland by asking for amendments that specifically limited the legislation to Oakland and Los Angeles. He said he did not want San Francisco held by such action.

Mayor Wilson said he felt some legislators may have been worried that the eminent domain procedure could be used to gain control of any professional team.

"Actually, it's a very narrow application," Wilson said. "It wouldn't work for the Warriors, for instance. It would have to be a very special set of circumstances."

One political figure who must have breathed a sigh of relief was Gov. Brown. As a candidate for U.S. Senate, he did not look forward to either signing or vetoing a bill that could have angered half of the state, aides conceded.

In a related action, the city of Oakland asked the state Court of Appeals Tuesday to hear arguments earlier than scheduled on reinstating a preliminary injunction against the team's transfer until the eminent domain suit can be tried.

If Oakland wins a favorable ruling, the Raiders would have time to arrange for their first home game of the National Football League season to be played at the Oakland Coliseum instead of in Los Angeles.

Oakland asked the appellate court to hear arguments Sept. 15 instead of Sept. 20, and also asked the court to stop the team's move pending a decision on the injunction.

A judge in Monterey County Superior Court, where the eminent domain lawsuit will be heard, had denied an injunction, and Oakland asked the state Supreme Court earlier this month to reverse that decision.

The high court transferred the matter to the Court of Appeals.●

NEEDED—A FOOD PROGRAM FOR MEXICO

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● **Mr. SEIBERLING.** Mr. Speaker, the Akron Beacon Journal for Friday, September 10, contains an Associated Press article by Norm Clarke about the impact of Mexico's financial crisis on the poor in cities like Tijuana. I offer it for printing in the Record following these remarks.

As one who is greatly concerned about the effect of Reaganomics and budget cuts on the poor in our own country, I nevertheless believe that we also have a cause for great concern about the conditions in our neighbor to the South. As the article points out, Mexico's 100 percent inflation and three peso devaluations in 5 months have brought the condition of its impoverished masses to a breaking point. Unless there is prompt remedial action, violent outbursts and possible civil uprisings seem inevitable in Mexico. If that point is reached, there will undoubtedly be the same tendencies on the part of many in the U.S. administration to start casting about for ways of helping Mexico's authorities impose order by military force, after the fashion of El Salvador. Yet, it is obvious that Mexico's problems, like those of other countries in Central America, are fundamentally economic and social, and cannot be solved by military measures but only through economic growth and an equitable distribution of the fruits of the economy.

Obviously, a violent upheaval in Mexico would pose a very real danger to the United States. Both self interest and common morality suggest that it is time for our own administration and the Congress to launch an immediate program to alleviate the most extreme hardship in Mexico.

Mr. Speaker, here we are with huge crop surpluses and depressed agricultural prices while our neighbors to the South are starving. Yet, as far as I know, no one in the administration has even suggested emergency action to provide food aid for Mexico. Where is the food-for-peace program? Where is the spirit of the Marshall plan? Is the administration so steeped in the dogmas of Adam Smith and its drive to cut social programs, that it is impotent to act in this kind of crisis. Even Herbert Hoover achieved his niche in world history as being the administrator of food relief to starving people in Europe during and after World War II. Maybe the administration is holding back out of fear that if it undertook a food relief program for Mexico, it might be harder to justify its efforts to cut back on food stamps for the folks back home.

On the other hand, maybe it is time the administration rethought its policy there, too. Whether it does so or not, Congress can and should act promptly to combat mass starvation in the United States and in our neighbor states.

[From the Akron Beacon Journal, Sept. 10, 1982]

Food Crunch Stings Mexico's Poor

(By Norm Clarke)

Tijuana, Mexico.—The elderly widow, shriveled and weary, can't remember her last meal with meat. A mother of three college-age sons works for a few sacks of groceries. A man carrying an old food sack worries that Mexico's crumbling economy will break the poor.

They are among the scores who line the courtyard at the Casa de los Pobres—Tijuana's "House of the Poor"—for their only food.

Reeling from Mexico's 100 percent inflation and three peso devaluations in five months, Tijuana's impoverished masses have reached a breaking point.

"People can just take so much," said 60-year-old Gordden Cordoba, his thread-bare food sack slung over his shoulder. "We are resilient, but there is a limit."

Tijuana, a magnet to poor Mexicans because it borders California, has a population of 1 million, many poor and living in shacks. The population is double what it was five years ago.

Hard times have become a way of life, and as Mexico struggles with its worst recession in 70 years, the effects here are devastating.

Located on a trash-strewn street close to downtown Tijuana, the tiny mission sustains 150 families a week and supplies 1,000 meals a day to the down and out.

"I can't tell you how much it hurts to see this," Sister Armida, administrator of Casa de los Pobres, said Thursday.

The charity institution has been hard pressed to meet the growing numbers of hungry.

"If we opened the doors, we wouldn't have enough to feed all those who want in," the nun said in tones of resignation.

Donations are few and the budget is strained by the eroding peso, she said as the aroma of bean soup, rice and stew drifted from the mission kitchen.

"Food costs are up 50 percent. We try to serve balanced meals, but it is difficult. There is no milk to buy and meat prices are terribly high," she said.

The Mexican economy is bottoming out after a period of unparalleled prosperity. The oil boom has stopped; industry development projects have stalled. The government owes foreign banks billions of dollars and has issued currency-control regulations in an attempt to control the flow of dollars in and out of the country.

To cut expenses the government withdrew subsidies, doubling the prices of gasoline, electricity and basic foods such as tortillas.

Thousands of workers have been laid off. Unemployment affects 40 percent of the working-age population.

Tijuana is marked by stark contrasts between rich and poor. Million-dollar homes overlook miles of multi-tiered shanties that line dusty roads. Many of the shanties lack insulation or running water.

"The injustices won't end," said Manuel Medina, 72, as he leaned on his cane. "The rich will only get richer and the poor will get poorer."

Maria Nicanor, 63, trudes a mile each day through gullies and rocky, unpaved streets to work at the mission. For payment, the mother of three sons receives three sacks of groceries.

"She says it has helped her save pennies for her sons' education," Sister Armida said.

Others simply survive a day at a time.

"Some days we eat, some days we don't," said Trinidad Angeles, a widow who picked up her weekly ration Thursday. It included 1½ pounds of beans, some bread, fruit and vegetables.

"Everything is so high I can't afford anything anymore. Even the price of water has almost doubled," she said.

Asked if she had received any meat, she wearily shook her head. "Beans and chillies, that's a luxury," she said.●

PIPELINE FIASCO CARRIES SEEDS OF CATASTROPHE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● **Mr. SEIBERLING.** Mr. Speaker, the Cleveland Plain Dealer for Sunday, September 12, contained a reprint of a New York Times article by George W. Ball, former Under Secretary of State, which lays out, in the most compelling way, the folly of the administration's efforts to block the construction of the Soviet-European natural gas pipeline. As Mr. Ball says, it "provides a case history of how not to conduct U.S. foreign policy."

It is bad enough that the administration's decision has already cost American industry the loss of millions of dollars of business and hundreds of jobs, and will possibly produce retaliation on the part of European countries which will cause further losses of business and jobs. If the administration's policy could truly produce a weakening of aggressive tendencies in the Soviet Union or save our allies from a dangerous dependency on Soviet gas, it might have some basis in fact. However, as Mr. Ball points out, it will achieve none of these objectives and will, indeed, be counterproductive.

In fact, it would be difficult to think of anything that has been done by any administration that has greater potential for disrupting the NATO Alliance and drastically weakening the balance of forces against the Soviet Union. To forestall such a catastrophe, Mr. Ball emphasizes that now is the time for the President to promptly alter course. If the President is unable to do so, then Mr. Ball believes Congress should take the initiative. Certainly, we have an obligation to save the Nation from a blunder of such magnitude.

The full text of the George Ball article follows these remarks:

[From the Cleveland Plain Dealer, Sept. 12, 1982]

Pipeline Fiasco Carries Seeds of Catastrophe

(By George W. Ball)

Hypocrisy, self-deception and an astonishing ignorance of experience mark the Reagan administration's frenetic efforts to obstruct the building of the Soviet-European natural-gas pipleline. More importantly, those efforts show a lamentable confusion of basic philosophy on the Soviet Union and the Western alliance.

The pipeline episode provides a case history of how not to conduct U.S. foreign policy.

Although many contracts for pipeline equipment had already been signed, the United States sent a mission to Europe in March to urge the key governments there to abandon the project. The answer was a resounding no, and at the Versailles summit in early June, Reagan gave the impression that the United States would stop trying to block the deal. So it came as a bombshell when, on June 18, he extended sanctions to apply not only to U.S. companies but to the overseas subsidiaries of American companies and to non-American firms producing equipment under U.S. license. Any foreign company violating the ban, the Commerce Department announced, could be barred from obtaining merchandise and data in the United States and possibly fined. Reagan made good on the threat two weeks ago when Creusot-Loire of Paris and Dresser-France, a subsidiary of Dresser Industries of Dallas, disregarded the embargo and were barred from buying goods and services from the United States.

Though Reagan publicly justifies the blocking of the pipeline as pressure on the Polish government to ease its repressive measures, any causal connection is so obscure as to suggest mere shadow play. In the search for more convincing rationalization, he first complained that the pipeline would make Europe excessively dependent on Soviet gas. That conflicted with the considered view of European governments that it was better to accept a small degree of dependence on Moscow than to continue almost total reliance on precarious African and Middle East energy sources.

Some pipeline opponents then argued that the Russians would gain access to American technology by buying 25-megawatt compressors; others contented that the foreign exchange Moscow would derive from the project would ease the worsening Soviet economy. Finally, opponents seized on the

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argument that the project was being financed at concessionary rates and was thus a form of foreign aid to the Soviet Union. There were even mutterings that the Russians would build the pipeline with slave labor.

Such a frantic search for a rationalization suggests that a vindictive desire to damage the Soviets and to discipline upstart Europeans who challenge the president's diktat motivates some pipeline opponents more than does logic.

The emphasis on hurting the Soviet Union as an end in itself is a Reagan innovation. His predecessors had followed a well-articulated policy toward Moscow: Try to maintain an essential balance of power by confining Soviet influence to the geographical boundaries set in the immediate postwar years, while exploiting opportunities to develop a modus vivendi. This policy has recognized that changes are subtly occurring on both sides, and has assumed that peace is possible so long as neither side challenges the other's vital interests.

Though that fundamental working hypothesis has served the United States for at least 30 years, Reagan has introduced an ideological bias one might call the Manichaean Heresy. Today's Manichaeans espouse the doctrinal concept that Soviet communism is the Anti-Christ—an evil element that must be rooted out if we are to have world peace. Neo-conservative intellectuals have joined the Moral Majority in sharing this view. The former have formed a pressure group called the Committee for the Free World, to which several leading members of the Reagan administration have been attached. The committee's manifesto calls on Americans to try to break the Soviet hold on Eastern Europe by denying Eastern Europe and the Soviet Union "Western loans, Western grain and—above all—Western technology."

For the Manichaeans, the Polish tragedy is merely a tactical "opportunity"—an excuse—to apply economic pressures that would, in their view, hasten the disintegration of the Soviet empire. But niggling sanctions, no matter how persistently applied, could never prove more than a marginal nuisance to the Soviets.

More sophisticated opponents of the pipeline hold a less ideological view. They object because of the foreign-exchange aspect. Denying the Kremlin a potental flow of hard currency might, they reason, constrain Soviet military expenditures.

Yet no one has convincingly shown that depriving Moscow of $1 billion in foreign exchange will force it to spend $1 billion less on weapons. Under the Soviet system, the claim of the military sector on the total resource pie is determined far less by the magnitude of the pie than by the political clout of the military leadership.

We will never weaken the Soviet will or capacity for aggession through economic pressures publicly announced. That would offend an elementary principle: No government of a great power can ever appear to yield to overt pressures. American sanctions are more likely to strengthen the aggressive tendencies in Soviet policy than to impel the leadership toward arms reduction.

While Moscow seems astonished by our obsession with the gas pipeline, it cannot help but be grateful to us for creating anger and division in the Western alliance. It is extraordinary that in only 10 years, America has drastically moved from detente to rhetorical confrontation, while Western Europe has continued to build stronger ties with the Soviet Union and Eastern Europe.

Yet more than just divergence of policy is poisoning the alliance. Reagan's intolerance of any differences and blindness to their underlying causes is also to blame. With arrogance in inverse proportion to experience, he and his administration are using crude methods to try to ride roughshod over the considered judgments and interests of allied governments.

The Germans and French did not lightly decide to participate in the pipeline project. Lacking our indigenous natural-gas reserves, they felt it only prudent to diversify their energy supplies and diminish their reliance on such uncertain sources as Algeria, Libya and Qatar. Natural gas delivered by the Yamal pipeline would not, they concluded, make them dangerously dependent on the Soviet Union—while the jobs provided by a massive construction program would greatly benefit their depressed economies.

Because they made these decisions only after careful study and extensive debate that took account of American concerns, European leaders were understandably outraged when—after agreements had been reached and contracts let—Reagan abruptly asserted that he knew best and erected roadblocks to prevent them from executing their plans.

Whenever the United States has used economic restrictions and obstructions to force its idiosyncratic policies on friends, it has had to pay for it. And so it is now. Though its greatest cost of the pipeline incident will be political—the weakening of the alliance, the erosion of our leadership, the growing doubts among our friends as to our motives and judgment—we cannot escape the large economic costs. These are likely to be far greater than the immediate losses in profit and employment resulting from the cancellation of contracts with our hard-pressed industrial companies. The thunder and lightning being generated by our action are not the mere manifestation of a localized, passing storm; they must be seen in the context of a threatening Atlantic trade war that could undo our patient effort over four decades to build a trading world in which all could prosper.

We should stop trying to play nanny to our allies before we do irreparable damage. Nothing could more help the Soviet Union than a bitter argument within the alliance that would weaken the West's cohesion. That brings us to the heart of the matter. If the U.S. government thinks that the pipeline is not a good idea, it should quietly urge that view on its allies and try to persuade them to pursue a different course. That is what alliances are all about.

If we are not to turn stupidity into catastrophe, Reagan must promptly alter course. A wise president could gracefully extricate himself. While reiterating his belief that the pipeline was a bad idea, he could announce that the United States was halting its efforts to block constuction, in recognition that maintenance of a strong Western alliance was paramount. Our partners would hail that as a statesmanlike action. If it should prove impracticable because of threats from the administration's right wing, Congress should take the initiative. It would not be the first time it had saved the nation from a presidential blunder.●

REPORT OF COMMITTEE ON THE BUDGET TO THE SPEAKER

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JONES of Oklahoma. Mr. Speaker, I would like to submit to the RECORD the current level of spending in fiscal year 1982 as certified by the Committee on the Budget pursuant to section 311 of the Congressional Budget Act of 1974.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., September 14, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. The Budget Committee is herewith transmitting the status report under S. Con. Res. 92, which revised the Second Budget Resolution for Fiscal Year 1982. This report, approved by the Budget Committee on September 14, 1982, reflects the Revised Second Budget Resolution of June 23, 1982, and estimates of budget authority, outlays, and revenues based on all completed action on spending measures as of the close of legislative business September 10, 1982.

Sincerely,

JAMES R. JONES,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1982 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 92—REFLECTING COMPLETED ACTION AS OF SEPT. 10, 1982

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	777,672	734,100	628,400
Current level	774,462	733,004	628,600
Over resolution by			200
Under resolution by	3,210	1,096	

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $3,210 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 92 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $1,096 million in outlays for fiscal year 1982, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 92 to be exceeded.

REVENUES

Any measure that would result in a revenue loss that exceeds $200 million for fiscal year 1982, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 92.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 13, 1982.
Hon. JAMES R. JONES,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1982 budget (S. Con. Res. 92). This report for fiscal year 1982 is tabulated as of close of business September 10, 1982 and is based on our estimates of budget authority, outlays, and revenues using the assumptions and estimates consistent with S. Con. Res. 92.

The House and Senate Budget Committees have different budget resolution assumptions regarding borrowing authority for the Commodity Credit Corporation (CCC). Borrowing authority for the CCC was provided in the 1982 Supplemental Appropriations, Public Law 97-257, and this letter includes separate calculations of current level for the House and Senate under the two different assumptions. The result is different levels of budget authority for the House and Senate calculations—revenues and outlays are identical.

CURRENT LEVEL UNDER HOUSE TREATMENT OF CCC BORROWING AUTHORITY

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	759,717	725,148	628,600
2. Entitlement authority and other mandatory items requiring further appropriation action	430	493	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	14,315	7,363	
House current level	774,462	733,004	628,600
Second Budget Resolution, Revised, Senate Concurrent Resolution 92	777,672	734,100	628,400
House current level is:			
Over resolution by			200
Under resolution by	3,210	1,096	

CURRENT LEVEL UNDER SENATE TREATMENT OF CCC BORROWING AUTHORITY

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	759,717	725,148	628,600
2. Entitlement authority and other mandatory items requiring further appropriation action	430	493	
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	9,315	7,363	
Senate current level	769,462	733,004	628,600
2d budget resolution, revised, Senate Concurrent Resolution 92	777,672	734,100	628,400
Senate current level is:			
Over resolution by			200
Under resolution by	8,210	1,096	

Since my last report, the 1982 Supplemental Appropriation Bill, H.R. 6863, the Tax Equity and Fiscal Responsibility Act, H.R. 4961, and the Budget Reconciliation Act, H.R. 6955, have become laws—Public Law 97-257, Public Law 97-248, and Public Law 97-253, respectively.

Sincerely,
RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

PARLIAMENTARIAN STATUS REPORT HOUSE SUPPORTING DETAIL, FISCAL YEAR 1982 AS OF CLOSE OF BUSINESS SEPT. 10, 1982

[In millions of dollars]

	Budget Authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	434,081	415,775
Enacted previous session (97th Congress, 1st Session)	433,290	419,316
Offsetting receipts	−112,358	−112,358
Enacted this session	19,019	9,777
Total, enacted	774,032	732,511
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Grants to States for medicaid	378	441
Services to selected groups (social services)	52	52
Total entitlements	430	493
III. Continuing resolution authority		
IV Conference agreements ratified by both Houses		
Total Current Level as of Sept. 10, 1982	774,462	733,004
Second Budget Resolution, Revised, Senate Concurrent Resolution 92	777,672	734,100
Amount remaining:		
Over ceiling		
Under ceiling	3,210	1,096

Note.—Detail may not add due to rounding.

PARLIAMENTARIAN STATUS REPORT—SENATE SUPPORTING DETAIL, FISCAL YEAR 1982, AS OF CLOSE OF BUSINESS SEPT. 10, 1982

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	434,081	415,775
Enacted previous session (97th Congress, 1st session)	433,290	419,316
Offsetting receipts	−112,358	−112,358
Enacted this session	14,019	9,777
Total, enacted	769,032	732,511
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Grants to States for medicaid	378	441
Services to selected groups (social service)	52	52
Total entitlements	430	493
III. Continuing resolution authority		
IV. Conference agreements ratified by both Houses		
Total current level as of Sept. 10, 1982	769,462	733,004
Second Budget Resolution, Revised, Senate Concurrent Resolution 92	777,672	734,100
Amount remaining:		
Over ceiling		
Under ceiling	8,210	1,096

Note.—Detail may not add due to rounding.◆

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FOUNTAIN (at the request of Mr. WRIGHT), for the balance of the week, on account of serving as a member of the House delegation to the Inter-Parliamentary Union.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCGRATH) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 60 minutes, on September 15.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. CROCKETT, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 5 minutes, today.
Mr. RANGEL, for 5 minutes, today.
Mr. STUDDS, for 10 minutes, today.
Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCGRATH) and to include extraneous matter:)

Mr. FINDLEY in two instances.
Mr. LEWIS in three instances.
Mr. DOUGHERTY.
Mr. KEMP.
Mr. BROYHILL.
Mr. HYDE.
Mr. SHAW.
Mr. CARMAN.
Mr. DORNAN of California.
Mr. CORCORAN.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. LONG of Maryland.
Mr. MOFFETT.
Mr. AUCOIN.
Mrs. SCHROEDER.
Mr. BIAGGI in three instances.
Mr. APPLEGATE.
Mr. HUBBARD.
Mr. RAHALL.
Mr. FLIPPO.
Mr. STARK.
Mr. GUARINI.
Mr. LEHMAN.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 57 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 15, 1982, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4750. A letter from the Director, Administrative Office of the United States Courts,

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transmitting draft of proposed legislation recommended by the Judicial Conference of the United States to amend certain provisions of title 28 of the United States Code related to jurisdiction in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

4751. A letter from the Executive Director, American Historical Association, transmitting the audit report of the organization for the year ended June 30, 1982, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4752. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to France (Transmittal No. 82-74), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4753. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to France (Transmittal No. 82-74), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4754. A letter from the Comptroller General of the United States, transmitting a report concerning the deterioration of runways at small airports because of deferred maintenance (GAO-CED-82-104, September 13, 1982); jointly, to the Committees on Government Operations and Public Works and Transportation.

4755. A letter from the Comptroller General of the United States, transmitting a report on the current status of the Great Plains coal gasification project (GAO/EMD-82-117, September 14, 1982); jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. Supplemental report on S. 2177 (Rept. No. 97-776, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES: Committee on the Judiciary. S. 907. A bill to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes; with an amendment (Rept. No. 97-803). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 6005. A bill to discontinue or amend certain requirements for agency reports to Congress; with an amendment (Rept. No. 97-804). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5204. A bill to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians. (Rept. No. 97-805). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5007. A bill to provide for the designation of the Burns Paiute Indian Colony of Oregon as the beneficiary of a public domain allotment and to provide that all interests in public domain allotments in Harney County, Oreg., which are held by Indian allotees who die intestate and without heirs shall escheat to the United States to be held in trust for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation; with an amendment (Rept No. 97-806). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 7092. A bill to amend the Internal Revenue Code of 1954 to provide for a 1-year extension of the taxes which are transferred into the highway trust fund, and for other purposes; to the Committee on Ways and Means.

By Mr. de Lugo (for himself, Mr. Holland, Mr. Heftel, and Mr. Schulze):

H.R. 7093. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. Pickle) (by request):

H.R. 7094. A bill to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of determination letters relating to independent management of the assets of multiemployer plans; to the Committee on Ways and Means.

H.R. 7095. A bill to amend the Employee Retirement Income Security Act of 1974 to treat as a prohibited transaction the failure to adhere to conditions of a determination letter relating to independent management of assets by a trustee or plan administrator; to the Committee on Education and Labor.

By Mr. BROOKS (for himself, Mr. Horton, and Mr. Boner of Tennessee):

H.R. 7096. A bill to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes; to the Committee on Government Operations.

By Mr. ASPIN:

H.R. 7097. A bill to amend title 10, United States Code, to include chiropractic care in the health care that may be provided to members and certain former members of the uniformed services and their dependents and to authorize chiropractors to be appointed as commissioned officers in the Armed Forces to provide such chiropractic care; to the Committee on Armed Services.

By Mr. BIAGGI:

H.R. 7098. A bill to amend the Omnibus Budget Reconciliations Act of 1982 to allow Federal law enforcement officers and firefighters who retired because of mandatory separation because of age to have cost-of-living adjustments in their retirement annuities; to the Committee on Post Office and Civil Service.

By Mr. DICKS:

H.R. 7099. A bill to repeal the provisions of the Omnibus Budget Reconciliation Act of 1982 which reduce the pay of certain Federal employees who are retired members of the uniformed services by the amount of the cost-of-living adjustments in their retired or retainer pay during fiscal years 1983, 1984, and 1985; to the Committee on Post Office and Civil Service.

By Mr. DYMALLY (for himself and Mr. Moffett):

H.R. 7100. A bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes; to the Committee on Education and Labor.

By Mr. JACOBS (for himself and Mr. Matsui):

H.R. 7101. A bill to amend the Social Security Amendments of 1977 to extend for 5 more years the exemption from reduction of benefits under title II of the Social Security Act for spouses receiving Government pensions and to apply the reduction in the duration-of-marriage requirement to such exemption; to the Committee on Ways and Means.

By MILLER of California (for himself, Mr. Erlenborn, Mr. Panetta, Mr. Phillip Burton, Mr. Hartnett, and Mrs. Fenwick) (by request);

H.R. 7102. A bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes; to the Committee on Education and Labor.

By STUDDS (for himself, Mr. Jones of North Carolina, Mr. Biaggi, and Mr. Young of Alaska):

H.R. 7103. A bill to consolidate and reenact certain of the marine safety and seamen's welfare laws of the United States; to the Committee on Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

467. By the SPEAKER: memorial of the Legislature of the State of California, relative to agriculture disaster emergency loans; to the Committee on Agriculture.

468. Also, memorial of the Legislature of the State of California, relative to hospital care for military retirees; to the Committee on Armed Services.

469. Also, Legislature of the State of California, relative to Federal impact aid to California schools; to the Committee on Education and Labor.

470. Also, memorial of the Legislature of the State of California, relative to the U.S. Academy of Peace and Conflict Resolution Act; to the Committee on Foreign Affairs.

471. Also, memorial of the Legislature of the State of California, relative to radioactive waste; to the Committee on Merchant Marine and Fisheries.

472. Also, memorial of the Legislature of the State of California, relative to the Vessel Traffic Service; to the Committee on Merchant Marine and Fisheries.

473. Also, memorial of the Legislature of the State of California, relative to the 195th anniversary of the U.S. Constitution; to the Committee on Post Office and Civil Service.

474. Also, memorial of the Legislature of the State of California, relative to the New Melones Dam; to the Committee on Public Works and Transportation.

475. Also, memorial of the Legislature of the State of California, relative to tank truck vehicles; to the Committee on Public Works and Transportation.

476. Also, memorial of the Legislature of the State of California, relative to the Crude Oil Windfall Profit Tax Act of 1980; to the Committee on Ways and Means.

477. Also, memorial of the Legislature of the State of California, relative to the California raisin industry; to the Committee on Ways and Means.

478. Also, memorial of the Legislature of the State of California, relative to social security; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. Dornan of California:

H.R. 7104. A bill for the relief of Antonio Perez-Herrera, Maria Helena Perez, Sylvia Perez, and Sergio Perez; to the Committee on the Judiciary.

By Mr. Young of Florida:

H.R. 7105. A bill for the relief of Henri E. Rambonnet and Jeanne Rambonnet; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2007: Mr. Walgren.

H.R. 2222: Mr. Neal.

H.R. 3191: Mr. Fowler.

H.R. 4147: Mr. Marriott and Mr. Kemp.

H.R. 4309: Mr. Long of Louisiana.

H.R. 5653: Mr. Mineta.

H.R. 6190: Mr. de Lugo and Mr. Evans of Iowa.

H.R. 6460: Mr. Edgar, Mr. Synar, Mr. Peyser, Mr. Rahall, and Mr. Simon.

H.R. 6467: Mr. Wilson, Mr. Paul, Mr. Gingrich, Mr. Conte, and Mr. Lowry of Washington.

H.R. 6527: Mr. Yatron, Mr. Flippo, Mr. Jenkins, and Mr. Jones of North Carolina.

H.R. 6916: Mr. Schumer, Mr. Mineta, Mr. Oberstar, Mr. Young of Missouri, Mr. Rosenthal, Mr. Rahall, Mr. Ottinger, Mr. Yates, Mrs. Kennelly, Mr. Bingham, Mr. Dwyer, Mr. Barnes, Mr. Skelton, Mr. Florio, Mr. Markey, Mr. Stark, Mr. Roe, Mr. Phillip Burton, Mr. Garcia, Mr. Hance, Mr. Weiss, Mr. Sabo, Mr. Brodhead, Mr. Crockett, Mr. Frank, Mr. Conyers, Mr. Applegate, Mr. Pease, Mr. Rodino, Mr. Scheuer, Mr. Mollohan, Mr. Biaggi, Mr. Dymally, Mr. Santini, Mrs. Schneider, Mr. Frost, Mr. LaFalce, Mr. Mattox, Mr. Won Pat, Mrs. Chisholm, Mr. Clay, Mr. Bonior of Michigan, Mr. Zeferetti, Mr. Eckart, Mrs. Collins of Illinois, Mr. Hughes, Mr. Edgar, Mr. Lehman, Mr. Vento, Mr. Mitchell of Maryland, and Mr. Price.

H.R. 6919: Mr. Mitchell of Maryland and Mr. Edgar.

H.R. 6983: Mr. Matsui.

H.R. 7055: Mr. Howard, Mr. Applegate, Mr. Hubbard, Mr. Kogovsek, Mr. Synar, Mr. Andrews, Mr. Weiss, Mr. Kindness, Mr. Oberstar, Ms. Ferraro, and Mr. Sam B. Hall, Jr.

H.R. 7066: Mr. Hutto and Mrs. Holt.

H.J. Res. 166: Mr. Patman.

H.J. Res. 550: Mr. Pepper.

H.J. Res. 592: Mr. Wolf, Mr. Hoyer, Mr. Fazio, and Mr. Heftel.

H. Con. Res. 330: Mr. McCollum, Mr. Leach of Iowa, Mr. Hertel, Mr. DeNardis, Mr. Brown of Colorado, Mr. Smith of Pennsylvania, Mr. Smith of Alabama, Mrs. Roukema, Mr. Howard, Mr. McHugh, Mr. Markey, Mr. Stark, Mr. Rodino, Mr. Kogovsek, Mr. Daub, and Mr. Mitchell of New York.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540

By Mr. MILLER of California:

—Page 36, beginning on line 9, strike out all of paragraphs (4) and (5) through line 12 on page 37, and insert in lieu thereof the following:

"(4)(A) From the amount available for making grants under this subsection the President shall reserve not more than 20 percent for the purpose of making grants to States which, as determined by the President at least semiannually on the basis of the six most recent months for which satisfactory data is available, had an unemployment rate which equalled or exceeded the national average rate of unemployment for such months multiplied by 1.35, and which are financially unable to comply with the requirements of subparagraph (B).

"(B) The remainder of the amount available for making grants under this subsection shall be used by States for making grants which shall be available to any training program in any year only upon a determination by such State that—

"(i) industries or labor organizations, or both, will contribute to each program an amount not less than—

"(I) 25 percent of the amount made available under this subsection for the training program in the first year of operation with funds provided under this subsection;

"(II) 30 percent of the amount made available under this subsection for the training program in the second year of such operation; and

"(III) 35 percent of the amount made available under this subsection for the training program in the third, fourth, and fifth year of such operation; and

"(ii) not more than 50 percent of the total cost of the training program will be provided by funds made available by the Federal Government under this subsection.

"(5) Any contribution required under paragraph (4)(B) (i) or (ii) may include 'in kind' contributions of equipment, facilities, personnel, or services to the extent that such 'in kind' contribution is utilized in conducting a training program which receives funds under this subsection. No such 'in kind' contribution may include equipment acquired under subsection (i) of this section. The criteria set forth in Attachment E of Circular A-110 (prescribed by the Director of the Office of Management and Budget on July 30, 1976), as in effect on the date of enactment of this section, shall govern the allowability of 'in kind' and cash contributions made by industries and labor organizations for purposes of paragraph (4)(B) (i) and (ii).

H.R. 6956

By Mr. DYSON:

—Page 14, line 24, strike out "$364,575,000" and insert in lieu thereof "$365,500,000".

By Mr. SCHEUER:

—On page 13, line 24, strike out "$121,204,000" and insert in lieu thereof, $154,304,000".

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EXTENSIONS OF REMARKS

LET THE RECORD SPEAK ON ACID PRECIPITATION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. RAHALL. Mr. Speaker, over the past few years, we have heard a great deal on the causes and effects of acid precipitation. This issue alone, aside from budgetary matters, has created the greatest amount of misinformation during the 97th Congress. During the course of our deliberations on this important issue, I have made every attempt to stick with scientific data rather than unsubstantiated claims regarding the environmental impacts of this phenomenon.

It is my hope that the record we have established during this Congress will show that science does not support a massive regulatory program aimed at reducing acid precipitation at this time. Rather, the preponderance of scientific information supports continued and accelerated study of the causes and effects of acid precipitation before final judgment can be made on how best to combat its impacts.

Many assumptions on the causes and effects of acid rain have been made by control proponents; assumptions which I question are valid. These assumptions have also been addressed by various scientific panels, among them:

Prof. Kenneth Rahn, of the University of Rhode Island, found in a study attempting to identify sources of sulfates and nitrates in New Jersey and New England that a much larger proportion came from local sources than was previously thought. This calls into question the basic thesis of the bill: that Mideastern coal-burning facilities are responsible for the acid deposition in the Northeast. Senator MITCHELL tried to shake Professor Rahn from his statement, but the Rhode Island scientist refused to alter his position.

Prof. Volker Mohnen, director of the Atmospheric Sciences Research Center in Albany, N.Y., argued forcefully in the Environment and Public Works Committee hearings that there is no linear relationship between sulfur dioxide emission reductions and acid rain in the Eastern United States. Professor Mohnen indicated that the limiting factor in the formation of acid rain is not the ambient concentration of sulfur dioxide, but the availability of oxidizing agents which determine the rate of conversion.

A technical panel sponsored by the Department of Energy, the State Department's advisory committee on environmental affairs, and the previously published Jason report of SRI International, all support the thesis that factors other than sulfur dioxide concentrations control the rate at which acid rain is formed.

A more recent draft study by Dr. Perry Samson, of the University of Michigan (for OTA), indicates the importance of nitrogen oxide and hydrocarbons in determining the sulfuric component of acid rain. This study, as well as Dr. Mohnen's work, make it appear that the production of acid rain in the Eastern United States may be insensitive to the ambient sulfur dioxide concentrations. Hence, a reduction in sulfur dioxide emissions, even one as large and costly as that proposed by the Environment and Public Works Committee, may produce no measurable decrease in acid rain in the sensitive areas of the Northeast.

A more recent study by the Edison Electric Institute (EEI) of data furnished by the State of New York shows a shift toward lower levels of acidity in Adirondack lakes during 1980 and 1981.

Similarly, a just-published report by the U.S. Geological Survey, based on the most extensive monitoring data available of trends in the acidity of precipitation and surface waters in New York, shows either no change or a slight decrease in acidity between 1965 and 1978.

Notwithstanding the domestic controversy on acid precipitation, much has been said on how this issue affects United States-Canadian relations. At this point, I would like to share with my colleagues remarks made by Carl Bagge, president of the National Coal Association, before the 64th annual meeting of the Canadian Bar Association on August 30, 1982, in Toronto. While Mr. Bagge obviously has a vested interest in seeing that acid precipitation controls are not enacted, I believe his remarks contain a great deal of merit with respect to what both nations are doing to address this issue. His remarks are as follows:

REMARKS OF CARL BAGGE

"Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

John Kennedy's words to the Canadian Parliament in 1961 ring true today. For we cannot repeal our unique partnership, our friendship, and our economic kinship.

Rowland Frazee, Chairman of the Royal Bank of Canada, recently put it this way: "We cannot change Canada's close and intricate relationship with our major trading partner, the United States. Our recession and our recovery are tied to theirs . . . In most major ways," he added, "events here depend on events there."

That's why the acid rain issue cannot be separated from economics—from the most far-reaching air quality program proposed in American history. And that's why the effects of this proposal on both our economies is part of my message today.

For it's the recognition of these effects that leads directly to the still unanswered scientific questions so closely tied to the acid rain issue. They are not a "smokescreen" as we hear so often from Ottawa. Scientific understanding—not wishful thinking, not political slogans—is the foundation for sound solutions to both human and environmental problems. And it's answers to these scientific questions that have to steer the acid rain course of our two great nations.

There are at least three plausible explanations of acid rain.

One, the "local-source" theory, holds that emissions don't regularly travel long distances before falling as dry particles or wet precipitation. Instead, acid rainfall is caused principally by sulfur and nitrogen oxides from local sources.

Also, many scientists believe that these pollutants serve as raw materials, which are converted into acid compounds by other oxidizing chemicals. Under this "catalytic theory," it's not the amount of sulfur and nitrogen oxides in the atmosphere, but the oxidants which make possible the acid content of rainfall.

Two weeks ago, the Battelle Institute announced that its scientists believe a vital chemical link to acid rain has been found—a catalyst that's common in urban smog. Battelle says that this potential breakthrough opens up an entirely new area of research.

Yet, it's the "coal plant-long transport" theory which is touted as the single cause. It's accepted by some politicians on both sides of the border, and often reported as fact by the media in Canada and the United States.

As this theory goes, acid rain is caused when sulfur dioxide from Midwestern coal-fired plants mixes with nitrogen oxides. These effluents are sent on the winds hundreds of miles where they fall as acid rain on parts of the Northeastern United States and Canada. Emissions from coal plants allegedly are directly involved in lake acidification and fish kills, harming vegetation, and linked to some human health problems.

Three theories, three possible answers, but we believe the jury is still out. I ask you to consider some of the reasons:

Scientists haven't found any sound evidence of acid rain damage to vegetation in the natural environment, and no direct link between acid rain and human health problems has been confirmed. Clearly, the most important scientific question at issue is whether there's a direct cause and effect relationship among sulfur dioxide from coal plants, acid rain, and ecosystem damage.

The recent National Academy of Sciences study, called "Atmosphere-Biosphere Interactions," is the most widely-quoted in support of this theory—basing its findings on "overwhelming circumstantial evidence."

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

One reason is the statement found on page 182: "Acid rain, due to further oxidation of sulfur and nitrogen oxides . . . from anthropogenic (man-made) sources," the author wrote, . . . "is causing widespread damage to ecosystems . . ." But here's what the same author wrote on page 142: ". . . direct cause and effect linkages between sources of acids and effects on ecosystems will not be possible for the foreseeable future."

Not even the most skillful form of press agentry can reconcile internal conflicts like these. Based on the second statement, it's impossible to draw a direct cause and effect relationship between coal plants and acid rain.

The mystery doesn't end there. Central to the "long-transport" theory is the hypothesis that effluents are travelling hundreds of miles where they are falling as acid rain in Canada and the United States.

But as it turns out, American and Canadian scientists can track emissions from a particular source only about 30 miles, not hundreds of miles. Since this is so, scientists from both nations are using computer models to help track effluents much longer distances.

The problem is, there's insufficient long-term rainfall monitoring data of reliable quality. What's more, scientists are having difficulty modeling the complexities of atmospheric phenomena, which are known to affect effluent movements. This means that the statements pinpointing how much acid rain is coming from the United States, and how much pollution is of local or distant origin, are purely hypothetical and theoretical.

Last year, in a Los Angeles Times story, an official of the Ontario Ministry of Environment admitted that computer modeling is only a "useful guideline" to help find out what's happening in the atmosphere over one year. Computer guidelines are useful. But they aren't a scientifically-proved method. And there's no justification for using these guidelines, however useful, as the basis for a multi-billion dollar regulatory program, regardless of what you've been led to believe.

One acid rain theory, as you'll recall, holds that local sources are possibly to blame for acid rain. But acid rain theorists on both sides of the border seem to get an advanced case of myopia when local sources are suggested as a possible cause of lake acidification. A case in point in the INCO smelter.

The INCO smelter is the world's largest. It's sending nearly one million tons of sulfur dioxide into the air each year from a "superstack" taller than the Sears Tower. That's one to three percent of all sulfur dioxide in the Western Hemisphere.

Yet, we read and hear that thousands of Canadian lakes are increasingly "sensitive" to acid rain from the United States. Press reports claim that by century's end 50,000 lakes "may" be dead.

Let's look at what's actually happening, rather than what might happen. A "sensitive" lake isn't an affected lake. The Canadian lakes so far identified as dead are a tiny fraction of the half-million lakes in this vast country. What's more, many of these dead lakes are found in the Sudbury area—the INCO smelter's backyard.

Canadians aren't the only ones who are looking past local pollution sources. The same myopia persists among "long-transport" theorists in the United States. The acid rain bill reported out of the Senate Environment Committee, for example, essentially ignores sulfur dioxide from oil-burning plants, and for all intents and purposes controls only coal-burning plants in 31 states on or east of the Mississippi River.

Kentucky and New York have roughly the same overall sulfur dioxide emissions. Yet, Kentucky—a large coal-burning state—would have to cut its emissions four times as much as New York—an oil-burning state.

The American coal industry isn't making light of acid rain. Acidified lakes are real, not imagined. And we are keenly aware of the economic implications of damage to Canada's environment. But inflammatory rhetoric can't replace unvarnished facts. Above all, let's get our facts straight.

There's no doubt that a large percentage of sulfur dioxide in the United States is produced from man-made sources. But if the "coal plant-long-distance transport" theory is to hold water, as sulfur dioxide levels go down, so should acid rain.

Yet, scientists aren't even sure if acid rain is increasing or decreasing. In the longest-running survey of rainfall in the United States, the United States Geological Survey found virtually no change in rainfall acidity in New York State over 13 years beginning in 1965. This is significant, because New York is one of the most often-mentioned targets of acid rain damage.

Also, EPA is reporting a 40 percent drop in sulfur dioxide concentrations over the past ten years, and a 15 percent drop in sulfur dioxide emissions in the Ohio River Basin—the alleged source of Canada's acid rain.

These cuts are all the more impressive, for as sulfur dioxide levels were falling, electric generation in the United States was rising from 888 billion kilowatt-hours to 1.4 trillion kilowatt-hours—a 56 percent jump. During that same time, coal burning by America's electric utilities shot up 65 percent.

In light of these trends, we are dismayed at Ottawa's charge that the United States isn't doing its fair share to curb air pollution. Over the past ten years, American industry—and ultimately consumers—spent nearly $160 billion on air pollution control. We are doing an outstanding job removing pollutants from our plants and our automobiles.

This doesn't imply that the coal industry has supported every tenet of America's clean air laws, any more than the Canadian Provinces welcome every pronouncement by the Ottawa Government.

It means that American people are paying willingly but dearly for clean air—some $14 billion each year to keep the Clean Air Act in force. And it's simply wrong-headed for Ottawa to suggest that our industry and our government are "footdragging" on cleaning the air, or that our government's actions aren't reflecting the wishes of the American public.

We find these allegations even harder to take, given the Ottawa Government's continued heralding of its pollution-control efforts. Again, let's look at the record.

One good example are pollution controls at the INCO smelter. These controls are offered by Canada's Environment Minister, John Roberts, and others as evidence of Canada's good faith to meet its obligations on what's called a "two way street."

In a recent interview, Mr. Roberts said that the smelter's emissions have been cut from 3,500 tons per day to 2,500 tons. "This is a significant step," he said. I agree, but how were these reductions made? Mr. Roberts gave the answer: "It was done successfully at the sacrifice of potential production at the world's largest smelter."

Isn't this a perverse kind of progress? I doubt the Canadian people—particularly in the Sudbury area where unemployment is reported at 40 percent—relish more pollution controls at the expense of this nation's already-flagging industrial performance.

The coal industry and the American people will never support clean air progress through economic stagnation. We aren't "backing away" from clean air goals. But we are also supporting greater economic growth—more jobs, and better paychecks for the working people of our country. And it's this tandem goal that's at the heart of our efforts to streamline the Clean Air Act.

And, we should remember that the United States Clean Air Act is still the world's most effective. Unlike Canada, our federally-mandated clean air laws are enforced vigorously with civil penalties and the cutoff of federal funds.

Just as important, the Clean Air Act continues to benefit both our countries. New Source Performance Standards are in force. So, as new coal plants go into service, replacing older, less efficient ones, the air will get progressively cleaner—even in the face of quickened economic growth.

On the other hand, the proponents of tighter sulfur dioxide controls got a lot of mileage out of Ontario Hydro's decision to build two scrubbers. According to press reports, an Ontario Hydro official said the building of scrubbers would likely have a "multiplier effect." In short, if Ontario Hydro "bit the bullet," perhaps utilities in the United States would jump on the bandwagon.

I'm not sure what the gentleman means. For there are already 87 scrubbers in the United States at a cost of $4 billion, plus an annual cost of $1.7 billion to keep them operating. Thirty five more scrubbers are under construction. And EPA is reporting that half of all America's coal-burning units will be outfitted with scrubbers in less than 20 years. Canada, I am quick to add, has yet to build a single utility scrubber.

I've also heard talk that Ottawa's much touted acid rain program is a ploy to increase electric power exports to the United States, which last year brought in several million dollars.

Mr. George Rejohn of the Canadian Embassy in Washington recently said, "Such silly inventions and distortions do not merit serious nor thoughtful attention."

I agree. We don't accept these conspiracy theories. But can you blame people for wondering, when Ontario Hydro cancels its first two scrubbers, and admits the decision came after the loss of potential power sales to General Public Utilities?

When you step back and take a long, hard look at all the evidence, it comes down to this: The causes and effects of acid rain are unknown. America has the best clean air record in the world. We've spent billions of dollars on clean air, and billions more are committed. Yet, despite all this—despite the sacrifices—the acid rain theorists, including the Ottawa Government, say it's not enough.

We are asked to embrace the potentially most burdensome regulatory program in American history, and are expected to have guilt feelings if we resist.

Mr. Roberts summed up the Canadian Government's view this way: American calls for more acid rain research are like saying: "We need to know which mosquitoes are carrying malaria before we clean up the swamp."

I would only remind the honorable gentleman of Lord George's famous warning. He said: "It is very dangerous to leap a chasm in two bounds."

Can the coal industry—and the American people—possibly look past the chasm of scientific doubt and make a leap of faith to accept what in reality is a 12-million ton cut in sulfur dioxide over the next 12 years? How can we when the Department of Energy is predicting costs to industry and consumers of as much as $300 billion—over and above the present Clean Air Act—in the next 30 years? Shouldn't we be angry when electric rates in some parts of the United States are expected to rise 100 percent, placing an awesome burden on consumers, who already are strapped by the high cost-of-living?

Why shouldn't we fight this legislation? According to the United Mine Workers of America, the jobs of 89,000 mining industry employees and 225,000 jobs in related industries would be affected. Total income loss would be $6.6 billion per year. These job losses would hit in Northern Appalachia and the Midwest areas where unemployment is at 10 percent or more.

The coal industry will stand fast in opposition to this bill and let me make the reason crystal clear: Even with the billions of dollars spent, the jobs lost, and the crushing effects on our economy, there's not the slightest assurance that the acidity of rain will be affected.

Yet, when the coal industry and the U.S. Government through its State Department point to the lack of acid rain evidence, the enormous costs and job losses, we are accused by your acid rain Minister in Ottawa of engaging in "informational haze." What's more, the Ottawa Government is expressing "outrage" at our attitude, and predicts a worsening of relations between our two countries unless we come to our senses. Frankly, I believe the "outrage" is misplaced, and it's not just the weakness of the case for acid rain controls.

Your Government is openly proud of the millions of dollars spent in lobbying our Congress to enact acid ran controls. The Ottawa Government apparently believes that these tactics are successful. For after the acid rain bill was reported out of the Senate Public Works and Environmental Committee, it was followed by speeches in the Canadian Parliament calling the action a "great breakthrough."

But let's not let our wishes become the father of our thoughts. As reasonable men and women, do you actually believe that a majority of Congressman and Senators from the 31 affected states will support a bill that imposes such massive electric rate increases on their consumers with no assurance of benefit?

Is there likely to be much support for a bill that would have such devasting human dimensions, and such crucial implications for the revitalization of America's industrial and commercial heartland?

Acid rain is based on the theory of gravitation—that what goes up must come down. But don't forget Newton's law, which says: For every action there's an equal and opposite reaction. And we are reacting.

Calling to mind what Rowland Frazee said about the close and intricate relationship of our two economies, let there be no doubt: if this legislation becomes a part of the Clean Air Act, the higher energy costs, the job losses and severe overall economic effects will also affect this side of the border.

What's more, if this bill is part of the Clean Air Act, the chances are good that there will be no change in the law. This means, very frankly, that the efforts to streamline this Act—while preserving both economic growth and clean air goals—will be lost, also to the detriment of both our nations.

There is a reasonable course, and I urge you to consider it. The American coal industry believes deeply that acid rain research must be accelerated, and we are in good company.

Two weeks ago, a federal task force set up under the Acid Precipitation Act of 1980, called for more research to fill the "major gaps" of information about the causes and effects of acid rain.

Several bills are pending in Congress which would build a strong acid rain research foundation.

One bill of considerable merit, which would step up research, is sponsored by Senator Robert C. Byrd, the Senate Democratic Leader. In the House of Representatives a similar legislative approach is sponsored by Congressman Edward Madigan. His bill was approved by the House Energy and Commerce Committee by an overwhelming 27-5 margin. And, I might add, it is the only acid rain legislation approved by the House.

These bills call for more acid rain research beyond the three-year $64-million commitment of the Reagan Administration, and would augment the $32 million already spent or earmarked by the American Utility Industry.

A key element of the House bill is to restore existing acidified lakes with liming, and other methods known to be effective.

Acid rain may well be a serious problem for our two countries. But we must be certain that the cures that are prescribed actually works, that it doesn't have the side-effects of greater economic adversity and a worsening of relations between our two great nations.

How can we allow the acid rain issue to undermine the trust and cooperation between Canada and the United States, which has flourished for nearly 200 years? I urge the thoughtful members of the Canadian bench and bar through this organization to send a message to your public officials. Good common sense must replace strident rhetoric.

I'm no diplomat. But it doesn't take a statesman to see the need for voices to be lowered, and for thoughtful consideration to begin. We need to get this issue out of politics and public relations and into the laboratory where it belongs!

Let me close with these thoughts.

Churchill once said, "The farther backward you can look, the farther forward you can see." His admonition applies to the United States of America.

For many years, our domestic policy was fueled with a spirit of action, despite the financial costs. We sent men to the moon and brought them safely back to earth. We opened our hearts and our treasury to help create a better life for millions of our people. And we are still waging a war to protect the health and safety of our citizens, and to preserve a legacy of environmental quality.

We've had a large measure of success, but we've also learned some lessons from experience. For far more could have been accomplished, at far less cost, if we had tempered our burning desire to act with a proper understanding of what we were trying to get done.

Armed with the lessons of history, we are optimistic about the future—about finding solutions to both our human and environmental problems—and with good reason.

America has no lack of scientific genius. We have some of the world's best minds. America doesn't lack political will. Our record in building one of the greatest societies on earth is beyond question. And we suffer from no lack of spirit. The flame of desire to forge a better life for our children and grandchildren still burns brightly.

Yet, the acid rain debate brings into sharper focus on overriding challenge facing America. We must find a way to face the future with a relatively diminishing amount of financial resources. Like it or not, these hard choices must be made in the years to come.

This doesn't imply that the United States is ready to set aside any of its national goals. Far from it. But it means that we must meet all our goals with the resources at our command without sacrificing any one of them.

Clean air is one of America's goals. But it isn't the only one. We must also produce more energy at reasonable cost—energy needed to build economic growth and development which serves all our people. We can do it only by tackling our many goals in an efficient, and a cost-effective way, and with a full understanding that greater use of coal is essential to our success.

That's why our government—and your government—must understand the full dimensions of acid rain, before creating more bureaucracy, more costs, and an uncertain economic future for our people.

But it isn't just economic uncertainty that's at stake for our two nations. For I remind you again of what John Kennedy said to the Canadian Parliament nearly two decades ago: "Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

Then the President added this thought: "What nature hath so joined, let no man put asunder."

I hope, and I pray God we don't forget it.●

UNITED STATES AND THE U.S.S.R. DISCUSS REDUCTIONS IN NUCLEAR ARMS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BROWN of California. Mr. Speaker, yesterday's Los Angeles Times carried an interesting report on the status of the U.S.-U.S.S.R. strategic arms reduction talks currently underway in Geneva. While I am not privy to the details of these talks, and cannot verify the accuracy of this report, I must tell my colleagues that this news report is worth reading.

I think the time is rapidly approaching when the sincerity of the U.S. negotiating position will have to be proven. I sincerely hope our Nation demonstrates its good faith in these nuclear arms talks, and gets on with the deescalation of the nuclear arms race.

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The news article follows:

[From the Los Angeles Times, Sept. 13, 1982]

U.S. Weighs Surprising Soviet Offer on A-Arms

(By Robert C. Toth)

WASHINGTON.—In its counterproposal to President Reagan's call for drastic strategic arms reductions, the Soviet Union has made a surprisingly forthcoming offer, according to U.S. officials—an offer that would cut Moscow's own missile and bomber force by 25% and the U.S. arsenal by 10%.

The Soviet move, presented at the new strategic arms reduction talks (START) in Geneva before the mid-August recess, has created a sharp division among U.S. analysts. Some see it as a sign of serious negotiating intent by Moscow. Others consider it a sophisticated ploy to buy time until domestic and international pressures force the United States to accept a compromise the Soviets would find more favorable to them.

As a result, Administration officials are approaching the Soviet formula with great caution.

"The Soviets are always less willing to consider deep reductions in their forces" than the United States, Fred C. Ikle, under secretary of defense for policy, said. "They seem somewhat less reluctant now than previously, and to that extent I'd say they appear relatively serious about the negotiations."

In a speech last May at his alma mater, Eureka College in Illinois, Reagan called for cuts of almost 65 percent in the Soviet missile strength and 50 percent in U.S. forces—down to a common ceiling of 850 missiles each. He excluded bombers and cruise missiles.

The Soviet proposal calls for a maximum of 1,800 missiles and bombers on each side, according to U.S. officials. It also calls for:

—Curbs on the giant new missile-carrying submarines being developed by both nations.

A total ban or limits on cruise missiles.

Extension of "confidence-building" measures such as giving advance warning of missile test flights.

While the Soviet offer is unacceptable as it now stands; U.S. officials said, the extent of the proposals surprised most American specialists. The Soviets had been expected "only (to) nibble at our proposal this year," as one Administration official said, while they sized up new Secretary of State George P. Shultz and waited for maneuvering over the Kremlin's leadership succession to end.

Not all Administration officials are convinced that the Soviet proposal is significant, however.

"The Soviets have done nothing more than throw (Jimmy) Carter's 1977 plan back at us," complained one official critical of the offer. "It's as if that's the most radical idea they are capable of."

In March, 1977, the Carter Administration proposed cutbacks on both sides to a common ceiling of between 1,800 and 2,000 weapons. Moscow immediately rejected the idea, but there have been recurring reports that it later regretted having done so.

The 1977 plan was shelved by the Carter Administration after the Soviet rejection, and the two sides went on to conclude the more modest second strategic arms limitation treaty, dubbed SALT II. The treaty was never ratified, however. Reagan has called it "fatally flawed," even while promising not to violate its provisions.

The new Soviet proposal has been also criticized as a mixture of "warmed-over" ideas rejected during the SALT II negotiations, along with predictable extensions of that agreement. SALT II had projected significant reductions in superpower arsenals in a SALT III treaty.

But the more optimistic view—held by a minority of U.S. analysts—is that the Soviets have made a significant overture. U.S. officials in this camp see the Soviet offer for reductions to 1,800 weapons, as well as the implicit call for some limit on total warheads for those weapons, as accepting two key principles in the Reagan plan. (Reagan called for a limit of 5,000 warheads on both sides, a cut of one-third in existing arsenals.)

"Obviously no breakthrough is imminent in the START talks," one White House aide said, "but the Soviets have certainly not closed the door to serious negotiations with this offer."

As the two proposals now stand, in terms of weapons coming into the U.S. arsenal, the Soviets want to ban or limit weapons they most fear—cruise missiles and the highly accurate D-5 ballistic missiles to be deployed on the giant Trident submarines—without making any concession to U.S. fears of specific Soviet weapon systems.

Reagan's proposal, for its part, sought much the same in reverse. It would curb just those Soviet weapons that could launch a successful surprise attack against U.S. weapons and command centers—Soviet land-based intercontinental missiles, particularly the SS-18 ICMBs with their large payloads and high accuracy—without taking into account Soviet fears of U.S. weapons.

Neither attitude is unexpected at the start of negotiations. But some U.S. officials consider it surprising that the Soviets proposed substantial cutbacks as their opening position at this juncture.

These officials say they are surprised for two reasons.

First, Moscow must be uncertain—since most U.S. officials are uncertain—whether Reagan will ultimately be willing to make the inevitable compromises between the two positions to achieve a new treaty. In the same way, Shultz's views on arms control and his influence at the White House are still largely unknown.

Second, with the Kremlin leadership in transition, contenders for the job now held by President Leonid I. Brezhnev are expected to be reluctant to make arms reduction offers that might alienate the powerful Soviet military, whose support they would need in the succession maneuvers.

Given this situation, one Pentagon official said, "the Soviet offer seems to indicate they are at least as serious about a new arms agreement at this point as we are."

Whatever the Soviet motives, the proposal that was made still has many blank spaces that U.S. diplomats will want to fill in when the START talks resume in Geneva on Oct. 6.

Chief among the questions is how the Soviets would divide up the 1,800 weapons among land-based and submarine-based missiles, bombers and cruise missiles, particularly what limits they would put on their own land-based ICBMs.

The Soviet proposal also calls for a total ban on cruise missiles before they are deployed. Soviet diplomats reminded American negotiators that if the SALT I treaty had banned multiple warheads on missiles, much of the problem of arms control now would be obviated. They thus seek to prevent cruise missiles from becoming the next intractable weapons.

However, with the United States about to start deploying more than 8,000 cruise missiles and with the Soviets themselves mounting an intensive program to catch up in this area, U.S. officials believe the Soviets would settle for only limiting the weapons in number and range. Soviet delegates have hinted as much, one official said.

In that case, he added, the Soviets would insist on counting the nuclear warheads on U.S. cruise missiles in the total warhead ceiling for strategic weapons that Reagan wants in any new agreement. In this way, he said, the Soviets have implicitly accepted the Reagan principle of a limit on total warhead numbers.●

ANOTHER VIEW OF VIOLENCE IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the Ad Hoc Congressional Committee for Irish Affairs I receive hundreds of letters a month from individuals concerned about the issue of peace and justice in Northern Ireland.

Recently a Mr. Tadhg Seosemh Farrell of Toledo, Ohio, sent me a copy of an article he had published in the Catholic Chronicle of Toledo. The article is entitled "England Shares Blame for IRA Violence—Killer Plastic Bullets Denounced."

I call this article to the attention of my colleagues as I find it consistent with my longstanding position that all forms of violence in Northern Ireland whether civilian or official is wrong and stands in the way of a peaceful political solution which is so desperately needed.

The article follows:

England Shares Blame for I.R.A. Violence—Killer Plastic Bullets Denounced

(By Tadhg S. Farrell)

As Americans able to live in a civilized society, at times we seem to display a very strange capacity for demanding reprisals or revenge when what we have determined to be our very own personal conception of human decency and justice has been violated.

Without a moment's hesitation, we are ready to openly denounce, mourn, and demand retribution when we see justice being denied in one part of our world. In the same breath, we fully support military or political regimes that are guilty of the same violations of human rights or worse.

If the oppressor is viewed as "being on our side" or antagonistic to a government we consider to be the enemy, we are ready to turn our backs and suddenly become dumb, deaf, and blind. All too often this response is determined by our economic and political dealings with the perpetrators and the victims. If our ally of the moment murders innocent people, or tortures prisoners we can justify his methods—usually by a pragmatic statement that this particular regime is

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fighting a communist conspiracy or terrorism.

The bombings that occurred in London on July 20 which brought the I.R.A. again to the front pages can only underscore once more the tragedy that is Northern Ireland. After the hunger strike ended last year, we were lulled into a feeling of complacency with a belief that the troubles in Ulster had somehow been made to magically disappear.

The wounds that tear this small province apart continue to fester and to infect all who come in close contract. For the Conservative Party of Margaret Thatcher, the myopic solution to the Northern Ireland problem lies in being able to blame all the violence and murder on the I.R.A.

On June 30, 1982, a high court in Belfast ordered a new inquest into the death of Julie Livingstone, 14, who was shot and killed by a British soldier on May 12 of last year. In doing so the judge stated that the soldier may have acted wrongly.

The weapon that killed her is officially called a "baton round," but by more common terminology it is referred to as a plastic bullet. When the British first introduced rubber and plastic bullets into use in Northern Ireland, they made a determined effort to convince the news media that these were "nothing more than harmless toys." Maj. Clayton, military adviser and programs director for the manufacturer, stated that the name was deliberately changed from "baton round" to give it "a slightly humorous image," and "looking back it does seem as if that aim was achieved."

One and one-half inches in diameter, four inches long, and weighing close to five ounces, this weapon of terror is fired from a hand-held rifle at a muzzle velocity approaching 180 miles per hour. The impact on a human being is the same as being hit by a 90-pound weight. Unlike its predecessor, the rubber bullet, designed to be bounced off of the pavement and merely break a leg bone, the plastic bullet is aimed directly at the person to be hit. Since the introduction of these weapons in 1971, 16 people have been killed by their use—eight of them children under 14.

In the case of Julie Livingstone, witnesses stated that Julie was walking home when they saw a British Army Saracen (armored car) traveling toward her at a high rate of speed. As it passed by Julie, the witnesses reported hearing a loud pop. As the Saracen sped away, Julie was found lying face down on the pavement mortally wounded from a head injury. A blood-stained plastic bullet was lying nearby.

Last year alone, 12 civilians were killed by plastic bullets in Northern Ireland, among them a girl of 12, a girl of 14, and two boys less than 14. Mrs. Nora McCabe, 30, was shot and killed by a plastic bullet fired at a range of less than 20 feet while she was returning from a shopping trip. She left behind a husband and three small children.

Earlier this year, Mrs. Kathleen Stewart of Belfast was brought to Toledo to speak at Christ the King Parish under sponsorship of Clan na Gael of Toledo. She had lost her 12-year-old son Brian to a plastic bullet in 1976 as he stood waiting on a corner while his family was preparing to celebrate his birthday. Two weeks later, Mrs. Stewart's two younger children were stopped on their way home from school by a British patrol. One of the soldiers asked them if they like the birthday present he had given their brother two weeks before. Laughing, he then told them he might give them the same present next year.

In the last 12 years, close to 1,000 innocent civilians have been killed in Northern Ireland by British troops or Loyalist paramilitaries. In that time not one British soldier has been brought to trial or convicted of any crime committed while on duty in Ulster.

On May 13, 1982, the European Parliament voted on a text condemning and banning the use of plastic bullets. The only group to vote against the passage was the Conservative Party of Margaret Thatcher and the Rev. Ian Paisley.

In the U.S., Congressman Mario Biaggi (D-N.Y.) has submitted House Resolution 356 which calls on the British government to end the use of plastic bullets in Northern Ireland.

As head of the Ad Hoc Committee on Irish Affairs, Congressman Biaggi has been most vocal in denouncing the violence committed by all sides in Northern Ireland. It was because of his untiring efforts in the cause of justice and peace that he was nominated for the Nobel Peace Prize to be awarded later this year.

If there is ever to be a chance for peace, it will only come when there is a change in policy on the Ulster problem. And that will only be when England realizes that it also must accept responsibility for a large portion of the violence.●

A TRIBUTE TO JAMES WILLIAM MAZZU

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. KEMP. Mr. Speaker, I wish to bring to the attention of my colleagues and the Nation a remarkable man. Cpl. James William Mazzu was a soldier who lost his life in the Korean conflict on November 30, 1950.

I am extremely proud to say that Corporal Mazzu was a member of my district. A man of many talents, Corporal Mazzu belonged to the 2d Infantry Division Bag Pipe Band and was an intelligence map designer. Corporal Mazzu was a dedicated artist who drew cartoons for his division paper.

Corporal Mazzu had a special talent for drawing cartoons depicting the Korean conflict. His colleagues appreciated his cartoons because they provided thoughtful insights into the lives of the soldiers. The cartoons are presently a valued addition to the Army Historical Center. I am grateful for and proud of Corporal Mazzu's contributions to the United States, his commendable service in the military, and his cartoons that are a reflection of that service.●

THE SALE OF SURPLUS LAND

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. AuCOIN. Mr. Speaker, I want to bring to the attention of my colleagues a letter I received from one of my constituents, Mr. Joe Reinhart of Portland, Oreg., concerning the administration's plans to sell off our public lands. The arguments made in this letter parallel exactly my own misgivings about Secretary Watt's "asset management" plan.

The concerns expressed by my constituents were repeated everywhere I went in my district during the August recess. Oregonians are proud of their heritage—they do not want America's public lands sold off for some short-term gain.

Mr. Speaker, we would be wise to heed the advice found in Mr. Reinhart's letter so as not to be accomplices in a terrible crime against our citizens. I hope my colleagues will join me in this.

PORTLAND, OREG., *August 29, 1982.*

DEAR CONGRESSMAN AuCOIN: I just finished reading a Time magazine article (Aug. 23, 1982) on the Reagan Administration's plan to sell "surplus" federal land in order to reduce the national debt. I oppose this proposal for the following reasons.

First, our short term economic problems should not dictate national policy regarding public lands. These lands should be considered part of our national heritage; a savings account. The interest from our capital investment is sustained-yield forests, national recreation and wildlife areas, and aesthetic and other intangible values. All citizens benefit from that national investment. And considering our present economic problems, once that capital reserve is withdrawn, it will not be replaced.

Second, the health of Oregon's economy is closely linked to the vitality of the timber industry. As the time article points out, large timber companies are in favor of the Administration's sell-off (or sell-out) because they have overcut their own lands for short term profits. Now, in the name of the "free market," they want to "manage" public lands. God help us. In the past few years, many small, locally owned mills have either folded or been taken over by large, national companies. I am opposed to a policy of letting out of state corporations dictate Oregon's economic decisions. Witness, for example, the commitment of Georgia-Pacific to Oregon. As a representative of this state, I ask you to make sure that our resources are available for Oregon lumber companies, not put in the hands of out of state interests.

Third, the Administration's plan is another example of the rich becoming richer at the expense of the rest of us. I ask you, who can afford to buy this land? I will tell you. Neither myself, my family, nor my friends have the money. Who can pay existing mortgages, let alone borrow at today's interest rates? Land speculators, developers, and the wealthy. The Administration's proposal, in a nut shell, is a way for the federal government to take land available for everyone's use, and put it in the control of a select group of individuals: Not very democratic.

In conclusion, everyone agrees that the federal government must balance its budget, the national debt must be reduced, and the economy started on the road to good health. And, there are undoubtedly truly "surplus" federal lands. However, I do not trust Secretary of the Interior James Watt. By using executive orders without Congressional review, the Administration's proposal opens the door for abuse. If the Administration needs more money, it should reduce military spending and/or raise taxes again. At the very least, Congress should hold hearings on this important national question.

Thank you for your time and consideration. I eagerly await your response.

Sincerely yours,

JOE REINHART.●

THE EFFECTS OF HIGH INTEREST RATES

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1482

● Mr. HUBBARD. Mr. Speaker, as Americans throughout the country are pleading with Congress to provide relief from high interest rates and inflation, one of my constituents, Mrs. Jody Walker from Princeton, Ky., has written a thought-provoking letter to me in order to illustrate what our Nation's present economic climate is doing to small businesses. I think my colleagues will be interested in Mrs. Walker's comments. Her letter follows:

JUNE 19, 1982.

DEAR SIR: This is not a letter of complaint but rather an attempt to show you what the present economic climate and high interest rates are doing to small businessmen, and to us in particular.

Ken and I bought a Dairy Queen Brazier in Princeton, Kentucky 3 years ago. The interest rate at that time was 9%; our monthly payment of $2,000.00 included $1,100.00 interest; and the loan would have been paid off in 10 years.

In April of this year we had to refinance the business. The interest went to 17%; our monthly payment of $2,500.00 includes $2,350.00 interest; and the loan had to be extended to pay off in 15 years.

We are a small business, grossing about $280,000 per year and employing twelve. Ken and I have worked without pay for 3 years in an attempt to make the business a success.

We had hoped to be able to open another Dairy Queen in a nearby town this year, but after finding out what the interest rate would be, we are not going ahead with our plans. This keeps 12 or 15 people from finding jobs and eliminates several construction jobs. It means less sales taxes to be paid and less income taxes to be paid. We simply are not willing to pay $2,500.00 per month and have $2,350.00 applied to interest while we work for nothing. When interest rates are 17% and 18%, the small businessman pays little on principal and the entire payment is used to pay interest. As a result, the small businessman is unable to reduce his debt which prevents him from improving his building or adding new equipment. As a result companies supplying the products and services must lay people off. The small businessman pays little tax in that interest is deductible. The small businessman is hurt and the Federal Government is hurt.

This is only one small example but when you mulitiply it by all the small businesses that must pay these high interest rates, you can see it is a problem of great dimension.

In our town (Princeton, Ky.) the Ford Agency, a grocery store, a clothing store, a department store and a furniture store have all closed in the last eight months. Princeton's population is 8,500. The Federal Government must get this situation under control. I do not have the answers but I do know that if we operated our business like the Federal Government operates we would have closed down 2½ years ago. Something must be done to stop the Government from competing with individual citizens for loan money. Also, I feel a sincere effort must be made to balance the budget.

I am writing this in hopes a graphic demonstration of the effects of high interest rates will have more impact than the overall statistics.

Sincerely yours,

Mrs. JODY WALKER.

FARM LABOR CONTRACTOR REGISTRATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. MILLER of California. Mr. Speaker, today I am introducing, by request, the administration's recent proposals to replace the Farm Labor Contractor Registration Act with the Migrant and Seasonal Agricultural Worker Protection Act.

The negotiations which led up to the administration's proposals were long and at times frustrating. Representatives from all sides had serious concerns with the existing law that they felt needed to be addressed. Agricultural producers have long labored under the uncertainty of the 1974 FLCRA. In the past 10 years growers and producers have faced extensive private litigation and enforcement actions by the Department of Labor.

We have attempted to establish certainty during these long negotiations. That is also the goal of the administration's bill. It will answer the question "Who is responsible for the protections and duties available under the act?" with the answer, "He or she who provides the service or employs the worker—farm labor contractor or not—has the duty to protect the workers."

Certainty will benefit all parties. Agricultural employers will be relieved of the excessive burdens of FLCRA and will for the first time be sure of their duties to migrant workers. Agricultural employees will, in turn, know who is responsible for their protections, by fixing the responsibility on those who ultimately benefit from their labors—the agricultural employer. Unions, likewise, will be assured for the first time that they will not fall within the coverage of an ever-increasing maze of conflicting definitions which characterize the current law.

All of the problems of the migrant workers in this country will not disappear after this bill becomes law. Today, as always, exploitation, poor housing, and abuse all too often go hand in hand with the backbreaking work performed by the agricultural worker. As this bill is put into place, I will continue to use this subcommittee's oversight authority to investigate the effect of these changes on the lives of the migrant worker and to look for ways to insure a better quality of life for these workers and their families.

I remain concerned about another group of workers who perform the same services as those covered by this law, the temporary foreign workers brought into this country under the H-2 worker program. The Judiciary Committee this morning will begin markup of the Simpson-Mazzoli amendments to the Immigration and Nationality Act. That bill, as passed by the Senate fails to address adequately the future of the labor protections found in current regulations. If we do not insure that those protections for both the foreign and domestic workers are retained, we will have opened up a "guest worker" program under a different name. Congress cannot create a new statute, on one hand, which attempts to protect workers, while on the other hand pass another statute that weakens labor protections for workers doing similar work.

The parties that took part in the negotiation should be congratulated on their efforts to work out a compromise in a difficult area. They have recognized a problem that needed attention and have worked tirelessly to see that it is resolved.

I am introducing the administration's legislation because I believe that it should become law. I was involved in its development. I believe that it represents a positive step in the protection of migrant workers and I will continue work to see that it is enacted.●

NDANK, NDANK

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. FINDLEY. Mr. Speaker, most Americans are unaware of the tremendous stake our country has in a successful conclusion of the efforts of Assistant Secretary of State Chester Crocker to negotiate a settlement leading to a free and fair election in Namibia under the truly impartial supervision of the United Nations Resolution 435.

As a member of the Foreign Affairs Committee of the U.S. House of Representatives, I have watched with increasing concern the efforts of the Soviet empire to expand further into the southern part of Africa. Numerous committees of the Congress have inquired into the continuing "resource war" being conducted by Russia in its effort to gain control of the sources of oil and strategic minerals in Africa. Congressional studies show that 62 strategic minerals are extremely important to the industrial base of the United States economy. Namibia has many of these minerals, including the largest uranium mine in the world and one-sixth of all the uranium in the free world. Such other important minerals as copper, zinc, gold, diamonds, cadmium, arsenic trioxide, germanium dioxide, and possibly gas and oil are found in Namibia.

Let us hope that Dr. Crocker is not maneuvered into any kind of a cosmetic settlement which, in effect, will open the door to slow-motion domination and control of Namibia by SWAPO or some other Soviet "proxy" government of the kinds now controlling Angola, Mozambique, Ethiopia, Afghanistan, and other targets of Soviet Empire expansionism.

Any settlement which would permit even the remotest possibility of a future Soviet takeover by the terrorists of the South West Africa People's Organization (SWAPO), the Soviet-financed organization which has been conducting a guerrilla campaign against the people of Namibia for the last 15 years, would be totally unacceptable. The following lead editorial from the Wall Street Journal of August 23 states the case very well. I hope my colleagues in Congress, as well as other interested Americans, will read it carefully.

[From the Wall Street Journal, Aug. 23, 1982]

Ndank, Ndank

Among the Wolos tribesmen of West Africa, there is a popular saying: ndank, ndank. Literally translated it means slowly, slowly. Things take time. To press a matter too hard is to risk spoiling the outcome.

It's a perspective worth keeping in mind as we watch events on that often unhappy continent, particularly in Namibia. Diplomats have been pressing hard for a political settlement of the conflict between South African backed forces and guerrillas of the South West Africa Peoples Organization, or SWAPO. Our fear is that the five-nation Western "contract group" that has been ramrodding negotiations may be pushing a little too hard.

Certainly the results to date would appear meager. About a year ago there was a flurry of excitement when it was hinted that agreement had been reached on the political principles of a settlement. But it soon became clear that the parties couldn't even agree on a voting formula.

Then there were reports that one of South Africa's prime conditions for a settlement—the removal of Cuban troops from neighboring Angola where they have supplied and succored the guerrillas' assault on Namibia—might be met. The Angolans, it was said, were increasingly unhappy with the Cubans, who haven't helped much in their own fight against internal dissidents but who nonetheless are costing Angola half or more of its annual foreign exchange earnings.

But Fidel Castro, not surprisingly, promptly said he had no intention of pulling out. Even more recently there were reports of a ceasefire between South Africa and SWAPO but this too turned out to be a mirage.

It's still possible that something will be worked out sooner rather than later, we suppose. South Africa would undoubtedly like to be rid of its Namibia defense cost. The SWAPO guerrillas, who have been all but defeated militarily, might be tempted to come to terms in hopes of winning elections scheduled for next March. Most of the guerrillas come from Namibia's dominant tribe, the Ovambos.

Contact group diplomats thus have remained optimistic about the possibilities of settlement. They believe that the key to success is American pressure on South Africa combined with economic incentives to Angola and possibly even Cuba. But all this ignores that the real key to a settlement, withdrawal of Cuban troops from Angola, lies in Moscow.

Castro can't make a move without the Kremlin's consent and Angola's Marxist government would likely collapse in the face of its own guerrilla movement without Cuban protection. A Soviet signal to withdraw would come as a thunderclap, a blow to the Soviet reputation for reliability nearly as grievous as the U.S. withdrawal from Vietnam. As the Soviet Union has little to offer besides its military reliability and that of proxies such as Cuba and East Germany, it is hard to imagine such a step.

So we fear that much of the talk about an imminent settlement may reflect less the realities of the situation than the fond hopes of the Western contact group.

Chester Crocker, the U.S. assistant secretary of state who is point man in the negotiations, has played a brilliant diplomatic game so far. By tying Cuban withdrawal from Angola to a Namibian settlement he has overcome South African intransigence and shifted the spotlight of public opinion to Cuban and Russian imperialism.

But the contact group should not be too eager to force a settlement. Unless the settlement is truly in the interest of all parties, it will eventually fall apart and destabilize the area even further. The political process in Africa is a frail reed: Witness the near-coup in Kenya and the resurgence of terrorism in Zimbabwe.

Also, the SWAPO cause is not as popular in Africa as one might think from reading the newspapers. Moderate African nations are asserting themselves more vigorously in continental councils. Even some of the front line states in southern Africa would prefer an opportunity to stop the fighting and get on with their business.

By all means let the diplomacy continue but time is not necessarily on the side of the insurgents. If the insurgents perceive that we can't be hustled into agreement that they can't win by force of arms, meaningful agreement will be all the easier to reach. Ndank, ndank.●

JAPANESE TREMBLE IN FEAR OF "BIG ONE"

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BROWN of California. Mr. Speaker, the Japanese may be beating us at another game—earthquake prediction and hazard mitigation.

The Washington Post reported today that Japanese scientists have predicted Tokyo is due for a massive earthquake before the year 2000. Scientists there keep a 24-hour watch over seismic detection devices located along the ring of Japanese islands. These devices help determine when an earthquake is likely. Satellite data and other information is coordinated with this seismic information providing officials with the basis for emergency planning decisions.

I am pleased to report that earlier today the House passed the Earthquake Hazards Reduction Act reauthorization. I am satisfied with the bill and hope the Senate will defer to the House version. The upcoming HUD-independent agencies appropriations bill will be considered by the House during the next couple of days. Funding for earthquake programs conducted by the Federal Emergency Management Agency and the National Science Foundation is included in this bill, although not at the levels I would prefer to see.

A severe earthquake could disrupt not only the local area where it occurs with loss of life and property, but could have ramifications for the entire country. A catastrophic event in California for example, has been estimated to potentially cause 5,000 to 25,000 fatalities and $20 to $50 billion in damages. No one State, not even California, can sustain such a blow. The Federal Government will have to become involved if only to address the problems caused by such losses to the rest of the country.

The Japanese may have several thousand years of experience ahead of us in this area, but with a little commitment from our Government I think we can catch up.

Mr. Speaker, I include the Washington Post article for the Record for my colleagues to read.

[From the Washington Post, Sept. 14, 1982]

Japanese Scientists Warn Tokyo Is Due To Be Hit by Massive Quake

(By Tracy Dahlby)

Tokyo—A handful of Japanese civil defense experts, tiny black boxes in hand, converage on a climate-controlled room. Amid situation maps and the whir of computers, they advise the prime minister to sound a full-scale alert.

Local businessman Jiro Hatano calmly gathers up his stocks of water and dehydrated food and makes a speedy getaway, possibly to a camouflaged concrete bunker in a neighborhood garden as hordes of his fellow residents of Toyko rush to evacuation staging areas throughout the city.

This doomsday scenario, which specialists say could become a reality any day now, is not based on fear of nuclear attack or invasion but on the threat of the gigantic earthquake that is expected to devastate this congested city of 12.5 million.

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Just when calamity will strike is now the subject of a sharp debate among Japanese scientists, who are busily marshaling the country's high technology to the still-murky task of quake prediction. But they generally agree that the city has now entered a danger period, making a major quake likely sometime between now and the year 2000.

"History tells us that Tokyo has been hit repeatedly by giant earthquakes," says Masahiro Kishio, assistant director of the earthquake analysis division at the national meteorological agency. "We can say with absolute certainty that the area will be hit again."

Early in the month, 100,000 residents of Tokyo took part in massive firefighting and evacuation drills in commemoration of the great Kanto earthquake of Sept. 1, 1923. It registered a magnitude of 7.9 on the open-ended Richter scale and killed 143,000 people, mostly in the ensuing firestorm, which reduced the city to a smoldering moonscape.

Should a jolt of similar magnitude rock Tokyo today, government officials estimate that at least 36,000 people would die, and another 63,000 would be seriously injured. Nearly half a million wooden houses and shops would be destroyed by fires or tidal waves, leaving 4 million people homeless.

The officials admit, however, that such calculations are extremely difficult. Tokyo now has five times more inhabitants than at the time of the Kanto quake and a population density of 26,000 people per square mile, or nearly three times that of Washington. Its sprawling cityscape is a maze of skyscrapers, apartment buildings and elevated highways built above hundreds of miles of underground shopping arcades and subway tunnels, all of which has amplified the scope for disaster.

The grim possibilities have sent tremors through Japanese officialdom and touched off massive efforts to shield the old capital from destruction. Tokyo is spending nearly $6 billion—an amount equal to half its yearly national military budget—on a current series of countermeasures including the construction of "earthquake-proof" public buildings, hospitals, schools, roads, and sewer and water systems.

More than 1 million rations of milk, rice, hardtack biscuits and a 42-day emergency supply of fresh drinking water have been stocked near five large city parks designated as official evacuation areas. A big budget for television and radio spots and printed materials is aimed at keeping the average resident well briefed on what to do when the big quake comes.

"We can't entirely prevent widespread damage, but we can try to limit it," says Kishio. "And we're fairly certain we can predict the occurrence of a major earthquake within one or two days."

Scientists keep a 24-hour watch over data from devices located at 238 stations along the volcanic spine of the Japanese islands and from one underwater cable on the seabed southwest of Tokyo for signs of the swarm of smaller tremors which are thought to presage a serious jolt.

Tokyo's subterranean water table is checked for a sudden drop that might also indicate a big quake is imminent, while photos from weather satellites are monitored for changes in the cracks in the earth's crust that are thought to run through the city's suburbs.

Should the signs point in an ominous direction, chauffeur-driven government cars will fan out through the city to pick up a half-dozen seismological experts, each fitted out with an electronic signalling device in a black box and deliver them to the situation room at the national meteorological agency. There, they must quickly decide whether to formally ask the prime minister to call a public alert.

A study of a thousand years of historical documents led the late professor Hiroshi Kawasumi of Tokyo University's earthquake research center to the theory that a major quake occurs in Tokyo roughly once every 69 years. Scholars now point out that, according to that theory, the city has already entered a critical period.

According to Hiroaki Yoshii, a senior researcher at the Japan Institute for Future Technology, who has recently completed a study on the subject, a giant-size jolt could create havoc in the country's big business circles because of the high concentration of corporate headquarters in Tokyo. "There would be a sudden shortage of funds from financial institutions to manufacturers, and a lot of business failures and corporate mergers," he says.

Major banks already have begun spreading their highly computerized operations to branch offices around the country and installing emergency communications networks. Earlier plans by the government to relocate the national capital have now been dropped because of the astronomical costs involved, Yoshii says.

Japan, as all schoolchildren here know, is a land of earthquakes and, historically, the destruction brought on by frequent giant tremors has kept a powerful hold on the popular imagination. The Hojoki, a 13th century Japanese classic, says, "For one terror following on another, there is nothing to equal an earthquake."

Today, Japan is jolted by more than a thousand tremors a year large enough to be felt by its inhabitants, many of them in Tokyo. That, and the fact that the city was destroyed both by the great Kanto quake and American firebombings in World War II, has made Tokyo residents largely fatalistic about another impending disaster. And government efforts to gird for the worst, officials complain, have failed to prompt a genuine state of readiness among the public.

"We are the kind of people who spend scads of money and time on vacations and golf," says Hatano, who sponsors a private organization to educate his fellow citizens on earthquake relief measures, "but won't give a second thought to our own individual security."●

RESTORE FULL COLA'S FOR FEDERAL LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BIAGGI. Mr. Speaker, I am introducing a bill today that would restore full cost-of-living adjustments (COLA's) for Federal law enforcement officers and firefighters, who were unfairly penalized in the recently adopted Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253).

Under the Budget Reconciliation Act, which I voted against, all civil service employees who retire before age 62 would receive only half of the COLA that other Federal retirees receive. The intent of this provision is to reduce Federal spending by discouraging early retirement from the Federal Government.

However, this new law is blatantly unfair because it makes no distinction between the civil service employee who can choose his or her retirement age, and the approximately 30,000 Federal law enforcement officers and firefighters who are forced by law to retire at age 55.

My bill would correct this injustice by allowing those Federal law enforcement officers and firefighters who retire before age 62 due to the mandatory retirement law (Public Law 93-350) to receive full cost-of-living adjustments in their retirement pay.

As a former law enforcement officer, I am committed to insuring that our Nation's public safety officers receive fair and adequate compensation for the important, and often life-threatening, work they perform. The legislation I am introducing today, the "Federal Law Enforcement Officers' and Firefighters' Retirement Protection Act of 1982," is consistent with that objective.

I wish to express special thanks to the 5,000 member Federal Law Enforcement Officers' Association (FLEOA) for bringing this problem to my attention. I am hopeful that the legislative remedy I am proposing today received the prompt and favorable congressional consideration that it certainly deserves.●

THE EXPORT TRADING COMPANY ACT—A JOBS BILL THAT WILL WORK

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. HYDE. Mr. Speaker, I notice in this morning's newspapers that the House leadership will apparently seek quick consideration of a massive $1 billion "jobs bill." The news reports suggest that the legislation may be brought to the floor later this week, rushed before us because—in a quote attributed to you, Mr. Speaker—"the American people need to see action now before it is too late."

Mr. Speaker, the voters will issue this Congress its report card on November 2, and I suspect that the grades that they hand out will, in many cases, not be passing marks.

While it is certainly "too late" to enact much of the legislation our constituents had a right to expect from us when they elected us in 1980, I would humbly point out that there is no compelling reason to rush an ill-advised $1 billion jobs bill before this

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body. The House of Representatives has already approved—unanimously—a jobs bill: the Export Trading Company Act. The legislation would create between 320,000 and 640,000 new American jobs in the small- to mid-sized businesses hardest hit in these tough economic times. In addition to creating many more jobs than the legislation you propose to bring to the floor, the trading company bill would give our American businesses the tools to compete more effectively in the ever more competitive world market. The jobs created by this legislation are real jobs, jobs that will last because they result from an increased demand in the private sector, not "quick fix" jobs created through increased Federal spending. The jobs created by enacting the trading company measure will not cost the taxpayers an additional dime.

Mr. Speaker, the Senate has also passed—unanimously—its version of the Export Trading Company Act, and it is awaiting action by the conference committee. Does it not make more sense to urge the conferees to complete their work on this major job-creating trade legislation than to spend precious time bringing an ill-advised, budget-busting, counterproductive, billion-dollar measure to the floor?●

PASTOR HONORED FOR 50 YEARS OF SERVICE

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. DOUGHERTY. Mr. Speaker, I would like to take this opportunity to extend congratulations and best wishes to both the Crescentville Baptist Church and to its pastor, Charles L. Dear. Today Pastor Dear is celebrating his 50th year of service to the East Godfrey Avenue parish.

After responding to a call to serve, Pastor Dear began his ministry at the Crescentville Baptist Church on September 14, 1932. He and his wife Velma have provided extraordinary guidance and spiritual leadership throughout the entire history of the church even during such tragic occurrences as a 1977 fire which heavily damaged the Bible School Building.

Furthermore, their combined sense of selflessness is exemplified by the unique fact that throughout their ministry at the Crescentville parish, Pastor and Mrs. Dear have lived by faith, receiving only the funds channeled directly to the support of the pastor by the church members. Because they have been so willing to give of themselves, the Lord has seen fit to bless their ministry and consequently, the church has grown considerably from the original few who first met to form a church.

It is with a grateful heart that I join with my colleagues and the entire congregation in honoring Pastor Dear for his faithful service to the ministry. May Pastor Dear continue to proclaim the riches of the word of God and may God's blessing be with him and his wife in the future that lies ahead.●

SELECTIVE SERVICE REGISTRATION: VIOLATORS MUST BE PROSECUTED

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. MONTGOMERY. Mr. Speaker, in a followup to statements I entered earlier in the CONGRESSIONAL RECORD, I want to share this Washington Post editorial of September 1, 1982.

The editorial, entitled "Politics and Draft Registration," echoes the point I made in earlier statements on this issue. Selective Service registration is the law of the land, and as the Post says, violation of the law requires prosecution.

[From the Washington Post, Sept. 1, 1982]

POLITICS AND DRAFT REGISTRATION

Should young men be tried and convicted for violating the law requiring registration for the draft? A number of thoughtful readers, some of whose comments we printed last Thursday, evidently think not. We continue to disagree, respectfully, and we think the subject is worth addressing again, especially in light of the conviction on Thursday of a second student, Benjamin Sasway, for violating the law.

Some readers complain of our characterization of the draft registration law as "about the mildest intrusion on personal liberty a government interested in maintaining the possibility of conscription can make," and they complain of our comparison between this law and laws requiring motorists to stop at stop signs. But they are unable to describe any milder intrusion, and then they say nothing that convinces us that the stop sign analogy is not apt. Governments put up stop signs and require registration for military service to protect, in different ways, the public safety. Governments have obligations to enforce these laws—to protect others and to encourage obedience—even against those who will not obey them because of a genuine religious belief that to obey such a law is wrong. The conscientiousness of that belief is a proper factor for a judge to consider in sentencing, but not one that should sway a prosecutor from bringing a case or a juror from returning a guilty verdict.

Mr. Sasway and, we suspect, most of those young men in violation of the law do not claim a religious objection. Their objections to the draft registration law are political. In a letter sent to President Carter in 1980 and which he has not repudiated since, Mr. Sasway said, "I am obligated to protest even simple registration since I feel the spirit of this mandate, like the actual conscription, is immoral and incompatible with a free society. Furthermore, I cannot allow myself to be forced into a military establishment that is too misdirected and too conservative to serve the country's interests." It is settled constitutional law that conscription is not incompatible with a free society; the argument that the military establishment is misdirected is by its very nature political. Mr. Sasway has been free, and would have been free had he registered, to try to persuade his fellow citizens that, by ordinary political means, his views are right and should be enacted into law. Violating the law requires that he be prosecuted.●

THE TOM AND JANE SHOW

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. DORNAN of California. Mr. Speaker, in the CONGRESSIONAL RECORD of July 22, 1982, I submitted an interview with Jane Fonda and Tom Hayden that appeared in Stars and Stripes which convincingly pointed out that while Tom and Jane may have changed their outward style and appearance from that of their radical stance in the 1960's and early 1970's, their ideology has not changed one iota. And what is that ideology?

I would like to submit for the RECORD statements make by Tom and Jane over the years which bear remembering. Tom and Jane should also take a good look at an article by Al Santoli entitled "Why Vietcong Flee" found in the "Extension of Remarks" of July 16, 1982, to see where twisted Hayden ideological views ultimately lead: Cambodian genocide, nearly a million boat people—over one-half dead—reeducation camps, and close to a half million Vietnamese sent to Siberian labor camps.

Ideas have consequences, Mr. Speaker, and Tom and Jane should be willing to face up to the tragic consequences of their Marxist-Leninist ideology. At this time, I would like to submit Tom and Jane's statements for the RECORD.

THE WORD ACCORDING TO TOM AND JANE

"I am the Vietcong. We are everywhere! We are all Vietcong."—Tom Hayden, Czechoslovakia, 1967.

"Of course I am a socialist."—Jane Fonda, Interview with Oriana Fallaci, McCalls, 1971.

"I'm not a do-gooder. I'm a revolutionary, a revolutionary woman."—Jane Fonda, 1971.

". . . the movement needs violence to organize its ranks and to capture people's minds."—Tom Hayden, Speech at Sequoia Union High School, Palo Alto Times, March 1, 1969.

"Somehow the idea of the Communists as enemies had been drilled into my mind. So I expected Russians to be strange people, bad people, and I saw such beautiful people instead. So much less aggressive than Americans."—Jane Fonda, The Register, August 5, 1979.

"I would think if you understood what communism was, you would hope, you would pray on your knees that we would someday become Communist."—Jane

Fonda, Speech at Michigan State University to raise money for the Black Panthers, Detroit Free Press, November 22, 1969.

"They (the POWs) all assured me that they have been well cared for. The . . . they listen to the radio. They receive letters. They are in good health."—Jane Fonda, Radio Hanoi broadcast, August 15, 1972.

"We have no reason to believe that U.S. Air Force officers tell the truth. They are professional killers."—Jane Fonda, Washington Star, April 19, 1973.

"Recently in the United States we've been doing a lot of political propaganda work among the students."—Jane Fonda, Radio Hanoi broadcast, July 26, 1972.

"Today's terrorist may be tomorrow's George Washington."—Tom Hayden, Parade Magazine, May 20, 1979.●

QUESTIONS ON H.R. 6046, THE EXTRADITION REFORM ACT OF 1982

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. STARK. Mr. Speaker, a bill has been reported to the House by the Judiciary and Foreign Affairs Committee whose stated purpose is to reform the Nation's extradition laws and to make it easier to cooperate in international efforts to deal with terrorists.

Stronger efforts to deal with terrorists and other violent criminals are clearly called for.

But in the last several days, I have received reports that the bill may seriously erode the rights of Americans and of foreigners in the United States who have struggled against repressive regimes abroad. Because of drafting problems, the bill may do much more than it originally intended. According to some, the bill would prohibit U.S. courts from reviewing extradition demands by foreign governments to insure that no demand is part of a foreign effort to suppress political dissent. Failure to provide such judicial review would be an end to the proud, 200-year tradition of the United States as a refuge for those fleeing from political dissent. Of course, we support returning terrorists, but I doubt that any American would want to be part of returning an editor of a newpaper or a religious figure who may have led a protest against his country's repressive government. One would not want to pass a bill which would enable, for example, the Soviet Union to demand the return of a Solzhenitsyn if he were to publish another book critical of the Soviet Union.

Enough questions have been raised by the bill that I hope we will have a detailed debate on what the language of the bill will actually permit. It is quite possible that as a result of that debate, a number of amendments will be in order.●

SECRETARY OF STATE SHULTZ OPPOSES TRADE EMBARGO AND SUPPORTS DRESSER INDUSTRIES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BROWN of California. Mr. Speaker, a few weeks ago I read a fascinating article by the present Secretary of State George P. Shultz, which clearly opposes the foreign policy of the Reagan administration. The speech, I should quickly add, was made before George Shultz became Secretary of State and a supporter of the Reagan foreign policy. Personally, I found the earlier speech more convincing than the present statements by Secretary Shultz.

Coincidentally, I also just came upon an editorial from Industry Week, a publication which usually gives the Reagan administration strong support, which reads very much like the views of Secretary Shultz before he became a defender of the Reagan foreign policy.

George Shultz, in his pre-Secretary role, said:

> We must recognize that major commercial relationships cannot be turned on and off like a light switch; they have to be built up and sustained over a period of time.

The Industry Week editorial says:

> It's time to stop using trade indiscriminately as just another pawn in the world's political chess game. It's time to think through and establish a foreign policy that is consistent with sound international economic policy and compatible with our domestic economic and social goals.

I urge Secretary Shultz, or whoever is determining U.S. foreign policy, to pay heed to the advice of George Shultz and those who must live and work in the real world.

Mr. Speaker, at this time I wish to insert in the RECORD the two articles discussed above.

[From the Washington Post, Aug. 29, 1982]

SHULTZ BACKS DRESSER, VILIFIES EMBARGOES(!)

(The following article is based on a speech that Secretary of State George P. Shultz delivered in October, 1978, when he was president of the Bechtel Corp. Last week Shultz said these views did not apply to the latest sanctions imposed by his new employer, the Reagan administration.)

(By George P. Shultz)

An extra element has been injected into international trade in the past few years, a political dimension overlaid on top of commercial transactions. This political element is a vigorous and flamboyantly administered initiative that uses foreign trade as a tactical instrument of foreign policy. I call it light-switch diplomacy.

There is apparently a belief in our government that individual trades can be turned on and off like a light switch to induce changes in the domestic and foreign policies of a host government. As a result, the position of U.S. goods in world markets is eroding as our trading partners increasingly see evidence that we cannot be counted on as a reliable supplier. The impression abroad now is, unfortunately, that the U.S. wants foreign business on our own terms and that as yet we have not figured out what those terms are.

Examples of light-switch diplomacy abound. Take this chronology involving Dresser Industries' $150 million contract to build a drill-bit plant in the Soviet Union. As a way of demonstrating our protest to Soviet treatment of dissidents, various presidential advisers urged the president [Jimmy Carter] to veto the sale.

Aug. 9 [1978]: The Commerce Dept. (reportedly with the president's blessing) approves Dresser's export license, enabling the company to go ahead with the sale.

Aug. 25: A special review panel convened at the request of the Defense Secretary advises against the "technology transfer."

Aug. 30: The president's senior advisers vote by a 3-to-2 margin to stop the deal.

Sept. 6: The president reaffirms the decision to allow the sale.

The light goes on, the light goes off, the light flickers, the light goes on. I don't know whether it is going to stay on or not but in the meanwhile it is hard to see that these manipulations have had any impact on the nature and operation of Soviet society.

Against this background, we must realize that our dependence on world trade has increased sharply. Exports and imports, considered together, are equivalent to about one-fifth of our gross national product, which is double what they represented a decade ago. Yet our share of world exports has been steadily declining. Our market share of exports of manufactured goods, for instance, has fallen almost 30 percent since the late 1950s.

Meanwhile, our appetite for imports has been voracious. These imports are not just a matter of taste and convenience. We can't just say, "Well, she doesn't need to have a handkerchief from Paris." We have come to depend on many of these imports to provide us with key commodities; oil is only the best-known example.

We must recognize that major commercial relationships cannot be turned on and off like a light switch; they have to be built up and sustained over a period of time. It takes a long time to go abroad, get positioned, and learn about how to do things there. A considerable investment is made on both sides of the transaction, and there emerges a certain interdependence that necessitates confidence in the continuing good faith of both sides. In this process of investment, a company develops what the government may regard as a bargaining chip. But if our government then takes that bargaining chip and spends it, where does that leave the company? The company has lost out, and its commercial relationship deteriorates. Who wants to deal with an unreliable supplier, especially when the supplier is not the only game in town?

We can predict, even observe, that light-switch diplomacy as it is used more and more becomes a wasting asset. Increasingly, when the diplomat flicks the switch, the light will not go on. It will not go on because private firms cannot afford the cost, cannot make the investments, to create the bargaining chips and then have the bargaining chips used. And self-respecting trading partners will not put up with it.

If light-switch diplomacy is turning off our trading partners, what then is the

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proper relationship between trade and government policy?

(1) Governments should provide a stable and predictable set of rules under which trade can take place on individual and corporate initiative, as free as possible from the uncertainties inherent in the ad hoc exercise of government authority. Rules instead of authorities—rules that we can read; rules that are predictable.

(2) Traders, individual or corporate or government, must keep their bargains, and government must not place private parties in the position of breaking a bargain properly arrived at.

Certain products and countries may require special treatment on grounds of national security. But here, as elsewhere, rules are essential. If there is some product we should not sell, it should be specified. Just because a product is in an area linked to security does not mean we should just leave the whole thing open to the discretion of an ever-changing cast of characters who have access to the light switch. Ad hoc and changeable decisions add up to chaos and an environment that frustrates fruitful commercial relationships.

Outside the security-related area, rules should be kept to a minimum, be clear and consistent, and be as free as possible from the need for interpretation by government authorities.

If our government adheres to these principles, then U.S. companies can develop and uphold their reputation as reliable suppliers, a reputation essential to their success in export markets. When our government turns away from these principles, it correspondingly undermines our competitive position abroad.

[From Industrial Week, Sept. 6, 1982]

Russian Pipeline Embargo Sets Ominous Precedent

It's politics as usual in Washington. The use of trade as a political weapon or carrot by the Administration in power is not new. But now it has been elevated to new heights.

In the U.S. vs the USSR natural gas pipeline to Europe, the President has not only put sanctions on sales from U.S. firms; he has also broadened them to prohibit sales from foreign subsidiaries or licensees of U.S. multinationals.

This action sets a precedent that can only further confuse and frustrate U.S. industry's efforts to get involved in international trade, efforts which must be accelerated and expanded as we enter the era of a one-world market.

The irony of the situation is that, as foreign policy, it is inconsistent (pressure from the farm lobby keeps grain shipments going), is angering our European allies, is ineffective, and is doomed to failure. It all started with President Carter tightening exports to Russia as punishment for its invasion of Afghanistan. The Russians are still there.

President Reagan during his election campaign decried the idea of applying U.S. law overseas. Pointing to the Foreign Corrupt Practices Act, he said we can't export our morality. Now it appears he may have fallen into the same trap.

The Russians will build the pipeline. Foreign competitors stand ready and willing to supply the materials. Europeans need and want the gas the pipeline will bring them. They are angered by President Reagan's position, which they feel is an impingement on their sovereignty.

Europe's dependence on a Russian energy resource is ominous. But so is our continued dependence on foreign oil. Ill-conceived national policies and laws put the U.S. into the energy bind it's in today. That same bumbling will put U.S. industry behind the eight ball in the competitive race toward internationalization and world markets. Industry can hardly be faulted for shying away from trade if the rules keep changing.

It's time to stop using trade indiscriminately as just another pawn in the world's political chess game. It's time to think through and establish a foreign policy that is consistent with sound international economic policy and compatible with our domestic economic and social goals. And that has to include support, rather than hindrance, of the internationalization of U.S. industry.●

AN ANALYSIS OF MEDIA COVERAGE OF WAR IN LEBANON POINTS TO BIAS AGAINST ISRAEL POSITION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BIAGGI. Mr. Speaker, throughout the recent Israeli operation peace for the Galilee, I have been concerned over what I consider to be less than accurate reporting of the campaign by certain segments of the American media.

The organization Accuracy in Media Inc., of Washington, D.C., has done a detailed analysis of the media's coverage of this conflict. What emerges as a central theme was the fact that notwithstanding certain clearly biased reports by the major media of this Nation—the support of the American people for Israel continued strong.

From the outset coverage failed to fully emphasize the fundamental reasons why Israel launched the campaign. They did so to protect her citizens from the relentless attacks by PLO terrorists operating in Lebanon. It was nothing more than any nation would do to protect her people from an enemy so close to its borders.

With the evacuation of the PLO from Lebanon now complete one hopes it will signal a new peace beween Israel and Lebanon, one which will be a catalyst for a more enduring peace throughout the Middle East. I recently visited both Israel and Lebanon together with my colleagues Mr. Scheuer and Mr. McGrath. While there we met with Prime Minister Begin and left convinced that he too wants a lasting peace in the Middle East but one which respects and recognizes a sovereign Israel secure and free from those who would destroy it.

I urge my colleagues to read the Accuracy in Media analysis carefully and one hopes that the bond which has united this Nation with Israel will continue undiminished. It is a relationship which has been the very cornerstone of our foreign policy over the past 30 years. A strong and sovereign Israel is vital to our own national security and our policies must be directed to insuring the maintenance of a strong State of Israel.

I now wish to insert into the Record the article entitled "Lies About Lebanon."

[From the AIM Report, September 1982]

Lies About Lebanon

On August 20, the day before the PLO evacuation from Beirut began, The Washington Post published a poll which indicated that 42 percent of the respondents believed the Israeli invasion of Lebanon and the removal of the PLO from that country would change things for the better. Only 22 percent thought that the change would be for the worse, while 9 percent didn't think that there would be much change, and 27 percent had no opinion.

This poll indicated that public opinion in this country was still predominantly on the side of Israel. Fifty-two percent of the respondents said their sympathies were more with Israel, while only 18 percent sided with the Arabs. The pro-Israel percentage was down by three points from March, prior to the invasion. There was a three-point increase in the number who said that they sided with neither Israel nor the Arabs.

These results are rather surprising in light of the fact that the news coverage of the Israeli invasion and editorial opinion tended to be highly critical of Israel, with considerable emphasis placed upon charges that there had been heavy civilian casualties and widespread destruction of homes. Partisans of Israel felt strongly that the media were exhibiting a pro-PLO bias.

Despite the sympathetic interviews with Yasser Arafat and photos of him kissing babies, The Washington Post/ABC poll found that the number of respondents who believed that the PLO did not represent a majority of Palestinians had climbed from 48 percent in March to 60 percent in August.

This poll suggests that the invasion and the media coverage of it did little to alter the strong pro-Israel sentiments of the American people. This raises the question of whether the coverage was less pro-PLO than it was perceived to be by partisans of Israel. Or were the American people simply not paying much attention to what the media were saying? The latter is a distinct possibility. The poll showed 60 percent of the respondents saying that they had not followed the news from Lebanon at all closely even though editors had considered it to be a top news story for two months.

THE PLO DISINFORMATION CAMPAIGN

On June 20, a full-page ad appeared in The New York Times with the bold headline: "Death and Devastation in Lebanon." In smaller type: "40,000 people killed and wounded; 700,000 people homeless." The ad charged that the Israelis had intensively bombed Beirut, Tyre and Sidon and had totally destroyed scores of small towns, villages and refugee camps. It charged that virtually every population concentration of Palestinians and Lebanese east and south of Beirut had been "subjected to terror bombing, with consequent death and dreadful injury among the most vulnerable of the civilian population—women and small children, the elderly and the ailing."

The ad was signed by 214 Americans who said they were anguished by the knowledge that this wanton destruction had been inflicted by armament supplied by the United States. The signers included a number of familiar names from the anti-Vietnam movement—Ramsey Clark, the Berrigan brothers, Dave Dellinger, Julian Bond, Pete Seeger, I. F. Stone, and Studs Terkel.

The same figures for casualties and homeless in Lebanon were used again in an ad submitted by an organization called Concerned Americans for Peace for publication in several newspapers on July 11. This ad demanded that "the killing of innocent men, women and children and the destruction of their homeland must stop." It then said that "various established organizations have created separate committees to channel aid to the war-ravaged people of Lebanon." Saying, "Some of these include," it proceeded to list the names and addresses of six well-known relief organizations, including the American Red Cross and CARE. The placement of the names and addresses of these organizations gave the impression that they were co-sponsors of the ad.

However, when these organizations were asked about the use of their names in conjunction with the ad, they all denied that they had authorized anyone to use their names. The Christian Science Monitor had taken the trouble to check this out. Finding that the use of the names of the relief organizations had not been authorized, The Monitor declined to run the ad. The Los Angeles Times ran the ad but omitted the names of the relief organizations. The New York Times, The Washington Post, The Chicago Tribune, The Atlanta Constitution and Journal, and The Dallas Times-Herald all ran the ad with the names of the relief organizations.

These newspapers also failed to check to see if there really was such an organization as "Concerned Americans for Peace." Had they done so, they would have found that the post office box address that was listed in the ad for the organization did not exist. They would also have learned that the advertising agency that placed the ad could not locate the individual who had given them the order, paying for it with cashier's checks drawn on a bank in Encino, California. The amount of money involved ran into tens of thousands of dollars. It undoubtedly came from the Middle East. Whoever placed the advertising was in all probability acting as an agent for foreign principals and should have registered with the Justice Department. Under the law, ads placed by such agents are required to reveal the identity of their principals. In this case the law was easily circumvented because the newspapers made no effort to find out the real source of the money.

There was something else the papers should have checked—the figures cited in the ad for the number of people killed, wounded and rendered homeless by the Israeli attack. The Washington Post did raise a question about the numbers. In The Post the ad was modified to say that "according to news reports" there had been 26,000 killed and wounded and 600,000 rendered homeless, reductions of 14,000 and 100,000 respectively from the figures originally submitted. The other papers accepted the higher figures without question.

EXAGGERATED CIVILIAN CASUALTIES

Even the figures used in The Washington Post, which had appeared in news stories, appear to be wild exaggerations. The New York Times reported on July 14 that visitors to southern Lebanon could easily see that the widely used figures of 10,000 dead and 600,000 homeless were "extreme exaggerations." It turned out that these figures had originated with the Red Crescent organization, which was headed by Yasser Arafat's brother.

The number of civilians killed in Tyre, Sidon and Nabatiye was only 323 according to Israeli sources. David Shipler of The New York Times reported that discussions with local officials tended to confirm the Israeli figure for those three cities. He said that the count did not include an estimated 200 civilians killed in Israeli air strikes before the invasion nor those killed in the Palestinian refugee camps. Nor do we have figures on the number killed in Beirut. However, the scale of the exaggeration of the early figures has been exposed by recent reports on the number of homeless. On August 17, Olof Rydbeck, commissioner-general of the United Nations Relief and Works Agency for Palestine Refugees, revealed that the number who had lost their homes in southern Lebanon was "at least" 60,000. That is one-tenth of the number cited in early news stories. He did not have a figure for northern Lebanon, but he estimated that it might be as much as 40,000.

While the media have been criticized for having accepted unquestioningly the exaggerated civilian casualty figures put out by the PLO, The New York Times and the UPI helped publicize another highly exaggerated figure as late as the second week in August. On August 10, The Times carried a UPI story reporting that Dr. William Monsour, chairman of the Pittsburgh chapter of the Arab Anti-Discrimination Committee, had said that 3,000 Palestinian children wounded in Israeli bombing raids on Beirut were to be flown to this country for treatment. On August 12, The Times discussed this project again, saying help was being sought to bring "as many as 3,000 severely wounded Lebanese and Palestinian children" to the U.S.

The Times did not ask Dr. Monsour the source for his figure, but another reporter did. His revealing reply was: "If that mad dog Begin goes on bombing . . . he should be in chains. Then there will be triple that number. If these war criminals go on, before we know there will be 10,000." Pressed for a source for the 3,000 number, Dr. Monsour said that the American University in Beirut "think there are 6,000." The representative of the university in New York, Bill Rice, who is handling communications for the project, said that he doubted that the figure came from Beirut. He referred the question to Janan Al-Awar of the American-Arab Anti-Discrimination Committee headquarters in Washington. Miss Al-Awar said that there were lots of wounded children in Lebanon, but she said she had no idea how many. She said that 3,000 was the number that Dr. Monsour had indicated that he could process through his medical center in Westmoreland County, Pa. It was not an estimate of the number of children who might require treatment. The UPI and The Times had given currency to another statistic that had simply been pulled out of the air.

THE PHOTO THAT LIED

On August 2, The Washington Post carried a large UPI photo of a heavily bandaged baby being fed by a nurse. The caption supplied by UPI read: "Nurse feeds a seven-month-old baby who lost both arms and was severely burned late yesterday afternoon when an Israeli jet accidently (sic) hit a Christian residential area in East Beirut during a raid on Palestinian positions to the west." The photo is said to have moved President Reagan, who mentioned it to the Israeli foreign minister when he called at the White House that day.

The Israelis made a very careful investigation of this case. They interviewed the doctor who treated the child and two nurses at the hospital. They had two Israeli doctors examine the child. They found that the child had not lost its arms. It has suffered a fracture in one arm and a superficial burn on the face. The broken arm has been placed in a cast. At the time the child was examined by the Israeli doctors it was recovering nicely.

The child has also been photographed by photographers for the Associated Press and Time magazine. They were interviewed by an Israeli journalist who reported that neither recalled anything being said about the child having lost its arms. The AP photographer has reported that the baby has been injured by the PLO shell. Confronted with the evidence that he had incorrectly described the baby's injuries, the UPI photographer is said to have insisted that there must have been two babies with the same name. The Israelis deny that this was the case. Their military investigators also confirmed that the injury resulted from PLO shelling, not an Israeli bomb.

On August 22, UPI sent out a story reporting what the Israeli government was saying both about the child's injuries and their cause. UPI Editor-in-chief H. L. Stevenson told AIM that he didn't know if the Israeli account was true or not, but he agreed to investigate the matter further. This was a change. On August 20, The Washington Post said UPI was standing by its story.

INFLAMMATORY STORIES

On August 15, the UPI provided its clients with a story by Julie Flint from Beirut that was inflammatory. "Beirut's hospitals are filled with Lebanese and Palestinians, guerrillas and civilians, who are victims of Israeli phosphorus shells, an anti-personnel weapon that produces deep burns," wrote Flint. She quoted doctors as saying there had been "hundreds of phosphorous victims." She described in gruesome detail the agony of those suffering from phosphorous burns, quoting a surgeon as saying, "Phosphorous produces the worst of all the burns. It keeps on burning. You pour water on the burn time and time again, but it doesn't go out. The skin sloughs away." Flint described one victim who had been wounded by a phosphorous shell. The doctor who treated him was quoted as saying, "We opened the bandages on the operating table and smoke came out. The man was wounded ten hours before. The leg had burned for ten hours."

Miss Flint, having described these as "anti-personnel" weapons, said Red Cross officials in Geneva had said that a 1977 protocol prohibiting the use of "inhumane weapons that cause unnecessary suffering" covered phosphorous. She also noted that a 1980 UN convention had restricted the use of incendiary weapons against military objectives in civilian areas.

The facts are different. Israeli authorities pointed out that phosphorous shells have been used by armies the world over for many years as "markers" for the artillery. The smoke they give off shows the gunners where the shells are landing and enables them to better zero in on their targets. They are not designed or used as antipersonnel weapons as Miss Flint had reported.

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Loren Jenkins, writing in The Washington Post on August 20, said it was impossible to tell how many civilians had been killed or injured by phosphorous shells in Beirut. He said that hospital records did not distinguish between patients suffering from phosphorous and other burns, and pressure on hospital laboratories had made chemical analyses of the causes of burns impossible. In contrast to Miss Flint's assertion that the hospitals were "filled" with victims of phosphorous shells, Jenkins quoted the chief of surgery at the American University hospital in Beirut as saying, "Most of the serious injuries we were getting during the early part of the war were from bullets and shrapnel. In the last two or three weeks, though, we have been getting a number of serious burns patients."

ARE THE MEDIA ANTI-ISRAELI?

Israel has long had an excellent press in the United States, but it seems clear that even though the American public has not switched from being predominantly pro-Israel as a result of the invasion of Lebanon, there has been a noticeable change in the attitude of many in the media.

When a newspaper is offered an opinion ad that it doesn't agree with, the usual procedure is to go over the text with a fine-tooth comb to find factual errors or other plausible reasons for rejecting the ad. Accuracy in Media has encountered this almost every time it has sought to place ads in the Washington Post or The New York Times. Virtually every statement has to be documented.

The willingness of these and other newspapers to accept the highly inaccurate ad placed by the phoney organization, "Concerned Americans for Peace," without even checking to see whether such an organization existed or whether the respected relief agencies had authorized the use of their names is highly significant. Such controversial ads have to be approved by senior officials of the paper. The failure to give this ad the same treatment that is always given to Accuracy in Media ads is a clear indication that the senior official of these papers liked the ad's message.

This was reflected in the news stories, the photos, and the editorial pages of many of our leading newspapers, as well as in the reporting on TV. According to one count, 17 of the first 19 articles about the war in Lebanon on the Op-ed page of The New York Times were critical of Israel. The trend in The Washington Post was similar. Op-ed articles ran 20 to 4 against Israel and the editorials were 7 to 0 in the first weeks of the war.

The attitude that led the editors and publishers to accept the phoney organization's ad has also led them to accept wild exaggerations in news stories and questionable photos. Martin Peretz, the editor of the liberal New Republic magazine, was one of the first to expose those exaggerations after returning from a trip to Lebanon. Interviewed on a Washington radio talk show, Peretz was asked why professional journalists would engage in such inaccurate reporting. He replied, "Revolutionary movements . . . still seem to have some romantic cachet and way of engaging sympathy with the Western press." Martin Peretz should know. He was a leader in the anti-Vietnam movement.

The PLO is Marxist. It is backed by the Soviet Union and in turn it has given assistance to communist guerrillas in such countries as far-away Nicaragua. Those who have been responsible for distorted reporting and editorial comment supporting every communist-backed guerrilla movement in Latin America, Africa and the Far East were often restrained in dealing with the PLO and Israel. There was a lot more risk in trying to make popular heroes of the PLO than in performing that service for the Sandinistas or the guerrillas in El Salvador, Rhodesia or Southwest Africa.

The Israeli invasion of Lebanon and the resulting casualties among innocent civilians provided an opportunity for some in the media to side as openly with the communist-backed terrorists in Lebanon as they had been siding with them elsewhere in the world. Those pro-terrorist journalists have had great success in intimidating the U.S. government, deterring it from taking the forceful action necessary to administer a decisive defeat to the terrorists anywhere in the last 20 years. Israel drove them into paroxysms of rage by refusing to be capitulate under their attack. The Washington Post/ABC poll suggests that the majority of the American people also tuned them out.

WHAT YOU CAN DO

We have cited two emotion-laden inaccurate UPI reports from Lebanon. Those responsible deserve to be at least reprimanded. We suggest that you write to H. L. Stevenson, Editor-in-Chief, United Press International, 220 E. 42nd St., New York, N.Y. 10017 about the photo of the baby and phosphorous shell story by Julie Flint.●

AMENDMENT TO H.R. 6956 TO CUT FUNDING FOR CENTAUR

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. FLIPPO. Mr. Speaker, I intend to offer an amendment to the HUD-independent agencies bill, H.R. 6956, to eliminate funding which has been added for the sole-source procurement of a Shuttle/Centaur upper stage. In a few brief paragraphs I want to outline the arguments surrounding this issue, what my amendment would do, why I feel that is the correct way to go, and then document my argument with previous letters from NASA and DOD.

The issue concerns how the United States should proceed in developing a higher energy upper stage for use with the Space Shuttle. We have the Space Shuttle which is working well, but which has limits. By design, the Shuttle will only reach orbits of a few hundred miles altitude. To go higher—for example, to go to the commercially important geostationary orbit at 22,000 miles or to the planets—an additional rocket stage is needed and this is called an "upper stage."

We usually measure the performance of upper stages in terms of the amount of weight that can be carried to geostationary orbit (GSO) 22,000 miles up. At present, we have the "inertial upper stage" (UIS) developed by the Air Force under a joint agreement with NASA which can deliver 5,000 pounds to geosynchronous orbit. The Appropriations Committee bill would provide funds for development of a different upper stage—the "Centaur" by sole-source contract which could deliver approximately 10,000 to 12,000 pounds to geosynchronous orbit. The Centaur is not new—it has been used for some time as an upper stage for expendable boosters. It would have to be substantially modified for use in the Shuttle. Significantly, the Shuttle and several spacecraft already in development would also have to be modified. All these additional modifications will be very expensive and have not been adequately considered. Depending on how you do the accounting, the added costs could be several hundred million dollars.

Centaur advocates say it would be inexpensive because it already exists. But the "already exists" argument cuts both ways. First, Centaur has to be modified to fit the Shuttle. Second, there is already existing hardware (in the Shuttle and in spacecraft in development) that would have to be modified at great cost.

Perhaps this cost would be worthwhile if we had missions that demanded the extra capability. As of now we do not. The IUS can handle all firmly planned missions. Both NASA and the Air Force have assured me of that, as the letters below confirm.

So, as of right now, we do not have a hard requirement that cannot be met by the inertial upper stage.

What of the future? Spacecraft will grow. In the late eighties needs will outgrow current IUS capabilities, although IUS may be modified slightly to meet some of this growth. But by the early 1990's spacecraft will have grown beyond the capability of Centaur (which is already near optimum design, being an older design rocket).

In addition, NASA proposes to develop the Centaur without competition, always a questionable practice. There is adequate time to conduct an open competition for the next generation upper stage and assure that we get a capability which will carry us into the mid-1990's.

My amendment would take another step toward this by deleting funds for noncompetitive Centaur procurement in 1983.

The NASA authorization bill for fiscal year 1983, H.R. 5890, which passed the House on May 13, 1982, contained funding to begin a competitive process for a new upper stage. So my amendment would conform H.R. 6956 to language the House has already passed.

My amendment was printed in yesterday's RECORD, but since it is brief, let me repeat it here;

AMENDMENT OFFERED BY MR. FLIPPO TO H.R. 6956

On page 20, line 13, strike out "$5,542,800,000" and insert in lieu thereof "$5,402,800,000", and

On page 20, line 17, insert immediately before the period the following: "*Provided* *further,* That none of the funds appropriated under this heading shall be obligated or otherwise made available for the sole-source procurement of the design, development, or production of liquid-hydrogen, liquid-oxygen (Centaur) upper stages".

Finally, I want to put two letters in the RECORD. One from the Air Force outlines their needs and the tremendous extra costs of Centaur. The second, from NASA and the Air Force describes the lack of justification for Centaur. I commend these letters to your attention:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C. August 16, 1982.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to your request for an assessment of the applicability of Centaur for DOD use. Our assessment covers both Centaur performance and cost.

Currently designed DOD spacecraft will not likely grow beyond the 6000-7000 pound range which could be accommodated by improvements in the Inertial Upper Stage (IUS) performance. However, we expect the next generation of DOD spacecraft which fly in the late 1980s & 1990s will be designed with extensive survivability measures (including large maneuvering propellant reserves) which will probably increase total weight well beyond IUS capabilities. Consequently, it appears that a new higher energy upper stage (HEUS) will be required for the next generation of DOD geosynchronous spacecraft.

The Congressionally directed use of the Centaur by NASA for their Galileo and ISPM planetary exploration missions adds about $100 million to DOD IUS program costs. To be of use to DOD, the Centaur would have to be modified into a 20 foot long version to be Shuttle compatible with DOD payloads. It would cost an additional $400-900 million (above the $634M NASA Centaur budget) for DOD spacecraft to make the transition from IUS to the modified Centaur. Our situation differs from NASA's in that we have several existing—and continuing—operational spacecraft programs configured for the IUS. Thus, our cost estimates include reconfiguring the NASA planetary Centaur and the DOD spacecraft to use the 20 foot version of Centaur.

Independent of the Congressional direction to NASA on the use of Centaur, we continue to believe that DOD requirements beyond IUS capability can best by met by a competitively developed new Higher Energy Upper Stage. A Centaur derivative would, of course, be a logical alternative in the HEUS competition. We do not see how legislation which dictates specific technical upper stage decisions can be helpful in giving DOD the flexibility it needs to develop a HEUS which is both optimized for DOD missions and is cost effective.

I hope this assessment of Centaur applicability for DOD missions satisfies your needs. Please advise me if I can be of further assistance.

Sincerely,

VERNE ORR,
Secretary of the Air Force.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., July 13, 1982.

Hon. RONNIE G. FLIPPO,
Chairman, Subcommittee on Space Science and Applications, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We urge your careful review of a major issue regarding H.R. 6685, the Urgent Supplemental. The bill, as amended by the Senate, contains direction for NASA to develop, via sole source contracts, the Centaur upper stage for its planetary missions and to cancel procurement of the Inertial Upper Stage (IUS) vehicles now being bought on an Air Force contract for these missions.

While the use of the Centaur for NASA planetary missions was cost effective a year ago, NASA has proceeded to develop these missions using the IUS for the past six months. The result is that a return to the Centaur will significantly increase mission costs. Moreover, since we have also proceeded with the procurement of the IUS vehicles and manfacturing effort has gone forward for a half a year, a NASA cancellation will increase substantially the costs of the remaining IUS vehicles for the DOD. NASA is presently discussing with contractors small improvements to existing stages to meet the near-term growth requirements for commercial payloads. If a small increase in payload capacity is required for DOD payloads, this can be similarly accommodated. Since there are no other NASA or firm DOD requirements for the Centaur upper stage prior to approximately 1988 in the 1980s, there can be no justification for these increased costs since a high energy upper stage (HEUS) can be developed when a requirement exists in the late 1980s.

We therefore believe the Nation would be better served if the Air Force and NASA are permitted to proceed with a carefully structured high energy upper stage program. This approach would be far more effective and beneficial since a HEUS would be required whether or not we develop the Centaur. The USAF and NASA have developed an agreement in principle for a joint HEUS program structured to meet commercial, scientific and military needs for the 1990s.

We therefore request your assistance to eliminate the restrictive and wasteful direction on the Centaur upper stage as was indicated in the President's first veto message.

Sincerely,

JAMES M. BEGGS,
Administrator.
VERNE ORR,
Secretary of the Air Force.●

HANDGUN BODY COUNT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. LEHMAN. Mr. Speaker, every month more than 400 Americans are killed with handguns and more than 5,000 are wounded in crimes involving handguns. Obviously our present handgun control laws are not sufficient. A gun in every hand is not the answer to crime. Legislation that would stop the easy availability of handguns is now supported by a majority of Americans and we in Congress should listen to the cries of American citizens.

Today, though, the situation remains unchanged. The handgun body count for the month of June registered 552. It saddens me that in my own State of Florida, there were 76 handgun deaths, the highest number reported in any State. Since January, 3,773 handgun deaths have been accounted for.

The list follows:

HANDGUN BODY COUNT FOR THE MONTH OF JUNE—552

ARIZONA (9)

Grover Cockerhern, Harry Miller, Lydia Miller, Judy Music, Gus Patrick, Andrej Rudenko, Christine Snyder, John Sturges, Herbert Welday.

ARKANSAS (1)

Ezra Graham.

CALIFORNIA (46)

Norman Burkes Jr., Desiree Cain, Linda Cain, Daniel Calvillo, Dolores Campanale, Mark Campanale, Frank Civimele, Gregory Cook, Donald Davis, Melissa Davis, Michelle Davis, Thomas Davis, Victor Farias, Monte Fine, David Frederickson, Ernest Gonzales, Ira Grover, Ira Hamilton, David Harvey, Barkley Hodges, Patricia Kahn, Spec. 4 Gerald Lee.

Jay Lewis, Jennifer Lewis, Wesley Lewis, Rossano Lontoc, John Martinez, Charles Massey, Marion Massey, Timothy McDougall, Helen Parks, Jesse Perez, Joseph Ragsdale, Charles Rambert, Kenneth Roberts, Vakis Shaike, Keith Silva, Terry Taylor, Guadelupe Torres, Thomas Wilson, Richard Dawson, Keith Henderson, Unidentified male, Unidentified male, Unidentified male, Unidentified male.

COLORADO (9)

Henry Callahan, Connell Carner, Iris Daily, Robert Hernandez, Charleen Hofer, John Mays, Mildred Mays, James Tovrea, Jr., Dr. Robert Varnard.

CONNECTICUT (3)

Elsie Aviles, Rev. Robert McBride, William Siegert.

DISTRICT OF COLUMBIA (6)

Kenneth Deville, Nathaniel Haggins, Bernard Johnson, Margaret Mary Lee, Larry Ross, Rasheed Zaman.

FLORIDA (76)

Alfredo Alejo, Jose Acosta, Carson Anderson, Chester Bartley, Steven Bigham, Russell Davidson, Jr., Russell Davidson, Jesus Diaz, Anthony Felton, Ronnie Ferguson, Eunice Forehand, Jerome Gadson, James Gann, Herbert Crockett, Howard Reynolds, Helen Gerle, Jose Goday, John Gomez, Gloria Gomez, Ronald King.

Antonio Lopez, Mario Marquez, Ronald Marron, Charles Rankin, Miguel Rioseco, Dennis Byrd, Kevin Campfield, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male, 42 handgun deaths from Broward and Dade Counties.

GEORGIA (10)

Carl Buffington, Constance Davis, Marvin Davis, Pierce Kidd, Charles Marshall, Jr., Grace McCree, Patricia Robinson, Kenneth Scandrett, Marshall Sims, James Vickery.

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HAWAII (2)

Brandelin Urata, Unidentified male.

ILLIONOIS (61)

Esther Ammirato, Ralph Ammirato, Derrick Bailey, Mary Becman, Steven Bregin, Allan Brood, Charles Brown, Edgar Brown, Henry Brown, Taylor Brown, Mrs. Brickley, Allan Cline, Janie Cunningham, Arthur Deshazor, Rose Dowery, Alferdo Piqueroa, Gerald Fullman, Serafin Gonzales, Earl Green, Esther Guzman, Karen Harding, Mary Harper, Werner Hartmann, Theodore Hawkins, Willie Hawkins, Phillip Hill, James Howard.

Weslie Howard, Darien Jones, Terrell Jones, Robert Love, Otis Mack, Robert Mason, George Mizique, Willie Moffett, Donald Montgomery, Jr., Walter Nizzo, Robert Norman, Otto Paris, James Peck, Jeffery Peebles, Bishop Redditt, Phoebe Richardson, Fortino Sanchez, Leo Schmidt, Mary Simmons, Derek Smith, Curtis Strickland, Larry Swisher, Phillip Thomas, Rupert Twilley, Allen Wainright, Harry Walker, Willie Watson, Petite Williams, John Zava, Unidentified female, Unidentified male, Unidentified male, Unidentified male, Unidentified male.

INDIANA (5)

Clinton Long, Gwendolyn Mason, Donald Pepkowski, Dwayne Strickland, Roosevelt Warrick, Jr.

IOWA (1)

Sandra Mysak.

KANSAS (5)

Charles Knox, John Robinson-El, Columbus Short, Mark Swanson, Shirley Taylor.

KENTUCKY (7)

Elijah Bealsey, Anna Collins, Lorene Gillespi, Kenneth James, Zachary McDaniel, Marlene-Toll, Thomas Toll, Sr.

LOUISIANA (10)

Janis Burnette, John Brunette, Emitte Core, Robert Deemer, Burt McCoy, Donny Purdue, James Sargent, Robert Tedone, Michael Williams, Unidentified male.

MAINE (2)

Maxine Eaton, Jeffery Toothaker.

MARYLAND (20)

Terry Allmond, Prentis Barber, James Beale, Carl Bethea, James Bristol, Richard Bull, Gordon Gillis, Vernon Lomax, Gregory Moore, Jeffery Montgomery, Gary Nickell, Edward Owens, Gwendolyn Owens, Walter Scott, George Shelton, Theodore Sparks, Wayne Sparks, Kathy Thomas, Lori Todd, Unidentified male.

MASSACHUSETTS (1)

Joseph Mistretta, Jr.

MICHIGAN (39)

Jereune Bagget, Richard Bain, Doris Beverly, Royce Brown, Roy Bruinsma, Kathy Charobee, Judge Patrick Dennis, Darryl Dooley, Martin Ford, Bud Fuller, John Gibson, Ralph Harris, Woodrow Hankins, Karin Hanna, Thomas Harvey, Clyde Hicks.

Johnny Hinton, Cleothus Hughes, Curtis Jackson, Franckie King, Richard Lembas, Samuel Mann, Van McKinley, Ronald Jenkins, Cornell Johnson, Debra McKenzie, Leslie Nabors, Lamar Pierce, Keith Pryor, William Russell, Jr., Walter Sanders, Robert Smith, Stacey Smith, Lamorse Roberson, Darryl Sturdinant, Boyce Thompson, Lee Trimmer, Waverly Williams, Nasser Zreen.

MINNESOTA (2)

Thomas Timmers, Keith Williams.

MISSOURI (25)

Herman Allumns, Williams Bruce, Elroy Childs, Billy Dillow, Roy Fleming, John Ilewski, Darryl Ingram, William Jackson, John Johns, Daniel King, Michael Malone, Freddie Moore, Henry Moore, Clyde Nash, Jerry Oestricker, Diane Parker, William Prather, Eugene Scott, Columbus Short, Jr., Donald Stevens, Roosevelt Upchurch, Mildred Wallace, Pollard Williams, Robert Young, Unidentified male.

NEBRASKA (1)

Darrell Yates.

NEVADA (2)

David Costley, Steven Easy.

NEW HAMPSHIRE (1)

Robert Pendergast.

NEW JERSEY (6)

Donald Becker, Kevin Booker, George Garbarino, Robert Mason, Shiela Messinger, Patrick Morrisey.

NEW MEXICO (5)

Thomas Bengel, Richard Fergus, Steven Segura, Ian Smith, Charles Webster.

NEW YORK (32)

Thomas Acevedo, Mary Alcide, Denise Batista, Michael Bonserio, Jose Boyce, Garvey Bruno, Clarence Carson, Brooke Casady, Cecil Coat, Oswaldo Fiala, Fred Furino, Antonio Gracia, Leslie Hibbert, Kester Joseph, Aston Knight, Cecil Lawrence.

Edward Murray, Frances Patterson, Stuart Schulman, Thomas Semple, Larry Su, Maria Vera, Gina Whitlock, John Ivan, Angelo Spusato, Attillio Vena, Unidentified male, Unidentified male, Unidentified male, Unidentified male, Unidentified male.

NORTH CAROLINA (5)

Henderson Caldwell, Harold Marshall, Jeffrey Pack, John Phillips, Unidentified male.

OHIO (32)

Bryan Anthony, Roosevelt Arrington, Reginald Banner, Mix Bowman, Jr., Janet Boyce, Archied Brookins, William Burkebile, Randell Cook, Eron Denney, Donald Fields, Mary Finnegan, Elsee Foster, Kim Gallo, Robert Gibson, Herman Harris, Arthur Heller.

John Hobbs, Thomas Joyce, Theodore Krajc, Lorline Lilly, Kevin Merchant, Steve Pinson, Christopher Plevnik, Richard Sanders, Nathaniel Scretchine, Bruce Talmadge, Allen Tipping, Mary Walker, Weak Watkins, Unidentified male, Unidentified male, Unidentified male.

OKLAHOMA (12)

Priscilla Flanigan, Cecil Lawrence, Melissa McCauley, Robert McCauley, Jerry Miller, William Pickard, Kathleen Roberts, Ronald Roberts, James Rollins, Dale Spergen, Sandra Vess, Roger Wolf.

OREGON (1)

Paula Finan.

PENNSYLVANIA (21)

Oscar Burns, Jack Chambers, Randolph Chambers, Richard Esposito, Joseph Geiger, Charles Geist, Alexander Glenn, Veronica Griffin, Maude Hunter, Denise Moffet, Carolyn Moore, James Morris, Willis Ober, Suzanne Ober, Police Officer Pickney, Joseph Pronchik, Anthony Pronti, Nicholas Rymko, James Sipe, Unidentified male, Unidentified male.

SOUTH CAROLINA (5)

Elma Burgess, Fred Burgess, Ernest Coleman, Terry Love, Larry Riggins.

TENNESSEE (6)

Diane Estes, Gary Estes, Hazel Estes, Jackson Kilgore, Robert Walker, Marie Wetzel.

TEXAS (60)

Ernest Barnes, Rafael Barrientos, Joseph Bellows, Danny Bradley, Gregorio Bravo, Thomas Brown, Leia Burns, Bill Butterfield, James Campbell, Virginia Campbell, Ruben Campos, Daniel Canales, Jerome Chamberlain, Jr., Jose Cortez, Marcus Cruz, Francisco Ceuvas, Armando De La Rosa, Ida Dodd, Obdulio Farical, Harold Green, Robert Guinn, William Hall, Syler Handcock, Gabriel Hernandez.

Alfredo Hidalgo, Eddie Hubbard, Robert King, Dep. Sheriff Kovar, Jerry Lacey, Clarence Lee, Hilton Lewis, Thomas Linton, Eugene Martinez, Grace McCree, Joquin Mendez, Abraham Montez, Pete Munoz, Damina Olvera, Elizabeth Ortiz, Kennth Rich, Benito Rodriguez, Guadalupe Roman, Willie Rudd, Jr., John Saldana, Rudy Santellana, Christina Sauceda, Bobby Schobey, James Seay, Anado Tobias, Huong Truong, Gilberto Valdez, Tony Walls, Loren Wilder, Seadric Williams, Robert Winters, Robert Wissenger, Juan Zavala, Unidentified female, Unidentified male, Unidentified male.

UTAH (2)

Edmund Kesler, Unidentified male.

VIRGINIA (7)

Kenneth Crawford, Rudy Guillen, Jr., Larry Hoffman, Celia Lafean, Edward Lafean, Ray Peele, James Thomas.

WASHINGTON (6)

Melvin Allison, Jr, John Early, Hilton Harris, Kenneth Nye, Leonard Vanderlain, Unidentified male.

WEST VIRGINIA (4)

Mrs. Fred Burgess, Isaac Huggins, Mrs. Reba Huggins, Archie Lusk.

WISCONSIN (3)

Catherine Doetsch, Gunter Doetsch, Gunter Doetsch, II.●

TRIBUTE TO MRS. CHRIS EVERT LLOYD

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. SHAW. Mr. Speaker, I rise today to commend and congratulate an outstanding athlete and fine young woman, Mrs. Chris Evert Lloyd, winner of the 1982 U.S. Open Women's Tennis Championship.

History was in the making, though no one knew this for certain, when Mrs. Lloyd, a native of Fort Lauderdale, Fla., and Ms. Hana Mandlikova, a native of Czechoslovakia, squared off for the final match of the U.S. Open.

Throughout the 2 weeks of the Open, Mrs. Lloyd spoke of motivation and how tough it was to maintain year after year.

Her motivation and determination paid off this past Saturday as she captured the title of the U.S. Open 6-3, 6-1 before a capacity crowd at the National Tennis Center in Flushing Meadows, N.Y.

Though history was being made at this 101-year-old tournament, Mrs. Lloyd's concentration and determination were so strong during the 1-hour-4-minute final that she had problems recalling the details of the match after she won her final volley.

Saturday's victory gave the 27-year-old Mrs. Lloyd her sixth victory at the U.S. Open. She is only the third woman to do so.

Mrs. Lloyd won her first U.S. Open in 1975 at the age of 20. She went on to win the Open in 1976, 1977, 1978, and 1980.

The victory also gave Mrs. Lloyd her 66th career victory in singles play at the Open championship, an Open record. Her record there now reads 66-6 in 12 years of play.

And finally, with this victory, she has become the first woman, ever, to win a grand slam event 9 consecutive years in a row.

Mrs. Lloyd's present addition to the anals of history further compliments the superb record this outstanding athlete and fine young woman has already established.

Mrs. Lloyd began her tennis career at the age of 6 in Fort Lauderdale, Fla., under the guidance and supervision of another pro, her father, Jimmy Evert. After winning numerous junior titles, Mrs. Lloyd turned professional and joined the pro circuit at the age of 18.

Since joining the pro tour, she has traveled worldwide, winning tournaments in the United States, Europe, and Australia. Mrs. Lloyd has triumphed in three Wimbledon and four French Open tournaments and has been ranked No. 1 worldwide in 7 of the past 8 years.

At the age of 27, Mrs. Lloyd has assured us that her career will not end here, but will continue for several more years. She has plans to play in several more tournaments in the United States and Europe and perhaps one in Australia at the end of this year.

Mrs. Lloyd, on behalf of my colleagues and myself, congratulations on a victory well earned and the new chapter in tennis history you have given to us all.●

BADGE OF ACHIEVEMENT

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. LONG of Maryland. Mr. Speaker, I am delighted to announce that Mr. Christopher A. Hane of Randallstown, Md., has achieved the revered rank of eagle scout. Mr. Hane, a lifelong parishioner of the Holy Family Catholic Church, is a member of Scout Troop No. 970. I have had the pleasure of knowing Chris personally when he served as my congressional page earlier this year. I am grateful to Chris for all the good work he did on my behalf in that demanding position. It is Chris' dedication and perseverance that has earned Chris a Maryland distinguished scholarship to study international relations at the Johns Hopkins University in Baltimore.

Chris' parents, Herbert and Brigitta of 8830 Meadow Heights Drive, also deserve to be congratulated on their fine job as loving parents to Chris and his three brothers and sisters. Mr. Hane, an employee at the Health Care Finance Administration, is also a little league soccer coach, while Mrs. Hane is active with the parish school's parents association and attends community college as a business student.

Chris can be proud of this outstanding accomplishment. The rank of eagle scout is a symbol of honor which reflects the highest ideals and principles of Scouting and responsible citizenship. This badge of achievement will serve Chris well wherever he may go in life. Chris is a fine young man and I wish him much continued success.●

THE MOSCOW HELSINKI MONITORING GROUP ENDS ITS WORK

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BINGHAM. Mr. Speaker, last week I received the news that the Moscow Helsinki Group announced its dissolution at a press conference on September 8 in Moscow. The announcement was made by Elena Bonner, wife of banished academician Andrei Sakharov. As a Commissioner of the U.S. Commission on Security and Cooperation in Europe, the government body charged by law with monitoring compliance with the human rights provisions of the Helsinki Final Act of 1975, I view this latest development with the utmost regret, and with genuine apprehension for the future of security and cooperation in Europe.

The Moscow Helsinki Monitoring Group, along with the several other Soviet Helsinki groups that were subsequently formed, established the goal of monitoring instances of human rights violations in the Soviet Union. As most of my colleagues are aware, it was not long before the Helsinki monitors were themselves the victims of the repression that they had set out to combat.

One of these victims is Viktor Nekipelov, a pharmacologist and writer, 53 years old, who was sentenced on June 13, 1980, to 7 years in strict regime labor camp and 5 years of internal exile for "anti-Soviet agitation and propaganda."

Born in Harbin, China, Nekipelov came to the U.S.S.R. with his parents when he was 9 years old. Two years later, in 1939, his mother vanished in the Great Purge. As he began to contact dissidents and voice his own political protests, Nekipelov became the target of official harassment in the late 1960's and early 1970's. He was arrested and tried in July of 1973 according to article 190-1 of the RSFSR Criminal Code, "slandering the Soviet state." He was sentenced to 3 years in prison. At one point during his imprisonment, Nekipelov was sent to Serbsky Institute for Forensic Psychiatry in Moscow. In his book, "Institute for Fools," Nekipelov describes the conditions in psychiatric hospitals in the Soviet Union.

Upon Nekipelov's release, the KGB repeatedly harassed his family and initiated a series of searches of his home. Denied permission to emigrate, Nekipelov has so far been unsuccessful in his attempts to leave the country. A member of the International Pen Club, he joined the Moscow group in November of 1977 and since that year, he has contributed to many samizdat petitions and articles.

Mr. Speaker, although the official work of the Moscow Helsinki Group may have been suspended, there is no doubt in my mind that the struggle for basic human rights in the Soviet Union will continue. It is imperative that the Soviet Government realize that we in the free world have not forgotten the Moscow Helsinki monitors nor their fellow countrymen who have suffered for their commitment to the ideals embodied in the Helsinki Final Act.●

RESULTS OF ANNUAL QUESTIONNAIRE FROM 10TH CONGRESSIONAL DISTRICT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BROYHILL. Mr. Speaker, every year I send to my constituents in the 10th Congressional District of North Carolina a questionnaire. These questions are based on the issues that come before me in Congress. Today I would like to share the results of the questionnaire with my colleagues.

The first question, "Do you favor higher tariffs and/or import quotas to protect American industry and American jobs, even though this would mean higher consumer prices?" found 57 percent saying "Yes" and 43 percent responding "No."

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There were 84 percent who favored an amendment to the Constitution which would require a balanced budget, except in the time of a national emergency.

Nuclear power as a form of energy for the future was overwhelmingly approved by a 72-percent to 28-percent margin. This question also mentioned that adequate safeguards would be mandatory in the development of nuclear energy.

Over 70 percent of the returned questionnaires indicated that the Federal Government should not set up taxpayer-financed public service jobs to assist the unemployed.

There were two questions on the issue of abortion. The first was, "Do you think the Government should decide whether or not a woman is allowed to have an abortion?" The response was clear and overwhelmingly "No," 89 percent responded negatively. However, when asked whether taxpayers' funds should be used to pay for abortions to needy women, 72 percent said "No" and 28 percent said "Yes."

On the question of banning all handguns, 84 percent indicated that the Federal Government should not require this measure to be taken.

"Do you think the Government should require stronger health warnings on cigarette packages?" This question was polled at a 56-percent negative response to a 44-percent favorable response.

There were 60 percent of the people who favored requiring health warnings to be placed on alcoholic beverages.

On the controversial question of social security, several alternatives were mentioned. The ones receiving the most responses were borrowing funds from the general tax revenues to help bolster the program, reducing the cost-of-living increases and gradually increasing the age of retirement. Others considered were reducing the benefits uniformly and eliminating the cost-of-living increases totally.

The last question was, "How do you feel about the future of America compared to a year ago?" I was pleased to see that 35 percent of the people feel optimistic about the future. There were 30 percent who felt about the same as last year and 22 percent were pessimistic. Only 13 percent were undecided about how they felt.

I must say, Mr. Speaker, that I am pleased with the way the majority of people in my district feel about the future and how they feel about the key issues which we have to examine in Congress.●

EXTRADITION BILL FLAWED

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. CONYERS. Mr. Speaker, although I support efforts to reform the extradition process, I cannot support H.R. 6046 in its present form. This legislation, unfortunately, does not adequately protect the civil rights of persons sought for extradition. Accordingly, I plan to offer and support amendments to the bill to rectify its defects. Reform of the extradition process has been a long time in the coming, and I see no reason to rush through legislation without serious and intense debate about each of the bill's failings and about amendments to correct them.

First, the bill authorizes preventive detention for at least 10 days upon the mere request of a foreign government. This provision would affect citizens and noncitizens alike and would apply to those simply charged with, not convicted of, criminal acts. It should be remembered that many of the nations with whom we have treaty obligations to pursue extradition are repressive regimes—nations such as Haiti, Poland, and El Salvador. Thus, there is ample reason to guard zealously the rights of the persons sought. Persons sought for extradition, like criminal defendants, should be released in most instances because they need to prepare their cases and consult with counsel, and to avoid the unnecessary deprivation of liberty.

I am also concerned that the bill contains no specific limit on the time within which the Government must be ready to proceed with the extradition hearing. Such a time constraint would provide a necessary check against possible abuses by the Government. Without such a check, the person sought to be extradited could be incarcerated and languish in jail, possibly prejudiced by the loss of evidence, dimmed memories, and unnecessary anxiety.

There are other problems with the bill. For example, the definition of the traditional exception to extradition for political offenses is too narrow and does not sufficiently protect those whose alleged crimes were in fact political. Also, the bill would prohibit a court from inquiring into allegations that a foreign country is seeking extradition of a person in order to retaliate for that person's political or religious beliefs, race, or nationality.

Extradition is a very serious process, for the individuals involved and for the nations invoking our laws. We must be careful to explore all the possible ramifications of the bill. Toward that end, I look forward to and expect a vigorous debate on these and other issues.●

PUBLIC OPINION DEMANDS AN END TO THE NUCLEAR ARMS RACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. BROWN of California. Mr. Speaker, the rise of the nuclear freeze issue has been one of the more remarkable political developments of recent years. While it is clear that a nuclear freeze, by itself, is not a meaningful goal for governmental policy, it should be equally clear that a nuclear freeze is an essential first step to meaningful nuclear arms reductions.

I recently came upon an interesting and useful discussion with public opinion analyst Lou Harris on the nuclear arms issue and public opinion in the Bulletin of the Atomic Scientists. Since this issue is of growing interest to the public, and almost certain to be a major issue in this November's election, I wanted to share this interview with my colleagues. I hope that those who still doubt the public attitudes on this subject pay special attention to this article.

[From the Bulletin of the Atomic Scientists, August/September 1982]

A TALK WITH LOUIS HARRIS

(By Jamie Kalven)

Over the past year, we have witnessed an impressive awakening of world public opinion to the dangers of the nuclear arms race. The West European movement for European Nuclear Disarmament is now finding counterparts in the United States. And more modest expressions of concern have been heard from Eastern Europe and the Soviet Union.

The American public is concerned, even scared, by the enormously high level of nuclear deployments by the Soviet Union and the United States, but they are even more worried by the belligerent rhetoric of government leaders concerning the possibility of using these weapons. Not only do Administration officials speak of "limited nuclear options," but they speak of being able to "prevail" over the Soviet Union in a "protracted" nuclear war. With the help of such comments the American public is rapidly coming to realize that we must somehow get out from under the shadow of this Damoclean sword.

One measure of their concern was the massing of more than 700,000 in the streets of New York to greet the opening of the Second United Nations Special Session on Disarmament on June 12. Other measures are provided by Louis Harris in the following sketch of American public opinion on the problem of nuclear war.

The potential political implications of Harris's findings are stunning. And the phenomenon his figures delineate has already provoked a response from Washington: the Reagan Administration's new found passion for arms control as formulated in START. But if Harris's analysis is correct, it will take more than that to deflect the rising expectations of the American people. What is a scarcely discernible tremor in 1982 could turn into a political earthquake by 1984 unless there is measurable progress toward the elimination of any possible use of nuclear weapons as an instrument of international conflict resolution.

—BERNARD T. FELD.

"An incredible phenomenon"—these are the words public opinion analyst Louis Harris used in a recent interview with the *Bulletin* to describe his latest findings on public attitudes toward the threat of nuclear war.

Few people bring a more seasoned perspective to bear on questions of public opinion than Harris. Director of one of the most respected polling organizations in the country, he has been taking soundings on the attitudes of the American people for more than 30 years. And he says he can recall nothing quite like the "urgent hunger for peace" disclosed by his recent polls.

Consider the following findings on attitudes toward a nuclear arms freeze and toward a nuclear arms reduction agreement with the Soviet Union:

A large majority (73 to 23 percent) favors every country that has nuclear weapons banning the production, storage, and use of those weapons.

An even larger majority (86 to 11 percent) wants the United States and the Soviet Union to negotiate a nuclear arms reduction agreement.

Another large majority (81 to 16 percent) wants the United States and the Soviet Union to agree not to produce any new nuclear weapons, provided both have a rough equivalence of such weapons today.

"These results are startling and simply cannot be ignored," says Harris. And it is unlikely that they will be ignored by elected officials, in view of figures like this: 56 percent of the voters say that they would vote against a candidate for Congress who favored escalation of the nuclear arms race, even if they agreed with him on almost every other issue: while only 14 percent say they would vote for him under such circumstances.

One of the most remarkable characteristics of the public's thinking, in Harris's view, is that it goes beyond the proposals that are presently under consideration. "Perhaps the most striking number in all the research we've done on the subject," he reports, "is that by 74 to 22 percent, a big majority of the American people, say that they want all countries that have nuclear weapons to destroy them." Another large majority (66 to 31 percent) think it is immoral for any country to produce more nuclear weapons.

Harris interprets these findings to mean that if an agreement were reached between the two superpowers to freeze or reduce nuclear weapons, the public would demand further reductions, and then further reductions, beyond that, until the last nuclear weapons were eliminated.

How does he account for this phenomenon? The single most important factor, he says, is probably "a growing distrust of the rulers of the two superpowers." People have long been aware "in a passive kind of way" of the threat of nuclear destruction. But now they are "genuniely frightened"—"Frightened in an activated as opposed to a passive way"—by the perception that "the leaders of the Soviet Union and the leaders of the United States are heading toward a nuclear confrontation." This fear is reflected in the 52 to 45 percent majority of the American people who are worried that President Reagan will get us into another war. And it is reflected in the portrait of the Soviet leaders that emerges from the following figures:

A large majority of the American people (84 percent) see the Soviet Union as a threat to the security of the United States.

A 2-to-1 majority (63 to 23 percent) think that there is a likelihood over the next 40 years that the Soviet Union will attack the United States.

A substantial majority (69 to 24 percent) think the Soviet leaders would not hesitate to use nuclear arms, if they were desperate enough.

Fully 49 percent of the American people view the Soviet Union as an outright "enemy," while another 31 percent think the Soviet Union is unfriendly toward the United States even if not our enemy. Thus, an 80 to 10 percent majority see the Soviet Union as a power hostile to the Inited States. These figures reflect a marked deterioration since 1976 when a 69 to 21 percent majority saw the Soviet Union as hostile—a deterioration Harris attributes to the impact of Afghanistan and Poland. (According to Harris, only three other powers in the world are viewed with a comparable degree of suspicion: Iran is viewed as hostile by 80 to 16 percent; Libya by 66 to 22 percent; and the Palestine Liberation Organization by 73 to 15 percent.)

In sharp contrast to their feelings about the Soviet state, Harris notes, the American people "feel remarkably little hostility toward the Russian people on a people-to-people basis." Thus, while 80 percent regard the Soviet Union as a power hostile to the United States, no more than 19 percent think the Russian people are unfriendly toward the American people; and only 9 percent feel unfriendly toward the Russian people.

Harris also points out that American distrust of the Soviet Union cannot be attributed entirely to the fact that it is a communist country, for there is a major communist country which is now seen as a close ally by 15 percent of Americans and as a friendly power, if not a close ally, by another 55 percent; the People's Republic of China. Viewed in light of the fact that in 1976 a 74 to 17 percent majority saw China as a hostile power, the finding that 70 percent of the American people now regard China as a friend should serve as a reminder that the enmities that fuel the nuclear arms race may prove more temporary, more ephemeral, than they seem at the moment.

One of the central themes that emerges from Harris's findings is the strength of the American people's desire to seek areas of agreement with the Soviets. This desire is all the more striking, Harris notes, because it moves against the undertow of such deep distrust. By a "huge margin" of 78 to 7 percent, the American people believe that the Soviets only want agreements when they can gain an advantage; and by another large margin of 75 to 21 percent, they are skeptical that the Soviets will keep their end of agreements. Yet despite this, 8 out of 10 American (83 to 15 percent) think it is important for the United States to try to establish better relations with the Soviet Union.

This general attitude is reflected in strong support for a wide range of potential agreements between the two countries:

A large majority (82 to 16 percent) would like to see the START talks end in agreement.

An almost identical majority (83 to 14 percent) think it is urgent for the two countries to reach agreement on capping, limiting, or reducing nuclear arms in each country.

The desire for agreement also reaches into a number of other areas:

Nearly all Americans (90 to 5 percent) would like an agreement to help end the world's energy problems.

Another big majority (88 to 6 percent) would favor agreement on a joint undertaking to curb air and water pollution.

There is a desire for agreements on matters the Soviets are not particularly eager to negotiate:

A big majority (85 to 3 percent) would like a U.S.-Soviet agreement that would enable Jews to leave the Soviet Union more easily.

Another large majority (85 to 5 percent) would like an agreement that would give more freedom to writers and scientists within the Soviet Union.

And there is as well a desire for agreements in areas where the United States has shown a reluctance to negotiate:

A large majority (72 to 16 percent) would favor an expansion of U.S.-Soviet trade.

A plurality (49 to 32 percent) would support giving the Soviet Union a "most favored nation" status in trade.

Thus, despite their skepticism about the good faith of the Soviet government, the American people want their government to seek out as many areas of agreement with the Soviet Union as possible. Harris characterizes their attitude this way: "They're saying we've got to try it, because the alternative to having agreements is building tensions which could lead to war—and to oblivion. The alternative has become unacceptable.".

Harris cautions that this does not mean "that America has lost the will to defend itself" or that the public is moved to negotiate out of a sense of weakness. "The only kind of agreements people here want," he emphasizes, "are those which are to the mutual advantage of both parties."

It is precisely this concern with mutuality, he reports, that makes the present moment "seem particularly ripe to the American people" as a time to negotiate nuclear arms agreements with the Soviet Union. For a majority of Americans now feel that there is rough equivalence in nuclear strength between the two countries and hence that "This is the right time to do something." The shift in public opinion on this point over the last two years has been dramatic: In 1980 a 57 to 37 percent majority felt the United States was weaker than the Soviet Union. Today, by contrast, a 59 to 38 percent majority feel the United States and the Soviet Union are roughly in parity.

The public's insistence on mutuality is also apparent in the response Harris and his colleagues received when they recently asked the following question: "Would you favor or oppose the U.S. deciding to gradually dismantle our nuclear weapons before getting an agreement from other countries to do the same?" By 82 to 15 percent, people who had favored a nuclear freeze by 6 to 1 declared that they would oppose any such move. The moral, as Harris sees it, is that "the American people want to negotiate from a position of rough parity and want a freeze or reduction of nuclear weapons to leave each country in a state of rough parity." Any suggestion that the United States disarmed unilaterally, he warns, will "blight" the emerging public constituency for nuclear arms control.

What other dangers does he foresee? There is, he says, one other "very important" danger: It would, in his view, be "a

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mistake" to couple the nuclear war issue with other issues—for example, to argue that money being spent on the nuclear arms race should be spent on various social programs. Such a strategy would, he argues, "weaken rather than strengthen the movement, because what you're doing then is saying to people: 'Look, in order for you to join my anti-nuclear movement, you have to agree to call for a restoration of food stamps or something.' "

He advises: "If you want to be effective on this issue, you must zero in on it. The movement is much stronger on a straight-forward, simple basis. I don't think it's an over-simplification simply to say: 'We demand that this potential scourge of humanity be halted and finally ended.' The more you diffuse the issue with a whole series of other issues, the more you weaken the movement."

In Harris's view, any such effort to integrate the nuclear war issue with other issues misconceives—and undermines—the unique strength of the movement. That strength resides in the fact that this is an issue that affects everyone equally, an issue that has aroused the common concern of people who may agree about little else.

"There is no way," says Harris, "to paint the people who are affected by this issue into a simple mold and say they check out on this or that stereotype. They don't. This cuts right across the spectrum of social and political divisions in this country. It's an idea that will not go away. It's going to be with us until the final weapons are obliterated."●

WE DO NOT NEED EXPENSIVE ALGERIAN NATURAL GAS AT A TIME OF PLENTIFUL LOWER 48 DOMESTIC SUPPLIES

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. CORCORAN. Mr. Speaker, last Friday I was joined by our colleagues Clarence J. Brown of Ohio and Dan Coats of Indiana in protesting the planned import of Algerian liquefied natural gas (LNG) by Texas-based Panhandle Eastern Corp. and their subsidiary Trunkline LNG Co. The LNG was loaded over the weekend and is now enroute to Louisiana. The ship is scheduled to arrive in Lake Charles, La., on about September 26. Panhandle Eastern and Trunkline supply natural gas customers in Illinois, Indiana, Michigan, Missouri, Mississippi, and Ohio.

We object to this importation, Mr. Speaker, because the LNG will be more expensive than most lower 48 domestically produced natural gas. Especially as we approach the winter heating season, it is very poor planning on the part of Panhandle to begin importing expensive foreign natural gas, particularly at a time when domestic supplies of gas are so plentiful. We should be utilizing our less expensive and readily available lower 48 gas, but Federal law today encourages using gas found in very deep—over 15,000 feet—formations, imported liquefied gas, Canadian and Mexican gas, and Alaskan gas.

We filed our protest with the Department of Energy's Economic Regulatory Administration (ERA) and the Federal Energy Regulatory Commission (FERC). ERA has the primary responsibility for deciding whether the import or export of gas is in the public interest. FERC exercises authority over domestic rates, siting, construction, and operation of particular facilities, and the place of entry or imported gas.

Several organizations and individuals have filed protests with ERA and/or FERC. The ERA docket number is 82-12-LNG and the FERC docket number is RP-82-127-000. Organizations and individuals protesting the import of Algerian LNG include: Congressmen Tom Corcoran, Clarence J. Brown, Dan Coats, Robert H. Michel, and Paul Findley; the Illinois Commerce Commission, the Associated Natural Gas Co., the Battle Creek Gas Co., the Central Illinois Light Co., the Central Illinois Public Service Co., the Citizens Gas Fuel Co., the Michigan Gas Utilities Co., the Missouri Utilities Co., the Ohio Gas Co., the Richmond Gas Corp., the Southeastern Michigan Gas Co., the Toledo Edison Co., the Consumers Power Co., the State of Michigan, the Michigan Public Service Commission, the Michigan Consolidated Gas Co., and several businesses filing as members of the Association of Businesses Advocating Tariff Equity (ABATE).

Mr. Speaker, for the benefit of our colleagues, I would like to include in the Record at this point the texts of my September 10 letter to the Administrator of ERA, with which the petition was filed, the September 10 letter to Fossil and Synthetic Fuels Subcommittee Chairman Philip R. Sharp in which Mr. Brown, Mr. Coats, and I ask that Panhandle be scheduled as a witness at the already scheduled Friday hearing on natural gas pipeline issues, and the Corcoran-Brown-Coats petition filed with ERA. We also filed a substantially identical petition with FERC.

House of Representatives,
Washington, D.C., September 10, 1982.

Rayburn Hanzlik,
Administrator, Economic Regulatory Administration,
Washington, D.C.

Re: Docket No. 82-12-LNG

Dear Mr. Hanzlik: Enclosed for filing on behalf of Tom Corcoran, Dan Coats, and Clarence J. Brown, Members of the United States Congress, is an original and 15 copies of a Joint Petition to Intervene in a proceeding before the ERA initiated by Consumers Power Company titled: "Petition For An Order To Show Cause Why Order Approving The Importation Of Liquified Natural Gas Should Not be Vacated And For Order Suspending License Pending Expedited Hearing." As you know, the project to which this proceeding relates involves the importation of LNG from Algeria by Trunkline LNG Company.

I and my colleagues who seek intervention in this proceeding represent constituents who either are served by companies which must purchase this very expensive natural gas or are served by companies which hold licenses to import Algerian LNG and which may seek to import LNG in the near future, pending the outcome of this case. It seems to us incredible that Trunkline would choose a time like now to commence imports of Algerian LNG. Even without the price increases attributable to Algerian LNG, Panhandle has told the natural gas consumers it serves that rates will increase as much as 40 percent this year. Virtually every natural gas pipeline in the country, now has more natural gas than it can sell and is shutting in significant amounts of domestic natural gas production. The natural gas over-supply situation has deteriorated to the point where natural gas is actually being flared in Ohio.

We support the comprehensive analysis of the legal issues set forth by Consumers Power in its petition regarding Trunkline's LNG plans. Our purpose in intervening is not, however, to add to the discussion of those issues, but to put that discussion in a broader energy policy context. We believe that this is worthwhile, even imperative, because this Trunkline proceeding is conclusive proof of a natural gas supply policy gone haywire.

To the extent that Trunkline is to blame for selecting a very high cost and unstable supply of natural gas, and trying to bring that supply in at what is surely the worse possible time, the consumers served by Trunkline and Panhandle must be protected. To the extent that Federal natural gas regulatory policy is responsible for this situation, that policy must be changed.

With the loading of Trunkline's first cargo of LNG scheduled to commence tomorrow, we urge you to act as quickly as possible on the Petition filed by Consumers.

Thank you for your consideration.

Sincerely yours,

Tom Corcoran,
Representative in Congress.

House of Representatives,
Washington, D.C. September 10, 1982.

Hon. Philip R. Sharp,
Chairman, Subcommittee on Fossil and Synthetic Fuels, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

Dear Mr. Chairman: We are writing today to urge that you invite Panhandle Eastern Pipe Line Company and Columbia Gas Transmission Corporation to be witnesses at the already scheduled September 17 Fossil and Synthetic Fuels Subcommittee hearing on natural gas pipeline issues.

Our desire to include Panhandle and Columbia as witnesses has been spurred by Panhandle's plans to import Algerian liquified natural gas (LNG) beginning tomorrow and by recent disclosures that natural gas in Ohio shut in by Columbia is being flared. As you can see from the enclosed copies of petitions we filed today with the Department of Energy's Economic Regulatory Administration (ERA) and the Federal Energy Regulatory Commission (FERC), we oppose the importation of expensive foreign natural gas when an apparent oversupply of domestic natural gas exists. We think it would be useful to discuss this situation with Panhandle and Columbia representatives at the September 17 hearing here in Washington—

prior to the planned arrival of LNG in Louisiana.

Also enclosed for your information is a copy of very recent correspondence between Tom Corcoran and ERA regarding the role of the Federal government in connection with the import of natural gas.

We commend you on the current series of natural gas hearings being conducted by the subcommittee. As members of the subcommittee, we look forward to working with you in making the September 17 hearing even more useful by including Panhandle and Columbia as witnesses.

Sincerely,

CLARENCE J. BROWN.
DAN COATS.
TOM CORCORAN.

UNITED STATES OF AMERICA BEFORE THE ECONOMIC REGULATORY ADMINISTRATION

Consumers Power Company v. Trunkline LNG Company and Trunkline Gas Company: Docket No. 82-12-LNG

JOINT PETITION TO INTERVENE

Tom Corcoran, Dan Coats, and Clarence J. Brown, Members of the United States Congress, hereby petition for leave to intervene in the above-captioned proceeding pursuant to Section 1.8 of the Rules of Practice and Procedure adopted by the Federal Energy Regulatory Commission and the Economic Regulatory Administration.

Tom Corcoran represents the Fifteenth District of Illinois and is a Member of the Fossil and Synthetic Fuels Subcommittee of the Energy and Commerce Committee. Natural gas consumers in his District are served by distribution companies which are wholesale customers of Panhandle Eastern Pipeline Company (Panhandle), a corporate affiliate of Trunkline and Trunkline LNG.

Dan Coats represents the Fourth District of Indiana and is also a Member of the Fossil and Synthetic Fuels Subcommittee of the Energy and Commerce Committee. Natural gas consumers in his District are served by distribution companies which are wholesale customers of Panhandle Eastern Pipeline Company.

Clarence J. Brown currently represents the Seventh Congressional District of the State of Ohio and is the Ranking Minority Member of the Fossil and Synthetic Fuels Subcommittee of the Energy and Commerce Committee. The natural gas consumers in his District are served by wholesale customers of Columbia Gas Transmission Corporation (Columbia) which has previously been granted a license to import liquefied natural gas from Algeria (See DOE/ERA Op. No. 11, Columbia LNG Corp., Docket No. 70-14-LNG, Dec. 29, 1979), although no such import activity is currently planned.

Communications with respect to this Petition should be addressed to: Linda Gillespie Stuntz, Associate Minority Counsel, Committee on Energy and Commerce, U.S. House of Representatives, H2-564 Annex No. 2, Washington, D.C. 20515, (202) 226-3400.

Petitioners support the case against Trunkline LNG's imminent importation of Algerian LNG which has been made so well by Consumers Power Company.[1] The purpose of this petition is not to repeat the arguments set forth by Consumers but rather to present and address the fundamental question raised by Trunkline's importation of liquified natural gas from Algeria.

Why, at a time when natural gas pipelines all across the country (including Panhandle and Trunkline) are experiencing surplus deliverability of natural gas, when gas prices have risen to the point that industrial users are switching off or shutting down, is Panhandle bringing in very expensive Algerian natural gas? In other words, why would any business do something that is so economically foolish?

Although Panhandle must be held responsible for having selected such a costly and insecure supply of natural gas, the answer to this fundamental question lies in the way in which this country regulates the natural gas industry. The economic insanity of shutting in or flaring domestic gas, as is happening right now in Ohio, while more expensive imported natural gas is delivered to consumers, could only happen in an industry distorted by Federal regulation. Any regulatory structure that permits, even encourages this, must be changed.

It is this system of regulation that makes companies like Panhandle responsible for planning in 1975 how to secure the natural gas supply that will be needed in 1982. Panhandle, unfortunately, chose to meet this future supply obligation by developing the capacity to import Algerian natural gas. Not one objection was made when Panhandle sought a license to import LNG in 1976. Panhandle subsequently spent more than half a billion dollars on LNG facilities, pursuant to the terms of that license.

Now, the LNG is finally to be delivered. Panhandle's timing could hardly be worse. As it turns out, Panhandle and every other pipeline were wrong about the needs of gas consumers in 1982. The blame lies not entirely with Panhandle, however, but with a system of government regulation that encourages companies to turn to the most expensive and insecure supplies of natural gas, like LNG, rather than sensibly developing domestic national resources. This regulatory system now denies companies like Panhandle the flexibility to respond to a gas market that is changing in ways and at a speed no one could foresee.

Natural gas regulation, including the regulation of natural gas imports, needs to be changed, but not on an ad hoc basis in this proceeding. Rather, Petitioners call on the ERA and the FERC to re-examine and revise this nation's LNG policy in light of the current developments in the natural gas industry. Only in this way can the interests of consumers in adequate supplies of natural gas at sensible prices be truly protected.

CONCLUSION

A fairer and more rational natural gas supply policy must be adopted. The testimony presented at the hearings currently being conducted by the Fossil and Synthetic Fuels Subcommittee on the status of the natural gas industry should be considered by the ERA and by FERC in their review of Trunkline's activity and LNG policy generally. Petitioners stand ready to assist the ERA and FERC in arriving at a resolution of this matter which truly is "in the public interest."

Respectfully submitted,

TOM CORCORAN,
DAN COATS,
CLARENCE J. BROWN,
Members of Congress.●

ADMIRAL RAMBONNET

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. YOUNG of Florida. Mr. Speaker, today I have introduced private legislation for the relief of Adm. Henri E. Rambonnet and his wife, Jeanne.

Admiral Rambonnet is a remarkable individual with a very colorful and unique past. Born in 1923 in the Netherlands, Admiral Rambonnet worked with the Allies in WW II as a member of the Netherlands underground resistance forces. For his brave conduct in the liberation of his country and in aiding American and British pilots shot down by the German occupying forces, his name was placed on record at the Supreme Headquarters Allied Expeditionary Force by General Dwight D. Eisenhower.

Finally able to enlist in the Royal Netherlands Navy, Admiral Rambonnet served his country with distinction for 32 years before retiring. His duties included assistant naval attaché to the Royal Netherlands Embassy at Washington, D.C., aide-de-camp to Her Majesty the Queen of Netherlands, and commander of the Benelux Channel area (COMBENECHAN) in the NATO-command line.

Admiral Rambonnet and his wife, Jeanne, have lived in the United States for 3 years now. They have many new friends, are financially secure and would like to make America their home. Unfortunately, they fall within the nonpreference category and, therefore cannot gain permanent resident status. Because they have exhausted their administrative review and because they would make fine and responsible citizens, I have decided to introduce private legislation in their behalf.

Today, when so many others come into this country illegally, with no means of support and no understanding of what it takes to become an American citizen, I believe we should accept and even encourage people like the Rambonnets to remain in the United States. They would be a credit to America.●

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[1] Petitioners understand that United States Congressmen Robert H. Michel and Paul Findley, and a number of natural gas distribution companies from Michigan, Illinois, Missouri, Indiana and Ohio also intend to file today a Petition with the ERA to suspend Trunkline's authorization to import Algerian LNG pending final hearing and resolution of issues raised concerning the propriety of Trunkline's plans to commence Algerian LNG imports. Petitioners herein also support this effort. In addition, petitioners are today also filing a Petition to Intervene in support of the complaint filed by Michigan Consolidated Gas Company (Consolidated) before the Federal Energy Regulatory Commission (Docket No. RP82-127-000) in which Consolidated has asked the Commission to reject any tariff sheets filed by Trunkline LNG, Trunkline or Panhandle which provide for the pass through of LNG costs to their customers.

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MARKUP ON H.R. 6514

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mrs. SCHROEDER. Mr. Speaker, today the House Judiciary Committee began markup on H.R. 6514, the Immigration Reform and Control Act of 1982. I would like to share my opening statement with my colleagues:

I want to commend Chairman PETER RODINO for scheduling this markup on H.R. 6514, the Immigration Reform and Control Act of 1982. Momentum is with this bill. The Senate passed it on August 17. Editorial boards are urging that Congress do something. However, it is not enough to change our immigration policy. Above all we have to improve our laws. That is the legacy I would like the 97th Congress to leave.

I do not think H.R. 6514 improves our immigration laws.

I agree that our current immigration "policy" is badly in need of an overhaul. I am concerned, however, that some provisions of the Simpson/Mazzoli bill may produce consequences that its supporters do not foresee—and do not desire.

The employer sanctions provisions, I believe, are particularly open to abuse. Clearly, employers should not be permitted to hire—and exploit—undocumented aliens with impunity. In their current form, however, the employer sanctions provisions of the Simpson/Mazzoli bill provide no protection against employment discrimination toward Hispanics and other minorities who are legal residents or U.S. citizens. The sanctions offer a convenient cover for an employer who wants to discriminate—he or she can simply claim that the documentation presented by an "undesirable" applicant appeared fraudulent. Even employers who hire in good faith observance of both immigration and civil rights laws may err on the side of caution when examining documents presented by minorities, especially Hispanics. I particularly fear these consequences at this time when the Reagan administration is reneging on the Federal Government's commitment to affirmative action and equality of employment opportunity.

Recent Reagan administration initiatives have set the scene for the wholesale dismantling of programs to aid minorities within Federal agencies. As chair of the House Post Office and Civil Service Subcommittee on Civil Service, I have conducted on-going oversight of equal employment opportunity in the Federal Government. We found through our questionnaires to 32 of the largest agencies that budgetary commitment to special emphasis offices in Federal agencies had decreased, including the Hispanic employment program and the minority Outreach and Upward Mobility program.

The League of United Latin American Citizens (LULAC) has prepared a brief overview of the state of equal opportunity law enforcement in the United States. Its conclusion is that no guarantee of prompt redress exists for those Hispanics who, as a consequence of the advent of employer sanctions, are wrongfully refused employment, or otherwise denied equal employment opportunity.

I have included their report in my statement:

A. THE STATE OF EEO LAW ENFORCEMENT

The Commission on Civil Rights in its June 1982 report noted that funding and staffing cuts in the EEOC have resulted in a retardation of the EEOC's progress toward providing complainants with prompt relief, addressing class and systematic discrimination problems and eliminating inconsistent equal employment requirements.

As the table below shows, EEOC's systematic spending power is $6 million (5 percent) lower than in FY 80.

EMPLOYEE SANCTIONS AND EMPLOYMENT DISCRIMINATION

EEOC Budget Totals and Totals in Constant Dollars: 1980–83 (Proposed)

[In thousands of dollars]

Fiscal year	Appropriation (annualized)[1]	In 1980 constant dollars
1980	124,562	124,562
1981	137,875	126,028
1982 (budget request)	140,389	119,041
1982 (continuing resolution)	[2] 139,889	118,617
1983 (budget request)	144,937	114,536

[1] Figures represent what EEOC could spend during a whole fiscal year under each spending ceiling.

[2] This figure does not include a $4,200,000 supplemental appropriation EEOC expects during the 4th quarter of fiscal year 1982 because this appropriation has not been enacted. Mary Stringer, supervisory budget analyst, EEOC, telephone interview, Mar. 11, 1982.

As a result of spending cuts the EEOC in FY 81 cut back the number of planned class complaint investigation of broad patterns and practices of discrimination by 13 percent, and expects to keep at this lower level in FY 83.

According to the Commission's report, the EEOC plans further cutbacks in services, such as labor force data processing. Such cutbacks would restrict the EEOC's plans to include in its targets other "employers," such as unions and apprenticeship committees that have had many discrimination charges filed against them.

Because of budgetary constraints, the EEOC in FY 83 expects to approve 14 percent fewer new suits than it approved in FY 81, even though a rising complaint load indicates a greater need for litigation. The agency may also have to reduce the number of suits it actually files in FY 83.

As the table below from the Commission's June 1982 report shows, EEOC's staff resources have been declining steadily. The agency has lost 461 authorized positions since FY 80 and is currently below its authorized level. Clerical and field office attorney positions have been affected most heavily, slowing down the production of documents and work on legal cases. The EEOC plans further cutbacks in FY 83, for expert witnesses and other support services for cases in litigation.

EEOC FULL-TIME, PERMANENT STAFF POSITIONS 1980–83 (PROPOSED)

Fiscal year	Authorized	Actual
1980	3,777	3,433
1981	3,468	3,416
1982 (request)	3,468	(1)
1982 (continuing resolution)	3,316	(1)
1983 (request)	3,278	

[1] EEOC failed to provide requested data on actual staffing levels. See Edward Morgan, Director, Office of Congressional Affairs, EEOC, letter to John Hope II, Acting Staff Director, U.S. Commission on Civil Rights, May 7, 1982.

As a consequence of staff shortages the EEOC in FY 81 estimated it would take 6½ months to resolve all Title VIII complaints on hand. With yet fewer staff on hand, its present FY 82 estimate is a month longer, and its FY 83 estimate is still another month longer.

Staff shortages have lead the EEOC to assume a progressively more passive enforcement role. Lack of sufficient funding and staffing has diminished the agencies ability to conduct federal civil rights compliance reviews. Staff allocations have lead to an emphasis on inefficient individual complaint investigation activities, albeit at the reduced level shown.

The resulting cutbacks in the EEOC's activities targeted at systemic discrimination, inevitably places the burden of initiating enforcement action on the victims of discrimination, persons often lacking the requisite resources of familiarization with the law or with the requirements of program operations. The rights of victims who do not know how to file complaints or fear reprisal for doing so, have been left unprotected.

CONCLUSION

The employer sanctions provisions presently contained within the proposed Immigration Reform and Control Act of 1982, will only further exacerbate the existing problems the current budget reductions are creating for disadvantaged and ostracized American citizens and legal residents. The consequence of the present legislation will be to erect additional barriers for people outside the American mainstream.

It should be noted that while the present budgetary cutbacks have limited the EEOC's capacity to initiate suits, the number of national origin complaints filed with the agency have been on the increase. (See table below.)

COMPLAINTS FILED WITH THE EEOC

Annual reports	Total charges	National origin charges	Percent of total
1966	6,133	143	2.3
1973	77,242	12,377	16
1976	103,067	10,622	10.3
1979	79,084	7,913	10
1980	90,325	8,568	9.5
1981	94,460	9,235	9.89

Note: Hispanic complainants comprise an overwhelming majority of the total percentage of national origin charges filed. The inability of the EEOC to adequately effectuate its mandate will have its most direct consequence on the Hispanic community, the group being now asked to bear the employment risks associated with S. 2222.

Unfortunately, in its consideration of the Simpson bill, the Senate Judiciary Committee, and consequently the full Senate, rejected all amendments that were offered to protect the civil rights of ethnic groups. I hope the

House Judiciary Committee will be more receptive toward these amendments. I believe we can have meaningful employer sanctions without diluting our long fought for and hard-won civil rights laws.

I also am concerned about the bill's provisions for legalizing the status of undocumented persons currently in the United States. While I agree that massive deportations are both undesirable and unworkable, I do not believe a legalization program should be established without equal attention to enforcement efforts that will ensure we are not beginning a tradition of amnesty.

Currently, the Simpson/Mazzoli bill simply expresses the sense of Congress that enforcement and border patrol activities of the Immigration and Naturalization Service should be stepped up, and states that Congress intends to provide adequate funding for enforcement. As we have seen in other instances, there can be many a slip between Congress's sense of what should be done and the funds that are available to carry out that intent. Unless the Simpson/Mazzoli bill includes a firm commitment to upgrade INS, its legalization provisions will only contribute to our immigration dilemma.

This lack of commitment to enforcement brings home my most serious concern with the Simpson/Mazzoli bill: many of its provisions will be totally unenforceable. I am curious as to whether the INS have prepared any draft regulations. How would enforcement work? How much would it cost? I think the answers to these questions will be crucial to the debate on this bill.

The Immigration Service cannot even carry out its current responsibilities, and suggestions that local authorities be empowered to enforce immigration laws are frightening and must be turned back. The result will not only contribute to an already growing disrespect for our Nation's laws, but will, in some circumstances, produce the worst of all worlds. We may, for example, contribute to civil rights violations in employment while failing completely to enforce sanctions against employers who should be punished.

Immigration reform is a deliberative process. It is unlikely that any mistakes we make in this attempt at comprehensive reform of our immigration laws will be corrected quickly. Therefore, I believe it is imperative that we consider all possible ramifications this reform may have. I thank Chairman RODINO for scheduling this markup so that we may do so.

I think than once my colleagues hear all the ramifications, they will agree with me that if we rush through the Simpson-Mazzoli approach to immigration in the next 2 weeks, its consequences will come back to haunt us in the future congressional session.●

NATIONAL SCIENCE AND MATHEMATICS TEACHERS DEVELOPMENT ACT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 14, 1982

● Mr. DYMALLY. Mr. Speaker, over the past decade, our attention and the attention of citizens across the country has turned toward a series of crises: The petroleum shortage, one outbreak of war after another, the Iranian hostage crisis, and, now, mass unemployment. And while our attention has been turned, a problem we thought we had solved 15 years ago has again built to near crisis proportions. The problem is not so dramatic as a war; it does not drain our emotional energy as did the hostage crisis; and we cannot see it on the nightly news as we can the long lines of the unemployed at soup kitchens all over the country. But it is a problem that will affect our economy and our lives profoundly if something is not done about it now.

In this technological Nation today, half the new teachers assigned to train our children in mathematics and science—half the teachers whose charge is to prepare our children to join the world of work—are unqualified to teach the science or mathematics courses they are assigned. The fruit of our failure to adequately train our teachers has been a dramatic drop in science and mathematics scholastic aptitude test scores for students over the past 10 years. At the same time, colleges which should be teaching advanced courses have had to increase by over 70 percent their offerings because so many students are unprepared for college level study of science and mathematics.

On Saturday, September 11, I attended a conference sponsored by the Congressional Caucus for Science and Technology. The theme of the conference was "The Status of Science and Mathematics Education on the Precollege Level." The keynote speaker at that conference was Mr. Donald Beilman, a long-time executive of the General Electric Co., who has just assummed the directorship of the North Carolina Microelectronics Research Center. Mr. Beilman pointed out that electronics corporation executives in the United States believe that, in large measure, the advances Japan and West Germany are making in high technology are due to the fact that they have assembled a critical mass of highly trained personnel. It is people with ideas and the ability to turn those ideas into products that are moving those countries ahead.

Anyone here who represents an area where high technology firms are located needs do nothing more than turn on the radio any time of the day and listen to the aggressive advertisements designed by each company to lure scientists, engineers, and technicians away from rival companies to be convinced that the United States is far from having this critical mass of properly trained people. And if we think the problem is bad now, it is projected that in computer sciences alone, this country will need 685,000 more trained personnel by 1990. Where are we going to get them if our schools are not supplied with teachers sufficiently trained themselves to pass their knowledge on to the next generation?

Today Mr. Moffett and I are introducing the National Science and Mathematics Teachers Development Act, a modest program to begin the upgrading of teachers skills in science and mathematics. In the early 1960's it was found that one of the fastest and most successful ways of improving teaching skills was to provide summer workshops for teachers wherein they could become informed about the latest developments in their fields. We propose to begin those programs again. They served us well when the country last faced this problem. One should not argue with success, but rather take advantage of the measures that produced that success. I hope our colleagues will take note of the serious nature of the problem we face and of the long-term impact not dealing with the problem now will have on the economic well-being of the country. I hope each of you will lend you support to the National Science and Mathematics Teachers Development Act.●

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SENATE—*Wednesday, September 15, 1982*

(*Legislative day of Wednesday, September 8, 1982*)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. Thurmond).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Commit thy works unto the Lord, and thy thoughts shall be established.—Proverbs 16: 3.

Gracious God, as Thou has guided the leadership of this Republic through difficult days, so guide those who bear responsibility in public office today. As Thou didst direct our Founding Fathers through the temptestuous issues and explosive differences of colonial days—as Thou didst lead through the deep divisions of the Civil War—so lead us now in the way of unity and peace.

Help us to appreciate the unexcelled tapestry of American life, the diversity that is our heritage. Help us not to demand uniformity which stifles and stagnates, but to seek true unity which is possible only when diversity is respected, appreciated, and honored.

Lead us in the way of righteousness and justice dear God, through Jesus Christ, our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The **PRESIDENT** pro tempore. The majority leader is recognized.

Mr. **BAKER**. Mr. President, I thank the Chair.

THE JOURNAL

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. **BAKER**. Mr. President, after the recognition of the two leaders under the standing order, the Senator from Florida (Mr. Chiles) and the Senator from Arkansas (Mr. Bumpers) will be recognized on special orders of not to exceed 15 minutes each.

After that, Mr. President, there will be a period for the transaction of routine morning business to extend not past 12 noon in which Senators may speak for not more than 5 minutes each.

At 12 noon, Mr. President, the Senate will resume consideration of House Joint Resolution 520, at which time the Baucus amendment No. 2040 will be pending. There will be a cloture vote today at 5 p.m. pursuant to the unanimous-consent order entered previously. The mandatory quorum to precede the vote on cloture has been waived by the same order.

Mr. President, it is possible that today I will ask the Senate to proceed to consideration of the Hatch amendment to the Constitution dealing with abortion. I have not yet had an opportunity to discuss that matter with Senator Hatch, who was necessarily absent from the Senate yesterday because of elections in his home State of Utah. I will try to have a further announcement on that subject during the course of the morning business period.

PROSPECT OF POST-ELECTION SESSION

Mr. **BAKER**. Mr. President, I just returned from a leadership meeting at the White House with the President of the United States. The legislative agenda was discussed at some length.

I must say that the principal items that must be dealt with, on which both the President and the Members of the House and Senate agreed, were the appropriation bills. It is very late now, and I despair of having all 13 of the appropriation bills passed before we go out, but certainly we should pass some of them. We must then pass a continuing resolution for those that were not covered.

The question of when that continuing resolution would expire has been discussed rather widely in the Senate and was discussed this morning. I feel constrained to advise Senators that the impression I have is that there is at least a possibility that the continuing resolution would expire, as it is now proposed by some Members, sometime in December.

If that is the case, then the answer to the anxious question so often put, "Will we have a post-election session?" is "Yes," because we simply cannot leave without doing the appropriation bills or a continuing resolution.

So, as much as I personally regret to say it, I urge Senators to consider that because of the appropriation process there is at least a substantial prospect that we may be back after the election. I will discuss that with the minority leader today. I intend to discuss it with the Speaker today. However, Senators should take first warning that there is now, in my judgment at least, the prospect of a post-election session of Congress.

Mr. President, I have no further need for my time. If anybody will still speak to me after making that dreadful announcement, I will be glad to yield the floor.

I believe the Chair wishes to make an announcement. I yield for that purpose.

APPOINTMENT BY THE VICE PRESIDENT

The **PRESIDENT** pro tempore. The Chair, on behalf of the Vice President, appoints the following Senators to attend the GATT Ministerial Trade Conference to be held in Geneva, Switzerland, November 21–26, 1982: The Senator from Kansas (Mr. Dole), the Senator from Missouri (Mr. Danforth), the Senator from Georgia (Mr. Mattingly), the Senator from Texas (Mr. Bentsen), the Senator from Hawaii (Mr. Matsunaga), and the Senator from New York (Mr. Moynihan).

BASHIR GEMAYEL

Mr. **BAKER**. Mr. President, once again we learn how fragile are our hopes for a peaceful and reunited nation of Lebanon. The bomb that exploded yesterday in Beirut resulted in more than the tragic death of the young President-elect Sheik Bashir Gemayel and a number of his followers. It dealt a shattering blow to the aspirations of the Lebanese, Christian and Moslem alike, for peace. Nevertheless, after so many years, so many deaths and so much destruction, the search for peace must go on.

The efforts of Ambassador Habib to end the crisis in Beirut and the beginning efforts of Bashir Gemayel to unite Moslems and Christians in the restoration of the authority and sovereign integrity of Lebanon cannot go for naught. Beirut must not now dissolve into a new wave of bloodshed and destruction.

Over the past few months the people of Beirut have shown remarkable courage and resilience in the face of adversity. Virtually every contending faction has demonstrated the will and the ability to act in a common effort to save their country. That was, I believe, the goal of the new President-elect and he had already demonstrated his determination to pursue it. The

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

perpetrators of this cowardly act cannot be allowed to frustrate that goal.

The wave of recriminations and revenge that have followed similar atrocities in the past have not yet begun and we can only hope that this time they will not begin. It would be my hope that the government of President Sarkis can move rapidly to fulfill the constitutional process and perhaps thereby forestall a new round of violence. With that in mind, I would hope that President Reagan's call for all parties to honor the disengagement agreement and do everything possible to reduce tensions will be heeded.

While we extend our sympathies to the Lebanese people, we must extend as well our encouragement to those who will seek peace. I am heartened by the return to Beirut of Ambassador Morris Draper and know that I share with all my colleagues our hope that his efforts to negotiate the early withdrawal of all foreign troops from Lebanon will be successful.

ORDER OF PROCEDURE

Mr. PROXMIRE. Mr. President, will the majority leader yield to me just one moment?

Mr. BAKER. Yes, I yield.

Mr. PROXMIRE. I would like to say that the minority leader would like to have his time reserved for later.

Mr. BAKER. May I do that at this point then.

Mr. President, I ask unanimous consent that the time allocated to the minority leader under the standing order be reserved for his use at any time during the remainder of this day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTANGIBLE MILITARY COMPARISONS

Mr. PROXMIRE. Mr. President, comparisons of military capability by static indexes may be misleading. There are times when tactics and strategies overcome superior force levels. Furthermore, a nation's economic condition and its influence in world affairs are legitimate factors in considering relative power.

Yet we hear little about these less glamorous factors in the world power equation. Instead, we hear that the Soviet Union has expanded its influence at the loss of U.S. prestige around the world.

Is this true or is it a simplification of a complex situation? In part 3 of a Defense Monitor report from the Center for Defense Information, some answers to these questions can be obtained. An examination of the weapons export policies of the United States and U.S.S.R., a search of the record for advances and setbacks in foreign policy, and an assessment of the future trends in the U.S.-U.S.S.R. relationship all provide a useful balance to the more strident rhetoric often heard about the inexorable decline of U.S. power.

Mr. President, I ask unanimous consent that the conclusion of the Defense Monitor article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DEFENSE MONITOR—PART III

WEAPONS EXPORTS

The U.S. has provided weapons to about 130 of the world's 161 nations.

In the 1970's the United States sold or gave away $123 Billion in weapons, military training, and construction to foreign countries.

U.S. weapons exports rose from less than $5 Billion in 1971 to $17.4 Billion in 1980.

In his first year in office, President Reagan recommended to Congress over $25 Billion in arms sales.

U.S. arms exports in FY 1982 may total $30 Billion, far exceeding the previous record high of $17.7 Billion in 1975.

Over the past decade, the U.S. has agreed to sell or give away over 6,000 tanks, 600 artillery pieces, 3,000 military aircraft, 10,000 missiles, and 250 combat ships.

Only half of all U.S. foreign military sales since 1950 have been delivered, leaving about $55 Billion of arms in the pipeline.

Of the 41 military-dominated, repressive governments in the world, the U.S. has been a major supplier of arms to 28.

In 1980, the U.S.S.R. surpassed the U.S. in arms agreements and deliveries to the Third World for the first time.

The U.S. is still the number one supplier of weapons to the Third World if one looks at more than the past year or two. From 1978 to 1980, the U.S. sold $29.9 Billion of arms to the Third World compared to $26.6 Billion for the Soviet Union.

The U.S. is still the number one supplier of weapons to the rest of the world if exports to developed nations are included.

In 1980, all non-communist nations combined accounted for 61 percent of arms agreements with the Third World, all communist nations for 39 percent, and the U.S.S.R. alone for 36 percent.

WORLD INFLUENCE

A comprehensive study of trends of Soviet world influence in 161 countries since World War II does not support perceptions of consistent Soviet advances and devastating U.S. setbacks.

Outside Eastern Europe, Soviet influence has lacked staying power. Inability to accumulate influence in foreign countries over long periods is a dominant feature of Soviet world involvement.

Starting from a very low base of political, economic and military involvement, the Soviets worked to increase their influence around the world. Starting with influence in 9 percent of the world's nations in 1945, they peaked at 14 percent in the late 1950's, and today have influence in 12 percent of the world's nations. Of the 161 countries in the world today, the Soviets have significant influence in 19.

The Soviets have been successful in gaining influence primarily among the world's poorest and most desperate countries.

Soviet foreign involvement has to a large extent been shaped by indigenous conditions and the Soviets have been unable to command loyalty or obedience.

Soviet setbacks in China, Indonesia, Egypt, India, and Iraq dwarf marginal Soviet advances in lesser countries.

The Center for Defense Information, utilizing indexes of power developed by former C.I.A. official Ray Cline in his books on World Power Trends, has calculated this division of world power: Pro-West and China 70 percent; Soviet Union and its clients 20 percent; other 10 percent.

THE FUTURE

The Pentagon's 5-year plan calls for building a huge new arsenal of weapons which "are difficult for the Soviets to counter, impose disproportionate costs, open up new areas of major military competition and obsolescence previous Soviet investment."

The U.S. plans to deploy at least 100 MX missiles, the most modern, accurate and lethal ICBM ever built.

The U.S. is moving forward with the Trident II (D-5) missile which will give submarine-launched missiles the ability to destroy hardened missile silos for the first time.

The U.S. is building a fleet of at least one hundred B-1B bombers at a cost of about $40 billion ($400 million per plane).

The U.S. is now deploying modern, highly accurate, highly lethal ground, air, and sea launched cruise missiles. Over 9,000 will be deployed (some SLCMs will carry non-nuclear explosives but will be indistinguishable from nuclear-armed SLCMs.)

The U.S. will build an advanced technology "Stealth" bomber at tremendous cost to replace the B-1.

The U.S. will deploy the Pershing II medium range ballistic missile in 1983. It will be the most accurate missile ever built and will be able to reach the Soviet Union from bases in West Germany in 5-10 minutes.

The U.S. is substantially increasing spending on ballistic missile defense and could deploy a new system in the mid-to-late 1980's.

The Soviet Union has tested and may have deployed a crude, rocket-launched anti-satellite weapon system. The U.S. is now testing and will soon deploy a much more sophisticated anti-satellite weapon which can be launched from any modified aircraft.

The Soviet Union has stated that it will match any U.S. nuclear advance. U.S. authorities acknowledge that the Soviets are capable in the next decade of developing a new manned bomber, advanced cruise missiles, improved submarine-based missiles, super-accurate ICBMs, and new ABM systems.

GENOCIDE MAKES MANKIND AN ENDANGERED SPECIES

Mr. PROXMIRE. Mr. President, the French mathematician and philosopher, Blaise Pascal, once said that man is "the only animal with brains enough to find a cure for the diseases caused by his own folly." It is regrettably true that there are often unintentionally harmful consequences to any major political action. The test of statesmen is the degree to which they admit and correct their miscalculations. In areas like endangered species, millions of dollars are spent every year in virtually every nation on Earth to

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save those creatures threatened by our encroachment into their ecosystems. The Senate in particular has accepted its duty to wildlife and we have worked most diligently to right whatever wrongs we have committed.

These legislative actions represent America in one of its finest hours; a nation which has pioneered many of the longest standing conservationist laws. Yet it is not these threatened creatures that I wish to discuss today but one species that is conspicuously absent from most of these international agreements. This unfortunate creature is man himself.

As ironic as it may seem, mankind has accepted its responsibility as keeper of the Garden of Eden only to immediately banish its own kind somewhere east of Eden. It would probably be easier to add a 21st name to the 20 already protected forms of pearly mussels than for me to push through any meaningful legislation to halt the systematic slaughter of national, ethnic, racial, and religious groups. I can say this with confidence because I have attempted for the last 15 years to persuade this body to pass just such an agreement—the Genocide Convention.

What, you may ask, is the reason for our seemingly deep-set prejudice against ourselves? What do these animals possess that would make their struggle for survival easier to champion than, let us say, the people of Uganda or East Timor? One argument is that our Nation can not embark upon the complicated and potentially dangerous course involved in an international agreement like the Genocide Convention. However, our Nation has already done so in 519 separate international treaties covering threatened and endangered species. We have gone even further in adding 240 domestically protected animals to this number including 9 types of parakeets, 10 types of mice, and 20 types of turtles. Everything from the appalachian threespine stickleback to the pig-footed bandicoot is watched over, that is, everything but man.

Some would suggest that man, the hunter, does not need the attention and protection afforded to other animals because of his fantastic powers of invention and destruction. Yet it is precisely these "human advantages" that should compel us to pursue agreements like the Genocide Convention. Today mankind's only true adversaries of equal strength come from within its own species, and consequently it is protection from our own kind that we need so badly. The Genocide Convention will not put a halt to senseless killing in the world, but it can move us closer to a world in which nations work together to prevent genocidal murder from occurring again in our lifetime. Monuments to our past inability to work together as a world community stand ominously around the globe; silent reminders of man's self-destructive potential. From the gray crematoriums of Dachau to the shallow graves around Lake Victoria, man's legacy of genocide haunts our memoires and warns us of a possible future if we do nothing. It is time, as Pascal said, to journey with other nations in finding a cure for this folly and ratify the Genocide Convention.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. Since the minority leader's time is reserved for his further instructions, I yield back the remainder of my time, which I believe would produce the recognition of the Senator from Florida on his special order.

RECOGNITION OF SENATOR CHILES

The PRESIDENT pro tempore. Under the previous order, the Senator from Florida (Mr. Chiles) is recognized for not to exceed 15 minutes.

CRIME AND DRUG TRAFFICKING

Mr. CHILES. Mr. President, since May, Senator Nunn and I have come to the floor of the Senate every day to speak out on crime and drug trafficking. We have spoken about our concern with the crime problems we face, and about our ever increasing alarm over the fact that the Senate has not taken action on crime fighting legislation. I believe that our alarm over the lack of activity by the Senate is well justified. On May 18, Senator Nunn and I introduced a package of proposals, S. 243, that would go a long way toward helping in the war on crime. The bill included provisions that will make it easier to fight mob violence, reforms in the bail bond system, especially as it applies to drug dealers, stiffer sentences for violent criminals and for big time drug dealers, and an overhaul of the habeas corpus laws to eliminate frivolous and repetitious appeals; 16 other Senators have joined us as sponsors of this crime fighting bill.

S. 2543 is not the only crime fighting package before the Senate. Just before Memorial Day, Senator Thurmond and Senator Biden, the chairman and the ranking member of the Judiciary Committee, introduced another crime fighting package, S. 2572. It contains several of the provisions in the crime package Senator Nunn and I had introduced earlier, as well as other important reforms, including a program to protect victims of crime, reforms to the insanity defense, and better asset forfeiture laws. A total of 54 Senators, over half of the Senate, have joined as cosponsors of this measure.

Mr. President, the Senate's failure to act on either of these proposals is even more disturbing when one realizes that each of these bills has been pending on the Senate Calendar since late May. In other words, the Senate could have considered either of them at any point during the last 3 months. We even went so far as to enter into a time agreement on one of the bills, S. 2572, that would enable us to consider and pass the proposal in no more than a couple of days.

Despite all of this, and despite the vital importance of action on this issue, nothing has happened. Meanwhile, the time has kept slipping away, and fewer and fewer days remain in this session. Some may believe that there already is too little time remaining to pass a bill through both Houses of Congress. I disagree with that assessment, because I believe that there is strong public momentum and support for action on crime. More important, I am concerned about the kind of message we in the Senate send to the American people if, given this special opportunity to do something about crime, we fail to act.

For the past 2 months, I have tried to focus on one particular aspect of the criminal justice system which is sorely in need of reform: The Federal habeas corpus laws. Today however, with time running short, I should like to spend a few moments discussing some of the broader issues we face in dealing with the crime problem, in order to remind my colleagues of the urgent need for action. Just last week, in an address to an international conference on drug enforcement, William Webster, the Director of the FBI underscored once again the link between illegal drug trafficking and crime. It is clear that an essential part of any fight against crime must be a full-scale attack on drug trafficking.

Recently, the Miami Herald ran a series of articles on the effects of one of the most dangerous of the illegal drugs, and sadly enough, one of the most popular illegal drugs: cocaine. I should like to share some of the findings made in those articles with my colleagues, because they point out the importance of doing something about illegal drugs.

Explosive growth is the best way to characterize the use of cocaine in the United States over the past years. Most of the cocaine used in the United States is grown in Bolivia, Colombia, and Peru and is then smuggled into the United States. In 1961, customs officials seized 8 pounds of cocaine; 10 years later, in 1971, the amount of cocaine seized jumped to 408 pounds. And 10 years after that, in 1981, 3,725 pounds of cocaine were seized by customs officials. Earlier this year, Federal law enforcement agents in Miami seized 3,906 pounds of cocaine in one single arrest.

Mr. President, fully one-third of the amount of cocaine seized by customs agents last year was seized in the Miami area. Of course, the 3,900 pounds cocaine bust I just mentioned also occurred in Miami. Miami sadly, has become the cocaine capital of the United States, and the Herald article pointed out some of the unfortunate effects that so hand-in-hand with being a cocaine center. It is common knowledge that the crime rate and the murder rate in Miami has skyrocketed in recent years, and that Miami now has the dubious distinction of being the murder capital of the country. The Herald article showed how cocaine use has contributed to the rising crime rate in south Florida. The University of Miami conducted a study of behavior patterns of some 170 cocaine users. The study revealed the following:

60 percent of cocaine users surveyed have broken the law by selling cocaine to support their habit.

52 percent are divorced or separated because of their habit.

47 percent stole cocaine, or pulled some sort of con game to get cocaine.

31 percent stole from their families or friends.

29 percent wrote bad checks.

24 percent committed household or store burglaries.

31 percent stole from stores, and 19 percent committed robberies.

These statistics are shocking, Mr. President. They show me that the link between crime and drugs that we have heard so much about in fact is all too real. They also lend support to the notion that, by cutting off the drug traffic, and bringing the people who control it to justice, we can have a major impact on crime. In south Florida, we have a special task force, headed by the Vice President, that has helped slow the flow of drugs into south Florida. We need to expand that effort to other parts of the country. And we must also make sure that those drug dealers who are caught are not able to use legal loopholes to avoid justice. Today, drug dealers who are arrested rely on weakness in the current bail laws to buy their way out of jail. S. 2543 strengthens the bail laws as they apply to persons arrested for drug trafficking violations, and forces the person arrested to bear the burden of showing why he should be granted bail. S. 2572 contains provisions that can be used to require a person who posts a large bail bond to show where his bail funds came from. S. 2543 triples the sentences for persons convicted of smuggling large amounts of marihuana. And S. 2572 reforms the asset forfeiture laws, to make it easier for law enforcement authorities to immobilize drug trafficking organizations by seizing their assets: the ships, planes, and cash they use to do business.

Mr. President, these much needed changes could be approved by the Senate if we simply move on the crime bills now on the Senate Calendar. The need to so something about illegal drug trafficking, and the crime it creates, is clear. We in the Senate have an opportunity to make a difference, but only if we act. Time is running out, with as few as 13 days left in the session. We can make a difference, but only if we move now.

FLORIDA IN-SCHOOL DRUG EDUCATION

Mr. CHILES. Mr. President, we are all aware of the seriousness of the drug problem this Nation faces, and of the need for all of us to work together to find ways to stop drug abuse.

One of the most tragic aspects of this problem is its impact on our young people. It is essential, therefore, that we pay special attention to taking whatever steps we can to protect our children from the ravages of illegal drug use.

Most of the news we hear about illegal drugs is bad news. Today, however, I should like to share with my colleagues some good news about a success story in the effort to make young people aware of the dangers of illegal drugs. During the 1980–81 school year, Hillborough County, Fla., sixth graders took a drug prevention program. The results seem impressive, as students who took the program were found to be only half as likely to use alcohol, drugs, or cigarettes as those students who did not take the course.

I congratulate the Hillsborough, County Schools, the C. E. Mendez Foundation, which ran the program, and Elizabeth McConnell, who was the program director. But, most important, I congratulate the young people themselves for their success in avoiding all the problems that seem to go hand-in-hand with illegal drugs.

Mr. President, doing something about drug abuse is a problem for each and every one of us. I am glad to see people in Hillsborough County working together in their community to fight drug abuse.

I ask unanimous consent to have printed in the Record two articles published in the Tampa Tribune about the drug prevention program, and I recommend to them to my colleagues.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Study: In-School Drug Program Proves Effective

(By Patti Breckenridge)

Hillsborough County public school students who took a drug education course in 1980-81 were half as likely to use alcohol, drugs or cigarettes on campus one year later as classmates who weren't in the program, a new report indicates.

About 1 percent of the 3,635 students who took the course as sixth-graders violated school rules prohibiting substance possession and abuse as seventh-graders, a random sampling of that group showed.

But twice as many—nearly 2 percent—of the 4,534 sixth-graders who were not offered the course committed substance-related violations as seventh-graders, the report said.

"That difference is statistically significant," said Susan Turner, who coordinated the evaluation.

Armed with that favorable evaluation from testing experts in the school system, the non-profit group that runs the drug education program will ask the School Board Tuesday for money to expand.

School Superintendent Raymond Shelton said Thursday that the school system can't afford to finance that expansion.

But School Board members have final say on budget matters.

Operated by the Mendez Foundation, the drug education program was provided this year to all sixth-graders. The program's $200,000 budget was primarily supplied by private donors, but the School Board contributed $75,000 and the state less than $10,000.

Mendez officials want to extend the drug education course to ninth graders and expand their efforts in educating parents.

They say they need at least $100,000 more to do that. Even if they find additional private support, part of that sum would have to come from the School Board.

"We're kind of subtle and soft-selling people," said Charles Mendez, son of the couple who started the foundation.

"We've always felt our program was effective based on the reactions of students and their parents. But it's sometimes difficult to quantify a feeling like that.

"I think this report confirms our effectiveness."

The report is the first evaluation of the Mendez program since it started the drug education course in public schools four years ago.

Besides the findings on the course's effect on drug use, drinking and smoking on campus, the evaluation also revealed that students who take the course definitely increased their knowledge about substance abuse and retained that knowledge six months after completing the course.

A random sampling of the students who took the course during the 1980–81 school year showed a 49 percent success rate in answering questions about substance abuse before taking the course, an 87 percent success rate immediately upon completing the course and an 86 percent success rate six months after completing the course, Turner said.

The program was initially aimed at sixth-graders because that is the first time Hillsborough County public school students move from one school to another, Mendez said.

Ninth-graders face the same problem so they would be a logical group to provide a "booster" course in substance abuse and health education, he said.

But Shelton said the school system can afford to spend no more than $90,000 on the Mendez program in 1982–83, and all of that will be needed for the sixth-grade program since that age group will be much larger this year than in 1981–82.

Some School Board members may disagree.

Two months ago, both Cecile Essrig and Sam Rampello said they would like to see the Mendez program expanded.

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The program's emphasis on enhancing a student's self concept—making it easier to combat peer pressure to use drugs, drink alcohol or smoke cigarettes—"is as important to education as teaching other basics," Esrig said at the time.

But at least one School Board Member said in May that he was leery about spending more money on the Mendes program.

"Drugs are definitely not the most pressing problem in schools," Sonny Palomino said. "The priority in a school system should be furnishing the best education. And I'm not sure drug education is as important as strengthening our math, science and language programs."

[From the Tampa Tribune-Times, July 4, 1982]

CHEP Helps Immunize Young Against Drugs

(By Sam Stickney)

It seems we spend more time in this business viewing with alarm than pointing with pride. This is especially true as it relates to young people and the drug scene. But important changes are occurring which substantially reduce the chances of students entering Hillsborough school systems—both public and private—falling victim to drug abuse.

In other years we have devoted much time to various approaches for dealing with youngsters who had developed a physical or psychological dependence on any of several mind-altering chemicals. There were no easy solutions. Some responded to psychological counseling, others eventually outgrew the problem, but too many become social dropouts and emotional derelicts.

Then someone had a better idea. Instead of waiting for the problem to develop and then dealing with it, why not apply that much vaunted ounce of prevention?

Elizabeth S. McConnell, program director of the C.E. Mendes Foundation, introduced a Children's Health Education Program which is destined to become known by the acronym CHEP, the sound of a young bird in its nest.

The ebullient Mrs. McConnell went into classrooms at the sixth grade level and challenged students to develop a health respect for themselves and their bodies. She talked about peer group pressures and how to resist their negative influences and, peripherally, got across the idea that becoming involved in the drug culture wasn't too cool.

She didn't saddle the kids with some heavy trip. This was fun. It was also instructional and it soon became evident that she was reaching these students in a very positive manner.

The program was enlarged and received the blessing of the Hillsborough County School Board. The CHEP report for the current school year reveals that 10,706 sixth grade students were reached. In addition, 42 presentations were made to PTAs and civic groups, a program for parents made possible through the Shimberg Foundation got under way and a ninth grade pilot program was tested.

The biggest story, however, concerns the sixth grade level. That ounce of prevention is paying impressive dividends. It works just like Mrs. McConnell said it would. The proof of this is to be found in a program evaluation of CHEP which produced these conclusions:

During the 1981–82 school year, instruction provided by the Children's Health Education Program made a substantial difference in students' knowledge about drug-related concepts and decision-making processes.

After cessation of program instruction, students retained this knowledge over a six-month time period.

Students who received instruction in the Children's Health Education Program as sixth graders in 1980–81 committed significantly fewer substance-related offenses as seventh graders than students who did not receive (this) instruction.

The report has a lot of statistics to support these conclusions, but the bottom line is that those kids who were exposed to CHEP in the sixth grade were less likely to experience a drug problem the following year than those who were not in the program.

How long this "immunity" will last remains to be seen. Perhaps reinforcement will be needed in the future. Even some of the best vaccines call for booster shots. But the encouraging news is that CHEP is working and for most of those youths who received the ounce of prevention there will be no need for a pound of cure.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. BUMPERS) is recognized for not to exceed 15 minutes.

THE CLINCH RIVER BREEDER REACTOR

Mr. BUMPERS. Mr. President, my comments this morning deal with my continuing strong opposition to the building of the Clinch River breeder reactor. This is one time when all Americans ought to be glad that sometimes the U.S. Congress operates in a very laborious, slow, and tedious way, because when breeder reactors were first discussed in this country, many people, including this speaker, thought that breeders were going to be the panacea for this country's energy problems.

All of us know that the proponents of breeder reactors highly touted the idea that breeders produced more energy than they consumed, and certainly anything that would do that looked like a panacea.

Since 1971 and 1972, when the Clinch River breeder was first discussed as a reality to be built on the Clinch River in Tennessee, more and more information has surfaced about it, and everything that anybody has heard about Clinch River since it was first an embryonic idea in some scientist's mind has indicated that we ought not to build it.

The time when the project had the greatest momentum going for it was about 1976, and happily for the country Jimmy Carter became President at that time. Jimmy Carter does not get credit for many things. He is still spoken of in denigrating ways in a lot of circles in this country. But he certainly deserves credit for his efforts to torpedo this project, and it was because of his adamant, strong opposition to it that it was not built during that period of time.

But now we are faced again with an administration which strongly supports it, indeed strongly supports all nuclear projects, to the detriment of every other sensible energy initiative.

My original opposition to the Clinch River breeder was very simple. The breeder reactor makes plutonium, and plutonium makes weapons.

I heard a scientist say this morning that the Clinch River breeder was going to generate in its lifetime enough plutonium to manufacture 1 million nuclear weapons. I forget whether he said it would do that on an annual basis or in its lifetime, but either way it is terribly devastating. So that was my first objection.

There are six countries now that have nuclear weapons, and more will get them. A lot of thoughtful people in this country think that whole situation is just a ticking time bomb. I heard on the radio as I came in this morning, that some professor at some small college has suggested that we have a big party in the year 2000 all across this country. He is proposing to spend $1.2 billion on a big party in the year 2000, if we make it to the year 2000. If we do not; of course, we are not going to need the party.

The second thing then that began to trouble me about the Clinch River project was the technology. Back in 1976 there surfaced a very secret, private, internal memo of Burns & Roe, who were the consultants for the Clinch River breeder. In that memo they said:

> We need to get out of this project at the earliest possible time because it is a turkey. The chances of success for this project are almost less than nil.

I thought, if the consultants do not think any more of the project than that, why should I? I am just an ordinary country lawyer, a layman on scientific issues, and if the knowledgeable people thought it was a bad technology and a bad location—they even said the Clinch River was a bad site—why should I continue to, support it, and why should I vote money of the American taxpayers for the project?

Then there was this original proposition: If you will recall, the utilities were going to put up about half the money." You have to understand," they said, "we want to put a cap on our participation of about $250 million."

But at that time, the Clinch River project was supposed to cost about $670 million. The utilities were originally talking about footing half the costs, but they only committed themselves to about $250 million.

Well now we have spent more than $1 billion, and have not turned the first spade of dirt. The utility companies have put in about $110 million, maybe more than that, but there is one thing for sure, they are not putting any more money in, and I do not blame them. They want the project but they understand what people in this body seem to never understand, and that is not to throw good money after bad.

Do not depend on the utilities to put up a dime of the next $2.5 billion to $5 billion that are going to be necessary to build and complete the Clinch River breeder.

Then why were we going to build it to begin with? What was the justification? The justification was, No. 1, it manufactures fuel you can use in light water reactors. We have about 70 of these reactors in the country right now. The Clinch River breeder would be a good, cheap, continuing source of fuel for light water reactors, because we were going to run out of uranium.

No. 2, we were going to continue to increase electrical consumption in this country. Our demand was going to increase by 7 percent annually. That is what the annual increase had been for years, and nobody had any reason to believe it would slow down.

But after the Arab oil embargo and after energy prices began to skyrocket, people in America began to conserve. And so now for the past 3 years energy consumption has increased only 2 percent a year, not 7 percent.

In addition to that, utilities all over the country are canceling plans to build light water reactors. Washington Power has discontinued the building of five nuclear reactors. Three of them were already well underway, and some of them over half completed, but they are scrapping them.

The TVA down in Tennessee is also scrapping plans for light water reactors and some construction that is already underway. So certainly there is no justification on the grounds of depleting our uranium supplies. I read in an article in the Wall Street Journal yesterday that Westinghouse is in some considerable difficulty because the price of uranium just continues to drop. While the projections I saw when the Clinch River project was first presented to me were that uranium was going to cost $100, right now it is $20, having dropped from $40, and the price still going down—so certainly we are not running out of uranium, and we do not need to supply light water reactors because none are being planned, and none are being built.

Then, of course, there is another question: If this were the best technology in the world, which it is not, would it be money well spent?

I might say that there is going to be a forum this afternoon with four of the finest physicists in the country, and each of them is going to say the technology of the Clinch River breeder is outdated. One of them said this morning that continuing the project is like buying a 1967 GTO, putting on some new tires and a stereo, and acting like you have a brand new automobile.

Senator Hollings of South Carolina has called this whole project, I thought appropriately a CETA project for nuclear scientists. But even the nuclear scientists do not want it. They think it is a bad technology. I think they would rather go on foodstamps than lend their name to it.

But, in any event, the French and the Germans and the Japanese and the Russians all dived into breeder reactors. And I have heard it on this floor a thousand times: "We can't let them get ahead of us." Well, I will tell you what they are doing. In France, they are postponing the building of five additional breeders because the ones they have are turning out to present terrible safety problems for them. Their cost overruns are absolutely out of sight. And the same thing is happening in the other three countries.

Breeders are not yet a technology that is worth putting that kind of money in. The scientists say if we build the Clinch River breeder right now, when it is finished it will be 16 years out of date.

The Clinch River breeder will use what they call the loop technology. The French use what they call the pool technology. The French have completed one Phoenix, and another one is under construction and should be finished next year, way behind schedule. The pool technology the French are using is far advanced above the Clinch River breeder's loop technology and yet we have not changed one thing. We are still going right ahead just as though the scientists never said a word.

Mr. President, let me close by saying this: If this sounds parochial to you, let it. For the last 4 years I have been trying to get money out of the Congress and out of the administration to retrofit all the dams on the Arkansas River that the Corps of Engineers believe are capable of being retrofitted for hydroelectric power. There are 17 dams on the Arkansas River. Three of them are generating power right now and nine more of them are capable of generating electrical power. The Corps of Engineers says that for $800 million you can put hydropower on all of those nine dams in Arkansas that are capable of generating a total of 365 megawatts of power, and yet I cannot get this administration to put one dime into it. Not a dime. And those dams will generate 365 megawatts of power with virtually no annual operating cost because, as you know, in hydropower all you do is open the gate and let the water through. You do not feed it coal, you do not feed it uranium, you do not feed it gas, and you do not feed it oil. You just open the gate.

The cost of that project, even retrofitting existing dams, is $2,200 per megawatt. The Clinch River breeder, even if it only wound up costing $3.5 billion—and I promise you it will cost $5 billion to $10 billion—will generate electricity at a loss of $10,000 a megawatt, or about four times as much as it would take to generate power on the Arkansas River, with no comparison in terms of environmental concern or the annual operating cost. That is how insane this administration is on energy.

And there is another project in Arkansas ready to go, the best biomass project in the United States. The University of Arkansas was donated a lot of biomass equipment and technology by the Gulf Oil. Let me say something nice about Gulf. We appreciate it. And Gulf does not hear me say anything nice about them very often. But we appreciate that donation.

The University of Arkansas took that technology and started producing ethanol from 1 ton of municipal waste a day. Now they have the plans all drawn up, using virtually all proven technology, for a biomass facility in Little Rock that would use 50 tons of waste a day. If it is successful, the next phase would convert 750 tons of urban waste, wood products, cellulose products to ethanol.

The other day, I called the Secretary of Energy. He said, "Dale, there is just no money for biomass." It is a $43 million project. There are 1,150 sites in the United States that have been identified as being capable of using 750 tons of waste a day to make ethanol.

Now, if you are looking for a contribution to this country's energy independence, there would be a contribution. But instead this administration wants to put another $2½ billion into Clinch River, a turkey, obsolete technology, and not spend one dime for something that will really give this country something to think about; namely, generating a lot of ethanol from waste.

Mr. President, I did not come over just to condemn the administration's energy policies. I sound like a broken record on that. Everybody knows how I feel about that. I hope they do. I am just saying the Clinch River breeder would be a terrible mistake.

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Mr. President, if you took the $2.5 billion that we are going to spend to complete the Clinch River breeder, you could put it into household weatherization in this country for conservation, and between now and the year 2000 save 48 million barrels of oil annually at a cost of $2 a barrel.

Those hydroprojects which I was talking about down in Arkansas have a life expectancy of 100 years. The Clinch River breeder, if it does not blow up first, is scheduled to last 35 years.

The only reason in the world left to build the Clinch River breeder is somebody's parochial interest or because enough arms can be twisted in here or just because there are enough people who absolutely will not change their minds about something. I think the time has come and I believe the votes are here to kill this project.

The Clinch River breeder reactor has been like Rasputin. You think you had it killed and all of a sudden it started breathing again.

I hope this time, before we go out of here in October, that the Senate ultimately and finally will kill a project that does not make any sense by any yardstick or measurement.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** Will the Senator withhold?

Mr. **BUMPERS.** Yes.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER.** Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, with statements therein limited to 5 minutes each.

ASSASSINATION OF PRESIDENT-ELECT BASHIR GEMAYEL

Mr. **SPECTER.** Mr. President, the assassination of President-elect Bashir Gemayel, the resultant danger of civil unrest in Lebanon, and the Israeli movement into West Beirut this morning, raise new and troubling issues for that area. As a result of my meetings with President-elect Gemayel in Beirut and Prime Minister Begin in Jerusalem over this past weekend, and my general assessment of the climate in Lebanon and Israel, it is my view that Israel does not intend to use the current unrest to acquire any additional power base in Lebanon.

The situation in Lebanon has been tense for many years—since the civil war between the Christians and the Moslems began some 7 years ago. The fighting was, of course, intensified as a result of the conflict between Israel and the PLO during the past 3 months.

In discussions with both President-elect Gemayel and Prime Minister Begin, it was the expectation of both men that Israel would withdraw from Lebanon as soon as Syrian and PLO forces were out of that country and Lebanese forces ready to move in. In my floor statement yesterday, I detailed President-elect Gemayel's concern that Lebanon not be pressed for an immediate peace treaty with Israel. Implicit in Mr. Gemayel's statement was his expectation that Israel intended to withdraw from Lebanon. Prime Minister Begin advised, as noted in my floor statement yesterday, that Israel would not press President-elect Gemayel for a peace treaty. Prime Minister Begin further emphasized Israel's intention to withdraw from Lebanon as soon as the Syrians and PLO departed that country.

While our conversations obviously did not contemplate the assassination of the President-elect and the attendant problems, the issues which were discussed persuaded me that Israel seeks only a stable Lebanon, has no interest in keeping military forces in Lebanon on an indefinite basis and has undertaken this morning's movements only to keep the peace and maintain order there.

The assassination of President-elect Gemayel is a tragedy for the man, his family, his country, the region, and the world. Decent men and women everywhere should deplore the assassination and take all possible action to restore stability Lebanon.

The bombing of a political party headquarters during a meeting of party officials is a despicable crime of unbelievable terrorism. It is unheard of in most countries. In Lebanon, where nearly every political party has its own army and political murders and civil warfare are almost a way of life, it is no less shocking, although characteristic. The killing of this young leader has irrevocably changed the Middle East and shattered the peace so carefully constructed by Ambassador Habib and others.

Bashir Gemayel was Lebanon's best hope to end years of internal violence and political chaos. He seemed the only leader strong enough to restore the government's control of its own territory. With this control, the 10,000 PLO fighters remaining in Lebanon could be expelled and occupation of parts of this tiny nation by Israeli and Syrian forces ended, Israel having declared its intention to leave as soon as the Syrian and PLO forces were out of the country.

Bashir Gemayel's presidency was the keystone in the arch for bringing peace to Lebanon and then to the entire region.

I saw in the face of this young man the determination to change Lebanon and in his eyes a vision for national reconciliation. In his demeanor, I felt resignation to the continuing danger of death. To his wife and family I offer my condolences, to his countrymen, my sympathy. His death affects all throughout the world who seek peace.

THE DEATH OF PRINCESS GRACE OF MONACO

Mr. **SPECTER.** Mr. President, the tragic and untimely death yesterday of Princess Grace of Monaco is worthy of note in our proceedings in the U.S. Senate.

I make these comments because Grace Kelly was a native of Pennsylvania and the Kelly home was two blocks from my own home in the East Falls section of Philadelphia.

Grace Kelly brought great distinction to Pennsylvania and the United States. Her achievements in Hollywood and her famed life as Princess of Monaco, as the wife of Prince Rainier and mother of three fine children, need no embellishment in these brief remarks because they have been recounted at length in today's newspaper and TV reports.

It was an extraordinary treat for all of us who had the good fortune to know her while she lived.

She was a beautiful woman in every sense of the word. Beyond her fabulous face and figure, she was talented, humane, and deeply devoted to her family.

The Kelly family is legendary in Philadelphia. Her father, John B. Kelly, Sr., amassed a fortune in the brick building business. He was a candidate for mayor of Philadelphia in the mid-1930's against the political machine, an undertaking of some magnitude, and narrowly lost.

His son, John B. Kelly, Jr., avenged slights to his father and succeeded in becoming an Olympic champion at sculling. Jack Kelly and I were at the University of Pennsylvania together, served in Philadelphia city government together and have been good friends over the years.

I know I speak for all my colleagues in the U.S. Senate in sending condolences to Prince Rainier and the children in Monaco, to the entire Kelly family in Philadelphia, and to Grace Kelly's friends and admirers everywhere.

THE RECESSION IN THE ENERGY INDUSTRY

Mr. **BENTSEN.** Mr. President, this is the second in a series of speeches I am delivering on the impact of the current recession on different sectors of the economy. When I last spoke to you in April on the distressed state of small business, I emphasized the need for Congress and the White House to work together in pulling the United States out of its recessionary pit. The need for action is even more urgent today as we continue to bump along at the bottom of the worst slowdown since the Great Depression. My speech today focuses on the recession in our critical energy sector.

THE NATIONAL RECESSION

Our Nation remains in a deep recession. Over the past year, real gross national product has dived farther than at any other time since the thirties, dropping more than 5 percent in the last quarter of 1981 and again in the first quarter of this year. Latest figures show a slight increase of 1.3 percent for the second quarter due largely to inventory adjustments and it is too early to tell whether or not this means the recession has ended. We are very likely just moving sideways now. Unemployment in the United States has jumped to a postwar record of 9.8 percent, the worst since the thirties. Including discouraged workers, there are more Americans out of work as I stand here today than at any time in our Nation's history except for the Great Depression year of 1933. With industrial production almost 10 percent below last year's level and at the lowest point since 1977, unemployment may well get worse before it improves.

LAGGING ENERGY DEMAND

The decline in industrial production has magnified the nationwide decline in energy demand. One conservative estimate attributes up to 30 percent of the decrease in petroleum consumption over the past year to the national recession.

Nineteen eighty-two is the third consecutive year that total energy consumption in the United States has fallen. Oil demand across the Nation has dropped 4.2 percent with the call for petroleum products off an even larger 5.6 percent this past year. The only other time in history that we had such a consistent decrease in the demand for oil and gas was during the early years of the Great Depression. Although reduced energy consumption has been a national goal for some years now, the proper means of reduction should be through increased efficiency and conservation, not economic recession.

The lower demand for oil is reflected in the 3.2-percent drop in Texas crude oil production in 1982 compared to this same period last year. On the average, at current prices, that represents some $15 million a day in lost output across the State. And according to the Texas Railroad Commission, buyers of Texas crude dropped their August requests for crude by 7,305 barrels a day from last month's figure. This reinforces a trend that has been developing over the past few months and should leave the August average daily production figure down roughly 15,000 barrels a day from its April level. Texas oil production is expected to continue its decline in the coming months, as well, according to the magazine Texas Business, with oil, gas, and coal producers not expecting a recovery until the fourth quarter of this year or the first quarter of 1983.

The mixture of tension within OPEC, good oil and gas finds last year, energy conservation, and the recession-induced drop in demand has given birth to an oversupply of energy on world markets. The result: A steep and persistent drop in prices. Nationally, wellhead crude oil prices have dropped almost 20 percent since last year, from $34 to $28 a barrel. Texas is experiencing a similar drop, with its oil prices off from 10 to 20 percent over the past 12 months. Even more significant, many oil producers last year expected oil prices to continue their upward trend, albeit not as rapidly as had been the case between 1980 and 1981. The precipitous drop in prices caught the industry off guard, placing many energy concerns in tight straits. Firms that invested in the expectation that oil would now be in the neighborhood of $38 a barrel are caught short with that oil still around $30 a barrel. And, if we include the effects of the windfall tax, one Texas firm estimates that the effective selling price of crude is down to $23 a barrel, almost 10 percent less than the pre-decontrol price in December 1980.

Indeed, it is an appropriate time for us to reevaluate the merits of the windfall tax. With the price of oil down significantly, the justification offered by some for the tax—that undue returns are flowing to the oil industry—does not hold water. All that tax is doing now is stealing funds needed for capital expenditures and drilling exploration, the source of the industry's future growth. For that reason, I urged the Senate Finance Committee to block the administration's proposal to raise taxes on independent producers' intangible drilling costs and percentage depletion which would have sharply cut funds available for domestic drilling and capital investment.

Economic textbooks tell us that lower prices should be accompanied by some higher levels of consumption. Yet, the continuing decline in energy consumption suggests that the recession, by choking the industrial sector and forcing people out of work, is the culprit behind much of the energy sector's woes. One of the most severe effects of any recession is the sense of pessimism that it breeds. Firmer prices, brought about most effectively and most equitably by halting the march of this recession, are essential if attitudes and realities in our critical energy sector are to change.

Another destabilizing feature of the current recession is the persistently high level of interest rates. Despite the recent welcomed decline, interest costs remain too high and prospects for a genuine liquidity crisis remain far too real. Energy firms are finding it more expensive and now—after the demise of the Penn Square Bank in Oklahoma—more difficult to secure reasonable credit.

Smaller independent firms, which accounted for 87 percent of last year's drilling activity, rely almost entirely on outside capital for their drilling efforts. Yet a number of them are now being forced into the bankruptcy courts because their cash flow is insufficient to meet interest-swollen costs. It is important to remember that real interest rates still remain substantially higher than in any period in our history. An easing of the inflation rate without an accompanying decline in interest rate spells real trouble because it chokes off any chance of a recovery. And that is exactly what we have witnessed thus far in 1982.

THE ENERGY SECTOR RECESSION

The combination of lagging demand and continued tight credit markets have hit the energy industry like a blowout. In order to stay viable, energy concerns have had to take dramatic cost-reducing measures, including decreased capital spending, less exploration, lower profits, and smaller employment levels. Drilling activity by the majors is expected to be off by 20 percent this year, well below their original expectations. Business Week recently reported that drilling fund investment has dropped over 30 percent since the beginning of the year and that the major oil companies are cutting their exploration budgets for the year by 10 percent.

The Hughes Tool Co., reports that the active rotary rig count in Texas, one of the chief indicators of the oil industry's health, is down 40 percent since this time last year, to 815 from 1,362. That firm, incidentally, recently had to dismiss 10 percent of its own work force. The State's rig activity is down an even larger 44 percent from its peak of 1,451 last December, with well over 600 rigs sitting idle today. And that continues with rig activity falling from 1 percent to 3 percent a week. Nationally, rig activity has slowed almost 40 percent since it peaked at 4,530 last December, leaving around 25,000 rig workers across the country unemployed.

The great oversupply of rigs has prompted analysts to predict that no new rigs will be built over the next year or two. That is serious news for our already hard-hit rig fabricators and rig-related workers. Well completions themselves have been up fairly sharply this year, but that fact is deceptive. The rise in completions so far this year is only a carryover of the momentum built up from the robust rig activity of last year; completions are expected to drop off substantially in the coming months. Moreover, the number of SEC-registered oil and gas

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programs has dropped 34 percent during the first 6 months of 1982. Private funds for leases are off over 40 percent as well.

Overall, the industrial production level for our mining sector is down over 10 percent since last year and is at its lowest point since 1979. The industrial production slowdown in fields such as iron and steel, nonelectrical machinery, and in the chemical-related sectors are, in part, a reflection of the energy slowdown. The production of nonelectrical machinery, for example, used for building exploration and drilling equipment is down almost 15 percent since last year. The industrial production index for chemicals and related products is down 10 percent since last year. And industrial production for steel and iron, a major energy user and an input into drilling equipment, is off more than 35 percent since last year, its lowest point in a decade.

Hardest hit by weak demand and interest costs are the smaller, independent energy firms. Lacking the diversified economic base of the majors, independents are having a much harder time weathering the energy recession. In the worst shape are those firms which bought modern, expensive equipment in recent years in order to stay competitive. The debt service burden on these firms is intense and many are struggling just to stay in business. Some have not, and the result has been a rash of business failures and bankruptcies over the past few months which have fallen heavily on Texas.

THE TEXAS RECESSION

The stranglehold of still excessive interest rates and diminished consumer and industrial demand in nearly every sector is squeezing the Texas economy in an unfamiliar and unprecedented manner. As I mentioned in my first speech, Texas' vibrant energy industries—the energy sector and associated industries—have always shielded that State from the worst effects of recessions in the past. Now, these same industries—once considered recessionproof—have fallen prey to the same slowdown afflicting our economy and most of the world. The recession has contributed directly and mightily to the oversupply of oil on the markets and the consequent softness in oil prices. Combined with high interest rates, that recession is crippling Texas energy concerns, from the largest conglomerates to the smallest independents. The number of business failures, layoffs, and investment cutbacks in Texas concerns me greatly. Of course, not every firm is losing money or cutting back on spending, but too many are suffering for us to sit by idly and do nothing. For every healthy Texas firm in the energy sector now, a half-dozen are trimming outlays and laying workers off.

Unemployment is at a distressing level in Texas, and reached a seasonally adjusted 7.0 percent in July. Although States in the Midwest and New England may look enviously at that figure, it is a postwar record and reflects a doubling in unemployment over the past few years. And the energy sector is at the heart of this downturn. The Texas Employment Commission reported in June that "manufacturing establishments and oil-related industries absorbed most of the (recent) unemployment (increases)." Within the manufacturing sector, the agency reported that the "most severe decline occurred in oil field machinery." Other sectors of the Texas economy dependent on energy, such as manufacturing, shipping, housing, and banking, are suffering even more with the energy sector in a recession.

Oil company bankruptcies in the Dallas area alone have jumped nearly 65 percent during the first half of 1982, compared with the same time period last year. Refinery capacity utilization has been reduced to near 60 percent, down over 5 percent since last year. The petrochemical industry is also running below its potential, with a utilization rate of about 65 percent. A number of refineries and petrochemical plants have been closed. The Texaco refinery in Port Arthur, the city's largest employer, has announced that it will be reducing its work force by 25 percent once its 4,000 employees end their strike. Port Arthur already faces an 11-percent unemployment rate.

Mr. Dave Fellers of the Texas Oil Marketers Association recently estimated that, including those firms now in trouble, about 10 percent of the marketing companies in Texas have gone out of business. In Baytown's United States Steel plant, 800 employees have been laid off because of poor demand. Unemployment compensation claims there are rising at a dramatic rate, and the Baytown Chamber of Commerce estimates that about 60 local businesses have failed during the past year. An even larger layoff occurred at Lone Star Steel's plant near Daingerfield due in part to illegal dumping of subsidized products by European producers.

As a result of slowdowns in refineries, chemical plants, and shipyards designed for building offshore oil rigs, unemployment in Orange, Tex., is over 15 percent, more than double the rate at the first of the year. Levingston Shipbuilding, one of the city's largest firms, has publicly announced that major layoffs will occur later this year unless new contracts are developed.

In Abilene, unemployment has reached a record high of 6.7 percent, up from 4.5 percent a year earlier. According to Gerald Cook, the executive director of the Abilene Industrial Foundation, about one-third of the area's oil-related manufacturing workers have been released. Those layoffs are having secondary effects throughout the area with a recovery still months away.

Oil country communities, such as Benavides in South Texas and Silverton in the Panhandle, have been hit extremely hard. Oil fields, once bustling with activity, are not being worked and many rigs are stacked. Indeed, from Midland and Odessa to Dallas to Galveston, and to Alice, the energy sector is contracting and prospects for a rapid recovery are not bright. Firms are searching for reasonable credit and communities are seeking new businesses, but neither are to be found.

DEEDS NOT TALK

This litany could not be much longer, but the evidence is clear that Texas and her energy industries are in a recession. Ending the national recession will go a long way toward restoring the health of the Texas economy and its key energy sector. Our national recession is an interest rate recession, and its cure consists of lower interest rates. Those rates began to fall considerably in August, but still remain at excessive levels. It is important that the Federal Reserve and its Chairman, Paul Volcker, accommodate these falling interest rates. The Federal Reserve must avoid the errors of last December when their return to a contractionary monetary policy stopped a promising slide in interest rates and extended the recession for at least an additional two quarters. The Fed must meet its own target growth rate for the monetary variable M_1 this year of 2.5 percent to 5.5 percent.

Congress and the President have a big role to play, as well, in the recovery. They must move promptly toward a balanced budget. The recent decline of interest rates will lop about $10 billion off the cost of financing the burgeoning national debt in fiscal year 1983. But a walloping deficit is still projected by the administration and much more must be done to slash spending. That is the best way to insure that interest rates continue moving down so they can spark a robust recovery.

The stakes in a quick recovery are larger, after all, than the economic health of one State or one industry. As the largest energy producing State, the weakening of the Texas energy industry has acute national and international ramifications. One-third of the Nation's natural gas is produced in Texas and about 30 percent of our crude oil comes from the oil fields of my State. Houston alone is home to more than 50 percent of the country's basic petrochemical manufacturing capacity. Indeed, a sluggish economy, and a weak energy exploration sector in particular, only fosters greater dependence on foreign countries for our vital energy needs, leaving our energy-thirsty economy needlessly vulnerable to foreign political manipulation and economic disruption. The restoration of a stronger energy industry in Texas must be an urgent national priority.

PUBLIC EMPLOYEES' APPRECIATION DAY

Mr. STEVENS. Mr. President, I am pleased to join with our distinguished colleagues from Virginia, Maryland, and Arkansas in cosponsoring the resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

A strong and stable civil service is integral to successful government. Policies need to change to meet the changing needs of our society. However, there must be a cadre of well-informed and competent individuals who know the system well to be able to carry out the new policies of different administrations. In recent years, the civil service has come under increasing attack from a variety of sources. Often, Federal workers find it easy to blame politicians for these attacks, but politicians only reflect the feeling of the people of this Nation. It is clear that citizens of this country are exasperated at the conduct of the Federal Government. Anti-Federal Government and Federal employee feelings are rampant today because the Federal Government has frequently overextended itself into the private lives of our Nation's citizens.

The public is unaware, however, of the great contributions made by the Federal work force to the high standard of living experienced by so many Americans. The delivery of our mail is more efficient than in any other nation in the world. Medical breakthroughs at the National Institutes of Health and other Government health organizations are so common today that often the press fails to even report them. Approximately 30 million Americans are dependent on timely social security checks to live. The processing of those checks, new applications and payments to new survivors take a tremendous amount of organization and work and yet so few problems in the system ever surface.

I could go on and on with the achievements by the Federal work force. It is one thing for Congress to know about them; it is another for the public to know. There is a need for the American public to pause and reflect on the contributions of our thousands of civil servants. A Presidential proclamation of January 17, 1983, as "Public Employee's Appreciation Day" is a good way to start.

HONEY BEE ESSENTIAL TO AMERICA'S FOOD SUPPLY

Mr. PRESSLER. Mr. President, I recently learned of the administration's plan to close the bee research laboratory in Laramie, Wyo. This facility conducts essential research on honey bees at a minimal cost to the Government. The laboratory is ideally located near the major honey-producing areas in the United States and receives financial support from the University of Wyoming. The move will actually cost money, due to the expense of moving personnel and equipment from Laramie to Tucson, Ariz. This proposal must be reconsidered by the administration, since a healthy bee industry is essential to all Americans.

The honey bee is one of the busiest and most productive creatures in the world. Honey bees not only reproduce themselves, but also pollinate several different crops and produce tons of nutritious honey. Unfortunately, the future of the domestic beekeeping industry is being threatened by honey imports. It is essential, not only to the agricultural sector, but to all America, that the honey bee be preserved in the United States.

When bees collect nectar from flowers of plants to produce honey, they also transfer pollen, the male element in the plant fertilization process, from one plant to another. This activity is necessary for the plants to be properly pollinated. There are approximately 90 crops grown in the United States which depend on bees, at least to some extent, for pollination. The estimates of the value of the crops pollinated by bees varies widely. If you consider only the fruit, vegetables, and seeds resulting from bee pollination in the United States, the estimated value would be $10 to $15 billion. However, the importance of bees goes far beyond the crops directly benefiting from bee pollination. In fact, it has been estimated that almost one-third of our total diet comes directly or indirectly from insect-pollinated plants. With food costs in the United States at over $100 billion annually, it is clear that bees are vital to the American public. Without the honey bee to pollinate crops, the diet of American consumers would be limited to nuts, cereal grains, and meat. The cost of meat products would also increase without the honey bee.

This economic point is illustrated by the fact that honey bees have come to the forefront of a debate in Great Britain on the future of the Falkland Islands. It seems that plans for improving agriculture there have been stopped cold by the fact that no honey bees can live in that climate. Without honey bees, most profitable crops cannot be grown. The British are investigating a species of hardy bee which is too well insulated to fly. Instead, it crawls from flower to flower, performing its romantic duties in a pedestrian fashion.

The honey industry is also an important sector of our national economy. There are over 200,000 beekeepers throughout the United States with over 1,600 commercial beekeepers. The beekeepers own 4.3 million colonies of honey bees, which produce about 100 million dollars' worth of honey annually. These figures do not include the thousands of people involved in the processing and distributing of honey to the American consumers.

Currently, the entire domestic beekeeping industry and American food supply are being threatened by honey imports. In recent years, honey imports have dramatically increased to the point that over 30 percent of the honey sold in the United States is imported.

Prior to the mid-1970's, honey imports averaged about 10 million pounds annually, but since 1973, honey imports have increased dramatically. Honey imports reached 77 million pounds in 1981. The low prices for honey imports are underpricing domestic honey production, which forces beekeepers to place their crop under Government loan, rather than sell their honey at a loss. In 1981, 55 million pounds of honey were placed under loan.

Under the Commodity Credit honey loan program, the producer places his honey under loan. If he is unable to sell the honey by the following July, he can turn it over to the Commodity Credit Corporation. It is estimated that 37 million pounds of surplus honey will be turned over to the CCC this year. The Department of Agriculture uses a portion of the honey for school lunch programs and other food programs, but this is no way to distribute all of the surplus honey.

The import problem has been caused because the United States has become a dumping ground for world surplus honey production. The U.S. 1-cent-per-pound tariff, imposed in 1948, has not been changed, while all other major honey-importing nations have at least a 27-percent ad valorem tariff on honey imports.

In 1976, the International Trade Commission investigated the impact of honey imports on the domestic honey industry. The ITC found that honey imports were adversely affecting the domestic industry and recommended a tariff-rate quota be imposed to control imports. Unfortunately, the recommendation was not followed and now the domestic beekeeping industry is in jeopardy.

If the beekeeping industry is to be preserved, action must be taken to control honey imports and continue an effective honey bee research program in the United States. This action is not only vital to the beekeeping industry,

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but also to every American, because of the need for bees for crop pollination and an adequate food supply.

YOUNG SOUTH DAKOTAN PROMOTES DOMESTIC HONEY INDUSTRY

Mr. PRESSLER. Mr. President, in the last months, I have worked to assist the domestic honey industry, which is such a vital component of our agricultural economy. I have introduced a resolution calling for an International Trade Commission study on the adverse effects of honey imports on this important agribusiness. I have also introduced legislation, S. 2124, to provide tariff relief from unfair foreign competition. I have just recently learned of the administration's proposal to close the Bee Research Laboratory in Laramie, Wyo., and have called on the administration to reconsider this decision. This laboratory is ideally located near major honey-producing areas in the United States and provides invaluable support and assistance to the industry. Today I want to commend another South Dakotan who has been actively promoting the benefits of our domestic honey industry.

Miss Kim Mentzer of Gann Valley, S. Dak., is the reigning American Honey Princess. On behalf of the American Beekeeping Federation, Kim has been traveling across the country to speak before groups and attend community functions and State fairs. I had the opportunity to meet Kim at the South Dakota State Fair this past month and I was very impressed with her poise and intelligence. She is an excellent representative of my home State and the American honey industry. The daughter of Mr. and Mrs. Roger Mentzer of Gann Valley, Kim is a home economics education student at South Dakota State University in Brookings. I know that her experiences as the American Honey Princess this year have been a fine practical education for her. She is a credit to South Dakota and to this very important industry.

THE MARCOUX FAMILY OF THOMPSON, CONN.

Mr. DODD. Mr. President, Connecticut is honored to have one of its families named the 1982 International Knights of Columbus Family of the Year. For me, that honor takes on special significance. It is not only a Connecticut family the Knights of Columbus have recognized, but also a family I have had the pleasure of knowing over the years: the Marcoux family of Thompson, Conn.

Those of us who know Pete and Julia Marcoux and their eight children know they are a unique family. It seems there is not a community organization in Thompson that does not list a Marcoux among its members. I cannot remember any occasion when Pete or Julia or their children were not willing to help out. Certainly, the State, their town, and their neighbors have benefited greatly from their commitment and dedication. I know I have tremendous admiration and respect for their accomplishments.

That community spirit finds its roots in a homelife that apparently defies the pressures and challenges of today's world. Raising children is never easy and yet Pete and Julia have made raising eight beautiful children seem effortless. From the eldest, Stephen, 25; to Anne Marie, 24; Richard, 23; Michael 21; Maureen, 20; Patrick 18; Margaret, 16; and Julie Karen 15; the Marcoux children epitomize the very best of American youth.

The International Knights of Columbus could not have made a better choice. I share Connecticut's pride in the recognition of a State family and, add my personal congratulations to a family I am honored to have as friends.

THE ASSASSINATION OF LEBANON'S PRESIDENT-ELECT

Mr. PERCY. Mr. President, the assassination of Lebanon's President-elect Bashir Gemayel is shocking. My deepest heartfelt sympathies go to his family and to the Lebanese people who looked to him to lead their nation into an era of reconciliation and reconstruction. The death of this brilliant young man is all the more tragic because he symbolized hope for the future of Lebanon. More than any other individual, Bashir Gemayel offered the possibility of Lebanon emerging from 8 years of conflict as a secure and unified nation. With his assassination, fear for the future of Lebanon will increase greatly.

All of us, who are friends of Lebanon, share the grief of the Lebanese people. At the same time, I hope that the vision of Bashir Gemayel of a united, democratic, and tolerant Lebanon will not be a victim of the assassins. When I spoke to the President-elect on August 27, he stressed to me the need for all Lebanese to overcome past animosity and unite. He displayed considerable sensitivity to the necessity to reach out to all segments of Lebanese society. I particularly was impressed by his determination to act as President of all Lebanese and not just as the leader of a single political or confessional group.

Less than a month ago, he set forth his goals as President of Lebanon in an article in the Washington Post:

> First, any solution to the Lebanese crisis must be based on recovery of Lebanese sovereignty over the entirety of the national territory and the restoration to the Lebanese state of its full powers. Second, Israeli and Syrian forces must return to their own countries. . . . Third, the hundreds of thousands of Palestinians remaining in Lebanon must submit to and respect the authority of the Lebanese government in Lebanon. . . . Fourth, most important, and most widely recognized, the people of Lebanon must agree that force has no place in the inevitable disagreements that arise within any country. . . . [Lebanese society] must remain based upon the unity of Lebanon; the uniqueness of the Lebanese experience; and liberty, security, and justice for all Lebanese within a democratic government that guarantees all citizens' basic freedom.

Although the assassins have taken Bashir Gemayel from the Lebanese before he could begin implementing his policy of reconciliation, these hopes for Lebanon need not die with him. The Lebanese people have faced more than their share of tragedy during the past 8 years and once again will have to call on their inner strength to retain the vision of a united Lebanon.

GEORGE D. WOODS

Mr. PERCY. Mr. President, I should like to take this opportunity to pay tribute to a very dear friend, George D. Woods, who died recently at the age of 81. George embodied the best traits which our society can produce. He was a successful businessman, a devoted public servant, and a patron of the arts. During his presidency of the World Bank from 1963 to 1968, he broke new ground in increasing loans to the poorest developing countries and began lending nontraditional sectors such as agriculture and education. The farsightedness and wisdom of his approach is reflected in the strong endorsement of the World Bank's policies and loan portfolios contained in recent private sector and public studies of the World Bank.

I ask unanimous consent to have printed in the Record an article on George Woods published in the New York Times following his death.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 21, 1982]

George D. Woods, 81, Dies; Ex-President of World Bank

George David Woods, an investment banker who served as president of the World Bank from 1963 to 1968, died yesterday at his home near Lisbon. He was 81 years old and also maintained a residence in Manhattan.

Mr. Woods, a founder and eventually chairman of the board of the First Boston Corp., one of the Nation's leading investment houses, served as a director of numerous companies during, his career, including The New York Times Co.

Long after Mr. Woods had turned over the reins of the First Boston Corp. of New York, he maintained an office in New York and was sought out by executives around the world for consultation.

At his death, he was a trustee of the Ochs Trust, which holds a controlling interest in The New York Times Co.

Mr. Woods, who had lived most of his life in New York, has also been a director of the Lincoln Center for the Performing Arts in New York City and chairman of the board of the Repertory Theater of Lincoln Center.

Last night, his physician, Dr. Fred Plum, recalled that the tall, lanky Mr. Woods looked like a banker but had none of a banker's austerity. He was, Dr. Plum said, "a man of great personal wry warmth," whose business dealings led to a worldwide circle of friends.

Mr. Woods' favorite expression, according to his wife, the former Louise Taraldson, was, "You can accomplish an awful lot of good if you don't care who gets the credit."

Mr. Woods had been close to the late Nelson A. Rockefeller and for a time maintained a home at the Rockefeller estate at Pocantico Hills, N.Y.

In the late 1950's Mr. Woods, on a special assignment for the World Bank before he became its president, helped straighten out the financial chaos left in the wake of the nationalization of the Suez Canal by Egypt.

Earlier, as an executive of the First Boston Corp., he was instrumental in the financing of the Kaiser Engineering and Alumimum Co. of Canada, when other Wall Street companies were not heeding Henry J. Kaiser's pleas for help.

George David Woods, the son of a naval shipyard worker, was born in Boston on July 27, 1901. He spent his boyhood in Brooklyn, where his father, seeking work, had moved the family.

After the death of his father and with only a diploma from Brooklyn Commercial High School, Mr. Woods set out for a career on Wall Street at the age of 17. He started as an office boy in the firm of Harris, Forbes & Company and moved ahead steadily.

The banking upheavals of the 1930's saw his firm transformed into the First Boston Corporation, a leading investment-banking house. He became chairman of the board of First Boston in 1951.

His call to the World Bank first came from Eugene Black, its president from 1949 to 1962 and an old associate and friend from the days at Harris, Forbes. Mr. Black had previously asked Mr. Woods to help out on special assignments.

It was in this fashion that Mr. Woods became familiar with the workings of the World Bank, and in the summer of 1962, Mr. Black asked him to Washington for a meeting with President John F. Kennedy and C. Douglas Dillon, the Secretary of the Treasury. Mr. Woods learned that he had been chosen by the Kennedy Administration as its nominee for president of the World Bank. He accepted.

Under his stewardship, the World Bank kept on an innovative course. Mr. Woods pursued a policy of giving poor countries freer access to loans. For the first time, the bank also made loans in such areas as agriculture and education.

The World Bank's loans were made from funds raised through the sale of its bonds on the world's foremost financial markets. Mr. Woods also pressed hard for sharply increased contributions from the public treasures of the rich nations to the Bank's "easy-loan" subsidiary, the International Development Association.

A New Yorker to the core, Mr. Woods declined to take a house in Washington, keeping his New York apartment instead. When he and his wife left New York, they were likely to spend time in a house they owned in Portugal.

"This problem of development is not going to be solved in your lifetime," he once told a young questioner, "and perhaps not in the lifetime of your children. I can't say the job has been easy, but I believe in this effort."

Mr. Woods had a longstanding love affair with the New York theater. He was a backer of Broadway productions, and some of them, "Dead End" and "Sailor Beware," became hits. He was also former treasurer and director of Ringling Brothers, Barnum and Bailey Circus and helped his friend John Ringling North reorganize the circus.

In addition to his wife, Mr. Woods is survived by a sister, Grace Johnson, of Scarsdale.

According to his wife, Mr. Woods will be cremated, but, in accordance with his wishes, there will be no funeral or memorial service.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCHMITT). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will state.

The bill clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. DeCONCINI. Mr. President, as an original cosponsor and enthusiastic advocate of judicial review for veterans, I take particular pleasure in supporting final passage of the Veterans' Administration Adjudication Procedure and Judicial Review Act.

I commend Senator HART for his longstanding commitment to this legislation. Senator HART first introduced judicial review legislation in 1976. In 1979, he introduced a substitute measure, S. 330. With the strong support and able assistance of Senator CRANSTON, the then chairman of the Senate Veterans' Affairs Committee, this bill passed the Senate on September 17, 1979. Unfortunately, the House failed to act on that bill prior to adjournment of the 96th Congress. When S. 349 was introduced in January 1981, I was pleased to join Senators HART and CRANSTON in sponsoring this bill.

I would be remiss if I did not take this opportunity to thank Senator SIMPSON for promptly scheduling hearings on this bill and for expeditiously moving the bill through the Veterans' Affairs Committee.

Veterans are the only group of Federal beneficiaries who, after having exhausted all their administrative remedies, are denied access to the Federal courts. Under existing law, the Board of Veterans' Appeals remains the final arbiter of veterans' benefit decisions. To deny veteran claimants their due process rights is discriminatory, unfair, and reduces them to second-class citizens. Clearly, veterans should be accorded the same legal rights as other Federal claimants.

The legislation before us corrects the inequities in existing law. Under this bill veterans will be provided with limited access to the Federal courts for judicial review of final decisions of the Board of Veterans' Appeals. While an appeal can be made on both questions of law and fact, the scope of review on questions of fact has been limited to material facts that are "so utterly lacking in a rational evidentiary basis that a manifest and grievous injustice would result" if factual decisions were not set aside. By strictly limiting the court's authority on questions of fact, the Board of Veterans' Appeals will remain the expert arbiter on these questions.

In addition to judicial review, the bill contains two other provisions which should enhance the veterans' claims process. It subjects the Veterans' Administration to the formal rulemaking requirements of the Administrative Procedure Act and codifies a number of internal adjudication procedures already in use with the agency.

Finally, the bill modifies the current $10 limitation on fees attorneys may receive for representing VA claimants. The committee recognized the outstanding work veterans' service organizations do in representing VA claimants and wished to discourage attorney representation at the initial application, decision, and appeal levels. Therefore, the bill retains the $10 limit on attorneys' fees until after a claim has been denied by the Board of

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Veterans' Appeals. At that point, however, the committee believed veteran claimants might have need of the services of an attorney and the bill would permit the Administrator to approve a reasonable fee for attorneys not to exceed $500. If a claimant and an attorney enter into a contingent-fee arrangement, then attorneys fees would be limited to 25 percent of any past-due benefits awarded in the case.

This bill has been carefully constructed to preserve the informal, nonadversarial nature of VA adjudication proceedings while giving veterans the same due process rights as other Federal beneficiaries. It will go a long way toward insuring that veterans receive from the VA every benefit and service to which he or she may be entitled under the law and I urge the bill's passage.

IMMIGRATION POLICY

Mr. DeCONCINI. Mr. President, the reform of the U.S. immigration laws is of major importance. Recently, this body approved S. 2222, the Immigration Reform and Control Act of 1982. While I believe that S. 2222 represents a first step in the right direction, I voted against this bill because it does not approach our present immigration problem in the balanced manner that I prefer.

One aspect of the immigration problem that I believe S. 2222 does not adequately address is its effect on and basis in foreign policy considerations. Senator Gary Hart recently wrote an article concerning immigration policy as a foreign policy issue that appeared in the New York Times. While I do not necessarily agree with everything that Senator Hart says in the article, I commend him for bringing to light this generally overlooked aspect of our immigration policy.

Mr. President, I ask unanimous consent that Senator Hart's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Aug. 24, 1982]

Immigrants and the New Bill

(By Gary Hart)

Washington.—The legislation overhauling United States immigration law that the Senate has approved focuses almost entirely on domestic issues—stricter law-enforcement, lower quotas, regularizing the status of undocumented workers already in this country. But the Senate has not fully addressed the problem that brings thousands of immigrants to our shores each year.

Immigration is not merely a domestic issue. It is also a matter of foreign policy. So even the strictest enforcement of the various elements of the Senate bill, which has been sent to the House, would have little long-term effect. Quite simply, these provisions do nothing to address the root causes of migration and the flow of refugees: economic underdevelopment, social injustice, human rights violations, population growth. Until our immigration debate addresses these serious international issues, we will never develop an adequate immigration policy.

The Haitian refugees detained in United States camps vividly illustrate this point. Although they cannot possibly think they have entered the "golden door" of economic and social opportunity, they continue to come. Life in the camps, with all its hardships, is obviously preferable to a life where social and economic opportunity are systematically denied.

There are enormous disparities between rich and poor in Haiti. Five percent of the population accumulates 50 percent of the national income. In 1980 (the last year for which data are available), Haiti's average per capita income was $275, the lowest in the Western Hemisphere. On the average, the Haitian Government spends $1 per person per year on education; it spends $18 per person per year on internal security.

According to the Organization of American States, corruption pervades all levels of Haitian government. As a result, domestic revenues and foreign aid are diverted for personal enrichment, rather than being spent on economic development.

Repression has been a fact of life in Haiti since 1957 when Francois "Papa Doc" Duvalier began his brutal regime. His successor and son, Jean-Claude "Baby Doc" Duvalier, has continued the tradition. The result has been a flood of poor, uneducated "boat people" to the United States.

Haiti is by no means alone in contibuting immigrants. From March 1979 to March 1981, the number of Central Americans and South Americans in the United States increased from roughly 840,000 to 1.002 million. In the last 18 months alone, 200,000 Salvadorans have fled to the United States. And in Southeast Asia, intolerable conditions have brought hundreds of thousands of Indochinese to the United States.

It is unrealistic to think that these trends will not continue. Unprecedented population growth has contributed to tension not only in Mexico, the Caribbean basin and Central America, but also in the Middle East and the Far East.

Entrants into the labor force in the nonindustrialized world are expected to grow by at least 700 million in the next 20 years. Moreover, migration from rural areas to already over burdened cities will increase. Add continuing civil and regional wars, famine and repression, and migration flow will become a migration flood.

Limiting our changes in immigration policy to domestic measures will thus have little impact on migration pressures from troubled areas of the world. Ultimately, our immigration problems must be managed with the cooperation and participation of other governments. The immigration factor must become an integral part of the formulation of our foreign policy, particularly as it applies to certain areas of the globe. For example, we need to recognize that our tacit support of the repressive Duvalier regime will be paid for in an influx of "boat people" to this country.

Policies that favor confrontation and military solutions must be avoided in dealing with Central American countries since such policies add to emigration pressures.

Trade and investment incentives for Mexico and the Caribbean basin should take into account their impact on the creation of jobs and demographic movements. For example, Washington might consider providing incentives to United States and Mexican firms willing to locate in northern Mexico in return for Mexican Goverment assistance in blocking illegal immigration.

Both bilateral and multilateral assistance can, if properly directed, help create jobs and slow population growth in various countries around the world.

Regardless of good-faith legislative efforts to reform domestic immigration procedures, the problems presented by immigration in the 1980's and 1990's will not be solved without a more democratic, imaginative and far-sighted foreign policy.

THE CALENDAR

Mr. BAKER. Mr. President, as in morning business, I have a number of items that may be dealt with, I believe, by unanimous consent.

There are a number of items on my legislative calendar which are cleared for action by unanimous consent. I especially invite the attention of the minority leader to the following: Calendar Nos. 785, 786, 787, 788, 789, 790, and 791.

I inquire whether the minority leader is in a position to consider all or any of those items at this time.

Mr. ROBERT C. BYRD. Mr. President, those items have all been cleared on this side of the aisle.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the items just identified be laid before the Senate in sequence.

Mr. ROBERT C. BYRD. Mr. President, I ask the distinguished majority leader if he will also indicate what items he would like to proceed with on the Executive Calendar.

Mr. BAKER. Mr. President, I am prepared to go forward with those items beginning on page 4, under Department of Justice, the first item being No. 937 Edward R. Camacho, of Guam, to be U.S. marshal for the district of Guam, including all those on page 5 under Department of Justice, Panama Canal Commission, and Air Force, and on page 6; then, on page 7, nominations placed on the Secretary's desk in the Air Force, U.S. Air Force, U.S. Marine Corps.

Mr. ROBERT C. BYRD. Mr. President, all of those items have been cleared on this side of the aisle. So there is no objection to proceeding with the items that the distinguished majority leader has enumerated on the Executive Calendar and on the General Calendar.

Mr. BAKER. I thank the Senator.

Mr. President, then, after we complete consideration of the items on the Legislative Calendar it would be my intention to ask the Senate to go into executive session for the purpose of considering the items that are cleared there.

WORLD FOOD DAY

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate first Calendar Order No. 785, Senate Joint Resolution 174.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 174) to authorize and request the President to designate October 16, 1982 as "World Food Day".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

THE PROBLEM OF WORLD HUNGER AND ITS OBSERVANCE

Mr. HEINZ. Mr. President, thousands of people across the United States are planning to take part in World Food Day observances on October 16, 1982. These people belong to a broad coalition of groups interested in eradicating the problems of world hunger—farm, labor, education, industry, and antipoverty groups—all working together to find a solution to this most serious problem.

It is estimated that hunger of a chronic nature affects over 500 million people around the world today. Undernutrition and malnutrition lead to the deaths of 40,000 children every day, or almost 15 million children each year. Hunger and malnutrition are also responsible for a large number of the cases of brain damage, sterility, and other permanent physical defects. For example, over 250,000 people go blind each year due to vitamin deficiencies. These numbers are staggering, indicating the danger of ignoring this issue.

And yet, the trend in the industrialized world is to focus on our own problems, and not on those of our starving neighbors. Problems of inflation, high unemployment, and lowered productivity are hurting all of the major industrial powers, who are, as a result, focusing inward on their own problems and cutting back on efforts to aid their less fortunate neighbors. They are concentrating their efforts and funding on their own hunger and poverty problems. They are cutting back on aid to multilateral organizations interested in alleviating world hunger. They are also cutting back on direct foreign aid to the Third World. These factors magnify the problems of the Third World.

These Third World countries face a number of factors that make it increasingly difficult for them to feed their people. Most face trade imbalances, fueled in part by the price of oil. The infrastructure necessary for a healthy agricultural system, including roads, irrigation systems, food processing, and storage facilities, is to a large extent missing in many of these countries. Most of these countries now have a large pool of unemployed urban dwellers, with little chance of getting work to pay for their basic necessities, such as food. A number of these countries have targeted industrial development as their main economic goal, and have put a large amount of their precious economic resources and capital into development of industry, at the expense of the agricultural sector. Other problems include less arable land available for cultivation each year, water shortages, and rising grain prices.

This presents a bleak picture. But steps are being taken to insure that the difficulties of this problem do not exceed our capacity to solve it. The Hunger Elimination and Global Security Act (S. 1675), of which I am a cosponsor, contains provisions to insure that American food and other assistance would benefit the poorest and most hungry. Another step is the World Food Day resolution, which will help to draw attention to this ever-increasing problem facing the world.

Over 260 groups have joined the World Food Day National Committee to coordinate efforts on this issue. Last year, all 50 Governors signed proclamations designating October 16 as World Food Day, and 10 Governors have done so thus far this year. Last year, thousands of people all over the world participated in World Food Day celebrations. Greater public awareness of this issue is necessary to make a larger effort to eradicate the problem of world hunger. The World Food Day resolution does that by showing the seriousness of our intention to give our full efforts to wipe out the problem of world hunger.

● Mr. LEAHY. Mr. President, as we head into our season of harvest, and see the vast abundance of this land, we are reminded of those in the world who are not as fortunate as we are, who are hungry and have little hope of ever seeing a bountiful harvest.

To commemorate both the strength of American agriculture and the need to meet the world hunger challenge, I am once again sponsoring this World Food Day resolution. This October 16, 1982, thousands of Americans and people the world over will be marking World Food Day through religious services, civic observances, and educational activities. I applaud all of these efforts, especially the events planned in my home State of Vermont.

I am deeply committed to confronting the underlying causes of the desperate hunger and proverty that limit the lives of over 500 million men, and women and children in the world. As a member of the President's Commission on World Hunger, I am convinced that hunger can be eliminated if certain policy decisions are taken, both in the developed and developing world. I agree with the recent analysis by Martin McLaughin of the Overseas Development Council that we must pursue the following goals:

First, increased food production by small farmers in food-deficit countries; second, better distribution of available food; third, ways to sustain hungry people until they can either grow enough food or earn the income to buy it; and fourth, fairer distribution of income through land reform, increased employment in the countryside and other related measures.

I will work in the Senate to further these goals. It is in our own national interest to ease the tension that results from the pressures of poverty and hunger in the Third World. I also feel that addressing world hunger is a moral challenge as well.

All Americans can give thanks for a rich and just land where hunger is almost a horror of the past. Now it is time to help the rest of the world toward food self-reliance. I urge all Americans to observe World Food Day, and I urge my colleagues to support this resolution.●

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 174

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world are those who are suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the United States, as the worlds's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

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Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished:

Whereas efforts to resolve the world hunger problems are critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the first World Food Day on October 16, was supported by proclamations of the Governors of all fifty States, a resolution of Congress, a Presidential proclamation, efforts of the United States Department of Agriculture, and by more than one hundred and seventy-five national private and voluntary organizations; and

Whereas the one hundred and fifty-two nations of the Food and Agriculture Organization of the United Nations designated October 16, 1982, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 16, 1982, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PATRIOTISM WEEK

The joint resolution (S.J. Res. 234) to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

S.J. RES. 234

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the joint resolution of November 17, 1981, Public Law 97-131, 95 Stat. 1692, is amended by striking "1982" and inserting "1983".

SEC. 2. The title of such joint resolution is amended to read as follows: "Joint Resolution to designate the week commencing with the third Monday in February 1983 as 'National Patriotism Week' ".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AGRICULTURE DAY

The joint resolution (S.J. Res. 235) to proclaim March 21, 1983, as "National Agriculture Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 235

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together, provide more jobs than any other single industry; and

Whereas the productivity of agriculture is a vital ingredient in our strength as a Nation, both domestically and on the world scene; and

Whereas, to maintain a healthy agriculture, it is necessary that all the people of the United States understand how agriculture affects their lives and well-being, and be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1983, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL RUNNING AND FITNESS DAY

The joint resolution (S.J. Res. 238) to designate October 9, 1982, as "National Running and Fitness Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 238

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly evident;

Whereas jogging is an excellent, convenient, and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex, or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to weight-reducing or weight-control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life; and

Whereas an estimated thirty million persons all across America jog or run as a recreation activity which is beneficial and enjoyable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 9, 1982, as "National Running and Fitness Day", and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars, and other events throughout the United States and to incorporate regular exercise into their everyday lives.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NEWSPAPER CARRIERS APPRECIATION DAY

The joint resolution (S.J. Res. 239) designating October 16, 1982, as "National Newspaper Carriers Appreciation Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 239

Whereas newspapers and their availability to the citizens comprise a cornerstone of a free society and of our democracy, as affirmed under the freedom of the press clause of the first amendment to the United States Constitution;

Whereas every day more than 107 million Americans read one or more of the nine thousand three hundred and ninety-six daily, weekly, or other newspapers published in the United States;

Whereas 83 per centum of the daily newspapers printed in the United States are delivered to the homes of readers;

Whereas newspapers carriers have always played an important and vital role in the distribution of newspapers;

Whereas there are approximately one million newspapers carriers in the United States;

Whereas 90 per centum of such newspapers carriers are eighteen years of age or under; and

Whereas it is appropriate to acknowledge the too often unappreciated contribution of newspaper carriers to freedom, and to recognize their devoted efforts in delivering the paper regardless of inclement weather: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1982, be designated as "National Newspaper Carriers Appreciation Day", and the President is authorised and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate celebrations and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DRUNK DRIVING AND DRUGGED DRIVING AWARENESS WEEK

The joint resolution (S.J. Res. 241) to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk Driving and Drugged Driving Awareness Week."

The Senate proceeded to consider the joint resolution.

Mr. HUMPHREY. Mr. President, I am pleased that the Senate has agreed to prompt passage of Senate Joint Resolution 241, which designates the week of December 12 through December 18, 1982, as "National Drunk Driving and Drugged Driving Awareness Week." I also would like to thank my colleagues for their support, particularly those 34 Senators who have joined me as cosponsors in this important effort.

Drunk driving is a problem which remains with us year after year, dulling us into acceptance of the death and destruction it causes. The current public demand for new approaches and solutions at all levels, Federal, State, and local, is heartening indeed. In particular, I applaud the volunteer efforts of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), who have played such a large part in stimulating the current initiatives.

The Senate recently unanimously approved legislation to assist State and local efforts against drunk driving. With passage of this resolution the Senate will underscore once again its support for these new efforts and provide another focus for the continued drive to raise public awareness of the dangers of drunk driving.

Of increasing concern to all of us working in the field of alcohol and drug abuse is the rising incidence of driving after drug use, either alone or in combination with alcohol. Researchers are just beginning to collect data on the effects of drugs on driving ability, but it is clear from what we now know that drug use, with or without alcohol abuse, carries an increased risk of driving ability impairment.

Our intent is to help reduce the shocking toll, in human terms and economic costs, of both drunk and drugged driving. It is my hope that selecting the week of December 12, 1982, for Drunk and Drugged Driving Awareness Week, right before the Christmas and New Years holidays and the increased socializing which often includes excessive drinking, will reduce the incidence of traffic accidents across the Nation during this holiday period.

Designation of Drunk and Drugged Driving Awareness Week will raise in the public's mind perhaps a new understanding of the risks of drugged driving and renewed appreciation of the known dangers of drunk driving. It will also provide an opportunity for governmental and private groups and businesses to develop innovative and informative messages warning against drunk and drugged driving. Finally, it will send an important message to those working in the field that this Congress supports their tireless efforts to reduce injuries and deaths on our highways from this critical national problem.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 241

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over fifty thousand in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40 and 55 per centum of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 per centum in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from $5,000,000,000 to $25,000,000,000 a year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marihuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many States have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 12, 1982, through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LEGAL SECRETARIES COURT OBSERVANCE WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 97) to designate the second full week in October as "National Legal Secretaries' Court Observance Week," which had been reported from the Committee on the Judiciary with an amendment on page 2, line 3, to strike "each year", and insert "1982".

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second full week in October 1982 is designated "Legal Secretaries' Court Observance Week." The President is authorized and requested to issue a proclamation calling upon Federal officials, the Governors of the several States, the chief officials of local governments, interested groups and organizations, and the people of the United States, particularly the legal community, to observe the week with appropriate activities.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The title was amended so as to read:

Joint resolution to designate the second full week of October 1982 as "National Legal Secretaries' Court Observance Week".

The joint resolution, and the preamble, are as follows:

S.J. Res. 97

Whereas, legal secretaries are an integral part of the administration of justice in the United States;

Whereas, highly skilled and highly trained secretaries make it possible for the legal system to function effectively;

Whereas, the contributions of legal secretaries to the legal system are often made outside the courtroom and many secretaries have little exposure to courtroom proceedings;

Whereas, exposure to courtroom proceedings would enrich the legal secretaries' understanding of their work; and

Whereas, the Congress of the United States recognizes and emphasizes the desirability of providing legal secretaries an opportunity to observe court proceedings: Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second full week in October 1982 is designated "Legal Secretaries' Court Observance Week." The President is authorised and requested to issue a proclamation calling upon Federal officials, the Governors of the several States, the chief officials of local govern-

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ments, interested groups and organizations, and the people of the United States, particularly the legal community, to observe the week with appropriate activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering nominations on today's Executive Calendar beginning with item No. 937, Edward R. Camacho, of Guam, and continuing through page 7, nominations placed on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Edward R. Camacho, of Guam, to be U.S. marshal for the district of Guam.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Max E. Wilson, of North Carolina, to be U.S. marshal for the western district of North Carolina.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Herbert M. Rutherford III, of New Jersey, to be U.S. marshal for the eastern district of Virginia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

PANAMA CANAL COMMISSION

The assistant legislative clerk read the nominations of Andrew E. Gibson, of New Jersey, and William W. Watkin, Jr., of New Jersey, to be members of the Board of the Panama Canal Commission.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

AIR FORCE

The assistant legislative clerk read the nomination of Maj. Gen. William E. Brown, Jr., to be assigned to a position of importance and responsibility designated by the President in the grade of lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nominations of Col. Diann A. Hale and Col. Arthur J. Sachsel, to be brigadier generals.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the Air Force and Marine Corps, placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 75TH ANNIVERSARY OF THE WASHINGTON CATHEDRAL

Mr. BAKER. Mr. President, there is one other matter that has now been cleared for action, I believe, and that is a concurrent resolution to be offered by the distinguished Senator from Missouri (Mr. DANFORTH).

Could I inquire of the distinguished acting minority leader if he is in position to consider it at this time?

Mr. DODD. Mr. President, I am. There are no objections to consideration of this concurrent resolution on the part of the minority.

Mr. BAKER. I thank the acting minority leader.

Mr. President, I send a concurrent resolution to the desk on behalf of the Senator from Missouri and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 120) to commemorate the 75th anniversary of the Washington Cathedral.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. DANFORTH. Mr. President, September 29 will mark the 75th anniversary of the Cathedral Church of St. Peter and St. Paul, better know to this city and the people of this country as the Washington Cathedral. This magnificent cathedral has risen on Mount St. Alban's in northwest Washington since 1907, and I have introduced this concurrent resolution today to commemorate its 75th anniversary.

The Washington Cathedral plays an important part in the spiritual life and the political life of this country. The Congress of the United States may take pride in the fact that in the late 19th century it granted a charter to the Protestant Episcopal Cathedral Foundation, leading to the construction of this stately and imposing cathedral. When one considers, for example, that the construction of Canterbury Cathedral in England took 5 centuries, the building of the Washington Cathedral seems all the more remarkable a feat.

I believe it is altogether fitting for the Congress of the United States to recognize and honor the cathedral's 75th anniversary.

Mr. President, I urge the immediate adoption of this concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 120) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 120

Whereas the foundation stone for the Cathedral Church of Saint Peter and Saint Paul, known as the Washington Cathedral, was laid on September 29, 1907, with the President of the United States, Members of Congress, and Justices of the Supreme Court in attendance;

Whereas George Washington was the first to call for a "great church for national purposes in the capital city";

Whereas the Congress in 1893 granted a charter to the Protestant Episcopal Cathedral Foundation for religious, charitable, and educational purposes, leading to the construction of this grand Gothic cathedral;

Whereas the Cathedral is administered by the Episcopal Church, it is truly a house of prayer for all people, with its pulpit open to all faiths, seeking to serve the whole Nation, offering its ministry on behalf of all churches;

Whereas in times of trial the leaders of our Nation often have gathered there to pray and seek God's guidance;

Whereas this majestic monument to our Nation's faith in a Divine Creator dominates the physical and spiritual horizons of the City of Washington;

Whereas the Cathedral is an architectural and artistic masterpiece that will lift up the human heart for centuries to come;

Whereas the nave of this magnificent cathedral was dedicated in the year of America's two hundredth anniversary "for the reconcilliation of the peoples of the earth";

Whereas the Cathedral inspires over 500,000 American visitors each year; and

Whereas September 29, 1982, marks the seventy-fifth anniversary of this great Cathedral: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States recognizes and pays tribute to the Washington Cathedral on its seventy-fifth anniversary and to all the men and women whose especial labors have contributed to the building of this great house of worship.

Sec. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Canon of the Cathedral Church of Saint Peter and Saint Paul.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DODD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Schmitt). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, as the Senate knows, I have been trying to find time to move to the consideration of the Hatch amendment to the Constitution. I had thought, perhaps, we could do it yesterday. I still hope we can get to that today. But for a variety of reasons—and they are good reasons—the principals involved in that debate as well as the principals involved in the debt limit/Helms debate need a little time to arrange their schedules and to consult with each other.

RECESS UNTIL 2:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent, therefore, that the Senate stand in recess until the hour of 2:30 p.m.

There being no objection, the Senate, at 12:46 p.m., recessed until 2:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Jepsen).

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR GORTON RECEIVES GOLDEN GAVEL AWARD

Mr. BAKER. Mr. President, it has been called to my attention by the Journal Clerk that at 4 p.m. today the distinguished junior Senator from Washington (Mr. Gorton), who is now presiding, will have presided over the Senate for 100 hours, which will add his name to that very short list of Senators who have presided for 100 hours. He will be the recipient of the Golden Gavel Award. I congratulate the Senator from Washington for that accomplishment. I remember when I was a young Senator, having now recovered from being young, that I presided at great length but they did not keep track in those days. I do not know whether I received a golden gavel or not. I recall so clearly that what I know about the rules of the Senate I learned from sitting in that chair. I congratulate the Senator from Washington for his diligence and dedication to duty. I congratulate him on the award which he will receive shortly after 4 o'clock.

CONSTITUTIONAL AMENDMENT RELATIVE TO ABORTION

Mr. BAKER. Mr. President, for some days now I have indicated that at some point I intended to ask the Senate to proceed to the consideration of the Hatch constitutional amendment dealing with abortion.

I understand it is not possible to gain unanimous consent to proceed to that measure and, therefore, I will not make such a request. But at this time, Mr. President, I move that the Senate proceed to the consideration of Senate Joint Resolution 110.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

Mr. PACKWOOD. Mr. President, the majority leader is correct, there have been objections by Members to the unanimous-consent request. A motion to move to it would be debatable. I simply want to say that what we wanted to do on our side was to dispose of the Helms amendment first and not have it mixed up with the constitutional amendment.

I do congratulate the Senator from Utah for going through what I regard as the proper procedural route, and if we had been able to dispose of the Helms amendment and decide that issue we would have had no trouble considering it at this time. But we do not want it considered while we are in the midst of this debate.

Mr. BAKER. Mr. President, I understand the position of the Senator from Oregon. But, by the same token, I think no one is taken by surprise at this motion at this time. I had hoped to be able to do this on yesterday, but for good reasons the Senator from Utah was not able to be here, because he had a State election in his State yesterday. I do not blame him.

But, Mr. President, this has been going on for some time. I would invite Senators' attention to the fact that for a year now, I have said, that if we would forbear to offer amendments either to the Constitution or in statutory form to other pieces of legislation, particularly appropriation bills, that I would attempt to schedule a free-standing debate on these matters.

Through a variety of circumstances this was the time chosen for that debate, and this is the vehicle that was chosen for debate, that is, the debt limit bill now pending.

At one time it appeared that we might get a unanimous-consent agreement for the disposition of these matters. Also for good reasons, and I have no blame to attach to any party in this respect, that agreement was not gained, could not be entered into.

I have no criticism of any Senator. To the contrary, I assert that every Senator treated me in good faith and honesty on that subject.

But, Mr. President, we are now at a point where it is necessary to try to redeem a commitment I had made over a period of time, that is, that we were going to have a debate on abortion, and that must include debate as well on the Hatch amendment.

The Senator from Utah has been kind and generous in his cooperation. He has been patient, as indeed have the Senators from North Carolina and others who are deeply interested in this subject.

But now it is all too clear that we must get on with the business at hand. We do not have a cloture vote on the debt limit or rather on the Helms amendment until 5 this afternoon. This looks like a pretty good time to do it.

Therefore, Mr. President, I felt constrained to make this motion at this time.

Mr. HATCH. Mr. President, I appreciate the comments of both of my colleagues. I think that we came within a gnat's eyelash of being able to secure a unanimous-consent agreement whereby we could have debated my proposed constitutional amendment and had a vote up or down on it.

I had deeply wanted thorough debate on this amendment, I wanted

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to see both sides discuss this matter in a full and fair manner.

Some of my distinguished colleagues have said repeatedly that we should have been properly addressing the abortion issue only through a constitutional amendment, yet here we have such an amendment reported from the Judiciary Committee, after full and complete hearings, and yet several of my colleagues remain unprepared to prevent even the semblance of a reasonable debate or fair consideration of this amendment.

They feel strongly about their positions; I understand that. I believe nevertheless that after such debate, if we had had it, a substantial majority of this body would have supported passage of this amendment. But I also want to be frank here. I have no illusions. I spent 6 years trying to get the balanced budget constitutional amendment to the floor of the Senate. We only passed that by a constitutional two-thirds majority this year and that was only after an extremely extensive debate that took almost 3 weeks.

Though a substantial majority might have supported the passage of this amendment, in all frankness, I do not believe we would have the requisite two-thirds vote at this time.

It is tragic that the opportunity which we anticipated for a full and open debate on this proposal is not going to materialize; it is now apparent that there will be a filibuster not only on the constitutional amendment itself but also on the motion to proceed. There will not be a genuine debate on this issue.

I feel a little boxed in at this point because there is simply not sufficient time remaining to deal with this matter in view of what some would call "obstructionist" devices employed by a minority on this issue. I think this effort deserves full and fair debate.

I have spent a great deal of time in recent days assessing this situation. This body has spent a great deal of time in consideration of the proposed Helms amendment to the pending debt ceiling resolution. We have already had two cloture votes and two additional ones are expected, if necessary.

I have to admit my disappointment that the most fundamental questions relating to abortion as public policy have not been given the attention they deserve during this period. We have spent far more time discussing court stripping and procedure and the constitutionality of the Helms measure that on the basic question of abortion itself. That is, does this country want to continue to assent to the Supreme Court decision of Roe against Wade, a decision which effectively legalized abortion on demand during the entire term of a woman's pregnancy, a decision which, in one fell swoop, overturned the considered judgment of the State legislatures of every State in this Union. This is the question that Congress has yet to directly address nearly a decade after the decision of Roe against Wade.

I have come reluctantly to the conclusion that this issue cannot be discussed and debated thoroughly under the present circumstances and in the present environment. The time constraints and the circumstances of the present Helms amendment debate have made that impossible, in my view.

Therefore, I would respectfully like to ask the distinguished majority leader of the Senate several questions relating to this matter. The Senator from Tennessee, in my opinion, has been under diverse and conflicting pressures from his colleagues on the subject of abortion, and I commiserate with him. It has been a difficult problem for him, and he has certainly treated everyone, fairly and objectively.

We almost had a unanimous-consent agreement where this could have been debated and voted up or down. I believe the majority leader deserves great credit for having conducted himself honorably in this matter and for having lived up to every assurance he made to all parties in this debate, certainly to me. No one should think for a minute that the majority leader has been unwilling to live up to his word in any particular.

I would like to address several questions to the majority leader, if I might.

First, could the distinguished majority leader give his assurances that this body will be given the opportunity to fully debate the issue of abortion at the earliest reasonable date possible during the 98th Congress?

Mr. BAKER. Yes, Mr. President, I can give that assurance. Indeed, the Senator from Utah has been very fair to me, and I think the very least I can do and the Senate can do is to assure him that sometime early next year, meaning in the spring, shortly after we convene, and as soon as we can arrange it within reason and at a suitable time to him, that we will call up this or a similar amendment and deal with it.

That poses some other complications, as he is aware of, that I am prepared to deal with as well if he wishes to pursue the matter.

Mr. HATCH. All right.

Would it be possible for him to assure that it not be called up prior to February 15?

Mr. BAKER. Yes, Mr. President, I can do that, too. I do not know yet what the schedule next year is going to be. I spoke to the Speaker of the House this afternoon, and we have had some preliminary discussions about whether we would be in session after the election and, if so, when we would return and when we would, in fact, get down to work in January. But I can certainly assure the Senator that I would not propose to schedule that prior to February 1.

Mr. HATCH. But sometime before or in the spring?

Mr. BAKER. Yes.

(Mr. GORTON assumed the chair.)

Mr. HATCH. Could we be assured that we will have every reasonable opportunity to debate this matter, every reasonable opportunity for Members of this body to address this issue, and every reasonable opportunity to proceed to a vote on the substance of a proposed constitutional amendment on the subject of abortion? I would like a reasonable time to try to break any filibuster, if that is the case.

Mr. BAKER. Yes, Mr. President, I agree with the Senator in making the commitment that we should have debate on the issue. I will embrace all the requirements and rules necessary to see that that happens.

I would fully expect that the Senator could pursue his debate freely, as could other Senators, and we would make very effort to bring the matter to a conclusion by a vote on the merits.

Mr. HATCH. Could we be assured that this debate will not take place under circumstances where a pending recess or some other pending legislative commitment plays an effective constraint on the opportunity for such debate? Certainly, I will cooperate with the majority leader in trying to work around any emergencies or any difficulties that could arise.

Mr. BAKER. Mr. President, it would be my intention to consult with the Senator from Utah and with, perhaps, the Senator from Oregon and others who would be on the other side, as we did in this case, to try to arrange a mutually agreeable time and circumstance. In this case, as I indicated earlier, the debt limit seemed to be the favorite vehicle for carrying this debate and it was scheduled on that basis.

But we have been on this bill now August 16, 17, 18, 19, and 20; and September 8, 9, 10, 13, 14, and 15, and this is a long time. So this debate has not been constrained by time. Indeed, we have had problems getting people over here to talk about it.

But I can assure the Senator that, just as we have in this case, I would schedule this matter so that it was at a mutually agreeable time and it would not be up against any artificial deadline or circumstance that would circumvent or circumscribe the fullness of debate.

Mr. HATCH. I appreciate that. As the distinguished majority leader knows, a constitutional amendment cannot be added to the debt ceiling. But I agree there has been sufficient time, and the distinguished majority leader has allowed sufficient cloture votes on the Helms amendment. There has been sufficient time to debate the Helms proposal at least.

Mr. President, I assume that there will be a fair amount of notice before the proposed amendment is called to the floor next year. The distinguished majority leader has always given me that courtesy.

There is another matter, Mr. President, that I hope the distinguished majority leader will be willing to discuss with me. This is the only constitutional amendment or piece of legislation on the issue of abortion which has ever gone through the full committee process. We have made a substantial record, which I think even the distinguished Senator from Oregon has admitted is a fair and balanced record on this matter.

So if I am unable to bring the amendment through the committee process next year, because of time constraints early in the session, may I have the assurances of the distinguished Senator that we will be able to use rule XIV to get it on the calendar so that the distinguished majority leader can call it up?

Mr. BAKER. Mr. President, it has always seemed an anomaly to me that the rules provide, on one hand, that all bills go to committee, as rule XXV does, and, on the other hand, that rule XIV provides if objection is made to the proceeding beyond first reading of the bill that after the second legislative day it goes on the calendar. I am not now proposing to argue the merits of that but, as I say, it always seemed like a procedural anomaly of sorts. But it is there and I do not dispute it.

The Senator's question is: Would I assist him in getting a contitutional amendment on abortion on the calendar if he does not get it out of committee in a timely way? The answer to that is, yes. If the Senator wishes to avail himself of his right under rule XIV, which he is perfectly at liberty to do and which no one can stop him from doing, I will be happy to cooperate with him in seeing that he has full opportunity under rule XIV to do so.

There is no hidden meaning in that. It simply means if the Senator wants to put this on the calendar by rule XIV procedures, he can do so and I will make no effort to prevent it, as I have not in the past on other measures.

Mr. HATCH. The reason I raised that at this time is I would not want anybody to think we are trying to take advantage anywhere. We are giving full warning, inasmuch as we have not had, as a result of procedural and other difficulties, the time to bring up Senate Joint Resolution 110 and fully debate it at this time. Members should be put on notice that if I cannot proceed through the committee process within a reasonable period, we are going to invoke rule XIV. I appreciate the distinguished majority leader's willingness to help me on that matter.

Would my friend, the distinguished majority leader, recognize that there might be discretion on the part of the Senator from Utah, working with other Members of this body and interested outside organizations, to introduce a proposed amendment that may vary in substance from the precise amendment proposed by Senate Joint Resolution 110?

Mr. BAKER. Mr. President, my commitment to the Senator from Utah to attempt to schedule this matter in the spring after the 1st of February is a commitment to do so in respect to a constitutional amendment that he may offer dealing with abortion, and I would not presume to judge the contents. There is no requirement that it be identical in form to this measure. I extend that offer and that assurance on the basis of whatever the Senator may judge is appropriate and whatever may come out of committee or whatever he may try to take to the calendar under rule XIV.

Mr. HATCH. I thank the majority leader. I am concerned because we have been trying to debate the issue of abortion in the context of the Helms amendment to the debt ceiling bill now for a considerable period of time. It appears to me that the proposed constitutional amendment would not, in the present time context, in the remaining few days of the Senate, be given sufficient time. There would not be sufficient time to fully debate these issues.

So, with the assurance of my distinguished friend from Tennessee, the distinguished majority leader, that he has given today—and I am very grateful to him for extending these—I will observe that next spring will see the first full debate in the U.S. Senate since Roe on the issue of abortion as a matter of public policy. We will have a full and complete debate, with or without filibusters, and attempt to resolve this issue at that time.

I believe that we may have enough votes on the floor of the Senate to possibly invoke cloture on this matter. I am uncertain of that. As I have candidly remarked earlier, I do not believe that we have the requisite two-thirds votes on this constitutional amendment at this time.

Therefore, I feel that to continue to force the majority leader to allow a debate at this particular time, under these circumstances, with the pressures that are on this body, would not be in the best interest of this amendment. It would be counterproductive. So, with that, I have chosen to withdraw the amendment.

Mr. BAKER. Mr. President, I thank the Senator. I am especially grateful to him for this generous act. It would be my intention, then, Mr. President, and I do now withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, just so the RECORD is clear on this, it has not been the Hatch amendment that has caused our problem. We came very close to a unanimous-consent agreement which would have allowed a vote on the Hatch constitutional amendment and the Helms amendment as written at the time it was then written, and it fell apart through no fault of the Senator from Utah. Indeed, he has followed every proper procedure. He has gone through committee, and he is attempting to amend the Constitution with a constitutional amendment, which is the proper way to go. I do not agree with the substance of his amendment, but I congratulate him again for the meticulous hearings that he has held.

But I do want the RECORD to be clear that, while we do not want the Hatch constitutional amendment coming up today while we are dealing with the Helms amendment—and I think I can speak for those who share my view—we would be prepared to vote on the Hatch amendment as written on Friday or Monday, with 4 hours debate on each side.

I will not go further than that, because I am not going to agree to time agreements on things I do not know. But indeed, if we want to debate and vote on this subject, I want the RECORD to indicate that I have not stood in the way of that on the amendment of the Senator from Utah.

Mr. HATCH. I have never understood that to be the case. I have never thought that of the distinguished Senator from Oregon. But it was my clear understanding that whenever Senate Joint Resolution 110 was brought up, that there would be a filibuster on the amendment.

Mr. PACKWOOD. Maybe I can clarify that. That would be today, because we are in the midst of the Helms amendment.

Mr. HATCH. I understand that.

Mr. PACKWOOD. When we were within 10 seconds of a unanimous-consent agreement here one night on both the Hatch amendment and the Helms amendment, the amendment of the Senator from Utah being a constitutional amendment, the objection finally came from the Senator from North Carolina because of the wording of his statutory amendment. At that stage there was no objection.

But for that objection, we would have had a vote on the Hatch amendment.

Mr. BAKER. Will the Senator yield?

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Mr. PACKWOOD. Yes.

Mr. BAKER. The Senator from Oregon is correct in saying that he would not object nor would others associated with him object to a time agreement to vote on the Hatch amendment today, tomorrow, Saturday, or Monday. But I must say, standing at this desk, that I know of others who would. Indeed, I believe there are Members on both sides of the aisle, perhaps, who have already indicated they would object to unanimous consent to proceed to this item. It would require a motion and the motion perhaps would be filibustered. I know the Senator from Connecticut (Mr. WEICKER) has indicated to me that he would filibuster. But for the information of the Senator from Oregon, there are other Senators also.

Mr. PACKWOOD. I wanted to be clear that the reason the agreement fell apart was not on that night because of objections to the Hatch amendment.

Mr. BAKER. That is absolutely correct. I commend both the Senator from Utah and the Senator from Oregon for their exchange which reflected what happened, that we did get close to an agreement. Nothing involved in the Hatch amendment stood in the way. By the same token, I want everyone to understand I am not assigning blame. It is just one of those things that happens in the course of almost every day's activities in the Senate when our hopes and aspirations with respect to time agreements are sometimes thwarted. It did not work.

The Senators are correct. Nothing involved in the Hatch amendment caused it to fall apart. Nothing asserted by the Senator from Oregon caused it to fall apart, nor the Senator from Connecticut.

Mr. HATCH. Will the Senator yield?

Mr. BAKER. I yield.

Mr. HATCH. It has been my understanding that the motion to proceed itself would be filibustered. I want to reiterate that I do not think this involved the distinguished Senator from Oregon. It has been my understanding that this amendment would be filibustered with regard both to the motion to proceed and with regard to the amendment itself. If I am incorrect on that, I would like to reconsider and proceed to a vote. If we can agree to a time limit, that will be fine with me. That is all I have ever wanted.

Mr. BAKER. If the Senator will yield, I agree absolutely with that. I will tell the Senator from Oregon and the Senator from Utah I will pursue that again to see if it is possible to do so. But the last reading I had, which was today, indicated to me that Members other than the Senator from Oregon or the Senator from Connecticut had lodged notice of their intention to object to unanimous consent to proceed to this item and at least one other Senator had indicated his desire to speak at length on the motion.

Mr. HATCH. I appreciate what the majority leader has said. I want to make it crystal clear that the only reason I am willing to withdraw this constitutional amendment today is because it is clear that there would be a filibuster on Senate Joint Resolution 110, and that a time agreement could not be reached. Otherwise, I would just as soon debate this, vote it up or down, and let the chips fall where they may. I know, having filibustered myself on occasion, that if I wanted to prevent this amendment from coming up, I could prevent it for the rest of this session of Congress. I have no doubt about it. I have no doubt others could do the same at this stage in the session.

I am unwilling to demean this amendment. I am unwilling to go through a charade, if all we are doing is wasting the time of the Senate and not ever going to have a substantive vote on the amendment. That is why I consider it so vital to get this agreement for early next year. If there is a filibuster, I want time to break it, and if I break it, I want time to have an up or down vote on the substantive amendment.

Mr. BAKER. Mr. President, for whatever it is worth—and I do not know what it is worth, maybe nothing—I think the Senator from Utah is not only correct in his decision but I think it is a wise decision to make from the standpoint of ultimate success for his amendment. I think his chances are far better under the circumstances described—and which I have acknowledged in this colloquy—after February 1 than now. But just as he was told that there would be an objection, I have been told that there would be an objection; just as he was told there would be extensive debate on the motion to proceed, I have been told that. I do not know that it ever does any good to identify Senators except to say that it is not confined just to the Senator from Oregon or the Senator from Connecticut.

I think the Senator from Utah exercised good judgment from the standpoint of getting the best shot he can have to pass this amendment. That is what he is trying to do, and he is doing it with skill and dedication. I am going to do everything I can to see that he gets an absolutely fair shuffle. I think his judgment not to pursue the matter at this time but instead under the circumstances outlined for February of next year is correct. I think it is a wise judgment to make. I think this would be proper.

Mr. HATCH. It has never been my understanding that the Senator from Oregon was going to filibuster this amendment. He has been willing to go forward with it. He and I have chatted a number of times about this. He has always been willing to go forward with it. I think he would be in favor of an up or down vote. I do not know just how many votes we would have gotten. I believe that we may have done quite well, although not the requisite two-thirds. I appreciate that.

We had an agreement, a unanimous-consent agreement, to vote this up or down after an 8-hour time limit but it failed because of the objection of another Member.

The debate early next year will be the first unencumbered, full substantive debate on the public policy of abortion in this body. I look forward to it.

Mr. BAKER. I will say, Mr. President, in conclusion, that I will make an effort once more to schedule this for Friday, Saturday, or Monday. But based on the information I have previously been given from other Senators and their staffs, I think the chances of doing that are remote.

Mr. HATCH. I thank the distinguished Senator. I would like to talk about the amendment and what we will be trying to do early next year when this is considered.

Mr. BAKER. Mr. President, I do not know who has the floor, but may I say that there will be a vote at 5 o'clock under rule XXII against further debate on the Helms amendment. I would remind Senators it will occur promptly at 5 o'clock today.

● Mrs. HAWKINS. Mr. President, I am as sorry as Senator HATCH is that the Hatch human life amendment was not debated and voted on today, nor will it be addressed before the end of the year. This is a disappointment to all those who worked hard to have a meaningful abortion debate in the 97th Congress.

Mr. President, one of my first actions as a U.S. Senator was to cosponsor a constitutional amendment to protect unborn children. I commend Senator HATCH, chairman of the Subcommittee on the Constitution for holding extensive and productive hearings on the Hatch human life amendment, Senate Joint Resolution 110. After holding 9 days of hearings and taking testimony from over 70 witnesses the Subcommittee on the Constitution voted favorably to report out the resolution. Later on March 10, 1982, the full Senate Judiciary Committee favorably reported out Senate Joint Resolution 110. This is the first proposed pro-life amendment to receive subcommittee and full committee support.

Mr. President, the constitutional issues and legal effects of this constitutional amendment have been discussed previously both in the subcommittee hearings and here on the Senate floor. I would like to briefly review them now. First, there is no disagreement that a legitimate congressional response to a Supreme Court decision with which the Congress disapproves is passage of a constitutional amendment. There are several precedents for overturning decisions of the Supreme Court by constitutional amendment. For example, the 11th amendment to the Constitution was ratified in order to prevent any person from suing a State in Federal court. It was adopted after the Supreme Court took jurisdiction of just such a case, Chisholm against Georgia (1793). Further the 14th amendment passed in response to the infamous Supreme Court decision, Dred Scott against Sanford (1857) in which the court found that black individuals were noncitizens under the Constitution and, as such, were not fully entitled to the protection of the Constitution. Later, the 16th amendment establishing a Federal income tax overrode Pollock against Farmer's Loan & Trust Company (1895) which held that a Federal tax on income derived from properties was unconstitutional. And more recently the 26th amendment, giving 18 year olds the right to vote in Federal and State elections overruled the Court's decision under Oregon against Mitchell (1970) which declared the provisions of the Voting Rights Act unconstitutional.

Second, two provisions of Senate Joint Resolution 110 generate the legal effects of this legislation. The first section of Senate Joint Resolution 110 states "A right to an abortion is not secured by the Constitution." This provision overrules Roe against Wade, its companion case, Doe against Bolton, and its progeny to the extent that they held that the constitutional right to privacy creates the right to an abortion. Any Federal or State court decisions relying on Roe or Doe or upon a constitutionally founded "right to an abortion" would be reversed to the extent that the existence of such a right was a necessary predicate to the holding. However this amendment is not self-executing—it must be implemented through legislation passed by Congress or the States. Decisionmaking authority currently with the Judiciary would be restored to legislative branch—Federal and State legislatures to the extent they choose to use it.

The second provision of the amendment states:

> The Congress and the several States shall have concurrent power to restrict and prohibit abortion provided that a provision of a law of a State which is more restrictive than a conflicting provision of a law of Congress shall govern.

The plenary power granted to the Congress and the States is more than an enforcement provision. Both are given power and authority to pass whatever legislation they deem appropriate to restrict and prohibit abortions. Since this power is discretionary, neither the Congress nor the States are required to legislate. Therefore, implementation of the amendment is not guaranteed. The proviso clause is intended to resolve any unforeseen conflicts between State and Federal laws following the adoption of this amendment. When a State and Federal law conflict, the supremacy clause will be operative except when one of the two laws is more restrictive. In this case, the more restrictive law will prevail.

Adoption of the proposed human life federalism amendment, by allowing States and the Congress to legislate restrictions on abortion, more closely reflects national sentiment on the issue. Presently, due to the Supreme Court decision of Roe against Wade, a woman by invoking the right to privacy has a virtually unlimited right to have a legal abortion. As the Subcommittee on the Constitution has observed, no significant legal barriers of any kind whatsoever exist today for a woman to obtain an abortion for any reason during any stage of her pregnancy. While a minority of Americans do support abortion on demand, most people do not.

In his testimony before the subcommittee, Professor Adamek presented results of recent public opinion polls on the issue of abortion. He found that neither the opponents of all abortion nor the advocates of unrestricted abortion can claim agreement with the majority of the American people. The population can be divided into three groups: 22 percent oppose legalized abortion in virtually all circumstances, 55 percent oppose legalized abortion except for certain hardship cases such as rape, incest, the likelihood of a defective baby, or to save the life of the mother; and 23 percent want abortion to remain legal in all circumstances.

It is not surprising that the heated debate on the abortion issue has not subsided in 10 years since the current law on abortion does not reflect the opinion of 75 percent of Americans on the issue. In fact, since Roe against Wade legislatures in 19 States have petitioned Congress to call a constitutional convention to propose an antiabortion amendment and 23 State legislatures have passed memorials or requests for Congress to propose an antiabortion-related amendment to the Constitution.

Since our present abortion law is unacceptable to a large majority of Americans, the question is how the current law should be changed. The proposed human life amendment provides a valid answer. This amendment restores decisionmaking authority to the legislative branch, thereby reenfrancising all Americans interested in finding a solution to the abortion controversy. This amendment does not take an all-or-nothing approach. Rather, each of the State legislatures could enact abortion laws according to the directives of its citizenry.

I therefore encourage my colleagues to approve this amendment so that we can reestablish abortion laws that will once again enjoy the support of a majority in our country.●

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I ask permission that I may proceed with remarks with regard to Senate Joint Resolution 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, on January 22, 1973, the U.S. Supreme Court handed down a decision that has since generated social division in this Nation virtually without precedent. In the case of Roe against Wade, a majority of seven on the court identified for the first time a right to abortion within the terms of the 14th amendment to the Constitution. The nature of this right, outlined in great detail in Justice Blackmun's opinion, resulted in the overturning of laws on abortion in each of the 50 States of the Union.

Prior to the Roe decision, 31 States of the Union had enacted statutes that totally protected unborn human life from the time of conception. Of the remaining 19 States that permitted aborton under limited circumstances, abortion was legal only, as a general rule, where necessary to protect the life of the mother, in cases of rape, or incest, or in cases where there was a likelihood that a child would be born with a substantial mental or physical deformity.

In only four States did anything approximating abortion on demand exist and in each of these States there were temporal limits to such a right. The most permissive of these provisions was probably that existing in the State of New York in which abortions without restrictions were permitted until only the sixth month of pregnancy.

As a result of Roe, however, a new regime was created in this country on the abortion issue—a regime more permissive with respect to abortion than had existed in any 1 of the 50 States prior to January 22, 1973. As a result of the Roe decision, a right to abortion was effectively established for the entire term of a pregnancy for virtually any reason—whether for sake of personal finances, whether for sake of social convenience, or whether for sake of individual lifestyle.

Despite misconceptions on this issue, there is relatively little informed disagreement that Roe has established a national policy on abortion without constitutional or legal restrictions of any significant kind. Let me briefly review the substance of this decision. During the first trimester of pregnancy, the plenary right to abortion is

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made express by the terms of Roe. As the Court stated:

> For the stage prior to approximately the end of the first trimester of pregnancy, the abortion decision and its effectuation must be left to the medical judgement of the pregnant woman's physician.

Thus, absolutely no limitation can be placed upon the abortion decision during this period. During the second trimester, however, the court recognized a public interest in abortion, an interest in protecting and preserving the health and safety of the mother. This public interest may be expressed through governmental requirements that abortions be performed within hospitals, clinics, or other licensed facilities. As the Supreme Court again stated in Roe:

> For the stage subsequent to approximately the end of the first trimester, the state in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

During the second trimester, however, there remains an absence of any legislative authority to protect the unborn child. The sole authority is to insure the medical safety of the procedures of abortion.

During the final trimester of pregnancy—or approximately at the point at which the fetus reaches "viability"—a public interest finally arises in protecting the unborn life. As the Court stated in Roe,

> For the stage subsequent to viability, the state, in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

While the general rule established by the Court in Roe might seem at last to permit some measure of protection for the unborn during the final trimester, this rule was effectively consumed by the exception—the exception in cases where the mother's "life or health" were involved. The critical element was the term "health of the mother."

In the companion case of Doe against Bolton, a case handed down the same day as Roe, the Court defined the concept of "health of the mother" as a medical judgment to be made,

> In the light of all the factors—physical, psychological, and the woman's age—relevant to the well-being of the patient.

In other words, to quote Prof. John Noonan of the University of California Law School, the absolute and plenary right to abortion was curbed during the final trimester only by the "necessity of a physician's finding that she needed an abortion." It would be a rare physician who would be incapable of defending an abortion decision on the grounds that in his best medical judgment the well-being of the mother demanded it.

As Professor Noonan has summarized the nature of the restrictions placed upon the abortion right in Roe and Doe.

> For the nine months of life within the womb, the child was at the pregnant woman's disposal—with two restrictions. She must find a licensed clinic after month three; and after her child was viable, she must find an abortionist who believed she needed an abortion.

Thus, I believe that it is clear that there are no significant legal barriers of any kind that exist within the United States today to a woman obtaining an abortion for any reason during any stage of her pregnancy. We can disagree, of course, upon whether or not this is good public policy but I do not believe that we can disagree that this is an accurate description of the present state of affairs in this country.

It is this rule of abortion on demand imposed upon a citizenry whose values were sharply at variance that has created nearly a decade of intense divisions and passions on the issue of abortion. During this decade, the social views of a relatively small number of individuals have reigned as the law of the land immune from even the most modest efforts at reform. In judicial decisions since Roe and Doe. The Supreme Court has amplified upon these decisions by striking down State statutes to require the consent to an abortion by the father of the unborn, statutes to require parental consent to abortions performed upon minors, statutes to insure that pregnant woman are fully apprised of alternatives to abortion, and statutes to protect live-born fetuses. The right to abortion, articulated for the first time by the Court in 1973, has proven since then to be one of the most absolute and, dare I say, impregnable rights within the Constitution. Apparently, there is virtually nothing that can effectively counterbalance this new right.

It is in response to Roe and Doe, and in response to the debate that has occurred in this country since these decisions, that I introduced Senate Joint Resolution 110, the proposed human life federalism amendment, last fall. Following introduction, 9 days of hearings were held on this measure by the Senate Judiciary Subcommittee on the Constitution. These hearings, in my view, were thorough and balanced hearings developed by the distinguished Senator from Vermont (Mr. LEAHY), and myself. On December 16 of last year, the subcommittee voted favorably to report this measure to the full Judiciary Committee, with several amendments. On March 10, the human life federalism amendment was favorably reported by the full Senate Judiciary Committee. Senate Joint Resolution 110 is the only pending measure on the subject of abortion to have gone through the regular committee process. It is the first legislation ever on the subject of abortion to be reported out of a committee of either House of Congress.

The objective of the proposed amendment is relatively simple—it would largely restore the status quo that existed in this country prior to Roe against Wade. It would overturn Roe against Wade by declaring simply that no "right of abortion" was secured by the Constitution, and clarify that the States were fully restored in their legislative authority with respect to this issue. While the authority of the Federal Government to legislate on the subject of abortion prior to the abortion decisions is a bit more difficult, I note that there are many in this body, including the distinguished Senator from Oregon (Mr. PACKWOOD) who believed that such authority existed. Clearly, there was some measure of authority in this regard derived from the commerce clause and elsewhere in the Constitution. Senate Joint Resolution 110 would establish concurrent authority to legislate in the State and Federal Governments on the subject of abortion.

Unlike most other proposed amendments on the subject of abortion—amendments which I would personally support—the human life federalism amendment would not obligate the States or Congress to legislate; it would simply restore to them the authority to do so. By deconstitutionalizing the issue of abortion, the proposed amendment would allow the legislative branches of Government a wide range of options in this area. While by the terms of the proposed amendment, the States or Congress, if they chose, could totally prohibit abortion or could totally maintain the status quo of abortion on demand, they would also be in the position to undertake legislative action that fell somewhere between these all-or-nothing propositions. For example, they could take the following actions,

First, they could place restrictions of some form upon late-term abortions;

Second, they could impose obligations upon physicians to attempt to save the lives of fetuses capable of surviving an abortion;

Third, they could place limitations upon genetic engineering and other experimental and medical research involving the use of human embryos and fetuses;

Fourth, they could require that women contemplating abortions be fully apprised of the risks of abortion and the alternatives to abortion;

Fifth, they could require some form of parental consent to abortions performed upon minors;

Sixth, they could require some form of spousal consent to abortions;

Seventh, they could establish some minimum waiting period before nonemergency abortions or require some form of professional consultation prior to an abortion;

Eighth, they could establish rights of refusal to perform abortions by physicians or nurses, or in entire hospitals;

Ninth, they could limit the trafficking or commerce in abortifacient devices;

Tenth, they could prohibit abortion generally subject to certain well-defined exceptions and safeguards; or

Eleventh, they could undertake any other form of restriction or regulation upon the abortion procedure.

In other words, the human life federalism amendment would remove the abortion debate from the extremes. No longer would this debate occur in the present context of either preserving abortion on demand, or outlawing abortion. No longer would this debate take place in the context of only two alternatives—total legalization or total prohibition.

Let me not fail to clarify my own views on the abortion issue. I am one of those who believes that abortion involves the taking of an innocent life. I am one of those who believes that abortion is a heinous procedure in which a mother allows her child's life to be terminated. I am one of those who believes that abortion is immoral—for philosophical reasons, for medical reasons, for humanitarian reasons, and—dare I say—even for religious reasons. I believe that the fetus feels pain, that it feels agony, that it feels the violence done to its body by abortion. I have supported in the past and continue to support constitutional amendments that would largely outlaw abortion.

At the same time, I believe strongly that this Nation must overcome the divisions that have wracked it since the abortion decisions. We cannot achieve this if the abortion debate continues only in the context of black and white alternatives. As deeply as I regret the fact, it is clear to me that there is no consensus in this country that views abortion in the same way that I personally view abortion. There is no consensus in this country that abortion under virtually all circumstances is wrong. I intend to continue whatever efforts I can to inform people about the immorality of abortion, and I hope that someday a consensus may emerge that is closer to my own point of view. It does not, however, exist today.

At the same time, I believe just as strongly that there is no consensus in behalf of the policy of abortion on demand that has been imposed by the Supreme Court. While the people of this Nation do not see abortion as a black, neither do they see it as a white. Public opinion poll after public opinion poll has demonstrated that the great mainstream in this country opposes abortion on demand, just as they oppose efforts to outlaw all abortion. They do not favor what the Supreme Court has given this country—limitless abortion for limitless reasons.

Perhaps the foremost objective of the proposed human life federalism amendment is to facilitate the development of a social consensus on the so-far intractable issue of abortion. The abortion issue, if it is to be elevated into one of constitutional proportions, should be elevated only through the normal consensus-building process of article V's amending provisions rather than through the process of judicial reinterpretation.

By removing the abortion controversy from the Federal Judicial Department, the human life federalism amendment would place the abortion debate within those institutions of government far better equipped to deal with this issue—the elected, representative branches of government. Because they cannot control the specific types of cases that come before them and because they are limited in their ability to fashion compromise solutions to difficult issues, the courts are an inappropriate place within which to debate abortion.

The all-or-nothing legalization of abortion on demand by Roe has done nothing but exacerbate the tensions already created by the abortion controversy. Unlike most legislative solutions in which some element of deference is paid to all major political or social or occupational groupings, the abortion issue was resolved by a small group of seven men who were totally able to disregard the passionately held views of a large segment of the American people. They did this not in response to the unequivocal demands of the U.S. Constitution, but through a decision whose jurisprudence and whose textual and historical foundations are at least as suspect as the policies that it fostered.

Senate Joint Resolution 110 would reenfranchise all the American people in fashioning a solution to the abortion controversy or, if not a solution, at least an equilibrium. This can only be done by placing this issue back within the representative branches of government where it should have remained all along, the representative branches of government where this decisionmaking responsibility was contained for the first two centuries of our Nation's existence.

If the result of doing this is that difficult legislative compromises are reached through bitter sessions of negotiation and give-and-take—compromises that are not entirely satisfactory to those on either end of the spectrum—then the issue of abortion will have been dealt with in the same manner that most other difficult matters are dealt with in a democratic system of government.

If the social divisions that have beset this country since the Roe and Doe decisions are to eventually be overcome. They will have to be overcome through a process in which all shades of opinion are considered and weighed, not simply those of a small minority of the citizenry. There is no more appropriate forum in a free society for this to be done than within the representative, legislative branches of government.

I respectfully ask those of my colleagues who disagree with me, what are the alternatives? What are the long term alternatives to something along the lines of Senate Joint Resolution 110? Can we accept a status quo imposed by a court that is so totally at odds with the deeply held views of so many citizens in this country? Can we accept a status quo in which the laws adopted by the legislatures of every State in the Union are casually overturned? Can we accept a status quo on as divisive an issue as abortion in which one point of view, one responsible point of view, is so totally ignored?

Mr. President, I respectfully suggest that we cannot accept this status quo. For the sake of the country, we must work out some other solution. It may not be a solution that I would prefer, or one that all of my friends in the right-to-live community would prefer, but we must work toward some consensus on this issue. The human life federalism amendment will permit that consensus to be pursued. Alone among the major proposals on this subjects, it will allow the development of a solution that reflects mainstream opinion in this country.

The human life federalism amendment is not a complicated proposal. It is straightforward in its approach. There are a number of questions, however, that have frequently been raised about it that I would like to address briefly. I also refer my colleagues to the committee report on the amendment, S. Rept. 97-465, which I believe offers a thorough and comprehensive overview of this measure.

IS IT APPROPRIATE TO OVERTURN CONSTITUTIONAL DECISIONS OF THE SUPREME COURT?

While there are differences among Members of this body about legitimate congressional responses to High Court decisions of which Congress disapproves, there is no disagreement that Congress is fully empowered to propose amendments to the Constitution in response to such decisions. With respect to constitutionally based decisions of the Supreme Court, I personally believe that this is the only legitimate response. There is certainly ample precedent for such a response.

On four prior occasions, the Constitution was amended in response to particular Court decisions. The 11th

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amendment, prohibiting the Federal judicial power from being exercised in suits by citizens of a State against another State, was ratified in response to an action by the Supreme Court in accepting jurisdiction over such a case. *Chisholm* v. *Georgia* 2 U.S. 419 (1793). The 14th amendment, in circumstances similar to the present case, was ratified in response to the infamous Dred Scott case finding that black individuals were noncitizens under the Constitution and, as such, not fully entitled to its protections. *Scott* v. *Sandford* 60 U.S. 393 (1857). The 16th amendment, permitting the imposition of a Federal income tax, was ratified in response to a Court decision finding that an unapportioned—by State—tax violated the Constitution, *Pollock* v. *Farmer's Loan & Trust Co.*, 157 U.S. 429; 158 U.S. 601 (1895). Finally, the 26th amendment, according 18-year-olds the right to vote in Federal and State elections, was ratified following the Court's decision that Congress lacked the authority to impose such an obligation upon the States through a statute, *Oregon* v. *Mitchell*, 400 U.S. 112 (1970). In addition, serious efforts at constitutional amendment have been made in response to court decisions on the subject of child labor laws and State legislative apportionment requirements, *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918); *Baker* v. *Carr*, 369 U.S. 186 (1962).

SHOULD ISSUES OF INDIVIDUAL RIGHTS BE SUBJECT TO THE LEGISLATIVE PROCESSES?

A frequent subject of criticism of the proposed amendment has been the notion that basic questions of individual rights should not be decided by a majority vote. The distinguished Senator from Oregon (Mr. PACKWOOD) was especially articulate in offering this point of view.

As an abstract proposition, I indeed agree with this. I imagine that few of our colleagues would disagree with this, whatever their perspective on the abortion matter. The fundamental rights of individuals should not be determined by referendum.

The problem, of course, is that few can agree on what precisely these "fundamental rights" are with respect to the abortion issue. Critics of the proposed amendment in the so-called "pro-choice" movement see these as the rights of the pregnant woman to determine whether or not to carry a pregnancy to term, while critics in the so-called "pro-life" movement see this as the even more fundamental right of the unborn to life itself.

In other words, there is just as much disagreement on the issue of what fundamental "rights" are involved here as there is on the issue of the morality of abortion itself. It thus begs the question to criticize the immediate amendment as one restricting individual rights. It all depends on one's perspective. While I personally believe that the paramount right involved in the abortion dilemma is the right of the unborn to live, I can only conclude that there is an absolute disagreement on this threshold question.

The purpose of Senate Joint Resolution 110 then is not to resolve the persistent question of which of these competing rights ought to be given precedence but rather to establish a balancing process for determining how this conflict will be resolved in the context of individual circumstances. In short, this balancing process is going to be one that occurs within the normal balancing process of legislative bodies.

IS NOT ABORTION A PRIVATE MATTER THAT OUGHT TO BE RESOLVED BY THE WOMAN HERSELF?

As with the question of abortion as a fundamental, individual right, the question of abortion as a purely private affair begs the basic question involved in the abortion debate. It is precisely because opponents of abortion perceive another human being to be involved in the abortion decision, that is, the unborn child, that they reject the characterization of abortion as a purely "private" matter. To allow abortion-related issues to be resolved according solely to one's own conscience is no more acceptable to those who hold this view than to allow any other physically abusive action to be judged by individual standards. As one witness testified during last year's hearings:

> The death of any of our fellow humans cannot be a "private" matter subject only to the values, or lack of them, of the one who seeks or causes his or her death.

No simplistic formulation about the proposed amendment interfering with individual rights, or with decisions appropriately left to the individual, can obscure the basic truth that these propositions themselves implicitly accept the premises of a single side of the abortion debate. Only the proposed constitutional amendment can serve to facilitate a genuine resolution of the indisputably difficult issues involved in this controversy.

Mr. President, the Supreme Court's decision in Roe against Wade has been one of the most strongly criticized court decisions in the history of the country. It has been criticized not only by those who disagree with its substantive policy results, but by a host of responsible constitutional scholars who reject its jurisprudence. While the committee report discusses this in far more detail, let me simply offer some brief observations from some of these constitutional scholars. None of them, so far as I know, is or has been opposed to the policies fostered by Roe, but simply to the process by which it reached its decision.

John Hart Ely, dean of the Stanford Law School and formerly Harvard law professor, has stated that Roe is:

> A very bad decision . . . it is bad because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of an obligation to try to be . . . what is frightening about Roe is that this superprotected right to abortion is not inferable from the language of the constitution, the framers' thinking respecting the specific problem in issue, any general value derivable from the provisions they included, or the nation's governmental structure . . . at times the inferences the court has drawn from the values the constitution marks for special protection have been controversial, even shaky, but never before has its sense of an obligation to draw one been so obviously lacking.

Prof. Archibald Cox, former Solicitor General of the United States, has similarly remarked:

> Neither historian, layman, nor lawyer will be persuaded that all the details prescribed in *Roe* v. *Wade* are part of either natural law or the constitution.

Prof. Richard Epstein of the University of Chicago Law School has observed that:

> Neither the mass nor the antiquity of the sources cited by the court in Roe can conceal their essential irrelevance to the constitutional inquiry on abortion.

The late Alexander Bickel of the Yale Law School commented after the Court's decision:

> One is left to ask why. The Court never said. It refused the discipline to which its function is proper subject.

He proceeded to describe Justice Blackmun's opinion as more akin to a "model statute" than to a constitutional judicial decision.

Prof. Harry Wellington, former dean of the Yale Law School described the decision as "pickwickian" and concluded that:

> The Court had no mandate to create new morality when elaborating the concept of liberty in the fourteenth amendment.

Prof. Arthur Miller of the Harvard Law School said of Roe against Wade:

> The Supreme Court found a right to abortion without pointing to any specific words in the text of the constitution.

Perhaps the most telling criticism to the decision came in several unusually harsh dissents. Justice Byron White stated:

> I find nothing in the language or history of the Constitution to support the court's judgement. The Court, simply, fashions a new constitutional right for pregnant mothers and with scarcely any reason or authority for its action invests that right with sufficient substance to override most state abortion statutes. The upshot is that the people and the legislatures of the 50 states are constitutionally disentitled to weigh the relative importance of the fetus on the one hand against a spectrum of possible impacts on the mother on the other hand. As an exercise of raw judicial power, the court perhaps has authority to do what it does today; but in my view its judgement is an improvident and extravagant exercise of the power of judicial review which the constitution extends to the court.

Also in dissent, Justice Rehnquist observed:

> The decision here to break the term of pregnancy into three distinct terms and to outline the permissible restrictions the state may impose in each one, for example, partakes more of judicial legislation than it does of a determination of the intent of the drafters of the fourteenth amendment.

Mr. President, clearly there has been a great deal of dissatisfaction with the Roe against Wade decision that has little to do with the policy substance of that decision. If Congress is ever going to exercise its article V authority to overcome a bad Supreme Court decision, it is difficult to think of a more appropriate decision with which to begin.

Once more, I ask my colleagues to ask themselves how we are going to resolve the abortion dilemma. I see no evidence, whatsoever, that the passions on this issue have subsided with the passing of years. Indeed, if anything, concern about the fruits of *Roe* has grown in the time since the court handed down its decision. Until everyone in this country is allowed input into public policy on this issue, I am convinced that we are going to see continuing divisions in this country on the abortion issue—ugly divisions that raise ugly issues about social class and religion. I hope that my colleagues will appreciate the virtues of the proposed amendment, an amendment that does not direct any substantive policy result but which simply alters the focus of decisionmaking responsibility.

Mr. President, whatever happens to the immediate amendment, the debate in this country on abortion is going to continue. I see no evidence whatsoever that it is going to continue at anything less than the level which has characterized past debate. It is long overdue that we recognize that this debate ought to take place among the democratically elected representatives of the people, not solely in the context of periodic Federal court decisions. Whatever the view of my colleagues on abortion, I hope that they will recognize that this amendment is important for reasons that have nothing to do with abortion and a great deal to do with the exercise of authority in a free society.

Mr. President, again I am disappointed that we could not have had a thorough debate and a vote up and down on this issue. While I acknowledge that we did not have 67 votes, I do think that we did have a significant number of votes. I do believe we could have invoked cloture, but it would have been difficult in the present timeframe. There is virtually no way that we would have come to a final substantive vote on this issue. As a matter of fact, we probably would have spent most of the time arguing about the motion to proceed. I do not consider that a substantive debate.

Next year, in approximately 5 or 6 months, we will be able to have a full and fair substantive debate on the first constitutional proposal on abortion ever to be approved by a committee of Congress. It will be the first such debate since the Roe against Wade decision nearly 10 years ago on the issue of abortion as public policy that is, of course, the substance of the present understanding between myself and the distinguished majority leader.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material related to this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROE V. WADE

The U.S. Supreme Court's most consequential decision concerning the matter of abortion came in 1973 in *Roe v. Wade.*[1] That case involved the challenge by a pregnant single woman (under the pseudonym of Jane Roe) to the State of Texas' criminal abortion statute. That statute made it a crime to procure, or attempt to procure, an abortion, except on medical advice for the purpose of saving the life of the mother. It was typical of the kind of statute which had been in effect in many States for over a century. Alleging that she was unmarried and wished to have an abortion performed by a competent, licensed physician, but that she was unable to get a legal abortion because her life did not appear to be threatened by continuation of the pregnancy, the plaintiff challenged the statute as unconstitutional on a number of theories, including abridgement of her right of personal privacy under various constitutional provisions.

Before addressing itself to the constitutional questions, the Court embarked upon a review of the history of abortion from ancient to modern times. After considering abortion practices among the ancient Persians, Greeks, and Romans, it concluded that ancient religion did not bar abortion.[2] With respect to the Hippocratic Oath's famous promise, "I will not give to a woman an abortive remedy," the Court, after examining the views on abortion of various Greek thinkers, concluded that the abortion clause of the Oath represented not the prevailing view of all ancient physicians but only of a small segment of Greek opinion. Its popularity in later times was attributable, the Court found, to its being in agreement with the emerging teachings of Christianity.[3]

With respect to the common law of England, the Court found, based upon recent reexamination of the precedents that, despite the influential statement of Coke that abortion of a woman quick with child was "a great misprision, and no murder," abortion was never a common-law crime even with respect to a quick fetus.[4] After tracing the development of the statutory law of England and the United States respecting abortion from the early 19th century to recent times—a development of gradually increasing criminal liability until the late sixties and early seventies—the Court concluded that, "at least with respect to the early stage of pregnancy, and very possibly without such a limitation, the opportunity to make this choice (to have an abortion) was present in this country well into the 19th century."[5]

The Court also reviewed the positions of various national professional groups (the American Medical Association, the American Public Health Association, and the American Bar Association) regarding abortion. The views of the AMA during the 19th century, the Court found, tended to coincide closely with the increasingly restrictive legislation against abortion. The views of all three organizations, it was shown, had become more permissive toward abortion by the early 1970s.[6]

The Court gave special consideration to the historical bases for enactment of the 19th century criminal abortion laws. It found no basis for concluding that such laws were the product of a Victorian social concern to discourage illicit sexual conduct. But it did find an important basis for enactment of these laws to have been concerned with abortion as a medical procedure and its potentially hazardous effects on women. It found these effects to have been lessened in modern times. Accordingly, it recognized a somewhat diminished interest of the state in restricting the availability of abortion on that ground, one which, in effect, corresponded to the degree of risk involved.

"Any interest of the State in protecting the woman from an inherently hazardous procedure, except when it would be equally dangerous for her to forego it, has largely disappeared." [7]

With respect to the State's interest in the protection of prenatal life, the Court indicated that, "recognition may be given to the less rigid claim that as long as at least potential life is involved, the State may assert interests beyond the protection of the pregnant woman alone." [8]

After this preliminary groundwork, the Court addressed itself to the principal aspect of the case. Invoking the right of privacy, to which it has given recognition in earlier cases as a right implicit in various other constitutional provisions, the Court pointed out that the right extended to activities relating to such areas as marriage, procreation, contraception, family relationships and child rearing. Leaving open the precise constitutional basis of this right, the Court held that it "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." [9] As justification for this expansion of the right of privacy, the Court set forth factors relating to the "detriment" that the State would impose on the woman by entirely denying this choice to the woman, including "the distress, for all concerned, associated with the unwanted child . . ." [10] The Court nevertheless indicated that this right was not absolute, and that at some point interests of the State could become sufficiently compelling to permit it to regulate some of the factors governing the abortion decision.[11]

The Court considered two arguments offered to establish a compelling State interest justifying incursion upon the abortional freedom which the Court had just recognized as a facet of the right of privacy. The first of these was the contention that the fetus is a "person" within the meaning of the Fourteenth Amendment to the Constitution. The Court indicated that, "if this suggestion of personhood is established, the plaintiff's case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment." [12]

The Court, however, found the argument to be without merit. Based upon the use of the term "person" throughout the Constitution, as well as its observation that throughout the major portion of the 19th century

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prevailing abortion practices were "far freer than they are today," the Court concluded that the unborn were not "persons" within the meaning of the Fourteenth Amendment.[13]

The second argument which the Court considered was the contention that, apart from the Fourteenth Amendment, life begins at conception and the State has a compelling interest in protecting life from and after conception. Focusing primarily on the failure of the various disciplines of medicine, theololgy, and philosophy to agree on when life begins, the Court declined to resolve the question, thus leaving the argument to fail by virtue of the Court's own declination to address the threshold issue.[14]

The Court finally establised the parameters of the abortion liberty. The Court recognized the State as having an "important and legitimate interest in preserving and protecting the health of the pregnant woman," an interest which becomes "compelling" enough to permit some State regulation of abortion only at approximately the end of the first trimester.[15] After that point the State may enact regulations to preserve the health of the woman (by, for example, licensing abortion facilities).

The Court also found that the State has an "important and legitimate interest in protecting the potentiality of human life," and that this interest becomes "compelling" only at the point of "viability," because "the fetus then presumably has the capability of meaningful life outside the mother's womb."[16] After this point the State may restrict abortion or even prohibit it, "except where it is necessary to preserve the life or health of the mother."[17]

This recognition of a "compelling" State interest after "viability" has been viewed by some as a significant limitation upon the abortion liberty described in *Roe*. But in the accompanying case of *Doe v. Bolton*,[18] the Court defined "health" in such an expansive manner as to swallow up the State interest seemingly recognized in *Roe*. In *Doe* the Court stated: ". . . the medical judgement may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgement."[19]

In Professor Noonan's words, the Court ruled that "after her child was viable, she must find an abortionist who believed she needed an abortion."[20]

FOOTNOTES

[1] 410 U.S. 113 (1973).

[2] Id. at 130.

[3] Id. at 132.

[4] Id. at 136.

[5] Id. at 140-41.

[6] Id. at 141-47.

[7] Id. at 149.

[8] Id. at 150.

[9] Id. at 153. In a later case, *Harris* v. *McRae*, 100 S. Ct. 2671 2686 (1980), the Court described the "constitutional underpinning" of *Roe* as the "Due Process Clause of the Fourteenth Amendment."

[10] Id.

[11] Id. at 154.

[12] Id. at 156-57.

[13] Id. at 158.

[14] Id. at 159.

[15] Id. at 163.

[16] Id.

[17] Id. at 165-66.

[18] 410 U.S. 179 (1973).

[19] Id. at 192.

[20] J. Noonan, A Private Choice 12 (1979).

JURISPRUDENCE OF ROE

The protection of human life is the foremost duty of government. The Declaration of Independence asserts that all men are endowed with an inalienable right to life, and that it is in order to secure this right that governments are instituted among men. Honoring this commitment, the Constitution provides in both the Fifth and Fourteenth Amendments that no person may be deprived of life without due process of law.

As a result of new scientific evidence offered to them during the 19th century relating to the nature of human reproduction, legislatures of the several States recognized the biologically human nature of the human fetus throughout pregnancy,[1] and eradicated the common law distinction between the "quickened" and "unquickened" fetus. These legislatures thus adopted criminal laws prohibiting the performance of abortion throughout the term of pregnancy.[2] These abortion laws, enacted in the same era as the ratification of the Fourteenth Amendment to the United States Constitution, acted, as with that Amendment, to affirm Thomas Jefferson's exhortation that "(t)he care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."[3]

Since the decision of the Supreme Court in *Roe v. Wade*, however, the Congress and the States have been stripped of power to protect prenatal human life. Careful scrutiny of this decision by leading constitutional scholars such as Archibald Cox, John Hart Ely and Richard A. Epstein makes it quite clear that the fault of *Roe v. Wade* lies not in the Constitution but in the Supreme Court's interpretation of it. Three principal themes emerge from the criticisms leveled against *Roe*: that the right to abortion proclaimed by *Roe* has little or no basis in the Constitution; that the Court provides little or no reasoned basis for its conclusion that prenatal life is beyond the power of the State to protect; and that *Roe* represents an extreme example of constitutional jurisprudence by which the judiciary assumed the role of a "super-legislature," imposing its view of wise public policy under the guise of constitutional interpretation.

BASIS IN CONSTITUTIONAL LAW

The first charge levied by scholars against *Roe v. Wade* is that, in the words of Professor John Hart Ely, *Roe* is: "a very bad decision . . . It is bad because it is bad constitutional law, or rather because it is not constitutional law and gives almost no sense of obligation to try to be."[4]

Professor Archibald Cox echoes this opinion when he asserts that: "neither historian, layman, nor lawyer will be persuaded that all the details prescribed in *Roe v. Wade* are part of either natural law or the Constitution."[5]

It is important to note as well what these scholars are not saying. They are not criticizing the Court for taking a controversial position on a sensitive issue nor are they disputing the morality of legalized abortion. As a necessary consequence of its position in the legal system, the Supreme Court is often confronted with difficult questions in the context of legal dispute. In the words of Professor Ely, these "difficult questions yield controversial answers."[6] In most cases, however, the Constitution provides some guidance for the proper resolution of even the most controversial of these decisions. For example, the Fourth Amendment guarantees to all citizens, the innocent and guilty alike, freedom from unreasonable searches and seizures. This overriding value leads to controversial decisions involving restraints on police officers in the apprehension of criminals. While all may not agree with the Court's particular application of the Fourth Amendment, Professor Ely points out, one cannot easily make the claim that the Court's decision lacks any foundation in the Constitution.[7]

In the case of *Roe* v. *Wade*, however, the claim is entirely justified, for the Constitution "simply says nothing, clear or fuzzy, about abortion."[8] Nor is there any support whatever in the legislative history of the Constitution to warrant the conclusion that it was intended to secure a "right to an abortion."[9]

The Court's purported "history of abortion regulation"[10] likewise offers no support for the finding within the Fourteenth Amendment of a right to abortion. As Professor Richard A. Epstein has explained, "neither the mass nor the antiquity of the sources cited by the Court can conceal their essential irrelevance to the constitutional inquiry" on abortion.[11] The only aspect of history that would have been relevant to the Court's task is a history of the genesis, purpose and adoption of the Fourteenth Amendment. But as Dean Joseph O'Meara has pointed out, *Roe* v. *Wade* contains "not a syllable" on this important question.[12]

Nevertheless, *Roe* declares that the Due Process Clause of the Fourteenth Amendment confers a right of privacy which includes the right of a woman to abort her offspring if she so chooses. Nowhere in the decision does the Court define the right of privacy; its only discusison of the subject is an assertion that the Constitution does not confer "an unlimited right to do with one's body as one pleases."[13] Yet if the right of privacy does not entitle one to do with one's *own* body what one pleases, how can it be said to protect activity that ends the life of another member of the human species? Even if the human fetus is not a person in the whole sense of the law, Ely emphasizes, "it is certainly not nothing."[14] Ely's aphorism illustrates an essential truth that should have been obvious to the Court—that "there is nothing private about an abortion."[15]

Although the right of privacy is not mentioned in the text of the Constitution, many legal scholars would agree that the courts may find such a right in the general values which certain specific provisions of the Constitution aim to protect. However, these scholars also stress that the right of privacy must be carefully defined and limited; thus, Professor Ely writes that it is entirely proper for a court to infer a general right of privacy, *"so long as some care is taken in defining the sort of right the inference will support."*[16]

Roe, however, provides neither a definition for the right to privacy nor an explanation of how that right is implicated by restrictions upon abortion. Rather, the Court simply declares that the right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."[17] Apparently, the Court thinks that this outcome is supported by the detriment imposed upon the pregnant woman by statutes which prohibit her from aborting her child. As Professor Ely notes, these detriments "ought to be taken very seriously." But, he adds, all this "has nothing to do with privacy in the Bill of Rights sense or

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any other the Constitution suggests."[19] Whatever one's philosophical views on this issue, it is generally agreed that the Consititution does not provide such a unrestricted "right to privacy."

THE LIFE AND PERSONHOOD OF THE HUMAN FETUS

The discussion in *Roe* v. *Wade* of the physiological and legal status of the fetus is the most confusing portion of the opinion. The question of when life begins, the Court says, is beyond the competence of the judiciary to answer.[20] Nevertheless, the Court effectively answers that question for the legislatures and citizens of 50 States, declaring that the States may only protect unborn life after "viability." In the United States, therefore, human life—in the sense of an individual whose rights may be protected by the community—as a practical matter does not begin until at least the seventh month of pregnancy. Indeed, all existence prior to live birth is here given the status of, at most, "potential" life; and *Doe* v. *Bolton* has established that the "potential" life of even a viable unborn child cannot be regarded as comparable under the law to the emotional or social "health" of his or her mother.[21]

The Court's conclusion in this regard does not follow from any of the discussion in its opinion. That discussion attempts to answer three questions, and concludes: (1) that the unborn are not "persons" as that word is used in the Fourteeth Amendment of the United States Constitution;[22] (2) that under the common law, the unborn are not "persons in the whole sense";[23] and (3) that the question of when human life begins has been a matter of great controversy among theologians and philosophers with no consensus among them.[24] Consideration of each of these questions is necessary to demonstrate how the Court erred in addressing them, and to illustrate their inconclusiveness with respect to the question of whether the State may act to protect the human fetus.

Fourteenth amendment personhood

The Court offers two reasons for concluding "that the word 'person' as used in the Fourteenth Amendment does not include the unborn": (1) that uses of "person" elsewhere in the Constitution do not have a prenatal application;[25] and (2) that "throughout the major portion of the 19th century prevailing legal abortion practices were far freer than they are today."[26]

The first reason is unpersuasive because in none of the clauses cited by the Court does the Constitution attempt to define what a "person" is. Rather, these provisions—which include the eligibility rquirements for Federal office, the apportionment or representatives, the Extradiction and Fugitive Slave Clauses of Article IV—act only to restrict for particular purposes a broad class of persons. For example, a person must be 25 to be a Representative, 30 to be a Senator, and 35 to be the President.[27] These clauses, as Professor John D. Gorby has explained, "suggest only that there are persons, 24 years of age and younger, who are not qualified for the House, Senate or Presidency."[28] They do not imply that those less than 24 years of age are non-persons, nor do they suggest that they have become persons at birth or at any other particular stage of their development. Professor Gorby added that the other provisions cited by the Court are similarly irrelevant on this issue.[29] The Court's essay on this subject offers nothing to support the conclusion that "person" in the Fourteenth Amendment applies only post-natally.

The Court also suggests that no case has specifically held the unborn to be persons under the Fourteenth Amendment.[30] All this proves is a fact already know to all observers of *Roe v. Wade:* that the question of the constitutional status of the unborn was before the Supreme Court for the first time.[31] Moreover, as Professor Dellapenna notes, "it is difficult to visualize another context in which the question of fetal personhood could be presented. One hundred and five years without such a question being decided is not surprising when one recalls that minors were first held protected by that amendment in 1967."[32]

Thus, the Court effectively dodged the issue of fetal personhood by citing a lack of controlling precedent. The failure to address the question more fully is difficult to rationalize if, as the Court opined, the appellant's case would collapse if the unborn were held to be persons.

Finally, there is ample reason to believe that the Court's assertion of the relative availability of legal abortion during the 19th century is simply not accurate. Leading authorities are in agreement that it was a common law crime to administer any drug or perform any operation for the purpose of causing a miscarriage unless such operation were necessary to save the life of the woman.[33] During the 19th century Americans gradually codified and strengthened the common law prohibition of abortion,[34] and as Justice Rehnquist noted in his dissenting opinion, at the time of the adoption of the Fourteenth Amendment in 1868, "there were at least 36 laws enacted by state or territorial legislatures limiting abortion."[35] At least 19 of these had been passed by 1850. Nevertheless, the Court "observ(ed) . . . that throughout the major portion of the 19th century prevailing legal abortion practices were far freer than they are today."[36] As Professor Gorby concludes, if Justice Blackmun meant by this cryptic statement "that abortion was neither criminal nor subject to penal sanction—either by statute or at common law—he was wrong."[37]

With respect to the Court's denial of constitutional rights to the unborn, Professor Ely observes that "it is most intriguing" to compare the canons of construction used in reaching this conclusion with those employed in identifying the "right to an abortion" itself.[38] In making the latter holding, the Court clearly employed a high degree of imagination and innovation in construing a never-before-identified "right to an abortion" within the Due Process Clause of the Fourteenth Amendment (and perhaps elsewhere within the Constitution). In making the former conclusion, the Court employed a sort of dogged literalism, in finding that "person" could not possibly have contemplated the inclusion of the unborn.[39] Without taking sides on the appropriate method of judicial construction, I (in agreement with Professor Ely) nevertheless note that the alternating theories of construction employed by the Court in *Roe* suggest that there may have been something more involved in that decision than purely neutral criteria for constitutional interpretation.

The Court's holding that the Fourteenth Amendment could not possibly have been intended to protect the unborn may conflict with the plain meaning of the word "person," and quite possibly, with the intent of the Fourteenth Amendment. In order to decide whether an individual is protected under the Fourteenth Amendment, Congressman John Bingham of Ohio, its principal Framer, declared in 1867, "the only question to be asked of the creature claiming its protection is this: Is he a man?"[40] The Court's observations notwithstanding, this question has consistently been answered in the affirmative by American courts and legislatures with regard to the unborn.[41] Thus, in the words of Professor Noonan:

> "The Fourteenth Amendment expressly declaring that no State shall "deprive any person of life" without due process of law appeared to guarantee the protection of all human beings. The Supreme Court in a stirring dictum had declared that "one's right of life" depends on the "outcome of no election." The right to life, put beyond electoral caprice, appeared to be secured by the due process clause. No student of language, no one faithful and attentive to the words of the Constitution could have supposed that the very clause which seemed to secure life could be turned inside out to mandate destruction of the States' life-protective measures . . . . The Congressmen who proposed and ratified the Fourteenth Amendment approved legislation banning abortion in the federal territories. The State legislatures which ratified the Fourteenth Amendment left in force strict statutes against abortion. How amazed these Congressmen and legislatures would have been to have been told that the Amendment they adopted could be read to eradicate the criminal laws safeguarding life. From the date of the adoption of the Fourteenth Amendment in 1868 until January 22, 1973, the traditions of the American people assured the protection of life in the womb . . ."[42]

As Professor Ely notes, even if the unborn do not have rights under the Fourteenth Amendment, this is irrelevant to the question of whether a State may restrict abortion, for "it has never been held or even asserted that the state interest needed to justify forcing a person to refrain from an activity, *whether or not that activity is constitutionally protected,* must implicate either the life or the constitutional rights of another person. Dogs are not "persons in the whole sense" nor have they constitutional rights, but that does not even mean the state cannot prohibit killing them: It does not mean the state cannot prohibit killing them in the exercise of the First Amendment right of political protest."[43]

Thus, I believe that the Court's finding of non-personhood of the unborn was a highly tenuous one. In any event, this finding in no way mandates the Court's conclusion that the States lack any compelling interest in protecting the lives of these unborn.

The common law

The theme of "personhood" was further discussed by the court in its observation that the unborn were not considered "persons in the whole sense" under the common law.[44] This observation is as tenuous as the Court's denial of personhood under the Constitution. The Court simply failed to view the history of restrictions upon abortion in perspective, with abortion first as a violation of canon and common law, then, after the demise of canon law jurisdiction over civil matters, as a common law crime,[45] and as a statutory offense.[46]

The phrase, "persons in the whole sense," is also misleading, for many categories of human beings were not given full rights under the common law—for example, infants, women and slaves. Yet, it does not follow that the common law did not protect the lives of these human beings. The unborn, Professor Epstein notes, were for many purposes regarded as persons by the common law; furthermore, he emphasizes;

"It remains true that recent judicial trends have expanded, not limited, their rights." [47]

For example, the Court "acknowledged that unborn children have been recognized as acquiring rights or interests by way of inheritance or other devolution of property, and have been represented by guardians." [48]

In the realm of tort law, the uninterrupted trend of recent decades has been to discard the old rules and to allow the unborn child standing to sue for injuries sustained in utero. Dean Prosser has noted that:

"All writers who have discussed the problem have joined in condemning the old rule, and in maintaining that the unborn child in the path of an automobile is as much a person in the street as the mother." [49]

Thus, in terms of development of the law, the Court would have placed itself well within the mainstream by recognizing the legal "personhood" of the unborn. Instead, it chose to go against this mainstream by refusing to recognize the trend of the law's development.

The beginning of human life

It is important to distinguish between *Roe v. Wade's* holding regarding the personhood of the unborn under the Fourteenth Amendment, and the Court's subsequent discussion of theories on the beginning of human life. On the first question, the Court squarely held that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." [50] This conclusion disposed of any argument that the State might be permitted or obligated under the Amendment to protect the life of the unborn.

The second argument proposed by the State defendants in *Roe v. Wade* was that, apart from any duty under the Fourteenth Amendment, the State has a compelling interest in protecting life "from conception." [51] The Court's response here was the now famous declaration:

"We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer." [52]

The Court, however, did more than speculate as to the answer. Philosophers, theologians and physicians, Professor Epstein notes, "do not have, or pretend to have, the power to decide this question for us all." [53] But, as a practical matter, the Supreme Court exercised such a power in *Roe v. Wade*, deciding that only one theory of prenatal life would be reflected in American constitutional law: that life begins at viability, when the fetus "has the capability of meaningful life outside the mother's womb."[54] It is only at this point, fixed elsewhere in the opinion at about 24–28 weeks,[55] that the State may even begin to balance the interest in the life of the fetus against the social or emotional "well being" of the mother. This conclusion rests upon the Court's determination that until birth, "the fetus, at most, represents only the potentiality of life."[56] No other "theory of life," the Court holds, may be adopted by the State to limit the right to abortion.[57]

In considering this conclusion, one looks in vain for any reasoning from constitutional or legal (or scientific) principle. The Court discusses a variety of views which have surfaced in history on the question of when human life begins, and notes that many of these disagreed with the views that life begins at conception.[58] However, as Professor Epstein notes, none of the arguments on this question turn, or can be made to turn, on the language of the Constitution.[59] Thus, he concludes, the Court's declaration that no State may adopt a theory of life which infringes on the availability of abortions prior to the seventh month of pregnancy characterizes *Roe* as an arbitrary decision based on naked political preferences.[60] In effect, the Court decided that the State may only enforce a theory of life that is consistent with the view that life begins at viability.[61] Thus, the Court has indeed decided, for the purposes of the law, when life begins. And it did so on grounds that have no relation to the Court's function in the constitutional system of government. In recommending proposal of the immediate amendment, I take no position on the question of when human life begins but only a position on the manner in which public debate on this question has been foreclosed by the Court's action.

Conclusion

This section has attempted only to portray some flavor of the jurisprudential criticism that has been directed at the *Roe* and *Doe* decisions. In large part, this criticism has come from individuals who do not look with disfavor upon the substantive policies generated by these decisions. They simply question how these policies came suddenly to be mandated by a Constitution that had never been thought prior to 1973 to contain anything approaching the "rights" set forth in *Roe* and *Doe*. As professor Ely again has observed:[62]

"What is frightening about *Roe* is that this super-protected right (to abortion) is not inferable from the language of the Constitution, the Framers' thinking respecting the specific problem in issue, any general value derivable from the provisions they included, or the Nation's governmental structure . . . At times the inferences the Court has drawn from the values the Constitution marks for special protection have been controversial, even shaky, but never before has its sense of an obligation to draw one been so obviously lacking."

As Professor Epstein has similarly concluded, the *Roe* decision is "symptomatic of the analytical poverty possible in constitutional litigation." [63]

Among other constitutional scholars who have been sharply critical of the jurisprudence in *Roe* are the late Alexander Bickel of the Yale Law School, Arthur Miller of the Harvard Law School, Harry Wellington, former Dean of the Yale Law School, and Archibald Cox, former Solicitor General of the United States.[64]

Perhaps even more compelling criticism of the *Roe* decision, however, has come from the Justices themselves who were in dissent in that case. In a dissent far stronger than normally seen on the Supreme Court, Justice White stated:

"I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions a new constitutional right for pregnant mothers and, with scarcely any reason or authority for its action invests that right with sufficient substance to override most existing State abortion statutes. The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus, on the one hand, against a spectrum of possible impacts on the mother, on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review which the Constitution extends to this Court." [65]

Justice Rehnquist similarly observed:

"The decision here to break the term of pregnancy into three distinct terms and to outline the permissible restrictions the State may impose in each one, for example, partakes more of judicial legislation than it does of a determination of the intent of the drafters of the Fourteenth Amendment." [66]

While fully respecting the authority of the Supreme Court to interpret the provisions of the Constitution, this Committee recognizes also the authority reposed in Congress under Article V of the Constitution to amend that document in response to what it views as wrongful or inappropriate decisions (see infra Section XI). To this end, the Senate Committee on the Judiciary in this Report recommends that the Constitution be so amended to overcome the effects of *Roe v. Wade* and its progeny and to restore authority in the legislative branches of government over the practice of abortion.

FOOTNOTES

[1] Destro, at 1278–80, 1289–90. As Professor Charles Rice has noted, at the time of the ratification of the Constitution, "the scientific facts of life in the womb were not clearly known." Rice, "The Dred Scott case of the Twentieth Century," 10 Hous. L. Rev. 1059, 1069 (1973). [Hereinafter cited as "Rice."]

[2] Id. at 1276–80. See *Gray* v. *State*, 77 Tex. Crim. 221, 224, 178 S.W. 337, 338 (1915) (construing abortion statute to abrogate the common-law quickening distinction). See also Me. Rev. Stat. c. 160, 13–14 (1840); Conn. Stat. tit. 22, 14, 16 (1821), amended by Conn. Pub. Acts, ch. 71-1 (1860). Both of these statutes abrogated the common law doctrine that held abortion to be unlawful only in the case of a "quickened" fetus. According to Destro, the history of the Connecticut statute, the Nation's first abortion law, "reveals that as medical knowledge of the unborn progressed, so did the protective ambit of the statute." Destro at 1276, n. 115, 121 and 1279–80.

In colonial times and into the nineteenth century, matters of reproductive health were dealt with by midwives, not physicians. As early as 1716, the Common Council of New York City enacted a law regulating the practice of midwifery, a law which strictly prohibited the administration of abortifacients and the performance of abortions. See Horan and Marzen, "Abortion and Midwifery: A Footnote in Legal History," in Hilgers et al. (ed.), New Perspectives on Human Abortion (1981). [Hereinafter cited as "New Perspectives."]

[3] Speech to the Republican Citizens of Washington County, Maryland (March 31, 1809), reprinted in J. Bartlett, Familiar Quotations 472–73 (14th ed. 1968).

[4] Ely. "The Wages of Crying Wolf," 82 Yale L. J. 920, 947 (1973). [Hereinafter cited as "Ely."]

[5] A. Cox, The Role of the Supreme Court in American Government 114 (1976).

[6] Ely at 927.

[7] Id.

[8] Id.

[9] Id. at 939.

[10] 410 U.S. 113, 129–152.

[11] Epstein, "Substantive Due Process By Any Other Name," 1973 Sup. Ct. Rev. 159, 167. [Hereinafter cited as "Epstein".]

[12] O'Meara, "Abortion: The Court Decides A Non-Case," 1974 Sup. Ct. Rev. 337, 352. [Hereinafter cited as "O'Meara".]

[13] 410 U.S. at 153.

[14] Ely at 931.

[15] O'Meara at 340.

[16] Ely at 929 (emphasis in original). The right of privacy has been developed in several Supreme Court decisions to protect the autonomy of the family, and later, the individual, in matters of childrearing, procreation and contraception. See *Meyer* v. *Nebraska*, 262 U.S. 390 (1923); *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925); *Skinner* v. *Okla-*

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homa, 316 U.S. 535 (1942); *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Griswold* v. *Connecticut*, 381 U.S. 469 (1965). Several commentators favorable to *Roe* v. *Wade* have remarked that *Roe* represents a maternal extension of the doctrine of familial privacy. See, e.g., Hemmann and Barselay, "The Forest and the Trees: *Roe* v. *Wade* and Its Critics." 53 B.U.L. Rev. 765 (1973); Note, "Roe v. Wade. Its Impact On Rights of Choice in Human Reproduction." 5 Col. H. Rts. L. Rev. 497 (1973): Note, "In Defense of Liberty: A Look at the Abortion Decision," 61 Geo. L.J., 1559 (1973). But as one authority pointed out,

No elaborate discussion is required to expose the glaring non sequitur in the Court's argument. Plainly the fact that some family matters are constitutionally protected does not demonstrate that abortion is constitutionally protected. Nor does the added fact that abortion laws disadvantage pregnant women, establish their invalidity. Legal restrictions are placed on family autonomy in fields ranging from divorce to euthanasia despite the heavy costs thereby exacted from the individuals concernd.

Vieira, "Roe and Doe: Substantive Due Process and the Right of Abortion," 25 Hastings L.J. 867, 873 (1974).

[17] 410 U.S. at 153.

[18] Ely at 932.

[19] Id.

[20] 410 U.S. at 159.

[21] 410 U.S. 179, 192. *See supra* text at notes 26–7.

[22] 410 U.S. at 158.

[23] 410 U.S. at 162.

[24] 410 U.S. at 159-160.

[25] 410 U.S. at 157.

[26] 410 U.S. at 158.

[27] See Gorby, "The 'Right' to an Abortion, the Scope of Fourteenth Amendment 'Personhood,' and The Supreme Court's Birth Requirement," 1979 So. Ill. L. Rev. 1, 11-12. [Hereinafter cited as "Gorby".]

[28] Id. at 12.

[29] Id. On this method of judicial construction, cf. J. Story, Commentaries on the Constitution of the United States, § 454 (1833); T. Cooley, A Treatise on the Constitutional Limitations 62 (1868).

[30] 410 U.S. at 158.

[31] Two Federal district courts in cases which led up to *Roe* held that the unborn were not persons under the Fourteenth Amendment. *See McGarry* v. *Magee-Women's Hospital*, 340 F. Supp. 751 (W.D. Pa. 1972); *Acete* v. *Markle*, 351 F. Supp. 224 (D. Conn. 1972). Cf., however, *Steinberg* v. *Brown* in which the U.S. District Court for the Northern District of Ohio stated: "Biologically, when the spermatozoon penetrates and fertilizes the ovum, the result is the creation of a new organism which conforms to the definition of life. Once human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the State the duty of safeguarding it." 321 F. Supp., 741, 746-7 (1970). The Court in *Roe* was plainly wrong in its absolute statement. *Roe* was the first case to squarely present the issue of the constitutional rights of the unborn before the Supreme Court. On the subject of personhood in the legal and other senses, see generally the testimony of Professor Germain Grises. Professor, Mount Saint Mary's College, Senate hearings, November 5, 1981. See also the outstanding work by Professor Grises, Abortion: The Myths, the Realities, and the Arguments (1970) for a fuller discussion of these and other issues related to abortion.

[32] Dellapenna, "Nor Piety Nor Wit: The Supreme Court on Abortion," 6 Col. H.R. Law Rev. 379, 400 (1974).

[33] Perkins, Criminal Law 140 (2nd ed., 1969). See generally, Horan, et al., "The Legal Case for the Unborn Child," in Abortion and Social Justice 105 (1972).

[34] Destro. 1278–80.

[35] 410 U.S. at 174–176.

[36] 410 U.S. at 158.

[37] Gorby at 15. If, instead, the Court meant that abortion regulations in the nineteenth century were less restrictive than those of 1973, it was also wrong. Abortion statutes in force in 1973 in at least 21 States were the same as those in effect in 1868. To the extent that other statutes became more restrictive, this occurred in response to the growing awareness of the life of the unborn from the time of conception, that is, that the fetus was "quick" or alive, from that first moment. Many legislatures and jurists were already aware of this. A Pennsylvania court in 1850 wrote: "The moment the womb is instinct with embryo life, and gestation has begun, the crime [of abortion] may be perpetrated." *Mills* v. *Commonwealth*, 13 Pa. 630, 633-34 (1850). The Alabama Court of Appeals, interpreting a statute passed in 1840, wrote: "The statute's manifest purpose is to restrain after conception an unwarranted interference with the course of nature in the propagation and reproduction of human kind. . . . We are forced to concede that when in the red-hot furnace of vitality two germs, male and female, are brought together, that fuse themselves into one, a new being, crowned with humanity and and mentality, comes into life. If this be true, does not the new being, from the first day of its uterine life, acquire a legal and moral status that entitles it to the same protection as that guaranteed to human beings in extrauterine life. . .?" *Trent* v. *State*, 15 Ala. App. 485, 496, 73 So. 834, 836 (1916).

[38] Ely at 926. Professor Rice explains that "it is the evident purpose of the Bill of Rights to protect human rights. It would seem to be clearly inconsistent with that aim to hold that a human being can be deprived of the most basic right, the right to live, by the expedient of defining him as a non-person." Rice at 1069.

[39] See also Gorby at 23–24 and sources cited therein: "Concerning the function of the Fourteenth Amendment and the role of the word 'person' in the amendment, it can be said that the immediate political concern of the second half of the 1860s was to secure rights and freedoms and to ensure equal protection for former slaves. More generally, however, the amendment was designed to secure to all persons the fundamental rights of man, which generally include life, liberty or property, by providing the adjective right of access to the courts. There is nothing in the function of the fourteenth amendment to suggest that its scope or purpose is to protect only the born. And to the extent that an unborn can be the owner of property and is living, a Fourteenth Amendment purpose exists in the case of the unborn just as surely as it does with a born person who owns property and possesses 'life'." Gorby at 24 (footnotes omitted).

[40] Cong. Globe, 40th Cong., 1st Sess. 542 (1867). Congressman Bingham emphasized that the constitutional right to life transcended any statutory protection for human life, or lack thereof. "Bingham stated that, notwithstanding the fact that life had never 'been protected, and is not now protected, in any State of the Union by the statute law of the United States,' such a fact is not determinative of the existence of the right, for it is expressly protected in the Constitution." Destro at 1288, citing Cong. Globe, 39th Cong., 1st Sess. 429 (1865).

[41] In 1850, the Supreme Court of Pennsylvania declared, 'By the well settled and established doctrine of the common law, the civil rights of an infant en ventre sa mere are fully protected at all periods after conception." *Mills* v. *Commonwealth*, 13 Pa. 630, 631 (1850). See, e.g., sources cited in note 133. See also *State* v. *Murphy*, 27 N.J.L. 112, 114 (1858) (the mother's offense in procuring an abortion "at the common law is against the life of the child"); *Smith* v. *State*, 33 Me. 46 (1851). As Destro notes. *Murphy* and *Smith* make it clear that, in abortion statutes passed prior to the Fourteenth Amendment, "the destruction of the unborn child was, itself, the gravamen of the crime of abortion." Destro at 1276. As medicine advanced the knowledge of human embryology and fetology, legislatures passed statutes to protect unborn life before and after "quickening," thus recognizing the humanity of the unborn throughout the term of pregnancy. See note 133, supra.

[42] Senate hearings, October 5, 1981, Professor John Noonan, University of California School of Law. The quote from the Supreme Court decision is taken from *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624 (1943) at 638.

[43] Ely at 926.

[44] 410 U.S. at 162.

[45] As Destro points out, however, the common law restrictions upon abortion derived independently and did not originate in canon law. Destro, at 1275, note 110.

[46] See statutes cited in *Roe* v. *Wade*, 410 U.S. at 175 (Rehnquist, J., dissenting).

[47] Epstein at 175.

[48] O'Meara at 355. See e.g., *Burn* v. *New York City Health and Hospitals Corp.*, 31 N.Y. 2d 194, 286 N.E. 2d 2887 (1972) (Guardian ad litem appointed to represent unborn children in abortion litigation.)

[49] W. Prosser, The Law of Torts 336 (4th ed.).

[50] 410 U.S. at 158.

[51] 410 U.S. at 159.

[52] Id.

[53] Epstein at 176.

[54] 410 U.S. at 163.

[55] Id. at 160.

[56] Id. at 162.

[57] Id. For ways in which the lower Federal courts have further eroded the legal protection of viable fetuses and of children born alive during post-viability abortions, see generally Basile Uddo, "When Judges Blink, Congress Must Not Blink". The Human Life Review, Summer 1979, 42-60.

[58] 410 U.S. at 160. Several views have persisted on the question of when human life begins, and as the Court correctly notes, "there has always been strong support throughout history for the view that life does not begin until live birth." 410 U.S. at 160. The Court does acknowledge that many physicians and theologians strongly hold the opposing view that life exists from the moment of conception, but attempts to dismiss the importance of this latter position, implying that advances in science pose "substantial problems for a precise definition of this view." 410 U.S. at 167. As was ably demonstrated by the testimony presented on behalf of S. 158 to the Subcommittee on the Separation of Powers, however, those who defend the humanity of the fetus from the time of conception have a variety of compelling biological arguments for their view. Hearings before the Subcommittee on Separation of Powers on the Human Life Bill, 97th Congress, 1st Session.

[59] Epstein at 179.

[60] "[The Court] conceded that the 'potential' life of the unborn child must be taken into account in order to make the constitutional rules to govern abortions. But is there not a potential life in the unborn child from the moment of conception? And, if so, how do we take its measure? It makes no sense to hold in conclusionary terms that 'by adopting one theory of life, Texas may [not] override the rights of the pregnant woman that are at stake.' That formulation of the issue begs the important question because it assumes that we know that the woman's rights must prevail even before the required balance takes place. We could as well claim that the Court, by adopting another theory of life, has decided to override the rights of the unborn child which the law of Texas tries to protect. The Justice simply cannot strike the balance . . . unless he has some theory of life of his own which shows that there is no 'compelling' interest [in the life] of the unborn child. His exhaustive history of the abortion question indicates quite clearly that there is no consensus on the question, and it is simple fiat and power that gives his position its legal effect." Epstein at 182.

[61] The State's authority under *Roe* to protect unborn life is quite tenuous, however, even after the point of viability. See supra text at notes 26-7.

[62] Ely at 935–7.

[63] Epstein at 184.

[64] A. Bickel, The Morality of Consent (1975) ('The Court in *Roe* was "not excused in transgressing all limits in refusing its own prior discipline"); A. Miller, Miller's Court (1982) ("The Supreme Court found a right to abortion without pointing to any specific words in the text of the Constitution."); Wellington, "Common Law Rules and Constitutional Double Standards," 83 Yale L.J. 221 (1973) ("Pickwickian" decisions); A. Cox, The Role of the Supreme Court in American Government (1976) ("The failure to confront the issue in principled terms leaves the option to read like a set of hospital rules and regulations . . . Neither historian, layman, nor lawyer will be persuaded that all the details prescribed in *Roe* v. *Wade* are part of . . . the Constitution"). For scholarship drawing an analogy between the *Roe* decision and the Supreme Court's decision in Dred Scott more than a Century earlier, see e.g., Swan, "The Thirteenth Amendment Dimension of *Roe* v. *Wade*," 4 J. Juv. 1. (1980); Csank, "The Lords and Givers of Life," Human Life Rev., Spring 1977 at 77; Noonan. "The Meaning of Dred Scott," 1979 Ariz. St. L.J. 1.

[65] 410 U.S. at 221–22 (Justice White dissenting).

[66] 410 U.S. at 174 (Justice Rehnquist dissenting).

The Wages of Crying Wolf: A Comment on Roe v. Wade*

(By John Hart Ely**)

The interests of the mother and the fetus are opposed. On which side should the State throw its weight? The issue is volatile; and

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it is resolved by the moral code which an individual has.[1]

In *Roe v. Wade*,[2] decided January 22, 1973, the Supreme Court—Justice Blackmun speaking for everyone but Justices White and Rehnquist[3]—held unconstitutional Texas' (and virtually every other state's[4]) criminal abortion statute. The broad outlines of its argument are not difficult to make out:

1. The right to privacy, though not explicitly mentioned in the Constitution, is protected by the Due Process Clause of the Fourteenth Amendment.[5]

2. This right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy.[6]

3. This right to an abortion is "fundamental" and can therefore be regulated only on the basis of a "compelling" state interest.[7]

4. The state does have two "important and legitimate" interests here,[8] the first in protecting maternal health, the second in protecting the life (or potential life[9]) of the fetus.[10] But neither can be counted "compelling" throughout the entire pregnancy: Each matures with the unborn child.

These interests are separate and distinct. Each grows in substantiality as the woman approaches term and, at a point during pregnancy, each becomes "compelling." [11]

5. During the first trimester of pregnancy, neither interest is sufficiently compelling to justify any interference with the decision of the woman and her physician. Appellants have referred the Court to medical data indicating that morality rates for women undergoing early abortions, where abortion is legal, "appear to be as low as or lower than the rates for normal childbirth." [12] Thus the state's interest in protecting maternal health is not compelling during the first trimester. Since the interest in protecting the fetus is not yet compelling either,[13] during the first trimester the state can neither prohibit an abortion nor regulate the conditions under which one is performed.[14]

6. As we move into the second trimester, the interest in protecting the fetus remains less than compelling, and the decision to have an abortion thus continues to control. However, at this point the health risks of abortion begin to exceed those of childbirth. "It follows that, from and after this point, a State may regulate the abortion procedure to the extent that the regulation reasonably relates to the preservation and protection of maternal health." [15] Abortion may not be prohibited during the second trimester, however.[16]

7. At the point at which the fetus becomes viable[17] the interest in protecting it becomes compelling,[18] and therefore from that point on the state can prohibit abortions *except*—and this limitation is also apparently a constitutional command, though it receives no justification in the opinion—when they are necessary to protect maternal life or health.[19]

I

A number of fairly standard criticisms can be made of *Roe*. A plausible narrower basis of decision, that of vagueness, is brushed aside in the rush toward broader ground.[20] The opinion strikes the reader initially as a sort of guidebook, addressing questions not before the Court and drawing lines with an apparent precision one generally associates with a commissioner's regulations.[21] On closer examination, however, the precision proves largely illusory. Confusing signals are emitted, particularly with respect to the nature of the doctor's responsibilities[22] and the permissible scope of health regulations after the first trimester.[23] The Court seems, moreover, to get carried away on the subject of remedies: Even assuming the case can be made for an unusually protected constitutional right to an abortion, it hardly seems necessary to have banned during the first trimester *all* state regulation of the conditions under which abortions can be performed.[24]

By terming such criticisms "standard," I do not mean to suggest they are unimportant, for they are not. But if they were all that was wrong with *Roe*, it would not merit special comment.[25]

II

Let us not underestimate what is at stake: Having an unwanted child can go a long way toward ruining a woman's life.[26] And at bottom *Roe* signals the Court's judgment that this result cannot be justified by any good that anti-abortion legislation accomplishes. This surely is an understandable conclusion—indeed it is one with which I agree[27]—but ordinarily the Court claims no mandate to second-guess legislative balances, at least not when the Constitution has designated neither of the values in conflict as entitled to special protection.[28] But even assuming it would be a good idea for the Court to assume this function, *Roe* seems a curious place to have begun. Laws prohibiting the use of "soft" drugs or, even more obviously, homosexual acts between consenting adults can stunt "the preferred life styles" [29] of those against whom enforcement is threatened in very serious ways. It is clear such acts harm no one besides the participants, and indeed the case that the participants are harmed is a rather shaky one.[30] Yet such laws survive,[31] on the theory that there exists a societal consensus that the behavior involved is revolting or at any rate immoral.[32] Of course the consensus is not universal but it is sufficient, and this is what is counted crucial, to get the laws passed and keep them on the books. Whether anti-abortion legislation cramps the life style of an unwilling mother more significantly than anti-homosexuality legislation cramps the life style of a homosexual is a close question. But even granting that it does, the *other* side of the balance looks very different. For there is more than simple societal revulsion to support legislation restricting abortion:[33] Abortion ends (or if it makes a difference, prevents) the life of a human being other than the one making the choice.

The Court's response here is simply not adequate. It agrees, indeed it holds, that after the point of viability (a concept it fails to note will become even less clear than it is now as the technology of birth continues to develop[34]) the interest in protecting the fetus is compelling.[35] Exactly why that is the magic moment is not made clear: Viability, as the Court defines it,[36] is achieved some six to twelve weeks after quickening.[37] (Quickening is the point at which the fetus begins discernibly to move independently of the mother[38] and the point that has historically been deemed crucial—to the extent *any* point between conception and birth has been focused on.[39] But no, it is *viability* that is constitutionally critical: the Court's defense seems to mistake a definition for a syllogism.

"With respect to the State's important and legitimate interest in potential life, the 'compelling' point is at viability. This is so because the fetus then presumably has the capacity of meaningful life outside the mother's womb." [40]

With regard to why the state cannot consider this "important and legitimate interest" prior to viability, the opinion is even less satisfactory. The discussion begins sensibly enough: The interest asserted is not necessarily tied to the question whether the fetus is "alive," for whether or not one calls it a living being, it is an entity with the potential for (and indeed the likelihood of) life.[41] But all of arguable relevance that follows[42] are arguments that fetuses (a) are not recognized as "persons in the whole sense" by legal doctrine generally[43] and (b) are not "persons" protected by the Fourteenth Amendment.[44]

To the extent they are not entirely inconclusive, the bodies of doctrine to which the Court adverts respecting the protection of fetuses under general legal doctrine tend to undercut rather than support its conclusion.[45] And the argument that fetuses (unlike, say, corporations) are not "persons" under the Fourteenth Amendment fares little better. The Court notes that most constitutional clauses using the word "persons"—such as the one outlining the qualifications for the Presidency—appear to have been drafted with postnatal being in mind. (It might have added that most of them were plainly drafted with *adults* in mind, but I suppose that wouldn't have helped.) In addition, "the appellee conceded on reargument that no case can be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment."[46] (The other legal contexts in which the question could have arisen are not enumerated.)

The canons of construction employed here are perhaps most intriguing when they are contrasted with those invoked to derive the constitutional right to an abortion.[47] But in any event, the argument that fetuses lack constitutional rights is simply irrelevant. For it has never been held or even asserted that the state interest needed to justify forcing a person to refrain from an activity, *whether or not that activity is constitutionally protected*, must implicate either the life or the constitutional rights of another person.[48] Dogs are not "persons in the whole sense" nor have they constitutional rights, but that does not mean the state cannot prohibit killing them: It does not even mean the state cannot prohibit killing them in the exercise of the First Amendment right of political protest. Come to think of it, draft cards aren't persons either.[49]

Thus even assuming the Court ought generally to get into the business of second-guessing legislative balances, it has picked a strange case with which to begin. Its purported evaluation of the balance that produced anti-abortion legislation simply does not meet the issue: That the life plans of the mother must, not simply may, prevail over the state's desire to protect the fetus simply does not follow from the judgment that the fetus is not a person. Beyond all that, however, the Court has no business getting into that business.

III

Were I a legislator I would vote for a statute very much like the one the Court ends up drafting.[50] I hope this reaction reflects more than the psychological phenomenon that keeps bombardiers sane—the fact that it is somehow easier to "terminate" those you cannot see—and am inclined to think it does: that the mother, unlike the unborn child, has begun to imagine a future for her-

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Footnotes at end of article.

self strikes me as morally quite significant. But God knows I'm not *happy* with that resolution. Abortion is too much like infanticide on the one hand, and too much like contraception on the other, to leave one comfortable with any answer; and the moral issue it poses is as fiendish as any philosopher's hypothetical.[51]

Of course, the Court often resolves difficult moral questions, and difficult questions yield controversial answers. I doubt, for example, that most people would agree that letting a drug peddler go unapprehended is morally preferable to letting the police kick down his door without probable cause. The difference, of course, is that the Constitution, which legitimates and theoretically controls judicial intervention, has some rather pointed things to say about this choice. There will of course be difficult questions about the applicability of its language to specific facts, but at least the document's special concern with one of the values in conflict is manifest. It simply says nothing, clear or fuzzy, about abortion.[52]

The matter cannot end there, however. The Burger Court, like the Warren Court before it, has been especially solicitous of the right to travel from state to state, demanding a compelling state interest if it is to be inhibited.[53] Yet nowhere in the Constitution is such a right mentioned. It is, however, as clear as such things can be that this right was one the framers intended to protect, most specifically[54] by the Privileges and Immunities Clause of Article IV.[55] The right is, moreover, plausibly inferable from the system of government, and the citizen's role therein, contemplated by the Constitution.[56] The Court in *Roe* suggests an inference of neither sort—from the intent of the framers,[57] or from the governmental system contemplated by the Constitution—in support of the constitutional right to an abortion.

What the Court does assert is that there is a general right of privacy granted special protection—that is, protection above and beyond the baseline requirement of "rationality"—by the Fourteenth Amendment,[58] and that that right "is broad enough to encompass" the right to an abortion. The general right of privacy is inferred, as it was in *Griswold* v. *Connecticut*,[59] from various provisions of the Bill of Rights manifesting a concern with privacy, notably the Fourth Amendment's guarantee against unreasonable searches, the Fifth Amendment's privilege against self-incrimination, and the right, inferred from the First Amendment, to keep one's political associations secret.[60]

One possible response is that all this proves is that the things explicitly mentioned are forbidden, if indeed it does not actually demonstrate a disposition *not* to enshrine anything that might be called a general right of privacy.[61] In fact the Court takes this view when it suits its purposes. (On the *same day* it decided *Roe*, the Court held that a showing of reasonableness was not needed to force someone to provide a grand jury with a voice exemplar, reasoning that the Fifth Amendment was not implicated because the evidence was not "testimonial" and that the Fourth Amendment did not apply because there was no "seizure."[62]) But this approach is unduly crabbed. Surely the Court is entitled, indeed I think it is obligated, to seek out the sorts of evils the framers meant to combat and to move against their twentieth century counterparts.[63]

Thus it seems to me entirely proper to infer a general right of privacy, *so long as some care is taken in defining the sort of right the inference will support*. Those aspects of the First, Fourth and Fifth Amendments to which the Court refers all limit the ways in which, and the circumstances under which, the government can go about gathering information about a person he would rather it did not have.[64] *Katz v. United States*,[65] limiting governmental tapping of telephones, may not involve what the framers would have called a "search," but it plainly involves this general concern with privacy.[66] *Griswold* is a long step, even a leap, beyond this, but at least the connection is discernible. Had it been a case that purported to discover in the Constitution a "right to contraception," it would have been *Roe*'s strongest precedent.[67] But the Court in *Roe* gives no evidence of so regarding it,[68] and rightly not.[69] Commentators tend to forget, though the Court plainly has not,[70] that the Court in *Griswold* stressed that it was invalidating only that portion of the Connecticut law that proscribed the *use*, as opposed to the manufacture, sale, or other distribution of contraceptives. That distinction (which would be silly were the right to contraception being constitutionally enshrined) makes sense if the case is rationalized on the ground that the section of the law whose constitutionality was in issue was such that *its enforcement would have been virtually impossible without* the most outrageous sort of governmental prying into the privacy of the home.[71] And this, indeed, is the theory on which the Court appeared rather explicitly to settle:

"The present case, then, concerns a relationship lying within the zone of privacy created by several fundamental constitutional guarantees. And it concerns a law which, in forbidding the *use* of contraceptives rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that relationship. Such a law cannot stand in light of the familiar principle, so often applied by this Court, that 'a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms.' *NAACP v. Alabama*, 377 U.S. 288, 307. Would we allow the police to search the sacred precincts of marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship."[72]

Thus even assuming (as the Court surely seemed to) that a state can constitutionally seek to minimize or eliminate the circulation and use of contraceptives, Connecticut had acted unconstitutionally by selecting a means, that is a direct ban on use, that would generate intolerably intrusive modes of data-gathering.[73] No such rationalization is attempted by the Court in *Roe*—and understandably not, for whatever else may be involved, it is not a case about governmental snooping.[74]

The Court reports that some amici curiae argued for an unlimited right to do as one wishes with one's body. This theory holds, for me at any rate, much appeal. However, there would have been serious problems with its invocation in this case. In the first place, more than the mother's own body is involved in a decision to have an abortion; a fetus may not be a "person in the whole sense," but it is certainly not nothing.[75] Second, it is difficult to find a basis for thinking that the theory was meant to be given constitutional sanction: Surely it is no part of the "privacy" interest the Bill of Rights suggests.[76]

"[I]t is not clear to us that the claim . . . that one has an unlimited right to do with one's body as one pleases bears a close relationship to the right of privacy . . . ."[77]

Unfortunately, having thus rejected the amici's attempt to define the bounds of the general constitutional right of which the right to an abortion is a part,[78] on the theory that the general right described has little to do with privacy, the Court provides neither an alternative definition[79] nor an account of why *it* thinks privacy is involved. It simply announces that the right to privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." Apparently this conclusion is thought to derive from the passage that immediately follows it:

"The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved."[80]

All of this is true and ought to be taken very seriously. But it has nothing to do with privacy in the Bill of Rights sense or any other the Constitution suggests.[81] I suppose there is nothing to prevent one from using the word "privacy" to mean the freedom to live one's life without governmental interference. But the Court obviously does not so use the term.[82] Nor could it, for such a right is at stake in *every* case. Our life styles are constantly limited, often seriously, by governmental regulation; and while many of us would prefer less direction, granting that desire the status of a preferred constitutional right would yield a system of "government" virtually unrecognizable to us and only slighty more recognizable to our forefathers.[83] The Court's observations concerning the serious, life-shaping costs of having a child prove what might to the thoughtless have seemed unprovable: That even though a human life, or a potential human life, hangs in the balance, the moral dilemma abortion poses is so difficult as to be heartbreaking. What they fail to do is even begin to resolve that dilemma so far as our governmental system is concerned by associating either side of the balance with a value inferable from the Constitution.

But perhaps the inquiry should not end even there. In his famous *Carolene Products* footnote, Justice Stone suggested that the interests to which the Court can responsibly give extraordinary constitutional protection include not only those expressed in the Constitution but also those that are unlikely to receive adequate consideration in the political process, specifically the interests of "discrete and insular minorities" unable to form effective political alliances.[84] There can be little doubt that such considerations have influenced the direction, if only occasionally the rhetoric, of the recent Courts. My repeated efforts to convince my students that sex should be treated as a "suspect classification" have convinced me it is no easy matter to state such considerations in a "principled" way. But passing that problem, *Roe* is not an appropriate case for their invocation.

Compared with men, very few women sit in our legislatures, a fact I believe should bear some relevance—even without an Equal Rights Amendment—to the appropriate standard of review for legislation that favors men over women.[85] But *no* fetuses sit in our legislatures. Of course they have their champions, but so have women. The two interests have clashed repeatedly in the political arena, and had continued to do so up to the date of the opinion, generating quite a wide variety of accommodations.[86] By the Court's lights virtually all of the legislative accommodations had unduly favored fetuses; by its definition of victory, women had lost. Yet in every legislative balance one of the competing interests loses to some extent; indeed usually, as here, they both do. On some occasions the Constitution throws its weight on the side of one of them, indicating the balance must be restruck. And on others—and this is Justice Stone's suggestion—it is at least arguable that, constitutional directive or not, the Court should throw *its* weight on the side of a minority demanding in court more than it was able to achieve politically. But even assuming this suggestion can be given principled content, it was clearly intended and should be reserved for those interests which, *as compared with the interests to which they have been subordinated*, constitute minorities unusually incapable of protecting themselves.[87] Compared with men, women may constitute such a "minority"; compared with the unborn, they do not.[88] I'm not sure I'd know a discrete and insular minority if I saw one, but confronted with a multiple choice question requiring me to designate (a) women or (b) fetuses as one, I'd expect no credit for the former answer.[89]

Of course a woman's freedom to choose an abortion is part of the "liberty" the Fourteenth Amendment says shall not be denied without due process of law, as indeed is anyone's freedom to do what he wants. But "due process" generally guarantees only that the inhibition be procedurally fair and that it have some "rational" connection—though plausible is probably a better word[90]—with a permissible governmental goal.[91] What is unusual about *Roe* is that the liberty involved is accorded a far more stringent protection, so stringent that a desire to preserve the fetus's existence is unable to overcome it—a protection more stringent, I think it fair to say, than that the present Court accords the freedom of the press explicitly guaranteed by the First Amendment.[92] What is frightening about *Roe* is that this super-protected right is not inferable from the language of the Constitution, the framers' thinking respecting the specific problem in issue, any general value derivable from the provisions they included,[93] or the nation's governmental structure. Nor is it explainable in terms of the unusual political impotence of the group judicially protected vis-a-vis the interest that legislatively prevailed over it.[94] And that, I believe—the predictable[95] early reaction to *Roe* notwithstanding ("more of the same Warrent-type activism"[96])—is a charge that can responsibly be leveled at no other decision of the past twenty years.[97] At times the inferences the Court has drawn from the values the Constitution marks for special protection have been controversial, even shaky, but never before has its sense of an obligation to draw one been so obviously lacking.

IV

Not in the last thirty-five years at any rate. For, as the received learning has it, this sort of thing did happen before, repeatedly. From its 1905 decision in *Lochner v. New York*[98] into the 1930's the Court, frequently though not always under the rubric of "liberty of contract," employed the Due Process Clauses of the Fourteenth and Fifth Amendments to invalidate a good deal of legislation. According to the dissenters at the time and virtually all the commentators since, the Court had simply manufactured a constitutional right out of whole cloth and used it to superimpose its own view of wise social policy on those of the legislatures. So indeed the Court itself came to see the matter, and its reaction was complete:

"There was a time when the Due Process Clause was used by this Court to strike down laws which were thought unreasonable, that is, unwise or incompatible with some particular economic or social philosophy. In this manner the Due Process Clause was used, for example, to nullify laws prescribing maximum hours for work in bakeries, *Lochner v. New York*, 198 U.S. 45 (1905), outlawing 'yellow dog' contracts, *Coppage v. Kansas*, 236 U.S. 1 (1915), setting minimum wages for women, *Adkins v. Children's Hospital*, 261 U.S. 525 (1923), and fixing the weight of loaves of bread, *Jay Burns Baking Co., v. Bryan*, 264 U.S. 504 (1924). This intrusion by the judiciary into the realm of legislative value judgments was strongly objected to at the time . . . . Mr. Justice Holmes said,

"I think the proper course is to recognize that a state legislature can do whatever it sees fit to do unless it is restrained by some express prohibition in the Constitution of the United States or of the State, and that Courts should be careful not to extend such prohibitions beyond their obvious meaning by reading into them conceptions of public policy that the particular Court may happen to entertain."

. . . The doctrine that prevailed in *Lochner, Coppage, Adkins, Burns*, and like cases—that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws.[99]

It may be objected that *Lochner et al.* protected the "economic rights" of businessmen where *Roe* protects a "human right." It should be noted, however, that not all of the *Lochner* series involved economic regulation;[100] that even those that did resist the "big business" stereotype with which the commentators tend to associate them; and that in some of them the employer's "liberty of contract" claim was joined by the employee, who knew that if he had to be employed on the terms set by the law in question, he could not be employed at all.[101] This is a predicament that is economic to be sure, but is not without its "human" dimension. Similarly "human" seems the predicament of the appellees in the 1970 case of *Dandridge v. Williams*,[102] who challenged the Maryland Welfare Department's practice of limiting AFDC grants to $250 regardless of family size or need. Yet in language that remains among its favored points of reference,[103] the Court, speaking through Justice Stewart,[104] dismissed the complaint as "social and economic" and therefore essentially Lochneresque.

"[W]e deal with state regulation in the social and economic field, not affecting freedoms guaranteed by the Bill of Rights. . . . For this Court to approve the invalidation of state economic or social regulation as 'overreaching' would be far too reminiscent of an era when the Court thought the Fourteenth Amendment gave it power to strike down state laws 'because they may be unwise, improvident, or out of harmony with a particular school of thought.' . . . That era long ago passed into history. . . .

"To be sure, the cases cited . . . have in the main involved state regulation of business or industry. The administration of public welfare assistance, by contrast, involves the most basic economic needs of impoverished human beings. We recognize the dramatically real factual difference between the cited cases and this one, but we can find no basis for applying a different constitutional standard. . . . It is a standard . . . that is true to the principle that the Fourteenth Amendment gives the federal courts no power to impose upon the States their views of wise economic or social policy."[105]

It may be, however—at least it is not the sort of claim one can disprove—that the "right to an abortion," or noneconomic rights generally, accord more closely with "this generation's idealization of America"[106] than the "rights" asserted in either *Lochner* or *Dandridge*. But that attitude, of course, is *precisely* the point of the *Lochner* philosophy, which would grant unusual protection to those "rights" that somehow *seem* most pressing, regardless of whether the Constitution suggests any special solicitude for them. The Constitution has little to say about contract,[107] less about abortion, and those who would speculate about which the framers would have been more likely to protect may not be pleased with the answer. The Court continues to disavow the philosophy of *Lochner*.[108] Yet as Justice Stewart's concurrence admits, it is impossible candidly to regard *Roe* as the product of anything else.[109]

That alone should be enough to damn it. Criticism of the *Lochner* philosophy has been virtually universal and will not be rehearsed here. I would, however, like to suggest briefly that although *Lochner* and *Roe* are twins to be sure, they are not identical. While I would hesitate to argue that one is more defensible than the other in terms of judicial style, there *are* differences in that regard that suggest *Roe* may turn out to be the more dangerous precedent.

All the "superimposition of the Court's own value choices" talk is, of course, the characterization of others and not the language of *Lochner* or its progeny. Indeed, those cases did not argue that "liberty of contract" was a preferred constitutional freedom, but rather represented it as merely one among the numerous aspects of "liberty" the Fourteenth Amendment protects, therefore requiring of its inhibitors a "rational" defense.

"In our opinion that section . . . is an invasion of the personal liberty, as well as of the right of property, guaranteed by that Amendment. Such liberty and right embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor; each right, however, being subject to the fundamental condition that no contract, whatever its subject matter, can be sustained which the law, upon reasonable grounds, forbids as inconsistent with the public interests or as hurtful to the public order or as detrimental to the common good.[110]

"Undoubtedly, the police power of the State may be exerted to protect purchasers from imposition by sale of short weight loaves. . . . Constitutional protection having been invoked, it is the duty of the court to determine whether the challenged provision has reasonable relation to the protection of purchasers of bread against fraud by short weights and really tends to accomplish the purpose for which it was enacted.[111]

Thus the test *Lochner* and its progeny purported to apply is that which would theoretically control the same questions today: whether a plausible argument can be made that the legislative action furthers some permissible governmental goal.[112] The trouble, of course, is they misapplied it. *Roe*, on the other hand, is quite explicit that the right to an abortion is a "fundamental" one, requiring not merely a "rational" defense for its inhibition but rather a "compelling" one.

A second difference between *Lochner et al.* and *Roe* has to do with the nature of the legislative judgments being second-guessed. In the main, the "refutations" tendered by the *Lochner* series were of two sorts. The first took the form of declarations that the goals in terms of which the legislatures' actions were defended were impermissible. Thus, for example, the equalization of unequal bargaining power and the strengthening of the labor movement are simply ends the legislature had no business pursuing, and consequently its actions cannot thereby be justified.[113] The second form of "refutation" took the form not of denying the legitimacy of the goal relied on but rather of denying the plausibility of the legislature's empirical judgment that its action would *promote* that goal.

"In our judgment it is not possible in fact to discover the connection between the number of hours a baker may work in the bakery and the heathful quality of the bread made by the workman.[114]

"There is no evidence in support of the thought that purchasers have been or are likely to be induced to take a nine and a half or a ten ounce loaf for a pound (16 ounce) loaf, or an eighteen and a half or a 19 ounce loaf for a pound and a half (24 ounce) loaf; and it is contrary to common experience and unreasonable to assume that there could be any danger of such deception."[115]

The *Roe* opinion's "refutation" of the legislative judgment that antiabortion statutes can be justified in terms of the protection of the fetus takes neither of these forms. The Court grants that protecting the fetus is an "important and legitimate" government goal,[116] and of course it does not deny that restricting abortion promotes it.[117] What it does, instead, is simply announce that that goal is not important enough to sustain the restriction. There is little doubt that judgments of this sort were involved in *Lochner et al.*,[118] but what the Court said in those cases was not that the legislature had incorrectly balanced two legitimate but competing goals, but rather that the goal it had favored was impermissible or the legislation involved did not really promote it.[119]

Perhaps this is merely a rhetorical difference, but it could prove to be important. *Lochner et al.* were thoroughly disreputable decisions, but at least they did us the favor of sowing the seeds of their own destruction. To say that the equalization of bargaining power or the fostering of the labor movement is a goal outside the ambit of a "police power" broad enough to forbid all contracts the state legislature can reasonably regard "as inconsistent with the public interests or as hurtful to the public order or as detrimental to the common good"[120] is to say something that is, in a word, wrong.[121] And it is just as obviously wrong to declare, for example, that restrictions on long working hours cannot reasonably be said to promote health and safety.[122] *Roe's* "refutation" of the legislative judgment, on the other, is not obviously wrong, for the substitution of one nonrational judgment for another concerning the relative importance of a mother's opportunity to live the life she has planned and a fetus's opportunity to live at all, can be labeled neither wrong nor right. The problem with *Roe* is not so much that it bungles the question it sets itself,[123] but rather that it sets itself a question the Constitution has not made the Court's business. It looks different from *Lochner*—it has the shape if not the substance of a judgment that is very much the Court's business, one vindicating an interest the Constitution marks as special—and it is for that reason perhaps more dangerous. Of course in a sense it is more candid than *Lochner*.[124] But the employment of a higher standard of judicial review, no matter how candid the recognition that it is indeed higher, loses some of its admirability when it is accompanied by neither a coherent account of why such a standard is appropriate nor any indication of why it has not been satisfied.

▼

I do wish "Wolf!" hadn't been cried so often. When I suggest to my students that *Roe* lacks even colorable support in the constitutional text, history, or any other appropriate source of constitutional doctrine, they tell me they've heard all that before. When I point out they haven't heard it before from *me*, I can't really blame them for smiling.

But at least crying "Wolf!" doesn't influence the wolves; crying "Lochner!" may. Of course the Warren Court was aggressive in enforcing its ideals of liberty and equality. *But by and large, it attempted to defend its decisions in terms of inferences from values the Constitution marks as special.*[125] Its inferences were often controversial, but just as often our profession's prominent criticism designed not to address them on their terms and contented itself with assertions that the Court was indulging in sheer acts of will, ramming its personal preferences down the country's throat—that it was, in a word, Lochnering. One possible judicial response to this style of criticism would be to conclude that one might as well be hanged for a sheep as a goat: So long as you're going to be told, no matter what you say, that all you do is Lochner, you might as well Lochner. Another, perhaps more likely in a new appointee, might be to reason that since Lochnering has so long been standard procedure, "just one more" (in a good cause, of course) can hardly matter. Actual reactions, of course, are not likely to be this self-conscious, but the critical style of offhand dismissal may have taken its toll nonetheless.

Of course the Court has been aware that criticism of much that it has done has been widespread in academic as well as popular circles. But when it looks to the past decade's most prominent academic criticism, it will often find little there to distinguish it from the popular. Disagreements with the chain of inference by which the Court got from the Constitution to its result, if mentioned at all, have tended to be announced in the most conclusory terms, and the impression has often been left that the real quarrel of the Academy, like that of the laity, is with the results the Court has been reaching and perhaps with judicial "activism" in general.[126] Naturally the Court is sensitive to criticism of this sort, but these are issues on which it will, when push comes to shove, trust its own judgment. (And it has no reason not to: Law professors do not agree on what results are "good," and even if they did, there is no reason to assume their judgment is any better on *that* issue than the Court's.) And academic criticism of the sort that might (because it should) have some effect—criticism suggesting misperceptions in the Court's reading of the value structure set forth in the document from which it derives its authority, or unjustifiable inferences it has drawn from that value structure—has seemed for a time somehow out of fashion, the voguish course being simply to dismiss the process by which a disfavored result was reached as Lochnering pure and simple. But if the critics cannot trouble themselves with such details, it is difficult to expect the Court to worry much about them either.

This tendency of commentators to substitute snappy dismissal for careful evaluation of the Court's constitutional inferences—and of course it is simply a tendency, never universally shared and hopefully on the wane—may include among its causes simple laziness, boredom and a natural reluctance to get out of step with the high-steppers. But in part it has also reflected a considered rejection of the view of constitutional adjudication from which my remarks have proceeded. There is a powerful body of opinion that would dismiss the call for substantive criticism—and its underlying assumption that some constitutional inferences are responsible while others are not—as naive. For, the theory goes, except as to the most trivial and least controversial questions (such as the length of a Senator's term), the Constitution speaks in the vaguest and most general terms;[127] the most its clauses can provide are "more or less suitable pegs on which judicial policy choices are hung."[128] Thus anyone who suggests the Constitution can provide significant guidance for today's difficult questions either deludes himself or seeks to delude the Court. Essentially all the Court *can* do is honor the value preferences it sees fit, and it should be graded according to the judgment and skill with which it does so.[129]

One version of this view appears to be held by President Nixon. It is true that in announcing the appointment of Justices Powell and Rehnquist, he described a "judicial conservative"—his kind of Justice—as one who does not "twist or bend the Constitution in order to perpetuate his personal political and social views."[130] But the example he then gave bore witness that he was not so "naive" after all.

"As a judicial conservative, I believe some court decisions have gone too far in the past in weakening the peace forces as against the criminal forces in our society. . . . [T]he peace forces must not be denied the legal tools they need to protect the innocent from criminal elements."[131]

That this sort of invitation, to get in there and Lochner for the right goals, can contribute to opinions like *Roe* is obvious. In terms of process, it is just what the President ordered.

The academic version of this general view is considerably more subtle. It agrees that the Court will find little help in the Consti-

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tution and therefore has no real choice other than to decide for itself which value preferences to honor, but denies that it should necessarily opt for the preferences favored by the Justices themselves or the President who appointed them. To the extent "progress" is to concern the Justices at all, it should be defined not in terms of what they would like it to be but rather in terms of their best estimate of what over time the American people will make it [132]—that is, they should seek "durable" decisions.[133] This, however, is no easy task, and the goals that receive practically all the critics' attention, and presumably are supposed to receive practically all the Court's, are its own institutional survival and effectiveness.[134]

Whatever the other merits or demerits of this sort of criticism, it plainly is not what it is meant to be—an effective argument for judicial self—restraint. For a Governor Warren or a Senator Black will rightly see no reason to defer to law professors on the probable direction of progress; even less do they need the Academy's advice on what is politically feasible; and they know that despite the Court's history of frequent immersion in hot water,[135] its "institutional position" has been getting stronger for 200 years.

Roe is a case in point. Certainly, many will view it as social progress. (Surely that is the Court's view, and indeed the legislatures had been moving perceptibly, albeit too slowly for many of us, toward relaxing their anti-abortion legislation.) [136] And it is difficult to see how it will weaken the Court's position. Fears of official disobedience are obviously groundless when it is a criminal statute that has been invalidated.[137] To the public the *Roe* decision must look very much like the New York Legislature's recent liberalization of its abortion law.[138] Even in the unlikely event someone should catch the public's ear long enough to charge that the wrong institution did the repealing, they have heard that "legalism" before without taking to the streets. Nor are the political branches, and this of course is what really counts, likely to take up the cry very strenuously: The sighs of relief as this particular albatross was cut from the legislative and executive necks seemed to me audible. Perhaps I heard wrong—I live in the Northeast, indeed not so very far from Hyannis Port. It is even possible that a constitutional amendment will emerge, though that too has happened before without serious impairment of the Position of the Institution. But I doubt one will: *Roe v. Wade* seems like a durable decision.

It is, nevertheless, a very bad decision. Not because it will perceptibly weaken the Court—it won't; and not because it conflicts with either my idea of progress [139] or what the evidence suggests is society's [140]—it doesn't. It is bad because it is bad constitutional law, or rather because it is *not* constitutional law and gives almost no sense of an obligation to try to be.[141]

I am aware the Court cannot simply "lay the Article of the Constitution which is invoked beside the statute which is challenged and . . . decide whether the latter squares with the former." [142] That is precisely the reason commentators are needed.

"[P]recisely because it is the Constitution alone with warrants judicial interference in sovereign operations of the State, the basis of judgment as to the Constitutionality of state action must be a rational one, approaching the text which is the only commission for our power not in a literalistic way, as if we had a tax statute before us, but as the basic charter of our society, setting out in spare but meaningful terms the principles of government.[143]

"No matter how imprecise in application to specific modern fact situations, the constitutional guarantees do provide a direction, a goal, an ideal citizen-government relationship. They rule out many alternative directions, goals, and ideals." [144]

And they fail to support the ruling out of others.

Of course that only begins the inquiry. Identification and definition of the values with which the Constitution is concerned will often fall short of indicating with anything resembling clarity the deference to be given those values when they conflict with others society finds important. (Though even here the process is sometimes more helpful than the commentators would allow.) Nor is it often likely to generate, fullblown, the "neutral" principle that will avoid embarrassment in future cases.[145] But though the identification of a constitutional connection is only the beginning of analysis, it is a necessary beginning. The point that often gets lost in the commentary, and obviously got lost in *Roe*, *is that before the Court can get to the "balancing" stage, before it can worry about the next case and the case after that (or even about its institutional position) it is under an obligation to trace its premises to the charter from which it derives its authority. A neutral and durable principle may be a thing of beauty and a joy forever. But if it lacks connection with any value the Constitution marks as special, it is not a constitutional principle and the Court has no business imposing it.* [146] I hope that will seem obvious to the point of banality. Yet those of us to whom it does seem obvious have seldom troubled to say so.[147] And because we have not, we must share in the blame for this decision.

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[1] United States v. Vuitch, 402 U.S. 62, 80 (1971) (Douglas, J., dissenting in part).

[2] 93 S. Ct. 705 (1973).

[3] Were the dissents adequate, this comment would be unnecessary. But each is so brief as to signal no particular conviction that *Roe* represents an important, or unusually dangerous, constitutional development.

[4] *See* 93 S. Ct. at 709–10 n.2, *See* also Doe v. Bolton, 93 S. Ct. 739, 742 (1973).

[5] *Id.* at 727. But cf. note 58 *infra*.

[6] 93 S. Ct. at 727.

[7] *Id.* at 728.

[8] *Id.* at 731.

[9] The Court indicates that the constitutional issue is not to be solved by attempting to answer "the difficult question of when life begins." *Id.* at 730. *See also id.* at 725. *But see* pp. 925–26 *infra*.

[10] The suggestion that the interest in protecting prenatal life should not be considered because the original legislative history of most laws restricting abortion concerned itself with maternal health, *see* 93 S. Ct. at 725–26, is rightly rejected—by clear implication in *Roe* and rather explicitly in *Doe*. *Id.* at 747.

[11] *Id.* at 731.

[12] *Id.* at 725, But cf. note 117 *infra*.

[13] *See* pp. 925–26 *infra*.

[14] *See* 93 S. Ct. at 732. But *see* note 117 *infra*.

[15] 93 S. Ct. at 732. But *see* note 117 *infra*.

[16] 93 S. Ct. at 732.

[17] This, the Court tells us, is somewhere between the twenty-fourth and twenty-eighth weeks. *Id.* at 730. But cf. p. 924 *infra*.

[18] *See* p. 924 *infra*.

[19] 93 S. Ct. at 732. (Thus the statutes of most states must be unconstitutional *even as applied to the final trimester*, since they permit abortion only for the purpose of saving the mother's life. *See id.* at 709.) This holding—that even after viability the mother's life *or health* (which presumably is to be defined very broadly indeed, so as to include what many might regard as the mother's convenience, *see* 93 S. Ct. at 755 (Burger, C.J., concurring)); United States v. Vuitch, 402 U.S. 62 (1971), must, as a matter of constitutional law, take precedence over what the Court seems prepared to grant at this point has become the fetus's *life*, *see* p. 924 *infra*—seems to me at least as controversial as its holding respecting the period prior to viability. (Typically, of course, one is not privileged even statutorily, let alone constitutionally, to take another's life in order to have his own life, much less his health.) Since, however, the Court does not see fit to defend this aspect of its decision at all, there is not a great deal that can be said by way of criticism.

[20] The Court's theory seems to be that narrow grounds need not be considered when there is a broad one that will do the trick: "This conclusion makes it unnecessary for us to consider the additional challenge to the Texas statute asserted on grounds of vagueness." 93 S. Ct. at 732. *Compare id.* at 710 n.3, 710–11; Doe v. Bolton, 93 S. Ct. at 747; Roe v. Wade, 314 F. Supp. 1217 1223 (N.D. Tex. 1970); cases cited 93 S. Ct. at 727; and United States v. Vuitch, 402 U.S. 62 (1971), bearing in mind that the Supreme Court lacks jurisdiction to "construe" a state statute so as to save it from the vice of vagueness.

[21] *See also* Doe v. Bolton, 93 S. Ct. 739 (1973).

[22] Apparently doctors are expected or at least can be required despite the decisions, to exercise their best "medical" or "clinical" judgment (and presumably can be prosecuted if they perform abortions conflicting with the judgment). 93 S. Ct. at 747. *But cf.* United States v. Vuitch, 402 U.S. 62, 97 (Stewart, J., dissenting in part). But if it is unconstitutional to limit the justifications for an abortion to considerations of maternal life and health, what kind of "medical judgment does the Court have in mind? *See* Stone, *Abortion and the Supreme Court*, Modern Medicine (forthcoming 1973): "[T]here are no clear medical indications for abortion in the vast majority of cases. Where there are no indications, there is no room for clinical judgment."

[23] *Compare* 93 S. Ct. at 732 *with id.* at 748–51. An additional element of confusion may have been injected by Justice Douglas's indication in his concurrence with "quickening" is the point at which the interest in protecting the fetus becomes compelling. *Id.* at 759. *But see id.* at 730, where the Court distinguishes quickening from viability and holds the latter to be the crucial point. *See also id.* at 732; p. 924 *infra*.

[24] The state can require that the abortion be performed by a doctor, but that is all. *But see* note 117 *infra*. Even after the first trimester, the limits on state regulation of the conditions under which an abortion can be performed are extremely stringent. *see* Doe v. Bolton, 92 S. Ct 739 (1973)

[25] With respect to the capital punishment litigation too, the Court rejected a narrow ground of invalidation one term only to come back with a *coup de main* the next. *Compare* McGautha v. California, 402 U.S. 183 (1971) with Furman v. Georgia, 408 U.S. 238 (1972). Miranda v. Arizona, 384 U.S. 436 (1966), has something of a "guidebook" quality about it. *See* Dershowitz & Ely, Harris v. New York: *Some Anxious Observations on the Candor and Logic of the Emerging Nixon Majority*, 80 Yale L.J. 1198, 1210 (1971). United States v. Wade, 388 U.S. 218 (1967), to take but one example, has always struck me as a case where the Court starting from the entirely valid realization that trials cannot be fair if lineups are not, went a bit far in limiting the appropriate remedies. And of course many opinions have emitted confusing signals respecting what is henceforth permissible. *See, e.g.*, pp. 929–30 *infra*.

[26] The child may not fare so well either. Of course the Court requires of the mother neither sort of showing, though it may be hoping the doctors will do so. *But cf.* note 22 *supra*.

It is also probably the case, although this is the sort of issue where reliable statistics and comparisons are largely unobtainable, that a number of women have died from illegal abortions who would have lived had they been able to secure legal abortions. It is a strange argument for the unconstitutionality of a law that those who evade it suffer, but it is one that must nevertheless be weighed in the balance as a cost of antiabortion legislation. The Court does not mention it, however; and given the severe restrictions it places on state regulation of the conditions under which an abortion can be performed, it apparently did not appreciably inform its judgment.

[27] *See* pp. 926–27 *infra*.

[28] *See* pp. 926–37 *infra*. Even where the Constitution does single out one of the values for special

protection, the Court has shown an increasing tendency to avoid balancing, or at least to talk as though it were. *See* Brandenburg v. Ohio, 395 U.S. 444 (1969). *See also* United States v. Robel, 389 U.S. 258, 268 n.20 (1967); *but see* Note, *Less Drastic Means and the First Amendment,* 78 Yale L. J. 464, 467–68 (1969). *See also* United States v. O'Brien, 391 U.S. 367, 376–77 (1968); *but cf. Ely. Legislative and Administrative Motivation in Constitutional law,* 79 Yale L.J. 1205, 1340–41 (1970).

[29] 93 S. Ct. at 759 (Douglas, J., concurring).

[30] The claim that the participants are injuring their health seems at least as plausible respecting abortion. Cf. note 117 *infra.* To the extent that the use of soft drugs and homosexual activities interfere with the lives of those other than the participants, those interferences can be dealt with discretely.

[31] *Cf.* Poe v. Ullman, 367 U.S. 497, 551–53 (1961), (Harlan, J., dissenting), *quoted* in part in Griswold v. Connecticut, 381 U.S. 479, 499 (1965) (Goldberg, J., concurring), distinguishing laws proscribing homosexual acts (even those performed in the home) as not involving the "right" at stake in those cases.

[32] *See, e.g.,* Poe v. Ullman, 367 U.S. 497, 545–46 (Harlan, J., dissenting).

[33] Nor is the Court's conclusion that early abortion does not present serious physical risk to the woman involved shared by all doctors. *Cf.* note 117 *infra.*

[34] It defines viability so as not to exclude the possibility of artificial support, 93 S. Ct. at 730, and later indicates its awareness of the continuing development of artificial wombs. *Id.* at 731. It gives no sign of having considered the implications of that combination for the trimester program the Constitution is held to mandate, however.

[35] Albeit not so compelling that a state is permitted to honor it at the expense of the mother's health. *See* note 19 *supra.*

[36] Note 17 *supra.*

[37] *See* 93 S. Ct. at 716.

[38] *Id.*

[39] *Id.* at 716–20.

[40] *Id.* at 732. *See also id.* at 730: Physicians and their scientific colleagues have regarded [quickening] with less interest and have tended to focus either upon conception or upon live birth or upon the interim point at which the fetus becomes "viable," . . .

The relevance of this observation is not explained. It is, moreover, of questionable validity: This line is drawn beyond quickening, beyond the point where any religion has assumed that life begins, beyond the time when abortion is a simple procedure, and less. It is also beyond the point which would have satisfied many who, like myself, were long term supporters of the right to abortion. Stone, *supra* note 22.

[41] Logically, of course, a legitimate state interest in this area need not stand or fall on acceptance of the belief that life begins at conception or at some other point prior to live birth. In assessing the State's interest, recognition may be given to the less rigid claim that as long as the least *potential* life is involved, the State may assert interests beyond the protection of the pregnant woman alone. 93 S. Ct. at 725. *See also id.* at 730: We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point [sic] in the development of man's knowledge, is not in a position to speculate as to the answer.

The Texas statute, like those of many states, had declared fetuses to be living beings.

See id. at 709 n.1, 710 n.3; *cf. id.* at 721, 723 n.40, 729 n.55.

[42] The opinion does contain a lengthy survey of "historical attitudes" toward abortion, culminating in a discussion of the positions of the American Medical Association, the American Public Health Association, and the American Bar Association. *Id.* at 715–24. (The discussion's high point is probably reached where the Court explains away the Hippocratic Oath's prohibition of abortion on the grounds that Hippocrates was a Pythagorean, and Pythagoreans were a minority. *Id.* at 715–16.) The Court does not seem entirely clear as to what this discussion has to do with the legal argument, *id.* at 709, 715, and the reader is left in much the same quandary. It surely does not seem to support the Court's position, unless a record of serious historical and contemporary dispute is somehow thought to generate a constitutional mandate.

[43] *Id.* at 731.

[44] *Id.* at 728–30.

[45] [T]he traditional rule of tort law had denied recovery for prenatal injuries even though the child was born alive. That rule has been changed in almost every jurisdiction. In most States recovery is said to be permitted only if the fetus was viable, or at least quick, when the injuries were sustained, though few courts have squarely so held. In a recent development, generally opposed by the commentators, some States permit the parents of a stillborn child to maintain an action for wrongful death because of prenatal injuries. Such an action, however, would appear to be one to vindicate the parents' interest and is thus consistent with the view that the fetus, at most, represents only the potentiality of life. Similarly, unborn children have been recognized as acquiring rights or interests by way of inheritance or other devolution of property, and have been represented by guardians *ad litem.* Perfection of the interests involved, again, has generally been contingent upon live birth. In short, the unborn have never been recognized in the law as persons in the whole sense. *Id.* at 731 (footnotes omitted).

See also e.g., W. Prosser, Handbook of the Law of Torts 355 (3d ed. 1964).

[46] *Id.* at 728–29 (footnote omitted).

[47] *See* pp. 928–33 *infra.*

[48] Indeed it is difficult to think of a single instance where the justification given for upholding a governmental limitation of a protected right has involved the constitutional rights of others. A "free press-fair trial" situation might provide the basis for such an order, but thus far the Court has refused to approve one. *See* Ely, *Trial by Newspaper & Its Cures,* Encounter, March 1967, at 80–93.

In the Court's defense it should be noted that it errs in the other direction as well, by suggesting that if a fetus *were* a person protected by the Fourteenth Amendment, it would necessarily follow that appellants would lose. 93 S. Ct. at 728. Yet in fact all that would thereby be established is that one right granted special protection by the Fourteenth Amendment was in conflict with what the Court felt was another; it would not tell us which must prevail.

[49] *See* United States. v. O'Brien, 391 U.S. 367, 376–77 (1968). And if you don't like that example, substitute post offices for draft cards.

[50] I would, however, omit the serious restrictions the Court puts on state health regulation of the conditions under which an abortion can be performed, and give serious thought—though the practical difference here is not likely to be great—to placing the critical line at quickening rather than viability. *See* note 40 *supra.*

[51] Some of us who fought for the right to abortion did so with a divided spirit. We have always felt that the decision to abort was a human tragedy to be accepted only because an unwanted pregnancy was even more tragic. Stone, *supra* note 22.

[52] Of course the opportunity to have an abortion should be considered part of the "liberty" protected by the Fourteenth Amendment. *See* p. 935 *infra.*

[53] *See, e.g.,* Dunn v. Blumstein, 405 U.S. 330 (1972); Shapiro v. Thompson, 394 U.S. 618 (1969).

[54] *See also* Edwards v. California, 314 U.S. 160 (1941).

[55] *See* United States v. Wheeler, 254 U.S. 281, 294 (1920); Slaughterhouse Cases, 83 U.S. (16 Wall.) 36, 75 (1872); U.S. ARTS CONFED. art. IV; 3 M. FARRAND, THE RECORDS OF THE FEDERAL CONVENTION OF 1787, at 112 (1911); *cf.* The Federalist, No. 42, at 307 (Wright ed. 1961).

[56] *See* Crandall v. Nevada, 73 U.S. (6 Wall.) 35 (1867); C. Black, Structure and Relationship in Constitutional Law (1969). The Court seems to regard the opportunity to travel *outside* the United States as merely an aspect of the "liberty" that under the Fifth and Fourteenth Amendments cannot be denied without due process. *See* Zeme v. Rusk, 381 U.S. 1, 14 (1965). *Cf.* p. 935 *infra.*

[57] Abortions had, of course, been performed, and intermittently proscribed, for centuries prior to the framing of the Constitution. That alone, however, need not be dispositive. *See* p. 929 *infra* & note 97 *Infra.*

[58] The Court does not seem entirely certain about which provision protects the right to privacy and its included right to an abortion. Appellant would discover this right in the concept of personal "liberty" embodied in the Fourteenth Amendment's Due Process Clause; or in personal, marital, familial, and sexual privacy said to be protected by the Bill of Rights or its penumbras . . . or among those rights reserved to the people by the Ninth Amendment . . . 93 S. Ct. at 715.

This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. *Id.* at 727. This inability to pigeonhole confidently the right involved is not important in and of itself. It might, however, have alerted the Court to what *is* an important question: whether the Constitution speaks to the matter at all.

[59] 381 U.S. 479 (1965).

[60] *See* NAACP v. Alabama, 357 U.S. 449 (1958), relied on the *Griswold,* 381 U.S. at 483. The *Roe* Court's reference to Justice Goldberg's concurrence in *Griswold* for the proposition that "the roots of" the right of privacy can be found in the Ninth Amendment 93 S. Ct. at 726, misconceives the use the earlier opinion made of that Amendment. *See* 381 U.S. at 492–93. A reference to "the penumbras of the Bill of Rights," 93 S. Ct. at 726, can have no content independent of a description of some general value or values inferable from the provisions involved (and therefore assignable to their penumbras). *See* San Antonio Independent School Dist. v. Rodrigues, 41 U.S.L.W. 4407, 4438 (U.S. March 21, 1973) (Marshall J., dissenting); pp. 929–30 *infra.*

[61] *See* Katz v. United States, 389 U.S. 347, 364 (1967) (Black, J., dissenting); Griswold v. Connecticut, 381 U.S. 479, 529 (Stewart, J., dissenting).

[62] United States v. Dionisio, 93 S. Ct. 764 (1973). *See also* United States v. Mara, 93 S. Ct. 774 (1973) (handwriting exemplars), also decided the same day as *Roe,* and Couch v. United States, 93 S. Ct. 611 (1973) (finding no privacy interest in records a taxpayer had turned over to her accountant) decided thirteen days earlier.

[63] [T]the proper scope of [a constitutional provision], and its relevance to contemporary problems, must ultimately be sought by attempting to discern the reasons for its inclusion in the Constitution, and the evils it was designed to eliminate. United States v. Brown, 381 U.S. 437, 442 (1965). *See also* Weems v. United States, 217 U.S. 349, 373 (1910); Reich, *Mr. Justice Black and the Living Constitution,* 76 Harv. L. Rev. 673 (1963); Note, *The Bounds of Legislative Specification: A Suggested Approach to the Bill of Attainder Clause,* 72 Yale L.J. 330 (1962).

[64] *Cf.* Fried, *Privacy,* 77 Yale L.J. 475 (1968). The Third Amendment, mentioned in *Griswold* though not in *Roe,* surely has this aspect to it as well, though it probably grew in even larger measure out of a general concern with the pervasiveness of military power.

[65] 389 U.S. 347 (1967).

[66] *Cf.* Schmerber v. California, 384 U.S. 757 (1966).

[67] Contraception and at least early abortion obviously have much in common. *See* Stone, *supra* note 22.

[68] The *Roe* opinion does not rely on the obvious contraception-abortion comparison and indeed gives no sign that it finds *Griswold* stronger precedent than a number of other cases. *See* 93 S. Ct. at 726-27; note 79 *infra.* In fact it seems to go out of its way to characterize *Griswold* and Eisenstadt v. Baird, 405 U.S. 438 (1972), as cases concerned with the privacy of the bedroom. *See* 93 S. Ct. at 730; note 79 *infra.* It is true that in *Eisenstadt* the Court at one point characterized *Griswold* as protecting the "decision whether to bear and beget a child," 405 U.S. at 453, but it also, mysteriously in light of that characterization, pointedly refused to decide whether the earlier case extended beyond use, to the distribution of contraceptives. *Id.* at 452–53. Nor is there any possibility the refusal to extend *Griswold* in this way ill-considered; such an extension would have obviated the *Eisenstadt* Court's obviously strained performance respecting the Equal Protection Clause.

[69] Admittedly the *Griswold* opinion is vague and openended, but the language quoted in the text at note 72 *infra* seems plainly inconsistent with the view that it is a case not about likely invasions of the privacy of the bedroom but rather directly enshrining a right to contraception.

[70] *See* Eisenstadt v. Baird, 405 U.S. 438, 443 (1972). *Cf.* 93 S. Ct. at 730; note 79 *infra.*

[71] Stanley v. Georgia, 394 U.S. 557 (1969), cited by the Court in *Roe,* might also be rationalized on such a theory, *cf. id.* at 565, though it reads more like a "pure" First Amendment case concerned with governmental attempts at thought control.

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[72] 381 U.S. at 495–96 (emphasis in original).

[73] *See also* Poe v. Ullman, 367 U.S. 497, 548–49, 553–54 (1961) (Harlan, J., dissenting). That the Court in *Griswold* saw fit to quote Boyd v. United States, 116 U.S. 616, 630 (1886), is also significant. *See* 381 U.S. at 484–85 n.*. *See also* United States v. Grunewald, 233 F.2d 556, 581–82 (2d Cir. 1956) (Frank, J., dissenting).

The theory suggested in Poe v. Ullman, *supra*, at 551–52 (Harlan, J., dissenting), extending heightened protection to activities (though it turns out to be *some* activities, note 31 *supra*) customarily performed in the home, is also inapplicable to *Roe*.

[74] Of course in individual cases the government might seek to enforce legislation restricting abortion, as indeed it might seek to enforce any law, in ways that violate the Fourth Amendment or otherwise intrude upon the general privacy interest the Bill of Rights suggests. The Court does not suggest, however, that the laws at issue in *Roe* are in any sense unusually calculated to generate such intrusions.

[75] *See* pp. 925–26 *supra*.

[76] *See* pp. 929–30 *supra*.

[77] 93 S. Ct. at 727.

[78] The Court's rejection of the "non-paternalism" argument is of course underlined by the health regulations it is prepared to allow during the second trimester, *before* the interest in protecting the fetus is cognizable. *See* p. 921 *supra*.

[79] The Court does assert that only personal rights that can be deemed "fundamental" or "implicit in the concept of ordered liberty," Palko v. Connecticut, 302 U.S. 319, 325 (1937), are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, Loving v. Virginia, 388 U.S. 1, 12 (1967), procreation, Skinner v. Oklahoma, 316 U.S. 535, 541–42 (1942), contraception, Eisenstadt v. Baird, 405 U.S. 438, 453–54 (1972); *id.* at 460, 463–65 (White, J., concurring), family relationships, Prince v. Massachusetts, 321 U.S. 158, 166 (1944), and child rearing and education, Pierce v. Society of Sisters, 268 U.S. 510, 535 (1925), Meyer v. Nebraska, [262 U.S. 390, 399 (1923)].

93 S. Ct. at 726–27. The *Palko* test was stated and has heretofore been taken as a definition (of questionable comtemporary vitality) of due process generally, not of privacy. *Loving* was a case involving explicit racial discrimination and therefore decidable (and decided) by a rather straightforward application of the Equal Protection Clause. *See* Ely, *supra* note 28, at 1230. And while the *Loving* Court did, inexplicably, append a reference to due process, it did not mention privacy. *Skinner* invalidated the Oklahoma criminal sterilization act's distinction between larcenists and embezzlers. Although it too did not allude to privacy, it did suggest it was applying a higher equal protection standard than usual. Why it did so is unclear. "Faced with the possibility of a finding of cruel and unusual punishment and the virtual certainty of invalidation under the clause proscribing *ex post facto* laws, the state declined to argue the case on the theory that the . . . Act was a penal statute, and therefore tried to justify the distinction in 'regulatory terms,'" Ely, *supra*, at 1235 n.101. That being so, the state was unable to come up with even a plausible justification for the distinction. *Eisenstadt* was a case applying "traditional" equal protection standards, albeit in a less than satisfactory way. *See* Note, *Legislative Purpose, Rationality, and Equal Protection*, 82 Yale L.J. 123 (1972). The passage cited by the Court in *Roe* reiterated *Griswold's* conclusion that privacy interests are threatened by a ban on the use of contraceptives, but declined to decide whether its rationale should be extended to restrictions on distribution. *See* p. 930 *supra*. *Prince* upheld the application of a child labor law to Jehovah's Witness children distributing religious literature. It did, however, reiterate the conclusion of *Pierce* and *Meyer* that family relationships are entitled to special protection. Those two cases are products of "the *Lochner* era," *see* pp. 937–43 *infra*. The vitality of the theory on which they rested has been questioned, Epperson v. Arkansas, 393 U.S. 97, 105–06 (1968), and the Court has attempted to recast them as First Amendment cases. Griswold v. Connecticut, 381 U.S. 479, 482 (1965); *cf.* Poe v. Ullman, 367 U.S. 497, 533–34 (1961) (Harlan, J., dissenting). Even reading the cases cited "for all that they are worth," it is difficult to isolate the "privacy" factor (or any other factor that seems constitutionally relevant) that unites them with each other and with *Roe*. So the Court seems to admit by indicating that privacy has "some extension" to the activities involved, and so it seems later to grant even more explicitly.

The pregnant woman cannot be isolated in her privacy. She carries an embryo and, later, a fetus. . . . The situation therefore is inherently different from marital intimacy, or bedroom possession of obscene material, or marriage, or procreation, or education, with which *Eisenstadt*, *Griswold*, *Stanley*, *Loving*, *Skinner*, *Pierce*, and *Meyer* were respectively concerned. 93 S. Ct. at 730.

[80] 93 S. Ct. at 727. *See also id.* at 757 (Douglas, J., concurring).

[81] It might be noted that most of the factors enumerated also apply to the inconvenience of having an unwanted two-year-old, or a senile parent around. Would the Court find the constitutional right or privacy invaded in those situations too? I find it hard to believe it would; even if it did, of course, it would not find a constitutional right to "terminate" the annoyance—presumably because "real" persons are now involved. *But cf.* p. 926 *supra* & note 48 *supra*. But what about ways of removing the annoyance that do not involve "termination"? Can they really be matters of constitutional entitlement?

[82] *But cf.* 93 S. Ct. at 758–59 (Douglas, J., concurring).

[83] *Cf.* Katz v. United States, 389 U.S. 347, 350–51 (1967).

[84] United States v. Carolene Products Co., 304 U.S. 144, 152 n.4 (1938).

[85] This is not the place for a full treatment of the subject, but the general idea is this: Classifications by sex, like classifications by race, differ from the usual classification—to which the traditional "reasonable generalization" standard is properly applied—in that they rest on "we-they" generalizations as opposed to a "they-they" generalization. Take a familiar example of the usual approach, Williamson v. Lee Optical Co., 348 U.S. 483 (1955). Of course few legislators are opticians. But few are optometrists either. Thus while a decision to distinguish opticians from optometrists will incorporate a stereotypical comparison of two classes of people, it is a comparison of two "they" stereotypes, *viz.* "They [opticians] are generally inferior to or not so well qualified as *they* [optometrists] are in the following respect(s), which we find sufficient to justify the classification: . . ." However, legislators traditionally have not only not been black (or female); they have been white (and male). A decision to distinguish blacks from whites (or women from men) will therefore have its roots in a comparison between a "we" stereotype and a "they" stereotype, *viz.* "They [blacks or women] are generally inferior to or not so well qualified as *we* [whites or men] are in the following respect(s), which we find sufficient to justify the classification: . . ."

The choice between classifying on the basis of a comparative generalization and attempting to come up with a more discriminating formula always involves balancing the increase in fairness which greater individualization will produce against the added costs it will entail. It is no startling psychological insight, however, that most of us are delighted to hear and prone to accept comparative characterizations of groups that suggest that the groups to which *we* belong are in some way superior to others. (I would be inclined to exclude most situations where the "we's" used to be "they's," *cf.* Ferguson v. Skrupa, 372 U.S. 726 (1963), and would therefore agree that the unchangeability of the distinguishing characteristic is indeed relevant, though it is only part of the story.) The danger is therefore greater in we-they situations that we will overestimate the validity of the proposed stereotypical classification by seizing upon the positive myths about our own class and the negative myths about theirs—or indeed the realities respecting some or most members of the two classes—and too readily assuming that virtually the entire membership of the two classes fit the sterotypes and therefore that not many of "them" will be unfairly deprived, nor many of "us" unfairly benefitted, by the proposed classification. In short, I trust your generalizations about the differences between my gang and Wilfred's more than I do your generalizations about the differences between my gang and yours.

Of course most judges, like most legislators, are white males, and there is no particular reason to suppose they are any more immune to the conscious and unconscious temptations that inhere in we-they generalizations. Obviously the factors mentioned can distort the evaluation of a classification fully as much as they can distort its formation. But all this is only to suggest that the Court had chosen the right course in reviewing classifications it has decided are suspicious—a course not of restriking or secondguessing the legislative cost-benefit balance but rather of demanding a congruence between the classification and its goal as perfect as practicable. When in a given situation you can't be trusted to generalize and I can't be trusted to generalize, the answer is not to generalize—so long as a bearable alternative exists. And here, the Court has recognized, one does—the alternative of forcing the system to absorb the additional cost that case by case determinations of qualification will entail. Legislatures incur this cost voluntarily in a great many situations, and courts have on other occasions forced them to do so where constitutionally protected interests will be threatened by an imperfectly fitting classification. The unusual dangers of distortion that inhere in a we-they process of comparative generalization, the Court seems to have been telling us in the racial classification cases, also demand that we bear the increased cost of individual justice.

[86] *See* 93 S. Ct. at 708–10, 720, 723–24, 742–43, 752–55.

[87] If the mere fact that the classification in issue disadvantages a minority whose viewpoint was not appreciated by a majority of the legislature that enacted it were sufficient to render it suspect, *all* classifications would be suspect.

[88] Even if the case could be made that abortion is an issue that pits the interests of men against those of women, that alone would not bring it within a theory that renders suspect classifications based on generalizations about the characteristics of men and women. And even if there were some way to expand the theory (and I confess I cannot see what judicial remedy would be appropriate were the theory so expanded, *but see* note 85 *supra*, third paragraph) to cover all "interests of men versus interests of women" situations, it will take some proving to establish that this is one: [D]ecisions in society are made by those who have power and not by those who have rights. Husbands and boy friends may in the end wield the power and make the abortion decision. Many women may be forced to have abortions not because it is their right, but because they are forced by egocentric men to submit to this procedure to avoid an unwanted inconvenience to men. Stone, *supra* note 22.

[89] It might be suggested that legislation restricting abortion had been kept on the books by the efforts of an intense minority and did not represent the will of most legislative majorities. Though I am aware of no basis for inferring this is any truer here than it is with respect to other sorts of legislation, *see also* note 86 *supra*, it is the sort of claim that is hard to disprove. (The phenomenon described at pp. 946–47 *infra*, one of relief that the issue has been taken out of the political arena, is a very different matter.) In any event it is not the Court's job to repeal such legislation. In the first place there is nothing unusual, and I was not aware there was anything wrong, with an intense minority's compromising on issues about which it feels less strongly in order to garner support on those it cares most about. Moreover, precisely because the claims involved are difficult to evaluate, I would not want to entrust to the judiciary authority to guess about them—certainly not under the guise of enforcing the Constitution. Leaving aside the arguable case of a law that has been neither legislatively considered *nor enforced* for decades, *see* A Bickel, The Least Dangerous Branch 143–56 (1962), the Court should rest its declaration of unconstitutionality, if any, on more than a guess about how widespread and intense the support for the law "really" is.

[90] The claimed connection is often empirical, causal or normative. About all that does *not* seem to become involved is formal logic. *See* p. 941 *infra*; Ely, *supra* note 28, at 1237–49.

[91] Even this statement of the demands of "substantive due process" is too strong for many Justices and commentators, who deny that any such doctrine should exist. *See, e.g.*, pp. 937–38 *infra*.

[92] *See* Bransburg v. Hayes, 408 U.S. 665 (1972).

[93] *See* pp. 928–33 *supra*. Necessarily, a claim of this sort can never be established beyond doubt; one can only proceed by examining the claims of those values he thinks, or others have suggested, are traceable to the Constitution. It is always possible, however, that someone will develop a general theory of entitlements that encompasses a given case and plausibly demonstrate its constitutional connections. It is also possible that had the constitutional right to an abortion been developed as con-

stitutional doctrines usually are—that is incrementally, rather than by the quantum jump of *Roe*—the connection of the first step with the Constitution, and that of each succeeding step with its predecessor, would have seemed more plausible. I cannot bring myself to believe, however, that any amount of gradualism could serve to make anything approaching the entire inference convincing.

[94] The thing about permitting disparity among state laws regulating abortion that *I* find most troubling is not mentioned by the Court, and that is that some people can afford the fare to a neighboring state and others cannot. Of course this situation prevails with respect to divorce and a host of other sorts of laws as well. I wish someone could develop a theory that would enable the Court to take account of this concern without implying a complete obliteration of the federal system that is so obviously at the heart of the Constitution's plan. I have not been able to do so. *See* note 87 *supra.*

[95] *See* pp. 943-45 *infra.*

[96] *See, e.g., Abortion,* The New Republic, Feb. 10, 1973, at 9; Stone, *supra* note 22.

[97] Of course one can disagree with the lengths to which the inferences have been taken; my point is that the prior decisions, including those that have drawn the most fire, at least started from a value singled out by, or fairly inferable from, the Constitution as entitled to special protection. Whatever one may think of the code of conduct laid down in Miranda v. Arizona, 384 U.S. 436 (1966), the Constitution does talk about the right to counsel and the privilege against self-incrimination. Whatever one may think of the strictness of the scrutiny exercised in Furman v. Georgia, 408 U.S. 238 (1972), the Eighth Amendment surely does indicate in a general way that punishments are to be scrutinized for erratic imposition ("usual") and severity disproportionate to any good they can be expected to accomplish ("cruel").

Note that the claim in the text has to do with the capacity of the earlier decisions to be *rationalized* in terms of some value highlighted by the Constitution, not with the skill with which they were in fact rendered. It is now pretty generally recognized, for example, that the various "wealth discrimination" cases could better have been defended in terms of the constitutional attention paid explicitly or implicitly or implicitly to the "goods" whose distribution was in issue—the right to vote and the assurance of fair judicial procedures. *See, e.g.,* Michelman, *Foreword: On Protecting the Poor Through the Fourteenth Amendment,* 83 Harv. L. Rev. 7 (1969). Reynolds v. Sims, 377 U.S. 533 (1964), is a badly articulated opinion. Its only response to the argument made by Justice Stewart—that since an equal protection claim was involved, a rational defense of a disparity among the "weights" of votes should suffice—was simply to announce that the goals Justice Stewart had in mind were off limits. *See* Ely, *supra* note 26, at 1226-27. But even Justice Stewart could not take the equal protection mold too seriously, for he added he would not approve a plan that permitted "the systematic frustration of the will of a majority of the electorate of the State." Lucas v. Colorado Gen. Assembly, 377 U.S. 713, 753-54 (1954) (footnote omitted). Such a plan, however, could be quite "rational" in terms of the sort of goals Justice Stewart had in mind, goals that in other contexts would count as legitimate. Obviously Justice Stewart had in mind, goals that in other contexts would count as legitimate. Obviously Justice Stewart was moved to some extent by the notion that a system whereby a minority could perpetuate its control of the government was out of accord with the system of government envisioned by the framers. *See also* Kramer v. Union Free School District No. 15, 395 U.S. 621, 628 (1969) (Warren, C.J., for the Court). This was what moved the Court too, though much further. And though the Court did not give the reason, there is one: a fear that by attempting to apply Justice Stewart's "in between" standard it would become embroiled in unseemly "political" inquiries into the power alignments prevalent in the various states. *See* Deutsch, *Neutrality, Legitimacy, and the Supreme Court: Some Intersections Between Law and Political Science,* 20 Stan. L. Rev. 169, 246-47 (1968); *cf.* note 89 *supra; but cf.* Mahan v. Howell, 41 U.S.L.W. 4277 (U.S. Feb. 20, 1973). Though the point is surely debatable, the impulse is understandable, and the fight in *Reynolds,* like that in *Miranda,* turns out to be not so much over the underlying values as over the need for a "clean" prophylactic rule that will keep the courts out of messy factual disputes.

In his concurrence in *Roe,* Justice Stewart lists ten cases to prove that "the Due Process Clause of the Fourteenth Amendment covers more than those freedoms explicitly named in the Bill of Rights." 93 S. Ct. at 734. His point is obviously that the freedoms involved were given protection above and beyond the ordinary demand for a "rational" defense and therefore *Roe* is just more of the same. It is not. Schware v. Bd. of Bar Examiners, 353 U.S. 232 (1957); Aptheker v. Secretary of State, 378 U.S. 500 (1964); and Kent v. Dulles, 357 U.S. 116 (1958), are all obviously rationalizable as First Amendment cases and indeed have since been so rationalized. Concerning *Schware,* see Griswold v. Connecticut, 381 U.S. 479, 483 (1965); *cf.* United States v. Brown, 381 U.S. 437, 456 (1965). As to *Aptheker* and *Kent,* see Zemel v. Rusk, 381 U.S. 1, 16 (1965); United States v. Brown, 381 U.S. at 456. Concerning Pierce v. Society of Sisters and Meyer v. Nebraska, see note 79 *supra.* As to Shapiro v. Thompson, 394 U.S. 618 (1969), and United States v. Guest, 383 U.S. 745 (1966), see p. 927 *supra.* With respect to Carrington v. Rash, 380 U.S. 89 (1965), see the preceding paragraph of this footnote and C. BLACK, *supra* note 56. Concerning Bolling v. Sharpe, 347 U.S. 497 (1954), see note 79 *supra; but cf.* Linde, *Judges, Critics, and the Realist Tradition,* 82 YALE L.J. 227, 233-35 (1972). And *compare* Truax v. Raich, 239 U.S. 33 (1915), *with* Graham v. Richardson, 403 U.S. 365 (1971), *and* note 85 *supra.*

[98] 198 U.S. 45 (1905).

[99] Ferguson v. Skrupa, 372 U.S. 726, 729-30 (1965) (footnotes omitted). *See also* Lincoln Federal Labor Union v. Northwestern Iron & Metal Co., 335 U.S. 525, 533-37 (1949).

[100] *See* Pierce v. Society of Sisters, 268 U.S. 510 (1925); Meyer v. Nebraska, 262 U.S. 390 (1923).

[101] *E.g.,* Adkins v. Children's Hospital, 261 U.S. 525, 542-43 (1923). *See also* Adair v. United States, 208 U.S. 161, 172-73 (1908). *Cf.* Hammer v. Dagenhart, 247 U.S. 251 (1918).

[102] 397 U.S. 471 (1970).

[103] *See, e.g.,* San Antonio Independent School Dist. v. Rodrigues, 41 U.S.L.W. 4407, 4417 (U.S. March 21, 1973); Ortwein v. Schwab, 41 U.S.L.W. 3473, 3474 (U.S. March 5, 1973); United States v. Kras, 93 S. Ct. 631, 638 (1973).

[104] *But cf.* note 109 *infra.*

[105] 397 U.S. at 484-86.

[106] Karst & Horowitz, Reitman v. Mulkey: *A Telophase of Substantive Equal Protection,* 1967 Sup. Ct. Rev. 39, 57-58; *cf.* 2 L. Pollak, The Constitution and the Supreme Court: A Documentary History 266-67 (1966).

[107] *But see* U.S. CONST. art. I, § 10; Calder v. Bull, 3 U.S. (3 Dall.) 386 (1798).

[108] *See* note 103 *supra.*

[109] 93 S. Ct. at 734. The only *"Lochner era"* cases Justice Stewart cites are *Meyer* and *Pierce.* It therefore may be he intends to pursue some sort of "economic-noneconomic" line in selecting rights entitled to special protection. *But see* text at note 105 *supra.* The general philosophy of constitutional adjudication, however, is the same. *See* text at notes 106-07 *supra.* Justice Stewart rather clearly intends his *Roe* opinion as a repudiation of his *Griswold* dissent, and not simply as an acquiescence in what the Court did in the earlier case. *See* 93 S. Ct. at 735.

Having established to his present satisfaction that the Due Process Clause extends unusual substantive protection to interests the Constitution nowhere marks as special, *but see* note 97 *supra,* he provides no further assistance respecting the difficult questions before the Court, but rather defers to the Court's "thorough demonstration" that the interests in protecting the mother and preserving the fetus cannot support the legislation involved. *But see* pp. 922-26 *supra.*

[110] Adair v. United States, 208 U.S. 161, 172 (1908). *See also id.* at 174.

[111] Jay Burns Baking Co. v. Bryan, 264 U.S. 504, 513 (1924). *See also id.* at 517; Meyer v. Nebraska, 262 U.S. 390, 399-400, 403 (1923); Adkins v. Children's Hospital, 261 U.S. 525, 529 (1923); Coppage v. Kansas, 236 U.S. 1, 14 (1915); Lochner v. New York, 198 U.S. 45, 53, 54, 56, 57 (1905); *id.* at 68 (Harlan, J., dissenting).

[112] *But cf.* note 91 *supra.*

[113] Coppage v. Kansas, 236 U.S. 1, 16-17, 17-18 (1915). *See also* Meyer v. Nebraska, 262 U.S. 390, 403 (1923); Adair v. United States, 208 U.S. 161, 174-75 (1908); Lochner v. New York, 198 U.S. 45, 57-58 (1905).

[114] Lochner v. New York, 198 U.S. 45, 62 (1905). *See also id.* at 57, 58, 59, 64.

[115] Jay Burns Baking Co. v. Bryan, 264 U.S. 504, 517 (1924). *See also* Coppage v. Kansas, 236 U.S. 1, 15-16 (1915).

[116] Note 8 *supra.*

[117] The *Lochner* approach to factual claims is, however, suggested by the Court's ready acceptance—by way of nullifying the state's health interest during the first trimester—*of* the data adduced by appelants and certain *amici* to the effect that abortions performed during the first trimester are safer than childbirth. 93 S. Ct. at 725. This is not in fact agreed to by all doctors—the data are of course severely limited—and the Court's view of the matter is plainly not the only one that is "rational" under the usual standards. *See* San Antonio Independent School Dist. v. Rodrigues, 41 U.S.L.W. 4407, 4420 (U.S. March 21, 1973); Eisenstadt V. Baird, 405 U.S. 438, 470 (1972) (Burgber, D.J., dissenting): The actual hazards of introducing a particular foreign substance into the human body are frequently controverted, and I cannot believe the unanimity of expert opinion is a prerequisite to a State's exercise of its police power, no matter what the subject matter of the regulation. Even assuming no present dispute among medical authorities, we cannot ignore that it has become commonplace for a drug or food additive to be universally regarded as harmless on one day and to be condemned as perilous the next. It is inappropriate for this Court to overrule a legislative classification by relying on the present consensus among leading authorities. The commands of the Constitution cannot fluctuate with the shifting tides of scientific opinion.

I suppose the Court's defense of its unusual reaction to the scientific data would be that the case is unusual, in that it involves a "fundamental" interest. It should be noted, however, that even a sure sense that abortion during the first trimester is safer than childbirth would serve only to blunt a state's claim that it is, for reasons relating to maternal health, entitled to *proscribe* abortion; it would not support the inference the Court draws, that *regulations designed to make the abortion procedure safer* during the first trimester are impermissible. *See* 93 S. Ct. at 732.

[118] *Cf.* Meyer v. Nebraska, 262 U.S. 390 (1923); Adkins v. Children's Hospital, 261 U.S. 525, 546 (1923), Lochner v. New York, 198 U.S. 45, 53-54, 57 (1905).

[119] And even those cases that interlaced such claims with indications of a balancing test, *see* note 118 *supra,* sowed the seeds of their own reversal. *See* text at notes 120-21 *infra.* A claim that X weighs mor than Y will have little persuasive or precedential value if it is bracketed with an indefensible assertion than Y is nothing.

[120] Adair v. United States, 208 U.S. 161, 172 (1908), quoted more fully at p. 932 *supra. See also, e.g.,* Lochner v. New York, 198 U.S. 45, 54 (1905).

[121] Wrong, that is, if one assigns to the words anything resembling their ordinary meanings. *see, e.g.,* Daniel v. Family Insurance Co., 336 U.S. 220, 224 (1949). One can of course argue that states should also have governments of few and defined powers, that they should not be vested with broad authority to go after whatever they regard as evils. But the Federal Constitution imposes no such restraint, and according to the test accepted even at the time of *Lochner* such authority, at least as a matter of federal constitutional law, does exist.

[122] It is possible, of course, that I am here timebound, and that the wrongness of *Lochner et al.* is obvious only because a half century of commentary has made it so. While I cannot rebut this, I am inclined to doubt it. In those decisions the Court stated the applicable tests in language much the same as would be used today—language the dissents cogently demonstrated could not be reconciled with the results. That views with which one disagrees can be reasonable nonetheless was a concept hardly new to lawyers even in 1900.

[123] *But compare* 93 S. Ct. at 732 *with* Doe v. Bolton, 93 S. Ct. 739 (1973). *See also* pp. 922-26 *supra.*

[124] With respect to the Equal Protection Clause, by way of contrast, the Court has taken to claiming it is simply applying the traditional rationality standard, whether it is or not. For a more optimistic view of the development, *see* Gunther *Foreword: In Search of Evolving Doctrine on a Changing Court: A Model for a Newer Equal Protection,* 86 Harv. L. Rev. 1 (1972).

[125] *See* note 97 *supra.* The "footnote 4" argument suggested in note 85 *supra* responds not so much to any clear constitutional concern with equality for women (*but see* U.S. Const. amend. XIX) as to the

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unavoidable obligation to give "principled" content to the facially inscrutable Equal Protection Clause. *See* pp. 948–49 *infra*. Virtually everyone agrees that classifications by race were intended to be and should be tested by a higher than usual standard, and that at least some others—though the nature and length of the list are seriously disputed—are sufficiently "racelike" to merit comparable treatment. *See, e.g.*, Graham v. Richardson, 403 U.S. 365 (1971). The problem thus becomes one of identifying those features of racial classifications that validly compel the deviation from the usual standard, and in turn those classifications that share those features.

[126] *See, e.g.*, Kurland, *Foreword: "Equal in Origin and Equal in Title to the Legislative and Executive Branches of Government*, Harv. L. Rev. 143, 144–45, 149, 163, 175 (1969).

[127] *See, e.g.*, A. Bickel, *supra* note 89, at 84–92; A. Bickel, The Supreme Court and the Idea of Progress 177 (1970); Mendelson, *On the Meaning of the First Amendment: Absolutes in the Balance*, 50 Calif. L. Rev. 821 (1962).

[128] Linde, *supra* note 97, at 254.

[129] The Court will continue to play the role of the omniscient and strive toward omnipotence. And the law reviews will continue to play the game of evaluating the Court's work in light of the fictions of the law, legal reasoning, and legal history rather than deal with the realities of politics and statesmanship. Kurland, *supra* note 126, at 175.

[130] 7 Weekly Comp. of Presidential Documents 1431 (Oct. 25, 1971).

[131] *Id.* at 1432.

[132] *See generally* A. Bickel, The Supreme Court and the Idea of Progress (1970). Professor Bickel's thought is of course much richer than it is here reported. But the catchier aspects of a person's work have a tendency to develop a life of their own and on occasion to function, particularly in the thinking of others and perhaps to an extent even in the author's own, without the background against which they were originally presented. *Cf.* note 138 *infra*.

[133] *See* Hart, *Foreword: The Time Chart of the Justices*, 73 Harv. L. Rev. 84, 99 (1959). *See also* A. Bickel *supra* note 127, at 96; Kurland, *Earl Warren, the "Warren Court," and the Warren Myths*, 67 Mich. L. Rev. 353, 357 (1968). *Cf.* Karst, *Invidious Discrimination: Justice Douglas and the Return of the "Natural-Law–Due-Process" Formula*, 16 U.C.L.A.L. Rev. 716, 746–48 (1969); Karst & Horowitz, *supra* note 106, at 79.

[134] *E.g.*, A. Bickel, *supra* note 127, at 96; Kurland, *Toward a Political Supreme Court*, 32 U. Chi. L. Rev. 19, 20, 22 (1969).

[135] *See generally* W. Murphy, Congress and the Court (1962); C. Warren, The Supreme Court in United States History (rev. ed. 1932).

[136] In the past several years, however, a trend toward liberalization of abortion statutes has resulted in adoption, by about one-third of the States, of less stringent laws, most of them patterned after the ALI Model Penal Code . . . . 93 S. Ct. at 720.

By the end of 1970, four other States had repealed criminal penalties for abortions performed in early pregnancy by a licensed physician, subject to stated procedural and health requirements. Alaska Stat. § 11.15.060 (1970); Hawaii Rev. Stat. § 453–16 (Supp. 1971); N.Y. Penal Code § 125.05 (McKinney Supp. 1972–1973); Wash. Rev. Code §§ 9.02.060 to 9.02.080 (Supp. 1972). . . *Id.* at 720 n.37.

[137] As opposed to the invalidation of a police practice. *Cf.* Miranda v. Arizona, 384 U.S. 436 (1966). *See also, e.g.*, Engel v. Vitale, 370 U.S. 421 (1962).

[138] Even the headline in *The New York Times* announced: "High Court Rules Abortions Legal [sic] the First 3 Months." N.Y Times, January 23, 1973, p. 1, cols. 1–8.

[139] *See* pp. 926–27 *supra*. Of course there are some possible uses of the decision that scare me, particularly when it is considered in conjunction (a) with some of this Court's motions relating to a mother's "waiver" of AFDC assistance, *see* Wyman v. James, 400 U.S. 309 (1971), and (b) with Buck v. Bell, 274 U.S. 200 (1927), which was indeed relied on by the Court in *Roe*, 93 S. Ct. at 727, and cited without apparent disapproval in Justice Douglas's concurrence, *id.* at 759. But those are quite different cases I'm conjuring up.

[140] *See* note 136 *supra*. *But cf. Abortion*, The New Republic, Feb. 10, 1973, at 9: [I]f the Court's guess concerning the probable and desirable direction of progress is wrong, it will nevertheless have been imposed on all 50 states, and imposed permanently, unless the Court itself should in the future change its mind. Normal legislation, enacted by legislatures rather than judges, is happily not so rigid, and not so presumptuous in its claims to universality and permanence.

[141] In judicial review, the line between the "juridical" and the "legislative" mode does not run between "strict constructionists" and competing theorists of constitutional interpretation. Rather, it divides constructionists and non-constructionists, those who do and those who do not see judicial review as a task of construing the living meaning of past political decisions—a division in which the alternating libertarianism and conservatism of the late Justices Black and Harlan were on the same side. Linde, *supra* note 97, at 254–55 (footnote omitted).

[142] United States v. Butler, 297 U.S. 1, 62 (1936).

[143] Poe v. Ullman, 367 U.S. 497, 539–40 (1961) (Harlan, J., dissenting).

[144] Wright, *Professor Bickel, The Scholarly Tradition, and the Supreme Court*, 84 Harv. L. Rev. 769, 785 (1971) (footnote omitted).

[145] *See generally* Ely, *supra* note 28. Starting from a clearly unconstitutional course of action—and I have trouble seeing the unconstitutionality of a tax exemption for only Caucasian children as a controversial assumption—and attempting to explain why it is unconstitutional in terms of a theory capable of acceptable and consistent application to other areas, is a perfectly sensible way of developing constitutional doctrine. *Id.* at 1262. I might have made (even more) explicit that the action around which the search for the "principled" approach is to be centered should be one—and, to paraphrase myself, I have trouble seeing the example I chose as controversial in this regard—whose impermissibility is established by values traceable to the Constitution.

[146] *But see, e.g.*, Hart, *supra* note 133, at 99, *quoted* in part in Bickel, *Foreword: The Passive Virtues*, 75 Harv. L. Rev. 40, 41 (1961): [T]he Court is predestined . . . to be a voice of reason, charged with the creative function of discerning afresh and of articulating and developing impersonal and durable principles . . . .

But discerning constitutional principles afresh is one thing; developing them, no matter how neutral and durable, is quite another. An institution charged with looking after a set of values the rest of us have entrusted to it is significantly different from one with authority to amend the set.

[147] *But see, e.g.*, Linde, *supra* note 97. *Cf.* Bork, *Neutral Principles and Some First Amendment Problems*, 47 Ind. L.J. 1, 6–11 (1971), espousing the general view of constitutional adjudication espoused here, but characterizing *Griswold* as a typical Warren Court product, *id.* at 7, in order to buttress the more general claim-equally unfair in my view—that one cannot accept that general view and at the same time generally approve the work of that Court, *Id.* at 6. *See* Griswold v. Connecticut, 381 U.S. 479, 527 n.23 (1965) (Black, J., dissenting).

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The "Right" to an Abortion, the Scope of 14th Amendment "Personhood," and the Supreme Court's Birth Requirement

(By John D. Gorby*)

I. INTRODUCTION

The one theme which permeates the United States Supreme Court's 1977 abortion pronouncements is that the United States Constitution does not and the federal judiciary should not preclude legislative regulation of some aspects of the abortion problem. Indeed, the decisions almost suggest that the essential nature of American society is democratic. The Supreme Court's 1979 decision holding unconstitutional a Pennsylvania statute requiring physicians performing abortion to attempt to preserve the life of the aborted fetus, if the fetus "may be viable," does not suggest the contrary, since it appears to be based on the due process concept of vagueness as applied in criminal cases and not upon any substantive expansion of the right to abort.[2] In *Maher v. Roe*,[3] the Court noted: "We should not forget that 'legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' "[4] One paragraph later, the Court held that "the Constitution does not require a judicially imposed resolution of these difficult issues."[5] Similar language was used in *Poelker v. Doe*.[6]

"Although the Mayor's personal position [opposition] on abortion is irrelevant to our decision, we note that he is an elected official responsible to the people of St. Louis. His policy of denying city funds for abortions such as that desired by Doe is subject to public debate and approval or disapproval at the polls. We merely hold, for reasons stated in *Maher*, that the Constitution does not forbid a State or city, pursuant to democratic processes, from expressing a preference for normal childbirth as St. Louis has done."[7]

In spite of Mr. Justice Powell's suggestion in *Maher* that "[o]ur conclusion signals no retreat from *Roe* of the cases applying it,"[8] one wonders if those words of reassurance are to be taken with the same degree of seriousness as the assurance of Mr. Justice Blackmun in *Roe v. Wade*[9] that the Supreme Court was not reviving substantive due process.[10] Indeed, the dominant democratic theme of *Maher v. Roe*,[11] *Poelker v. Doe*[12] and *Beal v. Doe*,[13] the bitterness expressed by the dissenters[14] (all previous members of the *Roe* Majority),[15] the compulsion of the author of *Roe* to dissent,[16] and the continuing efforts to change *Roe* with a constitutional amendment cause one to wonder if the majority in *Colautti* would not have preferred to have followed the spirit of the dissenting opinions in *Roe* and left the entire abortion problem in the hands of the state legislatures. This approach, at least on the surface, would be consistent with recent suggestions that the judiciary return to the fourteenth amendment its intended "procedural" as opposed to "substantive" significance, defer to the "spirit of our democracy" in matters not controlled by the fourteenth amendment as originally intended, and not "govern" under the guise of interpreting the Constitution.[17]

A legislative solution to the abortion problem is necessarily based upon the premise that the Constitution is neutral about abortion and does not impose a solution, one way or another.

In this article, the existence of such a premise is denied. More specifically, this author concludes (1) that the Constitution is not neutral about abortion and does indeed impose a solution on the abortion question; (2) that, as Justice Blackmun conceded in *Roe*, if the fetus is a person under the fourteenth amendment, "the [plaintiff's] case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [fourteenth] [a]mendment;"[18] and (3) that the concept of "person" in the fifth and fourteenth amendments includes unborn human life.[19] It thus follows that the solution to the abortion problem set forth in *Roe*[20] as well as that suggested by Justices White and Rehnquist in dissent[21] are constitutionally unsound, both solutions permitting the violation of the fetus' constitutionally protected right to life without due process of law. More positively, there is substantial historical support for the notion that the due process clause was designed to guarantee access of all persons to the courts for the protection of fundamental rights,[22] that those fundamental rights refer to "life, liberty and property,"[23] and that the unborn human being, as an individual living human

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[1] Footnote at end of article.

being, is a person under the Constitution and is entitled to access to the courts to protect his fundamental right to life.

Since *Roe v. Wade* is the only case in which the Supreme Court has considered the scope of constitutional "personhood" in the context of pre-birth stages of human development and is the only Supreme Court pronouncement on the subject,[24] a criticism of *Roe* will serve as a departure point for this discussion as to whether or not the fetus falls within the scope of the constitutional concept.[25]

II. THE SCOPE OF CONSTITUTIONAL PERSONHOOD: THE PRIMARY ISSUE IN THE ABORTION CONTROVERSY

That the Supreme Court accepted the scope of constitutional personhood as the primary issue in *Roe* is reflected in its statement that "[t]he appellee [Texas] and certain *amici* argue that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment. . . . If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [Fourteenth] Amendment."[26] No one has openly quarreled with the *Roe* Court on this point, and with good reason. The right to life represents a fundamental value in the constitutional order. Not only do both the fifth and fourteenth amendments explicitly mention "life" in their respective due process clauses,[27] but common sense dictates that the right to life is a condition precedent to the enjoyment and exercise of all other fundamental rights, including Mr. Justice Douglas' "absolute" first amendment rights;[28] it is the necessary foundation upon which all other human rights are built.[29] After all, only the living can enjoy the freedom of speech, the right peaceably to assemble, the right of assistance of counsel, the right of privacy, or even the right to decide to have an abortion. Mr. Justice Brennan expressed the idea simply in *Furman v. Georgia*:[30] "An executed person has indeed 'lost the right to have rights.'"[31] And as a general rule, only those who feel that their "right to life" is secured will dare exercise other fundamental rights.

Historically, an important purpose of American civil government has been to protect fundamental rights. Thus, history also supports the *Roe* majority reasoning that if the fetus is a person, and thus entitled to the right of life, the Court has an obligation to protect that right. John Locke, whose influence on the thinking of the founders of this nation is well known, wrote of the natural rights to life and property and that "civil government is the proper remedy for the inconveniences of the state of nature, which must certainly be great where men may be judges in their own case."[32] This principle, applied to the abortion problem, suggests that, if the unborn does enjoy a natural right to life,[33] the protection of that right should not be completely entrusted to the pregnant woman since her self-conceived interests may conflict with those of the unborn and since she could not be expected to be a fair "judge in [her] own case."[34] The solution to this problem, according to Locke, would be civil government as is the case for all conflicts between the rights of one and the interests of another. These basic ideas found their way into the Declaration of Independence in the clause to which the people of this nation so frequently rededicated themselves during the recent bicentennial year:

"We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, . . . that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its Foundation on such Principles. . . ."[34a]

Just fifteen years later, on December 15, 1791, at a time when natural rights theories were still dominant in American legal thought, "life" was explicitly included in the fifth amendment's due process clause.[35]

Although natural law fell out of vogue during the nineteenth century,[36] the importance of the right to life in modern political and social theory has remained nearly unscathed as evidenced by the Third Article of the Universal Declaration of Human Rights, which states: "Everyone has the right to life,"[37] the Second Article of the European Human Rights Convention[38] and the arguments to abolish capital punishment expressed by Mr. Justice Brennan in *Furman v. Georgia*.[39] "The country has debated whether a society for which the dignity of the individual is the supreme value can, without a fundamental inconsistency, follow the practice of deliberately putting some of its members to death."[40] He also wrote that "[d]eath is a unique punishment in the United States. In a society that so strongly affirms the sanctity of life, not surprisingly the common view is that death is the ultimate sanction."[41]

Since the Court in *Roe* recognized the right to life issue as crucial and was fully aware of the rank of this right in the hierarchy of fundamental legal values, one would certainly expect the Court to have carefully and thoroughly studied and analyzed the scope of constitutional personhood as well as the nature of the unborn[42] to determine on the most rational basis possible whether the unborn falls within that scope. As the next section shows, the Court did no such thing.

III. THE PRIMARY ISSUE IN THE HANDS OF THE SUPREME COURT

A. Procedural background of Roe v. Wade: The unborn's "day in court"

In 1970 and in early 1971, a number of abortion cases had been appealed to the United States Supreme Court from Wisconsin,[43] Texas,[44] Georgia,[45] Louisiana,[46] Illinois[47] and North Carolina.[48]

The Illinois case was unique in that Dr. Bart Heffernan of Chicago had been appointed guardian ad litem to represent the interests of the unborn. As a result, only in the Illinois case, where standing had been recognized, was the unborn permitted to directly participate through his representative in a series of lawsuits which were to have a profound impact on his legal and constitutional rights.[49] The Supreme Court, however, set the Texas (*Roe v. Wade*) and Georgia (*Doe v. Bolton*) cases, but not the Illinois case, which was also pending before the Court, for oral arguments on December 13, 1971. Since the parties to the *Roe* and *Doe* cases were, on the one side, physicians and women challenging the constitutionality of the respective state anti-abortion statutes and, on the other side, the attorneys general defending their states' statutes, the fetus was not directly represented in the December 13, 1971, hearings. Because only seven justices heard the oral arguments, Justices Black and Harlan having left the Court one month earlier, no decisions were handed down and the cases were set for rehearing in October, 1972. In the meantime, the attorneys for the fetus, whose guardian was an actual party only in the Illinois case and had filed an amicus brief[50] one year earlier in both the Texas and Georgia cases, filed in the Supreme Court a motion for oral argument, which was denied in the summer of 1972. Shortly thereafter, they moved to consolidate for oral arguments at the rehearing the Illinois case (*Doe v. Scott*)[51] with the Texas (*Roe*) and Georgia (*Doe*) cases. This motion was also denied.[52] As a result, the fetus, not having been represented in the crucial hearings before the justices, never enjoyed his "day in court."[53]

The Supreme Court had every opportunity to hear arguments presented by the representative of the fetus that it was a "constitutional person." However, the Court chose not to take advantage of this occasion.

Before the Supreme Court on October 11, 1972, Texas argued that a fetus is a person, but quickly backed away from the logic of this position, arguing instead that the abortion problem can "be best decided by a legislature."[54] A legislative solution is in the best interests of the state since it maximizes state authority. The legislature, however, has never been permitted in Supreme Court jurisprudence to determine who is and who is not entitled to enjoy fundamental constitutional rights. Thus, in the end, Texas argued to enhance its authority and interests, not fetal rights.

One should not lightly conclude from the Supreme Court's holding in *Roe* that the concept of "person" has no prenatal significance, that the unborn was not, after all, entitled to a "day in court." Such a conclusion assumes the outcome. Furthermore, it would be sound only if one is willing to assume that the adversary process is not essential to sound judicial decision-making—an assumption hardly compatible with the common law tradition. To a great degree, judicial decisions are made legitimately only if there is an opportunity for vigorous advocacy, an opportunity not allowed the fetus in the cases thus far in which his right to personhood or, expressed differently, its right to even have rights, has been adjudicated.

B. The Supreme Court's opinion on the merits: The unborn, birth and constitutional personhood

(1) The Initial Constitutional Issue Is the Scope of Constitutional Personhood, Not "When Life Begins"

"We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."[55]

Although the Supreme Court in *Roe* expressed concern about its ability to "resolve the difficult question of when life begins."[56] the initial constitutional dilemma the Court faced was not the factual question of when life begins but rather the legal question of the scope and meaning of the concept of "person" in the fourteenth amendment, i.e., whether the concept means living humans, individual humans, born humans, rational humans, wanted humans, humans capable of "meaningful,"[57] any combination thereof or something else. In other words, what does the term "person" as used in the fourteenth amendment mean? What values was it designed to protect? If, for example, it means

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all individual, living human beings, which is this writer's position,[58] the factual issue whether the fetus is an individual, living human being is presented for decision. If "life" in the biological sense is irrelevant to membership in the class of constitutional persons or if birth is an essential criterion to membership in this constitutional class, the Court in *Roe* was correct, for then it need not "speculate as to the answer [of when life begins]." [59] On the other hand, if the real problem facing the Court was a "proof problem," i.e., how to prove that a fetus has "life," simple judicial restraint should require the Court not to exclude the fetus from constitutional protection as a matter of law by creating a birth requirement as it did in *Roe* but rather to leave the ultimate question of constitutional personhood in the fetus unanswered, remand the case and ask for more "proof" on the factual question.[60]

(2) How the Supreme Court Approached the Interpretation of "Person" as Used in the Fourteenth Amendment

As stated by the Supreme Court and conceded by all parties, no prior case had been found in which the United States Supreme Court had addressed itself to the question of whether the term "person" as used in the fourteenth amendment has prenatal application.[61] Thus, for all practical purposes, the question was being presented for the first time. In absence of precedent, the only legal materials with which the Court had to work were the constitutional provisions themselves.

In *Roe* the Court, in interpreting the scope of "person" in the fourteenth amendment, applied in a very general sense only two of the several possible methods of construction.[62] The Court first considered the term "person" as used in other contexts in the Constitution and then considered the history of abortion legislation throughout the nineteenth century.

(a) *The Supreme Court's consideration of the use of the term "person" in other contexts in the Constitution*

In approximately 500 words Mr. Justice Blackmun discussed the use of the term "person" in other clauses in the Constitution and concluded that the term "has application only postnatally." [63] With this short essay he attempted to resolve the most important issue raised in the case. A brief look at these other clauses reveals that they do not provide an answer to the question of the scope of constitutional personhood. In the clauses mentioned by the Court, the concept of "person" was broad and undefined and the function of the specific constitutional clause was to limit the broader class of persons for a particular purpose. For example, for a person to be qualified to be a representative, a senator or the President, he must be twenty-five, thirty and thirty-five years of age, respectively. Quite obviously there are some who are persons but do not meet these special qualifications for a particular office. The fact that a 24-year-old is not qualified for these offices suggests only that there are "persons" who are not qualified for the House, Senate of the Presidency. The clause suggests that 24-year-olds are persons; it does not suggest when the 24-year-old became a "person," or that he became a person at birth or at any other particular state of his development. An identical criticism can be made of Mr. Justice Blackmun's apportionment clause [64] and extradition clause [65] arguments.[66] Whatever significance the use of "person" in other contexts in the Constitution has for the resolution of this problem, it seems to argue against the Court's conclusion, since all clauses mentioned restrict for particular purposes a broad class of persons. These clauses do not define "person." In any case, this approach offers nothing to support the Court's conclusion that "person" has only postnatal meaning.[67]

(b) *The Supreme Court's use of history*

(i) The Supreme Court's argument concerning criminality of abortions during the nineteenth century

Mr. Justice Blackmun observed in *Roe* that "throughout the major portion of the nineteenth century prevailing legal abortion practices were freer than they are today" [68] and was thus "persuade[d] . . . that the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." [69]

There is reason to believe that Mr. Justice Blackmun's premise concerning nineteenth century abortion practices is not valid. Briefly, the following quotes should provide some insight into the accuracy of the Supreme Court's statements about the legal status of abortion during the seventeenth, eighteenth and nineteenth centuries. Sir Edward Coke wrote in 1628:

"If a woman be quick with childe, and by a potion or otherwise killeth it in her wombe; or if a man beat her, whereby the childe dieth in her body, and she is delivered of a dead childe, this is a great misprision and no murder; but if the childe be born alive, and dieth of the potion, battery or other cause, this is murder." [70]

The Supreme Court was fully aware of this passage [71] as well as a similar one by Blackstone,[72] but concluded that "[a] recent review of the common-law precedents argues, however, that those precedents contradict Coke and that even post-quickening abortion was never established as a common law crime." [73] The Supreme Court supported this conclusion by citing with apparent approval a 1971 law review article by abortion proponent Cyril Means who, according to Justice Blackmun, suggested that Coke "may have intentionally mistated the law" possibly because he had "participated as an advocate in an abortion case in 1601" [74] and because of his desire to assert common law jurisdiction over an offense traditionally an ecclesiastical crime.[75]

Although it is possible that Coke was still zealously advocating his client's case twenty-seven years later when he published his *Institutes* in 1628, or was attempting to play politics, this cynical explanation hardly pinpoints why Sir William Blackstone, over a century later, repeated in substance the views of Sir Edward Coke in his *Commentaries of the Laws of England.*[76] It also does not explain the following comment by Professor Perkins, a foremost authority on the common law of crimes and uninvolved—as far as this winter is aware—in abortion polemics:

"[I]t was a common law misdemeanor to administer any drug or medicine or to perform an operation on a woman pregnant with a quick child for the purpose of causing a miscarriage, and thereby causing the child to be born dead unless such operation was necessary to save the life of the woman." [77]

This explanation also does not indicate why a Pennsylvania court in 1850 wrote: "The moment the womb is instinct with embryo life, and gestation has begun, the crime may be perpetrated. . . . There was therefore a crime at common law sufficiently set forth and charged in the indictment." [78] It likewise fails to explain why at least four other states reached identical conclusions with respect to a quickened fetus.[79] It also is not supported by the fact that, at the time when the fourteenth amendment was ratified in 1868, nearly every state had criminal legislation proscribing abortion.[80] Exactly what Mr. Justice Blackmun meant with his statement that "abortion practices were freer (in the nineteenth century) than today" is unclear. If he meant that abortion was neither criminal nor subject to penal sanction—either by statute or at common law—he was wrong.

(ii) The Supreme Court's argument concerning the purpose of nineteenth century abortion legislation

Justice Blackmun implied that the purpose of the anti-abortion legislation of the nineteenth century was in protecting "the woman's health rather than in preserving the embryo and fetus." [81] The Court cited a New Jersey statute, construed by an 1858 New Jersey Supreme Court case, to support this idea.[82] The history of anti-abortion legislation In New Jersey indicates that the United States Supreme Court misunderstood the statute.[83] Beyond that, however, the evidence to the contrary is quite overwhelming; this evidence clearly shows that there was considerable concern during the nineteenth century in protecting the fetus. The Supreme Court neglected to mention eleven decisions expressly stating that the protection of the life of the unborn was at least one of the purposes for the nineteenth century abortion statutes [84] and that nine others implied the same notion.[85]

The Court also failed to mention Blackstone's famous statement that "Life is . . . a right inherent by nature in every individual; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb." [86] Blackstone's first American editions appeared in 1771 and have helped explain the attitude of nineteenth century America towards unborn life. According to Harvard Law Professor Charles Haar:

"Blackstone supplied a real need in this country. Without a trained bar, lacking a tradition of learning and of legal education, America found his exposition overwhelming in force. It is powerful and direct. Its emphasis on natural law fitted in with the peculiar environment of law in America. Because of the *Commentaries* English common law became also the common law of the United States. To the link of the common language was added that of the common legal principles. The *Commentaries* were a conduit of the ideas of Locke and Montesquieu to the framers of the Federal and state constitutions. They attained the position of an oracle of law on which lawyers for generations cut their teeth; mastery of Blackstone was deemed an adequate preparation for the practice of law." [87]

A brief look at the law books used by nineteenth century law students testifies to the influence of Blackstone on nineteenth century thought. It was common for a law professor to make at least one of his contributions to legal education, and to the development of the law, by editing and commenting upon Blackstone.[88] Furthermore, Blackstone and Kent, who echoed Blackstone's words,[89] were cited as authority by those who sponsored the Civil Rights Act of 1866 as well as the fourteenth amendment.[90] The Civil Rights Act of 1866 is of considerable importance to this study since, as Professor

Berger points out in his *Government by Judiciary*, the "key to [the] meaning [of the privileges or immunities clause of the fourteenth amendment] is furnished by the immediately preceding Civil Rights Act of 1866, which, all are agreed, it was the purpose of the [fourteenth] [a]mendment to embody and protect." [91]

The development of nineteenth century medical ethics seems to parallel the legal principles of Blackstone. Very influential during the early nineteenth century was Thomas Percival's *Medical Ethics* in which the following was written: "To extinguish the first spark of life is a crime of the same nature, both against our maker and society, as to destroy an infant, a child, or a man." [92] These views explain in part the condemnation of abortion as the destruction of "human life" by the American Medical Association at its 1859 annual meeting.[93]

Further support for the idea that nineteenth century America was concerned with preserving the life of the fetus is ironically found in *Botsford v. Union Pacific Railroad*,[94] the very case which the Supreme Court cited in *Roe* as its landmark right to privacy case. Although the *Botsford* Court acknowledged a common law right to privacy which precluded a court without statutory authority from ordering a medical examination of a female plaintiff in a personal injury case,[95] it pointed out that one of two exceptions to this common law right of privacy was the writ *de ventre inspiciendo.* With this writ, the state was empowered to examine whether a woman convicted of a capital crime and sentenced to be executed was quick with child, thus overcoming her right to privacy. If she was, execution would be stayed until after the birth of the child. Here, the common law not only acknowledged a right to life in the fetus but also recognized precedence of this right over the common law right of privacy.

In light of the above it seems hard to suggest—as did the majority in *Roe*—that the concerns of the nineteenth century were exclusively about the pregnant woman and not the unborn, and difficult to argue—as did the majority in *Roe*—that the purpose of nineteenth century abortion legislation was in protecting "the woman's health rather than in preserving the embryo and fetus." Indeed, the preservation of the fetus appears to have been a major purpose. Moreover, even those courts which have indicated that preservation of maternal health was a purpose for enacting the anti-abortion statute did so against a background in which abortion of at least a quickened fetus was considered a common law crime.[96]

If Justice Blackmun meant that an unquickened fetus may not have enjoyed protection under the common law, he should have said that. The correlation, however, would be that the quickened fetus did enjoy criminal law protection, a fact which argues against the Court's conclusion that constitutional personhood has no prenatal application.[97]

In oral argument before the *Roe* court [98] as well as in the *Roe* majority opinion,[99] the Supreme Court seemed impressed by the historical fact that no case had been found in which the pregnant woman was prosecuted for allowing an abortion to be performed on herself and by the fact that the punishment for conviction under the abortion statutes was much milder than the punishment for homicide. The Court found this to suggest that the fetus was not considered a person, as was the victim in a homicide. Such a conclusion is simply not warranted since there are other valid explanations. For example, if a 12-year-old intentionally kills a born individual in Illinois, no crime has been committed since the child is not legally responsible. No one could suggest that the victim of the act was not a person because the killer was not or could not be prosecuted. If a 15-year-old intentionally kills another, but is proceeded against under the Juvenile Court Act, one could hardly argue that the victim is not a person. The explanation for this legal phenomenon is that there are special circumstances surrounding the commitment of an act, circumstances which the lawmaker may properly and reasonably consider in formulating means to protect state interests and values—in the examples given, the age and assumed immaturity of the actor; in the abortion situation, the assumed stresses on the woman burdened by an unwanted pregnancy. These factors may justify and explain different treatment of the woman or even the physician in the abortion context, just as they justify or explain different treatment of the child of tender years or even of one who kills another under severe provocation.

Although in modern jurisprudence constitutional history alone has not been allowed to dispose of every question of constitutional interpretation, this brief historical background casts doubt on the soundness of two of the Supreme Court's critical conclusions in *Roe v. Wade*: (1) that abortion was not considered a crime by most of those who supported the fourteenth amendment in 1868;[100] and (2) that the purpose of the anti-abortion laws was solely to protect the woman's health and not the life of the fetus. In addition, it casts doubt on the Court's holding that the concept of "person" does not embrace the unborn. The effect of this doubt surely is to augment the obligations of the Supreme Court to account for a requirement of birth as a condition precedent for membership in the class of constitutional persons.

(3) The Supreme Court Concluded that Constitutional Personhood Begins at Birth

Based upon the Court's conclusions concerning the postnatal use of "person" in the fourteenth amendment and upon its understanding of the history of the criminality of abortions, the Court implied, although did not explicitly state,[101] that birth is the point at which constitutional personhood begins. This conclusion becomes apparent from several other statements made in the opinion. Only one of these statements, however, will be discussed. According to the *Roe* opinion, the legal value of the unborn is, prior to viability, insignificant—if it exists at all—when it conflicts with a woman's right to privacy, which the Supreme Court in *Roe* found "includes the abortion decision."[102] Nevertheless, after viability, the state has an "important and legitimate interest in potential life."[103] This pronouncement means that any legal protection for the life of the unborn after viability depends upon whether the state "chooses" to assert its interest in protecting fetal life.[104] In other words, the existence of legal protection for the fetus at this stage of human development depends upon the mercy or interests of the state, not upon any notion of an inherent, inalienable right to life or upon a corresponding duty incumbent upon the state to protect such rights.[105] Thus, unless the Court had assumed that constitutional personhood begins at birth, this decision marks a radical departure from the liberal political philosophy of which the Constitution is a manifestation.[106] Surely the Court did not intend to suggest that the right to life of a person depends upon whether the state finds it worthwhile or expedient to allow that person to live. Assuming no far-reaching disavowal of the fundamental liberal tradition, one must conclude that the Court decided for all practical purposes that birth is a constitutional requirement for membership in the class of constitutional "persons."

(4) Two Approaches the Supreme Court Did Not Use in Interpreting "Person:" The Plain Meaning of the Term and the Function of the Term

A primary and certainly a very common method of construing a document is to give the words their natural and ordinary meaning.[107] A study of two of the most complete and authoritative dictionaries in the English language, *The Oxford English Dictionary of 1970 and Webster's Third New International Dictionary*, as well as the 1828 and 1865 editions of Daniel Webster's *An American Dictionary of the English Language*, are illuminating. All relevant definitions define "person" in terms of humanness, individual humanness, and the state of being a human being.[108] "Human" is defined in these dictionaries in terms of "man."[109] And "man" is defined in terms of "humanness" or in terms of individual membership in the human race.[110] Thus, the circle of definitions is complete. Neither the word "birth" nor anything relating to birth is mentioned, either directly or indirectly, in any of the numerous and varying definitions of "person," "human" or "human being," or "man." It is therefore understandable why the Court did not pursue the "ordinary usage" or "plain meaning" path to interpretation; nothing in these definitions state, mention, suggest or even imply that birth is part of, related to, or a condition precedent to personhood. In short, it offers no support for its birth requirement for personhood.

Concerning the function of the fourteenth amendment and the role of the word "person" in the amendment it can be said that the immediate political concern of the second half of the 1860s was to secure rights and freedoms and to ensure equal protection for former slaves.[111] More generally, however, the amendment was designed to secure to all persons the fundamental rights of man, which generally include life, liberty or property by providing the adjective right of access to the courts.[112] There is nothing in the function of the fourteenth amendment to suggest that its scope or purpose is to protect only the born. And to the extent that an unborn can be the owner of property[113] and is living,[114] a fourteenth amendment purpose exists in the case of the unborn just as surely as it does with a born person who owns property and possesses "life."[115]

IV. THE BIRTH REQUIREMENT, AVOIDANCE OF THE "LIFE" ISSUE, JUDICIAL SCIENCE AND ARBITRARINESS

There is nothing in the Consitution itself or in its history which even suggests—to say nothing about requires—that constitutional personhood begins at birth. If anything, the contrary is true. Most probably the term indicates and was understood to mean an individual human being [116]—a classification for which birth does not appear to be a criterion. Are there perhaps other rational factors not directly related to the Constitution or its history which would justify the Court's reaching beyond the strict realm of positive jurisprudence and creating a birth requirement as an essential requisite for

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membership in the class of constitutional persons?

A. By Selecting Birth as an Essential Requisite of Constitutional Personhood the Supreme Court Evaded the "Life" Issue

Quoted earlier was a statement by Mr. Justice Blackmun to the effect that the judiciary should not speculate as to "when life begins" when philosophers, theologians and physicians themselves cannot, he claims, arrive at a consensus.[117] By grafting a birth requirement upon the concept of constitutional personhood, the Supreme Court hoped to avoid the necessity of making a judicial determination of "when life begins." [118] Is a Court justified in selecting an essentially arbitrary factor as a requisite to constitutional personhood to avoid the dilemma of deciding "when life begins," a quandry which, according to Mr. Justice Blackmun, philosophers, theologians and even physicians cannot resolve

B. The Principles of Legal Science Do Not Require the Supreme Court to Avoid the "Life" Issue

(1) Justice Holmes' Dissent in *Lochner* and the "Life" Issue

Perhaps the Court's reluctance to "speculate" about "when life begins" results from its expressed desire to follow "Mr. Justice Holmes' admonition in his now-vindicated dissent in *Lochner v. New York*" [119] that the individual opinions of the justices "ought not to conclude [the Court's] judgment upon the question whether statutes embodying them conflict with the Constitution." [120] What Justice Holmes seems to have said is that the justices should not sit as superlegislators and declare statutes unconstitutional which they do not like. He was not suggesting that judges should hesitate to discharge their responsibility as judges, even if this involves making difficult, and often unpopular, legal and factual determinations. After all, constitutional provisions have a legal meaning and scope regardless of what the various schools of philosophy and theology may think or even what the majority of people in a democracy thinks. Indeed, a primary purpose of a catalogue of fundamental human rights, such as the Bill of Rights, in a constitutional document is to protect those fundamental rights from the whims, predispositions or excesses of those who administer the state—and from a possible tyranny of the majority. And it is certainly the judges' responsibility to conscientiously construe those constitutional provisions. Were this not so, the predispositions or whims of administrators of state, whether executive or judicial, or the building of a majority consensus that, for example, "blacks" were not "citizens" as in *Dred Scott*, [121] or that non-Aryans were not full persons as in Nazi Germany, would be dispositive of the question of whether individual members of these minority groups are entitled to protection under the "person" concept of the Constitution. Such a solution would rub against the grain of the entire human rights movement—a movement based on the idea that there are certain fundamental rights which ought to exist by virtue of being a living human being and for no other reason [122]—as well as against the purpose of the fourteenth amendment. [123] Mr. Justice Holmes did not express a contrary idea in *Lochner*. In fact, in the paragraph following the one in *Lochner* quoted by Mr. Justice Blackmun, Mr. Justice Holmes wrote:

"I think that the word "liberty," in the Fourteenth Amendment is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said that a rational and fair man necessarily would admit that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law." [124]

In spite of its promise to bear Holmes' famous dissent in mind, the *Roe* Court struck down a statute which was the "natural outcome of a dominant opinion," [125] that is, the product of the domocratic process. But what is more important, the Texas abortion statute actually implemented, rather than infringed, "fundamental principles as they have been understood by the traditions of our people and our law." [126] Mr. Justice Holmes' admonition in *Lochner*, unheeded in *Roe*, simply means that the Constitution should be construed according to fundamental legal principles, not the personal predilection of judges.

(2) The Judiciary and the "Life" Issue in Non-Abortion Cases

The Court implied in the statement "when life begins" [127] that it would be improper for the judiciary to speculate as to the answer to such an inquiry. It is noteworthy that the Federal Constitutional Court of Western Germany, a court which enjoys the power of judicial review of the constitutionality of statutory enactments [128] and which occupies in the German political structure a position comparable to the United States Supreme Court, did not feel so inadequate when faced with the question whether the constitutional provision "Jeder hat das Recht auf Leben" (Everyone has the right to life) includes the unborn. In striking down a statute which allowed abortion on demand during the first trimester of pregnancy after the mother had undergone counseling, the German Constitutional Court wrote:

"In construing Article 2, Paragraph 2, Sentence 1, of the Basic Law, one should begin with its language: "Everyone has the right to life. . . ." Life, in the sense of historical existence of a human individual, exists according to definite biological-physiological knowledge, in any case, from the 14th day after conception (nidation, individuation). . . . The process of development which has begun at that point is a continuing process which exhibits no sharp demarcation and does not allow a precise division of the various steps of development of the human life. The process does not end even with birth; the phenomena of consciousness which are specific to the human personality, for example, appear for the first time a rather long time after birth. Therefore the protection of Article 2, Paragraph 2, Sentence 1, of the Basic Law cannot be limited either to the "completed" human being after birth or to the child about to be born which is independently capable of living. The right to life is guaranteed to everyone who "lives;" no distinction can be made here between various stages of the life developing itself before birth, or between unborn and born life. "Everyone" in the sense of Article 2, Paragraph 2, Sentence 1, of the Basic Law is "everyone living;" expressed in another way: every life possessing human individuality; "everyone" also includes the yet unborn human being." [129]

The sense of judicial humbleness expressed by the United States Supreme Court in *Roe* has prevented neither the English courts from deciding in a will construction case that "an infant *en ventre sa mere* [in its mother's womb], who by the course and order of nature is then living, comes clearly within the description of 'children living at the time of his decease' "[130] nor the American courts from reaching similar conclusions.[131] It has not prevented the courts from allowing recoveries in tort for prenatal injuries as did the California District Court of Appeal when it noted:

"The respondent asserts that the provisions of Section 29 of the Civil Code are based on a fiction of law to the effect that an unborn child is a human being separate and distinct from its mother. We think that it is an established and recognized fact by science and by everyone of understanding." [132]

It did not discourage the Illinois Supreme Court in a wrongful death case in which the fetus was born dead from quoting with approval the following from a New York case:

"To hold, as a matter of law, that no viable fetus has any separate existence which the law will recognize is for the law to deny a simple and easily demonstrable fact. This child, when injured, was in fact, alive and capable of being delivered and of remaining alive, separate from its mother." [133]

Nor did it discourage the Illinois Supreme Court in that case from allowing a wrongful death recovery, as have the majority of state supreme courts which have ruled upon the question of the scope of "person" in wrongful death statutes.[134] It also did not discourage the State's Attorney of Cook County, Illinois, or the State's Attorney of Will County, Illinois, from requesting that the Grand Jury return a murder indictment for the killing of a viable but unborn child.[135] In fact, the Grand Jury in the Cook County case was instructed by the State's Attorney to return a true bill only if it made a finding that the fetus was alive at the time it was shot, and died as a result of the shooting. Based upon the testimony of a pathologist, a true bill for murder was returned.[136]

In short, in areas not so politically volatile as abortion, the judiciary has not hesitated to take notice of, to consider and to hold that "life" exists before birth. In fact, *Roe* is actually unique, representing one of the few instances in which a court has refused to take cognizance of established scientific data concerning the nature of the unborn human being.

C. One of the Consequences of the Birth Requirement Is That the Nature of the Fetus as Viewed by Science Becomes Irrelevant

Regarding the nature of the unborn as viewed by science and his qualifications for constitutional personhood, the Supreme Court in *Roe* merely acknowledged its awareness of the "well-known facts of fetal development." [137] Under the dictates of the logic of the Court's birth requirement, the Supreme Court apparently felt that mere acknowledgment sufficed, and this was perhaps mentioned only to resolve any doubt one might entertain concerning the Court's awareness of these facts. The problem is, however, that the essential characteristics of man as viewed by science, characteristics which may show that the fetus is not, in any important aspect, essentially different from an infant, have become constitutionally irrelevant. Some of the more striking of these characteristics are reviewed below.

(1) Individuality [138]

The "individuality" of corporations played a primary role in the Supreme Court's holding that corporations were "persons" within the meaning of the fourteenth amendment [139] and was specifically emphasized in the West German Constitutional Court's decision that "everyone" in the Basic Law means "every life possessing human individuality." [140] Accordingly, one would think that the United States Supreme Court, presumably desirous of basing its decisions on the results and logic of scientific inquiry and rational assessment of those results, would be interested in the scientific facts that the unborn is a genetically unique individual from the moment conception is completed,[141] has an individual circulatory system,[142] is psychologically individual,[143] and is very largely in charge of the pregnancy while the mother is merely a passive carrier.[144] However, the Supreme Court's birth requirement attempts to render these facts, universally accepted as such by the scientific community, legally irrelevant.

(2) "Cogito, Ergo Sum" [145]

If this classic idea of the rational nature of man were the key to fourteenth amendment personhood,[146] the Court should be interested to know that electro encephalographic waves have been detected from the brains of 43- to 45-day old fetuses and that conscious experience is possible soon after that date; [147] that the human fetus develops consciousness and self-awareness at approximately the twenty-eighth week of pregnancy; [148] and that the unborn hears and recognizes his mother's voice before birth.[149] One might also wonder why the American Bar Association's carefully worked out definition of death ("irreversible cessation of total brain function") [150] applies to only one end of the life spectrum. Here again, the Court's birth requirement attempts to render these factors irrelevant.

(3) Ability to Live Outside the Mother's Womb

For reasons which are not completely clear, the Supreme Court decided that, although not important for constitutional personhood, viability is an important criterion for the state's assertion of a compelling interest. In other words, the state can assert its interest in keeping the fetus alive at "viability," which the Court defined as the point at which the fetus is "potentially able to live outside the mother's womb, albeit with artifical aid." [151] The Court then noted that "[v]iability is usually placed at about seven months (twenty-eight weeks) but may occur earlier, even at twenty-four weeks."[152] Here, the Supreme Court, for reasons neither apparent nor offered, utilized scientific data in determining when a state's interest in the unborn becomes compelling enough to preclude the abortion but, because of its creation of the birth requirement, rendered the same or similar data irrelevant in its determination when the right to have constitutional rights begins. Considering that the Court placed such emphasis on the viability concept, it perhaps should be of interest that in a study of 650,000 live births in New York City, over twenty percent of the children born at less than twenty weeks gestational age survived the neonatal period.[153] The Court's figures accordingly appear to be unsound. Beyond the soundness of the data, however, the Court's decision means that prematurely born children are entitled to all the constitutional protections whereas their counterparts, who are equally individual, older, more competent and better able to survive outside a mother's womb but not fortunate enough to have been prematurely born, are without constitutional protection.

D. *The Birth Requirements Is Arbitrary*

It appears that the Supreme Court simply created the birth requirement, a requirement which appears to find no support in either the Constitution itself or in its history. Nor is support for the birth requirement found in any original reasoning by the Court. The failure of the Supreme Court to offer an explanation for its birth requirement causes one to wonder what it is about the nature of birth that makes other factors, such as those relating to the biological, intellectual and psychological nature of the fetus, of no constitutional significance. As a consequence of the Court's birth requirement, such scientific data, assuming it could be proved, as the fact that the fetus "lives," is an "individual," is a "human being" and is essentially identical to a born infant in all scientifically provable aspects have been rendered irrelevant.

This result is surprising, especially since the Supreme Court has, at least in recent years, been rather receptive in its decisionmaking to the methods, principles and findings of scientifically respectable disciplines other than law. *Brown v. Board of Education* [154] provides perhaps the best known example. There, the Supreme Court in its desire to "look . . . to the effect of segregation itself on public education" [155] felt no hesitation in using the behavorial sciences to determine the scope and application of the equal protection clause of the fourteenth amendment.

Brown, of course, is not unique. Since Louis Brandeis established the tradition by filing his now famous brief,[156] attorneys have attempted with considerable success to persuade judges by means of materials and data from disciplines other than the law. If, for example, members of a newly found tribe were intentionally and arbitrarily killed and their killers, upon being tried for homicide, raised the defense that the victims of the killing were not "persons" under the homicide statute, one would certainly expect the court to consider such nonlegal data as whether the members of the tribe were genetically human, biologically human, and possessed of human rationality (physiological and psychological) when it determined whether the members were entitled to protection under the criminal homicide provisions.[157]

It is precisely this tradition, a tradition of keeping judicial decisions compatible with the logic of rational assessment and scientific inquiry, which makes the Supreme Court's reluctance to give recent scientific and medical data concerning the unborn careful consideration in its decision very difficult to accept. Obviously the *Roe* Court was simply following Chief Justice Burger's admonition in *Eisenstadt v. Baird* [158] that the "commands of the Constitution cannot fluctuate with the shifting tides of scientific opinion" [159] because the Court in *Roe* did place considerable emphasis on scientific opinion in its determinations that abortion during the first trimester is safer than childbirth [160] and that viability occurs at a particular moment (twenty-four to twenty-eight weeks).[161] Whatever may have been the Court's reasoning, the effect of its birth requirement has been to render irrelevant a rational assessment of scientific data about pre-birth stages of human development as well as a scientific inquiry into the nature of pre-born human life.

V. UNWANTED PREGNANCY IN PERSPECTIVE

In light of the indications of the *Maher, Poelker* and *Beal* cases that the Court may well be retreating from *Roe* and of the temptation which must surely face the judiciary at this point to allow the abortion problem to be resolved legislatively, a careful study of the protections which the Constitution provides the fetus is required. The purpose of this article has been not only to explore the soundness of the birth requirement created by the Supreme Court in *Roe* as a requisite to membership in the class of constitutional "persons" but also to call for a reexamination of the whole issue. In brief, there is considerable evidence which suggests that the unborn is and should be considered a constitutional person, thus entitled to fourteenth amendment protections. If this be true, both the *Roe* holding as well as a legislative solution permitting abortions for reasons other than a threat to the life of the mother would have the effect of violating the unborn's right to due process of law. It would thus follow that both the judicial solution set forth in *Roe* and the legislative solution are constitutionally unsound.

A holding that the fetus is a constitutional person would have the effect of overruling *Roe v. Wade* and its progeny. The legal consequences would not, however, be as far-reaching as *Roe* itself, which had the effect of declaring century-old criminal abortion statutes invalid, cutting deeply into assumed rights of husbands [162] and parents,[163] and creating the possibility of required, at least via legislation, public financing of abortion.[164] On the other hand, the consequence of the *Roe* decision to the aborted fetus is severe and final. This result, of course, is of no great concern to the rule of law, unless the unborn does meet the criteria of constitutional personhood and the Court either because of poor reasoning or because of some unstated reason arbitrarily denied the unborn the constitutional protections due it or unless the fourteenth amendment is inadequate as a legal device to protect the fundamental rights of all members of the human family, the avowed purpose of the drafters of the fourteenth amendment. In either case, there is reason for concern, for the legal order has failed. Perhaps society has failed as well by not providing other solutions which were acceptable to women facing unwanted pregnancies. Professor John Ely obviously had a point when he wrote that "having an unwanted child can go a long way toward ruining a woman's life." [165] No one is denying the personal tragedy or the hardships involved in an unwanted pregnancy. The solution, however, should turn on what is being sacrificed to avert the tragedy and hardships. These are hard decisions.

To put these hard decisions in their proper perspective, it must be borne in mind that constitutional protection of fundamental rights never takes place in a social vacuum. Rather, the protection of the fundamental rights of one necessarily requires personal sacrifices of some significance by those against whom the right is enforced. For example, when the Illinois Supreme Court and the United States federal district court enforced the first amendment right of the American Nazi Party to march in Skokie, a sacrifice on the part of the Jewish population in Skokie was necessarily involved. Similarly, an order requiring desegregation in certain neighborhoods may have the effect of substantially reducing the market value of the property holdings of those already in the neighborhood, and the privilege against self-incrimination may, and occasionally does in the instance of a killer set free, later result in the sacrifice of the life of an innocent person. To be emphasized here is that the fundamental human rights theory necessarily implies sacrifices. All the great judicial decisions in this area

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have thus been hard decisions. And the problem of the right to life of the fetus must be viewed in this context.

But courts as well as people have faced difficult problems before and have resolved them with dignity and intellectual honesty. Such was the problem in the famous case of *United States v. Holmes*,[166] where, following a shipwreck, the sailors threw fourteen passengers overboard to lighten a sinking lifeboat, and *Regina v. Dudley & Stephens*,[167] where two seamen starving after twenty days in an open boat, killed a youthful companion and fed on his flesh until they were rescued. In both of these cases the doctrine of necessity was raised as a defense to the men's actions. And "necessity" there was—nothing less than the lives of those later accused of homicide were at stake. These were hard decision for the courts, harder than the abortion decision because rarely is "necessity" in the abortion situation of the magnitude of that facing Holmes and Dudley and Stephens. Nonetheless, the courts held that "necessity cannot justify killing."

Is that what is involved in the abortion controversy? Is abortion an act of killing? The West German Federal Constitutional Court concluded that it was[168] and sought to resolve the abortion problem in a manner consistent with its understanding of the values involved and their authoritative legal principles. In its concluding paragraphs, the West German Federal Constitutional Court wrote:

"The parliamentary discussions about the reform of the abortion law have indeed deepened the insight that it is the principal task of the state to prevent the killing of unborn life through enlightenment about the prevention of pregnancy on the one hand as well as through effective promotional measures in society and through a general alteration of social concepts on the other." [169]

Would not such an approach be much more compatible with the deepest values and the authoritative ideals of this society?

FOOTNOTES

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[1] The decisions in Beal v. Doe, 432 U.S. 438. Maher v. Roe, 432 U.S. 464, and Poelker v. Doe, 432 U.S. 519, were announced by the Supreme Court on June 20, 1977, in *Beal*, the Court held that a state participating in the Medicaid Program is not required by Title XIX of the Social Security Act to fund the costs of nontherapeutic abortions, in *Maher*, the Court held, *inter alia*, that the Constitution imposes no obligation on the states to pay pregnancy related expenses and that a state does not violate equal protection by funding the costs of prenatal expenses but not nontherapeautic abortions because of the State's strong and legitimate interest in encouraging normal childbirth; in *Poelker*, the Court held that a city does not violate equal protection by excluding nontherapeutic abortions from public hospitals since the Constitution does not forbid a state or city from expressing a preference for normal childbirth.

[2] Colautti v. Franklin, 99 S. Ct. 675 (1979), decided January 9, 1979. Arguably *Colautti* does limit legislative authority in the abortion area in spite of the Courts's claim that it reaffirms the principles of Roe v. Wade, 410 U.S. 113 (1973). Doe v. Bolton, 410 U.S. 179 (1973), and Planned Parenthood v. Danforth, 428 U.S. 52 (1976), 99 S. Ct. at 682. In *Roe* the Court had observed that, in the medical and scientific communities, the fetus is considered viable if it is "potentially able to live outside the mother's womb, albeit by artificial aid," *Roe*, 410 U.S. at 160, whereas in *Colautti* the Court wrote that "[v]iability is reached when, in the judgment of the attending physician on the particular facts of the case before him, there is reasonable likelihood of the fetus' sustained survival outside the womb, with or without artificial support." 99 S. Ct. at 682. The change, if any, in the substantive law is in the degree of probability of survival required and in the focus on the particular fetus as opposed to the fetus in the abstract.

[3] 432 U.S. 464 (1977).

[4] *Id.* at 479–80.

[5] *Id.* at 480.

[6] 432 U.S. 519 (1977).

[7] *Id.* at 521. In the *Beal* decision Justice Powell, writing for the Court, expressed a similar view: "But we leave entirely free both the Federal Government and the States, through the normal processes of democracy, to provide the desired funding. The issues present policy decisions of the widest concern. They should be resolved by the representatives of the people, not by this Court." 432 U.S. at 448 n.16.

[8] 432 U.S. at 475 (1977).

[9] 410 U.S. 113 (1973). Mr. Justice Blackmun's assurance was: Our task, of course, is to resolve the issue by constitutional measurement free of emotion and of predilection. . . . We bear in mind, too, Mr. Justice Holmes' admonition in his now vindicated dissent in Lochner v. New York, 198 U.S. 45, 76 (1905): [The Constitution] is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States. 410 U.S. at 117.

[10] A major criticism directed against Justice Blackmun's opinion in Roe v. Wade is that *Lochner* was in fact revived. *See, e.g.*, Mr. Justice Rehnquist's dissent in *Roe*, 410 U.S. at 174; Ely. *The Wages of Crying Wolf; A Comment on Roe v. Wade*, 82 Yale L.J. 920 (1973); Tribe, *The Supreme Court, 1972 Term—Forward: Toward a Model of Roles in the Due Process of Life and Law*, 87 Harv. L. Rev. 1, 11–15 (1973); *see* text accompanying notes 119–26, *infra*, for further discussion of *Lochner* and substantive due process.

[11] 432 U.S. 464 (1977).

[12] 432 U.S. (1977).

[13] 432 U.S. (1977).

[14] Particularly that of Mr. Justice Marshall in Beal v. Doe, 432 U.S. at 454–62.

[15] Dissenting Justices Marshall, Brennan and Blackmun voted with the majority in *Roe*.

[16] Mr. Justice Blackmun, author of the *Roe* majority opinion, in his *Beal* dissent, applicable also to *Maher* and *Poelker*, wrote: The Court today, by its decisions in these cases, allows the States, and such municipalities as choose to do so, to accomplish indirectly what the Court in Roe v. Wade and Doe v. Bolton—by a substantial majority and with some emphasis, I had thought—said they could not do directly. Beal v. Doe, 432 U.S. at 462 (1977) (citations omitted).

[17] *See, e.g.*, R. BERGER, GOVERNMENT BY JUDICIARY (1977).

[18] 410 U.S. at 156–57.

[19] The Supreme Court in *Maher v. Roe* held that the state could assert an interest in what it termed "potential human life." The term "potential human life" appears to have been carefully chosen, because, by concluding that the state has an interest in potential human life, the Supreme Court hoped to avoid the necessity of deciding at least in the context of the *Maher* case when human life begins, a problem the solution to which, according to Mr. Justice Blackmun in *Roe*, has evaded philosophers, theologians and unfortunately also physicians throughout the centuries, *See Roe v. Wade*, 410 U.S. at 159. Since this paper is concerned with the scope of the "person" concept in the Constitution as opposed to those matters in which the states may assert an interest—and since the proofs are replete that embryoes and fetuses of human beings are, at least from the biological perspective, human and living—the term "unborn human life" is used. For an excellent and detailed discussion of the biological proofs, *see* Krimmel and Foley, *Abortion: An Inspection into the Nature of Human Life and Potential Consequences of Legalizing Its Destruction*, 46 U. Cin. L. Rev. 725 (1977).

[20] *Roe* permits the pregnant woman, as an aspect of her constitutional right to privacy, to decide whether or not to abort.

[21] Justices White and Rehnquist suggested in their dissent in *Bolton* which was also applied to *Roe* that the resolution of the abortion problem should be left to legislative decision. 410 U.S. at 222.

[22] *See* R. BERGER, GOVERNMENT BY JUDICIARY 18–19 (1977).

[23] *Id.* at 20. Professor Berger writes: The "privileges or immunities" clause was the central provision of the Amendment's § 1, and the key to its meaning is furnished by the immediately preceding Civil Rights Act of 1866 . . . which, all are agreed, it was the purpose of the Amendment to embody and protect. The objectives of the Act were quite limited. The framers intended to confer on the freedmen the auxiliary rights that would protect their "life, liberty, and property,"—no more. For the framers those words did not have the sprawling connotations later given them by the Court but, instead, restricted aims that were expressed in the Act. The legislative history of the Amendment frequently refers to "fundamental rights," "life, liberty, and property," and a few historical comments will show the ties between the two.

[24] *Cf.* Dred Scott v. Sandford, 60 U.S. (19 How.) 393 (1857). *Dred Scott* was decided prior to the adoption of the fourteenth amendment and involved a construction of the notion of "citizen" in the Constitution, not "person." Although the case had the effect of excluding a human group from enjoyment of constitutional privileges and immunities, a decision which resulted in profound tragedy, it did not deal with the scope of the "person" concept. In this context it is interesting to note that, despite the Court's holding in *Dred Scott*, slaves were considered to be persons under the criminal law and were held responsible under the criminal law as well as entitled to its protections. *See, e.g.*, J. KENT, COMMENTARIES ON AMERICAN LAW 253–55 (12th ed. 1973). *See also* State v. Jones, 2 Miss. (1 Walker) 39 (1820). It thus follows that the concept of "persons" in general legal usage was somewhat broader than the concept of "citizen," both terms being used in section one of the fourteenth amendment. It is also noteworthy that the Supreme Court has held that the phrase in the first section of the fourteenth amendment ("All persons born within the United States . . . are citizens of the United States") was designed to overturn *Dred Scott* and establish citizenship in the Negro. *See* Slaughter-House Cases, 83 U.S. (16 Wall.) 36 (1873).

[25] *See* text accompanying notes 101–06, *infra*.

[26] 410 U.S. at 156 (1973).

[27] It is interesting to note in this connection the contention that due process of law is the constitutional protection of the right to life. *Cf.* Bedau, *The Right to Life*, 52 THE MONIST 562 (1968). However, at the time of the adoption of the fourteenth amendment, due process was probably understood to provide both a procedure to protect such rights as "life, liberty, or property" and the only legally proper method of limiting those rights. *See* note 23, *supra*.

[28] *See* statements of Mr. Justice Douglas in Doe v. Bolton, 410 U.S. 179, 211 (1973) (Douglas, J., concurring).

[29] Compare the following statement from the Federal Constitutional Court of Western Germany in its abortion case: "Human life represents within the order of the Basic Law, an ultimate value; it is the living foundation of human dignity and the prerequisite for all other fundamental rights." Jonas and Gorby, *Translation of the German Federal Constitutional Court Abortion Decision*, 9 J. MAR. J. PROC. & PROC. 605, 642 (1976) [hereinafter cited as Jonas and Gorby, *Translation*].

[30] 408 U.S. 238 (1972).

[31] *Id.* at 290 (Brennan, J., concurring).

[32] J. LOCKE, THE SECOND TREATISE OF CIVIL GOVERNMENT, ch. 2 (T. Peardon ed. 1952).

[33] In an interesting study of John Locke's attitude toward children and particularly the unborn child, Joseph Witherspoon concludes that Locke must have considered the unborn human a "person" and entitled to enjoy the natural right to life. *See* J. Witherspoon, John Locke's Concept of the child as a Person (scheduled for publication in 1979).

[34] J. LOCKE, THE SECOND TREATISE OF CIVIL GOVERNMENT ch. 2 (T. Peardon ed. 1952).

[34a] E. DUMBAULD, THE DECLARATION OF INDEPENDENCE AND WHAT IT MEANS TODAY 157 (1950).

[35] As indicated earlier, due process, rather than creating the rights explicitly mentioned in the fifth amendment and later in the fourteenth amendment, actually provided a constitutionally acceptable means of limiting the rights. According to the prevailing political theories, the rights mentioned were natural rights which preexisted the Constitution.

[36] Nevertheless, the ideas of Blackstone, who reiterated the ideas of Locke, were cited by the supporters of both the Civil Rights Act of 1866 and the fourteenth amendment. *See* notes 86–91, *infra*, and

acompanying text; *see also* R. BERGER, GOVERNMENT BY JUDICIARY 20-22 (1977).

[37] G.A. Res. 217A(111), U.N. Doc. A/810, at 71-77 (1948).

[38] "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provide by law." European Convention on Human Rights, signed Nov. 4 1950 (entered into force on Sept. 3, 1973). *See also* the American Declaration on the Rights and Duties of Man, Resolution XXX, adopted by the Ninth International Conference of American States, May 2, 1948, Article I of which provides: "Every human being has the right to life, liberty and security of his person." *See also* the American Convention on Human Rights, signed Nov. 22, 1969, OAS Treaty Series, Article 4(1) of which provides: "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life."

[39] 408 U.S. 238 (1972).

[40] *Id.* at 296 (Brennan, J., concurring).

[41] *Id.* at 286 (Brennan, J., concurring).

[42] The possibility exists that in the Court's eyes the major issue was not the scope of constitutional personhood as stated but rather other far-reaching problems. Some indication of this is given in the *Roe* opinion itself. At the end of the opinion, Mr. Justice Blackmun wrote: "This holding, we feel, is consistent . . . [*inter alia*] . . . with the demands of the profound problems of the present day." 410 U.S. at 165. Although he did not specifically identify these "profound problems," Mr. Justice Blackmun provided at least a hint by mentioning at the beginning of the opinion that "population growth, pollution, poverty, and racial overtones tend to complicate and not to simplify the problem." 410 U.S. and 116. If the Court's concern was to resolve or alleviate these "profound problems" by allowing population reduction via the sacrifice of unborn humans, the Court should have said so and allowed the matter to be debated on the merits of that issue rather than presenting the problem of *Roe* in terms of construing several potentially conflicting clauses of the Federal constitution which guarantee individual rights. Although such an underlying concern could perhaps explain a poorly reasoned decision by a court on the stated issues, this commentary accepts the Court's statement of issues and proceeds accordingly.

[43] Babbits v. McCann, 310 F. Supp. 293 (E.D. Wis. 1970), *appeal dismissed*, 400 U.S. 1 (1970)—(dismissal for want of denial of injunction).

[44] Roe v. Wade, 314 F. Supp. 1217 (N.D. Tex. 1970).

[45] Doe v. Bolton 319 F. Supp. 1048 (N.D. Ga. 1970).

[46] Rosen v. Louisiana State Bd. of Medical Examiners, 318 F. Supp. 1217 (E.D. La. 1970).

[47] Doe v. Scott, 321 F. Supp. 1385 (N.D. Ill. 1971).

[48] Corkey v. Edwards, 322 F. Supp. 1248 (W.D.N.C. 1971).

[49] Following the intervention by Dr. Heffernan in *Doe v. Scott* (the Illinois case) a similar motion for intervention on behalf of the fetus was filed in the district court and allowed in *Doe v. Bolton*. Upon a finding by the federal district court in the *Doe v. Bolton* case that the fetus was not a "person," the district court noted in a footnote that it "does not postulate the existence of a new being with federal constitutional rights at any time during gestation." 319 F. Supp. at 1055 n.3. The guardian was thus dismissed from the lawsuit. For reason unknown, this dismissal was not appealed by the guardian ad litem and consequently the fetus' interests were not represented before the Supreme Court in either the *Roe v. Bolton* cases.

[50] Briefs Amici Curiae, 3 L. Reprints, Crim. L. Series 479 (No. 37B. 1971-72).

[51] 321 F. Supp. 1385 (N.D. Ill. 1971).

[52] 409 U.S. 817 (1972).

[53] A month after the *Roe v. Wade* and *Doe v. Bolton* decisions were announced in January, 1973, the Supreme Court remanded the Illinois case "for further consideration in light of *Roe v. Wade*," 410 U.S. at 950.

[54] *See generally* ORAL ARGUMENTS IN THE SUPREME COURT ABORTION DECISIONS (Sanctity of Life Publications, Ltd. 1976); *Id.* at 59.

[55] Roe v. Wade, 410 U.S. at 159 (1973).

[56] Although Mr. Justice Blackmun emphasized his uncertainty about "when life begins," it is difficult to determine from his opinion in *Roe* exactly what role this uncertainty played in the Court's conclusion that the fetus is not a constitutional person. Clearly, his unncertainty was a major factor in the Court's conclusion that the state's interest in unborn human life prior to viability was not compelling enough to overcome the woman's right to privacy. 410 U.S. at 162-64. As the text at notes 117-18, *infra*, suggests, an attempt to avoid deciding this factual question may explain at least in part the Court's birth requirement.

[57] This was used by the Supreme Court in Roe v. Wade, 410 U.S. at 163, to determine when viability begins. More recently it was used in Colautti v. Franklin, 99 S. Ct. 675, 681 (1979), impliedly in contradistinction to "momentary survival."

[58] The reasons for this belief are suggested throughout this paper. In general, the Bill of Rights as well as subsequent amendments to the United States Constitution are to be understood as setting forth as fundamental values of state certain fundamental human rights in a positive form or as a statement of an American declaration of the rights of man, at least against the state. The idea of human rights is based upon the notion that certain rights obtain by virtue of being human and may be conditioned upon no other requirement. An attempt to restrict entitlement to those rights by the creation of criteria other than mere humanness is incompatible with the idea of "human rights;" an attempt to restrict entitlement to those rights by definition is jurisprudentially permisible only if such definitions are totally rational and non-arbitrary. The fundamental issues, as suggested in the text accompanying this footnote, are: (1) Is the unborn human? (2) Is the unborn living? and (3) Is the unborn an individual entity? Since the purpose of this article is much more to expose the Supreme Court's arbitrariness in resolving the "person" issue than to develop the writer's personal views, these views have been reduced to a footnote.

[59] 410 U.S. at 159.

[60] A limited discussion of proofs presently available is included in the text accompanying notes 137-53, *infra*. *See also* Krimmel and Foley, *Abortion: An Inspection into the Nature of Human Life and Potential Consequences of Legalizing its Destruction*, 46 U. Cin. L. Rev. 725 (1977)

[61] Roe V. Wade, 410 U.S. at 157

[62] The commonly accepted approaches to the construction of legal documents very generally include interpreting the term at issue in good faith according to (1) the natural and ordinary meaning of the term: (2) the context of the whole document in which the term is found; (3) the historical background, including preparatory work; and (4) the function to be attributed to the term.

[63] 410 U.S. at 157.

[64] U.S. CONST. art. I, § 2, cl. 3. The apportionment clause restricted those to be counted in the census to "free persons," "exclud[ed] Indians not taxed" and included "three fifths of all other persons." In *Roe* Justice Blackmun asked whether a fetus had ever been counted in a census. 410 U.S. at 157 n.53. This quip appears to have been inspired by Professor Means' law review article entitled *The Phoenix of Abortional Freedom: Is a Penumbral or Ninth Amendment Right About to Arise from the Nineteenth-Century Legislative Ashes of a Fourteenth-Century Common-Law Liberty?* 17 N.Y.L.F. 335, 402-03 (1971) [hereinafter cited as Means]. In this article, published on the eve of the first oral arguments in *Roe* and with the obvious intent to influence the outcome of the abortion cases before the Supreme Court, Professor Means attempted to deal not only with the briefs and written arguments of the parties but with those of the amici as well. It is important to note that constitutional personhood in other contexts in the Constitution is not considered to be restructed by the use of the term "person" in the apportionment clause or by the political compromises made at the time of formulating the Constitution in the late eighteenth century. Whatever the clause's value, it offers no guidance in construing the word "person" in the fifth or fourteenth amendments.

It is interesting that the apportionment clause uses the term "free persons," which suggests that there are "persons" who are not "free." The *Dred Scott* decision dealt with the question of citizenship, not personhood; *see* note 24, *supra*.

[65] U.S. CONST. art. IV, § 2, cl. 2. The extradition clause provides that a "person charged . . . with Treason, Felony, or other crime . . . shall . . . be delivered up." This clause also restricts a broad and general class of "persons" for a particular purpose, in this case, those subject to extradition. It does imply that there are "persons" who do not qualify for extradition; it does not imply that those who do not qualify for extraditions are non-persons nor does it imply when this personhood began.

[66] Mr. Justice Blackmun's primary point is, to an extent, valid. Regarding most constitutional references to "persons," the concern is with postnatal matters. But does it follow that blacks or "Indians not taxed" under seven years of age are not "persons?" A member of that class would be given three-fifths of a count in the census (or none, in the case of the untaxed Indian); would be too young to run for Congress, the Senate or the Presidency; and under the common law of crimes would be incapable of committing treason, a felony, or "other crime" and thus would not be subject to extradition. This, of course, does not reflect the present state of the law. Young blacks and Indians, whether taxed or not, are clearly "persons" under the Constitution. The scope of "person" in the fourteenth amendment has never been held to be limited by eighteenth century political compromises. Nevertheless, the Supreme Court's examples certainly suggest that possibility.

[67] In fact, a glance at section one of the fourteenth amendment itself could arguably suggest that "person" has prenatal significance. The phrase in section one is "persons born or naturalized in the United States . . . are citizens of the United States." Obviously, there are persons who are not naturalized, for "naturalized" functions as an adjective which restricts the class of persons to those who qualify for citizenship. By the same reasoning, "born" functions as an adjective, limiting the class of persons to those who qualify for citizenship. Although this argument may appear superficial and, of course, does not preclude the possibility that the term "born" must be read "born . . . in the United States" as opposed to being born elsewhere, it does involve the use of person in section one of the fourteenth amendment—the very provision being construed—and it surely offers as much support for a "prenatal" construction as the *Roe* Court's analysis of the use of person does for its birth requirement.

[68] 410 U.S. at 158.

[69] *Id.*

[70] 3 E. COKE, INSTITUTES 50 (1628). Coke defined "misprision" in his INSTITUTES as a word used to describe a misdemeanor which does not possess a specific name. *Id.* at 36. *See also Roe*, 410 U.S. at 136.

[71] *See* 410 U.S. 113, 134-36 (1973).

[72] Roe v. Wade, 410 U.S. at 135 n.25, *citing* 1 W. BLACKSTONE, COMMENTARIES 129-30.

[73] 410 U.S. at 135. Mr. Justice Blackmun appears again to have relied on the study of Cyril Means, discussed at note 64, *supra*. Means argued that abortion during the fourteenth century was a "liberty" and cited two cases (The Twinslayer's Case and The Abortionist's Case) in support. Means at 335-50. Even if these two cases do reflect the state of the common law during the fourteenth century (and there is good reason to believe they do not, *see* Destro, *Abortion and the Constitution: The Need for a Life-Protective Amendment*, 63 CALIF. L. REV. 1267-73 D(1975)), it is difficult to understand how abortion could be considered a "liberty" when it was clearly a crime and punishable as such by the ecclesiastical courts. *See* Means at 346-48 and note 64, *supra*. To draw a rough analogy, if possession of cannabis were not a federal offense, would it follow that possession of cannabis is a "liberty?" Would possession also be a liberty if possession were punished by our state courts? It is significant to remember that during the fourteenth century it was commonly claimed that the law applied by the ecclesiastical courts had been "received" by the state and thus obtained its authority by being essentially a part of the law of England. *See generally* F. MAITLAND, ROMAN CANON LAW IN THE CHURCH OF ENGLAND (1898). Maitland himself was not convinced that there had really been a "reception" of canon law. *See* F. MAITLAND, *Essay on William Lyndwood*, in ROMAN CANON LAW IN THE CHURCH OF ENGLAND (1898). Nevertheless, to the extnt that everyone was subject to the canon law, that punishment of considerable severity for its violation was inflicted, that canon law was generally considered to be a "part" of English law, and that abortion was a "crime," it is very dificult to understand the "liberty" argument advanced by Means. Moreover, even if abortion were not a common law offense during the fourteenth century, the writings of Bracton (thirteeth century), Coke (seventeenth century), Hale (seventeeth century), Blackstone (eighteenth century), and Kent (nineteeth century), all of whom believed that abortion of a quickened fetus

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was a crime, were instrumental in formulating the attitudes of the drafter of the fourteenth amendment toward unborn human life. There is no indication that eithteenth and nineteenth century American believed that the abortion of a quickened fetus was a "liberty." Both the cases and the commentaries suggest the contrary. With respect to the issue of whether the word "person" includes the "unborn," the ideas of eighteenth and nineteenth century America are crucial, not those of fourteenth century England. As the accompanying text points out, nineteenth century America clearly believed that an abortion of a quickened fetus was a crime. And, as the nineteenth century courts pointed out. The purpose of the common law offense was to protect unborn human life. *See* notes 78–80, 82–85, *infra*, and accompanying text.

[74] Roe v. Wade, 410 U.S. at 136 n.26.

[75] *Id.*

[76] *See* I. W. Blackstone, Commentaries 129–30.

[77] R. Perkins, Criminal Law 140 (2d ed. 1969), citing cases from Massachusetts (1845), Iowa (1856) and New Jersey (1849). These cases reflected the state of the law in these states at the time of the adoption of the fourteenth amendment in 1868.

[78] Mills V. Commonwealth, 13 Pa. 630, 633–34 (1850); *see also* State v. Slagle, 83 N.C. 630, 632 (1830).

[79] Abrams v. Foshee, 3 Iowa 274 (1856); Mitchell v. Commonwealth, 78 Ky. 204 (1879); Commonwealth v. Parker, 50 Mass. 263 (1845); State v. Cooper, 22 N.J.L. 52 (1849).

[80] *See* Roe v. Wade, 410 U.S. at 175–76 n. 1 (Rehnquist, J., dissenting).

[81] 410 U.S. at 151.

[82] The case cited by the United States Supreme Court is State v. Murphy, 27 N.J.L. 112 (1858); however, the history of the law on abortion in New Jersey during the nineteenth century actually argues against Mr. Justice Blackmun's conclusions in this regard. In State v. Cooper, 22 N.J.L. 52 (1849), the Supreme Court of New Jersey formulated the issues to be whether an attempt to procure an abortion of an unquickened fetus with the mother's consent "be at all an offense or not, and whether the child be *in esse*, so that any crime can be committed against its person." *Id.* at 54. The Court emphasised that an abortion of a quick child, even with the mother's consent, was an offense at common law. In support of this, the Court cited Blackstone's comment that "[l]ife begins in contemplation of law as soon as an infant is able to stir in the mother's womb." *Id.* The Court then noted that "[i]t is not material whether, speaking with physiological accuracy, life may be said to commence at the moment of quickening, or at the moment of conception, or at some intervening periods. *In contemplation of law* life commences at the moment of quickening, at the moment when the embryo gives the *first physical proof of life*, no matter when it first received it." *Id.* (second emphasis added). The Court then concluded that the "offense of procuring an abortion seems, by the ancient common law writers, to be treated only as an offense against life." *Id.* As a result, the *Cooper* Court held that, under the common law, if the woman consented and the child had not quickened, there was no common law offense. The entire discussion of the Court, it must be emphasised, centered around the question of whether the abortion of an unquickened fetus could be a crime. (There was no mention made of the health of the mother by the *Cooper* Court.) The Court then invited the legislature, "if the good of society requires that the evil [meaning, this writer believes, no legal protection for the unquickened fetus] should be suppressed by penal inflictions," to enact legislation. *Id.* at 58. "This decision," it is noted in the official reporter, "induced the legislature to amend the criminal code, so as to make the offense in question a crime." *Id.*

[83] The statute required that the offender intend "to cause and procure the miscarriage of the woman *then pregnant with child.*" State v. Murphy, 27 N.J.L. at 113 (emphasis added). What this statute accomplished was to protect the unquickened child. Were the purpose merely to protect the woman's health, the legislature would not have required that actual pregnancy be established as a material element of the offense. It is true, as Mr. Justice Blackmun wrote in *Roe*, that the New Jersey Supreme Court in *Murphy* stated that the purpose of the statute was "to guard the health and life of the mother against the consequences of [attempts to procure abortions.]" 27 N.J.L. at 114. However, Mr. Justice Blackmun failed to mention (1) that an abortion of a quickened child was already a crime at common law in New Jersey; (2) that at least one effect of the statute was to make an abortion of an unquickened child a crime in New Jersey; (3) that before the crime could be committed, the woman must be actually pregnant with either an unquickened or quickened child; and (4) that the inducement for enacting the statute was the holding in *Cooper* in which the only "evil" discussed was the failure of the common law to provide protection of an unquickened fetus.

[84] Cases expressly holding that protection of the life of the fetus is one of the purposes of the nineteenth century abortion statutes are: Trent v. State, 15 Ala. App. 485, 73 So. 834 (1916), *cert. denied*, 198 Ala. 695, 73 So. 1002 (1917). The Alabama Court of Appeals wrote: [The statute's] manifest purpose is to restrain after conception an unwarranted interference with the course of nature in the propagation and reproduction of human kind. . . . We are forced to concede that when in the red-hot furnace of vitality two germs, male and female, are brought together, that fuse themselves into one, a new being, crowned with humanity and mentality, comes into life. If this be true, does not the new being, from the first day of its uterine life, acquire a legal and moral status that entitles it to the same protection as that guaranteed to human beings in extrauterine life . . . ? *Id.* at 486, 73 So. at 836.

According to the Kansas Comp. Laws of 1879, abortion of a quick fetus was manslaughter (Comp. Laws 1879, c. 31, p. 329) whereas an abortion of a non-quick fetus was a misdemeanor (Comp. Laws 1879, c. 31, p. 332). In State v. Miller, 90 Kan. 230, 133 P. 878 (1913), the Supreme Court of Kansas commented on the purpose of the latter statute by writing that the statute "carries the facial evidence of the legislative intent to cover the criminal machinations and devices of the abortionist in order to protect the pregnant woman and the unborn child." *See* Dougherty v. People, 1 Colo. 514 (1872); Nash v. Meyer, 54 Idaho 283, 31 P.2d 273 (1934); State v. Alcorn, 7 Idaho 599, 64 P. 1014 (1901); State v. Watson, 30 Kan. 281, I P. 770 (1883); Joy v. Brown, 173 Kan. 833, 252 P.2d 889 (1933); State v. Gedlicke, 43 N.J.L. 86 (1881); State v. Siciliano, 21 N.J. 249, 121 A.2d 490, 494 (1956); State v. Tippie, 89 Ohio St. 35, 105 N.E. 75 (1913); Bowlan v. Lunsford, 176 Okla. 115, 54 P.2d 666 (1936); State v. Ausplund, 86 Ore. 121, 167 P. 1019 (1917); State v. Howard, 32 Vt. 380 (1859); Anderson v. Commonwealth, 190 Va. 665, 58 S.E.2d 72 (1950); State v. Cox, 197 Wash. 67, 84 P.2d 357 (1938).

[85] Abrams v. Forbee, 3 Iowa 273 (1856); State v. Moore, 25 Iowa 128 (1866); Smith v. State, 33 Me. 48 (1851); Worthington v. State, 92 Md. 222, 48 Atl. 355 (1901); People v. Sessions, 58 Mich. 594, 26 N.W. 291 (1886); Montgomery v. State, 80 Ind. 338 (1881); Edwards v. State, 79 Neb. 251, 112 N.W. 611 (1907); Bennet v. Hymers, 101 N.H. 483, 147 A.2d 108 (1958); Mills v. Commonwealth, 13 Pa. St. 630 (1850); State v. Crook, 16 Utah 212, 51 P. 1091 (1898). *See generally* Horan, Gorby & Hilgers, *Abortion and The Supreme Court: Death Becomes a Way of Life*, in Abortion and Social Justice (1972).

[86] I. W. Blackstone, Commentaries 129. *See* State v. Cooper, 22 N.J.L. 52 (1849) for an example of how the New Jersey Supreme Court used this passage by Blackstone to determine the scope of the common law crime of abortion.

[87] Haar, *Preface* to W. Blackstone, Commentaries on the Laws of England (1962) at xxii–xxiii. An example of the influence of Blackstone on the thinking of Americans just prior to the enactment of the fourteenth amendment in 1868 can be found in the following statement by Abraham Lincoln: "The more I read [of Blackstone's Commentaries], the more intensely interested I became. Never in my whole life was my mind so thoroughly absorbed. I read until I devoured them." *Id. Cf.* Bedau, *The Right to Life*, 52. The Monist 550 (1968). An example of Blackstone's influence on the attitude of the judiciary to unborn human life is also reflected in an 1820 Mississippi case in which the court held that a slave was a person under the criminal law and entitled to its protections and that a slave owner could be prosecuted for the murder of his slave. The court wrote: The taking away of the life of a reasonable creature under the King's peace, with malice aforethought, express or implied, is murder at common law. Is not the slave a reasonable creature, is he not a human being, and the meaning of this phrase reasonable creature is a human being, for the killing a lunatic, an idiot, or even a child unborn, is murder, as much as the killing a philosopher, and has not the slave as much reason as a lunatic, an idiot or an *unborn child.* State v. Jones, 2 Miss. (1 Walker) 39 (1820) (emphasis added).

[88] *See, e.g.*, Professor Tucker's Blackstone; Wendell's Blackstone; Professor Cooley's Blackstone; Dean Ewell's Blackstone; Blickensdorfer's Blackstone; Dean Hammond's Blackstone's Dean Gavit's Blackstone; Dean Chase Blackstone.

[89] Kent wrote, in his Commentaries on American Law (12th ed. 1973), as follows: "The absolute rights of individuals may be resolved into the right of personal security, the right of personal property, the right to enjoy and acquire property. These rights have been justly considered, and frequently declared, by the people of this country, to be natural, inherent, and unalienable."

[90] *See* R. Berger, Government by Judiciary 20–22 (1977).

[91] *Id.* at 20.

[92] T. Percival, Medical Ethics 134–35 (Leake ed. 1827).

[93] *Minutes of the Annual Meeting 1859*, The American Medical Gazette 409 (1859).

[94] 141 U.S. 250 (1891).

[95] Elevating a common law right to a constitutional right, as did the Supreme Court in *Roe* with the right to privacy, raises an additional point. In *Botsford* the Supreme Court simply asked whether it had the *authority* to order an examination of the woman without statutory authority and concluded it did not. The implication, of course, is that with statutory authority, the Court would be so empowered. In short, the Court recognized the predominance of statutory law over common law. Indeed, subsequent to *Botsford*, nearly every state, either by statute or court rule, had permitted a court to order physical examinations of injured plaintiffs in personal injury cases. Thus, the right to privacy in this context has given way to a legislatively determined greater need. By elevating the right to a constitutional level, the legislature loses, except under compelling circumstances, the power to limit the right. *Botsford* thus may stand for the notion that there is a common law right to privacy. It does not, however, stand for the notion that this right prevails over any legislative determinations that the right must yield to what it considers to be more important values, such as was the case with the criminal abortion laws.

[96] *See, e.g.*, State v. Murphy, 27 N.J.L. 112, 114 (1858). The Supreme Court of New Jersey noted that the common law "offense [of abortion] was only against the life of th child."

[97] Quickening refers to the mother's awareness of the movement of the fetus in the womb; it thus reflects maternal sensitivity, not fetal competence, and thus also tends to be an arbitrary point at which to commence constitutional personhood. One possible reason why "quickening" may have been important in criminal law is because at that point it would be possible through the mother's testimony or by reports of a mother's statements to determine if the fetus were in fact alive at the time of the infliction of the criminal act. With such testimony, one could establish the *corpus delecti* of the crime. *See* note 82, *supra*, for a discussion of State v. Cooper, 22 N.J.L. 52 (1849). As the New Jersey Supreme Court in *Cooper* points out, quickening is important in law because "at the moment the embryo gives the first proof of life." 22 N.J.L. at 54.

[98] Oral Arguments in the Supreme Court Abortion Decisions (Sancity of Life Publications, Ltd. 1976) at 20, 28, 54, 61–62.

[99] 410 U.S. at 138, 151.

[100] It should be noted that the legislatures which ratified the fourteenth amendment also, within the same general time frame, enacted the abortion statutes of the nineteenth century.

[101] Was the Court's failure to explicitly state that constitutional personhood begins at birth intentional? Although this paper proceeds on the assumption that constitutional personhood begins at birth, is it possible that in the minds of the justices there are perhaps additional conditions precedent to obtaining constitutional personhood? Can some indication of this be found in the Court's statement that the state's compelling interest in protecting the unborn begins at viability because then the fetus "has the capability of meaningful life outside the mother's womb?" 410 U.S. at 163. What does "meaningful life" mean? That life is possible outside the mother's womb? That there is potential for survival? Or does it suggest something entirely different, something related, for example, to intellectual ability, financial ability, physical ability, to the

capability of being happy, normal, loyal, healthy, or perhaps to the state of being wanted or loved or to whether a "meaningful" contribution to society can be made? Interestingly enough, since *Roe*, and likely as a consequence of *Roe*, serious suggestions have been made to postpone legal protections until even beyond birth. *See. e.g.*, Nobel Prize Winner James Watson's statement that "most birth defects are not discovered until birth. . . . [If] a child were not declared alive until three days after birth, all parents could be allowed the choice [to preserve the child's life] that only a few are given under the present system." Watson, *Children from the Labortory*, Prism, May 1973, at 12-13. *See also* Tooley, *Abortion and Infanticide*, 2 Phil. & Pub. Affairs 37, 44 (1972), where the author suggests that an "organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity;" Horan, *Euthanasia as Medical Management*, in Death, Dying and Euthanasia 198-99 (D. Horan & D. Mall ed. 1977) for a discussion of several other similar suggestions.

[102] 410 U.S. at 154.

[103] *Id.* at 163.

[104] *Id.*

[105] Professor Verdoss suggests that the state has a duty to create courts to protect fundamental human rights. *See* A. Verdross, The Idea of Fundamental Human Rights (translated by this author and set for publication in 1979)

[106] *See, e.g.*, Corwin, *The "Higher Law" Background of American Constitutional Law*, 42 Harv. L. Rev. 149 (1928).

[107] Although the history of constitutional decision-making suggests that the "plain meaning" approach is only one of numerous methods of interpretation, this principle of interpreting according to the literal meaning has been frequently applied by constitutional courts. In Beal v. Doe, 432 U.S. 438, 444 (1977), the Court wrote: "The starting point in every case involving construction of a statute is the language itself." *See also* E. Crawford, Statutory Construction 315 (1940), where he wrote: "[T]he intention of the legislature is to be primarily ascertained from the language used in the statute, and if the language is plain and unambiguous, it must be given a literal meaning." *See also* Lake County v. Rollins, 130 U.S. 662, 670 (1889), where the Court wrote: If the words convey a definite meaning, which involves no absurdity, nor any contradiction of the other parts of the instrument, then that meaning, apparent on the face of the instrument, must be accepted, and neither the courts nor the legislature have the right to add to it or take from it. Even though scholars look upon the "plain meaning" approach as a relatively unsophisticated one and as one which distracts a person from the more important analysis of function and history, the Court has not hesitated to use "plain meaning" as an approach to construction, particularly when it serves its purposes. *See, e.g.*, Beal v. Doe, 432 U.S. at 444.

[108] The Oxford English Dictionary (1970) provides the following relevant definitions of "person." "II. An individual human being; a man, woman, or child. IV. *Law.* A human being (*natural person*)." Webster's Third New International Dictionary provides these relevant definitions: "I. a) an individual human being; c) a human being as distinguished from an animal or thing; 8. a being characterized by conscious apprehension, rationality, and a moral sense; 9. a living individual unit. . . ." Noah Webster's An American Dictionary of the English Language (1828) provided the following pertinent definitions of "person:" "1. An individual human being consisting of body and soul. We apply the word to living beings only, possessed of a rational value: the body when dead is not called a *person*. It is applied alike to a man, woman or child. 'A person is a thinking intelligent being'—Locke; 2. A man, woman or child, considered as opposed to things, or distinct from them; 3. A human being, indefinitely, one; a man." The 1865 version of Noah Webster's An American Dictionary of the English Language defined "person" as follows: "3. The corporeal manifestation of a soul; the outward appearance, expression, & c., body. 4. A living soul; a self-conscious being; a moral agent; especially a living human being; a man, woman, or child; an individual of the human race. 'We must consider what *person* stands for; which, I think, is a thinking, intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing in different times and planes.'—Locke 5. A human being spoken of indefinitely; one; a man."

[109] Since most of the definitions use the term "human" or "human being" to define "person," the possibly relevant definitions of "human" are given. The Oxford English Dictionary (1970) defines "human" as "1. Of, belonging to, or characteristic of man; 2. Of the nature of man. . . ." Webster's Third New International Dictionary defines "human" as "1. a) of or relating to man; characteric of man 3. characteristic of or relating to man in his essential nature. . . ." N. Webster, An American Dictionary of the English Languague (1828) defined "human being" as follows: "1. Belonging to man or mankind; pertaining or relating to the race of man; 2. Having the qualities of a man." The 1865 version defined "human" as follows: "1. Belonging to man or mankind; having the qualities or attributes of a man; pertaining or relating to the race of man; 2. A human being; one of the race of man."

[110] Since "human" is often defined in terms of "man," relevant definitions of "man" are provided. The Oxford English Dictionary (1970): "I. 1. A human being (irrespective of sex or age). . . ." Webster's Third International Dictionary: "1. a) A member of the human race; a human being; 2. b) a bipedal primate mammal (homo sapiens) . . . distinguished by notable development of the brain with a resultant capacity of articulate speech and abstract reasoning, marked erectness of body carriage . . . 2. c) Individual; one." N. Webster, An American Dictionary of the English Language (1828) defined "man" as follows: "1. Mankind; the human race; the whole species of human beings; beings distinguished from all other animals by the powers of reason and speech, as well as by their shape and dignified aspect. 7. An individual of the human species." The 1865 version defined "man" as follows: "1. An individual of the human race; a human being; a person. 3. The human race; mankind; the totality of man."

[111] *See* Strauder v. W. Va. 100 U.S. 303 (1880); *see also* R. Berger, Government by Judiciary (1977).

[112] R. Berger, Government by Judiciary 20 (1977).

[113] *See* notes 100 and 101, *supra*.

[114] *See* text accompanying notes 127-36 and 137-53, *infra*.

[115] Since there are no judicial decisions on the matter, one can only speculate about how the Supreme Court would deal with an attempt by a state to deprive the unborn of his property without due process of law or just compensation.

[116] *See* notes 108-10, *supra*, and accompanying text; *see also* L. Tribe, American Constitutional Law 893 (1977). He writes: "Human beings are of course the intended beneficiaries of our constitutional scheme." *See also* Destro, Abortion and the Constitution: The Need for a Life-Protective Amendment, 63 Calif. L. Rev. 1250 (1975).

[117] Quoted in text accompanying note 55, *supra*.

[118] It is interesting to note in this regard that in Maher v. Roe, 432 U.S. 464 (1977), the Supreme Court in discussing the existence and legitimacy of a state interest in encouraging birth, as opposed to abortion, once again avoided decision on the "life" issue. In *Maher* the Court finessed the issue by concluding that the state had an interest in "potential human life," thus making a decision about the existence of life at a particular stage unnecessary in the context of asserting state interests. 432 U.S. at 478-80.

[119] Roe v. Wade, 410 U.S. at 117; *see* note 9, *supra*, for the full text of the quotation.

[120] *Id.* Justice Holmes' argument is applicable to a similar argument made by proponents of abortion in the numerous debates on the topic. For example, at the 1975 Pierce Debates at the University of Chicago, Sybella Pritzsche, for the pro-abortion side, said: I do not believe that nine wisemen in Washington hold the truth. In our society, there is not necessarily one common binding standard for all of us, and I think the Court paid attention to that fact. They admitted that there was no absolute Truth that they could find. The Chicago Maroon, Apr. 29, 1975. The weakness of this argument is that "in our society there . . . is one common binding standard for all of us," and that standard is the Constitution. Otherwise, our society would face the problem of the tyranny of the majority. Moreover, the "nine wiseman in Washington," not theologians, physicians or even the majority of the American people, are charged with its interpretation or the responsibility of determining its meaning and scope.

[121] *See* note 24, *supra*.

[122] *See* A. Verdross. The Idea of Fundamental Human Rights (translated by this author and set for publication in 1979), particularly his discussion of the contribution of Samuel Pufendorf.

[123] Appellants in *Roe* argued that "whether the fetus is or is not a human being is a matter of definition, not fact, and we can define it in any way we wish." Brief for Appellant at 119, Roe v. Wade, 410 U.S. 113 (1972). If appellants are correct in their claim, the existence of human rights would be dependent upon the whims of the entity empowered to define "human." Moreover, the pro-abortionist claim that abortional freedom is a victory for human rights accordingly rests on a most fickle basis.

[124] Lochner v. N.Y., 198 U.S. 45, 78 (1905) (Holmes, J., dissenting).

[125] *Id.*

[126] *Id. See generally* text accompanying notes 55-115, *supra*. The fact that the *Roe* case has had ramifications beyond its direct impact on criminal abortion statutes into such areas as a father's interests in his unborn child and parents' authority to control the moral development of their minor children (*see, e.g.*, Planned Parenthood v. Danforth, 428 U.S. 52 (1975); Baird v. Bellotti, 428 U.S. 132 (1975); Wynn v. Scott, 449 F. Supp. 1302 (N.D. Ill. 1978), *appeal dismissed, direct appeal improper*, 99 S. Ct. 49 (1978), *appeal docketed*, No. 78-1262 (7th Cir. (1978)) suggests again, although indirectly, that the decision was contrary to the "fundamental principles as they have been understood by the traditions of our people and our law." At the time of the enactment of the fourteenth amendment, fathers were generally entitled to a custody of children following divorce. J. Kent, Commentaries on American Law (pt. IV) 205 (12th ed. 1973). Yet *Roe* and *Danforth* state that the father cannot even prevent the destruction of his unborn child. Nevertheless, parents have both the duty and the right to maintain and educate their children. To support this idea Kent noted the following: (c) In the case of *The Commonwealth v. Armstrong*, in the session of the peace of Lycoming county, Pennsylvania, in 1842, Mr. Justice Lewis, the president judge, decided, after a learned examination of the subject, that a minister of the gospel had no right, contrary to the express commands of the father, to receive an infant daughter, under the immediate guardianship of the father, from the church to which the father belonged, and in which the child was baptized and instructed, and initiate it, by baptism, into another church of a different denomination. It was held to be the right and the duty of the father, not only to maintain his infant children, but to instruct their minds in moral and religious principles, and to regulate their consciences by a course of education and discipline. All interference with the parental power and duty, except by the courts of justice, when that power is abused, is injurious to domestic subordination, and to the public peace, morals, and security. Parents, says a distinguished jurist on natural law, have the right by the law of nature to direct the actions of their children, as being a power necessary to their proper education. It is the will of God, therefore, that parents should have and exercise that power. Nay, he observes, parents have the right to direct their children to embrace the religion which they themselves approve. J. Kent, Commentaries on American Law (pt. IV) 203 (12th ed. 1973).

Roe, Danforth and perhaps *Bellotti* suggest that the exercise of such control over a minor child's decision to abort is unconstitutional. Does the child's right to privacy also include a right to engage in sexual relations without interference of the parents or the state? To marry at a tender age without consent of parents or court? Does it suggest, for example, that all statutory rape laws are unconstitutional? (Statutory rape laws certainly have a "chilling effect" on the minor's access to the adult population for sexual gratification.) Such possibilities for the right of privacy certainly suggest an inconsistency with fundamentals long "understood by the tradition of our people and our law."

[127] *See* text accompanying note 55, *supra*, for the full text of the quotation.

[128] Under Article 93 of the Basic Law, which is the West German Constitution, and under Sections 13, 31 and 95 of the Statute of the Federal Constitutional Court, the Federal Constitutional Court has the power to rule on the constitutionality of statutes and declare unconstitutional statutes null and void.

[129] Jonas and Gorby, *Translation* at 638.

[130] Doe v. Clarke, 2 H.Bl. 399, 400, 126 Eng. Rep. 617, 618 (1795).

[131] *See, e.g.,* Tomlin v. Laws, 30 Ill. 616, 134 N.E. 24 (1922).

[132] Scott v. McPheeters, 33 Cal. App. 2d 629, 93 P.2d 678 (1939).

[133] Chrisafogeorgis v. Brandenberg, 55 Ill. 2d 368, 372–73, 304 N.E.2d 88, 91 (1973), *quoting* Woods v. Loncent, 303 N.Y. 349, 357, 103 N.E.2d 691, 695 (1951).

[134] *see* cases cited in Chrisafogeorgis v. Brandenberg, 55 Ill. 2d at 370–71, 304 N.E.2d at 89–90.

[135] In the Cook County case of People v. Melvin Morgan (1975), as well as in a more recent Will County, Illinois, case (1978), the defendant was found not guilty because of the failure of the state to prove that the defendant caused the killing. Statement of Mr. Ralph Berkowitz, First Assistant State's Attorney of Cook County, Illinois, Spring 1975. *But cf.* Mr. Justice Douglas' concurring opinion in *Doe v. Bolton* in which he quoted from Mr. Justice Clark as follows: "No prosecutor has ever returned a murder indictment charging the taking of the life of a fetus." 410 U.S. at 218.

[136] Statement of Mr. Ralph Berkowitz, First Assistant State's Attorney of Cook County, Illinois, Spring 1975.

[137] 410 U.S. at 156.

[138] Professor Richard Stith develops a similar idea in his article entitled *The World as Reality, as Resource and as a Pretense,* 20 Am. J. Juris. 141 (1975). He notes that "all individual life (not just human life) is distinguishable from inanimate matter (and from other nearby life) primarily in having separate systemic autonomy, a capacity to regulate and direct its own equilibrium rather than being entirely subject to external forces. Since conception is the point at which that autonomous system begins which we are until our deaths, our conceptional origin seems obvious." *Id.* at 142. Stith then cites Finnis and his article on *The Rights and Wrongs of Abortion,* 2. Phil. & Pub. Affairs 117, 144–45 (1973) for an "excellent rendition of approximately this argument."

[139] Pembina Consol. Silver Mining & Milling Co. v. Pennsylvania, 125 U.S. 181, 189 (1889).

[140] Jonas and Gorby, *Translation* at 638.

[141] Theodosius Dobzhansky wrote the following about the "genotype" of each individual: Every human being has, then, his own nature, individual and nonrepeatable. The nature of man as a species resolves itself into a great multitude of human natures. Everyone is born with a nature that is absolutely new in the universe, that will never appear again (identical twins and other identical multiple births, of course, excepted). T. Dobzhansky, Heredity and Nature of Man 37 (1966).

[142] Heffeman, *The Early Biography of Everyman,* in Abortion and Social Justice 5 (Horan & Hilgers ed. 1972).

[143] A. Gesell, The Embryology of Behavior 172 (1945).

[144] Liley, *The Fetus in Control of His Environment* in Abortion and Social Justice 27 (Horan & Hilgers ed. 1972).

[145] "I think, therefore I am." R. Descartes, Discours de la Methode (2d ed. 1962). Rene Descartes' (1596–1650) self-evident proposition or axiom upon which he develops his philosophy is to a large extent a classical formula, derived in part from St. Augustine, (*See* M. Weber, History of Philosophy 309 (1899)), but also reflective of the notion of man as a "rational animal." Glanville Williams was possibly thinking along these lines when he suggested the "seventh month as the beginning of legal protection for the fetus," since "until the brain is formed there can be no mind" and since "electric potential (brain waves) are discernible in the seventh month." G. Williams, The Sanctity of Life and the Criminal Law 231 (1970). He even suggested that this solution would "practically eliminate the present social problem of abortion." *Id.* at 232. As the accompanying text points out, "brain waves" are now discernible at six weeks, before most abortions are performed. Thus, the "brain wave" approach would not appeal to the pro-abortionists.

[146] It is interesting to note that the Supreme Court of Mississippi in State v. Jones, 2 Miss. (1 Walker) 39 (1820), utilized the notion of man as a reasonable creature in determining that a slave is a person under Mississippi criminal law. This factor was also emphasized by John Locke. *See* note 108, *supra.*

[147] Medical World News, May 30, 1969, at 18.

[148] *See* the results of recent experiments of Dr. Dominick Purpura of the Albert Einstein Medical School, Yeshiva University, reported in the N.Y. Times, May 9, 1975, at 36, col. 1.

[149] Wood, *Weightlessness: Its Implications for the Human Fetus,* 77 Obstetrics & Gynecology of the British Commonwealth 333, 333–36 (1970).

[150] American Bar Association Resolution, voted and approved by the House of Delegates on Feb. 24, 1975, cited in 61 A.B.A. J. 463, 464 (1975).

[151] 410 U.S. at 160. The *Roe* Court also failed to consider the significance of an "artificial womb" which the Court recognized as a "new medical technique." *Id.* at 161. Will the development of the so-called "artificial womb" push the point of "viability" automatically back several months, perhaps to a point shortly after conception, thus allowing the state to prohibit abortions except to preserve the life and health of the mother? In other words, does the protection which the state can afford the fetus depend upon the "shifting tides of scientific opinion" after all, to use Mr. Justice Burger's phrase from Eisenstadt v. Baird, 405 U.S. 438, 470 (1972)?

[152] 410 U.S. at 160.

[153] *See* abstract of statistics contained in Horan, Gorby & Hilgers, *Abortion and the Supreme Court: Death Becomes a Way of Life,* in Abortion and Social Justice (1972).

[154] 347 U.S. (1954).

[155] *Id.* at 492. The Supreme Court then supported its holding with studies from the behavioral sciences in its famous footnote eleven.

[156] In Muller v. Oregon, 208 U.S. 412 (1908), Louis Brandeis, then the attorney for the state of Oregon, filed a 113-page brief supporting Oregon's maximum-hour legislation for women. A great part of the brief consisted of economic and sociological data: materials not a part of the heart of the case. The Supreme Court in *Muller* explicitly made reference to this brief. Since then, briefs of this sort have come to be called "Brandeis briefs" and are frequently submitted in many different kinds of cases *Roe v. Wade* is an example of such a case. *See* P. Brest, Process of Constitutional Decision Making: Cases and Materials 939 (1975).

[157] *Cf.* the approach of the Mississippi Supreme Court in State v. Jones, 2 Miss. (1 Walker) 39 (1820), for a discussion of how the Court could utilize scientific evidence to determine if the fetus is a living being. *See* Krimmel and Foley. *Abortion: An Inspection into the Nature of Human Life and Potential Consequences of Legalizing its Destruction,* 46 U. Cin. L. Rev. 725 (1977).

[158] 405 U.S. 438 (1972).

[159] *Id.* at 470 (Burger, J., dissenting).

[160] 410 U.S. at 163.

[161] 410 U.S. at 160.

[162] *See* Planned Parenthood v. Danforth, 428 U.S. 52 (1976), discussed at note 127, *supra.*

[163] *Id. See also* cases cited in note 127, *supra.*

[164] Maher v. Roe, 432 U.S. 464 (1977).

[165] Ely. *The Wages of Crying Wolf: A Comment on Roe v. Wade,* 82 Yale L.J. 920, 923 (1973).

[166] 26 F. Cas. 360 (1842).

[167] 14 Q.B.D. 273 (1884).

[168] The Federal Constitutional Court of West Germany wrote, in this regard, as follows: The interruption of pregnancy irrevocably destroys an existing human life. Abortion is an act of killing: this is most clearly shown by the fact that the relevant penal sanction . . . is contained in the section "Felonies and Misdemeanors against Life" and, in the previous penal law, was designated the "Killing of the Child *en ventre sa mere.*" The description now common, "interruption of pregnancy," cannot camouflage this fact. Jonas and Gorby, *Translation* at 645.

[169] Jonas and Gorby, *Translation* at 660.

A Lawyer Looks at Abortion

(By Lynn D. Wardle and Mary Anne Q. Wood)

HOW ROE V. WADE CHANGED THE LAW

In 1970 an unmarried pregnant woman filed a suit in the federal district court in Dallas, Texas, challenging the constitutionality of the Texas criminal abortion laws. Texas had adopted a statute prohibiting abortion in 1854. Originally, the statute prohibited abortions both before and after quickening. In 1856 this law was amended to include a therapeutic exception to allow abortions when the woman's life would be endangered by continuation of the pregnancy. In 1879 the law was again amended, this time to prohibit attempting or aiding an abortion. After that, however, the statue remained virtually unchanged and when "Jane Roe" (the woman wished to remain anonymous, so she used this pseudonym) filed her law suit 91 years later, Texas law still prohibited abortion "except when procured or attempted by medical advice for the purpose of saving the life of the mother."

The plaintiff alleged in her complaint that she wanted to have an abortion performed by a doctor, but that her life was not endangered by the pregnancy, and that she could not afford to travel to another state where such abortions were legal. She argued that the Texas abortion laws were unconstitutional because they abridged her right of personal privacy, and she asked the court to officially restrain the local district attorney from enforcing the Texas abortion prohibition.

After motions were filed, the three-judge federal district court ruled that the Texas abortion laws were unconstitutionally vague and overbroad. The court held that the abortion restrictions infringed the "fundamental right of single women and married persons to choose whether to have children," and declared that they could not be enforced. The court entered a declaratory judgment for the plaintiffs but denied, as unnecessary, their request for a formal order enjoining enforcement of the abortion laws.

Both the defendant (Wade, the local district attorney) and the plaintiffs (Roe and other parties who had joined her suit) immediately appealed the judgment to the United States Supreme Court.

The case was argued twice before the Supreme Court. On January 22, 1973, the Court announced its decision in *Roe v. Wade* affirming, by a vote of 7–2, the ruling of the lower court that the Texas abortion laws were unconstitutional. Justice Harry Blackmun (who had represented the world-famous Mayo Clinic when he was a practicing lawyer) wrote the opinion for the Court.

Justice Blackmun began his opinion with a lengthy historical statement to prove that "the restrictive criminal abortion laws in effect in many of the states today are of relatively recent vintage." He examined three reasons which might "explain historically" the enactment of strict abortion laws in the nineteenth century: (1) to discourage illicit sexual relations, (2) to protect maternal health, and (3) to protect prenatal life. He rejected the first justification as being unworthy of serious consideration; he noted that medical advances making early abortion possibly safer to the mother than childbirth rendered the second consideration legitimate only "when an abortion is proposed at a later stage of pregnancy", and he recognized "that as long as it least potential life [of the fetus] is involved, the state may assert interests beyond the protection of the pregnant woman alone."

The opinion then cited prior judicial decisions which ostensibly had recognized an emerging, constitutionally protected right of privacy (sheltered by the due process clause of the Fourteenth Amendment) and concluded: "This right of privacy . . . is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." But the right to choose an abortion is not absolute, the Court declared. State abortion restrictions can be sustained when they are necessary to protect a compelling state interest.

Applying this standard of review to the Texas abortion laws, the Court first considered the argument that the fetus is a "person" within the meaning of the Fourteenth Amendment. If the unborn are "persons," with a constitutionally protected "right of life," the Court noted, that would provide a "compelling" justification for the Texas abortion laws. However, examining the various usages of the word "person" in the Constitution and noting the history of the nineteenth-century abortion practices, the Court concluded that "the word 'person' as used in the Fourteenth Amendment, does not include the unborn."

The Court examined two other potentially compelling state interests—the state interest in protecting maternal health and in protecting the human life of the unborn. Because the risk to maternal health of first-trimester abortions "may be lower than mortality in childbirth," the Court concluded that any state interest in the health of the mother would provide compelling justification for abortion regulation only after the end of the first trimester of pregnancy. And because the Court perceived "a wide divergence of thinking" among theologians, philosphers, and physicians about when life begins, it concluded that the state interest in protecting the "potential life" of the unborn would become compelling only after the fetus became viable (suggested to be after 24–28 weeks of gestation) "because the fetus then presumably has the capability of meaningful life outside the mother's womb."

Therefore, the Court affirmed the district court's declaratory judgment that the Texas abortion laws were unconstitutional. The fatal flaws in the Texas laws were that they made no distinction between abortions performed early in the pregnancy and those performed later, and that they permitted abortions only when necessary to save the mother's life (without any explicit exception for her "health").

While only two Justices dissented from the Court's judgment, three other Justices filed separate concurring opinions. Mr. Justice Stewart's concurring opinion emphasized that the Court's decision was founded upon the doctrine of substantive due process, and that the due process clause of the Fourteenth Amendment protected "freedom of personal choice in matters of marriage and family life."

Chief Justice Burger agreed with the conclusion that the Texas statutes improperly prohibited the "performance of abortions necessary to protect the health of pregnant women, using the term health in its broadest medical context." He went on to state that he did not "read the Court's holding . . . as having the sweeping consequences attributed to them by the dissenting Justices."

Mr. Justice Douglas agreed that a pregnant woman has a fundamental right to "make the basic decision whether to bear an unwanted child." While the state also has a legitimate interest in protecting the woman's health and the life of the fetus "after quickening," he reasoned, any regulatory measures must be narrowly drafted and confined to the specific areas of compelling legislative concern.

Two vigorous dissenting opinions were filed. Mr. Justice White could find "nothing in the language or history of the Constitution" to support the Court's action, which he characterized as "an exercise of raw judicial power." Mr. Justice Rehnquist stressed that the policy analysis upon which the Court had based its decision was "far more appropriate to a legislative judgment than to a judicial one."

In the companion case, *Doe v. Bolton*, the Court (by the same vote, with the same justices concurring and dissenting) upheld another lower court's declaration that the Georgia abortion law, which had been revised in 1968 to follow the Model Penal Code's recommended abortion provisions, was unconstitutional. The Supreme Court's ruling in this case effectively meant that the liberalized Model Penal Code abortion provisions were unconstitutional.

The only appeal before the Court in *Doe v. Bolton* was the appeal of the plaintiffs, who had won a declaratory judgment that most, but not all, of the Georgia law was unconstitutional, but whose request for an official injunction had been denied. The Supreme Court confirmed and expanded the victory of these abortion-law opponents. While some of their privacy, vagueness, and equal-protection arguments were rejected, the Court agreed that the hospital accreditation requirements, abortion review committee requirements, mandatory medical consultation (two-doctor concurrence) provisions, and residency requirements were unconstitutional since they applied throughout pregnancy and were not justified by any compelling state interest (at least before viability).

Few, if any, other judicial opinions have had such revolutionary impact on life and law in the United States as *Roe v. Wade* and *Doe v. Bolton*. As noted in Chapter One, the practical consequences of these two Supreme Court decisions have been enormous. Equally significant have been the effects they have had on existing abortion laws and on constitutional doctrine. Four of these legal consequences deserve specific consideration here.

First, the Court resorted to the doctrine of "substantive due process" in order to decide that a woman's decision to have an abortion is a "fundamental" constitutional right. Of course, the Constitution, particularly the Bill of Rights, explicitly mentions several rights, deemed "fundamental," which historically have been given special protection by the courts. These include freedom of speech, freedom of the press, freedom of religion, freedom from unreasonable search and seizure, and some others. But freedom of abortion is not mentioned anywhere in the Constitution or in any of its amendments.

To find that a pregnant woman has a "fundamental" constitutional right to choose to have an abortion, the Court in *Roe v. Wade* cited the Fourteenth Amendment, which protects all persons against deprivation of their "liberty" without due process of law. "Liberty" is a very broad term. Previous Supreme Court decisions had interpreted this term to include constitutional protection for certain "zones of privacy" including personal decisions relating to marriage, procreation, childrearing, and contraception. The Court in *Roe v. Wade* concluded that a woman's decision whether or not to have an abortion was an equally important matter that deserved special judicial protection under the Fourteenth Amendment as a fundamental constitutional right.

This particular justification for giving special judicial protection to activities not specifically described in the Constitution is not new. In fact, for many years it was well known, and severely criticized. At one time, laissez-faire capitalism was deemed to be a special, albeit unmentioned, constitutionally protected "liberty." Between 1890 and 1934 the United States Supreme Court invalidated over two hundred progressive economic and social regulations (e.g., child labor laws, minimum wage laws, and employee health and safety regulations) because they interfered with "economic due process," that is, with laissez-faire capitalism. Eventually, this resort to substantive due process evoked enormous scholarly criticism and political pressure, and ultimately the Supreme Court not only abandoned this doctrine but tried to bury the carcass.

But substantive due process did not stay buried. In 1965 the Court resorted to the same type of reasoning to invalidate a relatively unpopular Connecticut law restricting use of contraceptives. And in *Roe v. Wade*, as Justice Stewart emphasized in his concurring opinion, there was no doubt that the Court was resurrecting substantive due process in its most potent form.

Second, by giving the right to choose abortion the specific status of a fundamental constitutional right, the Court substantially altered the respective roles of the legislature and the judiciary in supervising this activity. Fundamental rights analysis (i.e., substantive due process) seems to invite, and excuse, exceptional judicial activism.

When a court examines the constitutionality of a statute or a rule, it is exercising the power of judicial review. There are several different standards or "tests" which may be applied under judicial review. When someone claims that his or her participation in an ordinary activity is unconstitutionally restrained, the standard of judicial review is modest. The Court presumes the restrictive law or rule is constitutional, and if it finds that the law is "rationally related" to a "legitimate" governmental objective, it will uphold the law. However, if someone claims that the law interferes with their exercise of a "fundamental" constitutional right, then the standard of review is much stricter. Laws infringing upon fundamental constitutional rights will only be upheld if they are "narrowly drafted" and "necessary" to effectuate a "compelling state interest." The permissible purposes of legislation are fewer and the scope of appropriate legislative innovation is much narrower when the law infringes upon a fundamental constitutional right. The judiciary is much more aggressive in reviewing state regulation of fundamental constitutional rights. Thus, by declaring that a pregnant woman's decision regarding aboriton was part of a new fundamental constitutional right of privacy, the Supreme Court gave the courts a substantially greater role (and, conversely, left legislatures and administrative agencies substantially less authority) to regulate abortion.

Laws which unduly burden activities that are specifically mentioned in the Constitution (speech, exercise of religion, etc.) have been subject to a strict standard of judicial review for many years. Because those rights are specifically mentioned in the Constitution, legislators are forewarned that they are fundamental rights and that their legislative prerogatives in dealing with such activities are limited. But *Roe* opened up an entire new field for judicial governance.

Third, *Roe v. Wade* substantially affected federal-state relations in regard to abortion regulation. Historically, the states had the primary role in dealing with abortion. As long as there had been American states, the states had exercised the power to prohibit abortion. Laws regulating abortion differed from state to state and, by 1970, there were significant differences between them. The "rational relation" standard of judicial

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review allowed, if not encouraged, this diversity. So long as a rule or statue was rationally related to a legitimate state interest it would be upheld. And there were many legitimate state interests (i.e., maternal health, prenatal life, and the historic value of respect for life) that rationally could be supported by a wide variety of abortion laws.

But in *Roe v. Wade* the Supreme Court constitutionalized abortion. Constitutional law is the supreme law of the land. By making the abortion decision a constitutionally protected fundamental right, the regulation of abortion became subject to the strict compelling state interest standard of judicial review by federal courts. The compelling state interest test of judicial review allows little room for deviation from the constitutional standard. Thus, the rational abortion laws in effect in all 50 states were overridden by the new, fundamental constitutional right of abortion privacy, which was entirely created and wholly defined by the federal judiciary. Accordingly, ultimate responsibility for abortion regulation shifted from the legislative branches of the various state governments to the judicial branch of the federal government.

Finally, the Supreme Court dramatically altered the substance of the existing abortion laws. It effectively invalidated (totally or in part) the abortion laws in effect in all 50 states. For not only were the nineteenth-century abortion laws, like those of Texas, which only allowed abortions when a woman's life was endangered, declared unconstitutional, but laws based on the modern liberal approach of the Model Penal Code, like those of Georgia, were effectively declared unconstitutional. Even routine medical regulations applicable to abortion, again like those of Georgia, were nullified.

The Court was aware that it was effectively erasing all of the abortion laws in the country. Therefore, it outlined a model of permissible abortion regulation—which may be called the "trimester rules" because they are tied to the three trimesters of pregnancy—as follows:

"(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.

"(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

"(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

For purposes of judicial review, the trimester rules created some important rebuttable presumptions regarding whether or not a compelling state interest is present. *Roe* provided that during the first trimester it must be presumed that there is not a compelling state interest for any type of abortion regulation. After the end of the first trimester, it is presumed that the state has a compelling interest for some medical regulation of abortion in order to protect maternal health. And after viability, it is presumed that the state has a compelling interest for regulations designed to protect fetal life, also. However, in each instance the presumption is rebuttable. The *Roe* trimester rules complement the strict standard of judicial review required under the *Roe* doctrine of abortion privacy.

It is popularly believed that *Roe* legalized abortion on demand only during the first trimester. This is not true, for the Court held in *Roe* that a woman's decision whether or not to have an abortion could not be regulated at all before viability, that is, before five-to-seven months' gestation. The end of the first trimester is only significant in that it marks the point at which the state may presumably regulite the medical aspects of abortion (i.e., regulate how and where the abortion procedure may be safely performed). (See Chapter Nine.) But during the second trimester, until viability, the state may not restrict or interfere with the right of the woman to choose to have an abortion for any reason, or for no reason whatever. And even after viability, the Supreme Court said, the state cannot prohibit abortions necessary to save the life or health of the mother. (See Chapter Ten). Thus, the Court effectively mandated legalized abortion on demand until viability, and, depending on the interpretation of "health," possibly afterward as well.

Roe and *Doe* did not mark the end of the abortion law revolution. The right of abortion privacy created by the Court in those two cases has been the subject of massive and intense litigation since 1973. More than 250 reported federal court decisions, and numerous state court cases, have expanded this new abortion right to extremes that were imagined by few, if any, a decade ago. So revolutionary have been the effects of *Roe* and its progeny that the public controversy over abortion no longer concerns whether broader exceptions to the old rule prohibiting abortion should be recognized by state legislators, but whether any exceptions to the rule of legalized abortion on demand will be permitted by the federal courts.

In the chapters that follow, federal judicial responses to specific questions and issues that have risen in the wake of *Roe* are examined. While these chapters demonstrate some of the extent to which the *Roe* doctrine has been carried, they contain only a sampling of the issues and cases; they describe only the tip of this judicially created iceberg.

THE SUPREME COURT AND ABORTION

Since *Roe v. Wade* and *Doe v. Bolton* were decided by the Supreme Court there has been a virtual eruption of abortion litigation in the federal courts. Approximately 250 federal court opinions have been reported in cases dealing with a great variety of abortion issues and have spawned an enormous body of law. A brief review of the federal court decisions applying this protean doctrine of constitutional law will illustrate.

All criminal laws prohibiting abortion before viability are unconstitutional and invalid. So are all criminal laws prohibiting abortion after viability that do not make exception for abortions necessary to save the life or health of the mother. State laws allowing post-viability abortions only when there is a threat to the mother's *physical* health, have also been stricken.

Laws requiring that abortions be performed by doctors are permissible, but some requiring more specific qualifications have been invalidated. Laws regulating the facilities in which abortions are performed during the first trimester often have been invalidated, and some laws requiring second-trimester abortions to be performed in hospitals also have been struck down. Some courts have held that abortion clinics can be required to meet ordinary medical health and sanitation requirements, but other courts have held that such restrictions are not applicable to first-trimester abortion clinics. Laws requiring a second medical opinion or committee approval for pre-viability abortions are invalid. Ordinary medical record keeping and reporting requirements are not unconstitutional, but if they ask too much information or do not preserve confidentiality, they have been declared to be invalid.

Restrictions on the type of abortion procedures that can be used in pre-viability abortions have been consistently invalidated by federal courts. State attempts to establish uniform, objectively applicable definitions of viability have been invalidated unless they merely repeat general conceptual statements contained in Supreme Court opinions, and even some of these have been invalidated. Laws requiring doctors to determine whether the unborn child is viable before performing an abortion have been invalidated by some courts, including the Supreme Court. So have laws requiring doctors to obtain second opinions before post-viability abortions for the purpose of preserving maternal life or health. Even laws requiring that the abortion of a viable child be performed by the method least likely to injure or kill the child have been struck down.

When the child is aborted alive, of course, he or she is entitled to the same constitutional guarantees as the woman on whom the abortion is performed (or the physician performing the abortion). Still, state laws requiring the attendance of a second physician to protect the interests of post-viability fetuses aborted alive have been invalidated by some courts. Additionally, statutory provisions for the termination of the rights of parents who approve the performance of nontherapeutic abortions have generally been invalidated, although a requirement that a local child protection agency or court be notified in the case of such an abortion has been upheld. Most laws prohibiting fetal experimentation on children aborted alive have been upheld. One statute that extended the protection of state murder laws to children aborted alive, by including them in the definition of "individuals" was invalidated.

State laws requiring that the physician performing an abortion obtain the written informed consent of the women have been upheld, or stricken, depending on the specificity required. Laws requiring only that the woman give her informed consent, without attempting to define what that means, have usually been upheld, but requirements of disclosure of specific risks of abortion or the facts of fetal development generally have been invalidated. The courts are split on whether or not state laws requiring a brief waiting period between the initial decision to have an abortion and the performance of the abortion are valid; most courts, however, have struck down such requirements.

Laws requiring spousal consent to abortion are unconstitutional. Courts are split on whether or not laws requiring spousal notification prior to an abortion are permissible. Parental consent requirements are also unconstitutional, but parental notification requirements are not, at least as applied to unemancipated minors.

Medical personnel cannot legally be forced to participate in abortions against their objections, and laws so providing are valid. It is generally held that private hospitals can refuse to perform elective abortions, and state statutes affirming or protecting that right have been held to be valid. But it is not clear that public hospitals have the same right. The Supreme Court has upheld the restrictive abortion policy of one public hospital, but that case has been distinguished (i.e., its precedential weight avoided because of factual distinctions absent in the other cases) by some lower courts.

It is now clear that neither the Constitution nor the federal Medicaid Act requires the public funding of elective or nonlifesaving abortions. But state laws attempting to avoid the indirect subsidizing of abortions by refusing to give family planning grants to abortion-performing or -referring organizations have been invalidated.

Laws prohibiting the advertising of abortion are unconstitutional. Residency requirements applicable to women seeking abortions are unconstitutional. Some zoning ordinances restricting the location of abortion clinics have been invalidated; others have been upheld. Some regulations governing the disposition of aborted fetuses have been sustained; others have been struck down.

This new and rapidly growing body of law has generated confusion, public controversy, and professional criticism. The preceding chapters have noted some of these criticisms. But perhaps even more important than the unreasonable holdings of some courts in specific cases on particular issues are the broader, systemic problems created by the abortion decisions. Two general institutional dangers are posed by the abortion cases. They concern the shift in the constitutional balance of powers, and the decline in quality and craftsmanship of federal judicial decision making.

The shift in the constitutional balance of powers

The Constitution is the supreme law of the land. It prevails over any other source of law that conflicts with it.

In *Roe* v. *Wade* the Supreme Court held that a woman's right to decide whether or not to have an abortion free from governmental coercion is a fundamental right embedded in the Constitution. Of course, that is not literally true. The Constitution itself does not really guarantee any such right. The word "privacy" does not appear in the Constitution; neither does the word "abortion." Nothing in the text of the Constitution or in the history of its creation suggests that the states are powerless to prohibit or restrict abortion. Nevertheless, such is presently the law because that is what a majority of the members of the Supreme Court said the Constitution means. That is why some legal scholars believe that the most dangerous result of the abortion decisions is not the substantive rule of law created by the Court, but, rather, the potential shift in the constitutional balance of governmental powers.

The United States constitutional system is predicated on the concept that a concentration of governmental power in any one department or level of government is dangerous. Thus, the drafters of the Constitution and the Bill of Rights not only reserved to the states all sovereign powers now expressly delegated to the federal government, they also carefully divided the powers of the federal government between the legislative, executive, and judicial branches. Of those three branches, the judiciary was considered by the founding fathers to be "the least dangerous," primarily because it would only interpret, not create, legal policy.

Ironically, in many social controversies the judiciary makes the final decision and, therefore, exercises what is potentially the most powerful influence. The role of the courts to speak the final word on many controversial issues derives from the well-established authority of the judiciary to interpret the Constitution. One of the greatest sources of constitutional strength, and one of the most important reasons of its continued viability, is the generality of the language of the Constitution. All of the most prominent constitutional provisions are lacking in the kind of specificity that gives the answers to particular questions in specific situations. And this gives rise to the necessity for someone, some branch of the government, to determine what these broad, general constitutional provisions mean as they apply to specific cases.

For almost two centuries, since the landmark decision in *Marbury* v. *Madison*, the function of pouring specific content into the broad generalities of the Constitution has belonged to the courts. There are two basic reasons why the judiciary has exercised this power of constitutional interpretation. First, the Constitution is part of the nation's law, and interpretation of law is the traditional function of the courts. Judges are trained to interpret laws. Thus, judges are probably better suited to interpret the Constitution than are legislators or executive officers of the government. Second, the courts have a constitutionally imposed responsibility to check and restrain the excesses of the democratically elected branches of government. The Constitution itself contains certain explicit limitations on the rights and powers of government, probably the most famous being the Bill of Rights. It has long been recognized that in a pure democracy minority groups and interests may not be adequately protected against the "tyranny of the majority." Since federal judges are appointed, not popularly elected, and their appointments are for life, they are somewhat insulated from the pressures of the popular will. Thus, they have a special role in protecting institutional minorities and enforcing constitutional restrictions on the powers of the democratic branches of the government.

The power of the federal courts to interpret the Constitution is not unrestricted, however. The power to say what the Constitution means is subject to important limitations. In his first inaugural address, Abraham Lincoln probably expressed the reason for these limitations as well as anyone:

> "If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions[,] the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."

The most powerful check on the power of the Supreme Court to interpret the Constitution is the right of the people to amend the Constitution and thereby overturn any constitutional interpretation made by the Supreme Court. But the amending processes established by Article Five of the Constitution are extremely difficult to invoke. In fact, during the entire history of the nation, constitutional interpretations by the Supreme Court have been overturned by the adoption of an amendment to the Constitution only four or five times.

Article Three of the Constitution also gives Congress substantial power to regulate and determine the jurisdiction of the federal courts. But respect for the independence of the federal judiciary is so deeply rooted in political traditions that Congress has rarely exercised its power to restrict federal jurisdiction.

The separation of powers in the Constitution is the source of a more pragmatic restraint on judicial license. Under the Constitution, the federal judiciary is dependent upon the other branches of government if it is to function effectively. Apart from judges' salaries (which constitutionally may not be reduced during a judge's term of office), the federal judicial system depends entirely upon appropriations from Congress to perform it functions. And it depends upon the executive branch to carry out and enforce its decrees.

More important than the formal constitutional limitations on judicial power of interpretation are the restraints imposed by judges upon themselves. For while the interests of good government require that the judiciary have far-reaching power to interpret the Constitution, the interests of good government do not require that this power always be exercised to the fullest extent. Indeed, perhaps the highest manifestation of respect for power is the willingness not to use it. Federal courts have historically exercised great self-restraint in reviewing the constitutionality of legislation out of deference to the coequal dignity and constitutional responsibilities of the other branches of government.

The extraordinary record of self-restraint by the federal judiciary, especially the remarkable tradition of deference to basic policy decisions made by the legislatures, is due primarily to federal judges' respect for and commitment to the democratic principles which underlie the constitutional system of government. Still, the right of nonelected judges to overturn policy decisions made by elected representatives of the people is built into the Contitution; yet, if not exercised with sober restraint, it would violate the fundamental principle of self-government and weaken respect for the political neutrality of the judiciary, which is a key source of judicial power and authority in a democracy. It is to their credit that the federal courts, historically, have generally honored these principles. But it is on this very point that the Supreme Court has received its most severe criticism for its abortion decisions. The principle of self-government teaches that the people, through their elected representatives, should be able to establish social policy regarding abortion, and the Supreme Court abortion decisions in large measure contradict this democratic ideal.

Why should the United States Supreme Court, instead of state legislatures, establish social policy regarding abortion? Three primary justifications have been offered. First, it has been suggested that judicial action was necessary to prevent state legislatures from exceeding their constitutional authority. But constitutional history solidly refutes this notion. The states have had, and have exercised, the power to prohibit abortion for two centuries, both before and after the Constitution and the Fourteenth Amendment (with its due process guarantee) were adopted. Nor was judicial intervention necessary because the states had enacted new, excessive abortion restrictions. State abortion laws were more liberal in 1973 than they had been a century earlier

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when the Fourteenth Amendment was ratified, and for a half-dozen years immediately preceding Roe the unbroken and rapidly growing trend of state legislative reform had not been to tighten abortion restrictions, but to substantially relax them.

Second, another established exception to the rule of judicial deterence to the will of the legislative majority is when judicial action is necessary to protect the rights of a minority group that is unable to protect its own interests in the political arena. Thus, in a famous footnote in a Supreme Court opinion, Justice Stone rhetorically suggested that judicial action to overturn legislation constitutionally would be proper to block invidious "statutes directed at particular religious, national or racial minorities" because "prejudice directed against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities."

In the abortion context, however, it seems that the label "discrete and insular minority" would best apply to the unborn. They are the group of human beings least capable of protecting themselves in the political arena. Unlike most other "discrete and insular minorities," such as religious or ethnic minorities, the unborn cannot vote, lobby, or exercise any political influence. They cannot even speak for themselves to plead their own cause. Yet this particular minority was the victim, not the beneficiary, of judicial intervention in the abortion cases. Not only did the Supreme Court turn its own back on these outcasts in Roe and Doe, but it also effectively ordered all other branches of government to refrain from protecting them. (In this sense, Roe and Doe represent a deviation from the liberal ideals of the American judicial tradition, reminiscent of such past judicial disasters as Dred Scott v. Sanford, which ruled that blacks were neither citizens nor persons, and Plessy v. Ferguson, which emasculated the Fourteenth Amendment by approving direct and invidious racial discrimination.)

Of course, if the rights of the unborn are disregarded, a plausible argument can be made that poor women burdened with unwanted pregnancies are a discrete and insular minority, whose interests the Court was protecting when it decided *Roe*. But the prerequisite for this position is, to say the least, troubling.

Third, it has been suggested that judicial action was necessary because religious entanglement was so great that the democratic processes were "frozen" against abortion. But the phenomenal successes that the abortion law reformers achieved in such a short time—actually persuading more than a third of the states to liberalize their abortion laws in the space of only six years—belies such an argument.

The above arguments notwithstanding, there is no real constitutional justification for the Supreme Court having usurped the right to establish social policy regarding abortion. Thus, distinguished law professor John Hart Ely chastised the Court "not so much [because] it bungles the question it sets itself, but rather [because] it sets itself a question the Constitution has not made the Court's business." Many judges, especially in the early years after *Roe* was decided, have echoed this concern. In response to a survey by a political science professor in 1975 and 1976, 165 federal judges and 84 state court judges expressed their discomfort with the abortion decisions. "Most judges in both samples labeled *Roe v. Wade* massive 'judicial legislation.'"

This is a serious criticism. In effect, the Supreme Court has been accused of exceeding the limits of its constitutional authority and of violating the constitutional principle of separation of powers by "legislating" social policy. That is probably why Justices White and Rehnquist refused to join in the judgment or the opinion of the majority in the abortion cases. Justice White succinctly articulated his objection when he dissented in *Roe* and *Doe*.

"With all due respect, I dissent. I find nothing in the language or history of the Constitution to support the Court's judgments. The Court simply fashions and announces a new constitutional right for pregnant women and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes. *The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus, on the one hand, against a spectrum of possible impacts on the mother, on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review that the Constitution extends to this Court.*"

The departure from accepted standards of judicial conduct in the abortion cases

No citizens have been more distressed over the abortion decisions of the Supreme Court than admirers and defenders of the federal judical system. Many of these professionals have been deeply disturbed because the abortion decisions represent a departure from the accepted standards of performance, professionalism, and integrity in the federal judical system.

As a landmark decision of the U.S. Supreme Court, *Roe v. Wade* set a poor standard of professional craftsmanship and decision-making practices for the entire federal judicial system. The influence of that poor standard can be seen in many of the 250 or so other federal court opinions dealing with abortion.

The first and fundamental professional failing in the abortion decisions is the absence of credible legal analysis in the opinions. This is a crucial defect, for one primary characteristic of the judicial decision-making process that distinguishes it from those of the executive and legislative is the resort to and articulation of principled legal analysis to support conclusions. Professor Herbert Wechsler, in his classic dissertation on neutral principles, declared that "the virtue or demerit of a judgment turns . . . entirely on the reasons that support it and their adequacy to maintain any choice of values it decrees. . . ." Former California Supreme Court Chief Justice Roger Traynor put it this way: "A judge must do more than decree; he must reason every inch of the way."

The opinions of the Supreme Court in *Roe* and *Doe* lack this sort of principled or disciplined analysis. Thus, Professor Alexander Bickel Chastised the Supreme Court for failing to explain why the Consititution required the Court to reach its extreme result. "One is left to ask why. The Court never said. I refused the discipline to which its function is properly subject. It simply asserted the result it reached." Professor Richard Epstein observed that the Court's opinion was so poorly written that "[w]hat seemed to make sense as a matter of principle to a lot of people and a lot of lawyers is all of a sudden suspect." And Professor Archibald Cox declared: "My criticism of *Roe v. Wade* is that the Court failed to establish the legitimacy of the decision by not articulating a precept of specific abstractness to lift the ruling above the level of political judgment." In short, the opinions in *Roe v. Wade* and *Doe v. Bolton* fall below the acceptable standards of the federal judiciary and the legal profession.

Roe and *Doe* are so poorly reasoned that it has been difficult to the lower courts to give consistent application of those cases, especially in the early years. In this respect, *Roe v. Wade* and *Doe v. Bolton* have clearly lowered the standard of performance of the lower federal courts. Judicial craftsmanship and credible legal analysis are in large measure absent in most of the early, and some of the recent, lower court abortion decisions. Fortunately, credible legal analysis is more common in abortion decisions today, but still some courts are satisfied to employ mere rhetorical slogans instead of disciplined legal analysis to justify their conclusions.

The lower courts have also mimicked the doctrinalism of the Supreme Court. Thus, when new issues have arisen, they have tended to follow the example of the High Court by going to extremes. In fact, *Roe v. Wade* has become the touchstone for an increased resort to judicial activism. The judicially created constitutional doctrine of "privacy," read in light of *Roe* and *Doe*, could constitute virtually a *carte blanche* for federal judges to legislate almost anything under the pretext of interpreting the Constitution.

Since the Court gave no satisfactory justification in *Roe* and *Doe* for invalidating historic state abortion laws, some lower courts have turned to a result-oriented approach to dealing with abortion cases. That is, the analytical ambiguities and the absence of disciplined judicial analysis in the Supreme Court abortion decisions have seemed to convey the message that the result, not the reasoning, is all that really matters. And the results in the Supreme Court case have obviously been hostile to almost all attempts to regulate or restrict abortion.

This, in turn, is related to the problem of excessive resort to *stare decisis* (adherence to precedents) to resolve new issues concerning abortion. Properly followed, the doctrine of *stare decisis* insures that litigants with the same claims will be treated equally by the courts and that the administration of the ruling) in prior opinions is stultifying. And if the claims raised in a current case are not the same as those ruled on in an earlier one, it is a perversion of *stare decisis* to say that the issue in the later case is closed by the former decision.

The lower federal courts, especially in the early years, have displayed a tendency to cite *Roe* as the dispositive authority on significantly different issues than those involved in *Roe*. Instead of independently analyzing unprecedented issues, some courts have cited the Supreme Court abortion dicisions and said something like: "We do not need to independently examine this issue, for the result in this case is dictated by the Supreme Court's decision in *Roe v. Wade.*" Such excessive resort to the doctrine of *stare decisis* is troubling because it causes decay or stagnation of the law and creates a substantial threat to the validity and viability of the law. The failure of lower federal courts to candidly examine, evaluate, criticize, and limit the *Roe* doctrine of abortion privacy has contributed to much of the extremism in the substantive content of the doctrine of abortion privacy as it has developed in the federal courts.

Related to the inappropriate invocation of *stare decisis* is the paucity of criticism or cautionary limitation of the *Roe* doctrine of abortion privacy by the lower courts. In light of the fact that the federal courts that considered the legality of abortion before *Roe v. Wade* were divided almost evenly, and in light of the extensive scholarly criticism of *Roe* and the political controversy that it has generated, the infrequency of dissents-in-principle or criticism of the excesses of *Roe* within the federal judicial system is surprising. It is also disturbing, for the "sheltering" of legal doctrines from the internal process of criticism and refinement within the judicial system leads to institutional instability and the crystalization of unreality in the law.

Finally, in the last two or three years there has developed a new and very serious problem in the abortion cases. This is the problem of the misuse of the Civil Rights Act provision authorizing courts to award attorneys' fees to prevailing parties.

The well-established American rule on awarding attorney's fees is that each side must bear its own legal expenses unless the parties have (1) otherwise agreed (as in a contract providing for recovery of legal fees), (2) the losing party has been guilty of bad faith, or (3) a statute explicitly authorizes the awarding of attorneys fees to the prevailing party. Obviously the first exception does not apply in abortion cases because the litigants have not contracted with each other that the prevailing party is entitled to recover attorneys fees. Likewise, the second exception does not apply. The sincerity of the litigants, the complexity of the issues, and the uncertainty of the law have provided ample justification for good faith abortion litigation. (In only one reported case did a federal court find that the position of the losing—pro-life—side was so unjustified that attorneys fees should be awarded under the bad faith exception, and on appeal the Supreme Court not only vacated that award but adopted the very substantive position which had been the basis for the lower court's finding of bad faith.)

Recently, however, several federal courts have awarded attorneys' fees to abortion activists who have succeeded in their lawsuits to invalidate certain abortion regulations or restrictions under the third exception. For instance, in one case three abortionist physicians and their abortion clinic brought suit against the Kentucky law that mandated a 24-hour waiting period prior to abortion, and required all abortions after the end of the first trimester to be performed in hospitals. The lower court held that both requirements were unconstitutional. The defendants in the case were the state of Kentucky and three pro-life physicians who voluntarily intervened in the case to defend the statute. After invalidating the law, the lower court ordered the defendants—including the three doctors—to pay the plaintiffs $38,564.55 in attorneys fees under the Civil Rights Act.

This incident is troubling for several reasons. First, an award of attorneys fees in a suit brought to establish and determine social policy on a controversial contemporary issue is tenuous under the legislative history or language of the Civil Rights Act. It is doubtful that the civil rights law was intended to be used in this context at all.

Second, to order good faith losing litigants to pay their opponent's attorneys fees smacks of penalizing groups and individuals for attempting to exercise their right of political expression. When the issue of abortion policy was decided in the legislature one side would win and the other side would lose, but each side would have to bear their own expenses of that battle. Political winners did not claim that they were entitled to public reimbursement for the expenses of the contest. If the winning side had attempted to force the losing side to pay the winning side's expenses, not only would the citizenry have been outraged, but the federal courts would have acted immediately to protect the First Amendment rights of the losers. But now that the right to resolve this issue has been taken away from the legislatures by the federal courts, some federal courts themselves, through their award of attorneys' fees, are doing just that. They are penalizing those who attempt to express their opinion and influence the establishment of political policy. And they are exercising their "discretion" to financially punish state legislatures for guessing wrong about future rulings of the federal courts on very complicated abortion issues, when the federal courts themselves have frequently been unable to correctly apply the abortion doctrine. The awarding of attorneys' fees in abortion litigation is unwise as a matter of public policy, and questionable as a matter of legislative interpretation.

The law of abortion in the United States is in need of reform. The primary problems with the current doctrine of abortion law include: (1) the federal courts have taken extreme and often inflexible positions on specific issues, such as the permissibility of specific and informed-consent requirements, parental and spousal participation consent requirements, second-trimester abortion facility restrictions, and numerous others; (2) the judiciary has created and constitutionalized a legislative social policy issue in derogation of the constitutional separation of powers and has abandoned a vulnerable and defenseless class—the unborn; and (3) the courts have largely departed from established judicial standards of professionalism and craftsmanship. The legal and political methods of achieving reforms in these areas are considered in the remaining chapters.

A Private Choice: Abortion in America in the Seventies

(By John T. Noonan, Jr.)

The makers of the Constitution of the United States do not appear to have contemplated the subject of abortion. There is no mention of it by name or by circumlocution in the original articles or in the Bill of Rights or in any of the later amendments. If a Martian were told to examine the document carefully for a clue to the framers' intention regarding abortion, he would have to admit himself baffled. The Constitution, within its four corners, says nothing.

A Martian with a sense of history might say, "Tell me what the laws and practices and beliefs were when the Constitution was made. From them I shall infer what was intended by the framers." He would find

1. that in 1789, when the original articles were adopted, Blackstone was the bible of American lawyers, and Blackstone taught that a "person" was one "like us" who had been "formed by God" in the womb

2. that abortion, although not widely practiced because of medical difficulties in doing it safely, was a crime at common law if the pregnancy had reached the stage where movements by the child were perceptible; and if the child in the womb was injured by an abortifacient, was born alive, and died from his injury, the crime was murder

3. that the articles gave the new government no power to disturb the administration of the common law by the states

4. that in 1790, when the first ten amendments or Bill of Rights was adopted, the common law and the beliefs expressed by Blackstone were unchanged

5. that the Fifth Amendment declared the life, liberty, and property of no person should be taken by the national government except by due process of law

6. that the Ninth Amendment declared that all powers not expressly conferred upon the national government belonged to the People, thereby leaving to the People the protection of life, liberty, and property through the legislatures and courts of each state

7. that "the most important burst of anti-abortion legislation in the nation's history" occurred between 1860 and 1880, and that the Fourteenth Amendment, adopted in 1868, belongs to that era of American politics

8. that in 1868, when the Fourteenth Amendment was adopted, the common law made abortion a crime after quickening, and a number of states, including such leading Northern states as Connecticut and Pennsylvania, made abortion a crime from conception

9. that in the 1860s the federal territories of Arizona, Colorado, Idaho, Montana, and Nevada had all made it a crime to abort "a woman then big with child," and such territorial legislation was subject to the approval of the same congressmen who adopted the Fourteenth Amendment

10. that the Fourteenth Amendment imposed upon each state the obligation already imposed upon the national government not to take life, liberty, or property without due process of law

So informed, our Martian might reason: What the framers knew to be a crime at common law in the states when they made the Constitution, they did not intend to legalize; indeed the protection afforded the unborn at common law accorded with their view of the protection to be afforded persons. When the Framers reserved to the People all powers not expressly conferred upon the nation, they did not intend to disable the People from legislating to protect life; indeed, in the distribution of governmental power intended by the founders, the states were to protect life by the ordinary laws against murder, manslaughter, and abortion.

By the time the Fourteenth Amendment was enacted, our Martian would observe, every state employed the sanction of the criminal law to regulate abortion. Surely the authors of the amendment must have approved or at least accepted this practice; for nothing in their language, or in any of the debates surrounding the adoption of the amendment, suggested that the amendment aimed at the abolition of the abortion laws of the federal territories and all the states. Indeed, our Martian might suspect, the states, now under constitutional obligation not to take life without due process, might have a constitutional obligation to have laws regulating abortion.

Certainly, he would conclude, the obligation not to limit liberty without due process of law could not affect an abortion law. In a hundred ways, he could observe, the laws of the states impair your liberty. You cannot walk at will on your neighbor's grass, you cannot keep your children at will from

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school, you cannot sleep with your father's wife, you cannot practice surgery without a license or perform it on a minor without the parent's consent, you cannot refuse to support the child you have conceived. In these and many other ways, liberty of private action is curtailed. It is curtailed by "due process of law," and such curtailment has never been supposed to be unconstitutional. The laws restricting abortion do not appear to differ in kind from the laws restricting trespass and incest or the laws requiring the support and education of one's children or the laws regulating surgery. There is nothing in the text of the Fourteenth Amendment to suggest that there is a liberty which no process of law may touch, restrict, or regulate. So, the Martian would conclude from the clues of history, the articles and amendments of the American Constitution do not forbid the governmental regulation of abortion.

The Martian, however, if he came to earth in the bicentennial year of the American Republic, would be wrong. For the Constitution of the United States means not only what its words say or its framers intended. It is a document, like the scriptures of a religion, whose words are sacred, but whose meaning changes as it is reinterpreted in the light of changing circumstances. Its interpreters control its meaning.

The process of interpretation is often beneficent. The framers could never have thought of television when they guaranteed the freedom of speech, but interpretation now makes that freedom include freedom to communicate electronically. The framers did nothing to provide counsel to a defendant too poor to afford a lawyer even when they adopted the Sixth Amendment guaranteeing the right to counsel. Interpretation has made that guarantee include the right of a poor man, in some circumstances, to have his lawyer furnished by the government. The Constitution has expanded beyond its letter and beyond the practice of the day it was made. When such expansion is true to the most fundamental purposes of the framers, it may be called a true development of their thought.

Every citizen is, to a degree, an interpreter of the Constitution; the President and the Congress have to be, and the courts are in a special way. By its own decisions, accepted by nearly everyone, the final interpreter is the Supreme Court of the United States. What the Supreme Court determines to be the law is the law of the land. What the Supreme Court says the Constitution means is what the Constitution means.

Such a conclusion, of course, is not as absolute as it appears. The Supreme Court can be wrong. What the Supreme Court says the Constitution means can do violence to every criterion of history and logic. Instead of developing the purposes of the framers, the Court can subvert them. The Supreme Court can find in the term "liberty" in the Fourteenth Amendment the liberty of a factory owner to work his employees more than ten hours a day, and the Court can be outrageously wrong in so finding. But the law of the land, the meaning of the Constitution as a legal document, will be what the Court says the meaning is, until it admits its error or is corrected by a constitutional amendment.

A decision of the Supreme Court, then, is the last word on the meaning of the Constitution—for the time being. The interpretation offered by the Court can last only as long as the Court is convinced that the interpretation is correct. The Court's conviction of its own correctness does not depend solely on its own precedents; otherwise there would be no change and no reversals of direction by the Court. Like it or not, the Court is engaged in an exchange with its critics, in which its critics always have the power to persuade the Court that it was wrong, or the power to persuade the President to appoint successor justices who believe the Court was wrong, or the power to persuade the country to adopt an amendment to the Constitution correcting the error of the Court.

At one time the Court thought that "liberty" in the Constitution prevented regulation by the state of the terms of employment, because any regulation interfered with the self-evident liberty of each man to set his own terms for his own work. It was contrary to the Constitution for a state to say a man could not dispose of his own body by agreeing to work ten hours a day. Twelve years later the Court said that the Constitution permitted such regulation of liberty. The change occurred not because the words of the Constitution changed but because critics persuaded the Court that it was wrong.

In the matter of abortion the words of the Constitution did not change, but on January 22, 1973, its meaning did. On that day Justice Harry Blackmum found in the Ninth Amendment's reservation of power to the People or in the Fourteenth Amendment's reference to liberty—he was not entirely sure in which—a liberty to consent to an abortion. On that date the Constitution come to mean that abortion was an American freedom.

THE SUPREME COURT AND EVOLVING PRINCIPLE

(By Alexander M. Bickel)

(Alexander M. Bickel was Sterling Professor of Law at Yale University until his death in November, 1974 (at age 49). A one-time law clerk to Justice Felix Frankfurter (1952), he was generally regarded as an influential authority on matters of constitutional law (he was chief counsel for The New York Times in the Pentagon Papers case). This article is taken from his posthumously-published book, The Morality of Consent (reprinted with permission of Yale University Press, © 1975 by Joanne Bickel.)

Since few principles are inscribed sharply in the Constitution itself, the Supreme Court speaking in the name of the Constitution fills, in part, the need for middle-distance principles that [Edmund] Burke described. It proffers, with some important exceptions, a series of admonitions, an eighteenth-century checklist of subjects; it does this cautiously and with some skepticism. It recognizes that principles are necessary, have evolved, and should continue to evolve in the light of history and changing circumstance. That—and not Hugo Black's—is the Constitution as the Framers wrote it. And that is what it must be in a secular democratic society, where the chief reliance for policy-making is placed in the political process.

The Constitution, said Justice Holmes in a famous dissent in 1905,[1] "is made for people of fundamentally differing views." Few definite, comprehensive answers on matters of social and economic policy can be deduced from it. The judges, themselves abstracted from, removed from political institutions by several orders of magnitude, ought never to impose an answer on the society merely because it seems prudent and wise to them personally, or because they believe that an answer—always provisional—arrived at by the political institutions is foolish. The Court's first obligation is to move cautiously, straining for decisions in small compass, more hesitant to deny principles held by some segments of the society than ready to affirm comprehensive ones for all, mindful of the dominant role the political institutions are allowed, and always anxious first to invent compromises and accommodations before declaring firm and unambiguous principles.

Yet in the end, and even if infrequently, we do expect the Court to give us principle, the limits of which can be sensed but not defined and are communicated more as cautions than as rules. Confined to a profession, the explication of principle is disciplined, imposing standards of analytical candor, rigor, and clarity. The Court is to reason, not feel, to explain and justify principles it pronounces to the last possible rational decimal point. It may not itself generate values, out of the stomach, but must seek to relate them—at least analogically—to judgments of history and moral philosophy. We tend to think of the Court as deciding, but more often than not it merely ratifies or, what is even less, does not disapprove, or less still, decides not to decide. And even when it does take it upon itself to strike a balance of values, it does so with an ear to the promptings of the past and an eye strained to a vision of the future much more than with close regard to the present. Burke's description of an evolution meets the case: to produce noting wholly new and retain noting wholly obsolete. The function is canalized by the adversary process, which limits the occasions of judgment and tends to structure issues and narrow their scope to manageable proportions.

In 1905, when Holmes wrote the *Lochner* dissent, the justices were grinding out annual answers to social and economic questions on the basis of personal convictions of what was wise—derived, as it happens, from the laissez-faire philosophy of Herbert Spencer. That would not do, Holmes told them, and it did not, although it took thirty years for a majority of the justices to see it, and Holmes was gone by then. None has reread Herbert Spencer into the Constitution since, but in the 1960s a majority of the justices, under Earl Warren, again began to dictate answers to social and sometimes economic problems. The problems were different—not regulation of economic enterprise, not labor relations, but the structure of politics, educational policy, the morals and mores of the society. And the answers were differently derived, not from Spencer's Social Statics, but from fashionable notions of progress. Again, it may take time before the realization comes that this will not do.

On January 22, 1973, the Supreme Court, paying formal tribute to Holmes's 1905 dissent but violating its spirit, undertook to settle the abortion issue.[2] In place of the various state abortion statutes in controversy and in flux, the Supreme Court prescribed a virtually uniform statute of its own. During the first three months of pregnancy, the Court decreed, a woman and her physician may decide on an abortion quite free of any interference by the state, except as the state requires the physician to be licensed; during the second three months the state may impose health regulations, but not forbid abortion; during the last three months, the state may if it chooses forbid as well as regulate. That may be a wise model statute, although there is considerable question why the Court foreclosed state regulation of the places where the abortion is to be performed. The state regulates and licenses restaurants and pool halls and Turkish baths and God knows what else in order to protect the public; why may it not similarly regulate and license abortion clinics, or doctors' offices where abortions are to be performed?

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[1] Footnotes at end of article.

But if the Court's model statute is generally intelligent, what is the justification for its imposition? If this statute, why not one on proper grounds of divorce, or on adoption of children? Medical evidence, the Court tells us now, shows that abortions during the first three months of pregnancy present no great risk. Well and good. It is also clear that the fetus is not a life in being at the early stages of pregnancy, is not entitled to constitutional protection, and the Constitution cannot be construed to forbid abortion. Well and good again. But the fetus is a potential life, and the Court acknowledges that society has a legitimate interest in it. So has the individual—the mother, and one would suppose also the father; an interest that may be characterized as a claim to personal privacy, which in some contexts the Constitution has been found to protect. The individual's interest, here, overrides society's interest in the first three months and, subject only to health regulations, also in the second; in the third trimester, society is preeminent.

One is left to ask why. The Court never said. It refused the discipline to which its function is property subject. It simply asserted the result it reached. This is all the court could do because moral philosophy, logic, reason, or other materials of law can give no answer. If medical considerations only were involved, a satisfactory rational answer might be arrived at. But, as the Court acknowledged, they are not. Should not the question then have been left to the political process, which in state after state can achieve not one but many accommodations, adjusting them from time to time as attitude change? It is astonishing that only two dissented from the Court's decision, although Justice Potter Stewart noted in his agreement, presumably with some discomfort, that the decision joined the long line of earlier cases imposing judicially made social policy to which Holmes had objected.[3] The dissenters were Justices Byron White and William Rehnquist. The Court's decision was an "extravagant exercise" of judicial power, said Justice White,[4] it was a legislative rather than judicial action, suggested Justice Rehnquist.[5] So it was, and if the Court's guess on the probable and desirable direction of progress is wrong, that guess will nevertheless have been imposed on all fifty states. Normal legislation, enacted by legislatures not judges, is happily less rigid and less presumptuous in claims to universality and permanence. The claim to universality and permanence is illusory, in any case, for the ongoing political process which follows upon the declaration of law is another discipline the Court is subject to. Yet the Court is not excused in transgressing all limits, in refusing its own prior discipline, for in its initial process of law formation the Court is not under the discipline of the political process. Neither the Court nor its principles directly originate there. The discipline is subsequent.

NOTES

1. *Lochner v. New York*, 198 U.S. 45 (1905).

2. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973).

3. *Roe v. Wade*, 410 U.S. at 167.

4. *Doe v. Bolton*, 410 U.S. at 221 (White, J., dissenting from *Roe* and *Doe*).

5. *Roe v. Wade*, 410 U.S. at 171.

The Supreme Court and Abortion

(By Archibald Cox)

(Archibald Cox has been (since 1965) the Samuel Williston Professor of Law at the Harvard Law School. While he is best known to the general public as the first Watergate Special Prosecutor, he is generally considered, in legal circles, as one of the foremost living authorities on constitutional law. He served as Solicitor General of the U.S. (under Presidents Kennedy and Johnson) from 1961–65. This article is excerpted from his new book, The Role of the Supreme Court in American Government (see pp. 51–55, 112–14, and 117–18; Copyright © 1976 by *Oxford University Press, Inc.*), and is reprinted here with permission.)

In each of the abortion cases [1] a pregnant young woman was reluctant to bear the child for some personal reason involving no serious danger to life or health. In each case she lived in a State in which it would be a crime for a doctor to perform the abortion, either under a nineteenth-century law making it a crime to "procure an abortion" except "for the purpose of saving the life of the mother," or under a modern statute liberalizing the grounds for abortion but still not as permissive as the particular case would require. In each instance the young woman asked a court to enjoin the State authorities from prosecuting any doctor who might abort her, upon the ground that the threat of prosecution under the statute interfered with her exercising a form of personal liberty secured by the Fourteenth Amendment guarantee against deprivation without due process of law.

How should such a case be decided? Justice Frankfurter, Judge Learned Hand, and the other apostles of judicial self-restraint would have no trouble upholding the constitutionality of the statutes. At most, they would have said, the courts may do no more under the Due Process Clause than invalidate a law that no one could rationally believe to be related to some public interest; and no one could sensibly claim that an anti-abortion law fails this test. Justice Black would have reached the same conclusion. He had dissented in an earlier case holding that a married couple has a constitutional right to use contraceptives saying:

"I do not believe that we are granted power by the Due Process Clause or any other constitutional provision or provisions to measure constitutionality by our belief that legislation is arbitrary, capricious or unreasonable, or accomplishes no justifiable purpose, or is offensive to our own notions of "civilized standards of conduct" . . . The use by federal courts of such a formula or doctrine or whatnot to veto federal or state laws simply takes away from Congress and States the power to make laws based upon their own judgment of fairness and wisdom and transfers that power to this Court for ultimate determination . . .[2]

The Supreme Court, by a 7–2 vote, nevertheless held the anti-abortion laws unconstitutional. The Constitution, the Court said, guarantees "certain areas or zones of privacy." Having an abortion because of personal preference is an aspect of privacy. Since privacy is a "fundamental right," any State interference must be justified by some "compelling interest." That interest, the opinion continues, cannot be in the "life" of the foetus because no one cay say except by arbitrary definition when "life" begins; nor can it be the interest in "potential life" prior to the seventh month of pregnancy, for until then the foetus has no capacity for independent existence. The necessary compelling interest cannot be found in the health of the mother during the first six months of pregnancy, because medical statistics show that the dangers to health are greater in childbirth than in abortion; but the State may regulate abortion procedures during the third three months in the interest of health because of the statistically higher risks to health in that period. Oddly, but possibly because counsel did not stress the point, the opinion fails even to consider what I would suppose to be the most compelling interest of the State in prohibiting abortion; the interest in maintaining that respect for the paramount sanctity of human life which has always been at the centre of western civilization, not merely by guarding "life" itself, however defined, but by safeguarding the penumbra, whether at the beginning, through some overwhelming disability of mind or body, or at death.

Finding the medical case against abortion unpersuasive, the Court laid down three rules:

(1) During the first three months of pregnancy the State must leave the decision whether to have an abortion, and when and how to carry it out, to the woman and her doctor.

(2) During the second three months the State may not forbid abortion but may regulate the procedure.

(3) The State may prohibit abortion after six months except when necessary to preserve the life or health of the mother.

For one concerned with the proper role of the Supreme Court in American government and more particularly with the debate over judicial activism the abortion cases have three-fold significance:

First, the decisions plainly continue the activist, reforming trend of the Warren Court. They are "reforming" in the sense that they sweep away established law supported by the moral themes dominant in American life for more than a century in favour of what the Court takes to be the wiser view of a question under active public debate.

Second, the Justices read into the generalities of the Due Process Clause of the Fourteenth Amendment a new "fundamental right" not remotely suggested by the words. Because they found the right to be "fundamental" the Justices felt no duty to defer to the value judgments of the people's elected representatives, current as well as past. They applied the strict standard of review applicable to repression of political liberties.

Third, three Justices in the seven-man majority were appointed by President Nixon as "strict constructionists": Chief Justice Berger, Justice Blackmun who wrote the opinion of the Court, and Justice Powell. Only one Nixon appointee dissented. There are ample signs that the Berger Court will not respond to new libertarian and egalitarian values with all the enthusiasm of its predecessor, and also that it is more worried by some of the complexities, cross-currents, and needs for accommodation that refuse to yield to optimistic generalizations. A court more concerned with the preservation of old substantive values than the articulation of a new spirit will find fewer occasions for ren-

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Footnotes at end of article.

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dering activist decisions. Still, the abortion cases strongly suggest that the new Justices are not restrained by a modest conception of the judicial function but will be activists when a statute offends their policy preferences.

In the end, therefore, one comes to the question: has the Court swung around the circle back to the method which led to equating Due Process with the economics of laisses-faire? Is there any general principle which authorizes the Court to substitute its judgment for the result of the political process when dealing with abortion but not with hours of work? To read liberty of abortion into the Fourteenth Amendment but not liberty of contract? If not, which judicial method was right and which wrong? Before one proposes to judge by results and not by method, one has also to ask how a purely eclectic, result-oriented approach would affect the Court's standing and utility.

What are we to say of the Supreme Court's decision holding that the Due Process Clause forbids a State to interfere with a woman's right to an abortion? What of the judicial method?

My colleague John Ely criticizes the abortion decision on the ground that there is nothing in the Constitution that marks freedom to have an abortion as something special: "A neutral and durable principle may be a thing of beauty and a joy forever. But if he lacks connection with any value the Constitution marks as special it is not a constitutional principle and the Court has no business imposing it."[3]

My own view is less rigid. I find sufficient connection in the Due Process Clause. All agree that the clause calls for some measure of judicial review of legislative enactments, and from that point forward all must be done by judicial construct with no real guidance from the document. Nothing in the document dictates reading the federal Bill of Rights into the Fourteenth Amendment as either a source or a limitation of fundamental values, nor does the document suggest restrained review in some cases and strict review in others. The Court's persistent resort to notions of substantive due process for almost a century attests the strength of our natural law inheritance in constitutional adjudication, and I think it unwise as well as hopeless to resist it.

My criticism of *Roe* v. *Wade* is that the Court failed to establish the legitimacy of the decision by not articulating a precept of sufficient abstractness to lift the ruling above the level of a political judgment based upon the evidence currently available from the medical, physical, and social sciences. Nor can I articulate such a principle—unless it be that a State cannot interfere with individual decisions relating to sex, procreation, and family with only a moral or philosophical State justification: a principle which I cannot accept or believe will be accepted by the American people.[4] The failure to confront the issue in principled terms leaves the opinion to read like a set of hospital rules and regulations, whose validity is good enough this week but will be destroyed with new statistics upon the medical risks of childbirth and abortion or new advances in providing for the separate existence of a fetus. Neither historian, layman, nor lawyer will be persuaded that all the details prescribed in *Roe* v. *Wade* are part of either natural law or the Constitution. Constitutional rights ought not to be created under the Due Process Clause unless they can be stated in principles sufficiently absolute to give them roots throughout the community and continuity over significant periods of time, and to lift them above the level of the pragmatic political judgments of a particular time and place.

Constitutional adjudication depends, I think, upon a delicate, symbiotic relation. The Court must know us better than we know ourselves. Its opinions may, as I have said, sometimes be the voice of the spirit, reminding us of our better selves. In such cases the Court has an influence just the reverse of what Thayer feared; it provides a stimulus and quickens moral education. But while the opinions of the Court can help to shape our national understanding of ourselves, the roots of its decisions must be already in the nation. The aspirations voiced by the Court must be those the community is willing not only to avow but in the end to live by. For the power of the great constitutional decisions rests upon the accuracy of the Court's perception of this kind of common will and upon the Court's ability, by expressing its perception, ultimately to command a consensus.

NOTES

1. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973).

2. *Griswold v. Connecticut*, 381 U.S. 479, 513 (1965).

3. Ely, "The Wages of Crying Wolf," 82 Yale L.J. 920, 949 (1973), also reprinted in *The Human Life Review*, Vol. I, No. 1 (Winter 1975).

4. The rulings bringing patently offensive utterances within the First Amendment suggest that the notion may influence some Justices.

WHEN JUDGES WINK, CONGRESS MUST NOT BLINK

(By Prof. Basile J. Uddo,[1] From Human Life Review, Summer, 1979)

(Note.—Basile J. Uddo is an associate professor at Loyola University School of Law in New Orleans. This article is based on his extended treatment of the subject ("A Wink from the Bench: The Federal Courts and Abortion") which appeared in the *"Tulane Law Review,"* February 1979 (Vol. 53, No. 2).)

When Sarah Weddington delivered those remarks at a national conferenced on abortion she gave us an insight into how the whole judicial involvement in abortion got its start: with a wink from the bench! Of course it's not surprising that *Roe* v. *Wade*[2] has its roots in such a non-decorous exchange between judge and counsel since without a strong shove by the judiciary *Roe* v. *Wade*—on its merits—would never have gotten off the ground. But, as clear as it is that personal judicial preferences created a constitutional impetus for the abortion decisions few would have predicted that the progeny of those ill-conceived decisions would have been more illegitimate, and evidence of even greater judicial bias. Today, however, it is clear that the federal judiciary's treatment of abortion litigation is uniquely accommodating to the pro-abortion position.[3] In virtually every instance—from the most minor state abortion regulation, to the more significant congressional attempts to limit federal expenditures for abortions—federal judges have shown an uncanny ability to torture the constitution into a pro-abortion document. The ensuing examples are only the tip of a very large iceberg, so large that the time clearly has come for Congress to limit the jurisdiction of the lower federal courts in abortion cases.[4]

I. THE PROBLEM

A. General regulations

After 1973 nearly every state attempted to respond to *Roe* v. *Wade* by finding those areas where the court might permit some degree of regulation of the abortion issue. Unfortunately, those areas were relatively narrow and would only accommodate certain *state* interests in maternal health and "potential" human life. Unlike the personal right created to protect the woman's decision to abort, no right—at any stage of pregnancy—was recognized in the fetus. Ostensibly the state had certain protectable interests in the fetus—more illusory than real—which it could promote, but the fetus itself had no rights.

The first state regulations dealt with procedural matters: the who, when, and where of the abortion. Virtually all of these regulations have been swept away by federal courts, and usually in a manner inconsistent with traditional federal practice. For example, a Utah statute was completely invalidated despite a severability clause that would ordinarily be used to separate valid from invalid provisions.[5] Moreover, the court justified its action by an appeal to what it perceived to be an impermissible "motive" on the part of Utah lawmakers. This kind of legislative mind-reading or motive analysis has always been disfavored in constitutional adjudication.[6]

Other cases relied less upon motive than upon an absurdly literal reading of *Roe* and *Doe*. Ironically one such case occurred in Chicago, a city recently shocked by the Chicago *Sun Times*' reports chronicling the "grisly" acts of what they called the abortion profiteers.[7] One wonders how much of that horror story would have been avoided had not the Seventh Circuit winked at reality when it invalidated certain board of health regulations that would have required abortion clinics to meet some minimal standards.[8] For its part the Seventh Circuit, through Judge Sprecher, felt that the abortion cases had effectively placed first trimester abortions beyond regulation. Hence the regulations, which among other things required an elevator large enough to accommodate a stretcher so that a hemorrhaging woman could be more safely and effectively transported to emergency care, were *unconstitutional*.

Another area treated mischievously (and incorrectly) by the Supreme Court was the question of viability. Here the Court selected a notion devoid of any biological significance[9] and converted it into a crucial point in deciding when a state may "protect" a fetus. Perhaps Justice Blackmun perceived the weakness in his argument and sought some comfort in a flexible definition of viability; one that encouraged states to regulate around this flexibility. Unfortunately the lower federal courts have not perceived the need for this approach.

Minnesota is one of several examples of a state that was rebuffed by the federal courts when its legislatures tried to define viability as that point at which a fetus is "able to live outside the womb even though artificial aid may be required." The state statute also said that "[d]uring the second half of its gestation period a fetus shall be considered potentially 'viable.'" Other parts of the law required a physician to certify that in his judgment an abortion on a potentially viable fetus was necessary to preserve the life or health of the mother, and required certain precautions for the possible survival of a fetus so aborted. A three-judge federal panel rejected this definition of viability and chose instead to give inflexible significance to *Roe's* ambivalent reference to twenty-four weeks as a possible point of viability.[10]

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[1] Footnotes at end of article.

"Using 24 weeks as the earliest point of viability places a decision to teminate pregnancy between 20 and 24 weeks in the second part of the *Roe* test. Thus at any point prior to 24 weeks and subsequent to approximately the end of the first trimester, the state may regulate only insofar as such regulations are related to maternal health".[11]

So the mere *mention* of twenty-four weeks by the Supreme Court converts a number into a talisman capable of overriding the deliberation and fact-finding of the Minnesota legislature, which reached an eminently rational and supportable conclusion. Consider, if you will, this testimony from a similar case:

"Mr. Morris. Doctor, as one who performs abortions I want to read you a sentence and ask you what it means to you. The sentence is, 'Viability means capability of a fetus to live outside the woman's womb albeit with artificial aid'". . . .

Dr. Mecklenberg. I would agree with that definition of viability. I think that it has been current. I think it is a definition that takes into account medical progress, *the fact that it is constantly changing.* My perusal of the medical literature would lead me to believe that *potential or comtinued life exists as early as 20 weeks*—not in the current edition of Eastman's Obstetrics Book, but in the previous edition, the earliest report a survivor was reported as a delivery at 20 weeks gestation. In my own experience I have—the earliest survival that I have had is a patient who was 21 weeks from the time of conception or 23 weeks from the first day of her menstrual period. The child is a year and a half old and normal.[12] [Emphasis added.]

Yet, Judge Benson concludes in the Minnesota case that "[i]n any event, under present technology, it [viability] *does not* arise prior to 24 weeks" (emphasis added).[13] That conclusion, in light of reality, is befitting a Lewis Carroll conundrum.

The special animus that many lower federal judges have shown toward abortion regulations is starkly demonstrated in a Missouri case, *Doe* v. *Poelker,*[14] where an official policy against performing elective abortions in St. Louis city-owned public hospitals was promulgated by Mayor John H. Poelker, and challenged by the plaintiff "Jane Doe." In the process of invalidating the regulation the Eighth Circuit Court panel committed a multitude of methodological and analytical mistakes, not the least of which was to conclude that somehow *Roe* v. *Wade* had converted the constitution into a document that *prohibited* a state from preferring childbirth to abortions by financing the former but not the latter. Had they stopped at that one might excuse the opinion as misguided, but two of the three-man panel—Judges Ross and Talbot Smith—continued on to *punish* Mayor Poelker.

Contrary to the common law and American federal authority, the court awarded attorney's fee to the plaintiffs. The court's justification for ignoring the clear rule against such action was the rarely invoked exception for instances where "the losing party has 'acted in bad faith, vexatiously, wantonly, or for oppressive reasons.' "[15] Now there is no doubt such an exception does exist, but its use here is unheard of! First, the exception is only to be invoked by the district court, not the appellate court, as it was here, unless the appellate court was *affirming* the lower court.[16] Here the Eighth Circuit was reversing the lower court. So the action was legitimate at the outset. But, even if the appellate court could so act it is clear that the exercise of this power is limited to *exceptional* cases. As one commentator has explained the "bad faith" exception: "But only in exceptional cases and for dominating reasons of justice can the exercise of the power... be justified."[17]

Unfortunately, even if by some magic this could have been called such an exceptional case the judges would still be wrong for going on. The question of attorney's fees was never raised at trial; it was first raised on appeal. Therefore, there was *no* fact-finding on the point in the record, *no* notice to the defendant Poelker, nor was there opportunity for proper argument on the point before any court. This sort of thing is simply not done, it violates all notions of fundamental fairness. Winking would be a compliment for what these judges had to engage in to reach their result. The Supreme Court recognized as much in a rare reversal of the Eighth Circuit's pro-abortion result.[18]

B. Spousal or parental consent

Another area left explicitly undecided in *Roe* and *Doe*, and therefore subject to state regulation, was the matter of spousal or parental consent as a prerequisite to an abortion. Regrettably, state regulations in this area have also fallen victim to the federal courts.

Spousal consent provisions suffered the more immediate and devastating treatment. In Florida, for example, a moderate requirement for spousal consent would not have applied if the husband was voluntarily living apart from the wife or the woman's life was at stake. Yet, it was declared unconstitutional.[19] More amazing than the result is the Fifth Circuit's opinion affirming the lower court's rejection of this provision. The state had asserted an interest in the marriage relationship as one justification for the consent requirement—an interest traditionally recognized. Yet, Judge Lewis Morgan speaking for the panel rather summarily concluded that this interest was narrow and did not extend to "intrafamilial decision-making processes with regard to child-bearing decisions," and therefore the "state's societal interest in this aspect of the marriage relationship [was] not sufficiently 'compelling' to justify the statute."[20] Can this be so? Is the state's interest limited only to formulation and dissolution of the relationship? Yet, long ago the Supreme Court confirmed that the state's interest extends to the need to protect the "regularity and integrity of the marriage relation."[21] So marriage as an institution—rather than as the accidental cohabitation of two individuals—is a valid concern of the state. Consequently, can the court so easily dismiss Florida's asserted interest? Surely Florida can require that important decisions affecting marriage—adoption, artificial insemination, voluntary sterilization, and, yes, abortion—be forestalled in the absence of unanimity. The *Roe* court did not say otherwise, but the Fifth Circuit plowed fresh turf and said it for them.

On the point of the possible independent rights of the father the opinion writer somewhat frighteningly reasoned that because the fetus is not a person and therefore not a child, then "a fortiori" the father's interest in the fetus is less significant than his interest in live born children, and accordingly less weighty than the woman's right to abort. Now for all the mischief that the *Roe* court did, it held no more than that the Constitution does not use the word "person" in a prenatal sense and that therefore a fetus is not a "person" under the Fourteenth Amendment. As bad as that is it does not go as far as the Fifth Circuit in deducing that a pre-born child is not a *child* for whom a father may feel and express affection and protection.[22] Clearly a father can quite reasonably be as interested in his child *in utero* as in his postnatal children, and there is nothing in constitutional law or logic that can support the conclusion that this interest is somehow less weighty than the mother's interest in a dead baby. Yet, once again, with mere words, and another wink at reality, the father becomes a menacing and unwelcomed interloper in the exclusive domain of woman and physician.

Some courts have been mildly more sensitive to the roles of parents in the decision to abort made by a minor daughter. The sensitivity is, however, limited, where it exists at all. A prime example is the continuing judicial battle over a Massachusetts statute that requires an unmarried woman under eighteen years of age to obtain the consent of her parents prior to an abortion.[23] The statute precludes a parental veto by also providing that "If one or both of the mother's parents refuse such consent, consent may be obtained by an order of a judge of the superior court for good cause shown, after such hearing as he deems necessary." [24] Surely a reasonable scheme, right? Bill Baird, whom the court called "a pioneer and advocate for the availability of abortions," [25] among others, thought not.

Their challenge found support in the opinion of Judge Aldrich who in a most perplexing manner admits that the role of the parent in such a matter would be important and helpful, but yet, he strikes down the statute because "an appreciable number [of parents] are not [supportive], for a variety of reasons." [26] By adopting this view he effectively rejected the long tradition of viewing the parent as the one responsible for the nurture and care of the child.[27] As the Supreme Court once said of parents: "those who nurture [the child] and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional [e.g., religious, moral, and patriotic] obligations." [28] Judges Aldrich and Freedman winked at that tradition and decided instead that hired abortionists were better suited for this role. A devilish substitution indeed, but doubly so in light of what we know about so-called abortion "counseling."

"The counseling . . . occurs entirely on the day the abortion is to be performed . . . . It lasts for two hours and takes place in groups that include both minors and adults who are strangers to one another . . . . Counseling is typically limited to a description of abortion procedures, possible complications, and birth control techniques . . . .

"The abortion itself takes five to seven minutes . . . . *The physician has no prior contact with the minor,* and on the days that abortions are being performed at the [clinic], the physician . . . may be performing abortions on many other adults and minors . . . . On busy days patients are scheduled in separate groups, consisting usually of five patients . . . . After the abortion [the physician] spends a brief period with the minor and others in the group in the recovery room . . . ." [29]

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The Supreme Court, on appeal, gently reined in the district judges and admonished them to allow the state's highest court to "construe" the statute before deciding its constitutionality—something they should have done on their own. After the Massachusetts Supreme Judicial Court construed the statute as permitting nothing more than parental consultation,[30] the district court reconsidered, but found it nonetheless unconstitutional. In the process the same two judges, over the strong dissent of Judge Julian, did violence to ordinary judicial procedures and analysis. One of these transgressions deserves special mention.

Because the plaintiffs had asked for a preliminary injunction against the enforcement of the consent statute every lawyer worth his salt knows that the plaintiffs would have to *prove* a *substantial* likelihood of prevailing on the merits, and that without the injunction they would suffer *irreparable* harm. The district panel, most benevolently, seemed to relieve these plaintiffs of that duty. Judge Julian demonstrated as much when he pointed out the weaknesses in each of the plaintiffs' three major arguments on the merits and thereby destroyed any substantial likelihood of success.[31] But, more poignantly, the Julian dissent focused clearly on the requirement of irreparable harm.

"Where is the harm of members of the plaintiff class of Massachusetts minors? . . . Surely, requiring the minor to comply with minimal legal procedures, though perhaps inconvenient, or even unpleasant, does not constitute irreparable harm or injury to the minor. Only in the instance where the minor's parents and a state judge concur that an abortion would not be in the best interest of the adolescent girl would she be precluded from having an abortion. Certainly enforcement of a state statute which prevents a minor from undergoing a surgical procedure which is found by both her parents and the Court to be contrary to her own best interests, cannot sensibly be said to cause her irreparable harm.[32]

Certainly it cannot, but a majority of this three-judge court did not act sensibly.

Judge Julian also pointed out that the other plaintiffs, abortionists-physicians, would suffer only some loss of income "from the loss of business of some minors who forego having abortions, or who decide under parental guidance to have the operation at a facility other than [the plaintiffs']." [33] Clearly not ruinous or irreparable harm. In bold contrast, Judge Julian described well the true irreparable harm in this case:

"The action of this Court . . . removes for an indefinite period the only legal barrier in this state against the exploitation of pregnant adolescents by operators of unregulated and unsupervised abortion facilities who may be motivated by concerns which are far removed from the minor's own best interest. The stay granted by the majority is legally unjustified and does not serve the best interests of either the minor or the public." [34]

Consequently, two federal judges have managed to delay indefinitely the effect of a statute, enacted in November 1974, which was intended to protect vulnerable pregnant minors at a most crucial time. In the process, these judges have advanced the rather startling assumption that abortion clinics and hired abortionists are better able to protect the minor's interest than are her parents, or a state court. Why the court was so willing to assume the worst about parents and the best about abortion clinics—all contrary to the judgment of the people of Massachusetts—is indeed perplexing. The recalcitrance of this court is only thinly disguised as constitutional law.

C. Federal funds and the Hyde amendment

Perhaps the most disturbing example of how overbearing some federal courts have become in the area of abortion is the recent treatment of the Hyde Amendment by one federal judge in Brooklyn—Judge John F. Dooling.

In 1976 Congress attached an amendment to its Department of Labor/Health, Education and Welfare appropriations bill that specifically withheld any appropriation of funds for the payment of elective abortions under state Medicaid programs. The amendment carries the name of its original sponsor Representative Henry Hyde, and reads: "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus was carried to term." [35] One of several attempts to enjoin this amendment was brought before Judge Dooling in the Eastern District of New York.[36]

The plaintiffs, among whom were included the American Civil Liberties Union and Planned Parenthood of America, asked not only that the Hyde Amendment be declared unconstitutional, but that the judge order the U.S. Treasury to reimburse states for elective abortions. The plaintiffs—and ultimately Judge Dooling—seemed undeterred by the fact that the U.S. Constitution specifically prohibits the drawing of money from the Treasury unless properly appropriated by Congress. Specifically article I, section 9, clause 7 provides "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." [37] Clearly, even if the judge found some basis for invalidating the Hyde Amendment, he had no constitutional authority to order the government to pay. Undaunted, and with an embarrassing paucity of constitutional authority, Judge Dooling decided that the plaintiffs would probably prevail at trial because the amendment was, for him, unconstitutional. Perhaps his reasoning is best illustrated by the following statement:

"Divisions between sober and God-fearing people so deep and equal deny to civil authority any power to intervene by direction or indirection, either to compel abortion as a measure of population control or to deny medical assistance to the needy who act on their own beliefs. When the power of enactment is used to compel submission to a rule of private conduct not expressive of norms of conduct shared by the society as a whole without substantial division it fails as law and inures as oppression." [38]

So, while it is oppression for substantial numbers of taxpayers to conscientiously object to the funding of abortions with their money, it is not oppression to compel their contributions to such abortions. Or, as John Noonan has said so well: "Judge Dooling adopted the argument of Planned Parenthood that, as the morality of abortion was disputed by 'Godfearing people,' the government would be required to be neutral. And 'neutrality' meant the government should be on Planned Parenthood's side and pay for abortions!" [39]

Having decided that the plaintiffs' case had merit and should be set for trial Judge Dooling showed little additional concern for the "appropriations" problem—a problem that another federal judge saw as crucial and insurmountable.[40] Consequently, Judge Dooling decided that the funds for abortions had been appropriated and that the Hyde Amendment was simply a restriction on "the circumstances in which the funds can be used to pay providers of lawful abortional services." [41] Consequently, if the Hyde "restriction" is declared unconstitutional, as he thought it would be, the already appropriated funds would simply be freed. "Payment of funds [would] follow, but not by an act equivalent to appropriation." [42]

Now to reach this conclusion Judge Dooling had to do quite a bit of winking of his own. Most notably he had to wink at the rather clear congressional rules and traditions that provide that amendments to appropriation bills are considered part of the bill and thus a limit on the appropriation itself.[43] When the Hyde Amendment was offered under House Rule XXI,[44] the Holman Rule, it was accepted as "being germane to the subject matter of the bill" and as "retrench[ing] expenditures by . . . the reduction of amounts of money covered by the bill." [45] Hence, the Hyde Amendment must be read as an explict statement by Congress that *no* funds have been appropriated for the proscribed purpose, *i.e.*, elective abortions. To invalidate the amendment and order payment—as Judge Dooling did—is nothing short of judicial usurpation of a power textually committed to Congress.

In an effort to bolster his misguided analysis of the appropriations question, Judge Dooling relied heavily upon *United States* v. *Lovett.*[46] He felt *Lovett* supported the proposition that "the section [was] a constraint on the use of *appropriated funds*, and, if the constraint [was] one that [could not] be lawfully imposed for constitutional reasons, as it was in *Lovett*, then there [was] no bar to the payment of the money for abortional services"[47] (emphasis added). Unfortunately, Judge Dooling had certainly misread *Lovett*, which did not involve the rejection of one portion of an appropriations act to reach funds otherwise appropriated by the act. Rather, Robert Lovett, an executive assistant to the governor of the Virgin Islands, and two other government employees were considered "subversives" by the Un-American Activities Committee. Because the government refused to fire them, Congress in the Urgent Deficiency Appropriations Act of 1943 [48] prohibited payment of their salaries. The three continued to work for the government and sued for their compensation in the Court of Claims. That court decided that the claimants were entitled to the money but did not order Congress to appropriate the funds.[49] The Supreme Court affirmed, and held the salary prohibition an unconstitutional Bill of Attainder, but again, no order was made to appropriate or pay funds. Unlike Judge Doolings's order, the Supreme Court respected the separation of powers and merely acknowledged compensation was due. It did not reach back to the appropriation, stripped of the salary prohibition, and order payment as though the funds had been appropriated and illegally constrained. In fact, the plaintiffs would never have been compensated had not the House—after a long debate—subsequently voted 99-98 [50] to pay the amount due under the Supreme Court decision. Clearly, Judge Dooling misunderstood *Lovett.*

Perhaps Judge Dooling's mistake would deserve less attention had he not taken two additional steps that seem particularly inappropriate. First Judge Dooling found irreparable harm sufficient to enjoin the Amendment despite an earlier order by a three-judge panel (of which Judge Dooling was a member) enjoining the State of New York from refusing to fund elective abortions.[51] That injunction was still in effect and adequately assured that no harm, much less irreparable harm, could come to indigent women seeking free elective abortions in Judge Dooling's state. Second, and more surprising, Judge Dooling's order operated on the Secretary of HEW *throughout* the United States, a result presumably requiring a showing of irreparable harm in each state. Yet the opinion refers to only one affidavit from a New Mexico official stating that state would not pay for unreimbursed abortions.[52] Thus, in one fell swoop a single federal judge in Brooklyn had managed to thwart the expressed will of Congress—formulated after long, tedious months of difficult deliberation—throughout the entire country!

D. Roe as the Portal to Infanticide

As bad as all of these examples are the worst is yet to come. The thinking that underlies a South Carolina case, *Floyd* v. *Anders*,[53] makes *Roe* and *Doe* the portal to blatant infanticide. In that case, as the court describes it, "Louise, a young, pregnant woman wished an abortion because her expectancy interfered with her hopes and plans to go to college." [54] (And some still dare to argue that we do not have abortion on demand). Either because she lied or miscalculated, Louise understated her stage of pregnancy by eight weeks when she sought a clinic abortion. Dr. Floyd, "a physician specializing in abortions," [55] discovered the mistake prior to performing the abortion and informed the patient that being twenty weeks pregnant a hospital procedure was necessary. Five weeks later, Louise was admitted to a hospital and Dr. Floyd, knowing her stage of pregnancy, undertook a prostaglandin abortion, which produced a live male child.[56] The child, having been transferred to the hospital neonatal intensive care unit lived for twenty days before he died.

The state prosecutor sought and received grand jury indictments against Dr. Floyd for murder and performing an illegal abortion. Dr. Floyd turned to the federal courts to stop the South Carolina criminal prosecution. There he found three friends in Judges Haynsworth, Russell and Chapman, who were willing to wink at something called the "abstention doctrine."[57] That doctrine in short prohibits federal judges from interfering with state criminal prosecutions for all but the most extraordinary reasons. Judge Haynsworth thought he had such a reason because in his words, "it clearly appears that the state prosecutor was not proceeding in good faith."[58] Many federal judges, you see, are all too prone to ascribe bad faith to anyone who dares question the absolute propriety of abortion on demand.

Well much can be said about this bending of ordinary procedure, but all that need be said is that Judge Haynsworth and company were clearly wrong. As one scholar of federal procedure has said of the exception so blithely used by these judges:

"Although later Supreme Court decisions have not shed a great deal of additional light on the exceptions to Younger, [the case strengthening the abstention doctrine] what the Court has done confirms that the Court is right when it describes them as 'these narrow exceptions.'

"There is no case since Younger was decided in which the Court has found that the exception for bad faith or harassment was applicable." [59]

It is quite clear that bad faith must be clearly, extraordinarily, and affirmatively shown for a federal court to ignore the strength of the abstention doctrine. The few district court cases that have found such bad faith have consistently dealt with extremes, e.g., 100 obscenity prosecutions against the same defendants with multiple acquittals; seizing a film four times without judicial determination of its obscene nature, and similar instances of harassment.[60]

Here the South Carolina prosecutor was bringing a *single* prosecution against a man implicated in the death of a live-born infant: infanticide if you will. Here there is no doubt that a 20 day old died due to "numerous complications which arose from the child's premature birth." [61] While I am not implying Dr. Floyd's criminal guilt, which should be decided at a proper trial, is it plausible to suggest that under the circumstances the prosecution was *clearly* in bad faith for moving toward such a trial? Where is the bad faith? Well, according to the three-judge panel, through Clement Haynsworth, Jr., it inheres in the statement that "the prosecutor had not read the opinion in *Roe* v. *Wade*," [62] but had relied upon other reports and a digest prepared by a law student. From this the conclusion was reached that the prosecutor must be charged with the knowledge of what that case says, and according to Haynsworth's analysis of *Roe*, such knowledge would argue against any good faith prosecution of Floyd. Of course this is all nonsense, for even if one had never heard of *Roe* v. *Wade*, the facts of this case make it quite clear that a living child was untimely forced from his mother's womb and that action, in the opinion of the pathologist who performed the autopsy, ultimately caused the child's death. No one could seriously argue that *Roe* v. *Wade* clearly allows that sort of thing, or that one would be acting in bad faith to prosecute the doctor responsible. Common sense, if nothing else, revolts at the suggestion. Yet, that it what these judges tell us.

Their mistake is in their bizarre reading of the clearly misguided words of the abortion decisions. Consider if you will some of Judge Haynsworth's statements:

"Seemingly, the child was not viable in the sense that he could live indefinitely outside his mother's womb. . . ." [63]

Well it may come as a shock to the good judge but none of us can live "indefinitely" outside our mother's womb. Moreover, such was not the requirement of *Roe*: viability means "potentially able to live outside the mother's womb, *albeit with artificial aid*" [64] (emphasis added). Consider also this statement:

"Indeed, the Supreme Court declared the fetus in the womb is neither alive nor a person within the meaning of the Fourteenth Amendment." [65]

What audacity! Can the judge really believe that the Court, any court, could *declare* someone *not* alive? How could that declaration be explained to that child who struggled to stay alive for those twenty days; what sort of word game will deny the fact of his brief life cut short by Dr. Floyd, who forced him into that struggle before his time? Of course, *Roe* made no such declaration. Perhaps these judges did not read *Roe* either.

Finally, the judge says:

"Had he but read the [*Roe*] opinion . . ., he would have known that the fetus in this case was not a person whose life state law could legally protect." [66]

Again nonsense! This was primarily a murder prosecution and therefore not dependent upon any trimester/viability argument.[67] The state's interest here is not dependent upon *Roe* or any other case. The child was born alive and died allegedly because of what the doctor did—if that is not legally murder the South Carolina courts are perfectly capable of so deciding without the interference of three federal judges. The Supreme Court said as much when it vacated the Haynsworth judgment.[68]

If none of the prior examples of excessive and mischievous federal court involvement concern the reader, this last case certainly should. For these three judges, without dissent, made a bold and blatant leap from acceptance of abortion to the horrors of infanticide. They ignored ordinary procedures and unhesitatingly thrust themselves into a state murder prosecution and pretended that there was some legitimacy in their attempts to shield an ordinary criminal defendant from the consequences of his acts simply because the matter of abortion is involved.

II. THE RESPONSE

Having said all of this, is the conclusion that we are stuck with a federal judiciary that has been overly accommodating to the pro-abortion position, and all is lost? The answer is clearly, no. Among the many signs of wisdom that our forefathers incorporated into the Constitution there is Article III. It reads in part that "[t]he judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." [69] That latter phrase has for all time been understood to mean that Congress may grant, retain, remove, or restrict the jurisdiction of the lower federal courts of this country. The Supreme Court has on several occasions concurred in this view [70] and has recently—and almost offhandedly—done so again.

In *U.S.* v. *American Friends Service Comm.*,[71] two Quakers sought to express their conscientious objections to war by having their employer, a religious organization, cease withholding a percentage of wages under IRS regulations. The percentage was based upon the amount of federal revenue ascribed to military purposes. The employer complied, but continued to pay the full amount due to the government. Subsequently, the employer sued for a refund of amounts paid but not withheld. The employees joined in this suit, and requested, on their behalf, an injunction against IRS enforcement of its regulations. Their principal argument admitted their liability for the taxes, but objected to the "deprivation of their right to free exercise of religion under the First Amendment since [the withholding scheme] did not allow them to bear witness to their beliefs by refusing to voluntarily pay a portion of their taxes." [72] The district court [73] accepted this argument and enjoined the enforcement of the withholding provision against the employer.

The Supreme Court, with only one dissent, reversed this judgment, not on its merits, but because a jurisdictional limitation divested the courts of any power over the matter. The Anti-Injunction Act [74] provides that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed. . . ." This jurisdictional limitation, imposed by Congress on *all* courts, was upheld even over the strong First Amendment argument:

"[D]ecisions of this Court make it unmistakably clear that the constitutional nature of a taxpayer's claim, as distinct from its probability of success, is of no consequence under the Anti-Injunction Act." [75]

Eight members of the Court, in this *per curiam* opinion, respected Congress' authority to limit or restrict federal court jurisdiction.

Of course this is just a more recent example of the long-standing attitude of the Court to jurisdictional limitations imposed by Congress. One much more apropos is the Norris-La Guardia Act,[76] wherein Congress severely limited federal court jurisdiction in matters concerning labor relations—an area where federal courts had shown an anti-labor bias for many years. In fact the circumstances and events leading up to the Norris-La Guardia Act bear a discomforting similarity to those now developing in the abortion debate.

As with abortion, the problems leading up to the labor limitation began with several questionable—and subsequently discredited—Supreme Court and lower federal court opinions,[77] which set the stage for continual federal court involvement in labor-management relations. Prominent among these opinions [78] was one which applied the Sherman Act [79] to labor unions, and produced the anomalous result that an act primarily directed toward the social and economic ramifications of the concentration of capital became an act used most often against labor. The result was devastating to labor unions because it gave the courts the opportunity to thwart crucial union activities (e.g., strikes) by use of the dreaded labor injunction.

Subsequent attempts to correct the problem legislatively were often successful until those enactments reached the hostile courts, where they were invalidated or emasculated. This continuing era of harsh judicial intervention came to be known as a time of "government by injunction." [80] The critics of this era, both in and out of labor, were strong, but frustrated. Their voices sound very much as do the voices of critics of the present trend in abortion cases. One such voice was that of Senator Norris:

"This case and the others which I have enumerated illustrate the necessity of passing a law which cannot be nullified even by judges who have no sympathy with those who toil when their interests conflict with great aggregations of wealth. It brings to our minds the almost superhuman importance of an untarnished judiciary. A perfect law can be nullified by an unfair and biased judge." [81]

Hear also Mr. O.K. Fraenkel, a member of the New York Bar:

"Federal courts have, in too many instances, proved to be champions of capital against labor; they should show a greater regard for the realities of the situation.

"The courts, swayed by their conceptions of desirable social ends, have limited strike activities by decisions based on the doctrines of unlawful purpose and improper means. Too often they have been blind to the obvious fact that the definition of the scope of these two doctrines involves declarations of policy, ordinarily a task for the legislature rather than themselves." [82]

The problem of almost totally pro-management judicial involvement did not end until the Norris-La Guardia Act severely limited federal court jurisdiction and firmly reasserted the policy role of the Congress and states in matters of labor relations. The Supreme Court upheld the constitutionality of the Act in *Lauf* v. *E. G. Shinner & Co.*,[83] and the long and damaging era of government by injunction began to, and eventually did, subside.

So it is clear that Congress acted wisely and well in retrieving labor relations from the clutches of a hostile judiciary. Today the problem has arisen anew in the area of abortion. Congress has the power, in fact the duty, to speak firmly and clearly in this matter, and to end a similar era of government by injunction and declaration. Congress should not be deterred by cries of "opening the floodgates" or "judicial independence." The Constitution itself wisely gives this power to Congress and it was certainly intended to be used. As Alexander Hamilton said in his Federalist Paper No. 80:

"From this review of the particular powers of the federal judiciary, as marked out in the constitution, it appears, that they are all conformable to the principles which ought to have governed the structure of that department, and which were necessary to the perfection of the system. If some partial inconveniencies should appear to be connected with the incorporation of any of them into the plan, it ought to be recollected that the national legislature will have ample authority to make such *exceptions* and to prescribe such regulations as will be calculated to obviate or remove these inconveniencies.[84]

The political processes are capable of assuring that this power not be abused;[85] they have done so for over 200 years. And besides, why recoil from a legitimate use of congressional power because of the theoretical possibility of future abuse, when not to act continues to countenance a *current judicial* abuse. The time has come, Congress must not blink!

FOOTNOTES

[1] Ms. Weddington's remarks appear in *Abortion In The Seventies* (W. Hern & B. Andrikopoulos eds. 1977). pp. 77–79.

[2] 410 U.S. 113 (1973).

[3] See John Noonan. "Should Congress Investigate the Treasury's Funding of Abortion?" *The Human Life Review*. Spring 1978. Vol. IV. No. 2. p. 11; and Robert Destro, "Some Fresh Perspectives on the Abortion Controversy." *Id.*, p. 22.

[4] The reference to lower federal courts does not mean that no such power exists over the Supreme Court; it does. However, the basis and arguments for such a power are different than those focused on in this article.

[5] *Doe* v. *Rampton*, 366 F. Supp. 189 (D. Utah 1973).

[6] See, e.g. *United States* v. *O'Brien*, 391 U.S. 367, 392–86 (1968) (Chief Justice Warren's classic condemnation of motive analysis in constitutional decision-making).

[7] Chicago *Sun-Times*, Sunday, Nov. 12, 1978, 1 at cols. 1–2.

[8] *Friendship Medical Center, Ltd.*, v. *Chicago Bd. of Health*, 505 F. 2d 1141 (7th Cir. 1974), *cert. denied*, 420 U.S. (1975).

[9] "The notion of 'viability' defined in any such simple fashion is without biological and medical foundation. The word does not even appear in standard medical indexes." Germain Grisez, *Abortion: The Myths, the Realities, and the Arguments* (Corpus Books: 1970), p. 32.

[10] *Hodgson* v. *Anderson*, 378 F. Supp. 1008 (D. Minn. 1974), *rev'd in part sub nom. Hodgson* v. *Lawson*, 542 F. 2d 1350 (8th Cir. 1976).

[11] *Id.* at 1016.

[12] *Planned Parenthood Ass'n.* v. *Fitzpatrick*, 401 F. Supp. 554, 570n. 9 (E.D. Pa. 1975), *aff'd sub nom. Collauti* v. *Franklin*, 47 U.S.L.W. 4094 (Jan. 9, 1979) (quoting *Record*, Jan. 14. 14, 1975, at 82–83).

[13] 378 F. Supp. at 1016.

[14] 515 F. 2d 541 (8th Cir. 1975), *rev'd*, 432 U.S. 519 (1977).

[15] *Id.* at 547 (quoting *Alyeska Pipeline Serv. Co.* v. *Wilderness Soc'y*, 421 U.S. 240 (1975)). The court also cited *F. D. Rich Co.* v. *Industrial Lumber Co.*, 417 U.S. 116, 129 (1974). *Neither* of these Supreme Court cases awarded attorney's fees; they only mentioned the existence of the exception relied upon by the circuit panel.

[16] See 6 Moore's *Federal Practice* para. 54.77[2], at 1711–12 (2d ed. 1976).

[17] *Id.* at 1709–10.

[18] *Poelker* v. *Doe*, 432 U.S. 519 (1977).

[19] *Poe* v. *Gerstein*, 517 F. 2d 787 (5th Cir. 1975) (declaratory judgment affirmed) *aff'd sub nom. Gerstein* v. *Coe*, 428 U.S. 901 (1976).

[20] *Id.* at 795.

[21] *Estin* v. *Estin*, 334 U.S. 541, 546 (1948).

[22] Legal tradition is contrary to the Fifth Circuit view: Courts and commentators have consistently concluded that when the average testator refers to children in his will he intends to include those conceived though not born. See generally 5 *American Law of Property* §§ 21.56, 22.42 (Casner ed. 1952).

Tort law has followed a similar rule. In discussing recovery for injury to a fetus Dean Prosser has said:

"Most of the cases allowing recovery have a involved foetus which was then viable . . . . Many of them have said, by way of dictum, that recovery must be limited to such cases, and two or three have said that the child, if not viable, must at least be 'quick.' *But when actually faced with the issue for decision, almost all of the jurisdictions have allowed recovery even though the injury occurred during the early weeks of pregnancy, when the child was neither viable nor quick.*"

W. Prosser, *Handbook of the Law of Torts* 337 (4th ed. 1971) (emphasis added).

[23] *Baird* v. *Bellotti*, 393 F. Supp. 847 (D. Mass. 1975), vacated and remanded, 428 U.S. 132 (1976), *on remand*, 428 F. Supp. 854 (D. Mass 1977), *permanent injunction granted*, 450 F. Supp 997 (D. Mass. 1978).

[24] *Mass. Ann. Laws* ch 112, § 12P(1) (Michie/Law Co-op 1974).

[25] 393 F. Supp. at 851.

[26] *Id.* at 853.

[27] See *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925).

[28] *Id.* at 535.

[29] *Planned Parenthood* v. *Danforth*, 428 U.S. 52, 91 n. 2 (1976) (Stewart, J., concurring) (citing brief in *Baird* v. *Bellotti*).

[30] *Baird* v. *Attorney Gen.*, 360 N.E. 2d 288 (1977).

[31] 428 F. Supp. at 858 (Julian J. dissenting).

[32] *Id.* at 859.

[33] *Id.*

[34] *Id.* at 860.

[35] Hyde Amendment, Pub. L. No. 94-439, § 209, 90 Stat. 1434 (1976).

[36] *McRae* v. *Mathews*, 421 F. Supp. 533 (E.D. N.Y. 1976), *vacated sub nom. Califano* v. *McRae*, 433 U.S. 916 (1977).

[37] U.S. Const. art. I, § 9, 7.

[38] 421 F. Supp. at 542.

[39] Noonan, *op cit.*, p. 16.

[40] The case was *Doe* v. *Mathews*, 420 F. Supp. 865 (D.N.J. 1976) wherein Judge Biunno concluded that even if there was a basis for an injunction (which he did not think there was) "the Secretary of the Treasury would remain bound to observe the Hyde Amendment and to refuse to draw any moneys out of the Treasury for payment of a federal share to a Medicaid State on account of elective abortions." *Id.* at 871.

[41] 421 F. Supp. at 540.

[42] *Id.* at 540–41.

[43] See, e.g., 7 C. Cannon, *Cannon's Precedents of the House of Representatives* § 1643 (1936).

[44] *Rules of the House of Representatives*, H.R. Doc. No. 663, 94th Cong., 2d Sess. 561 (1977).

[45] *Id.* at 563.

[46] 328 U.S. 303 (1946).

[47] 421 F. Supp. at 541.

[48] Pub. L. No. 78-132 § 304, 57 Stat. 450 (1943).

[49] *Lovett* v. *United States*, 66 F. Supp. 142 (Ct. Cl. 1945), *aff'd*, 328 U.S. 303 (1946).

[50] 93 *Cong. Rec.* 2973–75, 2977, 2987–91 (1947). These debates clearly reflect the proper understanding of the textually committed House power over appropriations.

[51] *Klein* v. *Nassau Co. Med. Center*, 409 F. Supp. 731 (E.D. N.Y. 1976) (*per curiam*), *vacated sub nom. Toia* v. *Klein*, 432 U.S. 902 (1977).

[52] 421 F. Supp. at 542.

[53] 440 F. Supp. 535 (D.S.C. 1977), *vacated sub nom. Anders* v. *Floyd*, 47 U.S.L.W. 3582 (March 6, 1979).

[54] *Id.* at 537.

[55] *Id.*

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[56] *Id.* at 538.

[57] See generally Wright, Miller & Cooper, *Federal Practice and Procedure: Jurisdiction* § 4255 (1978). (Hereinafter cited as *Wright*).

[58] 440 F. Supp. at 537. The three-judge panel also relied upon another exception to *Younger* that would allow interference, but only if it was to enjoin the enforcement of a statute "flagrantly and patently violative of express constitutional prohibitions, in every clause sentence and paragraph, and in whatever manner and against whomever an effort might be made to apply it," *Younger* v. *Harris*, 401 U.S. at 53–54 (1971), quoting *Watson* v. *Buck*, 313 U.S. 387 (1941). The problem is that the Court hopelessly confused this *separate* exception with the bad faith exception to create in essence a third, easier to apply, exception. Consequently, the court was able to safisfy itself that abstention was not necessary without giving attention to the actual constitutionality to the Carolina law. The judges simply ignored the much heavier burden, imposed upon them by *Younger*, which requires clear and compelling reasons for applying either of the exceptions.

[59] *Wright, op. cit.*

[60] See cases collected at footnote 23 in *Wright, op. cit.*

[61] See Appellants' Jurisdictional Statement at 6, *Anders* v. *Floyd* (1977), citing the deposition of the pathologist who performed the autopsy on the child.

[62] 440 F. Supp. at 539.

[63] *Id.* at 538. Apparently Judge Haynsworth either misread or misunderstood the discussion of viability in *Planned Parenthood of Missouri* v. *Danforth*, 428 U.S. 52 (1976). That case did not redefine or overrule the *Roe* definition, but merely accepted the Missouri definition as one perhaps more liberal than that advanced in *Roe*. That *Roe* definition of potential ability to live outside of the mother, albeit with artificial aid, was clearly reaffirmed, not rewritten in *Danforth*.

[64] 410 U.S. at 160.

[65] 440 F. Supp. at 539.

[66] *Id.*

[67] In addition *Roe* made it quite clear that a state *does* have a compelling interest in a fetus' life during the third trimester, and can proscribe elective abortions in viable fetuses during that time. So even beyond the murder prosecution it is entirely possible—probable in fact—that the South Carolina abortion statute could be construed consistent with the abortion decisions and serve as a basis for proscribing abortions of the type performed in this case.

[68] *Anders* v. *Floyd*, 47 U.S.L.W. 3582 (March 6, 1979) *vacating Floyd* v. *Anders*, 440 F. Supp. 535 (D.S.C. 1977).

[69] U.S. Const. art III, § 1.

[70] *Sheldon* v. *Sill*, 49 U.S. (8 How.) 441 (1850); *Lauf* v. *E.G. Shinner § Co.*, 303 U.S. 323 (1938).

[71] 419 U.S. 7 (1974).

[72] *Id.* at 8.

[73] 368 F. Supp. 1176 (E.D. Penna. 1973).

[74] 26 U.S.C. § 7421(a) (1954).

[75] 419 U.S. at 11 *citing Alexander* v. *"Americans United" Inc.*, 416 U.S. 752, 759 (1974).

[76] 29 U.S.C. §§ 101–115 (1976).

[77] For a complete discussion of these cases and their effect see F. Frankfurter & N. Greene, *The Labor Injunction* (1930).

[78] *Loewe* v. *Lawlor*, 208 U.S. 274 (1908); *Gompers* v. *Bucks Stove & Ranger Co.*, 221 U.S. 418 (1911).

[79] 15 U.S.C. §§ 1–7 (1976).

[80] See *The Labor Injunction, op. cit.* p. 1.

[81] 75 *Cong. Rec.* 4510 (1932).

[82] Fraenkel, "Recent Statutes Affecting Labor Injunctions and Yellow Dog Contracts," 30 *Illinois Law Review* 854, 880–81 (936).

[83] 303 U.S. 323 (1938).

[84] *The Federalist* No. 80 (A. Hamilton) at 541 (J. Cook ed. 1961).

[85] For an excellent article arguing that the primary and proper role of the judiciary in this country is to keep open the political processes and not to define fundamental values, see Ely, "Forward: On Discovering Fundamental values," 92 *Harvard Law Review* 5 (1978).

TESTIMONY OF NATIONAL CONFERENCE OF CATHOLIC BISHOPS ON CONSTITUTIONAL AMENDMENT PROTECTING UNBORN HUMAN LIFE

INTRODUCTION

The National Conference of Catholic Bishops has testified before Congressional subcommittees on two previous occasions on the subject of abortion and the need for a Human Life Amendment: on March 7, 1974, before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary; and on March 24, 1976, before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary.

Neither in 1974 nor in 1976 was any version of a Human Life Amendment reported out of committee and voted on by Congress. As a result, this issue has not yet been brought before the state legislatures for their own determination. It is our fervent hope that this subcommittee and this Congress will show their respect for the democratic process by making it possible for the elected representatives of the American people to consider such a constitutional amendment.

In our previous testimony we have commented on a great many aspects of the abortion debate.

In 1974, we presented a wealth of evidence on the humanity and dignity of the unborn child. We pointed to the American legal tradition which recognizes the inherent right to life of all human beings, and noted that until the Supreme Court stripped virtually all legal protection from the unborn child, the life of that child was seen as deserving of legal protection. We noted the virtually absolute character of the right to abortion created by the Court, which gave the unborn child no recourse or appeal under the law. The conclusion reached in that testimony was:

"After much consideration and study, we have come to the conclusion that the only feasible way to reverse the decision of the Court and to provide some constitutional base for the legal protection of the unborn child is by amending the Constitution. Moreover, this is a legal option consistent with the democratic process. It reflects the commitment to human rights that must be at the heart of all human law, international as well as national, and because human life is such an eminent value, the effort to pass an amendment is a moral imperative of the highest order."

On March 24 of this year, the NCCB Administrative Committee voted unanimously to reaffirm this 1974 statement.

In 1976, our testimony concentrated on reactions to the Supreme Court's abortion decisions and on the early effects those decisions had on law and society. By that time, many distinguished legal scholars, representing a wide variety of views on abortion itself, had criticised the 1973 decisions as having little or no basis in the Constitution or in American legal history. Preliminary statistics suggested that legalization did increase the number of abortions performed by making abortion more easily available and more socially acceptable. This situation produced its own threats to women's lives and health while failing to put an end to illegal abortions.

The abortion mentality was already helping to erode some physicians' respect for human life in other spheres, most noticeably in the treatment of handicapped newborns who could be classified as falling below someone's standard of "meaningful humanhood." At that time we condemned as patronizing and sometimes punitive the attitude that "abortion is good enough for the poor," as well as the general tendency to see the quick and violent "solution" of abortion as the answer to a variety of social ills which have their own appropriate and infinitely more humane solutions. We renewed our criticism of the abortion decisions themselves, observing that they had created a "new legalism . . . destructive of the human spirit." The Supreme Court had imposed this "new legalism" by replacing the facts about the beginnings of human life with new legal fictions and by failing even to recognise many of the individual and social values at stake in public policy decisions on abortion. By isolating the pregnant woman in her "right of privacy," the court had done a disservice both to her and to her child, cutting them off from the familial and societal bonds which can support and encourage life-affirming attitudes.

We responded to the claim that laws restricting abortion constitute an establishment of religion or a denial of religious freedom, pointing out that the idea of abortion as an affirmative good is a novelty created by the Supreme Court and not one maintained by any major religious denomination. While noting the complexity of the abortion issue and agreeing that it has moral and religious dimensions, we reasserted our conviction that legal protection for the unborn child can be based on a respect for human dignity and fundamental human rights commonly held by people of good will regardless of their religious affiliation.

Without repeating our 1974 and 1976 testimony in detail, we wish to take this opportunity to reaffirm our continued adamant opposition to the current public policy on abortion and our conviction that a constitutional amendment is necessary to correct this unjust and destructive policy. Over the past five years, there have been a number of developments which strengthen the case on behalf of an amendment. In addition, the arguments put forth to defend legalised abortion have changed in some ways, requiring new responses. These recent developments will be noted during the course of this testimony, which will address four important aspects of the abortion controversy:

First, the central issue of the human dignity of the unborn child, with special emphasis on the complementary roles which scientific evidence and ethical insight can play in appreciating this dignity.

Second, a review of Western and specifically American legal traditions on human rights and the protection of unborn human life, with comments on the ways in which the reasoning of the Supreme Court's abortion decisions distorted and weakened those traditions.

Third, the legal and social effects of *Roe* v. *Wade* upon American life.

Fourth, the issue of the relationship between law and morality as it applies to the abortion issue.

THE HUMAN DIGNITY OF THE UNBORN CHILD

In 1974 and 1976, we cited a wealth of scientific literature to show that individuated human life begins at conception—that is, that a unique human individual comes into existence when male sperm and female ovum successfully unite, and that all subsequent stages of development are simply phases in the continuous process of maturation into an adult human being. No new evidence has been found to contradict this simple fact, and a great deal of evidence has accumulated to confirm it. The testimony presented on this matter before the Senate Subcommittee on Separation of Powers on April 23 of this year presents a small sample of the evidence available. The Federal government itself officially acknowledges the biological facts on this point. A 1970 publication of the Department of Health and Human Services reports:

"Life is a constantly evolving process that begins with conception and continues until death. Movement through time necessitates change and therefore is synonymous with life itself; the opposite state is stasis and death. . . . With the passage of time, the human organism grows from a single cell to a fully developed adult. . . . Life begins when a male sperm unites with a female egg. The new life created by this union starts as a single cell. . . . In relation to the total life span of the individual, the early developmental years are short and serve as the foundation for the remainder of one's life span. The needs of a child in the support of this growth and development begin before birth and continue throughout the growth years until maturity is reached."[1]

The development of new biological techniques has served to underscore the fact that new human life begins at conception. Despite the lack of a moral and legal consensus on the advisability of human in vitro fertilization experiments, there is consensus on one point: Baby Louise Brown, born in England in 1978, attracted so much publicity because her life as an individual began in a laboratory rather than in her mother's fallopian tubes. There is little point in claiming that this new life is a part of the mother's body, when it is technically possible to transfer the developing embryo into another woman's body and may soon be possible to bring a child to maturity using an "artificial womb." It is clear that from the moment of fertilization, there exists a new individual who requires nothing but a hospitable environment in which to direct its own growth and development.

Perhaps even more interesting than the strictly scientific evidence on the life of the unborn child, however, is the newfound status of the unborn child in medical practice. In 1974, when Dr. Bernard Nathanson first publicly admitted his "increasing certainty" that he had "presided over 60,000 deaths" as director of the world's largest abortion clinic, he did not attribute his new attitude to newly discovered scientific evidence that life begins at conception, for he knew that such evidence had existed for more than a century. Rather, the unborn child's humanity had been brought home to him in a new way by his experience as the director of a new perinatology unit at St. Luke's Hospital Center in Manhattan. Here, Dr. Nathanson was able to study the child in the womb for extended periods of time, to chart his or her development, to locate and correct medical problems—in short, to treat the child as a patient, and thus to realize that the child in the womb is as much a member of the human community as is a newborn infant or a mature adult. Based on his medical experience and his own thoroughly secular medical ethic, Dr. Nathanson has now concluded that legal protection should be restored to the unborn child.[2]

Dr. Nathanson's medical experiences have now been duplicated many times over. The new specialties of fetology and perinatology have advanced at a tremendous rate. Amniocentesis, fetoscopy and high-resolution sonography allow us to observe the development of the unborn child and the onset of possible medical problems long before birth. The prescribing of drugs and nutritional programs for children still in the womb is becoming commonplace, and the specialty of prenatal surgery is coming into its own.[3]

Such recent medical developments add an important human dimension to what might otherwise seem like rather abstract scientific evidence on the beginnings of human life. As Dr. John C. Fletcher noted in an editorial in The Journal of the American Medical Association, physicians are now being confronted in new ways with the inescapable reality of the unborn child as a human patient in need of care and support.[4] Our developing prenatal technologies are stripping away the veil of ignorance which some would like to maintain with regard to the humanity of this child, forcing physicians and society as a whole to appreciate the continuity between life before and after birth. Unless our society wants to be blind to the point where it can ignore the increasingly obvious status of the unborn child as a member of the human family, it must come to grips with the fact that the abortion debate is not over "when life begins". Rather, the core of the issue concerns the intrinsic dignity and value of life already in existence. We are faced with a moment of decision which cannot be avoided: We must decide whether every human being in need of medical care will be approached with instinctive concern or with the detached eye of the technician who is equally ready to cure or to kill in accordance with the whim of family or society.

The temptation to evade this all-important decision is pressing. To face the decision honestly is to admit that acceptance of abortion is a violation of the physician's most sacred vow in all circumstances "to help or at least to do no harm." Some have therefore tried to claim that science has nothing to say about the point when a human being's life begins because such terms as "human life" and "human being" have only a religious or metaphysical rather than a scientific meaning. They attempt to dissolve the ethical dilemma of abortion by re-defining the word "human" in terms of various functional abilities which make human beings worthy of respect and protection. Having concluded, then, on the basis of their own value systems, that life before birth is either valueless or of less value than the social benefits of legal abortion, they reason backward from this conclusion to deny that pre-natal life is "fully human."[5]

This evasion is not a new phenomenon by any means, for it was described in 1970 by the journal California Medicine:

"The reverence of each and every human life has been a keystone of Western medicine, and is the ethic which has caused physicians to try to preserve, protect, repair, prolong, and enhance every human life.

"Since the old ethic has not yet been fully displaced, it has been necessary to separate the idea of abortion from the idea of killing which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception, and is continuous, whether intra- or extra-uterine, until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because, while a new ethic is being accepted, the old one has not yet been rejected."[6]

We take some consolation in the fact that the "new ethic" for medicine has apparently still not caught on completely, since "semantic gymnastics" are still necessary; but we can only regret the confusion created when such tactics are used to avoid facing the facts.

Such attempts to deny the humanity of the unborn betray a lack of understanding of the social and moral dilemma confronting our society. We do not claim that unborn children have all the physical and social abilities proper to adults, any more than we would claim that newborn children possess all such physical and social abilities. We do claim that each human individual comes into existence at conception, and that all subsequent stages of development in which such abilities are acquired are just that—stages of growth and development in the life cycle of an individual already in existence. Each abortion destroys the life of an individual human being at an early stage in his or her development. Recognition of these facts does not automatically settle the moral and legal issue of abortion, but it does focus attention directly on the fundamental question involved: Will we treat human life as having inherent dignity and worth, or will we treat it in accordance with a sliding-scale of value in which the right to life is a privilege granted only to those with certain functional abilities?

As spiritual leaders and as representatives of an ethical tradition concerned with this question for centuries, we can give only one response to it. That response was succinctly summed up by the assembled Catholic bishops of the world at the Second Vatican Council, when they ranked abortion, murder and infanticide as "offenses against life itself" and declared that such offenses "debase the perpetrators more than the victims and militate against the honor of the creator."[7] Our witness on this point is rooted in a commitment to the sanctity of life which reaches to every level of our convictions as Christians, as believers in God the Creator, and as human beings.

As Christians we look to the gospel of Jesus Christ as our norm for faith and action. In Jesus we see that God has a special concern for the most lowly and despised human beings, and we see that each human being has infinite worth as a brother or sister of Jesus who is called to eternal life with God. Jesus is presented to us in the gospels as the paradigm of human dignity who calls to our consciences with the challenge: "As you did it to one of the least of these my brethren, you did it to me" (Mt. 25:40). At the same time we are forced to admit that, in comparison with this perfect example of humanity, each of us is a very imperfect specimen indeed; and we therefore deny that we or any human being can sit in judgment upon another and proclaim him or her to be "not fully human." The New Testament parable of the Good Samaritan teaches us that no Christian can sit back and ask "Who is my neighbor?" in an attempt to define limits to his or her obligations with respect to others. Rather, each of us has, in the words of the Second Vatican Council, "an inescapable duty to make ourselves the neighbor of every man, no matter who he is."[8] This duty moves us not only to condemn abortion as the killing of our neighbor, but also to reach out to the pregnant woman with assistance and support both for her and for her child, offering life-giving alternatives to abortion and seeking the help of private agencies and of government in responding to this human need. Finally, the gospel calls us to a mission of forgiveness and reconciliation with regard to the woman who has had an abortion. Christ teaches us that the Father's mercy is always available and without limit. It is our duty to witness to this mercy toward all.

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[1] Footnotes at end of article.

As heirs to the Judeo-Christian spiritual and ethical tradition which recognizes one Creator as Lord of all, we proclaim with Pope John Paul II that "all human life—from the moment of conception and through all subsequent stages—is scared, because human life is created in the image and likeness of God." [9] God is not the Lord only of some lives or of some stages of life, but as the Author of life itself, he is intimately concerned with the life of evey human being from its very beginning. The ethical tradition common to all Christians has always recognized this, condemning abortion at every stage despite occasional philosophical speculations concerning the time of "ensoulment." [10] Our Protestant brethren in particular have argued that speculations about "ensoulment" or "personhood" do not change the character of abortion as the destruction of a nascent human life called into existence by God.[11] We share the conviction that the deliberate destruction of innocent human life is the violation of God's commandment and the usurpation by man of divine authority over life and death. We believe that no human person has dominion over life and death, and therefore that no human individual or government has the right or the authority to dispense with unborn human life as it pleases.

Finally, as human beings committed to the common good of our society and the promotion of justice in the human community, we reject abortion as the killing of one who shares in our common humanity. Because the unborn child is undeniably a fellow human being, he or she deserves the same respect and the same protection as any other member of the human family. Simple human justice demands this much, as does the Golden Rule that calls on all human beings to treat others as they would have themselves treated. From a purely human viewpoint, therefore, the promotion of abortion is the prelude to the disintegration of all human dignity. It is the promotion of a selective justice, in which only the powerful can survive.

At every level of our convictions—as Christians, as religious leaders, and as concerned human beings—we believe the Supreme Court's abortion decisions constitute an egregious offense against human dignity. We do not suggest that every aspect of our religious convictions on this point can or should be represented in the law. But we defend our right to speak on matters of public policy precisely as religious leaders concerned with the moral and spiritual welfare of our society. We maintain that no human authority can abrogate to itself the power to classify some human lives as devoid of value, because no human authority gives human life its value. Any law which directly violates the divine law and the inherent rights of human beings, as the Supreme Court's decisions have done in this case, is itself unworthy of human respect.

Western Traditions on Human Rights and the Unborn Child

Having stated our conviction that the protection of the unborn child is a demand which our common humanity makes upon us, we also wish to emphasize that this conviction is in complete harmony with our commitment as American citizens to the defense of fundamental human rights. On this point, it is important to remember both the United States' traditional commitment to inherent human rights in general and its legislative record with respect to the protection of unborn human life.

At the root of Western jurisprudence, and especially of American law, is the conviction that governments must act according to certain commonly held moral principles and respect certain inherent rights if their laws are to be considered valid. This conviction is not restricted to one particular religious denomination, or to one particular theory concerning "natural law," but is Western civilization's alternative to arbitrary, unjust, or totalitarian government. It was in recognition of government's responsibilities to a higher law that the founders of our nation claimed the right to revolt against what they considered an unjust system of colonial law. This recognition is also what justifies America's criticism of violations of human rights by certain foreign governments. Without adherence to the idea of a higher law, all such condemnation of injustice is meaningless, because there is no independent standard by which the most abhorrent practices and policies of a legally constituted authority can be considered as either just or unjust. If human rights are grounded in human dignity, then they cannot be freely bestowed and removed by government. Instead, they call out to be recognized because they exist prior to any particular government. Laws which violate or ignore these rights therefore do not truly remove them, but instead render themselves invalid.

The articulation of such rights has been the intent of some of our most revered national and international documents. The right to life is proclaimed as the most fundamental of all rights, and is recognized as existing equally in all human beings regardless of their condition. Our Declaration of Independence recognizes the right to life as inherent and unalienable from the first moment of each human being's existence when it proclaims that "all men are created equal" with respect to this right. The fifth amendment to our Constitution states that no person shall be deprived of life or liberty without due process of law. The 13th and 14th amendments attempt to strengthen the protection of human life and to assure that no class of human beings will ever again be deprived of legal protection in the United States. The United Nations' International Covenant on Civil and Political Rights provides that "every human being has the inherent right to life," and implicitly recognizes the rights of the unborn child by rejecting the use of the death penalty upon pregnant women. The UN's Declaration of the Rights of the Child is more explicit, stating that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth." Here the mental and physical immaturity of the unborn, so often used as arguments in favor of abortion in the current American debate, are seen precisely as reasons for providing especially strong protection to the unborn because of their helplessness and greater need for the care of others. The American Convention on Human Rights, proposed by the Organization of American States in 1969 provided: "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life." [12]

The presumption in favor of legal protection for the unborn child created by this human rights tradition is a strong one. Since the unborn child is now recognized more clearly than ever before as a member of the human race in science and medicine, such a tradition calls on legislators to protect the right of life of the unborn child as they protect the rights of other human beings. Indeed, the only sure means for avoiding such a conclusion is to deny that membership in the human race is sufficient reason in and of itself for being considered worthy of legal protection, and thus ultimately to deny that the idea of inherent human rights is relevant to the law. This denial should be familiar to those who recall the history of the degrading institution of slavery in America and the consititutional remedies which were necessary in order to put an end to it. The same denial can be found more recently in Nazi Germany's ideal of the absolute sovereignty of the state over the individual, and in the concept of "life devoid of value" by which it gave official sanction to a program for eliminating those considered medically or socially undesirable.[13]

Beginning in 1972, this denial has also played a role in federal court decisions dealing with abortion in the United States. In that year the highest court in the state of New York admitted that the unborn were "human" and "unquestionably alive", but ruled that there was no obligation to protect them because "it is not true that the legal order corresponds to the natural order." In dissent, Judge Adrian Burke focussed directly upon this questionable disjunction between fact and law, citing the Declaration of Independence to argue that human beings are created with inherent rights. These rights, claimed Judge Burke, could not simply be over-ruled by the state in the name of whatever happens to pass for enlightened social policy at any particular time.[14] But in January of 1973 the U.S. Supreme Court accepted the approach suggested by the majority opinion in this case, handing down the first in a series of rulings in which the concept of the inherent dignity of all human beings has been denied its proper role in the law.

Many have failed to notice this feature of the 1973 abortion decisions, because they think that the Supreme Court merely found itself unable to determine which of several views on the beginnings of human life is correct. In fact, the Court said that it "need not resolve the difficult question of when life begins," and implied that it could reasonably ignore the claims of the Texas state legislature that life begins at conception, because the question of whether someone was actually a living member of the human race was not determinative of legal status as a person.[15] This position was made more explicit by a federal judge in Rhode Island later in 1973, when he cited the Supreme Court's decisions as the basis for his ruling that the existence of human life at conception is "irrelevant" to the question of public policy on abortion.[16] The result of such decisions has been the creation of a new area of law in which the natural and legal orders are separated with a thoroughness hitherto unknown in the United States, with the possible exception of early American law dealing with slavery. This is the "new legalism" which we discussed in our 1976 testimony. While claiming to promote the freedom of physicians to practice good medicine, the Supreme Court substituted legal fictions such as "meaningful life" in place of the medical facts about abortion and unborn life.

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In its 1973 ruling in *Roe* v. *Wade*, the Supreme Court attempted to show that this approach to the unborn child has some basis in American legal history. American legislators, it claimed, granted little or no protection to the unborn child prior to the 19th century, and they never considered themselves as obliged to acknowledge a particular set of biological facts concerning the beginnings of life. But after eight years of research and reflection, American legal scholars and historians are still finding previously undiscovered ways in which the court's historical argument on this score is faulty.[17]

In part, the court's historical statements in *Roe v. Wade* can now be seen as relying on incomplete information. For instance, its claim that there were no civil statutes against abortion until the 19th century ignored laws of the 15th through 18th centuries regulating midwifery, in which abortions performed for any reason were prohibited.[18] More often, the Court's historical arguments involved an apparent misunderstanding of the way in which the law in each historical period has interacted with contemporaneous scientific knowledge and medical realities. Thus it mentioned that abortion was considered a crime only after "quickening" for some centuries, but it failed to appreciate that this subjective sensation on the part of the pregnant woman was given undue importance because of the primitive state of medical technology at that time.[19] The Court discussed medieval speculations concerning "delayed animation," grossly misrepresented them as having been Catholic "dogma" until the 19th century, failed to note that the Church's moral teaching always condemned abortion at every stage, and seemed oblivious of the fact that the philosophical speculations in question were based partly on Aristotelian biological ideas now totally obsolete.[20] Similarly, the Court noted the role of the American Medical Association in enacting new abortion laws in the 19th century, but simply juxtaposed its statements with the AMA's pro-abortion statements of the 1960s instead of looking carefully at the reasons behind those statements.[21] In 1859, when the AMA urged American legislatures to enact much stricter laws against abortion, it based its stance specifically on scientific evidence that human life begins at conception. In 1871, the AMA could quote with approval from Archbold's Criminal Practice and Pleadings:

"It was generally supposed that the foetus becomes animated at the period of quickening; but this idea is exploded. Physiology considers the foetus as much a living being immediately after conception as any other time before delivery, and its future progress but as the development and increase of those constituent principles which it then received. It considers quickening as a mere adventitious event, and looks upon life as entirely consistent with the most profound foetal repose and consequent inaction. Long before quickening takes place, motion, the pulsation of the heart, and other signs of vitality, have been distinctly perceived, and, according to approved authority, the foetus enjoys life long before the sensation of quickening is felt by the mother. Indeed, no other doctrine appears to be consonant with reason or physiology but that which admits the embryo to possess vitality from the very moment of conception." [22]

This position has never been contradicted by more recent AMA statements; instead, its statement of fact has been subordinated to a subjective view of social progress which has little to do with the AMA's scientific competence. A recognition of developing medical knowledge is also behind the Catholic Church's decision in the 19th century to treat all abortions from conception on as equally serious crimes against human life in the context of canon law.[23]

In other words, the history of Western law on abortion had demonstrated a clear trend toward greater and greater protection for the unborn child, based on the perceived need for such legislation and on the developing medical knowledge at a given point in time concerning life's beginnings. The Supreme Court's documentation in *Roe* v. *Wade* juxtaposed differing laws on the matter from different historical periods and argued that these differences create an irreducible pluralism which the Court cannot resolve—as though it were forced to give equal attention, for example, to modern medical knowledge and ancient Stoic philosophy.[24]

Roe v. *Wade*'s treatment of constitutional "personhood" is another example of its inadequate reflection on this entire issue. The Court simply went through the Constitution with a concordance, and concluded that most uses of the term "person" therein (with regard to voting, eligibility for presidential office, etc.) have only "post-natal application."[25] Almost all of the examples noted by the Court, in fact, apply only to adults. Yet the 14th Amendment proclaims that all persons who are either born or naturalized in the U.S. are citizens of the U.S. No court has used this wording to argue that new immigrants who are not yet naturalized are "non-persons" who can be killed with impunity—rather, it is assumed that immigrants are "persons" with an inherent right to life long before assuming the special rights and responsibilities, of American citizens. The Supreme Court interpreted this clause in the opposite sense in the case of those not yet born, as though the absence of full-fledged citizenship automatically meant the absence of any unalienable human rights.

This interpretation is imposed upon the 14th amendment from without, ignoring evidence that the amendment was intended to prevent any class of human beings from being denied the rights of persons. It is clear from the legislative history of the 14th amendment that the word "person" was not intended to distinguish between members of the human race who had rights and those who did not—on the contrary, words such as "man," "human being" and "member of the human race" were all used in Congressional debate by the framers of this amendment as common-sense synonyms for the term "person." [26] The status of the unborn child in relation to laws on abortion was not explicitly discussed during this debate; but when the AMA urged new abortion laws in 1859 and 1871 to protect the unborn child, from conception on, in all but the most extreme cases, the same state and federal legislators who ratified the 14th amendment responded promptly in recognition of their solemn responsibility to protect human life.[27] The protection of unborn life was seen as being in harmony with the basic purpose of the 14th amendment, which was, in the words of one of its Senate supporters, to "establish. . .equality before the law, and . . . give to the humblest, the poorest, the most despised of the race the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or the most haughty." [28] It is this principle of the innate equality of all members of the human race which the Supreme Court denied in the case of the unborn child, reversing the obvious trend toward protection of all human life found in American law prior to the "liberalization" of some state abortion laws in the late 1960s.

The implications of *Roe v. Wade's* principles for the legal status of human beings who are handicapped or dependent on others, or those who in any way fall below the standard of what some court or legislature may consider "meaningful life," reach far beyond the abortion issue itself. To appreciate these implications is to realize that the abortion debate is not between science and religion, or between moralism and pluralism, or between two different interpretations of scientific data. The debate is between the conviction that all human beings are inherently equal in rights and dignity, and the idea that the inherent dignity of membership in the human race should be considered irrelevant to the law. Some who agree with the Supreme Court's abortion decisions argue that legal protection should be accorded only to those who can articulate and justify their needs in the public forum; others propose a sliding-scale of rights corresponding to the possession of certain mental or physical abilities; still others eschew such considerations, arguing simply that legal abortion is necessary for the efficient pursuit of social goods and liberties and that this is sufficient reason for its acceptance. But these positions all have two things in common: They require us to reject the idea that all human beings have inherent value and inherent rights by reason of a commonly shared humanity, and they can easily be applied to the killing of other classes of human beings in addition to the unborn.

We have recognized for years that the arguments by which the Supreme Court devalued unborn life have the potential for undermining the idea of inherent human rights with regard to those already born. In its 1974 Declaration on Abortion, the Roman Catholic Church's Sacred Congregation for the Doctrine of the Faith stated that an unequivocal defense of the right to life of human beings must be grounded in the conviction that this right exists prior to any state's recognition of it, indeed that it must exist as soon as life itself comes into existence. To argue that the right to life rests instead on official legal recognition by the state, or that it exists only upon arrival at some particular stage or condition of life which the state is willing to regard as socially valuable or "meaningful," is to deny that there is such a thing as an inherent right to life at all.[29] The logical conclusion of the principles used by the Supreme Court to legalize abortion is that our own fundamental rights are held only as privileges bestowed upon us by the state. Thus when Pope John Paul II said last year that there is a "patent contradiction" in the attempt to reconcile abortion with the furthering of human dignity, his words held special significance for the situation in the United States, in which the very principles used to justify abortion involve a denial of our traditional commitment to the natural rights of mankind. With Pope John Paul we hold that "the right to life is the most fundamental right of the human being, a personal right that obliges from the very beginning," and that the attempt to deny this right with respect to the unborn child is an attack upon the fundamental rights of all of us.[30]

The Legal and Social Effects of Roe v. Wade

When *Roe* v. *Wade* and *Doe* v. *Bolton* were handed down by the Supreme Court in 1973, the public policy they created with regard to abortion was hailed by some Americans as an example of progressive social policy. Abortion advocated predicted that a variety of social benefits would soon follow. Safe and legal abortion would make unsafe "back alley" abortions a thing of the past; infant and maternal mortality rates would plummet; every child who was allowed to be born would be a "wanted child, and so the abuse and neglect of children would become less of a problem; teenage child-bearing and illegitimate children would become less of a burden upon society; etc.

Eight years later, we see no sign that the brave new world predicted in 1973 has materialized. Nor is there any reason to expect that a few more years of the same policy will eventually bear the promised fruit. Some of the more obvious failures of the current policy are as follows:

1. Initial predictions that the annual number of abortions would level out within a few years have proved overly optimistic. The estimated number of abortions performed last year is 1.5 million, and groups such as Planned Parenthood still point to a great unmet abortion "need" in many parts of the country.[31] At this point it seems clear that the "need" or "demand" for abortion is very flexible, growing every year as the current legal situation allows the "supply" to be openly and aggressively marketed to American women. As permissive attitudes toward abortion take hold, increasingly frivolous reasons are considered sufficient justification for abortion. Some genetic counselors who perform amniocentesis for the purpose of detecting genetic defects prenatally have complained about the growing number of women who wish to use amniocentesis simply to determine the sex of an unborn child, so that an abortion can be obtained if the child is not of the "right" sex.[32]

2. Despite the annual increase in the number of legal abortions, women continue to die every year from illegal abortions—that is, from abortions performed by non-physicians. In addition, the huge number of legal abortions adds its own annual casualties to the maternal mortality statistics. It may be that the full story of this tragedy has not yet been told, since some findings suggest that the number of maternal deaths from legal abortion is under-reported.[33] Although the number of abortion-related maternal deaths has decreased since 1973, the rate of decrease is not significantly different from the annual rate at which it has dropped since 1942, due to general advances in obstetrical medicine.[34] In 1978, the noted obstetrician Denis Cavanaugh remarked that "there has been no major impact on the number of women dying in the United States since liberalized abortion was introduced," and indeed that "there has been less improvement in maternal mortality in the 1973-to-1975 period than in any other period since 1965. This suggests that approximately one million fetuses are being sacrificed each year with no evidence that it is contributing significantly to the reduction of maternal deaths in this country." [35] Since 1975, the annual number of abortion-related maternal deaths has levelled off, with the exception of 1977, when there was an increase in abortion-related maternal deaths; some legal abortions still result in the mother's death, and illegal abortions continue to be performed.[36] From the outset we have rejected the very premise on which this argument in favor of legalized abortion was based: Even if legalization did result indirectly in some preservation of life, it would be morally reprehensible to authorize the direct destruction of life in order to achieve this goal.[37] But it is now clear that this policy fails even when seen in its own callous and pragmatic terms. At this point the only way to reduce significantly the number of maternal deaths may be to restrict the actual number of abortions as much as possible, while offering comprehensive programs of care and support to women with problem pregnancies.

3. The claim that legalized abortion reduces the infant mortality rate rests on questionable reasoning. If one kills a child before birth, then obviously he or she will never appear in the official infant mortality statistics, but this can hardly be declared a social benefit. In any case, states which have shown remarkable reductions in infant mortality over the past few years have generally attributed their success to the development of better medical care for pregnant women and their children and not to abortion.[38] Some cities which have the highest abortion rates in the country, such as the District of Columbia, also have infant mortality rates which are a national scandal.[39] There may well be a cause-and-effect relationship at work here. The most reliable recent studies indicate that women who have had two or more abortions have a much higher chance that other women of having premature births in future pregnancies. In places like the District of Columbia, where a large percentage of the abortions are obtained by women who have already had at least one previous abortion, the premature birth rate which is a major cause of high infant mortality may be aggravated by the high abortion rate.[40]

4. The slogan of "every child a wanted child" seems empty in the face of a national epidemic of child abuse and neglect. Some psychologists have suggested that here, too, there may be a cause-and-effect relationship at work. Abortion may help to break down the protective instinct of mother for child which begins tō form early in pregnancy. Once weakened, it tends to affect the behavior of the mother toward the other children.[41] Whatever the truth may be with respect to this particular claim, it is clear that the ideology represented by "every child a wanted child" is destructive rather than supportive of the family as a haven for the acceptance and nurturing of life.[42] When a child is seen primarily as the projection of parents' self-serving desires and needs rather than as a unique individual with intrinsic worth, the stage is set for parental disappointment and even uncontrollable anger whenever this child does not quite measure up to parents' plans or expectations. No clear link has been shown between an initially unplanned or "unwanted" pregnancy and the later "unwantedness" of the child after birth; in fact, almost every pregnant woman has ambivalent feelings about her pregnancy at one stage or another, and this is generally recognized as a perfectly normal event of pregnancy. Many of the children who end up being abused or neglected after birth are initially "wanted" and planned children who later have fallen short of their parents' standards of perfection.[43]

5. At one time it was thought by abortion advocates that legalized abortion would enable physicians to practice medicine with greater freedom from external legal restrictions, and that this would help the medical profession to devote itself more singlemindedly to the care of human beings already born. Instead, the erosion of respect for life which is promoted by a policy of abortion on demand has spread to areas of medical practice dealing with the handicapped and the terminally ill. The Hippocratic oath is as opposed to infanticide and euthanasia as it is to abortion; but this oath is now seen as "an inadequate guide" for physicians, according to a recent weekly magazine, because "modern doctors, many of whom swore to uphold its principles when they graduated from medical school, now violate it every day." [44] Physicians' professional and ethical opposition to practices such as infanticide for handicapped newborns and "assisted suicide" for the terminally ill thus becomes increasingly difficult to maintain.[45] A profound shift in the professional ethics of the physician can therefore be detected, in which the Hippocratic axiom "To help or at least to do no harm" is in danger of being replaced by the physician's role as technician, using his expertise either to kill or to cure as is demanded of him. As some physicians cease to consider themselves as involved in a sacred calling devoted to the nurturing of life, others have warned that such a trend may help to undermine public trust and respect for the medical profession as a whole. According to an editorial by Dr. Seymour Glick in a recent issue of *The New England Journal of Medicine*, the most fundamental reason for modern medicine's growing crisis of respectability is its failure to stand up "for the sanctity of life and for the dignity of human beings" in an increasingly secularized society. "Our societies must come to grips with this problem," Dr. Glick concludes, "because the problem transcends medicine; it threatens the very fabric of Western societal structure and its failure." [46]

6. Attempts to stem the tide of what is sometimes called the teenage pregnancy "epidemic" have been going on for many years. In 1963, Planned Parenthood pamphlets warned teenagers that abortion "kills the life of a baby after it has begun" and recommended contraception as a way of insuring that one need never face the prospect of abortion.[47]

When this approach did not have the desired effect, Planned Parenthood and other groups turned to abortion as a back-up to "contraceptive failure." The "epidemic" has continued, to the extent that Planned Parenthood, Inc. refers to it as "the problem that hasn't gone away." [48] Yet the response of Planned Parenthood and other groups has been to claim that more of the same approach will lower the teenage pregnancy rate, if only the government will help them to push contraception and abortion more aggressively and on a wider scale.[49] Some abortion advocates have called for mandatory abortion for teenage girls under a certain age as a way to solve this problem.[50] Yet this approach seems doomed to failure, even if it is allowed to become coercive, because it ignores the realities of teenage pregnancy and childbearing as human problems. Some teenage girls look to pregnancy, either consciously or unconsciously, as a welcome relief from a difficult or unloving home environment. Teenagers in general have little of the self-discipline required for consistent contraceptive practice, because of their romanticized attitudes toward the "spontaneity" of sex; and this lack of self-discipline is further encouraged by the offer of abortion as a quick and easy "back-up" solution.[51]

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Researchers are beginning to notice that many of the problems once seen as results of teenage childbearing, such as low economic and educational achievement, may actually be factors in the social situation which contributed to the likelihood of pregnancy.[52] In short, the use of abortion as a solution to problems such as teenage pregnancy seems certain to fail even in its own pragmatic terms because it is based on a myopic view of the problem. Alternative solutions which are more complex but more respectful of human life and human dignity offer more promise in helping to solve this difficult problem.

While failing to solve the social problems once cited as justifications for the legalization of abortion, the Supreme Court's abortion decisions have created new problems in a number of legal areas. As the principles of these decisions have begun to work their way into American jurisprudence, they have provided ample evidence to support the claim that *Roe* v. *Wade* and its progency constitute a threat to the rights and dignity of all Americans. Again, only some of the most obvious examples of this can be listed here.

1. The Supreme Court's dichotomy between human beings and "persons in the whole sense," and its innovations in referring to independent or "meaningful" life as the only life deserving of legal protection, have begun to affect rulings dealing with the rights of those already born. In a 1979 abortion case, the Supreme Court ruled that a child born alive during an abortion who may be capable of surviving with medical help has no legal right to that help, because the recognition of such a right would have a "chilling effect" on the woman's right to have a late-term abortion.[53] In 1980, a New York state court cited *Roe v. Wade* to claim that terminally ill comatose patients have "in the true sense, no life" for the state to protect. This court argued that "the State's interest in preservation of the life of the fetus would appear greater than any possible interest the State may have in maintaining continued life of a terminally ill comatose patient . . . (whose) claim to personhood is certainly no greater than that of a fetus.[54] Recent court cases concerned with the right of handicapped children to medical treatment and with the new concept of "wrongful life" suggest that the 1973 abortion decisions pose a threat to all human beings who are especially helpless and dependent on others.[55]

2. As we noted above, the practice of abortion and its concomitant ideology of the "wanted child" constitute a threat to the family as a life-nurturing institution. The destructive effects of abortion on the family have been multiplied by the way in which the family is explicitly treated in recent court rulings on abortion. In *Planned Parenthood of Central Missouri* v. *Danforth*, for instance, the Supreme Court ruled that a father's rights and responsibilities with respect to his unborn child are his only by delegation of the State, instead of being grounded in the natural relationships of parenthood and the family.[56] Even in rulings which have sustained relatively weak legislation dealing with parental consent for abortions performed on minors, the courts have insisted that a court, rather than parents, shall have the final say as to whether an abortion will be performed, and perhaps even the final say as to whether parents will be notified at all.[57] The federal courts have thereby attacked that institution which the United Nations has called "the natural and fundamental unit of society . . . entitled to protection by society and the state." [58] In which such as these the family is seen primarily as a grouping of separate individuals, or as the delegated agent of the State. In treating family structures merely as restrictions upon the rights of private individuals, the Supreme Court has ignored the family's vital role in promoting these rights. For most of us, the family is that training-ground where we are first educated to the very idea of inherent human dignity and rights, because it gives us our first experience of being accepted and loved simply because we are and not because we have earned acceptance through our own achievements. By intruding upon familial prerogatives and substituting their own values for the values of the family unit, courts weaken the ability of parents to provide this kind of community for their children; and when the values of the courts are themselves questionable with regard to the principle of inherent human rights, the result can only be a weakening of society's overall commitment to human dignity.

3. Some court cases dealing with abortion have provided an opportunity for attacks on the rights of individuals and groups who disagree with the current public policy on abortion. Although "conscience clauses" protecting health care personnel and privately owned hospitals have been enacted by state and federal legislatures, these clauses have been difficult to enforce.[59] Even rulings which uphold the principle of the conscience clause have noted that the consciences of employees need not be respected if this could cause "undue hardship" to the employer wishing to provide elective abortions.[60] There have also been attempts to force church-affiliated institutions to violate the moral convictions of their sponsors by making them provide abortion services.[61]

4. In some cases courts have played an intrusive role by actually making life-and-death decisions on behalf of private individuals. This has been made possible by *Roe* v. *Wade*'s ruling that the constitutional "right to privacy" can over-rule any interest the state may have in preserving life that is not "meaningful." For instance, the right of a patient to refuse unwanted medical treatment has traditionally been seen as a common-law right to be exercised within the familial and doctor-patient relationship whenever possible. But some courts have begun to treat this area of law in terms of a constitutional right to privacy which is so personal and individual a right that it cannot be limited or exercised within those relationships, but must be adjudicated by the court itself. In cases where a patient is not competent to exercise this right on his or her own behalf, courts have attempted to make the decision by their own "substituted judgment." [62] These cases have provided an opportunity to treat all private decision-making processes in such situations as mere delegations of a power which properly belongs to the court itself.[63] This judicial trend has even been applied back to the abortion issue itself, allowing courts to order abortions for mentally retarded or incompetent women and to demand that state legislatures provide public funding for elective abortions.[64] The general idea at work in all these cases is that, since the right to privacy is a constitutional right to be defined by the state and federal courts, the courts have broad powers to facilitate the exercise of that right and even to exercise it on behalf of others. By a curious twist of reasoning, a "right to privacy" originally formulated as an alleged defense of individualism has become a very public entity indeed, and one which can be used to ignore the dignity of human individuals in the implementation of courts' value judgments on life and death. While pro-abortion groups continue to lobby against any constitutional amendment on abortion as a threat to individual freedom, we see a clear threat to freedom in this abuse of judicial power with regard to decisions concerning life and death.

When the decisions of the Supreme Court imposed an abortion policy on this country in 1973, many thought this marked the end of the public controversy over legalized abortion. The Court treated abortion simply as a medical procedure and as a matter of individual privacy, and by doing so seemed to have remove the issue from the public arena.

Eight years later, it is not possible realistically to hold such a view. While some maintain that abortion is now a private matter between a woman and her physician, the social and legal trends noted above indicate that the Supreme Court's decisions have had far-reaching effects on American society. This has happened, we believe, primarily because the court was tragically mistaken in thinking that abortion affects only a woman and her physician. Every abortion also involves the unborn child as an innocent third party. Every abortion involves the father of the child, and in many cases abortion has profound effects on friends, parents, and other members of the family. Every abortion also involves the future of the society in which it takes place, for it involves moral, psychological and emotional factors which play an important role in making up the character of that society. By ignoring the public dimension of the practice of abortion and failing to recognize it as the fundamental social problem that it is, we place ourselves among its passive victims. In the United States this public dimension has been magnified by the Supreme Court's classification of abortion as a virtually absolute constitutional right and by its direct attack on the most fundamental of all rights, the right to life itself. The potential for destructiveness inherent in such action is almost unimaginable, for it reaches to the very roots of our legal system and turns its most basic principles upside down. The right to life is replaced by the right to kill, and the very concept of inherent rights is replaced by the concept of privileges bestowed by the state upon those it considers worthy of recognition.

We do not pretend to have all the solutions to the problems which abortion has been purported to solve. Indeed, the idea that there was one quick and easy solution to these problems has been at the root of some very misguided support for our current public policy on abortion. But we do know that abortion, in addition to being a moral evil, has failed to solve society's problems, and has itself become a legal and social disaster, the consequences of which will be felt for many years to come. By reversing the current policy, we will clear the way to enable us to work together to promote the common good of all who live in our country. Without such a reversal, we fear that our society's commitment to that common good can only erode further.

THE ISSUE OF LAW AND MORALITY

The national debate on the relationship between law and morality has become closely associated with the debate on abortion in recent years. Some groups that support legalized abortion have claimed that any law protecting the unborn child would be an imposition of a particular morality on a pluralistic society; and some have even claimed that it would impose specifically Roman Catholic religious beliefs on this society, thereby violating the non-establishment clause of the First Amendment. We wish to conclude our testimony with some remarks on these charges.

Our response remains fundamentally the same as in 1974, when we gave the following testimony before the U.S. Senate Subcommittee on Constitutional Amendments.

"We wish to make it clear that we are not seeking to impose the Catholic moral teaching regarding abortion on the country. In our tradition, moral teaching bases its claim on faith in a transcendent God and the pursuit of virtue and moral perfection. In fact, moral teaching may frequently call for more than civil law can dictate, but a just civil law cannot be opposed to moral teaching based on God's law. We do not ask the law to take up our responsibility of teaching morality, i.e., that abortion is morally wrong. However, we do ask the Government and the law to be faithful to its own principle—that the right to life is an inalienable right given to everyone by the Creator. . . .

"We appear here today in fulfillment of our considered responsibility to speak in behalf of human rights. The right to life—which finds resonance in the moral and legal tradition—is a principle we share with the society and the one that impels us to take an active role in the democratic process directed toward its clear and unequivocal articulation."[65]

Since our testimony in 1976, several developments have helped to underscore the exact nature of the Catholic Church's moral concern in this area and the extent to which the abortion issue reaches beyond the bounds of any particular religion's moral teaching.

First of all, the increasingly visible involvement of other religious groups in the public debate on abortion has vividly demonstrated that this is not just a "Catholic issue." The news media have directed their attention primarily to new conservative political groups led by evangelical Protestants who were previously silent on most public policy issues. In addition, however, the governing bodies of denominations such as the Lutheran Church—Missouri Synod and the Southern Baptist Convention have approved resolutions in support of a Human Life Amendment during the last two years, and other churches which had made statements in support of permissive abortion after 1973 have begun to qualify their stance.[66]

Second, the fact that a convincing case can be made against abortion on wholly secular grounds has become increasingly obvious. This case has been ably defended by many respected scholars in the realm of political philosophy and constitutional law.[67] The author of *Aborting America*, Dr. Bernard Nathanson, has articulated his opposition to abortion in terms consistent with his own non-religious humanistic convictions. All one needs in order to support laws against abortion, he notes, is a recognition of some simple biological facts and a commitment to the Golden Rule which has been taught in every civilized society.[68] Secular groups of every conceivable social and political background have enriched the public debate with the variety of their perspectives on this issue.[69]

Finally, the U.S. Supreme Court itself, in ruling upon the constitutionality of restrictions on the public funding of abortion, has reiterated the traditional judicial principle that a law with a "secular legislative purpose" does not violate the Establishment Clause of the First Amendent simply because it "happens to coincide or harmonize with the tenets of some or all religions." Noting that "laws prohibiting larceny" are not unconstitutional establishments of religion despite the fact that "the Judaeo-Christian religions oppose stealing," the Court concluded that a funding restriction on abortion is "as much a reflection of 'traditionalist' values toward abortion, as it is an embodiment of the views of any particular religion."[70] The Supreme Court's argument clearly can be applied to legislation restricting abortion in general. To its own statement on the matter we wish only to add that the word "traditionalist" is no more appropriate as a description of the Catholic Church's position on abortion than it is as a description of our position on stealing. As we have emphasized throughout this testimony, our position on abortion is perfectly consistent with modern scientific knowledge and the most progressive features of American policy on human rights in general. We do not support legal protection for the unborn child because it is "traditional" to do so, but because we totally reject the idea that social "progress" lies in a retreat from the legal and ethical principles which have given the United States its reputation as a defender of the weak against the strong.

Pro-abortion groups have also claimed that opposition to abortion is a minority view and that we are seeking to "impose" this view on the majority of the citizens of the United States. This charge is false on two counts. First of all, every major public opinion poll taken in the last eight years has shown that most Americans are opposed to legalized abortion on demand. About half of those polled would like to see abortion made illegal except for certain rare circumstances; the other half is about equally divided between those who favor abortion on demand and those who either oppose all abortion or would make an exception only to prevent the death of the mother.[71] Two-thirds of the people of our country think that abortion is morally wrong, and almost three-fourths seem to realize that the victim of even a first-trimester abortion is a living human being. Contrary to a rather popular stereotype, women are more opposed to legalized abortion than men are, and Americans who are poor or who are members of racial minorities are more opposed to abortion than the white and affluent.[72] The most recent analysis of public opinion on abortion by Judith Blake, who has researched this question since before the Supreme Court's 1973 decisions, indicates that popular support for the full extent of the Supreme Court's actions in this area is even more precarious than the above figures would seem to suggest. Her findings show that Americans who have "moderate" or ambivalent attitudes toward legalized abortion actually lean more toward the consistent anti-abortion position than toward the consistent pro-abortion position.[73] These figures do not even begin to address the point that the group whose rights are in question, that of unborn children, is totally without a voice of its own, and therefore deserves the special concern of legislators who are sworn to defend the rights of minorities against the power of the majority.

Secondly, there is no effort afoot to "impose" a law on our country from the outside, but only a drive to return this issue to the American people's elected representatives. The legalization of abortion on demand was "imposed" on this country in 1973 by seven Justices of the U.S. Supreme Court. In attempting to correct this unfair decision by constitutional amendment as provided for by our Constitution, we display our commitment to American democratic principles.

There are also some who admit that the majority view is against abortion on demand, but who defend its legalization on the basis of American "pluralism." Because no one view of abortion will ever claim the minds and hearts of all Americans, they argue, we must continue to leave the abortion decision up to each individual woman. There are several important flaws in this argument as well.

1. This "pro-choice" argument would invalidate almost all civil rights legislation if it were applied consistently. In fact, the same argument was used to defend slavery in the 19th century. Slave-owners claimed that individuals or states that wished not to engage in the practice of slavery need not do so, but they should respect the conscientious decisions of others in this controversial matter. President Abraham Lincoln's response was to point out that the law of the U.S., if it accepted such a situation, would in fact be taking the pro-slavery side by acting as though there were nothing wrong with slavery. The same response must be made today to the "pro-choice" rationale for legalized abortion.[74] To withdraw all legal protection from the unborn child in the name of "pluralism" is to say, in practice, that this child is not deserving of any public attention and his or her life is to be left to the whim of the mother. It means forgetting that we are dealing not with a purely "private" decision but with one which determines the fate of a defenseless and innocent party. As we have argued elsewhere in this testimony, the current legal situation with regard to abortion also has a number of devastating effects on government and society which call for a public response.

2. The "pro-choice" argument, in one sense, does not go far enough in its defense of pluralism. If pluralism means anything in American society, it means that we must defend the rights and freedoms of every class of human beings, regardless of age, race, sex, or condition. A law which allows the killing of any class of human beings is therefore fundamentally anti-pluralistic and "anti-choice," for it allows those human beings to be deprived of any possibility of making their own choices and expressing their own opinions in the future. A pluralism which respects only those who are currently powerful and articulate enough to put their own beliefs into practice to the detriment of others is not, in our opinion, a genuine or complete pluralism.

3. The argument also ignores another important factor in what we have come to know as American pluralism. This factor was fully recongized by that great defender of religious freedom, John Courtney Murray, when he wrote his classic work entitled We Hold These Truths:

"One idea, rooted in the American tradition, has seemed to me to be central, and therefore it has been recurrent. Every proposition, if it is to be argued, supposes an epistemology of some sort. The epistemology of the American Proposition was, I think, made clear by the Declaration of Independ-

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ence in the famous phrase: 'We hold these truths to be self-evident. . . .'

For the pragmatist there are, properly speaking, no truths; there are only results. But the American Proposition rests on the more traditional conviction that there are truths; that they can be known; that they must be held; for, if they are not held, assented to, consented to, worked into the texture of institutions, there can be no hope of founding a true City, in which men may dwell in dignity, peace, unity, justice, well-being, freedom." [75]

Without this commitment to the grounding of law in an objective order of inherent rights, there is no pluralistic America; instead, there is a plurality of Americas, each committed to its own peculiar view-point concerning human rights. We see this destructive form of pluralism at work in the arguments of those who consider the beginning of human life as merely a matter of private opinion. Once one rejects the idea that human rights should be based on simple existence as a member of the human race, one is faced with an irreducible and chaotic pluralism of arbitrary opinions as to the beginnings of "personhood," "meaningful life," or "fully human" life. In this climate, as we have seen, the "personhood" of human beings already born becomes a matter of debate as well, since their membership in the human race is not sufficient reason for being granted the rights or privileges or legal "person." [76] This will be a special threat to human beings, such as handicapped infants or terminally ill patients, whose right to life is already being compromised by our legal system. We cannot allow this trend toward the elimination of the weak and defenseless to be pushed forward under the banner of American "pluralism" of "freedom of choice," any more than we would allow a re-institution of slavery under this banner. Some human choices are fundamentally destructive of the rights and dignity of other human beings, and therefore should be forbidden by law.

In calling for legal protection for the unborn child, we have no intention of asking the government to take over our own task of teaching moral principles and forming consciences. But the law does have a teaching function, exercised through legislation which forbids or discourages specific actions deemed to be destructive of the common good. In deciding whether abortion should be considered as among such actions, legislators inevitably make judgments as to the moral principles which will be reflected in the law. To some extent, the question before our legislatures is not whether they will "legislate morality"—it is whether the morality reflected in the law will be one which respects all human life or one which legitimates the destruction of particularly inconvenient and dependent human lives. In this controversy, to refuse to legislate is to allow the Supreme Court by its decisions to legislate the latter form of morality.

CONCLUSION

During this testimony we have touched upon many elements in the complex issue of legalized abortion. We have reaffirmed the relevance of fundamental moral principles to the debate on this issue, while pointing out the undeniable basis which our moral position has in modern biological and medical fact. We have explained the way in which our position is in harmony with the most respected principles of international and American law, as well as the ways in which the Supreme Court's abortion decisions rest upon an unjust denial of those principles. We have delineated what we see as some of the most devastating social and legal consequences of these decisions, emphasizing the point that their reversal should be an important and immediate priority for all those who are committed to promoting the good of our society. Finally, we have discussed the controversial question of law and morality as it bears on this particular issue, and responded to charges that our commitment to legal protection for the unborn child is inconsistent with a commitment to American freedom and pluralism. Our final remarks will deal with the specific legislative response which we think should be made to the situation we have described.

Our own comprehensive response to the Supreme Court's abortion decisions can be found in the Pastoral Plan for Pro-Life Activities, approved by the National Conference of Catholic Bishops on November 20, 1975, which we presented as part of our testimony before the House Subcommittee on Civil and Constitutional Rights in 1976. This response is three-pronged, including efforts in the spheres of education and pastoral care as well as in that of public policy. Within the area of legislation and public policy, we proposed a pro-life legislative program with the following elements:

(a) Passage of a constitutional amendment providing protection for the unborn child to the maximum degree possible.

(b) Passage of federal and state laws and adoption of administrative policies that will restrict the practice of abortion as much as possible.

(c) Continual research into and refinement and precise interpretation of *Roe* and *Doe* and subsequent court decisions.

(d) Support for legislation that provides alternatives to abortion.

Although we have been active in all these areas, we have restated a number of times over the past eight years that our highest legislative priority is the passage of a constitutional amendment that will reverse the Supreme Court's abortion decisions and restore legal protection to the unborn. Today we again reaffirm our commitment to such an amendment.

We have generally refrained from endorsing a specific amendment before the Congress, however. Instead, we have suggested certain guidelines that we believe should be taken into account in formulating an amendment which gives a constitutional base for the protection of unborn human life. These guidelines state that a constitutional amendment should do four things:

(1) Establish that the unborn child is a person under the law in terms of the Constitution from conception on.

(2) The Constitution should express a commitment to the preservation of life to the maximum degree possible. The protection resulting therefrom should be universal.

(3) The proposed amendment should give the states the power to enact enabling legislation, and to provide for ancillary matters such as record-keeping, etc.

(4) The right to life is described in the Declaration of Independence as "unalienable" and as a right with which all men are endowed by the Creator. The amendment should restore the basic constitutional protection for this human right to the unborn child.

Now, as in 1976, considerable controversy has raged concerning the relative merits of various proposals for an amendment. In our 1976 testimony we recognized that not every proposal was equally consonant with all of our suggested guidelines; while arguing against a pure "states' rights" amendment as an ineffective measure for giving uniform protection to the unborn in the various states, we also recognized that some proposals granting legislative authority to Congress and the states to protect unborn human life were a significant improvement on the "states' rights" approach. Similarly, on September 22 of this year we expressed great interest in the new "human life federalism amendment" recently proposed by Senator Hatch of Utah, which expressly overturns the right to abortion created by the Supreme Court in 1973 and gives concurrent power to Congress and the states to restrict and prohibit abortion.

As moral leaders we can claim no special competence at legislative draftsmanship, and so we do not claim the expertise to comment at length on the advisability and effectiveness of specific formulations. Our own guidelines have always been offered as contributions to a dialogue, in which the members of Congress were considered as the appropriate agents for the actual drafting of an amendment to be presented to the state legislatures. We take note of the fact that some recent testimony before this subcommittee indicates a possibility that the establishment of constitutional "personhood" may not be necessary at the present time for restoring effective legal protection to unborn children, and indeed that it could fail through judicial interpretation to provide effective protection. We expect that the members of the subcommittee will take expert testimony of this sort into account, and also that they will consider the political possibilities for ratification of the various proposals which confront them. Our own fundamental commitment, as stated in our 1975 Pastoral Plan, is to an amendment which will actually provide the maximum degree of protection for unborn human life that is possible.

Our appearance here today is an expression of our commitment to the American democratic process. We believe that this process was short-circuited in 1973, when the decisions of the Supreme Court overturned the abortion laws of every state in the Union in its single-minded drive to promote its own policy on abortion. We urge our elected representatives in Congress to redress this injustice as soon as possible by restoring to our legal system the power to protect human life at every stage of its existence.

FOOTNOTES

[1] *The Status of Children, Youth, and Families 1979*, U.S. Department of Health and Human Services, DHHS Publication No. (OHDS) 80-30274, pp. 29-30.

[2] Bernard N. Nathanson, M.D., with Richard N. Ostling, *Aborting America* (Doubleday 1979). Especially see Chapters 16, 20 and 26.

[3] Among the recent reports on such progress: "Successful Operation is Performed on Fetus", *The Washington Star*, July 27, 1981; "The Tiniest Patients: Surgery Before Birth", *San Francisco Examiner*, May 26 and 27, 1981; "Life of Baby is Apparently Saved by Doses of Vitamin Before Birth", *The New York Times*, May 15, 1981; R. W. Smithells et al., "Possible Prevention of Neural-Tube Defects by Periconceptional Vitamin Supplementation", *The Lancet*, February 16, 1980, pp. 339-340; Jason C. Birnholz, M.D., and Frederic D. Frigoletto, M.D., "Antenatal Treatment of Hydrocephalus", *The New England Journal of Medicine*, April 23, 1981, pp. 1021-23.

[4] John C. Fletcher, Ph.D., "The Fetus as Patient: Ethical Issues", *The Journal of the American Medical Association*, August 14, 1981, pp. 772-73.

[5] This line of argument was proposed by Dr. Leon Rosenberg of Yale University in his April 24 testimony before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary. His approach has been embraced by Dr. George Ryan of the American College of Obstetricians and Gynecologists, whose remarks on the matter were given wide public circulation by syndicated "Ann Landers" columns for September 7 and 8 of this year.

[6] Editorial: "A New Ethic for Law and Society", *California Medicine*, September 1970, p. 68.

[7] *Gaudium et Spes* (Pastoral Constitution on the Church in the Modern World), n. 27.

[8] *Gaudium et Spes*, n. 27.

[9] Pope John Paul II, Homily at the Washington Mall, October 7, 1979, in *Origins: NC Documentary Service*, October 18, 1979.

[10] Sacred Congregation for the Doctrine of the Faith, *Declaration on Abortion* (U.S. Catholic Conference 1975), n. 6 and 7 (pp. 3–4).

[11] See the references to Calvin, Thielicke, Barth, Bonhoeffer, etc. in John T. Noonan, Jr., *A Private Choice: Abortion in America in the Seventies* (The Fee Press 1979), pp. 59–61.

[12] See Dennis J. Horan et al., "The Legal Case for the Unborn Child", in Thomas W. Hilgers and Dennis J. Horan (editors), *Abortion and Social Justice* (Sheed and Ward 1972), pp. 133–34.

[13] See Noonan, *A Private Choice*, pp. 13–14, on the dichotomy between human beings and persons. On the concept of "life devoid of value" and the Nazi euthanasia program: Robert A. Graham, S.J., "The 'Right to Kill' in the Third Reich: Prelude to Genocide", *The Catholic Historical Review*, January 1976, pp. 56–76; William Brennan, *Medical Holocausts, Volume I: Exterminative Medicine in Nazi Germany and Contemporary America* (Nordland Publishing International 1980), Chapter 3; Leo Alexander, M.D., "Medical Science Under Dictatorship", *The New England Journal of Medicine*, July 14, 1979, pp. 39–47.

[14] See Noonan, *A Private Choice*, pp. 16–17.

[15] *Roe v. Wade*, 410 U.S. 113 at 159 (1973).

[16] *Doe v. Israel*, 358 F. Supp. 1197 (D.R.I., 1973). See Noonan, *A Private Choice*, pp. 17–18.

[17] In our 1976 testimony we cited criticisms of the abortion decisions by John Hart Ely, Alexander Bickel, Robert Byrn, and Archibald Cox. In his new book, *Democracy and Distrust: A Theory of Judicial Review* (Harvard University Press 1981), Professor Ely has restated his judgment that even a fairly "activist" viewpoint on judicial review fails to provide any warrant in the Constitution for *Roe v. Wade*. Liberal columnist Michael Kinsley recently voiced a growing consensus when he referred to the abortion decisions as "the one really indefensible case of judicial overreaching" in recent years (*The New Republic*, October 18, 1980, p. 15). On the Supreme Court's historical arguments, see: Joseph P. Witherspoon, "Impact of the Abortion Decisions Upon the Father's Role", *The Jurist* 1975, pp. 41–47; *idem.*, Testimony before the Senate Subcommittee on Separation of Powers, June 10, 1981; Victor G. Rosenblum, Testimony before the Senate Subcommittee on Separation of Powers, June 1, 1981. Professor Rosenblum's testimony has been reprinted by Americans United for Life as Number 11 of *AUL Studies in Law and Medicine*.

Recognition of the fact that the abortion decisions had no firm grounding in legal history began with the dissenting opinions of Justices on the court itself. Referring to the majority opinion as "an exercise of raw judicial power", Justice White declared that "I find nothing in the language or history of the Constitution to support the Court's judgment." Justice Rehnquist joined in this dissent and added his own, in which he noted that the Court's imposing of specific limits on the states for each trimester of pregnancy "partakes more of judicial legislation than it does of a determination of the intent of the drafters of the Fourteenth Amendment." See *Roe v. Wade* at 174; *Doe v. Bolton*, 410 U.S. 179 at 221–22 (1973).

[18] *Roe v. Wade* at 136. See Dennis J. Horan and Thomas J. Marzen, "Abortion and Midwifery: A Footnote in Legal History", in Hilgers, Horan and Mall (editors), *New Perspectives on Human Abortion* (University Publications of America 1981), pp. 199–204.

[19] *Roe v. Wade* at 138.

[20] *Id.* at 160–61. Philosophical speculations concerning "delayed ensoulment" have never been part of Catholic dogma. For a brief historical survey of the Church's position, see John T. Noonan, Jr., "An Almost Absolute Value in History", in Noonan (editor), *The Morality of Abortion: Legal and Historical Perspectives* (Harvard University Press 1970), pp. 1–59. The most complete study on the history of Catholic thought on this subject up to 1950 can be found in John Connery, S. J., *Abortion: The Development of the Roman Catholic Perspective* (Loyola University Press 1977). Also see *Declaration on Abortion*, n. 7 (pp. 3–4).

[21] *Roe v. Wade* at 141–42.

[22] D. A. O'Donnell and W. L. Atlee, "Report on Criminal Abortion", *Transactions of the American Medical Association* 22 (1871), p. 250. A review of the AMA abortion statements of 1859 and 1871 can be found in Brennan, *Medical Holocausts*, pp. 25–34.

[23] The "treatment" in question, it should be noted, concerns only ecclesiastical penalties in canon law. The moral teaching of the Church, as we have already noted above, has condemned abortion at every stage as a form of grave wrongdoing from the earliest years of the Christian era. The fiction that the Church has changed its moral judgment of early abortions arises, in part, from a failure to understand the distinction between moral doctrine and canon law.

[24] *Roe v. Wade* at 160.

[25] *Id.* at 157.

[26] See Witherspoon materials cited in note 17.

[27] See: Witherspoon, "Impact of the Abortion Decisions", pp. 42–45; James C. Mohr, *Abortion in America: The Origins and Evolution of National Policy, 1800–1900* (Oxford University Press 1978). Mohr notes on p. 200: "The anti-abortion policies sustained in the United States through the first two-thirds of the twentieth century had their formal legislative origins, for the most part, in the wave of tough laws passed in the wake of the doctors' crusade and the public response their campaign evoked."

[28] Speech of Senator Jacob Howard of Michigan, *Congressional Globe*, 39th Congress 1st Session (May 23, 1866), p. 2766. Cited in Witherspoon, "Impact of the Abortion Decisions," p. 47.

[29] See *Declaration on Abortion*, n. 10–14 (pp. 5–7).

[30] Pope John Paul II, Homily in Piazza Del Campo, Siena, September 14, 1980, cited in *L'Osservatore Romano* (English language edition), September 22, 1980.

[31] In 1978, researchers affiliated with the Alan Guttmacher Institute estimated that 1.3 million abortions had been performed in 1977 but that 550,000 women "in need" of abortions had been unable to obtain them ("Abortion in the United States, 1976–1977," *Family Planning Perspectives*, September/October 1978, p. 271). But early this year, the same researchers reported that "although 1.5 million women obtained abortions in 1979, an estimated 641,000 in need were unable to do so, largely because of problems of geographical and financial inaccessibility" ("Abortion in the United States, 1978–1979," *Family Planning Perspectives*, January/February 1981, p. 6). According to *The Washington Post* for October 21, 1981, the current issue of *Family Planning Perspectives* reports that the women in "need" of an abortion would number about 450,000 even if every woman in the U.S. used the most effective but most dangerous contraceptive devices.

[32] See Lynne McTaggart, "The Breakthrough that Backfired," *New York Sunday News Magazine*, February 8, 1981.

[33] See Hadley Arkes, *The Philosopher in the City: The Moral Dimensions of Urban Politics* (Princeton University Press 1981), p. 437. Professor Arkes observes that when investigative reporters from the *Chicago Sun Times* began to uncover abuses at several legal abortion clinics in Chicago, "the investigators brought in reports of twelve deaths that were attributable to four abortion clinics in their sample. Those deaths, which were uncovered in only four clinics, amounted to nearly half of the deaths that were reported officially for abortion in the nation as a whole. And if, as we suspect, the experience in Chicago can find a modest replication in New York, Detroit, Los Angeles, and other cities, the total deaths due to legal abortion may now exceed the number of deaths that were thought to occur each year as a result of illegal abortions."

[34] See *Documentation on Abortion and the Right to Life*, Volume II (Testimony of U.S. Catholic Conference before the House Subcommittee on Civil and Constitutional Rights, March 24, 1976) (U.S. Catholic Conference 1976), p. 10.

[35] Denis Cavanaugh, letter in *American Journal of Obstetrics and Gynecology*, February 1, 1978.

[36] "Abortion-Related Mortality—United States, 1977", *Morbidity and Mortality Weekly Report* (official report from the Center for Disease Control), July 6, 1979, pp. 301–4.

[37] See *Declaration on Abortion*, n. 19–20 (pp. 8–9).

[38] "Several States Showing Significant Decreases in Infant Mortality", *Ob. Gyn. News*, January 15, 1981. The remarkable advances reported here for the states of South Dakota, Florida and Alabama are attributed to better pre-natal medical and nutritional care, educational programs for pregnant women, and the development of regionalized care networks.

[39] The District of Columbia has a higher abortion rate than any state in the Union, estimated at 173.4 per thousand women aged 15–44 in 1978. This is more than six times the national average. See "Abortion in the United States, 1978–1979", *op. cit.*, pp. 10–11. The mayor of the District of Columbia has called its high infant mortality rate its "Number One health problem." See "City Infant Mortality Rate Rises", *The Washington Post*, June 17, 1981.

[40] See Levin et al., "Association of Induced Abortion With Subsequent Pregnancy Loss", *The Journal of the American Medical Association*, June 27, 1980, pp. 2495–99. Thirty-four percent of the women who obtained abortions in the District of Columbia in 1978 had obtained one or more previous abortions. This is the highest repeat abortion rate in the country, the national average being 29%. *Abortion Surveillance: Annual Summary 1978* (Center for Disease Control, U.S. Department of Health and Human Services 1979), p.4.

[41] Philip G. Ney, M.D., "Infant Abortion and Child Abuse: Cause and Effect", in David Mall and Walter F. Watts, M.D. (editors), *The Psychological Aspects of Abortion* (University Publications of America 1979), pp. 25–38.

[42] See "The Impact of Abortion" (Intervention made by Cardinal Terence Cooke of New York at the 1980 Synod of Bishops in Rome), *Origins: NC Documentary Service*, October 16, 1980, pp. 283–85.

[43] Our most eminent national authority on the problem of child abuse had already emphasized this eight years ago, and predicted that the aborting of the "unwanted child" would fail to solve the problem. See Vincent J. Fontana, M.D., *Somewhere a Child is Crying* (MacMillan 1973), pp. 239–43.

[44] Matt Clark et al., "When Doctors Play God", *Newsweek*, August 31, 1981, p. 48.

[45] In our 1976 testimony we noted the scandal caused by reports that handicapped newborns had been deprived of life-saving surgery at some hospitals simply because they were mentally retarted. Now newspapers report that physicians at some intensive-care nurseries have actually been giving lethal drug overdoses to such newborns. See Diane Brozek, "Let My Baby Die", *The Pittsburgh Press*, June 29, 1981. The candor with which physicians are willing to discuss the advisability of voluntary euthanasia or "assisted suicide" seems to be increasing. See: Dan Cryer, "Suicide and Euthanasia: Christiaan Barnard tackles controversial subjects", *The Boston Globe*, April 16, 1981; Editiorial, "Overdose—Will psychiatrist please see?", *The Lancet*, January 24, 1981.

[46] Seymour M. Glick, "Humanistic Medicine in a Modern Age", *The New England Journal of Medicine*, April 23, 1981, pp. 1036–38.

[47] *Plan Your Children for Health and Happiness*, Planned Parenthood Federation of America pamphlet, 1963.

[48] Alan Guttmacher Institute, *Teenage Pregnancy: The Problem That Hasn't Gone Away* (New York 1981).

[49] See the articles on government funding of family planning services in the May/June 1981 issue of *Family Planning Perspectives*, and articles on government funding of abortion in the May/June 1980 issue, as well as the conclusions of *Teenage Pregnancy: The Problem That Hasn't Gone Away*.

[50] At the fourth annual meeting of the National Abortion Federation, held May 28–30, 1980 at the Hyatt Regency Hotel in Washington, D.C., a talk given by Jane Hodgson included the rhetorical question: "Does freedom of choice really apply to the very young? Should we sit quietly by and allow our 12-year-olds, and our 11-year-olds, possibly 10-year-olds, to make a choice which is far more harmful to her, to society, and to the ensuing generation? Shouldn't we . . . mandate against continuing pregnancy in the very young, say, those less than 14 years?". Her proposal was later endorsed by another speaker, Lonnie Meyers, who claimed that "it's time we had the guts to say that 14 is too young to have a baby." See Andrew Scholberg,

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"The Abortionists and Planned Parenthood: Familiar Bedfellows", *International Review of Natural Family Planning*, Winter 1980, p. 299.

[51] See: Sister Paula Vandegaer, S.S.S., *Teenagers and Sexuality* (NCCB Committee for Pro-Life Activities 1981); "Abortion and Teenage Pregnancy", in *Respect Life!* (NCCB Committee for Pro-Life Activities 1977/78), pp. 16–21.

[52] See: "Teens, Parents, Officials Don't Agree on Impact of Teen Motherhood", *Family Planning Perspectives*, March/April 1981, pp. 81–82; Jeanne Marecek and Eugenie Flaherty, "Correlates of Teenagers' Contraceptive Use" (Study presented at the American Psychological Association convention in Montreal, September 1980). The Marecek/Flaherty study was announced in *Ob. Gyn. News* for January 1, 1981.

[53] *Colautti v. Franklin*, 439 U.S. 379 (1979). The court's finding puzzled many observers, who thought that *Roe v. Wade* had placed severe restrictions on abortions performed after the point of "viability"; but even in 1973, the court had ruled that a post-viability abortion could be performed for "health" reasons, and had interpreted "health" so broadly that temporary financial or emotional distress were sufficiently serious justifications for an abortion in the final stages of pregnancy. In their *Philadelphia Inquirer* article "Abortion: The Dreaded Complication" (August 2, 1981), Liz Jeffries and Rick Edmonds report that the problem of dealing with a child born alive during an abortion now arises hundreds of times a year in the U.S.

[54] *In re Eichner*, AD 2d, 637E, March 28, 1980 (Supreme Court: Appellate Division Second Department) at 43.

[55] "Wrongful life" suits are predicated on the idea that a handicapped child's very existence is a "wrong" for which monetary damages can be assessed. In its 1980 ruling in *Curlender v. Bio-Science Laboratories* the California Supreme Court suggested that a handicapped child should be able to sue her own parents for not having aborted her. In the same state, however, the courts denied the right of Phillip Becker, a child with Down's syndrome, to have surgery which could save his life but which is opposed by his parents. The parents had argued that they do not wish Phillip to outlive them because they are afraid of the quality of life of which he would be capable. The Supreme Court has refused to hear an appeal from this decision (*Bothman v. Warren B.*, No. 79–698; denial of cert. March 31, 1980). Another family has tried to gain temporary custody of Phillip in order to allow him the medical care he needs, but his condition may already have advanced too far for the surgery to be of help. See: George F. Will, "A Trip Toward Death", *Newsweek*, August 31, 1981, p. 72; Peter J. Riga, "Phillip Becker: Another Milestone", *America*, July 12, 1980, pp. 8–9.

[56] 428 U.S. 52 at 69 (1976).

[57] The most important cases dealing with this question are *Bellotti v. Baird*, 443 U.S. 622 (1979), and *H. L. v. Matheson*, 101 S. Ct. 1164 (1981). See the analysis by Noonan, *A Private Choice*, pp. 90–95.

[58] United Nations Declaration of Human Rights, cited by Cardinal Terence Cooke in "The Impact of Abortion", p. 284.

[59] See the analysis by Noonan, *A Private Choice*, pp. 83–86. This problem was mentioned by the Sacred Congregation for the Doctrine of the Faith in 1974, when it declared inadmissible a situation in which doctors or nurses should have to choose between the law of God and their professional situation: *Declaration on Abortion*, n. 22 (p. 9).

[60] This principle has recently been affirmed in KENNY v. *Ambulatory Centre of Miami*, 400 So. 2d 1262 (Fla. Ct. App. 1981). Here it was implied that the need to re-arrange schedules substantially in order to respect a nurse's refusal to cooperate in abortions might have been considered as "undue hardship". The lower court had ruled against the nurse without seeing evidence of any hardships of this kind.

[61] The National Conference of Catholic Bishops has filed suit against federal guidelines which could force certain employers, including the U. S. Catholic Conference, to provide abortion benefits through employees' health insurance plans and fringe benefit programs: *NCCB* v. *Bell*, U.S. District Court for the District of Columbia (Filed 1980). For comments on the threat to First Amendment rights involved in such guidelines, see George F. Will, "'Trivializing' Abortion", *The Washington Post*, August 19, 1979.

[62] Paul Ramsey has discussed this aspect of the *Eichner* case in his article "Two-Step Fantastic: The Continuing Case of Brother Fox", *Theological Studies*, March 1981, pp. 122–34. Other cases of this sort include: *Superintendent of Belchertown State School* v. *Saikewicz, 373 Mass. 728 (1977); In re Earl Spring*, No. F-2030, Mass., May 13, 1980. In its ruling in *In re Grady* (February 18, 1981), the New Jersey Supreme Court cited the famed Karen Quinlan case to uphold a right to sterilization as an exercise of the constitutional right to privacy. the court suggested that this right can override the State's interest in preserving a patient's life, and that only the courts can exercise such a right on behalf of a mentally incompetent patient.

[63] In the *Spring* case, the lower courts (probate and appeals) had ordered that Spring's attending physician, along with his wife and son, should make the decision as to whether life-prolonging treatment would be continued. The state supreme court overruled these decisions, claiming that "we disapprove shifting of the ultimate decision-making responsibility away from the duly established courts of proper jurisdiction." The court argued that it would be forsaking its own responsibilities if it tried "to delegate its resolution to some private person or group."

[64] Both *Saikewicz* and *Spring* were cited as precedents by the Massachusetts Supreme Court on February 17, 1981, when it ruled that the state of Massachusetts is required to subsidize elective abortions with public funds (*Moe v. Secretary of Administration and Finance*). Interpreted through these cases, the state constitution was said to provide more stringent requirements for actively supporting the pregnant woman's right to an abortion than are found in the U.S. Constitution. Similar chains of reasoning have been used by courts in California and Pennsylvania to mandate public funding of abortion in those states.

Court involvement in ordering abortions for mentally incompetent patients seems to be increasing. Justice Warren Burger recently refused to block an abortion ordered by the court-appointed guardian of a woman in a semi-catatonic state, despite the fact that no evidence had been presented on a medical need for the abortion. The woman in question has been fully competent earlier in her pregnancy, and had not sought an abortion (see "Justice Refuses to Bar Abortion for Sick Woman", NC News Service, March 19, 1981). In California, a court-appointed conservator almost succeeded in ordering an abortion for an unwilling 38-year-old mental patient, although all three of her sisters were adamantly opposed to the abortion and were all willing to adopt the child even if born with congenital defects. Superior Court Judge Bob Krug denied the petition for an abortion on the basis of medical risks involved in performing a second-trimester abortion, without denying that the conservator had the right to petition the court for an abortion against the wishes of the patient and her family (see Mary Sanchez, "Petition to do Abortion on Mental Patient Denied", NC News Service, March 26, 1981).

[65] *Documentation on the Right to Life and Abortion*, Volume I (Testimony of U.S. Catholic Conference before the Senate Subcommittee on Constitutional Amendments, March 7, 1974) (U.S. Catholic Conference 1974), pp. 2–3.

[66] At its 1979 national convention, the Lutheran Church-Missouri Synod approved a resolution which condemns abortion, urges its members to help secure legal protection for the defenseless unborn child, and supports efforts to enact a Human Life Amendment to the U.S. Constitution. The American Lutheran Church, which issued a statement in support of legalized abortion in 1974, approved a Statement of Judgment and Conviction at its 1980 national convention which rejects "the practice in which abortion is used for personally convenient or selfish reasons", recognizes that "an induced abortion ends a unique human life", and "deplores the alarming increase of induced abortions since the 1973 Supreme Court decisions." See the newsletter of Lutherans for Life, issues for December 1980 and February 1981. The Southern Baptist Convention, the nation's largest Protestant body with 13.4 million members, approved a condemnation of abortion at its 1980 annual meeting which includes a call for a Human Life Amendment banning abortion "except to save the life of the mother" (NC News Service, June 13, 1980).

[67] In addition to the works cited elsewhere in this testimony by Noonan, Witherspoon, Rosenblum, etc., see: Joseph M. Boyle, "That the Fetus Should be Considered a Legal Person", *The American Journal of Jurisprudence* 1979, pp. 59–71; chapters on legal, social and philosophical aspects of abortion in Hilgers, Horan and Mall (editors), *New Perspectives on Human Abortion*.

[68] Nathanson, *Aborting America*, chapter 23.

[69] Groups such as Democrats for Life, Libertarians for Life, Feminists for Life, and Pro-Lifers for Survival (a group opposed to abortion and nuclear arms) have helped to belie the stereotype that opposition to abortion is only a "conservative" phenomenon. See Mary Meehan's brief survey of some of these groups in "The Other Right to Lifers", *America*, January 18, 1980.

[70] *McRae v. Harris*, 100 S. Ct. 2671 at 2689 (1980).

[71] This has been the consistent finding of four Gallup polls taken over the last six years. See "Views on Abortion Show Little Change", *The Washington Post*, August 27, 1980.

[72] The most recent ABC News/Washington Post poll on abortion (Survey #34, aired June 8, 1981) shows 50% of men and only 42% of women favoring the goals of the "pro-choice" movement; 36% of women favored unrestricted abortion, compared with 45% of men. Nearly a third of the people strongly opposing legalized abortion make under $12,000 a year, with only 10% making $30,000 or more, and nearly one-quarter are black, whereas more than a quarter of those favoring legalized abortion make $30,000 a year or more. Similar results were obtained by the Connecticut Mutual Life Insurance Company when it conducted a survey on American Values in the '80's: 65% of all Americans considered abortion as morally wrong, but opposition was stronger among women, racial minorities and the poor. The ABC News/Washington Post poll showed 71% support for the idea that "a fetus becomes a human being" either at conception or at some point in the first trimester; only 11% of those polled thought that one "becomes a human being" at birth.

[73] Judith Blake and Jorge H. Del Pinal, "Negativism, Equivocation, and Wobbly Assent: Public 'Support' for the Prochoice Platform on Abortion", *Demography*, August 1981, pp. 309–320.

[74] See John T. Noonan, Jr., *Abortion in Our Culture* (NCCB Committee for Pro-Life Activities 1980).

[75] John Courtney Murray, *We Hold These Truths* (Sheed and Ward 1960), pp. viii-ix.

[76] This has already been suggested by the testimony given by Dr. Leon Rosenberg before the Senate Subcommittee on Separation of Powers earlier this year (see note 5). "Some say that life begins at conception", noted Dr. Rosenberg, "but others say that life begins when brain function appears, or when the heart beats, or when a recognizable human form exists in miniature, or when the fetus can survive outside the uterus, or when brain development is completed at two years of age." Any of these would be equally valid points for beginning to protect life, he claimed. Presumably, under the last-mentioned of these standards, some mentally retarded human beings would never become "persons" at all.

ABORTION AND THE HATCH AMENDMENT

(By Edward Bryce)

(After years of trying to defend the rights of the unborn by defining personhood, the American bishops have switched their strategy. The new proposal has sparked criticism from both prolife and prochoice groups.)

Last Sept. 21, when Senator Orrin Hatch (R., Utah) introduced a new proposal for a constitutional amendment to reverse the Supreme Court's abortion decisions, he touched off a spirited debate within the prolife movement.

The U.S. Catholic bishops, along with a number of Protestant and nondenominational groups dedicated to legal protection for unborn children, have hailed this "Human Life Federalism" amendment, which would empower Congress and the state legislatures to enact laws restriction abortion. But the proposal has come under fire from groups claiming it is a compromise of prolife principles and should be rejected in favor of allegedly more effective means of protecting the unborn. These groups, in turn, disagree among themselves concerning which alternative proposal should be supported.

To confuse matters further, abortion rights advocates have not treated the Hatch amendment as a compromise of any kind. Instead they view it, in the words of the executive director of the National Abortion Rights Action League, as "the gravest threat to abortion rights since the 1973 Supreme Court decisions."

An understanding of this debate requires yet another look at the Supreme Court's abortion decisions. On Jan. 22, 1973, the court handed down its decisions in the abortion cases Roe v. Wade and Doe v. Bolton. The rulings instituted a national policy of legalized abortion on demand which neither proabortion legislative efforts nor referenda has been able to achieve.

Media accounts have often failed to note the radical character of these decisions. Abortion was elevated to the status of a constitutional right throughout the nine months of pregnancy. Even in the final three months—a time when the unborn child is capable of surviving indefinitely outside the womb and the interruption of pregnancy has always been considered a premature delivery rather than an abortion—no state could prohibit an abortion which an individual physician judged would promote the pregnant woman's emotional, social or financial health.

The seven justices subscribing to the majority opinion in these cases disagreed as to the exact section of the Constitution in which the new right of abortion was to be found. But they agreed that it was fundamental enough to override the state's interest in what they called the "potential life" of the unborn child and to invalidate any state action which might directly infringe upon the practice of abortion. Almost as an afterthought, they also rejected the claim that the unborn child should be treated as a "person" protected under the 5th and 14th amendments to the Constitution.

Later rulings of Federal courts have extended the abortion liberty. Laws designed to protect pregnant women's health during first-trimester abortions have been invalidated, to the chagrin of legislators trying to regulate legal but unsafe abortion mills. Third-trimester abortions were given further protection in 1979, when the Supreme Court invalidated state laws requiring medical treatment for infants born alive during abortions.

In a series of Supreme Court decisions, state laws requiring parental consent or notification for abortions performed on minors have been either overturned or substantially weakened, so that courts themselves can override parents in a variety of situations. The courts have even claimed the right to facilitate individual abortion decisions when dealing with women deemed too immature or mentally incompetent to exercise their own right of abortion.

Only in the area of abortion funding have the courts allowed legislatures to make policy decisions without judicial interference. But even here, at least one state law providing funding for "alternatives to abortion" has been ruled unconstitutional because it failed to provide funds to organizations which promote abortion.

In short, under the Supreme Court's decisions and succeeding rulings, state laws can be declared unconstitutional not only because they restrict abortion, but also because they fail to defend it against the objections of families, taxpayers and the public at large. The United States thus now has the most extreme proabortion public policy in the world. Given the important educative role that law has in a pluralistic society, this policy is a powerful force in promoting the acceptance of abortion.

After nine years, the number of abortions has reached over 1.5 million annually. Abortions outnumber live births in some American cities. Although opposition to abortion has grown, many believe abortion on demand will become a permanent fixture of American society if effective action is not taken soon. It is in this context that the Hatch amendment has been suggested, not as a perfect or cure-all solution, but as an effective means for beginning to reverse the current trend.

Most amendments proposed up to now have attempted to recognize the unborn as constitutional "persons" whose lives call for protection under the 5th and 14th amendments. But several factors cast some doubt on the wisdom of simply continuing this approach. Even the most popular of the personhood amendments has only about 30 supporters in the Senate after seven years of lobbying on its behalf by the National Right to Life Committee and other groups. That is far short of the 67 needed for a constitutional amendment.

Legal scholars have also begun to ask whether legal personhood would really provide effective protection for the unborn, especially if the Federal Courts should then seek to balance the unborn person's rights against privacy and other rights claimed for the pregnant woman. The unborn might be persons under the Constitution yet still highly vulnerable.

The Human Life Federalism amendment embodies a different approach. It reads as follows: "A right to abortion is not secured by this Constitution. The Congress and the several States shall have concurrent power to restrict and prohibit abortion: Provided, That a provision of a law of a State which is more restrictive than a conflicting provision of a law of Congress shall govern."

The chief benefits claimed for this proposal are these:

It overturns the Supreme Court abortion decisions. The chief holding of the court—that abortion has the protection of a fundamental right under the Constitution—is reversed by the first sentence of the amendment.

It provides for effective laws. The amendment gives "concurrent power" to Congress and the states to make laws against abortion. The Congress can enact a national abortion law which would prohibit abortion on demand in states which do not wish to enact their own restrictions. In states which do enact laws, both the state and Federal statutes would be valid and enforceable—except that, where the two laws were in conflict, the more restrictive would govern. Thus the amendment avoids the most serious problem with a simple states rights approach to abortion—the prospect that some states might become abortion mills—and provides the first explicit declaration of national policy against permissive abortion in American constitutional history.

It has potential for broad appeal. All major public opinion polls on abortion show the same basic phenomenon. Less than one-quarter of the American people want abortion to be illegal under all circumstances, about the same number want legalized abortion on demand, and the majority are caught in the middle, wanting abortion to be illegal except in certain conflict situations. This is not an ideal situation by any means, but it is where Americans are on the issue. The Hatch amendment therefore can appeal to all but the hardcore minority in favor of abortion on demand.

It avoids exceptions clauses in the Constitution. If this amendment, by itself, sets no minimum standard of protection for the unborn, it also sets no upper limit. No exceptions clauses are written into the Constitution which might be morally unacceptable to prolife Americans and which stand in danger of being further weakened by court interpretation.

Thus society can gradually be educated to the complete rejection of abortion as a solution to personal or social problems, and under the Hatch amendment, the new societal consensus can be enacted into law at each stage to provide increasingly effective protection to the unborn. Without providing a constitutional basis for approval of abortion under any circumstance, the amendment expresses a basic trust in the ability of the democratic process to develop laws protecting the rights of all concerned.

While sometimes conceding the potential political advantages of the Hatch amendment, some members of the prolife movement have raised serious moral and philosophical objections against it. They cite three in particular:

First, that the amendment violates Catholic morality on abortion because, in the words of a 1974 Vatican statement, it "admits in principle the liceity of abortion"; second, that it treats the unborn unfairly by failing to recognize them as persons; third, that by treating the protection of the unborn as a matter for legislative discretion instead of as a matter of mandatory directive, it denies that the unborn have an genuine right to life. The first objection is of concern mainly to Catholics, while the other two deal more generally with the moral values reflected in American constitutional law.

Plainly the U.S. Catholic bishops do not believe the amendment is contrary to Catholic moral doctrine. They would certainly not have voted overwhelmingly in favor of it at their annual meeting last November if they believed the objection had cogency.

This also is the view of theologians whose commitment to the Catholic moral position on abortion is unquestionable. They note that the 1974 Vatican Declaration on Abortion was condemning laws which promote abortion or might force people opposed to abortion to cooperate in its practice against their consciences—in other words, the kind of laws which the Supreme Court's 1973 proabortion rulings have made possible. The same Vatican declaration says it could be morally acceptable to support a law which fails to set penalties for abortions performed under some circumstances, with the understanding that the Christian's responsibility is to advocate the improvement of such laws at every stage of the legislative process.

The Hatch amendment itself makes no provision for abortions and grants the power to restrict and prohibit abortion rather than promote it. If this power is not exercised to its fullest extent at first by state and Federal legislatures, the amendment provides a means for improving this situation through the democratic process.

The second objection—that the amendment does not declare the unborn persons—rests on an interpretation of legal personhood which has been called into question by many of the prolife movements' legal schol-

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ars. For instance, Dennis Horan of the Americans United for Life Legal Defense Fund says a declaration of personhood provides useful legal symbolism but might actually get in the way of effective protection for the unborn under present circumstances, because it gives proabortion Federal courts considerable latitude in setting the standard of protection.

A case in point might be the proposed Human Life Statute, which declares the unborn child a person on the basis of a factual finding that human life begins at conception. According to a Senate subcommittee which approved the proposal in September, this would not require states to adopt laws against abortions performed by private individuals, because the Constitution directly forbids only government actions contrary to due process of law. Also, courts might write exceptions into state abortion laws by balancing the due process rights of the pregnant woman against those of the unborn.

As a legal term, person is not synonymous with the philosophical concept of person, which means a human being with inherent dignity and inviolable rights. Those who insist on a law or constitutional amendment declaring the unborn to be persons mistakenly assume that the Federal courts would understand person to mean what they mean by it.

The third objective, that the Hatch amendment fails to mandate protection for the unborn, overlooks the fact that the Constitution mandates no particular standards of protecting against the private killing of any human beings. For instance, it does not spell out the exact circumstances under which a state may consider certain acts of homicide justifiable.

To be effective, even proposed constitutional amendments directly prohibiting abortion would require implementing legislation. But the only branch of government which would force recalcitrant legislatures to enact abortion laws would be the Federal courts—and they have generally shown themselves to favor abortion on demand.

Furthermore, in order to pass, such amendments also generally have to make provisions for some abortions, and these so-called exceptions might be interpreted loosely by the same Federal courts.

The only alternative to such problems seems to be a proposal like the Hatch amendment which empowers the people's elected representatives to set the standards of legal protection. If the question ultimately comes down to relying on legislatures or relying on Federal courts to provide protection for the unborn, most people who have followed the controversy in recent years would rely without hesitation on the legislatures.

Finally, there is the political dimension of the debate over the Hatch amendment. In the estimate of persons who have studied the mood of Congress carefully, it has real potential for enactment—much greater potential than any other amendment which has yet come to light. It has been introduced in the House by Rep. John Ashbrook (R., Ohio) and others. And, last Dec. 16, the Senate subcommittee on the Constitution voted 4 to 0 in its favor. This was a historic first—the first time a Congressional Committee had approved a constitutional amendment intended to undo the effects of the Supreme Court decisions.

On the other hand, prolife critics are right in pointing out that neither this proposal nor any other will be easy to pass. The difficulty is that, to some extent at least, the critics' posture can become a self-fulfilling prophecy. With the support of a united prolife movement, the Hatch amendment has solid prospects; without such support, its chances are doubtful.

Since the Supreme Court decisions of 1973, the U.S. bishops and most of the prolife movement have consistently advocated a constitutional amendment to protect unborn children. Now the question is which amendment will most effectively achieve that end. It is a question to be answered not just in light of what particular proposals say on paper or how committed prolife people might like to understand them, but in light of the complexities of legal language and likely interpretations by Federal courts with a proabortion bias.

Weighing these considerations, the bishops and many other prolife people have concluded that the Hatch amendment offers the most realistic prospect at present for giving the needed protection. It remains to be seen whether the entire prolife movement will unite behind it. Plainly 1982 will be a turning point of some kind in the continuing struggle for protection of the unborn.

ABORTING AMERICA

(Bernard N. Nathanson, M.D. with Richard N. Ostling)

THE SPECIOUS ARGUMENTS IN FAVOR OF ABORTION

I have held the opinions expressed in the previous chapter for many years; recent findings only reinforce them. However, the pro-abortionists have their own list of inadequate arguments, and examination of these is more painful, since I once mouthed so many of them myself. Still, intellectual honesty compels me to reassess them so that the abortion issue can get down to the essentials.

1. *The Teeming Masses.* We are sometimes told that abortion is necessary because of world overpopulation. The present work deals with the United States, not the developing nations, which face different cultural, economic, and medical situations from our own. Overpopulation is simply no reason to advocate widespread abortion in a nation like the U.S., and we are not going to end starvation in Ethiopia by aborting in Manhattan.

An aside on this matter of population control: It is intriguing to me that even extreme sectors of the American abortion movement do not advocate it as a primary contraceptive technique but rather as a "fallback" (a precious little euphemism) if birth control fails or is not used. There is a medical paradox here. The Pill produces a death rate far in excess of that in first-trimester abortions, yet few pro-abortionists have had the integrity or the courage to advocate abortion as "just another" birth-control method. Does not some recondite human repugnance for abortion lurk here? Even in liberated 1978, a vague stigma is attached; most women are still unable to look their gynecologists straight in the eye as they report on past abortions.

2. *Mere Tissue.* Pro-abortion spokesmen too often treat alpha as merely a chunk of tissue or an ordinary organ of the mother's body, rather like an appendix that is snipped off. One writer of this persuasion even likened alpha to the cells that flake off every morning when we brush our teeth. The biological facts of the matter will be described subsequently, but let me simply state here that this whole line of argumentation is biological nonsense, unworthy of the people who have advocated it. Alpha is an entity like no other within the woman's body.

3. *You've Seen One, You've Seen Them All.* This point is so eccentric that I would not mention it except that it appears in a book, *Unwanted Pregnancy,* written by a fellow obstetrician-gynecologist named Robert Petres, along with a Southern Presbyterian university chaplain. They dismiss the "personhood" argument on alpha, in part, because this implies that the entity in question is "unique, that he is one of a kind" and they flatly deny that this is true of alphas. "They are not unique. Laid side by side at four or five months' gestation, they are virtually indistinguishable. They are not unique in any way, shape or form." This is a simplistic argument reminiscent of the anti-abortionists' pheno-type gambit. In fact, individuality is structured into each and every alpha that is ever conceived. Its genetic code will never be repeated. Quite early in pregnancy, as we will see shortly, the bodily features and functions of alpha also become individualized. Sad but true, as you read these words some bored gynecologist may be aborting the next James Joyce.

4. *The Woman-and-Her-Doctor.* How many times have we heard this one? The "woman and her doctor" alone ought to decide on abortion. Even the Supreme Court swallowed this. This is a clever way of subtly implying professional scrutiny and endorsement for an abortion, but the phrase is wholly spurious. All one needs to do is look at the New York newspapers, where this allegedly "medical" service is advertised alongside "Madame Marie, Indian Reader," "Weight Loss—Amazing Breakthrough!" and "SINGLE? Looking for someone special?" One author has stated that abortion is no more a medical issue because doctors do it than is capital punishment a matter of electrical engineering because an electric chair is used.

Quite obviously, the mother and the mother alone makes the decision, except in the small percentage of abortions that involve true medical indications. Physicians have no special moral wisdom to impart on such non-medical decisions.

I must agree with Daniel Callahan's remarks against abortion as "medical": It may be very beneficial for a woman, but unless her life is threatened "an abortion cures no known disease and relieves no medically classifiable illness." "It may be merciful and it may be wise," but medicine does not classify a procedure as "therapeutic" when "it is not notably therapeutic for the fetus" and has a "100 percent mortality rate."

5. *Men Don't Get Pregnant.* We are told that laws against abortion were a plot by male chauvinists to oppress woman, or in the less hysterical version, that men can never understand what the pregnant woman suffers. But one day as a mother who had just given birth signed the routine consent form for a circumcision that would inflict considerable pain on her newborn boy, I asked myself: On this account, ought we not require that the father sign consent? How could a woman know what it is to have part of your penis cut off?

James Mohr's historical book points out that the original nineteenth-century feminists were universally opposed to abortion, even after antiseptics had made it a safer procedure. They considered it yet another outrage that had been inflicted upon women by men who forced them to have abortions.

Daniel Callahan objects to the argument about "men legislating for women" because abortion, child-bearing, and child-rearing have consequences for everyone in our society, of both sexes. For that matter, as a "women's issue," abortion works against the pro-choicers in that virtually every U.S. poll over the past decade has shown that women are significantly more anti-abortion than men are.

6. *Cost Benefit.* There is a current tendency, particularly in documents that ooze forth from the federal bureacracy, to treat abortion and many other medical issues as a "cost benefit" problem. It is cheaper for our society to destroy alphas at $100 apiece than to take responsibility for aiding poor women and children. This may be good politics, perhaps, but it is hardly exemplary social morality. It reeks of the Pentagon's "body count" thinking of the Viet Nam era. Are we supposed to consider such pragmatism of alpha-elimination to be "liberal" and humanitarian? As one who sits in on hospital committee meetings, I must sadly report that this cost-benefit lingo has a lot of cachet among medical administrators who cope daily with the federal, state, and city agencies, and imbibe and recycle their repugnant jargon and accountant-like mentality. This trend is infuriating and dehumanizing.

Certain human issues are too grave to be handled in this way and must be shielded from a cost-effectiveness theory. Abortion is one of them.

7. *Social Panacea.* If the anti-abortionists would blame every social malady on abortion, the pro-abortionists propose it as the *solution* to all manner of social ills. But now that we have had several years of open abortion, what maladies have been alleviated? Liberalization has certainly brought benefits to individuals, but where is the society-wide evidence that it has reduced the welfare rolls, the curse of poverty, or illegitimacy and child abuse? (Actually, as mentioned already, reported child abuse has *risen* noticeably since abortion was legalized, and so have illegitimate births, despite the availability of abortion as an alternative.)

8. *The "Unwanted Child."* The Specter of child abuse is used as part of a broader pro-abortion argument, that every child born into this world must be "wanted," and that social evils will result if they are not. I have some important philosophical objections to the "unwantedness" line, but will limit myself here to matters of simple logic.

Would that all children were wanted. But projections of future harm from present emotions are totally unreliable. At some point in pregnancy, many children are temporarily "unwanted." For that matter, offspring are often "unwanted" at certain moments after they are born. An unwanted alpha does not always end up as a resented baby. As for battered children, there is no solid evidence that unwantedness during pregnancy produces battering. Rather, battered children appear to be the result of mistreatment of the parents when they themselves were children. Contrary to the stereotype, battering is not a problem limited to the poorer families that are of particular concern to the (usually more affluent) abortion avocates. As noted above, if anything, the statistical reports would lead one to conclude that liberal abortion laws, not strict ones, foster child abuse.

The "unwanted child" is also a myth. If alpha is carried to term, it will never be "unwanted" because of the hopeless shortage of babies available for the long list of childless couples who earnestly want to adopt them. So alpha need be "unwanted" only for the nine months between conception and birth. Adoption is difficult for the unwed mother, and more so for the widow, divorcee, or wife who becomes pregnant out of wedlock. The point is that an option does exist if we do judge alpha's survival to be even more important than the difficulties of the unwillingly pregnant woman.

9. *Psychiatric Scare Tactics.* No less than their opponents, the pro-abortionists indulge in pot psychology. The adoption solution, just mentioned, is portrayed as an unutterable trauma for the natural mother, or the psychological harm to a woman refused abortion is painted in lurid terms. Clinical proof of this is, on the whole, lacking. (For ample detail on psychological studies on both sides, see Callahan's *Abortion: Law, Choice and Morality.*) Just as I granted to the anti-abortionists, it is inarguably true that refusal of abortion or giving up of babies for adoption placement may occasion regret or remorse, mixed perhaps with more optimistic thoughts about the life that the mother has authored and preserved. But sadness is not sickness, nor a psychosis. There may indeed be emotional turmoil. This is true of all major life decisions and events, normal pregnancy and childbirth among them. The difficulties of life, however, are not psychiatric pathology and do not provide justification for a procedure if, on other grounds, it is judged to be unethical.

10. *Women's Control Over Their Own Bodies.* Leaving aside for the moment the question of whether alpha is merely "part" of the mother's body like an appendix, this principle is wrongheaded in any event. Civilized societies do not permit women absolute control over their bodies; they do not sanction such things as multilation of one's own body, drug abuse, prostitution, or suicide. Even if alpha is to be considered merely a woman's "property" and not the "person" that the anti-abortionists claim, control over property is not absolute—statutes against cruelty to animals are legitimate, including the animals that the violator owns. We cannot grant women absolute control over alpha without consideration of abortion on its own terms.

The broader claim is the the "right to privacy," which N.A.R.A.L. figured correctly was the only one that would work for us in the courts. We cited in particular the Griswold v. Connecticut ruling striking down anti-birth-control laws on privacy grounds. Justice Blackmun also cited that case in guaranteeing a "right to privacy" on abortion in 1973, but John Hart Ely of the Harvard Law School has pointed out that in Griswold the court reasoned that enforcement of the birth-control ban would have been impossible without outrageous government prying into the privacy of the home. With abortion, the conception may occur in private, but the abortion itself is "in public"—in a clinic or hospital—with various outsiders in attendance. Each act of abortion (but never each use of contraception) must be registered with the government.

There are, after all, good invasions of privacy. Society requires the white majority to respect the rights of the black minority. It does not grant parents total physical control over their offspring after birth, legislating against child abuse. Government intervenes in bodily privacy in the control of communicable diseases, and is even willing to violate parents' control and their explicit First Amendment right to religious liberty in medical-legal disputes where life is at stake (e.g., forced blood transfusions for underage Jehovah's Witnesses, or various medical procedures for children of Christian Scientists).

In the contemporary situation, the woman's "control over her body" offers her a number of options other than abortion. She can choose sexual continence, or if not continence, then contraception, or if not contraception, then sterilization, or if none of these, she can take control in making sure that the man in her life makes such a choice.

11. The Coathanger. The favorite button of the pro-abortionists is the one showing the coathanger, symbol of the self-induced abortion and the carnage that results from it, or the similar problem of botched illegal abortions done by "back-alley butchers." This is a fundamental argument; one that moved us deeply in the late 1960s, and one that could justify non-medical abortion even if no other argument stood up.

How many deaths were we talking about when the abortion was illegal? In N.A.R.A.L. we generally emphasized the drama of the individual case, not the mass statistics, but when we spoke of the latter it was always "5,000 to 10,000 deaths a year." I confess that I knew the figures were totally false, and I suppose the others did too if they stopped to think of it. But in the "morality" of our revolution, it was a useful figure, widely accepted, so why go out of our way to correct it with honest statistics? The overriding concern was to get the laws eliminated, and anything within reason that had to be done was permissible. Statistics on abortion deaths were fairly reliable, since bodies are difficult to hide, but not all these deaths were reported as such if the attending doctor wanted to protect a family by listing another cause of death. In 1967, with moderate A.L.I.-type laws in three states, the federal government listed only 160 deaths from illegal abortion. In the last year before the Blackmun era began, 1972, the total was only 39 deaths. Christopher Tietze estimated 1,000 maternal deaths as the outside possibility in an average year before legalization; the actual total was probably closer to 500.

The death of 500 women, or even 39, is a matter of the most serious concern, but this is hardly an overwhelming death rate among the millions of women of childbearing age. Depending upon the value that is placed upon alpha, it might be lopsided for a society to consider only the 500 women and ignore the 1,000,000 alphas that are legally extinguished each year.

Apart from deaths, there were the walking wounded of the abortion unjustice. Their sufferings were very real to me and to other physicians in the reform movement. In the old days there would be two or three critically ill patients in our ward from infected botched abortions at any one time, and the same in the ward of every other hospital. For this reason obstetrics-gynecology used to be a sobering specialty, and this was a major reason why its practitioners gradually accepted the change. In the middle of too many nights we had gotten a call that a woman was "miscarrying" in early pregnancy. When we would appear bleary-eyed to examine the seriously ill women it would turn out that, one way or another, she had been "started." Those were bleak nights indeed.

Why, then, do I now dismiss the whole carnage argument? Simply because technology has eliminated it.

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The practice of abortion was revolutionized at virtually the same moment that the laws were revolutionized, through the widespread introduction of suction curettage in 1970. (Even before this, antibiotics and other advances had already dramatically lowered the abortion death rate.) Instead of scraping the soft wall of the pregnant uterus with a sharp instrument, the operator vacuums it out with a plastic suction curette. Though it is preferable that this be done by a licensed physician, one can expect that if abortion is ever driven underground again, even non-physicians will be able to perform this procedure with remarkable safety. No woman need die if she chooses to abort during the first twelve weeks of pregnancy. Largely due to suction curettage, the total of deaths from all abortions (legal and spontaneous "miscarriage" as well as the illegal abortions, which decreased markedly after legalization) was only 25 by 1976. Even without a suction machine, a simple combination of catheter and syringe can produce enough suction to carry out a safe early abortion.

As for the self-induced abortion, by thrusting a coathanger or other dangerous object into the womb, this will also be a thing of the past. Compounds known as prostaglandins can now be used to bring on contractions and expel alpha, and would readily be available for do-it-yourself abortions in vaginal suppository form. Prostaglandim suppositories would not provide a full abortion in most cases, but they would "start" the woman, and she could then go to her doctor to have her uterus cleaned out. Prostaglandins in general are safe for the mother's system, and besides that, there is no evidence that anything other than a spontaneous miscarriage has occurred. There are no signs of instruments in use, and the woman can command medical attention on a legitimate and legally safe basis. This may sound rather cynical, but this is what would now happen in practice if abortion were illegal.

There may be many other reasons or cases under which abortion is desirable, but this most emotional of the arguments, the one which swayed me more than any other, is now wholly invalid and obsolete.

Rachel Weeping and Other Essays on Abortion

(By James Tunstead Burtchaell, C.S.C.)

POLITICAL ARGUMENT: ABORTION ON DEMAND IS APPROVED BY MOST AMERICANS

A second reason for permitting abortion legally, quite apart from whether it be right or wrong morally, would be that it enjoys majority support among the public. Abortion advocates have insisted, with but few exceptions, that public opinion surveys show consistent approval of the prochoice position. How the polls have been used, and what they report regarding citizen opinion, affords another issue that will permit insight into the integrity of the proabortion argument.

Abortion advocates sometimes assert, without supportive reference, that there is majority support for legal abortion. Karen Mulhauser, for example, writing in the Newsletter of the National Abortion Rights Action League, of which she is executive director, states: "We are undisputed winners in the public opinion polls—we are the majority." Those who oppose are "the vociferous and fanatic few." Planned Parenthood speaks of a "well-organized, well-financed minority [trying] tc impose their narrow moral standards on an unwilling society." Arlie Schardt, erstwhile executive director of the American Civil Liberties Union, has stated for the public record: "Despite the fact that polls show most citizens—including Catholics—favor the right to abortion, and despite the Supreme Court's finding that women have the constitutional right to abortion, the issue frightens Congress." Beverly Harrison, an abortion advocate who teaches social ethics at New York's Union Thelogical Seminary, refers in argument to "the large number of polls which show that slightly over half of the public support the Supreme Court decision." This sort of general, unreferenced claim to majority support is not in itself objectionable . . . unless it happens to be trumped up. In this instance, as one finds, the evidence not only fails to sustain the claim; it consistently suggests the contrary.

A second misuse of opinion surveys is to falsify their findings by distorted restatement. Ellie Smeal, president of the National Organization for Women, gives a typical example of this. Describing "the overwhelming feeling of the majority," she asserts that "81 percent of all Americans and 76 percent of all Catholics support the right of women to choose a safe and legal abortion." This, as we shall see below, takes considerable liberties with the reported data.

A third snag is in the polls themselves. The correct calculation of public sentiment on abortion has repeatedly been stymied by poll questions that are poorly framed. A large measure of distortion is caused, for instance, when a question is couched in terms that warm the respondent toward a particular answer. The Harris Surveys are sometimes spoilt by this sort of editorializing. When Congress was first moving to deny Medicaid funding for abortions, Harris announced that public support for the Hyde Amendment was weak. When asked, "Do you favor or oppose a ban on the use of federal Medicaid funds for poor women who couldn't otherwise pay for them?" 47 percent favored the ban, 44 percent were opposed, and 9 percent had no opinion. But when Harris reshaped the question in biased form its survey produced a different result:

[In percent]

	Yes	No	?
"The U.S. Supreme Court in its original decision was right to say whether a woman has an abortion is a decision she and her doctor should make, and the new ban interferes with the right of a pregnant woman to make that decision."	55	34	11
"The ban is wrong because poor women who cannot afford legal abortions will be forced to have unwanted children or to have dangerous illegal abortions."	51	37	12
"Such a ban is unfair, because it means that rich women, who can afford abortions, will have them while poor women, who can't afford them, will not."	51	40	9

The NARAL, which gave prominence to the more agreeable but less reliable results, described the reshaped questions as having "personalized the funding issue."

Poll results are even more obviously coached when solicited by nonprofessionals. Congressman James W. Symington of Missouri canvassed his constituency to ascertain their views on a prolife amendment. His question was as follows: "The Constitution is the basic document of our American political system. From this fundamental document our laws are derived. In our nation's history it has been altered only 26 times, and only after long debate and serious thought. Recently, several new amendments have been proposed; which, if any, would you support? An amendment to prohibit abortion under any circumstances except to save the life of the mother?"

Here, besides a strongly cautionary preamble which communicates to the voters more of the congressman's attitude than their responses are likely to convey to him of theirs, Symington skews the inquiry further by specifying only one of the amendment formulae under discussion, and that the most restrictive. Predictably, responses showed very little support: men, 18 percent; women, 21 percent.

In November 1978 the ballot in Oregon included an initiative measure to cut off state funding of abortions. Before the vote a NARAL poll sought public reaction to this statement: "The service should be available to poor women who depend on public welfare, rather than have taxes raised to pay the costs of those extra children if abortion were not permitted." Fifty-eight percent agreed. The statement, however, is obviously more appropriate as a public relations tactic than as a legitimate opinion survey instrument. It is distorted by three assumptions: (1) that abortions for which tax-supported subsidy is denied will not take place anyway; (2) that children born after such denial of funded abortion will draw state welfare payments; and (3) that tax increases will result.

A most egregious example of an opinion survey-cum-coaching was provided by the Planned Parenthood Federation of America. At the federation's annual meeting in Houston, November 1979, delegates learned from Dr. Michael Rappeport and Ms. Patricia Labaw of a survey designed to go beyond yes-or-no questions. Of the 1,500 adults interviewed nationwide by telephone, at first 34 percent thought a woman should have an abortion only if her life were in danger, and 45 percent said they disapproved of abortion. "But you ask them about the 45-year-old woman with three children whose contraception did not work or the sixteen-year-old rape victim and suddenly they favor abortion." By the end of his survey, which Planned Parenthood had commissioned, Dr. Rappeport said that 90 percent favored abortion under certain circumstances, which the story headline cited as: "Survey Shows Most Adults Favor Abortion."

Other opinion surveys yield contrived results by asking questions that are more overtly misleading. Some, for instance, have asked whether respondents support the Supreme Court decisions of 1973, but then include some misstatement of what the Court actually decreed. Most frequently a poll will describe the Court as having legalized abortion during the first three months of pregnancy. There are many examples of this, but the Harris surveys provide the most widely known example. For years Harris has asked respondents whether they favored "the U.S. Supreme Court decision in making abortions up to three months of pregnancy legal." The results, which are discolored by the question, have been widely cited on behalf of abortion freedom.

When Harris's findings are reported by the NARAL they lose their original, disqualifying detail. They become simply: "Favorable Harris Polls Demonstrating 60 percent Support for Legal Abortions." "According to Mrs. Mulhauser, the latest figures from a Harris Poll in March show that 60 percent of Americans now support the Supreme Court decision on abortion." Lawrence Lader used the Harris Survey to show "that 52 percent of Catholics approved the Supreme Court's legalization of abortion."

The United States Commission on Civil Rights, in its 1975 proabortion report, cites a 1974 Gallup Poll (identical with the erroneous Harris Survey) wherein 52 percent agreed and 48 percent disagreed that "abortions through the third month of pregnancy should continue to be legal," and concludes that "the Court is supported by a majority of the population."

Congressman Thomas M. Rees of California, an advocate of abortion choice, polled his district, "a district of good, God-fearing middle-class people," whom he described as intelligent and highly educated. His question was: "A recent United States Supreme Court decision legalizes abortions which are performed by qualified physicians during the early stages of pregnancy. This allows an abortion to be a decision made by a woman and her doctor, rather than regulated by the government. Do you favor the Court ruling?" Besides coaching his respondents towards a particular answer and misrepresenting the Court, Mr. Rees crippled his survey by a third kind of blunder that has become an unfortunate commonplace in proabortion opinion reporting: the woman-and-her-physician formula.

What *Wade* and *Bolton* handed down was exactly what the abortion movement had asked for: total freedom for abortion on demand through pregnancy. Since that state of affairs has never since 1973 enjoyed broad public approval as either morally justifiable or legally desirable, those disposed to preserve and defend it have been at pains to identify some finding in the opinion surveys which might be construed as a blanket endorsement of what the Court had decreed, without putting too fine a point on it. One such finding lay in the consistently positive response to this (or a similar) question: "If a woman wants to have an abortion, that is a matter for her and her doctor to decide, and the government should have nothing to do with it." This question, in a preelection survey conducted by the Knight-Ridder newspapers, elicited an 81 percent agreement. At first sight, a positive response would seem to endorse a complete absense of legal restrictions on abortion. Ellie Smeal, of the National Organization for Women, has presented it as such: "81 percent of all Americans and 76 percent of all Catholics support the right of women to choose a safe and legal abortion." Likewise, in November 1979, when the New York Times/CBS News Poll posed the thesis, "The right of a woman to have an abortion should be left entirly to the woman and her doctor," it drew Catholic approval of 64 percent and Protestant approval of 69 percent (down from 69 percent and 76 percent, however, in 1977). The Times headline summed up: "Catholics in Survey Endorse Abortion." Louis Harris, who has asked this question repeatedly, sees the positive response as reflective of "the majority view favoring abortion."

As Peter Skerry has pointed out, however, the woman-and-her-physician question and its interpretation in proabortion literature are both misleading: "these high rates of approval do not stand up to scrutiny." In other, very reliable, polls there have been contradictory responses. In Gallup polls of 1972 and 1974 respondents said that the law should specify when abortion is justified, rather than leave women under no constraints (54 percent vs. 39 percent in 1972; 53 percent vs. 40 percent in 1974). Numerous Gallup polls have shown strong public demand for some form of local regulation (76 percent in 1975; 74 percent in 1977; 73 percent in 1979; 71 percent in 1980). Furthermore, in several surveys from 1970 through 1975 about one-third of the public said it should be lawful for a woman to obtain an abortion without her husband's consent. In these two respects the Court and its law are at variance with the public opinion thus expressed. The public appears to wish two exceptions to the woman-and-her-physician sovereignty: it wants abortion allowed under certain conditions (thus with some purview by the government through law) and it wants a decision shared by the husband. It is difficult therefore to accept that the woman-and-her-physician responses are quite that reliable in their own right. It is still more difficult to conjure them into serving as blanket endorsements for the present law of unrestrained abortion. Possibly they are taken by respondents to disapprove of some imaginable involvement in abortion by government officials.

There is yet another presentation of poll results which would strike an observer as directly dishonest if the data were not openly displayed by the very advocates who do them violence. In May 1979 *Redbook* published an analysis of its own abortion poll, conducted through the Gallup Organization. Its principal conclusion was that "the law of the land still accords with the will of the majority," since "80 percent of Americans say abortion should be legal under any or certain circumstances."

The chief *Redbook* question was: "Do you think abortion should be legal under any circumstance, legal only under certain circumstances, or illegal in all circumstances?" The responses were as follows (to which I add other responses received by Gallup to the same questions):

[In percent]

	1975	1977	1978	1979	1980
Legal under any circumstance	21	22	22	26	25
Legal under certain circumstances	54	55	54	54	53
Illegal under any circumstances	22	19	19	17	18
No opinion	3	4	5	3	4

These responses show a stable and consistent pattern, and agree largely with other comparable surveys. Invariably they have been construed as support for Wade and Bolton, whereas they most clearly are the opposite. Citing a similar but older poll, Joseph O'Rourke, a dismissed priest who heads Catholics for a Free Choice, declared that a majority of the country, Catholics, Protestants, Jews, Democrats, and Republicans, were in favor of abortion under certain circumstances. Betty Benjamin, president of the Abortion Rights Council of Minnesota, argues: "Public opinion polls reveal that 60-88 percent of people in this country think abortion should be legal either in all or some circumstances." Those who oppose abortion freedom oppose "the rights of the majority of Americans." What O'Rourke, Redbook, and Benjamin, with many others, have done is to coalesce the two groups ("always" and "sometimes" legal) into what they see as a majority in support of the present law and the prochoice position. But what the polls relentlessly reveal is that neither the prochoice position nor the prolife position (in its strong form) enjoys more than minority support.

There are presently two polar positions on abortion being actively advocated in this country. One position asserts that abortion is immoral and ought to be illegal, except possibly to save the mother's life. This position is satisfied by only one response: "illegal under all circumstances" (though if danger to the mother's life were specified as one appropriate legalizing circumstance this response would be significantly enlarged). This position consistently enjoys the adherence of about one respondent in every five. The other polar position asserts that abortion is an entirely individual moral issue for the pregnant woman and that she ought to be legally unrestricted in obtaining it (except as her own health and safety require). This position is satisfied by only one response: "legal under any circumstances." It enjoys the adherence of about one respondent in every four. This is presently the law of the land.

The majority of Americans surveyed do not subscribe to either polar position—prolife or prochoice—as presently preached. The majority will countenance abortion in certain circumstances. And the polls are clear and consistent in disclosing what those circumstances are. Basically, the "middle group" considers what are commonly called the "hard reasons" as justifying abortion and it rejects the "soft reasons." To get some sense of this we may put the Redbook findings alongside the two most recent comparable Gallup polls.

Question (asked of those who replied they would make abortions legal under certain circumstances): "Now, thinking about the first three months of pregnancy, under which of the circumstances do you think abortions should be legal?"

[In percent]

	Redbook 1979	Gallup 1979	Gallup 1977
Woman's life is endangered	85	78	77
Woman's physical health is endangered	50	52	54
Woman's mental health is endangered	45	42	42
Chance baby will be deformed	52	44	45
Rape or incest	75	59	65
Family cannot afford to have the child	14	15	16
Don't want child	14		
No opinion		9	2

Several things must be noted here. First, this is not the total national sample responding, but that portion of the sample, the "middle group," which would allow abortion "under certain circumstances." Second, these responses hold only for first-trimester abortions. Approval falls off sharply for later abortions, as these same polls show (1977 and 1979 responses beside each other; the Redbook survey did not include this information):

[In percent]

	Trimester		
	1st	2d	3d
Woman's life is endangered	77/78	64/66	60/59
Woman's physical health is endangered	54/52	46/46	34/33
Woman's mental health is endangered	42/42	31/31	24/22
Chance baby will be deformed	44/45	39/37	28/28
Rape or incest	56/59	38/32	24/19
Family cannot afford to have the child	16/15	9/6	6/4
No opinion	2/9	9/9	20/21

What can we learn from these responses? There is clear allowance for abortion to save the mother's life. There is considerably less allowance for abortion on behalf of her physical health. For abortion after rape or incest there is fairly strong allowance, but only during the first trimester. There is in-

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creasing rejection of abortion to eliminate a deformed child (especially since most such abortions require amniocentesis and must await the second trimester, by which time few would allow it). For reasons of mental health or economics there is little feeling that abortion is ever justifiable.

Obviously the largest segment of the public, the dominating swing group that wants to discriminate among reasons justifying abortion, is sympathetic towards endangerment of a mother's life and (much less emphatically) physical health, and towards pregnancy from rape or incest. Other reasons lack the approval of a majority of even this middle group. The only position, then, which this configuration of judgments comes near to approving (though it is less permissive) is that of the American Law Institute's Model Penal Code, which in its abortion provisions had been adopted by a growing number of states before 1973. This middle group does not agree with the present law of the land, enunciated in Wade and Bolton, which forbids state and federal legislatures to restrict abortion at any time during pregnancy, even the last three months if the woman claims it is for her health (understood in the widest sense). And since well over 95 percent of abortions currently performed are truly elective—that is, they occur because a child is unwanted, rather than for one of the "hard reasons" accepted by the group—this group of respondents stands at odds with current abortion law and practice.

Although the advocates of abortion on demand correctly identify their active opponents, the prolife group, as a minority no larger than themselves and perhaps a little smaller, they have failed to acknowledge another group, twice as large as either polar faction, which does not accept present abortion law. It is this group, not just the prolife faction, whose political weight can explain the various legislative frustrations the proabortion group has endured of late, and whose stable convictions regarding abortion explain its unreadiness to acquiesce in what the Supreme Court has done.

Judith Blake, the UCLA professor who has most persistently examined survey results on abortion, has long noted this. While tracing the differentiated opinions of this middle group through Gallup, NORC, and National Fertility surveys back into the 1960s, she has noted various majority opinions that go contrary to the teaching of the present Court: that human life begins at conception or at quickening, and that the unborn are persons before birth; that abortion should be unlawful without the husband's consent; that it should be lawful only in hospitals; and that it should almost never be permitted after the third month.

The fact that a national majority does not believe in unrestricted abortion has not been admitted by its advocates throughout the years of dispute over abortion funding. Indeed, the doctrine of the abortion advocates was that the legislative branch of the government was being manipulated by a vociferous minority. That the Congress should deny funding for abortion (except in the "hard" cases) simply because it was reflecting the national sentiment was something they have not been able to accept. Only lately have abortion advocates begun to admit that they represent a minority view.

In his indignant dissent from the Court's vindication of Congress's right to withhold Medicaid funds for abortions, Justice Brennan called the Hyde Amendment "a transparent attempt by the Legislative Branch to impose the political majority's judgment of the morally acceptable and socially desirable preference." Many political observers reflected that this was precisely what they thought Congress was authorized to do. Justice Blackmun, author of the *Wade* and *Bolton* opinions, took the same occasion to regret what was happening: "the Government 'punitively impresses upon a needy minority its own concepts of the socially desirable, the publicly acceptable, and the morally sound.' " Karen Mulhauser of the National Abortion Rights Action League, looking back to *Wade* and *Bolton* in 1973, has quietly acknowledged that "the country wasn't with us at that point." Patricia Roberts Harris, at the end of 1980, when her tenure as Secretary of Health and Human Services (formerly HEW) was drawing to a close, spoke out against telling young people, "in really medieval terms, you must control your sexuality," and advocated abortion freedom. She acknowledged, however, "that the cutting edge of public opinion is probably contrary to what I am saying." Linda Greenhouse, commenting on *McRae* in 1980, noted that *Wade* and *Bolton* "was as far in the van of a national consensus on abortion as the Court should prudently get." It seems, on the contrary, that the real national consensus does not think of the Court as its vanguard, and is securing for itself a belated recognition.

Before leaving this subject of public opinion on abortion, there is one constituency about whose opinion something needs to be said: women who have aborted. The female personnel of abortion facilities and of advocacy groups tend to include significant numbers of women who are veterans of abortion and whose comradeship in this experience binds them together. It may be their presumption—at least, this seems to recur in the literature of abortion advocacy—that women who have undergone elective abortion will uphold the right of other women to do the same. There is some evidence that this is not so.

Perez-Reyes and Falk report on a group of unmarried adolescent abortors who harbored opinons about the justifiability of abortion that were not entirely permissive. One third of the girls (34 percent) disapproved of abortion except for "hard" reasons—e.g., to save the mother's life or health, to avoid a handicapped child—or for serious medical need. "Apparently in a number of cases, the experience of having a[n abortion] did not result in a generalized more liberal attitude but forced the girls to rationalize their guilt by considering themselves 'exceptions' to the rule." Zimmerman's later study of a group of abortors noticed a similar phenomenon. "Abortion . . . is legal but, from the standpoint of public acceptance, it is not moral. . . . The women we studied tended to approve only under very restrictive circumstances. . . . Thus, the women appeared to retain the idea that they had committed an immoral act. In order to rescue the inconsistency between this and their moral character, they talked in terms of being forced to have an abortion, of not having had a choice. . . . They cut themselves off from future negative implications by viewing themselves as having changed. They took the position of being a different person now from when they had the abortion."

A third item for reflection comes from Japan, where, since American occupation days, abortion has been the most widely used form of birth control. One could expect that the women of a nation which may have between two and three million induced abortions annually, most of them performed for married women, would have made their accommodations of conscience on that subject long ago. Some public opinion surveys taken during the 1960s suggest it may not be so. Various polls, for example, yielded these responses:

AICHI. 59 percent felt that abortion is something "very bad", 16 percent felt that it is considerably bad, 17 percent felt that it is somewhat bad, and 8 percent thought that it could not be called something bad.

NAGOYA. 67 percent—"I think it [the fetus] is a human life from the moment it is conceived in the womb," 42 percent—[The abortion situation in Japan] is not good, 52 percent—[The abortion situation in Japan] is bad, but it cannot be helped, and 1 percent—"I don't know whether it is good or bad."

NATIONAL. 11 percent—[Abortion] should be prohibited completely, 29 percent—"I think it is something bad," and 48 percent—"I think it is not good, but it cannot be helped."

These few slips of evidence are only suggestive, not conclusive. The question they arouse is: does the massive incidence of elective abortion produce mostly partisan, sympathetic female (and feminist) veterans of the experience, or does it also produce, by abreaction, women who would not willingly send others into the experience? It is a question too difficult to answer at this time, but one cannot simply presume that abortors are, as a public opinon cohort, notably more liberal or permissive towards abortion than others.

After one has set aside the opinion polls that are valueless because the questions they ask are too vague, or invite certain responses, or misstate the issues, or draw on an unrepresentative sample; and after one has disregarded presentations of these survey results that are skewed or selective or blundering or dishonest, one confronts two facts. First, the only situation at law which would do political justice to polled majority opinion in this country over the last fifteen years would be one in which state laws permitted abortion in some circumstances and forbade it in others. The second fact is that, whether through guile or bias or self-deception, the advocates of abortion on demand have not acknowledged the first fact. It does not follow that they need agree with this majority view, but it does follow that in propounding their own more permissive views and in lobbying for them politically, they may not claim with any honesty to be representing a view that prevails in the minds of their fellow citizens.

SEQUELAE

In greatest part, this book is both an inquiry into abortion and an examination of a campaign of persuasion on its behalf, a campaign that would have us believe abortion is a necessary and therefore appropriate remedy for certain urgent problems, personal and social. The more I studied that campaign, its premises and arguments and backwash, the more I saw it as a work of dishonesty and death. Just as wife-killing would surely curb the incidence of wife-battering in America, abortion would surely curb some almost unbearable human miseries. Yet somehow each remedy, though it works, is wrong.

Nowhere in these many pages do I set forth an argument against abortion. Before embarking on this study it would not have occurred to me as necessary: why would one need to argue that mothers and fathers and healers should not destroy their unborn young? At the end of this study I doubt that an argument against abortion is decisive, for one sets one's direction in this great matter more by the will than by the mind. In this life we acknowledge and respect those whom we are willing to accommodate. Our basic attitude towards abortion matches our readiness either to address ourselves to others' needs or to eliminate others when their needs burden us too heavily. I sense an obligation to make some simple exposition of my own understanding about abortion, but it will be more an appeal than an argument. Those who do not wish to rearrange their lives to accommodate a child will not readily be brought to see their unborn as endued with rights or as an envoy of joy—at least not by any argument. Those who know that they have nothing more satisfying to do with their lives than to give others life and its hospitality hardly need to have it explained to them that the stranger appearing unbidden at life's entryway must, before all, be bidden welcome.

I hold that the life of every fellow human must be respected, preserved, and even protected. We must defer to others' lives, not simply to gain and repay a like protection from others, nor just to avoid the penalties of the law, nor merely because every human being has a right to his or her life, a right which deserves priority over every other human right, need, or desire. We must defer for still another reason: if we deal unjust injury or violent death to others, we shall bring upon ourselves a death of the spirit—a violent death. Those who kill, die. And they die when they slay, not later.

I hold that, so far as we best can tell, a human person's life begins at conception. Neither birth nor any transition leading up to it serves as a true beginning, unless we talk biological nonsense. Of course an unborn child does not speak or work or give her or his love to others (nor does a newborn child; nor, for that matter, some people long since born). But it is terribly important that we give the basic protection of life-loyalty to all fellow humans, not only to those who suit us as valuable contributors to society. My position is that no one should have the right or power to decide what qualities or what usefulness others must have to avoid being killed. It is enough to be any human being, no matter how burdensome or troublesome, to merit the right to life.

Abortion, then—the willful and violent killing of an unborn human being—is homicide. By this neutral term I mean simply the killing of a human. We talk of accidental and deliberate and justifiable homicides. Is there such a thing as a justifiable abortion? Here I would argue that if we claim any honesty we must hew to the same principles in evaluating abortion as govern our judgments on any other form of homicide.

Some maintain that all deliberate killing is wrong. Better, they argue, to accept violence at the hands of others than to take up weapons and end ourselves as death-dealers. Others, likewise committed to life, would say that homicide could be justified under certain conditions, e.g., to protect oneself or some innocent third party from mortal, undeserved attack. On the latter view it might be justifiable to destroy a child were that clearly the only way to save his or her mother's life. But there is no consistent, responsible moral way, from either point of view, to justify the killing of innocent offspring to relieve his or her elders of any inconvenience, no matter how severe the distress.

It is no less savage to abort a deformed child than to exterminate a retarded adult. It is no more justifiable to abort a child in order to conceal adultery than to murder a witness about to give evidence in a trial. One cannot fairly allow a child to be destroyed because he or she was conceived by rape or incest, without also allowing the elimination of illegitimate children.

My argument is straightforward. Abortion is homicide: the destruction of a child. Save for the rare, rare instance when it is a mortal threat to a mother's life to carry her child to birth, there is no abortion that is not the unjust taking of another's life because it is a burden to one's own.

Someone has reckoned that a high percentage of the murders in this country find close family or business associates as victims. We have in us this strange and desperate ability, this selfish madness, to blind our mind's eye towards those nearest us, to see them as insignificant, as nothing really human. We depersonalize our victims before killing them. So with abortion.

In opposing it I am in no way insensitive to the plight of mothers who are frightened thirteen-year-olds, or are supporting six children on welfare, or are having to drop out of college because of one night's foolishness. I simply say that these are not misfortunes that justify anyone in raising his or her hand to kill. They are not trivial miseries. But to allege them as cause for abortion reminds me too much of the excuses for the massacre at My Lai, and for the bondage of the slave trade, and for the industrial poisoning at Minamata.

I do not wish to donate on Tuesday to the March of Dimes for medical research on the health of the unborn, and on Thursday to Planned Parenthood to keep crippled children from ever surviving still birth. I want no part of the insanity that sends police into the privacy of homes to stop parents from battering and scalding their four-month-old babies to death, and then uses the same force of law to guarantee the "privacy" of parents to dismember their babies four months before birth. I have no stomach for a society which sees that in many of its homes children are unwanted, and would rather exterminate the children than heal the parents. And though I try to be patient, I do become exasperated when told that since I am a Catholic I have somehow lost my civil right to make public and legal appeal for the lives of the young marked down for death, or that I am imposing my private religious notions on the majority of my fellow citizens, when it is clear to anyone willing to inquire that it is the minority of citizens that presently uses the law to kill.

Women have a right to reproductive freedom I hear it argued, and I agree: all women, even little girls yet unborn who have the right to be free to grow to the age when they in their turn can make love and have babies. Women should have control over their own bodies, it is said, and I agree; but not life-and-death control over the bodies of their children (and in the case of male children, who ever heard of a male part of a female body?). Make abortions illegal, we hear it said, and they will still go on, but in the back streets, and I agree. Yet rape goes on despite our laws; should it no longer be a crime? And if the day came when the nation was no longer willing to go on record that rape was criminal, would there not be more of it? Can anyone who knows that we record 1,500,000 abortions a year in America imagine that most of these would have occurred without the legal protections of 1973? Drive abortion underground, it is said, and young women will die by the septic coathanger. Yes, just as the young women of the Weather Underground who blew themselves up making bombs. I mourn them all, but I mourn more their innocent victims—and differently. Make abortion a criminal act, we hear it said, and only the rich will be able to afford it. Yes, but then the rich have always been better able to afford their vices. I would as soon buy abortions for the poor as buy them heroin. Abortions will go on! Why not at least see that they be done cleanly and safely? Yes, say I, and so shall hatred and murder go on, but I shall not use the tax moneys to give sniper-scopes to the Klan or dumdum bullets to the Mafia.

But back to the point, the chief point, the much-avoided point, the only point at issue: to abort is to destroy one's son or daughter.

[From the Human Life Review]

WATCHING AN ABORTION

(By Magda Denes)

(Magda Denes is a clinical psychologist who had an abortion several years ago, after which she decided to revisit the hospital to observe other abortions, as well as interview members of the medical staff, patients, family members, etc. Her new book, "In Necessity and Sorrow: Life and Death in an Abortion Hospital," is based on that research. This excerpt is taken directly from the book (beginning on page 53 and continuing through page 61) without alteration or ommission, and is reprinted with permission by the publisher, Basic Books, Inc. (Copyright 1976 by Magda Denes, all rights reserved).)

(The author is invited by "Dr Szenes" (all names except the author's are fictitious) to watch a saline abortion; she describes here what she saw, and her reactions to it and to other things she sees in the hospital.—Ed.)

"I have to get back to work, do you want to watch?"

"Very much, thank you."

"Stand here, then," he says, opening the swinging door and pointing me to a strategic corner where I can see but will not be in his way. To the girl he says, "Come in, young lady, I am Dr. Szenes. This is Dr. Denes, she'll be with us for the duration. Okay?" The girl nods, yes. He guides her to the treatment table and hands her over to the nurse who has been silently waiting. The nurse helps the girl onto the table and makes her lie down. She lifts the girl's white hospital gown to her waist and covers her thighs and genitals with a sterile disposable towelette, leaving her round protruding belly exposed: With a small gauze pad she washes the area with alcohol. Meanwhile, Dr. Szenes scrubs his hands at a tiny sink in the corner opposite to mine. "what is your name, young lady?" he asks. "Flo. Florence Sullivan." "Sullivan. Irish, eh? And how old are you?" "Well, my father was Irish. Sixteen and a half." "That's pretty young, to be going through this. When was your last period?" "June or July." "Which?" "June, I guess." "That makes you twenty-two weeks pregnant. Right?" "That's what I was told." The conversation goes on, partly to gather information, partly I suppose to reassure the girl, who looks terrified.

When he is through scrubbing, Szenes stands in front of the nurse, who holds open first a left, then a right sterile rubber glove

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so that the doctor can slip his hands into them. "Now this whole thing should not hurt you," he says, again addressing the girl. "It will be uncomfortable, but it should not hurt." The nurse hands Dr. Szenes a syringe. He expels a little liquid into the air, then injects Flo, near her belly button, just under the skin, holding the syringe parallel to the girl's abdomen. About two seconds later without removing the needle he jerks the syringe upward to make the needle plunge straight down into the abdominal cavity. At this point the needle is invisible and the syringe is completely vertical in the doctor's hands. The injected liquid is 5 cc's of Novocain. Flo winces and her eyes well up, but she remains silent. Szenes smiles at her. "That was the worst part, the rest is apple pie."

The nurse sprays the area with iodine solution, tinting Flo's skin the color of brown mustard. She takes the syringe from the doctor and hands him a needle. It looks enormous. He holds it up to show me. "It is an eighteen-gauge, three-and-a-half-inch long spinal needle. We use this to tap the fetal sac. It works very well." Turning back to the patient he places the needle on the exact spot of the injection and pushes it in to the hilt in one firm fluid motion resembling the choreographed movement of a dancer. Now that the horsing around is over, Szene's first-rate professional competence is unmistakable. There is no reaction from Florence. The needle ends in a pink hub about half an inch long. Holding on to it, Szenes removes the stylet to permit the free flow of amniotic fluid. As he lifts the stylet, I see a little squirt of yellowish liquid shoot up through the pink hub. Szenes says: "That's good. We're doing very well." The nurse hands him a short, thin rubber tube, one end of which he attaches to the needle hub. To the other end of the tube he connects a large syringe. Holding it steady, he slowly pulls the plunger outward, filling the syringe with a thin liquid the color and consistency of urine. He is suctioning out the amniotic fluid. When the syringe is filled he disconnects it from the rubber tube and squirts the liquid into the corner sink. The process is repeated three times—amounting altogether to one hundred and fifty cc's of amniotic fluid removed from Flo's belly.

"How do you feel, young lady? "Fine." Flo's voice is barely audible. Her hands are clutched on her chest, and she is very pale. "Excellent, because we are almost finished. I am going to hook you up now to the saline to replace the fluid we took out. While that's going on, you'll have to tell me whether you feel anything unusual. Like if your face gets flushed or if you suddenly feel numb or very thirsty. Things like that, okay?" Flo nods. "Talking doesn't interfere with this process, you know." The intent is to console, the result is disaster. Flo breaks into racking, body-shaking sobs. Her belly heaves up and down causing the rubber tube to flop about. "Stop it," says Szenes, his voice rising. "Stop it at once, you will dislodge the needle." The nurse, who until now has not uttered a sound, puts her hand on Flo's forehead and says, "Come on, dear, it is almost over." Flo grabs a corner of her folded-up white gown, stuffs it into her mouth and bits down on it. She looks like a broken-hearted three-year-old. For the first time since I have entered the room the context of the scene reasserts itself in my mind. Riveted, I have been watching on the level of pure performance something I have not seen before. Szenes, the nurse, even Flo, have been actors in a dramatic medical procedure, for me to observe and learn first hand. But the sobbing? The hand on the forehead? The rising inflection laden with concern of potential danger? This is no instructional demonstration, and the withdrawn liquid is no urine. It is fluid essential to the life of the child whose heart is beating in the belly of this other child. This other child who lies here, terrified, heartbroken, tormented, sucking on her shirt.

Next to the treatment table there is an intravenous stand about ten feet tall with an inverted bottle hanging from each side of its crossbar. One of the bottles has a long rubber tube attached to it. Szenes removes the short tubing from the hub of the needle in Flo's belly and connects it to the long tube leading from the bottle. The bottle contains hypertonic saline solution. He checks that the flow is steady by lowering and raising the bottle a couple of times, before replacing it on the crossbar of the stand. "I want about two thousand," he says to the nurse. It is evidently her duty now to keep an eye on the amount and the evenness of the flow.

Szenes sits down at a small desk in my corner to make notes in the charts. "Look here," he says to me, pointing to a number that exceeds nine thousand. "What is it?" "The patient's number." "You mean you have done this many?" "Well, not I, the five of us. Four, really, because Dr. Marcus joined us only a couple of hundred ago. I'd say about two thousand apiece, give or take a few."

The words of a pamphlet I had picked up weeks ago come back: "As a result of the concentrated solution of saline in the uterus the fetus will not survive more than a few hours after the injection." There is no way then to assert, except by pretense, that what is being salinated in its mother's womb is not alive or not human. There is no way to say that this is not a type of murder. And yet, there is no way to say that it would not be just as surely murder more cold and vengeful, to force little Flo to give birth to her bastard.

This is no floor for self-assurance. No floor to feel good about anything.

"Okay," says Dr. Szenes, getting up and checking the bottle. "I think we can remove this now." He disconnects the bottle, retracts the needle, and the nurse puts an adhesive stip on the tiny puncture site. "Do you feel all right?" Flo nods. "You can go back to your room now. Lie down for a half-hour. Then drink two glasses of water. After that, you can walk around. Watch TV. Make phone calls, whatever you want to do. When dinner comes you must eat it all whether you like it or not. All of it. After dinner you are to stay in bed. The house doctor will come to your room and put an intravenous needle in your arm. Once that's done you may not move at all, nor eat or drink anything. The IV contains glucose to nourish you and a medicine called Pitocin to stimulate labor. If the cramps get bad you can ask the nurse for some Demerol, a pain killer. You must ask for it if you want it, because the nurses can't tell when your pains get really bad. Don't believe anyone who says it retards labor. It does nothing of the sort. With any luck, you should be all done twenty-four hours after the IV is inserted. Any questions?" Flo has climbed off the table and is adjusting her gown in the back, where it is open, in preparation for leaving. She says, "No." "Fine. Good day, young lady." Flo leaves, and Szenes sticks his head out the door: "Next please."

I look at my watch. Fifteen minutes have passed since I entered the room. I am drenched in sweat. I have a bellyache. I gather my stuff together. "Oh, you are leaving?" "Yes. I think so. Thank you very much. And I'd like to come back later if I may." "Any time, a pleasure." I walk out as I hear him begin to explain the procedure to the new girl in the room, who is black, whose name is Joan, and whose age is thirteen.

I do not get to see Flo deliver. In fact, I do not see anyone deliver for a very long time.

Once the IV is inserted the patients are confined to bed, and they deliver there, anywhere from twenty-four to thirty-six hours later. The precise moment is unpredictable. The process is exactly like giving birth to a child: cramps, water-break, fetus, placenta, end. Although I frequently hear screams from this room and that, I am somehow never in the right room at the right time. "Did your water break?" "Yes." "Then you'll deliver very soon." "Within the hour, I was told." "Oh my God, it's ten to four, I have to be in my office at four o'clock. Goodbye. Good luck." I never invent my excuses, they just come up. Repeatedly.

I decide to put an end to my stalling and spend an uninterrupted afternoon on the floor. Nothing happens, not even screaming. Toward evening I turn in desperation to one of the nurses. "Isn't anybody going to give birth today?" Before she can open her mouth, her face tells me that I have spat in the soup. "Doctor, that is not what happens here." "I am sorry, I mean deliver a baby, I mean fetus. To hell with it, nurse, I am going home. Good night."

The next afternoon I return determined, regardless of where I am at the time of delivery, to look inside the buckets.

Two doors down from the nurses' station there is a little room with several large garbage cans, each nealty marked for different types of garbage, and a medium-sized table on top of which stand paper buckets—the type in which one buys fried chicken from take-home stores. The buckets are covered with their paper lids. Attached to each lid there is a white cardboard label bearing—printed in ink—the mother's name, the doctor's name, the time of delivery, the sex of the item, the time of gestation. Inside each bucket, I have been told, there is a fetus and its placenta stored in formaldehyde. At the end of the day the buckets are transferred to the laboratory where the contents are examined for abnormalities. That done, they are collected in a large plastic bag, and a special messenger takes them to a sister hospital in possession of an incinerator. There they are burned.

I ask the nurse on duty for some rubber gloves. "What size?" she asks. I am unaware that they come in sizes. Somehow I always thought that they were one-size-fits-all stretch. I hold up my left hand to show her its size. She misunderstands the gesture and says astonished: "You want size five gloves?" No, I mean six," I answer, faking it. "I have only six and a halves." "That's fine, thank you." I have learned that with nurses I must disguise my ignorance of medical matters, otherwise they become suspicious of my right to do whatever I am doing and they put obstacles in my way.

I go into the little room, place my stuff on the floor next to the garbage cans, and pull on the gloves. Their fit is remarkable. My hands feel completely protected without any noticeable loss of agility. I enjoy very much having them on. I touch several objects at random—my pencil, the curving outside of a bucket, the edge of the table, the handle of my briefcase, my nose—and I am delighted with the experience of false contact. My hands can gather accurate information without being in the slightest way exposed. I can touch anything, I think, and feel what it is, and yet it can not touch me. A paradise of one sidedness. I have a vague sense that there is some kind of parable hidden in the experience, but I cannot arrive at it in words. Besides, I am also a little ashamed that I can stand in this garbage-can-filled graveyard, playing with gloves.

Planting myself in front of the table, balanced, legs slightly apart, I remove with one hand the lid of a bucket. The sharp fumes of formaldehyde instantly hurt the insides of my nose and throat. The smell also brings with it the long-forgotten memory of fetal pigs. The association strikes me as unseemly; nevertheless I remember, with unwanted total recall, the misery of my sophomore year in college, when in Bio. I., every Wednesday from three to five, for six months, we dissected the fetal pig. On the first day of class the instructor brought in a huge container filled with formaldehyde and floating pigs. He fished out one pig for each student, tagged with the student's last name, giving the impression that the pig was a lost, finally returned relative, in regrettable shape. My English at the time was very poor so that it took me weeks to catch on why the pigs were so small. I thought "fetal" was a brand name like "Jersey" for cows. When I did catch on, I cut classes for a month. That entire semester I would at odd and inconvenient moments think that I could smell the burning odor of mildly decomposed flesh stored in acid.

I look inside the bucket in front of me. There is a small naked person in there floating in a bloody liquid—plainly the tragic victim of a drowning accident. But then perhaps this was no accident, because the body is purple with bruises and the face has the agonized tautness of one forced to die too soon. Death overtakes me in a rush of madness. Oh yes, I have seen this before. The face of a Russian soldier lying on a frozen snow-covered hill, stiff with death and cold—on one hand an erect, bloody stump, where someone has cut off his ring finger to get at his wedding band. Oh yes, I have seen this face before, on humans and on a castrated horse, left lying in its blood across some unrooted streetcar tracks by someone demented with hunger who thought he had found food. Oh yes, I am no stranger here—I have brains spilled on sidewalks and hearts crushed forever with one blow. Who says you can't go home again? A death factory is the same anywhere, and the agony of early death is the same anywhere.

I take the lid off all the buckets. All of them. I reach up to the shelf above this bucket graveyard tabletop and take down a pair of forceps. With them I pull aside in each bucket the placenta, which looks like a concerous mushroom shrouding the fetus. With the forceps I lift the fetuses, one by one. I lift them by an arm or a leg, leaving, as I return them again, an additional bruise on their purple, wrinkled, acid-soaked flesh. I have evidently gone mad. I carry on the examination, whose sole purpose by now is to increase the unbearable anguish in my heart. Finally, I lift a very large fetus whose position is such that, rather than its face, I first see its swollen testicles and abnormally large stiff penis. I look at the label. Mother's name: Catherine Atkins; doctor's name: Saul Marcus; sex of item: male; time of gestation: twenty-four weeks. I remember Catherine. She is seventeen, a very pretty blond girl. Not very bright. This is Master Atkins—to be burned tomorrow—who died like a hero to save his mother's life. Might he have become someday the only one to truly love her? The only one to mourn her death?

"Nurse, nurse," I shout, taking off my fancy gloves. "Cover them up."

New Perspectives on Human Abortion

(Edited by Thomas W. Hilgers, M.D., Dennis J. Horan, and David Mall)

THE EXPERIENCE OF PAIN BY THE UNBORN

One aspect of the abortion question which has not been adequately investigated is the pain experienced by the object of an abortion. The subject has clearly little attraction for the pro-abortion party, whose interest lies in persuading the public that the unborn are not human and even in propagating the view that they are not alive. Indeed, in a remarkable judicial opinion Judge Clement Haynsworth has written, "The Supreme Court declared the fetus in the womb is not alive. . . ." [1] Judge Haynsworth's statement is merely a resolution of the oxymoron "potential life," which is the term chosen by the Supreme Court of the United States to characterize the unborn in the last two months of pregnancy.[2] Before that point, the unborn are referred to by the Court as alive only according to one "theory of life";[3] and as the phrase "potential life" appears to deny the actuality of life, Judge Haynsworth does not exaggerate in finding that, by definition of our highest court, the unborn are not alive. From this perspective, it is folly to explore the pain experienced. Does a stone feel pain? If you know as a matter of definition that the being who is aborted is not alive, you have in effect successfuly bypassed any question of its suffering.

It is more difficult to say why the investigation has not been pursued in depth by those opposed to abortion. The basic reason, I believe, is the sense that the pain inflicted by abortion is of secondary importance to the intolerable taking of life. The right to life which is fundamental to the enjoyment of every other human right has been the focus. That suffering may be experienced by those who are losing their lives has been taken for granted, but it has not been the subject of special inquiry or outrage. The assumption has been that if the killing is stopped, the pain attendant on it will stop too, and it has not seemed necessary to consider the question of pain by itself. In this respect those opposed to abortion have been, like most medical researchers, concentrating on a cure not for the pain but the the disease.

There are good reasons, however, for looking at the question of pain by itself. We live in a society of highly developed humanitarian feeling, a society likely to respond to an appeal to empathy. To those concerned with the defense of life, it makes no difference whether the life taken is that of a person who is unconscious or drugged or drunk or in full possession of his senses; A life has been destroyed. But there are those who either will not respond to argument about killing because they regard the unborn as a kind of abstraction, or who will not look at actual photographs of the aborted because they find the fact of death too strong to contemplate, but who nonetheless might respond to evidence of pain suffered in the process of abortion. In medical research it has proved useful to isolate pain as a phenomenon distinct from disease, so it may be useful here.[4]

The analogy of animals

The best indication that attention to the pain of the unborn may have social consequences is afforded by the example of humanitarian activity on behalf of animals. Let me offer three cases where substantial reform was effected by concentrating on the pain the animals experienced. In each case it was accepted that animals would die, whatever reform was enacted; an appeal on their behalf could not be based on an aversion to putting animals to death. The only forceful argument was that the way in which the animals were killed was cruel because it was painful to the animals.

The first case is that of trapping animals by gins—traps that spring shut upon the animal, wound it, and hold it to die over a probably protracted period. A campaign was launched in England against this method of trapping in 1928, and after thirty years Parliament responded by banning such trapping.[5] A second case is the butchering of cattle for meat. The way in which this was for centuries carried out was painful to the animal being slaughtered. A typical modern statute is the law in California which became effective only in 1968—all cattle are to be rendered insensible by any means that is "rapid and effective" before being "cut, shackled, hoisted, thrown or cast." Or, if the animals are being slaughtered for kosher use, their consciousness must be destroyed by "the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument."[6] A third case: a 1972 California statute regulates in detail the methods by which impounded dogs or cats may be killed. If carbon monoxide is used, the gas chamber must be lighted so that the animal's collapse can be monitored. A newborn dog or cat may not be killed other than by drugs, chloroform, or a decompression chamber. The use of nitrogen gas to kill an older dog or cat is regulated in terms of an oxygen reduction to be reached within sixty seconds.[7] Each of these laws has a single goal: to assure that the animal not suffer as it dies.

It may seem paradoxical, if not perverse, to defend the unborn by considering what has been done for animals. But the animal analogies are instructive on three counts: they show what can be done if empathy with suffering is awakened. They make possible an *a fortiori* case—if you will do this for an animal, why not for a child? And they exhibit a successful response to the most difficult question when the pain of a being without language is addressed—how do we know what is being experienced?

The inference of pain

Our normal way of knowing whether someone is in pain is for the person to use language affirming that he or she is suffering.[8] This behavior is taken as a sign, not necessarily infallible but usually accurate, that the person is in pain. By it we can not only detect the presence of pain but begin to measure its threshold, its intensity, and its tolerability. Infants, the unborn, and animals have no conceptual language in which to express their suffering and its degree.

Human infants and all animals brought up by parents will cry and scream.[9] Every human parent becomes adept at discriminating between a baby's cry of pain and a baby's cry of fatigue or of anxiety. How do we distinguish? By knowing that babies are human, by empathizing, by interpreting the

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Footnotes at end of article.

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context of the cry. We also proceed by trial and error: this cry will end if a pain is removed, this cry will end if the baby falls asleep. But animals, we know, are not human and are, in many significant ways, not like us. How do we interpret their cries or their wriggling as pain reactions if they are silent?

What we do with animals to be able to say that they are in pain is precisely what we do with the newborn and the infant: we empathize. We suppose for this purpose that animals are, in fact, "like us," and we interpret the context of the cry. We also proceed by trial and error, determining what stimuli need to be removed to end the animal's reaction.[10] We are not concerned with whether the animal's higher consciousness, its memory and its ability to understand cause and to forecast results, are different from our own, even though we know that for us the development of our consciousness, our memory, our understanding, and our sense of anticipation all may affect our experience of pain. With animals, we respond when we hear or see the physical sign we interpret as a symptom of distress.

Once we have made the leap that permits us to identify with animals, we do not need to dwell on the overt signs of physical distress. All we need is knowledge that an injury has been inflicted to understand that the animal will be in pain. Consider, by way of illustration, this passage on the cruelties of whaling: "A lacerated wound is inflicted with an explosive charge, and the whale, a highly sensitive mammal, then tows a 300-ton boat for a long time, a substantial fraction of an hour, by means of a harpoon pulling in the wound."[11] The author does not particularize any behavior of the wounded whale beyond its labor tugging the whaleboat, nor does he need to. We perceive the situation and the whale's agony. In a similar way the cruelty involved in hunting seals is shown by pointing to their being shot and left to die on the ice.[12] The pain of the dying seal is left to imaginative empathy.

We are, in our arguments about animal suffering and in our social response to them, willing to generalize from our own experience of pain and our knowledge of what causes pain to us. We know that pain requires a force inflicting bodily injury and that, for the ordinary sentient being who is not drugged or hypnotized, the presence of such a force will occasion pain. When we see such a force wounding any animal we are willing to say that the animal feels pain.

The nature of pain

If we pursue the question more deeply, however, we meet a question of mixed philosophical-psychological character. What is pain? Pain has in the past been identified with "an unpleasant quality in the sense of touch." Pain has also been identified with "unpleasantness," understood as "the awareness of harm." [13] In the analysis of Thomas Aquinas, *dolor* requires the deprivation of a good together with perception of the deprivation. *Dolor* is categorized as interior *dolor*, which is consequent on something being apprehended by the imagination or by reason, and exterior *dolor*, which is consequent on something being apprehended by the senses and especially by the sense of touch.[14] The Thomistic definition of exterior *dolor*, while general, is not incongruent with a modern understanding of pain, which requires both harmful action on the body and perception of the action. It has been observed that pain also has a motivational component: part of the pain response is avoidance of the cause of the pain.[15] In the words of Ronald Melzack, a modern pioneer in work on pain, "The complex sequences of behavior that characterize pain are determined by sensory, motivational, and cognitive processes that act on motor mechanisms." [16]

Pain, then, while it may be given a general definition, turns out upon investigation to consist of a series of specific responses involving different levels and kinds of activity in the human organism. Melzack has put forward a "gating theory" of pain, in which the key to these responses is the interaction between stimuli and inhibitory controls in the spinal column and in the brain which modulate the intensity and reception of the stimuli.[17] Melzack's theory requires the postulation of control centers, and it is not free from controversy.[18] Yet in main outline it persuasively explains a large number of pain phenomena in terms of stimuli and inhibitors.

To take one illustration at the level of common experience, if someone picks up a cup of hot liquid, his or her response may vary depending on whether the cup is paper or porcelain. The paper cup may be dropped to the ground; an equally hot porcelain cup may be jerkily set back on the table. What is often looked at as a simple reflex response to heat is modified by cognition.[19] To take a more gruesome experience, a number of soldiers severely wounded on the beach at Anzio told physicians in the field hospital that they felt no pain; they were overwhelmingly glad to be alive and off the beach. The same wounds inflicted on civilians would have been experienced as agonizing.[20] For a third example, childbirth without anesthesia is experienced as more or less painful depending on the cultural conditioning which surrounds it.[21]

As all of these examples suggest, both the culture and specific experiences play a part in the perception of pain. Memory, anticipation, and understanding of the cause all affect the perception. It is inferable that that brain is able to control and inhibit the pain response. In Melzack's hypothesis, the gating mechanism controlling the sensory inputs which are perceived as painful operates "at successive synapses at any level of the central nervous system in the course of filtering of the sensory input." [22] In this fundamental account, "the presence or absence of pain is determined by the balance between the sensory and the central inputs to the gate control system." [23]

What is the nature of the sensory inputs? There are a large number of sensory fibers which are receptors and transmitters, receiving and transmitting information about pressure, temperature, and chemical changes at the skin. These transmissions have both temporal and spatial patterns. It is these patterns which will be received as painful at certain levels of intensity and duration when the impulses are uninhibited by any modulation from the spiral column or brain.[24]

The experience of the unborn

For the unborn to experience pain there must be sense receptors capable of receiving information about pressure, temperature, and cutaneous chemical change; the sense receptors must also be capable of transmitting that information to cells able to apprehend it and respond to it.

By what point do such receptors exist? To answer this question, the observation of physical development must be combined with the observation of physical behavior. As early as the 56th day of gestation the child has been observed to move in the womb.[25] In Liley's hypothesis, "the development of structure and the development of function go hand in hand. Fetal comfort determines fetal position, and fetal movement is necessary for a proper development of fetal bones and joints." [26] If fetal bones and joints are beginning to develop this early, movement is necessary to the structural growth; and if Liley is correct, the occasion of movement is discomfort or pain. Hence, there would be some pain receptors present before the end of the second month. A physiologist places about the same point—day 59 or 60—the observation of "spinal reflexes" in the child. Tactile stimulation of the mouth produces a reflex action, and sensory receptors are present in the simple nerve endings of the mouth.[27] Somewhere between day 60 and day 77 sensitivity to touch develops in the genital and anal areas.[28] In the same period, the child begins to swallow. The rate of swallowing will vary with the sweetness of the injection.[29] By day 77 both the palms of the hands and the soles of the feet will also respond to touch; by the same day, eyelids have been observed to squint to close out light.[30]

A standard treatise on human physiological development puts between day 90 and day 120 the beginning of differentiation of "the general sense organs," described as "free nerve terminations (responding to pain, temperature, and common chemicals), lamellated corpuscles (responding to deep pressure), tactile corpuscles, neuromuscular spindles, and neurotendinous end organs (responding to light and deep pressure)." [31] But as responses to touch, pressure, and light precede this period, visible differentiation must be preceded by a period in which these "general sense organs" are functioning.

The cerebral cortex is not developed at this early stage; even at 12 to 16 weeks it is only 30 percent to 40 percent developed.[32] It is consequently a fair conclusion that the cognitive input into any pain reaction will be low in these early months. Neither memory nor anticipation of results can be expected to affect what is experienced. The unborn at this stage will be like certain Scotch terriers, raised in isolation for experimental purposes, who had no motivational pain responses when their noses encountered lighted matches; they were unaware of noxious signals in their environment.[33] But if both sensory receptors and spinal column are involved, may one say with assurance that the reception of strong sense impressions causes no pain? It would seem clear that the reactions of the unborn to stimuli like light and pressure are the motivational responses we associate with pain. We say that a sense receptor is there because there is a response to touch and a taste receptor because there is a response to taste. By the same token we are able to say that pain receptors are present when evasive action follows the intrusion of pressure or light, or when injection of a disagreeable fluid lowers the rate of swallowing. Liley is categorical in affirming that the unborn feel pain.[34] His conclusion has recently been confirmed by an American researcher, Mortimer Rosen, who believes the unborn respond to touch, taste, and pain.[35]

While the likelihood of weak participation by the cerebral cortex will work against the magnification of the pain, there will also be an absence of the inhibitory input from the brain which modulates and balances the sensory input in more developed beings. Consequently, the possibility exists of smaller and weaker sensory inputs having the same effect which later in achieved only by larger and stronger sensations.

As the sensory apparatus continues to grow, so does the cerebral cortex: light stimuli can evoke electrical response in the cerebral cortex between the sixth and seventh months.[36] By this time there will be a substantial cerebral participation in pain perception together with the likelihood of greater brain control of the sensory input. If a child is delivered from the womb at this date, he or she may shed tears. He or she will cry.[37] As we do with other newborns, we interpret these signs in terms of their context and may find them to be signs of pain. What we conclude about the delivered child can with equal force be concluded about the child still in the womb in months six through nine: that unborn child has developed capacity for pain.

In summary, beginning with the presence of sense receptors and spinal responses, there is as much reason to believe that the unborn are capable of pain as that they are capable of sensation. The ability to feel pain grows together with the development of inhibitors capable of modulating the pain. By the sixth month, the child in the womb has a capacity for feeling and expressing pain comparable to the capacity of the same child delivered from the womb. The observation sometimes made that we don't remember prenatal pains applies with equal force to the pains of being born or the pain of early infancy. Memory, it must be supposed, suppresses much more than it recalls. If we remember nothing about life before birth or life before three or four, it may even be that some recollections are painful enough to invoke the suppressive function of our memory; life in the womb is not entirely comfortable.

The experience of pain in an abortion

The principal modern means of abortion are these. In early pregnancy sharp curettage is practiced: a knife is used to kill the unborn child.[38] Alternatively, suction curettage is employed: a vacuum pump sucks up the unborn child by bits and pieces, and a knife detaches the remaining parts.[39] In the second trimester of pregnancy and later a hypertonic saline solution is injected into the amniotic fluid surrounding the fetus. The salt appears to act as a poison;[40] the skin of the affected child appears, on delivery, to have been soaked in acid.[41] Alternatively, prostaglandins are given to the mother; in sufficient dosage they will constrict the circulation and impair the cardiac functioning of the fetus.[42] The child may be delivered dead or die after delivery.[43]

Are these experiences painful? The application of a sharp knife to the skin and the destruction of vital tissue cannot but be a painful experience for any sentient creature. It lasts for about ten minutes.[44] Being subjected to a vacuum is painful, as is dismemberment by suction. The time from the creation of the vacuum to the chief destruction of the child again is about ten minutes.[45] Hypertonic saline solution causes what is described as "exquisite and severe pain" if, by accident during an abortion, it enters subcutaneously the body of the woman having the abortion.[46] It is inferable that the unborn would have an analogous experience lasting some two hours, as the saline solution takes about this long to work before the fetal heart stops.[47] The impact of prostaglandins constricting the circulation of the blood or impairing the heart must be analogous to that when these phenomena occur in born children: they are not pleasant. If, as has been known to happen, a child survives saline of prostaglandin poisoning and is born alive, the child will be functioning with diminished capacity in such vital functions as breathing and cardiac action.[48] Such impaired functioning is ordinarily experienced as painful.

Do the anesthetics the mother has received lessen the pain of the child? It is entirely possible that some drugs will cross the placenta and enter the child's system, causing drowsiness. Anesthesia, however, is not administered to the gravida with the welfare of her child in mind, nor do the anesthetics ordinarily used prevent the mother from serious pain if she is accidentally affected by the saline solution. It may be inferred the child is not protected either. Is it possible that the abortifacient agent destroys the pain receptors and the capability of a pain response earlier than it ends the life of the unborn, so that there is a period of unconsciousness in which pain is not experienced? This is possible in curettage by knife or suction, but it would seem to occur haphazardly, since stunning the child is not the conscious aim of the physician performing the abortion. In saline or prostaglandin poisoning it seems unlikely that the pain apparatus is quickly destroyed. An observation of Melzack is of particular pertinence: the local injection of hypertonic saline opens the spinal gate, he has remarked, and evokes severe pain. At the same time, it raises the level of the inhibitors and closes the gate to subsequent injections.[49] From this it may be inferred that an unborn child subjected to repeated attempts at abortion by saline solution—the baby in the *Edelin* case was such a child [50]—suffers a good deal the first time and much less on the second and third efforts. The general observation of Melzack on the mechanism of pain is also worth recalling: any lesion which impairs the tonic inhibitory influence from the brain opens the gate, with a consequent increase of pain.[51] Any method of abortion which results first in damage to the cortex may have the initial effect of increasing the pain sensations.

From the review of the methods used, we may conclude that as soon as a pain mechanism is present in the fetus—possibly as early as day 56—the methods used will cause pain. The pain is more substantial and lasts longer the later the abortion is. It is most severe and lasts the longest when the method is saline poisoning.

Whatever the method used, the unborn are experiencing the greatest of bodily evils, the ending of their lives.[52] They are undergoing the death agony. However inarticulate, however slight their cognitive powers, however rudimentary their sensations, they are sentient creatures undergoing the disintegration of their being and the termination of their vital capabilities. That experience is painful in itself. That is why an observer like Magda Denes, looking at the body of an aborted child, can remark that the face of the child has "the agonized tautness of one forced to die too soon." [53] The agony is universal.

CONCLUSION

There are no laws which regulate the suffering of the aborted like those sparing pain to dying animals. There is nothing like the requirement that consciousness must be destroyed by "rapid and effective" methods as it is for cattle; nothing regulating the use of the vacuum pump the way the decompression chamber for dogs is regulated; nothing like the safeguard extended even to newborn kittens that only a humane mode of death may be employed. So absolute has been the liberty given the gravida by the Supreme Court that even the prohibition of the saline method by a state has been held to violate the Constitution.[54] The Supreme Court has acted as though it is believed that its own fiat could alter reality and as if the human fetus is not alive.

Can human beings who understand what may be done for animals and what cannot be done for unborn humans want this inequality of treatment to continue? We are not bound to animals to the same degree as we are bound to human beings because we lack a common destiny, but we are bound to animals as fellow creatures, and as God loves them out of charity, so must we who are called to imitate God.[55] It is a sign not of error or weakness but of Christlike compassion to love animals. Can those who feel for the harpooned whale not be touched by the situation of the salt-soaked baby? We should not despair of urging further the consciences of those who have curtailed their convenience to spare suffering to other sentient creatures.

With keener sensibilities and more developed inhibitors than animals, we are able to empathize with their pain. By the same token, we are able to empathize with the aborted. We can comprehend what they must undergo. All of our knowledge of pain is by empathy: we do not feel another's pain directly. That is why the pain of others is so tolerable for us. But if we begin to empathize, we may begin to feel what is intolerable.

We are bound to the beings in the human womb by the common experience of pain we have also known in the womb. We are bound to them as well by a common destiny, to share eternal life. As fellow wayfarers, we are bound to try to save them from a premature departure. We can begin to save them by communicating our knowledge of the suffering they must experience.

FOOTNOTES

[1] Floyd v. Anders, 440 F. Supp. 535, 539 (D. S.C. 1977).

[2] Roe v. Wade, 410 U.S. 113, 162 (1973).

[3] Id. at 163.

[4] On the usefulness of looking at pain as a separate phenomenon, see Ronald Melzack, *The Puzzle of Pain* (New York: Basic Books, 1973), pp. 9–10.

[5] C. W. Hume, *Man and Beast* (London: Universities Federation for Animal Welfare, 1962), p. 214.

[6] CAL. AGRIC. CODE § 19 (1967).

[7] CAL. PENAL CODE §§ 597 v. and w. (1978).

[8] John S. Liebeskind and Linda A. Paul, "Psychological and Physiological Mechanisms of Pain," *American Review of Psychology* 28 (1977):42.

[9] As to parentally cared-for animals, see Hume, op. cit., p. 45.

[10] Ibid., pp. 94–95.

[11] Ibid., p. 215.

[12] Ibid., pp. 215–216.

[13] Edward Boring, *Pain Sensations and Reactions* (Baltimore: The Williams and Wilkins Co., 1952), pp. v–vi.

[14] Thomas Aquinas, *Summa Theologica*, I-II, q. 35, art. 7.

[15] Melzack, op. cit., p. 163.

[16] Ibid., p. 165.

[17] Ibid., pp. 158–166.

[18] *See* Liebeskind and Paul, op. cit., p. 47.

[19] Cf. Melzack, op. cit., pp. 29–31.

[20] Ibid., pp. 29–30.

[21] Ibid., p. 22.

[22] Ibid., p. 166.

[23] Ibid., p. 171.

[24] Ibid., p. 158.

[25] A. William Liley: The foetus as personality. *Australia and New Zealand Journal of Psychiatry* 6:99, 1972.

[26] A. William Liley, "Experiments with Uterine and Fetal Instrumentation," in *Intrauterine Fetal Visualisation*, ed. Michael M. Kuback and Carlo Valenti (Oxford: Excerpta Medica; New York: American Elsevier Publishing Co., 1976), p. 75.

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[27] P.S. Timiras, *Developmental Physiology and Aging* (New York: The Macmillan Company, 1972), p. 153.

[28] Ibid., p. 153.

[29] Liley: The foetus as personality. Op. cit., p. 192.

[30] Trypena Humphrey, "The Development of Human Fetal Activity and Its Relation to Postnatal Behaviour," in *Advances in Child Development and Behavior*, ed. Hayne W. Reese and Lewis P. Lipsitt (New York: Academy Press, 1973), pp. 12, 19.

[31] Timiras, op. cit., p. 137.

[32] Geoffrey S. Dawes, *Fetal and Neonatal Physiology* (Chicago: Year Book Medical Publishers, 1968), p. 126.

[33] Melzack, op. cit., p. 28.

[34] Liley: Experiments with Uterine and Fetal Instrumentation. Op. cit.

[35] Mortimer Rosen, "The Secret Brain: Learning Before Birth," *Harper's*, April 1978, p. 46.

[36] Timiras, op. cit., p. 149.

[37] Paul Mussen, John Congar, and Jerome Kagan, *Child Development and Personality*, 2nd ed. (New York: Harper and Row, 1963), p. 65.

[38] Louis M. Hellman and Jack A. Pritchard, eds., *Williams Obstetrics*, 14th ed. (New York: Appleton-Century-Crofts, 1971), p. 1089.

[39] Selig Neubardt and Harold Schwelman, *Techniques of Abortion* (Boston: Little, Brown and Company, 1972), pp. 46–47.

[40] Ibid., p. 68.

[41] Magda Denes, *In Necessity and Sorrow: Life and Death in an Abortion Hospital* (New York: Basic Books, 1976), p. 27.

[42] Sultan M.M. Karim, *Prostaglandins and Reproduction* (Baltimore: University Park Press, 1975), p. 107.

[43] *See* Floyd v. Anders, 440 F. Supp. 535 (D.S.C. 1977), for a case where the child died after delivery.

[44] André Hellegers, director of the Joseph and Rose Kennedy Institute, to the author, oral communication.

[45] Id.

[46] Neubardt and Schwelman, op. cit., p. 68.

[47] Karim, op. cit., 107.

[48] *See* A.I. Csapo et al.: Termination of pregnancy with double prostaglandin input. *American Journal of Obstetrics and Gynecology* 124:1, 1976.

[49] Melzack, op. cit., 181–182.

[50] Commonwealth v. Edelin,—Mass., 359 N.E.2d 4 (1976).

[51] Melzack, op. cit., p. 171.

[52] Thomas Aquinas, *Summa contra Gentiles* 4, 52.

[53] Denes, op. cit., p. 60.

[54] Planned Parenthood v. Danforth, 428 U.S. 52 (1976).

[55] Thomas Aquinas, *Summa Theologica*, II-II, q. 25, art. 3, reply to objection 3.

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Abortion: The Dreaded Complication

(By Liz Jeffries and Rick Edmonds)

Although abortions remain one of the major ethical controversies of our time, the fact is that an abortion has become the most common medical procedure performed on adults in the United States. More than a million and a half fetuses are aborted annually, and the number has increased about 50 percent from five years ago. At present, approximately one out of every four pregnancies is terminated by an abortion. American doctors remove more fetuses than tonsils.

But despite the intense attention the subject has received and the frequency with which the procedure is performed, something happens in a very small number of abortions, performed relatively late in the pregnancy, that no one wants to talk about. It horrifies many of the medical personnel who have encountered it.

What happens is that about once a day, somewhere in the U.S., something goes wrong and an abortion results in a live baby.

A woman's scream broke the late-night quiet and brought two young obstetrical nurses rushing to Room 4456 of the University of Nebraska Medical Center. The patient, admitted for an abortion, had been injected 30 hours earlier with a salt solution, which normally kills the fetus and causes the patient to deliver a mass of lifeless tissue, in a process similar to a miscarriage.

This time, though, something had gone wrong. When nurse Marilyn Wilson flicked on the lights and pulled back the covers, she found, instead of the stillborn fetus she'd expected, a live 2½-pound baby boy, crying and moving his arms and legs there on the bed.

Dismayed, the second nurse, Joanie Fuchs, gathered the squirming infant in loose bedcovers, dashed down the corridor and called to the other nurses for help. She did not take the baby to an intensive care nursery, but deposited it instead on the stainless steel drainboard of a sink in the maternity unit's Dirty Utility Room—a large closet where bedpans are emptied and dirty linens stored. Other nurses and a resident doctor gathered and gaped.

Finally, a head nurse telephoned the patient's physician, Dr. C. J. LaBenz, at home, apparently waking him.

"He told me to leave it where it was," the head nurse testified later, "just to watch it for a few minutes, that it would probably die in a few minutes."

This was in Omaha, in September 1979. It was nothing new. Hundreds of times a year in the United States, an aborted fetus emerges from the womb kicking and alive. Some survive. A baby girl in Florida, rescued by nurses who found her lying in a bedpan, is 5 years old now and doing well. Most die. The Omaha baby lasted barely 2½ hours after he was put in the closet with the dirty linen.

Always, their arrival is met with shock, dismay and confusion.

When such a baby is allowed to die and the incident becomes known, the authorities often try to prosecute the doctor. This has happened several dozen times in the past eight years, most recently in the case of Dr. LaBenz, who is to go on trial in Omaha this fall on two counts of criminal abortion. But interviews with nurses, some of them visibly anguished, uncovered dozens of similar cases that never reached public attention.

In fact, for every case that does become known, a hundred probably go unreported. Dr. Willard Cates, an expert on medical statistics who is chief of abortion surveillance for the Center for Disease Control in Atlanta, estimates that 400 to 500 abortion live births occur every year in the United States. That is only a tiny fraction of the nation's 1.5 million annual abortions. Still, it means that these unintended live births are literally an everyday occurence.

They are little known because organized medicine, from fear of public clamor and legal action, treats them more as an embarrassment to be hushed up than a problem to be solved. "It's like turning yourself in to the IRS for an audit," Cates said. "What is there to gain? The tendency is not to report because there are only negative incentives."

One result of the medical community's failure to openly acknowledge the problem is that many hospitals and clinics give their staffs no guidelines for dealing with abortion live births. Even where guidelines exist, they may not be followed. The doctor is seldom present when a live birth occurs, because most late abortions—those done later than the midpoint of pregnancy—are performed by the injection of a solution (the method used in the Omaha case) that slowly induces delivery of the fetus many hours later. Crucial decisions therefore fall to nurses and physician residents with secondary authority over the case.

Signs of life in the baby may or may not be recognized. At some hospitals a liveborn abortion baby is presumed dead unless it conspicuously demonstrates otherwise, by crying or waving its arms and legs. Even then, the medical personnel on the scene may let the bably die rather than try to save it.

Because they are premature, these infants need immediate care, including machine support, in order to live. Given such care, many can survive in good health, as did a pair of abortion babies born in separate incidents in Wilmington, Del., in the spring of 1979 and since adopted. Others are too premature to be saved even with the best care.

Whether they live or die, these abortion live births—and even successful, routine abortions of late-term, highly developed fetuses—are taking a heavy emotional toll on medical staffs across the country. Some physicians say they have "burned out" and have stopped doing abortions altogether. Nursing staffs at hospitals in Cleveland, Grand Rapids, Fort Lauderdale and elsewhere have rebelled at late abortions and have stopped their hospitals from performing any abortions later than the midpoint of pregnancy. Some staff members who regularly perform later abortions report having nightmares about fetuses including recurring dreams in which they frantically seek to hide fetuses from others.

In legalizing abortions in 1973, the Supreme Court said it was reserving the right to protect the life of a viable fetus—that is, one with the potential to survive outside the womb. But the court never directly acknowledged the chance of an aborted fetus being born alive. And it therefore neven gave a clear guideline for dealing with what Dr. Thomas Kerenyi, a leading New York expert on abortions, has called "the dreaded complication."

Twenty states (including Pennsylvania, New Jersey and Delaware) have no laws limiting late abortions or mandating care for live-born abortion babies. Even where such state laws exist, they have usually been found unenforceable in practice or unconstitutional.

"Everyone—doctors, attorney, state legislators—is looking for some clear guidelines concerning disposition of these infants," said Newman Flanagan, district attorney for the City of Boston. "If a baby has rejected an abortion and lives, then it is a person under the Constitution. As such, it has a basic right to life. Unfortunately, it is difficult to protect that right, because there are no guidelines addressed to this specific issue."

Medical trends indicate that abortion live births will continue. They may even become more frequent. For one thing, demand for later-term abortions is undiminished, and with the growing popularity of genetic testing to screen for fetal defects midway through pregnancy, educated and affluent women are now joining the young, the poor and the uninformed who have been, until now, the main groups seeking late abortions.

Furthermore, estimating the gestational age of a fetus in the womb—a crucial aspect of a successful abortion—remains an inexact art. In March, doctors at the Valley Abortion Clinic in Phoenix estimated that one woman was 19 to 20 weeks pregnant; days later she delivered not an aborted fetus but a 2½-pound, 32-week baby. It survived after two months of intensive care at a Phoenix hospital.

Finally, medical science in the past 10 years has greatly improved its ability to care for premature babies. Infants are becoming viable earlier and earlier. Those with a gestational age of 24 weeks and weighing as little as 1½ pounds can now survive if given the best of care.

So long as doctors perform abortions up to the 24th week of pregnancy (as is legal everywhere in the United States under the 1973 Supreme Court ruling), it is statistically certain that some of these borderline cases will turn out to be viable babies, born alive. It happened again last May in Chicago—a 19-to-20-week estimate, a live-born, 2-pound baby boy.

By ignoring the problem of abortion live births, the courts and the medical establishment are chosing to overlook a long, well-documented history of cases: January 1969, Stobhill Hospital, Glasgow, Scotland: A custodian heard a cry from a paper bag in the snow beside an incinerator. He found a live baby. It was taken inside and cared for in the hospital's operating theater but died nine hours later. The infant's gestational age had been estimated at 26 weeks by the physician performing the abortion. It was actually closer to 32 weeks. No efforts were made to check for signs of life before the aborted baby was discarded. No charges were filed. Because the case had been written about in British medical journals, it was a matter of record—before abortion was legalized in this country—that such things could happen.

April 1973, Greater Bakersfield Hospital, Bakersfield, Calif.: A 4½-pound infant was born live following a saline abortion (induced by an injection of salt solution) performed by Dr. Xavier Hall Ramirez. Informed by phone, Dr. Ramirez ordered two nurses to discontinue administering oxygen to the baby. His instructions were countermanded by another doctor; the baby survived and later was placed for adoption. Ramirez was indicted for solicitation to commit murder. His attorney argued that a medical order based on medical opinion, no matter how mistaken, is privileged. Dr. Irvin M. Cushner of the University of California at Los Angeles, later to become a top health policy official in the Carter administration, testified that it was normal for Ramirez to expect the delivery of a dead or certain-to-die infant as the result of a saline abortion.

July 1974, West Penn Hospital, Pittsburgh: Dr. Leonard Laufe performed an abortion on a woman who contended she had been raped—though that and her account of when she became pregnant were later disputed. She had been turned down for an abortion at another hospital, where the term of her pregnancy was estimated at 26 to 31 weeks. Laufe put it as 20 to 22. The abortion, induced by an injection of prostaglandin, a substance that stimulates muscle contraction and delivery of the fetus, was filmed for use as an instructional film. The film showed the three-pound infant moving and gasping. Also, a nurse and a medical student testified that they had noticed signs of life. No charges were filed, however, after a coroner's inquest at which Laufe testified that the infant sustained fatal damage during delivery.

February 1975, Boston: Dr. Kenneth Edelin was convicted of manslaughter for neglecting to give care to a 24-week infant after a 1973 abortion at Boston City Hospital. Witnesses said Edelin held the infant down, constricting the flow of oxygen through the umbilical cord and smothering it. He was the first and only American doctor ever convicted on charges of failing to care for an infant born during an abortion. The conviction was overturned by the Massachusetts Supreme Court on the ground that improper instructions had been given to the jury. Edelin and his lawyer argued that he had taken no steps to care for the infant because it was never alive outside the womb.

March 1977, Westminster Community Hospital, Westminster, Calif.: A seven-month baby girl was born live after a saline abortion performed by Dr. William Waddill. A nurse testified that Waddill, when he got to the hospital, interrupted her efforts to help the baby's breathing. A fellow physician testified that he had seen Waddill choke the infant. "I saw him put his hand on this baby's neck and push down," said Dr. Ronald Cornelson. "He said, 'I can't find the goddamn trachea,' and 'This baby won't stop breathing.'" Two juries, finding Cornelson an emotional and unconvincing witness, deadlocked in two separate trials. Charges against Waddill were then dismissed. He had contended the infant was dying of natural causes by the time he got to the hospital.

July 1979, Cedars-Sinai Medical Center, Los Angeles: Dr. Boyd Cooper delivered an apparently stillborn infant, after having ended a problem pregnancy of 23 weeks. Half an hour later the baby made gasping attempts to breathe, but no efforts were made to resuscitate it because of its size (1 pound 3 ounces) and the wishes of the parents. The baby was taken to a small utility room that was used, among other things, as an infant morgue. Told of the continued gasping, Cooper instructed a nurse, "Leave the baby there—it will die." Twelve hours later, according to testimony of the nurse, Laura VanArsdale, she returned to work and found the infant still in the closet, still gasping.

Cooper then agreed to have the baby boy transferred to an intensive care unit, where he died four days later. A coroner's jury ruled the death "accidental" rather than natural but found nothing in Cooper's conduct to warrant criminal action.

A common thread in all these incidents is that life was recognized and the episode brought to light by someone other than the doctor. Indeed, there is evidence that doctors tend to ignore all but the most obvious signs of life in an abortion baby.

In the November 1974 newsletter of the International Correspondence Society of Obstetricians and Gynecologists, several doctors addressed a question from a practitioner who had written in an earlier issue that he was troubled by what to do when an aborted infant showed signs of life.

One was Dr. Ronald Bolognese, an obstetrician at Pennsylvania Hospital in Philadelphia, who replied:

"At the time of delivery, it has been our policy to wrap the fetus in a towel. The fetus is then moved to another room while our attention is turned to the care of [the woman]. She is examined to determine whether complete placental expulsion has occurred and the extent of vaginal bleeding. Once we are sure that her condition is stable, the fetus is evaluated. Almost invariably all signs of life have ceased."

(Bolognese recanted that statement in a 1979 interview. "That's not what we do now," he said. "We would transport it to the intensive care nursery.")

In addition, Dr. William Brenner of the University of North Carolina Medical School suggested that if breathing and movement persist for several minutes, "the patient's physician, if he is not in attendance, should probably be contacted and informed of the situation. The pediatrician on call should probably be appraised of the situation if signs of life continue."

Dr. Warren Pearse, executive director of the American College of Obstetrics and Gynecology, was asked in a 1979 interview what doctors do, as standard practice, to check whether an aborted fetus is alive.

"What you would do next [after expulsion] is nothing," Pearse said. "you assume the infant is dead unless it shows signs of life. You're dealing with a dead fetus unless there is sustained cardiac action or sustained respiration—it's not enough if there's single heartbeat or an occasional gasp."

These seemingly callous policies are based on the assmuption that abortion babies are too small or too damaged by the abortion process to survive and live meaningful lives. That is not necessarily the case, though, even for babies set aside and neglected in the minutes after delivery.

A nursing supervisor who asked not to be identified told of a abortion live birth in the mid-'70s in a Florida hospital. The infant was dumped in a bedpan without examination, as was standard practice. "It did not die," the nurse said. "It was left in the bedpan for an hour before signs of life were noticed. It weighed slightly over a pound."

The baby remained in critical condition for several months, but excellent care in a unit for premature infants enabled it to survive. The child, now 5 years old, was put up for adoption. The nursing supervisor, who has followed its progress, said she has pictures of the youngster "riding a bicycle and playing a little piano."

In the spring of 1979 two babies were born live, five weeks apart, after saline abortions at the Wilmington Medical Center. They were given vigorous care, survived and were later adopted. One had been discovered by a nurse, struggling for breath and with a faint heartbeat, after having been placed in a plastic specimen jar. The second was judged to be a live delivery and was given immediate help breathing.

A baby girl, weighing 1 pound 11 ounces, was born in February 1979 after a saline abortion at Inglewood (Calif.) Hospital. Harbor General Hospital, which is associated with UCLA and is fully equipped to care for premature babies, was called for help, but the neonatal rescue team did not respond. The infant died after three hours.

The Los Angeles Department of Health Services investigated and was told that there had been confusion over the baby's weight and that it reportedly showed poor vital signs. It was "very unusual for them not to pick up [an infant] of this size," Dr. Rosemary Leake of Harbor General told investigators.

The administrator of a New York abortion unit, asked what would be done for a live-born abortion baby, said, "The nurses have been trained in how to handle this. I'd like to think we would do everything to save it. But honestly I'm not sure."

These incidents together suggest that life in an aborted infant may or may not be recognized. If it is, supportive treatment may or may not be ordered.

Such incidents, when discovered, often provoke prosecutions. A few may seem something like murder at first blush. But on closer inspection the doctors' actions have been judged, time and again, not quite to fit the definition of a crime.

Nowhere was this more vividly shown than in the case of Dr. Jesse J. Floyd, who was indicted on charges of murder and criminal abortion by a grand jury in Colum-

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bia, S.C., in August 1975. The charges were the result of an abortion a year earlier of a baby that appeared to have a gestational age of 27 to 28 weeks. It weighed 2 pounds 5 ounces and lived for 20 days.

In October 1979 the state dropped its case against Floyd. County prosecutor James C. Anders later conceded in an interview that South Carolina's abortion law was of dubious constitutionality. "In the second place," he said, "I had a reluctant witness [the infant's mother]. That and the passage of time worked against me."

A detailed record was developed in the case, as part of a federal suit that Floyd brought against Anders in which he sought to block the state prosecution. The 20-year-old mother, Louise A., lived in the small town of Hopkins, worked at a military-base commissary and had plans to enroll in a technical college. Those plans made her unwilling to have the baby she was carrying, so she presented herself for an abortion at Floyd's office in July 1974. Court records indicate that she had been told erroneously by her hometown doctor's nurse that she was not pregnant, and that she only slowly realized that she was.

Floyd found her to be past the first trimester of pregnancy, and under South Carolina law that meant an in-hospital abortion would be required. There were delays in her raising $450 for the abortion and more delays in admitting her to Richland Memorial Hospital. She was injected with prostaglandin on Sept. 4 and expelled the live baby early on the morning of Sept. 6.

"I started having real bad labor pains again," Louise recalled in her deposition, "and finally my baby was born. I called the nurse. Then about four or five of them came in the room at the time. The head nurse came in the same time the other nurses came in and she told me did I know that the baby was a seven-month baby. I told her no.

"One of the nurses said that the baby was alive. They took the baby out of the room. He never did cry, he just made some kind of a noise."

The first doctor on the scene, paged from the cafeteria, was a young resident. She did not hesitate. On detecting a heartbeat of 100, she clamped and servered the umbilical cord and had the baby sent to the hospital's intensive care unit.

"It was a shock, a totally unique emergency situation, very upsetting to all of us," the doctor, who now practices in California, said in an interview. "Some people have disagreed with me [about ordering intensive care for an abortion live birth] but that seems to me the only way you can go.

"It's like watching a drowning. You act. You don't have the luxury of calling around and consulting. You institute life preserving measures first and decide about viability later on."

Ten days after birth, the baby had improved markedly and was given a 50-50 chance of survival. Then he developed a tear in the small intestine and died of that and other complications on Sept. 26.

Louise A. never saw the child. She checked out of the hospital two days after the abortion and did not return. But she did show a passing interest in the baby's progress.

"I kept calling this nurse," Louise said in her deposition. "I would call . . . and get information from them about the baby, and they told me he was doing fine. They told me he had picked up two or three pounds. I started going to school, and one afternoon I called home and they told me the baby had died, but no one told me the cause of his death."

Floyd never saw the infant either. On the day of the abortion, his hospital privileges at Richland were withdrawn, and they have never been restored.

These circumstances presented prosecutor Anders with a difficult care. Floyd had had no physical contact with the live-born infant, nor was he issuing orders concerning its care. Nonetheless, Anders thought the doctor could be held responsible for the infant's death.

Anders pressed his murder charge using an old English common-law theory. Under this theory, willfully doing damage to a "vital" infant in the womb could be considered a crime against the fetus as a person. The abortion itself, Anders alleged, was an assault.

This line of argument is not entirely far-fetched. For instance, a Camden, N.J., man was convicted of murder in 1975 after he shot a woman in the abdomen late in her pregnancy, causing the death of the twins she was carrying. But application of the theory to abortion had never been tested—in South Carolina or anywhere else.

South Carolina law in the mid-1970s prohibited third-trimester abortion unless two other doctors certified that the abortion was essential to protect the life or health of the mother. No such certifications were made for Louise. However, various Supreme Court rulings suggested that both the requirement of consultation with other doctors and the explicit definition of viability (as beginning in the third trimester) would make that law unconstitutional.

Floyd's lawyers, George Kosko of Columbia, S.C., and Roy Lucas of Washington, also filed voluminous expert affidavits on the difficulty of estimating gestational age accurately. At worst, they argued, Floyd had made a mistaken diagnosis. What proof was there that he had intentionally aborted a viable baby?

District Court Judge Robert Chapman and the Fourth Circuit Court of Appeals agreed that the prosecution was based on flimsy evidence and should be blocked. However, the Supreme Court disagreed, in a ruling in March 1979, and suggested that judgment should be withheld on constitutional matters until the state prosecution had run its course. The way was thus cleared for Anders to proceed, but with witnesses dispersed, memories fading and the legal basis for prosecution still doubtful, Anders chose to drop the case.

Floyd, 49, continues performing first-trimester abortions at his Ladies Clinic, but the loss of hospital privileges and the damage to his reputation caused his surgical practice to collapse, he said.

The long legal proceeding also seems to have had a chilling effect on abortion practice throughout South Carolina, which Anders concedes was one of his intentions.

"The main thing is the dilemma it puts the other physicians in," Floyd said in an interview. "It's just about dried up second-trimester abortions in this state. I have to send mine to Atlanta, Washington or New York."

Asked about late abortions and the risk of live births, Floyd said he thought abortions performed through the sixth month of pregnancy create "a problem to which there isn't an answer. We probably need to move back to 20 weeks. I would be reluctant to do one now after 20 weeks."

A similar case occurred about the same time in South Carolina, when Anders obtained a criminal indictment charging Dr. Herbert Schreiber of Camden, S.C., with first-degree murder and illegal abortion.

On July 18, 1976, a month after the charges had been filed, the 60-year-old doctor was found dead in a motel room in Asheville, N.C. A motel maid discovered the body slumped in a chair. Several bottles of prescription drugs were recovered from the room. Two days later the Buncombe County medical examiner ruled the death a suicide from a drug overdose.

Schreiber, who left no note, had pleaded not guilty to the charge of having killed a live baby girl after an abortion by choking or smothering her to death.

Comparing the Floyd and Schreiber cases, Anders found an irony: Schreiber "just reached in and strangled the baby," the prosecutor said his evidence showed. "I charged him with murder, and he committed suicide. If he had been willing to wait, he probably would have been OK too."

Not every doctor who performs a late abortion has to confront an aggressive prosecutor like Anders. But even those abortion live births that escape public notice raise deeply troubling emotions for the medical personnel involved. "Our training disciplines you to follow the doctor's orders," explained a California maternity nurse. "If you do something on your own for the baby that the doctor has not ordered and that may not meet with his commitment to his patient, the mother can sue you. A nurse runs a grave risk if she acts on her own. Not only her immediate job but her license may be threatened."

Nonetheless, nursing staffs have led a number of quiet revolts against late abortions. Two major hospitals in the Fort Lauderdale area, for instance, stopped offering abortions in the late 1970s after protests from nurses who felt uncomfortable handling the lifelike fetuses.

A Grand Rapids, Mich., hospital stopped late-term abortions in 1977 after nurses made good on their threat not to handle the fetuses. One night they left a stillborn fetus lying in its mother's bed for an hour and a half, despite angry calls from the attending physician, who finally went in and removed it himself.

In addition, a number of hospital administrators have reported problems in mixing maternity and abortion patients—the latter must listen to the cries of newborn infants while waiting for the abortion to work. And it has proved difficult in general hospitals to provide round-the-clock staffing of obstetrical nurses willing to assist with the procedure.

One young nurse in the Midwest, who quit to go into teaching, remembers "a happy group of nurses" turning nasty to each other and the physicians because of conflicts over abortion. One day, she recalled, a woman physician "walked out of the operating room after doing six abortions. She smeared her hand (which was covered with blood) on mine and said, 'Go wash it off. That's the hand that did it.' "

Several studies have documented the distress that late abortion causes many nurses. Dr. Warren M. Hern, chief physician, and Billie Corrigan, head nurse of the Boulder (Colo.) Abortion Clinic, presented a paper to a 1978 Planned Parenthood convention entitled "What About Us? Staff Reactions. . . ."

The clinic, one of the largest in the Rocky Mountain states, specializes in the D&E (dilatation and evacuation) method of second-trimester abortion, a procedure in which the fetus is cut from the womb in pieces. Hern and Corrigan reported that eight of the 15 staff members surveyed reported emotional problems. Two said they worried about the physician's psychological well-being. Two reported horrifying dreams about fetuses, one of which involved the hiding of fetal parts so that other people would not see them.

"We have produced an unusual dilemma," Hern and Corrigan concluded. "A procedure is rapidly becoming recognized as the procedure of choice in late abortion, but those capable of performing or assisting with the procedure are having strong personal reservations about participating in an operation which they view as destructive and violent."

Dr. Julius Butler, a professor of obstetrics and gynecology at the University of Minnesota Medical School, is concerned about studies suggesting that D&E is the safest method and should be used more widely. "Remember," he said, "there is a human being at the other end of the table taking that kid apart.

"We've had guys drinking too much, taking drugs, even a suicide or two. There have been no studies I know of of the problem, but the unwritten kind of statistics we see are alarming."

"You are doing a destructive process," said Dr. William Benbow Thompson of the University of California at Irvine. "Arms, legs, chests come out in the forceps. It's not a sight for everybody."

Not all doctors think the stressfulness is overwhelming. The procedure "is a little bit unpleasant for the physician," concedes Dr. Mildred Hanson, a petite woman in her early 50s who does eight to 10 abortions a day in a clinic in Minneapolis, just a few miles across town from where Butler works. "It's easier to . . . leave someone else—namely a nurse—to be with the patient and do the dirty work.

"There is a lot in medicine that is unpleasant" but necessary—like amputating a leg—she argues, and doctors shouldn't let their own squeamishness deprive patients of a procedure that's cheaper and less traumatic.

However, Dr. Nancy Kaltreider, an academic psychiatrist at the University of San Francisco, has found in several studies "an unexpectedly strong reaction" by the assisting staff to late-abortion procedures. For nurses, she hypothesizes, handling tissues that resemble a fully formed baby "runs directly against the medical emphasis on preserving life."

The psychological wear and tear from doing late abortions is obvious. Philadelphia's Dr. Bolognese, who seven years ago was recommending wrapping abortion liveborns in a towel, has stopped doing late abortions.

"You get burned out," he said. Noting that his main research interest is in the management of complicated obstetrical cases, he observed: "It seemed kind of schizophrenic, to be doing that on the one hand [helping women with problem pregnancies to have babies] and do abortions."

Dr. John Franklin, medical director of Planned Parenthood of Southeastern Pennsylvania, was the plaintiff in a 1979 Supreme Court case liberalizing the limits on late abortions. He does not do such procedures himself. "I find them pretty heavy weather both for myself and for my patients," he said in an interview.

Dr. Kerenyi, the New York abortion expert, who is at Mt. Sinai Hospital, has similar feelings but reaches a different conclusion. "I first of all take pride in my deliveries. But I've seen a lot of bad outcomes in women who did not want their babies—so I think we should help women who want to get rid of them. I find I can live with this dual role."

The legal jeopardy, the emotional strain, the winking neglect with which "signs of life" must be met—all these things nurture secrecy. Late abortions take place "behind a white curtain," as one prosecutor put it, well sheltered from public view.

Only one large-scale study has been done of live births after abortions—by George Stroh and Dr. Alan Hinman in upstate New York from July 1970 through December 1972 (a period during which abortion was legal in New York alone.) It turned up 38 cases of live births in a sample of 150,000 abortions.

Other studies, including one that found signs of life in about 10 percent of the prostaglandin abortions at a Hartford, Conn., hospital, date from the mid-1970s. No one is so naive as to think there is reliable voluntary reporting of live births in the present climate, according to Dr. Cates of the Center for Disease Control.

Evidence gathered during research for this story suggests, without proving definitively, that much of the traffic in late abortions now flows to the New York and Los Angeles metropolitan areas, where loose practice more easily escapes notice.

"The word has spread," the Daily Breeze, a small Los Angeles suburban paper, said in July 1980, "that facilities in greater Los Angeles will do late abortions. How late only the woman and the doctor who performs them know."

This kind of thing is disturbing even to some people with a strong orientation in favor of legal abortion. For instance, the Philadelphia office of CHOICE, which describes itself as "a reproductive health advocacy agency," will recommend only Dr. Kerenyi's service at Mt. Sinai among the half-dozen in New York offering abortion up to 24 weeks. The others have shortcomings in safety, sanitation or professional standards, in the agency's view.

An internal investigation of the abortion unit at Jewish Memorial Hospital in Manhattan showed that six fetuses aborted there in the summer of 1979 weighed more than 1½ pounds. The babies were not alive, but were large enough to be potentially viable. A state health inspector found in June 1979 that the unit had successfully aborted a fetus that was well over a foot long and appeared to be of 32 weeks gestation. Hospital officials confirmed in an interview that later in 1979 a fetus weighing more than four pounds had been aborted.

"It's disconcerting," Iona Siegel, administrator of the Women's Health Center at Kingsbrook Jewish Medical Center in Brooklyn, said of abortions performed so late that the infant is viable. When Ms. Siegel hears, as she says she often does, that a patient turned away by Kingsbrook because she was past 24 weeks of pregnancy had an abortion somewhere else, "that makes me angry. Number one, it's against the law. Number two, it's dangerous to the health of the mother."

Though one might expect organized medicine to take a hand in bringing some order to the practice of late abortions, that is not happening.

"We're not really very pro-abortion," said Dr. Ervin Nichols, director of practice activities for the American College of Obstetrics and Gynecology. "As a matter of fact, anything beyond 20 weeks, we're kind of upset about it."

If abortions after 20 weeks are a dubious practice, how does that square with abortion up to 24 weeks being offered openly in Los Angeles and New York and advertised in newspapers and the Yellow Pages there and elsewhere?

"That's not medicine," Nichols replied. "That's hucksterism."

Cates, of the Center for Disease Control, concedes that he has ambivalent feelings about those who do the very late procedures. There is obviously some profiteering and some bending of state laws forbidding abortions in the third trimester. But since late abortions are hard to get legally in many places, Cates puts a low priority on trying to police such practices. Medical authorities leave the late-abortion practitioners to do what they will. And so, too, by necessity, do the legal authorities.

The Supreme Court framed its January 1973 opinion legalizing abortion around the slippery concept of viability. As defined by Justice Harry Blackmun in the landmark *Roe vs. Wade* case, viability occurs when the fetus is "potentially able to live outside the mother's womb albeit with artificial aid."

The court granted women an unrestricted right to abortions, as an extension to their right of privacy, in the first trimester of pregnancy. From that point to viability, the state can regualte abortions only to make sure they are safe. And only after a fetus reaches viability can state law limit abortion and protect the "rights" of the fetus.

"Viability," Blackmun wrote, after a summer spent researching the matter in the library of the Mayo Clinic, "is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks."

The standard was meant to be elastic, changing in time with medical advances. Blackmun took no particular account, though, of the possibility of abortion live births, or of errors in estimating gestational age.

In subsequent cases, the high court ruled that:

A Missouri law was too specific in forbidding abortion after 24 weeks. "It is not the proper function of the legislature or the court," Blackmun wrote, "to place viability, which essentially is a medical concept, at a specific point in the gestational period."

A Pennsylvania law was too vague. The law banned abortions "if there is sufficient reason to believe that the fetus may be viable." The court said it was wrong to put doctors in jeopardy without giving them clearer notice of what they must do.

State laws could not interfere with a doctor' s professional judgment by dictating the choice of procedure for later abortions or by requiring aggressive care of abortion live births.

According to a 1979 survey by Jeanie Rosoff of Planned Parenthood's Alan Guttmacher Institute, 30 states have laws regulating third-trimester abortions. Some of these laws prohibit or strictly limit abortions after the fetus has reached viability. Some require doctors to try to save abortion live-born babies. Only a few states have both types of laws.

In addition, a number of these laws have been found unconstitutional. Others obviously would be, in light of Supreme Court rulings. Virtually all the state laws would be subject to constitutional challenge if used as the basis of prosecution against an individual doctor.

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New York and California, ironically, have among the strongest, most detailed laws mandating care for survivors of abortions. But these laws have proved only a negligible check on the abortion of viable babies.

"We've had a number of claims come up that a baby was born live and full effort was not given to saving it," said Dr. Michael Baden, former chief medical examiner of New York City. "We've not had cases of alleged strangulation [as with Dr. Waddill in California] and that surely must be rare. All [the doctor] has to do is nothing and the result is the same."

Alan Marrus, a Bronx County assistant district attorney, has investigated several live-birth cases and the applicable New York law. He has yet to find "a case that presented us with facts that warranted prosecution. You need an expert opinion that in fact there was life and that the fetus would have survived. Often the fetus has been destroyed—so there is nothing for your expert witness to examine."

The incidents only come to light at all, Baden and Marrus noted, if some whistleblower inside the hospital or clinic brings them to the attention of the legal authorities. The credibility of that sort of witness may be subject to attack. And even if the facts do weigh against a doctor, he has some resources left. Almost always he can claim to have made no more than a good-faith error in medical judgment.

"This is happening all over the place," said a California prosecutor. "Babies that should live are dying because callous physicians let them die." But he despairs of winning any convictions. "Nobody's as dumb as Waddill. They're smarter today. They know how to cover themselves."

Unfortunately, advances in medical technique may only aggravate the overall problem. Fetuses are becoming viable earlier and earlier, while the demand for later abortions shows no sign of abating. Some argue that Justice Blackmun's definition of viability as "usually seven months" was obsolete the day it was published. It clearly is now.

A decade ago, survival of an infant less than 3 pounds or 30 weeks gestation was indeed rare, principally because the lungs of smaller infants unaided, are too undeveloped and fragile to sustain life. Now, infants with birth weights of about 1⅔ pounds routinely survive with the best of care, according to Dr. Richard Behrman, chief of neonatology at Rainbow Babies and Childrens Hospital in Cleveland and chairman of a national commission that studied viability in the mid-1970s.

Sometimes even smaller babies make it, and the idea that most of them will be retarded or disabled is out-of-date, Behrman said. "Most . . . survive intact."

Even with the medical advances, though, some live-born infants are simply too small and undeveloped to have a realistic chance to survive. A survey last year of specialists in neonatal care found that 90 percent would not order life-support by machine for babies smaller than 1 pound 2 ounces or less than 24 weeks gestation. And on occasion, a newborn may manifest muscular twitches or gasping movements without ever "being alive" according to the usual legal test of drawing a breath that fills the lungs.

Still, it is no longer a miracle for an infant of 24 weeks development (which can be legally aborted) to be saved if born prematurely.

"It is frightening," said Dr. Roger K. Freeman, medical director of Women's Hospital at the Long Beach Memorial Medical Center in Long Beach, Calif. "Medical advances in the treatment of premature babies enable us to save younger fetuses than ever before. When a fetus survives an abortion, however, there may be a collision of tragic proportions between medicine and maternity. Medicine is now able to give the premature a chance that may be rejected by the mother."

In 1970, Freeman developed the fetal stress test, a widley used technique for monitoring the heart rate of unborn fetuses. Also, he and a colleague at Long Beach, Dr. Houchang D. Mondalou, have developed a drug, betamethzene, that matures premature lungs within days instead of weeks. The hospital claims a 90 percent success rate with infants weighing as little as 1 pound 11 ounces.

At the University of California at Irvine, work is under way on an "artificial placenta" that doctors there say could within five years, push the threshold of viability back even further.

The life-saving techniques are not exclusive to top academic hospitals, either. Good neonatal care is now broadly available across the United States. In fact, the lively issue in medical circles these days is not whether tiny premature babies can be saved, but whether it is affordable. Bills for the full course of treatment of a two-pound infant typically run between $25,000 and $100,000. To some, that seems a lot to pay, especially in the case of an abortion baby that was not wanted in the first place.

The only way out of the dilemma, it would seem, would be for fewer women to seek late abortions. Though some optimists argue that this is happening, there is evidence that it is not.

Studies show that women seeking abortions late in the second trimester are often young, poor and sexually ignorant. Many either fail to realize they are pregnant or delay telling their families out of fear at the reaction. The patients also include those who have had a change of circumstance or a change of heart after deciding initially to carry through a pregnancy; some of these women are distrurbed.

As first-trimester abortion and sex education become more widely available, the optimists' argument goes, nearly all women who choose abortion will get an early abortion. But in fact a new class of older, well-educated, affluent women has now joined the hardship cases in seeking late abortions.

This is because a recently developed technique, amniocentesis, allows genetic screening of the unborn fetus for various hereditary diseases. Through this screening, a woman can learn whether the child she is carrying is free of such dreaded conditions as Downs syndrome (mongolism) or Tay-Sachs disease, a genetic disorder that is always fatal, early in childhood.

The test involves drawing off a sample of amniotic fluid, in which the fetus is immersed in the womb. This cannot be done until the 15th or 16th week. Test cultures for the various potential problems take several weeks to grow. Sometimes the result is inconclusive and the test must be repeated. The testing also reveals the unborn child's sex and can be used to detect minor genetic imperfections.

To many women, particularly those over 35, amniocentesis seems a rational approach to minimizing the chances of bearing a defective child. A few, according to published reports, go a step further and make sure the baby is the sex they want before deciding to bear the child.

In any case, it is late in the second trimester—within weeks of the current threshold of viability—before the information becomes available on which a decision is made to abort. The squeeze will intensify as amniocentesis becomes more widely available and as smaller and smaller infants are able to survive.

The abortion live-birth dilemma has caught the attention of several experts on medical ethics, and they have proposed two possible solutions.

The simplest, advocated by Dr. Sissela Bok of the Harvard Medical School among others, is just to prohibit late abortions. Taking into account the possible errors in estimating gestational age, she argues, the cutoff should be set well before the earliest gestational age at which infants are surviving.

Using exactly this reasoning, several European countries—France and Sweden, for example—have made abortions readily available in the first three months of pregnancy but very difficult to get thereafter. The British, at the urging of Sir John Peel, an influential physician-statesman, have considered in each of the last three years moving the cutoff date from 28 weeks to 20 weeks, but so far have not done so.

But in this country, the Supreme Court has applied a different logic in defining the abortion right, and the groups that won that right would not cheerfully accept a retreat now.

A second approach, advocated by Mrs. Bok and others, is to define the woman's abortion right as being only a right to terminate the pregnancy, not to have the fetus dead. Then if the fetus is born live, it is viewed as a person in its own right, entitled to care appropriate to its condition.

This "progressive" principle is encoded in the policies of many hospitals and the laws of some states, including New York and California. As the record shows, though, in the alarming event of an actual live birth, doctors on the scene may either observe the principle or ignore it.

And the concept even strikes some who do abortions as misguided idealism.

"You have to have a feticidal dose" of saline solution, said Dr. Kerenyi of Mt. Sinai in New York. "It's almost a breach of contract not to. Otherwise, what are you going to do—hand her back a baby having done it questionable damage? I say, if you can't do it, don't do it."

The scenario Kerenyi describes did in fact happen, in March 1978 in Cleveland. A young woman entered Mt. Sinai Hospital there for an abortion. The baby was born live and, after several weeks of intensive care at Rainbow Babies and Childrens Hospital, the child went home—with its mother.

The circumstances were so extraordinary that medical personnel broke the code of confidentiality and discussed the case with friends. Spokeswomen for the two hospitals confirmed the sequence of events. Mother and child returned to Rainbow for checkup when the child was 14 months old, the spokeswoman there said, and both were doing fine.

The mother could not be reached for comment. But a source familiar with the case remembered one detail. "The doctors had a very hard time making her realize she had a child. She kept saying, 'But I had an abortion.'"

How Things Sometimes Go Wrong

Of the various ways to perform an abortion after the midpoint of pregnancy, there is only one that never, ever results in live births.

It is D&E (dilatation and evacuation), and not only is it foolproof, but many researchers consider if safer, cheaper and less unpleasant for the patient. However, it is particularly stressful to medical personnel. That is because D&E requires literally cutting the fetus from the womb and, then, reassembling the parts, or at least keeping them all in view, to assure that the abortion is complete.

Ten years ago it was considered reckless to do an abortion with cutting instruments after the first trimester of pregnancy. Now, improved instruments, more skilled practitioners and laminaria—bands of seaweed that expand when moist and are used to gently dilate the cervix, creating an opening through which to extract fetal parts—allow the technique to be used much later.

D&E is being hailed as extending the safe and easy techniques used for first-trimester abortions (cutting or vacuuming out the contents of the womb) well into the second three months of pregnancy. But there are dissenters. Dr. Bernard Nathanson, formerly a top New York City abortionist, now an anti-abortion author and lecturer, says that D&E "is a very dangerous technique in the hands of anyone less than highly skilled."

Besides, D&E puts all the emotional burden on the physician. And there are other techniques that allow the doctor, as one physician put it, to "stick a needle in the [patient's] tummy," then leave the patient to deliver the fetus vaginally as in normal childbirth and nurses to assist and clean up.

These more common methods for abortions after the midpoint of pregnancy use the instillation of either saline solution or prostaglandin. In these procedures, some of the woman's nurturing amniotic fluid is drawn out of the womb by an injection through her belly and is replaced with the abortion-inducing drug. (The amount of fluid in the womb is kept relatively constant to make sure the womb does not rupture.)

The two instillation substances work in different ways. Saline solution poisons the fetus, probably through ingestion, though the process is not completely understood. Usually within six hours, the fetal heartbeat stops. At the same time, the saline induces labor, though supplemental doses of other labor-inducing drugs often are given to speed this effect.

Prostaglandin, on the other hand, is a distillate of the chemical substance that causes muscles to move. It is thought not to affect the fetus directly but instead is potent at inducing labor. Fetal death, if it does occur, is from prematurity and the trauma of passage through the birth canal.

Each substance also has an undesired side effect. Saline, an anti-coagulant that increases bleeding, can make minor bleeding problems more serious and in rare cases even cause death. Prostaglandin, because it causes muscles to contract indiscriminately, was found to cause vomiting and diarrhea in more than half the patients in early tests. Claims that it causes fewer major complications, which made it preferred to saline by many in the mid-1970s, have now been questioned. And the high incidence of live births (40 times more frequent than with saline, according to one study) also has lessened its popularity.

But saline is not foolproof either in preventing live births. Dr. Thomas F. Kerenyi of Mt. Sinai Hospital in New York, the best-known researcher on saline abortions, said most live births result from "errors in technique"—either administering too small a dosage or getting some of it into the wrong part of the womb.

A wrong estimation of gestational age can cause either a saline or prostaglandin abortion to fail. A larger-than-expected fetus might survive the trauma of labor or might reject a dose of saline (or urea, a third instillation substance sometimes used).

And on the basis of physical examination alone, studies show, doctors miss the correct gestational age by two weeks in one case out of five, by four weeks in one case out of 100, and sometimes by more than that. Pregnancies can be dated more exactly by a sonogram, a test that produces an outline image of the fetus in the womb, but because of its cost (about $100) many doctors continue to rely on physical exams.

There is one other abortion technique, hysterotomy, but it is the least desirable of all from several points of view. Because it is invasive surgery (identical to a Caesarean section), it has a much higher rate of complication than do the instillation techniques. Usually done only after attempts to abort with saline have failed, it has the highest incidence of all of live births.

As the infant is lifted from the womb, said one obstetrician, "he is only sleeping, like his mother. She is under anesthesia, and so is he. You want to know how they kill him? They put a towel over his face so he can't breathe. And by the time they get him to the lab he is dead."

Over the years, the chief criterion in choosing between abortion of methods has been safety for the patient. Advocates of D&E contend that bleeding, perforation of the uterus and infection all occur less frequently with D&E than with other methods, Dr. Willard Cates of the Center for Disease Control in Atlanta prefers D&E. Because it can be done—unlike instillation—in the early part of the second trimester, he has said, the need for as many as 80 percent of the very late abortions could be eliminated.

How very late are abortions performed?

His own clinic at Mt. Sinai, Dr. Kerenyi said, screens patients closely to make sure they are not past the legal 24-week limit. But in theory, he said, there is nothing to prevent successful saline abortions from being performed "virtually all the way to birth. At 30 weeks, say, you would just have to draw off and inject that much more of the solution."

Most practitioners who were interviewed say they stop doing D&E at 18 to 22 weeks. But again, there appears to be nothing to prevent the technique from being used much later.

"You can do it, you can do it," an abortionist, who would talk only if not quoted by name, said of D&Es late in pregnancy. "Some son-of-a-bitch misreads a sonogram and sends me a woman 26 weeks. I've done it. You've just got to take your time and be careful. And you're not going to end up with a live birth."

"I STOOD BY AND WATCHED THAT BABY DIE"

Nurses are the ones who bear the burden of handling the human-looking products of late abortions. And when an unintentional live birth occurs, they are the first to confront the waving of limbs and the gasping.

Reluctant to talk about their experiences, most of those interviewed for this article did not want their names to be published, and out of professional loyalty, they did not even want their hospitals to be named.

They spoke of being deeply troubled by what they have seen of late abortions in American hospitals.

Linda is a nurse in her late 50s in Southern California. Hurrying out of a patient's room one day to dispose of the aborted "tissue" as nurses were taught to think of it, she felt movement. Startled, she looked down, straight into the staring eyes of a live baby.

"It looked right at me," she recalled. "This baby had real big eyes. It looked at you like it was saying. 'Do something—do something.' Those haunting eyes. Oh God, I still remember them."

She rushed the 1½-pound infant to the nursing station. She took the heart rate—80 to 100 beats a minute. She timed the respirations—three to four breaths a minute. She called the doctor.

"I called him because the baby was breathing," Linda said. "It was pink. It had a heartbeat. The doctor told me the baby was not viable and to send it to the lab. I said, 'But it's breathing' and he said, 'It's non-viable, it won't be breathing long—send it to the lab.' "

She did not follow the order. Nor did she have resources at her command to provide any live-saving care. Two hours later the infant died, still at the nursing station, still without medical treatment. It died in a makeshift crib with one hot-water bottle for warmth and an open tube of oxygen blowing near its head.

The nursing supervisor, Linda said had refused to let her put the baby in the nursery, where there was equipment to assist premature babies in distress. "She said to follow the doctor's orders and take it to the lab. I kept it with me at the station. We couldn't do an awful lot for it."

This happened eight years ago, in 1973, but Linda is still upset. "I stood by and watched that baby die without doing a thing," she said. "I have guilt feelings to this day. I feel the baby might have lived had it been properly cared for."

Jane, about 50, is the head floor nurse in an Ohio hospital. She and her fellow nurses successfully petitioned their hospital in 1978 to stop doing late abortions. Twice before that, she witnessed live births after abortions.

She recalls vividly the 16-year-old patient who phoned her mother after her abortion and said in an agonised voice, "Ma, it's out—but Ma, it's alive."

That happened in 1975. Jane still speaks of it bitterly, her eyes flashing anger.

A year earlier Jane saw the second abortion live birth in her experience. "I was called by the patient's roommate," she recalled. "When I got there the baby's head was sticking out and its little tongue was wiggling. Everybody felt they couldn't do anything until they called the doctor. It was a little thing—it only lasted about 15 minutes. But it was alive, and we did nothing. And that was wrong.

It rankles, too, that she was routinely forced to handle dead fetuses, the size and shape of well-formed premature babies.

"Because of my position," she said, "I had to pick them up off the bed and put them in a bottle of formalin [a preservative fluid]. Sometimes you had to have a very large container. Our gynecologists seemed to have a very poor ability to estimate gestational age. Time and again they would say with a straight face, 'This woman is 20 weeks pregnant' when she was actually 26 weeks."

Norma Rojo, about 35, is an obstetrical nurse at Indio Community Hospital in

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Indio, Calif. She was present the night of May 3, 1980, when a 15-year-old patient delivered a live baby girl after a saline abortion.

"Get rid of it," the patient cried hysterically. "I'm sorry, Mama—get rid of it," she said, the baby alive, kicking and crying, between her legs.

Two weeks earlier the girl had been in a traffic accident that killed four others and had sought the abortion out of fear that her baby might be damaged.

The fetus, which in tests had shown a normal heartbeat of 132 to 136 in the womb, appeared healthy at birth. "She was beautiful," said Mrs. Rojo. "She was pink. There were no physical deformities. She let out a little lusty cry. She lay in a basin put there to catch the stuff. She was waving her arms and legs. You could tell she was making a big effort to live."

The nurses cut the umbilical cord, wrapped the infant in a blanket and took her to the intensive care nursery. She was put in an isolette (a life-support system) within minutes and was given oxygen.

Acting on their own, the nurses had the 1 pound 14 ounce baby transferred six hours later to Loma Linda University Medical Center, one of several hospitals in the Los Angeles area specializing in the care of very small premature infants. Four days later the baby was reported stable but had developed a complication causing hemorrhaging of the brain. Dr. David Deming of Loma Linda said then that its chances were only 50-50. He added, though, that the abortion had done little damage. "I would say there is probably no effect on her from the saline."

Eleven days after birth, the baby died. Family members indicated they were upset by the nurses' effort to save it.

"After this experience," Rojo said, "my friend [another nurse] and I are changed. We realize doctors aren't perfect. . . . I hope this is the last [abortion live birth] I ever see, but if there are any more, we will do the same thing."

[From New Perspectives on Human Abortion, Alethera Books, 1981]

A DAY IN THE LIFE OF THE FETUS

(By Sir A. William Liley, M.D., Research professor in perinatal physiology at the Postgraduate School of Obstetrics and Gynaecology, National Women's Hospital, Auckland, New Zealand.)

To anyone who thinks in purely quantitative terms, life before birth occupies a small fragment, a mere 1 percent of our earthly existence. We spend nine months—three-quarters of a year—in the uterus, and our three score years and ten—roughly three-quarters of a century—out of it. However, from a developmental point of view the picture is very different. As everyone knows, we each started life as a single cell. This single cell divided into two, the first generation of cell division; the two cells divided into four, the second generation of cell division; the four cells divided into eight, the third generation of cell division; and so on. And how many such generations of cell division are required to produce the 30 million cells which make up our adult bodies? The answer is about 45. Of these 45 generations of cell multiplication or replication, 8 have occurred by the time we implanted in the wall of our mother's uterus, 30 or nearly two-thirds have occurred by 8 weeks' gestation, 38 have occurred by 28 weeks' gestation, 41 by the time we are born, and the remaining tedious 4 occupy the whole of childhood and adolescence.

In these terms, when we allow that 41 of these 45 generations of cell division have occurred by birth, it is obvious that in developmental terms we spend 90 percent of our lives *in utero*, and for some sensory and neural structures the percentage is even higher. This factor is of supreme importance in modern obstetrics and perinatology. It emphasizes the critical importance of our health and welfare during the phase which determines so much of our future physical, psychological, and intellectual makeup, when rapidly multiplying cells are so vulnerable to noxious influences.

Even if the drama of the fetus's physical development is accepted, it would still be wrong to accept the classical view that the fetus blindly develops structures in anticipation of life and function to begin at birth. All of the evidence shows that, for whatever structure or system we care to nominate, development of structure and development of function go hand in hand. As the fetus develops structures he uses them, but most important, as a principle of growth such use is necessary for the development of the structure. In technical terms, if a function cannot be served without differentiation of the structure, equally without the stimulus of function, this structure does not differentiate properly anyway.

The most obvious demonstration of these principles is presented by fetal movement and musculoskeletal development. The classical view is well known—at about 16 to 20 weeks of pregnancy the fetus begins some random, aimless kicking movements. In point of fact, the fetus has been moving ever since he had limbs to move, from about the time of mother's second missed period (approximately the eighth gestational week). Since movements are felt not in the insensitive uterus but in the mother's abdominal wall, some 9 to 11 weeks must elapse before the woman is conscious of this movement.

Formerly, direct observation of the fetus was limited to the period beyond some 16 to 20 weeks when the baby's skeleton was opaque enough to be shown on x-rays and image intensifiers. However, we could indirectly recognize fetal activity by dramatic and rapid changes in the axis of the fetal heart on electrocardiographic recordings. Now we can observe such movement directly by ultrasound: making sonographic images by recording the echoes of sound waves.

In early pregnancy, indeed for the first two-thirds of pregnancy, the fetus is under no constraint and has plenty of room to move frequently and freely. In a relatively globular cavity he or she has no axis of stability and can lie in any position. It is only in the last 10 weeks of pregnancy, with rapid fetal growth and a steep decline in amniotic fluid volume, that the fetus is compelled to endure reduced living space. Moreover, by this stage the uterine cavity has a very definite, normally longitudinal, axis and a very definite shape—it is ovoid with the lower pole narrower than the upper pole. Faced with these physical facts the great majority of babies adopt the obvious solution of lying with their long axis in the long axis of the cavity. Furthermore, the baby is now much longer than the uterine cavity and must fold to fit in. As the usual fetal attitude is one of flexion, the majority of babies present head down: the compact head forms a smaller pole than the back, thighs, calves, and feet, and this position corresponds to the shape of the uterine cavity. If, however, the fetus elects to extend his or her legs as some 4 percent of babies do, he or she will present by the breech, since the tapering lower trunk and thighs form a smaller pole than do the head, arms, calves, and feet.

Minor variations of uterine contour, unusual locations of the placenta, and the presence of another baby may all present challenges to fetal comfort and ingenuity. Sometimes in selecting a position of comfort the baby may have chosen one which is difficult or impossible for vaginal delivery. However, babies do not lie in odd positions in late pregnancy to make life difficult for the obstetrician and dangerous for themselves and their mothers, but rather because they are trying to be as comfortable as possible.

If newborn babies are nursed naked in a warm environment, they tend to adopt—especially when asleep—the position of comfort they assumed *in utero* in late pregnancy. Thus, some babies sleep with their hands cupped under their ears, and the baby whose legs were extended *in utero* tends to sleep like a safety pin, with a foot over each shoulder.

Maternal movement and change of position, uterine contractions, and external palpation all disturb a baby and provoke fetal movement. How babies change ends in the uterus while they still have room is obvious. They propel themselves around with their legs and feet—usually walking backward—with their heads leading the movement, but occasionally walk around forward with their heads trailing. How they change sides is more subtle: first, they extend and then rotate their heads, then their shoulders, and at last their hips and legs in an elegant longitudinal spiral roll. At the mid-point of their turn they have a 180 degree spiral twist in their spine. Insofar as this is the obvious way to turn over (indeed it is the way you and I would turn over in bed or in a swimming pool), there would be nothing remarkable about it. However, according to textbooks of the development of locomotor function in the newborn or infant, this maneuver is not seen in the neonate but first appears at some 14 to 20 weeks of extrauterine life. Nevertheless, we have seen by x-rays babies moving in this way 16 weeks before birth, and I am sure it will be observed earlier by ultrasound. Hence, the real reason we do not see this behavior in the newborn is not that the baby lacks the neural coordination, the reflex pathways for this feat, but simply that a maneuver which is simple in the prenatal state of neutral buoyancy is initially impossible against the new experience of gravity.

Fetal movement is necessary for the proper development of bones, joints, and muscles. The baby wrapped up compactly with a pathologically low volume of amniotic fluid is born with a wide range of compression deformities and a severe restriction of the range of joint movement. Similar effects occur in the baby with a congenital absence of muscle or degeneration of spinal motor neurons, in which case the long bones are extremely slender, and appearance formerly common in victims of paralytic poliomyelitis.

Clinically, fetal responsiveness to touch and pressure was a nuisance with some earlier models of heart-rate monitors and pressure recorders which required bulky instruments to be strapped firmly to the mother's abdomen. The fetus would purposefully and repeatedly move to avoid the sustained pressure or a recording instrument. Equally, fetal responsiveness is an advantage when for some diagnostic or therapeutic procedures we want a fetus to change its position a little. Continuous gentle pressure with fingertips or a knuckle provides the necessary persuasion.

The fetus responds violently to needle puncture or the injection of cold or concentrated solutions, stimuli which you and I agree are painful, children will describe as painful, and the newborn, to judge by his or her responses, finds painful. However, I have been told by advocates of abortion that we have no proof that the fetus actually feels pain. Strictly speaking, of course, they are quite correct: these is no biochemical or physiological test to tell if anyone is in pain. Pain is a peculiarly subjective and personal phenomenon, a feature which makes it very easy to bear other people's pain stoically—an important point for doctors in general and obstetricians in particular to remember. By the same reasoning we have no proof that animals feel pain, through it would seem reasonable to assume from their responses that they do. Indeed, without this assumption there would be no point in having organizations for the prevention of cruelty to animals, and I for one would be concerned that a charitable consideration we were prepared to extend to animals should be withheld from our own unborn.

It seems probable that labor and delivery are painful experiences for some babies. X-ray films taken during labor contractions show fetal limbs flailing, although this activity is not apparent to the mother or observers through a firmly contracted uterus. However, the tail end of this fetal protest is often apparent as a contraction wanes and the uterus relaxes. Similarly, of one attempts to reproduce by gentle manual compression a mere fraction of the overlap of fetal skull bones which can occur in the course of a single contraction, the newborn child protests violently. And yet it is an interesting measure of the manner in which we adults can selfishly view the world when we consider the general disregard of an infant's cries as signals of real distress.

Contrary to traditional view, the inside of a uterus in not entirely dark and certainly not silent. Light and sound reach the fetus, and his or her responses to external light and sound stimuli may be recorded as increased movement, heart rate changes, or as electroencephalographic waves. Both habituation, the fetus's eventual nonresponsiveness to repeated signals, and conditioning, the phenomenon whereby the fetus can be alerted by a first signal to anticipate a second different one, have been demonstrated.

Apart from special circumstances like close-up flash photography of the pregnant abdomen or a naked abdomen in sunshine, normal *in utero* light levels are very low and shifted far to the red end of the spectrum. In this situation, the fetus is using only his or her crude low-light intensity or rod vision; both light intensity and images are needed to practice macular or cone vision. By contrast, the fetus has been exposed to sound stimuli much richer in pattern and meaning and it is therefore not surprising that the newborn can discriminate among quite a range of phonetic values. External sound reaches the fetus, provided it is of sufficient intensity to survive the attenuation through maternal tissues. In practice, this means it must be higher than 75 to 80 decibels. Audiometric curves may be obtained from the fetus to reassure mothers, in particular deaf-mute mothers, that their babies can hear, although the variableness of fetal wakefulness and attention span naturally make such recording sessions rather protracted.

But it is not only external sound which bombards the fetus, since the uterus is a very noisy place. The loudest sounds to reach the fetus are the erratic gurgles of gas in maternal intestines. These peak at 85 to 90 decibels—about the intensity of traffic noises in a busy street. At and below 60 decibels two other and more interesting sounds occur—the maternal voice and the all-pervading blood pulses which are in synchrony with the maternal heartbeat through the great vessels supplying the uterus and placental bed.

The baby is accomplished at swallowing by birth; this is hardly surprising when we know that it has been drinking its amniotic fluid in phasic pattern from at least as early as eight weeks' gestation. Fetal swallowing contributes to fetal nutrition, and the fetus who for anatomical reasons cannot swallow *in utero* is born with a reduced birth weight. In late pregnancy, the fetal swallowing rate shows a fascinating variation from as low as 5 ml per hour to as high as 70 and occasionally 100 ml per hour.

Generally speaking, large, well-nourished babies swallow at a high rate and small, undernourished babies at a low rate although there are interesting exceptions to this rule. More consistent and interesting is the good correlation between fetal swallowing rates and independently assessed feeding performance in the newborn. The fast drinkers *in utero* are the same in the nursery; the slow drinkers *in utero* are dainty, tedious feeders in the nursery.

Some babies are also veteran thumb suckers by birth. As part of the neurological examination of the newborn, if the area around the mouth is stroked the baby turns its head to the side of the stimulus and opens its mouth. This reflex, which is known in American as the "rooting" reflex and in English as the "seeking" reflex, is clearly the mechanism by which the baby homes in on the nipple. As it is very common *in utero* for babies to lie with hands and sometimes feet close to their faces, it is not surprising that the fetus should elicit this reflex itself. Hence, it is not uncommon on prenatal x-rays to spot babies sucking thumbs, fingers (often two fingers), and occasionally toes. We have observed thumb-sucking as early as 24 weeks on x-rays and it has been photographed in the 9-week abortus. It is not surprising that parents may find this a difficult habit to break when the baby has had so much start and practice.

Fetal hiccups are a common and interesting phenomenon. They occur at a rate of some 14 to 20 per minute, in episodes which may last from half a minute to over half an hour. Many women have noticed these series of small, regular, jerky movements. Some have wondered what they were, a few have correctly guessed what they were, while others have been rather uneasy especially if there is an epileptic in the family tree. Worriers should be reassured because although fetal convulsions can occur, they appear to be exceptionally rare. On the other hand, fetal hiccups are very common. We suspect they are related to episodes of fetal swallowing, because the baby who hiccups *in utero* hiccups as a neonate usually and sometimes only after feedings. Fetal hiccupping episodes are few in the morning and show an interesting peak in the late afternoon and early evening.

A similar daily pattern is shown by episodes of so-called fetal breathing—the exercise that the baby performs with its main respiratory muscle, the diaphragm, before birth. These movements have a higher frequency than hiccups, usually some 40 to 70 per minute. Like any respiratory movements, they are affected by a number of influences, especially carbon dioxide concentration.

Variation of fetal movement is shown throughout the day, but the occurrence of hiccups is about 30 percent more frequent at night. The number of episodes per day of fetal hiccups, "breathing," and movement are similar, however, in showing a decline in the last few weeks of pregnancy. The reduced number of movements is balanced by each movement's taking longer to complete, so that in late pregnancy the baby actually spends about the same proportion of time moving as earlier.

That fetal hiccups, "breathing," and movement episodes are not uniformly distributed around the clock is an important observation: it shows that the fetus has already acquired some diurnal or circadian rhythms. That circadian rhythms are acquired and related to activity cycles is indicated by inhabitants of fishing villages whose lives revolve around the tides: their rhythms are lunar not solar, in periodicity. The fetus demonstrates several such rhythms, which shows that he or she is not indifferent to the world outside the uterus, and that his or her cycles are probably determined by the mother's activity and metabolic cycles.

This, then, is the fetus we know and care for in modern medicine. It is also the fetus we each once were ourselves. The picture has been built up of small pieces; even if we still could fit in many more pieces, the overall image is clear enough. We were not placid, dependent, fragile, nerveless vegetables who lied in a metabolic nirvana and a state of sensory deprivation.

We did not blindly develop structures in anticipation of a life and function to begin at birth, either: development of structure and development of function went hand in hand. We were active and reactive. The uterus filtered, buffered, and somewhat distorted the outside world but did not completely block it off. It is a truism to say that we are all the products of nature and nurture, but this is a truth not restricted to extrauterine life. At birth, we are the products of our nature, our genetic endowment, our nurture—our *intrauterine* environment.

L.A. Coroner, D.A. Office Brought In—Investigation Underway Into Storage of 1,000 Aborted Fetuses

(By Nick Thimmesch)

When I became acquainted with the pro-life movement in 1973, I was struck with how diverse its people were, and how they showed single-minded determination in fighting the consequences of the infamous *Roe v. Wade* decision. There were Protestants, Catholics, Jews, and non-believers in the movement. There were whites, blacks, browns, Indians, and Asian-Americans.

There were rich, poor and earnest Middle Class, Democrats, Republicans, Independents, Libertarians, young and old. In those days there were no computerized high-speed mailing lists, or fussy debates over the relative virtues of, say, a Helms bill or a Hatch amendment.

After I published "The Abortion Culture" in Newsweek, I was startled with the enthu-

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siastic response from prolifers. They were desperate for any sign that anybody in the media cared, and they were hoping for any move to undo the Supreme Court's wrongdoing.

In the nine years since, the relatively small numbers of prolife activists achieved some remarkable successes, given the widespread, mainstream indifference toward abortion on demand. The establishment of the Hyde Amendment, the election of state legislators, U.S. Congressmen, and two presidents who expressed agreement with prolife goals, and an increasing public awareness of issues focusing on the value of human life—well, that's quite a record.

But people are people. Through history, those in serious, spirited movements inevitably quarrel over tactics and approaches.

It is no different in the prolife movement than it was, say, in the American revolution, or during the antislavery crusade. In recent months, in debating merits of legislation to stop abortion, prolifers have called each other names they usually reserve for the ardent pro-abortionists.

Distressed over the wrangling, I knew it was clear that we all need to be reminded of what this movement was all about.

On Feb. 4, a ghastly discovery in a backyard in Woodland Hills, California, provided the sorbering reminder. It was there that workmen, routinely dispatched to repossess a large, steel storage container, became upset and even ill from what they found.

Empty, the container weighs 4,000 pounds, but this one came in at 11,000. The workmen struggled to get it onto the back of their truck, even breaking a winch in the process.

What were its heavy contents?

They opened the container, found boxes which they also opened, and suddenly, small parts of a tiny human body fell out. It was one of 1,000 fetuses in the custody of Melvin R. Weisberg, 33, who had leased the container from the Martin Container Company.

The men went back to their boss, Nick Martin, and told him they couldn't clean out the container. One man said it smelled like a cesspool.

The forklift operator admitted that he was frightened. "It was nothing that anybody's ever seen before," he said. "It was sick, whoever did it."

Martin went to see for himself. He became disgusted. "They say they're just fetuses," he said, "but they sure looked like humans to me."

Now 1,000 unborn don't weigh 7,000 pounds, even when they are suspended in formaldehyde in plastic containers. No, the unborn were in the company of specimens of medical "waste"—cancerous growths from operations, "pap smears," other pathology lab specimens, and hundreds of printed medical records.

Some of the unborn were egg size, some were as large as four to five pounds, meaning they could have been the results of prohibited late abortions. The larger ones were in one-gallon containers; the smaller ones in jars marked "dentures."

This grisly collection of snuffed out human lives and medical "waste" was supposed to be analysed and identified by Weisberg, who had operated a pathology lab in Santa Monica. But Weisberg had gone broke, closed the business, and stored his inventory in Nick Martin's big, black container.

Weisberg had received the specimens from doctors, clinics and hospitals in half a dozen states. The labels indicated that some had been in storage since 1979.

The first reporter on the scene noted that some containers came from Planned Parenthood organizations in Missouri and California. When I called the national offices of Planned Parenthood about this, I was told that affiliates in several states had shipped Weisberg pap smears for analysis, but never fetal material. According to the Planned Parenthood's New York headquarters, one of its Minnesota facilities sued Weisberg because he never performed the promised services on the smears.

As far as Planned Parenthood is concerned, the unborn and stillborn are all medical waste, and should be dispatched with the aid of a pathology lab of the kind Weisberg ran. This clinical mentality was also expressed by the assistant coroner commenting on the "find" in Woodland Hills.

"There is no evidence of foul play," proclaimed Richard Wilson, "but there could be violations of the health code covering the disposal of medical waste."

In a way, this response is not surprising. All across America, the unborn killed in abortions are pretty much regarded as medical "waste." A spokesman for D.C. General Hospital, for example, told me that aborted babies are regarded as surgical specimens, and are incinerated with the garbage within three weeks after the abortion.

This is the same D.C. General where employees once actually sold the organs of dead babies. In 1976, it was revealed that staffers in the hospital's pathology department collected more than $68,000 from commercial firms for organs of stillborn and dead premature babies, including some from "late-term elective abortions."

A hospital official later admitted that the money earned from this commerce was used to buy a TV set for the lounge, to cover expenses for physicians attending conventions, and for soft drinks and cookies for visiting professors. It was all very tidy.

At George Washington University hospital, where President Reagan's life was saved last year, no reports of such sales, but a slightly different policy on disposal of aborted babies. At G.W.U., the aborted unborn under 20 weeks are cremated, in the words of a spokesman, "like an amputated part."

Aborted babies over 20 weeks, I was told, "are regarded as adults, and a death certificate is issued. The mother can then elect cremation or burial for the fetus."

In California, where the Los Angeles District Attorney is pondering aspects of the "find" in Weisberg's backyard, bodies and body parts must be buried in a cemetery or cremated. Moreover, California law prohibits abortion after 20 weeks, though this law hasn't been tested. The coroner impounded all of the Weisberg material, and is conducting special tests on 31 of the fetuses which are described as weighing four pounds or more, therefore 20–27 weeks, and viable.

The District Attorney is also wrestling with the question of ownership of the fetuses. Do they belong to the mothers, to the abortion clinics or hospitals from where they were shipped, or to Weisberg, their custodian?

Weisberg met with an assistant to the Los Angeles District Attorney's office last week, an event which the Los Angeles Times had breathlessly described as "Secret Meeting Set in Fetus Discovery Case." Little of the mess was untangled, and more meetings will be held. My, oh my.

Meanwhile, a group of Right to Life organizations in California have announced that it would like to claim the 1,000 unborn babies' bodies in order to bury the dead babies in an ecumenical burial service. The Los Angeles Diocese of the Catholic Church is willing to furnish a plot large enough to bury the bodies in Holy Cross cemetery. Several mortuaries have volunteered to assist the coalition in preparing the bodies.

The Rev. Donald P. Shoemaker, a Protestant minister who is on the faculty at Viola University, says he is organizing a group of clergymen including a priest, a rabbi and ministers, to conduct a non-sectarian burial service. This group has been promised by Los Angeles County Assemblyman Mike Antonivitch that he will make sure the bodies are not incinerated and are kept for burial.

Such is life and death in California, and for that matter, everywhere in the Western world which seems to be on an anti-life binge. There is so much for prolifers to do besides debate politics or the Hatch amendment.

For example, with at least 1.3 million abortions performed annually in the U.S. and millions more in the rest of the world, there is no shortage of unborn (fetal material?) for experimentation and commercial use. The Paris law journal, "Gazette du Palais," recently reported that guards at the Swiss-French border intercepted a truckload of frozen human fetuses destined for cosmetic laboratories in France.

Indeed, there is all manner of advertising these days for the magic of collagen, a gelatinous substance found in connective tissue, bone, and cartilage of fetuses and nonhuman animals. There is no suspicion that human fetal material may be used for this purpose.

Moreover, prolifers should know there is a good deal of experimentation by doctors and drug companies with unborn children destined to be aborted. The Arizona Republic in Phoenix reported last March that E.R. Squibb and Sons Laboratories was involved in an experiment utilizing unborn fetuses which would be aborted. There are countless cases where the National Institute of Health sponsored non-therapeutic experimentation on previable infants—unborn children. At one point, the government even approved such experimentation on an ethical basis.

And there is more.

What to say of the burgeoning genetic engineering business, corporations producing "life" organisms, experimenting with them, and then killing them? In vitro fertilization, use of frozen embryos, the widespread practice of amniocentesis—all raise questions right up the alley of prolifers.

How appalling to learn about the "find" in Woodward Hills, California, but it's just as appalling to read how doctors walk away from freshborn but deformed babies, so they can die. And how about the young father who wanted to decide whether to have his wife abort their child so he could use the unborn's kidneys for a transplant he desperately needed?

There is no end to it in our time. It clears the head to encounter such grisly, subhuman experience in a world which calls itself enlightened, sophisticated and industrially advanced.

With or without laws and amendments—and I agree with Cong. Henry Hyde who cosponsors all of them—people concerned with the value of human life in all of its stages will have plenty to do. Cain left his mark for all of us to deal with.

[From Human Life Review, Fall, 1981]

Late Abortion Statistics

It comes as no surprise that more people oppose late abortions than early ones. Indeed, many people believe that late abortions are still illegal, or, where they are permitted, it is due to indifference on the part of the state legislature. Even when they are informed that late abortions are legal everywhere in the U.S. and are beyond the reach of any legislature, skeptics will still reply that abortions are rarely, if ever, performed after viability. While it is certainly true that a very small proportion of all abortions occur after 20 weeks gestation, it is also true that a very small proportion of the postnatal deaths in the U.S. are homicides, yet we properly give these considerable attention.

The word "late" needs a precise definition, but there is no common agreement on its meaning in this context. Since babies have been born at 20 weeks and have subsequently developed normally, it is not unreasonable to begin a table at 21 weeks and to let the reader decide from there.

The following table was constructed using data supplied by the U.S. Dept. of Health, Center for Disease Control, in Atlanta. However, only eight states (Illinois, Kansas, Nebraska, New York, (excluding New York City), Oregon, South Carolina, Tennessee, Vermont) report abortions by single week of gestation. Since Chicago is the only large city included in this group of states, the simple extrapolation methods which I used to estimate the totals for the entire U.S. probably underestimate the actual figures. After all, a late abortion is a dangerous operation which is not socially acceptable in most circles. Big cities offer better facilities and greater anonymity. Further, the reported figures show unmistakable signs of underreporting of the gestational age. For example, the eight states reported hundreds of abortions after one week, i.e., prior to conception itself. (Gestation is measured from the last day of the last menstrual period.) The figures are for 1978, the latest available.

Gestational age in weeks from last day of menstrual period	Actual abortions reported in the eight state group beyond this age	Estimate of the total U.S. abortions beyond this age
21	1,144	9,702
22	792	6,717
23	479	4,063
24	318	2,697
25	223	1,891
26	154	1,306
27	118	1,001
28	91	772
29	66	560
39	44	373
31	26	221
32	10	[illegible]
Total	3,465	29,388

[From the Human Life Review, Winter, 1980]

The Nobel Lecture

(By Mother Teresa)

It is not enough for us to say: I love God, but I do not love my neighbor. St. John says you are a liar if you say you love God and you don't love your neighbor. How can you love God whom you do not see, if you do not love your neighbor whom you see, whom you touch, with whom you live? And so this is very important for us to realize that love, to be true, has to hurt.

It hurt Jesus to love us. It hurt him. And to make sure we remember his great love, he made himself bread of life to satisfy our hunger for his love. Our hunger for God, because we have been created for that love. We have been created in his image. We have been created to love and be loved, and then he has become man to make it possible for us to love as he loved us. He makes himself the hungry one, the naked one, the homeless one, the sick one, the one in prison, the lonely one, the unwanted one, and he says: You did it to me. Hungry for our love, and this is the hunger of our poor people. This is the hunger that you and I must find. It may be in your own home.

I never forget an opportunity I had in visiting a home where they had all these old parents of sons and daughters who had just put them in an institution and forgotten, maybe. And I went there, and I saw in that home they had everything, beautiful things, but everybody was looking towards the door. And I did not see a single one with their smile on their face. And I turned to the sister and I asked: How is that? How is it that the people they have everything here, why are they all looking toward the door? Why are they not smiling?

I am so used to see the smile on our people, even the dying one smile. And she said: This is nearly every day. They are expecting, they are hoping that a son or daughter will come to visit them. They are hurt because they are forgotten. And see—this is where love comes. That poverty comes right there in our own home, even neglect to love. Maybe in our own family we have somebody who is feeling lonely, who is feeling sick, who is feeling worried, and these are difficult days for everybody. Are we there? Are we there to receive them? Is the mother there to receive the child?

I was surprised in the waste to see so many young boys and girls given into drugs. And I tried to find out why. Why is it like that? And the answer was: Because there is none in the family to receive them. Father and mother are so busy they have no time. Young parents are in some institution and the child takes back to the street and gets involved in something. We are talking of peace. These are things that break peace.

But I feel the greatest destroyer of peace today is abortion, because it is a direct war, a direct killing, direct murder by the mother herself. And we read in the scripture, for God says very clearly. Even if a mother could forget her child, I will not forget you. I have curved you in the palm of my hand. We are curved in the palm of his hand: so close to him, that unborn child has been curved in the hand of God. And that is what strikes me most, the beginning of that sentence, that even if a mother could forget something impossible—but even if she would forget—I will not forget you.

And today the greatest means, the greatest destroyer of peace is abortion. And we who are standing here—our parents wanted us. We would not be here if our parents would do that to us.

Or children, we want them, we love them. But what of the millions? Many people are very, very concerned with the children of India, with the children of Africa where quite a number die, maybe of malnutrition, of hunger and so on, but millions are dying deliberately by the will of the mother. And this is what is the greatest destroyer of peace today. Because if a mother can kill her own child, what is left for me to kill you and you to kill me? There is nothing between.

And this I appeal in India, I appeal everywhere: Let us bring the child back, and this year being the child's year: What have we done for the child? At the beginning of the year I told, I spoke everywhere and I said: Let us make this year that we make every single child born, and unborn, wanted. And today is the end of the year. Have we really made the children wanted?

I will give you something terrifying. We are fighting abortion by adoption. We have saved thousands of lives. We have sent words to all the clinics, to the hospitals, police stations: please don't destroy the child; we will take the child. So every hour of the day and night it is always somebody—we have quite a number of unwedded mothers—tell them come, we will take care of you, we will take the child from you, and we will get a home for the child. And we have a tremendous demand for families who have no children, that is the blessing of God for us. And also, we are doing another thing which is very beautiful. We are teaching our beggars, our leprosy patients, our slum dwellers, our people of the street, natural family planning.

And in Calcutta alone in six years—it is all in Calcutta—we have had 61,273 babies less from the families who would have had, but because they practice this natural way of abstaining, of self-control, out of love for each other. We teach them the temperature meter, which is very beautiful, very simple. And our poor people understand. And you know what they have told me? Our family is healthy, our family is united, and we can have a baby when ever we want. So clear—those people in the street, those beggars—and I think that if our people can do like that how much more you and all the others who can know the ways and means without destroying the life that God has created in us.

The poor people are very great people. They can teach us so many beautiful things. The other day one of them came to thank, and said: You people who have evolved chastity, you are the best people to teach us family planning. Because it is nothing more than self-control out of love for each other. And I think they said a beautiful sentence. And these are people who maybe have nothing to eat, maybe they have not a home where to live, but they are great people.

The poor are very wonderful people. One evening we went out and we picked up four people from the street. And one of them was in a most terrible condition. And I told the sisters: You take care of the other there; I take care of this one that looked worse. So I did for her all that my love can do. I put her in a bed and there was such a beautiful smile on her face. She took hold of my hand, as she said one word only; thank you—and she died.

I could not help but examine my conscience before her. And I asked: What would I say if I was in her place? And my answer was very simple. I would have tried to draw a little attention to myself. I would have said I am hungry, that I am dying, I am cold, I am in pain or something. But she gave me much more—she gave me her grateful love. And she died with a smile on her face—as that man whom we picked from the drain, half eaten with worms, and we brought him to the home. I have lived like an animal in the street, but I am going to die like an angel, loved and cared for. And it was so wonderful to see the greatness of that man who could speak like that, who could die like that without blaming anybody, without cursing anybody, without comparing anything. Like an angel—this is the greatness of our people.

And that is why we believe what Jesus has said: I was hungry, I was naked, I was home-

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less; I was unwanted, unloved, uncared for—and you did it to me.

ABORTION AND PUBLIC OPINION

Public opinion polls have often been cited to support stances both for and against legalized abortion. These polls have not always given reliable or consistent information because of differences in sampling, in the phraseology of questions, and in the respondents' level of knowledge on the issues. Such problems, of course, are common in public opinion polls taken on any complex issue.

The abortion issue, however, also carries with it special complications: both sides in the dispute claim that the issue is a matter of fundamental right and therefore that the vagaries of public opinion are inadequate to express the full significance of the issue. Opponents of abortion further point out that one of the two entities most intimately involved in every abortion procedure—the unborn child—is unable to express his or her viewpoint on public policy regarding abortion. Advocates of the abortion right point out in response that the Supreme Court has treated the issue in terms of a woman's constitutional "right of privacy" and claim that the views of women should be accorded special weight regarding an issue which men do not confront in the same manner.

But even here, some knowledge of public opinion may be of help, not in assessing the objective validity of either claim, but in assessing whether most Americans would consider either as valid. Some polls, for example, suggest that, to the extent differences exist on matters of abortion policy between the sexes, women may be even more protective of the rights of the unborn than men. Women consistently place the point at which "human life begins" at an earlier stage than do men and may be even more opposed to legalized abortion than are men.[1] In fact, the very groups that are often viewed as "under-represented" within our political system, i.e., women, racial minorities, the poor, are more opposed to abortion than the rest of the population, according to many public opinion polls.[2] Concomitantly, those groups best represented within this system may be disproportionately supportive of the *Roe*-spawned abortion right. According to a recent poll conducted by the Connecticut Mutual Life Insurance Company, only 29 percent of the "political leaders" within the United States considered abortion as "morally wrong" as opposed to 65 percent of the general population.[3]

Within the limits of these polls, several general observations can be made about public opinion and abortion. Professor Adamek testified on a number of these before the Subcommittee.[4] Despite differences in the wording of questions and the span of time over which the various polls were taken, Professor Adamek has identified certain patterns of response which are relatively consistent.

1. Neither the opponents of all abortion nor the advocates of unrestricted abortion can claim agreement with the majority of the American people. The population can be divided roughly into three groups: those who oppose legalized abortion in virtually all circumstances (perhaps 22%); the "middle majority" which opposes legalized abortion except for certain "hard cases" such as serious endangerment to the mother's health, rape or incest, and likelihood of serious defect in the baby (about 55%); and those who want abortion to remain legal in all circumstances (about 23%).[5]

2. Support for legalized abortion deteriorates significantly as soon as one speaks of abortion after the first trimester. There is no majority support for abortion under any circumstances after this point, except in the case of danger to the mother's life.[6]

3. Support also deteriorates as soon as one speaks in terms of specifics instead of vague generalities. For instances, one Gallup poll showed 64% support for the proposition that "the decision to have an abortion should be made solely by a woman and her physician", but another Gallup poll taken in the same year showed only 24% support for the proposition that a woman should be "able to get an abortion without her husband's consent." [7] (This kind of discrepancy occurs even within the membership of the major "abortion rights" groups: for instance, a poll of members of the National Abortion Rights Action League, not cited by Adamek, show 85% support for legalized abortion in all circumstances, but only 58% support for legalized abortion when the child is not of the preferred sex. Some legal abortions are already being performed for this reason, according to the news media.) [8]

4. Polls seeming to indicate majority approval of the Supreme Court's abortion decisions have been flawed in several respects. By keeping to vague generalities, by wording the question in a misleading or euphemistic way, and by misrepresenting the Court's decision as legalizing abortion only during the first trimester, these polls obscure the fact that the majority of Americans approve of legalization only in cases which constitute less than 5% of the abortions now performed legally in the United States.[9]

5. There is serious disagreement between the Supreme Court and the American people on the question of "when life begins" as well as on the question of when the unborn may be considered as a "human person." As mentioned above, disagreement with the effect of the Court's decision is significantly stronger among women than among men. Three polls taken in 1981, for example, indicate that a majority of the public believes that human life begins within the first trimester of pregnancy, while only 5 to 17% believes it begins at birth. A poll reported by Judith Blake in 1977 shows only 18% of men and 8% of women adopting the stance that human personhood begins at birth, while 33% of the men and 51% of the women believe that it is present at conception.[10]

A recent study by Judith Blake and Jorge Del Pinal of the University of California, based on the findings of 18 public opinion polls taken from 1965 to 1980, lends support to Adamek's most important conclusions.[11] This study also found that most Americans fall into the "middle" category, disapproving of unrestricted abortion but approving of legalization in certain rare circumstances. This study reached two additional conclusions which are of special significance for the debate over attempts to reverse the Supreme Court abortion decisions:

1. Even among the minority which supports abortion on demand, there is little support for the full extent of the Supreme Court's decisions or for the full agenda of the "prochoice" movement. This group shows no strong support for the Federal funding of abortion, for abortion without the husband's consent, or for abortion after the first trimester.[12]

2. People in the large "middle" group are "markedly more similar to respondents who are negative toward abortion than to those who are positive" when one analyzes their background characteristics and attitudes toward related issues. Abortion thus appears to take its place "at the end of a long line of issues on which 'policy' has run far ahead of the nation's will to execute." [13]

Further support for these conclusions has recently come from a somewhat unexpected source. Jeannie Rosoff, president of the Alan Guttmacher Institute which conducts research for the Planned Parenthood Federation of America, recently announced at a Planned Parenthood public impact seminar that the American people support legalized abortion only in the rare "hard cases" and that it is becoming difficult to ignore "people's genuine discomfort at the number of abortions" currently performed in the United States.[14] Most of these abortions, Rosoff noted, are performed for social, economic, age, or lifestyle reasons, and "support dwindles very, very rapidly" as soon as these are presented as justifications for a legal abortion.

Feelings on public policy regarding abortion do seem to translate into support for specific proposals designed to reverse the Supreme Court's abortion decisions. In a poll conducted by DeVries & Associates in November and December of 1974, only 25.1 percent elected to let the decisions stand; 32.8 percent thought that Congress should reverse the decision and make abortions illegal either in all circumstances or except to save the life of the mother; and 39.5 percent favored a somewhat lower level of constitutional protection for the unborn, either by having Congress make abortions illegal except in specific cases determined by law or by restoring the authority to make abortion laws to the States. Opposition to the Supreme Court's decisions is slightly higher now than in 1974, so support for these proposals would now presumably be somewhat stronger than it was in 1974.[15] If the analyses of Blake and Adamek are correct, even many of the people who claimed to support the 1973 Supreme Court decision in this 1974 poll would favor more restrictions on abortion than are currently provided for under these decisions and their progeny.

More recently, three polling organizations asked Americans whether they would support legislation that would or might make all abortions "murder." Support for such a measure ranged from 29 percent to 42 percent—apparently indicating that some in the "middle majority" will side with the anti-abortion stance even when presented in its most extreme form, if they are asked to choose between this and the present state of affairs.[16]

In order to appreciate the full significance of these findings for the proposed amendment it is necessary to understand how flexible the provisions of this amendment are. It would be difficult to see how public opinion could be cited as evidence against the proposed amendment, when its precise objective is to allow public policy to keep pace with public opinion through the democratic process. One study conducted by Market Opinion Research and the National Abortion Rights Action League, however, claims that "over half the voters interviewed believe that abortion is not an issue in which government at any level should be involved", with the implied claim that government is not presently involved in the abortion issue and that passage of a constitutional amendment would initiate this unwanted involvement.[17] But the legal reality, and the reason why opposition to the Supreme Court's abortion decisions has been so strong and persistent, is that these decisions press government at its most fundamental constitutional level into the service of abortion. Abortion has been singled out for special treatment by the Federal courts, to the extent that health regulations and consent requirements deemed appropriate for medical procedures of similar hazards and complexity are ruled unconstitutional in the case of a first-trimester abortion.[18] If complete absence of government involvement in this issue were really desired, this could be achieved by ratifying S.J. Res. 110 and then failing to enact any penal legislation on the matter; for under such circumstances, abortion would be neither a crime nor a constitutional right. Groups advocating legalized abortion seem to consider this as an unlikely scenario, apparently indicating a perception that the majority of Americans actually do want substantial restrictions placed on access to abortion.

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[1] Footnotes are at end of article.

If it is true, as some have claimed, that a constitutional amendment should memorialize a consensus instead of trying to create one,[19] S.J. Res. 110 has the potential for reflecting the American consensus on abortion much more accurately than the Constitution as currently interpreted by the Supreme Court does. It is true that some supporters of this measure see it as an opportunity to work toward a more complete national consensus against legalized abortion; but the amendment itself does not require such a result, and allows groups favoring abortion to conduct the same kind of lobbying efforts toward their own goal of unrestricted abortion. Indeed, the obvious fact that it is easier to block controversial legislation than to enact such would seem to give the advantage to the latter groups, if they do in fact represent the majority of the American public. Whatever the final consensus on the substantive issues involved, it would be more likely to garner public respect if it were reached through the democratic process instead of being imposed upon the public by a small number of appointed judges on the basis of highly controversial constitutional arguments. I have heard no testimony showing that respect for the Supreme Court or for Congress is likely to be boosted by Congressional refusal to report out a proposal allowing the American public to express its opinion on the matter.

FOOTNOTES

[1] On the question of "when life begins," see the Judith Blake poll of 1977 cited in Senate hearings, December 7, 1981. Professor Raymond Adamek, Kent State University. [Hereinafter cited as "Adamek."] On the question of legalized abortion: ABC News/Washington Post, 1981; Gallup, February 27-March 1, 1976; DeVries & Associates. November-December 1974. Polls which distinguish between the responses of men and women generally find opposition to legalized abortion to be 5 to 10 percent higher among the latter.

[2] This is the consistent finding of all polls which distinguish among these groups. For example, the ABC News/Washington Post poll taken in 1981 showed that almost one-third of those strongly opposing legalized abortion earn under $12,000 a year, with only 10 percent earning 30,000 or more, and that nearly one-quarter are black. More than one-quarter of those supporting legalized abortion earn $30,000 or more. Annual abortion polls taken by the National Opinion Research Center have consistently shown that black Americans are strongly opposed to abortion on demand and some have even suggested that they are more opposed to legalized abortion than Catholics are. See Andrew M. Greeley, "Black Stand on Abortion," in the New York Daily News, March 12, 1978. It seems clear that the issue of religion has often been overemphasized in the debate on abortion policy. Although some differences in survey responses seem traceable to denominational differences, intensity of church involvement and commitment to a traditional personal morality seem to be much more strongly associated with opposition to abortion than is any particular denominational affiliation. See: ABC News/Washington Post poll of 1981; Gallup polls at 1975 and 1977. This result is quite understandable in light of the fact that major Western religious denominations condemned abortion almost unanimously until recent years. See on this issue generally Grisez, Abortion: The Myths, the Realities, and the Agruments (1970), Chapter IV; J. Noonan. A Private Choice, 53–63; New Perspectives, Chapters 25–27. The U.S. Supreme Court, despite its strong commitment to the "right" of abortion, has never accepted the view that abortion restrictions violate the Religion Clauses of the First Amendment. See *Harris* v. *McRae*, 100 S. Ct. 2671 at 2689 (1980).

[3] This finding was reported in the Wall Street Journal, May 15, 1981. The same poll found the socio-demographic correlations that other polls have reported: Moral opposition to abortion is strongest among women, the poor, and racial minorities.

[4] The data analysed include results from the National Opinion Research Center for 1972 to 1980; the Gallup Opinion Index for 1972 to 1981, and individual polls conducted by Judith Blake, ABC News/Washington Post, and CBS News/New York Times, as well as prior analyses of poll data by Blake, Donald Granberg and other sociologists. A useful summary of the issue of public opinion on abortion is contained in Duggan, "Abortion and the Opinion Polls", Supplement to Catholic League Newsletter, Vol. 8, #6.

[5] The major source for this finding is a series of five Gallup polls taken from 1975 to 1981. Similar results have been obtained by the National Opinion Research Center in eight polls taken from 1972 to 1980. See Adamek, tables 2 through 4. An ABC News/Washington Post poll taken in 1981 showed 40 percent who "generally speaking" agreed that a woman should be able to get an abortion if she wants one, but these respondents were not asked whether they supported legalized abortion in all circumstances. The 60 percent who disagreed with the statement were generally found to favor legalization only in certain rare circumstances, and this only in the first trimester. Earlier in the same poll the public's feelings about "right to life group", and "pro-choice" groups was elicited: 71 percent had heard about "the right to life" and a majority of these claimed to agree with this group's position on abortion, while only 24 percent had heard of "the pro-choice group", and 46 percent of these claimed to agree with its position on abortion. These findings do not seem to contradict those of NORC and Gallup; they are consistent with the claim that support for abortion "generally speaking" deteriorates rapidly as soon as particular circumstances are mentioned.

[6] See Adamek, table 3, based on Gallup surveys of 1978 and 1979.

[7] See Adamek, table 1. In any event, the idea that abortion decisions are currently made by "a woman and her physician" has been called a "myth" by many physicians. As Bernard Nathanson, an obstetrician and gynecologist who helped found the National Abortion Rights Action League, testified, "In virtually every instance when a woman presents herself to the doctor her mind is already made up, and the doctor is nothing more than the instrument of her will. In that there are only very few medical reasons for abortion, the vast majority of abortions are decided upon for financial, emotional or situational reasons. There is no physician input into the decision-making process in permissive abortion." Senate Hearings, October 14, 1981, Dr. Bernard Nathanson, Obstetrician and Gynecologist, St. Luke's-Roosevelt Hospital; Assistant Clinical Professor, Cornell University the author of an important work tracing his evolution on this issue, B. Nathanson with R. Ostling, Aborting America (1979).

[8] For the opinion survey of National Abortion Rights Action League members, see Granberg, "The Abortion Activists," in Family Planning Perspectives, July/August 1981, at 163. Under current constitutional law, a third-trimester abortion performed for purposes of sex selection is legal, and requires only that the physician performing the abortion believe that the birth of a child of the "wrong" sex might adversely affect the mother's "well-being." This issue was recently debated on the PBS television program "Boy or Girl: Should the Choice be Ours?, which was first aired in January of 1981 as part of a six-part series on bioethics titled "Hard Choices." Also see McTaggart, "The Break-through that Backfired," New York Sunday News Magazine, Feb. 8, 1981.

[9] See Adamek, at 4. Dr. Irvin Cushner of the University of California has testified that "something on the order of 2 percent of all of the abortions in this country are done for some clinically identifiable entity," including abortions to prevent the birth of a handicapped child; Dr. Cushner estimated that about 1 percent are performed for "physical health" reasons. Senate hearings, October 14, 1981. According to Dr. Richard Schmidt of the University of Cincinnati School of Medicine, only "a minute fraction" of the total number of abortions are currently performed for "life-saving indications," and the number of indications continues to decrease every year. Senate Hearings, October 19, 1981. As U.S. Representative Vin Weber of Minnesota testified, "Abortion has become a technique used for family planning. Millions of people find it inconvenient to have a child, or they wish to better plan their families, a sort of social engineering." Senate Hearings, December 16, 1981. Another witness, Bella Abzug of Women U.S.A., testified to the fact that some groups supporting legalized abortion now see it primarily as a "method of birth control." Senate hearings, December 16, 1981. None of the major public opinion polls show majority support for this state of affairs.

[10] See Adamek, table 6.

[11] Blake and Del Pinal, "Negativism, Equivocation, and Wobbly Assent: Public 'Support' for the prochoice Platform on Abortion", 18 Demography 309–320 (August 1981). This study is based on eight NORC surveys from 1972 to 1980, eight Gallup surveys from 1968 to 1977, and two National Fertility Surveys conducted in 1965 and 1970.

[12] Id. at 315–16.

[13] Id. at 312–16.

[14] Reported in Andrusko, "Don't Be Misled by Polls, Proabortion Leader Warns", National Right to Life News, Nov. 9, 1981, at 3. Rosoff's comments were part of an October 31 seminar in Washington, D.C. on "External Strategies: The Fight for Reproductive Rights in the 1980's."

[15] Increased opposition to the Supreme Court's abortion decisions is indicated by Gallup polls of 1974 and 1981; 46% opposition to these decisions' legalization of first-trimester abortion was recorded in the more recent poll. These questions did not deal with other aspects of the decisions, such as late-term abortion, spousal and parental consent, or medical regulations.

[16] See Adamek, table 9.

[17] Senate hearings, December 7, 1981. Barbara Bryant, Vice President, Market Opinion Research. As noted by the Chairman of the Subcommittee on the Constitution, this study was flawed in several respects: its sampling included only three American communities which do not seem representative of American opinions on abortion; questions were worded in vague, misleading or euphemistic ways; respondents were not allowed to express their views on legalization under different circumstances and for different stages of pregnancy; and some of the responses indicate internal inconsistency (for instance, 93 percent of those polled in Springfield, Massachusetts agreed that the abortion decision should be made entirely by the "consenting patient", but 26 percent expressed support for a constitutional amendment that would prohibit abortions). This poll also asked voters about three different proposals for reversing the Supreme Court's abortion decisions, including a proposal like S.J. Res. 110; but since it asked for a choice among these alternatives, rather than for a choice between each of them and the current situation of abortion on demand, it is unfortunately not very useful in gauging the political acceptability of this proposal among the American people. As noted above, only 25 percent of those polled by DeVries & Associates in 1974 elected to let the Supreme Court's decision stand, and this seems consistent with NORC and Gallup findings on support for abortion on demand.

Dr. Bryant also presented testimony on an analysis of abortion surveys which was commissioned by the National Abortion Rights Action League. This study takes at face value some of the poll results which Dr. Adamek and Judith Blake have analyzed and found wanting, but it ultimately comes to the same conclusions: most Americans want abortion to be legal only under certain extraordinary circumstances.

[18] Medical regulations designed to protect the pregnant woman in a first-trimester abortion, aside from the requirement that the abortion be per-

formed by a licensed physician, are of doubtful constitutionality under current law. A wide range of regulations and "informed consent" requirements have been invalidated by the progeny of *Roe* and *Doe*. In November and December of 1978, investigative reporters from the Chicago Sun-Times published accounts of abuses at legal abortion clinics in the city of Chicago which suggest that such clinics are seriously under-regulated.

[19] This argument has been put forward by Senator Patrick Leahy in his opening statement before the Subcommittee on October 15, 1981. Cf., however, the testimony of Dr. Adrian Rogers, former President of the Southern Baptist Convention, who observed that greater public discussion on this issue was likely to clarify the existence or nonexistence of any "consensus", Senate hearings, November 5, 1981.

Abortion and the Opinion Polls

(By Dexter Duggan)

(A sense of humor will be useful when Roper, Harris, Gallup and Yankelovich all agree that the public is overwhelmingly in favor of some notion that makes no sense at all.—Wall Street Journal, Dec. 26, 1980, with advice for President-elect Reagan.)

Bernard N. Nathanson, M.D., once a leading national champion of legally unrestricted abortion, contends in "Aborting America" that, "The American public has not yet given 'informed consent' to laissez-faire abortion."

His claim seems strongly at odds with numerous public opinion polls which convey the impression that the majority of Americans has willingly endorsed the sweeping permissive abortion decissions of the U.S. Supreme Court.

Some polls leave the impression of majority endorsement of the Court's reasoning, without explicity claiming such endorsement. Upon perusing their statistics, one learns there is no such approval.

Other polls do claim majority agreement with the Court. But these polls' questions, when examined, are revealed to have blurred, or even misrepresented, the scope and range of the Court's action.

In citing various pollsters' figures, I do not intend to imply that I agree with the accuracy of any. But I do contend that even the pollsters' own statistics do not add up to the substantial national majority approval for the Supreme Court action that is supposed to exist.

Even The New York Times, a leading editorial champion of permissive abortion, admitted in an August 18, 1980 "news analysis", "What do the American people think about abortion? It depends on how you ask them the question." When the Times/CBS News Poll questioned in a way conventionally favored by many pollsters, using language about "an amendment to the Constitution prohibiting abortions," the paper said there was only 29 percent approval for such a proposal. But when the object of the abortion was factored into the question—did people "believe there should be an amendment to the Constitution protecting the life of the unborn child"—the approval rate jumped to 50 percent.

The pollsters' "experiment suggested that not all polling questions are created equal," the Times reported. "Fully one-third of those who opposed the amendment when it was presented as 'prohibiting abortions' supported it when it was presented as 'protecting the life of the unborn child.' "

WHAT ABOUT THE CHILD?

Students of abortion polls have noticed that references to the unborn child are generally absent from their wording. The Times analysis said inclusion of the unborn "is the preferred question of the anti-abortion movement, and the results indicate why this group likes it so much." The Times refrained from pointing out that the type of wording which casts abortion as a private concern of the individual woman, with no reference to the unborn, is the preferred wording of the pro-abortion movement—and also of many professional pollsters.

A year earlier, Time Magazine had been even more straightforward about what polls were actually finding. Down in the body of a religion-department story, the January 29, 1979 issue of the news-weekly said, "... poll data indicate that about half the population agrees with the Catholic belief that human life begins at conception, and that only a minority of Americans are as liberal as the Supreme Court regarding abortion on request." Indicating that abortion opposition was not uniquely confined to Catholics, the article added, "Religious opposition to abortion, or at least to aborton on request, is more widespread than is sometimes apparent."

Perhaps the full extent of the opposition was not more "apparent" because—despite such occasional, slight acknowledgements of the true shape of things in the major media—the conventional wisdom continued to prevail. Dissenters from the Supreme Court action, it was assumed, constitute a small, even very small, minority—a minority, however, which often managed to prevail on the floor of Congress and in elections around the nation, with well-established pro-abortion incumbents being turned out by the voters in favor of anti-abortion challengers. Although the "pro-choice majority" dear to the hearts of abortion advocates was bound to reverse all this some day, that day seemed extremely slow to arrive.

Even a journal as committed to permissive abortion as Family Planning Perspectives, produced by Planned Parenthood's Alan Guttmacher Institute, published a few articles recognizing that data analysis does not support the popular media conclusions.

In FPP's Sept./Oct., 1980 issue, the article "Abortion Attitudes, 1965-1980: Trends and Determinants" acknowledged there was still a lack of majority opinion favoring abortion "for any reason." Drawing on what it regarded as reliable National Opinion Research Center (NORC) polling, the article said that as of 1980 there was still only 41 percent approval for abortion "for any reason"—the Supreme Court's position enunciated seven years earlier, perhaps, among other reasons, to respond to the demands of public opinion that were believed to exist.

Another article in the same issue of Family Planning Perspectives, "Abortion and the 1978 Congressional Elections," cited a different survey, according to which only "24-28 percent said that they believed abortion should never be forbidden." This article added that other surveys, like NORC's "show higher proportions supporting legal abortion for any reason." Although both articles agreed that polls find majority backing for abortion in certain cases, both also agreed there is no majority backing for abortion for any reason—the Supreme Court's position imposed on the nation.

The "Abortion Attitudes" article also noted that while there was clear public backing in NORC's findings for abortion for three "hard" reasons, "It is equally clear that there is no consensus as to the soft reasons; approval averages only about 50 percent in 1980. In addition, approval for the soft reasons is a more sensitive indicator of changes in public attitudes toward abortion than is approval for the hard reasons." The article explained that NORC had polled about six reasons for abortion. Three were "hard": "If the woman's health is seriously endangered by the pregnancy"; "If she became pregnant as a result of rape"; and "If there is a strong chance of a serious defect in the baby." The others were "soft": "If the family has a very low income and cannot afford any more children"; "If she is not married and does not want to marry the man"; and "If she is married and does not want any more children."

NARROW APPROVAL RANGE

Thus, the findings indicate that abortion was approved by many people only for very definite hardship reasons, not for reasons of what might be called personal preference or socioeconomic illness.

For some reason, NORC did not begin to poll about the substance of the Supreme Court decisions—abortion "for any reason"—until 1977, four years after they had been handed down. When respondents finally were questioned about abortion "for any reason" in 1977, only 38 percent were found to approve. In 1978, the figure dropped to 33 percent, then in 1980 it rose to 41 percent.

The "Abortion Attitudes" article ran counter to many assumptions made by the popular press. Despite a strong expectation in the media that support for permissive abortion is allied with political liberalism, the article said NORC data showed only "a very slight correlation between political liberalism and approval of abortion. . . . We conclude that although abortion attitudes are not completely independent of political ideology, the two are not closely related."

Now let us consider the work of the organization whose name has become virtually synonymous with the polling profession, Gallup.

The June 1980 *Gallup Opinion Index* reported, "Despite the emotional and political turmoil surrounding the issue of abortion, public opinion on the controversial topic has changed remarkably little since the Supreme Court ruled in 1973 that women have the right to have abortions performed." Gallup said its "question asked since 1973 was: 'Do you think abortions should be legal under any circumstances, legal under only certain circumstances, or illegal in all circumstances?' " Approval for legal abortion "under any circumstances" (in other words, the effect of the Supreme Court's action) grew from 21 percent in 1975 to 25 percent in 1980. Approval "only under certain circumstances" remained almost steady, dropping from 54 percent in 1975 to 53 percent in 1980. Those believing abortion should be "illegal under all circumstances" declined from 22 percent in 1975 to 18 percent in 1980. During the same period, "no opinion" went from 3 percent to 4 percent.

UNPOPULAR DECISIONS

In other words, according to Gallup's statistics, in 1975, two whole years after the Supreme Court decisions, there were more people (22 percent) against any abortion whatever (even to save the mother's life) than in favor of the Court's action (21 percent)! Yet, did you see any story reporting these poll results in those terms? Gallup itself certainly refrained from doing so.

Even by the year of the latest figures, 1980, those approving abortion for any reason were far fewer than those against abortion in some or all circumstances. Gallup has never found anything near to majority approval for what the Court wrought. Yet, remarkably, Gallup has refrained from commenting on the obvious import here. Instead, in its interpretive commentary, Gallup highlights a different subject: Catholicism. According to the most recent findings, 22 percent of Catholics approve abortion "under all circumstances," and 55 percent "only under certain circumstances." Gallup's June 1980 *Index* explicitly calls attention to this pattern: "Although the Roman Catholic Church officially opposes abortion under all circumstances, many Catholics disagree with the Church's position on this issue. In fact, Catholic views are generally in line with those of Protestants." But Gallup fails even to raise the obvious next point: both Catholic and Protestant views are definitely out of harmony with the scope and range of the High Court's action.

The Gallup commentary seems consciously suited to conform to general media expectations: Catholics in rebellion against the institutional Church, and nothing worth noting in the fact that the majority of Americans disagree with the Supreme Court.

On occassion, Gallup has polled about one important matter other pollsters seem to have omitted, whether respondents approve abortion at the different stages of pregnancy. Many polls seem to assume that if a respondent feels few qualms about early abortion, approval can be assumed for an abortion nearer the time of birth. It must have occurred to Gallup that this assumption is incorrect.

The May, 1979 Gallup Opinion Index indicates that poll respondents were asked whether they approved of abortion for certain specific reasons, and whether they approved it for these reasons at the three different trimesters of pregnancy. The listed circumstances were threat to mother's life; threat to her mental health; possibility of fetal deformity; severe threat to mother's physical health; rape or incest; and financial hardship.

When Gallup says that a consistent majority of Americans approve of legal abortion "only under certain circumstances," we are apparently to believe that these six specified situations are the ones being talked about. Each of them could be considered to represent a hardship in some measure. That is, none appears to deal with abortion as a method of birth control, which is the reason the great majority of abortions are performed today.

Yet the results show that among the 54 percent approving abortion "only under certain circumstances," there was majority approval for first trimester abortions for only three of the six reasons, and for second and third trimester abortions only for the "life of the mother."

[In percent]

	1st trimester	2d trimester	3d trimester
Life of mother	78	66	[illegible]
Mental health	42	31	28
Fetal deformity	44	37	[illegible]
Physical health	52	46	[illegible]
Rape/incest	59	32	19
Financial	15	6	4

A comparison with results of a similar poll in 1977 shows these approval rates virtually unchanged, except that about 6 percent fewer respondents approved abortion for rape or incest. One cannot fail to notice the pronounced reluctance of respondents to approve even hardship abortions six years after the Supreme Court went far beyond such hardship situations and legalized abortion for personal preference.

In looking over all these detailed figures, it is impossible to ignore a highly significant omission in the accompanying remarks: not a single word suggested that the results amounted to a major rejection of what the Supreme Court had already legalized. Indeed, when the Index comments, "in the second and third trimesters a majority would make abortions legal only to save the life of the mother," it seems to imply that the legality of late-term abortions is still an open question. This is an impression which, intentionally or not, has been assiduously cultivated by media reports about the Supreme Court's legalization of abortion "in the first three months of pregnancy." Gallup did nothing to correct this misinformation and, in fact, seemed to promote it with such statements as, "In 1973, the Supreme Court overruled all state laws that prohibit or restrict a woman's right to obtain an abortion during her first three months of pregnancy." Not a word was added to indicate that the Supreme Court had legalized abortion beyond that period, right up until the moment of birth.

THE CATHOLIC ISSUE

Despite its failure to note this rather important point, the May, 1979 Gallup Opinion Index did manage to call attention to the attitudes of Catholics. "Although the Roman Catholic Church officially opposes abortion under all circumstances," the Index reported, "many Roman Catholics oppose the church line on this issue. In fact, Catholic views are generally in line with those of Protestants."

Left unsaid is the resulting fact that Protestants and Catholics stand jointly opposed to the scope of the Supreme Court's action. Given the misleading formulation of that statement, it is not at all hypersensitive to note the pejorative use of the term "church line," as if Catholics were discouraged from thinking for themselves.

One type of question successful in producing large majorities apparently in favor of permissive abortion is the familiar ploy of asking respondents whether abortion should be a matter decided by "a woman and her doctor." On one level, this question is so obvious (would anyone think abortion should be decided between a woman and a kindergarten child? a woman and a parking meter?) that many respondents were probably giving their assent merely to the woman-doctor conjunction. On another level, abortion advocates were fond of this type of phrasing because it subtly implies a disinterested physician's endorsement of abortion after scrutiny for a true medical justification. The obvious implication is that the physician is being seriously consulted; the woman has not decided on her own to go to a high-volume abortion clinic. Moreover, this type of question generally specifies not simply "a" doctor, but "her" doctor. The plain implication is that the doctor involved in the consultation is the patient's regular physician who has a complete knowledge of her medical history. That implication is, of course, usually wholly erroneous in the contemporary context.

The pollster using such wording is actually testing her majority endorsement for the proposition that an inconveniently pregnant customer should be able to obtain casual service from a licensed abortionist. To refer to an abortionist who the woman has probably never met before as "her doctor" is as tendentious as referring to the Racing Form as one's "financial advisor." When pollsters so carefully decline to say what they actually mean in phrasing a question, one must wonder why they avoid a straightforward phrasing—unless they fear it would produce an adverse result.

Even the woman-and-doctor concept failed to produce consistent majorities for abortion. In June, 1972, Gallup found 64 percent agreement that "the decision to have an abortion should be made solely by a woman and her physician." Yet only six months later, another Gallup inquiry found only 46 percent favoring "a law which would permit a woman to go to a doctor to end pregnancy at any time during the first three months."

Dr. Bernard Nathanson has denounced the "woman and her doctor" phrasing as "wholly spurious" but a "clever way" to imply professional medical scrutiny before the abortion decision is reached. In reality, Nathanson observed, "this allegedly 'medical' service" is touted in the abortion clinic advertisements in the classified pages, alongside the fortune tellers and dating bureaus.

ANOTHER MISCONCEPTION

Peter Skerry, writing in "*The Public Interest*," cautioned that among the "persistent misconceptions about the continuing controversy over abortion in the United States" was the belief that antiabortion sentiment could be dismissed "as nothing but the view of a few well-financed zealots." One might think that a careful study even of findings like those above, by pollsters not known for antiabortion presumptions, would cast strong doubt on this small-zealot-group hypothesis. But not for the first time, having decided in advance how a situation ought to be, the news media have declined to cope with evidence that might disprove the favored image.

When Pope John Paul II visited the United States in October, 1979, many media leaders who editorially supported the Pope's "liberal" political views but abhorred his "conservative" moral views apparently decided that all Americans thought like the journalists. There was scant suggestion in the media that many people had been offended or thought the Pope had taken an unpopular or divisive course when he appealed for world disarmament before the United Nations or when he pointed to capitalist inequities. The Pope began to disturb the nation, it seemed, only when he opposed some of the causes close to media hearts.

The October 15, 1979 *Newsweek* candidly described the onset of the chill: "As the week wore on, and the Pope spoke out on the controversial sex issues facing the Catholic Church, the coverage on all three networks became more critical."

A major theme in the media was that American Catholics sharply disagreed with the head of their Church on moral issues. What better way to provide evidence than by the fruit of modern objectivity, the scientific opinion poll? But the evidence quickly turned chaotic.

The October 15, 1979 *Time* reported an Associated Press-NBC News Poll as finding among American Catholics that "50 percent even tolerate abortion on demand." Citing the very same poll, the October 6, 1979 *Los Angeles Times* said it revealed that "half of the Catholics polled were in favor of abortion on demand."

SYNONYMS

One might question whether "tolerate" and "in favor of" were acceptable synonyms

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in this case. As a Pole, the Pope might appreciate the distinction between Eastern European citizens tolerating Russian occupation troops and actually being in favor of their presence. Yet, apart from this, it is curious that any poll respondents should be listed as approving "abortion on demand," because that term is virtually anathema to pollsters when probing public attitudes. If, indeed, the AP-NBC pollsters actually had asked people's views about "abortion on demand," they not only practiced an unusual bluntness, but also discovered a greater proportion of Catholics than of the general population approving such abortion, as measured by other opinion polls.

Indeed, AP-NBC's findings were immediately undercut by the findings of a Gallup poll. The October 8, 1979 New York Times said a "recent Gallup poll" revealed, "On abortion, 44 percent (of American Catholics) were recorded as feeling that there should be a relaxation of the church's prohibition of abortion under any circumstances." This is a proposition rather removed from either 50 percent tolerance or 50 percent support for unrestricted abortion.

The October 22, 1979 Time religion section, while carrying forward the customary received wisdom ("The Pope and his church are out of step with contemporary Americans, including many Roman Catholics, in dealing with sexuality."), did manage to cast serious doubt on the impression, put forward only a week before in the same magazine, that Catholics are receptive to "abortion on demand." "Even among relatively liberal Catholics," Time reported, "there is negligible backing for abortion on demand. In fact, no front-rank Protestant, Eastern Orthodox, Jewish or Muslim theologian has yet developed a serious argument for totally open abortion. . . ." Such a sober admission was generally lacking in media coverage.

In August, 1977, a Harris survey was released to the media, with a repetitious question that hammered home the point to respondents: abortion is legal for only the first three months of pregnancy. The wording precluded the very possibility of any additional abortion legality. The question was asked a full four years after the Supreme Court made public its abortion decisions, which have been available since then for any pollster to study and learn their full extent. The question, which Harris said drew the approval of 53 percent and the opposition of 40 percent, was:

"In 1973, the U.S. Supreme Court decided that state laws which made it illegal for a woman to have an abortion up to three months of pregnancy were unconstitutional, and that the decision on whether a woman should have an abortion up to three months of pregnancy should be left to the woman and her doctor to decide. In general, do you favor or oppose the U.S. Supreme Court decisions making abortions up to three months of pregnancy legal?"

MISLEADING QUESTION

Aside from the question's repetitious disregard for the legal facts, it also uses the "woman and her doctor" ploy to create the assumption of medical justification. The question is no more objective than one formulated by anti-abortionists that might ask: "Do you actually favor a law that lets evil abortionists murder helpless babies?"

In the accompanying commentary under his byline, Lou Harris concluded that the 53 to 40 percent margin of approval meant, "Basically, then, public opinion appears to be entirely in line with the reasoning of the Supreme Court on the abortion issue." Ironically, in an article acknowledging that changes in wording can affect abortion poll results, the *Christian Science Monitor* referred to this Harris survey without mentioning that its wording seriously misrepresented the legal facts. On January 16, 1979, the *Monitor* stated that that Harris survey "showed 53 percent of adult Americans favoring the 1973 Supreme Court decision. That slight majority has held steady in annual Harris polls on abortion since 1973."

In his book, *"A Private Choice,"* Berkeley's Prof. John Noonan condemned Harris for "this clear misstating" of the law, an error Harris declined to correct after it had been called to his attention. Prof. Noonan also suggested that when respondents are presented with a poll question that doesn't specify a reason for the abortion, they implicitly equate "legal abortion" with abortion performed for a genuinely therapeutic reason. Noonan's reasoning seems quite valid, given that when respondents were presented with specific reasons for abortion by pollsters such as Gallup, majority abortion approval was confined to a very few serious "hard case" reasons.

POLLING TREND

During the past decade a persistent direction has emerged in the formulation of poll questions. That direction was already well established in 1976 when the National Abortion Rights Action League (NARAL) released a compilation of poll questions asked by 10 different organizations. Although NARAL refrained from pointing it out, none of the poll questions presented an accurate description of the Supreme Court's unprecedented action. Indeed, most of the questions offered no description at all, but instead polled in some other manner, such as using the spurious medical-endorsement approach of asking whether abortion should be a matter for a woman and her doctor.

None of the questions asked whether a woman should be able to seek the services of "an abortionist" or "a professional abortionist." With only one exception, none of the questions mentioned the unborn child or fetus to be destroyed by the abortion. The exception was a National Opinion Research Center survey mentioning the child in hardship contexts including an unspecified "defective" condition and poverty. None of the questions in the compilation asked whether abortion was approved for, say a "healthy, normal unborn baby." And there was certainly no question that asked, for instance, whether respondents approved of "destroying the healthy unborn baby without a serious reason, as is usually the case with abortion today," or "poisoning the unborn child with deadly saline abortion solution," or "cutting up the large healthy fetus with sharp instruments because the Supreme Court allows that upon the pregnant woman's request."

To the obvious objection that such questions would be loaded in the antiabortion direction, the appropriate response is that the professional pollsters seem to have had no objection to loading questions in the opposite direction. A 1974 Gallup question so outraged the Ad Hoc Committee in Defense of Life that the anti-abortion committee bought some newspaper advertisements to remark upon it. Although Gallup repeatedly referred in its findings to *abortion*, that word appeared nowhere in the question presented to respondents. They were asked instead about going to a doctor to "end pregnancy."

"How can you take a poll on abortion without using the word?" asked the Ad Hoc Committee. "And how accurate would it be?"

The majority of respondents no doubt knew what type of "end [to] pregnancy" they were being asked about. Still, one must wonder why the professional polling organization didn't eliminate the ambiguity when it originally formulated its wording. The article announcing the results plainly preferred the word "abortion" over the ambiguous term.

Just as the pollsters' choice of words influences poll results, so do the predispositions of journalists influence the interpretation of those results. For example, in 1979 the well-known California pollster Mervin Field released a survey announcing that a majority of California respondents, 57 percent, opposed "abortion for any reason." In his release to the media, Field said he had polled on abortion in California since 1969. The cumulative surveys, he said, "show that there was a substantial liberalization of attitudes toward abortion between 1969 and 1975. Since then, however, the trend toward liberalization has slowed markedly."

CONFLICTING RESULTS

At the same time, Lou Harris announced that 60 percent of his respondents nationwide favored the Supreme Court's abortion decisions. Since California is far from a socially conservative state, journalists there might have been expected to find the discrepancy between the two polls to be somewhat disquieting, but instead they focused on the fact that liberalization of attitudes toward legalized abortion was continuing, albeit quite slowly.

Totally sidestepping the major implications of Field's survey, the Associated Press wrote up his findings to emphasize "growing" abortion support, thus unfluencing the Los Angeles *Herald Examiner* to headline the AP dispatch, "State Poll Shows Tolerance Grows on All Abortions," while the Orange County *Register* headlined the AP story, "Poll Says Fewer Oppose Abortions."

With characteristic agility, the media had once again managed to transform a poll commentary that explicity noted a slackening of abortion approval and demonstrated a minority approving abortion on demand into yet another abortion endorsement.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **GRASSLEY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. Abdnor). Without objection, it is so ordered.

Mr. **GRASSLEY**. Mr. President, I am saddened that the events of today have dictated that the Senate will not be considering a constitutional amendment on the subject of abortion this year. But I rise today not to bemoan that fact, but rather to call attention to those who follow the events relative to the right to life, that this Congress has been able to go further in its efforts to protect that right than any other Congress since the Roe against Wade decision.

Senator HATCH has done an exemplary job in guiding a constitutional amendment on this subject through subcommittee and full committee levels. That has not happened before in history.

For that exemplary achievement, the Senator from Utah has not only my thanks and admiration, but my pledge of support in the next Congress to see to it that the best constitutional amendment possible on the subject of abortion passes the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum roll be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, after listening to the debate in the Senate over the past several days, I am struck by a profound irony. Over the past year and a half, I have heard a number of my colleagues—on the Senate floor, in committee meetings, and in the media—denounce excessive intrusion by Government into the lives of citizens. These colleagues have urged us to get Government off people's backs and extolled the virtues of less Government and greater individual liberty.

But as the months have passed, we have come to understand the true import of these slogans. To the reactionaries, less Government intrusion means more liberty for polluters to despoil the air and water and desecrate the wilderness. Getting Government off people's backs means tax exemptions for segregated schools, and discrimination against the minority whose skins are not white. Greater freedom means denial of a constitutional guarantee of equal rights for the majority who are women. To the reactionaries, less Government means fewer programs to help the most vulnerable in society—the elderly, the poor, the disabled, and the workers who have lost their jobs in this recession.

To paraphrase, a famous aphorism, the proponents of these narrow views believe that the rich as well as the poor should be free to sleep under bridges, to beg in the streets, and to stand in unemployment lines.

These advocates of reaction are the illegitimate descendants of one of the greatest and most progressive principles, not only in American history but in the long history of human freedom—the individual's right to privacy. As Justice Louis Brandeis wrote half a century ago:

> The makers of our constitution undertook to secure conditions favorable to the pursuit of happiness * * * they sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations.
>
> They conferred, as against the Government, the right to be let alone the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the (constitution).

The self-proclaimed opponents of less Government interference now stand before the Senate with proposals that would increase the involvement of Government in the most private of all decisions. With breathtaking hypocrisy, they talk of taking Government off people's backs—and then fight to put Government into people's bedrooms.

Where our Constitution affirms diversity of thought and freedom of belief, they seek conformity to their own vision of America. Since the earliest colonial days, America has stood in the world for tolerance and liberty. But the false prophets of less government now demand a Government-imposed regimen of intolerance, of repression against those whose religious creed differs from theirs, and whose gender happens not to be male.

Their methods demonstrate their disdain for liberty. Time after time, they promote proposals to strip the judiciary of jurisdiction. They would subvert the very institution designed by the Founders as the central safeguard of our rights and freedom. How can they stand before us now and pledge to protect citizens from Government, when they seek to take away the most important protection of all against oppressive government?

The issue before us touches some of the most deeply personal questions in individual life. I do not believe that any woman makes the decision lightly whether to have an abortion. I have my own view, but this is an issue on which sincere and decent people hold widely differing beliefs and values. Men and women, lay persons and clerics, have conscientiously reached their own conclusions as to when, if ever, abortion is permissible.

For nearly two decades, I have served in the Senate and heard my colleagues debate whether Congess can or should decide this intensely private decision for others. I have listened carefully and thought long. And I am convinced that the issue of abortion cannot appropriately or effectively be resolved by statute or by constitutional amendment. It is, and it must remain, a matter of individual conscience.

Finally, it disturbs me very deeply that many of the proponents of these amendments have voted consistently against the help and support that can mean fewer abortions. They have cut funds for maternal and child health programs that prevent fetal disease and help a mother carry a child to term. They have cut immunization programs that protect children from crippling birth defects. They have opposed education and job training programs that give the poor and disadvantaged an alternative to despair and dependency. They have sought to cripple programs of contraceptive services for those who wish them. In the name of less Government, they turn their back on proven alternatives to abortion, and then seek to resolve the problem by the most intrusive kind of Government of all.

I am proud to have stood for Government when it has brought better health care to parents and children, better education, better jobs, and a better future. I have sought less Government and more free enterprise when that means greater efficiency and the end of outworn programs. And I am proud to have stood for less Government when it means the defense of our priceless freedoms—of thought and religion, of speech and press and assembly. Congress will never resolve the issue of abortion by Government fiat. But by defeating these amendments, Congress can begin to move beyond this issue and work for a better and more decent life for all citizens in our society.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, almost weekly, and certainly monthly, the Supreme Court renders a controversial decision which is, in many instances, highly unpopular. There are hundreds of examples: Miranda against Arizona; Roe against Wade, dealing with abortion; Furman against Georgia, dealing with the death penalty; Mapp against Ohio, the exclusionary evidence rule; Baker against Carr and Reynolds against Simms which was the one-man-one-vote decision. And there was Rostkor against Goldberg, which dealt with the all-male draft.

Congressional response to these unpopular decisions has varied. Each Member of Congress can cite several opinions of the Supreme Court in which he or she violently disagrees, and we frequently get on the stump to denounce these decisions because it brings us easy applause.

There is an old expression that it is a lot easier to bring people to their feet than to their senses. The recent common responses have been to introduce bills in Congress which would limit the jurisdiction of the lower Federal courts, the Supreme Court, or both. There are currently over 30 such bills pending in Congress which would restrict Federal court jurisdiction over the issues of abortion, prayer in

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schools, and busing, and the pending issue deals with two of them.

These bills call into question the basic constitutional concepts of separation of powers and independence of the Federal judiciary. They also call into question the basic precept established by Marbury against Madison that the U.S. Supreme Court—not the President, not the Congress—has the final say on constitutional issues.

Alex de Touqueville came to this country and examined our system. He said of our provision for judicial review of constitutional questions:

> I am inclined to believe this practice of the American courts to be at once the most favorable to public order . . . the power vested in the American courts of justice of pronouncing a statute to be unconstitutional forms one of the most powerful barriers that have ever been devised against the tyranny of political assemblies.

In the Federalist Papers, No. 47, James Madison underscored the importance of the separation-of-powers concept imbedded in our Constitution when he wrote that:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of a one, a few, or many, and whether hereditary, self-appointed, or elected may just be pronounced the very definition of tyranny.

Separation of powers does not mean that each branch is completely independent of the other, but judicial constitutional review by an independent judiciary not beholden to the people, the legislature or the President for tenure in office or continued compensation was intended as a basic check on the power of the executive and legislative branches to invade fundamental individual rights and liberties. The importance of the protections granted article III judges by the Constitution was underscored recently by Justice Brennan's plurality opinion in Northern Pipeline Co. against Marathon Pipe Line, handed down on June 28. The central point in Justice Brennan's reasoning was the constitutional requirement that judges to whom the power to exercise broad article III jurisdiction is granted must enjoy article III protections as well. Reminding us that among the injuries and usurpations recited against the King of Great Britain in the Declaration of Independence was that the King had "made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries," Justice Brennan remarked that the Constitution "commands that the independence of the judiciary be jealously guarded."

In my own State, in Cooper against Aaron, the Little Rock school desegregation case that arose in the late 1950's and which presented a classic clash between Federal and State authorities, repeated the basic Marbury against Madison precept that it is the province and duty of the Judicial Department to say what the law is. In Cooper the Court said:

> This decision (*Marbury* v. *Madison*) declared the basic principle that the Federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the country as a permanent and indispensable feature of our constitutional system.

These basic principles are so sensible and salutary that they hardly need justification, Yet, our history reflects that these jurisdiction-limiting efforts are not new. Court-stripping bills flourished in the late 1860's after the Civil War and in the 1930's as this Nation was fighting its way out of the Great Depression. Again, in the 1950's several bills were introduced and were given serious consideration by congressional committees. Some of them were even passed by one House of Congress.

I cannot say it loud enough or often enough: These efforts to amend the Constitution by simple majority vote were wrong in the 1860's, wrong in the 1930's, wrong in the 1950's, and wrong today.

Over the years, these efforts have been directed at reapportionment of State legislative bodies, regulation of obscenity, prayer in public schools, abortion, gender discrimination in military conscription, due process, and contempt of Congress. The first measure of recent vintage to receive serious consideration by Congress was introduced by Senator Jenner of Indiana in 1957. Jenner's bill proposed to remove from the Supreme Court's jurisdiction cases involving five different types of issues:

First, contempt of Congress. Second, programs to insure the loyalty of Government employees. Third, State subversive activities controls. Fourth, regulations promulgated by local boards of education to control the subversive activities of teachers. Fifth, the Jenner bill would have removed jurisdiction to review bar admissions practices and policies. Anyone with a sense of history recognizes immediately that all five of these provisions were intended to reverse controversial 1956 and 1957 Supreme Court opinions about cold-war loyalty and security programs.

The bill was a political response to a perceived crisis of its time. The Senate Judiciary Committee held hearings on the bill and reported a much more limited version which died on the Senate Calendar at adjournment.

Then in the early 1960's there was the effort to remove a particular subject matter from the Supreme Court's appellate jurisdiction in response to the controversial reapportionment decisions of the Baker against Carr and Reynolds against Simms cases. In 1964 Congressman Tuck of Virginia introduced a bill to remove the Supreme Court's appellate jurisdiction and the inferior Federal Court's trial jurisdiction in all cases relating to the apportionment of representation in State legislative bodies. The House Judiciary Committee refused to act on the bill and was subsequently discharged. Although the House of Representatives passed the bill, it died in the Senate without further action being taken.

In 1979, during debate on the Establishment of the Department of Education, Senator Helms, proposed an amendment to exclude from Federal Court jurisdiction any cases drawing into question the validity of ordinances or statutes permitting voluntary prayer in public schools or other public buildings. Subsequently, the same Helms amendment was added to a separate bill which dealt with the jurisdiction of the Supreme Court. Although the Helms amendment to the Department of Education bill was reconsidered and finally tabled by the Senate, the Supreme Court jurisdiction bill with the Helms amendment attached was passed and sent to the House. The House Judiciary Committee held hearings on the school prayer amendment, but the measure never came to the House floor and it died at adjournment.

Well, this is just a very brief overview of some of the bills Congress has considered. The question is, How broad is Congress authority to eliminate or limit the jurisdiction of either the Supreme Court or the lower Federal courts?

Article 3 of the Constitution provides that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish." In cases affecting ambassadors, public ministers, and cases in which a State is a party, the Constitution provides that the Supreme Court is to have what is known as original jurisdiction. It is absolutely clear that Congress may not expand or curtail the Court's original jurisdiction. That was established by Marbury against Madison.

In other cases, however, the Constitution provides that the Supreme Court is to have "appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." Although this statement seems fairly straightforward and fairly broad, the basic question is, What limits are there on the power of Congress to make exceptions and regulations to the Supreme Court's appellate jurisdiction?

The seminal case is ex parte McCardle decided by the Supreme Court in 1869. I will not go through a lengthy explanation of the facts, but while McCardle's case was on appeal to the U.S. Supreme Court, and even after it had been argued, Congress passed a bill taking away the Court's jurisdiction over McCardle's case. Interestingly, the bill was passed because liberal Members were afraid that the Supreme Court, if given the opportunity, would strike down the reconstruction statutes. The Court held unanimously that Congress had effectively eliminated its jurisdiction over the McCardle case. The Court said:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this Court is given by express words.

No one is quite sure how broadly McCardle should be read. For one thing, as the above quote indicates, the Court did not believe that it was at liberty to inquire into the motives of Congress in taking away its jurisdiction. That is hardly the rule today. The Court regularly inquires into congressional motives. Another important point about the McCardle case should be emphasized. Congress had not taken away all avenues for appealing habeus corpus cases such as McCardle's to the Supreme Court. In other words, the Court had jurisdiction under other statutes to hear McCardle's case if he had alleged jurisdiction under those statutes. And there is even language in the Court's opinion welcoming McCardle to use those other jurisdictional statutes, but there is no evidence that he ever did.

It seems to me that all we can take from the McCardle opinion is that Congress has some authority to limit the appellate jurisdiction of the U.S. Supreme Court. The case does not stand for the proposition that Congress can completely divest the court of appellate jurisdiction over certain cases. The argument that McCardle should be given a rather narrow reading has been underscored by the Supreme Court since then. Only 3 years after McCardle, the Court decided United States against Klein. Klein makes clear that Congress may not enact legislation to eliminate an area of jurisdiction for the sole purpose of controlling the results of a particular case. In other words, Congress may not decide the merits of a particular case under the subterfuge of limiting the court's jurisdiction.

There are other fairly obvious limits on Congress authority. Congress may not act in a way that violates another provision of the Constitution. The obligatory example is that Congress may not prohibit blacks from bringing cases in Federal court. To do so would violate a separate provision of the Constitution, the fifth amendment.

What about Congress authority over lower Federal courts? Lower Federal courts were not created by the Constitution. They are creatures of Congress, and several cases seem to grant Congress fairly broad authority to limit the jurisdiction of lower Federal courts. Until 1875 Congress refrained from providing the lower Federal courts with general Federal question jurisdiction. Until that time, the State courts provided the only forum for vindicating many important Federal claims.

So, there are real limits on Congress authority in this area: Defining the precise limits is another matter entirely. Every law student knows that for years Congress had by statute required a minimum dollar amount in controversy for Federal question cases. Although Congress eliminated that $10,000 requirement in 1980, I do not think that Congress power to set a minimum was ever seriously questioned by a court.

In passing the Norris-La Guardia Act many years ago, Congress successfully took away the power of Federal courts to enjoin strikes. And, it is clear that Congress has the power to condition the exercise of jurisdiction by Federal courts on the plaintiff's first presenting his claim to the State courts: The Tax Injunction Act is a good example of this. There are a host of instances in which Congress has successfully limited the power of Federal courts, but still, the precise scope of constitutional limits on Congress authority in this area are unknown.

Three Supreme Court Cases this session provide us with more guidance on these complicated issues. Over the years, the Court has made clear that when Government acts in a manner that disadvantages protected groups, especially racial minorities, it violates the due process and equal protection clauses of the Constitution. A finding of an intent to discriminate is a prerequisite to an equal protection violation but Rogers against Lodge, decided by the Court on July 1, tells us that we can infer intent from a totality of circumstances that shows clearly the effect of Government actions on minorities.

The Seattle school case, Washington against Seattle School District No. 1, decided June 30, 1982 made clear that antibusing limitations that focus solely on remedies designed to end segregation fall squarely within this principle. The voters of the State of Washington had barred local school boards from busing in order to remedy racial imbalance. School boards were left free to bus for any other reason. The Court held that this "singling out" of a racial issue for special treatment, this burdening of racial minorities through the political process, violated the equal protection clause. The limitation on busing was not based on a neutral principle of general application, which would have passed muster, but was based on race.

Finally, Justice Sandra Day O'Connor, writing for the Court in Mississippi University for Women against Hogan, underscored the principle that "Congress' power under section 5 (of the 14th amendment) * * * 'Is limited to adopting measures to enforce the guarantees of the amendment; section 5 grants Congress no power to restrict, abrogate, or dilute these guarantees.' (quoting footnote 10 of Katzenbach against Morgan) although we give deference to congressional decisions and classifications, neither Congress nor a State can validate a law that denies the rights guaranteed by the 14th amendment."

Mr. President, even aside from the constitutional limits, I am convinced that withdrawing Federal court jurisdiction over controversial issues is bad policy. I have made two statements on the Senate floor about this in just the last few months because I want the record to be absolutely clear: I strenuously object to these court-stripping bills, and I do not want either my children or my constituents to ever believe that I acquiesced in or only mildly objected to them.

What is the purpose of these bills? There might be many legitimate reasons for alleviating some of the workload of our Federal judges who all say they are overworked. It is true that, over the years, the case filings in Federal courts have steadily increased and most Federal judges have more than they can say grace over. But if this is the problem, surely there are much more efficient ways of dealing with it than by stripping the courts of jurisdiction to hear controversial constitutional issues.

I also do not hear anyone seriously suggesting as a rationale that the State courts are institutionally better equipped to deal with these controversial constitutional issues. Although the State courts are filled with hundreds of distinguished jurists who understand that they are bound to abide by the Constitution, it could not seriously be argued that these judges are institutionally better equipped than Federal judges to resolve questions of Federal constitutional law. It is clear that these court-stripping bills do not rest on this as a rationale. So, there must be some other rationale.

What other legitimate reasons might there be for these bills? Most assuredly, the Senators and Representatives who introduced these measures did not do so out of a deep and abiding concern that our most basic constitutional guarantees should be even more vigorously enforced than they are now. All of us took an oath to uphold the Constitution, and it would be consistent with that oath to introduce measures in an effort to shore up constitutional guarantees. But clearly, this is not the motivation behind these 30 bills.

The impetus for these measures is transparent. These measures are intended to weaken our basic constitu-

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tional rights and liberties. I can discern no other motivation for them, and none exists. The Members of the Senate and House who support these bills do so in the belief that the State courts will be less friendly to our constitutional guarantees. I think they may be surprised. One could cite hundreds of State court decisions across the land that vigorously enforce the Constitution. As Prof. Laurence H. Tribe of Harvard University pointed out last year in testifying before a congressional committee, State courts may choose to—

> Replicate the very rulings that had inspired jurisdictional restructuring, thereby freezing the law unwisely but otherwise rendering the shift from Federal to State courts too inconsequential to have been worth the effort * * *.

On the other hand, there is the danger that the State courts would move in 50 different directions and there would be no uniformity in interpreting the Constitution. We might end up with 50 separate interpretations, and such a result would be completely at odds with the intent of the Founding Fathers. It would completely destroy the constitutional fabric that has kept our Nation free, our homes secure, our rights protected, and our institutions sound for almost 200 years.

Imagine, if you will, 50 separate interpretations of the freedom of speech clause, the freedom of press clause, or the freedom of religion clause of the first amendment. Imagine the chaos if due process meant one thing in Iowa, another in California, and still another in Florida. Imagine if cruel and unusual punishment under the eighth amendment meant one thing in Arkansas and just the opposite in Tennessee. What if the right to vote under the 15th amendment was vigorously guarded by the courts in Arizona but not by the courts in New York? These are just examples, and some Members of Congress will argue that I am overstating my case.

It will never come to this, they will say. But it is my firm belief that once we erode one constitutional guarantee, the next erosion is not nearly as painful, and the next one becomes even less painful.

The lawyer Members of the Senate who have practiced in Federal courts know that most Federal courts guard the exercise of their jurisdiction jealously. Once a case is filed, the first thing any court does is try to figure out why it should be dismissed and not heard at all. The court always looks to see if the plaintiff has standing to sue. And if he does not, the case is dismissed.

The Supreme Court is careful to make sure that the plaintiff's case is not moot. A classic example of the dismissal of a case for mootness occurred earlier this year when the Supreme Court reversed and dismissed the opinion in the case of Murphy against Hunt. In that case, the plaintiff was charged with rape and detained in jail until trial under the terms of a Nebraska statute authorizing his dentention. He filed suit in Federal court claiming a violation of his eighth amendment right not to be subjected to "excessive bail." This court struck down the Nebraska statute.

When the Supreme Court agreed to hear the case, many of us who are interested in the constitutionality of preventive detention anxiously awaited a final decision on the merits. But none was forthcoming. the Supreme Court dismissed the case because the plaintiff had been convicted by the Nebraska Supreme Court and the question of pretrial detention was therefore moot. The Court could have seized upon the opportunity to decide an important question of constitutional law, but it did not do so. Again, my point is that the Federal courts jealously guard the exercise of their power.

I have never felt the courts were involved in a power grab. They decide cases when they have to, and they dismiss them when they do not.

Who are these Federal judges that the authors of these court stripping bills are so afraid of? Are they radicals? Well, as you are aware, Mr. President, most Federal court judges come from fairly conservative backgrounds. Many come from established law firms where they represented corporate and business clients. I am sure that there are exceptions, but it is clear that the great majority of them are no more liberal, nor conservative, than the American people as a whole or the Members of the U.S. Senate. They are a cross section of the lawyers that this Nation has produced over the years. They are nominated by the Members of this body and confirmed by those Members. They simply enforce our basic constitutional guarantees as they understand them.

Mr. President, all of us can point to Federal court and Supreme Court decisions with which we strongly disagree. But I ask you, should our most precious constitutional rights be subject to mere political whim, fancy, or caprice? Or should they be ultimately resolved by an independent Federal judiciary? Judicial constitutional review by an independent judiciary not beholden to the people or legislature for tenure in office of continued compensation was intended as a basic check on the power of the executive or legislative branches to invade fundamental individual rights and liberties. As Hamilton wrote in the Federalist Papers:

> It could not be expected that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges.

In the recent history of this country, Federal courts have stood as a bulwark for the protection of our basic constitutional guarantees. They have been willing to protect unpopular constitutional guarantees because the Members of this body and the Members of the House of Representatives did not have the political courage to do so. So we should support that role rather than detract from it if we are serious about keeping our oath to uphold the Constitution.

Those of us in Congress who understand the magnitude of the stakes must take a stand. The onslaught against the Constitution is one of the most, if not the most, dangerous threats to this Nation.

I ask my colleagues to take stands on all of these bills and remember Dante's great warning that:

> The hottest places in hell are reserved for those who remain neutral in the face of moral questions.

Mr. President, I yield the floor.

Mr. **JEPSEN** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Iowa.

Mr. **JEPSEN**. Mr. President before we vote today on this—the third cloture vote on this "pro-choice" filibuster—let it be clear that this body, this Congress, and the Nation must eventually resolve once and for all the issue of abortion. Like the great moral evil of slavery, it must be addressed and resolved, so let this body work its will and make a choice by voting up or down on the question of abortion on demand.

President Reagan recently said in a letter to some of my colleagues:

> It is crucial that a filibuster not prevent the Representatives of our citizens from expressing their judgment on so vital a matter.
>
> It is time to stand and be counted on this issue.

Mr. President, attention has been focused—and properly so—on the findings section of the measure now before us. Let me say at the outset that I am in full agreement with the provisions of that section. But let me also say that the remaining sections of this comprehensive prolife legislative package also merit the consideration and the support of this body.

For those of us who have participated in the perennial and often protracted Senate struggles over the issue of taxpayer funding of abortion, the most significant of these complementary provisions may well be the section that reads:

> No funds appropriated by Congress shall be used directly or indirectly to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

This and the other funding restrictions need to be enacted now.

Finally, let the record show that the prolife movement is united behind this amendment. Let the record show that the prolife movement, bonded by the blood of our brothers and sisters, will ever continue the struggle for recognition of these inalienable rights, which in the words of John F. Kennedy, "come not from the generosity of the state but from the hand of God."

Mr. President, I yield the floor, if so desired, to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Danforth). Without objection, it so ordered.

Mr. NICKLES. Mr. President, I rise in support of Senator Helm's amendment, which would permanently remove the Federal Government from financing any abortion-related activity.

The Senate and House of Representatives, together, have had over 80 abortion-related votes since 1973. By far, the majority of these ballots centered around Government involvement in the funding of abortion or abortion-related activities. Beginning in 1976 and each year thereafter, Congress has passed language which would prohibit reimbursement for abortion under the medicaid program. Although challenged before the Supreme Court, this public policy on the funding of abortion was found to be fully within the framework and prerogative of Congress.

Clearly, this is an issue which has confronted Congress consistantly since the Supreme Court legalized abortion in 1973. After much debate, Congress appears to have reached a consensus about Government involvement in the financing of abortion. The consensus is that the Government should not be involved in the financing of abortion.

Today we have an opportunity to make this consensus a part of permanent law. As each Member is well aware, the usual manner taken in restricting abortion funding is through a rider or amendment to the relative appropriations bills. This has always resulted in bogging down the fiscal process of the U.S. Government. The answer to that constant thorn is to enact as a part of permanent law a restriction on the use of Federal funds for abortion or abortion-related activities. I would hope that the Senate will adopt this bill for that end.

The bill before us today would prohibit any agency of the U.S. Government from performing abortions. This would make the Hyde language regarding the medicaid program permanent law. The bill also prohibits Federal funds from being used for abortion referrals, training in the performance of abortions, insurance contracts which reimburse for abortion, or any experimentation which relates to abortion.

The bill prohibits any institution receiving Federal funds from discriminating against prospective or present employees, students, or prospective students on the basis of their opposition to abortion. A person who refuses to counsel or assist in the performance of abortions is also protected from discrimination.

There exists tremendous controversy over the issue of abortion today. Rather than subsiding in the 9 years following the Supreme Court's decision, the clamor has grown. I, personally, believe that abortion is the taking of human life. I hope that this body will take needed action to protect the millions of lives which are perishing each year. However, whatever the outcome on the main issue of abortion, I would hope that the Senate will affirm—through permanent statute—Congress longstanding policy of not using tax dollars to finance abortions or abortion-related activities.

VOTE

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, under the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2038 to amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit:

Jesse Helms, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Don Nickles, John P. East, Steve Symms, Strom Thurmond, Charles E. Grassley, Edward Zorinsky, Jake Garn, James Abdnor, Bob Dole, and Howard Baker.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. EXON (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Oklahoma (Mr. Boren). If he were present and voting, he would vote "nay." Having already voted "yea," I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. Stafford) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Nevada (Mr. Cannon), the Senator from Ohio (Mr. Glenn), and the Senator from Louisiana (Mr. Johnston) are necessarily absent.

I further announce that, if present and voting, the Senator from Lousiana (Mr. Johnston) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 50, nays 44, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—50

Abdnor
Armstrong
Baker
Biden
Boschwitz
Byrd,
 Harry F., Jr.
Chiles
Cochran
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
Durenberger
Eagleton
East
Ford
Garn
Grassley
Hatch
Hatfield
Hawkins
Heflin
Helms
Huddleston
Humphrey
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Melcher
Murkowski
Nickles
Nunn
Pell
Pressler
Proxmire
Quayle
Randolph
Roth
Sasser
Stennis
Symms
Thurmond
Warner
Zorinsky

NAYS—44

Andrews
Baucus
Bentsen
Bradley
Brady
Bumpers
Burdick
Byrd, Robert C.
Chafee
Cohen
Cranston
Dixon
Dodd
Goldwater
Gorton
Hart
Hayakawa
Heinz
Hollings
Inouye
Jackson
Kennedy
Leahy
Levin
Long
Mathias
Matsunaga
Metzenbaum
Mitchell
Moynihan
Packwood
Percy
Pryor
Riegle
Rudman
Sarbanes
Schmitt
Simpson
Specter
Stevens
Tower
Tsongas
Wallop
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Exon, for.

NOT VOTING—5

Boren
Cannon
Glenn
Johnston
Stafford

The PRESIDING OFFICER. On this vote there are 50 yeas and 44 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the cloture motion is rejected.

AMENDMENT NO. 2038

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I move to table the second-degree amendment of my friend and colleague from North Carolina (Mr. Helms), amendment No. 2038, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask to proceed for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. If the amendment is tabled would not the cloture motion which is scheduled for tomorrow on the amendment thereby be vitiated?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BAKER (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from Vermont (Mr. STAFFORD). If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Vermont (Mr. STAFFORD) are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania (Mr. HEINZ) would vote "yea".

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

On this vote, the Senator from Ohio (Mr. GLENN) is paired with the Senator from Louisiana (Mr. JOHNSTON).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from Louisiana would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 46, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—47

Baucus
Bentsen
Bradley
Brady
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Cohen
Cranston
Dixon
Dodd
Gorton
Hart
Hayakawa
Hollings
Inouye
Jackson
Kassebaum
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Percy
Pryor
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stevens
Tower
Tsongas
Wallop
Weicker

NAYS—46

Abdnor
Andrews
Armstrong
Biden
Boschwits
Chiles
Cochran
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Goldwater
Grassley
Hatch
Hatfield
Hawkins
Heflin
Helms
Huddleston
Humphrey
Jepsen
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Pressler
Proxmire
Quayle
Randolph
Stennis
Symms
Thurmond
Warner
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Baker, against

NOT VOTING—6

Boren
Cannon
Glenn
Heins
Johnston
Stafford

So the motion to lay on the table amendment No. 2038 was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, what is the pending question?

The PRESIDING OFFICER. The pending business is amendment No. 2040, offered by the Senator from Montana to amendment No. 2039, offered by the Senator from Connecticut.

Mr. BAKER. Mr. President, my hope is that we can conclude this matter today. If there are other amendments dealing with abortion, I hope we can find a way to entertain them today and dispose of them.

I am advised that the Senator from Oregon (Mr. HATFIELD) may have an amendment. Could I inquire of my friend from Oregon if that is the case?

Mr. HATFIELD. I may.

Mr. BAKER. I am told that the Senator from Alabama (Mr. DENTON) may have an amendment.

Mr. DENTON. I have an amendment but it is not on abortion.

Mr. BAKER. I thank the Senator in more ways than I can say. [Laughter.]

Mr. DENTON. I will want to offer my amendment, however.

Mr. BAKER. I will cooperate with the Senator in every way to see that he has that right.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment is not in order.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. In order that we might establish a sequence, I ask the Chair, as I understand the Chair's response to the distinguished majority leader is that the Baucus amendment is the pending amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. Which amendment is a perfecting amendment to the Weicker amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. The amendment just tabled was the Helms perfecting amendment to the Helms prayer amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. What the Senator from Connecticut attempted to do here was offer a perfecting amendment to the Helms amendment. Is it the Chair's position that that is not in order at this time, that we now revert to the Baucus perfecting amendment to the Weicker amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. In other words, that a perfecting amendment to the Helms amendment is not in order to be proposed at this time.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I do not want to rush anybody, but if we are not going to have another abortion—no. [Laughter.]

The Senator from North Carolina claims my nose grew an inch when I made that statement.

Really, if there are not going to be further abortion amendments, we now have this bill to deal with and its other ramifications. I am prepared now to go off the bill, come in in the morning, proceed with the amendment tree as it exists, and dispose of this matter. I remind my colleagues we have to get this bill passed. It is the debt limit bill and it has to happen. We have disposed of a big issue here. I do not even remember now what the Baucus amendment is, but in any event, we need to work our way up that tree and dispose of these measures so we can get to passage or, if necessary, we can dispose of it by some other means.

If nobody cares to go forward with an amendment at this time or with further debate, I am going to ask the Senate to go into a period for the transaction of routine morning business.

Mr. BAUCUS. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes, Mr. President.

Mr. BAUCUS. Mr. President, I understand the position the majority leader is in. It is the hope of this Senator that when we do proceed to the pending question tomorrow, this Senator will be allowed to have the privilege of the floor when this amendment comes up.

Mr. BAKER. Mr. President, I have no difficulty with that. I put this request now so all Senators may hear it.

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I ask unanimous consent that when the Senate resumes consideration of the pending business, the Senator from Montana (Mr. Baucus) be the first recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Will the majority leader yield?

Mr. BAKER. I yield to the Senator from Arkansas.

Mr. BUMPERS. I would not presume to suggest something the majority leader may have already tried, but we have been on this amendment now for 2 weeks. I am curious whether it is possible to get any kind of agreement, maybe for everybody to withdraw their amendments that are pending and not offer any amendments on the debt ceiling bill, which the House is probably not going to accept anyway, and just vote up or down on the debt ceiling and get it disposed of. Is that not in th realm of possibility?

Mr. BAKER. Mr. President, I hope it is in the realm of possibility. It would gladden my heart if that were to occur. I make this statement, that I shall make every effort to advance that suggestion. At some point, we have to dispose of this bill.

I have said for some time now that this bill is available for amendment, but we have been on it for 3 weeks now. Clearly, Members cannot offer their amendments because there have been other things pending. Circumstances are such that at some point, we have to get on with the business of the Senate. That is going to be through the proposal as suggested by the Senator from Arkansas, perhaps, or with amendments dealing with them at one time or a motion to recommit with instructions. Senators should be on notice that I hope to conclude this bill sometime late tomorrow.

Mr. HELMS. Mr. President, I make a proposition to the distinguished majority leader: Why not go ahead and vote on the Helms first-degree amendment right now? Up or down or a motion to table, whatever.

Mr. Baker. Mr. President, I would do that, but I am afraid others may not.

Mr. WEICKER. Mr. President, my response to the Senator from North Carolina is that for weeks all we have heard is the articulate, eloquent arguments on the matter of abortion by my good friend from Oregon (Mr. Packwood). Now the matter referred to is the matter of school prayer. The distinguished Senator from North Carolina has yet to hear from the Senator from Connecticut on that subject. I think I am at least entitled to the same amount of time on school prayer as was given to the Senator from Oregon on abortion.

Mr. HELMS. Mr. President, let me say to the Senator from Connecticut that I have just about had a surfeit of the Senator's conversation about the prayer amendment. I do not think we are going to change one vote. I do not care if we talk for 3 weeks straight, day and night, 24 hours a day. I submit, let us move on with the business of the Senate and vote up or down right now.

Mr. BAKER. I have no right to interfere, Mr. President, but let me say I really hope we can get to a vote on the remaining amendments. I have no idea that we can get a unanimous-consent agreement, but I am willing to try. We shall work on that overnight, but I think we are not likely to get that on the floor at this time.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there will be no more votes tonight.

ORDER FOR RECESS TODAY UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, Senators should be on notice that tomorrow may be a very late evening.

Now I yield the floor.

THE DISINTEGRATING PANAMA CANAL: A THREAT TO HEMISPHERIC SECURITY

Mr. HELMS. Mr. President, as chairman of the Western Hemisphere Subcommittee, I am deeply concerned by reports that I have been receiving from a number of sources on the serious deterioration of the Panama Canal in terms of its maintenance and its operational readiness. The Panama Canal is a central strategic factor within the context of the security of the Western Hemisphere. Since the ill-advised passage of the legislation relating to the Panama Canal Treaty during the Carter administration, the physical integrity of the canal has suffered greatly and our Nation's security, and the security of all the Republics of this hemisphere, has thereby been degraded.

Mr. President, I should not have to remind the Senate that the Carter administration presented these treaties for our consideration with the express commitment that these treaties would assure the operation and maintenance of the canal. Indeed, the treaties were justified by the Carter administration and its supporters who said that these treaties must be approved in order to guarantee the continued operation of the canal.

Just recently, the Washington Times newspaper has published a series of important articles analyzing conditions in the Canal Zone and the operational capabilities of the canal itself. The author, Mr. William F. Wright, a professional journalist who spent many years with UPI and who speaks the Spanish language, is an eminently qualified observer. Indeed, he made it a specialty over the years to cover events in Latin America and is thoroughly familiar with the people and cultures of Latin America.

The incisive reporting by Mr. Wright corroborates reports that I have received from a number of qualified sources on the Panama Canal concerning its deteriorating condition. The question is raised as to whether or not the Panama Canal Commission has isolated the ostensible spirit and intent of the implementing legislation relating to the Panama Canal Treaty. The Commission has imposed untrained and unqualified personnel of Panamanian nationality on an organization that was once the finest of its type in the world. Mr. Wright's reporting clearly outlines the dismal state of affairs in the canal zone and the seriously imperiled canal.

Mr. President, has the Panama Canal Commission been managing the canal's operation on a prudent basis? Or has the Commission tried to further the attempts of the U.S. State Department to placate leftist forces and opinion in Panama to the detriment of not only the long-term national security interests of the United States and Panama but also to the detriment of the long-term security interests of all the republics of the Western Hemisphere?

Our hemisphere is beset with major challenges. Soviet-Cuban expansion is proceeding apace and has not been checked by a firm U.S. policy. Relations within the hemisphere between the United States and our sister republics have been gravely damaged by the wholly inappropriate policy pursued by Washington during the crisis in the Malvinas Islands. Evidence is mounting about the disintegration of the Panama Canal which is jeopardizing the operational capabilities of the canal and hemispheric security.

Mr. President, I ask unanimous consent that three articles by Mr. Wright which appeared in the Washington Times be printed in the Record at this time.

There being no objection, the articles were ordered to be printed in the Record, as follows:

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[From the Washington Times, Aug. 30, 1982]

“Big Ditch” Revisited: Signs of Deterioration Rampant

(Editor's note: Washington Times staff writer William F. Wright visited the Panama Canal in 1978 at the height of the Senate debate over the controversial new canal treaties. He returned there recently to find the canal hobbled by the agreements and faced with a potential exodus of American employees that could cripple the historic waterway. This is the first of a three-part report.)

(By William F. Wright)

Aboard Overseas New York, Panama Canal—Capt. John Wallace steps nimbly from a motor launch and clambers up a precarious rope ladder to the deck of the Overseas New York, A red and white flag flutters up the ship's halyard signaling that a Panama Canal pilot is on board.

Wallace, 62, is making his 3,142nd transit of a waterway that to the casual eye appears little changed since the Carter administration initiated the canal's gradual turnover to Panama nearly three years ago. But Wallace urges the visitors to “take a closer look” as we begin our 50-mile passage from the Pacific to the Caribbean.

A “closer look” during the 12-hour voyage turns up unmistakeable signs that the “Big Ditch.” the once-proud symbol of American ingenuity, dedication, efficency and old-fashioned patriotism, is increasingly plagued with serious and, in some cases, dangerous maintenance and operational problems, And the canal's ability to operate with reasonable efficiency in the years ahead, before Panama assumes outright ownership in the year 2000, seems to be in jeopardy with the prospect of a potentially crippling flight of much of its remaining U.S. work force.

4:30 A.M.

The first signs of change and decline greet us at the start of our trip at the Port of Balboa, formerly under U.S. jurisdiction and now controlled by Panama. A Panamanian National Guard sergeant at the gate holds our party up for several minutes while he slowly checks passports and other documents. Canal pilots say they are occasionally frisked by guards at the gate determined to show that “Panama is in charge now.”

The once-spartan dockside is filthy. Stray dogs wander into the area. We find the motor launch dispatcher sound asleep atop a filing cabinet. Slumbering linesmen who will handle guide lines from our ship are sprawled everywhere. At one point after Panama assumed control of the port, wooden pilings that protect ships from the concrete pier wall had fallen into such disrepair that the Panama Canal Commission, a U.S. government agency that now operates the canal, was forced to replace them.

5:30 A.M.

Another somber sign of the times as our ship approaches Miraflores Locks, the first set of concrete-and-water stairways that will ultimately lift us 85 feet over the Continental Divide and down again—from sea level to sea level. Gone are the red, white and blue bicentennial colors that marked the canal as an American waterway before the treaties took effect. In deference to Panama, which now exercises sovereignty over the canal area, tugboats, dredges and electric locomotive “mules” that help guide ships through the locks have been scrubbed clean of the offending colors, and the tugs no longer fly the Stars and Stripes.

As we nudge into the first lock chamber, Wallace moves to the starboard wing of the bridge to better maneuver the big ship into the lock. Our beam is 105 feet. The locks are 110 feet wide, giving us a clearance of only 2½ feet on each side. Laden with 63,720 tons of Alaskan crude oil bound for a refinery on the East Coast of the United States, we sit so low in the water that at times we will have a clearance of less than a foot between our keel and the concrete floor of the lock chamber.

Mindful of some recent costly accidents in the canal, including one involving our own ship, Wallace says he now coaxes vessels through the waterway “with a great deal of circumspection, hoping for the best but prepared for the worst.”

Wallace and other senior pilots deplore the lowering of qualifications for the pilot force, once considered the aristocracy of the American canal community. Pilots were previously recruited from the ranks of sea captains. Today, Panamanians need only possess a third mate's license to join the force and most of them are recruited from the canal's tugboat fleet.

Capt. Theodore Johnson, skipper of another transiting tanker, the Pennsylvania Sun, expresses concern at the pilot situation.

“When they start sending these Panamanians aboard that have only had tugboat experience, that's going to bother the hell out of me because they don't know what a big ship can do or what to do with a big ship,” he says.

6:15 A.M.

We enter the first lock chamber at Miraflores. In the control house, Hubert Webster, 52, a veteran of 16 years with the canal organization, is having his own problems. A forest of cards with the word DANGER in big red letters on them covers much of his control board. Each card represents a piece of lock machinery that is out of commission. Webster says that one of the cards represents a set of backup “guard” gates that if working could prevent Miraflores Lake ahead of us from cascading over the entire locks in the kind of accident canal officials dread. He said such a catastrophe could happen if a ship struck the main gates holding the lake back with enough force to rip them from their concrete moorings.

“We could lose the whole damn lake,” Webster says. “It would shut down the canal.” He says the backup gates have been down for at least three weeks, a “hell of a long time” for such a critical piece of canal machinery to be out of commission.

Eight other cards represent faulty backup “rising stem” valves that control the flow of water to and from the lock chamber. Webster says that if enough main and backup valves fail to operate, the effect could be to suddenly “drydock” a ship in the lock chamber, sending it crashing to the concrete lock floor with enough force to crush her hull, rudder and propellers and damage the chamber floor.

“The reason why we have these problems is quite simple,” Webster says. “We now have to give preference to hiring Panamanians who are not qualified. Maintenance suffers. How the hell can you take someone who has done little but wield a machete and train him to fix such complex machinery?”

Below on the lock wall, senior lockmaster William Melody, 41, is worrying about his blood pressure.

“Maintenance has just gone to s—,” he says, using a well-worn expletive. “There is such a rush to push Panamanians in here they don't seem to care if they are qualified or not. I've become so exasperated that in the last two years my blood pressure has gone up 10 points.”

Our ship begins to move out of the second lock chamber at Miraflores. Melody, Webster and another control house operator, William Benny, wave goodbye. It may be more than just a passing gesture. All three say they will probably take early retirement if the canal's American employees lose their commissary, postal and other privileges provided by the U.S. military, as they are scheduled to do in 1984.

Many other U.S. employees say they will leave also. Of the 1,711 Americans still with the canal organization (down from 3,591 when the treaties went into effect), about 550 are eligible for early retirement. Canal officials say the departure of such a large number would have a “severe” effect on the canal operation.

7:34 A.M.

We clear Miraflores Locks. Ahead lies Miraflores Lake, more maintenance-troubled locks, treacherous Gaillard Cut, concern among the canal area's American community over the sometimes harsh Panamanian National Guard now policing their neighborhoods, and dread that malaria and yellow fever could return to the region.

[From The Washington Times, Aug. 31, 1982]

Panamanian Guard Takeover Dismays U.S. Canal Workers

(Editor's note: This is the second of three articles on the Panama Canal, three years after the new canal treaties were signed. The writer grew up in Panama and is a veteran canal watcher.)

(By William F. Wright)

Aboard Overseas New York, Panama Canal.—Capt. John Wallace surveys the jungle-fringed expanse of blue-green water from our starboard bridge. Then he breaks for breakfast in the wheelhouse and some blunt observations on a topic he says is not so digestible: the new Panama Canal treaties.

Wallace, a veteran canal pilot, is guiding our tanker through Miraflores Lake, 54 feet above sea level, in the Panama Canal. Only the throb of our engines and the chirping of birds along the banks break the early morning stillness. All seems serene. But apprehension is in the air.

Inside the wheelhouse, the talk turns to one of the changes under the new agreements that has caused the most concern among the canal's American employees and their dependents: The Panamanian National Guard's takeover of law and order in the former U.S.-controlled Canal Zone, abolished under the treaties.

“Having the *Guardia* in our neighborhoods is something that does not go down easily with a lot of people here,” he says. It is a sentiment often heard during our passage through the canal.

To outsiders, the *Guardia's* presence may not seem like much to swallow, but in an area accustomed since canal-construction days to its own highly regarded U.S. police force and courts, Panama's often heavy-handed soldier-police force is viewed with considerable circumspection.

“Our people are leery and afraid to get into any kind of trouble with the *Guardia,*” says Frederick A. Cotton, head of the General Services Bureau of the Panama Canal Commission, a U.S. government agency that now operates the canal with increasing Panamanian participation.

Cotton says the former "Zonians" have reason to be concerned. He cites as an example a recent "frightening" encounter he says two teen-age daughters of U.S. canal employees had with Panamanian guardsmen. He gives this account of the incident.

The girls, Tara Brown and Maurya Ridge, were driving home at night through a forest preserve in the former Canal Zone when two off-duty guardsmen in an unmarked car and civilian clothes pulled alongside and shouted at them to stop. The girls, frightened that they would be assaulted if they stopped, speeded up. The other car, which had since picked up a uniformed guardsman, caught up with them and forced them to halt. The uniformed guardsman drew his revolver, pointed it at the girls and ordered them out of the car. The girls, by now "petrified," were detained and taken to the former Canal Zone police station in Balboa, now under National Guard control. There they were refused permission to phone their parents and to go to the bathroom. One of the girls was forced to polish a brass rail she leaned against at the station. The girls, by then in tears, were taken to night court where a Panamanian judge eventually released them—three hours after they had first been detained. No charges were filed against them.

"This is one of a number of instances where our people have been detained for hours by the *Guardia* and the *Guardia* has failed to notify the commission despite a clear treaty obligation to do so," Cotton says.

"The plain fact is our people's civil rights are being ignored," he says. "The problem is that the *Guardia* are not trained as police officers. They are, in effect, a Latin American army with all that that implies."

Cotton says such cases of alleged harassment of American residents of the old Canal Zone stem from the *Guardia's* determination to "show who's in charge now" following the end of U.S. juridiction over the area.

"It's their ball game now, and they're making sure we know it," he says.

Asked why he is speaking so openly, Cotton, born and raised in the zone and civil-affairs director in the old Canal Zone government, says he will probably take early retirement next year. Thus, he says, he does not feel as constrained to remain silent as might other U.S. canal employees with longer service to go. He notes that nearly half of the canal organization's 1,711 American employees will be eligible for early retirement within several years, "and I'm betting most of them will take it."

"They (the Panamanian government) are trying to get us to leave," Cotton says. He says a move to force such an exodus would be tantamount to Panama committing "suicide" because it would cripple the vital waterway that the little country will ultimately control (by the year 2000) under the treaties.

Another worry among the canal's American community is Panama's assumption of much of the responsibility for sanitation in the old zone, where stringent mosquito control had been a way of life since Col. William Gorgas conquered malaria and yellow fever during early construction days. In some areas of the former zone, where the grass was previously kept neatly cut, it now grows with abandon, providing breeding grounds for mosquitos that can spread disease.

8:10 A.M.

Our ship enters Pedro Miguel Locks, the second set of concrete and water stairways along our journey through the isthmus.

Ashore, senior lockmaster John Adams, 43, is seeing red over a green light. When it is working, the light signals that the gates ahead of us are clear of floating lake debris that might cause one of the gate strut arms to snap. With the light not working, Adams says he relies on "pure faith" that nothing is obstructing the gates before he orders them opened.

"I have been trying to get them to fix it for days," Adams says of Panamanian electricians hired by the canal organization since the treaties came into force, "In the old days, if you called an electrician they would come like that," he says, snapping his fingers. "We have electricians these days who I wouldn't let change a lightbulb in my home."

Adams, echoing the view of other Americans we encountered along the canal, says many Panamanians who went to work for the canal organization before the new agreements are valued, dedicated employees. But he says others hired under a treaty-mandated, pro-Panamanian employment policy, "just don't give a s——."

Capt. Wallace, our veteran pilot, says the attitude of some of the more recently hired Panamanian operators of the electric locomotives that help shepherd ships through the locks have become so lax that they are often seen "reading comics or even watching portable television sets" on the job.

9:30 A.M.

We clear Pedro Miguel Locks and enter Gaillard Cut, the nine-mile stretch through the Continental Divide that posed the greatest challenge in digging the canal more than a half a century ago. The cut still plagues the canal with landslides that disrupt traffic.

I go below to the officer's mess. Ahead lies more rumblings of discontent among the canal's U.S. work force, and a final set of locks that will take us to the Caribbean, including a lock chamber where our tanker sustained costly damage on an earlier transit.

[From the Washington Times, Sept. 1, 1982]

Two Treaties Pose Rough Sailing for Waterway

(Editor's note: This is the last of three articles on the Panama Canal three years after the new canal treaties were signed. The writer grew up in Panama and is a veteran canal watcher.)

(By William F. Wright)

Aboard Overseas New York, Panama Canal—Capt. John Wallace moves to the port wing of our bridge to keep a watchful eye on an encroaching lock wall. The future is also closing in on this historic waterway and he doesn't like what he sees.

The 62-year-old canal pilot is nearing the end of his 3,142nd transit of the Panama Canal. The Caribbean sparkles ahead of us in the distance under clear blue skies. But Wallace sees storm clouds: the consequences of the three-year-old Panama Canal treaties.

"Things have deteriorated in every way and it's going to get worse," he says.

Wallace echoes a sentiment we have heard frequently as our ship, laden with 63,720 tons of Alaskan crude oil, has wended its way through locks and lakes on its journey from the Pacific. It is a view held almost unanimously by the American canal employees we have met along the way.

The passage has pointed up a startling irony. The treaties that were supposed to ensure the canal's continued efficient operation seem to be having the opposite effect. Our transit has turned up clear signs that the "Big Ditch," the once-proud symbol of American ingenuity, dedication and efficiency, is suffering from increasing maintenance and operational problems under the treaties. An many of the canal's remaining U.S. employees may leave before they have had enough time to train their Panamanian replacements.

1:57 P.M.

Our tanker, one of the largest vessels able to transit the canal, squeezes into the first of three chambers at Gatun Locks, the final set of concrete-and-water stairways that will lower us 85 feet to the Caribbean.

Sometimes the descent can be shaky—and costly. No one knows this better than Capt. Joe Christian, 56, one of the canal's longest-serving pilots.

Christian says he was taking the Overseas New York through Gatun Locks last April 26 when the ship fell victim to an "incredible" accident, the likes of which he says he hasn't seen in his 30 years as a canal pilot. Shaking his head and saying he still can't believe it, he gives this account.

The tanker was entering the second lock chamber when the Panamanian control house operator, thinking the ship already was completely in the lock and clear of the previous lock's concrete step, began lowering the water in the chamber. As the water dropped, the ship's stern struck the step sill, bounced up and struck it again, damaging its rudder and hull and wrenching its boilers out of alignment. Agents for the ship placed the damage at about $2.5 million, considering the high cost of taking the ship out of service for repairs. They said a claim would be filed against the Panama Canal Commission, a U.S. government agency that operates the waterway under the treaties.

Christian says a report issued by a canal commission investigating team found the control house operator at fault for failing to ensure the vessel had cleared the sill before lowering the water.

"It was negligence, pure and simple," Christian says. He says the control house operator could have averted the accident by paying attention to large sign markers along the lock wall showing graduated distances between the lock gates. He says the accident also could have been avoided if a guard gate, which when closed keeps vessels away from the sill, had been operating. The gate had been out of commission for about six weeks, he says.

Christian says the accident is symptomatic of the "serious" deterioration in the canal's operation and maintenance since the treaties went into effect three years ago. The treaties initiated, initiating the waterway's gradual transfer to Panama, which will receive outright ownership of the canal on Dec. 31, 1999.

"I reckon that on about 75 percent of my trips through the canal, something goes wrong either with a piece of machinery or because someone is not doing his job," he says. "We are being forced to hire Panamanians who just are not qualified. You can't go out and shake a palm tree and when a fellow falls out with a screwdriver in his hand, say he's an electrician."

Christian says he's so exasperated with the situation he will "most likely" leave the

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canal organization in 1984, when U.S. employees are scheduled to lose their commissary, postal and other U.S. military-provided privileges. Capt. Wallace, our senior pilot on this transit, predicts that many other U.S. canal employees will also leave. "I think things are going to get so bad a lot of people won't want to stay," he says.

Dennis P. McAuliffe, head of the canal commission and former commanding general of the Panama-based U.S. Southern Command, acknowledges that such an exodus would be disastrous. "We couldn't operate the canal without them," he says.

But McAuliffe maintains that the three years the canal has been operating since the treaties came into force demonstrate that the new system of running the waterway "does work." He also contends that morale among the U.S. work force is "generally very good." Representatives of U.S. employees say otherwise.

"Morale is lower than whale s—," says James J. O'Donhell, president emeritus of the local chapter of the American Federation of Government Employees and the canal's chief power dispatcher. Joyce Payne, president of the Pacific Advisory Council representing the bulk of the American canal community, says one reason morale is low is that there is a feeling among the remaining U.S. work force that "all the commission wants to do is get rid of us" to make way for Panamanians. She says a lot of U.S. employees are afraid to speak out for fear of losing their jobs.

Fred Cotton, born and raised in the old Canal Zone and now director of the canal commission's bureau of general services, has no such qualms.

"Morale is terrible," he says. "The reason is the crappy way the commission has been treating its U.S. employees." The fact is, he says, the much-villified "Zonians" did a "fantastic job in running the canal before the treaties. Sure, we fought against the treaties but we've been trying to make them work and we've been stepped on for our trouble."

The waterway's maintenance and operational problems come at a time when the canal is struggling to cope with increasing traffic. According to the latest projections, a record 14,300 ships are expected to transit the canal this year.

Although a soon-to-be-completed interocean pipeline across the Panamanian isthmus is expected to deprive it of most of its lucrative oil traffic, canal economists say canal traffic will continue to grow in the long term.

Some senior canal officials, who asked not to be identified, already are beginning to question Panama's ability to operate a waterway vital to work shipping. An estimated 97 percent of the world's merchant fleet of some 60,000 vessels still can transit the canal.

The canal's value to the United States is even greater, especially when taken together with the Caribbean region as a whole. Nearly half of America's trade and more than half of its strategic materials pass through the canal or the Gulf of Mexico.

U.S. defense officials say the canal remains a "major asset" for the U.S. in its ability to facilitate the deployment of U.S. forces to various parts of the world. They point out that all U.S. warships except 13 of the largest aircraft carriers can transit the canal and most future U.S. warships will be specifically designed to transit the canal.

4:15 P.M.

We clear the last lock chamber at Gatun and head for the Caribbean. Capt. Wallace and three other assistant pilots who were needed to help take our big ship through the canal shake hands with the skipper on the bridge and board a launch for shore.

On shore, Wallace looks back on his long career of shepherding ships through the Panama Canal with mixed emotions.

"Every time I go through the canal, I feel proud to be part of something grand and wonderful that the U.S. accomplished against great odds," he says. "But when I think of the treaties, I think of how my country was sold out."

PANAMA TO ASSUME FULL CONTROL AT END OF THE CENTURY

The Panama Canal's gradual transfer to Panama involves two treaties. Here are their key provisions:

Panama will assume full control and ownership of the canal on Dec. 31, 1999. Until then, the canal will be operated by the Panama Canal Commission, a U.S. government agency, with increasing Panamanian participation.

The former U.S.-controlled Canal Zone has been abolished, with Panama now exercising full jurisdiction over the area.

An annual payment out of canal revenues of 30 cents per ton of cargo transiting the canal will be paid Panama until it assumes control of the canal. In fiscal 1981, this came to $56.8 million. Panama also is to receive an additional fixed annual annuity of $10 million.

The U.S. remains responsibile for the canal's defense until Panama assumes control of the waterway at the end of 1999, when U.S. forces are scheduled to withdraw from Panama.

Panama agrees to maintain the permanent neutrality of the canal after it assumes control, keeping the waterway open in war and peace to all ships.

SENATOR RANDOLPH HONORED BY AIR FORCE ASSOCIATION

Mr. FORD. Mr. President, earlier this week, the 180,000-member Air Force Association honored our colleague Senator RANDOLPH with its Presidential citation for a professional lifetime of support of commercial and military aviation.

As all of us know, this tribute is well deserved for an individual whose vision and insight has led to the development of the Nation's air transport system and strengthened our national defense.

From the start of his long and distinguished career in the Congress, Senator RANDOLPH has been a leader in legislative efforts on behalf of aviation.

As a Congressman in 1938, he sponsored the Civil Aeronautics Act on which today's air transportation system is based. In 1941, he was the first Member of Congress to introduce legislation to create a separate Air Force. Six years later, the Air Force was established as a separate entity under the National Defense Act which reorganized the Armed Forces.

While still in the House in 1945, he cosponsored the Federal Aid to Airports Act, one of the most significant aviation laws ever enacted. He was among the leaders in setting up the Civil Air Patrol, sponsored the bill to establish the National Air and Space Museum and led the fight for Federal funds for air marking and cross-wind landing gear, two safety developments of great importance to early pilots.

After his election to the Senate in 1958, Senator RANDOLPH continued to promote the cause of an air transportation system adequate to the Nation's needs. He was a major sponsor of legislation creating the airport and airway trust fund and he authored legislation establishing National Aviation Day.

Senator RANDOLPH is a member of the National Aeronautic Association and of the National Advisory Council of the Embry-Riddell Aeronautical Institute.

Congratulations are in order to the senior Senator from West Virginia on this most prestigious award and I ask unanimous consent that two articles detailing Senator RANDOLPH's accomplishments as aviation's legislative pioneer be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AVIATION'S LEGISLATIVE PIONEER

(By J. Ponte, Jr.)

Senator Jennings Randolph (D-W. Va.) began a distinguished congressional career over 45 years ago, taking office as a member of the House of Representatives on March 4, 1933, the same day Franklin D. Roosevelt became President. But the legislator who was to become one of Congress' staunchest aviation advocates had his interest in airplanes stirred long before coming to Washington.

In the Nation's Capital this month, as he prepares to begin his fourth full Senate term at age 76, Senator Randolph is being honored as one of aviation's true friends. The National Aeronautic Association, which presented its former member with the Elder Statesman of Aviation Award in 1972, will present the senator with one of aviation's highest honors, the Wright Brothers Memorial Trophy, citing his "distinguished support of aviation in the United States by successful initiation and advocacy of major aviation legislation over more than four decades of service in Congress and as an airline executive."

"Prior to coming to Washington, D.C., I had an intense interest in aviation in West Virginia," the senator recalls. "I felt as a young man that we had peculiar problems of transportation due to the rugged terrain of West Virginia, which could favor aviation rather than hamper it. We had difficulty in establishing road systems because of the high cost and we had a rail system that mostly ran east-west, very little north-south. And so as I came into my late teens, I began to think of the possibility of aviation for strengthening the transportation system of the state."

After graduating magna cum laude from Salem College in West Virginia in 1924, Randolph worked for several years as an editor before assuming a position at Davis and Elkins College in 1926. He served as a professor of journalism and public speaking, director of athletics and college trustee until 1932—the start of his political career. Before joining Congress, the aviation-minded Randolph had already helped in the development of the airport at Elkins, the small town that has been his West Virginia residence for over 50 years. On Nov. 17, 1973, the Elkins-Randolph County Airport was dedicated Jennings Randolph Field.

CIVIL AERONAUTICS ACT

As a member of the House, Randolph's interest and involvement with aviation heightened. The young congressman became exposed to aviation's growing pains and as his awareness of its many problems grew, so did his faith in the airplane's promise.

One of the first and certainly one of the most important pieces of legislation with which then-Representative Randolph became associated was the Civil Aeronautics Act of 1938, the law which he calls the "Magna Carta" of the airline industry. Randolph helped to write the law which chartered regulatory policy for the nation's air carriers and established what is now the Civil Aeronautics Board (CAB).

Recent legislation to deregulate the airlines, still governed by the 1938 Act, and to eventually phase out CAB has not been received enthusiastically by Randolph. "We don't want people to just jump in and take the cream of the crop. After all, [the airlines] have spent years and years developing their programs," the senator says in explaining his opposition.

Of great concern to Randolph is the possible deterioration of airline service to the country's small communities. He feels that deregulation will permit carriers to withdraw service just as freely as it would allow them to enter a profitable route. A partial solution, the senator feels, is an expanded short-haul commuter airline service. Randolph calls the present commuter network "a fine development" and predicts: "Commuters will provide a tremendously important service in the future. With our growth of population all over this country, there are areas that should be served."

AIRMAIL PICKUP PROPONENT

Senator Randolph's interest in providing air service to the nation's small communities stems from his long-standing philosophy that aviation should benefit all people. He displayed this feeling back in the airlines' early decades as an advocate of the airmail pickup system. Authored by Randolph, the Experimental Air Mail Service Act was passed in 1938 to develop a service by which mail could be picked up and delivered by air without the aircraft having to land. Dr. Lytle S. Adams had invented the pickup device, a forerunner to later sea rescue and spacecraft recovery methods, and the Randolph bill was designed to establish a test program for what would hopefully one day become a viable postal system. The pickup system would not only save time, but also enable areas without airports to enjoy airmail service.

The flights began in May 1939 and proved to be most successful, flourishing during the war years. After six years of operation, the pickup carrier, All American Aviation (which eventually became Allegheny Airlines), had logged over 5.1 million revenue miles and made nearly 296,000 pickups and deliveries. (See "Triple 'A' Airline," Air Line Pilot, March 1978.)

Naturally, the experiment's success thrilled the senator who had written an article for the January 1940 issue of Popular Aviation magazine entitled "Airmail for Punkin Center," describing the system and how it could benefit the country's small towns and rural areas. But after the war CAB felt that feederline routes, combining passengers with mail service, would better serve less populated portions of the nation. The final pickup and delivery was made in July 1949. Noting phlegmatic mail delivery as well as the country's clogged roads, Randolph feels that a similar system might improve postal service today.

SYNTHETIC FUELS

Some five years after the airmail pickup experiment began, the now-veteran congressman from West Virginia once again displayed an innovative spirit and, in this case particularly, perspicacious foresight. Randolph introduced legislation authorizing research and development of synthetic fuels derivation processes. He had been studying German methods of extracting gasoline and fuel oil from coal, oil shale and other materials and felt the United States should develop similar technology. To demonstrate the idea's feasibility, Randolph accompanied Civil Air Patrol Major Arthur C. Hyde, who flew a single-engine Stinson 175 miles from Morgantown, W. Va., to Washington, D.C., in November 1943 on fuel derived from coal.

The synthetic fuels bill passed in 1944 and some $83 million was appropriated to advance the technology. Advocating the importance of energy research for aviation as well as other requirements, Randolph prophesied when he wrote in January 1944: "We must not, for the sake of our national security, come to depend on foreign countries. We must plan for the conservation of our national oil resources and the immediate development of practical methods for the commercial production of synthetic fuels, so that it cannot be said in the future—'too little and too late.'" Nevertheless, with the end of World War II interest waned and the project was phased out in the early 1950's with funds still remaining from the original appropriation.

But Congressman Randolph still had other important aviation programs to pursue before his 12-year respite from Congress began, following a defeat in the 1946 election. These included authoring legislation to provide aeronautical training for pilots, mechanics and technicians as well as aviation courses in high schools. Randolph also spearheaded efforts to provide funds for airport improvements including the National Federal Aid to Airports Act in 1945 which he authored. As a senator in 1968, he introduced the Airport Development Act that led to the Airport and Airway Development Act of 1970, which presently funds the Airport Development Aid Program.

DEFENSE AND POSTERITY

World War II deomonstrated to the world the importance of air power, but Congressman Randolph had recognized that fact years before. "I felt that we had too much reliance in our military planning and programming on the Navy and so I introduced legislation [in April 1941] that would give greater emphasis to aircraft," he remembers, explaining his commitment to a separate Air Force even before the war began. Randolph's 1941 resolution was not adopted; however, when the National Defense Act of 1947 became law and established the Department of the Air Force, the senator's significant contribution was remembered.

Along with his many achievements in regulation, education and experimentation, Senator Randolph long sought recognition for aviation's vital role and particularly stressed the need for a place to preserve its history. In May 1939, his resolution calling for a National Aviation Day was adopted. Each year since, the President has proclaimed a date on which the nation officially salutes its aviation heritage.

In 1946, Congress approved another Jennings Randolph measure—this one to establish a National Air Museum. According to the one-time educator, the July 1976 opening of the National Air and Space Museum in Washington, D.C., was well worth the wait. He talks about the facility with understandable pride: "I walk through there sometimes and I stand and watch the people . . . and listen to the comments of fathers talking to their little children, explaining the museum's marvels. It's a great feeling."

CIVILIAN SERVICE

From 1947 until his election to the Senate in 1958, Randolph continued his involvement with aviation by serving as assistant to the president of Capital Airlines, a trunk carrier which merged with United in 1961. The former editor also served as Capital's director of public relations. During this period with the airline, he traveled Capital's route system addressing school audiences, rotary clubs, chambers of commerce and a host of other educational, civic and social organizations.

Senator Randolph, who never held a pilot's license but did solo under a student certificate, remembers having had a good rapport with Capital's pilots, some of whom accompanied him during speaking engagements. The organizer and first president (1944-1945) of the Congressional Flying Club, Randolph describes today's airline pilots as a "highly competent group of men and women dedicated not only to flying, but to serving people as well."

In the Senate, Randolph continued working in a number of important areas. Among his non-aviation legislative achievements was sponsorship of the 26th Amendment to the Constitution, ratified in 1971, which granted voting rights to 18-year-olds. Most recently, he cosponsored legislation entitling World War II WASP's (Woman Airforce Service Pilots) to veterans benefits.

Looking ahead, Senator Randolph sees many challenges for aviation, especially in improving safety to prevent catastrophes like the September San Diego crash. "I think we need to have a very careful planning program about the mix of large and small aircraft," he advises. Randolph also sees a need for an in-depth review of the entire aviation program, including the air traffic control system.

The Wright Trophy recipient for the year which marks the 75th anniversary of powered flight sees another important goal for aviation: "I think that the use of air power is not just to deter an enemy . . . I'd like to see aviation become the instrument for peace and understanding—not to separate people, but to bring them together. That has not yet been accomplished."

Pioneer Efforts on Capitol Hill

(By W. Lawrence Graves)

Generally, candidates for Congress are ambitious, hard-driving people. Successful candidates are probably a little more ambitious and a little more hard-driving. And the competition in Congress creates a climate of intense combativeness.

One of the most successful people in congressional politics is Senator Jennings Randolph (D-W.Va.). Senator Randolph has achieved a remarkable electoral record in being elected and reelected to represent West Virginia in Congress for almost 40

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years. He is also known as one of the most capable and effective legislators in Congress.

What makes Senator Randolph so special, however, is that in the hard-bitten business of congressional politics, he has compiled his successful record while being almost universally admired and loved. All who know him recognize that he is the person to emulate, and they would be proud to be even 50 percent as successful.

He is a thoroughly constructive and committed individual whose ideas may have seemed too advanced when he dreamed them; but, once implemented, they are ideas everyone wonders why he did not think of first. His career is remarkable both in his foresight in aviation and in his ability to bring his ideas to reality.

Aviation is fortunate that Senator Randolph has an unceasing dedication to its development and improvement. He is a true aviation pioneer and is one of aviation's outstanding spokesmen and leaders.

Everything Jennings Randolph has done, he had done well. And he has done it with a conscientious concern for the way in which it is achieved. (Machiavelli would not be served well by Jennings Randolph, who believes the means is as important as the end.)

He graduated magna cum laude from college and never looked back. His early and consistent involvement in aviation was so notable, he was awarded an honorary degree in aeronautical science in 1943. Among his awards and citations are six major aviation-related honors, including the Wright Brothers Memorial Trophy.

In 1946, Senator Randolph authored the legislation that led to the construction of the National Air and Space Museum in Washington, D.C. It is the busiest museum in the entire world with more than 10 million visitors last year.

General aviation is looking for fuel alternatives in 1981. In 1943 Senator Randolph flew from Morgantown, West Virginia, to Washington, D.C., in a single-engine Stinson powered by fuel derived from coal to dramatize the need for alternative fuels.

"We must not come to depend on foreign countries. We must plan for the conservation of our national oil resources and the immediate development of practical methods for the commercial production of synthetic fuels," Senator Randolph wrote, not last week, but in 1944.

He also founded and was the first president of the Congressional Flying Club.

Senator Randolph represents West Virginia, a state whose topography looks like rumpled corduroy and which uses aviation as access to the national economy. He has combined his love for his home state with his love for aviation—staying an advocate of both. His string of remarkable legislative accomplishments has left an indelible mark on West Virginia as well as aviation.

Seniority plays a role in congressional politics and with the switch in Senate control last January, from the Democrats to the Republicans, some Democratic committee chairmen, whose influence was based upon chairing of a committee or subcommittee, have lost most of that senatorial influence.

Senator Randolph, on the other hand, has always relied on his special integrity and good will for his accomplishments. His tools of political power are not lost with a committee chairmanship. Senator Randolph will continue to exercise leadership and direction in the Senate, which is all for the good.

ACID RAIN

Mr. FORD. Mr. President, Kathleen Bennett, Assistant Administrator for Air, Noise, and Radiation of the U.S. Environmental Protection Agency, recently presented valuable testimony to the Committee on Energy and Natural Resources. At a hearing focusing on the phenomenon known as acid rain and on congressional attempts to control it, Mrs. Bennett listed the major scientific uncertainties surrounding acid deposition—the deposition of acidic materials, whether wet or dry, from the air onto the surface of the Earth or upon structures or objects—despite current knowledge of it:

> Currently, there is no good measure of when acidity in rain should be considered detrimental. The conventional definition is based on pure water saturated with atmospheric carbon dioxide. It has a pH of 5.6, which is, therefore, the theoretical level of "normal" rainfall. Naturally occurring precipitation may be considerably more or less acidic. Hence, at this point, there is no clear reference for developing a remedial program.
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> Although oxides of sulfur and nitrogen are considered to be precursors of acid deposition, the transformation processes are not yet understood. There are significant differences in the composition and acidity of rain between seasons, geographical regions, and even during and between storms. However, no clear evidence is yet available which can explain or accurately predict how precursors are transformed or why the observed variations occur.
>
> Another uncertainty exists with regard to the transport and distribution of precursor emissions. Remote regions of the globe have rains with a low pH, as do Hawaii and Alaska. to resolve such uncertainties, better data and more accurate modeling techniques are necessary.
>
> Additional uncertainties include the relative impact of local sources as compared to more distant sources; the role of other photochemical pollutants and how they affect acidity levels; the relative importance of the potential effects from acid deposition on different receptors (i.e., aquatics, forests, materials, etc.); and others.

Mrs. Bennett goes on to mention recent studies on the question of the long-range transport of pollutants and concludes that:

> These studies, in presenting opposing theories on the cause of the acid deposition problem, emphasize the degree of the current uncertainty on a question fundamental to a regulator and the consequent need for further research.

We do need to take steps to mitigate the effects of acid deposition in the Northeast. But any control strategy that we adopt must be guaranteed to accomplish its stated goal. How can the Congress responsibly impose a multibillion-dollar pollution control program on the American people—and that is what the front-running plan will cost the taxpayer—without the assurance that the expected environmental benefits will accrue?

Mr. President, we do not yet have the solid scientific data base on which to predicate such a program. I urge my colleagues to read in its entirety Kathleen Bennett's statement before the Senate Energy Committee. I ask unanimous consent that it be reprinted in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF KATHLEEN M. BENNETT

Good morning, Mr. Chairman and members of the Committee. I am Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation of the U.S. Environmental Protection Agency. I am pleased to appear before you to discuss the Agency's views on acid deposition as it may affect the use of fossil fuels, as well as the recent Senate Committee on Environment and Public Works' action on acid deposition.

While acid deposition is certainly not a new issue, our understanding of it has increased greatly in recent years—and so has our concern. In 1980 Congress authorized a ten-year study of the problem. The Reagan Administration is committed to resolving the issues surrounding acid deposition. President Reagan, in expressing his determination to seek reauthorization and in outlining 11 principles for Clean Air Act review, called for the acceleration of research on acid deposition—research which this Committee authorized and directed just two years ago. The President has therefore increased comprehensive acid deposition research funding by more than 70 percent from fiscal year 1981 to fiscal year 1983.

There are those who believe that the acid deposition problem is caused, for the most part, by sulfur dioxide emissions from midwestern coal-burning power plants, which are transformed into acidic compounds in the upper atmosphere, transported over long distances toward the northeast, and deposited in poorly buffered, acid-sensitive lakes. Nitrogen oxide emissions are thought to contribute to acidity as well, and ozone also apparently plays a role in the atmospheric processes. Other effects attributed to acid deposition include materials effects on marble or painted surfaces, forestry effects, crop growth, soil acidity, and heavy metal migration in drinking water supplies.

In the face of this, there is tremendous pressure to "do something"—to control the precursor emissions now, while the study continues.

Why, then, does the Administration not favor the immediate imposition of an emission control program?

At the base of the Administration policy is the fact that the Clean Air Act of 1970, with its 1977 Amendments, is already addressing all three of the precursor pollutants of concern. For instance, since the mid-1970's, the sulfur dioxide emissions from coal-fired power plants have decreased even though coal-fired electric generating capacity has been increased during the same period by almost 60 percent. The implementation of the Act through Federal ambient standards, State plans for control of new and existing sources, and new source performance standards for new plants apply to these precursor pollutants.

An apparent difficulty is that the Act is aimed at protecting against ambient effects experienced locally, and does not directly deal with secondary products of pollution that may be experienced far from the source. Given the vigorous prevention and control program already in place in this country—probably the best in the world—

the question before us is whether an additional program is necessary to protect against more distant effects.

This is why a study program is needed, and why the Clean Air Act gives us the confidence so that we need not move precipitously. The tremendous progress made in recent years in understanding the problem now enables us to ask the more practical questions that a regulatory agency must resolve in order to design an environmentally and economically effective program which can be defended before those suffering from the effects of acid deposition and those who will bear the cost of trying to remedying them.

I will first briefly describe the state of knowledge and the uncertainties requiring resolution and the need for responsible action, and then outline our analysis of the impacts that could be expected if the Senate Environment and Public Works Committee proposal were to become law.

ACID DEPOSITION—KNOWLEDGE AND UNCERTAINTIES

"Acid deposition" is a general term for the deposition of acidic materials, whether wet or dry, from the air onto the surface of the earth or upon structures or objects.

In several areas of North America, acid deposition occurs in varying degrees of severity. However, the circumstances of its formation, the nature of its effects under various conditions, and the feasibility of potential controls are the subject of widespread debate.

There is considerable information on some aspects of the emissions of oxides of sulfur and nitrogen which are considered to be the precursors of acid deposition. The majority of man-made emissions of sulfur oxides in the United States comes from utilities; the remainder comes from other combustion sources, non-ferrous smelters, and transportation sources. U.S. nitrogen oxide emissions come mainly from transportation and from utilities and industrial boilers.

Emissions tend to be highly interactive, and multiple emissions must be considered simultaneously. Both sulfur oxides and nitrogen oxides can be transformed respectively into sulfuric acid and nitric acids by reacting with moisture and other substances in the atmosphere. These transformations can take place in clouds, in rain droplets, or after deposition. Depending on a number of variables, emissions may be deposited relatively near their sources or transported over great distances.

Despite the current knowledge concerning acid deposition, a number of major scientific uncertainties remain unresolved. These include:

(1) Currently there is no good measure of when acidity in rain should be considered detrimental. The conventional definition is based on pure water saturated with atmospheric carbon dioxide. It has a pH of 5.6, which is, therefore, the theoretical level of "normal" rainfall. Naturally occurring precipitation may be considerably more or less acidic. Hence, at this point, there is no clear reference for developing a remedial program.

(2) Although oxides of sulfur and nitrogen are considered to be precursors of acid deposition, the transformation processes are not yet understood. There are significant differences in the composition and acidity of rain between seasons, geographical regions, and even during and between storms. However, no clear evidence is yet available which can explain or accurately predict how precursors are transformed or why the observed variations occur.

(3) Another uncertainty exists with regard to the transport and distribution of precursor emissions. Remote regions of the globe have rains with a low pH, as do Hawaii and Alaska. To resolve such uncertainties, better data and more accurate modeling techniques are necessary.

(4) Additional uncertainties include the relative impact of local sources as compared to more distant sources; the role of other photochemical pollutants and how they affect acidity levels; the relative importance of the potential effects from acid deposition on different receptors (i.e., aquatics, forests, materials, etc.); and others.

Presently we have an inability to monitor dry deposition, yet in many areas it clearly plays an important role in creating the adverse effects associated with so-called "acid rain." Nor can we disassociate the effects felt in overall acidity from sudden shocks or bursts of acidity that occur, for example, when accumulated acid-bearing snow melts in the spring and runs into lakes from those that occur from slow, steady, year-round dusting or rainfall. Yet understanding these proportions and relationships bears importantly on the control programs that would be appropriate.

The uncertainty surrounding acid deposition is demonstrated by the divergent conclusions reached in two recent studies. While the results of the studies are preliminary and have not yet been subject to peer review, the results are important to note. One study, conducted by the University of Rhode Island on the long-range transport of sulfate aerosols in the atmosphere, indicates that acid deposition in the Northeast may result from sulfur dioxide emissions of local origin rather than from midwestern sources. Preliminary data from receptor points in Massachusetts and Rhode Island suggest that sulfate aerosols in the atmosphere contain little trace of the "signature" of sources in the Midwest. Another recent study by the Mitre Corporation concludes that the current acid deposition problem is largely a long-range transport problem and cites recent decreases in sulfur oxide and nitrogen oxide emissions in the Northeast while acidity has increased. These studies, in presenting opposing theories on the cause of the acid deposition problem, emphasize the degree of the current uncertainty on a question fundamental to a regulator and the consequent need for further research.

NEED FOR RESPONSIBLE ACTION

Any additional remedial action must be based, at a minimum, on the reasonable certainty that it will, in fact, accomplish its intended purpose. The American people have the right to expect that their government will not impose an additional multi-billion dollar pollution control program, without first determining with some assurance that the intended environmental benefits will be achieved.

In this case, quick and simple solutions are extremely costly and unlikely to achieve the desired results. Given the length of time it has taken to recognize the magnitude and complexity of the problem and the many fundamental questions that remain to be answered, Congress wisely authorised a comprehensive research program.

Currently, in an effort to reduce uncertainties so that meaningful and effective program options can be considered, EPA is engated in a number of projects.

EPA alone has committed more than $9 million in fiscal year 1982 to its research efforts on acid deposition. The President's requested budget for fiscal year 1983 includes $11.4 million for EPA's contribution to the Interagency Task Force's acid deposition research efforts. When added to the acid deposition research budgets elsewhere in government, the total 1983 request is $22.4 million.

The three major areas of uncertainty toward which EPA's efforts are directed include:

(1) effects of acid deposition, to create a better assessment and inventory of the problem we are trying to solve . . . and the deposition level that triggers the effects;

(2) transport, transformation, and deposition processes, to understand how the problem occurs and develop the tools to relate the problem to its causes; and

(3) assessments and policy studies, to identify and specify what additional research may be warranted and to design appropriate responses to the acid deposition problem based on the state of knowledge.

SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS ACID DEPOSITION PROPOSAL

On July 22, 1982, the Senate Committee on Environment and Public Works approved an amendment to the Clean Air Act designed to address the acid deposition problem. That proposal would require a massive emission reduction program exceeding 8 million tons over a 12-year period as well as an emission restriction program which would affect all major new and modified sources of sulfur dioxide and nitrogen oxide within a 31-state region. Additionally, the proposal would require some changes to the current acid deposition research program.

RESEARCH PROGRAM

Aside from the tens of billions of dollars in additional capital outlays and operating costs that may be required to reduce emissions so drastically, the proposal ignores the scientific uncertainties and general lack of consensus surrounding this issue. We do not, therefore, support the Senate Committee on Environment and Public Works' acid deposition proposal, because our current research program is well planned, targeted and adequately financed.

The research program proposed by the Senate Committee would involve increased funding for the Federal Acid Precipitation Task Force and would require reports to Congress on research results in 1985 and 1987. The Task Force would conduct research on advanced electricity generation technologies. The National Academy of Science would be mandated to establish an independent scientific review board to consider research results and the Task Force's activities. The Board would be required to submit reports to Congress in 1986 and 1988 and recommend emission and effects reduction strategies.

EMISSION REDUCTION PROGRAM

The proposal would establish a 31-state region upon which an additional control program would be imposed. Within that region, by 1993 the proposal would require an 8 million ton sulfur dioxide reduction from 1980 actual annual levels. In addition, all existing sources or new sources since January 1, 1981, would be subject to an offset provision. Coupled with the 8 million ton reduction requirement, this offset requirement, due to a projected increase in new and existing source emissions, would result in an estimated 10–11 million ton reduction or more from otherwise projected 1995 base case sulfur dioxide emission levels

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(that is, the levels that would be expected to occur if no change in the law is made). For new sources, after January 1, 1995, growth must be offset unless these sources adopt best available control technology and attain the most stringent emission limitation achieved in practice by a source in the region. These requirements would compel a number of states, such as Ohio, Missouri, Indiana, and Wisconsin, to cut their projected 1995 emissions by more than two-thirds.

The proposal includes two exceptions to its offset requirements. Increases from coal conversions with less than 1.5 pounds sulfur dioxide per million BTU's average emission rates need not be offset. New sources in states without a single source with a limit of greater than 1.2 pounds would not be required to be offset. However, it does not appear that any state could meet this qualification.

Furthermore, all of these requirements are cast in terms of reducing emissions at individual sources without regard to our real goal of minimizing adverse effects on receptor areas. If controls are determined to be needed, they should be based on the reduction needed at the receptor area to minimize the impacts rather than imposing an arbitrary constraint on individual sources.

The 8 million ton emission reductions are to be allocated among the 31 states in the region. Governors are allowed 18 months in which to negotiate a plan for allocating reductions. However the proposal fails to set forth the basis for these allocations and this deadline presumes detailed scientific and technical data which unfortunately has yet to be developed. If they do not develop such a plan, reductions would be required based upon excess emissions above the level which would result if all existing sources were emitting at 1.5 pounds SO_2 per million BTU's. The provision specifies a schedule for state plan revisions, approval, and enforceability.

The proposal includes a number of interim reductions and compliance requirements. First, existing sources, defined as of January 1, 1981, cannot increase actual sulfur dioxide and nitrogen oxide emission rates above January 1, 1981, levels unless a simultaneous offset occurs. Any switching to fuels with a higher sulfur content may trigger the need for immediate offsets. Second, all sources which were not in compliance with their state plans in effect on January 1, 1981, must be in compliance with those emission limits by December 31, 1985 or every facility owned by the operator of the non-complying source must comply with an average of 1.2 pounds. This provision effectively repeals 1981 and 1982 SIP revisions.

Finally, the proposal includes a default option. If a state does not meet its required reduction, each utility system in the state must meet a state-wide average of 1.2 pounds SO_2 per million BTU.

RAMIFICATIONS

There is no strong scientific justification for such a program—there is little conclusive evidence that it would produce dramatic reductions in acid deposition or any amelioration of its effects. It would definitely impose large costs—in terms of jobs, coal market impacts, and consumer utility rates—and unreasonable control requirements—in terms of new and existing source offset and emission reductions. Furthermore, the program as currently proposed would discourage coal conversions that would otherwise be cost effective and desirable. Although the National Academy of Sciences called for an immediate reduction in emissions from existing sources, this conclusion was reached without taking to account the considerable costs such a program would impose.

It is conceivable that policymakers in the Congress and in the Executive Branch would one day decide that these costs and impacts are justified because of the environmental results they would achieve and the consequent benefits that would flow from them. However, given the magnitude of the costs and the unlikelihood of any detectable effects, such a decision is premature.

If this proposal is enacted, most major coal-burning sources will be forced to install scrubbers or switch to lower sulfur coals. In reviewing the environmental impacts of this proposal, we noted that, as a result of it, profound shifts will occur in coal production and a number of coal-producing regions of the country would be particularly affected. Specifically, our projections show that Northern Appalachia, which in 1980 produced 185 million tons of coal, would produce 218 million tons in 1995 in our base case, that is, in the absence of any change in the law. The Senate proposal, however, would cause a greater than 50 million ton reduction in 1995 production levels or an estimated 25% decline from the levels which would occur without further controls. In the Midwest, the decline in coal production caused by the bill would be even greater. In 1980 that region produced 134 million tons of coal and is projected to produce over 200 million tons in 1995 in the absence of further control requirements. Under the Senate bill, the Midwest would suffer a decline of approximately 95 million tons or almost a 50% reduction in 1995 coal production levels. The amount of decline would be the equivalent of more than two-thirds of current production levels.

The declines in coal production which would occur in traditional coal producing areas would be even more pronounced when viewed on a state-by-state basis.

For example, in the Northern Appalachian region, Pennsylvania and Ohio are especially illustrative of the resulting declines. In 1980, 93 million tons of coal were produced in Pennsylvania and 122 million tons are projected to be produced in 1995 without additional controls. Under the Senate bill, 1995 coal production would decline by approximately 17% or 21 million tons. This decline is approximately equivalent to one-fifth of Pennsylvania's current coal production. In Ohio, 1980 production levels were 39 million tons and 1995 levels are projected to remain constant at roughly 42 million tons absent additional controls. Assuming the Senate bill requirements, production in 1995 would decline by about 60% to 16 million tons. This decline is roughly equivalent to 65% of Ohio's current coal production.

In the Midwest, Illinois produced 63 million tons of coal in 1980 and is projected, absent additional controls, to produce 97 million tons in 1995. With the Senate Committee proposal in place, production in Illinois in 1995 would decline by more than 70 percent or over 70 million tons. This reduction is larger than the State's total current level of production. The result would be a 1995 production level of about 26 million tons—well below 1980 production levels. In Indiana the situation would be similar; that State's 1980 production was 31 million tons. The State is projected to produce 46 million tons in 1995—absent additional controls. With the Senate bill in place, 1995 coal production would decline by almost 50 percent or 22 million tons. The result would be 1995 production of less than 25 million tons—also significantly below 1980 levels.

Although these shifts are offset by gains elsewhere, that provides little comfort for those regions which would be most adversely affected. These declines in coal production are more significant when related effects are considered—including miner unemployment, employment shifts, and associated declines and shifts in support employment.

Our preliminary projections indicate that the costs of such a control program would be massive—on the order of $5–6 billion per year based on 1982 dollars. The nitrogen oxide constraint alone which would preclude coal conversions is responsible for $1.6–$2.4 billion of this total. Even without the nitrogen oxide cap, cumulative costs by 2010 would total well over 30 billion dollars for utilities alone. If the nitrogen oxide constraint is retained, the cumulative cost will double to over 60 billion dollars. The cost per ton of sulfur dioxide removed would average around $500 per ton, but in some states the maximum marginal cost would be greater than $1,200 per ton removed. The average increase in annualized electricity rates in the 31 state region would be more than 4 percent with some states experiencing increases greater than 7 percent. States whose consumers would be particularly hard hit by increased electricity rates would be Florida, West Virginia, Ohio, Indiana, Wisconsin, Kentucky, Tennessee, Mississippi, and Missouri. Utility scrubber capacity would have to increase by almost 10 percent (or more, if steps are taken to protect local coal production) to meet the requirements of the proposal.

Our review of the Senate Committee proposal indicates that it would undermine utility plans to convert to coal as an alternative to using higher cost imported oil. Although uncontrolled nitrogen oxide emission rates for most powerplants are not expected to increase, reconversions from oil to coal are a notable exception. Nitrogen oxide emission rates for these units would be expected to increase—so much that this provision will prevent most of these units from reconverting. Instead, utilities operating these units will be forced to bear the high costs of continuing to burn oil.

The proponents of this proposal, in an apparent attempt to show some consistency between their proposal and the Administration's position and research effort, point out that the reduction program would not commence for another five years, thereby allowing ample time for the key scientific issues relating to control to be resolved. We do not feel that this is an accurate portrayal of how the proposal would operate.

The provision as currently drafted would define an existing source based on its January 1, 1981, emission status. Any change involving emission increases after that date would have to be offset. Therefore, new and existing sources built or modified after January 1, 1981, would be subject to a possible requirement of emissions offset—if their construction or modification would result in an emissions increase, regardless of the results of the five years of additional research.

Additionally, any source not in compliance with the state plan as in effect on January 1, 1981, must be in compliance by December 31, 1985, or every facility owned by the operator of the non-complying source must comply with an average of 1.2 pounds by December, 1985. This provision, too, is mandated without regard to its relationship to future acid deposition research results.

Some sources have received relaxation of emission limits since January, 1981, which EPA has approved as meeting all statutory requirements. This provision will require such sources to reduce emissions to meet requirements in effect in January, 1981, even though such reductions are not necessary to protect ambient air quality standards.

These requirements would become law simultaneously with enactment of this proposal—not following the conclusion of a badly needed research effort and the making of decisions based on conclusive results. We view the resulting uncertainty and expense which would be faced by countless new and existing sources as well as the States, and the shadow that would be cast over the entire state plan revision process, as dangerously disruptive and lacking any basis in sound public policy. The proposal in this area fails to recognize the realities of source planning and unwisely prejudges the conclusions of scientific inquiry. This offset provision and similar reduction provisions are drawn in such a way that they would fail to accommodate results which may be realized from research efforts.

Our projections indicate that, while the proposal calls for an 8 million ton reduction in sulfur dioxide emissions, the result will be a 10-11 million ton reduction or more below 1995 base case utility and industrial sulfur dioxide emission levels. This amounts to nearly a 50 percent decrease from base case levels in 1995.

The question then arises: what is bought by this control program? The program involves high economic and social costs with no assurance that the intended results would be realized. During the twenty-five year period between 1985 and 2010 this proposal would cost rate payers in the 31-state Eastern region well over $60 billion. Yet after 1995 the fifty per cent decline in emissions will be rapidly eroded by new growth. By the year 2010 sulfur dioxide emissions from utilities would only be 3 million tons or 18 percent lower than if no additional controls had been imposed.

SUMMARY

The economic and social effects, as well as the questionable environmental results underscore the need to ensure that any proposed control program be designed so that environmental results will be achieved, at costs commensurate with the benefits derived. Considerable doubt exists concerning the degree to which acid deposition would be mitigated by the Senate Committee's proposal. These doubts are so fundamental, and the costs so high, that a strong case exists against its enactment.

In this country, which as one of the most vigorous control programs in the world, it is not enough to throw money and greater regulations at a problem without regard to consequences. While we have made great strides in this nation to control air pollution, the Federal government and the States should be concentrating on research so that the acid deposition problem may be addressed effectively. Legislating additional costly controls is premature.

This concludes my prepared statement. I would be happy to respond to your questions.

A DECADE OF RAIL TRANSIT FOR THE BAY AREA

● Mr. CRANSTON. Mr. President, 10 years ago this month the San Francisco Bay Area Rapid Transit District—known worldwide as BART—began train service on the first all-new rail transit system to be built in the United States in 60 years. It has been a model of foresight, planning, and service. It came about through the efforts of three bay area counties—Alameda, Contra Costa, and the city and county of San Francisco. The fully automated system was 80-percent locally financed, and its opening in 1972 evidenced the bay area's commitment to a strong public transit network.

Since BART began operating, it has carried 350 million passengers more than 4.5 billion passenger miles without a passenger fatality.

There is no question that BART has been a major factor in the economic growth of the bay area since.

Today BART is carrying over 190,000 passengers every working day, 30 percent of all transbay commuters, thus relieving congestion on the bay area's freeways, bridges, and downtown parking areas by some 60,000 cars daily.

Based on today's projections, more than 250,000 passengers a day could be using BART by 1985-86, and over 300,000 passengers a day by the end of the decade.

BART has embarked on an intensive $500 million capital program designed to increase the capacity of the system, expanding the capability of the system's automatic train control system to operate more trains and to improve the system's ability to reduce the time between trains.

As Senator from California, I take great pleasure in drawing BART's decade of service to the attention of my colleagues in the U.S. Senate.

AL KELLER, JR., NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. SIMPSON. Mr. President, from August 20 through August 26, one of America's great veterans' service organization—the American Legion—met in their 64th annual national convention in Chicago, Ill. As chairman of the Senate Veterans' Affairs Committee and as a member of the American Legion, it was my privilege and honor to attend a portion of the convention and to address one of its sessions. I am always impressed with the dedication of both the leadership and membership of the Legion in preserving our American value system. There are few organizations as articulate in setting forth the viewpoint of this Nation's veterans, their dependents, and survivors.

At the convention Al Keller, Jr., of Kankakee, Ill., was elected the American Legion's new national commander for 1982-83, replacing outgoing National Commander Jack W. Flynt following his outstanding year of leadership for that fine organization.

Al Keller was a gunner on a B-24 in the European theater with the Army Air Force and flew 16 combat missions in World War II. He was a prisoner of war for a short time prior to the end of the war.

His professional career includes being a cost accountant for a major corporation and an office manager and accountant for a construction company.

He began a civil service career as administrative assistant for the Kankakee County Board. He served as an accountant for the American Red Cross and returned to local government as chief deputy county clerk. Presently, he is administrative assistant for Kankakee County.

Keller has been an active Legionnaire for 28 years beginning with Post No. 85, Kankakee, which he served as post commander, and adjutant. He has also served as post service officer.

He also served the Legion's Illinois Department as district commander, department vice commander and department commander. He also served on the department's veterans' affairs and rehabilitation commission for several years.

He was a member of the Legion's National Americanism Commission until his election to national commander.

I commend and congratulate Al Keller upon assuming this extremely important position as the leader of our Nation's largest veterans' organization. I am confident that under his leadership the Legion will continue to grow and to exert the very positive influence it has always been in our communities and for our veterans in the past. I look forward to working with the new national commander as we strive to meet the legislative needs of America's veterans.

THE VETO OVERRIDE ON THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. SIMPSON. Mr. President, the veto override was a close one. You can not shave them any closer than that. It takes two-thirds to override and it was exactly that. I voted to sustain the President and resist the override.

This bill has some real duds in it. I do not refer to the very fine things such as domestic assistance, senior citizen community service employment programs, and the educational benefits which were appropriated. These benefits were all heavily funded in the last appropriation, and I would have joined others in assuring that those programs were sustained, had the veto been upheld.

No, I refer to some marvelous public works projects buried deep in the suet of that urgent supplemental. There were projects there—ones thought to have died a grisly death, now risen

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from the dead like Lazarus—and they always keep creeping back into the funding picture. One of the more egregious ones is the Tug Fork project in West Virginia. It was not included in the Senate report of the bill, but it first shows up in the legislative notice as funds for "Pineville and Barbourville, Ky., and Williamson, W. Va., project components." It is unfortunate that a project of this magnitude was allowed to slip through in that fashion. It is a porkbarrel project of grotesque dimension whose funding could wind up costing the taxpayers of the United States up to $1 billion.

The Tug Fork River project has been around this place for several years now, as a project to authorize the Army Corps of Engineers to undertake flood control measures in the Tug and Levisa Forks of the Big Sandy River and Cumberland River, W. Va., Ky., and Virginia. Concern over the expenditures has been expressed, and opposition voiced over these many years, and the project has been stopped. Until now. It nearly matches the scope of the Tennessee Tombigbee Water project which is the very grandfather of bloated Federal animals that waddle around in the swamp under the cover of legislative maneuvering and gimmickery and then launch their avaricious assault on an inadequately protected Federal treasury where they graze to their fill on the green of Federal dollars. And once the gates to the Treasury are mashed down, other behomoths appear on the scene for their share and before long the special interest managerie have all been fed, and bed down for another year—fat and happy. Too bad that the rest of the Nation, those who must now do without so that others can indulge their gluttony, must now suffer the consequences—and go ploddingly back to work to generate more tax dollars before the next "feeding."

So now we go on to other things before us. I am certain that the President is greatly disappointed and yet there are many conscientious Republicans who have supported the President throughout this economic realinement, as he tries diligently to restore economic stablity to our Nation, and some of them jumped ship on this one. I do not think that will occur often in the future. Perhaps the original veto was a bit ill advised—but I did support the President because I still feel that these outlandish public works projects must be knocked off. And that is what I was up to. I will keep right on striving until this sort of waste and abuse in Government is halted. It is really a poor way to do business. I know there are many on both sides of the aisle who long to see sensible and thoughtful legislating become the order of the day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following bills and joint resolutions:

On August 16, 1982:

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

On August 17, 1982:

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week."

On August 20, 1982:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes; and

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week."

On August 24, 1982:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes; and

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

On August 26, 1982:

S. 167. An act for the relief of Juan Esteban Ramirez.

On September 8, 1982:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes; and

S. 2248. An act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.

MESSAGES FROM THE HOUSE

At 2:43 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6788. An act to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6788. An act to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training; to the Committee on Veterans' Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4230. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on a Federal flood insurance prohibition for undeveloped coastal barriers; to the Committee on Energy and Natural Resources.

EC-4231. A communication from the Director of the Mineral Management Service, Department of the Interior, transmitting, pursuant to law, a request for refund of an excess royalty payment by Conoco Inc., Diamond Shamrock Corp., Oxy Petroleum, Inc.; to the Committee on Energy and Natural Resources.

EC-4232. A communication from the Secretary of State, transmitting, pursuant to law, a report concerning loan guarantees and certain other transactions involving the People's Republic of Poland; to the Committee on Foreign Relations.

EC-4233. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 days prior to September 9, 1982; to the Committee on Foreign Relations.

EC-4234. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Revenue Report for July 1982"; to the Committee on Governmental Affairs.

EC-4235. A communication from the Secretary to the Council of the District of Columbia, transmitting, pursuant to law, a copy of a Council resolution entitled "Support of the Ban on Chemical Warfare Resolution of 1982"; to the Committee on Governmental Affairs.

EC-4236. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4237. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4238. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4239. A communication from the acting Special Counsel, Merit Systems Protection Board, transmitting, pursuant to law, a report on the investigation into allegations made by a Federal employee of abuse of authority and improper actions representing a danger to the public health and safety at a defense contract plant; to the Committee on Governmental Affairs.

EC-4240. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Major Improvements Needed in the Bureau of Indian Affairs' Accounting System"; to the Committee on Governmental Affairs.

EC-4241. A communication from the Chairman of the District of Columbia Law Revision Commission transmitting, pursuant to law, a copy of the District of Columbia Administrative Procedure Manual; to the Committee on Governmental Affairs.

EC-4242. A communication from the Chairperson of the National Advisory Council on Indian Education transmitting, pursuant to law, the eighth annual report entitled "Indian Education: America's Unpaid Debt"; to the Select Committee on Indian Affairs.

EC-4243. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the 1981 annual report on the National Health Service Corps; to the Committee on Labor and Human Resources.

EC-4244. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to France; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 463. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2671; referred to the Committee on the Budget.

S. Res. 464. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1701; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 675. A bill to establish a Federal Jurisdiction Review and Revision Commission.

By Mr. PERCY, from the Committee on Foreign Relations, with amendments:

H.R. 5427. An act to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes (with minority views) (Rept. No. 97-544).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY:

S. 2908. A bill to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. Cranston, Mr. Inouye, Mr. Sarbanes, Mr. Riegle, Mr. Melcher, Mr. Weicker, Mr. Cannon, Mr. Burdick, Mr. Biden, Mr. Metzenbaum, Mr. Hollings, Mr. Bentsen, and Mr. Randolph):

S. 2909. A bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. TSONGAS:

S. 2910. A bill to amend title 38, United States Code, to establish new educational assistance programs for veterans and for members of the Armed Forces; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND from the Committee on the Judiciary:

S. Res. 463. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2671; from the Committee on the Judiciary; to the Committee on the Budget.

S. Res. 464. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1701; to the Committee on the Budget.

By Mr. DOLE (for himself, Mr. Long, Mr. Moynihan, Mr. Durenberger and Mr. Grassley):

S. Res. 465. A resolution to express the sense of the Senate that the restoration of U.S. competitiveness in agricultural trade should be pursued through every legitimate means, and without reference to political or economic problems in nonagricultural areas; to the Committee on Finance.

By Mr. HELMS:

S. Res. 466. A resolution expressing the sense of the Senate relating to the economic crisis in Mexico; to the Committee on Foreign Relations.

By Mr. DANFORTH:

S. Con. Res. 120. A concurrent resolution to commemorate the 75th anniversary of the Washington Cathedral; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY:

S. 2908. A bill to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mr. KENNEDY. Mr. President, the Members of this body have long recognized the tragic problem of family violence. In 1974 we enacted the Child Abuse Prevention and Treatment Act in order to focus national attention on the increasing incidence of child abuse. Through this legislation we provided Federal assistance to States, localities, and private agencies to work with families in the prevention and treatment of abused and neglected children. The success of this program is well known. Thousands of parents and children have received counseling and other needed assistance in order to recognize and cope with the severe emotional stress that accompanies this problem.

In the last few years we have become increasingly aware of another form of family violence—spousal abuse. It is impossible to ascertain how widespread the problem has become. Shame, fear, and guilt of the victim and the abuser often results in these incidents going unreported. Agencies providing services to the victims, such as hospitals and social service agencies, lack trained personnel to recognize and report the existance of a violent home situation. While all 50 States now have mandatory reporting laws for suspected child abuse, only 12 States have similar law as concerning the abuse of adults. Despite these obstacles, it is estimated that 1.8 million women a year are victims of severe and repeated beatings in their own homes. Husbands are also the victims of abuse but the incidence is much lower.

All across the country, women's groups and community organizations have recognized the need for assisting the battered spouse. Relying heavily on volunteers and local support, they have opened thousands of shelters to give victims a place to go, with their children to escape further abuse. Once in the shelter, the abused spouse is offered counseling and other supportive services so that she can access her situation without fear. The spouse who committed the abuse is also offered counseling.

States have also recognized the need for this assistance. By mid-1980 44 States had enacted new legislation to provide some kind of help to battered spouses through direct grants or technical assistance.

The Federal role in this area has been fragmentary. In 1979 the Carter administration established the Office on Domestic Violence under the Department of Health and Human Services to coordinate Federal and State efforts and to disseminate informa-

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tion. Early last year the Reagan administration abolished this office turning its back on any Federal commitment to alleviating this tragic situation.

Although other Federal programs attempt to address the needs of victims they are narrowly focused. Support services for victims is often contingent on income eligibility resulting in complicated paperwork and long delays. Direct funds for the operation of shelters are almost nonexistant.

Today I am introducing the Domestic Violence Prevention and Services Act. The bill is similar to the one we passed in the last Congress in a bipartisan effort to recognize our commitment to these families. That legislation never reached a final vote. The bill is designed to provide the necessary Federal support and encouragement to State, local, and community activities and to coordinate those programs that will assist victims of domestic violence. Federal funds will be made available through the States contingent on matching local support. The legislation establishes the Federal Inter-Agency Council on Domestic Violence to facilitate the coordination of existing Federal programs that assist victims.

The cost of these programs will be $20 million in fiscal year 1983. This money will be used to aid existing shelters and prevention efforts and to attract more support from local and private sources.

There has never been a greater need or sense of urgency for this legislation. Eleven million Americans are now out of work. Recent studies have shown that families are facing increased emotional stress from loss of jobs. Loss of work, loss of income, and the loss of one's self-image have left family members in a state of overwhelming despair. As a result the incidence of domestic violence has increased drastically.

We can no longer afford to turn away from these individuals. They need our help now. The American family is our greatest resource. We must be willing to make them our highest priority.

By Mr. DODD (for himself, Mr. CRANSTON, Mr. INOUYE, Mr. SARBANES, Mr. RIEGLE, Mr. MELCHER, Mr. WEICKER, Mr. CANNON, Mr. BURDICK, Mr. BIDEN, Mr. METZENBAUM, Mr. HOLLINGS, Mr. BENTSEN, and Mr. RANDOLPH):

S. 2909. A bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL SCIENCE AND MATHEMATICS TEACHERS DEVELOPMENT ACT

● Mr. DODD. Mr. President, today I am introducing legislation designed to help redress the serious shortage of qualified secondary school teachers in mathematics and science, a shortage that could have a grave impact on both our economy and our national defense.

In our contemporary world of video home recorders, personal computers, and telephoning by satellite, we tend to take technology for granted. But William Bradford did not reach Plymouth Rock in 1620 via an SST, and Priscilla Mullens did not bake the first Thanksgiving turkey in a microwave oven. But they and their successors had access to unlimited and unmatched resources. Instinct, insight, and innovation were the tools used by Americans over the centuries to harness these resources to build a modern society and way of life. Education, particularly in science and mathematics, became the vehicle for achieving our Nation's progress.

In our lifetime, advances in both basic science and applied technology have been phenomenal and the prospects for continued developments seem to be limitless.

The introduction of specialized technology has increased industrial productivity and profitability. Surgical techniques utilizing laser beams in some cases, have obviated the need for surgical incisions. Scientists are able to correct the behavior of a defective human gene, an important advance in the effort to combat genetic defects. Discoveries from space and ocean explorations may hold the key to our past and may unlock the door to our future.

Despite the obvious need for well-trained personnel to manage our increasingly sophisticated technological society, somehow we have allowed an erosion of our educational systems which produce these people. Today, we face a serious national shortage of science and mathematics teachers. According to a 1982 report of the National Science Teachers Association (NSTA), one-half of the Nation's newly hired secondary school science and mathematics teachers are unqualified to teach. They are currently employed only on an "emergency basis" because qualified teachers are not available.

Not surprisingly, the NSTA report also suggests that fewer students are entering the science and mathematics teaching areas. Moreover, one in four of the younger faculty members plans to leave teaching completely. The report projects that if the present rate of teachers leaving academe continues, the Nation will have a net loss in science and mathematics teachers of 35 percent between now and 1992.

By contrast, the Soviet Union places stronger emphasis on science and mathematics at all levels of education than does the United States, concludes the "Science and Engineering Education for the 1980's and Beyond," a report issued by the National Science Foundation and the Department of Education.

The results are predictable. First, secondary school graduates in the Soviet Union have greater preparation in science and mathematics than do high school students in the United States. Second, while the United States is graduating 27 percent more college students than the Soviet Union, only 18 percent receive degrees in science and engineering fields, compared to 53 percent in the Soviet Union. Finally, as a result of this emphasis, the Soviet Union has twice the number of scientists with advanced engineering degrees as the United States.

All of this is occurring at a time of growing need for knowledgeable and well-trained science and mathematics personnel to manage sophisticated new technology in business, industry, government, the professions, academia, and the Armed Forces.

Many high technology industries have expressed concern about the prospect of future vacancies. The American Electronics Association survey for 1981 through 1985, for example, projected that 200,000 new jobs will be available for people with bachelor of science degrees in electrical and computer software engineering during this time frame.

The New York Times featured an employment outlook in high technology in its March 28, 1982 edition. It projects 685,000 new jobs through 1990 for people trained in computers.

The introduction and increasing use of CAT scanners, ultrasound, nuclear scans, and fiberoptic instruments will mean more and more new technical jobs in medicine.

Yet, without a concentrated effort to improve science and mathematics education in our secondary schools, it is unlikely that we will be able to take advantage of the opportunities presented by these technological innovations and those to follow. Particularly at a time when we can no longer count confidently on unhampered exploitation of natural resources to meet our needs, it is essential that we move to protect our technological future.

President Harry Truman declared that no nation could maintain its leadership unless scientific and technological resources were developed to the fullest, and the work of science in universities, industries, and its own labs received generous and intelligent support.

Federal funding is the umbilical cord for the viability and promotion of research and education in science and science-based technology. Although allocations in the private sector have increased in the areas of education and research, these do not necessarily reflect areas of national interest.

A stable long-range support system for science and mathematics education and research is a national priority. Without insuring this support, we are undermining the availability of adequately trained manpower and jeopardizing our economy, national security, and future developments of sophisticated technology.

Today, many of the brightest high school students, largely by dint of their own ability, are still able to obtain the background necessary to prepare them to continue studies in institutions of higher education. These are usually the students who are already committed to a particular vocation.

The majority of students, however, are graduating from our secondary schools with only minimal knowledge in either science or mathematics. They are not prepared to enter vocational schools, colleges, or universities.

It has been said that this century's only constant is change. The United States needs knowledgeable citizens who can intelligently adapt and manage these changes.

The scientific achievements we are witnessing today are the outgrowth of years of research. We are harvesting the fruits from scientific seeds planted 20 and 30 years ago. These are rewards resulting from careful long-range planning, as well as support on the Federal, State, and local levels.

It is useful to remember the call of the 1960's after Sputnik to "return to excellence in education by providing students with good backgrounds in science and mathematics." A similar call is needed for the 1980's.

In a written statement for the National Convocation on Precollege Education in Mathematics and Science held May 12 and 13, President Reagan warned that the education of American schoolchildren in science and mathematics had reached such a deplorable state that it threatened the Nation's military and economic security.

Mr. President, the legislation I am introducing today provides a partial answer to the needs of secondary school science and mathematics teachers. The National Science and Mathematics Teachers Development Act will establish a new program within the Department of Education. This program will provide continuing education for those teachers currently employed on an "emergency basis" and for other teachers presently engaged in teaching science and mathematics in secondary schools. It thereby seeks to create a mechanism to improve teacher competency and enable teachers to develop new teaching strategies.

Surely, better motivated, prepared, and competent teachers will better attract and train talented students on whom our technological future will ultimately depend.

Mr. President, it would be a disaster for the Congress of the United States to ignore the crucial need to upgrade the Nation's secondary school science and mathematics education systems.

The National Science and Mathematics Teachers Development Act will help strengthen the quality of science amd mathematics education, insure our national research potential, provide for qualified industrial and Armed Forces personnel, protect United States competition position in the international marketplace, and provide for a stable and healthy national economy.

Mr. President, I ask unanimous consent that the full text of the National Science and Mathmatics Teachers Development Act be printed in the Record.

I strongly urge my colleagues to join me in support of this legislation.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science and Mathematics Teachers Development Act".

FINDINGS AND PURPOSES

Sec. 2. (a) The Congress finds that—

(1) a program of science and mathematics education and research is essential in order to provide a strong economy, to contribute to ensuring national security, and to contribute to the future development of advanced technology;

(2) the strength and independence of the United States depends on the ability of the Nation to furnish adequately trained personnel in the field of advanced technology to implement the new systems of our increasingly sophisticated technological society;

(3) presently, large numbers of inadequately trained individuals are applying for advanced technological positions in private industry, including defense-related industries, and the Armed Forces, and there is an increasing difficulty in filling vacancies in such positions with qualified personnel;

(4) in order to remedy these problems, it is essential that secondary school students have better training in science and mathematics;

(5) yet, there is a serious shortage of qualified secondary school teachers in science and mathematics;

(6) one-half of the Nation's newly employed secondary school science and mathematics teachers are unqualified to teach these disciplines;

(7) moreover, fewer secondary school graduates are entering the field of teaching science and mathematics;

(8) one in four of the younger secondary school faculty in the science and mathematics fields is planning to leave teaching for a better paying position in private industry and defense-related industry; and

(9) by contrast, many industrialized countries place stronger emphasis on science and mathematics at all levels of education than does the United States and, as a result, compete more effectively in the fields of advanced technology, and international trade.

(b) It is the purpose of this Act to authorize a program for full time and part time workshops for secondary school science teachers and secondary school mathematics teachers designed to increase their teaching skills and to assist such teachers to qualify for certification in the areas of science and mathematics, and thereby encourage better science and mathematics instruction for secondary school students, increase the research potential of the United States, and provide increased numbers of qualified personnel for private industry, defense-related industries, and the Armed Forces.

DEFINITIONS

Sec. 3. As used in this Act—

(1) The term "Board" means the National Science and Mathematics Teachers Development Board established under section 4;

(2) the term "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965;

(3) the term "Secretary" means the Secretary of Education; and

(4) the term "State" means each of the several States and the District of Columbia.

NATIONAL SCIENCE AND MATHEMATICS TEACHERS DEVELOPMENT BOARD ESTABLISHED

Sec. 4. (a)(1) There is established in the Department of Education the National Science and Mathematics Teacher Development Board.

(2) The functions of the Secretary under this Act shall be carried out through the Board established under this section.

(b) The Board shall be composed of—

(1) seven individuals appointed by the President, by and with the advice and consent of the Senate—

(A) one of whom shall be appointed from among individuals representative of institutions of higher education;

(B) one of whom shall be appointed from among individuals representative of the scientific community;

(C) one of whom shall be appointed from among individuals representative of secondary school mathematics teachers;

(D) one of whom shall be appointed from among individuals representative of secondary school science teachers;

(E) one of whom shall be appointed from among individuals who are representative of vocational education teachers;

(F) one of whom shall be appointed from among individuals who are representative of secondary school science and math teachers teaching in urban schools; and

(G) one of whom shall be appointed from among individuals who are representative of private industry specializing in the application of advanced technology;

(2) the Secretary of Education;

(3) the Director of the National Science Foundation;

(4) the Chairman of the National Science Board;

(5) the Director of the National Academy of Sciences;

(6) the Director of the Office of Science and Technology Policy;

(7) the Under Secretary of Defense for Research and Engineering; and

(8) the Assistant Secretary of Labor for Employment and Training.

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(c) The members of the Board who are designated under clauses (2) through (8) in subsection (b) shall serve for as long as they hold the appointment by virtue of which they serve on the Board.

(d)(1) The members of the Board shall select a Chair from among the members of the Board.

(2) The members of the Board shall determine the general policies governing the operation of the Board.

(e)(1) The Board shall meet at the call of its Chair or at the request of ten or more of its members, but the Board shall meet at least four times in each calendar year.

(2) Any vacancy in the Board shall not affect its power, but shall be filled in the same manner in which the original appointment was made.

(f)(1) The members of the Board who are not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for each day they are engaged in the performance of their duties as members of the Board and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board.

(2) The members of the Board who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, or other necessary expenses incurred by them in carrying out the functions of the Board.

PROGRAM AUTHORIZED

SEC. 5. (a) The Secretary shall, in accordance with the provisions of this Act, make grants to institutions of higher education for continuing education programs for secondary school teachers of science and mathematics designed to improve the skills of such teachers and to assist such teachers to qualify for certification in the field of science or mathematics, or both.

(b)(1) There are authorized to be appropriated $30,000,000 for fiscal year 1984 to carry out the provisions of this Act.

(2) Funds appropriated pursuant to paragraph (1) of this subsection shall remain available until expended.

(c) There are authorized to be appropriated such sums as may be necessary for administrative expenses related to carrying out the provisions of this Act.

APPLICATIONS

SEC. 6. Each institution of higher education in any State desiring to participate in the program authorized by this Act shall prepare and submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary deems reasonably necessary. Each such application shall—

(1) provide for continuing educational programs consisting of full-time summer and part-time school year workshops for secondary school teachers of science and mathematics, together with such follow-up courses of instruction as the institution of higher education determines are consistent with the purposes of this Act;

(2) provide that the continuing education program assisted under this Act will be designed (A) to improve the skills of secondary school teachers of science and mathematics, including improved knowledge of the subject matter, communication skills, effective use of resources in the teaching of science and mathematics to secondary school students, and (B) to assist participants in the continuing educational program to qualify for certification in the field of science and mathematics or both;

(3) provide that workshops and courses offered with assistance under this Act will be conducted at locations within commuting distance of a substantial number of the secondary school teacher participants;

(4) provide procedures for identifying secondary school science and mathematics teachers who will participate in the continuing educational program assisted under this Act; and

(5) provide such fiscal control and such accounting procedures as may be necessary (A) to insure a proper accounting of Federal funds paid to the applicant under this Act, and (B) to insure the verification of the costs of the continuing education program furnished by the applicant.

(b) No application may be approved under this section unless the application has been assessed in accordance with peer review procedures.

(c) The Secretary shall expeditiously approve any application that meets the requirements of this section.

LIMITATIONS

SEC. 7. (a) Not more than 25 per centum of the funds appropriated pursuant to section 5(a) shall be available for full-time summer workshops.

(b) No grant made to a single institution of higher education under this Act may exceed $200,000.

PAYMENTS

SEC. 8. (a) From amounts appropriated under section 5(b), the Secretary shall pay, in accordance with the provisions of this Act, to each institution of higher education which has an application approved under section 6 an amount equal to the amount needed for the purposes set forth in the application.

(b)(1) Payments under this Act shall be made as soon after approval of the application as practicable.

(2) Payments under this Act may be made in installments, in advance or by way of reimbursement with necessary adjustments on account of overpayments and underpayments.●

By Mr. TSONGAS (for himself and Mr. SASSER):

S. 2910. A bill to amend title 38, United States Code, to establish new educational assistance programs for veterans and for members of the Armed Forces; to the Committee on Veterans' Affairs.

VETERANS' EDUCATIONAL ASSISTANCE ACT OF 1982

● Mr. TSONGAS. Mr. President, today I am pleased to introduce a comprehensive G.I. bill which would provide new educational assistance to individuals who serve in the military.

There is consensus among those most informed about the All-Volunteer Force that it has deteriorated over the last several years. This bill would upgrade recruits, retain outstanding military personnel, and ease the readjustment of servicemen to civilian life once they leave the military.

The Veterans Educational Assistance Act has already been introduced in the House, where extensive hearings have been held on the legislation. It is time that the Senate recognize the need for a new permanent GI bill by supporting this legislation.

Under the proposal, an individual who enlists in any branch of the military for at least 3 years would be entitled to an education stipend of $300 per month for up to 36 months.

Further, the Department of Defense would have the option of providing supplemental educational assistance for service personnel who work in hard-to-fill specialities. This provision would particularly be promising in retaining military personnel. Any branch of the military could grant a leave of absence to an individual who wants to avail himself of his benefits and return to the military with additional skills.

Another provision would have particular appeal to midcareer service personnel. After 10 years of service they could transfer educational benefits to a spouse or children. In effect, the provision would serve as investment in their children's education.

Finally, the bill includes benefits for part-time military personnel in the Reserves and the National Guard.

Mr. President, there are those who will argue that we do not need a GI bill at this time. Recruitment and retention have increased because of the current recession, and the quality of the recruits has improved. The President, who campaigned on a promise of restoring the GI bill, now states that restoration of the GI bill can wait. Others say the bill is too costly.

I submit, however, that now is indeed the time to restore the GI bill. We must not let our national security depend on the vicissitudes of the economy. If an economic crisis is the incentive provided to young and talented individuals to enlist, then we can assume that when and if the economy improves, we can expect the same problems of scarce and subquality recruits.

Nor is the President's concern about cost well founded. The Congressional Budget Office estimates the total expense of this bill to be $381 million a year from 1985 through 1989, $1.2 billion a year by 1990, and $1.4 billion a year by 1994.

Although these figures appear to be high, there are offsetting savings that the incentives for longer service would produce. In 1979, the Government Accounting Office reported that 444,000 first-team volunteers had left the service between 1974 and 1977 before completing their initial enlistments. The cost to the Federal Government was $5.2 billion.

Each case of attrition costs the Government $12,000. Dr. Charles Moskos of Northwestern University, a military sociologist, testified before the House Subcommittee on Education, Employment and Training that cutting the military attrition in half would result in manpower savings of more than $600 million a year. Further, by assisting young women and men to pursue their education, we are helping them to improve their lives and increase their productive contributions to the Nation.

An article in the Washington Post last week reported that veterans are losing Pell grants because of the way their GI benefits are computed in determining eligibility for additional Federal benefits. Several of these students will be unable to continue their education. Such a result creates the impression that those who have served their country cannot count on their country to serve them in return.

Mr. President, we cannot allow this kind of attitude to affect the ranks of our military. We need a GI bill, and we need it now.

I urge my colleagues to support this bill.●

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. Chafee, the name of the Senator from Georgia (Mr. Mattingly) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 2420

At the request of Mr. Heinz, the name of the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of S. 2420, a bill to protect victims of crime.

S. 2676

At the request of Mr. Dodd, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 2676, a bill to establish a National Hostel System Plan, and for other purposes.

S. 2695

At the request of Mr. Pryor, the name of the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 2695, a bill to require the establishment of an advocate for competition in each purchasing and contracting office of each executive agency, and for other purposes.

S. 2853

At the request of Mr. Percy, the name of the Senator from Tennessee (Mr. Baker) was added as a cosponsor of S. 2853, a bill to provide for the temporary duty-free treatment of imported hatters' fur, and for other purposes.

S. 2860

At the request of Mr. Danforth, the name of the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 2860, a bill to eliminate the retroactive application of certain provisions of Public Law 96-364.

S. 2902

At the request of Mr. Thurmond, the names of the Senator from Oklahoma (Mr. Nickles), the Senator from Pennsylvania (Mr. Heinz), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), and the Senator from Oklahoma (Mr. Boren) were added as cosponsors of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

SENATE JOINT RESOLUTION 174

At the request of Mr. Leahy, the name of the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of Senate Joint Resolution 174, a joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day."

SENATE JOINT RESOLUTION 178

At the request of Mr. Hatch, the name of the Senator from Oklahoma (Mr. Nickles) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 200

At the request of Mr. Glenn, the name of the Senator from Alabama (Mr. Heflin) was added as a cosponsor of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. East, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 213

At the request of Mr. Tsongas, the name of the Senator from Texas (Mr. Bentsen) was added as a cosponsor of Senate Joint Resolution 213, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women.

SENATE JOINT RESOLUTION 215

At the request of Mr. Hatch, the names of the Senator from Wisconsin (Mr. Kasten), the Senator from Georgia (Mr. Mattingly), the Senator from Nevada (Mr. Laxalt), and the Senator from Pennsylvania (Mr. Specter) were added as cosponsors of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983, shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. Pryor, the name of the Senator from Virginia (Mr. Warner) was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean War.

SENATE JOINT RESOLUTION 228

At the request of Mr. Nunn, the names of the Senator from West Virginia (Mr. Robert C. Byrd), the Senator from Tennessee (Mr. Sasser), and the Senator from Maine (Mr. Mitchell) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week."

SENATE JOINT RESOLUTION 231

At the request of Mr. Johnston, the names of the Senator from North Dakota (Mr. Burdick), the Senator from Minnesota (Mr. Durenberger), the Senator from Mississippi (Mr. Cochran), the Senator from Montana (Mr. Baucus), and the Senator from Colorado (Mr. Armstrong) were added as cosponsors of Senate Joint Resolution 231, a joint resolution to authorize and request the President to designate the week of October 11, 1982, through October 17, 1982, as "National Get High on Life Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. Robert C. Byrd, his name was added as a cosponsor of Senate Joint Resolution 239, a joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day."

At the request of Mr. Warner, the names of the Senator from Tennessee (Mr. Sasser), the Senator from Oklahoma (Mr. Nickles), the Senator from Nebraska (Mr. Zorinsky), the Senator from North Dakota (Mr. Burdick), the Senator from Vermont (Mr. Leahy), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Arizona (Mr. Goldwater) were added as cosponsors of Senate Joint Resolution 239, supra.

SENATE JOINT RESOLUTION 241

At the request of Mr. Humphrey, the name of the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 244

At the request of Mr. Warner, the names of the Senator from Montana (Mr. Melcher), the Senator from Massachusetts (Mr. Tsongas), the Senator from Nevada (Mr. Cannon), the Senator from Rhode Island (Mr. Chafee), the Senator from South Carolina (Mr. Hollings), the Senator from Hawaii (Mr. Inouye), the Senator from Florida (Mr. Chiles), the Senator from Indiana (Mr. Lugar), and the Senator from Delaware (Mr. Roth) were added as cosponsors of Senate Joint Resolu-

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tion 244, a joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

SENATE JOINT RESOLUTION 245

At the request of Mr. ROBERT C. BYRD, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of Senate Joint Resolution 245, a joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

SENATE CONCURRENT RESOLUTION 120—CONCURRENT RESOLUTION RELATING TO THE 75TH ANNIVERSARY OF THE WASHINGTON CATHEDRAL

Mr. Danforth submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 120

Whereas the foundation stone for the Cathedral Church of Saint Peter and Saint Paul, known as the Washington Cathedral, was laid on September 29, 1907, with the President of the United States, Members of Congress, and Justices of the Supreme Court in attendance;

Whereas George Washington was the first to call for a "great church for national purposes in the capital city";

Whereas the Congress in 1893 granted a charter to the Protestant Episcopal Cathedral Foundation for religious, charitable, and educational purposes, leading to the construction of this grand Gothic cathedral;

Whereas the Cathedral is administered by the Episcopal Church, it is truly a house of prayer for all people, with its pulpit open to all faiths, seeking to serve the whole Nation, offering its ministry on behalf of all churches;

Whereas in times of trial the leaders of our Nation often have gathered there to pray and seek God's guidance;

Whereas this majestic monument to our Nation's faith in a Divine Creator dominates the physical and spiritual horizons of the City of Washington;

Whereas the Cathedral is an architectural and artistic masterpiece that will lift up the human heart for centuries to come;

Whereas the nave of this magnificent Cathedral was dedicated in the year of America's two hundredth anniversary "for the reconciliation of the peoples of the earth";

Whereas the Cathedral inspires over 500,000 American visitors each year; and

Whereas September 29, 1982, marks the seventy-fifth anniversary of this great Cathedral: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States recognizes and pays tribute to the Washington Cathedral on its seventy-fifth anniversary and to all the men and women whose especial labors have contributed to the building of this great house of worship.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Canon of the Cathedral Church of Saint Peter and Saint Paul.

SENATE RESOLUTION 463—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 463

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2671. Such waiver is necessary because S. 2671, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This budget waiver will allow Senate consideration of S. 2671 which creates a federal commission to commemorate the Bicentennial of the Constitution. After hearings in the Constitution Subcommittee, S. 2671 was introduced by all members of the Subcommittee and approved by the Senate Judiciary Committee on a voice vote on August 4, 1982.

S. 2671 authorizes the appropriation of $300,000 for fiscal year 1983 and such sums as necessary for the subsequent years until the termination of the Commission in 1989. The $300,000 figure is less than half of the President's budget request for such a commission. The Judiciary Committee Report on S. 2671 expresses that the funding amount was left "unspecified for the years after 1983 . . . to provide the Appropriations Committee the discretion to adjust the $300,000 amount downward based on the success of the Commission's fundraising efforts." Senate Report No. 97–535, page 35.

In order to begin planning for the education and celebrative activities of the bicentennial, the Commission must get underway immediately. Delaying the inauguration of the Commission could be fatal to adequate planning of this important event. Moreover, since the appropriations bill in which this would appear has not been addressed by the Senate, this should not disrupt that budgetary process.

SENATE RESOLUTION 464—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 464

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1701. Such waiver is necessary because S. 1701 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982 as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of S. 1701, the Missing Children Act. This legislation would create a national clearinghouse of information on missing children and a clearinghouse of information on unidentified dead bodies.

S. 1701 was introduced on October 6, 1981. Hearings were held on the subject of missing children on October 5, 1981, by the Subcommittee on Investigations and General Oversight of the Labor and Human Resources Committee. The Subcommittee on Juvenile Justice of the Committee on the Judiciary held hearings on April 1, 1982, on the subject of missing and exploited children. The legislation was reported by the Subcommittee on Juvenile Justice on June 30, 1982. It was reported by the Committee on the Judiciary on July 30, 1982.

If S. 1701 is not considered, it will mean a significant delay in establishing both clearinghouses of information on missing children and the unidentified dead.

The impact on the appropriations process will not be significant. The Committee anticipates that the Department of Justice will submit an amendment for additional budget authority for fiscal year 1983 in which the funding for this program can be accommodated.

SENATE RESOLUTION 465—RESOLUTION RELATING TO AGRICULTURAL TRADE

Mr. DOLE (for himself, Mr. LONG, Mr. MOYNIHAN, Mr. DURENBERGER, and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 465

Whereas net U.S. farm income in 1982 is estimated to have declined for a third consecutive year, and about 25 percent from 1981;

Whereas bumper harvests continue to place downward pressure on farm prices, despite U.S. efforts to restrain production;

Whereas increased U.S. farm exports will reduce the nation's balance of payments deficit, increase personal income and tax revenues, and provide additional employment;

Whereas America's full competitive advantage in agricultural exports is not being realized because of foreign export subsidies and other unfair trade practices, which are becoming increasingly injurious to U.S. exports, including value-added products;

Whereas the American farmer and agribusiness are finding it increasingly difficult to compete for export markets with the foreign governments which finance these unfair trade practices;

Whereas these unfair acts by foreign governments are resulting in the loss of additional jobs and tax receipts, and in increased outlays by the Treasury of the United States for farm supports: Now, therefore, be it

Resolved, That during the forthcoming Ministerial-level meeting of the General Agreement on Tariffs and Trade (GATT), the United States Government should seek every means of restoring U.S. competitiveness in agricultural trade:

(1) With particular emphasis on correcting the disparate treatment of primary and nonprimary products provided in the Agreement on Implementation and Application of Articles VI, XVI and XXII of the GATT (the Subsidies Code); and

(2) Without reference to any existing political or economic problems or disagreements in nonagricultural areas; and be it further

Resolved, That pending restoration of fair and equitable trading conditions under the GATT, it is the sense of the Senate that the United States pursue every appropriate and legitimate means to prevent further erosion of our agricultural exports, including value-added products, and to regain a fair share of foreign markets commensurate with the competitive market advantage of the American farmer; and be it further

Resolved, That in restoring U.S. competitiveness in agricultural trade, it is the sense of the Senate that the United States make available the funds necessary to assist in the competitive exportation of primary and value-added products and to counteract the continued use of foreign export subsidies and other unfair trading practices; and be it further

Resolved, That restoration of full competitiveness for U.S. farm products in export markets will serve the twin objectives of creating additional jobs and raising net farm income.

AGRICULTURAL TRADE

● Mr. DOLE. Mr. President, the United States is facing an extremely difficult period as it tries to get its economic house in order during a worldwide credit crisis, slow industrial activity and low prices for agricultural products. Additional pressures are being exerted by differences within the Atlantic alliance over construction of the natural gas pipeline between Western Europe and the Soviet Union. Finally, a number of vital issues in our international trade relations are due to be considered in coming months—issues that need to be addressed on their merits and not in relation to other problems.

THE DOLE RESOLUTION

Mr. President, in view of the seriousness of these developments, I am offering, together with Senators LONG, MOYNIHAN, DURENBERGER, and GRASSLEY, a resolution today which would encourage a clear and unambiguous approach to resolving our differences over agricultural trade. Rather than raising the already-high volume of criticism which is clouding our relations with various trading partners and competitiors, I would set out a three-point agenda to be followed in charting a long-term course for U.S. farm product exports.

Specifically, Mr. President, the resolution would:

First, urge the administration to restore U.S. competitiveness in agricultural trade by correcting the disparate treatment of primary and nonprimary products under the subsidies code of the General Agreement on Tariffs and Trade (GATT). The United States will have an opportunity to raise this issue during the ministerial-level meeting of the GATT this November in Geneva. The resolution also specifies that our efforts during GATT considerations not be influenced by any existing political or economic problems or disagreements over nonagricultural issues.

Second, depending on the outcome of the GATT ministerial and the likelihood of reestablishing fair and equitable trading conditions, the resolution expresses the sense of the Senate that the United States should use every legitimate means, including neutralization of unfair competitive advantages by our international competitors, to prevent further erosion in our farm exports.

In this effort, the resolution would give the Senate's support for making available the funds needed to restore competitive conditions and counteract export subsidies and other unfair practices.

Third, the third point emphasizes the importance of agricultural exports, including value-added products, to increased net farm income and the creation of additional jobs in our economy. Agriculture is our most productive and efficient industry, and its freedom to expand without inhibition is key to the recovery or our economy at large, including many industrial sectors such as farm machinery, steel, and food processing.

CONCLUSION

Mr. President, our differences with other major exporters of farm products over the conduct of trade under the GATT are well known and do not require further elaboration. I am sure that the administration will be making the U.S. argument as clearly and forcefully as possible in the next few months.

However, I believe it is time to indicate, as dispassionately as possible, that our domestic agricultural system has been stretched to the limit. We must either compete effectively for export markets or begin a long and painful withdrawal from our dominant position in world trade.

Mr. President, the latter course would be a serious mistake, both for the United States and its farmers and for the security of the world's future food supply. No one should forget the World Food Conference in Rome only 7 years ago when we spoke of crop shortages and famine. Everyone should know that it is the United States which is bearing this responsibility by carrying a disproportionate share of world grain reserves today.

Mr. President, I ask my colleagues for their support for this resolution as an effective way to put the Senate on record for a straightforward approach to our international disagreements over farm trade.●

SENATE RESOLUTION 466—RESOLUTION RELATING TO THE MEXICAN CRISIS

Mr. HELMS submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 466

Whereas, the United States Government through numerous federal agencies, the Federal Reserve System, and through multilateral organizations is committed to the stabilization of the international economy, and to international economic development, and

Whereas, the United States Government has long-standing, close ties with the Government and People of Mexico and has long provided various forms of assistance for the economic development of Mexico, and

Whereas, the present financial and economic crisis in Mexico requires the assistance of the United States government, and

Whereas, the key principle of any United States assistance must be the future prosperity of the Mexican People: Therefore be it

Resolved, That it is the Sense of the Senate of the United States that:

The United States Government, any agency thereof, any official thereof acting as representative to any international organization shall take no action which would provide substantial assistance to the government of Mexico or any agency thereof, unless assurances have been received that the Government of Mexico has taken or will soon take the following actions:

(a) The adoption of a monetary policy aimed at stabilizing the value of the Peso to that of the United States dollar.

(b) The suspension and elimination of all exchange rate controls and controls on the international flow of capital.

(c) The restoration of financial institutions to their owners prior to the nationalization on September 1st, or such a program that would provide for the restoration of a private banking system in Mexico.

Mr. HELMS. Mr. President, the tragedy of the present monetary chaos in Mexico is the massive harm that it will cause to the people of Mexico. They do not deserve what their Government has done to them.

The United States has a responsibility in this situation, but my concern is that it will be little more than a temporary bailout—one that will appear to help Wall Street bankers more than Mexican citizens.

Mr. President, I have little sympathy for bankers who have made billions of dollars of loans to Mexico in spite of, and with full knowledge of, economic policies that inexorably led to this crisis. I think that they should bear the brunt of their losses—not the American taxpayer.

But what is the alternative? Is there a policy open to the United States that would help restore economic stability in Mexico—and, by doing so, help American consumers of Mexican goods, Mexican consumers of American goods, the economic prosperity of Mexico and general economic stability in our hemisphere?

As chairman of the Western Hemisphere Subcommittee of the Senate Foreign Relations Committee, I have seen the effects of wrongheaded economic policies in many nations of North, South, and Central America and the Caribbean. I will add, paren-

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thetically, that some of those policies are those advocated by Washington through the traditional liberal-left ideology of the U.S. State Department.

Mr. President, it is tragic that we have often encouraged policies of collectivism, of socialism, of inflation, of massive taxation to permeate this hemisphere and strangle economic growth. With the loss of economic growth, we have been partly responsible for the loss of economic well-being for hundreds of millions of people who deserve better.

Because the Mexican situation is so crucial and because some action is imperative, I today offer a sense-of-the-Senate resolution to encourage debate and action that may lead to a real solution to the problems we face—a real solution to the continuing stagnation of the Mexican economy.

In many respects, the Mexican economy's problems become our problems. Mexico is sending people north at unprecedented rates, by shrinking and stagnating their own economy and making the United States the only viable alternative for millions of impoverished Mexicans to whom socialism offers nothing but destitution. Are the Mexicans glad that so many millions of their people come to the United States and send dollars back home to their families who are trying to seek out a living under socialism? Is this their answer to dollar flight out of Mexico—to follow the dollars with people who will work for them, and send them back?

Mr. President, the United States cannot and should not dictate economic policy for our neighboring nations. We cannot and should not tell the Government of Mexico or any other state what they should or should not do. But, we do have an obligation, as stewards of our own scarce resources, to see that they are not wasted on foolish schemes. If we follow past practices of U.S. financial assistance, the latter is the most likely occurrence: Mexico will be provided with a temporary bailout in spite of the likelihood that a repeat of the current financial debacle is just around the next corner.

We have a clear obligation to the American taxpayer to ask if any U.S. investment in the Mexican situation at this time will be a proper one. We have a right to insist that certain conditions are met to assure that the people of Mexico will not be subject to more destructive policies that have led to the present situation.

MONETARY STABILITY

Mr. President, the first problem that must be addressed is the Mexican peso. The Government of Mexico pumps out too many pesos and has responded to expected market forces by slapping on controls and then continuing to inflate the peso. What must be done is not what we would expect the IMF to require—that Mexico agree to certain rates of money supply growth. That nostrum has not worked for the United States—the largest economy in the world.

What we must determine is whether the Mexican Government will agree to stabilize the peso to something of value—in this case, the U.S. dollar. It must administer its monetary policy so that if the peso is falling on international markets, it must restrict the supply. If the peso is gaining on international markets, it must allow the supply to increase. In other words, it must respond to the demand for the peso internationally and domestically.

EXCHANGE CONTROLS

Accompanying this "price rule" must, of course, be the complete relaxation of international capital flow controls and exchange rate controls—other than the official readiness to redeem the peso in a fixed number of dollars.

Exchange controls are particularly destructive to a nation such as Mexico. If controls are put on, that is a signal that the peso will be worth less in the future. It is a signal that it is unwise to have capital in Mexico—and soon there is little influx, little faith in the willingness of the Government to maintain the value of the currency and little investment.

Perhaps the irony of exchange controls is that some people are still so ignorant or so ideologically committed that they ignore the dismal record of such controls.

FINANCIAL INSTITUTIONS

One key to economic growth in Mexico must be a financial system that is dependable. Until the banks were nationalized, Mexico had at least a dependable, well-managed private banking system, but now politicians are appointed as heads of financial institutions and with public ownership of banks has come public ownership of companies partially owned or controlled by the bank. Unless assurances are received that the financial institutions will be returned to private hands, so that there is a chance of rational credit allocation in Mexico and thus real economic growth, the United States should not provide added assistance.

We have seen how nationalization of any institution is an invitation to increased corruption of government officials who are suddenly in charge of new-found power and wealth. What Mexico needs is not a new dimension of government power which sends the world the signal that corruption is on the rise in Mexico—rather, Mexico needs to send signals which assure the world that a bloated, mismanaged, and corrupt image is being restrained, and redirected, to more responsible and market-oriented mechanisms.

OTHER FACTORS

Mr. President, there is much wrong with the Mexican economy that could be cured by using some commonsense. The new President of Mexico takes office December 1, and he will face massive problems, not the least of which is alienation of certain constituencies in Mexico that favored the actions leading to the present crisis and which must be undone if Mexico is to regain economic stability and to prosper.

That is why the resolution I put forth today is important. It may provide a basis for taking actions that would otherwise be politically unpalatable. The President of Mexico can take these actions and truthfully say that he "had to" because the United States would not provide needed aid without them. He can blame his actions on the U.S. Senate if he wants to, or on the Senator from North Carolina. If these actions are necessary and good for the people of Mexico, it matters not to whom he gives the blame or credit.

What is clear, however, is that if these actions are not taken—or if actions similar to them are not taken—then any assistance provided directly or indirectly by the United States is a waste of taxpayers money, and we might as well just use it to build a 40-foot wall along our southern border. Why tighten our security? Because millions of Mexican's have already "voted with their feet" against the present economic policies of the Mexican Government, and if we support those policies with added money down that vortex, then more Mexicans will be driven to find a better life in the United States.

It is doubly ironic that the policies of this body and this Nation will affect the lives of many, many Mexicans whether we act favorably on my resolution or not. If we accept it, and if these changes are implemented in Mexico, then there is a better chance that economic growth can come again to Mexico and economic well-being to its people. If we reject this resolution and allow money to go to bail out the Mexican financial situation without a change in economic policy, then we condemn more Mexicans to poverty, and we encourage more Mexicans to seek refuge in this country.

Mr. President, I ask unanimous consent that an editorial from the September 3 Wall Street Journal be printed at the conclusion of my remarks and that the text of my resolution be printed in the RECORD following the editorial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVIEW AND OUTLOOK—STORY OF THE WEEK

Despite President Reagan's Middle East initiative, discussed below, our vote for news development of the week goes to the bank nationalization in Mexico. Mexico is more important to our national interests than any of the quarrelsome Mideastern dominions. Many Americans fail to appreciate this, despite Mexico's proximity, population and even its oil resources. Let doubters ponder, say, the refugee problem that would be created in Texas by any insurrection south of the border.

Americans—that is, we norte-americanos—also need to understand that Mexico is a nation with a serious history and a serious heritage. Despite its current crisis and its endemic poverty, the Mexican economy had a quite credible long-term growth record even before important oil discoveries. Despite the curiosities of its political system, Mexico has managed the peaceful transfer of power at regular intervals ever since the 1920s. President Jose Lopez Portillo and Miguel de la Madrid, who will succeed him in December, are both cosmopolitan and impressive figures. For all the problems in their land, the Mexicans have much of which to be proud.

Partly because their accomplishments are not well enough understood north of the Rio Grande, though Mexicans occasionally carry their pride to self-destructive extremes, Their policies must be Mexican; whether they are sensible is less important. This is the case with the banks. Nationalization of the financial sector is firmly within the Mexican tradition of a state-directed economy. And let no outsider suggest that it is another stiff dose of the arsenic that caused the illness in the first place.

Mexico's basic economic problem is that it has outgrown its economic institutions. Now in the top 20 nations in the world in both population and gross national product, it can no longer be run as an isolated, centrally directed economy. But for political and historical reasons, it has great difficulty developing new institutions using price mechanisms and integrating itself with the world economy as befits a nation of its stature.

Two decisions during President Lopez Portillo's tenure are symptomatic. In March of 1980, Mexico decided not to go through with a tentative agreement to join GATT, the General Agreement on Tariffs and Trade. This would have introduced a measure of international competition, greatly spurring the efficiency of Mexican industry. Many of the largest enterprises favored joining, but the forces of isolation and inaction prevailed.

In June of 1981, Jorge Diaz Serrano, the head of the Mexican oil giant, Pemex, resigned in a dispute over his decision to cut oil prices. In retrospect (and for that matter at the time), Mr. Diaz Serrano's decision was clearly correct, needed to protect Mexico's markets in a time of falling energy prices. But the government was unwilling to accept the implications for its revenue and spending plans, so the Pemex head lost his job.

Mexico had an opportunity to start on basic economic reform in 1976, when it was forced to revalue the peso and go to the International Monetary Fund for a rescue. But a wave of new oil revenues swept aside reform and kept the old habits afloat. Oil income was used to subsidize consumer prices, to build steel mills in the jungle that didn't work, and to prop up the peso in the face of mounting inflation. Future revenues were pledged to back loans financing more of the same, and when the oil price broke the whole structure tottered down.

Mr. Lopez Portillo's assault on the banks is a classic case of killing the messenger. Under these conditions of course capital flees; if it can't flee through bank accounts if will flee in shoeboxes. Of course there was a run on the banks, in no small part caused by the government's decision to freeze the bank's dollar deposits and partially expropriate them with an artifically low rate for conversion into pesos. And the scapegoating of the banks, especially in conjunction with the replacement of the head of the Mexican central bank yesterday, may portend a flight into the kind of radical lefist mythmaking President Lopez Portillo had previously avoided.

Mexico will no doubt be topic one this weekend at the joint annual meeting of the International Monetary Fund and the World Bank in Toronto. The IMF has more or less agreed to come up with some $4 billion to bail out Mexico's current debt, and details are under negotiation. We wonder what conditions will be attached to the loan this time. For that matter we wonder whether the IMF was consulted or even notified in advance of the bank nationalization. Perhaps the initial rescheduling agreement came too easily.

These words will no doubt be resented in Mexico, but they are spoken with no animus. It is simply that, as Mexico's resort to the IMF shows, we now live in a world so economically and financially interdependent each nation has a vital interest in the progress of every other. We see the bank nationalization as story of the week precisely because high on our wishes for the world is a prosperous and vital Mexico.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL-AID HIGHWAY ACT OF 1982

AMENDMENT NO. 3277

(Ordered to be printed and lie on the table.)

Mr. **PRESSLER** submitted an amendment intended to be proposed by him to the bill (S. 2574) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

INTERSTATE HIGHWAYS ALLOCATION FORMULA

Mr. **PRESSLER**. Mr. President, today I am submitting an amendment to S. 2574, the Federal-Aid Highway Act of 1982.

This amendment deals specifically with the Interstate System resurfacing apportionment contained in S. 2574. Under the provisions of S. 2574, the apportionment formula for dividing the fiscal year 1984 amount of $1.1 billion would be based on a formula with 60 percent weight assigned to the number of actual interstate lane miles and 40 percent to the number of vehicle miles (VMT) on the Interstate System within a given State.

My amendment changes the apportionment formula so that 65 percent of the emphasis is given to lane miles and 35 percent of the apportionment is based on vehicle miles traveled.

In the State of South Dakota, there are over 2,600 lane miles of interstate highway. The costs of resurfacing, restoring, and rehabilitating these roads are enormous and are increasing dramatically every year. However, the price must be paid because the Interstate System is vital to the economy of South Dakota and the Nation.

States with high lane mileage and low VMT are hard-pressed in the current economy to resurface and restore their portions of the Interstate System. Ever increasing costs for repairs—coupled with deterioration of the interstate highways brought about by heavy use, severe temperature changes, and compaction of the roadbed—have created a funding shortfall that rural States find it difficult to cover. The importance of good roads to a rural economy cannot be denied and is ample justification for changing the apportionment formula so that those States with many miles of interstate highway to restore and resurface are given a better deal.

I ask my colleagues to support this amendment, and I urge quick consideration of the Federal-Aid Highway Act of 1982. The contract authority that will be available after the passage of S. 2574 is needed to aid the depressed construction industry throughout the country.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. **ROTH**. Mr. President, the Senate Committee on Government Affairs will hold a hearing on Department of Energy Labs on Tuesday, September 21, at 10 a.m., in room 3302 of the Dirksen Senate Office Building. For further information, please contact Mike Mitchell at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on Benefits to Former Presidents on Wednesday, September 22, at 10 a.m., in room 3302 of the Dirksen Senate Office Building. For further information, please contact Link Hoewing or Linda Townsend at 224-4751.

Mr. President, the Senate Committee on Governmental Affairs will hold a nomination hearing for K. William O'Connor to be a member of the Special Counsel to the Merit Systems Protection Board on Thursday, September 23, at 2 p.m., in room 3302 of the Dirksen Senate Office Building. For further information, please contact Margaret Hecht at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. **BAKER**. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 16, at

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10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DEATH OF PRESIDENT-ELECT BASHIR GEMAYEL

● Mr. KENNEDY. Mr. President, I was shocked and saddened by the brutal assassination of President-elect Bashir Gemayel in Lebanon. Combined with the PLO's withdrawal from Beirut, his election by the Lebanese Parliament had given cause for new hope that Lebanon's wounds could at last begin to heal and that country rediscover its tradition of democracy and prosperity. We took heart from Bashir Gemayel's pledge to dedicate himself to unity, liberty, security, and justice for all Lebanese under a democratic government. Instead, Lebanon's recent tragic history has been compounded by yet another senseless tragedy.

What is imperative now is for all parties in Lebanon to recognize in this latest outrage the absolute futility of further resort to violence. I reiterate my total condemnation of terrorism from any quarter, which offers no solutions to problems in the Middle East. As Bashir Gemayel himself emphasized on the day of his election, force should have no place in resolving disagreements in Lebanon or any other country.

I pray for calm and restraint on all sides, and I hope that, rather than inciting further tension and death, Bashir Gemayel's murder will strengthen the resolve of the people of Lebanon to join together in an historic display of unity, in the interest of peace, democracy, and reconstruction.●

P.P.I.'S, GOODBY!

● Mr. QUAYLE. Mr. President, earlier this month, the Food and Drug Administration quietly rescinded a Carter administration proposal that would have required pharmacists to distribute patient information leaflets for a number of prescription drugs.

While I believe that consumers need to be well-informed about the benefits and potential risks of drugs, this mandatory patient package insert (PPI) program would have borrowed heavily on the regulatory mechanisms commonly associated with the FDA, and would have placed a disproportionate legal and practical burden on our Nation's pharmacists and drug manufacturers.

Drug companies would have been required to not only design and prepare the leaflets, but to deliver them to all the drug distribution centers in the country. Pharmacists would then have been required to see that every consumer received the appropriate leaflet at the time the drug was dispensed. While pharmacists bear part of the responsibility for the education of the public about prescription drugs, the PPI program would have placed an unfair burden on their shoulders.

In fact, the main reason that this program was doomed to fail was that the dispensing of patient information was all to have taken place at the time of the drug purchase, not when the drug was prescribed. A better approach is one which supplies prescribing professionals, doctors, and nurse practitioners or physician assistants, with drug information that can be given to and discussed with patients at the time of prescribing. At this point, the patient is better able to have questions resolved and be informed of correct drug use and expected results. A patient who obtains a PPI at the time of dispensing has already purchased the drug, and will find it more difficult to discuss the information with the prescribing professional.

Now that the PPI program has been scuttled, there are many private sector initiatives underway that will provide more and better information to patients at a greatly reduced cost to the public. Among the new activities are the following:

A group of health professionals, trade groups, and consumer and scientific organizations have joined FDA in forming the National Council on Patient Information and Education. The council will serve to educate patients about their need to know more about the drugs they take, and to urge physicians to provide such advice. Paul Rogers, former chairman of the House of Representatives Subcommittee on Health and the Environment will chair the council.

The American Medical Association will soon begin distributing 20 patient information leaflets through physicians at the time the prescription is written.

The American Association of Retired Persons has begun to include drug information leaflets for its members with prescriptions filled through its mail order pharmacy services.

The U.S. Pharmacopeil Convention (USP) has developed two publications called "About Your Medicines" and "Advice for the Patient," books for consumers on prescription drugs.

Many other such private sector efforts are underway or planned. FDA has established a patient education resources center to collect information about these efforts and to facilitate the exchange of information between parties involved in patient education. In addition, FDA is assisting private efforts by developing a public and health professional campaign that will emphasize doctor-patient relations as well as drug reactions and the proper use of medicines.

These alternative voluntary efforts will result in an effective national patient drug information program. While the PPI program has quietly disappeared, this new voluntary effort should be given visibility, recognition, and praise.●

AMERICAN HOSPITAL ASSOCIATION COMMITTEE FINDS THAT BUDGET CUTS HARM AMERICANS' HEALTH

● Mr. KENNEDY. Mr. President, a special committee of the American Hospital Association on Federal funding of mental health and other health services has recently released its final report on the health impact of budget cuts. The conclusions reached by the special committee, chaired by David M. Kinzer, the president of the Massachusetts Hospital Association, are sobering and deeply disturbing. The committee concluded, "The cuts (in Federal programs) have triggered a much more rapid deterioration in health status than most officials responsible for the cuts are now willing to acknowledge. . . . The most vulnerable segments of our population are being hurt most by the cuts. . . . The country is moving further away from providing a common base of 'health security' for the poor and disadvantaged. . . . A two-tier system consisting of high quality care for private payers and lower quality care for the public payers is emerging."

The report does not limit its examination of the impact of recent budget cuts in Federal programs to health programs narrowly defined. Rather, it analyzes the health consequences of a broad range of Reagan administration policies. For example, the report notes, "Some hospitals have provided evidence that cuts in food stamps and school lunch programs are sending more persons with malnutrition to hospital outpatient departments. The tensions associated with an ailing economy have increased the reported incidence of attempted suicide, traumatic injury and battered children, which has worsened in some areas because of fewer social workers assigned to deal with this problem. In the northern States, cuts in fuel assistance for the elderly were blamed for increases in reported cases of hypothermia last winter."

The report details, program by program, the devastation wrought by the Reagan administration's budget cuts. Cutbacks in AFDC have meant that 200,000 working mothers and their children will lose medicaid eligibility by the end of 1983. One million Americans have been forced off food stamps and 250,000 women and children have had WIC program benefits curtailed.

The report notes that a spokesman for the American Academy of Pediatrics has reported that one-third fewer children are being immunized as a result of higher vaccine costs and Federal budget cutbacks, and that delivery of vaccine would be reduced by "intolerably low levels" if proposed funds for 1983 are not increased.

The report also chronicles the impact of the Reagan administration's economic policies and the resulting record unemployment of the health of Americans. To cite just a few examples:

> State mental health centers in Alabama, where the unemployment rate is 16 percent, report an increase in cases of stress. In Selma, a welfare office reported a sharp rise in child neglect cases among out-of-work families. A mental health center worker from Mobile reported increases in patients, in cases of depression, and in domestic problems and commented that he had never seen so many economy-related cases in 30 years of experience.
>
> In the Detroit suburb of Dearborn, the Midwest Health Center reports a 25-percent increase in prescriptions for antidepressant and antianxiety drugs over last year's level. During one recent six-month period, the number of patients requiring psychiatric counseling had risen by 15 to 20 percent.

One of the harshest program changes has been brought about by the administration's handling of the social security disability program. The report observes:

> Not only are the reductions across all programs causing hardships, but narrowly interpreted administrative procedures are permitting unjustified benefit denials. A quadraplegic in Utah was denied social security benefits because a medical note indicated she had "increased mobility"—sufficient to roll over on a mat. Meanwhile, although still a quadraplegic, she was deprived of benefits for three months while an appeal was processed. Moreover, obstruction and delays in filing procedures and eligibility decisions aggravate the problem. For example, a man 77 years old with end-stage Alzheimer's Disease in need of nursing home placement was required to produce retroactive bank statements for two years.
>
> In Massachusetts, a man who has spent most of his life in mental institutions recently returned to the community. He lives in a rooming house and is able to get along only with substantial assistance. He remains hostile and has great difficulty relating to people. Moreover, this individual has never learned to read. On October 13, 1981, he received a letter from social security officials stating, "Because of your education, work experience and our evaluation of you, we find you ready to return to work." This man's disability benefits were terminated on November 30, 1981. A legal services lawyer is helping this individual appeal this termination.
>
> These are but a few examples of individuals who are left with no resources and eventually find their way to emergency rooms of general hospitals. The future costs to the health care system—or to the criminal justice system, into which many of these individuals are likely to be diverted—far exceed the costs associated with a more thorough, accurate review of a recipient's disability status.

The report also considers the impact of cutbacks in medicaid and medicare. The conclusion is chilling: A growing deterioration in the quality and availability of health care available to the less well-to-do in our society. The report sounds an ominous note:

> Two levels of care based on ability to pay is not only repugnant in itself but is also a betrayal of the implicit promise of the Medicare and Medicaid programs. This is especially true when two levels of clinical care result and not just two levels of amenities. The lower tier in the system is characterized by the lack of a personal physician, patterns of crisis intervention rather than ongoing care, the absence of appointment systems, lower levels of staff and support services, poor physical facilities, and so forth. The upper and lower tiers are most often correlated with higher and lower socioeconomic groups, and their existence is more manifest in urban areas. Medicare recipients with recourse to private resources supplement the gap left by lower levels of reimbursement in public programs. Such supplements may be financed by out-of-pocket payments or purchase of coinsurance.
>
> The reductions in federal funding in response to two consecutive Reagan Administration budgets may promote the emergence of a three-tier system: higher and lower quality of care and the absence of care. The chronic mentally ill and the disabled are most likely to fall into this third tier and to be affected by the absence of care.
>
> The special committee finds that among the foreseeable results of recent funding reduction is a major impending crisis of access to health care. The current policies of the federal government threaten to erode what was at best a fragile balance in the health delivery system as a whole.

The report is not limited to documenting the suffering and harm that has come about as a result of the Reagan administration's policies. The report offers a series of recommendations designed to reverse this dangerous trend. The recommendation include:

> No further cuts in Federal funding for health services.
>
> Meaningful reimbursement reforms including prospective payment systems that include all populations.
>
> Community-wide and institutional local planning to ensure that access to cost-effective care exists for all.
>
> Funding for mental health services at parity with other health services.

The report of the AHA's special committee on Federal funding of mental health and other health services is a major contribution to our understanding of the impact of budget cutbacks adopted in the last 2 years. Mr. Kinzer and his colleagues have done the Nation a great service in bringing to the public's attention a careful and informed assessment of the broad-ranging impacts of the cuts. The report is essential reading for all those involved in the development of our national health policy and all those who are concerned with the health and well-being of our citizens.

We have heard reports that the administration is contemplating even further cuts in these vital programs next year. I urge all those in the administration responsible for our human services policy to consider this report carefully before embarking on another series of harmful and shortsighted budget proposals.●

THE CLINCH RIVER BREEDER REACTOR

● Mr. **HUMPHREY.** Mr. President, yesterday a major debate sponsored by the Heritage Foundation was held in the Longworth Building on whether or not the Clinch River breeder reactor should be funded. Over 120 people attended and the debate was quite lively. Indeed, I only wish the debate could have been held here before the entire Senate.

Even though the Heritage Foundation has come out against Clinch River, the forum was balanced and fair. Making the case for Clinch River was Dr. David Rossin of the Electric Power Research Institute, a long-time proponent of Clinch River who previously worked at Commonwealth Edison of Illinois—the main contracting utility for the project. Joining him was Mr. Gordon Chipman, the breeder program's director at the Department of Energy and man with Hill experience as a technical adviser to Congresswoman MARILYN BOUQUARD on the House Science and Technology Committee.

On the side opposing Clinch River was Republican Congressman VIN WEBER of Minnesota and Dr. Brian G. Chow, a physist and doctor of finance, formerly with the American Enterprise Institute. Dr. Chow authored the American Enterprise Institute study the "Liquid Metal Fast Breeder Reactor: An Economic Analysis," and is now a senior research analyst with Pan Heuristics, a defense and energy research firm based in Los Angeles. Three important points emerged from the debate.

The first of these was that Clinch River will cost far more than DOE's latest estimate of $3.57 billion. Indeed, both sides made it clear that building the reactor is just the beginning. In specific, billions more must yet be spent on the infrastructure necessary to provide Clinch River with the plutonium fuel it needs. Back in 1971 keeping these fuel cycle costs out of the Clinch River estimate seemed sensible; everyone assumed that plutonium fuel and breeders would be so economical that private industry alone could provide these services and make a profit. Yet, both sides agreed that no one yet knew when breeder reactors would be more economical than existing light water reactors. They also agreed that Clinch River meant very little as a breeder demonstration project unless it was immediately fol-

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lowed by an even more expensive scaled-up version of the plant, which DOE in fact is now planning to fund for next year.

The second point that surfaced during the debate was that as a demonstration plant, Clinch River might give us hands-on engineering experience relating to its own construction and operation but that advanced breeder research and development—what is needed to devise a more economical breeder—is hardly Clinch River's objective. Indeed, as one exchange made clear, building Clinch River now has as much to do with advancing an economical breeder as building the French Concorde had with advancing an economical supersonic transport: The thing might fly—which no one ever doubted—but this knowledge will not make it any more economical nor provide us with the kind of research and development necessary to design one that is. DOE has a distinct breeder research and development program. It is funded separately from Clinch River at over \$300 million a year. It features its own experimental breeder and a new breeder test facility and advanced design data comes from it, not Clinch River.

The last point that the debate raised and upon which both sides agreed, is that more advanced breeder designs than Clinch River are clearly available—one specific one by Westinghouse was discussed. Yet, the proponents of Clinch River argued that Clinch River should still be built to keep DOE's breeder efforts from loosing momentum and to provide insurance against the outside chance that we will need a commercial breeder (even this design) decades before others predict.

As many of you know from my fight last year against Clinch River I find these later arguments most unpersuasive. Of the people now working on Clinch River almost all have engineering and metallurgical skills that could be used more profitably elsewhere. More important, Clinch River and near-term commercial breeders in general are a losing proposition against light water reactors and will remain so for some time.

Dr. Chow did an excellent job in explicating this point in yesterday's debate, Mr. President. The paper he presented at yesterday's debate is both brief and clear in its explanation of the economic problems facing Clinch River. I ask that the complete text of this paper be printed in the RECORD.

The paper follows:

WHY WE SHOULD NOT FUND THE CLINCH RIVER BREEDER REACTOR

(By Brian G. Chow)

Ever since the discovery of nuclear fission in the late 30's, scientists have been fascinated by the idea of a nuclear breeder which offers the potential for an essentially inexhaustible supply of energy. This fascination is at the heart of breeder enthusiasm, although, in time, other arguments have been put forth to support the breeder. However, the timing of the introduction of a new technology is governed more by its economic competitiveness than its abundance. For the same reason, we have not yet massively deployed other inexhaustible or essentially inexhaustible energy resources such as solar energy and seawater uranium.

Until recently, energy planners in the United States and abroad consistently overestimated future nuclear plant capacity and underestimated uranium resources. These estimates, coupled with overoptimistic projection of breeder plant capital and fuel cycle costs, led to the false conclusion that the need for breeders is urgent. It was under such a sense of urgency that, in 1972, President Nixon committed the federal government to build the Clinch River Breeder Reactor (CRBR) as a joint demonstration project with the electric utilities. It was considered then that the breeder would be commercialized as early as the year 1985.[1]

What has happened since 1972? The projection of U.S. nuclear plant capacity installed in the year 2000 has dropped by a factor of seven and that in the year 2020 by a factor of twelve.[2] Nuclear projections in other countries have also declined drastically. Instead of a shortage in uranium supply we now have a glut. It will not disappear soon and the Congress is now deliberating a bill to limit the uranium imports. The glut is caused not only by a reduction in uranium demand resulting from the drastic cutback in nuclear plant construction, but also by an increase in uranium supply. During the last decade, a number of geological settings which contain large economic quantities of uranium have been discovered in various places over the globe. This has greatly expanded the uranium resource base. On the other hand, the estimated reprocessing cost in real terms for the breeder fuel has jumped by a factor of four.[3] The construction cost of a breeder was thought to be \$250/kwe [4] more costly than a current reactor (a lightwater reactor (LWR)) and, by the year 2006, the cost will be the same "via the economies of scale associated with a size change, and also via the classical learning effect." [5] In the latest DOE projection, it is apparent that the CRBR design will not bring the breeder construction cost near that of a current reactor—a matured breeder is estimated at \$1035/kwe more.[6] In fact, since the CRBR decision in 1972, it is hard to find any key cost component that has changed in the direction more favorable to the breeder.

How do we assess the breeder in light of these significant changes? A commercial breeder will not be economically competitive with the current type reactor even with only a modest improvement of 15 percent in uranium efficiency, until the price rises to \$210/lb U_3O_8[7], which is eleven times the current uranium spot price of \$18.5/lb U_3O_8[8], and more than twice the \$95/lb U_3O_8 figure projected by the Department of Energy's own Energy Information Administration for the year 2020.[9] The breeder is not expected to be economical until after the year 2040 or about sixty years from now. It is far too early to build a breeder demonstrator now.

One very noticeable evidence of the deteriorated breeder economics is the absence of a cost-benefit analysis in the recently released environmental impact statement of the U.S. fast breeder reactor program.[10] In the earlier statements, a cost-benefit analysis was presented and a large breeder benefit was claimed in no uncertain terms. Now, the breeder proponents prefer to argue that the future is uncertain and the breeder option should be developed as soon as possible for insurance purposes. One should note that the fuel cost in an improved light-water reactor is less than 10 percent of the electricity delivered price for a uranium price of up to \$200/lb U_3O_8, and the key advantage of a breeder is savings in fuel cost.[11] Even if the future turns out unexpectedly and extremely favorable to the breeder, the worst that can happen to the consumers is to pay a higher price for the uranium which is only a small component of the electricity price. If we adopt a ten-year delayed breeder demonstration strategy, the consumers, at worst, are to pay an electricity price higher by no more than one percent during the 1982–2050 period.[12] This is hardly unbearable and its probability of occurrence is very low.

Let us evaluate the insurance argument from the perspective of uranium supply adequacy. In the latest EIA forecasts, four nuclear capacity projections are made. Since we are interested in the unlikely event which is most favorable to the breeder, we select the highest projection of the four.[13] By the same token, let us use the domestic reserves and only those resources with 95 percent high confidence; both estimated by the Department of Energy.[14] If the highest projected nuclear capacity is exclusively supported by the light-water reactors with improvements but without breeders, we still have enough uranium to supply the lifetime requirement of all these reactors built on or before the year 2030. Therefore, there is no urgency now to build the CRBR even for insurance purposes. Let me emphasize that we have not yet included those probable resources of lower confidence level nor those possible and speculative resources of any confidence level. In fact, if the DOE's estimated mean or expected amount of uranium, instead of the high confident amount, is assumed to be available, we have enough uranium to suport even DOE's highest projected nuclear capacity without breeder participation until the year 2055.

Moreover, the taxpayers would have to pay well beyond the additional \$2.3 billion to complete the CRBR. First, pioneer energy projects are prone to cost overruns.[15] Second, we will not be asked to support the CRBR alone. Fund requests for a large breeder demonstrator as a CRBR follow-on have already appeared in the FY 1984 budget proposal. We will be told to support the reprocessing, fabrication and other breeder fuel cycle facilities. We will be told that we will need all these and more in order to have in place the infrastructure of engineering, industrial and licensing experience. Since the economic breeder will not appear until far into the future, to support the breeder program as proposed by the breeder proponents will cost us handsomely and indefinitely. The total cost will likely be closer to \$10 billion than to \$2.3 billion. There exist more cost-effective investments such as research, development and demonstrations of improvements in the present type reactors. Because some of these improvements are retrofittable and all are based on existing reactor technology, they will penetrate the market faster than the breeder, and produce larger and quicker electricity cost savings. It is important to note that opposition to the CRBR in no way implies opposition to nuclear energy in general. It seems that at present the nuclear market is so blight that the nuclear industry fears that saying anything against its long-endorsed reprocessing and breeder would put the nuclear market in further jeopardy. Quite the contrary, concentrating our resources on the improvements of current reactors which are in trouble and in need of reviving would help the nuclear industry much more than expanding our efforts on the uneconomical breeder.

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[1] Footnotes at end of article.

Most of the breeder demonstrators and associated facilities in various countries were planned when breeder economics was anticipated to be favorable. Since substantial investments were made, an alliance was formed among groups with vested interests—some people from the nuclear industry, utilities, bureaucracy, and politics. They will continue to advocate the breeder program. But their momentum is being slowed by reality. In fact, even the French, who are the most ardent breeder supporters, no longer expect their breeder to be economical. Using France's own estimate of the plant capital cost of their "target" commercial breeder,[16] we found that it still will not be economically competitive with a 15 percent-improved light-water reactor[17] until the uranium price reaches about $300/lb U_3O_8, sixteen times the current uranium spot price and three times the EIA's projected price for the year 2020.

In sum, the CRBR was committed a decade ago under a false sense of urgency—that the uranium would soon be running out, and that the breeder construction cost would be brought down to close to that of the light-water reactor or that the uranium price would be so high that even a breeder with a substantial higher construction cost would still produce electricity at a cost no higher than that of a light-water reactor. None of these turns out to be the case. Breeder reactors based on the CRBR design will not be economical even after many units are built. Lately, Westinghouse and Burns and Roe, Inc. have proposed a new design which is drastically different from that of the CRBR, so as to have the potential of reducing significantly the breeder construction cost.[18] Whether such a design is workable remains to be seen. The message, however, is clear. We must seek alternative designs to produce an eventual economic breeder. The CRBR demonstrator cannot test these designs. For example, the Westinghouse/Burns new design calls for sodium pipe bellows, individual containment cells, primary piping nozzles in the deck instead of at the reactor vessel. Obviously, these design changes cannot be made or tested in CRBR. It is simply premature to build a demonstrator when the design remains to be determined. Other countries with breeder programs are facing the same problem. Factors affecting breeder economics have fundamentally changed over the last ten years. We have no choice but to alter our planned programs accordingly. If we proceed along the old path, the CRBR project and other breeder related projects will cost us dearly year after year for a long period of time. And, they will divert our resources from more worthy projects, such as the improvements of current nuclear reactors, and the testing of new designs and components that would have a chance leading to an economical and desirable breeder.●

FOOTNOTES

[1] U.S. Atomic Energy Commission, Proposed Final Environment Statement, Liquid Metal Fast Breeder Reactor Program, WASH-1535, (December 1974), Vol. 4, p. 11.2-33.

[2] Ibid., p. 11.2-113 and Energy Information Administration, Department of Energy, 1981 Annual Report to Congress, Volume 3: Energy Projections, February 1982, p. 110.

[3] U.S. Atomic Energy Commission, Proposed Final Statement, op. cit., p. 11.2-97, and U.S. Department of Energy, Nuclear Proliferation and Civilian Nuclear Power, Report of the Nonproliferation Alternative Systems Assessment Program, Volume 5, June 1980, p. 77.

[4] All figures here have been expressed in first quarter 1982 dollars by GNP implicit price deflator, unless explicity stated otherwise.

[5] U.S. Energy Research and Development Administration, Final Environmental Statement, Liquid Metal Fast Breeder Reactor Program, ERDA-1535, ERDA, Washington, D.C., December 1975, p. III, F-52.

[6] Energy Information Administration, Department of Energy, 1980 Annual Report to Congress, Volume 3: Forecasts, p. 287. The capital costs have been normalized to a 70 percent capacity factor.

[7] Brian G. Chow, "Reprocessing: An Uneconomic and Risky Venture," prepared testimony before the Subcommittee on International Economic Policy and Trade and the Subcommittee on International Security and Scientific Affairs, of the Committee on Foreign Affairs, August 10, 1982, p. 6.

[8] Nukem's uranium price (August 1982) is $18 to $19/lb U_3O_8 in current dollars. Nuclear Fuel, August 16, 1982, p. 13.

[9] Energy Information Administration, Department of Energy, 1980 Annual Report to Congress, op. cit., p. 177.

[10] U.S. Department of Energy, Final Environment Impact Statement, Liquid Metal Fast Breeder Reactor's Program, DOE/EIS-0085-FS, May 1982.

[11] The breeder's fuel cycle cost, however, is by means low because of reprocessing cost and much higher fabrication cost.

[12] More precisely, this is less than one percent of the total lifetime electricity delivered and discounted cost for all electricity generating power plants coming on line during the 1982-2050 period. Brian G. Chow, Timing of Breeder Demonstrations: An Economic Analysis, (Marina del Rey, California: Pan Heuristics, R&D Associates), prepared for the U.S. Arms Control and Disarmament Agency, March 16, 1981, p. 1.

[13] Energy Information Administration, 1981 Report, op. cit., Vol. 3., p. 110.

[14] Department of Energy, "Statistical Data of the Uranium Industry," GJO-100(81), January 1, 1981. Uranium is classified into two categories—reserves and resources. The resources are further classified into probable, possible and speculative resources. The 95th percentile implies a 95 percent confidence in the existence of at least the amount shown.

[15] These projects average 100 percent cost overruns. Edward W. Merrow, Kenneth E. Phillips and Christopher W. Myers, Understanding Cost Growth and Performance Shortfalls in Pioneer Process Plants (Santa Monica: Rand Corporation), 1981.

[16] "Fast Reactor Hearings for European Politicians," Nuclear News, February 1980, p. 45.

[17] In the current once-through mode where the fuel is used only once.

[18] W. H. Arnold, General Manager, Advanced Reactor Division and J. E. Sharbaugh, Fellow Engineer, of Westinghouse Electric Corporation, and W. H. Young, Vice President and C. S. Ehrman, Manager, Advanced Breeder Development, of Breeder Reactors Division, Burns and Roe, Inc., "Approach to Achieve Competitive LMFBR Capital Cost," 1982.

THE SECRETARY OF ENERGY'S ANNUAL REPORT TO CONGRESS: AN ADMISSION OF FAILURE

● **Mr. KENNEDY.** Mr. President, the Department of Energy has just released the Secretary's annual report to Congress for 1982. The report contains a number of disturbing indications of the administration's dangerous and unwise approach to our vital national energy concerns. I want to bring to my colleagues' attention several of the most troublesome aspects of this report.

EMERGENCY PREPAREDNESS

The report demonstrates once again the administration's refusal to take even the most minimal steps to protect the Nation from sudden and unanticipated shortages or cutoffs of energy supplies. The veto of the Standby Petroleum Allocation Act and the failure to provide an adequate fill rate for the Strategic Petroleum Reserve leave America dangerously vulnerable to disruptions of imported energy supplies. In place of careful planning, the administration offers only a blind faith that the market will somehow respond to serious shortages. At the same time, the report belittles the national consensus in favor of energy independence that has characterized the policy of the preceding three administrations—two Republican and one Democratic.

CONSERVATION

The report reaffirms the administration's indifference to energy conservation. The report observes "there is little need for Federal participation beyond helping to insure that the marketplace provides realistic price signals to energy consumers." This unwise and shortsighted policy is embodied in the administration's budget request for conservation for 1983, which slashes conservation funding by 85 percent, in effect, dismantling support for conservation.

Federal conservation programs for the elderly, for low-income individuals, for business and industry have played a vital role in reducing our dependence on foreign oil. Conservation remains the most cost-effective source of energy. The administration's cavalier indifference to these vital activities will have serious consequences for all Americans.

RENEWABLE ENERGY

The report documents in glaring details the administration's abandonment of essential support for renewable energy research and development. In the past several years, the United States had begun to take the critical first steps toward exploiting the vast potential of safe, environmentally sound and cost-effective renewable energy—Sun, wind, ocean, and thermal energy and biomass. Now the administration proposes to turn back the clock with funding reductions of up to 97 percent.

Renewable energy is the hope of our future. America's economic competitors are already moving forward aggressively in this area. The question is not whether we will tap this promising source of energy but when. We can ill afford the administration's failure to pursue this critical area of research and development.

NUCLEAR ENERGY

Nowhere is the imbalance in our national energy program more apparent than a comparison of the administra-

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tion's budgetary plans for nuclear energy as compared with conservation and renewable energy. At the same time the administration proposes slashing conservation and renewable energy by 80 to 97 percent, the administration continues to propose massive funding for nuclear energy—topping $1 billion next year—including such wasteful white elephants as the Clinch River breeder reactor.

There remain serious questions which must be answered concerning reactor safety, nuclear proliferation, and waste management and disposal. Heedless policies of "hurry up" will do little to solve our Nation's energy needs, and could imperil the health and safety of our citizens.

NATURAL GAS DECONTROL

Despite the clear concerns expressed by Members of Congress of both parties, the report renews the administration's call for accelerated decontrol of natural gas—including old gas. The report ignores the devastating impact of accelerated decontrol—on inflation, on unemployment, on economic growth, and on the well-being of American consumers, particularly the elderly and the poor—while blandly asserting that "the law needs to be changed" and "all gas should be decontrolled."

The National Gas Policy Act of 1978 reflects a careful compromise designed to permit gradual decontrol while protecting the American economy and consumers from unwarranted, disruptive price hikes that would bring windfalls to a privileged few and hardship to millions. The administration should put the interests of the American people first and abandon its harmful pursuit of accelerated natural gas decontrol.

These are only a few of the more troublesome aspects of the Secretary's report. Symptomatic of the administration's rigid, counterproductive energy policies is its continued support for dismantling DOE—which, as GAO and others have concluded, would not produce cost savings—and would further cripple our efforts to develop a coherent energy policy.

Members of Congress and the American people would do well to examine the Secretary's report closely. It demonstrates vividly the total failure of this administration to develop an energy policy that would assure the Nation safe, enviromentally sound energy at a reasonable price, that would protect the most vulnerable in our society and preserve the Nation's security.●

PHILADELPHIA CITY COUNCIL SUPPORTS EXPORT TRADING COMPANY LEGISLATION

● Mr. **HEINZ.** Mr. President, I was pleased to note recently that the Philadelphia City Council on July 29 adopted a resolution in support of the Export Trading Company legislation (S. 734) now in conference with the House, and commending the Philadelphia Industrial Development Corp. and the Philadelphia Port Corp. for their efforts to set up such a company for small- and medium-sized business in the area.

Such action is typical of the forwardlooking attitudes of the PIDC and the port and their awareness of the potential increased exports hold for the vitality of the Port of Philadelphia and the strength of the regional economy. As a result, the enactment of this legislation will have a near-term positive impact on a major trade and industrial center in the Northeast.

Mr. President, I commend the city council, the PIDC and the port for their foresight in this regard, and I ask that the text of the resolution be printed in the RECORD.

RESOLUTION No. 867

Memorializing President Ronald Reagan and the Congress of the United States to support pending legislation enabling the creation of export Trading Companies and commending the Philadelphia Industrial Development Corporation and Philadelphia Port Corporation for developing plans for implementing an Export Trading Company for small and medium businesses in the Greater Philadelphia area.

Whereas, Current federal policy developed in the 1930's is restrictive toward world trade and does not reflect the economic realities of international markets of today, resulting in hampering United States companies and businesses in competing in the expanding world-wide markets; and,

Whereas, Current legislation is pending before Congress which would remove the restrictive barriers, thereby assisting small and medium businesses in entering the international markets; and,

Whereas, Small businesses account for nearly nine out of ten employees in Philadelphia and, given the opportunity to participate in world markets, could spark the greatest economic growth for the area in the past several decades, and simultaneously aid our struggling port business; and,

Whereas, The Philadelphia Industrial Development Corporation and the Philadelphia Port Corporation has foreseen this tremendous economic potential, and has begun developing plans for implementing an Export Trading Company in anticipation of federal legislation which will enable the Philadelphia area to be one of the leaders in this area and enhance our competition in the world market; therefore,

Resolved, by the Council of the City of Philadelphia, That we hereby memorialize President Ronald Reagan and the Congress of the United States to promptly support legislation enabling the creation of Export Trading Companies; and further,

Resolved, That the Council of the City of Philadelphia commend and support the joint activities of the Philadelphia Industrial Development Corporation and Philadelphia Port Corporation toward developing plans for the implementation of an Export Trading Company for small and medium businesses.

Resolved, That certified copies of this Resolution be forwarded to President Ronald Reagan, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, the United States Senators representing the Commonwealth of Pennsylvania, and the members of the Congressional Delegation from Pennsylvania, the Board Members and Directors of the Philadelphia Industrial Development Corporation and Philadelphia Port Corporation, as evidence of the sentiments of this legislative body.●

FIFRA REAUTHORIZATION BILL UNACCEPTABLE

● Mr **CRANSTON.** Mr. President, today the Senate Agriculture Committee ordered reported legislation (H.R. 5203) to reauthorize the Federal Insecticide, Fungicide, and Rodenticide Act with amendments to section 24(a) of the act. I am opposed to the changes approved by the committee.

Under current law, section 24(a) permits States to place more stringent regulations on the sale or use of federally registered pesticides and to have access to pesticide companies' data on how pesticides affect human health and the environment in making such determinations. California more than any other State has taken advantage of this provision in the law.

More importantly, California's requests for information beyond that reviewed by the Environmental Protection Agency have resulted in the State's identifying pesticide problems peculiar to local conditions and have enabled the State to develop additional pesticide use guidelines to protect the public or deny pesticide registration altogether when justified. The program has worked very well. In fact, there have been numerous instances in which California has taken action well ahead of the Federal Government to cancel registrations of chemicals subsequently found by EPA to pose unacceptable public health and safety risks. For example, California restricted, then phased out, most uses of DDD and DDT in the late 1960's because of residue problems and environmental persistence. EPA did not cancel these chemical until 1972. Again with DBCP the State of California acted first—suspending registration in 1977 when problems of infertility of manufacturing plant workers and California applicators were discovered. Subsequently the State discovered that DBCP presented a groundwater contamination problem as well.

EPA suspended DBCP 3 years later, with the action based almost entirely on California's findings.

The State's access to chemical companies data has been essential in making complete evaluations of pesticides. Under existing law, a chemical company can go to court if it feels that a State's request for data is arbitrary, capricious, or unfair. H.R. 5203 as approved by the Senate Agriculture Committee, however, shifts the burden to the State to demonstrate that it has a concern about a pesticide. I think that the burden should remain on the companies to show that a pesticide is safe. It is totally unreasonable to require a State seeking additional data on the health and safety of a pesticide to show that a special local concern about the chemical is based on signfiicant factual information when it is the factual information the State is requesting from the chemical company. The committee approved bill sets up a catch 22 situation by requiring the State to show that its concern is based on data in order to obtain chemical company data. Moreover, a State should not be required to register a pesticide for conditional use when it has reason to question the sufficiency of the data submitted and seeks additional information. Such a requirement erodes the States ability to regulate pesticide use to insure public health and safety and adequately protect fish and wildlife.

These are just a few of my objections to the committee approved amendments to section 24(a) of FIFRA. I urge my colleagues to take a close look at the bill with these concerns in mind.●

DISSOLUTION OF MOSCOW HELSINKI MONITORING GROUP

● Mr. **LEAHY**. Mr. President, it was with great regret that I learned on September 8 that the Moscow Helsinki group—that small, brave group of human rights activists in the Soviet Union—has decided to cease its long, valiant struggle against official repression and has announced its dissolution. With most of its members jailed, exiled, or subjected to constant harassment, the remaining members have decided they cannot go on attempting to draw attention to Soviet Government abuses of its solemn commitments under the Helsinki Final Act of the Conference on Security and Cooperation in Europe. According to Elena Bonner, wife of Andrei Sakharov and one of only three Moscow Helsinki monitors still at liberty, the few remaining activists feared that their fellows in prison would have their sentences extended if the group continued its activities.

I would like at this time to describe the fate of one imprisoned member of the Moscow Helsinki group, Dr. Leonard Ternovsky, whose particular contribution to the human rights struggle was in exposing the use of psychiatry in the Soviet Union for political purposes. Dr. Ternovsky, a radiologist, had signed many documents in defense of political prisoners, particularly concerning Vladimir Bukovsky and others who had been confined to psychiatric hospitals for their political activities. As a result, Ternovsky soon found himself the target of KGB harassment and threats that he would be liable to legal prosecution if he did not cease his human rights activities.

After Aleksandr Podrabinek's arrest for his exposé of the Soviet abuse of psychiatry, "Punitive Medicine," Ternovosky joined the working commission to investigate the use of psychiatry for political purposes. Following a show trial in December 1980, Ternovsky was sentenced to 3 years in a general regime camp for "anti-Soviet slander." Dr. Ternovsky is married and has one daughter.

Mr. President, this tiny band of people has suffered enormously for daring to demand of their government that it accord to its citizens the most elemental human rights, and the names of some of them have become famous for unwavering courage and determination: Andrei Sakharov, in internal exile; Yuri Orlov and Anatoly Shcharansky, imprisoned in a labor camp reportedly under the most inhumane conditions; Pyotr Grigorenko and Vladimir Bukovsky, now in refuge in the West.

The dissolution of the Moscow Helsinki monitoring group follows soon after several other disturbing developments behind the iron curtain: the drastic limitation on telephone service between the Soviet Union and the free world, the suppression of the independent peace movement in Moscow, and a general upsurge in repression of religious and political dissenters.

The record of the Soviet Union regarding compliance with the human rights provisions of the Helsinki Final Act is shameful and is an indictment of the Soviet legal system. The record of its eastern European satellites is little better. Having signed the Helsinki Final Act, Moscow cannot claim foreign protests are interference in the internal affairs of the Soviet Union. We must continue to speak out against Soviet treatment of its citizens with such brutality, contempt, and fear. That is the ultimate irony: The Soviet Government and Communist Party is afraid of this handful of people, of what they might inspire in the Soviet people, afraid that, like the Polish people, the Russian people also may one day refuse to accept the dictates of the Communist Party. As a Commissioner of the U.S. Commission on Security and Cooperation in Europe, the government body charged by law with monitoring compliance with the Helsinki Final Act, I feel that the upcoming deliberations of the CSCE Review Conference in Madrid will be negatively affected by the deliberate Soviet flouting of its Helsinki pledges.

Mr. President, I ask the Members of the Senate to join me in paying tribute to the members of the Moscow Helsinki group—those in exile, those in prison or labor camp, those confined in psychiatric wards under an especially horrible kind of imprisonment, and those clinging to a precarious liberty which may be ended at any moment. These people have written a chapter of Soviet history Russians will some day look back upon with pride and wonderment.●

PROMPT PAYMENT REQUIREMENTS FOR THE FEDERAL GOVERNMENT

● Mr. **PRYOR**. Mr. President, after a great deal of dedicated work by people in small business, interested coalitions, and concerned Members of Congress, the Government will soon be required by law to meet a simple but nevertheless crucial standard: To pay its bills on time or pay interest on those overdue bills.

Prompt payments legislation, which I cosponsored, passed Congress earlier this year and has now been signed by the President. This important law will take effect October 1; responsible payment of Government debt is at hand.

The significance of this law cannot be overemphasized. In uncertain economic times such as these, it has too often been "business suicide" to contract with the Federal Government. A high rate of late payments on Government contracts has often forced businesses—in order to meet their own financial obligations—to put off creditors, to go into the market to borrow money at high rates of interest, or to simply refrain from doing business with the U.S. Government. None of these alternatives is acceptable.

This new law, however, will help business and help Government. It will make it possible and feasible for businesses to solicit and, more important, depend on business with the Government. As a result, competition for Government contracts should increase, causing a drop in prices for the goods and services for which the Government contracts. This would also give the taxpayer a greater return on tax dollars.

On August 25 the Office of Management and Budget published regulations to serve as guidelines for the various Federal agencies as they begin using these improved payment procedures. These regulations are specific and their message is clear: Pay the bills or pay the interest. The choice—particularly in light of budget cuts to Federal agencies—should be obvious. The Government cannot afford not to pay its bills on time.

This is but a single step among the many which must be made in the crusade to give businesses—especially small businesses—the simple right not to be abused by their own Government. Our country owes much to family businesses, to entrepreneurs, and to others who have taken on the difficult challenge of achieving productive business existence. These dedi-

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cated people offer hope and inspiration to us, but they need Government's support if they are to survive and prosper.

From this point forward, we must demand the highest standard of business performance from the Government as it conducts its day-to-day business affairs. For if citizens cannot look to the U.S. Government to honor its debts and obligations, where can they look?

I will continue to work for the good of those who seek to secure a place for themselves in the marketplace. There is a great deal of reform and progress to be made—and no time to waste.●

TAIWAN

● Mr. GOLDWATER. Mr. President, a lot of what we westerners call hocus-pocus or, in other words, hokey-pokey, took place in the President's reluctant recognition of the endeavors of the State Department for him to forgo responsibilities to Taiwan. One of the leaders in this movement was Mr. Richard Holbrooke, high in the echelons of the State Department, who has, repeatedly throughout his professional life, shown a complete dislike of Taiwan.

Ray Cline, a former CIA member and station chief in Taipei, has written an article on Mr. Holbrooke's activities, at least in a partial way, and I ask that it be printed in the RECORD.

The article follows:

NO WONDER HOLBROOKE IS SO FULL OF GLEE

(By Ray S. Cline)

In a long, unctuous article, Jimmy Carter's assistant secretary of state, Richard Holbrooke, patronizingly lauds President Reagan for "promising to reduce arms sales to Taiwan" ["A Laudable Flip-Flop on Taiwan," Outlook, Aug. 22]. Well, he should! He wishes he could have done it himself.

Holbrooke is the trendy young thinker of the later 1960s who persuaded Carter and Zbigniew Brzezinski to woo Peking by withdrawing U.S. defense treaty security guarantees from the 18 million Chinese people of Taiwan. Holbroooke can hardly conceal his glee at the picture of President Reagan, a sincere friend of Free China, finishing off the job Carter started in 1978. Holbrooke points out that Reagan meant to make "no change whatsoever" in his China policy by issuing the White House communique of Aug. 17, 1982, but asserts flatly that Reagan did "back down" from 1980 campaign promises and has, in fact, "changed U.S. policy." Holbrooke endorses this sacrifice of long-term principle to short-term political expediency and diplomatic double-talk.

If the words in Reagan's communique mean anything, they go a long way toward undermining the security of the Chinese people of Taiwan. They do not want their open society and prosperous economy to become part of the one-party dictatorship of the People's Republic. They will fight to prevent it. All they want is American arms to defend themselves.

All Peking's leaders want is Taiwan, a juicy geostrategic and economic plum. They have demanded that American sales of arms to defend Taiwan's freedom be stopped so Taipei will be powerless to resist Communist rule. Holbrooke claims giving in to Peking will bring the "development of common strategic and political interests" between the United States and Communist China. This claim is nonsense.

The PRC leaders routinely attack the United States as a hegemonistic superpower scarcely different from the Soviet Union, except that it is worse ideologically and weaker in arms and will. In 10 months of eyeball-to-eyeball negotiation, they never offered to do anything in the American interest. They simply threatened over and over to denounce Reagan and distance themselves further diplomatically from the United States. The White House, under State Department pressures, finally caved in, calling it a compromise. Actually, all the concessions were made by Washington at Taipei's expense. This kind of diplomacy is a sure recipe for inviting more blackmail.

Ronald Reagan as a candidate denounced Carter's sellout to Peking. He also wholeheartedly endorsed the Taiwan Relations Act of 1979 to provide arms "as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." He steadfastly declares he still does.

Most Asians, however—in fact, many Americans and most of our allies—are likely to think instead, as Holbrooke does, that the mighty United States has kowtowed to Communist China to keep up a pleasant relationship, as Carter had done before. The fusswords of the communiqué are openly interpreted in Peking as proving the United States has tacitly accepted Peking's claimed right to govern Taiwan. What the world sees is a tilt toward Communist dictatorship—against a free economic and political system.

Unlike Holbrooke, a lot of people are against that kind of tilt. President Reagan repeatedly says he is against it, too. He must be startled at getting applause from such an unlikely political bedfellow.●

NATIONAL COORDINATING COUNCIL

● Mr. DODD. Mr. President, I am pleased to cosponsor S. 2421, a bill introduced by Senator GLENN to establish a National Coordinating Council on Technical, Engineering, and Scientific Manpower and Education.

I believe that this bill, coupled with S. 2909, the legislation I am introducing today to improve the skills of secondary school mathematics and science teachers will go a long way toward meeting the Nation's future technological needs.

The National Coordinating Council would identify national manpower and educational needs, determine the national shortage of professional engineers, define goals, and recommend ways that deficiencies can be corrected. The Council would be established within the National Science Foundation, reporting directly to the National Science Board and preparing an annual report to the Congress.

A special 5-year engineering and scientific manpower and educational fund would be established in order to finance the Council's plans and recommendations. Moneys for grants expended from the fund would be matched with private or public sector funds. This insures that the Federal Government would not contribute more than 50 percent of the expenditures.

Almost every day there is evidence that the United States is not keeping pace with other industrialized countries—such as Japan and West Germany—in technological advances, breakthroughs in scientific research, and development of new services resulting from advances in applied research. With drastically reduced Federal funding in education and research it is highly unlikely that the United States will continue to be the foremost contender in worldwide competition in these vital areas.

According to the National Science Foundation report, "Science and Engineering Education for the 1980's and Beyond," the U.S. educational system is not mandating sufficient science or mathematics courses to meet the future technological needs of our society. By contrast, Japan, Russia, and West Germany are continuing to place far greater emphasis on these areas.

Although I have always been very proud of the advances made in education in my home State of Connecticut, I was most disturbed by the following statement from Senator GLENN's introductory remarks in the April 22 RECORD:

> In the State of Connecticut last year, there were no graduates produced that were equipped to teach high school science.

This is not a State or regional problem, but a national problem that demands our immediate attention.

In a survey conducted of 600 colleges and universities that offered teacher training programs, the National Science Teachers Association reported a 77-percent decline in the number of mathematics teachers and 65-percent decline in the number of science teachers adequately trained to teach in secondary schools. With the decline in the number of qualified teachers and the decline in the number of qualified persons going into teaching in these areas, there has been a 68-percent reduction in newly employed science teachers and an 80-percent reduction in newly employed mathematics teachers since 1971.

At the same time, there are currently few incentives for students to continue studies in science, health, or engineering when reductions in support have contributed to obsolete labs, inadequate resources, materials, equipment and supplies. Last year's budget cuts eliminated all primary and secondary school science programs of the National Science Foundation. Dr. Frank Press, president of the National Academy of Sciences, has warned "that the United States is in danger of raising a new generation of Americans that is scientifically illiterate."

In addition, there is a growing national concern over the increasing university faculty shortages in the areas of computer science and engineering. Universities cannot compete with benefits offered by the many successful private industrial companies. As a result, many faculty members are pursuing careers within the private industrial sector. The commercialization of the academic community has become a new "brain drain."

Mr. President, recent advances in our Nation's scientific and technological capability must be sustained. For example, applications of basic research in molecular biology and genetics offer the promise of new chemical processes for industry, improvement in agriculture, as well as drugs to treat human diseases such as interferon for cancer therapy.

Major technological breakthroughs in microelectronics are leading to an explosion of new knowledge and uses of computers for our Nation's expanding informations and communications industries for defense.

Unless our country's critical needs for scientific and engineering manpower are met, these important efforts which contribute significantly to our Nation's productive capacity would be seriously jeopardized. It is therefore imperative that the necessary foundations in education be provided if we are to continue to make major progress in these important areas.

Mr. President, I strongly urge my colleagues to join me in support of this important legislation.●

FREEZE VICTORY IN WISCONSIN

● Mr. KENNEDY. Mr. President, I would like to bring the attention of my colleagues to the overwhelming victory that was won by supporters of the nuclear freeze in the State of Wisconsin on September 14, 1982. The nuclear freeze was on the State ballot in yesterday's primary election in Wisconsin, and it won by a resounding 76 percent. In addition, many analysts have attributed yesterday's record high turnout of primary voters in Madison and Milwaukee to widespread support of the nuclear freeze.

Yesterday's vote was truly an historic achievement, a major milestone in the nationwide grassroots campaign to prevent nuclear war. Over the past year hundreds of town meetings, city councils, and State legislatures have added their voices to the nationwide call to halt the nuclear arms race. This popular demand for a freeze has produced referendums on seven different State ballots for the 1982 fall elections. Aside from Wisconsin, freeze referendums will be on the ballot in Arizona, California, New Jersey, Rhode Island, Oregon, Michigan, and Montana. The nuclear weapons freeze will also be on the ballot of the District of Columbia and in over 15 cities and counties across the United States. In all, over one-quarter of the American population will be considering freeze resolutions in this fall's elections.

Yesterday the people of Wisconsin sent a message to Washington and to the world: Enough is enough! Stop the nuclear arms race before it stops the human race. In November, the message will be heard even louder and more clearly.●

MOSCOW HELSINKI GROUP DISBANDS

● Mr. LEVIN. Mr. President, last week on Wednesday, September 8, we received the disturbing and disheartening news that the Moscow Helsinki Group had been forced to disband.

The disbandment marks an end to 6 years of diligent and courageous efforts to monitor human rights transgressions in the Soviet Union. The self-styled "Public Group to Promote Observance of the Helsinki Agreements in the U.S.S.R." was founded by Yuri Orlov in May 1976, just 10 months after the signing of the Helsinki Final Act. In the late 1970's, the group was in its prime. It spearheaded a focused and well-orchestrated campaign to follow and report violations of the human rights provisions of the Helsinki accords and it provided the West with 194 documents detailing their findings.

But almost from the beginning, Soviet authorities waged a war of attrition against the tiny band of 17 dissidents. In 1978, Yuri Orlov was sentenced to 7 years in a labor camp and 5 years in internal exile. Many others, including Anatoly Shcharansky and Vladimir Slepak, are now serving terms in labor camps or internal exile. The systematic punitive measures taken by the Soviets whittled away at the group until they were reduced to only three active members, Yelena Bonner, Andrei Sakharov's wife, Naum Meiman, a 70-year-old physicist barred from emigrating, and Sofia Kalistratova, a retired 75-year-old lawyer. The war was expanded to the satellite groups in the Soviet republics of Armenia, Georgia, Lithuania, and the Ukraine where most members have been jailed.

The Soviets inflicted the final assault last Monday, September 6, when the KGB threatened to prosecute Sofia Kalistratova for "circulation of fabrications * * * which defame the Soviet state and social system." That threat coupled with threats of doubling the sentences of imprisoned members forced Ms. Bonner to issue the group's final statement, Document 195, which announced the disbandment. Document 195 concludes with the explanation, "In these circumstances the group cannot fulfill the duties it assumed, and under the pressure of the authorities is obliged to terminate its work."

I am genuinely saddened to see this handful of exceptional individuals wrested away from their human rights objectives. That they were able to persevere as long as they did is extraordinary and commendable. Monitoring a government known for its disrespect for human rights, and for its practices of persecution and repression, made their task especially difficult and dangerous.

History will remember the members of Moscow's Helsinki Group as valiant human rights activists who persisted in pursuing their goals in the face of tremendous adversity and who were able thereby to advance the cause of human rights.●

CARRIER ALERT PROGRAM

● Mr. PRYOR. Mr. President, I offer my praise to the U.S. Postal Service and the National Association of Letter Carriers for the initiation of the carrier alert program.

Under the carrier alert program, local sponsoring social service agencies such as the United Way, the Administration on Aging, and the American Red Cross will notify local post offices of customers who wish to participate in the program. The customer's letter carrier, in performing his or her daily rounds, will then be alerted to any unexplained accumulation of mail which might signify a sudden illness or accident. Through locally developed procedures, the incidence of accumulation of mail will be reported to the local social service agency for appropriate followup.

An outstanding feature of "Carrier Alert" is that it is an all volunteer program. It is also a natural extension of the care which individual letter carriers traditionally have displayed to their customers—not in just the delivery of their mail—but in their concern for their well-being. I am certain we all have heard stories of letter carriers risking their lives to save the lives of others—to save a child in a blazing building, to rescue a drowning swimmer, to provide first aid to a victim of an automobile accident. Over the years thousands of letter carriers have performed such tasks. This program will be a joint effort of management and labor of the U.S. Postal Service to maximize the positive effects of such Good Samaritan acts.

Mr. President, this nationwide effort which will engage our mail carriers in this truly humanitarian and public spirited effort comes at a most noteworthy period in our history. It is a time when America's population, 60 years and over, is increasing by three-

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fourths of a million persons every 12 months. While their number is increasing by leaps and bounds, the longevity of such aged individuals is increasing as well. Carrier Alert is especially meaningful in that its target group is the elderly and the handicapped who are homebound.

Persons of advanced age are more likely to be in poor health or unable to fully cope with some daily activities. Many of these individuals also live their lives in oppressive loneliness. People age 65 and over who are living alone in their own homes number well above 7 million, and 80 percent of them are women. Over half of these elderly are over the age of 75, and of the women living alone 80 percent are widowed.

To these homebound elderly people and to the handicapped of all ages, Carrier Alert will bring some degree of reassurance into their lives, as well as a comforting sense of not being all alone.

Mr. President, I wish the U.S. Postal Service and the National Letter Carriers success in this undertaking and I ask my colleagues to join with me in commending them for their effort.●

ORDER FOR RECOGNITION OF SENATOR NUNN TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after recognition of the two leaders under the standing order tomorrow, the Senator from Georgia (Mr. NUNN) be recognized on special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFIRMATION OF NOMINATION OF HERBERT M. RUTHERFORD III

Mr. WARNER. Mr. President, I rise in support of the President's nomination of Herbert M. Rutherford III, to serve as the U.S. marshal for the eastern district of Virginia.

Mr. Rutherford, who is now serving as a deputy U.S. marshal, stood high among the several persons recommended to the President.

He has a proven record of accomplishments in law enforcement and personal security—an essential requirement for this important post. In his military service, Herb served in the Military Police Corps; later he was selected to be an adviser to the National Police Field Force.

A graduate of the FBI Academy, he has served as deputy marshal for the District of Columbia and as an inspector for the Fourth Judicial Circuit in Richmond, Va. Deputy Rutherford previously served as the chief deputy marshal for the northern district of Ohio and currently is the chief deputy marshal for the district of New Jersey.

Herbert Rutherford has specialized training in hostage negotiations, gambling technology, judicial security, and special operations group training.

He is a family man with roots in Virginia through his marriage.

Deputy Marshal Rutherford's record of experience and performance make him an outstanding candidate for the position of U.S. marshal. I urge my colleagues to support this nomination.

Mr. BAKER. Mr. President, I see no other Senator seeking recognition.

May I inquire of the minority leader if he has any further business to transact?

Mr. ROBERT C. BYRD. Mr. President, I have nothing. I thank the distinguished majority leader for his customary courtesy.

Mr. BAKER. Mr. President, I have one further matter.

ORDER EXTENDING TIME FOR BUDGET COMMITTEE TO REPORT SENATE RESOLUTION 447

Mr. BAKER. Mr. President, I ask unanimous consent that the Budget Committee have until the close of business tomorrow to report Senate Resolution 447.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 6:01 p.m., the Senate recessed until tomorrow, Thursday, September 16, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 15, 1982:

DEPARTMENT OF STATE

Richard T. McCormack, of the District of Columbia, to be an Assistant Secretary of State, vice Robert D. Hormats, resigned.

Everett Ellis Briggs, of Maine, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

UNITED NATIONS

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 37th session of the General Assembly of the United Nations:

Representatives:

Kenneth L. Adelman, of Virgina.

J. Bennett Johnston, U.S. Senator from the State of Louisiana.

Robert W. Kasten, Jr., U.S. Senator from the State of Wisconsin.

Jeane J. Kirkpatrick, of Maryland.

John Davis Lodge, of Connecticut.

Alternate Representatives:

Charles M. Lichenstein, of the District of Columbia.

Gordon C. Luce, of California.

Hernan Padilla, of Puerto Rico

William Courtney Sherman, of Virginia.

Jose S. Sorzano, of Virginia.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 26th session of the General Conference of the International Atomic Energy Agency:

Representative:

W. Kenneth Davis, of California.

Alternate Representatives:

Richard T. Kennedy, of the District of Columbia.

Roger Kirk, of the District of Columbia.

Thomas Morgan Roberts, of the District of Columbia.

PANAMA CANAL COMMISSION

Stephen W. Bosworth, of Michigan, to be a Member of the Board of the Panama Canal Commission, vice John Alden Bushnell.

IN THE AIR FORCE

The following Air National Guard of the U.S. officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Carl L. Batton, 249-64-2018
Maj. Barry H. Bauer, 546-62-2256
Maj. Eugene R. Chojnacki, 155-34-3930
Maj. Walter F. Clabuesch, 371-38-8505
Maj. John T. Culverhouse, Jr., 417-38-2456
Maj. Robert F. Delanoy, 061-36-2942
Maj. Michael Fevola, 143-28-8468
Maj. Harold L. Johnson, 233-60-5529
Maj. William S. Lucido, 564-60-1134
Maj. Reginald A. Pinson, 246-62-8543
Maj. Joseph W. Raymond, 006-42-1055
Maj. Roy G. Stuckey, 562-56-4388
Maj. Michael H. Tice, 575-42-0214
Maj. James L. Zambo, 171-34-0805

LEGAL

Maj. Jerrold L. Nye, 367-44-9891

IN THE ARMY

The following-named officers for promotion in the U.S. Army, under the provisions of title 10, United States Code, section 624:

ARMY

To be colonel

Duff, John A., 518-44-9471
James, Robert B., 263-52-0217
Quinn, Richard L., 535-30-7468

MEDICAL CORPS

To be colonel

Warrender, Charles L., 509-30-0737

ARMY

To be lieutenant colonel

Grant, Thomas A., 454-66-7521
Holland, Jerald C., 459-70-6280
Huchun, Kim, 475-44-9097
Lee, Frederick W., 300-36-3683

MEDICAL CORPS

To be lieutenant colonel

Abesamisroy, Concepcion M., 023-40-3478
Albaugh, Jeffrey S., 534-46-3061
Alexander, Mark V., 294-42-6308
Almarashi, Murtadha S., 141-50-2713
Alving, Barbara M., 311-50-0525
Anderson, James H., Jr., 435-76-2245
Auer, Thomas H., 489-58-4502
Baddour, Ruby T., 299-48-2925
Bain, Michael W., 539-48-0461

Baker, Frank J., 448-44-2123
Baldwin, Wade D., 444-34-3311
Baswell, Bonnie J., 121-34-8691
Batson, Pascal G., III, 264-82-9723
Bawa, Sumitra L., 260-86-4483
Belandres, Corlett P., 133-44-8281
Berman, Jonathan D, 083-38-2322
Biggers, Jackson A., 463-72-0297
Black, Jeffrey L., 022-30-5411
Blakeslee, Don B., 352-36-3170
Bloom, David A., 096-38-3450
Board, Robert J., 225-66-5719
Bomberger, James J., 351-40-5423
Boslego, John W., 202-36-9767
Brammer, Robert E., 289-48-6960
Brantner, Jim N., 535-42-4165
Brennan, Michael W., 398-42-5499
Brewer, Thomas G., 521-68-4369
Brigham, Robert A., 382-50-4576
Brown, David L., 417-68-9267
Brown, James E., 411-76-5174
Brown, James S., 520-54-9241
Brown, John H., 208-38-8136
Bunkersoler, Antonio L., 583-22-4409
Burton, Bernard A., 507-58-1410
Calvert, William E., 428-76-5359
Carpenter, Gary B., 497-52-6423
Chang, Mark J., 219-70-4912
Charya, Raghava V., 367-64-4991
Cheatham, Wayman W., 199-36-8576
Cho, Moo H., 356-56-0379
Chung, Raymond C., 490-54-7801
Chung, Youn K., 118-52-0847
Churchill, Frank E., Jr., 051-28-7905
Ciesla, William P., 072-30-7743
Clary, Richard M., 229-60-9762
Clayton, Miles G., 435-62-9634
Cobey, Elwood A., 220-42-4456
Coger, William A., 432-78-1264
Cludro, Enid A., 584-24-8106
Cooper, Ronald H., 552-64-6049
Cornell, Floyd M., 445-54-0413
Craig, William E., 511-52-9283
Damore, Stuart, 293-44-1222
David, Cecily M., 117-48-6232
Deal, Terry D., 513-48-6503
Deal, Virgil T., 415-84-2853
DeCastro, Susan R., 172-46-6800
Deutsch, Anthony J., 226-58-4489
Dhru, Rekha D., 077-52-2003
Diallo, Thierno A., 113-50-8415
Dorn, Ronald V., III, 585-32-3739
Durant, William P., 438-76-8798
Fall, Stephen M., 553-68-6805
Farmer, Kenneth L., Jr., 419-72-7072
Faucher, Paul G., 373-44-4046
Fay, Michael J., 521-58-6714
Ferraris, Victor A., 211-32-6967
Fill, William L., 351-38-2031
Flynn, Mary M., 476-42-0446
Fortner, Bryant R., Jr., 530-26-1499
Frank, Charles G., 188-38-6301
Freeman, Sharon D., 429-96-9686
Freeman, Stephen R., 522-60-1989
Gandy, Charles L., III, 562-74-0779
Gattis, Bruce W., 217-32-2687
Gentry, Richard H., 247-82-6702
George, Robert J., 416-72-3661
Gold, Lewis F., 463-82-6061
Golden, Barbara J., 507-64-5720
Greenhill, Andrew H., 081-36-5730
Grimwood, Ronald E., Jr., 276-48-0114
Gumbiner, Carl H., 321-42-4412
Hadley, Phillip E., 265-80-3010
Hales, Robert E., 345-42-4562
Hassan, Farhana, 318-58-7421
Hector, Richard E., 546-74-1035
Heifetz, Stephen A., 134-38-5330
Hendricks, John C., 483-52-6787
Herman, Stephen M., 054-34-3180
Hernando, Ernesto C., 082-44-5857
Hill, Marvin E., III, 410-86-3781
Hiller, Durell A., III, 436-80-3308
Hoke, Charles H., Jr., 046-36-1606
Holcomb, John R., 461-68-7044
Horne, Daniel W., III, 260-72-8015
Hwang, Richard J., 366-70-9360
Hwang, Yinnan, 127-52-8623
Ie, Sing O., 470-72-3601
Iyengar, Vasundhara G., 139-52-9947
Jarchow, Robert C., 358-42-9800
Jirka, John H., 508-58-6745
Joseph, Allen S., 435-80-6618
Keiser, John F., Jr., 014-38-2838
Keisler, David S., Jr., 483-56-0873
Kenevan, Robert J., 473-50-8904
Kim, Sae K., 139-56-2172
Kim, Solveiga A., 282-36-4982
Kirchner, Donald B., 192-40-4672
Koerper, Conrad E., III, 451-66-9473
Krauze, Maria E., 108-44-1150
Leinbach, Conwell B., 195-30-9869
Leonard, Tommy, Jr., 256-70-3289
Lesueur, Leo M., 526-70-4322
Lewis, Sterling F., 216-46-4562
Lord, Jonathan G., 353-34-5882
Lum, Wayland T., 575-52-8886
Lundy, Michael M., 585-16-0005
Maddox, John L., Jr., 254-78-0093
Mader, Thomas H., 561-68-7485
Mandojana, Ricardo M., 575-76-7627
Marinelli, Philip V., 279-46-4313
Martin, Norman J., 125-36-9000
Martinez, Colon M., 583-12-3201
Massenburg, Jerome D., 238-70-2525
McCarthy, John T., 073-32-8100
McClain, John B., 219-50-1090
McNeill, Kevin M., 425-90-2862
Medina, Carlos A., 105-50-7075
Mein, Calvin E., 509-52-1766
Melquiades, Felicidad G., 025-46-7319
Mentzer, Robert M., Jr., 505-56-1285
Mician, Miloslava, 262-13-5923
Moffitt, Donald R., 521-64-0640
Moser, Richard P., Jr., 212-50-1251
Moses, Charles R., 465-80-5161
Naik, Dolatrai G., 148-54-8709
Newman, Forest P., III, 238-78-0361
O'Connor, Dennis M., 219-50-5994
Olson, David W., 193-38-1564
Omdahl, Nicholas S., 398-46-7555
O'Meara, Thomas F., 136-38-7277
Ordonez, Marylin P., 321-84-2304
Ownbey, James L., 458-72-0607
Ozimek, Carl D., 156-38-3029
Pagadala, Sumanth, 262-27-0109
Pangaro, Louis N., 137-40-3005
Piskun, Mary A., 576-50-7757
Plowman, Kent M., 404-54-8829
Posey, David M., 503-50-7550
Potter, Allen R., 527-68-3178
Prabha, Chandra A., 031-46-2237
Quispe, Guillermo, 036-40-1928
Rajashekhar, Tarikere P., 206-42-8673
Ramirez, Rosa E., 583-42-3762
Rebecca, George S., 148-40-7485
Reddy, Vishnu V., 139-56-9079
Reed, Kendall, 463-80-6403
Reeves, Ronald L., 408-68-6041
Restuccia, Robert D., 151-38-4799
Reuben, Leedell, 421-56-7420
Roberts, David A., 524-68-2385
Roberts, Herbert R., 072-38-9659
Ronquillo, Aida P., 354-50-4199
Ryan, John B., 016-36-5950
Schroeder, David E., 225-64-5798
Schultz, Terry K., 330-30-5580
Sepulvedaserra, Rene A., 582-98-4861
Shade, Ronnie D., 511-46-1321
Shropshire, Lowry C., 224-66-9140
Sikes, Randall A., 254-70-4612
Sim, Thelma H., 152-40-1993
Simon, Fred A., Jr., 354-40-9060
Soden, Cylburn E., 212-46-0031
Soriano, Myrna T., 084-48-6207
Sprague, Thomas H., 160-36-4049
Sullivan, Cornelius J., 076-36-7822
Taylor, Thomas J., 086-28-9754
Terebelo, Howard R., 364-50-4605
Theocheung, Joseph L., 565-88-6113
Theodule, Jean A., 059-42-4108
Thompson, Albert M., Jr., 448-42-9156
Timboe, Harold L., 569-58-9807
Tomaszewski, Maria M., 117-42-9876
Toon, Robert D., 323-40-1668
Vaughan, George M., 459-68-4455
Via, Charles S., 225-66-9246
Viswanathan, Uma P., 280-72-2914
Vordermark, Jonathan S., II, 228-72-4910
Wallace, Roger L., 450-72-9744
Watson, Thomas D., 264-84-1769
Weisman, Leonard E., 141-38-4234
Welton, Richard C., 042-42-8178
West, Walter C., Jr., 579-64-5763
Wickham, Lawrence K., 566-70-9949
Wiesmann, William P., 281-40-4661
Wilcox, Carver G., 532-44-6445
Wilson, Frank P., Jr., 462-76-9935
Wong, York Y., 287-56-3511
Wortham, Dale C., 448-48-7975
Wright, Alvin J., 512-50-7215
Wright, Homer J., 423-58-7700
Wright, John C., 465-84-5928
Young, Robert N., 452-84-3374
Yurt, Roger W., 261-76-6001
Zachariah, Elizabeth K., 576-74-4486
Zumbrun, Stephen R., 311-44-6282

DENTAL CORPS

To be lieutenant colonel

Allen, Andrew J., 460-66-4314
Angel, Elliot E., 061-42-2458
Barrowes, Kendall J., 528-60-4110
Blocker, Sloan W., 570-78-7786
Calabria, Robert D., 177-32-4515
Carleton, Ardenne S., 086-36-7005
Cecic, Peter A., 144-40-5997
Chilton, Craig A., 535-50-6774
Christensen, Loren C., 468-50-3400
Corbin, William R., 308-46-5499
Craemer, Timothy D., 277-42-8935
Davis, Richard C., 294-44-6792
Deboer, James, 508-58-7772
Doleac, Philbert C., Jr., 452-82-0965
Donley, Dennis L., 490-54-3824
Donovan, Michael G., 469-54-9123
Erley, Clyde J., 518-50-5172
Fowler, Kenneth E., 257-68-8401
Galloway, Robert H., 505-56-1931
Gangemi, Joseph A., 027-36-6520
Gordon, Mark R., 268-48-2069
Griffin, Jerre M., 577-66-3404
Hanover, Robert B., Jr., 215-50-2839
Hixson, Mark E., 342-42-9122
Hobbs, Timothy J., 133-40-2327
Hogan, Donald W., 182-38-5275
Hopkins, Truman A., II, 247-84-4577
Ingram, Timothy A., III, 561-78-0645
Johnson, Mark H., 242-76-9945
Keller, Robert L., 214-52-7026
Keller, Dean B., 496-52-1095
Kessler, Harvey P., 220-52-7255
Knights, Edward M., 196-34-2988
Kordulak, John L., 227-64-0214
Kulikowski, Bogdan M., 147-38-8444
Kulild, James C., 499-50-1006
Lalumandier, James A., 055-38-7118
Leonard, John R., 528-58-5267
Luebke, Robert J., 481-54-3059
Lynch, Thomas J., 550-70-8345
McLaughlin, John P., 198-38-3673
Miller, Loman E., 458-84-3611
Pardoe, James D., II, 174-40-3639
Pawlusiak, Joseph J., 009-38-7080
Quinones, Edgardo E., 584-38-4891
Richardson, Douglas D., 268-48-0766
Salomone, John L., 041-34-4083
Shields, Walter D., 234-76-1693
Singer, Michael T., 442-50-0883
Stonerock, Robert L., 507-64-0463
Swords, Robert L., 410-68-1872
Todd, Stephen J., 529-68-7287

Washington, Charles H., Jr., 151-32-0509
Wilson, James T., Jr., 525-92-8775

MEDICAL SERVICE CORPS

To be lieutenant colonel

Aldridge, Ronald G., 377-44-0149
Allemond, Pierre, 434-66-8825
Andrews, Kenneth G., 432-80-5370
Austin, Henry M., III, 440-44-9176
Beckey, Andrew D., 453-64-0266
Bell, John W., 446-42-3822
Bentz, Curtis L., 504-50-9601
Bertsch, Marvin L., 504-50-9601
Bland, Edward C., Jr., 585-10-6952
Bogue, Ronald A., 533-40-7033
Bolyard, Marshall K., 075-38-0215
Bories, Robert F., Jr., 217-44-7864
Bosworth, Anthony B., 444-46-9343
Brandes, Bruce D., 358-34-9453
Brown, Roger L., 526-52-6126
Bryan, Roy A., Jr., 466-66-4457
Burney, James R., 211-30-3918
Butke, Kenneth P., 272-36-3347
Carano, James C., 512-42-0748
Carp, Matthew B., 470-50-3216
Cavis, Charles A., 383-40-3604
Channing, Eugene S., 108-40-8493
Churchill, Charles W., 506-54-8477
Clyde, William D., Jr., 288-38-3793
Cook, David R., Jr., 509-40-8619
Devine, Jerry P., 486-46-3446
Dievendorf, Lynn A., 051-34-7725
Donahue, Richard I., 018-34-3181
Dunn, John D., 256-66-1884
Edgette, Peter J., 110-30-0623
Eisenberg, George H., 023-30-4333
Elmore, James H., Jr., 250-82-1759
Enloe, Edmond J., Jr., 435-60-0842
Evans, Otis D., 463-68-9508
Fields, Boyce, Jr., 248-70-6199
Finical, William D., 434-68-1265
Fitzgerald, David M., 066-32-7729
Fleming, Jerry M., 288-34-6413
Foster, James M., 155-30-3130
Fox, Richard L., 284-40-7559
Fritsch, Robert G., 403-54-5454
Fulbright, Larry R., 454-62-2275
Gaston, Gary W., 428-88-7933
Griffin, Bruce N., 224-64-3967
Hammack, Dan E., 554-50-5782
Hartley, William R., 238-66-2128
Haynes, Gladys R., 414-68-6145
Higbee, James W., 565-42-7430
Higgins, Walter E., 462-68-9927
Hill, Mack C., 265-60-7091
Hueter, Harvey H., 463-64-4760
Irish, Arthur S., II, 565-58-1112
Jackson, David C., 494-48-1042
Jewell, John S., 453-72-5350
Johnson, Carl W., 440-46-9257
Johnson, Dennis H., 517-46-9815
Johnson, Henry C., Jr., 247-68-6164
Johnson, Nicki L., 466-66-2374
Jones, Larry L., 444-40-3603
Jordan, Charles F., 232-66-6035
Keller, Larry J., 437-66-3810
Keller, Lucien F., Jr., 253-74-5632
Kelly, Dennis M., 555-58-5019
Ketterling, Lyle L., 502-44-2804
Klugman, Peter J., 101-32-6959
Knodel, Stewart E., 308-44-6701
Langan, John J., 189-34-2878
Lawson, Marvin A., 188-34-9299
Leavitt, Ronald N., 559-56-1592
Lock, John L., 196-32-6880
Mararevich, Robert, 190-30-0367
Makela, Glenn R., 553-64-4412
Manning, Frederick J., 032-32-2090
Martin, James A., Jr., 270-32-1349
Massey, Tommie R., 426-76-2155
McAdams, Spurgeon A., 266-60-9320
McAuley, Robert J., Jr., 135-36-7793
McCrary, Thomas M., 306-46-3998
McIntire, Jon C., 516-48-5283
Mertel, Paul T., Jr., 417-58-1809
Meyer, Dennis E., 516-48-9014
Meyer, Michael P., 523-56-7280
Michels, George N., 556-56-8137
Moa, James A., 536-40-3158
Moro, Kenneth S., 504-30-5660
Morris, Arnold E., 007-40-2542
Murphy, Robert F., 503-52-9349
Neptune, Calvin, III, 515-36-3970
Oaks, Stanley C., Jr., 526-72-8545
Odum, David J., 262-64-3017
Polk, Anthony J., 434-54-7779
Pollok, James L., 244-70-0031
Reichard, Douglas W., 392-40-9633
Sawallesh, Robert F., 230-48-7832
Sexton, Michael L., 548-62-3319
Sherman, Vincent R., 534-38-3752
Shoberg, John D., 266-66-9705
Skeistaitis, Walter J., 443-44-7421
Slayton, Jack R., 551-58-6160
Smullen, Melvin G., 221-28-2366
Stahl, William T., 365-44-7758
Stockand, David B., 532-44-4781
Stratta, James M., 100-34-9063
Straus, Milo A., 397-40-2875
Strobel, Fred H., 048-32-3203
Thoresen, Robert J., 394-42-6532
Todd, Michael H., 560-54-2121
Torba, Gerald M., 290-40-7849
Tudor, James H., III, 157-30-2245
Turner, Jeff R., 248-74-3801
Underwood, Cone S., 256-66-2672
Vallery, James F., 245-74-8551
Vavra, Robert W., Jr., 227-60-1760
Vinci, James D., Jr., 434-62-2537
Vinson, William W., 259-66-0133
VonBredow, Jurgen K., 390-38-3127
Warren, Stephen F., 230-54-4178
Wiener, Michael L., 215-40-6496

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Ashley, Robert L., 505-38-0598
Bartlett, Jo A., 245-66-4380
Begg, Irene, 183-36-4194
Bridenstine, Mary W., 560-68-1344
Chee, Francis K., 575-44-2862
Cooke, Annetta J., 466-72-3652
Dewton, Ruth E., 151-28-4872
Domyslawski, Raymond F., 163-34-1712
Fisher, Robert A., 296-42-2902
Goodwin, William L., Jr., 249-76-7017
Jesse, Norris F., II, 508-54-1525
Jones, Thomas D., Jr., 158-34-9980
Martino, Louis A., 233-64-5739
McKennett, Dorothy F., 501-44-4116
Mills, James L., Jr., 075-34-5248
Reardon, John C., 379-48-3699
Riggan, Judith S., 491-50-7038
Schlecker, Barbara A., 531-44-7906
Shirlen, Margaret L., 240-54-9889
Stevens, Douglas L., 507-52-6429
Sweeney, Jane K., 563-58-2410
Zelley, Diane P., 532-46-4669

VETERINARY CORPS

To be lieutenant colonel

Antosh, Thomas F., 453-82-8893
Bruestle, Larry W., 289-30-7445
Byrum, James W., Jr., 238-68-8178
Callis, Robert T., 579-58-3776
Carlisle, Eddie L., 422-46-2725
Elmore, James D., 462-82-3207
Helm, Frederick L., 512-44-7797
Kelch, William J., 385-44-6936
Ridder, William E., 283-38-6304
Smith, Thomas M., 282-40-3979
Thomas, Patrick V., 402-50-0041
Wall, Henry G., Jr., 266-74-1458
Zotter, Jon G., 040-36-3841

ARMY NURSE CORPS

To be lieutenant colonel

Adams, Nancy R., 055-36-4217
Anthony, Jerry L., 440-38-3691
Asuncion, Erlinda D., 145-50-1361
Babson, Beverly R., 007-40-8011
Bohner, David C., 170-34-8629
Bowlyow, Ronald G., 352-34-7080
Bradley, Barbara L., 462-74-5459
Cline, Margaret E., 271-42-8979
Coletti, Anthony E., 044-32-2943
Conrad, Barbara J., 394-40-2162
Cook, Thomas E., 437-62-3374
Corcoran, Diane K., 091-36-7329
Cox, Janice M., 305-42-9730
Cyganiewicz, Susan G., 032-34-5774
Darcy, Darlene E., 316-36-3812
Dayton, Lorraine M., 138-38-0887
Deisering, Leon F., 074-32-1366
Dollander, Lowell T., 477-50-7893
Domalik, Walter A., 180-28-3644
Drummond, William F., 135-34-5182
Eberlin, Lawrence J., 487-46-8726
Evans, John M., Jr., 211-32-7534
Farineau, Paul F., 010-32-9523
Fox, Charlotte A., 178-36-5401
Fulps, Joyce A., 492-44-6061
Giffin, Kenneth S., 299-38-8272
Godfrey, Edith M., 420-54-2081
Gracey, Adeline P., 412-88-4064
Graham, Janet V., 546-64-7398
Greenlee, Beverly A., 450-76-9138
Grenon, David K., 015-28-9459
Gumbert, Georgiana L., 576-52-2222
Gunnell, Kenneth M., Jr., 415-70-4857
Gwaltney, Mary K., 117-34-0339
Hadersbeck, Rita E., 094-38-0887
Hardaway, Russell G., 490-80-2632
Haugen, Mary K., 200-34-1251
Hawkins, Richard D., 285-44-5078
Hoagland, Gretchen M., 567-58-2526
Houser, Oscar S., Jr., 414-60-5746
Hurtado, Norma J., 506-54-3155
Johnston, Amy L., 332-34-6102
Kelly, Marjorie M., 277-34-7015
Kennedy, Terris E., 267-74-2119
Knight, Frazier L., 416-58-2171
Larkin, Jude O., 070-36-8296
Lawyer, Robert A., 131-34-2700
Lay, Hal R., 509-38-1206
Lockett, Mildred O., 245-62-9832
Lowe, Marilyn M., 482-52-1934
Markarian, Clement J., 012-34-5546
McGookin, Deanna, 527-58-6992
McGwin, Sharon M., 270-40-1974
McMarlin, Susan A., 462-72-6772
Miller, Thomas E., 410-70-6311
Mills, Helen M., 197-36-7817
Morgan, Barbara A., 269-36-5330
Moss, Larry W., 504-50-8393
Motta, Susan C., 526-78-9923
Pack, John T., 264-36-4506
Poduszczak, Edward S., 148-30-8995
Ray, Karen L., 148-40-7894
Richie, Sharon I., 185-40-5659
Roberts, Jerry R., 448-42-6714
Rogers, Joan K., 237-66-2359
Ryan, Louise M., 324-34-1160
Schiffner, Lois A., 072-30-7196
Sekiguchi, June, 562-52-7047
Showman, Lonnie J., 414-64-1453
Silvani, Maria A., 135-36-0512
Simons, Clifford M., 253-66-0125
Sims, Billie D., 460-40-1297
Smith, Mary E., 189-30-5979
Spencer, Joanne M., 017-34-0035
Stabingas, Sandra F., 164-38-4456
Staton, Dora J., 361-26-1242
Sweat, Nancy R., 479-44-2731
Tassinari, Anthony D., 015-32-8456
Temo, James M., 177-36-1939
Thompson, Janet R., 514-48-5014
Touron, Francis L., 072-36-9959
Tranel, David A., 485-60-1553
Travis, Jacklyn G., 253-74-4610
Vanatta, Jo E., 342-38-9208
Weigum, Larry M., 502-44-3918
Wieczorek, Lucie S., 435-54-8777
Williams, Bertha L., 494-36-1495

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Yaryan, Barbara E., 307-32-4955
Zadzora, Timothy P., 162-32-1325
Zarnik, Paulette L., 176-38-3909
Zuber, Darlene R., 505-58-4150

ARMY

To be major

Cantolupo, Louis P., 061-36-6043
Caruso, John J., 027-36-7902
Frament, Eugene P., 086-36-7439
Hill, Charles H., III, 161-36-5465
King, Wayne E., 467-68-9321
Smallwood, Frank S., 266-72-5743

CHAPLAIN CORPS

To be major

Demma, Gregory J., 158-34-0490

MEDICAL CORPS

To be major

Brawner, John C., 223-70-1998
Chavala, Sudarsan, 045-66-5451
Olazabal, Raul P., 264-70-1958
Skurdal, David N., 502-50-2335
Snyder, James A., Jr., 505-66-4956

MEDICAL SERVICE CORPS

To be major

Draper, Lawrence E., 527-82-0482
Krol, Stanley M., 167-34-6507

CONFIRMATIONS

Executive nominations confirmed by the Senate September 15, 1982:

PANAMA CANAL COMMISSION

Andrew E. Gibson, of New Jersey, to be a Member of the Board of the Panama Canal Commission.

William W. Watkin, Jr., of New Jersey, to be a Member of the Board of the Panama Canal Commission.

DEPARTMENT OF JUSTICE

Edward R. Camacho, of Guam, to be U.S. Marshal for the District of Guam for a term of 4 years.

Max E. Wilson, of North Carolina, to be U.S. Marshal for the western district of North Carolina for the term of 4 years.

Herbert M. Rutherford III, of New Jersey, to be U.S. Marshal for the eastern district of Virginia for the term of 4 years.

IN THE AIR FORCE

Maj. Gen. William E. Brown, Jr., 137-22-1897FR, U.S. Air Force, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601, in the grade of lieutenant general.

The following officers for appointment in the U.S. Air Force to the grade of brigadier general, under the provisions of chapter 36, title 10 of the United States Code:

Col. Diann A. Hale, 571-44-9381FR, Regular Air Force, Nurse Corps.

Col. Arthur J. Sachsel, 158-18-5115FR, Regular Air Force, Dental Corps.

IN THE AIR FORCE

Air Force nominations beginning James E. Albin, and ending James H. Young, with nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

Air Force nominations beginning David S. Bowles, and Ending Mark A. Roth, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

Air Force nominations beginning David S. Bowles, and ending Mark A. Roth, which nominations were received by the Senate on August 31, 1982, and appeared in the Congressional Record of September 8, 1982.

Air Force nominations beginning Gregory J. Aaron, and ending James H. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

IN THE MARINE CORPS

Marine Corps nominations beginning James C. Adamson, and ending Walter R. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

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HOUSE OF REPRESENTATIVES—*Wednesday, September 15, 1982*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. Foley).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, D.C.,
September 15, 1982.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on this day.

Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives.

PRAYER

The Most Reverend Andrew G. Grutka, Bishop, Diocese of Gary, Gary, Ind., offered the following prayer:

It was your confrere, Adam Benjamin of northwest Indiana, who arranged for my prayerful presence here today. He earnestly looked forward to being present at this invocation. His sudden departure for the haven of souls forever vetoed all his plans along with this one.

Adam is now in the presence of Him whose flawless way of legislating will make Adam glow with everlasting delight. We who knew Adam, the indefatigable, can be sure that Adam will keep finding ways to focus the favorable attention of the Lord upon all his congressional constituents, his House confreres, his Hoosier State, and national projects, and especially on his beloved family.

If Adam were permitted to address us now as a messenger from the haven of souls, he would emphatically plead that his confreres allow the Lord, God, to anticipate their plans and deliberations with His divine inspiration and further them with the brightness of His wisdom along with the power of His grace.

Adam's own religious orthodoxy, now divinely enlightened, would prompt him to voice a thunderous agreement to the following words and sentiments:

Father, Creator of unfailing light, let that light shine through these Members of Congress. Let their voices resound with praises of You; let their lives proclaim Your goodness and their accomplishments give You honor.

Considerate Lord, You have favored our Nation like no other. In grateful response let it earnestly seek to be friendly with all other nations and ever strive to be kind and benevolent, even to nations that may sorely try it.

Merciful God, our country and many other countries are presently in a state of considerable imbalance and in need of an equilibrium—one that demands incentives, examples, and stabilizations.

Grant, O Lord, the Members of Congress, the patience, prudence, and perseverance to bring about this equilibrium.

Let the reechoing of our recitation of "one Nation under God" and "the Land of the Free and the Home of the Brave" bring us all closer to each other and ever nearer and dearer to God. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PETRI. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 305, nays 19, answered "present" 5, not voting 103, as follows:

[Roll No. 320]

YEAS—305

Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burton, Phillip
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conte
Corcoran
Coyne, James
Coyne, William
Craig
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derwinski
Dicks
Dingell
Dorgan
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gradison
Gramm
Green
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
Mica
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
O'Brien
Oakar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rinaldo
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Russo
Sawyer
Scheuer
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stark
Staton
Stenholm
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yatron
Young (FL)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

NAYS—19

Barnes
Clay
Dickinson
Evans (IA)
Fields
Gejdenson
Goodling
Harkin
Jacobs
Johnston
Luken
Miller (OH)
Mitchell (MD)
Roemer
Sabo
Schroeder
Walker
Washington
Yates

ANSWERED "PRESENT"—5

Collins (IL)
Derrick
Hawkins
Oberstar
Ottinger

NOT VOTING—103

Addabbo
Akaka
Applegate
Bafalis
Bingham
Blanchard
Bolling
Bouquard
Brooks
Brown (OH)
Burgener
Burton, John
Butler
Byron
Campbell
Carman
Carney
Chappell
Chisholm
Collins (TX)
Conable
Conyers
Coughlin
Courter
Crane, Daniel
Crockett
D'Amours
Dellums
Dixon
Donnelly
Dougherty
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Ertel
Evans (GA)
Evans (IN)
Fithian
Ford (MI)
Forsythe
Fountain
Fowler
Fuqua
Garcia
Ginn
Goldwater
Gonzales
Gore
Gray
Gregg
Hansen (ID)
Heckler
Hillis
Ireland
Jeffords
Kemp
Lantos
Latta
Leach
Lee
Long (MD)
Lott
Markey
Marks
Martinez
Mattox
Mavroules
McClory
McKinney
Michel
Mikulski
Mitchell (NY)
Moffett
Nowak
Pepper
Pickle
Pritchard
Pursell
Reuss
Rhodes
Ritter
Roberts (SD)
Rosenthal
Roybal
Santini
Savage
Schneider
Skelton
Smith (AL)
Solomon
Stangeland
Stanton
Stokes
Thomas
Vander Jagt
Waxman
Weiss
Wylie
Young (AK)
Young (MO)
Zablocki
Zeferetti

□ 1015

Mr. HEFNER changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1710. An act to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5228. An act to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month."

THE MOST REVEREND ANDREW G. GRUTKA

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, our guest Chaplain today is the Most Reverend Andrew G. Grutka, bishop of Gary, Ind.

Mr. Speaker, much I would give not to be standing in this spot today. Our dearly departed colleague, ADAM BENJAMIN, had joyfully planned to be in this place at this moment to express his gratitude to the good bishop for coming here and opening the House with his prayer. But ADAM is not here today. He is in a much better place; he is in heaven.

Bishop Grutka recently celebrated his 25th anniversary in Gary. I can see ADAM's warm smile about this occasion.

The House of Representatives, I am sure, expresses its profound gratitude to Bishop Grutka for coming here at this important time in the emotional experience of this institution, and we thank him for his kindly prayer on behalf of our departed colleague.

THE PATENT TERM RESTORATION ACT

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, the Patent Term Restoration Act will be voted on later this morning, and it will insure the continued development of lifesaving and cost-effective medicines.

Unless we act, we can expect that research and development of new pharmaceutical and chemical products may dramatically fall.

Adjusted for inflation, pharmaceutical research as a percentage of sales fell almost 35 percent from 1966 to 1980. During the same period, the effective patent term, because of regulation, declined from 14.6 years to 7.4 years in 1980, and in 1981 to 6.8 years.

Mr. Speaker, I should also add—and you will not learn this from opponents of the bill—this bill is prospective only. It cannot affect old people or consumers next year or the year after. It applies to patents issued after adoption of the act for which there are 17 years. There is no way that it can possibly negatively impact—you can speculate it might one day—until the year 2000. Until the year 2000 might these patent terms prospectively, which are 17 years, and be then extended, could possibly affect anybody negatively. In the meantime, Mr. Speaker, we will have told the pharmaceutical companies that whether or not they make management decisions on new drugs, we will have at least held out the promise that they will have a little more adequate term patent protection. That is the purpose of the bill, and that is why, overwhelmingly, the Judiciary Committee reported it out. In fact, an even more stringent bill was unanimously voted on by the Senate.

CONDEMNATION OF VIOLENCE IN LEBANON

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, I join in condemning the tragic violence that occurred yesterday in the country of Lebanon. Violence anywhere in this world cannot be condoned. The events of yesterday in Lebanon and those who are responsible for killing President-elect Bashir Gemayel should be prosecuted to the fullest extent of the laws of Lebanon. We do not know who is responsible for that killing. We do not know whether it is a rival Christian faction, leftist Lebanese militias, Syrian forces, or whether it was other forces either within or from outside the country of Lebanon. No party to the fighting in Lebanon can be completely exonerated. Let us speak for peace among all factions within Lebanon. Whoever is to succeed President-elect Gemayel should be one who is able to be a moderating influence within the country of Lebanon, one who has not lived by violence in the past and one who is willing to lay down arms in an effort to talk with all factions within the country in order to rid that country of all outside foreign forces.

I have had the opportunity on many occasions over the last several years to have dinner and talk personally with President-elect Beshir Gemayel, his brother, Amin, and his father, Pierre. The latest such occasion came this past July 25 in Beirut upon my leading a delegation to the Mideast. Lengthy, personal conversation with the Gemayel brothers about Lebanese politics took place, as Beshir had just that day announced his candidacy for President of Lebanon.

To Beshir's wife and young family, to his brother, to his parents, and all his family and friends, I extend my sympathies.

PROMISES OF MODERATION IN THE MIDDLE EAST ARE FRAGILE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I too join my colleagues in mourning the untimely death by assassination of President Gemayel. I would like to

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point up that that death indicates a problem that has occurred in the Middle East time and time again.

When moderate leaders have stood up—in Lebanon and other places in the Middle East—they have been assassinated. Moderate Arab leaders on the West Bank have periodically been assassinated by terrorists. Recently, the homes of the very people who voted for President Gemayel in Parliament were bombed and the world watched. Then the President himself was assassinated.

This administration is asking Israel to make agreements and give up solid, tangible gains—territory, security, and protection—for verbal promises that come from some of these leaders. As yesterday's tragic incidents illustrate, those kinds of promises are fragile, indeed. It is a lesson for all of us to learn.

We cannot, we must not, push Israel into making certain kinds of commitments and giving up tangible things for fragile verbal promises.

CHANCES OF A PEACE TREATY BETWEEN ISRAEL AND LEBANON DASHED YESTERDAY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, just 23 days ago in the company of Congressmen Scheuer and McGrath I was on the streets of Beirut. It was a day of jubilance and a day of danger. The jubilance was because, for the first time, a President had been elected. For the first time, there was the beginning of a semblance to government in a nation that had not had a formal government in 7 years—a nation which had been controlled by the tyrannical PLO. The danger of that election day was created by endless volleys of gunfire from countless automatic weapons and hand grenades. The contrast was genuine—the new election evoking new hopes for peace—the ever-present specter of violence so much a part of Lebanon's troubled history.

The most unfortunate consequence of President Gemayel's assassination is we may have lost the opportunity for a peace treaty to be signed between Labanon and Israel—an event which would have been such an important foundation upon which to build a lasting peace in the Middle East. One can only hope that the successor to the President-elect will follow a course of action which will revive the prospects of peace between Lebanon and Israel.

All civilized people must condemn the murder of President Gemayel—snatched from life at the young age of 34. Violence as a means of achieving a goal is reprehensible and as I said after the murder of Lord Mountbatten—I can only hope that the perpetrators of this heinous crime should be prosecuted and required to pay with their own lives.

ASSASSINATION OF GEMAYEL A COWARDLY ACT

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, the assassination of Bashir Gemayel, whom I and Mr. Rahall and others met not too long ago, is indeed unfortunate. It is a cowardly act of violence which, of course, is never the answer. I extend my deepest sympathy to the family of Bashir Gemayel.

As yet, we do not know who the assassins were. I think it would be extremely wrong to jump to conclusions as to who killed the young President-elect. But let us hope that the people of Lebanon who have been exploited so much can unite behind a new leader.

Let us also hope that all foreign forces leave Lebanon, quit exploiting the country, and leave it immediately. The people of Lebanon have suffered enough. They deserve to control their own destiny.

DEFEAT OF H.R. 6444, PATENT LAW RESTORATION URGED

(Mr. WAXMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAXMAN. Mr. Speaker, later today, we will be asked to vote on an issue on suspension, H.R. 6444, which seeks to extend the patent period for pharmaceuticals. The pharmaceutical industry argues that when the Government takes up the time during which they otherwise would receive profits from their drugs because of the drug approval process, they ought to have the patent time extended. They have an argument to make, but what they seek to do in this legislation is to extend the patent period to include the time that they take to do testing to see if the drug is safe and effective. If there were no Government agency involved, they would still have to do this testing to be sure they are not going to be hurting people and become liable for injuries.

The consequences of a longer patent period will mean that the seniors in this country who are the primary purchasers of drugs will be paying the highest possible price for those drugs. There cannot be competition with the generic equivalent until that patent period runs out.

This bill is excessive. It is going to do a great deal of harm to people on limited fixed incomes. I think it is unnecessary. If it were to be passed at all, it should be passed in a much more restrictive form.

STREAMBANK FAILURE TECHNICAL ASSISTANCE ACT OF 1982

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Speaker, millions of acres of valuable topsoil are literally going down the river. In fact, going down just about every river in America. Streambank failure and erosion, like a cancer, undercuts highways, public facilities, and private property.

I have joined my colleague from Indiana, Joel Deckard, and a bipartisan group of Members representing nearly every region of the Nation in introducing today a bill that will help the private property owner in his war with erosion. The bill directs the U.S. Army Corps of Engineers to provide valuable technical assistance in methods to control erosion. Any person with riverfront property who requests such technical assistance from the corps would be entitled to it. The measure stresses prevention and good planning and it emphasizes public participation in a battle that threatens to engulf more and more property unless positive steps are taken to keep "Old Man River" within its banks.

I urge the House to act quickly on this very worthwhile bill.

PASS H.R. 6444, PATENT TERM RESTORATION BILL

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, I join the gentleman from Wisconsin (Mr. Kastenmeier) in urging support of the so-called patent restoration bill that is going to be voted on here today.

This bill, in effect, puts pharmaceuticals back on a par as far as patent term is concerned with toys and every other invention. All patents have 17 years and historically by the Constitution and statute have had.

Since the advent of the Food and Drug Administration and extensive premarketing testing requirements, that amount of actual effective life of the patent on pharmaceuticals has dropped to 6.8 years in 1981.

As a result, we have seen a dramatic drop in investment in pharmaceutical research. This will not have any effect on pharmaceutical pricing until the year 2000—if ever—but will have an immediate effect in inducing more investment in R&D by the pharmaceutical companies.

REGRET EXPRESSED OVER ASSASSINATION OF PRESIDENT-ELECT GEMAYEL

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I join the other Members who have expressed regret at the news of the assassination of President-elect Bashir Gemayel in Lebanon. The assassination was a tragedy for the entire country and for the fragile hope for peace in the Middle East. He represented the best hope for reconstitution of Lebanon as a viable country, as a bastion of peace, stability, and as the economic leader in the Middle East. He also represented the foundation for the diplomatic momentum that President Reagan developed to address the entire Middle East problem.

I have just returned from Lebanon, where I met with President-elect Gemayel. I realized from our talk his great hopes for his country and the fact that he represented an opportunity for unity and the hope for the future in that troubled country. The departure of Yasser Arafat and the PLO militia was welcomed by all Lebanese, and reconstruction efforts had already begun when I was there.

It is my hope that this tragedy will not set back the efforts for reconciliation in Lebanon. Under their constitution, a Maronite will be elected President by the Lebanese Assembly. It is my hope that they will retain the fragile unity they were developing; that the Syrian and Israeli troops, and the remaining PLO militia will all leave the country; and at long last the people of Lebanon will have the peace and stability to which they are entitled. The achievement of these goals will be a tribute to Bashir Gemayel.

I only hope that a successor can be chosen who will have the strength to maintain the necessary unity which Lebanon so desperately needs at this time.

PASSAGE OF H.R. 4374, SHIPPING ACT OF 1972, URGED

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, in a few minutes the House will take up the Shipping Act of 1982 which was debated on suspension on Monday. Because many of the Members were not present, I would like to stress the single argument which I think should be persuasive for passage of this bill.

The only opposition to the bill is that it expands the antitrust immunity for U.S. shipping conferences and U.S. steamship lines. That is nothing new. We gave to U.S. shipping conferences this immunity from the antitrust law back in 1914; but in a series of court decisions, that immunity has been eroded and confused.

What led the committee after 6 years of effort to come up with this compromise bill to expand antitrust immunity is that we found that U.S. exporters in U.S. shipping conferences are paying twice the freight charges that their competitors in Germany and Japan are paying to ship goods to similar markets, so that if you are a German exporter of refrigerators to West Africa, you pay half the freight rates under the monopolistic conferences accepted in Europe as you do under the open conference required by American law.

If we are to stimulate U.S. exports at the present time, we should give our shipping companies this additional and clarified immunity under the Antitrust Act closer to that given to the shipping companies of other countries under foreign law.

There is no way to extraterritorially enforce U.S. antitrust law on the high seas without unduly penalizing U.S. companies in their competition with foreign companies.

□ 1045

WAIVING POINTS OF ORDER AGAINST H.R. 6956, HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION ACT, 1983

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 559 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 559

Resolved, That during the consideration of the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, line 19 through page 4, line 17; beginning on page 5, lines 5 through 25; beginning on page 6, line 22 through page 7, line 2; beginning on page 8, lines 3 through 6; beginning on page 8, line 15 through page 9, line 12; beginning on page 10, lines 1 through 10; beginning on page 13, line 7 through page 14, line 10; beginning on page 15, line 11 through page 16, line 6; beginning on page 16, line 20 through page 18, line 20; beginning on page 19, line 18 through page 22, line 10; beginning on page 22, line 20 through page 25, line 2; and beginning on page 32, lines 3 through 7; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived; beginning on page 2, line 19 through page 3, line 15; beginning on page 4, lines 3 through 17; and beginning on page 8, lines 15 through 23.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), and pending that, I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 559) waives certain points of order which might otherwise lie during the consideration of the bill (H.R. 6956) making appropriation for the Department of Housing and Urban Development and independent agencies.

The rule waives points of order against a number of provisions under clause 2 of rule XXI, which prohibits legislation in matters reported from the Committee on Appropriations. In most cases the point of order might lie because action has not been completed on the applicable authorizing bills. Some provisions, however, are actually legislative in character.

The rule also waives points of order against three provisions which could be considered reappropriations in violation of clause 6 of rule XXI. In each case the provision simply makes necessary refinements to accommodate changed circumstances.

As is customary with rules on appropriation bills, the resolution indentifies by page and line those items to which the waivers apply and no waivers are granted on any provision other than those designated in the rule.

Mr. Speaker, I wish to commend the Committee on Appropriations for its handling of this bill, under very difficult circumstances.

As everyone knows, the private sector has been hard hit by high interest rates and—in terms of housing, economic development, and employment—the toll has been high.

But the damage has been seriously compounded by eroding certainty of the Government's commitment to assist the private sector is providing adequate housing.

Our Nation's housing programs are in serious jeopardy. Investors and localities are afraid to commit other resources when Federal policy is constantly shifting, in this area.

Mr. Speaker, the distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. BOLAND), and his colleagues on both sides of the aisle are certainly to be commended for their efforts to use the appropriations process to address the problem of providing a coherent national commitment in the area of housing. They each would be among the first to admit that this is not an ideal vehicle for formulating policy but little option seems to be available and I commend them for accepting the additional responsibilities forced on them.

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AG
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The committee has faced equally serious difficulties in other areas covered by the bill as a result of the pressures that have been placed on the budget process. Particularly, it should be noted that the Environmental Protection Administration is covered by eight separate bills. All are at various stages in the legislative process but none has been enacted.

Mr. Speaker, I am aware of only one waiver which presents any controversy at all and that provision is expected to be addressed by an amendment.

Given the budget situation in the present session, the rule is fair and provides an open and orderly procedure for handling this matter. Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule has been ably explained. We are far behind in passing the appropriation measures, this measure, and other measures. As I recall, we have only passed one appropriation bill. These must still go to the Senate; so it is time to get down to business. This appropriation measure is in the neighborhood of $47 billion, but it represents a number of agencies and departments. Mr. Speaker, the waivers are necessary.

I urge adoption of the rule.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. Conte) to speak out of order.

(By unanimous consent, Mr. Conte was allowed to speak out of order.)

(Mr. CONTE asked and was given permission to revise and extend his remarks.)

REPRESENTATIVE CONTE THANKS VOTERS OF FIRST DISTRICT OF MASSACHUSETTS FOR THEIR VOTES

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to thank publicly all the people of the First Congressional District—Republican, Democrat, and Independent alike—for their votes in yesterday's Massachusetts primary, which resulted in my receiving the nomination of both the Republican and Democratic Parties. From the tiniest towns in the Berkshires to the larger industrial cities, voters of my congressional district expressed their support of my candidacy for reelection to a 13th term in Congress.

Mr. Speaker, anyone who has run as a write-in candidate knows how difficult it is to be successful, but I have my workers and the Democratic and Independent voters of the First District to thank most sincerely for their support and their votes.

Again, I thank the voters of the First District of Massachusetts for allowing me to continue serving all the people, regardless of their political affiliation.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I would be glad to yield to my good friend, the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the gentleman from Massachusetts on the remarkable twin victories he won in yesterday's Massachusetts primary. I know how difficult it is to run a successful write-in campaign, and Mr. Conte is to be congratulated for the considerable effort he expended in pursuit of the Democratic nomination. His victory was a tribute to his abilities and his record, and it certainly reflected the high regard in which he is held by the people of the First Congressional District of Massachusetts. I am familiar with the people of that area—whether they are Republican, Democratic, or Independent, they demand quality in their elected officials. It is therefore a singular honor for voters of both major parties to select the same nominee for a seat in the U.S. House of Representatives. I hope that Mr. Conte enjoys running as a Democrat; if the experience is so pleasant that he wants to permanently join the ranks of the Democrats, he will be more than welcome.

Mr. CONTE. Mr. Speaker, I thank the gentleman. I really appreciate those kind remarks coming from the Congressman from the Second Congressional District. I have no doubt the gentleman is coming back here with a walloping majority.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. Walker).

Mr. WALKER. Mr. Speaker, I thank the gentleman very much for yielding.

Mr. Speaker, I take this time just to point out that under the provisions of rule XXI of the House, the taxpayers receive some assurance that we will properly consider all of the money that goes through the House of Representatives, that it will be properly authorized and then properly appropriated. When in this rule we do as we are doing, waive rule XXI in a number of instances, we come up with a situation where when you go through and underline the bill, as I have done, you find just page after page of this bill is literally waived from points of order against it under rule XXI, which as I say, is a protection for the taxpayers of this country.

I point this out, not to criticize the Appropriations Committee, because the Appropriations Committee is doing what it has to do, given the legislative situation we find ourselves in. I point it out as a criticism of where I think we are at this point in the legislation session. Early on in this session we went days and days literally doing nothing around this body. We would have pro forma sessions when we were not doing anything at all and now we come down to the end of the session and we find ourselves having to waive the rules of the House in order to consider appropriations and we find ourselves with authorizations that have not yet passed this body. We find ourselves in a position where we are going to have billions of dollars of legislation crammed through here on almost an emergency basis and told that we have to spend this money and waive the rules of the House in order to do it.

I think the American people will find that that is the kind of spending that adds up to those mounting budget deficits that we are faced with.

Time after time that is the process in this Congress that brings about the overspending that the American people have learned is such an economic problem for the entire Nation.

So I point out that the rule we are considering here will waive rule XXI and in so doing are dropping one of the main protections the taxpayer has against irresponsible spending.

Mr. Speaker, I thank the gentleman for yielding.

Mr. QUILLEN. Mr. Speaker, the gentleman from Pennsylvania has made a good point. I think that we must get down to the business of acting of bills from the authorizing committees and the appropriation committee. I think the people of this country are tired of operating on a continuing resolution.

Let us start at this very moment, even at this late hour, and do whatever is necessary.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisons of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed on Monday, September 13, and Tuesday, September 14, 1982, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4374, by the yeas and nays;
H.R. 6444, by the yeas and nays;
H.R. 6813, by the yeas and nays;
H.R. 6580, by the yeas and nays; and
H.R. 6355, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SHIPPING ACT OF 1982

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4374, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 4374, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 350, nays 33, not voting 49, as follows:

[Roll No. 321]

YEAS—350

Addabbo
Albosta
Alexander
Anderson
Andrews
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Campbell
Carman
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Coyne, James
Coyne, William
Craig
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Ginn
Gonzalez
Goodling
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Perkins
Peyser
Porter
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Roberts (KS)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Sawyer
Schroeder
Schulze
Schumer
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Udall
Vander Jagt
Vento
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)

NAYS—33

Annunzio
Bedell
Beilenson
Bingham
Crane, Philip
Crockett
Daschle
Dorgan
Edwards (CA)
Gilman
Glickman
Gore
Gradison
Gramm
Green
Hance
Harkin
Kastenmeier
Kazen
Kindness
Leach
Mazzoli
Ottinger
Patman
Paul
Petri
Scheuer
Seiberling
Sensenbrenner
Smith (IA)
Volkmer
Wirth
Yates

NOT VOTING—49

Akaka
Bafalis
Blanchard
Bouquard
Brooks
Brown (OH)
Burton, John
Butler
Byron
Carney
Chappell
Collins (TX)
Courter
Crane, Daniel
D'Amours
Dougherty
Ertel
Evans (GA)
Evans (IN)
Fithian
Forsythe
Fountain
Goldwater
Gray
Hartnett
Hillis
Jeffords
Lee
Mattox
McClory
Moffett
Pepper
Pickle
Pritchard
Reuss
Ritter
Roberts (SD)
Santini
Savage
Schneider
Skelton
Smith (AL)
Stangeland
Stanton
Thomas
Weiss
Young (AK)
Zablocki
Zeferetti

□ 1115

The Clerk announced the following pair:

On this vote:

Mr. Courter and Mr. Forsythe for, with Mrs. Schneider against.

Mr. DORGAN of North Dakota and Mr. ANNUNZIO changed their votes from "yea" to "nay."

Mr. LOWERY of California and Mr. STOKES changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

PATENT TERM RESTORATION ACT OF 1982

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6444, as amended.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 6444, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 132, not voting 50, as follows:

[Roll No. 322]

YEAS—250

Albosta
Alexander
Andrews
Anthony
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Barnard
Beard
Bennett
Biaggi
Bingham
Bliley
Boland
Boner
Bowen
Breaux
Brinkley
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Campbell
Carman
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conte
Corcoran
Coughlin
Coyne, James
Craig
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dingell
Dornan
Dreier
Duncan
Dunn
Dwyer
Dymally
Edgar
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erlenborn
Evans (DE)
Fenwick
Fiedler
Fields
Fish
Flippo
Florio
Foley
Ford (TN)
Fowler
Frenzel
Frost
Fuqua
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Goodling
Gramm
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hatcher
Hefner
Hendon
Hightower
Hiler
Holland
Hollenbeck
Holt
Horton
Hubbard
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kindness
Kramer

Latta
Leath
LeBoutillier
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Luken
Lundine
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McCloskey
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Michel
Miller (OH)
Minish
Mitchell (NY)
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nichols
O'Brien
Oxley
Parris
Pashayan
Patman
Paul
Perkins
Petri
Porter
Price
Pursell
Quillen
Railsback
Ratchford
Regula
Rhodes
Rinaldo
Roberts (KS)
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Sawyer
Scheuer
Schneider
Schulze
Sensenbrenner
Shamansky
Sharp
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (NE)
Smith (NJ)
Smith (OR)
Solomon
Spence
Staton
Stenholm
Stratton
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Trible
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Winn
Wolf
Wolpe
Wortley
Wright
Wylie
Yatron
Young (FL)
Young (MO)

NAYS—132

Addabbo
Anderson
Annunzio
Applegate
Bailey (PA)
Barnes
Bedell
Beilenson
Benedict
Bereuter
Bevill
Boggs
Bolling
Bonior
Bonker
Brodhead
Burgener
Burton, Phillip
Chisholm
Clay
Collins (IL)
Conable
Conyers
Coyne, William
Crockett
Daschle
Dellums
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dyson
Early
Eckart
Edwards (CA)
Erdahl
Evans (IA)
Fary
Fascell
Fazio
Ferraro
Findley
Foglietta
Ford (MI)
Frank
Gaydos
Gingrich
Glickman
Gonzalez
Gore
Gradison
Hall (OH)
Hance
Harkin
Hawkins
Heckler
Heftel
Hertel
Hopkins
Howard
Hoyer
Huckaby
Jacobs
Kildee
Kogovsek
LaFalce
Lagomarsino
Lantos
Leach
Leland
Long (LA)
Long (MD)
Lowry (WA)
Markey
Martinez
Matsui
Mavroules
McCollum
Mica
Mikulski
Miller (CA)
Mineta
Mitchell (MD)
Moakley
Molinari
Mollohan
Mottl
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Peyser
Rahall
Rangel
Roemer
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Schroeder
Schumer
Seiberling
Shannon
Shaw
Simon
Smith (IA)
Smith (PA)
Snowe
Snyder
Solarz
St Germain
Stark
Stokes
Studds
Traxler
Udall
Vento
Washington
Waxman
Weaver
Williams (MT)
Wirth
Wyden
Yates

NOT VOTING—50

Akaka
Bafalis
Bethune
Blanchard
Bouquard
Brooks
Brown (OH)
Burton, John
Butler
Byron
Carney
Chappell
Collins (TX)
Courter
Crane, Daniel
D'Amours
Dougherty
Ertel
Evans (GA)
Evans (IN)
Fithian
Forsythe
Fountain
Goldwater
Gray
Hartnett
Hillis
Jeffords
Lee
Mattox
McClory
Moffett
Pepper
Pickle
Pritchard
Reuss
Ritter
Roberts (SD)
Santini
Savage
Skelton
Smith (AL)
Stangeland
Stanton
Thomas
Weiss
Williams (OH)
Young (AK)
Zablocki
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mrs. Bouquard and Mr. Courter for, with Mr. Weiss against.

Mr. Forsythe and Mr. Ritter for, with Mr. Zeferetti against.

Mr. Young of Alaska and Mr. McClory for, with Mr. Akaka against.

Mr. Daniel B. Crane and Mr. Butler for, with Mr. Reuss against.

Mr. Thomas and Mr. Smith of Alabama for, with Mr. Pepper against.

Mr. MICA changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

FEDERAL BOAT SAFETY ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6813, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6813, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 137, not voting 45, as follows:

[Roll No. 323]

YEAS—250

Addabbo
Albosta
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Burton, Phillip
Campbell
Carman
Carney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins (IL)
Conyers
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
Erdahl
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Ginn
Glickman
Gore
Gradison
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harkin
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jones (NC)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
LeBoutillier
Lehman
Leland
Lent
Levitas
Livingston
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marks
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Murtha
Napier
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Petri
Peyser
Price
Pursell
Rangel
Ratchford
Regula
Rinaldo
Rodino
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Siljander
Simon
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stark
Staton
Stokes
Studds
Swift
Synar
Tauzin
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Waxman
Weaver
Weber (OH)
White
Whitley
Williams (OH)
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)

NAYS—137

Alexander
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Beard
Benedict
Bereuter
Bliley
Brown (CO)
Broyhill
Burgener
Chappie
Cheney
Coats
Conable
Conte
Corcoran
Coughlin
Craig
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dornan
Dreier
Duncan
Dunn
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Fields
Findley
Fish
Frenzel
Gibbons
Gilman
Gingrich
Gonzalez
Goodling
Gramm
Green
Gregg
Grisham
Hagedorn
Hall, Ralph
Hall, Sam
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hendon
Hiler
Holt
Hopkins
Hunter
Hyde
Jeffries
Johnston
Jones (OK)
Jones (TN)
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
Lewis
Loeffler
Lujan
Lungren
Marlenee
Marriott
Martin (IL)
Martin (NC)
McCollum
McCurdy
McDade
McDonald
McEwen
Miller (OH)
Moorhead
Morrison
Mottl
Murphy
Myers
Natcher
Nelligan
O'Brien
Oxley
Parris
Pashayan
Patman
Paul
Perkins
Porter
Quillen
Rahall
Rhodes
Ritter
Roberts (KS)
Robinson
Rogers
Rousselot
Rudd
Schulze
Sensenbrenner
Shumway
Skeen
Smith (NE)

Smith (OR)
Stenholm
Stratton
Stump
Tauke
Taylor
Trible
Walker
Watkins
Weber (MN)
Whitehurst
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wylie

NOT VOTING—45

Akaka
Bafalis
Blanchard
Bolling
Bouquard
Brooks
Brown (OH)
Burton, John
Butler
Byron
Chappell
Collins (TX)
Crane, Daniel
Dougherty
Ertel
Evans (GA)
Evans (IN)
Fithian
Forsythe
Fountain
Goldwater
Gray
Hillis
Jeffords
Lee
Mattox
McClory
Moffett
Pepper
Pickle
Pritchard
Railsback
Reuss
Roberts (SD)
Roybal
Santini
Skelton
Smith (AL)
Stangeland
Stanton
Thomas
Weiss
Young (AK)
Zablocki
Zeferetti

☐ 1130

The Clerk announced the following pairs:

On this vote:

Mr. Akaka and Mr. Zeferetti for, with Mr. Butler against.

Mr. Pepper and Mr. Forsythe for, with Mr. Daniel B. Crane against.

Mr. Young of Alaska and Mr. McClory for, with Mr. Thomas against.

Mr. STRATTON, Mrs. HECKLER, and Messrs. DUNCAN, FRANK, RITTER, ATKINSON, FISH, TRIBLE, and KAZEN changed their votes from "yea" to "nay."

Messrs. ROEMER, CARMAN, and FRANK changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

SAILING SCHOOL VESSELS ACT OF 1982

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6580, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. STUDDS) that the House suspend the rules and pass the bill, H.R. 6580, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 236, nays 154, not voting 42, as follows:

[Roll No. 324]

YEAS—236

Addabbo
Anderson
Andrews
Annunzio
Ashbrook
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Broyhill
Burton, Phillip
Carman
Carney
Chisholm
Clay
Coelho
Coleman
Collins (IL)
Conte
Conyers
Courter
Coyne, James
Coyne, William
Crane, Philip
Crockett
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dougherty
Dowdy
Downey
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emery
Evans (DE)
Fary
Fascell
Fazio
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gaydos
Gejdenson
Gilman
Ginn
Gonzalez
Gore
Gray
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Harkin
Hawkins
Heckler
Heftel
Hertel
Hightower
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jones (NC)
Jones (TN)
Kastenmeier
Kennelly
Kildee
LaFalce
Lantos
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marks
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDonald
McGrath
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Price
Quillen
Rangel
Ratchford
Rhodes
Rinaldo
Rodino
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Shumway
Simon
Smith (IA)
Smith (PA)
Snowe
Solarz
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
White
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)

NAYS—154

Albosta
Alexander
Anthony
Applegate
Archer
Atkinson
Badham
Bailey (MO)
Beard
Benedict
Bereuter
Bethune
Bliley
Brown (CO)
Burgener
Campbell
Chappie
Cheney
Clausen
Clinger
Coats
Conable
Corcoran
Coughlin
Craig
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dorgan
Dornan
Dreier
Duncan
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (IA)
Fenwick
Findley
Frenzel
Fuqua
Gephardt
Gibbons
Gingrich
Glickman
Goodling
Gradison
Gramm
Gregg
Grisham
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hendon
Hiler
Hunter
Jeffries
Jenkins
Johnston
Jones (OK)
Kazen
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCollum
McCurdy
McEwen
McKinney
Michel
Miller (OH)
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Nelligan
O'Brien
Oxley
Parris
Pashayan
Porter
Pursell
Rahall
Railsback
Regula
Ritter
Roberts (KS)
Robinson
Rogers
Rousselot
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Siljander
Skeen
Smith (NE)
Smith (NJ)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stump
Tauke
Taylor
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Winn
Wolf
Wortley
Wylie
Young (FL)

NOT VOTING—42

Akaka
Bafalis
Blanchard
Bolling
Bouquard
Brooks
Brown (OH)
Burton, John
Butler
Byron
Chappell
Collins (TX)
Crane, Daniel
Ertel
Evans (GA)
Evans (IN)
Fithian
Forsythe
Fountain
Goldwater
Hillis
Ireland
Jeffords
Lee
Mattox
McClory
Mitchell (MD)
Moffett
Pepper
Pickle
Pritchard
Reuss
Roberts (SD)
Santini
Skelton
Smith (AL)
Stanton
Thomas
Weiss
Young (AK)
Zablocki
Zeferetti

☐ 1145

The Clerk announced the following pairs:

On this vote:

Mr. Akaka and Mr. Zeferetti for, with Mr. Butler against.

Mr. Forsythe and Mr. Daniel B. Crane for, with Mr. McClory against.

Mr. CONTE changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

TECHNICAL CORRECTIONS IN HEALTH LAWS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6355, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 6355, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 227, nays 165, not voting 40, as follows:

[Roll No. 325]

YEAS—227

Addabbo
Albosta
Alexander
Andrews
Annunzio
Applegate
Aspin
AuCoin
Bailey (PA)
Barnes
Bedell
Beilenson
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Breaux
Brodhead
Brown (CA)
Burton, Phillip
Carney
Chisholm
Clay

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Clinger
Coelho
Coleman
Collins (IL)
Conte
Conyers
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Emery
Erdahl
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall (OH)
Hance
Harkin
Hawkins
Heckler
Heftel
Hertel
Hightower
Hollenbeck
Holt
Horton
Howard
Hughes
Jacobs
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Lehman
Leland
Lent
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McDade
McEwen
McGrath
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Mollohan
Moore
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Pashayan
Patterson
Pease
Perkins
Petri
Peyser
Price
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Rinaldo
Ritter
Rodino
Roe
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Smith (IA)
Smith (PA)
Snowe
Solarz
St Germain
Stark
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)

NAYS—165

Anderson
Anthony
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Barnard
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Bliley
Bouquard
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Campbell
Carman
Chappie
Cheney
Clausen
Coats
Conable
Corcoran
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Dickinson
Dornan
Dreier
Duncan
Dunn
Edwards (AL)
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Fiedler
Fields
Fish
Flippo
Fowler
Frenzel
Gibbons
Gingrich
Ginn
Glickman
Goodling
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hendon
Hiler
Holland
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Jeffries
Jenkins
Johnston
Jones (OK)
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lungren
Marlenee
Marriott
Martin (NY)
McCloskey
McCollum
McCurdy
McDonald
McKinney
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison
Napier
Nichols
O'Brien
Oxley
Patman
Paul
Porter
Railsback
Rhodes
Roberts (KS)
Robinson
Roemer
Rogers
Rose
Rousselot
Rudd
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith (OR)
Snyder
Solomon
Spence
Stangeland
Staton
Stenholm
Stratton
Stump
Taylor
Trible
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Winn
Wortley
Young (FL)

NOT VOTING—40

Akaka
Bafalis
Blanchard
Bolling
Brooks
Brown (OH)
Burton, John
Butler
Byron
Chappell
Collins (TX)
Ertel
Evans (GA)
Evans (IN)
Fithian
Forsythe
Fountain
Goldwater
Hillis
Hoyer
Ireland
Jeffords
Lee
Mattox
McClory
Mitchell (MD)
Moffett
Pepper
Pickle
Pritchard
Reuss
Roberts (SD)
Santini
Smith (AL)
Stanton
Thomas
Weiss
Young (AK)
Zablocki
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Akaka and Mr. Pepper for, with Mr. Butler against.

Mr. Zeferetti and Mr. Weiss for, with Mr. Smith of Alabama against.

Mr. Reuss and Mr. Mitchell of Maryland for, with Mr. Thomas against.

Mr. STRATTON changed his vote from "yea" to "nay."

Mrs. KENNELLY and Mrs. BOGGS changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REAPPOINTMENT AS MEMBERS OF CONGRESSIONAL AWARD BOARD

Mr. MICHEL. Mr. Speaker, I have today reappointed as members of the Congressional Award Board for new terms in accordance with section 4(a) of Public Law 96-114:

Mr. William R. Bricker of New York, N.Y.; and Ms. Roberta van der Voort of Kansas City, Mo.; and appointed Mr. John G. McMillian of Washington, D.C., to fill the vacancy caused by the expiration of the term of Mr. Swearingen.

PERMISSION FOR SUBCOMMITTEE ON POSTAL PERSONNEL AND MODERNIZATION OF COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO SIT TODAY DURING 5-MINUTE RULE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that the Subcommittee on Postal Personnel and Modernization of the Committee on Post Office and Civil Service be permitted to sit this afternoon during proceedings under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. COURTER. Mr. Speaker, regrettably I missed the first two votes today because of some fog in the New Jersey area, and, therefore, I wish to have the RECORD reflect that had I been here I would have voted yes on H.R. 4374, the Shipping Act of 1982, and yes on H.R. 6444, the Patent Term Restoration Act of 1982.

□ 1200

CONFERENCE REPORT ON S. 923, PRETRIAL SERVICES ACT OF 1982

Mr. HUGHES. Mr. Speaker, I call up the conference report on the Senate bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 8, 1982.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be able to bring this important legislation to the floor of the House for a final vote. The conference bill is a combination of language from both the House and the Senate passed bills. The substance of the bill is essentially the same as that of the bill passed by this body on May 11 of this year. The language changes were adopted to clarify the intent of the bill, and to make absolutely clear that wherever possible, pretrial services are to be provided at no additional cost.

As discussed during debate on passage of the original bill, the 10 demonstration pretrial services agencies now in existence have shown that the information and assistance they provide to the courts have dramatically reduced the rates of pretrial rearrests and failures to appear in Federal courts. In addition, they have contributed to the reduction of unnecessary pretrial detention costs, and have assured the detention of defendants who should not be released pretrial.

S. 923 will provide for pretrial services throughout the Federal judicial system. I urge you to support the conference report on S. 923.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 923, the Pretrial Services Act of 1982. I believe that it is absolutely imperative that pretrial services be made available to Federal judges in this country. Although I have some reservations about some of the mechanics involved in providing pretrial services under this conference report, the need for these services was amply demonstrated in testimony before the Subcommittee on Crime and by the recent experience in southern Florida.

I am encouraged by the fact that my amendments to the Pretrial Services Act were retained in this conference report. Those amendments require providers of pretrial services to provide Federal judges with information relating to the danger that the defendant may pose to any other person or the community. Under current law, judges are permitted to consider this factor in capital cases, when the defendant is awaiting sentencing or appeal, and where that factor has a bearing in noncapital cases on the defendant's likelihood to appear before the court when required. I believe this information will go a long way toward protecting the community and allowing judges to make informed decisions in that respect.

Mr. Speaker, one of the issues which arose during this body's consideration of the Pretrial Services Act involved the many problems presented by the Bail Reform Act of 1966 which it implements. Many of our colleagues have expressed concern that the Pretrial Services Act constitutes only a band-aid on the problem of bail crime and that it fails to remedy the substantial underlying problems in the Bail Reform Act. My bill, H.R. 4963, is designed to correct those problems. Unfortunately, that bill has not been processed with the same promptness enjoyed by the Pretrial Services Act. However, a light glimmers at the end of the tunnel. I am advised that the full Committee on the Judiciary may consider my bill on Tuesday, September 21 and I am hopeful that, with the strong support of proponents of reforms such as the gentleman from New Jersey (Mr. HUGHES), the bill will be favorably reported to this body.

As my colleagues are aware, there are precious few legislative days remaining in this Congress and I call upon all of them for their support and assistance in getting my bill to the floor of the House as soon as possible. As the primary sponsor of H.R. 4362, I have been showered with inquiries from my colleagues about the status of this important legislation. They have been contacted by many of their constituents urging them to do something about the problem of bail crime. I believe that this body should be permitted to vote upon the issue of preventive detention and I trust that they will have the opportunity to do so within the next few weeks.

Mr. Speaker, again I urge my colleagues to vote in favor of the conference report on S. 923. To the extent that there are problems in the mechanics of the bill, I am confident that they will be uncovered in the course of vigorous oversight by the subcommittee

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in very strong opposition to the conference report on S. 923, the Pretrial Services Act of 1982. In my judgment, the version passed by this body in May was a bad bill. The conference report, which incorporates many provisions from the other body's bill, is even worse.

Mr. Speaker, during this Congress and the last, the Members of the Judiciary Committee on both sides of the aisle have expressed two fundamental concerns about the pretrial services program. First, in recognition of the urgent need to reduce Federal Govenment spending, we were concerned about the cost of this program. For that reason, the committee adopted, and this body approved, a specific dollar authorization of appropriations for 2 fiscal years. This provision served not only as a limitation on appropriations for this program, but as a sunset provision. After 2 fiscal years, continuation of the program would be contingent upon a reevaluation by the Congress and appropriate adjustments. Unfortunately, the conference report does not mandate such a reevaluation. Instead, it provides for an open-ended authorization until the end of time.

Our second concern over this bill related to districts which preferred not to participate in the pretrial services program. Like some of my colleagues, I have been advised by Federal district court judges that pretrial services are not needed or wanted in their districts. For that reason, in both this Congress and the last, our committee insisted upon limiting pretrial services to districts that wanted them. This conference report, by contrast, mandates the provisions of pretrial services in all judicial districts. Our repeatedly voiced suspicions about the inevitable proliferation of pretrial services in this country have been confirmed at long last.

Of course, Mr. Speaker, as the gentleman from Michigan (Mr. SAWYER) has pointed out, our colleagues on both sides of the aisle have consistently voiced their concerns about the fact that this Congress has processed a money bill in this area, but has so far failed to correct the alarming deficiencies in the Bail Reform Act of 1966. This is a matter of great concern to our constituents who are harrassed and intimidated by the criminal element in this country which makes use of the revolving door created by the Bail Reform Act in their activities. Support for a reform measure like the bill introduced by my colleague from Michigan is substantial. Not only has the Senate Judiciary Committee reported such legislation, but it is the centerpiece of the President's omnibus crime package. I sincerely hope that my colleagues will enjoy an opportunity in the next few weeks to consider the bail reform bill on this floor. Otherwise, we will have once again subscribed to the notion that problems can be solved simply by throwing money at them.

Mr. Speaker, once again, I call upon my colleagues to vote against the conference report on S. 923. This bill contains none of the fiscal precautions which were found in the original House bill. In my estimation, it is sheer folly to force these services on districts which do not want them.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I support the conference committee report on S. 923, but I am disappointed that the improvements that the House Committee on the Judiciary made in the bill were removed in conference. These improvements included specific dollar limitations on appropriations which encouraged the use of people who are already employed by the Federal Government as probation officers to perform pretrial services. I think that we have here an open-ended authorization which will encourage the hiring of additional personnel who will specialize in pretrial services. This could burgeon into another bureaucracy.

Now, that being said, I still want to support the concept underlying the bill. When people come into the criminal justice system as defendants initially, it is useful to the system and to the community to have some knowledgeable people interview them and investigate their backgrounds before

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they go to trial, because that information, which might have been useful to the judge, is ordinarily not available to him.

We must try to keep people out of the criminal justice system, and we must get people in the system that ought to be there and ought to be convicted. But the sooner we get to the problems of criminality and the accused, the sooner we can try to save human beings from being put into the criminal justice system who perhaps ought not to be there. The idea is good; the concept is good. I urge my friend, the chairman of the subcommittee, the gentleman from New Jersey, to exercise vigorous oversight over the operation of this new and worthwhile program.

Mr. **SAWYER**. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. **HUGHES**. Mr. Speaker I yield myself such time as I may consume.

Just briefly, I want to respond to the concerns of my colleague. First of all, there are sufficient moneys in the budget now to run the program. Second of all, it is an authorization bill, not an appropriation bill. And, third, the other body insisted that we utilize for an extended period of time the probation services, and it was on that basis that we relented. But I share the concerns of my colleague and I assure him that we are going to press vigorous oversight. The fact remains however, that it is a good bill, and a strong anticrime measure. I urge my colleagues to support it.

Mr. **HYDE**. Mr. Speaker, will the gentleman yield?

Mr. **HUGHES**. I yield to my colleague, the gentleman from Illinois.

Mr. **HYDE**. I thank the gentleman for yielding.

Mr. Speaker, I have been informed that in the conference to discuss the working out of the details of this legislation, the Republican House Members were excluded. And I certainly do not blame the Members of the majority party in the House for doing their thing, but I would like to record my sharp disappointment at the Members of the other body who are of the same party as the minority in the House for not including the House Members in the conference so that they might negotiate and have some input.

I just think it was wrong, and I would like to go on record as protesting that procedure.

Mr. **HUGHES**. I understand my colleague's concern and I share that concern. We do not operate in our committee that way. In fact, the gentleman from Michigan, Mr. HAL SAWYER, the ranking minority member, could not be a better partner in developing our committee's legislative initiatives.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **SENSENBRENNER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 20, not voting 45, as follows:

[Roll No. 326].

YEAS—367

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dicks
Dingell
Dixon
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Gregg
Grisham
Guarini
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Perkins
Petri
Peyser
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)

NAYS—20

Ashbrook
Badham
Bailey (MO)
Crane, Daniel
Crane, Philip
Dickinson
Emerson
Fields
Gramm
Gunderson
Hansen (ID)
Hendon
Jeffries
Johnston
Leath
McDonald
Paul
Sensenbrenner
Stump
Taylor

NOT VOTING—45

Akaka
Bafalis
Blanchard
Bolling
Brooks
Brown (OH)
Burton, John
Butler
Chappell
Collins (TX)
Conyers
Derrick
Donnelly
Ertel
Evans (GA)
Evans (IN)
Fithian
Ford (MI)
Forsythe
Fountain
Gilman
Goldwater
Hillis
Jeffords
Lee
Mattox
McClory
Moffett
Pepper
Pickle
Pritchard
Pursell
Reuss
Robinson
Rosenthal
Santini
Smith (OR)
Stanton
Thomas
Udall
Weiss
Williams (MT)
Young (AK)
Zablocki
Zeferetti

□ 1215

Mr. DANIEL B. CRANE and Mr. HANSEN of Idaho changed their votes from "yea" to "nay."

Mr. WEBER of Minnesota changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1230

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6956, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATION BILL, 1983

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. GREEN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was not objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. BOLAND).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 5, answered "present" 1, not voting 80, as follows:

[Roll No. 327]

YEAS—346

Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bevill
Bliley
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Perkins
Petri
Peyser
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Russo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)

NAYS—5

Badham
Johnston
McDonald
Molinari
Paul

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—80

Addabbo
Akaka
Bafalis
Beard
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Brooks
Brown (OH)
Burton, John
Butler
Chappell
Clay
Collins (TX)
Crockett
Daniel, Dan
DeNardis
Derrick
Dickinson
Emery
Ertel
Evans (GA)
Evans (IN)
Fithian
Ford (MI)
Forsythe
Fountain
Gilman
Gingrich
Goldwater
Hall (OH)
Hendon
Hertel
Hiler
Hillis
Hollenbeck
Jeffords
Jeffries
Kemp
LaFalce
LeBoutillier
Lee
Lent
Lungren
Marks
Martin (NC)
Mattox
McClory
Moffett
Murtha
Nichols
O'Brien
Pepper
Pickle
Pritchard
Pursell
Reuss
Roth
Roukema
Sabo
Santini
Savage
Skelton
Smith (OR)
Solarz
Stanton
Stump
Thomas
Udall
Waxman
Weiss
Whitten
Williams (MT)
Young (AK)
Zablocki
Zeferetti

☐ 1245

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6956, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from New York (Mr. GREEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I yield myself such time as I might require.

Mr. Chairman, I would hope we can complete consideration of the 1983 HUD-independent agencies appropriations bill today. The Senate is ready to move on this bill. If both bodies act expeditiously, we can bring a conference agreement back to the House sometime this month. That is what I would like to see happen—a separate appropriation bill sent to the President—and one he can sign.

The Committee on Appropriations recommends $46,995,739,000 in new

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budget authority for the Department of Housing and Urban Development and the 17 independent agencies funded in this bill.

Before I get into the details of the bill, let me run over where we stand in comparison to our section 302 allocation and the President's budget.

The table on page 48 of the committee's report shows how the HUD bill compares with the section 302 allocation. As you can see, we are under our allocation by $9.6 billion in budget authority. That occurs because the committee made a decision to defer all action on the major accounts dealing with the subsidized housing programs. We believe it is premature to make recommendations in this area for 1983 primarily because of two factors:

First, the authorizing legislation has not passed the House or Senate yet; and

Second, the administration is currently looking again at exactly what it wants to do in the area of subsidized housing in 1983.

So it is our feeling that we should not make any recommendations in this area until we see what the bottom line of that legislation will be. Now that is the major reason that we are about $9.6 billion under in budget authority.

In the area of outlays, the bill has also come in under the 302 allocation. In total, we are under by about $2 billion. That is made up of $1.3 billion in mandatory outlays and about $700 million in discretionary outlays.

We are under in mandatory outlays largely because when CBO estimated the outlay impact of the $2.4 billion appropriated for EPA construction grants in the urgent supplemental—it over-estimated the outlay impact of that money for fiscal year 1983 by at least $1 billion. However, let me quickly add that offsetting that erroneous estimate is the fact that the HUD subcommittee has been given no allocation in outlays for what we expect will be about $800 million in additional requirements for veterans compensation programs in 1983. Additionally, the budget assumed over $230,000,000 in legislative savings in VA entitlement programs in 1983. Legislation has passed saving only $65 million. Thus, the subcommittee needs another $165 million for VA entitlement programs. So it would appear that the two more or less balance each other out.

In the area of discretionary outlays, we are under by about $700 million. The difference between what we have approved and our ceiling is largely made up of discretionary outlays that will be associated with decisions we ultimately make on the assisted housing programs that are being deferred.

That is the picture in terms of 302 allocation. Now as you also can see by the table on page 2 of the report we are about $353 million above the President's budget request in budget authority. We are approximately $310 million above the administration's request in outlays.

So it is true that we are over the President's budget. But the fact is that it was impossible to come in under that budget—because in one or two areas his request was so low, that regardless of your party affiliation—it would be very difficult to support the request. I am not even sure the President is supporting the February budget submission.

For example, let us look at the appropriation for public housing operating subsidies which is on page 4 of the committee's report. The President recommended $1,075,000,000 in 1983. You will notice that the 1982 appropriation was approximately $1,350,000,000. We added $275 million to the President's request to restore the 1983 funding to the 1982 level. But, and this is important, if you were to take the current performance funding system formula and simply pencil out what should be provided in this account—we would have appropriated something like $1,550,000,000.

But we did not do that. Instead, for the past 12 months the HUD Subcommittee has made an effort to change the performance funding formula so that those housing authorities that are doing a good job in conserving fuel will be rewarded and those that are not will be penalized. After a number of false starts, we think we have the Department and the public housing authorities on the same track—and we expect to be able to save some money in fiscal year 1983 from these efforts. We do not know how much money can be saved. After the new funding formula is implemented, we can get a look at what is needed. A supplemental appropriation can be made at that time. So we did not provide an additional $200 million above what you see here, but the bottom line is that we are still $275 million above the President's budget.

Now we had to find some ways to offset the increase. One way that we are recommending is a reduction of $100 million in the urban development action grant program. Let me say first that the HUD subcommittee has been one of the strongest supporters of the UDAG program. In fact, this subcommittee insisted last year that the program be funded and that it be funded as a separate program and not wrapped into the Community Development Block Grant account.

But we have some very reliable information which indicates that the Department cannot give away the money for UDAG small cities. The fact is that there are just not enough quality small city UDAG applications to fund. And it is also true that when we first looked into this problem we found that HUD expects to carry forward in fiscal year 1983 approximately $100 million of unused small city UDAG funds.

Now if we go ahead and appropriate the entire $440 million that was requested—then you would have a situation where the small cities would receive $110 million (which is 25 percent) plus the carryover of $100 million. In short, we could expect to have by the end of fiscal year 1983 an excess in the small cities area of $125 million.

We felt that that did not make much sense—and we reduced this appropriation for 1 year only and have included bill language which would allocate nearly all of the balance of $340 million to the large cities.

What does that mean? It means that no one—large cities or small cities—will get anything less than what they would have gotten if we appropriated the full amount of the request. The fact is the full request of $440 million could not be used—and it was our judgment that we could offset part of the increase for operating subsidies by this rather painless reduction.

If and when money is required to meet the demand for small cities UDAG applications, the committee will give favorable consideration to such supplemental funding.

Now let us turn to another area where the President's request was simply not realistic—and that is the funding for the Environmental Protection Agency which is described on pages 12, 13, 14, 15, and 16 of the report. Here is the important point. EPA's operating budget was reduced in 1982 below 1981 by approximately $268 million—roughly a 20-percent cut. On top of that the President proposed an additional reduction of $125 million or 12 percent for 1983. That would represent a 32-percent cut over a 2-year period.

I would never argue that any agency of this Government could not stand a cut. But you cannot cut the Environmental Protection Agency by 32 percent and expect it to administer the myriad of environmental laws that Congress has put on the books. It is just that simple. It cannot be done.

So the committee restored approximately $73 million. We put back $12.5 million in the research and development account. We also added $6.9 million for salaries and expenses and $53 million for abatement, control, and compliance activities.

But our biggest priority in EPA was for State grants. On pages 13 and 14 of the report you can see that we added back a total of $47.5 million of the $55 million that had been deleted from the State grant area for 1983. That was the committee's highest priority—and from what I have been hearing from the constituent groups—it was their highest priority.

Now, again, to offset this increase and some other increases for NASA and the National Science Foundation we are recommending a reduction in the substantial increase for civil defense activities in the Federal Emergency Management Agency.

Let me make one thing very clear—both myself and the committee are on record of having made the point that if the administration came forward with a plan to spend a signficant amount of money for a new civil defense thrust—we would give that request very careful consideration. But my friends, the plan that they came forward with is one that I just cannot support. I do not want to go into all the details about the plan here but briefly, it is based on the concept of crisis relocation. In other words, what FEMA proposes is to move roughly 60 to 65 percent of the population from approximately 450 high-risk areas to so-called "host" areas. The plan, of course, assumes that we will have about 4 to 7 days' advance warning—that the population in the high-risk areas will cooperate and will want to move—that the host areas will be equipped to handle the millions of people moving into these areas—and that the Russians will not launch an attack just about the time everybody has gotten into their cars and are stalled in an enormous traffic jam somewhere between Springfield and Amherst.

Now we could stand here for hours, arguing over whether or not there will be any survivors in a nuclear war or whether or not this plan is actually destabilizing. While those are important issues, and while I personally feel that this plan could be destabilizing—I do not believe that that is what the committee needs to look at. What we need to decide is, is it worth spending $4.2 billion, at a minimum, to institute this plan? And—will the plan work after we have spent the money?

My judgment is that it will not work. I may not be able to prove that it will not work—but anyone who has spent 6 to 7 hours trying to get to the beach from Washington in a drive that normally takes maybe 3 hours should have some idea of the problem. In the case of getting to the beach, we are talking about moving 100,000 people. This plan calls for moving 90 percent of the metropolitan area of Washington. Think about that for a minute—and I feel you would agree the plan is flawed.

Now let us talk for a minute about one or two other areas where we have added money above the President's budget.

First, for NASA, we have added $193 million—which is primarily made up of an additional $32 million for aeronautics; $23 million for planetary mission operations; $22 million for a new advance communications satellite and finally, $140 million for Centaur Upper Stage development.

Second, the committee recommended an increase of $40 million for the National Science Foundation. Of that amount, $25 million is targeted for Science Education activities—which for all practical purposes the administration is again requesting no funds—and $15 million for the primary research and related activities function of the Foundation.

Finally, Mr. Chairman, we have provided modest increases for certain programs of the Veterans' Administration. We have added $16.7 million to medical care for an additional 500 nurses and some additional community nursing beds. Also, in the area of medical research we have added $17.2 million for what I believe—and I think the committee would agree—is some of the best spent money in the Federal budget. VA medical research returns substantially greater benefits than the total dollar investment. And I believe that it is an area that we can add money to and be assured it will be well spent.

So, I feel that the bill we have brought to you today is a reasonable recommendation. We are well under our 302 allocation for the first budget resolution. We are a little over the President's budget request—but I tried to explain to you why we felt that some increases were required in various areas—and how we attempted to offset those increases with one or two major decreases.

Mr. Chairman, this is a good bill—and I believe that it is one the President can sign.

Mr. CONTE. Mr. Chairman, will the gentleman yield to me?

Mr. BOLAND. Mr. Chairman, I am very pleased to yield to my distinguished colleague from Massachusetts who, incidentally, won the Democratic nomination for the U.S. Congress yesterday afternoon.

I am very pleased to yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the chairman of the subcommittee a question.

I understand that the committee has not provided funds for subsidized housing programs in this bill. Instead they have explicitly deferred action in this area until further direction is provided by the authorizing committee regarding the content of authorizing legislation. Is that correct?

Mr. BOLAND. The gentleman is correct. The committee believes that it would not be appropriate to make any recommendations in connection with subsidized housing programs for fiscal year 1983 until we see the outcome of significant new housing authorization legislation now before the Congress.

The committee has deferred action on four accounts which comprise the principal thrust of the subsidized housing program: First, annual contributions for assisted housing; second, rent supplement (rescission of indefinite contract authority); third, low-rent public housing—loans and other expenses (by transfer); and fourth, Government National Mortgage Association, special assistance functions fund (Ginnie Mae tandem program).

Those areas have not been included in this bill because of lack of authorization.

Mr. CONTE. I thank my colleague and would like to make a further inquiry. The bill we have before us today is approximately $9.6 billion below the 302(b) allocation for discretionary accounts which the committee has adopted for programs in the HUD/independent agencies subcommittee's jurisdiction.

Can we have the gentleman's guarantee to the House that when the committee deems it appropriate to propose funding for subsidized housing programs, the level of funding provided will be no more than $9.6 billion in total new budget authority for fiscal year 1983, and that any contingent rescissions, for example in the rent supplement program, will not serve to offset higher appropriations in achieving the overall level of $9.6 billion?

Mr. BOLAND. I can assure the gentleman and the House that it is my intention to recommend no more than $9.6 billion in new budget authority for fiscal year 1983 for subsidized housing programs, under the conditions you have just described.

□ 1300

Mr. CONTE. I, in turn, Mr. Chairman, can assure the gentleman in the well and my good friend, Eddie Boland, and the Members of the House, that the administration supports the House passage of the bill, and if not radically changed by the Senate we will have a signature on this one.

Mr. BOLAND. I am delighted with the assurance of the gentleman from Massachusetts. That gives me occasion to say this might be an appropriation bill that will be signed because it will meet the test the President has suggested with reference to funding for fiscal year 1983 for the Department of Housing and Urban Development and the 17 independent agencies included in this bill.

I thank the gentleman from Massachusetts.

Mr. CONTE. In closing, I want to take this opportunity to congratulate the gentleman in the well for his leadership, not only on this bill, but down through the years in the Appropriations Committee.

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Mr. BOLAND. Mr. Chairman, I am pleased to yield such time as he may desire to the distinguished gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this legislation, particularly the amendments to be offered by the gentleman from New York (Mr. Scheuer) and the gentleman from Tennessee (Mr. Gore).

Mr. Chairman, the House will consider three amendments offered by Mr. Gore and Mr. Scheuer to the HUD-independent agencies bill today which I believe are critical to EPA's continuing viability as a regulatory agency.

Over the past 1½ years we have witnessed a rather systematic and cold-blooded attempt to destroy EPA's inner structure of professional staff, emasculate the major regulatory programs, and cast the States adrift.

Fortunately, I believe that the Congress, the regulated community, and certainly the American people are waking up to this catastrophe and are prepared to stop the destruction and restore the resources needed to insure that EPA can operate an effective and efficient environmental program. The three amendments which will be offered today are important steps in this process.

Mr. Chairman, my subcommittee has jurisdiction over three major EPA programs, including the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and Superfund. We monitor EPA's progress in implementing the programs very carefully. I can say without any reservation that additional funds are needed for salaries, research and development, and State grants in each of the areas.

Perhaps a few illustrations of how these funds would be used would be helpful.

EPA has just begun the effort to issue permits to the over 10,000 hazardous waste treatment, storage, and disposal facilities around this country. Only last week this House passed overwhelmingly a bill which requires EPA to adhere to a rigid timetable for granting these permits. It is our responsibility to insure that EPA has an adequately trained, professional staff to write and monitor these permits. Without sufficient personnel and resources, the permit writing process will bog down hopelessly and American industry will be unable to obtain needed approval for new construction and upgrading of old facilities. It is clear to me that the present budget needs to be augmented in order to make sure that the permitting and compliance program works effectively.

I urge support for the amendment which will provide additional funds for the salaries and expenses of personnel engaged in permitting and enforcement work. Enforcement is the backbone of all of these programs and these funds will help assure that our environmental laws are properly adhered to.

I know that Mr. Scheuer is going to offer an amendment to restore at least part of the funds which were slashed from the research and development account. I support this attempt because I know that basic research and development into environmental control technology and monitoring equipment to measure the impact of pollution on public health and the environment is absolutely essential if we are to continue to make progress toward cleaning up our environment and protecting it from further damage. No farsighted person could oppose the development of the science which will ultimately save us from further degradation of the environment and our quality of life.

Perhaps the cruelest budget cuts of all have come in the area of State grants. The administration's original request cut almost 20 percent across the board from State grants from all programs. I know that the Appropriations Committee restored some of that and the Gore-Schneider amendment will improve the picture even more. The fact is that the States are about to be gifted with the responsibility of running many of the air, water, and hazardous waste programs themselves. It is unfair to tell the States they must take on these tasks and cast them adrift with minimal resources. To do that is to deny them the ability to have an effective program and ultimately to cause more harm to the public health and the environment.

All of these amendments are worthy of your support and I hope you will join me in voting in favoring them.

Mr. BOLAND. Mr. Chairman, I reserve the balance of my time.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of our subcommittee has, as always, very lucidly and accurately explained what is a very complicated piece of legislation, and I shall not bore the House by trying to gild the lily and repeat what he has already explained so carefully. I thought that it might be more useful in the time that I am consuming simply to emphasize where we are under the budget process and what the consequences are of what we do this afternoon.

As has been explained by the distinguished subcommittee chairman and by the colloquy between him and the distinguished ranking minority member of the full committee, the subcommittee has produced a bill which is approximately $9.6 billion under the section 302(b) allocation to this subcommittee which the subcommittee expects $9.6 billion to provide for housing—a subsequent bill. For the sake of those who may not be totally familiar with Appropriations Committee procedures, under the Budget Act the Appropriations Committee is allocated in the first budget resolution an amount of money covering all the funds to be appropriated that are called for by the first budget resolution, and, pursuant to section 302(b) of the Budget Impoundment and Control Act, the Appropriations Committee, by vote of the committee, then allocates that money among its subcommittees. So, in order to stay within the limit that the Appropriations Committee granted to the subcommittee, we can spend only $9.6 billion in the housing appropriation bill that we will be producing later in the session. I hope that will be shortly after the Banking Committee has produced a housing bill.

I want to be very explicit, that in order to stay within the 302(b) limit, that $9.6 billion represents an amount that is already less than the first budget resolution contemplated for the housing items that were enumerated by the distinguished chairman of the subcommittee. So, in a very real sense, the subcommittee has already chosen to take some of the budget authority that was available for housing purposes as contemplated by the first budget resolution and made that funding available elsewhere in this appropriations bill; particularly, as the distinguished chairman has pointed out, in the additional appropriations that the subcommittee has recommended above and beyond what the administration has requested with respect to EPA.

Now, I know that there are many Members who are concerned at the levels for various agencies in this appropriation bill, and in particular those for EPA. I want to say very candidly that I do share their concerns and I sympathize with those concerns. At the same time, I would ask them to sympathize with the subcommittee's situation and the situation that all of us in this House face as we consider this bill this afternoon because we have already taken funding from housing in order to give increases to EPA and elsewhere in this bill. Every Member should understand that, since it is only the housing piece that is not in this bill of the 302(b) allocation to this subcommittee, any amendment to increase spending this afternoon is in essence going to take funds away from housing assistance, because this subcommittee has committed itself and those Members who were listening to the distinguished chairman of the subcommittee and the distinguished ranking minority Member of the full Appropriations Committee heard it just a couple of minutes ago to stay within that allocation. Therefore if this bill balloons by reason of amendments to it this afternoon, the amount that this committee will have to apply to the housing programs will shrink by the same amount.

So, I think all Members, as we go about our business this afternoon when we enter the 5-minute rule and start considering amendments, ought to be very clear that any amendment they vote for to increase funding for anything else has the effect of reducing what will be left to this subcommittee to provide for assisted housing.

Again, were we not subject to those kinds of constraints, not only would I be supporting some of the amendments that have been noticed to be offered this afternoon, I would be offering some of them myself. But we do have to operate under those constraints as part of the budget procedure that this House has enacted for itself in the Budget and Impoundment Control Act of 1974, and I hope that the House will abide by them as we do our work this afternoon.

Mr. BOLAND. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I just want to compliment the gentleman from New York (Mr. GREEN) for the work he has done on this subcommittee. I do not know of any other subcommittee that has enjoyed the nonpartisan support that this subcommittee on appropriations has, and it is due to the willingness of the gentleman from New York to adhere to his own principles of spending for the various agencies that are in this bill. We have always come to general agreement on spending for the agencies in this bill.

BILL GREEN's advice has been a great help to the subcommittee. He has willingly given this committee a great deal of his time, his effort, and his talent—and he has plenty of talent.

The distinguished gentleman from New York served on the Banking Committee before joining the Appropriations Committee. His expertise and knowledge there was helpful to that committee and, I must say, is certainly helpful to this committee. I appreciate the services he renders to this committee.

Mr. Chairman, I yield such time as he might desire to the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Chairman, with a great deal of reluctance, I rise in opposition to H.R. 6956. However, I must oppose the direction and funding contained in this appropriations which is contrary to H.R. 5890, the NASA fiscal year 1983 authorization legislation which has been passed by the House. At the appropriate time I plan to offer an amendment to reduce the NASA research and development appropriations by $140 million which has been added above the President's request and the NASA authorization action to support the sole-source procurement of a Shuttle/Centaur upper stage.

The urgent supplemental recently signed into law included language directing that NASA develop, via sole-source contracts, the Centaur upper stage for its planetary missions and cancel procurement of the inertial upper stage vehicles being bought on an Air Force contract for the Galileo and International Solar Polar missions. This action was opposed by NASA, the Air Force, and the Office of Management and Budget. While this action had minimal impact in fiscal year 1982, the implications for the fiscal year 1983 budget are significant.

The fiscal year 1983 HUD-Independent Agencies appropriations bill would continue support to the sole-source procurement of Centaur by adding $140 million more than was included in the fiscal year 1983 NASA authorization already passed by the House. The Centaur development and required orbiter and launch pad modications will cost more than $634 million for two NASA missions. The Air Force has estimated that to meet Air Force requirements an additional $400–$900 million above the NASA estimate would be required to reconfigure the NASA version of Centaur and to modify DOD spacecraft for use on a short version of Centaur. Therefore, I believe the Nation would be better served if NASA is allowed to proceed with the Galileo and International Solar Polar missions utilizing an Inertial Upper Stage and if the Air Force and NASA are permitted to proceed with a carefully structured high energy upper stage program. This approach would be far more effective and beneficial since a high energy upper stage would be required in the future whether or not we develop the Centaur.

Recent communications from NASA and DOD suggest that NASA and the Air Force have cut a deal for a joint Centaur development program. But this change in agency position in itself is not justification for a sole-source procurement. The planned NASA missions can be accomplished with the Inertial Upper Stage and therefore sole-source is not required. The Air Force requirements are in the late eighties and beyond; therefore, there is adequate time for an orderly competitive procurement. I urge my colleagues to oppose the upper stage direction being mandated by the Appropriations Committee without prior authorization.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the distinguished chairman of our subcommittee for his very generous words, and express to the House what a privilege it has been for me to work with him in this Congress on the work of this subcommittee. His understanding of the work of an extraordinarily diverse group of agencies, his understanding of the workings of this House, and his concern for the members of his subcommittee has been something that I have deeply appreciated, and I would be remiss if I did not express that appreciation on the floor.

Mr. Chairman, I now yield such time as he may consume to my predecessor as the ranking member on the minority side of the subcommittee, the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I thank my colleague from New York for yielding me this time. I just simply take it to congratulate the very distinguished chairman of the subcommittee, the gentleman from Massachusetts, as well as my colleague from New York, for the bill that they are bringing before this House. It is a product of a great deal of work. It is a very complicated bill, and yet it has been brought in a position to be within the section 302 allocation, and in a position to be supported by the administration.

I was particularly pleased that the distinguished chairman of the subcommittee indicated that the housing operating assistance for low-income housing had been increased above the budget, because what we are faced with in this area to provide is that while we may be able to defer some expenditures for some new programs, it is awfully important to keep the housing that we have presently operating, and operating in a decent way and operating under decent conditions.

□ 1315

So that is a tradeoff that we have to make sometimes in this budgetary process. Where we reduced UDAG grants, those were grants for new projects, and perhaps we have to defer some of those new projects for a period of time. But we cannot take projects and installations that are currently there and let them decay and be operated poorly.

Again, Mr. Chairman, I offer my congratulations to both the subcommittee chairmen and the ranking minority member for a very good bill. I urge its support.

Mr. BOLAND. Mr. Chairman, I yield such time as he might desire to the distinguished gentleman from Michigan (Mr. TRAXLER), a member of the subcommittee.

Mr. TRAXLER. Mr. Chairman, I rise in support of the bill.

Mr. Chairman, the severe budget limitations that Congress has imposed upon itself are forcing us to make many program reductions, and while I appreciate the need to reduce Federal spending, I am becoming increasingly concerned that while we are cutting spending in many programs, we are

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not sufficiently mindful of the need that we have for many of these programs.

A case in point is the fiscal 1983 appropriation for the Environmental Protection Agency, as proposed by H.R. 6956, the fiscal 1983 HUD-independent agencies appropriations bill. The situation is so critical that it prompted me to offer supplemental views in the report on this legislation.

President Reagan succeeded in obtaining a 20-percent reduction in EPA funding last year, and he seeks another 12-percent reduction this year. The Appropriations Committee has made valiant efforts to restore as much funding for EPA programs as the committee, in its collective judgment, felt prudent.

But while the restoration is good news, I am fearful that it is like telling a drowning man that help is on the way only to have the help arrive too late. Our restorations in salaries and expenses and research and development are important. However, even with these restorations, these programs will be $10.1 million and $33.1 million, respectively, below the fiscal 1982 appropriation.

With our environmental challenges mounting, it is pure folly to reduce the programs that can help us identify ways to improve our environment. While businesses are trying to comply with our various environmental laws, to cut staff at EPA will only make it more difficult for American business to receive timely review of the many certification requests that have to be approved by EPA before business can move forward with its many projects.

I am not, Mr. Chairman, attempting to justify each and every environmental law currently on the books. I think it is important to keep in mind that we can reach a balance between our many economic and environmental concerns based upon scientific fact, as we are currently trying to do with proposed revisions in the auto emission standards imposed by the Clean Air Act. But if we simply cut the EPA budget without adequate attention to the value provided by a responsibly funded EPA, we will doom many of our efforts to secure a healthy environment at a reasonable cost.

I truly wish that our committee could have provided greater restorations for EPA activities. But the restraints of the budget resolution have presented us with our current situation and limit our options. It is for this reason that I have to date supported the action of the Appropriations Committee and why, in the absence of a responsible alternative, I will continue to support the bill as reported.

In addition, Mr. Chairman, I would like to comment on the committee's decision to add $40 million to the budget of the National Science Foundation. Emphasis in this increase is given to science education and to restoring some of the previously made cuts in the social and behavioral sciences. I would like to comment further on the latter.

This committee worked hard and long to produce an acceptable compromise between our urgent needs to invest in scientific understanding and the need to be sensitive to fiscal constraints. The increases in the social and behavioral sciences are modest, and are not even enough to restore these areas to their 1980 levels.

It would be a mistake to seriously underinvest in exactly the kind of basic research and development needed to restore the vigor of our economy and the capacity of our society to adapt to the massive changes that are underway. I strongly support the recommendations of this committee, especially as it relates to the increased resources provided for NSF programs in the social and behavioral sciences.

As this body knows full well, the problems that we face as a Nation are dominantly economic, social, and behavioral issues, and they cannot be better understood or eventually resolved unless we increase our capacity to understand, analyze, and interpret these issues. The administration request was far too low to permit that urgently needed increase in economic and social knowledge, and the committee has recommended a modest, but critical, expansion of support in these areas.

I might note that research in the social and behavioral sciences is especially important during periods when major changes in social and economic policy are in process. This administration has adopted a set of policies designed to change significantly the way in which our economy and society function. If we cut away our capacity to monitor and understand what is happening in the economy and in our society, neither the administration nor this body will be able to judge the success or failure of those policies.

VETERANS' ADMINISTRATION BUDGET

I am pleased to support the committee's recommendation for an increase of $17.2 million for medical and prosthetic research in the Veterans' Administration budget. This small VA medical research budget, totaling $155 million, represents only 1.9 percent of the total medical budget today. In 1970, it represented almost 3.5 percent of that budget.

I can neither understand nor support the administration's position in cutting this budget. The VA has a long tradition of excellence in patient care, medical education, and medical research. The three are inseparably linked, and a proper balance must be maintained. If research in the VA is damaged beyond repair by these drastic cuts, the system will lose many of its high-quality physicians—men and women engaged in the care of veterans, the teaching of future generations of health professionals, and the development of new medical knowledge.

I fully support the restortion of these funds. The impact of allowing the cuts to go through would have a disastrous effect on the VA medical care system.

Mr. BOLAND. Mr. Chairman, I yield such time as he might desire to the gentleman from Texas (Mr. Gonzalez).

Mr. GONZALEZ. Mr. Chairman, I thank and compliment the distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. Boland), for doing a very efficient job under very trying circumstances, and I compliment as well the ranking minority member and my former colleague on the Banking Committee and, I believe, the Housing Subcommittee as well.

As the subcommittee chairman has well noted, the bill does not provide for funding the major housing production programs pending action on an authorization bill for those functions for which our committee has the responsibility.

The authorization bill was reported out of committee on a very timely basis last May. It was one of the first authorization bills approved by the committee. It is most unfortunate—and some of us have been auguished because of it—that it has not yet reached the floor for consideration. I want to assure my colleagues that we will bring the bill forward as soon as possible.

We are facing difficulties with the authorization bill, primarily and really mostly because the administration has until now adamantly opposed any kind of authorization that provides for housing production of any kind. They are opposed to new construction of public housing units; they are opposed to any funds for assisting the construction of multifamily units for moderate income families; they are opposed to any kind of assistance for home ownership; and they are opposed to any kind of housing stimulus program. They are even opposed to emergency mortgage assistance, even though the foreclosure rate on mortgages today is at the highest level ever reached.

I have been working to see whether it will be possible to bring forward a consensus bill for housing, and with that, I wish to note the very cooperative spirit of the ranking minority member of the subcommittee, the gentleman from Ohio (Mr. Stanton), who at this very time is attempting to meet with and negotiate with the White House and the Office of Management and Budget.

Now, this would be a bill that would provide less than the original bill reported from my committee. It is less than what I feel the Nation really needs and demands, but it would be a bill that would conform as closely and as reasonably to the budget resolution as possible. It would nevertheless be a bill that keeps intact our historic and bipartisan commitment to housing programs.

Our negotiations would be faster if the administration—and that is mostly Mr. Stockman—were not so adamant and fanatic in its position. Yet I am confident that we will be able to bring forward a good bill and do it as soon as possible.

Housing has been devastated, as everyone knows, by the economic forces of the past several years. There is not now any reasonable prospect for a sound recovery in housing, despite the fact that demand is strong and rising and we have a critical need, because the fact is that mortgage money is scarce and interest rates are still far beyond reach and mortgage conditions written into contracts place more risk on buyers than they can prudently assume.

We are in the midst of high unemployment and great uncertainly. These are times that normally would call for a major effort to stimulate housing production, but today the reality is that we confront an administration that believes the best way to cure a very sick patient is to inflict more cuts and apply more leeches.

Mr. Chairman, I want to assure the House that we will have a housing bill this year. It will be as comprehensive as possible, and it will hopefully be a bill that will be supported by every single Member who is concerned about housing and by every Member who realizes that jellybeans are no substitute and never will be substitute for workable policies.

Mr. DUNN. Mr. Chairman, I rise in support of this appropriation bill, H.R. 6956, and especially of the funding levels in it for the National Science Foundation.

The National Science Foundation maintains programs to encourage badly needed long-term, high-risk research. This research is accomplished by means which train future generations of scientists and engineers. There is a remarkably high return for this country in these programs. The broad impact of NSF science, engineering, and social science research and education programs in our economic and strategic interests is great in comparison to this relatively small part of the budget.

NSF programs conform well to the administration's view that long-term, high-risk research and resultant training are proper goals for Government expenditure. Indeed, the President's own budget requests an increase in funds for the NSF over last year's level. Nevertheless, I cannot agree with the administration's low figures for behavioral and social science research and for science and engineering education. Likewise, I must also object to alternatives which replenish these directorates by draining funds for all research activities.

The $1.1 billion contained in this appropriation bill for the National Science Foundation are an important investment in the economic and technological future of our country. Universities rely on these funds in carrying out their essential work, in remaining the research backbone of the Nation.

I urge my colleagues to support this funding level in this HUD-independent agencies appropriation for fiscal 1983, and oppose any weakening amendments.

● Mrs. SCHNEIDER. Mr. Chairman, 1 month ago, this House decided by nearly a 100-vote margin to increase the funding for the Environmental Protection Agency's research program to last year's appropriations level. At that time, it was made clear that such an increase was modest indeed, given the EPA's new responsibilities with regard to toxic wastes, and given the magnitude of the cuts in EPA's budget between 1981 and 1982.

If we want to reaffirm the commitment we made 1 month ago to the EPA budget and environmental protection, we must vote today to bring the appropriations for EPA's research closer to the fiscal year 1982 appropriations level. When we debated this issue previously, I think we made obvious a contradiction in EPA research policy. On the one hand, the Agency, is committed to improving the quality of scientific research that it uses to support our environmental standards. That is a goal that all of us can enthusiastically endorse.

At the same time, however, the Agency is cutting exactly those long-term research projects that keep the EPA in the forefront of environmental science. The point is obvious: If the Agency is going to focus its entire environmental program on short-term regulatory needs, the quality of its science will inevitably deteriorate. That point has been underscored by the American Chemical Society, which represents 125,000 chemists and engineers, and which has enthusiastically endorsed the amendment to restore appropriations for EPA research. Let me quote directly from the society's letter:

> The Scheuer amendment would increase funding for extramural research, an area slated for drastic cuts by administration, thereby allowing the agency to draw upon qualified, creative experts outside EPA who can assist in solving environmental problems. The extramural program is critical because it is open to the entire scientific community, including many of the best environmental scientists, some of whom have become discouraged by their inability to have their work supported by funding through the EPA laboratories. The proposed additional funds will allow EPA to increase its long-range research on emerging environmental problems. It would be shortsighted to wait until such problems reach crisis proportions before attempting to develop the information that is needed for appropriate policies and regulations. A lack of fundamental information is a major reason the Agency has failed to meet some of the regulatory deadlines established by Congress. In summary, the American Chemical Society believes that the House would be wise to accept the Scheuer amendment.

I include the full text of the American Chemical Society's letter of endorsement at this point in the RECORD, and I ask that my colleagues support this important amendment.

> AMERICAN CHEMICAL SOCIETY
> *Washington, D.C., September 14, 1982.*
>
> Hon. JAMIE L. WHITTEN,
> *Chairman, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.*
>
> DEAR CONGRESSMAN WHITTEN: The American Chemical Society has a long-standing record for promoting the use of good science as the basis of regulatory decision-making. Research is needed to insure the integrity of environmental laws, regulations, and policies. This letter is to inform you of the Society's support for the amendment which Congressman James Scheuer, chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment, is expected to offer to the HUD-Independent Agencies appropriations bill for fiscal year 1983.
>
> Congressman Scheuer, whose subcommittee has been reviewing in detail the research and development efforts of the Environmental Protection Agency, proposes to increase funding for EPA's appropriation for "Research and Development" from $121 million, as recommended by the Committee on Appropriations, to $146 million. It is our understanding that, even with this amendment, the total EPA appropriations would still remain within the first budget resolution's allocation.
>
> The Scheuer amendment would increase funding for extramural research, an area slated for drastic cuts by the Administration, thereby allowing the agency to draw upon qualified, creative experts outside EPA who can assist in solving environmental problems. At the same time, the agency will continue to support research which is more appropriately conducted in-house.
>
> The extramural program is critical because it is open to the entire scientific community, including many of the best environmental scientists, some of whom have become discouraged by their inability to have their work supported by funding through the EPA laboratories. In contrast to previous selection processes, under the extramural program all proposals received would be subjected to peer review by panels of top scientists and engineers in the environmental field, and only those containing the most competent research will be recommended. Such reviews are so stringent that typically only 30 percent or less of the proposals are recommended for support. Once a proposal is recommended by a review panel, it is then reviewed internally by EPA to insure that the work is relevant to the mission and current priorities of EPA. The

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result of these two levels of review is that the nation obtains the most competent, relevant research per dollar in the recommended fields.

The extramural program has funded a number of excellent studies of important atmospheric problems, such as carcinogenic materials in the atmosphere, and chemical and meteorological studies related to acid rain and the development of receptor models for atmospheric particles (which promise to be more reliable than presently used dispersion models for identifying air pollution sources). Projects funded in the water pollution field include development of a master analytical scheme for organic constituents in water, and development and validation of methods for analysis for priority pollutants.

Finally, the proposed additional funds will allow EPA to increase its long-range research on emerging environmental problems. It would be short-sighted to wait until such problems reach crisis proportions before attempting to develop the information that is needed for appropriate policies and regulations. A lack of fundamental information is a major reason the agency has failed to meet some of the regulatory deadlines established by Congress.

In summary, the American Chemical Society believes that the House would be wise to accept the Scheuer amendment. Good fiscal management of the funds appropriated, coupled with sound strategies for research and development, would help EPA meet its responsibilities. The American Chemical Society is a nonprofit scientific and educational organization with a membership of over 125,000 chemists and chemical engineers. These comments are endorsed by the Society's Board of Directors.

Sincerely,

ROBERT W. PERRY,
President.●

● Mr. ZEFERETTI. Mr. Chairman, I wish to bring to my colleagues' attention one small provision of H.R. 6956, Department of Housing and Urban Development-independent agencies appropriations bill for fiscal year 1983, but a paramount provision which is vital to our efforts in fighting this Nation's alarming fire death toll and property losses.

The provision to which I am referring is the addition of $6 million earmarked for the U.S. Fire Administration (USFA). As you are probably aware, the Reagan administration in its original budget request did not request any funding for the USFA in fiscal 1983. Fortunately, the House Appropriations Committee saw fit not to devastate the U.S. Fire Administration and included in H.R. 6956 $6 million for the USFA. Let me also take this opportunity to point out the forceful efforts of my colleague, DOUG WALGREN, chairman of the Science, Research and Technology Subcommittee, in leading the fight to save the U.S. Fire Administration.

Without doubt, we have come far and have many accomplishments in our Naiton's fire prevention programs. We cannot, therefore, let Reaganomics destroy these efforts to bring fire, death, and casualty loss to a minimum. We must support the U.S. Fire Administration and we must support the $6 million in funding to keep the USFA a viable and working instrument in our fire prevention efforts.

Thank you, Mr. Chairman, for giving me this chance to express my support for this valuable funding and important program.●

● Mr. MOFFETT. Mr. Chairman, I want to commend the distinguished chairman and the members of the HUD-Independent Agencies Subcommittee for their fine work on H.R. 6956, the fiscal year 1983 appropriations legislation. I am particularly glad to see that adequate moneys have been earmarked for the National Science Foundation's reasearch functions. Obviously, the subcommittee recognizes the vital link between scientific research and the stimulation of our Nation's depressed economy.

Today's appropriations bill contains important additional support for social and behavioral science research under the NSF. Research sponsored by social and behavioral science helps to deal with problems in such areas as economic productivity, capital formation, savings behavior, learning, and cognitive development, and many others. The National Science Foundation's social and behavioral science programs support large scale data cases that provide information for scholars, for policymakers, and for the Library of Congress own Congressional Research Service, among others.

H.R. 6956 also provides an additional $25 million for science and engineering education. The growing gap in our Nation's research, science, engineering, and math capabilities is well documented, and must be of grave concern to all of us here who profess to be forward thinking individuals. This concern was noted in an article published earlier this year on "The Growing Science Gap" by D. Allen Bromley, a nuclear physicist, chairman of the board and immediate past president of the American Association for the Advancement of Science:

> We have the urgent problem of developing scientific literacy on the part of our citizenry. Over 80 percent of our citizens receive their last exposure, if any, to mathematics and science during their high shcool years. In a society, such as ours, of growing technological sophistication where the questions of consequance increasingly have scientific and technological aspects, if our public cannot at least appreciate the nature of the issues, quite apart from contributing to their resolution, they inevitably will tend to become alienated from the society. (Hartford Courant, January 27, 1981.)

It was the Sputnik crisis several decades past that prompted this Nation to undertake a concerted educational effort to become technologically competitive. Today, we are in no less of a crisis and the need for scientifically and technically trained citizens is surely as urgent. In this respect, the HUD-independent agencies appropriations bill's $25 million for science and engineering education is a significant and necessary step in reversing our downward trend in science literacy.

The National Science Foundation took its fiscal lumps last year, as did so many important Federal initiatives. At the present time, the social and behavioral science research programs are still being funded at less than 40 percent of their appropriation level in fiscal year 1980. Still, the moneys for these programs contained in today's bill are essential for tomorrow's scientific development and I applaud the chairman for his foresight in this regard.●

● Mr. STARK. Mr. Chairman, on the appropriation for the Federal Emergency Management Agency, in future years, I hope that the committee can give more attention to the need for funding of the Earthquake Hazards Reduction Act of 1977.

The administration keeps requesting increases in FEMA for war civil defense purposes. The horrors which would be caused by a nuclear war would be so extensive that I question whether they can ever be prepared for even with a national commitment to a massive program costing hundreds of billions.

There are more certain disasters facing us, however, which FEMA could help moderate—but which this budget does not address.

Yesterday, we debated the authorization of money for the Earthquake Hazards Reduction Act. The Science and Technology Committee's report on that legislation noted that, and I quote:

> Recently, several reports have been released which highlight the growing importance of and need for a coherent National Earthquake Hazards Reduction Program. A 1981 FEMA Report, "An Assessment of the Consequences and Preparations for a Catastrophic California Earthquake: Findings and Actions Taken," found that this Nation is essentially unprepared for the next catastrophic earthquake that is expected in California within the next 30 years. Moreover, the U.S. Geological Survey issued a report which stated:
>
> "If an earthquake should occur today on the Newport-Inglewood fault near Los Angeles, it would probably cause losses of about $45 billion to buildings and as many as 23,000 deaths * * *. A repeat of the 1811–12 New Madrid, Mo. earthquake has been estimated to cause (roughly) comparable losses."
>
> Our Nation, with extensive population growth and settlement in large cities located over seismically active zones, has been fortunate to date. However, it is only a matter of time before this nation experiences another damaging and quite possibly catastrophic earthquake.

I believe we need to do much more to detect pending large earthquakes and warn citizens of peak danger periods. Many areas of our country face the same earthquake dangers as Japan, yet compared to Japan, we are doing little to prepare for this emergency. The Washington Post of September 14 reported on Tokyo's $6 billion effort to construct earthquake-proof public structures. In Japan, scientists keep a 24-hour watch over data from detection devices located at 238 stations along the volcanic spine of the Japanese islands. The water tables are continually checked for sudden changes, and satellites monitor the Tokyo area for Earth changes that could warn of a killer quake.

In sum, I believe that we would be wise to invest more of our limited civil defense funds into detection, warning, and countermeasures to deal with major earthquakes.

Today's appropriations bill is a cut of $1.4 million below the amount we authorized yesterday, and $400,000 below the administration's request. FEMA advises me that these cuts will be felt in three areas.

First, earthquake preparedness projects will be reduced by $795,000—from $1,750,000 to $955,000. This will curtail the development of earthquake vulnerability analyses and contingency and mitigation plans for the southern California earthquake preparedness project, the Central United States, Hawaii, Alaska, Puget Sound, San Francisco, and Boston.

Second, support of the Building Seismic Safety Council's efforts to develop and deploy improved building codes and designs will be reduced by $100,000—from $600,000 to $500,000.

Third, support of efforts to develop and disseminate earthquake hazard information to the public will be reduced by $225,000—from $570,000 to $345,000.

I fear these are penny-wise, but pound-foolish savings. In a year of $155 billion deficits, I do not propose increases in spending. But next year, I urge the committee to give more attention to this pending emergency and to find funds within the administration's budget for increased earthquake detection and mitigation.●

● Mr. CORRADA. Mr. Chairman, the fiscal year 1983 HUD-independent agencies appropriations bill before us today is a measure which will continue some of the critical programs of the Department of Housing and Urban Development and other agencies.

I rise in support of this legislation. It is one of the first major appropriations bills to reach the House floor as we approach the end of the fiscal year and, if enacted, will give our local communities the funds necessary to continue the community development block grant activities that are ongoing activities of many large and small cities throughout the Nation and in Puerto Rico.

I am pleased to note that at a time when we have seen serious cutbacks in many domestic programs, the committee recomends essentially the same level of funding for the CDBG program in fiscal year 1983, including $3.4 billion for this activity, only a slightly lesser amount than that for fiscal year 1982.

In Puerto Rico, 9 of our larger municipalities receive direct funding for CDBG activities and the other 69 municipalities share in the small cities program. The amounts appropriated in H.R. 6956 will mean an estimated $107 million in Federal financial assistance to all the municipalities in Puerto Rico to carry on a wide range of community development and housing activities at the local level.

A companion program in this bill, providing incentives to the private sector to stimulate urban development, is the urban development action grant, or UDAG program. Puerto Rico has made an increasingly effective use of UDAG funds to carry out a variety of local development projects.

While the total amount of funds appropriated for UDAG constitutes a reduction to $340 million from the present level of funding of $435 million, the committee's action in adding a carryover of an estimated $100 million in unused UDAG funds will help our island's communities considerably and will allow the program to continue to operate in fiscal year 1983 more or less at the same level it has this year.

Other provisions in this bill to maintain and continue subsidized housing projects which are already in process, is welcome news to those of us who have consistently supported the HUD programs to help low- and moderate-income families to an adequate level of living.

I note that some major housing subsidy programs go unfunded in this legislation and I am hopeful that the House Banking, Finance and Urban Affairs Committee will, in the near future, provide the authorizing means to continue such traditional and time-tested programs as section 8 low-income housing, section 235 and others.

Mr. Chairman, the legislation before us today is a sound, sensible, and reasonable measure. It merits all of our support.●

● Mr. ROYBAL. Mr. Chairman, I rise in support of the fiscal year 1983 HUD appropriations bill because it contains funding of great interest and importance to the elderly in our Nation. Not only does it provide funding for the section 202 program which is specifically designed to develop housing for the elderly and handicapped, but it also contains funding for the congregate housing services program.

Funding is this bill is minimal for the congregate housing services program and provides only for refunding of the projects which were started in 1979. This money will allow these projects to continue providing services to the elderly until the HUD evaluation of this program is completed.

I will continue to advocate funding for this important congregate housing program because it has been proven without a doubt that it saves money and is a more effective way of providing services to the frail and impaired elderly.

As chairman of the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging, I have received much testimony which documents that it costs approximately $4,000 a year per person to provide supportive services and shelter to the elderly as compared to over $7,000 a year for the Government's portion of nursing home costs or other institutions. Total nursing home costs averaged $13,000 in 1979. HUD data shows that it costs $9.85 per day to provide supportive services to the elderly participating in the CHSP. This amount of less than $10 per day includes all grant dollars and local contributions, including fees for participants. The actual cost to the Federal Government is about $6.15 per day.

These figures clearly prove that to provide services to the elderly through this program, which allows them to remain at home and in their community, is considerably less expensive than if these same elderly persons were to be institutionalized.

We must proceed with measures that assure continuation of the section 202 program and the congregate housing services program, not only for 1983, but beyond.

Therefore, I urge all my colleagues to vote in support of H.R. 6956.●

● Mr. WEISS. Mr. Chairman, I support increased Federal funding of basic research in the social and behavioral sciences and science education.

Last year, the President recommended that the budget of the Directorate of Biological, Behavioral and Social Sciences at the National Science Foundation be cut 75 percent, virtually eliminating NSF's program in the social and behavioral sciences. Happily, Congress saw fit to restore to the NSF budget more than half of the recommeded reduction. Unfortunately, despite that restoration, this important area of scientific inquiry now receives only half the support it did in 1980.

Some misunderstand what comprises research in the social and behavioral sciences. In general, the value of this kind of research is not appreciated. Although some say that social science is just "commonsense," the fact is that social and behavioral research has provided us with much information about society and human behavior that runs counter to conventional wisdom.

For example, because about 8 percent of American households receive some sort of welfare payments each

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year, while 10 percent are classified as below the poverty line, it has long been assumed that there exists a poor and dependent underclass amounting to something like 10 percent of the population. However, a very different conclusion is suggested by studies of income change. These longitudinal studies show that although 8 percent of American households did receive welfare during a typical year, about 25 percent received welfare during at least 1 year during the 1970's. Actually, only 0.7 percent were found to have been dependent on welfare throughout that decade.

These studies also contradict another view about welfare dependency. The data show that welfare dependency does not mean that recipients do not work. The studies suggest that most people who receive welfare also work, and that most welfare recipients get more than half their income from work rather than welfare. As a result of this research, we now know that families move on and off of welfare roles, utilizing Government support in times of crisis, whether it be the illness of the family's breadwinner or his or her temporary unemployment.

Facts such as these, which result from social science research, can inform our decisions and deliberations and lead to more reasoned and humane congressional decisions.

The additional $9 million earmarked, in part, by the Appropriations Committee for NSF's research in the behavioral and social sciences represents a small but important investment in better understanding how our society and our economy functions. The additional $25 million earmarked for NSF's programs in science education will help assure that this Nation will continue to have a trained pool of scientists and mathematicians and that our citizens will have the requisite skills to function in our increasingly technological society.●

● Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 6956, the appropriations bill for fiscal year 1983 which funds a number of agencies, including the Veterans' Administration. The Appropriations Subcommittee on HUD and Independent Agencies has brought us a good bill with respect to veterans and the gentleman from Massachusetts (Mr. BOLAND) and the gentleman from New York (Mr. GREEN) deserve our commendation.

Mr. Chairman, the amount of money recommended for the Veterans' Administration medical care program is most noteworthy. It is $545 million over 1982 up to a total of over $7½ billion. In these times of fiscal restraint this is a very adequate amount and I am confident it will provide VA with sufficient funds to continue to carry out its excellent medical program for the veterans of our country.

Mr. Chairman, I am also most pleased to note that funding for medical research has been recommended for an increase. Under the provisions of H.R. 6956, this appropriation will go up from $128 million in 1982 to $155 million in 1983. Research in VA is essential if its medical program is to flourish. It aids greatly in recruitment of good doctors, but even more importantly, its achievements in medical science are of great benefit to the nationwide practice of medicine.

Mr. Chairman, this bill provides funds that relate to a number of matters that have had considerable attention by the Committee on Veterans' Affairs. Under the leadership of our distinguished chairman, the gentleman from Mississippi (Mr. MONTGOMERY), we have been most cost conscious, and we have met our obligations under the reconciliation instructions. In doing so, however, we have not damaged the fundamental structure of veterans' benefits. In fact, we have improved that structure by such things as passing legislation calling for increased compensation for service-connected disabled veterans and recruitment aids for nursing personnel such as scholarship and premium pay. These matters are addressed in a positive manner by the appropriations bill before us.

Again, Mr. Chairman, I commend Mr. BOLAND and Mr. GREEN and the entire subcommittee. This is a bill we can all support while being very confident that it carriers out fully our Nation's commitments to our veterans and their dependents.●

● Mr. NELSON. Mr. Chairman, I rise today in support of the Appropriations Committee recommendation for funding of the National Science Foundation.

NSF is this country's primary basic science organization. Its policies and programs reflect national priorities in science research. Last year, the administration attempted to discredit the Foundation's research programs in the social and behavioral sciences by proposing cuts in their budgets of up to 75 percent. This attack on an area of scientific research that provides us with essential information on human factors in technological and economic development was later described by George Keyworth, the President's science adviser, as having shown "poor judgment." The committee's bill would restore some of the funds for social and behavioral science research that were lost during last year's appropriation. This restoration of funds would signal the Congress commitment to the importance of learning more about how technological and economic developments are affecting our citizens.

The bill also includes additional funding for NSF's program in science education. The administration's proposal to dismantle this program at a time when studies are documenting how much less science and mathematics training our children are receiving and how few college graduates are becoming science and math teachers, demonstrates poor judgment in my opinion. Our children must receive solid training in mathematics and science if they are to become productive members of American society and if we, as a nation, are to maintain our status as a world leader.

I wholeheartedly support the committee's proposed appropriation for the National Science Foundation.●

● Mr. GORE. Mr. Chairman, I wanted to emphasize my strong support for the National Science Foundation funding provision included in H.R. 6956. The committee's bill provided additional funding for NSF's program in the social and behavioral sciences and for its program in science education.

Last year, the administration singled out NSF's program in the social and behavioral sciences for cuts of up to 75 percent, cuts that were large enough to destroy these programs. The Appropriations Committee wisely rejected this proposal. The cuts were later described by George Keyworth, the President's Science Adviser, as displaying "poor judgment." (See Washington Post, Dec. 2, 1981.)

It is unwise, if not downright foolish, for us to ignore the human factors in technological development. The most sophisticated machines are useless if the people manning them are ill trained or poorly motivated. Moreover, how are we to assure that our children will be able to participate productively in the America of the future if we neglect the science and math education they are receiving today?

I supported the Appropriations Committee recommendation for increased funding for the National Science Foundation. Research in the social and behavioral sciences is essential if we are to understand how rapid technological advances are affecting our citizens and improvements in science education are essential for our children to be able to face the future.●

● Mrs. SCHROEDER. Mr. Chairman, today we are considering H.R. 6956, the HUD-independent agencies appropriations for fiscal year 1983. Included in this bill is a $728 million appropriation for the Federal Emergency Management Agency (FEMA). The discharge of one of FEMA's responsibilities raises an issue we should be aware of.

FEMA is the brainchild of the civil defense folly called crisis relocation. This plan, which follows the Reagan policy of anything you can do I can do better toward the Russians, is a $4.2 billion, 4-year plan designed to evacuate likely nuclear attack target areas and relocate millions of Americans to areas considered safe from nuclear attack or fallout and hospitable to the hordes of these nuclear refugees.

The crisis relocation plan would be laughable if it wasn't so dangerous. It gives people a false sense of security. It takes people away from shelter, leaving them more vulnerable to nuclear attack. And its cost far outweighs its benefits.

City, county, and State officials privately concede that the plan is unworkable, impractical, and foolish. But many jurisdictions make no move to abandon the plan foisted on them by FEMA because they are afraid FEMA has tied crisis relocation funding to other civil defense money, such as assistance for natural disaster cleanup. They have a valid point.

I recently asked FEMA if local jurisdictions would jeopardize their eligibility for other funds if they vetoed their local crisis relocation plan. FEMA's vague and roundabout response is worth sharing. It suggests that legislative clarification is needed to give these jurisdictions guidance:

Federal Emergency
Management Agency,
Washington, D.C., September 2, 1982.

Hon. Patricia Schroeder,
Member, U.S. House of Representatives,
Denver, Colo.

Dear Ms. Schroeder: This responds to your letter of July 16, 1982, to Louis O. Giuffrida, Director of the Federal Emergency Management Agency (FEMA), on civil defense funding and Agency policy regarding communities or States that refuse to participate in crisis relocation planning.

With respect to your questions concerning the funding structure for civil defense, the materials enclosed illustrate the major civil defense program elements categorized by appropriation. They also indicate whether States and local communities are direct recipients and, if so, what percentage of the program funding is provided by the Federal Government.

As to whether civil defense funds may be withheld if a State or locality refuses to participate in crisis relocation planning, the Federal Civil Defense Act of 1950 (the Act) provides that communities participate in crisis relocation planning and other civil defense activities on a completely voluntary basis. FEMA does not have the authority and does not intend to mandate in any way participation in any civil defense program for any community. To the contrary, through our regional offices in Denver and other cities we work with the States and their local jurisdictions to assure that the emergency preparedness programs of each community are improved as much as possible within the funds made available by the Congress.

To date, we have published no regulations designed to implement a policy of denying any community its eligibility to receive other forms of Federal emergency financial assistance should that community, through its leadership, refuse to undertake crisis relocation planning. There are, however, requirements in Section 205 of the Civil Defense Act that the Director, FEMA, establish priorities and standards for a national civil defense program which are made applicable to States and local communities in the Federal funding of functions and activities authorized in the Act, including assistance for salaries and administrative costs for civil defense officials. Necessarily, the Director, in setting such standards, must look to legislative mandates for programs, found particularly in Title V of the Act, and to priorities established by the President. Both the civil defense program approved by President Reagan and forwarded to Congress as part of his Fiscal Year 1983 budget, and the legislative program endorsed by Congress in 1980 and called for in Title V of the Act, state that emergency relocation readiness shall be a key element of the nation's planning for population protection in case of nuclear attack.

In light of the statutory provisions at Sections 205, 207 and in Title V of the Act and the priorities established by President Reagan, it is possible that a community's rejection of crisis relocation planning could raise questions as to the authority and practicality of continuing other civil defense assistance programs in that jurisdiction, particularly where the community action is not in accord with Federal and State determinations that crisis relocation planning for that jurisdiction is essential for overall national emergency planning goals. Again, the Agency has not as yet issued any particular rulemaking on this issue; however, where a State or community refuses to participate in or undertake civil defense programs, such as crisis relocation, that action may be found to be inconsistent with the requirements of the Act and the national program objectives established by the Director. Should that occur, that jurisdiction's eligibility for other forms of financial assistance under the Civil Defense Act could be questioned under the terms of the Act itself.

We sincerely hope that this letter responds to the questions raised by your constituent communities in Colorado. FEMA is attempting to work closely with each State and its respective communities to improve all aspects of emergency readiness and response. We are confident that questions of participation and eligibility can be worked out. Of necessity, we are charged by the President and the Congress to carry out the program called for in the Civil Defense Act which does place continuing emphasis on emergency planning for a nuclear attack.

Sincerely,

John E. Dickey,
Assistant Associate Director,
Emergency Management Programs Office.●

● Mr. ZEFERETTI. Mr. Chairman, I rise in support of the amendment of my colleague, Representative Thomas Daschle, to H.R. 6956 to appropriate $25 million in fiscal year 1983 for the veterans' small business loan program.

As you know, the Congress passed and the President signed into law the Veterans' Health Care, Training and Small Business Loan Act. While this legislation represented a major accomplishment for Vietnam-era veterans suffering from agent orange exposure and for the continuation of "storefront" readjustment counseling, the small business loan program aspect of this law has become nothing more than a mere dream. President Reagan did not want the readjustment counseling program, but Congress funded it. The President did not want the small business loan program, and now we have a chance to fund that vital program.

The act, as signed into law, authorized appropriations of $25 million for a small business loan program to be administered by the Veterans' Administration. Disabled and Vietnam-era veterans would be eligible for small business loans, if they had not received assistance from the Small Business Administration. Unfortunately, President Reagan has not requested any funding, either in fiscal 1982 or fiscal 1983, for the loan program.

The amendment being offered by Mr. Daschle would make available the necessary $25 million in funding for the loan program. It would finally make this dream come true, and it would help make the dreams of many veterans who want to start their own businesses come true.

At a time when we must be very careful with taxpayers' money, this program can give us a good return on our investment. First, it will help put disabled and Vietnam-era veterans into the productive mainstream. Second, those businesses pay taxes and employ people. While the numbers may be small, the businesses will only bear positive fruits in our communities. And, finally, it will assure all veterans that Congress remains committed to helping those who have served our Nation.

Mr. Chairman, I wholeheartedly support Mr. Daschle's amendment to H.R. 6956 to provide the needed $25 million for the veterans' small business loan program. And I strongly urge my colleagues in the House to stand with me in support of the amendment and vote for its approval.●

● Mr. STOKES. Mr. Chairman, I rise in opposition to the amendment to H.R. 6956 offered by the distinguished gentleman from Alabama, Mr. Flippo. This amendment would delete the $140 million in fiscal year 1983 funding for the continued integration of the Centaur upper stage into the space shuttle. I oppose this amendment because the evidence regarding whether the Centaur or the inertial upper stage should be developed by NASA is strong and clear.

This is a controversial issue, Mr. Chairman, which the HUD Appropriations Subcommittee has examined in great detail. It has been thoroughly explored by our subcommittee in hearings with NASA. On the basis of evidence presented in these hearings, I am convinced that Centaur can best meet the interplanetary needs of NASA. Moreover, once developed for NASA, Centaur can also address the national security interests of the Department of Defense and respond to commercial applications as well.

Centaur is a tested and proven program which has consistently demonstrated its technical capabilities and reliability. The Centaur was chosen by NASA in early 1981 as the preferable

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vehicle for both the Galileo and international solar polar missions and this decision was upheld by the General Accounting Office. While the use of Centaur will require delaying the Galileo and international solar polar launches to May 1986 from September 1985, the total timetable for Galileo will be shortened by 1 to 1½ years because of Centaur's higher payload capability. It makes ultimate sense, on both technical and economic grounds, to continue with this program which, with minor modifications, can be adapted for integration into the space shuttle.

The Shuttle/Centaur integration program has been in full development for over a year now. We have already spent approximately $40 million on this effort with total project costs estimated at $634 million. If the Flippo amendment is adopted, not only will our current investment in Centaur be lost, but also we will be committing ourselves to more expensive and unproven alternatives. The costs of the alternative inertial upper stage have escalated from $150 million to $700 million, yet the inertial upper stage does not exceed the lift capabilities nor the specifications of Centaur. The development of a new high energy upper stage would cost even more—$1 to $1.5 billion—and would not be operational until the 1990's.

Additionally, Mr. Chairman, with the adoption of the Flippo amendment, we will lose the considerable expertise of the Lewis Research Center in Cleveland, Ohio and the jet propulsion laboratory in Pasadena, Calif. in the research and development of Centaur. I personally know of the worldwide acclaim which the Lewis Research Center has received in its work in aeronautics, communications and energy. It would be a great loss to the Lewis Research Center and to the space program if NASA is directed to the inertial upper stage in lieu of Centaur.

Mr. Chairman, in my estimation, cancellation of Centaur at this point in time would be highly counterproductive and could jeopardize the Galileo and international solar polar missions. The Congress has already spoken on this issue with the adoption of the fiscal year 1982 urgent supplemental appropriations bill which appropriates $80 million for Centaur's use with the space shuttle in launching NASA's planned interplanetary missions. We ought to maintain this policy decision by rejecting the Flippo amendment. I urge you to support the fiscal year 1983 HUD-independent agencies appropriations bill as reported, which will allow for the continued development of Centaur and continued progress in our Nation's space program.●

Mr. FAZIO. Mr. Chairman, I endorse the Appropriations Committee recommendations for the budget of the National Science Foundation. The Foundation's budget is an important measure of the value the Nation places on science and technology. The committee is recommending an appropriation for NSF that recognizes how vital scientific research is to our future.

Particularly important is the fact that the committee's bill increases the budget for such critical areas as social and behavioral science research and science education. In both areas, we must increase rather than decrease our national commitment. For example, we face problems of unemployment, declining productivity, and an inadequately trained labor force—all of which can be better understood and dealt with through research in the social and behavioral sciences.

At a time when our problems are mounting faster than our ability to solve them, it makes sense to invest in research in those areas that can shed light on both the problems and the possible solutions.

● Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of the gentleman from Tennessee, Mr. GORE's, amendment restoring funding to the State grants program. It is clear that we cannot increase State responsibility for managing environmental programs far beyond their current means and simultaneously decrease Federal financial support for these programs.

A survey of States' environmental management programs conducted by the National Governors' Association this year indicates that Federal support retains a key role in these programs, even where States have been able to increase their own support. Federal funds provide in aggregate terms: 45 percent of State air budgets; 46 percent of State water quality budgets; 48 percent of State water supply budgets; and 69 percent of State hazardous waste budgets.

Only a small number of States expect to be able to make up for a significant reduction in Federal support by increasing State funds, in the face of their own fiscal constraints. Most will not be able to rely on permit fees, for example, as they have no existing statutory authority to collect fees.

A large number of States indicate they are considering completely eliminating or not accepting delegation of important environmental protection activities, particularly in the air program. In addition, many will reduce activities in proportion to the reduction in Federal support for these programs. According to NGA this "reflects the States' belief that they have already streamlined their budgets and further savings cannot be achieved without actual reductions in personnel and equipment." I would like to submit part of the NGA report for the RECORD if there is no objection.

Although I addressed these concerns to the EPA Administrator when she appeared before the Science Committee, I was unable to receive a satisfactory response.

Federalism should be cooperative. While joint responsibility for environmental protection between the State and Federal Government is a good idea, we should be working with the States to determine what there budgets can and cannot handle. We should move gradually toward abdicating Federal financial support for these programs until the States have had a chance to better prepare for their expanded authority.

The level of funding provided for in this amendment brings the State grants program up to the fiscal year 1982 funding level. Last year's 13-percent cut produced drastic reductions in personnel and services in these agencies and I feel strongly that this amendment is necessary to avoid any further reductions in these vital programs.

I include the following:

NATIONAL GOVERNORS' ASSOCIATION,
Washington, D.C. September 13, 1982.

DEAR MEMBER OF CONGRESS: As you consider the HUD-Independent Agencies Appropriations Bill (HR 6956), which contains fiscal year 1983 funding for the Environmental Protection Agency, I wanted to inform you of the National Governors' Association's support for funding the state environmental management grant programs at fiscal year 1982 levels. We are pleased that the Appropriations Committee has added $47.5 million to the Administration fiscal year 1983 request. However, this amount is still approximately $8 million short of the fiscal year 1982 levels.

This reduction from last year's levels comes at a time when states are struggling to assume increased responsibilities with fewer resources. At the same time, the problems of controlling toxic pollutants in the nation's air and water are becoming increasingly complex. In addition, while NGA policy does not address the general funding levels needed for the effective functioning of EPA, a number of states have expressed concern over the reductions in EPA's research and develoment budget from fiscal year 1982 levels: The results of R&D activities are important for state regulatory efforts.

We appreciate your serious consideration of our views.

Sincerely,
GOV. JOHN D. ROCKEFELLER IV,

Chairman, Committee on Energy and Environment.

THE STATE OF THE STATES: MANAGEMENT OF ENVIRONMENTAL PROGRAMS IN THE 1980s

(By Thomas W. Curtis and Peter Creedon, NGA Committee on Energy and Environment)

FOREWORD

In the past decade, environmental management has been a primary concern of the state governments, with the states working in partnership with the federal government to develop and implement a wide variety of environmental quality programs. The commitment to a sound and healthy environment continues to be an important priority for states in the 1980s.

This report profiles the development and support of the state environmental programs, and looks at changes the states anticipate in the near future in the face of proposed reductions in the level of federal support for environmental programs. I hope that it will promote a better understanding of how the states manage environmental quality and how states are likely to adapt to the changing fiscal environment of the 1980s.

As governors, we must continue our efforts to ensure the best and most effective management of programs aimed at providing our citizens a safe and healthy environment.

John D. Rockefeller IV,
Chairman, National Governors' Association, Committee on Energy and Environment.

BACKGROUND

The landmark environmental legislation enacted in the 1960s and 70s helped establish a state-federal partnership in the management and protection of environmental quality. The partnership involved a division of responsibility for environmental programs, with the Environmental Protection Agency providing funds to help state agencies develop and administer federally mandated programs for managing air and water quality, hazardous waste, pesticides, and water supply. In fiscal year 1982, the federal assistance for these management programs totaled $227.8 million, and represented approximately 50 percent of total state expenditures on these activities. These figures do not include state or federal expenditures for sewage treatment plants.

For fiscal year 1983 the administration has proposed reducing funds that support state management of environmental programs by 20% and may propose further reductions in future years. In proposing these cuts, the Environmental Protection Agency has assumed that all environmental programs are now adequately funded and that improved management practices can reduce the cost of environmental programs without lowering the quality of environmental protection. Although states have indicated a willingness to assume greater responsibilities for environmental program management, the proposed 20% cutback comes at a time when most state budgets are reflecting the twin effects of last year's federal budget cuts and the continued recession. At least two-thirds of the states are experiencing revenue shortfalls from earlier projections. Virtually every state legislature meeting this year has raised taxes and/or made significant cutbacks in government activities while straining to cope with major reductions in federal support for human service programs. At the same time, the states have already absorbed inflation related "budget cuts" in environmental programs because of relatively flat funding over the past several years and an actual reduction in funding in FY 1982. State environmental program managers have streamlined their programs over the past several years and eliminated inefficiencies. This situation increases the difficulty of absorbing even relatively small cutbacks in federal support.

In order to assess the ways in which states will respond to the proposed reductions in federal support, the National Governor's Association Committee on Energy and Environment chaired by Governor Jay Rockefeller of West Virginia, undertook a survey of states' management of environmental programs, in cooperation with the State and Territorial Air Pollution Program Administrators (STAPPA), the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). The survey focused on sources of funds for environmental programs, with particular regard to permit fees and other non-federal sources, and on changes in management practices that the states anticipate if federal support is reduced. The survey covers state air program grants under section 105 of the Clean Air Act; water quality management grants under section 106 and 205(g) of the Clean Water Act; hazardous waste management grants under section 3011 of the Resource Conservation and Recovery Act; and water supply management grants under section 1443 of the Safe Drinking Water Act.

SUMMARY OF FINDINGS

The survey strongly suggests that in most states a 20 percent reduction in federal support would require curtailment in a number of environmental protection activities by a level at least proportionate to the reduction in federal support. Because states may still be required to respond to federal mandatory requirements, the activities most likely to be curtailed by the states include resource intensive activities such as monitoring of ambient pollution levels, monitoring of compliance by emission sources, permitting, technical support, and enforcement, in all environmental media (air, water quality, and hazardous waste). A significant number of state agencies would seriously consider eliminating, not accepting delegation of, or returning to the federal government several environmental protection activities. This particularly applies to air programs, including PSD permitting, control of toxic pollutants, vehicle inspection and maintenance programs, and the development of emission trading systems. Some of these activities, such as emission trading systems, air quality banking, and bubble programs, could substantially reduce the cost of compliance for emission sources, but increase the states' cost for environmental program management. The survey also suggests that personnel reductions may in many states increase the time required for sources subject to regulation to obtain permits. The survey suggests that in the short run most states will not be able to increase non-federal sources of funds, including state appropriations and collections from permit fee systems, to make up for the reduction in federal support. Finally, most states suggest a strong need to increase their efforts in certain areas, such as toxic pollutant control, if increased resources were available. Such expanded activities will not be possible in the face of reduced federal support.

FINDINGS

The survey has revealed a number of facts germane to the debate about how, and how much, federal support for state environmental management activities could be reduced without reducing the ability of states to adequately implement federal environmental programs. The salient findings include the following facts:

Federal support plays an important role in environmental program management. While the figures vary widely from state to state, in aggregate terms federal funds provide about 45 percent of state air program budgets, about 46 percent of state water quality program budgets, about 69 percent of state hazardous waste program budgets, and about 48 percent of state water supply program budgets. The states have increased their support of environmental programs as the programs progress from the planning stage to implementation, but federal support remains important.See Table I.

Only a small number of states expect to be able to make up for a 20 percent reduction in federal support by increasing state funds, in the face of their own severe financial constraints. Six states hope to be able to make up at least part of the reduction in air program funds. Three states indicate the possibility of increased support to make up for at least part of the reduction in water quality grants, 11 states hope to replace at least part of the reductions in hazardous waste grants, and 6 states hope to make up for at least some of the reduction in support for water supply programs. Given the continuing pressures on state budgets, these figures may be optimistic.

Most state environmental agencies will not be able to rely on permit fees to provide funds for environmental programs, at least in the short run. Many states do not have existing statutory authority to collect permit or processing fees. About 21 states and territories currently charge for air quality permits, but in only 10 are the funds available to the permitting agency. In only 9 states and territories are water quality permit fees available to the permitting agency; only 7 hazardous waste agencies collect and keep permit fees, and only 2 water supply agencies actually keep permit fees. In other states that charge permit fees, revenues are deposited in the state general fund. Indeed, in most states it has historically been considered good public policy to place such revenues in the general fund to avoid the appearance of conflict of interest between regulators and emission sources. Given the budget pressures in most states, collections may not go to the environmental management agency even where permit fee programs are established or fees are increased. See Tables II–V.

Most states suggest the need to increase their efforts in a number of key environmental protection activities, if resources are available. The survey indicates that in the face of reduced federal support it will be impossible for states to develop more vigorous programs in these areas without retrenchment elsewhere. Those areas most frequently mentioned by the states as needing increased effort if federal funds for environmental programs were increased include:

Air: increased toxic emissions control, increased inspections and monitoring, increased enforcement, development of bubble and controlled trading systems, and increased staff for permit processing;

Water Quality: development of groundwater management mechanisms, increased water quality monitoring and bio-assay analysis, enhancement of toxic pollutant control programs, increased resources for sewage treatment plant operator training and technical assistance, and strengthening the NPDES permitting program;

Hazardous Waste: increased investigations of uncontrolled and abandoned waste sites, increased compliance monitoring, increased enforcement, increased efforts to protect groundwater, and increased staff for permit processing;

Water Supply: increased monitoring and inspections of municipal water systems, increased resources for water treatment plant operator training, increased technical assist-

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ance, and increased resources for small and non-community water supply protection.

A significant number of states expect a delay in the time necessary to process and issue permits under federal environmental statutes as a result of the reduction in federal support for environmental program management. In other states, many of which are subject to mandatory time limits for issuing permits, the quality of permit review is expected to decline. About 27 states have indicated they expect the time necessary to issue air permits to increase by an average of about 24 percent. About 18 states also expect water quality permitting time and about 19 states expect hazardous waste permitting time to increase.

These figures are tentative because many states are not yet certain whether or by how much their permit processing time will be increased by cuts in program budgets.

A large number of state agencies indicate that they are considering completely eliminating, not accepting delegation of, or turning back to the federal government certain important environmental protection activities, particularly in the air program. At least 11 states may eliminate or turn back PSD permitting in the air program, and 7 states may eliminate their activities to control toxic air emissions. At least 10 states indicate they will not have the resources to develop air emissions bubble and banking systems, which can reduce compliance costs for the business community but which increase the costs to state regulatory agencies. These findings raise questions about the states' capacity to assume programs for which they currently do not have delegation, such as hazardous waste management and underground injection control, in which the Administration would like the states to assume greater responsibility.

In addition, a large number of states have indicated that they may reduce certain environmental management activities proportionately to the reduction in federal support or more. This reflects the states' belief that they have already streamlined state programs and that significant further savings cannot be expected from management changes alone. Many states indicate that budget reductions will require actual reductions in personnel and equipment. At least 36 states indicate that they will reduce ambient air quality monitoring proportionately to the reduction in federal budget support or more; 25 states will reduce water quality monitoring proportionately or more; 20 states will reduce hazardous waste monitoring proportionately to the reduction in federal support or more. Other important activities including enforcement, toxic air pollutant control, general and PSD permitting, determinations of source compliance, technical support, and the development of emission trading systems will also be reduced at least proportionately to the federal cuts in significant numbers of states. In addition, program development, including the development of 1982 air program implementation plans for both mobile and stationary sources, will be curtailed proportionately to the federal cuts or more in a number of states. See Tables VI–IX.

TABLE I.—FISCAL YEAR 1982 FEDERAL SUPPORT OF ENVIRONMENTAL PROGRAMS

[Percent of total program costs]

	Air	Water quality	Hazardous waste	Water supply
Alabama	60	76	75	62
Alaska	53	35	40	45
Arizona	48	81	77	81
Arkansas	54	55	75	75
California	10	38		
Colorado	32	50	38	56
Connecticut	60	79	100	
Delaware	99	64	75	67
Florida	24	13	80	48

TABLE I.—FISCAL YEAR 1982 FEDERAL SUPPORT OF ENVIRONMENTAL PROGRAMS—Continued

[Percent of total program costs]

	Air	Water quality	Hazardous waste	Water supply
Georgia	44	51	75	43
Hawaii	59	48	85	61
Idaho		79	82	76
Illinois	63	35	79	61
Indiana	57	32	75	0
Iowa	71	62	62	0
Kansas	75	52	73	66
Kentucky	42	38	83	28
Louisiana	50	17	59	29
Maine	62	58	100	62
Maryland	45	56	65	87
Massachusetts	62	64	48	41
Michigan	38	51	69	45
Minnesota	52	54	41	44
Mississippi	60	51	59	75
Missouri	64	85	64	65
Montana	68	87	86	79
Nebraska	75	86	75	60
Nevada	52	64	68	60
New Hampshire	74	90	39	70
New Jersey	45	56	24	19
New Mexico	61	25	75	51
New York	67	45	58	
North Carolina	51	44	74	54
North Dakota	51	68	75	75
Ohio	26	25	75	35
Oklahoma	62	70	66	47
Oregon	26	42	79	0
Pennsylvania	47	36	58	28
Rhode Island	73	75	100	75
South Carolina	49	31	60	36
South Dakota	74	69	83	0
Tennessee	40	35	58	58
Texas	30	35	75	45
Utah	75	56	71	53
Vermont	75	78	100	62
Virginia	44	14	73	46
Washington	51	66	73	55
West Virginia	52	68	75	51
Wisconsin	52		75	
Wyoming	56	56		
American Samoa				
Guam				
Puerto Rico	77	56	72	75
Virgin Islands				
District of Columbia				
Northern Mariana Islands				

TABLE II.—AIR QUALITY PERMITTING FEES

	Does the agency have authority to collect air permitting or processing fees?	Does the agency actually collect air permitting fees?	Does the State intend to develop authority or collect fees in the near future?	Is the fee available to the permitting agency?	What percent of the agency's operating budget is provided by the fee?
Alabama	Yes	No			
Alaska	Yes	No			
Arizona	Yes	Yes		No	
Arkansas	No		Yes fiscal year 1983		
California	Yes	Yes		Local agencies	Varies.
Colorado	Yes	Yes		Yes	
Connecticut	Yes	No	Yes fiscal year 1983		
Delaware	Yes	No	Yes		
Florida	Yes	Yes		Currently no	
Georgia	Yes	No			
Hawaii	Yes	Yes		No	
Idaho					
Illinois	Yes	No	Proposed		
Indiana	Yes	Yes		No	
Iowa	Yes	No			
Kansas	No				
Kentucky	Yes	Yes		Yes	5 percent.
Louisiana	Yes	Yes		Yes	12 percent.
Maine	Yes	Yes		No	
Maryland	Yes	No	Yes fiscal year 1983		
Massachusetts	No		Yes fiscal year 1983		
Michigan	Yes	Yes		Yes	45 percent.[1]
Minnesota	No				
Mississippi	No		No		
Missouri	Yes	Yes		No	
Montana	Yes	No	No		
Nebraska	Yes	No	No		
Nevada	Yes	Yes		No	
New Hampshire	Yes	Yes		Yes	7 percent.
New Jersey	Yes	Yes		No	
New Mexico	Yes	No	Investigating		
New York	Yes	Yes		Yes	NA.[2]
North Carolina	Yes	No	No		
North Dakota	Yes	Yes		Yes	11 percent.
Ohio	Yes	Yes		No	
Oklahoma	Yes	Yes		Yes	Under 1 percent.
Oregon	Yes	Yes		Yes	47 percent.
Pennsylvania	Yes	No	Proposed 1983		
Rhode Island	Yes	No	No		
South Carolina	Yes	No	No		
South Dakota	No				

TABLE II.—AIR QUALITY PERMITTING FEES—Continued

	Does the agency have authority to collect air permitting or processing fees?	Does the agency actually collect air permitting fees?	Does the State intend to develop authority or collect fees in the near future?	Is the fee available to the permitting agency?	What percent of the agency's operating budget is provided by the fee?
Tennessee	Yes	No	No		
Texas	Yes	No	Yes fiscal year 1983		
Utah	Yes	Yes		No	
Vermont	No		Considering		
Virginia	Yes	No	No		
Washington	No		Will propose 1983		
West Virginia	No				
Wisconsin	Yes	No	Proposed fiscal year 1984		
Wyoming	No		No		
American Samoa					
Guam	No				
Puerto Rico	Yes	Yes		Yes	
Virgin Islands					
District of Columbia					
Northern Mariana Islands					

[1] Program will be phased out by fiscal year 1985.
[2] Program recently authorized and has not yet generated any revenue.

TABLE III.—WATER QUALITY PERMITTING FEES

	Does the agency have authority to collect water quality permitting fees?	Does the agency actually collect water quality permitting fees?	Does the State plan to develop authority or collect fees in the near future?	Is the fee available to the permitting agency?	What portion of the agency's operating budget is provided by the fee?
Alabama	No		No		
Alaska	No		No		
Arizona		No			
Arkansas	No		Yes, 1983		
California	Yes	Yes		Yes	10 percent.
Colorado	Yes	Yes		Yes	12 percent.
Connecticut	No				
Delaware	Yes	No	Yes fiscal year 1983		
Florida	Yes	Yes		Currently no	
Georgia	No		No		
Hawaii	Yes	Yes		No	
Idaho	Yes	No			
Illinois	Yes		Yes		
Indiana	Yes	Yes		No	
Iowa	Yes	No			
Kansas	Yes	Yes		No	
Kentucky	Yes	No	Yes		
Louisiana	Yes	Yes		Yes	7 percent.
Maine	Yes	Yes		No	
Maryland	Yes	Yes		No	
Massachusetts	Yes	No	Yes		
Michigan	Yes	Yes		Yes	32 percent [1]
Minnesota	No		No		
Mississippi	No				
Missouri	Yes	Yes		Yes	Under 1 percent.
Montana	No		No		
Nebraska	Yes	No	Investigating		
Nevada	Yes	Yes		Yes	Under 1 percent.
New Hampshire	No		No		
New Jersey	Yes	Yes		Yes	100 percent.
New Mexico	No				
New York	Yes	Yes		Yes	Under 1 percent.
North Carolina	No				
North Dakota	No		No		
Ohio	Yes	Yes		No	Not available.
Oklahoma	Yes	Yes		Yes	24 percent.
Oregon	Yes	Yes		Yes	
Pennsylvania					
Rhode Island	No		Proposed		
South Carolina	No				
South Dakota	No				
Tennessee	No		No		
Texas	Yes	Yes		No	
Utah	No		Considering		
Vermont	Yes	Yes		Yes	Under 1 percent.
Virginia	No				
Washington	Yes	No	No		
West Virginia	Yes	Yes		No	
Wisconsin					
Wyoming	No		No		
American Samoa					
Guam	No				
Puerto Rico	Yes	Yes		Yes	
Virgin Islands					
District of Columbia					
Northern Mariana Islands	Yes	Yes		No	

[1] Program will be phased out by 1985.

TABLE IV.—HAZARDOUS WASTE PERMITTING FEES

	Does the agency have authority to collect hazardous waste permitting or processing fees?	Does the agency actually collect such fees?	Does the State intend to develop authority or collect such fees in the near future?	Are fee collections available to the permitting agency?	What portion of the agency's operating budget is provided by the fees?
Alabama	No		No		
Alaska	No		No		
Arizona	No				
Arkansas	Yes	No	Yes		
California					
Colorado	Yes	No	Yes, fiscal year 1984		
Connecticut	No				
Delaware	Yes	No	Yes, 1983		
Florida	Yes	No			
Georgia	No		No		

TABLE IV.—HAZARDOUS WASTE PERMITTING FEES—Continued

	Does the agency have authority to collect hazardous waste permitting or processing fees?	Does the agency actually collect such fees?	Does the State intend to develop authority or collect such fees in the near future?	Are fee collections available to the permitting agency?	What portion of the agency's operating budget is provided by the fees?
Hawaii	Yes	Yes		No	
Idaho	Yes	No	Proposed		
Illinois	Yes	Yes			
Indiana	Yes	No	No		
Iowa	No				
Kansas	Yes	Yes		No	
Kentucky	Yes	Yes		No	
Louisiana	Yes	Yes		Yes	50 percent.
Maine	Yes	No	Proposed		
Maryland	Yes	Yes		No	
Massachusetts	Yes	Yes		No	
Michigan	Yes	Yes		No	
Minnesota	No		Yes		
Mississippi	No		No		
Missouri	Yes	Yes		Yes	6 percent.
Montana	Yes	No	No		
Nebraska	Yes	No	Investigating		
Nevada	Yes	No	Developing		
New Hampshire	Yes	Yes		Yes	NA.
New Jersey	Yes	Yes		No	
New Mexico	Yes	No	Possible		
New York	No		do		
North Carolina	No		(1)		
North Dakota	No		Investigating		
Ohio					
Oklahoma	No		No		
Oregon	Yes	Yes		Yes	13 percent.
Pennsylvania					
Rhode Island	Yes	Yes		Yes	NA.
South Carolina	No				
South Dakota	No				
Tennessee	Yes	Yes		Yes	27 percent.
Texas	Yes	Yes		No	
Utah	No		Possible		
Vermont	No				
Virginia	Yes, phase II	No			
Washington	No		Maybe, 1983		
West Virginia	Yes	Yes		Yes	NA.
Wisconsin	Yes	Yes		Yes	11 percent.
Wyoming					
American Samoa					
Guam	No				
Puerto Rico	Yes	Yes		Yes	
Virgin Islands					
District of Columbia					
Northern Mariana Islands					

[1] Permit fees might be considered if Federal support is cut.

TABLE V.—WATER SUPPLY PERMITTING FEES

	Does the agency have authority to collect water supply permitting or processing fees?	Does the agency actually collect such fees?	Does the State intend to develop authority or collect fees in the near future?	Is the fee available to the permitting agency?	What portion of the agency's operating budget is provided by the fee?
Alabama	Yes	No			
Alaska	No				
Arizona	No				
Arkansas	Yes	Yes		No	
California					
Colorado	No				
Connecticut					
Delaware	No				
Florida	Yes	Yes		No currently	
Georgia	No				
Hawaii	No				
Idaho	No		No		
Illinois	Yes	No	Yes		
Indiana	Yes	No	No		
Iowa	No				
Kansas	Yes, lab fees	Yes		No	
Kentucky	Yes	No	No		
Louisiana	No				
Maine	No		No		
Maryland	Yes	No			
Massachusetts	Yes	Yes		Yes	Under 1 percent.
Michigan	No				
Minnesota	Yes	Yes		No	
Mississippi	No		No		
Missouri	No		No		
Montana	No		No		
Nebraska	Yes, lab fees	Yes		Yes	15 percent.
Nevada	Yes	No	Yes, fiscal year 1984		
New Hampshire	Yes, lab fees	Yes		Yes	(1).
New Jersey	No		Investigating		
New Mexico	No		No		
New York					
North Carolina	No		No		
North Dakota	No				
Ohio					
Oklahoma	No				
Oregon	Yes	Yes		Yes	3 percent.
Pennsylvania					
Rhode Island	No		No		
South Carolina	No				
South Dakota	No				
Tennessee	No				
Texas	No				
Utah	Yes	No	Yes, fiscal year 1984		
Vermont	No		Possible		
Virginia	No		No		

TABLE V.—WATER SUPPLY PERMITTING FEES—Continued

	Does the agency have authority to collect water supply permitting or processing fees?	Does the agency actually collect such fees?	Does the State intend to develop authority or collect fees in the near future?	Is the fee available to the permitting agency?	What portion of the agency's operating budget is provided by the fee?
Washington	No		Seeking		
West Virginia	No		Seeking		
Wisconsin					
Wyoming					
American Samoa					
Guam	Yes	Yes		No	
Puerto Rico	No				
Virgin Islands					
District of Columbia					
Northern Mariana Islands	No				

[1] Half of the revenue goes to the Sale general fund while the other half goes to the agency to buy new lab equipment.

TABLE VI.—STATES' RESPONSE TO A 20 PERCENT REDUCTION IN FEDERAL SUPPORT

Environmental program activity	Air programs (number of States)		
	Eliminate activity	Reduce proportionately to budget	Not reduce activity
General permitting	2	27	12
PSD permitting	11	21	11
Compliance determination	1	33	5
Enforcement against non-complying sources	1	26	13
Toxic emission control	7	14	9
Ambient air quality monitoring	1	36	2
Emissions "bubbles"	8	17	9
Emissions "banking"	10	14	4
1982 SIP development (stationary)	3	16	3
1982 SIP development (mobile)	4	14	3
I/M	4	8	6
Other	0	12	2

TABLE VII.—STATES' RESPONSE TO A 20-PERCENT REDUCTION IN FEDERAL SUPPORT

Environmental program activity	Water quality programs (number of States)		
	Eliminate activity	Reduce proportionately to budget	Not reduce activity
Program development	0	26	7
Permitting	1	17	6
Compliance monitoring	0	25	4
Enforcement	0	20	7
Technical support	0	19	5
Other	2	10	2

TABLE VIII.—STATES' RESPONSE TO A 20-PERCENT REDUCTION IN FEDERAL SUPPORT

Environmental program activity	Hazardous waste programs (number of States)		
	Eliminate activity	Reduce proportionately to budget	Not reduce activity
Program development	2	21	8
Permitting	1	16	7
Compliance monitoring	1	20	6
Enforcement	1	15	9
Technical support	1	19	5
Other	2	12	1

Table IX.—STATES' RESPONSE TO A 20 PERCENT REDUCTION IN FEDERAL SUPPORT

Environmental program activity	Water supply programs (number of States)		
	Elimate activity	Reduce proportionately to budget	Not reduce activity
Program development	1	11	8
Permitting	0	4	12
Compliance monitoring	0	12	7
Enforcement	1	16	3
Technical support	2	8	9
Other	0	4	1

● **Mr. STOKES.** Mr. Chairman, I want to express my strong support of H.R. 6956, the HUD-Independent Agencies Appropriations Act for fiscal year 1983. This measure would appropriate $47 billion in new budget authority for important national programs which address the housing and community development needs of our Nation, protect the environment and public health, serve over 30 million veterans and their families, and provide for a variety of other valuable activities.

Mr. Chairman, H.R. 6956 is an austere bill. In my opinion, it is too austere in many respects. The overall amount of spending recommended in this bill for fiscal year 1983 provides virtually no increase over the current year's fiscal year 1982 level. Within the totals, there are some increases and decreases, but, overall, this bill recommends only the minimum amounts necessary to address the critical national problems which the programs funded through this measure are designed to address. Recognizing the budget constraints which are facing us, however, I strongly urge you to support the passage of H.R. 6956.

I would like to call the attention of my colleagues to several items in the housing portion of the bill. Most glaring by its omission is the fact that the committee has not made any funding recommendations regarding the assisted housing programs. I would like to emphasize that the absence of any funding recommendations in this regard is solely because no authorizing legislation has been enacted yet. Moreover, the legislation reported by the Senate and House Banking Committees are very different in their approach to what housing programs should be authorized for fiscal year 1983.

Thus, the committee has reserved $9 billion in budget authority for assisted housing in fiscal year 1983 and will consider funding for the housing programs when we have a better sense of how the authorizing legislation will be structured. I am certainly committed to having a strong Federal housing program next year, and I believe that my colleagues on the committee are equally as committed.

In other areas of the HUD budget, the committee has taken the responsible action of restoring some of the ill-conceived budget reductions recommended by the President. The committee has recommended $3.5 million for the housing counseling program which the president proposed to terminate. This valuable program saves more than it costs by providing comprehensive default and prepurchase counseling to homeowners. Many of these homeowners are faced with high mortgage deliquency rates or foreclosure.

Additionally, the committee has recommended $1.35 billion for public housing operating subsidies in fiscal year 1983. The administration's budget request to cut public housing operating subsidies to $1.075 billion was simply irresponsible given that public housing authorities are entitled to received $1.6 billion under HUD's own funding formula. The $1.35 billion provided in H.R. 6956 strikes a middle ground. It will help to protect our Federal investment in over 1.2 million units of public housing by providing minimally adequate funds to operate and maintain these units. The committee has also agreed to recommend supplemental funds for public housing operations should this action become recessary, and I commend Chairman BOLAND for his recommendation in this regard.

In the area of community and economic development, H.R. 6956 provides $3.445 billion for community development block grants, $340 million for urban development action grants, and $15.5 million for the Neighborhood Reinvestment Corporation. These amounts will maintain current program levels in these activities which are vital to State and local ef-

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forts to conduct housing rehabilitation and neighborhood improvements projects. These activities help to preserve and revitalize our Nation's communities and will continue with the funds provided in this bill.

A recent HUD survey documented once again that housing discrimination remains a serious and pervasive problem around the country. A total of $5.7 million is recommended in the bill to continue a Federal fair housing effort which assists State and local agencies in rooting out housing discrimination where it exists.

Mr. Chairman, for our national space program, H.R. 6956 provides a total of $5.334 billion for the research and development acitvities of the National Aeronautics and Space Administration (NASA). The Lewis Research Center in Cleveland, Ohio—world renowned for its work in areonautics—will play a major role in implementing the committee's recommendations in the areas of the space shuttle, the Centaur upper stage development and the aeronautics research program.

The committee's recommendations for the National Science Foundation (NSF) are worth taking note of as well. Nearly everyone agrees that the future of America depends on the advancement of scientific knowledge, improved technology and enhanced productivity. The NSF plays a critical role in this regard by underwriting scientific and technological research and related activities. Accordingly, H.R. 6956 includes $1.109 billion for the NSF. This amount is desparately needed to prevent our Nation from becoming "technologically and scientifically illiterate".

Mr. Chairman, everyone should be aware that the prestigious National Academy of Sciences recently labeled science and math education in this country "scandalous." The committee has taken a very small step to address this growing problem by reversing the Reagan administration's illogical recommendations to terminate NSF precollege science education programs. The committee has recommended $40 million for NSF science education activities. This is not nearly enough to fully address the science crisis confronting us, but I urge your support of this meager increase.

Mr. Chairman, I would also like to commend Chairman BOLAND for his recommendations regarding the Veterans Medical Center, Wade Park Division, in Cleveland, Ohio. H.R. 6956 includes $9.75 million for the construction of a new clinical addition at the Wade Park facility. This project is urgently needed to alleviate extant safety and health violations present at the current facility. The VA declined to request the necessary funds which, for a small price, will address a grave need among the veterans in Cleveland for a safe and healthy environment in which to receive medical care.

H.R. 6956 is a bill responsive to the vital interests of this Nation. I urge you to support its passage.●

The CHAIRMAN. Does the gentleman from New York (Mr. GREEN) desire recognition?

Mr. GREEN. Mr. Chairman, I had had one further request for time, but I do not see the gentleman on the floor, so if the gentleman from Massachusetts has any Members who are seeking time, I will defer to him.

Mr. BOLAND. Mr. Chairman, I have no further requests for time.

Mr. GREEN. Then, Mr. Chairman, I yield back the balance of my time.

Mr. BOLAND. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read title I of the bill.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against title I?

The Chair hears none.

Are there amendments to title I?

AMENDMENT OFFERED BY MR. SILJANDER

Mr. SILJANDER. Mr. Chairman, I offer an amendment.

The portion of the bill to which the amendment relates is as follows:

HOUSING PAYMENTS

For the payment of annual contributions, not otherwise provided for, in accordance with section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); for payments authorized by title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.); for rent supplement payments authorized by section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s); and for payments as authorized by sections 235 and 236 of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1), $9,538,000,000.

The Clerk read as follows:

Amendment offered by Mr. SILJANDER: On page 2, after line 18, add the following:

"MORTGAGE INTEREST REDUCTION PAYMENTS"

For mortgage interest reduction payments; $250,000,000 to be derived from funds available under section 305 of the National Housing Act, as amended (12 U.S.C. 1720) and to remain available until expended. Such amount shall be made available under the terms and conditions of the following paragraphs:

(a) For purposes of this section

(1) The terms "employee pension benefit plan", "fiduciary", "party in interest", "participant", "beneficiary", "employer", "employee organization", and "investment manager" have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(2) For purposes of this section, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(3) the term "established financial institution" means an investment manager described in section 3(38) of the Employee Retirement Income Security Act of 1974 with respect to a plan, a savings and loan association subject to regulation by the Federal Home Loan Bank Board, a housing agency of a State, or a bank.

(4) the term "Secretary" means the Secretary of Housing and Urban Development; and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia, and any other territory or possession of the United States.

(b)(1) a bond is eligible for interest reduction payments under this section if it is—

(A) purchased by an employee benefit plan described in sub-section (a) of this amendment.

(B) a mortgage revenue bond which is sold to the plan by a housing agency of a State (or other similar functioning agency in States without housing agencies).

(2) a bond in which the funds obtained from the sale of which are used exclusively for the making of mortgages under this title to finance the purchase of dwellings described in subsection (e), or for contracting under subsection (f), to make such mortgages.

(3) a bond in which the rate of return is equal to the rate of return of tax-exempt mortgage revenue bonds.

(c)(1)(A) Subject to subsection (3), the Secretary may make monthly interest reduction payments to any housing agency of a State, with respect to a mortgage which is eligible under subsection (d), to assist an individual seeking to acquire a dwelling unit by using the proceeds of such mortgage.

(B) The amount of the monthly payment made under paragraph (A) with respect to a mortgage may not exceed the difference between the base interest rate of the bond issue sold plus the allowable maximum yield under the Mortgage Revenue Bond Act of 1981, as amended, and an interest rate of 11.75 percent for the year during which the payment is made.

(2) The Secretary may not make any additional monthly payment under subsection (1) with respect to a mortgage if the Secretary has made such payments with respect to the mortgage over a period of time of at least 7 years.

(3) The Secretary may not make any monthly payments under subsection (1) during a month if the Secretary determines that the rate of interest in subsection (1)(B) during such month is less than 11.75 percent for the year or is more than 15.75 percent for the year.

(d)(1) For purposes of subsection (d)(1), a mortgage, the proceeds of which are used to acquire a dwelling unit, is eligible for monthly interest reduction payments if the Secretary determines that—

(A) the terms of the loan or mortgage are consistent with customary practices in the residential mortgage industry, including—

Appropriate requirements concerning the income levels and credit worthiness of the borrower;

Fair market value appraisals of the collaterals;

Loan to value ratios; and

Title, hazard, and private mortgage insurance;

(B) such mortgage is—

Evidenced by a written note the terms of which are (i) at least as favorable to the housing agency as the terms of a loan involving unrelated parties and (ii) consistent with customary practices in the residential mortgage industry; and

Secured by a duly recorded first lien on the dwelling unit to be financed by the mortgage;

(C) the housing agency has adopted in writing reasonable proceedures, consistent with customary practices in the residential mortgage industry, designed to insure that the mortgage will be serviced in a diligent and systematic manner, including collecting mortgage payments, assuring that the taxes and insurance premiums for the dwelling unit under the mortgage are paid and making all decisions relating to, handling, and foreclosures.

(D) the principle obligation of the mortgage does not exceed the average cost of a dwelling unit bought in the United States;

(E) the mortgage is made to assist in the acquisition of an owner-occupied unit which is constructed, or is first owned after July 1, 1982, and which is not constructed as a dwelling unit for more than four families;

(F) the mortgage is to be paid over a period of time not to exceed 30 years beginning on the date the mortgage is made; and

(G) the mortgage may be renegotiated after a period of time of not more than 7 years beginning on the date the mortgage is made for a new amount of interest based on the prevailing interest rates in the residential mortgage market on the date of renegotiation.

(e)(1) Any housing agency of a State may contract with any established financial institution to make or administer any mortgage for which a monthly interest reduction payment is made under subsection (d)(1).

(2) The Secretary shall insure that—

(A) any mortgage for which a monthly interest reduction payment is made under subsection (d)(1) is eligible under subsection (e);

(B) the fee for administering any mortgage for which a monthly interest reduction payment is that which is set forth in the Mortgage Revenue Bond Act of 1981, as amended.

(C) the interest on any mortgage for which a monthly interest reduction payment is made under subsection (d)(1) does not exceed 12 percent for each year of the principal of the loan or mortgage.

(3)(A) Any housing agency of a State receiving monthly interest reduction payments under subsection (d)(1) with respect to a mortgage shall maintain for the duration of such mortgage records necessary to enable the person described in paragraph (B) to determine whether the requirements of this section have been met.

(B) The records referred to in paragraph (1) must be unconditionally available at their customary location for examination during normal business hours by any duly authorized employee or representative of the Department of Housing and Urban Development, the Department of Labor, or the Internal Revenue Service.

(f) Upon disposition by the homeowner of any property assisted pursuant to this subsection, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this subsection, or (ii) an amount equal to at least 50 percent of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

(g) The Secretary shall allocate between the housing agencies of the States, not withstanding any other provision of law regarding States without mortgage revenue bond authority, the amount of any funds appropriated for a fiscal year under the authorization contained in this section—

(1) one-half of the amount is allocated among the States on the basis of the population of each State; and

(2) one-half of the amount is allocated among the States on the basis of the unemployment rate of each State for the last period of 3 months occurring before such allocation.

(h) The Secretary shall issue final regulations to carry out this section, allocate amounts between the States under subsection (g), and make commitments to make monthly interest reduction payments under subsection (d)(1), not later than the date occurring 30 days after the date of the enactment of the first Act appropriating funds under the authorization contained in this section.

Mr. SILJANDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. BOLAND. Mr. Chairman, reserving the right to object, I reserve a point of order on the amendment, and I would appreciate it if the subcommittee could have a copy of the amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Massachusetts (Mr. Boland) reserves a point of order on the amendment.

Is there objection to the request of the gentleman from Michigan?

Mr. GREEN. Mr. Chairman, reserving the right to object, I, too, wish to reserve a point of order on the amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The point of order of the gentleman from New York (Mr. Green) is reserved.

Is there objection to the request of the gentleman from Michigan?

There is no objection.

Mr. SILJANDER. Mr. Chairman, this amendment is due some explanation. The amendment is a revolutionary idea. It is consistent with a bill I introduced, the Housing-Auto Recovery Act of 1982, which has over 145 cosponsors, including the leadership of both the Democratic and Republican Parties.

What the bill basically does is to allow public and private pension funds to invest in revenue mortgage bonds, which would be an historical first. These mortgage revenue bonds, in the amount of $10 million, would then be issued to each State housing administration based on two simple criteria. One would be unemployment and the second population. Banks in the normal HUD process would obtain revenue bonds and issue 12 percent new housing start loans to the consumer.

Mr. Chairman, may I add that the concept of $10 billion of private sector money infused into new housing starts at this time—in one of the most depressed industries in the country—could create up to 2 million new jobs, and, according to a congressional study, 2 million new jobs could create a revenue base for the 1983 fiscal year of an additional $50 billion.

We are talking about an amendment that would cost the taxpayer approximately $100 million to $200 million in additional investment. The return would be anywhere from $30 billion to $50 billion.

Mr. Chairman, we have come to a point in this country, with such high unemployment—in my home State of Michigan, for example, with over 15 percent—that we need to deal with the cause for this heavy unemployment nationwide, the depressed housing industry. We are offering a viable alternative to other proposals that have not succeeded in this Congress. We are offering a proposal that is a private sector initiative. We are offering a proposal that needs timely discussion and deserves to be addressed immediately.

Mr. Chairman, it is a very simple concept. It is one that deserves bipartisan support. I urge the support of this amendment to the Housing and Urban Development appropriations bill.

Mr. TRAXLER. Mr. Chairman, will my distinguished colleague, the gentleman from Michigan, yield?

Mr. SILJANDER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to commend my colleague, the gentleman from Michigan (Mr. Siljander), for the introduction of his bill, which he now is offering as an amendment. And as the gentleman will recall, I am proud to be a cosponsor of it as a bill.

I want to salute the gentleman for his persistent efforts to alleviate the horrendous unemployment problem that exists in our State and to a certain extent across the Nation as well.

Mr. Chairman, the gentleman deserves the commendation of all of us for this effort. I join with him, and I congratulate him on that effort.

Mr. SILJANDER. Mr. Chairman, I thank the gentleman from Michigan.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. SILJANDER. I yield to the gentleman from Massachusetts.

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Mr. BOLAND. Mr. Chairman, I want to commend the gentleman from Michigan (Mr. Siljander) on his position, and I understand the reason why he has offered this particular amendment. I am also aware of the problems that the State of Michigan has. Our whole subcommittee understands it, and I sympathize with the amendment.

However, Mr. Chairman, I insist on my point of order, and I make a point of order against the amendment.

The CHAIRMAN. The Chair will point out that the gentleman from Michigan (Mr. Siljander) still controls the time.

Does the gentleman from Michigan (Mr. Siljander) yield back the balance of his time?

Mr. SILJANDER. Mr. Chairman, I would like to request an additional minute of my own time.

The CHAIRMAN. The gentleman from Michigan (Mr. Siljander) still has time.

Mr. SILJANDER. Mr. Chairman, let me say to my colleague that I appreciate the concern on the point of order.

We have attempted to take out of this housing bill, as best we know legislatively, an amendment to the HUD bill that would be in order and proper. I would certainly hope that my colleagues would not further object to it on a point of order.

We believe that this is consistent with the bill, and we believe that, especially in a time of economic crisis such as we are in, we have finally found something that we can support in a bipartisan way and within an ideological framework.

Mr. Chairman, I certainly encourage the subcommittee chairman, the honorable gentleman from Massachusetts (Mr. Boland) to withdraw his point of order.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Siljander) has expired.

Does the gentleman from Massachusetts (Mr. Boland) insist on his point of order?

Mr. BOLAND. Mr. Chairman, I insist on the point of order.

The CHAIRMAN. Does the gentleman desire to be heard?

Mr. BOLAND. Mr. Chairman, I reluctantly insist on the point of order under the circumstances.

This is not the place to offer this kind of an amendment. This is a far-reaching amendment. It is one that ought to be considered by the legislative committee. Clearly, the amendment is legislation on an appropriations bill, and it violates clause 2 of rule XXI.

So, Mr. Chairman, in short, the amendment is not authorized.

The CHAIRMAN. Does the gentleman from New York (Mr. Green) wish to be heard on the point of order?

Mr. GREEN. Yes, Mr. Chairman.

I, too, would like to commend the gentleman from Michigan (Mr. Siljander) for offering this amendment and for bringing to the attention of the House the very real problems and bringing to the House an ingenious program. However, it is plain as one reads the bill, that it imposes extensive duties on the Secretary in the form of implementing the mortgage interest reduction program that is contemplated by the bill. There are long sections explaining the responsibilities of the Secretary and the requirements that he review instruments to be issued in connection with the bill and to make payments.

Mr. Chairman, it seems that is plainly imposing additional duties on the Secretary, and thereby it is legislation in an appropriations bill.

The CHAIRMAN. Does the gentleman from Michigan (Mr. Siljander) desire to be heard on the point of order?

Mr. SILJANDER. No, Mr. Chairman.

The CHAIRMAN (Mr. Levitas). The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Michigan (Mr. Siljander) in light of the point of order raised by the gentleman from Massachusetts (Mr. Boland).

The amendment is an extensive amendment providing for definitions, providing for determinations to be made by the Secretary, and providing for allocation formulas and a variety of other items which appear to the Chair clearly to be legislation and thereby a violation of rule XXI.

Accordingly, the point of order of the gentleman from Massachusetts (Mr. Boland) is sustained.

□ 1330

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

Environmental Protection Agency

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; and not to exceed $3,000 for official reception and representation expenses; $544,963,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

AMENDMENT OFFERED BY MR. GORE

Mr. GORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gore: Page 13, line 18, strike out "$544,963,000" and insert in lieu thereof "$555,106,000".

Mr. GORE. Mr. Chairman, I want to begin by paying my respects to the chairman of this subcommittee, and note that there are few Members of this House with whom I would less like to disagree. However, I think Members of Congress on both sides of the aisle understand that this is a matter of great importance to the country because EPA in my judgment is having its effectiveness destroyed by the budget actions of the last 2 years.

The subcommittee, which I respect greatly, has put a little more money in above what the Budget Director, David Stockman, recommended. But the amount of money that has been put back in is still way below what the budget level was last year and still way below what the budget resolution provides for.

I might add that this is at a time when the responsibilities the EPA is being asked to perform are increasing significantly and the American people are demanding stronger enforcement of our environmental laws.

Let me also say that this additional money I am asking to add in this amendment is targeted at the enforcement program at EPA.

There has been a 79-percent decline in the number of enforcement cases referred to EPA headquarters from the regional offices and a 69-percent decrease in the number of referrals from EPA to the Department of Justice.

In terms of actual numbers, the EPA's civil litigation referrals to the Department of Justice fell from 252 cases in 1980 to only 79 in 1981. The record so far this year indicates that there will be even fewer in this calendar year.

In enforcement area after enforcement area we see this dramatic decline resulting in flagrant violators of the law going unpursued and unprosecuted.

What are we going to do about it? Are we going to look at the additional responsibilities added to EPA as the hazardous waste legislation begins to take effect, as TOSCA and other laws take effect, and then say that they need fewer people to do more work? That is not what the American people would like to see.

A recent Harris poll last week asked this question: Do you want to see vigorous enforcement of these environmental laws, and it then listed a number of them. The results were 85 percent to 10 percent, and this is not a partisan issue, I might add, because Members on both sides of the aisle have supported strong environmental legislation in the past.

I would say to my colleagues on the Republican side of the aisle that this is an issue where your constituents would have you separate yourselves from the record of disastrous damage being done by this administration to the environmental laws, to EPA, and to the enforcement of the environmental laws.

Let us talk about the numbers and the facts and the figures. The first budget resolution for fiscal year 1983 sets the appropriation level and a 4.8-percent pay increase. On EPA's 1982 operating budget $551 million was allocated for this item. The administration recommended a very, very sharp cut in that for this year. The committee added a little bit back in and the committee says that it provides additional funding for 300 positions.

But let me just point out some of the problems with the committee report.

I understand that the subcommittee is under a great deal of pressure in this budget year. But their calculations assume an average of $26,000 per position. EPA's comptroller, on the other hand, assumes a higher figure.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. Gore) has expired.

(By unanimous consent Mr. Gore was allowed to proceed for 5 additional minutes.)

Mr. GORE. They have assumed this higher figure because they have to budget in their accounting tables for overhead, for benefits, and for other operating expenses. The EPA's comptroller then uses the figure of $45,000 per position.

Thus, according to EPA's Comptroller, roughly half, or 153 positions, would be funded by the committee's action.

However, the committee also did not take into account an anticipated pay raise, not to make up for inflation, not nearly that much, but a small pay raise to 8,645 full-time slots. That is the OMB ceiling for fiscal year 1983, which will cost approximately $10.8 million.

What the committee assumes is that this additional cost will be funded through a supplemental, but last year EPA reprogramed $15 million out of the R&D budget to cover this expense.

Additionally, in order to meet OMB's personnel ceilings for fiscal year 1983, EPA anticipates RIF'ing 300 to 400 personnel. Again, the estimate on the cost of a RIF per person is from $10,000 to $12,000 per RIF. This requires another $3.6 million out of the salaries and expenses account.

So when you add it all up the actual pay raise and RIF costs will absorb nearly $15 million of a budget account which is already being cut from 1981 levels that were themselves inadequate.

Now let us talk about what this issue is really all about. One of the chemical industry magazines, Chemical Week, had an editorial recently where they said, speaking for responsible people within the industry, and I quote:

> In a highly competitive industry companies cannot afford to spend their resources on environmental protection, however, well conceived the rules—

And this is the key part—

> unless they perceive that those are backed up by credible enforcement policy.

That is the key point.

I go on to quote:

> Without an effective EPA, industry's contribution to pollution, which has been diminishing, is bound to grow again. In the long run the American people will not stand for it.

That is really the issue. Are we going to acquiesce as a Congress in the destruction of EPA's ability to enforce the laws which come under their jurisdiction? When EPA comes to us, as they have in hearings before the Commerce Committee, and says, "We cannot possibly get out these new regulations you have asked us to get out, we cannot possibly speed up the enforcement of these cases because we do not have the people," are we going to reply, "Well, that is just too bad, we cannot do anything about it"? Or are we going to say we will solve that problem?

I had a discussion with the head of the enforcement office just before it was reorganized, and he said, "We have done a study and we have found that we need immediately 27 new investigators for hazardous waste dump sites," and this is the Anne Gorsuch EPA saying that they need these new investigators and my colleagues know that they have taken what many Americans regard as a very lax attitude.

How many of those 27 new investigators have they hired 6 months later? Three.

"Why," I asked in the last hearing. They say, "Because we do not know what action the Congress is likely to take on funding and on the budget."

It is up to us, I say to my colleagues, what direction are we going to take.

What I am proposing in this amendment is that we bring it up within the budget resolution to the fiscal year 1982 levels. It does not even account for the ravages of inflation on the ability of this Office to do its work. But let us at least bring it up to the 1982 levels and stay within the budget resolution. Let us not slash it lower than the budget resolution allows us to do.

I ask my colleagues to support this amendment and I yield back the balance of my time.

☐ 1345

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment. It is with some reluctance that I do so because I have great respect for the gentleman from Tennessee, who serves with distinction in this body and on the Science and Technology Committee, as well as on the House Permanent Select Committee on Intelligence.

First of all, in response to the gentleman with respect to additional pay costs and any requirements that are essential, I think we can assure him—I am sure the gentleman from New York would agree with me—that we will take care of any requirements for overhead or added pay costs in a supplemental. We have always done that. Ever since I have been sitting on this committee we have had supplementals which have taken care of some of the overhead costs and also the pay costs.

The average salary is about $31,000 in 1983. When we compute the costs of 300 positions, we know that new people will be brought in at less than the average salary because they will be at lower grades.

Mr. Chairman, there will be other amendments offered to this section of the bill. First of all, let me indicate to the committee what this committee has done vis-a-vis the EPA budget in salaries and expenses, research and development, and abatement, control, and compliance.

As chairman of this subcommittee, in conjunction with members of the committee and also the ranking minority member, we offered a compromise package to the authorizing committees, but under no circumstances was that accepted. So I thought perhaps I would offer substitutes both to the salary and expenses amendment of the gentleman from Tennessee; the research and development amendment to be offered by the gentleman from New York (Mr. Scheuer); and whoever offers the amendment on abatement, control, and compliance.

We have already increased funds for these three EPA accounts in this bill by $72.4 million over the budget estimate. We were willing to add some $17.5 million to research and development, another $3.6 million to salaries and expenses, and $2.6 million to abatement, control, and compliance. But that was not acceptable, and I do not quarrel with that. They have their own position on this.

With respect to salaries and expenses, Mr. Chairman, this committee added $6.9 million, which provided for some 300 additional positions for fiscal year 1983. That brought the total to $545 million for the S&E account in the EPA.

The amendment of the gentleman from Tennessee would add $10.1 mil-

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lion, which would add another, perhaps, 300 employees.

But the fact of the matter is that we did add some 300 positions and $6.9 million. We think that the committee's position is reasonable. We think it is justified. And I think that we have a good chance of convincing OMB to release the 300 positions.

As the gentleman from Tennessee well knows, and as everyone else in this body well knows, the Congress is not the last arbiter on how many positions are going to be allocated by the respective agencies of this Government. The final arbiter is the Office of Management and Budget. As I have indicated, we think we have a good chance of convincing OMB that this addition ought to be taken by OMB and that the 300 positions provided for in this bill ought to be approved.

Further increases, such as proposed by the gentleman's amendment, will have little likelihood of actually making it to the agency, and it may very well jeopardize the 300-plus positions that we have in this bill.

Again, let me say that I think the increase provided in the bill represents a reasonable middle ground which gives the EPA the best chance of maintaining essential personnel levels and, consequently, I urge defeat of the gentleman's amendment.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Tennessee.

Mr. GORE. Is it not true that in the calculations of the amount in the total bill for EPA, you have included some $40 million in an incremental increase in the amount collected from the private fees or taxes on chemical producers in the Superfund bill?

There are two separate accounts. One is the relatively small Government contribution; the other is the much larger contribution by chemical producers. If that amount were not included the way it is, the entire category would be significantly lower.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. BOLAND was allowed to proceed for 5 additional minutes.)

Mr. GORE. If that amount were taken out, in other words, you have taken the amount in the private fund collected from companies—no public funds involved there—and that is the only thing that has pushed it over the 1982 levels overall. And, even so, it is only $5 million above the 1982 levels. Is that not correct?

Mr. BOLAND. That is correct. But in the accounts the gentleman is interested in, this committee did add $72.4 million. That is the botton line. The addition that was made by this committee is $72.4 million in these three particular accounts. I think that is a significant figure.

Mr. GORE. If the gentleman will yield further, in the account that is in question, in 1982 the figure was $555 million, and the figure in this year's bill is $545 million. That is not only below the 1982 level but below the level in the budget resolution by that amount. This amendment would bring it up to the 1982 level and up to the level of the budget resolution. So it is really below, is it not?

Mr. BOLAND. That is true; the amendment would bring the funding up to the 1982 level. The budget resolution, however, does not go to individual appropriation accounts. I think the gentleman is a realist, perhaps as much as anyone else in this body. Some of the personnel reductions proposed result from changes in programs such as shifting administration of the construction grants program to the States. That action allows for a reduction in the number of employees.

You could add millions of dollars in this particular account for additional personnel. That does not mean you are going to get the positions. The gentleman understands that thoroughly.

Mr. GORE. If the gentleman will yield further, that is absolutely true. And the same administration is now saying that there is going to be another 1,000 personnel slots lost. Now, what are we going to say? Are we going to say, "OK, that is just fine with us"? Why do we not bring it up to our own budget resolution, well within the budget, at least to last year's level, so that we can say to them, when they come to us and say they are going to continue the process of destroying EPA's abilities, "Look, we have given you the same amount you had last year for this function; we are within the budget resolution; you tell us whether you can do the job or not. If you do not need them, then that is one thing. But do not blame it on us."

Let us give them what they need and then try to hold their feet to the fire and make them enforce the law.

Mr. BOLAND. I am trying to be a realist here. As I say, you can put all of the money in the world you want in here for personnel, but if OMB does not approve, the positions are gone. So we have put enough money in here to at least add 318 positions for fiscal year 1983. We think they will do it. We think they will agree to provide the additional positions. That is the bottom line. The gentleman has made his argument, and I understand it thoroughly. But the problem is—let me respond to the gentleman—the number of people who are working at EPA is not controlled by your committee or my committee. You can spend all the time you want talking about the Budget Committee and the authorizing committee, but I do not know of any particular instance where the Members of this body would want the Appropriations Committee to walk lock step with the Budget Committee or with the authorizing committee.

Mr. GORE. If the gentleman will yield further, the gentleman has described the importance of realism in dealing with OMB. We had an earlier discussion about the RIF money that is not accounted for in this bill.

Last year, did the OMB permit the use of the supplemental funds for those RIF's? Or did they, as they will almost certainly do this year, reprogram the RIF money out of the enforcement activities and out of the ongoing programs from OMB?

Mr. BOLAND. That was done.

Mr. GORE. Well, why is it not calculated for this time? We are asking for more of the same kind of damage to be done to EPA. We ought to tell them and not let them tell us.

Mr. BOLAND. I have indicated to the gentleman—I have said it once, I will say it again—that if there is additional funding necessary for pay costs, we will provide it in the supplemental for pay costs or any overhead costs which impact upon the——

Mr. GORE. What about RIF's?

Mr. BOLAND. We have assurances on the funding of any RIF in 1983.

Mr. GORE. OMB said you could not do it last year. They took it out of the programs.

Mr. BOLAND. Well, I think the Congress, this body, has some jurisdiction in this area. If we make moneys available in the supplemental——

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has again expired.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would first like to begin by concurring in the remarks of the subcommittee chairman that, of course, the subcommittee will deal, as it traditionally has done, with the problems that the pay increase and its absorption create for the agencies within our area of responsibility.

The second point I would like to make, since I think the subcommittee chairman has covered the issue very clearly, is that when you get down to the Appropriations Committee level, you cannot consider the budget process just in terms of what is in the first budget resolution. I think everyone has to understand that and what consequences flow from it, because the first budget resolution does indeed set targets for various kinds of activities.

But it is also true that under the Budget and Impoundment Control Act of 1974, that first budget resolution, in essence, provides a lump sum to the Appropriations Committee. The Appropriations Committee under section 302(b) of that act, then votes a division to that lump sum among the various subcommittees. Each subcommittee then has to live within its section 302(b) allocation. That may lead to some consequences that are different from those contemplated by the targets in the first budget resolution, but they are, nonetheless, results that are called for under the 1974 Budget and Impoundment Control Act.

As I said during the general debate we find ourselves in this committee in the situation where, if amendments which increase the amounts above those recommended by the Appropriations Committee pass on the floor today, we are going to be faced with resulting reductions in housing. We have not included a major housing element in this bill for lack of action on the part of the authorizing committee. However, when we come to deal with that, either when the authorizing committee has passed the housing bill or, for lack of it, we seek some other procedure to deal with the problem, as we will if that committee does not act, then, because of that section 302(b) limitation and the commitment which was made by the chairman of the subcommittee to the ranking minority member of the full committee during general debate, we are going to be faced with the fact that any dollar added today that survives the conference is going to be subtracted from the money made available for housing assistance.

What we have done in putting together this bill was within the limits of the section 302(b) allocation given us by the full Appropriations Committee, and that was a matter that was debated with some heat within the full Appropriations Committee. We have tried as best we could within those limitations to deal with all of the elements that this subcommittee deals with.

When you are talking of housing, for example, we are talking about $9.6 billion of budget authority for housing which the subcommittee has left itself to have available. That is an appropriation that used to run $30 billion a year. And we are going to have less than one-third of that available for housing assistance.

So we have had to face some very difficult choices. I do not like what has happened with respect to EPA. I am not happy with that. But we on the subcommittee have to make those choices. And if this House is going to live up to the budget process, it has to make those choices. Are we to take a housing program that has been cut by two-thirds and cut it still further? That is the issue we truly face this afternoon. I only ask that Members who, like myself, are very sympathetic to more funding for EPA—as I said, if I did not face those constraints, I would be offering this amendment, because I would have priority on the floor to do it—understand that issue.

Mr. **SCHUMER**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise to speak against the amendment, very regretfully. I have a great deal of respect for my colleague from Tennessee. I support the goals that he supports. But speaking as a member of the authorizing committee in the housing area, housing has been just cut to smithereens in the last 2 years. The Appropriations Committee, led by the able chairman from Massachusetts, and the able ranking minority member from New York, have done what I think is to make the best of a bad situation. First, they have brought an appropriations bill to the floor. The alternative, a continuing resolution, would simply allow Presidential manipulation, and the President has shown a desire and an ability to cut housing more than he has any other program.

Second, if the money goes to EPA, it can now only come out of one place, and that is housing. Housing cannot afford further cuts.

As worthy as some of these other amendments are—and certainly I consider myself a strong supporter of EPA—to take funds out of the hide of housing to feed EPA would be unfair and a misallocation of priorities.

□ 1400

So I really rise for two purposes: First, to salute the chairman of the Appropriations Subcommittee and the ranking minority member for doing the best they can; and I think they have done a magnificent job in trying to save what little housing is left and, second, to regretfully oppose the amendment because we are in a rob Peter to save Paul situation.

Mr. **HOLLENBECK**. Mr. Chairman, I rise in strong support of my colleague from Tennessee's amendments for increased Environmental Protection Agency funding. I do so because of my firm belief that we cannot cut EPA funds at a time when the Agency's responsibilities have been greatly expanded. Just recently, Congress affirmed its overwhelming support for environmental protection through passage of a strengthened Federal Insecticide, Fungicide and Rodenticide Act, the Resource Conservation and Recovery Act, and the Environmental Research, Development and Demonstration Act. In order to implement these programs effectively, it is imperative that EPA staff and resources be adequate to the task.

As currently written, H.R. 6956 sets funding levels for the EPA's operating programs at $1,033.75 million. This appropriation level is $54 million less than the targets agreed for this budget function by the House and Senate in the first budget resolution. I cannot accept this.

I urge my colleagues to join me in supporting the amendments to bring each of EPA's three program accounts up to the 1982 appropriation levels. The amounts in each amendment are within the parameters established earlier by the budget resolution. In the first amendment, we would restore $10.1 million to EPA salaries and expense accounts to offset the massive cutbacks in enforcement personnel and EPA staff responsible for promulgating regulations and permits. Second, I ask your support for an amendment which would recover $33 million of cuts in EPA research and development funds. Without an adequate R&D budget, we cannot provide the information necessary for the implementation of environmental laws or make the right environmental policy decisions on acid rain or toxic wastes. Without this money, we would be jeopardizing our ability to make prudent decisions concerning our natural environment.

Finally, I ask that you vote with me to restore $8.4 million to the State grants program. Last year, as you may recall, these programs suffered a 13-percent cut forcing drastic reductions in State pollution control programs. Once again, this amendment, like the others, would merely bring funding for this program back to the 1982 appropriation levels.

While $54 million is surely less than the amount required to complete the full job, House support for these proposals will convey to the Environmental Protection Agency and the American public our determination and continued commitment to protecting public health and the environment. I urge you to join me in supporting these worthwhile amendments.

● Mr. **ZEFERETTI**. Mr. Chairman, I rise in support of the Gore amendments to HUD-Independent Agencies appropriations for fiscal year 1983. When the current administration came to Washington, vowing to dismantle environmental regulations opposed by business and industry groups, environmental activists assumed Congress would comply with administration and business interests. Instead, those of us in Congress believing that environmental regulations should be based first upon health rather than economic considerations have been scoring important victories. To date, however, the massive cuts in the Environmental Protection Agency budget have proved an exception to this rule.

While the EPA's congressionally mandated workload has nearly doubled in recent years, the agency's budget was reduced over 17 percent in 1982, and this cut ignores the toll of inflation. Without an adequate restoration of funds for fiscal year 1983,

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the agency could lose an additional 1,100 employees, environmental research will be reduced another 22 percent after last year's cut of 39 percent, enforcement actions will be reduced by 275 work-years, and illegal dumping operations are likely to once again increase rapidly.

In addition, risk assessments of hazardous pollutants will be cut back to a fraction of previous levels; congressionally mandated timetables for issuance of essential regulations will be so backlogged that billions of gallons of toxic wastes will be dumped in our rivers, lakes, and streams; and State grants will be cut $8.4 million on top of last year's 13-percent reduction.

Clearly, the level of funding provided in the committee bill is woefully inadequate for the Agency to carry out its mandated duties of protecting the environment and safeguarding public health. In fact, Congress should be expanding the EPA budget to fulfill the congressional mandates of the many antipollution laws the Agency must by law administer. That is why I strongly urge my colleagues to support the Gore amendments to restore $10.1 million in salaries and expenses and $8.4 million in the abatement and compliance account.

The Gore amendment adding $10.1 million to the salaries and expenses account for enforcement and inspection is especially vital. Without adequate funding and personnel, enforcement of environmental laws is an impossible task. At a time when an overwhelming majority of the American people demand stronger enforcement of environmental laws, it is absolutely essential that Congress provide the funds necessary to follow the people's mandate. I urge my colleagues to support the Gore amendments.●

● Mr. BEDELL. Mr. Chairman, I rise to urge my colleagues' support for the Gore amendment restoring $10 million to the EPA budget for salaries and expenses in fiscal year 1983. This amendment will add money to an Agency facing a dangerous depletion of manpower, while remaining within the limits mandated by the 1983 budget resolution.

EPA faces a great loss of experienced personnel next year—up to 1,100 employees according to some estimates. This loss of staff will seriously hamper the Agency's ability to issue final regulations and permits in carrying out the will of Congress.

Such losses to the staff of EPA could not come at a worse time. Administrator Gorsuch has stated that much of the needed research on environmental problems has been completed, and what remains is the formulation and implementation of the programs to achieve the environmental quality we must have. While I question her confidence in the state of environmental research, I agree that much of what needs completion in our environmental agenda requires a staff able to promulgate environmental regulations.

But EPA cannot honestly expect to promulgate the necessary rules for carrying out the intent of Congress on a timely basis without a strong, experienced staff.

As many of you know, I have for some time been involved in energy matters before Congress, among which has been the development of a program for waste oil recovery. While Congress passed legislation in 1978 to encourage the reuse of this costly resource, the EPA has not begun to issue regulations on the safe recovery of waste oil. Though the legislation required EPA to issue such regulations by October of 1981, Administrator Gorsuch has stated that no regulations are expected before the summer of 1983.

We cannot expect EPA to carry out the necessary research, rule promulgation, and permit issuances when we vote to cut the funds supporting these vital activities.

The problems I have experienced in overseeing EPA's progress toward issuing waste oil regulations are by no means isolated. Regulations on the permitting of new and existing waste dump sites under the Resource Conservation and Recovery Act (RCRA), passed in 1976, were only recently issued this summer. EPA must give final permits by 1986 to 9,977 waste sites currently on interim status—with a staff of 178 working on this program it will be a miracle if they meet this deadline. In addition, Congress recently passed strong amendments to RCRA which will necessitate EPA regulate small generators of hazardous waste and underground injection of waste.

It is obvious to me that EPA cannot begin to meet its congressionally mandated deadlines at current staff levels. It would certainly be a grave mistake to call for reduced funding in the salaries and expenses of this Agency today.

Restoring the needed $10 million for EPA salaries and expenses will give the Agency a greater ability to fulfill its duties, while remaining within the constraints of the 1983 budget resolution. A commitment to fiscal responsibility and a clean, healthy environment are not mutually exclusive. I urge my colleagues to support the Gore amendment. Thank you.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Gore).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GORE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1415

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Tennessee (Mr. Gore) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RESEARCH AND DEVELOPMENT

For research and development activities, $121,204,000, to remain available until September 30, 1984.

AMENDMENT OFFERED BY MR. SCHEUER

Mr. SCHEUER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Scheuer: on page 13, line 24, strike out "$121,204,000" and insert in lieu thereof, "$146,204,000".

Mr. SCHEUER. Mr. Chairman, the amendment that we are offering is a truly modest proposal. In effect, it increases the appropriation of the Appropriation Committee by $25 million.

Now, I want to express my admiration for the outstanding leadership that the chairman of the subcommittee has provided and that the ranking minority member, my colleague, the gentleman from New York, has provided.

It is with the greatest reluctance that I make this proposal. I want to emphasize what a very modest proposal it is. I want to emphasize that even adding on $25 million would still leave the budget for R&D $8 million under the budget proposal, $8 million under the 1983 authorization proposal for EPA and, indeed, $8 million under this year's appropriation, $8 million under the 1982 appropriation.

So we are not only not making an adjustment of eroding effects of inflation of 9 or 10 percent from 1982 to 1983, but we are actually cutting the 1982 appropriation.

Now, Mr. Chairman, in effect, what I am saying is that the research and development function of EPA has been cut. It has been savage, more than any other agency activity over the last several years. In fiscal year 1981, R&D

was funded at $254 million. The current fiscal year 1982 appropriation is also $154 million, a 39-percent reduction from the 1981 level.

Now, for fiscal year 1983, the administration is requesting a $108 million reduction on top of the 1982 reduction, or a 30-percent reduction from fiscal year 1982.

Now, assuming a 7-percent annual rate of inflation, this request for $154 million comes out in real dollar terms to $94.1 million, $94 million in 1981 dollars and, therefore, represents a reduction in real dollar funding from 1981 to 1983 of 63 percent. These Draconian cuts in EPA R&D threaten the very foundation of environmental protection in this country and they threaten the very ability of EPA to regulate on a sensible cost effective basis the very kind of fine tuning and regulatory process that industry has been calling for.

Now, this just seems terribly counterproductive. We are ravaging the ability of the EPA to produce the information necessary to have cost-effective and intelligent administration of the environmental laws and we are ravaging the ability of EPA to make sensible, sound, cost-effective, economic environmental policy decisions on such desperate problems, problems that are piling up over the long run of acid rain, of ground water pollution, of indoor air pollution, hazard wastes, and toxic pollution.

Now, it just does not make sense to rob the regulatory agency that is mandated with making decisions that are going to cost industry billions and billions of dollars to comply with, to rob them of the ability to make intelligent, cost-effective judgments, that do not impose unnecessary burdens on our industry; but the only way that EPA can carry out its function is to give them a minimally adequate appropriation.

Now, Congress apparently agreed to this, because the issue was debated on August 17 of this year when EPA research authorizations were considered and the House overwhelmingly rejected the President's request, this so-called 63-percent reduction from 1981 to 1983, rejected by 314 to 94.

Now, this current authorization increases the President's request by $45.5 million, a minor request, when one considers the magnitude of cuts already made in this program.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. Scheuer was allowed to proceed for an additional 5 minutes.)

Mr. SCHEUER. Now, my amendment would add the $25 million, bringing the total appropriation up to $146.3 million and, of course, the funds would be spent in accordance with directives provided in the legislation authorizing such funds.

Now, specifically, the allocation would be as follows: $4 million for health research to identify cancer-causing pollutants in air and water; $4 million for environmental monitoring to gather the data needed to evaluate our environmental programs and to detect serious problems in need of action; $3.1 million would be for ecological research to understand the effect of pullution on our crops and in the oceans and on our natural resources; $900,000 for the Chesapeake Bay program to help protect the rich and valuable Chesapeake Bay, a program that our colleague, the gentleman from Maryland (Mr. Dyson) has been so assiduously promoting and diligently supporting; $6 million for community technology development to assist American industry in meeting sensible, cost-effective environmental regulations, to the benefit of our industry; and $7 million for long-term research to improve our understanding of environmental problems and to develop the experts and scientists who will provide sensible and cost-effective solutions to such pressing problems as acid rain, ground water pollution, and hazardous wastes.

Now, these increases and the research they would support have been recommended by the Science and Technology Committee over months and months of hearings and extensive investigations and oversight hearings of EPA research requirements.

This amendment would help preserve a basis for issuing sound environmental regulations, enabling our administrators to come up with cost-effective regulations that are not silly, that are fine tuned to meet the minimum needs of our environment and health and for helping industry to develop ways to meet regulations and to make only the necessary investments in antipollution technology.

Now, we think this is EPA's mission and we think that the $25 million that we have asked that is under the 1982 appropriation, under the 1983 authorization and under the 1983 budget resolution, is minimally needed and that it ought to be passed by this House.

The amendment, I think, is sound. It is minimum and I urge my colleagues to join me in voting for this amendment.

I will repeat the remarks that I made earlier of my utmost respect and high regard for the chairman of this subcommittee and the ranking minority member, the gentleman from New York. I feel very hesitant and reluctant to bring this amendment, but I feel that it is utterly necessary to fulfill the basic legislatively mandated mission of the EPA.

Mr. DYSON. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to my colleague, the gentleman from Maryland.

Mr. DYSON. Mr. Chairman, I rise in support of Mr. Scheuer's amendment. The amendment includes $900,000 for the Chesapeake Bay program and I would like to take a moment to explain the purpose of this funding.

A 6-year $27 million study of the Chesapeake Bay by the Environmental Protection Agency is now being completed.

Research findings have identified three areas of serious concern: toxics, nutrient enrichment, and bay grasses. The findings, which are now being finalized, indicate that the main stem of this 195-mile-long estuary is losing oxygen. In addition, the upper reaches of the main tributaries are considerably more stressed than scientists have thought. All of these trends—the decline of the bay grasses; the increased nutrient enrichment and attendant loss of oxygen; and the continued loading of toxic chemicals and heavy metals into bay waters—portend serious problems by the end of this century.

Given the EPA findings, it is essential that we have a shared Federal and State commitment to assure the clean up of the Chesapeake Bay. A strong Federal presence on the bay must be maintained because of the interstate boundaries of the watershed. Moreover, it is critical that EPA's participation and expertise in the Chesapeake Bay be continued so that there can be a swift, orderly transition from the research phase into the implementation phase in 1983.

Management of the Chesapeake Bay is also a responsibility of the State governments of Maryland, Virginia, and Pennsylvania. Representatives of the three States have served on the Chesapeake Bay program's management committee. In addition, the States, particularly Maryland and Virginia, have been participants in and have made contributions to the research studies funded by the program. At present, an institutional arrangement to carry on this State/Federal partnership is being developed. The States have pledged their support for such an institutional structure, and have expressed their willingness to share in the costs.

I am including for the Record a breakdown of the necessary funding for EPA's participation next year. Basically, it is as follows: First, the bay program has generated an excellent baseline against which future research can measure trends and tell whether water quality is declining or improving, $250,000 is needed annually to maintain the computer base, a proportion of which will be defrayed by the States. Second, it is essential that an EPA Chesapeake Bay Liaison Office be located physically on the bay. The

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progress to date in interstate coordination of water quality and water resource issues will be hampered without such an office. Thus, it is important to continue the five present positions in Annapolis.

CHESAPEAKE BAY PROGRAM BUDGET, FISCAL YEAR 1983

1. Cost of maintaining the data base—Federal, $125,000.

The Chesapeake Bay program has assembled on computer a massive historical data base which is being used to define trends in water quality variables and living resources over a 30 year time period for the Bay and its tributaries. This water quality data base has conducted a water quality review of data from 1940 to the present.

2. The resource user program—Federal, $75,000.

The resource user program, which evolved from public participation efforts, is a key element in the implementation of alternative control strategies because it involves those entities such as agriculture and manufacturing who need to understand the impact of their activities on the Chesapeake Bay and what alternative corrective actions they can take.

3. Monitoring program—Federal, $400,000.

A monitoring program is the most important in order to determine the effectiveness of alternative corrective actions to improve water quality on the Chesapeake Bay (i.e., evaluating improvements in water quality and aquatic species productivity in the Bay).

4. Core EPA Liaison Office—Federal, $300,000.

There is a need to continue the technical expertise that has been developed over the course of the EPA study on the Chesapeake Bay, in order to assure that the information is transferred to the appropriate state regulatory agencies.

Total Federal appropriation needed—$900,000.

Approximately $300,000 is needed for this purpose. Third, it is important to utilize the knowledge gained to improve water quality in the bay. This can only be done through a carefully designed water quality monitoring program. Approximately $600,000 is needed to design and put into place such a program. Here again, the States indicated their willingness to cost-share for approximately $200,000. Finally, it is important to actively involve bay users in developing and implementing the strategies necessary to correct problems which have been identified by the bay program. A public awareness program is critical to this implementation phase. Approximately $100,000 is needed for this purpose.

I must emphasize that this funding is not for a continuing study on the Chesapeake Bay, but for the transfer of the results of the Chesapeake Bay study to the States for purposes of properly managing and preserving the Chesapeake Bay. This Federal assistance is intended to cover only 1 year, after which the States would assume responsibility for supporting this Chesapeake Bay program.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for an additional 2 minutes.)

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I thank the gentleman for yielding.

I certainly rise in support of this amendment. I think, as the gentleman from Maryland has said, we are in danger of having wasted the millions of dollars that we have spent in studying the Chesapeake Bay, one of the greatest natural resources that we have in this country.

The studies under the EPA's Chesapeake Bay program are coming to an end after 6 years. The results of the studies can provide us with a benchmark against which we can measure any future changes in the water quality of the Nation's largest estuary. I am rising in support of the amendment to H.R. 6956, because it would provide the $925,000 we need to maintain the data base that has been assembled during the $25 million study. We need continuing EPA involvement to help us monitor corrective actions to improve water quality in the bay and we also need a core EPA liaison office to work with State agencies as the technical information that has been gathered during the study is transferred to the State level. Without the $925,000, we may have wasted the millions of dollars we have put into the Chesapeake Bay program. I urge that the amendment be adopted.

Mr. SCHEUER. Mr. Chairman, I thank the gentlewoman for her support.

Mr. BOLAND. Mr. Chairman, I rise to oppose the amendment. I do it rather reluctantly, because I am aware of the time and effort that the gentleman from New York has put into this particular activity within the Science and Technology Committee.

I think the membership ought to look at the figures with respect to the R&D activity. The 1983 budget requests $108.7 million. This bill carries $121.2 million. That is an increase of $12.5 million over the budget request. This amendment would provide for an additional $25 million in R&D and would raise this figure to $146 million.

Mr. Chairman, it occurs to me that the arguments that have been used by those who want increases in these activities, these particular accounts within the EPA, are all predicated and based upon 1982 funding.

Our position on this bill, on the Environmental Protection Agency and the other agencies of Government, is that we have to look at the total spectrum and we have to determine whether or not there are other areas that have suffered as a result of reductions in the 1983 budget estimates. And, of course, other areas have suffered as much or more.

I think all agencies have to share the burden, not EPA alone, but all agencies. Our concern, as has been so well brought out by the gentleman from New York, the ranking member of this subcommittee and his colleague, the gentleman from New York (Mr. SCHUMER), is that we have to have some concern about programs that touch the living conditions of millions of people throughout the United States, such as the assisted housing programs. We are vitally concerned with that.

□ 1430

Our concern with putting additional funds into this bill, as everyone realizes, is whether or not we are going to get a bill that is going to be signed by the President. We have all heard him on television and his reaction to the bill on which his veto was overridden by this House. Members all know his concern with other bills which will be going to the White House—specifically, the 13 appropriations bills. That is also our concern. I am sure it is the concern also of the membership of this entire House and the committee members.

Much of the reduction below 1982 in R&D, as I understand it, is tied to research areas which are nearing completion or, justifiably, are being rescheduled or redirected.

For example, research is nearing completion on the effluent guidelines program and on diesel particulates, as well as the initial Superfund research. Reductions also appear possible in the synfuel area, since commercialization of this technology has gotten off to a slower start than was originally expected.

I am satisfied that the increase provided in this bill will fund the essential—I am talking about the essential—R&D programs, especially in the high-priority areas, $121.2 million is a lot of research money. It would occur to me, Mr. Chairman, that this is sufficient to run the research and development program of the Environmental Protection Agency for fiscal year 1983.

The figure does not satisfy anybody. It does not really satisfy me, and does not satisfy the authorization committee. But we have to make some hard choices this year. Everyone recognizes that. It seems to me the hard choices ought to be spread across all of the agencies in this bill, and we have tried to do that equitable and reasonably.

So, Mr. Chairman, I oppose the amendment offered by the distinguished gentleman from New York.

● Mr. ZEFERETTI. Mr. Chairman, I rise in support of the Scheuer amendment to HUD-Independent Agencies appropriations for fiscal year 1983. Few issues facing Congress are more complex and critical to our Nation than the quality of the environment in which we live. Considering the fact that environmental protection was not addressed as an important issue until the 1970's, progress made in this area has been spectacular, at least until the current administration came to power.

Throughout the 1970's, Republicans and Democrats alike cooperated in assuring every American the right to a clean environment. Tragically, it has become apparent that the Reagan administration has abandoned this commitment. Between the EPA Administrator, Anne Gorsuch, and James Watt, the Secretary of the Interior, this administration's environmental policies represent no less than a blueprint for the destruction to a safe and clean environment.

Nothing more clearly displays this administration's lack of concern over the environment than the savage attacks on the Environmental Protection Agency's budget. Clearly, the level of funding provided in the committee bill is woefully inadequate for the Agency to carry out its mandated duties of protecting the environment and safeguarding public health. In fact, this Congress should be expanding the EPA budget to fulfill the congressional mandates of the many antipollution laws the Agency administers. That is why I strongly urge my colleagues to support the Scheuer amendment to restore funds for EPA's research and development programs.

Since taking office, this administration's top EPA officials have consistently and repeatedly demanded that environmental regulations and policies be based upon sound scientific research. But unless this amendment is passed, funding for EPA's research and development program will have been cut by 60 percent over 2 years. The consequences of such a budget reduction could be catastrophic for the health of millions of Americans.

Environmental research, if adequately supported, will result in the achievement of environmental goals vigorously supported by an overwhelming majority of the American people. In addition, pollution control represents an investment in industries affected by environmental legislation. EPA research activities are designed to develop appropriate control strategies for these industries. Without this capability, public health and environmental quality will deteriorate under the pressure of mounting pollution discharges.

Considerable progress has been made over the last decade in cleaning up this Nation's air and water, in addition to safeguarding the health of Americans. I am proud of these accomplishments and deeply dismayed over the course of this administration's environmental policies. In adopting the Scheuer amendment, this House has the opportunity to show its resolve in maintaining adequate funding for EPA research and development. Mr. Chairman, I urge my colleagues to vote aye.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHEUER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCHEUER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names.

[Roll No. 328]

Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
LeBoutillier
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Porter
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki

□ 1445

The CHAIRMAN. Three-hundred seventy-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. SCHEUER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 131, noes 263, not voting 38, as follows:

[Roll No. 329]

AYES—131

Addabbo
Andrews
Aspin
Barnes
Bedell
Beilenson
Bevill
Bonior
Bouquard
Brodhead
Brown (CA)
Burton, Phillip
Chisholm
Clay
Coelho
Collins (IL)
Conyers
Courter
Crockett
Deckard
Dellums
DeNardis
Derrick
Dingell
Downey
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (CA)
Emery
Evans (IA)
Fary
Fenwick
Ferraro
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Frost

Fuqua
Gejdenson
Gibbons
Gingrich
Gore
Gray
Guarini
Gunderson
Hall (OH)
Harkin
Hawkins
Heckler
Hertel
Hollenbeck
Holt
Howard
Hoyer
Hughes
Jeffords
Kastenmeier
Kildee
LaFalce
Leach
Leland
Lent
Lewis
Long (MD)
Lowry (WA)
Luken
Martin (NY)
Martinez
Matsui
McGrath
McHugh
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mottl
Nelson
Nowak

Oakar
Oberstar
Obey
Ottinger
Pease
Perkins
Petri
Peyser
Rangel
Rinaldo
Rodino
Roe
Rosenthal
Roybal
Russo
Savage
Scheuer
Schneider
Schroeder
Seiberling
Sensenbrenner
Sharp
Simon
Smith (AL)
Smith (IA)
Smith (NJ)
Solarz
Solomon
Stark
Stokes
Studds
Tauke
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weber (MN)
Wirth
Wolpe
Wyden
Yates

NOES—263

Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Benedict
Bennett
Bereuter
Bethune
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonker
Bowen
Breaux
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats

Coleman
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Derwinski
Dickinson
Dicks
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Early
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IN)
Fascell
Fazio
Fiedler
Fields
Findley

Fish
Foley
Frenzel
Garcia
Gaydos
Gephardt
Ginn
Glickman
Gonzalez
Goodling
Gradison
Gramm
Green
Gregg
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hightower
Hiler
Hillis
Holland
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins

Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
LeBoutillier
Lehman
Levitas
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
Mica
Michel
Miller (OH)
Mitchell (NY)
Mollohan
Montgomery
Moore
Moorhead

Morrison
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nichols
O'Brien
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Porter
Price
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Sabo
Sawyer
Schulze
Schumer
Shamansky
Shannon
Shaw
Shelby

Shumway
Shuster
Siljander
Skeen
Skelton
Smith (NE)
Smith (OR)
Smith (PA)
Snowe
Snyder
Spence
St Germain
Stangeland
Staton
Stenholm
Stratton
Stump
Swift
Synar
Tauzin
Taylor
Traxler
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wright
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki

NOT VOTING—38

Akaka
Bafalis
Blanchard
Bolling
Brooks
Brown (OH)
Burton, John
Butler
Chappell
D'Amours
Daniel, Dan
Dixon
Ertel

Evans (GA)
Fithian
Forsythe
Fountain
Gilman
Goldwater
Grisham
Leath
Lee
Marks
Mattox
McClory
Mitchell (MD)

Moffett
Pepper
Pickle
Pritchard
Reuss
Santini
Stanton
Thomas
Weaver
Weiss
Young (AK)
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Zeferetti for, with Mr. Pepper against.

Mr. Dixon for, with Mr. Reuss against.

Mr. DAVIS changed his vote from "aye" to "no."

Mrs. HECKLER and Mr. DENARDIS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1500

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ABATEMENT, CONTROL AND COMPLIANCE

For abatement, control and compliance activities, $364,575,000, to remain available until September 30, 1984: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913) or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009.

AMENDMENT OFFERED BY MR. GORE

Mr. GORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GORE: Page 14, line 3, strike out "$364,575,000" and insert in lieu thereof "$369,075,000".

Mr. GORE. Mr. Chairman, I might say to my colleagues that I am going to try a little bit different approach on this amendment than I did on the first one that I offered. I want to try to get along with the subcommittee chairman this time. I have consulted with him in advance, and I think we have worked this matter out.

For the benefit of my colleagues who have looked at the notice of this amendment in the RECORD, let me explain that I had originally intended to offer an amendment restoring some $8.4 million to this budget category. This compromise amendment that has been worked out restores some $4.5 million in this category.

This is an extremely important program. It targets the State grants, it targets the operator training for waste water treatment, and, in addition, we seek, at the request of the gentleman from Maryland (Mr. DYSON) to insure a smooth transition of the Chesapeake Bay study.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the chairman of the subcommittee.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman's yielding, and I am pleased at his remarks. I am a little regretful that we were not able to go along in the other areas.

Mr. GORE. So am I now.

Mr. BOLAND. But someday we will make the adjustment.

Mr. Chairman, as the gentleman from Tennessee (Mr. GORE) has indicated, we have agreed to $3.6 million, plus a $900,000 addition for the Chesapeake Bay effort that the gentleman from the Eastern Shore in Maryland (Mr. DYSON) and the gentlewoman from Maryland (Mrs. HOLT), are interested in.

We are delighted to take the amendment. As the gentleman from Tennessee has indicated, abatement, control and compliance is one of the most significant functions of the EPA. Most of it is in grants to States. With the $3.6 million, plus the $900,000, we will have added more than $57 million for abatement, control and compliance above the budget request.

I might say that part of the $3.6 million is to maintain operator training for waste water treatment facilities at the 1982 level. We think that is advisable, and for my part, on this side of the subcommittee, we are delighted to take that amendment.

Mr. GORE. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. Boland) for his support.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. GORE. I am glad to yield to my colleague, the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, I am delighted to hear that the subcommittee chairman is supporting the gentleman's amendment, and I am sorry the previous amendment was not voted on favorably and adopted. However, I think this is a step in the right direction, and I want to commend the gentleman from Tennessee (Mr. Gore) for his persistence in this area.

Mr. Chairman, I also want to comment in support of Representative Scheuer's amendment increasing the funding levels for EPA's research and development activities, and also in support of an amendment Representative Gore will offer restoring EPA's salaries and expense appropriations to the fiscal year 1982 levels. As chairman of the Budget Committee's energy and environment task force, I have been particularly concerned over the across-the-board reductions the Reagan administration has sought for EPA. At a time when EPA's workload is doubling, President Reagan and Anne Gorsuch have attempted to cut EPA's budget in half. With the proposed cuts it is doubtful EPA can effectively administer its hazardous waste, clean air, clean water, and the toxic waste program.

Research and development activities are perhaps the most important function of any environmental protection effort. Discovering the levels at which we can coexist safely with the pollution our society creates is of the greatest importance to all people, and as a government we have an inviolate duty to pursue all obtainable information. I realize many of my colleagues share this view, but they also have budgetary concerns that must be given due consideration. The Scheuer amendment balances both these concerns—it adds needed funding for research and development programs while staying within the limits of the fiscal year 1983 first budget resolution.

Both the Scheuer and the Gore amendments will have the positive effect of maintaining EPA's ability to enforce our environmental laws. This is important because de facto substantive changes can occur under the guise of fiscal belt tightening. If Congress is prepared to undo much of the legislation it enacted in the 1970's, it should do so directly, and not through the budget process. If the administration and this Congress does not intend to effect substantive changes in EPA's responsibilities, then the Scheuer and Gore amendments should be supported, and EPA should be given adequate funding to implement its statutory mandate.

Mr. GORE. Mr. Chairman, I appreciate the comments of my colleague, the gentleman from Colorado, (Mr. Wirth).

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. GORE. I am glad to yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I applaud the gentleman on offering his amendment, particularly on behalf of northeastern industrial States, such as mine. I would point out the terrible difficulties that we have in these industrial areas of attempting a cleanup of older areas. The State grant additions that are envisioned in the adoption of this amendment, with the consent of the subcommittee chairman, are important to Ohio, particularly as it relates to several projects in northeastern Ohio.

Mr. Chairman, this is a good amendment, and I appreciate the subcommittee chairman's agreeing to it.

Mr. GORE. Mr. Chairman, I thank my colleague, the gentleman from Ohio (Mr. Eckart), for his support.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the ranking minority member of the subcommittee, and I am sorry that I did not see him standing earlier or I would have yielded before.

Mr. GREEN. Mr. Chairman, I join with the subcommittee chairman in accepting this amendment. I am glad that on this one at least we were able to work out the differences.

This is an area that the committee, by increasing funding over the budget estimate from $250 million to $300 million, has been very concerned with. I think this is a constructive amendment, and I am delighted that we are able to accept it.

Mr. GORE. I thank the gentleman from New York (Mr. Green).

Mr. DYSON. Mr. Chairman, will the gentleman yield?

Mr. GORE. I am delighted to yield to the distinguished gentleman from Maryland, who has been very persistent on this Chesapeake Bay matter.

Mr. DYSON. Mr. Chairman, I rise in support of Mr. Gore's amendment. The amendment includes $900,000 for the Chesapeake Bay program and I would like to take a moment to explain the purpose of this funding.

A 6-year $27 million study of the Chesapeake Bay by the Environmental Protection Agency is now being completed.

The EPA studied three areas of serious concern: Toxics, nutrient enrichment, and bay grasses. The findings, which are now being finalized, indicate that the main stem of this 195-mile-long estuary is losing oxygen. In addition, the upper reaches of the main tributaries are considerably more stressed than scientists have thought. All of these trends—the decline of the bay grasses; the increased nutrient enrichment and attendant loss of oxygen; and the continued loading of toxic chemicals and heavy metals into bay water—portend serious problems by the end of this century.

Given the EPA findings, it is essential that we have a shared Federal and State commitment to assure the cleanup of the Chesapeake Bay. A strong Federal presence on the bay must be maintained because of the interstate boundaries of the watershed. Moreover, it is critical that EPA's participation and expertise in the Chesapeake Bay be continued so that there can be a swift, orderly transition from the research phase into the implementation phase in 1983.

Management of the Chesapeake Bay is also a responsibility of the State governments of Maryland, Virginia, and Pennsylvania. Representatives of the three States have served on the Chesapeake Bay program's management committee. In addition, the States, particularly Maryland and Virginia, have been participants in and have made contributions to the research studies funded by the program. At present, an institutional arrangement to carry on this State/Federal partnership is being developed. The States have pledged their support for such an institutional structure, and have expressed their willingness to share in the costs.

I am including for the Record a breakdown of the necessary funding for EPA's participation next year. Basically, it is as follows: First, the bay program has generated an excellent baseline against which future research can measure trends and tell whether water quality is declining or improving; $250,000 is needed annually to maintain the computer base, a proportion of which will be defrayed by the States. Second, it is essential that an EPA Chesapeake Bay Liaison Office be located physically on the bay. The progress to date in interstate coordination of water quality and water resource issues will be hampered without such an office. Thus, it is important to continue the five present positions in Annapolis.

Approximately $300,000 is needed for this purpose. Third, it is important to utilize the knowledge gained to improve water quality and maintain the health of aquatic resources in the bay. This can only be done through a carefully designed water quality monitoring program. Approximately $600,000 is needed to design and put into place such a program. Here again, the States indicated their willingness to cost-share for approximately $200,000. Finally, it is important to actively in-

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volve bay users in developing and implementing the strategies necessary to correct problems which have been identified by the bay program. A public awareness program is critical to this implementation phase. Approximately $75,000 is needed for this purpose.

I must emphasize that this funding is not for a continuing study on the Chesapeake Bay, but for the transfer of the results of the Chesapeake Bay study to the States for purposes of properly managing and preserving the Chesapeake Bay. This Federal assistance is intended to cover only 1 year, after which the States would assume responsibility for supporting this Chesapeake Bay program.

Mr. Chairman, I would like to include at this point a breakdown of the proposed Chesapeake Bay program budget for fiscal year 1983:

Chesapeake Bay Program Budget for Fiscal Year 1983

1. *Cost of maintaining the data base:* Federal $125,000. The Chesapeake Bay program has assembled on computer a massive historical data base which is being used to define trends in water quality variables and living resources over a 30 year time period for the Bay and its tributaries. This water quality data base has conducted a water quality review of data from 1940 to the present.

2. *The resource user program:* Federal $75,000. The resource user program, which evolved from public participation efforts, is a key element in the implementation of alternative control strategies because it involves those entities such as agriculture and manufacturing who need to understand the impact of their activities on the Chesapeake Bay and what alternative corrective actions they can take.

3. *Monitoring program:* Federal $400,000. A monitoring program is the most important in order to determine the effectiveness of alternative corrective actions to improve water quality on the Chesapeake Bay (i.e., evaluating improvements in water quality and aquatic species productivity in the Bay).

4. *Core EPA Liaison Office:* Federal $300,000. There is a need to continue the technical expertise that has been developed over the course of the EPA study on the Chesapeake Bay, in order to assure that the information is transferred to the appropriate state regulatory agencies.

Total Federal appropriation needed: $900,000.

Mr. DYSON. Mr. Chairman, I thank the gentleman from Tennessee (Mr. Gore) for yielding, and I thank him for this amendment on behalf of generations yet to come who will benefit from the use of the Chesapeake Bay.

The CHAIRMAN pro tempore (Mr. Donnelly). The question is on the amendment offered by the gentleman from Tennessee (Mr. Gore).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; and including not to exceed (1) $1,779,000,000 for Space Shuttle, (2) $1,815,000,000 for Space Flight Operations, (3) $115,000,000 for Space Transportation Systems—Upper Stages, (4) $88,000,000 for Space Transportation Systems Operations—Upper Stages, (5) $137,500,000 for the Space Telescope, (6) $34,500,000 for the Gamma Ray Observatory, (7) $92,600,000 for Project Galileo, (8) $4,000,000 for a Space Station, (9) $55,000,000 for Performance Augmentation, without the approval of the Committees on Appropriations, $5,542,800,000, to remain available until September 30, 1984: *Provided,* That none of the funds in this or any other Act shall be used for the development of a fifth space shuttle orbiter without the approval of the Committees on Appropriations.

AMENDMENT OFFERED BY MR. FLIPPO

Mr. FLIPPO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Flippo: On page 20, line 13, strike out "$5,542,800,000" and insert in lieu thereof "$5,402,800,000", and

On page 20, line 17, insert immediately before the period the following: ": *Provided further,* That none of the funds appropriated under this heading shall be obligated or otherwise made available for the sole-source procurement of the design, development, or production of liquid-hydrogen, liquid-oxygen (Centaur) upper stages".

□ 1510

Mr. FLIPPO. I will not take up a great deal of time congratulating the distinguished chairman from Massachusetts. He knows very well I have very high regard for him and the work that he and his subcommittee have done and his support for research and development over the years.

My concern here today is that I believe that the action of this subcommittee, and previous actions in the supplemental, and further compounded by the action that the subcommittee is proposing today, is about to start the Nation down the wrong pathway on an upper stage development.

Let me be very explicit about what this amendment that I am offering will do.

The amendment that I am offering will reduce the appropriation for NASA by $140 million. That is for the elimination of the Centaur upper stage that is propsed in this subcommittee action.

As my colleagues know, I am the chairman of the Subcommittee on Space Science and Applications and as I come before you it has generally been my position to ask for greater funds for NASA. But I am here today because this is an important amendment.

Let me explain essentially what we are talking about. The Space Shuttle gets us from Earth to lower Earth orbit and that is all that it can do. The real payoff in space in many cases is in geosynchronous orbit, so we need some type of vehicle to go from lower Earth orbit to geosynchronous orbit.

There are essentially two Federal agencies that have a great deal of interest in space. That is the U.S. Air Force and NASA.

What we are talking about in this bill is the NASA portion of that. So NASA's problem is how do they go from lower earth orbit to geosynchronous orbit and what is the most effective and efficient way to do that to fulfill its mission.

In the first place, NASA has two missions to fulfill there. It has the Galileo and it has the International Solar Polar Mission.

So to find the most effective way for NASA to carry out that mission the subcommittee which I have the privilege to chair has been looking at this issue for more than 2 years. We felt that the most appropriate thing for NASA to do would be to acquire two of the IUS's that have been developed by the Air Force. IUS is an upper stage, a means of going from lower earth orbit to geosynchronous orbit.

The IUS is already built. It is here. It is now. The development costs are sunk there. It is real. It is tangible. It is in Florida now being outfitted and it will fly next month. It is not a pig in a poke.

Our subcommittee wanted NASA to buy two of these real vehicles and equip them with a kick stage and carry out its mission, Galileo, and ISPM. It can do that for approximately $200 million.

The alternative to that, and what NASA has been talking about for a long time is an upper stage that is called Centaur. Centaur has been around for a number of years, in the neighborhood of 25 years. But what is required in order to meet this mission is really two different vehicles.

Two years ago NASA and the Air Force were working together on an upper stage and the upper stage that they were working on was called the IUS and it got into cost problems so NASA pulled away from it and said we will develop Centaur for our own purposes.

Our subcommittee looked at that, the authorizing committee, and said "We do not think this Nation can afford to build an upper stage for the military and another upper stage for civilian purposes." It said, "NASA, you and the Air Force sit down and come up with an upper stage that both parties can use."

They went back and studied and studied and they came back to us and they said, "We cannot do that." The Air Force, in order to meet our requirements, said they must have a 20-foot Centaur and in order to meet NASA's requirements they must have a 26-foot or a 28-foot Centaur.

That is not the Centaur that is in existence today. Those are two new development programs that would be required by that action.

The first bill to come before this House this year was the NASA authorization bill and it did not contain any authorization for Centaur and it was passed by this House by a very large margin. It is now in conference committee.

Then, following that action, a few days ago we had the urgent supplemental come along and this committee decided that they did not want to go forward with IUS. So they mandated that NASA could not spend any of those funds.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. FLIPPO) has expired.

(By unanimous consent, Mr. FLIPPO was allowed to proceed for 5 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I will be delighted to yield to the gentleman.

Mr. ROUSSELOT. I appreciate my colleague yielding.

As I understand it, you prefer the IUS; is that correct?

Mr. FLIPPO. If the gentleman will let me complete my statement I will be happy to tell the gentleman.

Mr. ROUSSELOT. You prefer that?

Mr. FLIPPO. If I might regain my time, let me complete my statement.

Mr. ROUSSELOT. I will get you 10 minutes, if necessary, but since you mentioned the IUS I thought I would have a little colloquy here.

Has that been tested?

Mr. FLIPPO. It will fly next month. It is scheduled to fly next month.

Mr. ROUSSELOT. So the IUS has not been tested.

Mr. FLIPPO. Yes, it has been tested, time after time after time.

Mr. ROUSSELOT. Not really.

Mr. FLIPPO. No. The Centaur has not been tested.

Mr. ROUSSELOT. The Centaur has been tested 66 times.

Mr. FLIPPO. I would tell the gentleman that the Centaur that we are talking about has not been tested. It is not even built.

Mr. ROUSSELOT. We will get to that, but let me review some of the other reasons this amendment should be turned down:

First, NASA supports Centaur funding.

Second, the Air Force has withdrawn its reservations stated in Secretary Orr's letter of August 16, 1982, and now support Centaur development.

Third, NASA/DOD joint study supports Centaur development.

Fourth, inertial upper state (IUS) cannot meet our high energy upper stage requirements for NASA, DOD, and commercial missions beyond the 1985–86 timeframe; Centaur can.

Fifth, failure to develop Centaur for Shuttle now will result in an increasing loss of business to foreign competition.

Sixth, competing a new upper stage program now will result in unnecessary expenditures of $1 to $1.5 billion, take 2 years longer to complete, and yield no significant performance improvement.

Seventh, the scientific integrity of the Galileo mission to Jupiter will be significantly enhanced by Centaur.

Eight, changing back to IUS for the international solar polar mission will seriously jeopardize NASA's credibility with its foreign partners, most notably the European Space Agency.

Mr. FLIPPO. Yes, we will get to that. You know it does not exist today. It does not exist today.

I have a one-track mind so if I might conclude my statement along that track so I will not foreget what it was I was talking about before the gentleman made his point.

The Subcommittee on Appropriations mandated in the last urgent supplemental that NASA could not spend any of its money to acquire these IUS's to carry out its mission and it mandated that NASA go forward with the development of these two Centaur programs that NASA and the Air Force has testified before my committee time after time would cost $634 million, not $200 million, $634 million as a minimum. That would be a sole source procurement, not a competitive upper stage, but a sole source procurement, that they must go forward with.

The mission we are trying to deal with is in the late 1980s. It is not now, so there is plenty of time for a competitive upper stage.

My colleagues will hear many people talk about what is the Air Force's position. Let me tell you what the administration's position is as represented by a letter dated September 14 and sent to the honorable chairman of the full committee, DON FUQUA, and signed by David Stockman. He says that the proposed amendment, Flippo amendment, "is fully consistent with the budget requests the President submitted to Congress last February. As you know, the administration proposed termination of the Centaur program and use of the joint NASA/Air Force IUS for Galileo and ISPM."

That is the administration position, whatever NASA or anyone else may say.

Now, it is important what NASA says and it is important what the Air Force says. So let me tell you. Here is a letter signed by Verne Orr, the Secretary of the Air Force, and by Jim Beggs. They were opposed to the action of the subcommittee when it went through on the supplemental. This letter is dated July 13 and it goes on to say it opposes the action of the subcommittee very strongly and avidly and says that they have no requirements that the IUS cannot handle.

This is signed by both Verne Orr and Jim Beggs. They say the most beneficial thing would be to go forward with the IUS's and with the high energy upper stages.

Here is a recent letter dated August 16 from Verne Orr to Mr. JAMIE WHITTEN and it says that—

> The congressionally-directed use of the Centaur by NASA for their Galileo and ISPM plenatary exploration missions adds about $100 million to DOD IUS program costs. To be of use by DOD the Centaur would have to be modified into a 20-foot long version to be Shuttle compatible with DOD payloads.

Here is the important thing. The Secretary of the Air Force said that this action would cost between $400 million and $900 million additional in order "for DOD spacecraft to make the transition from" existing, "IUS to the modified Centaur."

So that is the position. That is the position of the Air Force dated August 16, and the position of the Air Force and NASA dated July 13.

□ 1520

Now, Mr. Chairman, you will be told in this debate that they have received some change of mind, that all of a sudden, like last Saturday, they had a vision, and they decided that that was not the way to go. They decided on Saturday night, after all these years of study, that they could now come up with a different viewpoint. Well, that is what the Air Force and NASA says.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. FLIPPO) has expired.

(By unanimous consent, Mr. FLIPPO was allowed to proceed for 2 additional minutes.)

Mr. FLIPPO. I just want to tell you this story. I know you will be interested in it.

Down in Alabama, during the Depression, there were not many jobs there. There was one little job open for a biology teacher in a small town there. This fellow went to apply for that job. It was a rather conservative school board there. They said to him, "Do you teach the Bible theory, or do you teach that new theory of evolution?" And he knew if he answered that board incorrectly that he would not get that job. So he thought long and hard about it. Finally he said to

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the board, "Well, I can teach it either way."

And that is the way NASA is and that is the way the Air Force is on this issue. They can teach it either way, just whatever you want. If the chairman of this distinguished committee—and I was in the Air Force—called me, or if he implied if his committee wanted, if they wanted a letter, I would get it to them. And that is the way Air Force and NASA is. Gentlemen, that is the wrong course to take on this. We need to eliminate this and bring it back within the budget that the President is talking about and reduce this by $140 million.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the distinguished gentleman from New Jersey.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. Flippo) has again expired.

(On request of Mr. Hollenbeck and by unanimous consent, Mr. Flippo was allowed to proceed for 5 additional minutes.)

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the amendment proposed by the distinguished gentleman from Alabama. As the ranking minority member of the Subcommittee on Space Science and Applications, I share the same concerns over the upper stage decision with the chairman of the subcommittee.

Throughout the fiscal year 1983 NASA authorization hearings, my colleagues on the subcommittee and I repeatedly asked NASA and the Air Force if they had any missions planned through the late 1980's that would require the 10,000 pounds to geosynchronous orbit capability of the liquid-fueled Centaur upper stage. Their answer was a resounding: No. The Air Force-designed solid-fueled IUS is completely adequate to fulfill both the Department of Defense requirements, and meet the two NASA planetary missions to Jupiter and the Sun with the assistance of a kick stage.

My colleagues on the Appropriations Committee tell me that the Air Force will require the Centaur upper stage for missions that they cannot discuss. So, Mr. Chairman, this is our dilemma: If the DOD and NASA both testified that they did not have any mission requirements for a Shuttle-launched Centaur upper stage, and the existing IUS could be used for the classified and NASA Galileo and International Solar Polar Missions, it is the consensus of the Science and Technology Committee that there is no need to develop this upper stage. I believe that we should take a close and careful look at the needs, mission requirements, and capability for a new high energy upper stage that would meet the space launch demands of the late 1980's through the year 2000 and beyond.

The IUS and Centaur upper stage issue has continued to flip-flop during the last several fiscal years. We are now rapidly approaching the time where if we change our minds one more time, we will jeopardize the two civilian planetary exploration programs.

I just learned that yesterday the Air Force decided to support the Centaur. Mr. Chairman, this is a decision of convenience. Why, after testifying repeatedly that the IUS would meet DOD launch requirements through the late 1980's, has the Air Force reversed their decision? Why, after studying launch mission requirements for the IUS, the Air Force decided yesterday that it needed Centaur? I for one simply do not accept the gentleman from Massachusetts' unsupported contentions regarding an intelligence mission. This is a preposterous conclusion, and I personally abhor these last-minute reversals in philosophy. Especially, I note yet another attempt by the DOD to get a "free ride." This, on top of their already bloated budget—a budget deplorably unchecked by the administration and a Secretary totally oblivious to the damage he is doing to our economy by wielding a "shovel" instead of a "knife."

I repeatedly questioned NASA's decision to change, once again, from Centaur back to IUS during the 1983 authorization hearings. I did so because of NASA's previous testimony. However, NASA subsequently testified, along with DOD, that the IUS can easily meet their launch requirements through the end of the decade.

Mr. Chairman, I also disapprove of the sole-source procurement of the Centaur upper stage. I believe that a competition should be opened to all aerospace industries for a new high energy upper stage. This new upper stage could be best for the space program, as well as the most cost effective.

I urge my colleagues to support the amendment by the gentleman from Alabama and eliminate the $140 million of additional funds to NASA for what appears to be a wasteful use of tax dollars for an unnecessary upper stage: Centaur.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I would like to remind the gentleman of a 1981 joint NASA-DOD study which concluded, on page 95 of a report requested by him and his committee:

> The Centaur is the only vehicle capable of meeting near term NASA planetary requirements, particularly the need for a Galileo combined Orbiter/Probe mission on a direct trajectory to Jupiter in 1985. The Centaur will satisfy the future envisioned and proposed NASA planetary missions through the mid-1990's. The Centaur can also be adapted to meet both current and projected NASA and DOD earth-orbiting requirements and its early availability could provide considerable enhancement to DOD mission capabilities.

On that point, in the same study, it was projected that there will be DOD requirements in 1990 of lifts to geosynchronous orbit in excess of 8,000 pounds. I would ask the gentleman: Will IUS provide that lift?

Mr. FLIPPO. In response to the gentleman, first of all, the point he made about the only available vehicle, you are talking about a direct trajectory. There is another method to go except by a direct trajectory.

Mr. HUNTER. The slingshot approach.

Mr. FLIPPO. And as far as the availability is concerned, the Centaur is not available. The IUS is available. It is real. It is tangible. The Centaur is a development program, and it is not there.

In regard to the DOD mission for the 1990's, I am not knowledgeable in the DOD mission. I can only tell you about what was testified before my committee by Pete Aldrich, Under Secretary of the Air Force and he stated that the Air Force had no known requirements above the 5,000-pound capability.

Now, if you want to go way out there, then, yes, there will be needs for higher lift capability, bigger than IUS can be grown, and that is why we probably need a high energy upper stage down the road. But there is no reason to do it by sole source procurement. We have got plenty of time to complete it. I appreciate the gentleman's pointing that out. We can complete that.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding. I have tremendous respect for the gentleman and I have often agreed with him, Mr. Chairman. I am sorry that we do not agree on this issue.

I did want to make a point in response to the gentleman from New Jersey, who indicated that now the Air Force has changed its mind, et cetera, that, in a letter to the chairman of the House Committee on Science and Technology, November 2, 1981, both the Deputy Administrator of NASA and the Secretary of the Air Force agreed that "NASA should undertake the adaptation of the Centaur to be used in the Shuttle and to support the near-term Galileo mission and the mid-term high energy requirements of NASA-DOD and commercial users."

I understand the Air Force had some problems with that.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. FLIPPO) has again expired.

(On request of Mr. WINN and by unanimous consent, Mr. FLIPPO was allowed to proceed for 5 additional minutes.)

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the gentleman from Kansas, a gentleman who has followed this for many, many years, and who was the ranking minority Member on this subcommittee for a long time.

Mr. WINN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama.

I think at this stage, in this hour of the testimony today, that we should call this the flip-flop provision of this bill. The flip-flop was done by NASA and the Air Force within the last few days. I think many Members of this committee realize this. Those of us who have been briefed in the last few hours, have been given information that many Members listening to me and sitting on the floor might not be aware of. I am not going to debate the merits of the Centaur and the IUS. I am saying that we better look at the budget, because we already have an appropriation bill here, handled by the gentleman from Massachusetts, that is over the President's budget. Our President told us again the other day on public television that he is going to veto any appropriation bill that is over the budget. What we are doing here or the attempt to do here, if we do not protect and support the gentleman from Alabama, is to add additional money to the budget. I am concerned that we are going to lose the Galileo program, if we do not go along with what the authorization committee supports, and not necessarily what the most convenient decision by the Air Force and NASA may be in the last few hours.

Mr. Chairman, as the gentleman from Alabama has pointed out, NASA, the Air Force, and the OMB have been opposed to the sole-source procurement of Centaur for launching the Galileo and Solar Polar spacecraft which was directed by the recently signed urgent supplemental. We had every indication that the President would resist the action proposed in the supplemental and indeed the President's first veto message labelled the action on the Centaur upper stage as restrictive and wasteful. As we all know the President was finally forced to accept the Centaur language to avoid the unacceptable alternative of closing down a number of important Government activities and the action was purported to have no significant budgetary impact in fiscal year 1982. Well, the action may not have had significant budget impact in 1982 but today we can certainly see a significant budget impact in fiscal year 1983 through an increase of $140 million to the President's request.

Mr. Chairman, there is no justification for the sole-source procurement of a Centaur upper stage for only two NASA missions. These missions can be performed using the inertial upper stage with a kick stage as proposed in the President's fiscal year 1983 budget request.

NASA has stated that the Centaur development and orbiter and launch pad modifications will cost $634 million with recent indications that this total runout cost can be expected to increase by 10 percent. I must also point out that the Air Force cannot use the NASA-version of the Centaur. The Air Force claims they need a shorter vehicle and would have to modify several spacecraft already under development and procurement. And how much would these additional costs be? The Air Force claims an additional $400 to $900 million.

I believe the Appropriations Committee has rushed to judgment on this issue. I believe we should take a more careful look at the need for a high energy upper stage. If the requirements justify such a stage, then we should pursue a carefully structured program with a normal competitive procurement process. Certainly the Centaur contractor could enter such a competition and we as a Nation could be assured of the most effective and efficient stage.

Again, I urge my colleagues to support the amendment of the gentleman from Alabama who serves with distinction as the chairman of the authorizing Subcommittee on Space Science and Applications and eliminate the $140 million of additional funds for NASA.

☐ 1530

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I would be delighted to yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for yielding.

In the gentleman's earlier presentation he cited letters of evidence from NASA and the Air Force. For those of us who do not serve on the gentleman's committee or Chairman BOLAND's subcommittee, it is difficult for us to follow changes in position.

It seems logical to me that the most recent position for those of us who are not on the committee and hear the daily arguments, the most recent position would be the official position. The most recent position as I understand it—and I will wait to hear from Chairman BOLAND—is that NASA and the Air Force support this.

If so, I would like to have that either corrected or defined. It would seem to me if the gentleman would cite letters in evidence earlier, it would be quite appropriate and quite fair and reasonable for the side in opposition to the gentleman's amendment to cite later evidence.

Mr. FLIPPO. I think the gentleman has made a very good point. I would hope to clarify that.

I do have a chronological statement about how this thing has gone over the years that I would like to present to the Members. I received a letter this morning from NASA and the Air Force that they were now in support of the Centaur—the nonexistent Centaur, I might add—today. But 2 weeks ago, they were not. They were not. They fought hard and I will be glad to show the Members the letter that they sent to the chairman of this committee when they were opposing the action of the Appropriations Subcommittee in the urgent supplemental.

So it is a very good point. But my point is that OMB's position, however, is quite clear. OMB's position and the administration's position is in support of my amendment, as I indicated, and that is today and that has not been refuted and cannot be refuted.

So the Air Force and NASA support it. OMB opposes it and supports mine.

The letters follow:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 14, 1982.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Washington, D.C.

DEAR DON: I am responding to your letter of August 16, 1982, in which you requested the views of the Administration on a proposed amendment to H.R. 6956, the HUD-Independent Agencies Appropriations Act of 1983.

The proposed amendment would delete funding for the NASA Centaur upper stage program and release the statutory mandates and prohibitions contained in the recently-enacted Urgent Supplemental Appropriations Act. These restrictions force NASA to terminate its participation in the joint NASA-Air Force Inertial Upper Stage program and mandate development of the Centaur upper stage for use in the Galileo and International Solar Polar missions.

The proposed amendment is fully consistent with the budget requests the President submitted to Congress last February. As you know, the Administration proposed termination of the Centaur program and use of a joint NASA-Air Force Inertial Upper Stage for Galileo and ISPM.

It is important to note that the Administration is now obligated by law to proceed with the Centaur program pursuant to the Urgent Supplemental Appropriations Act. As Chairman of the committee with legislative jurisdiction over NASA, I assume that you have weighed the consequences of reversing current congressionally-mandated upper stage policy and believe that the beneficial effects of restoring the Administration's original requested program outweigh any harm that might result from prolonging

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the uncertainty in the upper stage programs.

I share the concern voiced in your letter that carrying out the mandates in the urgent supplemental bill will force Congress to exceed both the President's budget and the congressional budget resolution for fiscal year 1983 and subsequent years. We estimate that carrying out the Centaur mandate will generate additional NASA funding needs of $49 million in fiscal year 1982. Centaur will also add at least $140 million to fiscal year 1983 and comparable amounts in subsequent years unless severe reductions are made in other NASA programs. Adoption of the amendment proposed by Representative Flippo would, as you note, permit Congress to stay within the budget without making severe offsetting reductions in NASA programs other than Centaur.

I would of course be pleased to provide any further information on this matter that you might require.

Sincerely,

David A. Stockman,
Director.

July 13, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: We urge your careful review of a major issue regarding H.R. 6685, the Urgent Supplemental. The Bill, as amended by the Senate, contains direction for NASA to develop, via sole source contracts, the Centaur upper stage for its planetary missions and to cancel procurement of the Inertial Upper Stage (IUS) vehicles now being bought on an Air Force contract for these missions.

While the use of the Centaur for NASA planetary missions was cost effective a year ago, NASA has proceeded to develop these missions using the IUS for the past six months. The result is that a return to the Centaur will significantly increase mission costs. Moreover, since we have also proceeded with the procurement of the IUS vehicles and manufacturing effort has gone forward for a half a year, a NASA cancellation will increase substantially the costs of the remaining IUS vehicles for the DOD. NASA is presently discussing with contractors small improvements to existing stages to meet the near-term growth requirements for commercial payloads. If a small increase in payload capacity is required for DOD payloads, this can be similarly accommodated. Since there are no other NASA or firm DOD requirements for the Centaur upper stage prior to approximately 1988 in the 1980's, there can be no justification for these increased costs since a high energy upper stage (HEUS) can be developed when a requirement exists in the late 1980's.

We therefore believe the Nation would be better served if the Air Force and NASA are permitted to proceed with a carefully structured high energy upper stage program. This approach would be far more effective and beneficial since a HEUS would be required whether or not we develop the Centaur. The USAF and NASA have developed an agreement in principle for a joint HEUS program structured to meet commercial, scientific and military needs for the 1990's.

We therefore request your assistance to eliminate the restrictive and wasteful direction on the Centaur upper stage as was indicated in the President's first veto message.

Sincerely,

Verne Orr,
Secretary of the Air Force.
James M. Beggs,
Administrator.

National Aeronautics
and Space Administration,
Washington, D.C., July 13, 1982.

Hon. Ronnie G. Flippo,
Chairman, Subcommittee on Space Science and Applications, Committee on Science and Technology, House of Representatives, Washington, D.C.

Dear Mr. Chairman: We urge your careful review of a major issue regarding H.R. 6685, the Urgent Supplemental. The Bill, as amended by the Senate, contains direction for NASA to develop, via sole source contracts, the Centaur upper stage for its planetary missions and to cancel procurement of the Inertial Upper Stage (IUS) vehicles now being bought on an Air Force contract for these missions.

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Sincerely,

Verne Orr,
Secretary of the Air Force.
James M. Beggs,
Administrator.

National Aeronautics
and Space Administration,
Washington, D.C., September 14, 1982.

Hon. Ronnie G. Flippo,
Chairman, Subcommittee on Space Science and Applications, Committee on Science and Technology, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This letter responds to your letter of September 3, 1982, requesting data on Centaur and HEUS (High Energy Upper Stages).

Subsequent to the signing of Public Law 97-216, the fiscal year 1982 Urgent Supplemental, and as a consequence of your letter and a similar letter from Chairman Boland, the U.S. Air Force has continued to study requirements for a high energy upper stage in the mid to late 1980's. It appears, based on new information, that it would be advantageous from both a technical and cost point of view to plan on using a short version of the Centaur (Cryogenic Upper Stage G) starting in 1987. Thus, it is advantageous for the Air Force to initiate development of this stage in consonance with the NASA schedule for a long Centaur (Cryogenic Upper Stage G^{1}). This joint program will, of course, minimize both development and operating costs for both the U.S. Air Force and NASA, and will ensure the availability of a short Centaur without modification of either the Shuttle program or upper stage through the mid-1990's.

NASA will, of course, continue to require the long version of the Centaur for the Galileo and International Solar Polar missions. In order to most efficiently construct a development program we would propose to make the short Centaur the baseline program and to develop the long Centaur on a schedule compatible with the 1986 Galileo and ISPM launch. This has the additional advantage of providing a flexible set of options for both NASA and Air Force future program requirements.

The Air Force and NASA are presently negotiating a Memorandum of Agreement which should be ready for signature by the end of this month. That agreement will recognize a NASA requirement for timely development of the long Centaur for the 1986 planetary missions, and the near-term funding requirements accordingly reflect NASA's schedule demands.

We believe that the joint program described above will result in the most efficient development of a high energy upper stage and will succeed in minimizing the transition costs since separate transitions to an IUS and then to a high energy upper stage would be avoided. Moreover, it will provide the benefits of scale to both NASA and the Air Force since our operational requirements can be aggregated.

We are prepared to provide any additional details you may require, including budget figures which, at the present time, are not yet fully developed.

It is most difficult to develop a thorough and complete set of options and cost them on short notice. We can provide the following considerations:

1. We have not completed a Phase B on a HEUS at this time. It is most difficult to estimate costs without requirements and attendant industry studies. It should be possible to develop a low non-recurring cost HEUS for three-quarters to $1 billion if requirements are minimized. If reusability and refuelability are added, the non-recurring cost could exceed $1.5 billion.

2. The Orbiter/KSC Modifications for Centaur are about $150–175 million.

3. The IUS Growth development has been performed by the USAF and can be obtained from them.

4. The Spacecraft Modifications are best estimated by the USAF since their payloads are most affected.

5. We do have preliminary revised estimates for the long Centaur which are provided below. The estimates of development costs for a short Centaur are still being worked at a staff level and have not been adequately reviewed.

6. IUS Growth and IUS Impacts are best estimated by the USAF.

NASA would be most pleased to do a thorough comparison study along the lines shown in your letter, but it will require a few months to complete.

With respect to a run-out cost comparison of IUS and Centaur, there have been some cost increases based on the submissions by the Centers for the Centaur. These increases are still under review by the Headquarters staff and the Centers involved. We should point out that since July 18, 1982, we have not engaged in further IUS planetary development activities and have been pursuing Centaur. Consequently, there may be increases in the development cost of IUS if NASA were again directed to reverse course due to time lost in proceeding with Centaur as the upper stage baseline.

The following table shows an estimate of the Centaur and IUS.

PLANETARY UPPER STAGES PROGRAM ESTIMATES

[In millions of dollars]

	Fiscal year—			EAC
	1983	1984	1985	
Centaur version	150-160	190-210	120-140	630-680
IUS version	80-90	80-90	40-50	300-330

It should be realised that the planetary spacecraft effort is about $80 million higher for IUS than Centaur. It should also be pointed out that there would be costs incurred (probably on the same order of Centaur—$150-$175 million) for orbiter and KSC modifications for any future high energy stage. In summary, this joint program will provide NASA and DOD with a superior upper stage which will have performed to geosynchronous orbit two to three times that of the currently available IUS.

Sincerely,

JAMES M. BEGGS,
Administrator.

AUGUST 16, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We have been asked by Representative Don Fuqua, Chairman of the House Committee on Science and Technology, to provide him with an assessment of the applicability of the Centaur Upper Stage for DOD Space Shuttle launches. We are providing the following assessment of Centaur performance and cost to Chairman Fuqua.

Currently designed DOD spacecraft will not likely grow beyond the 6000-7000 pound range which could be accommodated by improvements in the Inertial Upper Stage (IUS) performance. However, we expect the next generation of DOD spacecraft which fly in the late 1980's and 1990's will be designed with extensive survivability measures (including large maneuvering propellant reserves) which will probably increase total weight well beyond IUS capabilities. Consequently, it appears that a new higher energy upper stage (HEUS) will be required for the next generation of DOD geosynchronous spacecraft.

The Congressionally directed use of the Centaur by NASA for their Galileo and ISPM planetary exploration missions adds about $100 million to DOD IUS program costs. To be of use to DOD, the Centaur would have to be modified into a 20 foot long version to be Shuttle compatible with DOD payloads. It would cost an additional $400-900 million (above the $634M NASA Centaur budget) for DOD spacecraft to make the transition from IUS to the modified Centaur. Our situation differs from NASA's in that we have several existing—and continuing—operational spacecraft programs configured for the IUS. Thus, our cost estimates include reconfiguring the NASA planetary Centaur and the DOD spacecraft to use the 20 foot version of Centaur.

Independent of the Congressional direction to NASA on the use of Centaur, we continue to believe that DOD requirements beyond IUS capability can best be met by a competitively developed new Higher Energy Upper Stage. A Centaur derivative would, of course, be a logical alternative in the HEUS competition. We do not see how legislation which dictates specific technical upper stage decisions can be helpful in giving DOD the flexibility it needs to develop a HEUS which is both optimised for DOD missions and is cost effective.

I hope this assessment of Centaur applicability for DOD missions satisfies your needs. Please advise me if I can be of further assistance.

Sincerely,

VERNE ORR,
Secretary of the Air Force.

DEPARTMENT OF THE AIR FORCE
Washington, August 16, 1982.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to your request for an assessment of the applicability of Centaur for DOD use. Our assessment covers both Centaur performance and cost.

Currently designed DOD spacecraft will not likely grow beyond the 6,000-7,000 pound range which could be accommodated by improvements in the Inertial Upper Stage (IUS) performance. However, we expect the next generation of DOD spacecraft which fly in the late 1980's and 1990's will be designed with extensive survivability measures (including large maneuvering propellant reserves) which will probably increase total weight well beyond IUS capabilities. Consequently, it appears that a new higher energy upper stage (HEUS) will be required for the next generation of DOD geosynchronous spacecraft.

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Independent of the Congressional direction to NASA on the use of Centaur, we continue to believe that DOD requirements beyond IUS capability can best be met by a competitively developed new Higher Energy Upper State. A Centaur derivative would, of course, be a logical alternative in the HEUS competition. We do not see how legislation which dictates specific technical upper stage decisions can be helpful in giving DOD the flexibility it needs to develop a HEUS which is both optimized for DOD missions and is cost effective.

I hope this assessment of Centaur applicability for DOD missions satisfies your needs. Please advise me if I can be of further assistance.

Sincerely,

VERNE ORR.
Secretary of the Air Force.

CHRONOLOGICAL EPISODE

January 1981—NASA made a unilateral decision to pursue the sole-source procurement of a modified Centaur for two NASA missions: Action opposed by Air Force and House Science and Technology Committee.

November 1981—NASA/Air Force submitted joint report on Upper stage requirements:

NASA requirement for two missions.

Air Force had no firm requirements.

January 1982—NASA announced a decision to terminate Centaur procurement and plans to launch Galileo and ISPM using the Inertial Upper Stage being developed by the Air Force: NASA Administrator stated in testimony before the Subcommittee on Space Science and Applications that the sole-source procurement for development of Centaur was not justified for only two missions.

February 1982—Under Secretary of the Air Force testified that there were no Air Force requirements for the Centaur upper stage: "We investigated a Centaur configuration and found that it does not envelop the Defense payload requirements."

June 24, 1982—President's veto message on Urgent Supplemental: Opposed language mandating minimum spending levels for certain NASA programs that will severely disrupt two important scientific missions and lead to the waste of more than $150 million.

July 13, 1982—Joint letter from Administrator of NASA and Secretary of the Air Force:

Use of Centaur no longer cost effective for NASA planetary missions.

No other NASA or firm DOD requirements.

Nation would be better served by proceeding with a carefully structured high energy upper stage program.

A high energy upper stage would be required whether or not we develop Centaur.

July 18, 1982—Urgent Supplemental signed into law (included direction that NASA proceed with sole-source procurement of Centaur).

August 16, 1982—Secretary of Air Force letter:

New higher energy upper stage required for next generation of DOD spacecraft.

Currently designed DOD spacecraft can be accommodated by small improvements in the Inertial Upper Stage.

Would cost an additional $400-$900 million above NASA costs for DOD spacecraft to make the transition for IUS to the modified Centaur (20 foot version).

DOD requirements can best be met by a competitively developed new Higher Energy Upper Stage.

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Appropriations Committee's decision to provide funding for procurement of the Centaur high-energy

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upper stage rocket. I hope Members of the House have had the opportunity to read the Science magazine article, "Centaur Wars," which I believe correctly summarizes the issues we face today. As the Science article makes clear, our space program is going to require the Centaur sooner or later. The Centaur will provide twice the payload lift capability of the inertial upper-stage rocket we must depend on today. That capability will be critical to giving us the ability to lift heavier satellites into orbit, and could greatly enhance the value of the Galileo Jupiter Mission. Postponing procurement of the Centaur will only delay the delivery of this vital component of our space program, and would add hundreds of millions of dollars in costs to its development.

In October of 1981, NASA and the Air Force released a report recommending that NASA develop the Centaur. I quote directly from the Science magazine article describing the reaction of the space and scientific community to that recommendation:

> It was a popular move: The planetary science community liked Centaur because it would allow Galileo to get to Jupiter faster and carry more fuel to encounter more satellites. NASA's advanced planners, meanwhile, liked Centaur because of its legacy for future planetary missions. "Our biggest problem is always getting there," says one. "IUS is spotty, but Centaur has more than enough power to go anywhere but the far outer solar system." The communications industry liked Centaur because of its lifting ability to geosynchronous orbit. Orbital communications traffic is expected to grow 30-fold by the end of the century, and the trend in the industry is to centralize more and more equipment on bigger and bigger satellites. the combination of the shuttle plus the two-stage IUS will lift only some 3,000 kilograms to Geosynchronous orbit, however, whereas the Centaur would increase that limit to between 5,000 and 10,000 kilograms. The NASA front office liked Centaur because it could be ready by 1986, when Europe's Ariane series is expected to surpass the 3,000 kilogram IUS limit. Without a High Energy Upper Stage of some sort, the shuttle could be shut out of a very lucrative market. The Air Force, although irritated at NASA's withdrawal from the IUS project, at least had a foreseeable need for the Centaur.

I include the full text of the Science magazine article at this point in the RECORD, and I ask my colleagues to support procurement of the Centaur as provided by the House Appropriations Committee:

CENTAUR WARS

(BY M. MITCHELL WALDROP)

Even as the Europeans are moving aggressively forward with their Ariane rocket (p. 1010), Washington has once again bogged down in bickering over the one tool that would do the most to keep the space shuttle competitive.

That tool is the high energy upper stage, or HEUS, a booster that would carry heavy payloads from the shuttle's maximum orbit of 1000 kilometers to the geosynchronous orbit at 35,900 kilometers, or even into interplanetary space. A long-simmering controversy has reemerged in recent weeks: Should the National Aeronautics and Space Administration (NASA) go ahead now and adapt an existing rocket, the Centaur? Or should the agency wait and build a totally new vehicle later, when the budget crunch has eased?

Arcane though it sounds, the issue has ignited a free-for-all between feuding congressional committees, the aerospace lobby, the Reagan White House, the Air Force, and NASA, with the latter caught mostly in the middle. At stake is the shuttle's viability as a launch vehicle for the massive new communications satellites being developed for the latter half of the decade—as well as the viability of any new NASA plans to send spacecraft into remote parts of the solar system.

Also at stake is the sanity of the scientists and engineers in charge of the Galileo orbiter/probe mission to Jupiter: the $850-million Galileo, currently NASA's only approved planetary mission, is once again being whipsawed from one launch configuration to another, and its scientific productivity is once again under a cloud.

The problem goes back to the original plan for upper stages, formulated in the mid-1970's. The idea was to use solid-fueled devices because of their convenience and safety. The Air Force agreed to build a two-stage, solid-fueled booster for launching moderate-sized payloads. This booster came to be known as the Inertial Upper Stage, or IUS. NASA agreed to develop a third solid-fueled stage to be added on for occasional high-energy missions such as Galileo or the International Solar Polar Mission.

Unfortunately, developing that third stage turned out to be more difficult than anyone had imagined. By 1980 it was becoming clear that the IUS contractor, Boeing, would not be able to deliver a vehicle powerful enough to launch Galileo to Jupiter. So the mission was reconfigured: instead of a single launch in 1982 there would be a dual launch in 1984, with the orbiter and probe traveling separately.

Even so, when Boeing still had not resolved the third stage problems by the beginning of 1981, NASA terminated the third stage and announced that henceforth the agency's HEUS needs would be met with the Centaur.

It was a popular move: the liquid oxygen/liquid hydrogen burning Centaur had been a reliable NASA workhorse for more than a decade. It was far more powerful than the IUS, and at the same time more gentle. Its slowly building thrust would be kinder to spacecraft than the instant jolt of a solid rocket. Best of all, as a liquid fueled rocket the Centaur could be turned on and off as needed; once ignited, the IUS, like all solid boosters, would have to burn out like a skyrocket.

The planetary science community liked Centaur because it would allow Galileo to get to Jupiter faster and carry more fuel to encounter more satellites. The mission was quickly reconfigured for a single Centaur launch in 1985. NASA's advanced planners, meanwhile, liked Centaur because of its legacy for future planetary missions. "Our biggest problem is always getting there," says one. "IUS is spotty, but Centaur has more than enough power to go anywhere but the far outer solar system."

The communications industry liked Centaur because of its lifting ability to geosynchronous orbit (GEO). Orbital communications traffic is expected to grow 30-fold by the end of the century, and the trend in the industry is to centralize more and more equipment on bigger and bigger satellites. The combination of the shuttle plus the two-stage IUS will lift only some 3000-kilograms to GEO, however, whereas the Centaur would increase that limit to between 5000 and 6,000 kilograms.

The NASA front office liked Centaur because it could be ready by 1986, when Europe's Ariane series is expected to surpass the 3000-kilogram IUS limit. Without a HEUS of some sort, the shuttle could be shut out of a very lucrative market.

The Air Force, although irritated at NASA's withdrawal from the IUS project, at least had a foreseeable need for Centaur. In the late 1980's and the 1990's, Soviet antisatellite technology is expected to advance to the point that the Pentagon's own geosynchronous communications satellites will have to be "survivable." Among other things this means having a large propellant reserve for evasive maneuvers, which means weight, which means a HEUS of some sort to get the things up there.

But the White House Office of Management and Budget (OMB) did not like Centaur. It had nothing to do with the vehicle's merits, it was simply that extensive modifications would have to be made in the shuttle and its launch pad to handle Centaur's cryogenic fuel. Moreover, the booster's own fuel tank would have to be shortened and widened to fit it into the shuttle's payload bay. All this meant that money would have to be added to NASA's upcoming budgets, and in the budget-slashing frenzy of 1981, OMB was not about to do it.

Thus, NASA was ordered to drop Centaur from its fiscal year 1983 budget request, which went to Congress in February 1982. Galileo was reconfigured for a 1985 launch on a two-stage IUS, using a trajectory that would delay its arrival at Jupiter until 1989, and allow enough fuel for only half as many satellite encounters when it did arrive.

First, however, Congress had to approve the budget. Senator Harrison H. Schmitt (R-N.M.), Chairman of the Senate's subcommittee on science, technology, and space, was outraged at the Centaur decision and said so often. Both the House and Senate Appropriations Committees, although quieter were equally convinced that the need for a HEUS was real, and that dropping the Centaur now would be false economy. But Representative Ronnie G. Flippo (Ala.), chairman of the House subcommittee on space science and applications, sided with the White House. And there matters stood for 6 months: three of the relevant committee for Centaur, one against.

In July, however, the Centaur proponents made an end run. In the Emergency Supplemental Appropriations Bill, signed by President Reagan on 18 July, there appeared language restoring $140 million for Centaur development in NASA's 1982 budget, and ordering both NASA and Boeing to stop work on the two-stage IUS's for Galileo and the International Solar Polar Mission. (The Air Force IUS program, of course, continues unchanged.)

The scientists were overjoyed. The two missions were reconfigured for 1986 launches aboard Centaur.

In late August, however, the opposing side counterattacked. When the FY 1983 NASA appropriations came up to a vote on the House floor (as part of the HUD-Independent Agencies Bill), Flippo and Representative Don Fuqua (D-Fla.), chairman of the full Science and Technology Committee, offered an amendment that would kill Centaur and order NASA back to the IUS. The vote was promptly postponed until after Labor Day, but the showdown could come any time after 8 September.

Flippo and Fuqua explained themselves in a letter to their House colleagues, dated 16 August. They cited the cost of the Centaur modifications ($140 million this year and a total of $634 million), the limited usefulness of the vehicle (just two NASA missions), and the poor example of sole source procurement (presumably the modified Centaurs would be purchased from the traditional Centaur contractor, General Dynamics, instead of being put out for competitive bidding). Far better, they said, to go with the IUS now and let the Air Force and NASA build a new HEUS later.

That same day Fuqua received a supporting letter from Secretary of the Air Force Verne Orr. It would cost still another $200 million to $350 million to modify the Centaur for (classified) Air Force needs, he said. Besides, he too was uncomfortable with sole source procurement.

Centaur supporters, however, find the explanations unconvincing. A planetary scientist within NASA, who prefers not to be quoted by name, pointed out to *Science* that Flippo and Fuqua did not include the cost savings to NASA that accrue from having Galileo spend less time in space. Ground operations will cost roughly $40 million per year. Moreover, all the cost of launch pad and shuttle modifications for cryogenics handling are charged to Centaur, even though similar modifications would be required for any liquid-fueled HEUS. "The net cost of Centaur over IUS would be closer to $50 million or $100 million," he says. "And for that you get more science on Galileo, the legacy for inter planetrary missions, and the potential for commercial uses."

* * * (In fact, the cost of a new HEUS has been estimated at about $1.5 billion.)

Besides, he says, the Air Force indulges in sole-source procurement all the time. And if Orr does not want to use Centaur, nobody is forcing him. The Air Force still has its IUS's.

So what is going on? It must be said that Flippo's district includes NASA's Marshall Space Flight Center in Huntsville, Alabama. Marshall is the lead center for the IUS work, and will be the lead center for any new HEUS. However, the Centaur would continue to be handled out of NASA's Lewis center in Cleveland, as it has been for 20 years. Thus, there are jobs involved for Marshall.

It is also true that every aerospace company except General Dynamics has been lobbying hard against Centaur. "If they shoot down Centaur now, they all get a shot at a new HEUS," says a staffer in the office of Representative Bill Lowery (R-Calif.). Since General Dynamics assembles the Centaurs in Lowery's San Diego district, he has been in the thick of the fight. The Air Force, Lowery's assistant suggests, has a similar reason for opposing Centaur: "If Centaur is defeated, I guarantee you that a year from now the Air Force will be back asking for HEUS studies of its own—without having to share it with NASA." That is why the Air Force has been trying to whip up support for its position on the Armed Services committees, he says.

NASA, meanwhile, is split on the issue. In the late 1980's or 1990's the agency would like to build a reusable orbital transfer vehicle (OTV) that would ferry spacecraft from low earth orbit to GEO and back again. Eventually the vehicle might even be manned. From that point of view the Centaur is a dead end, because modifying it to be an OTV would cost more than starting from scratch. On the other hand, the Centaur would be an excellent HEUS in the interim.

The Galileo team could live with either an IUS launch or the Centaur, but they want a final decision on something. The endless flip-flops have been agonizing, wasteful, and demoralizing. Besides, work on the Galileo IUS ceased in July. If the Centaur is canceled now, the whole program will be months behind schedule.

NASA headquarters has managed to stay fairly neutral in all this (perhaps in part because administrator James M. Beggs was formerly a vice president of General Dynamics). Soon however, the agency will officially come out in favor of Centaur on the basis of its usefulness in scientific missions and the need to compete with Ariane. The various divisions are now drawing up lists of specific missions that could utilize Centaur, and the agency is talking to the Air Force about ways of sharing the cost.

Given the forces arrayed against Centaur, however, it seems unlikely that its fate will be decided anytime soon.

Mr. GEJDENSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHNEIDER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to commend the gentlewoman on her statement. I think it takes the long view which will benefit the American taxpayer and the science that we are looking to develop in outer space.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think when the gentleman from Alabama spoke of the recent decision by NASA and the Air Force to execute the Centaur program jointly, spoke of that in somewhat disparaging terms, the gentleman was really looking at the situation in the wrong way, because this Congress, and specifically the Appropriations Committee and the House Armed Services Committee, have been working for years to try to get the services and the agencies of our Government to work together, to have more joint programs, and more cooperative programs. Often we have seen these agencies tied up in what I would call turf battles where everybody wanted to develop their own private system.

In allowing the services to go their separate ways, we have encouraged redundant research and development, all to the detriment of the taxpayers. We would often maintain parallel programs which essentially accomplished the same thing; and when Congress moved to require agencies to work together, to have joint programs, and to cooperate, we were met with great resistance.

I will have to tell the Members, Mr. Chairman, I was very, very happy to see the Air Force and NASA finally come together. If they did so because of the actions of the Appropriations Committee, then more power to that committee.

I would like to quote what I think is a most important paragraph in this letter that was written jointly by Edward Aldridge, Under Secretary of the Air Force and Jim Beggs, Administrator of NASA:

> We believe that the joint program described above will result in the most efficient development of a high energy upper stage and will succeed in minimizing the transition costs mentioned by Secretary Orr in his August 17 letter, since separate transitions to IUS and then to a high energy upper stage would be avoided.
>
> Moreover, it would provide the benefits of scale to both the Air Force and NASA since their operational requirements can be aggregated.

I would say, Mr. Chairman, in this time of budgetary constraints, it is absolutely necessary that we move NASA and the Air Force to work together in our space programs. Taking this first step, I think, is very beneficial. It is something that had to be taken if we are going to move ahead in a cost-effective manner.

Second, Mr. Chairman, I would like to talk about what I think is the real crux of this matter. Let us talk about capability of payload. That is really the name of the game. That is the only reason IUS has had as much trouble—aside from the 500-percent cost overruns—as it has had. The IUS can carry about 5,500 pounds. They can modify it by the end of the 1980's to carry a little bit more, around 6,500 pounds.

Centaur, which has flown over 40 times successfully—can carry in excess of 13,000 pounds. Let me tell the Members, payload, whether one is talking commercial, or talking defense is the name of the game.

Let me give the Members an example of one country that realizes how important payload is. Let us look at the commercial area. The Intelsat and the commercial payloads on Intelsat have gone up rapidly. Let me give an example. In the late 1960's, Intelsat 1 and 2 were 350 pounds. By mid-1970, they were up to 1,500 pounds. It took a fivefold increase.

In the early 1980's, it was up to 2,200 pounds. By 1986, Intelsat 6 will be up to 4,400 pounds, and it is projected Intelsat 7 in 1990, will be 9,000 to 12,000 pounds. That is an excess of twice what IUS can carry.

Who is responding to this commercial market? The French are responding with Ariane. Let me tell the Members what they have done with Ariane: Ariane 1, carries 2,500 pounds; Ariane 2 and 3, 3,000 pounds; Ariane 4, 5,000 pounds, in 1986. Ariane 5, which will be fielded in 1989, will carry 8,500 pounds; and Ariane 5 was planned to

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only go to 7,000 pounds, but they have changed recently at great expense to get that extra 1,500 pounds, to go from 7,000 to 8,500. They want to capture that commercial market.

Let me tell the Members also that the Department of Defense in this report, the joint NASA-DOD report, has also indicated they are going to be requiring well beyond 8,000 pounds lift capability by 1990.

The only way we can accommodate our DOD and NASA requirements and accommodate the requirements of the commercial users is to go with Centaur.

I would suggest, Mr. Chairman, that we move ahead on this joint program. It is going to be good for the country, for the Air Force, and for NASA. We are finally getting them to work together.

I would ask that we defeat this amendment and proceed with the Centaur program.

The CHAIRMAN pro tempore (Mr. Donnelly). The time of the gentleman from California (Mr. Hunter) has expired.

(At the request of Mr. Dreier and by unanimous consent, Mr. Hunter was allowed to proceed for 5 additional minutes.)

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding.

We are talking about two particular missions for either the Centaur or the IUS. I was wondering if the gentleman could tell me what particular advantage there is to the Centaur over the IUS for the Solar Polar mission?

Mr. HUNTER. Let me tell the gentleman—these are the two missions incidentally that were mentioned by the gentleman from Alabama (Mr. Flippo).

Let me raise my exhibit here. We have the Sun here, we have Earth over here, and Jupiter over here; and basically this is a mission around the Sun where we can observe the Sun from angles in excess of 70°. What occurs is the Centaur, because it has more power than the IUS, can remain in this area greater than 70°, much longer than the IUS can, for scientific observation.

It can remain in that area for 200 days because it has enough power that it can travel further away from the Sun and stay within that sector for a longer period of time. The IUS can only stay there for about 100 days. That is one scientific advantage of the Centaur on Solar Polar.

Mr. DREIER. If the gentleman will yield further, if we could look at the other mission that was being discussed, I am curious to know what the disparity on the Galileo mission would be comparing Centaur to IUS.

Mr. HUNTER. Let me briefly go over the Galileo mission. This is a mission the gentleman from Alabama (Mr. Flippo) described. The gentleman said while it may be true that IUS does not have the capability of making a direct shot to Jupiter, they can in fact make an indirect shot. What we must do with IUS is slingshot around the Earth to gain the power to be able to make it to Jupiter. What that means is although IUS will launch earlier, about 1985, they are not going to complete the amendment until 1990. They have to go out here, pull around the Earth, and slingshot out to Jupiter.

When they do that, the vehicle that is launched is going to have to use some of its own power. Because of that, when it gets there, the vehicle is only going to be able to make 8 satellite encounters.

The Centaur we can launch in 1986. It will be there in 1988. In other words, even though it launches a year later, it will arrive a year earlier than the IUS, and it will be able to encounter 11 satellites because it will have plenty of power, plenty of fuel, plenty of payload capability.

Mr. DREIER. I thank the gentleman.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Alabama (Mr. Flippo).

Mr. Chairman, the issue really is very, very clear. One should really ask what are the advantages, technologically and economically, in terms of our national security, in terms of the project that has been tried and tested.

In all those issues, the pluses fall on the side of the Centaur. Indeed, the Centaur has been the work horse in this area for more than a decade and has consistently demonstrated its technological capabilities and cost effectiveness.

□ 1540

Now we see as they did initially, the Air Force and NASA, both agree that the Centaur project should be maintained. Centaur has demonstrated its reliability; its reliability of performance is 97 percent.

The IUS, as my friend, the gentleman from California pointed out earlier, has never been flown. In addition Centaur is more cost-effective.

The total estimated cost of this project is $634 million, whereas it will cost by estimates more than a billion dollars to develop the IUS as an alternative high energy upper stage.

Centaur can carry almost three times more the payload weight into orbit than the IUS can. This is very important just in terms of securing our competitive lead in this area of technology over our nearest competitor, France. Their French-built Ariane space launched vehicle will be commercially available to lift 9,500 pounds by 1986 and 1987, of course, only the Centaur will surpass that ability to lift, whereas the IUS does not.

Congress and the President have already approved legislation in the urgent supplemental, signed into law in July, that appropriates $80 million for the Centaur's use with the Space Shuttle in launching NASA's two planned missions in 1986; $40 million of that money has been spent.

In addition, according to Associate Administrator for Space Science and Applications at NASA: "The performance of shuttle Centaur is adequate to satisfy all Science and Applications launch requirements to the end of this century."

It is about time our country plans ahead. We ought not to take the short-term immediate really political avenue, we ought to be thinking and planning ahead so that we can save our taxpayers money and in addition to that still maintain our excellence in the areas of technology.

In reference to cost, I notice that the distinguished minority leader from the Space and Technology Committee mentioned that the IUS would save money. That is simply really in many ways not true. The shuttle Centaur cost is $14,000 per pound of payload, whereas the IUS cost per pound of payload is $40,000.

Now, $80 million has already been appropriated for continued development of the upper stage program of the Centaur, of which $40 million has actually been spent.

Are we going to retract that and just allow those people to have those contracts and just forget the entire $40 million the taxpayers have already spent on this project?

The cost of the Centaur launch, in 1986, is estimated at $49.8 million, compared to an IUS cost of $71.4 million; so again, it is even more cost effective in that area.

Centaur, in addition, would provide a flight time of 26 months for NASA's Galileo mission and would guarantee 11 satellite encounters. By comparison, the IUS would need 54 months to reach Jupiter and would result in only six satellite encounters.

Again, the IUS is inferior in terms of its capabilities.

Cancellation of the Centaur project during the fiscal year 1983 budget year would be highly counterproductive and wasteful, because both the Galileo and Solar Polar missions would be jeopardized.

The result of this cancellation, as has been noted in many "Dear Colleague" letters would be to antagonize our European partners who have jointly agreed to take part in the international Solar Polar mission, and both NASA and the GAO and the Air Force have approved sole source procurement for Centaur.

In addition to this, people have talked about vested interests and regional interests and so on. Well, I do not think that ought to be discounted. I make no apologies about the fact that this means jobs for our area. Lewis Research Center is an integral planner and developer of the Centaur. More than 150 jobs would be lost and millions of dollars in revenues. Our great dedicated Federal employees are second to none in this area of technology. They deserve to continue the project.

The CHAIRMAN. The time of the gentlewoman from Ohio has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Ms. OAKAR was allowed to proceed for 3 additional minutes.)

Ms. OAKAR. Mr. Chairman, I thank the gentleman.

In addition to being a far superior project, as I have tried to evidence, this project means additional jobs, not only for the great State of Ohio, members from California, Arizona, Arkansas, Connecticut, Illinois, Massachusetts, Michigan, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Virginia, and Wisconsin, should have an interest. Not only that, the Northeast-Midwest Members ought to be pretty close to agreeing on the fact that we do not want to lose any more jobs for our region. We cannot afford to. Studies have pointed out that in the Northeast-Midwest, our States are the ones to lose whenever there are defense-related projects and we cannot afford to have that happen again, particularly when we have the superior project and it has already been tried and tested.

□ 1550

So, my friends, really in the interest of our national security, our space science, our U.S. preeminence in commercial space operations, fiscal responsibility, et cetera, support the continued efforts of Congress and the space science community to continue the Centaur integration into the Space Shuttle, support the chairman of the Appropriations Committee and the minority leader of that committee, and the Committee on Intelligence of the House and the Committee on Intelligence in the Senate, the Senate Commerce Committee and the Committee on Appropriations of the Senate and the Committee on Appropriations of the House in assuring that this Centaur project continues, that we not delete money from this project, and that we think of our own national security.

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

Mr. Chairman, I appreciate the very complete detail the gentlewoman has given about the Centaur project. One of the things she mentioned that occurred to me might have some extra importance is that she has mentioned that the Centaur has the capability of carrying three times as much as the other project that has been deleted.

Now, does that accrue to the benefit of the commercial development as well as our defense needs?

Ms. OAKAR. That is very definitely true. I mentioned the French-built Ariane, which will have the capability of lifting 9,500 pounds. The IUS cannot come close to competing in terms of that capability. But the Centaur already has the capability of almost 14,000 pounds in terms of payload weight.

Mr. ROUSSELOT. 14,000 pounds?

Ms. OAKAR. Yes, almost 14,000. As a result, we will remain competitive. I think most Americans are a little tired of the situation of not remaining competitive and losing jobs to other countries.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Ms. OAKAR was allowed to proceed for 2 additional minutes.)

Ms. OAKAR. I think Americans are tired of seeing the Japanese, the West Germans, and other countries taking over our jobs, our projects, because technologically in some areas they have surpassed us. Is it not time we think of the future? Is it not time we think of our own commercial competitiveness beyond our national security and, of course, beyond the fact that it is by far the superior project?

Mr. ROUSSELOT. If the gentlewoman will yield further to me, do I understand that retaining this project in the appropriation bill is important for our ability to compete in space development? Is that not correct?

Ms. OAKAR. Absolutely.

Mr. ROUSSELOT. I appreciate the point the gentlewoman has made, Mr. Chairman.

Mr. MOTTL. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I would be happy to yield to my colleague from Ohio.

The CHAIRMAN. The time of the gentlewoman has again expired.

(On request of Mr. MOTTL and by unanimous consent, Ms. OAKAR was allowed to proceed for 3 additional minutes.)

Mr. MOTTL. I thank the gentlewoman for yielding.

Mr. Chairman, first of all I would like to commend the gentlewoman from Cleveland for giving her outstanding statement in opposition to this amendment.

Mr. Chairman, I rise to speak against the amendment. I am disappointed that the Science and Technology Committee, normally such a strong supporter of NASA programs and policies, would take a position that would essentially have NASA play second fiddle to the Air Force. I understand the gentleman from Alabama's problems and his great concerns about where the NASA work should be done. Nevertheless, I am stunned that the parent committee, which sired NASA as an agency nearly 25 years ago, would take a position which shortchanges their great organization.

The issue, I believe, is clear. If NASA is not allowed to have the lead and go-ahead, the development of Centaur into a second stage for the Shuttle, a so-called Tug, they will have to depend on Air Force development and their high energy missions will be compromised to Air Force requirements. The DOD is the agency that most benefits if this amendment is passed and NASA needs come in a clear second. I am puzzled that the Science and Technology Committee which on one hand has shown increasing concern about the military emphasis of the NASA role in Shuttle should take the position that NASA should effectively function as a military support organization in the development of space technology. The track record of NASA-Lewis Research Center in developing the Centaur with the General Dynamics Corp. was impressive and the Atlas/Centaur and the Titan/Centaur vehicles have outstanding launch records for a wide variety of payloads.

There is no question that the modifications for storing propellants—which is really the Shuttle "Tug" development for Centaur—is straightforward for the NASA-Lewis/General Dynamics team. Instead, however, this amendment would arrest that important development activity, and have the agency wait on the Air Force and its contractors to develop a high-energy second stage available a decade later for NASA needs. I am afraid that is what the amendment means and with great reluctance I must oppose it. Thank you.

Mr. BURGENER. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentlewoman for yielding.

Mr. Chairman, I commend the gentlewoman for her position and wish to associate myself with her remarks.

We have been fighting the battle of the letters here today. There are two lead agencies involved here, NASA and the Air Force. It is my understanding that some years ago they were togeth-

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er, and until very recently they were apart, and now they are together again on this thing.

Let me quote one line from today's letter, the most recent of all: "It appears based on new information"—and that is the key phrase—"that it would be advantageous from both the technical and cost point of view to plan on using a short version of the Centaur."

It has been argued here before that the Centaur has flown many, many times and that the size is not all that relevant. So it would seem to me if they are together again, it is the best of all worlds technologically and economically to go with them, and I urge that the amendment be defeated.

Mr. FLIPPO. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from Alabama.

Mr. FLIPPO. I thank the gentlewoman for yielding.

Mr. Chairman, perhaps I can shed a bit of light on the gentleman's concern. He states a very good point about them being together.

If I might point out, August 16 the Secretary of the Air Force wrote a letter.

The CHAIRMAN. The time of the gentlewoman from Ohio has again expired.

(On request of Mr. Flippo and by unanimous consent, Ms. Oakar was allowed to proceed for 1 additional minute.)

Mr. FLIPPO. Mr. Chairman, will the gentlewoman yield further to me?

Ms. OAKAR. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, on August 16, the Secretary of the Air Force, in a letter to Don Fuqua, said that the Centaur would cost an additional $400 million to $900 million above NASA's cost for DOD spacecraft to make the transition for the IUS to the modified Centaur, and it is the 20-foot Centaur that they are talking about now.

He concludes by saying that DOD requirements can best be met by competitively developed new higher energy upper stage.

Now, that was on August 16. The gentleman made the point that the most current letter is now a refutation of that, they say, because new information has come forth. What is the new information? What has happened since August 16?

Please ask yourself that question. What would cause them to go back together and change their position?

Ms. OAKAR. Mr. Chairman, if I may reclaim my time, the gentleman from Alabama (Mr. Flippo) and I know that on November 2, 1981, when the further talks concerning this entire project were underway, the Air Force and NASA both agreed that Centaur was to be used for the Shuttle.

The CHAIRMAN. The time of the gentlewoman has again expired.

(On request of Mr. Hunter and by unanimous consent, Ms. Oakar was allowed to proceed for 2 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentlewoman for yielding.

Mr. Chairman, I appreciate the gentlewoman's comments about the need for us to develop commercial users of the STS. I point out that the joint NASA-DOD study requested last year indicated that at this time there are no commercial companies planning to use IUS.

While Intelsat is planning up through, I believe, Intelsat-6, to use Ariane, they have indicated that if we go ahead with Centaur they will, in fact, use Centaur for Intelsats 7 and beyond. That prognosis was included in the report that the gentleman from Alabama requested last year.

Mr. Chairman, I thank the gentlewoman for yielding.

Ms. OAKAR. Mr. Chairman, the gentleman is right.

Mr. ECKART. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. I yield to the gentleman from Ohio.

Mr. ECKART. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman from Ohio has done a more than thorough job in delineating clearly for the Members the economic, military security advantages for proceeding with the Centaur program under its current form in the manner recommended by the committee and in opposition to the Flippo amendment.

In a way, the question is, in our economic consideration, foreign cars or, as the gentlewoman pointed out, foreign rockets.

The American economy, the American working people everywhere need a government that is responsive and sensitive to their needs. The failure to develop the Centaur as currently envisioned in the proposal by the gentleman from Massachusetts will result in an increasing loss of business to foreign competition.

□ 1600

That is the bottom line, and it is indeed rare when there is a confluence of politics and public policy that has taken place today. I urge rejection of the Flippo amendment for the purposes of preserving jobs for American workers everywhere.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague from Alabama, and commend him for his effort to save both time and taxpayer money. The bill before us today contains $140 million for further development of the Centaur. Yet the House, in passing the NASA authorization bill for the coming year, agreed to fund the inertial upper stage, or IUS, and not the Centaur. That was a decision based on several important facts.

IUS is a program which is ready to go. In fact, it will be aboard the Shuttle flight scheduled to depart in January 1983.

The Centaur will increase the cost of the Space Shuttle, and I want to make sure my friend from California is here to hear this, by $1 billion to $1.5 billion.

The Centaur will delay two important NASA projects, the Galileo and the International Solar-Polar Mission (ISPM) by several years.

There is no guarantee that the Centaur can meet our long-term space needs. In fact, there is no certainty that Centaur can meet the needs even of Galileo and ISPM.

IUS can be acquired for substantially less money than Centaur. To develop Centaur at this point would be to waste the dollars we have already invested in the development of IUS. It would cost us as much to cancel the IUS program at this point as it would to go ahead and build the two units necessary for Galileo and ISPM.

IUS can be ready to go sooner than Centaur. To delay ISPM, which is a joint venture with our European allies, would put a further strain on our international relations.

IUS is "manrated," or capable of carrying men as well as equipment and machinery. IUS will serve NASA's needs through 1987, while Centaur will not.

According to the Defense Department, Centaur does not "envelope DOD requirements," while IUS does.

In short, IUS fulfills the needs both of NASA and DOD more quickly, more cheaply, and more safely. Its technology is more up-to-date; its capabilities more in keeping with the current focus on the space program. It is, in fact, the only alternative available which can meet our projected launch dates for Galileo and Solar-Polar. We can have it cheaper and faster, and get an end product which truly meets our needs for at least 5 years into the future.

I believe we should support Mr. Flippo in his efforts, and vote for his amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. I would like to comment on his statement to the effect that we could get underway with the Solar-Polar Mission and Galileo Mission faster with IUS. It is a fact that we will start the Galileo Mission earlier—that would be 1985—with IUS as opposed to 1986 with Centaur.

However, because IUS is so weak that it has to slingshot around the Earth before it can get enough power to get to Jupiter, it will not finish the mission until 1990, and the Centaur can finish the mission by 1988. So, the Centaur will complete the mission in excess of a year earlier, and while the IUS will be slingshotting around the Earth to get power, we are going to be paying $40 million to $50 million to monitor the activities of that vehicle while it is flying for that extra year.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Chairman, I would point out that NASA has two missions, the ISPM and Galileo Mission. If we proceed with Centaur, the cost to NASA alone would be $634 million. That would be an average cost for two missions, I believe, of $317 million for transporation costs for each of those. If we do it under IUS, the cost is in the neighborhood of $200 million, and you can then have $100 million cost of transportation for each one.

So, I would suggest to the gentleman that if we really look at the hard cost, the hard costs are in favor of doing it under the existing IUS, and not under the to-be-made Centaur we are talking about.

Mr. DICKS. Is it not true, though, that we really can save the taxpayers some money, and we are hearing all this rhetoric—important rhetoric, and rhetoric that I agree with—about the necessity of balancing the Federal budget or getting expenditures under control; is not this amendment the gentleman has offered a chance to do that?

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Alabama (Mr. FLIPPO). First of all, I want to say that I have the highest and utmost regard for my good friend of long time, the gentleman from Massachusetts (Mr. BOLAND), chairman of the subcommittee, and the ranking minority member and the members of the appropriations subcommittee. Rarely, do we have items of disagreement, but in this case we do.

I might say, Mr. Chairman, that I come here with clean pockets. None of these things are built in my district, unfortunately, so I think I can take somewhat of an objective view, as I have always tried to do, and look at it in what is best for the people that are picking up the tab for this, the taxpayers and the American people. The bottom line is the dollars involved.

Centaur has a very excellent record. It is a very fine vehicle, but it must undergo substantial modification before it can be flown inside the Space Shuttle for several reasons. One is size to fit the cargo bay. It must be reduced in length and increased in width. Also, the Shuttle must be adapted to take care of cryogenic-type of propellant it uses. The IUS is already under development and will be flying in January on the STS 6 mission and was designed for the Space Shuttle.

I am sure both of them are very good vehicles and both of them will take care of the missions that we have before us. If they would not do that, then I would be down here asking for something else. The only two missions NASA has are the Galileo and the ISPM mission, and NASA has repeatedly told the Committee on Science and Technology over the last 2 years and before that, it could satisfactorily care for those missions.

Some mention was made, "Well, they should work together." As a matter of fact, the NASA and Air Force have been working together—many years ago and by the way we are not militarizing NASA—many years ago when the Space Shuttle was under development the question was, Who was going to do what part? Would the Air Force buy certain Space Shuttles? The decision was made at the highest levels of Government that NASA would provide the orbital vehicles and all the component parts connected with that. The Air Force would provide the interim upper stage and develop the launch facility on the west coast at Vandenberg Air Force Base. That decision was made before many Members even thought about running for Congress, probably about 10 or 12 years ago.

Where are we today? The bottom line is that earlier this year we passed a NASA authorization bill overwhelmingly in this House that said we would go with the IUS (the interim upper stage). Now, we have a problem. We are in conference with the Senate right now. We have already had to put $49 million in fiscal year 1982. That was in the supplemental for the Centaur. Where did that come from? Well, it has got to come out of the hide of NASA.

☐ 1610

Now, in this bill we are asking for another $140 million in 1983 and another $140 million-plus in 1984, and where is that money coming from? It may come out of the project that my friend, the gentleman from California, is interested in. It may come out of Galileo. It may come out of some of the other programs that NASA has, the ISPM and the aeronautical programs. I say that the Members had better think of that, those who represent the Lewis Research Center. That could be in jeopardy because we put money in for this Centaur.

The Langley Research Center and Ames Research Center in California could very dramatically be affected by what happens on this amendment.

I say to the Members, you can vote any way you want. I have no vested interest in it. But I want the House to know now that we are sending a signal, because if you vote to keep the Centaur in with the additional money, $140 million, then, when we come back from conference, we will be $140 million over the budget request. We are within it now, but we will be that much over. But I say, you put yourself on the line if that is what you want. If that is what you want, I am a big enough boy that I can buy it.

But I want the Members to know what they are doing, and I say to them, "don't be misled." That is what you are doing, going $140 million over the budget, and that is the bottom line.

They are both good vehicles. I love all of them. They are fine people, and I could not say any more nice things about the NASA Centers and all the people who work in them. I wish they were in my district, but they are not.

But that is what you are doing, and furthermore, in the letter from the Director of OMB Mr. David Stockman, he went on to say this. This was dated yesterday and written to me. He said he is still opposed to the language in the appropriation bill, and he said that there would be severe reductions in other NASA programs.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FUQUA) has expired.

(By unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, he said that it is fine if we want to do it, but there will be other reductions in NASA programs so that we can keep that budget within the President's budget.

I think it is not a very complex argument. Either we want to stay within the President's budget or, if we want to go over by $140 million this year and $140 million next year—and that is what we are talking about—that is what we will do, then, and that is the vote.

The Committee on Science and Technology has looked at this for over 2 years. We did not come in yesterday and change our minds or come in the day before or come in on August 16. We even asked that there be a study between NASA and the Air Force. We still have to build a high energy upper stage. Whether we go with IUS or

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Centaur, we still have to have a high energy upper stage.

The Air Force is already going to use the IUS for its programs, so instead of having two programs, we will have three. If that is the way we want to spend the money, then that is your choice, but I want the Members to know what they are doing. They are going to cause us to have to come back with the budget $140 million over.

Mr. Chairman, I urge the adoption of the Flippo amendment.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I have no parochial interest in this matter. Sometimes I wish I had never heard of IUS or HEUS or Centaur or any one of them.

But the fact of the matter is that this committee has carefully looked at this program, not yesterday and not last month, but as far back as 3 years ago, back to 1979, when at that time NASA made the decision to go with IUS, the inertial upper stage, to launch Galileo and the International Solar Polar Mission.

At the time we asked NASA to get a look at the cost of the IUS as compared to some other system and Boeing quoted the cost of IUS at $18 million in 1979. Now, one IUS costs $60 million.

Here we have a vehicle, the Centaur, that has been flown more than 65 times. There have been three failures, three faults, but it has had some 30 continuous successful flights. It has the finest rocket engines—I believe it is the RL-10—that have been developed by industry for space flight—not a single failure.

I can understand the position of the Committee on Science and Technology, but I think it comes too late. This item was in the urgent supplemental. We did not put it in. It was put in by the Senate because we thought that we ought not to pounce upon the preserve of the Committee on Science and Technology. And they do a great job under direction of the gentleman from Florida (Mr. Fuqua) and also of the subcommittee chairman, the gentleman from Alabama, who chairs the Subcommittee on Space Science and Applications.

There has been a great deal of discussion and meetings in the past 3 years between NASA and the DOD on the question of an upper stage, and there have been some questions raised by some Members here as to why the DOD comes so late to the Centaur program.

The gentleman from Alabama (Mr. Flippo) says that he questions new information not available to NASA and DOD. Well, there has been new information, and based upon the new information, the DOD came to its conclusions and to an agreement with NASA yesterday. That new information resulted from the STS-4 Shuttle mission and recent tests on that flight. Those tests indicated there was contamination in the orbiter bay that would require additional shielding for some payloads.

What are the payloads? Well, I cannot tell you here. I know what they are. Some of the other Members do, too, as well as the managers on the part of the Air Force who concern themselves with the classified program. They are the most sensitive, perhaps the most important, and certainly from the point of view of national security, they are the missions that prompted the Air Force to reach the decision that Centaur was the best way to go. I am not talking about the top people; I am talking about the program managers, the technical people who have been looking at this program, not just in the last month or so but for many months. They came to the decision to go the Centaur route.

Concerning the $140 million, the chairman of the legislative committee says that that $140 million will be taken out of the hide of NASA or taken out of the hide of some of the other programs in NASA. That is not so. We provided the $140 million in this bill for NASA. We do not take it out of anybody's hide. But it is a program that deserves the funding and it is a program that enjoys a high priority in this Nation.

What about OMB? OMB just released $49 million in the 1982 budget for this program. How does OMB feel about it? I do not know how Mr. Stockman feels about it, but I do know something about this.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Boland) has expired.

(By unanimous consent, Mr. Boland was allowed to proceed for 5 additional minutes.)

Mr. BOLAND. Mr. Chairman, what I do know is that OMB does not oppose this new joint program. That issue was raised, as to whether or not OMB supports this new joint agreement.

I want to assure the members of this committee that I have no idea what the implication or what the purpose of the letter is that was read here from OMB. But what I do know is that OMB told NASA and the DOD yesterday that they would support the joint agreement.

An argument has been made here about competitive versus sole source procurement. The GAO looked at Centaur last year and that GAO report indicated that there was no necessity for any competition in this area; the Centaur filled the bill.

There is some concern about whether or not the cost of this program is going to be as great as some Members have indicated. The Committee on Science and Technology has indicated that somewhere along the line there will have to be an HEUS, a high energy upper stage. Do the Members know what it will cost?

☐ 1620

These are not my figures. These are the figures of NASA and people in DOD. They say from $1.5 billion to $2 billion.

The claim is made here that Centaur G, the 20-foot Centaur, that the Air Force will require more than just the Centaur G to lift its payload into a geosynchronous orbit.

No one really knows that, but that is the argument that those who oppose Centaur are making now, that somewhere down the road, and maybe it will, but it is a way down the road, perhaps at a time when we can afford $1.5 billion or $2 billion. But we have the Centaur now. It is here. It can propel, as has been said so many times by so many Members here, up to 14,000 pounds in a geosynchronous orbit, and that is clearly something the IUS cannot do.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to my friend from Florida.

Mr. FUQUA. I appreciate my friend for yielding.

As I said, I have the utmost respect for the gentleman from Massachusetts and we agree together about 99.9 percent of the time on things that we have a mutual interest in.

But one of the questions I have is on the gentleman's statement that the Air Force had suddenly recognized that they had requirements that would require a Centaur vehicle. Are we talking about a 20-foot Centaur or 28-foot Centaur?

Mr. BOLAND. We are talking about a 20-foot Centaur.

Mr. FUQUA. How much is the Air Force planning to pay for that since they have the payload requirements and not NASA?

Mr. BOLAND. The Air Force would not like to pay for it at all, of course, and that will present a problem. But I think that can be ironed out.

That has been a problem, as the gentleman knows, as he is familiar with one of the amendments on the other side with respect to the $409 million that the Senators put in to have the Air Force pick up that tab that NASA now pays. We can meet that problem.

The problem here is you have a vehicle that will get Galileo to Jupiter. It may be launched a year later, but as compared to the IUS and the kick stage, it will get there a year earlier.

So dismiss from your mind the fact that it is going to injure the Galileo program. The gentleman from Florida would not permit it, nor would I permit, any money to be taken away from Galileo or the International Solar Polar Mission.

At least that has been my pledge and view, and I am sure it is the gentleman's pledge and view.

Mr. FUQUA. Here again, though, if there is a requirement for the Air Force, NASA is going to be stuck with picking up the bill and that is one of the problems we have and why we think we should go ahead with the IUS rather than the Centaur.

The Air Force has gotten a free ride, as the gentleman knows, for many of the development costs that they have used, and here again NASA is getting stuck.

I am afraid that it is going to come out of some of the other NASA programs.

Mr. BOLAND. Let me answer that point that NASA is going to get stuck with the whole bill. That is not my information.

My information is they will split it and that 50 percent will be paid by the Air Force and 50 percent by NASA.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Boland) has expired.

(At the request of Mr. Hunter and by unanimous consent Mr. Boland was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield.

Incidentally, I want to commend the gentleman for his scholarship on both the Galileo and the International Solar Polar Mission and the flights they take and why Centaur. I felt the gentleman did an excellent job.

Mr. HUNTER. I thank the gentleman.

I would like to point out that in the joint letter sent today by the Under Secretary of the Air Force and James Beggs they indicated that the U.S. Air Force and NASA will split the development costs. They stated further that—

> While we have not yet fully completed the negotiation of memoranda of agreement, that work is in progress and should be completed by the end of September.

I have great faith in the Science and Technology Committee's ability and the Appropriation Committee's ability to monitor that agreement and that negotiation.

I thank the gentleman for yielding.

Mr. FLIPPO. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Alabama.

Mr. FLIPPO. In regard to the gentleman's point, I think it is a very important point. The only agreement between the Air Force and NASA is to agree to split the cost on the 20-foot Centaur that NASA is not going to use. Only the Air Force would be using the 20-foot Centaur so it is not a big deal for the Air Force to yield, to agree to split the cost on something that NASA is not going to use.

But NASA must incur the cost of the 28-foot Centaur and I present that for the gentleman's clarification.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. Boland) has again expired.

(At the request of Mr. Rousselot and by unanimous consent Mr. Boland was allowed to proceed 3 additional minutes.)

Mr. NELSON. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I would yield first to the gentleman from Florida, a member of the Science and Technology Committee.

I understand there is a split within that committee and I am delighted to see it.

I yield to the gentleman from Florida.

Mr. NELSON. I thank the gentleman for yielding.

I just want to state for the record that there is a difference of opinion, regardless of the great respect that I have for the chairman of the subcommittee and the chairman of the full committee.

I support the gentleman from Massachusetts' position and oppose the Flippo amendment.

The reasons have been well stated here. But I would just underscore the fact that in the development of a high energy upper stage we are talking about an additional cost to the tune of $1 billion to $1.5 billion of probable additional costs that we could avoid by going ahead with the Centaur.

So I would underscore that.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague, chairman of the subcommittee, yielding and I appreciate the way he has brought to the House the information we need to make an appropriate judgment on this amendment.

Is not part of the answer to the question of our colleague from Alabama that $80 million has already been appropriated for the continued development of the Centaur in July of this year in the supplemental appropriation. So a portion of the gentleman's concern is answered because the House has already appropriated dollars for that.

His genuine point that he has tried to make with my colleague from California (Mr. Hunter) that even though the Air Force and NASA have arrived at this agreement, his concern is that there will not be adequate dollars. My understanding is that we are already well on the way toward the $140 million and, as has been pointed out, the Air Force has agreed now that they will be responsible to pick up part of the cost on this project.

Is that not correct?

Mr. BOLAND. That is true.

Mr. ROUSSELOT. I wonder if the gentleman could elaborate a little bit, since he is chairman of the Intelligence Committee. Is there a value to be received in that area in this project?

Mr. BOLAND. The value that will be received in that area is extemely high, let me say.

Mr. ROUSSELOT. Extremely high?

Mr. BOLAND. Extremely high.

Mr. ROUSSELOT. I appreciate my colleague yielding, and especially for placing emphasis on the last point relating to the intelligence value.

Mr. BOLAND. Incidentally, let me say that that particular agreement comes as a result of what some of the Air Force needs are in the future in some areas.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. GREEN. Mr. Chairman, I have two reasons to claim disinterestedness as to this amendment. One, as far as I know there is no procurement in my district that relates to either of the vehicles, unfortunately.

Also I have no prior commitment to one side or the other through my role in this House or otherwise, since I am new to the Appropriations Committee and this subcommittee in this Congress.

So, for me, as this controversy has unfolded this year, the look has been a completely fresh and unbiased one.

I think the Members who have preceded me, because many of them have worked on this for many years, have laid out all of the technical details and the history; I would not presume to try to go over the ground that they have gone over so well.

But I think it might be helpful to my colleagues simply to state that having gone through all of the technical detail and complications that have followed this issue over the years, it seems to me that where one comes out ultimately is that the IUS is basically a very limited capacity vehicle because of its thrust limitations and, in terms of the future, its future is not for long.

☐ 1630

Whereas the Centaur, because of its much greater thrust, essentially gives us much broader opportunities over a period of years. The Galileo mission, plainly, would be improved by the Centaur because of the greater thrust. The more rapid time in which the mission could be completed from launch to completion reduces the possibilities of things going wrong, and that is simply illustrative of the benefits that the Centaur appears to have over the IUS to this newcomer to the issue.

So it seems to me that the Centaur in terms of long-run economies and

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long-run potential really offers far more than the IUS, with its obvious limitations. I would, therefore, hope that the members of this committee would defeat the amendment.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield for an observation?

Mr. GREEN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I rise in opposition to the amendment. It appears that once again we are managing to create ways to irritate our European allies.

This amendment would adversely affect the International Solar Polar Space Mission (ISPM). This mission is supposed to be an internationally cooperative mission between the United States and our European friends.

The last time we downgraded this mission, the Europeans were very upset. Let us look at the history:

Original agreement with our European allies was for the United States and Europeans to develop their own spacecraft and fly on a solid booster, called the IUS (inertial upper stage).

The first problem was a lack of performance of the IUS causing NASA to change boosters and use Centaur, a more capable liquid stage, causing a delay in the program.

Next, the United States renegged on supplying one of the spacecraft.

Third, the administration decided to go back to the IUS for shuttle because of budget pressures, causing a degraded ISPM mission.

Fourth, the Congress directed that Centaur be used for the ISPM mission in order to get a full science return from this important international cooperative effort.

All of these problems caused a considerable loss of faith on the part of our European allies in the U.S. commitment to this joint effort.

This amendment would make this situation even worse by reverting once again to the less capable IUS booster which would cause unnecessary degradation to this important international mission.

We have upset our friends in Europe enough on this issue. It is for these reason I support my good friend from Massachusetts and rise in opposition to this amendment. I urge your support of the Appropriations Committee bill.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think probably everything has been said that needs to be said on this issue, and I am somewhat hesitant to address it further; but I will risk that.

I am a member of the Science and Technology Committee and I have shared in some of the debate on this issue over the years. I think that the views arrived at in the Science and Technology Committee are thoroughly justifiable on every ground at the various stages that they have been reached. I do not happen to agree with the amendment offered by the gentleman from Alabama, my esteemed chairman of the Space Subcommittee, but I think that is because events have moved beyond the situation which originally justified the position that he is taking.

The real fault in this situation is that there has been a failure to adequately define the range of missions which was needed and which was to be met by either Centaur or IUS, or the future high-energy upper stage. There really has been a failure to adequately plan and define the missions. And this is the main factor that has caused consternation within the scientific community and within the other communities that are concerned with this matter. The scientific community, the community involved in planetary exploration, has always favored the Centaur for a number of reasons, including the ones that have been mentioned here. It is a liquid fuel rocket which is maneuverable, which can be started and stopped, something that the IUS cannot be and, as a consequence, it can access a great many more satellites in the Galileo Mission than the IUS, as well as getting to Jupiter earlier than IUS. So there has never been any doubt in the minds of the planetary scientists. What they have doubted is whether there was really a commitment to planetary science by this administration or by whatever administration, because it has seemed to have a declining priority.

Now, what has developed most recently is a new urgency about defining missions; first, the civilian commercial missions, and, second, the intelligence missions referred to by the distinguished chairman of the subcommittee who is also the chairman of the Select Committee on Intelligence.

Obviously, there have been new and fairly rapid developments in both of these areas. In the intelligence area I am not bound by the same need for secrecy as the chairman. I can report what I see in the open press; and the open press says that we must have in the near future reconnaissance and communication satellites which are hardened, are heavier, and are maneuverable, more than the present generation, and, therefore, require a greater boosting capacity. We have only come to this decision in the fairly recent past. In the civilian commercial sector, frankly, NASA has not known where it was going. There were no particular policies or guidance coming to it from this administration until quite recently. It is becoming clear, because of international forces—and there are many—not only the competitive forces that we are getting from the French and the Japanese, but pressures from the underdeveloped nations which are urging us to move rapidly toward a new generation of large communication satellite platforms or satellite antennae farms which can be put in the geostationary orbit. Such satellites would be very heavy, but would substantially reduce the number of geostationary slots required for projected communications traffic. I am sure that most of you who have followed the international aspects of this know that we are being condemned by many nations for preempting all the present geostationary orbital slots with our existing generation of communication satellites.

So we are now being forced to move rapidly—and NASA is well aware of this, as are other agencies of the Government—into a new generation of much more massive, but more efficient communication satellites, which will require the heavier boosting capacity.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. The point that I am making here and trying to illustrate is that we have quite recently come to recognize the need for a set of more clearly defined missions. We are moving toward that. It is reflected in the flip-flops that are taking place within the administration as to which way they want to go on the IUS or the Centaur.

Now, the fact of the matter is, we can probably use beneficially the IUS for a short period of time to meet existing and planned missions. Beyond that, we will need a heavier boost capability which the Centaur can provide for another reasonably limited period of time, and beyond that we are still going to need the high energy upper stage, and we had better start preparing for it. It is going to be expensive, as the chairman has said.

But what I would like to get across to the Members here is the realization, the exciting realization, that we really are on the verge of a space age which is going to require a great deal more activity and more sophisticated activity in space than we even dream of now. We should not think of this great space program as something static, as a program where the present generation of anything is going to suffice. Progress in space is going to take more than we have in the way of booster capacity, and that "more" will be the high-energy upper stage, and probably several future generations of that.

I hope that what we are seeing reflected in this debate today is a new indication of an awareness of the importance of better planning and better mission definition in the space program. It is because of my own sense that such is the case—and the new position taken by NASA and the Air Force reflects that—that I reluctantly am going to oppose the amendment of the gentleman from Alabama and urge that the Appropriations Committee be supported in their recommendation that we continue with the Centaur, for all of its obvious virtues.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, since there is a question about OMB's position, I have just had the opportunity to speak to the Director of the Office of Management and Budget, Mr. Stockman, who wanted to make it clear that OMB favors the cancellation of Centaur and going ahead with IUS, and that they are still standing behind their letter and that they have not taken a position of neutrality on this issue.

□1640

Mr. MINETA. I appreciate the gentleman's bringing that to us.

Mr. Chairman, I rise in support of the amendment offered by our colleague, the gentleman from Alabama (Mr. FLIPPO), that continues funding the inertial upper stage (IUS) for use in the Galileo and International Solar Polar Missions and that deletes funding for Centaur.

There are four major reasons why this amendment should be adopted. First, replacing the $715 million IUS with the Centaur would lessen the return on the investment that has already been made in the IUS.

Second, the Centaur is nonexistent at this point and would undoubtedly delay the proposed mission, the Galileo, in 1985.

Third, the Centaur has several significant problems in physical compatibility with the existing spacecraft and Shuttle, and it also has operational problems that have been documented by NASA.

But the most important drawback of the Centaur is the notion of legislating a technical decision, as well as violating the competitive bidding procedure by dictating a sole source contract for the Centaur. Mandating the outcome of the competitive bidding procedure really is an unacceptable method for determining the technical merits of a product.

I would like to ask my colleagues to consider these arguments carefully and to prevent a legislative fiat that wastes funds, overturns sound management and technical decisions, and produces questionable results.

Mr. LOWERY of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as a member of the House Space Science and Applications Subcommittee, I must take strong exception to the amendment offered by my chairman, the gentleman from Alabama (Mr. FLIPPO). However, before I continue, I would like to thank the gentleman from Alabama for his fine efforts as chairman of the Space Science Subcommittee. The gentleman has done an excellent job.

It has been suggested here today, and I would like to summarize a few points, it has been suggested today that there are some parochial constituent interests, and there are. I do not think that comes as any shock or any surprise to anyone, be it a Boeing in Seattle, Wash., or a General Dynamics in San Diego, Calif., or a Marshall Space Center in Huntsville, Ala.; put the parochial interests aside, because the debate has been on the merits of this issue, I would like to assure my colleagues that my opposition to this amendment is founded on sound principles of fiscal responsibility and what I consider after a year and a half of intense study on the Space Subcommittee to be in the best interests of our civilian space program, our telecommunications industry, and our national security.

To begin, let me offer a bit of pertinent upper-stage history. Last year the Space Science Subcommittee, as you have heard, directed NASA and the Defense Department to conduct a joint study to determine our needs for a high energy upper stage. This is that study, Upper Stage Alternatives for the Shuttle Era, A NASA-DOD report to Congress. We have had it for over a year.

The study concluded that NASA should begin developing a Centaur for Space Shuttle use. Since the report's completion, nothing significantly has changed to warrant deleting Centaur from NASA's budget. In fact, on page 81 of this report that we commissioned, it specifically rejects the end effect of the Flippo amendment; namely, an IUS/Galileo combined mission.

Fortunately, the President accepted the urgent supplemental last July 18 and sustained the funding for the Centaur high energy upper stage integration into the Shuttle. The President's acceptance is consistent with NASA's 1982 authorization and appropriation bills and recognizes the technical superiority of Centaur as well as the fact that Centaur integration obviates the need for an otherwise redundant $1 to $1½ billion for an Air Force high energy stage program for military and intelligence uses which we will have need for in the 1987 timeframe.

Mr. Chairman, I would like to briefly outline four compelling reasons why the House should support the NASA/Air Force recommendations and reject the Flippo amendment.

First, IUS cannot meet our high energy upper stage requirements for NASA, DOD, and commercial missions beyond the 1985–86 timeframe. Our high priority space missions are increasingly finding weight to be a limiting factor. The IUS can currently lift only 5,000 pounds, compared to the 10,000 to 14,000 pounds provided by Centaur.

Second, the failure to move decisively now to develop a high energy upper stage for Shuttle will result in an increasing loss of business to foreign competition, specifically the French Ariane. The Ariane vehicle will lift approximately 9,500 pounds to geosynchronous orbit by 1986–87, thus exceeding IUS capabilities. Without Centaur, the United States will lose this commercial market.

Third, development of a "new" high energy upper stage, coupled with the decision to fly Galileo and the international Solar Polar mission with an IUS will cost taxpayers at least $700 million to $800 million more than Centaur, take at least 2 years longer to complete, and yield no significant performance improvement. Indeed, it has been estimated that a brandnew stage, as I say, will cost between $1 and $1½ billion and will basically involve reinventing the Centaur.

Fourth and finally, launching Galileo and Solar Polar on Centaur has a number of critical advantages over using IUS for these missions. Centaur would provide a flight time of 26 months for NASA's Galileo mission and would guarantee 11 satellite encounters, compared to a flight time of more than double, 54 months, and 6 satellite encounters for an IUS launch, plus the increased risk of the increased time.

In the case of Solar Polar, Centaur restores the maximum possible mission, as well as NASA's credibility with its foreign partners, most notably the European Space Agency. It is very likely that another change in launch vehicles will cause our international friends to question our resolve and ultimately conclude that NASA is an unreliable partner. Such an attitude may devastate our future plans for cooperative space ventures of the solar system.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Ms. OAKAR, and by unanimous consent, Mr. LOWERY of California was allowed to proceed for 2 additional minutes.)

Mr. LOWERY of California. In sum, Mr. Chairman, I ask my colleagues to consider the following:

First, the findings and conclusions of the NASA/DOD joint study.

Second, the cost and performance comparisons of IUS and Centaur.

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Third, the clear threat from foreign competition to our space program.

Fourth, the unacceptably high costs of developing a new high energy upper stage.

Finally, the integrity of the Galileo mission to Jupiter and the International Solar Polar Mission.

In light of these important considerations, I urge my colleagues to oppose the Flippo amendment and continue Centaur integration into the Space Shuttle.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to congratulate the gentleman on a very precise and concise statement that really truly outlines the rational reasons why we should be supporting Centaur.

Also, I want to add, if I may, there has been a lot of debate about whether Mr. Stockman agrees with the project or disagrees. I am not sure that I know the answer. I am not sure anyone does.

We do know for a fact that the President signed into law the supplemental appropriation bill in July that included $80 million for Centaur and that $40 million of that $80 million has already been spent for the Centaur project.

Mr. LOWERY of California. I thank the gentlewoman. She is absolutely correct.

Developing Centaur today will save the taxpayers money. The need is clearly there. For the first time we have the Air Force telling us that they have a need for more than 5,000 pounds of lift capability to geosynchronous orbit in the 1987 timeframe. Now, Centaur can lift 10,000 to 14,000 pounds to geosynchronous orbit, and for the first time we are seeing the Air Force come to the table with money for a high energy upper stage. They have wanted Centaur developed. Now they are finally bringing money to the table so that we can meet those very critical intelligence missions that the chairman of the Intelligence Committee, the gentleman from Massachusetts (Mr. Boland) outlined earlier.

If I might make just one final point. We have heard a lot about the configuration. Centaur is proven. Forty consecutive successful missions, only 2 failures out of 66 launches; a 97-percent success ratio, the changes are in the fuel tank configuration to meet the specifications for the Shuttle bay. There is no change in the engines.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. Lowery of California was allowed to proceed for 1 additional minute.)

Mr. LOWERY of California. There is no change in the Centaur engine. There is no change in the electronics. There is no change in the guidance system, no change in the avionics; merely a change in the physical configuration of the fuel tank.

It is a proven bird. It has served this Nation well. Let Centaur continue to serve the Nation and her taxpayers.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. Badham, and by unanimous consent, Mr. Lowery of California was allowed to proceed for 3 additional minutes.)

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

I have been concerned about the debate here and about the very programs that we have under consideration.

I understand that the IUS is now already 2½ years behind schedule and is 500 percent in an overrun situation; whereas on the other hand, the Centaur has extremely high credibility, has a 40-for-40 success rate, or 100 percent, and it underran in contract costs and it is an available vehicle and it has very high credibility. Does the gentleman concur with that?

Mr. LOWERY of California. The gentleman is correct.

Mr. BADHAM. I think, therefore, that it would be very simple to make the decision on which way we should vote on this with the program that has high credibility, proven efficiency, and has a higher thrust of almost three times the thrust that the IUS is projected to have.

I thank the gentleman for yielding. I support him in opposition to the amendment.

For those of us who have followed the "upper stage for Space Shuttle" debate over the past several years, there is a growing sense of frustration over the inaccuracies of official schedule and cost estimates.

Let us consider the credibility of the IUS program. The IUS is over 2½ years behind schedule and has experienced a 500-percent overrun. The fact is that the IUS is a national disgrace. But . . . there are still those who would change from the Centaur back to the IUS for two expensive science missions.

What kind of credibility does the Centaur program have? How about 40 consecutive launches at a success rate of 100 percent? What about cost? The last program evolution that the Centaur went through was its integration into the Titan vehicle. The Centaur underran the contract price by 5.7 percent. The Centaur has credibility.

When you add on top of these competitive histories the technical superiority of the Centaur which can lift 14,000 pounds into space versus 5,000 pounds for the IUS, my vote on this issue becomes simple.

I will vote for a 5.7-percent underrun and against a 500-percent overrun.

I will vote for a proven 100-percent success rate and against a vehicle that has never flown.

I will also vote for a program that remains on schedule and against a program that is over 2½ years late.

In short, I will vote for the Centaur which is credible and against the IUS that can only be described as incredible.

Mr. DREIER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, on the simple question of performance, Centaur is unquestionably the best choice for NASA's near term Galileo and International Solar Polar Missions. If the Shuttle–Centaur integration is allowed to continue, Centaur promises, first, greater payload capability; greater operational flexibility; a proven flight record; and, therefore, less mission risk.

NASA realized this when it chose Centaur as the sole Shuttle upper stage in January 1981. In October 1981, the joint NASA-DOD report on upper stage alternatives for the Space Shuttle also recognized Centaur as the only satisfactory upper stage for these two missions.

More important, if Centaur is scrapped, it will cost the taxpayer between $1 and $1.5 billion for the development—not the integration, procurement, or deployment, but only the development—of a new high energy upper stage, and once made operational that new stage will not outperform Centaur. It seems foolish to lose a proven and dependable program now that will be necessary in the future.

It seems even more foolish to replace that proven program with one that will cost over $1½ billion.

Last, let me add that switching upper stage systems now would deal an unfortunate blow to our space program and our commercial opportunities in space. What the space program needs is consistent policy support, not inconsistent reversals, and I strongly urge my colleagues to join me in pressing for the continued integration of Centaur into the Space Shuttle program, and I urge my colleagues also to strongly oppose this amendment.

Mr. PEASE. Mr. Chairman, I rise in support of the HUD-Independent Agencies appropriation bill for fiscal year 1983 as it was reported from committee with respect to funding for the Centaur high-energy upper-stage vehicle.

There is considerable controversy over this project; however, the facts remain clear and speak for themselves.

To begin, the Centaur is the sole source upheld by GAO in August 1981. It is the only available upper-stage that can meet both NASA and military requirements over the next 10 or 15 years.

In addition, development of the Centaur was approved in the urgent supplemental appropriations bill and work is now underway to integrate the vehicle in the Shuttle payload bay. On September 14, the Department of Defense and NASA reached agreement on a joint development program for the Centaur which will have significant benefits to both NASA and the Department of Defense. For NASA, it means that the cost of Centaur will be reduced. For DOD, it means acquiring an upper stage that will insure that this Nation's most sensitive military payloads can be flown without any weight limitations.

Although opponents of this project have claimed that NASA, the Air Force, and the Office of Management and Budget oppose Centaur development, Centaur was the sole source procurement approved by NASA in early 1981. In fact, in October 1981, NASA and the Air Force released their "Upper Stage Alternatives for the Shuttle Era"—a report specifically recommending that NASA develop the Centaur. While OMB originally resisted Centaur funding, primarily due to near-term budget constraints, they no longer oppose its development—particularly since the urgent supplemental allocated $80 million for Centaur and we have already invested $37.5 million to date.

I believe our country is better off by staying with the Centaur project. I intend to continue my support for this vehicle for technical, economical, and national security reasons.

● Mr. McGRATH. Mr. Chairman, I rise in opposition to the amendment of Mr. FLIPPO and I would like to point out some commercial concerns that should affect this debate.

The trend of commercial communications satellites is for continued growth in mass as more communications capability continues to be developed, is offered to the user community and, in fact, is expected by the consumer. This trend holds true for projected increased traffic in voice, data, secure data, video, image transfer, teleconferencing, and television direct to home broadcast services.

The satellite growth trend is further encouraged as the desirable positions in the geosynchronous orbital arc become filled and approach saturation. Current proposals before the ITC and the FCC to reduce the spacing between satellites help alleviate this problem but do not provide a permanent solution. The need for larger spacecraft with large multifed antenna systems, higher power, and advanced switching and time sharing techniques continues to be recognized by advanced communications systems planners.

These growth trends require a launch capability greater than that offered any existing Shuttle upper stages other than the Centaur. The Centaur's capability to provide low-thrust placement in the geosynchronous orbit also becomes desirable as the growth spacecraft appendages become larger and more flexible.

As a practical matter, the commercial communications community shows little interest in the IUS because of its prohibitive cost, growth limitations, and lack of versatility.

The alternative launch capability would be a growth Ariane launch vehicle produced by a European consortium and launched from Kourou, French Guiana. The Ariane vehicle is projected to exceed the Shuttle IUS capability by 1986. An unrecognized need by the United States to satisfy the growth commercial communication community has already resulted in several American companies contracting with Ariane for launch services and a need to reverse this trend is clearly evident.

Several American companies and an international consortium have expressed direct interest in being assured that the Centaur will continue to be developed for integration in the Shuttle.

NASA Associate Administrator Edelsen, in his previous position as senior vice president of Comsat General Corp., expressed his interest in a letter to Dr. Hans Mark, NASA Deputy Administrator, and in fact included remarks on the Shuttle/Centaur in a presentation before the House Committee on Space Science and Applications on September 5, 1979.

The president of Direct Broadcast Satellites Corp., one of the accepted applicants before the FCC for providing direct-to-home satellite television expressed his support for Centaur in a letter to our colleague, RONNIE FLIPPO.

In a letter to Dr. Hans Mark, Deputy Administrator for NASA, Mr. K. M. Chitre of the Intelsat Corp. disclosed some of Intelsat's long-range plans and reiterated his continuing interest in the Shuttle/Centaur integration program.

These desires are strengthened by the history of reliability the Centaur has experienced and the positive return on investment that the using companies experienced.

A new, different, high energy upper stage with its usual accompanying schedule delays and cost growth is not the answer for a commercial user who sees his future requirements satisfied by the existing Shuttle/Centaur.

I, therefore, support the position of the committee, Mr. BOLAND, and oppose the Flippo amendment.●

□ 1655

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLIPPO).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FLIPPO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 77, noes 316, not voting 39, as follows:

[Roll No. 330]

AYES—77

Anderson
Aspin
Barnard
Bennett
Bevill
Biaggi
Bouquard
Breaux
Chappie
Dicks
Dingell
Downey
Edwards (AL)
Emerson
Fascell
Fazio
Fenwick
Fiedler
Flippo
Foley
Fuqua
Gephardt
Ginn
Glickman
Goodling
Harkin
Hatcher
Heftel
Holland
Hollenbeck
Hopkins
Hubbard
Huckaby
Ireland
Jenkins
Jones (NC)
Jones (OK)
Kastenmeier
Lagomarsino
Leath
Lehman
Levitas
Lowry (WA)
Lujan
Matsui
Mica
Mineta
Moore
Nichols
Oberstar
Obey
Rinaldo
Roberts (KS)
Roe
Roemer
Roukema
Russo
Scheuer
Schroeder
Shelby
Shumway
Smith (AL)
Snowe
Snyder
Swift
Synar
Taylor
Volkmer
Walgren
Walker
Weaver
White
Whitley
Whittaker
Winn
Wolf
Wyden

NOES—316

Addabbo
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnes
Beard
Bedell
Beilenson
Bereuter
Bethune
Bingham
Bliley
Boggs
Boland
Bonior
Bonker
Bowen
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Ferraro
Fields
Findley
Fish
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gingrich
Goldwater
Gonzales
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)

Hartnett
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holt
Horton
Howard
Hoyer
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Johnston
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lantos
Latta
Leach
LeBoutillier
Leland
Lent
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McHugh
McKinney
Michel
Mikulski
Miller (CA)
Miller (OH)
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moorhead
Morrison
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Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nowak
O'Brien
Oakar
Ottinger
Oxley
Panetta
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Pashayan
Patman
Patterson
Paul
Pease
Perkins
Petri
Peyser
Porter
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Ritter
Roberts (SD)
Robinson
Rodino
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Rudd
Sabo
Sawyer
Schneider
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shuster
Siljander
Simon
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Solarz
Solomon
Spence
St Germain
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Tauke
Tauzin
Traxler
Udall
Vander Jagt
Vento
Wampler
Washington
Watkins
Waxman
Weber (MN)
Weber (OH)
Whitehurst
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wortley
Wright
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki

NOT VOTING—39

Akaka
Bafalis
Benedict
Blanchard
Bolling
Boner
Brooks
Brown (OH)
Burton, John
Butler
Chappell
Chisholm
Dixon
Ertel
Evans (GA)
Fithian
Forsythe
Fountain
Gilman
Lee
Marks
Mattox
McClory
McGrath
Pepper
Pickle
Pritchard
Reuss
Santini
Savage
Schulze
Smith (PA)
Stangeland
Stanton
Thomas
Trible
Weiss
Young (AK)
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Weiss for, with Mr. McGrath against.

Mr. Thomas for, with Mr. Zeferetti against.

Messrs. UDALL, EDWARDS of Oklahoma, GUARINI, MORRISON, MARTINEZ, GRISHAM, EDWARDS of California, and JONES of Tennessee changed their votes from "aye" to "no."

Mr. LUJAN and Mr. WEAVER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DIRECT LOAN REVOLVING FUND

During 1983, within the resources available, gross obligations for direct loans are authorized only for specially adapted housing loans and obligations for such loans shall not exceed $1,000,000 (38 U.S.C. chapter 37).

AMENDMENT OFFERED BY MR. DASCHLE

Mr. DASCHLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DASCHLE: Page 32, after line 7, insert the following:

SMALL BUSINESS LOAN REVOLVING FUND

To carry out the purposes of the "Veterans' Administration Small Business Loan Revolving Fund", as authorized by law (Public Law 97-72, title III), $25,000,000.

Mr. DASCHLE. Mr. Chairman, I have an amendment at the desk. Mr. Chairman, the amendment I am offering to H.R. 6956, the HUD/independent agencies appropriations bill will provide $25 million for the revolving business loan program in the Veterans' Administration authorized in Public Law 97-72, but not yet funded. The purpose of this amendment is to provide a modest, direct, and guaranteed loan program for disabled and Vietnam veterans seeking to start a business. This amendment will fulfill a pledge made by Congress last year to initiate a business loan program in the VA where funding will be available strictly for veterans.

Oversight hearings in the 96th and beginning of the 97th Congress confirmed that the Small Business Administration was not following through with a congressional mandate established in Public Law 93-237, which stated that veterans were to receive special consideration from the SBA when applying for loans or technical assistance relative to starting or owning a business. Repeatedly, SBA assured the Subcommittee on Special Investigations that special consideration would be provided and repeatedly it was not.

Thus, the able chairman of the House Veterans' Affairs Committee, SONNY MONTGOMERY, last year introduced legislation to authorize a 5-year $25 million revolving business loan program within the Veterans' Administration. The program is limited to Vietnam veterans and veterans disabled 30 percent or more. This modest effort was overwhelmingly endorsed last year by the House of Representatives and Senate and signed into law by the President.

Since passage of this legislation last year, the unemployment rate of veterans of the Vietnam era has increased by over 40 percent to approximately 700,000. Clearly, there is a need for this program and clearly the Veterans' Administration is the best place to provide loans to veterans.

Mr. Chairman, this legislation is needed to reaffirm the commitments made last year. I have been besieged with calls about this program as I am sure many of my colleagues have. Unfortunately, I have had to relay the fact that even though the President had signed this legislation into law, there was no money available. Many cannot understand this apparent contradiction and feel that once again their Government has let them down. This amendment will not by itself improve the situation for most of the 700,000 unemployed Vietnam-era veterans in our country, but it will offer an opportunity for a few to participate in the American dream and start their own business.

Mr. Chairman, I am inserting letters of support from the Veterans of Foreign Wars, American Legion, and Disabled American Veterans:

VETERANS OF FOREIGN WARS OF THE
UNITED STATES,
Washington, D.C., August 16, 1982.

To: All Members of the U.S. House of Representatives.

From: Arthur J. Fellwock, national commander-in-chief, Veterans of Foreign Wars of the United States.

Subject: Appropriation for the veterans small business revolving loan fund.

It is our understanding that Mr. Daschle and other members intend to offer an amendment to H.R. 6956, the Department of Housing and Urban Development and Independent Agencies Appropriations for FY 1983, to provide a one-time appropriation of $25 million for the veterans small business loan program authorized by Public Law 97-72.

Funds appropriated for this program, as provided in Public Law 97-72, are to assist Vietnam-era and certain service-connected disabled veterans, who continue to suffer a significantly higher unemployment and underemployment rate than their non-veteran peers.

It should be noted that Small Business Administration programs in this area have not produced meaningful results and that the VA successfully administered a similar program for many years.

We therefore request, on behalf of the 1.9 million men and women of the Veterans of Foreign Wars and all veterans, that you support and vote for the passage of Mr. Daschle's amendment.

Sincerely,

ARTHUR J. FELLWOCK,
National Commander-in-Chief.

DISABLED AMERICAN VETERANS,
Washington, D.C., August 16, 1982.

Hon. THOMAS A. DASCHLE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN DASCHLE: This letter is in reference to the upcoming floor action on H.R. 6956—making appropriations for HUD and various independent agencies including the Veterans Administration.

At the outset, let me state that the Disabled American Veterans strongly favors the adoption of your proposed amendment to H.R. 6956 that would provide full funding

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($25 million) for the VA Small Business Loan Program for Vietnam Era and certain more seriously impaired service-connected disabled veterans.

As you know, last year the Congress enacted Public Law 97-72 which, among other things, established a Small Business Loan Program for veterans of the Vietnam Era, as well as extending its provisions to service-connected veterans evaluated by the Veterans Administration as 30 percent or more disabled. The new program was essentially created in response to the Small Business Administration's failure to comply with a 1974 mandate (P.L. 93-237) requiring that agency to give "special consideration to veterans of the Armed Forces of the United States and their dependents and survivors."

Today, nearly eight years later—and, it would seem, in response to your efforts to adequately fund the VA program—the Small business Administration has finally embarked on a program to enforce the provisions of Public Law 93-237. Frankly, we are unconvinced of the Small Business Administration's commitment to make the 1974 law a successful program for America's veterans and their dependents.

In our view, when combined with SBA's "foot-dragging" on the original 1974 program, failure to fully fund the VA's Small Business Loan Program under Public Law 97-72 serves only to foster the belief that the Administration and the Congress remains unsympathetic to the needs of Vietnam Era and disabled veterans.

Accordingly, we favor the adoption of your amendment to add some $25 million to H.R. 6956 to fully fund the Small Business Loan Program under Public Law 97-72. On behalf of the more than 700,000 members of the Disabled American Veterans, I wish to thank you for your sincere efforts on behalf of America's veterans.

Cordially,

EDWARD G. GALIAN,
National Commander.

THE AMERICAN LEGION,
Washington, D.C., August 16, 1982.

Hon. THOMAS DASCHLE,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE DASCHLE: With the understanding that the HUD-Independent Agencies Appropriations bill, H.R. 6956, is due for House floor consideration very soon the American Legion takes this opportunity to lend its full support for your VA small business loan amendment. The addition of $25 million to H.R. 6956 is entirely appropriate recognizing that the VA small business loan program established last year has never been funded.

Moreover, as enacted in P.L. 97-72, this modest program was authorized for a period of five years ending on September 30, 1987. Already, nearly 25 percent of the new program's life has expired without a single business loan having been made.

It is our belief that Congress intended this program to be funded at the time it was authorized despite and perhaps even because of the economic hard times that are gripping the nation. Apart from the inherent promise small business investment holds for economic recovery and the creation of new jobs, Congress has long recognized the failure of the Small Business Administration in honoring its obligation to provide veterans with special consideration in their small business loan applications.

In the Legion's judgment Congress was wise to create a small business loan program within VA last year and would be equally wise to fund the program as soon as possible. We applaud your efforts on behalf of veterans, Mr. Daschle, and we look forward to assisting you in this matter to the greatest possible extent.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

□ 1720

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened with interest to the distinguished gentleman from South Dakota, Mr. TOM DASCHLE, on this particular amendment. I must say that I have some problems with accepting the amendment for a small business loan program to be administered by the Veterans' Administration for a number of reasons.

First of all, the Small Business Administration is the better place in which to lodge this particular program—for the administration of the program itself. The Small Business Administration has some 120 field offices throughout the United States, many more than the VA has.

The SBA is now set up to administer small business loans.

I would agree with the gentleman that in past years insufficient attention has been paid to Vietnam veterans by the Small Business Administration. This resulted, of course, in the authorization of $25 million for small business loans targeted specifically to Vietnam veterans. That passed this House overwhelmingly under suspension, as I remember.

I would prefer, and I think the program itself would be better administered by the SBA. Let me repeat again, because of the expertise it has in this area.

If this program were lodged with the Veterans' Administration it would necessitate additional personnel. It would also necessitate developing some expertise in the VA to administer the program.

I think we have a solution to what the gentleman hopes to attain. But it requires a little bit of finessing by this subcommittee and by the Appropriations Committee with respect to the 302 allocation of funds that are given to the 13 subcommittees.

This would be a program that would be better lodged under the jurisdiction of the Commerce, Justice, State, and Judiciary Subcommittee. The problem there is that the subcommittee does not have enough 302 ceiling remaining to include this program within its allocation.

I have talked with the gentleman from Iowa, Mr. SMITH, chairman of that subcommittee, and I have indicated to him that I would be willing to transfer some of the 302 allocation from the HUD-Independent Agencies Subcommittee to the Commerce, Justice, State, and Judiciary Subcommittee and that would satisfy him.

I do not want to misdirect the gentleman because the Commerce-Justice bill may not get by in this session. It might very well have to be wrapped up into a continuing resolution.

I think we can meet that problem, though, and we might include it in a continuing resolution.

Another area in which we can pursue this is in conference. Hopefully, if the other body puts the $25 million in the Commerce-Justice bill we can get the House to agree.

That about covers the question. The nub of the issue again is that this program would be better lodged with the SBA.

If the gentleman is willing to withdraw his amendment then I will make every effort to see that this program is funded under the Commerce, Justice, State, and Judiciary bill with the agreement, of course, of the chairman of that subcommittee accepting the allocation that we are willing to transfer to his subcommittee. I will also make every effort to be sure that this program is taken care of in the continuing resolution or in the conference agreement with the other body on the Commerce, Justice, State, and Judiciary appropriation bill.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am delighted to yield to the gentleman from South Dakota.

Mr. DASCHLE. Could I ask if the gentleman has obtained the support of the chairman of the Small Business Subcommittee on this proposal and also the chairman of the Appropriations Committee? Have they indicated a willingness to go along with this plan?

Mr. BOLAND. I must indicate that I have not conversed with the chairman of the Small Business Committee on this matter. The only area on which I thought there was real concern was the $25 million appropriation for it, and it occurred to me that the chairman of that subcommittee dealing with funding for the SBA would be the person to communicate with.

I have done that and he has indicated his willingness to accept an allocation from our subcommittee to his subcommittee in order to take care of that $25 million.

I do not know what the position of the Veterans' Committee is. I assume that it would be agreeable, though I am not sure.

Mr. DASCHLE. I thank the Chairman. I sincerely hope that we can get unanimous support by all committees involved. The Chairman has given me sufficient confidence that we will find this worthy program and with those

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assurances I would be willing to withdraw the amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(At the request of Mr. DASCHLE and by unanimous consent Mr. BOLAND was allowed to proceed for 3 additional minutes.)

Mr. DASCHLE. I would also hope that the Veterans' Affairs Committee might have oversight hearings sometimes next year in order to insure that this earmarked funding is indeed utilized for this purpose.

With that assurance I would withdraw the amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I will be delighted to yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman from South Dakota for offering his amendment at this time. I think it is up to the gentleman from South Dakota to decide whether or not he wishes to withdraw.

I simply want to stand as the chairman of the Subcommittee on Education, Training, and Employment, and one of the authors of this particular provision, along with the gentleman from South Dakota. It seems to me that the Small Business Adminstration has had a disastrous record even though on several occasions they have been directed to target some of their limited resources to aid those who are Vietnam era veterans in establishing a loan program for them and helping them to get into the mainstream of our society.

It was the intention of our committee that because the Small Business Administration had done such a poor job that perhaps there were persons over within the administration of the VA who could in fact, with their increased sensitivity to Vietnam era veterans' needs, focus attention on the $25 million loan program and commit those funds in a targeted way to those many Vietnam veterans who are looking for reasonable rates for loans to establish new, entrepreneurial small businesses.

So I commend the gentleman from South Dakota and would urge that whether or not the VA cares for it, or the Small Business Administration cares for it, that we not find ourselves back here a year from now finding that while moneys were allocated, nothing again has been done.

The Vietnam-era veteran has waited too long for these limited resources.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Dakota which would provide funds for the veterans' small business loan program as authorized by Public Law 97-72.

During the 97th Congress, the House Veterans' Affairs Subcommittee on Education, Training, and Employment has conducted seven hearings on the employment and economic needs of Vietnam-era and disabled veterans.

The result of this study has clearly indicated that a significant segment of the Vietnam veteran population has not been able to fully take advantage of economic opportunities within the Nation's business and working place.

The Congress clearly expressed its intent through the passage of Public Law 97-72 with the authorization of a small business loan program within the Veterans' Administration to extend targeted assistance to this group.

The overwhelming passage of that provision within the House and Senate was based on three major points:

First, the Small Business Administration was unwilling and, in fact, incapable of providing special consideration for veterans' small business loans as required by law.

Second, the primary agency within the Federal Government for the implementation of all veterans programs and services is the Veterans' Administration.

Third, a modest small business loan program within the Veterans' Administration designed for Vietnam-era and disabled veterans would only restore for this target group the same type of assistance that was extended to World War II and Korean war veterans.

Mr. Chairman, recently the administration admitted its mistake, on pressure from our subcommittee and many other Members of Congress, and revised its restrictive regulations governing the extension of job training benefits also included in Public Law 97-72. Legislation currently pending in the Congress will fully extend that benefit again to undertrained and underemployed Vietnam-era veterans as originally intended by the Congress.

I believe it is unfortunate that we have to re-do most of what was fought long and hard for last year in order to see provisions of law fully implemented. However, in the absence of any movement to fund the small business loan program from other quarters, I believe we have no choice but to support the amendment before us today.

Mr. Chairman, I wish to commend the gentleman from South Dakota for offering this amendment. As chairman of the Vietnam Veterans in Congress he is in a unique position to understand and to fight for the rights of all those who served with him in the Armed Forces during the Vietnam era. I urge my colleagues to support the amendment.

Mr. BOLAND. In response to the gentleman from Pennsylvania, I am not sure that the Small Business Administration has not paid much attention to the applications of the Vietnam veterans. I have a note before me indicating that SBA put out $24 million to Vietnam veterans.

Both of you are in a much better position than I to justify that or indicate whether that is so.

Mr. EDGAR. If the gentleman will yield further, they have done some but in terms of their total allocation it has not been the commitment over the years. The additional $25 million we were hoping would be on top of what the Small Business Administration had done. But they do not have a record of being in advocacy.

Mr. BOLAND. Let me give my assurance to the gentleman from South Dakota and the gentleman from Pennsylvania that I will do everything that I possibly can to be sure that a program targeted directly at Vietnam veterans is set up and that the moneys will be administered by the Small Business Administration.

I am sure that we can get a look at that, as the gentleman has indicated, at the end of the year or sometime during the coming year. If the SBA is not carrying out the direction of the Congress then, we can take another look at it.

Mr. ECKART. Mr. Chairman, Vietnam veterans of this country face difficult unemployment problems throughout the country.

At the same time, Mr. Chairman, we have reduced veterans benefits by a piecemeal process. This year has already seen elimination of correspondence courses for education, the placement of new fees on veterans applying for a VA guaranteed home loan, and the reduction of the age of majority for children to 18, for purposes of obtaining veterans benefits.

Veterans from the Vietnam era should now be approaching the most productive years of their lives. Congress, realizing the conditions of unemployment and reduced business vitality, last year passed, and the President signed, a $25 million revolving fund loan program for the use of Vietnam veterans and disabled veterans. The funds were to assist them to acquire, expand, or start their own businesses, through loan guarantees or direct loans.

The Congress, in a move I wholeheartedly agree with, decided to put a sunset provision in the program, bringing it to an end in 5 years.

The program has not, to this date, been funded, so it has not begun. Nearly a year out of the 5 has gone by, and the Veterans' Administration has not even begun to draw up regulations for the program.

For our disabled veterans, and veterans who served in Vietnam, the Nation's rewards to them have been few. This small measure would lead to financial independence, and greater strength in our national economy for veterans.

Mr. Chairman, we need to reverse the lack of action from the executive branch. The Congress has spoken that the program is needed. The failure of the Veterans' Administration to fund this program is a "head in the sand" approach to our current economic condition. Mr. Chairman, we should stop the foot dragging of the bureaucrats who have effectively vetoed this program without our consent and pass the Daschle amendment.

□ 1730

Mr. DASCHLE. Mr. Chairman, if there are no other comments, I ask unanimous consent at this time to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to follow up on the colloquy on the amendment that has just been withdrawn by the gentleman from South Dakota, I want to assure him that if I do have the privilege next year of chairing the Subcommittee on Oversight and Investigations, I will certainly try to assure that Vietnam veterans receive their fair share of loans from SBA for small business purposes.

The gentleman from South Dakota as well as the gentleman from Pennsylvania are exactly right. The Small Business Administration has not done a very good job in making loans to Vietnam veterans. Its batting average with the Vietnam veteran is very low. SBA has done a very poor job. I hope what we have said here today to the SBA will have a positive effect and the agency will do more for Vietnam veterans.

Mr. Chairman, I had planned to support the amendment offered by the distinguished gentleman from South Dakota (Mr. Daschle), a very able member of the Committee on Veteran's Affairs.

Mr. Daschle is a Vietnam veteran; and since being elected to the Congress, he has been a leader in this body in working to enhance the lives of Vietnam veterans. Mr. Daschle is known as an activist when it comes to Vietnam veterans, and I am sure the amendment he had planned to offer would have received the strong support of our colleagues. I think the efforts of the distinguished chairman of the subcommittee to have funds available for small business loans to be made through the Small Business Administration is a step in the right direction and will have a positive impact on the ability of Vietnam veterans who seek help in the future.

Mr. Chairman, let me also take this time, since this is the section of the bill on funding for veterans and for their families to commend the very able chairman of the subcommittee, the distinguished gentleman from Massachusetts (Mr. Boland), and the ranking minority member of the subcommittee, the distinguished gentleman from New York (Mr. Green), for the tremendous work they have done for our Nation's veterans in bringing this bill to the floor.

These are tough times, and most programs are having to absorb large reductions. Our Committee on Veterans' Affairs recently reached agreement with the other body on several cost-saving provisions affecting veterans' programs. However, the reductions we have made will not result in a substantial adverse impact on benefits and services for veterans. What is good about this appropriation bill, Mr. Chairman, is the appropriation for fiscal year 1983 for the veterans' hospital and health care program.

Early this year there seemed to be a strong feeling in the Congress that all discretionary programs should be frozen at the fiscal year 1982 level and that the freeze should continue for 3 years. This would have been disastrous for the Veterans' Administration, and I am delighted that the Appropriations Committee has seen fit to appropriate the funds that were suggested by the Veterans' Affairs Committees and authorized in the first concurrent budget resolution.

The appropriation for medical care for the coming year, although not overly generous, is adequate. In addition, the appropriation for medical and prosthetic research will support an average employment of 4,454. This funding level confirms the strong feelings of the Congress that the VA research programs are vital in providing quality medical care.

I am pleased that the account for medical administration and miscellaneous operating expenses contains $300,000 for 13 staff years to administer the "Roberts" nurse scholarship program. This program is going to be a great help in solving the critical shortage of nurses that exists in the private as well as the public sector. The $12 million that will be used to fund the Roberts scholarship program for VA nurses in fiscal year 1982 and 1983 will mean that the program will be implemented at the pace expected by the authorizing committees.

Finally, Mr. Chairman, it should be noted that the construction program approved by the Appropriations Committee closely tracks the recommendation of the administration and the Veterans' Affairs Committee. I am most pleased to note that the funds for the new replacement medical center in Minneapolis are contained in this bill, as well as $3 million for the design and site preparation for a new outpatient clinic in Los Angeles. The administrator should proceed with the design and site preparation for this project since the current leasing arrangement will terminate in a few years. The leasing agreement will not be extended.

Mr. Chairman, this is a good appropriation bill as it relates to veterans' programs, and I want to again commend Mr. Boland and Mr. Green, the distinguished chairman and ranking minority member of the subcommittee, and the very able chairman and ranking minority member of the full committee, Mr. Whitten and Mr. Conte, as well as all the Members of the Appropriations Committee, for the work they have done for the veterans of our Nation. I can assure my colleagues that the funding levels contained in the bill for VA programs are adequate, and I am sure that veterans throughout the country will be very pleased with what the committee has done in their behalf.

I thank the gentleman from Massachusetts (Mr. Boland) and members of his excellent staff for a job well done. This bill will be a tremendous help to our Veterans.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman very much for his remarks, and I know that the gentleman from New York feels the same way about the leadership that the gentleman from Mississippi has given to the Veterans' Affairs Committee. We want to commend the gentleman and his staff for the work they have done in this area.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. GREEN Mr. Chairman, I would like to join in the remarks of the gentleman from Massachusetts and express my appreciation for the kind remarks of the gentleman from Mississippi (Mr. Montgomery) and also for the privilege of being able to work with him on these very important matters relating to veterans.

Mr. MONTGOMERY. Mr. Chairman, I thank both the chairman of the committee and the ranking minority member. You never get enough money for any program, but we have certainly been treated fairly by the subcommittee of the Committee on Appropriations which handles the veterans' programs.

● Mr. HAMMERSCHMIDT. Mr. Chairman, I appreciate the gentleman from South Dakota efforts, however. On the one hand it would have merely provided modest funds for a provision of law that this body legislated just last year. But on the other hand, I

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fear that we may well have made a mistake by the passage of that legislation and perhaps we ought to wait a while to see if we really ought to fund it and if it was and is really needed. In this connection, let the record show that last year I supported this effort.

Mr. Chairman, we are talking about $25 million to provide small business loans or guarantees to a very few Vietnam veterans and a very few disabled veterans. In 1983, if this amendment passes, the total number of such loans would probably not exceed 250 or 300. It occurs to me that we might lead a much larger number of veterans to great expectations that have no real chance of materializing. In addition, the Small Business Administration is the proper agency for this type of endeavor. They have not done a very good job in the past, but it is my understanding they are trying to improve in the field of priority for veterans and I think they need and deserve another chance.

Mr. Chairman, the administration opposes this amendment and I must agree that in these times of great fiscal restraint that it is concerned with a new veterans program that should not command our priority attention and so I believe the gentleman of South Dakota is wise in withdrawing his amendment.●

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of title II.

The Clerk proceeded to read title III.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

Are there any amendments to title III?

If not, the Clerk will read.

The Clerk proceeded to read title IV.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Are there any points of order against title IV?

Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wyden: Page 42, immediately after line 18, insert the following new section:

Sec. 416. No funds appropriated by this Act may be obligated or expended to issue, promulgate, implement, administer, or enforce any standard or rule under sections 108 and 109 of the Clean Air Act, 42 U.S.C. 7408 and 7409, which changes the national ambient air quality standards for carbon monoxide to permit multiple days of allowable exceedances on an annual basis as described in 47 Federal Register 26407.

Mr. WYDEN. Mr. Chairman, today I am offering an amendment to H.R. 6956 to prevent what charitably could be called vodoo environmental protection.

Just 1 year ago, EPA Administrator Anne Gorsuch released 11 principles President Reagan adopted for rewriting the Clean Air Act, including 1 supporting existing health-based ambient standards.

Many of us were very pleased at the President's support for current health stadards, the cornerstone of the Clean Air Act.

Recent administrative rulemaking activities, however, suggests our sense of relief may have been premature.

The EPA is in the final approval stages of a proposal to weaken the national health standards for carbon monoxide pollution by an average of 33 percent nationwide.

The health implications of this proposed relaxation are very serious.

Carbon monoxide (CO) is a colorless, ordorless but poisonous gas that interferes with the transportation of oxygen from the lungs to the rest of the body.

For persons with cardiovascular disease and arteriosclerosis; increased levels of CO means aggravation of their disease.

For pregnant mothers it means possible physical and mental retardation of their unborn child.

All told, the health of some 7.7 million pregnant mothers, children, elderly, and persons with chronic respiratory and heart disease would be threatened by relaxation of CO standards.

Here is how the EPA's proposed relaxation would work. Under current regulations, an area is allowed to exceed the existing daily average CO standard of 9 parts per million only one time per year.

Under the proposed change, this standard could be exceeded five times per year.

On the surface, this relaxation may not sound too significant.

The facts shows it is—that is why the American Heart Association, the American Lung Association and the American Public Health Association oppose it and support my amendment.

EPA cites the desire to help the States as one of their key reasons for advocating this relaxation; yet, over 15 of 25 States and localities that officially commented on the proposal oppose it.

At a Health and Environment Subcommittee hearing I chaired in Oregon on August 27, distinguished elected officials, State and local public health officials, public health groups and health scientists all testified against the proposed relaxation.

So why does EPA want this change? One reason may be because it makes attainment of national CO standards easier on paper.

If the proposed change is accepted, for example, the projected number of areas still in violation of the CO health standard by 1987 would drop overnight from 60 to 15.

In short, the proposed change is an administrative sleight of hand.

The problem in all this is that pretending we have attained health standards for CO would not make it so. Shuffling figures around on paper would not make the air any cleaner for the 60 million Americans that still breathe air worse than the national health standards—and it would not make the adverse health effects they suffer any less.

Frankly, Mr. Chairman, I find EPA's proposal astonishing—particularly in light of the data it has before it.

To come up with this proposal, EPA had to blatantly ignore an EPA-funded 1981 study on the health effects of CO which clearly shows that 61 percent of persons with heart disease—or 4.7 million people—could be adversely affected by this change.

Even EPA has not questioned the accuracy of this study, although it chooses to reject its results.

EPA also had to ignore its own 1980 review of the CO standard which concluded that the existing 9 parts per million standard should be maintained.

Mr. Chairman, the facts show there is no justification for relaxing the CO standard.

By prohibiting the EPA from using any funds appropriated in this act to issue, promulgate, implement, administer or enforce any health-threatening changes in the CO health standard, my amendment will send a clear message to the EPA that the Members of Congress do not believe in simply waving the wand to make our problems go away—that we live in the real world where results are what counts.

My amendment does not prevent EPA from revising the CO health standard. It only prevents it from revising it in a manner that would weaken the public health protections of the current standard.

A vote to adopt this amendment will send a clear message to the American people that we will not tolerate rule changes that will threaten their health and well-being.

I urge my colleagues to support my amendment and join me in sending this no-nonsense message to the EPA and the American people.

Finally, I wish to thank Chairman Boland and the ranking minority member Mr. Green for their assistance.

Mr. BOLAND. Mr. Chairman, I rise in support of the amendment.

I think it is most important that we understand exactly what this amendment would accomplish. First, it does not tie the hands of EPA by precluding a change in the carbon monoxide health standard. This amendment simply would require that EPA make any such change openly and in a straightforward manner and not by manipulating the complex scientific yardstick used in setting the standard.

Without a doubt, there are some very serious health problems at stake here. I believe these problems should be met head on, not simply defined out of existence. That is what EPA wants to do.

The EPA proposal to move to a 5-day exceedance under the nine parts per million standard would loosen the carbon monoxide standard substantially. Overnight the air would be declared safe for carbon monoxide in two-thirds of the current nonattainment areas. Just changing the method for figuring the carbon monoxide health standard does not make the air any safer to breathe.

This use of a standard permitting 5 exceedance days per year is unprecedented and unorthodox. However, I do not believe this amendment would preclude a three exceedance in 3 years approach, similar to the ozone standard.

Mr. Chairman, under those circumstances, I support the gentleman's amendment. I think the gentleman has made a good case for it.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words, and I rise to support the amendment.

Mr. Chairman, I recognize on this and at least one other amendment which I believe is pending at the desk we are seeing to some degree the frustrations arising because of the difficulties of reauthorizing the Clean Air Act. I do not think we should deny that that is why these amendments are coming to an appropriations bill. I must say I would prefer that we could get a Clean Air Act on the House floor and let the House act its will in some sort of coordinated way. Clean air is an issue where there are very considerable interrelations among its many aspects, and it is, therefore, desirable to have an omnibus approach rather than the piecemeal approach we are inevitably going to get from these amendments to appropriations bills.

Having said that, it does seem to me that this amendment is essentially trying to hold the status quo, as I understand it, and would, of course, give way if we were subsequently to produce a Clean Air Act reauthorization that provided for some different standard. That does seem to be an appropriate thing to do while an omnibus approach to the problems of clean air is worked out first by the Energy and Commerce Committee and then, we hope, by the full House.

As an opponent of weakening the Clean Air Act, I therefore support the amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, my opposition to this amendment is based on the fact that under the Clean Air Act Congress has required the Environmental Protection Agency to periodically review and as appropriate to revise the air quality standards.

It is a fact, as the gentleman from Oregon (Mr. Wyden) has stated, that a review of the existing ambient carbon monoxide standard is currently underway.

I might point out that the carbon monoxide standard was established in 1971 and it is only logical that it be reviewed based on new scientific evidence.

The gentleman has mentioned several public statements that have been made with respect to these proposed versions which have been proposed by the agency.

I would like to have the gentleman's attention and ask him if he could tell the Members how many comments were filed on this CO standard inasmuch as he has passed out a sheet characterizing the results of those comments as being all against the proposed changes in the standard.

Would the gentleman have any idea how many comments were filed on the CO standard?

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Oregon.

Mr. WYDEN. The number of comments is about 25, and a strong majority opposed the actions being advanced by the Environmental Protection Agency.

Mr. BROYHILL. If I can reclaim my time, the fact is I have just checked with the agency, and I find that the comment period has been open for 2 years and if stacked, the comments would be several feet thick. The sheet that the gentleman has been handing out provides comments of carefully selected States and counties.

I would ask the gentleman were there other comments in support of the proposed standard.

Mr. WYDEN. If the gentleman will yield further, the comments I referred to were in response to the revised proposals dated June 18, 1982. They are the comments of States and localities around the country.

Mr. BROYHILL. There were a number of comments in support of the proposed changes. I know the gentleman is familiar with the Clean Air Scientific Advisory Committee which we call CASAC. This is an independent scientific review group. I know the gentleman is familiar with the fact that the CASAC has been considering this issue for 3 years and has made recommendations with respect to this particular standard and has reached a consensus that a multiple exceedance has not only scientific, but also administrative merit.

Mr. WYDEN. I would like to read a letter sent by the Clean Air Advisory Committee or a small portion of it on August 31, 1982, because they have advocated a multiple exceedance approach which my amendment does not prohibit; but they in no manner endorse the 5-day exceedance approach. In fact, on August 31, they caution that five exceedances were a danger.

Mr. BROYHILL. May I reclaim my time on that basis. I am not standing up here and defending the five exceedance per year approach.

All I am saying is that under the Clean Air Act we have mandated the Agency to periodically review these standards, and this review is presently ongoing. What the gentleman is doing here in his amendment is prohibiting the Agency from carrying out its legislative mandate.

Mr. WYDEN. In no way do we prohibit EPA action with respect to a carbon monoxide standard. We are prohibiting the spending of funds on one particular action, an action which amounts to a 33-percent increase in carbon monoxide in this country. That is all we are prohibiting.

Mr. BROYHILL. Is the gentleman saying he does not object to a multiple exceedance standard?

Mr. WYDEN. It so happens there are a number of multiple exceedance approaches that I think would be attractive that would give State and local governments some flexibility. All we are doing in this amendment is prohibiting the expenditure of public funds on one particular alternative.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Broyhill) has expired.

(By unanimous consent, Mr. Broyhill was allowed to proceed for 2 additional minutes.)

Mr. BROYHILL. Mr. Chairman, does the gentleman oppose the use of a statistical standard?

Mr. WYDEN. If the gentleman will continue to yield, would the gentleman repeat the question.

Mr. BROYHILL. Does the gentleman oppose the use of a statistical standard such as presently used for the ozone standard?

Mr. WYDEN. No. It so happens that the ozone model is one that is attractive, but the ozone model is not a five exceedences per year model. An ozone

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model is one that allows one exceedence per year.

☐ 1750

Mr. BROYHILL. My concern here is that we are again by legislative mandate trying to write standards into law.

I must admit that the gentleman's amendment has been very adroitly written and drawn in such a way as to be within the rules of the House. But it does give me concern that amendments of this kinds are changing previous law which has mandated an agency to review and if necessary to revise various standards based on good science. It seems to me that the gentleman is trying to tie the hands of the agency.

I am glad to see that the gentleman would agree that perhaps some changes in this standard should be made and could be made. I just hope that the gentleman's amendment is not going to tie the hands of the agency to that extent. I am concerned that it will. That is why I oppose the gentleman's amendment. I think that it is too strictly written and will tie the hands of the agency so strictly that they can make absolutely no changes in the standard itself.

The gentleman apparently is interpreting his amendment otherwise; is that correct?

Mr. WYDEN. Mr. Chairman, if the gentleman will yield, that is absolutely right.

I want to repeat that we in no way restrict the agency's options. They have a number of options in front of them for being more flexible, for adopting approaches that deal with the various regions of the country; and in no way does this restrict their options.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment of the gentleman from Oregon.

Mr. Chairman, it is rather amusing to hear the gentleman from North Carolina express this alarm that the gentleman from Oregon might be changing other law which mandates an agency to do something and tying an agency's hands. I think the people down at the Federal Trade Commission must be having a good chuckle over that comment, because I do not think there is any doubt that the gentleman from North Carolina has tried to do that in this body.

The gentleman is offering a critical amendment. It is not that complicated, really. It relates to the 9 million people suffering from heart disease. It relates to the asthmatics. It relates to the unborn. It relates to a number of people in this country who suffer greatly from carbon monoxide emissions.

I think the gentleman has done an excellent job on the amendment. I hope we get to a vote soon. I hope today is the only discussion we have about carbon monoxide this year and that we do not have a gutting of the Clean Air Act coming along later on.

I congratulate the gentleman for his amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. Oh, I would be happy to yield to my friend, the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I thank the gentleman very much.

I would simply like to add that it seems to me that to accuse this amendment of tying the agency's hands is ridiculous on the surface. It is not going to do that at all. The agency, however, has mounted a direct and concerted attack on the carbon monoxide standards of clean air.

For the gentleman from North Carolina to suggest that the Congress should have nothing to say about an agency which independently decides to set itself off on that course of lowering the quality of the air standards of this country is, first of all, inconsistent with where we normally hear the gentleman coming from in terms of bureaucrats who decide they are going to do their own thing rather than paying attention to what Congress and the people of the United States want; but beyond that, it seems to me that the gentleman from Oregon has offered something here which Congress can reassert what it originally intended, and that was not for the EPA to reduce the air quality standards of the United States.

I thank the gentleman for yielding.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out to clarify this debate that this discussion of multiple exceedences is not, as the gentleman from Washington has alluded to, an all-out attack on the CO standard, but it is a scientific method of trying to provide for a national ambient air quality standard that is realisitic for CO. The multiple exceedence idea was supported by the Clean Air Science Advisory Committee. The Clean Air Science Advisory Committee reached a consensus that a multiple exceedence standard has both a scientific as well as an administrative merit. From a scientific point of view, the approach recognizes that there is a random like character of meteorological events; administratively it reduces the element of chance in determining compliance with the standard.

In recommending that EPA adopt the multiple exceedence standard, the committee notes that an increase in the number of allowable exceedences may relax the existing standard if the standard level remains unchanged; but the salient feature here is that with multiple exceedences could come—and this is what is being discussed—a CO standard which could result in greater protection of public health.

Now, in order to provide protection to the public health with an adequate margin of safety, EPA should scientifically and medically consider which standard over a period of time would minimize CO exceedences. For example, studies done show that the 9-parts-per-million standard level taken over an extended period of time with potentially five exceedences actually provides for a lesser CO exposure than 12 parts per with one violation.

Now, I know that we are in an election year and any talk of trying to look at some of the demerits, some of the problems of the Clean Air Act, immediately bring on charges of gutting the Clean Air Act. Well, nothing could be further from the truth.

Not only is the Clean Air Science Advisory Committee active here, but the EPA Science Advisory Boards are active.

Now, these are concepts which have been developed by scientists, by medical and public health specialists; these are not an attempt, as the gentleman from Washington has stated, to mount an all-out attack on the CO standard. This is to make some intelligent air quality regulations to the American people.

A standard that focuses on a more stable value, perhaps such as the fifth, but not necessarily highest expected 8-hour concentration, would tend to reduce the impact of some unusual weather event and could be used to provide a more predictable, more understandable, more meaningful, perhaps even higher quality CO standard for this country.

I doubt if many Members of this Congress—and this is really the key point—feel that they have either the scientific or the medical expertise to second guess the Clean Air Science Advisory Committee on this issue, the Science Advisory Boards on this issue.

I think the amendment by the gentleman from Oregon (Mr. WYDEN) is simply inappropriate. It would set a terrible precedent for how Congress handles complex scientific issues.

Mr. WIRTH. Mr. Chairman, I rise on behalf of Representative WYDEN's amendment to the HUD-independent agencies appropriations bill. This amendment prevents the Environmental Protection Agency (EPA) from devoting its resources to raising the primary national ambient air quality standard for carbon monoxide (CO). As my colleagues know, under the Clean Air Act EPA must establish and revise ambient air quality standards as appropriate. The standards are set at levels that protect the public health with an adequate margin of safety—in other words, the CO standard is intended to make our air safe to breathe.

On May 5 I joined with several of my colleagues from the Energy and Commerce Committee in releasing two EPA documents that proposed a relaxation in the CO standard. The revised standard in the EPA's draft final rule would raise carbon monoxide pollution by an average of 33 percent nationwide. In some already severely polluted urban areas like my own home, the Denver metropolitan area, the new, weakened standard may permit increases of up to 50 percent in CO levels.

In the back door fashion we have grown accustomed to under the Reagan administration's EPA, the proposed change in the CO level is not the product of open and clear debate. Instead, it is subtle, technical, and equally effective at reaching EPA's ultimate goal. If EPA implements the change suggested in its draft final rule, both the 9 parts per million (PPM) level of the 8-hour primary standard and the 35 parts per million level of the 1-hour primary standard would be unchanged. Instead, EPA plans to increase the allowable exceedances of those standards from once per year to five times per year, and to liberalize the data requirements the State must meet. In short, the EPA proposal is one of the most cynical abuses of administrative power I have seen in 8 years in the House.

Higher levels of CO will result in greater health risks for all Americans. Of course, the greatest impact will be felt by the 7.7 million Americans suffering from cardiovascular diseases. For these people, ordinary exposure to higher levels of CO can routinely lead to angina attacks, and the risk of fatal heart attacks is correspondingly increased. Perhaps the most respected researcher in CO's health effects, Dr. W. S. Aronow, has found that blood concentrations of only 2 percent CO compounds produced observable symptoms in individuals suffering from heart ailments. Under the draft final rule, 2.7 to 3 percent is officially considered the lowest level for which protection is necessary, and 2.5 percent provides an adequate margin of safety.

The new standard would pose a special danger to unborn children. Pregnant mothers who breathe high levels of CO can affect their fetus' mental and physical growth. The general population will also face higher risks through this mere administrative action—the health danger that the 60 million Americans living in CO nonattainment areas would not be solved. It is simply ignored.

For the 10 million people living in high altitude areas the relaxed standard presents an extraordinary danger. Studies have shown that both CO exposure and high altitudes reduce the oxygen available to human tissues. For tissues with high oxygen requirements, such as exercising muscles, the heart, and the brain, the risk is severe. For those Americans living in high altitude areas, there is little comfort in knowing EPA did not hold the combined effects of the high altitude and CO factors to be a significant consideration.

EPA's action on the CO standard is both consistent, and extraordinary, when contrasted to other environmental and energy policies of the Reagan administration. I say extraordinary because of the immediate danger the change in the CO standard presents for millions of Americans. None of us would choose to breathe dirty air, but we have little choice, for despite the administration's claims, Government is the only institution which now insures we have clean air to breath. By retreating from our national commitment to clean air, EPA is acting most irresponsibly.

I urge my colleagues to support the Wyden amendment. As Representative WYDEN pointed out, the amendment does not prevent EPA from reviewing the CO health standard. Rather, it limits EPA to changes that do not pose a significant threat to the public welfare.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WYDEN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALGREN: Page 42, immediately after line 18, insert the following new section:

SEC. 417. None of the funds appropriated by this Act may be obligated or expended to promulgate, issue, prescribe, implement, administer, make, or enforce any finding, rule, order, or sanction under the Clean Air Act on any State or political subdivision thereof for failure to adopt, implement, conduct, or enforce a vehicle emission control inspection and maintenance program. Nothing in this section shall be construed to preclude the use of funds for the purpose of providing technical assistance under the Clean Air Act to any State or political subdivision thereof or to terminate in accordance with such Act any sanction imposed under such Act for such a failure.

□ 1800

Mr. WALGREN. Mr. Chairman, this amendment would prohibit the use of EPA funds to mandate automobile emission inspection and maintenance programs during fiscal year 1983.

The amendment would, in effect, provide a 1-year moratorium on the imposition by the Federal Government of automobile inspection and maintenance with respect to emissions.

I believe this kind of moratorium is only reasonable in view of the massive resistance to auto I&M programs by the public and in view of the fact that the Congress is presently considering changes in the Clean Air Act, which may change completely the circumstances under which any such auto I&M program would be considered appropriate.

It should be understood that this amendment would not prevent any State that chose to have an I&M program from having such a program; but it would prevent the EPA from forcing States to adopt I&M programs by threatening to cut off Federal funds or to ban all new construction.

Under the present Clean Air Act, States that cannot meet the December 1982 deadline for national ambient air standards for ozone and carbon monoxide can request an extension. But they can receive that extension only if the State agrees to establish an inspection and maintenance program for automobile emissions. And if the States refuse, Federal sanctions must be applied and these sanctions include the withholding of Federal highway funds, Federal sewer funds, air quality funds and, worst of all, the imposition of a ban on construction of new facilities or major modifications of other industrial plants.

This is a very unpopular program. In Pennsylvania, for example, the State legislature refused to appropriate funds for an inspection and maintenance program and then even overrode a veto by the Governor in order to protect their constituents from the expense and inconvenience of an automobile inspection and maintenance program.

EPA has now published in the Federal Register notice that it may impose a construction ban on Pittsburgh and other areas of the State of Pennsylvania. But Pennsylvania is not alone in being under the gun of this kind of mandate by EPA. In April of this year, EPA notified 11 States that they intend to impose sanctions for their failure to require automobile emissions inspection and maintenance. These States include: North Carolina, Tennessee, Kentucky, Illinois, Indiana, Michigan, Ohio, Wisconsin, Texas, Missouri, and Nevada.

I am asking my colleagues to stop I&M for 1 year because I just do not believe that an I&M program forced by the Federal Government can be effective. I do not think it will result in significant improvement in air quality because it will be so easily circumvented.

Federal mandates that are little understood are usually vigorously resisted. The results are paper programs, replete with loopholes—programs that are unable to be enforced.

I would add that anyone who has seen the little brass plugs available at auto supply stores that very simply

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bypass the collecting manifold for most emissions systems will know how easy it is to bypass emission control systems. Many States who do not want I&M do the least possible, and the result is a program that does not significantly contribute to clean air.

THE WALGREN AMENDMENT WILL HELP PENNSYLVANIA

On I&M, Pennsylvania is probably in a unique situation. In 1978, the State signed a consent decree agreeing to implement I&M, but in 1981, the general assembly refused to appropriate funds for it; the legislature then overrode the Governor's veto. A Federal judge has ordered that Pennsylvania lose $91 million in highway funds. The State's lawsuit requesting judicial relief has not been successful even though it has been appealed all the way to the U.S. Supreme Court.

The district court decision makes clear that the sanctions now imposed on Pennsylvania can only be lifted by modifying the 1978 consent decree. The decree specifically provides that—

> Jurisdiction is retained by this court for the purpose of enabling any party to apply to the Court at any time * * * for the modification or termination of any of the provisions herein upon a showing of changed circumstances and good cause.

The State's request to modify the decree to eliminate the I&M requirement has been denied. In denying that request the district court stated that—

> There has been no change in the Clean Air Act * * * upon which the present consent decree rests. In effect, the Court is saying that to satisfy the "changed circumstances" test of the consent decree, the requirements of Federal law must be changed.

Ideally, the basic statute should be changed. It is not certain that we will be able to do that. With $91 million at stake, Pennsylvania needs help now.

I believe that the adoption of my amendment would create "changed circumstances" by changing Federal clean air policy and would meet the requirement established by the U.S. district court.

I have obtained from the Congressional Research Service a legal opinion that my amendment would achieve a changed Federal policy regarding the imposition of sanctions on States which chose not to enact I&M. The opinion notes, "Your amendment would effectively bar EPA/DOT from withholding highway, Clean Air Act, and sewage treatment plan money on account of I/M-related noncompliance." It also says that "the fact that the proposed restriction on use of H.R. 6956 funds undermines a mandate contained in a substantive (nonappropriation) statute in no way lessens its force and validity. There is no reason why Congress if it so wishes, cannot do by a provision in an appropriations act what it could do in a separate act."

Thus, I believe that approval of this amendment would represent a change in Federal policy of which the Federal judge in the Pennsylvania case could take note.

I&M puts the responsibility for air cleanup on the wrong person, the car owner. The auto industry is the one who should manufacture clean cars with emission devices that work and that last. Effective testing and certification by the manufacturer should insure that purchasers get cars with good emissions equipment that will continue to function.

I believe that good government, in addition to politics, is the art of the possible and to run roughshod over public opinion is to create public resistance and that can truthfully end up destroying necessary public support for reasonable environmental regulations that are important to everyone. There is no question that automobile emission inspection, in the eyes of the public, is an extremely unpopular program.

Under these circumstances, clearly, a 1-year moratorium before proceeding down this road, is the only prudent way for the Congress to proceed.

I urge my colleagues to support the amendment.

The CHAIRMAN. The Committee will rise informally.

ENROLLED BILLS SIGNED

The **SPEAKER** resumed the chair.

The **SPEAKER**. The Chair lays before the House the following enrolled bills and Senate joint resolution:

H.R. 1710. An act to authorize the use of frank for official mail sent by the Law Revision Counsel of the House of Representatives;

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke;

H.R. 6068. An act to authorise appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorise supplemental appropriations for the fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes;

S. 2582. An act to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes; and

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

The **SPEAKER**. The Committee will resume its sitting.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1983

The Committee resumed its sitting.

The **CHAIRMAN**. For what purpose does the gentleman from New York (Mr. GREEN), the ranking member of the Subcommittee of the Committee on Appropriations, rise?

Mr. GREEN. Mr. Chairman, I rise in opposition to the amendment.

This is very similar, Mr. Chairman, to an amendment which was defeated last year during consideration of last year's HUD-Independent Agencies appropriations bill, and I hope that the House will give the same fate to this amendment.

Unlike the previous amendment, which essentially sought to hold the status quo in place while the Clean Air Act was under consideration, this amendment seeks to make a major weakening of our Clean Air Act and regulations through this appropriations bill. Essentially what it wants to do is to take out the enforcement of the requirements that States, under certain circumstances, have to have vehicle emission control inspection and maintenance programs.

I happen to think that where you have an air pollution problem, that kind of a program is a very important part of the process of cleaning up our air.

I very much hope that Members of this House would not use the vehicle of a rider on an appropriations bill to weaken our clean air legislation through the vehicle of this amendment. The fact of the matter is that what we have done in Clean Air Act amendments in the past to improve the quality of the air by restrictions on motor vehicles will, to all intents and purposes, be significantly dissipated if this amendment is allowed to pass, at least for the period of time it takes effect; and from the fact that this is the second year in which it is offered, it seems rather obvious that its sponsors intend this to be an ongoing thing.

Again, it seems to me that if we ought to make changes in the Clean Air Act, the vehicle through which the House should consider them is the Clean Air Act itself. I only can express my hope that we can, in the Committee on Energy and Commerce, and then in the full House, at some point proceed to consideration of that act. But plainly, this would be a serious weakening of the present legislation.

I think that is wrong, and I do not think it should be done by a rider on an appropriations bill.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield to me?

Mr. GREEN. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. I thank the gentleman for yielding.

Mr. Chairman, for the past 5 years my home State of New Jersey has operated a popular and cost-effective program to clean up its air—the inspection and maintenance program for automobiles. Polls in our State have found that automobile owners are willing to help do their part to clean up our air by participating in the program.

But I have been disappointed that other cities and States which violate national health standards for automobile pollutants have not adopted this program. The present Clean Air Act requires that cities, which need until 1982 to meet the national ambient health standards for carbon monoxide and ozone, must adopt an inspection and maintenance program.

Today, I urge my colleagues to join with me in voting against the amendment to H.R. 6956 which attempts to block EPA enforcement of requirements for State inspection and maintenance programs. I believe that EPA enforcement of I&M programs is a crucial deterrent in preventing the deterioration of national air quality standards. What is more, inspection and maintenance programs are working quite effectively. I have reviewed EPA projections which State that auto I&M programs are critical in determining whether areas attain air quality standards.

Cooperation between States and the EPA has reduced hydrocarbon emissions by as much as 20 percent and carbon monoxide by up to 36 percent a steady increase in auto use. We simply cannot ignore the very real contributions which I&M programs are making in the fight for clean air. And I fail to see why we should reward inaction and gross disregard for the public health and welfare.

Finally, the amendment before us this afternoon does not change the law requiring State auto inspection programs. It merely eliminates EPA's ability to enforce this statute opening the way for enforcement by the courts. I believe that leaving a program mandated but unadministered creates a tension in the law which would no doubt lead to a rush of citizen lawsuits and a depreciable decrease in air quality.

We cannot afford to gut a program which is effective in maintaining national air quality standards. I urge my colleagues to join me in voting against the amendment to eliminate I&M enforcement by the EPA. A vote against this amendment is a vote for the environment.

Mr. GREEN. I thank my colleague from New Jersey for his comments, Mr. Chairman.

This is an area which has concerned me deeply—when I was in our State legislature a sponsor of legislation which put on the books what I think is one of the first State laws in the country requiring a State inspection program to include automobile air pollution control equipment inspections.

I would hate to see the House today make this major step backward.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield to me?

Mr. GREEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks and those of my colleague from New Jersey (Mr. Hollenbeck). I, too, was the author of clean air/clean water legislation in my State assembly and have cared about this for a long time.

Mr. GREEN. I thank the gentlewoman for her comments.

□ 1810

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to begin by complimenting the gentleman from Pennsylvania (Mr. Walgren) for bringing this amendment up, for the foresight in trying to at least do something about a problem that I think needs, for the benefit of the House, to be properly outlined.

The vehicle, incidentally, which Mr. Walgren has decided to try and use today is necessary because we have tried to get a hearing for some amendments which we thought could constructively change the law before the Committee on Interstate and Foreign Commerce. We had a great deal of help from the chairman of the committee, the gentleman from Michigan (Mr. Dingell), and I would like to thank him also. But, we are now left here today with this route, and we have been working on this problem for 2 to 3 years now and we do not have much alternative.

The State of Pennsylvania presently suffers under a consent decree. To give the Members an example of the absurdity with which this law has been applied to us, in a four-county area, should a resident of one of the affected counties who lives in the furthest boundaries of the affected district drive out of it to work, that person is subject to an inspection. Should someone who lives outside of that area, yet drives into it to work and spends most of his traveling time within the affected area but not reside within it, that person is not affected by an inspection requirement.

Data indicates that the degree to which it would perhaps, if fully enforced, affect the peak period emissions within the affected consent-decree areas as a result of this law, which might affect emissions during peak periods, is up to 4 percent. Meanwhile, elderly citizens with older automobiles, automobiles that mechanically are leaving our roads because of attrition, in the face of and facing the lack of those very industrial standards that Mr. Walgren referred to, do not have recourse to that new car, but are subject instead to a consent decree that burdens them unfairly.

Interstate traffic, of course, is not affected. Traffic moving through that area on interstate highways is not affected.

The intent of the law is good. Its application is very unfair. It impacts on those least able to pay. It impacts on those who by accident of residence happen to fall within the confines of the decree.

I have personally, 2 years ago or so, spoken with Judge Bechtel, whose private opinions were that the law was very unreasonable, but he was confined by the way it was written.

I would hope that the Members of this House would understand that the way to deal with this difficulty is to get back to the authorizing committee and rewrite the law the way it should be written. But, that the avenue available to Mr. Walgren and the rest of us in Pennsylvania is precisely the one we have chosen because we have no other choice, and that is to deny the funds necessary to make the enforcement possible of a very unfairly applied but well-intentioned law.

I thank the Chairman.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to commend Mr. Walgren of Pennsylvania for his bipartisan effort to bring this amendment to the attention of the committee, and I am proud to be one of eight Members—four Democrats and four Republicans—who have signed a "Dear Colleague" letter to our colleagues asking them to adopt this amendment when the time for a vote comes.

I think it is appropriate to say at the outset that this legislation of mandatory inspection and maintenance is a part of the Federal Clean Air Act, and is applicable to 29 States of the Union and the District of Columbia. If a Member represents one of those States in this body, he should carefully listen to this debate because his citizens will sooner or later be impacted by what this means to them. The States that now have it in operation are Rhode Island, New York, New Jersey, Georgia, Colorado, Arizona, Virginia, Washington, and Oregon.

The ones that are on the line to get it very soon by way of this mandate of Federal law are Connecticut, Massachusetts, District of Columbia, Delaware, Maryland, Pennsylvania, Kentucky, North Carolina, Tennessee, Illinois, Indiana, Michigan, Ohio, Wisconsin, Texas, New Mexico, Missouri, Utah, California, Nevada, and Idaho.

In 1981, last year, we had a vote on the floor of the House on a substantially identical amendment. That vote

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was 177 for and 184 against. It came on a Thursday afternoon. The total vote was 361. We had a substantial number of the Members not voting, and I think it is appropriate today that we have a full expression of the House on how this matter should be resolved. I would have preferred, frankly, to have the authorization action on the Clean Air Act which the Commerce Committee, on which I serve, has been working lo these many months here in 1982, but for a variety of reasons we are not able to get that bill to the floor of the House for consideration this year because, frankly, there are some deep philosophical differences of opinion on what it should contain, but I can say to the members of the committee that on the issue that is involved right now on mandatory inspection and maintenance of motor vehicles, by the hammer of the Federal Government, on that issue in the subcommittee which considered this matter, by record vote, the subcommittee voted 14 to 6 to in effect adopt the amendment that is now pending before the committee.

In addition, when the matter came before the full committee, the full Committee on Energy and Commerce voted 25 to 12 by a record vote to adopt the amendment now pending before the committee. The point of these votes is this: We are doing something here on an appropriation measure, but we are doing something that expresses the concensus of the members of the policy committee that has considered this legislation.

Now, what is the benefit of inspection and maintenance? One can find studies all over the map reflecting some of the reductions in smog to be anticipated if we inspect every motor vehicle in America. The Automobile Club of Southern California has produced some credible studies indicating that if we adopt annual mandatory inspection and maintenance in southern California, we can reduce hydrocarbons in that region of the country by 3.6 percent. We will reduce oxides of nitrogen by 2.2 percent.

Now, that is a pretty modest reduction for the cost, which is a relevant question. What do we have to pay for it? Well, we have 7.3 million motor vehicles in southern California, and every motorist, if such a law is adopted, is going to have to spend $11 a year to have his or her car inspected. Now, statistically, 46 percent of those vehicles will fail when they are tested, and that has meaning to those people who are in the category of failing because they have to come back and have them test it again, and for those motorists it is going to cost them an additional $47. So, 3.6 million motor vehicle owners in southern California will have the privilege of paying $47 a year plus the privilege of standing in line twice, plus the privilege of discussing with some motor repairman whether or not the work should be done.

Mr. CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Dannemeyer was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. This cost to the motorists of just southern California, and we represent roughly 12 percent of the motor vehicles in the Nation, comes to some $211 million a year—$210.7 million a year, to be precise.

□ 1820

So if we extrapolate that nationwide we would have a factor of at least 10 times that for the cost nationwide on the consumers of this Nation for a modest reduction in smog.

Is it really worth it?

I mention this because I think it deserves repeating time and time again. There is nothing in the pending amendment that precludes any State from adopting annual inspection and maintenance of motor vehicles if it chooses to do so. We are not dealing with that.

All we are saying here today is shall we continue the Federal mandate which says to the States of the Union, independent of what their legislature says, if you do not do this, friends, in those States of the Union, some 30, if you do not do this you are going to lose highway funds, you are going to lose sewer construction funds, you are going to have a construction ban imposed on your region of the country precluding any economic development of any type at all.

In conclusion, just let me make this observation: I think that the prudent thing for us to do is to adopt this amendment, to tell the EPA that they may not use the appropriated funds in this bill for the purpose of enforcing a measure which the people of this country do not want, which has marginal benefit in terms of smog reduction, which is going to place a regulatory burden on all of the automobile owners of our country.

I think the prudent thing for us to do is to adopt the amendment.

I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment as I did last year and the House rejected the amendment last year as well. We should follow the precedent again this year.

What we have before us is an attempt to legislate the Clean Air Act on an appropriation bill by telling EPA they cannot use money to enforce the law.

Let me begin by explaining what the automobile inspection and maintenance, or I&M, as it is usually called, is all about.

Automobiles emit harmful pollutants such as carbon monoxide and hydrocarbons which are known as causes of chest pain and aggravation to cardiovascular diseases.

Because of the Clean Air Act automobile manufacturers have designed and produced cars that emit less of those pollutants.

The 1983 cars that are now being certified emit 90 percent less hydrocarbons and carbon monoxide than pre-1970 cars.

But experience has shown that even though we are manufacturing cleaner cars, cars get dirtier on the road because of poor maintenance by motorists. Often drivers neglect to have their cars kept in tune. Some even remove the pollution control equipment altogether or poison it by using leaded gasoline.

That is why Congress in 1977 decided that motorists had to be given an incentive to maintain their cars properly and we adopted this requirement of inspection and maintenance in areas that would not be able to meet the clean air standards for health, protection of the public health by 1982.

Now we have I&M as a reality in 10 areas of the country including the States of Rhode Island and New Jersey. In my own State of California I am proud to announce they have adopted an I&M program this last month.

Experience clearly shows that the program is successful. It works. It reduces the auto fleet emissions of hydrocarbons by 20 percent and carbon monoxide by 36 percent.

The real issue, if there is controversy over whether I&M works or not, is one to be resolved by the authorizing committee, not to offer a proposal here to deny EPA funds to enforce the law.

Will it help the people in Pennsylvania who do not like the I&M program there? I do not believe it will. The courts there are the ones who impose this requirement on Pennsylvania, not the EPA. To deny EPA funds will not deny the court the ability to carry out the law.

Furthermore, I want to point out that even the administration, which vigorously opposes the I&M requirement, has opposed this amendment because they do not believe this is the way to deal with these issues through an appropriation bill.

This amendment does nothing to deal constructively with the I&M program. It is going to confuse the legal situation.

EPA will be told by the Congress not to spend the money to enforce the law but a lawsuit will be brought because the law is clear that I&M must be part of a program where the air is dirty. So EPA will be forced by the courts.

I do not think we are doing anything constructive along these lines.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am glad to yield to the gentleman from Pennsylvania.

Mr. EDGAR. I would like to commend the gentleman for his comments.

I may be one of the few members of the Pennsylvania delegation to oppose this amendment and I do so reluctantly.

In Pennsylvania we do have a problem but I think the gentleman is correct in stating that this amendment will not alleviate the pain on Pennsylvania. The signing of the consent decree back in 1977 in my opinion will in fact mean that this amendment will not take away from the courts jurisdiction their obligation to administer the law which is in place.

I think it is important for the State legislature to proceed in a careful and concise way with putting in place an operation and maintenance system for air quality in the five-county metropolitan area of Philadelphia and in Pittsburgh because a priority over and above the crankiness of the State legislature is that we have clean air for our generation and for future generations.

Mr. WAXMAN. I appreciate the gentleman's comments and want to commend him on his courage. I know the people in the Pennsylvania delegation seem to be quite agitated about this whole issue, but this is really not the place to solve Pennsylvania's problems. We ought to deal with it in the Clean Air Act reauthorization which I would have hoped we would have had on the floor at some point.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to my colleague from California (Mr. Dannemeyer).

Mr. DANNEMEYER. I thank my colleague for responding.

Would the gentleman from California be kind enough to give the source of the spokesman from the administration who the gentleman from California says is opposed to this amendment?

Mr. WAXMAN. Yes; I have a letter in my hand which I will share with the gentleman and in fact make a part of the Record.

The CHAIRMAN. The time of the gentleman from California (Mr. Waxman) has expired.

(At the request of Mr. Bailey of Pennsylvania and by unanimous consent, Mr. Waxman was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. This is a letter from the U.S. Environmental Protection Agency dated September 13, 1982:

> Dear Mr. Chairman: In view of the approaching debate on H.R. 6956, and in response to your letter of August 25, 1982, I thought you would like to have the enclosed position statement.

The administration sets out their position agreeing with the gentleman on the substance but disagreeing with the gentleman on amending the appropriations bill.

I will be pleased to share this with the gentleman and make it a part of the Record.

Mr. DANNEMEYER. Does the gentleman interpret that letter as a position of this administration in opposition to this amendment?

Mr. WAXMAN. I will share this, and I do. I do understand that that is their position.

Mr. DANNEMEYER. If the gentleman would be kind enough to put that letter in the Record I think it will speak for itself.

The administration cannot, in my humble opinion, by any stretch of the imagination be concluded to be in opposition to this amendment on the basis of the letter before the gentleman from California.

Mr. WAXMAN. I would like to quote from their position.

> In most cases sanctions would be instituted only after EPA makes a finding that a State plan or the implementation of it is deficient. Since the amendment, by prohibiting expenditure of funds, would stop EPA from making such a finding on I&M programs it would prevent any new sanctions from occurring as a result of EPA action. It is possible, however, that sanctions could be imposed by the courts as a result of citizen suits, which would not be prevented by this amendment. In a recent case in Pennsylvania—

As was the case of concern here—

> A District Court judge enjoined the U.S. Department of Transportation from awarding highway funds in areas of the State which have not implemented an I&M program, as a result of a citizens suit.

They say:

> Since the amendment prohibits all expenditures of funds by EPA regarding failure to adopt an I&M program the amendment may have two additional effects:
>
> One, for those areas of the country in which sanctions have already been imposed, EPA might be unable to conduct a rulemaking to remove those sanctions.

The CHAIRMAN. The time of the gentleman from California (Mr. Waxman) has again expired.

(At the request of Mr. Dannemeyer and by unanimous consent Mr. Waxman was allowed to proceed for 1 additional minute.)

□ 1830

Mr. WAXMAN. I do want to read one sentence which I think is key. The administration's position paper indicates:

> To provide this flexibility in a proper context, any amendment should be directed to the provisions of the Clean Air Act itself in the authorization process rather than to an appropriations measure.

The complete letter is as follows:

U.S. Environmental
Protection Agency,
Washington, D.C., September 13, 1982.
Hon. Henry A. Waxman,
Chairman, Subcommittee on Health and the Environment, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In view of the approaching debate on H.R. 6956, and in response to your letter of August 25, 1982, I thought you would like to have the enclosed position statement.

I hope this will be of some assistance.

Sincerely,

Leland E. Modesitt, Jr.,
Director, Office of Legislation.

Restrictions on Imposing Sanctions of the Clean Air Act for Failure to Implement I/M

ADMINISTRATION'S POSITION ON I/M

The Administration is opposed to the mandatory requirement for I/M. Requiring its use in all areas of nonattainment nationwide, without regard to local circumstances and needs, is inappropriate. The States should be allowed more flexibility to choose among available strategies, including I/M, in devising their air quality attainment and maintenance plans. To provide this flexibility in a proper context, any amendment should be directed to the provisions of the Clean Air Act itself in the authorization process rather than to an appropriations measure.

EFFECT OF PROPOSED RESTRICTION

In most cases, sanctions would be instituted only after EPA makes a finding that a state plan or the implementation of it is deficient. Since the amendment, by prohibiting expenditure of funds, would stop EPA from making such a finding on I/M programs, it would prevent any new sanctions from occurring as a result of EPA action. It is possible, however, that sanctions could be imposed by the courts as a result of citizen suits, which would not be prevented by this amendment. In a recent case in Pennsylvania, a district court judge enjoined the U.S. Department of Transportation from awarding highway funds in areas of the State which had not implemented an I/M program, as a result of a citizen suit.

Since the amendment prohibits all expenditures of funds by EPA regarding failure to adopt an I/M program, the amendment may have two additional effects:

1. For those areas of the country in which sanctions have already been imposed, EPA might be unable to conduct a rulemaking to remove those sanctions.
2. The Agency is currently involved in processing 1982 SIP revisions. The amendment might prevent EPA from taking regulatory action on that portion of a SIP revision related to I/M, unless it were approvable, because the amendment prohibits use of funds for rules or sanctions relating to failure to implement I/M. EPA is now reviewing the 1982 SIPs and some may be determined to have deficiencies.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. DANNEMEYER. Is it not correct to say that the EPA, within the last few days, has issued a position which states that "the Administration is opposed to the mandatory require-

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ment for I&M?" Is that not a correct statement of fact?

Mr. WAXMAN. It is a correct statement to say that they would like to see the Clean Air Act amended, but they are specifically saying to us in this position paper they do not want to see the appropriations process used to amend the Clean Air Act because it is going to lead to a great deal of confusion for them to figure out how to enforce the law, to be faced with citizens' suits, and to have otherwise their activities disrupted.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I just have one question.

Does the gentleman have a figure on the percentage, the effect that the program would supposedly have on emissions in the Pittsburgh area? Does the gentleman have any figures on the affected Pennsylvania areas?

Mr. WAXMAN. No, I do not have the figures on that.

Mr. JAMES K. COYNE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of this amendment today. And, of course, I am pleased to hear the comments of many of my colleagues from other parts of the country when they speak in glowing terms of their own States' commitment to clean air and clean water and a better environment. As a Pennsylvanian, I would like to add my own voice to those who are proud of the track record of this Nation over the past 10 or 15 years and, furthermore, I would like to say that Pennsylvania holds a candle second to no other State in this country with regard to our own commitment to clean air. In fact, I invite any of you to come to Pennsylvania and compare it to the State that we had 20 years ago and tell me if you can think of any other part of the country that has advanced as our State already has.

At the same time, I want to point out that what we have here today is an example of a bureaucratic agency perhaps cutting off its nose to spite its face. The EPA, of course, is committed or tries to be committed to improving air quality standards across the country; but in this particular case it appears that if this amendment is not enacted quickly, Pennsylvania will be faced with a hardship where many of its own programs and the Federal Government's programs to improve our air quality will be set back for at least a year if not longer. Millions of dollars of EPA programs will be held up. And if this is allowed to happen, clearly our own Commonwealth's track record of improving its air quality will be forced to turn backward.

I think we must support this amendment. It has bipartisan support. I am pleased to join with the overwhelming majority of the other Members from the Commonwealth of Pennsylvania to pledge my support for this amendment and at the same time to continue to pledge my support for improving air quality in our Commonwealth.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. JAMES K. COYNE. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentleman for his fine statement. Also, I would like to comment on the remarks we had earlier about the impact of the State's decision and the effect of this particular amendment on the ability of the court to enforce the consent decree in Pennsylvania. And it would alter that ability. I would like to join the gentleman, particularly in regard to his remarks about the progress we have made.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. JAMES K. COYNE. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. Particularly on the point of Pennsylvania's relationship, this amendment, of course, is one that has both local and national elements to it, and it should not be decided just on the case of Pennsylvania. But we have heard some opinion as to whether or not it would be effective in helping Pennsylvania avoid mandatory inspection and maintenance. In my view, it clearly would. And I would like to simply quote from the Court's decree which says that the Court specifically states—

> Jurisdiction is retained by this Court for the purpose of enabling any party to apply to the Court at any time for the modification or termination of any of the provisions herein upon a showing of changed circumstances.

I would submit that if this National Government goes on record that we should have a moratorium of 1 year so that we could evaluate in the direction of how fast and how we should proceed, that that would be a changed circumstance that any court in the land would respect.

Mr. JAMES K. COYNE. I thank my colleague from Pennsylvania.

Of course, I would also like to add that all of us would prefer not to be using this process to be making this statement on the floor of the House. We do not have any more time. The State of Pennsylvania is running out of time, and we are looking forward to a deadline where we really do not have any opportunity to pursue perhaps a more traditional legislative course to make the statement we would prefer to make.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, I wanted to ask the gentleman who was in the well previously exactly what this amendment would do.

As I understand the amendment, the amendment forbids EPA from prosecuting cases of I&M, but in no way touches the fact that Pennsylvania is going to lose $90 or so million because Pennsylvania has not complied with the consent decree it signed back in 1977.

So it is my impression that, while this may stop future prosecutions and future efforts by the courts to shut down States that do not comply, the State of Pennsylvania will in fact have the obligation to comply or lose this October 1 the kind of money in the neighborhood of $91 million. I have checked that with Drew Lewis, the Secretary of Transportation here, and also the State secretary of transportation.

Mr. MOFFETT. Mr. Chairman, I hope we defeat this amendment. It is obvious that there is not as much of an appetite in this Chamber at this moment and in this year as there might have been in the past for imposing things on the States, and that is not all bad, that kind of change; but there are some areas where we have to take responsibility and we have to assert leadership from a national legislature, and this is really one of them.

This amendment, with all due respect to its author, the gentleman from Pennsylvania, for whom I have the greatest respect, is really an example of the New Federalism of environmental control.

The gentleman from California (Mr. DANNEMEYER) talks about, "Well, they can do it if they want to." We all know what the track record was before the enactment of the 1977 clean air amendments, what the track record was under a voluntary program. Almost no State availed itself of this opportunity.

This is never pleasant, imposing deadlines. And we have discussed the deadline on Pennsylvania here today. There have been deadlines on other States. It is never pleasant. It is a tremendous hassle for the States. It puts the legislature on the spot. But it is aimed at a very important goal that is perfectly consistent with the Clean Air Act in the 1977 amendments.

If we adopt this amendment we are sentencing communities to unhealthy air for an unlimited period of time. It is as simple as that. You can talk about, "Well, there are other alternatives, and we can do it some other way," but we all know what the direction of the markup has been in the Commerce Committee. And I think there is no question that we are, in fact, handing out a sentence.

Finally, we are saying that it is not a choice of either cleaner cars or nothing. It is a choice of: Do you want to take your chunk out of the automobile? Or do you want to take it out of factories and other sources?

And it could well be that if we do not make progress with regard to hydrocarbon pollution, for example, through the inspection and maintenance program, we run the very real risk of damaging economic growth; because if cars do not control their pollution, factories and other sources will certainly have to.

Take a look at the list. And the gentleman from Pennsylvania (Mr. Bailey) was looking for a list. This is one I will be happy to share with him in a moment. But there is a real difference, a world of difference between where we find attainment by a variety of communities—I believe in 29 States—under the inspection and maintenance program and without the inspection and maintenance program. And it comes from an EPA which I think has been less than dedicated to a strong Clean Air Act implementation.

I know in Stamford, Conn., for example, there is a world of difference between reaching attainment with I&M and reaching it without. We are in danger of becoming the CO capital of the world, the Los Angeles of the East, if the gentleman from California will excuse the expression. And we need an inspection and maintenance program. It is not pleasant to insist that it happen, but I think we have to do it.

□ 1840

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentleman for yielding.

I hope the gentleman will understand. I recognize the gentleman in the well as someone who probably is as or more sincere than anyone in this body when it comes to environmental concerns. I think the gentleman has a good track record.

I also would wager a friendly bet that yielding to his judgment, were he to evaluate the consent decree under which Pennsylvania now labors, that the gentleman would reach the conclusion that it is rather counterproductive and quite frankly, the legislation that all of us introduced that dealt with strict industrial standards went more to the heart of the problem.

I think the gentleman would probably be far more supportive than that.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. Moffett) has expired.

(At the request of Mr. BAILEY of Pennsylvania and by unanimous consent, Mr. Moffett was allowed to proceed for 1 additional minute.)

Mr. BAILEY of Pennsylvania. If the gentleman will yield further, I think if the gentleman had an opportunity to go over the consent decree that he would agree with us there are wider obligations and unfortunately we were stuck with this procedural route.

Mr. MOFFETT. I understand that. I think we all know something about what it means to be stuck with a certain procedural route that may not be pleasant. My point is this is not a free ride in one direction. If we do not do this, we end up paying for it in health costs.

I do not want to be overly dramatic, but the infants in an area that does not reach attainment now and reaches it 5 years later do and can suffer some damage.

Mr. BAILEY of Pennsylvania. I am glad to learn the gentleman supports us in our efforts to spend these limited resources more wisely. I thank the gentleman.

Mr. ATKINSON. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, in 1978 there were some 9 million automobiles coming off the assembly lines in this country. Twenty-five percent of these failed to meet the standards. So we are asking the motoring public to do what the manufacturing process has not done.

In addition to that, there is not a real good scientific method for testing. I went to region 3 in Philadelphia and asked them the question. They said there is not. They said it is still on the drawing boards at Ann Arbor and costs them $18,000 to produce a piece of equipment that would properly test.

I had a town hall meeting in Richland, Pa., in my congressional district to show this is not a Pennsylvania question only. A lady stood up and said she was in the Carolinas and she brought her car into a testing area. She tested it there and it failed. She took it outside the garage and sprayed the exhaust system with heavy perfume, brought it back through, and it passed.

So it just proves to me that is about the most unscientific thing that could be done.

In my view, the recommendation and the amendment offered by the gentleman from Pennsylvania (Mr. Walgren) asking for a 1-year delay is certainly in order.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment. It is a good amendment and it should be adopted. Last year I opposed the amendment because I felt that the Committee on Energy and Commerce could amend this rigid and I believe unworkable provision to the Clean Air Act along the lines suggested by the National Commission on Air Quality.

The committee in its deliberations on clean air legislation did so. However, we have been unable to bring the bill to the floor in a timely fashion as I had hoped.

I no longer oppose this amendment. I believe the amendment is needed to afford the States the needed flexibility in achieving the clean air requirements of the act by the deadlines established in the act. The amendment will not in any way weaken the clean air requirements of the law. The amendment does not preclude the States from adopting an inspection and maintenance program. It only precludes EPA from requiring such program for a period of 1 year.

Some have suggested this amendment would bar EPA from lifting sanctions already imposed. That is not true. The amendment precludes EPA from enforcing sanctions against a State, and I quote, "for failure to adopt, implement, conduct, or enforce" an I&M program. It does not in any way affect whatever EPA authority exists under the Clean Air Act to terminate sanctions imposed by EPA for a failure to comply with the inspection and maintenance requirements of the act.

The act does not specifically provide authority for terminating sanctions. Indeed, I am uncertain about the basis for EPA taking such action. This amendment does not affect whatever meager authority EPA retains on such termination.

I support and I believe it is necessary that we should have a fair, a clear, a consistent, and ongoing inspection program where it may be needed for the most seriously polluted areas of the country.

However, the present law and its implementation has not provided such program. Inspection and maintenance is required regardless of the seriousness or term of the pollution problem. Indeed it is fair to observe that many areas in the country under the law as it is now constituted will be compelled to spend not millions or thousands but hundreds of millions of dollars to establish a program where it is unnecessary to achieve clean air quality after a very brief period of time.

The adopted program exempts many vehicles that are heavy polluters such as trucks, buses, and older cars. Certainly if cleanup is to occur, this is one of the beginning points where cleanup should be commenced. It places dollar limits on the repairs that benefit fleet owners, commercial users, the more affluent while individuals such as the oc-

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casional driver and the poor are compelled to pay.

Some States have adopted biennial programs which raises extreme doubts about the effectiveness of clean air. I would observe that the State of New Jersey, whose program has just been lauded for its popularity, was the subject of comment in a press release put out by the Governor and the attorney general wherein New Jersey has found it necessary to go to a biennial program, and the reason? Because motorists are being compelled to wait long periods of time—up to 3½ hours in line—to try and deal with the problems of inspection and maintenance, because the State has not been able to establish a program that will deal more expeditiously with the concerns of the State.

Beyond this, there are some other things that need to be observed.

The National Commission on Air Quality made recommendations about eliminating the inflexibility of the program now in law which was written more in enthusiasm than in knowledge. The Commission's recommendations, if adopted, will move us toward air quality; and if we are not able to deal with that question statutorily by legislative behavior, then at least we can prevent excessive hardship from being imposed upon the people by a provision of law that is uniformly recognized as being both excessive, inflexible, imposing hardships, and contributing only modestly to our progress in clean air.

I believe that since we are finding it enormously difficult to deal with the matter legislatively, we should at least deal with it on the basis of handling the matter under the appropriations law by withholding the funds.

I urge the adoption of the amendment. I believe that it is good, it is desirable, it is just, and it is fair. It meets the problems of the Nation and will not impair air quality.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Michigan.

Mr. DUNN. Mr. Chairman, I thank the ranking member from Michigan for yielding to me and would like to say I strongly endorse what the gentleman in the well is saying.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. DUNN and by unanimous consent Mr. DINGELL was allowed to proceed for 1 additional minute.)

Mr. DUNN. If the gentleman will continue to yield, the gentleman in the well should be recognized as one of the original coauthors of the Clean Air Act. For him to endorse this as good policy should be good enough for all of us. I thank the gentleman for his leadership in this role.

Mr. DINGELL. I thank my dear friend. I would observe my colleagues in Pennsylvania like Mr. BAILEY and the author of the amendment have a legitimate complaint that should be met by the House.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. WILLIAM J. COYNE. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Pennsylvania.

Mr. WILLIAM J. COYNE. Mr. Chairman, I rise in opposition to this amendment, a measure which makes light of the established committee process of this body while attempting to strike at the heart of the Clean Air Act.

If a Member has a disagreement with a portion of the Clean Air Act, a public law supported by more than 80 percent of the American people, according to recent polls, the House floor appropriations process is not the place to express that disagreement. The many complicated issues associated with the renewal of the Clean Air Act have been considered by the House Energy and Commerce Committee for months. It is in that forum, and in the House debate on the reauthorization of this very important act, that objections to specific provisions should be heard.

I am not sure of the purpose of this amendment, coming as it does in the midst of debate over an appropriations bill. Do the sponsors believe that by cutting off funds for a program they do not approve, that somehow their objections will be met?

Surely they know this is not the case. Funding sanctions in effect for areas in violation of clean air standards would not be lifted. Individual citizens will retain the right to sue for enforcement of the law where there are violations of emissions standards. If we are to relax the antipollution effort as it relates to autos, we can only expect the number of such suits to multiply, thereby turning over enforcement of the law to the courts.

The buck should stop with the Congress, which authorizes antipollution laws, and the administration, whose duty it is to enforce those laws. By agreeing to this amendment, we would be passing the buck to the courts. The air would not be less polluted, the basic law would not be changed, and the arguments over the inspection and maintenance program's effectiveness would continue. We risk, however, having those arguments ultimately settled in court if we strip the EPA of its ability to enforce existing law.

I believe the inspection and maintenance program of the EPA has proved effective in reducing pollution. According to a 1981 EPA study, estimates of emissions reductions average over a year included a 20-percent reduction in hydrocarbons and a 36-percent reduction in carbon monoxide. Carbon monoxide, we should remember, can cause chest pains and cardiovascular diseases. Hydrocarbons can lead to asthma, eye irritation, and breathing difficulty.

The inspection and maintenance program is also cost effective. A 1981 EPA update showed the cost of inspection to range from $17 in Portland, Oreg., to $30 in California.

Cutting off funds for this program will mean a rise in air pollution from automobiles. If we are to maintain our current clean air standards, we can then expect to hear demands for more stringent controls on industry. By relaxing our antipollution effort for mobile vehicles—the largest single source of pollution in the United States—we encourage more comprehensive controls on industries such as steel. This is an uninviting prospect indeed for an industry already hard pressed by imports and a general economic slowdown.

Mr. Chairman, by cutting off funds for a Federal antipollution effort, the advocates of this amendment argue in favor of States rights when it comes to controlling automobile emissions, conditions do indeed vary from State to State, and flexibility is an important part of the Clean Air Act. A retreat to States rights when it comes to reducing air pollution would undermine, however, one of the most basic rights of the entire population—the right to breathe clean air.

Mr. Chairman, I urge my colleagues to reject this amendment.

Mr. BOLAND. Mr. Chairman, I join with the distinguished ranking minority member of the subcommittee in opposing this amendment. We have been over this course before. It is a retread of the amendment that was defeated last year. I associate myself with the remarks of the distinguished gentleman from California (Mr. WAXMAN) and the distinguished gentleman from Connecticut (Mr. MOFFETT) in opposing this amendment.

While the amendment would restrict EPA's activities, it does nothing to change the statutory requirement for inspection and maintenance programs in nonattainment areas. The requirement to implement I&M programs, and the sanctions for failure to do so, can still be enforced by citizen suits.

I am well aware of the funding sanctions currently in effect in Pennsylvania and I can understand that the gentleman would hope to provide some relief. But, let me assure you that this amendment would not, in any way, solve the problem of sanctions in Pennsylvania. The amendment is ineffective and at most will only serve to muddy the waters and confuse States over their legal responsibilities. In-

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spection and maintenance programs are now in operation in 10 States and will soon be initiated in at least 5 others.

And, the track record to date with inspection and maintenance is most encouraging. Initial fears that inspection and repair costs would be exorbitant and that the public would strongly reject I&M programs have proven wrong in cities across the country. The costs have been within acceptable levels and the benefits in reduced emissions have been substantial. In comparison to other techniques for reducing emissions—from both mobile and stationary sources—inspection and maintenance is a high payoff, cost effective strategy. I appreciate that in some areas of the country this is not a popular program. And I understand that the authorizing committees in both bodies have been carefully reviewing changes to fine tune inspection and maintenance requirements, and better tailor them to address the areas with the most serious pollution problems. This emphasizes the complexity of the issue and the need to undertake changes with care and deliberation. This is not the time and this bill is not the place to attempt to change inspection and maintenance.

I urge defeat of the amendment.

□ 1850

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I would like to clear the air, if that is possible, on a few items that I know are very important to many of the people who will be called upon to make a difficult decision on this issue.

For one, this is the only provision of the Clean Air Act which actually mandates a process by which standards are to be met. By doing away with this provision for a 1-year period, in order to wait on overall action by the proper committee, in doing away with that we are not changing the standard. The State still has to meet the requisite ambient air quality standards. All other provisions of the Clean Air Act allow this kind of flexibility.

The gentlemen from Connecticut said that if it does not come out of autos, it will come out of factories.

Well, maybe there are States in this Union which feel that such a balance can be arrived at more effectively, more cost effectively and with less inconvenience to motorists.

Let us not make any mistakes here. There are 29 States involved to a greater or a lesser degree. We are talking about 44 million cars. That is large hornet's nest of dissatisfied motorists.

The irony is that many of these 29 States will meet the standards by the requisite date with or without the automobile inspection and maintenance program.

The fact remains, and this is so important, that there are certain areas which do need an automobile inspection and maintenance program and we are not arguing with it; but to say that Beverly Hills, Calif., should have the same air quality control program as Bethlehem, Pa., is making a serious mistake.

In Ohio, the Ohio EPA in a report to the general assembly found that a motor emissions I&M program will produce a relatively small improvement in air quality in Ohio at a relatively high cost.

Recent studies performed by the Illinois and Texas environmental agencies strongly disagree with previous estimates concerning the inspection's ability to reduce tailpipe emissions and challenge the program's overall costs and benefits. Each of these agencies recommended against adoption of an I&M program, although it must be admitted that all noted that such adoption might be a prudent action solely because of the possibility of Federal sanctions.

So that is the motivation in many of these 29 States—rush to judgment, push your motorists and consumers through the strainer, because otherwise Uncle Sam is going to cut off your Federal money, including air cleanup moneys, sewage moneys to make for a cleaner environment.

In other States, fraud and abuse runs rampant where this program is forced on the public. For example, in Rhode Island, a study done by the State attorney general's office showed that required emissions inspections are actually conducted less than 50 percent of the time. Many of these emissions inspections are conducted on a cursory basis, simply to put up with the existing law and have no positive effect, other than to financially burden consumers and motorists and inconvenience them.

The gentleman from Pennsylvania (Mr. Bailey) made a point that many of the cars that are going to see a negative effect on these tests are going to be the older cars and they are going to be owned by the poorer citizens. The repair on these cars will be extremely costly to those who can least afford it.

You know, if you have looked at what your own motorists are thinking about such a program and if you are in one of these 29 States, think of what the consumer must pay.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. Ritter was allowed to proceed for an additional 30 seconds.)

Mr. RITTER. Mr. Chairman, I urge Members in these 29 States consider what their motoring public thinks about an additional inspection burden on their automobiles. In my district, in response to a questionnaire, some 89 percent of the motorists said they did not think it would contribute to air quality in our region.

So when it comes to a vote, let us give those motorists a chance to have their voices heard in Washington.

Mr. GAYDOS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I wish to fully endorse and affirm the remarks made by my colleague, the gentleman from Michigan (Mr. Dingell).

I think the point was well taken when a Member indicated that the gentleman from Michigan (Mr. Dingell) in all his career in this House has been unequalled as far as his position on clean air is concerned and all the ramifications thereof; so I think that endorsement is important in itself and is illustrative of how the Pennsylvania delegation feels.

In conclusion, I want to make this point. Pennsylvania has always been in the vanguard of all the States, and I say that advisedly, all the States as far as the clean air act precepts are concerned and also the initial adoption of the Clean Air Act as we have grown to know it.

I think Pennsylvania now needs and it is obvious the need has been met, as illustrated by our many colleagues who have said that Pennsylvania deserves this consideration at this time; so I would ask our colleagues to support the position as set forth by the gentleman from Michigan (Mr. Dingell) and the Pennsylvania delegation.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding. I merely wanted to agree with the gentleman and say that it is not only the State of Pennsylvania, but all the States of the Union who deserve the amendment.

I thank the gentleman.

I strongly support the Dannemeyer amendment, which attempts to strike a provision to force States to institute vehicle emission control programs by withholding Federal funds from States which do not have programs.

Absent this amendment, we will have another situation like the seatbelt interlock or the mandatory airbags.

It is not a bad idea to impose Federal standards. It is a remarkably lousy idea to force States to create specific programs whether the States want them or not.

The Dannemeyer amendment should be passed.

Mr. WIRTH. Mr. Chairman, I rise in opposition to this amendment forbid-

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ding EPA from enforcing the Clean Air Act's requirement that automobile inspection and maintenance (I&M) programs be established in areas that violate air pollution standards. This effort, which prohibits EPA from using its funds to enforce the I&M program, is another in a series of actions to undercut our Nation's environmental laws in an indirect fashion. My colleagues are well aware of the strong public support for many of our Nation's environmental laws; from clean air to wilderness protection, the public has made its voice heard. That voice is very clear, and the message is simple. The public is telling Congress to keep its hands off environmental laws.

Already this year there have been efforts to significantly weaken the Clean Air Act, the Endangered Species Act, the Wilderness Act of 1964, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Clean Water Act. Last week the House overwhelmingly affirmed its commitment to the safe disposal of hazardous waste with the passage of the reauthorization of the Resource Conservation and Recovery Act. Despite this strong support, an attempt is now being made to weaken one of the most important sections of the Clean Air Act by barring EPA from using funds to enforce a legislative program.

I urge all my colleagues to oppose the Walgren-Dannemeyer amendment. The substance of this amendment is not appropriate for an appropriations bill. Rather, the merits of the I&M programs should be debated in the Energy and Commerce Committee as it reviews amendments to the Clean Air Act. If the committee sends a bill repealing the I&M requirement to the House floor for a vote, then this body will be meeting the merits of the question directly. That is the best way to proceed on this issue; by repealing the program by withholding funds, we not only lose the benefit of a thoughtful discussion of the merits, but we also cheat the American people by avoiding an issue that deserves our careful attention.

● Mr. **BROWN** of California. Mr. Chairman, I rise in opposition to the Dannemeyer-Walgren amendment to H.R. 6956, the HUD-independent agencies appropriations bill.

The Dannemeyer-Walgren amendment would prohibit the Environmental Protection Agency from expending funds to enforce Clean Air Act provisions requiring States to implement motor vehicle inspection and maintenance (I&M) programs for nonattainment areas. Although the intent of this amendment is clearly to prevent EPA from requiring implementation of I&M, the effect of the amendment may be completely different. Let me cite an example in my own State of California.

The State of California has encountered considerable difficulty in devising an acceptable I&M program. This is largely due to questions of management, not substance. For the past several years the Environmental Protection Agency has strictly enforced the sanctions required under law for States not complying with the mandated inspection and maintenance programs. Just last month, due to the tireless efforts of State Senator Robert Presley, the California Legislature approved an I&M program. It seems ironic after taking this action that the EPA should change the ground rules just as these sanctions were to be lifted. But even more astonishing is the possibility that if this amendment passes, EPA may be actually be prohibited from lifting the sanctions against California.

Inspection and maintenance is a major policy issue that ought to be resolved in the context of the Clean Air Act reauthorization. The administration opposes the amendment because of the administrative nightmares it could cause. This is especially significant in light of the fact that the administration would favor such a change in the Clean Air Act reauthorization. My own view is that I&M works, and is one of the ways we can work for cleaner air. I have pointed out before in debate on this same issue that my district is the second most air polluted region in the country. Let us not send the wrong signal to States like California that have implemented these programs by voting for this amendment. The public supports the Clean Air Act and has shown its willingness to pay for cleaning up the air. Let us start with I&M.●

Mrs. **SCHROEDER**. Mr. Chairman, my home district of Denver, Colo., still has a severe air pollution problem: According to the Council on Environmental quality, the fourth worst in the country. It took the threat of EPA sanctions to get the Colorado State Legislature to pass an inspection and maintenance program. Today that progran is in place and working. Without the EPA's power to impose sanctions, I fear the air in Denver would have been allowed to continue to deteriorate. Shackling EPA's power to enforce the Clean Air Act will undermine this program as well as other inspection and maintenance programs already implemented.

The citizens of Colorado, Illinois, California, and those of every other State in the Union have a right to breath air that is not harmful to their health. The fight for clean, breathable air is an obtainable goal, but it is far from being won. Let us not stop the march in midstride. I urge my colleagues to reject this amendment.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALGREN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **WALGREN**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 184, answered "present" 1, not voting 47, as follows:

[Roll No. 331]

AYES—200

Albosta
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bereuter
Bevill
Bliley
Bonker
Bouquard
Bowen
Breaux
Brodhead
Broomfield
Broyhill
Burgener
Byron
Campbell
Carman
Chappie
Cheney
Clinger
Coats
Collins (TX)
Conable
Corcoran
Coughlin
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dickinson
Dingell
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erlenborn
Evans (IN)
Fiedler
Fields
Findley
Flippo
Foley
Ford (MI)
Frenzel
Fuqua
Gaydos
Gephardt
Ginn
Goldwater
Goodling
Gramm
Grisham
Guarini
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hopkins
Hubbard
Hunter
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kindness
Lagomarsino
Latta
Leath
Loeffler
Lott
Luken
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
McCollum
McCurdy
McDade
McDonald
McEwen
Michel
Mikulski
Miller (OH)
Mollohan
Montgomery
Moore
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nichols
O'Brien
Oxley
Pashayan
Patman
Paul
Perkins
Petri
Porter
Pursell
Quillen
Rahall
Regula
Ritter
Roberts (KS)
Robinson
Rogers
Roth
Rousselot
Rudd
Sawyer
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Snyder
Spence
Stangeland
Staton
Stenholm
Stump
Tauzin
Taylor
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Weber (OH)
White
Whitehurst
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wright
Yatron
Young (FL)
Young (MO)

NOES—184

Addabbo
Andrews
AuCoin
Barnes
Bedell
Beilenson
Bennett
Biaggi
Bingham
Boggs
Boland
Bonior
Brinkley
Brown (CA)
Brown (CO)
Burton, Phillip
Carney
Clausen

Clay
Coelho
Coleman
Collins (IL)
Conte
Conyers
Courter
Coyne, William
Crockett
D'Amours
Deckard
Dellums
DeNardis
Derrick
Dicks
Dixon
Donnelly
Dorgan
Downey
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Emery
Erdahl
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Florio
Foglietta
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Gore
Gradison
Green
Gregg
Gunderson
Hall (OH)
Harkin
Hawkins
Heckler
Heftel
Hollenbeck
Horton
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Kastenmeier
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lantos
Leach
LeBoutillier
Leland
Lent
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKinney
Mica
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Moorhead
Mottl
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patterson
Pease
Peyser
Price
Railsback
Rangel
Ratchford
Rhodes
Rinaldo
Rodino
Roe
Roemer
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
St Germain
Stark
Stokes
Stratton
Studds
Swift
Synar
Traxler
Vento
Washington
Waxman
Weaver
Weber (MN)
Williams (MT)
Wirth
Wolf
Wolpe
Wyden
Wylie
Yates
Zablocki

ANSWERED "PRESENT"—1

Lehman

NOT VOTING—47

Akaka
Bafalis
Benedict
Bethune
Blanchard
Bolling
Boner
Brooks
Brown (OH)
Burton, John
Butler
Chappell
Chisholm
Derwinski
Ertel
Evans (GA)
Fithian
Forsythe
Fountain
Gilman
Gingrich
Gray
Hance
Holt
Lee
Marks
Mattox
McClory
McGrath
Pepper
Pickle
Pritchard
Reuss
Roberts (SD)
Santini
Schulze
Simon
Smith (PA)
Stanton
Tauke
Thomas
Trible
Weiss
Whitley
Wortley
Young (AK)
Zeferetti

□ 1910

The Clerk announced the following pairs:

On this vote:

Mr. Boner of Tennessee for, with Mr. Zeferetti against.

Mr. Thomas for, with Mr. Akaka against.

Messrs. EDWARDS of California, GIBBONS, STRATTON, RHODES, LONG of Maryland, MITCHELL of Maryland, SMITH of Iowa, FORD of Tennessee, and MINISH changed their votes from "aye" to "no."

Messrs. HERTEL, BRODHEAD, and FOLEY changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 6956. As many Members will understand, this subcommittee bill actually exceeds by several hundreds of millions of dollars in budget authority the programmatic assumptions which underlay the budget resolution.

□ 1920

It is not unusual for the Appropriations Committee to fund discretionary items more than the budget assumptions would have called for and then later to come at us with supplementals which then tend to raise the total outlays, as well as later in the year, beyond the ranges we have approved in the budget.

However, Mr. Chairman, in this case the distinguished subcommittee chairman from Massachusetts (Mr. Boland) has met with administration representatives and has agreed, as he stated earlier on the floor, to restrict the housing supplemental to the level of not more than $9.6 billion which in fact would make his total appropriation within all of the limits of the budget resolution and all of the programmatic assumptions, as I understand them, as they were passed by this House.

I would prefer a smaller appropriation and yet, because I think this is a signal achievement of the Appropriations Committee and of the gentleman from Massachusetts in prenegotiating and trying to obviate a possible veto of this bill, I want to congratulate the gentleman and the distinguished ranking member also from Massachusetts.

I would suggest that we should all vote for this bill as a sign of encouragement for future negotiations and cooperation and to encourage the committee and its members to indulge in the same sort of conduct in the future as they work their way through the appropriations bills.

Again, Mr. Chairman, I congratulate the chairman of the subcommittee and all of its members for a splendid job.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I now yield to the distinguished gentleman from Massachusetts, recently endorsed by both parties, and thereby elected.

Mr. CONTE. I thank the gentleman.

I just want to commend the gentleman for his remarks and say that I did have a colloquy earlier today with the very able chairman of the subcommittee, Eddie Boland, and based upon that colloquy we have had the assurance of the White House that they will sign this bill.

Hopefully the other body will not tamper too much with it and mess it up and pass it down to the President, because this will be the first appropriation bill signed by the President this year.

Mr. FRENZEL. I yield back the balance of my time.

Mr. BOLAND. Mr. Chairman, I rise to strike the requisite number of words.

I am pleased to inform the membership of the Committee that there are no more amendments pending at the desk. If there are no more amendments in the pockets of Members, that will conclude the bill.

Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Foley) having assumed the chair, Mr. Levitas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 343, nays 38, not voting 51, as follows:

[Roll No. 332]

YEAS—343

Addabbo
Albosta
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (MO)
Bailey (PA)

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Barnard
Barnes
Beard
Bedell
Beilenson
Bereuter
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Broyhill
Burton, Phillip
Byron
Campbell
Carman
Carney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Emery
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
LeBoutillier
Lehman
Leland
Lent
Livingston
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
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Rangel
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Seiberling
Shamansky
Shannon
Sharp
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Shuster
Siljander
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Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stark
Staton
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauzin
Taylor
Traxler
Vander Jagt
Vento
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Walgren
Wampler
Washington
Watkins
Waxman
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White
Whitehurst
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Levitas
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Loeffler
Marlenee
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Rosenthal
Santini
Schulze
Simon
Smith (PA)
Stanton
Tauke
Thomas
Trible
Udall
Weiss
Whitley
Wortley
Young (AK)
Zeferetti

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So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 562, URGENT SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF LABOR, 1982

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. 97-810) on the resolution (H. Res. 582) providing for the consideration of the joint resolution (H.J. Res. 562) making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982 which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 7019, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-811) on the resolution (H. Res. 583) waiving certain points of order against the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 2177, COLORADO RIVER BASIN PROJECT ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-812) on the resolution (H. Res. 584) providing for the consideration of the bill (S. 2177) to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505), which was referred to the House Calendar and ordered to be printed.

A TRIBUTE TO GRACE KELLY

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, rarely does the world have the opportunity to observe a public figure who personifies the title of Princess with such dignity and grace. Princess Grace of Monaco was such a figure. Her passing yesterday leaves a void in the lives of everyone she touched that shall never be filled. It is with a very deep sadness that I rise to pay my respects to her, to her family, to the people of Monaco, and the people of Philadelphia, the city she called home for many years. As a woman, she had no peer. She personified dignity, style, and intelligence. She represented her new nation well, and earned the trust and respect of the entire international community. In every situation, from the simplest public ceremony to the most intricate diplomatic function, she was unfailingly gracious, courteous, and unpretentious. But she was more than just gracious, she was a talented, capable advocate of her beliefs and concerns. She was an extraordinary individual. The pressures of stardom from her film career were great. The responsibilities that that career created kept her constantly in the spotlight, constantly the focus of attention. Although she never disappointed her fans in her public life, she never allowed her career to endanger the devotion to her family life, which was so important to her. She found time to be a mother, a wife, a spokeswoman, and an example to everyone of the meaning of intelligence, beauty, and charm. Princess Grace, a dear friend and a bright light in every corner of the world, was a unique and wonderful person. We are the poorer for her passing as we were the richer for her presence in our lives.

THE LESSON IN BASHIR GEMAYEL'S DEATH

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, we all mourn the tragic assassination yesterday of Bashir Gemayel, the President-elect of Lebanon. Compounding Gemayel's loss is the fact that his murder may have ended more than just the life of a promising, pro-Western moderate Arab leader.

Bashir Gemayel's death represents another major setback for hopes of peace in the entire region and represents, once again, the pattern that has become all too familiar in the deadly poison and complicated politics of the Middle East.

Gemayel, like Egypt's Sadat before him, was pragmatic, moderate, staunchly pro-American and increasingly amenable to reaching a peaceful accord with Israel. Gemayel was an enemy to the radical Arab factions, particularly the Palestine Liberation Organization and the Syrians. And so he was murdered.

Just 23 days ago, at the very moment of Gemayel's election by the Lebanese National Assembly, I stood in the streets of Beirut and saw the effect of his charisma and the hope his election held out for the people of his war-torn nation. Two of my colleagues, Representative MARIO BIAGGI and Representative RAY McGRATH, stood in the street with me as all around us the air was punctuated with crackling Kalashnikow machinegun fire, teenage children running ecstatically up the sidewalks, people hanging from every window and spilling out of cars to catch a glimpse of Gemayel sweeping past on his way to the National Assembly to accept their nomination. Hope was in the air, mixed with genuine relief that peace and a stable government might be restored at last.

Now Gemayel is gone, and the hope may also be gone.

There are lessons in this tragedy for the United States and clear implications for the wider concerns of an overall Middle East peace.

It is time for the Reagan administration and the United States to stop publicly pointing the finger at Israel as the sole instigator of unrest in the Middle East. This has become the principle indoor activity for the United Nations and radical Arab States in other world forums. It is unseemly for the United States to appear to be sinking to this simplistic and unrealistic course. Moreover, it is downright counterproductive.

Gemayel's death underscores, once again, the fragile nature of moderation in the region—particularly for leaders who oppose the murderous policies of the radical Arab States and the PLO. His death illuminates the stark reality that assassination is a high probability risk for any moderate Arab leader who seeks accommodation with Israel.

It is one thing for the United States aggressively to pursue peace plans in consultation with the only stable, democratic country in the region, our ally Israel. It is quite another to attempt to superimpose master plans for territorial reorganization that are orchestrated halfway around the world in Washington not with Israel but rather with Jordan, Saudia Arabia, and others who have been degrading the Camp David process since its inception.

Even if Israel were to disappear entirely from the face of the Earth, the fervent historical wish of her neighbors, violence and diplomacy by assassination will still be the order of the day throughout the turbulent Arab world.

The history of the Near and Middle East is violence. Murder is the political weapon of choice. From Israel's first breath as a sovereign state it has been surrounded by the thunder of gunfire. The endless wars launched from neighboring Arab countries, the terrorists, the bombings in crowded markets, the children lost as school buses were dynamited, the shelling of villages that produced an entire generation of people who think a bomb shelter is a basic room in any house—these are Israel's history.

For the Arab States, violence with or without Israel as an excuse—is endemic. Perennial conflict and bloodshed between Shi'ite and Sunni Moslems, civil wars between Christians and Moslems in Lebanon, bloody fighting between King Hussein's Bedouin tribesmen and the West Bank Arabs, deadly confrontations between leftist Moslems and rightist Moslems are background noise to the assassinations of Anwar Sadat and Bashir Gemayel. As war rages between Iraq and Iran, the decades old murderous enmities among Egyptians, Syrians, and Libyans, continues unabated.

No, the Arab world does not need Israel as a reason to be engulfed by violence.

All the evidence of the past 50 years, so vividly underlined by yesterday's assassination, suggests that moderate Arab leadership, inclined toward peaceful coexistence with Israel, is an endangered species.

Israel knows, as do the Arabs, that any agreement, any treaty, is subject to the bomb and the bullet at the hands of the PLO and its radical allies throughout the Arab world. Murder, assassination and political violence is an integral part of the political mix in the Middle East.

When President Reagan presented his peace plan for the Middle East it failed to take into account this vital equation. Leaving aside the obvious difficulties in the method and timing of President Reagan's proposals, we are left with a plan that essentially asks Israel to trade away her security on the marginal hope that moderates, whether Fahd of Saudi Arabia, Hussein or Jordan, or even Bashir Gemayel of Lebanon, will survive. The surrender of land, vital to Israel's physical security, is forever—while the promises of moderate Arab leaders is a transitory moment between gunshots.

Is it any wonder that the Israeli Government appears reluctant to negotiate giving up territory in the hopes that moderate Arab leaders will be in a position to deliver on promises of lasting peace and security for Israel?

The message for the United States is that simplistic quick-fix solutions which ignore the almost incomprehensibly bloody history of the last thousand years and the murderous legacy of hatred that nurtures the Arab radical's approach to Israel is to not contribute to the solution but instead become a major part of the problem.

Israel has been described as a country that is one bomb wide. No country in such a position is going to compromise the modest security it has won at such a terrible cost to its own people.

For the Reagan administration to expect this is to ignore history and reality.

OPPOSING TRANSFER OF NIOSH TO NIH (H.R. 6355)

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker, we have been asked to suspend the rules in order to consider on the floor the matter of the organizational placement of the National Institute for Occupational Safety and Health. But I must raise two warnings. In the first place, this is not a minor technical amendment to legislation, but rather a substantive reordering of programs that would have a significant impact on the health operations of NIOSH, a $60 million agency. And, we are being offered political shenanigans that would be sold to us under the label of improved organizational effectiveness. We should not let ourselves become victims of the hoax.

Let us examine the impact of this amendment. NIOSH is now a part of the Centers for Disease Control, which

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is the principal agency of the Public Health Service concerned with the prevention of illness and premature death. NIOSH fits well in this organizational environment where the focus is on pragmatic and service-oriented health programs. NIOSH conducts field investigations to evaluate health hazards in the workplace—an activity akin to the well-known epidemic assistance provided by CDC. There are other similarities. NIOSH provides scientific recommendations to regulatory agencies as CDC does in the area of clinical laboratory practice and immunization. NIOSH carries out regulatory powers in its testing and certification of personal protective equipment, whereas CDC enforces the Nation's foreign quarantine requirements.

The amendment would move NIOSH out of this compatible organizational environment, and place it in the National Institutes of Health. Although there is some similarity between the two in that both conduct research, there is a significant difference in the focus of that research. NIOSH focuses heavily on identifying workplace hazards that cause injury or disease. This is directed research that must be related to prevention through regulation or other means. At the Bethesda campus we have, on the other hand, the Nation's premier biomedical research organization whose sole mission is to acquire new scientific knowledge. I submit that even in the one area of apparent similarity, research, there are very important differences between NIOSH and NIH. The Director of NIH has stated that the NIOSH mission is incompatible with that of NIH. Therefore, we must consider carefully the diversionary and detrimental impact that would result by the mismatch of the other mandated NIOSH activities, which can be confrontational in nature, on the basic research environment of NIH. To do this work, we, the Congress, have authorized NIOSH to use warrants and subpenas in the execution of right of entry and right of access to data. These are hardly the tools of Nobel Prize winners. I reiterate, this bill is not a technical amendment.

I contend that the motivations are purely political. The amendment is being offered as a part of a partisan political effort to reverse the move of NIOSH headquarters from the Washington area to Atlanta, Ga. More than a year ago, the NIOSH headquarters was transferred to Atlanta, Ga. However, appropriation language was passed which stopped that move midstream, with the top NIOSH leadership in Atlanta, and a dissident support staff remaining in Rockville, Md. Obviously, it is more difficult to exert day-to-day influence on an organization located more than 600 miles away. This current amendment is a blatant maneuver to deepen the disruption of NIOSH by having it report to another organization located in the Washington area—NIH. This ploy is being proposed by those who, under the cover of last year's budget conflicts and crises, slipped through an apparently innocent provision which has handcuffed an important health agency. For 12 long months, the move of the NIOSH headquarters has been in limbo. This hiatus has resulted in the discontinuation or delay of program activities and in missed opportunities. For example, we are still waiting for the production of the scientific document on radio frequency microwaves. Plans to upgrade some 20 standards have for the most part been delayed and, it has been impossible to proceed with plans to improve the effectiveness of the NIOSH safety program. We cannot allow this sort of thing to happen again. In fact, we should take steps to assure that last year's mistake is corrected.

A TRIBUTE TO THE LATE HONORABLE KEITH SEBELIUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. ROBERTS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ROBERTS of Kansas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the life, character, and public service of our late colleague, Hon. Keith Sebelius.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. ROBERTS of Kansas. Mr. Speaker, I have taken this special order today in behalf of our former colleague Keith Sebelius who passed away September 5. I am joined in this special order by my good friend and colleague, Mr. WINN, the dean of our Kansas congressional delegation.

One week ago today, funeral services were held for Keith in his hometown of Norton, Kans. The services represented a genuine outpouring of affection and love for Keith Sebelius, the public servant and the man.

Mr. Speaker, I have had the privilege of working for Keith during his tenure in the Congress. And, having this privilege, afforded me the opportunity to know Keith as a close personal friend, a mentor, and in such a way that we enjoyed a father-son relationship. My deepest sympathies are extended to Keith's wife, Bette, his sons Gary and Doug, and their families. My family and I share in their sense of personal loss.

We have been blessed with many fine public servants in Kansas, but with Keith, his record, his service, and most of all his relationship with people was something unique and special. Since his passing, leading newspapers in Kansas have eulogized his service and his contributions and his memory. In accurate and eloquent terms, they describe his life in full. Following my remarks, I will include editorials from the Wichita Eagle, the Larned Tiller & Toiler, the Hutchinson News, and the Topeka Capital-Journal. And a personal biography. These columns, editorials, and eulogies are representative of many others published in newspapers throughout Kansas.

Mr. Speaker, when I think of Keith Sebelius, I think of his impressive record of public service, his legislative accomplishments, but the one attribute that I feel was so special and unique was the example he set for me and for others. In working for Keith you were not just a staff member, you were a member of a family. And, throughout his entire career, through demanding and tough times in Kansas and here in Washington, I never once saw Keith Sebelius lose his temper. He was truly a Christian in practice.

Even during his battle with his personal illness, when he was receiving treatment in the early morning hours and going through a very difficult time, he did not complain or he did not rail against his fate. He was, in fact, a source of inspiration and hope to those who were around him.

What a wonderful tribute to a man that can be said he was truly beloved by all who knew him. For you see, Mr. Speaker, the more you knew Keith, the better you liked him. He never sought higher office or desired anything other than being the best Congressman he could be. It was the way he went about the job of fulfilling that responsibility that was so special.

For myself with memories that will last my lifetime, for fellow staff members whose lives he touched and whose memories of him are so special and unique, for the citizens he represented so well, our feelings can be summed up with the words that were on a sign in front of the Norton High School during the day of his funeral services. With flags in Norton at half staff, with businesses closed, with hundreds of friends attending the services, the sign simply read, "Goodbye Keith, thanks for everything."

The editorials follow:

BIOGRAPHY OF KEITH G. SEBELIUS

Keith Sebelius of Norton, served six terms in the U.S. House of Representatives from the First Congressional District of Kansas. The district is comprised of 57 counties, takes in 60% of the state and is known as the "Big First."

Representing the nation's largest wheat producing district, the Congressman was appropriately a member of the House Committee on Agriculture and the ranking minority member of the Livestock and Grains Subcommittee. He authored numerous amendments to farm bills enacted by Congress and was the principal sponsor of major farm legislation.

Sebelius was instrumental in locating one of the first Youth Conservation Corps Projects at Fort Hays Kansas State College.

His interest in conservation, water resources and national parks led him to seek membership on the Interior Committee. He was the ranking minority member of the National Parks and Insular Affairs Subcommittee. He played a leading role in enlarging the Indiana Dunes Lakeshore and expanding the nation's wilderness system.

Sebelius' goal was to help make government more responsive to the needs of rural America. His legislative programs dealt primarily with agriculture, small business, senior citizens, postal service, health care and government programs as they apply to rural areas.

Before entering the U.S. House of Representatives, Sebelius served six years in the Kansas State Senate.

In 1968, he was elected to the 91st Congress and has returned in five successive elections. He led the Republican ticket in Kansas in 1976 with over 73% of the vote. Sebelius received the Wheat Man of the Year award from the Kansas Association of Wheatgrowers in 1975. He has received several Watchdog of the Treasury awards from the National Association of Businessmen and several Man of the Year awards from the National Federation of Independent Businessmen for service to small businessmen in Kansas.

Born and reared in Almena, Sebelius graduated from Fort Hays Kansas State College. He received his law degree from George Washington University Law School. Sebelius served in the Army during World War II and was recalled during the Korean Conflict. After WWII, he returned home to practice law in Norton County where he became active in civic and political affairs. He served as city councilman, city attorney and mayor of Almena. He was elected Norton County Attorney and served as Norton's city attorney.

Sebelius and his wife, Bette, also a native of Almena, had two sons, Gary and Doug. Gary graduated from Georgetown University Law School and is a lawyer in Topeka. Doug graduated from Washburn University Law School in Topeka and is currently in practice with his father in Norton. Both sons are graduates of Kansas State University.

Sebelius served as lay leader, president of the Board of Trustees and Sunday School teacher of the United Methodist Church, and past commander of the Kansas American Legion.

He was a member of the Board of Directors of Valley Hope Alcohol Treatment Association, member of the Endowment Association of that Fort Hays Kansas State University and was past president of the Fort Hays Alumini Association, and member of the advisory board on National Parks, U.S. Department of Interior.

[From the Wichita Eagle Beacon, Sept. 12, 1982]

SEBELIUS WAS A KANSAS'S KANSAN

(By George Neavoll)

I'm sorry Keith, I never called.

I had been going to, and in fact, I did try a couple of times.

But, each time, the secretary in his law office said Keith Sebelius was out, either away on business or taking care of some party work.

Keith always was a workhorse for the Republican party, and seldom turned down any request for him to lend his name and his efforts to assure a GOP victory at the next election.

I remember the time a couple of years ago I heard him speak to the gathered faithful at Kansas Day activities in Topeka. His longtime administrative assistant Pat Roberts, had been elected the fall before to take his place in Washington, and he was exhorting party workers to take advantage of the country's swing toward Republicanism after four years of Democratic rule.

Now that the Grand Old Party had regained the White House and held a majority in the House of Representatives, he said, it was "time to plant the potatoes" of fiscal responsibility, and get the country back on the road to economic recovery.

His voice broke a couple of times, as he alluded to his own mortality. But Keith Sebelius was a man of faith, and if his bout with cancer ever scared him—and I'm sure it must have—he never let it show.

That was the same year Keith was named Kansan of the Year by the Native Sons and Daughters of Kansas.

A more appropriate honor never was bestowed. If anyone ever epitomized the heat and soul of Kansas, it was Keith Sebelius He was a "straightshooter," as they used to say, and he was the same before presidents or plains folks.

He knew his sprawling 1st district constituency as perhaps no one did before or since, and he was at home wherever a human being hung his—or her—hat.

Keith was a politician, first, last and always, and knew the importance of the political process in changing things for the better. He was a Republican, but he was as much at ease among Democrats as among his party colleagues. And the Democrats—though some probably would have been reluctant to admit it when he was in public life—loved him in return.

His modus operandi, when the time came for him to announce his candidacy for another election, was to mount the courthouse steps in his hometown of Norton, and tell the people why he wanted to invest another part of his life in their future.

The last time he did that was in May 1978, as he was contemplating his sixth term in Congress. "My primary goal," he said then, "will be to continue to work to make government more responsive to our needs in our rural and small community areas, to fight for that fair shake we have not been getting."

If anything summarized Keith Sebelius' attitude toward government, and the role of the public servant in a position of authority, that was it. He saw government as the means for an informed people to assure their livelihoods and the quality thereof.

He was the champion of the American farmer, and never tired of telling the world outside Western Kansas of the problems the farmer faced as he attempted to feed a world that sometimes seemed to think food on the table originated in the supermarket.

Keith was one of the first people I contacted when we moved to Kansas, and soon after that, when he was in Wichita to address some group, we got together for lunch.

I wanted advice on how an outsider such as myself might best get to know Kansas and the Kansas people, and particularly how to inform myself on the farm problem.

"The thing to remember about the farmer," he said then, as best I remember the conversation, "is that no one person speaks for him. If 20 farmers get together, you'll get 20 different views on the farm problem and how to deal with it. That just demonstrates the complexity of the situation."

It was my first insight into how hard some of the solutions to the farmer's plight might be, and why more hadn't been done to address it.

Good government and agriculture were only two of Keith's many abiding interests. Another was the preservation of the nation's natural and historic heritage in the National Park System.

He was ranking minority member of the House Interior Committee's national parks subcommittee at the time of his retirement, and one of his last acts was helping shepherd through the House a critical package of land additions to the Indiana Dunes National Lakeshore. Keith knew of my interest in the dunes, since I had lived in both Indiana and neighboring Michigan, and had editorialized many times on their behalf.

After he left office, and was appointed to the National Park System Advisory Board, he wrote me a little note informing me of that, and scribbled on the back: "I'll try to look out for Indiana Dunes for you."

I'm sure he did that, to the extent that he could, just as he looked out for the interests of all his people, of whatever political persuasion or philosophical stripe.

He was indeed a Kansan's Kansan, and no son or daughter of this state could aspire to a greater task than to emulate the life of the man from Norton.

He's gone from among us now, but the example he set will live forever. Rest well, dear friend. You planted some good potatoes.

[From the Larned Tiller & Toiler, Sept. 9, 1982]

A LOOK AT KEITH

(Editor's note: The following editorial was written by Lee Musil of Burdett, who served as agriculture assistant to Congressman Sebelius in Washington from 1976–1979.)

Keith Sebelius was a politician in the finest sense of the word. During his years of campaigning and representing, he acquired admiration and respect based on honesty and trust rather than back biting and intimidation.

He set a fine Christian example for his staff and Congressional colleagues. He never lost his temper; he never held a grudge. He insisted that his staff give proper respect to all members of Congress, whether they were Republican or Democrat, and always preface their names with "Congressman" or "Mr."

He prided his office in providing the best constituent services of the Kansas Congressional delegation. His staff size was leaner than most but extremely dedicated and was among the lowest in personnel turnovers of any Congressional office. He made it clear that we were not working for the glory of Keith Sebelius but for the people of the big First.

He was amazingly efficient with his time management. I have never been associated with a more punctual person. Despite the intense demands of his time, I can never remember him missing a roll call of the Agriculture Committee.

One time after a crucial vote, he was asked if he considered himself a follower or a leader. "Both," he said. "I try to follow the wishes of my district as much as possi-

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ble but there are times when I must take a tough stand that I know will be in the long range best interest of my people."

When once accused of being too parochial in his voting, he replied, "If I don't represent the best interests of the Big First, nobody else will."

Another time he was asked if he considered himself an important person. "No, I don't feel important," he said. "My hometown people wouldn't ever let me."

Henry C. Clausen, sovereign grand commander of the Scottish Rite Bodies of Freemasonry, has said, "Modesty with our superiors is a duty; with our equals a courtesy; and with our subordinates, nobility." Keith Sebelius, himself a 33rd-degree Mason, was truly noble to those who knew him. We of the First District can be deeply grateful for the footprints he has left in the sands of time.

[From the Topeka Capital-Journal]

KEITH G. SEBELIUS

Keith G. Sebelius, the former Congressman from Western Kansas, who died last week after a long battle with cancer, didn't care whether he made headlines. He just cared whether he helped make good legislation.

He didn't have that magical quality called charisma. He just had the trust of his colleagues and his constituents.

He wasn't regarded as an eloquent speaker. He just had that rare ability to be a good listener.

He was not especially innovative. He just was able to get both sides to agree when before they couldn't.

He didn't have his name on a lot of bills and laws. He just attended all the committee meetings, always cast his vote, always kept his appointments.

He wasn't showy about being a congressman, just effective.

When he first learned he had cancer, Sebelius scheduled his cobalt treatments at 6 a.m. so he wouldn't miss any time on the job. Throughout his illness he worked despite considerable pain, but never complained, never lost his temper, noted his long-time aide and eventual successor in the House of Representatives, Pat Roberts.

Though many people remember Sebelius as a congressman primarily and properly concerned with laws regarding agriculture, he played an influential role in much of the legislation dealing with the National Park System. Here again, it was his ability to get environmentalists and industry to see eye to eye that resulted in laws being passed where a stalemate appeared likely.

Among the crowd of people at Republican Keith Sebelius' funeral last week were many prominent Kansas Democrats—including one whom Sebelius had defeated in an election.

That was not a "political compromise" of the kind in which Sebelius was so skilled. It was simply a fitting farewell tribute to a good congressman, and a good man.

[From the Hutchinson News, Sept. 8, 1982]

KEITH SEBELIUS

Keith cares.

With those two words, Keith Sebelius carved a niche in the history of Kansas. Used in one of his campaigns for Congress, the slogan was simple. Yet it carried the message of a dedicated man, with undoubted clarity.

When Mr. Sebelius died this week, agriculture lost one of its most valued friends. Kansas lost a good citizen. Thousands of folks lost a friend.

During the 12 years he spent in Washington, Mr. Sebelius carried the concerns of his beloved "Big First" district on his sleeve, as well as in his heart. He once wore a bread wrapper to remind big-city representatives that farmers were not reaping the benefits of spiraling food costs.

Keith Sebelius was not a recognized speaker, but the sincerity with which he approached the nation's problems was recognized as an eloquence all its own. His strength rested in his ability to reason and compromise without giving up the ideals in which he believed.

When the time came for him to return to his hometown of Norton, he did so with grace. He was retiring from Congress, he announced, but not from involvement in the things that had interested him all his life.

One of the areas he served well during his congressional tenure was the national park system. Interior Secretary James Watt recognized his interest and appointed him to the national park advisory board.

His office motto was: "Smother them with the milk of human kindness."

The motto wasn't born of political motivation, but of belief in its message.

The belief, the service and the life which it embraced will remain a part of the heritage of the state he loved so well, so long, and so effectively.

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Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, it is with deep sorrow in which I rise today to participate in this special order for our departed friend and former colleague from Kansas First Big District, Keith G. Sebelius.

For over a decade, Keith epitomized the role of a Member of Congress through his dedicated hard work both for his constituents in Kansas and the Nation. And, I had the distinct privilege in serving with Keith through his tenure in this Chamber.

A graduate of Fort Hays Kansas State College and George Washington University Law School, Keith served his country in both World War II and the Korean conflict. Thereafter, he served as city councilman, mayor, city attorney, county attorney, State senator (6 years), and legislative council (4 years). Also, he became a member of the Kansas Department of Economic Development and the Capital Area Planning Commission.

It was through his diligent efforts on two committee assignments—Agriculture and Interior and Insular Affairs—in which he gained our tremendous respect. Although I represent a large metropolitan area in southeast Los Angeles which, of course, is not directly involved in the developments of these two committees, I came to admire Keith for his efforts on behalf of our Nation's farmers and rural America. In his 12 years in Congress, Keith did more in influencing legislation for America's heartland than many Members accomplish in their lifetime in Washington. Through his position as a leading minority member of the Agriculture Committee, Keith not only introduced legislation for the farm community but, most importantly, he usually got it enacted into law. When Keith retired at the end of the 96th Congress, America's farmers truly lost one of their strongest allies.

However, Keith also directed much of his energies toward the protection of our country's wilderness areas. In his capacity as a senior member of the Interior Committee, Keith was a consistent and strong advocate for conservation. In fact, he was instrumental in establishing one of the first Youth Conservation Corps projects at his alma mater, Fort Hays State University. .

In recognition of his contributions and efforts, Keith was the recipient of numerous awards and honors by many distinguished organizations. For example, he was named as "Wheat Man of the Year" award by the Kansas wheatgrowers in 1975; five "Man of the Year" awards by the National Federation of Independent Businessmen; and five "Watchdog of the Treasury" awards from the National Association of Businessmen.

Mr. Speaker, as you well know, when one enters service in the House he or she does not earn a respectable image through lackadaisical efforts; they earn it. Keith was one of those who genuinely earned this respect from Members on both sides of the aisle. His contributions to the betterment of America were countless. We can only hope that those who are elected to Congress in the future will be of the same high caliber that Keith was.

My wife, Lee, joins me in extending our heartfelt condolences to Keith's wife, Bette, and their two sons, Gary and Doug.

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I yield to my colleague, the gentleman from Kansas.

Mr. WINN. Mr. Speaker, on September 5, 1982, the State of Kansas and the United States lost a true and loyal friend. Those of us in the Kansas delegation had the privilege of knowing and working with this fine human being. Keith Sebelius epitomized the public servant. He was dedicated to the people he represented in the "Big First District" of Kansas. On his retirement from Congress he returned to spend his last days with the people he knew and loved. I would like to repeat my floor comments of July 30, 1980 when our former colleague retired, but I will not.

Keith has spent the last 2 years fighting a losing battle with cancer, and now he has left us.

Keith was a pillar of strength in his defense of the Nation's farmers and rural Americans. Each of us know that his priority list had always been headed by a deep concern for the future of American agriculture—an industry whose health and survival are critical to the continued vitality of the country. During his 12 years in the Congress I frequently called on Keith for his counsel on matters concerning agriculture and he was always there and with the answer that was right. His love and work for our National Park System is well known, and after retirement the President had the good judgement to appoint Keith to serve on the National Park Service Advisory Council which he did as unselfishly as he had always served.

He was a good person. He was hard working, dedicated, honest and honorable and a great family man. People of his caliber do not come along every day. Joan and I were proud to call him our friend, and our heartfelt sympathy goes out to Bette, and Keith's sons Doug and Gary.

Mr. Speaker, I ask that along with the many editorials that have been written about our former colleague, Keith Sebelius, that two be placed in the Record; one from the Kansas City Star, which is titled "Unpretentious Lawmaker Left Worthy Legacy," and another from the Olathe Daily News.

I would also like at this time to include a letter written to me, Mr. Speaker, from our former colleague from the Fourth Congressional District, Garner E. Shriver, who was a very close friend of our deceased colleague, Keith Sebelius.

At the same time, I would like to include along with my remarks the remarks of Congressman Gene Taylor from the State of Missouri:

[From the Kansas City Star]

UNPRETENTIOUS LAWMAKER LEFT WORTHY LEGACY

(By Stephen C. Fehr)

Topeka.—"When you go into a restaurant, if you don't eat the rolls, mess them up a little."

Keith Sebelius of Norton in northwest Kansas came up with that maxim for wheat farmers, who were a major part of his constituency in the 12 years he represented the 1st District of western Kansas as its Republican U.S. representative.

Tearing up a roll, Mr. Sebelius reasoned, would mean that the restaurant couldn't serve it again. More rolls require more wheat.

Mr. Sebelius died Sunday of cancer at the age of 65, leaving a legacy of fighting for farmers and the rural way of life that was the dominant characteristic of the 61-county district, one of the nation's largest. Western Kansans know the district as the "Big First."

Though Mr. Sebelius wasn't much of a force in Congress—he never had any of his own legislation approved in 12 years—he was one of the most loved members of the Kansas delegation. Genuine and homespun, Mr. Sebelius was unpretentious and seemingly immune to Potomac fever, an affliction that causes politicians forget their home state.

"I may not go down in history for writing a lot of hallmark legislation on everything under the sun, but the ones I've worked on have done something," Mr. Sebelius said in a candid self-appraisal when he retired in 1981. "I think I've helped farmers, and I think the national park system is better because I was here."

The practical impact of Mr. Sebelius's death on Kansas politics will be minimal. He had built up a network of supporters throughout the heavily Republican district who worked to make his seat secure. When he retired, his Washington assistant, Pat Roberts, capitalized on knowing everyone in that network and won the seat.

[From the Olathe (Kans.) Daily News, Sept. 8, 1982]

KEITH SEBELIUS

Every year that he served in Congress, Keith Sebelius at least once, and more often twice, would visit each of the 57 Western Kansas counties that he represented in Washington. Those ten or 12-day tours were exhausting to all who travelled with Keith—but not the congressman.

Sebelius, who died Sunday at Norton after a two-year fight with cancer, was a passionate conservative and selfless servant through his long political career—from his election to local offices in Almena, a defeat in campaigning for Congress in 1958, election to the Kansas Senate in 1962 and then to the U.S. House in 1968 where he served until 1980 when he declined to seek reelection to a seventh term.

Sebelius' political passion was twofold: his was a deep belief that each citizen bears a responsibility in private life and in community life as great as any responsibility the government may have to shape that life and community. And he believed that the state is best served by letting the individual express himself. That is why he insisted upon the grueling tours of Western Kansas, that is why he always stopped to listen for long hours; and he always remembered what he heard when he returned to Washington.

Sebelius was never infected by the power games and tawdry mechanics of some colleagues and many lobbyists that swarmed Capitol Hill. He insisted that his constituents, not political action committees or well-heeled influence peddlers, were the best and most influential lobbyists. For that, he was criticized at times for not playing the game, for being out-of-step.

When he retired from politics two years ago, Sebelius did what few other members of Congress do when they retire; he returned to his home in the district that elected him. He loved his work in Congress but he was never attracted to the city of Washington, never tempted to peddle his contacts or experience for the quick buck.

Sebelius often said he never felt important because his hometown people wouldn't let him. But he was important because he was of a rare breed of public servants that continues to diminish. He was important because he will be missed.

September 15, 1982.

Hon. Larry Winn, Jr.,
Congressman, Third District of Kansas,
Rayburn Building, Washington, D.C.

Dear Larry: I was saddened by the death of my good friend, Keith Sebelius. I appreciated the prompt notification from your office of Keith's untimely passing.

It was my privilege to serve in the House of Representatives with Keith over a period of eight years, and I know of no member with whom I have served who was more conscientious, more devoted to the interests of his constituents and the citizens of his state than Keith.

There was no pretentiousness about Keith Sebelius. He was the same pleasant, cheerful, friendly person day after day. He was honest and straight forward in his relations with all. He displayed to those who knew him the qualities of fairness, dedication, service and belief in the strength of America.

As a legislator he had many interests. As a member of the Agriculture Committee of the House he had a real understanding of all phases of farming, ranching and rural life. He diligently and successfully worked to solve the tremendous problems of Agriculture and related industries.

Keith was greatly interested in his other committee assignment—the Interior and Insular Affairs Committee. I have often heard him speak with pride of our Nation's great system of Parks and the work of the National Park Service. He took the time and made the effort to visit many of our national parks.

Keith had a distinguished service record as an enlisted man and officer during World War II and the Korean conflict. He was very active in our State in veterans' organizations and before coming to Washington was Department Commander of the Kansas American Legion.

It is well known that Keith was a champion in securing and defending the rights and benefits of veterans, their survivors and dependents. He was a patriot who gave freely and unselfishly of his time.

I know that for his wife, Bette, and his sons, Gary and Doug and their families, there is and will continue to be a tremendous loss. Our sympathies go out to them. I, too, have sustained a loss as have all of Keith's friends and acquaintances. His memory and good work will indeed live on for years to come.

Sincerely,

Garner E. Shriver.

Mr. TAYLOR. Mr. Speaker, it is with sincere regret that we speak today about our former colleague Keith Sebelius of Kansas. No more dedicated or knowledgeable Member ever served in this House and no Member more strongly felt his obligation to district, State, and Nation than did Keith.

I considered Keith to be a close personal friend and a man of wise counsel who could always be depended upon to get to the heart of any issue and then vote his conscience which usually proved to be the proper vote. No Member of Congress had a deeper concern for American agriculture. His perceptions of the importance of the family farm and his articulate presentation on behalf of American farmers earned for him the recognition of the "Farmers Best Friend in the House of Representatives."

We are going to miss Keith Sebelius. We have lost a friend and the Nation has lost a public servant who served his people with integrity and statesmanship in the many offices he held.

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To his family and many friends I extend my condolences.

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I yield to my friend and colleague, the gentleman from Kansas.

Mr. WHITTAKER. Mr. Speaker, I want to thank my colleague, the gentleman from Kansas, for yielding.

Mr. Speaker, it seems like only yesterday that I stood in this well to pay honor to Keith Sebelius on his retirement and to sadly proclaim that a true friend of American agriculture would not be answering the first quorum call of the 97th Congress.

It was my first term in Congress and I had grown to rely on Keith for his sound advice and his guidance during difficult moments. As I stepped into the well with mixed emotions, I was saddened by the thought that we would be losing one of our most able and hard-working Members, but heartened by the realization that Keith had served Kansas and the Nation for a good long time and had earned the opportunity to return to Norton to spend more time with Betty and his family and the people in Kansas he had served so well.

Many of my colleagues who followed on that special day in July of 1980 recounted his many accomplishments, and justly praised his efforts on behalf of agriculture and the Kansas farmer. It was a proud day for Keith and a proud day for Kansas, and I know for a fact that Keith was both honored and moved by the tributes paid and by the friendship and comradery exhibited that day.

Keith's retirement was tragically cut short just 10 days ago, but those of us who knew him well realize he made the most of the short time he had left in his beloved hometown of Norton. Above all else, Keith will be remembered by all who came into contact with him as a true and loyal friend and a dedicated public servant who in his retirement did not turn his back on the Nation and institution he so loved. He was always there with a helping hand, an encouraging word, or a sound piece of advice for a freshman colleague.

Mr. Speaker, I thank the gentleman for this opportunity, and at this time I would like to reiterate the comments from the Wichita, Kans., Eagle-Beacon editorial previously entered in the Record by my colleague, Mr. Winn.

□ 2000

Mr. JEFFRIES. Mr. Speaker, will the gentleman yield to me?

Mr. ROBERTS of Kansas. I am glad to yield to the gentleman from Kansas.

Mr. JEFFRIES. Mr. Speaker, I fear all of the appropriate adjectives have already been used to describe our dear departed colleague Keith Sebelius, whose recent death brought sadness to us all. He has been called wise, thoughtful, understanding, direct, honest, fair, and down-to-earth, and all of them are accurate.

But, Keith Sebelius was more than that. He was one of nature's true nobleman, a quiet, thoughtful man whose everyday life was an example for all of us—a man who exhibited great courage in the final days of his exemplary life, accepting the will of the Lord without complaint.

When I decided to run for Congress several years ago, Keith Sebelius was one of the first people with whom I talked. I reached him at his home in Norton, Kans., and his wise counsel was helpful to me then, and has remained so through the years. He was always friendly and willing to discuss the issues honestly and forthrightly, as he saw them.

I am sure Keith understands how difficult this is for all of us today as we struggle down here to find the words to express our deep appreciation for all he has done, and for all he has meant to us, but I am sure he knows of the love and affection we feel for him and his family.

This great Nation, the State of Kansas, and the U.S. Congress were all enriched because Keith Sebelius passed our way. Only if we fail to live up to the ideals and principles that guided his life will we have failed this truly great man.

I thank God for the opportunity to have known and served in the U.S. House of Representatives with my fellow American and Kansan, Keith Sebelius.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield to me?

Mr. ROBERTS of Kansas. I yield to my colleague and friend, the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, as was stated by my other colleagues from Kansas, Keith Sebelius was liked by everyone; he was a friend to everyone. Everyone who served in this House could call him his friend.

To my personal experience, he was more than that. He was a teacher. It is no secret that when I first came to Congress I did not know much about set-asides, target prices, summer fallow, and Keith was not only kind but he was generous in the hours that he would spend with me instructing me on things that were at that time foreign to me.

He would be pleased to know that his successor in the well today, Mr. Roberts, is doing a good job of continuing that instruction, which means Keith did a darn good job teaching him as well.

In addition to that, it is no secret that the majority party in Kansas is not the party with which I am affiliated. But when I came to Congress, Keith was most helpful to me in assuring me that the fact that I was not a member of the same party as he was would make no difference, particularly when it affected issues involving Kansas, agricultural issues, and other issues on which we could reach some consensus. It is also no secret that Keith knew more about our national park system than most forest rangers or Department of Interior employees. He did not brag about it a lot, but I do know it myself from talking with Interior Department people that he was an expert in those areas.

He did not try to climb the ladder of fame. He was not a man of headlines. But let me make no mistake about it, he was a darned good politician. I thought Keith Sebelius was able to deal with the most aggressive, the most meek, the most manipulative, and the most gentle Members of Congress. He had this kind of charming quality about him that he was able to speak forthrightly and honestly and with a smile on his face, and was able to get done far more for his district than a lot of the more aggressive Members were able to get for theirs. He was a true representative of the district, but he was no robot.

He was a leader and a statesman for his country on issues that at times were not altogether that popular, but he knew he had to do for America.

I would close, Mr. Speaker, that when Mr. Madison, Mr. Hamilton, and Mr. Jefferson got together and decided what kind of human beings ought to fill this institution in which we serve—a combination of a Representative of the folks at home but an independent leader on issues that are necessary for this country—I think they had in mind a man like Keith Sebelius.

Mr. JONES of Tennessee. Mr. Speaker, will my colleague yield to me?

Mr. ROBERTS of Kansas. I am glad to yield to my colleague and friend, the gentleman from Tennessee.

Mr. JONES of Tennessee. I want to thank my friends, Pat Roberts and Larry Winn, Mr. Speaker, for obtaining this special order today to pay tribute to our former colleague, Keith Sebelius. He was a man for whom I had great respect both personally and professionally. He was a great friend and a distinguished Member of this body.

Keith and I arrived on the scene here in the Congress in the same year, and we were neighbors over in the Longworth Building the first 2 years that we were here. I learned to respect him very much, and I learned to have a lot of respect for him, as Dan Glickman has just mentioned, because he knew the story about agriculture.

I served for many years with Keith on the House Committee on Agriculture. While we represented different parts of the country and different political parties, I always found him to be very cooperative and sincere in his efforts on behalf of the farmers of this country.

He was dedicated to assuring that farmers operated in a climate conductive to their survival. He brought constructive comment to any issue before us relating to agriculture.

On the personal side, he was a man who commanded great respect and admiration. He conducted his work and his life with dignity and always dealt with others with the same respect and dignity.

He was straightforward, without being offensive. He was sensitive to the feelings and self-respect of others.

The State of Kansas and this great Nation will miss Keith Sebelius, his wisdom and his guidance. I will miss him as a sincere and dear friend.

I am so proud of the fact that within the last 30 days, when he was ill, I called him on the telephone and had a very good visit with him while he was lingering there, no doubt awaiting death, as he knew that he was.

I want to extend to his family my deepest regrets and sympathy, my sincere sympathy, for the loss of Keith Sebelius.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield to me?

Mr. ROBERTS of Kansas. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, we were all saddened on Labor Day to learn of Keith Sebelius' passing. But our sadness was tempered with gratitude at having had the opportunity to know Keith and to serve with him in the House, and with fond memories of that time.

Keith was something of an institution in a body already replete with high achievers. His efforts on behalf of wheat farmers and the First District of Kansas are well known. Perhaps less well-known to the general public was his work on behalf of our national parks and his solid contributions to all the legislative deliberations of Congress.

Keith was something of a mentor to me when I first arrived on the Hill. His office was in Longworth near mine and we both served on the Interior Committee. Keith eventually became the ranking Republican on the National Parks and Insular Affairs Subcommittee, and it was on that subcommittee that I got to know him well.

He took an interest in everything. He instigated the new areas study program for the Park Service and the inventory program, now known as the State of the Parks report. Many individual park bills and the historic omnibus parks bill unmistakably bear his stamp. It was said that he visited more units of the park system personally than any Member of Congress, and I believe it. In fact it was on several of those trips I was privileged to make with Keith that I came to truly appreciate his depth of knowledge of the parks system and his thorough and conscientious efforts to improve and preserve it. His was an old-fashioned kind of conservationism—the best kind—which respected the beauty and unity and function of our natural resources.

Keith was a hard worker who believe in the motto that if you are unhappy about something, you should not complain, you should try to improve it. That is what he did. He improved all our lives, and the Nation is better for having had him in its service. Norma and I join all the Members of the House in extending our condolences to Bette and the family, and our appreciation for all that Keith did.

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Mr. ROBERTS of Kansas. I thank my colleague.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I will be happy to yield to my colleague and good friend from Iowa.

Mr. BEDELL. Mr. Speaker, I want to thank the gentleman for setting up this special order.

It was my pleasure to serve on the Agriculture Committee with our good friend, Keith Sebelius. As with some of the other Members who have spoken, I was in the other party, but it was very clear that Keith never really cared whether you were a Republican or whether you were a Democrat. Keith was there to try to do the best he could for the farmers of our great land.

But, I think he did more than that on that committee. In my opinion, one reason there was a limited amount of partisanship on the committee, and the reason the committee worked for the good of the farmers, was to a great extent because of the example that Keith Sebelius set for the rest of us. It was certainly my pleasure to know him personally. I many times say that what we accomplish in life is not really measured as much by the honors we may receive as by the example we set for others.

Certainly, if there was ever anyone that set an example for me and for many of the other colleagues in the House, it was Keith Sebelius. I think he would, however, be pleased to know that since he is not here, one of his prize students, Pat Roberts, is here carrying on for him and carrying on in that same fine tradition. I am sure Keith would be pleased, Pat, that you are here carrying on for his area in the State of Kansas.

Mr. ROBERTS of Kansas. I thank the gentleman for his comments.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I am happy to yield to my good friend, the gentleman from Virginia (Mr. Wampler).

Mr. WAMPLER. Mr. Speaker, when I first became a Member of this body in 1953 a distinguished Kansan, the late Clifford R. Hope, was a Member of this body, and he was chairman of the House Committee of Agriculture. When I returned to the Congress for the second time in 1967 a distinguished Kansan, then the Representative from western Kansas, now our senior U.S. Senator from Kansas, was a Member of this body, Senator Dole. Then our dear friend Keith Sebelius, and now Pat Roberts, so I have been privileged, Mr. Speaker, to have the opportunity to serve with the last four Representatives of that great district.

Mr. Speaker, I have lost a very dear and close friend, and the American farmer has lost a strong advocate, with the passing of Keith G. Sebelius some 10 days ago. I served in the House with Keith Sebelius for the 12 years that he served here. I served on the Committee on Agriculture with him during that entire period.

Mr. Speaker, I must say in all candor that I know of no more articulate advocate or any greater friend of the American farmer than Keith Sebelius. A beloved husband and father, he was a thoroughly honest and decent individual whom I have missed since he retired 2 years ago to take up the practice of law once again in his home in Norton, Kans.

Mr. Speaker, Keith Sebelius took his civic obligations seriously, and he served in a variety of capacities as a public servant during his career. He was a city councilman, mayor, city attorney, county attorney, State senator, and held a variety of other appointed positions in his home State of Kansas. Moreover, since his retirement from Congress in 1980, he served on an advisory committee of the U.S. Department of Agriculture.

My friend, Keith Sebelius, served his country during World War II and again during the Korean conflict, and also served for a number of years in the U.S. Army Reserve. He was a graduate of George Washington University Law School. He practiced successfully in his native Kansas for a number of years in private practice before coming to Congress, and relished the idea of returning to that law practice upon his retirement from the House.

We who served on the Committee on Agriculture had great admiration for Keith Sebelius's grasp of agricultural issues, which dominate the district that Keith served for so many years. His constituents in that district were well served, and the interests of Americans generally were well served by the

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legislative endeavors of Keith Sebelius during his terms in Congress.

I and others who have served with him will sorely miss him. He was a good friend and an articulate and much-admired Member of this body.

Mr. Speaker, I wish to extend my condolences to his wife, Betty, and sons, and to all those in Kansas and throughout this country who mourn his loss.

I thank the gentleman for yielding to me.

Mr. ROBERTS of Kansas. I thank my colleague.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I will be happy to yield to my friend and colleague from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman from Kansas for taking this special order.

Mr. Speaker, as has been noted, on September 5 of this year the State of Kansas and the Nation lost a great citizen and public servant, and all of us who had the pleasure and privilege of serving with him in the 1968 through 1980 sessions lost a valued colleague.

Keith Sebelius served his district and our Nation extremely well in this House for 12 years. He left his mark on many pieces of legislation and earned warm friendships on both sides of the aisle. Keith Sebelius consistently displayed sound judgment in his goals, his statements, and his actions. His actions were very widely noted as being consistent with the best interests and needs of his Kansas constituents, and the best interests and needs of his country. It is not an easy balance to achieve.

Keith Sebelius and this Member served together on the Committee on Interior and Insular Affairs, and as members of National Park and Insular Affairs Subcommittee during the 96th Congress we represented adjacent districts in Kansas and Nebraska. Through that period that we served together this first-term Member developed a deep and sincere respect for his knowledge, his ability, and his leadership that led me to consider him to be one of the most valuable Members of the House of Representatives. There was certainly no Member more helpful to me during my first term in Congress. There was certainly no Member whose advice I sought more frequently, and he gave it freely and willingly, and I might say he gave it with a great deal of humility.

Keith Sebelius brought many fine qualities to this institution—integrity, leadership, dedication. His contributions in the area of agriculture and national parks were invaluable and will be lasting. It is significant that during the week of his death that the Interior Committee's Subcommittee on Public Lands and National Parks began markup of the national parks legislation, to which he contributed so much insight and energy.

While Keith Sebelius made many contributions to agriculture, an area in which I relied upon him for advice so often, I want to mention a few of his many contributions on the House Committee on Interior and Insular Affairs. He had a particular fondness for the national park system, and prided himself on the fact that he believed that he had personally visited more of the 333 units of the national park system than had any other Member of Congress. Undoubtedly that was true, and it gave him an insight which benefited us all.

During the last 4 years of his congressional career, he served as the ranking minority member on this subcommittee, and during that time he helped assemble some of the most significant legislative achievements in the history of our national park system. That certainly is no exaggeration, the most major significant item being the Omnibus National Parks and Recreation Act of 1978, something he started, called the "State of the Parks" bill which we are now considering and hope to institutionalize.

While Keith made major contributions in assembling and moving key bills to protect specific national park sites around the country, he also devised some major generic efforts which have already had wide-ranging impacts on the entire national park system. He authored the "section 8" new area studies process, which was designed to constitute a professional methodology for systematically identifying and evaluating potential new units for the national park system and reporting on such candidates to the Congress. That process also embodied further emphasis and visibility for national natural and historic landmarks. Following that, he instituted the inventory and study process to identify and assess ongoing and impending damage and threats to national park system units a survey conducted by the National Park Service and finally evolving into the "State of the Parks" report, issued in May, 1980. That report revealed some rather shocking insights into some very troublesome damage and threats affecting our national park system. As an outgrowth of that effort, the Interior Committee is currently marking up major legislation to address this very issue.

I visited with Keith during the last year and a half several times on the telephone and wrote him. He continued his interest in what we were doing in the many areas that had been his concern for so long. Keith Sebelius served his State and his country with distinction and respect. He brought honor and dignity to his position. We are all better because he was here.

I share with my colleagues the sense of loss. May God comfort his family, his wife Betty, his sons Gary and Doug, his brothers and sisters. Those of us who knew him and worked with him will always remember him fondly. We will sorely miss him.

In conclusion, I would like to say that we in the Great Plains were and are proud of Keith Sebelius. He epitomizes what we like to think are some of the best characteristics of our region and our people. In the words of the popular ballad, he was a "Big, big man."

He possessed an uncommon degree of commonsense. He approached his job in the U.S. House of Representatives with integrity, high principle and good will toward the common man.

I thank his wife Betty and family for sharing this man with the American Nation. This world is better because Keith Sebelius passed this way. That should be a dominant goal in all of our lives.

Thank you, Keith Sebelius.

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Mr. ROBERTS of Kansas. Mr. Speaker, I thank the gentleman for his comments, and I yield to my colleague and friend from Montana (Mr. Marlenee).

Mr. MARLENEE. Mr. Speaker, if I had to summarize the service of Keith Sebelius into a single sentence, it would be that of Socrates, who stated, "No man qualifies as a statesman who is entirely ignorant of the problems of wheat." With that statement in mind I believe that we have lost one of the great statesmen of the modern era. With the passing of Keith Sebelius the country has lost a man of vision, a symbol of rural America; a liaison between the agricultural industry and the people it serves. It goes without saying that Keith was a most ardent supporter of farmers and ranchers. I had the pleasure of having "Mr. Wheat" travel with me through my congressional district during my freshman year in Congress. His unwavering stand and forthrightness quickly became evident to all the producers who had the pleasure to meet and chat with this great advocate of rural America.

We all know the feeling of wonderment, unease, and uncertainty that freshman Congressmen experience during our first few months in this body. I had the unique opportunity to serve with Keith on two committees—Agriculture and Interior. He took two of the most precious commodities of a Congressman—time and energy—to further teach me the committee process, to fully understand floor procedure, and to better serve the people of my district. Keith did this for me and for all the freshmen who served on either of these committees.

Often we get caught by the daily rush of activities in Congress. We move a day at a time without the foresight to stop, assist our colleagues, and improve on the programs that we have implemented to serve the farmer. Not Keith Sebelius. He shared his time with other Members. But more important, he always took the time to listen and work with the farmers from his State and throughout the West. He was a man who found the time to stop, listen, and help those about him.

Let me touch briefly on one other point. Often those of us who serve on the Agriculture Committee and come from rural areas think of Keith only as a proponent of the American farmer. While a strong advocate and voice for American agriculture, he also served with distinction on the Interior Committee.

Dedicated to improving rural living, Keith worked within the Interior Committee for the establishment of policies that would assist agriculture and protect the natural heritage of the West. Keith fought to expand water resources, promoted and improved health care to rural areas, and advocated agricultural export expansion and improved trade. His foresight is evident in the fact that he argued against any constraints on agricultural development during formation of the Alaska Lands Act. Today Alaska is well on its way to having a viable small grains industry.

Yes, Keith will be remembered for a lot of things. But most of all I will remember him as a compassionate man who was never vindictive, who was never devious, who was never mean, who was never abrasive. But he was always effective, he was truly a representative of the people of Kansas. The country, the world, needs more men like Keith. God bless his family. God bless his memory.

Mr. ROBERTS of Kansas. Mr. Speaker, I thank my colleague and I yield to my friend and colleague, the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. I thank the gentleman for yielding.

I incorporate by reference every good thing that was ever said about Keith Sebelius. We know him as a legislator, everybody who served with Keith. We know him to have been efficient, partly because of his kindliness and mostly because of his immense intellect.

But I know Keith Sebelius as a person who had a sturdiness of justice and a faultless sense of fairness. When all about you are losing their heads and blaming it on you, if you can keep your head—he was such a person. And when the moment of opportunity for shortcuts in politics, either on the campaign trail or in this Chamber, presented themselves to Keith Sebelius, the door was shut and he shunned such opportunity to a fault.

Even when it perhaps hurt his own political prospects, he was fair, he was warm, he was human. He did not want to hurt or see anyone else hurt, any one of God's children on this Earth.

If anybody ever went to Heaven, Keith Sebelius is there with that big, warm grin, looking down on this Chamber now.

I thank the gentleman for yielding.

Mr. ROBERTS of Kansas. Mr. Speaker, I thank my colleague.

I now yield to my colleague and good friend, the chairman of the Agriculture Committee, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. I thank the gentleman for yielding to me and I have come to join with my other colleagues, both from the House and the Committee on Agriculture, who had the privilege to know and work with Keith Sebelius.

I did not have the privilege to have him here since I have become chairman of the Agriculture Committee. But I did see him afterward and he rejoiced with me and regretted that he was not here as I assumed the chairmanship.

But part of assuming the chairmanship is the fact that for whatever ill or good that my service will be, it has been as a part of those who have touched my life along the way. Certainly Keith Sebelius did that, through his diligence in the committee, through his interest for his country, but most of all exemplary to all of us was his dedication to his oath of office and his dedication to rural America and the farm sector which he so ably represented and for whom he worked so hard all the years that he was here.

I guess some of us remember fondly that even while working hard, as this job is, and even while working long hours, which we do, he never lost his sense of perspective and/or humor.

In the late hours of the night many times when we needed a little reawakening of our endeavor, always there was Keith to come in either with an amendment, or breaking into debate to bring us that lighthearted interruption that brought us back to reality and to the work that we would be doing.

So I know that it is repetitious to say we will miss him. But I think probably it is more important to remember that the contribution he made for his State, for his constituency, for America, and for the people of the world will be there and he cared. He cared deeply.

I know many times we discussed hunger and the countries that needed assistance. We traveled together. I traveled with him. I traveled to Kansas with him. We visited his constituency.

If any man can be categorized as, "He never had met someone that was not a friend," that was Keith, that he either patted someone on the back or had a joke or had a kind word. If he did not do it, they did it to him, expecting that generosity and bigheartedness that he had.

So I join my colleagues with sadness but yet with pride and with the hope that generations henceforth will remember, and even what we say here tonight will be recorded forever in the history of our country, that we had a man named Keith Sebelius who served and who served well and who left many friends who admired and respected him.

I thank my colleague for yielding.

Mr. ROBERTS of Kansas. Mr. Speaker, I thank the chairman of the Agriculture Committee.

● Mr. FOLEY. Mr. Speaker, it is with a deep sense of loss that I recently heard of the death of my good friend and colleague Keith Sebelius.

Keith was a champion of the farmer and was a leader in the effort to make Government more responsive to the needs of rural America. It was a great privilege to work with Keith during his 12 extremely productive years in Congress. No one cared more deeply about the American farm family and its wrenching problem of debt cost and income than did Keith Sebelius. As ranking minority member of the Livestock and Grains Subcommittee and on the Family Farm and Rural Development Subcommittee he was a tireless worker for American agriculture.

Keith had an unlimited faith in this country and its ability to do anything that needed to be done. The memory of his leadership and spirit will continue to serve as an inspiration to many of us in the Congress. Heather joins me in expressing our heartfelt sympathy to Betty Sebelius and all the other members of the Sebelius family.●

● Mr. JONES of North Carolina. Mr. Speaker, the late Keith Sebelius was my friend. I am grateful to be able to make this statement, and I can prove this by relating a favor he rendered me during the 95th Congress. I was chairman of the Subcommittee on Tobacco, Oilseeds and Rice, and frankly, we had a difficult time getting people to serve on this particular subcommittee, and this was particularly true of the minority side. To complete the required number of members, at my suggestion Keith offered to serve. This, in spite of the fact that not 1 pound of tobacco was grown in his district or State, and certainly there was no political advantage to be gained for him. So, I can only conclude it was an act of friendship. Later on the subcommittee went into the States of Georgia, North Carolina, and South Carolina to hold field hearings, and as I recall, Keith attended each of these meetings and participated in the hearings. And being the fine gentleman that he was,

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made some very kind remarks about the Democratic member in whose district the hearing was being held.

I mention this one instance merely to show the kind of man Keith Sebelius really was. He will be missed, and to his family I express my sincere sympathy.●

● Mr. RHODES. Mr. Speaker, I was saddened to learn of the death, on September 5, of our former colleague, Keith Sebelius of Kansas. As a native Kansan, I have a particular fondness for the Kansas delegation, and Keith was a fine member of that special group.

As was widely noted upon his retirement from the House at the end of the 96th Congress, Keith Sebelius was a dedicated Member of this body who served his constituents and his country well.

He was known for his tireless efforts on behalf of the farmers in his district and for all Americans in his concern for the preservation of our national parks.

I am pleased to have had the opportunity to work with Keith for the 12 years he served in this House, and was sorry to see him leave the Congress.

Also, I am sorry that his retirement years were cut so short, but I am grateful for the opportunity to have known and worked with him.

Mrs. Rhodes joins me in extending sympathy to Mrs. Sebelius and to Gary and Doug Sebelius.●

● Mr. YOUNG of Florida. Mr. Speaker, it is with great sadness that we take this time to honor our friend and former colleague from Kansas, Keith Sebelius.

No one better exemplified the hard work ethic of rural Americans than Keith, who for 12 years staunchly supported the American farmers and the people of Kansas "Big First" Congressional District. Little if any agricultural legislation passed through this body during the past decade without Keith playing a major role.

With the same determination he used in helping our Nation's farmers, Keith also sought to preserve and protect our country's natural beauty. As a member of the Interior Committee, he helped expand our national park and wilderness systems, and promoted the need for all Americans to conserve our national resources, especially our precious water supply. It is fitting that one of the last actions this body took before his retirement in 1980, was the naming of the Keith Sebelius Lake behind the Norton Dam in Kansas. The Keith Sebelius Lake shall stand forever as a tribute to this great American, who served the people of his beloved State of Kansas so well.

More important than his work in Congress, was Keith's devotion to his wife Bette and his sons Gary and Doug. Having known Keith as a friend and colleague, I share with his family, and all Americans, in the loss of this great man, whose service and achievements shall stand as an inspiration to those who in the future will serve the State of Kansas and our country.●

● Mrs. SMITH of Nebraska. Mr. Speaker, I feel privileged to join my colleagues in memorializing the late Keith Sebelius who died last week at the age of 65.

All of us were shocked to learn that our beloved friend and former colleague had passed away. I commend his friend and successor, the gentleman from Kansas, Representative PAT ROBERTS, for arranging this time so that we can say what is in our hearts about this man.

Keith Sebelius was a fighter who did not lose many of the battles in which he participated. He fought for his Kansas constituents and won. He fought for a strong agriculture and won. He fought for high moral principles and won the admiration of all who came in contact with him. But he lost to the one adversary who did not fight fairly—the killer cancer. The knowledge that he was suffering from this disease caused his premature retirement from this body 2 years ago. Since then he has made a characteristically valiant fight only to have life slip away.

This House was ennobled by the presence of Keith Sebelius. He was a friendly, open, sincere, dedicated, and decent man. I do not think he had an enemy. Everyone I know on both sides of the aisle here liked him and respected him. He added an important dimension to this position—representative of the people.

He was a special friend of mine. Because of the similarity of our agricultural districts that adjoined each other along the Kansas-Nebraska border, we had much in common. We represented the same kind of constituents. They were in the same high-risk business of providing food and fiber for this Nation and countries overseas. They needed special attention and special representation in an economy that had been transformed from agrarian to one highly industrialized in nature. The voice of agriculture was being drowned by the deafening whir of industrialization. Those of us representing agriculture had to stick together and fight together and make ourselves heard.

Keith Sebelius and I sought each other out when I came to Congress. He knew the ropes. He knew how to get attention for agriculture's needs. He took me in tow and let me profit from his experience. I leaned on him and learned from him. I could not have had a better teacher. He had been an effective spokesman for agriculture over a span of many years. Keith Sebelius knew how to go along and how to get along. He had a practical philosophy that served him well in this give-and-take business where the art of compromise is the art of winning. Keith Sebelius may not have coined the phrase but he adopted it and used it to good advantatge: "50 percent of something is better than 100 percent of nothing," he said many times in hammering out critical provisions in farm bills.

All agriculture benefited from his service and his leadership. His closest disciple was his assistant PAT ROBERTS who won the seat when Keith retired and who now represents his Kansas constituents and agriculture with the same understanding, the same practical know-how, and the same distinction that made Keith Sebelius one of the best.

Even though Keith Sebelius has been taken from us, his spirit lives on here and he has left an indelible stamp upon the House of Representatives. He will be long remembered for his kindness and his decency, and all the other sterling qualities that elevates a good man to a cut above his peers.

When I am faced with a thorny problem or a decision on what is best for agriculture and the welfare of the country, I often ask myself: "What would Keith Sebelius do?" When I apply his guidelines and think things through the way he did, I know I will be on target. Keith Sebelius set a high standard. Measuring up to that standard will make all of us better representatives of the people.●

● Mrs. HECKLER. Mr. Speaker, it was with sadness that I learned last week of the passing of our former colleague, Keith Sebelius of Kansas. I commend the gentlemen from Kansas, Mr. PAT ROBERTS and Mr. WINN, for arranging this special order to eulogize this splendid man.

When Keith retired from the House at the end of the 96th Congress, the accolades were many and varied. He earned the admiration of those from both parties, of varying philosophies, from all regions.

Those accolades were well deserved and are well remembered, as we again pay tribute to Keith Sebelius, this time in celebration of his life and in mourning for its end.

Keith and I served together on the House Agriculture Committee, a setting in which he—"Mr. Wheat"—taught me a great deal about production levels, price supports, soil conservation, and commodity prices. Although we—the farm activist and the consumer supporter—did not always agree, we always respected each other's motivation, position, and constituency.

In an amusing aside, Keith often advised his urban colleagues—many of whom were on diets—to do our part for the farm economy by "mussing up the rolls" when we went out to dinner, so that restaurants would not serve them again, thereby saving flour—that is, wheat. We always remembered to "muss up the rolls," for Keith.

It was under Keith's patronage that I visited Kansas, took a ride on a tractor through the wheat fields, and talked to farmers about agricultural policy. For a Representative whose usual background consists of high-tech companies around Boston, jewelery manufacturing plants in the Attleboro area, and apparel firms in Fall River, my trip to Kansas was indeed instructive.

I remember Keith Sebelius in his role on the Agriculture Committee, respected by his colleagues. I remember Keith Sebelius in the wheatfields of Kansas, loved by his constituents. Whether in Washington of Kansas, he served this country ably. He will be missed by all those whose lives he touched.●

● Mr. LUJAN. Mr. Speaker, it is never a pleasant task to note the passing of a friend. However, the memory of this friend is a pleasant one. Keith Sebelius was also a very pleasant person. We came to this House together in the 91st Congress in 1968. We served together on the House Interior and Insular Affairs Committee. While Keith earned a reputation as Mr. Wheat and Mr. Agriculture, this Nation can be grateful that he was also Mr. National Park. As the ranking Republican on the National Parks and Insular Affairs Subcommittee, the omnibus parks bill, the most comprehensive national parks bill ever passed by the Congress, had the firm imprint of Keith Sebelius. He prided himself in maintaining an intimate knowledge of the operations of each of our national parks. This knowledge helped to preserve and protect much of the pristine beauty within our borders.

Keith's retirement in 1980 left a big vacancy in the Congress and on the Interior and Agriculture Committees. But he also left a legacy for each of us. He was a hard working and dedicated Member of this House. He was a kind man, a thoughtful man, a pleasant man. The State of Kansas and this Nation are well aware that Keith Sebelius served them. I am one of many that are saddened that his advice and experience are no longer available to us. But I am heartened that his example is strongly in front of each of us.●

● Mrs. HOLT. Mr. Speaker, it was with great sadness that I learned of the death of our former colleague, Keith Sebelius, who represented his big First District of Kansas with great ability for 12 years. It was my privilege to be his friend and colleague for 8 years.

Keith Sebelius always gave us a sense of having that solid, practical approach to issues that characterizes the great American heartland. He believed in hard work and living within our means, and he had a strong sense of honor.

As a city councilman, mayor, and State legislator before he came to Congress, our friend had a keen knowledge of State and local government and used that knowledge to good advantage in the Congress. He was a veteran of both World War II and the Korean war and was devoted to our country with a strong sense of duty and patriotism.

Keith Sebelius and I shared similar interests in many issues, and I always enjoyed working with this fine man. Those of us who knew him were enriched by the experience, and I know the House joins me in expressing condolences to his family.●

● Mr. CONTE. Mr. Speaker, it was with profound remorse and a deep sense of loss that I learned of the recent death of a former colleague and good friend, Keith Sebelius.

Keith was a man of his word, a hard worker and a much respected individual—as is evidenced by his long and impressive record as a public servant. Before being elected to Congress in 1968, Keith faithfully served his Nation as a U.S. Air Force Lieutenant in both World War II and the Korean conflict. He then served his home State of Kansas in various elected positions including city councilman, mayor and State senator.

While serving his State and Nation as Congressman from the "Big First District" of Kansas, Keith distinguished himself as a champion of agricultural and conservation interests in America. Keith believed that the maintained health and survival of the American agricultural industry was critical to the continued vitality of the country and fought courageously for our country's farmers. With equal vision and courage, Keith fought for the preservation and protection of our Nation's resources and was instrumental in making our National Parks System superior to that of any of the world.

Although the rolling hills of Massachusetts are not the same as the ranging wheat fields one finds in Kansas, and although the problems faced by that State are not identical to those faced by the other 49, Keith always took an interest in the resolution of all pressing concerns. I am personally thankful for his tireless efforts in behalf of small business as well as those aimed at reducing waste in Federal spending.

We will miss you Keith, but we are thankful for the time you spent with us and honored to have been associated with such a fine man.●

● Mr. ROE. Mr. Speaker, it is with much sadness in my heart that I rise today to salute the memory of my good friend Keith Sebelius.

Two years ago I had the honor of serving as the vice chairman of the National Alcohol Fuels Commission. Keith Sebelius was also a member of that commission. Together, we traveled the United States examining our potential for developing alcohol fuels as a prime energy source for this Nation.

Let me tell you this; there was not another member of that commission who devoted more time to its objectives of making our Nation energy independent.

No matter where the commission held its meetings, be it Florida or New Jersey, Keith Sebelius was there ready to work. He had a great way of dealing with people which made them feel at ease. For he truly loved, as Lyndon Johnson used to say "to press the flesh."

I am proud to say that during the time we served together on the Alcohol Fuels Commission, Keith and I became very close friends. Though we came from different parts of the Nation and represented different political parties in Congress, we both shared the same goals for a better America.

His retirement from Congress left a great void here, but his untimely death is indeed a great tragedy to the people of Kansas and all those who were fortunate enough to know him.●

● Mr. SUNIA. Mr. Speaker, I would like to join my colleagues in paying tribute and honor to the late Honorable Keith Sebelius.

American Samoa did not have a seat in Congress during Mr. Sebelius' last term in Congress. We did have a government office downtown whose major function was to lobby on the Hill. During the last 2 years of the existence of that office, we did have occasion to call on Mr. Sebelius for assistance and as has been his practice he extended a helping hand to our concerns. It is hard to forget one who can give so unselfishly of his time. This is only one of the areas that he spent his time with.

On behalf of the people of American Samoa, I am here to pay respects to one of America's great men, a true giant of dedication, integrity, and service to his fellow men, the late Honorable Keith Sebelius. May God's choicest blessings rest upon his family and loved ones at this time of loss. Thank you.●

● Mr. WOLF. Mr. Speaker, it was with deep sadness that I learned of the recent death of Keith Sebelius, a former Representative from Kansas who served his district and State with honor and distinction in the 12 years he was a Member of the House prior to his retirement in 1980.

I had the privilege of working with Keith when I served at the Department of the Interior from 1971-75. He was a fine gentleman, a man of integri-

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ty, a concerned and conscientious Member of Congress.

As the ranking member of the National Parks and Insular Affairs Subcommittee, Keith was a champion of the national park system. He personally visited as many park units as he could all across the country to see firsthand our unique natural resources. He was dedicated to preserving this land for future generations in our national park system and he wanted to make our park system the best that the American people could possibly have.

He also was a friend of agriculture and a champion of the farmer, a leader in the effort to make Government more responsive to the needs of rural America.

Keith Sebelius based his career in public service on fairness, honesty, compassion and understanding and earned his place as truly one of the outstanding Members ever to serve in Congress.

I join my colleagues in honoring the memory of Keith Sebelius and express my deepest sympathy to his family and friends in Kansas.●

● Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to pay tribute to our former friend and colleague, Keith Sebelius.

Keith had already completed a decade of dedicated service in the House of Representatives when I was first sworn in in 1979. I was rapidly convinced of his legislative wisdom and leadership ability simply through my daily contact with him in routine House proceedings. However, as we moved further into the congressional session, Keith Sebelius was to become a sound adviser, a master of congressional strategy, and a reliable friend and ally to me concerning an issue of paramount importance to my district. Keith served as ranking minority member of what was then named the House Interior Subcommittee on National Parks and Insular Affairs. Thanks to Keith's interest, involvement, and representational abilities, an effort to prevent full utilization of a $340 million dam constructed in my congressional district was averted. Keith helped make possible hearings on the issue, and he also went out of his way to make sure that the cross-country journey of some 25 concerned Californians was not made in vain. His assistance helped make the testimony of those individuals possible, and overcame seemingly insurmountable odds.

Keith Sebelius remained a good friend and sound adviser throughout our mutual tenure in the House. I have missed his presence here since he left the Congress, and I will miss him even more now. However, he has left strong and positive memories with all those who were privileged to know and work with him.

I extend my deepest sympathies to Keith Sebelius' family, as well as every best personal regard.●

● Mr. MAZZOLI. Mr. Speaker, I am deeply saddened at the loss of my good friend, former colleague, and former Longworth Building neighbor, Hon. Keith Sebelius of Kansas.

I knew Keith well as a result of our being next-door neighbors in the Longworth Building for 4 years. Through the years as we served together in Congress, my admiration and esteem for Keith continually increased.

Many times, as we walked to and from the House floor together, we talked about legislative affairs, but we also talked about things in general. In either case, Keith was a gracious, thoughtful, and insightful companion.

As a Congressman, he rendered true service to the State of Kansas and to his constituency. Keith was an asset to the House and was deeply respected by all.

I express my sympathy to his family. Keith will be missed by all.●

● Mr. SENSENBRENNER. Mr. Speaker, the sad occasion of the passing of former Congressman Keith Sebelius is, understandably, difficult for family, friends, and colleagues to accept. But, we can all be comforted in knowing his presence will continue to be felt as we call to mind his accomplishments here in the House of Representatives.

I was fortunate enough to serve in the 96th Congress with Keith. As a Representative from an agricultural State myself, I frequently looked to Keith for guidance on farming issues during my freshman term in office. Keith Sebelius had a remarkable understanding and appreciation of the American farmer which he so aptly demonstrated in his committee assignment and on the House floor. When Keith retired following the 96th Congress, the "Big First" district of Kansas, as well as all rural Americans, lost a great spokesman and friend in Washington. Through Keith's leadership, though, our unsurpassed agricultural productivity and the improved standard of living of our farmers will be a constant reminder of Keith's 12 years of service in Congress.

The integrity of Keith Sebelius benefited this institution. For this we are all grateful and will sorely miss Keith.●

● Mr. SHUSTER. Mr. Speaker, Keith Sebelius was a devoted son of western and central Kansas and a man of the people from whom he came, and to whom he dedicated an adult lifetime of devoted public service: councilman, mayor, city attorney, county attorney, State senator, and legislative councilman capped by more than a decade of faithful, diligent service in the Congress.

Born during World War I, Keith Sebelius was of a unique American generation which, having been assured by their elders that, in that great war, the world had been made safe for democracy and, therefore, there would be no more wars, moved, uncomplainingly, from devastating economic depression to military service in a second, more devastating, global war. And, like a few of that generation, Keith Sebelius served again, a decade later, in the Korean conflict.

Even as he knew the worst and the best of American times, he knew military responsibility which began as a private and concluded as a major. Even as he knew Congress as a freshman, he knew Congress as a senior Member, distinguished and respected by those he served and by those with whom he served.

As he served, so faithfully, the people of the First District of Kansas, he served, at once, the Kansas farmer and, as an intelligent and powerful advocate of the farmer's needs and problems, he served the Nation in peace as effectively as he had twice served in war.

Keith Sebelius was missed in retirement, and now he is mourned in death; yet, the legacy of patriotism, service, and leadership which he has left remains an inspiration, a guiding light, for all of us who were privileged to serve here with him and to enjoy him as a good friend and an able colleague.

I send my condolences to his wife, his children, his grandchildren—and to the people of the First District of Kansas—who loved him dearly.●

● Mr. LATTA. Mr. Speaker, I appreciate the thoughtfulness of my colleague, Mr. PAT ROBERTS, in providing time this afternoon to pay tribute to our former colleague, Keith Sebelius. I first met Keith when he came to Congress in 1968. He was a true friend and a hard-working Member of the House. His staunch defense of the principles which he held dear was based upon a genuine concern to preserve the freedoms upon which our Nation was built.

Keith was also a friend of the Nation's farmers, rural Americans and senior citizens. Each and every one of us who served with Keith during those 12 years knew of his great concern for the future of American agriculture. Not only was Keith a well respected Member of the House Agriculture Committee, but he also served with the highest abilities on the House Interior Committee.

Keith believed in America. He was a man of high principle, and he was never reluctant to speak out on issues that were important to him. I am proud that I had the opportunity to share his friendship and I would like to extend my deepest sympathies and condolences to his family. Their loss is shared by all of us who knew this fine American.●

● Mr. ADDABBO. Mr. Speaker, I am sure that my esteemed colleagues share my sense of loss with the death of our good friend, Keith Sebelius. He was a dedicated, patriotic, and compassionate man.

Although Keith's district was rural and mine, urban, I always felt that Keith shared a camaraderie with every Member of the House, regardless of his or her interests or constituency. He was an exemplary Representative of his district, yet he had national vision. He saw beyond his native wheat fields and helped shoulder the problems of struggling laborers, be them farmers or autoworkers in Detroit. More importantly, he looked beyond labels and saw what concerns the farmer and city dweller shared.

Keith Sebelius championed the interests of the elderly, small businesses, and conservation in rural and urban areas. In another sense, by insuring the well-being of his district, our Nation's breadbasket, he insured that people both in America and abroad would be well nourished and free from the torment of hunger.

Keith drew strength from his difficult childhood and realized that, with effort, the world could be made better. This Chamber was graced with his fortitude, charm, and vision. I hope that we will retain his spirit and values in our work.●

● Mr. PHILLIP BURTON. Mr. Speaker, today I must, with great personal sadness, speak about a former colleague, a friend, a leader, and a good man; Keith G. Sebelius.

Keith spent 12 years in the House of Representatives and for 10 years was a member of the Interior Committee and finally was the ranking member of the Subcommittee on National Parks and Insular Affairs where I had the opportunity and the pleasure to work with him on national parks legislation. He was dedicated to achieving the best national park system in the world and spent endless hours seeking to craft such truly outstanding law as that which established the Redwoods National Park expansion, the Boundary Waters Canoe Area Wilderness, the Lake Tahoe Preservation Act, the Pine Barrens Area, and numerous national trails, wild and scenic rivers as well as many other national park units.

He was born and raised in the State of Kansas and perhaps because of growing up in the open spaces of the heartland of America, always seemed to have a vision of the greatness of the Nation's land, its mountains, its rivers, its coasts, and all of the values that were inherent in our land. He wanted to be sure that future generations of Americans would be able to see some of these things, to know what the land had been like, free from development and destruction. I can think of no greater tribute to Keith Sebelius than to honor his vision and dedication to preserving some of this land as a part of the national park system so that we all might gain something of value.

Mr. Speaker, I am sorry that Keith is gone and offer my deepest condolences to his lovely wife, Bette, to his children and his many friends who, as I will, shall miss his calm reason and his great wisdom.●

● Mr. CLAUSEN. Mr. Speaker, I am deeply saddened over the death of a very close friend and colleague, Hon. Keith Sebelius.

Keith was an extremely warm, friendly, and outgoing man. He represented his constitutents in the State of Kansas very ably, and he was always available to anyone who wanted to see him.

I had the pleasure of serving with Keith for many years on the Committee on Interior and Insular Affairs. We worked on many pieces of legislation together, and he was always a most helpful and accommodating individual in working out some tough problems.

The greatest amount of Keith's interest in Interior Committee matters was devoted to national park issues. He served with distinction for 4 years as the ranking minority member on the Subcommittee on National Parks and Insular Affairs. During that period he helped guide a major volume of legislation which has perfected and expanded our national park system. Keith was particularly helpful to me personally during that period in trying to work out an acceptable solution to the Redwood National Park expansion legislation, as the park is located in my congressional district.

Keith had a very deep feeling for the importance of our national park system, and he initiated a number of items that have resulted in some very important changes in the expansion and protection of the system.

Ever since his recent retirement from the Congress and his absence from the committee, his absence has been most apparent. We shall miss him all the more now that we will not be able to call on him for continued counsel.

Keith was a good and trusted friend, and I shall miss him a great deal. To his wife, Bette, and his two sons Gary and Doug, we, the Clausen family, extend our deepest sympathy. You have much to be proud of as history looks back on the extraordinary record of congressional service. Keith Sebelius provided for his district in Kansas and the people he loved so much.

Like the tall redwood trees in my California congressional district, Keith Sebelius will stand as a giant in the forest of great men who have provided leadership for our country.

We shall remain eternally grateful to the family for sharing this kind, congenial, brilliant, and dedicated human being, Keith Sebelius of Kansas.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to Hon. Keith G. Sebelius, former Member of Congress from the First Congressional District of the State of Kansas, who died on September 5, 1982. Congressman Sebelius' death is a tremendous loss to the people of Kansas and of this Nation, whom he served with distinction.

Keith Sebelius, a veteran of World War II and the Korean war, began his career in public service as a city councilman, and also served as a city attorney, county attorney, mayor of the city of Almena, and State senator. Representing western and central Kansas for six terms in the House of Representatives until his retirement in 1980, Congressman Sebelius served as the second ranking Republican on the House Agriculture Committee, where he earned the reputation as one of the most knowledgeable Members of Congress on agricultural issues. He also was the ranking minority member of the Subcommittee on National Parks and Insular Affairs of the House Interior Committee.

Mr. Speaker, Keith G. Sebelius' dedication to high standards was an inspiration to his friends and fellow citizens, and his devotion to public service will long be remembered by those of us who had the privilege of working with him.

Mrs. Annunzio and I extend our deepest sympathy to his wife, Bette, and his two sons Gary and Doug.●

● Mr. WHITEHURST. Mr. Speaker, I was deeply saddened this past week to learn of the passing of our former colleague and my dear friend Keith Sebelius. Keith and I were "classmates," coming here as freshman Members of the 91st Congress in January 1969. I will always remember this great Kansan, whose heart was as big as his stature. He embodies the finest virtues of mid-America, his strength seeming to come from the rich soil of the State where he was born.

Keith loved America and his native State. He represented both with untiring dedication and extraordinary ability. He was surely a friend of the American farmer, and on more than one occasion I was moved to vote for an amendment or a bill because of his persuasion.

Never pretentious, always open and approachable, Keith was a friend to everyone. I never heard him speak an unkind world about a colleague. By believing in the best in everyone else, he made all of us want to stand taller to earn his respect.

I regretted his retirement from Congress, and I mourn his death along with all of his friends both here in

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Washington and back in the State he loved and served so well.●

● Mr. PEYSER. Mr. Speaker, it was with much sadness that I learned of the death of our former colleague and my good friend, Keith Sebelius.

Keith and I had a unique relationship for a good many years in the Congress. He was one of the strongest supporters of the agriculture community and fought for them at every opportunity. On a number of occasions, Keith had me speak to some of his constituents so that they could hear what I viewed to be the other side of the coin.

While we were on opposite sides of many issues, we never let this interfere with our friendship. I was sorry when Keith left the Congress and am deeply sorry now to learn of his death.●

● Mr. YATRON. Mr. Speaker, I am honored to have this opportunity to say a few good words about a former colleague, Keith Sebelius. I was deeply saddened by his untimely death and I want to express my sincere condolences to his fine family.

I had the privilege of entering the House of Representatives with Keith Sebelius in 1969. For the next 12 years, until his retirement, Keith represented the First District of Kansas with integrity, courage, and tremendous effectiveness. He always gave freely of his time, talent, and energy to make life richer and more rewarding for his constituents and the American people.

Keith Sebelius represented the largest wheat-producing congressional district in the United States and he was a recognized expert on farm issues. Many Members, including myself, frequently turned to Keith for counsel and advice on agricultural matters. His judgment was sound and recommendations trusted.

I am grateful for the opportunity to have served with Keith Sebelius during his tenure in this body. He was a decent, dedicated, capable, and respected legislator, who always tried to do what was best for his country. His passing is a sorrowful occasion for all of us who served with him.●

● Mr. COUGHLIN. Mr. Speaker, it is with a deep sense of loss that I join my colleagues today in paying tribute to our late friend, Hon. Keith G. Sebelius. He was one of this body's most distinguished former Members and I was shocked to learn of his death on September 5.

When I began my congressional service on the 91st Congress in January 1969, Keith Sebelius was one of my freshman classmates. We had a small class that year which gave us newly elected members an opportunity to form close working relationships and friendships with our fellow freshmen Congressmen. In the years following 1969, I was impressed continuously by Keith's intelligence, commitment, and sincerity. It was a privilege to work with him and to be able to call Keith a friend.

Diligently serving the First Congressional District of Kansas for 12 years, Keith repeatedly sought to give rural America a strong voice in Congress by advocating legislative programs that dealt with agriculture. His success in formulating these programs was far-reaching, and Keith appropriately became heralded as the champion of the farmer and rural interests.

Recognizing the multifaceted needs of our Nation, however, Keith also sought to foster conservation programs through his work in committees and worked tirelessly to insure that our national parks were preserved and enhanced. Keith, moreover, was a strong advocate for small business and senior citizens.

The death of any individual with whom we have been privileged to share a friendship is a deep and long-term personal loss. Even though Keith had retired from the Congress, it is hard to believe that we can no longer benefit from his intelligence and compassion. I will miss him sorely and extend my heartfelt condolences to his wife, Bette, and to his sons and their families.●

● Mr. McCLORY. Mr. Speaker, it is with a sense of personal loss that I take part in this final tribute to my long-time friend and our former colleague, Keith Sebelius of Kansas. No person who has graced the halls of this great body addressed himself in behalf of his constituents with greater conviction than Keith Sebelius of Kansas' First Congressional District. Yet, in articulating his strong and reflective views—frequently on issues related to American agriculture—Keith Sebelius maintained a calm and reserved composure which gave added weight to his words and views.

A most competent lawyer, Keith Sebelius made contributions in various fields of activity before his election to the Congress in 1968. Keith had a distinguished record in the military service as a veteran of both World War II and the Korean conflict. He served his city of Norton, Kans., as a member of the city council and as its mayor. He was both city attorney and county attorney of Norton County. His 6 years as State senator in the Kansas legislature helped equip him for the distinguished service which he rendered in behalf of his congressional district and of the Nation during the time that we knew him.

Mr. Speaker, in mourning the loss of Congressman Sebelius let me also express on my own behalf as well as in behalf of my wife Doris our respect, affection, and deep sympathy to his wife Bette and to all members of his family.●

● Mr. MONTGOMERY. Mr. Speaker, I was saddened to hear of the death of my good friend and former colleague, Keith Sebelius. He came to the House of Representatives in 1969, 2 years after I first came to serve in the 90th Congress.

I had the privilege to become good friends with Keith and our interests were the same in a number of areas. I still have several of Keith's key rings that he always enjoyed giving to his friends.

He was thoughtful and nice to everyone and I never saw him become agitated or lose his temper. He was always a gentleman.

Keith Sebelius will be remembered as a warm, kind man, and as an effective and respected leader in the House of Representatives.

Before coming to Washington, Keith distinguished himself in a number of positions in service to the people of Kansas. He was a Kansas State senator for 6 years in addition to holding positions of county attorney, city councilman, city attorney and mayor of his hometown of Almena.

He represented the people of the First District of Kansas well during his six terms here in Washington. I am honored to have had the opportunity to serve with this fine American.●

Mr. ROBERTS of Kansas. Mr. Speaker, the memory of Keith Sebelius has indeed been well served by the comments by my colleagues.

I yield back the balance of my time.

THE LATE HONORABLE ADAM BENJAMIN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Jacobs) is recognized for 60 minutes.

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the life, character, and public service of the late Honorable Adam Benjamin, Jr.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

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Mr. JACOBS. Mr. Speaker, Edwin Markham wrote, on the death of Abraham Lincoln:

> And when he fell in whirlwind, he went down
> As when a lordly cedar, green with boughs,
> Goes down with a great shout upon the hills,
> And leaves a lonesome place against the sky.

Adam Benjamin has passed from the sounds of our voices, and he has left a lonesome place in this Chamber that will last for a long, long time. Those who loved Adam here—and I think without exception that describes every Member of the House of Representatives who ever served with Adam and the others who toil with us in the Nation's Capital—will feel the lonesome place tomorrow and tomorrow again.

Mr. Speaker, as part of my remarks I am including editorials from two Indianapolis newspapers, and proceedings from the Congressional Record of September 8, 1982:

[From the Indianapolis News, Sept. 8, 1982]

Adam Benjamin, Jr.

For anyone who follows Indiana politics, news of the untimely death of 1st District Congressman Adam Benjamin Jr. comes as shocking and sad news.

During his tenure with both the Indiana General Assembly and the U.S. House of Representatives, the 47th-year-old Lake County Democrat was regarded as a legislator's legislator by colleagues on both sides of the political aisle.

A West Point graduate proud of his Assyrian heritage, Benjamin was elected to the Indiana House of Representatives in 1966, where he was named outstanding freshman Democratic representative at the conclusion of his first term. He was re-election to the Indiana Senate, where he served until 1976.

Benjamin is regarded as one of the most conscientious legislators of the Legislature. He not only was the only state legislator since former Sen. Russell Bontrager, R-Elkhart, to read every bill crossing his desk, Benjamin scrutinized the legislation with a lawyer's eye and was quick to spot a loophole, an error or a legislative wolf in sheep's clothing.

His crowning piece of legislation was undoubtedly the 1975 Medical Malpractice Act. Working around the clock, Benjamin achieved what many thought impossible by creating a consensus among lawyers, doctors and insurance carriers on how to avert soaring malpractice insurance premiums while still protecting legitimate claims by medical consumers. That legislation still stands as a model for other states.

In 1976 Benjamin successfully challenged incumbent Congressman Ray Madden for the 1st District seat in the Democratic primary. When he went to Congress, Benjamin was quickly recognized as one of the brightest of the crop of "Watergate class" freshment and was named chairman of the Legislative Branch Subcommittee of the House Appropriations Committee.

He won landslide re-elections in 1978 and 1980. Political observers here and in Washington predicted that as his seniority increased so would his rise to top leadership positions.

In an age of media politicians, Benjamin was a rarity. Prematurely balding, wearing wing-tipped shoes too large for his height, Benjamin advanced not on charisma but on intelligence, hard work, perserverance and genuine warmth. Those shoes will be hard to fill.

[From the Indianapolis Star, Sept. 9, 1982]

Adam Benjamin

The quick mind, cheerful industry and warm humanity of Rep. Adam Benjamin were taken too early from the Indiana scene. The promise of greater accomplishment was strong.

Those who knew this extraordinary man will give thanks even while they mourn his death at 47. His delight in working at what he saw as the public interest was unquenchable and often contagious.

The Star joins thousands of others in extending sympathy to the family of the congressman. It is easy and true to say that he worked too hard; yet that characteristic was a product of vision, an enormous curiosity that led to conviction about what needed to be done—and what realistically could be achieved.

In the Indiana General Assembly his service in both House and Senate was marked by unsurpassed mastery of the content of bills before members. Many a proposal which got a searching second glance from him ended with an important amendment, or went down to defeat, because of the power of his clear and compelling debate. "The great amender," they called him, a term that echoed both affection and respect from both sides of the aisle.

Truly he was driven by a desire for accomplishing good, and surely many millions benefited. In Congress he worked with passion to advance the interests of his district, including the steel industry, and he brought benefits to rail transportation in Indiana.

When a newspaper asked his platform in his successful 1976 run for Congress, Benjamin answered, in part, with this statement: "Reduction of the size and improvement of the effectiveness in all levels of government; making all government officials accountable for their expenditure of public funds."

Nominated by the Democrats over incumbent union friend Ray Madden, he was denied endorsement that fall by the state AFL–CIO, a serious thing in Lake County. It was the first time that had happened to a Democrat for Congress in the merged group's history—perhaps because he had been lawyer for a steelworker in a suit against his union. But three steelworker locals backed him.

Benjamin's nearly unsleeping eye for detail in budgets and flaws in bills promised much further good on the Washington scene.

Adam Benjamin came from one of the smallest of the minorities that make up the bewildering ethnic patchwork of the Calumet, the Assyrians. West Point graduate, Marine, Army paratrooper, attorney and friend of thousands, he was a comet of the still broad, still inviting American sky of opportunity for those who will strive.

[From the Congressional Record, Sept. 8, 1982]

The Late Adam Benjamin, Jr.

Mr. Hamilton. Mr. Speaker, with deepest regret I inform the Members of this House of the death of our colleague, Adam Benjamin. I extend my most heartfelt condolences to his wife, Patricia, and his children, Adam, Alison, and Arianne.

All of us who knew him are grateful for his life and the contributions he made to his friends, community, State, and Nation. His life, from West Point to Congress, was in the highest, finest tradition of public service.

Adam was an extremely effective legislator. I know of no one who was so quick to master the procedures of the House and use them for the benefit of his constituents. He set a record by becoming the chairman of an appropriations subcommittee in his second term. There used to be a saying at the Indiana Statehouse that Adam Benjamin was the only member of the general assembly who read all the bills. That gives some indication of the respect his fellow legislators had for Adam's legislative skill. Adam's drive for self-improvement enabled him to study for a master of law degree to teach academic courses while carrying on his duties as a Member of Congress.

Adam believed in, and lived for, representative government. He came from his constituents; he was a part of them; and he worked hard for them. Their problems and hopes, troubles and ambitions were his as well. Their welfare was his primary concern. He thought constantly of how he might serve them better. Adam had pride in his work as a politician and legislator. He believed it was the politician's job to make the country work, to provide stability, to accommodate different points of view, to develop a consensus, and to meet the needs of people.

He believed that a politician's work is the chief means of achieving justice for all persons.

His death cut short a brilliant career in the House of Representatives. We will miss him as a friend, politician, and legislator. All of us who knew him will be able to hold our heads a little higher because he contributed, as few are able to do, to making this House, as well as representative government, work better. His loss will be deeply felt by all of us who knew and worked with him.

The funeral for Adam will be at 10 a.m. Friday, September 10. It will be held at the Sts. Constantine and Helen Greek Orthodox Cathedral, 8000 Madison Street, Merrillville, Ind. Visitation hours will be Thursday, September 9, from 12 noon to 10 p.m., at the funeral home of Stilinovich, Palmer, Wintrolik, 4201 Broadway, Gary, Ind. A delegation will depart from the House steps at approximately 7:30 a.m. on Friday, September 10, for Gary, Ind., returning immediately upon conclusion of services in Indiana.

Mr. Myers. Mr. Speaker, will the gentleman yield?

Mr. Hamilton, I yield to the gentleman from Indiana.

Mr. Myers. Mr. Speaker, we all were shocked and saddened with the news yesterday morning of the loss of our dear friend, Adam Benjamin. We all learned to know him, some more recently than some of the rest of us from Indiana. Adam was one of the hardest working Members of Congress, as he had been a hard working State legislator. With his passing, he will be missed here in this House. We offer our condolences and our prayers to Pat and his children. The loss will be to our Nation to lose a very valuable, caring, and nice person that Adam was.

Mr. Jacobs. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Jacobs. Mr. Speaker, I thank the dean of our delegation for his contribution. Sadness and the understanding of death lie very heavily across this Chamber on this Wednesday. We had a colleague amongst us who was quick, alive, warm, friendly, and smiling just a few days ago. We are reminded that no person is an island. Particularly in this Chamber, we are a part of one another, and how childish our selfish tragedies seem at a time like this. Death ends a life, but it does not end a relationship, which will continue on in our hearts and in our minds. It does not make any difference whether it is a chamber of commerce person or a labor person in Indiana who speaks of Adam Benjamin. The regard is high and is immense for his scholarship, for his fairness and for his just plain friendliness.

There is an old advertisement that says, "Nobody doesn't like Sarah Lee." And, as you shall soon see by the remarks that are to follow, nobody didn't like Adam Benjamin.

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Mr. Hillis. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Hillis. I thank the gentleman for yielding.

Mr. Speaker, it was with great shock and with great sadness that I learned of this tragic event, the passing of our colleague. I had first gotten to know Adam when we went to the Indiana general assembly together in 1967 and served in the house where we sponsored a good number of bills together. As I got to know Adam and worked with him we became quite good friends. He typified, as the gentleman said, everything that is good about politics and good about government. He was a symbol there. We used to call him Mr. Clean because of what he stood for and how he conducted himself. I would say in public service I have known many fine people and many great people. Adam is of that category, probably the most ethical man in politics that I have ever known.

Mr. Hamilton. I thank the gentleman for his remarks.

Mr. Sharp. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Sharp. I appreciate the gentleman yielding.

Mr. Speaker, I want to join my colleagues in recognizing our distinguished Hoosier colleague, who was a model, I think, for many of us as legislators. He certainly was an exceptional public servant who did honor to our people and honor to this Institution.

Mr. Coughlin. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Pennsylvania.

Mr. Coughlin. I want to join in mourning the passing of Adam Benjamin. There was no more dedicated or hardworking Member of this House.

He served as the chairman of the Transportation Appropriations Subcommittee, of which I am the ranking minority member. We sat shoulder to shoulder through countless hours of hearings, mark-ups and conferences with the other body.

Adam sought solutions, not contention. He sought results, not showmanship. He was a champion of his people in his district. He was a giant of a man, a block of granite.

The people of Indiana have lost a great Congressman; the Congress has lost a fine subcommittee chairman, and I have lost a friend.

Mr. Hamilton. I thank the gentleman for his remarks.

Mr. Fithian. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Fithian. I thank the gentleman for yielding.

Mr. Speaker, I had the privilege and the pleasure to share in the representation of Adam's home county, Lake County. I think the best way to describe Adam Benjamin is to say that he was a legislator's legislator. And the best phrase I know of to describe Adam's life's work is that "he got things done," a tremendously effective person who knew no hours limitations on himself. His long hours contributed to democracy and and to this House. We shall all miss him in Indiana, and we shall miss him in this House. The nation has lost a great legislator. I extend my heartfelt condolences to the family of our late and great colleague, Adam Benjamin, Jr.

Mr. Hiler. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Hiler. I thank the gentleman for yielding.

Mr. Speaker, I, too, was deeply shocked and saddened by Adam's passing. As first-term Congressman from the other party, quite often you do not know what kind of relationships that you will be able to develop over time. But having the opportunity to fly with Adam many, many times to and from Chicago I got to know Adam as a friend and as a fellow Congressman. I think in those trips to and from Washington I learned a great deal not only about his dedication to his family, whether it was the last time I talked to him and he was the next day going to a baseball game with his children, or whether it was on Sunday afternoons or Sunday evenings hurrying to catch a plane, when we had been at the same parade, or at the same function, so that he could be here first thing Monday morning to get the job done here. Indiana will certainly miss Adam Benjamin. The northwest Indiana sector had a fine Representative. and whoever follows him will have very large shoes to fill. I, as a new Member of Congress, will miss Adam as well.

Mr. Rostenkowski. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Illinois.

Mr. Rostenkowski. I thank the gentleman for yielding and I express my gratitude to him for taking this time to relate to one of the great friends I have had in the Congress.

Mr. Speaker, as was pointed out earlier, I, too, flew from Washington to Chicago, and I developed a truly wonderful friendship with Adam. I never thought that it would so suddenly end.

As a man, Adam was tough, he was generous and he was loving. As a Congressman, his achievements were as stunning as they were profound. Adam was shrewd, he was honest, and he was effective. The effectiveness of the man was that he defeated one of the most powerful Members of Congress for that seat in Indiana. His rise on the Appropriations Committee was nothing less than miraculous. Adam was a man certainly of national stature. Yet his dedication to his constituents ran very deep. Adam Benjamin won many, many battles for Gary, and I am just happy to say that in winning those battles some of the victory spilled over into Chicago. He was a de facto member of the South Side of the city of Chicago because what was good for Gary and Indiana and Illinois was also good for my city. He also expected and received support from the Illinois delegation. I am proud of that. Adam was a West Pointer and a marine. He was intensely proud of his family. He was a great storyteller and a magnificent person to share a martini with at week's end. Only in his death do we sadly recognize the national achievement and the personal wealth that were in one person, Adam Benjamin. I express to his family my deepest sympathy.

Mr. Coats. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Indiana.

Mr. Coats. I thank the gentleman for yielding.

Mr. Speaker, I think our colleagues are witnessing today the deep respect and admiration that both sides of the aisle have had for Adam Benjamin. His loss is tragic. My first reaction was that Adam is as close to irreplaceable in Congress as any person that I have known here. Even though I am a freshman from the party opposite of Adam's, that was no barrier to his taking me under his wing, putting his hand on my shoulder, helping me to understand the legislative process, and working with me together for the good of Indiana and for the good of this Nation. I will miss him greatly. My deep sympathies are extended to his family. Adam's loss is a loss to all of us.

Mr. Long of Maryland. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Maryland.

Mr. Long of Maryland. Mr. Speaker, as a Congressman who has served on the Appropriations Committee and in the Steel Caucus and as one who was born in Indiana, I hope my colleagues will let me share their pride in Adam and their sorrow over his death. He had a penetrating, no-nonsense mind. In the words of the E.F. Hutton ads, when Adam spoke, people listened. We shall miss him very, very much.

Mr. Bedell. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Iowa.

Mr. Bedell. Mr. Speaker, I came to know Adam Benjamin because my son, who was a political consultant, was involved in his first campaign in which he was elected to the Congress. When I had my office over in the Cannon Office Building, it would not matter whether I went home at 7 or 11 o'clock at night; I went by Adam's office, and every time I went by his office, no matter how late it was, Adam was in there working. I never experienced anyone who spent the hours at night working that Adam did, for his constituents and for this House of Representatives. We will certainly miss him very much.

Mr. Michel. Mr. Speaker, will the gentleman yield?

Mr. Hamilton. I yield to the gentleman from Illinois.

Mr. Michel. I appreciate the gentleman yielding.

May I pick up on the remarks of the gentleman from Iowa, because I have known Adam Benjamin over the relatively short period of time that he served in this body. I can tell you that he lived to work. When I have been driving home in the immediate neighborhood, there was Adam at 8:30, 9 o'clock, just walking slowly back to his apartment. When I came back to work the next morning at 7:30, quarter to 8, there was Adam Benjamin walking more briskly back to his office again.

Having served with him on the Subcommittee on Appropriations, I can certainly attest to the industrious manner with which he approached any subject. If it was the Capitol Grounds around here that needed repair, he wanted to see it firsthand, to make absolutely sure that the expenditure of a few thousand dollars was justified. I did not know about the fact that he came from a legislature with the kind of a reputation for having read every bill that came before the legislature, but I can fully understand that, having served the brief period of time that I served with him.

I guess at this time there really is no center aisle because those of us on our side appreciate just as much as those of you on the majority side what a contribution Adam Benjamin has made to this House of Representatives. Seeing him operate, an "in-house" man at times, but also so well versed in the legislative ways, he brought credit to this House of Representatives. Each of us could take just a leaf from his book in how to conduct our lives on the floor of this House, on and off the floor. We are certainly going to miss Adam. I consider him one of those new-found friends, now lost, that I got to know in the House of Representatives, and I guess that is what makes this such a great place to have the opportunity to serve with people about whom we feel so strongly, and I certainly want to extend my unbounded sympathy to his wife and children in their hour of bereavement.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I believe the gentleman from Indiana has effectively summarized the characteristics of Adam Benjamin that made him so beloved to all of us who had the opportunity to work with him. I was particularly privileged to have served with Adam on the Budget Committee. Some of the traits that have been discussed already were the ones that stand out in my mind about Adam, particularly the hard worker attitude that he had.

When I first came to this institution, one of the oldtimers told me that around this place knowledge is power, which means that if you do your homework fairly and effectively, people will come to you to seek information. If you are honest with them, you gain a stature of power that is not measured by title or by office. Clearly Adam Benjamin was one of the most powerful people in this body because he was a prodigious worker who did his homework very effectively. And when you talked to him about an issue, he did not color the facts; he gave it to you straight. He was honest, he was independent. That made him a powerful and beloved individual. Another characteristic of Adam was his independence, the fact that he was a strong Democrat, and yet he crossed the aisle many times and voted for Republican amendments when he thought that was in the best interest of the country.

Obviously, he had strong support from labor, organized labor, and working people, and yet a few months ago when I was in Gary at his request to speak to the chamber of commerce group there, it was obvious that he had very strong support and respect among management and the business community.

It is this honesty and independence and hard work that made him stand out as a most effective legislator and a most effective national leader.

I will miss him very deeply as a friend. The Budget Committee and the whole process of the budget will miss him very deeply, because he did do his homework and he was effective.

I extend my very deepest sympathies to his family and friends.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, with a profound sense of shock and sorrow, I join my colleagues in paying a last tribute to Adam Benjamin. As a human being, and as a Member of this House, Adam embodied everything that was decent and good.

He was a caring person, with a deep sense of fairness and justice, and he was a warm personal friend of many Members of this House.

He was an exceptional legislator and public servant, who served with high distinction in the Indiana Legislature, and who in only three terms came to be recognized as one of the most respected and effective Members of the House. He was, in a word, a legislator's legislator, noted for his diligence, his knowledge of the procedures and the business of the House, and his skill in using the art of the possible to make good things happen.

In the House, there is no higher distinction than to be an effective chairman of an appropriations subcommittee. Adam earned that distinction on two appropriations subcommittees during his three terms on the committee.

It was my privilege to serve with Adam during his chairmanship of the Transportation Subcommittee. I served on that subcommittee for many years. I have a strong personal commitment to many of those programs, and I have had many deep and rewarding associations with members of that subcommittee.

Adam mastered the programs and the personalities of that subcommittee, and became one of the most effective members and chairmen in its history. I am deeply grateful for the opportunity I had to serve with him, and to share his high abilities as a legislator, and his warmth and depth as a human being.

His ability and his depth and his warmth will be missed by this House and each of its Members. His public service will be missed by this country. I send my heartfelt condolences to Mrs. Benjamin and his family.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I thank the gentleman.

I certainly want to join the gentleman from Indiana in extending my sympathy to Adam's beautiful family. He was a wonderful father and husband and spoke of them very, very often.

Adam was a friend and classmate. I remember when we came in together to this fine body, he gave our class many innovative, creative ideas.

I think Adam was one of those public servants who very seldom would make headlines, but he was one of the most quietly effective and decent people for whom this country could hope.

In addition to that, he not only served Gary, Ind., so effectively and beautifully, and unselfishly, he also was very generous with his time for other constituencies. I know that the people of the city of Cleveland, Ohio, our mayor and Congressman STOKES, myself, and others, are especially grateful for the hard work that he performed on our behalf in terms of the supplemental bill that we will be taking up shortly.

So all of us will miss Adam tremendously, but we will remember him. I believe for me, anyway, he will always be a prototype and a model of what a public official should be.

Mr. FARY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

[Mr. FARY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, I thank the gentleman for yielding.

I learned about Adam Benjamin before he got here. He had the reputation in Indiana and in the Indiana Legislature for being the classic inside man. He was a real pleasure to work with. I had the privilege of working with him from the very beginning and it was fascinating to watch him move in ways that most people do not, to get to the core of the House.

I doubt very much whether most people understand how potent he was in the first few months that he was here. He knew his way around in a way that was almost unbelievable in 6 months and he was a force and an influence in a year. His power and influence for good and for his State grew monthly. He was one of the most extraordinary Members I have ever seen in this institution and I doubt that even his close friends fully understand how much influence he had.

The country is going to miss Adam Benjamin. The institution is going to miss Adam Benjamin. The district and the State that he represented are going to miss him and I have nothing but the deepest sympathy for his family, because I know they will miss him, too.

Mr. HAMILTON. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, I thank the gentleman.

Adam occupied the same corridor as I do in the Cannon Building, two offices down. No matter what time I left that office, 7 o'clock, 8 o'clock, 9 o'clock, 10 o'clock, Adam's light was still on; no one in his office, just Adam sitting at his desk poring over legislation, working on issues long after every other Member of Congress had gone home. He worked very, very hard. He worked too hard. He worked harder than any man I have ever met in any field of endeavor.

I am very sorry to see him pass, because he was one of the most honest, tough, ethical people that I have ever met. He was somebody who if he had worked a little less hard could have been with us another 20 years or 25 years serving this institution and would have left a record that would have been unparalleled because of his ability to understand how this place worked and how to make it work for the issues and the beliefs that he held very dearly.

I will miss him very much, because he was a good friend of mine, and I believe the Congress and the people of this country will miss him just as much.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, I subscribe to the many wonderful statements that have been made on the untimely passing of our friend, Adam Benjamin.

On the Appropriations Committee, I do not know of anyone who applied himself more closely, who was more effective and who did it with as little fanfare as did Adam Benjamin. Notwithstanding all the work that he did in so many fields, if ever there was a need for a volunteer, Adam was willing to take that on, too.

So I say again that I subscribe to the many things said here and I add to it that his untimely passing leaves a void that is going to be difficult to fill and nobody will ever take his place, actually, but it will take two or three to take up the load that he carried.

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I extend my deepest sympathy to his family. He leaves a monument and a mark here that all of us might well try to emulate.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I want to join my colleagues in paying tribute to Adam Benjamin.

Our colleague, the chairman of the Appropriations Committee, summarized it well when he said that Adam Benjamin did things with little fanfare. He was not a meteor out there. He was not doing things because it might make television tomorrow. He was a solid, substantial legislator, who contributed in a very meaningful way to what goes on in this body.

Our colleague, the gentleman from Missouri (Mr. Bolling) was correct when he said this institution, this House, is going to miss him.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I wish to join my colleague, the gentleman from Indiana, and my other friends and colleagues in expressing sympathy to the family of Adam Benjamin.

We came to Congress together. He was a good friend, which of course was strengthened by the fact that he was educated in my district during his younger life.

He worked hard and he was what we call a real work horse, as opposed to a show horse. This institution is all the finer because of it. This country is all the better off because of Adam Benjamin.

I know that his memory will linger with us for many, many years.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, I thank the gentleman for taking this time to give those of us who knew and loved Adam Benjamin the opportunity to express our deepest and sincerest sympathy to his family.

Late yesterday afternoon, having lost the governorship in my State, I boarded a plane in Atlanta to return to Washington to complete my career in the Congress. I picked up a paper and opened it up and first learned of Adam's death.

It suddenly dawned on me that all I have lost was an election, but that Adam's wife has lost a husband. His children has lost a great father. His district and his State have lost a tremendous Representative and this Congress and this country have lost, I think, one of the finest men who ever served in this body.

I was a fellow Appropriations Subcommittee chairman with Adam. No Member, to my knowledge, did his work more effectively, as has been pointed out, with less fanfare, but with more dignity and effectiveness than did Adam Benjamin.

I extend my deepest sympathy to his family and to his district and to his State.

I think the highest compliment I can pay Adam Benjamin is to say that he will truly be missed. I am a better person in having known my friend, Adam Benjamin.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentelman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman.

I would like to express my deepest sympathies to the family of Adam Benjamin.

I was fortunate to get to know Adam Benjamin as a member of the executive committee of the Steel Caucus and I watched him as a leader of that caucus. I listened and learned as he handled a wide variety of issues of critical importance to this Nation's steel industry. I grew to respect his ability and to admire him greatly.

It has been said that he operated without fanfare, that he was concerned with substance—that is so true. He was the kind of Congressman that we would hope for on both sides of the aisle—for the benefit of the body and for the benefit of the American people.

Adam Benjamin was also a kind and affectionate human being. He did not seem to have, and if he had them, I never saw them—any partisan bones in his body. He would work with Members of this side of the aisle just as well as he would work with Members of his own party. Respect and friendship were in surplus from his fellow Members.

He will certainly be missed by his colleagues on the Steel Caucus and throughout this House. I heard some people talking the other day about what a Congressman has to do to achieve national recognition. You would think that national recognition would come to a Congressman who worked and achieved the way Adam Benjamin did. That is not exactly the way things work out, but when people ask Members of Congress who they admire and who they respect and who they would like to emulate, certainly the name of Adam Benjamin would stand tall before all of us as a name to remember.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding.

I join my colleagues in expressing my condolences to the family of my dear departed friend, Adam Benjamin, with whom I had the privilege of serving on the Appropriations Committee.

Like others who have expressed their admiration for Adam today, I respected Adam for his quiet courage and the dedicated manner in which he went about his work in service to his Nation.

I was taught as a child at my mother's knee that loyalty was the greatest virtue, and I believe that Adam demonstrated loyalty to the people that he worked for, to the Nation that he served, and to the family that he loved. He will be dearly missed in Congress. While his lights in the office in the Cannon Building will be darkened, the light that Adam Benjamin shone here in Washington will long be remembered.

Mr. McDADE. Mr. Speaker, will the gentleman yield to me?

Mr. HAMILTON. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I thank my colleague for yielding.

Mr. Speaker, I was shocked, as all of us were, to read of the untimely passing of our dear friend Adam Benjamin. I want to join my colleagues on both sides of the aisle in paying tribute to a distinguished and dedicated Member of this body. Adam's life will always stand as a great symbol for all of us to strive for in achieving excellence, in attempting to achieve excellence as we go about our legislative duties.

I do not know of a finer man than Adam. Adam was a marvelous man to deal with. He knew all of the intricate details of every piece of legislation that he handled, and others.

Mr. Speaker, I used to enjoy talking with him about Hoosier hysteria and Hoosier mania and how all the teams were doing which represented that great part of this Nation, which he so ably represented. He was a fine gentleman.

I was doubly saddened to read that he had come back to town to put his son into school; to have it happen in such a way as that is the height of pain, I am sure, for he and his family.

The Nation is poorer for his loss. This House is poorer for his loss.

I want to extend my deepest condolences to his survivors and I thank the gentleman for taking the time to permit us to pause to pay tribute to a truly great American, the late Adam Benjamin.

Mr. McCLORY. Mr. Speaker, joining in this final tribute to our colleague, Congressman Adam Benjamin, Jr., of the First District of Indiana, I must first indicate the deep shock which accompanied the report of his unexpected and abrupt passing.

Mr. Speaker, my association with Congressman Benjamin was far more intimate than that which I have experienced with most of my colleagues in this body. As a Representative in Congress from the great steel-producing area of Gary, Ind., Adam Benjamin and I worked closely together as members of the Steel Caucus. Adam's consideration of the views and interests of others and his ability to organize and apply the joint efforts of those of us who were having similar economic problems were among his special talents.

Mr. Speaker, Adam Benjamin has been one of the harder working Members of the Congress who earned the respect and enjoyed the friendship of those on both sides of the political aisle. In recalling his service and his useful life in our Nation, I take this occasion also to express my respect and deep sympathy to his widow, Patricia, and to all members of his family.

Mr. WIRTH. Mr. Speaker, I want to express my deep sorrow at the passing of our distinguished and well-loved colleague, Adam Benjamin. His sudden death is a great personal loss for me and a great loss as well for the Congress and the Nation it serves.

Adam was a legislator in every good sense of the word. His ability to move complex legislation through the House—building coalitions, crafting compromises, and giving all affected parties a fair say in the final product—exemplified the best in our democratic traditions and in our legislature process.

As we worked together closely on legislation, Adam and I developed a friendship that has ended too soon. My heart goes out to Adam's family and to the people of Indiana in this time of sorrow. I know that we in the House will not soon forget the contributions Adam Benjamin has made to our institution and to the American people.

Mr. ANNUNZIO. Mr. Speaker, like so many of my colleagues, I was stunned yesterday at the tragic news of the untimely death of my distinguished colleague and good friend from Indiana, Adam Benjamin.

During the last 6 years he served in the Congress, representing the First District of Indiana, I had the opportunity to work with him, to get to know him, and I became one of his great admirers.

He was a loyal, staunch, and dedicated Member of the House of Representatives. He reflected credit on the House, for he was a tireless worker in behalf of his constituents, his State, and his beloved America.

As chairman of the Congressional Steel Caucus, as a member of the House Budget and Transportation Committees, as a member of the Democratic Steering and Policy Committee and the Democratic Caucus Committee on Party Effectiveness, and later, as a member of the Appropriations Committee and chairman of the Subcommittee on Transportation of the Appropriations Committee, he give inspired leadership to this body which will be remembered for years to come.

He was a 1958 graduate of the U.S. Military Academy, earned his law degree from Valparaiso University in 1968, and before coming to Congress, he served as a State senator in the Indiana Legislature from 1971 to 1977, and prior to that, he served as a State representative from 1967 to 1971.

Those of us who had the privilege of knowing Adam Benjamin as a friend and colleague deeply mourn his passing, and our hearts go out to his bereaved family. Mrs. Annunzio joins me in extending our heartfelt sympathy to Adam's devoted wife, Patricia, and his three children, Adam III, Alison, and Arianne, on their great loss.

Mr. O'Brien. Mr. Speaker. I knew Adam because we represented adjoining districts, we served together on the Steel Caucus, and we served together on the Appropriations Committee.

He was a model of what a Congressman should be.

No issue was too complex, nor constituent case too small, to escape his study. Everything that affected the lives of his constituents affected his life. He was totally dedicated to their service.

This was illustrated by his mastery of the problems of the steel industry. Adam had a knowledge of the workers, the management, the plants, and the equipment that would have made a Wall Street analyst envious.

Why did he know these things? Because in Adam's district the steel industry is the economic mainstay. And, to his great personal anguish, hundreds upon hundreds of steel workers are out of work.

Adam made their concern his own. He could have paid lip service to their plight, and probably have been seen as doing enough. But that was not Adam. He had to learn the industry—top to bottom, inside and out—so that he would truly act in the best interest of those unemployed workers.

This is just one example of the kind of Congressman he was. There are many more.

What we have gained by his working among us is inestimable. What we have lost by his passing is clear: He was a voice of reason and conciliation, of compassion and responsibility.

I valued his counsel greatly. I will miss him every day.

Mr. Clausen. Mr. Speaker, I would like to take this opportunity to pay tribute to the late Adam Benjamin, Jr., our colleague from Indiana. I know that many of the Members gathered here share my sadness at his sudden and untimely death.

Adam Benjamin will long be remembered by his colleagues in the House, Indiana State legislators and local elected officials, and by more than anyone else his constituents for his tireless efforts on their behalf. The words dedication and self-sacrifice come to the minds of his friends and associates when his name is mentioned. I was privileged to serve with Adam on the Congressional Steel Caucus, of which he was chairman—his leadership there will be sorely missed. Known for his mastery of detail and his in-depth knowledge of the problems facing steel and other heavy industries, he was an effective spokesman for the interests of the industrial Midwest.

Adam Benjamin earned an engineering degree from the U.S. Military Academy at West Point, and his law degree from Valparaiso University of Indiana. As well, he lectured on the social sciences and budget studies at Georgetown University, from which he was to have been awarded a master's degree in comparative and international law. He was first elected to the House of Representatives in 1976, and has served on the House Appropriations and Budget Committees, holding the chairmanship of the Subcommittee on Transportation of the Appropriations Committee.

Mr. Speaker, it is with great honor and respect that we mark the passing of Adam Benjamin, Jr. No words can fully express the emptiness we all feel and the void which he has left. Our prayers go out to his family, for we know what a loss they have suffered, and pray that God will give them strength.

Mr. Hamilton. Mr. Speaker, I thank the Members for their several contributions.

Mr. Speaker, I offer a privileged resolution (H. Res. 579) on the death of the Honorable Adam Benjamin, Jr.

The Clerk read the resolution, as follows:

"H. Res. 579

"*Resolved,* That the House has heard with profound sorrow of the death of the Honorable Adam Benjamin, Jr., a Representative from the State of Indiana.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

"*Resolved,* That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

"*Resolved,* That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

"*Resolved,* That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased."

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DECKARD. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to our colleague (Mr. Deckard) from the Eighth Congressional District of Indiana.

Mr. DECKARD. I thank the gentleman for yielding.

Mr. Speaker, the sorrow that all of us have felt over the passing of Adam Benjamin weighs heavily still today.

Adam was a man who, to a degree rare in public life, earned the deep respect of all who knew him. It was my honor and pleasure to have had his friendship since 1967, when he and I were first elected to the Indiana Legislature. Since that time, more than any other person I have known, he exemplified the ideals of public service.

The grief of his family is, of course, beyond measure, but only those who knew of Adam's work can know how profound is the Nation's loss as well.

In all matters Adam Benjamin was a man of honor and humanity. He was my friend and I will miss him greatly.

Mr. JACOBS. I thank the gentleman for his contribution.

Ms. FERRARO. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentlewoman from New York.

Ms. FERRARO. I thank the gentleman for yielding.

Mr. Speaker, sometimes, when I think about the composition of this House, and the divergent backgrounds and interests of the Members, I am amazed at how much is accomplished. What makes it possible for us to get things done is the willingness of Members to make the effort necessary to understand the problems facing Americans from areas which differ from their own. That kind of cooperation is the essence of governing in a Nation as large and diverse as ours.

The death of Adam Benjamin deprives this House of a man who exemplified the best of this spirit of cooperation and the willingness to understand other people's problems. On several occasions, I had the opportunity to discuss with this gentleman from Indiana transportation issues of special concern to New York City. I was consistently gratified at the effort he made to understand the problem and craft an effective solution. It was just obvious that he really cared, that he was really dedicated to helping people and making things work.

It may sound corny, but there is no other way to say it—Adam Benjamin was a truly nice man. I will miss him, and this House will miss him.

Mr. JACOBS. I thank the gentlewoman for her contribution.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Texas.

Mr. de la GARZA. I thank my distinguished colleague for yielding.

Mr. Speaker, I join my colleagues in paying tribute to a great American whom we in the House had the honor and privilege of serving with. Adam Benjamin was a dedicated Member of Congress in the few short years that he was here. It may even seem inappropriate that I might mention the fact that, to many who criticize, to many who make light of the efforts of the Members of Congress, I think Adam Benjamin would probably exemplify the fact that the dedicated Members, the 99.9 percent of the Members of the House who serve and serve well, work with such diligence and such ardor that, for some of them, as I think it was for Adam Benjamin, eventually it caused his death—the long hours and the work and the frustra-

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tion many times that we have as we serve.

He was not only dedicated to his constituency. I am very happy to recall the many times that he, in his very important position as chairman of the Subcommittee on Appropriations, was helpful to many of his colleagues, not only in passing legislation, not only in assisting with their problems, but with counsel and advice in areas of interest to the individual Member. He was one who would never say "no" to time request, to request for counsel or request for advice. Having served his country in the armed service, as well, he again offered his service to his country in the legislative field.

I know that the people of Indiana and the people in his constituency will miss him because of his dedication and his effort in their behalf.

I would like to mention a personal note concerning a young man in his constituency who was killed in Vietnam, a young man who, by accident, happens to share the same name of de la Garza. ADAM BENJAMIN visited me about that and became so interested in the fact that here was this young man, in the prime of his life, who had served and who had lost his life in Vietnam. His interest in looking into the events that led to the young man's untimely death eventually resulted in the posthumous awarding of the Congressional Medal of Honor to Emilio de la Garza of East Chicago, Ind., and it was, I am convinced, through the efforts of ADAM BENJAMIN, feeling that this young man had performed above and beyond the call of duty, and this was, of course, verified by the respective chains of command that that type of award has to go through. He was very proud and happy that he had done this. But he was that kind of a man who would work with a Member on one of his problems, but yet the lowliest of his constituents were as important to him in his efforts as he legislated and as he counseled and as he served their needs as far as the Government is concerned.

So I join with my colleagues, in that we will miss ADAM BENJAMIN, but this House and this country will be the better for his having served here. Of course, we extend to his family and to his friends and to his constituency our heartfelt condolences. But we are satisfied that his service will make this a better country and make this a better House of Representatives.

Mr. JACOBS. The Indiana delegation expresses its gratitude to the chairman.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from West Virginia.

Mr. RAHALL. I thank my colleague, the gentleman from Indiana, for yielding.

Mr. Speaker, first of all, I would like to thank our colleagues in the Indiana congressional delegation for providing the Members this opportunity to pay tribute to a fine man, and a wonderful Member of this body, ADAM BENJAMIN, who passed away last week.

It was not only an honor to come to Congress at the same time as ADAM, but it was a pleasure to have him as a next-door neighbor on the fourth floor of the Cannon House Office Building.

The point has been made on a number of times already, but I would like to stress again, that a night did not go by—or for that matter many weekends—that ADAM BENJAMIN was not in his office well into the evening and early mornings. A show horse he was not—but most definitely a workhorse he was.

Perhaps his physical stature did not match his personality, of a warm and decent man who saw concerns and needs of people that had to be met and he worked tirelessly to improve their situations.

He served on the Appropriations Committee with great distinction, and led its Subcommittee on Transportation with great skill. But even more importantly I believe, he was the driving force behind the Congresssional Steel Caucus.

It was due to ADAM's able leadership of the Steel Caucus that it became a power and positive force for an industry that has long been a foundation of America's economy. Not only did his district, which centered around the steel city of Gary, benefit from his efforts in this area, but the entire Nation benefited as well. As a Representative from one of the Nation's largest coal producing regions—coal that is used to produce steel—I was well aware of ADAM's positive impact in this area.

Men like ADAM BENJAMIN come along once in a great while. When they are gone, they are deeply missed. I know that I can safely say that ADAM BENJAMIN will be deeply missed by his family, his friends, and his colleagues here in the House of Representatives.

□ 2040

Mr. JACOBS. Mr. Speaker, I thank the gentleman for his contribution.

Mrs. KENNELLY. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. I thank my colleague from Indiana for yielding.

Mr. Speaker, I was stunned to learn last week of the tragic and untimely death of our colleague, Representative ADAM BENJAMIN, JR.

While I have only been a Member of Congress a short time, I have been here long enough to realize that ADAM BENJAMIN was a remarkable man. He was remarkable not only because he was extremely hard working and intelligent, but because he combined his obvious talents with a warm and gracious personality and a genuine concern for helping others.

I became acquainted with ADAM soon after I was elected to Congress. I had requested a meeting with him to discuss an important transportation problem in my district. Although I was the newest Member of the House, I could not have been accorded greater courtesy or respect than if I had been the Speaker himself. In all of my dealings with ADAM, he was straightforward and modest, low key and persuasive.

I will miss ADAM very much and wish to extend to his family my deepest sympathies.

Mr. JACOBS. I thank the gentlewoman for her contribution.

Mr. EVANS of Indiana. Mr. Speaker, will be gentleman yield?

Mr. JACOBS. I yield to the gentleman from Indiana.

Mr. EVANS of Indiana. Mr. Speaker, I am pleased to be able to participate in this special order for ADAM BENJAMIN this evening, and it is true, as so many people both on the floor of the House and really throughout this Nation, particularly in his home State of Indiana, have stated so often in the last week that ADAM had a tremendous impact on this Nation, on his district, and that he had and was living already a very bright future here in Congress.

Those statements are true; but even more, ADAM was really the leading force in northwestern Indiana in trying to revitalize that area of our State economically, in terms of jobs for the citizens of ADAM's own district and those of several surrounding congressional districts.

It is seldom that we see Members of the House, I think, take that kind of a leading role in terms of increasing the economic strength of their own congressional districts to the extent that ADAM did.

Often I would be working in my office until 11 or 12 at night and, as has already been stated again many times, ADAM would be working in his office until the wee hours of the morning; but sometimes we would take a break and walk up the street to perhaps get a sandwich.

I know when I walked to my apartment only a block away from ADAM's last Wednesday night, and then when I walked back to my office on Thursday morning, I walked past ADAM's apartment knowing that I was not going to see him again, to be able to share that walk back to the office nor to walk back and forth from the Cannon Building's fourth floor with ADAM to the floor of the House or back to our offices after we had an opportunity to vote.

I think ADAM was certainly one of the most open and most friendly of

Members of the U.S. Congress that I have ever had the privilege of knowing here in my 8 years. He would do anything that he possibly could to help a colleague. I know he did so repeatedly for me and for many others.

Just this afternoon I stopped by his congressional office and in closing up that particular office suite on the fourth floor of the Cannon Building, his staff was still hard at work for constituents back home. I know he had that kind of a dedicated staff not only in his Washington office but in his district office and also among his subcommittee staff of the Transportation Subcommittee.

ADAM's loss certainly is a loss in my opinion that will never be replaced in terms of magnitude or quality here on the floor of the House again. I know that his family, his friends, his colleagues, his district, his State, his Nation have suffered a tremendous loss, and as I and my wife, Darlene, were driving to ADAM's funeral last Friday morning from Indianapolis, I heard a song being sung on the car radio and simply its title was "Thank you for Being a Friend." That is what I would like to say at this time, ADAM. Thank you for being a friend.

Mr. JACOBS. I thank the gentleman for his excellent contribution.

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, as closely as I worked with our late colleague ADAM BENJAMIN on the Steel Caucus, and as much as I respected him, there is much about him I did not know because his talk was of work and not of himself.

For example, he was relentless in his search for useful knowledge and he had an unquenchable curiosity about the way things work.

But I do not know if he read philosophy.

However, I do know his approach to public life matched to the letter a maxim of a 19th century French philosopher, who said, "You can only govern men by serving them. The rule is without exception."

Around Gary and northwest Indiana they were well governed when ADAM BENJAMIN had a hand in it. And the same is true for the Executive Committee of the Congressional Steel Caucus, of which he was chairman.

I do not know if ADAM BENJAMIN was a religious man.

But I do know his personal style matched word for word the admonition from Ecclesiastes in the Old Testament:

> Whatsoever thy findest to to, do it with thy might . . .

ADAM BENJAMIN's time in the House of Representatives was marked by considerable service given with his might, which was substantial.

As a founder of the Steel Caucus, and a sustaining force, ADAM had an unspoken rule—never retreat, always advance. I do not know if he learned the rule in the Marines as an enlisted man or at West Point or as a young officer in the 101st Airborne; but he learned it well and he applied it with diligence as he moved from local government to State government to National Government and up in the National Government, always serving.

No meeting was too early for ADAM BENJAMIN and no crisis happened too late. He just was always there. It was never inconvenient for ADAM to drop what he was doing—and you never found him doing nothing—to go to the White House or the Department of Commerce or the International Trade Commission to work on a problem.

Unfailing is the only word to describe him.

One of his last official acts was to straighten out a punitive and discriminatory application to the steel industry of last month's tax bill.

He did it between 6 p.m. and 10 p.m., 1 hectic day before adjournment.

ADAM was never at a loss for long, and here he met and exceeded an ancient measure set down by the Roman historian Tacitus for judging the quality of a man:

> Reason and calm judgement are the qualities especially belonging to a leader.

ADAM BENJAMIN was a leader.

When you work day in and day out with a man, month in and month out, year in and year out, you come to understand his strength and his shortcomings.

ADAM BENJAMIN had very few flaws and they all were minor.

He had much strength, and as the Book of Proverbs says:

> Iron sharpeneth iron; so a man sharpeneth the countenance of his friends.

The sharp edge of the Steel Caucus will be different because ADAM is not with us to apply his particular honing; so will that of the House; so will that of the Congress.

The highest tribute we can give him is to see that the edge is only different and not less sharp.

And most important in my mind is this: We must always advance, never retreat.

□ 2050

Mr. JACOBS. Mr. Speaker, I thank the gentleman from Pennsylvania for his eloquent remarks as well.

> I shall do nothing out of malice. What I deal in is too vast for malice.

The words are those of Abraham Lincoln. They might have been descriptive words of our colleague, ADAM BENJAMIN, as well.

ADAM was a workaholic, who strangely and maybe miraculously never seemed to be in a hurry. He always had time. He always had time to be stopped on the street, to be stopped in the Chamber. He always seemed to have a relaxed gait.

Another quotation from Lincoln is, "I have not willingly planted a thorn in any man's bosom." That is an adequate description of the kindliness of our dear departed colleague.

It has been said that ADAM served in the U.S. Marine Corps as an enlisted man. Later he accepted an appointment to West Point and did his State and his country honor as a student there and still later served in the U.S. Army as an officer in the 101st with great distinction.

He came home to Indiana; back home again in Indiana he got through law school, practiced law for a while, sniffed out the political fever and went down to Indianapolis from Gary to represent his community in the State legislature. There is something sort of Lincolnesque about this.

ADAM very quickly as a freshman representative developed a reputation about which much has been said in the past week or so for reading every bill. Now, most of us will tell you that is physically impossible, it is; so another miracle by ADAM BENJAMIN.

He helped other legislators by pointing out errors in their legislation, but always in a kindly way, so that I do not know of anybody who knows of anybody else who ever took offense at his suggestions for improvement.

Later he became a State senator in Indiana and served with the same distinction. It did not make any difference whether it was the Indiana State Chamber of Commerce as a representative or whether as a representative of the AFL-CIO or the Auto Workers, the acclaim was always the same: "He is decent. He is informed. He is industrious. He is a good guy." Nobody did not like ADAM BENJAMIN.

We went to the funeral the other day near Gary, Ind., on Friday and we saw a beautiful ceremony. Our colleague, Mr. HAMILTON from Indiana, gave a sterling tribute, which will appear in the RECORD, I believe. Others spoke as well. The ceremony was beautiful, reassuring, comforting.

The 45 or so House Members who formed the delegation, including Members who are in the Chamber now, that attended the ceremony went there with a special kind of pain that comes with the unanticipated loss of a dear friend.

We can almost see ADAM walking on to this floor from that corner of the Chamber even now, always with a grin or a smile.

We went there, and the ceremony, I think, did a lot of good for a lot of people who attended it. At the graveside there, there were the two little girls, ADAM's daughters, and the young man, Adam Benjamin III, who had come here so recently to Washington, D.C., to be enrolled over at George-

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town Prep, no doubt looking forward to this marvelous time through those difficult teenage years with his father to guide him. That will not be possible at all now. Others will help him, I am sure; but there was the widow, Patricia, a study in dignity and strength. As she sat by the graveside, the young man, Adam Benjamin III, stood there and somehow the two of them reminded us of nothing so much as the sad occasion of the death of John F. Kennedy, when the widow showed such dignity and such leadership, really, in sorrow for the Nation and when little John-John stood at attention and saluted his father's casket as it passed by. There was Adam Benjamin III. He never sat down at the graveside. He stood erect, the son of a soldier, next to his mother, lending strength to her. He will go on where his father leaves off, without a doubt.

Then, as our colleague from Indiana has pointed out, the staff from the congressional office which ADAM had so nobly and well led was there, and as our colleague, Mr. EVANS, has pointed out, that staff continues to do the work of the district. And they were hurt. They were hurt very hard.

I believe that the ceremony and the strength of Mrs. Benjamin, ADAM's widow, gave them strength to carry on as they are quite nobly.

Now, for anyone who may read this RECORD 1 year from now or 10 or 100 years from now and suspect that this is dutiful rhetoric by colleagues who are expected to do that, let me give you a quote from Will Rogers who was ill once. He emerged from the hospital to say,

> People couldn't have been any nicer to me if I had died.

We expect grand and wonderful things to be said even of us when we pass on by our friends and by our colleagues, and that usually happens. I do not mean those words are empty. I just mean to say that the same words that you will read in cold print 100 years from now or however long, whichever scholar we are addressing henceforth in this RECORD, and before it all is chiseled in stone and becomes cold, unquick and unlifelike and unwarm, know this: That the same things that you will read in this RECORD now were on the record every day that ADAM was here, on the record from his friends to one another, to him. His appreciation did not begin with his untimely death. It was there and very much a part of him and very much a part of us throughout his career and throughout the time that we were privileged to know and be inspired by him.

● Mr. WHITTEN. Mr. Speaker, I subscribe to the many wonderful statements that have been made on the untimely passing of our friend, ADAM BENJAMIN.

On the Appropriations Committee, I do not know of anyone who applied himself more closely, who was more effective and who did it with as little fanfare as did ADAM BENJAMIN. Notwithstanding all the work that he did in so many fields, if ever there was a need for a volunteer, ADAM was willing to take that on, too.

An indication of the legislative skills which ADAM developed in the Indiana Legislature is the fact that he was elected to the Appropriations Committee on 1977 within weeks of his election to Congress. He selected assignments on the Legislative, Transportation, and District of Columbia Subcommittees.

ADAM was a tireless worker who soon earned the respect of his colleagues. In the 96th Congress, he was elected chairman of the Legislative Branch Subcommittee. He also served on the Transportation Subcommittee. ADAM became chairman of the Transportation Subcommittee at the beginning of the 97th Congress. Other assignments included the Energy and Water Development and Legislative Subcommittees.

So I say again that I subscribe to the many things said here and I add to it that his untimely passing leaves a void that is going to be difficult to fill. Nobody will ever take his place, actually, but it will take two or three to take up the load that he carried.

I extend my deepest sympathy to his family. Although ADAM served only a relatively short time in the House of Representatives, he leaves a monument and mark here that all of us might well try to emulate.●

● Mr. YATRON. Mr. Speaker, it is with great sadness that I join with my colleagues here today to honor a friend and fellow Member of the House of Representatives, ADAM BENJAMIN.

For almost 6 years, Congressman BENJAMIN was a talented, able, and effective legislator whose accomplishments will be long remembered by the people of northwest Indiana, and by us who had the privilege to serve with him. Without a doubt, he was respected and admired by his colleagues in the House, regardless of their party affiliation or political inclination.

I had the opportunity to serve with ADAM BENJAMIN on the Congressional Steel Caucus, which he founded. I was able to witness and appreciate his many unique legislative skills. He was truly one of the driving forces behind legislative initiatives to resolve the problems facing America's steel industry, and he worked indefatigably to resuscitate this critical sector of our economy.

I am shocked and deeply saddened by the loss of this great man. ADAM BENJAMIN's tenure will continue to be an example to me and to others, of what dedicated public service really means. It goes without saying that he will be greatly missed by all of us in this body.●

● Mr. FARY. Mr. Speaker, as Congress reconvened from the district work period, we learned of the death of our colleague, ADAM BENJAMIN. He was a dear friend to all those whose lives he touched, and he will be sorely missed.

ADAM and I became close friends shortly after his arrival to Congress in 1976, traveling together frequently on Midway Airlines from Chicago's Southside. I think the fact that we had many things in common enabled us to develop a quick and lasting friendship. We were both Democrats who represented a Midwestern district, and had a long record of public service in our respective State legislatures. We were both keenly interested in transportation issues, he as chairman of the Transportation Subcommittee of the House Appropriations Committee and I, as a member of the House Public Works and Transportation Committee. ADAM, along with Congressman GLENN ANDERSON, then chairman of the Aviation Subcommittee, was instrumental in helping restore airline service to Midway Airport located in my congressional district in Chicago.

The true testament to ADAM though, is that aside from any common interests, he could befriend anyone. ADAM was an approachable, sensitive, warm person who genuinely liked people, regardless of their ideology or party affiliation. I am sure that is exactly how he became such a successful and respected leader in his community.

Coupled with his personal charm, ADAM was also one of the most tireless, dedicated workers of this body. The stories of his late night and weekend work hours have almost become legend in his relatively short tenure here. The industry and commitment which he brought to his job will be hard to match for many years by those of us remaining. As if the role of a Congressman were not demanding enough, ADAM still found the time and energy to better himself by attending Georgetown for a masters of law degree. I trust that our House leaders and fellow Members recognized immediately this inherent perserverence and dependability, when ADAM was awarded a seat on the powerful Appropriations Committee.

Mr. Speaker, this body is composed of a variety of Members who span a broad range of stature. I am sure, with time, it will become evident that ADAM BENJAMIN made his mark as a giant amongst us. I offer my heartfelt condolences to his entire family.●

● Mr. ROBERTS of South Dakota. Mr. Speaker, ADAM BENJAMIN's passing brings to mind my service in South Dakota's Senate and the few months I have been privileged to serve in this

House. Regardless of partisanship, Americans are looking earnestly for elected representatives who will work with diligence and integrity. ADAM BENJAMIN typified those qualities. His career and the potential he had in Congress spoke eloquently of the honor and duty he felt serving here.

In his freshman term, ADAM BENJAMIN was entrusted with the unenviable task of chairing the Legislative Appropriations Subcommittee. In a body that will give itself a backdoor pay increase at the drop of a hat, Mr. BENJAMIN consistently showed an interest for sensible projects and care for the public purse. Throughout his career, his friendliness and generosity matched his ethical quality.

It will be impossible to replace ADAM BENJAMIN with a House Member of equal intelligence, dedication, and ethics. This body will miss him in the extreme, and our country is at a serious loss.

I am sure you would join me, as my colleagues, in hoping that other men like ADAM BENJAMIN continue to come our way.●

● Mr. PEYSER. Mr. Speaker, I know we all share a sense of great loss with the sudden and untimely passing of our colleague, ADAM BENJAMIN. There was no one in the Congress more devoted to serving the people of this country and doing the very best job that he could than ADAM. He was a good friend and will be deeply missed by all of us.●

● Mr. HILLIS. Mr. Speaker, it is always difficult to accept the death of a friend, particularly when that death is sudden and without warning. When I first heard that my friend ADAM BENJAMIN had died, I felt a great sense of personal loss. In the last week and a half, since his passing, I have thought a lot about ADAM and realize that my loss is more than just a personal one. As a legislative body the House of Representatives has lost a great legislator and leader.

ADAM BENJAMIN was a legislator's legislator. A Congressman's Congressman. He exemplified what we should all like to believe a Congressman to be. He served his constituency and protected their interests with great vigor. Perhaps his work in forming the Steel Caucus best illustrated his efforts to work for the interests of his constituents.

For those of who were lucky enough to know ADAM BENJAMIN before he was elected to the Congress, his record of excellence here came as no surprise. I first met ADAM when we served in the Indiana House of Representatives together. When ADAM became chairman of an Appropriations Committee subcommittee in just his second term in the House, it came as no surprise. When he formed the Steel Caucus to work toward solving the problems of the steel industry which is so important to his district, it came as no surprise.

Whenever you talk about ADAM BENJAMIN the one word most often used to discribe him is honest. He was that and much more. He was generous with his time and friendship. He cared deeply about his fellowman and used his influence in the Congress to better their lives. ADAM was an effective Member. His energy was endless in working for passage of bills he felt important to his constituents. But regardless of how busy he was or how full his schedule, ADAM would always find time to talk to you if you needed advice, or if you needed help, or just a friend to pass a few minutes with.

No Member of Congress is absolutely irreplacable. However, the passing of ADAM BENJAMIN creates a great void in the House. It will be a long time before we will again be blessed with someone with the unique qualities of ADAM BENJAMIN.

I extend my heartfelt condolences to his wife Patricia, and his children, Adam, Alison, and Arianne. My prayers are with them at this difficult time.●

● Mr. ADDABBO. Mr. Speaker, I rise to express my shock and great dismay at the untimely death of our colleague, the Honorable ADAM BENJAMIN of Indiana. When anyone dies at age 47, it is a distinct waste and is particularly sad because of the years that are lost. In the case of ADAM, the loss is not only a personal one for family and friends who knew and loved him, there is a distinct and tragic loss to the Nation. ADAM BENJAMIN was the sort of man who would have been returned to serve in this House for another two or three decades. The benefits to our Nation will never be recovered, no matter how well a successor may serve.

It is no surprise to anyone who knew him that ADAM did so well during his time in the House. His West Point training stood him in good stead for his was a logical and comprehensive mind, able to grasp concepts quickly and to devise solutions where others saw no hope. He was a straightforward, sincere man whose word was indeed his bond, and who knew when to charge and when to stand firm. And we who were his colleagues on the House Appropriations Committee saw his intense determination to master subjects and to put his imprint on legislation.

Very few Members become subcommittee chairmen in their second term in the House. ADAM was one of those. He assumed the chairmanship of the Legislative Appropriations Subcommittee and he quickly became the most knowledgeable member of the committee in that area. We were seeing the same thing with transportation appropriations at the time of his death. Another year or so and there would have been few people in this country who would have known as much about the country's transportation system as he would have.

ADAM had one quality that always stood him in good measure—he was fair. If he had a problem with something you wanted, he said so, and if it were possible to persuade him differently, you would always have the opportunity to try. We in New York City had some squabbles with ADAM in recent months about subway cars but there was never a time during that long battle when he did not provide either the New York delegation or the city's representatives opportunities to present their side of the matter.

I could say a number of things about ADAM because I worked closely with him during the years he served here, and he was a personable companion as well as a good friend. But if I had to summarize in just a few words about how I felt about him, I would tell anyone who wanted to know that this country needs more Adam Benjamins. So does this Congress.

I know that the sadness that we feel in this house is nothing compared to the sense of loss felt in his house by his wife Pat, his son Adam III, and daughters Alison and Arianne. My sympathies to all of them and to all of his many friends and supporters of Gary, Ind.●

● Mr. RHODES. Mr. Speaker, I join with my colleagues today in paying tribute to Congressman ADAM BENJAMIN, whose untimely death over the Labor Day weekend was a shock to us all.

Although ADAM served in the House only three terms, his achievements during this short time were notable. His efforts on the Appropriations and Budget Committees were well known and highly respected.

The people of the first district, too, benefited immeasurably from his tireless efforts on their behalf.

The distinction with which ADAM BENJAMIN served in the U.S. Congress, was a natural continuation of his lifetime of dedicated public service. A graduate of the U.S. Military Academy, a veteran of the U.S. Marine Corps and the Army, a member of the Indiana House of Representatives and the Indiana Senate, were significant chapters in his life, providing him with the challenges and commitments he sought.

All those who had the opportunity to know ADAM and to work with him, have to be saddened by the shortness of his life, but impressed with its richness.

He will be missed by his colleagues, his constituents, his family and his friends.

Mrs. Rhodes joins me in extending sincere sympathy to Mrs. Benjamin and his son, Adam, and daughters, Alison and Arianne.●

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● Mr. FORD of Michigan. Mr. Speaker, I was deeply saddened by the death of my colleague and close friend, Adam Benjamin, Jr. His untimely death is an immense loss to the Congress, to Indiana and to the country.

I had the pleasure of working with Adam on numerous occasions, particularly in our struggle to reverse the erosion of the American steel industry. In only his third term, Adam had moved to the forefront of this important issue. His dedication to the elimination of the burdens on unemployed workers in the United States was unsurpassed.

Adam's hard work and integrity gained him the respect of Members on both sides of the aisle. Through his knowledge and determination, he quickly rose to the chairmanship of the Subcommittee on Transportation of the Appropriations Committee. Adam's political career seemed limitless, and I am proud to have had the opportunity to serve with him. I wish to extend my sincerest sympathies to his family and let them know that my thoughts and prayers are with them.●

● Mr. SAM B. HALL, JR. Mr. Speaker, it would be difficult to imagine a more sad and tragic event than the untimely passing of our dear friend Adam Benjamin. He was one of the most devoted, hard-working people you would ever hope to meet, and it is the greatest possible honor for me to be able to say that he was my friend. More important, he was a friend of every working man and woman in this country.

Our colleague, Joe Gaydos, summed it up best in his eulogizing statement when he said of Adam Benjamin: "Unfailing is the only word for him."

Adam was a fighter. He could roll up his sleeves and take charge as well as any person imaginable. He loved this country, and he believed fervently that people ought to have jobs, good jobs, and productive jobs.

When America's steel industry fell on difficult times, Adam Benjamin jumped into the fray. He was instrumental in setting up the Steel Caucus, and the American steel industry will forever be in his debt.

Several weeks ago the terrible plight of our domestic steel industry hit my congressional district like a bombshell when Lone Star Steel was forced to lay off some 4,000 of the hardest working people to be found anywhere on the globe. I knew then that as long as friends and colleagues like Adam Benjamin existed we would fight this thing together; that we would push for any and all measures to rescue America's steel from unfair, outrageous foreign competition. His loss hurts our cause, but what he started is sufficient incentive to press on.

To his family I can only say that Adam made this a better Congress. He had a positive influence on all of us, and we ask to share in your grief.●

● Mr. REGULA. Mr. Speaker, I want to thank the gentleman from Indiana for reserving this time to pay tribute to our colleague Adam Benjamin. With his untimely death the first District of Indiana and the country lost a dedicated and effective representative, his wife and children have lost a devoted family man, this body has lost one of its most able and hardworking legislators and I have lost a very good friend.

I had the honor and privilege to serve with Adam on the Executive Committee of the Budget and Appropriations Committees. Whether we were tackling the macroeconomic problems of formulating a budget resolution, or grappling with how best to handle the problem of subsidized steel imports, Adam always knew the issue and could offer constructive suggestions, if not always the solution.

Adam achieved his success and derived the respect of his colleagues in large part because of his sense of fairness and his ability to compromise, He embodied Edmund Burke's philosophy of good government and that was that "All government—indeed every benefit and enjoyment, every virtue and every prudent act—is founded on compromise and barter."

Adam's reputation as a tireless worker was well known among all of his colleagues, Few could compare with him for the sheer energy and intensity he brought to his job. He was one of the most knowlegeable legislators, both on the procedures of the House and the substance of the issues debated.

We who know and worked with Adam have learned from his example. We can all be proud of the image and example set by our late colleague.

Adam exemplified the best of politics and politicians. He believed strongly in this institution and in our system of representative government.

He had already made a distinguished name and career for himself and had a bright future before him which was tragically cut short.

Thinking of Adam, I am reminded of FDR's views on politicians and I quote:

> The future lies with those wise political leaders who realize that the great public is interested more in Government than in politics.

For the great public and Adam's memory we should all try to follow the fine example of politician, legislator, leader, and human being that Adam Benjamin left in the memories of those who were fortunate enough to know him. Those of us whose lives he touched are all richer for the experience and Adam will be sorely missed by us all.●

● Mr. HUGHES. Mr. Speaker, I am deeply, deeply saddened by the death of our friend and colleague from Indiana, Adam Benjamin.

Not only in the House of Representatives but also as a representative and senator in the Indiana State Legislature, and in the U.S. Marine Corps and the U.S. Army, Adam Benjamin gave of himself generously. Adam was a hard worker, an extremely diligent and conscientious man who devoted his life to public service.

Adam always had a ready smile and a warm hello. His perseverance and industriousness were never harsh; rather, he displayed an easygoing attitude, and went out of his way to accommodate his colleagues. His work for Hoosiers and for national concerns was carried out with insight and care.

A concerned and effective legislator, Adam Benjamin had a truly remarkable career. To his wife, Patricia, and his children, Adam, Alison, and Arianne, I offer my deepest condolences. As an earnest, industrious lawmaker and a true friend, he will be sadly missed.●

● Mr. DONNELLY. Mr. Speaker, I join in mourning the death of our colleague and friend, Adam Benjamin. This House and this country are richer for Adam's years of service, and we are substantially poorer for his untimely passing.

I had the privilege of sitting next to Adam for the last 2 years on the Budget Committee, and I was awed by his capacity for long hours of hard work and his mastery of detail. He brought the same tireless dedication to every task he undertook.

Adam enjoyed his work in the House. He was a skillful legislator who took as his reward an intense personal satisfaction from doing his job well for the benefit of his district and his country. He was content to work quietly, without generating headlines or attracting the television cameras. He was not the kind of Congressman whose name is a household word outside his district, but he was precisely the kind of Congressman more people should have known about. His diligence and integrity and ability brought credit to this historic institution.

Adam Benjamin earned my unqualified respect as a Congressman, I am fortunate to be able to say he was also a dear friend. I join Adam's friends and colleagues in expressing my condolences to his family.●

● Mr. COELHO. Mr. Speaker, it is with a deep sense of loss that I join my colleagues in paying a final tribute to a higly respected and greatly admired colleague and friend, Adam Benjamin. Through his diligent work and highly respected ideals he earned the admiration and respect that only those possessed with such a strong sense of commitment and dedication obtain. It is with a great sense of pride that I recall that Adam visited my district in California several years ago, for which I am grateful. For me his death has left not only the professional loss felt for a distinguished colleague, but also a great loss for those people in his district in Indiana he so well represented, as well as personal grief for a cherished and esteemed friend. With these thoughts in mind, I wish to extend my deepest and most sincere sympathies to his wife and family.●

● Mr. CORRADA. Mr. Speaker, it is with a deep sense of sadness that I join today in paying tribute to a good friend and colleague, the Honorable Adam Benjamin. Adam's untimely death last week will be deeply felt by all of us who knew him well and called him our friend.

We were both first elected to the Congress in 1976 and as Members of the 95th Congress New Members Caucus became good friends. Adam was a conscientious and hard-working Member who faithfully represented the interests of his constituents and his Nation. As chairman of the Subcommittee on Transportation of the Committee on Appropriations, Adam was deeply interested in the problem of mass transit and the need for long and careful planning tailored to meet the needs of a growing nation.

Adam always showed great interest and concern about Puerto Rico and was very helpful to me on numerous occasions. He will be sorely missed and we all have lost a good and faithful friend.

My wife Beatriz joins me in expressing our deep sympathy to Patricia Benjamin and to their three children. My prayers are with them for the eternal rest of a proud native of Indiana, Congressman Adam Benjamin.●

● Mr. WOLF. Mr. Speaker, I join today in expressing deep sadness in the untimely passing of our colleague from Indiana, Adam Benjamin.[1]

Because our offices were near, I got to know Adam well over the past 20 months. We would often walk together to come to the House Chamber to vote. From our conversations during those times together, I gained a respect for Adam Benjamin as a dedicated, conscientious Member of Congress who worked hard and long hours for the people he represented.

Adam Benjamin also was a good friend of the people of the Washington metropolitan area. As the chairman of the House Transportation Appropriations Subcommittee, he was sensitive to such local issues as National Airport and the Metro system. He understood our concerns and he was always willing to listen and work with us to serve the best interests of the area's citizens.

We will miss him. I would like to extend my deepest sympathies to his family and many friends in the First District of Indiana.●

● Mr. UDALL. Mr. Speaker, I wish to express my sadness and deep regret at the loss of our friend and colleague, Adam Benjamin. Adam was a thoughtful, fair, and wise legislator, whose advice and support I valued inestimably.

His hard work and excellent counsel will be sorely missed by the Appropriations and Budget Committees on which he served. The Congress, the citizens of Indiana, and the Nation have benefited greatly from his compassionate and courageous leadership.

Adam will be remembered by all of us in the House as a good friend, public servant, and fine human being.●

● Mr. BOLAND. Mr. Speaker, I was profoundly shocked and saddened by the news of the death of Adam Benjamin.

There is no minimizing the extent of this tragedy. His wife and children have lost a loving husband and father, the people of the First Congressional District of Indiana have lost a dedicated and effective spokesman, and we have lost a distinguished colleague and friend.

I had the pleasure and privilege of serving with Adam on the Appropriations Committee. No member of that committee worked harder, was more able, or more interested in the quality of the committee's work than he. Although Adam had only chaired an Appropriations subcommittee for a short time, he was extremely effective in that role, and was recognized as one of the most effective subcommittee chairmen. The diligence, dependability, and great capacity for productive effort that earned him the approval of his constituents also earned him the respect of not only the members of the Appropriations Committee, but all of those Members of Congress who were familiar with his work.

Mr. Speaker, we will sorely miss Adam Benjamin's ability and wise counsel in the days ahead. I want to extend my sincere sympathy to his wife, Patricia, and to their children, Adam III, Alison, and Arianne. I hope they can take some small comfort in the fact that Adam Benjamin will not be forgotten by the Congress in which he served, nor the people of Indiana for whom he served.●

● Mr. CONTE. Mr. Speaker, it is at this time that I would like to join my colleagues in expressing deep personal sympathy over the sudden death of our fellow Congressman from the great State of Indiana, Adam Benjamin.

During his brief tenure here in the House which began in 1976, Adam distinguished himself as a knowledgeable and respected leader. I had both the honor and the privilege of serving closely with him on the Appropriations Committee. As chairman of the Transportation Subcommittee, Adam quickly familiarized himself with its policies and goals. Moreover, his courteous, friendly personality allowed him to work in close cooperation with the other subcommittee members.

In short, Adam typified everything that a good House Member should be—hard working, diligent, and always willing to accommodate or assist other Members in their efforts. As we all know, such traits are vital in leadership roles and, unfortunately, are too often the exception rather than the rule.

These may sound like incredible achievements for a relative newcomer to Congress; but examining Adam's record of service to his Nation and home State prior to 1976, one could have easily anticipated such shining results. It seems only fitting, therefore, that I should mention Adam's service both in the U.S. Marine Corps and the U.S. Army. Equally, Adam distinguished himself as a willing and capable doer in the Indiana House of Representatives and the Indiana Senate.

It has been said that all great man are simple and good. Adam was just that. Integrity, dedication, and warmth of personality are rare qualities, but even rarer when combined in any one individual. Adam was able to combine these traits and thus rise accordingly in the congressional ranks. It is for this reason that I feel personally honored and privileged to have worked with Adam. It is for this reason that the people of his district, his State, and his country will miss him dearly.

I would also like to take this opportunity to extend my deepest condolences to Adam's wife and family.●

● Mr. BEVILL. Mr. Speaker, all of us were shocked and deeply saddened by the unexpected death of our friend and colleague, Adam Banjamin, Jr., of the First District of Indiana.

I considered it a personal honor to serve with Adam on the Appropriations Committee, and to have him as a member of the Energy and Water Development Subcommittee. I was extremely impressed with his thorough preparation, his hard work and his undestanding of the complexities of the appropriations and budgetary process of the country.

I also held Adam in the highest regard for the tremendous leadership he provided for the Congressional Steel Caucus. His perseverance and his dedication to the people of America's steel industry helped to form a strong congressional group which has actively sought to improve the conditions for steel, one of the pillars of America's economy.

His death is a personal tragedy for his loving family and it is also a tragedy for the entire Nation, because Adam Benjamin was a Congressman who had a great deal to offer to all the people. His brief, yet beneficial career in the Congress of the United States set an

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example of excellence for all of us to follow. Adam Benjamin will be missed by this body.●

● Mr. YOUNG of Florida. Mr. Speaker, We were all shocked to learn last week of the untimely death of our friend and colleague Adam Benjamin.

Adam and I served together on the Appropriations Committee for 6 years, and during that time worked together on many transportation issues, including providing adequate funding for our Nation's highways and the Coast Guard. Few jobs are more difficult than allocating limited resources to a rapidly expanding transportation system which includes highways, waterways, and airports, however through long hours of work and with a thorough understanding of each of our Nation's transportation needs, Adam carried out this task.

Although his chairmanship of the Appropriations Subcommittee on Transportation involved Adam in matters of national importance, he still found the time to serve the people of Indiana's First Congressional District. Even before he was elected to this body in 1976, Adam dedicated himself to improving his hometown of Gary, Ind., and its surrounding communities. He served the area in many capacities, including schoolteacher, zoning administrator, executive secretary to the mayor, and State representative and senator.

We share the loss of Adam with his wife Patricia and their children Adam III, Alison, and Arianne. Their loss of a husband and a father will be shared by all the American people, who have lost a great leader.●

● Mr. HOWARD. Mr. Speaker, I would like to take this opportunity to join my colleagues in paying tribute to Adam Benjamin. It is very difficult to explain the tremendous loss I felt, and I am sure that the same can be said about my colleagues from both sides of the aisle, when I learned of Adam's untimely death.

I was fortunate enough to be able to work closely with Adam on transportation issues and soon realized the drive and commitment he had for the job. I do not think this Chamber has witnessed a Representative, who in such a short period of time, achieved the enormous respect of his colleagues. Adam obtained this level of respect through hard work and dedication.

My deepest sympathies are extended to Adam's wife, Patricia, three children, Adam, Alison, and Arianne, and his mother, Margaret. They deserve a special tribute because they gave up so much of him, so the rest of us could have the honor of working with this fine gentleman.

This Chamber will certainly miss Adam Benjamin, but his presence will be felt for a long time to come. If anybody needed to look for a role model for the "perfect legislator," you would be hard pressed to find one better than Adam Benjamin.●

● Mr. SHUSTER. Mr. Speaker, the sudden, untimely death of Adam Benjamin was a great loss: Not alone to the family which he loved so dearly, but to Indiana and the Nation which, as Marine, soldier, and legislator, he served with enormous intelligence, energy, and dedication.

Even as, in 1967, Adam Benjamin's reputation as a most unusual and able public servant preceded his arrival in the Indiana State Legislature, that reputation, greatly enhanced by 4 years of service in both the State house and senate, preceded his arrival in the Congress in 1977.

In my work with the Surface Transportation Subcommittee of the Committee on Public Works and Transportation, I was privileged to work closely with Adam in his role as a strong, but fairminded, chairman of the Transportation Subcommittee of the Committee on Appropriations.

He was a powerfully effective advocate of the people of the Second District of Indiana whom he served so diligently; yet he had the great capacity to appreciate the needs and problems of others about the Nation and, certainly, he was an enlightened and effective supporter of the Nation's highway and mass transportation needs and systems.

Many have served longer in the Congress than Adam Benjamin; but few have worked harder, nor longer, nor have accomplished more per day of service. Many have gained greater renown; but few have earned, in so short a time, the enormous measure of professional respect and personal affection: a respect, an affection, which transcended the partisan political lines which, as the unexpected swift demise of Adam Benjamin reminds us, must pale in the recognition of how truly fragile, how tenuous, the thread and span of mortal life can really be.

It is a recognition which, at once, inspires a greater balance of values, and a greater level of humility than, perhaps, is sometimes demonstrated. If, as we do, we find cause to mourn our sudden loss in this body, we know that it can be as nothing in consideration of that of his widow and children to whom I offer heartfelt condolences.●

● Mr. WHITLEY. Mr. Speaker, Adam Benjamin and I were elected to Congress together in 1976 and became Members of the "95th class."

Although Adam, as the Representative of a midwestern industrial area and I as Congressman from a very rural southern district might have appeared on the surface to have had little in common, we became fast friends.

His good nature and keen sense of humor were always prevalent, and he took my jokes and ribbing in the spirit they were intended.

But there were no jokes between us where the vital interests of our districts and our areas were concerned. On several occasions, he spoke to me about issues very important to him and in every instance I felt that I could, I supported him on these issues. I will never forget the critical (to my district) vote on preserving the tobacco price support and production control program last year when Adam, knowing it would be a difficult vote for his constituents to understand, supported me in a matter of the utmost concern to the economic lifeblood of my district.

With his office just down the hall from mine, we often walked to the floor together when the bell rang for a vote or quorum call. It is hard for me to realize and accept that no longer when the bell rings will I be pausing to wait for him to catch up so that we can share a few pleasant moments together as a break from the heavy responsibilities of a long day.

I did not know Adam's wife or family, but to them, I convey my sincerest sympathy. Although you did not know me, I knew Adam and will miss him more than most.

May God's grace and serenity sustain you as you adjust yourselves, as I adjust myself, to an existence that no longer involves the company and companionship of this good and able man.●

● Mr. DWYER. Mr. Speaker, it is with a deep sense of loss that I join today in this special order for Adam Benjamin.

His untimely passing has left a void in this Chamber and on the Appropriations Committee, where I had the honor of working with him for the last year and a half.

As member, subcommittee chairman, and spokesman for the people of Indiana's First District, Adam Benjamin epitomized the type of representative to which we all aspire. He advanced the interests of not only his constituents, but our entire Nation as well in many key areas, most notably transportation, through his able leadership as chairman of that subcommittee.

His swift rise to the chairmanship of that important subcommittee is indicative of his skill as a legislator and the deep respect with which he was held by his colleagues.

Adam Benjamin set a fine example of solid and effective leadership for his peers. He will be sorely missed to be sure, but we have been fortunate to have a man of his caliber in our midst.●

● Mr. APPLEGATE. Mr. Speaker, at this time, I would like to take this opportunity to say a few words about my colleague, Adam Benjamin, who suddenly died last week. His death was a stunning blow to all of us, particularly those who had the pleasure of working with him on the Congressional Steel Caucus.

Adam was a man of tireless commitment. As chairman of the executive committee of the Congressional Steel Caucus, he was dedicated to improving the conditions of the Nation's ailing steel industry as well as insuring that its workers did not join the growing ranks of the unemployed.

Adam was a man of integrity and his word was his honor—no higher praise can be given. He was respected by his colleagues for his intelligence, qualities of leadership, lack of pretense, and his attention to detail. He was a polite and softspoken man whose ability to interact effectively with his colleagues was a talent admired by all.

Adam Benjamin had genuine concern for all he served. His presence will be missed, but he will not be forgotten.●

● Mr. MYERS. Mr. Speaker, there are too few real leaders in the United States today, and that is why the death of our colleague, Adam Benjamin, is such an especially tragic loss.

Adam's leadership qualities were well known to all his colleagues who worked with him. First, he was an extraordinarily hard worker. He simply outlearned and outprepared almost all other Members. Second, he had a gifted intellect that enabled him to understand the complicated issues that he worked with, and to make judgments that will be proven correct in history.

Adam was also honest, fair, and reliable to a degree that is truly exceptional today. Everyone who knew Adam Benjamin grew to expect much of him; no one was ever let down.

But what impressed me most about him, and what we will miss most in his absence from this body, was his strong heart. In the generation taught to be go-getters Adam was a go-giver. He was so generous with his time and his help, and he spent his substantial power and influence so graciously and for such good, that few standing in this Chamber did not directly benefit from his friendship. He lived to serve others, never needing to worry about serving himself.

Mr. Speaker, America had lost a great leader, Congress has lost a great worker, Indiana has lost a great servant, and I have lost a great friend.

Carol and I join the thousands of the Benjamin family friends in extending our deep-felt sympathy and our prayers to his wife, Pat, the children, and Adam's mother.●

● Mr. DERWINSKI. Mr. Speaker, the untimely passing of Adam Benjamin has cost the House of Representatives one of our most effective Members. Since Adam's district in Indiana bordered my district in Illinois, many problems called for cooperation between us. I can personally attest to the unusual effectiveness and influence he had.

I developed a great admiration for Adam. He was a West Point graduate, he excelled in his service to his constituents, and he was a leader in the Indiana Legislature before coming to Washington. In his brief congressional career, he made his mark more rapidly than most and he will be sorely missed by his constituents, his colleagues, and his country.

Adam was a warm, genuine, and friendly man; the kind of friend you could sit and enjoy pleasant moments with, as well as turn to when you needed advice in troublesome periods. He leaves a young family; and my wife, Pat, joins me in expressing our sincerest regrets to them. I want Adam's wife, Patricia, and his children to know that he has left memories with all of us they can be proud of and, despite his premature passing, he will be remembered in only the most positive fashion.●

● Mr. CLAY. Mr. Speaker, each Member of this body has been touched by the untimely death of Congressman Adam Benjamin. Today, in profound sadness, and with the deepest respect and admiration, we honor the memory and service of a great statesman and an outstanding American.

Adam Benjamin was a man of high intelligence and dedication to principle. He loved America and believed in the workings of Congress. Congressman Benjamin served his constituents with devotion. Capable of honest advocacy, Adam Benjamin represented the people, trusted their wisdom and venerated the principles of democracy. He was devoted to humanity and always giving a part of himself to the betterment of his fellowman. It was my privilege to have served in the House with Congressman Benjamin, he was a leader of unquestioned integrity and a model public figure.

I extend my thoughts and prayers and deepest sympathy to Congressman Benjamin's widow and children. May they find strength and peace in the days ahead.●

● Mr. LEHMAN. Mr. Speaker, it would be difficult to describe my dismay at the news of Adam Benjamin's sudden death, but I know that it is not necessary. All who knew him share my shock at this tragedy.

Adam Benjamin, Jr., was an exceptional man. Strong yet compassionate, effective and always fair, Adam gave all of himself to his family, to his constituents, to this House, and to the Nation. His generosity and his commitment were reflected in his hard work, and I believe it is accurate to say that he gave his life for his country, just as surely as if he had died under arms.

This is a time when our country needs leaders of Adam's caliber, with Adam's special qualities. A leader we cannot spare has fallen.

The Congress has lost one of its best, and I have lost a true friend. We will all miss Adam; we owe it to him to continue working to fulfill his goals and to maintain his ideals.●

● Mr. AuCOIN. Mr. Speaker, Adam Benjamin was a trusted friend and colleague to us all. His death is a tragic loss to his family, to this body, and to the constitutents he represented so well.

Many of my colleagues here today knew Adam when he ws just learning the ropes. I did not really get to know him until more recently, over the last few years, when his accomplishments were many. I was privileged to serve on the transportation appropriations subcommittee which Adam chaired, and I grew to respect his knowledge, ability, and perhaps most of all his fairness.

He was an outstanding representative, tireless in his efforts, absolutely committed to serving our great country. He was, in the best sense of the word, a public servant.

In his inaugural address, President Kennedy spoke of the demands of public office. He said:

> And when at some future date the high court of history sits in judgment on each of us, recording whether in our brief span of service we fulfilled our responsibilities to the state, our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage * * * Second, were we truly men of judgment * * * Third, were we truly men of integrity * * * Finally were we truly men of dedication?

Adam Benjamin was all of these things.

In a job where it is all too easy to get caught up in our own issues and our own personal projects, Adam always had time to help his colleagues. A few months ago when I had to spend some time in the hospital for my own health, Adam was there—offering to do whatever he could to help me out.

Few of us could have carried the load Adam did. A seat on the Budget or Appropriations Committee is demanding. He did both and was in his office long after most of us had gone home.

Adam worked hard, too hard. We will all miss him. I extend my deepest sympathies to his wife and family.●

● Mr. ALBOSTA. Mr. Speaker, it was with profound shock and sorrow that my wife Dorothy and I learned of the sudden and unexpected death of Adam Benjamin, Jr. It is always so tragic when death takes from us one of our friends and colleagues.

Adam was a quiet but effective legislator. He was trustworthy and reliable. He worked long hours and diligently for his people. These are all traits which we all admire and seek to emulate. Most of all, Adam Benjamin was a friend and loyal colleague.

It was in this last capacity that I came to know Adam best. When another Member of Congress was unable at the last minute to come to my dis-

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trict for a special event, it was ADAM to whom I turned. Not only did he come on short notice and with little preparation, but he also turned out to be a big hit with my constituents.

ADAM was just that type of guy. You could always count on him in a pinch and you knew his word was good as gold. He did everything thoroughly and you knew that when ADAM BENJAMIN spoke, he knew what he was talking about.

It is particularly painful to lose ADAM at this time because he was definitely one of the promising Members of Congress who was sure to fulfill his potential as a leader in Congress. In just three terms, the vast majority of Members came to know and respect ADAM's wisdom, analytical mind, and ability to get a job done and have it done well.

As a member of the Appropriations Committee, ADAM clearly understood the importance of building and maintaining America's roads, highways, bridges, ports, and mass transit systems. He had the vision that is needed to be a leader in making this country's transportation system work for everyone.

We shall miss ADAM BENJAMIN and all that he stood for in our minds. It is not often that we have the opportunity to work with people of ADAM's ability. While he may have left us physically, his example will be with us for many years, as will his accomplishments.

Dorothy and I extend to his family our heartfelt sympathies.●

● Mr. SHUMWAY. Mr. Speaker, I was deeply saddened to learn of the passing of our friend and colleague, ADAM BENJAMIN, and I appreciate having this opportunity to pay tribute to his memory today.

While our membership in this 435-Member organization produces a mutual camaraderie to some degree, I am always pleased to encounter a colleague with a genuinely warm and friendly attitude. Such was the case with ADAM BENJAMIN. He was the most cogenial of men, and the most open of Members, encouraging friendship and ever ready to offer a listening ear. He was, to me personally, a kind and thoughtful individual, one with whom I wish there had been more time in which to become better acquainted.

Thus, I shall miss ADAM BENJAMIN now that he is no longer with us, and I shall certainly preserve the fine memories which he left behind. I extend my most heartfelt condolences to his wife and children, and to all those who have been saddened by his loss.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Indiana, Mr. JACOBS for taking this special order so that we can pay tribute to our deceased colleague and friend, ADAM BENJAMIN, JR. Mr. Speaker, this is indeed a sad occasion for me and Members on both sides of the aisle. Today, we formally join with the people of Indiana in mourning the death of our friend and a true friend of the American people.

His death leaves a tremendous void in this legislative body. Mr. Speaker, Congressman ADAM BENJAMIN gave every ounce of his energy, intelligence, and ability every waking moment for the well-being of the people of this great Nation. He was, in the truest sense of the word, a master statesman whose leadership was revered by Members of both political parties.

ADAM BENJAMIN was elected to represent Indiana's First Congressional District in 1976. I think that we can candidly say that he served the best interest of the people of that district.

Mr. Speaker, on a more personal note, I had the distinct pleasure of serving with Congressman BENJAMIN on the House Appropriations Committee. I was impressed by his actions on that committee. I found his skill in manuvering through the often tedious appropriations process to be extraordinary. He was so skilled and committed to his task on that committee, that he developed a reputation as being one of the most hard-working members of the House Appropriations Committee.

Mr. Speaker, just as important, every member of that committee regarded ADAM BENJAMIN as being a fair-minded and cooperative individual. Recently, through his role as the chairman of the House Transportation Appropriations Subcommittee, ADAM BENJAMIN supported the efforts of Congresswoman MARY ROSE OAKAR and myself to secure needed funds for the terminal tower project in Cleveland. Probably more than any other person, he provided the impetus for the inclusion of funding for the terminal tower project in the fiscal year 1982 supplemental appropriations bill. My major regret is that he did not live to see this House override the President's veto of that bill in which he helped to provide funds for this project in Cleveland.

Mr. Speaker, this is just one of many acts of kindness that ADAM BENJAMIN did for his colleagues. It was his ability as a legislator and acts like this that endeared him to Members on both sides of the aisle. We shall miss his leadership especially at a time when the skill he displayed in the appropriations process is so greatly needed in this Nation.

Again, I express my condolences to ADAM's wife, his family, and the residents of the First Congressional District of Indiana. I know that the spirit and magnitude of the Character of ADAM BENJAMIN will live on in our hearts and minds.●

● Mr. SHARP. Mr. Speaker, we have all suffered a great loss and are saddened by the death of our colleague ADAM BENJAMIN. He was a tireless worker and an unselfish person who represented his constituents, State, and Nation well. All of my colleagues have mentioned the long hours and dedication that ADAM put into his work. We can all use him and his record as a way to measure our own accomplishments. I am struck by the thought that we know our days are limited on this Earth, and ADAM realized that there was so much to do that he carried on with his work as if there were no tomorrows.

I was fortunate to have gotten to know ADAM when he was first elected to the Congress in 1976. We were friends and I am a better person for having known him. ADAM was always willing to talk and share with me some of his ideas and thoughts. As chairman of the Appropriations' Subcommittee on Transportation, he was an integral part of my efforts to continue passenger rail service to my district. My district directly benefited from his leadership.

We will miss ADAM BENJAMIN in this Chamber. But more importantly this Nation will miss his leadership and sense of fairness during the coming years. Perhaps Kahlil Gibran said it best when he wrote in "The Prophet:"

> When you part from your friend, you grieve not; For that which you love most in him may be clearer in his absence, as a mountain to the climber is clearer from the plain.

ADAM BENJAMIN will not be forgotten.●

● Mr. GORE. Mr. Speaker, it is with great sadness that I rise to pay tribute to ADAM BENJAMIN, my late colleague from Indiana.

ADAM BANJAMIN was a dear friend, and a gentleman who was respected for his honesty, energy, and outstanding integrity. He was a warm, generous man with a deep concern for the public welfare. He rapidly gained a reputation as a strong, uncompromising figure in his pursuit of fair and effective representation and he emerged, in only three short terms, as a leader in Congress.

A true public servant in the fullest sense of the term, ADAM gave not only of his time, but of himself. ADAM BENJAMIN was a dedicated and effective legislator who had strong ideas on what was right and reasonable in Government, and he pursued those goals without pause or compromise. His years here were full of achievement and distinction, as he commenced his congressional career with an appointment to the prestigious Appropriations Committee and, only 2 years later, was asked to chair the Legislative Subcommittee of Appropriations.

ADAM BENJAMIN will be sorely missed by all who were privileged to know him—his family, his friends, and the people he represented. What he might have yet achieved, had his time not been cut so sadly short, can only be imagined. What he was, what he accomplished, and what he meant to each of us, will not be soon forgotten.●

● Mr. JACOBS. Mr. Speaker, the following is a tribute to our fallen colleague Adam Benjamin. A tribute was issued from the Indiana Washington office and written by the Governor's representative in Washington, Mr. Don M. Newman. Mr. Newman enriches the Record by his beautiful words about Adam.

Adam Benjamin

All who knew him grieve at his untimely death. There is a deep sense of loss, both personally, for we lost a good friend; and politically, for the First District, Indiana, and our country lost a great patriot.

Adam was the epitome of the hardworking Hoosier Congressman. His long hours of dedicated toil in behalf of his District, his State, and his country is common knowledge.

His monumental devotion to duty encompassed not only attempted resolution of his District's problems, but also attempted resolution of any meritorious State problem which was brought to his attention. It did not matter to Adam if the beneficiaries of his efforts were in parts of Indiana far removed from the First District—if he could help, he did help.

He treated people with deep respect and genuine affection; and it was easily reciprocated. He was unpretentious, honest, unassuming and democratic. It was part of his style to close his staff meetings by polling his young industrious, and intelligent staff on their opinions. It assured them in a very direct way that he sincerely valued their significant contributions. His quick expression of appreciation was part of his nature.

A few days ago, Governor Orr received a letter from Adam thanking him for an appointment he had made upon Adam's recommendation. The letter was dated Saturday, September 4. One of the Congressman's last acts was to extend his appreciation to his Governor for a small favor. It was typical.

Adam Benjamin did touch our lives in a special way. It is fitting that we remember and appreciate him for his fine works. But also, perhaps we could pay him the higher compliment of stretching to enhance our own character and contribution with more of his strong attributes: an Adam Benjamin industriousness, an Adam Benjamin integrity and an Adam Benjamin devotion to duty.●

● Mr. MURTHA. Mr. Speaker, when Congressman Adam Benjamin died recently, the House of Representatives lost one of its finest Members, and I lost one of my closest friends.

Adam was a man who served the House in its finest tradition. He cared about the people he represented and worked hard for them. He was a man of his word. He understood the congressional system, and worked within it for the benefit of the people. He brought to Government a deep concern, a caring that what we did was not only possible within the limits of Congress, but beneficial to the people it would affect.

I worked most closely with Adam on the Steel Caucus. We would not have been able to adopt the "trigger pricing" system without his help. We would not have been able to obtain the "safe harbor leasing" tax provision for the steel industry without Adam's leadership. We would never have established the communication among Congress, union steel leaders, and the steel industry had it not been for the work and diligence of Adam.

In addition, I worked with him on the Appropriations Committee, where he provided leadership on the Legislative Subcommittee and most recently the Transportation Subcommittee. Adam had a keen eye for appropriation detail, and fought for budgets that were fair and equitable. In working with him on a transportation project in my own area, I found him to be a quick study, and, as always, he grasped the heart of the project and was able to help move it forward.

Personally, Adam was a source of strength to all of us. He made us more compassionate, he made sure we worked for and remembered the public good, and when the situation called for it, his sense of humor would not only relax us, but also show us the perspective of the issue we were considering.

It can truly be said that Adam will be sincerely missed by the House in the months and years ahead. Personally, I already miss him.●

● Mr. BARNES. Mr. Speaker, like all of my colleagues, I was deeply saddened to learn of the death of Indiana Congressman Adam Benjamin. Representative Benjamin was a conscientious and respected Member of the House, who served his constituents and his country with great distinction.

With Representative Benjamin's death, the residents of the Washington, D.C. area have lost a true friend, for he was a strong supporter of our Metro subway in his capacity as chairman of the Appropriations Subcommittee on Transportation. His support for Metro was certainly reflected in the bills reported out of committee during his tenure as chairman, and those who ride the subway today are the beneficiaries of Mr. Benjamin's efforts.

I would like to share with my colleagues an article from the September newsletter of the National Association of Railroad Passengers, which underscores Congressman Benjamin's contributions to progress in mass transit and in the transportation field generally:

Adam Benjamin, Jr.

Congress lost one of its most dedicated and respected members over the Labor Day weekend, with the death of Indiana Democratic Rep. Adam Benjamin, Jr., 47. We who seek a balanced transportation system for the United States lost a valued friend.

Rep. Benjamin was a hard-working, conscientious, and personable man who spent many evenings and weekends working in his congressional office. Those who phoned his office after 6 or 7 PM were often startled to find the congressman himself at the other end of the line. Said Republican Indiana Lt. Gov. John Mutz, "No one worked as many hours for his constituents." Such praise from the GOP side comes as no surprise, for his devotion to his work won him respect from all quarters. Upon learning of Benjamin's death, Sen. Richard Lugar (R-IN) said, "Adam Benjamin was a distinguished Hoosier legislator whose mastery of detail and faithfulness to duty produced solid achievement. . . . I will miss him deeply as a strong legislative ally and as a gracious friend."

Benjamin had a genuine interest in seeing Amtrak and mass transit succeed. As a member, and later as chairman of the House Appropriations Subcommittee on Transportation, he provided invaluable help to public transportation.

Primarily because of Adam Benjamin, Amtrak stations exist today in Hammond and Michigan City; major capital improvements have been completed for Amtrak's Chicago-Valparaiso commuter service (which is attracting ever-increasing passenger loads); and America's last interurban rail transit line, the 88-mile Chicago, South Shore & South Bend, is now receiving desperately needed new equipment. A founder of the U.S.-Japan Rail Congress, Benjamin was a strong proponent of Amtrak's Emerging Corridors, and his particular interest in the Chicago-Indianapolis-Cincinnati corridor may yet rescue Conrail's Shelbyville line for future passenger service. Benjamin shared NARP's belief in the "Cardinal," and played an important role in the train's restoration. The congressman elevated the importance of Amtrak's recent labor agreements by personally attending, along with Rep. Norman Lent (R-NY), the signing of the new contracts. Benjamin worked for rail improvements not only in Indiana, but across the land, and largely because of his work earlier this year, Amtrak is off to a good start in the FY '83 appropriations process.

Congressman Benjamin suffered from high blood pressure and apparently died of heart failure. Many who knew him well concur with East Chicago, IN, Mayor Robert Pastrick (D), who lamented that Benjamin "worked himself to death."

Like his constituents and congressional colleagues, we feel a tremendous loss and sadness.●

THE PLIGHT OF EDITA GABERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Emerson) is recognized for 5 minutes.

● Mr. EMERSON. Mr. Speaker, today I rise to tell my colleagues of the plight of a certain Soviet Jewish family.

In 1972, Edita Gaberman, an elderly widow, applied to emigrate to Israel with three of her children. They were refused on the grounds that one son, Mendel, had served in the Soviet Army. Today, they continue to be refused, even though Mendel, who served in a construction unit along the

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Vladivostok-Moscow Road, completed his military service in 1971.

Mrs. Gaberman has one daughter, three grandchildren, and a sister who already live in Israel. This family longs for reunification, but they cannot see each other, because all that they have received from the Soviet Government is an unconscionable obstruction of their dreams.

I have written to Mr. Anatoly Dobrynin, the Soviet Ambassador to the United States, advising him that I support the Gabermans and requesting that he aid and assist them in obtaining emigration visas.

Mr. Speaker, there are very few Soviet citizens who do not want exit visas, but there are no other people on Earth who have suffered the repression of a tyrannical government as have Soviet Jews. It is government policy to persecute members of the Jewish faith and to encourage their ostracism. American citizens often take for granted the religious freedom we enjoy in our great Nation. However, we need only to ponder the plight of Soviet Jews to make us realize just how lucky we all are. The courage and fortitude that has been shown by Soviet Jews is an inspiration to free men and women throughout the world. I urge my colleagues to work and pray for the right of Soviet Jews, like the Gaberman family, to emigrate and free themselves from the anti-Semitic policies of the Government of the Union of Soviet Socialist Republics.●

WISCONSIN VOTERS SUPPORT NUCLEAR WEAPONS FREEZE

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. **KASTENMEIER**. Mr. Speaker, on Tuesday, September 14, Wisconsin citizens had the opportunity to vote on the following referendum:

> Shall the Secretary of State of Wisconsin inform the President and the Congress of the United States that it is the desire of the people of Wisconsin to have the Government of the United States work vigorously to negotiate a mutual nuclear weapons moratorium and reduction, with appropriate verification with the Soviet Union and other nations?

With almost complete returns in, Wisconsin citizens assumed the leadership of the nationwide grassroots movement which is aimed at ending the nuclear arms race by approving the referendum by a decisive margin of 378,717 to 119,971.

The President, who is opposed to the campaign to obtain a mutual freeze and verifiable nuclear arms reduction between the United States and the Soviet Union, should pay attention to the powerful message cast by the people of Wisconsin. That message is that the American people are repudiating the nuclear arms race and are demanding the achievement of a real nuclear weapons disarmament between the United States and the Soviet Union.

I believe the Wisconsin vote moves us closer to the day when the threat of a nuclear holocaust will no longer exist and when we can devote our vast resources to the means of enriching, not destroying, human life.●

COMMITTEE ON ENERGY AND COMMERCE TO SEEK RULE LIMITING GERMANE AMENDMENTS TO H.R. 6995

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. **DINGELL**. Mr. Speaker, pursuant to the rules for the Democratic Caucus, notice is hereby given that the Committee on Emergy and Commerce is seeking a rule which would limit germane amendments to the bill H.R. 6995 which was reported from the committee on September 15, 1982:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., September 13, 1982.
Hon. RICHARD BOLLING,
Chairman, Committee on Rules, House of Representatives, H-312, The Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: The following bill has been favorably reported by the Committee on Energy and Commerce:

H.R. 6995—To authorize appropriations for the Federal Trade Commission for fiscal years 1983 thru 1985, and for other purposes.

A copy of the bill is enclosed. The report on this bill is expected to be filed tomorrow.

It would be greatly appreciated if you would schedule a hearing before the Rules Committee on this bill as soon as possible. It is requested that a one-hour modified open rule be granted, making in order the following three amendments:

1. An amendment which would conform to the text of H.R. 3722 as introduced on May 28, 1981 by Mr. Luken and Mr. Lee;
2. An amendment in the nature of a substitute for #1 above to be offered by Mr. Florio and Mr. Broyhill; and
3. An amendment to be offered by Mr. Madigan regarding the establishment of information disclosure and certification requirements applicable to the sale of used motor vehicles.

Because it was not possible to report the bill until after May 15, I also request a waiver of Section 402(a) of the Budget Act.

This request only represents the views of the Committee on Energy and Commerce. The bill has been jointly referred to the Committee on Rules which has some concerns that it may wish to address. We fully expect that any rule granted will reflect those concerns.

With kind regards.

Sincerely,

JOHN D. DINGELL,
Chairman.●

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DERRICK) is recognized for 5 minutes.

● Mr. **DERRICK**. Mr. Speaker, I was unavoidably detained and was unable to vote on S. 923, the conference report on the Pretrial Services Act. Had I been available I would have voted "yea."●

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. **OBERSTAR**. Mr. Speaker, I was necessarily absent during the session of September 8, 1982. Had I been present I would have voted "nay" on the Gramm and Dannemeyer amendments to H.R. 6307, rollcall votes 308 and 310 and "yea" on approving the Journal and final passage of H.R. 6307, the Resource Conservation and Recovery Act of 1983, rollcall votes 306 and 311.●

FACTFINDER REPORTS ON GPO SALARY CONTROVERSY

(Mr. GAYDOS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. **GAYDOS**. Mr. Speaker, over the past several months, many Members of Congress have expressed their sincere concern about the level of compensation for employees of the Government Printing Office. The Public Printer, Mr. Danford L. Sawyer, Jr., has engaged in a very active media campaign to convince Members of Congress and the general public that GPO craft employees are paid 22 percent more than allegedly similar craftsmen in the private sector and Federal agency printing operations. A true and serious controversy has arisen with too much uncritical and face value acceptance of Mr. Sawyer's position.

However, current law, the Kiess Act of 1924 (44 U.S.C. 305), provides for a means to subject Mr. Sawyer's position to rigorous analysis. Under the Kiess Act, when the Public Printer and the GPO labor unions fail to reach an agreement concerning wages, salaries, and compensation, an appeal may be made by either party to the Joint Committee on Printing whose decision on this matter is final. Both parties having failed to reach any agreement appealed their cases to the Joint Committee on Printing. To assist the committee in discharging its responsibilities under the Kiess Act, the Joint Committee on Printing appointed an independent factfinder, acceptable to both management and labor at GPO. The independent factffinder, Mr. Frederick U. Reel, an expert in collective bargaining matters whose name was provided by the Federal Mediation and Conciliation Service, conducted extensive hearings and accepted briefs from both parties. For example, in his preliminary statement the factfinder states:

> The ensuing hearings consumed seven days, including three night sessions, yielding a transcript of 2,140 pages, and over 150 exhibits, many of them consisting of multi-pages of charts and financial data, largely relating to wage rates, cost-of-living increases, and job descriptions. Opening briefs, exclusive of voluminous appendices, totaled 173 pages, and reply memoranda, filed by each party, exceeded 40 pages, exclusive of further extensive appendices. All parties were represented by counsel of long experience and unusual ability in labor relations matters. They were able to agree on one point: that the instant proceeding was, in their experience, uniquely complex.

On September 9, the factfinder forwarded his written findings of fact and nonbinding recommendations to the joint committee. On September 23, the joint committee will meet to make its final decision.

At this time, I am submitting the factfinder's "Opinion and Recommendations" into the RECORD in order to make it available for all my colleagues to closely examine. As a member of the Joint Committee on Printing, I have not made my final decision on the matter. However, I strongly urge my colleagues to study the opinion of a seasoned professional with lengthy experience in labor-management relations who conducted arbitration-style proceedings which were fair to all parties. It was only in this forum, and through this process, that Mr. Sawyer's position on GPO craft wages has been subjected to challenge and critical analysis. Accordingly, this document is submitted for the RECORD, as follows:

CONGRESS OF THE UNITED STATES, JOINT COMMITTEE ON PRINTING

FACT FINDING HEARING IN RE: JOINT BARGAINING COMMITTEE OF UNIONS, GPO, AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS FRANKLIN LODGE 2135 AND THE GOVERNMENT PRINTING OFFICE

Hearings held July 12, 14, 15, August 4–7, 1982, before Frederick U. Reel, Fact Finder.

APPEARANCES

For the Joint Council: George B. Driesen, Esq.

For the IAM: Winn Newman, Esq.

For the GPO: Garrett Brown, Esq., General Counsel; Lawrence W. Kennelly, Esq., and Neal Fine, Esq.

OPINION AND RECOMMENDATIONS

Preliminary statement

This proceeding arises as a result of an impasse between the Government Printing Office and those of its employees represented by the Joint Bargaining Committee of GPO Unions or by the International Association of Machinists.

44 U.S.C., Section 305, known as the "Kiess Act," provides among other things, that wage rates in the Government Printing Office shall be determined through collective bargaining by a committee selected by the affected trade and the Public Printer, and that the mutually agreed upon wage level shall become effective "upon approval by the Joint Committee on Printing." Section 305(a) further states, in relevant part:

> "When the Public Printer and the committee representing the trade fail to agree as to wages, salaries, and compensation, either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final. . . ."

The immediate preceding Agreement between the present parties expired June 18, 1982, and in anticipation thereof the parties met some weeks prior thereto to present their respective positions relative to a new agreement. An impasse quickly developed, and each party appealed to the Joint Committee on Printing, which in turn referred the matter to the undersigned Fact Finder, selected by agreement of the parties. The ensuing hearings consumed seven days, including three night sessions, yielding a transcript of 2,140 pages, and over 150 exhibits, many of them consisting of multi-pages of charts and financial data, largely relating to wage rates, cost-of-living increases, and job descriptions. Opening briefs, exclusive of voluminous appendices, totaled 173 pages, and reply memoranda, filed by each party, exceeded 40 pages, exclusive of further extensive appendices. All parties were represented by counsel of long experience and unusual ability in labor relations matters. They were able to agree on only one point: that the instant proceeding was, in their experience, uniquely complex.

This complexity has its genesis in two main sources: the hybrid character of the GPO itself which is in part a publisher of a daily paper and in part a publisher of other books, pamphlets, and documents. It is, in short, both a newspaper plant and a job printing plant. Its employees are also hybrids, resembling in part government employees with respect to such matters as retirement, leave, and length of workweek, but resembling private employees with respect to bargaining over many other matters, including wage rates. The anomalous character of the GPO employees is further heightened by the presence in some other government agencies of employees performing ostensibly similar tasks with respect to the printing operations of these agencies. These employees are "regular" federal employees subject to federal wage scales, but in many respects their tasks and skills bear only superficial resemblance to those required of GPO employees.

Although past bargaining negotiations under the Kiess Act have found the parties in disagreement over the nature and extent of wage increases (for example, in 1979 before Fact Finder Bloch, GPO recommended a 5.5-percent increase, and the Joint Council recommended a 9-percent increase; Block recommended an increase of 6.8 percent), the "bargaining" this year found the parties pursuing hopelessly divergent positions. From the outset, GPO took the position that the wage rates should be sharply reduced to bring them into conformity with the federal wage scale for jobs bearing similar titles at other agencies. In general terms, this would have amounted to reducing wage rates at GPO by over 20 percent. During the course of discussions, GPO modified its proposal only to the extent of phasing in the reductions over a three year period. At the outset of the hearing before the Fact Finder, GPO further modified its proposal by offering to accept whatever adjustment in federal wage rates is to be made in October 1982 as a result of an OPM study of wage rates in the printing and lithographic industry in the Washington, D.C., area. In essence, however, GPO has continued to insist that its wage rates be brought into complete conformity with the federal wage system. To the unions such insistence on a substantial wage cut is tantamount to not "bargaining" at all. Their proposals, advanced in concrete terms only after negotiations had virtually collapsed in the light of GPO's position, are essentially for a 12 percent increase (Machinists—one year contract) and for two annual increases of 8.2 percent and 5 percent, respectively (Joint Bargaining Committee—two year contract), together with cost-of-living increases.

The essential issue before the Fact Finder, therefore, is whether the wage rates at GPO should be increased or decreased, and to what extent. Also at issue is the duration of the new Agreement, whether one, two, or three years. In addition, the Joint Bargaining Committee proposed a number of changes in fringe benefits, none of which were the subject of extensive testimony, and the GPO urged a change in the present arrangement for shift premiums. These matters will be discussed separately at the end of this Opinion.

I. The GPO proposal

The basic thrust of the GPO proposal is that the wages of its employees should be brought into exact conformity with the wages of employees whom GPO terms the "counterparts" of its employees in other federal agencies. The wages of these other employees are set under the "federal wage system" and in essence are set by the OPM acting on, and normally accepting, reports and recommendations by the Federal Prevailing Rate Advisory Committee. The extent to which GPO advocates complete comformity of rates is demonstrated by its expressed readiness to accept whatever rates the Committee prescribes for the printing and lithographic industry in the Washington, D.C., area, even though the rates themselves will not be promulgated until October 1982.

In the Fact Finder's view, this proposal is fatally defective as a matter of law, and also rests on a factual premise—that GPO work is basically comparable to that done at other federal agencies, or to that done in the private industry which formed the basis for the proposed federal system rates—which is completely erroneous.

The effect of the GPO proposal is to substitute the federal wage system rates for wage rates arrived at by collective bargaining at the GPO. Acceptance of this proposal would mean that in the future both GPO and the employees and their unions would accept the wage rates determined for them by another body. Undoubtedly, the Congress could provide by legislation that this be done. But up to now Congress has not seen fit to do so. Instead it has provided for nearly 60 years in the Kiess Act that the GPO wage rates be set by negotiation, subject to review in the event of impasse by the Joint Committee on Printing. The record indicates that the present head of GPO has expressed the view that that Act should be repealed, and legislation to accomplish that result has recently been suggested on the Senate floor. Such repeal, however, cannot be accomplished by the Fact Finder, or by the GPO in the guise of this proceeding. Indeed, it may well be that even if the unions and the GPO mutually agreed to such a proposal, that agreement would be invalid as contrary to the express policy of

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existing legislation. Be that as it may, certainly the effort of GPO to accomplish such a result in the face of firm opposition by the unions cannot be countenanced under the statute. In another context, such an effort by an employer to insist to the point of impasse in "bargaining negotiations" on the surrender of statutory rights would be viewed as a violation of the most elementary principles of the nation's basic labor relations legislation.

Having already stated that imposition of the wage structure here sought by GPO rests within the power of Congress, the Fact Finder would not presume in this Opinion to express any view as to the wisdom of such legislation. However, insofar as the record in this proceeding sets forth conflicting views as to the factual premises on which the GPO proposal rests, the Fact Finder deems it appropriate, and indeed incumbent upon him, to make factual findings resolving the conflicts of testimony and of approach revealed by this record.

The GPO relies on the fact that a number of other government agencies operate their own printing facilities and employ craftsmen whose titles and job descriptions resemble those at the GPO. Most of the other facilities are within the Department of Defense, although some other agencies, such as the National Labor Relations Board, also operate a printing facility. Comparison between GPO and these other facilities, however, reveals substantial, indeed overwhelming, differences of both degree and kind. For example, GPO has approximately 2,700 production employees, the average number in the other federal printing plants is from 25 to 35. GPO receives 1,000 requisitions per day and runs in excess of 4 billion production units per year. The next largest plant is the defense printing service, with about one-tenth that volume, and it in turn is not typical of the others. The time constraints at GPO, with the pressure of the daily Congressional Record and the daily Federal Register, have no parallel at the other federal agencies. No other federal printing facility maintains its own engineering staff, and none has such complicated machinery or requires such immediate repair service as does GPO. It is, of course, quite true that in some instances the quality of work required at other highly specialized printing facilities is even higher than that required at GPO, such as, for example, the printing of five color nautical and aeronautical charts, or the printing of four-color illustrations for medical textbooks produced at Walter Reed. These highly specialized jobs, of course, are not turned out under the pressures and volume which are a regular part of the work at GPO. The plant doing the pathology work, for example, has 15 employees, and so far as the record shows operates under no time constraints. The great bulk of the work of other federal printing facilities is what is known in the trade as "quick and dirty," meaning that they exist primarily to satisfy the needs of the agency for quick reproduction and distribution of internal material so that "If you can read it, run it."

The impact on employees of this difference between the work at GPO and the work at other federal printing facilities is enormous. It may perhaps best be illustrated by the vast difference in hiring standards. When GPO hires a printer or other craftsman in the printing industry it resorts to the roster maintained by OPM. To obtain a place on that roster a prospective employee must have completed an apprenticeship (normally, four years) and have had at least one year of journeyman experience. The employees doing printing work at Bolling Air Force Base, the Pentagon, and the Department of Health and Human Services were not journeymen, had served no apprenticeship, and were trained on the job. Similarly at the Defense Mapping Agency, the only prerequisite to the hiring of a pressman is that he have a high school education, as distinguished from the apprenticeship and journeyman experience required at GPO.

The record also establishes the greater demands on GPO employees as contrasted with those at other federal printing facilities in terms of familiarity with and ability to operate many different types of machinery and equipment. GPO has approximately 75 presses, including 19 different varieties and ten different makes. At Defense Mapping Agency, for example, there are eight presses and two different makes. This difference perhaps helps explain why Defense Mapping can train "on the job" while GPO must start with experienced employees who have knowledge as to each of the presses he may be called upon to operate. Also, at Defense Mapping typesetting is done line by line to be stripped in for maps and charts whereas GPO typesets an entire job. Similarly, Defense Mapping has a production requirement of 5,100 to 6,000 keystrokes per hour as contrasted with GPO's standard of 14,000. Finally, because of time pressures at GPO the journeyman operator must assume responsibility for actions requiring judgment which in the other facilities could be referred to higher supervision for deliberation.

The time pressure factor is of peculiar significance because the record establishes that it is totally ignored by the classification experts responsible for the wage rates under the federal wage system. To them, the setting of a page of the Congressional Record and the setting of a page in an NLRB decision involve similar tasks and skills and call theoretically for the same compensation. The fact that the Record may not go to press till 3 a.m. and must be available the same morning whereas an NLRB decision may be delayed a day, a week, or a month with no concern or inconvenience to anyone is not a factor to be weighed in job description. This, the Fact Finder believes, is more revealing as to the thought processes of classification experts than it is helpful in determining proper wage rates at the GPO.

The long and short of it is that the GPO is not remotely comparable to any other federal printing facility. As long as GPO has as its primary task, perhaps its raison d'etre, the printing and publishing of the daily Congressional Record, the Federal Register, and such other rush printing as it must undertake for the Congress, any attempt to equate its operations or its wage structure with that of other existing federal printing facilities must be viewed as either ill-informed or unconcerned with the quality of GPO work and with its capacity to continue to furnish the service Congress has heretofore required of it.

II. The appropriate wage level

Rejection of the GPO wage proposal as legally and factually unsound does not, of course, dictate acceptance of the wage proposals advanced by the unions. The Fact Finder is directed to recommend appropriate wage rates in light of the following factors:

(a) What is in the interest of the Government and just to the persons employed;

(b) The wage and fringe benefits available in the public and private sectors to employees possessing similar skills and training;

(c) The Washington area average Consumer Price Index for goods and services since the last contract; and

(d) Any other factors which in his professional judgment are normally or traditionally taken into consideration in the determination of wages and other benefits in the collective bargaining process.

Unfortunately, only the third of those factors is capable of objective determination. The others involve highly subjective judgments, for even the determination of the value of wage and fringe benefits in the public and private sectors is a subject upon which divergent philosophies and approaches produce divergent results. The normal difficulties in determining appropriate wage adjustments as between contesting parties are accentuated by certain factors peculiar to the GPO.

To begin with, the GPO occupies a unique position in the Government in that it is intended to be at least a self-sustaining if not profitable operation. It charges its customers, including the Congress, for its services. The GPO also occupies a unique position in the printing and publishing industry. It publishes not only the equivalent of a daily newspaper, or indeed two if one includes the Federal Register, but also numerous other pamphlets, documents, and books, which it offers for sale. Although as a newspaper publisher it does not compete with others in the field, it does have competition in the other areas in which job printing shops are able to publish similar books and pamphlets. The GPO reports that it has been losing business to such competing establishments, some of which are able to sell certain services to the Government at rates lower than those charged by GPO. This results in part from GPO's wage scale, but the wage scale is necessarily affected by GPO's function as a "newspaper publisher," a factor not affecting the wage rates of its job printing competitors. Determination of "what is in the interest of the Government and just to the persons employed" in this particular context is manifestly difficult to say the least.

Somewhat similar problems arise in any attempt to equate GPO wages and fringe benefits with those in the private sector. The Congress is, of course, well acquainted with the thorny path leading to "comparability." Efforts to balance the advantages of social security on the one hand and the Government's retirement program on the other have led to endless disagreement, duly reflected in the present record. The somewhat more secure tenure which, at least until very recently, has attached to federal as distinguished from private employment must be accorded some weight in the scale. But to these routine, if difficult, problems of equating the two areas of employment must be added others peculiar to the GPO on the one hand and the printing and publishing business on the other. Reference has already been made to the fact that GPO employees are in part analogous to newspaper employees and in part analogous to employees in job printing establishments. Comparison with either set of private employees is therefore not wholly just or equitable.

In addition, the Joint Bargaining Committee emphasizes that most of the wage rates in the private sector of this industry are based on a 35 hour week, and GPO employees work a 40 hour week. This is true. But the argument that to achieve a true comparison one must augment the private scale by five overtime hours at time and one-half (or in some cases three hours at double time) is overstated. It leads, of course, to increasing the private weekly wage by over 20 percent above that stated in the private agreements But not all these agreements provide for time and one-half over 35 hours, and, more important, they do not in fact normally work a 40 hour week or much in excess of 35 hours, and the wage rates are set with that fact in mind. Thus, while some allowance should be made for the longer workweek at GPO, the allowance should not be as great as that urged by the unions.

As was the case in the similar hearing conducted by Fact Finder Bloch in 1979, each party put in evidence tending to support its position as to whether the GPO employees are receiving more or less compensation than their counterparts in the private sector. The GPO insists that such "counterparts" do not embrace newspaper employees, stating that in the past ten years the GPO and the Joint Bargaining Committee have never utilized rates paid by newspapers as a means of establishing GPO rates. The Joint Bargaining Committee refers to newspaper rates as "most clearly comparable to GPO" and "the closest analog to GPO in the private sector." Moreover, an exhibit offered by GPO tends to establish a close relationship between the rate for compositors at GPO and that paid at the Washington Post, the GPO rate was 4 cents lower in 1980 but 3 cents higher in 1981. Assuming, however, that the "counterparts" are to be found in the job printing industry, either in the Washington area or in other large cities, each side presented, as it did to Fact Finder Bloch, charts "proving" that GPO wages were either too high or too low, depending on the result desired by the advocate. As the previous Fact Finder observed, the exhibits, properly analyzed and discounted for variations inherent in the rates (such as the 35 hour workweek referred to above) lead to the conclusion that GPO employees are neither significantly ahead nor do they lag behind their private sector counterparts; they are "in a generally equivalent position."

One highly significant factor which requires the Fact Finder to discount both the GPO figures showing its wage rates to be higher than those in the private sector and the union figures showing the reverse is the differing approach which each side takes to the value of the federal retirement program. GPO figures the total valuation of that program to be 36.46 percent of salary, of which employees contribute seven percent. The remaining 29.46 percent of the cost is, according to GPO, a part of the real compensation of employees, to be figured in, along with other nonwage items such as the value of vacations. The Joint Bargaining Committee, on the other hand, points out that the GPO figures for the private sector do not include the value of the social security system which is inapplicable to GPO employees. The Fact Finder must necessarily agree that the GPO figures are skewed to that extent. But the Fact Finder cannot take the next step with the Joint Bargaining Committee and discount entirely the value of the federal retirement program. Plainly that program is of more value to an employee than mere coverage by social security, and indeed many (but by no means all) labor agreements in the private sector in the printing industry provide for supplemental pensions precisely because social security does not serve the same purpose as a full retirement program. The Fact Finder must therefore reject the figures on this issue from both sides. The percent divergence between federal retirement and social security also existed in 1979 when Fact Finder Bloch found the GPO and private sector employees to be in a relatively equivalent position.

Finally, both sides cite scripture—in this case, the Consumer Price Index—to their purpose. GPO introduced figures tending to show that its wage rates have kept pace with the CPI since 1967, the base year. The unions respond that most of the wage gains were in the early and mid-1970s, and that for the past several years the wage increases have not matched the increased cost of living. This point was conceded by a Management Analyst called as a GPO witness; he testified on cross-examination that since 1976 wage rates at GPO "have increased less rapidly than the cost of living has increased."

Although the Fact Finder in this proceeding is not bound to approve the result reached by the Joint Committee on Printing in 1979, when it accepted Fact Finder Bloch's recommendations, or by the rates set in the 1980 agreement, the Fact Finder is persuaded after a review of this extensive record that the wage rates in both cases were reasonable and just. Certainly, if grave injustices had been perpetrated in those agreements, this proceeding could have served as the vehicle to correct those errors for the future. However, recognizing that each side could adduce statistics tending to show that the wage rates heretofore in effect have been too low or too high, the Fact Finder is satisfied that the rates, last changed in December 1981, were fair and equitable at that time. The question remains as to what, if any, future adjustments should be made.

The national economic picture, although still fraught with great uncertainty, has changed significantly since Fact Finder Bloch's 1979 report. A sharp increase in unemployment has been matched with a marked decline in the rate of inflation. Although predictions vary as to future changes in the cost of living, there appears to be general agreement that the CPI-W will continue to increase at a rate well below the "double digit inflation" which existed in the late 1970s. The considerations which led Fact Finder Bloch to reject a cost of living allowance and which led the parties in 1980 to place a low "cap" on such allowances, have largely ceased to exist.

The last increase at the GPO occurred in mid-December 1981, and was responsive to the CPI-W for September 1981 (the CPI-W appears for every odd-numbered month, but is necessarily not issued until several weeks after the end of the last covered month). The CPI-W for the Washington area rose from 275.7 in September 1981 to 283.8 in March 1982, an increase of approximately three percent. Continuation of the wage policy followed for the past two years, which in the Fact Finder's view has achieved and maintained a proper level for GPO rates, calls for a three percent increase effective with the pay period immediately preceding June 18, 1982, and the Fact Finder so recommends. Between March 1982 and July 1982, the CPI-W for Washington rose from 283.8 to 286.3, an increase of slightly less than one percent. In all probability, the increase in CPI-W between March and September 1982 will be between one and two percent. The Fact Finder recommends that as of the pay period immediately preceding December 18, 1982, the GPO rates should be readjusted to reflect the percentage increase in the CPI-W for Washington between March and September 1982.

In the Fact Finder's view all predictions as to the future rate of inflation warrant a continuation of the same formula for semiannual adjustments for the pay period immediately preceding June 8, 1983, and for December 18, 1983, based on the CPI-W for the Washington area in March and September 1983. The Fact Finder sees no reason to impose a "cap" on these increases; if the cost of living should take an unexpected but substantial rise to the degree it reached in the 1970s, corresponding wage increases would seem to be appropriate.

The Fact Finder is well aware of the criticisms, advanced particularly by the Machinists Union, of using past increases in the cost of living as a measure of future wages. There is some merit to the suggestion that the wage increase lags behind the increased cost of living. The device here proposed is, however, to be found in many labor agreements. Efforts to anticipate increases, or to provide for increases coupled with "takeaways" if the increases do not materialize are either speculative or too disruptive. The Fact Finder therefore recommends a two year agreement (not one year, as proposed by the Machinists, which is too short a period and would require resumption of negotiations in a scant six months, nor three years as proposed by GPO which is too long to predict trends in these uncertain times), with cost of living increases based on the CPI-W for March 1982, September 1982, March 1983, and September 1983, to be effective as stated above in the June and December following the index month.

III. Additional contentions of the GPO

The GPO urges that the existing shift differentials (15 percent above the base rate payable on both the second and third shifts) be replaced by the more conventional government differential of seven and one-half percent for the second shift and ten percent for the third shift. The record shows that the present differential has existed for over 20 years. It is a deeply ingrained way of life at the GPO. It may have its genesis in the peculiarly heavy burden imposed on the second and third shifts by the printing of the Congressional Record. In the other government agencies the somewhat lower premiums for those shifts reflect the inconvenience of the hours, not the particularly burdensome work. In the Fact Finder's view, the GPO has shown insufficient basis for changing this long established differential. Any such dislocation as GPO recommends might well cost more in terms of disrupting morale or in necessitating other upward adjustment of rates than it would achieve in slight superficial economies.

GPO also challenges the existing "linkage" between the wage rates of its maintenance force and the rates of its production employees. It contends that the special technical considerations advanced for differentiating between production employees at GPO and those at other government facilities do not apply to the maintenance forms. To a substantial degree, the Fact Finder must reject this contention as contrary to facts established on the record. Particularly with respect to the Machinists, and to related crafts such as Welders, the complex machinery at GPO has no counterpart in the other federal agencies. Indeed, GPO Machinists have been required to repair the

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equipment of other government printing facilities, including that of the Department of Defense, because the agency Machinists lacked the ability to perform the work. There is also some evidence that the work of the Electricians at GPO demands skills beyond those required at other agencies, and that the Painters likewise are called upon for tasks not performed by their alleged counterparts elsewhere in the Government. As to other crafts, the record is not fully developed. Apparently most private printing plants contract out their maintenance work, so no comparison can readily be made between such plants and the GPO in terms of maintenance rates. The GPO presented its Exhibit 85 dealing with craft rates in the Washington area only moments before the close of the hearing. Manifestly, the primary thrust of GPO's position and of the Unions' response to that position went to the general substitution of the federal wage system for the collective bargaining provided by the Kiess Act. With the record as to "linkage" of certain crafts (other than Machinists, Electricians, and Painters) basically undeveloped, and in view of the comparatively few employees outside those stated crafts who would be affected, the Fact Finder will not at this time recommend any change in the long accepted principle which links craft rates at GPO to the compositor rate. This is not to state, however, that the Fact Finder accepts the argument of the Joint Bargaining Committee that the rates for these crafts at GPO are below the average for such crafts in Washington or in other cities. That argument rests on the fundamental error of the Joint Bargaining Committee in totally rejecting the costs (and the advantages to the employees) of the federal retirement program. It also gives insufficient weight to the regularity of federal employment, as compared with the sporadic nature of employment in construction work. The Fact Finder suggests that the entire issue of rates for this small segment of employees could well be explored in depth in some future negotiations. Apparently this has never been done; Fact Finder Bloch's report shows some separate consideration of GPO Machinists (who as indicated above, as well as in Bloch's report, are clearly entitled to maintain whatever wage advantage they may enjoy over their alleged "counterparts" elsewhere in the Government), but as to other crafts the "linkage" has apparently not heretofore been challenged. The fact that the parties on this occasion concentrated on other more far-reaching and fundamental issues leaves the Fact Finder with an insufficient record on which to recommend any departure from the long-established practice.

GPO's objection to certain post-hearing evidence appearing in the guise of appendices to the briefs is well-taken. Appendices C and D to the brief of the Joint Bargaining Committee, Appendix F to the brief of the Machinists, and Appendices 1 and 2 to the brief of the GPO have been disregarded. The Fact Finder has not carefully examined the various labor agreements submitted by the Machinists as an Appendix, but in the absence of challenge to their authenticity would not exclude them.

IV. Additional proposals of the Joint Bargaining Committee

Although the parties at the hearing concentrated on the basic wage dispute, the proposal of the Joint Bargaining Committee included a number of fringe benefits which the GPO opposed. The proposal for premium pay for Saturdays and Sundays as such should be rejected. Of course, if work on these days extends an employee's workweek beyond 40 hours, the employee will be paid overtime. If, however, those are regularly scheduled and not overtime days, the Fact Finder recommends against any change in the present pattern of paying straight time rates for those days.

The Fact Finder also recommends rejection of the proposal that Dr. Martin Luther King's birthday be declared an "administrative leave day off" for GPO employees. No reason is shown for giving GPO employees leave days not enjoyed by other federal employees. The decision whether to honor Dr. King's memory and his contribution to American life by declaring the anniversary of his birthday to be a federal holiday is one to be made by appropriate authority for all federal employees, not by a single government agency. Speaking for himself, the Fact Finder would only add that he regards January 15 as a singularly poor date for an additional holiday, and he would favor honoring Dr. King's contribution to, and vision of, American life by an annual observance of the date of Dr. King's "I have a dream" speech as "Martin Luther King Day."

The proposal that hazardous weather or emergency situation days be paid at overtime rates should be rejected. GPO employees are not entitled to special consideration above that given other federal employees in these respects. To the extent that their obligation to work on such occasions may exceed that of other federal employees, it should be noted that their compensation already takes into account some differences between their responsibilities and those of others in federal employ. The Joint Bargaining Committee itself describes these occasions as "rare."

No evidence was presented supporting the proposal that "all job related education . . . be compensated for by the GPO." The Fact Finder, not having been apprised of the scope of the proposal or of the necessity for it, recommends its rejection.

The Joint Bargaining Committee advanced two proposals relating to health benefits, namely (1) securing by GPO and the Joint Bargaining Committee of a supplemental insurance policy for each employee designed to restore recent benefits cuts, with the cost to be borne by the employees in the form of deductions from wages; (2) the obtaining for each employee of the Blue Cross Prescription, Eye, and Dental Plan, with the cost of $21.75 per month to be borne by the GPO. These proposals surfaced on May 18, 1982, a date which represents the termination of any real negotiations between these parties. The first of these proposals would appear to be unobjectionable, although there is some suggestion in the record that OPM has no present regulations permitting allotments from pay for private insurance. The matter was insufficiently explored, either before or at the hearing, to permit the Fact Finder to make a firm recommendation. The parties may explore the matter further if either so desires, and may be able to reach a supplemental agreement thereon. The evidence fails to support the proposal that GPO assume the cost of an additional insurance program.

The Joint Bargaining Committee proposed that "Employees in the Carpentry, Pipe/Sheet Metal, Electrical/Power and Masonry sections" receive a hazardous duty premium of 25 percent when engaged in any of the following activities:

a. Erecting and working off scaffolding.

b. Working when life lines or safety belts are required.

c. Working where there is unstable footing.

d. Working at extreme height.

e. Dealing with high tension voltage.

A comparable provision with respect to Painters was recommended by Fact Finder Bloch and approved by the Joint Committee in 1979. Apparently the matter was the subject of evidence in the 1979 proceeding: no evidence was introduced before the present Fact Finder on the appropriate differential or on what constitutes hazardous work. The GPO, however, expressed a readiness to pay whatever differential is provided under the U.S. Code and the Code of Federal Regulations for hazardous work by these employees. This offer, of course, was a part of GPO's general effort to place these employees under the federal wage system for all purposes. In the light of these facts, and primarily to place these crafts on the same level as that achieved by the Painters in 1979, the Fact Finder recommends that they be awarded hazardous pay to the degree and in the situations in which other federal employees in related occupations receive such a differential.

The Joint Bargaining Committee proposed that employees detailed to a higher graded position for more than two days be paid at the higher rate. Such provisions are common in the private but not in the public sector. In all matters except basic wage rates, GPO employees have the advantages (and occasional disadvantages) of other federal employees, conforming in such basic matters as leave and retirement. Under the circumstances the Fact Finder will not recommend that the provisions governing details should be altered to conform to the practice in the private sector.

The proposal to increase the basic level of Bindery Workers pay from 65 to 70 percent of the journeyman Bookbinder pay is insufficiently supported in the evidence to warrant its recommendation. The generalized proposal to continue all terms previously agreed to appears to be both vague and unnecessary and is not recommended.

V. Conclusions and recommendations

1. The proposal of the GPO to conform GPO wage rates to those in the federal wage system should be rejected as contrary to existing policy, and as resting on the fallacious premise that the GPO is comparable to other government printing facilities.

2. The proposals of the unions for substantial general wage increases should likewise be rejected. If reasonable allowance be made for the cost and value of the federal retirement program, the wage rates provided in the 1979 and 1980 settlements were not out of line with wage rates in the printing and publishing industries.

3. A two year agreement, effective June 18, 1982, should be entered into with provision for cost-of-living wage adjustments effective on the pay periods commencing closest to June 18, 1982, December 18, 1982, June 18, 1983, and December 18, 1983. The adjustment effective in June 1982 shall be a three percent wage increase. Subsequent adjustments should reflect the percentage increase in the CPI-W for the Washington area for the appropriate six month period between the preceding March and September (for the December adjustments) and September and March (for the June 1983 adjustment).

4. Existing fringe benefits, such as shift premiums, which have been the subject of varying proposals by the parties shall remain unchanged, except that

(a) Hazardous pay, to the extent appropriate under federal legislation and federal regulations covering employees in the executive branch of the Government, shall be paid GPO employees in the Carpentry, Pipe/Sheet Metal, Electrical/Power, and Masonry sections of the GPO.

(b) The parties may wish to negotiate during the life of the Agreement here recommended with respect to the securing of supplemental insurance coverage to restore recent cuts in benefits, it being understood that the cost of any such insurance will be borne by the employees.

Frederick U. Reel,
Fact Finder.

September 9, 1982.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Forsythe (at the request of Mr. Michel), on account of pinched nerve in back.

Mr. McClory (at the request of Mr. Michel), for the week of September 13, on account of official business.

Mr. Butler (at the request of Mr. Michel), for week of September 13, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bereuter) to revise and extend their remarks and include extraneous material:)

Mr. Collins of Texas, for 30 minutes, today.

Mr. Kemp, for 60 minutes, today.

Mr. Emerson, for 5 minutes, today.

Ms. Fiedler, for 60 minutes, on September 16.

(The following Members (at the request of Mr. Glickman) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Mr. Dingell, for 5 minutes, today.

Mr. Derrick, for 5 minutes, today.

Mr. Oberstar, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Gaydos, and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,904.

Mr. Pease to insert statement prior to vote on Flippo amendment.

Mr. Wirth, to revise and extend his remarks on the Walgren amendment and Wyden amendment, and to have his remarks appear before vote on each amendment.

Mr. Eckart, to revise and extend his remarks immediately after the remarks of Mr. Daschle prior to withdrawal of Daschle amendment.

Mr. Fazio, to revise and extend his remarks.

(The following Members (at the request of Mr. Bereuter) and to include extraneous matter:)

Mr. Carman.
Mr. Broomfield in three instances.
Mr. Brown of Ohio.
Mr. Lewis in three instances.
Mr. Findley.
Mr. Schulze.
Mr. Dornan of California.
Mrs. Fenwick.
Mr. Gilman in two instances.
Mr. Dunn.
Mr. Morrison.
Mr. Vander Jagt.
Mr. Conte in two instances.
Mr. Goodling.
Mr. Lagomarsino.
Mr. Hyde.
Mr. Collins of Texas in two instances.
Mr. Sawyer in two instances.
Mr. McDade.
Mr. Coleman.
Mr. Porter.
Mr. Craig.
Mr. Ritter in two instances.

(The following Members (at the request of Mr. Glickman), and to include extraneous matter:)

Mr. Kastenmeier.
Mr. Conyers.
Mr. Derrick.
Mr. Martinez.
Mr. Downey.
Mr. Weiss.
Mr. Peyser.
Mr. Hubbard.
Mr. Hamilton.
Mrs. Chisholm.
Mr. Fauntroy.
Mr. Sunia.
Mr. Solarz.
Mr. Bennett.
Mr. Coelho.
Mr. Aspin.
Mr. Gore in two instances.
Mr. Washington.
Mr. Florio.
Mr. Mottl.
Mr. LaFalce.
Mr. Bedell.
Mr. Phillip Burton.
Mr. Mazzoli.
Mr. de Lugo.
Mr. Moffett in two instances.
Mr. Skelton in two instances.
Mr. Edgar.
Mr. Boland.
Mr. Waxman.
Mr. Dixon.
Mr. Whitley.
Mr. McDonald in five instances.
Mr. Corrada in two instances.
Mr. Dwyer.
Mr. Stark.
Mr. Studds.
Mr. Sam B. Hall, Jr.
Mrs. Schroeder in two instances.
Mr. Bailey of Pennsylvania.
Mr. Jones of North Carolina.
Mr. Zeferetti in four instances.
Mr. Udall.
Mr. Ford of Tennessee.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2582. An act to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes; and

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1710. An act to authorize the use of frank for official mail sent by the Law Revision Counsel of the House of Representatives;

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke; and

H.R. 6068. An act to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for the fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

ADJOURNMENT

Mr. EVANS of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock p.m.), the House adjourned until tomorrow, Thursday, September 16, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from

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the Speaker's table and referred as follows:

4756. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the grounds maintenance function at the Naval Supply Center, Pearl Harbor, Hawaii, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4757. A letter from the District of Columbia Auditor, transmitting a revenue report for July 1982, pursuant to section 455(d) of Public Law 93-198; to the Committee on the District of Columbia.

4758. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a report on the adequacy of measures to prevent U.S. citizens from promoting or serving international terrorism, pursuant to section 719(b) of Public Law 97-113; to the Committee on Foreign Affairs.

4759. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a copy of Deputy Secretary Stoessel's letter of July 15, 1982, to accompany the report of July 20, 1982, that a substantial violation of the mutual defense assistance agreement of July 23, 1952, may have occurred during the series of military operations which began on June 6, 1982, when Israeli forces entered Lebanon, pursuant to section 3(c)(2) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4760. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense articles and services to Pakistan (Transmittal No. 82-90), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4761. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4762. A letter from the Deputy Assistant Securetary of Defense, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4763. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4764. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a (o); to the Committee on Government Operations.

4765. A letter from the Under Secretary of the Interior, transmitting notice to change the holding of offshore oil and gas lease sale No. 71 in the Diapir Field, Alaska, by 1 month to October 1982, pursuant to section 8(a)(8) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

4766. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $370,232.18 to the Shell Oil Co., Chevron U.S.A. Inc., Conoco Inc., and Cabot Corp. for excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4767. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on the effects of the Motor Carrier Act of 1980 on trucking service to small communities, pursuant to section 28 of Public Law 96-296; to the Committee on Public Works and Transportation.

4768. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notice of proposed modifications for design and construction of a component ablator facility, pursuant to section 3 of Public Law 97-96; to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 6978. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes; with an amendment (Rept. No. 97-807). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 6816. A bill to eliminate diversity of citizenship as a basis of jurisdiction of Federal district courts (Rept. No. 97-808). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6995. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes. (Rept. No. 97-809, Pt. I). Ordered to be printed.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 582. A resolution providing for the consideration of House Joint Resolution 562, joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982. (Rept. No. 97-810). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 583. A resolution waiving certain points of order against H.R. 7019, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes. (Rept. No. 97-811). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 584. A resolution providing for the consideration of S. 2177, a bill to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505) (Rept. No. 97-812). Referred to the House Calendar.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED UNDER TIME LIMITATION

Under clause 5 of rule X, the following actions were taken by the Speaker:

The Committees on the Judiciary and on Merchant Marine and Fisheries discharged from the further consideration of the bill (H.R. 3809) September 15, 1982.

The Committees on the Judiciary and on Merchant Marine and Fisheries discharged from the further consideration of the bill (H.R. 5016) September 15, 1982.

The Committees on the Judiciary and on Merchant Marine and Fisheries discharged from further consideration of the bill (H.R. 6598) September 15, 1982.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 7106. A bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end users; to the Committee on Energy and Commerce.

By Mr. BAILEY of Pennsylvania:

H.R. 7107. A bill to amend the Tariff Schedules of the United States to establish an equal and equitable classification and duty rates for various cordage products of virtually identical characteristics; to the Committee on Ways and Means.

By Mr. D'AMOURS (for himself, Mr. Andrews, Mr. Bedell, Mr. Bevill, Mr. Biaggi, Mr. Brown of Colorado, Mr. Chappell, Mr. Courter, Mr. Daniel B. Crane, Mr. Davis, Mr. Fields, Mr. Frank, Mr. Forsythe, Mr. Garcia, Mr. Sam B. Hall, Jr., Mr. Harkin, Mrs. Heckler, Mr. Jeffries, Mr. Jones of Tennessee, Mr. Kastenmeier, Mr. Kildee, Mr. Kindness, Mr. Kogovsek, Mr. Kramer, Mr. Lee, Mr. Lujan, Mr. Luken, Mr. Mavroules, Mr. McCurdy, Mr. McKinney, Mr. Mitchell of New York, Mr. Nowak, Ms. Oakar, Mr. Patterson, Mr. Paul, Mr. Price, Mr. Rahall, Mr. Ratchford, Mr. Reuss, Mr. Roberts of South Dakota, Mr. Rodino, Mr. Roe, Mr. Rousselot, Mrs. Schroeder, Mr. Schumer, Mr. Sharp, Mr. Walgren, Mr. Whitehurst, Mr. Williams of Ohio, Mr. Williams of Montana, Mr. Won Pat, Mr. Wyden, Mr. Young of Alaska, Mr. Zablocki, and Mr. Zeferetti):

H.R. 7108. A bill to repeal sections 301 through 308 of the Tax Equity and Fiscal Responsibility Act of 1982, which impose withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. DASCHLE:

H.R. 7109. A bill to amend the Military Selective Service Act to provide that retired members of the Armed Forces may serve as members of local boards of the Selective Service System; to the Committee on Armed Services.

H.R. 7110. A bill to amend title 38, United States Code, to establish a presumption of service connection for the disease of soft-tissue sarcoma manifesting in veterans who served in Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. LEATH of Texas (by request):

H.R. 7111. A bill to prohibit the purchase of grain and cotton at certain inadequate or excessive prices; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. LeBOUTILLIER:

H.R. 7112. A bill to provide for special prison facilities in Alaska for certain State and Federal offenders; to the Committee on the Judiciary.

By Mr. MICA:

H.R. 7113. A bill to provide for the appointment of a Special Federal Crime Coordinator within the Department of Justice in special emergency situations; to the Committee on the Judiciary.

By Mr. MILLER of Ohio (for himself, Mr. Deckard, Mr. Wortley, Mr. Lagomarsino, Mr. Gradison, Mr. Daub, Mr. Emerson, Mr. Stokes, Mr. Luken, Mr. Ratchford, Mr. Applegate, Mr. Bowen, Mr. Bonkers, Mr. Jenkins, Mr. Walgren, Mr. Ford of Tennessee, Mr. Hamilton, Mr. McEwen, and Mr. Rahall):

H.R. 7114. A bill to direct the Secretary of the Army, acting through the Chief of Engineers, to provide technical assistance for streambank failure and erosion control; to the Committee on Public Works and Transportation.

By Mr. PRICE (for himself, Mr. Zablocki, Mr. Dickinson, and Mr. Broomfield) (by request):

H.R. 7115. A bill to authorize the transfer of nine naval vessels to certain foreign governments; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. ROE:

H.R. 7116. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age, is disabled, or is handicapped; to the Committee on Ways and Means.

By Mr. SAWYER (for himself, Mr. Fish, Mr. Moorhead, Mr. Hyde, Mr. Kindness, Mr. Lungren, Mr. Sensenbrenner, Mr. Shaw, Mr. Hagedorn, Mr. Solomon, and Mr. Molinari):

H.R. 7117. A bill to reform the use of the insanity defense in Federal criminal cases, to insure the admissibility of evidence when obtained by law enforcement authorities acting in good faith, and to define circumstances justifying Federal intervention in State criminal proceedings; to the Committee on the Judiciary.

By Mr. SHANNON (for himself and Mr. Martin of North Carolina):

H.R. 7118. A bill to amend the Tariff Schedules of the United States to correct an anomaly in the rate of duty applicable to textile fabrics, articles, and materials coated, filled, or laminated with rubber or plastics; to the Committee on Ways and Means.

By Mr. STENHOLM:

H.R. 7119. A bill to provide for the operation of a Southwest Collegiate Institute for the Deaf; to the Committee on Education and Labor.

By Mr. GOODLING:

H. Con. Res. 406. Concurrent resolution expressing the sense of the Congress that the various factions in Lebanon should not respond to the assassination of President-Elect Gemayel with violence; to the Committee on Foreign Affairs.

By Mr. BOLLING:

H. Res. 581. Resolution to amend the Rules of the House of Representatives to establish an Office of the Historian in the U.S. House of Representatives; to the Committee on Rules.

By Mr. BAILEY of Pennsylvania:

H. Res. 585. Resolution expressing the sense of the House of Representatives with respect to any enabling legislation which may arise concerning Puerto Rican statehood; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII,

479. THE SPEAKER presented a memorial of the Senate of the State of Michigan, relative to the senior aides program for 1983; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HARTNETT introduced a bill (H.R. 7120) to clear certain impediments to the licensing of the yacht *Ellen Ruth* for employment in the coastwise trade, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 808: Mr. Leland.

H.R. 1292: Mr. Anthony.

H.R. 1506: Mr. McDade.

H.R. 1918: Mr. Dowdy.

H.R. 2129: Mr. Barnard.

H.R. 2205: Mr. Waxman.

H.R. 2493: Mr. Mottl.

H.R. 2500: Mr. de Lugo.

H.R. 3722: Mr. Whitten, Mr. Hansen of Idaho, Mr. Moore, Mr. Brown of Colorado, Mr. Eckart, Mr. Hutto, Mr. Latta, Mr. Hertel, Mr. Skelton, Mr. Young of Missouri, Mr. Fascell, Mr. LeBoutillier, Mr. Lantos, and Mr. Johnston.

H.R. 4309: Mr. Bonior of Michigan and Mr. Kildee.

H.R. 4449: Mr. Smith of Alabama.

H.R. 4588: Mr. Akaka, Mr. Alexander, Mr. Andrews, Mr. Boland, Mr. Phillip Burton, Mr. Corrada, Mr. Crockett, Mr. Daub, Mr. DeNardis, Mr. Dreier, Mr. Emery, Mr. Erdahl, Mr. Ertel, Mr. Florio, Mr. Foglietta, Mr. Garcia, Mr. Goodling, Mr. Long of Maryland, Mr. McGrath, Mr. Miller of California, Mr. Mineta, Mr. Moakley, Ms. Oakar, Mr. Oxley, Mr. Pickle, Mr. Roybal, Mr. Sawyer, Mr. Scheuer, Mrs. Schroeder, Mr. Vento, Mr. Waxman, Mr. Weiss, Mr. Wirth, Mr. Wolf, Mr. Yates, Mr. McKinney.

H.R. 4931: Mr. Evans of Iowa, Mrs. Ashbrook, Mr. Dan Daniel, Mr. Stump, Mr. Martin of New York, Mr. Tauzin, and Mr. Hunter.

H.R. 5163: Mr. Garcia.

H.R. 5471: Mr. Daub, Mr. Pease, and Mr. Taylor.

H.R. 5489: Mrs. Smith of Nebraska.

H.R. 5507: Mr. Applegate.

H.R. 5588: Mr. Marriott.

H.R. 5735: Mr. Dymally, Mr. Mineta, Ms. Ferraro, and Mr. Zeferetti.

H.R. 6142: Mr. Fithian and Mrs. Smith of Nebraska.

H.R. 6356: Mr. Rangel and Mr. Scheuer.

H.R. 6463: Mr. Daniel B. Crane.

H.R. 6492: Mr. Gaydos, Mr. McKinney, Mr. Oberstar, Mr. Rudd, Mr. St Germain, and Mr. Traxler.

H.R. 6529: Mr. Yates, Mr. Volkmer, Mr. Marriott, and Mr. Craig.

H.R. 6591: Mr. Nowak.

H.R. 6864: Mr. Patman, Mr. Yatron, Mr. Lowry of Washington, Mr. Whitley, Mr. Tauke, Mr. Hoyer, Mr. Dyson, Mr. Badham, and Mr. Barnard.

H.R. 6932: Mr. Nelligan, Mr. Fazio, Mr. Wortley, and Mr. Vander Jagt.

H.R. 6976: Mr. Rousselot, Mrs. Heckler, and Mr. Mica.

H.R. 7005: Mr. Anthony.

H.R. 7020: Mr. Lagomarsino.

H.R. 7048: Mr. Edgar, Mr. O'Brien, Mr. Leach of Iowa, Mr. Oberstar, Mr. Rose, Mr. Evans of Iowa, Mr. Markey, Mr. Kildee, Mr. Brown of California, Mr. Pepper, Mr. Solarz, Mr. Fauntroy, Mr. Scheuer, Mr. Moffett, Mr. Gunderson, Mr. Dougherty, Mr. Wyden, Mr. Wortley, Mr. Waxman, Mr. Stokes, Mr. Hughes, Mr. LeBoutillier, Mr. Studds, Mr. Zeferetti, Mr. Won Pat, Mr. Tauke, Mr. Bingham, Mr. Florio, Mr. Panetta, Mr. Green, Mr. Frenzel, Mr. Bonior of Michigan, Mr. Ratchford, and Mr. Mitchell of Maryland.

H.R. 7085: Mr. Garcia.

H.R. 7101: Mr. Pickle.

H.J. Res. 144: Mr. Ratchford.

H.J. Res. 183: Mr. Skeen, Mr. Traxler, Mr. Sunia, Mr. McGrath, Mr. Scheuer, Mr. Stump, Mr. Daschle, Mr. Fary, Mr. Fauntroy, Mr. Bailey of Pennsylvania, Mr. Emery, Mr. Hansen of Idaho, Mr. Hoyer, Mr. Mineta, Mr. Kramer, Mr. Winn, Mr. Whitehurst, Mr. Clausen, Mr. Benedict, and Mr. Lowery of California.

H.J. Res. 415: Mr. Heftel.

H.J. Res. 492: Mr. Martinez, Mr. Lehman, Mr. Lowery of California, Mr. Corrada, Mr. Pepper, Mr. Fountain, Ms. Mikulski, Mr. Frenzel, Mr. Weber of Ohio, Mr. Wortley, Mr. Hughes, Mr. Gonzalez, Mr. Edgar, Mr. Dougherty, and Mr. Minish.

H.J. Res. 496: Mr. Moorhead, Mr. Simon, Mr. Lowry of Washington, Mr. Gramm, Mr. Montgomery, Mr. Mattox, Mr. Hollenbeck, Mr. Miller of California, Mr. Stark, Mr. Hertel, Mr. Napier, Mr. Dixon, Mr. Taylor, Mr. Hightower, and Mr. Weber of Minnesota.

H.J. Res. 504: Mr. Atkinson.

H.J. Res. 523: Mr. Hertel, Mr. Hawkins, Mr. Ottinger, Mr. Neal, Mr. Mineta, Mr. Emery, Mr. Robinson, and Mr. Taylor.

H.J. Res. 537: Mr. Addabbo, Mr. Akaka, Mr. Alexander, Mr. Andrews, Mr. Annunzio, Mrs. Ashbrook, Mr. Atkinson, Mr. Bafalis, Mr. Bailey of Pennsylvania, Mr. Barnard, Mr. Benedict, Mr. Bennett, Mr. Bevill, Mr. Bingham, Mr. Blanchard, Mrs. Boggs, Mr. Boner of Tennessee, Mr. Brooks, Mr. Burgener, Mr. John L. Burton, Mrs. Byron, Mr. Campbell, Mr. Chappell, Mr. Chappie, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mr. Clinger, Mr. Corcoran, Mr. Corrada, Mr. Courter, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. de la Garza, Mr. Dellums, Mr. Derrick, Mr. Dingell, Mr. Dornan of California, Mr. Dwyer, Mr. Dymally, Mr. Dyson, Mr. Edwards of Alabama, Mr. Fary, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mrs. Fenwick, Ms. Fiedler, Mr. Fish, Mr. Fithian, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Ford of Tennessee, Mr. Fountain, Mr. Frank, Mr. Frenzel, Mr. Fuqua, Mr. Gephardt, Mr. Gilman, Mr. Ginn, Mr. Goldwater, Mr. Grisham, Mr. Guarini, Mr. Hance, Mr. Hatcher, Mrs. Heckler, Mr. Hefner, Mr. Hertel, Mr. Hollenbeck, Mrs. Holt, Mr. Horton, Mr. Hoyer, Mr. Huckaby, Mr. Ireland, Mr. Kemp, Mr. LaFalce, Mr. Lagomarsino, Mr. Levitas, Mr. Livingston, Mr. Long of Maryland, Mr. Lott, Mr. Lowry of Washington, Mr. Lungren, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. Markey, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Martinez, Mr. Matsui, Mr. Mineta, Mr. Minish Mr. Moakley, Mr. Molinari, Mr. Montgomery, Mr. Morrison, Mr. Mottl, Mr. Murphy, Mr. Neal, Mr. Nelligan, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Patterson, Mr. Pepper, Mr. Peyser, Mr. Price, Mr. Pursell, Mr. Rahall, Mr. Reuss, Mr. Rinaldo, Mr. Rodino, Mr. Roth,

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Mr. Savage, Mr. Scheuer, Mrs. Schneider, Mr. Shaw, Mrs. Snowe, Mr. Solarz, Mr. Stangeland, Mr. Stanton of Ohio, Mr. Stokes, Mr. Stratton, Mr. Swift, Mr. Synar, Mr. Tauke, Mr. Trible, Mr. Walgren, Mr. Weaver, Mr. Weber of Ohio, Mr. Weiss, Mr. Whitehurst, Mr. Wilson, Mr. Winn, Mr. Wolf, Mr. Won Pat, Mr. Wyden, Mr. Yatron, Mr. Young of Missouri, and Mr. Zeferetti.

H.J. Res. 545: Mr. St Germain, Mr. Roybal, Mr. Hughes, Mr. Lehman, Mr. Akaka, Mr. Howard, Mr. Bingham, Mr. Dixon, Mr. Hollenbeck, Mr. Seiberling, Mr. Rodino, and Mr. Florio.

H.J. Res. 546: Mr. Patterson and Mr. Watkins.

H.J. Res. 552: Mr. Matsui and Mr. Peyser.

H.J. Res. 558: Mr. Walker, Mr. Frost, Mr. Foglietta, Mr. Montgomery, Mr. Florio, Mr. Horton, Mr. Hoyer, Mr. Winn, Ms. Oakar, Mrs. Martin of Illinois, Mr. Dorgan of North Dakota, Mr. Wortley, Mr. Andrews, Mr. Simon, Mr. Corrada, Mrs. Heckler, Mr. Oberstar, Mr. Daub, Mr. Madigan, Mr. Edwards of California, Mr. Waxman, Mr. Marriott, and Mr. Stangeland.

H.J. Res. 566: Mr. Fish, Mr. Hughes, Mr. Marriott, Mr. Pickle, Mr. Shuster, and Mr. Tauke.

H.J. Res. 583: Mr. Roberts of South Dakota, Mr. Snyder, Mr. Evans of Iowa, Mr. Perkins, Mr. Broyhill, Mr. Mollohan, Mr. Young of Alaska, Mr. Fish, Mr. St Germain, Mr. Lee, Mr. Addabbo, Mr. Rudd, Mr. Hubbard, Mr. Gunderson, Mr. Kemp, Mr. Dorgan of North Dakota, Mr. D'Amours, Mr. Bereuter, Mr. Hammerschmidt, Mr. Smith of Alabama, Mr. Tauke, Mr. Akaka, Mr. Neal, Mr. Hopkins, Mr. Cheney, Mr. Duncan, Mr. Ratchford, Mr. Anthony, Mr. Daub, Mr. Lagomarsino, Mr. Bailey of Pennsylvania, Mr. McClory, Mr. Livingston, Mr. Santini, Mr. Rogers, Mr. Simon, Mr. Jones of North Carolina, Mr. LeBoutillier, Mr. Won Pat, Mr. Yatron, Mr. Pepper, Mr. Rahall, Mr. Brown of Colorado, Mr. Hartnett, Mr. Ford of Tennessee, Mr. Shelby, Mr. Flippo, Mr. McHugh, Mr. Molinari, Mr. Forsythe, and Mr. Wortley.

H.J. Res. 585: Mr. Mineta, Mr. Robert W. Daniel, Jr., Mr. Wortley, Mr. Grisham, Mr. Clausen, Mr. McCollum, and Mr. English.

H.J. Res. 591: Mr. Bowen.

H. Con. Res. 3: Ms. Ferraro.

H. Con. Res. 321: Mr. Albosta, Mr. Barnes, Mr. Dellums, Mr. DeNardis, Mr. Foglietta, Mr. Garcia, Mr. Gejdenson, Mr. Green, Mr. Lowry of Washington, Mr. Markey, Ms. Mikulski, Mr. Moakley, Mr. Oberstar, Mr. Studds, and Mr. Wirth.

H. Con. Res. 334: Mr. Smith of Alabama, Mr. Napier, Mr. McCurdy, and Mr. Shelby.

H. Con. Res. 336: Mr. Daub, Mr. Hall of Ohio, and Mr. Whitehurst.

H. Con. Res. 356: Mr. Garcia.

H. Con. Res. 378: Mr. Derwinski.

H. Res. 421: Mr. Brown of Ohio, Mr. Dorgan of North Dakota, Mrs. Heckler, Mr. Howard, Mr. Hughes, Mr. Latta, Mr. Mollohan, Mr. Murtha, Mr. Solomon, and Mr. Derrick.

H. Res. 424: Mrs. Collins of Illinois, Mr. Ertel, Mr. Evans of Delaware, and Mr. Traxler.

H. Res. 443: Mr. Smith of Pennsylvania, Mr. Conyers, Mr. Kildee, Mr. Wirth, Mr. Stokes, Mr. Roe, Mrs. Collins of Illinois, Mr. Scheuer, Mr. Leach of Iowa, and Mr. Hertel.

H. Res. 558: Mr. Clinger, Mr. Zeferetti, Mr. Solarz, Mrs. Snowe, Mr. Mavroules, Mr. Hatcher, Mr. Fazio, Mr. Lowry of Washington, Mr. Rahall, Mr. Emery, Mr. Lantos, Mr. St Germain, and Mr. Yatron.

PETITIONS, ETC.

Under clause 1 of rule XXII,

591. The SPEAKER presented a petition of the International Typographical Union, Colorado Springs, Colo., relative to the social security system; which was referred to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3432

By Mr. HANCE:

(To the amendment in the nature of a substitute.)

—In the last sentence of section 304(a), strike out ", or the Arkansas River Basin,".

H.R. 6046

By Mr. CONYERS:

(Parts I and II.)

—Page 21, line 23, strike out "(1)".

Page 22, beginning in line 3, strike out "with this" and all that follows through "3150." in line 18 and insert in lieu thereof "with chapter 207 of this title.".

Page 22, strike out line 10 and all that follows through line 18 on page 27.

Page 6, line 10, strike out "(1)".

Page 6, strike out line 21 and all that follows through line 14 on page 7.

Page 16, strike out line 11 and all that follows through line 14 on page 17 and insert in lieu thereof the following:

"(3) The court may order the person sought to be extradited detained pending the disposition of an appeal under this section.

H.R. 6956

By Mr. WYDEN:

—Page 42, immediately after line 18, insert the following new section:

Sec. 416. No funds appropriated by this Act may be obligated or expended to issue, promulgate, implement, administer, or enforce any standard or rule under sections 108 and 109 of the Clean Air Act, 42 U.S.C. 7408 and 7409, which changes the national ambient air quality standards for carbon monoxide to permit multiple days of allowable exceedances on an annual basis as described in 47 Federal Register 26407.

H.R. 6995

By Mr. BROYHILL:

—Page 2, after line 14, insert the following new subsection:

"(c) The amendment made in subsection (a) shall not have any force or effect, and shall not be taken into account, in connection with the enforcement of any State law which prevents persons, partnerships, or corporations subject to the jurisdiction of the State from engaging in unfair acts or practices."

Page 1, line 7, insert "(a)" after "Sec. 2.".

(Substitute amendment for the amendment by Mr. Luken or Mr. Lee.)

—Page 2, after line 23, insert the following new section (and redesignate the following sections accordingly):

STATE ACTION

Sec. 5. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(n) The Commission shall not have any authority to find a method of competition to be an unfair method of competition under subsection (a)(1) if, in any action under the Sherman Act, such method of competition would be held to constitute State action.".

Page 5, line 7, strike out "section 26 and section 27" and insert in lieu thereof "section 27 and section 28".

Page 5, after line 19, insert the following new section (and redesignate the following sections accordingly):

COMMISSION JURISDICTION REGARDING PROFESSIONALS

Sec. 8. (a) The Federal Trade Commission Act, as amended in section 7, is further amended by inserting after section 24 the following new section:

"Sec. 25. (a) Except as provided in subsection (b), the Commission shall not use its authority under section 5 or section 18 to prohibit unfair acts or practices engaged in by professionals in a particular State if such use of authority would result in the invalidation, in whole or in part, of any State law of such State which establishes—

"(1) training, education, or experience requirements for the licensure of professionals; or

"(2) permissible tasks or duties which may be performed by professionals.

"(b) In any case in which the use of authority under section 5 or section 18 by the Commission to prohibit unfair acts or practices engaged in by professionals in a particular State may result in the invalidation of any State law of such State specified in subsection (a), the Commission may use such authority regardless of whether such use of authority would result in such invalidation if the Commission——

"(1) finds that such State law (A) authorizes or prescribes any commercial or business act or practice; and (B) adversely affects or is likely to adversely affect competition; and

"(2) in determining whether such act or practice is an unfair act or practice under section 5(a)(1), takes into account (in weighing countervailing benefits to consumers or to competition under section 5(a)(1)(B)(ii)) benefits to the public health, safety, and welfare which result from any State law under which such act or practice is authorized or prescribed.

"(c) For purposes of this section:

"(1) The term 'professional' means any person who—

"(A) in the performance of his occupation, is subject to licensure or certification under State law; and

"(B) as a prerequisite for such licensure or certification under State law, has (i) received a degree from an accredited institution of higher learning; or (ii) successfully completed a course of specialized training at an accredited education or training facility for health professions personnel operated as an integral part of a hospital.

"(2) The term 'State law' means a statute of a State, and a rule or regulation duly promulgated by a State agency.".

(b) Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended—

(1) by inserting after the third sentence thereof the following new sentences: "In any case which may result in an invalidation of State law under section 25, the State attorney general of any State shall be allowed to intervene and appear in such proceeding if the State attorney general certifies that any State law (as defined in section 25(c)(2)) of the State involved would be subject to

such invalidation. For purposes of the preceding sentence, the term 'State attorney general' means the chief legal officer of a State, and includes the Corporation Counsel of the District of Columbia."; and

(2) by inserting after the fifth sentence thereof the following new sentence: "In the case of an order which would result in an invalidation of State law under section 25, such order shall be accompanied by a written statement of the findings made by the Commission under section 25(b)(1) and of the manner in which the Commission has complied with the requirement established in section 25(b)(2).".

(c)(1) Section 18(b)(1)(D) of the Federal Trade Commission Act (15 U.S.C. 57a(b)(1)(D)) is amended by inserting "(i)" after "with", and by inserting before the period at the end thereof the following: "; and (ii) in the case of a final rule which would result in an invalidation of State law under section 25, a written statement of the findings made by the Commission under section 25(b)(1) and of the manner in which the Commission has complied with the requirement established in section 25(b)(2)".

(2) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) In the case of a proposed rulemaking which may result in an invalidation of State law under section 25, the State attorney general of any State shall be considered to be an interested person for purposes of this subsection and subsection (b)(1)(B) if the State attorney general certifies that any State law (as defined in section 25(c)(2)) of the State involved would be subject to such invalidation.

"(B) For purposes of this paragraph, the term 'State attorney general' means the chief legal officer of a State, and includes the Corporation Counsel of the District of Columbia.".

(3) Section 18(e)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(1)(B)) is amended by inserting "the statement required by subsection (b)(1)(D)(ii)," after "purposes,".

Page 5, line 22, strike out "section 6" and insert in lieu thereof "section 7 and section 8".

Page 5, beginning on line 22, strike out "section 24" and insert in lieu thereof "section 25".

Page 5, line 24, strike out "Sec. 25." and insert in lieu thereof "Sec. 26:".

Page 14, line 21, strike out "Section 26" and insert in lieu thereof "Section 27".

Page 14, line 22, strike out "section 6" and insert in lieu thereof "section 7".

Page 16, line 7, strike out "section 6" and insert in lieu thereof "section 7".

Page 16, line 8, strike out "amendment" and insert in lieu thereof "amendments", and insert ", section 4, and section 8" after "section 2".

Page 16, line 13, strike out "and".

Page 16, after line 13, insert the following new subparagraph (and redesignate the subsequent subparagraph accordingly):

"(B) rulemakings initiated under any authority contained in section 6(g) of such Act (15 U.S.C. 46(g)) on or after such date of enactment; and".

Page 16, line 19, strike out "amendment" and insert in lieu thereof "amendments".

Page 17, line 1, strike out "section 4" and insert in lieu thereof "section 5".

Page 17, line 23, strike out "section 25" and insert in lieu thereof "section 26".

Page 17, line 24, strike out "section 7" and insert in lieu thereof "section 9".

Page 18, line 13, strike out "section 25(c)" and insert in lieu thereof "section 26(c)".

Page 18, line 15, strike out "section 7" and insert in lieu thereof "section 9".

Page 18, line 23, strike out "section 25(f)(2)" and insert in lieu thereof "section 26(f)(2)".

Page 18, line 24, strike out "section 7" and insert in lieu thereof "section 9".

By Mr. DANNEMEYER:

—Page 14, line 25, strike out "$66,080,000" and insert in lieu thereof "$60,838,000".

Page 15, line 1, strike out "$70,705,000" and insert in lieu thereof "$55,100,000".

Page 15, line 2, strike out "$75,654,000" and insert in lieu thereof "$54,600,000".

By Mr. LUKEN:

—Page 15, after line 24, insert the following new section (and redesignate the following section accordingly):

MORATORIUM ON COMMISSION REGULATION OF PROFESSIONALS

SEC. 10. (a)(1) The Federal Trade Commission shall not investigate, issue any order concerning, prescribe any rule or regulation with respect to, or take any other action against any State regulated profession until the Congress takes the actions specified in paragraph (2).

(2) The prohibition established in paragraph (1) shall apply until the Congress enacts legislation which expressly provides that—

(A) the Commission has jurisdictional authority with respect to professions; and

(B) the authority of the Commission preempts the authority of States to regulate professions.

(b) Any decision, finding, or other administrative action made or taken by the Commission which—

(1) occurs during the period beginning on May 28, 1981, and ending on the date of the enactment of this Act; and

(2) is based in whole or in part on any activity specified in subsection (a)(1);

shall, upon such date of enactment, be vacated and have no force or effect.

(c) Nothing in this section shall be construed as placing a moratorium upon, or otherwise affecting, the enforcement of any cause of action by the Attorney General of the United States arising under the Sherman Act (15 U.S.C. 1 et seq.) or the Clayton Act (15 U.S.C. 12 et seq.).

(d) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "professions" means organizations, associations, or other categories of professionals.

(3) The term "professional" means any individual engaged in the performance of work—

(A) requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning (as distinguished from knowledge acquired by a general academic education, from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

(B) requiring the consistent exercise of discretion and judgment in its performance;

(C) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

(D) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time.

(4) The term "State regulated profession" means any profession which is subject to any licensure, certification, or regulation by a State.

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EXTENSIONS OF REMARKS

ON A VISIT TO LOS ANGELES COUNTY BY: HIS EXCELLENCY, YOSHIO OKAWARA, AMBASSADOR OF JAPAN TO THE UNITED STATES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DIXON. Mr. Speaker, I rise to report to the House concerning a very unique event that took place in the County of Los Angeles on August 13, 1982 relative to this great Nation's relationship with the Government of Japan.

On August 13, 1982 the Los Angeles County Board of Supervisors hosted a luncheon and community reception for His Excellency, Yoshio Okawara, Ambassador Extraordinary and Plenipotentiary of Japan to the United States.

The five members of the Los Angeles County Board of Supervisors: chairman, Peter Schabarum; Kenneth Hahn; Edmund Edelman; Dean Dana; and Michael Antonovitch, each expressed their personal greetings to His Excellency in recognition of the importance of leading Government officials to publicly recognize the value of good relations between the United States and Japan. Further, in greeting His Excellency, the Los Angeles County Board of Supervisors emphasized how a continuous and recipricol friendship between the United States and Japan through the County of Los Angeles, can greatly enhance the world economy through a process of cultural communication and understanding.

Throughout the day, by a motion of the board of supervisors, the colors of Japan were proudly flown side-by-side with Old Glory, over the Hall of Administration, representing the second time in the county's history that the Japanese flag was flown, the first time being during the visit of His Majesty, Emperor Hirohito of Japan in 1974.

That evening, during the Sayonara Banquet of the Japanese American Citizens League's 27th Biennial National Convention, at which His Excellency was the keynote speaker, Los Angeles County Supervisor Kenneth Hahn presented Ambassador Okawara with a resolution signed by each supervisor acknowledging Ambassador Okawara's contributions to strengthen United States-Japan relations. It was at this time that His Excellency, Yoshio Okawara, delivered the following message, before the delegates and guests of the JACL.

ADDRESS BY HIS EXCELLENCY YOSHIO OKAWARA AMBASSADOR OF JAPAN

My wife and I cherish this opportunity to be with you. As you know, I travel frequently and widely around this vast country, meeting with a great variety of Americans who, in one way or another, have an interest in Japanese-American relations, and are part of the complex fabric of mutual understanding and cooperation, on which our partnership rests. These are very educational and rewarding experiences for me. I was extremely impressed and delighted to find so many of our friends and relatives as respected citizens of the United States and active members of local communities in various corners of this country—in mid-West, Sun Belt, Eastern Heartland and so on.

There is no group of Americans, I am sure, with a deeper interest than yours in the success of this partnership. Nor is there any group of Americans that has done more than you to build this partnership on solid foundations.

The Issei who came to these shores one, two or three generations ago—your parents or grandparents—brought with them something of Japan that they grafted onto the American experience. Their way was seldom easy, and their hardships were severe. Yet they persisted, confident that they had a contribution to make in return for the rewards that life in America could offer them, and their children. Nothing is more descriptive and revealing about them than the stories in the now classical book "Nisei", written by Mr. Bill Hosokawa.

Professor Reischauer wrote in his foreword to Mr. Hosokawa's book, "No immigrant group encountered higher walls of prejudice and discrimination than did the Japanese * * *. None retained greater faith in the basic ideals of America or showed stronger determination to establish their rights to full equality and justice * * *. None showed greater loyalty to the United States * * *."

Indeed, many of those trans-Pacific pioneers made unique and lasting contributions to America in the fields of agriculture, business, professions and arts. Not the least of their contributions was that they gave to America a second generation, native born, and advantaged by growing up in American communities and in the American education system. But the Nisei also faced hardships of grudging acceptance and, when our two nations were at war, the most poignant hardship of having their loyalty as American citizens questioned.

It is a tribute to the fortitude of Issei, Nisei, and Sansei alike—and to the basic sense of justice and fair play of the American nation—that those darkest days are now far behind us, and that the scars are at last healing. You have earned positions of leadership in all areas of American life, providing a governor of a great state, five members of Congress, distinguished scholars, musicians and artists, journalists, fine teachers and other public servants, and above all, a model of good and loyal citizenship.

You have much to be proud of, and the country your ancestors came from is proud of your accomplishments.

It is in this spirit that I want to report to you this evening on the present state of Japanese-American relations. You are entitled to my candid appraisal.

It would be dishonest to pretend that there are no problems or differences whatsoever between our two countries, or that the problems that do exist are insignificant. The problems are real, and they are important. At the other extreme, it would be quite irresponsible to suggest that our current differences—whether in the economic field or over defense budgeting—are so serious that they threaten the stability of the Japanese-American partnership. This is simply not so, nor does any responsible public official in either government believe it is so.

These days we hear much about the "family disputes" in the U.S.-European relations. In the Japanese-American alliance, a "divorce" or even a separation is unthinkable.

The trade problem—specifically, how to deal with the chronic U.S. deficit in our bilateral trade—is a serious question because, in the first place, it concerns the basic structure and performance of our two giant and closely intertwined economies. In the second place, how we resolve our current trade frictions is bound to have wide repercussions throughout the world economy, because of the leading roles the United States and Japan play in world trade, investment and technology development.

Moreover, the present sluggish state of the world economy, causing high unemployment, continuing inflationary pressures, and the high cost of capital makes it extremely difficult to grapple with these complex issues. In each major trading nation, policy makers are under powerful political pressure to cushion the domestic economy against external forces that are viewed as threats to domestic jobs.

The most dangerous temptation is to try to insulate domestic jobs from foreign trade competition. This is the protectionist route the world followed in the early 1930s, and it led straight to the disaster of the Great Depression, as shrinking world trade smothered economic growth around the world. The rebirth of protectionist pressures, especially in Western Europe and also in the United States, is the clearest warning that we must find sensible, free-market solutions to Japanese-American trade problems if we are to restore dynamic growth to our own economies, and to preserve an open and expanding world economy.

As recently as 30 years ago, Japan's economy was less than 5 percent of the then giant American economy. Today the American giant is more than five times larger than it was in 1950, but the Japanese economy has grown even faster, making Japan's GNP nearly half that of the United States. Japan now generates 10 percent of world GNP and accounts for 10 percent of world trade. The United States and Japan together provide nearly one-third of world product and world trade.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Throughout these three decades, our two countries have been each other's principal overseas trading partners, in a two-way exchange that is now valued at $60 billion a year. To a great extent this trade has been complementary. Japan, which must import half the calories it consumes, has consistently been the American farmer's best overseas customer buying $7 billion in 1981. Resource-poor Japan has also been a ranking importer of American coal, minerals, forestry products and other basic materials. Japan has also been a major market for American exports of manufactured goods, which now constitute over 40 percent of Japan's total imports from the United States.

In return, the United States has long been the largest market in the world for the goods Japan is capable of exporting, manufactured products.

As both our economies prospered, and our two-way trade doubled in value each five years, the areas where our manufactured exports are in competition with each other have also grown. Once it was textiles, and now it is products of high technology industry. The competition between industrial economies has traditionally been a powerful stimulant for invention, innovation, greater manufacturing efficiency, lower prices to the consumer, and rising standards of living. This has unquestionably been true of the Japanese-American economic relationship, which is both complementary and competitive.

For the last decade and a half, however, our two-way trade has been imbalanced in Japan's favor. As our trade has grown, so has the U.S. deficit in this trade, and this situation has created periodic frictions between us. In purely economic terms, the imbalance should be no cause for alarm, as long as a deficit with one partner can be offset by a surplus with another. A realistic measure of a nation's trade performance is its overall trade balance with all its trading partners.

An even more realistic measure would take account, not only of merchandise trade, but also of trade in "invisibles"—the international flow of capital which results from investment, repatriated profits on foreign investment, royalties and license fees, tourist expenditures, and so on. By this measure, the United States usually outperforms Japan. Last year the U.S. had a healthy surplus in its invisible trade with Japan, and the combined U.S. current account balance was in surplus with the world.

However, in a time of worldwide recession, underutilized manufacturing capacity, and high unemployment, politics carries more weight than economic principles. The only way to fend off political pressure for trade protectionism is to find other ways of reducing the trade gap. We have, in fact, been working hard on different approaches.

First, the Japanese Government has taken extraordinary steps to cut tariffs and reduce other import barriers in order to make the Japanese market one of the most open and accessible markets in the entire industrialized world. Japan's trade-weighted average tariffs are lower than those in the United States, and much lower than in Western Europe. We have also eliminated a number of sensitive tariffs and import quotas. And we have simplified import procedures, streamlined testing requirements and established an Office of Trade Ombudsman to deal promptly with any complaints of discrimination against imports. We are determined to internationalize the domestic market.

Second, we are making strenuous efforts to promote expanded U.S. exports to Japan. We are providing advice and marketing assistance to U.S. manufacturers interested in selling to Japan. In a different context, Japanese industries are providing technical assistance to help modernize U.S. steel, automobile, machine tool and other industries. Japanese investment in U.S. plants, now in excess of $10 billion, is creating American jobs and adding to the U.S. GNP. A growing number of Japanese plants in the United States are also new exporting U.S.-made goods to Japan and the world. And the seven largest Japanese trading companies operating in the United States now account for about 10 percent of U.S. exports to the world.

All these measures together are strengthening Japanese-American economic interdependence by helping to strengthen the competitiveness of American products, at home and in world trade.

There is another point I want to refer you to. Japan and our mutual trading partners in Western Europe have been concerned with the excessively high U.S. interest rates. These interest rates, which have artificially overvalued the U.S. dollar, are one of the contributing factors to current U.S. trade deficits with Japan. An overvalued dollar means overpriced U.S. goods, and therefore a loss of price competitiveness for American exports.

High U.S. interest rates have also complicated the tasks of Japan and other American trading partners in efforts to restore vitality and growth to our respective domestic economies. The capital we need to maintain and expand our domestic plant has been fleeing to U.S. money markets for speculative purposes that contribute little to world economic health. We hope that recent cuts in the U.S. official discount rate are the beginning of a healthier trend, and that they will continue.

I have given you perhaps a more technical explanation of our current economic concerns than you bargained for. However, I believe it is very important to put these questions into perspective.

It is not just our economic relations that are involved in the Japanese-American partnership. Our two nations are also political allies, sharing the same commitments to democracy and the peaceful preservation of an open world society. As you are well aware, Japan has been the most faithful member of the U.S. allies in supporting the U.S. in Iranian hostages, Afghanistan and Poland. The closest friendly relations with the U.S. being the pivotal importance for Japan, the Japanese Government is committed to play a role conducive to the status which Japan has attained. Not only do we cooperate as partners, exchange goods, influence each other artistically, and join each other in common adventures of science, scholarship and the frontiers of the human mind and spirit. We also share values which give meaning to our lives. We need each other because we have so much to offer each other.

Last month, when Japan's Grand Kabuki was on its very successful tour of New York, Knoxville and Washington, I was deeply gratified by the enthusiastic response—indeed, the standing ovations—that American audiences gave this unique Japanese art form. The stories were unfamiliar, the gestures and their meanings were exotic, as was the music, yet tens of thousands of Americans were enraptured. They recognized the universal values that unite the human race and are at the core of both Japanese and American culture.

The stimulating articles on Japanese culture by the recent New York Times were captioned "Culture of Japan blossoming in America" and "Things Japanese Excite Americans' Imagination." It reports "the reason given for why Japanese culture has captured the American imagination range from Japanese economic might to the success of James Clabell's "Shogun."

The tremendous success of Grand Kabuki can be seen against this background.

The first generation of Japanese Americans, your ancestors, would have been pleased and proud of those hours of deep sharing.

Now that the relationship between our two nations has attained the level of maturity and can properly be viewed in the global perspective, the bonds of friendship across the Pacific will be further strengthened with the intertwining of political, economical and cultural threads.

May I conclude my address by once again expressing my appreciation of your contributions over the past decades to the ever closer U.S.-Japan friendship and extending my very best wishes for your continued success.●

MARITIME SAFETY ACT, H.R. 7038

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. JONES of North Carolina. Mr. Speaker, shortly before the district work period, I introduced legislation, H.R. 7038, to promote maritime safety on the high seas and navigable waters of the United States. This legislation is the result of extensive hearings and investigations conducted by the Committee on Merchant Marine and Fisheries during the 97th Congress.

Two major marine casualties, the disappearance of the SS *Poet* in October 1980 and the sinking of the semisubmersible drilling vessel the *Ocean Ranger* in February 1982 have prompted the introduction of this measure. It is my hope that we can receive substantive input from the administration and the marine industry on the concepts put forth, and refine them for enactment during the next Congress.

The first part of the bill is a result of our hearing on the *Ocean Ranger.* When this vessel sank on February 14, killing 85 men, it was operating without the legally required certificate of inspection issued by the Coast Guard. Although the company was aware the certificate of inspection had expired, the *Ocean Ranger* continued to drill off the coast of Newfoundland for almost 2 months. The only penalty under present law for operating without a certificate of inspection is a $500 fine—hardly a financial burden on a vessel leased for approximately $100,000 per day.

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The second part of H.R. 7038 stems from our hearings on the SS *Poet*. The SS *Poet* was a 522-foot cargo vessel, which was carrying 13,500 tons of corn and a crew of 34 men when it departed Philadelphia, Pa. on October 24, 1980. At some unknown time after departure, on its way to Port Said, Egypt, the SS *Poet* disappeared without a trace. The owner of the SS *Poet* did not notify the U.S. Coast Guard of his concern for the safety of his vessel and crew until he had not heard from the vessel for a full 10 days. With such a delayed notice there was scarce opportunity for the Coast Guard to assist the vessel if it had been in danger. Earlier notice by the owner to the Coast Guard may have alerted the Coast Guard in time to locate and assist the vessel.

Subsequent to the hearings on these two tragic incidents, the Merchant Marine and Fisheries Committee staff studied present laws and procedures in order to determine whether changes or additions to the present laws might improve maritime safety and help to prevent similar tragic accidents from occurring in the future. H.R. 7038 is a product of these studies.

H.R. 7038 is basically comprised of three sections. The first section imposes stricter requirements and penalties on shipowners, agents, or operators who operate a vessel without a valid certificate of inspection. The second section imposes a notification requirement on a shipowner, agent, or operator to report to the U.S. Coast Guard if more than 48 hours have elapsed since the owner, agent, or operator has heard from the vessel. The master is also required to report to the owner every 48 hours. Only those required to report to the U.S.-flag merchant vessel location filing system (USMER) are covered by this section. However, any vessel owner who has reason to believe his vessel is imperiled is required to notify the Coast Guard. The third section of H.R. 7038 allows the Coast Guard to investigate and act upon acts of incompetency committed by any licensed officers on vessels of the United States.

Throughout the proposed bill, civil penalties for violations of the certificate of inspection requirements are increased to match more appropriately the penalty costs with the value of today's dollar. Communication requirements between the vessel owner, master, and the U.S. Coast Guard are also proposed on the basis of new present day communications capabilities. H.R. 7038, therefore, updates some of the marine safety laws to meet today's marine environment.

The intent of H.R. 7038 is to improve the marine safety environment without imposing onerous burdens upon the industry. The law is written in a manner which will require proper oversight of a vessel's well-being and which will include adequate enforceable civil penalty provisions. However, the notice and reporting requirements are not complicated or time consuming and the penalty sections are flexible.

As chairman of the Committee on Merchant Marine and Fisheries, I look forward to waorking with the administration, industry representatives, and other interested maritime groups on this bill, and I expect that progress will be made toward the betterment of marine safety throughout the world.●

REGULATORY REFORM ACT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DERWINSKI. Mr. Speaker, with the controversies caused by issues which lend themselves to partisan rhetoric, we certainly must not overlook the long-range significance of regulatory reform.

Basically, this subject is above partisanship. Most Americans would subscribe to the principle that the less cumbersome the bureaucracy, the better.

Therefore, I call the attention of the Members to an article by Senator Paul Laxalt on the need to enact legislation called for in the Regulatory Reform Act.

[From the Christian Science Monitor, Aug. 24, 1982]

Don't Delay Bipartisan Regulatory Reform

(By Paul Laxalt)

During all the activity on tax and budget bills, an important bipartisan legislative effort in our campaign against inflation and against increasing consumer prices has been quietly moving forward. Unfortunately, enactment of this legislation, known as the Regulatory Reform Act, may be threatened by delay in House action on this bill as this session of Congress nears its end. Such a delay is not in the best interests of this country, and everyone should urge his congressional representative to help move this bill now.

Under the sponsorship of Senators Patrick Leahy, William Roth, Thomas Eagleton, myself, and 77 other senators, the Senate in March unanimously (94–0) passed the Regulatory Reform Act. This measure enhances our efforts to secure cleaner air and water, safe workplaces, and the like, while reducing the economic excesses of federal regulation which fuel inflation. The act achieves this by modifying the regulatory process to produce more effective regulation—regulation that will be more certain to accomplish important public goals without unnecessary economic burdens.

Since the American people strongly support regulatory reform, every sensible politician must support it. Yet legislation to achieve such reform involves complicated and highly technical issues of law and statutory drafting.

Senators Leahy, Roth, Eagleton, and I hold the relevant leadership positions on the committees responsible for regulatory reform legislation. Together, we grappled with the important details of regulatory reform. After fourteen months of drafting, revision, and compromise, we came up with a balanced package of procedural changes which we, and as it turned out the rest of our Senate colleagues, concluded was a common-sense approach to regulatory reform.

We wrote provisions in the Regulatory Reform Act that will require agencies to publicly evaluate their regulatory proposals in terms of what their likely good and bad effects will be. This not only involves the public in rule-making, but ensures that regulations will be publicly justified by what they can realistically be expected to achieve. To make agencies more accountable, we provided a limited presidential and judicial oversight of the process, circumscribed by the need to avoid endless delays and to preserve congressionally mandated policies. Finally, the full Senate added a provision to allow Congress to review agency rules.

After the Senate passed the measure, House Speaker O'Neill said he had every intention of bringing the House regulatory reform bill (HR 746) to the House floor. I applaud the Speaker's commitment to continue this bipartisan effort. Yet time is running short in this Congress to make good on this commitment. Only a few short weeks remain after the August recess before Congress adjourns for the elections. Acknowledgment of his support of this bill to Congress is now essential.

Enactment of this legislation will require that the House preserve the balanced approach of the consensus Senate bill. True bipartisan regulatory reform will die if the Speaker merely gives the House members the opportunity to vote for a watered-down regulatory reform bill just before the elections, and then presents the Senate with a weak House bill on a take-it-or-leave-it basis.

From my perspective, rank-and-file House members of both parties want to be a part of the outstanding effort represented by the Senate bill, a bill carefully developed over the past four years by two administrations and bipartisan work in both houses of Congress. They recognize that, with the costs of regulation now estimated at over $100 billion a year—inflating already high consumer prices—the American public cannot afford further congressional delay.

[Paul Laxalt, Republican Senator from Nevada, is chairman of the Senate Subcommittee on Regulatory Reform.]●

A TRIBUTE TO MR. LAWRENCE R. BENTLEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. LEWIS. Mr. Speaker, on September 30, 1982, the Chino Valley Chamber of Commerce and the Dairy Committee of California are honoring Mr. Lawrence R. Bentley as "Special Dairy Award Winner" of the year. We would like to take this opportunity to join with the chamber and the dairy committee in honoring Mr. Bentley and commend him to the House of

Representatives for his devoted community leadership and service.

Larry Bentley began his 54-year career in the dairy industry in 1928. He worked for Adohr on a home delivery route with a horse and wagon in Beverly Hills, Calif., for an excellent salary of $135 per month. Work began at 2:45 a.m. when Mr. Bentley would load the milk onto his wagon, Since the horse knew the milk route as well as Mr. Bentley did, he could often doze from the Adohr Creamery until his horse stopped in front of the first customer's house. The animal was very well behaved and did not really need to be driven. When the horse felt Mr. Bentley leave the wagon with a milk carrier full of milk, it would stop until he returned. If Larry served three or four houses in a row on foot, the horse would follow by Mr. Bentley's voice commands.

In 1932, Mr. Bentley was transferred to Westwood where part of the University of California had just been built. There Mr. Bentley delivered milk in a 1930 Model A Ford truck because houses were too far apart for the conventional use of horse and wagon.

Mr. Bentley and another Adohr driver were the first LA milkmen from a major milk company to deliver milk in the daylight hours.

In 1935 Mr. Bentley became a member of the Creamery Yellow Dog Society whch is a play group for the dairy industry. he organized the first "Dairy Fieldman" group in the Los Angeles area, which consisted of field representatives from each LA area creamery. Mr. Bentley was the first dairy chairman for the March of Dimes from 1956 to 1961 and 1 year, with the Secretary of Agriculture, Ezra Benson, as a guest, raised approximately $9,000 for that charity.

From 1949 to 1976 he was in charge of the dairy industry milking parlor at the Los Angeles County Fair and often put on cow milking, butter churning, and milk drinking contests there and at other county fairs.

Mr. Bentley was the southern director of the California Dairy Industry Association and twice served as master of ceremonies for the southern section dairy princess contest. On many occasions Mr. Bentley was the chairman of the dairy roadside appearance program and for the dairy milk flavor clinic.

From retail milk sales, Mr. Bentley went on to be a foreman, then promoted to supervisor, and finally went into production and quality control. On January 2, 1973, Mr. Bentley went to work for Alta-Dena Dairy on their quality control and has been there ever since.

In the 54 years that Mr. Bentley has been in the dairy industry, he has never missed a payday.

Mr. Speaker, it is an honor to recognize Mr. Lawrence R. Bentley today and commend him to the House of Representatives for his countless contributions to our society and the dairy industry. He is a truly fine individual who has in countless ways enhanced his community through his hours of selfless civic service.●

POLITICS AND THE PIPELINE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. McDONALD. Mr. Speaker, our President is correct in his stand against the Soviet gas pipeline to Europe, and our European friends are wrong in their opposition. Helping the Soviets with this pipeline does not make any sense economically or from a security point of view. The Soviets can, and will, shut off this gas supply for political reasons as they have used trade as a political weapon on previous occasions. Loaning money to the Soviets to complete this pipeline is just throwing good money after bad, to say nothing of Western participation in a project being built partially by slave labor, which includes political dissidents and those imprisoned for religious beliefs. Mr. John O'Sullivian recently summed up all these reasons in a "personal view" column in the London Daily Telegraph of August 23, 1982. I commend it to the attention of my colleagues who may still feel the President is wrong on this issue.

[From the Daily Telegraph, Aug. 23, 1982]

POLITICS AND THE PIPELINE

Curiouser and curiouser grows the dispute over the Siberian natural gas pipeline. All the politicians and commentators in Western Europe are for it, all the arguments against it. It is as if the Continent had become one vast Flat Earth Society.

To recap: First, the project is justified on the grounds of creating employment. But if we think it sensible to subsidise job creation, why not subsidise ourselves directly instead of going through the Soviet middleman? As things stand many of the jobs created will be in Siberia rather than Sunderland. And the Russians rather than ourselves will have the finished product.

Secondly, Western Europe is increasing its energy dependence on and thus its political vulnerability towards the Soviet Union far more than I suggested in an earlier column. When the pipeline is completed, the share of Europe's total energy needs (gas, coal and oil) supplied by the Soviet bloc will amount to something like one-third. I also stated last month that the Soviet Union had cut off key energy supplies for political reasons on three occasions since 1945. A correspondent corrects me. He points out that, if threats to cut off supplies are also taken into account, the accurate figure is eight times.

Those occasions were: in 1948 against Yugoslavia, in 1961 against Albania, in 1956 against Israel and Hungary, in 1962 against China, in 1968 against Czechoslovakia, in 1980 when the U.S.S.R. threatened Europe and Japan with the loss of Soviet fuel supplies if they supported United States sanctions over Afghanistan (which, significantly, they failed to do) and, finally, last year when the Politburo threatened to cut off Poland's oil supply unless Solidarity were crushed.

Thirdly, the pipeline is a vast foreign aid project whereby a consortium of European banks and companies will provide a well-armed and hostile power with government-guaranteed low-interest loans. This makes no sense at all. This is also worth bearing in mind when you next hear one of the European heads of government criticise the Reagan Administration for policies that keep interest rates high. Nothing is better designed to push up interest rates than borrowing $15 billion at 15 per cent, from the capital markets in order to lend it at a mere 8 per cent, to the Soviets. Yet that is what the French and West German Governments are doing.

Finally, the project's advocates overlook various alternatives which lack the political drawbacks of the Siberian pipeline, such as: Norway's natural gas reserves, American coal reserves (which could supply at least one third of West Europe's energy needs). And even the Nigerian pipeline which could absorb capital and engineering skills at least equal to those required by the Siberian pipeline.

What arguments are there on the other side? Only the petulant complaint that, if President Reagan is opposed to the pipeline, what right has he to sell the Russians grain. With the substance of this criticism I agree. But the European governments support the grain sales in public. If Mr. Reagan is inconsistent and only half-right, they are splendidly consistent and wholly wrong. And anyway, to slit one's wrists because Mr. Reagan has shot himself in the foot is hardly repartee.

In short, the West Europeans have risen above politics, economics, strategy and simple prudence in their decision to go ahead with the pipeline. What inspires them? Is it perhaps an idealistic vision that commerce will lead to peace and international understanding?

Their idealism, if so, will have to be armour-plated in view of the growing evidence that slave labour, including political prisoners, and Vietnamese indentured labour are being used in the pipeline's construction.

The International Association for Human Rights, based in West Germany, announced in June that they had received reports from contacts in the Soviet Union that more and more prisoners sentenced to hard labour were being used to construct the Siberian gas pipeline.

"A number of well-known political prisoners," the statement went on, "have likewise been forced into labouring on (it)." Among them were a psychiatrist, a Ukrainian writer,. two Civil Rights activists and two Baptist ministers.

Hard labour camps have been set up along the route of the pipeline, prisoners are housed in wagons which offer little protection from the elements in areas where winter temperatures reach lows of −30 to −40 degrees centigrade, they are transported daily to and from the construction sites under the watch of guard dogs.

How do we know that such reports are true? It is, of course, impossible to be absolutely certain when dealing with a totalitarian society which attempts to enforce com-

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plete control of news and information. But there are certain common sense guidelines.

To begin with, the use of slave labour in major construction projects is quite standard in the Soviet Union. In the construction of the White Sea Canal in the 1930s, over a quarter of a million slave workers perished. And as late as the 1970s, concentration camp labour was employed to build the Baikal Amur railway along the Chinese border.

Even so, the Soviet Union is still short of labour for such projects. Last year, Mr. Brezhnev delivered a speech in which he stated that the U.S.S.R. needed 400,000 additional workers to develop new oil and gas fields in Western Siberia.

This perhaps explains the import of Vietnamese labour into the Soviet Union. The Soviets naturally argue that importing Vietnamese labour is a foreign aid programme of technical training, that the workers are well-paid, and that they live in pleasant climates where "melons and watermelons grow" (ISVESTIA).

Reports by refugees and some letters from concentration camps, where former South Vietnamese army officers are "re-educated," tell a different story. These suggest that such prisoners are being, in effect, transported to Siberia for hard labour.

Again, are such stories from such sources believable? An argument on what point is now raging within the American State Department. But it is worth remembering that similar reports by Cambodian refugees about the genocide in their country in 1975, widely disregarded at the time, turned out to be the plain truth.

Of course, there are civilian Vietnamese going to the U.S.S.R. as well. Is their departure voluntary? Some Western diplomats believe so, arguing that Siberia is actually quite attractive compared to the spartan conditions of Vietnam now that the American oppressors have been driven out.

But what are the conditions to which they are going? They are separated from their families for two periods of three years, and they receive only 40 per cent, of an already low wage, the remainder going to the Soviet Government in payment of the Vietnamese war-debt of $1.6 billion.

I am certainly prepared to believe in the hideousness of Communist Vietnam. But if its citizens prefer Siberia, separation from their families and very low wages to remaining at home, conditions there must be, quite literally, unbelievably bad. You may prefer, as I do, to believe that the Vietnamese who go to the U.S.S.R. do not do so of their own free will.●

THE 75TH ANNIVERSARY OF SOUTH PLAINFIELD VOLUNTEER FIRE DEPARTMENT

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DWYER. Mr. Speaker, I recently had the honor of participating in Labor Day festivities in the borough of South Plainfield, N.J., commemorating the 75th anniversary of the founding of the South Plainfield Volunteer Fire Department.

The borough is most proud of this dedicated force and rightly so. Beginning with just a hose cart that had to be pulled by hand for several years, the company established a tradition of outstanding community service that has been maintained throughout its 75-year history.

Today, the volunteer company houses eight engines, including an aerial ladder truck, two power wagons, and several pumpers.

Most important, however, are the individuals who volunteer their time, their skills, and their courage to protect the security and safety of their fellow residents.

The members of the South Plainfield Volunteer Fire Department—past and present—symbolize the best in community service and commitment. We owe a huge debt of gratitude to these individuals and the members of the volunteer fire companies across the Nation who do so much to enhance our quality of life.

On the occasion of their 75th anniversary, and on behalf of our congressional district, I would like to offer the members of the South Plainfield Volunteer Fire Department our humble and profound thanks for a job well done.●

REPORTER CLOSING A BLOW TO OUR COMMUNITY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. WAXMAN. Mr. Speaker, On August 25, 1982, the Los Angeles Reporter, a weekly newspaper in my district for nearly a half century, published its last issue. The death of a community institution such as the Reporter is an event of major importance to the people whose lives it touches. The following statement, which reflects my personal feelings, was printed on the front page of the final Reporter.

Though I have never had any financial interest or managerial role in the Waxman Reporter Publications, these papers have played a role in my life since earliest childhood.

As a youngster, I took tremendous pride in what my late Uncle, Al S. Waxman, and my Aunt Ruth had accomplished for our community. Many of my own feelings about the Democratic Party and progressive government came directly either from the paper or from my aunt and uncle.

The Reporter Publications began in Boyle Heights as the "Eastside Journal." In those days the Los Angeles Times was not the first-rate, balanced, nationally recognized paper it is today. Years ago, the Times was a narrow, partisan, reactionary publication whose news columns were often as blatantly slanted as its editorials. Most of the other papers were no better. My uncle stood up against the Times and every other right-wing force—no matter how big.

The Waxman Publications were resolute in support of the Democratic Party, the trade union movement (in a town which was known as ferociously anti-labor), ethnic minorities—Blacks, Jews, and Latinos—who were the victims of an openly prejudiced power elite. My aunt, Ruth Waxman Faierman, worked on the paper for an incredible 48 years. At one time or another, she personally handled every task required to publish the paper.

After my uncle's untimely passing, many were skeptical about the future of the Reporter Publications. Their doubts were unjustified. As long as was humanly possible, Ruth Waxman Faierman saw to it that the paper came out every week. She maintained the high standards she and my uncle had held to all through the years. The news columns were open to every charity, every political group, and every candidate with a legitimate message for the community. Elected officials like myself were given free space each week to report to our constituents.

Over the years many voters came to count on the Reporter Publications for election advice. Everyone knew that candidates endorsed by my uncle or aunt, or ballot propositions approved by them, reflected their values of integrity, compassion and commitment to human rights.

The demise of the Reporter Publications creates a vacuum which will probably never be filled. Without the Reporter it will be almost impossible for local officeholders, churches, temples, and neighborhood merchants to communicate with people in a limited geographical area. The metropolitan dailies will not print the schedule of bingo games for the City of Hope, nor will they announce the opening of a new store on Fairfax Avenue. Certainly, they will pay no attention to such neighborhood problems as an unsafe intersection or homeowners who feel a business establishment is violating their rights to peace and privacy.

I salute Ruth Faierman for all she has done for our community over a half century. I wish her and her husband, Neach Faierman, good health. I very much hope that my aunt will continue to be actively involved in community affairs. We all stand to benefit enormously from her sincerity, integrity, intelligence and talent.●

NFL PLAYERS ASSOCIATION STRIKE

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, as we are all aware there is a very real possibility that the football season might be interrupted by a strike this year. I think we can all agree that this would be most unfortunate. It is my great hope that the NFL and the NFL Players Association will be successful in arriving at a satisfactory collective bargaining agreement.

Bills currently pending before Congress dealing with an antitrust exemption for the NFL has already involved us in some of the issues facing professional football today. I am confident that we will not act hastily in this area especially when the league and the union are involved in intense negotiations.

I am including in the RECORD today a recent article concerning the problems faced by the players and the league.

The article written by Dave Kindred appeared in the Washington Post on August 20, 1982:

Plantation Mentality Not Helping NFL Owners

If the pro football players go on strike, it is the owners' fault. The owners have botched this. Call them arrogant, call them imperious, call them fools.

The 28 owners have a money machine cranking out millions of dollars, even billions. Yet these totalitarians who would take urine samples of players, who would fine players for shaking hands, who would deny players the right to work where they want to—these owners would throw sand into the gears of their money machine before they would do the right thing for the players who make the machine turn so smoothly.

The right thing is to treat the players as valued employes with legitimate complaints. As baseball owners learned in a senseless half-summer of a strike, there is nothing to be gained any more by treating professional athletes as indentured servants who ought to be grateful for any scraps from the massah's table. The courts have ruled for players, and against leagues, in virtually every freedom-issue case over the last decade. The tide is running against the plantation owners, and they'll be in over their heads soon if they don't do the right thing.

The right thing at this moment is to get back to the negotiating table with the players union representatives. Out of obstructionism, the owners' negotiators refuse to meet the union people at a training camp site. If they have to meet at midfield during a Redskins scrimmage in Carlisle, the owners' men should do it. By the petty fining of last week, by the refusal even to negotiate, the football owners are repeating the baseball mistake of welding the players' union into a clenched fist.

Once upon a time, the football players may have been divided about a strike. Two months ago, they may not have been sold on Ed Garvey's percentage-of-gross concept. But the owners offered the players no alternative plan. And now the sense—at this typewriter, anyway—is that the players are willing to strike in support of Garvey's plan if for no other reason than it is the only one anybody has proposed.

The players properly perceive management's refusal to offer a realistic plan as evidence the owners believe the union will crumble on its own. Such perception has made the union stronger. By doing nothing, the owners did a lot—for the union.

It is a fact, of course, that the owners have submitted a counterproposal to Garvey's idea that the players should get 55 percent of all money taken in. But because the owners consider Garvey's plan an insult, they replied in kind. The owners' proposal is a microscopically improved version of the current compensation system that has shackled players to their teams and kept salaries below the levels to which they would rise in a free market.

The owners should come to the bargaining table with a new proposal. Somewhere between Garvey's percentage-of-gross idea and the chaos of total freedom (even we romantics acknowledge the need for some restraints in sports), there ought to be a middle ground.

On a shelf in Garvey's office, there is a foot-square block of stone.

Etched into the stone is a percentage sign.

Chances are, although Garvey is too stubborn to admit it, he would be happy to hear a proposal from the owners that would enable him to turn that stone around and carve a dollar sign in the other side. And chances are the owners, who have acknowledged that the players are underpaid, would go a long way with any proposal that raised salaries without tying the raises to a fixed percentage of gross.

So why doesn't someone suggest something?

At the moment, the National Football League doesn't suggest anything because it has a leadership crisis. Every time it goes into court, it comes out a loser. It lost every round in federal court to Al Davis and then, in a demonstration of unmitigated gall, went to the Congress of the United States asking for legislation to reverse that court's decision.

Earlier, the foundering lords of football missed their opportunity to divide the players' union by not giving dissident players an alternative proposal before the union's March convention. Lately, the league commissioner, Pete Rozelle, has come to Congress with an antitrust exemption bill that, if passed would be followed, he said, by expansion of the league.

Rozelle has admitted that such expansion teams were "dangling" before the eyes of influential senators. This is the sort of dangling that politicians interpret as a payoff. You give me my new law, we give you a football team. Rozelle smoothly denied any such connection.

The commissioner was not so smooth Monday on Capitol Hill. Under fire from Strom Thurmond, the crustly old South Carolina Republican whose state neither has nor lusts for pro football, Rozelle said the league needed legislation because it would be impossible to draw up guidelines on when a team could leave a city.

You couldn't pin it on how they have done financially, Rozelle began.

"They would . . . That can be juggled. A team can arrange its figures in a way to show losses for several straight years."

Had Garvey stuck bamboo shoots under Rozelle's shining nails, he could not have elicited a more helpful quotation. It long has been Garvey's contention that owners aren't telling the whole truth about money, and now comes Rozelle saying figures "can be juggled."

With leadership so bewildered it gives this kind of comfort to its adversary, the NFL is headed for a strike that doesn't have to happen. It is time for the owners to make a conciliatory gesture to the players, to offer a plan that is more than a sarcastic reply to an insult from Garvey.

They offer free agency to all players after three seasons. Garvey says free agency won't work because teams will not bid on players, there being (in his estimation) no economic incentive to win under the lazy comforts of the NFL's share-the-wealth socialism. To guarantee that free agency works, Garvey should demand binding arbitration contract disputes; if a player asks for $500,000 a year and the team offers $200,000, a neutral arbitrator should decide the issue.

There should be no compensation rules at all. The right of first refusal, under which the NBA and NHL work, is safeguard enough if a team wants to keep its quality players.

All this may not increase the salaries of undistinguished right guards as much as Garvey's 55 percent plan would. But with free agency, right of first refusal and binding arbitration, football players soon enough would be paid what they're worth.●

HONORING MR. FRED TROOST, DAIRYMAN OF THE YEAR

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. LEWIS. Mr. Speaker, I would like to take this opportunity to recognize one of the truly fine men in my congressional district who is a shining example of the American success story, Mr. Fred Troost.

A native of Iowa, Mr. Troost moved to Artesia, Calif., where he began his dairy business with 120 milking cows. Through hard work and perseverance, his business grew to 800 cows on 130 acres in Mira Loma, Calif., where it has become a family enterprise.

A community leader, Mr. Troost has been a member of various local civic organizations. He served as president of the board of education of Bellflower Christian Schools for 2 years and served an additional 6 years as a member of the board. Mr. Troost served 9 years on the board of education of Ontario Christian School, 3 as president. He devoted many hours in helping the elderly through his service on the Board of Inland Home for the Aged where he was chairman for 2 years. He was a member of the city council of Dairy Valley, now known as Cerritos, for 6 years, and served 1 year as mayor. One of the highlights of his public service career was working as mayor of Artesia for 1 year. In addition, Mr. Troost was on the city council of Artesia for 6 years.

His leadership in dairy-related organizations has greatly benefited the dairy industry. Mr. Troost was a member of the board and past chairman of the Milk Producers Council in Artesia and Ontario for the past 15 years. On the State level, he served as a member of the board of the League of California Milk Producers for 8 years, 2 years as vice chairman. Under the Gonsalves Milk Pooling Act, Mr. Troost administered the law as chairman and member of the California Producer Review Board. He was State representative for the Animal Health Committee and representative to the Milk Advisory Board dealing with animal health research.

Mr. Troost and his lovely wife, Anne, are the parents of 6 children and the grandparents of 15.

Mr. Speaker, it is an honor to recognize Mr. Fred Troost today and com-

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mend him to the House of Representatives for his countless contributions to all segments of our society. He is living proof that the American dream is alive and well in our country today.●

ALL THE UMP TRIED TO DO WAS CALL A PERFECT GAME

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BEVILL. Mr. Speaker, one of my constituents from the Fourth District of Alabama, Mr. G. V. Timmons, of Carrollton, Ala., recently sent me an article from the Birmingham Post-Herald, which I would like to share with my colleagues.

It deals with Little League Baseball, but also has an important lesson for all of us in how to live life.

All The Ump Tried To Do Was Call a Perfect Game

(By Dave Johnson)

Evansville, Ind.— During a Little League game in Evansville recently, fans and umpires got into a shouting match over some questionable calls during a game between two teams of 9- to 12-year-olds.

"It was pretty ugly," one witness said. "The kids heard some pretty filthy language."

What happened to Donald Jensen 10 years ago this baseball season still serves as a reminder of what can happen when winning becomes more important than anything else.

Jensen was struck in the head by a thrown bat while umpiring a boy's Little League game in Terre Haute.

He continued to work the game, but afterward a doctor order him into the hospital for observation. While there, Jensen wrote the following letter.

"Dear parent of a Little Leaguer:

"I am an umpire. I don't do it for a living, but only on Saturdays and Sundays for fun.

". . . I've played the game, coached it and watched it. But, somehow, nothing takes the place of umpiring. Maybe it's because I feel deep down that I'm providing a fair chance for all the kids to play the game without disagreements and arguments.

"With all the fun I've had, there still is something that bothers me about my job. Some of you folks don't understand why I'm there. Some of you feel I'm there to exert authority over your son. For that reason, you often yell at me when I make a mistake, or encourage your son to say things that hurt my feelings.

"How many of you really understand that I try to be perfect? I try not to make mistakes. I don't want your son to feel he got a bad deal from an umpire.

"Yet, no matter how hard I try, I can't be perfect.

"I've counted the number of calls I made in a six-inning game today. The total number of decisions, whether on bases and balls or safes and outs, was 146.

"I tried my best to get them all right, but I'm sure I missed some. When I figured my percentage on paper, I could have missed eight calls and still got about 95 percent of the calls right. In most occupations, that percentage would be considered excellent. If I were in school, I would receive an 'A' for sure. But your demands are higher than that.

"Let me tell you more about my game today.

". . . There was one real close call that ended the game. A runner for the home team was trying to steal home to a passed ball. The catcher chased the ball down and threw to the pitcher covering the plate. The pitcher made the tag and I called the runner out.

"As I was taking off my equipment and getting ready to leave, I overheard one of the parents comment: 'It's to bad the kids have to lose games because of rotten umpires. That was one of lousiest calls I've ever seen.'

"Later, at the concession stand, a couple of the kids were telling their friends, 'Boy, the umpires were lousy today. They lost the game for us.'

". . . The purpose of Little League is to teach baseball skills to young men. Obviously, a team which does not play well in a given game, yet is given the opportunity to blame that loss on an umpire for one call or two, is being given the chance to take all responsibility for the loss from its shoulders.

"A parent or adult leader who permits the young player to blame his failures on an umpire, regardless of the quality of the umpire, is doing the worst kind of injustice to that youngster. Rather than learning responsibility, such an attitude is fostering an improper outlook toward the ideals of the game itself. This irresponsibility is bound to carry over to future years.

"As I sit here writing this letter, I am no longer as upset as I was this afternoon. This afternoon, I wanted to quit umpiring. But, fortunately, my wife reminded me of another situation that occurred last week.

"I was umpiring behind the plate for a pitcher who pantomimed his displeasure at any call on a borderline pitch that was not in his team's favor. One could sense he wanted the crowd to realize he was a fine, talented player who was doing his best to get along, but that I was a black-hearted villain who was working against him.

"This kid continued for two innings, while at the same time yelling at his own players who dared to make a mistake. For two innings, the manager watched this. When the kid returned to the dugout to bat in the top of the third, the manager called him aside.

"In a loud enough voice that I was able to overhear, the lecture went like this: 'Listen, son, it is time you make a decision. You can be an umpire, an actor, or a pitcher. But you can only be one at a time when you are playing for me. Right now, it is your job to pitch. And you are basically doing a lousy job.

"Leave the acting to the actors, the umpiring to the umpires, or you won't do any pitching here. Now, what is it going to be?"

"The kid chose the pitching route and went on to win the game. When the game was over, the kid followed me to my car. Fighting his hardest to keep back the tears, he apologized for his actions and thanked me for umpiring his game. He said he had learned a lesson that he would never forget.

"I can't help but wonder how many more fine young men are missing their chance to develop into outstanding ballplayers because their parents encourage them to spend time umpiring, rather than working harder to play the game as it should be played."

The following morning, Donald Jensen died of a brain concussion.●

VALERY LERNER

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. NELLIGAN. Mr. Speaker, I rise to point out to my colleagues the plight of Valery Lerner, a Soviet Jew who has been repressed by the totalitarian regime in the U.S.S.R.

Lerner's parents and brother emigrated to Israel in 1971. At that time, Lerner and his wife and son also decided to leave the U.S.S.R. for Israel in order to keep the Lerner family together. During this time, Lerner was employed as an engineer and economist in the finance and planning department of a tool factory. He resigned from this position when he and his wife applied for an exit visa to Israel in order to avoid a rejection based on the confidential nature of the position.

In 1976, after waiting the required 5 years from his resignation date at the factory job, Lerner and his wife applied for a permit to go to Israel. They were denied the permit.

Eleven years have passed since Lerner and his wife began attempts to emigrate to Israel. Lerner's numerous appeals to various Soviet authorities have been in vain, and he and his wife have since been dismissed from their jobs.

The situation for Soviet Jewry is desperate. Along with 46 of my colleagues, I have joined the 97th Congressional Class for Soviet Jewry, which aims to recognize the plight of Prisoners of Conscience who are seeking to emigrate from the Soviet Union. Despite the fact that the Soviets are a signatory to the Helsinki accords, they have been flagrant in their violation of human rights. I believe it is important to bring this tragic case to the attention of my colleagues.●

NATIONAL SCIENCE AND MATHEMATICS TEACHERS DEVELOPMENT ACT

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MOFFETT. Mr. Speaker, my friend and colleague Merv Dymally is today introducing legislation essential to the future development of American technology. I am honored to be joining Representative Dymally, and my Connecticut colleague in the Senate, Chris Dodd, in this effort to increase science and mathematics literacy in our Nation.

The National Science and Mathematics Teachers Development Act is designed to promote such literacy through providing continuing education opportunities for secondary school science and math teachers who need to improve current skills and qualifications in those areas. I have heard from scores of school administrators in Connecticut on the desperate need for qualified science and math teachers in our State's secondary schools. It is reported that some 50 percent of the Nation's newly hired secondary school science and math teachers are not qualified to teach in these areas. Without such qualified teachers, how can science and math literacy be conveyed to our children—our hope for a future of increased national productivity and economic security?

The time to prepare for the future is now. Reports of the growing science gap in the United States are legion and we must begin to reverse this ominous downward trend now. The link between an educated populace and a healthy economy is clear. Ironically, the administration is cutting back on support for public education and research, exacerbating our future ability to compete in the world technological market.

When I testified before the Postsecondary Education Subcommittee this spring on the administration's proposed education cuts, I noted the warnings sounded by two eminent members of the science and education communities. I think it is worth repeating their remarks today, for they have a very significant bearing on the need to promote technological literacy in our secondary schools and institutions of higher education. Columbia University President Michael I. Sovern stated, in the New York Times Magazine (February 7, 1982):

> Our foreign trade pattern resembles that of an underdeveloped country: we export raw materials in abundance and import more manufactured goods than we sell abroad. All this cannot be isolated from the fact that over the past 15 years, Japan and West Germany have doubled their output of scientists and engineers.
>
> Tolerance of this erosion of our ability to compete in the world runs counter both to the Reagan agenda and to a long and wise tradition. Since World War II, the Government has pursued a bipartisan policy rooted in the recognition that the nation's well-being depends on a national commitment to the quality of its universities. Federal support produced the rapid growth of graduate schools and the consequent surge to international pre-eminence of American university research. The federal government has recognized that scientific and technological competitions with other nations are won or lost on American campuses.

D. Allen Bromley, a nuclear physicist and president of the American Association for the Advancement of Science put the issue this way, in the Hartford Courant (January 27, 1982):

> We have the urgent problem of developing scientific literacy on the part of our citizenry. Over 80 percent of our citizens receive their last exposure, if any, to mathematics and science during their high schools years. In a society, such as ours, of growing technological sophistication where the questions of consequence increasingly have scientific and technological aspects, if our public cannot at least appreciate the nature of these issues, quite apart from contributing to their resolution, they inevitably will tend to become alienated from the society.

It is clear to me that the pressing need in the Nation for skilled workers requires a solution at the high school level; we must staff our schools with teachers qualified in the science and mathematics areas. By providing teachers with full-time summer workshops and part-time weekend yearly programs to improve educational skills in science and math, as today's legislation does, we will help insure a continuum of technological advancement in the U.S.

The health of our economy demands this response. The Dymally-Dodd legislation represent a wise investment in our future, one which will aid not only industrial productivity but our national security. The cost of this legislation is modest—an authorization level of $30 million in fiscal year 1984. Considering its potential, however, this investment could reap vast cost-savings in future years. The Defense Science Board Task Force has concluded that a continuing shortage of skilled labor is a major factor in the spiraling costs and increased leadtime required to complete defense contracts.

So let us move now to secure technological literacy among our citizenry in the years to come. The National Science and Mathematics Teachers Development Act is essential to this goal.●

PATRICIA A. HICKMAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to congratulate Patricia A. Hickman of Blue Springs, Mo., for being selected by the Department of Transportation, Federal Aviation Administration, to receive the Secretary's Award for Excellence. This award is being presented at the 15th annual departmental awards ceremony to be held on September 14, 1982, in Washington, D.C.

Mrs. Hickman is a program analyst for the Federal Aviation Administration and has served that department outstandingly for 7 years. In her nomination summary, she has been called a self-starter with much initiative and her dedication to her work has increased the efficiency and effectiveness of the Federal Aviation Administration, Central Region, in Kansas City, Mo.

The Secretary's Award for Excellence is reserved for those employees whose performance not only exceeds normal requirements, but is outstanding and deserves special commendation. Certainly, I can think of no person better fitting this description than Mrs. Hickman and I want her to know how proud we are that she is a Missourian.●

A TRIBUTE TO MR. WAYNE LYNCH

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. LEWIS. Mr. Speaker, on September 30, 1982 the Grayback District of the California Inland Empire Council, Boy Scouts of America is honoring Mr. S. Wayne Lynch as their distinguished citizen of the year. Congressmen GEORGE BROWN of California and I would like to take this opportunity to join with the Grayback District Boy Scouts in honoring Mr. Lynch and commend him to the House of Representatives for his devoted community leadership.

A native Californian, Wayne Lynch was born in Garden Grove, Calif. He attended Monmouth College, Ill., Western Union College, Iowa, and the University of Iowa, completing his education in the School of Business at the University of California at Los Angeles. He also did graduate work at the University of Southern California.

During World War II, Mr. Lynch served 3½ years as a naval aviator. Following the war, he began his career with the Southern California Gas Co. in October 1945. He progressed through the company in various marketing assignments. From 1968 through 1972 he worked in land development for the parent company, Pacific Lighting Corp., returning to the Southern California Gas Co. as inland division manager.

An active community leader, Mr. Lynch has belonged to numerous organizations in the Inland Empire. His memberships include: Past president and chairman of the board of the San Bernardino Air Force Association; past president, San Bernardino Chamber of Commerce; board of directors, Executive Committee, president, Military Affairs Committee, Inland Action, Inc.; past director and Executive Committee member, Boy Scouts of America; past vice president, San Bernardino County Taxpayers' Association; board of directors, World Affairs Council; member, American Gas Association, and Pacific Coast Gas Association; advisory board, Bank of Redlands, founding president of San Bernardino Tournament of Roses Association, Inc.; cochairman, All-America City

Committee and named one of the leading citizens in the Inland Empire Magazine for the past 2 years.

Mr. Lynch and his lovely wife, Gloria, are the parents of two daughters and one son.

Mr. Speaker, we take great pride in commending to our colleagues, Mr. S. Wayne Lynch, a friend and a truly fine individual who has, in countless ways, enhanced his community through hours of selfless civic service. With great respect we honor Mr. Lynch and commend him to the House of Representatives.●

THE WAR AGAINST DRUNK DRIVERS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DORNAN of California. Mr. Speaker, in the September 13 issue of Newsweek magazine, there appeared an in-depth article on drunk driving which is must reading for every concerned American. According to the reporters, 52,600 Americans have died at the hands of drunk drivers during the past 2 years—more than were killed in Vietnam in combat over 11 years. Over the past decade, a staggering one-quarter of 1 million Americans have perished on the Nation's highways as a result of drunk driving. On the average, about 3 Americans are killed and 80 injured by drunk drivers every hour of every day. Alcohol-related crashes are by far the single biggest killer of Americans between the ages of 16 and 24. The steps currently being undertaken in the several States and nationwide to combat this senseless slaughter on our highways is the subject of this excellent article which I should at this time like to submit for the RECORD.

THE WAR AGAINST DRUNK DRIVERS

The horror of those seconds will forever haunt Cindy Ferguson. She was driving her three sons—the identical twins Tommy and Tony and her baby, Lee—to a party, when suddenly her Vega was smashed from behind. A tremendous explosion hurled her, Tony and Lee onto the street. Cindy raced back to the car and pulled Tommy's burning body from the wreck, throwing herself on him to smother the flames. A friend, Steve Willoughby, remained trapped inside, screaming, a halo of fire encircling his face. As Cindy lay there on top of her son, the other driver approached her. But when she pleaded for help, he staggered away.

Willoughby, 20, and Lee Ferguson, two, died on that Memphis street. Tommy, five, was in critical condition for six months with burns over 65 percent of his body. He has lost almost all use of his kidneys and most of his hearing. He has had 100 operations already and faces 14 years of reconstructive surgery.

The other driver suffered a broken nose. Despite at least seven drunk-driving arrests in four years, he had never spent a day in jail. His 5- to 10-year sentence for second-degree murder provided little solace for Mrs. Ferguson. But her nightmare was primarily responsible for Tennessee passing one of the toughest drunk-driving laws in the nation—despite concerns that it would overcrowd the courts and prisons. "I was more concerned," said state Sen. Curtis Person, its sponsor, "about the overcrowding of hospitals, morgues and cemeteries."

Drunk driving is a national epidemic, what one reformer calls America's "socially accepted form of murder" (chart, page 37). More Americans have died at the hands of drunk drivers during the past two years than were killed in Vietnam; on average, about three Americans are killed and 80 are injured by drunk drivers every hour of every day. The drunken slaughter over the past decade is a staggering one-quarter of a million Americans—the entire population of Rochester, N.Y. Safety experts say that one out of two Americans will be victimized by a drunk driver in his lifetime, hardly surprising when the National Highway Traffic Safety Administration (NHTSA) contends that up to 10 percent of all drivers on weekend nights are legally intoxicated.

But finally, outraged Americans are trying to put an end to the carnage. In a major break with past public policy, which concentrated on highway-safety conditions and protective devices such as air bags, a coast-to-coast crusade aims at getting drunk drivers themselves off the roads. A recent Gallup poll indicated that fully 77 percent of all Americans support mandatory prison sentences even for first-time offenders. President Reagan has declared the campaign a national priority, and Congress is considering bills that would award money to states that crack down.

FAILED EXPERIMENT

Already 27 state legislatures this year have passed their own versions of the toughest drunk-driving bill in the nation, and more legislation is pending in others. Twenty states have boosted the legal drinking age, reversing a Vietnam-era trend toward lower drinking ages that made alcohol-related crashes by far the single biggest killer of Americans between the ages of 16 and 24. In New Jersey the average number of persons killed annually by 18- to 20-year-old drivers climbed by 176 percent after the state lowered its drinking age to 18. "Statistics have shown us that kids can't handle alcohol," says New Jersey state Sen. C. Louis Bassano, sponsor of a bill to raise the drinking age to 21. "It's an experiment that has failed."

Liquor is so integrated into the nation's social and economic fabric that until recently, drinking and driving was an almost untouchable political issue. But the drunk driver who kills isn't usually the social drinker who has had one beer too many (box, page 36). The NHTSA reports that the average blood alcohol concentration of a drinking driver killed in a crash is .20—twice the rate for legal intoxication in most states. Still, judges, juries, prosecutors and legislators, most of whom drink socially, have tended to view the drunk driver with "there but for the grace of God, go I" sympathy (page 38). The result: loopholed laws that have been cumbersome to enforce, wholesale plea bargaining (California charged only 5,000 people with reckless driving in 1978, but permitted 80,000 drivers to plead guilty to it) and judgments of the lecture-and-slap-on-the-wrist variety (Idaho arrested 1,800 persons for drunk driving last year, convicted one-third of them and jailed just two). Explains NHTSA administrator Raymond Peck, "The well-scrubbed father of four standing before the judge doesn't look anything like the falling-down drunk that was pulled out of the wreck."

TIME BOMBS

America's tacit acceptance of drinking and driving has the effect of loosing time bombs on the nation's highways. An example was a Georgia man who, after his 13th conviction for driving while drunk, was sentenced to just one year in prison. Thus, he was drunk and on the road again 20 months later when he crashed and killed himself. Or consider the case of William Rowan. Rowan was once sentenced to 45 days in jail, a mild penance for a California driving record that carried six convictions for drunk or reckless driving, two for hit and run. Last March, after leaving a downtown Santa Ana bar, Rowan drove onto a sidewalk, killing four-year-old David Gunderman, who was waiting for the ice-cream man. After hitting the child, Rowan slumped in his seat and lit a cigar. Police measured his blood alcohol content at .27.

Campaigns against drunk driving have always had sobering truths on their side; what they lacked was a real constituency. All that may have changed one spring afternoon in 1980, when 13-year-old Cari Lightner of Fair Oaks, Calif., was struck from behind and killed by a hit-and-run driver as she walked to a church carnival. Cari's mother was stunned to learn that the driver, a 47-year-old man who had two previous drunk-driving convictions and was out on bail on a third arrest, had spent only two days in jail previously and was unlikely to wind up there for killing Cari. Candy Lightner quit her real-estate job and launched Mothers Against Drunk Drivers (MADD), giving the public outcry against drunk driving the constituency it has always needed—the victims.

In the past, says Edward Kunec, a NASA official who joined MADD in Virginia after his 20-year-old son was killed by a drunk driver last summer, "people who had these tragedies closeted themselves and said it was fate or the will of the Lord. Now people are coming out of the closet—and they are angry." In just two years, MADD has grown to 83 chapters in 29 states. Remove Intoxicated Drivers-USA (RID), founded in New York under similarly tragic circumstances, went national last year and now boasts 55 chapters in 29 states. The anger that is the movement's glue has made these organizations aggressively self-righteous and militant. "You can't be too strident," explains RID national coordinator Doris Aiken. "I don't know how you can tell someone nicely that they are incompetent to drive." Aiken warns those who view this campaign as a fad that will soon fade: "The pendulum will not swing back. There is an endless supply of victims."

The legal system often transforms the victims' grief into outrage. Paul Lawler, 15, died five days after a van barreled off a Massachusetts highway and into a restaurant entrance, pinning him against the restaurant wall. The drunk at the wheel was on probation for his third drunk-driving conviction. He was sentenced to four and a half years in prison—including the then maximum of two and half years for vehicular homicide—and is eligible for parole next July, just two years after the accident. "I was under the impression anyone arrested for this kind of thing would have the book thrown at him," says Paul's mother, Carol

Lasler, who now heads the Greater Boston chapter of MADD. "I didn't know vehicular homicide was a misdemeanor."

Mark and Bonnie Schuett turned the death of their four-year-old daughter, Kelly, who was killed as she walked near her home in quiet Ixonia, Wis., into a statewide *cause célèbre*. The driver, a 29-year-old man with a prior drunk-driving arrest, pleaded no contest to driving while intoxicated and was given a suspended five-day jail sentence and fined $284. His license was revoked for a year—but was actually restored after 90 days because he took treatment at an alcohol-abuse center. "This man got away with hitting and killing my child," says Mrs. Schuett. "Her life means more than a $284 fine." As a result of the Schuett's lobbying effort, a new Wisconsin law went into effect last May that permits the state to suspend the license of anyone arrested for an alcohol-related driving offense—even before a trial. "Maybe we've saved somebody else's life," says Mrs. Schuett. "But I'm still angry."

GUILT

If anger fuels the movement, guilt is its motor oil. Thomas and Dorothy Sexton recall going to court to witness the trial of the man whose blood alcohol content was .26 when he killed the Sextons' 15-year-old son, Tom. They saw a car thief sentenced to two years in jail, while their son's killer—who pleaded guilty to homicide by a motor vehicle—was sentenced to two years' probation and fined $200. "We painfully relate our experience and say, 'If you don't want that to happen to you, let's do something'," says Sexton, a U.S. Department of Agriculture scientist who is now active in Maryland's MADD chapter. "I'm convinced if I had been involved in something like this five years ago, Tom would be alive today."

The movement's approach to the drunk-driving problem is essentially punitive. While legislation varies from state to state, it usually makes driving with .10 blood alcohol content (three beers or glasses of wine or shots of whisky consumed by a 150-pound man in two hours) a crime. In addition, many of the new laws makes prison mandatory, if not for the first offense, certainly for the second. They often increase penalties for drivers who refuse the blood alcohol test and require that all convictions—regardless of the court disposition—be listed on a driver's record.

Many states are delighted by the preliminary results of the new laws. In Maryland, drunk-driving arrests by state police have gone up 45 percent and highway fatalities down almost 20 percent since its law went into effect. Maine, which last year began mandatory jail sentences for first-time offenders, has experienced a 47 percent reduction in alcohol-related fatalities. Oregon has had the most experience—its crackdown began in 1971—and the most success. During the '70s, highway fatalities dropped 6 percent and Oregon's fatality rate declined 35 percent despite the presence of 46 percent more drivers and 62 percent more vehicles on the road.

Success may be due to more than tough laws. Oregon has coupled its legal effort with a media campaign that urges Oregonians to report drunk drivers to a special telephone hot line. One hot-line spokesman is Donny Durrant, a former logger who had lost his license four times for drunk driving before he drove off the road at 85 mph and broke his neck. Durrant, now a quadriplegic, says in a TV message: "I wish someone had gotten me off the road before I had the accident which drastically changed my life."

Other states are backing their legislation with a variety of programs. South Dakota places highway signs reading, "X marks the spot . . . think!" at the almost 600 locations where drivers have lost their lives since 1979. Some states have considered efforts to stigmatize the drunk driver publicly. One Pennsylvania legislator proposed a special red license plate for all drivers convicted of driving while intoxicated—a modern-day scarlet letter. Local police in both Maryland and Massachusetts have gone so far as to use roadblocks, called "sobriety checkpoints," to deter and detect drunk drivers, though the Massachusetts effort has been ruled unconstitutional by a state court. Many states, however, complain that the new laws overtax their increasingly limited resources. Maine was the only state to include in its crackdown legislative package a new tax on liquor, which is expected to produce $2 million to $3 million annually that will be earmarked for treatment and prevention of alcohol problems.

COURT WATCH

The anti-drunk-driving campaigners are pressuring the courts as well as the legislators. One such group keeps constant watch in North Carolina's Forsyth County District Traffic Court. "People walk up to us and tell us things have changed," says Sandra Nicastro, one of the group's court fixtures. "Lawyers have told their clients, 'I don't think I can get you off this time because that lady's sitting there listening'." Some judges need little encouragement to get tough. Maine judges have meted out an average jail sentence of eight days to drunk drivers under the state's new laws—four time the permitted minimum. And a Mecklenburg County, N.C., judge may have set a new standard when he sentenced a drunk driver, who had eight prior arrests but had caused no injuries, to three years in jail.

Many safety experts insist crusaders should be focusing on automobiles and highways, not on drivers. H. Laurence Ross, a sociology professor at State University of New York at Buffalo, who has studied crackdowns on drunk driving, says deterrence only works for the short term when the problem is treated as a moral one rather than a safety question. In a new book, he writes: "A vehicle and highway that are safe for an alcohol-influenced driver are also safe for a driver who has a heart attack, who dozes off, who drops a lighted cigarette on his lap, who fails to see a stop sign. . . ."

Others are convinced that the lock-'em-up approach is meaningless unless it's combined with therapy. "I don't think the tougher laws will stop the hard-core alcoholics," says Col. Tom Anderson, director of the state police in Alaska, which has had a mandatory prison law since 1978. "It's a mess," agrees Arthur Snowden II, director of the state's court system. "We're just putting people in high-priced jails . . . just taking them off the street is not going to solve the problem." But Maryland district court Judge David Bates thinks he knows the solution. Bates gives drunk drivers the maximum permissible sentence, then waives it if they are willing to enter an appropriate education or treatment program. While it is hard to measure the success of Bates' approach because probationary sentences weren't included on drivers' records until last year, Bates says only 149 of the 5,697 drivers referred to the program dropped out or had their probation revoked.

But putting drunks behind bars does take them off the road in a way revoking their licenses never did. Many of those convicted in the past simply drove without a license. Others easily obtained licenses in other states: a Federal Highway Administration study reported that Ohio in 1977 had issued 1.3 million more licenses than there were driving-age Ohioans. Clarence Busch, who inadvertently launched MADD when he killed Cari Lightner, moved to Wisconsin last fall and obtained a license within a few days. The National Driver Register, a computerized roster of drivers whose licenses have been suspended, revoked or denied, was established in 1960 to remedy such problems. But states can communicate with it only by mail, and with 84,000 inquiries coming in daily, the system is cumbersome and slow.

NO QUESTIONS ASKED

Still, there are signs of reform that just a few years ago would have been unimaginable. One is Students Against Drunk Drivers (SADD), which began as a high-school project in suburban Wayland, Mass., and has been replicated already by students in 150 other schools. In Wayland, 900 students signed SADD contracts with their parents, promising to call home at any hour when a sober ride home is not available. In return, parents pledge "to come and get you at any hour, any place, no questions asked and no argument at that time . . ." Montgomery County, Md., had a surprise for students heading to senior year-end festivities. The boys found a note tucked in their rented tuxedos counseling, "Friends don't let friends drive drunk," and providing a hot-line number that provided free rides home. And in rural Truman, Minn., the high school spent $79 for a breath-testing device for its prom after rowdy drunks disrupted last year's festivities. The machine is now kept in the school vault for use during school hours.

Anti-drunk-driving crusaders hope that breath-testing devices will become as much a fixture on the social scene as the shaker and stirrer, and a number of bars and restaurants have installed them. Anthony Ravosa, a defense attorney who has defended many clients against drunk-driving charges, offers a breath test to customers in his South Hadley, Mass., Riverboat Restaurant and provides courtesy rides home to those who flunk it.

Ravosa's gesture may ultimately prove to be more than simply humanitarian. The Massachusetts Supreme Judicial Court says an establishment can be liable for serving too much booze to a customer, and earlier this year it upheld a $50,000 verdict against a Milford tavern that served "six or more" white russians to a customer who was "obviously intoxicated." That customer later drove off the road killing nine-year-old John Cimino.

HOW DRUNKS GET OFF

Defense attorney Randy Taylor parades around the courtroom, his arms pinned behind him by handcuffs. After several minutes of histrionic discomfort he compels the cop on the witness stand to remove the cuffs and place them on the defendant, a man charged with driving while intoxicated (DWI). Then Taylor seizes his client and bullies him about. Wasn't that how the police acted when they arrested him? he asks the witness. Finally, the Dallas lawyer shoves his client into a chair and barrels up to the cop: "Isn't it true you said, 'Shut up,

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you s.o.b.!' and kicked him in the leg?" And Taylor wins an acquittal.

"That's the way you get your client off," Taylor says. "The single most important factor in the typical DWI case is trying to make the jury put themselves in the place of the defendant." Taylor knows few restraints. On one occasion, after pleading his woman client guilty of DWI, he implored the jury, "The government wolves are really howling for blood tonight, waiting to put this poor little girl in jail for 30 days, taking her away from her husband." Then he put the cuffs on her, and she broke down and wept, attesting to the humiliation she had suffered. Despite a prior DWI conviction just 30 days before this arrest, she was sentenced to only three days in jail. Another time Taylor concluded his summation by stage-whispering to his client's four children, "Kids, I've done everything I can for your daddy." Pointing to the jury, he said, "Now it's up to these folks here." The defendant, who Taylor admits was probably guilty, was acquitted in 15 minutes.

The concept of "there but for the grace of God go I" has been the cornerstone of DWI legal defense ever since drunks started stepping on the gas. While the appeal is emotional, its foundation is solidly statistical: a recent Gallop poll reveals that four out of 10 Americans admit to having driven after drinking. But the extraordinary public campaign against drunk driving is having its impact even on jurors who may understand—from personal experience—the drunk driver's plight. The Texas Criminal Defense Lawyers Project recently has sponsored two special programs on DWI defense. Its program notes read: "The public has come to view DWI as a pernicious force in their communities and are demanding stiffer penalties . . . this institute is designed to teach you how to effectively represent your client . . ." Among the tactics garnered from the program and talks with top defense attorneys:

Challenge the evidence. Breath-analysis tests should not be accepted as gospel. Force the prosecution to prove that the testing machine was in good working order, that its chemicals had been tested and that its operator had proper qualifications. The tests aren't foolproof. Some people such as diabetics, who have certain chemicals in their breath, or denture wearers, who trap alcohol fumes along their gums, trigger false positive readings. If a blood sample was taken, make sure to request it; if it no longer exists, claim that it was purposely destroyed.

Track down witnesses. Find people who were with the defendant before he got behind the wheel and get them to testify about how sober he was. Attorney F. Lee Bailey's acquittal on DWI charges in California stemmed partly from testimony about his sober behavior on the evening of his arrest by people who were at the restaurant where Bailey dined.

Get the insurance company involved. Insurers tend to see cases as business problems, not moral issues, and are often anxious to settle damage matters expeditiously. Don't assume that the victim's families want vengeance; often they just want the case to go away too.

Visit the scene of the arrest. Since it can take up to six months between the arrest and the trial, the arresting officers can often be tripped up on details about the location. "If they [make mistakes]," says Taylor, "I can argue, 'Well, if you can't remember this, why can you remember anything else better?'"

Try to talk with the police—and hope you fail. When the police won't cooperate, argue that the witness is hostile, biased and has an ax to grind.

Carefully consider the choice between judge and jury. Taylor opts for a jury 95 percent of the time. He says, "I can manipulate the jury's minds more than I can a trial judge who's been on the bench 15 years and seen all my tricks." But cases that revolve around complex points of law may best be left to a judge.

The courtrooms are the ultimate battleground in the war on drunk driving. And to win the war, reformers must find ways to force jurors and judges to sympathize with the victims of drunk drivers, instead of the defendants.

DRIVING WHILE INTOXICATED

There was something absurd about drinking on an abandoned Schenectady airport runway while surrounded by police, but I wanted to find out how alcohol affected my driving skills. So I drank my gin and tonic next to an unmarked trooper car. As my bartender, Sgt. Henry Michelin, put it: "Just like the neighborhood bar—someplace to lean and drink."

An average male guinea pig—5 feet 10, 170—I had arranged to take on a difficult state-police driving course both sober and drunk. I supplied the gin and tonic, the state police provided a car. The course requires precise maneuvering around hard rubber cones—forward and backward. Scoring combines the time taken to complete the course with a five-second penalty for each mistake—such as flattening a cone. And a passing tally for troopers is 2 minutes 17 seconds. My blood alcohol level was measured by a preliminary-breath-test (PBT) device the size of a cigarette pack.

After eight practice runs through the course, I had whittled my time down from 3 minutes 10 seconds to a passing score, and it was time to begin drinking. My first gin and tonic—containing three ounces of 80-proof booze—placed my blood alcohol level 45 minutes later at .07 (70 milligrams of alcohol per decaliter of blood), high enough in New York to be charged with driving while impaired by alcohol. At this point I was slightly lightheaded, but I did't feel uncoordinated. My driving score told a different story. Not only did I add 1 minute 12 seconds to my previous, sober record, but my score was 19 seconds over my very first attempt.

WRETCHED

During my first post-drink attempt, I unconsciously tried to compensate for my condition through caution—a tactic that experts say is common among drunk drivers. In my case it didn't work: it took me longer and I made many more mistakes. This drop-off in performance was intensified by two more drinks, each containing one ounce of gin, which put my blood alcohol level at .11, or enough to be charged with driving while intoxicated or driving with a blood alcohol level of .10 or more. Now I could easily tell that I was uncoordinated. I stumbled slightly when I walked and I flunked the touch-your-nose-with-your-finger test. My driving ability plummeted from poor to wretched. My score—4 minutes 26 seconds—was almost double my final sober result. "You have no business being in an automobile out on the road," said Sergeant Michelin.

While impairment due to alcohol varies from person to person and even, depending on circumstances, for the same individual, experts say that driving skills are significantly diminished at a blood alcohol level of .10. That's why many states have adopted .10 as the limit for determining when someone has been driving while intoxicated. However, Robert Pandina, acting director of the Center of Alcohol Studies at New Jersey's Rutgers University, argues that there is impairment at lower levels as well. Pandina explains that the .10 standard is "a kind of compromise that recognizes that this is a drinking society."

WIDE AWAKE

Contrary to old wives and drinking buddies, nothing will temper the effects of alcohol except the passage of time—about two hours for every ounce consumed. Food slows the release of alcohol into the bloodstream without blunting its effect, and exercise and coffee will only produce a "wide-awake drunk"—someone alert enough to spot trouble but unable to do anything about it. That was clear enough to me as I rode with Sergeant Michelin back to town; my slow-motion brain couldn't keep up with the rush-hour traffic on the highway. I couldn't help remembering the times when I had been this drunk and driven, and the thought scared the hell out of me.●

LEGISLATION INTRODUCED TO AMEND THE INTERNAL REVENUE CODE OF 1954 TO PROVIDE ASSISTANCE AND WORK INCENTIVES FOR THE DISABLED AND HANDICAPPED

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, the Internal Revenue Code has become one of the Nation's most pervasive vehicles of social policy. The Congress has drafted and redrafted its sections to reflect society's rewards to those who are productive, to give individuals relief because of some specified financial burdens, and to provide revenue with which to finance our common concerns. But the Congress has generally failed to use the code to recognize the contributions and needs of the vast majority of disabled citizens in our country.

Much of the Congress failure to provide tax relief for disabled persons and incentives to aid in their gainful employment is of historical origins. However, two recent societal changes, or trends, necessitate that Congress modernize the code to recognize disabled individuals. The first is the unprecedented numbers of disabled persons who are living independent of institutions, at a considerable cost savings to the Government and society. This phenomenon enhances the quality of life for the individual, though it also adds to his personal stresses, largely in the form of greater personal expenses. I believe that the provisions of the Tax Code need to be amended to assist such individuals without burdening the Public Treasury in the manner and degree as did previously emphasized institutionalization.

A second change has led to greater opportunities for disabled persons, once considered unemployable, to now make economic contributions to society. Several factors have led to this much desired end. Better medical care and improved rehabilitation services that have greatly extended the life expectancy of disabled persons and have expanded their ability to participate in society is one. Another is that industrial production has become increasingly automated, thereby requiring less physical labor and providing a larger number of employment opportunities for those with physical disabilities. In sum, improved adaptation to disabilities and modernized employment opportunities make many persons with disabilities employable, whereas they were less likely to be gainfully employed only a decade or more ago.

Combined with these major societal changes are efforts to reduce personal reliance on public assistance. While this is a commendable goal, it's unrealistic for us to disregard several facts as we consider budget-cutting legislation. First, disabled persons most often reenter the work force through new types of jobs at low-paying entry levels. Second, they face greater personal work-related expenses. And, third, they face formidable architectural barriers. When eliminating or curtailing the availability of essential services, we must recognize the need for personal financial relief so that the disabled individual can more nearly become self-reliant. I've introduced several bills this session that amend the Internal Revenue Code to help disabled persons become self-reliant. These measures are based on many years of observation and study by me and the Paralyzed Veterans of America.

These measures will not suffice as the sole economic support needed by many disabled persons. But we know that amendments to the Internal Revenue Code could be used to provide disabled individuals with significant relief from their disability-related expenses. In fact, one of my bills allows disabled persons to offset their extraordinary work-related expenses. In addition, we must enact greater incentives for seriously disabled persons to return as productive members of the work force. This can be accomplished, in part, by removing architectural barriers, so that the disabled can have access to places of employment and commerce. Persons who have total and permanent disabilities can, with proper and adequate incentives and assistance, return to the work force and thereby reduce the Government's income maintenance programs. But, first, places of employment must be accessible. This is the goal of H.R. 6460, which I would like to describe in detail.

The most fundamental aspect of any approach to increasing employment opportunities for disabled persons is removing architectural barriers that impede their movement. H.R. 6460 helps achieve that goal by amending section 190 of the Internal Revenue Code.

H.R. 6460

A bill to amend the Internal Revenue Code of 1954 to increase the amount allowed to be deducted each taxable year for expenses incurred in connection with the elimination of architectural and transportation barriers for the handicapped and elderly from $25,000 to $100,000, and to make permanent the allowance of such deduction

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 190 of the Internal Revenue Code of 1954 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking out "$25,000" and inserting in lieu thereof "$100,000".

(b) Subsection (c) of section 2122 of the Tax Reform Act of 1976 (90 Stat. 1915) is amended by striking out ", and before January 1, 1983".

(c) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

As many of my colleagues know, section 190 of the Internal Revenue Code currently provides a tax deduction for expenses incurred in making publicly used, but privately owned, facilities accessible to elderly and disabled persons. The maximum allowable deduction under current law is $25,000, but that expires on December 31, 1982. H.R. 6460 increases the allowable maximum deduction to $100,000 and makes it available permanently. By doing so, the bill provides two incentives to businessmen to make necessary site alterations. By increasing the amount of the deduction, the bill gives an important incentive to individuals or corporations with several sites or extensive alterations. And by making the deductions permanent, it allows businessmen time for long-term planning.

Senator Bob Dole, an outstanding spokesman for the handicapped and disabled, has introduced identical legislation in the Senate and I am very proud to be the House sponsor of his bill. Both he and I recognize the growing number of elderly and disabled citizens who would participate as customers and employees if only architectural barriers could be overcome. Both our bills provide a mechanism for achieving that goal.

The second measure I have introduced, H.R. 7074, is modeled on the double personal tax exemption that offsets an individual's expenses due to blindness or advancing age. Where these persons are gainfully employed, they experience greater expenses because of extraordinary transportation costs and the necessary equipment or supplies without which they would remain unemployed. My bill extends the double personal tax exemption to the disabled.

An itemization of average disability-related expenditures is helpful in understanding the need for the double personal income tax exemption. In 1980, the Paralyzed Veterans of America conducted a survey of some catastrophically disabled persons, all of whom were permanently and totally disabled because of spinal cord injuries or dysfunctions. They reported the following average expenses that generally are not incurred by able-bodied persons. Or, if they are, they are much lower:

Adaption of residence—$5,947 (one-time).

Attendant services—$3,548 (annual).

Health care—$2,164 (annual).

Homemaker services—$1,962 (annual).

Prosthetic devices—$1,129 (annual).

Extra employment-related expenses—$912 (annual).

Therapy/counseling—$893 (annual for initial years of disability).

Each disabled person surveyed had not incurred all of the expenses listed above, and it should be noted that adaption of a residence is not an annual expense. However, let me stress that many disabled persons hire someone to perform commonplace home and personal maintenance activities for them throughout the remainder of their lives. Other studies complement the findings of PVA's survey, including one financed by the Federal Government to determine the price society pays for disabilities.

That study, "Statistical Information Pertaining to Some of the Most Commonly Asked Questions About Spinal Cord Injury," clearly showed that disability is financially devastating to the individual and to society. The study showed that the average spinal cord injured person is young and lives 25 years after the onset of the disability. At least $250,000 in productivity, as measured in personal earnings, is taken from society each time a person becomes paralyzed and does not return to gainful employment. As such, every effort should be made to encourage and assist in returning these individuals to the workplace.

In fact, my bill to provide for a double personal income tax exemption would partly achieve this goal. It would, as I mentioned, help offset the large personal expenses incurred by disabled persons. A double exemption, like that already granted to blind and aged individuals, would clearly help those who are paralyzed or have other permanent disabilities meet their extraordinary work-related expenses. The double exemption, like improved accessibility, would provide an added stimulus for reemployment.

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H.R. 7074

A bill to amend section 151 of the Internal Revenue Code of 1954 to provide an additional exemption for disabled individuals who need assistance in the form of attendant care services or medical devices in order to be employed or whose disabilities are so severe that such assistance would not enable such individuals to be employed

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL PERSONAL EXEMPTION FOR DISABLED TAXPAYER OR SPOUSE

(a) ALLOWANCE OF DEDUCTION FOR DISABILITY OF TAXPAYER OR SPOUSE. Subsection (d) of section 151 of the Internal Revenue Code of 1954 (relating to deductions for personal exemptions) is amended by inserting "or disabled" after "blind" each place it occurs in paragraphs (1) and (2) of such subsection.

(b) DEFINITION OF DISABLED.—Subsection (d) of section 151 of such Code (relating to deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(4) DISABILITY DEFINED.—

"(A) For purposes of this subsection, an individual is disabled only if such individual has any physical or mental impairment (other than blindness but including a hearing impairment) which—

"(ii) has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death, and

"(ii) constitutes or results in a functional limitation to the empoyment of such individual.

"(B) For purposes of this paragraph—

"(i) the term 'functional limitation to employment' means a limitation sufficiently severe so as—

"(I) to require assistance (in the form of attendant care services, medical devices, equipment, or prostheses, or similar items or services as determined by the Secretary in regulations) for an individual in order for such individual to engage in employment, or

"(II) to prevent an individual from engaging in any substantial gainful activity even though such individual is receiving assistance described in subclause (I); and

"(ii) the term 'physical or mental impairment' means an impairment which results from an anatomical, physiological, or psychological abnormality which is demonstrable by medically acceptable clinical or laboratory techniques."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 151 of such Code (relating to deductions for personal exemptions) is amended by inserting in the heading of such subsection "OR OTHER DISABILITY" after "BLINDNESS".

(2) Paragraph (1)(C) of section 3402(f) of such Code (relating to withholding exemptions) is amended by striking out "(relating to the blind)" and inserting in lieu thereof "(relating to blindness or other disability)".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (c)(1) shall apply to taxable years beginning after December 31, 1982.

(2) The amendment made by subsection (c)(2) shall apply to payments of wages made after December 31, 1982.

The third bill I have introduced, H.R. 7075, would provide severely disabled individuals tax relief similar to that now granted to older Americans. That is, H.R. 7075 provides an $125,000 exclusion from capital gains taxes of the sale of a home or principal residence when a person is forced to sell his home as the result of his disability or the disability of a member of his family. Congress has seen the need for extending such an exemption to Americans who have reached age 55, and only recently reaffirmed its support for this provision by increasing the amount of the exclusion from $100,000 to $125,000.

Newly disabled persons are often forced to sell their homes for two reasons: First, the medical expenses arising from a disability can be devastating. This situation is compounded by the loss of the individual's savings and his ability to continue earning a pay check. At such times, disabled persons are often forced to sell their homes in order to pay medical expenses and/or to reduce the expenses associated with maintaining their homes. Regrettably, under existing law, a large portion of their sales gain is taken through taxation, even though they have a clear and urgent need for these funds.

Second, disabled persons often find that their existing residences are of limited use because of their need for accessible housing. These persons do not want to part with their homes, but the practical need for accessibility requires the purchases of a new residence. Again, disabled persons must bear a tax burden to which they would not be subjected if it were not for their disabilities. Many must rent apartments, where routine maintenance chores are taken care of by the apartment owner. Others seek accessible homes, though delays in locating a new home often preclude reinvestment. In both instances, disabled persons are subject to capital gains tax on the income realized from the sale of the original residence.

H.R. 7075 amends section 121 of the Internal Revenue Code to allow a homeowner to exclude from capital gains taxation the first $125,000 realized from the sale of his principal residence whenever the sale is prompted by the owner's disability or the disability of a family member. In the case of the owner's disability, this amendment would be an acceleration of the existing one-time exclusion which would be realized when the owner reached age 55. Further, the bill clearly states the conditions by which the sale of a residence is considered to be the result of the homeowner's disability or the disability of a family member.

H.R. 7075

A bill to amend the Internal Revenue Code of 1954 to provide a one-time exclusion of gain from the sale of a principal residence by a taxpayer who engages in such sale because he or a member of his family has become disabled, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO SECTION 121 TO PERMIT ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY DISABLED INDIVIDUAL

(a) IN GENERAL.—Paragraph (1) of subsection (a) of section 121 of the Internal Revenue Code of 1954 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"(1) the taxpayer—

"(A) has attained age 55 before the date of such sale or exchange, or

"(B) has engaged in such sale or exchange because he (or a member of his family) has become disabled; and".

(b) SPECIAL RULES.—Subsection (d) of section 121 of such code (relating to special rules) is amended by adding at the end thereof the following new paragraphs:

"(9) SALE OR EXCHANGE BECAUSE OF DISABILITY OF TAXPAYER.—A taxpayer shall be treated as having met the conditions of subparagraph (B) of subsection (a)(1) if the sale or exchange referred to in such subparagraph is completed within the 2-year period beginning on the date the disability of the taxpayer (or the member of the taxpayer's family) was first determined by a physician (as such term is defined in the first sentence of paragraph (2) of section 8101 of title 5, United States Code), or reasonably should have been determined, to exist, unless it appears to the Secretary that such sale or exchange was entered into by the taxpayer for a reason which is unrelated to such disability.

"(10) MEMBER OF FAMILY DEFINED.—

"(A) The term 'member of the taxpayer's family' means the spouse or a child of the taxpayer if such spouse or child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

"(B) The term 'child' has the meaning given it in section 151(e)(3).

"(11) DISABILITY DEFINED.—

"(A) For purposes of this section, an individual is disabled only if such individual has any physical or mental impairment (including blindness or a hearing impairment) which—

"(i) has lasted or can be expected to last for a continuous period of not less than 12 months or can be expected to result in death, and

"(ii) except in the case of a child of the taxpayer, constitutes or results in a functional limitation to the employment of such individual.

"(B) For purposes of this paragraph—

"(i) the term 'functional limitation to employment' means a limitation sufficiently severe so as—

"(I) to require assistance (in the form of attendant care services, medical devices, equipment, or prostheses, or similar items or services as determined by the Secretary in regulations) for an individual in order for such individual to engage in employment, or

"(II) to prevent an individual from engaging in any substantial gainful activity even though such individual is receiving assistance described in subclause (I); and

"(ii) the term 'physical or mental impairment' means an impairment that results from an anatomical, physiological, or psychological abnormality which is demonstrable by medically acceptable clinical or laboratory techniques."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1)(C) of section 121(d) of such Code (relating to special rules) is amended by striking out "the age, holding and use requirements" and inserting in lieu thereof "the age or disability and the holding and use requirements".

(2) The heading of section 121 of such Code is amended by inserting "or become disabled" after "age 55".

(3) The item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting "or become disabled" after "age 55".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

The fourth bill, which I will soon be introducing, will amend the Internal Revenue Code to provide that reasonable expenses incurred in making a principal residence accessible be treated as a deduction from income during the year in which the expense is incurred. As many of my colleagues know, when a family member or income earner becomes disabled, the existing primary residence can be made accessible. In fact, in many cases, the family prefers to modify the home rather than purchase a new one. But, under existing law, the improvements necessary for accessibility are not tax deductible until the sale of the home, at which time there is a capital gains exclusion. The bill I will be introducing will change this section of the code and provide a family with income tax relief at the time when it is most needed.

The four bills I have described will provide both assistance and incentives to the disabled in their effort to return to work. As I mentioned, the societal costs of disability have received great attention during the past few years. The 96th Congress, in passing such legislation as the Social Security Disability Amendments of 1980, emphasized society's need for returning persons with disabilities to gainful employment. But, as the Congress considers future legislation reducing or eliminating programs assisting the disabled, I think it is important that we do not reverse our past efforts by creating disincentives to returning the disabled to the workplace. We must continue to help these individuals become self-reliant. My bills recognize the special needs of employable disabled persons. They amend the Internal Revenue Code to reflect more accurately the societal changes that have occurred and to make self-reliance a reality for the disabled. I urge my colleagues to join me in enacting the measures.●

STAND BY YOUR GUNS!

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. LAGOMARSINO. Mr. Speaker, much of the media attention on the Reagan administration decision to block sale of U.S. technology for the Soviet natural gas pipeline has focused on the harm that decision has reportedly had for American business and for our Western European allies. However, the following commentary by Marvin Stone from the September 13 edition of U.S. News and World Report offers the opinion that the President has a strong case for his action.

I urge my colleagues to give serious consideration to the merits of this argument.

[From U.S. News & World Report, Sept. 13, 1982]

Stand by Your Guns!

(By Marvin Stone)

Rarely in his 19 months in office has President Reagan been under such criticism as that brought on by his decision to get tough with American and Western European firms that are supplying vital components to the Soviets for a natural-gas pipeline.

Major U.S. newspapers have joined European critics in charging that the President made a decision harmful not only to American business interests but also to allied unity.

Is this another case of Reagan's being stubborn? Or is he being steadfast in following a course that he and many others consider to be in the interests of both Europe and the U.S.?

We think the President has a strong case for his action. The deals Reagan is trying to stop not only are supplying the Soviets with the equipment needed to build the pipeline but are doing so on easy credit terms. And when the pipeline is finished, Moscow stands to reap some 8 billion dollars a year in hard currency by supplying a Western Europe that will have become dependent on gas from Siberia. No wonder the Kremlin is gloating.

The President's position is that it doesn't make sense for Western European countries—which spend billions of dollars on NATO defenses against Russia—to hand over Western technology to Russia at cut-rate prices.

A little background: Reagan first spoke out against the pipeline at an economic summit meeting in Ottawa in July, 1981. At that time, he offered to arrange alternate supplies of energy to Western Europe if it would back off the pipeline deal. He ran into a brick wall of opposition by heads of state anxious to preserve contracts worth billions to concerns in their countries.

Last December, after the Soviets encouraged the Communist regime's harsh crackdown in Poland, the President put into effect a mild form of sanctions against Moscow. He banned American companies from selling equipment for the pipeline until the Soviets used their influence to lift martial law in Poland. The repression in Poland still goes on.

Then, at Versailles in June, Reagan thought he had made a deal with the same leaders: If they would cut back on the easy credits being given Communist countries and set up firm guidelines for sales of high-technology products to the Soviet Union, he would reconsider his attempt to block the pipeline.

But both West Germany and France soon made it clear they wouldn't go along with such a deal. It was little wonder that Reagan was both grieved and angered. His next move: He extended the ban on pipeline sales to include American subsidiaries abroad and foreign companies manufacturing under American licenses.

Then, in August, came the showdown. A French-based subsidiary of a U.S. firm—acting under orders from the French government—defied the ban and shipped pipeline equipment to Russia. Reagan promptly forbade any American company to do any business with that subsidiary or with a French firm also involved in the deal. On September 1, the sanctions were eased somewhat, but the impasse continues—with everyone looking for a way out.

What should Reagan do now? Back down, his critics say. But we agree with Senator Dan Quayle (R-Ind.) who says: "The President should not consider lifting the sanctions until the Europeans agree to a binding, long-term accord" on deals with the Communist bloc.

"First," says Quayle, "there must be no subsidization of financial credits on any future sales to the East. Second, there must be strict adherence and enforcement of the restrictions placed on the exportation of high-technology goods to the East. . . .

"Such a consensus could rejuvenate the Western Alliance, unravel the confusion about U.S. foreign-trade policy with the Soviets and quell the increasing calls from both sides of the Atlantic for protectionist measures."

President Reagan has generated a much needed debate on East-West relations that is long overdue. Some good can come of it if the President will stand by his guns.●

CHESTER COUNTY, PA., ALL-STARS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SCHULZE. Mr. Speaker, it is a pleasure for me to bring to the attention of my colleagues an 11-girl team of the Big League Division of Girls Little League Softball, who recently worked their way to the Pennsylvania State championships.

These young women became the State champs the hard way—with zeal, team work, and the moral support of their families and communities. With each win, they found it necessary to travel to other parts of the State, but their financial resources for these trips were practically nonexistent. Whenever it seems that money problems would stand in the way of their next competition and their hopes were flagging, they managed to put together sufficient funds to go one more

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round, and their perseverance ultimately paid off. Congratulations to the Chester County District 23 All-Stars for winning against the odds, and for demonstrating that there really is no better formula for success than good, old-fashioned hard work and dedication. We are proud of the accomplishments of: Joan Duffy, Malvern; Michelle Edens, Malvern; Terry Edwards, Malvern; Anne Galloway, Elverson; Mary Louise Gibney, Berwyn; Linda Lear, Paoli; Cynthia Lowry, Malvern; Jodi Moulder, Malvern; Renee Rexrode, Pottstown; Sherry Werner, Spring City; Kris Zimmerman, West Chester; Team Manager John Werner; Team Coach Don Mittica.●

EFFECT OF NEW FEDERALISM ON THE CHILDREN OF CONNECTICUT

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MOFFETT. Mr. Speaker, last Wednesday, September 8, I coordinated a forum at St. Joseph College in West Hartford, Conn., on the effect of the New Federalism on the children of my State. This event was hosted by St. Joseph College and the University of Connecticut Graduate School of Social Work Student Organization. Both schools offer distinguished curricula in the fields of child development and welfare; the willingness of St. Joseph College and the UCONN School of Social Work to present the child welfare forum reflects a spirit and commitment to Connecticut children and their families of which I am very proud. It was truly an honor to be a part of that event.

I must say that I have rarely had the opportunity to hear such eloquent and timely testimony as was presented by the forum's panel of witnesses. They represent service providers in a wide range of child and family services, from day care to public education to juvenile justice and handicapped services. Although the witnesses provide a host of different services, they all voiced a common belief: The Federal role in meeting the needs of children must be maintained in order to preserve and continue the gains made by State, local, public, and private sources of aid. The partnership is essential. As one witness stated:

> It becomes clearer and clearer as one confronts the myriad of problems that families face today, that no single agency or even coalition of public and private agencies within the State, can provide all of the supports necessary to assure the health and welfare of our children.

I was joined in receiving testimony at the forum by two of my House colleagues who have demonstrated a deep and abiding commitment to the welfare of children, Representatives BARBARA KENNELLY and GEORGE MILLER. I know it is not necessary to recount to this body how very important these two Members are to the promotion of quality child care in the United States. The forum was equally as meaningful and informative to Representatives KENNELLY and MILLER, I know, as it was to me; Congressman MILLER will be going before the Rules Committee tomorrow, hearing the messages he received from the forum witnesses, in support of his proposal to establish a Select Committee on Children, Youth, and Families in the House of Representatives.

Over the next several days, I will be submitting to the RECORD the testimony presented before the forum on the effect of the New Federalism on the children of Connecticut, in the order it was received. The scope, the depth, and the clarity of the testimony demands our fullest attention—and must prompt us to take immediate action to protect the welfare of our Nation's most vulnerable population, our children.

Following are the opening statements to the forum by Congresswoman KENNELLY and myself. Congressman MILLER's statements will follow in tomorrow's RECORD. On the following consecutive days, the distinguished witness' testimony will be printed.

Statements of Hon. BARBARA KENNELLY and Hon. TOBY MOFFETT attached:

STATEMENT OF CONGRESSWOMAN BARBARA B. KENNELLY

This forum is a welcome opportunity for Congressman George Miller, Toby Moffett, and myself to discuss the impact of the new federalism on Connecticut children with individuals who are closely involved with both private sector and government programs serving children here in our state. I am very grateful to the staff of St. Joseph College and the members of the University of Connecticut Graduate School of Social Work Student Organization for co-hosting this forum, and for their sustained efforts on behalf of child and family welfare.

The Reagan Administration has many commendable goals—the development of a strong partnership between Washington and State and local governments, the encouragement of volunteer efforts to help solve America's social problems, and the preservation of a reliable "safety net" to protect those in need. I don't think any of us have any quarrel with those goals, but we are deeply concerned about the way in which the Administration proposes to achieve them.

Despite the Administration's goals, there has been a systemmatic effort to reduce or eliminate those programs which constitute an important investment in our children and their future. The Administration claims to be working to root out waste and fraud, but it has consistently targeted programs which are cost-effective, well-managed, and successful. The Administration claims to be interested in improving the relationship between federal and state and local governments, but it has proposed legislation and regulations that are more administratively onerous than what was previously in effect.

I am afraid this Administration has assumed that official indifference can serve as official policy. I am worried about the impact this seeming indifference will have on our children, and on the future we leave them. We cannot hope to maintain this country's prominence in the changing world economy without continuing our strong commitment to developing the potential of our nation's children to the fullest. The irony is that this Administration would have our children pay twice: in lost opportunities today, in higher social costs tomorrow.

It is currently difficult in the Congress to assess the impact of the Administration's budget cuts on families and to enunciate an alternative policy. The overlapping jurisdictions of the congressional committee system do not lend themselves to a comprehensive overview. Congressman George Miller, with whom it is a honor and a pleasure to be here today, is working to establish a select committee on children, youth and families to fill this need. It is an effort which I am strongly supporting.

At present, the public and the Congress must be vigilant in defending the progress we have made in reducing the infant mortality rate, in assuring equal education opportunity to handicapped children, and in providing community-based solutions to problems of the juvenile justice system. As you all know, one of the most articulate defenders of this progress has been Congressman Toby Moffett, someone who needs no introduction to those who truly care about the needs of our children.

STATEMENT OF HON. TOBY MOFFETT

I am pleased to be here at today's forum. The very setting of this event is significant to the future of child and family services in Connecticut. St. Joseph College, now celebrating its 50 year anniversary, has been a leading force in the development of comprehensive child and family services. I want to offer my sincere thanks to the staff of St. Joseph College and the University of Connecticut Graduate School of Social Work Student Organization for hosting today's forum. By providing us with this opportunity to weigh the impact of the New Federalism on Connecticut's children, St. Joseph and the UCONN School of Social Work once again display their commitment to ensuring child and family welfare.

Franklin Delano Roosevelt once said, "We have always known that heedless self-interest was bad morals. We know now that it is bad economics. I think that this statement is appropriate to the supply-side fallacy embraced by President Reagan. It has been one year since the President's economic policy became the law of the land, a policy which rewards the wealthy of our nation at the expense of the poor and the vulnerable. Children didn't vote for this game plan. They didn't have any say at all. Yet, $10 billion in children's services were sacrificed last year so that the Reagan Administration could keep the world "safe for hypocrisy." What else can one label the policy of a President who purports to be pro-family? The glue that helps keep so many families together is being destroyed—compensatory education for the disadvantaged, juvenile justice and delinquency prevention, day care services, child nutrition, health, and other programs vital to the development of the nation's children.

Who are the victims of the New Federalism? They are children. Children comprise the majority of Americans suffering from poverty, living and partly living, in the words of T. S. Eliot. Who are the welfare "cheats" the President claims to be ridding from the system? 70 percent of them are children, the poorest of the poor.

It seems extraordinary that in this day and age American children could be wanting, but the sad reality is that it is true. One in seven children has no regular source of health care two out of five is not fully immunized; one out of three has never been to a dentist. Our infant mortality rate is not even among the ten lowest rates in the world. 90 out of 10,000 Japanese children die before their first birthday, but 130 out of 10,000 American children do. Twice as many nonwhite American infants die during their first year of life as white infants.

Clearly, there is a genuine and huge need for comprehensive children services in this nation. But the Administration has determined that the federal government should end its partnership with state and private sources in providing these services, services with proven records of effectiveness. In many cases, the federal support is modest and may appear on paper to be an insignificant amount. But to the local service provider, those modest funds are essential. The partnership is essential. The responsibility is shared.

And what are these programs facing budget cuts or extinction? They are, by and large, exemplary, effective, and cost effective initiatives which should be expanded rather than curtailed. The supplemental food program known as WIC for nutritionally at-risk pregnant women and their children works—WIX mothers have one-third the low-birth weight babies as do similar non-WIC mothers. The Title I education program for disadvantaged children works—Title I children progress faster in their classes than do similar non-Title I pupils. Head Start for preschoolers works—Head Start children are less likely to drop out of school than their low-income counterparts, need less special educational services, and demonstrate gains in achievement scores that persist over time.

Where is the waste, fraud, and abuse in these programs? There is none. These are lean programs that save taxpayer dollars. These are wise social investments. But despite their demonstrated effectiveness, children services are now being dismantled, suddenly and drastically. How are the children of Connecticut faring under the New Federalism? That's what we have joined together today to find out.

Connecticut may be one of the highest per-capita income states in the nation. But recent Census data indicates that, since 1970, the number of children living in poverty has jumped by over 27 percent. Who will speak for these children? Today's panel of witnesses represents some of the most active defenders of child and family services in our state. I am glad to welcome the panel and am eager to hear from them on how our children are faring under the New Federalism. But first, it is my distinct pleasure and privilege to introduce my friend and colleague from California who will be chairing this forum, Congressman George Miller.

George Miller, I know, is no stranger to this assemblage. George is recognized nationwide as an outspoken advocate and leading spokesman in Congress on issues affecting child and family services. He is one of the ranking Members of the powerful House Education and Labor Committee; this 97th Congress; he was elected Chairman of the Labor Standards Subcommittee where he recently fought and won the battle against weakening our Child Labor Laws. His legislative accomplishments on behalf of the nation's children include the extension of the WIC program; the Adoption Assistance and Child Welfare Act; the Child Abuse Prevention and Treatment Act; major progressive amendments to the school lunch and rehabilitation acts; and much more. Congressman Miller is currently working on establishing in the House of Representatives a Select Committee on Children, Youth, and Families, an effort which I am actively supporting. Members of the audience, Congressman George Miller.●

THE STATE OF THE ECONOMY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. GILMAN. Mr. Speaker, as we approach the end of the 97th Congress, it is appropriate that we review the state of the economy in our 26th Congressional District during this period. We entered the year 1981 in the middle of a long term economic downturn. Nationally, the inflation rate stood at 12.3 percent and the prime interest rate stood at 21.5 percent. Savings were down sharply from levels earlier in the Carter administration. Taxes were up sharply, as was Government spending. Our economic problems were the result of long term factors in our economy: The problems of decreasing productivity, erratic monetary policy, insufficient incentives for savings and investments, high taxes, and a bloated public sector.

When the Reagan administration came into office in the beginning of 1981, it offered a bold new plan for economic recovery; but the program was designed for the long term, and there was recognition that it could not work overnight even if it was enacted speedily, which it was not. In evaluating the progress of this new policy, we must understand that it cannot be judged on the basis of its performance in bringing about an early reversal or the Carter recession—that was not promised. What that economic recover program serves to do is to try to promote a long term, stable recovery. The administration's economic recovery program featured tax and spending cuts, regulatory relief, and monetary restraint. It was designed to bring down inflation and to provide long term growth in the economy.

The factors which brought on our present recession, which we are now recovering from, were not transient factors but deep-rooted problems. Encouraging individual initiative and the private sector, as a whole, to become the engine of a strong economy, which is the main thrust of the Reagan program, is a long-term process.

What is the impact of the first year and one-third of the Reagan program. First, inflation is down sharply. This is the most beneficial aspect of the program for those on fixed incomes and for the elderly in general because they can protect themselves least from its effects. The benefits of cutting the inflation tax on the bank accounts of seniors far outweighs by nearly unimaginable proportions any reductions in Government-affected benefits that may have touched seniors. In general, for the population as a whole, after-tax income is headed sharply upward—a combination of higher real wages and lower taxes, and let us not forget the tax cut. Interest rates are headed downward and personal savings are moving upward. Peoples investments are headed out of the money markets into more directly productive investments.

Unemployment, the last of the ill effects of the recession, is still unacceptably high; nevertheless, in our own region, unemployment is down and total employment is up compared to a year ago. Add that to the very good news on inflation, interest rates, and especially taxes, I think that it is fair to conclude that a good beginning is being made. We should resist the temptation to label the residual effects of the 1980 Carter recession as a fault of the Reagan economic program.

Restoring a healthy economic climate is a complicated and long-term process and must be accomplished in the fairest, most painless way possible. Too many are suffering and struggling to make ends meet in our Nation today, and that is why I opposed those portions of the President's economic plan, which I thought were incompatible with the best interests of the people in our area of New York. This included my vote against the recently adopted tax bill to raise revenues of $98 billion over 3 years and against cuts in programs crucial to the well-being of low- to middle-income Americans.

It is important we recognize that a lot more needs to be done to bring about a full recovery. In that regard, we should thoroughly examine each new idea in this direction to improve the programs carefully and sympathetically, but we should not retreat. We are on the right road. Let us remind ourselves, when someone suggests a return to the old high taxing, high spending policies of yesterday, is not that how we got into this mess to begin with?●

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HAROLD "RIC" RICHTERMAN

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. CARMAN. Mr. Speaker, it is with great pleasure that I salute Harold "Ric" Richterman, of Syosset, N.Y., winner of this year's prestigious Ambrose M. Shotwell Award.

The award, presented each year since 1939 by the American Association of Workers for the Blind, honors individuals who have devoted themselves to helping blind people become independent through rehabilitation services.

Ric is currently director of the rehabilitation services division of National Industries for the Blind (NIB), where he assists sheltered workshops in developing vocational evaluation and prevocational training programs. He also assists them in grant writing, placement and in developing and presenting board-orientation programs. He joined NIB in 1969 following a 21-year affiliation with the Industrial Home for the Blind in Brooklyn, N.Y.

During the more than 30 years involvement in the field of blindness, Ric has served as technical consultant to the Department of Health, Education, and Welfare, and has held memberships and committee posts with AAWB, the American Foundation for the Blind, the Helen Keller National Center for Deaf-Blind Youths and Adults, and the National Rehabilitation Association.

In 1971, he received AAWB's John H. McAulay Award, presented to the individual most instrumental in the placement of blind people, and later received the association's Leadership and Service in Work for the Blind Award. The National Accreditation Council gave him its Outstanding Service Award, and he also received the New York State Association of Workers for the Blind Award in recognition of distinguished service in the rehabilitation of blind people.

A graduate of the Savage School for Physical Education and Iowa State Teachers College with a B.A. in education, Ric earned his M.A. in vocational counseling from New York University.

I am sure that all of my colleagues will join with me in congratulating Harold "Ric" Richterman on this latest milestone in his long and distinguished career devoted to serving the disabled of our country.●

NATIONAL CAPITAL BUDGET

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. EDGAR. Mr. Speaker, the subcommittee on Economic Development, of the House Committee on Public Works, began an important series of hearings on the question of developing a National Capital Budget. Chaired by Congressman JIM OBERSTAR, the subcommittee heard from Pat Choate, senior policy analyst for economics, TRW, Inc. Congressman BILL CLINGER and I coauthored H.R. 6591 to established a National Capital Budget. Mr. Choate's statement which follows should be helpful to all Members of the House in carefully considering this important issue. The statement follows:

TESTIMONY OF PAT CHOATE, SENIOR POLICY ANALYST FOR ECONOMICS, TRW INC., BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, THE HOUSE OF REPRESENTATIVES, THE NINETY-SEVENTH CONGRESS, WASHINGTON, D.C., SEPT. 14, 1982

Mr. Chairman and Members, it is a privilege to testify before the Subcommittee on Economic Development on a topic of vital importance to our nation—the rebuilding of America's public works.

Between last fall when I last appeared here and today, the issue of deteriorating public works has moved to the forefront of national attention. There is a growing awareness that the economic renewal of our nation is heavily dependent on rebuilding the basic public facilities that underpin the economy. There is also a growing awareness that the quality of life of all citizens is now threatened because of public works decline.

In significant measure, this expanded public awareness is due to the work of this Subcommittee under the leadership of Mr. Oberstar, the Wednesday Group's work under the leadership of Mr. Clinger, and the Northeast-Midwest Congressional Coalition's work under the leadership of Mr. Edgar.

I am particularly pleased to testify today on an important piece of legislation: namely, the Federal Capital Investment Budget Act of 1982 (H.R. 6591) which would create a national capital budget and an assessment of the nation's public facilities. This legislation is critically important because it would create the basic planning and management tools America lacks, but needs, to rebuild its deteriorating public facilities.

INADEQUATE PLANNING AND MANAGEMENT TOOLS

As hearings of this Subcommittee have documented, the problem of decaying public facilities is extensive. It is also national in scope: deteriorating facilities are found in all parts of America—North, South, East, West, rural, urban, and suburban.

While there is growing awareness, perhaps even a national consensus, that America's basic public facilities are wearing out and that new actions will be required, the federal government lacks the basic planning and management tools needed to confront the challenge.

Specifically, annual federal public works expenditures are made in the absence of even the most basic information and policies—the United States has no inventory of its public facilities; there is no assessment of the condition of existing facilities; there are few standards for the services to be provided by public facilities; there are no investment strategies or investment priorities; there is no uniform estimate of future investment requisites; there is no basic agreement between the federal, state and local governments on the allocation of public works authorities and responsibilities for the financing, construction and operation of specific types of projects; and there is virtually no federal oversight over those federal public works expenditures that are made.

These management weaknesses are important because the federal government is the dominant force in America's public facilities: half of all public works expenditures originate with the federal government, and federal regulations and matching requirements largely define the use of the other fifty percent financed by state and local governments.

The principal capital budgeting tool the federal government uses is "Special Analysis D of the Budget of the United States Government." Yet, the General Accounting Office in its report to the Congress, "Federal Capital Budgeting: A Collection of Haphazard Practices," concludes that this tool is ineffective for overall capital analysis. It presents outlays and is compiled after agency officials make their budget decisions. As such, it is not designed or used as a management tool or resource from which policymakers can infer or analyze federal capital investment policies or practices. The GAO notes that "Special Analysis D" is deficient in five basic ways:

Off-budget activities are excluded—such as the U.S. Postal Service;

It does not accurately portray the magnitude of capital investment activity since outlays from one category are netted against receipts from the same category. Gross figures are not presented.

Not all capital stock is represented since the analysis covers only three fiscal years. GAO notes that three years is far too short a time span to accurately account for additions to capital assets or their depreciation and disposal.

There is no consistent definition of physical capital; thus, individual federal agencies define physical capital they choose. GAO reports that in one agency the same item may be considered as capital and in another as a current item. For example, GAO reported that the General Services Administration considers capital investment as all new construction, alterations, and major repairs except for one-to-one replacements and equipment. Yet, the Corps of Engineers defines capital as basically the construction of water projects—new construction.

Finally, the GAO reports that Special Analysis D has a very unfocused and misleading categorization system. Specifically, outlays are classified as being that type of activity (capital or current outlay) in which the majority of funds in an overall program is used. Thus, if 51 percent of a discretionary program, such as the Community Development Block Grant program of HUD, is used for operating expenses, then the entire program is classified as a current expenditure even though several billion dollars of the program go for capital items. Clearly such classification practices seriously distort what is and is not being expended on capital items.

The limitations of Special Analysis D are important and significant because as the GAO notes, "except for this special analysis, the federal government does not practice capital budgeting in a comprehensive way."

Because of the inadequacy of present federal public works practices, important and unwanted policy and administrative side-effects are created.

First, no overall view is taken of the nation's public works needs, the role of the respective levels of government in meeting these needs, or how individual federal investments relate to each other or to any long term strategy.

Second, in the absence of clearly documented needs and well articulated priorities, mis-priorities are created in the nation's public works expenditures.

Third, the short term is favored over the long term. However, many of the nation's most important public works challenges, such as rebuilding the Interstate Highway System and assuring adequate supplies of clean water will take a decade or more to finance and complete.

Fourth, in the absence of a coherent national public works investment strategy, which identifies investment needs and how to meet them, aggregate public infrastructure investment requisites cannot be systematically and thoughtfully considered against aggregate social and defense investment requirements—two areas which do have consolidated budgets and long term investment estimates. Moreover, as public facility investments were ignored and deferred in the 1960s and the 1970s in order that the limited public funds could be used to finance a growing menu of social expenditures, similarly public works investments will likely be ignored and deferred in the 1980s because of rising defense expenditures—particularly if these public facility needs are not clearly and systematically specified.

Finally, disordered federal public works practices create major obstacles to effective management of state and local public works activities. Since the federal financing dominates state and local public works activities, the federal government's short term focus, start and stop financing, and bias to new construction over rehabilitation, operation and maintenance expenditures makes coherent state and local policymaking and program administration almost impossible.

NEW PLANNING AND MANAGEMENT TOOLS

Difficult and important choices on public works must be made. These choices will profoundly influence the national economy, local economies and the quality of life of virtually all Americans. The principal barrier to making such choices in a considered manner is: (a) the absence of reliable information; and (b) the absence of a framework for the legislative and administrative decisions that must be made.

The creation of a systematic capital budgeting process—by creation of a comprehensive Special Analysis of Federal Capital Expenditures and a formal National Capital Budget—can provide such a framework. Such a framework is needed to permit the explicit and systematic consideration of:

1. The aggregate requirements for domestic non-defense public works investments in comparison to other claims such as social programs.

2. The relationship of public works investments to social, economic development and national defense objectives.

3. The impacts of government regulatory actions on public works investments and operations.

4. The consequences of allocations of the limited public works funds as between new construction, rehabilitation of existing facilities and operation and maintenance.

5. The social and equity issues associated with the distribution of public works funds among and between the various regions.

6. The consequences of varying allocations of public works responsibilities between the federal, state and local governments.

7. The sources, consequences and alternative financing sources for public works projects and their operation.

8. The use of annual public works expenditures as a countercyclical device of economic policy.

A special analysis of capital expenditures

The first step in fostering an improved capital budgeting process is the creation of a comprehensive special capital analysis in the annual Budget of the United States Government. This special analysis would provide the basic information for public works decisions by both the Executive and Legislative Branches.

Accordingly, to be most useful this special analysis would ideally chronicle the following:

(a) An estimate of aggregate capital investments (construction and rehabilitation) required to provide specific levels of specific public works services over several discrete periods of time such as one, five and ten years.

(b) An estimate of aggregate operation and maintenance investment requirements.

(c) The identification of sources of financing.

(d) Identify Federal public works investment priorities.

(f) Identify how the proposed annual capital expenditures contained in the proposed budget would relate to the nation's longer term needs and the federal government's longer term public works investment strategies.

Initially, the special analysis might include only domestic civil works and exclude defense facilities and equipment. (Attachment 1).

If a Special Analysis is to be created, better information is required including:

(a) A uniform national set of standards of service to measure the specific level of service provided by specific types of public works facilities, such as roads, sewer systems and water treatment systems;

(b) An inventory of the nation's public facilities;

(c) An assessment of the physical condition of these public facilities;

(d) An assessment of the levels of service being produced by these facilities;

(e) An estimate of the costs, over discrete periods of time, to continue specific present, higher and lower levels of service;

(f) A public works evaluation system that can be used for oversight of federal public works activities by the Executive and Congressional Branches;

The Federal Capital Investment Budget Act of 1982 would meet virtually all of these needs. Equally important, this Act appropriately places responsibility for the preparation of this information in the premier data and information agency of the Federal Government: the Department of Commerce.

A capital budget

While there can be many interpretations of what a capital budget is, ultimately it is merely the resultant of the capital budgeting process—documenting proposed actions of final decisions.

The capital budget can be created in a variety of ways. The most direct and most efficient way would be for the Office of Management and Budget, as the central budget office, to distinguish in the Annual Budget of the United States by functional category, agency and program between capital and operational authorities, outlays, deficits, surpluses, and revenues. This will permit the President and the Congress to view federal capital expenditures in terms of:

(a) Aggregate capital investments;

(b) Aggregate investments in specific types of public works projects such as bridges or highways or sewer treatment systems;

(c) Aggregate investments in specific types of public works activities such as new construction, rehabilitation, repair, maintenance and operations; and

(d) Agency investments by types of public works projects and by related activities—new construction, rehabilitation, repair, maintenance and operation.

At the same time, it would be useful for the Executive Branch to, where possible, identify sources of financing—general funds, trust funds, or other means.

A federal capital budget can be created within the context of the unified budget, much as the credit budget operates within the context of the unified budget. To move beyond the short-term, annual focus of present practices, long term projections, such as up to 10 years, ideally would be prepared on anticipated capital and related operational expenditures.

The capital budget can be displayed in a variety of means, including as a part of the existing budget or, as several states such as Pennsylvania do, as a distinct document.

A national capital budget can be built on the existing budget process without a more sweeping reform and improvement in federal budgeting processes. Most important, federal capital investments can be better planned and managed without making *any* structural changes or consolidations in existing Federal agencies or Congressional Committees.

The Federal Capital Investment Budget Act of 1982 offers a pragmatic route to creating these badly needed new planning and management tools for the federal government's public works investments.

CONCLUSION

A primary cause of the decline of America's public facilities is the disordered public works policies, institutions and programs of the federal government. This disorder must be corrected. The most fundamental step in bringing long term direction and coherence to the nation's public works activities is to create a new Special Capital Analysis in the Annual Budget of the Federal Government and a National Capital Budget.

The creation of this special analysis will facilitate the preparation of better information, and provide a framework for the consideration of the many difficult financial and federalist choices that must be made. The capital budget will be the resultant of the larger process of making these choices.

Both the special analysis and the capital budget can be created without a reassignment of authorities in either the Executive or Legislative Branches and without a major reform of existing budgeting processes. The Federal Capital Investment Budget Act of 1982 (H.R. 6591) would create both these pragmatic planning and management tools. These tools are badly needed if America is to rebuild its basic public works.

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Thank you for the opportunity to testify before this Committee.

ATTACHMENT 1—SELECTED DOMESTIC PUBLIC FACILITIES

Education facilities: 1. Public Schools; 2. Public Libraries.

Energy Facilities: 1. Direct Generation; 2. Suppliers.

Fire Safety: 1. Facilities; 2. Equipment.

Health: 1. Clinics and Hospitals; 2. Emergency Vehicles; 3. Specialized Equipment.

Justice: 1. Law Enforcement Facilities; 2. Jails and Prisons.

Recreation: 1. Facilities.

Solid Waste: 1. Collection Facilities and Equipment; 2. Disposal Facilities and Equipment.

Telecommunications: 1. Radio/Television Facilities; 2. Disaster Preparedness Facilities and Equipment.

Telecommunications; 1. Radio/Television Facilities; 2. Disaster Preparedness Facilities and Equipment.

Transportaion; 1. Highways, Roads, Bridges and Related Facilities; 2. Rail Facilities and Equipment; 3. Port, River and Inland Water Facilities and Equipment; 4. Airport Facilities and Equipment; 5. Pipeline Facilities.

Water Supply: 1. Water Storage Facilities; 2. Water Transport Facilities; 3. Water Treatment and Distribution Facilities.●

DISSOLUTION OF THE MOSCOW HELSINKI GROUP

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mrs. FENWICK. Mr. Speaker, at a news conference on September 8 in Moscow, the dissolution of the Moscow Helsinki Group was announced by Elena Bonner, wife of banished Nobel Prize winner Andrei Sakharov. This is a dismaying development. As one of the original Commissioners of the U.S. Commission on Security and Cooperation in Europe, the government body charged with monitoring compliance with the human rights provisions of the 1975 Helsinki Final Act. I have followed closely the work of the courageous Moscow Helsinki monitors since the group was formed in May 1976. That the group found it necessary to disband "under pressure from the authorities" is a matter of profound regret and one which bodes ill for the future of security and cooperation in Europe.

The Moscow Helsinki Monitoring Group, along with several other Soviet Helsinki Groups that were subsequently formed, established the goal of monitoring compliance with the human rights provisions of the Helsinki Final Act in the Soviet Union. Their right to undertake such actions is endorsed in Principle VII, respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, where the participating states "confirm the right of the individual to know and act upon his rights in this field." As most of my colleagues are aware, only a brief time after the formation of the group, the Helsinki Monitors were themselves made the victims of the repressions that they had begun to highlight and oppose.

One of those victims is Tatiana Osipova, a computer specialist. This 29-year-old mother was sentenced on April 2, 1981, to 5 years in a general regimen camp and 5 years of internal exile for "anti-Soviet agitation and propaganda."

Osipova became a member of the Moscow Group in November 1977. In 1977 and 1978, she co-authored two "samizdat" articles on political repression in the U.S.S.R. with fellow group member, Viktor Nekipelov. Her husband, Ivan Kovalev, is a member of the Moscow Group as well. She has been the subject of KGB harassment and searches during her years as a human rights activist. In March 1979, she was forced to leave her position as a computer programer at the Moscow Oblast Pedagogical Institute.

Mr. Speaker, although the formal work of the Moscow Helsinki Group has been suspended, I am convinced that the long, difficult struggle for basic human rights will continue. Most of its members, nearly all of whom are now imprisoned or exiled, were aware when they committed themselves to their task that they faced an uphill battle involving much pain and suffering.

It is imperative that we, in this Congress, make clear to the authorities of the Soviet Union that the free world will not soon forget the sacrifices of the Helsinki Monitors—whose only offense was a commitment to Helsinki ideals.●

NATIONAL STRATEGIC MATERIALS AND MINERALS ASSESSMENT PROGRAM

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. KOGOVSEK. Mr. Speaker, I am pleased to have introduced on September 9, 1982, H.R. 7084, legislation to establish a national strategic materials and minerals assessmant program for the United States. This legislation has been greatly needed by our country for some time, and the demand for this type of program is growing on a daily basis. Article after article has appeared in the press in regard to the country's concern about the availability of strategic materials and minerals resources. Yet, the Federal Government continues to operate under a system of "reacting to crisis," rather than "advanced planning" in order to avoid such crisis.

Several pieces of legislation have been introduced during the 96th and 97th Congress, which raise concern about the continued availability of our natural resources for national security, industrial base, and economic security purposes of the United States. The legislation I am referring to, in most cases, removes certain areas of the country from mineral exploration and development. This, in and of itself, is not bad, because we must take measures which will protect our resources. However, although such legislation states that, "resource assessments shall continue," there is no mechanism in the law that will allow such work to be done. In fact, not only has this country relaxed its efforts to locate and classify its essential resources, in many instances, such efforts have been obstructed by the same hands that have called for its initiative.

Yet, in all the legislation that is being passed in Congress, very few proposals call for the expansion of knowledge and research to determine exactly what this country has for natural resources. We know our resources are vast. We also know that the United States holds strategic and essential resources. However, we have little idea about where it is, or how much we have. This traditionally has been left to the hands of private entities, and is often restricted as proprietary information. However, even this will no longer be available in many instances. Thus, when Congress acts in the future, we will be acting as an uninformed body. Furthermore, when a crisis comes about, and our national security, industrial base, or economic well-being is in jeopardy, Congress reaction, as an uninformed body, will have the propensity to adversely impact those measures we have enacted over the past 10 years to protect our natural resources. To make my point clear, imagine Congress reaction to a situation in which the United States was in battle, we have a critical shortfall of a strategic mineral, and it was known only that the resource might be somewhere within a 100-mile radius of Rocky Mountain National Park. I am sure you can imagine what would happen to the park.

Mr. Speaker, this type of situation does not have to occur, and Congress should no longer have to make uninformed decisions. We have only to use the tools and mechanisms that are already in existence. One of those tools is the Department of Energy facility at Grand Junction, Colo. The mechanism is the legislation I have introduced.

My bill proposes to transfer the uranium resource assessment program, including the Grand Junction facility and personnel, from the Department of Energy to the Department of the Interior. Furthermore, it would expand the URA program to also include essential materials and minerals as determined by the Federal Emergency Management Agency. Additionally, it will direct the Secretary of the Interior to:

First, develop an indepth evaluation of domestic and international strategic minerals and materials resources supply and demand.

Second, implement a specific program to coordinate ongoing efforts of minerals and materials assessment for this country.

Third, establish a managerial framework for continued assessments of strategic materials and minerals supply.

Fourth, establish an early warning system to notify the President and Congress of potential strategic materials and minerals shortfalls.

Fifth, provide recommendations to the President and Congress, including stockpiling and conservation, to offset potential shortfalls.

Protections are provided in the legislation to insure that laws such as the Wilderness Act, the Forest Management Act, and the Federal Land Policy and Management Act are not conflicted by this proposal. Furthermore, my bill is not a mechanism to start opening up withdrawn areas to development. It only provides a mechanism to determine what resources we have on the public lands and where they are.

Mr. Speaker, I strongly urge my colleagues to join me in enacting this very important piece of legislation, and establish a program to decrease the vulnerability of our national security, economic well-being, and industrial base in America.

The bill follows:

H.R. 7084

A bill to provide for the establishment of a National Strategic Materials and Minerals Coordination Program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "National Strategic Materials and Minerals Assessment Act of 1982".

(b) The Congress finds that the United States lacks known domestic resources from which to produce, in necessary quantities, certain materials and minerals essential to its national security, industrial base, and economic well being. The Congress therefore declares that it is in the National interest to:

(1) Develop an in-depth evaluation of domestic and international strategic materials and minerals resources supply and demand.

(2) Implement a specific program to coordinate ongoing efforts of strategic materials and minerals assessment for this country.

(3) Establish a managerial framework for continued assessments of strategic materials and minerals supply.

(4) Take positive action that will promote our national security, help ensure a healthy and vigorous economy, create American jobs, decrease the Nation's strategic minerals and materials vulnerability, and protect our natural resources and environment.

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Secretary" means the Secretary of the Interior; and

(2) "strategic materials and minerals" means those natural resources essential to the security, industrial base, and economic well-being of the United States, as determined by the Federal Emergency Management Agency.

TRANSFER OF JURISDICTION

SEC. 3. All programs, functions, responsibilities and personnel of the Uranium Resource Assessment Program, as established under the authority of the Department of Energy, shall be transferred to the Department of the Interior. Such transfer shall include the Grand Junction Facility, Grand Junction, Colorado, and all operating funds remaining in the Uranium Resource Assessment Program on the date of enactment of this Act.

MINERALS AND MATERIALS ASSESSMENT

SEC. 4. (a) The Secretary shall establish a National Strategic Minerals and Materials Assessment Program within the Department of the Interior, for purposes of carrying out the provisions and goals of this Act. Such program shall utilize the management framework and personnel of the Uranium Resource Assessment Program.

(b) The duties and functions of the Secretary under this Act shall include, but not be limited to, activities which—

(1) monitor, evaluate, and coordinate on a continuing basis the programs and activities of the Federal Government so as to carry out the provisions of this Act;

(2) identify and classify the Nation's areas of potential strategic material and mineral deposits on the public lands;

(3) identify policy conflicts with respect to resource management and strategic materials and minerals supply;

(4) establish periodic reviews of strategic materials and minerals issues including resource assessment, supply and demand, stockpiling, and conservation; and

(5) establish an Early Warning System which will monitor the conditions of supplies and demands for strategic materials and minerals. Such Early Warning System shall be designed to notify the President and the Congress of strategic material and mineral shortfalls in a timely manner, and to provide recommendations to alleviate such shortfalls.

PUBLIC LANDS

SEC. 5. (a) The Secretary shall conduct continuing strategic materials and minerals assessments of the public lands in such a manner that will not be injurious to fish and wildlife, water sheds, cultural resources, habitat, or other resources of the public lands.

(b) Nothing in this Act shall be construed to amend, repeal, or modify any provision of the Wilderness Act (16 U.S.C. 1131 et seq.) or the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), except as provided in this subsection:

(1) The Secretary may initiate strategic materials and minerals assessments on public lands withdrawn from mineral entry to the extent that such assessments can be accomplished with minimal surface disturbance.

(2) Any materials and minerals assessment on the public lands shall occur with the consultation and cooperation of the agency having management jurisdiction over such lands and resources.●

VOTE "NO" ON THE EXTRADITION ACT, H.R. 6046

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MOFFETT. Mr. Speaker, I am very disturbed that H.R. 6046, the Extradition Act of 1982, may soon be coming up for a vote on the House floor.

This legislation is intended to improve our ability to crack down on international terrorism. This is certainly a laudable goal, and one which I strongly support. However, H.R. 6046 has not received the careful consideration and analysis which should be demanded of such a wide-ranging proposal. As a result, the bill contains serious flaws which would undermine both the rights of Americans and our efforts to promote democracy and human rights abroad.

This legislation would eliminate the "political crimes defense" in extradition cases, if the defendant is charged with a crime of violence or conspiracy to commit violence. Thus, a contrived charge by a foreign government could secure extradition of a political refugee residing in this country. The legislation grants the State Department sole authority to deny an extradition request, if it determines that the request is politically motivated.

These proposed changes could lead to the imprisonment, torture and murder of many Filipinos, Salvadorans, and others who have fled repressive regimes and sought refuge in the United States. For example, Benigno Aquino, a leading opponent of the Marcos regime in the Philippines and an associate at Harvard University's School of International Affairs, is one of over a dozen political refugees which the Marcos regime wants extradited. He has been charged with planning bombings in the Philippines, although the evidence against him is far from convincing. By stripping the courts of their power to prevent the extradition of political refugees, Aquino and others could become geopolitical pawns of the State Department.

Given the administration's record of certifying human rights progress in El Salvador, when exactly the opposite is true, and lauding democracy in the repressive regimes of the Philippines and Chile, the State Department simply cannot be trusted to make objective determinations on extradition cases. Narrow and sometimes questionable political considerations could take precedence over the lives of men and women who have fled persecution.

I am equally concerned that H.R. 6046 may violate our country's constitutional principles. By placing a legal

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matter which belongs in an impartial judicial system into the highly politicized executive branch, this bill violates our system of checks and balances. Further, the bill allows the detention of both foreign residents and U.S. citizens without charges, at the request of a foreign government.

We need to step up our efforts to fight terrorism. But it is not necessary for us to take police-state measures. Nor is it necessary for us to aid foreign dictatorships in persecuting those who seek to promote democracy and human rights in their native lands. H.R. 6046 could yield both of these results.

The changes sought by H.R. 6046 need a great deal more study. Further, we must receive assurances that civil liberties and human rights will not be sacrificed in the name of fighting international terrorism. I intend to oppose H.R. 6046 in its present form, and I strongly urge my colleagues to do the same.●

PROBLEM PARENTS AND PROBLEM ABORTIONISTS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. HYDE. Mr. Speaker, one of my favorite columnists, John Lofton, has written a typically interesting column in the August 30, 1982, Washington Times.

He discusses, with insight and candor, the anomaly of Planned Parenthood's claim to involve parents with adolescents who consult them and their legal efforts to bar parents from prior information about abortions for minors. I urge my colleagues to carefully read the following column:

THIS KIND OF SILENCE IS FAR FROM GOLDEN

(By John Lofton)

On Wednesday, the day after tomorrow, in Indiana, a state law was to go into effect which would have required that parents be notified at least 24 hours before an abortion is performed on their minor daughter. But, Planned Parenthood is seeking a preliminary injunction to stop this law from being enforced because it "unduly burdens the right of minors to freely make and effectuate a decision to terminate pregnancy—a fundamental right of privacy."

Now, the first thing this legal action does is make a liar out of this organization's chief lawyer. On the CBS television program "Up To The Minute" several months ago, Harriet Pilpel, general counsel of the Planned Parenthood Federation of America, declared flatly: "Every Planned Parenthood affiliate I know makes every effort to involve the parents with any adolescent who consults them."

But, in fact, this is obviously not true. What the Planned Parenthood people in Indiana are attempting to do is deny parents any legal right to know if their minor child is about to get an abortion.

The second thing the lawsuit in question does is to allude to a right that simply does not exist: the absolute right of a minor to privacy. When I asked Ann McFarren, executive director of Planned Parenthood Associates of Northwest Indiana where such an absolute right comes from, she replied:

"It's our interpretation that this is the statement of the Supreme Court and it is one of the things we're seeking to get clarification on that still hasn't been clearly delineated."

Me: But your suit clearly implies that an absolute right of privacy already exists for minors. When has the Supreme Court ever so ruled?

McFarren: "Well, it hasn't excluded this either. And this is one of the things our suit will help clarify."

This is, of course, double-talk. What the Indiana Planned Parenthood groups are trying to do is not *clarify* any absolute right of privacy for minors, but *create* such a right.

Noting that their suit makes no distinction among minors, I ask: Are you really serious when you say that parents have no legal right to know, in advance, if their 10-, 11-, or 12-year-old daughter is about to get an abortion?

McFarren: (Pause) "I guess I'm feeling you're pushing for absolutes and if I had to go absolute one way or the other I suppose I would be pushed into that position yes."

McFarren says that the difference between us is that I seem to be able to "very easily" distinguish what ought to be absolute whereas she views the world as "a little more complex than that." She adds that while parental involvement is preferable in "most situations," there are times when such involvement is "detrimental" to both parents and "the patient" (this is what Planned Parenthood people call 10-, 11- or 12-year-old girls).

But, McFarren *is* an absolutist. When it comes to the legal right of parents to know if their minor daughter is about to get an abortion, she is absolutely against any such right for any parents. Period.

Now, I don't doubt for a minute that if some parents did know, in advance that their minor daughter was about to get an abortion this would complicate the situation. But even so, in my judgment, all parents of all minors should still have this right. After all, what is at stake here is simply prior notification, not parental permission.

The fascinating thing is that the Ann McFarrens of the world can see the possibility of problem parents, but they never seem to consider the possibility of problem abortionists. And they do exist. A series of articles in the Chicago Sun-Times in 1978, titled "The Abortion Profiteers," revealed the following about Windy City clinics:

Dozens of abortion procedures were performed on women who were not pregnant;

An alarming number of women suffered such severe internal damage that all their reproductive organs had to be removed;

Some doctors performed abortions in only two minutes not even waiting for the anesthetic to take effect;

Some counselors were paid not to counsel but to sell abortions with sophisticated pitches and deceptive promises; and

Some referral services, for a fee, sent women to a disreputable Detroit abortionist whose dog, to one couple's horror, accompanied a nurse into the operating room and lapped blood from the floor.

It is into this potentially monstrous maelstrom that the Planned Parenthood crew would hurl our minor daughters without even letting us know.

What the Planned Parenthood mindset represents is a throwback to the Dark and Middle Age concept of children as "miniature adults"—a dangerously naive notion written about in horrifying detail in a new book "The Disappearance of Childhood" (Delacorte Press) by Neil Postman, professor of media ecology at New York University. Says Postman:

"The liberal tradition (or as the Moral Majority contemptuously calls it, secular humanism) has had pitifully little to offer in this matter. For example, in opposing economic boycotts of TV sponsors, civil libertarians have taken the curious position that it is better to have Procter & Gamble's moral standards control television's content than Queen Victoria's. In any case to the extent that a political philosophy can influence cultural change, the liberal tradition has tended to encourage the decline of childhood by its generous acceptance of all that is modern and a corresponding hostility to anything that tries to 'turn back the clock.' But in some respects the clock is wrong, and the Moral Majority may serve as a reminder of a world that was once hospitable to children and felt deeply responsible for what they might become."

To those of you who might say you don't care what Planned Parenthood is trying to do I would say: you ought to because you are paying for their unceasing efforts to destroy the American family. During the past five years, the Planned Parenthood Federation, at the international level, has had its snouth thrust deeply into the public trough to the tune of $49.9 million worth of your hard-earned federal tax dollars and mine. To finance its 188 U.S. affiliates, Planned Parenthood has gotten $248.3 million in federal tax dollars.

You'd think that with this kind of support from so many parents the folks at Planned Parenthood would allow parents to plan something.●

WORLD PRAISES PRESIDENT'S FOREIGN POLICY INITIATIVES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BROOMFIELD. Mr. Speaker, President Reagan's recent initiatives in the Middle East and elsewhere have captured headlines around the world and won new respect for American foreign policy among our allies and adversaries.

A recent article by the Christian Science Monitor's distinguished correspondent Joseph C. Harsch praised the efforts of the President and his new Secretary of State George Shultz as "rational, coherent, orthodox—and professional."

Headlined, "From Peking to Palestine, Reagan's Policies Gain Applause," Mr. Harsch singles out the Middle East peace initiative as the centerpiece of the administration's new foreign policy efforts. He said:

It was the smooth professionalism of the new Middle East initiative that most impressed, and surprised, the diplomatic world.

Clearly something new has been added to the foreign policy operation in Washington—that something, presumably, being the quiet, common-sense approach of the new Secretary of State, George Shultz.

Mr. Speaker, I commend the following full text of this excellent assessment of U.S. diplomacy to anyone concerned about the course of U.S. foreign policy.

From Peking to Palestine, Reagan's Policies Gain Applause

(By Joseph C. Harsch)

President Ronald Reagan of the United States is doing well with his "new start" toward peace in the Middle East.

It was denounced in Moscow as being "pro-Israel" and by Israeli Prime Minister Menachem Begin in Tel Aviv as being "anti-Israel." It was welcomed by the opposition Labor Party in Israel and has been given a mixed but generally favorable reception by the Jewish community in the US.

It was treated as an interesting basis for fresh thinking among the moderate Arab countries—particularly by Jordan, Saudi Arabia, and Egypt. And even the more radical Arab leaders at the summit in Fez, Morocco, carefully refrained from rejecting it.

In the allied capitals of Western Europe, diplomats and politicians looked up in startled approval—and not only at the "new start" for the Middle East, which they recognized as being a well-tailored, well-balanced, and professionally launched operation.

They also noted with equal approval that President Reagan was backing away from his efforts to block the Siberian gas pipeline, and had also succeeded in getting his relations with mainland China back on the road opened up by Richard Nixon and traveled by Gerald Ford and Jimmy Carter.

It almost seemed over the past week that Washington foreign policy had suddenly become rational, coherent, orthodox—and professional.

It was the smooth professionalism of the new Middle East initiative that most impressed, and surprised, the diplomatic world. Clearly something new has been added to the foreign policy operation in Washington—that something presumably being the quiet, common-sense approach of the new secretary of state, George Shults.

The story of how it was done began to surface during the past week. Here are some of the things that came out.

The details of the American position which the President set forth in his speech of September 1 had been worked out after consultations with Arab leaders in the Middle East, with opposition party leaders in Israel, with leaders of the American Jewish community at home, and with the chief foreign policy experts of previous administrations. These included Henry Kissinger from Nixon-Ford days, and Zbigniew Brzezinski and Mr. Carter himself from the Carter era.

One result was that when the President spoke, a great deal of support had already been arranged, and came into view. Mr. Carter was in print the following day approving what the President proposed and contradicting the Begin contention that the "new start" was a departure from Camp David. On the contrary, said Mr. Carter, who was there, it accorded in every detail with the letter and intent of Camp David.

The disapproval of Moscow was, of course, not prearranged in Washington. But it was a welcome though unintentional assist. To have Moscow call the President's program "pro-Israel" helped to neutralize the Begin contention that it was unfriendly to Israel.

The planning included a surprise for Mr. Begin. A letter, giving details, went to him on August 31. He was reported to be furious at not having had previous warning and not having been "consulted." The reproach fell on deaf ears at the White House, which remembers painfully that Mr. Begin invaded deep into Lebanon without consulting Washington and continued the bombing of west Beirut well after the President had said publicly that he wanted the bombing stopped and that he had "lost patience."

Besides, said White House officials, if Mr. Begin is told of such moves in advance, he is liable to "leak" the facts and launch his own counter-propaganda operation before Washington gets moving. Mr. Begin in this case was surprised. There was the expected "leak" from his offices. His spokesman claimed that Camp David had been betrayed.

But the White House moved the Reagan speech up by one day. The President's proposals got the top headlines. Mr. Begin's objections came second. And, ever since, news of support for or interest in the President's plan has been keeping pace with Mr. Begin's attack on it. The Reagan White House is learning how to play the public relations game against Mr. Begin, a past master in this department.

What prospects for progress along the lines the President has now proposed?

Mr. Begin obviously has not the slightest intention of giving up his own plan, which calls for Israel in effect annexing all of the "occupied territories."

The Arabs under Mr. Begin's plan would end up in a condition much like that of the blacks in South Africa when squeezed into "tribal homelands." The Arabs would have local control over their own fragmented communities but no true "self-determination."

This is the exact opposite of the intention of Camp David and of the new Reagan proposals.

Which concept will prevail?

Mr. Begin has the armed forces to hold control over the area. So long as he is prime minister, he will presumably keep a tight grip on all the occupied territories. And the White House has specifically renounced the idea of putting "pressure" on him by withholding weapons and aid.

But does that literally mean no pressure?

Once before Washington wanted a military withdrawal by Isreal. That was at the end of the 1956 Suez "crisis." Israeli troops occupied the entire Sinai Peninsula. President Eisenhower wanted them back behind their prewar lines.

Mr. Eisenhower did not apply overt "pressure." He did not cancel existing deliveries. He just refused to talk to any Israeli government official about such things as oil—until they pulled their troops back out of Sinai. They did.

In this case, Mr. Begin faces an immediate challenge in the Knesset. The cost of his invasion of Lebanon has been heavy. Israel will be wanting replacements for lost equipment and funds to keep its economy going. Mr. Reagan can afford to let time work inside the political fabric of Israel.

He is offering Israel a new chance to get peace with its Arab neighbors in exchange for territory. The urge for peace may grow inside Israel and among Israel's American supporters to the point where Mr. Begin will either give in or be replaced by a new leadership in Israel. Polls within Israel suggest this is already happening.

Meanwhile, Mr. Reagan has walked back from his hard-line stand on the pipeline affair. And the presence of Richard Nixon in Peking this past week testifies to the fact that U.S.-China relations are back on track after the Taiwan detour of last year.●

SOCIETY OF PLASTICS ENGINEERS ANNIVERSARY; FRANK S. MARRA HONORED

HON. JIM DUNN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DUNN. Mr. Speaker, I would like to take this opportunity to congratulate the Society of Plastics Engineers, a group founded in Michigan and about to celebrate its 40th anniversary on September 21. I would also like to recognize and congratulate Frank S. Marra of Bloomfield Hills, Mich., who will be honored as the SPE Detroit chapter's 1982 outstanding member during the anniversary celebration.

Now headquartered in Brookfield Center, Conn., the SPE was founded in 1942 by the late Fred O. Conley during a meeting at Tam-O-Shanter Country Club in Orchard Lake, Mich. What started as an organization of 132 members has grown through the past 40 years into a worldwide association with 84 chapters and close to 25,000 members.

The SPE represents the engineering side of the plastics industry, with "plastics" being one of the most important and growing industries in the United States. The SPE and its members have worked closely with the automotive industry in weight reduction programs to aid the energy conservation programs of the U.S. Government. Robert D. Forger, the executive director of SPE, and Thomas W. Haas, SPE's 1982–83 president, will both discuss the history and future of the SPE at its 40th anniversary celebration, to be held at Tam-O-Shanter Country Club, the site of its original founding.

In addition, the Detroit section will honor Frank S. Marra, president of the D-M-E Co., as its 1982 outstanding member. A listing of Mr. Marra's accomplishments during the past 35 years shows that he is truly deserving of this honor.

Mr. Marra worked as a co-op toolmaker while in vocational high school and was in the U.S. Naval Reserves from 1945–46. He received a degree in mechanical engineering from Lawrence Institute of Technology in 1949 and served in the U.S. Navy in 1950 during the Korean war.

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He joined D-M-E as a sales manager in 1949 and later became advertising and marketing manager and executive vice president at the company. In 1968, he was named president and general manager and 2 years later became a senior vice president and director for the plastics group of the VSI Corp., which had purchased D-M-E in 1961. Mr. Marra became an executive vice president of VSI Corp. on October 1, 1981, and it was recently announced that he will become president and chief operating officer of VSI, effective October 1 of this year.

His contributions to the SPE began in 1950 and have continued to the present. In 1958 he was a Detroit section vice president and from 1959 to 1964 served on the Detroit section board of directors. He has been a cochairman and member of the National SPE Credentials Committee since 1961. In 1978, Mr. Marra became a charter member of the board of directors SPE Moldmakers and Mold Design Division and the I. T. Quarnstrom Foundation. Since 1977, he has also been a member of the SPE Moldmakers' Division Policy Board. He has spoken at conferences thoughout the United States and Canada and has received several awards, including the national certificate of merit in 1974 and a distinguished member award in 1979. Mr. Marra and his wife, Phyllis, have three children and live in Bloomfield Hills, Mich.

Mr. Speaker, thank you for letting me have this time to recognize an outstanding organization and one of its finest individuals. I offer my sincere congratulations and admiration for their past accomplishments and want to extend my best wishes for a prosperous future.●

HISPANIC AEROSPACE WORKERS CONSORTIUM HONORS FIRST HISPANIC ASTRONAUT

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MARTINEZ. Mr. Speaker, when America's first astronauts ventured into space nearly a quarter century ago, the hearts and minds of people around the world went with them. The same is true today and we are all delight in the successes of the Space Shuttle missions.

It is only fitting, then, that as we celebrate National Hispanic Heritage Week, we pay tribute to the first astronaut of Hispanic descent. I am speaking of Dr. Franklin R. Chang, who is currently a member of the NASA team.

Dr. Chang is being honored this coming Sunday, September 19, by the Hispanic Aerospace Workers Consortium, an organization of employees at Rockwell International in Los Angeles. The consortium was established to provide a communication link among Hispanic employees regarding job opportunities, resources, and general information relevant to Rockwell Hispanic employees. They also work with students in helping them to prepare for the type of background that high technology companies such as Rockwell are looking for.

The Hispanic Aerospace Workers Consortium has a number of other objectives, as well, establishing liaison and lines of communication with other minority communities, legislative representatives, and the community in general.

When Dr. Chang makes his first flight on the Space Shuttle in the near future, he will carry with him the hopes and aspirations of 20 million Hispanic people. Dr. Chang was selected as an astronaut candidate by NASA in 1980. Since then, he has completed the 1-year training and evaluation period making him eligible for assignment as a mission specialist on future Space Shuttle flight crews.

Dr. Chang has a remarkable background. Born in 1950 in San Jose, Costa Rica, he was graduated from the University of Connecticut in 1973 with a bachelor's degree in mechanical engineering. In 1977, he received a doctorate in applied physics from the Massachusetts Institute of Technology. At MIT, Dr. Chang became involved in the U.S.-controlled fusion program and did extensive research in the design and operation of fusion reactors.

After finishing at MIT, Dr. Chang joined the technical staff of the Charles Stark Draper Laboratory. His work there was geared strongly toward the design and integration of control systems for fusion reactor concepts and experimental devices. In 1979, Dr. Chang developed a novel concept to guide and target fuel pellets in an inertial fusion reactor chamber and, more recently, has been engaged in the design of novel magnetic systems for energy recovery and impurity control in fusion powerplants. He has presented numerous papers at technical conferences and in scientific journals.

In addition to his scientific work, Dr. Chang has worked as a house manager in an experimental community residence for deinstitutionalizing chronic mental patients. More recently, he became involved as an adviser with a rehabilitation program for Hispanic drug users.

Today, I am sure you will join me in saluting Dr. Chang and the Hispanic Aerospace Workers Consortium, and wishing them continued success.●

COLUMBIA: NO GEM IN OHIO

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BROWN of Ohio. Mr. Speaker, all of us are aware that the price of natural gas to our consumers is increasing at alarming rates. We are reminded of this in every day's mail. Our constituents may not realize it, but the bizarre and Byzantine natural gas law passed in 1978 by this Congress at the request of President Carter is to blame. How else could prices go up 40 percent when demand for gas is down by a dramatic amount? After all, we have seen the demand for oil fall over the last 2 years and the price has fallen accordingly. This is understandable. Sellers of oil keep lowering the price in order to induce reluctant consumers to buy. Oil prices were down by 9.7 percent in June 1982 from their January 1981 level.

Natural gas prices still go up, completely oblivious to the reality that the demand for natural gas is decreasing with every price increase. Instead of leveling off, prices go up still further because the pipelines which buy the natural gas from producers can pass through the ever-escalating price of gas to their consumers automatically without being subject to the natural resistance of the market or regulation. How is this possible? Why, it is the gift of Congress—the Natural Gas Policy Act of 1978 which provides incentives for a pipeline to buy gas at a price higher than the real world of the market can support. The NGPA has many fundamental flaws—flaws which led me in 1978 to plead for its rejection by this House.

At this point in the RECORD, Mr. Speaker, I would like to include an article from a newspaper in my State of Ohio, the Licking Countian, on my efforts to bring some sense to the Columbia Gas Transmission Corp., the pipeline company which delivers gas to Ohio. Ms. June Martin, its author, does a very good job of telling a complicated story in an understandable and very readable manner. As a newspaper editor myself, I compliment her journalistic skills.

Thank you, Mr. Speaker.

[The Licking (Ohio) Countian, July 23, 1982]

COLUMBIA: CADILLAC PRICES

(By June Martin)

Columbia Transmission Corporation, the pipeline supplier of Columbia Gas of Ohio, is stopping production of over 9000 gas wells in Ohio due to surplus on the market. The kicker is that Columbia is buying high priced gas from Louisiana and Oklahoma. Storming the walls of this utility kingpin is Representative Clarence "Bud" Brown, candidate for governor on the Republican ticket.

Filing a "friend of the court" brief with the Federal Energy Regulatory Commission, Brown complained that Columbia has been one of the highest purchasers of expensive deregulated gas, both by volume and by price and plans on passing the cost to the consumer. He also charged that while buying from "deep gas" producers of the Southeastern United States, Columbia has forced Ohio gas wells to be shut in. Following a 44-day shut-in in 1981, Columbia required producers to shut their wells for 90 days this summer or reduce production by half for a period of 180 days. This Ohio gas would be substantially cheaper than the prices Columbia has been paying to Louisiana or Oklahoma producers.

Columbia meanwhile contends that in order to get secure and sufficient supplies of natural gas, it must engage in the bidding war with other pipelines for unregulated gas and pay amounts in excess of $10 per MCF (million cubic feet). However, for six months, ending February 28, 1982, just over 9 percent of Columbia's gas supply purchases from producers were of section 107 uncontrolled gas at an average cost of $8.39 per MCF. During the same period 35 percent of Columbia's purchases from gas producers were of section 104 "old" controlled gas at an average cost of $1.53 per MCF.

Also, Columbia has its own deregulated gas production, and it would be interesting to know how much Columbia is buying its own "deep gas" at Cadillac prices, rolling those costs through to consumers and dumping that Cadillac gas to off-system purchasers at Chevy prices.

Brown claims that unlike Transcontinental and Michigan-Wisconsin pipelines, Columbia has done nothing to ease the burdens its has placed on the consumers it serves. Since May 1, Transco has cut the costs of its 107 gas purchases in half by refusing to take any more $6-$10 gas. It has done this by exercising all the market-out clauses which it has in its gas purchase contracts. Michigan-Wisconsin has also exercised market-out clauses and has reduced its 107 gas costs by roughly $3 per MCF.

Strangely, Columbia cannot follow Transco's lead because Columbia did not negotiate with producers for any market-out rights prior to June 1, 1985. Since Columbia refuses to make its 107 contracts public, it is not known to what extent Columbia could reduce its "deep gas" purchase costs. This failure to use contractual safeguards which would have alleviated the damage caused by Columbia's own misjudgement in the amount of gas the corporation would need, makes it the responsibility of the corporation, and not that of the Ohio consumers, contends Brown.

If Columbia would do what Transco had done, Ohio gas consumers would receive less of an increase in cost and Ohio gas producers would sell gas instead of shutting it in, because a good deal of Ohio gas is competitive at $5 MCF.

Back in March, Brown testified before the Columbia Gas hearing of FERC in Columbus. At that time he pointed out our country's strange dual market of regulated and deregulated gas prices, which has caused serious market ordering problems.

President Carter's Natural Gas Policy Act (NGPA), guarantees pipelines the right to pass through to customers the costs incurred in purchasing, as long as those prices are not the result of fraud or abuse. The mechanism for this pass through is the "purchased gas adjustment." The issue in the Columbia case is whether they should be permitted to pass to consumers the cost of purchasing high priced gas when there appears to be little or no economic justification for Columbia to incur this cost. The corporation itself projects a surplus of supply through 1985.

Marketing problems have been created by the NGPA's part regulated and part deregulated pricing structure. For example, currently regulated well-head gas prices are far below the prices that gas would bring in a free market. Depending upon how much of this federally priced regulated cheap gas a pipeline has, it can afford to bid up the price of unregulated gas supplies because the price consumers pay is the average cost of all of a pipeline's gas over a given time. Thus prices for gas in the narrow deregulated categories are far above prices that would prevail in a free market where all producers of gas had to compete against each other for sales and all pipelines competed freely with each other for the least expensive sources of natural gas.

For example, the average well-head price of gas was $1.91 per MCF in Sept. 1981 (equivalent to $11 per barrel of crude oil). Much regulated gas is being sold at prices below this; however, because it is selling at prices put under contract years ago when gas was less costly to find. Uncontrolled gas is frequently selling for more than $9 per MCF (equivalent to crude oil cost $50 barrel). The only apparent constraint on prices pipelines seem wiling to pay for gas in unregulate categories is the pipeline's ability to sell gas at its average price. If that average price gets too high, industrial and residential consumers might choose to switch to oil.

The net effect of this strange dual market is that the benefit of price controlled gas is not going to customers, but to producers of unregulated gas who are receiving prices that are higher than market prices would be without this patchwork of regulations—a benefit not enjoyed by the shut-in Ohio producers.

As the ranking Republican on the House Energy and Power Subcommittee, Brown strongly opposed the NGPA when it was approved in 1978, arguing that "if there ever was a legislative proposal that embraced all the flaws, it is this bill."●

THE WORSENING PLIGHT OF SOVIET JEWRY

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MOFFETT. Mr. Speaker, the past several months have brought intensified Soviet persecution of Jews, particularly those wishing to emigrate.

This year, Jewish emigration from the Soviet Union has averaged less than 250 people per month. This is the lowest level in over 10 years. Harassment of Jews and attacks on Jewish study and cultural groups have increased dramatically. Only a few days ago, Soviet officials arrested Feliks Kochubievski, a Jew who has been waiting for an exit visa for over 4 years. Charged with distributing anti-Soviet articles, Mr. Kochubievski joins dozens of other Jewish prisoners of conscience in the Soviet Union who have been imprisoned for their determination to practice their faith and to make Israel their home.

Like many of the tens of thousands of Jewish refuseniks, Mr. Kochubievski has been denied the right to family reunification guaranteed by the Helsinki accords, which the Soviet Union has signed. He has two sons in Israel. Like many of his fellow refuseniks, he was dismissed from his job for his desire to emigrate. And like many other refuseniks, he may serve a prison sentence, possibly in a hard labor camp, for speaking out on behalf of his cultural and civil rights.

Against this backdrop of deepening despair, it is heartening that the House Foreign Affairs Subcommittee on Human Rights today approved House Concurrent Resolution 336, legislation which I introduced earlier this year to urge the Soviets to adopt a more humane emigration policy. The Human Rights Subcommittee staff and the National Conference on Soviet Jewry deserve special thanks for their diligent efforts to get this resolution passed. This resolution, which also calls upon the President to discuss Soviet Jewry at upcoming summit talks, grain and trade negotiations, and other appropriate opportunities, is a modest step toward reversing the dismal plight of Soviet Jews. I hope that the full Foreign Affairs Committee and the House will now act quickly to approve this resolution.

It is hard for those of us who take our freedom for granted to understand the ruthless repression which Jewish refuseniks must bear. They are systematically denied academic and career opportunities, and enjoy no freedom of religion, emigration, or cultural expression. We in Congress must continue to speak out on behalf of these brave people, who cling to their cultural heritage in spite of the consequences. And we must continue to press the Soviets to pursue a more humane and civilized emigration policy.●

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, HOUSE VETERANS' AFFAIRS COMMITTEE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MOTTL. Mr. Speaker, a hearing on agent orange was held this morning by the House Veterans' Affairs Subcommittee on Oversight and Investigations. I would like to submit for the Record my colleague Tom Daschle's opening statement.

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Statement of Representative Tom Daschle

Mr. Chairman I appreciate your willingness to hold these hearings today and allow me to be a participant.

In my four years in the Congress I have not faced an issue as frustrating and perplexing as Agent Orange. Nonetheless, a major step forward was achieved last year with the passage of legislation (Public Law 97-72) approving priority health care and medical treatment for Vietnam Veterans suffering from the effects of Agent Orange. The House of Representatives and Senate unanimously agreed that this was a necessary and reasonable step to assure Vietnam Veterans of our commitment to their concerns until the various scientific studies shed more light on the complexities of this issue.

From the beginning I have had doubts about the Veterans' Administration's ability and commitment to fulfill the mandate in Public Law 96-151, which ordered the VA to conduct an epidemiological study into the effects of Agent Orange on Vietnam Veterans. Unfortunately, my worst fears have come true and I believe that certain parties in the VA are deliberately trying to delay the Agent Orange study. Mr. Chairman, this study was ordered nearly three years ago and it hasn't even begun. I believe the reason the VA is delaying the inception of this study is that they do not want to face the ultimate decision of compensating Vietnam Veterans and their families. This is evidenced by the fact that the VA has still not developed a statutory framework for the resolution of veterans claims, despite the fact that a number of scientific studies outside the VA will be completed within the next several months. To add insult to injury, the VA has admitted that it will be 1988 or 1989 until this study is completed. This is unacceptable and I am outraged.

This past March, two scientific review panels, the Office of Technology Assessment (OTA) and the White House Agent Orange Work Group Science Panel approved a protocol design for the VA study as well as an exposure index developed by the Army Agent Orange Task Force. The exposure index will be used in selecting study cohorts of veterans who were or were not exposed to the herbicide during their service in Vietnam. Virtually every relevant agency in the Federal government is represented on the Science Panel or the Work Group, including the Departments of Defense, Labor, Health and Human Services, Agriculture, EPA, OMB, National Cancer Institute, Center for Disease Control. National Institute of Occupational Safety and Health (NIOSH), National Institute of Environmental Health Sciences (NIEHS), OTA, the VA and others.

Despite the approval of all these agencies, the VA decided in May, four months after submitting the second protocol design to the Science Panel and OTA, that yet another scientific review was necessary. This additional review, conducted by the National Academy of Sciences is still underway.

Then, in July, the VA announced to the Science Panel that the exposure index previously agreed to needed further refinement. Today, six months after the initial agreement on the index had been reached, and two months after announcing their dissatisfaction to the Science Panel, the VA has still not finalized and sent to the DOD the changes they now seek to make so the Army Agent Orange Task Force can continue their process of cohort selection.

The VA has had innumerable problems since this effort first began including the rejection of the initial protocol design. I believe these problems have been the direct result of a lack of in-house expertise in this area. At this very moment the VA still does not have an epidemiologist on board and I believe that many of their problems are directly related to this lack of in-house expertise. A full time epidemiologist should be hired immediately so that crucial decisions relative to the study are made by an expert in the field.

Mr. Chairman, the delays in this study are an unconscionable affront to the dignity of Vietnam Veterans and their families. Vietnam Veterans will not stand for it, the American people will not stand for it and the U.S. Congress most certainly will not stand for it. Unless the VA decides on final exposure criteria as well as whether to include a third cohort of veterans who didn't serve in Vietnam within 7 days of this hearing and begin a planned pilot study within 30 days, I believe that this committee should take action to relieve the VA of all responsibilities relative to this long delayed study. I am having legislation drafted at this moment to achieve this end.

Finally, it is time to take action with respect to compensating Vietnam Veterans with soft tissue cancers. Three Swedish epidemiological studies have documented increased soft tissue cancer rates in Swedes exposed to herbicides containing dioxin. In addition, a National Institute of Safety and Health (NIOSH) dioxin registry has revealed significantly higher rates of soft tissue cancers in U.S. industrial workers exposed to dioxin. Considering this plethora of scientific data and the fact that soft tissue cancers are exceedingly rare in young age groups, compensation is not out of order.

Mr. Chairman, Vietnam Veterans deserve better than to wait until 1988 or 1989 for the VA to provide answers. Every other government body now conducting research on Agent Orange, including the Air Force and Center for Disease Control, will be providing clues to the specific hazards of Agent Orange no later than the end of next year. Even the Australian government, which sanctioned their own studies long after Congress was forced to order a study, expect to complete all their efforts next year.

As Franklin Delano Roosevelt once said, "The only limits on the realization of tomorrow are our doubts today." Mr. Chairman, there already exist too many doubts about this study to allow these delays to go on.●

WHAT THE THREE SISTERS PREDICT FOR THE CLINCH RIVER REACTOR

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MORRISON. Mr. Speaker, since the beginning of the nuclear age, the United States has been the world leader in the peaceful uses of the atom. Today, all the industrialized countries of the world have strong nuclear power programs in place. In addition, they are committed to the development and commercialization of advanced nuclear breeder technology.

Although the United States took an early lead in breeder development, France, the United Kingdom, and the Soviet Union have been operating demonstration plants since the 1970's. West Germany is now building an intermediate-sized demonstration plant, and Japan will soon begin construction of its own loop-type plant. A consortium of European partners, led by France, will operate the 1,200-megawatt Superphenix by 1984 and the Soviets are designing a 1,600-megawatt plant.

Despite the broad base of foreign actual breeder operating experience, technologically the United States still leads all other countries, due partially to the experience gained from the fast-flux test facility in my district. In designing the first U.S. demonstration plant, the Clinch River breeder reactor, American scientists have incorporated features and innovations no other country can claim. In fact, Europe and Japan have shown interest in incorporating some of our technology in their breeder plants. And yet, there are those, under the guise of being fiscally conservative, who would have us abandon this leadership and continue to rely on foreign entities to supply our energy needs.

I believe it is especially appropriate that today, while the Clinch River foes rally around to defeat this important project, Members on both sides of the issue take time to read Llewellyn King's editorial from the August 26 Energy Daily. It provides background and insight that I believe will be helpful.

What the Three Sisters Predict for the Clinch River Reactor

(By Llewellyn King)

Access to Washington from Virginia, where much of its working population lives, is made more difficult because of a shortage of bridges across the Potomac. As man's works go, bridges are among the most benign, fitting into the landscape and enhancing rather than detracting from the environment. The world would be poorer without the Golden Gate, Sydney Harbor, the Bridge of Sighs, the Chesapeake Bay Bridge, or even, yes, the Brooklyn Bridge. Therefore, for a long time it was planned to build a sixth bridge into Washington from northern Virginia to be called the Three Sisters Bridge. But it was not to be. Even after some of the pilings were sunk in the late 1960s, a coalition of assorted activists under the banners of environmentalism, civic action and consumerism, waged a bitter fight that resulted in abandonment of the facility.

The arguments covered now familiar landscape: it would be too expensive, it would destroy community life in Washington, it would damage the river, Washington would become another Los Angeles, and many more. The activists won and there is no bridge.

The result is that northern Virginia commuters sit in long lines, particularly on the George Washington Parkway which would have been most relieved by the bridge. They burn gasoline and pollute the air. Additionally, two ugly satellite communities have grown up on the western bank of the Potomac, Rosslyn and Crystal City. Now a candidate for mayor of Washington is actually proposing busing city workers to jobs that have been forced out into the surburban communities.

The architects of this urban error are not to be found; gone on, no doubt, to defend the people's interest elsewhere.

The saga of the Three Sisters Bridge is brought to mind by the fate of the Clinch River Breeder Reactor which may be sealed next month on the floor of the House of Representatives. Rep. Claudine Schneider (R-R.I.), a freshman congresswomen, is leading a fight to delete funding for the breeder and so terminate a project that has been a central part of the nation's nuclear strategy for a decade and half. The matter at issue is not so much the merits or otherwise of Clinch River, but a case of how a determined bunch of activists can take it upon themselves to force a contrived conclusion to a national project.

The Clinch River Breeder Reactor has had a troubled history and I have been among its critics for many years. The project was conceived as a partnership between the utility industry and the government by the former Atomic Energy Commission. At its inception, Clinch River, in the cost estimates of the day, would have been a financially shared project. As it stands today, the demonstration breeder is a project nearly totally financed by the Treasury with a utility contribution of only $270 million. The world has changed around Clinch River in every respect: the cost of money the need for power, projections of uranium resources, the future of the nuclear option itself and the ability of the utility industry as presently constituted to purchase breeders in their second generation. It is not hard to make a case for re-examining the project and particularly for re-examining its financing. Put its detractors, who are led by a coalition of environmentalists of a neo-Luddite persuasion, are not concerned with giving it a trial before its execution. Schneider says she is 95 percent certain that she has the votes to do the dastardly deed while the Congress is considering a continuing resolution to finance the government. If Schneider is right, Clinch River will be put away in an offhand way by congressman acting not on the considered evidence for the continuation of the project in the new realities of 1982, but reacting to the cumulative lobbying power of those who are ideologically opposed to nuclear power and who have made Clinch River the target of their vengeance since the inception of the project.

An article in The Congress Watcher, a publication of the Ralph Nader organisation, explains how it was done. The publication says: "One of the primary causes for alarm among congressional backers of the project is the grassroots organizing campaign instituted by Congress Watch in concert with the National Taxpayers Coalition Against Clinch River. The campaign targeted twenty-five 'key' incumbents in the northeast and midwest who voted for Clinch last year for intensive local lobbying. Grassroots activity is also being encouraged in 200 other districts around the country.

"The purpose of the campaign was to generate enough constituent and media/editorial pressure to convince the Representatives to withdraw their support for CRBR. To do this, the coalition assigned an organizer to each of the target districts. There, organisers brought together coalitions of labor, peace, and environmental groups in opposition to the reactor, encouraged local opposition candidates to take public stands against Clinch and challenge the incumbent on his pro-Clinch voting record, and generated local letter-writing campaigns, telephone and telegram trees and constituent meetings with the Representatives.

"To fuel the fight, the coalition provided the districts with background information; buttons, bumper stickers, and brochures were sent to those indicating an interest in working locally against the Breeder. Often, one or two district residents acted as local coordinators, handling the details of press conferences, setting up preliminary meetings between local groups and organizers, and working with local media."

The preceding is eloquent testimony to how a bunch of ideologues dedicated to a single purpose can manipulate the Congress to a course of action that its instigators will later claim reflects the will of the people.

It is no way to bring great projects to fruition. It is a way to litter the landscape with the ruins of many beginnings and no conclusions, and it is an appalling way of preparing for the future. It is also an egregious waste of the talent and money already spent.

I've argued in the past that a demonstration breeder reactor should have been built expeditiously on a government site and examined for its licensability retrospectively but not licensed in the conventional way. That way a considerable amount of money would already have been saved, the reactor would be operating and the technical experience would be part of the world's sum of knowledge. But despite the protestations to the contrary of its critics, the nuclear community, going back to its earliest days when weapons manufacture was wrested from the Pentagon, has had a recalcitrant strain of egalitarianism.

It was the hated Joint Committee on Atomic Energy that conceived the radical concept of public participation in licensing. For example, there is no public participation in the issuance of an airworthiness certificate for a jetliner, and jetliners have a more palpable bearing on the health and safety of the public than do remotely-located reactors.

Likewise, it was the Atomic Energy Commission, painted by its critics as the embodiment of public insensitivity, which insisted that the first demonstration breeder reactor should be licensed and should be designed to demonstrate that breeder reactors can be licensed according to the prevailing licensing regime, a many-splendored thing.

It is in large measure because of these publicly-minded criteria that the road for CRBR has been so bumpy.

The project, insofar as it exists, does so in a series of warehouses around Knoxville for want of regulatory approval of site preparation. Considering its difficulties, it has shown stunning endurance. President Carter tried to stop it and the Congress funded it. Even among nuclear supporters it has had its telling critics including, in and out of office, James Schlesinger. It is not universally loved in industry and because, for the Carter years, it had to be financed against the will of the Administration, it has not been honestly evaluated for some time. In the nearest thing to such an evaluation—a General Accounting Office report in July—it received a surprising bill of health. In short, GAO said finish it.

The Administration and the Congress need to take a new look at Clinch River; at its future in view of the unravelling of the nuclear power program, and the expectations for uranium supply. It also needs to be assessed for its technological contribution. But most of all, it needs to be looked at in terms of how it can be financed (should the decision to proceed be in the affirmative) off the budget in order to protect it from the wrath of the white-wine-and-quiche crusaders who, if they lose this year, will be back next year and the year after.

The figures do not look all that bad; in fact, they are quite encouraging. While its critics have pointed to the massive (and there's no denying that) escalation in price, they fitfully ignore the corresponding increase in the price of electricity which makes the project close to economically viable.

Schneider says that the project will cost $7.5 billion and Westinghouse, the prime contractor, is talking in the region of $3.2 billion. Estimates of the value of the electricity which will be produced and sold to the Tennessee Valley Authority extend over the life of the plant from $3 billion to $8 billion. For a demonstration plant, that does not sound like a turkey. If these figures can be substantiated, a case can be made for continuing the project and for financing it with a loan guarantee, or possibly even a bond sale, or some mixture of these devices.

But no case for or against CRBR can be made without some consideration for its international impact. Europe and Japan stand to gain marginally useful technological data from Clinch River. Because of its flexible design it allows for relatively easy interchange of heat exchangers. This could help other nations with less flexible designs, which have suffered major heat exchanger problems. Similarly, the denser U.S. breeder fuel will prove of interest to reprocessors who do not know what the characteristics of the fuel would be.

But that is by the by. The central issue to our allies is one of dependability in partnership. There are already discussions between Japan, Germany, the United Kingdom and other interested governments on future breeder cooperation. The big machines to come cry out for multinational development, but the United States has been establishing itself as an unreliable partner, a maverick ally, a skittish bedfellow. While political machinations among governments are routine—who could forget General de Gaulle?—disbelief in the contract-worthiness of the U.S. is growing.

Confidence, which was eroded by the Carter Administration when it reversed two decades of breeder and reprocessing policy, has taken a new hammering in the matter of the Soviet gas pipeline. If Congress contrives to extinguish the CRBR, it is reasonable for our allies to conclude that you cannot trust us in the long haul; that America has no longevity.

For a host of reasons, more deliberation needs to go into the future of CRBR than for it to be throttled in a quick amendment to a money bill by a Congress which is scrambling to go home to deal with its own longevity problem.●

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MODERNIZATION OF THE NATIONAL DEFENSE INDUSTRIAL BASE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BENNETT. Mr. Speaker, from Maj. Gen. J. Milnor Roberts, AUS (retired), executive director of the Reserve Officers Association, I have received the following resolution which I am pleased to insert in the RECORD at this point:

MODERNIZATION OF THE NATIONAL DEFENSE INDUSTRIAL BASE

Whereas there is more to national defense than having well-trained personnel equipped with superior weapon systems; and

Whereas our industrial base is an integral part of our national security posture and a strong industrial base is an important deterrent to conflict; and

Whereas without a responsive industrial base, both our weapon systems' capabilities and our flexibility to respond to national security interests and sustain a desired level of activity are severely impaired; and

Whereas the U.S. defense industry is hard-pressed to meet even the current, relatively modest, procurement goals of the military services; and

Whereas over the past decade thousands of subcontractors have deserted the defense business while major defense producers have failed to invest adequately in new technology; and

Whereas studies have shown that many problems exist in the ability of our industries to reach swiftly to the need for increased defense production, thus highlighting a weakness in our combat sustainability: Now, therefore, be it

Resolved, That the Reserve Officers Association of the United States urges the Congress to pass legislation to encourage and assist in the modernization of the Nation's industrial base to strengthen our defense capabilities and ensure national security.●

AIR POLLUTION: IT HURTS MORE THAN PEOPLE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BROWN of California. Mr. Speaker, I would like to take the opportunity to comment on the continuing concern about air pollution. There has been an enormous amount of time and effort spent in the debate on where the line is drawn between public need versus public desire when setting air quality standards.

It has often been suggested that the cost of reducing the concentration of air pollutants far exceeds the cost of that pollution to the community. While a finite dollars and cents figure could not be placed on the benefits of clean air, we do not need to rely on the esthetic aspects of clean air as justification for air quality controls.

In the past year especially, several reports have brought to our attention the monetary importance of clean air, and the economic damage induced by dirty air. Earlier this year, the Office of Technology Assessment (OTA), in a preliminary study of the effect of ozone pollution on a number of popular crops, reports startling figures of economic loss. In California alone, the damage to crops due to ozone and other airborne pollutants has been estimated at close to the $1 billion mark. Also to be considered in the costs of allowing this pollution to continue are the secondary costs to society produced due to the death of species in restricted areas, the reduction in the growth of forests and the damage done to our lakes and streams—and consequently aquatic life—due to acid rain.

Because of the documentation of the importance of these ecological factors, George M. Woodwell, in an article in the Christian Science Monitor, suggests that ecological damage should be considered in setting air quality standards. I would like to urge my colleagues to review and consider Mr. Woodwell's perspective outlined in the following article, and keep it in mind during the coming debates and action on the Clean Air Act. Perhaps this might help us all sort out the forest from the trees when defining our priorities for air quality regulation.

[From the Christian Science Monitor, Sept. 9, 1982]

NEEDED: A CLEAN AIR ACT STRONG ENOUGH TO PROTECT PLANTS

(By George M. Woodwell)

How clean must we keep the air?

The answer has been made complicated; it need not be. It is determined by the requirements for life—by the physical, chemical, and biotic conditions that are required to support living systems. These include not only man himself but those other organisms upon which man depends. It is not determined by partial cost-benefit analyses, or by compromise among competing polluters.

Standards for air quality are derived from two sources: (1) effects on man and (2) effects on other living systems. Criteria based on effects on man are less stringent than those based on effects on plants. This is because plants are more sensitive than people to low-level air pollution. This relationship is true in virtually every circumstance except for ionizing radiation, where standards for protection of man are adequate to protect all other organisms.

It is not surprising that those who may profit from pollution call for relaxed standards on the grounds that hazards to human health are small. Such arguments are largely irrelevant. The most important and demanding criteria are those derived from populations of plants and the factors that affect them. If plants are protected, people will be free of both direct and indirect effects of air pollution.

The costs to industry may be high, but the costs of failure to protect people and plants are far higher. The most immediate issue is the strengthening of the Clean Air Act, now up for renewal in the US Congress, and the governmental apparatus required to carry it.

Consider the Northeastern United States. There has been an increase over the last three decades in both the acidity of rain over North America and the area affected by the acidification. Effects are concentrated in the Northeast. All the acidity is not deposited in rain. A substantial fraction—one-third to one-half—apparently arrives as sulfur dioxide on small particles. It is removed from the air on to surfaces, including leaves, where it is converted to acid.

Other changes include increases in exposure of plants to a variety of contaminants such as ozone and heavy metals. All are produced as a result of the heavy use of fossil fuels in industrialized areas to the west and south. New England bears the brunt of the effects because the storm tracts commonly pass through it.

Effects of this atmospheric chemistry are sufficiently complicated and difficult to measure to provide ample basis for discussion among scientists and equivocation by others. The most clearly definced effect of acid rain is the acidification of lakes and streams in areas where the bedrock contains little limestone. Such areas have granitic rocks, their metamorphic equivalents or sedimentary rocks that have a low alkalinity and therefore little capacity for neutralizing acids.

Most of New England falls in this category. Its lakes, streams, and ground water are turning acid. The effect is the loss of freshwater fisheries in lakes and streams, the virtual sterilization of the water bodies. High acidity in wells mobilizes aluminum and other metals containing lead from minerals in the ground and in pipes. Aluminum is toxic to plants and certain animals, including fish. Lead and other heavy metals are toxic to people as well.

In certain instances, the additions of the nitrogen and sulfur associated with the acidification have caused increases in growth of trees. There is, however, substantially no basis for assuming that the acid-leaching of forests or agricultural crops by the more acid rains will produce any effect in the longer term apart from imporverishment in essential nutrients, reduction in rates of growth, reductions in agricultural yields, and the loss of species and yields from forests. These effects are in part directly due to the acidification and in part due to increased incidence of diseases favored by any generalized stress.

The effects of ozone and other components of photochemical smog compound the problem. The national standard for ozone was set in 1971 as 0.08 p.p.m. The EPA reported that, in 1977, all but one of the 34 monitoring stations in New England reported violations of the standard. The standard was increased in 1979 to 0.12 p.p.m. The probability was 95 percent or more that ozone concentrations exceed the new standards in 1977 and 1980 over extensive areas in the United States, including the Eastern US from south of Washington to Portland, Maine. Many plant species are sensitive to photoxidant damage at concentrations below the current standard.

Evidence for the effects of air pollution on forests is accumulating rapidly. Damage has been shown in stands of white pine along the Blue Ridge Parkway in western Virginia. An average reduction in growth of 40 percent was measured for the period 1955-77. A similar reduction in the growth of pitch pine has been reported in New Jersey over approximately the same period. Other trees showing severe declines in vigor, even widespread mortality, over extensive areas in New England include the beech, the red spruce, the white ash, and the white and yellow birches. Insect and disease organisms are known to increase under air pollution, and it would be surprising to discover that the problems observed in forests in the Northeast are not caused by the combination of air pollutants now present.

The pattern of change to be expected in the terrestrial vegetation under this series of stresses is well known. These transitions are under way: losses of forest productivity, shifts in species, losses of tree species, all accompanied by losses of freshwater fisheries and the acidification of ground water, with toxic consequences for man.

The evidence is that agricultural yields in the Ohio River Basin are being reduced significantly and that photosynthesis by forests over large areas is also being reduced. A measure of this is seen in the magnitude of reductions in solar energy captured by plants and made available by both agriculture and forests. These range upward to as much as 40 percent in certain circumstances. A general 20 percent reduction in the magnitude of these resources would not be surprising.

If the reduction applies to all of New England's forests, it would, in energy terms, amount to the output of between fifteen and thirty 1,000-megawatt power plants, or 135 to 270 billion kilowatts a year. Valued as electricity, it would be worth $7 billion to $14 billion. This is a substantial subsidy for the New England states to be paying from their forests and pastures and cultivated fields in the interests of industrialization elsewhere.

These statements may appear as mere assertions by an overly sensitive scientist. Each statement, however, can be documented in detail from the extensive literature now available on air pollution and on biotic effects. While none of these statements are beyond argument, the weight of evidence is that our regulatory system, as it stood before it was cut by the present administration, was inadequate to protect the public's vital interests. The proposals to weaken the Clean Air Act further promise still greater erosion of the capacity of the nation to support people.

How clean must we keep the air? Clean enough for green plants.●

HOPES FOR A NEW YEAR OF PEACE AND PROSPERITY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SOLARZ. Mr. Speaker, on Friday at sunset millions of Jews throughout the world will begin the celebration of the Jewish New Year, 5743. The sounding of the ram's horn on Rosh Hashanah marks the arrival of the high holy days. These 10 days which culminate in Yom Kippur are the most solemn time of the year in our religious calendar.

Rosh Hashanah is a time to remember and to reflect, not only on the events of the past year, but on the fundamental issues: the creation of the world, the meaning of one's existence, and the wonder of God's enduring covenant with Israel.

Following our ancient traditions, millions of Jews will pause in prayer, fasting, and ritual observances to put their lives in perspective and to renew their commitments to the tenets of their faith, so that by Yom Kippur their names may be written into the Book of Life.

But these holy days are also a time of thanksgiving and hope. We take time to thank our God for the gift of life, for our religious and cultural heritage which enriches our existence, and to marvel at the survival of the Jewish community despite thousands of years of persecution, oppression, and the almost demoniacal campaigns of murderous fanatics who sought to destroy our people. But the people of Israel live, and during this holy season they pray longingly for the time when all Jews will be able to live in peace and security, and for the day when the survival and prosperity of the nation of Israel is assured.

May I take this opportunity to extend to you, Mr. Speaker, and to all my colleagues and friends, a very special "Shannah Tova" and a new year of peace and prosperity for you and our great Nation.●

SOVIETS LINKED TO ASSASSINATION ATTEMPT OF POPE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. RITTER. Mr. Speaker, I would like to submit two newspaper articles for the benefit of my colleagues on the new evidence beginning to surface linking the Soviet KGB to the assassination attempt of the Pope last year. These articles summarize an NBC special to be aired at 10 p.m. on Tuesday, September 21, 1982. I urge my colleagues in the Congress to try and watch that program.

I recently called for hearings to be held in the Helsinki Commission focusing on this issue and would strongly encourage my colleagues to attend this hearing at 9:30 a.m. on Thursday, September 23, in room 2172, Rayburn House Office Building.

[From the New York Times, Sept. 15, 1982]

NBC NEWS LINKS SOVIET TO ATTEMPT ON POPE'S LIFE

NBC News reported yesterday that it had found evidence suggesting that Pope John Paul II was the target of an assassination attempt with the knowledge and perhaps the assistance of Soviet and Bulgarian intelligence agencies.

NBC News said the Pope was targeted because of his support of the solidarity movement in Poland. The report also said that the Pope had sent a handwritten letter to Leonid I. Brezhnev, the Soviet leader, in 1980 in which the Polish-born Pope said he would abdicate the papacy and lead the resistance if Soviet troops invaded Poland.

The letter, reportedly delivered by a Vatican envoy, instigated a secret shuttle mission between Moscow, Rome and Warsaw that led eventually to a temporary easing of the Soviet attitude toward Solidarity, NBC News said.

It said its report came after a nine-month investigation by the correspondents Marvin Kalb and Bill McLaughlin. The network released details of the investigation today in advance of the airing of a documentary, "The Man Who Shot the Pope—A Study in Terrorism." It is scheduled to be broadcast Sept. 21.

In an article in the September issue of Reader's Digest, Claire Sterling, author of "The Terror Network," said the shooting of the Pope in St. Peter's Square in May 1981 was in retaliation for the Pope's support of Solidarity. Mrs. Sterling also maintained that the shooting had the backing of the Soviet Union, which she said acted through the Bulgarian intelligence organization.

[At the time of Mrs. Sterling's article, the Moscow radio broadcast a denunciation of the allegations, saying, "The absurdity and unfoundedness of this claim are obvious."]

NBC News traced what it called an unbroken line from Mehmet Ali Agca, the Turkish gunman convicted for the shooting of the Pope to organized crime elements in Turkey, the Bulgarian secret service and the K.G.B., the Soviet intelligence agency.

"A Soviet connection is strongly suggested, but it cannot be proved," Mr. Kalb said.

The correspondent said "it seems safe to conclude" that Mr. Agca had "been drawn into the clandestine network of the Bulgarian secret police and, by extension, the Soviet K.G.B."

ESCAPED FROM PRISON IN TURKEY

NBC news said bank records showed that Mr. Agca deposited $10,000 two months before the assassination of a Turkish newspaper editor, Abdi Ipecki. Mr. Agca was convicted of the murder but later escaped from a maximum security prison in Turkey. In addition, Mr. Agca had large sums of money deposited for him in Turkish banks while he was a student at Istanbul University.

NBC News said that Mr. Agca appeared to have been backed financially at every step of the way by organized crime in Turkey and that the Bulgarian secret service has strong ties to the Turkish syndicate.

NBC News quoted Vladimir Sakharov, a former K.G.B. agent who defected, as saying that information held by the Bulgarians would also be known by the K.G.B.

[Special for USA Today, Sept. 15, 1982]

SOVIETS PLOTTED TO KILL THE POPE, NBC REPORTS

The Soviet Union "responded with bullets" to Pope John Paul II's handwritten plea for Soviet troops to stay out of Poland, NBC News Correspondent Marvin Kalb said Tuesday.

Kalb offered that explanation for the attempted assassination of the pope by a Turkish terrorist in St. Peter's Square on May 13, 1981, after a press screening of an NBC "white paper" suggesting Soviet complicity.

The documentary—*The Man Who Shot the Pope:* A Study in Terrorism—reveals for the first time that the pope sent a special envoy to the Kremlin the previous August bearing what Kalb describes as "an extraordinary handwritten letter, in Russian," for Soviet President Leonid Brezhnev.

"It said though the pope was the head of a universal church, he was still a Pole, and

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deeply affected by events in Poland," says Kalb in the documentary, airing at 10 p.m. EDT next Tuesday.

"If the Russians moved against Poland," Kalb said, quoting directly from the letter, "the pope said he would 'lay down the crown of St. Peter' and return to his homeland to stand shoulder to shoulder with his people."

Kalb believes the letter, supplied by a source whom Kalb was "pledged not to identify," convinced the Soviet Union to keep troops out of Poland and made it possible for Solidarity leader Lech Walesa to sign the Gdansk Agreement establishing the first independent trade union in a Communist country.

The pope paid the price, according to the documentary, when outraged Soviet officials then hatched the plot kill him.

The plot quickened after Pope John Paul II met with Walesa in January of last year at the Vatican, says NBC, after the pope "approved of plans to send millions of dollars to Solidarity, and to stiffen the spine of the Catholic Church in Eastern Europe."

Kalb attributes his material in part to "western intelligence sources," otherwise unidentified, but defends his judgment at the outset. "NBC News has accumulated a great deal of evidence, some of it, to be sure, circumstantial," says Kalb. "A Soviet connection is strongly suggested, but it cannot be proved."

The documentary reports that Mehmet Ali Agca, the terrorist convicted of attempting to kill the pope, was linked to a "Turkish Mafia" closely connected with the Bulgarian secret police and the Soviet KGB.

"I certainly believe that any 007 at the service of any government would have an easy job trying to harm the pope," Vatican Cardinal Silvio Oddi told Kalb. "If—and what—secret service did the job, I don't know. We suspect. We think. We are trying to prove."

Kalb reports, moreover, that the "people who know the pope best" say he believes he is still threatened by the Soviets.

With the help of Agca's hired hand, Solidarity has been crushed, martial law imposed, and, Kalb concludes: "The Russians have checkmated the pope."●

AN INCENTIVE EMBODIED IN OUR CONSTITUTION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. PORTER. Mr. Speaker, one of the provisions our Founding Fathers saw fit to embody and protect in the Constitution, specifically in article I, section 8, provides that Congress shall have the power:

> To promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

Under the patent system that was instituted in 1790, an inventor was granted a limited, 17-year monopoly on his invention in exchange for its disclosure to the public. The theory behind the patent system is that some incentive is needed to spur on innovative research and the investment of private risk capital. A patent provides such an incentive by giving the developer and marketer a limited exclusive market position in which they can hope to recoup their development costs and possibly make a profit.

Moreover, the principle behind the inclusion of the patent system in the Constitution has been historically proven. Our country in 1790 was exclusively agricultural, wholly dependent on Europe for its machines and manufactures. Many feel that the principle of patent protection has been instrumental in our Nation's evolution from where it stood in 1790 into the most successful industrialized Nation in the world.

Over the last 20 years, however, certain fields of endeavor have been less equal than others in terms of the duration of patent life. In 1962, the hypnotic drug thalidomide, which was available in the United States only as an experimental drug but received widespread use during the late 1950's in many countries, was pointed to as producing congenital defects in offspring. The furor created by this tragic finding led not only to increased caution among physicians about the use of drugs in pregnant women but also stimulated the congressional enactment of far more stringent drug testing requirements than had previously been the case. One of the results of the testing regulations, however, has been that a new drug, which prior to 1962 required only 1 year between patenting and getting FDA approval, now requires over 7, resulting in less than a 10-year patent life.

The question that is raised by this result is not only one of fairness and equity to all fields of endeavor, but of the need so well understood by our Founding Fathers—to promote progress and innovation in this country. Producing a drug today now entails 10 years, $70 million and a failure rate of 90 percent. Although the safety of the public should clearly receive the highest consideration, given the present high cost of producing a drug, and the tremendous contributions to medical progress such a discovery can make, it seems pointless and even counterproductive not to give this field of endeavor the same protection as is guaranteed other products.

For these reasons I intend to support H.R. 6444, the Patent Term Restoration Act, which would extend the patent term by the period of time required by the Food and Drug Administration to review and approve a new drug or medical device up to 7 years.

At a time when it seems realistic to expect that the Federal Government's ability to fund biomedical research appropriations may not be able to increase as quickly as in previous years, it seems unwise not to do our utmost to provide the private sector with the incentive embodied in our Constitution to continue the development of new products and treatments. To do otherwise will only jeopardize our country's ability to retain and use the ingenuity that is ours ultimately to provide for the public good.●

EXPLANATION OF ADDITIONAL WEEKS OF UNEMPLOYMENT COMPENSATION AS PROVIDED IN H.R. 4961, THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FORD of Tennessee. Mr. Speaker, in order to assist my colleagues in answering constituent inquiries about the Federal supplemental benefits program contained in H.R. 4961, I am putting in the RECORD an explanation of this new program. Present law is described followed by an explanation of the Federal supplemental benefits program provided by H.R. 4961 and a chart showing the estimated maximum number of weeks of benefits that will be payable to unemployed workers in each of the States for the first quarter of fiscal year 1983. I realize that this explanation may not answer all of the questions that may come up about this program. I encourage my colleagues to contact the staff of the Subcommittee on Public Assistance and Unemployment Compensation at extension 5-1025 for further information.

PRESENT EXTENDED BENEFITS PROGRAM

Under present law, up to 26 weeks of State financed unemployment compensation benefits are payable to unemployed individuals who meet the qualifying requirements of State law. In 9 States, claimants may receive more than 26 weeks of State benefits.

Under the permanent Federal-State extended benefits program (EB), additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. Extended benefits are financed 50 percent from State trust funds and 50 percent from Federal unemployment trust funds.

Until September 25, 1982, extended benefits are payable in a State when, over the most recent 13-week period, the State insured unemployment rate (IUR) averages at least 4 percent and, in addition, is at least 20 percent higher than the average State IUR during the comparable period in the previous 2 years. When the 20-percent factor is not met, a State, at its option, may provide extended benefits when the State IUR reaches 5 percent.

Forty States have adopted this optional State trigger.

The IUR is calculated by dividing the number of workers receiving State benefits by the number of workers covered by the State unemployment compensation program. Prior to last year's Reconciliation Act, workers receiving both State benefits and those receiving extended benefits were included in the calculation. Last year's act dropped extended benefits claimants from the calculation. In addition to this change in calculating the IUR, the Reconciliation Act increases the EB trigger rate effective September 25, 1982. On that date, both EB triggers will be increased 1 percent. In other words, after this date, extended benefits will be payable in a State when the State IUR equals 5 percent or greater—rather than 4 percent—and is 20 percent higher than it was during the comparable period in the previous 2 years; or, at its option, when the IUR equals 6 percent—rather than 5 percent—regardless of the IUR in previous years. The change in the calculation of the IUR has had the effect of lowering State IUR rates and consequently made it more difficult for States to remain on the EB program. The increase in the trigger rates effective September 25, 1982, will make it even more difficult for States to qualify for the EB program.

FEDERAL SUPPLEMENTAL BENEFITS PROVIDED IN H.R. 4961

H.R. 4961 provides up to an additional 10 weeks of benefits to unemployed workers in any State in which extended benefits have been payable since June 1, 1982. These benefits will be available even if the State has triggered off the EB program since that date. It should be pointed out that these Federal supplemental benefits—and administrative costs—will be paid entirely out of general revenues. A simple extension of EB, which is financed 50 percent from State trust funds, would have placed a severe financial burden on a number of State trust funds that have outstanding loans to the Federal Government for past EB payments.

In States that have not at anytime since June 1, 1982, met the EB triggers, but have an IUR of 3.5 percent or greater, jobless workers will receive up to an additional 8 weeks of benefits. Those in States with an IUR of less than 3.5 percent will receive up to an additional 6 weeks of benefits. These provisions of H.R. 4961 recognize that the current unemployment problem is national in scope, and unemployed workers in all States need additional help.

The Federal supplemental benefits will be payable for weeks of unemployment between September 12, 1982, and March 31, 1983. In order to be eligible for these benefits, an individual must have exhausted his regular State benefits and any extended benefits to which he is entitled, and first, his benefit year must end on or after June 1, 1982, or second, he must have been eligible for extended benefits for any week beginning on or after June 1, 1982.

When an individual is determined to be eligible for State unemployment compensation benefits, he generally has 52 weeks, known as the benefit year, in which to collect the benefits to which he is entitled. In most States the benefit year begins with the first week for which a valid claim for benefits was filed. Therefore, in most States, if an individual first filed a valid claim for unemployment compensation benefits for a week beginning on or after June 1, 1981, he should be eligible for Federal supplemental benefits. This is because his benefit year will end on or after June 1, 1982.

If an individual's benefit year ends before June 1, 1982, but he was eligible to receive extended benefits for any week beginning on or after June 1, 1982, he will be eligible to receive Federal supplemental benefits.

EFFECT OF FEDERAL SUPPLEMENTAL BENEFITS PROVISION OF H.R. 4961 ON THE MAXIMUM NUMBER OF WEEKS OF UNEMPLOYMENT COMPENSATION BENEFITS PAYABLE TO UNEMPLOYED WORKERS [1]

State	Present law		H.R. 4961	
	Regular State benefits	Projected extended benefits [2]	Projected Federal supplemental benefits	Total
Alabama	26	0	10	36
Alaska	26	13	10	49
Arizona	26	[3] 13	10	[4] 49
Arkansas	26	0	10	36
California	26	0	10	36
Colorado	26	0	6	32
Connecticut	26	0	6	32
Delaware	26	0	10	36
District of Columbia	34	0	6	40
Florida	26	0	6	32
Georgia	26	0	6	32
Hawaii	26	0	8	34
Idaho	26	13	10	49
Illinois	26	0	10	36
Indiana	26	0	10	35
Iowa	26	0	10	36
Kansas	26	[3] 13	10	[4] 49
Kentucky	26	0	10	36
Louisiana	28	0	10	38
Maine	26	0	10	36
Maryland	26	0	10	36
Massachusetts	30	0	10	40
Michigan	26	13	10	[4] 49
Minnesota	26	0	10	36
Mississippi	26	13	10	49
Missouri	26	0	10	36
Montana	26	0	10	36
Nebraska	26	0	6	32
Nevada	26	0	10	36
New Hampshire	26	0	6	32
New Jersey	26	0	10	36
New Mexico	26	[3] 13	10	[4] 49
New York	26	0	8	34
North Carolina	26	0	10	36
North Dakota	26	0	6	32
Ohio	26	13	10	49
Oklahoma	26	0	6	32
Oregon	26	13	10	49
Pennsylvania	30	13	10	[4] 49
Puerto Rico	20	13	10	43
Rhode Island	26	13	10	49
South Carolina	26	13	10	49
South Dakota	26	0	6	32
Tennessee	26	0	10	36
Texas	26	0	6	32
Utah	36	0	10	46
Vermont	26	0	10	36
Virginia	26	0	6	32

EFFECT OF FEDERAL SUPPLEMENTAL BENEFITS PROVISION OF H.R. 4961 ON THE MAXIMUM NUMBER OF WEEKS OF UNEMPLOYMENT COMPENSATION BENEFITS PAYABLE TO UREMPLOYED WORKERS [1]—Continued

State	Present law		H.R. 4961	
	Regular State benefits	Projected extended benefits [2]	Projected Federal supplemental benefits	Total
Virgin Islands	26	0	10	36
Washington	30	13	10	[4] 49
West Virginia	28	13	10	[4] 49
Wisconsin	34	0	10	44
Wyoming	26	0	6	32

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[1] Weeks of benefits are based upon the State's projected insured unemployment rate (IUR) for the 1st quarter of fiscal year 1983.

[2] Extended benefits (EB) payable under EB triggers effective Sept. 25, 1982.

[3] State will trigger off of EB before end of quarter.

[4] No individual worker can receive more than 39 weeks of regular State and extended benefits.◆

EXTRADITION ACT OF 1982

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. STUDDS. Mr. Speaker, the House is expected soon to consider H.R. 6046, the proposed Extradition Act of 1982. Although I have not personally formed a final judgment about how I may vote on this measure, I have become aware of a number of questions which have been raised about specific aspects of the bill. Many of these questions are discussed in the attached essay which was written by Mr. Christopher Pyle, and which appeared in the New York Times on August 11.

I am particularly concerned about the provisions of the extradition bill which would authorize the arrest and detention of an individual solely on the basis of an accusation, unsupported by evidence, put forward by a foreign government; by the narrow definition of political offense which is adopted by the bill; and by the extent to which responsibilities of a judicial nature are placed in the hands of political officials from the Department of State.

As I say, I have a good deal of respect for the Committee on the Judiciary and for the authors of H.R. 6046. I am hopeful that when the House does debate this legislation, careful consideration will be given to the controversial provisions of the bill, and a full and thoughtful debate will be held on a series of amendments which I understand will be offered.

The following essay by Christopher Pyle discusses the extradition legislation in a manner which I believe should be of interest to my colleagues.

The article follows:

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[From the New York Times, Aug. 11, 1982]

Ruining Extradition

(By Christopher H. Pyle)

South Hadley, Mass.—For more than two centuries, the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. That policy may be about to end.

Under either of the extradition bills now cleared for debate in Congress, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

For example, both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Under current law, no American court will allow a person to be extradited if it can be shown that he or she is really being sought for "an offense of a political character." Each bill would, in its own way, destroy this defense.

The Senate bill, which the Administration favors, would do so by stripping the courts of jurisdiction over the political crimes defense. Instead, the accused would have to raise his claim with the State Department, which could then decide whether protecting him from persecution is worth the risk of alienating the foreign government involved.

The State Department's motive for supporting this bill is clear. It wants to be able to swap alleged criminals with foreign countries the same way that children trade baseball cards: "We'll give you one terrorist if you give us three embezzlers."

The House bill seems more protective of political refugees than the Senate bill because it would keep in the courts the power to decide the political crimes defense. However, the appearance is deceptive, because the House bill would forbid the courts to regard as political, and hence not extraditable, any offense involving bodily violence or a conspiracy to commit bodily violence. There is a tiny exception for crimes committed under "extraordinary circumstances," but the bill does not say what they might be. All that is clear is the political message: Protecting foreign revolutionaries from return to authoritarian regimes should be a rare, not common occurrence.

As if to emphasize a preference for authoritarian regimes, both bills would forbid the courts to question whether a request for extradition was really a subterfuge for persecution. Nor would the courts be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the ground that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment. Judgments of this sort would be left to the State Department, which currently pretends that El Salvador protects human rights.

The Administration claims that the courts should be denied the power to look into foreign injustice in order to assure the neutrality of the United States in foreign political conflicts. However, there can be no doubt where the Justice Department's sympathies would lie; both bills would require its lawyers to represent all foreign governments in their extradition requests. The United States would be neutral—on the side of whoever happens to be in power.

In anticipation of this legislation and a treaty to implement it, the Marcos dictatorship is requesting the extradition of more than a dozen of its opponents now living in the United States. One of those charged with plotting in the United States to support bombings in the Philippines is Benigno Aquino Jr., an associate at Harvard University's School of International Affairs who ran against President Ferdinand E. Marcos in the last free election. The only "evidence" against Mr. Aquino comes from the confession of an alleged coconspirator who later recanted, claiming he had been tortured. However, if either bill now before Congress passes, that evidence will be sufficient to send this democratic politician back into the hands of the dictator he opposed.●

TRIBUTE TO JOHN NEAFSEY, NEW JERSEY LEGION COMMANDER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FLORIO. Mr. Speaker, I would like to take this opportunity to pay tribute to an outstanding American, John M. Neafsey, of Gloucester City N.J.

Mr. Neafsey is being installed as commander for the American Legion in New Jersey. This honor follows a long history of active participation in the Legion as well as service to his Nation and community.

John has been commander of both the Fairview No. 71 Post and the Camden County organization of the Legion. He is currently serving the Legion on the national level as vice chairman of the Americanism council and on the legislative council.

John is also a member of the Veterans of Foreign Wars, the Free and Accepted Masons, the Knights of Columbus, and other groups.

John's military service began in September 1940, when he joined the 157th Field Artillery. He transferred to the U.S. Army Air Force in 1943, serving in the 2d, 3d, and 15th Air Forces. He was discharged in September 1945.

Married to the former Evelyn Davis, he is father to three daughters, Evelyn, Doris, and Annamae, and a son, Charles. Mr. and Mrs. Neafsey have six grandchildren. John Neafsey has been employeed by the U.S. Postal Service for the last 18 years.

I know that John Neafsey will serve with distinction and honor as commander of the American Legion's New Jersey Department. My best wishes go out to him, his family, and his fellow Legionnaires.●

EARLY WARNING

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. ASPIN. Mr. Speaker, I understand that the Transportation appropriations bill for fiscal year 1983 may be considered shortly by the House. I am, therefore, inserting into the Record a cost analysis of that bill prepared by the staff of the Budget Committee. The cost analysis uses data provided by the Congressional Budget Office.

This bill, like the three other appropriations bills that I have discussed previously, is within its discretionary budget authority targets provided through the budget process and thus not subject to delayed enrollment. In addition, the mandatory budget authority provided in the bill is within the 302(b) targets agreed to by the Appropriations Committee pursuant to the act and the first budget resolution. The budget resolution does not assume the need for future supplementals that would exceed these targets.

The subcommittee does exceed its outlay targets, however. It is not possible to know exactly why this occurred since outlays are an estimate, but it is likely that the Appropriations Committee action provides a different program mix than those assumed in their 302 subdivision. To the extent that the spending mix has been altered, it is likely that faster first-year spending means lower outlays in 1984 and 1985—I believe this phenomenon has no long-run significance.

Early Warning Summary: H.R. 97-7019, Department of Transportation and Related Agencies Appropriation Bill, Fiscal Year 1983

Floor action: Tentative, Thursday, September 16, 1982

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

(1) Discretionary Programs in Bill: The bill equals the subcommittee's total for budget authority and thus would not be subject to the deferred enrollment provisions of the Budget Resolution. The bill is over the allocation for outlays by $244 million.

(2) Mandatory Programs in Bill: The bill is under the subcommittee's total for budget authority by $43 million and over the outlay total by $476 million.

(3) Overall Bill Total: The bill is under the subcommittee's budget authority total by $43 million and over the outlay total by $720 million.

(4) Credit Targets: The bill is under the subcommittee's total.

(5) Supplemental Amounts Which May Be Required: Future anticipated funding requirements also in the Subcommittee's jurisdiction if added to this bill would not breach the Subcommittee's 302(b) budget authority allocation but would further breach the Subcommittee's 302(b) outlay allocation.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL HOUSE BUDGET COMMITTEE

Bill: H.R. 7019 Department of Transportation and related agencies appropriation, fiscal year 1983.

STAFF ANALYSIS

Committee: Appropriations.

Subcommittee: Transportation.

Floor Manager: Mr. Lehman (Florida).

Ranking Minority Member: Mr. Coughlin (Pennsylvania).

Scheduled: Tentative, Thursday, September 16, 1982.

I. Description of bill: This bill provides appropriations for the Department of Transportation and several other smaller independent agencies.

II. Comparison with target for discretionary appropriatons action: Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has *two* targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the subcommittee may have enacted this session, were to cause the target for discretionary budget authority to be breached, then the bill would be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution (or held at the desk and not sent to the President for signature).

The summary table below shows that the subcommittee is equal to its discretionary targets for budget authority and over in outlays. The numbers in the summary table could change as a result of floor amendments, Senate action, conference action on this bill, or possible future supplemental appropriations. Possible future supplementals are discussed in Section IV below.

III. Summary table:

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this subcommittee:		
1. Discretionary amounts in bill	10,815	8,244
2. Prior action		
3. Total action to date	10,815	8,244
4. 302(b) target	10,815	8,000
5. Over(+)/Under(−)		+244
6. Amounts assumed but not yet considered		
7. Over(+)/Under(−)		+244
The amounts shown below are only for mandatory programs that are funded by this subcommittee:		
8. Mandatory amounts in bill	384	380
9. Prior action		11,052
10. Total	384	11,432
11. 302(b) target	427	10,956
12. Over(+)/Under(−)	−43	+476
13. Supplemental amounts needed	39	31
14. Over(+)/Under(−)	−4	+507
The amounts shown below are for the bill total and include both discretionary and mandatory amounts:		
15. Total amounts in bill	11,199	8,624
16. Prior action		11,052
17. Total	11,199	19,676
18. 302(b) total target	11,242	18,956
19. Over(+)/Under(−)	−43	+720
20. Supplemental amounts	39	31
21. Over(+)/Under(−)	−4	+751

Note.—Detail may not add due to rounding.

IV. Explanation of over/under: Since the assumptions behind a committee's 302(b) subdivision are not required to be provided to the House, the House Budget Committee is unable to give a definitive answer to the question of where a particular bill is over or under a committee's 302(b) subdivision. The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee.

In state transfer grants-highways is $212 million in budget authority and $35 million in outlays above the assumptions in the budget resolution.

Urban mass transportation funding is $148 million in budget authority over the resolution assumptions and $62 million in outlays under the resolution assumptions.

Funding for FAA operations is over the budget resolution assumptions by $152 million in budget authority and $132 million in outlays.

Funding for FAA facilities and equipment is over the budget resolution assumptions by $113 million in budget authority and $12 million in outlays.

Funding for Coast Guard operating expenses is over the budget resolution assumptions by $164 million in budget authority and $128 million in outlays.

Funding for Coast Guard acquisition, construction and improvements is under the budget resolution assumptions by $407 million in budget authority and $52 million in outlays.

V. Credit: The First Budget Resolution contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit program levels, and subdivides those amounts among subcommittees. For comparative purposes, the table below shows the bill, plus items not yet acted on, and the credit subdivisions.

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. Credit program limits in the bill	2	337	
2. Limits assumed in the budget resolution not acted upon in the bill and other amounts not subject to limit	466	−280	
3. Possible total for subcommittee	468	57	
4. Credit subdivisions	550	125	3
5. Over(+)/Under(−)	−82	−68	−3

The great majority of direct loan activity under the jurisdiction of this subcommittee is not subject to limit. This occurs because (1) guaranteed loans purchased by the FFB are not subject to limit, and (2) direct loans incurred because of default on guaranteed loans are not subject to limit. In the aggregate the direct loan, primary loan guarantee and secondary loan guarantee commitment activity under the jurisdiction of this subcommittee, including activity not subject to annual appropriations limits, is less than the credit subdivisions allocated to this subcommittee. The largest credit program under the subcommittee's jurisdiction is rail rehabilitation and improvement loan guarantees. The bill limits the program to $275 million, which is $5 million more than the level assumed in the budget resolution.

VIII. Definitions of terms in summary table, section III:

Line 1. Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 7019.

Line 2. Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills.

Line 3. Total action to date: line 1 plus line 2.

Line 4. 302(b) target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5. Over(+)/Under(−): line 3 minus line 4.

Line 6. Amounts assumed but not yet considered: these are amounts assumed in fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next spring's supplemental appropriations bill.

Line 7. Over (+)/Under(−): line 5 plus line 6.

Line 8. Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9. Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10. Total: line 8 plus line 9.

Line 11. 302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes the effect of assumed authorizing legislation that would change the level of mandatory programs.

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Line 12. Over (+)/Under(−): line 10 minus line 11.

Line 13. Supplemental amount needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14. Over (+)/Under(−): line 12 plus line 13.

Lines 15. through 21. These lines equal the sum of lines 1 and 8, lines 2 and 9, etc., respectively.●

PER DIEM ALLOWANCES FOR MEMBERS OF CONGRESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. LAFALCE. Mr. Speaker, I have long believed that Members of the U.S. Congress who have their principal home in the district they represent should be given a per diem allowance for legislative days in Washington, D.C.

I recently requested information from the National Conference of State Legislatures regarding the award of per diem living expenses to State legislators. I would like to share this information with my colleagues.

The following States give the following per diem living expenses during the State legislative session: Alabama, $65 up to 105 calender days, unvouchered; Alaska, $60 unvouchered; Arizona, $40; $20 for Maricopa legislators, unvouchered; Arkansas, $44, vouchered; California, $46, unvouchered; Colorado, $40; $20, for Denver Metropolitan legislators, unvouchered; Connecticut, receive no per diem, $2,000 annually, unvouchered; Florida, $50, unvouchered; Georgia, $44, unvouchered; Hawaii, $20 for legislators outside of Oahu, unvouchered; $2,500 annual allowance for incidental expenses; Idaho, $44; $25 if legislator lives at home in capital city, unvouchered; Illinois, $36, unvouchered; Indiana, $50, unvouchered; Iowa, $30; $15 for Polk County legislators, unvouchered; Kansas, $50 unvouchered; Kentucky, $75, unvouchered; Maine, $35 for 7-day week meals and housing or $17 per day meals; mileage up to $20 per day, vouchered; Maryland, $50 maximum, vouchered; Michigan, total of $5,200 in 1981, unvouchered; Minnesota, $27, $17 for metropolitan legislators, unvouchered; Mississippi, $44 for actual daily attendance, none for Jackson legislators, unvouchered; Missouri, $35 for actual daily attendance, unvouchered; Montana, $40 for 7-day week, unvouchered; Nevada, $44, unvouchered; New Mexico, $40, vouchered; New York, up to $55, vouchered; North Carolina, $55, unvouchered; North Dakota, $70, unvouchered; Oklahoma, $35; only mileage during session if legislator lives at home, vouchered; Oregon, $44, unvouchered; Pennsylvania, $58, vouchered; South Carolina, $50 subsistence, vouchered; South Dakota, $50 for 5-day week, unvouchered; Tennessee, $66.47, unvouchered; Texas, $30, unvouchered; Utah, $15 expense allowance, unvouchered; Vermont, $45 if housed in capital; $17.50 if legislator lives at home, unvouchered; Virginia, up to $50 but no more than $44 as allowed by IRS, unvouchered; Washington, $44, unvouchered; West Virginia, $30 lodging, or up to $30 travel expenses if commuting; Charleston legislators $20 for meals but no other expense, unvouchered; Wisconsin, $30, $15 if legislator lives inside Madison, unvouchered; Wyoming, $44, unvouchered.●

EXTRADITION REFORM ACT OF 1982

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FAUNTROY. Mr. Speaker, it is with strong concern that I rise in opposition to H.R. 6046, the Extradition Reform Act of 1982. While I am strongly supportive of efforts to modernize and reform our extradition procedure so that they protect the civil liberties of those who face extradition because they are charged with serious crimes, I must oppose the bill because it has provisions which would prohibit the courts from reviewing extradition demands by foreign governments.

Court review is necessary to insure that the demand for extradition on the part of a foreign government is not merely an effort to supress political dissent. Additionally, the bill would permit individuals, both U.S. citizens and foreign nationals, to be detained without bail on the basis of only an allegation by a foreign government that an extraditable crime has been committed. Our history as a nation has been enhanced through the refuge we have provided on many occasions to victims of regimes which have a pattern and practice of human rights violations. H.R. 6046, while not deliberately seeking to overturn this proud tradition, is unfortunately drafted so broadly that it could endanger the very persons that our tradition of refuge has always shielded: Opponents of totalitarian and authoritarian regimes, be they U.S. citizens or foreign nationals.

My understanding is that a number of my colleagues will be offering amendments to H.R. 6046 which would alter the most objectionable provisions of this legislation.

I would urge my colleagues to give the most careful consideration to H.R. 6046 to alter the following provisions:

Require the court to hold an individual for at least 10 days based upon a mere request of a foreign government with no supporting evidence, unless the person can affirmatively demonstrate that he or she should be released;

Define the longstanding political crime exception to extradition so narrowly as to exclude in almost all circumstances crimes which in any was include violent conduct; and

Prohibit a court from inquiring into allegations that a State is seeking extradition of a person for the purpose of prosecuting such person because of his or her political opinions, race, religion, or nationality.

Consider just a few situations in which the courts would have no choice but to act:

A foreign government's mere, unsubstantiated allegation that an American citizen had, on a visit to that country, conspired to commit a violent act, coupled with a promise to produce evidence at a later date, would compel that the person be held without bail for for at least 10 and perhaps for more than 60 days.

A leading critic of a foreign dictatorship could be extradited based on allegations that he engaged in violent acts, without having the opportunity to demonstrate that the charges were a mere subterfuge to punish him for his political view or that he would be subjected to arbitrary detention or torture if extradited.

An individual who used violence to escape from a foreign prison where he was being tortured or who used force directed at military units as part of an uprising against a repressive regime would be unable to claim the political exception to extradition which has traditionally been the hallmark of American extradition law.

It is not sufficient that the executive branch could decline to file a complaint or to extradite in a particular case of manifest injustice. Every administration is under enormous pressure from its allies to extradite political opponents of the regime and to ignore evidence of torture or lack of due process. The recent decision by the Reagan administration to certify that the Government of El Salvador is not violating international human rights standards is but one recent manifestation of this continuing phenomenon.

In addition, I submit for your additional information a recent letter published in the New York Times by Christopher Pyle, a constitutional law and civil liberties scholar:

[From the New York Times, Aug. 11, 1982]

RUINING EXTRADITION

(By Christopher H. Pyle)

SOUTH HADLEY, MASS.—For more than two centuries, the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. That policy may be about to end.

Under either of the extradition bills now cleared for debate in Congress, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

For example, both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitrary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Under current law, no American court will allow a person to be extradited if it can be shown that he or she is really being sought for "an offense of a political character." Each bill would, in its own way, destroy this defense.

The Senate bill, which the Administration favors, would do so by stripping the courts of jurisdiction over the political crimes defense. Instead, the accused would have to raise his claim with the State Department, which could then decide whether protecting him from persecution is worth the risk of alienating the foreign government involved.

The State Department's motive for supporting this bill is clear. It wants to be able to swap alleged criminals with foreign countries the same way that children trade baseball cards: "We'll give you one terrorist if you give us three embezzlers."

The House bill seems more protective of political refugees than the Senate bill because it would keep in the courts the power to decide the political crimes defense. However, the appearance is deceptive, because the House bill would forbid the courts to regard as political, and hence not extraditable, any offense involving bodily violence or a conspiracty to commit bodily violence. There is a tiny exception for crimes committed under "extraordinary circumstances," but the bill does not say what they might be. All that is clear is the political message: Protecting foreign revolutionaries from return to authoritarian regimes should be a rare, not common occurrence.

As if to emphasize a preference for authoritarian regimes, both bills would forbid the courts to question whether a request for extradition was really a subterfuge for persecution. Nor would the courts be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the ground that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment. Judgments of this sort would be left to the State Department, which currently pretends that El Salvador protects human rights.

The Administration claims that the courts should be denied the power to look into foreign injustice in order to assure the neutrality of the United States in foreign political conflicts. However, there can be no doubt where the Justice Department's sympathies would lie; both bills would require its lawyers to represent all foreign governments in their extradition requests. The United States would be neutral—on the side of whoever happens to be in power.

In anticipation of this legislation and a treaty to implement it, the Marcos dictatorship is requesting the extradition of more than a dozen if its opponents now living in the United States. One of those charged with plotting in the United States to support bombings in the Philippines is Benigno Aquino Jr., an associate at Harvard University's School of International Affairs who ran against President Ferdinand E. Marcos in the last free election. The only "evidence" against Mr. Aquino comes from the confession of an alleged coconspirator who later recanted, claiming he had been tortured. However, if either bill now before Congress passes, that evidence will be sufficient to send this democratic politician back into the hands of the dictator he opposed.●

TAX INCREASES VERSUS REDUCED SPENDING

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. HUBBARD. Mr. Speaker, I have received an excellent letter from one of my constituents, attorney Wayne B. Youngblood of Mayfield, Ky., in response to the tax increase package which recently passed the Congress and was signed into law by the President. Mr. Youngblood strongly urges Members of Congress to reduce Government spending and show the citizens of this Nation that they are fiscally responsible. Reckless disregard of the ever-growing deficit must not be tolerated. I would like to share his letter with my colleagues. The letter follows:

WAYNE B. YOUNGBLOOD,
Mayfield, Ky., August 19, 1982.

Hon. CARROLL HUBBARD,
Washington, D.C.

DEAR CONGRESSMAN HUBBARD: I just heard your floor speech on the 10 P.M. news tonight concerning the "tax increase." Although I very much favored the "tax increase" bill, I was elated to hear your reason for opposing it. I too agree that we need to balance the budget by reducing spending; however, everyone else seems to be saying that that's not possible or that the Congress will never reduce spending that much. In the past, I favored the tax cut (and I've opposed tax increases) solely because I wanted to keep the pressure on the need to reduce spending. However, this current year's projected deficit just seems to me to be making our long-term goal of eliminating the national debt that much harder. With this $100 million package, with perhaps more spending cuts with your help, and with economic recovery; the next three years look great to me.

It's my view that gradual economic recovery over a few years is the best we can hope for. That slow but steady method will, in my view, teach us a lot of economic lessons along the way and leave our country with a very efficient and sound springboard for long-term growth.

I'm thrilled that you and so many others in Congress seem to agree that we must reduce spending. I'd like to see another "massive" spending reduction (I thought the last one just whittled!), and most of the government employees dislocated by it could be shifted to a collection function rather than their current "hand-out" function. I'm very much for firm enforcement of the tax laws we do have. When our country makes it clear to all that we'll never again live beyond our means with deficits year after year, I sincerely believe that we'll see an outpouring of financial and patriotic support from our citizenry. There's millions of patriotic Americans who realize that we're all heirs of the greatest country in the world; but in the past no one wanted voluntarily to throw good money in a treasury being spent with reckless disregard. The Congress seems to be talking fiscal responsibility now; when we make further progress in cutting out all the nonsensical programs in the budget, I think we'll see a degree of cooperation unseen since WWII.

Thanks for listening, and please advise if ever I can be of any help.

Sincerely,

WAYNE B. YOUNGBLOOD.●

SOVIET EXPANSION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. RITTER. Mr. Speaker, I would like to insert into the CONGRESSIONAL RECORD an article that is well worth the attention of my colleagues and should be read by every Member in this Congress. It is an excellent article written by our colleague MICKEY EDWARDS who zeros in on the real essence of the Soviet expansion issue.

The article follows:

SOVIET EXPANSION AND CONTROL OF THE SEA-LANES

(By Mickey Edwards)

Americans felt the pinch some years back when an Arab embargo cut down the flow of oil to U.S. shores. Consider how much greater the impact might be if the expanding Soviet Navy were to cut the sea-lanes which bring oil and many other vital resources to our shores.

Soviet expansion is a growing threat to the unhindered use of the world's sea-lanes, the vital threads by which nations are linked in a web of interdependence. Anything less than global access to the world's waterways places the United States in serious jeopardy. Let us, then, consider specific examples of Soviet expansion and the likely consequences for the West if it goes unchecked.

MIDDLE EAST

The 1979 invasion of Afghanistan compels us to recognize anew the centuries-old Russian desire for warm-water ports. With the southern border of Afghanistan 350 miles from the Arabian Sea, Soviet aircraft based in southern Afghanistan are now some 500

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miles closer to the sea-lanes serving the Persian Gulf. At present, the Soviets are moving to upgrade the airports at Herat, Shindand, and Farah to the south into full-fledged advance air bases. In fact, Soviet aircraft are now closer to strategic points in the Persian Gulf than they would be if based in Tehran.

The ports at Gwadar in southwestern Pakistan and Chah Bahar in southeastern Iran beckon the Soviets enticingly. Naval bases in this area would provide ready access to the Gulf of Oman and the Strait of Hormuz, which lies at the entrance to the Persian Gulf. The strait is a vital "choke point" through which about 60 percent of the oil destined for Western Europe moves everyday. About 77 ships a day (roughly one ship every 19 minutes) negotiate the narrow strait. Most of them are oil tankers. Since both the eastbound and westbound shipping channels are located in Oman's territorial waters, this conservative, pro-Western country is responsible for guarding the increasingly vulnerable waterway. The Omani Navy numbers around 15 ships.

The Soviet Union could obtain a corridor to the Arabian Sea if political instability grows in the area adjacent to Afghanistan's southern border. They key area is Baluchistan, a volatile and disputed territory which straddles southeastern Iran and southwestern Pakistan and whose inhabitants spill over into Afghanistan. Throughout the last decade, the Baluchis have tried to form a separate state that would be independent of both Iran and Pakistan. The separatist movement on the Iranian side has been picking up steam in recent months.

An independent Baluchistan would almost certainly need the support of an ally powerful enough to guarantee its security against Iran and Pakistan. In such an event, the Soviets could present themselves as a logical choice, possibly under the guise of a legitimate Afghan Government. The southern flank of a separate pro-Soviet Baluchistan would contain the port towns of Gwadar, Chah Bahar, Pasni, and perhaps Karachi. As much as 700–800 miles of seacoast would thus be included in the new state. Advanced air bases in southern Afghanistan coupled with access to ports on the Arabian Sea would give the Soviets a double-fisted threat to Persian Gulf oil. The Soviet Union would also possess greatly enhanced ability to neutralize U.S. naval forces in the area.

Considerations that make a drive for autonomy in Baluchistan more likely are beginning to receive careful attention in Western intelligence circles. A guerrilla organization among radical Baluchi nationalists has been forming for at least a year. In addition, there have been reports, so far unconfirmed, that the Soviets have been using Afghan intermediaries to supply arms to Baluchis in Iran. To the extent that the regime of President Babrak Karmal strengthens its control over Afghanistan, it will be increasingly able to give attention to exploiting separatist movements south of its border.

When we turn our attention west of Afghanistan, the picture is just as bleak, for that way lies Iran. Within weeks of the invasion, Soviet forces were concentrated in western Afghanistan, along the Iranian border. The strongholds of the anti-Soviet Afghanistan rebel tribesmen are located in the north and east, away from Iran. The air bases previously mentioned are within 100 miles of the Iranian border, and they are being rapidly expanded. Hundreds of tanks—perhaps as many as 3,000—have been reported in the region. Soviet troops there are supported by sophisticated weapons, including armored personnel carriers, multiple-rocket launchers, self-propelled artillery, and mobile anti-aircraft guns. Clearly, Soviet forces are in position and equipped for a thrust into Iran should Moscow give the word. The justification available to the Soviets is the same they used for Afghanistan—that poltical instability in a bordering country threatens the security of the U.S.S.R.

Even apart from a military strike against Iran, the Soviets are now in a more favorable position than before to support subversion in both Iran and Pakistan and to hasten the destablization of the progressively fragile Khomeini government. One analyst who warned of the possible invasion of Afghanistan last fall warns that radical Afghan expatriates now living in Iran are in a position to play the role of Soviet surrogates in the event of a civil war in Iran.

Perhaps the situation would not be quite so ominous if Afghanistan represented the only staging point for Soviet aspirations in the Middle East. But, in fact, the Soviet Union is resolutely involving itself in countries all around the perimeter of the Persian Gulf. For example, there is evidence of a growing military presence in South Yemen, a completely Marxist, pro-Soviet country strategically located near the mouth of the Red Sea and bordering Oman. Intelligence reports have indicated that a number of Soviet surface warships and nuclear submarines have docked in South Yemen. In addition, Soviet destroyers, based in Yemen and outfitted with sophisticated electronic listening devices, have been prowling the Strait of Hormuz. East Germans virtually run the internal security system of the South Yemeni Government.

Furthermore, some analysts have assembled evidence to support the chilling contention that there are already three Cuban battalions in South Yemen. A possible role for these troops is indicated by intelligence reports that the Soviets have been shipping first-rate armored equipment to South Yemen—equipment that is much too sophisticated for their Arab clients: combat carriers, battle tanks, and anti-aircraft vehicles. This is precisely the same kind of modern equipment the Soviets have introduced into Cuba. In the wake of the Afghanistan situation, we seem to have forgotten about that infamous Soviet combat brigade in Cuba, but this is equipment the Soviets have been training the Cubans to use.

A mobile armored force in South Yemen, manned by trained personnel, is well suited for a quick strike against Oman. The size of the Omani Army is such that it could not reasonably be expected to resist such an attack. Additionally, Oman has already been plagued with insurgency problems of its own. Chiefly with British help, the Sultan of Oman was able in 1974 to defeat guerrillas in Oman's Dhofar province along the frontier it shares with South Yemen. These guerrillas were trained and armed in South Yemen and so indirectly supported by the Soviet Union. A renewed Dhofar insurgency, aided and supported by the South Yemenis, could set the stage for an attack by Cuban-manned armored divisions. Obviously, a Soviet or pro-Soviet presence in Oman would be an excellent staging point for more ambitious Russian projects in the area. One must bear in mind that many of the regimes in the Middle East are politically very fragile and vulnerable. The destabilization of the region around the Arabian peninsula could very well contribute to the destabilization of other moderate Arab governments, such as the one in Saudi Arabia.

That this is not mere speculation can be appreciated by taking a careful look at the attempted takeover of the Grand Mosque in Saudi Arabia in November 1979. For understandable reasons, the Saudis have tried to put a calm face on the episode. But European intelligence sources state that 70 to 80 of the 500 attackers received training from both Cubans and Russians in South Yemen and that Yemenis participated in the assault. Units of the South Yemen Army, supported by Soviet bloc advisors, were mobilized along the Saudi and North Yemeni borders. Large stockpiles of Soviet arms were established just inside the border. A prominent British analyst has gone so far as to say that all this was part of a large-scale plan that was to involve similar uprisings in other Saudi cities.●

"HEALTH FOR THE WHOLE FAMILY" SALUTING NATIONAL OSTEOPATHIC MEDICINE WEEK

HON. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. COLEMAN. Mr. Speaker, 1 week is set aside each September to honor the people involved with the medical profession that offers patients something more—osteopathic medicine. This year, September 12 to 18 has been designated as "National Osteopathic Medicine Week."

More than 20,000 osteopathic physicians practice in States throughout the Nation, caring for 20 million Americans. The vast majority of DO's provide primary care and more than half of all osteopathic physicians practice in towns with populations of less than 50,000 people, often providing medical care to families in rural communities.

There are more than 200 osteopathic hospitals in 31 States. These hospitals have close to 25,000 beds available and employ nearly 70,000 people. Osteopathic hospitals treated over 800,000 people last year as inpatients, accounting for some 6 million patient days. Another 3 million Americans were seen as outpatients.

The osteopathic profession emphasizes primary care—general practice—in its medical school curricula and continuing professional education. However, many DO's are specialists, covering all areas of medical specialization from anesthesiology to neurology and urologic surgery.

The osteopathic profession is founded on the philosophy of treating the whole person, not just the symptom or disease, because what happens in one part of the body can affect other parts. The osteopathic physician pays particular attention to joints, bones, muscles, and nerves. Osteophatic therapy, the profession's "something more," often improves circulation and a normal blood supply and nerve function can enhance the body's natural healing process.

Today, we hear so much about the rising cost of health care. Osteopathic medicine emphasizes wellness and preventive care, and this approach contributes to keeping health care costs down. An important osteopathic premise is that a healthy state is the natural state of the body. However, when illness invades, the osteopathic physician considers it an invasion of the whole patient, not just an organ or a limb. Osteopathic medicine is patient oriented, not disease oriented.

Founded over 100 years ago by Dr. Andrew Taylor Still, osteopathic medical principles are built on the fact that the body is an integral unit, a whole, and the structure of the body and its functions work interdependently. To the osteopathic physician and the osteopathic hospital, each patient is unique.

It is my distinct privilege to represent the Sixth District of Missouri, the birthplace of osteopathic medicine. The first osteopathic medical school, the American School of Osteopathy, was chartered in Kirksville in 1892. Known today as the Kirksville College of Osteopathic Medicine, it is 1 of 15 such schools in the Nation. The University of Health Sciences in Kansas City, Mo., also contributes to the more than 1,000 osteopathic physicians who graduate each year from osteopathic medical schools. Many of these physicians will serve in rural areas and in communities with few physicians in relation to the population, thereby filling a crucial gap in the delivery of medical care to the American people.

We in Missouri are particularly proud of our many osteopathic hospitals. These include such fine hospitals as the Kirksville Osteopathic Health Center, a 254-bed facility with residency and intern training programs. Last year more than 40,000 inpatients and outpatients were treated at the health center.

Osteopathic physicians have made significant contributions to the practice of medicine. Osteopathic hospitals, many of which are located in small communities, serve the needs of their communities and provide quality, professional health services to the people who rely on them.

I am pleased to recognize and honor all those who are associated with osteopathic medicine.●

LAW ENFORCEMENT AGENCIES COOPERATE IN MARIHUANA ARREST

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SKELTON. Mr. Speaker, often we hear harsh criticisms leveled against our law enforcement officials for not catching criminals, bungling cases, and working against rather than with each other. I take this opportunity to inform my colleagues of an incident in my district which shows that local, State, and National enforcement agencies can, and do work together and, at least in this instance, the result has been a clean, successful arrest operation.

Recently, in Camdenton, Mo., the local detectives were tipped off as to where stolen street signs could be located. Upon checking into this information, they also found marihuana plants being grown on the premises. With the help of State and National officials, an arrest was made.

The result of this successful operation is that another avenue by which our young people are exposed to drugs has been closed. In an age when drugs are so readily available to destroy the minds of our young, it is gratifying to know that we have officials capable of stopping the spread of this poison.

I congratulate Sheriff Larry Whitten, Carl L. Hicks, Patrolman T. E. Simmons, Sergeant Herb Thomas, and all who aided in the arrest on this successful undertaking and thank them for their dedication which makes life safer for all Missourians.●

VETO OVERRIDE OF SUPPLEMENTAL APPROPRIATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FORD of Michigan. Mr. Speaker, there is simply no question about the importance of the action taken by the Representatives to override the President's veto of the supplemental appropriations bill. The conference report on the Supplemental Appropriations Act of 1982 contains a wide range of programs, all of which are essential to our constituents. The measure is in no way a "budget buster." In fact, this appropriation is almost $2 billion below the administration's fiscal year 1982 supplemental request. The funding provided in H.R. 6863 is below the fiscal year 1982 budget resolution by $8.1 billion in budget authority and $1.1 billion in outlays.

When President Reagan vetoed this measure, he nullified a number of major programs that in one way or another affect almost every citizen of my district. One of the major programs included in the bill is unemployment compensation. The bill provided benefits for up to 133,000 additional Michigan recipients which were authorized in the tax bill and $2 million for my State's program administration.

In the area of health, $122 million is appropriated to the States for the medicaid program, $6 million is appropriated for childhood immunization programs, with $1.5 million for tuberculosis vaccinations. For mental health, Michigan is targeted for $3 to $4 million in special projects and education, in addition to funding for the handicapped.

Of the $210.6 billion for senior citizen employment programs, $8 million is slated for Michigan's seniors.

In this critical period when students are finalizing their student aid for this academic year, the $217 million for student assistance is absolutely necessary. Michigan would receive $5.3 million for Pell grants and $2.8 million in supplemental educational opportunity grants, for a total of some $8.1 million. So that students' academic careers are not distrupted and so that we keep our pledge to provide financial assistance to them, it is imperative that the supplemental be approved.

In elementary and secondary education, the $148 million total contains $19 million for Michigan in compensatory education funds to offset the administration's decision to use outdated census data which cuts back on Michigan's funding. There are also $26.5 million in handicapped education, $2.5 million in vocational education, and $4.8 million for continuing education, which offset excessive cutbacks education programs have been forced to endure during the past 2 years. As the National School Boards Association noted to me in a letter encouraging my support for the override:

> Those programs are major success stories; they are neither wasteful nor unnecessary.

It is clear to me that President Reagan's objections to the bill focused not on its spending total, but on its spending priorities. He simply did not like the choices we made. He believes that we have chosen to spend too much on social programs and too little on defense. Indeed, we have established spending priorities in this bill which contrast sharply with his intentions to continue adding massive amounts to the Pentagon's budget and to make deep cuts in domestic programs.

The House did a good job in passing the conference report and funding the social programs that the President wants to cut. I have been back in my congressional district every weekend and I can assure my colleagues that there are very few citizens who feel we should trade our children's health and

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education, jobs and medicaid assistance for our elderly, or aid to unemployed workers for unnecessary increases in defense programs. We have done the best thing for our Nation by overriding this veto.●

SOFT TISSUE CANCERS AND VIETNAM VETERANS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DASCHLE. Mr. Speaker, during a hearing this morning before the House Veterans' Affairs Subcommittee on Oversight and Investigations we again witnessed the Veterans' Administration's unwillingness to agree to establish a framework for the resolution of veterans' claims due to agent orange exposure. Vietnam veterans were in effect told by the Veterans' Administration that no matter how much evidence is compiled, how conclusive it may be, their claim, if attributed to agent orange, will not be approved.

As such, I am compelled to introduce legislation to establish a presumption that soft tissue cancers appearing in Vietnam veterans are related to their service in Vietnam and therefore are compensable. There is an abundance of human data documenting the increased cancer risk to individuals exposed to dioxin, the chemical contaminant in agent orange. It is time to take action.

Following are summaries of these studies that I believe my colleagues will find of interest:

[From Pesticide and Toxic Chemical News, Feb. 13, 1980]

EPIDEMIOLOGICAL STUDIES LINK 2,4,5–T EXPOSURE TO CANCER IN HUMANS, EPA SAYS

A "growing body" of epidemiological evidence establishes a "clear association" between exposure to 2,4,5–T and dioxin and carcinogenic effects in humans, EPA asserted in its prehearing risk brief in the 2,4,5–T and silvex cancellation hearing (See separate stories).

According to EPA's Dorothy E. Patton, Office of General Counsel (OGC), four separate Swedish studies, with a fifth one expected to be published soon, link exposure to 2,4,5–T and TCDD to types of human cancer. She said the latest evidence by Swedish scientists L. Hardell and A. Sandstrom show "statisically significant increases in the risk of malignant mesenchymal tumors of the soft tissues (soft-tissue sarcomas) related to occupational exposure to phenoxy herbicides and to occupational exposure to chlorophenols."

Patton observed in a case-control study of the risk of soft-tissue sarcomas in a population in northern Sweden which includes forestry, sawmill and paper pulp workers, the researchers found that individuals previously exposed to 2,4,5–T and 2,4–D had a relative risk for soft-tissue sarcomas 5.3 times greater than unexposed individuals.

Moreover, she noted that soft-tissue sarcomas are a rare variety of cancer and the case control study by the two researchers "is generally recognized as the most effective epidemiologic method for documenting the relationship between a particular causative factor and a rare type of tumor."

In yet another case control study in a different population in southern Sweden, her brief said, researchers M. Eriksson, L. Hardell, N. Bern and T. Moller found "that individuals previously exposed to phenoxy herbicides had a relative risk for soft-tissue sarcomas 6.8 times greater than unexposed individuals, thus, she noted, confirming and replicating the studies of the other Swedish researchers.

In two separate epidemiological studies of "cohort" railroad workers exposed to 2,4,5–T and TCDD, the EPA brief said each study "documented a statistically significant increase in the incidence of stomach cancers among among such workers."

Cohort studies compare the incidence of disease among a group previously exposed to a chemical compared with a group not exposed to the chemical or exposed to a lesser degree.

Patton noted that in a recent update of an "inconclusive study of mortality and tumor incidence in a cohort study of Swedish railroad workers "by O. Axelson, C. Edling, H. Kling, K. Anderson, C. Hogstedt and L. Sundell, the researchers found "a significant excess incidence of stomach cancer among those workers first exposed to phenoxy herbicides more than ten years earlier."

The update was based on an earlier study by O. Axelson and L. Sundell in 1974 called "Herbicide Exposure, Mortality and Tumor Incidence: An Epidemiological Investigation on Swedish Railroad Workers."

She noted that in the update by Axelson, et al., the individuals exposed to phenoxy herbicides had observed incidence of stomach tumors 6.1 times greater than expected after allowing for a ten-year induction period. Furthermore, Patton argued that in a study of a cohort of workers exposed to TCDD at an accident in a trichlorophenol plant in Ludwigshafen, German, German researchers found "an excess incidence of stomach cancer among exposed workers."

Patton asserted these studies indicate that exposure to TCDD or preparations containing TCDD "has been clearly associated with an excess risk of stomach cancer in humans."

Using the findings of the EPA's Alsea study, coupled with the latest epidemiological studies, Patton concluded:

"Statistically significant increases in the risk of cancer and reproductive disorders have been documented in six separate human populations. These same types of adverse health effects have also been observed in experimental animals exposed to 2,4,5–T, silvex and/or TCDD. This combination of positive epidemiological findings and corroborative animal data provides a sound basis for the conclusion that exposure to pesticide products containing 2,4,5–T or silvex constitutes a human health hazard. . .

"The quality, quantity and variety of data demonstrating that the continued use of 2,4,5–T and silvex contaminated with TCDD presents risks to human health is unprecedented and overwhelming."

In previous cancellation hearings such as heptachlore/chlordane which led to the cancellation of the pesticide, she argued, cancellation was based on carcinogenic evidence in rodent test systems with other toxic effects in test animals not available

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[From the Lancet, Jan. 31, 1981]

2,4,5-T, TRICHLOROPHENOL, AND SOFT TISSUE SARCOMA

SIR: Case-control studies from Sweden demonstrate relative risks of 6·2 and 5·1 for occupational exposure to phenoxy herbicides and chlorophenols among cases of soft tissue sarcoma. To estimate whether this excess risk can be detected among workers in the United States, we reviewed reports of four exposed cohorts (refs 3-5 and J. A. Zack unpublished) studied by epidemiologists from Dow Chemical U.S.A. and the Monsanto Company. Of the 105 deaths reported in the four cohorts, 3 (2·9 percent) were due to soft issue sarcoma. In rough comparison, for 1975 only 0·07 percent of deaths in U.S. males aged 20–84 years were due to soft tissue sarcoma (ICD 171, 8th revision).

The workers from the four U.S. cohorts were exposed either to the phenoxy herbicide 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) or to 2,4,5-trichlorophenol (TCP), a feedstock for 2,4,5-T. Both 2,4,5-T and TCP are contaminated with the toxic dioxin isomer 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (TCDD) which has been found to be carcinogenic in laboratory animals.

Zack and Suskind describe a male with chloracne after exposure in a TCP process accident at Monsanto Co. in 1949. He died in 1978 at age 58 with malignant fibrous histiocytoma of soft tissue origin. (In the paper by Zack and Suskind this case is coded as ICD 173·9; however, when the diagnosis was presented to our consulting nosologist, ICD 171 was the code of choice.) Cook et al. reported a male who worked on TCP production at Dow Chemical U.S.A. and had facial dermatitis; no diagnosis of chloracne was made. He died of fibrosarcoma in 1975 at age 53. Case 3 (J. H. Zack, unpublished) worked on 2,4,5-T synthesis at Monsanto Co. and died in 1972 at age 49 of a generalised liposarcoma. No history of chloracne was reported. Only one cohort, reported by Ott et al. of 2,4,5-T workers at Dow, contained no case of soft tissue sarcoma.

None of the four cohorts individually resulted in a reported excess risk for soft tissue sarcoma. When combined, however, the three cases from the four cohorts suggest a common pattern. This finding supports the concept of combining small cohorts of workers with a common occupational exposure for analyses. Such an effort to assemble an exposure registry of all people in the U.S. who have worked at the synthesis of 2,4,5-T is underway at the National Institute for Occupational Safety and Health (N.I.O.S.H.) the mortality experience of the combined cohort will be analysed retrospectively and followed up prospectively. This approach will provide greater statistical power than would be available for any subgroup of the registry analysed alone. N.I.O.S.H. has also embarked on a case-control study for soft tissue sarcoma to review occupational risk factors such as exposure to the phenoxy herbicides and chlorophenols, and to test further the results obtained in the Swedish case-control studies.

Industry-wide Studies Branch, Division of Surveillance, Hazard Evaluations and Field Studies, N.I.O.S.H., Cincinnati, Ohio.

P. A. HONCHAR,
W. E. HALPERIN.

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[From the New England Journal of Medicine, May 6, 1982]

THORACIC SOFT-TISSUE SARCOMA IN VIETNAM VETERANS EXPOSED TO AGENT ORANGE

TO THE EDITOR: Case-control studies from Sweden report a fivefold to sixfold increased risk of soft-tissue sarcoma in lumberjacks exposed to herbicides containing phenoxyacetates. Long-term follow-up studies in cohorts of industrial workers employed in the manufacture of these chemicals have disclosed seven cases of soft-tissue sarcoma to date. On the basis of studies in laboratory animals, it is currently thought that dioxin (2,3,7,8-tetrachlorodibenzo-*p*-dioxin), an impurity present in these chemicals, may be the carcinogen. However, more follow-up and further studies are needed to define the true risk of malignant disease and the actual carcinogenic substance or substances involved.)

In Vietnam, where approximately 2 million troops were stationed for various periods between 1962 and 1971, nearly 45 million kg of Agent Orange and other defoliants were used. Follow-up of the veterans and their families to date has not revealed any serious untoward effects of such exposure, except for chloracne. So far there has been no excess incidence of cancer of any kind. We now report three cases of thoracic soft-tissue sarcoma in persons who served in Vietnam and were exposed to Agent Orange.

Patient 1 worked in Vietnam as a member of a helicopter-rescue unit of the United States Air Force in areas where defoliants were used during 1966 and 1967. In July 1979, at the age of 46, he underwent resection of a right upper-lobe lung lesion, which was diagnosed as inflammatory fibrous histiocytoma. He died in July 1981 with progressive lung and brain lesions.

Patient 2 was a United States Marine in Vietnam during 1966 and 1967, stationed in areas where defoliants were being used. Twice he was "completely soaked with Agent Orange." In December 1979, at the age of 32, he underwent a left pneumonectomy for a mediastinal fibrosarcoma. In June 1981, pulmonary metastases developed. He is currently receiving combination chemotherapy.

Patient 3 was in the United States Army in Vietnam in 1971, serving in areas where the defoliants were used. In January 1981, at the age of 31, he was evaluated for a left pleural effusion. At exploratory thoracotomy in August 1981, a pleural/diaphragmatic leomyosarcoma was noted and resected.

Soft-tissue sarcomas are rare neoplasms. If there is a true risk of these neoplasms in veterans who served in Vietnam, follow-up studies should be able to define it. If there is an increased risk of malignant disease in these veterans, then a more critical question that has to be addressed is: Are the defoliants causative, or is some other unidentified environmental factor responsible, acting alone or in concert with the defoliants?

P. RAVI SARMA, M.D.,
JULIAN JACOBS, M.D.,
Emory University, School of Medicine.●

THE DEATH OF BASHIR GEMAYEL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BROOMFIELD. Mr. Speaker, it was with great sorrow and shock that I learned of the tragic assassination of Lebanese President-elect Bashir Gemayel. His demise is a loss not only for Lebanon, but for the entire Middle East.

This talented and promising young man had already begun to restore the power and the authority of the central Lebanese Government; he had begun to reconcile the various warring political and religious factions in his country. Just a few days ago, he made a nationwide appeal for Christians and Moslem communities to work together to rebuild Lebanon. I am confident that had he lived, he would have been an effective and dynamic President. In the end, however, he became the unfortunate victim of the violence and civil strife which he was attempting to stop.

I am sure that all of my colleagues here in this Chamber will join me in urging all of the concerned parties in Lebanon to exercise restraint. Let us hope that in spite of this event President Sarkis and future leaders of Lebanon will continue Mr. Gemayel's efforts to achieve rapprochement between the Muslims and Christians and restore the delicate political balance that has, until recently, existed in Lebanon. I strongly believe that the road to stabilization in Lebanon must continue to be followed.

Let us also hope that this mindless tragedy in Beirut will not undo the historic and valuable achievements of Ambassador Philip Habib, and that the march toward peace in the war-torn Middle East will continue. Bashir Gemayel would have wanted it so.●

COATED FABRIC TARIFF

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SHANNON. Mr. Speaker, I am pleased to introduce, on behalf of myself and the gentleman from North Carolina (Mr. MARTIN), legislation to restore the traditional tariff treatment of coated fabric. By doing this, we intend to preserve an American industry which contributes well over $1 billion a year to our national product and provides tens of thousands of American jobs.

Since adoption of the tariff schedules of the United States in 1963, imitation leather and other plastic and rubber-coated, filled and laminated fabrics were classified as textile products for tariff purposes under schedule 3, series 355 of the tariff schedules. Schedule 3 is entitled "Textile Fibers and Textile Products," and series 355 refers specifically to textile materials "whether coated or filled."

The recent decision of the Court of Customs and Patent Appeals in *U.S.* v. *Elbe Products Corp.*, 655 F. 2d 1107 (1981), decided over the objection of the Treasury Department, has eroded the longstanding classification of these products. In Elbe Products the court held that imitation leather products consisting of plastic coating over fabric were properly classified not under schedule 3, series 355, but under schedule 7 (specified products; miscellaneous and nonenumerated products), series 771 (materials "almost wholly of" rubber or plastic).

The Treasury Department has consistently argued against this result, and the Customs Service has consistently classified imitation leather and other coated fabrics under schedule 3. However, as a result of Elbe Products, the Department on March 25, 1982, issued a ruling paper establishing for customs purposes the new rule under which virtually all imitation leather must be reclassified under series 771. Other coated, laminated, or filled textile materials must also be reclassified.

If this reclassification is allowed to stand, the continued existence of our domestic industry, which has long relied on the established tariff treatment of its products, will be in severe jeopardy.

The fabrics in schedule 3 receive a duty rate as high as 13 percent plus 10 cents per pound. Fabrics reclassified to schedule 7 receive between 3.7 percent and 5.3 percent. In addition, when fabrics are reclassified to schedule 7, imports from developing countries—such as Taiwan, Korea, Mexico, Venezuela, and Brazil—become eligible under the generalized system of preferences for duty-free entry to this country. Unless action is taken now to reverse this reclassification, the results for the American industry will be tragic.

Mr. Speaker, our bill is narrowly drawn to achieve no more than a reinstatement of the tariff treatment which these fabrics have traditionally received and on which American manufacturers have relied for decades. I hope for its quick and favorable consideration.

H.R. 7118

A bill to amend the Tariff Schedules of the United States to correct an anomaly in the rate of duty applicable to textile fabrics, articles and materials coated, filled or laminated with rubber or plastics

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part 12 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover textile fabrics, articles or materials coated or filled, or laminated, with rubber or plastics or rubber or plastics materials, which are covered in part 4C of Schedule 3. The determination as to whether such textile fabrics, articles or materials are covered in part 4C of Schedule 3

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shall be made without regard to headnote 1(vii) of part 4C of Schedule 3."

Sec. 2. Subpart C of part 4 of Schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after headnote 2 of subpart 4C headnotes the following new headnote:

"3. In determining whether fabrics, articles and materials are 'of textile materials' and covered by this subpart, the nontextile coating or filling and nontextile laminating substances shall be disregarded."

Sec. 3. Headnote 5 of Schedule 3 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"5. For the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article (other than an article which is a fabric provided for in part 4C of this schedule) which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), such article shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric."

Sec. 4. The amendments made by this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.●

JOHN GARDNER DEAD AT 49

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. McDADE. Mr. Speaker, John Gardner, the novelist, poet, and teacher whose readers throughout the Nation and the world have been growing in number for more than 10 years, has been a resident of Susquehanna County in northeastern Pennsylvania for a number of years.

In a tragic accident, Mr. Gardner was killed Tuesday in a motorcycle accident near his rural home. He was 49 years of age. His untimely death came as a shock to the innumerable fans his works have attracted, as well as to the literary and academic communities in both of which he has been a figure of great interest and respect.

Mr. Gardner, while not a Pennsylvanian by birth, was born not far away in Batavia in Genesee County in northwestern New York. His father was a dairy farmer; his mother a school teacher. He was deeply rooted in our section of the country. His writings tell us more of people and places we know.

Head of the creative writing program at the State University of New York at Binghamton since 1978, he had previously taught at colleges and universities in California, Illinois, Michigan, Ohio and Vermont. His own education was at Washington University in St. Louis, Mo. (BA) and the State University of Iowa (MA and Ph. D.).

His novels—"Grendel" (1971), "The Sunlight Dialogues" (1972), "October Light" (1976), which won the Nation Book Critics' Circle Award, "Mickelsson's Ghosts" (1982), and others—totaled more than two dozen in number. He also wrote plays, numerous stories, poems, librettos, an epic poem, and works of criticism, including his important 1978 book, "On Moral Fiction."

A writer like John Gardner is a man like others, yet one apart. We do not fully understand him, but he shows us more about ourselves.

We are glad that John Gardner lived among us for awhile. We deeply regret the accident that took him from the world.●

BILLS AGAINST DRUNK DRIVERS TO BE INTRODUCED

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SAWYER. Mr. Speaker, most of us probably know of a teenager who was tragically maimed or killed in a drunk-driving accident. Last year alone over 25,000 Americans died in accidents involving alcohol—over 25,000 senseless and avoidable deaths.

This week the House of Representatives will be voting on two bills that could effectively reduce these horrible deaths.

One bill, the false identification bill, which I introduced in April, would penalize persons who purposely use the mails to provide minors with I.D.'s that have false birthdates, enabling minors to buy alcohol illegally. Violators could face a year in prison, $1,000 fine, or both.

The second bill, the Surface Transportation Assistance Act of 1982 embodies the provisions of H.R. 6170 which would provide highway trust fund funds to States that establish effective alcohol safety programs. Among other provisions, this 3-year program encourages statewide networks to identify repeat offenders and gives the courts broad power to recommend various punishments for offenders.

With the rising occurrence of these types of accidents, I think it is imperative that the Congress seriously address this problem by passing these two bills.●

PERSONAL EXPLANATION

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SCHNEIDER. Mr. Speaker, unfortunately, due to fog in the Providence area, I was absent for the first two votes today. Had I been present, I would have voted "Aye" on approval of the Journal and "No" on H.R. 4374, the Shipping Act; I request unanimous consent that the record so reflect.●

MORE ON CHEMICAL WARFARE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DORNAN of California. Mr. Speaker, the damning evidence on the use of chemical warfare by the Soviet Union and its client states continues to mount. In a recent article by the Washington Post, a Soviet soldier captured by Afghan freedom fighters has alleged that Soviet forces in Afghanistan are using chemical weapons against the freedom fighters. The captured Soviet soldier said that he had seen three different kinds of chemical weapons stored by the Soviets: Picric acid which affects the eyes and respiratory system and causes burning of the skin; various asphyxiation gases; and a chemical agent referred to as "smirch" which is fired from helicopter gunships as well as jet aircraft.

In another article that appeared in the Wall Street Journal, Dr. Milton B. Amayun, a private Philippine missionary physician, who spent 2 years working in a Laotian refugee camp, concluded that the refugees were suffering from the effects of chemical attacks by Vietnamese and Laotian forces.

Mr. Speaker, I submit these articles for the Record in the hopes that the world will understand that the Soviet Union and its Communist client states will use any means, including the horror and barbarity of chemical warfare, to crush the human spirit.

[From the Washington Post, Sept. 9, 1982]

SOVIET SOLDIER TELLS OF CHEMICAL ARMS USE

(By Aernout Van Lynden)

Islamabad, Pakistan, Sept. 8—A Soviet soldier, held by Afghan rebels fighting the Soviet-backed regime in Kabul, has alleged that Soviet forces in Afghanistan are using chemical weapons against the guerilla insurgents.

Anatoly Sakharov, who said he is a 19-year-old conscripted soldier from Saransk, about 500 miles east of Moscow, said that he had seen specially stored chemical weapons at two of the four major Soviet air bases in Afghanistan—at Kabul and at Kunduz in the northern part of the country.

Sakharov said that he had never witnessed the use of chemical weapons but that on several occasions he had seen Russian soldiers who had been contaminated by gas used against the guerrilla insurgents. The soldiers, returning from combat operations, had been affected by burns, specifically in and around the eyes, and had some breathing problems, he said.

Sakharov, who was presented by the rebels to journalists yesterday for a three-hour interview just inside the Afghan border, said he had been held by the resistance since the beginning of last month, when he had walked off the Soviet air base in Kunduz intending to defect. He said in a prepared statement that he was willing to join the rebels and realized that the Afghan people want the Soviet troops to leave.

Sakharov's comments could not be independently confirmed. It seemed unlikely that the generally unsophisticated Afghan resistance groups had forced him to make his statement, although he may have done so in hope of increasing his chances of eventually securing his freedom from the insurgents. He filled out an International Red Cross identification card and said he was aware that five Soviet prisoners held by the rebels had been transferred to detention in Switzerland this year under a Red Cross and inter-governmental program.

Sakharov said that the three different kinds of chemical weapons he had seen stored were picric acid, which affects the eyes and respiratory system and causes burning of the skin; various asphyxiation gases, and a chemical agent he referred to as "smirch."

The picric and asphyxiant gases were contained in cylinders of a "dense, yellowish" color, Sakharov said. The gas or fluid is released from the cylinders from aircraft through a vent, which is clearly visible from the outside. "Smirch," he said, is contained in rockets fired for the most part by the helicopter gunships and occasionally from aircraft, including supersonic jets. He said these rockets had certain structural differences from ordinary high-explosive rockets.

Sakharov cited a conversation he said had taken place on June 3 with a member of one of the MI-24 helicopter gunship crews stationed at Kabul. The crewmember had told him that earlier that day his crew had been ordered to go into action after a successful rebel attack on a Soviet convoy on the road between Kabul and the Soviet Union. They had been ordered to use gas masks and when they had caught up with some of the rebels, fleeing into the mountains, chemical gases had been used against the guerrillas.

Allegations of Soviet use of chemical weapons against both the rebels and Afghan civilians since the Soviet invasion of Afghanistan in December 1979 have made repeatedly by refugees crossing the border into Pakistan, but the evidence has remained largely circumstantial.

The credibility of the charges also has been challenged because of U.S. government involvement in investigations of the use of chemical weapons by the Soviets in Afghanistan and by their Vietnamese allies in Laos and Cambodia. The U.S. charges have been used to buttress President Reagan's efforts to start production of nerve gas weapons and other chemical arms.

A 36-page special U.N. report about the use of chemicals in Afghanistan, which was leaked to the press earlier this year, was unable to come up with conclusive evidence. It did, however, include reports from doctors working in refugee camps in Pakistan who had said that on several occasions after several attacks on villages, "bodies had quickly decomposed, and limbs had separated from each other when touched."

Sakharov's testimony on the effects of "smirch," the first on the subject from a Soviet soldier fighting in Afghanistan, tallies closely with the doctors' description.

Sakharov, who appeared nervous but in good health during the interview, said he had been conscripted into the Army at the beginning of April and arrived in Kabul on May 17. After serving for two months at staff headquarters in Kabul, he was transferred to the air base in Kunduz.

He said he received basic training in Tashkent, with additional training after his arrival in Kabul. It was in Kabul that he underwent the standard training given to all Soviet soldiers in nuclear, biological and chemical warfare.

Sakharov said that they had been told their destination before leaving Tashkent and that the soldiers had been given some background on Afghanistan and its way of life. He had, however, not been told who precisely the enemy would be. The conscripts chatted and joked with each other about the rebels and seemed to have used the term dushman as a sort of equivalent of the American soldiers' "gook" in Vietnam.

The lean, 5 foot 10 inch blond soldier, who was wearing a military cap with the distinctive red star and golden hammer and sickle, was somewhat unclear on how he fell into the hands of the rebels. He described the atmosphere as "oppressive" at the two bases where he served, and he seemed to have had major disciplinary problems. The soldiers had not been allowed to leave the barracks, and there was little entertainment, he said.

[From the Wall Street Journal, June 22, 1982]

DOCTOR WHO TREATED ASIAN REFUGEES FINDS EVIDENCE OF CHEMICAL WARFARE

(By Gerald F. Seib)

WASHINGTON.—Like his colleagues, the doctor was highly skeptical of reports that refugees in Southeast Asia had been victims of chemical warfare.

But after misdiagnosing hundreds of refugees as victims of tuberculosis and other lung diseases, he reconsidered. He listened more closely as the refugees told of mysterious attacks in Laos, and he began doing research. In the end, the doctor and his colleagues concluded that the refugees were indeed suffering the effects of chemical attacks. "We named the disease poison gas syndrome," he recalls.

That, in a nutshell, is the experience of Dr. Milton B. Amayun, a private Philippine doctor who spent two years working at a Laotian refugee camp in Thailand. He recently laid out his story in a report submitted to a House Foreign Affairs subcommittee studying the Reagan administration's charges that Soviet-equipped troops have been methodically using chemical weapons in Laos and Cambodia.

Dr. Amayun's story is a vivid case study of how outsiders are piecing together information suggesting that chemical warfare is being waged by Vietnamese and Laotian forces in Laos and Vietnamese forces in Cambodia. Like others who have struggled with the mysterious evidence, Dr. Amayun can't completely prove the case. In his report, which hasn't been made public yet, and a telephone interview, he acknowledges many questions he can't answer. He can't, for example, prove that the chemicals being used are the rare mycotoxins the State Department has singled out.

But Dr. Amayun's report fits into a pattern of evidence that has led the State Department to wage a public campaign against what it says are Soviet-inspired "yellow rain" chemical attacks. Congressional staffers familiar with the issue consider Dr. Amayun's story significant for several reasons. He seems an impartial source, because congressional staffers sought him out to make the report, without prompting from the State Department. The doctor isn't a government employee or even an American, so he apparently hasn't any political motives.

Dr. Amayun is a physician for World Vision International, a missionary organization that provides medical help around the globe. He began working in the Ban Vinai refugee camp, situated in Thailand about seven miles from the Laotian border, in 1979.

The camp had just swelled to 42,000 refugees fleeing the fighting in Laos between the Soviet-supported Laotian government and rebel forces. Practically all the refugees in the camp were members of the Hmong highland tribe, which has resisted government control.

Early in his duty, Dr. Amayun found that each day he was seeing 20 to 30 patients suffering from respiratory difficulties. They complained of coughing that produced bloody discharges, weight loss, anorexia and general malaise. Dr. Amayun and his colleagues decided they had a rash of tuberculosis and paragonimiasis, another lung disease, on their hands.

So in January 1980 they initiated a "major TB program," his report says. Six laboratory technicians were recruited to do mass screenings. A pathologist and tuberculosis nurse were brought in. The camp established a system to methodically diagnose and treat the diseases.

But after months of screening, laboratory technicians found that out of several hundred cases only 25 patients had tuberculosis and 30 had paragonimiasis.

"It was at this point," Dr. Amayun reported, "that we began to listen more carefully to the explanation given by the refugees for their malady: 'colored dust from the skies that kills.'"

The doctors began doing careful interviews of the refugees, a step passed over earlier because of, among other things, a formidable language barrier between the Hmongs and outsiders. In almost every "unexplainable" respiratory case, Dr. Amayun contends, it turned out that victims had a story of killer dust or smoke. In the interviewing process, doctors heard stories of orphaned children, animals killed instantly and poisoned streams.

So Dr. Amayun, who had become camp medical coordinator, opened a file of suspected gassing victims. He called in other doctors from refugee committees, the U.S. Embassy, the Canadian Embassy and World Vision. Most, he contends, were convinced that chemical attacks were taking place.

One outsider was notably unconvinced. The local representative of the United Nations High Commission for Refugees was "openly skeptical of the reports," Dr. Amayun says in his report. The U.S. government has been similarly frustrated in attempts to arouse U.N. interest. In an interview, Dr. Amayun says the U.N. is slow to respond "mainly because its findings would mean an indictment of some countries."

In the end, Dr. Amayun concluded that "chemicals have been used against the Hmong intermittently since 1976." He isn't sure exactly which chemicals. The symptoms are unfamiliar enough that Dr. Amayun suspects the U.S. may be right in charging that rare trichothecene mycotoxins are being used. But "I couldn't identify mycotoxins because even now few doctors know what the effects of mycotoxins are," he says.

Dr. Amayun left the refugee camp in the spring of 1981 and currently is at World Vi-

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sion's offices in California. He says other doctors are similarly convinced chemical warfare is being conducted. But because they weren't as familiar with the Hmong, or are afraid of making political waves, some are more reluctant to speak up than he is.

"I feel responsible because the Hmong are voiceless," he says. "They have few advocates in this.●

BOY SCOUT TROOP 29 CELEBRATES ITS 50TH ANNIVERSARY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, on October 1, 2, and 3, 1982, Boy Scout Troop 29, under the sponsorship of the San Francisco Buddhist Church, will celebrate its 50th anniversary. I would like to call to the attention of my colleagues the accomplishments of troop 29 and commend the troop on their achievements and successes in the Scouting program.

Although many of the important documents concerning the history of troop 29 were lost when Japanese-American families were interned during World War II, through the memories and recollections by the Scouts of that era, and the recovery of several old photographs of the troop during its early days, it has been possible to reconstruct part of the troop's historical past.

This troop, which has served the San Francisco community for almost half a century, began modestly in 1932. Headed by Mr. Mikio Fujimoto, and centered in the basement of an old Victorian-styled home, this dynamic organization promptly gained international recognition, when its drum and bugle corps performed at the World Exposition in 1939.

Unfortunately, the troop was disbanded during World War II as a result of the tragic internment of Japanese Americans during this time. However, the troop's moral responsibilities and teachings passed on to its participants, as many former Scouts joined and served in the U.S. Armed Forces to defend our Nation during that time of crisis.

Indeed, the troop had been so successful prior to the war that many Japanese Americans after the war felt the reorganization and the rebuilding of Boy Scout Troop 29 was a top priority in educating the Japanese Americans of this Nation.

Once the effort was made, troop 29 prospered. In its 50-year history, over 350 families have sent their children to participate and become part of the Boy Scout program in troop 29. This troop has dedicated itself to bettering the community in which it thrives and can point to an impressive 52 members who have attained the prestigious rank of Eagle Scout.

The troop has made three trips to Japan—in 1965, 1974, and 1982—to participate in the Boy Scout World Jamborees. Their trips have been invaluable in promoting a good will relationship between the Scouts of Japan and the Scouts of this country.

Today, the proud tradition of troop 29 lives through the effective leadership of Scoutmaster Art Sawada. Scouting is an institution in our society which stresses the ideals and values of trust, courtesy, and self-reliance. These principles are exemplified in troop 29 as led by Mr. Sawada.

This year, as troop 29 celebrates its "Golden Anniversary," I wish to extend to them my heartfelt congratulations on their past achievements and wish them the best of luck in the decades ahead.●

OPPOSITION TO THE MARCOS STATE VISIT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. WEISS. Mr. Speaker, the official state visit of Philippine President Ferdinand Marcos is an affront to the basic tenets of American foreign policy. The Marcos regime has conducted 17 years of injustice, repression, denial of human rights, and the militarization of the region. Since 1974 U.S. Presidents have gradually encouraged improved ties with Marcos, but President Reagan is now breaking with that process and welcoming Marcos with open arms and full support.

Our Nation's global role is hurt by this visit. The President of the United States has turned his back on human rights in the Philippines.

More than 2 weeks ago I was joined by four of our colleagues in calling on President Reagan to cancel the planned visit. Since then, four other Members of the House of Representatives have added their support. Our concern is spelled out in the "Statement of Opposition to the Marcos State Visit" that appears below.

I urge my colleagues to carefully consider the implications of the Marcos visit for our relations with other repressive leaders, and thus our international effectiveness at pursuing foreign policy that reflects the values of our Nation:

STATEMENT OF OPPOSITION TO THE MARCOS STATE VISIT

The projected state visit of Philippine President Ferdinand Marcos should distress all those concerned with struggling for a foreign policy which truly serves the interests of peace, justice, and human rights.

The visit does not have the character of a "normal courtesy" accorded a foreign chief of state. Rather, it marks the culmination of a process of "normalization" with a repressive ally. Over the last year and a half, the Reagan administration has thrown its support fully behind Marcos, in spite of the latter's well-known and documented violations of human rights. This administration has even gone so far as declaring that these abuses are imaginary, as did Vice President George Bush when he lauded Marcos last year as an "adherent to democratic rights and processes."

Marcos' record, however, cannot be expunged. A recent confidential U.S. Embassy Report itself admits that cases of "salvaging" or unofficial executions carried out by the military have increased in many areas. U.S. military aid—now totalling over $100 million annually—goes to fuel an abusive military, many of whose members, according to the same report, engage in banditry and kidnapping. Torture and other abuses continue to be so prevalent that Amnesty International has declared the month of September as a period to spotlight human rights violations in the Philippines.

The policy of support for the Marcos government which successive administrations since Richard Nixon's have followed is a record we as American legislators are deeply ashamed of. Currently, this policy is justified under the rubric of "national security." We ask, however: What "security interests" are served by propping up an unpopular dictator? Whose interests are advanced by a policy of aggressive militarism that consists of backing isolated regimes such as those in El Salvador and the Philippines, whose only function is to thwart their people's desire for justice, national sovereignty, and equality?

What is deeply alarming is that the Reagan administration has now taken a major step towards extending Marcos' martial law to the Filipino community in the United States by negotiating an Extradition Treaty with the Philippines, the main purpose of which, the regime has openly admitted, is to send back Marcos' U.S.-based political foes. This move has gone hand-in-hand with the convening of a Federal Grand Jury to indict so-called "Filipino terrorists" under the Neutrality Act. And, as if these developments were not disturbing enough, evidence is now surfacing that the murder of two anti-Marcos labor union activists in Seattle in 1981 was the fruit of closer coordination between U.S. and Philippine security agencies.

The costs of this policy of backing Marcos and other dictators are borne not only by the Filipino people and the Filipino community in the U.S. Curtailing the rights of a sector of the population to free speech and political assembly may inevitably lead to curtailing the rights of all. Moreover, the working people and the poor of this country have to bear the brunt of economic costs of this policy, with the transfer of billions of dollars from the social budget to the ever-escalating defense budget.

It is high time that we as legislators take the lead in forging a new policy toward the Philippines, one based on equality, justice, and mutual respect among peoples—not on domination and support for repression.

An important first step in this process is to strongly protest and oppose the state visit of Ferdinand Marcos. This will not make up for our government's record of consistent support for the dictatorship. But it will, we hope, contribute to forging a new, enlightened, and equal relationship between the people of the Philippines and the people of the United States.

The institution of emergency rule by Mr. Marcos on August 31 is a blatant repudiation of any expectation that the Marcos regime will ever democratize. Emergency rule is nothing but a pretext to reimpose martial law, which was lifted in name last year. This development makes it all that more imperative for President Reagan to cancel the invitation for a state visit.

Ted Weiss, Ron Dellums, Bob Edgar, Fortney Stark, Walter E. Fauntroy, Tom Harkin, Berkley Bedell, James Oberstar, Sam Gejdenson, Members of Congress.●

OPPOSITION TO THE EXTRADITION ACT OF 1982

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mrs. SCHROEDER. Mr. Speaker, I rise to express my opposition to H.R. 6046, the Extradition Act of 1982.

You will notice that the general tendency to label bills as "reform" has been resisted in this case and for good reason.

This bill takes some serious steps backward particularly in the narrowing of the definition of a political offense. However, from my point of view, what is even more troubling is the failure of this legislature to make the necessary reforms in the existing law.

In light of the alliances that the administration is making and strengthening with dictatorships around the world and its refusal to acknowledge systematic violations of human rights in countries such as El Salvador, we urgently need reform of the extradition laws.

Specifically, we need to assure the the rights of persons in the United States—citizens and aliens alike—are protected by the courts and are not dependent on the good will of the Secretary of State and the Attorney General.

Extradition reforms would: Apply the Bail Reform Act to those held for extradition, reversing the current presumption against bail and insuring that people will not be held in American jails because of the mere assertion of a foreign government that they had committed extraditable offenses; permit the courts to consider allegations that a person being extradited would be accorded due process rather than leaving such determinations to a Secretary of State who believes that Salvadoran peasants receive appropriate due process; and permit the courts to consider allegations that the request for extradition is a subterfuge and the person will be imprisoned because of political views or peaceful political activity. Again, such determinations cannot be left to the Secretary of State.

Mr. Speaker, it is far too late in the session to give this issue the careful attention it deserves. I hope that H.R. 6046 will not be scheduled. If it is, I intend to insist that it be fully debated and that a series of amendments be considered which will make this into genuine reform legislation while eliminating the further erosion of rights contained in the bill.●

SOCIAL SECURITY QUESTIONS AND ANSWERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 15, 1982, into the CONGRESSIONAL RECORD:

SOCIAL SECURITY QUESTIONS AND ANSWERS

In recent meetings I have held in the Ninth District, social security is still a prime topic of discussion. Hoosiers want to know about the outlook for the trust funds, and they ask questions on almost every other aspect of the program. These are some of the most frequently heard questions, and my responses:

Question. Why isn't something being done about social security for prisoners?

Answer. Much has been done. A few years ago, reports indicated that some 30,000 prisoners were receiving $60 million every year in social security benefits. Although these figures were very exaggerated, Congress recognized the problem and passed a law in 1980 to deny disability and student benefits to felons. The number of beneficiaries in prison was actually 6,000 to 7,000 in 1980. Approximately 80% of them were receiving disability or student benefits and have since been dropped from the rolls. The remaining prisoners have been receiving retirement benefits primarily, which would be terminated by bills now pending in Congress.

Question. Are the trust funds being used to pay welfare benefits?

Answer. No. By law, the trust funds cannot be used for any purpose other than the payment of social security benefits to families who have paid into the system. The misconception that welfare benefits are paid arises from the fact that the Social Security Administration handles a welfare program called Supplemental Security Income (SSI). However, SSI is funded by general tax revenue, not by the trust funds.

Question. Is it true that the trust funds loaned large sums of money to the Defense Department during World War II—sums which have never been repaid?

Answer. No. The trust funds have always invested their surplus monies in government securities. There has always been full and timely repayment of these securities—with interest.

Question. How realistic is the proposal to end the yearly payment of $700 million in social security benefits to aliens living outside the United States?

Answer. There are problems with it. For the most part, these benefits go to people who paid the pay roll tax when they worked in the United States. Ending their benefits might be seen as an attempt to deprive them of something they had earned. Some experts have questioned how much could be saved in any case, since millions of dollars collected from aliens would have to be returned and current contributions from aliens would have to be stopped. Moreover, such a move by the United States could prompt other nations to retaliate and cut off the sizeable pensions they are paying to American citizens.

Question. If a person pays into social security for years, how can his account possibly come up short when he begins to draw on it?

Answer. Social security is not set up like a savings account, in which a person's deposits accumulate slowly and then are withdrawn during retirement. From the beginning, it has been a "pay-as-you-go" system, with taxes paid in almost immediately paid out in the form of benefits. A person is paying the retirement benefits of his parent's generation; his retirement benefits will be paid by his children's generation.

Question. Can a person expect to get back in benefits as much as he paid in?

Answer. In general, yes. Past and present retirees will get the greatest return on investment because of their smaller pay roll deductions. For example, someone reaching 65 years of age in 1981 who paid the maximum tax throughout his working life contributed $14,700, a sum which he and his wife will get back during his first year or more of retirement. Overall, the average retired person today can hope to collect benefits five times as great as his contribution, plus interest. Even though the size of the return will greatly decline for those who retire in future years, the average younger worker is still expected to recover more in benefits than he paid in. In addition, his participation in social security may include survivors' and disability benefits and medical care in retirement.

Question. Why aren't government employees included in social security?

Answer. At present, some 10 percent of the labor force is not covered by social security. This includes 3 million federal civilian employees and 4 million workers in state and local government. When the system was set up in 1935, federal civilian employees were not included because they already had their own retirement system and were not considered to be as needy as older workers in commerce and industry. Employees of state and local governments were not included because of the questionable constitutionality of a compulsory federal tax affecting other governmental entities. The participation of state and local government workers was made voluntary, and currently about two thirds of them are covered. It is widely known that Congress will soon consider mandatory coverage for state and local government workers and for federal civilian employees.

Question. Why are benefits reduced when retirees decide that they want to work?

Answer. As the law is now written, retirees aged 65 to 71 years lose 50 cents in benefits for every dollar they earn in excess of $6,000 per year. Proponents of this "earnings test" say that it preserves the integrity of social security by ensuring that benefits replace income lost because of retirement. Also, elimination of the test would cost the system more than $8 billion per year. Beginning in 1983, the maximum age at which the test applies will drop to 69 years.

Question. Who determines whether retirees will get a cost-of-living increase each year?

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Answer. Retirees are entitled to a cost-of-living increase by law, not by presidential edict. This law states that there will be an increase whenever inflation exceeds 3 percent per year. President Reagan wanted to change the law and delay the increase, but he withdrew his plan when he encountered stiff opposition in Congress.●

EXTRADITION: A CIVIL LIBERTIES PROBLEM

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mrs. CHISHOLM. Mr. Speaker, I wish to bring to my colleagues' attention some serious reservations which I have about H.R. 6046, the Extradition Act of 1982.

The bill as reported from the House Judiciary Committee not only fails to correct the current deficiencies in the extradition process but also narrows the scope of judicial review. This provision creates the risk that authoritarian regimes could in collaboration with the executive branch deprive foreigners and American citizens of their constitutional rights. Already we can see a dangerous precedent in the naming of persons for extradition to the Philippines before the Senate has even ratified the United States-Philippine Extradition Treaty. In addition, the asylum case of Dennis Brutus raises the possibility of a political opponent of the South African Government being faced with persecution because of his outspoken views. As indicated by the above examples, this legislation could clearly be used as a subterfuge to punish political opponents for their views.

I would hope that the house will not rush to judgment on H.R. 6046 but will instead give due consideration to the perfecting amendments to be offered by the gentleman from Michigan (Mr. Crockett) when this bill is brought to the floor. In this regard, Mr. Speaker, I would like to commend the following editorial from the New York Times of August 11 by Prof. Christopher Pyle of Mount Holyoke College for my colleagues' attention.

[From the New York Times, Aug. 11, 1982]

Ruining Extradiction

By Christopher H. Pyle

South Hadley, Mass.—For more than two centuries, the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. That policy may be about to end.

Under either of the extradition bills now cleared for debate in Congress, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

For example, both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitrary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Under current law, no American court will allow a person to be extradited if it can be shown that he or she is really being sought for "an offense of a political character." Each bill would, in its own way, destroy this defense.

The Senate bill, which the Administration favors, would do so by stripping the courts of jurisdiction over the political crimes defense. Instead, the accused would have to raise his claim with the State Department, which could then decide whether protecting him from persecution is worth the risk of alienating the foreign government involved.

The State Department's motive for supporting this bill is clear. It wants to be able to swap alleged criminals with foreign countries the same way that children trade baseball cards: "We'll give you one terrorist if you give us three embezzlers."

The House bill seems more protective of political refugees than the Senate bill because it would keep in the courts the power to decide the political crimes defense. However, the appearance is deceptive, because the House bill would forbid the courts to regard as political, and hence not extraditable, any offense involving bodily violence or a conspiracy to commit bodily violence. There is a tiny exception for crimes committed under "extraordinary circumstances," but the bill does not say what they might be. All that is clear is the political message: Protecting foreign revolutionaries from return to authoritarian regimes should be a rare, not common occurrence.

As if to emphasize a preference for authoritarian regimes, both bills would forbid the courts to question whether a request for extradition was really a subterfuge for persecution. Nor would the courts be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the ground that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment. Judgments of this sort would be left to the State Department, which currently pretends that El Salvador protects human rights.

The Administration claims that the courts should be denied the power to look into foreign injustice in order to assure the neutrality of the United States in foreign political conflicts. However, there can be no doubt where the Justice Department's sympathies would lie; both bills would require its lawyers to represent all foreign governments in their extradition requests. The United States would be neutral—on the side of whoever happens to be in power.

In anticipation of this legislation and a treaty to implement it, the Marcos dictatorship is requesting the extradition of more than a dozen of its opponents now living in the United States. One of those charged with plotting in the United States to support bombings in the Philippines is Benigno Aquino Jr., an associate at Harvard University's School of International Affairs who ran against President Ferdinand E. Marcos in the last free election. The only "evidence" against Mr. Aquino comes from the confession of an alleged co-conspirator who later recanted, claiming he had been tortured. However, if either bill now before Congress passes, that evidence will be sufficient to send this democratic politician back into the hands of the dictator he opposed.

(Christopher H. Pyle teaches constitutional law and civil liberties at Mount Holyoke College.)●

THE VIOLENT CRIME CONTROL ACT

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. SAWYER. Mr. Speaker, on Saturday, September 11, 1982, President Reagan announced that he was sending to Congress a second package of anticrime measures. I am pleased to introduce that package, the Criminal Justice Reform Act of 1982, in this body today.

As the ranking Republican on the Subcommittee on Crime, I concur in the President's view which he expressed on Saturday that Americans are sadly losing faith in our criminal justice system. The President correctly observed that the primary responsibility for dealing with violent career criminals rests with State and local authorities. However, there are steps that the Federal Government can take within our constitutional system to address the problem of violent crime and to thereby restore the confidence of the American people in the legal system.

The package which I am introducing today has three titles. The first makes important modifications in the insanity defense and is similar in many ways to the provisions contained in the Violent Crime Control Act which I introduced last November. Although the insanity defense is raised in relatively few cases, the John Hinckley case is a stunning illustration of the tragedy which ensues when the defense operates unjustly. It is imperative that the Federal Government correct the potential which currently exists for criminals to escape the punishment which they justly deserve.

Title II of the bill modifies the exclusionary rule which has been promulgated under the fourth amendment. Like H.R. 5971, which I introduced earlier this year with the support of the chairman of the Subcommittee on Crime (Mr. Hughes), it would provide that evidence obtained as a result of a search or seizure which is otherwise admissible as evidence shall not be excluded in a Federal court proceeding if the search or seizure was undertaken by the law enforcement officer in a reasonable, good faith belief that it was in conformity with the fourth amendment, even if the courts later rule it was not. The bill also provides that a showing that the evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a belief, unless the warrant was obtained with intentional and material misrepresentation. This modification codifies recent case law in this area and honors the rationale underlying the exclusionary rule. As the Supreme Court noted in Elkins against United States, the "basic postulate of the exclusionary rule * * * is * * * to deter—to compel respect for the constitutional guaranty in the only effectively available way—by removing the incentive to disregard it." 364 U.S. 206, 217 (1960). Unfortunately, the exclusionary rule has become so complex that even the greatest legal minds can strongly disagree as to its applicability in a particular factual situation. It should come as no surprise, then, when the police officer's judgment on the constitutionality of his actions is subsequently overruled by the courts. Where the officer acts within a reasonable, good faith belief that his search or seizure was constitutional, he needs no further incentive to act legally. A subsequent reversal by the courts will serve only to demoralize him, embolden the criminal, and endanger the public. The provisions in this bill, like my bill, will address the problems created by the exclusionary rule, while preserving its intended benefits.

Title III of the bill would amend title 28 of the United States Code governing petitions for habeas corpus relief. Our Federal courts are currently overwhelmed by petitions for habeas corpus relief, particularly from State prisoners. Although such relief should, of course, be available where there has been manifest injustice, all too frequently these petitions are without merit. The President has recommended various changes which will discourage the filing of unmeritorious claims. Included among his recommendations are restrictions on the availability of Federal habeas corpus relief where a State defendant has failed to raise a claim properly in State proceedings, a statute of limitations on the filing of petitions for habeas corpus relief, authority for the Federal court to deny a habeas corpus petition on the merits notwithstanding the petitioner's failure to exhaust State remedies, and provisions according greater deference to full and fair State decisions. These provisions, along with recent decisions of the Supreme Court, should have a beneficial impact on the Federal courts' caseloads, while preserving the rights of prisoners.

Mr. Speaker, this package is the second that the President of the United States has sent to this Congress. Unfortunately, the first package, like my own Violent Crime Control Act, is languishing in committee. The gentleman from New Jersey (Mr. Hughes) and I have been successful in moving various individual crime bills through this body, including legislation to criminalize the misuse of false identification documents and a bill to criminalize violent attacks on Cabinet officers and other high Government officials, which were just passed this week. Other significant measures, and particularly my bill, H.R. 4362, which would provide limited authority for the Federal courts to detain dangerous criminals prior to trial, have not been processed with the same speed. I urge the committee leadership to move these measures promptly during the closing weeks of this Congress so that effective crime legislation will be the landmark of the 97th Congress.●

THANK YOU TO SPONSORS OF CONGRESSIONAL FOSTER CHILDREN REDSKIN GAME

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FAUNTROY. Mr. Speaker, on Friday, August 27, 1982, the First Annual Congressional Foster Children Redskin Game was played at R. F. K. Stadium.

Thanks to the generosity of the Members and their staffs listed below, 80 District of Columbia foster children got to see their first Redskins game.

On behalf of those children, the District of Columbia Department of Human Services and the citizens of the District of Columbia, thank you for your generosity.

Hon. Howard Wolpe and Staff; Hon. Joseph P. Addabbo and Staff; Hon. Steny H. Hoyer, Hon. Lynn Martin and Staff; Hon. Gerry E. Studds and Staff; Hon. Norman F. Lent; Hon. Tony P. Hall and Staff; Mary Ann Green (staff); Hon. John Breaux and Staff; Hon. Robert A. Roe and Staff; Hon. L. A. (Skip) Bafalis; Lucy McLelland and Staff; Marsha and Roger Runningen (staff); Hon. Lindy Boggs and Staff; Hon. Martin Frost; Hon. Jack Edwards Staff; Hon. John Edward Porter; Hon. Claude Pepper and Staff.

Hon. Wyche Fowler Staff; Susie Rudolph (staff); House Republican Whip Staff; Edward C. Sylvester, Jr. (staff); Hon. Bill Chappel and Staff; Karen L. Jefferson (staff); Hon. Tom Hagedorn and Staff; Hon. Jamie Whitten and Staff; Hon. David Bonior and Staff; Hon. Joseph D. Early and Staff; Hon. Ray Kogovsek and Staff; Hon. Harold Washington; Hon. Joseph G. Minish and Staff; Hon. Buddy Roemer and Staff; Hon. Olympia Snowe and Staff; Hon. R. H. Mollohan; Grace DeMaio (staff).

Hon. Tom Tauke and Staff; Hon. Peter A. Peyser and Staff; Hon. Don Ritter and Staff; House Budget Committee Staff; Hon. Anthony C. Beilenson and Staff; Hon. Bill Goodling and Staff; Shelley Goomas, Kris Solberg, Doug Richardson (staff); Hon. Wes Watkins and Staff; Hon. Marty Russo; Hon. Michael G. Oxley and Staff; Hon. Ron Mazzoli and Staff; Cynthia Simmons and Kack Harrison (staff); Senator Robert Kasten and Staff; Hon. Stewart McKinney and Staff; Nelson Rimensnyder (staff); Hon. Eugene Atkinson; Senator Ernest F. Hollings and Staff; Hon. Walter E. Fauntroy and Staff; Committee on Veterans' Affairs; Hon. Steve Gunderson and Staff.●

WATER SUBJECT TO CONGRESSIONAL REGULATIONS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BEDELL. Mr. Speaker, I note with great interest an article in the September 12 Washington Post entitled "Wheat Farmer Stuns the West With Water Suit." It depicts the background of the case leading to the recent Supreme Court ruling in Sporhase against Nebraska that water is an article of commerce subject to congressional regulation.

Declaring water to be an article of commerce overturns the longstanding ruling by Justice Holmes in 1908 that water is a special resource not to be subject to a traditional commerce clause analysis. Rather, it should be treated, he reasoned, as a resource which is protected in the public's interest and not put up on the auction block to be made available to the highest bidder. Indeed, Congress has deferred to the States the responsibility to conserve and preserve their water resources, believing they are better suited to consider this delicate matter.

The Sporhase decision may begin to erode the established and complex system of State law regulating the use of these resources, particularly in the water-scarce western region of these resources, particularly in the water-scarce western region of our country. I am extremely concerned that the decision may open the door to wholesale transfers of water across State lines to the detriment of the legitimate right of our States to protect its water resources. The Supreme Court may well have given credence to the old saying that only money can make water run uphill.

Sporhase, in declaring water to be an article of commerce, gives Congress the authority to regulate it. A greater need now exists for the legislation I have introduced to protect shared-

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water resources. H.R. 5278, cosponsored by 24 of our colleagues, would prevent sales or transfers of interstate water resources unless the affected drainage basin States formed a compact and consented to the sale or transfer. This legislation provides a framework for the resolution of conflict, and treats all affected parties equally.

Mr. Speaker, I include the Post article in the RECORD for our colleagues to review.

[From the Washington Post, Sept. 12, 1982]

WHEAT FARMER STUNS THE WEST WITH WATER SUIT

(By Dale Russakoff)

HOLYOKE, COLO., September 11.—He is a lifelong wheat farmer with an eighth-grade education. He files his legal documents in a cardboard fruit crate labeled "Pears Net Wt. 9 lbs." One of his lawyers is a self-described "country hick" and the other is fresh out of Creighton Law School in Omaha.

Yet Joy Sporhase, who says he is "proud to live in a country where you can go straight to the top," singlehandedly has shaken much of the West, upsetting the precarious legal system that guards the region's most precious resource: water.

All he wanted was to irrigate his Colorado corn and bean fields with water from his well just over the state line in Nebraska.

But nothing concerning water in the West is quite so simple. Sporhase stumbled onto a Nebraska law banning the shipment of underground water into Colorado. He fought it all the way to the Supreme Court. On July 2, he won.

Now *Sporhase v. Nebraska* has grown into something greater than one farmer's fight to irrigate his land. A dozen western states have laws similar to Nebraska's and most of them are in jeopardy.

The laws are part of an intricate legal system that rations the West's water between farmers and industry, and between states. Where there is water, there is wealth. Therefore, this system has shaped the West, and anything that challenges the system threatens the region's economic order.

Some politicians and interest groups predict that the Sporhase case could set off a "water rush," allowing huge energy companies to reach across state lines and guzzle water, needed by farmers, toppling agriculture as the region's No. 1 livelihood.

Others say the impact will be gradual at most, that Sporhase is only the first in a series of cases that could reshape the distribution of the West's water profoundly.

As they pore over the ruling, these people often wonder at the upheaval caused by one hard-headed farmer whose land happened to straddle a state line.

"Sometimes," said water rights attorney Paul Bloom, "the most absurdly localized circumstances produce cosmic law. That's what you learn in law school. It's called precedent."

That's where Joy Sporhase, 65, came in. (Joy traditionally is a man's name in the Sporhase family). He didn't even intend to buy the farm. He and his son-in-law and partner, Delmar Moss, went to a farm auction near here in 1972 planning to buy some cattle. The land also was up for sale, and the highest bidder had offered $145 an acre.

"I thought to myself, heck, if it ain't gonna bring any more than that, why not buy it?" Sporhase recalled. He bid $146.

"Before we knew it, we'd bought a farm," he said. Word of the spur-of-the-moment purchase traveled fast to town, where Sporhase's wife, Gladys, was shopping. "Somebody said two crazy guys bought a farm, and I just knew it had to be them," she recalled.

The land covered 640 acres: 140 in Colorado and 500 in Nebraska, across the gravel road that is the state line at that point. It had a well, a fairly unremarkable contraption sitting 55 feet inside Nebraska. The former owner had written on his Nebraska well registration form that he intended to use the well to irrigate his land on both sides of the state line, and no one ever questioned him about it.

The well was routinely assigned the number G–33893 on Jan. 18, 1971—a number and a date that since have become part of the history of American water law. "See that?" Sporhase said as he pulled the registration form out of his fruit crate, pointing to the rough, handprinted words.

Several years later, Sporhase and Moss built a $47,000 sprinkling system to dribble water from the Nebraska well on their Colorado corn and bean fields. They contend that they notified state officials of their plan and were not warned against it.

"We were minding out own business," Sporhase said, "and here comes our first letter in the mail." He pulled the 1976 letter from the state Department of Water Resources from the crate. It referred to the 1971 registration form and the plan to pipe water from well No. G–33893 into Colorado. The letter threatened legal action if Sporhase and Moss persisted. "State law prohibits such activity," it said.

"We couldn't see where in the heck it made any difference," Sporhase said. "We owned the land on both sides of the line. The water sure wasn't paying any attention to where the line was. When Delmar went to Korea and my son went to Vietnam, it didn't make any difference what state the boys were from, did it?"

By an accident of geography, Sporhase and Moss found themselves at the center of the West's water troubles. Their farm sits atop a rock formation known as the Ogallala acquifer, the largest underground water source in the country, which now is drying up at an alarming rate.

The acquifer, which traps water like a sponge, supplies water for 15 million acres of farmland from South Dakota to Texas. At the current rate of use, it will dry up within 40 years, according to one study.

The states that depend on the acquifer have written volumes of rules and laws to try to keep what water remains to themselves. Colorado bans the export of underground water. Nebraska outlaws piping water from the acquifer to any state that in turn bans piping it into Nebraska.

Sporhase applied to Colorado for a permit to drill a well on that side of the line, but was turned down because state officials said the acquifer was already overused in his area. This meant he would have to let his 140 Colorado acres go dry, devaluing the land from $168,000 to $56,400.

Instead, the two farmers defied the Nebraska warning and continued to irrigate their Colorado land. When Nebraska filed suit as promised, Sporhase went straight to his lawyer, Dick Dudden of nearby Ogallala, Neb.

Dudden still recalls the day his fiesty farmer-client stormed into the office and vowed: "If I have to take my case to the U.S. Supreme Court, I'm going to do it."

The state won its case in Chase County, Neb., and again, when the farmers appealed, in the Nebraska Supreme Court. On Sept. 5, 1981, the farmers were forced to shut down operation of their well.

Then the initiative shifted to Dudden, who describes himself as a "country hick lawyer." Dudden, who had never before tried to take a case to the high court, bought a primer, "The United States Supreme Court," to learn how to apply for a hearing.

He also consulted a Denver firm whose attorneys had experience in Supreme Court appeals. They suggested that the farmers base the appeal on a technicality: that underground water is an "article of commerce."

Dudden assigned Ed Steenburg, his newest employe who had just graduated from Creighton Law School in Omaha, to spend the next month drafting the application to the court.

It was Steenburg's first case, and he worked 16-hour days and seven-day weeks, with Dudden going over one draft after another until at last the job was done. The application was filed under Dudden's name since Steenburg hadn't yet practiced the required three years to take a case to the high court.

On Nov. 28, 1981, Dudden received a call from a small Colorado weekly, The Yuma Pioneer, asking for reaction to a wire service report that the Supreme Court had agreed to hear the case. He thought it was a mistake. Then came a call from The Denver Post, and he began to believe it. Ten days later a post card arrived from the Supreme Court saying: "Sporhase vs. Nebraska. Probable jurisdiction noted."

Officials in western and midwestern states and almost every interest group that uses their water reacted with alarm. Seventeen briefs were filed in opposition to the farmers, only one in favor.

The abstruse argument that water was an article of commerce was obviously an explosive one. Western states have treated water differently from every other natural resource because of its importance to life.

They have divided the region's rivers and streams among themselves through complex formulas; sanctioned by the Supreme Court and interstate compacts. They have further divided their own water supplies among farmers, businesses, towns, wildlife, forests and other "beneficial uses."

Now Sporhase was arguing that water was part of the interstate commerce system, subject to regulation from Washington.

The briefs filed against Sporhase give a glimpse of what was at stake. A group of farmers called it a potential vehicle for the energy industry to siphon off water needed for agriculture; environmentalists saw in it a threat to state conservation programs that protect wildlife and forests; railroad interests perceived a boost to interstate coal pipelines—projects that need thousands of gallons of water and that threaten to break the rail lines' hold on the coal transportation business.

The only brief filed on the Sporhase-Moss side came from El Paso, which wants to pipe water from nearby New Mexico to meet its development demands but faces a New Mexico law similar to Nebraska's.

While the West debated these sweeping issues, the two farmers anxiously waited.

The hearing was scheduled for March 30, a Tuesday, but the Sporhases and the Mosses, the Duddens and the Steenburgs arrived on the Friday before. Dudden's father flew in from Phoenix. His son came down from Pennsylvania State University. Sporhase's two granddaughters came along, as did some of his neighbors from Holyoke.

Joy Sporhase and his clan had never before been to Washington, and they spent the next three days on a nonstop tourist whirl. They took pictures of everything, later placing the snapshots in a brown leather scrapbook, which sits next to their Bible on the living room coffee table. At the front of the book is a picture of the Sporhases and their grandchildren standing on the front steps of the Supreme Court.

Joy Sporhase say he will never forget how he felt walking into the court's hearing room that morning. "It was the first time I ever had knots in my stomach and I'm not even scared of the devil," he said. "You just sat there and said to yourself: Here you are, clear at the top."

After the hearing, Sporhase and Moss went home to their farm to tend their fields of dryland wheat, the crop they substituted for irrigated corn and beans after their water was cut off. In the western states, officials and interest groups awaited the decision as if it was a verdict.

The July 2 ruling was not as broad as some opponents had feared, or as some supporters had hoped. The court did conclude that water is an article of interstate commerce, meaning Nebraska cannot ban its export to Colorado, throwing into doubt similar provisions in a dozen other states.

But the 7-to-2 ruling upheld the rest of Nebraska's water law, including the state's right to regulate water use to ensure conservation. The justices said a state still could ban water exports if the ban is "narrowly tailored" to the goal of conserving water.

For Joy Sporhase, that was plenty. But for most western state officials it was too much.

"Ouch!" was the reaction of Nebraska Gov. Charles Thone. Officials predicted a flood of spinoff lawsuits, one for each time a state denies water exports in the name of conservation. The conservation programs in some states are so sketchy that officials said they will have trouble defending export bans even if they are justified.

About a dozen legislatures now are considering new or amended water laws, and some environmentalists have predicted optimistically that the ruling could lead to more sophisticated conservation programs throughout the region.

The anxiety comes in part from what David Aiken, a water law specialist at the University of Nebraska, calls the specter of "a full social and political transformation." If water is part of interstate commerce, several officials asked, will it eventually be put on the market for the highest bidder? How can farmers compete with oil companies? Will farmland eventually go out of production?

"For every water right sold to an energy company, the agrcultural base is reduced, the political influence of farmers declines," Aiken said.

Attorneys for the energy industry said they see no dramatic transformation from Sporhase, although several said the case fits into the pattern of changes reshaping the West.

Edward W. Clyde of Salk Lake City, who has practiced water law for four decades, said the case improves the position of coal pipelines and other energy interests "only slight;" since a welter of other legal hurdles remain. He said he does not expect Congress to invoke the ruling to intervene in state water regulation.

Sporhase still hasn't received a permit to irrigate his Colorado acres. The court sent the case back to Nebraska with instructions to remove the export ban from the state's water law. Until that is done, state officials contend they cannot authorize Sporhase to pump water out of Nebraska. The farmer is considering a return trip to court.

On a recent day, Sporhase drove out to his well and parked his pickup on the state line. The sprinkler sat idle on the Colorado side, amid a field of dry wheat stubble. The well sat idle on the Nebraska side, overgrown with sunflowers and firebrush weeds.

Sporhase stood on the state line, leaned against his truck with the bumper sticker "Farmers Feed America. Do You?" and looked with pride and some consternation at his well.

"The day we stood up here at that auction and bid on this land," he said, "who ever would've thought we'd get into all this?" ●

FULL CONSIDERATION DESERVED

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. VANDER JAGT. Mr. Speaker, I am delighted to have learned that positive action now is being reported on H.R. 5133, more popularly known as local or domestic content legislation. It is my understanding that the House Committee on Energy and Commerce is expected momentarily to report the bill and refer it to our Subcommittee on Trade of the House Committee on Ways and Means for further hearings. Of equal importance, Chairman Sam Gibbons, of the Subcommittee on Trade, has strongly indicated his willingness to call hearings on the measure as quickly as possible.

As my colleagues know, this legislation has particular meaning and impact on our automobile industry and, of course, on all of our autoworkers. At the same time, grave doubts have been raised as to the overall effect of this legislation and the distinct possibility of retaliatory trade restrictions by overseas trading partners in other areas of our economy.

We do have the benefit of exhaustive studies on this issue. Among others, one is by the United Auto Workers (UAW); another by the U.S. Chamber of Commerce, as well as our own Congressional Budget Office. In recent days, another comprehensive study has been completed by the Heritage Foundation here in Washington. The uniqueness of the Heritage study is that it comments on and includes pertinent points from the other major studies mentioned above.

Because this is an issue which the House quite likely will consider before adjournment, I strongly recommend each Member obtain a copy of the Heritage Foundation report from their Washington office.

On a more personal basis, let me mention—simply to emphasize the importance of this legislation—a very recent experience of mine. During my annual congressional mobile office tour in our Ninth Congressional District, I scheduled a number of visits to communities within Muskegon County. At each of these stops, a large group of citizens representing the UAW made their presence known and their support of this legislation. They, in essence, were "petitioning" their Congressman in behalf of this bill. They did so, let me stress, in the finest tradition. They were courteous, they were determined, and they were effective. The plight of our autoworkers is real and is great. Auto imports have had a tremendous impact on one of our Nation's great industries. It is time—past time really—for this Congress to consider this issue.

I am pleased, therefore, that further hearings are planned and I am pleased that the House leadership intends, according to its announcements, to move swiftly. I admit that I have reservations as to the possible effects of this legislation on other workers and other businesses—but only hearings will clarify this matter.

One final comment, and that is I further understand that the original bill, H.R. 5133, has just recently been greatly altered by its chief sponsor, Congressman Richard Ottinger, so that the new version would make compliance "fairer and more realistic" for foreign-based companies. A Detroit News article on this development also is included:

[From the Detroit News, Sept. 3, 1982]

TIMETABLE REVAMPED—DOMESTIC-CONTENT AUTO BILL EASED

(By John E. Peterson)

Washington.—The chief sponsor of a UAW-backed bill aimed at prodding foreign auto makers to build U.S. plants is easing some of the measure's requirements.

Rep. Richard L. Ottinger, D-N.Y., unveiled a substitute "domestic content" bill yesterday that he hopes will win House passage before the fall elections. The bill, however, apparently has little chance in the Senate.

Ottinger said the new version would make compliance "fairer and more realistic" for foreign-based companies such as Volkswagen and Honda that are committed to high-volume U.S. production.

Yet Ottinger's revised bill, if enacted, would force Japan's Toyota and Nissan (Datsun) to transfer much of their production to the United States or reduce the levels of their U.S. sales.

The original domestic-content bill would have required companies with annual U.S. sales of 500,000 or more cars to produce 90 percent of their value in the United States by 1985.

The new bill, drafted by Ottinger after consultations with UAW President Douglas Fraser, would delay the 90-percent requirement to 1986 and apply it only to companies selling 900,000 or more cars and light trucks a year in the United States.

Under the earlier bill, companies with annual sales of between 100,000 or 200,000 vehicles would have needed 25 percent U.S. content and those with sales between

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200,000 to 500,000 would have needed 75 percent. The new bill would require 1 percentage point of domestic content for each 10,000 units sold, starting at 10 percent for 100,000 units.

At present sales levels, only general Motors, Ford and Chrysler would have to build cars with 90 percent local content, and they already do, said an Ottinger aide.

But Toyota and Nissan would have to increase the American-made parts in their U.S.-sold cars from the current 5 percent to nearly 75 percent by 1986 to maintain their present U.S. sales levels.

Though the Senate is likely to defeat the measure and President Reagan probably would veto it if it reached his desk, House Speaker Thomas P. O'Neill of Massachusetts has urged fellow Democratic leaders to secure passage before the November elections, according to knowledgeable Capitol Hill sources.

"Tip is convinced that passage of this bill will allow a number of vulnerable Democratic members from industrialized areas to pick up enough added votes to put them over the top," one O'Neill aide said. "Even though Senate passage is doubtful, they'll be able to go home and say, 'Look, we're trying to do something to get people back to work.' "

The bill's chances of Senate passage, however, "are just about nonexistent," said an aide to Democrat Wendell Ford of Kentucky, the measure's chief sponsor in the Senate.●

LEGISLATION INTRODUCED TO ESTABLISH A UNIFORM TARIFF SCHEDULE CLASSIFICATION AND DUTY RATE FOR IDENTICAL CORDAGE PRODUCTS

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, in recent years, the volume of importations into the United States of foreign-made cordage products has substantially increased, adversely affecting and injuring the United States cordage industry. This increase is due, in part, to the preferred tariff treatment accorded certain of these products because of an inadvertent and unintentional discrepancy in the custom laws. Because of this discrepancy, importations of plastic cordage (polypropylene, polyolefins, and copolymers) of identical characteristics and uses are classified under differing tariff schedule categories at substantially differing duty rates.

Cordage manufactured from plastic material which falls within the dimensional requirements of a strip is classified as "cordage." However, if the cordage is manufactured from plastic materials over 1 inch in width, such materials cease to be considered as textile fibers. Instead, it is considered as plastic and so classified under the tariff schedules. The reason behind this difference in classification is that the current definition of "cordage," as contained in schedule 3, part 2, headnote 1(a), restricts "cordage" to ". . . assemblages of textile fibers or yarns . . ." Importations of cordage manufactured from plastic material over 1 inch in width cannot be considered, under the dimensional requirements imposed for strips, as ". . . assemblages of textile fibers or yarns . . ." and, therefore cannot be classified as "cordage." Consequently, such cordage made from plastic material is classified by the Customs Service under schedule 7, part 12, subpart D, item 774.55 as "Articles Not Specially Provided for of Rubber or Plastics: Other" at a duty rate of 7.3 percent ad valorem.

The result is that two identical importations of polypropylene cordage of identical characteristics and use are classified under differing tariff schedule categories at substantially differing duty rates merely because one product was manufactured from plastic material over 1 inch in width while the other was not. The following two letters from the U.S. Customs Service clarify the basis for the difference in classification.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, D.C. April 28, 1982.

DEAR —— ——: This is in reply to your letter of January 27, 1982, concerning the tariff status of certain polypropylene twine. Five samples were submitted.

Each of the samples was submitted to our laboratory for analysis. Each was composed of polypropylene film which had been fibrillated and then twisted. All five samples were under 0.01 inch in thickness. Two of the samples, 375 Natural and 450 Natural, were determined to have been made from strips over 1 inch in width. The other three samples were determined to have been made from strips which were under 1 inch in width.

Headnote 3(c), Subpart 1E, Schedule 3, Tariff Schedules of the United States (TSUS), defines the term "plexiform filaments" as flexible filaments each of which consists of a network or plexus of fine fibers and which are suitable for the manufacture of textiles. All five samples are considered to be plexiform filaments. This office has previously ruled that plexiform filaments which are derived from strips over 1 inch in width do not constitute textile materials for tariff purposes.

Merchandise as represented by the three samples of twine which are derived from plastic strips 1 inch or less in width are classifiable under the provision for cordage of man-made fibers, measuring under 3/16 inch in diameter, in item 316.55, TSUS, with duty at the column 1 rate of 10 cents per pound plus 13.8 percent ad valorem. Merchandise as represented by the two samples which are dervied from plastic strips over 1 inch in width are classifiable under the provision for other articles not specially provided for, of plastics, in item 774.55, TSUS, with duty at the column 1 rate 7.3 percent ad valorem. Merchandise classifiable in item 774.55, TSUS, may be entitled to duty-free entry under the Generalized System of Preferences (GSP), if a product of Taiwan, upon compliance with all applicable regulations.

For your information, the procedure whereby an American manufacturer petitions the Commissioner of Customs to change the classification of certain merchandise is set out in section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516). Copies of this law and the relevant Customs Regulations are enclosed. If you believe that the classifications above are not correct, you may take action under section 516(a) of this law.

Sincerely,

HARVEY B. FOX,
Director, Classification and Value Division.

Enclosure.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, N.Y., February 11, 1982.

DEAR —— ——: In your letter of January 22, 1982, you requested the tariff classification for polypropylene twine from Portugal, Korea, or Taiwan.

Five samples of polypropylene twine, ranging form 375 to 1100 feet per pound, were submitted with your inquiry. The twine is produced from extruded polypropylene film which has been slit into strips. These strips are then fibrillated and twisted into cordage.

The tariff classification of this type of merchandise is determined by the dimensions of the individual strips prior to fibrillation. Cordage which is produced from strips not over one inch in width is considered to be of man-made fiber textile material. Strips which are over one inch are considered plastic for tariff purposes. As it is quite difficult to determine the exact original width of a strip after it has been fully fibrillated, we cannot state with absolute certainty which of your samples fall into each category. We would therefore suggest that you check with your suppliers to ascertain the exact width of the strips prior to fibrillation.

After examining each of the five items, it is our opinion that at least three of the samples are produced from strips under one inch in width. If this is in fact the case, then samples (C) 900 natural, (D) 1000 black, and (E) 1100 hemp are classified under the provision for cordage of man-made fibers measuring under 3/16 inch in diameter, in item 316.55, Tariff Schedules of the United States, with duty at 10 cents per pound plus 13.8 percent ad valorem.

Due to the larger size and extensive fibrillation of items (A) 375 natural and (B) 450 natural, we are unable to determine the width of the strips from which these samples were produced. If strips under one inch were fibrillated, then classification would be under TSUS item 316.55, as discussed above. However, if these two twines are produced from polypropylene strips over one inch in width, they are classifiable under the provision for articles not specifically provided for, of plastics, in item 774.55, TSUS, and dutiable at 7.3 percent ad valorem.

Cordage of man-made fibers may be subject to import restraints (quotas) based on international trade agreements. Import restraints are imposed by the U.S. Customs Service under directives of the Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, D.C. 20230. Polypropylene twine, produced in Korea of Taiwan and classified in TSUS item 316.55, requires a visa for category 605. Due to the changeable nature of these restraints, you are advised to contact your local Customs office prior to importation of this merchandise to determine the current status of such restraints.

Articles classifiable under item 774.55, TSUS, which are the products of Portugal or Korea are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations. Taiwan is currently excluded from this duty exemption. However, the recently published ten month figures for items included under GSP indicate that, effective March 31, 1982, Taiwan may regain its duty-free status for tariff item 774.55.

This ruling is being issued under the provisions of Section 177.1(a)(1) of the Customs Regulations [19 C.F.R. 177.1(a)(1)].

Sincerely,

JOHN J. MARTUGE,
Area Director, New York Seaport.

Foreign manufacturers have taken full advantage of this discrepancy in the Customs laws. They have been certain that the cordage they produce for export to the United States is constructed of plastic material over 1 inch in width in order to obtain the advantages of the lower duty rates. As a consequence, they are afforded an unfair economic advantage over the domestic cordage industry. The situation is further aggravated by the fact that item 774.55 receives General Systems of Preferences treatment. This means that importations of cordage entering under item 774.55 from certain designated beneficiary countries receive duty-free status. Additionally, there are quota restrictions on cordage entered under Items 316.55, 316.58, 348.00, and 348.05, but no quota restrictions on cordage entered under item 774.55. Therefore, not only is the foreign manufacturer receiving the benefits of a lower duty or no duty for cordage made from plastic material entered under item 774.55, but he is also totally circumventing the quota restrictions imposed on other item categories.

It does not appear that such diverse and inequitable treatment was intended by the Congress when the tariff schedules were drafted, particularly when its direct effect is to seriously harm the United States cordage industry. The legislation I am introducing today will remedy this unfair situation. The legislation will amend the tariff schedules and result in all like cordage made from plastic material to be identically classified at the same duty rate regardless of the dimensions of the plastic material from which it is manufactured. The changes required in the tariff schedules are minor and will have the sole effect of affording all like importations of cordage identical treatment by the Customs Service. I urge my colleagues to join me in correcting the unfair treatment afforded the U.S. cordage industry under the U.S. tariff schedule.

I have included the text of the bill and ask that it be printed in the CONGRESSIONAL RECORD at the conclusion of my introductory statement.

The material follows:

H.R. 7107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in recent years various cordage products of virtually identical characteristics and use have been and are being imported into the United States;

(2) due to an insignificant variation in the size of the material from which these cordage products are manufactured, such products may be and have been imported under distinctly different classifications in the Tariff Schedules of the United States carrying substantially differend duty rates;

(3) the dimensions of the material from which the cordage products are manufactured has no effect on the finished products in terms of overall characteristics or use, and the finished products as imported into the United States are identical;

(4) in the drafting of such Tariff Schedules it was not the intention of Congress to have two identical products classified under varying provisions of the Tariff Schedules at differing duty rates;

(5) foreign manufacturers of cordage have been and are using this discrepancy in the Tariff Schedules to enter their products into the commerce of the United States at duty rates lower than those intended for cordage products;

(6) such action by foreign manufacturers has resulted in serious and substantial economic harm and injury to the United States cordage industry; and

(7) immediate measures are required to rectify this inequitable situation in the Tariff Schedules and to prevent further harm to the United States cordage industry.

(b) PURPOSE.—It is the purpose of this Act to provide for identical classification and duty rates under the Tariff Schedules of the United States for importation of cordage products which are identical in character but which may have been manufactured from like materials of varying dimensions.

SEC. 2. AMENDMENTS TO TARIFF SCHEDULES.

(a) Part 2 of schedule 3 of the Tariff Schedules of the United States is amended—

(1) by amending headnote 1(a) thereto by inserting "plastics or man-made materials," immediately after "assembleges of textile fiber or yarns,"; and

(2) by amending the superior heading to items 316.55 and 316.58 by inserting", Plastics or other man-made materials" immediately after "Of man-made fibers".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the enactment of this Act, but not before October 1, 1982.●

HUMAN RIGHTS IN SOUTH AFRICA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DOWNEY. Mr. Speaker, we have heard nothing but assurances from the Reagan administration and the South African Government that human rights conditions are improving in South Africa.

In fact, when the Ad Hoc Monitoring Group on Southern Africa wrote to South African Ambassador Sole about the admission of several detainees into the psychiatric ward of a Durban hospital, he intimated that the hospitalization was the result of a conspiracy to give publicity to conditions of detention, and that the detainees had faked their illness.

Yet others disagree. Last week, I received a letter from an organization called the Detainees' Parents Support Committee. This group is composed of parents who are trying to find out why their children have been detained by the South African police. They wrote in refutation of Ambassador Sole's letter.

So that the whole story is told, I would like to have this document inserted into the CONGRESSIONAL RECORD.

JOHANNESBURG,
August 24, 1982.

Congressman THOMAS DOWNEY,
U.S. Congress,
Washington, D.C.

DEAR SIR, We beg to refer to a letter sent to you some months back by the then South African Ambassador to your country, Mr. Donald Sole, dealing with the state of health of Political Detainees in South Africa and in which he claimed that most detainees had "faked" ill-health.

In refutation of this allegation this Committee drew up a carefully researched document setting out the truth of the matter. This memorandum was duly forwarded to you through Consular channels, but we have been given to understand that it has not reached you. We now therefore send you this enclosed copy direct through the post, and will also have it channelled through the American Press.

The recent death in detention of Mr. Moabi Dipale, after only three or four days in the hands of the Security Police underscores this issue sufficiently not to require any further comments.

Yours faithfully,

(For the D.P.S.C.)

[Memorandum]

REPLY TO THE SOUTH AFRICAN AMBASSADOR AT WASHINGTON, MR. DONALD SOLE, CONCERNING THE HEALTH OF DETAINEES

PREAMBLE

Prominent American politicians expressed concern at the conditions of incarceration of detainees held for interrogation by the South African Police. This followed the death in detention of Dr. Neil Aggett on the 5/2/1982 and the hospitalization of a number of other persons held in solitary confinement in terms of South African security legislation.

On the 12th May, it was reported that Mr. Sole, South African Ambassador to Washington, had released a statement to the effect inter alia that the hospitalizations of detainees were as a result of a conspiracy by unnamed persons to give publicity to conditions of detention and that the detainees had faked their illness. (Rand Daily Mail 12/5/82)

This Memorandum deals with the following:

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(1) The source of the information supplied to Mr. Sole.

(2) The medical ethics involved in the release of the "information" contained in the statement.

(3) The inaccuracy of the contents of the said statement.

(4) The effects of solitary confinement on the health of a detainee.

(5) The request for an independent inquiry into the medical condition of the particular detainees mentioned in Mr. Sole's statement, as well as the medical treatment of detainees generally.

1. MR. SOLE'S SOURCE

The source of Mr. Sole's information was revealed in Parliament by Mr. Pik Botha, Minister of Foreign Affairs, on 20.5.82. He informed Parliament that Mr. Sole had obtained his information from the South African Police, the very agency which was responsible for the detention and interrogation of the detainees. (The Star, 20.5.82)

2. THE DISCLOSURE OF THE MEDICAL STATE OF DETAINEES

2.1 On March 5th, 1982 the Minister of Justice informed Parliament that it was questionable whether it was ethically justifiable "to publicly discuss" the psychiatric condition of detainees. (Hansard, 5.3.82, Column 23). The Department of Health has itself stated that "Permission for the disclosure of a diagnosis may be given only by the patient, next of kin or the medical practitioner in Court under protest". ("Special Areas of Primary Health", p. 33)

2.2 Mr. Sole's statement represents a turnabout on the part of the South African Government. In summary, representatives of the South African Government have seen fit to publicly disclose confidential medical information, which information was based on reports given to them by the Security Police. That this information itself has been refuted by the medical practitioners involved in treating the detainees, underscore the unreliability of the source of the information.

3. THE INACCURACY OF MR. SOLE'S STATEMENT

Mr. Sole's allegations are refuted as follows:

3.1 Mr. Sole alleged that the detainees were all hospitalized at almost the same time, which was when they had access to their families. Furthermore, Mr. Sole stated that there was a conspiracy to highlight mental illness which coincided with a campaign by the detainees relatives to publicise the conditions under which the detainees were being held.

In reply it must be pointed out that:

(a) all communications between detainees and relatives were supervised and controlled by, and in the presence of Security Police;

(b) the dates of hospitalization reveal no pattern of simultaneous hospitalization. The detainees referred to by Mr. Sole were hospitalised on dates which range from 20.11.81 to 16.3.82;

(c) some of those hospitalised received no family visits;

(d) the Parents' Support Committee reject strongly the suggestion that they conspired to induce their children to fake mental illness;

(e) it was the world wide concern at the death of Dr. Neil Aggett which induced the authorities to refer certain detainees to hospital who should have been taken there earlier.

(f) it is difficult to conceive of a conspiracy between the detainees who were held incommunicado in separate prisons up to 600 kilometers apart.

3.2 Mr. Sole has stated that 7 of the 9 detainees were faking mental illness. He stated in one instance that a psychiatrist could find nothing seriously wrong with detainees Mr. Pravin Gordhan and Mr. Sam Kikine. However, the psychiatrist, Dr. C. S. Levisohn, who treated these detainees has refuted this claim. He has stated that he could not understand where Mr. Sole had obtained his information for this was not what he had reported to the District Surgeon or the Commissioner of Police. (Natal Mercury 15.5.82) As Mrs. Gordhan has stated "The fact that Pravin was . . . admitted for psychiatric treatment by doctors appointed by the State is sufficient evidence of the truth." (Rand Daily Mail, 13.5.82).

3.3 Another example cited by Mr. Sole is that of Thozamile Gqeta, whom he alleges was released because of his mental condition and yet was able to continue his activities without let up or any sign of mental disturbance.

Mr. Gqeta, a prominent trade unionist, was detained on several occasions in 1980 and 1981. On some of these occasions he was maltreated and kept in solitary confinement for long periods of time. In October 1981 his mother and Uncle were killed when their house was burnt down under sinister circumstances. When Mr. Gqeta and his girlfriend were returning from his mother's funeral, she was shot dead by Ciskei Police. Shortly afterwards, he was detained yet again. It was at this point that he suffered such severe depression that doctors opposed his continued detention. When his brother visited him in hospital he reported that Thozamile was unrecognizable. A spokesman for the South African Allied Workers Union, (SAAWU) stated (22.5.1982) that when Mr. Gqweta was released, his mental condition was so poor, he received extensive and regular psychiatric treatment. He was too weak to continue his work for the union even had he wished to.

3.4 With regard Mrs. Levitan, Mr. Sole implies that she too faked mental illness and that "A psychiatrist indicated he could find little wrong with her." However, Mrs. Levitan was never admitted to a psychiatric ward, but was hospitalized twice as a result of a physical complaint.

3.5 In his disclosure, Mr. Sole stated that "Mrs. Mbatha suffered from high blood pressure (she is very obese) and has been treated in hospital for this condition". This statement is inaccurate. The facts of Mrs. Mbatha's illness are more revealing. In the first instance, Mrs. Mbatha is not obese. She was detained in October 1981. The police compelled her to take her 2 year old child with her. Subsequently, the police forcibly took the child away without revealing where they were going to place her. They taunted Mrs. Mbatha by informing her that the child would be placed in an institution for "Communist children" administered by the Security Police. Later Mrs. Mbatha became ill. Her first request to see a doctor was ignored. Approximately five days later, she was taken to a district surgeon who diagnosed high blood pressure, prescribed medication and instructed the Police to bring Mrs. Mbatha back within a week. The Security Police neglected to administer the medication and to take Mrs. Mbatha back to the district surgeon as instructed.

Mrs. Mbatha's condition deteriorated over the next fortnight until she collapsed suffering inter alia from partial paralysis. Mrs. Mbatha was only hospitalized 5 days later after the district surgeon had seen her condition. While she was in the hospital, the Security Police threatened her and accused her of shamming.

3.6 Mr. Sole claims that "detainees are able to give the utmost publicity to what in most cases turned out to be unfounded claims of illness."

In reply, we must point out that—

(a) the State has enacted legislation which serves to prevent detainees, their relatives and the press from giving publicity to the conditions of detention, the health of a detainee, or the methods of interrogation. (The Police Act, The Terrorism Act, the Prisons Act.) In terms of Section 6 of the Terrorism Act not even a parent is entitled to know if a detainee has been hospitalized. To us, the major cause for concern is not the publicity given to the conditions of detainees, but on the contrary, the secrecy surrounding their detentions.

(b) There is no public access to the complaints made by the detainee to the police, the Inspector, the magistrate or the district surgeon. Until such access exists there can be no guarantee that the detainee's complaints will be acted upon. The case of Mrs. Mbatha is evidence of the potential for neglect where the detainee is dependent on the will of her captors to see that he or she receives medical attention. This would appear to be aggravated where the authorities' attitude, as exemplified by the attitude of Mr. Sole's informants, is one of skepticism towards the complaints of detainees.

3.7 Mr. Sole states that the comparison between the treatment of detainees in South Africa and the use of psychiatric hospitals followed by other countries is not relevant.

We believe that this assertion should be qualified. In the first place we would point out that the clinical independence of the doctor treating a detainee patient has not been accepted by the South African Authorities. A detainee has no right to see a doctor of his choice. Even a decision of the State appointed doctor concerning the medical treatment of a detainee may be overruled by the Security Police. (See the record on the Biko inquest). Furthermore, communications between the detainee and the doctor have been relayed back to the Security Police.

Secondly we believe that the widespread use of detention in solitary confinement for long periods of time with or without exposure to the Security Police's methods of interrogation can have, and has had, profound psychological effects on the human mind. It is artificial to distinguish this form of mental treatment on the basis that it does not take place in a hospital. Such treatment is no less sinister because it takes place in a police station and detainees are merely treated in a hospital.

As regards the coupling of solitary confinement with drastic methods of interrogation, we refer to the words of the legal representative instructed by the Minister of Law and order. Mr. Schabort opposed the publication of a statement made by Dr. Neil Aggett 14 hours before he died, and in which he stated that he had been blindfolded, punched, kicked, electrically shocked and kept awake for days at a time. Mr. Schabort argued that publication of this statement was not in the national interest because it "would disclose the working methods and techniques of the Security Police". (The Star, 3.6.1982)

4. SOLITARY CONFINEMENT AND MENTAL HEALTH

4.1 The implications of Mr. Sole's statement are that solitary confinement per se poses no threat and has no effect on mental health. This view is shared by the Minister of Law and Order, Mr. Le Grange, who has stated in Parliament that solitary confinement is not mental torture. It should be pointed out here that solitary confinement for lengthy periods up to and sometimes exceeding a year is widespread practice in South Africa. Its use is mostly confined to persons detained without charge under legislation dealing with the 'security of the State'. (See 'Report on the Report of the Rabie Commission'—Centre for Applied Legal Studies—page 102.)

4.2 Professor C. J. Vorster of the Rand Afrikaans University does not share the view of the Minister of Law and Order. He has stated that solitary confinement is a severe form of mental torture. (Rand Daily Mail 11.2.1982) Professor Vorster stated that it is accepted worldwide amongst academics that solitary confinement or stimulus deprivation is at the same level as physical torture. Professor S. J. Saunders, Principal of the University of Cape Town, has stated "there is absolutely no doubt whatsoever that solitary confinement such as that experienced by detainees held in South Africa under Section 6 of the Terrorism Act, may result and frequently will result in serious psychological changes which will impair the detainee's ability to arrive at the truth" This view is shared by Professors Albino and Mathews of Natal University. ('The permanence of the temporary' SALJ, 1 966, p.23)

The Viljoen Commission of Inquiry into the Penal System of South Africa described solitary confinement and spare diet "as a form of punishment which cannot be tolerated in a civilized society."

4.3 Professor Vorster reviewing literature on the effects of solitary confinement has said that the effects of this treatment include hallucinations, disorientation, anxiety, delusions, susceptibility to persuasion or propaganda, and severe depression. (Rand Daily Mail, 11.2.82)

5. REJECTION OF MR. SOLE'S STATEMENT AND THE CALL FOR AN INDEPENDENT INQUIRY INTO THE TREATMENT OF DETAINEES

Mr. Sole's statement ought to be rejected in the first instance because of its inaccuracy and the unrealiability of its source and secondly because it implies that detention in solitary confinement is not a threat to the mental health of detainees. In this way, the South African Police and Mr. Sole seek to justify its prevalent use.

The detainees concerned see Mr. Sole's allegations in a serious light and accordingly have agreed, together with their doctors, to publicly refute Mr. Sole's allegations and to grant access to their medical records to any independent inquiry which wishes to establish the correctness of Mr. Sole's allegations. However, it is not only the cases of these particular detainees that need to be examined, but the practice of solitary confinement in South Africa and the existence or otherwise of adequate safeguards to guarantee the safety and health of detainees. The media has drawn attention to the tragic death of Dr. Neil Aggett. However, Neil Aggett was not the first person to die while detained under Security Legislation in recent years. He was the 50th.

APPENDIX

Medical Access to the Detainees:

(1) Only State appointed doctors have access to detainees.

(2) The detainee has no choice in what doctor he may see. After the death in detention of Dr. Neil Aggett, the Detainees Parents' Support Committee and its Health sub-Commission demanded that an independent panel of doctors chosen by the DPSC have the right of access to all detainees. The State refused to accede to this demand.

(3) There is not enforceable right by relatives of detainees to information relating to the health of the detainee.

(4) There is no routine psychiatric examination of persons held in solitary confinement.

(5) There is no guarantee that a decision by a doctor will not be overruled by the Security Police.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 16, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of William R. Graham, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.
4221 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To hold hearings on the Joint China Communique, Taiwan Relations Act and documentation of separations of powers.
5110 Dirksen Building

SEPTEMBER 20

9:30 a.m.
Foreign Relations
Arms Control, Oceans, International Operations, and Environment Subcommittee
To hold hearings on the militarization of space and arms control.
4221 Dirksen Building

10:00 a.m.
Judiciary
To resume oversight hearings on Government merger enforcement policy, focusing on the legal and economic basis for horizontal merger policy.
2228 Dirksen Building

2:00 p.m.
Judiciary
To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.
6226 Dirksen Building

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Jay F. Morris, of Maryland, to be Deputy Administrator, Agency for International Development, and Edward A. Curran, of Maryland, to be Deputy Director, Peace Corps.
4221 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on U.S. agricultural exports of processed and value-added products, focusing on the history of these exports as well as potential benefits of increased export volume.
324 Russell Building

Select on Indian Affairs
To hold hearings on S. 2847, proposed Indian Housing Act.
6226 Dirksen Building

10:00 a.m.
*Governmental Affairs
To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:15 a.m.
Foreign Relations
To hold hearings on the nominations of Edwin J. Feulner, Jr., of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy, and W. Scott Thompson, of Massachusetts, to be an Associate Director of Broadcasting, U.S. Information Agency.
4221 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

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11:00 a.m.
Foreign Relations
Business meeting, to consider pending treaties and nominations.
4221 Dirksen Building

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Theodore C. Maino, of California, to be Ambassador to the Republic of Botswana, Peter D. Constable, of New York, to be Ambassador to the Republic of Zaire, and Robert B. Oakley, of Louisiana, to be Ambassador to Somali Democratic Republic.
4221 Dirksen Building

3:30 p.m.
Foreign Relations
Closed meeting, to consult with officials on the Strategic Arms Reduction Talks (START).
S-116, Capitol

SEPTEMBER 22

9:30 a.m.
Labor and Human Resources
To hold hearings on the Department of Labor's need for additional assistance to combat organized crime.
4232 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation Subcommittee
To hold hearings on proposed legislation authorizing funds for soil and water conservation programs of the Department of Agriculture.
324 Russell Building

Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Foreign Relations
To hold hearings on the nominations of William A. Hewitt, of Illinois, to be Ambassador to Jamaica, and Everett E. Briggs, of Maine, to be Ambassador to Panama.
4221 Dirksen Building

Governmental Affairs
To hold hearings to review proposals providing benefits to former Presidents and their families.
3302 Dirksen Building

Judiciary
To resume hearings on the impact of the Boulder, Colo. decision, relating to potential antitrust liabilities for local governments.
2228 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee.
To hold hearings on S. 2061, providing for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and H.R. 4861, establishing the American Conservation Corps.
3110 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

3:00 p.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings on United States-Soviet research studies.
4221 Dirksen Building

SEPTEMBER 23

9:00 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2801, providing for the withdrawal of certain lands in the national wilderness preservation system and certain other lands from mineral leasing.
3110 Dirksen Building

Office of Technology Assessment
Board meeting, to discuss pending business matters.
EF-100, Capitol

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
5302 Dirksen Building

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 1747, relating to the purchase of prison-made products by Federal departments; to allow in certain cases, the purchases of similar products from small businesses.
2228 Dirksen Building

10:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings on the alleged use of false identification to penetrate Federal programs.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold hearings on S. 2863, to extend Federal employees compensation benefits to all Federal jurors, to provide the awarding of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

1:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on refugee consultation.
Room to be announced

2:00 p.m.
Governmental Affairs
To hold hearings on the nomination of K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board.
3302 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To hold hearings on S. 2255, proposed Antiterrorism and Foreign Mercenary Act.
3110 Dirksen Building

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on airline labor protection relating to mergers, acquisitions, and intercarrier transactions.
235 Russell Building

10:00 a.m.
Judiciary
Courts Subcommittee
To resume hearings on S. 1529 and S. 2035, bills establishing the National Court of Appeals, and to begin hearings on S. 1403 and S. 1874, bills to reform and improve the annuity program for survivors of Federal justices and judges.
2228 Dirksen Building

SEPTEMBER 27

9:30 a.m.
Finance
To hold hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

SEPTEMBER 28

9:30 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, on pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business
2228 Dirksen Building

SEPTEMBER 29

9:30 a.m.
*Commerce, Science, and Transportation
To hold hearings on S. 1626, to reform and improve the regulation of oil pipelines.
235 Russell Building

Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

10:00 a.m.
Governmental Affairs Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
To resume hearings on S. 2784, proposed Major League Sports Community Protection Act.
2228 Dirksen Building

10:30 a.m.

Governmental Affairs Federal Expenditures, Research and Rules Subcommittee

To resume oversight hearings on the implementation of the Paperwork Reduction Act (Public Law 96-511).

5110 Dirksen Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

SEPTEMBER 30

9:30 a.m.

Judiciary

Juvenile Justice Subcommittee

To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.

5110 Dirksen Building

10:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.

3302 Dirksen Building

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the indemnification of and contributions to Government contractors.

2228 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.

4232 Dirksen Building

1:30 p.m.

Judiciary

Immigration and Refugee Policy Subcommittee

To hold hearings on Presidential immigration emergency powers.

2228 Dirksen Building

OCTOBER 6

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the accessibility of the judicial system.

2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 16

10:00 a.m.

Governmental Affairs

To hold oversight hearings on certain activities of the General Services Administration.

3302 Dirksen Building

SEPTEMBER 23

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the use of computer matching in certain federal agencies.

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